



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, SECOND SESSION

SENATE—Wednesday, December 15, 2010

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray:

It is good to be able to talk to You, mighty God, whenever we desire. Your power astounds us. You heal the broken-hearted and bring comfort to those who are bruised. You decide the number of stars, calling each one by name. You raise the humble, spread clouds over the sky, and provide rain for the Earth. Great and marvelous are Your works; just and true are Your ways.

Today, bless our Senators as they seek to do Your will. Give them strength and encouragement by infusing them with Your peace that surpasses all understanding. We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 15, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following the remarks of Senator MCCONNELL and myself, we will be in a period of morning business until 11 a.m. with Senators permitted to speak for up to 10 minutes each. At 10 o'clock this morning, Senator BAYH will deliver his farewell remarks to the Senate, and at 10:30 a.m. Senator VOINOVICH will deliver his. I spoke yesterday about Senator BAYH and what an outstanding person he is and how much we will miss him. I will have something to say in a few minutes about Senator VOINOVICH.

At 11 a.m. today, the Senate will resume consideration of the House message with respect to H.R. 4853, the vehicle for the tax compromise. There will be 1 hour for debate prior to a series of up to four rollcall votes. There will be votes on three motions to suspend rule XXII, and the last vote will be on the motion to concur with the Reid-McConnell amendment.

Following this series of votes, the Senate will resume morning business until 2:15. At that time, we intend to move to executive session for the purpose of considering the START treaty. Senators should expect a rollcall vote to proceed to executive session, and for the information of all Senators that is simply a majority vote.

Following the vote to proceed to executive session, Senator LINCOLN will be recognized to deliver her farewell speech to the Senate. Upon conclusion, the Senate will resume executive session.

We have Christmas, which is a week from Saturday. We have a lot of things to do. I have talked about that before, but let me just briefly say again what we have to do.

We are going to finish this tax bill within the next couple of hours. It is a tremendous accomplishment. Whether you agree with all of the contents of

the bill or not, everyone should understand this is one of the major accomplishments of any Congress where two parties, ideologically divided, have agreed on a major issue for the American people. It will go directly to the House of Representatives. They will take it up quickly.

We are going to move to the START treaty. I hope we can have a good, fair debate. No one needs to be jammed on it. There is lots of time for people to do what needs to be done. If people want to offer amendments, they can do that. This treaty has been around since April or May. Even a slow reader could finish every word of that many different times. I would hope no one will require us to read the treaty. What a colossal waste of time. So I hope that is not going to be necessary.

We then are going to move to the spending bill, which is so important to get done for our country. We will move to that as quickly as we can. We will see how things go with this treaty. But it is clear, I have spoken on many occasions with the Republican leader, we are going to be in session this Sunday. There is work to do. We hope we can complete what we have to do a day or two after Saturday. We want to complete the things I have just mentioned. We are going to have to have a vote on the DREAM Act. We have the 9/11 issue. We are working on nominations to complete the work we need to do this Congress.

Unless the House sends us something I am not aware of at this stage, I think I have pretty well lined out what we need to do. On nominations, the Republican leader knows the President is very concerned about having somebody at the Attorney General's Office. We need somebody to be second in command. The Deputy there has been going a long time. There has been one Senator holding that up, and we hope that matter can be resolved. The lands bill, we are trying to work it out, and we hope we can get that done. It is a bipartisan bill. That is certainly possible.

So we have a lot to do, and we need everyone's cooperation to get it done

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

so we can get out of here as quickly as we can.

TRIBUTES TO RETIRING SENATORS

GEORGE VOINOVICH

Mr. REID. Mr. President, I wish to say a brief word about GEORGE VOINOVICH. I have watched him for many years. He has an outstanding record. He is a Senator from the State of Ohio who came to Washington with as many credentials as anyone could have: a member of the State legislature, the Lieutenant Governor of the State of Ohio, mayor of the city of Cleveland, and now a U.S. Senator. He has a wonderful family.

The thing GEORGE VOINOVICH brought to Washington a lot of people don't recognize because of his quiet manner is his work ethic. He gets up very early every morning and works on what is necessary in the Senate. He studies the bills. He is aware of the issues that are before the Senate on any given occasion. Nothing gets past him. He always is up to date on everything we are doing.

I haven't agreed with Senator VOINOVICH on lots of different issues, but he has a quality that we all need to have: You never have to guess where he stands on an issue. He will always tell you how he feels. That has been a tremendous help to me. There have been occasions when his vote has been so very important for, I believe, the Senate, the State of Ohio, and certainly the country. He always tells you how he feels, what he is going to do, and once he makes up his mind that is what he is going to do. I admire him very much.

I have had such good feelings about people coming from Ohio. I had the good fortune to serve here when John Glenn, a man we all know, one of America's all-time great leaders. Ohio produces very good people, at least from my experience in the Senate—Senator Metzenbaum, and now SHERROD BROWN with us. I will not run through a list of everyone.

I certainly want the RECORD to reflect, prior to Senator VOINOVICH's final speech today, how much I respect him as a legislator and as a person. I appreciate his friendship and hope in the years to come we can still work together on issues for the country.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

OMNIBUS APPROPRIATIONS

Mr. McCONNELL. Mr. President, yesterday Democratic leaders unveiled an

omnibus spending bill that some have described as one last spending binge for a Congress that will long be remembered for doing just that. The Senate should reject it.

It appeared to some of us we were making good progress on the economy when lawmakers in both parties agreed Monday to let taxpayers keep more of their own money. But yesterday Democrats unveiled a 2,000-page spending bill that repeats all of the mistakes voters demanded that we put an end to on election day.

Americans told Democrats last month to stop what they have been doing: bigger government, 2,000-page bills jammed through on Christmas Eve, wasteful spending. This bill is a monument to all three. It includes more than \$1 billion to fund the Democratic health care bill. For those of us who have vowed to repeal it, this alone is reason to oppose the omnibus. It is being dropped on us with just a few days to go before the Christmas break, ensuring that no one in Congress has a chance to examine it thoroughly before the vote, and ensuring Americans don't have a chance to see what is in it either. This, too, is reason enough to oppose it.

For 2 years Republicans have railed against the Democrats for rushing legislation through Congress, but this is, without a doubt, one of the worst abuses of the process yet.

The voters made an unambiguous statement last month. They don't like the wasteful spending, they don't want the Democratic health care bill, and they don't want lawmakers rushing staggeringly complex, staggeringly expensive bills through Congress without any time for people to study what is buried in the details.

This bill is a legislative slap in the face to all the voters who rejected these things.

For the first time in the modern era—for the first time in the modern era—Congress hasn't passed a single appropriations bill—not one, not one single appropriations bill. Democrats have been too focused on their own leftwing wish list to take care of the very basic work of government.

Now, at the end of the session, they want to roll all of these bills together, along with anything else they haven't gotten over the past 2 years, and rush it past the American people just the way they jammed the health care bill through Congress last Christmas. We all remember being here every single day throughout the month of December last year for a 2,700-page health care bill passed on Christmas Eve. This is eerily reminiscent of the experience last December, and I predict the American people have the same reaction to this bill as they did to the health care bill a year ago.

A more appropriate approach is available to us. We could pass a sen-

sible, short-term continuing resolution that gets us into next year when the new Congress will have the opportunity to make a determination on how best to spend the taxpayers' money. The government runs out of money, by the way, this Saturday. Congress should pass a short-term CR immediately. We need to pass this tax legislation we voted on earlier this week. And we should accomplish the most basic function of government. We can at least vote to keep the lights on around here. I mean, the deadline for funding the basics of government was last October, and here we are on December 15 proposing treaties—treaties. We ought to pass the tax legislation and keep the lights on. Everything else can wait.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period of morning business until 11 a.m. with Senators permitted to speak for up to 10 minutes each.

The Senator from Florida.

TAX CUTS AND UNEMPLOYMENT BENEFITS

Mr. NELSON of Florida. Mr. President, we are soon going to vote on the bipartisan compromise on extending the expiring tax cuts and unemployment benefits. Although, as I described yesterday, it is a bitter pill to swallow because of the extended funding that will cause the deficit to rise, I doubt there is anybody in this Chamber who wants the alternative; that is, inaction or a political stalemate which is certainly not an option.

Job growth remains anemic. For many of our constituents who are struggling to make ends meet in the midst of this jobless economic recovery, unemployment benefits have already expired. Without action, on January 1, those fortunate enough to have a job would see a significant drop in their paychecks as the middle-class tax cuts enacted 10 years ago also expire, with the effect that the taxes would be going up all across the income spectrum.

So out of this stark reality facing us on January 1, this is when people of good will have come together—people of good will who have different opinions, and who, as I said, have to swallow hard on some of the parts of this package. It is my intention, as we vote in just a few hours, to vote for this package. It does provide relief that is critical for middle-class families.

For example, for a family making \$63,000 a year, if we didn't pass this bill, and the existing tax law expired, then that income level, a family earning \$63,000—their taxes would go up by \$2,000. This bill prevents that. These middle-class tax cuts are extended in this legislation for a period of 2 years, and that includes the 10-percent income tax bracket, the \$1,000 child tax credit, an increase in the standard deduction for married couples, and an expansion of the 15-percent tax bracket for married couples. The bill rewards work by continuing provisions in the 2009 Recovery Act that expanded the earned-income tax credit and the refundable tax credit.

The bill also continues the tax credit that allows taxpayers to claim a \$2,500 tax credit for all 4 years of their higher education. In my State of Florida, 600,000 Florida taxpayers benefited from that tax credit.

It also has significant consequences for everybody across the board. For example, without an extension of the unemployment benefits through this coming year, 7 million unemployed workers would lose one of the last lifelines available to them. This bill is going to breathe life into the private sector through a payroll tax reduction of 2 percent for 1 year. What that does is put more money into people's pockets, which they will then go out and spend. That spending will turn over in the economy and that will produce jobs.

The bill includes provisions of particular importance to my State. Our State is one of six that does not have an income tax. As you know, when you calculate your Federal income tax, you can deduct your State income tax. For those six States, we finally got a provision in 6 years ago—whereas we don't have an income tax in Florida, we have a State sales tax. We put that in, and that is a deductible item, comparable to other States that have an income tax—to deduct that in the calculation of the Federal income tax. I am pleased that this agreement extends that deduction.

The bill also has an extension of section 1603, which is the Treasury grant program for renewable energy projects, to convert tax credits for the production of renewable electricity into an upfront investment tax credit, and to receive a grant in lieu of the investment tax credit. Certainly, as we are trying to move to renewable energy, that keeps that alive. It is badly needed. But what it illustrates is that there were some 20 to 25 Senators out here on the floor yesterday who were talking about our commitment to roll up our sleeves going into the next year, to try to do something about the reduction of spending and, therefore, reduction of the deficit, at the same time reforming a Tax Code that has gotten so complicated and so fraught with special interest provisions that it is crying out

for reform. One way or another, we are going to have to make it happen. I believe that what we are going to vote on this afternoon is the first step of a badly needed effort toward restoring trust and confidence and starting to get our economy moving again.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

ORDER OF PROCEDURE

Mr. COBURN. Mr. President, our plan on our side was for me to have 15 minutes. I ask unanimous consent that I may share some of that time with Senator CHAMBLISS.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TAX EXTENDERS

Mr. COBURN. Mr. President, as we look at the bill we are going to be voting on today, it is an interesting perspective if you are outside of America looking at it. Here is what people are saying. You are going to stimulate the economy with a 2-percent reduction in payroll taxes. You are not going to raise income tax rates. Then you are going to spend another \$136 billion. But for all this you are going to borrow the money.

We spent 8 months on a deficit commission addressing the very real problems that are about to become acute for our country. I have no disregard for those who bring this bill to the floor. But to bring this bill to the floor without the opportunity to cut wasteful Washington spending to at least pay for the outflows that are going to come as a result of this bill, which will be the \$136.4 billion I mentioned—without an opportunity to at least make an effort for the American people to see we understand that part of the waste and duplication and low priority items that the Federal Government is presently enabling to happen—to not offer and have the opportunity to offer a way to not charge that to our children and grandchildren denies the reality of everybody else in the world that is looking at our country.

This afternoon, or later this morning, I will be offering an amendment that will suspend the rule, including any requirements for germaneness, and we will have a vote. We are going to have an amendment that cuts \$156 billion from the Federal Government to pay for the \$136 billion that is actually going to go out the door in the next 11 or 12 months. It is not an easy vote. But the world is going to be looking to see if we get it.

Not only are the people in this country disgusted with our actions, that we continue to borrow and steal and beg from future generations, but the world

financial markets are going to see this. You saw the reaction of Erskine Bowles and Alan Simpson, who worked for 8 months trying to drive an issue to get us back on course and create a future for us that will allow us to control our destiny rather than someone else doing it.

This is just a drop in the bucket—this amendment—to the waste, duplication, and the fraud. We are going to run trillion dollar deficits as far as the eye can see right now, with no grownups in the room to say we are going to quit doing that. We are going to continue to do that.

What are some of the things in this amendment? A congressional pay freeze; a cut in the executive branch and congressional budget of 15 percent; a freeze on the salaries and the size of the Federal Government; limiting what the government can spend on planning, travel, and new vehicles; selling unneeded and excess Federal property; stopping unemployment benefits to people who are millionaires—by the way, we are sending unemployment benefits to people who are unemployed and have assets in excess of \$1 million; collecting unpaid taxes currently in excess of \$4 billion owed by Federal employees and Members of Congress; force consolidation of duplicative programs; preventing fraud, taking some of the \$100 billion that is defrauded from Medicare and Medicaid every year, and preventing that from happening by the FAST Act; streamlining defense spending and reducing foreign aid, including voluntary excess contributions to the United Nations.

The people of the world are astounded that we would spend another \$136 billion and make no attempt to get rid of the excesses, waste, and duplication in our Federal Government. Because we are not allowed under the regular order to offer amendments—and I understand the purpose for that—this amendment will require 67 votes.

The American people are going to be looking, and they are going to say: Does the Senate get it? Do they understand the severity and the urgency of the problems that face our fiscal future?

When the Joint Chiefs of Staff of our entire military say that the greatest problem facing America is not our military challenges but our debt, it should give us all pause to consider the reality and impact of our excess.

I yield for Senator CHAMBLISS.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise to support the amendment offered by my good friend from Oklahoma. America is today at a crossroads—a crossroads where we have the opportunity as policymakers to go in the direction that the people of America said we should go in on November 2 or to

have the opportunity to go down the road of continuing to spend money by this body and the body across the Capitol, without paying for the money we are spending.

These amendments are pretty simple and straightforward. What they say is that we as policymakers have an obligation to listen to the people who sent us here, listen to the people who said, by golly, we don't like the way you are running the financial resources that we send to Washington. And here we are, the minority leader, Senator McCONNELL just sat down from saying and talking about an omnibus bill that goes in the wrong direction—a direction that is totally opposite of what the people of America said they wanted on November 2.

Now we are going to have a vote today on the tax package that, in my opinion, is a good package. Only in Washington is a package which says that if you continue to tax people at the rate they are being taxed today, it adds to the deficit. There is another part to that. There are additions to that tax package that do provide for additional spending—spending that can be paid for, without any feeling on the part of the offsets, or the people who are going to be affected by the offsets, as Senator COBURN has proposed.

These amendments make common sense, they make business sense, and they certainly make the kind of sense that the people in America want us to start reacting to and providing for.

Mr. President, America's finances are on an unsustainable path, and we cannot ignore this fact by continuing to pass legislation that we have not paid for.

The amendments offered by my colleague from Oklahoma, Senator COBURN, are an opportunity for this body to act responsibly so that America's future prosperity is not stifled by insurmountable debt.

All of us in this Chamber believe some portion of this bill should be paid for. Here is a chance to show we mean just that. These amendments provide billions of dollars of savings by eliminating wasteful spending, and by consolidating duplicative programs.

Moreover, these proposals are bipartisan, having been recommended by the President's Commission on Fiscal Responsibility and Reform. In addition, the amendments include ideas put forth by Presidents George W. Bush and Barack Obama to terminate certain Federal programs.

We are all aware of the tepid, seemingly unstable economic recovery from the financial crisis of the past few years. Raising taxes in the face of high unemployment and volatile economic times would injure what slow growth our economy has, in fact, achieved.

However, despite almost unanimous support for extending the emergency unemployment insurance benefits, they are still unpaid for in this legislation.

If we cannot figure out a way to pay for something that nearly everyone in this body supports, how will we ever truly address our current spending and debt levels? When will we turn and face the unavoidable hard choices?

There is no better time than now. These amendments provide \$46 billion in savings this year, and \$156 billion 5 years.

Much of the savings can be accomplished by cleaning up our own house. Specifically, this amendment proposes a congressional pay freeze and a 15-percent reduction in Congress's budget; a freeze on how much can be spent on the salaries for Federal employees and a reduction in the number of government bureaucrats; limiting the amount that the government can spend on printing, travel and new vehicles; selling unneeded and excess Federal property.

In the interests of strengthening America's financial future, we have to make the tough choices. These amendments do just that.

We must show the American people that we have the good faith, the courage, and the will to confront the challenges before us by working toward sound fiscal decisionmaking, by managing our debts and paying our bills just as millions of American families have to do month after month.

Mr. President, I yield the floor.

Mr. COBURN. Mr. President, I will close with the following comment. The Gallup organization came out today with the latest approval rating on Congress. Do you know what it is? It is 13 percent. Thirteen percent of the people in this country have confidence in what we are doing and 87 percent do not.

I side with the 87 percent. I think they have it right. If we continue with the omnibus package, and we continue to have our earmarks, and we continue to pass expenditures by not reducing expenditures elsewhere, it is going to sink even lower.

What does that really mean, that only 13 percent of the people in this country have confidence in us? What it really means is that the legitimacy of our positions and our power is in question. Everybody recognizes the problems in front of us. The question is, Will you make the hard choices and do the tough part to get us out of the problems we have? We can no longer borrow money we don't have to spend on things we don't need.

With that, I yield the floor and welcome the comments of the Senator from Indiana.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

FAREWELL TO THE SENATE

Mr. BAYH. Mr. President, if I could be permitted a few moments of personal privilege before I begin my formal remarks, there are so many people

I need to express my heartfelt gratitude to today, starting with, of course, my wonderful wife Susan. I know we are not supposed to recognize people in the gallery, but I am going to break the rules for one of the first times here to thank my wife. We have been married for 25 wonderful years, and frankly, Mr. President, I wouldn't have been elected dog catcher without Susan's love and support.

I often remember a story during my first campaign where I met an elderly woman who took my hand, looked up into my eyes, and said: Young man, I am going to vote for you.

I was curious and asked her why.

She said, with a twinkle in her eye: Well, I have met your wife. It seems to me you did all right with the most important decision you will ever make. I will trust you with all the other ones too.

It is not uncommon in our State, as Senator LUGAR could attest, that people say they really vote for Susan's husband.

Darling, I can't thank you enough.

She was a wonderful first lady, is a phenomenal mother, and is the partner for my life.

Next, I would like to express my gratitude to my parents. Even though they were very busy, I never doubted for a moment that I was the most important thing in their lives. There is no question that my devotion to public service stems from their commitment—something, Mr. President, I think you can relate to as well. I have always admired my father's selfless commitment to helping our State and Nation. I am proud to follow in his footsteps here in the Senate and to share his name. My mother taught me that even from the depths of adversity can come hope. She was diagnosed with cancer at age 38, passed from us at age 46—an age I now recognize to be much, much too young. I miss her, but I suspect, as so often in my life, she is watching from on high today.

Next, to my wonderful sons, Nick and Beau. They came into our lives when I was still Governor and were barely 3 when I was sworn in to the Senate. They are the joys of my life. I hope that one day they will draw inspiration, as I did, from their upbringing in public service and will choose to devote themselves in some way to making our country and State better places.

I am so proud of you, my sons.

Next, to my devoted staff and to the staff who serves us here in the Senate. My personal staff has had the thankless task for 12 years of making me look better than I deserve, and in that, they have performed heroic service. They have never let me down. To the extent I have accomplished anything on behalf of the public, it is thanks to their tireless efforts and devotion. Each could have worked fewer hours and made more money doing something else, but they chose public service.

It has been an honor to work with you. I will miss each of you and can only hope we will remain in touch throughout the years. No one has been privileged to have better support than I have.

To the men and women who work in the Senate and make it possible for us to do our jobs, I wish to express my heartfelt gratitude. You have always been unfailingly courteous and professional. The public is fortunate to have the benefits of your devotion. And on behalf of a grateful nation and a thankful Senator, let me express my appreciation.

Next, to my colleagues. More about each of us later, but let me simply say it has been my privilege, the privilege of my lifetime, to get to know each of you. There is not one of you who is not exceptional in some way or about whom I do not have a fond recollection. Each of you occupies a special place in my heart.

I am especially fortunate to have served my career in the Senate with Senator RICHARD LUGAR. I have often thought Congress would function better if all Members could have the kind of relationship we have been blessed to enjoy. He has been unfailingly thoughtful and supportive. Even though we occasionally have differed on specific issues, we have never differed on our commitment to the people of our State or to the strength of our friendship.

Dick, thanks to you and Char for so much. You are the definition of a statesman.

Finally, to the wonderful people of Indiana, for whom I have been privileged to work almost an entire adult life. Hoosiers are hard working, patriotic, devout, and full of common sense. We are Middle America and embrace middle-class values. The more of Indiana we can have in Washington, frankly, the better Washington will be.

To my fellow Hoosiers, let me say that while my time in the Senate is drawing to a close, my love for you and devotion to our State will remain everlasting.

As I begin my final formal remarks on this floor, my mind goes back to my first speech as a U.S. Senator. It was an unusual beginning. I was the 94th Senator to deliver remarks in the first impeachment trial of a President since 1868. The session was closed to the public; emotions ran high; partisan divisions were deep. It was a constitutional crisis, and the eyes of the Nation and the world looked to the Senate.

My first day as Senator, I was sworn in as a juror in that trial. There were no rules. All 100 of us gathered in the Old Senate Chamber. The debate was hot, but we listened to each other. We all knew that the fate of the Nation and the judgment of history—things far more important than party loyalty or ideological purity—were in our hands.

Consensus was elusive. Finally, we appointed Ted Kennedy—JOHN KERRY's esteemed colleague—a liberal Democrat, and Phil Gramm, a conservative Republican, to hammer out a compromise. And they did. Their proposal was adopted unanimously.

The trial of our chief magistrate, even in the midst of a political crucible, was conducted in accordance with the highest principles of due process and the rule of law. The constitutional balance of powers was preserved and the Presidency saved. The Senate rose above the passions of the moment and did its duty.

Three years later, the Senate was once more summoned to respond in a moment of crisis. The country had been attacked and thousands killed in an act of suicidal terror. This building had been targeted for destruction and death, and that would have occurred but for the uncommon heroism of ordinary citizens. I was told not to return to my home for fear assassins might be lying in wait. So I picked up my sons from their school, and we spent the night with a neighbor.

Two days later, those Senators who could make it back to Washington gathered in the Senate Dining Room. There were no Democrats or Republicans there, just Americans. Without exception, we resolved to defend the Nation and to bring to justice the perpetrators of that horrible crime. The feeling of unity and common purpose was palpable.

Fast-forward another 7 years. In October 2008, I was summoned, along with others, late at night to a meeting just off this floor. The financial panic that had been gathering force for several months had attained critical mass.

The Secretary of the Treasury, Henry Paulson, spoke first. He turned to the new head of the Federal Reserve, Ben Bernanke, and said: Ben, give the Senators a status report.

Bernanke, in his low-key, professorial manner, said: The global economy is in a free fall. Within 48 to 72 hours, we will experience an economic collapse that could rival the Great Depression. It will take millions of jobs and thousands of businesses with it. Companies with which all of you are familiar will fail. Trillions of dollars in savings will be wiped out.

There was silence. We looked at each other, Democrats and Republicans, and asked only one question: What can be done?

The actions that emanated from that evening helped to avoid an economic catastrophe. The jobs of millions and millions of people were saved, businesses endured. But the measures required were unpopular. My calls were running 15,000 to 20,000 opposed and only about 100 to 200 in favor of acting. The House initially voted down the measures. The economy teetered on the edge of the precipice, but Senators did

our duty. Some sacrificed their careers that evening. The economy was saved.

I recount these moments of my tenure to remind us of what this body is capable of at its best. When the chips are down and the stakes are high, Senators, regardless of party, regardless of ideology, regardless of personal cost, doing their duty and selflessly serving the Nation we love are capable of great things.

On my office wall hangs a famous print—the Senate in 1850. There is Henry Clay; there is Daniel Webster, Thomas Hart Benton, John C. Calhoun, William Seward, Stephen Douglas, James Mason, and Sam Houston. Giants walked the Senate in those days. My colleagues, they still do.

In "Profiles in Courage," John Kennedy tells the stories of eight U.S. Senators whose actions of selflessness and fortitude rescued the Republic in times of trial. Serving in this body today are men and women capable of equal patriotism if given a chance—new profiles in courage waiting to be written. It shouldn't take a constitutional crisis, a terrorist attack, or a financial calamity to summon from each of us and from this body collectively the greatness of which we are capable, nor can America afford to wait.

We are surrounded today by gathering challenges that, if unaddressed, will threaten our Republic—our growing debt and deficits, our unsustainable energy dependence, increasing global economic competition, asymmetric national security challenges, an aging population, and much, much more. Each of these challenges is difficult, each complex. The solutions will not be universally popular, but all can be surmounted, and I am confident they will be with the right leadership from us and the right ideas. I am confident because I know our history and I know our people. I know all of the challenges we have overcome—the wars, the economic hardships, the social turmoil. I know the character of the American people—our resiliency, our innate goodness, and our courage—and I know we can succeed. But it will not be easy, and it will not happen by itself. It is up to us.

America is an exceptional nation because each generation has been willing to make the difficult decisions and, yes, the occasional sacrifices required by their times. America is a great nation not because it is preordained but because our forebears, both here in the Senate and across the Nation, made it so. For 10 generations, the American people have been dedicated to the self-evident truth that all of us are created equal and have been endowed by our creator with inalienable rights.

From the beginning, it is freedom that has been the touchstone of our democracy—freedom not from the benevolence of a king, not by the forbearance of the majority, not by the unanimity of the State, but from the

hand of Almighty God; the freedom to enjoy the fruits of our labors, the freedom to speak our minds and worship God as we see fit, the freedom to associate with those of our own choosing and to select those who would govern us.

From the hillsides of ancient Athens to the fields of Runnymede, to the village greens of Lexington and Concord, to the Halls of this great Senate, it has always been the same: The innate human longing for independence now finds its truest expression in the American experiment. We are the guardians of that dream.

Each generation of Americans has been called to renew our commitment to that ideal, often in blood, always with sacrifice. Now is our time. Now is the time for us to keep faith with those who have come before and to do right by those who will follow, to lift high the cause of freedom in all of its manifestations within its surest sanctuary—this U.S. Senate.

All of this was put into perspective for me one day on a visit to Walter Reed Army hospital. I was visiting wounded soldiers. There was a young sergeant from Georgia. He had been married 3 weeks before deploying to Iraq. He was missing his left arm and both legs. His wife sat by his side. A look of dignified calm was upon his face. I asked if he was receiving the care he needed. Yes, he said, he was. I asked if there was anything I could do. No. No, there was not. Anything he needed? No.

I had never felt so helpless or so insignificant.

I left his room and made my way to the hospital front door and walked outside into the bright sunshine, sat upon the curb, and cried.

All I could think of was what can I do—what can I do to be worthy of him? What can each of us do? Look at what he sacrificed for America. What are we prepared to give? Is it too much to think that while soldiers are sacrificing limbs on our behalf, that we can look across the aisle and see not enemies but friends, not adversaries but fellow citizens?

With service men and women laying down their lives, can we not lay down our partisanship and rancor but for a while? Can we not remember we are but “one nation under God,” with a common heritage and common destiny? Let us no longer be divided into red States and blue States but be united once more into 50 red, white, and blue States. As the civil rights leader once reminded us: “We may have arrived on these shores in different ships, but we are all in the same boat now.”

My friends, the time has come for the sons and daughters of Lincoln and the heirs of Jefferson and Jackson to no longer wage war upon each other but to instead renew the struggle against the ancient enemies of man: ignorance,

poverty, and disease. That is why we are here. That is why. If I have been able to contribute even a little to reconciliation among us, then I have done my duty.

My prayer is that in the finest traditions of this Senate—both in my time and my father’s time and in days before—we may once again serve to resolve our differences, meet the challenges that await us, and in so doing forge an American future that is worthy of our great past. So that when our children’s children write the history of our time, they may truly say of us: Here were Americans and Senators worthy of the name.

I thank you.

I yield the floor.

(Applause, Senators rising.)

Ms. LANDRIEU. Mr. President, I understand we are in morning business.

The ACTING PRESIDENT pro tempore. That is correct.

Ms. LANDRIEU. I would like to speak for the next 5 minutes. I understand Senator VOINOVICH is on his way, but I would like to speak for the next 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, this Senate is not going to be the same place without the Senator from Indiana. In fact, it will be a lesser place because he has been such an outstanding Senator. I wish to let him know he will be very much missed. He contributed enormously, in his very quiet and dignified but powerful way, to many important issues, both domestic and international. We look forward to hearing a lot more from Governor Bayh and Senator BAYH in the years to come.

LOW INCOME HOUSING FIX

Ms. LANDRIEU. Mr. President, I thank the leadership on both sides for giving me an opportunity, in just a few minutes, to have a portion of the time when it comes to the discussion of the bill we are going to be voting on at noon. But I thought before I got to that time I had been allotted in the unanimous consent agreement—and I am very grateful to the leadership on both sides for giving me that opportunity—I would take a minute to give a preview while there was no one on the floor asking for time now.

This massive tax bill has been negotiated by many people of good will. I see the Senator from Montana, the Finance Committee chair, who has been at the table in these negotiations, and Senator MCCONNELL and Senator KYL and Senator REID—men who have truly worked very hard. There were representatives from the White House in these negotiations. I know in their minds they did their very best. I have had some serious issues with portions of the package. I have expressed those

on the floor of the Senate on behalf of the constituents I represent. I think I have made my points. I think they have been very clear. I appreciate the opportunity, as a Senator, to be able to voice those complaints.

I am not on the floor right now to talk about the major pieces of that tax package with which I strongly disagree. I intend to vote for it. I signaled that in the vote 2 days ago. I am unhappy with many pieces of it, but that is not why I am here to speak today. I am here to ask the Members of this Senate to consider, when I ask unanimous consent later this morning, to grant unanimous consent to fix a mistake. I am going to ask, in just a few minutes, for the Senate to fix a mistake that was made in the negotiations. I am going to need all 100 Senators to say yes in order to fix this mistake.

Senator VITTER, Senator SHELBY, Senator SESSIONS, Senator COCHRAN, and Senator WICKER—all the Senators from both parties in all the Gulf Coast States that are affected by this amendment—join me in this request. There is not any difference of opinion among those of us who represent these States. Only these States are affected by this amendment. It is very narrowly crafted. It has to do with a placed-in-service date for low-income housing; that is all, low-income housing.

We lost, as many people will recall, 6 years ago, over 250,000—not 5,000, not 25,000, not 50,000 but 250,000—homes in the aftermath of Katrina, Rita, and the great flood that ensued. It is only 6 years ago that happened so, of course, we are still trying to build housing, private, stand-alone, single-family housing, multifamily housing, housing for seniors. It is a huge work. In fact, it may be the largest single residential building program going on in this century, maybe not after World War II—I don’t have the figures—but it has been a huge residential rebuilding program.

This GO Zone package was crafted with the help of almost every Senator in the aftermath, and we are grateful. It had basically three main components, what I call bonds for big infrastructure project development, bonds for historic credits, because many of these neighborhoods—particularly Waveland, New Orleans, some of these historic places along the gulf coast—were destroyed. We wanted to preserve, when we rebuilt, the historic nature, so we asked the Senate and were granted historic preservation credits: the low-income housing tax credits to replace the thousands of low-income units for seniors, for the disabled and for the poor and the working poor. In this package, the negotiators got everything, but they forgot and left out—out of the total \$800 million for the GO Zones for all the Gulf Coast States, for everything I just described—they forgot to extend the placed-in-service date for the low-income housing projects.

As a result, and I see Senator VOINOVICH on floor—and I know he is in line to speak—as a result, if we do not fix this today—it is not truly an amendment, it is a correction to the underlying bill—these projects will come to a halt. There are 77 of them. They are narrow. It does not open Pandora's box. It fixes a mistake. I have testimony from the Senator from Montana, I have testimony from the White House, I have testimony from the Republican leadership that it was not their intention and that they did not understand clearly enough that if this placed-in-service date was not extended, these projects—they thought they could go on. They cannot. They will come to a halt.

It is only low-income housing projects, only in the gulf, and there are only 77 of them. Not all of them will collapse, but the largest will because they cannot be corrected. They cannot be built in this year alone. We need to give them 2 years to be built. If we can do that, the great redevelopment of the city of New Orleans and the region will continue.

Please, in the next hour, my colleagues, contemplate this. I am going to ask for your unanimous consent. I hope I can get it.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. I know there is an order for the Senator from Ohio to speak. I would ask for the Senator's indulgence for maybe 15 or 30 seconds.

Mr. VOINOVICH. Sure.

Mr. BAUCUS. Mr. President, I have discussed this matter with the Senator from Louisiana. She is right. These projects cannot be built fast enough. There is just not enough time. The placed-in-service date should be extended an extra year. It is not expensive at all. I hope we can find some way to accommodate this need.

The people in Louisiana and the whole gulf coast need this extended service date because, otherwise, these homes will not be built. I hope we can find some way to pass what the Senator from Louisiana is suggesting.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

FAREWELL TO THE SENATE

Mr. VOINOVICH. Mr. President, I rise today to say farewell to the Senate after 12 years. I would like to take time to convey my heartfelt thanks to all of those who have helped me during my time in the Senate and to reflect briefly on the work we were able to get done, work that I think made a difference for the people of my State and our Nation.

I also will share a few observations with my colleagues, both those who are staying as the 112th, as well as Sen-

ators yet to come. At this stage in my life, I look back on my 44 years in public service and I cannot help but thank God for the immeasurable blessings he has bestowed upon me. Each time I walk the steps of the Senate, I look up at the Statue of Freedom on the top of our Capitol dome, and I think of my grandparents who came to America with nothing but the clothes on their back. They could not read or write and spoke only a few words of English.

I have to pinch myself as a reminder that this has not been just a wonderful dream. The grandson of Serbian and Slovenian immigrants who grew up on the east side of Cleveland is a U.S. Senator. Only in America.

Truly none of us should take for granted the economic and political freedoms we have. My dad used to say the reason we have more of the world's bounty is because we get more out of our people because of our free enterprise and educational systems. Mr. Gudikuntz, my social studies teacher, said: A democracy is where everyone has an equal opportunity to become unequal.

So during my final days in the Senate, I think of the people in my life who have gotten me up the steps to this hallowed Chamber: My wife of 48 years Janet is God's greatest blessing to me. She has never pulled or pushed me, but she has always been at my side; my three children on Earth, George, Betsy and Peter, and my angel in Heaven, Molly, and my eight grandchildren, my siblings and their extended families. It is not easy to have a father, brother, or uncle in this business. The people of Ohio who have facilitated my election to seven different offices, who have stuck with me even though on occasion they have not agreed with me, have my deep appreciation. I can never thank them enough. I hope they know that every decision I have made and every policy I have crafted, although not always the easiest or most popular at the time, was aimed to improve and make a positive difference in our lives. I am very humbled to have been given the privilege to serve them through the years.

Here in the Senate, my wonderful staff, both in Ohio and in Washington, I am so proud of what they have done for me and the people of Ohio. I take fatherly pride in having had the chance to touch their lives and see them grow. I also think of our colleagues in the other Senate offices who have helped and cooperated with them as we worked together to solve our Nation's problems, meet challenges, and seize opportunities. My colleagues and I should be most humble; for all we are is a reflection of these wonderful, loyal, hard-working individuals.

I also thank all of you in this Chamber for your courtesies you have extended to me. I miss my first 2 years when I presided over the Senate, the

first one to get to 100 hours in the chair. It was a wonderful time, and thank you all for what you have done for me over the years.

The folks in the Attending Physician's Office have taken care of me physically. Our two great Chaplains, Lloyd Ogilvie and Barry Black, along with the wonderful priests at St. Joseph's on the Hill have helped me grow spiritually. I have to mention JIM INHOFE, hosting our Bible study each week. He honored me by inviting me to a codel to Africa this year. There is no one in this Senate who has done more for public diplomacy for the United States in Africa than JIM INHOFE.

I have learned in my life that you cannot do anything alone. So, of course, I think of my colleagues in the Senate whom I have learned to know and respect. I have been blessed to call them friends. The American people have made it clear that they are not happy with partisanship in Washington. But the fact is, there are some great partnerships here, and those partnerships and relationships result in action.

I do not think many people outside Washington understand that a lot gets done here on a bipartisan basis. Many Americans think the only action in the Senate is on the floor of the Senate. But much of the action in the Senate is in the committees and meetings with other Members off the floor, as well as through unanimous consent.

Once a bill gets through committee, perhaps one or two people might have a problem with it, but we work it out, call them, go see them, it gets done. But it is never reported in the paper about how we are working together on so many pieces of legislation.

I am proud of the contribution I have made to the country in the area of human capital and government management. The fact is, though, without my brother, DAN AKAKA—and he is my brother—the changes never would have occurred. There is nobody who has done more to reform the way we treat our Federal workers, to make us more competitive and work harder and smarter and do more with less than what DAN and I have tried to do over the years, 12 years of working at it. It is an area that is neglected by most legislators because they do not appreciate how important the people are that work in government. I call them the A-Team. Any successful organization has to have good finances and good people.

I am also proud of my work in helping to relaunch the nuclear renaissance, which will help deliver baseload energy for America, reduce our greenhouse gas emissions, and reignite our manufacturing base in Ohio and in our country. I could not have done this without Senator TOM CARPER, who has been both a friend and a colleague since our days as Governor. TOM's leadership was key to organizing our recent

successful Nuclear Summit in Washington, and TOM has taken the baton from me and will carry nuclear energy to the finish line as part of the future of America's energy supply, along with MIKE CRAPO, JIM RISCH, LAMAR ALEXANDER, and others.

I also recall the passage of the landmark PRO-IP bill, a bill to protect our intellectual property, by the way, the last bastion of our global competitiveness. It was a multiyear process that would not have succeeded without the work of the business community and my friend, EVAN BAYH, whom I first met when we were Governors of neighboring States.

As many of you know, I have been an ardent champion for my brothers and sisters in Eastern Europe, the Baltic States, and the countries of the former Yugoslavia. As such, I am proud to have led the effort to expand NATO and increase membership in the Visa Waiver Program. These two accomplishments would not have happened without the bipartisan leadership of DICK LUGAR and JOE BIDEN on the Senate Foreign Relations Committee and the help of JOE LIEBERMAN and SUSAN COLLINS on the Homeland Security and Government Affairs Committee.

I pray that the bipartisanship that I have witnessed and enjoyed in both foreign relations and homeland security will continue. I must also acknowledge Senator JEANNE SHAHEEN for her keen interest in southeast Europe. We traveled together to the region in February of this year, and I am heartened that she has picked up the mantle on our mission to ensure the door of NATO and European Union membership remains open to all states in the Western Balkans, which is key, I believe, to our national security.

I have also championed the cause of monitoring and combatting anti-Semitism, making it a priority within the Organization for Security and Cooperation in Europe and our State Department. The progress that has been made over the years could not have happened without the leadership of Senator BEN CARDIN, Congressman CHRIS SMITH, and the late Congressman Tom Lantos.

One of the highlights of my career was the passage of the global anti-Semitism bill, which created a special envoy at the State Department to monitor and combat global anti-Semitism. These are just a few examples of great bipartisan work going on in the Senate. But much of the time this is blurred because of the media's addiction to conflict.

Even though I do not agree with the bipartisan resolution on extending the Bush tax cuts, I compliment the President and leaders in Congress for sitting down and working together to find a compromise.

One of my frustrations after working so hard to find common ground on significant issues over the past 12 years

has been that it does not happen often enough. The American people know that even when members of a family get along, it is difficult to get things done. So they most certainly know that when we are laser focused on fighting politicking and messaging, their concerns and plight are forgotten, and nothing controversial gets done.

There is a growing frustration that Congress is oblivious to their problems, anxieties, and fears. Frankly, I think one action leaders could take at the beginning of each Congress is to assess the issues at hand. What are the items that Republicans and Democrats agree should get done to make our Nation more competitive and make a difference in people's lives, and set a common agenda. By setting collective goals, by an agreement from leadership, I believe that will set the environment for committee chairmen and ranking members for the year.

Think about it. What kind of planning do we do? Most successful corporations have 5-year plans: Where are we going? What are our priorities? What are the things we agree upon? Let's not spend time on those things where we disagree.

Additionally, an unacceptable amount of time is spent on fundraising. It is my estimate that 20 to 25 percent of a Senator's time is spent on raising millions of dollars, and with it comes the negative fallout in terms of the public view of Congress, bowing to contributions from special interests. In addition to this negative impression, the time spent raising money too often interferes with the time we need for our families, our colleagues, and, most importantly, doing the job the people elected us to do. My last 2 years have been my most productive and enjoyable because I have not had to chase money at home and around the country. None of us like it, but nothing seems to get done about it—nothing seems to get done about it.

Ideological differences aside, it is necessary for us to have good working relationships if we are going to get anything done for the people who elected us. I know it is possible from my personal experience. As mayor of Cleveland, I worked side by side with George Forbes, the most powerful Democratic city councilman in Cleveland's history. My entire city council was Democrats. George and I first met when our children attended the Mayor Works Program in the Cleveland Public Schools System. Who would have guessed that we would become the tag team that turned Cleveland around after it became the first major city to go into bankruptcy?

I was pummeled by the media on occasion in regard to who was actually running city hall. My answer was, both of us. Forbes and I worked together as friends and partners. One of the great satisfactions when I left the job of

mayor was that USA Today highlighted both of us: The tall African-American Democrat, Big George, and the short White Republican, Little George, working together to bring about Cleveland's renaissance.

In Columbus, I found a worthy adversary when I was Governor in Democrat Vern Riffe, who was speaker of the house for my first 4 years as Ohio Governor. My office was on the 30th floor of the building named after Riffe while he was still alive and serving an unprecedented 22 years as speaker.

Well, every day when I went over to the Riffe Tower, I had to genuflect before his bust. But, somehow, Vern and I decided we were going to figure out how we could work together and move Ohio forward and become good friends.

Needless to say, folks, I was dismayed when I learned this year that President Obama had held only a single one-on-one meeting with MITCH MCCONNELL. One meeting. When I was Governor, I met with Vern Riffe and Stan Aranoff, who was president of the senate, every 2 weeks, developing good interpersonal relationships and a trust which allowed us to move Ohio forward, from the Rust Belt to the Jobs Belt.

I am hoping we have entered a new era in the relationship between the President and leadership in Congress. Our situation today is more critical—more critical—than at any time in my 44 years in government. How we work together will determine the future of our country. We must also recognize that if we diminish the President in the eyes of the world, it is to the detriment of our Nation's international influence and will impact our national security. We are on thin ice, and we need the help of our allies. They need our help as well.

For example, the START treaty. Although I have had some reservations about it, they have been satisfied. It is vitally important to get done this year or, alternatively, we must make it clear the Senate will ratify the treaty as soon as the 112th Congress convenes. To not do so will do irreparable harm to America's standing with our NATO allies and would be exploited by our enemies, particularly those factions in Russia that would like to break off communication and revert back to our Cold War relationship. There are plenty of them over there still smarting from the fact that the wall went down, NATO expanded, and we encroached on their area of influence.

Two weeks ago Janet and I attended a farewell dinner hosted by MITCH MCCONNELL. Although I have had differences with MITCH, I have to credit him with keeping the Republican team together. There is no one more strategic than MITCH, JON KYL, and LAMAR ALEXANDER. Still, I share the concern of many of my colleagues that too often the herd mentality has taken

over our respective conferences. At the dinner MITCH hosted, I shared with my Republican colleagues what Ohio State University coach Jim Tressel defines as success in his book "The Winners Manual."

Success is the inner satisfaction and peace of mind that come from knowing I did the best I was capable of doing for the group.

Success is a team sport. Hopefully, this will become the Senate's definition of success, because finding common ground and teamwork is what it will take to confront the problems facing our Nation.

My colleague Senator CHRIS DODD hit the nail on the head when he said:

It is whether each one of the 100 Senators can work together—living up to the incredible honor that comes with the title, and the awesome responsibility that comes with the office.

We do have a symbiotic relationship, and I am encouraged that more and more of my colleagues understand that. I was quite impressed with the fact that 60 percent of the Senate representation on the National Commission on Fiscal Responsibility and Reform supported the recommendations of the chairmen, including TOM COBURN, MIKE CRAPO, JUDD GREGG, KENT CONRAD, and DICK DURBIN. As far as I am concerned, they are true patriots.

As our colleague TOM COBURN said just before the commission vote:

The time for action is now. We can't afford to wait until the next election to begin this process. Long before the skyrocketing cost of entitlements cause our national debt to triple and tax rates to double, our economy may collapse under the weight of this burden. We are already near a precipice. In the near future, we could experience a collapse in the value of our dollar, hyperinflation or other consequences that would force Congress to face a set of choices far more painful than those proposed in this plan.

Here we are, in a situation where we are on an unsustainable fiscal course caused by explosive and unchecked growth in spending and entitlement obligations without funding. We have an outdated Tax Code that does not sufficiently encourage savings and economic growth, a skyrocketing national debt that puts our credit rating in serious jeopardy and should give all of us great pause.

For Fareed Zakaria posed questions that should haunt all of us in Monday's Washington Post.

So when will we get serious about our fiscal mess? In 2020 or 2030, when the needed spending cuts and tax hikes get much larger? If we cannot inflict a little pain now, who will impose a lot of pain later? Does anyone believe that Washington will one day develop the political courage it now lacks? And what if, while we are getting around to doing something, countries get nervous about lending us money and our interest rates rise?

I believe the American people get it. They recognize that our fiscal situation is in the intensive care unit on life support.

As I walk down the steps of the U.S. Capitol for the last time, I pray the Holy Spirit will inspire my colleagues to make the right decision for our country's future and work together to tackle our fiscal crisis. You have the future of our Nation and the future of our children and grandchildren in your hands.

I have already spoken too long. If my wife Janet were here, she would be scratching her head. That is the signal she always gives me. I got your signal, dear.

But I would like to finish with a reading from "One Quiet Moment," a book of daily readings from the former Senate Chaplain Lloyd Ogilvie which I read every day for inspiration and proper perspective. Perhaps some of my colleagues are familiar with his writings. This was his election day admonition:

... May the immense responsibilities they assume, and the vows they make when sworn into office, bring them to their knees with profound humility and unprecedented openness to You. Save them from the seduction of power, the addiction of popularity, and the aggrandizement of pride. Lord, keep their priorities straight: You and their families first; the good of the Nation second; consensus around truth third; party loyalties fourth; and personal success last of all. May they never forget they have been elected to serve and not to be served.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, as Ohio's junior Senator, I wish to add my remarks, as well as I am able, to the comments of Senator VOINOVICH. He didn't talk much about himself and his career, and I will do that for a moment.

In his almost 50 years of public service, he always has been his own man, whether as a State legislator, county auditor, a county commissioner of Cuyahoga County, Lieutenant Governor, as mayor of Cleveland, Governor of Ohio, and now his 12 years in the Senate. He has always been his own man. He was rewarded in some sense when, as a 1958 graduate of Ohio University, the school created the Voinovich School of Leadership in Public Affairs. It is not often that a State university or any public entity names something after someone still in office, particularly something as prestigious as the Voinovich School of Leadership. I have visited it many times. There are always stimulating discussions that are uplifting to the public discourse. I thank Senator VOINOVICH for that.

No matter how high GEORGE VOINOVICH rose, he always lived with his wife Janet and his children and grandchildren nearby in Collinwood, OH, in the same house, the same neighborhood in Cleveland, never forgetting where he came from. That tells me a lot about him as a public official.

He likes to say, reflecting on our State's tremendous potential, "the rust is off the belt," as people used to refer to Cleveland as the rust belt but now see it as so much more. It is going to be the first place in the Nation with a field of wind turbines on the fresh water of Lake Erie. Clearly, this city has turned around. This is, in some significant measure, due to the efforts of Mayor and Governor and Senator GEORGE VOINOVICH.

There are four things I particularly think of when I think of GEORGE VOINOVICH. One is Janet. Janet often travels back and forth with GEORGE, and I see both of them on our flight from Cleveland to Washington. Janet has always been at his side, whether as first lady or as his loving life's partner. The relationship they have is inspiring to Connie and me and many others. We thank you most importantly for that, GEORGE.

When I think about the career of GEORGE VOINOVICH, I think of what he brought to this body—the perspective of an executive, of a Governor and a mayor. That is something many of us look to—Governor Shaheen, now Senator SHAHEEN, and soon-to-be Governor Brownback. It helps in our deliberations that someone has had the experience as a big city mayor in challenging times, and Governor of Ohio and, perhaps a less challenging time but a challenging time nonetheless, from the perspective that GEORGE VOINOVICH has brought as a chief executive coming to the Senate, sharing those thoughts and ideas with legislators.

The second thing I think of is Lake Erie. If you live in northern Ohio or in the right places in Wisconsin and Minnesota and Michigan and Indiana and Illinois and New York and Pennsylvania, you think about the great lake you live near. In northern Ohio there is an old story. I grew up about 75 miles from the lake, and GEORGE grew up much closer. There is something about people who have grown up within 10 miles of Lake Erie. You can ask them wherever they are, which way is north, and they always seem to know.

From what he has done with Asian carp and his belief in the importance of our greatest national resource, the five Great Lakes, his commitment is always to maintaining the pristine quality of that lake in terms of recreation, in terms of drinking water, in terms of industry, in terms of all the things that the Great Lakes, especially Lake Erie, do for Cleveland and everything in between. GEORGE VOINOVICH gets much credit for that.

I think about GEORGE VOINOVICH in that he is always elevating the discussion about the quality of the Federal workforce. The term "public servant," unfortunately, doesn't mean in the public's mind what it used to; partly deserved, perhaps, because of some people's missteps or worse, but mostly because people run campaigns against the

government, whatever the reasons there. The term "public servant" is so important to GEORGE VOINOVICH, and he has done more than just mouth the words and compliment workers, which he has done often and deservedly. I applaud him for that. He has played a major role in shining the light on how we improve our Federal workforce. How do we give them opportunities for advancement, how do we do training, attract the right people to public service. I still think we have a terrific public workforce. Whether it is at the city, county, State, or Federal level, it is of high quality. And, in the great majority of cases, that is because of a few—and I say a very few—public servants such as GEORGE VOINOVICH who has kept the public spotlight on government service. I know Ralph Regula, the Congressman from Canton who retired in 2008, has shared a lot of those thoughts and ideas and continues to in his retirement with Senator VOINOVICH.

Whether it is his work on Lake Erie or his contributions here, he has certainly made the Senate of the United States a better place. He has made the United States of America a better country. I thank him for that, as my senior Senator.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise to pay tribute to my colleague. What a great gentleman. This is an august body, a wonderful place, a delightful place to serve. It has great issues before it. There are people who are gentlemen and gentleladies in it who conduct themselves in one of the highest regards and highest abilities. And when I think of that, I think of GEORGE VOINOVICH. He is a really good guy, a real gentleman in the Senate, and a man who lives his faith, believes it, which is tough to do in this body. It is tough to do in any position in life. Yet he does it and has done it for over four decades in public service to the people in the State of Ohio and the people of the United States. That is quite a tribute.

He and his wife I get to see often. When I think of the expression "two people becoming one," I don't know if I could describe it any better than the Voinovichs, how two become one.

The smile is the same. The look is the same. The attitude is just a wonderful togetherness that the two of them live. At a time when marriages have a lot of difficulties, it is great to see an example of somebody in high office who has lived in public life for over four decades and then has this oneness in their marital relationship. I think they both have served in that capacity, whether it is for their family or for the people of Ohio or the United States.

Living publicly the right way and living privately the right way are both beautiful attributes and difficult things to be able to get done, and it is

great to be able to see it happen. For that, I give great tribute to a wonderful American, GEORGE VOINOVICH.

I yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The time allotted for morning business has expired.

Mr. CARPER. Mr. President, I ask unanimous consent to speak out of order for perhaps 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. CARPER. Mr. President, thank you very much.

Mr. President, GEORGE VOINOVICH and I served as Governors together for 6 years. He chaired the National Governors Association, and he was good enough to let me be his vice chairman. I got here and, lo and behold—in fact, for a while he chaired a national dropout prevention program called Jobs for America's Graduates. I was his vice chairman. I got here, and he chaired a subcommittee on the Environment and Public Works Committee, the Subcommittee on Clean Air and Nuclear Safety, and I got to be his vice chairman. So I am used to being his second banana. But I love the guy, and I have learned an enormous amount from him.

He is one of those people who really, every day, try to say: What is the right thing to do—not the easy thing to do, not the expedient thing to do, but what is the right thing to do? And he tries to do it. He is the kind of person where we go to the Bible study group that meets about every Thursday with the Chaplain and some of our colleagues, and we are always reminded by Barry Black that the Golden Rule is treat other people the way we want to be treated. It is the cliff notes of the New Testament, and GEORGE really personifies that. He treats everybody the way he would want to be treated.

He is a person who focuses on excellence in everything he has done—as mayor, as Governor, and here in the U.S. Senate—and he is always looking for ways to do better what he does and calls on the rest of us to do the same.

Finally, this guy is tenacious. He does not give up. If he thinks he is right and he knows he is right, just get out of the way, and you know he is going to prevail.

He has wonderful folks on his staff who are here with him today, and we salute all of you. He knows how to pick—you are—good people and turn them loose and really to inspire them and us.

I do not think Janet is here today. Maybe she is watching on television. I hope so. But to her and their family, thanks very, very much for sharing with us an extraordinary human being.

We love you, GEORGE.

Mr. President, I yield back.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 4853, which the clerk will report.

The legislative clerk read as follows:

Motion to concur in the House amendment to the Senate amendment with an amendment to H.R. 4853, an act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

Pending:

Reid motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Reid/McConnell modified amendment No. 4753 (to the House amendment to the Senate amendment), in the nature of a substitute.

Reid amendment No. 4754 (to amendment No. 4753), to change the enactment date.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I understand that under the previous order, I have 10 minutes.

The PRESIDING OFFICER. That is correct.

Mr. COBURN. I will attempt not to use that complete time.

MOTION TO SUSPEND

We have an amendment No. 4765, which is a motion to suspend the rules and consider the amendment, and I will make that motion in a moment.

We have before us a bill. We are going to spend \$136 billion more than what we planned to spend before this agreement was made. We have no opportunity under regular order to offset that with less priority, less important items. So we have an amendment for the Senate to vote on. It is not pain free. It is painful. But it cuts \$150 billion from Federal expenditures to pay for the additional Federal expenditures that will go out the door as a result of this bill.

I actually believe every one of my colleagues in the Senate understands the jam we are in. Where I am confused is that when we bring cuts to the floor, not only do they not vote for the cuts, they do not offer alternative cuts. And you really cannot have it both ways. You cannot say you recognize the significant difficulty our country is in and turn around and vote against somebody making an effort to get us out of that jam and not offer other additional spending cuts for which to pay. We do not have that privilege any longer. So either the recognition of the problem is real or it is not.

Let me describe what has happened just in the last 2½ years. We have run a budget deficit for now 27 straight months, including this month. The 2009 budget deficit, as reported, was \$1.4 trillion. It was actually \$1.6 trillion when you include the money we actually stole from trust funds and other items—in 2010, \$1.3 trillion. On the basis of how we are going now, our budget deficit will probably be, in real terms—not what is reported to the American people but the actual fact of how much the debt will increase—probably \$1.6 trillion to \$1.7 trillion. How long can we continue to do that? As a matter of fact, the largest monthly budget deficit ever reported was October—\$291 billion.

The time to act is now. If you do not like what I have put up, then put something else up. Let's have a debate about it. Let's have an honest discussion about the problem and the possible solutions. That is what the deficit commission was trying to do. That is what a group of us, including the President pro tempore, are trying to do on a bipartisan basis.

There is no longer a debate on whether we are going to have to cut spending in our country. Almost everybody agrees to it. The question is, When will we start? I will tell you, if this amendment passes, we will send a notice to the world that we get it. The international financial community will start seeing us acting as adults and no longer delaying the time at which we will start chipping and stop digging. We have a hole so deep we may not climb out of it now. The last thing we want to do is make that hole deeper.

So, Mr. President, I move to suspend rule XXII, including any germaneness requirements, for the purposes of proposing and considering amendment No. 4765, and I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is pending.

Is there a sufficient second?

At the moment, there is not a sufficient second.

Mr. COBURN. I will reoffer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Mr. President. I would like to ask unanimous consent to use the general time, not my own 10 minutes.

The PRESIDING OFFICER. There is no general debate time.

Ms. LANDRIEU. Can I ask to use my leadership time?

The PRESIDING OFFICER. The Senator does not have leader time.

Ms. LANDRIEU. OK. Then I will use 1 minute of my time out of the 10 I have.

The PRESIDING OFFICER. The Senator is recognized.

Ms. LANDRIEU. Thank you, Mr. President.

In just a few minutes—sometime before the hour of 12—I am going to be

asking for unanimous consent to correct a mistake that was made in the final negotiations of this tax package, which contains, as you know, \$890 billion worth of items. It is a big bill. It was negotiated with the White House and the Republican leadership primarily, and then the Democratic leaders had some input into it as well.

What happened was—and, Mr. President, please stop me in a minute and a half—there was a misunderstanding, a terrible misunderstanding when it came down to the GO Zone housing credits. All of the GO Zone package was put in the bill except for the \$42 million—

The PRESIDING OFFICER. The Senator has used a minute.

Ms. LANDRIEU. OK. I will take 30 more seconds of my time—except for the \$42 million that applies to low-income housing tax credits. So the entire GO Zone package—\$800 million for the gulf coast—was put in. This little \$42 million was left out. It was a mistake. The only way to fix that today is to get unanimous consent. I will be asking for that in just a few minutes.

I thank the Presiding Officer and yield back and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan.

Mr. LEVIN. Mr. President, in a moment, I am going to ask unanimous consent that it be in order to call up my amendment No. 4787 to the motion to concur in the House amendment.

My amendment would restore the estate tax exemption level and top estate tax rates to their 2009 levels of \$3.5 million and 45 percent, respectively. It would leave all the other modifications to the estate, gift, and so-called generation-skipping transfer taxes the same as they appear in the underlying amendment.

Raising the estate tax exemption level to \$5 million and lowering the rate to 35 percent is not the responsible thing to do given our current fiscal situation, and it would only exacerbate widening wealth inequality in America. Only 3 of every 1,000 decedents have estates in excess of \$3.5 million.

At a time when some people are seriously discussing cutting Social Security, which is relied upon by so many millions of Americans, how can Congress consider this action to benefit the top three-tenths of 1 percent of the population?

While we don't have an estimate of the savings to the Treasury from this amendment, we do know it would save our Treasury tens of billions of dollars, which we need to help continue unemployment insurance, Social Security, and other critical programs.

Whether one agrees with this amendment or not, this is an amendment which should be debated. The Senate should have an opportunity to debate

this issue. Unless we get unanimous consent, the way this is currently structured, the Senate will be denied this opportunity. Whether people support it, oppose this estate tax change or don't know, the way the Senate ought to operate is we should have a chance to vote on this amendment.

UNANIMOUS CONSENT REQUEST

So I now ask unanimous consent that it be in order to call up my amendment No. 4787 to the motion to concur in the House amendment.

The PRESIDING OFFICER. Is there objection?

The Senator from Wyoming.

Mr. BARRASSO. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEVIN. I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. SANDERS. Mr. President, I would appreciate it if at the end of 9½ minutes you could alert me, please.

The PRESIDING OFFICER. The Chair will do so.

Mr. SANDERS. Mr. President, let me begin by adding Senators WHITEHOUSE and BEGICH as cosponsors of this amendment No. 4809.

As I think many people know, I have been extremely critical of the agreement struck between the President and the Republican leadership. I have spoken out against it and I voted against cloture just yesterday. It is one thing to be critical of a proposal; it is another thing to come up with a better alternative, and I think I have done that today.

I believe the amendment I am offering is a significant improvement over the agreement struck between the President and the Republican leadership, and I hope very much we can get strong bipartisan support for it. Let me very briefly tell my colleagues what it does.

First, as I think most Americans appreciate, at a time of a recordbreaking deficit and a \$13.7 trillion national debt, it makes very little sense to be providing huge tax breaks to the wealthiest people in our country. It drives up the national debt and forces our kids to pay higher taxes in the future to pay off that national debt. This amendment ends—it ends—all the Bush tax breaks for the wealthiest 2 percent of Americans beginning on January 1 of this year.

What does it do with the savings? That is perhaps the most important point I wish to make. Over the long term, this amendment would devote half the revenue raised by this provision—by eliminating the tax breaks for the top 2 percent—to reduce the deficit. Half that money goes to deficit reduction, which I hope appeals to many of my Republican friends who have consistently and appropriately talked about high deficits and the danger of

those high deficits to this country. Half the savings by eliminating tax breaks for the wealthy goes to deficit reduction. What does the other half go to? It seems to me that while we should be and must be concerned about the deficit, we must also understand we continue to be in a major recession. Millions of our fellow Americans are unemployed. We have to do everything we can to create decent-paying jobs and put those people back to work.

What the other half of the savings does is invests in our infrastructure. I don't have to tell anybody here our infrastructure is crumbling. So it will go to repairing our roads, our bridges, schools, dams, culverts, housing, and transforming our Nation's energy sector. We need to put billions of dollars into building a 21st century rail system. When we do that, we not only create jobs now—and this is the fastest way I know to create jobs—we make our country more productive and internationally competitive in the future. If we do not build our infrastructure, if it continues to crumble—and the engineers out there tell us we need trillions of dollars of investment—we are going to lose our place in the global economy. So we have to invest in infrastructure. Half the savings does just that.

In addition, this amendment replaces the payroll tax holiday with a 1-year extension of the Making Work Pay credit. In other words, we are giving targeted tax breaks to the middle class, not reducing payroll taxes for millionaires and Members of Congress. This proposal would not endanger Social Security and, in fact, it would go to the people who most need it. It would be a lot fairer because lower income people would do better. Upper income people would not get it.

It also addresses a concern I think many Americans have; that is, diverting money away from the payroll tax endangers the long-term solvency of Social Security. As Eric Kingdon, the cochair of the Strengthen Social Security campaign, an organization representing tens of millions of senior citizens and workers, recently said:

Extending and expanding the Making Work Pay tax credit is far superior to the payroll tax cut for most Americans. The Making Work Pay tax credit is more stimulative, fairer in distribution, imposes no new administrative costs to employers and includes over 6 million public sector employees who will receive nothing from the payroll tax cut. And it doesn't run the risk of undermining Social Security's financing and the economic security of working Americans . . .

So it addresses that issue as well.

Third, this amendment addresses another issue I know a lot of people in this country have concern about; that is, the estate tax giveaway in the underlying bill, by inserting in its place the 2009 estate tax rate for 2 years. Let's be clear. The estate tax only applies to the top three-tenths of 1 per-

cent. What we are doing now is not lowering estate tax and raising exemptions which only benefit the very wealthiest people in this country; what we are doing now is bringing us back to the 2009 estate tax rates for 2 years.

Further, this amendment addresses an issue that, to me, is very important, and I know to many Members here, because we had a lot of support for it when I brought up this amendment last week. As the Presiding Officer well knows, our seniors who are on Social Security and disabled vets have not received a COLA in the last 2 years. A lot of those folks are trying to get by on \$14,000, \$15,000, \$16,000 a year. What this amendment also includes is a \$250 COLA for over 57 million American senior citizens, veterans, and persons with disabilities. Without this provision, seniors, as I mentioned, would be going through their second year without a COLA, and I think that is unfair.

Further, of course, this amendment would keep all of what I consider to be the positive aspects of the President's agreement with the Republicans. Obviously, it would extend middle-class tax cuts for 98 percent of Americans. It would extend unemployment insurance for 13 months. It would extend the child tax credit, earned-income tax credit, college tax credit expansions included in the Recovery Act.

So I think what we are doing is bringing forth a far better proposal than the agreement struck between the Republicans and the President.

Let me summarize. It ends tax breaks for the rich, uses half that money for deficit reduction and half that money to create millions of jobs rebuilding our crumbling infrastructure. It would replace the payroll tax holiday, which many people have concerns about; diverting money away from Social Security with a 1-year extension of the Making Work Pay credit—much more targeted to low- and moderate-income people, not to Members of Congress and the richest people in this country and not threatening Social Security.

This amendment would strike the estate tax proposal in the underlying bill, and insert the 2009 estate tax rates for 2 years. That is a much fairer proposal than giving even more tax breaks for the very wealthiest people in this country.

Lastly, this amendment would provide a \$250 COLA for over 57 million American senior citizens and disabled veterans and people with disabilities. It also includes an extension of the middle-class tax cuts for 98 percent of Americans, an extension of unemployment insurance for 13 months, an extension of the child tax credit, the earned income tax credit, and the college tax credit expansion.

This is the alternative many Americans wish to see. It creates jobs, cuts the deficit, and it is much fairer than the underlying bill we will vote on.

MOTION TO SUSPEND

With that, I move to suspend rule XXII for the purposes of proposing and considering amendment No. 4809 to the House message to accompany H.R. 4853, and I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is pending.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SANDERS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I yield myself 4 minutes under the leader's time.

The Senate is about to pass a bill that should significantly bolster our economic recovery. The bill we are about to pass will cut rates for families. It will reauthorize unemployment insurance. It will extend the child tax credit and the college tuition tax deduction. It will extend the research and development tax credit and accelerate depreciation for businesses. It will cut payroll taxes for workers.

These are important provisions. But the bipartisan leadership did not include several other important items which I think deserve special attention.

I worked hard to include these provisions in the bill we just passed. But some on the other side of the aisle worked to prevent their inclusion. These are commonsense provisions and, frankly, I cannot imagine how any Senator could oppose them.

One provision I want to highlight this morning is the provision to repeal the 1099 reporting requirements. Small businesses across America were disappointed that this provision was not included in the bill. I am talking about the repeal of the recently expanded form 1099 information reporting requirements. Surprisingly, some on the other side of the aisle blocked inclusion of a provision to repeal these requirements.

I included a repeal of these requirements in the tax alternative the Senate voted on earlier this month. Senator SCHUMER included repeal of this provision in his alternative, as well.

Several measures to repeal the new rules have received bipartisan support. Frankly, repeal of this reporting requirement ought to be a no-brainer.

The new rules take effect at the beginning of 2012. That means many small businesses will soon begin spending money to gear up for them. Small businesses in Montana and across this Nation should not need to spend their time and money to fill out more government paperwork. Instead, we should let them focus on staying in business, growing their business, and creating jobs.

Many small business owners have contacted me about this provision.

Many are puzzled that some Republicans now appear to oppose repeal in private, after having advocated repeal in public. I can understand why small businesses are puzzled and, frankly, I don't see how any Senator can oppose repeal. I intend to keep working on behalf of America's small businesses to see that this unrealistic reporting requirement is repealed.

UNANIMOUS CONSENT REQUEST—H.R. 4849

Mr. President, I ask unanimous consent that the Finance Committee be discharged of H.R. 4849; that the Senate proceed to its immediate consideration; that the Senate agree to the Baucus amendment to repeal the form 1099 reporting requirements, which is at the desk; that the bill, as amended, be read the third time and passed; that the motions to reconsider be laid upon the table, and that this all occur without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. BARRASSO. Mr. President, reserving the right to object, as the Chairman knows, Senator JOHANNIS of Nebraska has proposed a Republican alternative on this issue. Would the Senator amend his request to substitute the Johanns language?

Mr. BAUCUS. Mr. President, I thank my good friend from Wyoming. I cannot agree to amend my request in that way because of the excessive cuts in appropriated spending in the Johanns amendment. It is way beyond repeal of the 1099 requirements. It is a totally different animal. Therefore, I cannot agree.

Mr. BARRASSO. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BARRASSO. I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I see Senator DEMINT here. I know he has time allocated to him. I also have 8½ minutes left. I want to make sure I will be able to retain my 8½ minutes.

The PRESIDING OFFICER. The Senator from Louisiana has 7 minutes remaining.

Ms. LANDRIEU. I wish to retain that 7 minutes after Senator DEMINT speaks.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The motion is pending.

Mr. DEMINT. Mr. President, in a moment, I will move to suspend the rules for the purpose of offering my motion to permanently extend the current individual income tax rates, finally repeal the death tax once and for all, and permanently patch the alternative minimum tax.

I know a lot of work has gone into this tax compromise. I appreciate the

fact that both sides have worked so hard to strike a deal. While I appreciate the efforts that have been made, I am concerned that the bill currently under consideration does not permanently extend tax rates and, thus, will have a marginal, if any, benefit to our economy.

Temporary rates make for a temporary, uncertain economy. My substitute amendment ensures a long-term stable economic environment for Americans to create jobs, buy a home, invest their assets, save for retirement, and preserve their family farm or business.

We need to stop and consider what we are doing to our country and to our economy. We are the premier free market economy in the world. Yet almost all of our Federal tax rates are temporary. I have been in business most of my life, and I understand a lot about how free markets work, how businesses plan—usually in a 5- or 10-year window, looking at their bottom line. How many people can they afford? Can they build a new plant? Now they are looking at whether or not to do it in the United States or all over the world.

But now in our country, we have a temporary, uncertain Tax Code that makes it very difficult for businesses to plan. And it is not just with the Tax Code. For the last several years, we have waited until December to tell doctors what we are going to pay them to see Medicare patients the next year. How do they plan their staff and their offices? We know some have already laid people off, not knowing what they are going to get paid next year.

Free markets, free enterprise works within a framework of a rule of law, where people know what their taxes will be, what the laws will be, what the regulatory environment will be. But in America today, if we take this compromise, almost all of the tax rates are either 1 year or 2 years, and then people can expect them to go up or change.

We cannot operate the world's largest economy in this type of environment. Washington does not have a tax revenue problem, it has a spending problem. We must let all working Americans keep their hard-earned money, not just for a year or two, but allow people actually to look out and see, can they make those car payments for 4 or 5 years? Can they make those house payments for 15, 20, or 30 years? They need to know what their tax rates are going to be.

We must repeal the immoral death tax once and for all. It is zero this year, but the proposed compromise will have it at 35 percent for any estate over \$5 million next year. That may sound like a much better deal than we would have had. But even with that, the estimates are that this could cost 850,000 jobs to let this tax re-emerge.

We must commit ourselves to recovering from our years of overspending,

overtaxing, and overreaching. The American people deserve better. They told us so in the November elections.

MOTION TO SUSPEND

According to rule V of the Standing Rules of the Senate, I move to suspend rule XXII for the purpose of proposing and considering amendment No. 4804 to permanently extend the 2001 and 2003 individual income tax rates, permanently repeal the estate tax, and permanently patch the alternative minimum tax. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DEMINT. Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Seven minutes.

Ms. LANDRIEU. I will take two of them now and then reserve the remainder of my time. We only have, under the agreement arrived at between Leader REID and Leader MCCONNELL, 15 minutes to correct this mistake. At 12 o'clock, we are going to have to vote on several issues. This is not one of them because this is not an amendment; this is a mistake. I only have 15 minutes to correct it. I will try to explain again how important it is.

There are \$890 billion worth of amendments and projects in the bill we are about to vote on. Within that, there is a package of \$800 million in GO Zones, which was put together by me and my colleagues from the Gulf Coast. We fashioned it and created it. We are proud of it. It was supposed to be part of this much larger package. Lo and behold, all of it found its way in—except for \$42 billion for low-income housing. That was the only thing left out of the GO Zones. Senator VITTER, myself, Senator SHELBY, Senator SESSIONS, Senator WICKER, and Senator COCHRAN have cosponsored a one-line provision. This isn't an amendment to the bill; it is a provision to fix a mistake that has been acknowledged by the Finance chair, and actually by the Republican negotiators. They meant to include it, but they didn't because in order to include it, the low-income housing tax credits to build these units have to go to 2012. Everything else in the bill is 2011. But they knew if they didn't extend it to 2012 that we can't build these projects, and these projects and their financing will be in jeopardy.

There are 77 projects across the gold coast for seniors, for the disabled, and for the working poor. These projects are transforming the city of New Orleans, the gulf coast, Waveland, and Biloxi, not just for the people living there but for the neighborhoods surrounding them.

Finally, Mr. President, Tim Geithner supports this as does Secretary Donovan support it.

Mr. President, I will reserve my time in hopes that before my time is up we can get this fixed.

The PRESIDING OFFICER. Who yields time?

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Ms. LANDRIEU. I thank the Chair.

Mr. President, I see the Senator from Montana, the Finance Committee chair on the Senate floor, along with Mr. KYL, the Senator from Arizona, who has been one of the chief negotiators on the package, and the Senator from Louisiana, Mr. VITTER. Before we get to the time allotted for voting, I would like to say again how important it is to try to get this provision and the underlying bill corrected. It is a technical correction that we are asking for to allow a placed-in-service date to be extended from January 1, 2012, to January 1, 2013—a 1-year extension to finish the low-income housing projects that are underway not only in New Orleans but along the gulf coast.

Mr. President, I ask unanimous consent to have printed in the RECORD a Times-Picayune editorial dated today in support of this and a New York Times editorial of March 2, as well as a letter of support from Secretary Donovan and Secretary Geithner testifying to the importance of these projects.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Times-Picayune, Dec. 15, 2010]

EXTEND GO ZONE TO 2012

New Orleans and other parts of South Louisiana will likely lose important recovery projects, including thousands of prospective housing units, if Congress fails to extend the Gulf Opportunity Zone tax credits for two more years.

The credits, which were created after Hurricane Katrina to foster investment in our region, require housing financed by Go Zone bonds to be "placed in service" by Dec. 31. But the collapse of credit markets in 2008 and delays in public and private financing meant that many important projects could not get under way early enough to meet that deadline.

The tax compromise negotiated this month by the Obama administration and congressional Republicans would extend portions of the Go Zone credits, but only for one year. That's not enough to make many projects viable.

Metro area officials and housing advocates say about 2,800 housing units could be at risk in metro New Orleans alone if only a one-year extension is granted. That includes plans to redevelop some of the former Big Four housing projects, which have been demolished and are set to be replaced by mixed-income, lower-density housing. That would not only leave many low-income New Orleanians without housing options, it also would cost construction jobs.

Louisiana Sens. MARY LANDRIEU and DAVID VITTER are trying to change the extension in

the tax compromise from one year to two. The White House and congressional leaders from both parties should support their efforts.

President Obama and congressional leaders have pledged to support the rebuilding of our region, and our region needs the two-year extension of Go Zone credits to make sure important recovery projects get done. The White House and Congress need to make sure the extension to 2012 is approved.

[From the New York Times, Mar. 2, 2010]

AN ESSENTIAL FIX

The recession dealt a devastating blow to the post-Katrina rebuilding effort in the Gulf states, where scores of affordable housing projects have been placed in jeopardy. Congress can revive the rebuilding effort by extending the deadline for a tax credit program that is supposed to encourage developers and investors to take on these desperately needed projects.

Nearly all affordable rental housing in this country is built with federal tax credits. After Hurricanes Katrina and Rita, Congress allotted Louisiana, Mississippi and Alabama more than \$300 million in low-income housing tax credits, slightly more than two-thirds of which has been used. At first, these credits, and projects, were hotly sought after. Demand dropped sharply as corporate profits fell and businesses had smaller and smaller tax liabilities.

As the economy has improved, interest in the credits seems to be picking up in many places—but not in the Gulf. That's partly because of a provision in the Gulf Opportunity Zone law that requires projects in the region to be ready for occupancy by the end of this year. That leaves just 10 months—instead of the 18 months that investors like to see—for the deals to be sealed and the housing built. Projects that miss the ready-for-occupancy date, because of all-too-common weather delays or construction problems, would lose the tax credit.

Senator MARY LANDRIEU, a Democrat of Louisiana, has introduced an amendment that would extend the occupancy date by two years. Unless Congress moves quickly to pass it, the Gulf states could potentially lose financing for more than 70 housing projects and 6,000 units of affordable housing. The loss would be especially devastating for New Orleans, which is desperately short of housing for the low-income workers who are essential to the city's service economy.

The more Congress dithers, the more likely it becomes that tax credit investors will look outside the Gulf states for places to put their money. This is an easy fix—and a critical one.

MARCH 2, 2010.

Hon. MARY L. LANDRIEU,
U.S. Senate,
Washington, DC.

DEAR SENATOR LANDRIEU: Thank you for your letter of February 25, 2010, regarding the extension of the Gulf Coast Opportunity Zone (GO Zone) Low Income Housing Tax Credit (LIHTC) placed-in-service date. Please be assured that the Administration understands the critical need for the extension of the GO Zone tax credits, and also the negative impact that failing to extend the credits would have on New Orleans and other communities impacted by Hurricanes Katrina and Rita as they continue recovery efforts. You should also be assured that the Administration supports an extension of 2 years to December 31, 2012, of the GO Zone placed-in-service date and is committed to working

with Congress to see that the extension is enacted as soon as possible.

As you mentioned in your letter, the economic activity spurred by the GO Zone credits has played an important stimulative role in the rebuilding of the Gulf Coast. These tax credits have fostered development in devastated areas and have enabled the return of people who love their communities and who are the drivers of local economies throughout the Gulf Coast. GO Zone projects have created jobs and stimulated the economic recovery in these areas. In New Orleans, specifically, the tax credits have played a central role in leveraging the financing needed to complete the rebuilding of the Big Four public housing developments: St. Bernard, C.J. Peete, Lafitte, and B.W. Cooper. The revitalized developments have not only spurred activity surrounding construction and will restore essential affordable housing, but have also encouraged the establishment of new businesses and improved civic life around these developments.

Since the beginning of the Administration, President Obama, Vice President Biden, Dr. Jill Biden, 13 other members of the Cabinet, and numerous agency heads, assistant secretaries, and other senior level administration officials have visited New Orleans and the wider Katrina- and Rita-impacted area to see firsthand the scale of the recovery challenges that remain. Our respective agencies have made significant investments of staff and funding to support the recovery efforts. Many of these programs continue to provide meaningful resources to disaster survivors and the communities being rebuilt. Through these visits, we have come to recognize the dire impact that failing to extend this tax credit would have on Gulf Coast communities and individual families, many of whom were the hardest hit by Hurricanes Katrina and Rita and the recent recession. Not extending the GO Zone placed-in-service date would result in a major setback for the recovery, and would impact public housing residents, business, and communities. It would be unconscionable to let the work that has created so much progress, and so much hope, go unfulfilled.

We will continue to urge members of Congress to extend the GO Zone placed-in-service date and stand firmly behind such an extension. We are confident that with your help we will see the extension signed into law, and with it, continued economic activity and community revitalization in the Katrina affected Gulf Coast.

Sincerely,

TIMOTHY F. GEITHNER,
Secretary of the Treasury.

SHAUN DONOVAN,
Secretary of Housing
and Urban Development.

Ms. LANDRIEU. Mr. President, I would like to ask at this time if Senator BAUCUS and then Senator KYL and then Senator VITTER might comment—I see them on the Senate floor—about the importance of getting this fixed and the likelihood of us doing it today and what might happen as we move forward.

Senator BAUCUS.

Mr. BAUCUS. I think our colleague has the floor to speak.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. I thank the Chair, and I certainly join my colleague from

Louisiana in stressing the importance of this second year of a GO Zone extension and look forward to continuing to work with all of these folks in getting that done absolutely as soon as possible in 2011.

I emphasize one major point, which is that this is not a new benefit to fund new projects which were never envisioned when the GO Zone was initially created. This is simply an extension to fund those crucial projects which were at the center of this provision from the very beginning and that have taken longer than was initially forecast because of labor and other shortages after Hurricane Katrina. So this is simply a time extension to get the very same crucial projects done, not to add on to that list.

These projects are extremely important, including the wholesale renovation and reconstruction of four major housing projects in New Orleans post-Katrina that are being done using a dramatically different and better model—mixed income, lower density—not the old-style housing projects from the 1940s and 1950s which were, in my opinion, a horrible social experiment.

So I certainly join this effort, and I have been working with all of these folks to try to get this second year extension in this tax bill. Unfortunately, we weren't able to do that because of a general decision that was apparently made that none of the extenders would go beyond the end of 2011. But working with these folks, and particularly Senator KYL, we came to an agreement that we would absolutely work to include this in the first possible technical corrections or other measure that would be keyed up in early 2011.

I thank everyone, particularly my Republican colleague, JOHN KYL, for that willingness and that commitment, and I look forward to getting that done at the earliest possible moment.

Ms. LANDRIEU. Mr. President, I would like that time charged to the other side.

Senator BAUCUS.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, both the Senators from Louisiana have stated the case very well and, frankly, this is not a typical extender. This is just a very important proposal where the placed-in-service date has to be changed because projects beyond the year could not be put in place the second year. So it is not a traditional extender where we extend for 1 or 2 years some other provision. This is more in the nature of what was started in the first year gets accomplished in the second year, and that is why this 1-year add-on is so important.

I will work with the Senators and the Finance Committee, when we bring up legislation next year, to do our very best to make sure this provision is included so we can help these people who

are desperately in need of housing in Louisiana.

Ms. LANDRIEU. Does the Senator have any idea about the time? I would like to see if Senator KYL can say a word on this because his views are very important.

Mr. BAUCUS. I will add that my view would be at the earliest possible opportunity. I don't know when that is exactly, but it is something that should be placed high up, near the very top.

Ms. LANDRIEU. Sometime in January or February?

Mr. BAUCUS. Well, I hope. The Senator knows how this place operates, but it is certainly very, very, very early.

Ms. LANDRIEU. Senator KYL?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I thank my colleagues for bringing this issue to the attention of the Senate. Senator VITTER brought this matter to my attention as the bill was being wrapped up, as a matter of fact, and I told him at that time that while we could not provide an extension longer than the one in the tax bill, I would work with him early in 2011 to help these projects obtain the necessary extension. I say the very same thing to the senior Senator from Louisiana today.

I also share the confidence of the chairman of the Finance Committee that we will find an appropriate tax bill early in 2011 to include this change, which I agree we all view as a technical change, that will allow this special financing to be used as Congress intended it.

Ms. LANDRIEU. Mr. President, I have a question for Senator KYL.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Is it his understanding now, having had several conversations with Senator VITTER and myself, that this technical correction is perceived only to be limited to the 77 low-income housing, mixed-income projects through the gulf coast? Is that his understanding?

Mr. KYL. Mr. President, I would say to the Senator from Louisiana that I don't know technically whether it is 77 or 42 or whatever, but we have all discussed the fact that it is limited to those projects that are started but couldn't be completed within the 1-year extension and, therefore, would require the second extension, and it is limited to this area, yes.

Ms. LANDRIEU. And is it the Senator's intention to push for a tax bill? He was so successful in pushing this tax bill forward. Is it his intention to do that in early January, mid-January, early February?

Mr. KYL. I would say to my colleague that I asked the chairman of the Finance Committee: How quickly do you think we could do this? He gave me the same answer he just gave you: Yes,

as soon as we can, but it is hard to make a commitment about a tax bill coming to the floor.

As I also told the senior Senator from Louisiana, there are some other reasons we have to act quite quickly next year in dealing with some technical fixes to other aspects of the tax bill. So there are other reasons to act quickly as well as this particular situation.

Ms. LANDRIEU. Well, I would just say—with about 30 seconds left—that I am encouraged, Mr. President, from what I have heard from the Senate Finance Committee chair and the chief negotiator on tax issues on the Republican side that they recognize this is a technical correction. They recognize it is limited to low-income housing. They recognize the importance of these projects, and they have committed to working on fixing this as early as possible in the next Congress. I think that gives it a glimmer of hope.

We would not get unanimous consent today because there remain objections on the other side of the aisle, but I think we can move forward with confidence knowing Senator KYL is good on his word and Senator BAUCUS is good on his word and they will try to fix this at the earliest possible date.

I thank the Senator from Arizona and the Senator from Montana.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oklahoma.

MOTION TO SUSPEND

Mr. COBURN. Mr. President, I move to suspend rule XXII, including any germaneness requirements, for the purposes of proposing and considering amendment No. 4765, and I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator's motion is pending. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays are ordered.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that all subsequent votes after the first vote be 10 minutes in duration; further, that prior to the vote on the motion to concur there be 2 minutes for debate equally divided and controlled between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUE. Mr. President, this amendment is based on the absurd premise that the unemployment insurance benefits piece alone must be paid for, lest we contribute to the deficit. Never mind that this entire package contributes \$858 billion to the deficit, of which only \$51 billion is accounted for by the UI extension provision. It is clear that this amendment is not about deficit reduction; rather, it is about attacking programs that make a real difference to the everyday lives of our constituents. Meanwhile, this amendment leaves the tax benefits to the

wealthiest Americans, those who need the least assistance, completely intact.

Let me be clear. There are a few ideas proposed in this amendment that make some sense. However, as part of the Appropriations Committee's annual and ongoing oversight responsibilities, the committee has already rescinded unobligated balances from those programs or reduced their funding for fiscal year 2011 as part of the fiscal year 2011 omnibus, which the Senate will consider this week. Every recommendation in the omnibus was made in collaboration with Republican members of the Appropriations Committee, based on a detailed analysis. These decisions were not made rashly, nor because they might sound good in a press release.

Too often when the Senate debates cuts in unobligated balances, the proponents want to ignore the consequences of their recommendations and focus on broad generalizations. But in reality these cuts can cause serious problems. Accordingly, let me highlight the impact of a few of the programmatic cuts proposed by the Senator from Oklahoma.

For example, this amendment would require each Department to cut its workforce by 10 percent over 10 years, without considering the impact of the cuts. It seems as though Federal workers have become the newest punching bag for a few of our colleagues. FDA staff, necessary to ensure that the food we eat and the drugs we take are safe and effective, would be cut by nearly 1,000. The staff of the Food Safety and Inspection Service would be cut by an additional 1,000. These cuts are irresponsible and would put the American public at unnecessary risk at a time of breakthrough medical research when important new drugs are being produced and must be monitored. When more of our food supply is coming from around the world, preventing contamination is more important than ever.

More than 95 percent of the 280,000 employees of the Department of Veterans Affairs either work for the Veterans Health Administration or the Veterans Benefits Administration. To reduce the VA's overall employees by 28,000 over 10 years would mean that doctors, dentists, hospital administrators, and benefits claims processors would have to be reduced. As more and more of our veterans are returning home from Iraq and Afghanistan, this is not the time to be cutting their service providers.

This amendment would require a reduction of 600 to 800 Government Accountability Office staff, as well as a reduction in travel that is necessary for the GAO to conduct audits and evaluations. Travel is critical to GAO's ability to meet the requirements of Congress.

Rescinding funds from the FBI, DEA, ATF, and U.S. Marshals will not pre-

vent waste, fraud, and abuse. Instead, cutting funding for these agencies means cutting agents who are serving on the front lines keeping our Nation safe from terrorist threats and cyber attacks, reducing the flow of drugs, and combating gun-related violence along the southwest border, strengthening immigration enforcement, and keeping children safe from sexual predators. That is the real impact of this proposal.

The 15-percent budget cut to the Executive Office of the President might sound reasonable, but it would cut key staff of the Council of Economic Advisors, the National Security Council, and the Homeland Security Council. This would severely hamper the President's ability to coordinate critical economic security and national security programs across the entire Federal Government. It would be particularly devastating considering that the rest of the Federal Government would also be shedding a significant number of staff under the Coburn amendment, leaving agencies currently managing the economic crisis and our national and homeland security programs not only short-staffed but also in chaos due to minimized leadership.

The Coburn amendment also would eliminate the State grant for the Safe and Drug-Free Schools Program. The Congressional Budget Office has previously recommended this action. However, this suggestion comes a year too late. The Committee on Appropriations removed \$295 million in funding for the State formula grant funding from the 2010 appropriations bill. There is no ending for the State grants program in the 2011 bill. The Appropriations Committee has already made this cut.

The Coburn amendment would also rescind \$4 billion in fiscal year 2011 for U.S. development and humanitarian programs in the world's poorest countries, from Haiti to Afghanistan. This would cut funding for programs for refugees and victims of natural disasters from Darfur to Pakistan; it would affect global health programs including HIV/AIDS prevention and treatment that mean life or death for millions of people; and it would weaken programs to support food security and nutrition, clean water, sanitation, and basic education, and to combat human trafficking, in countries where 95 percent of new births are occurring and over 2 billion people barely survive on less than \$2 per day. The short-term effects of such a reduction in funding would be severe, the long-term effects would be devastating, and ultimately it would exacerbate global problems that directly affect U.S. security.

The amendment proposes to rescind funds focused on returning contaminated sites to productive use. The Brownfields Program has a track record of successfully restoring damaged properties—often in physically

and economically distressed neighborhoods—to sources of economic growth, creating jobs for lower income people in the process. Many of our cities are among those communities hardest hit by the economic recession. Now is not the time to stall the cleanup of brownfields.

This amendment authorizes the Secretary of the Army in consultation with other Federal agencies to determine the definition of "low priority" Army Corps projects. This appears to be code for those projects not requested in the President's budget. Since when has the administration been the only source of wisdom for determining funding decisions? If there is surplus funding available, we should ask the Corps to identify those funds and propose them for rescission. However, it would become quickly apparent that this strategy is penny wise and pound foolish. These are all ongoing projects, previously funded by this or prior Congresses. It would not make economic sense to stop these projects. Demobilization costs and costs to make these construction sites safe for the public could end up costing more than continuing the projects.

These are just a few examples of the damage that would be done if this reckless amendment was actually agreed to. But I would conclude by saying that every Member of this Chamber who supports the tax cut deal should vote against the amendment being offered by the Senator from Oklahoma for the simple reason that it seeks to change the tax package, which reflects an agreement between the Republican leader and the President of the United States. The Republican leadership signed off on this deal because many of the provisions they wanted were included in exchange for a 13 month extension of unemployment insurance benefits with no offset. I would certainly hope that they will stand by their agreement.

Mr. President, this amendment would do serious damage to many necessary government programs. Unobligated does not mean excess or unnecessary. I urge all my colleagues to reject the Coburn amendment.

Mrs. HUTCHISON. Mr. President, I am voting for the Coburn motion to suspend the rules to allow the Senate to consider his amendment to offset extension of unemployment benefits because we must be able to discuss ways to start bringing down the deficit. Senator COBURN's amendment provides a fiscally responsible way to extend unemployment insurance for out-of-work Americans and to pay for other costs contained in the tax bill.

With the underlying agreement in the tax bill to extend current tax rates for 2 years, individuals and businesses will have more certainty on tax policy. This is needed to spur economic growth and job creation. Senator COBURN's

amendment takes the next important step to begin reducing spending to deal with the deficit. The Senate deserves an opportunity to debate and vote on the Coburn amendment so that we can begin this process.

I spoke with Senator COBURN about an item in his amendment that would rescind NASA funding for Constellation systems. I strongly oppose this provision, which would significantly disrupt the authorization law we passed in September. NASA is expressly continuing some elements of the Constellation program such as the crew exploration vehicle in order to shorten the time for building the new launch vehicle that will propel human space exploration beyond Earth orbit. Terminating those contracts before they can be transitioned to support the new direction Congress has mandated would force NASA to start over, delaying development of the new launch vehicle, greatly increasing its costs to the American tax payer. It could also jeopardize the full use of the space station for scientific research. Senator COBURN has agreed to revisit this provision in the future, in an effort to assure scientific integrity.

All time has expired. The question now is on agreeing to the Coburn motion to suspend with respect to amendment No. 4765. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—47

Alexander	DeMint	Lugar
Barrasso	Ensign	McCain
Bayh	Enzi	McCaskill
Bennett	Graham	McConnell
Bond	Grassley	Murkowski
Brown (MA)	Gregg	Risch
Brownback	Hagan	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Chambliss	Inhofe	Snowe
Coburn	Isakson	Tester
Cochran	Johanns	Thune
Collins	Kirk	Vitter
Corker	Kyl	Voinovich
Cornyn	LeMieux	Webb
Crapo	Lincoln	Wicker

NAYS—52

Akaka	Feingold	Manchin
Baucus	Feinstein	Menendez
Bennet	Franken	Merkley
Bingaman	Gillibrand	Mikulski
Boxer	Harkin	Murray
Brown (OH)	Inouye	Nelson (NE)
Cantwell	Johnson	Nelson (FL)
Cardin	Kerry	Pryor
Carper	Klobuchar	Reed
Casey	Kohl	Reid
Conrad	Landrieu	Rockefeller
Coons	Lautenberg	Sanders
Dodd	Leahy	Schumer
Dorgan	Levin	Shaheen
Durbin	Lieberman	Specter

Stabenow
Udall (CO)
Udall (NM)

Warner
Webb
Whitehouse

Wyden

NOT VOTING—1

Begich

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 52. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the motion is rejected.

Under the previous order, the question is on agreeing to the DeMint motion to suspend with respect to amendment No. 4804. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 37, nays 63, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—37

Alexander	DeMint	Lugar
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Graham	Nelson (NE)
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Wicker
Cornyn	Kyl	
Crapo	LeMieux	

NAYS—63

Akaka	Franken	Murkowski
Baucus	Gillibrand	Murray
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kerry	Rockefeller
Brown (MA)	Kirk	Sanders
Brown (OH)	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Snowe
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Collins	Levin	Tester
Conrad	Lieberman	Udall (CO)
Coons	Lincoln	Udall (NM)
Dodd	Manchin	Voinovich
Dorgan	McCaskill	Warner
Durbin	Menendez	Webb
Feingold	Merkley	Whitehouse
Feinstein	Mikulski	Wyden

The PRESIDING OFFICER (Mrs. HAGAN). On this vote, the yeas are 37, the nays are 63. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the motion is rejected.

Under the previous order, the question is on agreeing to the Sanders motion to suspend with respect to amendment No. 4809. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 43, nays 57, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—43

Akaka	Cardin	Durbin
Begich	Carper	Feingold
Bingaman	Conrad	Feinstein
Boxer	Coons	Franken
Brown (OH)	Dodd	Gillibrand
Cantwell	Dorgan	Harkin

Inouye
Johnson
Kerry
Klobuchar
Landrieu
Lautenberg
Leahy
Levin
Menendez

Merkley
Mikulski
Murray
Reed
Reid
Rockefeller
Sanders
Schumer
Shaheen

Specter
Stabenow
Tester
Udall (NM)
Warner
Whitehouse
Wyden

NAYS—57

Alexander	DeMint	Manchin
Barrasso	Ensign	McCain
Baucus	Enzi	McCaskill
Bayh	Graham	McConnell
Bennet	Grassley	Murkowski
Bennett	Gregg	Nelson (NE)
Bond	Hagan	Nelson (FL)
Brown (MA)	Hatch	Pryor
Brownback	Hutchison	Risch
Bunning	Inhofe	Roberts
Burr	Isakson	Sessions
Casey	Johanns	Shelby
Chambliss	Kirk	Snowe
Coburn	Kohl	Thune
Cochran	Kyl	Udall (CO)
Collins	LeMieux	Vitter
Corker	Lieberman	Voinovich
Cornyn	Lincoln	Webb
Crapo	Lugar	Wicker

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 57. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the motion is rejected.

Under the previous order, amendment No. 4754 is withdrawn.

VOTE EXPLANATION

Mr. MERKLEY. Madam President, I rise today to provide a brief explanation of my absence during the vote on the motion to proceed to the Reid-McConnell Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 on December 13.

I was not in the Senate Chamber for the vote because I was traveling back from Oregon, where I had a previous commitment earlier in the day to participate in a major summit of the leading businesses and political leadership of Oregon looking at ways to revive the Oregon economy.

As I stated publicly prior to the vote, had I been present I would have voted against moving forward on the tax cut proposal under the circumstances. The package that was brought to the floor will add nearly \$1 trillion to the national debt and includes major components—particularly bonus tax cuts for millionaires and billionaires—that the Congressional Budget Office has found to be one of the least effective means of creating jobs. I could not support moving to this flawed package without an opportunity to offer amendments to fix it.

I continue to strongly support tax cuts for working families and the reauthorization of unemployment benefits, and other provisions in this bill that would be useful to create jobs and help families and small businesses. But I cannot support a bill that forces those same working families and small businesses to shoulder responsibility for billions more in debt while continuing too many of the policies that drove our Nation into record deficits and caused

financial distress for millions of working families.

Mr. HATCH. Madam President, I have always pledged to the people of Utah that I would fight any tax increase that gives Washington more of their hard-earned money to spend. Allowing middle-class families, small businesses, and investors to keep more of what they earn, while denying this government hundreds of billions in new tax revenue to spend, is the right thing to do.

Opposing this bill is tantamount to supporting massive tax increases that threatens our economic future. If this tax relief expires, Utah would lose an average of 6,200 jobs each year and household disposable income would drop by \$2,200. Over 150,000 Utah families would be hit with the alternative minimum tax. Small businesses would see their marginal tax rates go up by as much as 24 percent and our GDP would take almost a 2 percent hit.

I say to my colleagues in the House who want to change this proposal to impose more taxes on American families, you act not only at your own peril, but that of the American people. You had 4 years to stop these tax hikes, but refused. If you change this package for the worse now, with only 2 weeks left in this Congress, I will do everything in my power to ensure your changes never pass the U.S. Senate.

Some argue, why not wait until after January when Republicans control the House to get a better deal. I appreciate that position, but that is a gamble I am not willing to take. Democrats will retain control of the White House and the Senate they will simply drag their feet while blaming conservatives. The collateral damage of inaction will be hard-working families who will see lower paychecks starting on January 1. Experts point to the damage to the economy, but I am as concerned about the damage to the budgets of Utah families. In this case, tax relief denied to all those families, if delayed indefinitely, could be tax relief denied.

I also want to mention the death tax—an insidious tax that disproportionately hits small businesses and family farms. This year it was fully phased out. From my viewpoint, that is the right policy. But, if we don't act, on January 1 it goes back up to what it was in 2000—a \$1 million threshold and a top rate of 55 percent. The proposal before us today includes the bipartisan Lincoln-Kyl compromise.

That bipartisan proposal puts in place a \$5 million threshold—\$10 million per couple—and a top rate of 35 percent. When Republicans were in control in 2006, we couldn't even get this proposal through Congress. So this is a pretty good deal and to my friend from Arizona, Senator KYL, I applaud his efforts. If Congress fails to act, on January 1, 10 times the number of estates will be hit, including 13 times as many farm-heavy estates.

If I had my way, all the income tax rates would be made permanent—that is the kind of certainty our economy and job creators need. Furthermore, I would never extend some of the so-called temporary tax provisions that look like tax relief, but in reality are little different than welfare through the Tax Code. Far too much new spending is mislabeled as tax relief. Thankfully, some of those provisions were dropped, like the so-called build America bonds tax credit. We also should pay for this extension of unemployment insurance so it doesn't add to the debt.

Lastly, to those who believe that instead of this proposal, we should be undertaking wholesale tax reform: you are absolutely right. We need to reform our Tax Code to broaden the base while lowering rates to make our economy more competitive. But we don't have time to reform the code before January 1. As the next lead Republican on the Senate Finance Committee, I will lead the fight to simplify the Tax Code, and cut back on out-of-control Washington spending. Once we stop these tax hikes, we can then begin the long-overdue national discussion about how best to overhaul our overly burdensome and inefficient tax system.

The bottom line is that this package is not perfect. But it does at least one very important thing: it allows the American people to keep more of their hard-earned money and not hand it over to the Federal Government.

Mr. BAUCUS. Madam President, the debate over the bill we have before us can be boiled down to one simple thing: jobs. Extending middle-class tax cuts will help create jobs. Not extending middle-class tax cuts would cost jobs. Jobs must be our No. 1 priority. And so we must pass this bill.

We know cutting taxes for middle-class families is one of the most effective ways to grow our economy. When working folks keep more of their hard-earned money, they pump it back into our economy and support jobs.

This bill also includes a number of other important provisions designed to create jobs, and I would like to take a moment to focus on one of those provisions—the 1603 grant program that makes resources available for renewable power development.

The 1603 grant program provides renewable energy companies with money up front to cover 30 percent of the costs of renewable power facilities, such as wind farms and solar projects, and that means jobs.

According to a study by the independent Lawrence Berkeley National Laboratory, the 1603 grant program is responsible for saving 55,000 American jobs in the wind industry alone.

It is estimated that 1603 is responsible for helping to produce as many as 2,400 megawatts of wind power—about a quarter of all wind power installed in

2009. This includes projects such as the Glacier Wind Farm near Shelby, MT.

Before 1603, producers had to rely on Wall Street investors to fund their renewable energy projects through a complex system known as tax equity financing. Through tax equity financing, Wall Street firms would invest in renewable power projects in exchange for tax credits. When Wall Street collapsed in 2008, this system of financing collapsed along with it, threatening the future of American renewable power.

So we created 1603 grants in the Recovery Act to bypass Wall Street and provide cash directly to renewable power developers. As a result, most experts have credited the 1603 program with saving the wind industry—and the good-paying American jobs that go along with it.

The tax equity financing market has begun to recover. But tax equity financing is still much more expensive than that provided under 1603, and 1603 also provides a greater bang for our taxpayer buck. By cutting out expensive Wall Street middlemen, 1603 provides grants directly to energy developers to support energy projects and jobs. And 1603 supports smaller projects that wouldn't have otherwise been financed by Wall Street.

Industry experts predict that extending the 1603 grant program will result in 45,000 new American jobs in 2011 in the wind and solar industries alone and many more in the geothermal and biomass.

Supporting renewable power also helps put America back in control and puts the United States on a path toward energy independence. And supporting renewable power projects today supports even more jobs manufacturing wind turbines and solar panels tomorrow. That is why I am working hard with leaders in my State to bolster long-term growth in the wind sector by bringing wind manufacturing jobs to Montana. Today, Montana is poised to begin a significant expansion of the generation capacity of our wind resources. Montana's wind energy resources rank in the top 5 in the United States, but our State is ranked No. 18 in installed capacity. The extension of the 1603 grant program will make Montana's wind-generation expansion possible, creating an ideal situation for a wind turbine or component manufacturing facility.

Madam President, we need an energy policy that puts America back in control. Extension of the 1603 grant program is just one example of a common-sense policy that will create jobs, ramp up American energy production, and help us build a wind energy industry in Montana, and across America, that will be a cornerstone of our Nation's energy independence.

Mr. LEVIN. Madam President, when the Senate invoked cloture on this bill

yesterday evening, and adopted the procedure used after cloture, those of us who oppose portions of this bill lost any opportunity to address the problems we see and seek to repair them. I voted against the motion to invoke cloture because I hoped that, if the cloture motion failed, the Senate would have a chance to consider a better bill, and to improve it through the traditional method of debate and amendment.

That did not happen.

I have spoken, as have others, about the defects of this proposal. Its tax cuts are unwisely skewed toward the wealthy, including an estate tax provision that would benefit a few thousand of our most fortunate taxpayers at great cost to the Treasury. These benefits for the wealthiest among us will not, despite the claims of our Republican colleagues, help our economic recovery. Nearly everyone says that should be our top priority, and it should be. As a host of economists across the ideological spectrum have demonstrated, tax cuts for the well-to-do have little impact on economic growth.

It is not just that these benefits for the wealthiest will have no positive impact on our economy. What is worse, the upper income tax cuts and estate tax provisions that Republicans support would add more than \$100 billion to the national debt over the next 2 years. Republicans in this Chamber repeatedly tell us that the 2010 election was a call for more fiscal restraint. Yet their most significant action following that election has been to insist upon tax cuts for the wealthy paid for with billions of dollars in borrowed money.

It is not just the inconsistency of our Republican colleagues that I find so troubling. It is that in pursuit of their goal, they are holding hostage progress for the American people, not just on tax cuts, but on a range of other crucial issues. They tell us they will not support tax provisions that help working families unless we also include huge giveaways for the wealthy. They tell us we cannot continue emergency unemployment benefits unless we also give several times the cost of those benefits to the wealthiest 2 percent of Americans. They tell us we cannot provide tax relief to help businesses grow and add workers unless we also give away more borrowed money to the wealthy.

And there is more. Republicans have filibustered the defense authorization bill, crucial legislation for the good of our troops and their families, because we have not yet passed tax cuts for the wealthy. They blocked consideration of the New START treaty, a treaty supported by past presidents and secretaries of state of both parties, a treaty that will make our Nation and the entire globe safer and more secure. In an extraordinary letter, all 42 Senate Re-

publicans have said they will not allow the Senate to consider any legislation, no matter how important, until we give billions in borrowed money to the wealthy in the form of tax cuts.

Despite the flaws in this bill and the process by which it comes before us, it has a number of strengths. Greatest among them is the extension of emergency unemployment benefits. In my State and others, thousands of Americans are without work through no fault of their own, and they and their families are depending on us to give them the support they need. These benefits are not just critical to those families, but they also have a highly stimulative impact on the economy. Extending the UI program is the right thing to do. We need to do it, and we can do it yet this year, if we stay here and continue working, as we should, right through to the new year.

But even some of the positives in this legislation have significant drawbacks. The 2 percent payroll tax cut would be welcomed by working families, and could help the economy grow. But it would also cost the Treasury more than \$110 billion in borrowed money next year. While some argue that might still be an acceptable price for boosting economic growth, I believe it is very unlikely that Congress will have the will to let that tax cut expire next year. Already, some of our Republican colleagues are talking of making the cut permanent. That money, otherwise lost to the Social Security trust fund, must come from somewhere, and I am concerned that it will come from cuts to Social Security or other essential programs.

We can support middle-class families, job-producing businesses and the unemployed without unleashing the damage this legislation would do to our budget and to economic justice.

I cannot accept the price Republicans want to extract from us. We need not accept it if we have the will to debate and amend this legislation and are willing to stay through the end of this year to do it. The damage to our fiscal situation and to Social Security, and the damage done by continued inequality these tax cuts would perpetuate, is unacceptable. Beyond that, I believe it would be a mistake to allow Republicans to succeed in their irresponsible brinkmanship, blocking aid to working families and the important other business before the Senate in order to secure benefits for the wealthiest Americans.

I fully expect that my Republican colleagues will soon be urging this body to rein in the debt. Already, we have seen proposals that would seek to remedy our Nation's fiscal crisis by dramatically cutting crucial programs, including Social Security. It is not a stretch to suggest that the cost of this bill alone will lead some to argue that Congress must enact more and deeper

cuts to essential programs, including Social Security—all so that we can give away money the government does not have to the wealthiest few.

We must stand up and fight against an approach that would sacrifice aid to the vast majority of Americans on the altar of unaffordable tax cuts for the wealthiest among us. I believe that time should be today. And so I will vote against this legislation.

Ms. SNOWE. Madam President, I rise to express my strong support for the tax legislation that will not only enable millions of American families to keep more of their paychecks, but will also provide a stable and predictable economic platform upon which American businesses can operate, and pull our economy from the economic morass of the past 2 years.

This legislation certainly cannot remedy all of our economic struggles, but it is essential that we provide necessary certainty in Federal tax policy, which is the foundation upon which our Nation's entrepreneurs make decisions about taking risks, investing in the future, and creating jobs. As the end-of-the-year deadline looms for the biggest tax increase in history, American employers have been retrenching and bracing for the possibility of Washington taking a larger share of taxes out of their businesses—and that is inhibiting our economic potential at a time when we can least afford to fetter the forces of our private sector.

Frankly, the debate over whether extending these tax provisions is the right thing to do is now past. What we are experiencing right now is a jobless recovery, which isn't a true recovery at all if you cannot find a job or earn a paycheck. For 2 years of debating and legislating in Washington about how to fix the economy, our economy should be in more than just the "holding pattern" Harvard Economics Professor, Martin Feldstein, has described. I am afraid that at this historic juncture—with the unemployment rate of 9.8 percent, or roughly 15 million people out of work, poverty in America is at its highest in over a generation, and we are experiencing historically low investor and consumer confidence—we do not have the luxury to take the gamble and increase taxes.

A consensus has developed among economists and policymakers that extending these tax provisions will benefit the economy. Indeed, according to the White House, extending these tax provisions will result in more than 1.5 million jobs. Back in September, Mark Zandi released data indicating that increasing taxes from 33 and 35 percent up to 36 and 39.6 percent on small business and high-income taxpayers would reduce gross domestic product by 0.4 percent in 2011 and would reduce payroll employment by 770,000 jobs by mid-2012, precipitating a double-dip recession in the first half of 2011. Mr. Zandi

is now estimating that this legislation will create 1.6 million jobs. Further, even the Center for American Progress estimates job growth at 2.2 million jobs as a result of this legislation.

The Congressional Budget Office has been stating since September that extending the tax rates through 2012, as this legislation would do, would add between 600,000 and 1.4 million jobs in 2011 and between 900,000 and 2.7 million jobs in 2012. Further, CBO estimates that this legislation would enhance the gross national product by 1.1 percent. Also back in September, a group of 300 economists recognized this reality and sent a letter to Congress imploring an extension of the current rules. Perhaps the phrase “better late than never” is most applicable to the impending passage of this legislation that will avert the tax increases that loom a mere 3 weeks away and would lead to a double-dip recession, and drive our unemployment rate even higher.

It is simply long past time that we extend the 2001/2003 tax relief and expiring provisions such as the R&D tax credit and the child credit. It is incumbent upon this Congress to enact stable tax rules that will help Americans to get back to work and plan their lives—our political Hippocratic Oath of “First Do No Harm” should apply at this moment, just as there are glimmers that our national economy is past its low ebb. At this juncture we cannot veer onto a dangerous path and increase taxes, which is exactly what would happen if this legislation does not become law. Indeed, the tax increases scheduled to take effect in a matter of 3 weeks would be the biggest tax increase in history—an \$800 billion tax increase that will be averted by this legislation.

And the agreement on which this legislation is based is something that has been rare in Washington in the last 2 years—a hard fought consensus among the leaders of both parties. Both sides of the negotiating table were required to make concessions to reach this point and, as a result, a significant majority of 83 to 15 voted to move this legislation forward.

Undeniably, one of the key components of this legislation is the 10-percent tax rate that was a hallmark of the original 2001 legislation. While other tax rates have been the object of more heated—and highly polarizing—debate, it is undeniable that this 10 percent rate is the most significant. If this legislation is not enacted into law, roughly 27 million tax returns will witness a 50 percent increase in taxes, from 10 percent to 15 percent. With consumer spending representing 70 percent of gross national product, we must be cognizant of how this tax increase would eradicate any sign of economic recovery. This is not even an issue of individuals bracing for a higher tax bill—on January 1 employers would

withhold more taxes from paychecks leaving less for the rent, grocery bills, a tank of gas or utilities.

Of course, all taxpayers benefit from the initial 10-percent tax rate, but for these low-income individuals and families, having the 10-percent rate revert to a 15-percent rate would be particularly burdensome. For individuals making less than \$8,000 per year and couples making under \$16,000, this 10-percent rate is a lifeline. For taxpayers slightly higher up the income stream, having this initial portion of their income taxed at only a 10-percent rate can significantly help reduce their effective tax rate.

Another hallmark of the 2001 tax legislation that would be extended is marriage penalty relief. The initial two tax rates, those at 10 percent and 15 percent rates, allow for twice the amount of income for a married couple than is taxed for an individual, so individuals earning up to \$34,000 are taxed at 15 percent and couples can earn up to \$68,000 and still remain in the 15-percent bracket. This was certainly not the case before the 2001 law, and thus an extension of this provision is nothing short of an imperative for low income and middle income married couples today.

Indeed, if this legislation is not enacted, rather than having up to \$68,000 taxed at a 15-percent rate, couples would face a 28-percent rate on family incomes over \$58,200. For families where both the husband and wife are working, at a 28-percent rate rather than a 15-percent rate, that second income starts to face diminishing returns all too quickly—especially if the second income involves placing children in expensive day care.

And speaking of children and daycare, there are two more significant provisions in this bill that are being extended—the child tax credit and the dependent care tax credit. In 2008, the most recent year for which data is available, there were 25,287,874 children claimed for child tax credits. As the primary sponsor of the child credit in 2001, I am particularly proud of the fact that American families received an economic boost of \$1,000 for 25 million children. The child tax credit benefits working parents and their dependent children and it is essential to note that the Maine Children's Alliance of my home State reports that, in Maine, 21.8 percent of young children are poor and 16.5 percent of all children are poor. Currently, these families are eligible for a refundable credit—15 percent of earned income capped at a maximum of \$1,000 per child—once they have earned at least \$3,000.

The legislation we are debating will maintain the threshold—set in 2009—at \$3,000 rather than allowing it to triple to roughly \$13,000, which would nationally result in millions of low-income working parents being excluded from

receiving the refundable portion of the tax credit altogether, or having their benefit significantly reduced.

In Maine, for example, the Maine Children's Alliance reports that 34,651 children who were members of 21,346 families in Maine benefitted from this expansion in 2009. This \$3,000 threshold is an extraordinary one, which was not and is not envisioned to be permanent. Senator LINCOLN and I have supported bringing the \$13,000 threshold down to a more sustainable \$8,500 level and then indexing that for inflation. In the next Congress, when we address tax reform and enter into a full negotiation about income tax burdens, I will be attentively working to ensure that tax policies for working families with children are progressive and mindful of these families' needs.

The dependent care tax credit is also extended in this legislation. This year, the provision allows a taxpayer a 35-percent credit, rather than just 30 percent, of child care expenses for children under 13 and disabled dependents. The 2001 tax bill increased the amount of eligible expenses from \$2,400 to \$3,000 for one child and from \$4,800 to \$6,000 for two or more children.

Under this legislation, these policies on dependent care will be extended for an additional 2 years, through 2012. Again, with Senator LINCOLN, we have introduced legislation that would have improved rather than just maintained the dependent care credit. The most significant of these changes would be to increase the thresholds so that up to \$5,000 per child or \$10,000 for two or more children would be creditable. The legislation would also amend the flexible spending account rules for dependent care to increase the amount of pre-tax income that can be set aside for dependent care so that it is \$7,500 for one dependent and \$10,000 for two or more.

Another major component of the legislation before us is relief from the alternative minimum tax—or AMT. In fact, the AMT relief in this legislation makes up roughly one quarter of all the relief—roughly \$137 billion for just the 2-year “patch”—that effectively holds harmless taxpayers from the unintended consequences of this alternative tax system. This is not taking into account the additional relief that holds harmless taxpayers who would otherwise have their child credits reduced as a result of the AMT.

The onerous AMT is tax policy run amok—and I can find no policymakers who defend the manner in which it would be imposed on at least an additional 21 million taxpayers. AMT is essentially a flat tax at 26 and 28 percent tax rates for couples with combined incomes as low as \$45,000 per year. Perhaps this is the understatement of the year, but these are not the super wealthy who were the intended targets of this tax. When the 112th Congress addresses the question of fundamental

tax reform, this reckless component of tax policy must be our top single priority to be repealed and rationalized so that the tax rate is the tax rate, and we cease to have a parallel tax system that is simply out of control.

As the former chair and now ranking member of the Senate Small Business Committee and a senior member of the Senate Finance Committee, the issue of how individual tax rates affect small business is of profound concern to me. Whether it is on Main Street tours or from other constituent contacts with businesses large and small, the uncertainty of the Tax Code is the primary issue on the minds of business owners and managers. At that December 2 hearing on tax reform in the Finance Committee, we were presented data regarding the growth in the number of "flow through" businesses—those businesses that pay tax at the individual tax rates rather than at the corporate rate. Since the Tax Reform Act of 1986, but particularly since 2001, the growth in this form of ownership has been expanding. Further, we learned that S Corporations have supplanted C Corporations as the preferred form of business other than sole proprietorships.

The Joint Committee on Taxation has reported that 50 percent of all income in the top two individual income tax brackets is attributable to flow-through businesses. These are the entrepreneurial firms that are generating the jobs necessary to pull us out of this recession, and it is imperative that we not increase taxes on these businesses from 33 and 35 percent up to 36 and 39.6 percent. According to the National Association of Manufacturers, over 70 percent of U.S. manufacturers file as S Corporations or other pass-through entities and NAM reports that most would be significantly and adversely impacted by increasing tax rates to 39.6 percent. Moreover, this legislation will reduce tax rates on capital gains and dividends that will boost capital investment and economic growth.

According to the Small Business Administration, small businesses employ half of all private sector employees, and generated 65 percent of net new jobs over the past 17 years. These flow-through small businesses employ 20 million Americans and it is these business owners who must reinvest the profits of their businesses to continue serving as the economic engines of this Nation. The reinvested profits from a business are the lifeblood of these entrepreneurs and, at a time when access to capital from lending institutions is still difficult, current earnings must be available to business owners rather than sending those funds to Washington. Indeed, in the National Small Business Association's 2009 Year-End Economic Report, 38 percent of respondents to their survey noted Federal taxes as one of the most significant challenges to the future growth

and survival of their businesses—a category trumped only by the ongoing economic uncertainty pervading our Nation. Small business owners across America can better deploy this capital than can policymakers in Washington.

Although I believe that this package will demonstrably enhance GDP growth and critically lower unemployment, regrettably this package also unnecessarily adds to our Federal debt by retaining energy tax policies that are quite simply an ineffective use of taxpayers' money. Specifically, instead of considering the effectiveness of individual energy tax policies scheduled to expire this year, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 simply extends all policies that had Congress extended previously. By that standard the legislation conveniently continues subsidies at their current levels for ethanol, biodiesel, refined coal, natural gas and oil production—all at a cost of more than \$11 billion in lost revenue for the Federal Government at a time of record deficits.

These tax policies were enacted years ago, are extremely costly to U.S. taxpayers, and the merits of their extension have not been demonstrated to the Senate Finance Committee. In fact, according to a July 2010 study by the Congressional Budget Office, the ethanol tax credits cost taxpayers \$1.78 for each gallon of gasoline consumption reduced, and \$750 for each metric ton of carbon dioxide equivalent emissions avoided. The continuation of this tax credit is an ineffective method at reducing our consumption of foreign oil and will unfortunately cost taxpayers nearly \$5 billion.

In addition, the legislation extends the 1603 grant program for qualified renewable energy projects. While I support renewable energy, this program is far from standard tax policy and was developed to be timely, targeted and temporary in the American Recovery and Reinvestment Act as a direct result of the paralysis of the tax equity markets in 2009. Unfortunately, the Finance Committee has not reviewed the effectiveness of this policy and, as a result, I am not supportive of providing an additional \$2.9 billion without government analysis demonstrating that this program's extension is an effective use of taxpayers' money.

Again, the decision to include these costly energy provisions was made without Finance Committee hearings, mark-ups, discussions, or analysis. Energy markets are dynamic and technology develops rapidly—Congress must demonstrate our capacity to end obsolete energy tax policies, and develop effective policies that will improve America's energy security.

It is regrettable that the Middle Class Tax Relief Act includes these costly and misguided policies and hope that next year Chairman BAUCUS and

Ranking Member HATCH hold Finance hearings to assess the best use of tax policy to reduce energy prices in a fiscally responsible manner.

Finally, I have been an ardent supporter of extended unemployment benefits during this economic calamity. At a time when the official national unemployment rate is 9.8 percent and 7.4 percent in Maine, and many industries and States clearly are experiencing rates that are alarmingly higher, it is imperative that we provide a safety net for these individuals. Rather than the halting, short term and month to month extensions that we have managed this year, the legislation before us would provide extended unemployment benefits through 2011—recognizing that these unemployment numbers are not expected to rebound as quickly as any of us would hope.

I support this legislation to extend current tax relief for two additional years. But it is critical to understand that this is merely a short term patch and that our Tax Code is woefully outdated, mercilessly complicated, and wildly out of control. While the extension of these tax rates is a step in the right direction, let us not forget that it is only a first step in a long journey to overhaul our broken Tax Code as our corporate tax rate is the highest in the world—Japan is reforming their tax system—and the Tax Code is so horribly complex that, according to the August 2010 report from the President's Economic Recovery Advisory Board, that taxpayers spend 7.6 billion hours and shell out about \$140 billion trying to comply with tax filing requirements in 2008, which is roughly equivalent to 1 percent of the GDP. Further, the Treasury Department testified at the recent Finance Committee tax reform hearing that the instruction book for the primary individual income tax form has grown from 52 pages for 1980 to 174 pages for 2009. The income tax regulations have doubled, from less than 7,500 pages in 1980 to nearly 15,000 pages today. Between 1980 and 2008, tax returns filled out using paid preparers have increased from 38 percent of returns to 58 percent of returns. When software users are added in, about 85 percent of individual income tax returns rely on some form of assistance, either software used by the taxpayer or a practitioner.

That, my colleagues, is what awaits us in the 112th Congress. I urge you to pass this legislation now so that we can focus on the big picture in the new year and the new Congress. Indeed, this legislation will provide the much needed building blocks for our future efforts.

The legislation we will pass today gives us a brief but realistic window to address the multitude of flaws in the current Tax Code, and I have stated that my guiding principles for reform are as follows—

First, we should establish a progrowth Tax Code with the fewest number of economic distortions that raises sufficient revenue to finance our Nation's spending priorities.

Second, our Tax Code should be simplified to reduce the burden of compliance.

Third, we must end the fiscal "shell game" where we extend tax cuts for only a year or two at a time or make them temporary to mask their true long-term costs.

Fourth, the Tax Code should promote savings and investment, the drivers of long-term growth.

Fifth, the Tax Code must not be a barrier to American business competitiveness in the global economy. We have the second highest corporate tax burden in the industrialized world today.

Finally, our Tax Code must remain progressive and distribute the tax burden fairly.

With that, I urge my colleagues to extend existing tax relief—and plan to move expeditiously to enact a sustainable tax system very soon.

Ms. COLLINS. Madam President, on Monday, the Senate took an important step toward extending critical tax relief for all Americans by approving cloture on the Reid-McConnell amendment, by an overwhelming vote. This bipartisan vote is encouraging and demonstrates that Members of this body can work together, with the President, to do what is reasonable and right to address the economic challenges our Nation continues to face.

As with any compromise, however, the bill is not perfect, and I would like to note for the record several—although not all—of the items I believe should have been handled differently.

First, I am concerned about the failure to include an extension of the production tax credit for existing open-loop biomass facilities. This credit is critical for preserving renewable energy and forestry jobs in Maine and across the United States, and an extension of this credit was included in previous tax proposals. According to the American Forest & Paper Association and the Biomass Power Association, since the start of 2008, at least 35 paper mills have permanently closed and more than 75 other facilities have experienced market-related downtime. In the biomass sector this year, six facilities have closed, three in Maine and three in California, and more are under the threat of closure.

The bill would be improved by extending the tax credit period for existing open-loop biomass facilities, as called for by Senator BILL NELSON's amendment, which I have cosponsored. This amendment would allow these facilities to remain competitive with other forms of renewable energy, saving jobs that are seriously at risk.

Second, I am concerned that the decision by the drafters to strike language

added to the Tax Code by the American Recovery and Reinvestment Act could lead to unnecessary confusion regarding certain wood stoves.

For example, the bill strikes language that I sought in ARRA to clarify how the thermal efficiency of residential wood and wood-pellet stoves should be measured for purposes of the tax credit in section 25C. That tax credit was created by the Emergency Economic Stabilization Act of 2008, which did not specify a methodology for determining thermal efficiency. The IRS has issued guidance directing that the "lower heating value" methodology should be used, which is consistent with industry practices and with our intent to ensure that the credit is available for efficient and clean-burning wood and wood-pellet stoves.

Removing the reference to the "lower heating value" from the code serves little purpose. Certainly, however, it does not mean that this commonsense methodology is precluded, nor does it require the IRS to revisit its methodology. I hope that my comments today will help avoid confusion about the use of the "lower heating value" methodology with respect to this tax credit.

Finally, I am disappointed that the bill does not hold the line on a tax credit for corn-based ethanol and some other special interest provisions. The corn-based ethanol tax break is extraordinarily expensive, costing some \$6 billion in subsidies from taxpayers annually according to the Congressional Budget Office. Over recent years we have also seen food and feed prices rise as crops have been diverted to first generation biofuel production. In addition, corn-based ethanol mandates present an environmental concern as they could result in energy efficiency losses and increased emissions of air pollutants, because mechanical failures can jeopardize the effectiveness of emission control devices and systems installed on engines.

Of course, a bill without these flaws would have been preferable, but with the economy still weak, and with unemployment persisting at nearly 10 percent nationally, now is not the time to be raising taxes, and this bill averts one of the largest tax increases in history. America needs jobs—not higher taxes.

In September, I first urged my colleagues and the administration to come together around this 2-year compromise that will get us through the recession and send a strong signal to the business community to invest and create jobs. I am pleased that the Senate has acted to give families some confidence and business owners some certainty.

I encourage my colleagues in the Congress and the President to use this 2-year period to undertake comprehensive tax reform to make our system fairer, simpler, and more progrowth.

Mr. MENENDEZ. Madam President, I rise to support the tax cut package before us today to help middle-class families and workers hit hardest by this economy, and that is exactly what this bill will do. It will ensure that middle-class taxes don't go up January 1, that laid-off workers can provide for their families while they continue to look for work, that an average household in my home State will receive \$1,400 in payroll tax relief, and it will protect 1.6 million middle class New Jerseyans from a surprise alternative minimum tax hike of up to \$5,600.

This is an important moment for the middle class in America.

This is a time to come together, like the Senate did last night, to ensure this bill passes and our economic recovery continues. Many families are sitting around the kitchen table at night wondering how they can afford to feed and clothe their children, much less buy gifts for them during this holiday.

Middle class families are wondering how they are going to pay the mortgage. How they are going to pay the tuition for their college-bound children next semester.

I will vote for this package, not because I agree with every provision, particularly those that give bonus tax breaks to the wealthiest and most able to sacrifice during this economic recession, but because it will help families in my State and across this country who really do need our help.

I will vote for this package because, at its core, it is a middle-class tax relief package.

I will vote for it because it extends tax relief of more than 3,000 for a typical working family and doubles the child tax credit from \$500 to \$1,000.

I will vote for it because the \$120 billion payroll tax cut is an effective way to create jobs and increase the consumer demand sorely needed by our Nation's businesses.

I will vote for it because it includes a 2-year extension of the alternative minimum tax relief legislation, which I sponsored, so 1.6 million New Jerseyans will not face an additional tax bill of up to \$5,600.

I will vote for this package because it preserves transit benefits to New Jersey commuters. This provision, which was not included in the original deal, but I worked hard to restore, will allow commuters to receive up to \$230 in transit benefits tax free.

It extends the low-income child tax credit and earned-income tax credit to ensure that a working family with three children could continue to receive a tax cut of more than \$2,000.

It helps students and their parents by extending the partially refundable American opportunity tax credit, worth up to \$2,500, that helps 8 million students and their families cover the cost of tuition.

It helps save and create green jobs by extending what's known as the 1603 Treasury grant program, widely credited with maintaining strong growth in the renewable energy sector in 2009 and 2010, despite the severe economic downturn, and has saved tens of thousands of jobs in the wind and solar industries.

I worked hard to restore this particular provision because it has provided more than \$66 million in grants to fund 155 solar projects in New Jersey alone.

And most importantly, for those who are unemployed, it includes a long-overdue 13-month extension of Federal support for 99 weeks of unemployment insurance for workers who have lost their jobs during this economic downturn, something our Republican colleagues fought against all year, a helping hand they refused to extend unless the rich got even more in tax cuts, even though extending unemployment benefits is a policy that most economists agree is one of the most effective measures to create jobs.

It helps small business owners by creating the largest temporary investment incentive in American history by allowing businesses to expense all of their qualified investments in 2011.

Estimates from the Treasury Department indicate this could generate more than \$50 billion in additional investment in the U.S. next year.

The bill includes a provision I co-sponsored to incentivize restaurant owners to upgrade their facilities by extending for 2 years a provision that allows them to write off their costs much faster than they could otherwise, 15 years as opposed to 39 years.

And it helps small business owners by extending for 2 years the research and development tax credit which incentivizes companies to create jobs in America by giving them a tax credit for qualified research spending.

The R&D tax credit is truly a jobs credit with 70 percent or more of the credit attributable to salaries and wages of U.S. workers performing research in the United States. I have co-sponsored legislation to make this credit permanent, and I hope we will.

Unfortunately, our friends on the other side of the aisle decided that if we were going to pass a bill to help the middle class, it could not move without additional benefits for the wealthiest.

In order for us to help the middle class, we are being asked by our Republican colleagues to give millionaires an additional windfall.

In order to pass an extension of desperately needed unemployment benefits as emergency spending, we must also pass a windfall for estates worth more than \$5 million.

Yes that is correct, apparently now Republicans believe you must offset help for laid-off workers with estate tax cuts for the heirs of millionaires and billionaires.

Now, people who have worked hard and built personal wealth should be applauded for their success. Their hard work, their creativity, their ingenuity should be applauded and admired.

People who work hard and prosper, they love their country too, and they are in the best position to be helpful to our nation in this tough economic time.

Many of them are willing to contribute if we ask, and we know from experience that reverting to the tax rates the wealthiest and most successful paid during the Clinton era of prosperity did not hurt our economy.

This package certainly is not ideal. Let me be perfectly clear, I do not think we should be giving the wealthiest Americans, those who are the most able to share in the sacrifice needed in today's economy, even more in tax cuts just to keep taxes from increasing on the middle class. But that is the hand we have been dealt. We had votes on extending middle class tax cuts, and we could not garner enough Republican support to pass them.

Now the decision is not whether or not to support tax cuts for the wealthy. The decision before us today is whether we are going to stand up for the middle class and protect them from the tax increase that is looming 2 weeks from now.

The bottom line is that this package meets our priority on this side of the aisle, of making a real difference in the lives of middle class families affected by layoffs, families struggling to make ends meet, and, in the process, help further stimulate our fragile economy, rather than allow it to slide back into recession.

If we can achieve that, then this compromise is well worth it.

I hope that those on the other side who have shamelessly stood for putting more money in the pockets of millionaires and billionaires regardless of the cost, regardless of the fact that doing so has failed to create jobs, will not come back a year or 2 years from now and have the audacity to blame this administration or members on this side of the aisle for fiscal irresponsibility, that we will never again be lectured about deficits by those who demand billions of dollars in deficit spending for the heir of estates worth more than \$5 million.

That is what a Republican world looks like. It is a world of blue smoke and mirrors in which they tell us we can see castles, kingdoms, an economy that is not real and jobs that are not there.

The negotiations to get to this point revealed much about the priorities of each party, and frankly the tactics employed by my Republican colleagues do not sit well with me and many of my fellow Democrats.

But the bottom line is that most of my colleagues recognize, as I do, that

this package will make a real difference in the lives of middle class families struggling in difficult economic circumstances.

And I believe it will have strong support, that it will benefit millions of average Americans who simply want us to do what is right for them.

It is my hope that this package is the last time we will be forced to cut a deal for the wealthy just to protect middle-class families.

I listened with great interest to the words of the President when he spoke about tax reform recently. We have an opportunity to reform the Tax Code, to simplify what has become a nightmare for millions of Americans, to get rid of so much preferential treatment for special interests currently in the code, and to lower income tax rates for everybody.

We should have a Tax Code that reflects the general interests of the American people, not one that forces the less politically connected to pay more in taxes than those with powerful allies.

And I expect that the next time this issue comes up, we will not be discussing whether or not to extend the failed tax policies of the Bush administration, but how to best simplify the Tax Codes so tax rates for everybody can be reduced permanently and responsibly.

Mr. REID. Madam President, in times like these, we cannot afford to play games with the economic security of middle-class families in Nevada, and across America.

This bill is not perfect, but it gives those families the boost they so desperately need. It will create 2 million jobs, according to an estimate by the Center for American Progress. For Nevadans, the energy tax cut provisions will create as many as 2,500 jobs in Nevada alone, at a time when jobs are so badly needed.

This bill will cut taxes for middle-class families and small businesses. It contains a \$120 billion payroll tax reduction, which will give the average middle-class family a tax cut of \$1,200. It extends the college tax credit to help more Americans get the education and skills they need to compete. And it will ensure that Americans who are still looking for work will continue to have the safety net they rely on to make ends meet.

It is unfortunate that my Republican colleagues drew this process out so long. While we ultimately were able to reach a compromise, there was one point that Republicans refused to compromise on: they were dead set on delivering huge tax breaks to people who do not need them, no matter what.

Warren Buffett recently came forward and said, I don't need a tax cut. Give it to the person who's serving lunch. This is just common sense. In tough times, we should concentrate our

efforts on helping the people who need it most. Not only will it help them more, but they are more likely to spend the money and help grow our economy.

Unfortunately, this debate also revealed that my Republican colleagues would rather talk about the deficit than actually do anything to bring it down. The giveaways to millionaires that they fought for will add \$700 billion to our deficit. My Republican friends love to talk about the deficit, but when it came time for them to make a decision, cutting the deficit took a back seat to giving tax breaks to people who do not need them.

In the future, I hope my Republican colleagues will match their actions to their rhetoric, and start working with us to bring down the deficit.

Clearly, we Democrats disagree with our Republican colleagues about where we should be focusing our efforts in this tough economy. We think we should be focusing on the middle class, they think we should be giving more benefits to the wealthiest among us, even if those benefits add to the deficit.

But despite our disagreements, we were able to reach a compromise. Because that is what the American people want us to do: find common ground, and reach solutions that will benefit our middle class.

The framework agreed upon by President Obama and Senate Republicans might not be the approach I would have taken. But with millions of American families still struggling to make ends meet, it is our responsibility not to let the perfect be the enemy of the good. I know our counterparts in the House will pass this bill quickly so that we can get it to the President's desk as soon as possible, and give middle-class Americans a little more peace of mind this holiday season.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided and controlled between the two leaders or their designees.

The Senator from Michigan.

UNANIMOUS CONSENT REQUESTS

Ms. STABENOW. Madam President, as we proceed to this important final vote, there are two provisions I strongly believe ought to be in this bill. They are bipartisan provisions. I came to the floor yesterday to offer a unanimous consent on both of those. Unfortunately, our Republican colleagues were not on the Senate floor, so out of a courtesy I did not proceed. But I will now at this point.

The advanced energy manufacturing tax credit, 48C—a strong bipartisan effort to make sure we are making things in America, creating over 17,000 jobs in 43 States across the country, leveraging \$7.7 billion in private investment,—should be included in this bill so when we talk about energy and

new innovation, we are making it in America.

Therefore, I ask unanimous consent to set aside the second-degree amendment to the Reid-McConnell substitute to offer amendment No. 4775, an amendment to extend the 48C advanced energy manufacturing tax credit.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. STABENOW. Madam President, I have a second unanimous consent request. I also spoke last night about the urgent need to fix an IRS reporting provision for small business—

The PRESIDING OFFICER. The Senator's time has expired.

Ms. STABENOW. I ask unanimous consent for another 10 seconds to offer a unanimous consent request in order to set aside the second-degree amendment to the Reid-McConnell substitute to offer an amendment No. 4773 that would repeal the 1099 reporting requirement for small business.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MURRAY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Under the previous order, the question is on agreeing to the motion to concur in the House amendment to the Senate amendment to H.R. 4853 with amendment No. 4753.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 81, nays 19, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—81

Akaka	Dodd	McCaskill
Alexander	Durbin	McConnell
Barrasso	Enzi	Menendez
Baucus	Feinstein	Mikulski
Bayh	Franken	Murkowski
Begich	Graham	Murray
Bennet	Grassley	Nelson (NE)
Bennett	Gregg	Nelson (FL)
Bond	Hatch	Pryor
Boxer	Hutchison	Reid
Brown (MA)	Inhofe	Risch
Brown (OH)	Inouye	Roberts
Brownback	Isakson	Rockefeller
Bunning	Johanns	Schumer
Burr	Johnson	Shaheen
Cantwell	Kerry	Shelby
Cardin	Kirk	Snowe
Carper	Klobuchar	Specter
Casey	Kohl	Stabenow
Chambliss	Kyl	Tester
Cochran	Landrieu	Thune
Collins	LeMieux	Vitter
Conrad	Lieberman	Warner
Cooms	Lincoln	Webb
Corker	Lugar	Whitehouse
Cornyn	Manchin	Wicker
Crapo	McCain	

NAYS—19

Bingaman	Hagan	Sessions
Coburn	Harkin	Udall (CO)
DeMint	Lautenberg	Udall (NM)
Dorgan	Leahy	Voinovich
Ensign	Levin	Wyden
Feingold	Merkley	
Gillibrand	Sanders	

The motion was agreed to.

Mr. DURBIN. Madam President, I move to reconsider the vote.

Mrs. LINCOLN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. AKAKA. Madam President, with our vote today on the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, we have passed legislation that will have profound short- and long-term consequences for our nation. I supported this measure once it became the only available option to provide much-needed help to American families. I, however, have deep concerns with other aspects of this bill, and I extend my support for it with strong reservations.

Our economy has not yet recovered from the downturn that began over 2 years ago. Hawaii's foreclosure rate in October of this year was the 12th highest in the Nation. In November, Hawaii saw a 49-percent increase in consumer bankruptcy filings compared to the same month in 2009, the second largest increase in the country. These are strong indications that people in Hawaii cannot sustain an increase in their tax obligations. We cannot allow taxes to rise on the workingclass when so many homeowners are already unable to afford their mortgages and consumers are unable to meet their outstanding debt obligations.

One major cause of these problems is unemployment, and I would not have been able to support this legislation had it not included a 13-month extension of unemployment benefits. Families and individuals across Hawaii and the Nation need these benefits to help pay their rents and mortgages while they search for a job, and parents need this assistance to put food on the table and provide for their children. I refuse to abandon these people. That is why I supported this bill.

I regret that we were unable to provide permanent tax relief for working-class Americans, families, and small businesses because their financial well-being has been haplessly tied to tax cuts for millionaires and billionaires since the beginning of this tax debate. Earlier this month, we considered two fair and reasonable tax proposals—one to permanently extend the expiring tax cuts for families earning under \$250,000, followed by a compromise that included Americans earning up to \$1 million a year. These were good-faith efforts to provide help where it is most needed—to families and small businesses that, unlike the millionaires and billionaires out there, do not have

the financial security to weather the recession. Unfortunately, both were defeated by a minority of my colleagues and instead we have been forced to maintain fiscally irresponsible Bush-era tax policies through the legislation that we have just passed.

When these tax cuts were enacted at the beginning of this decade, I called it "irresponsible fiscal policy." I correctly predicted that the upper income tax breaks would lead to an explosion of the deficit and leave a mountain of debt for future generations. At the time, I lobbied for targeted tax cuts that would stimulate economic growth and employment while preserving fiscal discipline.

The national debt now stands above \$13.8 trillion. Our budget surpluses have long since turned into deficits. Difficult budget choices are now before us. We will have the opportunity to re-examine these tax cuts for the richest Americans that we have just imprudently extended, as well as the temporary estate tax and payroll tax holiday provisions in the bill. Fiscal discipline must be maintained. I am prepared to make hard choices to restore and preserve our country's long-term economic security. Until then, I am pleased that we were able to help the unemployed and working-class through this extension of expiring tax provisions and unemployment benefits, and that is why I supported this bill.

REMEMBERING RICHARD HOLBROOKE

Mr. LEAHY. Madam President, it is with deep sadness that I speak in memory of a dear friend, Ambassador Richard Holbrooke, who died Monday at the far-too-early age of 69.

I first met Dick years and years ago, long before he held his most recent post of Special Envoy for Afghanistan and Pakistan. We had so many conversations, meetings, and trips over the years, as his career progressed, particularly during the war in the former Yugoslavia.

Dick's skillful diplomacy that ended the siege of Sarajevo and finally ended that war is legendary. Nobody else could have done what he did. He was motivated above all by compassion, intent on stopping the suffering of innocent people who were being terrorized for no other reason than their ethnicity.

He combined the force of his convictions with the force of his personality, along with his boundless energy, to do what others had been unable to do. Ambassador Holbrooke did not accept no for an answer.

I remember meeting Dick in 1999. We had planned a meeting. I was in Macedonia, and he was in Kosovo. It was a very foggy, rainy day. We could not travel by helicopter, as we planned, so we met on a slippery, narrow road,

with a several-hundred-foot cliff on one side. We sat together on the hood of a car and he described what he had observed. He told me what he believed needed to be done. It was fascinating because Dick put everything into perspective as only he could.

It is fair to say we took advantage of that unlikely meeting to reminisce and laugh about other times and places, some of which were just as unlikely. This was one of those rare conversations that makes an unforgettable impression on you—most of all because it was Dick Holbrooke. He was so passionate, so animated, yet with a determination and a sense of humor that made the challenge of solving the thorniest of problems hard to resist.

It was in his latest position that I heard most often from Dick, when he would call to keep me apprised of his efforts to try to get the most out of our aid to Afghanistan and Pakistan. It was not an easy task. He called me on weekends at my home in Vermont, and we would talk about it.

Dick led the reshaping of U.S. policy in South Asia during a difficult transition period. He charged headfirst into the maelstrom of Afghanistan and Pakistan 7 years after the conflict began, raising key and sometimes unpopular questions about our efforts there. Not infrequently, the press would report about his combative style and another heated exchange with some foreign leader. But in Dick's final hours, his wife Kati Marton received calls of sympathy from Afghan President Karzai and Pakistani President Zardari, which says a lot about Dick.

My thoughts and prayers are with Kati and Dick's sons and stepchildren and with Dick's loyal staff at the Department of State during this sad time. I and others here have lost a dear friend. The American people have lost one of the greatest diplomats of our time, an extraordinary man who loved this country and devoted his life to it as much as any person could.

I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from New Mexico is recognized.

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent to speak for approximately 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent that our whip, Senator DURBIN, be given permission to speak after I finish.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING RICHARD HOLBROOKE

Mr. UDALL of New Mexico. Madam President, I wish to echo the comments of Senator LEAHY on Ambassador Holbrooke. My sense was, Ambassador Holbrooke was a remarkable diplomat and public servant. I got to see him both when he was in his public position and a private position. He was always dedicated to peace in the world. I remember reading his book, "To End a War," which was about the Balkans, and sharing it with my father and my father having discussions with him on the phone. He said: This diplomat, Richard Holbrooke, is a remarkable guy.

If you read that book, it is a classic about bringing peace to a very difficult situation. I express my heartfelt condolences to his wife Kati Marton and his two children, David and Anthony Holbrooke. I tell the family we will miss him very much on the international scene.

WAR IN AFGHANISTAN

Mr. UDALL of New Mexico. Madam President, I rise to discuss the Presidential review that is taking place on the war in Afghanistan.

We are approaching another signpost in the conflict that has kept our military men and women in harm's way longer than any other in our history—109 months and counting. That is longer than the wars in Vietnam or Iraq. It is even longer than the Soviet occupation of Afghanistan in the 1980s.

The signpost I wish to speak of is one President Obama posted when he ordered the troop increase in Afghanistan last December.

In his orders, he also called for a review of our war strategy to be conducted 1 year later. That review was to include:

The security situation and other conditions, including improvement in Afghan governance, development of Afghan National Security Forces, Pakistani actions and international support.

That review is due this month.

I commend our President for his foresight in calling for this review. But in recent months, I have read troubling statements from administration and military leaders. These statements lead me to believe this review is seen as nothing more than a check in the box.

In a Washington Post article, an Under Secretary of Defense said as much when he stated that the review will not go into much more detail than what is already provided to the President during his monthly status updates.

General Petraeus was also quoted in the same article as saying: "I would not want to overplay the significance of this review."

I think this approach to this review would be another tragic mistake in

what I fear is an ongoing series of them.

After 9 years and \$455 billion, the unfortunate reality is, we are still not anywhere near where we want to be or should be in Afghanistan. Anything less than a thorough and unflinching review is unacceptable. It is unacceptable to me, and it is unacceptable to the American people.

A famed military author, Carl von Clausewitz, wrote a book titled "On War," which is required reading for any military professional. In that book, he wrote:

The first, the supreme, the most far-reaching act of judgment that the statesman and commander have to make is to establish . . . the kind of war on which they are embarking; neither mistaking it for, nor trying to turn it into, something that is alien to its nature. This is the first of all strategic questions and the most comprehensive.

Today, our struggles in Afghanistan necessitate that we again follow von Clausewitz's advice. We must answer the big questions about the kind of war we set out to fight and the kind of war we are fighting.

Everyone knows the big question when it comes to Afghanistan. That is why it is the big question: Is our prolonged involvement in Afghanistan worth the costs we as a nation are paying for it? Is it worth the human cost? Thousands of Americans have been maimed or killed in this war so far, and thousands more stand in harm's way as we speak. Is it worth the fiscal cost? Our wars in the last decade have left us with huge deficits. And for the last decade, wars in both Afghanistan and Iraq went unpaid for. Instead of rallying the Nation during a time of war, asking for sacrifices from everyone, Congress and two Presidents chose to pass this massive debt on to future generations—the first time we have done so in modern times.

The real issue is not what we are spending to protect our Nation but whether that spending is making us safer, which leads to the question: Is our continued involvement in Afghanistan worth the cost to our larger national security priorities? Our commitment in Afghanistan is pulling time, energy, and funds from other equally important national security priorities, priorities such as energy independence, counterproliferation, and countering terrorist activities in Yemen, Somalia, and many other places around the world.

That is why this review is so critical. We have to decide as a Nation if our prolonged involvement in Afghanistan is worth it, and we must decide on an exit strategy. We have a responsibility to answer that big question with a thoroughness and honesty that honors the sacrifices of our military men and women.

I believe we answer that question by using this signpost—by using this review—to address four key issues that

will ultimately mean the difference between our success and our failure in Afghanistan. To me, those four issues are: our timeline for an exit strategy, an accelerated transition to an Afghan-led security operation, corruption in the Karzai government, and safe havens in Pakistan.

Let me take them one at a time. First, our timeline for an exit strategy. This review should provide an honest assessment of where we are in the timeline that President Obama laid out last year. In his speech at West Point last December, President Obama rightly dropped the open-ended guarantee of U.S. and NATO involvement. Here is what he said:

The absence of a time frame for transition would deny us any sense of urgency in working with the Afghan government. It must be clear that Afghans will have to take responsibility for their security and that America has no interest in fighting an endless war in Afghanistan.

His order last year for the military mission was clear and included a timeline based on a "accelerated transition." In that order—quoting from the order—he focused on:

Increasing the size of the ANSF and leveraging the potential for local security forces so we can transition responsibly for security to the Afghan government on a time line that will permit us to begin to decrease our troop presence by July 2011.

July 2011. That is a little more than 6 months from now. The American people deserve to know if July 2011 is still a realistic timeframe to begin our exit from Afghanistan; and, if not, what has happened to cause a delay and how long will that delay be? What will be the additional costs, both human and budgetary?

The bottom line is this: Without an aggressive timeline for reducing U.S. military support in the region—a timeline that the Afghans believe is rock solid—there is no incentive for them to defend their villages and cities. With the U.S. and NATO as guarantors of security, the people of Afghanistan could rely on our forces to provide security indefinitely.

Chairman LEVIN, our Armed Services chairman here in the Senate, has given careful thought to the issue of a timeline. In a recent speech to the Council on Foreign Relations, he said:

Open-ended commitments encourage drift and permit inaction. Firm time lines demand attention and force action.

Without an aggressive timeline, there is no exit strategy.

Issue No. 2, and directly related to No. 1, the accelerated transition to the Afghan people. This must be an Afghan-led security effort. This month's report should update the American people on our progress or lack thereof in turning over security duties to the Afghan National Army, the Afghan National Security Forces, and the Afghan National Police.

The famed British officer T. E. Lawrence, known to many as Lawrence of Arabia, once said, with regard to the Arab insurgency against the Ottoman Empire:

Do not try to do too much with your own hands. Better the Arabs do it tolerably than they do it perfectly. It is their war, and you are there to help them.

This quote is also mentioned in the Army Field Manual on counterinsurgency. In Afghanistan, I believe the same approach can be applied.

The Afghan security forces are not doing their job perfectly, nor should we expect the Afghan forces to match the might of the U.S. military. But to echo T. E. Lawrence, they are beginning to do it tolerably, and I believe it is better that the Afghans continue to build on their new success.

Combined, an aggressive timeline and an accelerated transition to the Afghans will help us achieve two equally important goals: first, the timely handover of security helps prove to the international community that the American people do not have imperial ambitions in Afghanistan. As President Obama said at West Point:

We have no interest in occupying your country.

And second, a timely handover allows the United States and its allies to bring our heroes home, and it allows us to begin the important work of reducing our deficits, investing in our Nation and our people so we can remain strong and build a more prosperous Nation.

This brings me to issue No. 3: Corruption in the Karzai government. There is no doubt our Armed Forces have the ability to conduct the difficult counterinsurgency work of clearing and holding. The question is whether the Afghan Government has the ability to build their nation and to be ready for a timely transition. That is why in his order to the military President Obama was clear when he said:

Given the profound problems of legitimacy and effectiveness with the Karzai government, we must focus on what is realistic. Our plan for the way forward in dealing with the Karzai government has four elements: Working with the Karzai government when we can, working around him when we must; enhancing sub-national governance; strengthening corruption reduction efforts; and implementing a post-election compact.

There is no doubt that corruption is rampant throughout Afghanistan and, in particular, within the Karzai administration. For years, independent daily press reports from Afghanistan, as well as official U.S. Government reports, confirm corruption at all levels of Afghan society. A recent leak of diplomatic cables reveals the severity of the problem.

First, let me stress I do not condone these recent leaks. They have needlessly put our military and diplomatic corps at risk. But these documents pull back the curtain on the scale of the corruption in Afghanistan.

One example in particular illustrated the tremendous difficulty we face in our search for an honest, reliable partner. That was the account in the New York Times of former Afghanistan Vice President Ahmed Zia Massoud. Massoud was detained after he brought \$52 million in unexplained cash into the United Arab Emirates. He was allowed to keep the \$52 million.

Let me say that again: \$52 million. That is a lot of money, especially when you consider that his government salary was a few hundred dollars a month.

Not only is corruption rampant in Afghanistan—with the reports of Karzai's own brother involved in double dealing and unscrupulous actions—but basic government functions are suffering because of Karzai's inability to manage his own government.

In Kandahar, our military has made this former Taliban stronghold a much more secure city. But despite that progress, the Washington Post has reported multiple vacancies in key government positions. As an unnamed U.S. official stated:

We are acting as donor and government. That is not sustainable.

We cannot be expected to indefinitely shoulder the security or governmental burdens in Afghanistan. Having a firm timeline will put President Karzai on notice that he must step up his efforts to make this an Afghan-led effort. Our goal must be to transition responsibility and authority for the future of Afghanistan to the Afghan people, and this month's review should include a report to the American people on our progress and how he is making that happen.

This brings me to the fourth and final issue: safe havens in Pakistan. For years, safe havens have been permitted to exist in Pakistan for insurgent and terrorist forces, enabling them to operate freely. This has been one of the worst kept secrets in the region, which is why President Obama stated during his West Point speech:

We will act with the full recognition that our success in Afghanistan is inextricably linked to our partnership with Afghanistan. We are in Afghanistan to prevent a cancer from once again spreading through that country. But this same cancer has also taken root in the border region of Pakistan. That is why we need a strategy that works on both sides of the border.

Since 2001, the United States has sent more than \$10.4 billion to Pakistan to support humanitarian and security operations. Despite these expenditures, radical militant groups such as the Quetta Shura Taliban and the Haqqani Network have continued to leverage their freedom of movement to kill, maim and disrupt our efforts and those of our NATO allies.

These insurgent activities are nearly textbook—something that the Army Field Manual on counterinsurgency describes in detail as having occurred

throughout the history of insurgent warfare.

The issue of sanctuaries thus cannot be ignored during planning. Effective COIN operations work to eliminate all sanctuaries.

With such military advice in mind, I must ask: How do we expect to defeat an insurgency that is being supported by elements of the Pakistani military and intelligence service on the other side of the Khyber Pass?

After 9 years, why are we tolerating these safe havens? Mullah Omar, the leader of the Taliban insurgents, is in exile in Pakistan. His followers regroup and rest in Pakistan only to cross the border and fight our troops once again. Insurgent fighters have increased their attacks by 53 percent over the last quarter. And when both ISAF and U.S. forces are unable to infiltrate their base of operation, how can we expect to maintain an adequate level of security for the future?

President Obama's order specifically spelled out assessment criteria for Pakistan. The assessment was intended to include the following question:

Are there indicators we have begun to shift Pakistan's strategic calculus and eventually end their active and passive support for extremists?

Thus far, Pakistan's "strategic calculus" has been overly focused on India and toward turning a blind eye to radical groups in Waziristan and other regions near the Afghan border.

Furthermore, the current position of the Pakistani Government has only led to a host of crazed conspiracy theories about the United States and its involvement in the region, giving fuel to the recruitment efforts of our enemies.

Because of double-dealing by some in Pakistan and a Pakistani Government that has not fully supported our efforts, we are sending our men and women to fight in Afghanistan without a true partner. We are asking them to fight with one hand tied behind their back.

These challenges I discussed are not a secret. Each and every one of them has been debated, discussed, dissected, and yet the answers remain elusive. We invaded Afghanistan as a justifiable military response to the tragic attacks of September 11, 2001. This response was overwhelmingly supported by Congress—including myself, the public, and the international community. But I believe today, after 109 months of fighting, after more than 1,400 American military deaths in Operation Enduring Freedom, almost 10,000 American military men and women injured, after \$455 billion and counting expended, a good, hard, realistic assessment of our mission is needed.

If our plan to succeed in Afghanistan is not yielding the results we seek, then we must also reevaluate our plan and mission. Make no mistake, I am proud of our brave men and women in uniform and what they are doing there.

I am equally proud of our diplomatic workers, aid workers, and civilians who are working hard to improve the livelihoods of Afghan people.

I had an opportunity to meet many of them earlier this year on a CODEL led by my colleague Senator CARPER of Delaware. These are some of the finest men and women our Nation has to offer to the Afghan people. But it is not their job that is in question—it is ours, the Congress, the President, his administration, the military leadership. It is up to us to find the answers, to ensure we have a clear, achievable mission for our soldiers to carry out.

Today I am not sure that is the case. I am looking forward to hearing the conclusions of the review the President called for 1 year ago. I also look forward to hearing the President reaffirm his July 2011 deadline for an accelerated transition to the Afghans.

We all must be prepared to ask the hard questions and demand honest answers, regardless of the political consequences. Our military men and women deserve no less.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I ask consent to speak for 15 minutes in morning business.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Madam President, first let me commend my colleague from New Mexico, Senator THOMAS UDALL, for a thoughtful presentation on a challenge we face as Americans regardless of political affiliation. It is thoughtful in that he reflected not only on our mission and our responsibility but thoughtful in that he reflected on the cost, the cost in human lives and the cost in dollars and the challenge we face in Congress to make sure those dollars are well spent and no American life is wasted. I thank my colleague for that thoughtful presentation.

THE DREAM ACT

Mr. DURBIN. Madam President, last night I was on a conference call. It was an unusual one. There were 8,000 people on this conference call. I have never been on a conference call like that. They were from all across the United States of America. We spoke for a few minutes and then took questions.

A young woman came on. She didn't give her name but she said, I want to tell you who I am. I am a person who is about to graduate from a major university in California with a degree in pharmacy and I have nowhere to go.

You see, she is a Hispanic who came to the United States at an early age, brought here by her parents. She defied the odds by finishing high school. Half of the Hispanic students do not. She did. Then she defied the odds even more

by going to college. Only one in twenty in her status actually attends college in America. Then she stuck around for 5 years-plus to get her degree in pharmacy science.

We know for a fact we need pharmacists desperately across America, everywhere, in North Carolina and New Mexico and Illinois—we need pharmacists. Why aren't we using the talent of this ambitious, energetic, successful, young woman? Because she has no country. She is in America but she is not an American. She has no status.

The DREAM Act, which I introduced 10 years ago, addresses this challenge across America. Children, brought to America without a vote in the process, children who came here and made their lives here, grew up in America, as Senator MENENDEZ has said on the floor, standing up and proudly pledging allegiance to that flag, standing up and singing the Star Spangled Banner at baseball and football games—but they know and we know that they are not Americans. They feel like Americans. Many of them have never seen and don't know the country they came from. This is their country. But because they were brought here not in legal status, undocumented, they have nowhere to turn.

The first time I heard about this issue was when a Korean woman called me in Chicago. She was a single mom with three kids. She ran a dry cleaners and her older daughter was a musical prodigy, in fact so good she had been accepted at the Julliard School of Music in New York. Before she went to school she filled out the application form and came to a box which said "nationality/citizenship." She turned to her mom and she said: U.S. nationality, right? Her mom said: No, we brought you here at the age of 2 and we never filed any papers. Her daughter said: What are we going to do? Her mom said: We are going to call DURBIN. So they called my office and we called the Immigration Service and when the conversation ended it was very clear. Our government said to that young girl: You have one choice—leave. Go back to Korea.

After 16 years of living successfully in the United States and making a great young life, our laws told her to leave because she was illegal. That is a basic injustice. It makes no sense to hold children responsible for any wrongdoing by their parents, children at the age of 2 who are now going to be penalized the rest of their natural life because their mother did not file a paper? Penalized because we have no process for her to have an opportunity to be part of the United States?

So I introduced the DREAM Act. The DREAM Act says if you have been here for at least 5 years and came below the age of 15 and completed high school, no serious criminal record, a person in good moral standing ready to be inter-

viewed, speaking English, paying all the taxes and fines and fees that are thrown your way, then if you are willing to do one of two things we will give you a chance to be legal in the United States. No. 1, enlist in the military. If you are willing to risk your life and die for America, I think you are deserving of an opportunity for citizenship. Second, if you complete 2 years of college—which, as I say, defies the odds; it is a small percentage who would be able to do this—if you are able to complete 2 years of college, then here is what the bill says: We will put you in a 10-year conditional immigrant status.

Let me translate. For 10 years you have no legal rights to any government programs in America—not Medicaid if you get sick, not Pell grants if you go further in college, no student loans—nothing. You can stay here legally but you cannot draw one penny from this government during 10 years after you have finished high school and qualify under this act; 10 years.

Along the way we are going to keep an eye on you. If you stumble and fall—criminal record—you are gone. No exceptions; for felons, they are gone. Basically, we will continue to ask hard questions of you as to how you are doing.

In the version of the bill we are going to vote on, you are going to pay a fee, \$500 at the outset and more later. Under that House provision, those students struggling to get by with no right to government assistance by our bill will have to spend 10 years in this country. If they make it—2 years in the military or 2 years of college and they finish their 10 years—then they get in line and wait 3 to 5 years more before they can ever have a chance to be citizens.

It is a long, hard process that not many Americans today could survive. Some of these kids will because they have made it thus far. They are determined, they are idealistic, they are energetic. They are just what America needs.

Do you know what Michael Bloomberg, the mayor of New York, said about this:

They are just the kind of immigrants we need to help solve our unemployment problem. Some of them will go on to create new small businesses and hire people. It is senseless for us to chase out the home-grown talent that has the potential to contribute so significantly to our society.

Will these DREAM Act students be a drag, then, once they are part of America? Not according to the Congressional Budget Office. They concluded that the DREAM Act would produce \$2.2 billion in net revenues over 10 years. How can that be? Because these DREAM Act students would contribute to our economy by working and paying taxes. These are students who are destined to be successful.

Who believes they will be successful? Start at the Pentagon. Secretary of Defense Gates has asked for us to pass the DREAM Act. He has said that these bright, young, dedicated people will be great in service to America. He knows that many of them come from cultural traditions of service to their country and he wants that talent in the U.S. military and he wants that diversity in our military. Fifteen percent of America today is Hispanic. The number is growing. Almost 10 percent of the people who vote in America are Hispanic and we want to make certain our military is as strong as it can be and reflects America as it is and what we want to it be.

We will have a chance to vote. Senator HARRY REID, the majority leader, has said we are going to vote on the DREAM Act this year—and we must, we absolutely must. We owe it to these young people, we owe it to their families, and we owe it to this country to rectify this terrible injustice.

There comes a time occasionally in the history of this country where we have a chance to right a wrong. We fought for decades over righting the wrong of slavery, the mistreatment of African Americans. We fought for decades to right the wrong of discrimination against women—denied the right to vote under our original Constitution. We fought for decades for the rights of the disabled in America. Each generation gets its chance to expand the definition of freedom and liberty and expand the reach of citizenship and the protection of our laws. This is our chance. This is a simple matter of justice.

I have listened to some of my colleagues on the other side who do not support it and they have said, if we would spend more money on border security, then maybe, just maybe I would be willing to give these young people a chance.

First, if there were no border security, it would not enlarge the number of people protected here. You have to have been in the United States for 5 years in order to qualify here so any newcomers to the United States are not going to be eligible anyway. But let's get to the point. I support border security. We need a strong border. We need to make sure those who are illegal, undocumented, do not come across that border. I have voted for the money, I voted for the fences, I voted for the walls, I voted for everything they called for, and we have dramatically under this President increased the border security in America and I will vote for more. I will vote for more. I give my word to my colleagues I will.

I have said to Senators from those border States: Count on me to be with you. But don't hold these children hostage to that demand. Don't hold them hostage to that demand because border security in and of itself has nothing to do with justice for them.

Others have argued we want to make sure at the end of the day they can never become legal citizens of the United States. Never? After living their lives in this country, never? I would say: Go to the back of the line. And they should. Wait in line patiently, even if it takes 15 years. That is only fair. But never?

Others have said we should give them the military option. If they join the military, then we will let them become citizens. I don't think that is right and I don't believe the military would support that either because many would be applying for the military who are not inspired to serve in the military but are only doing it for the purpose of this law. Let's let those who are not going in the military have their own avenue, their own path to legalization by education and achievement in this society, not in the military.

I would also say to my friends and colleagues, some have argued it is a little too close to Christmas for us to worry about an issue such as this. We ought to go home. These young people are home and they are asking for us to pass the DREAM Act so that home will welcome them.

America is the only home they have ever known. I am willing to stay a day or two or more, whatever it takes, so we can pass this bill, right this injustice, and give these young people a chance.

The House has done its part. They passed a bill last week. Congressman LUIS GUTIERREZ and Congressman HOWARD BERMAN did a wonderful job in passing this legislation. It is good legislation. We have had 57 votes on the floor of the Senate but because of our rules you need 60. All I am asking is some of the Republicans who have told me in their heart of hearts they support this and worry about it politically, to put themselves in the shoes of our predecessors in the Senate who, when given a chance to expand the civil rights—of African Americans, of women, of the disabled—said that justice trumps politics. We will stand on the side of justice and let history be the judge. That is the challenge we have with the DREAM Act.

I urge my colleagues, support the DREAM Act. Let's give these young people a chance to make America an even greater nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

OMNIBUS APPROPRIATIONS

Mr. JOHANNES. Madam President, I rise today to briefly discuss the so-called omnibus spending package that is apparently headed this way. This budget-busting, trillion-dollar spending behemoth is nearly 2,000 pages in length, and it is laden with over 6,000 earmarks for various special interests.

This is a debacle that could have been avoided. Today is the 349th day of this year. There are only 16 days until the end of the year. There are only 10 days until one of the most sacred Christian holidays—Christmas. Yet the majority waited until just now to unveil our first real appropriations bill that will be considered on the Senate floor in the entire year.

The fiscal year began on October 1 of this year. Yet we have waited over 2 months to even consider a fiscal year 2011 spending bill. How could anybody claim this is responsible management of our citizens' tax dollars? There is no way to sugarcoat it. Congress has been derelict in its duty to produce any of the 12 annual appropriations bills for the fiscal year.

We did not even bother to debate or pass a budget resolution this year to at least create the notion that Congress wanted to constrain spending. While Americans across this country are taking a hard look at their finances, prioritizing their spending, their government continues to max the taxpayer credit card. This one is a doozy: 1,924 pages, \$1.27 trillion in spending, \$9 billion more than even last year's unacceptable spending levels, over 6,000—let me repeat that—over 6,000 earmarks that were funded more on geography and political influence than on anything to do with merit. That is \$8 billion worth of earmarks when the American people are crying out for transparency and thought they had sent a strong message in November.

While we should have been considering how to constrain spending, the authors of this legislation were busy behind closed doors seeing how much pork they could return to their States. This "you get yours and I will get mine" mentality is one of the reasons we have the budgetary hole we have dug. Yet we see 6,000 earmarks tucked away in this legislation.

Let me just give three of the priorities, according to these earmarks: \$200,000 of somebody's hard-earned tax dollars for beaver management; \$1.5 million of somebody's hard-earned tax dollars for mosquito trapping; \$300,000 of somebody's hard-earned tax dollars for the Polynesian Voyaging Society.

The list goes on and on. I could be here for the next 24 hours going through the list.

When I was Secretary of Agriculture, we proposed a budget, and we would not have a single earmark in it. But after the logrolling occurred on Capitol Hill, we would get our funding back, and it would be absolutely stuffed with earmarks, spending somebody's hard-earned tax dollars.

It is a sad commentary that a few million dollars in home State pork can often convince someone to swallow \$1 trillion of government spending. Yet that is where we end up too often. It looks to me like this is greased, and it

is going to happen again. The authors of this legislation simply missed the message of November 2. We should be passing appropriations bills that actually rein in spending instead of doubling down, spending more, and adding to the era of big government. Yet this massive bill is laden with end-of-the-year gifts.

One supporter of the spending bill actually admitted it was the Christmas tree of all time, adorned by spending somebody else's hard-earned tax dollars. This spending juggernaut is simply not what Americans want or deserve.

While we are faced with numerous challenges, none is greater than tackling this growing spending in our national debt. In fact, a bipartisan group of almost 20 Senators came to the floor yesterday—and I was part of that group—to pledge our commitment to address the national debt.

How ironic that this massive spending bill is being discussed the very next day. Maybe actions speak louder than words. It is time for us to actually back up the rhetoric on controlling spending. A look at the last appropriations bills just since I arrived a couple of years ago shows spending is growing by 17 percent. The sad truth of that number is there is no economy—no economy—that can grow the revenues fast enough to keep up with the spending appetite of Washington, DC.

In fact, in a few years we will be spending more on finance charges than the entire defense budget. It is like a family running up the credit card and then looking for more credit cards. But, unfortunately, it is now commonplace to pass bills that spend \$1 trillion when our citizens are saying: Please stop. Unfortunately, the spending has not stopped.

I will oppose this bill, and I will do all I can to advocate that my colleagues do the same. Government spends too much. We need to keep more at home with the people.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINISHING THE SENATE'S WORK

Mr. REID. Madam President, as a Christian, no one has to remind me of the importance of Christmas for all of the Christian faith, all of their families all across America.

I do not think any of us, and I do not need to hear the sanctimonious lectures of Senators KYL and DEMINT to remind me of what Christmas means.

My question is, Where were their concerns about Christmas when they led filibuster after filibuster on major pieces of legislation during this entire Congress—not once but 87 times, taking days and days of the people's time in the Senate on wasteful delay?

Senate Republicans need look no further than themselves in casting blame for the predicament we are in right now. In this Congress, I repeat, Republicans have waged 87 filibusters. They have used every procedural trick in the book to delay legislation that is important to the American people.

We have been able to work through most of that and have what, in the mind of Norm Ornstein, the most successful Congress watcher in decades says is the most successful, productive Congress in the history of the country. We have done that in spite of all of the roadblocks that have been thrown in our way.

In just a few minutes, we are going to proceed to the START treaty. I am told the Republicans are going to make us read the entire treaty in an effort to stall us from passing it. Isn't that wonderful. That treaty has been here since April or May of this year—plenty of time to read it.

These are additional days of wasted time that we could be using to pass legislation to get home for the holidays. Yet some of my Republican colleagues have the nerve to whine about having to stay in action and do the work the American people pay us to do. We make large salaries. We could work, as most American do, during the holidays.

Perhaps Senators KYL and DEMINT have been in Washington too long because in my State, Nevadans employed in casinos and hotels and throughout the State of Nevada—on our ranches, basically everywhere—have to work hard on holidays, including Christmas, to support their families.

The mines do not shut down in Nevada on Christmas. People work. They get paid double time a lot of times when they have good contracts. But they work on Christmas holidays. Most people do not get 2 weeks off at any time let alone Christmas week. These people who are lucky enough to have a job in these trying times need to work extra hard just to make ends meet.

So it is offensive to me and millions of working Americans across this country for any Senator to suggest that working through the Christmas holidays is somehow sacrilegious or disrespectful.

The path to finishing this year lies in the hands of Senators such as Senators KYL and DEMINT and any other Senate Republican who is trying to run out the clock or run out the door without finishing the American people's business. If they decide to work with us, we can all have a happy holiday. If they do not, we will continue until we finish the people's business.

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—MOTION TO PROCEED

Mr. REID. Madam President, I move to proceed to executive session to Calendar No. 7, the START treaty. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Wyoming (Mr. ENZI).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 32, as follows:

[Rollcall Vote No. 277 Ex.]

YEAS—66

Akaka	Gillibrand	Murkowski
Baucus	Graham	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bennett	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kerry	Reid
Brown (MA)	Klobuchar	Rockefeller
Brown (OH)	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Shaheen
Carper	Leahy	Snowe
Casey	Levin	Specter
Collins	Lieberman	Stabenow
Conrad	Lincoln	Tester
Coons	Lugar	Udall (CO)
Dodd	Manchin	Udall (NM)
Dorgan	McCain	Voinovich
Durbin	McCaskill	Warner
Feingold	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden

NAYS—32

Alexander	Crapo	Kyl
Barrasso	DeMint	LeMieux
Bond	Ensign	McConnell
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Wicker
Cornyn	Kirk	

NOT VOTING—2

Bayh Enzi

The motion was agreed to.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS

The ACTING PRESIDENT pro tempore. The Senate will proceed to executive session to consider the treaty.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session for the remarks by the Senator from Arkansas.

The majority leader is recognized.

Mr. REID. Mr. President, could we have the attention of everyone in the Senate.

The ACTING PRESIDENT pro tempore. The Senate will come to order.

MORNING BUSINESS

Mr. REID. Mr. President, I have had a number of conversations in the recent minutes with the Republican leader. I think we would be well advised—and we are going to proceed along this avenue unless someone has an objection—that for the rest of the day and the evening, however long people want to visit, we will be in a period of morning business. As soon as Senator LINCOLN finishes her remarks, we will be in a period of morning business, and Senators will be allowed to speak for up to 15 minutes. I put that in the form of a consent request.

We have a number of Senators over here and on the Republican side who want to speak on the START treaty, but people are not going to be restricted to that. They can speak about anything they want. Then tomorrow morning we will return to the START treaty.

So this afternoon, I again ask unanimous consent that we be in a period of morning business and that Senators be allowed to speak for up to 15 minutes each during this period of morning business, with the understanding that tomorrow morning, at a reasonable hour, we will return to the START treaty and begin debate directly on that.

The ACTING PRESIDENT pro tempore. Is there objection?

The majority leader is recognized.

Mr. REID. And part of that agreement is that today will be for debate only.

The ACTING PRESIDENT pro tempore. Is there objection?

The Republican leader is recognized.

Mr. McCONNELL. Mr. President, reserving the right to object, and I am certainly not going to object, I want to thank the majority leader. I think it is a good way to go forward. There was some suggestion that some on this side of the aisle wanted to read the treaty. Our view is that that is not essential. We do encourage our members—I know Senator LUGAR, our ranking member on Foreign Relations, is here and Senator KYL, who has been deeply involved in this issue. We would encourage them to begin the debate on the treaty.

Mr. KERRY. Mr. President, reserving the right to—

Mr. REID. Mr. President, also, if I could respond to my friend, I know

Senator LUGAR has spent lots of time on this treaty, as has Senator KYL, as has Senator KERRY and others. Everyone, we will be very generous with time. If Senator LUGAR, who is one of the wizards of foreign policy in the history of our country, needs more time, no one is going to stand in the way of that. So everyone should understand that we did put a 15-minute limitation on it, but there will be consents granted for people to speak longer if, in fact, it is necessary.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I appreciate the comments of the leader with respect to that question. I wonder if the order might predicate at the outset that Senator LUGAR—he has asked me for 40 minutes as an opening. I know Senator KYL would probably want to be able to speak an equal amount of time. I would like to, obviously, make an opening, appropriately a little longer. So if we could perhaps make the order 40 minutes to Senator LUGAR, 40 minutes to Senator KYL. I would like a half hour. And we have some other Senators from there. And we could vary this as we go. Is that possible?

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. So the consent request is that Senator LUGAR be recognized for 40 minutes, Senator KYL for 40 minutes, Senator KERRY for 30 minutes; is that right?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. KYL. Mr. President, reserving the right to object, I am not sure I will be speaking for 40 minutes or any particular timeframe here. I want to focus for the moment on the omnibus and a continuing resolution, so my remarks probably would be relevant to that, and therefore I probably should not join in the unanimous consent request at this time.

Mr. REID. OK. So, Mr. President, I am glad we clarified that. But, as I said, anyone can talk about anything they want. So why don't we have the consent request amended that Senator LUGAR be recognized for 40 minutes, Senator KERRY for 30 minutes, and then the rest of the time will be jump ball for people to speak for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. REID. And I conferred with Senator MCCONNELL. There will be no roll-call votes the rest of the day.

The ACTING PRESIDENT pro tempore. The Senate will come to order.

The Senator from Arkansas is recognized.

Mrs. LINCOLN. Thank you, Mr. President. Well, I hope there is not too much order because it will make me feel a little bit out of place.

Mr. DURBIN. Mr. President, the Senate is not in order.

The ACTING PRESIDENT pro tempore. The Senate will please come to order. Take conversations off the floor.

Mrs. LINCOLN. Thank you, Mr. President. As I said, I hope there is not too much order. I do not want this place to change too much.

FAREWELL TO THE SENATE

Mrs. LINCOLN. Mr. President, I am glad to be here with my colleagues to express my gratitude for the incredible, blessed life's journey I have experienced thus far and the wonderful contributions this place has made to that. I have been enormously blessed by the people of Arkansas to have represented them in the U.S. Congress, first as a Member of the House of Representatives and finally now as a U.S. Senator. Today, I rise as the daughter of two amazing parents, Martha and the late Jordan Lambert, the proud daughter of a seventh-generation Arkansas family, dirt farmers—not to be confused, we didn't farm dirt, but we were hard-working farmers who were not afraid to get dirty, to get our hands into the Earth and to do what it was we have done for generations in Arkansas. I am also the proud wife of Dr. Steve Lincoln and the very proud mother of two incredible young men, Reece and Bennett—great boys. You all have watched them grow up. It is the many unique life experiences each of us brings to this place and to this job that really and truly contribute to the mark we leave on this institution.

When I came to the Senate, my boys were 2 and we were about to celebrate their third birthday. We didn't have any friends up here, so I looked around the Senate to see who had children, who could bring their kids to our birthday party, and there were a few. We kind of had to rent out some kids to come to the Moonbounce to have a great party and it was fun. I realized how important that experience was for me to bring to this body, to share with people. PATTY MURRAY knows—she has been there—MARY LANDRIEU, AMY KLOBUCHAR, and so many others who have had their children here in the Senate. What a difference that makes in your perspective on what you are doing here. It makes a big difference.

Birthdays were a big deal when we first got here. In my household, you are allowed to celebrate your birthday for an entire week, and it is always a great time. My first birthday I celebrated in the Senate was unusual. We had just moved. My husband had moved his practice. The boys were here. They had just turned 3. It was hectic. It was a new Congress. We had all just come through an impeachment trial. There were many things going on. When my birthday came around, it kind of came and went. My husband no-

ticed that. So we had gone to a spouse dinner shortly after my first birthday in the Senate. My good friend, JOE BIDEN, who was my seatmate before he left to become Vice President, and his wife Jill had reached out to us to make us feel comfortable. We were young parents. We had small children. We were both working very hard.

The first spouse dinner we went to, we were sitting with JOE and Jill, and Jill produced a lovely birthday gift. It was a monogrammed box, obviously something that was thought about. It wasn't something she picked up and re-gifted from her closet at home. It meant so much to my husband and to me, that we were a part of a family who realized what we were going through—not just what they were going through but what we were going through. I looked at Jill and told her: You couldn't have done anything to make me or my husband more happy than to think of something that was important in our lives, and they did that. I have been a part of this family, and it has been a great time.

As I glance back on my time here, I do so with great pride, knowing that each of my votes and actions were taken with the best interests of the people of Arkansas in mind. I have always attempted to conduct myself in a manner that would make Arkansans proud, and my tears today I hope are not going to affect that. Living by my mother's rule as we did growing up, if it was rude or dangerous, it was not allowed, and I hope I have definitely met that rule because Mother sent us off with it.

As a farmer's daughter, I am honored to have helped craft three farm bills that were crucial to the economy of Arkansas. I was able to persuade my colleagues to understand the regional differences in production agriculture in our country but, most of all, I am proud I was able to impress upon my colleagues and others, hopefully, across this great Nation of ours the enormous blessing our Nation receives from farm and ranch families, what they bestow upon us, what they allow us and all the rest of the world to do each and every day; that is, to eat, to sustain ourselves, and to be able to grow.

I am particularly honored to have become the first woman and the first Arkansan to serve as the chairman of the Senate Committee on Agriculture, Nutrition and Forestry. It has been a wonderful year I have had, and I will always be proud of what we have accomplished in that committee this year and certainly in years past.

We passed historic child nutrition legislation. As a result, each meal served in schools will meet nutritional standards our children and future generations deserve, putting them on a path to wellness instead of obesity. As a result, we will see an increase in the reimbursement rate for schools for the

first time since 1973—since I was in junior high, younger than my own children today—and we did so by not adding one penny to the national debt as well as doing it in a bipartisan way.

We produced historic Wall Street reform legislation. When I became chairman of the committee, our economy was on the brink of collapse. Our legislation targeted the least transparent parts of the financial system and will bring them not only within the plain view of regulators but also in the view of hardworking Americans who want to know what is going on in our economy and in the marketplace.

Throughout my time in the Senate, I have fought hard on behalf of rural communities and families. In the House, sitting next to ED MARKEY on the Energy and Commerce Committee, he always called me BLANCHE “Rural” LAMBERT. He said: BLANCHE, every time your mouth opens, it says rural. I said: That is where I grew up, that is whom I represent, and you will always hear me speaking on behalf of the families in rural America.

I wrote the legislation establishing the Delta Regional Authority, the only Federal agency designed to channel resources, aid, and technical assistance for economic development in the rural and impoverished Mississippi Delta region.

I fought for tax relief for hardworking low- and middle-income Arkansas families, and I am most proud of the refundable child tax credit I worked on with Senator OLYMPIA SNOWE. I have also fought for the certainty for farmers and ranchers and small businesses in Arkansas with fair estate tax reforms with Senator JON KYL.

I am proud of my work on behalf of Arkansas and our Nation’s seniors, including my work on the prescription drug program for seniors, working with Senator BAUCUS and others on the Finance Committee; the Elder Justice Act that is now law, the first Federal law ever enacted to address elder abuse in a comprehensive manner. I was honored to be joined in that effort by Senators ORRIN HATCH and HERB KOHL and the hard work we put toward that.

Growing up in a family of infantrymen, I am proud to have fought for Arkansas servicemembers, veterans, and their families, specifically fighting for funding increases for the VA and the creation of the VA’s Office of Rural Health, as well as better access to quality mental health care for all our veterans.

I came to Congress to fight on behalf of our Nation’s children, families, veterans, small businesses, and farmers, and I am honored and humbled that in each of these areas, I was able to achieve legislative success on their behalf.

But as my mother would say, straighten up and pay attention to

what this is about. This speech is not about yesterday, and it is not about today. What I would like for people to remember about this speech is that it was about our Nation’s future and what we can achieve together. We have great work to do, great work. I may be leaving this body, but that doesn’t mean I give up on my country. You all have much work to do.

Colleagues, we have approached a fork in the road. This is not the first, nor do I suspect it will be the last, but we have within ourselves the ability in this Nation to choose a positive and uplifting path. HARRY REID teases me all the time: Do you smile at everything? You know what. There is a lot to smile about. We have great opportunities ahead of us in this country, but they are not going to happen by themselves. We have the opportunity to choose a path that respects differences of opinion. We have the opportunity to choose a path that sets aside short-term political gains, a path that maintains this body’s historic rules that protect the views of the minority but also puts results ahead of obstruction.

Again, I grew up in a family of four kids, and I am the youngest. You all wonder why I am so tough. I have been beat up on all my life. But my dad always said: It is results that count. It is what you finish and what you accomplish. It is not these little battles we fight; it is the war we are going to win, and it is not a war we are going to win without the Republicans or without the administration or without our constituents. It is a war on behalf of our Nation, and it has to be done together.

Many of my colleagues have had the wonderful opportunity of meeting my husband. My husband doesn’t like crowds a lot. I love crowds because I love being together. I love being a part of things. I love being a part of a team. My team is here, my Lincoln team. It is a great team. They have been a wonderful group to work with. You are a part of my team. You are my family in the Senate. Being together and working together is an incredible blessing, and we have to make sure we realize that.

Our country is certainly at its best when we are collectively working together for a goal. All you have to do is listen to your parents or your grandparents talk about victory gardens or rationing nylons or anything else that happened during the war when people were working collectively together.

Our country is facing many challenges. There is no doubt the American people are frustrated. They are frustrated with our lack of productivity, and they are so anxious to be a part of the solution that needs to happen here—the coming together, the finding of solutions to the problems we face and the results we need to have. I am confident that, together, we can overcome all these differences and continue

to be the leader of the rest of the world as we have been and should be. I leave this body with confidence that we can provide our citizens with the type of government they deserve: a government that provides results and certainty about the future they so longingly want to be a part of and that they want to protect for their children, rather than obstruction and sound bites and confusion.

With teenage children at home, it is a true blessing that we live in a day and in an age where information is available at a moment’s notice. I have watched my children—I had to go borrow the encyclopedia from my cousins next door. My kids click on the computer and immediately there are incredible volumes of information. They teach me: Mom, come look at this. Did you ever know this? It is amazing what is available to us. It is equally as important, though, that we, the American people, take the time that is necessary to understand the solutions to the challenges and not succumb to the convenience of modern technologies to take the place of our own good judgment. We cannot do that. The minds of the people of this country, the minds of the body of this institution ensure that we use the good sense God has given us to know what those right solutions are. To all of America, myself included, we must all discern carefully the information that is provided to us. It is all extremely convenient, but convenience is not what this is about. It is not about convenience. It is all about doing the right thing. So I call on not only our good judgment but our collective love for this country so we can meet the challenges our Nation faces. I know I am teaching my children that at home. I am also blocking some of the things they can get on the Internet. But I am also teaching them to use their own minds, their own thoughts: What is it you would have for your fellow man? How would you want people to behave? It is absolutely critical in this day and age.

To my colleagues on both sides of the political aisle, I implore each of you to set the example for our country by working together to move our Nation forward. We must start practicing greater civility toward one another, both privately and publicly. I can’t forget when I first came to the House of Representatives, I called my colleague and neighbor, Bill Emerson from southern Missouri. I told him, I said: Bill, you know when you move into a new place, where I come from you bring somebody a cake or a pie, a batch of rolls or something. I said: I am not a bad cook, but I don’t have a lot of time on my hands. I want to visit with you. You are a Republican, I am a Democrat, but you are my neighbor, and I am willing to bet you we agree on far more than we disagree on. As we visited for 45 minutes in that very first introduction, we came to the conclusion

that we agreed far more on the same things than we disagreed. We decided to start the civility caucus. It lasted 3 months.

The fact is, there is much work to be done there, and we can do it.

Taking advantage of political gusts of wind is not what our constituents expect of us nor is it what they deserve. I urge you to have the courage to work across party lines. There is simply no other way to accomplish our Nation's objectives, nor should there be. Although you run the risk of being the center of attention for both political extremes, it is a far greater consequence to put personal or political success ahead of our country, and I know firsthand.

We must have the courage to come out of our foxholes—the foxholes we dig into—to the middle, where the rest of America is and discuss our collective path forward. I am counting on each of you to do so in a way that respects the temporary position we have all been granted here and respect this institution of ours that we have been blessed to inherit. It is an amazing place. Each of you has seen it in your own right and you know it.

To the young people of America, I think this is so important. I came here as the youngest woman in the history of our country to ever be elected to the Senate. I did so because I believed so strongly in the difference I could make. I still do. That is what this country is about. It is about making a difference, not for yourself but for others. I continue that journey now, as I leave this place, knowing there are still so many ways I will make a difference. But to those young people out there in this country, do not think this place is reserved just for age or experience. It is here that you could make a difference, whether you are elected or whether you are one of the incredible and phenomenal staff that helps to run this place, or whether you just simply choose to be out there and engaged in what is going on. There are many contributions to be made to this Nation by the young people of this country.

I leave this body with no regrets and with many incredible friendships. You know the old adage, "If you want a friend in Washington, get a dog." You all know I have a very large dog. But I also have some wonderful friends, and I am very grateful for those friendships.

When I first arrived, my friend MARY LANDRIEU had been in the hospital. I showed up at her house with a chicken spaghetti casserole, a bag of salad, and a bottle of wine.

She said: What are you doing here?

I said: You know, where I come from, when your neighbor or friend is sick, you take them dinner.

She said: BLANCHE, we don't do that up here.

I said: Let me tell you, if we forget where we come from, there is a big problem.

I am grateful. I will not attempt to go one by one through each of you, but know that every one of you all have a special place in my heart. You have taught me something. You have enriched my life in such a way, it is amazing. You also know—many of you personally—that I follow in some very large footsteps, between so many Arkansans, most recent being McClellan and Fulbright, David Pryor, and Dale Bumpers, who is my immediate predecessor. I thank Dale for the incredible mentor he has been to me and for the wonderful things he has done for our State.

I leave you with an unbelievable Senator, and that is my good friend MARK PRYOR. He is a statesman. He follows in the footsteps of all of those giants from Arkansas. I am enormously grateful to him for his friendship and, more importantly, for his great service to the people of Arkansas. So I leave you in good hands, without a doubt, with my good friend, Senator MARK PRYOR.

I have been surrounded, both in the past and currently, by an unbelievably dedicated, loyal, and hard-working staff, in my personal Senate office both in Arkansas and Washington, and certainly in the Agriculture Committee. To my staff, they know how much I love them. Our State and this institution are better because of their hard work and dedication. Without a doubt, they are smart and they are a great group of people. I am so blessed to not only know them but to have worked with them.

I have always been blessed with a loving and supportive family who have been my inspiration and bedrock all my life, and they continue to be.

Finally, let me, once again, say thanks to the people of Arkansas. My roots have been and always will be in Arkansas. That will never change. When Steve and the boys and I left after Thanksgiving to come back for the lameduck session—of course, as you all know, traveling with your family and just getting back in time—we left at 5 in the morning. We drove to Memphis because it was faster. We were halfway between. We had been at the cabin duck hunting and celebrating Thanksgiving with family. We were headed to the Memphis Airport, and the Sun was rising over the Arkansas delta.

Now, I am sure many of you all have never seen that, but it is a magnificent view. It reminded me of all of the great things I came here to do. It made me feel blessed with all of the things I was able to accomplish. But to know that I could go back to that same home and see that sunrise, it is unbelievable.

I will always treasure the experiences of this chapter in my life and the thousands of Arkansans I have come to know and love. They are a great group of people. I thank you again from the bottom of my heart.

To the people of Arkansas and this body, my good friends, I yield the floor. (Applause.)

The PRESIDENT pro tempore. The Senator from Arkansas, Mr. PRYOR, is recognized.

Mr. PRYOR. Mr. President, let me mention a very abbreviated list of BLANCHE LINCOLN's accomplishments: First woman to chair the Senate Agriculture Committee; first woman to chair the Finance Subcommittee on Social Security Pensions and Family Policy—in fact, the first woman to ever chair a Finance subcommittee—chair of the rural outreach for the Senate Democratic caucus; chair of the Senate hunger caucus; cofounder and cochair of the Third Way; creator of the Delta Regional Authority; author of the 2010 child nutrition bill; a key writer of the 2008 farm bill; author of the refundable child tax credit.

Mr. President, I could go on and on, but most of her accomplishments and contributions cannot be measured. As she worked on the Agriculture Committee, the Finance Committee, the Aging Committee, and the Energy Committee, on a countless number of occasions, on amendments and bills, she became the Senator who was the key to passage or defeat. A couple of years ago, I watched a bill that was making its way through the Senate Finance Committee, and there were a lot of people outside of this Chamber who had a vital interest in the outcome of that legislation. Everywhere I would go I would be stopped and asked: Is this bill going to pass? Will it come out of the committee? Will it get through the floor?

What I told the folks who asked that back then turned out to be true: As BLANCHE goes, so goes the Finance Committee, because she was that way on all of her committees. She was the swing vote, the key vote to getting things done in the Senate.

BLANCHE is a role model for many people, especially young women who are interested in government.

I remember sitting down with one of my good friends earlier this year and his teenage daughter. We talked about the Senate and politics, history, and Arkansas. As we were winding up the conversation, my friend asked his teenage daughter: Who is your favorite politician? Of course, I sat there and straightened my tie because I thought I knew what the answer would be.

Then she said: BLANCHE LINCOLN. And I know why. It is because BLANCHE represents the best in Arkansas. She represents the best in Arkansas in politics and in government. She is a workhorse, not a showhorse.

BLANCHE gets things done. The other night, with my teenage daughter, I watched some of "The Wizard of Oz." As I was watching it, I was struck that the scarecrow, the tin man, and the lion were looking for three things that

BLANCHE has, and what every Senator needs in large quantities: a brain, a heart, and courage.

One of Senator LINCOLN's role models she refers to often is Hattie Caraway. Hattie Caraway is not exactly a household name in American politics, but her portrait hangs just outside this Chamber, in the corner, opposite the Ohio Clock. Hattie Caraway of Arkansas was the first woman ever elected to the Senate. There is much to admire about Hattie Caraway as a Senator and as a person, but the one thing that BLANCHE inherited from Hattie is the pioneer spirit.

Even in the first decade of the 21st century, BLANCHE is the owner of many "firsts." Even though we don't like to admit it, and we are reluctant to talk about it, there is a double standard in politics for women. There just is. I am proud to serve with the largest number of women this Senate has ever seen, and that goes double for my 8 years with Senator BLANCHE LINCOLN.

Let me say a brief word about her family. Her husband Steve is an old friend of mine. We trace our roots back to Little Rock Central High School and the University of Arkansas. The Lord has blessed BLANCHE and Steve with two bright, energetic, athletic, and even sometimes well-behaved sons—and they are great—who are currently freshmen at Yorktown High School in Arlington. They bring their parents much joy. They are also extremely proud of their mother. I have seen firsthand what a wonderful mother she has been and is. I stand in awe.

In fact, BLANCHE is not only a good Senator and a good mother and a good wife—she is much more. She is a good daughter to her mother, who basically runs Phillips County, AK. She is a good sister in her very large family. She is a good member of her community, helping friends, neighbors, and those in need. BLANCHE is very faithful in her relationship with God, which has given her strength and kept her grounded in good times and in bad. She follows the Golden Rule and puts her faith into action every single day. Simply put, she is a good person.

Lastly, BLANCHE is a good boss. She has drawn to her a very talented and hard-working staff in Washington, DC, and in Arkansas. I know they will always be proud to tell people they worked for Senator BLANCHE LINCOLN.

Before I get carried away, there is one minor matter that I believe I need to address. On occasion—rarely, but every so often—BLANCHE runs a little late. I know many of you are shocked to hear this. Let me tell you why that is. It is because people love BLANCHE and BLANCHE loves people, and she is never too busy to stop, to notice, and to listen. She is never too busy to talk to the Capitol Police or to the janitor here or to that family from Idaho who can't figure out the Dirksen building.

She takes time for people. And that is one of her attributes that makes her so special, because those people are as important to her as the most powerful Members of the Congress. That is what makes BLANCHE special.

It is hard to find just one word to describe Senator LINCOLN—kind, smart, fearless, persistent, knowledgeable, no nonsense, and I could go on. But the one word I would like to focus on today is friend. There are 99 Senators today who consider her a friend. They like her, they like working with her, and they respect her. I have had many Republicans and Democrats say how much they hate to see her leave because she makes this place better.

There is a passage in the Bible that says: "Well done, thou good and faithful servant." This applies to BLANCHE, but not only to the job that she has done here in Senate. It applies to her as a person. There is a lot more to BLANCHE than just being a Senator. In January, she starts a new chapter. And as much as she will be missed around here, we all have confidence there are many more great things to come.

I thank the Chair, and I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. BENNET). Under the previous order, there will be a period of morning business with Senators permitted to speak for up to 15 minutes each.

The Senator from Indiana.

NEW START TREATY

Mr. LUGAR. Mr. President, I rise to speak in support of the new START treaty. We undertake this debate at a time when almost 100,000 American military personnel are fighting a difficult war in Afghanistan. More than 1,300 of our troops have been killed in Afghanistan, with almost 10,000 wounded.

Meanwhile, we are in our seventh year in Iraq—a deployment that has cost more than 4,400 American lives and wounded roughly 32,000 persons. We still have more than 47,000 troops deployed in that country. Tensions on the Korean peninsula are extremely high, with no resolution to the problems in North Korea's nuclear program. We continue to pursue international support for steps that could prevent Iran's nuclear program from producing a nuclear weapon. We remain concerned about stability in Pakistan and the security of that country's nuclear arsenal. We are attempting to counter terrorist threats emanating from Afghanistan, Pakistan, east Africa, Yemen, and many other locations. We are concerned about terrorist cells in allied countries, and even in the United States. We remain highly vulnerable to disruptions in oil supplies due to na-

tional disasters, terrorist attacks, political instability, or manipulation of the markets by unfriendly oil-producing nations.

Even as we attempt to respond to these and other national security imperatives, we are facing severe resource constraints. Since September 11, 2001, we have spent almost \$1.1 trillion in Iraq and Afghanistan. We are spending roughly twice as many dollars on defense today as we were before 9/11. These heavy defense burdens have occurred in the context of a financial and budgetary crisis that has raised the U.S. Government's total debt to almost \$14 trillion. The fiscal year 2010 budget deficit registered about \$1.3 trillion, or 9 percent of GDP.

All Senators here are familiar with the challenges I have just enumerated. But as we begin this debate, we should keep this larger national security context firmly in mind. As we contend with the enormous security challenges of the 21st century, the last thing we need to do is to reject a process that has mitigated the threat posed by Russia's nuclear arsenal.

For 15 years, the START treaty has helped us to keep a lid on the U.S.-Russian nuclear rivalry. It established a working relationship on nuclear arms with a country that was our mortal enemy for 4½ decades. START's transparency features assured both countries about the nuclear capabilities of the other. For us, that meant having American experts on the ground in Russia conducting inspections of nuclear weaponry.

Because START expired on December 5, 2009, we have had no American inspectors in Russia for more than a year. New START will enable American teams to return to Russia to collect data on the Russian arsenal and verify Russian compliance. These inspections greatly reduce the possibility that we will be surprised by Russian nuclear deployments or advancements.

Before we even get to the text of the new START treaty and the resolution of ratification, Members should recognize what a Senate rejection of new START would mean for our broader national security. Failure of the Senate to approve the treaty would result in an expansion of arms competition with Russia. It would guarantee a reduction in transparency and confidence-building procedures, and it would diminish between cooperation and Russian defense establishments. It would complicate our military planning.

A rejection of new START would be greeted with delight in Iran, North Korea, Syria, and Burma. These nations want to shield their weapons programs from outside scrutiny and they want to be able to acquire sensitive weapons technologies. They want to block international efforts to make them comply with their legal obligations. Rogue nations fear any nuclear

cooperation between the United States and Russia because they know it limits their options. They want to call into question our own nonproliferation credentials and they want Russia to resist tough economic measures against them.

If we reject this treaty, it will be harder to get Russia's cooperation in stopping nuclear proliferation. It could create obstacles on some issues in the United Nations Security Council, where Russia has a veto. It might also reduce incentives for Russia to cooperate in providing supply routes for our troops in Afghanistan. It would give more weight to the arguments of Russian nationalists who seek to undermine cooperation with the United States and its allies. It would require additional satellite coverage of Russia at the expense of their use against terrorists.

With all that we need to achieve, why would we add to our problems by separating ourselves from Russia over a treaty that our own military wants ratified? Our military commanders are anxious to avoid the added burden and uncertainties of an intensified arms competition with Russia. They know such competition would detract from other national security priorities and missions. That is one reason they are telling us unequivocally to ratify this agreement. They also have asserted that the modest reductions in warheads and delivery systems embodied in the treaty in no way threaten our nuclear deterrent.

Defense Secretary Robert Gates and Chairman of the Joint Chiefs of Staff ADM Mike Mullen have testified that they have no doubts the new START treaty should be ratified. GEN Kevin Chilton, who is in charge of our strategic nuclear forces, has said the treaty "will enhance the security of the United States." GEN Patrick O'Reilly, who is in charge of our missile defenses, endorsed the treaty saying flatly that it "does not constrain our plans to execute the United States missile defense program."

Moreover, seven former commanders of Strategic Command—the military command in charge of our strategic nuclear weapons—have backed the new START treaty. Members of the Senate—Republicans and Democrats alike—have taken pride in supporting the military and respecting military views about steps necessary to protect our Nation.

Rejecting an unequivocal military opinion on a treaty involving nuclear deterrence would be an extraordinary position for the Senate to take. The military is supported in this view by the top national security officials from past administrations. To date, every Secretary of State and Secretary of Defense who has expressed a public opinion about the new START treaty has counseled in favor of ratification. This

has included 10 Republicans and 5 Democrats. All five living Americans who served Ronald Reagan as Defense Secretary, Secretary of State, or White House Chief of Staff have endorsed the new START treaty. The list of endorsers includes: President George H. W. Bush, George Shultz, Jim Baker, Jim Schlesinger, Henry Kissinger, Brent Scowcroft, Colin Powell, Condoleezza Rice, Steven Hadley, Howard Baker, Lawrence Eagleburger, and Frank Carlucci. Many of these officials served at a time when the stakes related to Russian nuclear arms were even higher than they are today.

During the Cold War uncertainty over Russia's intentions and weapons advances—and this cost us tens if not hundreds of billions of dollars—an academic industry developed that was devoted to parsing Soviet military capabilities. This was one of the biggest, if not the biggest, expenses of our intelligence budget each year. The fact that we could not accurately judge Soviet military capabilities led us to elevate our spending on weaponry out of a sense of caution. These times were dominated by contradictory risk assessments and rumors about dangerous new Soviet weapon systems. We were constantly worried about missile gaps, destabilizing arms deployments, or Soviet technology breakthroughs. And all of this came at a tremendous cost to the American taxpayer and the psyche of a nation which lived under the threat of mutual assured destruction.

I firmly believe our staunch opposition to an aggressive Soviet state was absolutely necessary and led directly to the achievement of freedom for tens of millions of people in Eastern Europe. It also set the stage for dramatic breakthroughs in international cooperation. But that does not mean the Cold War was a benign experience or that we want to revive nuclear competition, carried out in an environment without verification or basic limits on weapons.

I am not suggesting that we are on the brink of returning to the Cold War. Reality is far more complicated than that. But we should not be cavalier about allowing our relationship with Moscow to drift or about letting our knowledge of Russian weaponry atrophy. Few Americans today give much thought to the nuclear arsenal of the former Soviet Union. Americans have not had to be concerned in the same way as they were during the Cold War years. But large elements of that arsenal still exist and still threaten the United States. Whether through accident, miscalculation, proliferation, or any number of other scenarios, Russian nuclear weapons, materials, and technology still have the capability to obliterate American cities. That is a core national security problem that commands the attention of our government and this body.

I relate these thoughts about where we have been in part because most Senators entered national public service after the Cold War ended, and even fewer were serving in this body when we were called upon to make decisions on arms treaties.

Only 21 current Members were here in 1988 to debate the INF Treaty. Only 15 current Members were serving in the Senate during the Geneva Summit between President Ronald Reagan and Mikhail Gorbachev in 1985. Only 11 Members were here in March 1983 when President Reagan delivered his so-called "evil empire" speech. And only 7 of us were here when the Soviets invaded Afghanistan in 1979. In a few weeks, these numbers will decline even further.

The fundamental question remains as to how we manage our relationship with a former enemy and current rival that still possesses enormous capacity for nuclear destruction. What the START process has done, since it was initiated by President Reagan, is manage an adversarial relationship that previously had been cloaked in volatile uncertainty and accompanied by enormous financial costs to our own society.

One can take the view, I suppose, that unrestrained competition with Russia is the best way to ensure our security in relation to that country. But that has not been the view of the American people and there is no indication that this is what Americans were voting for in November.

It certainly was not Ronald Reagan's view. It was President Reagan who began the START process. His team coined the term "START," standing for "Strategic Arms Reduction Talks," to reflect President Reagan's intent to shift the goal of nuclear arms control from limiting weapons build-ups to making substantial, verifiable cuts in existing arsenals. On May 8, 1982, President Reagan made the first START proposal during a speech at Eureka College in Illinois, calling for a one-third reduction in nuclear warheads. For the rest of his Presidency, he engaged the Russians on numerous arms control proposals that reduced weaponry an established tough verification measures to prevent cheating. He personally conducted five summits with Russian leaders, which primarily focused on arms control. He produced the INF treaty, signed in 1988, which greatly reduced nuclear weapons in Europe. His efforts also led to the original START Treaty which was signed during the first President Bush's term in 1991.

The cornerstone of President Reagan's arms control agenda was verification. His interest in verification is frequently summed up by his oft-quoted line "trust but verify." But what the United States and Russia have done through the

START process is far more than just verification. START has provided the structure and transparency upon which unprecedented arms control and non-proliferation initiatives have been built, most notably, the Nunn-Lugar program. The stability that came with a long-term agreement and the commitment implicit in a treaty approved by both the Russians and an American legislature, has been indispensable to the success of Nunn-Lugar and other non-proliferation endeavors with Russia.

Over the course of almost two decades, the Nunn-Lugar program has joined Americans and Russians in a sustained effort to safeguard and ultimately destroy weapons and materials of mass destruction in the former Soviet Union and beyond. The destruction of thousands of weapons is a monumental achievement for our countries, but the process surrounding this joint effort is as important as the numbers of weapons eliminated. The U.S.-Russian relationship has been through numerous highs and lows in the post-Cold War era. Throughout this period, START inspections and consultations and the corresponding threat reduction activities of the Nunn-Lugar program have been a constant that has reduced miscalculation and has built respect. This has not prevented highly contentious disagreements with Moscow, but it has meant that we have not had to wonder about the make-up and disposition of Russian nuclear forces during periods of tension. It also has reduced, though not eliminated, the proliferation threat posed by the nuclear arsenal of the former Soviet Union.

This process must continue if we are to answer the existential threat posed by the proliferation of weapons of mass destruction. Every missile destroyed, every warhead deactivated, and every inspection implemented makes us safer. Russia and the United States have the choice whether or not to continue this effort, and that choice is embodied in the New START Treaty before us.

The Senate Foreign Relations and Armed Services Committees held 18 hearings on the treaty with national security leaders who have served in the Nixon, Ford, Carter, Reagan, George H.W. Bush, Clinton, George W. Bush, and Obama administrations. These hearings were supplemented by dozens of staff and Member briefings, as well as nearly 1,000 questions for the record.

We know, however, that bilateral treaties are not neat instruments, because they involve merging the will of two nations with distinct and often conflicting interests. Treaties come with inherent imperfections and questions. As Secretary Gates testified in May, even successful agreements routinely are accompanied by differences of opinion by the parties.

The ratification process, therefore, is intended to produce a Resolution of

Ratification for consideration by the whole Senate. The resolution should clarify the meaning and effect of treaty provisions for the United States and resolve areas of concern or ambiguity.

On September 16, 2010, the Foreign Relations Committee approved a Resolution of Ratification for the New START treaty by a vote of 14-4 with important contributions from both Democratic and Republican members. This resolution incorporates the concerns and criticisms expressed over the last several months by committee witnesses, members of the committee, and other Senators. It will be further strengthened through our debate in the coming days.

With this in mind, I would turn to specific concerns addressed in the Resolution of Ratification.

First of all, missile defense.

Some critics of the New START treaty have argued that it impedes U.S. missile defense plans. But nothing in the treaty changes the bottom line that we control our own missile destiny, not Russia. Defense Secretary Gates, Admiral Mullen, and GEN Patrick O'Reilly, who is in charge of our missile defense programs, have all testified that the treaty does nothing to impede our missile defense plans. The Resolution of Ratification has explicitly reemphasized this in multiple ways.

Some commentators have expressed concern that the treaty's preamble notes the interrelationship between strategic offense and strategic defense. But preamble language does not permit rights nor impose obligations, and it cannot be used to create an obligation under the treaty. The text in question is stating a truism of strategic planning that an interrelationship exists between strategic offense and strategic defense.

Critics have also worried that the treaty's prohibition on converting ICBM and SLBM launchers to defensive missile silos reduces our missile defense options. But General O'Reilly has stated flatly that it would not be in our own interest to pursue such conversions because converting a silo costs an estimated \$19 million more than building a modern, tailor-made missile defense interceptor silo. The Bush administration converted five ICBM test silos at Vandenberg Air Force Base for missile defense interceptors, and these have been grandfathered under the New START treaty. Beyond this, every single program advocated during the Bush and Obama administrations has involved construction of new silos dedicated to defense on land—exactly what the New START treaty permits. General O'Reilly said a U.S. embrace of silo conversions would be “a major setback” for our missile defense program.

Addressing whether there would be utility in converting any existing SLBM launch-tubes to a launcher of

defensive missiles, GEN Kevin P. Chilton, Commander of U.S. Strategic Command, stated “[T]he missile tubes that we have are valuable, in the sense that they provide the strategic deterrent. I would not want to trade [an SLBM] and how powerful it is and its ability to deter, for a single missile defense interceptor.” Essentially, our military commanders are saying that converting silos to missile defense purposes would never make sense for our efforts to build the best missile defense possible.

A third argument concerning missile defense centers on Russia's unilateral statement upon signature of New START, which expressed its right to withdraw from the treaty if there is an expansion of U.S. missile defense programs. Unilateral statements are routine to arms control treaties and do not alter the legal rights and obligations of the parties to the treaty. Indeed, Moscow issued a similar statement concerning the START I treaty, implying that its obligations were conditioned upon U.S. compliance with the ABM Treaty. Yet, Russia did not in fact withdraw from START I when the United States withdrew from the ABM Treaty in 2001. Nor did it withdraw when we subsequently deployed missile defense interceptors in California and Alaska. Nor did it withdraw when we announced plans for missile defenses in Poland and the Czech Republic.

Russia's unilateral statement does nothing to contribute to its right to withdraw from the treaty. That right, which we also possess, is standard in all recent arms control treaties and most treaties considered throughout U.S. history.

The Resolution of Ratification approved by the Foreign Relations Committee reaffirms that the New START treaty will in no way inhibit our missile defenses. It contains an understanding that the New START treaty imposes no limitations on the deployment of U.S. missile defenses other than the requirement to refrain from converting offensive missile launchers. It also states that Russia's April 2010 unilateral statement on missile defense does not impose any legal obligations on the United States and that any further limitations would require treaty amendment subject to the Senate's advice and consent. Consistent with the Missile Defense Act of 1999, it also declares that it is U.S. policy to deploy an effective national missile defense system as soon as technologically possible and that it is the paramount obligation of the United States to defend its people, armed forces, and allies against nuclear attack to the best of its ability.

In a revealing moment during Senate Foreign Relations Committee hearings on the Treaty, Secretary Gates testified:

The Russians have hated missile defense ever since the strategic arms talks began, in

1969 . . . because we can afford it and they can't. And we're going to be able to build a good one . . . and they probably aren't. And they don't want to devote the resources to it, so they try and stop us from doing it. . . This treaty doesn't accomplish that for them. There are no limits on us.

I would paraphrase the Secretary's blunt comments by saying simply, that our negotiators won on missile defense. If, indeed, a Russian objective in this treaty was to limit U.S. missile defense, they failed, as the Defense Secretary asserts. Does anyone really believe that Russian negotiating ambitions were fulfilled by nonbinding language in the Preamble? Or by a unilateral Russian statement with no legal force? Or by a prohibition on converting silos, which costs more than building new ones? These are toothless, figleaf provisions that do nothing to constrain us.

Moreover, as outlined, our resolution of ratification states explicitly in multiple ways that we have no intention of being constrained. Our government is investing heavily in missile defense. Strong bipartisan majorities in Congress favor pursuing current missile defense plans.

What the Russians are left with on missile defense is unrealized ambitions. At the end of any treaty negotiation between any two countries, there are always unrealized ambitions left on the table by both sides.

This has been true throughout diplomatic history.

The Russians might want all sorts of things from us, but that does not mean they are going to get them. If we constrain ourselves from signing a treaty that is in our own interest on the basis of unrealized Russian ambitions, we are showing no confidence in the ability of our own democracy to make critical decisions. We would be saying that we have to live with the end of START inspections and other negative consequences of rejecting this treaty to prevent a U.S. Government in the future from bowing to Russian pressure on missile defense. If one buys into this logic, it becomes almost impossible to seek cooperation with Russia on anything.

Let us be absolutely clear, the President of the United States, the U.S. Congress, and the executive branch agencies on behalf of the American people control our own destiny on missile defense. The Russians can continue to argue all they want on the issue, but there is nothing in the treaty that says we have to pay any attention to them.

The New START treaty's verification regime has also been the subject of considerable debate. The important point is that, today, we have zero on-the-ground verification capability given that START I expired on December 5, 2009, more than 1 year ago. Under START, the United States conducted inspections of weapons, their facilities, their delivery vehicles and warheads,

in Russia, Kazakhstan, Ukraine, and Belarus. These inspections fulfilled a crucial national security interest by greatly reducing the possibility that we would be surprised by future advancements in Russian weapons technology or deployment. Only through ratification of New START will U.S. technicians return to Russia to resume verification.

Under New START, the United States and Russia each will deploy no more than 1,550 warheads for strategic deterrence. Seven years from its entry into force, the Russian Federation is likely to have only about 350 deployed missiles. This smaller number of strategic nuclear systems will be deployed at fewer bases. It is likely that Russia will close down even more bases over the life of the treaty.

Both sides agreed at the outset that each would be free to structure its forces as it sees fit, a view consistent with that of the Bush administration. As a practical economic matter, conditions in Russia preclude a massive restructuring of its strategic forces.

The treaty, protocol and annexes contain a detailed set of rules and procedures for verification of the New START treaty, many of them drawn from START I. The inspection regime contained in New START is designed to provide each party confidence that the other is upholding its obligations, while also being simpler and safer for the inspectors to implement, less operationally disruptive for our strategic forces, and less costly than START's regime.

Secretary Gates recently wrote to Congress that "The Chairman of the Joint Chiefs of Staff, the Joint Chiefs, the Commander, U.S. Strategic Command, and I assess that Russia will not be able to achieve militarily significant cheating or breakout under New START, due to both the New START verification regime and the inherent survivability and flexibility of the planned U.S. strategic force structure." We should not expect that New START will eliminate friction, but the treaty will provide for a means to deal with such differences constructively, as under START I.

The Resolution of Ratification approved by the Foreign Relations Committee requires further assurances by conditioning ratification on Presidential certification, prior to the treaty's entry into force, of our ability to monitor Russian compliance and on immediate consultations should a Russian breakout from the treaty be detected. For the first time in any strategic arms control treaty, a condition requires a plan for New START monitoring.

Some have asserted that there are too few inspections in New START. The treaty does provide for fewer inspections compared to START I. But this is because fewer facilities will re-

quire inspection under New START. START I covered 70 facilities in four Soviet successor states, whereas New START only applies to Russia and its 35 remaining facilities. Therefore we need fewer inspections to achieve a comparable level of oversight. New START also maintains the same number of "re-entry vehicle on-site inspections" as START I, 10 per year. Baseline inspections that were phased out in New START are no longer needed because we have 15 years of START I Treaty implementation and data on which to rely. Of course, if New START is not ratified for a lengthy period, the efficacy of our baseline data would eventually deteriorate.

New START includes the innovation that unique identifiers or "UIDs" be affixed to all Russian missiles and nuclear-capable heavy bombers. UIDs were applied only to Russian road-mobile missiles in START I. Regular exchanges of UID data will provide confidence and transparency regarding the existence and location of 700 deployed missiles, even when they are on non-deployed status, something that START I did not do.

The New START treaty also codifies and continues important verification enhancements related to warhead loading on Russian ICBMs and SLBMs. These enhancements, originally agreed to during START I implementation, allow for greater transparency in confirming the number of warheads on each missile.

Under START I and the INF Treaty, the United States maintained a continuous, on-site presence of up to 30 technicians at Votkinsk, Russia to conduct monitoring of final assembly of Russian strategic systems using solid rocket motors. While this portal monitoring is not continued under New START, the decision to phase out this arrangement was made by the Bush administration in anticipation of START I's expiration. With vastly lower rates of Russian missile production, continuous monitoring is not crucial, as it was during the Cold War.

For the United States, the New START treaty will allow for flexible modernization and operation of U.S. strategic forces, while facilitating transparency regarding the development and deployment of Russian strategic forces.

With regard to warhead counting, New START improves on the rules used in both START I and the Moscow Treaty. Under START I, each deployed missile or bomber was attributed a maximum number of weapons, for which it always counted. Each launcher of a missile or weapon also counted regardless of whether it still performed nuclear missions or contained missiles. This resulted in inaccurate counts of warheads, missiles, and launchers. Under the Moscow Treaty, there was never agreement on what constituted

an operationally deployed strategic nuclear warhead. Consequently, the parties used their own methodology for counting which warheads fell under the Treaty's limits. Under New START, one common set of counting rules will be used by both parties regarding deployed and non-deployed ICBMs, SLBMs and bombers, and deployed warheads on missiles and bomber weapons, so that the data exchanged under this treaty will more accurately reflect modern deployment of the parties' strategic forces.

New START's bomber counting rules are also different from START I. Under New START, each heavy bomber is attributed one nuclear weapon, despite the aircraft's ability to carry more, which reflects the modern fact that neither party maintains bombers loaded with nuclear weapons on a continual basis.

This rule is not an invention of New START. It is consistent with President Reagan's negotiating position. He proposed that bombers not be counted at all because they are not first-strike weapons and, thus, not destabilizing. It was a concession to Moscow to include heavy bombers as strategic offensive arms in START I, but President Reagan never agreed to count their maximum capacity, as the Soviets sought. Those who have inexplicably criticized New START's bomber counting rules are advocating the historic position of the Soviet Union, not our own.

The Department of Defense plans to maintain up to 60 nuclear-capable bombers under the New START treaty, including a large number of B-52s, each capable of carrying up to 20 ALCMs. Maintaining this standoff delivery capability will enable the United States to field a substantial number of penetrating weapons in the bomber leg of our triad. Flexible counting of one weapon per each B-52 gives us immediate and powerful deployment flexibility, something President Reagan protected, as does New START.

Some opponents of New START also contend that the treaty should not be ratified because tactical nuclear weapons are not covered. But rejection of this treaty would make future limitations on Russian tactical nuclear arms far less likely.

Some critics have overvalued the utility of Russia's tactical nuclear weapons and undervalued our deterrent to them. Only a fraction of these weapons could be delivered significantly beyond Russia's borders. Pursuant to the INF Treaty, the United States and Soviet Union long ago destroyed intermediate range and shorter range nuclear-armed ballistic missiles and ground-launched cruise missiles, which have a range between 500 and 5,500 kilometers. In fact, most of Russia's tactical nuclear weapons have very short ranges, are used for homeland air de-

fense, are devoted to the Chinese border, or are in storage. A Russian nuclear attack on NATO countries is effectively deterred by NATO conventional superiority, our own tactical nuclear forces, French and British nuclear arsenals, and U.S. strategic forces. In short, Russian tactical nuclear weapons do not threaten our strategic deterrent. Our NATO allies that flank Russia in Eastern and Northern Europe understand this and have strongly endorsed the New START treaty.

It is important to recognize that the size differential between Russian and American tactical nuclear arsenals did not come to pass because of American inattention to this point. During the first Bush administration, our national command authority, with full participation by the military, deliberately made a decision to reduce the number of tactical nuclear weapons we deployed. They did this irrespective of Russian actions, because the threat of massive ground invasion in Europe had largely evaporated due to the breakup of the former Soviet Union. In addition, our conventional capabilities had improved to the extent that battlefield nuclear weapons were no longer needed to defend Western Europe. In this atmosphere, maintaining large arsenals of nuclear artillery shells, landmines, and short range missile warheads was a bad bargain for us in terms of cost, safety, alliance cohesion, and proliferation risks.

In my judgment Russia should make a similar decision. The risks to Russia of maintaining their tactical nuclear arsenal in its current form are greater than the potential security benefits that those weapons might provide. They have not done this, in part because of their threat perceptions about their borders, particularly their border with China.

An agreement with Russia that reduced, accounted for, and improved security around tactical nuclear arsenals is in the interest of both nations. Rejection of New START makes it unlikely that a subsequent agreement concerning tactical nuclear weapons will ever be reached. The Resolution of Ratification encourages the President to engage the Russian Federation on establishing measures to improve mutual confidence regarding the accounting and security of Russian nonstrategic nuclear weapons.

Finally, I would like to turn to the nuclear modernization issue.

The New START treaty will not directly affect the modernization or the missions of our nuclear weapons laboratories. The treaty explicitly states that "modernization and replacement of strategic offensive arms may be carried out." Yet Senate consideration of New START has intensified a debate on modernization and the stockpile stewardship programs.

Near the end of the Bush administration, a consensus developed that our nuclear weapons complex was at risk due to years of underfunding. In 2010, the Senate approved an amendment to the Defense authorization bill requiring a report to Congress, known as the 1251 report, for a plan to modernize our nuclear weapons stockpile. The 1251 report submitted by the administration committed to an investment of approximately \$80 billion over a 10-year period to sustain and modernize the United States nuclear weapons complex, which according to Secretary Gates, was a "credible" program for stockpile modernization. Pursuant to this report, the administration submitted a fiscal year 2011 request for \$7 billion, a nearly 10 percent increase over fiscal year 2010 levels. The 1251 plan was recently augmented by an additional \$5 billion in funding. The directors of our National Laboratories wrote on December 1 that they were "very pleased" with the updated plan, which provides "adequate support to sustain the safety, security, reliability, and effectiveness of America's nuclear deterrent" under New START's central limits.

The resolution of ratification passed by the Foreign Relations Committee declares a commitment to ensure the safety, reliability, and performance of our nuclear forces through a robust stockpile stewardship program. The resolution includes a requirement for the President to submit to Congress a plan for overcoming any future resource shortfall associated with his 10-year 1251 modernization plan. The resolution also declares a commitment to modernizing and replacing nuclear weapons delivery vehicles.

In closing, it is imperative that we vote to provide our advice and consent to the New START treaty.

Most of the basic strategic concerns that motivated Republican and Democratic administrations to pursue nuclear arms control with Moscow during the last several decades still exist today. We are seeking mutual reductions in nuclear warheads and delivery vehicles that contribute to stability and reduce the costs of maintaining the weapons. We are pursuing transparency of our nuclear arsenals, backed up by strong verification measures and formal consultation methods. We are attempting to maximize the safety of our nuclear arsenals and encourage global cooperation toward nonproliferation goals. And we are hoping to solidify U.S.-Russian cooperation on nuclear security matters, while sustaining our knowledge of Russian nuclear capabilities and intentions.

Rejecting New START would permanently inhibit our understanding of Russian nuclear forces, weaken our nonproliferation diplomacy worldwide, and potentially reignite expensive arms competition that would further strain our national budget.

Bipartisan support for arms control treaties has been reflected in overwhelming votes in favor of the INF Treaty, START I, START II, and the Moscow Treaty. I believe the merits of New START should command similar bipartisan support.

I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MANCHIN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERRY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to proceed in morning business for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I ask unanimous consent that the Senator from California, Mrs. FEINSTEIN, be recognized at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask to rescind that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. And that at such time that the other side has had an opportunity to speak, Senator FEINSTEIN be recognized for 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I thank the Presiding Officer.

NEW START TREATY

Mr. KERRY. Mr. President, this afternoon, the Senate takes up an issue that is critical to our Nation's security, and we have an opportunity, in doing so, to reduce the danger from nuclear weapons in very real and very measurable terms. We have an opportunity to fulfill our constitutional obligation that requires the Senate to provide a two-thirds vote of the Members present who must vote in favor of a treaty.

The Constitution, by doing that, insists on bipartisanship. It insists on a breadth of support that is critical to our foreign policy and to the security definitions of our country. That obviously requires that we put politics aside and act in the best interests of our country.

I am confident that in the next days the Senate will embrace this debate in the substantive way it deserves to be embraced, and we look forward to welcoming constructive amendments from our colleagues on the other side of the aisle. We will, obviously, give them time to be able to make those suggestions, and we certainly look forward to having an important discussion about the security of our Nation.

We have been working together for a lot of months now to get us to this point in time, and I think it is indisputable that we have worked in good faith on our side of the aisle to try to provide enormous latitude to colleagues who have had questions about this treaty, some of whom have opposed this or other treaties from the beginning but who wanted to engage in the process.

I think the administration, to their credit—Secretary Gottemoeller and others who have negotiated the treaty—has been available throughout the process. There have been an enormous number of briefings and discussions, dialogs, phone calls. There has been a very open effort, as open, incidentally, as any I can remember in 25 years in the Senate—and I have been through this treaty process with President Reagan, President Bush, President Clinton, and others—and I think this has been as open and as accessible and as in-depth and, frankly, as accommodating as any of those, if not significantly more.

I wish to begin by thanking my colleague in this effort, my friend and a longtime knowledgeable advocate on behalf of nuclear common sense, Senator LUGAR. We all know he is one of the world's foremost experts on the subject of threat reduction and proliferation reduction. There are very few Senators who can look out and see a program that has been as constructive in reducing the threat to our Nation that bears their name—the Nunn-Lugar Threat Reduction Program—and it has been an honor for me to work with Senator LUGAR and to have his wise counsel in this process and, equally important, to have his courage in being willing to stand for what he believes in so deeply and what he knows will advance the cause of our Nation.

I might comment to my colleagues that what we are doing in these next hours and days, providing advice and consent, is a responsibility that is obviously given only to the Senate. The Founding Fathers intended that the Senate be able to rise above the pettiness of partisan politics. As our friend CHRIS DODD said in his valedictory speech:

The Senate was designed to be different, not simply for the sake of variety but because the Framers believed the Senate could and should be the venue in which statesmen would lift America up to meet its unique challenges.

"Statesmen," that is the word we need to focus on in these next days. Too often in recent months—the American people signaled that in the last election—the Senate has been unable to lift America to meet its challenges. Too often we became one of those challenges, and rather than cooperating or compromising, we saw blockade after blockade and an inability to be able to address a number of issues.

As Senator DODD said: What determines whether this institution works is whether the 100 of us can work together.

So with the New START treaty, we have the opportunity to do that and to demonstrate our leadership to the world. I would say to my colleagues that just 2 days ago the Foreign Relations Committee had the privilege of welcoming the entire United Nations Security Council, which came to Washington with our Ambassador, Dr. Susan Rice. Much on their minds was this question of: Could the Senate rise? Would the Senate accomplish this important goal, which has meaning not just to us but to them because they have joined with us in resolution 1929 in order to put pressure on Iran, not to mention the long-term efforts we have made with respect to North Korea.

So what we do is going to be an expression of our opportunity, of our ability to be able to provide leadership to the American people.

Let me clarify one thing at the outset of this discussion. We have enough time to do this treaty. To anybody who wants to come out here and claim: Oh, no, we do not have time; we cannot do it; it is right before Christmas, and so forth, let me just remind people the original START agreement, which was passed back in 1992, was a far more dramatic treaty than the New START.

The original START treaty was formulated in the aftermath of the demise of the Soviet Union. There was huge uncertainty in Russia at that point in time. The Soviet Union had just collapsed. Yet despite all the uncertainty, despite the complexity of going from some 10,000 nuclear warheads down to 6,000, the full Senate needed only 5 days of floor time in order to approve the treaty by a vote of 93 to 6.

The START II treaty, which followed it about 4 years later, took only 2 days on the floor of the Senate. It was approved 87 to 4.

The Moscow Treaty, which actually resulted in the next further big reduction—because START II was ratified by the Senate but not approved by Russia because of what had happened with the ABM Treaty, the unilateral pullout of the United States; so in their pique at that, it was not ratified—but we managed to go to the Moscow Treaty, and it resulted in further reductions to some 1,700 to 2,200 weapons, a very dramatic reduction. That treaty, which did not have any verification measures in it at all—no verification—that treaty took only 2 days on the floor of the Senate, and it was approved 95 to 0.

So we have time to do this treaty. If we approach it seriously, if we do not have delay amendments and delay amendments, I believe we have an opportunity to embrace the fact that this New START treaty is a commonsense agreement in the next step to reduce down to 1,550 warheads and to enhance

stability between two countries that together between them possess some 90 percent of the world's nuclear weapons.

It will limit Russia over the next 10 years to those 1,550 deployed warheads, 700 deployed delivery vehicles, and 800 launchers. It will give us flexibility in deploying our own arsenal. We have huge flexibility in deciding what we put on land, what we put in the air, and what we put at sea. At the same time, it will allow us to eliminate surplus weapons that have no place in today's strategic environment. New START's verification provisions are going to deepen our understanding of Russia's nuclear forces.

For the past 40 years, the United States, often at the instigation of Republican Presidents, has used arms control with Russia to increase the transparency and the predictability of both our nuclear arsenals, and this has built trust between our two countries. It has reduced the chances of an accident. It stabilized our relationship during times of crisis. It has provided for greater communication and greater understanding and, as everybody knows, in making military decisions and strategic decisions, one's understanding of the legitimacy of a particular threat and the immediacy of that threat and knowing what the intentions and actions of a potential adversary might be is critical to being able to make wise judgments about what reaction might best be entertained.

Frankly, that trust is exactly why President George H.W. Bush signed the START I and the START II treaties. That is why these treaties passed the Senate with overwhelming bipartisan support.

New START simply stands on the shoulders of those two START agreements. It is not new. There are a few new components of it, a few twists in terms of the verification, other things, but they are not fundamentally new. They also stand on the trust and the fact of the legitimate enforcement of that treaty over all the years that START has been in effect.

So we are not beginning from scratch. We have a 1992 until today record of cooperation and of knowledge and increased security that has come to us because of the prior agreements. That is, frankly, why I was so pleased President Bush—George Herbert Walker Bush—last week, issued a statement urging the Senate to ratify this treaty.

In addition to stabilizing the United States-Russia nuclear relationship, New START has a profound impact on our ability to be able to work to try to stop the spread of nuclear weapons in states such as Iran. I might point out that in the 7 months since President Obama signed this agreement, Russia has already exhibited a greater cooperative attitude in working with the United States on a number of things, not the least of which is in supporting

harsher sanctions against Iran, and they have suspended the sale of the S-300 air defense system to Tehran. That is critical.

We were struggling a couple years ago to try to strengthen the sanctions against Iran. There is not a Member of this body who did not articulate, at one point or another, the need to move to the Iran Sanctions Act. We finally did that, but we did not have a partnership. Neither China nor Russia, who are permanent members of the Security Council, were joining in that effort, so we could not get the United Nations even to move.

Now we have, and there is nobody who has watched the evolution of this restart with Russia who does not understand that cooperation has been enhanced by our signing of this treaty. To not ratify it now would be a very serious blow to that cooperative effort and, in fact, according to many experts, could ignite an opposite reaction that would move us back into the kinds of arms race we have struggled so long to get out from under. So the fact is, we need to understand that relationship.

I might add, I think Steve Forbes, in Forbes magazine, wrote an article just the other day urging the Senate to ratify START because he said it does not just have an implication in terms of the security component of it, the nuclear side, it has a very strong economic component. He is arguing for greater economic engagement between Russia and the United States and Russia and the West. He said the restart relationship is critical to that increased commerce, to that increased economic strengthening between our countries. I hope my colleagues will look carefully at a strong conservative voice such as his that urges the ratification of this treaty.

In addition to the Russian component of the relationship, New START will help us keep nuclear weapons out of the hands of terrorists. One of the greatest fears of our security community is that terrorists may not necessarily get what we strictly call a nuclear bomb, but they may be able to get nuclear material through back channels and through the black market because it has not been adequately guarded and because we have not reduced the numbers of missiles and the amount of material and so they could get a hold of some of that material and make what is called a dirty bomb; that is, a bomb that does not go off in nuclear reaction but which, because of the nuclear material that explodes with it, has a very broad toxic impact on a very large community. That is a legitimate concern and one of the reasons why we drive so hard to reduce the nuclear actors in the world.

The original START agreement was, frankly, the foundation of the Nunn-Lugar Cooperative Threat Reduction

Program. That is, simply put, the most successful nonproliferation effort of the last 20 years. As James Baker, former Secretary of the Treasury and Secretary of State, said:

I really don't think Nunn-Lugar would have been nearly as successful as it was if the Russians had lacked the legally binding assurance of parallel U.S. reductions through the START treaty.

So the New START is going to strengthen our ability to continue to secure loose nuclear materials, and without New START, absolutely, to a certainty, that ability to contain those materials will be weakened.

In short, New START is going to help us address the lingering dangers of the old nuclear age while giving us important tools to be able to combat the threats of the new nuclear age, and the sooner we approve it the safer we will become.

That is why there is such an outpouring of support for this treaty. Every single living former Secretary of State, Republican and Democrat, supports this treaty. So do five former Secretaries of Defense and the Chair and the Vice Chair of the 9/11 Commission. So do seven former commanders of our nuclear forces and the entirety of our uniformed military, including Admiral Mullen and the service chiefs, and our current nuclear commander. All support this treaty as well. It is difficult to imagine an agreement with that kind of backing from so many individuals who contributed so much to our Nation's security, almost all of whom know a lot more about each of these arguments than any Senator—myself, everybody here. They have been in the middle of this, and over the last weeks every single one of them has spoken out in favor of this treaty.

Some have suggested we shouldn't rush to do this, but I have to tell my colleagues, only in the Senate would a year and a half be a rush. We started working on this treaty a year and a half ago. Senators have had unbelievable opportunity to be able to do this. I think the question is not why would we try to do it now, it is why would we not try to do it now. For what reason within the four corners of the actual treaty—not talking about modernization; that is not in the four corners of the treaty—notwithstanding that, the administration has allowed delay after delay after delay in order to help work with Senator KYL and provide adequate increases in modernization, so much so that the modernization is way above what it was under President Bush or any prior administration. But that is not in the four corners of the treaty. That is something you do because you want to maintain America's nuclear force, and we all want to do that, which is why we have worked hard to be able to provide that funding.

I believe the importance here is to recognize it has been more than a year

since the original START treaty and its verification provisions expired. It has been more than 1 year since we had inspectors on the ground in Russia without access to their nuclear facilities. Every day for the past year our knowledge of their arsenal or whatever they are doing begins to diminish, one step, one small amount at a time, cumulatively over time, which is why our entire national intelligence community has come out and said this treaty, in fact, will advance America's security and assist us to be able to know what Russia is doing.

Let me point out 2 weeks ago James Clapper, the Director of National Intelligence, urged us to ratify the New START and he said: "I think the earlier, the sooner, the better." That is our National Intelligence Director.

Others have tried to suggest again that this is a squeeze in the last days here, but let me say respectfully I have already given the timeframe. START took 5 days; START II, 2 days; Moscow, 2 days. So if we work diligently, there is nothing to stop us from finishing this in the time we have. We just have to stay here and make it clear we are going to stay here, and the President wants us to, and HARRY REID has said we will, until we get this done. The fact is that starting in June of 2009, over a year ago—a year and a half ago—the Foreign Relations Committee was briefed at least five times during the talks with the Russians. We met downstairs in the secure facilities with the negotiators while they were negotiating. We met with them before they negotiated. We gave them parameters we thought they needed to embrace in order to facilitate passage through the Senate. We met with them while they were negotiating at least five times—Senators from the Armed Services Committee, Senators from the Intelligence Committee, Senators from the Senate's National Security Working Group, which I cochair along with Senator KYL. Whenever Senator KYL wanted to meet with that group, we called a meeting with that group. We met and called in Rose Gutmoele and others and we sat and talked. The Select Committee on Intelligence did its work. In the end, if you count them, more than 60 Senators were able to follow the negotiations in detail over a 1-year period. Senators also had additional opportunities to meet with the negotiating team and a delegation of Senators even traveled to Geneva, which the administration helped to make happen in order to meet with the negotiators while the negotiations were going on.

So even though the New START was formally submitted to the Senate in May, the fact is Congress knew a lot about this treaty before it was even signed. The President made certain we were continually being briefed and that the input of the Senate was taken into

account in the context of those negotiations. No other Senate—not next year's Senate—could come back here and replicate what this Senate has gone through in preparing for this treaty. We can't replicate those negotiations. They are over. They can't go back and give advice to the negotiators at the beginning. That is done. We did that. It is our responsibility to stand up and complete the task on this because we have put a year and a half's work into it. We have done the preparation. We have the knowledge. It is our responsibility.

The fact is over the last 7 months, this Senate has even become more immersed in the treaty. We have had briefings. Documents have been submitted. Nearly 1,000 formal questions were submitted to the administration and they have been answered. We have volumes of these questions, all of which were asked by Senators, completely within their rights, totally appropriate in the ratification process. We welcome it. I think it has produced a better record and a stronger product.

The Foreign Relations Committee conducted 12 open and classified hearings. We heard from more than 20 witnesses. The Armed Services Committee and the Intelligence Committee held more than eight hearings and classified briefings of their own. We heard from Robert Gates, the Secretary of Defense; from ADM Mike Mullen, the Chairman of the Joint Chiefs of Staff; GEN Kevin Chilton, the Commander of the Strategic Command; LTG Patrick O'Reilly, the Director of the Missile Defense Agency, who incidentally repeated what every single person involved in this, from Secretary Gates all the way through the strategic command, has said:

This treaty does nothing to negatively impact America's ability, or to even impact it in a way that prevents us from doing exactly what we want with respect to missile defense.

We also heard from the directors of the Nation's nuclear laboratories, the intelligence officials who are charged with monitoring the threats to the United States, and we heard, as I mentioned previously several times, from the negotiators of the agreement. We heard from officials who served in the Nixon administration, Ford, Carter, Reagan, Bush, Bush 41, Clinton, Bush 43. We heard from officials in every one of those administrations, and you know what. Overwhelmingly, they told us we should ratify the New START.

As I said, some of the strongest support for this treaty comes from the military. On June 16 I chaired a hearing on the U.S. nuclear posture, modernization of our nuclear weapons complex and our missile defense plans. General Chilton, Commander of the U.S. Strategic Command, who is responsible for overseeing our nuclear deterrent, explained why the military supports the New START. He said:

If we don't get the treaty, A, the Russians are not constrained in their development of force structure; and B, we have no insight into what they are doing. So it is the worst of both possible worlds.

That is the head of our Strategic Command telling us if you don't ratify this treaty, it is the worst of both possible worlds.

This treaty may have been negotiated by a Democratic President, but some of the strongest support for this treaty comes from Republicans. Two weeks ago, five former Republican Secretaries of State—five—Henry Kissinger, George Shultz, James Baker, Lawrence Eagleburger, and Colin Powell—wrote an article saying they support ratification of New START because it embraces Republican principles such as strong verification. Last week, Condoleezza Rice published an op-ed which said that the New START treaty deserves bipartisan support when the Senate decides to vote on it. As Secretary Rice wrote, approving this treaty is part of our effort to "stop the world's most dangerous weapons from going to the world's most dangerous regimes."

So if some think we haven't somehow considered this treaty carefully, I encourage them to revisit the voluminous record that has been produced over the last year and a half, and I look forward to reviewing it here as we debate New START in the coming days.

In the end, I am confident we are going to approve this treaty just as the Senate approved the original START treaty in 1992. At that time there were also Senators who insisted on delay. There were Senators who suggested that serious questions remained unanswered. That is their privilege. There were Senators who drafted dozens and dozens of amendments. But in the end, within 5 days, the Senate came together to approve the treaty 93 to 6.

So what is important that we pay attention to as we look at the big picture here and to the national imperative, the security imperative behind this treaty and what our military leaders and civilian leaders are urging us to think about, both past and present? Well, if you pay attention to the facts, you can come to only one conclusion, and that is we have to ratify this treaty.

Some of our colleagues have said they could support the treaty if we addressed certain issues in a resolution of ratification. Well, again, I hope they are listening. We have addressed the issues they raised in the resolution of ratification. I think many people may not even be aware of how much we have put into the resolution of ratification and how much we have done over the last 7 months to respond to the concerns raised during the consideration of the treaty.

The draft resolution is 28 pages long. It contains 13 conditions, 3 understandings, 10 declarations, and the conditions will require action by the executive branch. The understandings are formally communicated to the Russians, and the declarations express clear language of what we in the Senate expect to happen in the next years. That is the distinction between each of those categories.

This resolution currently addresses every serious topic we have addressed over the course of the last 7 months. For example, on the issue of missile defense, our military has repeatedly and unequivocally assured us that the New START does nothing to constrain our missile defense plans. The Secretary of Defense says it does nothing to constrain our missile defense plans. The Chairman of the Joint Chiefs of Staff says it does nothing to constrain our missile defense plans. The commander of our nuclear forces says it does nothing to constrain our defense plans. Indeed, the man who probably knows more about these plans in the greatest detail—much more than any Senator—LTG O'Reilly, the head of the Missile Defense Agency, testified that in many ways, the treaty reduces constraints on our missile defense testing. Get that. The head of missile defense says this treaty reduces the constraints on our missile defense testing.

He also testified that the Russians signed the treaty full knowing that we are committed to the phased adaptive approach in Europe. He said:

I have briefed the Russians personally in Moscow on every aspect of our missile defense development. I believe they understand what it is and that those plans for development are not limited by this treaty.

Now, if the head of our missile defense sees no problem with this treaty, I don't understand the concerns being expressed. But if a Senator is still worried about the New START missile defense treaty, notwithstanding his comments, then they ought to read condition 5, understanding 1, and declarations 1 and 2, all of which speak directly to that issue.

We have also addressed the issue of what resources are needed in order to sustain our nuclear deterrence and modernize our nuclear weapons infrastructure. This is not an issue that falls within the four corners of the treaty, as I mentioned. But as a matter of good faith, in an effort to sort of accelerate the ability of people to support this treaty, every step of the way the administration, in good faith, has worked to provide Senator KYL and others with the full knowledge of how that program is going to go forward from their point of view.

Obviously, the administration doesn't control what a Republican House is going to do next year. I don't know. But Senator INOUE has given his assurances. Senator FEINSTEIN has

given her assurances. We have shown a good-faith effort to guarantee that there is knowledge of the funding going forward—the 1251 program, which lays out the spending going forward and has been made available ahead of schedule, in a good-faith effort to try to make certain every base is covered.

The Obama administration proposed spending \$80 billion over the next 10 years. That is a 15-percent increase over the baseline budget, even after accounting for inflation. It would have been much more an amount than was spent during the Bush administration. Notwithstanding that commitment, still last month some Senators expressed further concerns. So guess what. The administration responded even further and put up an additional \$5 billion over the next 10 years. In response, the directors of our three nuclear weapons laboratories sent me a letter saying they were "very pleased with the new plan," and they said:

We believe that the proposed budgets provide adequate support to sustain the safety, security, reliability, and effectiveness of America's nuclear deterrent within the limit of the 1,550 deployed strategic warheads distinguished by the new START Treaty with adequate confidence and acceptable risk.

Last week, the person responsible for running our nuclear weapons complex, who was originally appointed by George W. Bush, told the Wall Street Journal:

I can say with certainty that our nuclear infrastructure has never received the level of support we have today.

That is a ringing endorsement, Mr. President, one that is completely persuasive—or ought to be—to any reasonable mind with respect to this issue. If Senators are still concerned, then I suggest they go see condition 9 of the resolution of ratification. It says if any of this funding doesn't materialize in the coming years, the President is required to report to Congress as to how he or she will respond to that shortfall.

Every other issue that has been raised is also addressed in the resolution as well. If you are worried about modernizing our strategic delivery vehicles, declaration 13 gets at that concern. Conventional prompt global strike capabilities—look at conditions 6 and 7, understanding 3, and declaration 3.

Tactical nuclear weapons are likewise covered in the resolution. Verifying Russian compliance is also covered. Even the concern raised about rail mobile missiles has been addressed in the resolution of ratification.

Obviously, there is room for someone else to come in and say you need to do this or that; not everything has been covered. We completely remain open to any reasonable and legitimate efforts to improve on or guarantee some safeguard that somehow is not included in a way that it can be without obviously trying to scuttle the treaty itself.

I have reached out to colleagues. We have had terrific conversations. I thank my colleagues on the other side of the aisle who have sat with us in a lot of efforts and inquired and helped us to navigate this process. But make no mistake, we are not going to amend the treaty itself. We are willing to accept resolutions that don't kill the treaty, but we are not going to get into some process after all that has been said and done by all of the different bipartisan voices that have inspected this treaty and found it one that we should ratify.

Mr. President, I have been through all the folks who signed and endorsed it, et cetera. I simply say I hope in the next hours we will have a healthy debate. I hope we can also work out—everybody knows the holiday is upon us—I hope we can work out reasonable time periods on amendments. We are certainly not going to prolong debate. I think most Senators have a sense of where they feel on most of these issues.

We look forward to working with our colleagues in a very constructive way to try to expedite the process for our colleagues. We have other business before the Senate, as well, and we are cognizant of that.

This is truly a moment where we can increase America's hand in several of the greatest challenges we face on the planet. First and foremost, obviously, if we are truly committed to a non-nuclear Iran, if the United States can turn away from reducing weapons with Russia in a way that sends a message to them about our bona fides and clean hands in this effort, it would be a tragedy if we didn't take this opportunity in order to strengthen the President's and the West's and the U.N.'s hands in trying to deal with this increasingly threatening issue.

I hope our colleagues will warmly rise to that challenge in the Senate.

I thank the Chair and yield the floor.

THE PRESIDING OFFICER. The Senator from Louisiana is recognized.

BOEMRE PAPUA, NEW GUINEA VISIT

Mr. VITTER. Mr. President, I rise to discuss an issue that is very important to Louisianians and folks along the gulf coast and very important to the entire country, which is continuing the de facto moratorium—the "permatorium" is what many folks have called it—in terms of drilling, energy production in the Gulf of Mexico.

There is one particular headline I want to point out in this context that is very frustrating and baffling. If it weren't so serious, it would be comical. Over the last several months, Louisianians have grown increasingly frustrated with the Interior Department in particular—and in particular, what used to be called MMS but is now the Bureau of Ocean Energy Management,

Regulation, and Enforcement or BOEMRE. Louisianians have come to pronounce that “bummer.” That is because that agency hasn’t been doing its work to issue permits to get Americans back to work to produce American energy.

Related to that, earlier this week I publicly announced a hold on Dr. Scott Doney to be chief scientist at NOAA until Interior and BOEMRE show that it is capable of responding to a letter I had sent it about this “permatorium,” the sad state of affairs, and until they are willing to explain to Congress findings in an IG report I had requested back in June.

Since June of this year, not a single new exploration plan or deepwater permit to drill has been approved by these bureaucracies—not a single one—idling billions of dollars of assets and forcing companies to cut their 2011 investment in the gulf to one-third of what it was a year ago.

Time and again we have heard from BOEMRE and Interior Secretary Salazar that they don’t have enough people to issue permits. They need more staff and they need to dedicate resources. They need more money and they need to focus on this permitting program. I have also been told that Interior needs more money—specifically \$100 million additional.

In light of all these claims, all of these requests—more people and more money—and in light of the enormous frustration we feel in Louisiana and in the gulf, I want to get to this little newspaper headline I referenced a few minutes ago. It came out yesterday, and it reads: “BOEMRE Team Returns from Papua, New Guinea Visit After Sharing Technical Expertise with Officials.”

It reads:

Experts from the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) recently completed a technical assistance workshop on offshore oil and gas regulatory programs for the Government of Papua, New Guinea. The workshop was sponsored by the U.S. Department of State’s Energy Governance and Capacity Initiative.

This is the same Interior Department that can’t get a single exploration plan, not a single deepwater permit to drill out the door; the same Interior Department and BOEMRE that claims they need more money to hire more staff to get this job done.

Apparently, they have plenty latitude and staff and money for a 3-day workshop in Papua, New Guinea, to discuss offshore permitting, which they can’t get done in the United States.

I think we need to take a little time to explain to the Government of Papua, New Guinea, that the last thing in the world they want to do, assuming they are interested in creating jobs at home through a workable permitting process, is to talk to these folks. These are the same folks who can’t get a single deepwater permit or a single exploration plan out the door.

As I said, this would be comical except it is not because it is dead serious, and it is losing American jobs and it is exporting economic activity from our country overseas.

The Interior Department is crushing domestic energy production that is destroying good-paying jobs, losing revenue for the Treasury, and making America more energy insecure. If I can give one simple recommendation to BOEMRE this holiday season in regard to expediting the permitting process, maybe they should keep their staff planted in their seats at home. Maybe they should pass on the next trip to Papua, New Guinea, and the next workshop with our partners around the globe. Maybe they should focus on getting the first exploration plan and the first new deepwater permit out the door. Maybe they should get that job done and put Americans back to work producing American energy before more of these outrageous trips and expenses.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

OMNIBUS APPROPRIATIONS

Mr. CORKER. Mr. President, I know the START treaty is going to be before us soon. I realize we had a motion to proceed to that today. I think I have indicated a willingness to support the treaty if all the t’s are crossed and the i’s are dotted on modernization. I know there are a number of commitments that are forthcoming from the White House and other places regarding modernization.

My hope is the same on missile defense. I am very concerned we are doing this in the middle of an omnibus, which is a 1,924-page omnibus. I am very concerned about a treaty of this substance, this seriousness, dealing with nuclear arms, being taken up in such a disconcerted way.

I voted against the motion to proceed. I do hope, as the leaders indicated, all of those who wish to offer amendments—and I know there will be a number of serious and thoughtful amendments that matter—will be heard. I am still skeptical that can be done in an appropriate way.

Again, I think this treaty, with the t’s crossed and i’s dotted, with the appropriate time allotted, whether it is now or it ends up being in February, and if the resolution is not weakened in any way, is still something I will plan to support. But I am very skeptical we can do that appropriately during this lameduck session, with this omnibus before us.

Let me turn to the omnibus because that is what the American people are most focused on today. I cannot tell you how disappointed I am that an appropriations bill of this size—one that has an increase in spending and over

6,000 earmarks—as a matter of fact, I know the Chair is aware of this because we had a great conversation this morning about spending. We had a large number of people on the Senate floor yesterday talking about our concern for fiscal issues. But the bill is 1,924 pages long. These are just the earmarks. These are just the earmarks, not the bill itself I am holding.

I am stunned that, after the message that was sent during this last election, Congress will basically say—or many Members—to the American people: We understand you are very upset and that you have concerns that are true concerns about the country’s fiscal condition. Yet we don’t really care.

Mr. President, it is my hope that what will happen is that saner heads will prevail and that what we will do is pass a short-term CR—a continuing resolution, for those who may be listening in and don’t know what that is. That would give us the ability to operate the government through February or March so that people such as the Presiding Officer, who was just elected, and myself and others who care so deeply about the fiscal issues of our country would have the ability to put spending constraints in place.

I think everyone knows our country faces—and these are not rhetorical issues—a crisis as it relates to these issues. The world markets are watching us. I think we have seen our interest rates on our bonds rise pretty dramatically even since the tax bill came out. And that was a tough vote for me because, again, in order to create certainty and to ensure that the economic prosperity of this country resumed and that we continue on the pace we are on today, I felt it was important to go ahead and get that behind us.

But I always thought and I hoped—and still do—that what we would move to very quickly is really driving down spending in relation to our country’s gross domestic output. I have offered an amendment to do just that, as I did that on the tax bill. I plan to offer the same on this particular discussion we are having now. But I am unbelievably disappointed that we would even consider punting the spending issue for a year. That is what we would be doing. In essence, if this omnibus bill were to pass, we would be passing a huge spending bill.

Again, let me go back. Typically, appropriations are handled one bill at a time. There are typically 12 appropriations bills. What happens when we do that is we are able to pick out wasteful programs here on the floor and maybe defund those, and we are able to really scrutinize all of the programs of government, which is what the American people want us to do. Instead of that—especially in a climate where the American people almost revolted at the polls, and I know you know this very well—instead of carefully considering our spending, what we are being

asked to do is to vote on 1 bill that has all 12 of those appropriations bills packed into it, again with 6,000 earmarks, and we are asked to vote on that here in the next few days. I think it is reprehensible, and I say that respectfully.

I know people on our Appropriations Committee have worked together in a very serious way over the last year. I know they have. And I know the Appropriations Committee is a committee that probably has the most bipartisan spirit of any committee in the Senate. So I can understand their desire to want to finish their work. But it is being done inappropriately. This is not the way serious people conduct their business. They take up these bills one at a time. Sometimes there are two or three, when they are very small appropriations bills, that are banded together. That is called a "minibus," if you will. But to do this all at once flies in the face of everything we know to be good government. All of us know this is not the right way to fund government.

A much better way for us would be to pass a short-term continuing resolution bill, as I just mentioned, to kick this down to February or March and allow us to look at something like the amendment I have offered where we take spending that is at an alltime high of 24 percent of our gross domestic product today and over the next 10 years take it down to our 40-year average of 20.6 percent. CLAIRE MCCASKILL and I are cosponsoring, in a bipartisan way, a bill or an amendment—depending on how it is offered—to do just that, and there may be other things.

We know the deficit reduction commission just spent a tremendous amount of time—and I know the Presiding Officer has talked personally to leaders multiple times—they spent a tremendous amount of time this year looking at what we as a government need to do to be responsible; to make sure people around the world view our credit as something in which they are willing to invest; to really make sure that, for these pages who sit in front of me and who work so hard here, we are not, in essence, living a life and layering debt upon debt on top of the balance sheet they will have to deal with.

I cannot believe that, in the atmosphere of just having that report come forward, having us look at how Draconian the problem is and some of the tough decisions a courageous Congress would need to make to put our country back on the right path, we would even consider passing this massive piece of legislation that, in essence, would kick the can down the road for a year and basically let the wind out of this momentum that has been building for us to actually do the right thing. I can't imagine we would do that.

I know the Chair knows our debt ceiling vote is going to be coming up soon.

It is going to happen sometime in April, maybe May. Maybe it will drag out as long as the first week in June. That is a vote where we vote to raise the amount of debt this country can enter into. I know a lot of people say it is irresponsible not to vote for a debt ceiling increase because we have already spent the money. It would be like going out and running up a credit card bill and then not paying it. But I think it is irresponsible not to act responsibly prior to taking that vote.

What I am so disappointed in is that a vote on this omnibus bill before us probably prevents us from going ahead and doing some things this spring that we know are responsible and will really drive down the cost of government to an appropriate level.

So I know there is a lot of pressure, probably, in the caucuses—maybe the caucus on the other side of the aisle that meets at lunch; I know there is a meeting again tomorrow—I know there is a lot of pressure to get this out of the way. But I know with every cell of my body that passing this omnibus right now is absolutely the wrong thing to do for the country from the standpoint of good government, and I absolutely know it is the wrong thing to do to all of those citizens across this country who became involved in this.

I know there are people on both sides of the aisle who care deeply about the future of this country, and I know there are people on both sides of the aisle who have some commonality as to what the path forward is in making sure this country lives up to its obligations to the American citizens, that we don't just live for today. That is what, by the way, we would be doing by passing this—living for today and passing on those obligations to the future.

I hope that by the time we take the vote on this bill, it will be defeated and that people who deeply care about the future of this country will come together, pass a short-term continuing resolution—which I think most of us in this body know is the responsible thing to do—and that we will begin to work after the first of next year, when this lameduck session ends, doing the things this country needs most, and that is all of us having the courage to make those cuts and do what is necessary to get our country back on a sound footing.

Mr. President, I yield the floor, and I thank the Chair for the time.

THE PRESIDING OFFICER. The Senator from California.

NEW START TREATY

Mrs. FEINSTEIN. Mr. President, as chairman of the Permanent Select Committee on Intelligence, I would like to address the Strategic Arms Reduction Treaty—called New START—that is now before the Senate for ratification.

This treaty has been carefully vetted. I am confident the Senate will come to the conclusion that this treaty is in our national interest and will cast the necessary votes for ratification. I strongly support ratification.

Before speaking about intelligence issues related to this treaty, it is important to remind ourselves about the extraordinary, lethal nature of these nuclear weapons.

I was 12 years old when atomic bombs flattened both Hiroshima and Nagasaki. The Hiroshima bomb, estimated to have been 21 kilotons, killed 70,000 people outright. You can see from this chart the absolute devastation this bomb caused in Hiroshima. The Nagasaki bomb, at 15 kilotons—somewhat less—killed at least 40,000 people immediately. This is Nagasaki. Another 100,000 or so who survived the initial blasts died of injuries and radiation sickness. By the end of 1945, an estimated 220,000 people had lost their lives because of these two bombs.

The horrible images of disfigured bodies and devastating ruins have stayed with me all my life. I was part of the generation of youngsters being raised who hid under our desks in drills about atomic bombs and atomic weapons being unleashed.

So here is Nagasaki before the bomb, and here is Nagasaki after the bomb. It gives you a very good look at what it was like.

Today, we live in a world with far more nuclear weapons and even more powerful destructive capabilities. In May of this year, the Pentagon made a rare public announcement of the current U.S. nuclear stockpile—5,113 nuclear warheads, including deployed and nondeployed and not including warheads awaiting dismantlement. According to the Federation of American Scientists, Russia's stockpile includes 4,650 deployed warheads—deployed warheads—both strategic and tactical. Including nondeployed warheads, the estimate of Russia's arsenal is 9,000 warheads, plus thousands more waiting to be dismantled.

Many—and here is the key—many of these weapons are far in excess of 100 kilotons or more than five times the size of the bombs dropped on Hiroshima and Nagasaki. Some are far, far larger. Many of these weapons are on high alert, ready to be launched at a moment's notice, and their use would result in unimaginable devastation.

So I ask my colleagues during this debate to reflect carefully on the extraordinary, lethal nature of these weapons as we consider this treaty.

This treaty is actually a modest step forward, not a giant one. It calls for cutting deployed strategic nuclear warheads by 30 percent below the levels established under the 2002 Moscow Treaty to 1,550 each. It cuts launch vehicles, such as missile silos and submarine tubes, to 800 for each country.

Deployed launch vehicles are capped at 700—more than 50 percent below the original START treaty.

According to the unanimous views of our Nation's military and civilian defense officials, this will not erode America's nuclear capability, our strategic deterrent, or our national defense.

The United States will still maintain a robust nuclear triad, able to protect our country and our national security interests.

As GEN James Cartwright, the Vice Chairman of the Joint Chiefs of Staff and former head of the United States Strategic Command, stated:

I think we have more than enough capacity and capability for any threat that we see today or that might emerge in the foreseeable future.

Additionally, these reductions in this New START treaty won't have to be completed until the treaty's seventh year, so there is plenty of time for a prudent drawdown. But while its terms are modest, its impacts are broad, and I wish now to describe some of the benefits of ratification.

I begin with the ways in which this treaty enhances our Nation's intelligence capabilities. This has been the lens through which the Senate Select Committee on Intelligence has viewed the treaty, and I believe the arguments are strongly positive and persuasive. There are three main points to make, and I will take them in turn.

They are, No. 1, the intelligence community can carry out its responsibility to monitor Russian activities under the treaty effectively. No. 2, this treaty, when it enters into force, will benefit intelligence collection and analysis. And No. 3, intelligence analysis indicates that failing to ratify the New START treaty will create negative consequences for the United States.

My comments today are, of course, unclassified, but I would note that there is a National Intelligence Estimate on monitoring the New START Treaty available to Senators. I have written a classified letter to Senators KERRY and LUGAR that spells out these arguments in greater detail. Members are welcome to review both documents.

Following President Reagan's advice to "trust but verify," and in line with all major arms control treaties for decades, New START includes several provisions that allow the United States to monitor how Russia is reducing and deploying its strategic arsenal, and vice versa.

The U.S. intelligence community will use these treaty provisions and other independent tools, such as the use of national technical means, for example, our satellites, to collect information on Russian forces and whether Russia is complying with the treaty's terms. These provisions include on-the-ground inspections of Russian nuclear facilities and bases—18 a year; regular ex-

changes on data on the warhead and missile production and locations; unique identifiers, a distinct alphanumeric code for each missile and heavy bomber for tracking purposes; a ban on blocking national technical means from collecting information on strategic forces, and other measures I will describe later in these remarks.

Without the strong monitoring and verification measures provided for in this treaty, we will know less about the number, size, location, and deployment status of Russian nuclear warheads. That is a fact.

As General Chilton, Commander of the U.S. Strategic Command, recently said:

Without New START, we would rapidly lose insight into Russian nuclear strategic force developments and activities, and our force modernization planning and hedging strategy would be more complex and more costly. Without such a regime, we would unfortunately be left to use worst-case analyses regarding our own force requirements.

That is what a "no" vote on this treaty means.

Russian Prime Minister Vladimir Putin made the same point earlier this month. He said that if the United States doesn't ratify the treaty, Russia will have to respond, including augmentation of its stockpile. That is what voting "no" on this treaty means.

So these monitoring provisions are key, as are the trust and transparency they bring, and the only way to get to these provisions is through ratification.

In fact, we have not had any inspections or other monitoring tools for over a year, since the original START treaty expired, so we have less insight into any new Russian weapons and delivery systems that might be entering their force. The United States has essentially gone black on any monitoring, inspection, data exchanges, telemetry, and notification allowed by the former START treaty.

Last November, Senator KYL and I traveled to Geneva to meet with United States and Russian negotiating teams. We met at some length with Rose Gottemoeller, the Assistant Secretary of State for Arms Control, Verification, and Compliance, who led the U.S. negotiating team. We also met with the senior members of her team, including her deputy, Ambassador Marcie Ries, Ted Warner, Mike Elliot, Kurt Siemon, and Dick Trout, who led the drafting efforts and represented the Departments of Defense and Energy and the Joint Chiefs of Staff.

These officials and many of the other members of the U.S. team were very impressive in their professionalism and experience. Several had participated in the negotiation of the original START treaty or the Intermediate Range Nuclear Forces treaty, the INF treaty. Several were inspectors who had conducted on-the-ground inspections in Russia under START and INF, or were

weapons system operators who had been responsible for hosting Russian inspectors at U.S. bases.

This team was not composed of the uninitiated or of neophytes. They had both background and skill. They were acutely aware of the lessons learned over the past decades of arms control and negotiated this treaty with an understanding of what monitoring and compliance verification mean.

Senator KYL and I also met two or three times during our trip to Geneva with the Russian delegation led by Russian Ambassador Anatoly Antonov, who is an experienced diplomat and negotiator. His delegation included representatives from the Ministry of Foreign Affairs and Defense, the General Staff, and key agencies such as RosAtom and RosKosmos. Like the U.S. delegations, the Russian delegation had among its members inspectors and weapons systems operators, including those from the Strategic Rocket Forces, the Navy, and the Air Force.

The treaty was still being negotiated at that time, but the rough outlines were very much coming into focus. I mentioned to the U.S. and Russian delegations that it would be difficult to get 67 votes in the Senate for a resolution saying the sky is blue. In order to get an arms treaty through the Senate, it would have to have strong monitoring provisions.

In a lengthy conversation over lunch with Russian Ambassador Antonov, I said that, as chair of the Senate Intelligence Committee, I would have to walk onto this very floor and assure my colleagues that the provisions in this treaty are sufficient for the U.S. intelligence community to perform its monitoring role. I believe that Ambassador Antonov clearly understood that, and 1 year later I am able to say on this floor that the Intelligence Committee has reviewed the question of monitoring the New START treaty at length. It is adequate.

After the treaty was submitted to the Senate on May 13, 2010, 7 months ago, the committee began its review of its provisions and annex. We reviewed past intelligence community analyses on monitoring previous treaties and the tools available to monitor Russian behavior under this New START.

The intelligence community completed drafting its NIE on its ability to monitor the treaty's limits in June, 6 months ago. We received a copy on June 30, allowing members to review it before and after the Fourth of July recess. The committee held a hearing on the NIE with senior intelligence officials in July. Not a single one of them questioned the validity or the judgments of the estimates.

Following the hearing, the committee submitted more than 70 questions for the record and received detailed responses from the intelligence community. Those are obviously classified, but they can be seen.

In addition, the committee undertook its own independent review of the NIE and the treaty's implications for the intelligence community. Committee staff participated in more than a dozen meetings and briefings on a range of issues concerning the treaty, focusing on intelligence monitoring and collection aspects.

Based on the committee's review, after reading the NIE and other assessments, and having spoken to Directors of National Intelligence Dennis Blair, David Gompert, and Jim Clapper, it is clear to me that the intelligence community will be able to effectively monitor Russian activities under this treaty.

For the record, I wish to describe the monitoring provisions in this treaty, many of which are similar to the original START treaty's provisions.

No. 1, the treaty commits the United States and Russia "not to interfere with the national technical means of verification of the other Party." That means not to interfere with our satellites and "not to use concealment measures that impede verification."

This means that Russia, as I said, agrees not to block our satellite observations of their launchers or their testing. Without this treaty, Russia could take steps to deny or block our ability to collect information on their forces.

Let me make clear, they could try, and perhaps block our satellites.

Like START, New START requires Russia to provide the United States with regular data notifications. This includes information on the production of any and all new strategic missiles, the loading of warheads onto missiles, and the location to which strategic forces are deployed. Under START, these notifications were vital to our understanding. In fact, the notification provisions under New START are stronger than those in the old START, including a requirement that Russia inform the United States when a missile or warhead moves into or out of deployed status.

Let me repeat that. There is an obligation that Russia inform us when a missile or a warhead moves into or out of deployed status.

Third, New START restores our ability to conduct on-the-ground inspections. There are none of them going on, none have been going on, for over a year. New START allows for 10 so-called type one on-site inspections of Russian ICBMs, SLBMs, and bomber bases a year. The protocols for these type one inspections were written by U.S. negotiators with years of inspections experience under the original START treaty. Here is how they work.

First, U.S. inspectors choose what base they wish to inspect. Russia is restricted from moving missiles, launchers, and bombers away from that base.

Second, when the inspectors arrive they will be given a full briefing from

the Russians, to include the numbers of deployed and nondeployed missile launchers or bombers at the base, the number of warheads loaded on each bomber—this is important—and the number of reentry vehicles on each ICBM or SLBM.

Third, the inspectors choose what they want to inspect. At an ICBM's base, the inspectors choose a deployed ICBM for inspection, one they want to inspect. At a submarine base they choose an SLBM. If there are any nondeployed launchers, ones not carrying missiles, the inspectors can pick one of those for inspection as well.

At air bases, the inspectors can choose up to three bombers for inspection.

Fourth, the actual inspection occurs, with the U.S. personnel verifying the number of warheads on the missiles or on the bombers chosen. As I mentioned earlier, each missile and bomber is coded with a specific code, both numerically and alphabetically, so that you know what you have chosen, and they cannot be changed.

Under this framework, our inspectors are provided comprehensive information from the Russian briefers. They are able to choose themselves how they want to verify that this information is accurate.

The treaty also provides for an additional eight inspections a year of nondeployed warheads and facilities where Russia converts or eliminates nuclear arms.

Some people have commented that the number of inspections under New START, that is, the total of 18 I have just gone through, is smaller than the 28 under the previous START treaty. This is true. But it is also true that there are half as many Russian facilities to inspect as there were in 1991 when START was signed.

In addition, inspections under New START are designed to cover more topics than inspections under the prior START agreement. In testimony from the Director of the Defense Threat Reduction Agency, or DTRA, Kenneth Myers, the agency doing these inspections, said:

Type One inspections will be more demanding on both DTRA and site personnel, as it combines the main parts of what were formerly two separate inspections under START into a single, lengthier inspection.

That is important. The inspections are going to be better. So while the absolute number of inspections is down from 28 to 18, the ability to monitor and understand Russian forces is not lessened. I am confident we can achieve our monitoring objectives with 18 inspections a year. I also urge my colleagues to review the New START National Intelligence Estimate which addresses these issues in detail.

Let me discuss a couple of monitoring provisions that were included in the expired START treaty but are not

in the treaty we are now considering. First, under START, the U.S. officials had a permanent presence at the Russian missile production facility at Votkinsk. You will hear about Votkinsk.

Inspectors could watch as missiles left the plant and were shipped to various parts of the country. New START does not include this provision. In fact, the Bush administration had taken this provision off the table in its negotiations with the Russians prior to leaving office.

New START does, however, require Russia to mark all missiles, as I have been saying, with unique identifiers so we can track their location and deployment status over the lifetime of the treaty, so it is not necessarily to have a permanent monitoring presence at Votkinsk.

The treaty also requires Russia to notify us at least 48 hours before any missile leaves a plant. So we will still have information about missile production without the permanent presence. Our inspectors and other nuclear experts have testified that these provisions are, in fact, sufficient.

Secondly, START required the United States and Russia to exchange technical data from missile tests—that is known as telemetry—to each other but not to other countries. That telemetry allows each side to calculate things such as how many warheads a missile could carry. This was important as the START treaty attributed warheads to missiles. If a Russian missile could carry 10 reentry vehicles, the treaty counted it as having 10 warheads. Information obtained through telemetry was, therefore, important to determine the capabilities of each delivery system.

New START, however, does away with these attribution rules and counts the actual number of warheads deployed on missiles; no more guessing whether a Russian missile is carrying one or eight warheads. With this change, we do not need precise calculations of the capabilities of Russian missiles in order to tell whether Russia is complying with the treaty's terms. So telemetry is not necessary to monitor compliance with New START.

Nonetheless, as a gesture to transparency, the treaty allows for the exchange of telemetry between our two countries only, up to five times a year if both sides agree to do so.

In fact, it should be pointed out that if the treaty included a broader requirement to exchange telemetry, the United States might have to share information on interceptors for missile defense, which the Department of Defense has not agreed to do.

Third, there has been a concern raised about Russian "breakout" capability, a fear that Russia may one day decide to secretly deploy more warheads than the treaty would allow, or

to secretly build a vast stockpile that it could quickly put into its deployed force. I do not see this as a credible concern.

According to public figures, Russian strategic forces are already under or close to the limits prescribed by New START, and they have been decreasing over the past decade, not just now but over the past decade.

So the concern about a breakout is a concern that Russia would suddenly decide it wants to reverse what has been a 10-year trend and deploy more weapons than it currently believes are needed for its security. They would also have to decide to do this secretly, with the significant risk of being caught. Because of the monitoring provisions, the inspections, our national technical means and other ways we have to track Russian nuclear activities, Moscow would have a serious disincentive to do that.

Moreover, instead of developing a breakout capability, Russia could decide instead to simply withdraw from the treaty just as the United States did when President Bush withdrew from the antiballistic treaty.

Finally, even in the event that Russia did violate the treaty and pursue a breakout capability, I am confident that our nuclear capabilities are more than sufficient to continue to deter Russia and to provide assurances to our allies. The bottom line is that the intelligence community can effectively monitor this treaty. If you vote "no" on this treaty, there will be no monitoring.

As I noted earlier, a second question relevant to New START is whether ratifying the treaty actually enhances our intelligence collection and analysis. This is above and beyond the question of whether the intelligence community will be able to fulfill its responsibility to monitor Russian compliance with the treaty's terms.

While I am unable to go into the specifics, the clear answer to this question is, yes. The ability to conduct inspections, receive notifications, enter into continuing discussions with the Russians over the lifetime of the treaty, will provide us with information and understanding of Russian strategic forces that we simply will not have without the treaty. If you vote "no," we will not have it.

The intelligence community will need to collect information about Russian nuclear weapons and intentions with or without a New START treaty, just as it has since the beginning of the Cold War. But absent the inspector's boots on the ground, the intelligence community will need to rely on other methods.

A November 18 article in the Washington Times noted that:

In the absence of a U.S.-Russian arms control treaty, the U.S. intelligence community is telling Congress it will need to focus more

spy satellites over Russia that could be used to peer on other sites, such as Iraq and Afghanistan, to support the military.

Put even more simply, the Nation's top intelligence official, Director of National Intelligence James Clapper, was recently asked about ratification of the New START treaty. He responded:

I think the earlier, the sooner, the better. You know my thing is: From an intelligence perspective only, are we better off with it or without it? We're better off with it.

So Members should realize that if they vote "no" to ratify this treaty and lose out on its monitoring provisions, that means we are going to have to spend much more, and it is going to be much more difficult if not impossible to get certain information about Russian forces.

The final intelligence-related question on the New START treaty is, what impact ratification—or failure to ratify—will have on our other foreign policy objectives. I think this is important. We live in a different world today where there are nonstate actors, where there are two nations, Iran and Korea, moving to develop a nuclear weapon, and it is very important to be able to achieve a working relationship with the large powers that give confidence to other nations to stand with us.

This question can be addressed largely through open source intelligence. There have been numerous news reports and press conferences in the recent weeks about the broader effects of ratifying New START. Many supporters of the New START treaty have noted that ratification is a key achievement and symbol of the "reset" in Russian relations that Presidents Obama and Medvedev have sought.

But beyond generalities of an improved relationship, the Senate's rejection of New START would not only undermine our understanding of Russia's strategic forces, it could derail or disrupt a host of other U.S. policies objectives.

In Russia today, there is a heated debate over whether Moscow is better served by domestic reforms and engagements with the West, or by hard-line behavior that rejects cooperation with the West. Russians view New START as a signature product of the reforms. This is the signature product of Russian reform and the new Russian President. They view the fate of New START in this Senate as a crucial test of the reformists' claim that Russia and America can work together. If we, the Senate, reject this treaty, we can confirm what Russian hard-liners have been saying all along, the United States is not a viable partner.

Here are a few real-world examples. Russia has been allowing the United States and other members of the International Security Assistance Force in Afghanistan to transport material into Afghanistan over Russian territory.

This has assisted our war efforts, especially in light of recent attacks against convoys crossing through Pakistan.

Russia has withheld delivery of the S-300 advanced air defense system to Iran and supported the United Nations Security Council sanctions against Tehran. Tehran wanted to buy this sophisticated air defense missile defense system. Russia was going to sell it to them. Russia has withheld that sale.

That is a major achievement. Also, Russia and NATO partners agreed at the recent summit in Lisbon to a new missile defense system in Europe. This is an agreement for a missile defense system which Russia has fought violently over the past decade.

At that same summit, Foreign Ministers from Denmark, Lithuania, Norway, Latvia, Bulgaria, and Hungary spoke out in support of the New START treaty. As neighbors to Russia and the former Soviet Union, they praised New START as necessary for the security of Europe but also as an entrance to engage in tactical nuclear weapons treaties which pose an even greater threat from state or nonstate use.

There is no quid pro quo here. Russia has not agreed to support initiatives of the United States around the world if only the Senate would ratify the New START treaty. But as every Senator knows, when we are trying to get things done, relationships matter.

The relationship between the United States and Russia has been critical since we fought together in World War II and it will continue to be so. This is an unparalleled opportunity to enhance that relationship and to say, by signature and by ratification of this treaty, that, yes, the United States of America wants to work with Russia; yes, the United States and Russia have mutual goals; and, yes, with respect to Iran and other trouble spots, the United States and Russia can, in fact, stand together.

Let me move on to the nonproliferation reasons to ratify this treaty. New START demonstrates to the world that the two nations possessing more than 90 percent of the planet's nuclear weapons are capable of working together on arms reduction and nonproliferation. A "no" vote says we are not capable of doing that.

I believe this will pave the way for more multilateral efforts to stop the spread of nuclear weapons as well as restrictions on tactical nuclear warheads that could fall into the hands of terrorist organizations.

Let us not forget the centerpiece of our nuclear nonproliferation regime, the Nuclear Nonproliferation Treaty. It is based on a clear bargain. Those with nuclear weapons agree to eventually eliminate them, and those without nuclear weapons agree to never acquire them. With the signing of the New START treaty, the Presidents of the

United States and Russia are showing the other parties to the NPT that we are living up to our end of the bargain. Without New START, with a “no” vote on New START, we do not do this.

This will strengthen the resolve of other nations to maintain their commitments and uphold the credibility of the nuclear nonproliferation regime, to hold violators such as Iran and North Korea accountable and subject to sanction.

In fact, we are already seeing the benefits of commitments made in the New START agreement. The latest review conference of the NPT in May of this year ended with 189 parties recommitting themselves to the NPT after the 2005 conference collapsed. On June 9, the United Nations Security Council passed a fourth sanctions resolution on Iran for its violations of its commitments under the treaty with the support of China and Russia.

Ratification of New START also opens the door to further arms control agreements, both to further arms reductions and to address tactical nuclear warheads—the smaller yield devices that are in some ways more dangerous than the strategic weapons with which we are dealing now.

Ratification moves us down the path to a world without nuclear weapons as envisioned by Presidents Obama and Reagan. For years, the idea of a nuclear-free world was ridiculed as a fantasy. This may now be beginning to change. Don't turn it down. Republicans as well as Democrats have come around to the idea that eventual nuclear disarmament is not only desirable, but it is, in fact, doable and is consistent with our national security interests. Former Secretaries of State George Shultz and Henry Kissinger have joined forces with former Senator Sam Nunn and former Secretary of Defense Bill Perry to make this case.

In a January 4, 2007, op-ed in the *Wall Street Journal*, they called for U.S. leadership in building a “solid consensus for reversing reliance on nuclear weapons globally as a vital contribution to preventing their proliferation into potentially dangerous hands, and ultimately ending them as a threat to the world.”

We can now do our part to build that consensus and help ensure that we never again see the destruction caused by nuclear weapons.

Once again, I return to these charts. I was 12 years old when I saw these pictures. I was 12 years old when I realized what a 21-kiloton and a 15-kiloton bomb can do. Many of the bombs in the U.S. and Russian arsenals are well in excess of 100 kilotons today. The number is classified but, trust me, they are well in excess. We can destroy the planet Earth with these weapons.

They are deployed and they are targeted. This treaty gives us the opportunity to reduce our arsenals—the U.S.

and Russian stockpiles that now make up 90 percent of the nuclear weapons in the world. It is a big deal. To say no to this treaty is, in fact, to say we want to go back to the days of suspicion, of not working together, of the Cold War ethos that we will succumb to the Russian hardliners and take this first major test of Russian reform and effectively trash it. We must not do that.

Mr. President, with the months of debate over this Treaty, a small number of objections have been raised. I would like to address them now.

First, some Senators infer that our nuclear weapons will become unreliable over time. They say they won't vote for this treaty unless it is linked to modernization of the arsenal.

Let's be clear. Both the Secretary of Defense and the Secretary of Energy have certified that our arsenal is safe and reliable in each of the past 14 years. The head of the National Nuclear Security Administration, Tom D'Agostino has assured me of the surety of the stockpile. Our top scientists have told us that these weapons will remain safe and reliable for decades to come.

In fact, an independent group of scientists known as the JASONS, who advises the government on nuclear weapons, has reported that the National Nuclear Security Administration is successfully ensuring the arsenal's safety and reliability, through weapons “lifetime extension programs.”

Their September, 2009 report said that through such programs, “Lifetimes of today's nuclear warheads could be extended for decades, with no anticipated loss in confidence . . .”

And President Obama has made a significant commitment to ensuring that we maintain a safe, secure, and effective arsenal by providing the necessary resources for as long as we have nuclear weapons.

The President's fiscal 2011 budget asks for \$11.2 billion for the National Nuclear Security Administration, a 13.4-percent increase over the fiscal 2010 budget.

This includes \$7 billion for weapons activities to maintain the safety, security, and effectiveness of the arsenal, an increase of 10 percent, or \$624 million from fiscal year 2010.

The President has submitted a plan calling for \$80 billion over the next 10 years. In November, he added an additional \$4.1 billion over the next 5 years alone to that enormous sum.

Modernization of the nuclear stockpile is surely a major priority, and I will fight to make sure these funds are appropriated. But these questions and concerns have now been addressed, and should not hold up this treaty.

Second, critics have claimed that New START will impede current and planned missile defense efforts.

They point to language in the preamble of the treaty that notes the

inter-relationship between offensive and defensive strategic arms.

They point to the unilateral statement issued by Russia upon signing the treaty indicating that our missile defense plans could prompt Moscow to withdraw from the agreement.

And they note that the agreement prohibits both countries from converting additional ICBM silos or submarine launch tubes for missile defense interceptors.

These arguments are without merit.

First, the preamble language simply acknowledges what we all know: that there is a relationship between strategic offensive and defensive arms. It will not inhibit our missile defense efforts in any way.

Similar language can be found in the original START agreement, and it has not inhibited our missile defense efforts over the past two decades.

Second, the Russian unilateral statement is not a part of the agreement, and the United States is not bound by it in any way. In fact, the United States issued its own unilateral statement clearly stating that it will move forward with its missile defense plans.

Again, it should be noted that the Soviet Union issued a similar unilateral statement when START was signed and it had no impact on our missile defense plans.

Finally, regarding the prohibition on converting additional ICBM silos and SLBM launch tubes for missile defense interceptors: simply stated, our military has no plans to do so. This doesn't block the United States from anything it plans or wants to do.

It is actually cheaper to build new missile defense launchers than to convert existing launch tubes or silos. And the treaty places no constraints whatsoever on that construction.

The Secretary of Defense, the uniformed military leadership, and the head of the Missile Defense Agency have testified this treaty will not harm missile defense.

These concerns have been raised, debated, and answered. It is time for ratification.

Mr. President, the choice before us is not New START and the treaty that some of my colleagues would prefer to have. Rather, the choice is between New START and no arms control treaty at all. To me, that choice is easy.

Either we make progress on reducing our nuclear arsenals and lay the foundation for further reductions including on tactical nuclear weapons or we do not.

New START is in our Nation's national security. Every day that passes without ratification is another day without inspectors on the ground in Russia and a decrease in mutual transparency and trust.

The Senate has a long tradition of overwhelming support for treaties like this one: the Intermediate-Range Nuclear Forces Treaty was approved 93-5;

the 1991 START agreement which was approved 93-6; and the 2002 Moscow Treaty which was approved 95-0.

There is nothing in this treaty to suggest that the vote on its ratification should be any different. This should be an easy step for the Senate to take, a step that should be taken in the spirit of protecting our Nation and the world from the devastation of a nuclear war.

I urge my colleagues to support this agreement.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Georgia.

OMNIBUS APPROPRIATIONS

Mr. ISAKSON. Mr. President, I commend the Senator from California on her remarks. As a member of Foreign Relations, I voted to bring the treaty to the floor. However, there is another pressing matter I wish to discuss this evening.

The Senate now has before it the START treaty, but on a parallel track we have before us the question of financing the government through the end of the fiscal year next year. There are three alternatives available to us. One of them is a continuing resolution through the end of next year. One of them is a continuing resolution that is modified with an Omnibus appropriations that is put on top of it which I understand is the plan. There is a third option which is the short-term CR. It is that question I rise to address for a few moments.

Forty-three days ago, I ran for reelection to the Senate. For 2 years, I traveled the State of Georgia campaigning for my reelection. Throughout that campaign, there were three guiding issues on which I focused. One was tax policy. At a time of economic recession and high unemployment, the worst thing for us to do is to raise taxes of the American people and, in particular, small business, which hires the majority of the people. That is No. 1.

No. 2, I campaigned on the fact that we didn't have a revenue problem nearly as much as we had a spending problem; that we needed to ask of ourselves, as Senators, what every American family has had to ask of themselves at home. They have sat around the kitchen table, looked at what their income was, looked at what it now is, looked at priorities and reprioritized. Times have been tough, and they have been difficult. They did that because they had to.

They don't have the luxury of credit and borrowing as our government has, which takes me to the third point I ran on in the campaign; that is, that unsustainable debt will make this democracy an unsustainable country.

One of the things I understand a little bit about from having been in the

real estate business is leverage. Leverage is a powerful thing to be able to do things, but too much can destroy even the best of people or the best of ideas. We are rapidly approaching a time where we owe entirely too much money.

I love to tell the story about a lesson I learned in good politics. I know the Presiding Officer has had the same kind of lessons he has learned.

I was in Albany, GA, making a speech in November of 2009. I kept talking about 1 trillion this and 1 trillion that. This farmer at the back of the room said: Senator, I only graduated from Dougherty County High School. I don't understand how much 1 trillion is. Can you explain.

I oohed and aahed and I babbled. I finally said: Well, it is a lot. I couldn't think of a way to quantify 1 trillion.

I got home that night. My wife took one look at me and said: What in the world is wrong with you?

I said: I got stumped today.

She said: What was the question?

I said: The question was, How much is 1 trillion?

She said: What did you say?

I said: I said it is a lot.

She said: That was a bad answer.

I said: I know that, but I just couldn't think of anything.

She knows better than I a lot of times. She said: Why don't you just figure out how many years have to go by for 1 trillion seconds to pass.

I said: That is a terrific idea.

So I pulled my calculator out and multiplied 60 seconds times 60 minutes to get the number of seconds in an hour.

I multiplied that 24 times for the number of seconds in 1 day. I multiplied that times 365 for the number of seconds in 1 year. Do you know how many years have to go by for 1 trillion seconds to pass? It is 31,709 years. I put an asterisk by that because I didn't count leap years and every fourth year has an extra day. I know that will throw the number off a little bit.

We owe \$13 trillion of those dollars, not just \$1 trillion. It is an astronomical amount of money. It is an amount we must quantify and begin to lower over time in two ways. One is expanding the prosperity of the American people, because as their prosperity goes up, revenues come back to the government. First and most important, we have to get our arms around spending. I am deeply opposed to putting an Omnibus appropriations bill on the CR that is coming to the Senate and passing 12 appropriations bills in a short-time debate without the transparency we need.

I am not a Johnny-come-lately to this particular position. In the House of Representatives, when President Bush brought an omnibus budget to the House, I voted against it. I voted against it last fall on a number of occa-

sions when we had Omnibus appropriations bills matched up coming to the Senate floor under President Obama. It is a bad way to do business. By rolling all those things together, you don't have the scrutiny, the oversight or the understanding of where the money is going, and the tendency to push spending beyond your limits actually becomes a reality. I am one who subscribes to the fact that we have to change the way we do business. We have to make hard decisions. We have to execute some tough love. We have to have some shared sacrifice, and we to have do it quickly.

Time has run out on the American Government and our American budget process without substantial reform, which is why it would be a tragic mistake for us sometime this week or this weekend to pass an Omnibus appropriations bill.

There is an underlying reason why I don't support that, and it is because I think a short-term CR makes a lot more sense. A short-term CR will put the Senate in the position of debating the rest of next year's spending or this fiscal year's spending under the cloud of the debt ceiling which is going to confront us in April or May or maybe as soon as the middle of March. If we pass a CR or an omnibus that goes beyond that date to the end of next year, September 30, we have no leverage to address the subject of raising the debt ceiling. It is time we stopped borrowing to spend more money we do not have.

I come at a time when I know the pending business is the START treaty, which I will address on another occasion, but to point out why I am so deeply disappointed that we are rushing to judgment on an Omnibus appropriations spending bill at a time when the American people want us focusing on spending, on the deficit, and on improving the way we do business.

I will vote against an Omnibus appropriations bill. I will vote against cloture on the bill. I will support a short-term CR. That is the best way for us to set up an occasion next year where we address our priorities in the right order and at the right time.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

TRIBUTES TO RETIRING SENATORS

ARLEN SPECTER

Mr. REID. Mr. President, if you asked anyone in this body to summarize ARLEN SPECTER, I think the words

that would come up most often would be he is a real fighter. ARLEN SPECTER fought to defend our Nation in Korea. He fought crime in the streets of Philadelphia as a district attorney. He has fought cancer and won three times. And he has fought for Pennsylvania every day he has served with us here in the U.S. Senate.

Senator SPECTER has witnessed three decades of progress in Washington. He is a man who has risen above party lines to demonstrate his independence time after time. But his independence was not about him; it was about the people of Pennsylvania, whom he has served with honor and dignity for 30 years, even when cancer tried to keep him from doing so.

I have known and served with Senator SPECTER for almost 30 years, and I have come to admire his service and dedication. We have not always agreed on how to solve the issues facing America, but he has always been willing to listen to me and any other Senator in the hopes of forging bipartisan agreements that would help the country. He is a very principled man, a man who does what he believes is right, even when few others agree with him.

Senator SPECTER was raised in the Midwest by his mother and a Russian immigrant father who came to the United States and later served his new country in World War I.

He first discovered Pennsylvania as an undergraduate student at the University of Pennsylvania, where he earned a degree in international relations. After serving 3 years in the Air Force during the Korean war, he attended law school at Yale and established a successful law practice in what would become his home State, Pennsylvania.

Just as his father left his native land and served his new home as a member of the United States military, Senator SPECTER left his home in Kansas and served his adopted Commonwealth in a different way—first as a district attorney in Philadelphia for 9 years, and then as a U.S. Senator for the last 30 years. And he did this with his tenacity. He lost a number of elections. He kept coming back, never giving up.

As a Member of Congress, he has been a stalwart for justice, health, and education. He has presided over several Supreme Court confirmation hearings, and played a major role in many more.

He has ensured that vital and potentially lifesaving research for cancer, Alzheimer's, Parkinson's, and other diseases receives Federal dollars to pave the way for real breakthroughs.

One personal experience with Senator SPECTER—the so-called economic recovery package, the stimulus. He was the key vote—one of the three key votes. He was a Republican. He and the two Senators from Maine made it possible to pass that. But his passion in that legislation was the National Insti-

tutes of Health. Part of the deal was that they had to get \$10 billion. Money well spent. But it is something he believed in fervently, and we were able to do that.

He has also worked to cover children and seniors who struggle to get access to health care they desperately need. He has done that as a member of the Appropriations Committee, where he has worked to make more education available to all students with the help of scholarships and student loans. Furthermore, his work with constituents of every stripe makes a difference every day.

Senator SPECTER is a throwback to a previous chapter in the history of the Senate—a time when moderates were the rule, not the exception.

When I came to Washington, Republicans such as ARLEN SPECTER were every place. That is not the case now. He is a rare breed and will truly be missed.

I wish Senator SPECTER, his wife Joan, and their two sons and four grandchildren the very best in the coming weeks, months, and years.

BLANCHE LINCOLN

Mr. President, Arkansas has given America a lot of which to be proud. From the late Senator William Fulbright, whom I did not know, to President Clinton, whom I do know, Arkansans have always produced proud public servants.

I had the good fortune to serve with two of the finest Senators we have ever had in this body, Dale Bumpers and David Pryor. I have said publicly—I will say again—the finest legislator I have ever served with—I do not want to hurt anyone's feelings here—is David Pryor. David Pryor was a superb representative of Arkansas and the country.

BLANCHE LINCOLN has continued that long tradition of Arkansans who have come to Washington to shape our Nation. And BLANCHE has never forgotten from where she came.

Senator LINCOLN has been a trailblazer during her time in the Senate. In 1998, she became the youngest woman to ever be elected to the Senate. She was also the first woman elected to represent Arkansas in the Senate since World War II. She was the first woman and first from Arkansas to chair the Senate Agriculture Committee.

A dozen years ago, BLANCHE was one of the youngest people in this body. But from day one, she earned a reputation for being very wise, wise beyond her years. She has always understood we are here to serve, first and foremost, and she has never forgotten that.

Senator LINCOLN once said:

I am not normally a betting person, but I say that putting your money on the American people is about as close to a sure bet as you are going to get.

BLANCHE LINCOLN always bet on the American people, and particularly the

good people in Arkansas who first sent her to Washington to get things done in 1992.

Senator LINCOLN never sought the national spotlight. She has always been focused on making sure the people of Arkansas are represented fairly and forcefully. Her legislative accomplishments are too long to list here today. Her impact will be felt long after she leaves this Chamber.

Perhaps her most important work has been her tireless efforts to protect America's children. Senator LINCOLN was the lead driving force, along with the First Lady, on the passage of the Healthy, Hunger-Free Kids Act to make sure our children have access to healthy meals.

She was a cofounder of the Senate Caucus on Missing, Exploited, and Run-away Children. She is also the current chair of the bipartisan Senate Hunger Caucus.

So I am honored to call Senator LINCOLN a friend and a colleague, and I join my friends and colleagues in saluting her remarkable accomplishments. I will miss her. But we know her too well to think we have heard the last from her.

It would not be appropriate not to say something about her wonderful family. Her doctor husband and her twins are remarkably good individuals. Her husband is one of the nicest people I have ever met. He has such a great presence about him. I have met him on the many occasions we have been able to get together as a Senate family, and he certainly, to me, is part of that family.

But if I ever need to find Senator LINCOLN, I will always know where to look. Because if there is an issue that has gone unnoticed or a person who feels forgotten or a cause that is worth fighting, BLANCHE LINCOLN is probably not far behind and already on the case.

I wish BLANCHE and her family the very, very best. It has been a pleasure to get to know BLANCHE LINCOLN. I look forward to our future association.

RUSS FEINGOLD

Mr. President, I have served with RUSS FEINGOLD in the Senate for 18 years. There has never been a point where I did not know where he stood and what his core principles were.

Senator RUSS FEINGOLD came to the body in 1992 with one goal in mind: To always represent the people of Wisconsin—not the special interests, not the establishment. And he never compromised his principles, even though sometimes it made it very difficult for me. But he is a man of principle, and that certainly is the truth.

When RUSS first ran for the Senate in 1992, he famously wrote down five core promises he would always keep if he were elected. He wrote them on a piece of paper, and then he affixed this piece of paper and these promises to his garage door at his home.

The promises were: To rely on Wisconsin citizens for most of his contributions; to live in Middleton, WI, and send his children to school there; to accept no pay raise during his time in office; to hold listening sessions in each of the 72 Wisconsin counties each year of his term in the Senate; and to make sure that the majority of his staff are from Wisconsin and with a Wisconsin background.

It should surprise no one that he held true to each of these promises and surpassed every expectation that any Badger could have had for this good man who hails from Janesville, WI.

As quick as Senator FEINGOLD has been to voice thoughtful opposition to anything that would go against his core principles, he never hesitated to reach across the aisle and work in good faith with every Member of this body.

Because of his bipartisan efforts, our system for financing political campaigns is cleaner, more transparent, and more free of undue corporate influence. It is too bad the Supreme Court has so weakened the McCain-Feingold legislation.

In 2002, Senator FEINGOLD spoke on the Senate floor during the campaign finance debate, and he spoke remarkable words about why he fought so hard for that legislation. He said:

Nothing has bothered me more in my public career than the thought that young people looking to the future might think that it is necessary to be a multimillionaire or somehow have access to the soft money system in order to participate, to participate as a candidate as part of the American dream.

It is a simple statement, but it truly helps us understand why the people of Wisconsin were always proud of their junior Senator—because he spoke simple truths, fought passionately for the middle class, and was able to always tap into what people were discussing over their kitchen tables every night.

RUSS FEINGOLD often stood in the minority to voice his positions that were not necessarily popular. He was a strong advocate for equal rights for same-sex couples even when it wasn't the popular thing to do, and he opposed the 2003 Iraq war from the very beginning and has stayed true to his feelings on this issue since then. But that is the very essence of RUSS FEINGOLD. He stands on principle and his core beliefs even when it isn't convenient. He speaks the truth even when it ruffles feathers. As someone who has been elected to public office for a long time, it is very difficult to express to everyone within the sound of my voice what a special type of person RUSS FEINGOLD is. He is the type of person who will remain firm and steadfast in all the ways he serves. He is that special kind of person.

He has continued the tradition of some of the greatest Members of this body. He combines the tenacity of Paul Wellstone with Ted Kennedy's desire to

always fight for the underdog. RUSS FEINGOLD has etched himself into the fabric of this body and for many of us will always be a part of our collective conscience. If we follow the example of Russ Feingold, we can rest easy at night knowing that when we stand on principle, we never have to worry about second-guessing ourselves.

TRIBUTE TO COLONEL BRADLEY TURNER

Mr. MCCONNELL. Mr. President, I rise today to honor the work of an unsung hero, COL Bradley Turner of Booneville, KY. After a 37-year career serving in our Nation's military, Colonel Turner recently retired on September 24 of this year.

Over that nearly four-decade span, he served in the U.S. Marine Corps, the U.S. Army, and the Kentucky Army National Guard. Before earning the rank of colonel, Bradley was a sergeant in the Marines, a captain in the Army, and a lieutenant colonel while in the Guard. In 1991, he was deployed in Operation Desert Storm with the 623rd Field Artillery from Glasgow, KY.

Throughout his career he earned many medals, including the Bronze Star Medal and the Meritorious Service Medal, among others. His dedication in serving our country has truly been a blessing to our Commonwealth and our Nation. I ask my colleagues to join me in congratulating Colonel Bradley Turner for his service. The Booneville Sentinel recently published a story about Colonel Turner and his accomplishments. I ask unanimous consent that the full article be printed in the RECORD following these remarks.

There being no objection the material was ordered to be printed in the RECORD as follows:

[From the Booneville Sentinel, Dec. 8, 2010]
COLONEL BRADLEY TURNER RETIRES AFTER
37-YEAR CAREER

Colonel Bradley Turner of Booneville has retired from the U.S. Army Reserve after a 37-year career. He enlisted in the U.S. Marine Corps in 1973 and served 4 years, attaining the rank of sergeant. After leaving the Marine Corps he attended Lees College and Morehead State University where he graduated with a bachelor of science degree. While in college he attended ROTC and was commissioned in 1981 in the U.S. Army. He served 4 years on active duty, attaining the rank of captain. After leaving active duty, he joined the Kentucky Army National Guard. During his service in the Guard he served as a battery commander, battalion and brigade operations officer, and battalion and brigade executive officer. In 1991 he was deployed to Operation Desert Storm with the 623rd Field Artillery from Glasgow, Kentucky. He was mobilized again in 2003 with the 138th Field Artillery Brigade from Lexington, Kentucky.

While in the Guard he graduated from the U.S. Army War College with a master's degree in strategic studies, and he attained the rank of lieutenant colonel. He then transferred to the 100th Training Division, U.S. Army Reserve where he was the battalion

commander of the 10th Battalion of the 100th Division in Lexington, and later a principal staff officer at the division headquarters in Louisville. While at the division headquarters he attained the rank of colonel.

His awards include the Bronze Star Medal, the Meritorious Service Medal (2 awards), the Army Commendation Medal, the Army Achievement Medal, the Military Outstanding Volunteer Service Medal, the Global War on Terrorism Service Medal, the Southwest Asia Campaign Medal, and the Liberation of Kuwait Medal. He is married to Debra Combs Turner and they have three children, Tangee Young of Ricetown, Brandi Thompson of Vancleve, and Jeremy Turner of Booneville. They have 4 grandchildren. They reside in east Booneville, and he is an employee of the Lee Adjustment Center in Beattyville. Colonel Turner retired effective September 24, 2010, at the 100th Division in Louisville, Kentucky.

PORTEOUS IMPEACHMENT

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that a joint statement by myself and Senator HATCH regarding the Porteous impeachment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT OF SENATOR CLAIRE MCCASKILL, CHAIRMAN AND SENATOR ORRIN G. HATCH, VICE CHAIRMAN, U.S. SENATE IMPEACHMENT TRIAL COMMITTEE ON THE ARTICLES AGAINST JUDGE G. THOMAS PORTEOUS, JR. OF THE EASTERN DISTRICT OF LOUISIANA

Because the Senate deliberated in closed session, this statement is the only opportunity during the formal impeachment trial process to formally explain our votes and to offer some views on certain issues for future consideration. We independently evaluated the articles of impeachment brought by the House of Representatives and the motions filed by Judge Porteous. Because we came to the same conclusions and share many of the same views regarding the articles and motions, we thought it most useful to file a joint statement for the record.

The unique nature of impeachment, what it is and what it is not, is an essential guiding principle for the impeachment trial process. Impeachment is a legislative, not a judicial, process for evaluating whether the conduct of certain federal officials renders them unfit to continue in office. Our impeachment precedents give some general definition to the kind of conduct that may meet this standard. The Senate, for example, convicted and removed U.S. District Judge Halsted Ritter in 1933 for bringing his court into "scandal and disrepute." Similarly, during the impeachment trial of U.S. District Judge Alcee Hastings, the President Pro Tempore stated that the question is whether the defendant "has undermined confidence in the integrity and impartiality of the judiciary and betrayed the trust of the people of the United States."

A consistent focus on the essential nature of impeachment helps answer many of the questions that arise in the impeachment trial process. For example, it sets impeachment apart from the civil or criminal justice processes. Federal officials may be impeached for conduct covered by the criminal law for which they have been convicted, acquitted, or not prosecuted, as well as for conduct that is not criminal at all. Standards of

proof that apply in those contexts do not necessarily apply in an impeachment trial; in fact, there exists no single or uniform standard of proof that the Senate as a body must apply.

There also exists no rigid standard for the form that articles of impeachment must take. The Constitution gives the "sole power of impeachment" to the House of Representatives, which necessarily includes substantial authority to frame articles of impeachment. As it did in the Hastings impeachment, this may result in articles that each alleges an individual act. But other cases, like the present one, may involve distinct sets or categories of conduct. Just as impeachments arise out of different sets of facts, impeachment articles may take more than one form. In every case, however, the House must prove that the conduct alleged in the articles that it frames and exhibits to the Senate justifies removing a federal official from office.

In July, Judge Porteous filed with the Senate Impeachment Trial Committee a motion to dismiss the articles of impeachment as "unconstitutionally aggregated." Before the full Senate, he revised this motion to request that the Senate take a preliminary vote on each allegation, a total by his count of approximately 25, contained in the articles. The Committee denied the original motion to dismiss and we joined the Senate in unanimously defeating the revised motion. Even though the articles of impeachment include multiple allegations, we believe that each meets the standard established by the Senate Impeachment Trial Committee during the impeachment of U.S. District Judge Walter Nixon and adopted in the present case. Each article presents a coherent and intelligible accusation that properly serves as the basis for the impeachment trial. The need for proving individual elements of an offense is appropriate for the criminal law but, as mentioned earlier, impeachable offenses need not be prohibited by the criminal law at all. Requiring a separate vote on every allegation contained within an impeachment article effectively re-drafts that article, with the result that the Senate would vote on an impeachment matter that the House did not adopt. Finally, Rule 23 of the Senate's impeachment rules explicitly prohibits dividing articles of impeachment for the purpose of voting "at any time during the trial."

Unless absolutely necessary, impeachment trials should be decided not on the basis of motions that make broad statements or set broad precedents, but on the merits of individual cases and articles of impeachment as the House frames and exhibits them. In this case, each article of impeachment alleged not a collection of unrelated acts but coherent patterns or sets of conduct. The question for the Senate was whether the conduct alleged in each article justified removing Judge Porteous from the bench.

One somewhat novel issue raised in this case was whether a federal official may be impeached on articles that allege conduct occurring before he took federal office. The proper focus on the essential nature of impeachment is again important here. Judge Porteous argued for an absolute, categorical rule that would preclude impeachment and removal for any pre-federal conduct. That should not be the rule any more than allowing impeachment for any pre-federal conduct that is entirely unrelated to the federal office or the individual's conduct in that office.

Pre-federal conduct should not itself ordinarily be the primary basis for impeach-

ment. Particularly egregious pre-federal conduct that, by itself, would justify impeachment and removal would likely have prevented an individual's appointment in the first place. In most cases, therefore, the question is whether a federal official's conduct since taking office warrants removal from that office. That is the question in the present case because none of the articles of impeachment against Judge Porteous is based entirely on pre-federal conduct.

The conduct alleged in Article I contained substantial pre-federal and federal conduct. The House framed the article to include a kickback scheme whereby the law firm of Jacob Amato and Robert Creely would receive curatorship case appointments from Judge Porteous in exchange for Creely and Amato paying some of the fees back to Judge Porteous through the hands of Creely. All parties agree that there was no explicit agreement regarding these cases, but it is estimated that approximately half of the fees went back to Judge Porteous. The curatorship kickback scheme, by definition, could only have occurred during Judge Porteous's time on the state bench. When Judge Porteous, after his appointment to the federal bench, could no longer assign curatorship cases to Amato and Creely, the money stopped coming to Judge Porteous from Amato and Creely.

This pre-federal conduct flowed into Judge Porteous's federal service in two documented instances. First, Amato was brought on as counsel for Liljeberg in a multi-million dollar lawsuit named *Lifemark v. Liljeberg*. Judge Porteous was scheduled to try the case without a jury approximately six weeks from Amato's entry into the case. Counsel for *Lifemark* filed a motion to recuse Judge Porteous because of the close relationship between Amato and Judge Porteous. While opposing counsel did not know of the curatorship kickback scheme, Judge Porteous did. Judge Porteous clearly should have recused himself or disclosed the scheme. Instead, he chose to misrepresent his relationship with Amato during the recusal hearing. Second, after trial in the *Lifemark* case, Judge Porteous took the case under advisement. During this period, Judge Porteous solicited money from Amato and received \$2,000 in cash, split equally by Amato and Creely from the firm's account. There is no legitimate reason that a federal judge would solicit and accept cash from a lawyer with a case in front of him. We believe that soliciting and receiving a \$2,000 cash payment from a lawyer in a case currently before him would alone have been enough to warrant Judge Porteous's impeachment and removal. When viewed with the additional factors, including the kickback scheme, the fact that the lawyer stood to make hundreds of thousands of dollars through a contingency fee if he won, that the judge misrepresented his relationship during the recusal hearing, and that the appeals court found that parts of the judge's decision in favor of this lawyer's client were "apparently constructed out of whole cloth," Judge Porteous's conduct deserved the unanimous rebuke of the United States Senate and removal from the federal bench.

The allegations in Article II were very serious and no doubt tainted Judge Porteous's ability to serve on the bench. They involve Judge Porteous's relationship with a bail bonds company and its owners, Louis and Lori Marcotte. This article is, primarily though not exclusively, based upon Judge Porteous's actions prior to his service on the federal bench. The fact that this conduct is

pre-federal is not alone a bar to removal, though it is a significant factor to consider when evaluating this and future articles.

We decided to vote against conviction on Article II not only because most of the alleged conduct occurred before Judge Porteous became a federal judge, but also because we were not convinced that the conduct sufficiently proven by the House rose to the level of a high crime or misdemeanor. The Marcottes, who are felons convicted of manipulating the Louisiana justice system for profit, are the only source of evidence against Judge Porteous. Unlike the evidence presented on Article I, there are limited receipts and other documentary evidence supporting the claims made by the Marcottes. We found that the timelines laid out by Louis Marcotte, Lori Marcotte, Jeffrey Duhon, and Aubrey Wallace to be inconsistent with one another and with the documentary evidence that does exist regarding this article.

The most prominent example of the inconsistent timelines deals with the allegation that Judge Porteous improperly set aside or expunged the convictions of Jeffrey Duhon and Aubrey Wallace as a favor to Louis Marcotte. Louis Marcotte testified that his corrupt relationship with Judge Porteous did not really begin until after September 1993. The Duhon conviction was expunged in 1992. In addition, Judge Porteous only performed a ministerial step in expunging the conviction. Another judge performed most of the responsibilities in setting aside and expunging both of Duhon's convictions. Louis Marcotte testified that he hounded Judge Porteous for weeks about setting aside the conviction of Aubrey Wallace. Marcotte stated that Judge Porteous said he would set aside the conviction but not until after he had secured his "lifetime appointment." As we discuss below in relation to Article IV, this statement may reflect Judge Porteous's awareness that certain decisions or actions might impede his confirmation to the federal bench. The documentary evidence shows, however, that Judge Porteous actually took some of the steps towards removing the Wallace conviction, including a hearing on the set aside motion, before his Senate Judiciary Committee confirmation hearing. In addition to the conflicting timelines, the House failed sufficiently to establish that Judge Porteous's actions with respect to the Duhon or Wallace convictions were illegal or even improper under state law.

The House alleges that Judge Porteous was the Marcottes' "go-to" judge and would sign almost any bond that they requested. However, the House conceded that they could not point to any individual bond that was set either too high, too low, or improperly in any other way for the benefit of the Marcottes. Additionally, Judge Porteous's former criminal minute clerk suggests the opposite. The clerk indicated that Judge Porteous or a member of his staff was diligent about calling the jail for information about a prisoner for whom Marcotte requested a bond be set, instead of just taking Marcotte's word for it.

The remaining conduct alleged in Article II, that Judge Porteous used his prestige as a federal judge to recruit new state judges for the Marcottes to corrupt, was also not sufficiently proven. The House was able to document six lunches over a ten year period where Judge Porteous is alleged to have helped the Marcottes recruit and train judges. The only evidence that the House presented that Judge Porteous was present at some of these lunches was the fact that there was a reference to Absolut Vodka on

the receipt and Judge Porteous was known to drink Absolut Vodka. One of the judges who was allegedly recruited by Judge Porteous, Ronald Bodenheimer, stated that Judge Porteous never told him what to do in relation to the Marcottes, nor did Bodenheimer feel that Judge Porteous ever used his position as a federal judge to pressure Bodenheimer to work with the Marcottes or to issue any bonds. Judge Porteous simply told Bodenheimer that he could trust the Marcottes when it came to providing information related to a particular offender.

While we do not take the position that any of these witnesses was lying, we believe that the House must clear a high bar in proving the guilt of a federal official in an impeachment trial. The House did not meet its burden with respect to the conduct alleged in Article II.

Three features of Article III distinguish it from the others. Article III is the only one alleging conduct that occurred entirely after Judge Porteous was appointed to the federal bench, that conduct was unrelated to either his office or his official conduct in that office, and Article III raises significant factual disputes. Unofficial conduct may constitute the "high crimes and misdemeanors" that justify impeachment and removal, but that conclusion must be clearly established after giving Judge Porteous the benefit of the doubt regarding remaining factual disputes.

There is no dispute that Judge Porteous filed his initial bankruptcy petition under a false name, signing the declaration "under penalty of perjury that the information provided in this petition is true and correct." If there was any evidence that he intended to defraud creditors, this alone might be sufficient for impeachment and removal from office. But the evidence is to the contrary. He used the false name only to avoid the embarrassment of his real name appearing in the newspaper's listing of bankruptcies.

The false name existed for only 12 days, and he filed an amended petition with correct information the day after the false name appeared in the newspaper. The amended petition, with the correct identifying information, was then sent to creditors. The fact that so few creditors who were contacted with the correct information actually filed claims suggests that no one was prevented from filing a claim because a false name was on file for less than two weeks. Ironically, if the petition had been filed precisely the same way and the false name had been entered inadvertently rather than deliberately, it likely would not have been discovered and rectified until later in the process.

There is also no dispute that Judge Porteous's bankruptcy petition and accompanying schedules omitted certain assets and debts and inaccurately valued others. This fact might be more serious if Chapter 13 bankruptcies typically are filed without such omissions or inaccuracies. Judge Porteous introduced evidence, however, that the opposite is true, that nearly 100 percent of Chapter 13 bankruptcies contain multiple inaccuracies. For these problems to constitute "high crimes and misdemeanors," there must be clear and convincing evidence that the inaccuracies and omissions were intentional or fraudulent. The record does not contain such evidence. The House forcefully presented a theory that Judge Porteous hid assets so that he would have more money to gamble away, but a theory unsupported by real evidence is not enough to remove a federal judge from office.

Several allegations in Article III raised the question whether "markers" used to obtain chips in casinos are checks or credit. This distinction is significant because Judge Porteous was prohibited from obtaining more credit while his bankruptcy plan was in effect. But there was far from clear and convincing evidence settling that question.

On the one hand, gamblers fill out a credit application before they obtain markers. On the other hand, casinos redeem markers by presenting them at the gambler's bank. On the one hand, markers are checks under Louisiana commercial law. On the other hand, Judge Porteous's bankruptcy attorney and the bankruptcy trustee in his case considered them to be credit. Experts testifying before the Committee at the evidentiary hearing strongly and directly disagreed. This dispute, as important as the issue may be, was simply not settled with sufficient clarity to direct a conclusion either way. As such, Judge Porteous deserves the benefit of the doubt.

Finally, Judge Porteous not only successfully completed what is considered a large Chapter 13 bankruptcy, even after the bankruptcy judge nearly doubled his monthly payment, but he actually paid more than the plan called for. That is not the conduct of someone bent on bankruptcy fraud. The question, then, is whether the allegations in Article III that the evidence clearly showed to be intentional acts were sufficient to remove Judge Porteous from the bench. We do not believe so and, therefore, voted to acquit on that article.

We looked at Article IV with particular interest because the conduct by Judge Porteous that it alleged directly implicated the Senate and the judicial confirmation process. One of us not only serves on the Judiciary Committee, but was its Ranking Member when Judge Porteous was confirmed in 1994.

In FBI interviews, as well as in questionnaires before and after his nomination, Judge Porteous was asked whether anything in his personal life could be used by someone else to intimidate or influence him, could be publicly embarrassing to him or the President, or could affect his nomination. He signed both questionnaires, which included the statement that the information provided was "true and accurate." Those questions are still asked and still appear in those questionnaires as part of the confirmation process today. Judge Porteous argues that his negative answers to these questions were true because he did not believe that anything he had done, including in the relationships described in Article I and II, to be improper or embarrassing. But Judge Porteous was never asked whether he personally thought anything in his personal life was improper or embarrassing. There would be little value in asking such a question. Judge Porteous was asked whether anything in his personal life could be viewed by others, or by the public, as embarrassing or, more importantly, affect his nomination. Not only is that important information for the confirmation process, but it is information that in most cases can come only from the candidate or nominee.

What Judge Porteous may have lacked in personal scruples, he possessed in political instincts about matters that could be confirmation obstacles. Louis Marcotte testified, for example, that when he urged Judge Porteous to clear the criminal record of a Marcotte employee, Judge Porteous said he would do so only after the Senate confirmed his nomination. He did not want it coming

out in the newspaper and said that he would not let anything stand in the way of his lifetime appointment. Judge Porteous waited until after his confirmation, but before he took the oath of office, to set aside one of those criminal convictions.

The propriety of setting aside that conviction is not the issue. This example simply shows Judge Porteous' awareness that perceptions of his actions might affect his appointment to the federal bench. His instinct, it turns out, was accurate because the New Orleans newspaper reported that Judge Porteous had unlawfully set aside the conviction and the Justice Department would later conclude that his decision was contrary to law. Or consider another example. Judge Porteous' financially interactive relationship with his friends Jacob Amato and Bob Creely may not have bothered him, but it certainly bothered them. While on the state court bench, Judge Porteous began assigning unsolicited curatorship cases to Creely after Creely refused to give him money. Having provided a new source of revenue, Judge Porteous began requesting, and Creely and Amato began providing, a portion of the fees generated by those cases. Amato believed that this arrangement was unethical, a kind of kickback, and warned Creely that it was going to turn out badly. Amato did not disclose it at the recusal hearing in the Lifemark case because he believed he might be disbarred and that Judge Porteous might be removed from the bench. At our evidentiary hearing, the House's judicial ethics expert opined that this conduct violated the ABA model code of judicial conduct, and even Judge Porteous' own expert suggested that it was ethically troubling.

If his own best friend thought disclosing this financial relationship might get Judge Porteous removed from the bench, it is simply not credible that Judge Porteous believed disclosure of that relationship could not affect his appointment to the bench. Instead, he apparently answered those questions in the negative for the same reason that he put off setting aside that criminal conviction, to avoid any obstacles to a lifetime appointment. This dishonest participation in the confirmation process undermined the integrity of that process and possibly deprived the Senate of information that would have mattered in considering his nomination. His negative answers to questions he was actually asked were material and demonstrably false. For that reason, we voted to convict on Article IV.

The Senate was correct in removing Judge Porteous from the bench. He argued that it was unclear that his actions violated the public trust and warranted removal. The message from the Senate is clear that the privilege of serving the American people comes with a responsibility to be fair, honest, and to behave in a manner that inspires confidence in the courts and our system of justice.

Mr. LEAHY. Mr. President, for just the eighth time in this country's history, the Senate has voted to impeach and remove a Federal judge from the bench. Impeachment is a serious, constitutional act intended not as a form of punishment, but rather as means of protecting the integrity of our system of government. This is particularly true when we consider the impeachment of members of the judiciary. Public confidence in our courts is fundamental to the functioning of our democracy. When a judge engages in conduct that grossly violates the public

trust, he or she not only becomes incapable of fulfilling the responsibilities of the office, but also brings disrepute to the entire judicial system.

Prior to the Senate's vote on December 8, I voted three times to convict a Federal judge. In each instance, I carefully considered the facts in the case, as well as my constitutional obligations and the precedent being set for future generations. I have no doubt that just as we looked back to past impeachments to guide our actions in this proceeding, we now leave new precedent that others will look to for guidance and wisdom. For this reason, I wanted to elaborate on the constitutional issues presented during this impeachment trial and explain my decision to vote to convict Judge Porteous on all four Articles of Impeachment.

First, I should note that the impeachment trial against Mr. Porteous was bipartisan, and, I believe, unquestionably fair. The Senate Impeachment Trial Committee held 5 days of evidentiary hearings, with testimony received from 26 fact and expert witnesses. The record before the Senate is well developed, and most of the facts underlying the allegations against Mr. Porteous are uncontested. These facts demonstrate that Mr. Porteous engaged in conduct that compromised the administration of justice, brought disrepute to his office, and required his removal from the bench.

The first article of impeachment alleges that as a Federal judge, Mr. Porteous failed to recuse himself in the bench trial of *Lifemark Hospitals of Louisiana, Inc. v. Liljeberg Enterprises*, despite having previously engaged in a corrupt scheme with one of the attorneys before the court. The House managers established that as a State judge, Mr. Porteous assigned curatorship cases to two attorneys, one of whom was before him in the Liljeberg case, and had a portion of the fees, totaling approximately \$20,000, funneled back to him. Not only did Mr. Porteous fail to disclose these facts or recuse himself from the case, he proceeded to solicit and accept \$2,000 cash from those attorneys while the Liljeberg case was still under his advisement.

Out of concern for the public's confidence in our court system, I have frequently expressed disappointment about the lack of recusals by judges with conflicts of interest. There should be no doubt that recusals go to the heart of a judge's impartiality. In gross violation of his judicial ethics, Mr. Porteous engaged in a corrupt scheme with attorneys, solicited and accepted money from attorneys with pending matters before his court, and deprived the public and litigants of his honest services by failing to recuse himself.

The defense argued that article I should be dismissed because of the Supreme Court's recent ruling in

Skilling. I am familiar with the Court's ruling, and have authored legislation in response to it. The Supreme Court's holding was about a specific criminal statute, not judicial conduct or impeachment standards. No reasonable judge would believe that soliciting and accepting cash payments from an attorney with a pending case would be allowable or would not be an obvious ground for recusal.

The notion that was raised by the defense that corrupt judges could not be impeached ignores the purpose of impeachment as it relates to public confidence in our justice system. The Constitution did not list a specific set of conduct that would result in impeachment. Instead, Senators should determine for themselves what conduct renders one unfit to hold public office. We must consider the type of duties that the impeached official is called upon to perform and whether the conduct engaged in impairs the official's ability to perform those duties. This analysis differs depending on the office and responsibilities of the official before us.

Article II alleges that as a State court judge, Mr. Porteous took numerous things of value and accepted personal services from a bail bondsman, while setting favorable bonds for his company. As a Federal judge, Mr. Porteous continued to receive things of value in exchange for using "the power and prestige of his office" to help these bondsmen form corrupt relationships with State court judges. The evidence showed a pattern before and after his Federal confirmation of capitalizing on his position of power to receive improper gifts. Moreover, as Professor Michael Gerhardt, who served as Special Counsel to the Senate Judiciary Committee during the last two Supreme Court confirmations, testified before the House Task Force on Judicial Impeachment, the Constitution does not state that improper conduct must be committed during the tenure of the Federal office; rather, "[t]he critical questions are whether Judge Porteous committed such misconduct and whether such misconduct demonstrates the lack of integrity and judgment that are required in order for him to continue to function [as a Federal judge]." I agree with Professor Gerhardt on this fundamental question.

Certainly if the Senate learned after confirmation that a judge killed someone before he or she was confirmed, the Senate should not be prevented from later removing that judge. Similarly, the Senate should not be foreclosed from removing a judge for serious misconduct not revealed during the confirmation process that goes to the role of the judge. A lifetime appointment to the Federal judiciary does not entitle those unfit to serve to a lifetime of Federal salary and benefits. As chairman of the Judiciary Committee, I re-

ject any notion of impeachment immunity if misconduct was hidden, or otherwise went undiscovered during the confirmation process, and it is relevant to a judge's ability to serve as an impartial arbiter.

With regard to the third article of impeachment, it is clear that Mr. Porteous knowingly and intentionally made material false statements and representations—including signing and filing under the name "G.T. Orteous"—under penalty of perjury on his personal bankruptcy court filing. It is hard to imagine stronger evidence that this judge believed the law did not apply to him. A judge who lies under oath in court filings is unable to continue in an office that requires him to administer oaths and sit in judgment. Mr. Porteous's actions in his bankruptcy proceedings demonstrate a flagrant disregard for the courts as an institution, making him unfit to serve as a respected member of the judiciary.

The last article of impeachment against Mr. Porteous relates to his actions before the Senate Judiciary Committee. As chairman of the Senate Judiciary Committee, I take the word of judicial nominees that come before our committee very seriously. The process for aiding the Senate in considering these lifetime appointments relies on being able to trust and evaluate the information provided to us by nominees, so it requires their utmost candor.

Mr. Porteous knowingly made material false statements about his past to the Senate by responding "no" to questions on his Senate Judiciary Committee questionnaire, and to the FBI in connection with his background review, in order to obtain office. His defense to article IV is that his conduct was "business as usual" in New Orleans and, therefore, he believed his responses to be true. Whether he made false statements is not purely a subjective inquiry; and most certainly not where his "belief" in the truth of his statements is in direct conflict with the factual knowledge on which it is based. I am convinced that Mr. Porteous's responses on the Senate questionnaire were material because had his solicitation and acceptance of cash and gifts from parties with matters before him been known to the Senate, he would not have been confirmed.

During the impeachment trial proceedings, I asked both the House managers and Mr. Porteous's defense attorneys the following question: "The Senate Judiciary Committee requires a sworn statement as part of a detailed questionnaire by a nominee. Until this questionnaire is filed, neither the Judiciary Committee nor the Senate votes to advise and consent to the nomination. Would not perjury on that questionnaire during the confirmation process be an impeachable offense?" Both sides unequivocally answered that perjury on the Senate questionnaire and during the confirmation

process would be an impeachable offense.

As chairman of the Senate Judiciary Committee, I am particularly offended by Mr. Porteous's intentional dishonesty and disrespect for the office to which he was confirmed, and for the entire confirmation process. When a judicial nominee testifies before the Senate Judiciary Committee, they must be completely forthright and honor the promises or statements they make to us. Once confirmed, Federal judges have lifetime appointments. Impeachment is a drastic measure, but one we must take when a nominee conceals serious wrongdoing.

The House managers presented uncontested facts that Mr. Porteous engaged in conduct that violated the public trust and is now unfit to be a district court judge, or hold any other public office. Both sides were well represented in this proceeding, and I thank them for their advocacy and professionalism.

Mr. UDALL of New Mexico. Mr. President, as a member of the Impeachment Trial Committee, I had the privilege of carrying out a constitutional duty that fortunately is a rare occurrence. I commend the work of Chair MCCASKILL and Vice-Chair HATCH, as well as the staff of the committee, Senate legal counsel, and CRS. They have done an excellent job of making a complex and time-consuming process as clear and straightforward as possible.

I began the impeachment process with the belief that my legal background would help guide my judgment as to whether or not Judge Porteous is guilty. As the attorney general of New Mexico for 8 years and a former assistant U.S. attorney, I saw the impeachment process as closely analogous to a criminal trial. It turns out, however, that the two are very different in many key aspects.

Unlike a criminal trial, our role is not to punish the guilty, but is instead to protect the integrity of the judiciary. The U.S. Judicial system is the greatest in the world, but it can only remain so as long as the integrity and impartiality of our judges is never in doubt. Judge Porteous's actions were so contrary to everything we demand of our judges that I have no hesitation in voting to convict him on each article.

One of the primary aspects that make an impeachment trial unique from a criminal trial is the standard of proof. I began the impeachment process believing that the House must prove its case beyond a reasonable doubt in order for a conviction. This is not the case.

Obviously Judge Porteous would like all of us to use the standard of "beyond a reasonable doubt," while the House managers would prefer a "preponderance of the evidence standard." Some

scholars have urged a middle ground, suggesting that the appropriate standard of proof should be "clear and convincing evidence." But the fact is that we each have to make our own decision.

I believe that the "beyond a reasonable doubt" standard is too high. The Senate does not have the authority to take away Judge Porteous's liberty but only the authority to remove him from a position of public trust. I also believe that whether you use a clear and convincing evidence standard or a preponderance of the evidence standard, the House managers have met their burden.

Another important question each of us must decide is what constitutes an impeachable offense. Judge Porteous's attorneys argue that much of his conduct is not impeachable because it does not meet the constitutional standard of "high crimes and misdemeanors." They also argue that most of his conduct occurred prior to his confirmation to the Federal bench or was not related to his duties as a Federal judge, and therefore not grounds for impeachment. I do not believe any of these arguments are persuasive.

I initially thought of "high crimes and misdemeanors" in the context of a criminal trial. My prosecutor experience made me ask what elements had to be proven in order to convict on each article. But now I understand that an impeachment is so fundamentally different than a criminal trial that such comparisons do not work.

Alexander Hamilton wrote that impeachable offenses "proceed from . . . the abuse or violation of some public trust" and "relate chiefly to injuries done immediately to the society itself." The Framers also did not use the term "misdemeanor" to mean a minor crime, as it is used today. At the time of the Constitution's drafting, a misdemeanor referred to the demeanor or behavior of a public official.

Judge Porteous's counsel made several references to the fact that the judge was not criminally charged for his actions. But this is not a relevant consideration. The 1989 report on the impeachment of U.S. District Judge Walter Nixon provides us with guidance as to what constitutes an impeachable offense. It states:

The House and Senate have both interpreted the phrase other high Crimes and Misdemeanors' broadly, finding that impeachable offenses need not be limited to criminal conduct. Congress has repeatedly defined [the phrase] to be serious violations of the public trust, not necessarily indictable offenses under the criminal law.

Thus, the question of what conduct by a Federal judge constitutes an impeachable offense has evolved to the position where the focus is now on public confidence in the integrity and impartiality of the judiciary. When a judge's conduct calls into question his or her integrity or impartiality, Congress must consider whether impeachment and removal of the judge from office is necessary

to protect the integrity of the judicial branch and uphold the public trust.

We are also faced with deciding whether impeachable offenses are limited to acts occurring after an individual became a Federal official. According to the Congressional Research Service, "it does not appear that any President, Vice President, or other civil officer of the United States has been impeached by the House solely on the basis of conduct occurring before he began his tenure in the office held at the time of the impeachment investigation, although the House has, on occasion, investigated such allegations."

I do not see how we can restrict our authority to impeach and convict a Federal official to conduct that only occurred after he or she took office. To do so would lead to a perverse result, one in which, as the House managers argue, "makes the position of federal judge a lifetime safe harbor for someone who is able to hide his misdeeds and defraud the Senate into confirming him."

In considering whether pre-Federal conduct should be considered as a basis for impeachment, Professor Michael Gerhardt testified before the House that, "[t]he critical questions are whether Judge Porteous committed such misconduct and whether such misconduct demonstrates the lack of integrity and judgment that are required in order for him to continue to function" as a Federal judge.

I believe this is an appropriate standard, and I believe Judge Porteous's conduct as a State court judge was incompatible with the trust we place in our Federal judges. Had his pre-Federal conduct been serious, but outside of the scope of his role as a State judge, I might have been more hesitant to consider it as a basis for impeachment. In this case, however, his corrupt conduct was directly connected to his duties as a judge. In arguing against considering pre-Federal conduct, Judge Porteous is essentially telling the Senate that although he was a corrupt State court judge, that conduct should not be considered in determining his fitness to continue as a Federal judge. I do not find this argument the least bit persuasive.

A final question is whether impeachable offenses should be limited to official acts that are directly related to his duties as a judge. Just as I don't believe pre-Federal conduct must be excluded as a basis for impeachment, I do not feel that nonofficial conduct must be excluded.

In fact, Judge Porteous's own attorney, Jonathan Turley, wrote in a law review article that "Congress repeatedly rejected the view that impeachable conduct was limited to official acts or abuses of authority. Impeachable conduct often included acts that were incompatible with continuing to

hold an office of authority, including crimes or misconduct outside the official realm.”

I believe the question to ask when considering nonofficial acts is the same as that for pre-Federal acts: does the misconduct demonstrate a lack of integrity and judgment that are required in order for him to continue to function as a Federal judge? Once again, I found Judge Porteous's nonofficial conduct to reach the level of an impeachable offense. We expect a Federal judge to have the utmost respect for the rule of law, but Judge Porteous knowingly filed for bankruptcy under a false name, an act that he knew was illegal. His attorneys argue that this act was insignificant; he filed amended forms a few weeks later and none of his creditors were harmed. But this argument misses the point that a Federal judge had so little respect for the legal process that he would commit perjury in order to avoid embarrassment. Such actions make him unfit for a lifetime appointment to the Federal bench.

For the reasons discussed above, I voted guilty on each of the four Articles of Impeachment.

Mrs. SHAHEEN. Mr. President, it has been a privilege to serve as a member of the Senate Impeachment Trial Committee over the past year. We have been part of a rare event in the history of this Congress and our country and it has been fascinating to watch this process unfold. I want to join my fellow committee members in thanking Chairman McCASKILL and Vice-Chairman HATCH for leading a fair, effective, and efficient operation. They provided remarkably decisive leadership on complex legal issues while also respecting the rights and the interests of both parties to this matter.

I am proud of the report our bipartisan committee produced, and I would like to once again thank and recognize the trial committee's staff for their hard work. Their efforts were an indispensable part of this unique and historic undertaking.

Judging Articles of Impeachment drawn up by the House of Representatives is one of the more solemn duties given to Senators by our Constitution. After spending more than a week with my fellow committee members hearing the evidence against Judge Thomas Porteous, and after reviewing the parties' final submissions, I concluded that he should be convicted on all four articles and removed from office. I would like to explain the principles I used to reach this conclusion and touch on some of the evidence that supported conviction.

There has been much discussion by the parties about the standard of proof to be employed in an impeachment proceeding, and what constitutes an impeachable offense. The Constitution provides us with limited guidance on these issues. Ultimately, in keeping

with precedent established by this body in the past, each Senator must individually decide what conduct is impeachement-worthy and how much proof is necessary to reach that conclusion.

In my opinion, the question before us is whether Judge Porteous's conduct calls his integrity and impartiality into question and whether we must remove him from office to protect the reputation of the judiciary and preserve the public's trust in it. Our courts are the places where citizens expect to receive a fair and legitimate resolution of their disputes. This is a cornerstone of civil society. Any conduct by a judge—whether on the job or off that causes people to seriously question his honesty and basic willingness to dispense justice fairly is a violation of the public trust.

Unfortunately, I think any reasonable citizen walking into Judge Porteous's courtroom would have ample reason to question his commitment to doing justice. This is a judge who used his judicial offices at both the State and Federal levels to routinely obtain personal perks, including meals, alcohol, a bachelor party for his son, trips, and eventually cash kickbacks totaling some \$20,000.

Any reasonable citizen would also doubt this judge's ability to be impartial. The House presented substantial evidence related to a multimillion dollar piece of litigation in which Judge Porteous had an obvious conflict of interest but failed to recuse himself. He took thousands of dollars in cash gifts from a lawyer friend representing a party to the case during the course of his deliberations. He then turned around and issued a decision favoring his friend's client. Judge Porteous's ruling was overturned in an absolutely scathing opinion by the Fifth Circuit Court of Appeals, which called his decision “inexplicable” and “close to being nonsensical,” among other rebukes.

While on the State bench, the Judge maintained close relationships with bail bondsmen working for defendants in his courtroom. The evidence showed that he continuously set favorable bail levels that while perhaps within the bounds of his legal discretion had been suggested by the bondsmen to maximize their profits. For this, the judge enjoyed complimentary steak lunches, midday martinis, at least one trip to Las Vegas, as well as home and car repairs.

I was totally unpersuaded by the defense team's argument that Judge Porteous's “pre-Federal” conduct should be outside the scope of our deliberation. I do not believe the act of being confirmed to a Federal judgeship by the Senate erases or excuses an individual's conduct up to the point of confirmation.

Had the Senate known in 1994 what we know now about Porteous's conduct as a State judge, it would have un-

doubtedly disqualified him from becoming a Federal judge. No judge at any level should accept gifts that would even appear to be designed to affect his judgment or influence his decisions. Yet there is no doubt Judge Porteous did just that.

It is unfortunate that those charged with investigating Judge Porteous's fitness for office in 1994 did not raise more flags about his history. This does not eliminate our duty to act. I see no reason not to remove him from office today when these events still bear on his integrity and impartiality. Plain and simple, the judge perjured himself before this body during his confirmation by representing that nothing in his history would cast doubt on his fitness to hold office.

Finally, Judge Porteous also perjured himself during his own personal bankruptcy proceedings. The House presented evidence that he failed to disclose gambling debts during his bankruptcy, failed to disclose a number of assets, and made other willful misrepresentations in his filings like using a false name in his initial petition. I understand that this conduct may not have been a direct abuse of the judge's office, but his deception during this period reflected a lack of respect for the law and an unwillingness to follow it. A sitting Federal judge should have erred on the side of overdisclosure. Instead, I believe the House has shown that Judge Porteous repeatedly committed perjury.

Serving as a judge is a privilege, and it demands strict adherence to the highest ethical standards. The evidence in this case, taken as a whole, showed that Judge Porteous failed this test routinely over the course of some 15 years. The House presented ample credible evidence to support the charges in each of the articles, and I felt compelled to vote to convict on all four to protect the integrity of the judiciary and its credibility in the eyes of the public.

Mr. KOHL. Mr. President, I want to first commend my colleagues on the Senate Impeachment Trial Committee for the outstanding work they have done to receive and report the evidence in this case to the full Senate. Led by Senators McCASKILL and HATCH, the committee's dedication to impartiality and integrity is something of which we can all be proud.

The Constitution gives the Senate “the sole power to try all impeachments.” The Senate acts as the factfinder in impeachment proceedings and determines, as individuals and as a body, whether the respondent is guilty of “high crimes and misdemeanors” so as to require removal from office.

After carefully reviewing the evidence, I voted to convict Judge Porteous on each Article of Impeachment. On articles I and II, the evidence showed that Judge Porteous used his

judicial office for financial gain by failing to recuse himself in a nonjury civil case and engaging in corrupt relationships with Jacob Amato, Robert Creely, and Louis Marcotte. The House managers proved by clear and convincing evidence that Judge Porteous deprived litigants of a fair trial and undermined his sworn judicial duties.

On articles III and IV, I found Judge Porteous guilty because of his dishonesty and gross misconduct. The facts were clear. He filed his bankruptcy petition under a false name, concealed assets and debt to finance his gambling habit and lied to the FBI to obtain Senate confirmation of his judicial appointment.

Finally, I voted against Judge Porteous's motion to disaggregate the articles. I did so because each article contained a series of events that sufficiently related to the charged allegation. The case against Judge Porteous can be distinguished from those of Judge Nixon and President Clinton. Here, the House presented specific, indivisible articles of misconduct which provided a clear record for us to evaluate.

As with each judicial impeachment, the Senate is faced with difficult and novel issues. However, the Constitution makes clear that impeachment is a remedial provision that cures our institutions when officials violate the public's trust and confidence. I do not come to my decision lightly, but removal and disqualification of Judge Porteous is necessary. As required by the Constitution, Judge Porteous no longer enjoys the privilege of sitting on the Federal bench or holding any Federal position "of honor, trust or profit." I thank and appreciate my colleagues for their commitment and collegiality during this process.

Mr. NELSON of Florida. Mr. President, I rise today to discuss the impeachment of Judge Thomas Porteous and specifically to offer my thoughts on the Articles of Impeachment.

First, let me say as a general matter that when we as a body consider the nomination of a Federal judge, we do so with the hope and expectation that the individual being considered will uphold the law and treat people appearing in his or her courtrooms with fairness and impartiality. The lengthy record presented by the House managers demonstrated that Judge Porteous has had an ongoing pattern of conduct that does not comport with the trust that the Senate placed in him when it confirmed Judge Porteous as a U.S. district court judge in 1999.

The managers also presented sufficient evidence for me to vote in favor of each of the Articles of Impeachment. Because of the lengthy, ongoing, and egregious nature of the judge's conduct, I also voted to disqualify Judge Porteous from any future Federal office.

The most compelling evidence presented for each article was as follows:

Article I—The record demonstrated that Judge Porteous, while presiding as a U.S. District Judge, denied a motion to recuse himself in the case of Lifemark Hospitals of Louisiana, Inc. v. Liljeberg Enterprises, despite the fact that he had a corrupt financial relationship with the law firm representing Liljeberg Enterprises. The record also demonstrated that Judge Porteous engaged in corrupt conduct after the Lifemark v. Liljeberg bench trial, and while he had the case under advisement. Judge Porteous solicited and accepted things of value from both Mr. Amato and his law partner, Mr. Creely, including a payment of thousands of dollars in cash, then ruled in favor of the law firm's client, Liljeberg Enterprises.

Article II—The record demonstrated that while Judge Porteous was a U.S. district judge for the Eastern District of Louisiana, he engaged in a corrupt relationship with bail bondsman Louis M. Marcotte, II and his sister, Lori Marcotte. The record also demonstrated that, as part of this corrupt relationship, Judge Porteous solicited and accepted numerous things of value for his personal use and benefit, including meals, trips, home repairs, and car repairs, while at the same time taking official actions that benefitted the Marcottes.

Article III—The record demonstrated that Judge Porteous knowingly and intentionally made material false statements and representations under penalty of perjury related to his personal bankruptcy filing, and that he repeatedly violated a court order in his bankruptcy case.

Article IV—The record demonstrated that Judge Porteous knowingly made numerous material false statements about his past to both the U.S. Senate and the Federal Bureau of Investigation in order to obtain the office of U.S. district court judge. The record demonstrated that these statements included the following:

1. On his Supplemental SF-86, Judge Porteous was asked if there was anything in his personal life that could be used by someone to coerce or blackmail him, or if there was anything in his life that could cause an embarrassment to Judge Porteous or the President if publicly known. Judge Porteous answered no to this question and signed the form under a warning that a false statement was punishable by law.

2. During his background check, Judge Porteous falsely told the Federal Bureau of Investigation on two separate occasions that he was not concealing any activity or conduct that could be used to influence, pressure, coerce, or compromise him in any way that would impact negatively on his character, reputation, judgment or discretion.

3. On the Senate Judiciary Committee's Questionnaire for Judicial Nominees, Judge Porteous was asked whether any unfavorable information existed that could affect his nomination. Judge Porteous answered that to the best of his knowledge, he did "not know of any unfavorable information that may affect [his] nomination." Judge Porteous signed that questionnaire by swearing that the information provided in the statement is, to the best of my knowledge, true and accurate."

Mr. UDALL of Colorado. Mr. President, I rise to explain my votes in relation to the impeachment of Judge G. Thomas Porteous, Jr. I take my role in the rare process of impeachment seriously, and welcome the opportunity to explain my reasoning for voting guilty on all four Articles of Impeachment and to clarify for the record the limited precedential value that I believe the conviction on Article IV should provide.

When considering the evidence presented by the House and Judge Porteous, I first had to establish what standard of proof I would use to determine his guilt or innocence on each Article of Impeachment passed by the House of Representatives. The Senate has never adopted a standard of proof like 'beyond a reasonable doubt' from the criminal context or 'a preponderance of the evidence' from a civil dispute context; rather, the Senate has allowed individual Senators to decide for themselves what standard is most appropriate. I ultimately settled on the standard suggested by the House Manager, that I be convinced of the truthfulness of the allegations and that they rise to a level of high crimes and misdemeanors.

Mr. President, our founders granted Congress the power of impeachment to protect the institutions of government from those judged to be unfit to hold positions of trust. In Federalist 65, Alexander Hamilton wrote of the jurisdiction to impeach an official: "There are those offenses which proceed from the misconduct of public men or, in other words, from the abuse or violation of some public trust." This captures the standard I applied to reach a determination of guilt on each Article of Impeachment. I was convinced that Judge Porteous, through each action and through his pattern of behavior, undermined the public's faith in him as a government official and in the institution that he represented—the United States Federal Court.

With respect to Articles I, II and III, I am confident that the evidence of specific acts and the pattern of behavior displayed by Judge Porteous justifies my determination that he was guilty of high crimes and misdemeanors. Article IV, however, gives me pause. While I believe that the guilty vote on Article IV was correct, I have reservations about the precedent that scholars and

future Senators might find in this impeachment. The questionnaire the judicial nominees fill out for the Senate Judiciary Committee provides an opportunity for those nominated to answer questions about their past activities and involvement in and with the law. From these questionnaires, we are able to learn of a nominee's legal experience, find information about past statements and generally assess the fitness of the nominee for the federal bench.

On his questionnaire, Judge Porteous was asked whether any unfavorable information existed that could affect his nomination, and he answered that he did not know of any. I believe that Judge Porteous engaged in a pattern of behavior prior to, during and after his nomination to the federal district court that undermined the public's faith in him as a government official, and that this pattern of behavior rose to the level of an impeachable offense that met the standard of high crimes and misdemeanors. Having said that, I do not believe that future nominees should be subject to impeachment simply for a failure to answer a subjective, open-ended question on the Senate Judiciary Committee's questionnaire.

Judge Porteous abused the questionnaire process, misrepresented his background and misled the Senate in an egregious manner that was unique to this specific situation. However, I can imagine a scenario whereby a nominee could falsely affirm that no negative information affecting his nomination existed, yet I might not find that false answer to be an impeachable offense. I do not wish to see the nomination process become even more difficult for qualified men and women of good character, solely because of an onerous application process. Many of us have things in our backgrounds that we might miss when asked open ended questions, and the Senate should not hang the cloud of impeachment over every nominee's head because of such oversights alone—otherwise, we will find ourselves without any nominees.

As a Senator who is not a lawyer, I would like to thank my colleagues who took on the historic task of preparing and presenting this impeachment trial. Specifically, Senator CLAIRE McCASKILL and Senator ORRIN HATCH who shared the role of chair of the Special Impeachment Trial Committee. I came away from this experience with a renewed respect for the Senate as an institution. When given the opportunity, Senators can work in a productive and civil manner, and I am sure that if he were able to see the dignity and respect with which the Senate treated this impeachment, Alexander Hamilton would be very proud.

Mr. COONS. Mr. President, as a result of today's vote on the four Articles of Impeachment against Judge G. Thomas Porteous, the Senate has ful-

filled its constitutional duty to remove a threat to the public's trust and confidence in the Federal judiciary.

The conduct set forth in the first Article of Impeachment alone justifies the Senate's conviction of Judge Porteous. By coercing his former law partners to participate in a kickback scheme while a state judge, by failing to properly disclose this corrupt relationship when warranted as a federal judge in a recusal hearing and by obtaining further improper cash payments from them while taking their case under advisement, Judge Porteous misdeemeaned himself in a manner that is directly contrary to the essential public trust of his office. Federal judges cannot solicit improper gifts, and they certainly cannot lie to litigants who appear before them.

The conduct described in the remaining three Articles of Impeachment is, likewise, wholly repugnant to the office of a U.S. judge. Counsel for Judge Porteous argued that the Senate's unprecedented conviction on these counts would weaken the judiciary to political attacks. I do not dismiss these arguments lightly. With only 12 impeachment trials having been completed in our Nation's history, however, novelty of the particular offenses charged is no absolute defense. My votes to convict—whether for conduct on the State bench, as a private citizen, or before the Judiciary Committee—were compelled because they revealed corruption and duplicity that, if countenanced, would destroy the integrity of the federal judiciary. While counsel argued that the behavior charged in the final three articles did not concern Judge Porteous' conduct as a Federal judge, each article charged conduct that bore an essential nexus to his Federal service.

Judge Porteous set bail bonds for the purpose of maximizing the profits of the bail bonds company, rather than protecting the public safety and guaranteeing the defendant's presence at trial. He carried out this scheme to cultivate improper benefits from the bail bonds company, trading official judicial action for personal gain. This behavior was not an isolated lapse in judgment. It lasted for more than a year, stopping only when Judge Porteous was confirmed to be a Federal judge.

Judge Porteous also lied during his bankruptcy while serving as a Federal judge. His only defense was that such conduct was not related to his service as a judge and included only acts taken as a private citizen. A judge cannot repeatedly demean a Federal court by lying to it, as here, in an attempt to avoid embarrassment and to continue to amass more gambling debts.

Likewise, Judge Porteous' lies and deceptions during his confirmation process reflect a willingness to subvert the truth, under penalty of perjury, for

personal gain. His claim that any mistakes were inadvertent is simply not credible. The evidence demonstrates that Judge Porteous actively concealed the corrupt bail bonds scheme from FBI investigators, and failed to disclose much more corrupt behavior.

Our Federal courts are an enduring symbol of our national commitment to equal justice under the law. Judge Porteous' long history of corruption, deceit, and abuse of power renders him incompatible with that commitment. His removal strengthens our judiciary and confirms the integrity of those who remain a part of it.

OMNIBUS APPROPRIATIONS

MANILAQ ASSOCIATION

Mr. HARKIN. Mr. President, in Division H of the explanatory statement accompanying the fiscal year 2011 Consolidated Appropriations Act, under the authority of the Center for Mental Health Services at the Substance Abuse and Mental Health Services Administration, please add Senator BEGICH to the list of members requesting funds for the Manilaq Association in Kotzebue, AK, to provide suicide prevention activities in northwest Alaska.

DIVISION G

Ms. MIKULSKI. Mr. President, I rise to make a clarification regarding a project that is listed in the congressionally designated spending table to accompany Division G, the Interior, Environment and Related Agencies division of fiscal year 2011 omnibus appropriations bill. I understand that due to a clerical error, I was listed as a sponsor for the following water infrastructure project: "City of Baltimore for Penn Station pipe relocation." I would like the RECORD to reflect that I am not in fact a sponsor of this project.

Mrs. FEINSTEIN. Mr. President, as the chairman of the Subcommittee on the Interior, Environment and Related Agencies, I regret that such an error was made. I would like to reconfirm that my colleague, Senator MIKULSKI, should not be listed as a sponsor for this project.

TRIBUTES TO RETIRING SENATORS

BOB BENNETT

Mr. CONRAD. Mr. President, I want to take a moment to honor a friend and colleague, Senator BOB BENNETT, who will be moving on from the Senate after 18 years of service to the people of Utah.

BOB has had a long and impressive career. Out of college, he served for several years in the Utah National Guard and worked as a congressional liaison for the Department of Transportation. Turning next to the private sector, he worked for 20 years in public

relations and later in the technology field. He put that experience to good use once elected to the Senate, using his high-tech know-how to chair the Senate Special Committee on the Year 2000 Technology Problem, serve on the Senate Republican High-Tech Task Force, and work on issues from broadband infrastructure development to cyber security.

Utah and North Dakota have many things in common. Both are largely rural States with unique needs that often go unrecognized by those who live in densely-populated areas. Senator BENNETT should be proud that he has been a vocal and consistent supporter of funding for Utah's farmers and ranchers, veterans, rural health care institutions, military installations, and roads, highways, and mass-transit infrastructure. I know that Utah has many reasons to be grateful for what BOB BENNETT's hard work on the Appropriations Committee has brought to the State over the years.

During his time here, Senator BENNETT and I have worked closely on a number of important issues, especially those related to our national defense. As an important member of the Senate ICBM Coalition, Senator BENNETT has worked with me to ensure that our Nation preserves both its fleet of Minuteman III intercontinental ballistic missiles and the infrastructure required to keep them operational for years into the future. Senator BENNETT is also a member of the Senate Tanker Caucus, which has vocally and consistently pushed for the Department of Defense to quickly and fairly select and procure a next-generation aerial refueling tanker to replace the aging KC-135. His advocacy on this issue has been key in the work of the caucus.

Finally, of course, and I think most importantly to BOB, he is a dedicated and outstanding family man. Though I know he will be missed here in the Senate, the new time he will have to spend with his wife Joyce and his six children will certainly be counted among his many blessings. My wife Lucy and I wish BOB and his family many happy years ahead.

EVAN BAYH

Mr. President, I rise today to honor my colleague from Indiana, Senator EVAN BAYH, who is retiring from the Senate. Senator BAYH has been a strong voice for the people of Indiana, both in two terms as their Governor and 12 years as their Senator. He has brought a keen intellect and a commonsense perspective to the Senate that should make his fellow Hoosiers proud. Building on the Senate traditions he learned from his father, he has worked hard to build consensus across party lines to strengthen our country.

It is clear to me that Senator BAYH never forgets his other job in life. As a father of twin boys, he often reminds his colleagues to consider the impact

of our decisions on our children and the following generations.

That is why I admire Senator BAYH's deeply held belief in fiscal responsibility. Senator BAYH played a key role in helping push for a fiscal commission to address our Nation's debt. He also urged that the long-term debt increase we passed earlier this year include a commitment to dealing with our debt.

With his experience on the Senate Select Committee on Intelligence and the Senate Armed Services Committee, Senator BAYH has been a respected voice on national security issues. He has used that position to make sure our troops are properly equipped and supplied while on duty and to reduce the financial burden on their families. He has also been a strong supporter for efforts to keep nuclear weapons out of the hands of dangerous states and terrorist groups.

Senator BAYH also understands the importance of education as a source of opportunity to our people and a key investment in the ongoing prosperity of our country. As Governor of Indiana, Senator BAYH created the 21st Century Scholars Program, which offers a path to higher education at Indiana's State universities for at-risk students. Senator BAYH continued his strong support of education in the Senate, working to make college more affordable through new tax credits for qualified tuition expenses, higher student aid grants, and more affordable student loans.

Senator BAYH has served the people of the State of Indiana with integrity. I will miss having him as a colleague in the Senate, but I also know that his wife Susan and his sons, Beau and Nick, will be excited to have him back home in Indiana. I wish him success in whatever he chooses to do in the next chapter of his life.

CHRISTOPHER DODD

Mr. President, I rise today to pay tribute and recognize the accomplishments of a colleague and friend who will be retiring from the U.S. Senate at the end of this term. Senator CHRISTOPHER DODD has represented Connecticut in Congress for 36 years, and has been an unrelenting advocate for his constituents and working-class Americans.

Senator DODD has led a very impressive career, and his dedication and love of public service is evident. After graduating from Providence College, he volunteered with the Peace Corps in the Dominican Republic for 2 years. Upon returning to the United States, DODD enlisted in the Army National Guard and later served in the U.S. Army Reserves. In 1972, he earned a law degree from the University of Louisville School of Law, and practiced law before his election to the United States House of Representatives in 1975. In 1981, he became the youngest person to join the United States Senate in Connecticut history. Senator DODD fol-

lowed in the footsteps of his father, the late Senator Thomas Dodd, being elected to both Chambers of Congress.

Since his election to Congress, Senator DODD has served his State and the Nation admirably. He has been a true advocate for our children and their families, forming the Senate's first Children's Caucus. He was a champion and author of the Family and Medical Leave Act, which guarantees working Americans time off if they are ill or need to care for a sick family member or new child. In addition, he has consistently fought to improve and expand the Head Start program, a critical investment in our Nation's future. Due to his tremendous advocacy of the program, he was named Senator of the Decade by the National Head Start Association.

Senator DODD was also one of the key Senators who made passage of health care reform, the Patient Protection and Affordable Care Act, a reality. A close and personal friend of the late Senator Ted Kennedy, Senator DODD worked tirelessly on health reform in the Senate Health, Education, Labor and Pensions Committee, and in the full Senate during Senator Kennedy's battle with brain cancer and after his passing. Senator Kennedy, who had been the leader in the Senate on reforming our health care system for several decades, would have been very proud of Senator DODD and his relentless efforts to reform our Nation's health care system.

The health care reform law that Senator DODD helped to craft will expand health insurance coverage to approximately 32 million Americans and create some common-sense rules of the road for the health insurance industry in an effort to clamp down on abusive practices such as jacking up premiums or dropping coverage just when people need it most. It also builds on our current private, employer-based system by expanding coverage, controlling costs, and improving quality, competition and choices for consumers.

Senator DODD is chairman of the Senate Banking, Housing and Urban Affairs Committee. He has been instrumental in working to put our country back on sound economic footing. As we all remember too well, in the fall of 2008 we faced a financial crisis. Senator DODD and I and other leaders from both Chambers were called to an emergency meeting in the United States Capitol as the Nation's economy teetered on the brink of collapse. At this meeting, the Chairman of the Federal Reserve and the Secretary of the Treasury from the previous administration told us they were taking over AIG the next morning. They believed if they did not, there would be a financial collapse. Those were very, very serious days.

A few weeks later, the Bush administration proposed virtually unfettered authority for the Treasury Secretary

to respond to the financial crisis. Senator DODD, to his lasting credit, insisted on defining the Treasury's authority, subjecting it to strict oversight, and protecting the taxpayer. He played a key role in improving the legislation, culminating in non-stop negotiations into the middle of a Saturday night in October. When the history of the financial crisis is written, I expect CHRIS DODD will be given great credit for responding to the crisis, helping to prevent a Great Depression, and improving the legislation. He played a central role, I believe, in shaping the response so that the ultimate cost to taxpayers will be far, far lower than originally expected.

Senator DODD also took the lead in writing landmark Wall Street reform legislation to help prevent another financial sector collapse. It will allow the government to shut down firms that threaten to crater our economy and ensure that the financial industry, not the taxpayer, is on the hook for any costs. Senator DODD is owed great thanks for his leadership and hard work on these financial issues during a very difficult time for our Nation.

These are just a few of the examples of the great work Senator DODD has done for the country. I would like to close by saying that Senator DODD's presence will certainly be missed in this Chamber. He has served the people of Connecticut faithfully, and I know that his many contributions will not be forgotten. It has been an honor for me to work with such a compassionate and dedicated Senator, and I wish him and his family the very best.

GEORGE LEMIEUX

Mr. President, I want to take a moment to recognize our retiring colleague from Florida, Senator GEORGE LEMIEUX.

Senator LEMIEUX came to the Senate in September of 2009, amid extraordinary economic conditions. When he took office, Floridians were facing historically high rates of unemployment—a trend too common across the country. And by November 2009, an estimated 45 percent of home mortgages in Florida were “upside down,” meaning affected Floridians owed more on their property than it was worth. Needless to say, there were significant economic challenges facing the incoming junior Senator from Florida.

It takes uncommon character and dedication to accept appointment to public office, especially in these uncertain times. Senator LEMIEUX chose to confront our country's economic challenges by serving the people of Florida in the United States Senate.

Since arriving in the Senate, Senator LEMIEUX has expressed his desire to address our unsustainable fiscal condition—a problem I agree will cripple our country without bipartisan compromise. If we are to address our fiscal challenges, we must work together to

craft solutions to our economic challenges.

In addition to historic economic and fiscal challenges, Senator LEMIEUX has confronted unexpected environmental challenges. Not long after Senator LEMIEUX arrived in the Senate, our country saw one of its greatest environmental disasters of all time. For 3 months, oil gushed into the Gulf of Mexico, causing extensive damage to marine life, coastline, and commerce. Senator LEMIEUX, along with his fellow gulf coast colleagues, worked to secure Federal relief to mitigate the effects of the spill on the coastal region.

It is not easy to navigate the Federal disaster relief system, especially for a new Senator. I commend Senator LEMIEUX for his work to protect his fellow Floridians from the effects of the gulf oil spill.

Despite our political differences, I respect Senator LEMIEUX's desire to make a difference in the lives of everyday Floridians. I have appreciated the opportunity to work with Senator LEMIEUX and thank him for his service to our country.

CARTE GOODWIN

Mr. President, I rise today to recognize the accomplishments of a colleague who has left the Senate. Senator Carte Goodwin represented West Virginia admirably after the passing earlier this year of our dear friend and colleague, U.S. Senator Robert Byrd, who was the longest serving Senator in history. Senator Goodwin took the oath of office on July 20, 2010, and joined the U.S. Senate as the Chamber's youngest serving Member at the age of 36.

Senator Goodwin has led a very impressive career. After graduating from Emory University School of Law in 1999, he clerked for Judge Robert King of the U.S. Court of Appeals, Fourth Circuit. In 2000, Senator Goodwin joined the family private practice of Goodwin & Goodwin and remained there until 2005, when he became the general counsel to West Virginia Governor Joe Manchin. After serving a full term for the Governor, Senator Goodwin returned to the family private practice before being selected by Governor Manchin to temporarily fill the vacated seat of the late Senator Byrd until the November 2010 elections.

Senator Goodwin's leadership became immediately evident in the Senate as his first vote cleared the way for an important extension of unemployment benefits to help those most in need during this tough economic time. He also introduced legislation in September, the Access to Button Cell Batteries Act of 2010, to protect children against the hazards associated with swallowing button cell batteries that can be found in everything from musical greeting cards to car keys.

As chairman of the Budget Committee, it has been a pleasure to have

Senator Goodwin serve on that committee, and see first-hand his commitment and dedication to his Mountain State constituents and the country. It is no wonder that Senator Goodwin was recently named to Time Magazine's list of “40 Under 40—Rising Stars of U.S. Politics.”

Senator Goodwin is a man of outstanding integrity, who has a relentless work ethic. He has set a fine example for our Nation's young politicians to follow. He has also been a true defender of West Virginia. His compassion and conviction will be missed in the U.S. Senate. I wish Senator Goodwin and his family great success, and many happy years ahead.

ROLAND BURRIS

Mr. President, I want to take a moment to honor my colleague, Senator Roland Burris, who will be retiring from the Senate after serving 2 years.

Senator Burris has had a long and distinguished career as a public servant, both at the State and local levels. Upon graduation from Howard Law School in 1963, Senator Burris became the National Bank Examiner for the Office of the Comptroller of the Currency for the U.S. Department of the Treasury. In 1978, Senator Burris became the first African American to be elected to a statewide office when he was elected comptroller of the State of Illinois. Senator Burris continued to break barriers when elected as attorney general for the State of Illinois, becoming only the second African American ever to be elected to the office of State attorney general in the United States.

Mr. Burris was appointed to fill President Obama's open Senate seat on December 30, 2008. In his nearly 2 years in the Senate, Mr. Burris has been active on the Armed Services and Homeland Security Committees, as well as the Committee on Veterans' Affairs.

Whether it is fighting hard for Illinois' veterans or casting an important vote in favor of health care legislation, Senator Burris has done much with his limited time in the Senate. A lifelong resident of Illinois, there are very few people more invested in their State's future than Roland Burris.

As he departs the U.S. Senate and heads off to future endeavors, there is no doubt that his beloved wife Berlean and his two children, Rolanda and Roland II, will be by his side. I wish Senator Burris lots of luck and happiness in the years ahead.

ARLEN SPECTER

Mr. President, today I wish to pay tribute and recognize the achievements of a colleague who will be leaving the Senate at the end of this term. Senator ARLEN SPECTER has represented Pennsylvania in the Senate for three decades, making him the longest-serving Senator in his State's history. During his tenure, he has been an unrelenting advocate for his constituents and working-class Americans.

Senator SPECTER has had an impressive career in both the public and private sector. After graduating from the University of Pennsylvania, he served in the U.S. Air Force from 1951 to 1953. Following his service, he attended Yale Law School and worked as editor for the Yale Law School Journal. After graduating from law school, Senator SPECTER became an outstanding lawyer. As an aide to the Warren Commission, he investigated the assassination of former President John F. Kennedy. He also served as the district attorney in Philadelphia from 1966 to 1974, and practiced law as a private attorney before being elected to the U.S. Senate in 1980.

In the Senate, Senator SPECTER and I found significant common ground, as his strong sense of integrity and moderate philosophy have been key in passing some of the this institution's most important legislation. During his time in Congress, the Senator will be remembered for presiding over historic U.S. Supreme Court confirmation hearings as chairman of the Judiciary Committee. While undergoing chemotherapy for advanced Hodgkin's disease, Senator SPECTER managed the intense confirmation proceedings for Chief Justice John Roberts Jr. and Justice Samuel Alito Jr. As a senior member of the Appropriations Committee, he led the fight to increase funding for the National Institutes of Health from \$12 to \$30 billion to expand medical research to find cures for cancer, Alzheimer's, Parkinson's and other devastating and debilitating diseases. It is no wonder that Time Magazine listed him among the 10 best Senators in 2006.

ARLEN SPECTER embodies what it means to be a good Senator—integrity, a strong work ethic, courage, dedication, and being true to one's convictions. Senator SPECTER has been a real champion for Pennsylvania and this country. His compassion, independence and voice of reason will be missed in the U.S. Senate. I have appreciated the opportunity to work with Senator SPECTER, and wish him and his family the very best.

TED KAUFMAN

Mr. President, I wish today to pay tribute to my distinguished colleague, Senator Ted Kaufman. Ted has retired after just 2 years as a United States Senator. He was appointed to this position in January 2009 after Senator Joe Biden was elected as Vice President of the United States.

Ted was an obvious choice to fill Joe's well-established shoes. He has a tremendous amount of experience on Capitol Hill, and there are few who understand the inner workings of the Senate as well as he does. Before being appointed to fill Delaware's vacant Senate seat, Ted served almost 20 years as Chief of Staff for Senator Biden. This experience served him well as Ted proved himself to be a strong and effective leader for Delaware.

After only a month of Senate service, Ted introduced the Fraud Enforcement and Recovery Act, which increases the number of FBI agents and prosecutors available to prosecute individuals who committed fraud during the financial meltdown. This legislation became law May 20.

In addition, Ted has been a tireless advocate for improving regulation and safety in the financial services market to help protect Americans from another devastating economic decline as a result of loose rules and abusive banking practices. He was also a strong proponent for renewing our country's focus on science, technology, engineering, and mathematics research to help propel our country into the 21st century.

Ted also established a unique tradition during his time in the Senate. Every week, he made it a priority to honor the lifelong services of Federal employees. All too often, the hard work of these public servants goes unrecognized, and I commend Ted for his efforts to honor these men and women.

Even in retirement, Ted will continue serving the American people. He was recently named Chairman of the TARP Congressional Oversight Panel.

There are few who could make such a tangible mark on public policy in such a short time. I thank Ted for his years of service and wish him all the best in the coming years.

BYRON DORGAN

Mr. LEVIN. Mr. President, I have been honored for the past 18-plus years to serve alongside Senator BYRON DORGAN, who is preparing to leave the Senate after three distinguished terms. Senator DORGAN has been one of the most plain-spoken, energetic, and formidable forces in the U.S. Senate, and I will sorely miss his voice.

Some might, at first, see relatively little in common between more urban, industrialized Michigan and more rural, agricultural North Dakota. But Senator DORGAN and I saw eye-to-eye on issue after issue—problems that needed to be tackled, outrages that needed to be exposed.

One of those problems is tax abuse. Senator DORGAN has been one of the Senate's most stalwart and active opponents of tax cheats who rob the Treasury of billions of dollars each year, while unloading their tax burden onto the backs of honest taxpayers. He introduced legislation, commissioned key GAO reports, and fought long and hard against tax breaks that encourage U.S. companies to ship jobs offshore, set up factories in other countries, and use phony offshore companies to dodge taxes. I remember one floor fight last year in which he led a successful effort to stop legislation that would have opened the floodgates to billions of dollars that U.S. companies had hoarded offshore and wanted to bring back home without paying the same tax rate

as their competitors. I remember battles we fought to stop so-called "inverted" corporations—companies that pretend to move their headquarters offshore as a method of dodging U.S. taxes—from participating in Federal contracts. I remember joining with him to request data exposing how U.S. companies have stopped bearing their share of the tax burden. I am going to miss his iron will and sharp wit in the ongoing battles to combat tax abuse.

Senator DORGAN has also been an articulate and strenuous defender of American workers, benefitting working families not only in North Dakota and Michigan, but across the Nation. For years, he has fought for fair trade policies, insisting trade partners like South Korea and Japan, that export millions of autos to the United States, open their doors to U.S.-made autos. There may be no major auto factories in Senator DORGAN's home State, but that did not prevent him from exposing the hypocrisy and injustice of unequal market access and demanding change. I will miss his voice in the ongoing battles to pry open markets now shut to American goods.

Senator DORGAN also fought for American working families when he helped author the Creating American Jobs and Ending Offshoring Act, a bill that sought to end the tax benefits given to employers that send jobs overseas, and instead reward the companies that invest in the United States. I am hopeful that the Senate may yet see the wisdom of his legislation and enact it into law. Senator DORGAN literally wrote the book on how corporate interests and political short-sightedness are hurting U.S. workers and the U.S. economy, and the Nation will continue to benefit from his work on this issue even after he has left the Senate.

Similarly, as cochair of the Congressional-Executive Commission on China, Senator DORGAN has done much to shed light on human rights abuses in China and to illustrate how China has often failed to make good on its World Trade Organization commitments. I am a member of the commission, and my brother is Senator DORGAN's cochair, and we have both enjoyed the privilege of working with him in that forum.

Finally, Senator DORGAN has been an essential voice in the Senate on reining in the excesses of Wall Street. As chairman of the Permanent Subcommittee on Investigations, which conducted a 2-year investigation into the financial crisis, I know personally how diligent, informed, and intense his efforts were to restore sanity to the U.S. financial system. He took it upon himself to organize Senators into a force for change and reform. When lobbyists claimed banks were the victims rather than the perpetrators of the crisis, that their executives had done nothing wrong, and their multi-million paychecks were justified, Senator DORGAN

dug into the facts, educated himself on the most esoteric financial engineering, and took on the special interests. For example, he crafted an amendment to the Wall Street reform legislation to ban “naked” credit default swaps and worked with me to add my amendment banning synthetic asset-backed securities. Our joint amendment was unsuccessful, but time will show those types of high-risk, empty bets do nothing to advance the real economy and much to direct dollars into the mindless casino that plagued the U.S. financial system.

I will sorely miss Senator DORGAN’s insight and determination in the ongoing battles to rein in Wall Street excess. The people of North Dakota are rightly proud of Senator DORGAN. He is a fighter, and he never stopped fighting for them. They have benefitted greatly from Senator BYRON DORGAN’s service. The people of our Nation have benefitted. I know the working families of my State have benefitted. I want to thank him for his service, for his energy, for his diligence, for his tenacity, and for his friendship. On a personal level, Barbara and I wish him and Kim and their family the best as they embark on this new path together.

BLANCHE LINCOLN

Mr. President, over the last 210 years, many pioneers and groundbreakers have passed through this Chamber. Today, I would like to pay tribute to one such groundbreaking Senator, one who will leave the Senate at the end of this session.

When the people of Arkansas elected BLANCHE LINCOLN to represent them in the Senate in 1998, she became the youngest woman ever elected to this body. After compiling an impressive list of accomplishments after joining the Senate, she became, in 2009, the first woman to chair the Committee on Agriculture, Nutrition and Forestry. These accomplishments are just some of the highlights of an impressive career of Senate service.

Senator LINCOLN has been among the Senate’s most passionate and effective voices in combating hunger, helping found the Senate Hunger Caucus to focus attention on an issue that affects far too many Americans. And she has been a tireless advocate for the working families of America’s rural communities.

I am especially grateful for the work Senator LINCOLN has done this year in helping craft comprehensive financial reform. She was instrumental in ensuring that the bill we passed into law this year brought new transparency and safety to the largely unregulated world of derivatives trading. I know from hard experience that passing reform that Wall Street doesn’t like is, to say the least, challenging. The financial system is more secure, and the people of Arkansas and the Nation are better off, because Senator LINCOLN was willing to take on that challenge

and able to overcome it so effectively. She will long be remembered as one of the architects of financial reform.

Arkansas has given the Nation many accomplished public leaders, names such as Caraway, Fulbright, Bumpers, Pryor and Clinton. As she prepares to leave the Senate, Senator LINCOLN can proudly join that list of Arkansans who have improved the lives of those in their State and this country. I have been proud to call her a friend and a colleague, and I know that, while she is leaving the Senate, her contributions to her country are far from over.

EVAN BAYH

Mr. President, I want to take a few moments today to congratulate Senator BAYH on a productive two terms in this body, and thank him for his service, in particular as a member of the Armed Services Committee and on issues of importance to both our States.

As chairman of the Armed Services Committee, I have seen first hand the diligence Senator BAYH brought to his work on national security. He has been active on one of the greatest threats to our security, the proliferation of nuclear weapons and materials, seeking to support and extend the work of his Indiana colleague, Senator LUGAR. He has been equally effective in working, on a bipartisan basis, to pass legislation seeking to hold the government of Iran accountable for its egregious human rights abuses. And he has been active in helping the committee carry out its oversight function, bringing his thoughtful approach to his role as chairman of the our Subcommittee on Readiness and Management Support over the last 2 years. The committee, the Senate, and the American people have greatly benefitted from Senator BAYH’s efforts in these areas.

Senator BAYH represents a State that is part of America’s industrial heartland, and he has energetically sought to ensure that we pursue policies that do not damage the industrial economy. I would mention two such efforts in particular.

In 2007, Senator BAYH, along with me and other members of the Auto Caucus, worked to ensure that negotiations on a free trade agreement with South Korea addressed the unfair and unbalanced way in which automotive imports are treated in South Korea. Barriers to entry make the South Korean market essentially closed to U.S.-made vehicles, while Korean automakers have found an open lucrative market in the United States. He, like I and many others, is deeply concerned about the impact of any potential trade agreement on the auto industry, and I have been privileged to stand with him on this issue.

Senator BAYH also has been a leader in fighting against intellectual property theft by China and other nations. Manufacturers in both our States have

been harmed by the ability of foreign companies to copy their products and reproduce them in violation of international standards, and by the inability or unwillingness of other nations to combat such piracy. Along with Senator VOINOVICH, Senator BAYH in 2007 introduced the Intellectual Property Rights Enforcement Act. This legislation would be an important safeguard protecting American companies from intellectual piracy.

Whether the issue was defense of American companies’ rights or defense of our Nation, Senator EVAN BAYH has been a thoughtful, balanced and capable member of the U.S. Senate. The people of Indiana have gained much from his service. I will miss him as a colleague and a friend, and I wish him and his family the best of luck as he seeks to continue to serve his State and Nation.

BOB BENNETT

Mr. ENZI. Mr. President, it is always a bittersweet moment when the end of a session of Congress draws near and it becomes time for us to say goodbye to those of our colleagues who will be returning home at the end of the year. We know we will miss them when the next session of Congress begins not only for their many contributions to the day-to-day work of the Senate but for their friendship and the good advice they have provided to us for so long as we deliberated issue after issue on the Senate floor.

I can’t think of anyone who better fits that description than BOB BENNETT. BOB was born in Utah, a member of a family who was very active in their community and the government. BOB was therefore blessed with some great role models early on in his life. He soon found he had a talent for business and a great understanding of the needs of businesspeople all over the State and around the Nation. Because of his insights and his ability to promote his good ideas and products, he took his company from a 4-person shop in 1984 to an \$82 million company just a few years later with more than 700 newly created staff. With today’s economy we can really appreciate that—that is a lot of jobs.

From there he decided to take on the challenge of a run for the Senate. As we all know, that first run for the Senate is never easy as it takes more than the vote of a community to make it happen. You have to take your case to every corner of the entire State. That means putting a lot of miles on your car and getting to know people from every city, town, and neighborhood.

It wasn’t an easy bid for office that brought BOB to Washington. But, in the end, he proved to have what it takes to be a successful candidate. He had a vision for the future of Utah and the United States, a willingness to work hard, and a sense of humor. He took his job and the position he holds of Senator very seriously, but he was never

one to take himself too seriously. In fact, he sees his job principally in terms of what he can do to help the people of Utah who elected him.

That is why, when he arrived in Washington, he immediately established a reputation as one of the Senate's most influential and sought after conservatives. Like me, he learned at a very young age that it was better to be a workhorse than a showhorse because there is no limit to what you can do if you don't care who gets the credit. BOB never cared about getting his share of the credit; he was always too busy working on the next issue and helping to form another compromise agreement to make sure things continued to get done.

BOB has left quite a legacy of achievement during his service in the Senate and a big pair of shoes for those who will follow him to fill. The media knows him not for an assortment of catchy one liners but for his ability to provide easily understood, readily accessible explanations about what was going on in the Senate—and why. No one has a better, clearer understanding of the inner workings of the Senate than BOB does. He has been such a valued resource, in fact, that many of us have sought him out more than a time or two just to get his take on things.

One of the things I will most remember about BOB is his love of gadgets. He was the first Senator to drive a high-mileage, low-emissions, gasoline-electric hybrid car. His interest stemmed from his awareness of the importance of conserving energy and the need to pursue solutions to our transportation problems that would make good and wise use of our resources.

He was also a leader in encouraging the Senate to tackle a very thorny issue—Social Security. Social Security is a lot like the weather: we all complain about it, we all know something needs to be done about it, and we are all sure we will know the right solution when it appears magically on the Senate doorstep. That wasn't what we should do, as BOB saw it. Then again, he was never one to shy away from getting the conversation started on just about anything.

In addition, as fellow small businessmen, we both took a great interest in proposals that were offered by both sides that would have caused problems for other small businessmen who were trying to do what they do best—make a profit and create more jobs. Thanks to BOB, our small business community had a champion in the Senate who was willing to take a stand against efforts to make owning and running your own business more difficult than it already is.

Those are just a few short snippets of BOB's record and the great success he has been able to achieve for his constituents and for our great Nation. During his service in the Senate, BOB

was not only a part of our Nation's history, he helped to write a new chapter of it every day.

Before I close, I want to thank BOB for the great gift of his friendship. It has meant a great deal to me ever since that first day that Diana and I drove our van into Washington from Wyoming, unsure of what the future held for us but excited to begin this great new adventure in our lives. BOB made a difference for us from the first time we met him and Joyce, and we will always be grateful for that. We are very proud of them both and the difference they have made over the years in our lives and so many more. Thanks to their efforts together, the future will be a lot better and a more hopeful place for our children and our grandchildren.

I don't know what you have planned for the years to come, but one thing I am certain of—we haven't heard the last from you. That is a good thing. You have proven to be a great success at so many things. You have always been an important addition to our debates and deliberations, and you will be missed. It is good to know you will never be more than a phone call away.

Good luck in all your future endeavors, my friend. Keep in touch with us, and we will keep in touch with you. God bless.

EVAN BAYH

Mr. President, soon the current session of Congress will be gaveled to a close. When that happens, it will also bring to a close the Senate careers of several of our colleagues. I know we will miss them and their spirited participation in our deliberations both in committee and on the floor.

I have always said that every Member who comes to the Senate has something to teach us—a message that only they could bring. EVAN BAYH, who will be retiring at the end of this session is such an individual. I will always remember him as the young Governor who was able to serve in the Senate without losing sight of his ideals and principles both as a Hoosier and a parent and devoted and loving father.

EVAN's career in politics began after he had clerked for a judge and practiced law for a while. An opportunity presented itself for him to run for office, and he did, winning an election that made him the secretary of state at the age of 30. In just 2 years he then became the youngest Governor in the Nation. He served in that capacity for 8 years, during which he made a strong reputation for himself as someone who was able to get things done.

Then, when term limits prohibited his run for reelection, he set his sights on a Senate seat and again found success. He ran a good campaign, took his case to the people, and they liked what they heard. They also knew him and what he stood for from his previous service to the State. They knew they could send him to Washington to the

Senate, and he would champion what they believed in and fight for what was needed during his service there.

During his Senate career, you could always find him in the political center looking for a compromise agreement that would benefit everyone involved. I have always thought he would agree that it is better to get a half of the loaf than none at all, especially when the available half was the part that was needed the most.

We also agree on something else. When a Democratic win at the polls helped them to obtain control of the Senate, BAYH joined a breakfast group of Senators that was designed to get Republicans and Democrats more involved in a regular dialogue. He understood that by getting both groups to talk more and to get to know each other better in a context that was separate from our legislative duties, the Senate would be more productive and it would be easier to create and promote compromises between the two parties.

Now that EVAN's Senate career has come to a close, he will be able to do something he has always looked forward to—spend more time with his family.

In the end, I think that is one of the things that EVAN will always be known for—his great love of his own family and his understanding of the great love all of his constituents have for theirs. He believes everyone deserves their shot at the American dream, no matter their age, and the best way to do that is to be careful and cautious in our approach to any sweeping legislation and to ensure that we do everything we can so our children and grandchildren will have the same chance we have had to reach their goals and live their dreams.

Diana joins me in sending our best wishes for a happy and healthy retirement to EVAN and his wife Susan. We wish them the best. I don't know what EVAN has planned for the future, but one thing I feel certain of—we haven't heard the last from him. Good luck in all your future endeavors and in whatever you decide to do. Keep in touch.

GEORGE LEMIEUX

Mr. President, each year that brings a session of Congress to an end, it has long been a tradition for the Senate to take a moment to say goodbye to those who will not be returning in January for the beginning of the next session of Congress. One of those I know I will miss who will be heading home to Florida as his term concludes is GEORGE LEMIEUX.

It may surprise a lot of people to learn what a powerful presence GEORGE has been in the Senate. Although he did not serve a full term of 6 years, the months he has spent representing Florida have been very productive.

Simply put, GEORGE is an impressive individual who understands the importance of the work we must do to control spending in the years to come and,

if we fail to do that, the impact it will have on our Nation and our children as they try to pursue their goals and live the American dream.

GEORGE grew up in Florida and, like me, he came to Washington, D.C., for his college studies. I graduated from George Washington University, and GEORGE graduated from Georgetown University. When he returned home to begin his career, his attendance at a high school reunion proved to be a turning point in his life when he met a former classmate named Meike who soon became his wife.

Years later, when an individual of GEORGE's talents and abilities was needed to complete the Senate term of Mel Martinez, the Governor knew who would be the right person for the job—GEORGE LEMIEUX. Soon, GEORGE was on his way back to Washington, looking forward to the opportunity to use his knowledge, skills, abilities, and professional experience to serve the people of his home State.

There were some eyebrows raised when he arrived. Some people thought he wasn't the best candidate for the job. Others thought he didn't have the background necessary to be a productive Senator. It didn't take him long before he proved them all wrong.

GEORGE not only hit the ground running, but he proved to be a natural and effective legislator. I don't think I have ever seen anyone who has had such an impact on the Senate after such a short time in office.

Over the past months, GEORGE has not only fulfilled his duties as a Senator, he has taken them to another level as he came up with good ideas for legislation, especially on the need to control spending and reduce the deficit which he has referred to as the "single greatest threat" to our future and the prosperity of our people.

That is the kind of Senator that GEORGE has been—strong, spirited, focused, and determined to speak out about the consequences that will come from not being good stewards of our Nation's financial resources. His concern about our debt and the world we will leave behind for our children and grandchildren means even more to him today now that his Washington experience includes the addition of a fourth child—his first daughter.

I don't know what the future holds for you, GEORGE, but I do know that we will all be watching with great interest and expectation. You have already established a reputation for hard work that has earned you the friendship of your colleagues on both sides of the aisle. Whatever you decide to do, I am sure you know you can count on us to support and encourage you as you begin the next great adventure of your life. I am hoping it will be as the elected Senator from Florida. You can certainly run on experience. You have done more in months than some do in a career.

Diana joins in sending our best wishes to you and Meike. You have made a difference in just a few months, and we are sure there is more to come. Keep in touch when you return home. We will always be pleased to hear from you with your thoughts and suggestions about the legislation being considered by the Senate and what we can do to make it better.

TED KAUFMAN

Mr. President, soon the gavel will bring to a close this session of Congress, and many of us will return home to be with our families for the holidays. Before we leave, it is one of the Senate's traditions to say a few words to express our appreciation to those who will no longer be serving in the Senate when we reconvene for the next session of Congress in January. One Senator I know I will miss in the months to come is Ted Kaufman.

Ted isn't one of those who followed the typical road to the Senate. He came to be a part of our work after first making career stops as a college instructor, a political consultant, and a chief of staff for JOE BIDEN, whose seat he was appointed to fill when Senator BIDEN became our Nation's Vice President.

Each stop along the way provided Ted with a different perspective about government and its effect on the people it was created to serve. The different roles he has played and his knowledge of and experience with the workings of the Senate made him a good choice to serve the remainder of JOE BIDEN's Senate term. When the Governor made the appointment, she cited Ted's knowledge of the Senate which he gained during his many years of service here that she believed would enable him to hit the ground running and be an "effective Senator for Delaware from day one." She was right on both counts.

Ted is one of only two Senators who holds a degree in engineering. Just as I have found being the Senate's only accountant has helped me during our debates on the budget and how to handle the deficit, Ted's understanding and appreciation of the sciences have given him some valuable insights into the importance of moving science and technology careers "back in their rightful place in our economy."

As the ranking member of the Committee on Health, Education, Labor, and Pensions, I share his concern about the need to encourage our young people to take a closer look at those fields and consider a career in one of them. Unless they do, we will continue to fall further and further behind in the number of science students we graduate. That will have an impact on our place in the world economy and our ability to attract the kind of jobs that will enable our workers to find jobs that are both challenging and rewarding.

Although I do not know what the future holds for Ted as he leaves the Sen-

ate, I do know that he has taught in the past about government and the process of governing. His experience as a Senator would add a vital dimension to another round of those classes. I hope he considers sharing what he has learned with the next generation of our leaders—and help to groom our future Senators. It will be yet another way for him to make a difference in the world.

Good luck, Ted. Thanks for your willingness to serve. You can be very proud of the contribution you have made to the Senate and to the history of our country. Every day another chapter of our history is written in our Nation's Capitol and, as one of only 100 Senators, you have played a key role in that effort that has now been recorded and will not be forgotten.

Our thanks also go to your wife Lynne, who has been a part of this and all your life's adventures. As we both know so well, serving in the Senate means a lot of late nights, trips back home with little notice, and a lot of other things we have to deal with because they come with the job. Fortunately our wives never complain because we could never do what we have to do without them. While I am thanking you for your service, I think Lynne also deserves a word of recognition for all she has done over the years to support your efforts. Together, you are a remarkable team, and that is why Delaware is so proud to claim both of you as their own.

ROLAND BURRIS

Mr. President, soon the gavel will bring to a close this session of Congress, and many of us will return home to be with our families for the holidays. Before we leave, it is one of the Senate's traditions to say goodbye to those who will not be with us when we reconvene for the next session of Congress in January. One Senator I know I will miss in the months to come is Roland Burris.

Roland is quite a remarkable individual—a man of many firsts who has never been one to shy away from any challenge. He was the first African American to win a statewide election in Illinois, for example, and for the past months he has been serving the people of that State as their Senator.

Through the years, Roland has had a wide and varied career. He has been a lawyer, a lobbyist, a college instructor, the director of a civil rights nonprofit, a bank executive, and so much more. He has a great understanding of how government works from many different perspectives, and that knowledge has helped him to make an important contribution to the work of the Senate every day.

One aspect of his character I will always remember is his great love of God and his willingness to share so much of himself and his faith in our Senate Prayer Breakfasts. He has always had something important to say, a word or

an insight that had not been mentioned until he spoke and added something that needed to be said by him—and heard by us.

I am always amazed to discover that no matter how many times I have read or reflected on a passage in the Bible, there is always someone who is able to offer a fresh insight, a new approach to the text that I had never heard or considered before. That is what made Roland such an important part of our Senate Prayer Breakfasts. On many occasions he was able to offer a personal perspective on the Bible that was gained from his unique life experience. His heartfelt dedication to the words of the Bible meant a great deal to me and to all those in attendance. Through these past 2 years, I have enjoyed listening to him speak about his faith and the source of strength and support it has been for him throughout his life.

Now Roland will be returning home to Illinois in search of another mountain to climb, another adventure to enjoy. I have no idea what the future holds for him, but if his past is any indication, we haven't heard the last from him. He has always been a trail-blazer in a number of fields, and I am certain he will continue to be all of that—and much, much more.

Diana and I send our best wishes to Roland, his wife Berlean, and their children. Thank you for your willingness to serve. Life in the Senate has never been easy, and you have handled its pressures very well. God bless.

JIM BUNNING

Mr. President, it is always a bitter-sweet moment when we come to the end of a session of Congress. As the clock winds down on the final hours of our legislative activities, it also signals the time when several of our colleagues will be retiring and ending their years of service in the U.S. Senate. One of our colleagues who will be leaving at the end of this session is my good friend JIM BUNNING of Kentucky. I know we will all miss him, his spirited presence in the Senate and the friendship he has shared with us through the years.

Someday when he gets the urge I have no doubt that JIM will be able to write another book or two about his life that will sell countless copies all over the country. It can't miss. JIM has a truly remarkable story to tell about his life that has all the makings of a best seller. An old adage reminds us that it isn't the number of years in your life that is important, it is the life in your years. If that is the standard we are going to use, I can't think of anyone who has been able to fit more into every day of his life than JIM and I for one would enjoy reading all about it. This time JIM might think about writing about how playing baseball was a lot like politics—and how the bean balls he used to throw at batters became verbal fast balls that came with

lightning speed right at other Senators and members of the media.

I would imagine the first volume of this new series would be about JIM's years in baseball. There is definitely a lot still to be written about his Hall of Fame career and the outstanding results he was able to achieve that kept him in the Major Leagues for so many years.

JIM's 17 year career in baseball began when he broke into the big leagues on July 20, 1955 with his first team, the Detroit Tigers. In the years that followed, he pitched for the Philadelphia Phillies, the Pittsburgh Pirates and the Los Angeles Dodgers, notching 100 wins and 1,000 strikeouts in both the American and National Leagues. When he retired he had the second highest number of career strikeouts in the history of major league baseball and two no-hitters, one of them the seventh perfect game in baseball history that he pitched on June 21, 1964—Father's Day—which made the game that much more meaningful for him. He was then inducted into the Baseball Hall of Fame in 1996.

For anyone else that would have been enough. A Hall of Fame career, after all, is the kind of thing that most people can only dream about—but JIM was never one to be like most people. He had another career in mind, and it was time to get started on his other dream—making government work better for the people of Kentucky.

Soon after he first tossed his cap into the political arena, JIM won an election to serve on the city council in Fort Thomas. He then ran for and won a seat in the Kentucky State Senate where he soon came to serve as its Republican leader. Then, when the opportunity presented itself, JIM ran for and won an election to the U.S. House of Representatives, where he served for 12 years.

Fortunately, for the people of Kentucky and the Senate, JIM then ran for and won a seat in the Senate. At every level, it was JIM's willingness to work hard and his commitment to his country and his beloved Kentucky that not only got him noticed, but helped him to make progress on all fronts.

Here in the Senate, JIM became the first Kentuckian in nearly 40 years to serve on the Finance Committee. He also served on the Banking Committee, chaired that committee's Economic Policy Subcommittee, and then served on the Energy Committee which gave him a chance to work to make our Nation more energy independent.

At every post he has held he has been a fighter—for a sound budget, one that would provide the funds that were needed for our national priorities, like our Armed Forces—especially those who were serving overseas. For 12 years in the House and 12 years in the Senate, JIM held true to the values and principles that had guided his life and

served as his inner compass through all of his life's challenges and opportunities.

JIM has had more great moments in his life than most other people could ever hope for. He has his victories on the mound during a Hall of Fame career to look back on. He had all those wins on election day to remember with pride. Still, there was one moment that still stands head and shoulders above them all—his marriage. That day when Mary said "I do" was the best moment of his life. She is a strong source of support for him and I am sure he has already said that whatever success has come into his life he owes to a large degree to Mary. Theirs has been a remarkable marriage, during which they raised nine children who have blessed them with an abundance of grandchildren and some great grandchildren, too.

Just like the title of the movie so many of us enjoy during this time of year JIM is having a wonderful life. Each day, each week, each month and every year, he's played a full and active role in his community and his nation. As a baseball player he proved to be one of the best there ever was. As a Senator and a Representative, he showed a willingness to bring that same determination that had won him so many games on the mound to our deliberations on the Senate floor.

I don't know what JIM is thinking of taking on next—but given his legacy of excellence that he continues to add to every day, I wouldn't be surprised to learn we haven't heard the last from him. That would suit me and so many who know him just fine. His is a voice that is still needed.

That is why, in the months to come I hope I continue to hear from him with his thoughtful ideas and suggestions about the issues we will be taking up in the current Congress. I will miss hearing what he has to say—but if I know JIM—I have a hunch he will make his views known.

Thanks, JIM, for your willingness to serve the people of Kentucky and the Nation. With both careers you have inspired countless people of all ages to pursue their goals and work to make their dreams a reality. Thanks most of all for your friendship. Diana and I wish you and Mary all the best that life has to offer. You have earned all of that and so much more. For all your life you have been leading the best way—by example—and living a life that has been nothing short of a great and grand adventure—just what life was always meant to be.

SAM BROWNBACK

Mr. President, if I could sum up the service of SAM BROWNBACK in the Senate in just a few words, I would choose a phrase that is very familiar to the people of Wyoming and the West. SAM is an individual who says what he means and means what he says. That is

why when he made a promise that he would step down after he had served 2 full terms in the Senate—he did it.

Fortunately, as the classic old film reminds us, whenever a door is closed, somewhere, God opens a window and that window was SAM's opportunity to run for Governor. Now that he has been elected, the Senate's loss will be Kansas' gain as the people of that State will have the benefit of his leadership for many years to come.

Here in the Senate, SAM followed a philosophy he calls "pro-life, whole life." Simply put that means that the great respect we have for life doesn't end at birth, it continues throughout. If it sounds familiar I believe that is what our Founding Fathers meant when they spoke of "life, liberty and the pursuit of happiness" as the great gifts that are given to us by our Creator that can never be taken away from us.

Throughout the years, SAM has followed that philosophy wherever it has taken him as he has worked to support legislative initiatives that seemed to clearly follow from it. That is why you would find him working with members on both sides of the aisle to reach out to "everybody on the planet" who was in need "everywhere on the planet" they could be found.

Looking back, there is so much that SAM has accomplished that should serve as a great source of pride for him, his staff and the people of Kansas. He has taken a consistent stand for human rights whenever he was called to do so and this is another reason why his is a voice that will be missed in the Senate in the months to come.

Through the years, I have never met anyone who had a stronger or more firmly aligned inner compass when it comes to doing what is right because it is right than SAM. In everything he does, his faith and his relationship with God have served to direct his efforts. That heartfelt approach of his has helped to keep his work in perfect alignment with his core values and the thinking of the people of Kansas who sent him to Washington to do what he thought was best to protect and preserve the American dream and keep it available for generations to come.

SAM is someone we will always remember for the things he did and how well he did them. He is a natural leader who leads with actions—not words because he knows that is the only way to get the important things done—and done quickly.

That philosophy showed itself in things like SAM's work to address the needs of the people of Africa. He did not have to do it—but because he did, countless lives were saved. If you asked him why he was working so hard to make a difference in a nation so far from home, he would probably say that is just another example of his philosophy that the whole world is his back-

yard and everyone, everywhere is his neighbor.

I am certain that SAM is very familiar with the Parable from the Bible in which the Master expresses his appreciation for the good work of his servant. "Well done, my good and faithful servant. Since you were faithful in small matters, I will give you great responsibilities."

I mention that because SAM has done so very well in the Senate, it is as if the people of Kansas have now placed him in charge of great responsibilities as their Governor. I have no doubt that he is the right person at the right time for this difficult job the people of his State have now entrusted to his care.

SAM has often told the story about a comment that was made to him by an older gentleman as he traveled throughout the State, listening to voters at the end of his campaign for Governor. The message he heard from this one voter was simple but it spoke volumes. "Be a good governor," was all he said. It's good advice but easier expressed than done. Still, I have no doubt in the years to come SAM will be all of that and so much more.

Diana joins in sending our best wishes to SAM and his special wife Mary. Together they make up a remarkable team and they can and should be very proud of all they have accomplished together.

Thank you for your willingness to serve and most of all, thanks for your friendship. Although you won't be with us in the Senate Chamber next year, you will be just down the road in the Governor's office in Kansas. I hope you continue to let your thoughts and suggestions be known as we take up those issues that were such a source of great interest—and action—during your service here. Good luck in the months to come as you take on this new and very difficult challenge in your life. God bless.

ARLEN SPECTER

Mr. President, soon the current session of Congress will be gaveled to a close. When that happens it will also bring to an end the Senate careers of several of our colleagues. I know we will miss them and the contributions they have made over the years to the debates and deliberations they have participated in on the Senate floor and in committee.

In the years to come I know I will miss ARLEN SPECTER. He has been such a strong and active presence in the Senate for so many years and in so many ways the coming session of Congress won't be the same without him.

His long and varied history as a public servant really began to take shape when he was asked to bring his skills and abilities to the Warren Commission's investigation of the circumstances surrounding the death of President John F. Kennedy. It was a difficult and challenging job, but

ARLEN proved to be well up to the task. After studying and surveying the evidence surrounding the President's murder, ARLEN developed the "single bullet theory" that proved to be the key to the case that helped to explain what happened that day.

In the years soon after, ARLEN's understanding of the law and all the technicalities and the countless details that surround it made him an ideal candidate for the position of district attorney. In 1965 he ran for the position in Philadelphia and served there for 8 years.

I have always believed that every life is a mixture of both success and disappointment. How we handle them both defines to a great extent the quality of our lives.

That is why ARLEN's unsuccessful reelection bid and a few disappointments after that may have slowed him down—but it didn't stop him. It was just a few years later that ARLEN would run a successful campaign for the Senate. It was here that ARLEN really found his niche as he was soon in the middle of a number of high profile battles in the Judiciary Committee that won him the notice of his colleagues for his in-depth knowledge of Senate procedure, the law and our Constitution.

ARLEN's reputation as a warrior has stayed with him over the years as he has faced a number of challenges in committee and on the floor—as well as a number of very difficult health issues in his life. He fought them all with the same strength and heartfelt determination that would make any fighter from Philadelphia proud.

Although ARLEN credits his successful return to health to his enjoyment of squash, a difficult sport that he says kept him strong and healthy enough to make it through each health crisis he faced, I credit his good health to his strong Philadelphia roots.

As ARLEN wrote in his book "Never Give In," the key to so much of life is to "keep working and keep fighting." That is the only way to ensure you will continue to make progress—or at least—make your presence felt in the war you are waging. That is how ARLEN has lived his life as he has pursued each goal he set his sights on. In the end, as he wrote in his book "The tougher the battle, the sweeter the victory."

ARLEN has now served five terms for a total of 30 years in the Senate. He has survived countless battles at the ballot box and a wealth of health issues that would have convinced a lesser individual that the time had come to take it easy for a while. Not ARLEN, however. He has always been someone who fought with all his heart for the things he believed in and as a result, he has known the sweetness of victory many, many times in his life.

ARLEN is not only the longest serving Senator in Pennsylvania's history he is also one of the most productive. He has

left a remarkable legacy and shoes that will be very difficult for any future Pennsylvania Senator to fill. Together with his wife Joan they have been a team that has made a difference throughout their home state of Pennsylvania and the Nation.

Thanks, ARLEN, for your willingness to serve the people of your home State for so long and so well. Diana joins in sending our best wishes and our appreciation for your friendship to you both. I hope you will keep in touch with me and with all your colleagues in the years to come. Good luck. God bless.

BLANCHE LINCOLN

Mr. President, the final gavel will soon bring to a close the 111th Session of Congress. When it does, we will all return home to spend time with our friends and families to celebrate the holidays. We will also have a chance to meet with our constituents as we prepare for the challenges the New Year and a new session of Congress will bring.

Before all of that occurs, we will have to say goodbye to several of our colleagues who will be returning home at the end of the year. We will miss them and the important presence they have been in our lives and our work over the past few years. One such Senator I know we will miss is BLANCHE LINCOLN who will be returning home to her beloved Arkansas.

During her service in the House and the Senate, BLANCHE was known for being one of the strongest voices for rural America. She understands that what works well in the big cities and towns back East doesn't always work so well in rural areas—like those in her State and mine.

BLANCHE came by her knowledge and understanding of the difficulties and challenges inherent in rural life from the days of her childhood. She comes from a family that for seven generations has farmed rice, wheat, soybeans and cotton. She may be the only Senator who has walked a rice levee.

BLANCHE is a woman of great faith, and she is very open about her personal relationship with Jesus Christ. "When I talk to Him," she said, "it's pretty informal. I just lay it out there and say it like it is." That is the kind of straight talk that the people she represents found so appealing. Simply put, what life is like on a daily basis for them has been the same for her.

Although she takes great pride in her title as Senator, she has another that means just as much if not more to her—she's the mother of twin boys. She works hard at both jobs—raising her family and making sure she is prepared for every issue that comes to the floor.

Because she was raised on a farm she has a great interest in what can be done to help support the farming community of Arkansas and the rest of the United States. That is what made her such an important part of the effort to

draft a major farm policy overhaul. She was no stranger to the issue, having served as a subcommittee chair on agriculture. She did such a good job with those issues she was honored for her efforts with a "Golden Plow" award from the American Farm Bureau Federation.

Her support for farmers across the country and her willingness to work in a bipartisan fashion to forge workable solutions to difficult problems reflect the kind of principles that have helped to guide and direct her during her service in the Senate and throughout her life. Another is the importance of family—her own—and families just like hers all over the country.

Those aren't just my observations—they are common knowledge back in Arkansas. When BLANCHE won a seat in the House of Representatives everyone was certain that the sky was the limit for her. After she had served for 2 terms; however, she decided not to run for another when she learned she would soon be giving birth to twins. She decided to return home so she could take care of her family while she waited for another opportunity to serve the people of Arkansas to present itself—which is exactly what happened.

As her twins began to grow up, she was able to return to politics. She made a run for Dale Bumpers' seat when he retired and was elected by a margin of 13 percent. Her victory made her the youngest woman ever elected to the Senate, an expression of the great confidence and trust the people of her State had in her.

For 12 years BLANCHE has worn the title of Senator with great pride not for her accomplishment, which was historic, but for the opportunity it gave her to make the world a better place for the people of Arkansas, the people of rural America, the citizens of our great Nation and, of course, for those twins of hers.

I do not know what BLANCHE has planned for the days to come but I think I can predict with safety and certainty that we haven't heard the last from her—and that is a good thing.

Keep in touch, BLANCHE. We will always be pleased to learn what you are doing and your thoughts on the latest issues before the Senate. Diana and I send our best wishes to you and all your family. God bless and keep all of you.

HONORING OUR ARMED FORCES

DANIEL EDWARD DUEFIELD

Mrs. SHAHEEN. Mr. President, it is with a heavy heart that I rise today to honor the life of a young veteran, Daniel Edward Duefield, who died at the age of 24 on November 17 at his home in Grafton, NH. A veteran of the Iraq war, Daniel served his country on two tours of duty as a member of the 10th Mountain Division in the U.S. Army.

A native of New Hampshire, Daniel was born in Franklin on December 14, 1985. He attended Mascoma Valley Regional Schools and graduated from Mascoma Valley Regional High School in June 2004. From playing video games with his nephew, Josh, to relaxing on a fishing trip, Daniel enjoyed spending time with family and friends.

He also felt a deep and abiding love for his country, enlisting in the Army in June 2005. Daniel graduated from Army basic training in Fort Benning, GA, and joined the 10th Mountain Division out of Fort Drum, NY. He was excited to have the opportunity to protect his country and family and succeeded in doing so throughout his service until he was honorably discharged in July 2008. The American people will forever be grateful to Daniel for his willingness to serve.

Daniel was a true patriot whose service to his country and family will endure in our memories. No words can lessen the pain of losing this young hero and brave New Hampshire son. It is now up to us to honor him by continuing to improve the support we provide to our veterans and their families and ensuring America's continued security.

Daniel is survived by his parents, Harold "Duffy" E. Duefield III and Ruth E. Duefield of Grafton, NH; his fiancé, Alicia Vasquez of Grafton, NH; his grandfather, Harold E. Duefield, Jr., and extended family. This young patriot will be dearly missed.

I ask my colleagues and all Americans to join me in honoring the life of Daniel Edward Duefield.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, this morning, both the New York Times and the Washington Post published strong editorials condemning the delays in Senate consideration of the President's nominees. The Washington Post wrote about the extraordinary and damaging treatment of Jim Cole, who is nominated to serve as the No. 2 official at the Justice Department, a position with extensive responsibilities for national security and law enforcement. The New York Times wrote about the across-the-board objections to Senate consideration of judicial nominees, including dozens who have been reported without opposition by all Republicans and Democrats on the Judiciary Committee.

Two weeks ago, I came to the floor and asked unanimous consent that the Senate consider the long-pending nomination of Jim Cole to be the Deputy Attorney General, and that the Senate schedule for debate and a vote without further delay. Senator SESSIONS objected to my request and we continue to be prevented from acting on this critical national security nomination.

I will ask consent to have printed in the RECORD at the conclusion of my

statement today's editorial from the Washington Post entitled, "An Unacceptable Delay." The editorial notes:

James M. Cole appeared well on his way in July to filling the important No. 2 slot at the Justice Department after earning a favorable vote from the Senate Judiciary Committee.

But the full Senate has yet to vote on Mr. Cole's nomination to what is essentially the post of chief operating officer of the mammoth department. The five months between committee and floor vote appear to be the longest delay endured by any deputy attorney general nominee.

The slow crawl comes courtesy of some Senate Republicans who question Mr. Cole's approach to terrorism cases and his role as an independent monitor for struggling financial giant American International Group (AIG). These concerns should not derail Mr. Cole's confirmation—and they certainly should not be used to block a vote.

Mr. Cole's nomination has been pending on the Senate's Executive Calendar since it was reported favorably by the Judiciary Committee in July. Those continuing to block this nomination from debate and a vote are wrong. As the editorial observes: "There is no suggestion that Mr. Cole suffers from the kind of ethical or legal problems that would disqualify a nominee." If Senators disagree, they are free to vote against the nomination. But it is long past the time to end the stalling.

I noted 2 weeks ago that the letter from eight former Deputy Attorneys General of the United States who served in the administrations of President Reagan, President George H.W. Bush, President Clinton, President George W. Bush, as well as the current administration, correctly observed that "the Deputy is also a key member of the president's national security team, a function that has grown in importance and complexity in the years since the terror attacks of September 11." They are right. This is a dangerous game that partisans are playing in stalling this important nomination in what is really an unprecedented way.

Mr. Cole's nomination has been pending five times longer than the longest-pending Deputy Attorney General nomination in the last 20 years. All four of the Deputy Attorneys General who served under President Bush were confirmed by the Senate by voice vote an average of 21 days after they were reported by the Judiciary Committee. In fact, we confirmed President Bush's first nomination to be Deputy Attorney General the day it was reported by the committee. We treated those nominations of President Bush with the "enormous deference in executive branch appointments" that the Post editorial today states that every President deserves.

Jim Cole served as a career prosecutor at the Justice Department for a dozen years, and has a well-deserved reputation for fairness, integrity and toughness. As he demonstrated during his confirmation hearing months ago,

he understands the issues of crime and national security that are at the center of the Deputy Attorney General's job. Nothing suggests that he will be anything other than a steadfast defender of America's safety and security. His critics are wrong about Jim Cole's approach to terrorism. He has testified strongly that the President should use every power and weapon and tool he possesses in this fight.

His critics are also wrong to try to blame him for the actions of AIG. His role was limited to a monitor of other corporate functions and there is no showing he did not perform his assignment well. In fact, former Republican Senator Jack Danforth introduced him to the committee and gave him a strong endorsement. Let us hold those responsible at AIG accountable. Those who disagree are free to vote against the nomination of this good man if they choose, but they should end the holds and the stalling and let the Senate decide whether to consent to this nomination. As today's editorial concludes, "have the decency to hold a floor vote and give him a thumbs down." I am confident that when allowed a vote, he will be confirmed. He should be confirmed with bipartisan support and that vote should have been taken months ago. The months of delay of this nomination have been unnecessary, debilitating and wrong.

I urge those Senators who are objecting to debate and a vote to turn away from their destructive approach so that we can consider and confirm Jim Cole immediately and he can finally begin his important work to help protect the American people.

For over a year now, I have been urging all Senators, Democrats and Republicans, to join together to take action to end the crisis of skyrocketing judicial vacancies now threatening the ability of Federal courts throughout the country to administer justice for the American people. That has not happened. I have asked that we return to longstanding practices that the Senate used to follow when considering nominations from Presidents of both parties. This has not happened. As a result, 38 judicial nominations that have been favorably reported by the Judiciary Committee continue to be stalled without final Senate action on the Senate's Executive Calendar.

I will ask consent to have printed in the RECORD at the end of my statement today's editorial from The New York Times entitled "Advise and Obstruct." It rightly calls for an end to the across-the-board obstruction of President Obama's judicial nominations. The editorial notes that the Senate has been blocked from considering a single judicial nomination since September 13. In fact, the Senate has only considered five Federal circuit and district court nominations since the Fourth of July recess. Of the 80 judicial nominations

reported by the Judiciary Committee and sent to the Senate for final action in order to fill Federal circuit and district court vacancies, only 41 have been considered. That is a historically low number and percentage. Meanwhile, dozens of judicial nominees with well-established qualifications and the support of their home state Senators from both parties have been ready and kept waiting for Senate consideration all year.

The editorial also points to the high costs of obstruction "at a time when an uncommonly high number of judicial vacancies is threatening the sound functioning of the nation's courts." The editorial is right. The vacancies on the Federal courts around the country have doubled over the last 2 years and now are at the historically high level of 111. Fifty-two of these vacancies are deemed judicial emergency vacancies by the nonpartisan Administrative Office of the U.S. Courts. The Senate has received letters from courts around the country calling for help to address their crushing caseloads, including letters from the Chief Judges of the Ninth Circuit Court of Appeals and the U.S. District Courts in California, Colorado, Illinois and the District of Columbia. They have pleaded with us to end the blockade and confirm judges to fill vacancies in their courts.

The Times editorial accurately portrays a grim picture of where we are in considering these nominations and also points the way forward:

At this point, the Senate has approved 41—barely half—of President Obama's federal and district court nominees reported by the Judiciary Committee. Compare that with the first two years of the George W. Bush administration when the Senate approved all 100 of the judicial nominations approved by the committee. The final days of the lame-duck session are a chance to significantly improve on this dismal record and to lift the judicial confirmation process out of the partisan muck.

The editorial calls for a vote on all 38 judicial nominations awaiting final action by the Senate. I agree and have been calling for votes on all of these nominations. We should do as we did during President Bush's first 2 years in office and consider every judicial nomination favorably reported by the Senate. During those two years the Judiciary Committee favorably reported 100 judicial nominations and the Senate confirmed every one of them, including controversial circuit court nominations reported during the lameduck session in 2002. In contrast, we have during President Obama's first 2 years favorably reported 80 circuit and district court nominations, but considered only 41, barely half.

I have been trying to end this obstruction, yet it continues. Agreements to debate and consider nominations have been sought repeatedly, but the Republican leadership has objected time and time again.

Of the 38 judicial nominations currently stalled on the Executive Calendar, 29 of them were reported unanimously, without a single negative vote from the 19 Republican and Democratic members of the committee. Another three were reported with strong bipartisan support and only a small number of no votes. Of these 32 bipartisan, consensus nominees, 17 of them were nominated to fill judicial emergency vacancies. They should all have been confirmed within days of being reported, not obstructed with weeks and months of delay. It will be a travesty if they are not all confirmed before the 111th Congress adjourns.

These consensus nominees include six unanimously reported circuit court nominees, and another circuit court nominee supported by 17 of the 19 Senators on the Judiciary Committee. The nomination of Judge Albert Diaz of North Carolina, a respected and experienced jurist who served in the Armed Forces, for a judicial emergency vacancy on the Fourth Circuit has been stalled for 11 months despite the support of his home state Senators from both parties. Judge Ray Lohier of New York would fill one of the four current vacancies on the U.S. Court of Appeals for the Second Circuit. He is another former prosecutor with support from both sides of the aisle. His confirmation has been stalled for no good reason for more than seven months. Scott Matheson is a nominee from Utah supported by Senator HATCH; he was reported without opposition over 6 months ago. Mary Murguia, a nominee from Arizona supported by Senator KYL, was reported without opposition over 4 months ago. Judge Kathleen O'Malley of Ohio is nominated to the Federal Circuit and was reported without opposition nearly 3 months ago. Justice James Graves of Mississippi, whose nomination has the strong support of his home State Republican Senators, was reported unanimously to serve on the Fifth Circuit. Also pending is a seventh consensus circuit court nomination, Susan Carney of Connecticut, who was reported with strong bipartisan support to fill another judicial emergency vacancy on the Second Circuit.

The nominees currently being blocked from consideration also include 30 district court nominations, some reported as long ago as February. The Republican blockade of these nominations is a dramatic departure from the traditional practice of considering them expeditiously and with deference to the home State Senators. These 30 district court nominees include 23 nominees reported unanimously by the Judiciary Committee. Fifteen of these nominations are for seats designated as judicial emergencies. All of these nominees have well established qualifications and are at the top of the legal community in

their home states. All have put their lives and practices on hold in an attempt to serve their country and their community. There is no cause for continuing to block the Senate from considering their nominations and no precedent for extending these delays further.

In addition, I have urged for many months that the Senate debate and a vote on those few nominees that Republican Senators decided to oppose in committee. These nominees include Benita Pearson of Ohio, William Martinez of Colorado, Louis Butler of Wisconsin, Edward Chen of California, John McConnell of Rhode Island, and Goodwin Liu of California. As I have said before, I have reviewed their records and considered their character, background and qualifications. I have heard the criticisms of the Republican Senators on the Judiciary Committee as they have voted against this handful of nominees. I disagree, and believe the Senate would vote, as I have, to confirm them. Each of these nominees have been reported favorably by the Judiciary Committee, several of them two or three times, and each deserves an up-or-down vote. That they will not be conservative activist judges should not disqualify them from consideration by the Senate or serving on the bench.

All 38 of these judicial nominations should have an up-or-down vote, just as all 100 of President Bush's judicial nominations reported by the committee in his first 2 years had a vote in the Senate. Even if Republican Senators will not follow our example and treat President Obama's nominees as we treated President Bush's, even if they will not abide by the Golden Rule, they should at least listen to their own statements from just a few years ago. They said that every judicial nomination reported by the Senate Judiciary Committee was entitled to an up-or-down vote. They spoke then about the constitutional duty of the Senate to consider every judicial nomination. The Constitution has not changed; it has not been amended. The change from the days in which they made those statements is that the American people elected a new President and he is making the nominations. In fact, President Obama has reached out and worked with Senators from both sides of the aisle. We have not sought to proceed on one of his judicial nominees without the support of both home State Senators.

Time is running out in this Congress to turn away from the disastrous strategy of blocking nominations across the board. It is time to return to the Senate's longstanding traditions and reject this obstruction. The Federal courts and the American people who depend on the courts for justice are suffering.

Today, December 15, is the anniversary of the ratification of the Bill of Rights, the first 10 amendments to the

Constitution of the United States. Let us renew our commitment to the Constitution, to our Bill of Rights, and to our liberty by turning away from the destructive partisanship that has delayed Senate consideration of these nominations. Let us act in the spirit of the Founders, in the spirit of the season, and move forward together to consider and vote on these important nominations of a Deputy Attorney General and U.S. judges.

Mr. President, I ask unanimous consent to have printed in the RECORD the articles to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 15, 2010]

AN UNACCEPTABLE DELAY

James M. Cole appeared well on his way in July to filling the important No. 2 slot at the Justice Department after earning a favorable vote from the Senate Judiciary Committee.

But the full Senate has yet to vote on Mr. Cole's nomination to what is essentially the post of chief operating officer of the mammoth department. The five months between committee and floor vote appear to be the longest delay endured by any deputy attorney general nominee.

The slow crawl comes courtesy of some Senate Republicans who question Mr. Cole's approach to terrorism cases and his role as an independent monitor for struggling financial giant American International Group (AIG). These concerns should not derail Mr. Cole's confirmation—and they certainly should not be used to block a vote.

Mr. Cole, who is in private practice and spent some 13 years in the Justice Department, criticized the Bush administration in a 2002 opinion piece in *Legal Times* for some of its post-Sept. 11, 2001, tactics, including the use of "military tribunals to try noncitizens for terrorist crimes." Sen. Jeff Sessions (R-Ala.), ranking member on the Senate Judiciary Committee, condemned Mr. Cole for labeling the attack a crime rather than an act of war; he also questioned the wisdom of embracing "a law enforcement approach."

"You capture enemies. You arrest criminals," Mr. Sessions said during the confirmation hearings. Mr. Cole said he believes that recently reconstituted military commissions are a legitimate option, but he rightly refused to rule out federal court prosecutions for some suspects—an approach that mirrors that of the president and the attorney general.

Some Republicans also are troubled by Mr. Cole's work, starting in 2006, as a special monitor for AIG. Mr. Cole made several suggestions about needed improvements in AIG's business practices, but he appears not to have addressed the risky and unregulated credit default swaps that led to AIG's collapse and subsequent government bailout because they were not part of his portfolio.

The president deserves enormous deference in executive branch appointments. There is no suggestion that Mr. Cole suffers from the kind of ethical or legal problems that would disqualify a nominee. If Republicans nevertheless find Mr. Cole unacceptable, they should have the decency to hold a floor vote and give him a thumbs down.

[From the New York Times, Dec. 14, 2010]

ADVISE AND OBSTRUCT

The Senate's power to advise and consent on federal judicial nominations was intended

as a check against sorely deficient presidential choices. It is not a license to exercise partisan influence over these vital jobs by blocking confirmation of entire slates of well-qualified nominees offered by a president of the opposite party.

Nevertheless, at a time when an uncommonly high number of judicial vacancies is threatening the sound functioning of the nation's courts, Senate Republicans are persisting in playing an obstructionist game. (These, by the way, are the same Senate Republicans who threatened to ban filibusters if they did not get an up-or-down vote on every one of President George W. Bush's nominees, including some highly problematic ones.)

Because of Republican delaying tactics, qualified Obama nominees who have been reported out of the Judiciary Committee have been consigned to spend needless weeks and months in limbo, waiting for a vote from the full Senate.

Senate Republicans seek to pin blame for the abysmal pace of filling judicial vacancies on President Obama's slowness in making nominations. And, no question, Mr. Obama's laggard performance in this sphere is a contributing factor. Currently, there are 50 circuit and district court vacancies for which Obama has made no nomination. But that hardly explains away the Republicans' pattern of delay over the past two years on existing nominees, or the fact that Senate Republicans have consented to a vote on only a single judicial nomination since Congress returned from its August recess.

At this point, the Senate has approved 41—barely half—of President Obama's federal and district court nominees reported by the Judiciary Committee. Compare that with the first two years of the George W. Bush administration when the Senate approved all 100 of the judicial nominations approved by the committee. The final days of the lame-duck session are a chance to significantly improve on this dismal record and to lift the judicial confirmation process out of the partisan muck.

Of the 38 well-qualified judicial nominees awaiting action by the full Senate, nearly all cleared the Judiciary Committee either unanimously or with just one or two dissenting votes. Some nominees have been waiting for Senate action for nearly a year. Senator Mitch McConnell, the minority leader, should allow confirmation of all 34 nominees considered noncontroversial, including the 15 nominees cleared by the committee since the November election.

There are four other nominees who were approved by the committee over party-line Republican opposition. They, too, deserve a prompt vote rather than requiring President Obama to start the process over again by re-nominating them when the next Congress begins. That short list of controversial nominees includes Goodwin Liu, an exceptionally well-qualified law professor and legal scholar who would be the only Asian-American serving as an active judge on the United States Court of Appeals for the Ninth Circuit. His potential to fill a future Supreme Court vacancy seems to be the main thing fueling Republican opposition to his nomination.

Mr. McConnell is said to be negotiating a deal with Senator Harry Reid, the majority leader, that allows for confirmation of 19 nominees approved by the committee before the election but denies consideration by the full Senate to the others. That would be a disservice to the judicial system, to Mr. Obama's nominees and to the idea that bipartisanship should exist, at last, in the advice-and-consent process for federal judges.

NATIONAL HOME CARE AND HOSPICE MONTH

Ms. COLLINS. Mr. President, November is National Home Care and Hospice Month, which gives us the opportunity to honor the home health and hospice caregivers and volunteers who make such a remarkable difference in the lives of their patients and their families. The highly skilled and compassionate care that home health and hospice agencies provide has helped to keep families together and enabled millions of our most frail and vulnerable individuals to avoid hospitals and nursing homes and stay just where they want to be in the comfort and security of their own homes.

Home health and hospice have consistently proven to be compassionate and cost-effective alternatives to institutional care. In fact, a recent survey conducted for the Maine chapter of AARP found that 9 out of 10 Mainers would prefer to receive services at home as opposed to a nursing home or other residential care facility. Moreover, by helping patients to avoid more costly hospitals and nursing homes, home health and hospice save Medicare, Medicaid, and private insurers millions of dollars each year.

Over the past several years, I have had the opportunity to meet and visit with a number of home health and hospice patients and providers around my State. I have seen firsthand what a difference the highly skilled and compassionate care that these health professionals provide makes to the lives of their patients and families. That is why I am such a committed and passionate advocate for home health and hospice care. I therefore urge all of my colleagues to join me in paying tribute to these wonderful health care professionals and volunteers during the month of November as we celebrate National Home Health and Hospice Month.

TRIBUTE TO MELISSA SHUTE

Mr. SESSIONS. Mr. President, I rise today to bid farewell to a trusted member of my staff who will be departing the Senate. Melissa Shute has served as my legislative counsel, handling issues involving energy, natural resources, and public lands. I have been fortunate to have a wonderful tradition of outstanding staffers to handle my energy and environmental issues; however, the problem with good staff is that they often get pulled away.

Melissa is no exception. She came to me in 2008 after serving as lead counsel to one of our former Members whom I highly regard, Senator Pete Dominici, on the Senate Committee on Energy and Natural Resources. While on the committee, Melissa was a key player on legislation to increase domestic energy production in the United States. Melissa has developed an expertise in

energy and environmental issues and the importance they play in our economy. She is an enthusiastic warrior for the principles we share.

Melissa has provided critical counsel to me regarding major issues in nuclear, coal, and renewable fuel research and development. She also took a leading role in helping Alabamians living on the gulf coast during the tragic oil spill. Melissa and my energy team went above and beyond to take the steps necessary to help those impacted by the environmental disaster receive the support and information they need to begin the road of clean-up and recovery.

A graduate of the University of Tulsa's College of Law, Melissa has demonstrated a sound legal mind in analyzing legislative proposals that would impact current moratoria on off-shore drilling. She understands that we need to decrease our dependence on foreign oil and find new ways to tap the rich energy supplies our country has to offer.

She has been a great partner as we have worked to reduce the huge wealth transfer from the United States to purchase foreign oil, to reduce pollution, to produce energy at the lowest possible prices, such as nuclear power, and to create jobs in America. It has been a good run.

Mr. President, I express my deepest gratitude to Melissa for all of her efforts and leadership, and I wish her well as she moves on to a new chapter in her life.

TRIBUTE TO STEPHEN BOYD

Mr. SESSIONS. Mr. President, I rise today to say goodbye to one of the most esteemed members of my staff. Stephen Boyd, an exceptional individual with a deep devotion to the State of Alabama, will be leaving my office to become chief of staff for a new member of the Alabama delegation, Congressman-elect Martha Roby.

Stephen came to my office 7 years ago right out of law school. I was immediately impressed not only by his talent but by his tenacity. No matter how difficult the task given him he would pursue it with vigor, and he would not relent until he arrived at a solution. Stephen sees every obstacle as a challenge to overcome.

In his first post as my legislative assistant for energy issues, he worked on efforts to establish the Coastal Impact Assistance Program. That program became law through the Energy Policy Act of 2005. Stephen also played a significant role in developing the Gulf of Mexico Energy Security Act, which President George W. Bush signed into law in 2006.

Early on, Stephen also recognized the need to pursue alternative energy sources in order to diminish our dependence on foreign oil. Through his efforts he brought considerable attention

to switchgrass as a renewable energy resource, ultimately leading to switchgrass' potential being recognized in President Bush's 2006 State of the Union Address.

One of Stephen's most valuable assets is his ability to anticipate problems and to prepare for the unpredictable. Stephen was the point person for our office response when Hurricane Katrina hit in 2005. But before that disastrous hurricane hit, Stephen had already implemented an office action plan to make sure we could quickly and efficiently respond to an emergency.

In the last 4 years, Stephen has served first as my press secretary, followed by a swift promotion to communications director. He played a key role in overseeing office communications during some of the most difficult and challenging issues our country has faced in a long time—from wars in Afghanistan and Iraq, to the recent economic crisis, to the disastrous oil spill in the Gulf of Mexico.

Stephen also made an invaluable contribution in two Supreme Court confirmations, helping deliver a crucial message about preserving the integrity of America's courts—defending them from the corruption of politics and grounding them in the firm bedrock of our Constitution.

Given his myriad accomplishments and his stellar service to this office, it is no surprise that Stephen is highly regarded by his colleagues in the Senate. Allow me to share what others have said:

Don Stewart, communications director for Senate minority leader MITCH MCCONNELL, said, "Stephen has shown the kind of calm leadership that was needed in one of the most active periods I've ever seen in my time here. He doesn't yell and scream, he just gets it done."

Josh Holmes, staff director for Senate minority leader MITCH MCCONNELL's Republican Communications Center, said, "Stephen is one of the rare commodities in Washington who prefers achieving results over personal accolades. He's a consummate professional and effective advocate who has been an absolute pleasure to work with."

Rick Dearborn, my chief of staff, said, "I am proud to have worked alongside Stephen Boyd. I have always admired his attention to detail and the great clarity of his perspective. He has a commonsense approach I've witnessed him apply to all manner of complex problems to be solved, issues to be decided or given further thought."

So much of what I believe has guided him to excel has been his basic honesty, his strong core integrity and a sincere commitment to serve the people of Alabama on behalf of Senator SESSIONS through his various roles in our office.

Our loss in the Senate is Martha Roby's gain in the House and the second District of Alabama. He now assumes a key position within our staff delegation, as the Congresswoman's new chief of staff. She could not have made a better choice."

Matt Miner, staff director for the Senate Judiciary Committee, said, "Stephen Boyd has been a tremendous asset to the Judiciary Committee during Senator SESSIONS' tenure as ranking member. Through two Supreme Court confirmations and numerous national security debates, Stephen's calm and thoughtful work as communications director helped focus the national debate and convey the Republican message. He is one of the most talented people with whom I have worked on Capitol Hill, and I wish him all the best in his next endeavor."

Brian Benczkowski, former staff director for the Senate Judiciary Committee said, "It was a professional and personal pleasure to work with someone as gifted and hard-working as Stephen Boyd. Stephen has an uncanny ability to analyze any given subject like a top-notch lawyer, while also applying a good dose of Alabama common sense to the problem, and then communicating the result in clear and unmistakable terms. These skills were an invaluable resource for the Senate Judiciary Committee during my tenure, particularly during the Sotomayor and Kagan nominations. If there is a silver lining in his departure from Senator SESSIONS' staff, it is that he will continue his public service for the people of Alabama. His keen judgment and excellent personal integrity will be an asset to Congresswoman Roby, and I know he will be missed by his colleagues in the Senate."

Alan Hanson, chief of staff to Senator RICHARD SHELBY, said, "It is a credit to Stephen's abilities and work ethic that he has so rapidly advanced in his Capitol Hill career. Having worked with him for 3½ years and known him much longer, I can personally attest that he is a singularly talented and capable jack-of-all-trades. Senator SESSIONS' loss is truly Congresswoman Roby's gain, and I look forward to witnessing the great things STEPHEN will accomplish in his new role in the House of Representatives."

Sarah Haley, press secretary for Senator SESSIONS, said, "Stephen Boyd is a man of scrupulous character, sound ethics, and servant leadership. It has been a privilege to work under him. Stephen will be greatly missed by all of us."

Stephen Miller, press secretary for the Senate Judiciary Committee, said, "Stephen Boyd is a brilliant communicator, operating at a truly elite level. And yet he is the furthest thing from an elitist. Thoughtful, genuine, sincere—these are the traits so familiar to those who know him. I am proud to

have had the chance to work with Stephen Boyd. But I am prouder still to call him a friend."

Ryan Patmintra, press secretary for Senator JON KYL, said, "Stephen's background in both policy and communications made him one of the top-notch Senate communicators on either side of the aisle. His ability to go beyond talking points and walk reporters through our arguments served us well. We were lucky to have him on our team. His presence and expertise will be sorely missed in the Senate."

Cindy Hayden, who served with Stephen Boyd during her tenure as my chief counsel, said, "Stephen displays unwavering devotion to Senator SESSIONS, to the people of Alabama, and to his principles. A talented lawyer and a trusted colleague, Stephen possesses a likeability even his opponents find hard to resist. I am confident his future colleagues will enjoy working with him as much as I did."

I will miss Stephen. He was always thinking down the road, anticipating programs, and protecting me and the Senate from unwise actions. That kind of attention to detail and good judgment is rare and noteworthy.

From the first day he joined my staff, Stephen has been a tremendous asset. He has earned the respect and admiration of his colleagues, and has proven himself as a leader. His journey is only beginning, and I wish him all the best in the months and years to come.

TRIBUTE TO KEVIN LANDY

Mr. LIEBERMAN. Mr. President, I wish today to bid farewell and express my special thanks to Kevin Landy for his 13 years of extraordinary service on the Homeland Security and Governmental Affairs Committee.

Kevin, presently the committee's chief counsel and my longest serving committee staff member, is leaving the Senate this month. But I am happy to say he will continue his career in public service as the Director of the Immigration and Customs Enforcement's Office of Detention and Policy Planning, an office responsible for formulating and implementing reforms at immigration detention facilities.

As a Senator, I am privileged to work with dedicated Senate staffers like Kevin Landy, who want to take their talents, skills, and passions and put them to work for the American people.

Thomas Jefferson once asked the question: "What duty does a citizen owe to the government that secures the society in which he lives?"

Answering his own question, Jefferson said: "A nation that rests on the will of the people must also depend on individuals to support its institutions if it is to flourish. Persons qualified for public service should feel an obligation to make that contribution."

Kevin has answered his Nation's call and leaves the Senate with an exemplary record of achievement on behalf of the American people, on a wide range of issues. In particular, I'd like to highlight Kevin's role as my lead staff member on four bills that I count among my most important legislative accomplishments.

In the 107th Congress, Kevin successfully and simultaneously stewarded to passage two very different pieces of legislation. One of those bills established a new framework for the government's uses of the Internet and passed after a great deal of careful consensus building; the other bill established the 9/11 Commission to independently investigate the circumstances of the terrorist attacks and was enacted after a vigorous and often contentious campaign to surmount the administration's resistance.

First, Kevin drafted the E-Government Act, which I introduced in May of 2001, and which called for greater citizen access to government information, services, and regulatory proceedings over the Internet; better management of information technology; and greater protections for privacy and security.

When Kevin began work on this initiative he was trained as a lawyer and had no government IT background. Yet he worked meticulously with every relevant group and constituency first to become fully informed and then to ensure their concerns were addressed. More importantly, Kevin spent months negotiating with OMB officials to overcome the administration's initial opposition. The work paid off when the legislation passed both the House and the Senate by unanimous consent on the same day, November 15, 2002, and was subsequently signed into law the next month.

Some of Kevin's most significant work for our country was on legislation creating and reforming the institutions charged with the defense of our homeland from the terrorist threat.

Soon after the tragic September 11 attacks, Senator McCain and I called for an independent bipartisan commission to investigate the circumstances surrounding the terrorist attacks and to provide recommendations designed to guard against future acts of terrorism. Kevin helped draft the legislation to establish the 9/11 Commission, which I introduced with Senator McCain on December 20, 2001.

At first we had no other cosponsors, and faced the opposition of the administration. But over the next year Kevin worked closely with the families of the victims of 9/11, who lobbied ardently for our legislation both in the Halls of Congress and in the media, and the administration finally reversed its position the night before the Senate voted to approve the Commission by a vote of 90 to 8. Contentious negotiations with White House officials followed, but on

November 27, 2002, the legislation establishing a 9/11 Commission was enacted.

Kevin's effectiveness and his strong relations with 9/11 family members stood him in good stead when I asked him to lead an even greater challenge 2 years later: helping win enactment of legislation to implement the Commission's ambitious and wide-ranging recommendations.

Following the release of the 9/11 Commission's report on July 22, 2004, Kevin led the combined efforts of the staffs of four Senators to quickly draft legislation, S. 2774, that implemented all of the Commission's recommendations, covering not only comprehensive reform of the intelligence community and the creation of a National Counterterrorism Center but also information sharing, terrorist travel, border security, and secure identification, among other topics. Because of the determined efforts of Kevin and his colleagues, I was able to join with Senators McCain, Bayh, and Specter in introducing the legislation on September 7, just 6 weeks after the Commission's recommendations had been released.

Kevin continued to play a leadership role as I worked with the committee chairman and my close friend, Senator Susan Collins, to draft legislation that focused on the Commission's intelligence reform recommendations, S. 2845. On the Senate floor, provisions of the two bills were merged as we faced a blizzard of amendments and tough votes, before we won an overwhelming Senate victory. An arduous conference followed, as several House committee chairmen adamantly opposed the bill—through it all Kevin fought to uphold the principles laid down in our legislation. We prevailed, resulting in the historic enactment on December 17, 2004, of the Intelligence Reform and Terrorism Prevention Act, IRTPA.

We faced even more complex procedural hurdles in 2007, when Senator Collins and I led the efforts of multiple Senate committees to assemble and enact provisions that built on what we had accomplished with IRTPA, mandating counterterrorism improvements in areas such as terrorist travel, communications interoperability, and aviation and maritime security. By then the committee's chief counsel, Kevin had demonstrated his skills at legislative maneuvering in a variety of circumstances. I called on him once again to help coordinate our team as we pushed through a difficult markup, a lively Senate debate, and a fiercely contested conference, at which approximately 15 Senate and House committees claimed jurisdiction and joined the fray. Our work resulted in ambitious legislation, known as the "Implementing Recommendations of the 9/11 Commission Act of 2007," enacted on August 3, 2007.

I have described his biggest accomplishments in the areas of national se-

curity and good government, but through his entire career Kevin has also shown a passion for the pursuit of justice, including justice for the powerless. Upon graduating from Amherst College, Kevin went to work defending the rights of prisoners to humane conditions in the Texas penal system. Then after graduating from Yale Law School, one of Kevin's jobs took him to Cambodia, where he worked with that nation's judges and prosecutors in an effort to help improve the rule of law as that nation struggled to emerge from its brutal totalitarian past.

On the committee, Kevin has worked tirelessly to improve the treatment of asylum-seekers who often languish in county jails and other immigrant detention facilities as they pursue their claims. He drafted the first bill to address immigration detention reform, the Secure and Safe Detention and Asylum Act, and in 2007 we won Senate passage of the bill as an amendment to ultimately unsuccessful immigration reform legislation. Although legislative progress in this area has proven elusive, Kevin's work helped to bring greater attention to the need for reforms. He has now embraced the opportunity to support the detention reform initiatives being undertaken at the Department of Homeland Security.

I have benefited greatly from Kevin's commitment to my goals and to the pursuit of excellence while achieving them. I want to thank him again for his hard work, his long hours, and selfless persistence in pursuit of worthy legislation.

ADDITIONAL STATEMENTS

TRIBUTE TO HAWAII EDUCATORS

• Mr. AKAKA. Mr. President, I wish to congratulate two outstanding educators from my state, John Constantinou, from Kea'au High School, and Yannabah Lewis, from Kealahou High School, for receiving the Presidential Award for Excellence in Mathematics and Science Teaching.

This award, administered by the National Science Foundation on behalf of the White House Office of Science and Technology Policy, is the highest recognition that a mathematics or science teacher may receive. Since the program's inception in 1983, more than 3,900 educators nationwide have been recognized for their contributions to mathematics and science education. As a former educator and principal, I know firsthand about the countless hours that go into creating curricula, and it makes me proud to see outstanding teachers receive recognition for their hard work.

The dedication of John and Yannabah to their field and to the children of Hawaii is undeniable. I applaud them both for receiving this outstanding recognition, and I wish them

the very best in their future endeavors.●

TRIBUTE TO CAROL TWEDT

● Mr. THUNE. Mr. President, today I wish to recognize Carol Twedt as she celebrates retirement from more than 20 extraordinary years of public service. Her earnest dedication to and enthusiasm for service to her fellow citizens has set an example for all to follow.

Carol's career began when she joined Jim Abdnor's successful Senate campaign against George McGovern in 1980. Her passion was pushed to a new level when Carol's husband Curt passed away at an early age in 1987. It was this event which prompted her to undertake the challenge of running for Minnehaha county commissioner. The level of courage and perseverance she demonstrated through her first campaign paid off with an overwhelming victory. In her five subsequent terms as a county commissioner, she has shown unceasing dedication and compassion to serving her constituents. Because of this remarkable resolve, Carol has made praiseworthy accomplishments in combating homelessness, improving juvenile services, and, above all, working to improve the effectiveness and efficiency of county operations.

Carol's service has benefitted the people of Minnehaha County over her many years of service. I would like to extend to her my heartfelt gratitude for her many years of outstanding service.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 10:18 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1405. An act to redesignate the Longfellow National Historic Site, Massachusetts, as the "Longfellow House—Washington's Headquarters National Historic Site".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-8492. A communication from the Director, Employee Services, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Redefinition of the Chicago, IL; Fort Wayne-Marion, IN; Indianapolis, IN; Cleveland, OH; and Pittsburgh, PA. Appropriated Fund Federal Wage System Wage Areas" (RIN3206-AM21) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-8493. A communication from the Director, Peace Corps, transmitting, pursuant to law, the Office of Inspector General's Semi-annual Report for the period of April 1, 2010 through September 30, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-8494. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from April 1, 2010 through September 30, 2010 and the Chairman's Semi-Annual Report on Final Action Resulting from Audit Reports, Inspection Reports, and Evaluation Reports; to the Committee on Homeland Security and Governmental Affairs.

EC-8495. A communication from the Assistant Secretary for Congressional and Legislative Affairs, Department of Veterans Affairs, transmitting, pursuant to law, the Department of Veterans Affairs Fiscal Year 2010 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC-8496. A communication from the Department of State, transmitting, pursuant to law, a report relative to the Arms Export Control Act (OSS Control No. 2010-1961); to the Committee on the Judiciary.

EC-8497. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Alaska Advisory Committee; to the Committee on the Judiciary.

EC-8498. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Wisconsin Advisory Committee; to the Committee on the Judiciary.

EC-8499. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Vermont Advisory Committee; to the Committee on the Judiciary.

EC-8500. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to

w, the report of the appointment of members to the North Carolina Advisory Committee; to the Committee on the Judiciary.

EC-8501. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Idaho Advisory Committee; to the Committee on the Judiciary.

EC-8502. A communication from the Director of Regulation Policy and Management, Veterans Health Administration, Department of Veterans Affairs, transmitting, pur-

suant to law, the report of a rule entitled "Payments for Inpatient and Outpatient Health Care Professional Services at Non-Departmental Facilities and Other Medical Charges Associated with Non-VA Outpatient Care" (RIN2900-AN37) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Veterans' Affairs.

EC-8503. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (85); Amdt. 3400" (RIN2120-AA65) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8504. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (12); Amdt. 3401" (RIN2120-AA65) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8505. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (29); Amdt. 3403" (RIN2120-AA65) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8506. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures (98); Amdt. 3402" (RIN2120-AA65) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8507. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt and Whitney Canada Corp. PW305A and PW305B Turboprop Engines" (RIN2120-AA64) (Docket No. FAA-2010-0892) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8508. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters" ((RIN2120-AA64) (Docket No. FAA-2010-1137)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8509. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dassault-Aviation Model FALCON 7X Airplanes" ((RIN2120-AA64) (Docket No. FAA-2010-0760)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8510. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Robinson Helicopter Company (Robinson) Model R22, R22 Alpha, R22 Beta, and R22 Mariner Helicopters, and Model R44, and R44II Helicopters" ((RIN2120-AA64) (Docket No. FAA-2010-0711)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8511. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 737-900ER Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2010-0764)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8512. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters" ((RIN2120-AA64) (Docket No. FAA-2010-0449)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8513. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Cessna Aircraft Company (Cessna) 172, 175, 177, 180, 182, 185, 206, 207, 208, 210, 303, 336, and 337 Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2008-1328)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8514. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Various Aircraft Equipped with Rotax Aircraft Engines 912 A Series Engines" ((RIN2120-AA64) (Docket No. FAA-2010-0522)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 3480. A bill to amend the Homeland Security Act of 2002 and other laws to enhance the security and resiliency of the cyber and communications infrastructure of the United States (Rept. No. 111-368).

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 3297. A bill to update United States policy and authorities to help advance a genuine transition to democracy and to promote recovery in Zimbabwe (Rept. No. 111-369).

EXECUTIVE REPORT OF COMMITTEE—TREATY

The following executive report of committee was submitted on December 15, 2010:

By Mr. KERRY, from the Committee on Foreign Relations:

[Treaty Doc. 110-19 Treaty on Plant Genetic Resources for Food and Agriculture with one understanding and one declaration (Ex. Rept. 111-7)]

The text of the committee-recommended resolution of advice and consent to ratification is as follows:

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to an Understanding.

The Senate advises and consents to the ratification of the International Treaty on Plant Genetic Resources for Food and Agriculture, adopted by the Food and Agriculture Organization of the United Nations on November 3, 2001, and signed by the United States of America on November 1, 2002 (Treaty Doc. 110-19), subject to the understanding of section 2 and the declaration of section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the United States instrument of ratification:

The United States of America understands that Article 12.3d shall not be construed in a manner that diminishes the availability or exercise of intellectual property rights under national laws.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This treaty is not self-executing.

EXECUTIVE REPORTS OF COMMITTEES—NOMINATION

The following executive reports of nominations were submitted:

By Mrs. LINCOLN from the Committee on Agriculture, Nutrition, and Forestry.

*Ramona Emilia Romero, of Pennsylvania, to be General Counsel of the Department of Agriculture.

By Mr. BAUCUS from the Committee on Finance.

*Carolyn W. Colvin, of Maryland, to be Deputy Commissioner of Social Security for the term expiring January 19, 2013.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DODD (for himself, Mr. LAUTENBERG, Mr. CASEY, and Mr. MERKLEY):

S. 4027. A bill to provide for programs and activities with respect to the prevention of underage drinking; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER:

S. 4028. A bill to amend part B of title IV of the Social Security Act to authorize the Secretary of Health and Human Services to award grants to local and tribal governments for hiring child protective services workers; to the Committee on Finance.

By Mr. SCHUMER (for himself, Mr. BROWN of Massachusetts, and Mrs. SHAHEEN):

S. 4029. A bill to protect children from registered sex offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. SANDERS:

S. 4030. A bill to amend the Food, Conservation, and Energy Act of 2008 to establish a community-supported agriculture promotion program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAYH (for himself and Mr. BOND):

S. 4031. A bill to promote exploration for and development of rare earth elements in the United States, to reestablish a competitive supply chain for rare earth materials in the United States and countries that are allies of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 4032. A bill to amend the Controlled Substances Act to more effectively regulate anabolic steroids; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 4033. A bill to provide for the restoration of legal rights for claimants under Holocaust-era insurance policies; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. SCHUMER, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 28, a bill to ensure that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons.

S. 853

At the request of Mr. COONS, his name was added as a cosponsor of S. 853, a bill to designate additional segments and tributaries of White Clay Creek, in the States of Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System.

S. 3221

At the request of Mr. KOHL, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 3221, a bill to amend the Farm Security and Rural Investment Act of 2002 to extend the suspension of limitation on the period for which certain borrowers are eligible for guaranteed assistance.

S. 3293

At the request of Mr. HARKIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3293, a bill to reauthorize the Special Olympics Sport and Empowerment Act of 2004, to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes.

S. 3320

At the request of Mr. WHITEHOUSE, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3320, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 3390

At the request of Mr. FRANKEN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 3390, a bill to end the discrimination based on actual or perceived sexual orientation or gender identity in public schools, and for other purposes.

S. 4020

At the request of Mr. WICKER, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from Florida (Mr. LEMIEUX), the Senator from Ohio (Mr. VOINOVICH), the Senator from Oklahoma (Mr. INHOFE), the Senator from Texas (Mrs. HUTCHISON), the Senator from Utah (Mr. HATCH), the Senator from Idaho (Mr. CRAPO), the Senator from North Carolina (Mr. BURR), the Senator from Louisiana (Mr. VITTER), the Senator from South Carolina (Mr. DEMINT), the Senator from South Carolina (Mr. GRAHAM), the Senator from Idaho (Mr. RISCH), the Senator from Mississippi (Mr. COCHRAN), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Iowa (Mr. GRASSLEY), the Senator from Alabama (Mr. SESSIONS), the Senator from Nebraska (Mr. JOHANNIS), the Senator from Alabama (Mr. SHELBY), and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 4020, a bill to protect 10th Amendment rights by providing special standing for State government officials to challenge proposed regulations, and for other purposes.

S. CON. RES. 63

At the request of Mr. JOHNSON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Con. Res. 63, a concurrent resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO).

S. CON. RES. 71

At the request of Mr. FEINGOLD, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Massachusetts (Mr. KERRY), the Senator from Indiana (Mr. LUGAR), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Con. Res. 71, a concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

S. RES. 485

At the request of Mr. AKAKA, the names of the Senator from Connecticut (Mr. DODD), the Senator from Idaho

(Mr. CRAPO), the Senator from South Dakota (Mr. JOHNSON), the Senator from Tennessee (Mr. CORKER), the Senator from New York (Mr. SCHUMER), the Senator from Mississippi (Mr. COCHRAN), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Mississippi (Mr. WICKER), the Senator from Wisconsin (Mr. KOHL), the Senator from Oregon (Mr. MERKLEY), the Senator from Hawaii (Mr. INOUE), the Senator from Illinois (Mr. DURBIN), the Senator from Montana (Mr. BAUCUS), the Senator from Washington (Mrs. MURRAY), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Alaska (Mr. BEGICH), the Senator from New York (Mrs. GILLIBRAND), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Michigan (Mr. LEVIN), the Senator from Delaware (Mr. CARPER), the Senator from Maryland (Mr. CARDIN), the Senator from Michigan (Ms. STABENOW), and the Senator from North Carolina (Mrs. HAGAN) were added as cosponsors of S. Res. 485, a resolution designating April 2010 as "Financial Literacy Month".

S. RES. 570

At the request of Mr. CASEY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. Res. 570, a resolution calling for continued support for and an increased effort by the Governments of Pakistan, Afghanistan, and other Central Asian countries to effectively monitor and regulate the manufacture, sale, transport, and use of ammonium nitrate fertilizer in order to prevent the transport of ammonium nitrate into Afghanistan where the ammonium nitrate is used in improvised explosive devices.

AMENDMENT NO. 4768

At the request of Mr. BROWN of Ohio, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of amendment No. 4768 intended to be proposed to H.R. 4853, a bill to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

AMENDMENT NO. 4769

At the request of Mr. KOHL, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Oregon (Mr. MERKLEY) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of amendment No. 4769 intended to be proposed to H.R. 4853, a bill to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

AMENDMENT NO. 4773

At the request of Ms. STABENOW, the name of the Senator from South Da-

kota (Mr. JOHNSON) was added as a cosponsor of amendment No. 4773 intended to be proposed to H.R. 4853, a bill to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

AMENDMENT NO. 4790

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 4790 intended to be proposed to H.R. 4853, a bill to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

AMENDMENT NO. 4792

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 4792 intended to be proposed to H.R. 4853, a bill to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

AMENDMENT NO. 4809

At the request of Mr. SANDERS, the names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Alaska (Mr. BEGICH), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Minnesota (Mr. FRANKEN) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of amendment No. 4809 intended to be proposed to H.R. 4853, a bill to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 4032. A bill to amend the Controlled Substances Act to more effectively regulate anabolic steroids; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I have sought recognition to introduce the Designer Anabolic Steroid Control Act of 2010. This legislation was originally filed as an amendment, number 4693, to the FDA Food Safety Modernization Act S. 510, but did not receive a vote. Therefore, before the 111th Congress ends, I am introducing it as a standalone bill which may be taken up in another Congress.

Anabolic steroids—masquerading as body building dietary supplements—are sold to millions of Americans in shopping malls and over the Internet even though these products put at grave risk the health and safety of Americans who use them. The harm from these steroid-tainted supplements is real. In its July 28, 2009 public health advisory, the FDA described the health risk of these types of products to include serious liver injury, stroke, kidney failure and pulmonary embolism. The FDA also warned:

[A]nabolic steroids may cause other serious long-term adverse health consequences in men, women, and children. These include shrinkage of the testes and male infertility, masculinization of women, breast enlargement in males, short stature in children, adverse effects on blood lipid levels, and increased risk of heart attack and stroke.

New anabolic steroids—often called designer steroids—are coming on the market every day, and FDA and DEA are unable to keep pace and effectively stop these products from reaching consumers.

At the Senate Judiciary Subcommittee on Crime and Drugs hearing I chaired on September 29, 2009, representatives from FDA and DEA, as well as the U.S. Anti-Doping Agency, testified that there is a cat and mouse game going on between unscrupulous supplement makers and law enforcement—with the bad actors engineering more and more new anabolic steroids by taking the known chemical formulas of anabolic steroids listed as controlled substances in Schedule III and then changing the chemical composition just slightly, perhaps by a molecule or two. These products are rapidly put on the market—in stores and over the Internet—without testing and proving the safety and efficacy of these new products. There is no pre-notification to, or pre-market approval by, federal agencies occurring here. These bad actors are able to sell and make millions in profits from their designer steroids because while it takes them only weeks to design a new steroid by tweaking a formula for a banned anabolic steroid, it takes literally years for DEA to have the new anabolic steroid classified as a controlled substance so DEA can police it.

The FDA witness at the hearing, Mike Levy, Director of the Division of New Drugs and Labeling Compliance, acknowledged that this is a “challenging area” for FDA. He testified that for FDA it is “difficult to find the violative products and difficult to act on these problems.” The DEA witness, Joseph T. Rannazzisi, Deputy Assistant Administrator for DEA, was even blunter. When I questioned him at the hearing, Mr. Rannazzisi admitted that “at the present time I don’t think we are being effective at controlling these drugs.” He described the process as “extremely frustrating” because “by the time we get something to the point

where it will be administratively scheduled [as a controlled substance], there’s two to three [new] substances out there.”

The failure of enforcement is caused by the complexity of the regulations, statutes and science. Either the Food Drug and Cosmetic Act, which provides jurisdiction for FDA, or the Controlled Substances Act, which provides jurisdiction for DEA, or both, can be applicable depending on the ingredients of the substance. Under a 1994 amendment to the Food Drug and Cosmetic Act, called the Dietary Supplement Health and Education Act, DSHEA, dietary supplements, unlike new drug applications, are not closely scrutinized and do not require Pre-market approval by the FDA before the products can be sold. Pre-market notification for dietary supplements is required only if the product contains new dietary ingredients, meaning products that were not on the U.S. market before DSHEA passed in 1994.

If the FDA determines that a dietary supplement is a steroid, it has several enforcement measures available to use. FDA may treat the product as an unapproved new drug, or as an adulterated dietary supplement under the Food Drug and Cosmetic Act. Misdemeanor violations of the Food Drug and Cosmetic Act may apply, unless there is evidence of intent to defraud or mislead, a requirement for a felony charge. However, given the large number of dietary supplement products on the market, it is far beyond the manpower of the FDA to inspect every product to find, and take action against, those that violate the law—as the FDA itself has acknowledged.

The better enforcement route is a criminal prosecution under the Controlled Substances Act. However, the process to classify a new anabolic steroid as a controlled substance under Schedule III is difficult, costly and time consuming, requiring years to complete. Current law requires that to classify a substance as an anabolic steroid, DEA must demonstrate that the substance is both chemically and pharmacologically related to testosterone. The chemical analysis is the more straightforward procedure, as it requires the agency to conduct an analysis to determine the chemical structure of the new substance to see if it is related to testosterone. The pharmacological analysis, which must be outsourced, is more costly, difficult, and can take years to complete. It requires both *in vitro* and *in vivo* analyses, the latter is an animal study. DEA must then perform a comprehensive review of existing peer-reviewed literature.

Even after DEA has completed the multi-year scientific evaluation process, the agency must embark on a lengthy regulatory review and public-comment process, which typically

delays by another year or two the time it takes to bring a newly emerged anabolic steroid under control. As part of this latter process, DEA must conduct interagency reviews, which means sending the studies and reports to the Department of Justice, DOJ, the Office of Management and Budget, OMB, and the Department of Health and Human Services, HHS, provide public notification of the proposed rule, allow for a period of public comment, review and comment on all public comments, write a final rule explaining why the agency agreed or did not agree with the public comments, send the final rule and agency comments back to DOJ, OMB and HHS, and then publish the final rule, all in accordance with the Administrative Procedures Act. To date, under these cumbersome procedures, DEA has only been able to classify three new anabolic steroids as controlled substances and that process—completed only after the September 29, 2010 Senate Judiciary subcommittee hearing—took more than 5 years to finish.

It is clear that the current complex and cumbersome regulatory system has failed to protect consumers from underground chemists who easily and rapidly produce designer anabolic steroids by slightly changing the chemical composition of the anabolic steroids already included on Schedule III as controlled substances. The story of Jareem Gunter, a young college athlete who testified at the hearing, illustrates the system’s failure. To improve his athletic performance four years ago, Jareem purchased in a nutrition store a dietary supplement called Superdrol, a product he researched extensively on the Internet and believed was safe. Unfortunately it was not. Superdrol contained an anabolic steroid which to this day is still not included in the list of controlled substances. After using Superdrol for just several weeks, Jareem came close to dying because this product—which he thought would make him stronger and healthier—seriously and permanently injured his liver. He spent four weeks in the hospital and has never been able to return to complete his college education.

To close the loopholes in the present laws that allow the creation and easy distribution of deadly new anabolic steroids masquerading as dietary supplements, I am introducing today The Designer Anabolic Steroid Control Act of 2010. The bill simplifies the definition of anabolic steroid to more effectively target designer anabolic steroids, and permits the Attorney General to issue faster temporary and permanent orders adding recently emerged anabolic steroids to the list of anabolic steroids in Schedule III of the Controlled Substances Act.

Under the bill, if a substance is not listed in Schedule III of the Controlled Substances Act but has a chemical

structure substantially similar to one of the already listed and banned anabolic steroids, the new substance will be considered to be an anabolic steroid if it was intended to affect the structure or function of the body like the banned anabolic steroids do. In other words, DEA will not have to perform the complex and time consuming pharmacological analysis to determine how the substance will affect the structure and function of the body, as long as the agency can demonstrate that the new steroid was created or manufactured for the purpose of promoting muscle growth or causing the same pharmacological effects as testosterone.

Utilizing the same criteria, the bill permits the Attorney General to issue a permanent order adding such substances to the list of anabolic steroids in Schedule III of the Controlled Substances Act.

The bill also includes new criminal and civil penalties for falsely labeling substances that are actually anabolic steroids. The penalties arise where a supplement maker fails to truthfully indicate on the label—using internationally accepted and understandable terminology—that the product contains an anabolic steroid. These penalties are intended to be substantial enough to take away the financial incentive of unscrupulous manufacturers, distributors, and retailers who might otherwise be willing to package these products in a way that hides the true contents from law enforcement and consumers.

Finally, the bill adds 33 new anabolic steroids to Schedule III. These 33 anabolic steroids have emerged in the marketplace in the six years since Congress passed the Anabolic Steroid Control Act of 2004. The bill also instructs the United States Sentencing Commission to review and revise the Federal sentencing guidelines to ensure that sentences will be based on the total weight of the product when anabolic steroids are illegally manufactured or distributed in a tablet, capsule, liquid or other form that makes it difficult to determine the actual amount of anabolic steroid in the product.

By making these changes, we can protect the health and lives of countless Americans and provide an effective enforcement mechanism to hold accountable those individuals and their companies which purposefully exploit the current regulatory system for their selfish gain. The Department of Justice has provided extensive technical assistance in the drafting of this bill over many months. In addition, this legislation is fully supported by the United States Olympic Committee, the National Football League, the United States Anti-Doping Agency, as well as by Supplement Safety Now, a coalition including all the major league sports teams, and other sports and medical associations. I urge my colleagues to

take up this much-needed bill in the next Congress.

By Mr. SPECTER:

S. 4033. A bill to provide for the restoration of legal rights for claimants under holocaust-era insurance policies; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I have sought recognition to urge my colleagues to support and take up next Congress the bill I just introduced, the Restoration of Legal Rights for Claimants Under Holocaust-Era Insurance Policies. The bill would restore the right of Holocaust survivors and their descendants—many of them United States citizens—to maintain lawsuits in our courts to recover unpaid proceeds under Holocaust-era life insurance policies. Recent decisions of the federal courts about which I have spoken at length in prior floor statements and confirmation hearings have denied survivors and their descendants that right.

The insurance policies at issue were issued to millions of European Jews before World War II. During the Nazi era, European insurers largely escaped their obligations under the policies—sometimes by participating with the Nazis in what one Supreme Court Justice has characterized as “larcenous takings of gigantic proportions.” [Am. Ins. Ass’n v. Garamendi, 539 U.S. 396, 430 (2003) (Ginsburg, J., joined by Stevens, Scalia, and Thomas, JJ., dissenting).] In the aftermath of World War II, insurers dishonored the policies for one shameful reason or another. The most shameful of them was that a claimant could not produce a death certificate of a deceased insured who had been murdered in a Nazi death camp.

In the 1990s survivors turned, as a last resort, to the courts of the United States. Numerous suits were filed seeking compensation from European insurers for dishonoring Holocaust-era insurance policies during and especially after the War. Several States, for their part, attempted to facilitate recovery under unpaid policies by requiring insurers doing business in their States, as most did, to disclose information about those policies.

European insurers responded to these developments by agreeing to establish a private claims resolution process. Their agreement resulted in the establishment of a voluntary organization in 1998—formed by, among others, the insurers, the State of Israel, and State insurance commissioners in the United States known as the International Commission on Holocaust Era Insurance Claims, ICHEIC. “The job of ICHEIC,” according to the Supreme Court, “include[d] negotiation with European insurers to provide information about unpaid insurance policies and the settlement of claims under them.” [Garamendi, 539 U.S. at 407.]

Many survivors and their descendants filed claims through ICHEIC. How fairly ICHEIC decided their claims remains a debated question. Testimony before Congress at least raises serious questions as to whether meritorious claims were denied. I do not wish to enter that debate today except to emphasize that ICHEIC was not a neutral, governmental adjudicatory body. It was, as then-Judge Michael Mukasey said, a “an ad-hoc non-judicial, private international claims tribunal” created, funded, and to a large extent controlled by the insurance companies—in short, again in Judge Mukasey’s words, “a company store.” [In re Assicurazioni Generali, S.p.A. Holocaust Ins. Litig., 228 F. Supp. 2d 348, 356–57 (S.D.N.Y. 2002).] I also wish to emphasize that by filing a claim through ICHEIC, a claimant did not waive his right to file suit. Only claimants who received payments under insurance policies did so.

Despite the creation of ICHEIC, litigation continued in American courts. Foreign protests over the litigation led the United States to negotiate several executive agreements with foreign governments. Of these, the most important was the 2000 German Foundation Agreement. It obligated Germany to establish the German Foundation, which was funded by Germany and German companies, to compensate Jews “who suffered” various economic harms “at the hands of the German companies during the National Socialist era.” As for insurance claims in particular, the agreement obligated German insurers to address them through ICHEIC. Similar agreements between the United States and Austria and France followed. No agreement was reached, though, with Nazi Germany’s principal ally, Italy.

In negotiating the 2000 agreement, Germany sought immunity from suit—“legal peace” as Germany calls it—in American courts for German companies. The United States refused to provide it, and could not have provided it, in my view, in the absence of a Senate-ratified treaty or some other such authoritative Congressional action. Instead the United States agreed only to the inclusion of a provision obligating the United States to file in any suit against a German company over a Holocaust-era claim a precatory statement informing the court that “it would be in the foreign policy interests of the United States for the Foundation to be the exclusive forum and remedy for the resolution of all asserted claims against German companies arising from their involvement in the National Socialist era and World War II.” The United States also agreed in any such filing to “recommend dismissal on any valid legal ground (which, under the U.S. system of jurisprudence, will be for the U.S. courts to determine).” The 2000 agreement makes explicit, however, that “the

United States does not suggest that its policy interests concerning the Foundation in themselves provide an independent legal basis for dismissal.”

But what the 2000 executive agreement expressly denied Germany companies—that is, immunity from suit—our federal courts have now given them at the urging of the executive branch. I refer first and foremost to the Supreme Court’s much-criticized, five-to-four decision in *American Insurance Co. v. Garamendi*, 2003. The Court held there that the executive branch’s foreign policy favoring the resolution of Holocaust-era insurance claims through ICHEIC preempted a California law requiring the disclosure of information about Holocaust-era insurance policies to potential claimants. It did not matter, the Court said, that the executive agreement said nothing whatsoever about preemption, let alone that no federal statute or treaty actually preempted disclosure statute’s like California’s. It was enough that the agreement embodied a general policy—reaffirmed over the years by statements by sub-cabinet officials—with which California’s disclosure state could be said to conflict. Four Justices with very different views on executive power—Ginsburg, Scalia, Stevens, and Thomas—dissented. While conceding the, questionable, argument that the President can under some circumstances preempt state law by executive agreement, they emphasized the obvious flaw in the Court’s position on the facts at hand: The 2000 agreement says nothing about preemption. Insofar as it says anything on the subject, it actually disclaims any preemptive effect.

On the authority of *Garamendi*, the Federal district court before which lawsuits to recover on policies issued by the Italian insurer Generali had been consolidated dismissed those suits as preempted. The court rejected the plaintiffs’ argument that the suits could not be preempted because Italy and the United States had never entered into an executive agreement addressing claims against Italian insurers. Appeals to the Court of Appeals for the Second Circuit followed. While the appeals were pending, a class action settlement was reached and approved by the court under which most of the class members received nothing. The plaintiffs’ lead counsel has said that *Garamendi* left them no choice but to settle. Several plaintiffs who opted out of the settlement nonetheless pressed on with the appeals. Early this year the Second Circuit affirmed the dismissal of their cases. [In *re Assicurazioni Generali, S.P.A.*, 529 F.3d 113 (2d Cir. 2010).]

The plaintiffs then asked the Supreme Court to hear their case by filing a petition for certiorari. They raised two main questions. Whether *Garamendi* preempts the generally ap-

plicable state common law under which the plaintiffs sought recovery, as opposed to the disclosure-specific law California enacted. Whether *Garamendi* should be read to preempt state-law claims in the absence of any executive agreement addressing those claims. Recall that Italy and the United States never entered into an executive agreement with which claims against Generali, an Italian insurer, could be said to conflict. A post-*Garamendi* decision of the Court, *Medellin v. Texas*, 2008, suggests that *Garamendi* cannot be so broadly read—that an executive-branch foreign policy can preempt state law only if it becomes law through the means prescribed by the Constitution or, in some limited class of cases at least, find expression in an executive agreement entered with Congress’s acquiescence. Despite the importance of these questions and an apparent split among the lower courts in answering them, the Supreme Court denied certiorari.

My legislation would achieve two narrow, but important, objectives: First, it would restore Holocaust survivors and their descendants to the legal position they occupied before *Garamendi* and *Generali*. Second, it would allow states to enforce the sort of disclosure laws at issue in *Garamendi*. With limited exceptions tailored to achieve these objectives, the legislation would otherwise leave undisturbed any defenses that insurers may have to Holocaust-era insurance claims, including the defense that they were settled and released through ICHEIC.

Of equal significance, my legislation would vindicate two important Constitutional principles—one involving separation of powers, the other federalism. The principle of separation of powers is that the Constitution vests all lawmaking authority in Congress and none in the executive branch. The principle of federalism is that, under the Constitution’s supremacy clause, Article VI, only the Constitution, Congressionally enacted law, and Senate-ratified treaties can preempt state law. Some executive agreements, if entered at least with Congress’s acquiescence, arguably may also do so. But executive-branch policies plainly do not.

One final point: A similar House bill, H.R. 4596, has been objected to on the ground that it will disserve aging Holocaust survivors because it will create unrealistic expectations of recovery. Claims that were not successful before ICHEIC, the House bill’s critics claim, are almost certain to fail in court. That is a debatable objection. It is, in any event, beside the point. Holocaust survivors and their descendants should be allowed to decide for themselves whether to file suit. Neither the executive branch nor the federal courts should make that decision for them.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4810. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 4849, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, extend the Build America Bonds program, provide other infrastructure job creation tax incentives, and for other purposes; which was ordered to lie on the table.

SA 4811. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 4812. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 4813. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4810. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 4849, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, extend the Build America Bonds program, provide other infrastructure job creation tax incentives, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS.

(a) REPEAL OF PAYMENTS FOR PROPERTY AND OTHER GROSS PROCEEDS.—Subsection (b) of section 9006 of the Patient Protection and Affordable Care Act, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subsection, and amendments, had never been enacted.

(b) REPEAL OF APPLICATION TO CORPORATIONS; APPLICATION OF REGULATORY AUTHORITY.—

(1) IN GENERAL.—Section 6041, as amended by section 9006(a) of the Patient Protection and Affordable Care Act and section 2101 of the Small Business Jobs Act of 2010, is amended by striking subsections (i) and (j) and inserting the following new subsection:

“(i) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be appropriate or necessary to carry out the purposes of this section, including rules to prevent duplicative reporting of transactions.”

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to payments made after December 31, 2010.

SA 4811. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction,

the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page __, between lines __ and __, insert the following:

SEC. ____ . PROHIBITION ON FUNDING EARMARKS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, none of the funds provided in this Act may be expended to fund an earmark. Any account in this Act from which an earmark is made shall be reduced by an amount equal to any such earmark.

(b) EARMARK DEFINED.—The term “earmark” means a congressionally directed spending item, limited tax benefit, or limited tariff benefit as defined in paragraph 5 of rule XLIV of the Standing Rules of the Senate or a congressional earmark as defined in clause 9(e) of rule XXI of the Rules of the House of Representatives.

SA 4812. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 383, beginning on line 24, strike “\$10,000,000 to the John P. Murtha Foundation;”.

SA 4813. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the table VI, add the following:

Subtitle E—Other Matters

SEC. 641. CONTINUED OPERATION OF COMMISSARY AND EXCHANGE STORES SERVING BRUNSWICK NAVAL AIR STATION, MAINE.

The Secretary of Defense shall provide for the continued operation of each commissary or exchange store serving Brunswick Naval Air Station, Maine, through September 30, 2011, and may not take any action to reduce or to terminate the sale of goods at such stores during fiscal year 2011.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on December 15, 2010, at 12 p.m. in room S-219 of the Capitol Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on December 15, 2010, immediately following a vote on the Senate Floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that Nancy Peterson, a fellow in Senator WEBB's office, be granted the privilege of the floor throughout the Senate's consideration of the New START treaty and the fiscal year 2011 Omnibus Appropriations Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. DURBIN. Mr. President, as if in executive session, I ask unanimous consent that on Thursday, December 16, following leader time, the Senate proceed to executive session to begin consideration of Calendar No. 7, the START treaty, and that the treaty be considered read.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PRINTING OF TRIBUTES

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the printing of tributes be modified to provide that Members have until sine die of the 111th Congress, 2d session, to submit tributes and that the order for printing remain in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAKING TECHNICAL CORRECTIONS TO THE COAST GUARD AUTHORIZATION ACT OF 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6516, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the title of the bill.

The bill clerk read as follows:

A bill (H.R. 6516) to make technical corrections to provisions of law enacted by the Coast Guard Authorization Act of 2010.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. I ask unanimous consent that the bill be read three times and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6516) was ordered to be read a third time, was read the third time, and passed.

ORDERS FOR THURSDAY, DECEMBER 16, 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, December 16; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; and that following any leader remarks, the Senate proceed to executive session for the consideration of the New START treaty, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, votes in relation to amendments on the START treaty are possible throughout the day tomorrow. Senators will be notified when votes are scheduled.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:24 p.m., adjourned until Thursday, December 16, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

NATIONAL COUNCIL ON DISABILITY

CLYDE E. TERRY, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2013, VICE JOHN R. VAUGHN, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL THOMAS P. HARWOOD III
BRIGADIER GENERAL ROBERT K. MILLMANN, JR.
BRIGADIER GENERAL WILLIAM F. SCHAUFFERT
BRIGADIER GENERAL MICHAEL N. WILSON
BRIGADIER GENERAL JOHN T. WINTERS, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COLONEL RANDALL C. GUTHRIE
COLONEL NORMAN R. HAM
COLONEL RONALD B. MILLER
COLONEL JOHN J. MOONEY III
COLONEL DAVID B. O'BRIEN
COLONEL RICHARD W. SCOBEE
COLONEL JOCELYN M. SENG
COLONEL WILLIAM B. WALDROP, JR.
COLONEL TOMMY J. WILLIAMS
COLONEL EDWARD P. YARISH

COLONEL SHEILA ZUEHLKE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be major general

BRIGADIER GENERAL FRANCES M. AUCLAIR
BRIGADIER GENERAL BARRY K. COLN
BRIGADIER GENERAL JEFFREY R. JOHNSON
BRIGADIER GENERAL MARY J. KIGHT
BRIGADIER GENERAL THOMAS R. MOORE
BRIGADIER GENERAL JOHN F. NICHOLS
BRIGADIER GENERAL LEON S. RICE

BRIGADIER GENERAL GARY L. SAYLER
BRIGADIER GENERAL SCOTT B. SCHOFIELD
BRIGADIER GENERAL JONATHAN T. TREACY
BRIGADIER GENERAL DELILAH R. WORKS

To be brigadier general

COLONEL STEVEN P. BULLARD
COLONEL MICHAEL B. COMPTON
COLONEL MURRAY A. HANSEN
COLONEL JEFFREY W. HAUSER
COLONEL WILLIAM O. HILL
COLONEL JEROME P. LIMOGÉ, JR.
COLONEL DONALD A. MCGREGOR
COLONEL TONY E. MCMILLIAN

COLONEL GREGORY L. NELSON
COLONEL GARY L. NOLAN
COLONEL MICHAEL E. STENCEL
COLONEL RICHARD G. TURNER
COLONEL WILLIAM L. WELSH
COLONEL DANIEL J. ZACHMAN

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JON J. MILLER

HOUSE OF REPRESENTATIVES—Wednesday, December 15, 2010

The House met at 10 a.m. and was called to order by the Speaker.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, in this season filled with Your Spirit, enable Your people to manifest love in their deeds. Strengthen them to hold onto the truth both in their minds and in their speech. May their joyful convictions and personal commitments be proven in every decision and external behavior and not merely expressed in talk.

No matter what conscience may charge them with, You, Eternal God, are greater than any human longing. All is known to You, both now and forever.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. TONKO) come forward and lead the House in the Pledge of Allegiance.

Mr. TONKO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 15 requests for 1-minute speeches on each side of the aisle.

SHOWING COMPASSION

(Mr. TONKO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TONKO. I rise today to share a passage from Proverbs 31:8-9: "If a man shuts his ears to the cry of the poor, he too will cry out and not be answered."

Madam Speaker, let us heed that cry. I encourage my colleagues to open our ears today during this holiday season and hear the compassionate cry of the working poor and middle income fami-

lies back home. In my congressional district alone, some 6,400 people who lost their jobs through no fault of their own will be without their earned unemployment lifeline by the end of this month, unless we act. At the same time, my colleagues in this Chamber are worried about people that own estates or make millions and billions of dollars each and every year.

Let us show compassion for our neighbors and family members by standing up for the working poor and our middle income families. We should continue to provide tax cuts for the middle class community and extend unemployment insurance.

IN RECOGNITION OF LOVELL JAMES WRIGHT

(Mr. TERRY asked and was given permission to address the House for 1 minute.)

Mr. TERRY. Madam Speaker, I rise today to recognize James Wright for his 10 years of public service in my district staff. Throughout his career in our office, James has consistently demonstrated a genuine willingness to help others and improve our community. He has undertaken a number of projects in my district, such as a program to teach financial literacy to young adults, a "5 percent home ownership" initiative under the section 8 housing program, and an "entrepreneurship" program to create a critical mass in a struggling urban setting. He has also taken on a leadership role in an Omaha small business initiative in North Omaha.

All of these actions were directed at providing quality assistance to the people of Omaha. His positive attitude, dedication, and optimistic outlook are commendable attributes, and we're certainly appreciative of his outlook.

James is an outstanding member of the Omaha community. He loves our great city. He contributes to local and national charities and organizations as well as participates in the Omaha Community Playhouse. He's a dynamic individual with a wealth of knowledge. We thank him for his public service.

PRESERVING FOREIGN CRIMINAL ASSETS FOR FORFEITURE ACT OF 2010

(Ms. CHU asked and was given permission to address the House for 1 minute.)

Ms. CHU. Madam Speaker, last year, Bobby Salcedo, a beloved elected official in my district, was brutally mur-

dered by the Mexican drug cartels while visiting family in Durango, Mexico. While I am saddened by Bobby's loss, his death has led me to fight the dangerous drug cartels that thrive along our border. That is why I introduced the Preserving Foreign Criminal Assets Forfeiture Act, a bill that will make it easier for Federal police to seize the illicit assets of international criminal organizations.

Foreign criminals are able to protect hundreds of millions of dollars in dirty money by moving their proceeds abroad before U.S. police can seize them, enabling them to continue their illegal activities. With this bill, we will have another tool to fight the drug cartels by cutting off their lifeblood and allowing Federal law enforcement officials to seize these illicit assets.

OPPOSITION TO TAX DEAL

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Madam Speaker, I rise today in opposition to the tax deal negotiated between congressional leadership and the White House. Although we have yet to see the language of the bill, it is clear that it will represent a level of spending that should be unacceptable to those who are serious about our ballooning deficit.

What is striking about this legislation is the failure for either party to make tough choices. Where are the cuts? Take, for example, the 2 percent payroll tax deduction. If it is a good idea to reduce the payroll tax, it is imperative that we couple it with a reduction in benefits on the other side; but we make no such choices here. Again, we eat a sumptuous meal and pass the bill on to our kids and our grandkids because we lack the decency to pay for it ourselves.

If we can't make difficult choices now, Madam Speaker, when will we? Are we waiting for our New Year's resolutions to kick in? We're just a few years away from the fate of Greece and Ireland, and is this the best we can do? We can and should do better.

□ 1010

THE VIRGINIA DECISION

(Mr. COURTNEY asked and was given permission to address the House for 1 minute.)

Mr. COURTNEY. Madam Speaker, Virginia Judge Henry Hudson's decision 2 days ago striking down one section of the Health Care Reform Act was

about a lot less than all the noise in the last 24 hours. Despite the Virginia Attorney General's request, Judge Hudson did not strike down the whole law, and despite Virginia's request, he refused to delay its implementation.

That is good news for millions of young Americans now covered under their parents' health plans due to the health care law's age 26 dependent coverage, good news for millions of seniors in the Medicare doughnut hole who will get a 50 percent discount on life-saving medication, and good news for seniors for whom Medicare will finally cover checkups, cancer screenings and flu vaccinations.

Unfortunately, Hudson did rule against the law's system of shared responsibility for all Americans to have coverage, which would stabilize a health insurance market that has been collapsing for the last 10 years and would provide access to Americans with preexisting conditions. Fortunately, two other judges have ruled the other way, upholding the Nation's need for a stable insurance market in interstate commerce.

One thing Hudson did get right in his decision was his conclusion where he said, "The final word will reside with a higher court."

Thank goodness.

NO DEAL TO THIS TAX DEAL

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Madam Speaker, since last summer, I have urged this Congress to take action to prevent a tax increase that would affect every American in January of next year. So I rise with a heavy heart this morning to simply announce to my colleagues that I believe the short-term tax deal negotiated by the White House and congressional leaders is a bad deal for taxpayers, will do little to create jobs, and I cannot support it.

Despite the fact that last November the American people did not vote for more deficits, more stimulus or more uncertainty in the Tax Code, that is just what this lame duck Congress is about to give them.

You know, Madam Speaker, there is a reason why article I, section 7 of the Constitution says that all bills for raising revenue are to originate here in the House of Representatives. It is because our Founders believed that, when it comes to the people's taxes, the people's House should always lead. If the process is wrong, then the policy is wrong. We perpetuate the uncertainty. It is built into our Tax Code. Uncertainty is the enemy of our prosperity, and frankly, we can provide assistance to families struggling in this economy by making the hard choices to pay for it without adding to the national debt.

The American people have spoken. Let's say no deal to this tax deal, and get a better deal out of this Congress 3 weeks from today.

YES, THERE IS A SANTA CLAUS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Madam Speaker, today, the Senate with one vote will increase this fiscal year's deficit by \$430 billion under the pretense that it will get our economy back on track and create millions of jobs—and yes, there is a Santa Claus. Thank you very much.

Over 2 years, \$858 billion in total has been financed with money borrowed, in good part, from China to pay for an extension of the stimulus tax cuts with a new twist—the money will be stolen from the Social Security Trust Fund and a large dose of Bush era trickle-down tax cuts, with new breaks for States over \$10 million.

Last week, the Democratic Caucus spoke almost unanimously against this—and this week, under pressure from the White House and the Republican leader of the Senate, it appears our leadership is attempting to avoid our wishes and bring this bill forward without major changes. It will be a disaster for the American people. It is a bad deal for taxpayers, people who are unemployed and our kids and grandkids.

YUCCA MOUNTAIN RESTORATION

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, last week, my home State of South Carolina, along with Washington State and the National Association of Utility Regulators, headed by Commissioner David Wright, scored a victory in the battle for the Yucca Mountain project. A Federal court ruled in favor of a plan to continue the nuclear repository.

The President's decision to abandon this project was editorially condemned as "breathtakingly irresponsible" as billions of dollars have already been spent to fund it. Utility customers of South Carolina have invested over \$1.2 billion. The action also poses a security risk at dozens of nuclear waste disposal sites across the country. It means that vast amounts of nuclear waste will sit idle at the Savannah River site. This is unacceptable.

Nuclear energy is clean energy. It has provided my home State over 50 percent of our electrical power for over 30 years, and it is an important part of our Nation's energy resources.

In conclusion, God bless our troops, and we will never forget September the

11th. My sympathies to the family of George Campsen of the Isle of Palms, South Carolina.

CORPORATE AMERICA AND FOREIGN ENTITIES INFLUENCING ELECTIONS

(Mr. HALL of New York asked and was given permission to address the House for 1 minute.)

Mr. HALL of New York. Madam Speaker, nearly 1 year ago, the Supreme Court issued a ruling which drastically changed the electoral system in America for the worse. The court's decision to confer the rights of individuals on corporations has altered the political landscape in a way that allows unprecedented, unlimited and undisclosed corporate spending that cannot be matched by private citizens.

The 2010 election cycle was the most expensive in our Nation's history, costing hundreds of millions of dollars and misinforming millions of Americans along the way. Allowing corporate America, as well as foreign companies, to spend unlimited amounts of money in U.S. elections is in direct contradiction to the health of our democracy and to the principles our country was founded on. There is already too much money in politics, and this decision only makes things worse.

This year, my friends on the other side of the aisle watched as Democrats took the brunt of this undisclosed corporate spending. But I promise you, in the future, you, too, will feel its lash. This is not good for our democracy, and I urge a legislative solution.

BANDITS, KINDERGARTEN AND BORDER PATROL

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Madam Speaker, I bring you news from the third front—the war zone that is our southern border with Mexico.

Violent behavior is reaching new lows in the Mexican border town of Juarez. Armed attackers busted into a kindergarten school and set it on fire. Why?

Well, the criminal drug cartels found out the teachers in Juarez got a Christmas bonus, so they set up a new extortion racket. These outlaw banditos demanded a protection fee from the teachers to keep their students safe. When the teachers didn't pay up, armed attackers broke into the school and set it on fire.

Juarez is the most violent city in all of Mexico, and the violent cartels are bringing the war to the United States. Just last night, Border Patrol Agent Brian Terry was murdered by bandits in the border town of Rio Rico, Arizona. Our wide open borders are facilitating violence on both sides of the

border war zone. Meanwhile, the administration just whistles past the graveyard.

And that's just the way it is.

CANDY FOR THE WEALTHIEST AMERICANS

(Mr. YARMUTH asked and was given permission to address the House for 1 minute.)

Mr. YARMUTH. Madam Speaker, this week, the Senate and the House will be asked to vote on a package of tax extenders and other provisions that will provide great benefits for many hardworking American families and for low-income people. Unfortunately, this comes at a very high price to the American people and to the national debt.

We are being asked by Republican leaders in the Senate to give benefits to the very wealthiest Americans, including an estate tax provision that will benefit only 6,600 families—the wealthiest families in America.

This is like going to the hospital with a serious illness and having the doctor say to you, I'm going to give you \$250,000 worth of care that's really going to help you; but in order to get it, you're going to have to eat \$100,000 worth of candy that's going to do nothing for you but add a lot of weight down the road—to our national debt and to our children and grandchildren.

This is a bad deal for the American people, and I hope my colleagues will reject it.

HONORING SILVER STAR RECIPIENT CHIEF WARRANT OFFICER TWO MARK ROLAND

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Madam Speaker, the Army's third highest award for combat valor is the Silver Star. Today, it is my honor to praise a Silver Star recipient from my district in State College, Pennsylvania, Chief Warrant Officer Two Mark Roland.

In August at Fort Bragg, he received the award for gallantry in action against an enemy of the United States from Lieutenant General John F. Mulholland, commander of the U.S. Army Special Operations Command at Bragg. The award comes from the President of the United States.

While serving as the Intelligence Sergeant for a Special Forces Operational Detachment at Firebase Ripley in Afghanistan, Roland cleared and destroyed enemy fighters at close range, rescuing eight Afghan soldiers and leading the actions of the detachment's split team to a battlefield victory.

The citation reads that Roland distinguished himself by inspiring those

around him to extraordinary collective valor. His personal courage and commitment to mission accomplishment in a combat zone, under extreme circumstances, greatly contributed to mission success.

Roland and all of the other service-members serving in Iraq and Afghanistan deserve our praise and our gratitude for daily risking their lives for freedom. A Silver Star is our Nation's token of our greater thanks.

VOTING ON THE PRESIDENT'S TAX PROPOSAL

(Mr. COHEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COHEN. Madam Speaker, we will probably be voting on the President's tax proposal this week—a very difficult vote. I really don't know how I'm going to vote.

On the one hand, I see the benefit of getting timely temporary and targeted relief to people, which helps the economy with unemployment compensation, unemployment compensation that is most needed for the people of the purple hearts of this Bush recession.

On the other hand, I see the money going to the upper 2 percent—the millionaires and billionaires—who will get \$700 billion over 10 years, which will put a deficit on our children and grandchildren for years to come—something we can't afford. When it comes time to affording it on reckoning day, it's going to hurt people getting Social Security, Medicare and Medicaid, and that's something I can't see.

The estate tax will benefit 6,600 families, to the tune of \$25 billion, and I see that as wrong, too; but I understand the need to stimulate the economy and to get middle class tax cuts to the people earning less than \$250,000.

I ask my constituents to contact me at www.Cohen.house.gov. Let me know what you think.

□ 1020

VIRGINIA OBAMACARE RULING

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, earlier this week, a Federal judge in Virginia acted to defend the American people from an unconstitutional mandate to purchase health insurance. It really shouldn't be a surprise that a Federal judge recognized what many of us noted months ago: the Constitution does not give Congress and the President the right to force Americans to purchase a particular good or service.

Instead of finding ways to bring down the cost of insurance so that anybody

can afford at least basic coverage, ObamaCare puts the Federal Government squarely in charge of the health care industry and then makes every American participate. The government defines what insurance is, what it does, what it covers and doesn't cover, and then forces you to buy it. Even with this unconstitutional mandate, health care costs will rise faster because of ObamaCare.

The next Congress will act to repeal this mandate and all the other bad ideas in ObamaCare because we, too, have a responsibility to protect the Constitution of the United States.

TAX CUT PROPOSAL

(Mr. PAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE. Madam Speaker, I, along with many of my Democratic colleagues, continue to fight for economic priorities for middle class Americans and for provisions that will create jobs and grow the economy. However, the tax proposal announced by the President calls for sharp differences in the policies and priorities of the Democratic and Republican parties.

For instance, the Democrats continue to fight to maintain tax cuts on incomes up to \$250,000 per couple and \$200,000 per individual, while Republicans continue to demand tax cuts for all incomes, including millionaires and billionaires.

The Democrats also strongly support the extension of unemployment benefits to help out-of-work Americans make it through the recession, while the Republicans are willing to hold the middle class and the unemployed hostage to benefit the wealthy.

The Democrats are championing the needs of low-income families by fighting to extend the child tax credit and the earned income tax credit. In addition, we are fighting to continue the college tuition tax credit to help students or working class families afford college.

Madam Speaker, I urge my colleagues to support a tax cut proposal that will benefit our working class families and grow the economy.

EXTENDING THE TAX CUTS

(Mr. COSTA asked and was given permission to address the House for 1 minute.)

Mr. COSTA. Madam Speaker, I rise today in support of extending tax cuts to American families and businesses.

This week, we have a choice. Congress can continue the campaign politics of the past year or Republicans and Democrats can set aside their talking points and get something done for the American people. I support the latter.

In my district, families are putting together their budgets and trying to make ends meet under difficult times. Small businesses are trying to make hiring decisions for next year. Family farmers are scared of losing their operations due to a looming bump in the estate tax, their inability to pass the farms on to their children.

In this struggling, fragile economic recovery, we cannot afford to let this happen. After months of partisan gridlock, it's time for Members of this House to listen to the American people and prevent their taxes from going up on January 1.

Delay is not an option. I call on the Congress to send the commonsense compromise, that is a compromise—that means by its very nature we have things that we like and things we dislike in the package—before us and send it to the President's desk, and then we must get serious about addressing and putting our Nation's fiscal house in order, which is job number one.

AIR FORCE TANKER

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Madam Speaker, I rise to alert my colleagues to a very important job creation issue that resides potentially in the defense authorization bill that may come to the floor.

We have the opportunity to do something right for the American worker and the American taxpayer by insisting that in the competition for the new Air Force tanker that we take into consideration the illegal subsidies that have benefited so extraordinarily the Airbus competitor for the tanker contract. It is absolutely imperative that at this moment when we are struggling to create jobs in this country that we take into consideration in this competition the fact that our competitors in Europe have received over \$5 billion of illegal subsidies, and we have to insist the Pentagon take that into consideration.

For those that share my view, I hope you will join me in a letter to make sure that an amendment we passed will become part of the defense authorization bill. It is the only way to make sure that we keep these jobs in America and build a U.S. Air Force tanker.

EXTENDING THE TAX CUTS

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. I rise to support the tax compromise that will be coming to the floor for a vote this week.

I represent the State that has the highest unemployment rate in the country. In my district, almost one in

five people that I represent, 20 percent, are unemployed. The extension of those unemployment benefits is critical to the survival of thousands of the families that call Las Vegas home.

In addition to that, I represent a working class town. People think of Las Vegas as glitz and glitter, but it's glitzy and glittery because of all the working men and women that call Las Vegas home. I represent waiters and waitresses and busboys and Keno runners and cocktail waitresses and valet parkers and showgirls. They're all middle-income wage earners, and to extend that middle-income tax cut is critical to them.

The alternative minimum tax extension is important to 33,000 Las Vegans that will be ensnared by that alternative minimum tax if we don't pass it. The earned income tax credit, the marriage penalty tax credit, the child care tax credit, for the people I represent, so many of them single women with children and working, they need this child care tax credit.

Let's all vote for it.

SUPPORT DON'T ASK, DON'T TELL REPEAL

(Mr. GARAMENDI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARAMENDI. Madam Speaker, later today we're going to vote on Don't Ask, Don't Tell. This is a personal thing. I know a young gentleman who was in the Army, a graduate of West Point, extraordinary young African American. He's had two tours in Iraq, brought his company back safely from both tours without loss or injury to any member of his company.

But he also honored the commitment of the military not to lie and to be honest and straightforward. He was gay, and he was drummed out of the military. It is an enormous loss to America. I have no doubt that this gentleman would be a general and could probably rise to the highest ranks of the military.

We have to change the Don't Ask, Don't Tell policy. Later today, we'll have a chance to do that, and I'm sure that our colleagues, in recognition of the need of this Nation for well-qualified men and women in the military, will do away with this policy and set in place an opportunity for every American to serve this country, wherever and whatever their circumstances might be.

TAX CUT PROPOSAL DEFINES CONTRASTING PRIORITIES

(Ms. WATSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Madam Speaker, the tax proposal announced by the Presi-

dent further defines the sharp differences in the policies and priorities of Democrats and Republicans.

Democrats are fighting for the needs of the middle class and for provisions that creates jobs and expands economic opportunities. Republicans are demanding tax breaks for the wealthy.

Democrats continue to fight to maintain tax cuts on income up to \$250,000. Republicans continue to demand tax cuts on all incomes.

Democrats made a priority of extending unemployment benefits to help out-of-work Americans make it through the recession. Republicans were willing to hold the middle class and the unemployed hostage to benefit the wealthy.

Democrats will continue to fight for the economic priorities of middle class Americans, to create jobs, and to grow the economy. These are the principles that define the contrast between the Republicans and Democrats.

□ 1030

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Ms. DEGETTE) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 15, 2010.

Hon. NANCY PELOSI,
The Speaker, U.S. Capitol,
House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 15, 2010 at 9:40 a.m.:

That the Senate passed S. 4005.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

APPROVING PURCHASES OF LITTORAL COMBAT SHIPS

Mr. TAYLOR. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6494) to amend the National Defense Authorization Act for Fiscal Year 2010 to improve the Littoral Combat Ship program of the Navy, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LITTORAL COMBAT SHIP PROGRAM.

(a) **CONTRACT AUTHORITY.**—Subsection (a) of section 121 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2211) is amended—

(1) in paragraph (1)—

(A) by striking “ten Littoral Combat Ships and 15 Littoral Combat Ship ship control and weapon systems” and inserting “20 Littoral Combat Ships, including any ship control and weapon systems the Secretary determines necessary for such ships.”; and

(B) by striking “a contract” and inserting “one or more contracts”; and

(2) in paragraph (2), by striking “liability to” and inserting “liability of”.

(b) **TECHNICAL DATA PACKAGE.**—Subsection (b)(2)(A) of such section is amended by striking “a second shipyard, as soon as practicable” and inserting “another shipyard to build a design specification for that Littoral Combat Ship”.

(c) **LIMITATION OF COSTS.**—Subsection (c)(1) of such section is amended by striking “awarded to a contractor selected as part of a procurement” and inserting “under a contract”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi (Mr. TAYLOR) and the gentleman from Mississippi (Mr. AKIN) each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi.

GENERAL LEAVE

Mr. TAYLOR. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. TAYLOR. I yield myself such time as I may consume.

Madam Speaker, the Littoral Combat Ship Program started off as a very good idea. It was to be a single purpose, low-cost war ship that would help our Navy get to the stated goal of at least three Chiefs of Naval Operations of getting back to a 313-ship Navy.

With that said, the program has had, admittedly, a number of problems. First of which was, we were going to build it to commercial specifications. That was a mistake that Congress later corrected because this is a warship. It needed to be built to warship recommendations. You don't build disposable ships unless you want to have disposable crews, and our Nation will never settle for disposable crews.

Madam Speaker, having solved that problem, we found that the two vendors took a ship that was supposed to stand for LCS, Littoral Combat Ship, and it came late, costly, and subject to protest. And only because of the great work, in my opinion, of Under Secretary of Defense Sean Stackley of de-

vising a strategy about a year ago that, in effect, read the riot act to both vendors and told them they were going to do a number of things.

No. 1 in order to submit their package to Congress, their proposal, they were going to submit with that a technical data package which meant that our Nation that has paid to develop these ships would have the specifications to those ships so that if either vendor continued to underperform, we could then go out and seek additional vendors to build this ship if we felt like our Nation was not getting the ship we deserved at the price we need to pay. Under Secretary Stackley came back with a proposal that said we would give to one vendor a contract for 10 ships and then take that technical data package, put it out on the street and give a second vendor a contract for five, a winner-take-all strategy between a monohull ship and a trihull ship and gave the vendors about 8 months to come up with a price.

Madam Speaker, one of the few pleasant surprises of this Congress was that both vendors came back with remarkably good prices when given that all-or-nothing proposal. And I want to compliment, give credit where it's due to Under Secretary Stackley. I also want to give credit where it's due to the Seapower Subcommittee, the gentleman from Missouri (Mr. AKIN), and the other gentleman from Missouri, Chairman SKELTON, for allowing us to work with Under Secretary Stackley to get this program back under control.

Having said that, Madam Speaker, Under Secretary Stackley, once he looked at those prices—and I deeply regret the gentleman from Arizona was exactly right over in the other body when he said yesterday, What's the price? The public needs to know. Unfortunately, under the rules of our Nation, we are not allowed to divulge them just yet. Part of that reason is the fear that both vendors will drop their bids and come back later at higher prices.

So one of the limitations we are going to be working under today is the inability to give the exact price to Congress but to tell you that this ship that started out to be about a \$220 million dollar ship grew to be about a \$720 million ship. We have now got the price a heck of a lot closer to the first number than the last number which is where we needed to go all along.

Under Secretary Stackley is now asking, since both prices came back, and since there is a working ship of each variety out in the fleet right now that are performing well, he has asked for permission to buy both ships at the low price that the contractors have agreed to build them on. Having given that some thought, I think he is right. And also given the economic circumstances that the price of aluminum is down by about half since 3 or 4 years ago, the price of steel is down by about

half from 3 or 4 years ago, that American vendors need work, that because they need work, they are supplying the kind of prices that our Nation should have been paying all along, that we can get the Navy the ships they need at a price our Nation can afford and build 20 ships for about \$2 billion less than we had originally budgeted to build 19 ships. For all of these reasons, Madam Speaker, I rise in support of this program. I want to thank the gentleman from Missouri (Mr. AKIN) for being a cosponsor to this measure.

Madam Speaker, I rise in support of H.R. 6494, a bill granting authority for the Secretary of the Navy to construct up to 20 Littoral Combat Ships, 10 each from the shipyards currently building the vessels. This is a change in already passed authorization to “down-select” to one of the two types of ships and build 19 of them over the next 5 years. This change in acquisition strategy is the result of lower than expected construction proposals from the two competing shipyards.

The LCS has a very troubled history, but the bill before us today is about the future, it is about how true competition between vendors has actually forced these contractors to return competitive bids that this Nation can afford. These are good ships. Up until now they have just been too expensive to build. Neither contractor, until faced with the prospect of being shut out of the program, had ever submitted a realistic proposal for affordable construction. They now have.

I would not be here today requesting this House pass this legislation if I was not highly confident that this is the right thing to do, and that this action will not come back to be an issue that my friend and colleague from Missouri will need to deal with in the next Congress as he takes the gavel of the Seapower subcommittee.

I will also be the first to admit that the timing for this new acquisition proposal from the Navy is flawed. Normally, this is not the kind of decision that we would consider at the end of a Congress. However, the Navy has bids in hand from the two contractors that will expire this month if not acted upon. Unfortunately, time is of the essence.

For my colleagues, the bottom line is this: The Navy has budgeted approximately \$12 billion dollars for 19 ships over the next 5 years. This new strategy would buy 20 ships for approximately \$9.8 billion dollars, a savings of over \$2 billion from the budget, with the additional benefit of getting an extra ship. I believe this is a good deal and we should take it.

I would like to state for the record that this affordable strategy for the purchase of this class of ships would not have been possible without the tireless work of our Assistant Secretary for Acquisition, the Honorable Sean Stackley. He was the official responsible for the strategy which forced the contractors to offer affordable bids, at a firm fixed price, to build these ships. I congratulate him on the effort. If the Department of Defense could just get 100 Sean Stackleys working over there, we would have far fewer issues with cost overruns and program delays on weapons and equipment our warfighters need.

I urge my colleagues to agree to this resolution.

I reserve the balance of my time.

Mr. AKIN. Madam Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. WITTMAN).

Mr. WITTMAN. Madam Speaker, I rise today in support of H.R. 6494, a bill that would authorize procurement for the Littoral Combat Ship.

And I will start by thanking Chairman TAYLOR, who has been extraordinarily diligent in this effort in making sure that our Nation gets the best deal on LCS, knowing that there have been some hiccups in the past. He stood up and made sure this process was going to happen properly, that it was going to be the best value for our Navy and the best value for the United States. So I applaud the chairman for his leadership there. And also to Ranking Member AKIN who, alongside the chairman, made sure also that this process was going to happen properly and that the proper decisions were going to be made and that we were going to make the best decision on behalf of our Navy.

And as we all know, this legislation would amend the FY 2010 National Defense Authorization Act to authorize the procurement of 20 Littoral Combat Ships which are absolutely needed these days in our Navy. This bill would also allow the Navy to enter into one or more contracts and allow the Navy to conduct a competition for an additional shipyard for ship construction to be built to a design specification for that ship. That technical data package will belong to the United States, so if something doesn't go right with this two-ship acquisition, we have the opportunity to fix that and get it back on track.

Absent an NDAA, it is imperative to ensure that our Navy shipbuilding program remains on the right track. By procuring 20 Littoral Combat Ships, that gives our Navy the ability to increase its mission capability and project power throughout the littoral waterways around the globe.

We need to do everything we can to get Federal spending under control, and this bill does that. This bill, as Chairman TAYLOR says, cuts to the heart of reducing spending, gets us actually the same number, if not a little bit more, for \$2 billion less. It is a good deal for this Nation. The thing we have to keep in mind in the future is looking at the operation and maintenance costs of two platforms, making sure they were holding the Navy firm to controlling costs there, both the training costs of multiple crews and the operation and maintenance costs. We have been assured by Under Secretary Stackley that that will happen. So I urge my colleagues to support this bill.

Mr. TAYLOR. Madam Speaker, I yield 2 minutes to my friend and colleague, the gentleman from Connecticut (Mr. COURTNEY).

Mr. COURTNEY. Madam Speaker, I rise in support of this legislation,

which I think strikes the right balance in terms of the need for our Navy to build up its Littoral Combat Ship Program but also addressing I think a lot of the problems of this program, which has been very troubled over the last few years in terms of trying to get the cost per ship down.

□ 1040

I'd just like to say, though, on a personal note, that the work that Chairman TAYLOR has done on this program going back to 2007 with a series of hearings, looking at, again, the alarming increases in cost growth has been an extraordinary contribution, not just to this Congress, but to our country. There has been no one who has been more diligent in terms of trying to look out for the American taxpayer. There is no one who, in my opinion, has been more knowledgeable about every aspect of these vessels than the gentleman from Mississippi who is departing in a few days, and who I think is going to be sorely missed by this country in terms of the amazing work that he's done as chairman of the Seapower subcommittee.

All across the spectrum, in terms of ships, he has been there trying to, again, advance this country to get to the goal of a 314-ship Navy, which has been a struggle, protecting the industrial base, from New England all the way to San Diego and, again, all the time while being open and accessible to all Members across both party lines in terms of making sure that, again, we're going to achieve those goals and make sure that our country, which is still a great maritime power, is going to have a Navy that can project our force in a way that, again, is adequate for the challenges of the 21st century.

Again, his service to this country has just been extraordinary. It has been a privilege to serve with him over the last 4 years. Passing this legislation, I think, will be, again, another capstone to a great career in Congress. And, again, I want to thank him for his service.

Mr. AKIN. Madam Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT), who has been the ranking member on this committee a number of times.

Mr. BARTLETT. Madam Speaker, I've been involved with the LCS program from its very inception; and when the Navy announced that they were going to do a down select with this competition, I was somewhat dismayed because these are two very different ships, an aluminum trimaran, and the more conventional ship optimized for these special missions. And I wasn't sure that we knew enough about the potential of these two ships to make that down select during this competition.

So I was very pleased when Sean Stackley called me and said that they

were surprised and shocked by the quotes that came in. Competition, you know, really does matter. And when the down select was threatened, each of these competitors came in with a really good price.

So I was very pleased when the Department decided that they would like to buy 10 of each of these ships. These are multi-mission ships. I'm sure one of these ships will be better for one mission than another, so I am very pleased that we're taking this route; and I couldn't be more supportive of where we're going now with this.

If we're ever going to get to a 313-ship Navy, the LCS is going to play a big part of that. This is going to be a huge class of ship. A half of that class is going to be bigger than almost any other class of ships that we have had, so this is a win-win for everybody, and I'm pleased that we are taking this route.

Mr. TAYLOR. Madam Speaker, I reserve the balance of my time.

Mr. AKIN. Madam Speaker, before I get into my comments, I think there are a couple of people that we, as a Congress, and even we, as a people, as Americans, need to be thankful for. And the first is Chairman TAYLOR, who I've had a chance to work with now a couple of years as the minority leader on the Seapower Committee. I don't know of anybody in our country who is more committed to the Navy or to making sure that we use our money wisely, and to the overall security of our country than Chairman TAYLOR.

And so I want to extend my personal thanks for the fact that what you don't see here just for a few minutes' discussion on the floor was hours and hours of tours through shipyards, all kinds of details, talking to all kinds of people and trying to make sure that a program that was a little difficult as it started out got on track, and now is not only on track, but represents a significant opportunity for us to invest in the security of our country.

And so hats off to Chairman TAYLOR. And I agree completely that we're going to certainly miss your expertise and your hard work, Mr. Chairman.

Mr. BARTLETT. Will the gentleman yield?

Mr. AKIN. I yield to the gentleman from Maryland.

Mr. BARTLETT. For 4 years I was the chair of this subcommittee, and Mr. TAYLOR was my ranking member; and then the leadership in the Congress changed, and for 2 years, I was his ranking member and he was my chair. And then, sadly, due to our term limits on the Republican side of the House, I had to leave that subcommittee, but never left my interest, strong interest in that subcommittee.

And I will tell you that there is no person in the Congress who has been more committed or more effective in making sure that we have the right kind of Navy, the right size Navy.

When I first came here, I looked up GENE TAYLOR because we shared some social things. And as a Democrat, he kind of shone out as different than the other Democrats. And we've become the very best of friends since then. He tells people that we're joined at the hip, and indeed we are.

GENE, it's been a real, real pleasure to serve with you, and your departure is a grave loss to this Congress and to our Nation. I've been honored to serve with you, sir.

Mr. AKIN. Thank you for those most appropriate comments, ROSCOE.

The second gentleman that I think we need to recognize, Under Secretary Stackley, has really helped tremendously with his level of detailed knowledge about how you work these contracts. And he got the contracts, as Chairman TAYLOR mentioned, reorganized to some degree a couple of years ago, and now we have two excellent bids before us.

Now, one of the things that people know that have been around Congress a little bit is Congress has trouble making decisions rapidly or even wisely sometimes. I don't think that's the case today. Today, Secretary Stackley came to a number of us and said, look, there's two different ways we could go, the way we were planning to go, which is we down select, buy 10 ships, and then we resubmit bids to a number of different vendors.

He said the other alternative, which is very interesting, is that we just go with both contractors and buy the 20 ships right off the bat. And so as we had a chance to ask some questions, though not to the degree that many of us would have felt comfortable with, it became apparent that we would save money for the Navy and we could project more seapower more rapidly by going with both contractors, buy 10 from each side.

Now, the ships are different, as has been mentioned this morning. Certainly, an aluminum trimaran is a lot different than a monohull. It has its difficulties in anchoring in certain places or docking in certain places because it is so wide. But each has their place overall in the Navy.

Now, these ships, to try to put them in perspective, there may be some people who are not immersed in the detail here, we're not allowed to talk about the price that's been bid, but, generally speaking, you're looking at, you could buy five of these for the cost of one nuclear-powered submarine. So what we're talking about is a ship that is inexpensive enough, and we have enough of them that it allows America to project its seapower to little corners of the world where otherwise we don't have a presence that we need to have.

About a year or so ago, there was a lot of talk about pirates, and everybody got their best pirate voice out and talked about the pirates that were seiz-

ing commercial shipping. Some of that was allowed because of the fact that we didn't have as many ships as we might like in certain areas. This would be just one example of where these ships might become useful. They would become useful in hunting submarines and for all kinds and varieties of other missions.

And so this proposal that's before us is a result of some very good work by both Under Secretary Stackley, his coming to us and saying, look, there is a better way to do this but, Congress, you have to be able to respond and be agile on your feet.

Fortunately, there is a uniform agreement across the people that have been working these projects that, in fact Secretary Stackley is right and this is what we should do. So hats off to Secretary Stackley and particularly to Chairman TAYLOR for the good work that's been done.

I'm obviously speaking in favor of the proposal before us here. And there was some sense of frustration early on in trying to get the numbers and to get through the details that we had to in order to make a decision here; but I am very comfortable that what we're doing is the right thing.

The opportunity before us to pass this piece of legislation allows us to prove that it's wrong once in a while that Congress can't be agile and make wise decisions.

□ 1050

We will look to the Navy and to Secretary Stackley to help to continue to manage this program and make sure that the bids come in as we expect, that the Navy gets a good buy, and that we work to where we should be with enough ships to secure and give Americans the security that we believe is necessary and to provide a safe and peaceful world.

Madam Speaker, I yield back the balance of my time.

Mr. TAYLOR. Madam Speaker, first let me again thank future Chairman AKIN, former Chairman BARTLETT.

I believe it was CNO Vernon Clark who first proposed this program. The idea was to build a ship under the speed of light, an inexpensive ship. That obviously didn't happen, and we learned some very painful mistakes as a Congress, and I hope those of you who remain on the committee will remember those painful mistakes. We can make mistakes doing things too rapidly. We made a lot of mistakes in this program.

But the thing I want to most compliment the Armed Services Committee for, and particularly the Seapower Committee, was, when we recognized those mistakes, we admitted them and we went as far as to threaten to cancel the program if it wasn't corrected. I think those threats and, again, the phenomenal work of Secretary Stackley and Secretary

Mabus in holding the vendors' feet to the fire, the economic circumstances of our Nation where people need work, the fact that the Navy needs the ships, that the frigates that these ships will replace are getting to the end of their useful life, and, again, the willingness of all the members on both sides of the aisle to hold these vendors accountable was the key element in turning this program around.

So, again, I want to thank future Chairman AKIN, former Chairman BARTLETT, Mr. WITTMAN, Mr. KAGEN, Mr. BONNER, Mr. STUPAK, Ms. BALDWIN, and Mr. CONAWAY for being cosponsors of this measure.

I yield back the balance of my time. The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. TAYLOR) that the House suspend the rules and pass the bill, H.R. 6494, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONGRATULATING CAMERON NEWTON ON WINNING THE 2010 HEISMAN TROPHY

Mr. ALTMIRE. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1761) congratulating Auburn University quarterback and College Park, Georgia, native Cameron Newton on winning the 2010 Heisman Trophy for being the most outstanding college football player in the United States.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1761

Whereas Cameron Newton graduated from Westlake High School in College Park, Georgia, in 2007;

Whereas Cameron Newton became Auburn University's starting quarterback in 2010;

Whereas Cameron Newton became the first player in Southeastern Conference history and only the eighth player in National Collegiate Athletic Association Football Bowl Subdivision history to achieve over 2,000 yards passing and over 1,000 yards rushing in a single season;

Whereas the Auburn University football team finished the regular season with a 12-0 record;

Whereas the Auburn University football team won the Southeastern Conference Championship game by a score of 56 to 17 over the University of South Carolina;

Whereas Cameron Newton accounted for 6 touchdowns, 4 passing and 2 rushing, in the Southeastern Conference Championship game;

Whereas the Auburn University football team is ranked number one in both the Bowl Championship Series and Associated Press rankings;

Whereas Cameron Newton was named the Southeastern Conference Offensive Player of the Year for 2010;

Whereas Cameron Newton was named the Walter Camp Football Foundation Player of the Year for 2010;

Whereas Cameron Newton received the Maxwell Award for the Collegiate Player of the Year in 2010; and

Whereas Cameron Newton was named the 76th winner of the 2010 Heisman Memorial Trophy for the most outstanding college football player in the United States: Now, therefore, be it

Resolved, That the House of Representatives congratulates Auburn University quarterback and College Park, Georgia, native Cameron Newton on winning the 2010 Heisman Trophy for being the most outstanding college football player in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. ALTMIRE) and the gentleman from Alabama (Mr. ROGERS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

GENERAL LEAVE

Mr. ALTMIRE. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 1761 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ALTMIRE. I yield myself such time as I may consume.

Madam Speaker, as a member of the Higher Education Subcommittee, I rise today in support of House Resolution 1761, which congratulates Auburn University quarterback and College Park, Georgia, native Cam Newton on winning the 2010 Heisman Memorial Trophy.

Each year, the most outstanding college football player in the United States is recognized by the Heisman Committee. Mr. Newton has earned the 76th such distinction this year.

Cam Newton was selected as winner of the Heisman Memorial Trophy last Saturday, December 11, live from Times Square. He became the third Auburn Tiger to win the Heisman, joining 1971 winner Pat Sullivan and 1985 winner Bo Jackson, and he is the 31st college quarterback to win the Heisman Trophy.

Mr. Newton became Auburn University's starting quarterback just this season, and with one very big game remaining, he has so far completed 165 of his 246 passes for 2,589 yards and 28 touchdowns. Additionally, he rushed 242 times for 1,409 yards and 20 more touchdowns. Both Newton's passing and rushing touchdown totals are the best in Auburn University's history, and he becomes only the third NCAA major college player in history to have more than 20 rushing and passing touchdowns in the same season.

While leading the Auburn Tigers to an undefeated 13-0 regular season, Mr. Newton was also named the Southeastern Conference Offensive Player of

the Year and led his team to a number one ranking and an appearance in the January 10 BCS championship game. He was one of the four finalists for the 2010 Heisman Trophy, and he was awarded that trophy in a well-deserved landslide victory. For his outstanding performance, Cam Newton was officially honored at the 76th annual Heisman Memorial Trophy Award Dinner in New York last Monday evening.

Madam Speaker, I would like to thank Representative ROGERS, who represents Auburn University, and Representative LEWIS, who represents Cam Newton's hometown, for sponsoring this resolution and, once again, express my congratulations and the congratulations of everyone in this House to Cam Newton as the 2010 Heisman Trophy winner and wish him continued success. I urge my colleagues to join me in support of this resolution.

I reserve the balance of my time.

Mr. ROGERS of Alabama. I yield myself such time as I may consume.

Madam Speaker, I rise today in strong support of House Resolution 1761, a resolution congratulating Auburn University quarterback and College Park, Georgia, native Cam Newton on winning the 2010 Heisman Trophy for being the most outstanding college football player in America.

I would like to thank everyone that came together to bring this resolution to the floor today, including the leadership of both sides, the Committee on Ed and Labor, and especially Mr. LEWIS of Georgia.

Madam Speaker, Cam Newton is from College Park, Georgia, outside Atlanta, and went to Westlake High School in Mr. LEWIS' congressional district. From there, he came to Auburn University in my congressional district earlier this year. Cam quickly became a starting quarterback.

From his first few games with Auburn, it was easy to see that, standing at 6-6 and 250 pounds, Cam was no ordinary quarterback. He could rush, throw, and even catch touchdowns from anywhere on the field. If the ball was in his hands, he was a threat to score.

Needless to say, Cam has set many records in his long list of statistics that are downright unbelievable. If you saw his incredible performance against LSU, Cam had a 49-yard run for a touchdown, the miraculous comeback to win in the Iron Bowl in the second half after trailing 24-0, or, with 16 seconds left in the first half of the SEC championship, the Hail Mary pass into the end zone for an unbelievable catch by Darwin Adams, then you have seen why Cam is such a driving force for the Auburn Tigers and why he won the Heisman Trophy.

The one statistic that counts most to Cam and most of the fans at Auburn is the undefeated record of 13-0, and in a

few short weeks he will play for the BCS championship. And, by the way, if the gentleman from Eugene, Oregon, is here, watch out.

Madam Speaker, in Alabama, we live and breathe SEC football. Saturdays in the fall are spent with family and friends watching your favorite team. Regardless of who your team is, you can't deny that Cam Newton is the best college football player in America in 2010.

To Cam and the entire Auburn University football team, I say congratulations and you deserve it. And to everyone else, I say War Eagle!

With that, I yield to my friend and colleague from Alabama, Spencer Bachus, such time as he may consume.

Mr. BACHUS. I thank the gentleman from Alabama for yielding to me, and I thank he and Mr. LEWIS for bringing this resolution.

On the way over to the floor, I was on the elevator with two of my colleagues, JOHN CULBERSON and JO ANN EMERSON, the gentleman from Texas and the gentlelady from Missouri, and they both had the same comment when I told them I was coming to speak about Cam Newton. They said: He is a phenomenal athlete, but he gave glory to God and he persevered.

I think that Cam Newton is a reflection of each and every one of us. Hardship and difficulty is a part of life; either we have experienced it or we will experience it.

□ 1100

We have seen Cam Newton and his family go through a challenging time; and, in doing so, he was not distracted. He persevered. He maintained a positive attitude. I think we have all seen his winning smile, a wonderful smile, and that smile sustained him and I think encouraged a lot of us through some pretty difficult times. In fact, I think he used some of the criticism and some of the difficulty and some of the challenges as a motivation. He appeared to even play better on the field.

He is a phenomenal athlete. In many respects, he is almost superhuman in what he does; but in another respect, he is very human. And the one thing that I think is a story for each and every one of us, and I think Cam Newton is a great example, is that throughout it all, he expressed his faith—his faith in God and his faith that God would see him through.

You know, our God is a God of second chances, a God of redemption; and I think it is important for us, when we think about Cam Newton, to think about a young man that improved himself, that did better, that resolved to learn from the experiences he had.

To me, Cam is an inspiration, and he ought to be an inspiration to each and every one of us, any of us that, for whatever reason, find ourselves in a difficult or challenging situation, not

to strike back at our critics, but simply to use it as a motivation.

In such times that we do face difficulty, it is important to surround ourselves with good people, people that can be mentors and encouragers. He found that in the Auburn team. He expressed that in his Heisman speech, that his teammates were a big part of his success and had encouraged him. They had not lost faith in him.

I believe the coaching staff and the atmosphere at Auburn University provided a loving environment, an encouraging environment. I commend coach Gene Chizik for believing in Cam, for giving Cam an opportunity to better himself and to prove himself. As a graduate of that school, I am proud of Auburn University for providing support and encouragement to Cam.

Last year, I introduced a resolution congratulating Mark Ingram, another fine young man who preceded Cam Newton in winning the Heisman Trophy. Mark Ingram and the University of Alabama played for and won the national championship. Auburn University will try to attain that same goal.

Mark Ingram from Alabama and Cam Newton from Auburn highlight a very special relationship in our State of Alabama between our two finest universities. They compete on the field. They compete intensely. The fans come together, both wanting to win, but they take pride in the fact that our State and our universities do have a competitive spirit, but also a spirit of friendship.

I can tell you that the people of Alabama take great pride in our State in the fact that two of our finest universities have won consecutive Heisman Trophies and are competing for consecutive national championships. It once again highlights what is a wonderful, intense, and enjoyable competition that our two schools in Alabama have. It is another reason why I am proud to call Alabama my home.

In closing, again I thank the gentleman from Anniston, Alabama (Mr. ROGERS) who represents Auburn University well, and I say that to you as an alumnus of Auburn University. You are a credit to our university.

Mr. ROGERS of Alabama. With that, Madam Speaker, I would just urge a favorable vote by my colleagues and yield back the balance of my time.

Mr. ALTMIRE. Madam Speaker, I would recognize also the other three finalists for the Heisman Trophy and the schools, Oregon, Boise State, and Stanford. Congratulations on great seasons. But without question, Cam Newton deserved the award. He is the best player in college football. We wish him continued success and congratulations.

Mr. ADERHOLT. Madam Speaker, I would like to take this opportunity to voice my support for H. Res. 1761 and commend a young man on an outstanding season of college football.

Cameron Newton came to Auburn in January as a transfer student from Blinn Junior College. After going through a spirited competition to decide the starting quarterback position in spring training he was awarded the job.

Fans were wowed, including my 11-year-old daughter Mary Elliott, with his three passing touchdowns and two rushing touchdowns in Auburn's first game this season. From that point on Mr. Newton continued to lead Auburn through a magical, undefeated regular season and a victory in the SEC championship game over the University of South Carolina. Just as he had started the season Cam concluded it with six touchdowns, two rushing and four passing.

By winning the 2010 Heisman Trophy, Newton joins other Heisman winners from the State of Alabama—Mark Ingram of Alabama and Pat Sullivan and Bo Jackson from Auburn.

The State of Alabama has been blessed with great college football tradition and Cam Newton and Auburn University have continued that legacy with all of their accomplishments this season.

Mr. DeFAZIO. Madam Speaker, as a matter of principle, I do not support sports-related hortatory resolutions. My constituents have insisted that chronic unemployment and the lagging economy be addressed by Congress; and yet sporting accomplishments have foolishly taken precedence on Capitol Hill. My "present" vote on H. Res. 1761 does not connote any ill feelings toward Heisman Trophy winner Cameron Newton or the Auburn University athletic program. I appreciate the hard work and dedication exhibited by student athletes like Cameron Newton. However, I do not think that airing such appreciation on the House floor is the wisest use of time.

Mr. ALTMIRE. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ALTMIRE) that the House suspend the rules and agree to the resolution, H. Res. 1761.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. ALTMIRE. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

FOR THE RELIEF OF SHIGERU YAMADA

Ms. CHU. Madam Speaker, I move to suspend the rules and pass the bill (S. 4010) for the relief of Shigeru Yamada.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 4010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR SHIGERU YAMADA.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Shigeru Yamada shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Shigeru Yamada enters the United States before the filing deadline specified in subsection (c), Shigeru Yamada shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Shigeru Yamada, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Shigeru Yamada under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Shigeru Yamada under section 202(e) of that Act (8 U.S.C. 1152(e)).

(e) PAYGO.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. CHU) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Ms. CHU. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. CHU. I yield myself such time as I may consume.

S. 4010 is an immigration relief bill for Shigeru Yamada. The House passed a substantially identical version of this bill by voice vote in the 110th Congress, but the Senate was unable to take up the measure. I am pleased to see that the House will have an opportunity to vote on final passage today.

Shigeru was brought to the United States from Japan when he was 10 years old. Together with his mother and his two sisters, Shigeru entered the country on a non-immigrant visa and remained in the United States for over 3 years on his mother's student visa. During this period, Shigeru's mother became engaged to a U.S. citizen. Had she married her fiancé, she and her children would have been able to obtain lawful permanent residence in the country. However, in September 1995, when Shigeru was only 13 years old, his mother was killed in a car accident.

After his mother's death, Shigeru and his sisters were raised by their maternal aunt and uncle in Chula Vista, California. Shigeru's natural father was an alcoholic who was physically abusive to Shigeru, his sisters, and their mother. There was no other viable caretaker in Japan.

Shigeru's aunt attempted to formally adopt him, but was unable to complete the adoption before his 16th birthday. Under current immigration law, virtually all adoptions of foreign children by U.S. citizens must be completed before the child's 16th birthday in order for the child to qualify for legal status in the United States. Although Shigeru's sisters obtained legal status through adoption and marriage, Shigeru continued to reside here without such status.

In the meantime, Shigeru became a model student, graduating from Eastlake High School with honors in 2010. At Eastlake, he served on student government, participated in numerous community service activities, and excelled at football and wrestling. He was an All-American Scholar and was named Outstanding English Student his freshman year. He was also voted the Most Inspirational Player of the Year in various sports, both at the junior varsity and varsity level. He served as vice president of the associated student body his senior year.

Shigeru also volunteered to coach the Eastlake High School softball team and obtained an associate's degree from Southwestern Community College.

□ 1110

It is through no fault of his own that Shigeru was raised in the United States without legal immigration status. Shigeru's mother died before she could regularize his status, and adoption proceedings by his aunt were completed too late to affect his immigration status. S. 4010 presents the only option for Shigeru to remain in the United States.

I commend Representative BOB FILNER and Senator DIANNE FEINSTEIN, who each introduced their first private immigration bill on Shigeru's behalf back in the 108th Congress. I would also like to recognize Judiciary Com-

mittee Chairman JOHN CONYERS, Immigration Subcommittee Chairwoman ZOE LOFGREN and Judiciary Committee Ranking Member LAMAR SMITH for their help in moving this bill to the floor today.

I urge my colleagues to support this important legislation.

U.S. DEPARTMENT OF HOMELAND SECURITY, IMMIGRATION AND CUSTOMS ENFORCEMENT,

Washington, DC, Aug. 27, 2009.

Hon. ZOE LOFGREN,

Chairwoman, Subcommittee on Immigration, Citizenship, Refugees, Border Security, & International Law, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MADAM CHAIRWOMAN: In response to your request for a report relative to H.R. 698, private legislation for the relief of Shigeru Yamada, enclosed is a memorandum of information concerning the beneficiary.

The bill provides that the beneficiary shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of the Immigration and Nationality Act or for adjustment of status to lawful permanent resident.

We hope the information provided is useful. Please do not hesitate to call me if you have additional questions.

Sincerely,

ELLIOT WILLIAMS,

Director.

DEPARTMENT OF HOMELAND SECURITY IMMIGRATION AND CUSTOMS ENFORCEMENT MEMORANDUM OF INFORMATION FOR H.R. 698 111TH CONGRESS

Shigeru YAMADA (A 97 476 166) is the beneficiary of H.R. 698, private legislation introduced by Congressman Filner on January 26, 2009. Sen. Diane Feinstein introduced a companion bill in the Senate, S. 124, on January 6, 2009. Sen. Feinstein previously introduced S. 418, in the 110th Congress, S. 111 in the 109th Congress and S. 2548 in the 108th Congress, identical bills to benefit Mr. Yamada. Congressman Filner introduced an identical bill, H.R. 2760 in the 110th Congress, which was passed by the House of Representatives, but not acted upon by the Senate.

On May 7, 2009, an ICE Special Agent interviewed YAMADA for the purpose of updating information contained in previous reports to the Senate Judiciary Committee, Subcommittee on Immigration, Refugees, and Border Security. The beneficiary, Shigeru YAMADA, a native and citizen of Japan, was born on March 26, 1982, in Japan. On March 27, 1992, YAMADA entered the United States as a non-immigrant visitor along with his mother and two sisters. Shortly after their entry, YAMADA's mother changed her non-immigrant status from a visitor to that of a student. YAMADA resided with his mother and two sisters until his mother passed away in an automobile accident on September 15, 1995. YAMADA then went on to live with his maternal aunt, Kumsook Jae in the San Diego area until January, 2003.

YAMADA graduated from Eastlake High School in June, 2000, and then went on to earn an Associates degree from Southwestern College in June, 2005. YAMADA is currently employed at the San Diego Lasik Institute as a Lasik Coordinator and earns approximately \$50,000.00 per year. YAMADA has been employed at his current location since January, 2008. Prior to this employ-

ment, YAMADA worked as a sales associate at Nordstrom Department Store in San Diego, CA from September, 2004, until October, 2007.

On May 8, 2009, the National Crime Identification Center (NCIC) and Central Index Identifier were queried for criminal histories on beneficiary Shigeru YAMADA. NCIC revealed YAMADA had been issued FBI#386666EC7 on May 10, 2004 after his arrest on April 26, 2004, by the U.S. Border Patrol in San Diego, CA. YAMADA was issued a Notice to Appear for Removal Proceedings by the U.S. Border Patrol for having violated the terms of his entry into the United States. These proceedings were terminated without prejudice on June 15, 2004. Mr. YAMADA was granted deferred action on July 8, 2004, as a matter of prosecutorial discretion.

I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am pleased to support this legislation. Shigeru Yamada was born in Japan in 1992. When Shigeru was 10 years old, his mother brought him to the United States as a dependent on her student visa. In 1995 when Shigeru was 13 years old, his mother was killed in a car accident.

At the time of her death, Shigeru's mother was engaged to be married to an American citizen. If his mother had survived and in fact married the U.S. citizen, Shigeru would have obtained legal permanent resident status through her. Shigeru's natural father was an alcoholic and physically abusive to Shigeru's mother and the siblings. After the mother's death, Shigeru and the siblings were raised by an aunt in Chula Vista, California.

Although Shigeru's aunt attempted to formally adopt Shigeru, the adoption was not completed before the 18th birthday. Under current immigration law, Shigeru would have had to have been adopted before the age of 16 to obtain legal immigration status in the United States. Shigeru's younger sibling was adopted by another family while another sibling was married to an American citizen. Shigeru attended Eastlake High School and graduated with honors in 2000.

This bill easily fits within the modern-era private immigration bill precedent. Private immigration bills have been enacted where the foreigners, the aliens, have been abandoned by their parents or the parents had died. As this bill is consistent with private immigration bill precedent, and the Department of Homeland Security report revealed no adverse information about the beneficiary, I urge my colleagues to support it.

Ms. ZOE LOFGREN of California. Madam Speaker, Shigeru Yamada was brought to the United States from Japan when he was 10 years old. He entered the country on a non-immigrant visa with his mother and his two sisters, and remained here on his mother's student visa for over 3 years. Although his mother became engaged to a U.S. citizen,

which would have resulted in lawful permanent resident status for Shigeru and his sisters, tragedy prevented this from coming to pass. When Shigeru was 13 years old, his mother was killed in a car accident, and he and his siblings were taken to live with their maternal aunt and uncle in Chula Vista, California.

When Shigeru's aunt attempted to formally adopt him, she was unable to complete the process before he turned 16 years old. Under current immigration law, virtually all adoptions of foreign children by U.S. citizens must be completed before the child's 16th birthday in order for the child to qualify for legal status in the United States. Although Shigeru's sisters obtained legal status through adoption and marriage, Shigeru continued to reside here without such status.

Despite these difficulties, Shigeru shined. He graduated with honors in 2000 from Eastlake High School, where he served on student government, participated in numerous community service activities, and excelled at football and wrestling. He was an All-American Scholar and was named "Outstanding English Student" his freshman year. He was also voted the "Most Inspirational Player of the Year" in various sports, both at the junior-varsity and varsity level. He served as vice president of the associated student body his senior year. Shigeru later obtained an associate's degree from Southwestern Community College.

Shigeru's story highlights so many things that are wrong with our current immigration system. First, Shigeru is just the type of young person who would benefit from the DREAM Act, which passed the House with bipartisan support 1 week ago today. More importantly, America is just the country that would benefit from providing Shigeru a path to lawful status, so that he could continue to excel and serve as a model to all those around him.

Second, Shigeru's story highlights the nonsensical inflexibility of our international adoption rules. Earlier this summer, the House passed H.R. 5532, the International Adoption Harmonization Act of 2010. H.R. 5532 would harmonize our international adoption rules by setting the uniform deadline by which all adoptions must be finalized at a child's 18th birthday. One purpose of H.R. 5532 is to ensure that when a child is legally adopted by U.S. citizen parents between the child's 16th and 18th birthdays, the child is permitted to remain with his or her parents in the United States. The need for this commonsense piece of legislation was demonstrated by the many private immigration laws enacted by previous Congresses to provide exactly this form of relief to just those individual children who came to our attention—bills just like the one before us today. H.R. 5532 remains stalled in the Senate, which represents a real failure to protect American families and adopted children.

I remain hopeful that our Senate colleagues on both sides of the aisle will recognize that passage of the DREAM Act and H.R. 5532 are both in America's best interest. But under current law, S. 4010 represents the only option for Shigeru Yamada to remain in the United States, the country that he rightly calls home.

Mr. FILNER. Madam Speaker, I'd like to thank Senator FEINSTEIN, the Senate and House Judiciary Committees, Chairman CON-

YERS, and Chairwoman LOFGREN for their leadership in the passage of S. 4010, a bill for the relief of Shigeru Yamada, an extraordinary young man who is in danger of being deported back to Japan, despite living here for most of his life. Shigeru came to the U.S. legally in 1992 at the age of 10 with his mother and two younger sisters. In 1995, when Yamada was 13 years old, his mother was tragically killed in a car accident. Yamada and his sisters were suddenly orphaned, and due to a change in immigration laws, were stripped of their legal status. Notwithstanding personal adversities, Yamada excelled in high school where he was active in sports, student government, and the community, while maintaining almost a 4.00 GPA. Yamada has attended Southwestern College and is a model member of the Chula Vista, California community. His two younger sisters were able to become citizens. One married a U.S. citizen and the other one was adopted by family members. The family tried to adopt Shigeru, but they were not successful. Yamada does not have any family or home in Japan. His mother's side of the family is Korean which makes it extremely difficult for him to integrate into Japanese society. He would be virtually unemployable in Japan because he does not speak, read, or write Japanese. His situation shows that he would suffer extreme hardship if forced to return to Japan. The passage of this bill brings justice one step closer to Yamada. We want and need more people like Shigeru in our country and he deserves the opportunity to become a permanent U.S. citizen. Once again, I'd like to thank the leadership for passage of this critical bill.

Mr. POE of Texas. I yield back the balance of my time.

Ms. CHU. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and pass the bill, S. 4010.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FOR THE RELIEF OF HOTARU NAKAMA FERSCHKE

Ms. CHU. Madam Speaker, I move to suspend the rules and pass the bill (S. 1774) for the relief of Hotaru Nakama Ferschke.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR HOTARU NAKAMA FERSCHKE.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Hotaru Nakama Ferschke shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immi-

grant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Hotaru Nakama Ferschke enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Hotaru Nakama Ferschke, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act.

(e) PAYGO.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. CHU) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Ms. CHU. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. CHU. Madam Speaker, I yield myself such time as I may consume.

S. 1774 is an immigration relief bill for Hotaru Nakama Ferschke. By now the story of Mrs. Ferschke and her late husband, Marine Sergeant Michael H. Ferschke, Jr., should be well known to Members of the House.

The couple met in March 2007 when Sergeant Ferschke was stationed at Camp Schwab in Okinawa, Japan. They dated for more than 1 year before Sergeant Ferschke was deployed to Iraq. Shortly before his departure, they learned that they were going to have a baby. They spoke about getting married, moving back to the United States, and raising a family together.

Two months after arriving in Iraq, they were married through a ceremony conducted over the telephone. But just 1 month later, Sergeant Ferschke tragically lost his life in combat.

The United States military recognizes the couple's marriage for purposes of providing Mrs. Ferschke with a death gratuity. But our immigration laws recognize only proxy marriages that have been consummated, something this couple was never able to do following the marriage. As a result, Mrs. Ferschke has been unable to move to the United States on an immigrant visa, and her hopes of raising their son with the love and support of Sergeant Ferschke's family have been thwarted.

Last month, the House passed H.R. 6397, the Marine Sergeant Michael H. Ferschke, Jr. Memorial Act. The purpose of that bill was to fix Mrs. Ferschke's situation and to ensure that no other family is left in a similar situation. Because that bill remains stuck in the Senate, a relief bill for Mrs. Ferschke is the only way to right this wrong.

I commend Senators WEBB, ALEXANDER, CORKER, and UDALL for introducing this bill in the Senate, and Representative JOHN DUNCAN for his work on a companion bill in the House. I would also recognize Judiciary Committee Chairman JOHN CONYERS, Immigration Subcommittee Chairwoman ZOE LOFGREN, and Judiciary Committee Ranking Member LAMAR SMITH for helping to move this bill to the floor.

I urge my colleagues to support this important legislation.

U.S. DEPARTMENT OF HOMELAND

SECURITY,

Washington, DC., March 5, 2010.

Hon. ZOE LOFGREN,

Chair, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MADAM CHAIR: In response to your request for a report relative to H.R. 3182, private legislation for the relief of Hotaru Nakama Ferschke, enclosed is a memorandum of information concerning the beneficiary. This report is an update of one previously provided your committee on February 26, 2010, revised to reflect additional information provided by your staff.

The bill provides that the beneficiary shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of the Immigration and Nationality Act or for adjustment of status to lawful permanent resident.

We hope the information provided is useful. Please do not hesitate to call me if you have additional questions.

Sincerely,

ELLIOT WILLIAMS,

Director.

DEPARTMENT OF HOMELAND SECURITY

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

MEMORANDUM OF INFORMATION FOR H.R. 3182,

111TH CONGRESS

On July 10, 2009, Rep. John Duncan (R-TN) introduced H.R. 3182, private legislation to

provide immigration relief for Mrs. Hotaru Ferschke. This is the first private bill filed on her behalf.

The beneficiary is the widow of Michael Harvey Ferschke, Jr., a United States Marine who was killed-in-action August 10, 2008, as a result of a gunshot wound received as a member of a dismounted patrol that was conducting combat operations in Tikrit, Iraq. Mr. Ferschke passed away before an I-130 immediate relative petition could be filed on Ms. Ferschke's behalf.

Mrs. Hotaru Ferschke was born on October 20, 1983, and is a native and citizen of Japan. Mrs. Hotaru Ferschke has entered the United States 3 times as a temporary visitor. She entered the United States on December 12, 2007, August 15, 2008, and February 27, 2009. Each time she came to the U.S. she complied with the terms of her visa and departed before her visa expired. Ms. Ferschke has never been placed in removal proceedings or ordered removed.

Mrs. Hotaru Ferschke met her husband while he was stationed at the U.S. Marine base in Okinawa, Japan. They traveled to the United States from December 22, 2007, through December 30, 2007, for the Christmas holiday, where she met Michael's parents, Mr. Michael H. Ferschke, and Mrs. Robin Ferschke. When Michael Ferschke, Jr. received orders to deploy to Iraq, Hotaru, who was pregnant, remained in Okinawa. Michael Ferschke Jr. and Hotaru Nakama were married via teleconference on July 10, 2008, while he was in Iraq and she was in Japan. One month later, Michael was killed during Operation Iraqi Freedom in support of the Global War on Terrorism.

On August 15, 2008, Mrs. Hotaru Ferschke returned to the United States to attend the funeral for her late husband in Maryville, Tennessee. She returned to Okinawa on August 31, 2008.

On January 9, 2009, Mrs. Hotaru Ferschke gave birth to a son, Michael Harvey Ferschke III at the Chatan Hospital, Okinawa, Japan, and on February 27, 2009, she brought her newborn son to the United States. When in the United States, they reside with her late husband's parents in Tennessee. Neighbors have welcomed Hotaru and her new son into the community.

Mrs. Ferschke is the daughter of Mr. Masaaki and Mrs. Takako Nakama, both of whom are natives and citizens of Japan. Mrs. Hotaru Ferschke resides with her mother and grandmother, Mitsu Shinzato. Mrs. Hotaru Ferschke is one of four children, between sisters, Madoka Kudaka and Reika Nakama and her half-sister NaNami Nakama. Mrs. Hotaru Ferschke attended Okinawa Christian Junior College where she majored in English.

Mrs. Hotaru Ferschke is currently employed as an Administrative Specialist with the United States Army's 83rd Ordnance Battalion C&SB, Kadena Air Base Okinawa, Japan where she has been employed since August 2007. Prior to her employment with the 83rd Ordnance Battalion she was employed at the Camp Courtney Commissary, Unit 5156, as a sales clerk. Her annual salary is estimated to be \$24,000.00 per year.

Mrs. Hotaru Ferschke has seen substantial support from the community here in the United States. Mrs. Hotaru Ferschke is not employed in the United States. She is a new member of the American Widows Project, a support group for the wives and husbands of fallen U.S. soldiers. Record checks concerning criminal activity with U.S. Federal, state, and local law enforcement agencies revealed no derogatory information. Commer-

cial databases revealed no known debts or encumbrances, foreign or domestic. Inquiries with neighbors of Mr. Michael H. Ferschke and Mrs. Robin Ferschke regarding Hotaru Ferschke revealed no derogatory information.

I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I am pleased to support this bill, and I would like to yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN) for all of his efforts on companion legislation.

Mr. DUNCAN. Madam Speaker, I thank the gentlewoman from California (Ms. CHU) and the gentleman from Texas (Mr. POE) for their work in bringing this bill to the floor at this time.

As has been described, this is a private relief bill attempting to allow the young widow of a marine who was killed in combat in Iraq to bring the couple's young son and come to live with the marine's family in the State of Tennessee in my district.

While everyone has supported this bill every step of the way, it has run into some technical or procedural difficulties that have delayed it until this point. As has previously been stated, I would like, as Ms. CHU did, to thank particularly Senator ALEXANDER and Senator WEBB who have taken such a personal interest in this bill on the Senate side, and I would like to once again thank the House for passing the general bill last month.

Mrs. Ferschke, the mother of this soldier, first came to see me about this in December of 2008. Early in this Congress, we introduced a private relief bill. It took a few months to get the necessary information and complete the required paperwork, but this private bill was taken up by the Subcommittee on Immigration in the Judiciary Committee on July 23, 2009. At that time it received the support of both Chairwoman LOFGREN and Ranking Member KING, both of whom I would also like to thank. However, at that point there were some objections to doing private bills in the other body, and so at the direction of the staff of the Judiciary Committee, both majority and minority, we attempted to do an amendment to the Defense bill. However, some of the people on the Rules Committee, while supporting the bill, did not feel it was germane to the Defense bill, which we also had to agree with, but we were doing that at the direction of others. But I also would like to thank the gentleman from Massachusetts (Mr. MCGOVERN) because hearing about this at the Rules Committee, he took a special and personal interest in this bill also.

We then introduced a general bill, once again working with the staff of the Judiciary Committee, whom I would also like to thank. That bill was passed last month in the House, but we ran into some objections here, and that is why we are back here today on this private relief bill.

□ 1120

Hotaru Ferschke, as has been stated, is the widow of the late Sergeant Michael Ferschke of the U.S. Marine Corps. She was born on October 20, 1983, in Okinawa, Japan. In March 2007, as Ms. CHU said, when Sergeant Ferschke was stationed in Okinawa, he met her at a mutual friend's party. They dated for more than a year before Sergeant Ferschke was deployed to Iraq in April 2008. Shortly before Sergeant Ferschke deployed, the couple learned that Hotaru was pregnant. Sergeant Ferschke's parents and members of his military unit in Iraq have attested to the fact that the couple already had planned to marry before Hotaru became pregnant and had decided to live and raise their future family in the United States.

The couple was married by proxy, by telephone, by a military chaplain in July of 2008 while Sergeant Ferschke was in Iraq. But 1 month later, in August of 2008, Sergeant Ferschke was killed in combat. Although the marriage is legally valid and recognized by the military, in order for Mrs. Ferschke to be recognized as Sergeant Ferschke's spouse for immigration purposes, the marriage itself would have had to have been consummated. Under the circumstances, this wasn't possible. The law makes no allowance to the fact that Mrs. Ferschke was already pregnant with her husband's child before the marriage ceremony took place.

I could go on and tell additional details, but I'll just leave those for the statement that I have and say that this is something that I think everyone has wanted to support all through this, and it is a great moment for this family to hopefully finally complete this at this time at the tail end of this Congress. And so I urge my colleagues to support this very worthwhile legislation.

Ms. CHU. Madam Speaker, I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I strongly support this legislation. I once again want to thank the gentleman from Tennessee (Mr. DUNCAN) for his efforts in this. It's a perfect example of how, if there's a problem, an issue with a constituent in a congressional district, the gentleman from Tennessee took the bull by the horns, so to speak, and solved this problem and brought it before the attention of Congress in an effort to resolve this problem.

I am pleased to support this bill for Hotaru Ferschke and would like to thank JOHN DUNCAN for all his efforts on her behalf. Hotaru is the widow of the late Sgt. Michael Ferschke (U.S. Marine Corps). She was born in Okinawa, Japan, and met Sgt. Ferschke there in 2007, where he was stationed at USMC Camp Schwab. They dated for more than a year before Michael was deployed to Iraq in 2008.

Shortly before Michael was deployed to Iraq, the couple learned that Hotaru was pregnant. They had planned to marry before she became pregnant. Michael and Hotaru were married "by proxy" via telephone on July 10, 2008, while Sgt. Ferschke was in Iraq. They were never able to see each other after their marriage because Michael was killed in combat on August 10, 2008. Hotaru gave birth to Michael Ferschke, III on January 7, 2009. Michael is a United States citizen.

Normally, the Immigration and Nationality Act would allow Hotaru to receive her green card, despite the death of her husband. The INA provides that "in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death . . . if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien . . . shall be considered . . . to remain an immediate relative after the date of the citizen's death. . . ."

However, the INA also provides that the term spouse "does not include a spouse . . . by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated." Thus, the Ferschke's marriage is not recognized for immigration purposes because it was never consummated.

This provision, enacted in 1952, was designed to prevent marriage fraud. However, according to the U.S. Embassy in Seoul, Korea, it is clear that the Ferschke's relationship was bona fide.

While there is no precedent for such a private bill, the case seems to be relatively unique and meritorious. There is no indication that there was any fraud associated with the Ferschke's marriage.

I urge my colleagues to support this bill. Let us pay honor to the memory of Michael Ferschke and grant his widow a future in the U.S.

Ms. ZOE LOFGREN of California. Madam Speaker, as Chairwoman of the House Immigration Subcommittee, I first learned about Hotaru Ferschke and her late-husband, Marine Sergeant Michael H. Ferschke, Jr., when the Subcommittee formally met to consider H.R. 3182, a private immigration bill introduced by Representative JOHN DUNCAN. The Ferschke case highlighted a little-known provision in our immigration laws, which states that when a marriage takes place between two persons who cannot both be physically present during the ceremony, the marriage is not valid unless and until it is consummated. The provision allows no exceptions, even where the bona fides of the marriage is recognized for other purposes and consummation of the relationship prior to marriage can be demonstrated beyond a shadow of a doubt.

Last month, I joined Representatives DUNCAN, JIM MCGOVERN, and LAMAR SMITH in offering H.R. 6397, a bill that would amend this provision of our immigration laws to account for situations—like the one presented here—where the failure to consummate such a marriage was the result of service abroad in the United States Armed Forces. I was pleased that the House passed that bill by voice vote,

but we now must await final passage in the Senate.

In the meantime, S. 1774 provides the only means by which Hotaru Ferschke will be able to obtain lawful permanent residence in the United States, so that she may raise her son—Mikey—in the country for which his father gave his life.

Moreover, as the House is poised to pass the first private immigration bills that will be sent to the President in 6 years, it is worth making some brief remarks about such bills more generally. Private legislation is perhaps the narrowest, most targeted form of relief that Congress can provide. Private immigration bills have long been recognized as necessary in compelling circumstances where the inflexible application of existing law would lead to extraordinary hardship. Such bills also can help Congress identify systemic problems with our laws.

This country has a long history of passing private immigration legislation. According to the Congressional Research Service, from 1936–2004, at least one private immigration law was enacted in each Congress. During the Cold War, Congress enacted well over 1,000 private immigration laws.

This long history came to a grinding halt in the 109th Congress, when Congress failed to enact a single private immigration law. The same was true of the 110th Congress and, until just recently, the 111th.

The Senate's passage of the two immigration relief bills before us today—S. 4010 and S. 1774—is therefore important not only for the two beneficiaries of the bills and their family members, but also for the private bill process itself. Our immigration laws are broken—there can be no doubt about that—and I am a firm believer that those laws must be reformed. But even a perfect set of laws will occasionally result in cases of extraordinary hardship, for which an individual exception to the law may be necessary. Private immigration relief bills have played a significant role in our history, and I am hopeful that they will continue to play such a role after today's important votes.

Mr. POE of Texas. I yield back the balance of my time.

Ms. CHU. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and pass the bill, S. 1774.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SUPPORTING NATIONAL PHYSICIAN ASSISTANT WEEK

Mr. PALLONE. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1600) supporting the critical role of the physician assistant profession and supporting the goals and ideals of National Physician Assistant Week, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1600

Whereas more than 75,000 physician assistants in the United States provide high-quality, cost-effective medical care in virtually all health care settings and in every medical and surgical specialty;

Whereas the physician assistant profession's patient-centered, team-based approach reflects the changing realities of health care delivery and fits well into the patient-centered medical home model of care, as well as other integrated models of care management;

Whereas approximately 47 percent of physician assistants currently practice in primary care and emergency medicine, regularly providing access to needed medical care to underserved populations such as frontier communities, rural towns, the urban poor, and at-risk groups (such as the elderly);

Whereas physician assistants practice in teams with physicians and extend the reach of medicine and the promise of improved health to the most remote and in-need communities of our Nation;

Whereas nearly 300,000,000 patient visits were made to physician assistants in 2009;

Whereas physician assistants may provide medical care, have their own patient panels, and are granted prescribing authority in all 50 States;

Whereas the physician assistant profession was created 40 years ago in response to health care workforce shortages and is a key part of the solution to today's health care workforce shortage;

Whereas the American Academy of Physician Assistants recognizes October 6-12, 2010 as National Physician Assistant Week; and

Whereas the physician assistant profession is positioned to be able to adapt and respond to the evolving needs of the health care system by virtue of—

- (1) comprehensive educational programs that prepare physician assistants for a career in general medicine; and
- (2) a team-based approach to providing patient-centered medical care: Now, therefore, be it

Resolved, That the House of Representatives supports—

- (1) the critical role of the physician assistant profession for the significant impact the profession has made and will continue to make in health care; and
- (2) the goals and ideals of National Physician Assistant Week.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

GENERAL LEAVE

Mr. PALLONE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PALLONE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Resolution 1600 recognizes the critical role of physician assistants in our health care system by designating October 6-12 of 2010 as National Physician Assistant Week.

Physician assistants, or PAs, practice in a collaborative setting with physicians, nurses, and other health care professionals to extend the reach of medical care to more patients. Their role helps patients have better access to high-quality medical care, particularly for underserved populations. Throughout the Nation, approximately 75,000 PAs provide high-quality and cost-effective care in various health settings. With the passage of health reform, millions of Americans will enter our health care system, and PAs will play a vital role in helping our healthcare workforce meet this challenge.

I want to applaud the leadership of Representative MCCOLLUM on this issue, and I would urge my colleagues to join me in supporting this resolution.

I reserve the balance of my time.

Mr. TERRY. Madam Speaker, I yield myself such time as I may consume.

As an original sponsor of this resolution, I rise in support of House Resolution 1600, supporting the critical role of the physician assistant profession and supporting the goals and ideals of National Physician Assistant Week. I would also like to thank Congresswoman BETTY MCCOLLUM of Minnesota for bringing to our attention the important services physician assistants provide and congratulate her for getting this resolution to the floor.

Physician assistants practice medicine under a physician's supervision. A PA's practice can include diagnostic, therapeutic, and preventive care. On any given day, a PA could prescribe medication, order and interpret x-rays, attend surgery, give advice to patients, and may also have supervisory responsibilities. A PA is supervised by a physician, but at facilities where the physician is present for only a few days each week, the PA may be a patient's principal health care provider. This increases the flexibility of the medical profession and ensures patients have access to quality care.

PAs in every State are required to pass the Physician Assistant National Certifying Examination. In order to take this exam, a candidate must be a graduate of an accredited PA program, which includes classroom, laboratory, and clinical training in several specialty areas. To maintain their certification, PAs must complete many hours of continuing medical education and a recertification examination. PAs are highly educated, highly trained, work extremely hard, and are a vital cog in our Nation's health care system. I hope all will join me in saluting our Nation's PAs for their commitment and dedication, and I urge your support for this resolution.

I reserve the balance of my time.

Mr. PALLONE. Madam Speaker, I yield such time as she may consume to the Congresswoman from Minnesota who is the sponsor of the bill, Ms. BETTY MCCOLLUM.

Ms. MCCOLLUM. I would like to thank Chairman WAXMAN and I would like to thank Representative PALLONE for their help with this bill, as well as my colleague on the other side of the aisle, Congressman TERRY.

House Resolution 1600 acknowledges the critical role of physicians assistants by designating a week in 2010 as National Physician Assistant Week.

Forty years ago, the position of PA was created in response to a national health care workforce shortage. Over 20 years ago, I had the honor and the privilege in Minnesota of helping to write the rules for PAs to function and provide health care in Minnesota. I was the consumer member on the board, and I had a great learning curve working with doctors, PAs, hospitals, health care clinics, and patients from all over Minnesota in making sure that PAs were able to address this workforce shortage. And today, they continue to be an integral part of our health care system, practicing in all health care settings and specialties.

□ 1130

Physician assistant service will be vital as more Americans, our health care system and we prepare for an aging population—the baby boomers. PAs work, as has been mentioned, side by side with physicians, nurses and other professionals in providing high-quality, cost-effective health care. They work in rural and underserved communities and ensure patients can receive the care that they need when they need it.

I want to thank the physicians assistants and the American Academy of Physician Assistants for all the work that they do to care for patients and to keep America healthy.

Lastly, I sincerely want to thank my colleagues for their bipartisan support so we could bring this bill forward.

Thank you to Chairman WAXMAN again for bringing this resolution.

Mr. TERRY. Madam Speaker, I have no further requests for time.

I would be remiss on a resolution recognizing PAs not to recognize my brother-in-law's brother, Val, Val Valgora. He passed away several years ago. He was a PA back in the seventies. I had never heard of a physician assistant before. Val was instrumental in the State of Nebraska in expanding the use of physician assistants. He worked with the University of Nebraska Medical Center and then on to LSU to help create and expand the educational component for PAs. So, at least in the State of Nebraska, Val Valgora is one of our legendary PAs.

I just wanted to thank him and take this opportunity to recognize his accomplishments for the State of Nebraska.

I yield back the balance of my time.

Mr. PALLONE. Madam Speaker, I urge passage of the resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. PALLONE) that the House suspend the rules and agree to the resolution, H. Res. 1600, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

NATIONAL ALZHEIMER'S PROJECT ACT

Mr. PALLONE. Madam Speaker, I move to suspend the rules and pass the bill (S. 3036) to establish the Office of the National Alzheimer's Project.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Alzheimer's Project Act".

SEC. 2. THE NATIONAL ALZHEIMER'S PROJECT.

(a) DEFINITION OF ALZHEIMER'S.—In this Act, the term "Alzheimer's" means Alzheimer's disease and related dementias.

(b) ESTABLISHMENT.—There is established in the Office of the Secretary of Health and Human Services the National Alzheimer's Project (referred to in this Act as the "Project").

(c) PURPOSE OF THE PROJECT.—The Secretary of Health and Human Services, or the Secretary's designee, shall—

(1) be responsible for the creation and maintenance of an integrated national plan to overcome Alzheimer's;

(2) provide information and coordination of Alzheimer's research and services across all Federal agencies;

(3) accelerate the development of treatments that would prevent, halt, or reverse the course of Alzheimer's;

(4) improve the—

(A) early diagnosis of Alzheimer's disease; and

(B) coordination of the care and treatment of citizens with Alzheimer's;

(5) ensure the inclusion of ethnic and racial populations at higher risk for Alzheimer's or least likely to receive care, in clinical, research, and service efforts with the purpose of decreasing health disparities in Alzheimer's; and

(6) coordinate with international bodies to integrate and inform the fight against Alzheimer's globally.

(d) DUTIES OF THE SECRETARY.—

(1) IN GENERAL.—The Secretary of Health and Human Services, or the Secretary's designee, shall—

(A) oversee the creation and updating of the national plan described in paragraph (2); and

(B) use discretionary authority to evaluate all Federal programs around Alzheimer's, including budget requests and approvals.

(2) NATIONAL PLAN.—The Secretary of Health and Human Services, or the Secretary's designee, shall carry out an annual assessment of the Nation's progress in preparing for the escalating burden of Alzheimer's, including both implementation steps and recommendations for priority actions based on the assessment.

(e) ADVISORY COUNCIL.—

(1) IN GENERAL.—There is established an Advisory Council on Alzheimer's Research, Care, and Services (referred to in this Act as the "Advisory Council").

(2) MEMBERSHIP.—

(A) FEDERAL MEMBERS.—The Advisory Council shall be comprised of the following experts:

(i) A designee of the Centers for Disease Control and Prevention.

(ii) A designee of the Administration on Aging.

(iii) A designee of the Centers for Medicare & Medicaid Services.

(iv) A designee of the Indian Health Service.

(v) A designee of the Office of the Director of the National Institutes of Health.

(vi) The Surgeon General.

(vii) A designee of the National Science Foundation.

(viii) A designee of the Department of Veterans Affairs.

(ix) A designee of the Food and Drug Administration.

(x) A designee of the Agency for Healthcare Research and Quality.

(B) NON-FEDERAL MEMBERS.—In addition to the members outlined in subparagraph (A), the Advisory Council shall include 12 expert members from outside the Federal Government, which shall include—

(i) 2 Alzheimer's patient advocates;

(ii) 2 Alzheimer's caregivers;

(iii) 2 health care providers;

(iv) 2 representatives of State health departments;

(v) 2 researchers with Alzheimer's-related expertise in basic, translational, clinical, or drug development science; and

(vi) 2 voluntary health association representatives, including a national Alzheimer's disease organization that has demonstrated experience in research, care, and patient services, and a State-based advocacy organization that provides services to families and professionals, including information and referral, support groups, care consultation, education, and safety services.

(3) MEETINGS.—The Advisory Council shall meet quarterly and such meetings shall be open to the public.

(4) ADVICE.—The Advisory Council shall advise the Secretary of Health and Human Services, or the Secretary's designee.

(5) ANNUAL REPORT.—The Advisory Council shall provide to the Secretary of Health and Human Services, or the Secretary's designee and Congress—

(A) an initial evaluation of all federally funded efforts in Alzheimer's research, clinical care, and institutional-, home-, and community-based programs and their outcomes;

(B) initial recommendations for priority actions to expand, eliminate, coordinate, or condense programs based on the program's performance, mission, and purpose;

(C) initial recommendations to—

(i) reduce the financial impact of Alzheimer's on—

(I) Medicare and other federally funded programs; and

(II) families living with Alzheimer's disease; and

(ii) improve health outcomes; and

(D) annually thereafter, an evaluation of the implementation, including outcomes, of the recommendations, including priorities if necessary, through an updated national plan under subsection (d)(2).

(6) TERMINATION.—The Advisory Council shall terminate on December 31, 2025.

(f) DATA SHARING.—Agencies both within the Department of Health and Human Services and outside of the Department that have data relating to Alzheimer's shall share such data with the Secretary of Health and Human Services, or the Secretary's designee, to enable the Secretary, or the Secretary's designee, to complete the report described in subsection (g).

(g) ANNUAL REPORT.—The Secretary of Health and Human Services, or the Secretary's designee, shall submit to Congress—

(1) an annual report that includes an evaluation of all federally funded efforts in Alzheimer's research, clinical care, and institutional-, home-, and community-based programs and their outcomes;

(2) an evaluation of all federally funded programs based on program performance, mission, and purpose related to Alzheimer's disease;

(3) recommendations for—

(A) priority actions based on the evaluation conducted by the Secretary and the Advisory Council to—

(i) reduce the financial impact of Alzheimer's on—

(I) Medicare and other federally funded programs; and

(II) families living with Alzheimer's disease; and

(ii) improve health outcomes;

(B) implementation steps; and

(C) priority actions to improve the prevention, diagnosis, treatment, care, institutional-, home-, and community-based programs of Alzheimer's disease for individuals with Alzheimer's disease and their caregivers; and

(4) an annually updated national plan.

(h) SUNSET.—The Project shall expire on December 31, 2025.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

GENERAL LEAVE

Mr. PALLONE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PALLONE. I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of S. 3036, the National Alzheimer's Project Act, as amended.

Last week, the Subcommittee on Health in the Energy and Commerce Committee held a hearing on Alzheimer's disease and the many challenges associated with it.

Alzheimer's is an irreversible progressive brain disease that slowly destroys memory and thinking skills and eventually even the ability to carry out the simplest tasks. Alzheimer's can affect every part of the brain and rob its victims of their very lives and dignity, and it is fatal.

Alzheimer's is estimated to be the sixth leading cause of death in our country. The disease, which is estimated to affect as many as 5.1 million Americans, has a devastating impact, not just on families but on our national economy. It is projected that the national costs associated with caring for those with Alzheimer's exceeds \$172 billion each year, with the figure expected to rise to \$1 trillion by 2050. These costs represent the burden on Medicare, Medicaid, private insurance, caregiving, and out-of-pocket costs for families. Of this figure, \$123 billion can be attributed to Medicare and Medicaid alone.

The National Alzheimer's Project Act will require the Secretary of Health and Human Services to create and maintain a national plan to overcome Alzheimer's disease. It will also create an advisory council on Alzheimer's research, care, and services.

I want to thank the sponsor of this legislation, Representative MARKEY, for his tireless leadership on this bill. He is also the co-chair of the congressional task force on Alzheimer's disease, and he works hard on all aspects of trying to find a cure and to do research with regard to Alzheimer's.

I urge my colleagues to support the National Alzheimer's Project Act today.

I reserve the balance of my time.

Mr. TERRY. I yield myself such time as I may consume.

Madam Speaker, I rise in support of S. 3036, the National Alzheimer's Project Act. Alzheimer's afflicts millions of Americans and their families and friends. It is a personal tragedy for both patients and everyone who loves them.

I had an opportunity to meet with the families during a support group just recently. I heard their stories about their loved ones slipping away with this form of dementia, and I heard their stories of the pressures and sadness it places on all of the families.

NIH estimates that approximately 5 million Americans have Alzheimer's disease, most of whom are over the age of 60. So there is a good chance that you or a friend of yours has a relative suffering from Alzheimer's.

Alzheimer's disease forces families and friends to watch as loved ones, once independent and vivacious, suffer personality changes, a loss of independence and severe memory loss, such that they view those close to them as strangers. As difficult as it is to watch, it is that much harder on the patients. Those with Alzheimer's face an irre-

versible process in which they lose many of those things that define them as individuals.

While Alzheimer's can affect people as young as in their 30s, most patients are over 60 years old. As this age group doubles over the next 25 years to around 72 million, the number of people with Alzheimer's will also increase dramatically.

As with other diseases which also affect large numbers of people and which cause profound suffering for patients, families and friends, we want to do whatever we can to eliminate the diseases or to mitigate their impact on people's lives. When Congress reauthorized the NIH in 2006, Congress decided to put the question of which diseases to fund into the hand of experts.

While it makes the most sense to let experts determine the best use of scarce resources for research, Congress still has an important role to play in fighting Alzheimer's and other diseases. Specifically, we must identify laws and regulations that pose barriers to developing new treatments and diagnostic tests quickly and safely. Most importantly, Congress must ensure that our government is acting efficiently and effectively.

We often hear concerns about a lack of coordination between government agencies. The government already devotes substantial resources to Alzheimer's through such things as direct care, research at the NIH, and the activities of the Administration on Aging. However, it is imperative that these agencies coordinate their activities. The National Alzheimer's Project Act would ensure that coordination. If these agencies have a unified mission with a coordinated strategy, we significantly increase the chances of beating this disease.

Mr. Speaker, I urge all of my colleagues to support S. 3036.

I reserve the balance of my time.

Mr. PALLONE. I yield 3 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) who has been very much involved with this issue and who is also a physician.

Mrs. CHRISTENSEN. Thank you, Chairman PALLONE, for yielding.

Madam Speaker, I, too, rise in strong support of S. 3036, the National Alzheimer's Project Act.

Today, the effects of Alzheimer's disease are devastating—devastating to the estimated 5.3 million Americans with the disease to their more than 11 million caregivers and to the Nation as a whole, because we all share the tremendous cost of contending with Alzheimer's. By the middle of the century, as many as 60 million Americans could have Alzheimer's disease, putting it on the course of being our country's leading public health crisis and the defining disease of the baby boomer generation.

□ 1140

Building on the recommendations of the Alzheimer's Study Group, the National Alzheimer's Project Act would create a national strategic plan and establish an interagency council to work with the Secretary of HHS to comprehensively assess and address Alzheimer's research, care, institutional services, and home- and community-based programs. It would ensure strategic planning and coordination across the Federal Government as a whole.

Currently, without a coordinated effort, we have no way of evaluating outcomes or developing more effective ways to improve those outcomes. The National Alzheimer's Project Act addresses this critical gap by establishing a national plan which would assess current Federal initiatives, evaluate outcomes from these programs, prioritize future actions, and set national goals.

In addition, this legislation will work to reduce the tremendous costs associated with Alzheimer's disease. The baby boomers are beginning to turn 65. Without the discovery and delivery of effective interventions, 10 million of us will develop Alzheimer's, and the lives of many millions more will be upended by the emotionally, physically, and financially draining toll of caring for us.

According to the Alzheimer's Association's report, we are currently spending \$172 billion annually on Alzheimer's and other dementia care in America. \$88 billion of that is for Medicare alone, which is 17 percent of the total Medicare budget. Medicare beneficiaries with Alzheimer's or another dementia cost the system three times as much as a person who does not have dementia. For Medicaid, the cost multiplier for someone with dementia is nine times more. The report estimates that in the next 40 years, the cost of Alzheimer's and other dementias will be in the trillions.

The National Alzheimer's Project Act will help to address these costs by establishing an advisory council in which Federal and private representatives will work to reduce costs for Federal programs, as well as for families, while working to improve national health outcomes.

The National Alzheimer's Project Act also aims to decrease health disparities in Alzheimer's. Sixteen percent of women over the age of 70 have Alzheimer's compared to 11 percent of men, and although under-diagnosed, African Americans are two times more likely and Hispanic Americans 1½ times more likely to have Alzheimer's or other dementias. The National Alzheimer's Project Act will ensure the inclusion of those at-risk populations in clinical, research, and service efforts.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. PALLONE. I yield the gentlewoman an additional 1 minute.

Mrs. CHRISTENSEN. S. 3036 makes significant strides in addressing one of

America's most feared, costly, and deadly diseases.

I congratulate Mr. MARKEY for his work on this bill and I urge its passage.

I rise in strong support of S. 3036—the National Alzheimer's Project Act, which will provide critical federal support and coordination to overcome the growing Alzheimer's crisis.

Today, the effects of Alzheimer's disease are devastating—to the estimated 5.3 million Americans with the disease, to their more than 11 million caregivers, and to the nation as a whole as we all share the tremendous costs of contending with the Alzheimer crisis. Tomorrow, the devastation of Alzheimer's disease will grow far worse. In fact, it is on course to be our country's leading public health crisis of the 21st century, and the defining disease of the Baby Boom generation. If we don't succeed in changing the trajectory of this disease, by the middle of the century as many as 16 million Americans could have Alzheimer's.

Building on the recommendations of the Alzheimer's Study Group, the National Alzheimer's Project Act, NAPA, would create a national strategic plan for the Alzheimer's disease crisis. It would also establish an inter-agency council to work with the Secretary of Health and Human Services to comprehensively assess and address Alzheimer research, care, institutional services, and home and community based programs. NAPA would ensure strategic planning and coordination of the fight against Alzheimer's across the federal government as a whole.

Currently, without a coordinated effort, it is impossible to determine if it has been a good year in the fight against Alzheimer's. There are no benchmarks—we have no way of evaluating outcomes, let alone a way to improve them.

The National Alzheimer's Project Act addresses this critical gap by establishing a national plan. This national plan would assess current federal initiatives, evaluate outcomes from these programs, prioritize future actions, and assert national goals. With an integrated national plan, the government can improve the quality of life and outcomes for the millions of Americans—and their families living with Alzheimer's disease and other dementias.

In addition, this legislation will work to reduce the tremendous costs associated with Alzheimer's disease. In a few weeks, the first Baby Boomer turns 65—Alzheimer cases will begin to mount at an ever-increasing pace. Without the discovery and delivery of effective interventions, 10 million American Baby Boomers will develop Alzheimer's disease. And the lives of many millions more will be upended by the emotionally, physically and financially draining toll of caring for them.

The economic factors of Alzheimer's rival the human devastation of the disease. According to the Alzheimer's Association's report, "Changing the Trajectory of Alzheimer's Disease: A National Imperative," we are currently spending \$172 billion annually on Alzheimer's and other dementia care in America; \$88 billion of that is for Medicare alone, which is 17 percent of the total Medicare budget. Medicare beneficiaries with Alzheimer's or another dementia cost the system three times as much as a person who does not have a dementia. For Medicaid, the cost multiplier for someone

with dementia is nine times more. The Trajectory report estimates that during the next 40 years, the cost of Alzheimer's and other dementias will exceed \$20 trillion.

Our country is engaged in a collective and very appropriate conversation about what should be done to address our current fiscal situation. When we look at how we can take costs out of the system while improving outcomes, we quickly see that Alzheimer's should be a core part of these discussions.

Fortunately, the National Alzheimer's Project Act will help to address these costs. The legislation establishes an Advisory Council comprised of federal and private representatives; the Council will work to reduce costs for federal programs, as well as families, while working to improve national health outcomes.

The National Alzheimer's Project Act also aims to decrease health disparities within Alzheimer's. Studies have shown certain populations are at greater risk of suffering from this devastating disease. Sixteen percent of women over the age of 70 have Alzheimer's compared to 11 percent of men. African Americans are about two times more likely to have Alzheimer's disease and other dementias; however, they are less likely to have a diagnosis. The legislation will ensure the inclusion of those at risk populations in clinical, research, and service efforts which will play a vital role in changing the future of disease.

The National Alzheimer's Project Act makes significant strides in addressing one of America's most feared, costly, and deadly diseases. I am pleased to support such a critical piece of legislation which will improve the quality of life for the millions of Americans affected by Alzheimer's disease.

Mr. TERRY. Madam Speaker, I yield 4 minutes to one of our great advocates for families and individuals with Alzheimer's, the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I thank my distinguished friend for yielding.

Madam Speaker, as cochairman along with my good friend and colleague Congressman ED MARKEY of the Congressional Task Force on Alzheimer's, which we founded back in 1999, and as lead Republican sponsor on the companion legislation—this is a Senate bill, of course—I rise in strong support and ask for our colleagues to pass the National Alzheimer's Project Act.

This legislation is an important step forward in our battle against the crisis of Alzheimer's disease. Unfortunately, we know that the trajectory of Alzheimer's disease over the next few decades threatens unparalleled tragedy and threatens to overwhelm society's ability to cope if something is not done to change that trajectory.

Alzheimer's disease is both a current and future health crisis of our Nation. About 78 million baby boomers were born between 1946 and 1964, which has been termed the single greatest demographic event in United States history. In a couple of weeks on January 1, the first of those boomers will turn 65 years of age.

Today, 5.3 million people have Alzheimer's, and another American develops the disease every 70 seconds. 200,000 Americans under the age of 65 have early onset Alzheimer's. Alzheimer's costs Medicare and Medicaid alone approximately \$122 billion. The average annual Medicare payment for an individual with Alzheimer's, as the previous speaker pointed out, is three times higher than for those without the condition. Additionally, 11 million unpaid caregivers provide 12.5 billion hours of care, valued at an estimated \$144 billion. This unpaid care obviously is a huge drain on family resources.

Without effective intervention to change the trajectory, by mid-century, the number of individuals with Alzheimer's will increase to an estimated 13 million to 16 million people, and the cost to Medicare and Medicaid will be staggering, over \$800 billion in today's dollars. Given these realities, it is astounding that there is no national plan to address the crisis of Alzheimer's disease and the looming crisis.

The National Alzheimer's Project Act is designed to help turn the tide by creating a national strategic plan to address it. NAPA establishes an inter-agency advisory council to advise the Secretary of Health and Human Services on how to comprehensively address the government's efforts on Alzheimer's research, care, and service, including both institutional and at-home care.

As a percentage of the population, more women than men have Alzheimer's, and African Americans are about two times more likely to have Alzheimer's or other dementias, yet they are less likely to be diagnosed. NAPA aims to address these disparities as well.

NAPA will provide the framework to accelerate the development of an efficacious care and comprehensive treatment in an effort to mitigate the unspeakable agony and suffering of millions of patients and their families. And if we are successful, we will also save the country billions of dollars every year and trillions over the coming decades.

This is an outstanding bill, and I hope the membership of this body will overwhelmingly support it.

Mr. PALLONE. Madam Speaker, I yield 1 minute to the gentleman from Iowa (Mr. LOEBSACK).

Mr. LOEBSACK. I thank the gentleman from New Jersey for yielding.

Madam Speaker, there are currently 5.3 million Americans with Alzheimer's, and the prevalence of the disease is expected to increase rapidly as the baby boomer generation, my generation, begins to age.

As a degenerative disease that affects memory and other cognitive functioning, Alzheimer's can be very frustrating, both for the person afflicted and for family, friends, and caretakers.

Far too many of us have lost a loved one because of this disease.

It is time we find a cure for Alzheimer's. This bill is an extremely important contribution to the search for that cure. It will establish a coordinated national and international effort and accelerate research and development efforts for new treatments to prevent, stop, or reverse the course of Alzheimer's disease. The information these efforts provide will, in turn, inform priorities for future work to end this disease.

I wholeheartedly support what is clearly a bipartisan bill, and I urge my colleagues on both sides of the aisle to do the same.

Mr. MARKEY of Massachusetts. Madam Speaker, Thank you, Chairman WAXMAN, Chairman PALLONE, Representative BURGESS, and Ranking Member BARTON.

I'd like to thank Senators BAYH and COLLINS for their leadership on this bill, the Senate companion to H.R. 4689 which I introduced with my friend and cochair of the Task Force on Alzheimer's Disease, Representative CHRIS SMITH from New Jersey.

The poet Robert Browning once wrote, "Grow old with me, the best is yet to be."

Unfortunately, the "Golden Years" can be the worst years for Americans afflicted with Alzheimer's and their families.

We've worked with the Senate to engage in a bipartisan, constructive process with stakeholders to reach legislative language and move this bill forward.

After all, Alzheimer's is an equal-opportunity disease. My father was a milkman, my mother the valedictorian. My father always said it was an honor that my mother married him and that if Alzheimer's was determined by the strength of your brain, "Your mother would be taking care of me instead." He took care of her in our living room in Malden, Massachusetts for 10 years as she suffered from Alzheimer's. I'm thinking of them both today.

Alois Alzheimer first discovered the plaques and tangles in the brain that cause Alzheimer's in 1906—within the very same year that my mother was born.

At the time, doctors believed that dementia in the elderly was a normal part of the aging process that was caused by the hardening of the arteries.

However, Alzheimer's groundbreaking work was done on a patient who was only 51 years old. So Alzheimer reached the conclusion that the condition he had discovered was a kind of "pre-senile dementia," and that the pattern of plaques and tangles he had identified was a rare condition that afflicted only the young.

Years passed, my mother grew up, and researchers did little to study and learn about the plaques and tangles that were forming in her brain.

It wasn't until the mid-1970s that it became clear that the most common form of dementia in older people was caused by the same plaques and tangles that Alzheimer had identified decades earlier.

Unfortunately, the search for the cure had begun too late for my mother who was diagnosed in 1981—75 years after Alzheimer had discovered the disease that lead to her death.

Alzheimer's patients are the mothers and fathers, and sisters and brothers who we recognize even if they don't recognize us; who we remember even if they don't remember us, and who we continue to love and cherish even as their condition worsens.

A few stats: 5.3 million Americans have Alzheimer's; it is the 7th leading cause of death; \$172 billion is spent annually for Alzheimer's.

Our challenge is to ensure that we increase not only the lifespan, but also the health span of Americans, so that the 30 bonus years of life we gained in the 20th century—and hopefully will continue to gain in the 21st—are truly better years of life.

The Alzheimer's community has been waiting for help, and trying to maintain hope.

Today the House can take action to help and give hope to Alzheimer's families.

The bill we are considering today will help coordinate Alzheimer's research, care, and services across all Federal agencies.

The United States is one of the only developed nations without a national plan to combat Alzheimer's. For too long, we've been unarmed against this disease.

Through this plan, will be developed: An assessment of all Alzheimer-related Federal efforts; recommendations; annual updates; and a strong advisory committee.

This bill will: Help coordinate the health care and treatment of citizens with Alzheimer's; it will accelerate the development of treatments that would prevent, halt or reverse the course of Alzheimer's by coordinating existing government resources; and it will ensure the inclusion of ethnic and racial populations at higher risk for Alzheimer's and reduce health disparities among people with Alzheimer's.

Thank you: The Alzheimer's Association—Harry Johns, Rob Egge, Mary Richards, Katie Maslow, Matthew Baumgart; Maria Shriver for all of her great work; The Alzheimer's Foundation of America—Eric Hall, Sue Peschin; Cure Alzheimer's Fund—Tim Armour, Dr. Rudy Tanzi; The National Institute on Aging—Dr. Richard Hodes, Tamara Jones; Keep Memory Alive—Maureen Peckman, George and Trish Vradenburg, Patience O'Connor, Meryl Comer, Jillian Oberfield, Mark Bayer, Kate Bazinsky, Josh Lumbley, Amit Mistry, and Binta Beard from my office; Tim Lynagh from Representative CHRIS SMITH's office; Emily Gibbons, Sarah Despres from the Energy and Commerce Committee Majority Staff; Ryan Long and Clay Alspach from Mr. BARTON's staff; J.P. Paluskiewicz from Dr. BURGESS's Office; Sarah Kyle and Kevin Kaiser from Senator BAYH's Office.

Thank you to the many hard-working advocates for this disease, and those who are caretakers, bearing many burdens day in and day out.

I once again thank my colleagues for their support—WAXMAN, PALLONE, BURGESS, and BARTON.

Mr. KLINE of Minnesota. Madam Speaker, I offer the following statement in support of Senate Bill 3036, expressing support for the National Alzheimer's Project Act.

The effects of Alzheimer's disease are devastating. An estimated 5.3 million Americans live with this disease, and millions more are directly affected through caring for loved ones and sharing the surmounting costs of this terrible disease.

Unfortunately, the devastation of Alzheimer's disease will only become worse as the Baby Boom generation grows older. It is estimated that if we are unable to change the trajectory of this disease, as many as 16 million Americans will have Alzheimer's by the middle of this century.

The economic impact of Alzheimer's is also staggering. We are currently spending an estimated \$172 billion annually on Alzheimer's disease and other dementia care in America. As the nation faces a growing aging population, we must look at how to reduce costs while improving outcomes. The National Alzheimer's Project Act will help achieve this goal through the establishment of the Advisory Council on Alzheimer's Research, Care, and Services, which facilitates public and private coordination on research and services across all federal agencies.

As my mother is currently suffering from the advanced stages of Alzheimer's disease, I would welcome news of a research breakthrough that would slow, stop, or reverse this degenerative disease.

The National Alzheimer's Project Act is an important step toward addressing a devastating and deadly disease. I am pleased to support legislation that will help improve the quality of life for the millions of Americans affected by Alzheimer's disease.

Mr. ISRAEL. Madam Speaker, I rise today to speak in support of the National Alzheimer's Project Act—a bill whose passage will mark the first coordinated and concentrated effort by the Federal Government to meet the challenges posed by Alzheimer's disease.

And, those challenges are many. There's the toll it takes on the physical health of the 5.3 million Americans living with the disease, the toll it takes on the emotional well-being of the 11 million people caring for those with the disease, and the increasingly great toll it takes on the finances of the federal budget. The disease takes and takes. But, with the National Alzheimer's Project Act, we can finally fight back.

The need to do so could not be any clearer.

In 2010, Medicare and Medicaid spent \$122 billion caring for people with Alzheimer's disease and other dementias. Without action, the annual cost to those two programs alone from Alzheimer's disease will reach \$805 billion in 2050. But, we are not destined to increase the Medicare and Medicaid costs of this disease almost sevenfold.

In fact, we know that a therapeutic intervention that delays the onset of Alzheimer's by five years would cut nearly in half the projected Medicare cost of the disease over the same time period.

To reach that future where the number of Americans with the disease does not rise unabated and the costs spiral out of control we will need to marshal all of our resources. With this bill, we assign a field general.

The bill establishes the National Alzheimer's Project within the Office of the Secretary of Health and Human Services to improve the early diagnosis of Alzheimer's disease, to coordinate research across all Federal agencies, and to accelerate the development of treatments that would prevent, halt, or reverse the advancement of the disease.

The creation of a strategic plan not only provides a vision for fighting Alzheimer's, but also

mandates the creation of benchmarks to measure our progress in that fight. Today, we have no way of evaluating outcomes, let alone a way to improve them.

I am pleased to support such a critical piece of legislation which will improve the lives of the millions of Americans living with the disease and the millions of Americans caring for them.

Ms. LINDA T. SÁNCHEZ, of California. Madam Speaker, I rise today to support S. 3036, the National Alzheimer's Project Act. This bill would provide critical federal support and coordination to overcome the growing Alzheimer's crisis.

Today, the effects of Alzheimer's disease are devastating. An estimated 5.3 million people are living with the disease. We must act decisively, or the devastation of Alzheimer's disease will grow far worse. Alzheimer's disease is the sixth leading cause of death in the United States, and is the fastest growing of the 10 leading causes of death. In 2010, Medicare and Medicaid will spend \$122 billion caring for people with Alzheimer's disease and other dementias.

The National Alzheimer's Project Act would establish an inter-agency advisory council to address the government's efforts on Alzheimer's research, care, institutional services, and home and community-based programs. It would also increase awareness, support, and outreach for those confronted with Alzheimer's disease and for their families to help better equip our nation to face this disease.

To decrease health disparities, this bill will work to ensure the inclusion of ethnic and racial populations who are at higher risk for Alzheimer's or who are less likely to receive care in clinical, research, and service programs.

Legislation that advances a cure for Alzheimer's disease is near and dear to my heart because of my father and the millions of others like him who live every day with this disease.

I urge my colleagues to support such a critical piece of legislation. It's a monumental step forward in our battle against Alzheimer's and other dementias.

Mr. TERRY. I yield back the balance of my time.

Mr. PALLONE. Madam Speaker, I urge passage of S. 3036, and I also yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. PALLONE) that the House suspend the rules and pass the bill, S. 3036.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EARLY HEARING DETECTION AND INTERVENTION ACT OF 2010

Mr. PALLONE. Madam Speaker, I move to suspend the rules and pass the bill (S. 3199) to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

The Clerk read the title of the bill. The text of the bill is as follows:

S. 3199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Early Hearing Detection and Intervention Act of 2010".

SEC. 2. EARLY DETECTION, DIAGNOSIS, AND TREATMENT OF HEARING LOSS.

Section 399M of the Public Health Service Act (42 U.S.C. 280g–1) is amended—

(1) in the section heading, by striking "**INFANTS**" and inserting "**NEWBORNS AND INFANTS**";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "screening, evaluation and intervention programs and systems" and inserting "screening, evaluation, diagnosis, and intervention programs and systems, and to assist in the recruitment, retention, education, and training of qualified personnel and health care providers,";

(B) by amending paragraph (1) to read as follows:

"(1) To develop and monitor the efficacy of statewide programs and systems for hearing screening of newborns and infants; prompt evaluation and diagnosis of children referred from screening programs; and appropriate educational, audiological, and medical interventions for children identified with hearing loss. Early intervention includes referral to and delivery of information and services by schools and agencies, including community, consumer, and parent-based agencies and organizations and other programs mandated by part C of the Individuals with Disabilities Education Act, which offer programs specifically designed to meet the unique language and communication needs of deaf and hard of hearing newborns, infants, toddlers, and children. Programs and systems under this paragraph shall establish and foster family-to-family support mechanisms that are critical in the first months after a child is identified with hearing loss.";

(C) by adding at the end the following:

"(3) Other activities may include developing efficient models to ensure that newborns and infants who are identified with a hearing loss through screening receive follow-up by a qualified health care provider, and State agencies shall be encouraged to adopt models that effectively increase the rate of occurrence of such follow-up.";

(3) in subsection (b)(1)(A), by striking "hearing loss screening, evaluation, and intervention programs" and inserting "hearing loss screening, evaluation, diagnosis, and intervention programs";

(4) in paragraphs (2) and (3) of subsection (c), by striking the term "hearing screening, evaluation and intervention programs" each place such term appears and inserting "hearing screening, evaluation, diagnosis, and intervention programs";

(5) in subsection (e)—

(A) in paragraph (3), by striking "ensuring that families of the child" and all that follows and inserting "ensuring that families of the child are provided comprehensive, consumer-oriented information about the full range of family support, training, information services, and language and communication options and are given the opportunity to consider and obtain the full range of such appropriate services, educational and program placements, and other options for their child from highly qualified providers.";

(B) in paragraph (6), by striking "after re-screening,";

(6) in subsection (f)—

(A) in paragraph (1), by striking "fiscal year 2002" and inserting "fiscal years 2011 through 2015";

(B) in paragraph (2), by striking "fiscal year 2002" and inserting "fiscal years 2011 through 2015"; and

(C) in paragraph (3), by striking "fiscal year 2002" and inserting "fiscal years 2011 through 2015".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

GENERAL LEAVE

Mr. PALLONE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PALLONE. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of S. 3199, the Early Hearing Detection and Intervention Act. Last year, the House passed the companion measure to this bill, and we are pleased to pass it again with minor modifications.

Every year, more than 12,000 babies are born with hearing loss. Often their condition goes undetected for years, and many of these children end up experiencing delays in speech, language, and cognitive development. However, if the hearing loss is detected early, many of these delays can be mitigated or even prevented, and for that reason, early detection is critical to improving outcomes for these children.

□ 1150

The bill, the Early Hearing Detection and Intervention Act, would improve services for screening, diagnosing, and treating hearing loss in children by re-authorizing the Early Hearing Detection and Intervention Program, which was first enacted in 2000. The program provides grants and cooperative agreements for statewide newborn and infant hearing services. These programs focus on screening evaluation, diagnosis, and early intervention.

I want to particularly thank my colleague, the gentlewoman from California, Representative CAPPS, who is the vice chair of the Health Subcommittee, for her hard work on this issue and so many issues. She is a nurse by profession. I am sure you have noticed that many of the health care bills that have come out of the last 4 years during the Democratic majority have been from Mrs. CAPPS, and she is always, in particular, looking out for children and senior citizens. I urge my colleagues to support this legislation.

I reserve the balance of my time.

Mr. TERRY. I yield myself as much time as I may consume.

Madam Speaker, S. 3199, the Early Hearing Detection and Intervention Act of 2010, has worthy elements. Certainly we support the efforts of early recognition of hearing loss. As Mr. PALLONE said, and Mrs. CAPPS will reiterate, it is not standard practice, or was not standard practice, to perform early detection for hearing loss on newborns. Usually parents, after about a year, would recognize something isn't right, that maybe speech was delayed, and that's when testing would occur. We have found that early testing has benefits. However, our side of the aisle must recommend a "no" vote at this time due to the authorizing of appropriations with the language of "such sums as necessary." This type of open-ended authorization abdicates our duty to budget for programs responsibly.

The bill would reauthorize the newborns and infants hearing loss program. It would enable the Secretary of Health and Human Services to assist in recruitment, retention, education, and training of qualified personnel and health care providers. Unfortunately, in reauthorizing this program, the bill contains no limits on authorization of spending for the program. As my colleagues know, authorizing "such sums as necessary" in legislation has contributed to the fiscal crisis our country now faces. Our country had a budget deficit of \$1.3 trillion in fiscal year 2010, and some are projecting that our country's budget deficit will reach \$1.5 trillion this fiscal year. We cannot continue this fiscal irresponsibility by voting for open-ended authorization amounts. We need to include specific authorization amounts in legislation so we can set priorities, if we are to ever get our fiscal House in order.

Madam Speaker, I recommend a "no" vote on this legislation so we can work in a bipartisan manner to include specific reauthorization amounts.

I reserve the balance of my time.

Mr. PALLONE. Madam Speaker, I yield myself such time as I may consume.

I just wanted to address the gentleman's point with regard to the underlying bill containing the language "such sums." I mean, the bill doesn't change anything from the current law. The 2002 Early Hearing Detection and Intervention Act, which we are reauthorizing, had that language in it, and we are simply updating the authorization here. It is not changing the language. And the same is true for the bill that passed the House last year. There was a House version, sponsored by Mrs. CAPPS, and that didn't make any change either. So I just want to remind my colleagues that, you know, again, we passed this bill in March 2009 and then again on the floor I guess later that month, and there wasn't any issue

raised by the Republicans at that time. So I just think to raise it now really makes no sense, and we should simply move to pass this. It is very common-sense legislation. It simply reauthorizes the current law.

I reserve the balance of my time.

Mr. TERRY. I yield myself such time as I may consume.

Madam Speaker, the gentleman is correct in the sense that it is a reauthorization. It strikes the language of 2002 while leaving the language of "such sums as may be necessary" for the fiscal year going forward now, but we still have that open-ended language.

And after hearing from the people for the last couple of years, we have an additional emphasis on making sure that we are tighter in the writing of these bills, unlike what was occurring in the year 2002 when this was passed or in 2009 when it passed from committee. That is our only objection here, the authorization of open-ended, "such sums as may be necessary."

I reserve the balance of my time.

Mr. PALLONE. I now yield 3 minutes to the sponsor of the legislation, the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. I thank my colleague and our chairman for yielding time.

Madam Speaker, I am rising today in strong support of Senate bill 3199, the Early Hearing Detection and Intervention Act. And I am very proud to have introduced the House version of this bill with our colleague Congresswoman JO ANN EMERSON of Missouri. The House did pass this legislation by voice vote in March of 2009, and the Senate version, introduced by Senators SNOWE and HARKIN, was modified by the Senate HELP Committee and passed by unanimous consent earlier this week. Senate bill 3199 is noncontroversial and would make needed improvements to the Early Hearing Detection and Intervention Program, as recommended by experts.

Each year, more than 12,000 infants are born with a hearing loss. If left undetected, this condition impedes speech, language, and cognitive development. And I might add, with concerns for the cost, the cost to taxpayers of not recognizing these needs and intervening, the cost in special education, in modified vocational goals for individuals who will be a burden to taxpayers the rest of their lives is unbelievably high.

Since the authorization of the Early Hearing Detection and Intervention Program in early 2000, we have seen a tremendous increase in the number of newborns who are being screened for hearing loss. Back in 2000, only 44 percent of newborns were being screened for hearing loss. Now we are screening newborns at a rate of over 93 percent. But you know, our work isn't done yet. According to CDC, almost half of newborns who fail initial hearing

screenings do not receive appropriate followup care. And in my work as a school nurse for over 20 years, I had much interaction with students who were lagging behind their classmates due to undiagnosed and/or untreated hearing loss. We can prevent more children from suffering in the classroom and suffering throughout their lives through a better investment in followup and intervention as a part of the successful hearing screening program for newborns and infants.

This legislation would accomplish these goals through reauthorizing the programs administered by HRSA, CDC, and the NIH, providing grants to conduct newborn hearing screening, provide followup intervention to promote surveillance and research. So I am strongly urging my colleagues to join me in voting in favor of Senate bill 3199, to continue building on the great success of these programs.

Mr. TERRY. I reserve the balance of my time.

Mr. PALLONE. Madam Speaker, I would like to yield 2 minutes now to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY of Massachusetts. I thank the chair very much, and I thank him for his great work.

The poet Robert Browning once wrote, "Grow old with me. The best is yet to be." Unfortunately, the golden years can be the worst years for Americans afflicted with Alzheimer's and their families. We have worked with the Senate to put together a bipartisan bill that has just passed here in the United States House of Representatives that I have worked on over the last 2 years that will put together an Alzheimer's plan, a battle plan for our country. And why is it important? I will tell you very simply: 4 million Americans have Alzheimer's today. There are going to be 12 million to 15 million baby boomers with Alzheimer's. They will have a spouse who also has the disease or some other family member. Somebody in the family has to take care of that person. So by the time all the baby boomers have retired, there will be about 25 million to 30 million Americans whose lives will revolve around Alzheimer's.

□ 1200

We have to find a cure for it. We have to find a way of giving more help to these heroes, these families.

My father was a milkman. My mother was a valedictorian. My mother got Alzheimer's. My father kept her in the living room. For 13 years, we kept her in our living room. My father always said that it was an honor that my mother had married him, the milkman. He also said that if the strength of your brain determined who got Alzheimer's, he said that he would have it and my mother would be taking care of him.

But this is an equal opportunity disease. It's an epidemic. If we do not find the cure, if we do not find the cure, the budget problems for our country will be so explosive that it will be impossible to ever balance the Federal budget.

We are now spending a fortune on it, and unless we cure it, we will never be able to deal with the catastrophic consequences personally, for those families, and for our country, in general.

I thank the gentleman for allowing me this personal privilege, because I was pulled away as the bill was being considered.

Mr. TERRY. Madam Speaker, I thank the gentleman from Massachusetts for his efforts in fighting Alzheimer's and working for those families.

With that, I yield back the balance of my time.

Mr. PALLONE. Madam Speaker, I yield myself such time as I may consume.

I just wanted to mention that the three bills today are just a small representation of many bipartisan public health bills that the majority and minority worked on together in the Health Subcommittee over the past 2 years. And I wanted to thank the ranking member of the Health Subcommittee, Mr. SHIMKUS, for his hard work and cooperation in these efforts. In the summer and fall alone, the House passed 25 bipartisan health bills that came from our Health Subcommittee.

And I also want to thank the staff that worked on these public health bills this past Congress. From the majority is Ruth Katz, Steve Cha, Sarah Despres, Emily, who's here with me, Emily Gibbons, Tiffany Guarascio, Anne Morris, Camille Sealy, Naomi Seiler, Tim Westmoreland, and Karen Nelson, of course. And from the minority, Ryan Long, Clay Alspach, Peter Kielty, and Chris Sarley.

Madam Speaker, I ask for passage of the legislation.

I yield back the balance of my time. The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. PALLONE) that the House suspend the rules and pass the bill, S. 3199.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RESTORE ONLINE SHOPPERS' CONFIDENCE ACT

Mr. BOUCHER. Madam Speaker, I move to suspend the rules and pass the bill (S. 3386) to protect consumers from certain aggressive sales tactics on the Internet.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Restore Online Shoppers' Confidence Act".

SEC. 2. FINDINGS; DECLARATION OF POLICY.

The Congress finds the following:

(1) The Internet has become an important channel of commerce in the United States, accounting for billions of dollars in retail sales every year. Over half of all American adults have now either made an online purchase or an online travel reservation.

(2) Consumer confidence is essential to the growth of online commerce. To continue its development as a marketplace, the Internet must provide consumers with clear, accurate information and give sellers an opportunity to fairly compete with one another for consumers' business.

(3) An investigation by the Senate Committee on Commerce, Science, and Transportation found abundant evidence that the aggressive sales tactics many companies use against their online customers have undermined consumer confidence in the Internet and thereby harmed the American economy.

(4) The Committee showed that, in exchange for "bounties" and other payments, hundreds of reputable online retailers and websites shared their customers' billing information, including credit card and debit card numbers, with third party sellers through a process known as "data pass". These third party sellers in turn used aggressive, misleading sales tactics to charge millions of American consumers for membership clubs the consumers did not want.

(5) Third party sellers offered membership clubs to consumers as they were in the process of completing their initial transactions on hundreds of websites. These third party "post-transaction" offers were designed to make consumers think the offers were part of the initial purchase, rather than a new transaction with a new seller.

(6) Third party sellers charged millions of consumers for membership clubs without ever obtaining consumers' billing information, including their credit or debit card information, directly from the consumers. Because third party sellers acquired consumers' billing information from the initial merchant through "data pass", millions of consumers were unaware they had been enrolled in membership clubs.

(7) The use of a "data pass" process defied consumers' expectations that they could only be charged for a good or a service if they submitted their billing information, including their complete credit or debit card numbers.

(8) Third party sellers used a free trial period to enroll members, after which they periodically charged consumers until consumers affirmatively canceled the memberships. This use of "free-to-pay conversion" and "negative option" sales took advantage of consumers' expectations that they would have an opportunity to accept or reject the membership club offer at the end of the trial period.

SEC. 3. PROHIBITIONS AGAINST CERTAIN UNFAIR AND DECEPTIVE INTERNET SALES PRACTICES.

(a) REQUIREMENTS FOR CERTAIN INTERNET-BASED SALES.—It shall be unlawful for any post-transaction third party seller to charge or attempt to charge any consumer's credit card, debit card, bank account, or other fi-

nancial account for any good or service sold in a transaction effected on the Internet, unless—

(1) before obtaining the consumer's billing information, the post-transaction third party seller has clearly and conspicuously disclosed to the consumer all material terms of the transaction, including—

(A) a description of the goods or services being offered;

(B) the fact that the post-transaction third party seller is not affiliated with the initial merchant, which may include disclosure of the name of the post-transaction third party in a manner that clearly differentiates the post-transaction third party seller from the initial merchant; and

(C) the cost of such goods or services; and

(2) the post-transaction third party seller has received the express informed consent for the charge from the consumer whose credit card, debit card, bank account, or other financial account will be charged by—

(A) obtaining from the consumer—

(i) the full account number of the account to be charged; and

(ii) the consumer's name and address and a means to contact the consumer; and

(B) requiring the consumer to perform an additional affirmative action, such as clicking on a confirmation button or checking a box that indicates the consumer's consent to be charged the amount disclosed.

(b) PROHIBITION ON DATA-PASS USED TO FACILITATE CERTAIN DECEPTIVE INTERNET SALES TRANSACTIONS.—It shall be unlawful for an initial merchant to disclose a credit card, debit card, bank account, or other financial account number, or to disclose other billing information that is used to charge a customer of the initial merchant, to any post-transaction third party seller for use in an Internet-based sale of any goods or services from that post-transaction third party seller.

(c) APPLICATION WITH OTHER LAW.—Nothing in this Act shall be construed to supersede, modify, or otherwise affect the requirements of the Electronic Funds Transfer Act (15 U.S.C. 1693 et seq.) or any regulation promulgated thereunder.

(d) DEFINITIONS.—In this section:

(1) INITIAL MERCHANT.—The term "initial merchant" means a person that has obtained a consumer's billing information directly from the consumer through an Internet transaction initiated by the consumer.

(2) POST-TRANSACTION THIRD PARTY SELLER.—The term "post-transaction third party seller" means a person that—

(A) sells, or offers for sale, any good or service on the Internet;

(B) solicits the purchase of such goods or services on the Internet through an initial merchant after the consumer has initiated a transaction with the initial merchant; and

(C) is not—

(i) the initial merchant;

(ii) a subsidiary or corporate affiliate of the initial merchant; or

(iii) a successor of an entity described in clause (i) or (ii).

SEC. 4. NEGATIVE OPTION MARKETING ON THE INTERNET.

It shall be unlawful for any person to charge or attempt to charge any consumer for any goods or services sold in a transaction effected on the Internet through a negative option feature (as defined in the Federal Trade Commission's Telemarketing Sales Rule in part 310 of title 16, Code of Federal Regulations), unless the person—

(1) provides text that clearly and conspicuously discloses all material terms of the

transaction before obtaining the consumer's billing information;

(2) obtains a consumer's express informed consent before charging the consumer's credit card, debit card, bank account, or other financial account for products or services through such transaction; and

(3) provides simple mechanisms for a consumer to stop recurring charges from being placed on the consumer's credit card, debit card, bank account, or other financial account.

SEC. 5. ENFORCEMENT BY FEDERAL TRADE COMMISSION.

(a) IN GENERAL.—Violation of this Act or any regulation prescribed under this Act shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices. The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(b) PENALTIES.—Any person who violates this Act or any regulation prescribed under this Act shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated in and made part of this Act.

(c) AUTHORITY PRESERVED.—Nothing in this section shall be construed to limit the authority of the Commission under any other provision of law.

SEC. 6. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) RIGHT OF ACTION.—Except as provided in subsection (e), the attorney general of a State, or other authorized State officer, alleging a violation of this Act or any regulation issued under this Act that affects or may affect such State or its residents may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found, resides, or transacts business, or wherever venue is proper under section 1391 of title 28, United States Code, to obtain appropriate injunctive relief.

(b) NOTICE TO COMMISSION REQUIRED.—A State shall provide prior written notice to the Federal Trade Commission of any civil action under subsection (a) together with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such action.

(c) INTERVENTION BY THE COMMISSION.—The Commission may intervene in such civil action and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prevent the attorney general of a State, or other authorized State officer, from exercising the powers conferred on the attorney general, or other authorized State officer, by the laws of such State; or

(2) to prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

(e) LIMITATION.—No separate suit shall be brought under this section if, at the time the

suit is brought, the same alleged violation is the subject of a pending action by the Federal Trade Commission or the United States under this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. BOUCHER. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BOUCHER. Madam Speaker, I yield myself such time as I may consume.

I am pleased to rise in support this afternoon of S. 3386, the Restore Online Shoppers' Confidence Act. The legislation makes essential protections to consumers in the Internet marketplace.

The rapid growth of online commerce has brought great benefits to merchants and consumers alike. Creative retailers can reach a broader market, while resourceful shoppers can compare deals and find exactly the right product for themselves. Internet commerce is now a core part of the daily lives of millions of Americans, and overall, more than one-half of all adults, at some point, have made an online purchase. But large percentages of consumers also report feeling frustrated, overwhelmed, and confused by online shopping, often because they face unfamiliar, aggressive sales tactics online.

Last year, an investigation by the Senate Commerce, Science, and Transportation Committee confirmed the pervasive use of misleading tactics by even some of the Web's most prominent, trusted retailers. The committee concluded that while consumers are heavily involved in Internet commerce, they are struggling to stay free of unwanted charges on their credit cards or their debit cards.

The bill now before the House focuses on two common deceptive tactics: post-transaction marketing and "data pass."

Post-transaction marketing occurs when a consumer purchasing something from a trusted vendor is presented with offers from unrelated sellers promising savings on the initial transaction as well as future purchases. These third-party sellers often do not make clear that they are distinct entities and that agreeing to their offer constitutes a wholly separate transaction with an entirely new set of terms. The legislation would bring these transactions into the light

and make them much easier for consumers to follow. It would also put an end to "data pass" during these transactions, in which the first seller shares a consumer's credit card number with the third-party seller without the knowledge or consent of the consumer. The legislation returns to consumers the power to control when and with whom their sensitive financial information is shared.

The Restore Online Shoppers' Confidence Act, as passed by the Senate, serves to protect the consumer in the online marketplace.

I want to say thank you to Senator ROCKEFELLER, the chief sponsor of the measure in the other body, and to his staff for their determined work, as well as to Congressman SPACE, on our Energy and Commerce Committee, for his sponsorship of this measure in the House.

Through this legislation, consumers will be empowered to make smart decisions online and protect their bank accounts. I urge strong support for the passage of the bill.

Madam Speaker, I reserve the balance of my time.

Mr. TERRY. Madam Speaker, unfortunately, I rise today in opposition to S. 3386, the Restore Online Shoppers' Confidence Act. This bill would regulate e-commerce, specifically, negative option marketing and third-party billing.

The Committee on Energy and Commerce has not held a single hearing or markup on this legislation or any legislation similar in concept. Furthermore, it has been less than 2 weeks since the majority first raised the issue with minority staff and informed us of their intentions to place this bill on the suspension calendar.

We have not held a single stakeholders meeting regarding this legislation, nor have we spoken with the Federal Trade Commission about how they would implement this legislation or if they feel it is necessary. In fact, we had not one single stakeholder call, email, or letter or one single call, email, or letter from the regulator on this issue until Monday. Since then, we have received a number of stakeholder calls voicing concerns with the legislation. However, without holding any hearings or meetings, we can't properly evaluate these concerns.

As has been aptly demonstrated by the majority's health care bill and the CPSIA, the consumer protection bill that we've had to make several changes to, the heavy hand of Federal regulation is prone to producing unforeseen and unacceptable consequences on the Nation's economy.

On its face, this may not be something we'd oppose if we had a record to prove it's necessity and to inform us as to the proper way to address the potential problems that this bill is meant to solve, but we have absolutely no record

on this matter; and the House, therefore, cannot responsibly pass this bill to the President's desk to become law.

House Republicans are more than willing to work with our counterparts on the other side of the aisle and with our colleagues in the Senate next Congress to build a record and address if this issue is proven necessary. Based solely on a complete lack of process, not necessarily the merits, but on the process, I urge opposition to this legislation.

□ 1210

Madam Speaker, in closing, I want to commend Mr. BOUCHER, the telecom chair. He has been an awesome chair for telecom, in fact, I would have to say in the United States House of Representatives, and I am even going to throw in the Senate. He is by far the most informed and educated on telecom Internet issues. So when RICK BOUCHER stands up to discuss an issue that affects e-commerce and the Internet, we listen.

It is unfortunate that we are having a debate on this bill on process and not on the merits, because on the merits we are going to listen to RICK BOUCHER. And I just want to thank him for his service to Congress, his tutelage towards me on telecom issues in Congress. I for one, and I can say all of us on the Energy and Commerce Committee, are going to miss RICK BOUCHER next term.

I yield back the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I want to express appreciation for the gentleman from Nebraska for those very kind comments, and I want to also say what a privilege it has been working with him. He and I together have structured a number of items of legislation.

For example, we advanced to the Energy and Commerce Committee a measure that comprehensively reforms the Federal Universal Service Fund and has obtained the endorsement of virtually all of the stakeholders who have expressed interest in that very complex subject. It has been a pleasure working with the gentleman as that work has been undertaken.

His comments are really humbling to me, and I want to thank him for saying those things and just express what a privilege it has been for me to work with the gentleman and with all members of the Energy and Commerce Committee during these 28 years. It has been a service that will certainly be the high point of my career, and I thank all members for their many courtesies.

Madam Speaker, I strongly encourage the passage of this legislation.

I yield back the balance of my time.

Mr. TERRY. Madam Speaker, I ask unanimous consent to reclaim my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. TERRY. At this time, I will yield such time as he may consume to the ranking member of the Energy and Commerce Committee from Texas, JOE BARTON.

Mr. BARTON of Texas. Thank you.

Madam Speaker, I apologize. I was in my office and listening to the debate. I heard my distinguished senior Republican rise in reluctant opposition to the bill. I had had a conversation which Mr. TERRY was not aware of with the chairman of the committee, Mr. WAXMAN, in which I expressed the same concerns that Mr. TERRY expressed, but because of the policy implications of the bill, agreed that it should be supported. I told him that I would encourage the Republicans on the committee and in the full House to support it. Mr. TERRY did not know that, and he was doing what we had decided before I talked to Mr. WAXMAN.

I would not normally rush to the floor; but given that I had given my word to Chairman WAXMAN, I felt the necessity to express to the subcommittee chairman, Mr. BOUCHER, that while we agree with all the process arguments that Mr. TERRY enunciated and think they are very valid, the policy in the bill is good policy, and I would ask that it be supported for that reason.

I thank the gentleman from Nebraska for yielding.

Mr. SPACE. Madam Speaker, I rise in support of S. 3386, the Restore Online Shoppers' Confidence Act, bipartisan legislation critical to protecting online consumers in Ohio and across the country.

Online shopping is becoming a common and critical part of our Nation's economy. The convenience of shopping and making purchases from home is an exciting revolution in commerce, and one that has broadened the opportunities and access available to American consumers.

As we saw on Cyber Monday, Americans are not hesitating to take advantage.

In particular, for people like my constituents who live in rural areas, online shopping offers an opportunity to avoid lengthy trips, saving both time and the cost of gas.

However, as the number of consumers taking advantage of these new opportunities continues to grow, I fear that the number of pitfalls for consumers is beginning to grow.

In particular, I am concerned about a growing new trend that is putting consumers on the defensive. Companies are using misleading Web sites and offers to sign up unsuspecting consumers for expensive subscription services. These companies are engaging in a new practice called post-transaction marketing, in which they purport to make special offers to consumers who have just completed a transaction.

Before they know it, consumers have unknowingly signed up for services, and their credit card information is on the way to the

new company. Oftentimes, these same consumers don't even realize they have signed up for the service until they get their credit card statements.

This practice is egregious, and it is flat wrong.

We must act to bring it to a stop.

While I, like many of my moderate colleagues, fear the consequences of extending the reach of government too far into the economy, I also believe that there is a time when we, as legislators, have a mandate to act. This is one of those occasions.

Earlier this year, I introduced H.R. 5707, the Restore Online Shoppers' Confidence Act. This legislation would take initial first steps toward ending what is clearly a deceptive and troubling practice.

Specifically, the legislation would require that companies engaging in post-transaction marketing clearly disclose the terms of any agreement proposed to consumers, ensuring that they have full knowledge of the services for which they are subscribing.

In addition, it would also require that these same companies provide easy ways to opt out of any agreement or subscription service, empowering consumers to control their enrollment.

Recently, the Senate passed companion legislation, S. 3386 by unanimous consent. This bipartisan show of support indicates just how serious the problem is facing American consumers, as well as the common-sense nature of the legislation before us.

Now, the time has come for the House to act in kind.

We have before us a choice today—act on behalf of our constituents who every day use the internet for information and commerce.

Or, we can fail to act, and allow more American consumers to fall victim to a frightening practice that separates from them their hard-earned income.

I would be remiss if I didn't also raise a point that I have raised a number of times during my time in the House. The internet is an exciting and powerful tool. In particular, high-speed internet has brought a wealth of exciting new opportunities to American consumers.

However, not all consumers have access to this basic tool. Too many of my constituents do not have access to reliable and affordable broadband service, taking away their ability to participate in online shopping, distance learning, and all the basic services that many of us take for granted.

I hope that this body will continue to take seriously the plight of those individuals on the other side of the digital divide, and will rise to the occasion to address a major challenge facing rural America.

Mr. TERRY. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. BOUCHER) that the House suspend the rules and pass the bill, S. 3386.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TRUTH IN CALLER ID ACT OF 2009

Mr. BOUCHER. Madam Speaker, I move to suspend the rules and pass the bill (S. 30) to amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 30

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Truth in Caller ID Act of 2009”.

SEC. 2. PROHIBITION REGARDING MANIPULATION OF CALLER IDENTIFICATION INFORMATION.

Section 227 of the Communications Act of 1934 (47 U.S.C. 227) is amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following new subsection:

“(e) PROHIBITION ON PROVISION OF INACCURATE CALLER IDENTIFICATION INFORMATION.—

“(1) IN GENERAL.—It shall be unlawful for any person within the United States, in connection with any telecommunications service or IP-enabled voice service, to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value, unless such transmission is exempted pursuant to paragraph (3)(B).

“(2) PROTECTION FOR BLOCKING CALLER IDENTIFICATION INFORMATION.—Nothing in this subsection may be construed to prevent or restrict any person from blocking the capability of any caller identification service to transmit caller identification information.

“(3) REGULATIONS.—

“(A) IN GENERAL.—Not later than 6 months after the date of enactment of the Truth in Caller ID Act of 2009, the Commission shall prescribe regulations to implement this subsection.

“(B) CONTENT OF REGULATIONS.—

“(i) IN GENERAL.—The regulations required under subparagraph (A) shall include such exemptions from the prohibition under paragraph (1) as the Commission determines is appropriate.

“(ii) SPECIFIC EXEMPTION FOR LAW ENFORCEMENT AGENCIES OR COURT ORDERS.—The regulations required under subparagraph (A) shall exempt from the prohibition under paragraph (1) transmissions in connection with—

“(I) any authorized activity of a law enforcement agency; or

“(II) a court order that specifically authorizes the use of caller identification manipulation.

“(4) REPORT.—Not later than 6 months after the enactment of the Truth in Caller ID Act of 2009, the Commission shall report to Congress whether additional legislation is necessary to prohibit the provision of inaccurate caller identification information in technologies that are successor or replacement technologies to telecommunications service or IP-enabled voice service.

“(5) PENALTIES.—

“(A) CIVIL FORFEITURE.—

“(i) IN GENERAL.—Any person that is determined by the Commission, in accordance with paragraphs (3) and (4) of section 503(b),

to have violated this subsection shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this paragraph shall be in addition to any other penalty provided for by this Act. The amount of the forfeiture penalty determined under this paragraph shall not exceed \$10,000 for each violation, or 3 times that amount for each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$1,000,000 for any single act or failure to act.

“(ii) RECOVERY.—Any forfeiture penalty determined under clause (i) shall be recoverable pursuant to section 504(a).

“(iii) PROCEDURE.—No forfeiture liability shall be determined under clause (i) against any person unless such person receives the notice required by section 503(b)(3) or section 503(b)(4).

“(iv) 2-YEAR STATUTE OF LIMITATIONS.—No forfeiture penalty shall be determined or imposed against any person under clause (i) if the violation charged occurred more than 2 years prior to the date of issuance of the required notice or notice or apparent liability.

“(B) CRIMINAL FINE.—Any person who willfully and knowingly violates this subsection shall upon conviction thereof be fined not more than \$10,000 for each violation, or 3 times that amount for each day of a continuing violation, in lieu of the fine provided by section 501 for such a violation. This subparagraph does not supersede the provisions of section 501 relating to imprisonment or the imposition of a penalty of both fine and imprisonment.

“(6) ENFORCEMENT BY STATES.—

“(A) IN GENERAL.—The chief legal officer of a State, or any other State officer authorized by law to bring actions on behalf of the residents of a State, may bring a civil action, as parens patriae, on behalf of the residents of that State in an appropriate district court of the United States to enforce this subsection or to impose the civil penalties for violation of this subsection, whenever the chief legal officer or other State officer has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this subsection or a regulation under this subsection.

“(B) NOTICE.—The chief legal officer or other State officer shall serve written notice on the Commission of any civil action under subparagraph (A) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

“(C) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subparagraph (B), the Commission shall have the right—

“(i) to intervene in the action;

“(ii) upon so intervening, to be heard on all matters arising therein; and

“(iii) to file petitions for appeal.

“(D) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this paragraph shall prevent the chief legal officer or other State officer from exercising the powers conferred on that officer by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(E) VENUE; SERVICE OR PROCESS.—

“(i) VENUE.—An action brought under subparagraph (A) shall be brought in a district court of the United States that meets appli-

cable requirements relating to venue under section 1391 of title 28, United States Code.

“(ii) SERVICE OF PROCESS.—In an action brought under subparagraph (A)—

“(I) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

“(II) a person who participated in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

“(7) EFFECT ON OTHER LAWS.—This subsection does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

“(8) DEFINITIONS.—For purposes of this subsection:

“(A) CALLER IDENTIFICATION INFORMATION.—The term ‘caller identification information’ means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or IP-enabled voice service.

“(B) CALLER IDENTIFICATION SERVICE.—The term ‘caller identification service’ means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or IP-enabled voice service. Such term includes automatic number identification services.

“(C) IP-ENABLED VOICE SERVICE.—The term ‘IP-enabled voice service’ has the meaning given that term by section 9.3 of the Commission’s regulations (47 C.F.R. 9.3), as those regulations may be amended by the Commission from time to time.

“(9) LIMITATION.—Notwithstanding any other provision of this section, subsection (f) shall not apply to this subsection or to the regulations under this subsection.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Florida (Mr. STEARNS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. BOUCHER. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BOUCHER. I yield myself such time as I may consume.

Madam Speaker, today we consider S. 30, the Truth in Caller ID Act. It is the Senate companion to House legislation that was introduced on a bipartisan basis by our colleagues, the gentleman from New York (Mr. ENGEL) and the gentleman from Texas (Mr. BARTON), ranking Republican member of the Energy and Commerce Committee.

The bill directs the FCC to adopt the regulations prohibiting caller ID spoofing in which a caller falsifies the original caller ID information during the transmission of a call with the intent to defraud, to cause harm, or wrongfully to obtain anything of value. The bill makes anyone who knowingly and willingly engages in caller ID spoofing eligible for criminal fines.

Spoofing has been possible for many years, but generally required expensive equipment in order to change the outgoing call information. But with the growth of voice over Internet protocol usage, spoofing has become easier and considerably less expensive, and a number of Web sites are now offering spoofing services. Consequently, those who want to deceive others by manipulating caller ID can now do so with relative ease.

Spoofing threatens a number of business applications, including credit card verifications and automatic call routing, because these systems rely on the telephone number as identified by the caller ID system as one piece of their verification and authentication process. It is also commonly used in the commission of frauds of various kinds.

At other times, spoofing may be used to protect individuals. For example, domestic violence shelters sometimes use spoofing to mask the identity of the caller for protective purposes.

By prohibiting the use of caller ID spoofing only where the intent is to defraud, to cause harm, or wrongfully obtain anything of value, this measure addresses the nefarious uses of the technology while continuing to allow legitimate uses such as use in shelters for the victims of domestic violence.

In the rulemaking that the FCC will conduct pursuant to new subsection 227(e)(3) of the Communications Act, the committee anticipates that the commission will consider imposing obligations on entities that provide caller ID spoofing services to the public. The widespread availability of caller ID spoofing services presents a significant potential for abuse and hinders law enforcement's ability to investigate crime.

The prohibition in this bill on the use of those services with the intent to defraud, cause harm, or wrongfully obtain anything of value could be of limited value if entities continue to provide those services without making any effort to verify their users' ownership of the phone number that is being substituted.

With our action today, this measure will be forwarded to the President for his signature. I want to thank and commend our colleagues, Mr. ENGEL and also Mr. BARTON, for their commitment to the matter. And I want to commend Senator NELSON of Florida and all Members who, on a bipartisan basis, have contributed to and supported the legislation now before the House.

I reserve the balance of my time.

□ 1220

Mr. STEARNS. Madam Speaker, I yield myself such time as I may consume.

I rise in support of S. 30, the Truth in Caller ID Act of 2009, which addresses an issue that Mr. BARTON and Mr. ENGEL and the Energy and Commerce Committee have been working on since the 109th Congress. In fact, back in April of this year, the House passed our version, H.R. 1258. The legislation protects consumers by prohibiting the deceptive practice of manipulating caller ID information, a practice known as caller ID spoofing.

Everyone is now familiar with the caller ID product that provides to a consumer the name and number of who is placing an incoming call. Madam Speaker, unfortunately, caller ID spoofing is yet another tool available to criminals to hijack the identity of consumers.

As with other scams, the Internet is making caller ID spoofing even easier today. There are Web sites that offer subscribers, for a nominal fee, a simple Web interface to caller ID spoofing systems that lets them appear to be calling from any number they so choose. Some of these Web services have boasted that they do not maintain logs and fail to provide any contact information. Some even offer voice scrambling services to further the deception of the consumer.

The FCC has investigated this spoofing problem, but currently there is no prohibition against manipulating caller ID information with the intent to harm others. Today's bill remedies this problem.

This bill specifically prohibits knowingly sending misleading or inaccurate caller ID information with the intent to defraud, cause harm, or wrongfully obtain anything of value. Deception with intent is our target. We drafted and amended the language carefully to ensure that we only prohibit those practices intending to do harm.

There are sometimes legitimate reasons why someone may need to manipulate caller ID. For example, domestic violence shelters often alter their caller ID information to simply protect the safety of victims of violence. Furthermore, a wide array of legitimate uses of caller ID management technologies exists today, and this bill protects those legitimate business practices.

For example, caller ID management services provide a local presence for teleservices and collection companies. These calling services companies are regulated by the Federal Trade Commission and Federal Communications Commission, which require commercial callers to project a caller ID that can be called back. This bill is not intended to target lawful practices protecting people from harm or serving a legitimate business interest.

My colleagues, this is a good piece of bipartisan consumer protection legislation. And while I normally hesitate to take the Senate's work product without some kind of amendment on our side, I want to thank my friends on both sides of the Capitol, on both sides of the aisle here in the House of Representatives, including the many chairmen over the years, including Mr. BARTON, Mr. DINGELL, Mr. WAXMAN, Mr. MARKEY, and Mr. BOUCHER, as well as Mr. UPTON, who was also chairman of this subcommittee. I also want to thank this Congress' lead sponsor and hardworking member of the Energy and Commerce Committee, my good friend, ELIOT ENGEL from New York.

I support this legislation.

I reserve the balance of my time.

Mr. BOUCHER. Madam Speaker, I am pleased to yield such time as he may consume to the gentleman from New York (Mr. ENGEL), the chief sponsor of the House companion measure.

Mr. ENGEL. I thank my friend from Virginia for yielding to me. I want to thank my friend from Florida (Mr. STEARNS) for his kind words, and also the kind words of the gentleman from Virginia.

I rise today in strong support of my legislation, the Truth in Caller ID Act. This is about as bipartisan as a bill can be. We have passed this bill several times in the House only to have it not move through the other body, and I am delighted that for the first time we have had it passed in the other body. So now when we pass this bill, hopefully the President will sign it into law and we will finally have a stoppage of this fraud which is being perpetrated on the American people.

I originally read an article in the newspaper on a plane talking about what was going on with spoofing, and I remember thinking, This is ridiculous. How could this be legal? How could we just turn a blind eye to it? And then I realized we needed to have legislation.

We have been supported every step of the way, again, bipartisan, by the gentleman from California (Mr. WAXMAN) and the gentleman from Texas (Mr. BARTON). We have all worked on this legislation together.

I introduced the bill because we need an immediate change in our laws to help prevent identity theft, to crack down on fraudulent phone calls, and to protect legitimate uses of caller ID technology. We have seen, as my colleagues have mentioned, a large number of cases of caller ID fraud leading to illegal or even violent activities.

Last year, the New York City Police Department uncovered a massive identity theft ring where criminals stole more than \$15 million from over 6,000 people. They were able to perpetrate this fraud in many instances by using caller ID spoofing. In another case, a person in New York called a pregnant woman who she viewed as a romantic

rival, spoofing the phone number of the woman's pharmacist. She tricked the woman into taking a drug used to cause abortions.

Caller ID fraud has even been used to prank call the constituents of a Member of this body, with the caller ID readout saying it came from that Member's office. Just imagine if people committed this fraud in the days leading up to a close election. You could see it. You spoof a number of your political opponent. You call someone at 3 o'clock in the morning. You say something obnoxious on the phone, and then the constituents are angry and are not going to vote for that person. This is all perfectly legal, up until the passage of this bill.

I have said again and again that one of the most troubling aspects of caller ID spoofing is not simply that it is legal. What disturbs me is how incredibly easy it is to carry out caller ID fraud. Criminals use a tool called a spoof card to change their outgoing caller ID; so you could look at it and see a phone number, any phone number that that person wants to put down, they can do it, and the person getting the call has totally no idea where it is coming from or thinks it is coming from a place where obviously it is not.

This technology can even be used to disguise someone's voice in order to trick people. If it is a man doing it, he can change the voice to sound like a woman, and vice versa. So it can be done completely to trick people.

This can trick people, corporations, or even banks. Imagine senior citizens who see the number of their bank put up when they take a look and see who is calling and it is fraudulent, or their doctor or their pharmacist or a close family member or a close family friend. This is terrible, and this tool is available to anyone with access to a Web browser. So, as was pointed out, the technology has gotten easier and easier for someone to perpetrate this fraud.

This legislation will outlaw caller ID spoofing when the intent is to defraud, cause harm, or lawfully obtain anything of value. And, let me say, we have had many, many hearings on this bill.

The reason why this outlaws caller ID spoofing when the intent is to defraud or cause harm, as my colleagues have pointed out, we put that in the bill based on the hearings we had because we don't want some legitimate reasons to use this technology to be outlawed. So it is only outlawed when the intent is to defraud, cause harm, or wrongfully obtain anything of value.

We won't be challenging the rulings for legitimate uses of this technology. For example, domestic abuse shelters will still be able to change the number on caller ID to protect the occupants of the shelter. We have some scrambling right here in the Capitol, as a result, to

protect very important private numbers. That won't be changed.

So, again, I am pleased this bill passed the House in the 109th and 110th Congress. This is now the 111th. We are about to pass it. The Senate has done it for the first time. So I look forward to the President signing this bill into law.

I strongly urge my colleagues to support the Truth in Caller ID Act to outlaw this type of fraud once and for all. I thank my colleagues again for their support.

Mr. STEARNS. Madam Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. TIM MURPHY), the distinguished Member who also has been active in this, in fact has had a separate bill, so he was sort of a fore-runner on this issue.

Mr. TIM MURPHY of Pennsylvania. I thank my colleague.

I rise to speak about S. 30, the Truth in Caller ID Act of 2009, addressing the serious problem of caller ID fraud that allows a caller to hide his true identity. They do this through Web sites that will let you choose any number to show up on the caller ID. The Web sites even offer options to disguise your voice, such as making a man or woman's voice appear as the opposite gender.

I am glad to see the Senate is finally acting on this issue that I first raised in 2006 when I introduced H.R. 5304, known as the PHONE Act, or the Preventing Harassment Through Outbound Number Enforcement Act.

□ 1230

My bill passed the full House on December 9, 2006, and while it didn't make it through the Senate, several Members of the House pressed on. Congressman BOBBY SCOTT and I reintroduced this legislation in the 110th and 111th Congresses. The House passed the bill in March of 2007 by a vote of 413-1. And I would like to thank my colleagues in this session of Congress for overwhelmingly voting in favor of the Murphy-Scott Phone Act a year ago tomorrow by a vote of 418-1.

Caller ID can have legitimate uses to protect victims or when law enforcement are trying to track down criminals. However, here we are concerned about illegitimate uses.

When I first introduced the PHONE Act, several problems were already beginning to emerge. On one level friends were using it to prank others, and just to annoy them. On another level, there were famous or infamous cases where the harassment involved well-known personalities, * * *.

But caller ID is also employed for more sinister reasons. My own office experienced this when an organization used a phony caller ID system to make it appear as though my congressional office was calling constituents. Constituents were understandably puzzled

and annoyed when bombarded by these calls. Unfortunately, we were not able to track down the perpetrators. In total, at least 42 House Republicans from 14 States were targeted in their home districts by similar harassing phone calls using call spoofing. Although I believe that action alone constitutes a fraud in posing as a Federal elected official's office, that is not the worst case.

In several cases, police and FBI have been subjected to so-called "swatting" calls when a caller uses another person's caller ID to phone the authorities, report a fake crime in progress, which draws a police and SWAT team response. Luckily, no one has been harmed in these cases, but you can imagine the potential tragedy when a team of police with guns drawn respond to the scene of what they believe is a dangerous ongoing crime. It is more than just a false alarm to a fire department. It can lead to serious injury for police and the community, and that is why we must pass this bill before someone gets hurt.

Here are some other reports. A woman from Pennsylvania discovered her phone number was appearing on other people's caller ID, and it was being used as a vehicle to harass people.

In the wake of the Haitian earthquake, the Virginia State Police warned citizens to be vigilant against scam artists using phony caller ID numbers to obtain donations. Under such circumstances, perpetrators can pose as a legitimate charity to fool others into donating to an illegitimate account.

We have heard of cases where a county courthouse number appears as citizens are told they missed jury duty and are asked to give their credit card number to pay a fine.

Last December, another case in Pennsylvania occurred when a woman claimed to have shot her baby. It turned out to be a hoax. The police and detectives were forced to spend their Christmas Day wasting valuable resources investigating what was presented as a gruesome crime that was never committed.

These are just a few examples, and if we do not enact this legislation into law, I worry we will read about many more cases of call spoofing, including some that will inevitably end in tragedy.

Because of these, I am still a supporter of enhanced penalties when caller ID spoofing is used in the commission of a crime. Therefore, we should not stop with this legislation. The Truth in Caller ID Act provides for civil penalties under the Communications Act of 1934. My legislation, the PHONE Act, which has already passed the full House, provides for criminal penalties under the U.S. criminal code.

But I want to thank Congressman ENGEL and Congressman BARTON for

being leaders on this issue in the House of Representatives in introducing their version. I urge my colleagues to vote for the Truth in Caller ID Act, and let's hope in the future we can pass enhanced criminal penalties such as those in my PHONE Act bill. Together these pieces of legislation would create a comprehensive set of civil and criminal penalties to enable us to effectively combat caller ID spoofing.

Mr. BOUCHER. Madam Speaker, I reserve the balance of my time.

Mr. STEARNS. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BARTON), the distinguished ranking member of the Energy and Commerce Committee.

Mr. BARTON of Texas. I rise for two reasons. One is to support this bill. I actually thought it had passed and become law because we pass it every Congress, and it goes to the other body and falls in the black hole over there. So it is good to know they are bringing it back. I am told there is a two-word difference between the bill we sent to them and the bill they sent back to us. I guess we can accept a two-word difference. It is long overdue. I want to compliment Mr. ENGEL for his hard work and perseverance. And Mr. STEARNS, Mr. MURPHY, and others on our side, and of course Mr. BOUCHER for this bill.

The primary reason I am speaking, though, is I want to say some heartfelt words about Mr. BOUCHER. Sooner or later this Congress is going to mercifully adjourn—and I hope sooner rather than later—and so I don't know how many more times we are going to be on the floor, but I wanted to say in his presence what an honor it has been to serve with him. He is a workhorse Member; he is not a show horse. He doesn't get involved in many, many issues, but when he does get involved, he is meticulous in his preparation and understanding of the issue and his detail. His word is gold. It is always good.

On the rare occasions when I have disagreed with him, I have always been impressed with the merit of his argument. He will be missed. He is one of the Members who makes the institution work. He does it behind the scenes. He is always thoughtful and prepared and just a joy to work with.

I had the privilege to work with him when I was the subcommittee chairman and he was my ranking member, and I have had the privilege to work with him while he has been in the majority as a subcommittee chairman. The work he and Congressman STEARNS have done on privacy is work that will bear fruit in the coming Congress I hope. The work he has done on energy issues and telecommunications issues, his work will stand the test of time.

I do want to support the pending legislation, but I also wanted to give the gentleman from Virginia my very best wishes. I look forward to working with

him in whatever endeavors he pursues in the future. It has really been an honor to serve with you in the House of Representatives.

Mr. STEARNS. Madam Speaker, I yield myself such time as I may consume.

I just would echo the comments of the gentleman from Texas (Mr. BARTON) about Mr. BOUCHER. Having worked with Mr. BOUCHER, he and I have cosponsored many bills across the spectrum. Recently, obviously, we worked on privacy together. And also, we tried to hammer out some kind of compromise on net neutrality. Net neutrality was difficult because the FCC was attempting to move it to title II. We finally got them to stop that. In fact, the court stopped them. Again, Mr. BOUCHER and I met with the stakeholders across the board to try and see if there was some compromise. We both agreed it should be under the jurisdiction of the Congress and not the FCC acting unilaterally, as it appears they are going to do on December 21 when they vote for net neutrality, which I am against. But I have to admire Mr. BOUCHER's perseverance, his stick-to-it-ness, whether it is trying to reach compromise on legislation, or his reach-out to stakeholders. For example, on the privacy, he had a comment period on his privacy bill that I cosponsored, which is unusual around here. A lot of times we say we don't have an opportunity to even read the bills before they are voted on, but in fact, under Mr. BOUCHER's leadership as chairman of the Telecommunications Subcommittee, he took his bill and offered it as a draft to get stakeholders' comments. That is a credit to his leadership.

As Mr. BARTON pointed out, we are going to miss him. He provides strong, competent leadership, and we wish him well and thank him for his service.

I yield back the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield myself the balance of my time, and I do so to thank my colleagues, the gentleman from Texas (Mr. BARTON) and my friend, the gentleman from Florida (Mr. STEARNS) for their kind remarks. I want to thank them for the collaboration and the friendship over the years.

Mr. STEARNS and I have participated together in developing the ideas, developing the legislation, and bringing through the Communications Subcommittee all of the bills that that subcommittee acted on legislatively in this 2-year session of Congress. I appreciate so much the good ideas Mr. STEARNS shared, his work with me to ensure that all of our legislation had a bipartisan foundation, and I think what we were able to do was a better product by virtue of the fact that we worked together. It has been a privilege over the years to have the opportunity to work with him. He is an outstanding legislator.

□ 1240

I want to commend him for the fine work that he has done, and mostly thank him for the friendship and the partnership that he and I have enjoyed together. And I want to say thank you to my friend (Mr. BARTON) with whom I was privileged to work on the Energy Subcommittee when he was chairman and I was the ranking member. During the time he chaired the full committee, I had the privilege of participating with him on a whole range of undertakings, and I admire very much the leadership that he has provided as chairman of the Energy and Commerce Committee and more recently as the ranking member.

So, thank you, gentlemen, for those kind remarks. I am humbled by them. And I appreciate your taking very much the occasion of our debate on this legislation to make those comments.

Madam Speaker, I have no further requests for time, I urge support of the legislation currently pending, and I yield back the balance of my time.

The SPEAKER pro tempore (Ms. RICHARDSON). The question is on the motion offered by the gentleman from Virginia (Mr. BOUCHER) that the House suspend the rules and pass the bill, S. 30.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order: H.R. 5446 and House Resolution 1759, both by the yeas and nays; Senate Concurrent Resolution 72 and H.R. 6205, both de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

HARRY T. AND HARRIETTE MOORE POST OFFICE

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 5446) to designate the facility of the United States Postal Service located at 600 Florida Avenue in Cocoa, Florida, as the "Harry T. and Harriette Moore Post Office," on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms.

CHU) that the House suspend the rules and pass the bill.

The vote was taken by electronic device, and there were—yeas 405, nays 0, not voting 28, as follows:

[Roll No. 631]

YEAS—405

Ackerman	Critz	Holden
Aderholt	Crowley	Holt
Adler (NJ)	Cuellar	Honda
Akin	Culberson	Hoyer
Alexander	Cummings	Hunter
Altmire	Dahlkemper	Inglis
Andrews	Davis (CA)	Inslee
Arcuri	Davis (KY)	Israel
Austria	Davis (TN)	Issa
Baca	DeFazio	Jackson (IL)
Bachmann	DeGette	Jackson Lee
Bachus	Delahunt	(TX)
Baird	DeLauro	Jenkins
Baldwin	Dent	Johnson (GA)
Barrett (SC)	Deutch	Johnson (IL)
Barrow	Diaz-Balart, L.	Johnson, E. B.
Bartlett	Diaz-Balart, M.	Johnson, Sam
Barton (TX)	Dicks	Jones
Bean	Dingell	Jordan (OH)
Becerra	Djou	Kagen
Berkley	Doggett	Kanjorski
Berman	Donnelly (IN)	Kaptur
Biggert	Doyle	Kennedy
Billbray	Dreier	Kildee
Bilirakis	Driehaus	Kilpatrick (MI)
Bishop (GA)	Duncan	Kilroy
Bishop (NY)	Edwards (MD)	Kind
Bishop (UT)	Edwards (TX)	King (IA)
Blackburn	Ehlers	King (NY)
Blumenauer	Ellison	Kingston
Blunt	Ellsworth	Kirkpatrick (AZ)
Bocciari	Emerson	Kissell
Boehner	Engel	Kline (MN)
Bono Mack	Eshoo	Kosmas
Boozman	Etheridge	Kratovil
Boren	Farr	Kucinich
Boswell	Fattah	Lamborn
Boucher	Filner	Lance
Boustany	Flake	Langevin
Boyd	Fleming	Larsen (WA)
Brady (PA)	Forbes	Larsen (CT)
Brady (TX)	Fortenberry	Latham
Braley (IA)	Foster	LaTourette
Bright	Fox	Latta
Brown (GA)	Frank (MA)	Lee (CA)
Brown (SC)	Franks (AZ)	Lee (NY)
Brown, Corrine	Frelinghuysen	Levin
Buchanan	Fudge	Lewis (CA)
Burgess	Gallely	Lewis (GA)
Burton (IN)	Garamendi	Linder
Butterfield	Garrett (NJ)	Lipinski
Buyer	Gerlach	LoBiondo
Calvert	Giffords	Loeback
Camp	Gingrey (GA)	Lofgren, Zoe
Campbell	Gohmert	Lowey
Cao	Gonzalez	Lucas
Capito	Goodlatte	Luetkemeyer
Capps	Gordon (TN)	Lujan
Capuano	Graves (GA)	Lummis
Carnahan	Graves (MO)	Lungren, Daniel
Carney	Grayson	E.
Carson (IN)	Green, Al	Lynch
Carter	Green, Gene	Mack
Cassidy	Grijalva	Maffei
Castle	Guthrie	Maloney
Castor (FL)	Gutierrez	Manzullo
Chaffetz	Hall (NY)	Markey (MA)
Chandler	Hall (TX)	Marshall
Childers	Halvorson	Matheson
Chu	Hare	Matsui
Clarke	Harman	McCarthy (CA)
Clay	Harper	McCaul
Cleaver	Hastings (FL)	McClintock
Clyburn	Hastings (WA)	McCollum
Coble	Heinrich	McCotter
Coffman (CO)	Heller	McDermott
Cohen	Hensarling	McGovern
Cole	Herger	McHenry
Conaway	Higgins	McIntyre
Connolly (VA)	Hill	McKeon
Conyers	Himes	McMahon
Cooper	Hinchey	McNerney
Costa	Hinojosa	Meeks (NY)
Costello	Hirono	Melancon
Courtney	Hodes	Mica
Crenshaw	Hoekstra	Michaud

Miller (FL)	Reed	Smith (WA)
Miller (MI)	Rehberg	Snyder
Miller (NC)	Reichert	Speier
Miller, Gary	Reyes	Spratt
Miller, George	Richardson	Stark
Minnick	Roe (TN)	Stearns
Mitchell	Rogers (AL)	Stupak
Mollohan	Rogers (KY)	Stutzman
Moore (KS)	Rogers (MI)	Sullivan
Moore (WI)	Rohrabacher	Sutton
Moran (KS)	Rooney	Tanner
Moran (VA)	Ros-Lehtinen	Taylor
Murphy (CT)	Roskam	Teague
Murphy (NY)	Ross	Terry
Murphy, Patrick	Rothman (NJ)	Thompson (CA)
Murphy, Tim	Roybal-Allard	Thompson (MS)
Myrick	Royce	Thompson (PA)
Nadler (NY)	Ruppersberger	Thornberry
Napolitano	Rush	Tiahrt
Neal (MA)	Ryan (OH)	Tiberi
Neugebauer	Ryan (WI)	Tierney
Nunes	Sánchez, Linda	Titus
Nye	T.	Tonko
Oberstar	Sanchez, Loretta	Towns
Obey	Sarbanes	Tsongas
Olson	Scalise	Turner
Oliver	Schakowsky	Upton
Ortiz	Schauer	Van Hollen
Pallone	Schiff	Velázquez
Pascarella	Schmidt	Visclosky
Pastor (AZ)	Schock	Walden
Paul	Schrader	Walz
Paulsen	Schwartz	Wasserman
Payne	Scott (GA)	Schultz
Pence	Scott (VA)	Waters
Perlmutter	Sensenbrenner	Watson
Perriello	Serrano	Watt
Peters	Sessions	Waxman
Peterson	Sestak	Weiner
Petri	Shea-Porter	Welch
Pingree (ME)	Sherman	Westmoreland
Pitts	Shimkus	Whitfield
Platts	Shuler	Wilson (OH)
Poe (TX)	Shuster	Wilson (SC)
Polis (CO)	Simpson	Wittman
Posey	Sires	Wolf
Price (GA)	Skelton	Wu
Price (NC)	Slaughter	Yarmuth
Quigley	Smith (NE)	Young (AK)
Rahall	Smith (NJ)	
Rangel	Smith (TX)	

NOT VOTING—28

Berry	Griffith	Pomeroy
Bonner	Herseth Sandlin	Putnam
Brown-Waite,	Klein (FL)	Radanovich
Ginny	Marchant	Rodriguez
Cantor	Markey (CO)	Salazar
Cardoza	McCarthy (NY)	Shadegg
Davis (AL)	McMorris	Space
Davis (IL)	Rodgers	Wamp
Fallin	Meek (FL)	Woolsey
Granger	Owens	Young (FL)

□ 1312

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUPPORTING DESIGNATION OF ED ROBERTS DAY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution (H. Res. 1759) expressing support for designation of January 23rd as “Ed Roberts Day,” on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. GRI-

JALVA) that the House suspend the rules and agree to the resolution.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 390, nays 8, answered “present” 4, not voting 31, as follows:

[Roll No. 632]

YEAS—390

Ackerman	Critz	Holden
Aderholt	Crowley	Holt
Adler (NJ)	Cuellar	Honda
Akin	Culberson	Hoyer
Alexander	Cummings	Hunter
Altmire	Dahlkemper	Inglis
Andrews	Davis (CA)	Inslee
Arcuri	Davis (KY)	Israel
Austria	Davis (TN)	Issa
Baca	DeFazio	Jackson (IL)
Bachmann	DeGette	Jackson Lee
Bachus	Delahunt	(TX)
Baird	DeLauro	Jenkins
Baldwin	Dent	Johnson (GA)
Barrett (SC)	Diaz-Balart, L.	Johnson (IL)
Barrow	Diaz-Balart, M.	Johnson, E. B.
Bartlett	Dicks	Johnson, Sam
Barton (TX)	Dingell	Jones
Bean	Djou	Jordan (OH)
Becerra	Doggett	Kagen
Berkley	Donnelly (IN)	Kanjorski
Berman	Doyle	Kaptur
Biggert	Dreier	Kennedy
Billbray	Driehaus	Kildee
Bilirakis	Duncan	Kilpatrick (MI)
Bishop (GA)	Edwards (MD)	Kilroy
Bishop (NY)	Edwards (TX)	Kind
Bishop (UT)	Ehlers	King (IA)
Blackburn	Ellison	King (NY)
Blumenauer	Ellsworth	Kingston
Blunt	Emerson	Kirkpatrick (AZ)
Bocciari	Engel	Kissell
Boehner	Eshoo	Kline (MN)
Bono Mack	Etheridge	Kosmas
Boozman	Farr	Kratovil
Boren	Fattah	Kucinich
Boswell	Filner	Lamborn
Boucher	Flake	Lance
Boustany	Fleming	Langevin
Boyd	Forbes	Larsen (WA)
Brady (PA)	Fortenberry	Larsen (CT)
Brady (TX)	Foster	Latham
Braley (IA)	Frank (MA)	LaTourette
Bright	Franks (AZ)	Latta
Brown (GA)	Frelinghuysen	Lee (CA)
Brown (SC)	Fudge	Lee (NY)
Brown, Corrine	Gallely	Levin
Buchanan	Garamendi	Lewis (CA)
Burgess	Garrett (NJ)	Lewis (GA)
Burton (IN)	Gerlach	Linder
Butterfield	Giffords	Lipinski
Buyer	Gingrey (GA)	LoBiondo
Calvert	Gohmert	Loeback
Camp	Gonzalez	Lofgren, Zoe
Cantor	Goodlatte	Lowey
Cao	Gordon (TN)	Lucas
Capito	Graves (GA)	Luetkemeyer
Capps	Graves (MO)	Lujan
Capuano	Grayson	Lummis
Carnahan	Green, Al	Lungren, Daniel
Carney	Green, Gene	E.
Carson (IN)	Grijalva	Lynch
Carter	Guthrie	Mack
Castle	Hall (NY)	Maffei
Castor (FL)	Hall (TX)	Maloney
Chandler	Halvorson	Manzullo
Childers	Hare	Markey (MA)
Chu	Harman	Marshall
Clarke	Harper	Matheson
Clay	Hastings (FL)	Matsui
Cleaver	Hastings (WA)	McCarthy (CA)
Clyburn	Heinrich	McCaul
Coble	Heller	McClintock
Coffman (CO)	Hensarling	McCollum
Cohen	Herger	McCotter
Cole	Higgins	McDermott
Conaway	Hill	McGovern
Connolly (VA)	Himes	McHenry
Conyers	Hinchey	McIntyre
Cooper	Hinojosa	McKeon
Costa	Hirono	McMahon
Costello	Hodes	McNerney
Courtney	Hoekstra	Meek (FL)
Crenshaw		

Meeks (NY)	Rahall	Smith (WA)
Mica	Rangel	Snyder
Michaud	Reed	Speier
Miller (FL)	Rehberg	Spratt
Miller (MI)	Reichert	Stark
Miller (NC)	Reyes	Stupak
Miller, Gary	Richardson	Stutzman
Miller, George	Rogers (AL)	Sullivan
Minnick	Rogers (KY)	Sutton
Mitchell	Rogers (MI)	Tanner
Mollohan	Rohrabacher	Taylor
Moore (KS)	Ros-Lehtinen	Teague
Moore (WI)	Roskam	Terry
Moran (KS)	Ross	Thompson (CA)
Moran (VA)	Rothman (NJ)	Thompson (MS)
Murphy (CT)	Roybal-Allard	Thompson (PA)
Murphy (NY)	Royce	Thornberry
Murphy, Patrick	Ruppersberger	Tiahrt
Murphy, Tim	Rush	Tiberi
Myrick	Ryan (OH)	Tierney
Nadler (NY)	Ryan (WI)	Titus
Napolitano	Sanchez, Linda	Tonko
Neal (MA)	T.	Towns
Neugebauer	Sanchez, Loretta	Tsongas
Nunes	Sarbanes	Turner
Nye	Scalise	Upton
Oberstar	Schakowsky	Van Hollen
Obey	Schauer	Velázquez
Olson	Schiff	Visclosky
Olver	Schmidt	Walden
Ortiz	Schock	Walz
Pallone	Schrader	Wasserman
Pascarell	Schwartz	Schultz
Pastor (AZ)	Scott (GA)	Waters
Paulsen	Scott (VA)	Watson
Payne	Serrano	Watt
Pence	Sessions	Waxman
Perlmuter	Sestak	Weiner
Perriello	Shea-Porter	Welch
Peters	Shimkus	Westmoreland
Peterson	Shuler	Whitfield
Petri	Shuster	Wilson (OH)
Pingree (ME)	Simpson	Wilson (SC)
Pitts	Sires	Wittman
Platts	Skelton	Wolf
Polis (CO)	Slaughter	Wu
Posey	Smith (NE)	Yarmuth
Price (NC)	Smith (NJ)	
Quigley	Smith (TX)	

NAYS—8

Broun (GA)	Paul	Stearns
Campbell	Rooney	Young (AK)
Chaffetz	Sensenbrenner	

ANSWERED "PRESENT"—4

Cassidy	Poe (TX)
Foxx	Roe (TN)

NOT VOTING—31

Berry	Gutierrez	Price (GA)
Bonner	Herseth Sandlin	Putnam
Brown-Waite,	Klein (FL)	Radanovich
Ginny	Marchant	Rodriguez
Cardoza	Markey (CO)	Salazar
Davis (AL)	McCarthy (NY)	Shadegg
Davis (IL)	McMorris	Sherman
Deutch	Rodgers	Space
Fallin	Melancon	Wamp
Granger	Owens	Woolsey
Griffith	Pomeroy	Young (FL)

□ 1322

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

45TH ANNIVERSARY OF THE WHITE HOUSE FELLOWS PROGRAM

The SPEAKER pro tempore (Mr. ENGEL). The unfinished business is the question on suspending the rules and concurring in the concurrent resolution (S. Con. Res. 72) recognizing the 45th anniversary of the White House Fellows Program.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and concur in the concurrent resolution.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Ms. ROYBAL-ALLARD. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 401, noes 1, not voting 31, as follows:

[Roll No. 633]

AYES—401

Ackerman	Castle	Franks (AZ)
Aderholt	Castor (FL)	Frelinghuysen
Adler (NJ)	Chaffetz	Fudge
Akin	Chandler	Gallagher
Alexander	Childers	Garamendi
Altmire	Chu	Garrett (NJ)
Andrews	Clarke	Gerlach
Arcuri	Clay	Giffords
Austria	Cleaver	Gingrey (GA)
Baca	Clyburn	Gohmert
Bachmann	Coble	Gonzalez
Bachus	Coffman (CO)	Goodlatte
Baird	Cohen	Gordon (TN)
Baldwin	Cole	Graves (GA)
Barrett (SC)	Conaway	Graves (MO)
Barrow	Connolly (VA)	Grayson
Bartlett	Conyers	Green, Gene
Barton (TX)	Cooper	Grijalva
Bean	Costa	Guthrie
Becerra	Costello	Gutierrez
Berkley	Courtney	Hall (NY)
Berman	Crenshaw	Hall (TX)
Biggart	Critz	Halvorson
Bilbray	Crowley	Hare
Bilirakis	Cuellar	Harman
Bishop (GA)	Culberson	Harper
Bishop (NY)	Cummings	Hastings (FL)
Bishop (UT)	Dahlkemper	Hastings (WA)
Blackburn	Davis (CA)	Heinrich
Blumenauer	Davis (KY)	Heller
Blunt	Davis (TN)	Hensarling
Boccieri	DeFazio	Henger
Boehner	DeGette	Higgins
Bono Mack	Delahunt	Hill
Boozman	DeLauro	Himes
Boren	Dent	Hinchey
Boswell	Diaz-Balart, L.	Hinojosa
Boucher	Diaz-Balart, M.	Hirono
Boustany	Dicks	Hodes
Boyd	Dingell	Hoekstra
Brady (PA)	Djou	Holden
Brady (TX)	Doggett	Holt
Braley (IA)	Donnelly (IN)	Honda
Bright	Doyle	Hoyer
Broun (GA)	Dreier	Hunter
Brown (SC)	Driehaus	Inglis
Brown, Corrine	Duncan	Inslee
Buchanan	Edwards (MD)	Israel
Burgess	Edwards (TX)	Issa
Burton (IN)	Ehlers	Jackson (IL)
Butterfield	Ellsworth	Jackson Lee
Buyer	Emerson	(TX)
Calvert	Engel	Jenkins
Camp	Eshoo	Johnson (GA)
Campbell	Etheridge	Johnson (IL)
Cantor	Farr	Johnson, E. B.
Cao	Fattah	Johnson, Sam
Capito	Filner	Jones
Capps	Flake	Jordan (OH)
Capuano	Fleming	Kagen
Carnahan	Forbes	Kanjorski
Carney	Fortenberry	Kaptur
Carson (IN)	Foster	Kennedy
Carter	Foxx	Kildee
Cassidy	Frank (MA)	Kilpatrick (MI)

Kilroy	Moran (KS)	Schiff
Kind	Moran (VA)	Schmidt
King (IA)	Murphy (CT)	Schock
King (NY)	Murphy (NY)	Schrader
Kingston	Murphy, Patrick	Schwartz
Kirkpatrick (AZ)	Murphy, Tim	Scott (GA)
Kissell	Myrick	Scott (VA)
Kline (MN)	Nadler (NY)	Sensenbrenner
Kosmas	Napolitano	Serrano
Kratovil	Neal (MA)	Sessions
Kucinich	Neugebauer	Sestak
Lamborn	Nunes	Shea-Porter
Lance	Nye	Sherman
Langevin	Oberstar	Shimkus
Larsen (WA)	Obey	Shuler
Larson (CT)	Olson	Shuster
Latham	Olver	Simpson
LaTourette	Ortiz	Sires
Latta	Pallone	Skelton
Lee (CA)	Pascarell	Slaughter
Levin	Pastor (AZ)	Smith (NE)
Lewis (CA)	Paul	Smith (NJ)
Lewis (GA)	Paulsen	Smith (TX)
Linder	Payne	Smith (WA)
Lipinski	Pence	Snyder
LoBiondo	Perlmuter	Speier
Loeback	Perriello	Spratt
Lofgren, Zoe	Peters	Stark
Lowey	Peterson	Stearns
Lucas	Petri	Stupak
Luetkemeyer	Pingree (ME)	Stutzman
Lujan	Pitts	Sullivan
Lummis	Platts	Sutton
Lungren, Daniel	Poe (TX)	Tanner
E.	Polis (CO)	Taylor
Lynch	Posey	Teague
Mack	Price (GA)	Terry
Maffei	Price (NC)	Thompson (CA)
Maloney	Quigley	Thompson (MS)
Manzullo	Rahall	Thompson (PA)
Gohmert	Rangel	Thornberry
Gonzalez	Reed	Tiahrt
Goodlatte	Rehberg	Tiberi
Gordon (TN)	Reichert	Tierney
Graves (GA)	Reyes	Titus
Graves (MO)	Richardson	Tonko
Grayson	Rodriguez	Towns
Green, Gene	Roe (TN)	Tsongas
Grijalva	Rogers (AL)	Turner
Guthrie	Rogers (KY)	Upton
Gutierrez	Rogers (MI)	Van Hollen
Hall (NY)	Rohrabacher	Velázquez
Hall (TX)	Rooney	Visclosky
Halvorson	Ros-Lehtinen	Walden
Hare	Roskam	Walz
Harman	Ross	Wasserman
Harper	Rothman (NJ)	Schultz
Hastings (FL)	Roybal-Allard	Watson
Hastings (WA)	Royce	Watt
Heinrich	Ruppersberger	Waxman
Heller	Rush	Weiner
Hensarling	Ryan (OH)	Welch
Henger	Ryan (WI)	Westmoreland
Higgins	Sanchez, Linda	Whitfield
Hill	T.	Wilson (OH)
Himes	Sanchez, Loretta	Wilson (SC)
Hinchey	Sarbanes	Wittman
Hinojosa	Scalise	Wolf
Hirono	Schakowsky	Wu
Hodes	Schauer	Yarmuth
Hoekstra		
Holden		
Holt		
Honda		
Hoyer		
Hunter		
Inglis		
Inslee		
Israel		
Issa		
Jackson (IL)		
Jackson Lee		
(TX)		
Jenkins		
Johnson (GA)		
Johnson (IL)		
Johnson, E. B.		
Johnson, Sam		
Jones		
Jordan (OH)		
Kagen		
Kanjorski		
Kaptur		
Kennedy		
Kildee		
Kilpatrick (MI)		

NOES—1

Young (AK)

NOT VOTING—31

Berry	Green, Al	Owens
Bonner	Griffith	Pomeroy
Brown-Waite,	Herseth Sandlin	Putnam
Ginny	Klein (FL)	Radanovich
Cardoza	Lee (NY)	Salazar
Davis (AL)	Marchant	Shadegg
Davis (IL)	Markey (CO)	Space
Deutch	McCarthy (NY)	Wamp
Ellison	McMorris	Waters
Fallin	Rodgers	Woolsey
Granger	Melancon	Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1331

So (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVATE ISAAC T. CORTES POST OFFICE

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill (H.R. 6205) to designate the facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, as the "Private Isaac T. Cortes Post Office".

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and pass the bill.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CROWLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 399, nays 0, not voting 34, as follows:

[Roll No. 634]

YEAS—399

Aderholt	Braley (IA)	Costa
Adler (NJ)	Bright	Costello
Akin	Broun (GA)	Courtney
Alexander	Brown (SC)	Crenshaw
Altire	Brown, Corrine	Critz
Andrews	Buchanan	Crowley
Arcuri	Burgess	Cuellar
Austria	Burton (IN)	Culberson
Baca	Butterfield	Cummings
Bachmann	Buyer	Dahlkemper
Bachus	Calvert	Davis (CA)
Baird	Camp	Davis (KY)
Baldwin	Campbell	Davis (TN)
Barrett (SC)	Cantor	DeFazio
Barrow	Cao	DeGette
Bartlett	Capito	Delahunt
Barton (TX)	Capps	DeLauro
Bean	Capuano	Dent
Becerra	Carnahan	Diaz-Balart, L.
Berkley	Carney	Diaz-Balart, M.
Berman	Carson (IN)	Dicks
Biggart	Carter	Dingell
Bilbray	Cassidy	Djou
Bilirakis	Castle	Doggett
Bishop (GA)	Castor (FL)	Donnelly (IN)
Bishop (NY)	Chaffetz	Doyle
Bishop (UT)	Chandler	Dreier
Blackburn	Childers	Driehaus
Blumenauer	Chu	Duncan
Blunt	Clarke	Edwards (MD)
Boccheri	Clay	Edwards (TX)
Boehner	Cleaver	Ehlers
Bono Mack	Clyburn	Ellison
Boozman	Coble	Ellsworth
Boren	Coffman (CO)	Emerson
Boswell	Cohen	Engel
Boucher	Cole	Eshoo
Boustany	Conaway	Etheridge
Boyd	Connolly (VA)	Farr
Brady (PA)	Conyers	Fattah
Brady (TX)	Cooper	Filner

Flake	Linder	Rogers (AL)
Fleming	Lipinski	Rogers (KY)
Forbes	LoBiondo	Rogers (MI)
Fortenberry	Loebbeck	Rohrabacher
Foster	Lofgren, Zoe	Rooney
Fox	Lowey	Ros-Lehtinen
Frank (MA)	Lucas	Roskam
Franks (AZ)	Luetkemeyer	Ross
Frelinghuysen	Lujan	Rothman (NJ)
Fudge	Lummis	Roybal-Allard
Gallely	Lungren, Daniel	Royce
Garamendi	E.	Ruppersberger
Garrett (NJ)	Lynch	Rush
Gerlach	Mack	Ryan (OH)
Giffords	Maffei	Ryan (WI)
Gingrey (GA)	Maloney	Sánchez, Linda
Gohmert	Manzullo	T.
Gonzalez	Markey (MA)	Sánchez, Loretta
Goodlatte	Marshall	Sarbanes
Gordon (TN)	Matheson	Scalise
Graves (GA)	Matsui	Schauer
Graves (MO)	McCarthy (CA)	Schiff
Grayson	McCauley	Schmidt
Green, Al	McClintock	Schock
Green, Gene	McCollum	Schrader
Grijalva	McCotter	Schwartz
Guthrie	McDermott	Scott (GA)
Gutierrez	McGovern	Sensenbrenner
Hall (NY)	McHenry	Serrano
Hall (TX)	McIntyre	Sessions
Hare	McKeon	Sestak
Harman	McMahon	Shea-Porter
Harper	McNerney	Sherman
Hastings (FL)	Meek (FL)	Shimkus
Hastings (WA)	Meeks (NY)	Shuler
Heinrich	Mica	Shuster
Heller	Michaud	Simpson
Hensarling	Miller (FL)	Sires
Herger	Miller (MI)	Skelton
Higgins	Miller (NC)	Slaughter
Hill	Miller, Gary	Smith (NE)
Himes	Miller, George	Smith (NJ)
Hinchey	Minnick	Smith (TX)
Hinojosa	Mitchell	Smith (WA)
Hirono	Mollohan	Snyder
Hodes	Moore (KS)	Speier
Hoekstra	Moore (WI)	Spratt
Holden	Moran (KS)	Stark
Holt	Moran (VA)	Stearns
Honda	Murphy (CT)	Stupak
Hoyer	Murphy (NY)	Stutzman
Hunter	Murphy, Patrick	Sullivan
Inglis	Murphy, Tim	Sutton
Inslee	Myrick	Tanner
Israel	Nadler (NY)	Taylor
Issa	Napolitano	Teague
Jackson (IL)	Neal (MA)	Terry
Jackson Lee	Neugebauer	Thompson (CA)
Critz	Nunes	Thompson (MS)
Jenkins	Nye	Thompson (PA)
Johnson (GA)	Oberstar	Thornberry
Johnson (IL)	Obey	Tiahrt
Johnson, E. B.	Olson	Tiberi
Johnson, Sam	Oliver	Tierney
Jones	Ortiz	Titus
Jordan (OH)	Pallone	Tonko
Kagen	Pascarella	Towns
Kanjorski	Pastor (AZ)	Tsongas
Kaptur	Paulsen	Turner
Kennedy	Payne	Upton
Kildee	Pence	Van Hollen
Kilpatrick (MI)	Perlmutter	Velázquez
Kilroy	Perriello	Visclosky
Kind	Peters	Walden
King (IA)	Peterson	Walz
King (NY)	Petri	Wasserman
Kingston	Pingree (ME)	Schultz
Kirkpatrick (AZ)	Pitts	Waters
Kissell	Platts	Watson
Kline (MN)	Poe (TX)	Watt
Kosmas	Polis (CO)	Waxman
Kratovil	Posey	Weiner
Kucinich	Price (GA)	Welch
Lamborn	Price (NC)	Westmoreland
Lance	Quigley	Whitfield
Langevin	Rahall	Wilson (OH)
Larsen (WA)	Rangel	Wilson (SC)
Larson (CT)	Reed	Wittman
Latham	Rehberg	Wolf
LaTourette	Reichert	Wu
Latta	Reyes	Yarmuth
Lee (CA)	Richardson	Young (AK)
Levin	Rodriguez	
Lewis (CA)	Roe (TN)	

Ackerman	Halvorson	Paul
Berry	Herseth Sandlin	Pomeroy
Bonner	Klein (FL)	Putnam
Brown-Waite,	Lee (NY)	Radanovich
Ginny	Lewis (GA)	Salazar
Cardoza	Marchant	Schakowsky
Davis (AL)	Markey (CO)	Scott (VA)
Davis (IL)	McCarthy (NY)	Shadegg
Deutch	McMorris	Space
Fallin	Rodgers	Wamp
Granger	Melancon	Woolsey
Griffith	Owens	Young (FL)

NOT VOTING—34

□ 1340

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2965, DON'T ASK, DON'T TELL REPEAL ACT OF 2010

Ms. PINGREE of Maine, from the Committee on Rules, submitted a privileged report (Rept. No. 111-681) on the resolution (H. Res. 1764) providing for consideration of the Senate amendment to the bill (H.R. 2965) to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Ms. PINGREE of Maine. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1764 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1764

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 2965) to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the Majority Leader or his designee that the House concur in the Senate amendment with the amendment printed in the report of the Committee on Rules accompanying this resolution. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the Majority Leader and Minority Leader or their respective designees. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore (Ms. RICHARDSON). The gentlewoman from Maine is recognized for 1 hour.

Ms. PINGREE of Maine. Madam Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr.

LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Ms. PINGREE of Maine. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and insert extraneous material into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maine?

There was no objection.

Ms. PINGREE of Maine. I yield myself such time as I may consume.

Madam Speaker, House Resolution 1764 provides for the consideration of the Senate amendment to H.R. 2965. The rule makes in order a motion offered by the majority leader or his designee that the House concur in the Senate amendment to H.R. 2965 with the amendment printed in the report of the Committee on Rules accompanying the resolution.

The rule provides 1 hour of debate on the motion, equally divided and controlled by the majority leader and the minority leader or their designees. The rule waives all points of order against any consideration of the motion except those arising under clause 10 of rule XXI. The rule provides that the Senate amendment and the motion shall be considered as read.

Madam Speaker, the time has come to repeal Don't Ask, Don't Tell. We have all heard the arguments, the studies have been done, the hearings have been held. The men and women of the armed services have spoken and their leaders have weighed in. There are no more excuses not to repeal this misguided and harmful policy. There is no more reason to delay this any longer.

Madam Speaker, for gay military personnel, how much longer do we ask them to serve in silence? How many more hearings and how much more testimony are we going to ask for before we finally hear what the men and women of the armed services have just said: Just because someone is gay doesn't make them any less of a soldier, an airman, or a marine. How many more times can we just turn our heads and pretend we don't see the damage this policy has done to our military's readiness? And how many more competent, talented, and patriotic men and women will be kicked out of the service before this misguided and harmful policy is forever banned?

The results of the comprehensive study of the attitudes of military personnel are clear and unequivocal. It is right here.

When they were asked about the actual experience of serving in a unit with a coworker who they believed was gay or lesbian, 92 percent of the military personnel stated that the unit's ability to work together was "very good," "good," or "neither good nor poor."

When they were asked about having a servicemember in their immediate unit who said he or she was gay and how that would affect the unit's ability to work together to get the job done, 70 percent of servicemembers predicted it would have a positive, mixed, or absolutely no effect.

And it is not just the men and women who make up our Armed Forces who are urging Congress to repeal Don't Ask, Don't Tell; our Nation's military leaders also believe it needs to come to an end.

Admiral Mike Mullen, the Chairman of the Joint Chiefs of Staff, said, "I would not recommend repeal of this law if I did not believe in my soul that it was the right thing to do for our military, for our Nation, and for our collective honor."

General George Casey, the Chief of Staff of the Army, agreed. He said repeal would not keep us from "accomplishing our worldwide missions, including combat operations."

And Admiral Gary Roughead, Chief of Naval Operations, said it simply: Repeal "will not fundamentally change who we are and what we do."

Madam Speaker, it wasn't that long ago that women were not allowed to serve in combat. When we debated ending that ban, the critics predicted that if women were allowed in combat, that discipline would dissolve and unit cohesion would crumble.

□ 1350

The arguments against allowing women to serve in combat were exactly the same thing they are saying today about allowing openly gay men and women to serve. But after two wars where women have served ably and bravely alongside their male counterparts, none of the grim predictions came true. Discipline has not suffered and our military remains the most powerful and effective in the world.

But those two wars have taken their toll on recruitment and retention. Our military is stretched thin, and the last thing we should be doing is kicking out skilled men and women who volunteered to fight for our country. The last thing we should be doing is telling troops that we have spent hundreds of thousands of dollars to train that we don't need your services anymore. And the last thing we should be doing is saying that no matter how brave you are, no matter how dedicated you are, no matter how patriotic you are, if you are gay, we don't want you to wear the uniform of the United States.

Don't Ask, Don't Tell threatens our national security. It wastes precious resources, and it goes against the values that our military embodies: integrity, honesty, and loyalty.

I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I thank my good friend, Ms. PINGREE from Maine,

for the time and I yield myself such time as I may consume.

Madam Speaker, we find ourselves back on the House floor with yet another closed rule. In fact, we haven't seen a single open rule during this entire 111th Congress. I never thought that I would see that, Madam Speaker, an entire Congress pass without a single open rule.

Just 3 hours ago, the Rules Committee was meeting on the underlying legislation before us today. This is the fifth rule since the election that will deny the minority the basic right even to a motion to recommit; in other words, one alternative piece of legislation which, when we were in the majority, we wrote into the rules that the minority would have that right. And since the election last month, this majority has brought five, with this piece of legislation, five bills to the floor with a rule denying even that right to the minority—a motion to recommit.

The underlying legislation repealing the so-called Don't Ask, Don't Tell policy is important and should be considered carefully and thoroughly by all Members of this House. As a matter of fact, Madam Speaker, when I spoke on this issue on this House floor in May of this year, I said and I reiterate what I said at that time: Sexual preference should not even be a point of reference when judging individuals.

This is an important issue. Unfortunately, the congressional majority has not even held a hearing in the Armed Services Committee since the Pentagon released their findings of this recent survey. Members of the House on both sides of the aisle support our men and women in uniform. Ensuring the best equipment, improving quality of life for soldiers and their families, and doing everything we can to increase pay are issues of the utmost importance.

For 48 consecutive years, Congress has provided the necessary oversight by passing the Defense authorization bill always in a bipartisan manner. This record of effective congressional review is in jeopardy as we proceed along with what could be the final week of this Congress. I think the majority continues to give insufficient seriousness to even important issues such as this by closing the process.

The repeal of Don't Ask, Don't Tell is not a policy decision to be taken lightly. The Defense Department, at the urging of Congress, spent 10 months collecting and analyzing survey responses from the men and women in our Armed Forces. I believe that analysis, nearly 15,000 pages in length, including the direct comments of our troops, should be the most important factor in considering this legislation, in considering how we vote on this legislation.

The Department of Defense released the results of their survey on November 30, just over 2 weeks ago. Now the

majority is asking Congress to move forward in a manner that denies the committees of jurisdiction any review, that denies input from the membership of this House, that takes the product of the Speaker and the author of the legislation and forces the House to vote on it without any ability to offer alternatives, not even a motion to recommit.

I think we do a disservice to this body when we do not debate and deliberate with transparency. That lack of transparency has been standard procedure for the past 4 years. Obviously, we should not expect this congressional majority to change in its final weeks, but that will change in the next Congress.

I reserve the balance of my time.

Ms. PINGREE of Maine. Madam Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. POLIS), a member of the Rules Committee.

Mr. POLIS. Madam Speaker, I thank the gentlelady from Maine, and I rise today in support of the repeal of the Don't Ask, Don't Tell policy. This resolution would ensure that the military has the ability to implement the recommendation from its recently completed study.

Don't Ask, Don't Tell is the only law in the country that requires people to be dishonest or be fired if they choose to be honest. It is a law that not only is hurtful to the men and women who put themselves at risk serving in our Armed Forces, but it is a law that is hurtful to our national security.

A recent study found that 8 out of 10 Americans support repealing the law. Regardless of their political party, people recognize that on the battlefield, it doesn't matter if a soldier is gay or straight. What matters is they get the job done and protect our country.

Now, it is important to remember that we already debated and voted on this issue early this summer. We passed an amendment with the same repeal language for the defense authorization bill. At that time, there were some Members on both sides of the aisle who weren't yet ready to support this repeal. They wanted to see an extensive report by the military that was scheduled to come out December 1. It came out one day earlier.

I personally didn't feel we needed to see that report. I was already convinced this would not be a threat to military readiness and would, in fact, enhance military readiness due in part to the fact that we have discharged over 13,000 people from our military—after taxpayer money went for their training—for reasons totally unrelated to their performance, not to mention countless others who didn't reenlist or left the military because of this policy.

But I do understand that many Members of this body from both sides of the aisle, including the chairman of the committee of jurisdiction, wanted to

see that report in December. Well, the report has come out, and it is very clear with regard to the fact that—no surprise to me, but hopefully of consolation to those who were concerned—this change in policy does not represent a threat to the security of this country. And, in fact, there were several practical suggestions about how to implement this change.

In addition, the Chairman of the Joint Chiefs and the Secretary of Defense have been very clear that they want to see this policy legislatively repealed. Why? Because repeal of this policy is inevitable. It is a question of when, not if. There are already several court orders in various stages of appeal, and the military feels that to plan for it with us in this legislative process is better for military readiness than running the greater risk of having an instant court order, an on-or-off-again court order, which is also a possibility, which would prevent the regular military planning process from going forward. The sooner we act, the better. Despite our differences, it is clear that leaving it up to the courts is the wrong way to go about it.

In 1993, the passage of Don't Ask, Don't Tell was the result of a political process, not a military one. Today, we can rectify that, remove the statutory requirement and allow the military to do the right thing to improve military readiness and enhance the protection of our country.

□ 1400

Let us be on the right side of history and finally move forward with repealing Don't Ask, Don't Tell today.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I yield 4 minutes to my friend from Georgia, Dr. GINGREY.

Mr. GINGREY of Georgia. Madam Speaker, I thank the gentleman for yielding, and I rise in strong opposition to the rule providing for the repeal of Don't Ask, Don't Tell. While the majority in the Senate has been unsuccessful in repealing Don't Ask, Don't Tell through the National Defense Authorization Act, my colleagues on the Democratic side of the aisle seem adamant to move forward on this issue by bringing it to the floor again today yet as a standalone bill. What we should be doing, Madam Speaker, is prioritizing the need of our troops over the majority's social agenda and considering the National Defense Authorization Act free of the Don't Ask, Don't Tell language.

I know that advocates for this repeal will point to the survey of U.S. Armed Forces personnel regarding the repeal of Don't Ask, Don't Tell, that 9-month survey that my friend from Florida just mentioned. But let me point to a specific statistic from that survey as well. Question No. 71, posed to active servicemembers with combat deploy-

ment experience since September 11, 2001, asks how unit effectiveness would be different if Don't Ask, Don't Tell was repealed. An overwhelming number of those surveyed for this question answered that unit effectiveness for those stationed in a field environment or out at sea would be "negatively" or "very negatively" harmed by repeal.

Madam Speaker, this survey, which does not present any benefits of appeal and it solely focuses on the mitigation of consequences, has not presented a clear path forward to the question of repealing this ban. The Marine Corps Commandant, General James Amos, stated that repealing the 17-year-old ban could endanger troops and cost lives. Air Force Chief of Staff General Norton Schwartz echoed concerns about overturning the ban in the midst of the global war on terror.

Here is a quote from General George Casey, the Army's Chief of Staff: I believe that the implementation of repeal in the near term will, number one, add another level of stress to an already stretched force; number two, be more difficult in our combat arms units; and three, be more difficult for the Army than the report suggests.

Because military leaders must fulfill their constitutional mission of defending America, their views on how to achieve optimal readiness should be respected.

Madam Speaker, none—not one—of our service branch chiefs have outright endorsed repealing Don't Ask, Don't Tell. Similar apprehensions have been noted by the American Legion; over 1,500 retired flag and general officers, and countless others. Clearly, the Democrats believe they know better.

Madam Speaker, I do not believe that now, in the midst of the war on terror, is the time to rewrite tested military policies. Indeed, the Armed Forces is a special institution that must be free to hold itself to stricter rules than those observed by the rest of our society. And for these reasons, Madam Speaker, I urge all of my colleagues, oppose this rule and oppose the underlying bill.

Ms. PINGREE of Maine. Madam Speaker, I yield 2 minutes to the gentlewoman from Massachusetts (Ms. TSONGAS).

Ms. TSONGAS. Madam Speaker, I rise today in support of the rule to consider legislation to repeal Don't Ask, Don't Tell. Don't Ask, Don't Tell remains the only Federal statute mandating a person be fired based on their sexual orientation. Since this policy became law, thousands of dedicated, honorable Americans have suffered discrimination while thousands more have been discouraged from even considering the military.

Don't Ask, Don't Tell removes highly skilled, trained, and capable servicemembers out of the military at a time when we need them for multiple deployments to fight two wars. The Pentagon's study of Don't Ask, Don't Tell

confirms that lifting the ban on gay and lesbian soldiers serving openly in our Armed Forces would not adversely affect our military's readiness or strain unit cohesion. This report comes months after nearly a year of careful study, which included thousands of conversations with enlisted personnel, officers, and military commanders. The results of this study showed that there is no longer any remaining justification to continue a policy that prevents some of the best and brightest from honorably serving in our Armed Forces.

All our servicemen and -women are first and foremost Americans, protecting freedom throughout the world. We cannot with any true moral standing discriminate against distinguished and courageous members of our own military for the simple act of living an authentic life.

I urge my colleagues to vote "yes" on the rule and the underlying legislation.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I reserve the balance of my time.

Ms. PINGREE of Maine. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Madam Speaker, as a rookie Member of Congress in 1993, I sat in the most junior chair on the Armed Services Committee, just a few feet from the witness table. Then Chairman of the Joint Chiefs of Staff Colin Powell testified in favor of the Clinton administration's Don't Ask, Don't Tell policy. I drew a deep breath and told the general that I thought Don't Ask, Don't Tell was unconstitutional. I opposed it then, and I oppose it now.

No good has ever come of Don't Ask, Don't Tell, but a lot of bad has. I applaud the personal courage of current Joint Chiefs of Staff Chairman Admiral Mike Mullen, who told Congress: "It is my personal belief that allowing gays and lesbians to serve openly would be the right thing to do. No matter how I look at the issue, I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens." He's right, and I have no doubt that America's Armed Forces will successfully transition to a post-DADT world.

We are hearing the alarms sounded again about morality and morale, unit cohesion, and readiness. Similar arguments were made when women and African Americans were allowed to serve alongside our white male counterparts. But be it race, gender, or now sexual orientation, our military services have demonstrated the commitment and ability to integrate and embrace diversity.

As a female officer in the 10th Mountain Division blogged recently, "when

DADT is overturned, I won't be jumping out of my office screaming "I'm gay" to the world. I'll just be able to breathe easier knowing my job is secure." With this historic vote we will allow all service women and men who are holding their breath in fear—not of an enemy but of a law created by Congress—to breathe easier.

Vote "aye" on the rule and on the Hoyer-Murphy bill.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I continue to reserve the balance of my time.

Ms. PINGREE of Maine. Madam Speaker, I yield 1½ minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. I thank the gentlewoman for yielding.

Madam Speaker, I rise today to speak in support of the repeal of the Don't Ask, Don't Tell policy. Don't Ask, Don't Tell is outdated and it's unjust. No individual, especially those in our Armed Forces, should be discriminated against based on their sexual orientation. Our troops fight honorably to protect our freedom. The least we can do in return is to fight to protect their rights as well. My hometown of Las Vegas includes Nellis Air Force Base, one of the premier Air Force bases in our country. The courageous men and women who serve there deserve to be treated with equality and dignity and respect that they have earned, regardless of their sexual orientation. This unjust and unnecessary practice is also unsound. It makes no sense for our military to discharge valuable service-members, especially during a time of war, when we need every American who is willing and able to serve.

My colleagues, this is the easy stuff. If a fellow citizen volunteers to don the uniform of our Nation, no matter what their sexual orientation, we shouldn't be discriminating against them. We should be thanking them for their service. Don't Ask, Don't Tell does nothing to contribute to our national security. It only undermines the strength and integrity of our military. I believe this practice should be repealed immediately. Its time has come, not only for the benefit of our Armed Services, but for the security of our great Nation.

□ 1410

Mr. LINCOLN DIAZ-BALART of Florida. I continue to reserve the balance of my time.

Ms. PINGREE of Maine. Madam Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. QUIGLEY).

Mr. QUIGLEY. Madam Speaker, I rise today in support of H.R. 2965, a bill to repeal Don't Ask, Don't Tell.

Just blocks from the Capitol lies Congressional Cemetery, the resting place of Technical Sergeant Leonard Matlovich, recipient of the Bronze Star and the Purple Heart for his distinguished service in Vietnam.

As a race relations instructor, he was instrumental in helping the military

overcome its past legacy of racial discrimination, but he fell victim to the Air Force's discriminatory ban on gays, and was discharged in 1975.

His headstone, in sight of the Capitol dome, reads: "When I was in the military, they gave me a medal for killing two men and a discharge for loving one."

As a great man said, when it comes to matters of equality, it is always the right time to do the right thing. Our national security and our country's long-standing history of fairness depend on it.

Today, I urge my colleagues to do the right thing and support the rule and H.R. 2965 for Technical Sergeant Matlovich and for our country.

Mr. LINCOLN DIAZ-BALART of Florida. I continue to reserve the balance of my time.

Ms. PINGREE of Maine. Madam Speaker, I am pleased to yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. I thank the gentlewoman.

When we get to this bill, I will address the substance of the argument that the presence of someone like me will so destabilize our brave young men and women that they will be unable to do their duty. I regard that as bigoted nonsense, but I will address that more fully then. Now I want to talk about this bizarre procedural argument that we are somehow not following regular order.

Madam Speaker, this amendment came up in regular order after the committee considered the bill and on the floor of the House, and it was adopted in a full vote on the floor of the House after a lot of debate. The Senate in committee adopted this amendment. The notion that the committees of jurisdiction have been deprived here is delusional.

What is the procedural situation?

In effect, the House, in a full debate on the floor, adopted this amendment. It went to the Senate. In the Senate, the Senate committee, by a majority, voted for this amendment and then voted the bill out, and it has been stopped twice narrowly by filibusters. It has gotten 57 and 58 votes. It has been openly debated. The notion that somehow we are the ones who are ignoring procedure when this bill gets a majority in the House after open debate on the floor, a majority in the Senate committee and is then filibustered makes no sense.

Beyond that, we are told, Well, don't hold up the big bill. Well, that's the point of this. Don't Ask, Don't Tell was originally adopted as part of the military authorization of 1993. That is the regular order we followed. Some have now said, Well, the Senate would like to be able to vote on this differently from the main bill. I will say that many of us do not think that we should

adopt anything until we do the whole package, but if they want to do these two bills, that's fine. Sending this over will facilitate the Senate's procedures.

Now, there are at least five Republican Senators who previously, most of them, voted against cloture—one, Senator COLLINS, voted for it—who said they couldn't vote for it for various procedural reasons dealing with the tax agreement and the funding of the government. Those are on their way to being resolved.

What we do when we pass this bill today is to say to the Senate, Okay, you can do it one way or the other as long as you do both, and we give them the chance—they already had the tax issue—to have resolved the CR, and we will get a vote on the merits. What this does is to strip away any excuse that any member of the Senate—Democrat or Republican—will have for not voting on the merits. We will strip away any justification for a filibuster.

The gentleman says, Well, we didn't go through regular order. We've gone through triple regular order. A vote on the House floor is part of the consideration of the bill, as is a vote in the Senate committee and two efforts to break the filibuster.

So the question is: Do you allow a filibuster and some procedural excuses from Senators who say they're for this repeal but didn't get to vote for it? We are giving them a chance to do that. This is something many House Members have long wanted to do in addition to repealing Don't Ask, Don't Tell—getting the Senate to stand up and take a straight up-or-down vote. That is what we are enabling.

So I hope that the rule passes and that the bill separately passes as well.

Mr. LINCOLN DIAZ-BALART of Florida. I yield myself such time as I may consume.

Madam Speaker, with regard to this point of process, which I think is important, I think it is appropriate to point out the facts.

The majority is bringing this legislation to the floor by using another bill as a shell. The other bill is the Small Business Innovation Research Reauthorization bill, which has extraordinary bipartisan support. So the rule before us now strikes that legislation, which is job growth legislation—again, supported overwhelmingly in a bipartisan fashion in this House. It strikes that, and it inserts into that shell this legislation, the repeal of Don't Ask, Don't Tell. The Don't Ask, Don't Tell legislation is not germane to the underlying legislation, so it is anything but regular order.

The House Armed Services Committee has absolutely no jurisdiction over that Small Business bill which the majority is using as a shell to move this legislation out of regular order in order to prohibit transparency, even a motion to recommit. The majority has

demonstrated time and time again its willingness to eliminate transparency, to void regular order and to take steps totally out of regular order as it is doing again today.

So I think this is important to put on the record because this legislation, which by the way is important, as I said before, I think deserves to be treated with respect, consideration, and the membership of this House I think deserves to be listened to, to be heard on legislation, especially legislation which evidently is important, like the one we are discussing today.

I wanted to put that on the record.

I reserve the balance of my time.

Ms. PINGREE of Maine. Madam Speaker, I yield 1 minute to the gentleman from Michigan (Mr. PETERS).

Mr. PETERS. Madam Speaker, I rise today in strong support of Representative MURPHY and Leader HOYER's Don't Ask, Don't Tell Repeal Act of 2010.

As a former lieutenant commander in the United States Navy Reserve, I served with many brave, patriotic and dedicated men and women who were always ready to serve their country. I was never concerned about their sexual orientation, just their ability to serve the United States honorably.

This discriminatory policy has forfeited over 13,000 able-bodied men and women from our military while our Nation is engaged in two wars. It has wasted over 1 billion taxpayer dollars through investigations, legal proceedings, and the wasted training of fighter pilots, mechanics, medics, and even Arabic translators. Military leaders have testified before Congress in support of repeal, and Defense Secretary Gates has said "this can be done and should be done."

We must allow our military to recruit and retain any qualified, patriotic, and courageous American who wants to serve our country. This is why I urge passage of the rule and of the Don't Ask, Don't Tell Repeal Act of 2010.

Mr. LINCOLN DIAZ-BALART of Florida. I continue to reserve the balance of my time.

Ms. PINGREE of Maine. Madam Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

□ 1420

Ms. JACKSON LEE of Texas. It is moving to hear so many members of the United States military who have served to come to the floor and honor the flag and the Constitution. I am not that fortunate to have served in the military, but I have been fortunate enough to travel amongst them, from Kosovo to Bosnia to Albania to Iraq and Afghanistan and places within those nations.

If I have observed anything, I've observed men and women who understand the Constitution and take great pride

to be on the front lines to be able to say I live in a country of the land of the free and the brave. So I ask today for my colleagues to be brave and to be free, to unshackle themselves of stereotypes and to repeal the Don't Ask, Don't Tell and vote for the rule and the underlying bill. Do it in the name of my constituent, a young man by the name of Seaman Provost, who had the unfortunate circumstances, I believe, of being considered someone who should not be in the United States Navy.

So I would call upon those who believe in the Constitution, who understand the values of the human rights campaign of which I had the privilege of receiving notice from, that we all are created equal. It is time now to bust this unholy alliance that suggests that men and women whose lifestyles may be different do not have a heart of gold and love the red, white, and blue. It is time now for America to be America.

Let us vote for this rule and the underlying bill. Let us vote for freedom, stand for all those who are brave, and stand behind the men and women who fight for us every single day of their lives. God bless all of them.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, in closing, I thank my friend from Maine for her courtesy and all who have come to the floor to debate this rule, and I reiterate, I think it's an important piece of legislation. I'm sorry that it was brought forth in an unnecessarily closed manner. I think the legislation deserves more respect, and I think especially the membership of this House deserves more respect.

I have, again, gratitude for all of my colleagues, and I thank them for having participated in this debate.

I yield back the balance of my time.

Ms. PINGREE of Maine. Madam Speaker, I thank my colleague from the other side of the aisle for his thoughts on this. He is getting ready to retire from Congress. I just want to say I've enjoyed the opportunity to serve with you on the Rules Committee and appreciate the thoughts that you bring to the issues that we have to deal with.

With all due respect, I want to disagree with you on one particular point, as I did earlier today in the Rules Committee, and without questioning anything that you had to say today, I will just say that my experience on the issue of Don't Ask, Don't Tell, whether it is in my position as sitting on the Armed Services Committee or with some of my colleagues on the Rules Committee who have questioned this particular bill as the vehicle, it is that sometimes I feel like people run out of substantive arguments and they go back to process and they say, well, there's something flawed about this process.

And over the 2 years that I've been here, as we've been discussing a piece

of law that no longer works, that shouldn't be in law, that tells people who are gay or lesbian that they can no longer serve in the military, for the past 2 years I've heard over and over again, well, this is a flawed process. So as a member of the Armed Services Committee, even though my good colleague Representative DAVIS held subcommittee hearings on this issue and there has been much discussion of it, people said, well, we need to have a study.

So we got a study. It's a big, thick study. It's a wonderfully well done study. And when I had the opportunity just recently to sit in the Armed Services Committee and listen to the briefing by the military on the work they had done in this study, I have to say, I was very impressed. Something like 150,000 people participated in this study.

Now, as my colleagues know, when you're a Member of Congress or a challenger running, you're lucky to have a poll of 400 people to get their opinion. Maybe sometimes the poll has 1,200 people, and we take that as public opinion. But to ask 150,000 people associated with the military "So, what do you think?" is quite a piece of work, and I think it was extremely well done.

And what we were told that day in that briefing was, overwhelmingly, our military said, you know, this is just fine. Many of them said: I already know. I serve alongside someone who is a gay or lesbian member of the Armed Forces, and it doesn't bother us at all. It isn't interfering with unit cohesion or ability to fight. People said overwhelmingly: What is taking so long to change this particular provision in law?

So I look at this and I say, whether it's the vehicle that we have before us today—today, in some of the final days of this particular Congress; today, when I think we have to act with urgency here in this House, after this House has already passed this provision in the Armed Services, in the general authorization bill. We've already passed this once. We've already shown that we're in favor of this here. Now, it's back again as a standalone to make it easier for people to deal with this as an individual issue—to go back and say, well, it's all about the process, we haven't had enough process, I think shows great disrespect to those members of our Armed Forces and their leaders who have said to us: Change this, move on, get it done so those 13,000-plus soldiers who have already been told they can no longer serve in the military and we've lost the ability to use their expertise and their training and their patriotism in this country, to say that there isn't urgency today and that we should somehow allow a process argument to slow us down doesn't make any sense.

I very proudly come from the State of Maine, and something like 17 per-

cent of our 1.3 million residents in Maine are either active duty personnel or veterans who have served this country. I go home and hear the people in my district, whether I'm talking to a veterans' group or someone who's just on their way to serve in Afghanistan or coming back or, sadly, sometimes at a military funeral, and people do not say to me, Prohibit gay and lesbian people from serving in the military. People say to me in my home district, in a State that is very dedicated to serving the military, they say, When are you going to end this process of discrimination?

And that is why we are here today. We are here to move forward on the rule, to make sure that once and for all this House of Representatives, again, says let's repeal Don't Ask, Don't Tell. Let's remember that this is a threat to our national security, that it's disrespectful of all of our soldiers, that there will be no serious ramifications of this, and, in fact, our military is very well prepared and has good plans to move forward on this transition.

Let's remember that this is the patriotic vote to cast. This is the vote for national security. This is the vote for respecting the investment we have made in these soldiers. This is a vote for increasing recruitment in our military and saying to even more members who currently are unsure, saying to more people who are unsure about whether or not they should join the military because they worry that they would possibly be out of it, it's a measure to say we welcome you.

Our Armed Services will be only stronger when we repeal Don't Ask, Don't Tell. I encourage my colleagues to vote "yes" on the previous question and on the rule.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adopting House Resolution 1764 will be followed by 5-minute votes on suspending the rules and adopting House Resolution 1761 and House Resolution 1743.

The vote was taken by electronic device, and there were—yeas 232, nays 180, not voting 21, as follows:

[Roll No. 635]

YEAS—232

Ackerman
Adler (NJ)
Altmire
Andrews

Arcuri
Baca
Baldwin
Barrow

Bean
Becerra
Berman
Bishop (GA)

Bishop (NY)
Blumenauer
Bocieri
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castle
Castor (FL)
Chandler
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Higgins

Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee
(TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Loebach
Lofgren, Zoe
Lowey
Lujan
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Matheson
Matsui
McCollum
McDermott
McGovern
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Oliver
Ortiz

Owens
Pallone
Pascarella
Pastor (AZ)
Paul
Payne
Perlmutter
Perriello
Peters
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sanchez, Linda
T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schradner
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Wu
Yarmuth

NAYS—180

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggart
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bono Mack
Boozman

Boren
Boustany
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter

Cassidy
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Critz
Culberson
Davis (AL)
Davis (KY)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Djou
Dreier
Duncan

Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxy
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Graves (GA)
Graves (MO)
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kline (MN)
Lamborn
Lance
Latham
LaTourette

NOT VOTING—21

Baird
Berkley
Berry
Bonner
Buyer
Cardoza
Conyers
Davis (IL)

Granger
Herseht Sandlin
Marchant
McCarthy (NY)
McMahon
McMorris
Rodgers
Putnam

□ 1459

Messrs. LoBIONDO, BRADY of Texas, LEWIS of California, CULBERSON, and BURGESS changed their vote from “yea” to “nay.”

Mr. GUTIERREZ and Ms. WATERS changed their vote from “nay” to “yea.”

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONGRATULATING CAMERON NEWTON ON WINNING THE 2010 HEISMAN TROPHY

The SPEAKER pro tempore (Mr. CUELLAR). The unfinished business is the vote on the motion to suspend the rules and agree to the resolution (H. Res. 1761) congratulating Auburn University quarterback and College Park, Georgia, native Cameron Newton on winning the 2010 Heisman Trophy for being the most outstanding college football player in the United States, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by

Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Stearns
Stutzman
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

the gentleman from Pennsylvania (Mr. ALTMIRE) that the House suspend the rules and agree to the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 378, nays 15, answered “present” 18, not voting 22, as follows:

[Roll No. 636]

YEAS—378

Ackerman
Aderholt
Alexander
Altmire
Andrews
Austria
Baca
Bachmann
Bachus
Baldwin
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Biggart
Bilirakis
Bishop (GA)
Bishop (UT)
Blumenauer
Blunt
Bocieri
Boehner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Bright
Brown (SC)
Brown, Corrine
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Carnahan
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Critz
Crowley
Culberson
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (KY)

Davis (TN)
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxy
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gohmert
Gonzalez
Lowey
Lucas
Luetkemeyer
Luján
Lynch
Mack
Maloney
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCaul
McClintock
McColum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)

Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Pallone
Pastor (AZ)
Paul
Paulsen
Payne
Pence
Perlmuter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Quigley
Rangel
Reed
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)

Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sanchez, Linda
T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Speier
Spratt

NAYS—15

Adler (NJ)
Boustany
Braley (IA)
Broun (GA)
Campbell
Chaffetz

Graves (GA)
Heller
Larsen (WA)
Lipinski
Lungren, Daniel
E.

Stark
Stearns
Stupak
Stutzman
Sullivan
Sutton
Tanner
Taylor
Teague
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Walden
Walz
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Wu
Yarmuth
Young (AK)
Young (FL)

ANSWERED “PRESENT”—18

Akin
Arcuri
Bilbray
Blackburn
Cao
Carney

DeFazio
Djou
Gingrey (GA)
Harper
Lummis
Maffei

Manzullo
Minnick
Poe (TX)
Roe (TN)
Terry
Visclosky

NOT VOTING—22

Baird
Berry
Bishop (NY)
Bonner
Buyer
Cardoza
Cuellar
Davis (IL)

Deutch
Granger
Herseht Sandlin
Marchant
McCarthy (NY)
McMahon
McMorris
Rodgers

Pascarell
Putnam
Radanovich
Shadegg
Space
Wamp
Woolsey

□ 1508

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONGRATULATING GERDA WEISSMANN KLEIN ON PRESIDENTIAL MEDAL OF FREEDOM

The SPEAKER pro tempore (Ms. LEE of California). The unfinished business is the question on suspending the rules and agreeing to the resolution (H. Res. 1743) congratulating Gerda Weissmann

Klein on being selected to receive the Presidential Medal of Freedom, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and agree to the resolution, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Mr. TONKO. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 407, noes 0, not voting 26, as follows:

[Roll No. 637]

AYES—407

Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Biggert
Bilbray
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccheri
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Carnahan
Carney
Carson (IN)
Carter
Cassidy

Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Critz
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (CA)
Davis (KY)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Djou
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Fallin
Farr
Fattah
Filner
Flake

Fleming
Forbes
Fortenberry
Foster
Foxy
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Graves (GA)
Graves (MO)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee
(TX)
Jenkins
Johnson (GA)

Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebach
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Lujan
Lummis
Lungren, Daniel
E.
Lynch
Mack
Maffei
Maloney
Manzullo
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)

Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascarella
Pastor (AZ)
Paul
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Quigley
Rahall
Rangel
Reed
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sanchez, Linda
T.
Sanchez, Loretta
Sarbanes
Scalise

Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Nye
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Speier
Spratt
Stark
Stearns
Stupak
Stutzman
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Wu
Yarmuth
Young (AK)
Young (FL)

□ 1516

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. HERSETH SANDLIN. Mr. Speaker, I regret that I was unable to participate in seven votes on the floor of the House of Representatives today due to a family medical issue.

The first vote was H.R. 5546—To designate the facility of the United States Postal Service located at 600 Florida Avenue in Cocoa, Florida, as the “Harry T. and Harriette Moore Post Office.” Had I been present, I would have voted “yea” on that question.

The second vote was H. Res. 1759—Expressing support for designation of January 23rd as “Ed Roberts Day.” Had I been present, I would have voted “yea” on that question.

The third vote was S. Con. Res. 72—A concurrent resolution recognizing the 45th anniversary of the White House Fellows Program. Had I been present, I would have voted “yea” on that question.

The fourth vote was H.R. 6205—To designate the facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, as the “Private Isaac T. Cortes Post Office.” Had I been present, I would have voted “yea” on that question.

The fifth vote was H. Res. 1764—Rule providing for consideration of H.R. 2965—Don’t Ask, Don’t Tell Repeal Act of 2010. Had I been present, I would have voted “nay” on that question.

The sixth vote was H. Res. 1761—Congratulating Auburn University quarterback and College Park, Georgia, native Cameron Newton on winning the 2010 Heisman Trophy for being the most outstanding college football player in the United States. Had I been present, I would have voted “yea” on that question.

The seventh vote was H. Res. 1743—Congratulating Gerda Weissmann Klein on being selected to receive the Presidential Medal of Freedom. Had I been present, I would have voted “yea” on that question.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate concurs in the House amendment to the Senate amendment with an amendment on a bill of the House of the following title:

H.R. 4853. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

NOT VOTING—26

Baird
Barrett (SC)
Berry
Bilirakis
Bishop (NY)
Boehner
Bonner
Bright
Cardoza
Davis (AL)
Davis (IL)
Dicks
Granger
Herseth Sandlin
Higgins
Marchant
McCarthy (NY)
McMahon

McMorris
Rodgers
Olson
Putnam
Radanovich
Shadegg
Space
Wamp
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote.

□ 1520

DON'T ASK, DON'T TELL REPEAL
ACT OF 2010

Mrs. DAVIS of California. Mr. Speaker, pursuant to House Resolution 1764, I call up the bill (H.R. 2965) to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes, with the Senate amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. CUELLAR). The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the “SBIR/STTR Reauthorization Act of 2009”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

**TITLE I—REAUTHORIZATION OF THE SBIR
AND STTR PROGRAMS**

Sec. 101. Extension of termination dates.

Sec. 102. Status of the Office of Technology.

Sec. 103. SBIR allocation increase.

Sec. 104. STTR allocation increase.

Sec. 105. SBIR and STTR award levels.

Sec. 106. Agency and program collaboration.

Sec. 107. Elimination of Phase II invitations.

Sec. 108. Majority-venture investments in SBIR firms.

Sec. 109. SBIR and STTR special acquisition preference.

Sec. 110. Collaborating with Federal laboratories and research and development centers.

Sec. 111. Notice requirement.

**TITLE II—OUTREACH AND
COMMERCIALIZATION INITIATIVES**

Sec. 201. Rural and State outreach.

Sec. 202. SBIR–STEM Workforce Development Grant Pilot Program.

Sec. 203. Technical assistance for awardees.

Sec. 204. Commercialization program at Department of Defense.

Sec. 205. Commercialization Pilot Program for civilian agencies.

Sec. 206. Nanotechnology initiative.

Sec. 207. Accelerating cures.

TITLE III—OVERSIGHT AND EVALUATION

Sec. 301. Streamlining annual evaluation requirements.

Sec. 302. Data collection from agencies for SBIR.

Sec. 303. Data collection from agencies for STTR.

Sec. 304. Public database.

Sec. 305. Government database.

Sec. 306. Accuracy in funding base calculations.

Sec. 307. Continued evaluation by the National Academy of Sciences.

Sec. 308. Technology insertion reporting requirements.

Sec. 309. Intellectual property protections.

TITLE IV—POLICY DIRECTIVES

Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives.

Sec. 402. Priorities for certain research initiatives.

Sec. 403. Report on SBIR and STTR program goals.

Sec. 404. Competitive selection procedures for SBIR and STTR programs.

SEC. 3. DEFINITIONS.

In this Act—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms “extramural budget”, “Federal agency”, “Small Business Innovation Research Program”, “SBIR”, “Small Business Technology Transfer Program”, and “STTR” have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

(3) the term “small business concern” has the same meaning as under section 3 of the Small Business Act (15 U.S.C. 632).

**TITLE I—REAUTHORIZATION OF THE SBIR
AND STTR PROGRAMS****SEC. 101. EXTENSION OF TERMINATION DATES.**

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended by striking “2008” and inserting “2017”.

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended by striking “2009” and inserting “2017”.

SEC. 102. STATUS OF THE OFFICE OF TECHNOLOGY.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (7), by striking “and” at the end;

(2) in paragraph (8), by striking the period at the end and inserting “; and”;

(3) by redesignating paragraph (8) as paragraph (9); and

(4) by adding at the end the following:

“(10) to maintain an Office of Technology to carry out the responsibilities of the Administration under this section, which shall be—

“(A) headed by the Assistant Administrator for Technology, who shall report directly to the Administrator; and

“(B) independent from the Office of Government Contracting of the Administration and sufficiently staffed and funded to comply with the oversight, reporting, and public database responsibilities assigned to the Office of Technology by the Administrator.”.

SEC. 103. SBIR ALLOCATION INCREASE.

Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “Each” and inserting “Except as provided in paragraph (2)(C), each”;

(B) in subparagraph (B), by striking “and” at the end; and

(C) by striking subparagraph (C) and inserting the following:

“(C) not less than 2.5 percent of such budget in each of fiscal years 2009 and 2010;

“(D) not less than 2.6 percent of such budget in fiscal year 2011;

“(E) not less than 2.7 percent of such budget in fiscal year 2012;

“(F) not less than 2.8 percent of such budget in fiscal year 2013;

“(G) not less than 2.9 percent of such budget in fiscal year 2014;

“(H) not less than 3.0 percent of such budget in fiscal year 2015;

“(I) not less than 3.1 percent of such budget in fiscal year 2016;

“(J) not less than 3.2 percent of such budget in fiscal year 2017;

“(K) not less than 3.3 percent of such budget in fiscal year 2018;

“(L) not less than 3.4 percent of such budget in fiscal year 2019; and

“(M) not less than 3.5 percent of such budget in fiscal year 2020 and each fiscal year thereafter.”; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the margins accordingly;

(B) by striking “A Federal agency” and inserting the following:

“(A) IN GENERAL.—A Federal agency”; and

(C) by adding at the end the following:

“(B) DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY.—For the Department of Defense and the Department of Energy, to the greatest extent practicable, the percentage of the extramural budget in excess of 2.5 percent required to be expended with small business concerns under subparagraphs (D) through (M) of paragraph (1)—

“(i) may not be used for new Phase I or Phase II awards; and

“(ii) shall be used for activities that further the readiness levels of technologies developed under Phase II awards, including conducting testing and evaluation to promote the transition of such technologies into commercial or defense products, or systems furthering the mission needs of the Department of Defense or the Department of Energy, as the case may be.”.

SEC. 104. STTR ALLOCATION INCREASE.

Section 9(n)(1)(B) of the Small Business Act (15 U.S.C. 638(n)(1)(B)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking “thereafter.” and inserting “through fiscal year 2010;”; and

(3) by adding at the end the following:

“(iii) 0.4 percent for fiscal years 2011 and 2012;

“(iv) 0.5 percent for fiscal years 2013 and 2014; and

“(v) 0.6 percent for fiscal year 2015 and each fiscal year thereafter.”.

SEC. 105. SBIR AND STTR AWARD LEVELS.

(a) SBIR ADJUSTMENTS.—Section 9(j)(2)(D) of the Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended—

(1) by striking “\$100,000” and inserting “\$150,000”; and

(2) by striking “\$750,000” and inserting “\$1,000,000”.

(b) STTR ADJUSTMENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

(1) by striking “\$100,000” and inserting “\$150,000”; and

(2) by striking “\$750,000” and inserting “\$1,000,000”.

(c) TRIENNIAL ADJUSTMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (j)(2)(D)—

(A) by striking “5 years” and inserting “3 years”; and

(B) by striking “and programmatic considerations”; and

(2) in subsection (p)(2)(B)(ix) by striking “greater or lesser amounts to be awarded at the discretion of the awarding agency,” and inserting “an adjustment for inflation of such amounts once every 3 years.”.

(d) LIMITATION ON CERTAIN AWARDS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

“(aa) LIMITATION ON CERTAIN AWARDS.—

“(1) LIMITATION.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent.

“(2) MAINTENANCE OF INFORMATION.—Participating agencies shall maintain information on awards exceeding the guidelines established under this section, including—

“(A) the amount of each award;

“(B) a justification for exceeding the award amount;

“(C) the identity and location of each award recipient; and

“(D) whether a recipient has received any venture capital investment and, if so, whether the recipient is majority-owned and controlled by multiple venture capital companies.

“(3) REPORTS.—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.”.

SEC. 106. AGENCY AND PROGRAM COLLABORATION.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(bb) SUBSEQUENT PHASES.—

“(1) AGENCY COLLABORATION.—A small business concern that received an award from a Federal agency under this section shall be eligible to receive an award for a subsequent phase from another Federal agency, if the head of each relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for inclusion in the public database under subsection (k).

“(2) SBIR AND STTR COLLABORATION.—A small business concern which received an award under this section under the SBIR program or the STTR program may receive an award under this section for a subsequent phase in either the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administrator for inclusion in the public database under subsection (k).”.

SEC. 107. ELIMINATION OF PHASE II INVITATIONS.

(a) IN GENERAL.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4)(B), by striking “to further” and inserting: “which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further”; and

(2) in paragraph (6)(B), by striking “to further develop proposed ideas to” and inserting “which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further develop proposals that”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 638) is amended—

(1) in section 9—

(A) in subsection (e)—

(i) in paragraph (8), by striking “and” at the end;

(ii) in paragraph (9)—

(I) by striking “the second or the third phase” and inserting “Phase II or Phase III”; and

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

“(10) the term ‘Phase I’ means—

“(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and

“(B) with respect to the STTR program, the first phase described in paragraph (6)(A);

“(11) the term ‘Phase II’ means—

“(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and

“(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and

“(12) the term ‘Phase III’ means—

“(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and

“(B) with respect to the STTR program, the third phase described in paragraph (6)(C).”;

(B) in subsection (j)—

(i) in paragraph (1)(B), by striking “phase two” and inserting “Phase II”; and

(ii) in paragraph (2)—

(I) in subparagraph (B)—

(aa) by striking “the third phase” each place it appears and inserting “Phase III”; and

(bb) by striking “the second phase” and inserting “Phase II”; and

(II) in subparagraph (D)—

(aa) by striking “the first phase” and inserting “Phase I”; and

(bb) by striking “the second phase” and inserting “Phase II”; and

(III) in subparagraph (F), by striking “the third phase” and inserting “Phase III”; and

(IV) in subparagraph (G)—

(aa) by striking “the first phase” and inserting “Phase I”; and

(bb) by striking “the second phase” and inserting “Phase II”; and

(V) in subparagraph (H)—

(aa) by striking “the first phase” and inserting “Phase I”; and

(bb) by striking “second phase” each place it appears and inserting “Phase II”; and

(cc) by striking “third phase” and inserting “Phase III”; and

(iii) in paragraph (3)—

(I) in subparagraph (A)—

(aa) by striking “the first phase (as described in subsection (e)(4)(A))” and inserting “Phase I”; and

(bb) by striking “the second phase (as described in subsection (e)(4)(B))” and inserting “Phase II”; and

(cc) by striking “the third phase (as described in subsection (e)(4)(C))” and inserting “Phase III”; and

(II) in subparagraph (B), by striking “second phase” and inserting “Phase II”; and

(C) in subsection (k)—

(i) by striking “first phase” each place it appears and inserting “Phase I”; and

(ii) by striking “second phase” each place it appears and inserting “Phase II”; and

(D) in subsection (l)(2)—

(i) by striking “the first phase” and inserting “Phase I”; and

(ii) by striking “the second phase” and inserting “Phase II”; and

(E) in subsection (o)(13)—

(i) in subparagraph (B), by striking “second phase” and inserting “Phase II”; and

(ii) in subparagraph (C), by striking “third phase” and inserting “Phase III”; and

(F) in subsection (p)—

(i) in paragraph (2)(B)—

(I) in clause (vi)—

(aa) by striking “the second phase” and inserting “Phase II”; and

(bb) by striking “the third phase” and inserting “Phase III”; and

(II) in clause (ix)—

(aa) by striking “the first phase” and inserting “Phase I”; and

(bb) by striking “the second phase” and inserting “Phase II”; and

(ii) in paragraph (3)—

(I) by striking “the first phase (as described in subsection (e)(6)(A))” and inserting “Phase I”; and

(II) by striking “the second phase (as described in subsection (e)(6)(B))” and inserting “Phase II”; and

(III) by striking “the third phase (as described in subsection (e)(6)(A))” and inserting “Phase III”; and

(G) in subsection (q)(3)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking “FIRST PHASE” and inserting “PHASE I”; and

(II) by striking “first phase” and inserting “Phase I”; and

(ii) in subparagraph (B)—

(I) in the subparagraph heading, by striking “SECOND PHASE” and inserting “PHASE II”; and

(II) by striking “second phase” and inserting “Phase II”; and

(H) in subsection (r)—

(i) in the subsection heading, by striking “THIRD PHASE” and inserting “PHASE III”; and

(ii) in paragraph (1)—

(I) in the first sentence—

(aa) by striking “for the second phase” and inserting “for Phase II”; and

(bb) by striking “third phase” and inserting “Phase III”; and

(cc) by striking “second phase period” and inserting “Phase II period”; and

(II) in the second sentence—

(aa) by striking “second phase” and inserting “Phase II”; and

(bb) by striking “third phase” and inserting “Phase III”; and

(iii) in paragraph (2), by striking “third phase” and inserting “Phase III”; and

(I) in subsection (u)(2)(B), by striking “the first phase” and inserting “Phase I”; and

(2) in section 34—

(A) in subsection (c)(2)(B)(ii), by striking “first phase and second phase SBIR awards” and inserting “Phase I and Phase II SBIR awards (as defined in section 9(e))”; and

(B) in subsection (e)(2)(A)—

(i) in clause (i), by striking “first phase awards” and all that follows and inserting “Phase I awards (as defined in section 9(e));”; and

(ii) by striking “first phase” each place it appears and inserting “Phase I”; and

(3) in section 35(c)(2)(B)(vii), by striking “third phase” and inserting “Phase III”.

SEC. 108. MAJORITY-VENTURE INVESTMENTS IN SBIR FIRMS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(cc) MAJORITY-VENTURE INVESTMENTS IN SBIR FIRMS.—

“(1) AUTHORITY AND DETERMINATION.—

“(A) IN GENERAL.—Upon a written determination provided not later than 30 days in advance to the Administrator and to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives—

“(i) the Director of the National Institutes of Health may award not more than 18 percent of the SBIR funds of the National Institutes of Health allocated in accordance with this Act, in the first full fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, to small business concerns that are owned in majority part by venture capital companies and that satisfy the qualification requirements under paragraph (2) through competitive, merit-based procedures that are open to all eligible small business concerns; and

“(ii) the head of any other Federal agency participating in the SBIR program may award not more than 8 percent of the SBIR funds of the Federal agency allocated in accordance with this Act, in the first full fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, to small business concerns that are majority owned by venture capital companies and that satisfy the qualification requirements under paragraph (2) through competitive, merit-based procedures that are open to all eligible small business concerns.

“(B) DETERMINATION.—A written determination made under subparagraph (A) shall explain how the use of the authority under that subparagraph will induce additional venture capital funding of small business innovations, substantially contribute to the mission of the funding Federal agency, demonstrate a need for public research, and otherwise fulfill the capital

needs of small business concerns for additional financing for the SBIR project.

“(2) **QUALIFICATION REQUIREMENTS.**—The Administrator shall establish requirements relating to the affiliation by small business concerns with venture capital companies, which may not exclude a United States small business concern from participation in the program under paragraph (1) on the basis that the small business concern is owned in majority part by, or controlled by, more than 1 United States venture capital company, so long as no single venture capital company owns more than 49 percent of the small business concern.

“(3) **REGISTRATION.**—A small business concern that is majority owned and controlled by multiple venture capital companies and qualified for participation in the program authorized under paragraph (1) shall—

“(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

“(B) indicate whether the small business concern is registered under subparagraph (A) in any SBIR proposal.

“(4) **COMPLIANCE.**—A Federal agency described in paragraph (1) shall collect data regarding the number and dollar amounts of phase I, phase II, and all other categories of awards under the SBIR program, and the Administrator shall report on the data and the compliance of each such Federal agency with the maximum amounts under paragraph (1) as part of the annual report by the Administration under subsection (b)(7).

“(5) **ENFORCEMENT.**—If a Federal agency awards more than the amount authorized under paragraph (1) for a purpose described in paragraph (1), the amount awarded in excess of the amount authorized under paragraph (1) shall be transferred to the funds for general SBIR programs from the non-SBIR research and development funds of the Federal agency within 60 days of the date on which the Federal agency awarded more than the amount authorized under paragraph (1) for a purpose described in paragraph (1).”

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

“(t) **VENTURE CAPITAL COMPANY.**—In this Act, the term ‘venture capital company’ means an entity described in clause (i), (v), or (vi) of section 121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).”

(c) **ASSISTANCE FOR DETERMINING AFFILIATES.**—Not later than 30 days after the date of enactment of this Act, the Administrator shall post on the website of the Administration (with a direct link displayed on the homepage of the website of the Administration or the SBIR website of the Administration)—

(1) a clear explanation of the SBIR affiliation rules under part 121 of title 13, Code of Federal Regulations; and

(2) contact information for officers or employees of the Administration who—

(A) upon request, shall review an issue relating to the rules described in paragraph (1); and

(B) shall respond to a request under subparagraph (A) not later than 20 business days after the date on which the request is received.

SEC. 109. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.

Section 9(r) of the Small Business Act (15 U.S.C. 638(r)) is amended by adding at the end the following:

“(4) **PHASE III AWARDS.**—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.”

SEC. 110. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(dd) **COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.**—

“(1) **AUTHORIZATION.**—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

“(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

“(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

“(2) **PROHIBITION.**—No Federal agency shall—

“(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

“(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

“(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

“(3) **IMPLEMENTATION.**—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

“(A) have the flexibility to use the resources of the Federal laboratories and federally funded research and development centers; and

“(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.”

SEC. 111. NOTICE REQUIREMENT.

The head of any Federal agency involved in a case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program or the STTR program shall provide timely notice, as determined by the Administrator, of the case or controversy to the Administrator.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

SEC. 201. RURAL AND STATE OUTREACH.

(a) **OUTREACH.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (r) the following:

“(s) **OUTREACH.**—

“(1) **DEFINITION OF ELIGIBLE STATE.**—In this subsection, the term ‘eligible State’ means a State—

“(A) for which the total value of contracts awarded to the State under this section during the most recent fiscal year for which data is available was less than \$5,000,000; and

“(B) that certifies to the Administrator that the State will, upon receipt of assistance under this subsection, provide matching funds from non-Federal sources in an amount that is not less than 50 percent of the amount provided under this subsection.

“(2) **PROGRAM AUTHORITY.**—Of amounts made available to carry out this section for each of fiscal years 2010 through 2014, the Administrator may expend with eligible States not more than \$5,000,000 in each such fiscal year in order to increase the participation of small business concerns located in those States in the programs under this section.

“(3) **AMOUNT OF ASSISTANCE.**—The amount of assistance provided to an eligible State under this subsection in any fiscal year—

“(A) shall be equal to not more than 50 percent of the total amount of matching funds from non-Federal sources provided by the State; and

“(B) shall not exceed \$100,000.

“(4) **USE OF ASSISTANCE.**—Assistance provided to an eligible State under this subsection shall be used by the State, in consultation with State and local departments and agencies, for programs and activities to increase the participation of small business concerns located in the State in the programs under this section, including—

“(A) the establishment of quantifiable performance goals, including goals relating to—

“(i) the number of program awards under this section made to small business concerns in the State; and

“(ii) the total amount of Federal research and development contracts awarded to small business concerns in the State;

“(B) the provision of competition outreach support to small business concerns in the State that are involved in research and development; and

“(C) the development and dissemination of educational and promotional information relating to the programs under this section to small business concerns in the State.”

(b) **FEDERAL AND STATE PROGRAM EXTENSION.**—Section 34 of the Small Business Act (15 U.S.C. 657d) is amended—

(1) in subsection (h), by striking “2001 through 2005” each place it appears and inserting “2010 through 2014”; and

(2) in subsection (i), by striking “2005” and inserting “2014”.

(c) **MATCHING REQUIREMENTS.**—Section 34(e)(2) of the Small Business Act (15 U.S.C. 657d(e)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking “50 cents” and inserting “35 cents”; and

(B) in clause (iii), by striking “75 cents” and inserting “50 cents”; and

(2) in subparagraph (B), by striking “50 cents” and inserting “35 cents”; and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(4) by inserting after subparagraph (B) the following:

“(C) **RURAL AREAS.**—

“(i) **IN GENERAL.**—Except as provided in clause (ii), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this section shall be 35 cents for each Federal dollar that will be directly allocated by a recipient described in paragraph (A) to serve small business concerns located in a rural area.

“(ii) **ENHANCED RURAL AWARDS.**—For a recipient located in a rural area that is located in a State described in subparagraph (A)(i), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this section shall be 15 cents for each Federal dollar that will be directly allocated by a recipient described in paragraph (A) to serve small business concerns located in the rural area.

“(iii) **DEFINITION OF RURAL AREA.**—In this subparagraph, the term ‘rural area’ has the meaning given that term in section 1393(a)(2)) of the Internal Revenue Code of 1986.”

SEC. 202. SBIR—STEM WORKFORCE DEVELOPMENT GRANT PILOT PROGRAM.

(a) **PILOT PROGRAM ESTABLISHED.**—From amounts made available to carry out this section, the Administrator shall establish a SBIR—STEM Workforce Development Grant Pilot Program to encourage the business community to provide workforce development opportunities for college students, in the fields of science, technology, engineering, and math (in this section referred to as “STEM college students”), by providing a SBIR bonus grant.

(b) **ELIGIBLE ENTITIES DEFINED.**—In this section the term “eligible entity” means a grantee receiving a grant under the SBIR Program on the date of the bonus grant under subsection (a) that provides an internship program for STEM college students.

(c) **AWARDS.**—An eligible entity shall receive a bonus grant equal to 10 percent of either a Phase I or Phase II grant, as applicable, with a total award maximum of not more than \$10,000 per year.

(d) **EVALUATION.**—Following the fourth year of funding under this section, the Administrator shall submit a report to Congress on the results of the SBIR—STEM Workforce Development Grant Pilot Program.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

- (1) \$1,000,000 for fiscal year 2011;
- (2) \$1,000,000 for fiscal year 2012;
- (3) \$1,000,000 for fiscal year 2013;
- (4) \$1,000,000 for fiscal year 2014; and
- (5) \$1,000,000 for fiscal year 2015.

SEC. 203. TECHNICAL ASSISTANCE FOR AWARDEES.

Section 9(q)(3) of the Small Business Act (15 U.S.C. 638(q)(3)) is amended—

(1) in subparagraph (A), by striking “\$4,000” and inserting “\$5,000”;

(2) in subparagraph (B)—

(A) by striking “, with funds available from their SBIR awards,”; and

(B) by striking “\$4,000 per year” and inserting “\$5,000 per year, which shall be in addition to the amount of the recipient’s award”; and

(3) by adding at the end the following:

“(C) **FLEXIBILITY.**—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

“(D) **LIMITATION.**—A Federal agency may not—

“(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

“(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.”.

SEC. 204. COMMERCIALIZATION PROGRAM AT DEPARTMENT OF DEFENSE.

Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in the subsection heading, by striking “PILOT”;

(2) by striking “Pilot” each place that term appears;

(3) in paragraph (1)—

(A) by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”; and

(B) by adding at the end the following: “The authority to create and administer a Commercialization Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that en-

hances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136).”;

(4) in paragraph (2), by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”;

(5) in paragraph (4), by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”;

(6) by striking paragraph (6);

(7) by redesignating paragraph (5) as paragraph (7); and

(8) by inserting after paragraph (4) the following:

“(5) **INSERTION INCENTIVES.**—For any contract with a value of not less than \$100,000,000, the Secretary of Defense is authorized to—

“(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

“(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

“(6) **GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.**—The Secretary of Defense shall—

“(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

“(B) use incentives in effect on the date of enactment of the SBIR/STTR Reauthorization Act of 2009, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

“(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, and information on the ongoing status of projects funded through the Commercialization Program and efforts to transition these technologies into programs of record or fielded systems.”.

SEC. 205. COMMERCIALIZATION PILOT PROGRAM FOR CIVILIAN AGENCIES.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ee) **PILOT PROGRAM.**—

“(1) **AUTHORIZATION.**—The head of each covered Federal agency may set aside not more than 10 percent of the SBIR and STTR funds of such agency for further technology development, testing, and evaluation of SBIR and STTR Phase II technologies.

“(2) **APPLICATION BY FEDERAL AGENCY.**—

“(A) **IN GENERAL.**—A covered Federal agency may not establish a pilot program unless such agency makes a written application to the Administrator, not later than 90 days before to the first day of the fiscal year in which the pilot program is to be established, that describes a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

“(B) **DETERMINATION.**—The Administrator shall—

“(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

“(ii) publish the determination in the Federal Register; and

“(iii) make a copy of the determination and any related materials available to the Committee

on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

“(3) **MAXIMUM AMOUNT OF AWARD.**—The head of a Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

“(4) **MATCHING.**—The head of a Federal agency may not make an award under a pilot program for SBIR or STTR Phase II technology that will be acquired by the Federal Government unless new private, Federal non-SBIR, or Federal non-STTR funding that at least matches the award from the Federal agency is provided for the SBIR or STTR Phase II technology.

“(5) **ELIGIBILITY FOR AWARD.**—The head of a Federal agency may make an award under a pilot program to any applicant that is eligible to receive a Phase III award related to technology developed in Phase II of an SBIR or STTR project.

“(6) **REGISTRATION.**—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

“(7) **TERMINATION.**—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.

“(8) **DEFINITIONS.**—In this section—

“(A) the term ‘covered Federal agency’—

“(i) means a Federal agency participating in the SBIR program or the STTR program; and

“(ii) does not include the Department of Defense; and

“(B) the term ‘pilot program’ means the program established under paragraph (1).”.

SEC. 206. NANOTECHNOLOGY INITIATIVE.

(a) **IN GENERAL.**—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ff) **NANOTECHNOLOGY INITIATIVE.**—Each Federal agency participating in the SBIR or STTR program shall encourage the submission of applications for support of nanotechnology related projects to such program.”.

(b) **SUNSET.**—Effective October 1, 2014, subsection (ff) of the Small Business Act, as added by subsection (a) of this section, is repealed.

SEC. 207. ACCELERATING CURES.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 44 as section 45; and

(2) by inserting after section 43 the following:

“SEC. 44. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

“(a) **NIH CURES PILOT.**—

“(1) **ESTABLISHMENT.**—An independent advisory board shall be established at the National Academy of Sciences (in this section referred to as the ‘advisory board’) to conduct periodic evaluations of the SBIR program (as that term is defined in section 9) of each of the National Institutes of Health (referred to in this section as the ‘NIH’) institutes and centers for the purpose of improving the management of the SBIR program through data-driven assessment.

“(2) **MEMBERSHIP.**—

“(A) **IN GENERAL.**—The advisory board shall consist of—

“(i) the Director of the NIH;

“(ii) the Director of the SBIR program of the NIH;

“(iii) senior NIH agency managers, selected by the Director of NIH;

“(iv) industry experts, selected by the Council of the National Academy of Sciences in consultation with the Associate Administrator for Technology of the Administration and the Director of the Office of Science and Technology Policy; and

“(v) owners or operators of small business concerns that have received an award under the

SBIR program of the NIH, selected by the Associate Administrator for Technology of the Administration.

“(B) NUMBER OF MEMBERS.—The total number of members selected under clauses (iii), (iv), and (v) of subparagraph (A) shall not exceed 10.

“(C) EQUAL REPRESENTATION.—The total number of members of the advisory board selected under clauses (i), (ii), (iii), and (iv) of subparagraph (A) shall be equal to the number of members of the advisory board selected under subparagraph (A)(v).

“(b) ADDRESSING DATA GAPS.—In order to enhance the evidence-base guiding SBIR program decisions and changes, the Director of the SBIR program of the NIH shall address the gaps and deficiencies in the data collection concerns identified in the 2007 report of the National Academies of Science entitled ‘An Assessment of the Small Business Innovation Research Program at the NIH’.

“(c) PILOT PROGRAM.—

“(1) IN GENERAL.—The Director of the SBIR program of the NIH may initiate a pilot program, under a formal mechanism for designing, implementing, and evaluating pilot programs, to spur innovation and to test new strategies that may enhance the development of cures and therapies.

“(2) CONSIDERATIONS.—The Director of the SBIR program of the NIH may consider conducting a pilot program to include individuals with successful SBIR program experience in study sections, hiring individuals with small business development experience for staff positions, separating the commercial and scientific review processes, and examining the impact of the trend toward larger awards on the overall program.

“(d) REPORT TO CONGRESS.—The Director of the NIH shall submit an annual report to Congress and the advisory board on the activities of the SBIR program of the NIH under this section.

“(e) SBIR GRANTS AND CONTRACTS.—

“(1) IN GENERAL.—In awarding grants and contracts under the SBIR program of the NIH each SBIR program manager shall place an emphasis on applications that identify products and services that may enhance the development of cures and therapies.

“(2) EXAMINATION OF COMMERCIALIZATION AND OTHER METRICS.—The advisory board shall evaluate the implementation of the requirement under paragraph (1) by examining increased commercialization and other metrics, to be determined and collected by the SBIR program of the NIH.

“(3) PHASE I AND II.—To the greatest extent practicable, the Director of the SBIR program of the NIH shall reduce the time period between Phase I and Phase II funding of grants and contracts under the SBIR program of the NIH to 6 months.

“(f) LIMIT.—Not more than a total of 1 percent of the extramural budget (as defined in section 9 of the Small Business Act (15 U.S.C. 638)) of the NIH for research or research and development may be used for the pilot program under subsection (c) and to carry out subsection (e).

“(g) SUNSET.—This section shall cease to be effective on the date that is 5 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009.”.

TITLE III—OVERSIGHT AND EVALUATION

SEC. 301. STREAMLINING ANNUAL EVALUATION REQUIREMENTS.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)), as amended by section 102 of this Act, is amended—

(1) in paragraph (7)—

(A) by striking “STTR programs, including the data” and inserting the following: “STTR programs, including—

“(A) the data”;

(B) by striking “(g)(10), (o)(9), and (o)(15), the number” and all that follows through “under each of the SBIR and STTR programs, and a description” and inserting the following: “(g)(8) and (o)(9); and

“(B) the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns and firms with venture capital investment (including those majority owned and controlled by multiple venture capital firms) under each of the SBIR and STTR programs;

“(C) a description of the extent to which each Federal agency is increasing outreach and awards to firms owned and controlled by women and social or economically disadvantaged individuals under each of the SBIR and STTR programs;

“(D) general information about the implementation and compliance with the allocation of funds required under subsection (cc) for firms majority owned and controlled by multiple venture capital firms under each of the SBIR and STTR programs;

“(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR and the STTR Policy Directives filed by the Administrator with Federal agencies; and

“(F) a description”; and

(2) by inserting after paragraph (7) the following:

“(8) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data;”.

SEC. 302. DATA COLLECTION FROM AGENCIES FOR SBIR.

Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by striking paragraph (10);

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(3) by inserting after paragraph (7) the following:

“(8) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

“(A) whether an awardee—

“(i) has venture capital or is majority owned and controlled by multiple venture capital firms, and, if so—

“(I) the amount of venture capital that the awardee has received as of the date of the award; and

“(II) the amount of additional capital that the awardee has invested in the SBIR technology;

“(ii) has an investor that—

“(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

“(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

“(iii) is owned by a woman or has a woman as a principal investigator;

“(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s);

“(vi) is a faculty member or a student of an institution of higher education, as that term is

defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

“(vii) is located in a State described in subsection (u)(3); and

“(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;”;

(4) in paragraph (10), as so redesignated, by adding “and” at the end.

SEC. 303. DATA COLLECTION FROM AGENCIES FOR STTR.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended—

(1) by striking paragraph (9) and inserting the following:

“(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

“(A) whether an applicant or awardee—

“(i) has venture capital or is majority owned and controlled by multiple venture capital firms, and, if so—

“(I) the amount of venture capital that the applicant or awardee has received as of the date of the application or award, as applicable; and

“(II) the amount of additional capital that the applicant or awardee has invested in the SBIR technology;

“(ii) has an investor that—

“(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

“(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

“(iii) is owned by a woman or has a woman as a principal investigator;

“(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s);

“(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

“(vii) is located in a State in which the total value of contracts awarded to small business concerns under all STTR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator; and

“(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount;”;

(2) in paragraph (14), by adding “and” at the end;

(3) by striking paragraph (15); and

(4) by redesignating paragraph (16) as paragraph (15).

SEC. 304. PUBLIC DATABASE.

Section 9(k)(1) of the Small Business Act (15 U.S.C. 638(k)(1)) is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR

award from a Federal agency, whether the small business concern—

“(i) has venture capital and, if so, whether the small business concern is registered as majority owned and controlled by multiple venture capital companies as required under subsection (cc)(3);

“(ii) is owned by a woman or has a woman as a principal investigator;

“(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(iv) received assistance under the FAST program under section 34 or the outreach program under subsection (s); or

“(v) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”.

SEC. 305. GOVERNMENT DATABASE.

Section 9(k)(2) of the Small Business Act (15 U.S.C. 638(k)(2)) is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively;

(2) by inserting after subparagraph (B) the following:

“(C) includes, for each awardee—

“(i) the name, size, location, and any identifying number assigned to the awardee by the Administrator;

“(ii) whether the awardee has venture capital, and, if so—

“(I) the amount of venture capital as of the date of the award;

“(II) the percentage of ownership of the awardee held by a venture capital firm, including whether the awardee is majority owned and controlled by multiple venture capital firms; and

“(III) the amount of additional capital that the awardee has invested in the SBIR technology, which information shall be collected on an annual basis;

“(iii) the names and locations of any affiliates of the awardee;

“(iv) the number of employees of the awardee;

“(v) the number of employees of the affiliates of the awardee; and

“(vi) the names of, and the percentage of ownership of the awardee held by—

“(I) any individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

“(II) any person that is not an individual and is not organized under the laws of a State or the United States;”;

(3) in subparagraph (D), as so redesignated—

(A) in clause (ii), by striking “and” at the end; and

(B) by adding at the end, the following:

“(iv) whether the applicant was majority owned and controlled by multiple venture capital firms; and

“(v) the number of employees of the applicant;”.

SEC. 306. ACCURACY IN FUNDING BASE CALCULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—

(A) determine whether Federal agencies comply with the expenditure amount requirements under subsections (f)(1) and (n)(1) of section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act;

(B) assess the extent of compliance with the requirements of section 9(i)(2) of the Small Business Act (15 U.S.C. 638(i)(2)) by Federal agencies participating in the SBIR program or the STTR program and the Administration;

(C) assess whether it would be more consistent and effective to base the amount of the allocations under the SBIR program and the STTR program on a percentage of the research and development budget of a Federal agency, rather than the extramural budget of the Federal agency; and

(D) determine the portion of the extramural research or research and development budget of a Federal agency that each Federal agency spends for administrative purposes relating to the SBIR program or STTR program, and for what specific purposes, including the portion, if any, of such budget the Federal agency spends for salaries and expenses, travel to visit applicants, outreach events, marketing, and technical assistance; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the audit conducted under paragraph (1), including the assessments required under subparagraphs (B) and (C), and the determination made under subparagraph (D) of paragraph (1).

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term “applicable period” means—

(1) for the first report submitted under this section, the period beginning on October 1, 2000, and ending on September 30 of the last full fiscal year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

SEC. 307. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.

Section 108 of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note) is amended by adding at the end the following:

“(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to conduct a study described in subsection (a)(1) and make recommendations described in subsection (a)(2) not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, and every 4 years thereafter.

“(2) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1).”.

SEC. 308. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(gg) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award made by the Federal agency—

“(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

“(2) the name of the small business concern or individual receiving the Phase III award; and

“(3) the dollar amount of the Phase III award.”.

SEC. 309. INTELLECTUAL PROPERTY PROTECTIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the SBIR program to assess whether—

(1) Federal agencies comply with the data rights protections for SBIR awardees and the technologies of SBIR awardees under section 9 of the Small Business Act (15 U.S.C. 638);

(2) the laws and policy directives intended to clarify the scope of data rights, including in prototypes and mentor-protégé relationships and agreements with Federal laboratories, are sufficient to protect SBIR awardees; and

(3) there is an effective grievance tracking process for SBIR awardees who have grievances against a Federal agency regarding data rights and a process for resolving those grievances.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the study conducted under subsection (a).

TITLE IV—POLICY DIRECTIVES

SEC. 401. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive to conform such directives to this Act and the amendments made by this Act.

(b) PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

SEC. 402. PRIORITIES FOR CERTAIN RESEARCH INITIATIVES.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(hh) RESEARCH INITIATIVES.—To the extent that such projects relate to the mission of the Federal agency, each Federal agency participating in the SBIR program or STTR program shall encourage the submission of applications for support of projects relating to security, energy, transportation, or improving the security and quality of the water supply of the United States to such program.”.

(b) SUNSET.—Effective October 1, 2014, section 9(hh) of the Small Business Act, as added by subsection (a) of this section, is repealed.

SEC. 403. REPORT ON SBIR AND STTR PROGRAM GOALS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ii) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

“(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness, and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

“(A) are science-based and statistically driven;

“(B) reflect the mission of the Federal agency; and

“(C) include factors relating to the economic impact of the programs.

“(2) **EVALUATION.**—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

“(A) the SBIR program and the STTR program of the Federal agency; and

“(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

“(3) **REPORT.**—

“(A) **IN GENERAL.**—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

“(B) **PUBLIC AVAILABILITY OF REPORT.**—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

“(C) **DEFINITION.**—In this paragraph, the term ‘appropriate committees of Congress’ means—

“(i) the Committee on Small Business and Entrepreneurship of the Senate; and

“(ii) the Committee on Small Business and the Committee on Science and Technology of the House of Representatives.”.

SEC. 404. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(jj) **COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.**—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.”.

MOTION TO CONCUR

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mrs. Davis of California moves that the House concur in the Senate amendment to H.R. 2965 with an amendment.

The text of the amendment is as follows:

Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Don’t Ask, Don’t Tell Repeal Act of 2010”.

SEC. 2. DEPARTMENT OF DEFENSE POLICY CONCERNING HOMOSEXUALITY IN THE ARMED FORCES.

(a) **COMPREHENSIVE REVIEW ON THE IMPLEMENTATION OF A REPEAL OF 10 U.S.C. 654.**—

(1) **IN GENERAL.**—On March 2, 2010, the Secretary of Defense issued a memorandum directing the Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. 654 (section 654 of title 10, United States Code).

(2) **OBJECTIVES AND SCOPE OF REVIEW.**—The Terms of Reference accompanying the Secretary’s memorandum established the following objectives and scope of the ordered review:

(A) Determine any impacts to military readiness, military effectiveness and unit cohesion, recruiting/retention, and family readiness that may result from repeal of the law and recommend any actions that should be taken in light of such impacts.

(B) Determine leadership, guidance, and training on standards of conduct and new policies.

(C) Determine appropriate changes to existing policies and regulations, including but not limited to issues regarding personnel management,

leadership and training, facilities, investigations, and benefits.

(D) Recommend appropriate changes (if any) to the Uniform Code of Military Justice.

(E) Monitor and evaluate existing legislative proposals to repeal 10 U.S.C. 654 and proposals that may be introduced in the Congress during the period of the review.

(F) Assure appropriate ways to monitor the workforce climate and military effectiveness that support successful follow-through on implementation.

(G) Evaluate the issues raised in ongoing litigation involving 10 U.S.C. 654.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (f) shall take effect 60 days after the date on which the last of the following occurs:

(1) The Secretary of Defense has received the report required by the memorandum of the Secretary referred to in subsection (a).

(2) The President transmits to the congressional defense committees a written certification, signed by the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, stating each of the following:

(A) That the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff have considered the recommendations contained in the report and the report’s proposed plan of action.

(B) That the Department of Defense has prepared the necessary policies and regulations to exercise the discretion provided by the amendments made by subsection (f).

(C) That the implementation of necessary policies and regulations pursuant to the discretion provided by the amendments made by subsection (f) is consistent with the standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention of the Armed Forces.

(c) **NO IMMEDIATE EFFECT ON CURRENT POLICY.**—Section 654 of title 10, United States Code, shall remain in effect until such time that all of the requirements and certifications required by subsection (b) are met. If these requirements and certifications are not met, section 654 of title 10, United States Code, shall remain in effect.

(d) **BENEFITS.**—Nothing in this section, or the amendments made by this section, shall be construed to require the furnishing of benefits in violation of section 7 of title 1, United States Code (relating to the definitions of “marriage” and “spouse” and referred to as the “Defense of Marriage Act”).

(e) **NO PRIVATE CAUSE OF ACTION.**—Nothing in this section, or the amendments made by this section, shall be construed to create a private cause of action.

(f) **TREATMENT OF 1993 POLICY.**—

(1) **TITLE 10.**—Upon the effective date established by subsection (b), chapter 37 of title 10, United States Code, is amended—

(A) by striking section 654; and

(B) in the table of sections at the beginning of such chapter, by striking the item relating to section 654.

(2) **CONFORMING AMENDMENT.**—Upon the effective date established by subsection (b), section 571 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 654 note) is amended by striking subsections (b), (c), and (d).

The SPEAKER pro tempore. Pursuant to House Resolution 1764, the motion shall be debatable for 1 hour equally divided and controlled by the majority leader and the minority leader or their respective designees.

The gentlewoman from California (Mrs. DAVIS) and the gentleman from California (Mr. McKEON) each will control 30 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Mrs. DAVIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and in which to insert extraneous material in the RECORD on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. DAVIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of repealing Don’t Ask, Don’t Tell. Conditions for repeal have been met, due diligence has been done, and the time to act is here. Regardless of what critics say, the issue before us has been debated in Congress and reviewed by the Department of Defense. In fact, Mr. Speaker, Members of the House have debated repeal for some time.

My subcommittee held hearings on the issue. The first of those hearings was on July 23, 2008, actually 15 years after the decision had originally been made, and the second hearing on March 3, 2010. Every Member of this body was welcome to attend, though few Republicans actually made the effort to be there at that time. For those of you who weren’t there, the takeaway from these hearings was that the current policy does not work for our Armed Forces and is inconsistent with American values. Next, this House approved language identical to what is before us today as part of a National Defense Authorization Act. And, finally, Mr. Speaker, the DOT completed its study on implementing repeal, confirming our troops are ready for repeal.

Seventy percent of the force said that repealing Don’t Ask, Don’t Tell will have a positive, a mixed, or no effect on our military. Seventy-four percent of spouses said that open service would not change their support for their spouse staying in the military. And 92 percent of uniformed personnel who believe they have served with a gay servicemember in the past said their unit’s ability to work together was “very good.” Eighty-nine percent of our warriors on the front line said the same. In short, servicemembers and their spouses have essentially the same view as the American public: Men and women in uniform who are gay should be allowed to serve openly.

And I want to add, Mr. Speaker, that our top civilian and military officials agree with the American people. Secretary of Defense Gates has clearly stated that, with careful preparation, repeal poses a low risk to the readiness and effectiveness of our forces. Admiral Mullen shares that view. In fact, Secretary Gates’ biggest concern is if Congress doesn’t act to repeal, then he

points out the courts will impose this change on the Department of Defense, leaving little or no time to prepare and implement the transition plan properly.

Now, it is true that the military service chiefs have reservations about the timing of repeal, but they all believe that the language has adequate safeguards and, when implemented correctly, repeal can be done and effectively managed. They acknowledge that leadership at all levels will be key. And I have great confidence, Mr. Speaker, in the leaders who are serving in our military and their professionalism. After all, we trust them with decisions about our Nation's safety. We can trust them to put this transition into practice in a way that addresses the needs of our force. But we cannot begin this new challenge until we repeal Don't Ask, Don't Tell.

Mr. Speaker, change is never easy, but it is rarely as necessary as it is today. In addition to clear statistics in favor of repeal, the survey responses got to what is at the heart of this issue—fairness.

Gay and lesbian personnel have the same values, the same values toward their service as servicemembers at large. What is that? It is love of their country. It is honor. It is respect. It is integrity and service over self. In the words of one gay servicemember, repeal would simply "take the knife out of my back. You have no idea what it is like to have to serve in silence."

If we miss this opportunity to repeal this law, history will judge us poorly for the damage we have done to our Nation and our military. I urge Members of this House to be on the right side of history and help end Don't Ask, Don't Tell.

I reserve the balance of my time.

Mr. McKEON. I yield myself such time as I may consume.

Mr. Speaker, here we go again. The Speaker has decided once more to subvert regular order in the waning moments of this Congress and bring to the floor, without consideration by the House Armed Services Committee, a repeal of Don't Ask, Don't Tell. Now, anyone who was listening earlier to the Clerk read the bill that we're discussing, it is titled: To amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program. Now, if you're confused, what they have done is taken this bill that has passed, stripped out what is in it, and put in Don't Ask, Don't Tell.

So today, we will debate this standalone measure as a priority when we don't even have a National Defense Authorization Act for 2011. The other body cannot get its work done on that bill because the leadership there placed a higher priority on repeal of Don't Ask, Don't Tell to satisfy a Democratic

liberal agenda than on passing a bill designed to meet the broad needs and requirements of our national defense, as well as those men and women serving in harm's way. Where are the Democrat priorities? Certainly not with overall national security.

□ 1530

So now we are here to consider the bill by Representative MURPHY. It comes to the floor without the committee of jurisdiction being able to formally examine the issues raised by the recent DOD report and without the ability to question witnesses who would have to implement the repeal. Essentially, the high-handed actions of the Speaker forcing this bill to the floor deny the House an ability to assess the conflicting testimony and conclusions that have been rendered by the report.

So I rise in strong opposition to Mr. MURPHY's bill. He and the House leadership behind him bring it to the floor in complete disregard for the testimony of three of the four service chiefs and their warning that implementing repeal now will have a negative impact on combat readiness.

Let me repeat that: three of the four service chiefs warn that implementing repeal now will have a negative impact on combat readiness. This is something we all ought to pay serious attention to when we are fighting two wars.

Beyond that, Mr. MURPHY brings this bill to the floor in complete disregard for the concerns of those actually in the combat arms. As we now know: "The percentage of the overall U.S. military that predicts negative or very negative effects on their units' ability to 'work together to get the job done' is 30 percent; the percentage for the Marine Corps is 43 percent, 48 percent within Army combat units, and 58 percent within Marine combat units."

If there is any doubt about where the service chiefs stand, here is what they told the other body.

General Casey, the Army Chief of Staff said, "I think it's important that we're clear about the military risks. Implementation of the repeal of Don't Ask, Don't Tell would be a major cultural and policy change in the middle of a war. It would be implemented by a force and leaders that are already stretched by the cumulative effects of almost a decade of war and by a force in which substantial numbers of soldiers perceive that repeal will have a negative impact on unit effectiveness and morale, and that implementation will be difficult."

"I believe that the implementation of repeal in the near term will: one, add another level of stress to an already stretched force; two, be more difficult in our combat arms units; and, three, be more difficult for the Army than the report suggests."

"My recommendation would be that implementation begins when our sin-

gular focus is no longer on combat operations or preparing units for combat. I would not recommend going forward at this time given everything that the Army has on its plate."

The commandant of the Marine Corps, General James Amos, said, "If the law is changed, it has strong potential for disruption at the small unit level as it will no doubt divert leadership attention away from an almost singular focus on preparing units for combat."

"Based on what I know about the very tough fight in Afghanistan, the almost singular focus of our combat forces as they train up and deploy to the theater, the necessary tightly woven culture of those combat forces that we are asking so much of at this time and, finally, the direct feedback from the survey, my recommendation is that we should not implement repeal at this time."

"What I would want to have with regards to implementation would be a period of time where our marines are no longer focused primarily on combat. All I am asking is for the opportunity to implement repeal at a time and choosing when my marines are not singularly, tightly focused on what they're doing in a very deadly environment."

Just yesterday, General Amos made clear just how strongly he feels about the threat that repeal poses to marines in combat, warning "that a change in current policy could pose a deadly distraction on the Afghanistan battlefield. I don't want to lose any marines to a distraction," Amos said in a roundtable discussion with journalists at the Pentagon.

Air Force Chief of Staff, General Norman Schwartz, said, "I do not agree with the study assessment that the short-term risk to military effectiveness is low. Our officer and NCO leaders in Afghanistan in particular are carrying a heavy load. I remain concerned with the study assessment that the risk of repeal of military effectiveness in Afghanistan is low. That assessment is too optimistic. I suggested that perhaps full implementation could occur in 2012, but I do not think it prudent to seek full implementation in the near term. I think that is too risky."

These are three of our four Chiefs of Staff.

I strongly believe that we ought to listen closely to the concerns of the service chiefs if for no other reason than they are closer to the sense and pulse of their services than are the Secretary of Defense or the Chairman of the Joint Chiefs. Moreover, I also believe that we should do nothing at this time to threaten the readiness of the soldiers, sailors, airmen, and marines who are at the tip of the spear, fighting America's two wars. So I urge all Members to vote "no" on the Murphy bill.

I reserve the balance of my time.

Mrs. DAVIS of California. I just want to remind my colleague that it is not until the Secretary, the Chairman of the Joint Chiefs, and the President actually certify that the military is prepared to move forward. There is no defined timeline that this, in fact, would go forward.

Mr. Speaker, I yield 1 minute to my friend and colleague, the distinguished Speaker of the House of Representatives, the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. I thank the gentlelady from California, the distinguished chair of the subcommittee on this important issue, for her leadership on ending discrimination in how we defend our country.

I want to salute STENY HOYER, our distinguished Democratic leader, for bringing this bill to the floor expeditiously. It has been a long time in coming, but now is the time for us to act.

I want to thank BARNEY FRANK, JARED POLIS and TAMMY BALDWIN for their leadership, and I particularly want to acknowledge PATRICK MURPHY.

Before Congressman MURPHY came to the House, he was a captain in the 82nd Airborne Division and served as a paratrooper in the Iraq war. He understands the issues of military readiness and has demonstrated tremendous leadership on the battlefield and on repealing a policy that does not contribute to our national security.

Mr. Speaker, today we have an opportunity to vote once again to close the door on a fundamental unfairness in our Nation. Repealing the discriminatory Don't Ask, Don't Tell policy will honor the service and sacrifices of all who have dedicated their lives to protecting the American people.

We know that our first responsibility as elected officials is to take an oath of office to protect and defend. Our first responsibility is to protect the American people, to keep them safe; and we should honor the service of all who want to contribute to that security.

As Admiral Mullen, the current Chairman of the Joint Chiefs, said on this issue of Don't Ask, Don't Tell, "It is my personal belief that allowing gays and lesbians to serve openly would be the right thing to do. We have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me, personally," he said, "it comes down to integrity—theirs as individuals and ours as institutions."

Seventeen years ago, in 1993, many of us were on the floor of the House. I had the privilege of speaking, calling on the President to act definitively to lift the ban that keeps patriotic Americans from serving in the U.S. Armed Forces because of their sexual orientation. Instead, we enacted the unfortunate Don't Ask, Don't Tell policy that has resulted in more than 13,000 men and women in uniform being discharged

from the military. Thousands more have decided not to reenlist. Fighter pilots, infantry officers, Arabic translators, and other specialists have been discharged at a time when our Nation is fighting two wars.

Don't Ask, Don't Tell doesn't contribute to our national security, and it contravenes our American values. That is why the support for its repeal has come from every corner of our country.

Just today, ABC News and The Washington Post released a poll showing that eight in 10 Americans say gays and lesbians who do publicly disclose their sexual orientation should be allowed to serve in the military.

□ 1540

Recently, the Department of Defense issued its report about the impact of repealing the discriminatory policy, and as the gentlelady from California, Congresswoman DAVIS, has said, the action that we took earlier on the DOD bill was an action predicated on what that report would say, and that report reached the same conclusions that a majority of men and women in uniform and a majority of Americans have reached: repealing Don't Ask, Don't Tell makes for good public policy—and a stronger America, I add.

But to do so, to repeal Don't Ask, Don't Tell, Congress must act quickly. Since courts are now reviewing the Don't Ask, Don't Tell policy, both Secretary Gates, the Secretary of Defense, and Chairman Mullen, Chairman of the Joint Chiefs, have called for Congress to act on the repeal with urgency so that they can begin to carry out the repeal in a consistent manner.

In May, with an over 40-vote majority, this House of Representatives passed legislation to end this discriminatory policy. It was a proud day for so many of us in the House, and today, by acting again, it is my hope that we will encourage the Senate to take long overdue action.

America has always been the land of the free and the home of the brave. We are so because our brave men and women in uniform protect us. Let us honor their sacrifice, their service, their patriotism by recommitting to the values that they fight for on the battlefield.

I urge my colleagues to end discrimination wherever it exists in our country. I urge them to end discrimination in the military, to make America safer.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. WILSON), the ranking member on the Military Personnel Subcommittee.

Mr. WILSON of South Carolina. Mr. Speaker, first off, in the final days of the lame duck Congress, I'm grateful to join with Ranking Member BUCK McKEON of California to be concerned that this outgoing majority has placed a higher priority on repealing Don't

Ask, Don't Tell than actually passing the National Defense Authorization Act for fiscal year 2011. The Defense authorization bill is crucial for our national security concerns and the welfare of our troops and their families and our veterans, and has passed for 48 consecutive years in some form.

Secondly, as the son of a World War II veteran and as a 31-year veteran of the Army myself, and as the proud father of four sons currently serving in the military, I oppose attempts to repeal Don't Ask, Don't Tell in the waning days of this lame duck Congress. The service chiefs have urged caution because of the strenuous demands placed on our forces by the wars in Afghanistan and Iraq.

In fact, the Army Chief of Staff General George Casey, who I trained with at Indiantown Gap, Pennsylvania, said the following: I would not recommend going forward at this time given everything that the Army has on its plate. I believe that it would increase the risk to our soldiers, particularly on our soldiers that are deployed in combat.

Commandant of the Marine Corps General James Amos had this to say: If the law is changed, it has strong potential for disruption at the small unit level. My recommendation is that we should not implement repeal at this time.

Air Force Chief of Staff General Norman Schwartz: I do not think it prudent to seek full implementation in the near term. I think that is too risky.

Mr. Speaker, the committees of jurisdiction must have time to examine the 370-page Pentagon report on the impact a repeal of Don't Ask, Don't Tell has on military readiness, recruitment, and morale. This attempt to hastily repeal in the final days of the defeated 111th Congress undermines that process, and I urge my colleagues to oppose this legislation in favor of hearings next year on this important issue.

Mrs. DAVIS of California. I yield 1 minute to the gentleman from Arkansas, Dr. SNYDER.

Mr. SNYDER. Mr. Speaker, my 4-year-old, Penn, and his three 2-year-old brothers, Aubrey, Wyatt and Sullivan, like all babies came into a changing world and a changing America, and yet, in many ways, when it comes to issues regarding gays and lesbians, America has already changed.

Their first home church would not have thrived without the labor and dedication of numerous gay and lesbian members. My babies' child care benefited from several loving lesbian couples who have given their time to help my wife and I raise them. And America benefits from gay and lesbian pilots, doctors, scientists, diplomats, teachers, police, firemen, EMTs, construction workers, many other professions, somehow all without distracting each other.

Implementation by repeal, not by court case, allows the military to catch

up with the rest of America, and my boys and all American children will be the better for it.

Mr. McKEON. Mr. Speaker, I yield 2 minutes at this time to the gentleman from Maryland (Mr. BARTLETT), the ranking member on the Air and Land Subcommittee of the Armed Services Committee.

Mr. BARTLETT. Thank you for yielding.

You know, one might wonder at our priorities. For the first time in many, many years we don't have time to pass the defense authorization bill, but we do have time to pull out a very controversial part of that, whose passage no one will argue will be particularly helpful; it just not might be too hurtful. Maybe that's just one more reason that our favorable ratings are somewhere between used car salesmen and embezzlers.

There's an old adage that says he who frames the question determines the answer. I've had a graduate course in statistics, and I would certainly not have reached the conclusion that was reached from these studies. Thirty percent, almost twice that in the marines, said this would be a bad idea. Fifteen to 20 percent said it would be a good idea. You can't take that 50, 55 percent that didn't have an opinion and say that it is a good idea. If I was a statistician, I would have reached exactly the opposite conclusion. Thirty percent is a huge number.

You know, no matter what my sexual orientation was, I couldn't be supportive of this. We are now fighting two wars. Three of the Joint Chiefs have said this would be very disruptive. There are a lot of prejudices out there. I might regret those prejudices, but I can't change the fact that they are out there. This will not be conducive to good order and discipline. This is not the time to do it. There may come a time when we can do this in the military. This is not that time.

Mrs. DAVIS of California. I yield 2 minutes to the gentleman from Washington (Mr. SMITH).

Mr. SMITH of Washington. Mr. Speaker, I rise in strong support of this legislation to repeal the Don't Ask, Don't Tell policy, and just want to make four quick arguments on that.

First of all to process. This policy was implemented 17 years ago. We have studied it and argued about it ever since, particularly in the last 4 years. Under Mrs. DAVIS' leadership, we have had hearings and discussions and reports. To argue that we are rushing this and haven't thought about it completely misses the point. Argue against the bill if you want, but don't hide behind process. We have studied this to death. It is time to act. That's number one.

Number two, gays and lesbians serve in the military right now. I doubt you could find a member of the military

who doesn't know a gay or lesbian that they have served with, and yet somehow they have functioned and functioned quite well. This is not introducing a brand new concept.

And third, I want you to think about the basic issue that we should always consider in the Armed Services Committee: How do the policies we advance make us safer? How does it make it safer to drive out of the military thousands of people who are serving and serving our country well? It doesn't. It takes away experience, expertise, and talent at a time when we desperately need that.

And lastly, the 55 percent of the people in the survey did not offer no opinion. They offered the opinion that they did not think it would matter one way or the other to repeal that law. So that 55 percent very clearly has no problem with serving with gays and lesbians.

It is way past time to repeal this law, strengthen our military, and allow gays and lesbians to serve our country and serve it with the bravery that they have shown along with all others who have served in our military.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. AKIN), the ranking member on the Seapower Subcommittee of the Armed Services Committee.

Mr. AKIN. Mr. Speaker, some years ago, actually quite a number of years ago, I had an opportunity to witness a total solar eclipse. That's one of those things that happens very, very rarely, and it was quite interesting.

Today, we are looking at another eclipse of reason that happens very rarely. For the first time in 48 or 50 years, the Congress has not passed a defense bill. Now, that's pretty serious. First time in 48 years, no defense bill passed by Congress? And what are we here today debating? Well, we're debating the idea of an imposition of somebody's social agenda that they want to impose on the military.

□ 1550

Now, it would seem to me that, at a minimum, we would want to get down a defense bill before we got into this particular topic. But no. No. Instead, we are going to try to impose something when we are fighting two wars.

Now, the fact of the matter is that, in spite of a survey that tried to be biased, you have got the leadership of the Air Force under General Schwartz, leadership of the Army under General Casey, and the Marine Corps leadership under General Amos all opposing making these changes on this instantaneous basis, imposing this social agenda. So we are kind of experiencing something like a solar eclipse, except it's an eclipse of reason, an eclipse of common sense.

I have three sons that have served in the Marine Corps, two who are currently in the Marines. Let me tell you,

even with the somewhat biased survey, 60 percent of the marines said, This is a lousy idea. So why are we, at the end of the year, when we have no defense bill at all, going to get into some of these social agendas? I don't think this is what the American public expects Congress to be doing. I don't think we need an eclipse of reason.

Mrs. DAVIS of California. I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, in considering their position on this bill, Members should listen to echoes of the past, leaders of the present, and consider some of the voices that have been silenced.

In the past, we heard: If we should end this policy, it would be a tragedy of great proportion. I fear such a step, if it were carried out, would remove our armed establishments from the ranks of history's greatest.

Those are the words of a Senator in 1948 talking about the racial integration of the Armed Forces. They have thrived and prospered since that just and correct decision.

Listen to this voice: In the almost 17 years since Don't Ask, Don't Tell was passed, attitudes and circumstances have changed. I fully support the approach presented by Secretary of Defense Gates and Admiral Mullen.

That is the voice of Colin Powell, retired Chairman of the Joint Chiefs of Staff, someone who experienced all of the unit leadership that is being talked about on the floor this afternoon.

But I would invite the Members to think about the silenced voices, the men and women who lay maimed in military hospitals who are gays and lesbians who serve their country and have been injured in the process, who cannot have a visit from the person they love most in the world because they have had to hide their sexual orientation. And I would urge the Members to consider the silenced voices who lay beneath white crosses in Arlington Cemetery and other places of honor around the world who are gays and lesbians who have been dishonored by a practice that says they cannot say who they really are, even though they love their country so very much.

This is an act of basic decency and justice. It is long overdue. For those who quarrel with time, I agree with their quarrel. This should have been done a long time ago. Today is the day to get it done. Vote "yes."

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. LAMBORN), a member of the House Armed Services Committee.

Mr. LAMBORN. Mr. Speaker, I, too, am concerned that repealing Don't Ask, Don't Tell would have a profoundly negative impact on the readiness and effectiveness of our military, particularly among our front line combat forces.

The survey on repealing Don't Ask, Don't Tell was fundamentally and fatally flawed. Rather than asking the question, "Should the law be repealed?" the survey presumed the law would be repealed and asked how our Armed Forces would implement the presumed change.

Additionally, the survey itself did reveal widespread concern about overturning the current law, but it was largely ignored in the mainstream press coverage. For example, among personnel who said they have served with a leader they believed to be gay or lesbian, 91 percent of those who believe that this affected unit morale say that that impact was mostly negative or mixed. And 67 percent of our frontline marines in combat arms units predict working alongside a gay man or lesbian will have a negative effect on their unit's effectiveness. We must not ignore the concerns of our combat troops.

It is irresponsible for Congress to fail to pass a defense authorization bill for the first time in almost 50 years and at the last minute attempt to pass a repeal of Don't Ask, Don't Tell to placate some within the Democrat liberal base. The United States military is not the place for social experiments. Congress should be focused on ensuring that our brave men and women have the resources they need to protect this great Nation instead of playing partisan games.

Mrs. DAVIS of California. I yield 1 minute to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentlewoman for yielding.

Mr. Speaker, I have just two words for you, my colleagues: Vote "yes." Vote "yes" to end Don't Ask, Don't Tell. Vote "yes" for equality. Vote "yes" because discrimination is wrong. Vote "yes" because you believe in the beloved community. Vote "yes" because every American deserves the right to serve their country. Vote "yes" because the survey results are in, and the military leaders say the troops are ready. Vote "yes" because, on the battlefield, it does not matter who you love only the flag that you serve. Whatever your reason, I urge you, each of you, each of my colleagues to vote "yes" today, to stand up and vote "yes." Vote "yes" because it is the right thing to do.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FRANKS), a member of the House Armed Services Committee.

Mr. FRANKS of Arizona. I thank the gentleman.

Mr. Speaker, I believe all of us in this room would agree that we have the greatest people in our military forces in the world. They are the most noble human beings in our society. Of all of the things that people do for their fel-

low human beings, putting themselves at risk for the freedom and the happiness and the hope of others is the most profound gift that they can give to humanity. And I believe that our first purpose here in this place is to make sure that those who protect freedom for the rest of us are the most well equipped, have the most important materials and weapons and capability that we can possibly give them.

Now, I know that there are some major disagreements on this policy, but the leaders of our military have only asked us one thing, and that is to give them time to study and to deal with this in their own way, in a way that will not be forcing this policy upon them in a time of war. And, Mr. Speaker, I would suggest that we owe them that courtesy. They do not fight because they hate the enemy. They fight because they love all of us. And if we cannot give them the simple courtesy of giving them the opportunity to deal with this policy in the way that they have asked, then I really feel like we have failed them.

Mr. Speaker, I would also say that the military leaders, most of the commanding generals have said that this will weaken our military, that it will reduce the chances of them being able to fight and win wars with the least casualties on both sides. I believe that they are in a position to know whether that's true or not, Mr. Speaker. And I would just urge this body to give those who give it all for us the chance to deal with this in their own way and vote "no" on this repeal.

Mrs. DAVIS of California. I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

□ 1600

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of the Don't Ask, Don't Tell Repeal Act of 2010. At no time, and certainly not at this critical juncture, should we be discharging qualified, dedicated servicemembers who are willing to defend, serve and sacrifice for our Nation.

The Don't Ask, Don't Tell policy is clearly costly, it is ineffective, and it is unnecessary. And to repeal clearly makes a major step toward ending discrimination.

The Department of Defense's own internal survey has contradicted the claim that allowing gays and lesbians to serve openly would somehow hamper military readiness. It would not. And my own sense of morality clearly contradicts the idea that there's anything justifiable about forcing these men and women to live in the shadows or to live a lie just to serve.

At a time when our Nation's military needs dedicated Americans to serve, with great professionalism, with all the years of training that has been invested in them, clearly this is the time now where we should repeal this policy.

I want to thank Congressman MURPHY for bringing this critical issue to the floor and urge my fellow Members to support our national security by repealing this outdated and damaging policy.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HUNTER), a gentleman who joined the Marine Corps right after 9/11, had two deployments to Iraq, one in Afghanistan in combat situations. We are very proud of this young man.

Mr. HUNTER. I thank the gentleman from California and the ranking member of the Armed Services Committee.

Let me start out by just quoting General Amos a couple of days ago, who's the commandant of the United States Marine Corps on this issue. He said, I don't want to lose any marines to distraction. I don't want any marines that I'm visiting at Bethesda Naval Medical Center with no legs to be the result of any type of distraction. Mistakes and distractions cost marine lives. So there's that quote from the commandant of the United States Marine Corps.

The marines are in part of the heaviest fight in Afghanistan right now, and they were part of the heaviest fight in Iraq between 2004 and 2007.

This is not about race. Let me quote somebody else that we've been quoting, General Colin Powell. General Colin Powell said, skin color is a benign, non-behavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient, but invalid, argument.

It sounds good to make that comparison, that this is like the civil rights movement. The problem is the United States military is not the YMCA. It's something special. And the reason that we have the greatest military in the world is because of the way that it is right now. We are not Great Britain. We are not France; we are not Germany. And the Marine Corps is not the place, nor is the Army, the Navy, or the Air Force the place to have a liberal crusade to create a utopia of a liberal agenda and experiment during wartime while men and women are risking their lives.

And probably the biggest problem that I have with this repeal is this: the Armed Services Committee, in the 2 years that I've been in Congress—my last tour was in Afghanistan in 2007. Since I've been in Congress we have not had one full committee hearing on IEDs, on roadside bombs, the number one casualty in Afghanistan.

This is a distraction. This is a waste of time, and every second I think that we spend on this and that Secretary Gates spends on this and that our commanding generals spend on this issue means that we're not focusing on what's important, that is, winning the mission in Afghanistan and bringing

our men and women home safely. This does neither.

The SPEAKER pro tempore (Mr. SERRANO). The time of the gentleman has expired.

Mr. McKEON. I yield the gentleman an additional minute.

Mr. HUNTER. This does not help us win the mission in Afghanistan. This does not bring our men and women home any faster. It doesn't keep them safer. It doesn't build better weapons. It doesn't train them any better. It's nothing but a distraction right now so we don't focus on the real issue at hand, which is winning in Iraq and Afghanistan and bringing our men and women home. That's what's important.

Mrs. DAVIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MURPHY), who is the sponsor of the bill.

Mr. PATRICK J. MURPHY of Pennsylvania. Mr. Speaker, today we have a chance to do what is right, not just for gay and lesbian troops serving in our military, but what is right for national security.

When I deployed to Iraq as a captain with the 82nd Airborne Division, my team and I didn't care about someone else's sexual orientation. We cared whether everyone could do their job so we could all come home alive.

Already, dozens of other nations allow their troops to serve openly, including our greatest military allies, Great Britain and Israel, with no detrimental impact on their units' cohesion.

It's an insult to the troops I served with and to all our servicemembers fighting in Iraq and Afghanistan to say that they are somehow less professional or as mission capable as the members of these foreign militaries.

Now, we have heard every excuse under the sun. First it was, well, we need to study the issue. Well, the Pentagon finished their study and learned what we've known all along: repeal will not harm our military's operation.

Then it was we need to hear from our military leaders and our troops. They have spoken. The Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Commander in Chief, and the majority of our troops believe this policy should go.

Enough. Enough of the games. Enough of the politics. Our troops are the best of the best, and they deserve a Congress that puts their safety and our collective national security over rigid partisan interests and a closed-minded ideology.

The Chairman of the Joint Chiefs of Staff, Admiral Mike Mullen testified that this issue comes down to integrity, the integrity of our troops and the military as an institution.

Well, this is also about the integrity of this institution.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mrs. DAVIS of California. I yield the gentleman an additional 10 seconds.

Mr. PATRICK J. MURPHY of Pennsylvania. This is also about the integrity of this institution. This vote is about whether we're going to continue telling people willing to die for our freedoms that they need to lie in order to do so.

I urge my colleagues to vote "yes" on repeal.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. FLEMING), a member of the House Armed Services Committee.

Mr. FLEMING. Mr. Speaker, I rise today to oppose the repeal of Don't Ask, Don't Tell. This has been the policy of the military. It's worked very well for many years. There's been a paucity of study of this, and finally, when we approach the period in which it was going to be once again brought up in Congress, there was a study commissioned which asked questions of many, many people. However, the study was flawed from the get-go. First of all, it did not ask whether this policy should be implemented. It asked the question how should it be implemented.

I am a physician. I come from a medical background. If ever we try to determine what the effective way of treating a disease is, we would never start with the presupposition that this treatment is already the accepted treatment of that. No, in fact we go and study that. This was not done.

But let's talk about the questions a little bit in the study, the study that came out on November 30, really only a few days ago. The question is actually asked in the survey, it asks active duty members to actually divine what they thought was going to happen as a result of this policy. That's an impossibility.

It also sets the stage for social experimentation, a time in which we're at war, when we have all of the logistical problems that go on, and yet here we are dropping in the middle of it this bomb of social experimentation.

Even in times of peace, when we have a major deployment, we actually have a mortality rate. People die even when we have peaceful exercises. But in a day when you're actually at war, just think of the additional headaches of all of the logistical problems that go along with implementing such a policy.

Then there's a question of constitutionality. Gee, how can we do something with the military that we don't do with people at large?

And the Supreme Court has spoken out on this, and they've said that the military is a unique organization.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McKEON. I yield the gentleman an additional 30 seconds.

Mr. FLEMING. The military is indeed a unique organization, and that such restrictions, such policies can indeed go forward.

I would just like to say, in wrapping up, a couple of important statistics that I think should be mentioned, and that is that 60 to 67 percent of Army and Marine combat members said that this would be a major disruption if this were implemented.

Seventeen percent of the spouses said they would urge their active duty member to get out. And that certainly negates the argument that somehow we would not lose too many soldiers in this.

So I urge my colleagues today to vote against this.

□ 1610

The SPEAKER pro tempore. The Chair will note that the gentleman from California has 9 minutes remaining; the gentlewoman from California has 13¼ minutes remaining.

Mrs. DAVIS of California. I yield 1 minute, Mr. Speaker, to the majority leader of the House of Representatives, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. I thank the gentlewoman for yielding, and I rise in strong support of this amendment.

It is never too late to do the right thing. And that is the proposition that is before this House, the proposition that we are going to, as Barry Goldwater said, worry about whether people can shoot straight, not whether they are straight.

What he meant by that is: Are they competent? Are they committed? Are they patriotic? Are they willing to fight? Have they trained well? Are they prepared to defend our country? That is the litmus test.

Now, that wasn't always the litmus test. There were some times when that group over there could fight over there and the other group over here could fight over here because, after all, if we mixed those groups, it would be damaging to the national security. That proposition was wrong then and it is wrong now.

We passed, some time ago, a defense bill. We passed a defense bill through this House. We adopted an amendment to that bill. That bill is still in the Senate. It is still in the Senate, very frankly, because the minority party has not allowed it to move. It has the votes to move; it simply doesn't have almost two-thirds to move.

This May, the House approved the repeal of our Armed Forces' policy on Don't Ask, Don't Tell adopted some 17 years ago by a vote of 234-194. We voted to end the outdated policy that, frankly, undermines our national security, pending a comprehensive Defense Department report that would review the issues associated with implementing repeal and study our troops' attitudes towards open service. That study was undertaken. That study has been reported. That study showed that some 70 percent of the members surveyed said,

No problem. Not an issue. Again, I am worried about somebody who can shoot straight, who has the courage and willingness and the commitment to defend our country. That, from their perspective, is the criteria.

That report was released on November 30, as I said, and included an exhaustive survey of the views of more than 115,000 people.

When we take a poll, you are talking about 500, maybe 1,000, if it is a big poll, and you rely on that and you make some pretty important decisions based upon those polls. You spend money based upon those polls. You decide to run based upon those polls. You decide to emphasize issue A or issue B based upon those polls. And, frankly, in some respects, your career depends upon that. So you rely on those surveys.

This survey, 70 percent came to an unambiguous conclusion, quote, "The risk of repeal to overall military effectiveness is low."

Now, I have heard Members on the other side of the aisle who have debated this issue say, Oh, no, that is not right; and, very frankly, I have heard generals quoted. But this is, after all, who the generals are concerned about, the people in the field, the men and women who are actually in the battle. And they come back and say, No problem.

Our troops stand with our military leaders and the vast majority of Americans in calling for repeal. The majority of them would be baffled by the fear with which some of my colleagues tar them every time Don't Ask, Don't Tell is discussed.

Some say that our troops are unwilling or apprehensive about serving with gays in the military; yet 92 percent of them who have done so have called that experience very good, good, or neutral.

Now, let me say to my friends on both sides of the aisle, you are serving with gays in this body. You are interfacing with gays every day in the staffs on both sides of this Capitol. You may know or you may not know, but disabuse yourself of the theory that somehow you are bothered by that, because you are not. They serve here with distinction, they serve here with dedication, and they serve here at no risk to any one of us or their colleagues either as employees, as Members, or as visitors to this Capitol. There are surely countless stories that prove that point.

"We have gay men and women," one fighter said, "in my unit. He is big, he is mean, and he kills lots of bad guys. No one cared he was gay." Why? Because what they focused on was whether or not he did the job, whether he was patriotic, committed, and effective. That is the test. That ought to be the test for every American: the test of character, the test of performance, the test of compliance with the rules and

regulations and the laws. That ought to be our test. That certainly is what we expect, I think, of others in judging us.

Despite all of this, the Senate has failed to pass the defense authorization bill. As I said, we passed one last June, I think.

Above all, we must pass this bill because our choice is between a thoughtful, responsible repeal plan developed over months of study or a sudden disruptive review imposed by the courts. Our military leaders understand that the courts are likely to overturn Don't Ask, Don't Tell, and that is exactly why they are urging Congress to pass a legislative solution instead.

I tell my friends, I talked to Secretary Gates earlier this week, and he said, Pass this bill. And he said, Pass this bill because we need a legislative, not a court-imposed, solution.

Admiral Mike Mullen, who supports repeal, wants it to come, and I quote, "through the same process with which the law was enacted rather than precipitously through the courts."

So I tell my friends that the Chairman of the Joint Chiefs and the Secretary of Defense, who, by the way, as we all know, is not of my party, but he is not a partisan. He is a promoter of the military security and welfare of the troops. And I refer to Bob Gates, for whom I think we all have a great deal of respect and confidence.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding and for his well thought-out arguments on this issue.

What does the gentleman think about the actual service chiefs, the Marine Corps Commandant, the Army Chief of Staff, the actual generals who lead the military men and women that we speak about, being against the repeal, especially now?

Mr. HOYER. Reclaiming my time, I will tell you what I think about that.

Their concern seems to be for the morale of the troops, of the performance of the troops, which is exactly why we said, and I tell my friend, in May, Let's ask the troops. And that is why we surveyed 115,000 of the troops and said, Is this a problem? And they responded, overwhelmingly, it is not a problem.

There are some who apparently do not accept that. I understand the gentleman. I am not necessarily surprised by that. My friend and my colleague, I don't know exactly your age. You are much younger than I am. This is not a new phenomenon, I tell my young friend.

□ 1620

When we have made changes in the service sector in the past, there had been voices who said this would under-

mine morale and performance. I suggest to my friend, it did not. And I tell my friend, for those who believe it will, I believe this survey indicates the contrary, and I believe the contrary, based upon experience, based upon observation, and based upon history.

It is a hard choice, it seems to me, to reject—to reject—a considered, thoughtful, planned approach to implementing a policy that Secretary Gates and Chairman of the Joint Chiefs Mullen believes is going to happen. And I will tell my friends in this body, my conversations with Members of the Senate indicate that there are sufficient numbers in the Senate to pass this policy.

More than that, Mr. Speaker, it is time to end a policy of official discrimination that has cost America the service of some 13,500 men and women who wore our uniform with honor. They were not discharged because they did not perform their duties or because they were not honorable in their service; they were discharged simply because they were gay.

One of those young men who deserves better is a constituent named Ian Goldin. Actually, he was not dismissed, but I will tell you his story. He wrote to me a compelling letter, and I want to close with his words:

"Congressman HOYER, I joined the Army Reserve Officers' Training Corps last year after President Obama reaffirmed his campaign pledge to end Don't Ask, Don't Tell. I have always known that I wanted to serve my country in the Armed Forces, but one thing was always holding me back: I'm gay.

"I've been open about that part of my life since high school, and I was not willing to go back into the closet. But after the President promised to end Don't Ask, Don't Tell, I decided to finally join ROTC, hopeful that I would not have to hide my sexuality for long. I quickly realized that I had made the right choice. Although I was a new recruit, I was already in the top of my class of cadet privates first class in land navigation.

"But it became increasingly difficult to hide such an important part of who I am." Because, of course, the policy that we have in place asks people to lie. Honor, duty, country. Lying is not a component part of that philosophy. But that is what we expect people, if they want to serve their country in the Armed Forces of the United States, to do.

"After learning about the continual delays in Congress, I decided I needed to quit ROTC until the ban was repealed.

"I have spent this past semester studying abroad, and I will spend next semester in Cairo. I have invaluable experience abroad. I'm an advanced Arabic speaker. I'm an 'A' student at a top national university.

"Most importantly," he says, "I want to serve my country. When I can serve

openly, I will finish ROTC and be commissioned as an officer in the U.S. Army. And there are many others like me—I've met them."

He concluded, "So please, do whatever you can to repeal Don't Ask, Don't Tell."

Ladies and gentlemen, we have an opportunity to accept those who are willing, those who are able, those who want to serve their country, yes, in harm's way. Let us take this action. It is the right thing to do and the right time.

In closing, let me say to my friend Mr. McKEON: Mr. McKEON, when I ended my debate, when we passed this in May, you will recall you mentioned General Colin Powell. I did not respond. But as you know, General Colin Powell over these 17 years has changed his perspective. I didn't respond at that time to that fact, but he has done so because he has come to the conclusion that now is the time to act—for our country, for our principles, and for our men and women in the service.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, we have had a number of questions asked. One question that we did not just hear that was expressed as important is, is a person an impediment to the good order and discipline of the military or the military's mission? That is important.

I heard the Speaker say earlier, in essence, we need to allow or honor the service of all those who want to serve. That is not true. Every day people who want to serve are not allowed to serve because they will be an impediment.

We heard the leader talk about how we can work together in this body, even though there are homosexuals in this body. That is right. This isn't the military, and I can promise you, if people did some of the things that have been done by Members of this body, they would never have been allowed and would not be allowed to continue serving in the military. We have that margin to work with here. In the military there is the military mission. There is not that margin to work with. We are talking life and death.

Now, we have heard, how does it make us safer to lose thousands from the military? A good question, because the hundreds I have heard from that I didn't bring their quotes down here have said, you pass this, and I will tell you personally, but I will not say it in the presence of my commander, you pass this, I will not reenlist. I won't say it publicly because it may affect my assignment after that, because we know what this President, this Commander in Chief wants, just as does the Secretary of Defense.

The two people that the President appoints said let's do it, because they know the President appointed them. He

is their boss. And then all of those who do not answer directly to the President, they said this is a terrible idea.

You want an accurate poll? Take one where military members can answer privately, with no ability of the commanders to figure out who answered where. And then let's find out how many thousands or tens of thousands or hundreds of thousands we can lose with this activity. That is important.

Now, we were told Don't Ask, Don't Tell is inconsistent with American values.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McKEON. I yield the gentleman an additional 1 minute.

Mr. GOHMERT. I would submit the military is inconsistent with American values. It does not have freedom of speech, it does not have freedom of assembly, it does not have the freedom to express its love to those in the military the way you can out here, because it is an impediment to the military mission. You can't do that. Can you imagine military members being able to tell their commander what they think of him, using freedom of speech, or assembling where they wish? It doesn't work.

So this is one of those issues that is so personal to the military, we need to have an accurate poll. And to my friend who said history will judge us poorly, I would submit if you will look thoroughly at history, and I am not saying it is cause and effect, but when militaries throughout history of the greatest nations in the world have adopted the policy that it is fine for homosexuality to be overt, if you can keep it private and control your hormones, fine; if you can't, that is fine too, they are toward the end of their existence as a great nation.

Let's look at this more carefully before we harm our military.

Mrs. DAVIS of California. I yield 1½ minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. I thank the gentlelady for yielding.

Mr. Speaker, I rise today in support of the Don't Ask, Don't Tell Repeal Act, and I do so as a proud veteran who served in Vietnam a long time ago. I can tell you, gays served proudly in Vietnam with us, just as gays are serving in today's military. But what we are arguing about here is the inconsistency of forcing people to lie about who they are.

I feel strongly that all Americans that are fit and willing to serve ought to have a fair and equal chance to volunteer for military service. Lifting the ban to allow our troops to serve openly is consistent with the American values which the previous speaker spoke about that our military members risk their lives to defend.

I can attest to the fact. I represent a large military facility in my district, so I have the opportunity to ask the

troops for their opinion on this particular issue.

□ 1630

Their opinions track with the study that was done. They don't care what sexual preference their buddy might be. They only care that he or she performs when they are in combat—when they have to have their back and they have to depend on them having their back. It is as simple as that.

This is an idea whose time has expired, like my time is about to expire. I urge Members to vote for repeal of this act.

Mr. McKEON. Mr. Speaker, might I inquire of the time left on both sides.

The SPEAKER pro tempore. The gentleman has 6 minutes remaining. The gentlewoman has 10¾ minutes remaining.

Mr. McKEON. Maybe we can even the time out.

Mrs. DAVIS of California. Mr. Speaker, I yield to the gentlewoman from California (Ms. CHU) for the purpose of a unanimous consent request.

Ms. CHU. I rise in strong support of this bill to repeal the flawed Don't Ask, Don't Tell policy.

Alexander Nicholson was a bright young man who joined the Army's Intelligence Unit. He was a great asset, speaking 5 different languages, including Arabic.

One day, a fellow linguist discovered a letter he had written to his boyfriend. It was in Portuguese, so he thought no one could understand it. Well, that linguist did and outed him. Instead of being discharged, Alexander resigned . . . 6 months after 9/11 when they needed someone with his ability the most.

Since Don't Ask, Don't Tell, 13,000 soldiers have been discharged for no other reason than their sexual orientation. It has cost over \$360 million to replace them, an utter waste of dollars and talent. That's why I've stopped calling this policy "Don't Ask, Don't Tell" and instead label it what it really is: "Doesn't Work, Never Has."

Let's stop this misguided policy from hurting countless men and women who serve our country. Our country should praise the men and women who keep us safe—not persecute them.

Mrs. DAVIS of California. I yield 1 minute to the gentleman from Pennsylvania (Mr. SESTAK).

Mr. SESTAK. When I arrived off Afghanistan in charge of an aircraft carrier battle group, I knew as an admiral that a certain percentage of that carrier battle group in combat was gay. I always wondered how one could come home and say they don't deserve equal rights.

I respect the differing opinion. It was 5,000 sailors on that aircraft carrier that I commanded. Their average age is 19½, and they just don't care. I honestly believe that when those who you are supposed to be leading are actually ahead of the leaders, leaders lose credibility.

I joined up during Vietnam. We were having race riots on our aircraft carriers then. We worked through that.

That night off Afghanistan when I first arrived, we had never had women pilots. I put up one woman with seven men. She was the one that disobeyed my orders and dove without permission and saved four Special Forces.

My point is we don't do this just for equality. We do it because we want the best of all, whether it is race, whether it is gender, or sexual orientation. That is why I support the repeal of Don't Ask, Don't Tell.

Mrs. DAVIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, first let's strip away the smoke screen: the argument that we are holding up the defense bill. It passed this House over the objection of almost every Republican, and it has twice been filibustered in the Senate when the Senate leadership tried to bring it up. It is the Republican Party that has been holding it up because of their opposition to a repeal of Don't Ask, Don't Tell.

So let's talk about the merits. First of all, we are told it would be a distraction to repeal it. It is a grave distraction to maintain it. People have said, the gentleman from Texas: Well, we know there are gay and lesbian people now serving. That's right. What they are telling us, Mr. Speaker, is let's have people serving who are in fear of being thrown out. How much of a distraction is that? What sense does it make to say, okay, you come in here but we are going to watch you, and you may get kicked out? And what about the money that is spent? What about the good people that are lost, translators and others?

The maintenance of this policy is the distraction. The repeal of it would not be. Why are we told repeal of Don't Ask, Don't Tell would be a problem?

People keep quoting Colin Powell. Let me quote him from 20 years ago when I asked him about this. I asked him if the problem was that gay and lesbian and bisexual members of the military weren't good at their jobs. He said: No, that is absolutely not the case. So let's not have any libel of the honorable gay and lesbian and bisexual people who want to serve their country and are being rebuffed by people on the other side.

No one is arguing it is their fault. What we are told is that there are other people who are so offended by their very presence. The code of military justice will stay in place. Anybody who misbehaves sexually is subject to being kicked out quite summarily. We are told that their very presence will annoy people and will distract them.

What does that say about our young military? The gentleman from Texas (Mr. GOHMERT) said, well, anytime a military has allowed gay people in, that has been the end of civilization. Tell that to the Israeli Defense Forces.

I guess he may be technically correct; they didn't change it, they have always had that. They need every human being they can get who is willing to serve, whether willing or not. And the Israeli Defense Forces have suffered no deterioration.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mrs. DAVIS of California. I yield the gentleman an additional 10 seconds.

Mr. FRANK of Massachusetts. I must say, it is not that the young members of the military who face death, who face the destruction of their comrades, they are not the ones who are upset by this. It is our colleagues on the other side who are reputing their unease at the presence of gay and lesbian people to the young people in the military who I think are better than that.

Mr. McKEON. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE), Republican Conference chair.

Mr. PENCE. Mr. Speaker, I appreciate the distinguished ranking member for yielding and the passion that has been expressed on both sides of this issue.

But let me state the obvious, if I can. We are a Nation at war. We have soldiers that are in harm's way at this hour, forward deployed, at Bagram and Helmand province, places I visited just a few short weeks ago. And so this business is not taking place in a vacuum. We are a Nation at war.

And let me say to the distinguished gentleman from Massachusetts who just spoke who suggested that those of us who oppose a repeal of Don't Ask, Don't Tell would commit some libel against Americans with whom we differ on life-style choices, nothing could be further from the truth. As a conservative, I have a particular world view about moral issues. They do not bear upon this question. This is an issue exclusively that is about recruitment, readiness, unit cohesion, and retention because we are a Nation at war.

Now, I am not a soldier, but I am the son of a combat soldier. I think we should listen to our soldiers as we continue this debate. In recent key findings of the Pentagon study, overall U.S. military predicted negative or very negative effects, 30 percent. The percentage of the Marine Corps predicting negative effects, 43 percent; 48 percent within the Army; 58 percent within Marine combat units.

We know that the leadership has testified before the Congress. Air Force Chief of Staff General Norton Schwartz said: I do not think it prudent to seek full implementation. Too risky, he said.

Of course the most ominous of all was a suggestion by Army Chief of Staff General George Casey who said: increase the risk on our soldiers.

Men and women, no one in this House, would desire to increase the

risk on our soldiers at a time of war. I know that.

And so I rise today simply to say let's remember the time in which we live. Let's remember the first obligation of the national government is to provide for the common defense. I believe the first obligation in providing for the common defense is to provide the circumstances and the resources for those who wear the uniform and carry the weapon and provide the shield under which we live and our freedom survives. We are a Nation at war. Reject this measure. Don't Ask, Don't Tell was a successful compromise in 1993; and so that compromise should remain.

Mrs. DAVIS of California. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. WALZ) who happens to be the highest ranking enlisted servicemember serving in Congress.

Mr. WALZ. Mr. Speaker, I thank the gentlewoman from California and my friend from Pennsylvania. The greatest privilege I have had in my life has been serving this country in uniform for 24 years and helping to preserve the freedoms and liberties of this country for all Americans.

I had the honor of training soldiers from all walks of life, and at the end of the day my top priority was whether they could meet the standards and do the job. As a career enlisted soldier, I know how important it is to fill our military with qualified, professional, motivated volunteers. And we are blessed in this Nation that our young people are signing up.

I have no doubt that the brave men and women who serve our country have the professionalism to end this discriminatory policy. I am offended by the idea and the notion that they are not able to handle change in policy. These men and women make up the greatest fighting force the world has ever seen. They accept and complete missions every day that require incredible discipline and bravery.

This discriminatory policy is hurting our military readiness and weakening our Nation, such as releasing dozens of Arabic linguists simply because they were homosexual.

Serving in the military, we believe in duty, honor and country. Asking these brave people to lie goes against all of our values. Our military heroes know that it is time to end this policy, the American people know it is time to end this policy, and in a few moments we will take the step to end it.

□ 1640

The SPEAKER pro tempore. The Chair will note that the gentleman from California has 3 minutes remaining. The gentlewoman from California has 6¼ minutes remaining.

Mr. McKEON. Mr. Speaker, I yield 1 minute to the gentleman from Indiana, who just recently retired after 30 years

of service as a colonel in the Army, Mr. BUYER. He also serves as ranking member on the House Veterans' Affairs Committee.

Mr. BUYER. I thank the gentleman. Let me also thank IKE SKELTON, who came to this compromise and led that back in 1993, when I was a freshman right out of Desert Storm, came here to the Congress and began to learn about compromise.

Something that's being thrown around here today that those of us who have service in the military understand, combat effectiveness is measured by small unit cohesion. It is measured by your buddy to your left and to your right. That's the reality. This Congress is about to dump a policy onto the services which the service chiefs have already told us can have a detrimental impact upon our warriors in harm's way. Why are we doing this? This is discrimination.

The Supreme Court allows Congress to discriminate on how our services are put together—if you're too tall, if you're too heavy, if you don't run fast enough, if you can't do the pushups, if you're color blind. There's a whole array. Why do we do that? Because we want the very best able and fit to do what? To go fight and defend America.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McKEON. I yield the gentleman 15 additional seconds.

Mr. BUYER. I end with this: Tolerance does not require a moral equivalency. Think about it. This is a bad thing to repeal Don't Ask, Don't Tell.

Mrs. DAVIS of California. I yield 1 minute to the gentleman from Ohio (Mr. BOCCIERI), who is a major in the Air Force Reserves.

Mr. BOCCIERI. President John Kennedy said, "A man may die, nations may rise and fall, but ideas live on." The idea to which many of our troops have fought to preserve and protect for our great Nation is the idea of freedom—the freedom to live in a country where you can be anything you want to be, the freedom to do anything you want to do, and the freedom to go anywhere you want to go.

Today, our troops are over in Iraq and Afghanistan so that the people of those nations can have even a little of what we take for granted. The mark of a great country is that men and women, when called, will leave everything behind, sacrifice everything for someone, something, someplace they consider greater than themselves.

While the cause of such a noble idea as freedom lives on and our troops sacrifice daily on foreign lands, we must maintain constant vigilance for life here at home. The issue before us today is one of which the very soldiers who fight to spread the idea of freedom to countries that don't know it find an ever-fleeting policy that denies them the opportunity to be who they want to

be and the freedom to do what they want to do.

As one who spent 17 years in the military, flying wounded and fallen soldiers out of Iraq and Afghanistan, the finest men and women have served our Nation, I find it regrettable that, for some, the freedom that they're fighting for is not evenly applied.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mrs. DAVIS of California. I yield the gentleman 10 additional seconds.

Mr. BOCCIERI. As Admiral Mullen has said, it is troubling that men and women from our country have to lie about who they are to defend the truth and freedom of our war.

The courts have spoken. The military leadership have spoken. Our military has spoken. It is time for Congress to speak that, when you take an oath to die for our freedom, it matters not who you love at home but, more importantly, that you love our country.

Mr. McKEON. Mr. Speaker, I reserve the balance of my time.

Mrs. DAVIS of California. I yield 1 minute to the gentlelady from California (Ms. SANCHEZ).

Ms. LORETTA SANCHEZ of California. I have had the opportunity, in 14 years on the Armed Services Committee, to meet a lot of our military men and women. I do not believe that they are so fragile that having a gay person serve next to them will kill them.

I rise today to express my strong support for the Don't Ask, Don't Tell Repeal Act of 2010. The mission of our Armed Forces is to deter war and to prevent and to protect the security of our country. If a soldier is capable and willing to sacrifice his or her life to honorably serve this country, that soldier is truly defending this country.

If a gay soldier is capable and willing to fight for this country, that soldier, too, is protecting the security of this country. If that soldier is willing to fight for our country, but our government denies him or her the right because the soldier is gay, then it is not the gay soldier who puts our security at risk, but this government.

Mr. McKEON. Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore. The gentleman has 1¼ minutes remaining. The gentlewoman has 4 minutes remaining.

Mr. McKEON. Mr. Speaker, I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Speaker, I yield 1 minute to the gentlelady from New Hampshire (Ms. SHEA-PORTER).

Ms. SHEA-PORTER. I have been listening to my colleagues on the other side point out that this is a Nation at war. Yes, it is. It has been at war for 9 long years, and I wish this Congress would talk about these wars and the cost. But I want to talk today about the cost to the men and women who

are kicked out of the military, who have done nothing wrong, have been serving the country all of this time, put their careers on the line, put their lives on the line, and they're being thrown out for something that they have nothing to do with.

I was a military spouse. I can't ever remember anybody getting upset about whether people were gay or straight. And people knew. Of course they know. But what we judged each other on was a code of behavior. Behavior. And when we see men and women who are behaving and serving our country honorably, it is absolutely disgraceful to throw them out.

So, if we want to talk about the military and the war, then I think we should be talking about the military and the war and the cost, not the people who are fighting it or the people who have served this country so honorably.

Mr. McKEON. Mr. Speaker, I continue to reserve the balance of my time.

Mrs. DAVIS of California. Mr. Speaker, I yield 1 minute to the gentlelady from Wisconsin, Ms. TAMMY BALDWIN.

Ms. BALDWIN. I rise to urge my colleagues to do the right thing and act to repeal Don't Ask, Don't Tell. After 17 years of this policy, we know that it is unjust, discriminatory, and, in my opinion, un-American. Integrity, after all, is a hallmark of military service. Yet we have, in statute, a policy that requires some in our military to conceal, deceive, or to lie.

Mr. Speaker, since the House voted in May to repeal Don't Ask, Don't Tell, the Department of Defense released its comprehensive review of the impact of repealing this unjust law. The report confirms that our military personnel are ready to serve alongside American soldiers who are openly gay and lesbian. The time has come to repeal Don't Ask, Don't Tell and move further down the path to LGBT equality for all Americans. In this land of the free and home of the brave, it is long past time for Congress to end this policy.

Mr. McKEON. Mr. Speaker, I am happy to yield 30 seconds to the gentleman from California (Mr. HUNTER), a member of the Armed Services Committee.

Mr. HUNTER. I thank the gentleman from California.

We have made this debate about a lot of things—gay rights, civil rights, our courts, the head of the Joint Chiefs of Staff, and the Secretary of Defense, among other things—but all this is truly about is our 18- and 20-year-old young men who are ordered to charge uphill through a hail of bullets and close with and destroy the enemy through fire and close combat. That's what this is about.

Repealing Don't Ask, Don't Tell is going to cost our military fighting men effectiveness, which is going to, in

turn, possibly cost lives. That's why I would like to object to the repeal of Don't Ask, Don't Tell.

Mrs. DAVIS of California. Mr. Speaker, I yield 1 minute to the gentlelady from California (Ms. RICHARDSON).

Ms. RICHARDSON. Mr. Speaker, all men and women are created equal. In America, the last time I heard, it also included life, liberty, and the pursuit of happiness. I heard today, distraction. Is it a distraction for a single woman to serve in the military? I say no. It is time we start doing it because all men and all women are created equal.

□ 1650

Mr. MCKEON. Mr. Speaker, how much time do we have left?

The SPEAKER pro tempore. The gentleman from California has 1¼ minutes remaining. The gentlewoman from California has 1½ minutes remaining.

Mr. MCKEON. I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Speaker, I yield 30 seconds to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, our cab driver the other day said he served in the last segregated African American unit during the Korean War. He told me there were five guys in his unit who were gay, and he thought those guys were the best because all five of those gay soldiers were on the boxing team of his unit, and they beat the stuffing out of anybody they fought.

That's who we need right now with those .50 calibers and on our bridges and in our cockpits—the best fighters America can produce. Right now, in warfare, we cannot afford the luxury of discrimination. Put those Americans to work fighting for freedom. We need them.

Mr. MCKEON. I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Mr. Speaker, life has prepared me for this vote. When you have had to sit at the back of the bus, in the balcony of the movie and have had to stand in a line for colored only, then you are prepared for this vote. I assure you that I don't need a survey to tell me what is right when it comes to human rights. We cannot truly have a first-class military with second-class soldiers. I close with this:

I will not ask people who are willing to die for my country to live a lie for my country.

Mr. MCKEON. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from California has 1¼ minutes remaining, and the gentlewoman from California has 30 seconds remaining.

Mr. MCKEON. Mr. Speaker, today we have heard a few times from the other side to do the right thing. I think the right thing will be in the eye of the beholder.

I choose to feel that the right thing for me is to protect those in uniform. I prefer to listen to what those who are leading those men into combat have to say. Just one of the quotes out of the survey said:

In warfighting units, the ones which will be the most effective, 67 percent of marines in combat units predict working alongside a gay man or lesbian will have a negative effect on their unit's effectiveness in completing its mission in a field environment or out at sea.

Now, we may all have different opinions—obviously, from this debate, we do—but these are the ones who are going to be affected. These are the guys who are on the line right now, and they are saying it will have a negative impact—67 percent. I don't think it is worth the risk to put them in any further jeopardy than they are in right now.

So, Mr. Speaker, I would ask, I would implore our Members to reject this Don't Ask, Don't Tell repeal. Let's go back and look at it a little more thoroughly before we move forward.

I yield back the balance of my time. Mrs. DAVIS of California. Mr. Speaker, we have the most adaptive, professional force in the world. So let's move forward. No more excuses. It is time to take away the barriers of people who put service above self and who want to serve our country.

I urge an "aye" vote as we repeal Don't Ask, Don't Tell.

Mr. ACKERMAN. Mr. Speaker, I rise today in strong support of repealing the Department of Defense's misguided, discriminatory "Don't Ask, Don't Tell" (DADT) policy.

For 16 years, "Don't Ask, Don't Tell" has placed an unthinkable and immoral burden on gay and lesbian servicemen and women, who, under United States law and unlike their heterosexual counterparts, must hide their sexual orientation from the military. If our Nation is truly to be the land of the free, home of the brave, we must continue to make progress towards equality. Repealing "Don't Ask, Don't Tell" is a crucial step forward.

Mr. Speaker, I was contacted by a gay soldier from Long Island who despite serving his country for more than 20 years, despite volunteering to serve in a combat zone to defend America's principles of freedom from tyranny and from persecution, and despite receiving two Bronze Stars for meritorious service to his country, is required by law to lie about who he is or face being discharged from the military. In his letter, he pleads for a repeal of "Don't Ask, Don't Tell." In reality, he is asking nothing more than to be treated exactly the same as other servicemen and women.

It is reprehensible that his Nation responds to his service by telling him he needs to "shut up" about who he is. Upon disclosing his sexual orientation, would his past 20 years of service be worth less? Would he suddenly be of no value to the military? Is he suddenly no longer a war hero? Is his 20 plus years of service suddenly an embarrassment? The answer of course, is absolutely not. Yet, our Nation's policy tells this soldier he's not desirable as is.

Mr. Speaker, it's a contradiction in the first degree. Our military, including this soldier who contacted me, puts their lives on the line to defend American principles of life, liberty, and the pursuit of happiness. Yet, those who defend these principles are themselves discriminated against because of who they are.

This is also a self-defeating policy. Since "Don't Ask, Don't Tell" was implemented in 1994, more than 13,000 gay and lesbian service members have been discharged for no other reason than their sexual orientation. As the United States has fought wars in Afghanistan and in Iraq, hundreds of mission-critical troops, including crucial Arabic, Farsi, and other linguists, have been discharged because the Department of Defense believed they were gay. At the same time, the military has increasingly granted moral waivers to recruits with criminal backgrounds.

Mr. Speaker, the case is clear. There is no sound argument for maintaining this discriminatory policy. For the thousands of gay servicemen and women who so bravely serve our country every day but who live in constant fear of being discovered for who they are, for the principles of freedom and equality upon which the United States of America was founded, and in the interest of righting a wrong that has persisted for far too long, I rise in strong support of the bill before us and urge my colleagues to join me in honoring all American servicemen and women, regardless of their sexual orientation.

Mrs. LOWEY. Mr. Speaker, I rise in strong support of H.R. 2965, the Don't Ask, Don't Tell Repeal Act of 2010. I am proud to cosponsor this common-sense legislation, which would end this discriminatory policy in an organized manner once and for all.

Following President Obama's call for repeal of "Don't Ask, Don't Tell" as part of his State of the Union Address, the Armed Forces engaged in a 9-month long, comprehensive review, receiving input from more than 115,000 active-duty and reserve members and more than 44,000 spouses.

A clear and overwhelming majority of our Armed Forces believe allowing gay and lesbian individuals to serve openly would not have a negative impact.

Offered by Iraq War veteran Congressman PATRICK MURPHY, this bill would ensure individuals wishing to serve in the Armed Forces are permitted to do so regardless of sexual orientation.

It is insulting to our brave men and women on the ground to insinuate that they are not professional enough to follow the orders of their Commander-in-Chief, to defend our Nation during a time of war, or to continue serving heroically, simply because they serve alongside gay and lesbian service members.

This repeal has the support of the Secretary of Defense, Robert Gates, and the Chairman of the Joint Chiefs, Admiral Mike Mullen. Both of these men have spent their careers protecting and defending this Nation and could not be more forceful in their insistence that now is the right time to repeal this unfair policy that benefits no one and compromises the quality of our military. I have no doubt that if this repeal would be harmful to our troops or to our national security, they would speak out forcefully.

Admiral Mullen himself said during his recent testimony, "Our people sacrifice a lot for their country, including their lives. None of them should have to sacrifice their integrity as well."

Gays and lesbians who wish to defend our Nation are patriots, pure and simple—no less so than a straight soldier, airman, seaman, or marine—and they deserve to be treated as such.

I stand with Congressman MURPHY in calling for repeal of "Don't Ask, Don't Tell" and urge my colleagues to support this legislation.

Mr. VAN HOLLEN. Mr. Speaker, I am proud to cast my vote today to end the unjust and misguided policy of Don't Ask, Don't Tell.

Our Nation faces great challenges and is currently at war. We need highly qualified military personnel with a wide range of abilities, including critical language skills. And yet, under Don't Ask, Don't Tell, 14,000 service members have been discharged—not because of their performance, but because of their identity. We cannot afford to turn away talented and patriotic soldiers simply because they are gay.

The Pentagon's Comprehensive Review Working Group found that the "risk of repeal of Don't Ask, Don't Tell to overall military effectiveness is low." Our military leaders have expressed their confidence, which I share, in the ability of service members to adapt to this change and remain focused on their mission.

As Chairman of the Joint Chiefs of Staff, Admiral Mike Mullen, has said, our military is a meritocracy, where it is "what you do, not who you are" that counts. Our Nation was also founded on that ideal. It is time to repeal this discriminatory policy, so all service men and women can finally live by the principles that they fight to protect.

Ms. HIRONO. Mr. Speaker, I rise to urge my colleagues to support H.R. 2965, the "Don't Ask, Don't Tell" Repeal Act.

As an original cosponsor of the House versions of related legislation that was introduced in the 110th (2007–2008) and 111th (2009–2010) Congress, I strongly support this stand-alone measure, which would repeal the "don't ask, don't tell" policy that discriminates against military personnel based on their sexual orientation.

Enforcement of this policy has not only wasted millions of taxpayer dollars but has caused irreparable harm to our military by dismissing more than 12,000 well-trained and qualified members of the Armed Forces. If enacted, this legislation will strengthen our military and help protect our national security interests.

This past May, I voted for an amendment to the FY2011 defense authorization bill that would have repealed this policy. Unfortunately, the amendment and the underlying legislation passed the House only to languish in the Senate. Congress must finally repeal this law and replace it with a policy of inclusion and non-discrimination so that justice and equality can be restored for the gay and lesbian servicemembers fighting for our country.

Many of my constituents, including members of our military and veterans who served in our Armed Forces, have contacted me to express support for repealing "don't ask, don't tell." I recently received an e-mail from a constituent

who has been on active duty for over 20 years and wants this policy repealed so that his fellow soldiers can serve openly and honestly without having to worry about "living a lie" and continuing to suffer from bigotry.

This view is not only shared by nearly eight in 10 Americans but corresponds with findings from the recently released Defense Department's Comprehensive Review Working Group report. This report revealed that a large majority of troops were comfortable with the prospect of overturning longstanding restrictions on gays in uniform and expected that it would have little to no effect on their units. Defense Secretary Robert Gates and Admiral Michael Mullen, Chairman of the Joint Chiefs of Staff, have testified before Congress in support of this report's recommendations, urging Congress to vote to repeal the flawed "don't ask, don't tell" policy.

Repealing this policy will ensure that our men and women in uniform can serve our country with dignity and integrity and without fear of discrimination. I urge my colleagues to support this measure.

Ms. ESHOO. Mr. Speaker, I have opposed the Don't Ask, Don't Tell policy since its inception in 1993. I voted to repeal it earlier this year, and I hope to finally dispose of it with today's vote. This harmful policy is an affront to the principles of our Nation and a hindrance to our national security. For nearly two decades it has prevented qualified men and women from openly serving their country. The recently released Pentagon report makes clear that our men and women in uniform, along with the vast majority of Americans, recognize this policy as being discriminatory and want to see an end to the law.

Since the enactment of Don't Ask, Don't Tell, our Armed Forces have discharged nearly 14,000 troops because of their sexual orientation, including hundreds of Arabic and Farsi interpreters. These are critical positions requiring specialized skills and we are turning qualified people away in a time of severe troop shortages. The Army and Marine Corps have been forced to reduce standards of eligibility just to reach minimum recruitment levels for operations in Iraq and Afghanistan. This includes issuing 'moral waivers' to people with felony convictions. Meanwhile, our men and women in uniform work side-by-side with openly gay soldiers from thirteen coalition partners, including the United Kingdom, Canada, and Australia, as well as U.S. officers and agents in the CIA, NSA, and FBI.

We have the most modern military on earth, with the exception of this harmful, discriminatory, and unnecessary policy. I'm proud to have cosponsored the Don't Ask, Don't Tell Repeal Act of 2010 and I look forward to its passage in the Senate. The bill will repeal the law, bring our military up to date and the law in-line with the principles of our country, and address this civil rights issue once and for all.

Mr. STARK. Mr. Speaker, I rise today to support H.R. 2965, a bill that would repeal the military's policy of mandatory discrimination against openly gay and lesbian individuals in our Nation's military.

The "Don't Ask, Don't Tell" policy has been broken for years. We have lost thousands of qualified soldiers, translators, and officers because of a fundamentally bigoted policy. It is

shameful that men and women who continue to serve must continue to hide who they are.

Repeal of "Don't Ask, Don't Tell" has the support of the Commander in Chief, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff. A Pentagon study released last month found that the military is ready for repeal and the vast majority of enlisted men and women believe repeal will be positive or make no difference. Despite the overwhelming evidence against them, opponents of this bill cling to their intolerant views to support a shameful policy that has made our country less safe.

Today's vote is an important step toward the day when LGBT Americans enjoy true equality, including the right to marry. I urge my colleagues to support this bill, and I hope that the Senate will pass this legislation and end this policy now.

Mr. FARR. Mr. Speaker, since I became a Member of Congress, I have always been unwavering in my commitment to repeal the discriminatory Don't Ask, Don't Tell policy.

At a time when our military is already stretched to the breaking point and standards are being lowered to increase recruitment numbers, it is outrageous that thousands of highly skilled soldiers, like Arab linguists, have been forced out of uniform because of their sexual orientation. These gay men and women only want to serve their country with honor.

Changing a social institution is not easy, but President Truman persevered and ended racial discrimination in the military in 1948. Women were accepted into the military in the 1970s, and they now make up 20% of our Armed Forces. Congress rescinded the female combat exemption laws in 1996 and our military personnel, both men and women, are universally acknowledged as the best in the world.

Mr. Speaker, our Armed Forces are resilient and adaptive and will embrace Open Service as they have successfully embraced other social changes it in the past. Repealing this policy is long overdue and will finally allow gays and lesbians to serve their country honorably without fear of being discriminated against by the very Nation they fight to protect.

Mr. RUSH. Mr. Speaker, I rise today in support of H.R. 2965, the Don't Ask, Don't Tell Repeal Act of 2010. This language, Mr. Speaker, is identical to the language that this body passed in May as an amendment to the National Defense Authorization Act.

Since that time, a legislative repeal of this law has become both more necessary and more proper.

More necessary, Mr. Speaker, because the courts have made it clear that they will not stand idly by while the United States continues to discriminate against its servicemembers.

As Secretary Gates explained recently, a legislative repeal is the only way to right this wrong as it allows the new policy to properly be implemented "in a thoughtful and careful way" versus the immediacy of a legislative mandate as was seen earlier this year.

Mr. Speaker, it is now, more than ever, important to remember that now is always the right time to do what is right. As illustrated by the Pentagon's own Working Group report, 70 percent of our military personnel also recognize that repealing Don't Ask Don't Tell is the right thing to do.

Additionally, Mr. Speaker, an ABC News/Washington Post poll released, today, demonstrates that 77 percent of Americans support allowing open service in the U.S. military. Support for repeal is both broad and inclusive. These figures further show that now is the right time to correct this injustice.

Mr. Speaker, I would like to remind my colleagues who question the impact of open service that our servicemembers have always lived and served dutifully in an environment of open service. Whether in Afghanistan, working alongside our allies—87 percent of which, experts say, come from nations allowing open service—and contractors who also allow open service and often work in the same environment and share the same facilities as our servicemembers. Or, during the Gulf War, when the U.S. suspended enforcement; yet no one questioned our successes or results in our mission there. These instances, among others, not only demonstrate the professionalism and adaptability of our fighting men and women but they also dispel the misconceptions about openly homosexual soldiers.

Mr. Speaker, I close with a statement from President George H. W. Bush's Assistant Secretary of Defense, Lawrence Korb. In February of this year Mr. Korb was asked "Should Gays Serve Openly In The Military?" His reply, Mr. Speaker, was, "Not only is it the right thing to do, it will actually increase our security in the long run."

Mr. Speaker, there is agreement on both sides of the aisle and across the civilian and military populations of our country that repealing Don't Ask Don't Tell is the right thing to do. I, once again, urge my colleagues to join me in supporting this bill.

Mrs. CAPPS. Mr. Speaker, I rise to express my strong support of the Don't Ask, Don't Tell Repeal Act of 2010. I want to thank the Speaker and Majority Leader for bringing this important legislation before the full House.

Like the majority of the American public, I believe repealing this discriminatory policy is long over-due. As Members of Congress, we owe the bravest of our constituents, those who serve in the Armed Forces, the right to serve openly while protecting our freedom.

As the Pentagon report and testimony by Admiral Mike Mullen, Chairman of the Joint Chiefs of Staff and Defense Secretary Robert Gates demonstrates, this policy does not make our military stronger or our nation safer. In fact, it has weakened America's security by depriving our nation of the service of thousands of gay and lesbian troops who have served their country honorably—and forcing even larger numbers of troops to lie about who they are.

We ask our soldiers and their families to make tremendous sacrifices, yet deny many of them the most basic of civil rights? This is abhorrent, and supporting an end to this policy will be one of my proudest moments of the 111th Congress.

As debate on this issue has escalated over the years, I have been fortunate enough to represent the Palm Center, previously located at UC Santa Barbara. For over 10 years, this organization has been at the forefront of research and outreach to repeal the Don't Ask, Don't Tell policy. It has been a privilege to

bring its work to the attention of Congress, and I know I speak on behalf of all who support repeal when I thank the staff at the Palm Center for their tireless work.

Today's vote is the culmination of many years of concerted effort by an untold number of soldiers, private citizens, advocacy groups and public servants. As his colleague in the House, I would like to particularly commend Congressman PATRICK MURPHY, the lead sponsor on this bill. As a Veteran of the Iraq war, Mr. MURPHY has an unparalleled perspective on this issue and I thank him for his leadership.

I also want to thank the thousands of service members who have been denied their civil rights for their valuable service to our country.

Mr. Speaker, I urge all my colleagues to do the right thing today and support this important legislation to end this discriminatory and harmful policy.

Mr. DINGELL. Mr. Speaker, I rise as a cosponsor and strong supporter of H.R. 2965, the Don't Ask Don't Tell Repeal Act of 2010. I want to thank Representative PATRICK MURPHY (D-PA) for his unrelenting advocacy for repealing this discriminatory law and Majority Leader HOYER for his leadership on this issue.

The time is long overdue for the repeal of Don't Ask Don't Tell (DADT), the current law that says a member of the Armed Forces—one that would give his or her life defending our country—may not reveal his or her sexual orientation nor may the military ask about it. Just as today's Americans shake their heads at the thought of a segregated military—and indeed society—I suspect that generations to come will do the same at the shift we made in 1994 from the outright to tacit discrimination of homosexuals in the military. Indeed, if military readiness, military effectiveness, unit cohesion, recruiting, and retention are among the factors the military considers important to the overall success of our Armed Forces, one can hardly argue that DADT, which has brought about over 14,000 servicemember discharges, was and is the right course of action. Mr. Speaker, our nation is engaged in conflicts in multiple theatres and we are in desperate need of troops, as well as foreign language translators, and yet because of DADT, there is a segment of the population who want to serve openly and who, for all intents and purposes, face a sign saying they "need not apply."

The debate over DADT raises an interesting question about how the course of history might have changed had homosexuality been a factor in allowing military service for these distinguished warriors:

The Spartans, the preeminent military leaders of Sparta, known for military dominance; Julius Caesar, the father of the Roman Empire; Augustus Caesar, the first Emperor of the Roman Empire who ushered in the Pax Romana; the Emperor Hadrian; Alexander the Great, creator of one of the largest and most influential Empires in ancient history; The Sacred Band of Thebes, the elite force of the Theban army in the 4th Century BC.

King Richard I, also known as Richard the Lionheart, a central Christian commander during the Third Crusade; Frederick the Great, credited for creating a great European power by uniting Prussia; Herbert Kitchener, British

Field Marshal renowned for his leadership during World War I; Lieutenant Colonel, T.E. Lawrence also known as Lawrence of Arabia, who successfully led the Arab Revolt against the Ottoman Empire; and, Friedrich Wilhelm von Steuben, who authored the Revolutionary War Drill Manual which became an essential manual for the Continental Army, helping to lead the United States to victory over the British in the Revolutionary War.

Mr. Speaker, as we consider this hypothetical, let us turn to the crux of the issue which is that any discriminatory law runs contrary to the principles of this great nation. "Let us hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights . . ." That, Mr. Speaker, is the preamble to the Declaration of Independence and it is the epitome of who we are and what we stand for as a nation—we need to strive to uphold this quintessential value. DADT is discriminatory and we must end this harmful policy. Who knows how many of the 14,000 plus discharged would have gone on to excel in their military careers. It is time to allow them back in to the military to show us and prove that we, as a society, will no longer tolerate the outrageous discrimination that occurs. The gravestone of decorated Airman Leonard Matlovich, who revealed his homosexuality to his commanding officer, tragically reads, "When I was in the military, they gave me a medal for killing two men and a discharge for loving one." Let us ensure we never again have such a grave marker. I urge my colleagues to join me in voting "yes" on H.R. 2965.

Mr. JOHNSON of Georgia. Mr. Speaker, I rise today in support of H.R. 2965, legislation to repeal the discriminatory "Don't Ask, Don't Tell" policy. Americans who fight and die for their country should not have to live a lie in order to serve. And at this crucial time—with our Armed Forces over-extended abroad and on watch here at home—we can ill afford to lose people with critical skills needed to do these difficult and essential jobs simply because of their sexual orientation. The time has come to end this discriminatory policy. Congress must now act according to the will of the people and overturn "Don't Ask, Don't Tell," so that every serviceman and woman in America will be treated equally under the law—regardless of who they are and who they love.

Mr. ENGEL. Mr. Speaker, the success of the United States military depends on the hard work, dedication, and sacrifices of our brave men and women in uniform. And yet, under Don't Ask, Don't Tell, the talents and contributions of our openly gay and lesbian servicemembers are ignored. This is discrimination, plain and simple, and should not stand. What should count is the performance and competence of a member of our armed services, nothing else.

More than nine years after the 9/11 attacks, at a time when troops are being withdrawn from Iraq and increased in Afghanistan, our gay and lesbian servicemembers offer invaluable skills that enhance our country's military competence and readiness. According to the Service Members Legal Defense Network, more than 14,000 servicemembers have been discharged under DADT since 1994. This

number includes almost 800 mission-critical troops and nearly 60 Arabic linguists in just the last five years. That is indefensible. And to make matters worse, the financial cost of implementing Don't Ask, Don't Tell from Fiscal Year 1994–2008 was more than \$555 million.

Mr. Speaker, Don't Ask, Don't Tell weakens our national security, diminishes our military readiness, and violates fundamental American principles of fairness, integrity and equality.

We must end this pernicious law, and we must end it now.

Mr. CONNOLLY of Virginia. Mr. Speaker, I rise in support of H.R. 2965: The Don't Ask Don't Tell Repeal Act of 2010.

The House of Representatives voted on May 28, 2010 to repeal this policy. I was proud to vote for the repeal of Don't Ask Don't Tell.

Our nation's military leaders and many, if not a majority, of our servicemembers support repealing DADT. Both Secretary Gates and Admiral Mullen—Chairman of the Joint Chiefs of Staff—have testified in support of repeal as “the right thing to do.” Our servicemembers already serve side by side with our allies—many of whom allow openly gay and lesbian members. A servicemember is just that—a servicemember. To distinguish heterosexual from homosexual is unnecessary.

The United States needs all the dedicated servicemembers it can get, and one's sexuality does not determine one's effectiveness as a soldier. Don't Ask Don't Tell hurts military readiness and national security. Nearly 800 specialists with vital skills—Arabic linguists, for example—have been fired from the U.S. military under DADT. Since implementation of Don't Ask, Don't Tell in 1993, the military has discharged more than 13,000 servicemembers whose only “fault” was their sexual orientation.

It is estimated that American taxpayers have paid between \$250 million and \$1.2 billion to investigate, eliminate, and replace qualified, patriotic servicemembers who want to serve their country but can't because expressing their sexual orientation violates DADT.

Mr. Speaker, the time to repeal Don't Ask Don't Tell has long passed. I urge my colleagues to vote yes.

Ms. JACKSON LEE of Texas. Mr. Speaker, I would like to begin by thanking Congressman PATRICK MURPHY of Pennsylvania and Majority Leader STENY HOYER for introducing and bringing this momentous legislation to the House. Our troops and veterans have taken the Oath of Service and have devoted their lives to our country. I want to thank our Nation's Armed Services for proudly and courageously serving our Nation.

In supporting our troops, I stand here today in unwavering support of repealing Don't Ask, Don't Tell, and I urge my colleagues to join me in passing this legislation. The “Don't Ask, Don't Tell Repeal Act of 2010” presents the Congress of the United States with an opportunity to uphold civil and human rights in one of the most noble institutions of the United States—our armed forces.

I believe that the Pentagon's extensive report regarding DADT's repeal speaks for itself. The report explained that the majority of the military supported allowing gay members of the armed services to serve openly. Further-

more, the report stated that allowing gay Americans to serve openly would not have a substantial impact on troop morale, readiness, or effectiveness. It is important that we realize and recognize that we have the power to prevent the potentially disruptive process of having the courts repeal Don't Ask Don't Tell by doing it legislatively today.

Secretary of Defense Robert Gates has emphasized on numerous occasions that it is critical that we pass this legislation and allow the Department of Defense to implement the repeal of Don't Ask, Don't Tell. Now it is our opportunity to serve our Nation, and to do what it is best for our armed services.

Admiral Mike Mullen, the Chairman of the Joint Chiefs of Staff, has expressed his strong support for the repeal of Don't Ask, Don't Tell as well. Like Admiral Mullen, I too am troubled by such a policy that forces the young men and women to lie about who they are. We should not undermine the integrity of our Nation's institutions nor of those who courageously protect our Nation's interests abroad. We must do right by all of our American troops and move forward by repealing DADT.

It is time to end this lingering method of discrimination, and we should not rest until this message is clear. Every American has the right to stand among their peers to undertake the noble and courageous task of defending their Nation. Our military should not have to lose the patriotic and talented men and women who want to serve our country, but are unable to do so because of DADT. Since 1993, DADT has forced over 13,000 qualified and patriotic men and women to leave the service. And that does not include the thousands more who have decided not to re-enlist or join the military at all because of DADT.

I know firsthand that the men and women of the United States military are courageous and have compassion for the humanity of each other; it is the expansiveness of their humanity which leads them to sacrifice and offer the last full measure of devotion on behalf of the American people. We know it is distinctive, but there is a reason that Don't Ask, Don't Tell should be eliminated, and it is that every patriotic human being deserves the right to serve his or her country if they are willing to take the Oath of Service.

President Lyndon Baines Johnson stated, “We seek not just equality as a right and a theory but equality as a fact and equality as a result.” America is a Nation of values; the right to equality and the principle of non-discrimination is a fundamental tenet of our democracy. Our Declaration of Independence and our Constitution speak specifically to the equality of all people. Now is the time for Congress to act and ensure that every American of good character has the right to serve their Nation. We must respect the humanity and the service of those troops who respect our country so much that they are willing to sacrifice their lives for it.

Don't Ask, Don't Tell is also a costly policy. In 2009 alone, we lost 428 service members to Don't Ask, Don't Tell at the estimated cost of over \$12 million. There are an estimated 66,000 gay and lesbian service members currently on active-duty, serving in all capacities around the world to protect our Nation and advance our interests. We cannot allow the

strength and unity of our military to suffer from a destructive force within. The cost is not only monetary; Don't Ask, Don't Tell costs the United States by eroding our position on respecting human and civil rights. In the same vein of the civil rights movement of years past, we must not forget that the fight for civil and human rights continues.

The research has been done, the representatives of our Armed Forces support the repeal, and our President has expressed his support. It is our turn to repeal Don't Ask, Don't Tell. We must act now, to ensure that human and civil rights are ensured and protected. I urge my colleagues to defend the human and civil rights at home for those who protect ours abroad.

Ms. LINDA T. SÁNCHEZ of California. I rise in strong support of repealing the “Don't Ask, Don't Tell” policy.

We have lived with the damaging effects of “Don't Ask, Don't Tell” for 17 years. It harms our military readiness and reduces the recruiting pool for our military. This is why Secretary of Defense Gates, Admiral Mike Mullen, and a majority of service members support its repeal.

This policy is both counterproductive and morally wrong.

At a time when our armed forces need qualified, dedicated men and women in uniform, we shouldn't be forcing them out just because they are gay or lesbian.

Gay and lesbian men and women have served—and currently serve—our country with honor and distinction. They have laid to rest the ignorant belief that a love for one's country is somehow based on who you love.

I am proud to stand with them and support the brave gay and lesbian service members who ask for nothing more than a chance to serve their country without hiding who they are.

I urge my colleagues to support this common-sense legislation that strengthens our military and our country and fulfills the promise of America as a place where all citizens, not just the politically popular ones, have equal rights.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in strong support of H.R. 2965, the Don't Ask, Don't Tell Repeal Act of 2010. I would like to thank Congressman MURPHY, Majority Leader HOYER, and Congressman FRANK for their tireless leadership this issue.

Mr. Speaker, I am a cosponsor of this legislation because American men and women should not have to choose between the opportunity to serve their country and being honest about their sexual orientation. Yet since 1993, over 13,000 men and women have been discharged from our military under Don't Ask, Don't Tell.

There are countless arguments in favor of ending this policy. Polls have demonstrated that an overwhelming majority of Americans, including those in the military, support ending Don't Ask, Don't Tell. Many of our closest military allies, including Israel, the United Kingdom, and Canada, have implemented policies of open service without negative consequences to unit cohesion or military performance. Particularly at a time when our armed forces are stretched thin, we cannot afford to turn away Americans who are willing

and able to serve. The GAO reports that hundreds of men and women with unique abilities, including critical language skills, have been discharged under this policy.

However, the most compelling reason for ending Don't Ask, Don't Tell is that this policy is not only damaging, it is discriminatory. It is a policy that forces young men and women to lie about their identity in order to serve their country.

In February, the Chairman of the Joint Chiefs of Staff, Admiral Mike Mullen, told the Senate, "No matter how I look at this issue, I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me personally, it comes down to integrity—theirs as individuals and ours as an institution."

Last week, Secretary Gates called for legislative action, stating "I would hope that the Congress would act to repeal 'don't ask, don't tell.'" Today, we will move one step closer to finally ending this damaging policy. I urge my colleagues to join me in supporting the repeal of Don't Ask, Don't Tell.

Mr. HOLT. Mr. Speaker, I rise in support of this bill. There is no reason to keep this misguided policy in place. It has the support of a majority of Americans, military leaders, and members of the military. You can only believe that allowing gays to serve in the military will damage morale if you discount the fact that gays have served in our military since the American Revolution. The supposed 'damaged morale' didn't lead to our losing to the Redcoats or surrendering to the Germans in two World Wars.

Allowing gay Americans to serve openly won't weaken morale in our armed forces. Rather, overturning the misguided Don't Ask, Don't Tell policy will strengthen our military and prevent the hemorrhage of critical talent from an already-overstretched American military engaged in two wars. President Truman was right to desegregate the Armed Forces more than half a century ago and we are right to ensure that LGBT soldiers finally can serve openly. I hope the Senate will soon pass this legislation so the President can end Don't Ask, Don't Tell by year's end.

Mrs. MALONEY. Mr. Speaker, it is time to repeal the "Don't Ask, Don't Tell, Don't Pursue" policy in the U.S. military once and for all. The study recently released by the Pentagon confirms what so many of us have known all along: there is no compelling state interest in barring lesbian, gay and bisexual persons from serving openly in our armed forces.

From the initial introduction of this profoundly misguided policy in 1993, I have never wavered in my belief that our nation's armed forces should not discriminate against otherwise qualified citizens on the basis of their sexual orientation—or their desire not to maintain such orientation under a stifling cloak of secrecy that encourages and even forces them to hide, or even worse, to lie about who they are. Today, at a time when our nation is engaged in a difficult military conflict in Afghanistan, the extent to which the so-called compromise "Don't Ask, Don't Tell" policy has damaged America's military readiness has become even more apparent than it was seventeen years ago.

The policy against allowing lesbian, gay, and bisexual servicemembers to serve openly has resulted in depriving our armed forces of the abilities, experience and dedication of thousands of qualified active duty personnel. This institutionalized discrimination is completely illogical and counter-productive as we grapple with an increasingly dangerous world wracked by the threat of international terrorism, with our servicemembers in harm's way all over the world.

The U.S. Government Accountability Office (GAO) has documented the cost to our nation. In 2005, the GAO estimated the cost of discriminating against servicemembers on the basis of their sexual orientation at nearly \$200 million over the course of just the last decade. This estimate may, in fact, be too low, as the GAO itself acknowledged and as other studies conducted by reputable academic institutions like the Michael Palm Center at the University of California have documented.

Advocates for maintaining "Don't Ask, Don't Tell" continue stubbornly to cite elusive, unquantifiable factors to justify the policy's inherent institutionalized discrimination. The most common argument is the specious insistence that "unit cohesion" among the armed forces will suffer if lesbians, gay men, and bisexual persons are allowed to serve openly—an argument that even Richard Cheney, while serving as the Secretary of Defense during the presidency of George H. W. Bush, acknowledged in congressional testimony was "a bit of an old chestnut." Then-Secretary Cheney was right—and it's high time we roasted that old chestnut on an open fire, and consigned it forever to the ashbin of history.

The fact is that many other nations—including trusted allies whose armed forces are respected around the world such as Great Britain, Israel, Australia, and Canada—have allowed their citizens to serve in their armed forces regardless of their disclosure of their sexual orientation. It is high time that the United States of America, which prides itself as a beacon of liberty and equality, joins their ranks.

I urge the members of this House to vote to repeal this misguided and counter-productive and un-American policy.

Mr. MORAN of Virginia. Mr. Speaker, I rise in strong support of this legislation to repeal the discriminatory "Don't Ask, Don't Tell" Policy.

Enacted in 1993, DADT was billed as a compromise that would allow gay and lesbian Americans to serve their country in the Armed Forces without harming military effectiveness or violating privacy rights. After over 15 years of experience, it is clear this policy is a failure.

Over 14,000 service members have been discharged under DADT, including more than 800 mission-critical troops and dozens of Arabic and Farsi linguists. A Government Accountability Office report and independent studies have estimated the cost of this policy, in lost recruitment and training costs, at over \$350 million. Yet, from 2003–2007, the military lowered medical, conduct, and education standards significantly in order to meet recruitment goals. Serious misdemeanors and felony conviction waivers increased from 5,000 to over 10,000, including 3 soldiers who had been convicted of manslaughter, 11 convicted

of arson, 142 convicted of burglary, and 7 convicted of rape or sexual assault. Discharging qualified gay soldiers while simultaneously lowering the enlistment standards for others weakens our military.

DADT also offends the values of our country, discriminating against some individuals based upon an innate characteristic that has no bearing on the ability to serve honorably in the military. Currently, 24 other nations allow openly gay service, including Australia, Israel, Great Britain and Canada. Numerous studies have found no adverse effect on enrollment or retention in any of these countries. On the other hand, nations like Russia, China, North Korea, and Iran all ban gay service. I believe the interests of the U.S. are best served by following the lead of other democratic nations, our allies, rather than the policies of the most oppressive regimes in the world.

Study after study has shown that open service does not affect military readiness or unit cohesion. In the recently released Department of Defense review, 70 percent of service members responded that repeal would not have a negative effect on the military. Of those who had actually served alongside someone who they thought to be gay, 92 percent of respondents said that it did not have an impact on unit cohesion. Repeal is also strongly supported by the American public, with a recent Washington Post poll showing 77 percent of the public supports open military service. It is clear our Nation and our military is ready for this change.

The most urgent reason for repeal, however, is that DADT places honorable young men and women in the decidedly dishonorable position of lying about who they are in order to serve. It is unconscionable that we would continue to make the lives of soldiers, many of whom face daily threats to their lives, more difficult by placing upon them the burden of lying about their sexual orientation.

Earlier this year, I read into the CONGRESSIONAL RECORD an email from a current service member who happens to be gay. He shared how he and his partner of 10 years managed the stress and hardship that comes with 3 deployments to Iraq and Afghanistan. Despite their shared sacrifices, his partner receives no official support from the military. He would not be the first to be informed of his death, and cannot make emergency decisions. While serving in active duty, he was aware of several other soldiers who were gay. In one case, he didn't know a friend was gay until after he died of wounds from an IED and received a letter from the deceased soldier's partner expressing how much he had loved the Army and the sense of family he felt among his fellow soldiers. These are the real victims of DADT.

No one should have to lie in order to serve, but that is what current policy requires for the estimated 65,000 gay and lesbian Americans currently in the military. The time for debate, and procrastination, and procedural stalling tactics is over. The choice today is clear: continue to stand beside a harmful and discriminatory policy that the American public and our Nation's military leaders do not support or vote to repeal it.

I encourage my colleagues to do the right thing—support this legislation, and finally put an end to the era of "Don't Ask, Don't Tell."

Mr. CUMMINGS. Mr. Speaker, I rise today in strong support of concurring in a Senate amendment to H.R. 2965 with an amendment that is known as the Don't Ask, Don't Tell Repeal Act of 2010. I commend Congressman MURPHY and Leader HOYER for their efforts on this legislation, and applaud Speaker PELOSI for bringing it to the floor.

The "Don't Ask, Don't Tell" policy has been ill-conceived policy from the start—it is discriminatory on its face, and harmful to the gay and lesbian uniformed servicemembers that are forced to keep their sexual orientation from their friends, their coworkers, and their superior officers. Further, these military members are currently subject to discharge from the military if it is uncovered that they have participated in any activity that may be perceived to be associated with homosexuality.

Put simply, any policy that would go this far to discriminate against a particular group is just wrong. To date, thousands of brave servicemembers—including individuals who have risked their lives in Afghanistan and Iraq—have been discharged simply because of their sexual orientation.

In recent months, members of Congress have researched this issue in-depth—a Department of Defense survey was requested, and both the House and the Senate have held hearings on the issue. In a Senate Armed Service Committee hearing in February of this year, Defense Secretary Gates, and Admiral Mike Mullen, Chairman of the Joint Chiefs of Staff, spoke out against the policy. Secretary Gates has remained steadfast in urging that Congress act to repeal this policy in an orderly manner.

Further evidence supporting repeal came on November 30th, when the results of a Department of Defense survey on "Don't Ask, Don't Tell" were released. The study showed that 70 percent—an overwhelming majority—of servicemembers believe that a repeal of Don't Ask, Don't Tell would be positive, mixed, or of no consequence.

Because Congress has been slow to act on this matter, the courts have become involved, and now stand to potentially declare "Don't Ask, Don't Tell" unconstitutional if we do not act. Secretary Gates has warned that judicial repeal will put an administrative burden on the Department of Defense, and has asserted that Congressional action is most favorable.

I believe that the "Don't Ask, Don't Tell" policy poses an unnecessary threat to our national security and that the time has come for this policy to end.

I urge my fellow members of Congress to join me to repeal this harmful and discriminatory policy.

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of the repeal of Don't Ask, Don't Tell.

Once again, the House of Representatives has acted to lift the ban on gay and lesbian Americans serving openly in the military by passing H.R. 2965, the "Don't Ask, Don't Tell Repeal Act of 2010", by a vote of 250–175. Earlier this year, the House also passed national defense authorization along with a repeal provision. I applaud Majority Leader HOYER and Congressman MURPHY for their leadership in this effort.

Strong leadership has been, and remains, the key to successfully repealing Don't Ask,

Don't Tell and replacing it with a policy of inclusion and non-discrimination. It is now up to the Senate to seal the deal. I urge the Senate in the strongest possible terms to act as soon as possible to pass the legislation necessary to repeal Don't Ask, Don't Tell before the end of the year.

I stand with President Obama, Defense Secretary Gates, Admiral Mullen, Chairman of the Joint Chiefs of Staff, and the majority of servicemembers and Americans on this matter. It is clear from the Pentagon's recently concluded study that the 1993 Don't Ask, Don't Tell law runs counter to the values that our Armed Forces embody and, indeed, our brave men and women in uniform.

Furthermore, it dispels the argument that Don't Ask, Don't Tell repeal would harm military readiness and unit cohesion. In fact, approximately 70 percent of servicemembers, including their families, support open service by gay and lesbian Americans and that Don't Ask, Don't Tell repeal would have no negative effects on their units' ability to "work together to get the job done."

There is no doubt in my mind that the Pentagon will be able to move forward with repeal in a manner that ensures our military's readiness and our national security while meeting the needs of our servicemembers and their families.

Despite everything that has already been said, however, there are those who will vote to preserve Don't Ask, Don't Tell. I can think of only one reason why anyone would vote to condone such a farce of a policy rather than support our troops, and that, Mr. Speaker, is prejudice.

At this moment, we stand closer to repeal than ever before. I could go on and reiterate all the reasons why we should repeal Don't Ask, Don't Tell, but the time for talk is over. After 17 years of discussion, the only thing left remaining to do is to repeal it. It is the right thing to do for our troops, the American people, and our nation as a whole.

Mr. PLATTS. Mr. Speaker, on March 2, 2010, Secretary of Defense Robert Gates announced that the U.S. Department of Defense, DOD, would conduct a thorough review of the "Don't Ask, Don't Tell" policy prohibiting openly gay men and women from serving in the military. The review was to examine the impact that repeal of the "Don't Ask, Don't Tell" policy would have on military readiness and effectiveness, unit cohesion, recruiting, retention, and family readiness.

The review solicited feedback from more than 500,000 active duty and reserve component Service members and spouses, with more than 200,000 responses ultimately being received. The Working Group that conducted the review was composed of 49 military personnel, officer and enlisted, and 19 civilian personnel from across the Department of Defense and the Military Services. The Group was Co-Chaired by General Carter F. Ham, U.S. Army, and the Honorable Jeb C. Johnson, Department of Defense General Counsel.

In May of this year, while DOD's review was still underway, the U.S. House of Representatives voted on an amendment to the Fiscal Year 2011 National Defense Authorization Act that would have effectively repealed the "Don't Ask, Don't Tell" policy. I voted against this

amendment because I felt it was disrespectful to the men and women in uniform and their families for Congress to vote on a repeal of this policy without first considering their vital input.

The Department of Defense's nine-month review of the impact of repealing the "Don't Ask, Don't Tell" policy was completed last month. The review's findings include an understandably broad range of opinions about the likely impact of said repeal. Ultimately, however, the review concludes that repeal of the "Don't Ask, Don't Tell" policy can be implemented in a manner that minimizes the risks associated with military readiness and effectiveness, unit cohesion, recruiting, retention, and family readiness. I agree.

It is important to note that House of Representatives Bill 2965, H.R. 2965, does not repeal the "Don't Ask, Don't Tell" policy immediately. Rather, repeal is made contingent upon the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff certifying to Congress that the Department of Defense has prepared the necessary policies and regulations to implement the repeal in a manner that is "consistent with the standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention of the Armed Forces." Such a deliberate and orderly implementation of the repeal will be critical to its success and is consistent with the recommendations of the Department of Defense review.

In addition to my consideration of the Department of Defense's review, I received and thoughtfully considered the input of many currently serving military personnel and veterans in the 19th District, as well as numerous other 19th District residents. Similar to the findings of the DOD review, the input I received from my constituents included passionate appeals for and against repeal of the "Don't Ask, Don't Tell" policy.

Throughout my tenure in Congress, I have had the privilege to interact with thousands of our nation's armed service members—here at home and overseas in Iraq, Afghanistan, Bosnia, and elsewhere. Each of these interactions has been truly inspiring and humbling. Our men and women in uniform, along with their loved ones, are the true heroes of our nation. But for their selfless service, the freedoms that all of us fellow Americans enjoy everyday would not be. Given that these proud Americans have answered the call to serve and stand ready to make the ultimate sacrifice on behalf of their fellow citizens, each and every one of them has earned my highest respect and heartfelt gratitude.

In light of the tremendous number of troops that I have interacted with over the last 10 years, it is safe to say that I have visited and thanked a significant number of gay or lesbian soldiers, marines, airmen, sailors, and coast guardsmen for their courageous and dedicated service in defense of all that is good about our great country. In light of the findings of the Department of Defense review, to oppose a repeal of the "Don't Ask, Don't Tell" policy would contradict the respect and gratitude that I feel for all who serve—regardless of their sexual orientation. As such, I support an orderly repeal of the policy along the lines contemplated in the DOD report and contained in H.R. 2965.

In conclusion, I share the sentiments expressed by the co-chairs of the Department of Defense review, General Ham and Mr. Johnson, when they stated: "We are both convinced that our military can do this, even during this time of war. We do not underestimate the challenges in implementing a change in the law, but neither should we underestimate the ability of our extraordinarily dedicated Service men and women to adapt to such change and continue to provide our Nation with the military capability to accomplish any mission."

Mr. DAVIS of Illinois. Mr. Speaker I rise in support of H.R. 2965, Repealing "Don't Ask, Don't Tell". This bill will allow thousands of Americans who have wanted the chance to serve their country openly and freely an opportunity to do so. The repeal of Don't Ask, Don't Tell is the right thing to do morally as a country. Military personnel, who risk their lives on a daily basis so that we can enjoy all the freedoms America has to offer, should not be denied the ability to serve based upon their sexual orientation. Equality is not a privilege, it is a right and repealing this law is a huge step in that direction.

At a time when our country is fighting two wars we should support those Americans whom fight for our liberties and freedoms. Unfortunately, DADT prevents thousands from doing so which makes no sense at all. The Pentagon's report from last month indicated a majority of our military soldiers and leaders support a repeal of DADT and I believe we should listen to them and honor what our country really stands for which is freedom, liberty, and justice for all.

Ms. MCCOLLUM. Mr. Speaker, I rise today in strong support of H.R. 2965, the Don't Ask Don't Tell Repeal Act of 2010. This will be the second time this year that the House votes to repeal the military's "Don't Ask, Don't Tell" policy, and I urge my colleagues to support it.

Opponents of repeal are out of touch with the American people, out of touch with the American military, and out of excuses. For years, Republicans in the House and Senate have claimed that allowing gays and lesbians to serve openly would threaten unit cohesion. America's troops and military leaders disagree. In the Pentagon's comprehensive review of this issue, 70 percent of service members surveyed believed that repealing "Don't Ask, Don't Tell" would have no negative effect on the performance of their units. The military's top leaders, Secretary of Defense Robert Gates and Chairman of the Joint Chiefs of Staff Admiral Mike Mullen—both appointed by President Bush—have strongly advocated for repealing "Don't Ask, Don't Tell."

At a time when our military is fighting two wars, "Don't Ask, Don't Tell" is hampering our Armed Forces, and harming our national security. According to a GAO report, the military had discharged over 750 mission-critical service members by 2003 because of "Don't Ask, Don't Tell," including over 320 service members with language skills—such as Arabic and Pashto—that are critical to our success in Iraq and Afghanistan. As reported by the Washington Post, there are an estimated 66,000 gay Americans currently serving in the military; that's 66,000 American troops who could be discharged tomorrow simply because they are gay.

Mr. Speaker, today I will vote to end a policy of open discrimination against a group of courageous Americans—men and women who proudly serve in the Armed Forces and put their lives on the line to defend our country. For thousands of gay and lesbian veterans who have been discharged from the military over the years, Congress has acted too late. Nonetheless, it is time to honor their service by providing a new generation of patriotic gay and lesbian Americans the opportunity to serve our country proudly and openly.

I urge my colleagues to join me in passing H.R. 2965, and I call upon Members of the Senate to do the right thing by repealing this destructive policy once and for all.

Ms. RICHARDSON. Mr. Speaker, I rise in support of the Senate Amendment to H.R. 2965 and do so proudly. I support the Senate Amendment because I stand on the side of our military and all who have sacrificed for our freedom, and that is why I support the repeal of the "Don't Ask, Don't Tell", DADT, policy which, since 1993 has resulted in the discharge of over 13,000 American servicemen and women and cost our taxpayers hundreds of millions of dollars in wasted funds. DADT denies equality to thousands of our soldiers and dissuades thousands more from enlisting in the defense of our country.

I believe that all Americans willing to risk their lives in the defense of our country and obey its laws should be allowed to do so. Both our military and civilian leaders support the repeal of DADT. It is our responsibility to ensure that this change is initiated at a gradual, manageable pace so as to avoid any unnecessary disruption.

Defense Secretary Gates and Admiral Mullen, Chairman of the Joint Chiefs of Staff, understand that an orderly transition is critical to minimizing disruption in the ranks, ensuring we maintain our strength level and not compromise national security. I applaud Secretary Gates' leadership and initiative, beginning with the landmark report he commissioned in March 2010 which included a survey of over 115,000 enlisted personnel and 44,000 military family members. In conjunction with this report, the Department of Defense prepared an implementation plan that will provide a smooth transition with minimal dislocation. The Pentagon stands ready to implement this plan, and I am proud that Congress is acting to move it forward.

In the 17 years since DADT was adopted, there has been a remarkable change in public opinion regarding the acceptance of gays and lesbians serving in the armed forces. This change has been so dramatic that the repeal of DADT no longer represents a subject of controversy for the large majority of Americans. Indeed, repealing DADT brings public policy in line with informed popular sentiment, which is nearly always a positive good.

The Pentagon's report documents one of the largest surveys of the attitudes of military personnel ever conducted. Its key finding is that the sexual orientation of their peers is not a matter of concern to most service members. Nearly 7 in 10, 69 percent, of respondents believed that they had already served with a gay or lesbian in their unit, and it did not undermine morale or military readiness. The report also finds that, if properly implemented, the re-

peal of DADT will have no adverse affect on unit cohesion or morale. These attitudes are in line with those of most Americans, who recognize that the military needs every patriotic, able-bodied recruit during a time of war.

Mr. Speaker, opponents of the measure still claim that repealing DADT is "social engineering" that will undermine morale and erode the fighting force of our nation's military. Their claim is refuted by the empirical study conducted by the Pentagon. It is also interesting to note that similar arguments were raised in opposition to racial integration and the enlistment of women in the armed services. The critics were wrong then and they are wrong now. The action we take today also brings us in line with the long-standing practice of our NATO allies as well as that of Israel, a nation rooted in faith that would do nothing to compromise the security of its people.

Mr. Speaker, I am proud to support this legislation and urge all my colleagues to do likewise. I look forward to the moment when President Obama signs this bill into law, which will at once strengthen our armed forces and ensure that all those who want to defend our freedom are given the opportunity.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1764, the previous question is ordered.

The question is on the motion by the gentlewoman from California (Mrs. DAVIS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. DAVIS of California. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 250, nays 175, not voting 9, as follows:

[Roll No. 638]

YEAS—250

Ackerman	Clay	Eshoo
Adler (NJ)	Cleaver	Etheridge
Altmire	Clyburn	Farr
Andrews	Cohen	Fattah
Arcuri	Connolly (VA)	Flake
Baca	Conyers	Flake
Baldwin	Cooper	Foster
Barrow	Costa	Frank (MA)
Bean	Costello	Fudge
Becerra	Courtney	Garamendi
Berkley	Crowley	Giffords
Berman	Cuellar	Gonzalez
Biggert	Cummings	Gordon (TN)
Bishop (GA)	Dahlkemper	Grayson
Bishop (NY)	Davis (CA)	Green, Al
Blumenauer	Davis (IL)	Green, Gene
Boccieri	DeFazio	Grijalva
Bono Mack	DeGette	Gutierrez
Boswell	Delahunt	Hall (NY)
Boucher	DeLauro	Halvorson
Boyd	Dent	Hare
Brady (PA)	Deutch	Harman
Braley (IA)	Diaz-Balart, L.	Hastings (FL)
Brown, Corrine	Dicks	Heinrich
Butterfield	Dingell	Herseth Sandlin
Campbell	Djou	Higgins
Cao	Doggett	Hill
Capps	Donnelly (IN)	Himes
Capuano	Doyle	Hinche
Carnahan	Dreier	Hinojosa
Carney	Driehaus	Hirono
Carson (IN)	Edwards (MD)	Hodes
Castle	Edwards (TX)	Holden
Castor (FL)	Ehlers	Holt
Chandler	Ellison	Honda
Chu	Ellsworth	Hoyer
Clarke	Engel	Insliee

Israel
 Jackson (IL)
 Jackson Lee
 (TX)
 Johnson (GA)
 Johnson, E. B.
 Kagen
 Kanjorski
 Kaptur
 Kennedy
 Kildee
 Kilpatrick (MI)
 Kilroy
 Kind
 Kirkpatrick (AZ)
 Kissell
 Klein (FL)
 Kosmas
 Kratovil
 Kucinich
 Langevin
 Larsen (WA)
 Larson (CT)
 Lee (CA)
 Levin
 Lewis (GA)
 Lipinski
 Loebach
 Lofgren, Zoe
 Lowey
 Lujan
 Lynch
 Maffei
 Maloney
 Markey (CO)
 Markey (MA)
 Matheson
 Matsui
 McCollum
 McDermott
 McGovern
 McMahon
 McNerney
 Meek (FL)
 Meeks (NY)
 Melancon
 Michaud
 Miller (NC)

Miller, George
 Minnick
 Mitchell
 Mollohan
 Moore (KS)
 Moore (WI)
 Moran (VA)
 Murphy (CT)
 Murphy (NY)
 Murphy, Patrick
 Nadler (NY)
 Napolitano
 Neal (MA)
 Nye
 Oberstar
 Obey
 Oliver
 Owens
 Pallone
 Pascrell
 Pastor (AZ)
 Paul
 Payne
 Pelosi
 Perlmutter
 Perriello
 Peters
 Pingree (ME)
 Platts
 Polis (CO)
 Pomeroy
 Price (NC)
 Quigley
 Rangel
 Reichert
 Reyes
 Richardson
 Rodriguez
 Ros-Lehtinen
 Rothman (NJ)
 Roybal-Allard
 Ruppertsberger
 Rush
 Ryan (OH)
 Salazar
 Sanchez, Linda
 T.
 Sanchez, Loretta

Sarbanes
 Schakowsky
 Schauer
 Schiff
 Schrader
 Schwartz
 Scott (GA)
 Scott (VA)
 Serrano
 Sestak
 Shea-Porter
 Sherman
 Shuler
 Sires
 Slaughter
 Smith (WA)
 Snyder
 Space
 Speier
 Spratt
 Stark
 Stupak
 Sutton
 Teague
 Thompson (CA)
 Thompson (MS)
 Tierney
 Titus
 Tonko
 Towns
 Tsongas
 Van Hollen
 Velázquez
 Visclosky
 Walz
 Wasserman
 Schultz
 Waters
 Watson
 Watt
 Waxman
 Weiner
 Welch
 Wilson (OH)
 Wu
 Yarmuth

Rogers (AL)
 Rogers (KY)
 Rogers (MI)
 Rohrabacher
 Rooney
 Roskam
 Ross
 Royce
 Ryan (WI)
 Scalise
 Schmidt
 Schock
 Sensenbrenner
 Sessions

Shadegg
 Shimkus
 Shuster
 Simpson
 Skelton
 Smith (NE)
 Smith (NJ)
 Smith (TX)
 Stearns
 Stutzman
 Sullivan
 Tanner
 Taylor
 Terry

Thompson (PA)
 Thornberry
 Tiahrt
 Tiberi
 Turner
 Upton
 Walden
 Westmoreland
 Whitfield
 Wilson (SC)
 Wittman
 Wolf
 Young (AK)
 Young (FL)

NOT VOTING—9

Baird
 Berry
 Cardoza
 Granger
 Marchant
 McCarthy (NY)
 McMorris
 Rodgers
 Wamp
 Woolsey

□ 1724

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO REDACT REMARKS IN DEBATE

Mr. TIM MURPHY of Pennsylvania. Mr. Speaker, I ask unanimous consent that I may redact a statement from my remarks in debate made earlier today that I believe might reflect a misapprehension of fact.

The SPEAKER pro tempore (Mr. CLEAVER). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. TITUS). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

PEDESTRIAN SAFETY ENHANCEMENT ACT OF 2010

Mr. BARROW. Madam Speaker, I move to suspend the rules and pass the bill (S. 841) to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pedestrian Safety Enhancement Act of 2010”.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term “Secretary” means the Secretary of Transportation;

(2) the term “alert sound” (herein referred to as the “sound”) means a vehicle-emitted sound to enable pedestrians to discern vehicle presence, direction, location, and operation;

(3) the term “cross-over speed” means the speed at which tire noise, wind resistance, or other factors eliminate the need for a separate alert sound as determined by the Secretary;

(4) the term “motor vehicle” has the meaning given such term in section 30102(a)(6) of title 49, United States Code, except that such term shall not include a trailer (as such term is defined in section 571.3 of title 49, Code of Federal Regulations);

(5) the term “conventional motor vehicle” means a motor vehicle powered by a gasoline, diesel, or alternative fueled internal combustion engine as its sole means of propulsion;

(6) the term “manufacturer” has the meaning given such term in section 30102(a)(5) of title 49, United States Code;

(7) the term “dealer” has the meaning given such term in section 30102(a)(1) of title 49, United States Code;

(8) the term “defect” has the meaning given such term in section 30102(a)(2) of title 49, United States Code;

(9) the term “hybrid vehicle” means a motor vehicle which has more than one means of propulsion; and

(10) the term “electric vehicle” means a motor vehicle with an electric motor as its sole means of propulsion.

SEC. 3. MINIMUM SOUND REQUIREMENT FOR MOTOR VEHICLES.

(a) RULEMAKING REQUIRED.—Not later than 18 months after the date of enactment of this Act the Secretary shall initiate rulemaking, under section 30111 of title 49, United States Code, to promulgate a motor vehicle safety standard—

(1) establishing performance requirements for an alert sound that allows blind and other pedestrians to reasonably detect a nearby electric or hybrid vehicle operating below the cross-over speed, if any; and

(2) requiring new electric or hybrid vehicles to provide an alert sound conforming to the requirements of the motor vehicle safety standard established under this subsection.

The motor vehicle safety standard established under this subsection shall not require either driver or pedestrian activation of the alert sound and shall allow the pedestrian to reasonably detect a nearby electric or hybrid vehicle in critical operating scenarios including, but not limited to, constant speed, accelerating, or decelerating. The Secretary shall allow manufacturers to provide each vehicle with one or more sounds that comply with the motor vehicle safety standard at the time of manufacture. Further, the Secretary shall require manufacturers to provide, within reasonable manufacturing tolerances, the same sound or set of sounds for all vehicles of the same make and model and shall prohibit manufacturers from providing any mechanism for anyone other than the manufacturer or the dealer to disable, alter, replace, or modify the sound or set of sounds, except that the manufacturer or dealer may alter, replace, or modify the sound or set of sounds in order to remedy a defect or non-compliance with the motor vehicle safety standard. The Secretary shall promulgate the required motor vehicle safety standard pursuant to this subsection not later than 36 months after the date of enactment of this Act.

NAYS—175

Aderholt
 Akin
 Alexander
 Austria
 Bachmann
 Bachus
 Barrett (SC)
 Bartlett
 Barton (TX)
 Bilbray
 Bilirakis
 Bishop (UT)
 Blackburn
 Blunt
 Boehner
 Bonner
 Boozman
 Boren
 Boustany
 Brady (TX)
 Bright
 Broun (GA)
 Brown (SC)
 Brown-Waite,
 Ginny
 Buchanan
 Burgess
 Burton (IN)
 Buyer
 Calvert
 Camp
 Cantor
 Capito
 Carter
 Cassidy
 Chaffetz
 Childers
 Coble
 Coffman (CO)
 Cole
 Conaway
 Crenshaw
 Critz
 Culberson
 Davis (AL)

Davis (KY)
 Davis (TN)
 Diaz-Balart, M.
 Duncan
 Emerson
 Fallin
 Fleming
 Forbes
 Fortenberry
 Foxx
 Franks (AZ)
 Frelinghuysen
 Gallegly
 Garrett (NJ)
 Gerlach
 Gingrey (GA)
 Gohmert
 Goodlatte
 Graves (GA)
 Graves (MO)
 Griffith
 Guthrie
 Hall (TX)
 Harper
 Hastings (WA)
 Heller
 Hensarling
 Herger
 Hoekstra
 Hunter
 Inglis
 Issa
 Jenkins
 Johnson (IL)
 Johnson, Sam
 Jones
 Jordan (OH)
 King (IA)
 King (NY)
 Kingston
 Kline (MN)
 Lamborn
 Lance
 Latham
 LaTourette

Latta
 Lee (NY)
 Lewis (CA)
 Linder
 LoBiondo
 Lucas
 Luetkemeyer
 Lummis
 Lungren, Daniel
 E.
 Mack
 Manzullo
 Marshall
 McCarthy (CA)
 McCaul
 McClintock
 McCotter
 McHenry
 McIntyre
 McKeon
 Mica
 Miller (FL)
 Miller (MI)
 Miller, Gary
 Moran (KS)
 Murphy, Tim
 Myrick
 Neugebauer
 Nunes
 Olson
 Ortiz
 Paulsen
 Pence
 Peterson
 Petri
 Pitts
 Poe (TX)
 Posey
 Price (GA)
 Putnam
 Radanovich
 Rahall
 Reed
 Rehberg
 Roe (TN)

(b) **CONSIDERATION.**—When conducting the required rulemaking, the Secretary shall—

(1) determine the minimum level of sound emitted from a motor vehicle that is necessary to provide blind and other pedestrians with the information needed to reasonably detect a nearby electric or hybrid vehicle operating at or below the cross-over speed, if any;

(2) determine the performance requirements for an alert sound that is recognizable to a pedestrian as a motor vehicle in operation; and

(3) consider the overall community noise impact.

(c) **PHASE-IN REQUIRED.**—The motor vehicle safety standard prescribed pursuant to subsection (a) of this section shall establish a phase-in period for compliance, as determined by the Secretary, and shall require full compliance with the required motor vehicle safety standard for motor vehicles manufactured on or after September 1st of the calendar year that begins 3 years after the date on which the final rule is issued.

(d) **REQUIRED CONSULTATION.**—When conducting the required study and rulemaking, the Secretary shall—

(1) consult with the Environmental Protection Agency to assure that the motor vehicle safety standard is consistent with existing noise requirements overseen by the Agency;

(2) consult consumer groups representing individuals who are blind;

(3) consult with automobile manufacturers and professional organizations representing them;

(4) consult technical standardization organizations responsible for measurement methods such as the Society of Automotive Engineers, the International Organization for Standardization, and the United Nations Economic Commission for Europe, World Forum for Harmonization of Vehicle Regulations.

(e) **REQUIRED STUDY AND REPORT TO CONGRESS.**—Not later than 48 months after the date of enactment of this Act, the Secretary shall complete a study and report to Congress as to whether there exists a safety need to apply the motor vehicle safety standard required by subsection (a) to conventional motor vehicles. In the event that the Secretary determines there exists a safety need, the Secretary shall initiate rulemaking under section 30111 of title 49, United States Code, to extend the standard to conventional motor vehicles.

SEC. 4. FUNDING.

Notwithstanding any other provision of law, \$2,000,000 of any amounts made available to the Secretary of Transportation under section 406 of title 23, United States Code, shall be made available to the Administrator of the National Highway Transportation Safety Administration for carrying out section 3 of this Act.

□ 1730

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. BARROW) and the gentleman from Pennsylvania (Mr. PITTS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. BARROW. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARROW. I yield myself such time as I may consume.

Madam Speaker, as hybrid and electric vehicles take hold in the market, they bring lots of benefits to consumers trying to shield themselves from rising gas prices and help reduce our Nation's dependence on foreign oil, but the near-silent operation of their combustion-free engines has presented unintended challenges for blind and sighted pedestrians.

NHTSA research, including a study published in April this year, confirms that the absence of sounds indicating vehicle movement can create serious safety risks for blind and sighted pedestrians, unable to detect vehicles as they back up, turn, or approach an intersection.

Earlier, NHTSA research found that hybrid and electric vehicles are two times more likely to be involved in a pedestrian collision at a low speed than conventional vehicles. Blind pedestrians are among the most vulnerable; but cyclists, seniors, and children are also among those greatly affected as the number of hybrid and electric vehicles on the road increases.

The bill before us offers a straightforward solution directing the National Highway Traffic Safety Administration to create a standard for hybrid and electric vehicles to emit appropriate conforming sounds when traveling at low speeds. In addition, the bill gives the agency 3 years to develop the standard, gives manufacturers a 3-year phase-in period, calls on NHTSA to consider the overall community noise impact, and protects against the unauthorized disabling, modification, or replacement of the sounds.

I am pleased that the bill has received strong support from the National Federation of the Blind and the Alliance of Automobile Manufacturers. I commend manufacturers of hybrid and electric vehicles that have already stepped forward to work with NHTSA to address this serious safety issue.

I also want to thank my chairman, Chairman RUSH, and my colleagues, the gentleman from New York (Mr. TOWNS) and the gentleman from Florida (Mr. STEARNS), for their leadership on this issue, which has a strong record of bipartisan awareness and support. I urge my colleagues to support this legislation.

I reserve the balance of my time.

Mr. PITTS. Madam Speaker, I yield myself such time as I may consume.

I rise in support of Senate 841. I commend Congressman TOWNS and Congressman STEARNS for their efforts to improve pedestrian safety as the champions of the House companion legislation to Senate 841. They have worked with all the stakeholders to champion

the legislative compromise that the Senate passed and which is before us today.

The National Federation of the Blind and the auto industry support the compromise legislation that will ensure pedestrian safety is not compromised by evolving engine technology.

The success of hybrid cars represents technological progress, but the byproduct is a silent engine that has raised concerns they are not audible to pedestrians and can jeopardize their safety. Quiet technology makes it very difficult for the blind and other pedestrians, such as children, joggers, or bicyclists, to evaluate traffic they do not see. The concern is greatest for blind pedestrians that rely on audible attributes of cars to evaluate direction and speed of traffic to ensure their safety. New vehicles that employ hybrid or electric engine technology can be silent, rendering them extremely dangerous in situations where vehicles and pedestrians come into proximity with each other.

The changes required by the legislation will become more important as hybrid technology becomes more and more widely deployed, and so I urge support.

I reserve the balance of my time.

Mr. BARROW. Madam Speaker, I yield such time as he may consume to the gentleman from New York (Mr. TOWNS).

Mr. TOWNS. Madam Speaker, I would like to thank the gentleman from Georgia for yielding time, and of course the ranking member as well. I rise to urge my colleagues to vote in favor of S. 841, the Pedestrian Safety Enhancement Act.

Today, environmentally friendly vehicles are quickly becoming a staple in the lives of Americans who are attempting to go green. I applaud the use of technology that decreases air pollution and fossil fuel consumption; however, we must address an unforeseen consequence of such innovation.

Over the years, we have heard tragic stories involving pedestrians and hybrid or electric vehicles. Not too long ago, news accounts were the story of a young child hit by a hybrid car. This accident was not caused by a driver's negligence or a car's manufacturing defect. It occurred because the child never heard the approaching car. The hybrids: engines were simply too quiet. Environmentally friendly vehicles such as hybrids often fail to produce audible sounds when driven.

The silent nature of these vehicles, coupled with the growing popularity, presents a dilemma: How do we protect individuals dependent on sounds for their safety, such as unsuspecting pedestrians and the blind? The solution lies in the Pedestrian Safety Act.

This act requires the Secretary of Transportation to conduct a study of the minimum level of sound required

for environmentally friendly vehicles. Once this safety standard is determined, it will be applied to all new automobiles manufactured or sold in the United States beginning 2 years after the standard is issued. This is an effective way, not only to prevent avoidable injuries to pedestrians, but to do so without impeding innovation with stringent regulations.

It is clear that environmentally friendly vehicles are growing in popularity. While it is important to embrace technology that benefits our environment, we must do so with the safety of all citizens in mind.

This bill successfully passed the Senate last week and has been a long time coming here in the House. Our Chamber's companion bill, H.R. 734, has 238 bipartisan cosponsors. The bill coming to us from the Senate is even stronger. It is completely deficit neutral and supported by the Alliance of Automobile Manufacturers, the National Federation of the Blind, the Association of International Automobile Manufacturers, and the American Council of the Blind.

Before I conclude, Madam Speaker, let me take a moment to thank my colleague and friend, Representative CLIFF STEARNS, who has worked over the years with me on this bill. I want to thank staff members James Thomas and Nicole Alexander for their tremendous assistance in helping us move this important legislation forward. I would also like to thank Emily Khoury and Dana Grayson and all other staff that have made this moment a reality. This bill has been a model of bipartisanship and will benefit pedestrians across the country for years to come.

I urge all of my colleagues here in the House of Representatives to join me in supporting this very important legislation.

□ 1740

Mr. PITTS. Madam Speaker, I yield back the balance of my time.

Mr. RUSH. Madam Speaker, I rise today in support of S. 841, the Pedestrian Safety Enhancement Act of 2010, and I commend Senator ROCKEFELLER, Congressman ED TOWNS and Congressman CLIFF STEARNS for their leadership on the safety of blind Americans, cyclists, runners, small children, and other pedestrians.

This bill will protect the blind community from the risks posed by silent vehicles. For the blind and many others who experience physical disabilities, the biggest challenge is not the loss of their sight, but the misunderstanding and the lack of simple accommodations that make life more manageable for independent individuals.

This is especially the case with fast growing technologies that increasingly define the 21st century. We have new cars on the road and, more importantly, an increasing number of hybrid and electric vehicles being sold and manufactured in the United States.

However, with these advances we need to ensure that new technologies also reflect the

safety concerns of all stakeholders on the roads—drivers and pedestrians alike.

I am pleased that this bill addresses the critical safety concerns of disabled persons, while also encouraging better technology and economic growth.

S. 841, the Pedestrian Safety Enhancement Act, is good for our community. It is good for pedestrians and it is good for industry.

I urge my colleagues to support its passage.

Mr. BARROW. Madam Speaker, I urge my colleagues to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. BARROW) that the House suspend the rules and pass the bill, S. 841.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BARROW. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REGULATED INVESTMENT COMPANY MODERNIZATION ACT OF 2010

Mr. LEVIN. Madam Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4337) to amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) *SHORT TITLE.*—This Act may be cited as the “Regulated Investment Company Modernization Act of 2010”.

(b) *REFERENCE.*—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—CAPITAL LOSS CARRYOVERS OF REGULATED INVESTMENT COMPANIES

Sec. 101. Capital loss carryovers of regulated investment companies.

TITLE II—MODIFICATION OF GROSS INCOME AND ASSET TESTS OF REGULATED INVESTMENT COMPANIES

Sec. 201. Savings provisions for failures of regulated investment companies to satisfy gross income and asset tests.

TITLE III—MODIFICATION OF RULES RELATING TO DIVIDENDS AND OTHER DISTRIBUTIONS

Sec. 301. Modification of dividend designation requirements and allocation rules for regulated investment companies.

Sec. 302. Earnings and profits of regulated investment companies.

Sec. 303. Pass-thru of exempt-interest dividends and foreign tax credits in fund of funds structure.

Sec. 304. Modification of rules for spillover dividends of regulated investment companies.

Sec. 305. Return of capital distributions of regulated investment companies.

Sec. 306. Distributions in redemption of stock of a regulated investment company.

Sec. 307. Repeal of preferential dividend rule for publicly offered regulated investment companies.

Sec. 308. Elective deferral of certain late-year losses of regulated investment companies.

Sec. 309. Exception to holding period requirement for certain regularly declared exempt-interest dividends.

TITLE IV—MODIFICATIONS RELATED TO EXCISE TAX APPLICABLE TO REGULATED INVESTMENT COMPANIES

Sec. 401. Excise tax exemption for certain regulated investment companies owned by tax exempt entities.

Sec. 402. Deferral of certain gains and losses of regulated investment companies for excise tax purposes.

Sec. 403. Distributed amount for excise tax purposes determined on basis of taxes paid by regulated investment company.

Sec. 404. Increase in required distribution of capital gain net income.

TITLE V—OTHER PROVISIONS

Sec. 501. Repeal of assessable penalty with respect to liability for tax of regulated investment companies.

Sec. 502. Modification of sales load deferral rule for regulated investment companies.

TITLE I—CAPITAL LOSS CARRYOVERS OF REGULATED INVESTMENT COMPANIES

SEC. 101. CAPITAL LOSS CARRYOVERS OF REGULATED INVESTMENT COMPANIES.

(a) *IN GENERAL.*—Subsection (a) of section 1212 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) REGULATED INVESTMENT COMPANIES.—

“(A) *IN GENERAL.*—If a regulated investment company has a net capital loss for any taxable year—

“(i) paragraph (1) shall not apply to such loss,

“(ii) the excess of the net short-term capital loss over the net long-term capital gain for such year shall be a short-term capital loss arising on the first day of the next taxable year, and

“(iii) the excess of the net long-term capital loss over the net short-term capital gain for such year shall be a long-term capital loss arising on the first day of the next taxable year.

“(B) *COORDINATION WITH GENERAL RULE.*—If a net capital loss to which paragraph (1) applies is carried over to a taxable year of a regulated investment company—

“(i) *LOSSES TO WHICH THIS PARAGRAPH APPLIES.*—Clauses (ii) and (iii) of subparagraph (A) shall be applied without regard to any amount treated as a short-term capital loss under paragraph (1).

“(ii) *LOSSES TO WHICH GENERAL RULE APPLIES.*—Paragraph (1) shall be applied by substituting ‘net capital loss for the loss year or

any taxable year thereafter (other than a net capital loss to which paragraph (3)(A) applies) for 'net capital loss for the loss year or any taxable year thereafter'."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 1212(a)(1) is amended to read as follows:

"(C) a capital loss carryover to each of the 10 taxable years succeeding the loss year, but only to the extent such loss is attributable to a foreign expropriation loss."

(2) Paragraph (10) of section 1222 is amended by striking "section 1212" and inserting "section 1212(a)(1)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to net capital losses for taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION RULES.—Subparagraph (B) of section 1212(a)(3) of the Internal Revenue Code of 1986, as added by this section, shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE II—MODIFICATION OF GROSS INCOME AND ASSET TESTS OF REGULATED INVESTMENT COMPANIES

SEC. 201. SAVINGS PROVISIONS FOR FAILURES OF REGULATED INVESTMENT COMPANIES TO SATISFY GROSS INCOME AND ASSET TESTS.

(a) ASSET TEST.—Subsection (d) of section 851 is amended—

(1) by striking "A corporation which meets" and inserting the following:

"(I) IN GENERAL.—A corporation which meets", and

(2) by adding at the end the following new paragraph:

"(2) SPECIAL RULES REGARDING FAILURE TO SATISFY REQUIREMENTS.—If paragraph (1) does not preserve a corporation's status as a regulated investment company for any particular quarter—

"(A) IN GENERAL.—A corporation that fails to meet the requirements of subsection (b)(3) (other than a failure described in subparagraph (B)(i)) for such quarter shall nevertheless be considered to have satisfied the requirements of such subsection for such quarter if—

"(i) following the corporation's identification of the failure to satisfy the requirements of such subsection for such quarter, a description of each asset that causes the corporation to fail to satisfy the requirements of such subsection at the close of such quarter is set forth in a schedule for such quarter filed in the manner provided by the Secretary,

"(ii) the failure to meet the requirements of such subsection for such quarter is due to reasonable cause and not due to willful neglect, and

"(iii)(I) the corporation disposes of the assets set forth on the schedule specified in clause (i) within 6 months after the last day of the quarter in which the corporation's identification of the failure to satisfy the requirements of such subsection occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

"(II) the requirements of such subsection are otherwise met within the time period specified in subclause (I).

"(B) RULE FOR CERTAIN DE MINIMIS FAILURES.—A corporation that fails to meet the requirements of subsection (b)(3) for such quarter shall nevertheless be considered to have satisfied the requirements of such subsection for such quarter if—

"(i) such failure is due to the ownership of assets the total value of which does not exceed the lesser of—

"(I) 1 percent of the total value of the corporation's assets at the end of the quarter for which such measurement is done, or

"(II) \$10,000,000, and

"(ii)(I) the corporation, following the identification of such failure, disposes of assets in order to meet the requirements of such subsection within 6 months after the last day of the quarter in which the corporation's identification of the failure to satisfy the requirements of such subsection occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

"(II) the requirements of such subsection are otherwise met within the time period specified in subclause (I).

"(C) TAX.—

"(i) TAX IMPOSED.—If subparagraph (A) applies to a corporation for any quarter, there is hereby imposed on such corporation a tax in an amount equal to the greater of—

"(I) \$50,000, or

"(II) the amount determined (pursuant to regulations promulgated by the Secretary) by multiplying the net income generated by the assets described in the schedule specified in subparagraph (A)(i) for the period specified in clause (ii) by the highest rate of tax specified in section 11.

"(ii) PERIOD.—For purposes of clause (i)(II), the period described in this clause is the period beginning on the first date that the failure to satisfy the requirements of subsection (b)(3) occurs as a result of the ownership of such assets and ending on the earlier of the date on which the corporation disposes of such assets or the end of the first quarter when there is no longer a failure to satisfy such subsection.

"(iii) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, a tax imposed by this subparagraph shall be treated as an excise tax with respect to which the deficiency procedures of such subtitle apply."

(b) GROSS INCOME TEST.—Section 851 is amended by adding at the end the following new subsection:

"(i) FAILURE TO SATISFY GROSS INCOME TEST.—

"(1) DISCLOSURE REQUIREMENT.—A corporation that fails to meet the requirement of paragraph (2) of subsection (b) for any taxable year shall nevertheless be considered to have satisfied the requirement of such paragraph for such taxable year if—

"(A) following the corporation's identification of the failure to meet such requirement for such taxable year, a description of each item of its gross income described in such paragraph is set forth in a schedule for such taxable year filed in the manner provided by the Secretary, and

"(B) the failure to meet such requirement is due to reasonable cause and not due to willful neglect.

"(2) IMPOSITION OF TAX ON FAILURES.—If paragraph (1) applies to a regulated investment company for any taxable year, there is hereby imposed on such company a tax in an amount equal to the excess of—

"(A) the gross income of such company which is not derived from sources referred to in subsection (b)(2), over

"(B) 1/2 of the gross income of such company which is derived from such sources."

(c) DEDUCTION OF TAXES PAID FROM INVESTMENT COMPANY TAXABLE INCOME.—Paragraph (2) of section 852(b) is amended by adding at the end the following new subparagraph:

"(G) There shall be deducted an amount equal to the tax imposed by subsections (d)(2) and (i) of section 851 for the taxable year."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years with respect to which the due date (determined with regard to any extensions) of the return of tax for such taxable year is after the date of the enactment of this Act.

TITLE III—MODIFICATION OF RULES RELATED TO DIVIDENDS AND OTHER DISTRIBUTIONS

SEC. 301. MODIFICATION OF DIVIDEND DESIGNATION REQUIREMENTS AND ALLOCATION RULES FOR REGULATED INVESTMENT COMPANIES.

(a) CAPITAL GAIN DIVIDENDS.—

(1) IN GENERAL.—Subparagraph (C) of section 852(b)(3) is amended to read as follows:

"(C) DEFINITION OF CAPITAL GAIN DIVIDEND.—

For purposes of this part—

"(i) IN GENERAL.—Except as provided in clause (ii), a capital gain dividend is any dividend, or part thereof, which is reported by the company as a capital gain dividend in written statements furnished to its shareholders.

"(ii) EXCESS REPORTED AMOUNT.—If the aggregate reported amount with respect to the company for any taxable year exceeds the net capital gain of the company for such taxable year, a capital gain dividend is the excess of—

"(I) the reported capital gain dividend amount, over

"(II) the excess reported amount which is allocable to such reported capital gain dividend amount.

"(iii) ALLOCATION OF EXCESS REPORTED AMOUNT.—

"(I) IN GENERAL.—Except as provided in subclause (II), the excess reported amount (if any) which is allocable to the reported capital gain dividend amount is that portion of the excess reported amount which bears the same ratio to the excess reported amount as the reported capital gain dividend amount bears to the aggregate reported amount.

"(II) SPECIAL RULE FOR NONCALENDAR YEAR TAXPAYERS.—In the case of any taxable year which does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for such taxable year, subclause (I) shall be applied by substituting 'post-December reported amount' for 'aggregate reported amount' and no excess reported amount shall be allocated to any dividend paid on or before December 31 of such taxable year.

"(iv) DEFINITIONS.—For purposes of this subparagraph—

"(I) REPORTED CAPITAL GAIN DIVIDEND AMOUNT.—The term 'reported capital gain dividend amount' means the amount reported to its shareholders under clause (i) as a capital gain dividend.

"(II) EXCESS REPORTED AMOUNT.—The term 'excess reported amount' means the excess of the aggregate reported amount over the net capital gain of the company for the taxable year.

"(III) AGGREGATE REPORTED AMOUNT.—The term 'aggregate reported amount' means the aggregate amount of dividends reported by the company under clause (i) as capital gain dividends for the taxable year (including capital gain dividends paid after the close of the taxable year described in section 855).

"(IV) POST-DECEMBER REPORTED AMOUNT.—The term 'post-December reported amount' means the aggregate reported amount determined by taking into account only dividends paid after December 31 of the taxable year.

"(v) ADJUSTMENT FOR DETERMINATIONS.—If there is an increase in the excess described in subparagraph (A) for the taxable year which results from a determination (as defined in section 860(e)), the company may, subject to the limitations of this subparagraph, increase the amount of capital gain dividends reported under clause (i).

"(vi) SPECIAL RULE FOR LOSSES LATE IN THE CALENDAR YEAR.—For special rule for certain losses after October 31, see paragraph (8)."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 860(f)(2) is amended by inserting

“or reported (as the case may be)” after “designated”.

(b) EXEMPT-INTEREST DIVIDENDS.—Subparagraph (A) of section 852(b)(5) is amended to read as follows:

“(A) DEFINITION OF EXEMPT-INTEREST DIVIDEND.—

“(i) IN GENERAL.—Except as provided in clause (ii), an exempt-interest dividend is any dividend or part thereof (other than a capital gain dividend) paid by a regulated investment company and reported by the company as an exempt-interest dividend in written statements furnished to its shareholders.

“(ii) EXCESS REPORTED AMOUNTS.—If the aggregate reported amount with respect to the company for any taxable year exceeds the exempt interest of the company for such taxable year, an exempt-interest dividend is the excess of—

“(I) the reported exempt-interest dividend amount, over

“(II) the excess reported amount which is allocable to such reported exempt-interest dividend amount.

“(iii) ALLOCATION OF EXCESS REPORTED AMOUNT.—

“(I) IN GENERAL.—Except as provided in subclause (II), the excess reported amount (if any) which is allocable to the reported exempt-interest dividend amount is that portion of the excess reported amount which bears the same ratio to the excess reported amount as the reported exempt-interest dividend amount bears to the aggregate reported amount.

“(II) SPECIAL RULE FOR NONCALENDAR YEAR TAXPAYERS.—In the case of any taxable year which does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for such taxable year, subclause (I) shall be applied by substituting ‘post-December reported amount’ for ‘aggregate reported amount’ and no excess reported amount shall be allocated to any dividend paid on or before December 31 of such taxable year.

“(iv) DEFINITIONS.—For purposes of this subparagraph—

“(I) REPORTED EXEMPT-INTEREST DIVIDEND AMOUNT.—The term ‘reported exempt-interest dividend amount’ means the amount reported to its shareholders under clause (i) as an exempt-interest dividend.

“(II) EXCESS REPORTED AMOUNT.—The term ‘excess reported amount’ means the excess of the aggregate reported amount over the exempt interest of the company for the taxable year.

“(III) AGGREGATE REPORTED AMOUNT.—The term ‘aggregate reported amount’ means the aggregate amount of dividends reported by the company under clause (i) as exempt-interest dividends for the taxable year (including exempt-interest dividends paid after the close of the taxable year described in section 855).

“(IV) POST-DECEMBER REPORTED AMOUNT.—The term ‘post-December reported amount’ means the aggregate reported amount determined by taking into account only dividends paid after December 31 of the taxable year.

“(V) EXEMPT INTEREST.—The term ‘exempt interest’ means, with respect to any regulated investment company, the excess of the amount of interest excludable from gross income under section 103(a) over the amounts disallowed as deductions under sections 265 and 171(a)(2).”.

(c) FOREIGN TAX CREDITS.—

(I) IN GENERAL.—Subsection (c) of section 853 is amended—

(A) by striking “so designated by the company in a written notice mailed to its shareholders not later than 60 days after the close of the taxable year” and inserting “so reported by the company in a written statement furnished to such shareholder”, and

(B) by striking “NOTICE” in the heading and inserting “STATEMENTS”.

(2) CONFORMING AMENDMENTS.—Subsection (d) of section 853 is amended—

(A) by striking “and the notice to shareholders required by subsection (c)” in the text thereof, and

(B) by striking “AND NOTIFYING SHAREHOLDERS” in the heading thereof.

(d) CREDITS FOR TAX CREDIT BONDS.—

(I) IN GENERAL.—Subsection (c) of section 853A is amended—

(A) by striking “so designated by the regulated investment company in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year” and inserting “so reported by the regulated investment company in a written statement furnished to such shareholder”, and

(B) by striking “NOTICE” in the heading and inserting “STATEMENTS”.

(2) CONFORMING AMENDMENTS.—Subsection (d) of section 853A is amended—

(A) by striking “and the notice to shareholders required by subsection (c)” in the text thereof, and

(B) by striking “AND NOTIFYING SHAREHOLDERS” in the heading thereof.

(e) DIVIDEND RECEIVED DEDUCTION, ETC.—

(I) IN GENERAL.—Paragraph (1) of section 854(b) is amended—

(A) by striking “designated under this subparagraph by the regulated investment company” in subparagraph (A) and inserting “reported by the regulated investment company as eligible for such deduction in written statements furnished to its shareholders”,

(B) by striking “designated by the regulated investment company” in subparagraph (B)(i) and inserting “reported by the regulated investment company as qualified dividend income in written statements furnished to its shareholders”,

(C) by striking “designated” in subparagraph (C)(i) and inserting “reported”, and

(D) by striking “designated” in subparagraph (C)(ii) and inserting “reported”.

(2) CONFORMING AMENDMENTS.—Subsection (b) of section 854 is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5), as paragraphs (2), (3), and (4), respectively.

(f) DIVIDENDS PAID TO CERTAIN FOREIGN PERSONS.—

(I) INTEREST-RELATED DIVIDENDS.—Subparagraph (C) of section 871(k)(1) is amended by striking all that precedes “any taxable year of the company beginning” and inserting the following:

“(C) INTEREST-RELATED DIVIDEND.—For purposes of this paragraph—

“(i) IN GENERAL.—Except as provided in clause (ii), an interest related dividend is any dividend, or part thereof, which is reported by the company as an interest related dividend in written statements furnished to its shareholders.

“(ii) EXCESS REPORTED AMOUNTS.—If the aggregate reported amount with respect to the company for any taxable year exceeds the qualified net interest income of the company for such taxable year, an interest related dividend is the excess of—

“(I) the reported interest related dividend amount, over

“(II) the excess reported amount which is allocable to such reported interest related dividend amount.

“(iii) ALLOCATION OF EXCESS REPORTED AMOUNT.—

“(I) IN GENERAL.—Except as provided in subclause (II), the excess reported amount (if any) which is allocable to the reported interest related dividend amount is that portion of the excess reported amount which bears the same ratio

to the excess reported amount as the reported interest related dividend amount bears to the aggregate reported amount.

“(II) SPECIAL RULE FOR NONCALENDAR YEAR TAXPAYERS.—In the case of any taxable year which does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for such taxable year, subclause (I) shall be applied by substituting ‘post-December reported amount’ for ‘aggregate reported amount’ and no excess reported amount shall be allocated to any dividend paid on or before December 31 of such taxable year.

“(iv) DEFINITIONS.—For purposes of this subparagraph—

“(I) REPORTED INTEREST RELATED DIVIDEND AMOUNT.—The term ‘reported interest related dividend amount’ means the amount reported to its shareholders under clause (i) as an interest related dividend.

“(II) EXCESS REPORTED AMOUNT.—The term ‘excess reported amount’ means the excess of the aggregate reported amount over the qualified net interest income of the company for the taxable year.

“(III) AGGREGATE REPORTED AMOUNT.—The term ‘aggregate reported amount’ means the aggregate amount of dividends reported by the company under clause (i) as interest related dividends for the taxable year (including interest related dividends paid after the close of the taxable year described in section 855).

“(IV) POST-DECEMBER REPORTED AMOUNT.—The term ‘post-December reported amount’ means the aggregate reported amount determined by taking into account only dividends paid after December 31 of the taxable year.

“(v) TERMINATION.—The term ‘interest related dividend’ shall not include any dividend with respect to”.

(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Subparagraph (C) of section 871(k)(2) is amended by striking all that precedes “any taxable year of the company beginning” and inserting the following:

“(C) SHORT-TERM CAPITAL GAIN DIVIDEND.—

For purposes of this paragraph—

“(i) IN GENERAL.—Except as provided in clause (ii), the term ‘short-term capital gain dividend’ means any dividend, or part thereof, which is reported by the company as a short-term capital gain dividend in written statements furnished to its shareholders.

“(ii) EXCESS REPORTED AMOUNTS.—If the aggregate reported amount with respect to the company for any taxable year exceeds the qualified short-term gain of the company for such taxable year, the term ‘short-term capital gain dividend’ means the excess of—

“(I) the reported short-term capital gain dividend amount, over

“(II) the excess reported amount which is allocable to such reported short-term capital gain dividend amount.

“(iii) ALLOCATION OF EXCESS REPORTED AMOUNT.—

“(I) IN GENERAL.—Except as provided in subclause (II), the excess reported amount (if any) which is allocable to the reported short-term capital gain dividend amount is that portion of the excess reported amount which bears the same ratio to the excess reported amount as the reported short-term capital gain dividend amount bears to the aggregate reported amount.

“(II) SPECIAL RULE FOR NONCALENDAR YEAR TAXPAYERS.—In the case of any taxable year which does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for such taxable year, subclause (I) shall be applied by substituting ‘post-December reported amount’ for ‘aggregate reported amount’ and no excess reported amount shall be

allocated to any dividend paid on or before December 31 of such taxable year.

“(iv) **DEFINITIONS.**—For purposes of this subparagraph—

“(I) **REPORTED SHORT-TERM CAPITAL GAIN DIVIDEND AMOUNT.**—The term ‘reported short-term capital gain dividend amount’ means the amount reported to its shareholders under clause (i) as a short-term capital gain dividend.

“(II) **EXCESS REPORTED AMOUNT.**—The term ‘excess reported amount’ means the excess of the aggregate reported amount over the qualified short-term gain of the company for the taxable year.

“(III) **AGGREGATE REPORTED AMOUNT.**—The term ‘aggregate reported amount’ means the aggregate amount of dividends reported by the company under clause (i) as short-term capital gain dividends for the taxable year (including short-term capital gain dividends paid after the close of the taxable year described in section 855).

“(IV) **POST-DECEMBER REPORTED AMOUNT.**—The term ‘post-December reported amount’ means the aggregate reported amount determined by taking into account only dividends paid after December 31 of the taxable year.

“(v) **TERMINATION.**—The term ‘short-term capital gain dividend’ shall not include any dividend with respect to”.

(g) **CONFORMING AMENDMENTS.**—Section 855 is amended—

(1) by striking subsection (c) and redesignating subsection (d) as subsection (c), and

(2) by striking “, (c) and (d)” in subsection (a) and inserting “and (c)”.

(h) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(i) **APPLICATION OF JGTRRA SUNSET.**—Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 shall apply to the amendments made by subparagraphs (B) and (D) of subsection (e)(1) to the same extent and in the same manner as section 303 of such Act applies to the amendments made by section 302 of such Act.

SEC. 302. EARNINGS AND PROFITS OF REGULATED INVESTMENT COMPANIES.

(a) **IN GENERAL.**—Paragraph (1) of section 852(c) is amended to read as follows:

“(1) **TREATMENT OF NONDEDUCTIBLE ITEMS.**—

“(A) **NET CAPITAL LOSS.**—If a regulated investment company has a net capital loss for any taxable year—

“(i) such net capital loss shall not be taken into account for purposes of determining the company’s earnings and profits, and

“(ii) any capital loss arising on the first day of the next taxable year by reason of clause (ii) or (iii) of section 1212(a)(3)(A) shall be treated as so arising for purposes of determining earnings and profits.

“(B) **OTHER NONDEDUCTIBLE ITEMS.**—

“(i) **IN GENERAL.**—The earnings and profits of a regulated investment company for any taxable year (but not its accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction (other than by reason of section 265 or 171(a)(2)) in computing its taxable income for such taxable year.

“(ii) **COORDINATION WITH TREATMENT OF NET CAPITAL LOSSES.**—Clause (i) shall not apply to a net capital loss to which subparagraph (A) applies.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Subsection (c) of section 852 is amended by adding at the end the following new paragraph:

“(4) **REGULATED INVESTMENT COMPANY.**—For purposes of this subsection, the term ‘regulated investment company’ includes a domestic corporation which is a regulated investment company determined without regard to the requirements of subsection (a).”.

(2) Paragraphs (1)(A) and (2)(A) of section 871(k) are each amended by inserting “which meets the requirements of section 852(a) for the taxable year with respect to which the dividend is paid” before the period at the end.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 303. PASS-THRU OF EXEMPT-INTEREST DIVIDENDS AND FOREIGN TAX CREDITS IN FUND OF FUNDS STRUCTURE.

(a) **IN GENERAL.**—Section 852 is amended by adding at the end the following new subsection:

“(g) **SPECIAL RULES FOR FUND OF FUNDS.**—

“(1) **IN GENERAL.**—In the case of a qualified fund of funds—

“(A) such fund shall be qualified to pay exempt-interest dividends to its shareholders without regard to whether such fund satisfies the requirements of the first sentence of subsection (b)(5), and

“(B) such fund may elect the application of section 853 (relating to foreign tax credit allowed to shareholders) without regard to the requirement of subsection (a)(1) thereof.

“(2) **QUALIFIED FUND OF FUNDS.**—For purposes of this subsection, the term ‘qualified fund of funds’ means a regulated investment company if (at the close of each quarter of the taxable year) at least 50 percent of the value of its total assets is represented by interests in other regulated investment companies.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 304. MODIFICATION OF RULES FOR SPILLOVER DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) **DEADLINE FOR DECLARATION OF DIVIDEND.**—Paragraph (1) of section 855(a) is amended to read as follows:

“(1) declares a dividend before the later of—

“(A) the 15th day of the 9th month following the close of the taxable year, or

“(B) in the case of an extension of time for filing the company’s return for the taxable year, the due date for filing such return taking into account such extension, and”.

(b) **DEADLINE FOR DISTRIBUTION OF DIVIDEND.**—Paragraph (2) of section 855(a) is amended by striking “the first regular dividend payment” and inserting “the first dividend payment of the same type of dividend”.

(c) **SHORT-TERM CAPITAL GAIN.**—Subsection (a) of section 855 is amended by adding at the end the following: “For purposes of paragraph (2), a dividend attributable to any short-term capital gain with respect to which a notice is required under the Investment Company Act of 1940 shall be treated as the same type of dividend as a capital gain dividend.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SEC. 305. RETURN OF CAPITAL DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES.

(a) **IN GENERAL.**—Subsection (b) of section 316 is amended by adding at the end the following new paragraph:

“(4) **CERTAIN DISTRIBUTIONS BY REGULATED INVESTMENT COMPANIES IN EXCESS OF EARNINGS AND PROFITS.**—In the case of a regulated investment company that has a taxable year other than a calendar year, if the distributions by the company with respect to any class of stock of such company for the taxable year exceed the company’s current and accumulated earnings and profits which may be used for the payment of dividends on such class of stock, the company’s current earnings and profits shall, for

purposes of subsection (a), be allocated first to distributions with respect to such class of stock made during the portion of the taxable year which precedes January 1.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to distributions made in taxable years beginning after the date of the enactment of this Act.

SEC. 306. DISTRIBUTIONS IN REDEMPTION OF STOCK OF A REGULATED INVESTMENT COMPANY.

(a) **REDEMPTIONS TREATED AS EXCHANGES.**—

(1) **IN GENERAL.**—Subsection (b) of section 302 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) **REDEMPTIONS BY CERTAIN REGULATED INVESTMENT COMPANIES.**—Except to the extent provided in regulations prescribed by the Secretary, subsection (a) shall apply to any distribution in redemption of stock of a publicly offered regulated investment company (within the meaning of section 67(c)(2)(B)) if—

“(A) such redemption is upon the demand of the stockholder, and

“(B) such company issues only stock which is redeemable upon the demand of the stockholder.”.

(2) **CONFORMING AMENDMENT.**—Subsection (a) of section 302 is amended by striking “or (4)” and inserting “(4), or (5)”.

(b) **LOSSES ON REDEMPTIONS NOT DISALLOWED FOR FUND-OF-FUNDS REGULATED INVESTMENT COMPANIES.**—Paragraph (3) of section 267(f) is amended by adding at the end the following new subparagraph:

“(D) **REDEMPTIONS BY FUND-OF-FUNDS REGULATED INVESTMENT COMPANIES.**—Except to the extent provided in regulations prescribed by the Secretary, subsection (a)(1) shall not apply to any distribution in redemption of stock of a regulated investment company if—

“(i) such company issues only stock which is redeemable upon the demand of the stockholder, and

“(ii) such redemption is upon the demand of another regulated investment company.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 307. REPEAL OF PREFERENTIAL DIVIDEND RULE FOR PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES.

(a) **IN GENERAL.**—Subsection (c) of section 562 is amended by striking “The amount” and inserting “Except in the case of a publicly offered regulated investment company (as defined in section 67(c)(2)(B)), the amount”.

(b) **CONFORMING AMENDMENT.**—Section 562(c) is amended by inserting “(other than a publicly offered regulated investment company (as so defined))” after “regulated investment company” in the second sentence thereof.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SEC. 308. ELECTIVE DEFERRAL OF CERTAIN LATE-YEAR LOSSES OF REGULATED INVESTMENT COMPANIES.

(a) **IN GENERAL.**—Paragraph (8) of section 852(b) is amended to read as follows:

“(8) **ELECTIVE DEFERRAL OF CERTAIN LATE-YEAR LOSSES.**—

“(A) **IN GENERAL.**—Except as otherwise provided by the Secretary, a regulated investment company may elect for any taxable year to treat any portion of any qualified late-year loss for such taxable year as arising on the first day of the following taxable year for purposes of this title.

“(B) **QUALIFIED LATE-YEAR LOSS.**—For purposes of this paragraph, the term ‘qualified late-year loss’ means—

“(i) any post-October capital loss, and

“(ii) any late-year ordinary loss.

“(C) POST-OCTOBER CAPITAL LOSS.—For purposes of this paragraph, the term ‘post-October capital loss’ means the greatest of—

“(i) the net capital loss attributable to the portion of the taxable year after October 31.

“(ii) the net long-term capital loss attributable to such portion of the taxable year, or

“(iii) the net short-term capital loss attributable to such portion of the taxable year.

“(D) LATE-YEAR ORDINARY LOSS.—For purposes of this paragraph, the term ‘late-year ordinary loss’ means the excess (if any) of—

“(i) the sum of—

“(I) the specified losses (as defined in section 4982(e)(5)(B)(ii)) attributable to the portion of the taxable year after October 31, plus

“(II) the ordinary losses not described in subclause (I) attributable to the portion of the taxable year after December 31, over

“(ii) the sum of—

“(I) the specified gains (as defined in section 4982(e)(5)(B)(i)) attributable to the portion of the taxable year after October 31, plus

“(II) the ordinary income not described in subclause (I) attributable to the portion of the taxable year after December 31.

“(E) SPECIAL RULE FOR COMPANIES DETERMINING REQUIRED CAPITAL GAIN DISTRIBUTIONS ON TAXABLE YEAR BASIS.—In the case of a company to which an election under section 4982(e)(4) applies—

“(i) if such company’s taxable year ends with the month of November, the amount of qualified late-year losses (if any) shall be computed without regard to any income, gain, or loss described in subparagraphs (C), (D)(i)(I), and (D)(ii)(I), and

“(ii) if such company’s taxable year ends with the month of December, subparagraph (A) shall not apply.”.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 852 is amended by striking paragraph (10).

(2) Paragraph (2) of section 852(c) is amended by striking the first sentence and inserting the following: “For purposes of applying this chapter to distributions made by a regulated investment company with respect to any calendar year, the earnings and profits of such company shall be determined without regard to any net capital loss attributable to the portion of the taxable year after October 31 and without regard to any late-year ordinary loss (as defined in subsection (b)(8)(D)).”.

(3) Subparagraph (D) of section 871(k)(2) is amended by striking the last two sentences and inserting the following: “For purposes of this subparagraph, the net short-term capital gain of the regulated investment company shall be computed by treating any short-term capital gain dividend includible in gross income with respect to stock of another regulated investment company as a short-term capital gain.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 309. EXCEPTION TO HOLDING PERIOD REQUIREMENT FOR CERTAIN REGULARLY DECLARED EXEMPT-INTEREST DIVIDENDS.

(a) IN GENERAL.—Subparagraph (E) of section 852(b)(4) is amended by striking all that precedes “In the case of a regulated investment company” and inserting the following:

“(E) EXCEPTION TO HOLDING PERIOD REQUIREMENT FOR CERTAIN REGULARLY DECLARED EXEMPT-INTEREST DIVIDENDS.—

“(i) DAILY DIVIDEND COMPANIES.—Except as otherwise provided by regulations, subparagraph (B) shall not apply with respect to a regular dividend paid by a regulated investment company which declares exempt-interest divi-

dends on a daily basis in an amount equal to at least 90 percent of its net tax-exempt interest and distributes such dividends on a monthly or more frequent basis.

“(ii) AUTHORITY TO SHORTEN REQUIRED HOLDING PERIOD WITH RESPECT TO OTHER COMPANIES.—”.

(b) CONFORMING AMENDMENT.—Clause (ii) of section 852(b)(4)(E), as amended by subsection (a), is amended by inserting “(other than a company described in clause (i))” after “regulated investment company”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses incurred on shares of stock for which the taxpayer’s holding period begins after the date of the enactment of this Act.

TITLE IV—MODIFICATIONS RELATED TO EXCISE TAX APPLICABLE TO REGULATED INVESTMENT COMPANIES

SEC. 401. EXCISE TAX EXEMPTION FOR CERTAIN REGULATED INVESTMENT COMPANIES OWNED BY TAX EXEMPT ENTITIES.

(a) IN GENERAL.—Subsection (f) of section 4982 is amended—

(1) by striking “either” in the matter preceding paragraph (1),

(2) by striking “or” at the end of paragraph (1),

(3) by striking the period at the end of paragraph (2), and

(4) by inserting after paragraph (2) the following new paragraphs:

“(3) any other tax-exempt entity whose ownership of beneficial interests in the company would not preclude the application of section 817(h)(4), or

“(4) another regulated investment company described in this subsection.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 402. DEFERRAL OF CERTAIN GAINS AND LOSSES OF REGULATED INVESTMENT COMPANIES FOR EXCISE TAX PURPOSES.

(a) IN GENERAL.—Subsection (e) of section 4982 is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

“(5) TREATMENT OF SPECIFIED GAINS AND LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.—

“(A) IN GENERAL.—Any specified gain or specified loss which (but for this paragraph) would be properly taken into account for the portion of the calendar year after October 31 shall be treated as arising on January 1 of the following calendar year.

“(B) SPECIFIED GAINS AND LOSSES.—For purposes of this paragraph—

“(i) SPECIFIED GAIN.—The term ‘specified gain’ means ordinary gain from the sale, exchange, or other disposition of property (including the termination of a position with respect to such property). Such term shall include any foreign currency gain attributable to a section 988 transaction (within the meaning of section 988) and any amount includible in gross income under section 1296(a)(1).

“(ii) SPECIFIED LOSS.—The term ‘specified loss’ means ordinary loss from the sale, exchange, or other disposition of property (including the termination of a position with respect to such property). Such term shall include any foreign currency loss attributable to a section 988 transaction (within the meaning of section 988) and any amount allowable as a deduction under section 1296(a)(2).

“(C) SPECIAL RULE FOR COMPANIES ELECTING TO USE THE TAXABLE YEAR.—In the case of any company making an election under paragraph (4), subparagraph (A) shall be applied by sub-

stituting the last day of the company’s taxable year for October 31.

“(6) TREATMENT OF MARK TO MARKET GAIN.—

“(A) IN GENERAL.—For purposes of determining a regulated investment company’s ordinary income, notwithstanding paragraph (1)(C), each specified mark to market provision shall be applied as if such company’s taxable year ended on October 31. In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company’s taxable year for October 31.

“(B) SPECIFIED MARK TO MARKET PROVISION.—For purposes of this paragraph, the term ‘specified mark to market provision’ means sections 1256 and 1296 and any other provision of this title (or regulations thereunder) which treats property as disposed of on the last day of the taxable year.

“(7) ELECTIVE DEFERRAL OF CERTAIN ORDINARY LOSSES.—Except as provided in regulations prescribed by the Secretary, in the case of a regulated investment company which has a taxable year other than the calendar year—

“(A) such company may elect to determine its ordinary income for the calendar year without regard to any net ordinary loss (determined without regard to specified gains and losses taken into account under paragraph (5)) which is attributable to the portion of such calendar year which is after the beginning of the taxable year which begins in such calendar year, and

“(B) any amount of net ordinary loss not taken into account for a calendar year by reason of subparagraph (A) shall be treated as arising on the 1st day of the following calendar year.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 403. DISTRIBUTED AMOUNT FOR EXCISE TAX PURPOSES DETERMINED ON BASIS OF TAXES PAID BY REGULATED INVESTMENT COMPANY.

(a) IN GENERAL.—Subsection (c) of section 4982 is amended by adding at the end the following new paragraph:

“(4) SPECIAL RULE FOR ESTIMATED TAX PAYMENTS.—

“(A) IN GENERAL.—In the case of a regulated investment company which elects the application of this paragraph for any calendar year—

“(i) the distributed amount with respect to such company for such calendar year shall be increased by the amount on which qualified estimated tax payments are made by such company during such calendar year, and

“(ii) the distributed amount with respect to such company for the following calendar year shall be reduced by the amount of such increase.

“(B) QUALIFIED ESTIMATED TAX PAYMENTS.—For purposes of this paragraph, the term ‘qualified estimated tax payments’ means, with respect to any calendar year, payments of estimated tax of a tax described in paragraph (1)(B) for any taxable year which begins (but does not end) in such calendar year.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 404. INCREASE IN REQUIRED DISTRIBUTION OF CAPITAL GAIN NET INCOME.

(a) IN GENERAL.—Subparagraph (B) of section 4982(b)(1) is amended by striking “98 percent” and inserting “99.2 percent”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

TITLE V—OTHER PROVISIONS**SEC. 501. REPEAL OF ASSESSABLE PENALTY WITH RESPECT TO LIABILITY FOR TAX OF REGULATED INVESTMENT COMPANIES.**

(a) *IN GENERAL.*—Part I of subchapter B of chapter 68 is amended by striking section 6697 (and by striking the item relating to such section in the table of sections of such part).

(b) *CONFORMING AMENDMENT.*—Section 860 is amended by striking subsection (j).

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 502. MODIFICATION OF SALES LOAD BASIS DEFERRAL RULE FOR REGULATED INVESTMENT COMPANIES.

(a) *IN GENERAL.*—Subparagraph (C) of section 852(f)(1) is amended by striking “subsequently acquires” and inserting “acquires, during the period beginning on the date of the disposition referred to in subparagraph (B) and ending on January 31 of the calendar year following the calendar year that includes the date of such disposition.”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to charges incurred in taxable years beginning after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. LEVIN) and the gentleman from Ohio (Mr. TIBERI) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. LEVIN. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and insert any extraneous material in the CONGRESSIONAL RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. LEVIN. I yield such time as he may consume to the gentleman from Massachusetts (Mr. NEAL), someone who has been working on this issue for—I don't know how long—a long time.

Mr. NEAL. I thank the chairman.

Madam Speaker, this legislation has already passed the House. It really was a bipartisan achievement this year, and much of the good work that went into this legislation has been years in coming.

More than 100 years ago, the first mutual fund was started in Boston, Massachusetts. Mutual funds have been a way for the “everyman” to invest in the market with benefits of pooling and diversification. Today, more than 50 million households invest through mutual funds with a median household income of \$80,000. More than 50 percent of 401(k) plan assets were invested in mutual funds at the end of 2009.

H.R. 4337 was introduced last year by Mr. RANGEL and me to modernize the tax laws regarding regulated investment companies, better known as mutual funds. The tax rules that relate to mutual funds date back more than 50

years, and although these rules have been updated from time to time, it has been over 20 years since the rules were last revisited.

The bill before us today would make several changes to the Tax Code to address outdated provisions, such as rules that relate to preferential dividends, rules that require mutual funds to send separate annual dividend designation notices to shareholders, and rules that prevent mutual funds from earning income from commodities.

In June, my subcommittee, the Select Revenue Measures Subcommittee, reviewed this legislation with a panel of experts who expressed support for the changes. Simply put, the subcommittee held a hearing, and there was broad support on the Democratic side and on the Republican side for the accomplishment that sits in front of us.

I am pleased to support this modified legislation, which is also revenue neutral. The Ways and Means Committee has a responsibility to review our tax rules from time to time and to remove the deadwood and update where necessary. This bill accomplishes that to the benefit of the investors, taxpayers, and mutual fund companies.

I urge its adoption. I thank the chairman for yielding to me, and I thank our friends on the other side for their endorsement of this legislation as well.

Mr. TIBERI. I yield myself such time as I may consume.

Madam Speaker, as was just said, regulated investment companies, better known as mutual funds to most Americans and to us, are intended to provide individual investors the ability to invest easily and with low cost in a diversified pool of professionally managed investments, and they have worked. In fact, according to the Investment Company Institute, the largest trade association for mutual funds, as Chairman NEAL said, more than 50 million American families currently invest in mutual funds.

Most of the current laws that mutual funds have to deal with have not been comprehensively updated for more than two decades. In fact, H.R. 4337 would modify and update certain technical tax rules pertaining to mutual funds. These changes will allow mutual funds to better conform to and interact with other aspects of the Tax Code and security laws.

As Chairman NEAL said, we had a wonderful hearing where every single person who testified agreed to the changes in the underlying piece of legislation. It was passed in this House unanimously after that hearing this last summer. Every witness was supportive, and no opposition came before us with respect to the legislation. It was passed in the Senate last week by unanimous consent, with one change.

My hope is today, Chairman LEVIN, Chairman NEAL, Madam Speaker, that

this House will once again vote for this underlying piece of legislation with the one change and send it on to the President. Let's make this change, and let's give American mutual fund investors some certainty into the future.

I yield back the balance of my time.

Mr. LEVIN. Madam Speaker, the bill before us right now makes important changes to the tax law rules that relate, as Mr. NEAL and Mr. TIBERI said, to regulated investment companies, more commonly known as mutual funds. They were described 80 years ago in testimony before the Ways and Means Committee as, “A group of small investors who have banded together for the purpose of obtaining diversity and supervision through the medium of pooling their investments.”

While mutual funds continue to serve this important role, the tax rules that govern mutual funds have not been updated in over 20 years. In June of this year, the Select Revenue Measures Subcommittee, chaired by Mr. NEAL, heard testimony from a variety of industry experts stressing the importance of modifying our Nation's tax laws to ensure that the technical tax rules pertaining to mutual funds would better interact with other tax rules.

The Ways and Means Committee and the Congress have an obligation to ensure that our tax rules keep up with the times, so the bill before us would update and simplify the rules that apply to mutual funds to ensure that small investors are not disadvantaged simply because they band their investments together through a mutual fund rather than investing directly.

The bill enjoys strong bipartisan support. It passed the House by voice vote earlier this year and just last week was amended to pass the Senate by unanimous consent.

I want to thank all of my colleagues on Ways and Means and all others who joined for their contributions to ensure that these important changes to the mutual fund rules can be swiftly signed into law by the President of the United States. Passage today will do just that. So I urge strong support for this measure.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. LEVIN) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4337.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

□ 1750

OMNIBUS TRADE ACT OF 2010

Mr. LEVIN. Madam Speaker, I move to suspend the rules and pass the bill

(H.R. 6517) to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes, as amended.

The Clerk read the title of the bill.
The text of the bill is as follows:

H.R. 6517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Omnibus Trade Act of 2010”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Extension of Trade Adjustment Assistance and certain trade preference programs.

(2) Division B—Tariff and related provisions.

(3) Division C—Offsets.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—EXTENSION OF TRADE ADJUSTMENT ASSISTANCE AND CERTAIN TRADE PREFERENCE PROGRAMS

TITLE I—TRADE ADJUSTMENT ASSISTANCE AND HEALTH COVERAGE IMPROVEMENT

Subtitle A—Extension of Trade Adjustment Assistance

Sec. 101. Extension of Trade Adjustment Assistance.
Sec. 102. Merit staffing for State administration of Trade Adjustment Assistance.

Subtitle B—Health Coverage Improvement

Sec. 111. Improvement of the affordability of the credit.
Sec. 112. Payment for the monthly premiums paid prior to commencement of the advance payments of credit.
Sec. 113. TAA recipients not enrolled in training programs eligible for credit.
Sec. 114. TAA pre-certification period rule for purposes of determining whether there is a 63-day lapse in creditable coverage.
Sec. 115. Continued qualification of family members after certain events.
Sec. 116. Extension of COBRA benefits for certain TAA-eligible individuals and PBGC recipients.
Sec. 117. Addition of coverage through voluntary employees' beneficiary associations.
Sec. 118. Notice requirements.

Subtitle C—Other Modifications to Trade Adjustment Assistance

Sec. 121. Community College and Career Training Grant Program.

TITLE II—GENERALIZED SYSTEM OF PREFERENCES AND ANDEAN TRADE PREFERENCES ACT

Sec. 201. Extension of Generalized System of Preferences.
Sec. 202. Extension of Andean Trade Preference Act.

DIVISION B—TARIFF AND RELATED PROVISIONS

Sec. 1001. Reference.

TITLE I—NEW AND EXISTING DUTY SUSPENSIONS AND REDUCTIONS

Subtitle A—New Duty Suspensions and Reductions

Sec. 1101. Certain plasma flat panel displays.
Sec. 1102. Golf club driver heads.
Sec. 1103. Electronic dimming ballasts.
Sec. 1104. Nickel carbonate.
Sec. 1105. Cobalt carbonate.
Sec. 1106. Tebuthiuron.
Sec. 1107. 2,4-Diamino-3-sulfoxyethylsulfonyl-phenylazo]-5-sulfoxyethylsulfonyl)-2-sulfophenylazo]-benzenesulfonic acid potassium sodium salt. [4-(2-phenylazo)-5-sulfoxyethylsulfonyl)-2-sulfophenylazo]
Sec. 1108. Acrylic or modacrylic synthetic staple fibers, not carded, combed, or otherwise processed for spinning, containing 85 percent or more by weight of acrylonitrile units.
Sec. 1109. Capacitor grade homopolymer polypropylene resin in primary form.
Sec. 1110. Compound T3028.
Sec. 1111. 4-Vinylbenzenesulfonic acid, sodium salt hydrate.
Sec. 1112. 4-Vinylbenzenesulfonic acid, lithium salt.
Sec. 1113. Certain cathode ray tubes.
Sec. 1114. Bromacil.
Sec. 1115. Dimethyl 2,3,5,6-tetrachloro-1,4-benzenedicarboxylate.
Sec. 1116. 1,1,2,2-Tetrafluoroethylene, oxidized, polymerized, reduced.
Sec. 1117. Diphosphoric acid, polymers with ethoxylated reduced methyl esters of reduced polymerized oxidized tetrafluoroethylene.
Sec. 1118. 1,2-Propanediol, 3-(diethylamino)-, polymers with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, propylene glycol and reduced methyl esters of reduced polymerized oxidized tetrafluoroethylene, 2-ethyl-1-hexanol-blocked, acetates (salts).
Sec. 1119. Spirotetramat.
Sec. 1120. Flubendiamide.
Sec. 1121. 1,3-Cyclohexanedione.
Sec. 1122. Thiencarbazone-methyl.
Sec. 1123. Tembotrione.
Sec. 1124. 2-(Methylthio)-4-(trifluoromethyl)benzoic acid.
Sec. 1125. Products containing 3-Mesityl-2-oxo-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutyrate.
Sec. 1126. Mixtures containing Pyrasulfotole: 5-Hydroxy-1,3-dimethylpyrazol-4-yl 2-mesyl-4-(trifluoromethyl)phenyl ketone; and Bromoxynil Octanoate: 2,4-Dibromo-6-cyanophenyl octanoate; and Bromoxynil Heptanoate: 2,4-Dibromo-6-cyanophenyl heptanoate.
Sec. 1127. Cyprosulfamide.
Sec. 1128. Mixtures of N-[2-(2-oxoimidazolidine-1-yl)ethyl]-2-methylacrylamide, methacrylic acid, aminoethyl ethylene urea and hydroquinone.
Sec. 1129. Quinaldine.
Sec. 1130. 4,4'-Butylidenebis[2-(1,1-dimethylethyl)-5-methylphenol].
Sec. 1131. 2,2'-Methylenabis[6-(1,1-dimethylethyl)-4-phenol].
Sec. 1132. Basic Red 51.
Sec. 1133. 2-Aminotoluene-5-sulfonic acid.

Sec. 1134. Solvent Violet 13.
Sec. 1135. Solvent Violet 11.
Sec. 1136. Disperse Blue 359.
Sec. 1137. Disperse Yellow 241.
Sec. 1138. Dimyristyl peroxydicarbonate.
Sec. 1139. Dicyetyl peroxydicarbonate.
Sec. 1140. Variable speed hubs (except 2- and 3-speed).
Sec. 1141. 1,4-Benzenedisulfonic acid, 2,2'-[(1-methyl-1,2-ethanediyl)bis[imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino(1-hydroxy-3-sulfo-6,2-naphthalenediyl)azo]]bis[5-methoxy-, sodium salt.
Sec. 1142. 2,7-Naphthalenedisulfonic acid, 5-[[4-chloro-6-[[2-[[4-chloro-6-[[7-[[4-(ethenylsulfonyl)phenyl]azo]-8-hydroxy-3,6-disulfo-1-naphthalenyl]amino]-1,3,5-triazin-2-yl]amino]ethyl](2-hydroxyethyl)amino]-1,3,5-triazin-2-yl]amino]-3-[[4-(ethenylsulfonyl)phenyl]azo]-4-hydroxy-, sodium salt.
Sec. 1143. S-Methoprene.
Sec. 1144. S-abscisic acid.
Sec. 1145. 1,2,4-Triazole.
Sec. 1146. Fluopicolide.
Sec. 1147. Fenhexamid.
Sec. 1148. Belt & Synapse.
Sec. 1149. Acetoacetamide.
Sec. 1150. Squaric acid.
Sec. 1151. Chlorodimethylacetacetamide.
Sec. 1152. Certain mixtures of N,N'-dimethylacetacetamide.
Sec. 1153. Lambda-cyhalothrin.
Sec. 1154. Mondur M Flaked.
Sec. 1155. Certain acrylic fiber tow.
Sec. 1156. Single light optical sensor, stainless steel casing, 0.5 meter-long, 2.2 millimeter diameter cable.
Sec. 1157. A5546 sulfonamide.
Sec. 1158. Hexanedioic acid, polymer with 1,2-ethanediol, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol and 1,3-isobenzofurandione, 2-propenoate.
Sec. 1159. Certain hot feed extruding machines certified by the importer as being used in the production of truck and automobile tires, such machines capable of extruding rubber materials measuring 870 mm or more but not over 1200 mm in width, and parts thereof.
Sec. 1160. 7-Hydroxy.
Sec. 1161. Dimethomorph.
Sec. 1162. Certain engines for snowmobiles.
Sec. 1163. Mixtures of polyvinyl alcohol and polyvinyl pyrrolidone.
Sec. 1164. Zinc diethylphosphinate.
Sec. 1165. VAT Orange 7.
Sec. 1166. 1-Nitroanthraquinone.
Sec. 1167. Leucoquinizarin.
Sec. 1168. 2,2'-(2-Methylpropylidene) bis(4,6-dimethylphenol).
Sec. 1169. 2,5-Bis(1,1-dimethylpropyl)-1,4-benzenediol.
Sec. 1170. 4,4'-Thiobis[2-(1,1-dimethylethyl)-5-methylphenol].
Sec. 1171. Benzenoacetic acid, α -amino-4-chloro.
Sec. 1172. 1-Amino-2,6-dimethylbenzene.
Sec. 1173. p-Aminobenzoic Acid.
Sec. 1174. 2-Amino-3-Cyanothiophene.
Sec. 1175. Nesoi hubs.
Sec. 1176. Polyethylene glycol branched-nonylphenyl ether phosphate.
Sec. 1177. Bismuth subsalicylate.
Sec. 1178. 5-Ethyl-2-methylpyridine.

- Sec. 1179. Polyphenolcyanate.
- Sec. 1180. Chemical that is used for dyeing apparel home textiles.
- Sec. 1181. Hexane, 1,6-dichloro-.
- Sec. 1182. Propanedioic acid, diethyl ester.
- Sec. 1183. Butane, 1-chloro.
- Sec. 1184. Mixtures containing methyl 2-[(4,6-dimethoxypyrimidin-2-ylcarbamoyl)sulfamoyl]- α -(methanesulfonamido)-*p*-toluate (Mesosulfuron-methyl) and methyl 4-iodo-2-[3-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)ureidosulfonyl]benzoate, sodium salt (Iodosulfuron methyl, sodium salt), whether or not mixed with application adjuvants.
- Sec. 1185. Mixtures containing [3-[(6-chloro-3-pyridinyl)methyl]-2-thiazolidinylidene]cyanamide.
- Sec. 1186. Mixtures containing (E)-1-[6-chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine (Imidacloprid).
- Sec. 1187. Mixtures containing methyl 4-[(4,5-dihydro-3-methoxy-4-methyl-5-oxo-1H-1,2,4-triazol-1-yl)carbonylsulfamoyl]-5-methylthiophene-3-carboxylate (Thiencarbazone-methyl).
- Sec. 1188. 2-Amino-5-chloro-N,3-dimethylbenzamide.
- Sec. 1189. [3-(4,5-Dihydro-isoxazol-3-yl)-4-methylsulfonyl-2-methylphenyl](5-hydroxy-1-methyl-1H-pyrazol-4-yl)methanone (Topramezone).
- Sec. 1190. Products containing (E)-1-(2-chloro-1,3-thiazol-5-ylmethyl)-3-methyl-2-nitroguanidine (Clothianidin).
- Sec. 1191. Tetrakis(hydroxymethyl)phosphonium sulfate (THPS).
- Sec. 1192. 1,1'-(1-Methylethylidene)bis(3,5-dibromo-4-(2,3-dibromopropoxy)benzene (Tetrabromobisphenol A bis(2,3-dibromopropyl ether)).
- Sec. 1193. Bells designed for use on bicycles.
- Sec. 1194. Acid blue 171 (Cobaltate(2-), [6-(amino- κ N)-5-[2-(hydroxy- κ O)-4-nitrophenyl]azo- κ N1]-N-methyl-2-naphthalenesulfonamidato(2-)] [6-(amino- κ N)-5-[2-(hydroxy- κ O)-4-nitrophenyl]azo- κ N1]-2-naphthalenesulfonato(3-)]-, disodium).
- Sec. 1195. Tetrapotassium hexa(cyano-C)cobaltate(4-).
- Sec. 1196. Triallyl cyanurate.
- Sec. 1197. Certain Christmas-tree filament lamps.
- Sec. 1198. Certain Christmas-tree filament lamps designed for a voltage not exceeding 100 V.
- Sec. 1199. Mixtures containing (5-cyclopropyl-1,2-oxazol-4-yl)(α,α,α -trifluoro-2-mesyl-*p*-tolyl)methanone (Isoxaflutole).
- Sec. 1200. N,N-Dimethylacetoacetamide.
- Sec. 1201. Certain mixtures of N,N-dimethylacetoacetamide.
- Sec. 1202. Chemical used in the production of textiles.
- Sec. 1203. Chemical that is used for dyeing certain home textiles.
- Sec. 1204. Reactive Red 228.
- Sec. 1205. Paraquat Technical + Emetic.
- Sec. 1206. Tembotrione.
- Sec. 1207. Certain products.
- Sec. 1208. Ferroniobium.
- Sec. 1209. Effective date.
- Subtitle B—Extension of Existing Duty Suspension
- Sec. 1301. Extension of certain existing duty suspension.
- Sec. 1302. Effective date.
- TITLE II—ADDITIONAL TARIFF PROVISIONS
- Subtitle A—Additional New Duty Suspensions and Reductions
- Sec. 2101. Fenarimol technical.
- Sec. 2102. Phosmet technical.
- Sec. 2103. Chime melody rod assemblies.
- Sec. 2104. Urea, polymer with formaldehyde and 2-methylpropanal.
- Sec. 2105. Certain clock movements.
- Sec. 2106. Certain glass snow globes.
- Sec. 2107. Certain acrylic snow globes.
- Sec. 2108. Terbacil.
- Sec. 2109. Certain ski equipment.
- Sec. 2110. Prosulfuron.
- Sec. 2111. Manganese flake containing at least 99.5 percent by weight of manganese.
- Sec. 2112. N-Benzyl-N-ethylaniline.
- Sec. 2113. Dodecyl aniline.
- Sec. 2114. Mixtures of Chlorsulfuron and Metsulfuron-methyl and inert ingredients.
- Sec. 2115. Paraquat dichloride.
- Sec. 2116. *p*-Toluidine.
- Sec. 2117. *p*-Nitrotoluene.
- Sec. 2118. Acrylic resin solution.
- Sec. 2119. Benzenamine, 4 dodecyl.
- Sec. 2120. Propylene glycol alginates.
- Sec. 2121. Certain alginates.
- Sec. 2122. Sodium alginate.
- Sec. 2123. Certain fiberglass sheets used to make ceiling tiles.
- Sec. 2124. Certain fiberglass sheets used to make flooring substrate.
- Sec. 2125. Certain bamboo vases.
- Sec. 2126. Certain plastic children's wallets.
- Sec. 2127. Certain coupon holders.
- Sec. 2128. Certain inflatable swimming pools.
- Sec. 2129. Chlorantraniliprole.
- Sec. 2130. 2-butyne-1,4-diol, polymer with (chloromethyl)oxirane, brominated, dehydrochlorinated, methoxylated and triethyl phosphate.
- Sec. 2131. Daminozide.
- Sec. 2132. Dimethyl hydrogen phosphite.
- Sec. 2133. Phosphonic acid, maleic anhydride sodium salt complex.
- Sec. 2134. Coflake.
- Sec. 2135. 3-Amino-1,2-propanediol.
- Sec. 2136. Ultraviolet lamps filled with deuterium gas.
- Sec. 2137. Pyraflufen-ethyl.
- Sec. 2138. Mixture of 2-[4-[(2-hydroxy-3-dodecyloxypropyl)oxy]-2-hydroxyphenyl]-4,6-bis(2,4-dimethylphenyl)-1,3,5-triazine and 2-[4-[(2-hydroxy-3-tridecyloxypropyl)oxy]-2-hydroxyphenyl]-4,6-bis(2,4-dimethylphenyl)-1,3,5-triazine in propylene glycol monomethyl ether.
- Sec. 2139. Buprofezin.
- Sec. 2140. Fenpyroximate.
- Sec. 2141. Chloroantraniliprole.
- Sec. 2142. Acai, pulp, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit.
- Sec. 2143. Certain radiobroadcast band receivers.
- Sec. 2144. Certain switchgear and panel boards specifically designed for wind turbine generators.
- Sec. 2145. Certain power factor capacitor panels specifically designed for wind turbine generators.
- Sec. 2146. Certain isotopic separation cascades.
- Sec. 2147. Certain sensors.
- Sec. 2148. Certain drive motor battery transducers.
- Sec. 2149. Certain electric motor controllers.
- Sec. 2150. Certain chargers.
- Sec. 2151. Certain lithium-ion battery cells.
- Sec. 2152. Mixtures of Imidacloprid with Cyfluthrin or its β -cyfluthrin isomer, including application adjuvants.
- Sec. 2153. Fluopyram.
- Sec. 2154. Indaziflam.
- Sec. 2155. Nitroguanidine.
- Sec. 2156. Guanidine nitrate.
- Sec. 2157. Certain hydrogenated polymers of norbornene derivatives.
- Sec. 2158. Certain plug-in electrothermic appliances.
- Sec. 2159. Continuous action, self-contained, refillable, fan-motor driven, battery-operated, portable personal device for mosquito repellents.
- Sec. 2160. 4-Chloro-1,8-naphthalic anhydride.
- Sec. 2161. Neopentyl glycol (mono) hydroxypivalate.
- Sec. 2162. *o*-Toluidine.
- Sec. 2163. Blocked polyisocyanate hardener; 2-butanone, oxime, polymer with 1,6-diisocyanatohehexane and 2-ethyl-2-(hydroxymethyl)-1,3-propanediol.
- Sec. 2164. Mixtures of barium sulfate and magnesium metal.
- Sec. 2165. Poly(melamine-co-formaldehyde) methylated butylated.
- Sec. 2166. Poly(melamine-co-formaldehyde) methylated isobutylated.
- Sec. 2167. Ion exchange resin, tertiary amine crosslinked polystyrene.
- Sec. 2168. Ion exchange resin, polystyrene crosslinked with divinylbenzene, quaternary ammonium chloride.
- Sec. 2169. Ion exchange resin, polystyrene crosslinked with divinylbenzene, chloromethylated, trimethylammonium salt.
- Sec. 2170. Ion exchange resin consisting of styrene-divinylbenzene-vinylethylbenzene copolymer, sulfonated, sodium salts.
- Sec. 2171. Triethylenediamine.
- Sec. 2172. Poly(oxy-1,2-ethanediyl), α -(2-ethylhexyl- ω -hydroxy-, phosphate).
- Sec. 2173. Macroporous adsorbent polymer composed of crosslinked phenol-formaldehyde polycondensate resin in granular form having a mean particle size of 0.56 to 0.76 mm.
- Sec. 2174. Poly(4-(1-isobutoxyethoxy)styrene-co-4-hydroxystyrene) dissolved in 1-methoxy-2-propanol acetate.
- Sec. 2175. Poly(4-(1-ethoxyethoxy)styrene)/(4-(*t*-butoxycarbonyloxy)styrene)/(4-hydroxystyrene)].
- Sec. 2176. 6-Diazo-5,6-dihydro-5-oxo-naphthalene-1-sulfonic acid ester with 2-[Bis(4-hydroxy-2,3,5-trimethylphenyl)methyl]phenol.
- Sec. 2177. Benzoyl chloride.
- Sec. 2178. Chlorobenzene.
- Sec. 2179. *p*-Dichlorobenzene.
- Sec. 2180. Certain steam hair straighteners.

- Sec. 2181. Certain ice cream makers.
- Sec. 2182. Certain food choppers.
- Sec. 2183. Certain programmable dual function coffee makers.
- Sec. 2184. Certain electric coffee makers with built-in bean storage hoppers.
- Sec. 2185. Sardines, sardinella and bristling or sprats, in oil, in airtight containers, neither skinned nor boned.
- Sec. 2186. Certain image projectors designed to soothe or entertain infants.
- Sec. 2187. 2-Oxepanone polymer, 1,3-isobenzofuranedione terminated.
- Sec. 2188. 2-Oxepanone, polymer with 1,6-hexanediol.
- Sec. 2189. ϵ -Caprolactone polymer with poly(1,4-butylene glycol).
- Sec. 2190. Poly(caprolactone) diol.
- Sec. 2191. Caprolactone homopolymer.
- Sec. 2192. 2,4,6-Tris [(dimethylamino)methyl]phenol.
- Sec. 2193. Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-homopolymer, ester with α -hydro- ω -hydroxypoly(oxy-1,2-ethanediyl) ether with 2,2-bis(hydroxymethyl)-1,3-propanediol (4:4:1), 2,2-bis[(2-propenyloxy)methyl]butyl succinates C3-24 carboxylates.
- Sec. 2194. 2-Oxepanone, polymer with 2,2-bis(hydroxymethyl)-1,3-propanediol.
- Sec. 2195. 2-Oxepanone, polymer with 1,4-butanediol.
- Sec. 2196. Dianil.
- Sec. 2197. s-Metolachlor.
- Sec. 2198. Frames and mountings for spectacles, goggles, or the like, the foregoing of plastics.
- Sec. 2199. 1,3-Propanediaminium, N-[3-[[[dimethyl 3-[(2-methyl-1-oxo-2-propenyl)amino] propyl] ammonio] acetyl] amino] propyl]-2-hydroxy-N,N,N',N'-pentamethyl-, trichloride, polymer with 2-propenamide.
- Sec. 2200. 2-Cyclohexylidene-2-phenylacetone nitrile.
- Sec. 2201. Poly(dicyclopentadiene-co-p-cresol).
- Sec. 2202. 2-Oxepanone, polymer with aziridine and tetrahydro-2H-pyran-2-one, dodecanoate ester dispersant in n-butyl acetate.
- Sec. 2203. Amine neutralized phosphated polyester polymer dispersant in aromatic naphtha solvent.
- Sec. 2204. Certain plastic laminate sheets.
- Sec. 2205. Parts of frames and mountings for spectacles, goggles, or the like.
- Sec. 2206. Certain window shade material of paper strips.
- Sec. 2207. Certain window shade material of bamboo.
- Sec. 2208. Certain windsock-type decoys.
- Sec. 2209. Certain windsocks with silhouette heads.
- Sec. 2210. Certain implements for cleaning hunted fowl.
- Sec. 2211. Alkanes C10-C14.
- Sec. 2212. 2-hydroxyethyl-n-octyl sulfide.
- Sec. 2213. Certain photomask blanks.
- Sec. 2214. Certain earphones.
- Sec. 2215. Certain hot feed extruding machines for building truck and automobile tires.
- Sec. 2216. Mixtures of tetrakis(hydroxymethyl)phosphonium chloride - urea polymer and tetrakis(hydroxymethyl)phosphonium chloride, and formaldehyde.
- Sec. 2217. *p*-Fluorobenzaldehyde.
- Sec. 2218. Bicyclo[2.2.1]-hept-5-ene-2,3-dicarboxylic anhydride.
- Sec. 2219. *o*-Dichlorobenzene.
- Sec. 2220. 2,2'-Dithioibisbenzothiazole.
- Sec. 2221. Audio interface units for sound mixing, recording, and editing.
- Sec. 2222. Certain electric cooktops.
- Sec. 2223. Chromate(4-), [7-amino-3-[(3-chloro-2-hydroxy-5-nitrophenyl)azo]-4-hydroxy-2-naphthalenesulfonato(3-)] [6-amino-4-hydroxy-3-[(2-hydroxy-5-nitro-3-sulphophenyl)azo]-2-naphthalenesulfonato(4-)]-, tetrasodium.
- Sec. 2224. Pigment Orange 62.
- Sec. 2225. Mixtures of Flusilazole with xylene and inert application adjuvants.
- Sec. 2226. Fluthiacet-methyl.
- Sec. 2227. Formulations containing Fluthiacet-methyl.
- Sec. 2228. Certain electrodes pastes.
- Sec. 2229. Ethyl [4-chloro-2-fluoro-5-[[[methyl(1-methylethyl)amino] sulfonyl]amino]carbonyl]phenyl] carbamate.
- Sec. 2230. Ethyl 3-amino-4,4,4-trifluorocrotonate.
- Sec. 2231. Diethyl oxalate.
- Sec. 2232. Potassium decafluoro(pentafluoroethyl)cyclohexanesulfonate.
- Sec. 2233. Certain dynamic microphones.
- Sec. 2234. 2-Propenoic acid, reaction products with *o*-cresol-epichlorohydrin-formaldehyde polymer and 3a,4,7,7a-tetrahydro-1,3-isobenzofuranedione.
- Sec. 2235. Formaldehyde, polymer with methylphenol, 2-hydroxy-3-[(1-oxo-2-propenyl)oxy]propyl ether and formaldehyde, polymer with (chloromethyl)oxirane and methylphenol, 4-cyclohexene-1,2-dicarboxylate 2-propenoate.
- Sec. 2236. Variable-focal-length (zoom) lenses for digital cameras.
- Sec. 2237. Certain umbrellas having an arc greater than 152 cm but not more than 165 cm.
- Sec. 2238. 4-Methylbenzenesulfonamide.
- Sec. 2239. Mixture of calcium hydroxide, magnesium hydroxide, aluminum silicate, and stearic acid.
- Sec. 2240. Certain electrical connectors.
- Sec. 2241. Certain tamper resistant ground fault circuit interrupter receptacles.
- Sec. 2242. Certain high pressure fuel pumps.
- Sec. 2243. Certain hybrid electric vehicle inverters.
- Sec. 2244. Certain direct injection fuel injectors.
- Sec. 2245. Certain power electronics boxes and static converter composite units.
- Sec. 2246. Certain engines to be installed in work trucks.
- Sec. 2247. Certain window shade material in rolls.
- Sec. 2248. 4,4'-Methylenebis(2-chloroaniline).
- Sec. 2249. Methyl chloroacetate.
- Sec. 2250. Certain laminated film.
- Sec. 2251. Methyl acrylate.
- Sec. 2252. Hexanedioic acid, polymer with *N*-(2-aminoethyl)-1,3-propanediamine, aziridine, (chloromethyl)oxirane, 1,2-ethanediamine, *N,N*-1,2-ethanediylbis(1,3-propanediamine), formic acid and α -hydro- ω -hydroxypoly(oxy-1,2-ethanediyl).
- Sec. 2253. *N*-Vinylformamide.
- Sec. 2254. Low molecular weight ethylenimine copolymers, 1,2-ethanediamine, polymer with aziridine, whether in aqueous solution or water free grades.
- Sec. 2255. Antarctic krill oil.
- Sec. 2256. Mixture of 1-(1,2,3,4,5,6,7,8-octahydro-2,3,8,8-tetramethyl-2-naphthalenyl)-ethan-1-one (and isomers).
- Sec. 2257. Effective date.
- Subtitle B—Additional Existing Duty Suspensions and Reductions
- Sec. 2301. Extension of certain existing duty suspensions and reductions and other modifications.
- Sec. 2302. Effective date.
- TITLE III—MODIFICATION OF WOOL APPAREL MANUFACTURERS TRUST FUND
- Sec. 3001. Modification of Wool Apparel Manufacturers Trust Fund.
- TITLE IV—LIQUIDATION OR RELIQUIDATION OF CERTAIN LINE ITEMS
- Sec. 4001. Reliquidation of certain orange juice entries.
- Sec. 4002. Reliquidation of certain entries of industrial nitrocellulose from the United Kingdom.
- Sec. 4003. Prohibition on collection of certain payments made under the Continued Dumping and Subsidy Offset Act of 2000.
- TITLE V—TECHNICAL CORRECTIONS
- Sec. 5001. Technical corrections.
- Sec. 5002. Additional technical correction.
- DIVISION C—OFFSETS
- TITLE I—OFFSETS
- Sec. 10001. Customs user fees.
- Sec. 10002. Time for payment of corporate estimated taxes.
- Sec. 10003. Compliance with PAYGO.
- DIVISION A—EXTENSION OF TRADE ADJUSTMENT ASSISTANCE AND CERTAIN TRADE PREFERENCE PROGRAMS
- TITLE I—TRADE ADJUSTMENT ASSISTANCE AND HEALTH COVERAGE IMPROVEMENT
- Subtitle A—Extension of Trade Adjustment Assistance
- SEC. 101. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE.
- (a) IN GENERAL.—Section 1893(a) of the Trade and Globalization Adjustment Assistance Act of 2009 (Public Law 111-5; 123 Stat. 422) is amended by striking “January 1, 2011” each place it appears and inserting “July 1, 2012”.
- (b) APPLICATION OF PRIOR LAW.—Section 1893(b) of the Trade and Globalization Adjustment Assistance Act of 2009 (Public Law 111-5; 123 Stat. 422 (19 U.S.C. 2271 note prec.)) is amended to read as follows:
- “(b) APPLICATION OF PRIOR LAW.—Chapters 2, 3, 4, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) shall be applied and administered beginning July 1, 2012, as if the amendments made by this subtitle (other than part VI) had never been enacted, except that in applying and administering such chapters—

“(1) section 245 of that Act shall be applied and administered by substituting ‘June 30, 2013’ for ‘December 31, 2007’;

“(2) section 246(b)(1) of that Act shall be applied and administered by substituting ‘June 30, 2013’ for ‘the date that is 5 years’ and all that follows through ‘State’;

“(3) section 256(b) of that Act shall be applied and administered by substituting ‘the 1-year period beginning July 1, 2012, and ending June 30, 2013,’ for ‘each of fiscal years 2003 through 2007, and \$4,000,000 for the 3-month period beginning on October 1, 2007,’;

“(4) section 298(a) of that Act shall be applied and administered by substituting ‘the 1-year period beginning July 1, 2012, and ending June 30, 2013,’ for ‘each of the fiscal years’ and all that follows through ‘October 1, 2007’; and

“(5) subject to subsection (a)(2), section 285 of that Act shall be applied and administered—

“(A) in subsection (a), by substituting ‘June 30, 2013’ for ‘December 31, 2007’ each place it appears; and

“(B) by applying and administering subsection (b) as if it read as follows:

“(b) OTHER ASSISTANCE.—

“(1) ASSISTANCE FOR FIRMS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), assistance may not be provided under chapter 3 after June 30, 2013.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), any assistance approved under chapter 3 on or before June 30, 2013, may be provided—

“(i) to the extent funds are available pursuant to such chapter for such purpose; and

“(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.

“(2) FARMERS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), assistance may not be provided under chapter 6 after June 30, 2013.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), any assistance approved under chapter 6 on or before June 30, 2013, may be provided—

“(i) to the extent funds are available pursuant to such chapter for such purpose; and

“(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.”

(c) CONFORMING AMENDMENTS.—

(1) Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended to read as follows:

“(2)(A) The total amount of payments that may be made under paragraph (1) shall not exceed—

“(i) \$575,000,000 for fiscal year 2011; and

“(ii) \$431,250,000 for the 9-month period beginning October 1, 2011, and ending June 30, 2012.”

(2) Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking “December 31, 2010” and inserting “June 30, 2012”.

(3) Section 246(b)(1) of the Trade Act of 1974 (19 U.S.C. 2318(b)(1)) is amended by striking “December 31, 2010” and inserting “June 30, 2012”.

(4) Section 255(a) of the Trade Act of 1974 (19 U.S.C. 2345(a)) is amended—

(A) in the first sentence to read as follows: “There are authorized to be appropriated to the Secretary to carry out the provisions of this chapter \$50,000,000 for fiscal year 2011 and \$37,500,000 for the 9-month period beginning October 1, 2011, and ending June 30, 2012.”; and

(B) in paragraph (1), by striking “December 31, 2010” and inserting “June 30, 2012”.

(5) Section 275(f) of the Trade Act of 1974 (19 U.S.C. 2371d(f)) is amended by striking “2011” and inserting “2013”.

(6) Section 276(c)(2) of the Trade Act of 1974 (19 U.S.C. 2371e(c)(2)) is amended to read as follows:

“(2) FUNDS TO BE USED.—Of the funds appropriated pursuant to section 277(c), the Secretary may make available, to provide grants to eligible communities under paragraph (1), not more than—

“(A) \$25,000,000 for fiscal year 2011; and

“(B) \$18,750,000 for the 9-month period beginning October 1, 2011, and ending June 30, 2012.”

(7) Section 277(c) of the Trade Act of 1974 (19 U.S.C. 2371f(c)) is amended—

(A) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this subchapter—

“(A) \$150,000,000 for fiscal year 2011; and

“(B) \$112,500,000 for the 9-month period beginning October 1, 2011 and ending June 30, 2012.”; and

(B) in paragraph (2)(A), by striking “December 31, 2010” and inserting “June 30, 2012”.

(8) Section 278(e) of the Trade Act of 1974 (19 U.S.C. 2372(e)) is amended by striking “2011” and inserting “2013”.

(9) Section 279A(h)(2) of the Trade Act of 1974 (19 U.S.C. 2373(h)(2)) is amended by striking “2011” and inserting “2013”.

(10) Section 279B(a) of the Trade Act of 1974 (19 U.S.C. 2373a(a)) is amended to read as follows:

“(a) IN GENERAL.—

“(1) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Labor to carry out the Sector Partnership Grant program under section 279A—

“(A) \$40,000,000 for fiscal year 2011; and

“(B) \$30,000,000 for the 9-month period beginning October 1, 2011, and ending June 30, 2012.

“(2) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated pursuant to this section shall remain available until expended.”

(11) Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended—

(A) by striking “December 31, 2010” each place it appears and inserting “June 30, 2012”; and

(B) in subsection (a)(2)(A), by inserting “pursuant to petitions filed under section 221 before July 1, 2012” after “title”.

(12) Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by striking “\$90,000,000 for each of the fiscal years 2009 and 2010, and \$22,500,000 for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$67,500,000 for the 9-month period beginning January 1, 2011, and ending September 30, 2011, and \$67,500,000 for the 9-month period beginning October 1, 2011, and ending June 30, 2012”.

(13) The table of contents for the Trade Act of 1974 is amended by striking the item relating to section 235 and inserting the following:

“Sec. 235. Employment and case management services.”

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

SEC. 102. MERIT STAFFING FOR STATE ADMINISTRATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Notwithstanding section 618.890(b) of title 20, Code of Federal Regulations, or any other provision of law, the single transition deadline for implementing the

merit-based State personnel staffing requirements contained in section 618.890(a) of title 20, Code of Federal Regulations, shall not be earlier than June 30, 2012.

(b) EFFECTIVE DATE.—This section shall take effect on December 14, 2010.

Subtitle B—Health Coverage Improvement SEC. 111. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “July 1, 2012”.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code is amended by striking “January 1, 2011” and inserting “July 1, 2012”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 112. PAYMENT FOR THE MONTHLY PREMIUMS PAID PRIOR TO COMMENCEMENT OF THE ADVANCE PAYMENTS OF CREDIT.

(a) IN GENERAL.—Section 7527(e) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “July 1, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 113. TAA RECIPIENTS NOT ENROLLED IN TRAINING PROGRAMS ELIGIBLE FOR CREDIT.

(a) IN GENERAL.—Section 35(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “July 1, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 114. TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) IRC AMENDMENT.—Section 9801(c)(2)(D) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “July 1, 2012”.

(b) ERISA AMENDMENT.—Section 701(c)(2)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)(C)) is amended by striking “January 1, 2011” and inserting “July 1, 2012”.

(c) PHSA AMENDMENT.—Section 2701(c)(2)(C) of the Public Health Service Act (as in effect for plan years beginning before January 1, 2014) is amended by striking “January 1, 2011” and inserting “July 1, 2012”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2010.

SEC. 115. CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.

(a) IN GENERAL.—Section 35(g)(9) of the Internal Revenue Code of 1986, as added by section 1899E(a) of the American Recovery and Reinvestment Tax Act of 2009 (relating to continued qualification of family members after certain events), is amended by striking “January 1, 2011” and inserting “July 1, 2012”.

(b) CONFORMING AMENDMENT.—Section 173(f)(8) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(8)) is amended by striking “January 1, 2011” and inserting “July 1, 2012”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 2010.

SEC. 116. EXTENSION OF COBRA BENEFITS FOR CERTAIN TAA-ELIGIBLE INDIVIDUALS AND PBGC RECIPIENTS.

(a) ERISA AMENDMENTS.—

(1) PBGC RECIPIENTS.—Section 602(2)(A)(v) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)(v)) is amended by striking “December 31, 2010” and inserting “June 30, 2012”.

(2) TAA-ELIGIBLE INDIVIDUALS.—Section 602(2)(A)(vi) of such Act (29 U.S.C. 1162(2)(A)(vi)) is amended by striking “December 31, 2010” and inserting “June 30, 2012”.

(b) IRC AMENDMENTS.—

(1) PBGC RECIPIENTS.—Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986 is amended by striking “December 31, 2010” and inserting “June 30, 2012”.

(2) TAA-ELIGIBLE INDIVIDUALS.—Section 4980B(f)(2)(B)(i)(VI) of such Code is amended by striking “December 31, 2010” and inserting “June 30, 2012”.

(c) PHSA AMENDMENTS.—Section 2202(2)(A)(iv) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(A)(iv)) is amended by striking “December 31, 2010” and inserting “June 30, 2012”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods of coverage which would (without regard to the amendments made by this section) end on or after December 31, 2010.

SEC. 117. ADDITION OF COVERAGE THROUGH VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS.

(a) IN GENERAL.—Section 35(e)(1)(K) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “July 1, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 118. NOTICE REQUIREMENTS.

(a) IN GENERAL.—Section 7527(d)(2) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “July 1, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to certificates issued after December 31, 2010.

Subtitle C—Other Modifications to Trade Adjustment Assistance

SEC. 121. COMMUNITY COLLEGE AND CAREER TRAINING GRANT PROGRAM.

(a) IN GENERAL.—Section 278(a) of the Trade Act of 1974 (19 U.S.C. 2372(a)) is amended by adding at the end the following:

“(3) RULE OF CONSTRUCTION.—For purposes of this section, any reference to ‘workers’, ‘workers eligible for training under section 236’, or any other reference to workers under this section shall be deemed to include individuals who are, or are likely to become, eligible for unemployment compensation as defined in section 85(b) of the Internal Revenue Code of 1986, or who remain unemployed after exhausting all rights to such compensation.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 279 of the Trade Act of 1974 (19 U.S.C. 2372a) is amended—

(1) in subsection (a), by striking the last sentence; and

(2) by adding at the end the following:

“(c) ADMINISTRATIVE AND RELATED COSTS.—The Secretary may retain not more than 5 percent of the funds appropriated under subsection (b) for each fiscal year to administer, evaluate, and establish reporting systems for the Community College and Career Training Grant program under section 278.

“(d) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under subsection (b) shall be used to supplement and not supplant other Federal, State, and local public funds expended to support community college and career training programs.

“(e) AVAILABILITY.—Funds appropriated under subsection (b) shall remain available for the fiscal year for which the funds are appropriated and the subsequent fiscal year.”.

TITLE II—GENERALIZED SYSTEM OF PREFERENCES AND ANDEAN TRADE PREFERENCES ACT

SEC. 201. EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES.

Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking “December 31, 2010” and inserting “June 30, 2012”.

SEC. 202. EXTENSION OF ANDEAN TRADE PREFERENCE ACT.

(a) EXTENSION.—Section 208(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3206(a)(1)) is amended to read as follows:

“(1) remain in effect—

“(A) with respect to Colombia after June 30, 2012; and

“(B) with respect to Peru after December 31, 2010;”.

(b) ECUADOR.—Section 208(a)(2) of the Andean Trade Preference Act (19 U.S.C.

3206(a)(2)) is amended by striking “December 31, 2010” and inserting “June 30, 2012”.

(c) TREATMENT OF CERTAIN APPAREL ARTICLES.—Section 204(b)(3) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)) is amended—

(1) in subparagraph (B)—

(A) in clause (iii)—

(i) in subclause (II), by striking “8 succeeding 1-year periods” and inserting “9 succeeding 1-year periods”; and

(ii) in subclause (III)(bb), by striking “and for the succeeding 3-year period” and inserting “and for the succeeding 4-year period”; and

(B) in clause (v)(II), by striking “7 succeeding 1-year periods” and inserting “8 succeeding 1-year periods”; and

(2) in subparagraph (E)(ii)(II), by striking “December 31, 2010” and inserting “June 30, 2012”.

(d) ANNUAL REPORT.—Section 203(f)(1) of the Andean Trade Preference Act (19 U.S.C. 3202(f)(1)) is amended by striking “every 2 years” and inserting “annually”.

DIVISION B—TARIFF AND RELATED PROVISIONS

SEC. 1001. REFERENCE.

Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

TITLE I—NEW AND EXISTING DUTY SUSPENSIONS AND REDUCTIONS

Subtitle A—New Duty Suspensions and Reductions

SEC. 1101. CERTAIN PLASMA FLAT PANEL DISPLAYS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.01	Plasma flat panel displays (provided for in subheading 8529.90.53)	0.2%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1102. GOLF CLUB DRIVER HEADS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.02	Golf club driver heads (provided for in subheading 9506.39.00)	4.6%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1103. ELECTRONIC DIMMING BALLASTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.03	Electronic dimming ballasts, each having a three-wire control scheme (provided for in subheading 8504.10.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1104. NICKEL CARBONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.04	Nickel carbonate (CAS No. 3333–67–3 or 12244–51–8) (provided for in subheading 2836.99.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1105. COBALT CARBONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.05	Cobalt carbonate (CAS No. 513–79–1 or 7542–09–8) (provided for in subheading 2836.99.10) ...	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1106. TEBUTHIURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.06	1-(5-tert-Butyl-1,3,4-thiadiazol-2-yl)-1,3-dimethylurea (Tebuthiuron) (CAS No. 34014-18-1) (provided for in subheading 2934.99.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1107. 2,4-DIAMINO-3- [4-(2-SULFOXYETHYLSULFONYL)- PHENYLAZO]-5- [4-(2-SULFOXYETHYLSULFONYL) -2-SULFOPHENYLAZO] -BENZENESULFONIC ACID POTASSIUM SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.07	2,4-Diamino-3- [4-(2-sulfoxyethyl sulfonyl)- phenylazo]-5- [4-(2-sulfoxyethyl sulfonyl) -2-sulfophenylazo]-benzenesulfonic acid potassium sodium salt (CAS No. 187026-95-5) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1108. ACRYLIC OR MODACRYLIC SYNTHETIC STAPLE FIBERS, NOT CARDED, COMBED, OR OTHERWISE PROCESSED FOR SPINNING, CONTAINING 85 PERCENT OR MORE BY WEIGHT OF ACRYLONITRILE UNITS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.08	Acrylic staple fibers (polyacrylonitrile staple) containing 85 percent or more by weight of acrylonitrile units and 2 percent or more but not over 3 percent of water, colored, crimped, with an average decitex of 3.0 (plus or minus 10 percent) and fiber length of 48 mm (plus or minus 10 percent) (provided for in subheading 5503.30.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1109. CAPACITOR GRADE HOMOPOLYMER POLYPROPYLENE RESIN IN PRIMARY FORM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.09	Capacitor grade homopolymer polypropylene resin in primary form (CAS No. 9003-07-0), certified by the importer as intended for use in manufacturing capacitor film and having an ash content less than 50 ppm (provided for in subheading 3902.10.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1110. COMPOUND T3028.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.10	(2 <i>R</i> ,3 <i>R</i>)-3-(3-Methoxyphenyl)- <i>N,N</i> ,2-trimethylpentanamine monohydrobromide (CAS No. 898290-88-5) (provided for in subheading 2922.29.61)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1111. 4-VINYLBENZENESULFONIC ACID, SODIUM SALT HYDRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.11	4-Vinylbenzenesulfonic acid, sodium salt hydrate (CAS No. 2695-37-6) (provided for in subheading 2904.10.37)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1112. 4-VINYLBENZENESULFONIC ACID, LITHIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.12	4-Vinylbenzenesulfonic acid, lithium salt (CAS No. 4551-88-6) (provided for in subheading 2904.10.32)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1113. CERTAIN CATHODE RAY TUBES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.13	Cathode-ray data/graphic display tubes, color, with a phosphor dot screen pitch of 0.305 mm or more but not exceeding 0.315 mm, a 90-degree deflection, a video display diagonal of 69.5 cm or more and an aspect ratio of 1 to 1 (provided for in subheading 8540.40.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1114. BROMACIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.14	5-Bromo-3-sec-butyl-6-methyluracil (Bromacil) (CAS No. 314-40-9) (provided for in subheading 2933.59.18)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1115. DIMETHYL 2,3,5,6-TETRACHLORO-1,4-BENZENEDICARBOXYLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.15	Dimethyl 2,3,5,6-tetrachloro-1,4-benzenedicarboxylate (CAS No. 1861-32-1) (provided for in subheading 2917.39.70)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1116. 1,1,2-2-TETRAFLUOROETHYLENE, OXIDIZED, POLYMERIZED, REDUCED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.16	1,1,2-2-Tetrafluoroethylene, oxidized, polymerized, reduced (CAS No. 69991-62-4) (provided for in subheading 3402.90.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1117. DIPHOSPHORIC ACID, POLYMERS WITH ETHOXYLATED REDUCED METHYL ESTERS OF REDUCED POLYMERIZED OXIDIZED TETRAFLUOROETHYLENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.17	Diphosphoric acid, polymers with ethoxylated reduced methyl esters of reduced polymerized oxidized tetrafluoroethylene (CAS No. 200013-65-6) (provided for in subheading 3904.69.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1118. 1,2-PROPANEDIOL, 3-(DIETHYLAMINO)-, POLYMERS WITH 5-ISOCYANATO-1-(ISOCYANATOMETHYL)-1,3,3-TRIMETHYLCYCLOHEXANE, PROPYLENE GLYCOL AND REDUCED METHYL ESTERS OF REDUCED POLYMERIZED OXIDIZED TETRAFLUOROETHYLENE, 2-ETHYL-1-HEXANOL-BLOCKED, ACETATES (SALTS).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.18	1,2-Propanediol, 3-(diethylamino)-, polymers with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, propylene glycol and reduced methyl esters of reduced polymerized oxidized tetrafluoroethylene, 2-ethyl-1-hexanol-blocked, acetates (salts) (CAS No. 328389-90-8) (provided for in subheadings 3809.92.50 and 3907.20.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1119. SPIROTETRAMAT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.19	cis-4-(Ethoxycarbonyloxy)-8-methoxy-3-(2,5-xylyl)-1-azaspiro[4.5]dec-3-en-2-one (Spirotetramat) (CAS No. 203313-25-1) (provided for in subheading 2933.79.08)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1120. FLUBENDIAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.20	3-Iodo-N’-(2-mesyl-1,1-dimethylethyl)-N-{4-[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]-o-tolyl}phthalimide (Flubendiamide) (CAS No. 272451-65-7) (provided for in subheading 2930.90.10)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1121. 1,3-CYCLOHEXANEDIONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.21	1,3-Cyclohexanedione (CAS No. 504-02-9) (provided for in subheading 2914.29.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1122. THIENCARBAZONE-METHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.22	Methyl 4-({[(3-methoxy-4-methyl-5-oxo-4,5-dihydro-1H-1,2,4-triazol-1-yl)carbonyl]amino}sulfonyl)-5-methylthiophene-3-carboxylate(Thiencarbazone-methyl) (CAS No. 317815-83-1) (provided for in subheading 2935.00.75)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1123. TEMBOTRIONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.23	Mixtures containing 2-{2-chloro-4-mesyl-3- [(2,2,2- trifluoroethoxy) methyl]benzoyl}cyclohexane-1, 3-dione (Tembotrione) (CAS No. 335104-84-2), ethyl 4,5-dihydro-5, 5-diphenyl-1,2-oxazole- 3-carboxylate (Isoxadifen-ethyl) (CAS No. 163520-33-0) and application adjuvants (provided for in subheading 3808.93.15)	2.4%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1124. 2-(METHYLTHIO)-4-(TRIFLUOROMETHYL) BENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.24	2-(Methylthio)-4-(trifluoromethyl) benzoic acid (CAS No. 142994-05-6) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1125. PRODUCTS CONTAINING 3-MESITYL-2-OXO-1-OXASPIRO[4.4]NON-3-EN-4-YL 3,3-DIMETHYLBUTYRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.25	Products containing 3-mesityl-2-oxo-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutyrate (spiromesifen) (CAS No. 283594-90-1) (provided for in subheading 3808.91.25)	4.1%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1126. MIXTURES CONTAINING PYRASULFOTOLE: 5-HYDROXY-1,3-DIMETHYLPYRAZOL-4-YL 2-MESYL-4-(TRIFLUOROMETHYL)PHENYL KETONE; AND BROMOXYNIL OCTANOATE; 2,4-DIBROMO-6-CYANOPHENYL OCTANOATE; AND BROMOXYNIL HEPTANOATE; 2,4-DIBROMO-6-CYANOPHENYL HEPTANOATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.26	Mixtures containing (5-hydroxy-1,3-dimethylpyrazol-4-yl)(α,α,α -trifluoro-2-mesyl-p-tolyl)methanone (Pyrasulfotole) (CAS No. 365400-11-9); 2,6-dibromo-4-cyanophenyl octanoate (Bromoxynil Octanoate) (CAS No. 1689-99-2) and 2,6-dibromo-4-cyanophenyl heptanoate (Bromoxynil Heptanoate) (CAS No. 56634-95-8) (provided for in subheading 3808.93.15)	3.9%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1127. CYPROSULFAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.27	N-[4-(cyclopropylcarbamoyl)phenylsulfonyl]-2-methoxybenzamide (Cyprosulfamide) (CAS No. 221667-31-8) (provided for in subheading 2935.00.75)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1128. MIXTURES OF N-[2-(2-OXOIMIDAZOLIDINE-1-YL)ETHYL]-2-METHYLACRYLAMIDE, METHACRYLIC ACID, AMINOETHYL ETHYLENE UREA AND HYDROQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.28	Mixtures of N-[2-(2-oxoimidazolidine-1-yl)ethyl]-2-methylacrylamide (CAS No. 3089-19-8), methacrylic acid (CAS No. 79-41-4), aminoethyl ethylene urea (CAS No. 6281-42-1) and hydroquinone (CAS No. 123-31-9) (provided for in subheading 3824.90.92)	3.4%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1129. QUINALDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.29	2-Methylquinoline (CAS No. 91-63-4) (provided for in subheading 2933.49.70)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1130. 4,4'-BUTYLIDENE BIS[2-(1,1-DIMETHYLETHYL)-5-METHYLPHENOL].

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.30	4,4'-Butylidenebis[2-(1,1-dimethylethyl)-5-methylphenol] (CAS No. 85-60-9) (provided for in subheading 2907.29.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1131. 2,2'-METHYLENE BIS[6-(1,1-DIMETHYLETHYL)-4-PHENOL].

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.31	2,2'-Methylenebis[6-(1,1-dimethylethyl)-4-phenol] (CAS No. 119-47-1) (provided for in subheading 2907.29.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1132. BASIC RED 51.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.32	Basic Red 51 (CAS No. 12270-25-6) (provided for in subheading 3204.13.80)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1133. 2-AMINOTOLUENE-5-SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.33	2-Aminotoluene-5-sulfonic acid (CAS No. 98-33-9) (provided for in subheading 2921.43.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1134. SOLVENT VIOLET 13.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.34	Solvent Violet 13 (CAS No. 81-48-1) (provided for in subheading 3204.19.25)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1135. SOLVENT VIOLET 11.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.35	Solvent Violet 11 (CAS No. 128-95-0) (provided for in subheading 3204.19.25)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1136. DISPERSE BLUE 359.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.36	Disperse blue 359 (CAS No. 62570-50-7) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1137. DISPERSE YELLOW 241.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.37	Disperse Yellow 241 (CAS No. 83249-52-9) (provided for in subheading 3204.11.35)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1138. DIMYRISTYL PEROXYDICARBONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.38	Dimyristyl peroxydicarbonate (CAS No. 53220-22-7) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1139. DICETYL PEROXYDICARBONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.39	Dicetyl peroxydicarbonate (CAS No. 26332-14-5) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1140. VARIABLE SPEED HUBS (EXCEPT 2- AND 3-SPEED).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.40	Variable speed hubs (except 2- and 3-speed) (provided for in subheading 8714.93.28)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1141. 1,4-BENZENEDISULFONIC ACID, 2,2'-[(1-METHYL-1,2-ETHANEDIYL)BIS[IMINO(6-FLUORO-1,3,5-TRIAZINE-4,2-DIYL)IMINO(1-HYDROXY-3-SULFO-6,2-NAPHTHALENEDIYL)AZO]]BIS[5-METHOXY-, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.41	1,4-Benzenedisulfonic acid, 2,2'-[(1-methyl-1,2-ethanediyl)bis[imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino(1-hydroxy-3-sulfo-6,2-naphthalenediyl)azo]]bis[5-methoxy-, sodium salt (CAS No. 155522-07-9) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1142. 2,7-NAPHTHALENEDISULFONIC ACID, 5-[[[4-CHLORO-6-[[2-[[[4-CHLORO-6-[[7-[[4-(ETHENYLSULFONYL)PHENYL]AZO]-8-HYDROXY-3,6-DISULFO-1-NAPHTHALENYL]AMINO]-1,3,5-TRIAZIN-2-YL]AMINO]ETHYL](2-HYDROXYETHYL)AMINO]-1,3,5-TRIAZIN-2-YL]AMINO]-3-[[4-(ETHENYLSULFONYL)PHENYL]AZO]-4-HYDROXY-, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.42	2,7-Naphthalenedisulfonic acid, 5-[[[4-chloro-6-[[2-[[[4-chloro-6-[[7-[[4-(ethenylsulfonyl)phenyl]azo]-8-hydroxy-3,6-disulfo-1-naphthalenyl]amino]-1,3,5-triazin-2-yl]amino]ethyl](2-hydroxyethyl)amino]-1,3,5-triazin-2-yl]amino]-3-[[4-(ethenylsulfonyl)phenyl]azo]-4-hydroxy-, sodium salt (CAS No. 171599-85-2) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1143. S-METHOPRENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.43	Isopropyl (2E,4E,7S)-11-methoxy-3,7,11-trimethyldodeca-2,4-dienoate (S-Methoprene) (CAS No. 65733-16-6) (provided for in subheading 2918.99.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1144. S-ABSCISIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.44	[S-(Z,E)]-5-(1-Hydroxy-2,6,6-trimethyl-4-oxo-2-cyclohexen-1-yl)-3-methyl-2,4-pentadienoic acid (S-abscisic acid) (CAS No. 14375-45-2) (provided for in subheading 2918.99.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1145. 1,2,4-TRIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.45	1H-[1,2,4]-Triazole (CAS No. 288-88-0) (provided for in subheading 2933.99.97)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1146. FLUOPICOLIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.46	2,6-Dichloro-N-[[3-chloro-5-(trifluoromethyl)-2-pyridinyl]methyl]benzamide (Fluopicolide) (CAS No. 239110-15-7) (provided for in subheading 2933.39.21)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1147. FENHEXAMID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.47	2',3'-Dichloro-4'-hydroxy-1-methylcyclohexanecarboxanilide (Fenhexamid) (CAS No. 126833-17-8) (provided for in subheading 2924.29.47)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1148. BELT & SYNAPSE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.48	Mixtures containing 3-iodo-N'-(2-mesyl-1,1-dimethylethyl)-N-[4-[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]-o-tolyl]phthalamide (Flubendiamide) (CAS No. 272451-65-7) and application adjuvants (provided for in subheading 3808.91.25)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1149. ACETOACETAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.49	Acetoacetamide (CAS No. 5977-14-0) (provided for in subheading 2924.19.11)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1150. SQUARIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.50	3,4-Dihydroxy-3-cyclobutene-1,2-dione (squaric acid) (CAS No. 2892-51-5) (provided for in subheading 2914.40.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1151. CHLORODIMETHYLACETOACETAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.51	Chlorodimethylacetoacetamide (CAS No. 5810-11-7) (provided for in subheading 2924.19.11)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1152. CERTAIN MIXTURES OF N,N'-DIMETHYLACETOACETAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.52	Mixtures of N,N'-dimethylacetoacetamide (CAS No. 2044-64-6) with an additive that stabilizes color and diluted in water with a calculated assay of not less than 78 percent and not more than 84 percent (provided for in subheading 2924.19.11)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1153. LAMBDA-CYHALOTHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.53	1 alpha(S*), 3 alpha(Z)-(+)-cyano(3-phenoxphenyl)methyl 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate (Lambda-cyhalothrin) (CAS No. 91465-08-6) (provided for in subheading 2926.90.30)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1154. MONDUR M FLAKED.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.54	Methylene di-p-phenylene isocyanate (Mondur M Flaked) (CAS No. 101-68-8) (provided for in subheading 2929.10.80)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1155. CERTAIN ACRYLIC FIBER TOW.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.55	Acrylic fiber tow containing a minimum of 85 percent by weight of acrylonitrile units and a minimum of 35 percent water, imported in the form of raw white (undyed) filament, with an average filament measure of between 2 and 5 decitex, and length greater than 2 meters (provided for in subheading 5501.30.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1156. SINGLE LIGHT OPTICAL SENSOR, STAINLESS STEEL CASING, 0.5 METER-LONG, 2.2 MILLIMETER DIAMETER CABLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.56	Single light optical sensor, stainless steel casing, 0.5 meter-long, 2.2 millimeter diameter cable. MANSKE Part Number 45004 (provided for in subheading 9001.10.00)	5.9%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1157. A5546 SULFONAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.57	Methyl 3-(aminosulfonyl)-2-thiophenecarboxylate (CAS No. 59337-93-8) (provided for in subheading 2935.00.75)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1158. HEXANEDIOIC ACID, POLYMER WITH 1,2-ETHANEDIOL, 2-ETHYL-2-(HYDROXYMETHYL)-1,3-PROPANEDIOL AND 1,3-ISOBENZOFURANDIONE, 2-PROPENOATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.58	Hexanedioic acid, polymer with 1,2-ethanediol, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol and 1,3-isobenzofurandione, 2-propenoate (CAS No. 77107-23-4) (provided for in subheading 3907.99.01)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1159. CERTAIN HOT FEED EXTRUDING MACHINES CERTIFIED BY THE IMPORTER AS BEING USED IN THE PRODUCTION OF TRUCK AND AUTOMOBILE TIRES, SUCH MACHINES CAPABLE OF EXTRUDING RUBBER MATERIALS MEASURING 870 MM OR MORE BUT NOT OVER 1200 MM IN WIDTH, AND PARTS THEREOF.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.59	Hot feed extruding machines certified by the importer as being used in the production of truck and automobile tires, such machines capable of extruding rubber materials measuring 870 mm or more but not over 1200 mm in width, and parts thereof (provided for in subheading 8477.20.00, 8477.90.25, 8477.90.45, or 8477.90.85)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1160. 7-HYDROXY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.60	2,3-Dihydro-2,2-dimethyl-7-hydroxybenzofuran (Carbofuran phenol) (CAS No. 1563-38-8) (provided for in subheading 2932.99.70)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1161. DIMETHOMORPH.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.61	4-[3-(4-Chlorophenyl)-3-(3,4-dimethoxyphenyl)-1-oxo-2-propenyl]morpholine (Dimethomorph)(CAS No. 110488-70-5) (provided for in subheading 2934.99.12)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1162. CERTAIN ENGINES FOR SNOWMOBILES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.62	Spark-ignition reciprocating or rotary internal combustion piston engines more than 900 cc and less than 1100 cc to be installed in snowmobiles (provided for in subheading 8407.34.18)	0.1%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1163. MIXTURES OF POLYVINYL ALCOHOL AND POLYVINYL PYRROLIDONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.63	Aqueous mixtures of polyvinyl alcohol (CAS No. 98002-48-3) and polyvinylpyrrolidone (CAS No. 9003-39-8) (provided for in subheading 3905.99.80)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1164. ZINC DIETHYLPHOSPHINATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.64	Zinc diethylphosphinate (CAS No. 284685-45-6) (provided for in subheading 2931.00.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1165. VAT ORANGE 7.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.65	Bisbenzimidazo [2,1-b:2',1' i] benzo[lmn][3,8] phenantoline-8,17-dione (VAT Orange 7) (CAS No. 4424-06-0) (provided for in subheading 3204.15.20)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1166. 1-NITROANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.66	1-Nitro-9,10-anthracenedione (CAS No. 82-34-8) (provided for in subheading 2914.70.40)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1167. LEUCOQUINIZARIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.67	1,4,9,10-Tetrahydroxyanthracene (Leucoquinizarin) (CAS No. 476-60-8) (provided for in subheading 2907.29.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1168. 2,2'-(2-METHYLPROPYLIDENE) BIS(4,6-DIMETHYLPHENOL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.68	2,2'-Isobutylidenebis(4,6-dimethylphenol) (CAS No. 33145-10-7) (provided for in subheading 2907.29.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1169. 2,5-BIS(1,1-DIMETHYLPROPYL)-1,4-BENZENEDIOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.69	2,5-Di- <i>tert</i> -amylhydroquinone (CAS No. 79-74-3) (provided for in subheading 2907.29.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1170. 4,4'-THIOBIS[2-(1,1-DI-METHYLETHYL)-5-METHYL-PHENOL].

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.70	4,4'-Thiobis(6- <i>tert</i> -butyl-m-cresol) (CAS No. 96-69-5) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1171. BENZENEACETIC ACID, α -AMINO-4-CHLORO.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.71	DL-2-(4-Chlorophenyl)glycine (CAS No. 6212-33-5) (provided for in subheading 2922.49.30)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1172. 1-AMINO-2,6-DIMETHYLBENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.72	1-Amino-2,6-dimethylbenzene (2,6-xylydine) (CAS No. 87-62-7) (provided for in subheading 2921.49.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1173. P-AMINOBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.73	p-Aminobenzoic acid (CAS No. 150-13-0) (provided for in subheading 2922.49.10)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1174. 2-AMINO-3-CYANOTHIOPHENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.74	2-Amino-3-cyanothiophene (CAS No. 4651-82-5) (provided for in subheading 2934.99.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1175. NESOI HUBS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.75	Bicycle hubs, not elsewhere specified or included (provided for in subheading 8714.93.35)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1176. POLYETHYLENE GLYCOL BRANCHED-NONYLPHENYL ETHER PHOSPHATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.76	Polyethylene glycol branched-nonylphenyl ether phosphate (Nonylphenol ethoxylate) (CAS No. 68412-53-3) (provided for in subheading 3402.11.40)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1177. BISMUTH SUBSALICYLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.77	Bismuth subsalicylate (2-hydroxy-4H-1,3,2-benzodioxabismine-4-one) (CAS No. 14882-18-9) (provided for in subheading 2918.21.10)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1178. 5-ETHYL-2-METHYLPYRIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.78	2-Methyl-5-ethylpyridine (CAS No. 104-90-5) (provided for in subheading 2933.39.20)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1179. POLYPHENOLCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.79	Phenol, polymer with 3a,4,7,7a-tetrahydro-4,7-methano-1H-indene, cyanate (CAS No. 119505-06-5) (provided for in subheading 3911.90.45)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1180. CHEMICAL THAT IS USED FOR DYEING APPAREL HOME TEXTILES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.80	Acid Yellow 151 (Bis[2-[[5-(aminosulfonyl)-2-hydroxyphenyl]azo]-3-oxo-N-phenylbutyramidato(2-)] cobaltate(1-) sodium; 3-Hydroxy-2-(2-hydroxy-5-sulfamoylphenylazo)isocrotonanilide cobalt(III) chelates sodium salt) (CAS No. 72496-88-9) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1181. HEXANE, 1,6-DICHLORO-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.81	1,6-Dichlorohexane (CAS No. 2163-00-0) (provided for in subheading 2903.19.60)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1182. PROPANEDIOIC ACID, DIETHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.82	Diethyl malonate (CAS No. 105-53-3) (provided for in subheading 2917.19.70)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1183. BUTANE, 1-CHLORO.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.83	n-Butyl chloride (CAS No. 109-69-3) (provided for in subheading 2903.19.60)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1184. MIXTURES CONTAINING METHYL 2-[(4,6-DIMETHOXYPYRIMIDIN-2-YLCARBAMOYL)SULFAMOYL]- α -(METHANESULFONAMIDO)-P-TOLUATE (MESOSULFURON-METHYL) AND METHYL 4-iodo-2-[3-(4-METHOXY-6-METHYL-1,3,5-TRIAZIN-2-YL)UREIDOSULFONYL]BENZOATE, SODIUM SALT (IODOSULFURON METHYL, SODIUM SALT), WHETHER OR NOT MIXED WITH APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.84	Mixtures containing methyl 2-[(4,6-dimethoxypyrimidin-2-ylcarbamoyl)sulfamoyl]- α -(methanesulfonamido)-p-toluate (Mesosulfuron-methyl) (CAS No. 208465-21-8) and methyl 4-iodo-2-[3-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)ureidosulfonyl]benzoate, sodium salt (Iodosulfuron methyl, sodium salt), whether or not mixed with application adjuvants (CAS No. 144550-36-7) (provided for in subheading 3808.93.15)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1185. MIXTURES CONTAINING [3-[(6-CHLORO-3-PYRIDINYL)METHYL]-2-THIAZOLIDINYLIDENE]CYANAMIDE.

Subchapter II of chapter 99 is amended—

(1) by striking heading 9902.10.35; and

(2) by inserting in numerical sequence the following new heading:

“	9902.41.85	Mixtures of (Z)-3-(6-chloro-3-pyridylmethyl)-1,3-thiazolidin-2-ylidenecyanamide (Thiacloprid) (CAS No. 111988-49-9) and application adjuvants (provided for in subheading 3808.91.25)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1186. MIXTURES CONTAINING (E)-1-[(6-CHLORO-3-PYRIDINYL)METHYL]-N-NITRO-2-IMIDAZOLIDINIMINE (IMIDACLOPRID).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.86	Mixtures containing -1-[(6-chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine (Imidacloprid) (CAS No. 138261-41-3) and (9Z)-9-tricosene (Muscalure) (CAS No. 27519-02-4) (provided for in subheading 3808.91.25)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1187. MIXTURES CONTAINING METHYL 4-[(4,5-DIHYDRO-3-METHOXY-4-METHYL-5-OXO-1H-1,2,4-TRIAZOL-1-YL)CARBONYLSULFAMOYL]-5-METHYLTHIOPHENE-3-CARBOXYLATE (THIENCARBAZONE-METHYL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.87	Mixtures containing methyl 4-[(4,5-dihydro-3-methoxy-4-methyl-5-oxo-1H-1,2,4-triazol-1-yl)carbonylsulfamoyl]-5-methylthiophene-3-carboxylate (Thiencarbazone-methyl) (CAS No. 317815-83-1), ethyl 4,5-dihydro-5,5-diphenyl-1,2-oxazole-3-carboxylate (Isoxadifen-ethyl) (CAS No. 163520-33-0) and (5-cyclopropyl-1,2-oxazol-4-yl)(α,α,α -trifluoro-2-mesyl-p-tolyl)methanone (Isoxaflutole) (CAS No. 141112-29-0) (provided for in subheading 3808.93.15)	2.3%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1188. 2-AMINO-5-CHLORO-N,3-DIMETHYLBENZAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.88	2-Amino-5-chloro-N,3-dimethylbenzamide (CAS No. 890707-28-5) (provided for in subheading 2924.29.76).	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1189. [3-(4,5-DIHYDRO-ISOXAZOL-3-YL)-4-METHYLSULFONYL-2-METHYLPHENYL](5-HYDROXY-1-METHYL-1H-PYRAZOL-4-YL) METHANONE (TOPRAMEZONE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.89	[3-(4,5-Dihydro-isoxazol-3-yl)-4-methylsulfonyl-2-methylphenyl](5-hydroxy-1-methyl-1H-pyrazol-4-yl)methanone (Topramezone) (CAS No. 210631-68-8) (provided for in subheading 2934.99.15)	2.4%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1190. PRODUCTS CONTAINING (E)-1-(2-CHLORO-1,3-THIAZOL-5-YLMETHYL)-3-METHYL-2-NITROGUANIDINE (CLOTHIANIDIN).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.90	Products containing (E)-1-(2-chloro-1,3-thiazol-5-ylmethyl)-3-methyl-2-nitroguanidine (Clothianidin) (CAS No. 210880-92-5) (provided for in subheading 3808.91.50)	4.5%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1191. TETRAKIS(HYDROXYMETHYL) PHOSPHONIUM SULFATE (THPS).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.91	Tetrakis(hydroxymethyl) phosphonium sulfate (THPS) (CAS No. 55566-30-8) (provided for in subheading 2931.00.90)	2.4%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1192. 1,1'-(1-METHYLETHYLIDENE)BIS(3,5-DIBROMO-4-(2,3-DIBROMOPROPOXY)BENZENE (TETRABROMOBISPHENOL A BIS(2,3-DIBROMOPROPYL ETHER)).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.92	1,1'-(1-Methylethylidene)bis(3,5-dibromo-4-(2,3-dibromopropoxy)benzene (Tetrabromobisphenol A bis(2,3-dibromopropyl ether) (CAS No. 21850-44-2) (provided for in subheading 2909.50.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1193. BELLS DESIGNED FOR USE ON BICYCLES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.93	Bells designed for use on bicycles (provided for in subheading 8714.99.80)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1194. BLUE 171 (COBALTATE(2-), [6-(AMINO- κ N)-5-[[2-(HYDROXY- κ O)-4-NITROPHENYL]AZO- κ N1]-NMETHYL-2-NAPHTHALENESULFONAMIDATO(2-)]][6-(AMINO- κ N)-5-[[2-(HYDROXY- κ O)-4-NITROPHENYL]AZO- κ N1]-2-NAPHTHALENESULFONATO(3-)]-, DISODIUM).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.94	Acid g1,t1,blue 171 (Cobaltate(2-), [6-(amino- κ N)-5-[[2-(hydroxy- κ O)-4-nitrophenyl]azo- κ N1]-Nmethyl-2-naphthalenesulfonamidato(2-)]][6-(amino- κ N)-5-[[2-(hydroxy- κ O)-4-nitrophenyl]azo- κ N1]-2-naphthalenesulfonato(3-)]-, disodium) (CAS No. 75314-27-1) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1195. TETRAPOTASSIUM HEXA(CYANO-C) COBALTATE(4-).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.95	Tetrapotassium hexa(cyano-C)cobaltate(4-) (CAS No. 14564-70-6) (provided for in subheading 2931.00.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1196. TRIALLYL CYANURATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.96	Triallyl cyanurate (CAS No. 101-37-1) (provided for in subheading 2933.69.60)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1197. CERTAIN CHRISTMAS-TREE FILAMENT LAMPS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.97	Christmas-tree filament lamps of a power not exceeding 200 W and for a voltage exceeding 100 V (provided for in subheading 8539.22.40)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1198. CERTAIN CHRISTMAS-TREE FILAMENT LAMPS DESIGNED FOR A VOLTAGE NOT EXCEEDING 100 V.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.98	Christmas-tree filament lamps designed for a voltage not exceeding 100 V (provided for in subheading 8539.29.10)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1199. MIXTURES CONTAINING (5-CYCLOPROPYL-1,2-OXAZOL-4-YL)(α,α,α -TRIFLUORO-2-MESYL-P-TOLYL)METHANONE (ISOXAFLUTOLE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.41.99	Mixtures containing (5-cyclopropyl-1,2-oxazol-4-yl)(α,α,α -trifluoro-2-mesyl-p-tolyl)methanone (isoxaflutole) (CAS No. 141112-29-0) and application adjuvants (provided for in subheading 3808.93.15)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1200. N,N-DIMETHYLACETOACETAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.42.01	N,N-Dimethylacetoacetamide (CAS No. 2044-64-6) diluted in water with a calculated assay of not less than 93 percent and not more than 99 percent (provided for in subheading 2924.19.11)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1201. CERTAIN MIXTURES OF N,N-DIMETHYLACETOACETAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.42.02	Mixtures of N,N-dimethylacetoacetamide (CAS No. 2044-64-6) with an additive that stabilizes color and diluted in water with a calculated assay of not less than 93 percent and not more than 99 percent (provided for in subheading 2924.19.11)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1202. CHEMICAL USED IN THE PRODUCTION OF TEXTILES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.42.03	Reactive blue 268 (6,13-Dichlor-3,10-bis {2-[4-fluoro-6-(2-sulphophenylamino) -1,3,5-triazin-2-ylamino] propylamino}benzo [5,6][1,4]oxazino[2,3-b] phenoxazin-4,11- disulfonic acid, lithium, sodium salt) (CAS No. 163062-28-0) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1203. CHEMICAL THAT IS USED FOR DYEING CERTAIN HOME TEXTILES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.42.04	Reactive blue 269 (3,10-Bis[(2-aminopropyl)amino] -6,13-dichloro-4,11-triphenodioxazinedisulfonic acid reaction products with 2-amino- 1,4-benzenedisulfonic acid, 2-[(4-aminophenyl) sulfonyl]ethyl hydrogen sulfate and 2,4,6-trifluoro-1,3,5-trifluoro-1,3,5-triazine, sodium salts) (CAS No. 191877-09-5) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1204. REACTIVE RED 228.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.42.05	Reactive Red 228 (2,7-Naphthalenedisulfonic acid, 5-((4-chloro-6-((2-(2-ethenylsulfonyl)ethoxy)ethyl) amino)-1,3,5-triazin-2-yl)amino)-3-((4-(ethenylsulfonyl)phenyl) azo)-4-hydroxy-, potassium sodium salt) (CAS No. 101200-49-1) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 1205. PARAQUAT TECHNICAL + EMETIC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.42.06	Mixtures of 1,1'-dimethyl-4,4'-bipyridinium dichloride (Paraquat Technical) (CAS No. 1910-42-5) and 2-amino-4, 5-dihydro-6-methyl- 4-propyl-s-triazole-[1,5-a] pyrimidin-5-one (Emetic PP796) (CAS No. 27277-00-5) (provided for in subheading 3808.93.15)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1206. TEMBOTRIONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.42.07	2-[2-Chloro-4-mesyl-3-[(2,2,2-trifluoroethoxy)methyl] benzoyl]cyclohexane-1,3-dione (Tembotrione) (CAS No. 335104-84-2) (provided for in subheading 2930.90.10)	3%	No change	No change	On or before 12/31/2012	”.
---	------------	---	----	-----------	-----------	-------------------------------	----

SEC. 1207. CERTAIN PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

“	9902.42.08	Trisubstituted oxazolidinone (CAS No. 860399-11-7) (provided for in subheading 2934.99.20)	Free	No change	No change	On or before 12/31/2012 .....	....
	9902.42.09	Trisubstituted oxazolidinone (CAS No. 854602-01-0) (provided for in subheading 2934.99.20)	Free	No change	No change	On or before 12/31/2012 .....	....
	9902.42.10	Naphtho[1,2-d]thiazolium, 2-[[5-chloro-3-(3-sulfopropyl)-2(3H)-benzothiazolylidene]methyl]-1-(3-sulfopropyl)-, inner salt, compd. with N,N-diethylethanamine (1:1) (CAS No. 102731-88-4) (provided for in subheading 2934.99.20)	Free	No change	No change	On or before 12/31/2012 .....	....

9902.42.11	Benzothiazolium, 2-[[3-[(3,6-dimethyl-2(3H)-benzothiazolylidene)methyl]-5-phenyl-2-cyclohexen-1-ylidene]methyl]-3,6-dimethyl-, salt with 4-ethylbenzenesulfonic acid (1:1) (CAS No. 160911-24-0) (provided for in subheading 2934.99.20)	Free	No change	No change	On or before 12/31/2012 .....	....
9902.42.12	Benzoxazolium, 5-chloro-2-[2-[[5-phenyl-3-(2-sulfoethyl)-2(3H)-benzoxazolylidene] methyl]-1-butenyl]-3-(3-sulfopropyl)-, inner salt, compound with N,N-diethylethanamine (1:1) (CAS No. 106518-55-2) (provided for in subheading 2934.99.20)	Free	No change	No change	On or before 12/31/2012 .....	....
9902.42.13	Copoly[N-(4-sulfamoylphenyl) methacrylamide/ methylmethacrylate/acrylonitrile (CAS No. 141634-00-6) (provided for in subheading 3906.90.50)	Free	No change	No change	On or before 12/31/2012 .....	....
9902.42.14	3-Pyrazolidinone, 4-hexadecyl-1-phenyl (CAS No. 202483-63-4) (provided for in subheading 2933.19.37)	Free	No change	No change	On or before 12/31/2012 .....	....
9902.42.15	Poly[(allyl 2-methyl-2-propenoate)-co-(cyclohexyl-2-hydroxymethyl-2-propenoate)-co-(2-propenoic acid)] (CAS No. 860399-10-6) (provided for in subheading 3208.90.50)	Free	No change	No change	On or before 12/31/2012 .....	..

SEC. 1208. FERRONIUBIUM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

9902.42.16	Ferroniobium (provided for in subheading 7202.93.80)	4.6%	No change	No change	On or before 12/31/2012
------------	--	------	-----------	-----------	-------------------------------	----

SEC. 1209. EFFECTIVE DATE.

The amendments made by this subtitle apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

Subtitle B—Extension of Existing Duty Suspension**SEC. 1301. EXTENSION OF CERTAIN EXISTING DUTY SUSPENSION.**

Heading 9902.29.22 (relating to 2-(2'-Hydroxy-5'-methacrylyloxyethylphenyl)-2H-benzotriazole) is amended by striking “12/31/2006” and inserting “12/31/2012”.

SEC. 1302. EFFECTIVE DATE.

(a) IN GENERAL.—The amendment made by this subtitle applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) RETROACTIVE APPLICABILITY.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or

any other provision of law and subject to paragraph (2), the entry of a good described in heading 9902.29.22 of the Harmonized Tariff Schedule of the United States (as amended by this subtitle)—

(A) which was made on or after January 1, 2010, and before the 15th day after the date of the enactment of this Act, and

(B) with respect to which there would have been no duty or a reduced duty (as the case may be) if the amendment or amendments made by this subtitle applied to such entry, shall be liquidated or reliquidated as though the entry had been made on the 15th day after the date of the enactment of this Act.

(2) REQUESTS.—A liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with U.S. Customs and Border Protection not later than 180 days after the date of the enactment of this Act that contains sufficient information to enable U.S. Customs and Border Protection—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

(3) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry of a good under paragraph (1) shall be paid, without interest, not later than 90 days after the date of the liquidation or reliquidation (as the case may be).

(4) DEFINITION.—As used in this subsection, the term “entry” includes a withdrawal from warehouse for consumption.

TITLE II—ADDITIONAL TARIFF PROVISIONS**Subtitle A—Additional New Duty Suspensions and Reductions****SEC. 2101. FENARIMOL TECHNICAL.**

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

9902.43.01	(RS)-2,4'-Dichloro- <i>a</i> -(pyrimidin-5-yl) benzhydryl alcohol (Fenarimol technical) (CAS No. 60168-88-9) (provided for in subheading 2933.59.15)	Free	No change	No change	On or before 12/31/2012
------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2102. PHOSMET TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

9902.43.02	<i>O,O</i> -Dimethyl S-phthalimidomethyl phosphorodithioate (Phosmet technical) (CAS No. 732-11-6) (provided for in subheading 2930.90.10)	Free	No change	No change	On or before 12/31/2012
------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2103. CHIME MELODY ROD ASSEMBLIES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

9902.43.03	Chime melody rod assemblies (provided for in subheading 9114.90.50) for the production of grandfather clocks, wall clocks, and mantel clocks	Free	No change	No change	On or before 12/31/2012
------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2104. UREA, POLYMER WITH FORMALDEHYDE AND 2-METHYLPROPANAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

9902.43.04	Urea, polymer with formaldehyde and 2-methylpropanal (CAS No. 28931-47-7) (provided for in subheading 3909.10.00)	Free	No change	No change	On or before 12/31/2012
------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2105. CERTAIN CLOCK MOVEMENTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

9902.43.05	Mechanical clock movements (provided for in subheading 9109.90.60) for the production of grandfather clocks, wall clocks, and mantel clocks	Free	No change	No change	On or before 12/31/2012
------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2106. CERTAIN GLASS SNOW GLOBES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.06	Glass snow globes, valued over \$0.30 but not over \$3 each, the foregoing not constituting festive articles (provided for in subheading 7013.99.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2107. CERTAIN ACRYLIC SNOW GLOBES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.07	Acrylic snow globes, the foregoing not constituting festive articles (provided for in subheading 3926.40.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2108. TERBACIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.08	3- <i>tert</i> -Butyl-5-chloro-6- methyluracil (Terbacil) (CAS No. 5902-51-2) (provided for in subheading 2933.59.18)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2109. CERTAIN SKI EQUIPMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.09	Ski poles and parts and accessories thereof (provided for in subheading 9506.19.80)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2110. PROSULFURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.10	1-(4-Methoxy-6-methyl-1,3,5-triazin-2-yl)-3-[2-(3,3,3-trifluoropropyl) phenylsulfonyl]urea (Prosulfuron) (CAS No. 94125-34-5) (provided for in subheading 2935.00.75)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2111. MANGANESE FLAKE CONTAINING AT LEAST 99.5 PERCENT BY WEIGHT OF MANGANESE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.11	Manganese flake containing at least 99.5 percent by weight of manganese (provided for in subheading 8111.00.47)	12.3%	No change	No change	On or before 12/31/2012	”.
---	------------	---	-------	-----------	-----------	-------------------------------	----

SEC. 2112. N-BENZYL-N-ETHYLANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.12	N-Benzyl-N-ethylaniline (CAS No. 92-59-1) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2113. DODECYL ANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.13	Dodecyl aniline (CAS No. 68411-48-3) (provided for in subheading 2921.49.45)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2114. MIXTURES OF CHLORSULFURON AND METSULFURON-METHYL AND INERT INGREDIENTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.14	Mixtures of 1-(2-chlorophenylsulfonyl)-3-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)urea (Chlorsulfuron) (CAS No. 64902-72-3) and methyl 2-(4-methoxy-6-methyl-1,3,5-triazin-2-ylcarbamoylsulfamoyl)benzoate (Metsulfuron-methyl) (CAS No. 74223-64-6) and inert ingredients (provided for in subheading 3808.93.15)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2115. PARAQUAT DICHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.15	Mixtures of 1,1'-dimethyl-4,4'-bipyridinium dichloride (Paraquat dichloride) (CAS No. 1910-42-5) and inerts (provided for in subheading 3808.93.15)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2116. P-TOLUIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.16	<i>p</i> -Toluidine (CAS No. 106-49-0) (provided for in subheading 2921.43.40)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2117. P-NITROTOLUENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.17	<i>p</i> -Nitrotoluene (CAS No. 99-99-0) (provided for in subheading 2904.20.10)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2118. ACRYLIC RESIN SOLUTION.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.18	Acrylic resin solution, β -hydroxyethyl acrylate, acrylic acid, styrene, 2-ethylhexyl acrylate, butyl methacrylate polymer (CAS No. 63076-05-1) (provided for in subheading 3906.90.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2119. BENZENAMINE, 4 DODECYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.19	Benzenamine, 4 dodecyl (CAS No. 104-42-7) (provided for in subheading 2921.49.45)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2120. PROPYLENE GLYCOL ALGINATES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.20	Propylene glycol alginates (CAS No. 9005-37-2) (provided for in subheading 3913.10.00)	0.1%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2121. CERTAIN ALGINATES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.21	Alginic acid (CAS No. 9005-32-7), ammonium alginate (CAS No. 9005-34-9), potassium alginate (CAS No. 9005-36-1), calcium alginate (CAS No. 9005-35-0), and magnesium alginate (CAS No. 37251-44-8) (provided for in subheading 3913.10.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2122. SODIUM ALGINATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.22	Sodium alginate (CAS No. 9005-38-3) (provided for in subheading 3913.10.00)	2.2%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2123. CERTAIN FIBERGLASS SHEETS USED TO MAKE CEILING TILES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.23	Nonwoven fiberglass sheets, approximately 0.4 mm to 0.8 mm in thickness and with smooth surfaces, containing a blend of 8 micron and 10 micron glass fibers bound in an acrylic latex binder that is cross-linked with a melamine-formaldehyde resin, the foregoing of a kind primarily used as acoustical facing for ceiling panels (provided for in subheading 7019.32.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2124. CERTAIN FIBERGLASS SHEETS USED TO MAKE FLOORING SUBSTRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.24	Nonwoven fiberglass sheets, approximately 0.3 mm to 0.8 mm in thickness and with smooth surfaces, containing a blend of 8 micron to 10 micron glass fibers bound in a urea formaldehyde matrix modified with vinyl acetate and acrylic latex, the foregoing of a kind primarily used as vinyl flooring substrate (provided for in subheading 7019.32.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2125. CERTAIN BAMBOO VASES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.25	Vases of bamboo strips bonded together with glue, the foregoing which have been shaped or molded, sanded and varnished (provided for in subheading 4602.11.09)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2126. CERTAIN PLASTIC CHILDREN'S WALLETS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.26	Children's wallets with outer surface of sheeting of reinforced or laminated plastics, valued not over \$1.00 each, the foregoing with dimensions not exceeding 26 cm by 11.5 cm and with artwork or graphics using cartoon characters or other children's motifs (provided for in subheading 4202.32.10)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2127. CERTAIN COUPON HOLDERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.27	Divided pouches of plastic sheeting, each with a flap closure secured by a snap, magnet or elastic band and hook, the foregoing not exceeding 203.2 mm in height, width or depth and of a type designed for organizing coupons or other printed matter (provided for in subheading 4202.32.20)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2128. CERTAIN INFLATABLE SWIMMING POOLS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.28	Inflatable swimming pools of polyvinyl chloride, not exceeding 1.651 m in diameter or width (provided for in subheading 9506.99.55)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2129. CHLORANTRANILIPROLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.29	3-Bromo-4'-chloro-1-(3-chloro-2-pyridyl)-2'-methyl-6'-(methylcarbamoyl)pyrazole-5-carboxanilide (Chlorantraniliprole) (CAS No. 500008-45-7) (provided for in subheading 2933.39.27)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2130. 2-BUTYNE-1,4-DIOL, POLYMER WITH (CHLOROMETHYL)OXIRANE, BROMINATED, DEHYDROCHLORINATED, METHOXYLATED AND TRIETHYL PHOSPHATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.30	2-Butyne-1,4-diol, polymer with (chloromethyl)oxirane, brominated, dehydrochlorinated, methoxylated (CAS No. 68441-62-3) and triethyl phosphate (CAS No. 78-40-0) (provided for in subheading 3907.20.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2131. DAMINOZIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.31	N-(Dimethylamino) succinamic acid (Daminozide) (CAS No. 1596-84-5) (provided for in subheading 2928.00.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2132. DIMETHYL HYDROGEN PHOSPHITE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.32	Dimethyl hydrogen phosphite (CAS No. 868-85-9) (provided for in subheading 2920.90.50) ..	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2133. PHOSPHONIC ACID, MALEIC ANHYDRIDE SODIUM SALT COMPLEX.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.33	Phosphonic acid, maleic anhydride sodium salt complex (CAS No. 180513-31-9) (provided for in subheading 3824.90.92)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2134. COFLAKE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.34	Mixtures of polyethylene glycol (CAS No. 25322-68-3), (acetato)pentammine cobalt dinitrate (CAS No. 14854-63-8), and zinc carbonate (CAS No. 3486-35-9) (provided for in subheading 3815.90.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2135. 3-AMINO-1,2-PROPANEDIOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.35	3-Amino-1,2-propanediol (CAS No. 616-30-8) (provided for in subheading 2922.19.95)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2136. ULTRAVIOLET LAMPS FILLED WITH DEUTERIUM GAS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.36	Ultraviolet lamps filled with deuterium gas (provided for in subheading 8539.49.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2137. PYRAFLUFEN-ETHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.37	Ethyl 2-chloro-5-(4-chloro-5-difluoromethoxy-1-methyl-1H-pyrazol-3-yl)-4-fluorophenoxyacetate (Pyraflufen-ethyl) (CAS No. 129630-19-9) (provided for in subheading 2933.19.23)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2138. MIXTURE OF 2-[4-[(2-HYDROXY-3-DODECYLOXYPROPYL)OXY]-2-HYDROXYPHENYL]-4,6-BIS(2,4-DIMETHYLPHENYL)-1,3,5-TRIAZINE AND 2-[4-[(2-HYDROXY-3-TRIDECYLOXYPROPYL)OXY]-2-HYDROXYPHENYL]-4,6-BIS(2,4-DIMETHYLPHENYL)-1,3,5-TRIAZINE IN PROPYLENE GLYCOL MONOMETHYL ETHER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.38	Mixture of 2-[4-[(2-hydroxy-3-dodecyloxypropyl)oxy]-2-hydroxyphenyl]-4,6-bis(2,4-dimethylphenyl)-1,3,5-triazine and 2-[4-[(2-hydroxy-3-tridecyloxypropyl)oxy]-2-hydroxyphenyl]-4,6-bis(2,4-dimethylphenyl)-1,3,5-triazine (CAS No. 153519-44-9) in propylene glycol monomethyl ether (provided for in subheading 3812.30.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2139. BUPROFEZIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.39	(Z)-2- <i>tert</i> -Butylimino-3-isopropyl-5-phenyl-1,3,5-thiadiazinan-4-one (Buprofezin) (CAS No. 69327-76-0 or 953030-84-7) (provided for in subheading 2934.99.16)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2140. FENPYROXIMATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.40	<i>tert</i> -Butyl (E)- α -(1,3-dimethyl-5-phenoxy-pyrazol-4-yl)methyleneamino oxy)-					
---	------------	---	--	--	--	--	--

	p-toluate (Fenpyroximate) (CAS No. 134098-61-6) (provided for in subheading 2933.19.23) ..	Free	No change	No change	On or before 12/31/2012	”.
--	--	------	-----------	-----------	-------------------------------	----

SEC. 2141. CHLOROANTRANILIPROLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.41	Mixtures of 3-bromo-4'-chloro-1-(3-chloro-2-pyridyl)-2'-methyl-6'-(methylcarbamoyl)pyrazole-5- carboxanilide (Chloroantraniliprole) (CAS No. 500008-45-7) and inert ingredients (provided for in subheading 3808.91.25)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2142. ACAI, PULP, OTHERWISE PREPARED OR PRESERVED, WHETHER OR NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR SPIRIT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.42	Acai (other than mixtures), pulp, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit (provided for in subheading 2008.99.80)	3.3%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2143. CERTAIN RADIOBROADCAST BAND RECEIVERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.43	Radiobroadcast band receivers not capable of operating without an external source of power, combined in the same housing with detachable 2-way speakers, the foregoing receivers each having a total power output of 250 W (125 W per channel into 6 ohms at 1 kHz, 10 percent total harmonic distortion) and containing a 5-disc compact disc changer; a docking station for an MP3 player and dual audiocassette decks, with one deck capable of sound reproducing only and the other deck capable of sound recording and reproducing (provided for in subheading 8527.91.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2144. CERTAIN SWITCHGEAR AND PANEL BOARDS SPECIFICALLY DESIGNED FOR WIND TURBINE GENERATORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.44	Switchgear and panel boards specifically designed for wind turbine generators in excess of 2 MW; such panels designed to transfer electric power to and from a utility power grid at 2100 kV at 600 volts with a nominal full load of 2190 amps; with dimensions of 1950-2050 mm (length) x 550-650 mm (width) x 1950-2050 mm (height); and with a display system that monitors at a minimum wind speed, yaw position, and blade pitch angle (provided for in subheading 8537.10.90)	1.7%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2145. CERTAIN POWER FACTOR CAPACITOR PANELS SPECIFICALLY DESIGNED FOR WIND TURBINE GENERATORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.45	Power factor panels specifically designed for wind turbine generators in excess of 2 MW; such panels are specifically designed to optimize the power factor of the asynchronous induction generator in a wind turbine. The capacitor panel is managed by the wind turbine generator controller and has dimensions of 1950-2050 mm (length) x 550-650 mm (width) x 1950-2050 mm (height) (provided for in subheading 8537.10.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2146. CERTAIN ISOTOPIC SEPARATION CASCADES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.46	Isotopic separation cascades designed for the enrichment of uranium using gaseous centrifuge technology (provided for in subheading 8401.20.00)	2.2%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2147. CERTAIN SENSORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.47	Sensors without a recording device (provided for in subheading 9030.33.00) certified by the importer to monitor and report voltage, current and temperature in battery cells designed for use in electrically powered vehicles of subheading 8703.90.00 in which an on board gasoline engine is used to run a generator that recharges the electric drive motor battery	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2148. CERTAIN DRIVE MOTOR BATTERY TRANSDUCERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.48	Drive motor battery transducers (provided for in subheading 8543.70.40), certified by the importer for use in electrically powered vehicles of subheading 8703.90.00 in which an on-board gasoline engine is used to run a generator that recharges the electric drive motor battery	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2149. CERTAIN ELECTRIC MOTOR CONTROLLERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.49	Electric motor controllers (provided for in subheading 9032.89.60), certified by the importer to control the electric motors that power electric vehicles of subheading 8703.90.00 in which an on board gasoline engine is used to run a generator that recharges the electric drive motor battery	1.4%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2150. CERTAIN CHARGERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.50	Chargers (provided for in subheading 8504.40.95) certified by the importer to recharge propulsion batteries by converting external, plug-in AC power to high voltage DC, designed for use in electrically powered vehicles of subheading 8703.90.00 in which an on board gasoline engine is used to run a generator that recharges the electric drive motor battery	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2151. CERTAIN LITHIUM-ION BATTERY CELLS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.51	Lithium-ion battery cells (provided for in subheading 8507.80.40), certified by the importer for use as the primary source of electrical power for electrically powered vehicles of subheading 8703.90.00 in which an on board gasoline engine is used to run a generator that recharges the electric drive motor battery	3.2%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2152. MIXTURES OF IMIDACLOPRID WITH CYFLUTHRIN OR ITS β -CYFLUTHRIN ISOMER, INCLUDING APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.52	Mixtures of 1-[(6-chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine (Imidacloprid) (CAS No. 138261-41-3) with ((R)-cyano-(4-fluoro-3-phenoxy)phenyl)methyl (1R,3R)-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane-1-carboxylate (Cyfluthrin) (CAS No. 68359-37-5) or its β -cyfluthrin isomer, including application adjuvants (provided for in subheading 3808.91.25)	2.4%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2153. FLUOPYRAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.53	N-{2-[3-Chloro-5-(trifluoromethyl)-2-pyridinyl]ethyl}- α,α,α -trifluoro-o-toluidine (Fluopyram) (CAS No. 658066-35-4), whether or not mixed with application adjuvants (provided for in subheading 2933.39.21 or 3808.92.15)	2.2%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2154. INDAZIFLAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.54	N-[(1R,2S)-2,3-Dihydro-2,6-dimethyl-1H-inden-1-yl]-6-[(1RS)-(1-fluoroethyl)]-1,3,5-triazine-2,4-diamine (Indaziflam) (CAS No. 950782-86-2), whether or not mixed with application adjuvants (provided for in subheading 2933.69.60 or 3808.93.15)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2155. NITROGUANIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.55	Nitroguanidine (CAS No. 556-88-7) (provided for in subheading 2925.29.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2156. GUANIDINE NITRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.56	Guanidine nitrate (CAS No. 506-93-4) (provided for in subheading 2925.29.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2157. CERTAIN HYDROGENATED POLYMERS OF NORBORNENE DERIVATIVES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.57	1,4:5,8-Dimethanonaphthalene, 2-ethylidene-1,2,3,4,4a,5,8,8a-octahydro-, polymer with 3a,4,7,7a-tetrahydro-4,7-methano-1H-indene, hydrogenated (CAS No. 881025-72-5); 1,4-methano-1H-fluorene, 4,4a,9,9a-tetrahydro-, polymer with 1,2,3,4,4a,5,8,8a-octahydro-1,4:5,8-dimethanonaphthalene and 3a,4,7,7a-tetrahydro-4,7-methano-1H-indene, hydrogenated (CAS No. 503442-46-4); and 1,4-methano-1H-fluorene, 4,4a,9,9a-tetrahydro-, polymer with 1,2,3,4,4a,5,8,8a-octahydro-1,4:5,8-dimethanonaphthalene, hydrogenated (CAS No. 503298-02-0) (provided for in subheading 3911.90.25)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2158. CERTAIN PLUG-IN ELECTROTHERMIC APPLIANCES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.58	Plug-in electrothermic appliances each with either a single integral fan or with two integral fans and designed to dispense the fragrance of scented oil, such appliances with exterior shell of plastics, having an overall height of 18 mm or more but not over 21 mm (provided for in subheading 8516.79.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2159. CONTINUOUS ACTION, SELF-CONTAINED, REFILLABLE, FAN-MOTOR DRIVEN, BATTERY-OPERATED, PORTABLE PERSONAL DEVICE FOR MOSQUITO REPELLENTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.59	Continuous action, self-contained, refillable, fan-motor driven, battery-operated, portable personal device for mosquito repellents (provided for in subheading 8414.59.60)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2160. 4-CHLORO-1,8-NAPHTHALIC ANHYDRIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.60	4-Chloro-1,8-naphthalic anhydride (CAS No. 4053-08-1) (provided for in subheading 2917.39.30)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2161. NEOPENTYL GLYCOL (MONO) HYDROXYPIVALATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.61	Neopentyl glycol (mono) hydroxypivalate (CAS No. 1115-20-4) (provided for in subheading 2918.19.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2162. O-TOLUIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.62	<i>o</i> -Toluidine (CAS No. 95-53-4) (provided for in subheading 2921.43.90)	4.2%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2163. BLOCKED POLYISOCYANATE HARDENER; 2-BUTANONE, OXIME, POLYMER WITH 1,6-DIISOCYANATOHEXANE AND 2-ETHYL-2-(HYDROXYMETHYL)-1,3-PROPANEDIOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.63	blocked polyisocyanate hardener; 2-butanone, oxime, polymer with 1,6-diisocyanatohehexane and 2-ethyl-2-(hydroxymethyl)-1,3-propanediol (CAS No. 72968-62-8) (provided for in subheading 3911.90.90).	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2164. MIXTURES OF BARIUM SULFATE AND MAGNESIUM METAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.64	Mixtures of barium sulfate (CAS No. 7727-43-7) and magnesium metal (provided for in subheading 3824.90.92)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2165. POLY(MELAMINE-CO-FORMALDELHYDE) METHYLATED BUTYLATED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.65	Poly(melamine-co-formaldehyde) methylated butylated (CAS No. 68036-97-5) (provided for in subheading 3909.20.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2166. POLY(MELAMINE-CO-FORMALDELHYDE) METHYLATED ISOBUTYLATED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.66	Poly(melamine-co-formaldehyde) methylated isobutylated (CAS No. 68955-24-8) (provided for in subheading 3909.20.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2167. ION EXCHANGE RESIN, TERTIARY AMINE CROSSLINKED POLYSTYRENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.67	Ion exchange resin, tertiary amine crosslinked polystyrene (CAS No. 68441-29-2) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2168. ION EXCHANGE RESIN, POLYSTYRENE CROSSLINKED WITH DIVINYLBENZENE, QUATERNARY AMONIUM CHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.68	Ion exchange resin, polystyrene crosslinked with divinylbenzene, quaternary amonium chloride (CAS No. 69011-15-0) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2169. ION EXCHANGE RESIN, POLYSTYRENE CROSSLINKED WITH DIVINYLBENZENE, CHLOROMETHYLATED, TRIMETHYLAMMONIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.69	Ion exchange resin, polystyrene crosslinked with divinylbenzene, chloromethylated, trimethylammonium salt (CAS No. 69011-19-4) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2170. ION EXCHANGE RESIN CONSISTING OF STYRENE-DIVINYLBENZENE-VINYLETHYLBENZENE COPOLYMER, SULFONATED, SODIUM SALTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.70	Ion exchange resin consisting of styrene-divinylbenzene-vinylethylbenzene copolymer, sulfonated, sodium salts (CAS No. 69011-22-9) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2171. TRIETHYLENEDIAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.71	Triethylenediamine (CAS No. 280-57-9) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2172. POLY(OXY-1,2-ETHANEDIYL), α -(2-ETHYLHEXYL)- ω -HYDROXY-, PHOSPHATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.72	Poly(oxy-1,2-ethanediyl), α -(2-ethylhexyl- ω -hydroxy-, phosphate (CAS No. 68439-39-4) (provided for in subheading 3402.11.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2173. MACROPOROUS ADSORPENT POLYMER COMPOSED OF CROSSLINKED PHENOL-FORMALDEHYDE POLYCONDENSATE RESIN IN GRANULAR FORM HAVING A MEAN PARTICLE SIZE OF 0.56 TO 0.76 MM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.73	Macroporous adsorbent polymer composed of crosslinked phenol-formaldehyde polycondensate resin in granular form having a mean particle size of 0.56 to 0.76 mm (CAS No. 9003-35-4) (provided for in subheading 3909.40.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2174. POLY(4-(1-ISOBUTOXYETHOXY)STYRENE-CO-4-HYDROXYSTYRENE) DISSOLVED IN 1-METHOXY-2-PROPANOL ACETATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.74	Poly(4-(1-isobutoxyethoxy)styrene-co-4-hydroxystyrene) (CAS No. 199432-82-1) dissolved in 1-methoxy-2-propanol acetate (CAS No. 108-65-6) (provided for in subheading 3208.90.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2175. POLY[(4-(1-ETHOXYETHOXY) STYRENE)/(4-(T-BUTOXYCARBONYLOXY) STYRENE)/(4-HYDROXYSTYRENE)].

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.75	Poly[(4-(1-ethoxyethoxy) styrene)/(4-(t-butoxycarbonyloxy) styrene)/(4-hydroxystyrene)] (CAS No. 177034-75-2) (provided for in subheading 3903.90.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2176. 6-DIAZO-5,6-DIHYDRO-5-OXO-NAPHTHALENE-1-SULFONIC ACID ESTER WITH 2-[BIS(4-HYDROXY-2,3,5-TRIMETHYLPHENYL)METHYL] PHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.76	6-Diazo-5,6-dihydro-5-oxo-naphthalene-1-sulfonic acid, ester with 2-[bis(4-hydroxy-2,3,5-trimethylphenyl) methyl]phenol (CAS No. 184489-92-7) (provided for in subheading 2927.00.25)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2177. BENZOYL CHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.77	Benzoyl chloride (CAS No. 98-88-4) (provided for in subheading 2916.32.20)	2.7%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2178. CHLOROBENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.78	Chlorobenzene (CAS No. 108-90-7) (provided for in subheading 2903.61.10)	2.9%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2179. P-DICHLOROBENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.79	<i>p</i> -Dichlorobenzene (CAS No. 106-46-7) (provided for in subheading 2903.61.30)	2.9%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2180. CERTAIN STEAM HAIR STRAIGHTENERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.80	Electrothermic steam hair straighteners, each with removable water reservoir, the foregoing having mechanical controls with at least three but not more than six settings to control the volume of water released from the reservoir into the steam chamber (provided for in subheading 8516.32.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2181. CERTAIN ICE CREAM MAKERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.81	Ice cream makers, each with a motor rated at 50 W or more but not over 60 W, with a bowl capacity of 1.4 liters or more but not over 1.95 liters (provided for in subheading 8509.40.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2182. CERTAIN FOOD CHOPPERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.82	Food choppers each with a reversible motor and a dual function blade, for grinding or chopping, with a bowl capacity of 0.6 liters or more, but not more than 1 liter (provided for in subheading 8509.40.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2183. CERTAIN PROGRAMMABLE DUAL FUNCTION COFFEE MAKERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.83	Electrothermic coffee makers, programmable, with blade capable of grinding coffee beans and dispensing ground coffee directly into a brew basket, each with a carafe capacity of 1.475 liters or more but not over 1.77 liters (provided for in subheading 8516.71.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2184. CERTAIN ELECTRIC COFFEE MAKERS WITH BUILT-IN BEAN STORAGE HOPPERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.84	Electrothermic coffee makers, programmable and with automatic shut-off feature, each with a built-in bean storage hopper of a capacity of 227 g, having a burr grinder capable of dispensing ground coffee directly into a brew basket, the foregoing with a carafe capacity of 1.77 liters or more but not over 2.065 liters, capable of producing coffee in quantities starting at 1 cup per brewing cycle (provided for in subheading 8516.71.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2185. SARDINES, SARDINELLA AND BRISTLING OR SPRATS, IN OIL, IN AIRTIGHT CONTAINERS, NEITHER SKINNED NOR BONED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.85	Sardines, sardinella and bristling or sprats, in oil, in airtight containers, neither skinned nor boned (provided for in subheading 1604.13.20)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2186. CERTAIN IMAGE PROJECTORS DESIGNED TO SOOTHE OR ENTERTAIN INFANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.86	Image projectors capable of projecting images onto a ceiling or wall, the foregoing each imported with audio player and designed to soothe or entertain infants (provided for in subheading 9008.30.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2187. 2-OXEPANONE POLYMER, 1-3-ISOBENZOFURANEDIONE TERMINATED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.87	2-Oxepanone polymer, 1-3-isobenzofuranedione terminated (CAS No. 117985-60-1) (provided for in subheading 3907.99.01)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2188. 2-OXEPANONE, POLYMER WITH 1,6-HEXANEDIOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.88	2-Oxepanone, polymer with 1,6-hexanediol (CAS No. 36609-29-7) (provided for in subheading 3907.99.01)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2189. ε-CAPROLACTONE POLYMER WITH POLY(1,4-BUTYLENE GLYCOL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.89	ε-Caprolactone polymer with poly(1,4-butylene glycol) (CAS No. 9051-88-1) (provided for in subheading 3907.99.01)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2190. POLY(CAPROLACTONE) DIOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.90	Poly(caprolactone) diol (CAS No. 36890-68-3) (provided for in subheading 3907.99.01)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2191. CAPROLACTONE HOMOPOLYMER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.91	Caprolactone homopolymer (CAS No. 24980-41-4) (provided for in subheading 3907.99.01) ..	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2192. 2,4,6-TRIS (DIMETHYLAMINO) METHYLPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.92	2,4,6-Tris [(dimethylamino)methyl]phenol (CAS No. 90-72-2) (provided for in subheading 2922.29.81)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2193. PROPANOIC ACID, 3-HYDROXY-2-(HYDROXYMETHYL)-2-METHYL- HOMOPOLYMER, ESTER WITH α-HYDRO-ω-HYDROXYPOLY(OXY-1,2-ETHANEDIYL) ETHER WITH 2,2-BIS(HYDROXYMETHYL)-1,3-PROPANEDIOL (4:4:1), 2,2-BIS(2-PROPENYLOXY)METHYL]BUTYL SUCCINATES C3-24 CARBOXYLATES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.93	Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl- homopolymer, ester with α-hydro-ω-hydroxypoly(oxy-1,2-ethanediyl) ether with 2,2-bis(hydroxymethyl)-1,3-propanediol (4:4:1), 2,2-bis[(2-propenyloxy)methyl]butyl succinates C3-24 carboxylates (CAS No. 462113-23-1) (provided for in subheading 3907.50.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2194. 2-OXEPANONE, POLYMER WITH 2,2-BIS(HYDROXYMETHYL)-1,3-PROPANEDIOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.94	2-Oxepanone, polymer with 2,2-bis(hydroxymethyl)-1,3-propanediol (CAS No. 35484-93-6) (provided for in subheading 3907.99.01)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2195. 2-OXEPANONE, POLYMER WITH 1,4-BUTANEDIOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.95	2-Oxepanone, polymer with 1,4-butanediol (CAS No. 31831-53-5) (provided for in subheading 3907.99.01)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2196. DIANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.96	2,5-Cyclohexadiene-1,4-dione-2,5-dichloro-3,6-bis[(9-ethyl-9H-carbazol-3-yl)amino] (Dianil) (CAS No. 80546-37-8) (provided for in subheading 2933.99.79)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2197. S-METOLACHLOR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.97	2-Chloro-N-(2-ethyl-6-methylphenyl)-N-[(1S)-2-methoxy-1-methylethyl]acetamide (s-Metolachlor) (CAS No. 87392-12-9) (provided for in subheading 2924.29.47)	6%	No change	No change	On or before 12/31/2012	”.
---	------------	--	----	-----------	-----------	-------------------------------	----

SEC. 2198. FRAMES AND MOUNTINGS FOR SPECTACLES, GOGGLES, OR THE LIKE, THE FOREGOING OF PLASTICS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.98	Frames and mountings for spectacles, goggles, or the like, the foregoing of plastics (provided for in subheading 9003.11.00)	2.3%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2199. 1,3-PROPANEDIAMINIUM, N-[3-[[[DIMETHYL [3-[(2-METHYL-1-OXO-2-PROPENYL)AMINO] PROPYL] AMMONIO] ACETYL] AMINO] PROPYL]-2-HYDROXY-N,N,N',N'-PENTAMETHYL-, TRICHLORIDE, POLYMER WITH 2-PROPENAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.43.99	1,3-Propanediaminium, N-[3-[[[dimethyl[3-[(2-methyl-1-oxo-2-propenyl) amino] propyl] ammonio] acetyl]amino] propyl] -2- hydroxy- N,N,N',N'-pentamethyl-, trichloride, polymer with 2-propenamide (CAS No. 916155-61-8) (provided for in subheading 3906.90.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2200. 2-CYCLOHEXYLIDENE-2-PHENYLACETONITRILE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.01	2-Cyclohexylidene-2-phenylacetoneitrile (CAS No. 10461-98-0) (provided for in subheading 2926.90.43)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2201. POLY(DICYCLOPENTADIENE-CO-P-CRESOL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.02	Poly(dicyclopentadiene-co-p-cresol) (CAS No. 68610-51-5) (provided for in subheading 3812.30.60)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2202. 2-OXEPANONE, POLYMER WITH AZIRIDINE AND TETRAHYDRO-2H-PYRAN-2-ONE, DODECANOATE ESTER DISPERSANT IN N-BUTYL ACETATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.03	2-Oxepanone, polymer with aziridine and tetrahydro-2H-pyran-2-one, dodecanoate ester dispersant in n-butyl acetate, such that the weight of the active ingredient is less than 50 percent of the weight of the solution (provided for in subheading 3208.10.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2203. AMINE NEUTRALIZED PHOSPHATED POLYESTER POLYMER DISPERSANT IN AROMATIC NAPHTHA SOLVENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.04	Amine neutralized phosphated polyester polymer dispersant in aromatic naphtha solvent, such that the weight of the active ingredient is less than 50 percent of the weight of the solution (provided for in subheading 3208.10.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2204. CERTAIN PLASTIC LAMINATE SHEETS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.05	Laminate sheets of plastics, each consisting of layers of polyethylene film (the foregoing comprising polyethylene coextrusion copolymer of low density polyethylene and ethylene acrylic acid) around an inner layer of aluminum foil (provided for in subheading 3921.90.40)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2205. PARTS OF FRAMES AND MOUNTINGS FOR SPECTACLES, GOGGLES, OR THE LIKE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.06	Parts of frames and mountings for spectacles, goggles, or the like (provided for in subheading 9003.90.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2206. CERTAIN WINDOW SHADE MATERIAL OF PAPER STRIPS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.07	Material suitable for use in window shades, presented in rolls, measuring approximately 27 m ² or more but not over 47 m ² in area, the foregoing comprising plaiting material of paper strips placed side-by-side and woven together using polyester yarn into a repeating pattern, whether or not painted or coated and whether or not incorporating imitation leather in strips measuring approximately 2.5 mm or more but not over 4 mm in width (provided for in subheading 4601.99.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2207. CERTAIN WINDOW SHADE MATERIAL OF BAMBOO.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.08	Material suitable for use in window shades, presented in rolls, measuring approximately 27 m ² or more but not over 47 m ² , the foregoing of bamboo, whether or not painted or coated, comprising one or more of the following bound together in parallel strands with polyester yarn: bamboo stems measuring 2 mm or more but not over 5 mm in diameter, bamboo slats measuring approximately 1 mm or more but not over 13 mm wide and/or bamboo cane measuring 2 mm or more but not over 12 mm in diameter; the foregoing whether or not containing grass, paper or jute (provided for in subheading 4601.92.20)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2208. CERTAIN WINDSOCK-TYPE DECOYS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.09	Windsock-type decoys with silhouette heads, each having an internal frame to maintain body shape and presented with spring steel stake system (provided for in subheading 9507.90.80)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2209. CERTAIN WINDSOCKS WITH SILHOUETTE HEADS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.10	Windsocks with silhouette heads and fabric bodies of textile materials, each having an internal frame to maintain body shape and presented with spring steel stake system (provided for in subheading 6307.90.98)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2210. CERTAIN IMPLEMENTS FOR CLEANING HUNTED FOWL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.11	Devices of stainless steel designed for use in separating the wings and breast of hunted fowl from the rest of the carcasses when mounted on a standard vehicle trailer hitch (provided for in subheading 7326.90.85)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2211. ALKANES C10-C14.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.12	Alkanes C10-C14 (CAS No. 93924-07-3) (ASTM D-156) (provided for in subheading 2710.19.90)	6.1%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2212. 2-HYDROXYETHYL-N-OCTYL SULFIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.13	2-Hydroxyethyl-n-octyl sulfide (CAS No. 3547-33-9) (provided for in subheading 2930.90.91)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2213. CERTAIN PHOTOMASK BLANKS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.14	Photomask blanks with synthetic quartz substrates, with zero defects greater than 0.5 microns in the photoresist and chromium or phase shift layer (provided for in subheading 3701.99.60)	1.1%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2214. CERTAIN EARPHONES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.15	Earphones, each having either multiple speakers in each earpiece (such speakers being balanced armature speakers) or with a single speaker in each earpiece (such speaker being either a balanced armature or a moving coil speaker), all the foregoing with a frequency response of 18 Hz or more but not over 19 kHz with a deviation of approximately plus or minus 3db and with detachable foam sleeves that enter the ear canal and a detachable cable (provided for in subheading 8518.30.20)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2215. CERTAIN HOT FEED EXTRUDING MACHINES FOR BUILDING TRUCK AND AUTOMOBILE TIRES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.16	Hot feed extruding machines certified by the importer as for building truck and automobile tires, such machines capable of extruding rubber materials measuring 870 mm or more but not over 1200 mm in width, and parts thereof (provided for in subheading 8477.20.00, 8477.90.25, 8477.90.45, or 8477.90.85)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2216. MIXTURES OF TETRAKIS(HYDROXYMETHYL)PHOSPHONIUM CHLORIDE - UREA POLYMER AND TETRAKIS(HYDROXYMETHYL)PHOSPHONIUM CHLORIDE, AND FORMALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.17	Mixtures of tetrakis (hydroxymethyl)phosphonium chloride - urea polymer (CAS No. 27104-30-9) and tetrakis (hydroxymethyl)phosphonium chloride (1:1) (CAS No. 124-64-1), and formaldehyde (CAS No. 50-00-0) (provided for in subheading 3809.91.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2217. P-FLUOROBENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.18	<i>p</i> -Fluorobenzaldehyde (CAS No. 459-57-4) (provided for in subheading 2913.00.40)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2218. BICYCLO[2.2.1]-HEPT-5-ENE-2,3-DICARBOXYLIC ANHYDRIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.19	Bicyclo[2.2.1]-hept-5-ene-2,3-dicarboxylic anhydride (CAS No. 826-62-0) (provided for in subheading 2917.20.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2219. O-DICHLOROBENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.20	<i>o</i> -Dichlorobenzene (CAS No. 95-50-1) (provided for in subheading 2903.61.20)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2220. 2,2'-DITHIOBISBENZOTHAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.21	2,2'-Dithioibisbenzothiazole (CAS No. 120-78-5) (provided for in subheading 2934.20.10)	2.1%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2221. AUDIO INTERFACE UNITS FOR SOUND MIXING, RECORDING, AND EDITING.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.22	Audio interface units for sound mixing, recording and editing, the foregoing capable of full interface control using separate automatic data processing systems (provided for in subheading 8543.70.96)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2222. CERTAIN ELECTRIC COOKTOPS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.23	Electric cooktops, weighing approximately 10.3 kg or more but not over 20.9 kg, having manual control knobs, each with coil-type electric cooking elements or with a flat cooking surface with incorporated heating elements, the foregoing which are (1) approximately 66.0 or 76.2 cm in width and with 4 coils or heating elements, or (2) approximately 91.4 cm in width and with 5 coils or heating elements (provided for in subheading 8516.60.60)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2223. CHROMATE(4-), [7-AMINO-3-[(3-CHLORO-2-HYDROXY-5-NITROPHENYL)AZO]-4-HYDROXY-2-NAPHTHALENESULFONATO(3-)]-[6-AMINO-4-HYDROXY-3-(2-HYDROXY-5-NITRO-3-SULFOPHENYL)AZO]-2-NAPHTHALENESULFONATO(4-)]-, TETRASODIUM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.24	Chromate(4-), [7-amino-3-[(3-chloro-2-hydroxy-5-nitrophenyl)azo]-4-hydroxy-2-naphthalenesulfonato(3-)]-[6-amino-4-hydroxy-3-[(2-hydroxy-5-nitro-3-sulfophenyl)azo]-2-naphthalenesulfonato(4-)]-, tetrasodium (CAS No. 184719-87-7) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2224. PIGMENT ORANGE 62.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.25	Butanamide, N-(2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-2-[2-(4-nitrophenyl)diazenyl]-3-oxo- (Pigment Orange 62) (CAS No. 52846-56-7) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2225. MIXTURES OF FLUSILAZOLE WITH XYLENE AND INERT APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.26	Mixtures of 1-[[bis(4-fluorophenyl) methylsilyl]methyl]-1H-1,2,4-triazole (Flusilazole) (CAS No. 85509-19-9) with xylene and inert application adjuvants (provided for in subheading 3808.92.15)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2226. FLUTHIACET-METHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.27	Methyl[[2-chloro-4-fluoro- 5[(tetrahydro-3-oxo-1H,3H- [1,3,4]thiadiazolo[3,4- a]pyridazin-1- ylidene)amino]phenyl]- thio]acetate (Fluthiacet-methyl) (CAS No. 117337- 19-6) (pro- vided for in subheading 2934.99.15)	Free	No change	No change	On or be- fore 12/31/ 2012	”.
---	------------	---	------	-----------	-----------	----------------------------------	----

SEC. 2227. FORMULATIONS CONTAINING FLUTHIACET-METHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.28	Formulations containing methyl[[2-chloro-4-fluoro- 5[(tetrahydro-3-oxo-1H,3H- [1,3,4]thiadiazolo[3,4- a]pyridazin-1- ylidene)amino]phenyl]- thio]acetate (Fluthiacet- methyl) (CAS No. 117337- 19-6) and application adjuvants (provided for in subheading 3808.93.15)	Free	No change	No change	On or be- fore 12/31/ 2012	”.
---	------------	--	------	-----------	-----------	----------------------------------	----

SEC. 2228. CERTAIN ELECTRODES PASTES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.29	Soderberg electrode pastes in rectangular blocks, cylinders (greater than or equal to 500 mm in diameter), or briquettes consisting of calcined anthracite (CAS No. 68187-59-7) and coal tar pitch CAS No. 65996-93-2) (provided for in subheading 3801.30.00) for use in the production of ferro-silicon having a 40-80 percent silicon content	Free	No change	No change	On or be- fore 12/31/ 2012	”.
---	------------	--	------	-----------	-----------	----------------------------------	----

SEC. 2229. ETHYL [4-CHLORO-2-FLUORO-5-[[[METHYL (1-METHYLETHYL) AMINO] SULFONYL] AMINO] CARBONYL] PHENYL] CARBAMATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.30	Ethyl [4-chloro-2-fluoro-5-[[[methyl(1-methylethyl)amino]sulfonyl] amino]carbonyl]phenyl] carbamate (CAS No. 874909-61-2) (provided for in subheading 2935.00.95)	5%	No change	No change	On or be- fore 12/31/ 2012	”.
---	------------	---	----	-----------	-----------	----------------------------------	----

SEC. 2230. ETHYL 3-AMINO-4,4,4-TRIFLUOROCROTONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.31	Ethyl 3-amino-4,4,4-trifluorocrotonate (CAS No. 372-29-2) (provided for in subheading 2922.49.80)	Free	No change	No change	On or be- fore 12/31/ 2012	”.
---	------------	---	------	-----------	-----------	----------------------------------	----

SEC. 2231. DIETHYL OXALATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.32	Diethyl oxalate (CAS No. 95-92-1) (provided for in subheading 2917.11.00)	Free	No change	No change	On or be- fore 12/31/ 2012	”.
---	------------	---	------	-----------	-----------	----------------------------------	----

SEC. 2232. POTASSIUM DECAFLUORO(PENTAFLUORO-ETHYL)CYCLOHEXANESULFONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.33	Potassium decafluoro(pentafluorethyl) cyclohexanesulfonate (CAS No. 67584-42-3) (pro- vided for in subheading 2904.90.50)	Free	No change	No change	On or be- fore 12/31/ 2012	”.
---	------------	---	------	-----------	-----------	----------------------------------	----

SEC. 2233. CERTAIN DYNAMIC MICROPHONES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.34	Single-element unidirectional (cardioid) dynamic microphones, each with a frequency response of 60 Hz or more but not more than 15 kHz and less than 10 dB deviation across the frequency range, the foregoing each incorporating a copper coil and neodymium magnet and having a steel mesh grille and a die-cast handle of zinc alloy (provided for in subheading 8518.10.80)	Free	No change	No change	On or be- fore 12/31/ 2012	”.
---	------------	---	------	-----------	-----------	----------------------------------	----

SEC. 2234. 2-PROPENOIC ACID, REACTION PRODUCTS WITH O-CRESOL-EPICHLOROHYDRIN-FORMALDEHYDE POLYMER AND 3A,4,7,7A-TETRAHYDRO-1,3-ISOBENZOFURANDIONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.35	2-Propenoic acid, reaction products with o-cresol-epichlorohydrin-formaldehyde poly- mer and 3a,4,7,7a-tetrahydro-1,3-isobenzofurandione (CAS No. 186511-06-8) (provided for in subheading 3907.30.00)	Free	No change	No change	On or be- fore 12/31/ 2012	”.
---	------------	--	------	-----------	-----------	----------------------------------	----

SEC. 2235. FORMALDEHYDE, POLYMER WITH METHYLPHENOL, 2-HYDROXY-3-[(1-OXO-2-PROPENYL)OXY]PROPYL ETHER AND FORMALDEHYDE, POLYMER WITH (CHLOROMETHYL)OXIRANE AND METHYLPHENOL, 4-CYCLOHEXENE-1,2-DICARBOXYLATE 2-PROPENOATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.36	Formaldehyde, polymer with methylphenol, 2-hydroxy-3-[(1-oxo-2-propenyl)oxy]propyl ether (CAS No. 126901-56-2); and formaldehyde, polymer with (chloromethyl)oxirane and methylphenol, 4-cyclohexene-1,2-dicarboxylate 2-propenoate (CAS No. 182697-62-7) (pro- vided for in subheading 3907.30.00)	Free	No change	No change	On or be- fore 12/31/ 2012	”.
---	------------	---	------	-----------	-----------	----------------------------------	----

SEC. 2236. VARIABLE-FOCAL-LENGTH (ZOOM) LENSES FOR DIGITAL CAMERAS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.37	Variable-focal-length (zoom) lenses for digital cameras, either having a focal-length range measuring approximately 10 mm or more but not over 24 mm and weighing between 455 and 465 grams, or having a focal-length range measuring approximately 55 mm or more but not over 200 mm and weighing between 329 and 339 grams, or having a focal-length range measuring approximately 70 mm or more but not over 200 mm and weighing between 1,535 and 1,545 grams (all the foregoing provided for in subheading 9002.11.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2237. CERTAIN UMBRELLAS HAVING AN ARC GREATER THAN 152 CM BUT NOT MORE THAN 165 CM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.38	Umbrellas, each having an arc measuring 152 cm or more but not more than 165 cm (provided for in subheading 6601.99.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2238. 4-METHYLBENZENESULFONAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.39	4-Methylbenzenesulfonamide (CAS No. 70-55-3) (provided for in subheading 2935.00.95)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2239. MIXTURE OF CALCIUM HYDROXIDE, MAGNESIUM HYDROXIDE, ALUMINUM SILICATE, AND STEARIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.40	Mixture of calcium hydroxide (CAS No. 1305-62-0), magnesium hydroxide (CAS No. 1309-42-8), aluminum silicate (CAS No. 70131-50-9), and stearic acid (CAS No. 57-11-4) (provided for in subheading 3824.90.92)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2240. CERTAIN ELECTRICAL CONNECTORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.41	Banana jack connectors (provided for in subheading 8536.69.80)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2241. CERTAIN TAMPER RESISTANT GROUND FAULT CIRCUIT INTERRUPTER RECEPTACLES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.42	Ground fault circuit interrupter (GFCI) receptacles designed to prevent insertion of foreign objects, each with internal shutters and clearly marked TR (“tamper resistant”), certified by the importer as meeting the 2008 National Electric Code Section 406.11 for 15 ampere or 20 ampere receptacles (provided for in subheading 8536.30.80)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2242. CERTAIN HIGH PRESSURE FUEL PUMPS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.43	Fuel pumps designed for gasoline/ethanol direct injection fuel systems in internal combustion piston engines, the foregoing pumps capable of delivering fuel at pressures of 3.5 MPa or more but not over 12 MPa (provided for in subheading 8413.30.90)	1.4%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2243. CERTAIN HYBRID ELECTRIC VEHICLE INVERTERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.44	Inverters (provided for in subheading 8504.40.95) for converting DC battery output to three-phase AC output designed to power an electric drive motor, certified by the importer for use in hybrid electric vehicles	1.1%	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2244. CERTAIN DIRECT INJECTION FUEL INJECTORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.45	Direct injection fuel injectors (solenoid valves) (provided for in subheading 8481.80.90) designed to inject gasoline/ethanol fuel blends directly into the combustion chamber of a spark-ignition combustion piston engine in a high-pressure non-port injection system in a motor vehicle	1.1%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2245. CERTAIN POWER ELECTRONICS BOXES AND STATIC CONVERTER COMPOSITE UNITS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.46	Power electronics box and static converter composite units (provided for in subheading 8504.40.95), each capable of performing the functions of an AC inverter and an auxiliary power module, capable of reducing DC voltage from 42 V (supplied by battery) to 12 V output and providing three-phase AC output to motor generator unit, the foregoing certified by the importer for use in hybrid electric motor vehicles	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2246. CERTAIN ENGINES TO BE INSTALLED IN WORK TRUCKS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.47	Compression-ignition internal combustion piston engines of a cylinder capacity not exceeding 1,000 cc to be installed in vehicles of heading 8709 (provided for in subheading 8408.20.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2247. CERTAIN WINDOW SHADE MATERIAL IN ROLLS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.48	Material suitable for use in window shades, presented in rolls, measuring approximately 27 m ² or more but not over 47 m ² , the foregoing of wood, whether or not painted or coated, comprising wood slats measuring approximately 6 mm or more but not over 8 mm in width or 22 mm or more but not over 25 mm in width and 1 mm or more but not over 2 mm in thickness, woven into a repeating pattern with polyester yarn; the foregoing whether or not containing one or more of the following materials: bamboo stems measuring approximately 1 mm or more but not over 2.5 mm in width, marupa (Simarouba spp.) wood rods measuring approximately 1.5 mm or more but not over 3 mm in diameter, rope of twisted paper, jute yarn or paper strips (provided for in subheading 4601.94.20)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2248. 4,4'-METHYLENEBIS(2-CHLOROANILINE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.49	4,4'-Methylenebis(2-chloroaniline) (CAS No. 101-14-4) (provided for in subheading 2921.59.08)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2249. METHYL CHLOROACETATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.50	Methyl chloroacetate (CAS No. 96-34-4) (provided for in subheading 2915.40.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2250. CERTAIN LAMINATED FILM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.51	Laminated film with outer layers of polyethylene sandwiched around a printed nylon inner layer, with or without an additional saran inner layer; or laminated film of polyethylene with printed nylon inner layer for use in aseptic bag manufacture (provided for in subheading 3920.10.00)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2251. METHYL ACRYLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.52	Methyl acrylate (CAS No. 96-33-3) (provided for in subheading 2916.12.50)	2%	No change	No change	On or before 12/31/2012	”.
---	------------	---	----	-----------	-----------	-------------------------------	----

SEC. 2252. HEXANEDIOIC ACID, POLYMER WITH N-(2-AMINOETHYL)-1,3-PROPANEDIAMINE, AZIRIDINE, (CHLOROMETHYL)OXIRANE, 1,2-ETHANEDIAMINE, N,N-1,2-ETHANEDIYLBIS(1,3-PROPANEDIAMINE), FORMIC ACID AND ALPHA-HYDRO-OMEGA-HYDROXYPOLY(OXY-1,2-ETHANEDIYL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.53	Hexanedioic acid, polymer with N-(2-aminoethyl)-1,3-propanediamine, aziridine, (chloromethyl)oxirane, 1,2-ethanediamine, N,N-1,2-ethanediylbis(1,3-propanediamine), formic acid and alpha-hydro-omega-hydroxypoly(oxy-1,2-ethanediyl) (CAS No. 114133-44-7) (provided for in subheading 3911.90.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2253. N-VINYLFORAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.54	N-Vinylformamide (CAS No. 13162-05-5) (provided for in subheading 2924.19.11)	0.3%	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2254. LOW MOLECULAR WEIGHT ETHYLENIMINE COPOLYMERS, 1,2-ETHANEDIAMINE, POLYMER WITH AZIRIDINE, WHETHER IN AQUEOUS SOLUTION OR WATER FREE GRADES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.55	Low molecular weight ethylenimine copolymers, 1,2-ethanediamine, polymer with aziridine (CAS No. 25987-06-8), whether in aqueous solution or water free grades (provided for in subheading 3911.90.90)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	--	------	-----------	-----------	-------------------------------	----

SEC. 2255. ANTARCTIC KRILL OIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.56	Antarctic krill oil, in bulk, not chemically modified, not containing lipids from any other sources (provided for in subheading 3824.90.40)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2256. MIXTURE OF 1-(1,2,3,4,5,6,7,8-OCTAHYDRO-2,3,8,8-TETRAMETHYL-2-NAPHTHALENYL)-ETHAN-1-ONE (AND ISOMERS).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.44.57	Mixture of 1-(1,2,3,4,5,6,7,8-octahydro-2,3,8,8-tetramethyl-2-naphthalenyl)-ethan-1-one (and isomers) (CAS Nos. 54464-57-2; 68155-66-8; 68155-67-9) (provided for in subheading 2914.29.50)	Free	No change	No change	On or before 12/31/2012	”.
---	------------	---	------	-----------	-----------	-------------------------------	----

SEC. 2257. EFFECTIVE DATE.

The amendments made by this subtitle apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

Subtitle B—Additional Existing Duty Suspensions and Reductions

SEC. 2301. EXTENSION OF CERTAIN EXISTING DUTY SUSPENSIONS AND REDUCTIONS AND OTHER MODIFICATIONS.

(a) **EXTENSIONS.**—Each of the following headings is amended by striking the date in the effective period column and inserting “12/31/2012”:

(1) Heading 9902.05.35 (relating to certain footwear).

(2) Heading 9902.22.70 (relating to calcium chloride phosphate phosphor activated by manganese and antimony used as a luminophore).

(3) Heading 9902.22.72 (relating to calcium chloride phosphate phosphor used as a luminophore).

(4) Heading 9902.22.74 (relating to small particle calcium chloride phosphate phosphor).

(5) Heading 9902.24.12 (relating to sacks and bags of undyed woven fabric of nylon multifilament yarns used for packing wool for transport, storage, or sale).

(6) Heading 9902.13.28 (relating to Triasulfuron).

(7) Heading 9902.11.36 (relating to 2-Methylhydroquinone).

(8) Heading 9902.85.21 (relating to certain liquid crystal display panel assemblies).

(9) Heading 9902.84.85 (relating to certain extruders used in the production of radial tires).

(10) Heading 9902.29.02 (relating to 2-Acetylnicotinic acid).

(11) Heading 9902.03.23 (relating to 12-Hydroxyoctadecanoic acid, reaction product with N,N-dimethyl-1,3-propanediamine, dimethyl sulfate, quaternized, 60 percent solution in toluene).

(12) Heading 9902.25.59 (relating to staple fibers of viscose rayon, not carded, combed, or otherwise processed for spinning).

(13) Heading 9902.10.21 (relating to acrylic or modacrylic filament tow).

(14) Heading 9902.25.62 (relating to acrylic or modacrylic staple fibers, not carded, combed, or otherwise processed for spinning).

(15) Heading 9902.02.67 (relating to acetyl chloride).

(16) Heading 9902.10.47 (relating to butanedioic acid, dimethyl ester, polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidineethanol).

(b) **OTHER MODIFICATIONS.**—

(1) **TRITICONAZOLE.**—Heading 9902.03.99 is amended—

(A) by striking the article description and inserting the following: “(RS)-(E)-5-(4-chlorobenzylidene)-2,2-dimethyl-1-(1H-1,2,4-triazol-1-ylmethyl)cyclopentanol (Triticonazole) (CAS No. 188425-85-6) (provided for in subheading 2933.99.22)”;

(B) by striking the date in the effective period column and inserting “12/31/2012”.

(2) **BOSCALID.**—Heading 9902.01.18 is amended—

(A) by striking the article description and inserting the following: “2-Chloro-N-(4'-chloro-biphenyl-2-yl)-nicotinamide (Boscalid) (CAS No. 188425-85-6) (provided for in subheading 2933.39.21)”;

(B) by striking “4.4%” in the column 1 general rate of duty column and inserting “5.8%”;

(C) by striking the date in the effective period column and inserting “12/31/2012”.

(3) **ARTIFICIAL FLOWERS OF MAN-MADE FIBERS.**—The second heading 9902.25.65 (relating to artificial flowers of man-made fibers)—

(A) is redesignated as heading 9902.25.80; and

(B) is amended—

(i) by striking “Free” in the column 1 general rate of duty column and inserting “8.7%”;

(ii) by striking the date in the effective period column and inserting “12/31/2012”.

(4) **CERTAIN AC ELECTRIC MOTORS OF AN OUTPUT EXCEEDING 74.6 W BUT NOT EXCEEDING 105 W.**—Heading 9902.85.07 is amended—

(A) by striking the article description and inserting the following: “AC electric motors of an output exceeding 74.6 W but not exceeding 105 W, single phase; each equipped with a capacitor, a rotary speed control mechanism, and a peripherally located mounting, cooling, and electrical isolation ring made of plastics with an internal opening exceeding 80 mm and an external dimension exceeding 127 mm but not exceeding 180 mm (provided for in subheading 8501.40.40)”;

(B) by striking “Free” in the column 1 general rate of duty column and inserting “1%”;

(C) by striking the date in the effective period column and inserting “12/31/2012”.

(5) 3,3 DICHLORO BENZIDINE DIHYDROCHLORIDE.—Heading 9902.25.73 is amended—

(A) by striking “5.9%” in the column 1 general rate of duty column and inserting “4.3%”;

(B) by striking the date in the effective period column and inserting “12/31/2012”.

(6) **CERTAIN CHEMICAL DISPERSANT.**—Heading 9902.03.26 is amended—

(A) in the article description, by striking “3824.90.28” and inserting “2933.99.79”;

(B) by striking the date in the effective period column and inserting “12/31/2012”.

(7) **CERTAIN LIGHTS DESIGNED FOR USE IN AIRCRAFT.**—Heading 9902.22.85 is amended by striking the article description and inserting the following: “Exterior lights designed for illuminating aircraft evacuation routes or slides (provided for in subheading 9405.40.60)”.

(8) **CERTAIN VACUUM RELIEF VALVES DESIGNED FOR USE IN AIRCRAFT.**—Heading 9902.22.83 is amended by striking the article description and inserting the following: “Vacuum relief valves designed to equalize pressure between the internal cabin and the external atmosphere, certified by the importer for use in civil aircraft (provided for in subheading 8481.40.00)”.

(9) **CERTAIN SECTOR MOLD PRESS MACHINES.**—Heading 9902.84.89 is amended—

(A) by striking the article description and inserting the following: “Sector mold press machines to be used in production of radial tires designed for off-the-highway use, such tires measuring more than 254 cm in overall diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40 or 4011.99.45), numerically controlled, and parts thereof (provided for in subheading 8477.51.00 or 8477.90.85)”;

(B) by striking the date in the effective period column and inserting “12/31/2012”.

(10) **VERNAKALANT HYDROCHLORIDE.**—Heading 9902.22.93 is amended—

(A) by striking the article description and inserting the following: “3-Pyrrolidinol, 1-[(1R,2R)-2-[2-(3,4-dimethoxyphenyl)ethoxy]cyclohexyl]-hydrochloride, (3R) (Vernakalant hydrochloride) (CAS No. 748810-28-8) (provided for in subheading 2933.99.53)”;

(B) by striking the date in the effective period column and inserting “12/31/2012”.

(11) **POLY(ETHYLENE-CO-1-BUTENE).**—Heading 9902.10.34 is amended—

(A) by striking the article description and inserting the following: “Poly(ethylene-co-1-butene) (CAS No. 25087-34-7) (provided for in subheading 3901.20.50)”;

(B) by striking the date in the effective period column and inserting “12/31/2012”.

(12) **ULTRAFINE YTTRIUM OXIDE PHOSPHOR.**—Heading 9902.22.69 is amended—

(A) by striking the article description and inserting the following: “Ultrafine yttrium oxide phosphor, with a median particle size not to exceed 4.3 microns and containing greater than 6.5 percent by weight of europium, used as a luminophore (CAS No. 68585-82-0) (provided for in subheading 2846.90.80)”;

(B) by striking the date in the effective period column and inserting “12/31/2012”.

(13) **COARSE YTTRIUM OXIDE PHOSPHOR.**—Heading 9902.22.63 is amended—

(A) by striking the article description and inserting the following: “Coarse yttrium oxide phosphor with a median particle size greater than 4.9 microns, containing between 4.5 and 5.9 percent by weight of europium, used as a luminophore (CAS No. 68585-82-0) (provided for in subheading 2846.90.80)”;

(B) by striking the date in the effective period column and inserting “12/31/2012”.

(14) **STRONTIUM CALCIUM BARIUM CHLOROPHOSPHATE.**—Heading 9902.22.73 is amended—

(A) by striking the article description and inserting the following: “Strontium calcium barium chlorophosphate, europium doped, used as a luminophore (CAS Nos. 109037-74-3 and 1312-81-8) (provided for in subheading 3206.50.00)”;

(B) by striking the date in the effective period column and inserting “12/31/2012”.

(15) **LANTHANUM PHOSPHATE PHOSPHOR.**—Heading 9902.22.75 is amended—

(A) by striking the article description and inserting the following: “Lanthanum phosphate phosphor with a median particle size between 2.5 and 4.1 microns, containing cerium and terbium, used as a luminophore (CAS Nos. 13778-59-1, 13454-71-2, and 13863-48-4 or 95823-34-0) (provided for in subheading 2846.90.80)”;

(B) by striking the date in the effective period column and inserting “12/31/2012”.

(16) **BARIUM MAGNESIUM ALUMINATE PHOSPHOR.**—Heading 9902.22.64 is amended—

(A) by striking the article description and inserting the following: “Barium magnesium aluminate phosphor with a median particle size between 2.2 and 3.0 microns, containing europium or manganese, used as a luminophore (CAS Nos. 63774-55-0 and 1308-96-9) (provided for in subheading 3206.50.00)”;

(B) by striking the date in the effective period column and inserting “12/31/2012”.

SEC. 2302. EFFECTIVE DATE.

(a) **IN GENERAL.**—The amendments made by this subtitle apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) **RETROACTIVE APPLICABILITY.**—

(1) **IN GENERAL.**—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to paragraph (2), the entry of a good described in any heading of subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (as amended by this subtitle)—

(A) which was made on or after January 1, 2010, and before the 15th day after the date of the enactment of this Act, and

(B) with respect to which there would have been no duty or a reduced duty (as the case may be) if the amendment or amendments made by this subtitle applied to such entry, shall be liquidated or reliquidated as though the entry had been made on the 15th day after the date of the enactment of this Act.

(2) REQUESTS.—A liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with U.S. Customs and Border Protection not later than 180 days after the date of the enactment of this Act that contains sufficient information to enable U.S. Customs and Border Protection—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

(3) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry of a good under paragraph (1) shall be paid, without interest, not later than 90 days after the date of the liquidation or reliquidation (as the case may be).

(4) DEFINITION.—As used in this subsection, the term “entry” includes a withdrawal from warehouse for consumption.

TITLE III—MODIFICATION OF WOOL APPAREL MANUFACTURERS TRUST FUND

SEC. 3001. MODIFICATION OF WOOL APPAREL MANUFACTURERS TRUST FUND.

(a) IN GENERAL.—Section 4002(c)(2) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108-429; 118 Stat. 2600) is amended—

(1) in subparagraph (A), by striking “subject to the limitation in subparagraph (B)” and inserting “subject to subparagraphs (B) and (C)”; and

(2) by adding at the end the following new subparagraph:

“(C) ALTERNATIVE FUNDING SOURCE.—Subparagraph (A) shall be applied and administered by substituting ‘chapter 62’ for ‘chapter 51’ for any period of time with respect to which the Secretary notifies Congress that amounts determined by the Secretary to be equivalent to amounts received in the general fund of the Treasury of the United States that are attributable to the duty received on articles classified under chapter 51 of the Harmonized Tariff Schedule of the United States are not sufficient to make payments under paragraph (3) or grants under paragraph (6).”

(b) FULL RESTORATION OF PAYMENT LEVELS IN CALENDAR YEAR 2010.—

(1) TRANSFER OF AMOUNTS.—

(A) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer to the Wool Apparel Manufacturers Trust Fund, out of the general fund of the Treasury of the United States, amounts determined by the Secretary of the Treasury to be equivalent to amounts received in the general fund that are attributable to the duty received on articles classified under chapter 51 or chapter 62 of the Harmonized Tariff Schedule of the United States (as determined under section 4002(c)(2) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108-429; 118 Stat. 2600)), subject to the limitation in subparagraph (B).

(B) LIMITATION.—The Secretary of the Treasury shall not transfer more than the amount determined by the Secretary to be necessary for—

(1) U.S. Customs and Border Protection to make payments to eligible manufacturers under section 4002(c)(3) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amount of such payments, when

added to any other payments made to eligible manufacturers under section 4002(c)(3) of such Act for calendar year 2010, equal the total amount of payments authorized to be provided to eligible manufacturers under section 4002(c)(3) of such Act for calendar year 2010; and

(ii) the Secretary of Commerce to provide grants to eligible manufacturers under section 4002(c)(6) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amounts of such grants, when added to any other grants made to eligible manufacturers under section 4002(c)(6) of such Act for calendar year 2010, equal the total amount of grants authorized to be provided to eligible manufacturers under section 4002(c)(6) of such Act for calendar year 2010.

(2) PAYMENT OF AMOUNTS.—U.S. Customs and Border Protection shall make payments described in paragraph (1) to eligible manufacturers not later than 30 days after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund. The Secretary of Commerce shall promptly provide grants described in paragraph (1) to eligible manufacturers after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund.

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) shall not be construed to affect the availability of amounts transferred to the Wool Apparel Manufacturers Trust Fund before the date of the enactment of this Act.

TITLE IV—LIQUIDATION OR RELIQUIDATION OF CERTAIN LINE ITEMS

SEC. 4001. RELIQUIDATION OF CERTAIN ORANGE JUICE ENTRIES.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provisions of law, U.S. Customs and Border Protection shall, not later than 90 days after the date of the enactment of this Act, liquidate or reliquidate the entries listed in subsection (c) in accordance with the final results of the administrative reviews undertaken by the International Trade Administration of the Department of Commerce with respect to the antidumping duty order on certain orange juice from Brazil (Case Number A-351-840) and covering the periods from August 24, 2005, through February 28, 2007, and from March 1, 2007, through February 29, 2008, respectively.

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by U.S. Customs and Border Protection not later than 90 days after such liquidation or reliquidation with interest.

(c) AFFECTED ENTRIES.—The entries referred to in subsection (a) are the following:

Entry Number	Date of Entry
032-0354213-3	12/14/2006
032-0358707-0	04/05/2007
032-0362302-4	07/09/2007.

SEC. 4002. RELIQUIDATION OF CERTAIN ENTRIES OF INDUSTRIAL NITROCELLULOSE FROM THE UNITED KINGDOM.

(a) RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provision of law, U.S. Customs and Border Protection shall, not later than 90 days after the date of the enactment of this Act—

(1) reliquidate the entries listed in subsection (b) at the final antidumping duty assessment rate of 3.43 percent, as determined by Department of Commerce during the administrative review pertaining to those entries; and

(2) refund to the importer of record the amount of excess antidumping duty collected as a result of the liquidation of those entries and the assessment of antidumping duties at the “as entered” rate of 18.49 percent, including interest thereon, in accordance with sections 737(b) and 778 of the Tariff Act of 1930 (19 U.S.C. 1673f(b) and 1677g).

(b) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry number	Date of entry	Port
91608255286	6/26/2000	Houston
91609285753	7/4/2000	Houston
91609285761	7/4/2000	Houston
91608258504	7/20/2000	Houston
91608259700	7/25/2000	Houston
91608260724	8/1/2000	Houston
91608263405	8/12/2000	Houston
91608264429	8/28/2000	Houston
91608266135	8/31/2000	Houston
91608267364	9/6/2000	Houston
91608271382	9/27/2000	Houston
91608272976	10/5/2000	Houston
91608273735	10/12/2000	Houston
91608276662	10/23/2000	Houston
91608278700	10/30/2000	Houston
91608276654	10/23/2000	Houston
91608279567	11/7/2000	Houston
91608279559	11/8/2000	Houston
91608282322	11/20/2000	Houston
91608285242	12/9/2000	Houston
91608286935	12/16/2000	Houston
91608286950	12/16/2000	Houston
91608288428	12/19/2000	Houston
91608289392	12/28/2000	Houston
91608290499	1/2/2001	Houston
91608290507	1/2/2001	Houston
91608293717	1/24/2001	Houston
91608293709	1/24/2001	Houston
91608296868	2/6/2001	Houston
91608294640	1/30/2001	Houston
91610450040	2/19/2001	Houston
91610455031	3/6/2001	Houston
91510455015	3/6/2001	Houston

Entry number	Date of entry	Port
91610459223	3/26/2001	Houston
91610462052	4/6/2001	Houston
91610462037	4/10/2001	Houston
91610466665	4/22/2001	Houston
91610460619	4/6/2001	Houston
91610469669	5/9/2001	Houston
91610470600	5/12/2001	Houston
91610470402	5/12/2001	Houston
91610474149	5/30/2001	Houston
91610477019	6/12/2001	Houston
91610475385	6/4/2001	Houston
91610479650	6/25/2001	Houston
91608255013	6/22/2000	Norfolk
91608254990	6/22/2000	Norfolk
91608257498	6/7/2000	Norfolk
91608259189	7/15/2000	Norfolk
91608260708	7/16/2000	Norfolk
91608260716	7/29/2000	Norfolk
91608263272	8/8/2000	Norfolk
91608263421	8/12/2000	Norfolk
91608264718	8/14/2000	Norfolk
91608265145	8/18/2000	Norfolk
91608265392	8/18/2000	Norfolk
91608265384	8/18/2000	Norfolk
91608266127	8/25/2000	Norfolk
91608266119	8/25/2000	Norfolk
91608268933	9/8/2000	Norfolk
91608266283	9/1/2000	Norfolk
91608268925	9/8/2000	Norfolk
91608268966	9/8/2000	Norfolk
91608269865	9/15/2000	Norfolk
91608272182	9/22/2000	Norfolk
91608270988	9/15/2000	Norfolk
91608272406	9/22/2000	Norfolk
91608272984	9/30/2000	Norfolk
91608273727	9/30/2000	Norfolk
91608273792	10/6/2000	Norfolk
91608277702	10/18/2000	Norfolk
91608278239	10/24/2000	Norfolk
91608275334	10/14/2000	Norfolk
91608277595	10/21/2000	Norfolk

Entry number	Date of entry	Port
91608279591	11/1/2000	Norfolk
91608279831	11/13/2000	Norfolk
91608282314	11/15/2000	Norfolk
91608285028	11/30/2000	Norfolk
91609979181	11/30/2000	Norfolk
91609981393	12/15/2000	Norfolk
91608289400	12/23/2000	Norfolk
91608290515	12/29/2000	Norfolk
91608293402	1/16/2001	Norfolk
91608299045	2/8/2001	Norfolk
91608299029	2/8/2001	Norfolk
91610450438	2/15/2001	Norfolk
91610453739	2/28/2001	Norfolk
91610453754	2/28/2001	Norfolk
91610461088	3/27/2001	Norfolk
91610465063	4/17/2001	Norfolk
91610467440	4/24/2001	Norfolk
91610468562	5/1/2001	Norfolk
91610474115	5/23/2001	Norfolk
91610474289	6/5/2001	Norfolk
91610478389	6/13/2001	Norfolk

SEC. 4003. PROHIBITION ON COLLECTION OF CERTAIN PAYMENTS MADE UNDER THE CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (c), neither the Secretary of Homeland Security nor any other person may require repayment of, or attempt in any other way to recoup, any payments described in subsection (b) in an attempt to offset any amount to be refunded pursuant to section 4001 or 4002.

(b) PAYMENTS DESCRIBED.—Payments described in this subsection are payments of antidumping duties made pursuant to the Continued Dumping and Subsidy Offset Act of 2000 (section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c; repealed by subtitle F of title VII of the Deficit Reduction Act of 2005 (Public Law 109-171; 120 Stat. 154))) that were assessed and paid on imports of goods covered by section 4001 or 4002 when the entries for those goods were originally liquidated.

(c) LIMITATION.—Nothing in this section shall be construed to prevent the Secretary of Homeland Security, or any other person, from requiring repayment of, or attempting to otherwise recoup, any payments described in subsection (b) as a result of a finding of false statements or other misconduct by a recipient of such a payment.

TITLE V—TECHNICAL CORRECTIONS

SEC. 5001. TECHNICAL CORRECTIONS.

(a) REACTIVE YELLOW 7459.—Heading 9902.02.46 is amended in the article description column to read as follows: “Reactive Yellow 206 (1,3,6-Naphthalenetrisulfonic acid, 7,7'-[1,3-propanediyl]bis[imino(6-fluoro-1,3,5-triazine-4,2-diyl)]imino[2-

[(aminocarbonyl)amino]-4,1-phenylene]azo]]bis-, sodium salt) (CAS No. 143683-24-3) (provided for in subheading 3204.16.30)”.

(b) VINYLIDENE CHLORIDE-METHYL METHACRYLATE-ACRYLONITRILE COPOLYMER.—Heading 9902.23.09 is amended in the article description column by striking “3904.90.50” and inserting “3904.50.00”.

(c) STAINLESS STEEL SINGLE-PIECE EXHAUST GAS MANIFOLDS.—Heading 9902.40.94 is amended in the article description column by striking “9902.01.50” and inserting “8409.91.50”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICABILITY.—

(A) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to subparagraph (B), the entry of a good described in any heading of subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (as amended by this title)—

(i) which was made on or after January 1, 2010, and before the 15th day after the date of the enactment of this Act, and

(ii) with respect to which there would have been no duty or a reduced duty (as the case may be) if the amendment or amendments made by this title applied to such entry,

shall be liquidated or reliquidated as though the entry had been made on the 15th day after the date of the enactment of this Act.

(B) REQUESTS.—A liquidation or reliquidation may be made under subparagraph (A) with respect to an entry only if a request therefor is filed with U.S. Customs and Border Protection not later than 180 days after the date of the enactment of this Act that contains sufficient information to enable U.S. Customs and Border Protection—

(i) to locate the entry; or

(ii) to reconstruct the entry if it cannot be located.

(C) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry of a good under subparagraph (A) shall be paid, without interest, not later than 90 days after the date of the liquidation or reliquidation (as the case may be).

(D) DEFINITION.—As used in this paragraph, the term “entry” includes a withdrawal from warehouse for consumption.

SEC. 5002. ADDITIONAL TECHNICAL CORRECTION.

(a) BIAXIALY ORIENTED POLYPROPYLENE DIELECTRIC FILM.—Heading 9902.25.75 is amended by striking the article description and inserting the following: “Biaxially oriented polypropylene film, certified by the importer as intended for metallization and use in capacitors, or certified by the importer as below 40 gauge (10.2 micrometers), not intended for metallization and intended for use in capacitors, all of the foregoing produced from solvent-washed low ash content (less than 50 ppm) polymer resin (CAS No. 9003-07-0) (provided for in subheading 3920.20.00)”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

DIVISION C—OFFSETS
TITLE I—OFFSETS

SEC. 10001. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking “September 30, 2019” and inserting “September 30, 2020”; and

(2) in subparagraph (B)(i), by striking “September 30, 2019” and inserting “May 23, 2020”.

SEC. 10002. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 4.5 percentage points.

SEC. 10003. COMPLIANCE WITH PAYGO.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. LEVIN) and the gentleman from Michigan (Mr. CAMP) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. LEVIN).

GENERAL LEAVE

Mr. LEVIN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. LEVIN. Madam Speaker, I yield myself such time as I may consume.

This is really a vital bill. I bring it to the floor in a bipartisan spirit to move and to make sure that all of the important pieces of this vital legislation, all of them, become law. This bill continues the essential trade adjustment assistance program that we expanded in 2009. Importantly, these reforms were authored on a bipartisan, bicameral basis by Mr. RANGEL and myself, Mr. CAMP, Senators BAUCUS and GRASSLEY. So let me say just a few words about TAA.

Since the reforms were implemented in 2009, more than 155,000 additional trade-impacted workers who might not have been certified under the former TAA program became eligible for TAA worker benefits and training opportunities. More than 155,000. In total, more than 367,000 workers were certified as eligible for TAA support in that time-frame.

In 2010 alone, and I also want to emphasize this number, 227,882 workers took advantage of TAA and participated in the program, receiving case management, training and/or income support. You know, I wish in a way

227,882 people could come here and line up from here. I'm not quite sure how far the line would extend. It would be a very long way. We have a solemn obligation to continue this expanded program.

This legislation also supports U.S. businesses that need inputs or components not produced here in the U.S. in order to manufacture, and I underline that, downstream products here in the United States of America.

Miscellaneous tariff bills like this one have been a part of U.S. policy for 27 years. But in recent years, we have made the process more transparent than ever before, and if I might, I want to pay tribute to all of those who have worked together here in the House and in the Senate in terms of the transparency of this process. Based on these improvements, the Sunlight Foundation has phrased the MTB as “transparency done right.”

The last MTB was signed into law in August after passing the House by a bipartisan vote of 378–43. Taken together, according to one study, these two MTBs are expected to increase U.S. production by at least \$4.6 billion over 3 years and to support 90,000 U.S. manufacturing jobs.

Next, the bill also includes an 18-month extension for two preference programs—GSP, the Generalized System of Preferences; and the Andean Trade Preference Act, ATPA—that are set to expire at the end of the year. That means in 2 weeks. Last year, this legislation was passed by voice vote.

Preferences are important tools in U.S. trade policy. They help developing nations capture the opportunities and meet the challenges of trade and globalization, while at the same time, and this is critical to emphasize, providing significant benefits here in the United States. For example, ATPA has helped develop an important market for U.S.-made textiles in the Andean region, while also helping those nations in their efforts to fight trade in narcotics. Also, the majority of U.S. imports, 75 percent using GSP, were imports used to sustain U.S. manufacturing, including raw materials, parts and components, machinery and equipment.

These programs have also, and again I want to emphasize, have been shaped to encourage broad-based economic development, with eligibility criteria regarding worker rights—we have worked on the worker rights provisions over the years—the rule of law, innovation and investment, and policies to fight corruption.

Madam Speaker, there has long been, because of the strength of these programs, bipartisan support for all of them. Each of them relates to U.S. jobs. Each of them relates to U.S. jobs, and it is crucial that we act to continue them today.

I reserve the balance of my time.

Mr. CAMP. Madam Speaker, I yield myself such time as I may consume, and then I will yield the balance of my time to the distinguished gentleman from Texas (Mr. BRADY), the ranking member of the Trade Subcommittee.

Madam Speaker, the national unemployment rate is 9.8 percent. The unemployment rate in my home State of Michigan is 12.8 percent. America is desperately in need of jobs, and American workers need Congress to focus on legislation that will help create jobs. This legislation is a solid step in that direction. I have often said that government can't create jobs; it is the private sector that creates jobs, and Congress can help the private sector by removing barriers to job creation.

This legislation lowers taxes and makes American manufacturers more competitive so they can invest and create the jobs that American workers need now. Therefore, it fits squarely within the core principles of the Republican Party. Republicans support lowering taxes, making American workers more competitive, liberalizing trade, and letting the private sector thrive and create jobs.

At the outset, this legislation extends our trade preference programs, especially the Andean Trade Preferences Act. I would rather see Congress vote on our trade agreement with Colombia, but for over 3 years, the Speaker has refused to permit a simple up-or-down vote on that agreement. The Speaker has refused to bring that agreement to the floor even though it would level the playing field for American workers and generate new exports and support American jobs.

Despite the lack of progress on that agreement, I strongly support the continuation of the ATPA program. This program is crucial to this country and to Colombia, and we cannot subject such a strong ally to the injury of letting the program expire on top of the insult of our inability to act on that trade agreement.

Furthermore, this legislation extends the bipartisan, bicameral 2009 Trade Adjustment Assistance law that is helping trade-affected workers, farmers, firms, and communities retool and compete in the 21st century. The 2009 law provided a more flexible, cost-effective and accountable regime focusing on retraining. It also recognized the important role of services in the U.S. economy by bringing service workers into the program. These improvements to the TAA program help workers by getting them more quickly off government support and back into good paying, private sector jobs.

Importantly, this legislation delays for a year and a half a controversial U.S. Labor Department final rule mandating that the States use exclusively State employment service employees to administer TAA-funded benefits and services. Unless this delay is enacted

now, 27 States will no longer be allowed to use a mix of staff.

□ 1800

Similarly, without this delay, even the other States that elect to use only State ES staff would be adversely affected because they could not make different staffing choices in the future. In today's economy, it makes no sense to require States to make costly changes to successful programs that are helping workers find new jobs.

This delay is also important because it would help restore the 2009 bipartisan, bicameral compromise on this issue. In addition, this legislation removes barriers by lowering taxes on imported inputs that enable value-added, American manufacturing and supports U.S. jobs, inputs that aren't otherwise available in the United States. These provisions have been fully vetted through a bipartisan and transparent process. Finally, this legislation is fully paid for, which is crucial in this time of rapidly rising fiscal deficits. Madam Speaker, I am pleased that this legislation accomplishes all these goals and is a truly bipartisan product.

I want to thank my colleague from Michigan, Chairman LEVIN, for his close cooperation in preparing this legislation and bringing it to the floor today for a vote.

Madam Speaker, I hope the other body takes up this legislation quickly and passes it. Several of these important programs expire at the end of the year, and there is no time to waste. Further delay would be harmful to American workers.

I reserve the balance of my time.

Mr. LEVIN. Madam Speaker, I now yield 3 minutes to the chair of the Subcommittee on Trade, the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Thank you, Chairman LEVIN, and I want to thank Mr. BRADY, who is the ranking member on the Trade Subcommittee.

The mentioning of the Trade Adjustment Provisions and the Generalized System of Trade Preferences are both important. I think they have been covered by Mr. CAMP and Mr. LEVIN in their remarks. I want to talk just a minute about what I consider to be one of the most important features of this bill with respect to American jobs, and that is the miscellaneous tariff provisions contained in the bill.

These miscellaneous tariff provisions allow for U.S. companies to import items that cannot be obtained in this country to be used in the manufacturing process, thereby making U.S. manufacturing concerns more competitive in the world market and in being able to increase employment in our own country. This cannot be, I don't think, overstated or overestimated as to its importance; although, it might be a very small part of what we are trying to do in the whole area of trade.

I hope that we can move forward—even though I won't be here next year. I hope we can move forward on some trade agreements that are pending. This is an exciting time. It is a time for America to get back in the business, and this omnibus trade bill is a good start.

I want to applaud Mr. LEVIN and committee staff and thank them for all the help they have given to the Trade Subcommittee through the years.

The SPEAKER pro tempore (Mr. ALTMIRE). Without objection, the gentleman from Texas will control the time.

There was no objection.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

I want to join others in thanking Chairman TANNER, chairman of the Trade Subcommittee, for his leadership and service to our country and our economy through the years. He will be missed.

Mr. Speaker, our economy is struggling, and this Congress hasn't done enough to help promote the job creation we so desperately need. Congress needs a new playbook, and this legislation can be the first new play we run. The bipartisan legislation extends the Generalized System of Preferences and the Andean Trade Preferences Act and renews and establishes certain miscellaneous tariff reductions. In doing so, this bill lowers taxes on the products that American manufacturers need to be more competitive.

More competitive U.S. manufacturers means more jobs for American workers. America's farmers will benefit from this legislation as well, because it will help hold down the cost of fertilizers and pesticides. More importantly, American families will benefit from this legislation. In fact, American families will see double benefits. Not only will it help promote job creation, it will lower costs for consumers. At a time when so many families are struggling to get by, lower taxes on these products can help American families make ends meet.

Expert analysis has demonstrated how these provisions will support American jobs. For example, the miscellaneous tariffs legislation could support as many as 90,000 U.S. jobs. The Preferences program has been found to support 682,000 jobs and lower costs for consumers by \$273 million. In today's difficult economic times, these are clearly policies the Congress should support.

Additionally, the extension of the ATPA program will provide critical support for our strongest ally in South America, Colombia. Right now, Colombia is suffering from terrible flooding and has declared a state of emergency. This natural disaster has badly damaged the Colombian economy, and Colombians cannot afford even a temporary lapse of this program.

I share the frustration of many of my colleagues that Congress has not taken up the U.S.-Colombia trade agreement, which would remove barriers to American sales to Colombia. America's farmers and ranchers are already losing exports as other countries implement trade agreements with Colombia ahead of us and gain a competitive advantage, and that's why this agreement has bipartisan support.

I urge supporters on both sides of the aisle to ensure that the ATPA program does not lapse so we can support our allies in Colombia while we continue our efforts to bring the trade agreement to the floor of Congress for a successful vote.

Also, this legislation continues to authorize the 2009 law updating and approving the Trade Adjustment Assistance program in various respects. Such improvements included allowing better and more successful training options to trade-impacted workers and providing trade adjustment benefits to service workers, given the importance of the service sector in America's economy. The 2009 law also helps ensure TAA program accountability and results by requiring data on the program's performance and its worker outcome. This will enable us to measure how the program is effective and where improvements are needed.

Significantly, this bill prevents the U.S. Department of Labor from forcing Texas and 26 other States to use only so-called State "merit" employees to provide Trade Adjustment Assistance-funded services. This Federal mandate went against the wishes of Congress and has unnecessarily distracted States from efficiently providing TAA services to trade-impacted workers. The bill delays the ill-advised Labor Department rule for the next year and a half, helping to ensure that the congressional intent behind the 2009 bipartisan TAA law is respected and that each State may continue to decide how best to provide high-quality TAA services to trade-impacted workers to get them retrained and back to work.

Mr. Speaker, I commend Chairman LEVIN and Ranking Member CAMP for working so hard to bring this legislation to the floor. This can be the first play out of a new bipartisan playbook that promotes trade as a means to grow the economy and create jobs. The playbook should also include seeking congressional passage of the three pending trade agreements in the first half of next year: a high-standard Trans-Pacific Partnership agreement by the U.S.-hosted APEC leaders' summit next November, an ambitious outcome to the WTO Doha talks next year, and other trade-opening initiatives.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. HERGER) who has led the Trade Subcommittee in past years.

The SPEAKER pro tempore. Without objection, the gentleman from California will control the balance of the time.

There was no objection.

Mr. HERGER. Mr. Speaker, I reserve the balance of my time.

Mr. LEVIN. It is now my privilege to yield 3 minutes to the distinguished member of the Ways and Means Committee from the State of Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I rise today in support of the Omnibus Trade Act of 2010.

Mr. Speaker, you know that when the AFL-CIO and the U.S. Chamber of Commerce are energetically in favor of the same bill, that's a pretty good day and probably a pretty good thing to do. This bill helps U.S. businesses. It reduces their costs with tariff reductions on things they need that aren't made here in the United States. Each one of these tariff reductions have been carefully vetted. They have been on the Web site. Anybody can see them. It has been a very transparent process, and it is good that we're able to get it done before we leave the Congress at this time.

It will create billions of dollars of economic activity and help kick-start the creation of jobs. This bill also helps struggling economies around the world—the Andes, the Caribbean, and others—by keeping our trade programs in place and stable for the next 18 months.

□ 1810

We can't let these programs lapse. They are too important to Americans and also to our good partners worldwide with whom we want economic development, with whom we do better if they're doing better, and these programs are helpful to them. To cut them off is to leave them with no place to sell the goods they are making. In fact, I would like a longer extension, and I really think there needs to be a trade preference bill.

I hope, in the next Congress, Mr. BRADY and others on the other side will bring that forward. We had hoped to get it done this time, but we didn't get it done. We need to do it, and this is a good intermediate step.

Finally, we are keeping our Trade Adjustment Assistance program in place and are continuing to improve on it. This helps hundreds of thousands of workers every year, as you have heard, who are negatively impacted by trade. 227,000 workers have benefited from this in this year alone. They receive educational benefits and help in making the transition from an industry that has disappeared to one that is now expanding in the United States and will provide jobs. Our workers need to be mobile and retrained, and the Trade Adjustment Assistance helps get that done.

This bill costs almost nothing. It is fully paid for and will boost the economy. I urge all of my colleagues to vote for it.

Mr. HERGER. Mr. Speaker, I yield 1½ minutes to a member of the Ways and Means Committee and a member of the Trade Subcommittee, the gentleman from Washington (Mr. REICHERT).

Mr. REICHERT. I thank the gentleman for yielding.

Mr. Speaker, I rise today in strong support of this omnibus trade package. I, along with my friend and colleague from Washington State (Mr. McDERMOTT), urge all of my colleagues to support it.

I am particularly pleased that this bill extends trade preference programs. Preferences are a powerful developmental tool, and they can also be used to improve laws, environment and labor standards, and intellectual property rights protections. Developing nations, American workers, and businesses have benefited considerably when our preference program partnerships move to a permanent free trade agreement.

One country that has graduated from preferences is South Korea. It continues to be among the leading exporters to the United States. It is a great model of how a country can graduate from the preference partnership to a free trade agreement that levels the playing field for American workers—a free trade agreement that deserves broad support and swift passage in the next Congress.

As unemployment remains high, we must continue to knock down trade barriers for American goods and services—“sell American” to customers all over the world—to protect and create jobs here at home.

I urge support for this package today.

Mr. LEVIN. Mr. Speaker, I yield the balance of my time to the gentleman from Washington (Mr. McDERMOTT).

The SPEAKER pro tempore. Without objection, the gentleman from Washington will control the time.

There was no objection.

Mr. McDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I rise in strong support of H.R. 6517, the Omnibus Trade Act of 2010.

Shipping jobs overseas has become an industry unto itself. Jobs and people are displaced again and again. This is an attempt to try to respond to those workers who have lost jobs under the guise of free trade. Our first line of defense is fair trade that doesn't sacrifice the American workforce.

This is good bipartisan legislation. We haven't had too much of it, so we might not have noticed it.

I am pleased that the committee was able to work in a bipartisan fashion

with the minority to extend these programs and provisions that help our workers and businesses compete in this global economy. It is particularly critical that we reauthorize the reforms Congress made to the Trade Adjustment Assistance program, or the TAA, which was passed as part of the Recovery Act in February of last year.

As the chairman pointed out, these reforms have been in place now for some time, and the program has helped hundreds of thousands of workers; 5,000 of those workers whose jobs were shipped overseas during this recession were in New Jersey. They received retraining, support for their incomes, and they were able to keep their health care. We expanded the program's eligibility, including the service sector and more manufacturing jobs; we increased training and health coverage benefits, and we streamlined the program, making it more flexible and efficient for workers to take advantage of.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McDERMOTT. I yield the gentleman 1 additional minute.

Mr. PASCRELL. One of the most important reforms expands eligibility to all workers whose jobs have been moved overseas, not just for those jobs that were lost to our free trade partners. If we allow this provision to expire, workers whose jobs have been shipped to China or India could be ineligible for TAA benefits. They will be out of luck.

All in all, the Department of Labor estimates that, thanks to these reforms, an additional 155,000 trade-impacted workers were eligible for the TAA program. In New Jersey, almost 90 percent of the workers who received TAA benefits were eligible because of the reforms that we passed in February of 2009. We must continue to fight for those jobs. We must continue to keep American jobs here.

For those who get unavoidably left behind, providing them with the opportunity to get support and retraining at a place like Passaic County Community College, in my district, in Paterson, New Jersey, through the TAA Community College Grant program is the least we can do, Mr. Speaker, for our workers who have been hard hit in the last 10 years.

Mr. HERGER. Mr. Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. I thank the gentleman for yielding.

I want to thank the chairman and ranking member of the committee for their work and the committee's work in bringing the Omnibus Trade Act of 2010 to the floor.

Mr. Speaker, this is an important piece of legislation. It really is about jobs, as you have already heard. At a

time when the unemployment rate remains unacceptably high and is really stubborn in a lot of places across this country, this bill will help create jobs and retrain workers for new careers. We tend to forget that sometimes when we think of people losing jobs, of the long-term unemployed and the issues surrounding training for new opportunities.

In my home State of North Carolina, the manufacturers and, really, the manufacturers across the country are the ones which are going to really deliver our economic growth and our national recovery. This bill, as you have already heard, will really help in that regard.

First, it will help lower production costs by leveling the playing field with our international competitors, which is an important piece. You have heard how we do it. It is for those items they purchase that we don't have in this country. When we keep them from paying tariffs, it means that they are more competitive. It means we have more workers working, and people can substitute unemployment checks for paychecks.

As the former State Superintendent of Public Schools in North Carolina, I have always said that education is the key to the future. There is no better way to create jobs than to have a well-educated citizenry and educated workforce. I am pleased that this bill strongly supports job training and that it supports our community colleges to expand access to education for more trade-impacted workers.

□ 1820

While I strongly support this bill, I wish it had included a reauthorization of the cotton trust fund, which would have helped hundreds of workers in North Carolina, and I call on the House and the Senate to reauthorize the cotton trust fund as soon as possible. Despite this omission, though, the Omnibus Trade Act of 2010 is a good, job-creating bill that will keep American workers competitive in this tough economy we find ourselves in.

I urge my colleagues to join me in supporting this legislation. I thank the gentleman for yielding.

Mr. Speaker, this bill is about jobs: good jobs in American manufacturing, good jobs for workers in export industries, and job training for those negatively impacted by trade. It adjusts tariffs to ensure our manufacturing businesses can compete in the world markets, and supports fair trade for American companies. At a time when the unemployment rate remains unacceptably high, this bill creates jobs and retrain workers for new careers.

Manufacturing is a leading sector of the economy in my State of North Carolina and will be important to the Nation's economy as a whole as we continue the recovery. Throughout this Congress I have been proud to support measures that strengthen our manufacturing industry. In order to grow our econ-

omy, we must have manufacturing jobs that allow many Americans the chance to earn good wages. By suspending or reducing duties on over 290 products that are used as inputs or components in domestically manufactured goods, this bill lowers production costs for our manufacturers and helps to level the playing field with our international competitors.

I am pleased that this bill provides assistance and training to workers adversely affected by trade. Trade Adjustment Assistance provides training and associated income support to individuals in need of new skills, modernizing our work force and helping workers find a place in today's economy. Recognizing the critical role that community colleges play, the 2009 TAA reforms provided grants to educational institutions to develop, offer and improve education and career training for workers eligible for TAA. H.R. 6517 expands this critical initiative and makes more workers eligible to participate. I have always believed education is the key to economic prosperity. My home State of North Carolina has seen many economic challenges over the years, but it is our solid commitment to education that has allowed our economy to adapt and attract new industries. As the former Superintendent of Public Schools, I've always said that education is the key to the future. There is no better way to create jobs than education.

While I strongly support this bill, I am disappointed that it reauthorizes the Wool Trust Fund, but not the Cotton Trust Fund. A reauthorization of the Cotton Trust Fund is important to hundreds of workers in North Carolina, and would have enhanced the positive jobs impact of the bill. I hope that Congress will continue to work to make this important grant and tariff relief program to strengthen the U.S. cotton industry.

Despite this omission, the Omnibus Trade Act of 2010 is a good, job-creating bill that extends expiring trade provisions, helps displaced workers acquire new skills in order to compete in our global economy, and supports U.S. manufacturing. I would like to thank Chairman LEVIN for all of his hard work to bring this bill to the floor. This legislation puts Americans to work, and I hope that my colleagues from both sides of the aisle will join me in supporting it.

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today with renewed hope that our Nation's trade agenda may soon move forward. This legislation includes an extension of trade preference programs, which is important, but is no substitute for passing our pending market-opening agreements with Colombia, Panama, and Korea. Mr. Speaker, if we hope to remain the key player in the global marketplace, we must do all we can to strengthen our ties to important democratic allies. Passage of these agreements will boost economic growth and create U.S. jobs by tearing down trade barriers and significantly increasing our exports into these markets, while at the same time enhancing our national security by bringing greater stability to Asia and South America.

Take the U.S.-Colombia agreement, for example. Colombia is the largest

market for U.S. agricultural exports in South America, which makes it an important market for my agriculturally rich northern California district. Yet, we have seen our agriculture exports to Colombia decline by 65 percent over the last 2 years because our products still face tariffs and other barriers, while agriculture products from Argentina and Brazil, two major competitors for America's farmers and ranchers, received duty-free access to the Colombian market. The reason for the disparity is simple: Argentina and Brazil have implemented a trade agreement with Colombia, while our Nation has not. This trend, of U.S. producers losing out to foreign competitors, will only get worse as the European Union and Canada are moving towards implementing their own agreements with Colombia.

Mr. Speaker, it is time for Congress to recognize that continued inaction is suppressing job creation for Americans out of work and denying our producers new opportunities to export. Congress should pass our pending trade agreements without further delays.

I urge the Congress and my colleagues to support this legislation.

Ms. SLAUGHTER. Mr. Speaker, I rise today in support of H.R. 6517, the Omnibus Trade Act of 2010. This bill includes provisions that are critical to our manufacturing base: specifically decreasing the cost of raw materials, extending Trade Adjustment Assistance to workers who have seen their jobs shipped overseas, and making an important technical fix to the Wool Trust Fund program.

Trade Adjustment Assistance is one of the most important lifelines for American workers who have lost their jobs due to international trade. The program helps train workers in new fields, and helps bridge the gap in health insurance benefits for workers and their families. In 2009, Congress made significant improvements by expanding eligibility for service sector workers, manufacturing and secondary workers, and by increasing training funding. The expansion also increased the Workers Health Coverage Tax Credit subsidy to minimize gaps in health insurance coverage for workers and their families. Since the overhaul more than 10,000 workers in New York alone have been certified to receive TAA benefits, and over 5,000 of these workers would not have received benefits had the extension not been in place. Across the country, TAA has helped more than 155,000 otherwise misplaced workers with the expansion since 2009.

Our vote today will extend the improvements made until June, 2012.

If we in Congress don't take action and instead let these improvements expire, we abandon workers who have already suffered from our tilted trade policies. It is imperative that we pass this legislation to ensure that America's workforce is able to adjust to changing economic environment and America can remain competitive in the global marketplace. H.R. 6517 also includes a technical fix to ensure that the Wool Trust Fund is funded at the level authorized in 2004 and 2008. This

program provides payments to U.S. suit makers who have been left at a competitive disadvantage due to an inverted tariff—where the duty on the finished product is lower than the duty on the materials used to make the finished product. Without this fix, we are actually disincentivizing suit makers to operate in the U.S. and that would be tragic for my district, which is home to Hickey-Freeman and 500 of the best suit makers in the world.

The workers at Hickey-Freeman know from experience that over the past 2 years, revenue for this program shrank considerably, resulting in cuts of up to 66 percent to payments made to U.S. companies. H.R. 6517 closes the funding shortfall ensuring that our domestic suit makers continue to manufacture in the U.S. and that they are able to compete on a level playing field.

I strongly support this legislation because it protects many of the manufacturing jobs we have now and provides funding to retrain American manufacturing workers for the jobs of tomorrow.

I encourage my colleagues to join me in supporting H.R. 6517.

Mr. HERGER. I yield back the balance of my time.

Mr. McDERMOTT. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. LEVIN) that the House suspend the rules and pass the bill, H.R. 6517, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REQUIRING REPORTS ON MANAGEMENT OF ARLINGTON NATIONAL CEMETERY

Mr. FILNER. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3860) to require reports on the management of Arlington National Cemetery.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3860

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORTS ON MANAGEMENT OF ARLINGTON NATIONAL CEMETERY.

(a) REPORT ON GRAVESITE DISCREPANCIES.—Not later than one year after the date of the enactment of this Act, the Secretary of the Army shall submit to the committees of Congress specified in subsection (c) a report setting forth an accounting of the gravesites at Arlington National Cemetery, Virginia. The accounting shall—

(1) specify whether gravesite locations at Arlington National Cemetery are correctly identified, labeled, and occupied; and

(2) set forth a plan of action, including the resources required and a proposed schedule, to implement remedial actions to address deficiencies identified pursuant to the accounting.

(b) GAO REVIEW OF MANAGEMENT AND OVERSIGHT OF CONTRACTS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in subsection (c) a report on the management and oversight of contracts at Arlington National Cemetery.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The number, dollar amount, and duration of current contracts at Arlington National Cemetery over the simplified acquisition threshold.

(B) The number, dollar amount, and duration of current contracts for automation of burial operations at Arlington National Cemetery, including contracts relating to the Total Cemetery Management System (TCMS), the Geographic Information System (GIS), the Interment Scheduling System (ISS), the Interment Management System (IMS), and new or modified versions of the Burial Operations Support System (BOSS) of the Department of Veterans Affairs.

(C) An assessment of the management and oversight by the Executive Director of the Army National Cemeteries Program of the contracts covered by subparagraphs (A) and (B), including the use of and actions taken for that purpose by the Corps of Engineers and the National Capital Region Contracting Center of the Army Contracting Command.

(D) An assessment of the actions taken by the Executive Director of the Army National Cemeteries Program in response to the findings and recommendations of the Inspector General of the Army in the report entitled “Report of Investigation and Special Inspection of Arlington National Cemetery Final Report (Case 10-04)”, dated June 9, 2010.

(E) An assessment of the implementation of the following:

(i) Army Directive 2010-04 on Enhancing the Operations and Oversight of the Army National Cemeteries Program, dated June 10, 2010, including, without limitation, an evaluation of the sufficiency of all contract management and oversight procedures, current and planned information and technology systems, applications, and contracts, current organizational structure and manpower, and compliance with and execution of all plans, reviews, studies, evaluations, and requirements specified in the Army Directive.

(ii) The recommendations and actions proposed by the Army National Cemeteries Advisory Commission with respect to Arlington National Cemetery.

(F) An assessment of the adequacy of current practices at Arlington National Cemetery to provide information, outreach, and support to families of individuals buried at Arlington National Cemetery regarding procedures to detect and correct current errors in burials at Arlington National Cemetery.

(G) An assessment of the feasibility and advisability of transferring jurisdiction of Arlington National Cemetery and the United States Soldiers’ and Airmen’s Home National Cemetery to the Department of Veterans Affairs, and an assessment of the feasibility and advisability of the sharing of jurisdiction of such facilities between the Department of Defense and the Department of Veterans Affairs.

(3) SIMPLIFIED ACQUISITION THRESHOLD DEFINED.—In this subsection, the term “simplified acquisition threshold” has the meaning provided that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(c) SPECIFIED COMMITTEES OF CONGRESS.—The committees of Congress specified in this subsection are—

(1) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Veterans’ Affairs of the Senate; and

(2) the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Veterans’ Affairs of the House of Representatives.

(d) REPORTS ON IMPLEMENTATION OF ARMY DIRECTIVE ON ARMY NATIONAL CEMETERIES PROGRAM.—

(1) IN GENERAL.—The Secretary of the Army shall submit to the appropriate committees of Congress reports on execution of and compliance with Army Directive 2010-04 on Enhancing the Operations and Oversight of the Army National Cemeteries Program, dated June 10, 2010. Each such report shall include, for the preceding 270 days or year (as applicable), a description and assessment of the following:

(A) Execution of and compliance with every section of the Army Directive for Arlington National Cemetery, including, without limitation, an evaluation of the sufficiency of all contract management and oversight procedures, current and planned information and technology systems, applications, and contracts, current organizational structure and manpower, and compliance with and execution of all plans, reviews, studies, evaluations, and requirements specified in the Army Directive.

(B) The adequacy of current practices at Arlington National Cemetery to provide information, outreach, and support to families of those individuals buried at Arlington National Cemetery regarding procedures to detect and correct current errors in burials at Arlington National Cemetery.

(2) PERIOD AND FREQUENCY OF SUBMITTAL.—A report required by paragraph (1) shall be submitted not later than 270 days after the date of the enactment of this Act, and every year thereafter for the next 2 years.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Indiana (Mr. BUYER) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. FILNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the systemic and longstanding problems at Arlington National Cemetery have become well-known and are a national tragedy. Arlington National Cemetery is our most hallowed ground, the final resting place of many of our heroes. Every year, nearly 4 million people visit this cemetery. Because of the importance of Arlington to our national memory, the American people expect Arlington to be run reverently and meticulously, but as we all know now, this has not been the case.

Following a yearlong series of investigative reports published on

Salon.com, the Army prompted an investigation regarding reports of unmarked, misidentified, or misplaced graves. The Army investigation identified a culture of inaction and inactivity, a failure to act and a failure to come to grips with the problems at Arlington. Unfortunately, these problems have been going on for years.

Recently, the Army opened a criminal investigation after eight urns of cremated remains were found in a grave marked "unknown." Army Secretary John McHugh has taken many steps to correct the many failures at Arlington, and we applaud his efforts. The Committee on Veterans' Affairs has worked closely with our colleagues on the Armed Services Committee to get answers and find a way forward.

I agree with our esteemed chairman of the House Armed Services Committee, IKE SKELTON, who stated in a June hearing that, "We must be prepared that a 100 percent survey of the cemetery and all of its operations, which I believe must now be undertaken, will yield a larger number of problems that must be addressed."

A comprehensive survey may find that the burial errors at Arlington may number in the thousands, but in order to provide a concrete solution to this problem, we must first fully understand the scope.

The Senate has acted, passing S. 3860 on December 4 of this year. This measure requires reports to Congress on the management of Arlington National Cemetery, including grave site discrepancies, the management and oversight of contracts, and the implementation of recent Army directives. Passing S. 3860 is a first step but not the final answer.

In the waning days of this Congress, we have the opportunity to send to the President this important measure. We will continue to work closely with our colleagues in Armed Services, with the administration, and with our Senate colleagues in the months ahead to fix what is wrong at Arlington and to ensure that the operation of this national shrine honors the men and women who lie at rest there.

Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

I rise in reluctant support of Senate bill 3860, as amended, which would require reports on the management of Arlington National Cemetery. The reason I say reluctant support is the Veterans' Affairs Committee itself, really we didn't take up the issues on Arlington, and we allowed the Senate and the House Armed Services Committee to do their work, but the House Veterans' Affairs Committee, we did not do ours. And so this is very unfortunate that we're proceeding with this bill in a lame duck session when we have not even held hearings ourselves on this

issue. So I cannot speak from firsthand, other than my conversations with the Secretary of the Army myself, but the committee did not hold hearings on this piece of legislation at all.

Since the founding of Arlington in June of 1864, the cemetery has been revered as the "crown jewel" of the national cemetery system. It is the final resting place of several American Presidents, Supreme Court justices, and over 300,000 veterans and their families. Like most Americans, I was deeply disturbed and appalled by revelations by the Department of Army Inspector General's report regarding the mismanagement and possible criminal behavior at Arlington.

I do want to praise Secretary of the Army John McHugh for his swift action in response to this report, also for his following up on the recommendations of Secretary Geren's request for the investigation. So, once again, I extend my compliments to my good friend, the Secretary of the Army, John McHugh.

□ 1830

Secretary McHugh has installed a new management team that is reaching out to the National Cemetery Administration at the VA for their help in implementing the needed changes to defend Arlington's reputation and ensure that the cemetery operations are conducted in a way that honors our warriors who have given so much in the defense of our Nation.

No family should ever have to wonder if their loved one is accounted for or buried in a proper location. They should assume that all has been done correctly. Our heroes and their families deserve the highest possible standards with regard to burial honors, and this bill seeks to provide this assurance.

This bill, as amended, requires several reports on the new management team's progress to improve Arlington's IT systems, the contracting practices, organizational structure, and report on the feasibility of transferring the operation of Arlington from the Department of the Army to the VA's National Cemetery Administration. While additional reports will be beneficial, I believe it is important to first allow the Army to complete its ongoing investigations of these same issues. Different studies on overlapping issues can provide unique insights; however, providing these simultaneous investigations, performed by different agencies, might also create unnecessary hindrances to the ongoing studies.

Also, with regard to the final provisions on the feasibility of transferring the operation of Arlington National Cemetery to the VA National Cemetery Administration, I want to offer my recommendation that Arlington National Cemetery remain under the jurisdiction of the United States Army. It is hasty to assume that we should imme-

diately just transfer the jurisdiction. It is very important for us to define what, in fact, are the challenges and what are the problems. It is so much like an American: We hear a problem, and we want to run out and create a solution before we totally understand the scope of our challenge. So before we get the cart before the horse, let's not run out there and talk about, Let's immediately transfer.

Now I can assure you that when the Department of Interior was not doing their job, what I believe, correctly, I made a suggestion that we should transfer those cemeteries from the Department of Interior to the VA. I don't have a problem. You can make that a holder out there. You get people to do what they believe are the right things to do, and maybe that is what Senator MCCASKILL was attempting to do here. So I have to respect her in setting a benchmark to do that, and maybe that is, in fact, what her goal here is, to make sure that everybody does what they are supposed to do.

The VA does an excellent job of administering the National Cemetery Administration. However, ANC imposes a comprehensive array of issues and logistical arrangements that are completely unique and separate from those at the VA that they, in fact, handle. For example, in addition to coordinating approximately 25 military funerals per day, the Army's duties at Arlington, including the responsibility for the horse teams, for the caissons, and guarding the Tomb of the Unknowns, is truly unique. Certainly Arlington National Cemetery can benefit by emulating VA practices that are applicable, and such information sharing is, in fact, underway. But ultimately, Arlington National Cemetery, under the jurisdiction of the United States Army is where it should remain until we can achieve some answers.

I reserve the balance of my time.

Mr. FILNER. I yield myself such time as I may consume.

We had thought that the distinguished gentleman from Missouri, the chairman of the Armed Services Committee, Mr. IKE SKELTON, would be here this evening. He is not. But I would like to say that this House, of course, honors his extraordinary service to his district, his State, the men and women of our armed services, and most importantly, of course, our Nation for 34 years. It has been a great experience to work with IKE SKELTON closely, as chairman of the Veterans' Affairs Committee, and to work with him for those who serve in active duty and those who have served and are now veterans.

President Truman, who is a hero to all of us and especially to IKE, stated that, "It is amazing what you can accomplish if you do not care who gets the credit." IKE SKELTON has personified this wonderful saying, working tirelessly for the good of our country.

He has done more than he will ever get credit for, and this House will be a poorer place without his presence.

I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, yielding myself such time as I may consume, I do associate myself with the gentleman's comments regarding Chairman SKELTON. IKE not only being a very dear friend, but I really appreciate him stepping forward with these hearings.

With that, I yield 3 minutes to the gentleman from Virginia, Representative BOB GOODLATTE.

Mr. GOODLATTE. I thank the gentleman for yielding. I thank the gentleman from California for bringing this legislation forward, and I want to take the opportunity to commend the gentleman from Indiana for his leadership on the Veterans' Affairs Committee for a number of years now and for his service in the Congress. He came here at the same time I did, and I very much appreciate the great contributions he has made in those years.

I rise in support of this legislation which requires a detailed report to Congress on the gravesite discrepancies at Arlington National Cemetery, including information concerning burial operations and errors in burials. It is sad that we are even having to consider such legislation today, but unfortunately, it has become very apparent that it is absolutely necessary.

Recent news reports have revealed multiple instances of misplaced human remains at Arlington National Cemetery. These sickening stories are a national disgrace. Our Nation's veterans, in life and in death, deserve our utmost respect. They have engaged in one of the noblest forms of public service, defending this Nation. It is their tireless work that has made our country great, strong, and most importantly, free. These men and women have helped to liberate victims of oppression, spread democracy across the world, and preserve the freedoms our Nation was built upon. Our fallen heroes deserve our honor, our respect, and our appreciation. This critical legislation will go a long way in ensuring that it is always the case. It is a final "thank you" on behalf of a grateful Nation.

Mr. Speaker, it is very important that we get to the bottom of this matter, we correct this problem as quickly as possible and restore the respect that people need to have in such an important facility which carries such historic significance and the sacred remains of great men and women who have served our country.

Mr. BUYER. I yield myself such time as I may consume.

I thank the gentleman, Mr. BOB GOODLATTE of Virginia, a classmate of mine, and I respect all he has been able to do on the Ag Committee.

I will yield now 3 minutes to another Virginian, Congressman ROBERT J. WITTMAN.

Mr. WITTMAN. Mr. Speaker, I rise today in strong support of S. 3860, a bill that would ensure greater accountability for the operations at Arlington National Cemetery.

I would first like to thank the gentleman from California, Chairman FILLNER, for his leadership on this issue and bringing this bill to the floor to make sure that this issue is put out there in the forefront, and to the gentleman from Indiana, Ranking Member BUYER, who has done the same, who is passionate about making sure that we are doing the right thing and making the right decisions. I think the ranking member points out some great things we ought to remember, and that is, let's make sure we do a proper examination. Let's not be hasty in reaching judgments. Let's make sure that we are thoughtful about this and make sure we are holding people accountable and not too quickly getting to a point of transference but really getting at the root of the problem. So I appreciate the ranking member for his thoughtfulness on that.

Mr. Speaker, these are our Nation's heroes who have fought and have died to protect our country, and they deserve absolute dignity and honor. The mishandling of remains and gravesites at Arlington has demonstrated that there was a clear lack of accountability. After allegations of mismanagement surfaced in June, Army Secretary John McHugh rightly came forward to accept responsibility and immediately made changes to correct the system. And I want to applaud the Secretary for doing that. He has done great work in making sure that this issue gets addressed. I do believe that this legislation is necessary, though, as the next step to ensure accountability and to avoid these issues in the future.

□ 1840

S. 3860 would require the Secretary of the Army to submit a report to Congress accounting for all the gravesites at Arlington Cemetery within 1 year. And folks, this is a significant effort. There are 320,000 of our heroes buried at Arlington. There may be up to 6,600 gravesites in question. We owe it to the families, we owe it to those servicemembers to make sure that this issue is addressed.

This bill would require the Army to submit plans to remedy any errors found and make sure that those don't happen again in the future.

Under the bill, the Comptroller General would be required to report to Congress on efforts to change the management and oversight structure at Arlington National Cemetery, including contract management.

I am pleased that the legislation requires an assessment of the adequacy of current practices at Arlington, to provide information, outreach and support to the families of individuals bur-

ied at the cemetery as errors are detected and corrected. And we've seen some of those things happen here recently.

I just heard the other day of a family who was told that the remains of their loved one were, indeed, known and that they were confirmed. Unfortunately, a week later they were called and told that that was not the case. We need to make sure we get this right, and we need to make sure we keep in mind the effects on families who have loved ones and our Nation's heroes that are buried there.

The families deserve timely and accurate information about the location of their loved ones, and I want to make sure that that happens and happens in every case without ambiguity.

Arlington is the last resting place of so many of our Nation's heroes, those service men and women who are called upon and gave the ultimate sacrifice to this country and, folks, they deserve nothing less.

I urge my colleagues to support this bill.

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

What I would like to comment on now, Mr. Speaker, really deals with a problem in the House rules that I think needs to be corrected as we go into the next session of Congress. So with regard to jurisdiction, lines of jurisdiction with regard to committees and how bills are assigned through the Parliamentarian, at the direction of the Speaker, I sent a letter to the Speaker dated December 9, 2010.

This Senate bill that came to us, it appears that it invokes the jurisdiction also of the House Armed Services Committee. The Army personnel manage and operate Arlington National Cemetery, and the cemetery is under the jurisdiction of the United States Army. So Chairman SKELTON properly moved out and held his hearings in the House Armed Services Committee relative to Arlington. So I can begin to understand why the chairman of the Veterans' Affairs Committee then allowed the House Armed Services Committee to proceed.

Then when the Senate conducts their hearings, and they did so, the Senate Veterans' Affairs Committee passed their bill, and immediately they sent it to us in a lame duck session.

Now, you say, why wouldn't this bill also have either a joint referral or to the Armed Services Committee, or why did it only go to the House Veterans' Affairs Committee?

Well, you go to the House rules. So even though I sent the letter to Madam Speaker PELOSI saying, please invoke jurisdiction of the House Armed Services Committee, the response obviously was "no" because here we now are on the House floor doing this bill by a committee who had never done hearings on the bill.

The problem is in the House rules itself. When you turn to the House rules, I think this has got to be an error in the drafting of these rules. Rule X, 2 cites that cemeteries under the United States in which veterans of any war or conflict are or may be buried, whether in the United States, abroad, except cemeteries administered by the Secretary of the VA, it goes to the Veterans' Affairs Committee. This has to be corrected. So, hopefully, when you go into the next Congress, this rule gets corrected so that the cemeteries that are under the jurisdiction of the United States Army, such as the two, Old Soldiers Home and Arlington National Cemetery, that that legislation regarding that jurisdiction rests with the Armed Services Committee. The VA Committee, we have oversight; but with regard to this, it's a jurisdictional question, and it needs to be corrected.

And that's why you have two individuals here managing a bill on the floor that really the House Armed Services Committee, Mr. Speaker, should also be here. But I want all the Members to know that's why this is happening.

I suppose, yes, we can all be very upset with regard to the management and the markings of some of these graves; but those of us who have had the opportunity to go to Arlington and see the job in which the Old Guard perform, it is pretty extraordinary. I was last there on Monday of Thanksgiving week. I joined Lieutenant General John Kelly, his family and hundreds of his friends at the chapel at Fort Myer. We all left the chapel. We proceeded down the windy road, down the hill, led by the Army Band, a platoon of soldiers, horse-drawn caisson that carried the body of John's youngest son, Lieutenant Robert Kelly, killed in Afghanistan.

The wind was crisp. The sky was blue. The oak and maple trees were clutching onto their red, yellow, gold and light-green leaves. Others were slowly drifting to the ground. The sun shined brightly upon them all.

Each grave marker properly and perfectly aligned in columns, in rows and angles, each was offset by rich green grass signifying the etchings in our national book of remembrance. That's my firsthand account of having attended the funeral of Lieutenant Robert Kelly at his burial on Thanksgiving week. That has been replicated since that Monday of Thanksgiving week, and it has been no different than how the Old Guard pays their honor and respect to so many, and it goes back so far in time.

That rich heritage is what causes each one of us to rise when we get so concerned with regard to mismanagement of such a sacred ground.

With that, I'm going to ask all Members to support the legislation.

COMMITTEE ON VETERANS' AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 9, 2010.

Hon. NANCY PELOSI,
*Speaker of the House, House of Representatives,
H232, The Capitol, Washington, DC.*

DEAR MADAM SPEAKER, in reviewing S. 3860, as amended, a bill to require reports on the management of Arlington National Cemetery, it appears that the bill invokes authority under the jurisdiction of the House Committee on Armed Services.

Army personnel manage and operate Arlington National Cemetery and the cemetery is under the jurisdiction of the United States Army. Accordingly, as the Ranking Member of the Committee of jurisdiction, I request that an additional referral be made to House Committee on Armed Services to provide for its full consideration of this bill.

It is important that the Committee on Armed Services be permitted to weigh in on this legislation prior to further consideration, as that Committee has legislative and oversight jurisdiction over the Department of the Army, and held a hearing on management issues at Arlington National Cemetery on June 30, 2010.

Thank you for your consideration of this matter.

Sincerely,

STEVE BUYER,
Ranking Republican Member.

Mr. RUSH. Mr. Speaker, I rise today in support of S. 3860, A bill to require reports on the management of Arlington National Cemetery. This bill requires reports from the Department of the Army and the Government Accountability Office that will help restore the American people's faith in Arlington National Cemetery and, from this point forward, ensures that this sacred space continues to maintain the high level of service that is rightfully expected by the families of our servicemembers, both living and fallen.

Mr. Speaker, I have personally seen the pain and sorrow caused by cemetery errors.

As many of my colleagues are aware, Burr Oak cemetery, in my district, faced a similar situation like that which took place at Arlington.

I understand the sorrow created by this confusion. I have seen the anguish that family members suffered. It is something that I think no family should have to endure—especially the family members and loved ones of those who have paid the ultimate sacrifice to our country.

It is for this reason, Mr. Speaker, that I strongly support this legislation and encourage my colleagues on both sides of the aisle to do the same.

Mr. Speaker, I close with a reminder to my colleagues: the families of our fallen heroes have given so much. At the very least, we owe them the certainty that the gravesites they visit at Arlington National Cemetery are, indeed, the final resting place of their loved ones.

Mr. BRALEY of Iowa. Mr. Speaker, I rise today in support of S. 3860, important legislation to ensure proper oversight of Arlington National Cemetery. I'm proud to have sponsored companion legislation to this bill in the House to see that we fulfill our oversight duties and properly honor our fallen heroes.

Arlington National Cemetery is the final resting place for Presidents, Senators, Representatives, Supreme Court Justices, Generals, Ad-

mirals and the countless soldiers, known and unknown, who've died in defense of freedom. It is home to memorials for Iowa heroes like the five Sullivan brothers who were lost at sea in 1942 with the sinking of the USS *Juneau*, but who are honored with tombstones among all of their fallen brothers. Arlington National Cemetery is a national institution that symbolizes the service and sacrifice by our citizens that makes the United States great, but most recently, it's been a sign of government incompetence.

The recent scandal of unmarked and inappropriately marked gravesites is an indignity to the Americans memorialized there, but it is also a stain on America. To date, Arlington Cemetery has spent over \$5 million to computerize records to determine who is buried where, with nothing to show for it but continued problems in gravesite identification. The misuse of these funds disrespects our honored dead and is a breach in the trust of the American people.

As the son of a World War II veteran, I have the deepest respect for our Nation's veterans and I want nothing but the best treatment for them in life and in death. We owe them more than they've been given. I had the honor of attending the burial service of Specialist Ross McGinnis of Knox, PA at Arlington Cemetery as one of my first acts in Congress. Specialist McGinnis was killed in action near Adhamiyah, Iraq on December 4, 2006 when he threw himself on top of a grenade thrown into his HMMWV, saving the lives of at least four other soldiers, including one of my constituents. For his actions that day, Spc. McGinnis was posthumously awarded the Medal of Honor.

My bill, and the bill we passed, asks for nothing more than the respect that our distinguished veterans like Spc. McGinnis deserve. I commend my colleagues for their support on this matter.

Mr. BUYER. Mr. Speaker, I yield back the balance of my time.

Mr. FILNER. Mr. Speaker, I have no further requests for time, I urge unanimous support, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, S. 3860.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. FILNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

POST-9/11 VETERANS EDUCATIONAL ASSISTANCE IMPROVEMENTS ACT OF 2010

Mr. FILNER. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3447) to amend title 38, United States Code, to improve educational assistance for veterans who served in the

Armed Forces after September 11, 2001, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Post-9/11 Veterans Educational Assistance Improvements Act of 2010”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Reference to title 38, United States Code.
- Sec. 3. Statutory Pay-As-You-Go Act compliance.

TITLE I—POST-9/11 VETERANS EDUCATIONAL ASSISTANCE

- Sec. 101. Modification of entitlement to educational assistance.
- Sec. 102. Amounts of assistance for programs of education leading to a degree pursued at public, non-public, and foreign institutions of higher learning.
- Sec. 103. Amounts of assistance for programs of education leading to a degree pursued on active duty.
- Sec. 104. Educational assistance for programs of education pursued on half-time basis or less.
- Sec. 105. Educational assistance for programs of education other than programs of education leading to a degree.
- Sec. 106. Determination of monthly housing stipend payments for academic years.
- Sec. 107. Availability of assistance for licensure and certification tests.
- Sec. 108. National tests.
- Sec. 109. Continuation of entitlement to additional educational assistance for critical skills or specialty.
- Sec. 110. Transfer of unused education benefits.
- Sec. 111. Bar to duplication of certain educational assistance benefits.
- Sec. 112. Technical amendments.

TITLE II—OTHER EDUCATIONAL ASSISTANCE MATTERS

- Sec. 201. Extension of delimiting dates for use of educational assistance by primary caregivers of seriously injured veterans and members of the Armed Forces.
- Sec. 202. Limitations on receipt of educational assistance under National Call to Service and other programs of educational assistance.
- Sec. 203. Approval of courses.
- Sec. 204. Reporting fees.
- Sec. 205. Election for receipt of alternate subsistence allowance for certain veterans with service-connected disabilities undergoing training and rehabilitation.
- Sec. 206. Modification of authority to make certain interval payments.

SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. STATUTORY PAY-AS-YOU-GO ACT COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE I—POST-9/11 VETERANS EDUCATIONAL ASSISTANCE

SEC. 101. MODIFICATION OF ENTITLEMENT TO EDUCATIONAL ASSISTANCE.

(a) **MODIFICATION OF DEFINITIONS ON ELIGIBILITY FOR EDUCATIONAL ASSISTANCE.**—

(1) **EXPANSION OF DEFINITION OF ACTIVE DUTY TO INCLUDE SERVICE IN NATIONAL GUARD FOR CERTAIN PURPOSES.**—Paragraph (1) of section 3301 is amended by adding at the end the following new subparagraph:

“(C) In the case of a member of the Army National Guard of the United States or Air National Guard of the United States, in addition to service described in subparagraph (B), full-time service—

“(i) in the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard; or

“(ii) in the National Guard under section 502(f) of title 32 when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.”.

(2) **EXPANSION OF DEFINITION OF ARMY ENTRY LEVEL AND SKILL TRAINING TO INCLUDE ONE STATION UNIT TRAINING.**—Paragraph (2)(A) of such section is amended by inserting “or One Station Unit Training” before the period at the end.

(3) **CLARIFICATION OF DEFINITION OF ENTRY LEVEL AND SKILL TRAINING FOR THE COAST GUARD.**—Paragraph (2)(E) of such section is amended by inserting “and Skill Training (or so-called ‘A’ School)” before the period at the end.

(b) **CLARIFICATION OF APPLICABILITY OF HONORABLE SERVICE REQUIREMENT FOR CERTAIN DISCHARGES AND RELEASES FROM THE ARMED FORCES AS BASIS FOR ENTITLEMENT TO EDUCATIONAL ASSISTANCE.**—Section 3311(c)(4) is amended in the matter preceding subparagraph (A) by striking “A discharge or release from active duty in the Armed Forces” and inserting “A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service”.

(c) **EXCLUSION FROM PERIOD OF SERVICE ON ACTIVE DUTY OF PERIODS OF SERVICE IN CONNECTION WITH ATTENDANCE AT COAST GUARD ACADEMY.**—Section 3311(d)(2) is amended by inserting “or section 182 of title 14” before the period at the end.

(d) **EFFECTIVE DATES.**—

(1) **SERVICE IN NATIONAL GUARD AS ACTIVE DUTY.**—The amendment made by subsection (a)(1) shall take effect on August 1, 2009, as if included in the enactment of chapter 33 of title 38, United States Code, pursuant to the Post-9/11 Veterans Educational Assistance Act of 2008 (title V of Public Law 110-252). However, no benefits otherwise payable by reason of such amendment for the period beginning on August 1, 2009, and ending on September 30, 2011, may be paid before October 1, 2011.

(2) **ONE STATION UNIT TRAINING.**—The amendment made by subsection (a)(2) shall

take effect on the date of the enactment of this Act.

(3) **ENTRY LEVEL AND SKILL TRAINING FOR THE COAST GUARD.**—The amendment made by subsection (a)(3) shall take effect on the date of the enactment of this Act, and shall apply with respect to individuals entering service on or after that date.

(4) **HONORABLE SERVICE REQUIREMENT.**—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act, and shall apply with respect to discharges and releases from the Armed Forces that occur on or after that date.

(5) **SERVICE IN CONNECTION WITH ATTENDANCE AT COAST GUARD ACADEMY.**—The amendment made by subsection (c) shall take effect on the date of the enactment of this Act, and shall apply with respect to individuals entering into agreements on service in the Coast Guard on or after that date.

SEC. 102. AMOUNTS OF ASSISTANCE FOR PROGRAMS OF EDUCATION LEADING TO A DEGREE PURSUED AT PUBLIC, NON-PUBLIC, AND FOREIGN INSTITUTIONS OF HIGHER LEARNING.

(a) **AMOUNTS OF EDUCATIONAL ASSISTANCE.**—

(1) **IN GENERAL.**—Section 3313(c) is amended—

(A) in the matter preceding paragraph (1), by inserting “leading to a degree at an institution of higher learning (as that term is defined in section 3452(f))” after “program of education”; and

(B) in paragraph (1), by striking subparagraph (A) and inserting the following new subparagraph (A):

“(A) An amount equal to the following:

“(i) In the case of a program of education pursued at a public institution of higher learning, the actual net cost for in-State tuition and fees assessed by the institution for the program of education after the application of—

“(I) any waiver of, or reduction in, tuition and fees; and

“(II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees.

“(ii) In the case of a program of education pursued at a non-public or foreign institution of higher learning, the lesser of—

“(I) the actual net cost for tuition and fees assessed by the institution for the program of education after the application of—

“(aa) any waiver of, or reduction in, tuition and fees; and

“(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

“(II) the amount equal to—

“(aa) for the academic year beginning on August 1, 2011, \$17,500; or

“(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).”.

(2) **CONFORMING AMENDMENT.**—The heading of such section is amended to read as follows: “PROGRAMS OF EDUCATION LEADING TO A DEGREE PURSUED AT INSTITUTIONS OF HIGHER

LEARNING ON MORE THAN HALF-TIME BASIS.—

(b) AMOUNTS OF MONTHLY STIPENDS.—Section 3313(c)(1)(B) is amended—

(1) by redesignating clause (ii) as clause (iv); and

(2) by striking clause (i) and inserting the following new clauses:

“(i) Except as provided in clauses (ii) and (iii), for each month an individual pursues a program of education on more than a half-time basis, a monthly housing stipend equal to the product of—

“(I) the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher learning at which the individual is enrolled, multiplied by

“(II) the lesser of—

“(aa) 1.0; or

“(bb) the number of course hours borne by the individual in pursuit of the program of education, divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

“(ii) In the case of an individual pursuing a program of education at a foreign institution of higher learning on more than a half-time basis, for each month the individual pursues the program of education, a monthly housing stipend equal to the product of—

“(I) the national average of the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5, multiplied by

“(II) the lesser of—

“(aa) 1.0; or

“(bb) the number of course hours borne by the individual in pursuit of the program of education, divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

“(iii) In the case of an individual pursuing a program of education solely through distance learning on more than a half-time basis, a monthly housing stipend equal to 50 percent of the amount payable under clause (ii) if the individual were otherwise entitled to a monthly housing stipend under that clause for pursuit of the program of education.”

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on August 1, 2011, and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after that date.

(2) STIPEND FOR DISTANCE LEARNING ON MORE THAN HALF-TIME BASIS.—Clause (iii) of section 3313(c)(1)(B) of title 38, United States Code (as added by subsection (b)(2) of this section), shall take effect on October 1, 2011, and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education as covered by such clause on or after that date.

SEC. 103. AMOUNTS OF ASSISTANCE FOR PROGRAMS OF EDUCATION LEADING TO A DEGREE PURSUED ON ACTIVE DUTY.

(a) IN GENERAL.—Section 3313(e) is amended—

(1) in paragraphs (1), by inserting “leading to a degree” after “approved program of education”; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting “leading to a degree” after “program of education”; and

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (iii), respectively;

(C) in the matter preceding clause (i), as redesignated by subparagraph (B) of this paragraph—

(i) by striking “The amount” and inserting “The amounts”; and

(ii) by striking “is the lesser of—” and inserting “are as follows:

“(A) Subject to subparagraph (C), an amount equal to the lesser of—”

(D) by striking clause (i), as so redesignated, and inserting the following new clauses:

“(i) in the case of a program of education pursued at a public institution of higher learning, the actual net cost for in-State tuition and fees assessed by the institution for the program of education after the application of—

“(I) any waiver of, or reduction in, tuition and fees; and

“(II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees;

“(ii) in the case of a program of education pursued at a non-public or foreign institution of higher learning, the lesser of—

“(I) the actual net cost for tuition and fees assessed by the institution for the program of education after the application of—

“(aa) any waiver of, or reduction in, tuition and fees; and

“(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

“(II) the amount equal to—

“(aa) for the academic year beginning on August 1, 2011, \$17,500; or

“(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h); or”

(E) by adding at the end the following new subparagraphs (B) and (C):

“(B) Subject to subparagraph (C), for the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

“(i) \$1,000, multiplied by

“(ii) the fraction of a complete academic year under the program of education that such quarter, semester, or term constitutes.

“(C) In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the amounts payable to the individual pursuant to subparagraphs (A)(i), (A)(ii), and (B) shall be the amounts otherwise determined pursuant to such subparagraphs multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).”

(b) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

“PROGRAMS OF EDUCATION LEADING TO A DEGREE PURSUED ON ACTIVE DUTY ON MORE THAN HALF-TIME BASIS.”

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date that is 60 days after the date of the enactment of this Act, and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after such effective date.

(2) LUMP SUM FOR BOOKS AND OTHER EDUCATIONAL COSTS.—Subparagraph (B) of section 3313(e)(2) of title 38, United States Code (as added by subsection (a)(2)(E) of this section), shall take effect on October 1, 2011, and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after that date.

SEC. 104. EDUCATIONAL ASSISTANCE FOR PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.

(a) CLARIFICATION OF AVAILABILITY OF ASSISTANCE.—Section 3313(f) is amended—

(1) in paragraph (1), by inserting before the period at the end the following: “whether a program of education pursued on active duty, a program of education leading to a degree, or a program of education other than a program of education leading to a degree”; and

(2) in paragraph (2), by inserting “covered by this subsection” after “program of education” in the matter preceding subparagraph (A).

(b) AMOUNT OF ASSISTANCE.—Clause (i) of paragraph (2)(A) of such section is amended to read as follows:

“(i) the actual net cost for in-State tuition and fees assessed by the institution of higher learning for the program of education after the application of—

“(I) any waiver of, or reduction in, tuition and fees; and

“(II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 1, 2011, and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after that date.

SEC. 105. EDUCATIONAL ASSISTANCE FOR PROGRAMS OF EDUCATION OTHER THAN PROGRAMS OF EDUCATION LEADING TO A DEGREE.

(a) APPROVED PROGRAMS OF EDUCATION AT INSTITUTIONS OTHER THAN INSTITUTIONS OF HIGHER LEARNING.—Subsection (b) of section 3313 is amended by striking “is offered by an institution of higher learning (as that term is defined in section 3452(f)) and”

(b) ASSISTANCE FOR PURSUIT OF PROGRAMS OF EDUCATION OTHER THAN PROGRAMS OF EDUCATION LEADING TO A DEGREE.—Such section is further amended—

(1) by striking subsection (h);

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection (g):

“(g) PROGRAMS OF EDUCATION OTHER THAN PROGRAMS OF EDUCATION LEADING TO A DEGREE.—

“(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education other than a program of education leading to a degree at

an institution other than an institution of higher learning (as that term is defined in section 3452(f)).

“(2) PURSUIT ON HALF-TIME BASIS OR LESS.—The payment of educational assistance under this chapter for pursuit of a program of education otherwise described in paragraph (1) on a half-time basis or less is governed by subsection (f).

“(3) AMOUNT OF ASSISTANCE.—The amounts of educational assistance payable under this chapter to an individual entitled to educational assistance under this chapter who is pursuing an approved program of education covered by this subsection are as follows:

“(A) In the case of an individual enrolled in a program of education (other than a program described in subparagraphs (B) through (D)) in pursuit of a certificate or other non-college degree, the following:

“(i) Subject to clause (iv), an amount equal to the lesser of—

“(I) the actual net cost for in-State tuition and fees assessed by the institution concerned for the program of education after the application of—

“(aa) any waiver of, or reduction in, tuition and fees; and

“(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a)) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

“(II) the amount equal to—

“(aa) for the academic year beginning on August 1, 2011, \$17,500; or

“(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).

“(ii) Except in the case of an individual pursuing a program of education on a half-time or less basis and subject to clause (iv), a monthly housing stipend equal to the product—

“(I) of—

“(aa) in the case of an individual pursuing resident training, the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution at which the individual is enrolled; or

“(bb) in the case of an individual pursuing a program of education through distance learning, a monthly amount equal to 50 percent of the amount payable under item (aa), multiplied by

“(II) the lesser of—

“(aa) 1.0; or

“(bb) the number of course hours borne by the individual in pursuit of the program of education involved, divided by the minimum number of course hours required for full-time pursuit of such program of education, rounded to the nearest multiple of 10.

“(iii) Subject to clause (iv), a monthly stipend in an amount equal to \$83 for each month (or pro rata amount for a partial month) of training pursued for books supplies, equipment, and other educational costs.

“(iv) In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the amounts payable pursuant to clauses (i), (ii),

and (iii) shall be the amounts otherwise determined pursuant to such clauses multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

“(B) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training, amounts as follows:

“(i) Subject to clauses (iii) and (iv), for each month the individual pursues the program of education, a monthly housing stipend equal to—

“(I) during the first six-month period of the program, the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the employer at which the individual pursues such program;

“(II) during the second six-month period of the program, 80 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I);

“(III) during the third six-month period of the program, 60 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I);

“(IV) during the fourth six-month period of such program, 40 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I); and

“(V) during any month after the first 24 months of such program, 20 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I).

“(ii) Subject to clauses (iii) and (iv), a monthly stipend in an amount equal to \$83 for each month (or pro rata amount for each partial month) of training pursued for books supplies, equipment, and other educational costs.

“(iii) In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of sections 3311(b), the amounts payable pursuant to clauses (i) and (ii) shall be the amounts otherwise determined pursuant to such clauses multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

“(iv) In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of monthly educational assistance allowance payable under clauses (i) and (iii) to the individual shall be limited to the same proportion of the applicable rate determined under this subparagraph as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

“(C) In the case of an individual enrolled in a program of education consisting of flight training (regardless of the institution providing such program of education), an amount equal to—

“(i) the lesser of—

“(I) the actual net cost for in-State tuition and fees assessed by the institution concerned for the program of education after the application of—

“(aa) any waiver of, or reduction in, tuition and fees; and

“(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically des-

ignated for the sole purpose of defraying tuition and fees; or

“(II) the amount equal to—

“(aa) for the academic year beginning on August 1, 2011, \$10,000; or

“(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h), multiplied by—

“(ii) either—

“(I) in the case of an individual entitled to educational assistance by reason of paragraphs (1), (2), or (9) of section 3311(b), 100 percent; or

“(II) in the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the same percentage as would otherwise apply to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

“(D) In the case of an individual enrolled in a program of education that is pursued exclusively by correspondence (regardless of the institution providing such program of education), an amount equal to—

“(i) the lesser of—

“(I) the actual net cost for tuition and fees assessed by the institution concerned for the program of education after the application of—

“(aa) any waiver of, or reduction in, tuition and fees; and

“(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees.

“(II) the amount equal to—

“(aa) for the academic year beginning on August 1, 2011, \$8,500; or

“(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h), multiplied by—

“(ii) either—

“(I) in the case of an individual entitled to educational assistance by reason of paragraphs (1), (2), or (9) of section 3311(b), 100 percent; or

“(II) in the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the same percentage as would otherwise apply to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

“(4) FREQUENCY OF PAYMENT.—

“(A) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amounts payable under paragraph (3)(A)(i) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(B) MONTHLY PAYMENTS.—Payment of the amounts payable under paragraphs (3)(A)(ii) and (3)(B)(i) for pursuit of a program of education shall be made on a monthly basis.

“(C) LUMP SUM PAYMENTS.—

“(i) Payment for the amount payable under paragraphs (3)(A)(iii) and (3)(B)(ii) shall be paid to the individual for the first month of each quarter, semester, or term, as applicable, of the program education pursued by the individual.

“(ii) Payment of the amount payable under paragraph (3)(C) for pursuit of a program of education shall be made upon receipt of certification for training completed by the individual and serviced by the training facility.

“(D) QUARTERLY PAYMENTS.—Payment of the amounts payable under paragraph (3)(D) for pursuit of a program of education shall be made quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

“(5) CHARGE AGAINST ENTITLEMENT FOR CERTIFICATE AND OTHER NON-COLLEGE DEGREE PROGRAMS.—

“(A) IN GENERAL.—In the case of amounts paid under paragraph (3)(A)(i) for pursuit of a program of education, the charge against entitlement to educational assistance under this chapter of the individual for whom such payment is made shall be one month for each of—

“(i) the amount so paid, divided by

“(ii) subject to subparagraph (B), the amount equal to one-twelfth of the amount applicable in the academic year in which the payment is made under paragraph (3)(A)(i)(II).

“(B) PRO RATA ADJUSTMENT BASED ON CERTAIN ELIGIBILITY.—If the amount otherwise payable with respect to an individual under paragraph (3)(A)(i) is subject to a percentage adjustment under paragraph (3)(A)(iv), the amount applicable with respect to the individual under subparagraph (A)(ii) shall be the amount otherwise determined pursuant to such subparagraph subject to a percentage adjustment equal to the percentage adjustment applicable with respect to the individual under paragraph (3)(A)(iv).”.

(c) PAYMENT OF AMOUNTS TO EDUCATIONAL INSTITUTIONS.—Subsection (h) of section 3313, as redesignated by subsection (b)(2) of this section, is amended by inserting “, and under subparagraphs (A)(i), (C), and (D) of subsection (g)(3),” after “(f)(2)(A)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2011, and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after that date.

SEC. 106. DETERMINATION OF MONTHLY HOUSING STIPEND PAYMENTS FOR ACADEMIC YEARS.

(a) IN GENERAL.—Section 3313, as amended by this Act, is further amended by adding at the end the following new subsection:

“(i) DETERMINATION OF HOUSING STIPEND PAYMENTS FOR ACADEMIC YEARS.—Any monthly housing stipend payable under this section during the academic year beginning on August 1 of a calendar year shall be determined utilizing rates for basic allowances for housing payable under section 403 of title 37 in effect as of January 1 of such calendar year.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on August 1, 2011.

SEC. 107. AVAILABILITY OF ASSISTANCE FOR LICENSURE AND CERTIFICATION TESTS.

(a) AVAILABILITY OF ASSISTANCE FOR ADDITIONAL TESTS.—Subsection (a) of section 3315 is amended by striking “one licensing or certification test” and inserting “licensing or certification tests”.

(b) CHARGE AGAINST ENTITLEMENT FOR RECEIPT OF ASSISTANCE.—

(1) IN GENERAL.—Subsection (c) of such section is amended to read as follows:

“(c) CHARGE AGAINST ENTITLEMENT.—The charge against an individual’s entitlement under this chapter for payment for a licens-

ing or certification test shall be determined at the rate of one month (rounded to the nearest whole month) for each amount paid that equals—

“(1) for the academic year beginning on August 1, 2011, \$1,460; or

“(2) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subsection, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).”.

(2) CONFORMING AMENDMENTS.—Subsection (b) of such section is amended—

(A) in paragraph (1), by striking “or” at the end;

(B) in paragraph (2), by striking the period and inserting “; or”; and

(C) by adding at the end the following:

“(3) the amount of entitlement available to the individual under this chapter at the time of payment for the test under this section.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 1, 2011, and shall apply with respect to licensure and certification tests taken on or after that date.

SEC. 108. NATIONAL TESTS.

(a) NATIONAL TESTS.—

(1) IN GENERAL.—Chapter 33 is amended by inserting after section 3315 the following new section:

“§ 3315A. National tests

“(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to educational assistance for the following:

“(1) A national test for admission to an institution of higher learning as described in the last sentence of section 3452(b).

“(2) A national test providing an opportunity for course credit at an institution of higher learning as so described.

“(b) AMOUNT.—The amount of educational assistance payable under this chapter for a test described in subsection (a) is the lesser of—

“(1) the fee charged for the test; or

“(2) the amount of entitlement available to the individual under this chapter at the time of payment for the test under this section.

“(c) CHARGE AGAINST ENTITLEMENT.—The number of months of entitlement charged an individual under this chapter for a test described in subsection (a) shall be determined at the rate of one month (rounded to the nearest whole month) for each amount paid that equals—

“(1) for the academic year beginning on August 1, 2011, \$1,460; or

“(2) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subsection, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 is amended by inserting after the item relating to section 3315 the following new item:

“3315A. National tests.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 1, 2011, and shall apply with respect to national tests taken on or after that date.

SEC. 109. CONTINUATION OF ENTITLEMENT TO ADDITIONAL EDUCATIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALTY.

(a) IN GENERAL.—Section 3316 is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following new subsection (c):

“(c) CONTINUATION OF INCREASED EDUCATIONAL ASSISTANCE.—

“(1) IN GENERAL.—An individual who made an election to receive educational assistance under this chapter pursuant to section 5003(c)(1)(A) of the Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. 3301 note) and who, at the time of the election, was entitled to increased educational assistance under section 3015(d) or section 16131(i) of title 10 shall remain entitled to increased educational assistance in the utilization of the individual’s entitlement to educational assistance under this chapter.

“(2) RATE.—The monthly rate of increased educational assistance payable to an individual under paragraph (1) shall be—

“(A) the rate of educational assistance otherwise payable to the individual under section 3015(d) or section 16131(i) of title 10, as the case may be, had the individual not made the election described in paragraph (1), multiplied by

“(B) the lesser of—

“(i) 1.0; or

“(ii) the number of course hours borne by the individual in pursuit of the program of education involved divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

“(3) FREQUENCY OF PAYMENT.—Payment of the amounts payable under paragraph (1) during pursuit of a program of education shall be made on a monthly basis.”.

(b) CLARIFICATION ON FUNDING OF INCREASED ASSISTANCE.—

(1) IN GENERAL.—Such section is further amended by inserting after subsection (c), as added by subsection (a)(2) of this section, the following new subsection:

“(d) FUNDING.—Payments for increased educational assistance under this section shall be made from the Department of Defense Education Benefits Fund under section 2006 of title 10 or from appropriations available to the Department of Homeland Security for that purpose, as applicable.”.

(2) CONFORMING AMENDMENTS.—Section 2006(b) of title 10, United States Code, is amended—

(A) in paragraph (1), by inserting “or 33” after “chapter 30”; and

(B) in paragraph (2), by adding at the end the following new subparagraph:

“(E) The present value of any future benefits payable from the Fund for amounts attributable to increased amounts of educational assistance authorized by section 3316 of title 38.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 1, 2011.

SEC. 110. TRANSFER OF UNUSED EDUCATION BENEFITS.

(a) AVAILABILITY OF TRANSFER AUTHORITY FOR MEMBERS OF PHS AND NOAA.—Section 3319 is amended—

(1) by striking “Armed Forces” each place it appears (other than in subsection (a)) and inserting “uniformed services”; and

(2) by striking subsection (k).

(b) SCOPE AND EXERCISE OF AUTHORITY.—Subsection (a) of such section is amended—

(1) by striking “Subject to the provisions of this section,” and all that follows through “to permit” and inserting “(1) Subject to the provisions of this section, the Secretary concerned may permit”; and

(2) by adding at the end the following new paragraph:

“(2) The purpose of the authority in paragraph (1) is to promote recruitment and retention in the uniformed services. The Secretary concerned may exercise the authority for that purpose when authorized by the Secretary of Defense in the national security interests of the United States.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on August 1, 2011.

SEC. 111. BAR TO DUPLICATION OF CERTAIN EDUCATIONAL ASSISTANCE BENEFITS.

(a) **BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.**—Section 3322 is amended by adding at the end the following new subsection:

“(e) **BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.**—An individual entitled to educational assistance under both sections 3311(b)(9) and 3319 may not receive assistance under both provisions concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which provision to receive educational assistance.”.

(b) **BAR TO RECEIPT OF COMPENSATION AND PENSION AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.**—Such section is further amended by adding at the end the following new subsection:

“(f) **BAR TO RECEIPT OF COMPENSATION AND PENSION AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.**—The commencement of a program of education under section 3311(b)(9) shall be a bar to the following:

“(1) Subsequent payments of dependency and indemnity compensation or pension based on the death of a parent to an eligible person over the age of 18 years by reason of pursuing a course in an educational institution.

“(2) Increased rates, or additional amounts, of compensation, dependency and indemnity compensation, or pension because of such a person, whether eligibility is based upon the death of the parent.”.

(c) **BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS.**—Such section is further amended by adding at the end the following new subsection:

“(g) **BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS.**—A spouse or child who is entitled to educational assistance under this chapter based on a transfer of entitlement from more than one individual under section 3319 may not receive assistance based on transfers from more than one such individual concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which source to utilize such assistance at any one time.”.

(d) **BAR TO DUPLICATION OF ELIGIBILITY BASED ON A SINGLE EVENT.**—Such section is further amended by adding at the end the following new subsection:

“(h) **BAR TO DUPLICATION OF ELIGIBILITY BASED ON A SINGLE EVENT OR PERIOD OF SERVICE.**—

“(1) **ACTIVE-DUTY SERVICE.**—An individual with qualifying service in the Armed Forces that establishes eligibility on the part of such individual for educational assistance under this chapter, chapter 30 or 32 of this title, and chapter 1606 or 1607 of title 10, shall elect (in such form and manner as the Secretary may prescribe) under which authority such service is to be credited.

“(2) **ELIGIBILITY FOR EDUCATIONAL ASSISTANCE BASED ON PARENT'S SERVICE.**—A child of a member of the Armed Forces who, on or after September 11, 2001, dies in the line of duty while serving on active duty, who is eligible for educational assistance under either section 3311(b)(9) or chapter 35 of this title based on the parent's death may not receive such assistance under both this chapter and chapter 35 of this title, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter to receive such assistance.”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on August 1, 2011.

SEC. 112. TECHNICAL AMENDMENTS.

(a) **SECTION 3313.**—Section 3313 is amended—

(1) by striking “higher education” each place it appears and inserting “higher learning”; and

(2) in clause (iii) of subparagraph (A) of subsection (e)(2), as redesignated by section 103(a)(2) of this Act, by adding a period at the end.

(b) **SECTION 3319.**—Section 3319(b)(2) is amended by striking “to section (k)” and inserting “to subsection (j)”.

(c) **SECTION 3323.**—Section 3323(a) is amended by striking “section 3034(a)(1)” and inserting “sections 3034(a)(1) and 3680(c)”.

TITLE II—OTHER EDUCATIONAL ASSISTANCE MATTERS

SEC. 201. EXTENSION OF DELIMITING DATES FOR USE OF EDUCATIONAL ASSISTANCE BY PRIMARY CAREGIVERS OF SERIOUSLY INJURED VETERANS AND MEMBERS OF THE ARMED FORCES.

(a) **ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE.**—Subsection (d) of section 3031 is amended to read as follows:

“(d)(1) In the case of an individual eligible for educational assistance under this chapter who is prevented from pursuing the individual's chosen program of education before the expiration of the 10-year period for the use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which is not the result of the individual's own willful misconduct, such 10-year period—

“(A) shall not run during the period the individual is so prevented from pursuing such program; and

“(B) shall again begin running on the first day after the individual's recovery from such disability on which it is reasonably feasible, as determined under regulations prescribed by the Secretary, for the individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

“(2)(A) Subject to subparagraph (B), in the case of an individual eligible for educational assistance under this chapter who is prevented from pursuing the individual's chosen program of education before the expiration of the 10-year period for the use of entitlement under this chapter otherwise applicable under this section by reason of acting as the primary provider of personal care services for a veteran or member of the Armed Forces under section 1720G(a) of this title, such 10-year period—

“(i) shall not run during the period the individual is so prevented from pursuing such program; and

“(ii) shall again begin running on the first day after the date of the recovery of the veteran or member from the injury, or the date on which the individual ceases to be the primary provider of personal care services for the veteran or member, whichever is earlier,

on which it is reasonably feasible, as so determined, for the individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

“(B) Subparagraph (A) shall not apply with respect to the period of an individual as a primary provider of personal care services if the period concludes with the revocation of the individual's designation as such a primary provider under section 1720G(a)(7)(D) of this title.”.

(b) **CERTAIN TRANSFEREES OF POST-9/11 EDUCATIONAL ASSISTANCE.**—Paragraph (5) of section 3319(h) is amended to read as follows:

“(5) **LIMITATION ON AGE OF USE BY CHILD TRANSFEREES.**—

“(A) **IN GENERAL.**—A child to whom entitlement is transferred under this section may use the benefits transferred without regard to the 15-year delimiting date specified in section 3321, but may not, except as provided in subparagraph (B), use any benefits so transferred after attaining the age of 26 years.

“(B) **PRIMARY CAREGIVERS OF SERIOUSLY INJURED MEMBERS OF THE ARMED FORCES AND VETERANS.**—

“(i) **IN GENERAL.**—Subject to clause (ii), in the case of a child who, before attaining the age of 26 years, is prevented from pursuing a chosen program of education by reason of acting as the primary provider of personal care services for a veteran or member of the Armed Forces under section 1720G(a), the child may use the benefits beginning on the date specified in clause (iii) for a period whose length is specified in clause (iv).

“(ii) **INAPPLICABILITY FOR REVOCATION.**—Clause (i) shall not apply with respect to the period of an individual as a primary provider of personal care services if the period concludes with the revocation of the individual's designation as such a primary provider under section 1720G(a)(7)(D).

“(iii) **DATE FOR COMMENCEMENT OF USE.**—The date specified in this clause for the beginning of the use of benefits by a child under clause (i) is the later of—

“(I) the date on which the child ceases acting as the primary provider of personal care services for the veteran or member concerned as described in clause (i);

“(II) the date on which it is reasonably feasible, as determined under regulations prescribed by the Secretary, for the child to initiate or resume the use of benefits; or

“(III) the date on which the child attains the age of 26 years.

“(iv) **LENGTH OF USE.**—The length of the period specified in this clause for the use of benefits by a child under clause (i) is the length equal to the length of the period that—

“(I) begins on the date on which the child begins acting as the primary provider of personal care services for the veteran or member concerned as described in clause (i); and

“(II) ends on the later of—

“(aa) the date on which the child ceases acting as the primary provider of personal care services for the veteran or member as described in clause (i); or

“(bb) the date on which it is reasonably feasible, as so determined, for the child to initiate or resume the use of benefits.”.

(c) **SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.**—Subsection (c) of section 3512 is amended to read as follows:

“(c)(1) Notwithstanding subsection (a) and subject to paragraph (2), an eligible person may be afforded educational assistance beyond the age limitation applicable to the person under such subsection if—

“(A) the person suspends pursuit of such person's program of education after having

enrolled in such program within the time period applicable to such person under such subsection;

“(B) the person is unable to complete such program after the period of suspension and before attaining the age limitation applicable to the person under such subsection; and

“(C) the Secretary finds that the suspension was due to either of the following:

“(i) The actions of the person as the primary provider of personal care services for a veteran or member of the Armed Forces under section 1720G(a) of this title.

“(ii) Conditions otherwise beyond the control of the person.

“(2) Paragraph (1) shall not apply with respect to the period of an individual as a primary provider of personal care services if the period concludes with the revocation of the individual's designation as such a primary provider under section 1720G(a)(7)(D) of this title.

“(3) Educational assistance may not be afforded a person under paragraph (1) after the earlier of—

“(A) the age limitation applicable to the person under subsection (a), plus a period of time equal to the period the person was required to suspend pursuit of the person's program of education as described in paragraph (1); or

“(B) the date of the person's thirty-first birthday.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on August 1, 2011, and shall apply with respect to preventions and suspension of pursuit of programs of education that commence on or after that date.

SEC. 202. LIMITATIONS ON RECEIPT OF EDUCATIONAL ASSISTANCE UNDER NATIONAL CALL TO SERVICE AND OTHER PROGRAMS OF EDUCATIONAL ASSISTANCE.

(a) **BAR TO DUPLICATION OF EDUCATIONAL ASSISTANCE BENEFITS.**—Section 3322(a) is amended by inserting “or section 510” after “or 1607”.

(b) **LIMITATION ON CONCURRENT RECEIPT OF EDUCATIONAL ASSISTANCE.**—Section 3681(b)(2) is amended by inserting “and section 510” after “and 107”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on August 1, 2011.

SEC. 203. APPROVAL OF COURSES.

(a) **CONSTRUCTIVE APPROVAL OF CERTAIN COURSES.**—

(1) **IN GENERAL.**—Section 3672(b) is amended—

(A) by inserting “(1)” after “(b)”;

(B) by adding at the end the following new paragraph:

“(2)(A) Subject to sections 3675(b)(1) and (b)(2), 3680A, 3684, and 3696 of this title, the following programs are deemed to be approved for purposes of this chapter:

“(i) An accredited standard college degree program offered at a public or not-for-profit proprietary educational institution that is accredited by an agency or association recognized for that purpose by the Secretary of Education.

“(ii) A flight training course approved by the Federal Aviation Administration that is offered by a certified pilot school that possesses a valid Federal Aviation Administration pilot school certificate.

“(iii) An apprenticeship program registered with the Office of Apprenticeship (OA) of the Employment Training Administration of the Department of Labor or a State apprenticeship agency recognized by the Office of Apprenticeship pursuant to the

Act of August 16, 1937 (popularly known as the ‘National Apprenticeship Act’; 29 U.S.C. 50 et seq.).

“(iv) A program leading to a secondary school diploma offered by a secondary school approved in the State in which it is operating.

“(B) A licensure test offered by a Federal, State, or local government is deemed to be approved for purposes of this chapter.”.

(2) **CONFORMING AMENDMENTS.**—

(A) Paragraph (3) of section 3034(d) is amended to read as follows:

“(3) the flight school courses are approved by the Federal Aviation Administration and are offered by a certified pilot school that possesses a valid Federal Aviation Administration pilot school certificate.”.

(B) Section 3671(b)(2) is amended by striking “In the case” and inserting “Except as otherwise provided in this chapter, in the case”.

(C) Section 3689(a)(1) is amended by inserting after “unless” the following: “the test is deemed approved by section 3672(b)(2)(B) of this title or”.

(b) **USE OF STATE APPROVING AGENCIES FOR COMPLIANCE AND OVERSIGHT ACTIVITIES.**—Section 3673 is amended by adding at the end the following new subsection:

“(d) **USE OF STATE APPROVING AGENCIES FOR COMPLIANCE AND OVERSIGHT ACTIVITIES.**—The Secretary may utilize the services of a State approving agency for such compliance and oversight purposes as the Secretary considers appropriate without regard to whether the Secretary or the agency approved the courses offered in the State concerned.”.

(c) **APPROVAL OF ACCREDITED COURSES.**—

(1) **IN GENERAL.**—Subsection (a)(1) of section 3675 is amended by striking “A State approving agency may approve the courses offered by an educational institution” and inserting “The Secretary or a State approving agency may approve accredited programs (including non-degree accredited programs) offered by proprietary for-profit educational institutions”.

(2) **CONDITION OF APPROVAL.**—Subsection (b) of such section is amended—

(A) in the matter preceding paragraph (1), by inserting “the Secretary or” after “this section,”; and

(B) is amended by inserting “the Secretary or” after “as prescribed by”.

(d) **DISAPPROVAL OF COURSES.**—Section 3679(a) is amended by inserting “the Secretary or” after “disapproved by” both places it appears.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on August 1, 2011.

SEC. 204. REPORTING FEES.

(a) **INCREASE IN AMOUNT OF FEES.**—Section 3684(c) is amended—

(1) by striking “multiplying \$7” and inserting “multiplying \$12”; and

(2) by striking “or \$11” and inserting “or \$15”.

(b) **USE OF FEES PAID.**—Such section is further amended by inserting after the fourth sentence the following new sentence: “Any reporting fee paid an educational institution or joint apprenticeship training committee after the date of the enactment of the Post-9/11 Veterans Educational Assistance Improvements Act of 2011 shall be utilized by such institution or committee solely for the making of certifications required under this chapter or chapter 31, 34, or 35 of this title or for otherwise supporting programs for veterans.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 2011.

SEC. 205. ELECTION FOR RECEIPT OF ALTER-NATE SUBSISTENCE ALLOWANCE FOR CERTAIN VETERANS WITH SERVICE-CONNECTED DISABILITIES UNDERGOING TRAINING AND REHABILITATION.

(a) **ELECTION AUTHORIZED.**—Section 3108(b) is amended by adding at the end the following new paragraph:

“(4) A veteran entitled to a subsistence allowance under this chapter and educational assistance under chapter 33 of this title may elect to receive payment from the Secretary in lieu of an amount otherwise determined by the Secretary under this subsection in an amount equal to the applicable monthly amount of basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution providing rehabilitation program concerned.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on August 1, 2011.

SEC. 206. MODIFICATION OF AUTHORITY TO MAKE CERTAIN INTERVAL PAYMENTS.

(a) **IN GENERAL.**—The flush matter following clause (3)(B) of section 3680(a) is amended by striking “of this subsection—” and all that follows and inserting “of this subsection during periods when schools are temporarily closed under an established policy based on an Executive order of the President or due to an emergency situation. However, the total number of weeks for which allowances may continue to be so payable in any 12-month period may not exceed 4 weeks.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on August 1, 2011.

The **SPEAKER** pro tempore (Mrs. HALVORSON). Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Indiana (Mr. BUYER) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. FILNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend and include extraneous material on S. 3447.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1850

Mr. FILNER. Madam Speaker, I yield myself such time as I may consume.

I want to thank Senator AKAKA, chairman of the Senate Veterans' Affairs Committee, for introducing this bill, also known as the Post-9/11 Veterans Educational Assistance Improvements Act of 2010. And I want to thank my colleague, Representative WALT MINNICK of Idaho, for his advocacy on behalf of our Nation's veterans and for introducing a similar bill in the House of Representatives.

My colleagues may recall that we successfully passed the Post-9/11 Veterans Educational Assistance Act of

2008 to help pay the full cost of tuition at 4-year colleges for veterans who served after September 11, 2001. This new entitlement has provided thousands of veterans with funds to pay for tuition and fees, a monthly housing allowance, and a \$1,000 book stipend. While this has proven to be a significant step to improve existing educational benefits for our veterans, much work remains to be done.

This bill is fully paid for, bipartisan, and seeks to rectify many of the ongoing technical concerns that were highlighted after the passage of the Post-9/11 GI bill while expanding benefits to veterans that were originally excluded from participating in this new benefit.

Current law prohibits certain individuals in the Reserve and National Guard from obtaining veterans education benefits under the Post-9/11 bill. This legislation seeks to address this inequity by allowing qualified individuals in our Reserve and National Guard to receive benefits under the Post-9/11 GI bill. The legislation would also provide veterans with a housing stipend while taking courses strictly through long distance learning, a key issue which many of us have spoken on. In addition to expanding the housing stipend, student veterans will also have the ability to use their educational benefits to pay for national tests, licensure, and certification tests.

Furthermore, this bill would address a major shortfall expressed by the veterans' community by those who would prefer to attend a non-college degree program that would meet their professional goals. This bill seeks to expand on the eligible programs of education to include apprenticeship and on-the-job training, in addition to flight training and non-college degree programs of education.

Finally, this bill seeks to recognize the family's role of caring for an injured veteran by extending the period that a family member can use his or her education benefits. Providing more time for a caregiver to pursue their educational goals is the least we can do for those who have taken on the responsibility to care for an injured loved one.

I would like to thank our Speaker, Ms. PELOSI, for her leadership and dedication to America's veterans. It is only fitting to note that enhancing veterans education benefits was a major focus when Democrats took control of the House 4 years ago, and remains a final priority here in the final hours of the 111th Congress. Certainly, we look forward to continuing this advocacy in the next Congress.

AMVETS
NATIONAL HEADQUARTERS,
Lanham, MD, December 14, 2010.

Hon. Chairman BOB FILNER,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN BOB FILNER: On behalf of AMVETS (American Veterans), I am writ-

ing to express our support of S. 3447, the "Post 9/11 Veterans Educational Assistance Improvement Act of 2010."

AMVETS believes this piece of legislation to play a vital role in correcting numerous shortfalls of the current Post 9/11 GI Bill program. AMVETS believes that this piece of legislation only stands to better the educational opportunities afforded to all veterans, servicemembers, National Guard and Reserve. Furthermore, AMVETS believes that this piece of legislation will provide, much overdue, clarity and understanding to our veterans, servicemembers and the schools seeking to offer them an education and the exact funds available to all of the parties involved. For these reasons, AMVETS extends their support to S. 3447, the "Post 9/11 Veterans Educational Assistance Improvement Act of 2010."

Sincerely,
CHRISTINA M. ROOF,
National Deputy Legislative Director.

MILITARY OFFICERS ASSOCIATION
OF AMERICA,
Alexandria, VA, December 14, 2010.

Hon. BOB FILNER,
Chairman, House Committee on Veterans Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 370,000 members of the Military Officers Association of America (MOAA), I am writing to urge your support for final passage of S. 3447, the Post-9/11 Veterans Educational Assistance Improvements Act of 2010, as passed by the Senate on 13 December.

S. 3447 takes the best GI Bill Since World War II to a new level of excellence, transparency and efficiency for veterans, college administrators and the Department of Veterans Affairs. The bill simplifies the complex and confusing payment system, reduces costs in key areas, eliminates glaring inequities, and enhances the opportunity for our veterans to successfully reintegrate in society after serving their nation.

We are particularly pleased that top MOAA priorities in S. 3447 would:

Permit full-time National Guard members on Title 32 orders to earn the benefit for their service;

Open vocational, apprenticeship, OJT and other job training—the Post-9/11 GI Bill is the only GI Bill program since WWII that excludes job training;

Simplify the payment system for public college attendance and set a national baseline for private college enrollment;

Permit USPHS and NOAA Corps service women and men to transfer their benefits to family members, if requested by their Department's respective Secretaries with the approval of the Secretary of Defense;

Authorize a book stipend (up to \$1000 annually) for active duty participants;

Establish a housing allowance for veterans enrolled in full-time online study;

Raise the cost-of-living stipend for wounded warriors eligible for Vocational Rehabilitation and Employment benefits

The CBO has reported that the bill will save \$734 million over 10 years. More importantly, S. 3447 will help our veterans gain the skills and training they need to compete in a very difficult economic climate. This legislation will reduce the need for future costly intervention programs for under- and unemployed veterans, making it a wise investment for our country.

On behalf of our entire membership, I would respectfully recommend your personal support for final passage this week of S. 3447.

Thank you for your leadership and support for our nation's uniformed servicemembers, their families and our veterans.

Sincerely,
NORBERT R. RYAN, Jr.,
President.

IRAQ AND AFGHANISTAN VETERANS
OF AMERICA,
Washington, DC, December 14, 2010.

Hon. BOB FILNER,
Cannon House Office Building,
Washington, DC.

Hon. STEVE BUYER,
Cannon House Office Building,
Washington, DC.

DEAR CHAIRMAN FILNER AND RANKING MEMBER BUYER: Iraq and Afghanistan Veterans of America (IAVA) offers our strong support for S. 3447, commonly referred to as the New GI Bill 2.0. Our work on the New GI Bill is not done. The New GI Bill is a historic commitment to this generation of veterans that has enabled over 300,000 student veterans to attend school. However, tens of thousands of young veterans are unable to take advantage of these new GI Bill benefits because confusing regulations and holes in the original legislation. To ensure every veteran has access to a first class future, IAVA recommends swift passage of S. 3447.

New GI Bill 2.0 finishes the Post 9/11 GI Bill and includes:

Vocational Training: Invaluable job training for students studying at vocational schools.

Title 32 AGR: Grant National Guardsmen responding to national disasters full GI Bill credit.

Distance Learners: Provide living allowances for veterans in distance learning programs.

Tuition/Fees: Expand and simplify the Yellow Ribbon Program.

Active Duty: Include a book stipend for active duty students.

New GI Bill 2.0 will help student veterans like Charles Conrad who returned home to a tough economy and enrolled in a vocational school to help prepare him for a meaningful career only to find out that his vocational school was not covered by the new GI Bill and SPC Weaver a Purple Heart recipient whose vertigo is so bad he can't sit in a classroom for an entire period and therefore does not qualify for a living allowance because he has to take classes online. This legislation will also help the tens of thousands of National Guard troops who were activated to clean up the oil spill in the Gulf and have not received credit toward the GI Bill for their service.

We are proud to offer our assistance on this vital piece of legislation. If we can be of help please feel free to contact Tim Embree.

Sincerely,
PAUL RIECKHOFF,
Executive Director.

NATIONAL GUARD ASSOCIATION OF
THE UNITED STATES,
Washington, DC, December 14, 2010.

Hon. ROBERT FILNER,
House Committee on Veterans' Affairs, Chairman,
Cannon House Office Building, Washington, DC.

DEAR CHAIRMAN FILNER: NGAUS strongly supports the cost neutral S. 3447, The Post-9/11 Veterans Educational Assistance Improvements Act of 2010, which unanimously passed the Senate on December 13, 2010. It is our understanding that S. 3447 will be placed on the House suspension calendar this week in order that it may be considered this session.

When Congress hurriedly enacted the educational assistance for members of the Armed Forces who serve after September 11, 2001, commonly known as the Post 9/11 GI Bill, it mistakenly excluded Title 32 active duty service from qualifying for benefits under this program, and limited benefits for vocational learning, on-the-job training, and distance learning that is so vital to geographically isolated members for the National Guard.

S. 3447 would fully credit all National Guard Title 32 AGR duty and service under Title 32 section 502(f) in response to a national emergency declared by the President. The bill would also provide expanded benefits for vocational learning, apprenticeships, on-the-job training, and provide a living allowance for full-time distance learners. Of critical importance is the fact that the Congressional Budget Office has rated the bill to be cost neutral.

NGAUS strongly supports approval of a motion to suspend the rules for S. 3447 in the House to correct this inequity and properly credit our members of the National Guard for their service to our country. The sooner this corrective legislation may be passed, the sooner our members and veterans will be able to improve their skills in a difficult economy.

Our men and women who bravely serve and have served our nation richly deserve the recognition that S. 3447 would provide. Thank you for this opportunity to express our support.

Sincerely,

GUS HARGETT,
Major General, (Ret), President.

NATIONAL ASSOCIATION FOR
UNIFORMED SERVICES,
Springfield, VA, December 14, 2010.

Hon. BOB FILNER,
Chairman, House Veterans' Affairs Committee,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The National Association for Uniformed Services (NAUS) strongly supports passage of S. 3447, the Post-9/11 Veterans Educational Assistance Improvements Act. The bill brings critical upgrades and welcome expansion of the extraordinary and historic Post 9/11 GI Bill.

As approved in the Senate earlier this week, the Post-9/11 Veterans Educational Assistance Improvements Act makes a number of modifications to the education assistance legislation. Not only does it open educational opportunities for National Guard and Reserve members called to active duty, it would simplify the bill making it less complex, and expand the program to include on-the-job and vocational training opportunity for veterans interested in developing a career in skilled trades.

NAUS urges speedy action to complement, upgrade and improve the historic action previously taken under your leadership to approve the Post-9/11 GI Bill. Our membership endorses this legislation, and we urge your colleagues to support the course of action you propose. For those men and women who have honorably served in the Uniformed Services, it is the right thing to do.

Sincerely,

RICHARD A. JONES,
Legislative Director.

THE AMERICAN LEGION,
Washington, DC, December 14, 2010.

Hon. STEPHANIE HERSETH SANDLIN,
Cannon House Office Building, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HERSETH SANDLIN: On behalf of the 2.4 million members of The

American Legion, I am expressing our support for S. 3447, the Post-9/11 Veterans Educational Assistance Improvements Act of 2010, legislation which expands and improves upon the Post 9/11 G.I. Bill. Most importantly, the new measure expands the Post 9/11 G.I. Bill beyond covering college courses by allowing veterans to use the more generous benefits of this program to cover vocational and technical education at non-degree granting institutions. This will help more veterans get the skills they need to get back in the work force quickly and help get our economy back on track.

The act also expands eligibility for the new G.I. Bill to certain members of the National Guard and Reserve forces activated under Title 32 for domestic emergencies or homeland security missions, or who serve full-time under the Active Guard and Reserve (AGR) program and who were inadvertently left out of the original legislation passed in June 2009. Last year, by Guard estimates, the oversight had denied more than 75,000 Army Guard and 2,500 Air Guard members access to the best veterans' education benefit since World War II. In addition, the bill would provide a living allowance for distance learners, expand and simplify the existing Yellow Ribbon program, reimburse student-veterans taking multiple certification tests and national exams, and allow active duty service members and their spouses to receive a \$1000 per year book stipend, among other things.

The American Legion has a proud history of advocating for veterans' benefits, most notably the contribution to writing and passing the historic Servicemen's Readjustment Act of 1944, commonly known as the "G.I. Bill of Rights." Harry W. Colmery, a former National Commander of the American Legion, is credited with drafting the original language that would become the G.I. Bill. S. 3447 will go far in ensuring that current veterans will be helped as much as the original G.I. Bill helped the Greatest Generation in shaping America. Once again, The American Legion fully supports this legislation and we urge final passage of this bill before the close of the 111th Congress.

Sincerely,

TIM TETZ,
Director,
National Legislative Commission.

STUDENT VETERANS OF AMERICA,
BOARD OF DIRECTORS,
December 14, 2010.

Hon. CONGRESSMAN FILNER, Chairman,
Hon. CONGRESSMAN BUYER, Ranking Member,
House Veterans Affairs Committee,
Cannon House Office Building,

CHAIRMAN FILNER, RANKING MEMBER BUYER, AND ESTEEMED MEMBERS: We at Student Veterans of America strongly support the provisions of S. 3447, which was passed unanimously by the Senate last evening, on December 14th, 2010. This bill enjoys broad bipartisan support, corrects many of the deficiencies of the original Post 9/11 GI Bill, and even reduces the deficit by more than \$700 million over ten years. It is rare that this kind of opportunity comes along with overwhelming support from both parties and the vast majority, if not all, of the veteran services organizations, and we respectfully request that you move to ensure its swift passage.

This Bill will truly change the landscape of veterans' education, and is a fantastic follow-up to the Post 9/11 GI Bill that was passed into law two years ago. Since that time we have seen great successes come from its provisions, and yet we have also seen

some veterans left out of its generous promises. S. 3447 addresses almost all of these concerns, and we are excited to be involved in its movement to help all veterans, despite this difficult political climate.

Among its many improvements, S. 3447 establishes a national average for private and graduate school rates that will alleviate the most complex part of this program by giving predictability to all veterans as to what their benefit is worth regardless of where they are studying. Additionally, allowing the Post 9/11 GI Bill to be used for vocational training and apprenticeships, including Title 32 National Guard service members, and providing a housing allowance to distance learners will finally close some of the largest issues with the program thus far, expanding the eligibility and usage to its intended audience: all Post 9/11 veterans.

We are excited and proud to stand with you on this issue and we look forward to continuing to work with you to help our nation's heroes achieve success in the classroom and in their professional lives. Giving student veterans the tools they need to excel in their chosen careers will allow them to continue their exceptional contributions to our country. Please stand with us by passing S. 3447.

Very Respectfully,
JEREMY GLASSTETTER,
National President.

Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. I yield myself such time as I may consume.

I don't know since when the GI bill all of a sudden became the greatest hallmark of Democrats. It's of both parties, Mr. Chairman.

I rise to express my concerns about the way, once again, we are legislating outside of regular order, leaving undone significant fixes needed to correct known substantive and technical problems with the bill. And this all goes back to the way the GI bill came to us. It came to us as a political instrument, not properly even vetted through the House. It came as a political instrument in a highly Presidential election time.

The House committee was doing its work on modernizing the Montgomery GI bill. STEPHANIE HERSETH and JOHN BOOZMAN were doing yeoman's work, under the guidance of Chairman FILNER, and they were doing everything that they were supposed to do to that bill. Sure enough, they took a bill that was drafted by one staffer who had not been properly vetted in the Senate and sent that bill over to the House without even being vetted here by the House. And then Speaker PELOSI wanted to do that, and it was all about, at that time, jamming JOHN MCCAIN.

Now I voted for that when it came here to the House floor. The reason I did that is I wanted a seat at the table. I wanted to be able to correct problems with the bill. We cited 10 or 11 of the problems that we had with the bill, all of which were ignored.

So what happened? All these inequities, all these poor drafting errors, the challenge that the administration even had with regard to the implementation

of the legislation. Oh, once again we'll just do something quickly, with expediency, bypass the House process, ignore regular order, dump it on the administration, and then force them to fix it. And then, if they don't do things according to the timeline for which we foresee, then we'll just beat 'em up. This is like the worst way to legislate.

If you want to do proper governing, you don't worry about winning and losing and who's getting credit, whether a Democrat is getting credit or a Republican is getting credit. You don't think about winning and losing. Good government is about the collective ideas of all people of this House.

So, once again, what are we doing? Here comes a bill, once again, coming from the Senate to us on issues that we haven't even had a chance to pore through. Oh, let's come to the floor. Let's cheerlead. Let's embrace. And you're doing it, once again, in a lame duck session.

Then-Speaker Dennis Hastert, in 2006, when Democrats took over the House, what did Dennis Hastert do? He held a conference and he told Republicans: Respect the will of the American people. We will not legislate our agenda in a lame duck.

What are you doing? You're ignoring the will of the American people and trying to jam everything imaginable that you can before you, quote, lose power. So let's do gays in the military and let's jam everything imaginable you can. Let's do this. You're creating even more inequities in this bill than you think that you're correcting.

In order to understand my concerns: Originally the bill cost nearly \$80 billion and was not paid for. We could be headed for a similar situation by passing this bill today without going through regular order.

I received a long list of technical changes from the VA that would have facilitated successful implementation. Unfortunately, the majority continues to block my efforts for these changes. In the end, the House once again will have no say in a major piece of legislation expanding veterans' benefits.

So be careful getting out there and pounding your chest thinking that you've done a lot of great things or that you've had all the input. We have not.

I am concerned about the policy change in this bill that ends living stipend payments to veterans during periods of time between semesters. You had better think about what you are about to vote on. This cut in veterans' benefits will hit veterans and their families hard, especially during the holiday season, since many schools dismiss for the winter break veterans who would receive their living stipend check during that period. I can't think of a worse idea than to cut a veteran benefit during the Christmas and holiday season. All Americans know that

the month of December is already a strain on their pocketbook, and to have your paycheck cut during a devastating time period is pretty tough.

My second policy concern deals with the national cap on tuition and fees. Current law allows the VA to pay up to the maximum in-state tuition and fees for each veteran enrolled in an institution of higher learning. This means that each State has a different maximum amount of tuition and fees that the VA is required to pay. While the revised benefit of up to \$17,500 a year will be a windfall for most veterans, there are veterans in several States, including Texas, New York, and New Hampshire that will see their tuition and fees payments reduced. Veterans in these States will be forced to pay for this reduction from other sources or from their own pocket.

For example, a veteran who is a junior studying at Baylor University in Texas currently receives roughly \$26,000 in tuition and fee payments per year. Under this bill, that veteran would receive only \$17,500 in tuition and fee payments for a difference of \$8,500 per year; or, \$34,000 over a 4-year time period will be cut from their benefit.

□ 1900

This bill should have included a provision to grandfather the current students in these high-cost States so they are not required to make up the difference in tuition, but the Members of the House Committee on Veterans' Affairs did not get that change, or any other change, for that matter. By removing these interval payments and excluding a grandfather clause, the drafters of this bill were able to pay for their other enhancements of the bill. However, these enhancements are being done at the expense of some veterans to the benefit of other veterans.

It is one of those things which we are always cautious about, cutting one veteran's benefit to the benefit of some other veteran. If you went out and surveyed the average student veteran, I believe they would oppose improving their own benefit at the expense of one of their comrades.

What is even more disturbing to me is that by rushing this bill through without regular order, the majority and the veterans service organizations who support this move don't seem to have a problem with either of these issues that will hurt some of America's veterans in the name of expediency and of the apparent need to score some kind of point here in the lame duck.

I am surprised that the veterans service organizations have jumped on board in support of this bill despite the fact of its cuts of veterans benefits. I am quite certain they are very uncomfortable with me standing here on the House floor talking about the veterans service organizations' support of the cut in veterans benefits.

In a press release on Tuesday, the commander of the American Legion, Jimmie Foster, stated: "This is great news. This bill rectifies the inequities and shortcomings of the well-intentioned but incomplete Post-9/11 GI Bill and makes it whole."

It does not. We create even more inequities and make the matter even worse.

In testimony in July before the Senate Committee on Veterans' Affairs, the Iraq and Afghanistan Veterans of America stated: "The discussion draft of Senate 3447 will improve the new GI Bill and ensure that all student veterans have access to the most generous investment in veterans education since World War II."

At the same hearing, the Veterans of Foreign Wars stated: "Senator AKAKA, your legislation addresses every area of concern the VFW has with improving the Post-9/11 GI Bill. We cannot say enough about the noble intent driving this legislation."

Madam Speaker, I guess we have a few questions for the veterans who are members of these veterans service organizations. Number one, are your Representatives in Washington really standing up for you when they endorse a bill that cuts your living stipend during the holidays?

Please understand what this does. When an individual finishes their fall semester and before they start their spring semester, their benefits are cut. At some schools they might be out 5 weeks, or 3 weeks, or 4 weeks. We are going to cut their stipend during that break between semesters.

The other question is, are they really representing the view of a veteran when they endorse legislation that cuts tuition payments for some veterans by thousands of dollars while trying to benefit a veteran in some other place?

While I am retiring here at the end of this Congress, I am sure that Members of the new majority will want to hold hearings on the shortcomings in the Post-9/11 GI Bill and look for ways to improve the bill early in the next Congress. That way we can further consider the VA's and the committee's concerns, avoid unintended consequences, and do so in a bipartisan manner, and, most importantly, using regular order and making sure everyone participates in the process. That is the best way for us to govern a country.

With that, I reserve the balance of my time.

Mr. FILNER. Madam Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. LOEBSACK), who has been a great leader on veterans issues.

Mr. LOEBSACK. I thank Chairman FILNER, and I want to thank Democrats and Republicans alike who have worked on this bill and folks in the Senate who have worked on this bill as well, both Democrats and Republicans.

Mr. Speaker, the Post-9/11 GI Bill is an expression of our Nation's gratitude to those who have served our country since the 9/11 attacks.

As a former college professor, I know firsthand the impact a post-secondary education can have. It opens doors and it broadens opportunities, and it is critical to the strength of our military and the future of our economy.

I have had the honor to meet many members of the Iowa National Guard. I have seen them respond to the floods that hit my district in 2008, and I have visited them in Iraq and Afghanistan. The dual role of the National Guard in our homeland and national security is unique, and it has only increased since the 9/11 attacks.

The National Guard is no longer a strategic reserve. It is an operational one. These soldiers and airmen secure our airspace, respond to disasters, protect our borders, and deploy to Iraq and Afghanistan. Yet the Post-9/11 GI Bill did not recognize this dual role. It counts only service overseas and overlooked the role the National Guard plays in federally funded homeland security missions.

That is why I introduced the National Guard Education Equality Act, which has over 100 bipartisan cosponsors and has been endorsed by a number of veterans service organizations. I am very proud that my bill has been included in the Post-9/11 Veterans Education Assistance Improvements Act. As a result, tens of thousands of National Guard members will receive benefits they are due for their service to our country.

While this bill is not perfect and more needs to be done, it is an essential step forward. Among its many other improvements for our veterans, it will recognize and it will honor the contributions of the National Guard to both our homeland and our national security. I urge support for this critical legislation.

I again thank Chairman FILNER and Members for all their great work on this, Democrats and Republicans alike.

Ms. HERSETH SANDLIN. Mr. Speaker, I rise today in strong support of S. 3447, The Post-9/11 Veterans Educational Assistance Improvements Act of 2010.

I would like to thank Senator AKAKA for introducing this critical legislation in the Senate and Representative WALT MINNICK of Idaho who introduced the companion bill here in the House and worked diligently to refine the landmark Post-9/11 G.I. Bill enacted in 2008.

I would also like to thank Veterans Affairs Committee Chairman FILNER, as well as Ranking Member BUYER, for their leadership throughout the 110th and 111th Congresses on this topic in helping ensure that our Nation's veterans have access to the educational benefits they deserve and have earned.

One of the most significant accomplishments of the 110th Congress was the passage of the Post-9/11 G.I. Bill. That legislation offered the first update and improvement of the

Montgomery G.I. Bill in over a generation, and set the Department of Veterans Affairs on the path toward providing today's veterans the educational benefits that befit their service and sacrifice.

Today, by passing S. 3447, this House can take another significant step on the ongoing journey to provide veterans with those improved educational benefits.

During the 111th Congress, I have had the honor to serve our Nation's veterans as Chairman of the Economic Opportunity Subcommittee. As part of my work as chairman, our subcommittee held six hearings on various aspects of the Post-9/11 G.I. Bill program. We addressed the VA's long-term strategy to implement the benefit and investigated the reasons behind some of the processing delays that plagued the program when the VA first began paying benefits in August of 2009. In addition, our Subcommittee held an education roundtable and several legislative hearings on bills that sought to improve or expand the Post-9/11 G.I. Bill program.

During these many hearings, it became clear that, while the version of the Post-9/11 G.I. Bill program the House passed in the 110th Congress was a positive step, there were also logical, commonsense, bipartisan improvements to be made to the benefit that would allow veterans greater flexibility and better meet their needs.

S. 3447 contains many of those needed improvements.

This bill:

Allows veterans to use Post-9/11 benefits for Apprenticeship and On-the-Job Training programs.

Provides students pursuing education through distance learning access to the housing stipend given to traditional students.

Credits National Guard members—who are activated under Title 32 orders for national disasters—with Post-9/11 eligibility.

Improves the often confusing state cap system to expand and simplify the yellow ribbon program which allows veterans to receive funds to attend private schools.

Fully covers tuition at any public school.

Is fully offset and cost neutral thanks in part to closing several loopholes in the program.

There is historical precedence for making such changes. The 78th Congress also needed to pass several reforms to the original Montgomery G.I. Bill. Today, the Montgomery G.I. Bill is considered to be one of the most successful veterans programs in the history of our country. By passing S. 3447, we are following in that tradition.

In conclusion, I would like to thank the many Veterans Service Organizations who worked with Senator AKAKA, Representative MINNICK, and myself on these issues. Groups such as the Veterans of Foreign Wars, the American Legion, and the Iraq and Afghanistan Veterans of America were tireless champions on this bill and these issues. The passage of S. 3447 would not be possible without their efforts.

I also want to thank Economic Opportunity Subcommittee Ranking Member JOHN BOOZMAN for his leadership and effort in conducting proper oversight of the Post-9/11 G.I. Bill and helping to improve it. I am very proud of the bipartisan way that Representative BOOZMAN and I approached Economic Opportunity

issues and this topic was no exception. I wish him the best of luck in his work in the Senate on behalf of veterans and the State of Arkansas.

Again, I urge all my colleagues, on both sides of the aisle, to support this important legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of S. 3447, the Post-9/11 Veterans Educational Assistance Improvements Act of 2010.

First I want to thank the Chairman of the Senate Committee on Veterans' Affairs, and my very good friend, Senator DANIEL AKAKA, for his leadership and for continuing to look out for the needs of our veterans. I also want to thank the gentleman from Idaho, Mr. WALTER MINNICK, for his work on this important issue.

The bill, S. 3447, embodies Congress' responsibility to those that have served and fought in defense of this great Nation. Since the Serviceman's Readjustment Act of 1944, or the original GI Bill, Congress has continued to provide assistance through a myriad of programs designed to meet the many critical needs of our veterans. And service members. These programs include the construction of additional hospitals; extending educational assistance to disabled and non-disabled veterans; providing access to loans for home, business, and farm; job counseling and placement services and unemployment benefits.

The bill before us today, S. 3447, underscores this continued responsibility. It will make several improvements to the existing Post-9/11 Veterans Educational Assistance Program, or the Post-9/11 GI Bill of 2008.

Among other improvements, S. 3447 will modify eligibility for entitlements to educational assistance; the amount of assistance and types of approved program of education; and assistance for licensure and certification tests.

Under the proposed legislation, individuals, who have been discharged or released from the Armed Forces, will be able to transfer unused education benefits to family members or dependents. Those pursuing a college degree or certificate through an accredited distance learning program will also be eligible for educational assistance. Eligible individuals entitled to supplemental educational assistance for additional service under the Montgomery GI Bill-Active Duty, MGIB-AD, may also receive remaining payments if the individual elects to receive benefits under the Post-9/11 GI Bill. Veterans with service-connected disabilities will be eligible to choose the national average of BAH, or the DOD benefit to provide housing compensation, in lieu of the monthly subsistence allowance currently authorized. Commissioned officers in the Public Health Service, PHS, and National Oceanic and Atmospheric Administration, NOAA, may also transfer Post-9/11 GI Bill benefits to their dependents.

Overall, this piece of legislation provides the opportunity for veterans and servicemembers to maximize their benefits and to ensure that their needs are met. And again I thank Senator AKAKA for his leadership on this important piece of legislation.

I urge my colleagues to support this bill.

Ms. BORDALLO. Mr. Speaker, I rise today in support of S. 3447, the Post-9/11 Veterans Educational Assistance Improvements Act of

2010. I commend Chairman IKE SKELTON of the House Armed Services Committee, Chairman JOHN SPRATT of the House Committee on the Budget, and Chairman BOB FILNER of the House Committee on Veterans Affairs for their commitment, hard work and dedication to expanding education benefits for the men and women who have served our great nation in uniform since September 11, 2001. The work of committee leadership ensures that this Congress will make a meaningful positive impact on our Armed Forces.

The improvements to the bill will make it easier for the U.S. Department of Veterans Affairs and the military services to implement the program thereby speeding up the time it presently takes to use the benefits. Further the proposed legislation expands the types of training which can be pursued to include vocational and technical schools, apprenticeships and on the job training that were not previously covered. Another important improvement to the Bill includes expanded financial assistance to active duty members to cover the cost of books and administrative fees and to broaden the opportunity to participate in distance learning programs.

Another critical component of the legislation is expanding eligibility to many men and women of the National Guard who serve under Title 32 authority. Men and women of the National Guard continue to be called upon to serve at home and abroad to protect our national interests. The distinction between different types of orders is often blurred due to archaic procedures and operational requirements. The legislation significantly enhances benefits for men and women of the National Guard by including active duty time spent for the purpose of organizing, administering, recruiting, instructing, or training the National Guard. It also includes time spent under section 502(f) of title 32 when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

This legislation continues our solemn commitment to veterans and servicemembers. The bill improves the processing of these benefits and ensures that we fulfill our commitment to all servicemembers and veterans. As such, I urge my colleagues to join me in supporting S. 3447.

Mr. BISHOP of New York. Mr. Speaker, I rise today in support of S. 3447, the Post-9/11 Veterans Educational Assistance Improvement Act of 2010.

The original GI Bill proved to be a landmark initiative for our troops and an outstanding investment in the future of our Nation. The Post-9/11 GI Bill, signed into law in 2008, built on the success of the original program by providing helpful and hard-earned educational and economic benefits for our newest generation of veterans. Although today's legislation seeks to make it easier for veterans to utilize their educational benefits, some of the changes will have detrimental consequences.

Just as the veterans of WWII were the engine of economic recovery and expansion in the post-war period, the most recent generation of veterans will continue their service to America by reaching their full educational and economic potential through the Post-9/11 GI Bill.

While I support this bill and urge my colleagues to vote for it, there are some provisions in the legislation that I believe deserve additional consideration. Although I support setting a national average tuition rate for benefits, I am concerned that students in states like New York will be negatively impacted by the \$17,500 baseline.

This legislation will reduce benefits for students in New York already enrolled in programs where the cost is above the baseline. Students based decisions about which institution of higher education to attend partly on a benefit level guaranteed in the 2008 law. A "hold harmless" provision would have allowed these students to continue to receive the same level benefits for which they are entitled.

Under current law, state approving agencies, SAAs, are charged with approving programs and schools that are deemed appropriate for vets using the GI Bill. S. 3447 permits the Veterans Administration, VA, to make this determination and I am concerned that this responsibility should remain within SAA's jurisdiction, as they have been the experts in protecting veterans from fraudulent programs. The bill goes further by permitting veterans to use their GI benefits at schools without any approval by SAAs or the VA. In my view this is unwise.

This legislation permits the VA to expand GI benefits to trade schools, unaccredited colleges, and programs that lead to no degree or certificate. While I understand that many veterans choose not to take a more traditional path and attend an institution of higher education, I am deeply concerned that taxpayer dollars will go to programs that will not lead to gainful employment.

I am also concerned that this bill includes a so-called "last-payer" provision. The last payer provision withholds the student's GI Bill benefit until a calculation is made of any state and private tuition aid, for which a veteran may be eligible. In some cases, this would cause a delay in GI benefits and lead to needless confusion.

As a former college administrator, I am very pleased to see so many veterans returning home and choosing to seek further education. However, I am deeply concerned with a growing number of reports that some institutions may be abusing GI tuition payments by aggressively targeting veterans for academic programs that may not provide an actual benefit to a student, such as preparation for future employment.

Mr. Speaker, it is my hope that in the 112th Congress we can achieve bipartisan solutions to these issues to protect both taxpayers and distinguished veterans. The Post-9/11 GI Bill is a small token of our appreciation for their valor and service to our Nation. I would like to submit for the RECORD a letter signed by various higher education groups that outlines the community's concerns with this legislation.

AMERICAN COUNCIL ON EDUCATION,
Washington, DC, December 14, 2010.

House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the American Council on Education and the organizations listed below, we write to express our hope that before adjournment, the 111th Congress will approve a final version of the Post-9/11 Veterans Educational Assistance

Improvement Act of 2010 that addresses the concerns outlined below.

Both the House version (H.R. 6430) and the Senate version (S. 3447) make welcome improvements to current law, such as expanding the benefits to troops serving in the Active Guard Reserve and to National Guard members who have honorably served their country on active duty, including at the sites of natural disasters. The bills also replace the complex state-by-state tuition and fee cap look-up chart with language that specifies that GI Bill benefits cover tuition and fees for veterans attending public institutions while establishing a single national tuition baseline for those who enroll in private institutions.

However, we believe that the House version is preferable in two very critical respects. First, S. 3447 contains a provision that would add a new source of confusion for veterans and prevent them from having a clear idea of the level of support to which they are entitled. This so-called "last-payer" provision, which withholds the GI Bill benefit until a calculation is made of any state and private tuition aid for which a veteran may be eligible, would not only confound veterans and delay the delivery of aid, but in some cases would conflict with state statutes. In contrast, H.R. 6430 does not include such a provision and will help end the frustration and confusion that far too many veterans have experienced in attempting to access their benefits.

Second, H.R. 6430 includes an important "hold harmless" provision, designed to protect veterans who might otherwise be negatively impacted by the establishment of a national baseline. In several states, veterans attending private institutions currently receive a base benefit that is greater than the new national baseline amount provided in either version of the legislation. By failing to include this "hold harmless" language, the Senate bill would reduce benefits for a number of veterans upon enrollment for a subsequent term. In contrast, the House bill would help ensure that veterans continue to receive their current benefits without interruption.

As this legislation nears passage, we strongly urge you to modify S. 3447 so that it reflects the approach taken by the House bill on these two important issues. Our campuses have worked very hard to smooth out the difficulties that veterans have faced under current law, and these improvements will enable them to serve veterans even more effectively.

Thank you for all of your work on behalf of the nation's veterans.

Sincerely,

MOLLY CORBETT BROAD,
President.

Mr. BUYER. Mr. Speaker, I yield back the balance of my time.

Mr. FILNER. Mr. Speaker, I have no further requests for time. This is an important bill that extends benefits to even more of our veterans and tries to enhance the benefits for those who already are receiving them. I ask for unanimous support, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LANGEVIN). The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, S. 3447.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. FILNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SUPPORTING A NEGOTIATED SOLUTION TO THE ISRAELI-PALESTINIAN CONFLICT

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1765) supporting a negotiated solution to the Israeli-Palestinian conflict and condemning unilateral declarations of a Palestinian state, and for other purposes.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1765

Whereas a true and lasting peace between Israel and the Palestinians can only be achieved through direct negotiations between the parties;

Whereas Palestinian leaders have repeatedly threatened to declare unilaterally a Palestinian state and to seek recognition of a Palestinian state by the United Nations and other international forums;

Whereas Palestinian leaders are reportedly pursuing a coordinated strategy of seeking recognition of a Palestinian state within the United Nations, in other international forums, and from a number of foreign governments;

Whereas, on November 24, 2010, Mahmoud Abbas, leader of the Palestinian Authority and the Palestine Liberation Organization, wrote to the President of Brazil, requesting that the Government of Brazil recognize a Palestinian state, with the hope that such an action would encourage other countries likewise to recognize a Palestinian state;

Whereas, on December 1, 2010, in response to Abbas's letter, the Government of Brazil unilaterally recognized a Palestinian state;

Whereas, on December 6, 2010, the Government of Argentina announced its decision to recognize unilaterally a Palestinian state, and the Government of Uruguay announced that it would unilaterally recognize a Palestinian state in 2011;

Whereas, on March 11, 1999, the Senate adopted Senate Concurrent Resolution 5, and on March 16, 1999, the House of Representatives adopted House Concurrent Resolution 24, both of which resolved that "any attempt to establish Palestinian statehood outside the negotiating process will invoke the strongest congressional opposition";

Whereas, on October 20, 2010, Secretary of State Hillary Rodham Clinton stated, "There is no substitute for face-to-face discussion and, ultimately, for an agreement that leads to a just and lasting peace";

Whereas, on November 5, 2010, United States Department of State Spokesman Mark Toner, responding to a question about the Palestinians possibly taking action to seek recognition of a Palestinian state at the United Nations, said, "[T]he only way that we're going to get a comprehensive peace is through direct negotiations, and anything that might affect those direct negotiations we feel is not helpful and not constructive";

Whereas, on November 10, 2010, Secretary Clinton stated, "we have always said and I

continue to say that negotiations between the parties is the only means by which all of the outstanding claims arising out of the conflict can be resolved . . . There can be no progress until they actually come together and explore where areas of agreement are and how to narrow areas of disagreement. So we do not support unilateral steps by either party that could prejudice the outcome of such negotiations.";

Whereas, on December 7, 2010, Assistant Secretary of State for Public Affairs Philip J. Crowley stated, "We don't think that we should be distracted from the fact that the only way to resolve the core issues within the process is through direct negotiations.";

Whereas, on December 10, 2010, Secretary Clinton stated, "it is only a negotiated agreement between the parties that will be sustainable";

Whereas the Government of Israel has made clear that it would reject a Palestinian unilateral declaration of independence, has repeatedly affirmed that the conflict should be resolved through direct negotiations with the Palestinians, and has repeatedly called on the Palestinian leadership to return to direct negotiations; and

Whereas efforts to bypass negotiations and to unilaterally declare a Palestinian state, or to appeal to the United Nations or other international forums or to foreign governments for recognition of a Palestinian state, would violate the underlying principles of the Oslo Accords, the Road Map, and other relevant Middle East peace process efforts: Now, therefore, be it

Resolved, That the House of Representatives—

(1) reaffirms its strong support for a negotiated solution to the Israeli-Palestinian conflict resulting in two states, a democratic, Jewish state of Israel and a viable, democratic Palestinian state, living side-by-side in peace, security, and mutual recognition;

(2) reaffirms its strong opposition to any attempt to establish or seek recognition of a Palestinian state outside of an agreement negotiated between Israel and the Palestinians;

(3) urges Palestinian leaders to—

(A) cease all efforts at circumventing the negotiation process, including efforts to gain recognition of a Palestinian state from other nations, within the United Nations, and in other international forums prior to achievement of a final agreement between Israel and the Palestinians, and calls upon foreign governments not to extend such recognition; and

(B) resume direct negotiations with Israel immediately;

(4) supports the Administration's opposition to a unilateral declaration of a Palestinian state; and

(5) calls upon the Administration to—

(A) lead a diplomatic effort to persuade other nations to oppose a unilateral declaration of a Palestinian state and to oppose recognition of a Palestinian state by other nations, within the United Nations, and in other international forums prior to achievement of a final agreement between Israel and the Palestinians; and

(B) affirm that the United States would deny recognition to any unilaterally declared Palestinian state and veto any resolution by the United Nations Security Council to establish or recognize a Palestinian state outside of an agreement negotiated by the two parties.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

California (Mr. BERMAN) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I rise in strong support of H. Res. 1765, and I yield myself 3 minutes.

Mr. Speaker, I brought this resolution to the floor because I believe negotiations are the only path to a two-state solution to the Israeli-Palestinian conflict. For this reason, the United States Congress has every reason to be concerned about efforts of some in the Palestinian Authority leadership to attain recognition of statehood while bypassing the accepted negotiation process.

□ 1910

These efforts run counter to the Palestinians' own internationally witnessed commitments at the 1991 Madrid Conference and under the 1993 Oslo Agreement and the 2003 Roadmap. Most important, the Palestinians will only get a state by negotiating with the Israelis.

That is but one reason I am deeply disappointed by the recently announced decisions of Brazil and other Latin American countries to recognize an independent Palestinian state, actions prompted by a direct request from Palestinian President Abbas.

Ultimately, such recognition of non-existent statehood gives the Palestinians nothing. In 1988, Yasser Arafat declared a state and garnered recognition from more than 100 states; now, 22 years later, there is still no state. The Palestinian people don't want a bunch of declarations of statehood. They want a state. And they should have one, through the only means possible for attaining one, negotiations with Israel.

The Obama administration has been unwavering on this point. Unless an independent Palestinian state is formed via a negotiated settlement, the Israeli-Palestinian conflict will not be solved. Only through direct negotiations can difficult compromises be reached on the core issues of borders, water, refugees, Jerusalem, and security. Unilateral declarations of statehood will not eliminate the sources of the conflict; they will exacerbate them. Secretary of State Hillary Clinton could not have been more correct when she said just this past Friday that "it is only a negotiated agreement

between the parties that will be sustainable."

I believe that Palestinian Authority President Abbas and Prime Minister Fayyad are committed to a peaceful resolution of their conflict with Israel, so I hope they will take Secretary Clinton's message to heart. This body has been very generous in its support of their worthy efforts to build institutions and the economy on the West Bank. In fact, I believe we are the most generous nation in the world in that regard. So I think our friends should understand: If they persist in pursuing a unilateralist path, inevitably, and however regrettably, there will be consequences for U.S.-Palestinian relations.

I encourage all of my colleagues to support this important pro-negotiations, pro-peace resolution.

I reserve the balance of my time.

Mr. POE of Texas. Mr. Speaker, I yield myself such time as I may consume.

I am proud to be a cosponsor of this legislation. I strongly support a negotiated solution for peace in the Middle East, and this resolution will help do that.

Unfortunately, behind closed doors and behind the backs of Israelis and the United States, Palestinian leaders are reportedly holding high-level, unilateral discussions in pursuing recognition of a Palestinian state by the United Nations and other international forums. In fact, the U.N. Special Coordinator for the Middle East Peace Process, Robert Serry, on October 26 of this year said he supported recognition of a Palestinian state by the United Nations. The answer is to negotiate with Israel to make sure that there is a Palestinian state and not operate unilaterally without the help and negotiation of Israel. But this is not all.

Earlier this month, three South American countries—Argentina, Brazil, and Uruguay—recognized Palestine as a state. Palestinian statehood recognition outside of talks with Israel is a bad idea, and it is not a peaceful solution to this problem.

If the Palestinian state is a sovereign state, what are the borders of this state going to be? Will terrorist acts now be seen as an act of war from a recognized state? Is this going to be a sovereign state within the sovereign State of Israel? No one knows because none of these questions have been answered with these countries who want to have a unilateral recognition of this state.

I am not saying that there can never be a Palestinian state, but what I am saying is certain conditions certainly should be met before a state can be established. And one of those, the foremost important one, is get to the table and negotiate with Israel. Quit worrying about what Brazil, Argentina, and Uruguay think and be more concerned about what Israel thinks, be-

cause Israel must agree to whatever solution comes about in this negotiation.

If other countries follow Brazil and recognize Palestine, why would Palestine return to negotiations with Israel? They are already getting what they want without negotiations. I believe that without further negotiations with Israel, there will be violence in the Middle East; in fact, peace in the Middle East will be a far-off dream.

I think the administration needs to come out very strongly in opposition to this idea before more states recognize a Palestinian state. I think it is important that Congress show Israel that we stand with them. We stand for them because what is bad for them is bad for the United States and for the world and for the Middle East. So it is simple: Get back to the table with the people that are most concerned about a Palestinian state, that being the Israelis.

I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself 15 seconds.

I thank the gentleman for his position, for his resolution, and for his cosponsoring of this resolution. And I am here to stand not only with the Israelis, but I stand with the Palestinians on this issue because the Palestinians want this state, and negotiations are the way to get it.

I am pleased to yield for a unanimous consent request to my colleague from California (Mr. MILLER).

Mr. GEORGE MILLER of California. I thank the gentleman for yielding.

Mr. Speaker, I rise today to express my support for a negotiated solution to the decades-long conflict between Israel and the Palestinians. I will be voting in favor of the resolution introduced by my friend from my home state of California, Congressman BERMAN, as I believe that only a negotiated solution to which all parties agree will achieve lasting peace.

However, I would like to note that I believe that this resolution unwisely addresses only one issue standing in the way of Israeli-Palestinian peace, even while numerous other issues continue to plague the peace process. I believe that the resolution is fully correct that the Palestinian Authority should not seek statehood unilaterally. Yet, I do not believe that unilateral actions by either side that undermine efforts to achieve a negotiated solution are helpful in achieving our shared goal of peace in the region. In fact, I believe that they are extremely counterproductive.

Moreover, I believe that it is critical that this Congress support the Obama Administration's continued efforts to negotiate with each of the parties over substantive issues to make progress toward a settlement so that an eventual return to direct negotiations can be successful. Indeed, Special Envoy for Middle East Peace George Mitchell is in the region now working to make substantive progress.

Once again, I support this resolution, but I believe that it unfairly only addresses one of a number of complex issues standing in the way of achieving a negotiated peace settlement in the Middle East.

Mr. BERMAN. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from New York (Mr. ACKERMAN), the chairman of the Middle East and Southeast Subcommittee.

Mr. ACKERMAN. Mr. Speaker, this resolution is absolutely vital. It should be called the Peace Process Preservation Act because that is exactly what it is all about.

I understand that to many Israelis and many Palestinians, there is enormous frustration and disappointment and impatience with the peace process, but there is absolutely no acceptable alternative to it. Only negotiations can promise a real and durable peace, a peace with security for Israel, as a Jewish and democratic state, and independence for a sovereign and viable Palestinian state. There is no magic wand. There is no shortcut. The only way to peace is negotiating in good faith and making the hard choices that it demands.

Israel has shown time and again that it is ready. In the year 2000, Israel made a serious and generous offer to the Palestinians at Camp David, and then offered even more at Taba. Israel offered the Palestinians still more in 2008. And last year, Prime Minister Netanyahu, without getting any credit, came out in favor of a two-state solution and has been waiting ever since for the Palestinians to join him at the table.

It is time for Abu Mazen to stop jettisoning around the looking for alternatives to dealing directly with Prime Minister Netanyahu. Palestinians can't, on the one hand, complain that Israeli settlements prejudice final status issues and then run around calling on other nations to try to impose a solution from the outside.

Personally, I think that the Palestinians' complaints about settlements are overwrought.

Prime Minister Netanyahu froze settlement building for 10 months and got only Palestinian scorn for his efforts. Moreover, for peace, or to promote it, Israel has withdrawn completely from Sinai, Lebanon, and Gaza. So the Israeli track record on land for peace is very clear.

But what some Palestinians can't seem to understand is that their legitimate aspirations not only can't be achieved by violence, but are equally unobtainable through unilateral or external declarations. A just and lasting settlement is only possible through a political process, one where both sides make concessions.

Any nation that is truly committed to peace, or sees itself as a friend of the Israelis or the Palestinians, has to recognize that trying to dictate a solution is a recipe for catastrophe. Instead of producing peace, efforts to impose one from the outside will transform a difficult but resolvable conflict between two peoples into a horrific war between two religions.

So if you think the time to resolve this conflict is now, and I do, and if you think both Israelis and Palestinians are entitled to govern themselves, and I do, then you need to support this resolution in favor of negotiations and peace and against imposed or unilateral solutions.

□ 1920

Mr. POE of Texas. Mr. Speaker, I ask unanimous consent that the gentleman from Indiana (Mr. BURTON), the ranking member on the Middle East Subcommittee, be allowed to control the remainder of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BURTON of Indiana. Mr. Speaker, at this time I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New York (Mr. ENGEL), a member of the committee, chair of the Western Hemisphere Subcommittee.

Mr. ENGEL. I thank the chairman for yielding to me. And I, like my colleagues on both sides of the aisle, rise in support of this resolution. My colleagues have said it very, very well, and I reiterate it—the only way that peace can be achieved in the Middle East is by having the two parties sit down and negotiate a settlement that can't be an American plan, that can't be an Obama plan, that can't be a U.N. plan. It has to be a plan between the Israelis and Palestinians. So at the end of the day, we come out with a two-state solution—the Jewish State of Israel and a Palestinian State. And both States ought to live with security along recognized borders.

Now, it is bad enough that these countries like Brazil, Argentina, and Uruguay, unilaterally say that they accept or they recognize a Palestinian State. They talk about a Palestinian State within the 1967 borders, which is preposterous. Everyone knows that Israel would never and could never agree with it. Those borders are indefensible, and for that reason Israel would and could not accept it. So, as far as I am concerned, this is just mischief-making. This is the Palestinian leadership not having the guts to sit down and negotiate a difficult situation.

The Palestinian leadership has been throwing all kinds of preconditions out there, saying to Israel, We're not going to sit and negotiate with you unless you do this; we're not going to sit and negotiate with you unless you do that. So the prime minister of Israel, Netanyahu, agrees to a 10-month moratorium on building any kind of settlements or neighborhoods or anything like that, and the Palestinian leadership decried it. They made fun of it. They said it was nothing. And then

they waited 9 of those 10 months to actually sit down and negotiate with Israel. So they sat down for 1 month and then the 10 months expired. And now they are demanding another freeze. Well, I find it very odd that now that this freeze on so-called settlement activities is absolutely necessary in order for the Palestinians to sit down and negotiate, when for 9 months they refused to negotiate when Israel had stopped any kind of new settlements. So this is just a further international attempt to delegitimize Israel and to unilaterally declare statehood for the Palestinians. That will never work.

A little history is important here. Back in 1948, when the United Nations resolution passed, taking what was then historic Palestine and dividing it between an Arab State and a Jewish State, the Jews in the area said yes, accepted it, and the Arabs said no. And they went to war against Israel. And went to war against Israel time and time and time again to wipe out the State of Israel.

So we know we have come a long way. And my colleagues have said this. Back in 2000, back in 2001, Prime Minister Barak, Prime Minister Sharon, Prime Minister Olmert all issued and agreed to have negotiations and to give the Palestinians almost everything they wanted; a state of their own. They turned it down. Negotiation is the only step forward, and we should continue on that path.

Mr. BURTON of Indiana. Mr. Speaker, I continue to reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I am very pleased to yield 2 minutes to a member of the committee, the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. I do want to thank the distinguished gentleman from California, the chairman of the House Foreign Affairs Committee, and I want to state for the record I associate myself with the comments and the position taken by the chairman of the Foreign Affairs Committee concerning this issue that is now before the House.

Mr. Speaker, there is no question that the Israeli-Palestinian conflict for the past 60 years, in my opinion, has been something that not only has got the attention of the entire world, it is trying to find a solution to the current issues and the problems existing between the Israeli and the Palestinian people. I also want to commend the Obama administration and certainly Secretary Clinton for initiating the efforts to continue the negotiation process in trying to find a peaceful solution to the current problem existing between Israel and the Palestinian people.

One thing that is quite certain, that is at least a sense of consensus and agreement, is the fact that we recog-

nize that yes, Palestine should be given as an independent and sovereign state just as much as there should be proper recognition of Israel as a sovereign and an independent state. I think the points that have been taken by my good friend, the gentleman from Texas; Mr. BERMAN; and also my colleagues from New York, Mr. ACKERMAN and Mr. ENGEL, are well taken. And I just want to urge my colleagues to support the resolution.

Mr. BURTON of Indiana. Mr. Speaker, I will continue to reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I am very pleased to yield 2 minutes to a distinguished member of the Foreign Affairs Committee with an ardent interest in this issue, the gentlelady from Nevada (Ms. BERKLEY).

Ms. BERKLEY. I would like to thank the gentleman from California for yielding and for his extraordinary leadership on this issue and on our committee for the last several years.

Mr. Speaker, I rise in strong support for this important resolution because I am deeply concerned about the chances for Middle East peace. Over the last year, instead of negotiating directly with the Israelis, Palestinian leaders have turned their backs on peace talks. They have come up with all sorts of excuses to avoid negotiations, demanding that Israel stop construction in all settlements, including Israel's capital, before they'll even sit down to negotiate. When Israel took the courageous and difficult step of agreeing to a 10-month moratorium, that wasn't enough. They waited 9 of the 10 months, only coming to the table at the last possible moment. Meanwhile, rather than negotiating, the Palestinians have decided to pursue a unilateral strategy, seeking global recognition for their "state" instead of making peace with the State of Israel. Shamefully, several countries have even rewarded the Palestinian stonewalling instead of urging them to return to the negotiating table where they belong. The negotiating table is the only way to bring a true and lasting peace to the region. All peace-loving nations must reject this Palestinian manipulation and insist that they return immediately to negotiations. There is simply no other path to peace.

It is the Palestinians that have the most to lose if there isn't a negotiating path to peace. While Israel has a strong country and a good education system, a vibrant economy, a national identity, a cultural identity and a strong democracy, the Palestinians, because of their poor leadership, have absolutely none of those. And they will never get any of that until there is peace between the parties. The only way to do that is to sit down and negotiate in good faith. If I was Abu Mazen, you couldn't drag me away from the negotiating table. I would sit there until I delivered for my

people a Palestinian State. It occurs to me that maybe that's not what his motives are. If he was interested in it, with a 10-month moratorium he should have started on day one of the moratorium instead of waiting until the end.

Mr. BURTON of Indiana. Mr. Speaker, I continue to reserve the balance of my time.

□ 1930

Mr. BERMAN. Mr. Speaker, I am very pleased to yield 2 minutes to one who has been, really, an ardent supporter of the resolution of the Israeli-Palestinian conflict and peace in the Middle East, my friend from California (Mrs. CAPPS).

Mrs. CAPPS. I thank the distinguished chairman for yielding to me.

Mr. Speaker, I rise in very reluctant support of this resolution. Unfortunately, we have before us today yet another one-sided resolution regarding the Israeli-Palestinian conflict. I will vote in favor of it because I do oppose unilateral declarations of Palestinian statehood, and I do believe that a negotiated solution is the only way forward for Palestinian statehood to actually happen. However, this resolution ignores other facts on the ground that have led to the current breakdown in negotiations, most notably Israel's expansion of settlements.

Mr. Speaker, it is truly absurd to argue that serious negotiations can occur when both actors are engaged in activities that threaten the credibility of the peace process. It is likewise unwise to ignore that both Israelis and Palestinians bear responsibility for engaging in these activities.

Resolutions, like the one we are considering today, are clearly done for domestic political consumption much more than for having any positive impact on the conflict. We should not be ignorant of the fact that this Chamber's pattern of passing resolutions that are one-sided can, indeed, undermine our credibility to be serious brokers for peace.

No one is doubting the important relationship between the United States and Israel. Israel is our strongest ally and the only true democracy in the region, but that doesn't mean we shouldn't speak the truth in identifying Israeli policies that are harmful to promoting peace in the region and that advance the United States' national interests.

If I could rewrite this resolution, it would highlight the responsibilities of each partner to take actions demonstrative of its commitment to peace. Israelis and Palestinians alike share this responsibility, and so does the United States as an honest broker.

Mr. BURTON of Indiana. I yield myself such time as I may consume.

You know, Mr. Speaker, I think Israel continues to do everything they can to bring about a peaceful solution

to the problems in the Middle East regarding the Palestinian issue, but they don't have a partner, and the Palestinians continue to do an end run around the negotiation process.

Number one, it isn't going to work. Number two, it shows the insincerity of the leadership of the Palestinian Authority when it talks about peace. In the past 5 years, we have given over \$2 billion in assistance to the Palestinian Authority, and we have been reinforcing and rewarding bad behavior on the part of the Palestinian Authority when it has proven to us, by doing the things it is doing right now, that it is really not worthy of the support we are giving it. We should finally hold the Palestinian Authority leaders accountable.

A couple of things really bother me. One is when I hear the leader of the Palestinian Authority and the PLO, Abu Mazen, praise the recently deceased mastermind of the PLO's massacre of the Israeli athletes at the 1972 Munich Olympics. This is the leader, and he is praising the massacre that the whole world abhorred. He also expressed what he called his "firm rejection of the so-called Jewishness of the State of Israel," saying, "This issue is over for us. We have not and will not recognize it."

That's a heck of an attitude for people to have who say they want a Palestinian state and who say they want to negotiate while, at the same time, they're making these statements and are doing an end run around the entire process.

Last year, Abu Mazen said, "Presently, we are against armed struggle because we cannot cope with it, but things could be different at some future phase."

That indicates again and again and again their insincerity of negotiating in good faith. They are talking about at some point in the future having another armed struggle. Israel has gone beyond the pale time and again. Bibi Netanyahu, the Prime Minister, has taken that extra step time and again.

Until we see real concern and real sincerity in the negotiating process, we ought to take a very hard attitude toward the Palestinian Authority. In my opinion, that means cutting off any funding for it until it is willing to seriously sit down and negotiate a peaceful settlement to the problem.

I yield back the balance of my time. Mr. BERMAN. Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore. The gentleman from California has 5¼ minutes remaining.

Mr. BERMAN. I yield myself such time as I may consume.

Mr. Speaker, I would like to address the comments of my colleague from California (Mrs. CAPPS).

I am obviously grateful for her support of this resolution and for her

agreement with the notion that unilateral steps like this are not the way to achieve peace. Yet she made certain comments regarding issues which are not in the resolution—and she is right. This resolution has nothing about settlements. There is nothing about incitement. There is nothing about the Palestinian denial of the Jewish connection to the Western Wall. As for the settlements, I have my own reservations about Israel's activities, but this resolution isn't about any of those things.

This resolution is about the most central issue of all—the pathway to Palestinian statehood. There is only one path, and that is through negotiations. No negotiations, no state. It is as simple as that.

I am now happy to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. Let me thank the distinguished gentleman for yielding.

I rise to support this legislation. As I listened earlier—and I had to depart from the floor—I wanted to reinforce the comments and perspective that Chairman BERMAN has announced.

Mr. Speaker, diplomacy is bilateral. It is a two-way street. It is a give-and-take. It is the ability to help all of the people who are involved, and it is also the ability for the world to recognize that a coming together has occurred. I have the greatest sense of concern and respect for the Palestinian people and for Palestinian Americans, who themselves have reached out and asked for help.

I believe the people of the West Bank and Gaza want freedom, opportunity, equality, and a peaceful existence. I believe, over the years, the people of Israel and its many leaders have engaged in the process of peace. We in the United States are committed to a two-party state. We are committed to a peace resolution. Make peace today. Unilateral affirmation of one state without the recognition of the importance of both states coexisting and working together does not lead to the recognition that the world should give to two independent states that will be working alongside each other.

So I would simply indicate that, as we move forward, it is enormously important that we get energized on the two-party debate, discussion and diplomacy, and that we provide a peaceful existence as one of the negotiators—the United States—for the Palestinian people and the people of Israel. We should be engaged. We have been asked to be engaged. We can make a difference, and I would support the idea of our making a difference.

To my friends who have proceeded on a unilateral perspective, Mr. Speaker, I would simply say: go this route of a two-party state, engaging to provide peace for the two states.

□ 1940

Mr. BERMAN. Mr. Speaker, I would close by quoting from Prime Minister Salam Fayyad in an interview he gave just yesterday—actually, it was tonight in that time zone—where he said, “We want a state of Palestine, not a unilateral declaration of statehood.” He explained that he did not see how a unilateral declaration of statehood would assist the Palestinian cause.

Mr. Speaker, I urge the House to pass this resolution.

Mr. CANTOR. Mr. Speaker, having repeatedly refused to negotiate in good faith with Israel, the Palestinian Authority is now threatening to abrogate the Oslo Accords by unilaterally declaring its own state at the U.N. For all those Americans and citizens of the world who yearn for peace, prosperity and stability in the Middle East, I warn that nothing could be more detrimental to these hopes.

A unilaterally declared Palestinian state is a rejection of the very essence of the peace process. It is an unambiguous statement that the Palestinians refuse to honor their obligations in the interest of a lasting peace with Israel.

A real, genuine peace won't come out of thin air. It will come when the Palestinians teach their children that Israel has a right to exist as a Jewish State. And it will come when the PA inspires confidence that it has the capability and the will to provide security and safeguard peace with Israel on its own.

That day has not arrived, and it is reckless and harmful to U.S. national security interests to pretend otherwise. Should a state be recognized based on the now-untenable pre-1967 borders, Palestinian terrorists in the West Bank would have the same kind of free rein to shoot rockets, mortars and guns into Israel that they now have in Gaza. Only this time, all of Israel's main population centers will be in the crosshairs. This would lead to a permanent state of war as Israel is forced to defend itself.

Fortunately, the U.S. has the ability to veto any irresponsible Palestinian declaration of statehood at the U.N. By taking up this resolution, the House of Representatives is signaling its belief that the United States' veto authority should be used to preserve stability and prospects for peace in the Middle East.

Ms. MOORE of Wisconsin. Mr. Speaker, I am as disappointed as anyone that the Middle East Peace talks have stalled despite considerable efforts by the Administration and the international community to help both sides make the tough decisions needed to help advance those talks. I understand that some of my colleagues are frustrated with repeated roadblocks that appear only intent on derailing the peace process. I share that frustration. I believe that all who have a clear stake in the peace process are also frustrated.

I have long advocated and reaffirmed my strong support for a negotiated solution to the Israeli-Palestinian conflict with two states living side by side in peace and security. Both parties bear responsibility for the success or failure of the Middle East Peace efforts.

No one pretends that the issues involved here are easy. I think everyone also recognizes the devastating consequences for the

region, for our ally Israel, and for U.S. security interests if the right solution is not found.

There are a myriad of issues that have arisen that have complicated talks. Palestinian unilateral declaration of a state is only one, but if you read this resolution you would reach the conclusion that it is the only unilateral action or proposed action that would imperil this process. The House should urge the Administration to take a strong stand with both parties on all unilateral actions that are hindering the peace talks, especially those that were agreed to only a few years ago by the parties in the Roadmap.

Middle East peace requires the active engagement of both parties. The Administration, as well as the House of Representatives, should make the expectations for both parties clear: each party must engage seriously on even the hardest issues—making proposals and counter-proposals—and achieve concrete results.

As I stated in a letter to President Obama earlier this year in support of strong U.S. engagement as an honest broker in renewed Middle East Peace talks, allowing actions by either party that undermine the process to go unchallenged serves to fan animosity and mistrust, which feeds this needless cycle of conflict and violence. This does not serve the interests of the U.S., our ally Israel, or the Palestinians.

This resolution reaches half that goal since it targets only one action by one party. It correctly notes the Administration's opposition to a unilateral declaration of a Palestinian state and the potential harm that would do to a comprehensive Middle East Peace Agreement. The same resolution also conveniently skips around other unilateral actions by the parties that may also harm the atmosphere for peace in the region.

The resolution notes one quote from Secretary Clinton's speech a few days ago on December 10. Let's look a little deeper into some of the Secretary's other comments in that lengthy speech. Secretary Clinton made clear that the U.S. remains committed to reaching a comprehensive peace deal between the parties with the U.S. playing a key role. She also stated that a peace agreement between the two parties is the “only path to achieve the Palestinians' dreams of independence.”

She specifically also noted that “in the days ahead, our discussion with both sides will be substantive two-way conversations with an eye toward making real progress in the next few months . . . The United States will not be a passive participant. We will push the parties to lay out their position on the core issues without delay and with real specificity . . . We enter this phase with clear expectations of both parties.”

In her speech Secretary Clinton noted that “the position of the U.S. on settlements has not changed and will not change. Like every American administration for decades, we do not accept the legitimacy of continued settlement activity. We believe their continued expansion is corrosive not only to peace efforts and a two-state solution, but to Israel's future itself.” The resolution before us today notes support for a negotiated solution but is silent on this issue as if it does not impact achieving that negotiated solution.

Secretary Clinton went on to say that both parties, “to demonstrate their commitment to peace . . . should avoid actions that prejudice the outcome of negotiations or undermine good faith efforts to resolve final status issues. Unilateral efforts at the United Nations are not helpful and undermine trust. Provocative announcements on East Jerusalem are counter-productive. And the United States will not shy away from saying so.”

Unfortunately, the resolution before us today gets half of the message and only a small fraction of the demands on both parties to help move this process forward, laid out by the Secretary of State last Friday.

As noted by Secretary Clinton, Israeli and Palestinian leaders should stop trying to assign blame for the next failure, and focus instead on what they need to do to make these efforts succeed. I believe the House resolution before us today would have been wise to also heed that advice.

The intent of this resolution is to express concern with an action that will put more obstacles in the way of achieving Middle East Peace. I could not agree with that goal more. But let's make sure that we recognize that both parties have an equal responsibility to refrain from such actions.

Mr. FARR. Mr. Speaker, I believe that we must advance a negotiated peace process in the Israeli-Palestinian conflict. However, I have concerns that H. Res. 1765 only addresses one of the issues that is impeding lasting peace in the region. For the United States to be an honest, effective broker of peace, we must take into account the roles that all parties play in the conflict.

Particularly now, as we try to rebuild the potential for direct talks, we must weigh our actions based on how effectively they will advance the likelihood of all parties coming to the negotiating table. I strongly support American diplomatic efforts to mediate a two-state solution, and I believe we must direct our efforts towards balanced measures that lay the strongest possible foundation for a peaceful resolution.

Ms. ROS-LEHTINEN. Mr. Speaker, 17 years have passed since the signing of the Oslo Peace Accords in 1993, but a final resolution to the Israeli-Palestinian conflict has yet to be achieved.

The question is: Why?

Only by first understanding the reasons that the conflict continues, can the United States set and implement a policy that can help to encourage a true and lasting peace.

So let us consider the conduct of both sides.

One Israeli government after another has been willing and able to make painful sacrifices, including territorial withdrawals, to achieve peace.

As Secretary of State Clinton has noted, the current Israeli government has made unprecedented concessions in pursuit of peace, including a ten-month moratorium on housing construction in the West Bank in order to encourage the Palestinians to negotiate directly with Israel.

In short, Israel has proven its commitment to peace.

However, Mr. Speaker, Israel does not seem to have a partner in this endeavor.

Palestinian leaders still never miss an opportunity to miss an opportunity, and continue to default on their international obligations.

They continue to refuse to negotiate directly with Israel, without preconditions.

Instead of encouraging the Palestinian people to accept Israel as a permanent neighbor with whom they should live in peace, the leaders in Ramallah continue to tolerate, encourage, and even participate in anti-Israel incitement.

They continue to refuse to recognize Israel's right to exist as a democratic, Jewish state.

Even as the Palestinian leadership seeks a state for the Palestinian people, it would deny the right of the Jewish people to a state in their own homeland.

We are not talking about isolated, fringe elements.

Palestinian rejectionism and non-compliance flows from the very top.

Earlier this year, the leader of the Palestinian Authority and the PLO, Abu Mazen, praised the recently-deceased mastermind of the PLO's massacre of Israeli athletes at the 1972 Munich Olympics.

Abu Mazen also expressed what he called his "firm rejection of the so-called Jewishness of the state [of Israel]," saying that "This issue is over for us; we have not and will not recognize it."

Last year, Abu Mazen said that "Presently, we are against armed struggle, because we cannot cope with it. But things could be different at some future phase."

And a former PA foreign minister and senior associate of Abu Mazen has announced that the PA would be intensifying its diplomatic and economic offensive against Israel, with the aims of isolating Israel, preventing it from building its ties with the European Union, and expelling Israel from the U.N.

Already, the PA tried—unsuccessfully—to block Israel's candidacy for membership in the OECD.

And now, instead of sitting down with the Israeli government to negotiate directly, the Palestinian leadership is conducting an extensive campaign to seek recognition of a Palestinian state by foreign governments and within the U.N. and other international organizations.

Unfortunately, in response to a request from Abu Mazen, the Brazilian government recently agreed to recognize a Palestinian state, instead of urging the Palestinians to fulfill their commitments.

The governments of Argentina and Uruguay have also indicated that they intend to recognize a Palestinian state.

The Palestinian leadership is aggressively lobbying other nations to do the same.

Mr. Speaker, this is not a partner for peace.

But as we've seen over and over, Palestinian leaders are not going to make the tough decisions and change their ways unless they have to.

By providing over \$2 billion in assistance in the last five years alone—with hundreds of millions more planned—the U.S. is only rewarding and reinforcing bad behavior by Ramallah.

Enough is enough.

We should finally hold PA leaders accountable, which is why I will soon introduce legislation to clarify and tighten existing U.S. laws

that deny funding to the PA until they meet their commitments.

The Administration should also reverse its decision to allow the PLO office in DC to call itself a "General Delegation" and to fly the Palestinian flag.

That decision sent the wrong signal to other governments, who concluded they should also upgrade the PLO's status in their countries.

Furthermore, the U.S. should stop pressuring the Israeli government to make more and more concessions, and must not attempt to impose the terms of a solution.

Mr. Speaker, I will support the resolution before us because it reinforces Congressional opposition to unilateral efforts by Palestinian leaders to gain recognition from other governments or within the U.N.

I would draw particular attention to the fact that the resolution calls on the Administration to publicly affirm that it will: deny recognition to any unilaterally declared Palestinian state; and veto any U.N. Security Council resolution to establish or recognize a Palestinian state.

The Administration must also oppose efforts by the Palestinians to seek recognition from, or membership in, any international organizations.

I would like to thank my distinguished colleague from Texas, Congressman POE, for introducing the resolution that served as the basis for the measure before us today.

Judge POE went out of his way to ensure that his resolution was fully bipartisan, securing the support of many Democrat cosponsors, including my distinguished colleague from Nevada, Ms. BERKLEY.

We had requested that the Poe-Berkley resolution be considered on the floor.

Regrettably, the Majority decided to introduce a new resolution on this issue instead.

Supporting the pursuit of Middle East peace, and supporting our ally Israel, is one area that has strong bipartisan support in Congress, and by and large, the text of this resolution reflects that bipartisanship.

But this matter could have and should have been handled better.

I urge my colleagues to support the resolution before us.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of H. Res. 1765, a resolution supporting a negotiated solution to the Israeli-Palestinian conflict and condemning unilateral declarations of a Palestinian state.

As a co-chair of the Democratic Israel Working Group, I would like to thank my colleague, Chairman HOWARD BERMAN, for bringing this important resolution to the House floor.

I have been to Israel and the West Bank on numerous occasions. I can personally vouch for the yearning of the people of Israel and the Palestinian territories to come to a peaceful settlement that will end decades of discord and violence.

A negotiated two-state solution between Israelis and Palestinians is the underpinning of the peace process. It is the official policy of the U.S. Government, the Israeli Government and of the Palestinian Authority.

Only through direct negotiations can difficult compromises be reached on core issues like borders, water, refugees, the status of Jerusalem, and security.

Unfortunately, Palestinian leaders are pursuing a coordinated strategy to bypass the ne-

gotiations process to seek recognition of a unilaterally declared Palestinian state by the United Nations and other international forums.

Recently, the governments of Brazil, Argentina and Uruguay unilaterally recognized the State of Palestine upon request from Palestinian Authority President Mahmoud Abbas.

Unilateral declarations of statehood will not eliminate the sources of the conflict. Rather, they undermine the peace process and endanger the safety and security of the Israeli and Palestinian people.

This country and this Congress remain the largest grantor of assistance to help the Palestinian Authority build the political, economic and social infrastructure to support a future state. The unilateral statehood effort will undermine the ability of the United States to continue playing a constructive role.

I call upon my colleagues to vote in support of the peace process, of a secure Israel and viable, democratic Palestinian state and in favor of this resolution.

Mr. PRICE of North Carolina. Mr. Speaker, while I do not intend to call for a recorded vote on this resolution, I would like to express my serious reservations about both the content of the measure before us and the circumstances under which it is being considered. Once again, we are being asked to consider a resolution about one of our Nation's most important foreign policy challenges that was rushed to the floor without any real chance for debate, without any consideration by the committee of jurisdiction, and without any opportunity for constructive input from the many Members of this body—Democrats and Republicans—who care deeply about peace in the Middle East.

This resolution is significant not for what it says, but for what it leaves unspoken. Of course most of us believe that a just and lasting peace between Israelis and Palestinians will only be achieved through a negotiated two-state solution. And of course any unilateral action by either side—or by a third party—that undermines the peace process should be cause for concern for this Congress, and for anybody else who believes that a two-state solution is still possible.

But that is precisely the point: this resolution says absolutely nothing about the long history of unilateral actions taken by Israeli governments that have progressively undermined confidence in the ability of negotiations to deliver peace. It says nothing about the fact that formal negotiations broke down last week due in large part to Israel's refusal to extend its freeze on unilateral settlement construction for a mere three months. It says nothing about the understandable frustration felt by Israelis and Palestinians alike when they see their leaders fail yet again to make good on their promises of peace.

Moreover, we must ask ourselves whether approving this resolution at this highly sensitive moment would in fact be counterproductive to its stated goal of supporting the peace process. With negotiations on life support and the Administration working overtime to determine the best path forward for the United States, should we really be making definitive statements about what the United States might or might not do if such a unilateral declaration were actually made? Or asking the State Department to shift its focus to

preventing other countries from granting diplomatic recognition, rather than continuing to focus on the peace process itself?

One would think that we should rather be urging the Obama Administration to stand firm in its efforts to bring Israeli and Palestinian leaders back to the negotiating table. The Administration was wise to abandon its offer to give Israel a generous package of security guarantees to do something that is manifestly in its own self-interest to begin with, but Secretary Clinton and Senator MITCHELL have made clear their commitment to pursuing alternative courses of action.

Instead of stirring the pot at this delicate time with pronouncements and condemnations, we should be offering hope and encouragement to their efforts.

Ultimately, I agree with the basic points made in this resolution. But I strongly urge the leadership of this House, on both sides of the aisle, to allow for a more balanced, transparent, and deliberative process next time we are asked to express the sense of Congress on a matter of such critical importance to our Nation.

Mr. BLUMENAUER. Mr. Speaker, I support much that is contained within this resolution, regarding the need to move forward on direct negotiations between Israelis and Palestinians. A two-state resolution to the Israeli-Palestinian conflict is critical to the security of Israel and to the strategic interests of the United States, in the region and around the world.

However, this is a missed opportunity to raise concerns about the unilateral actions taken by both sides. In particular, the ongoing unilateral construction by Israeli settlers. Strong U.S. leadership is needed to bring these two sides together, and any resolution brought to the floor should clearly support that cause.

This resolution does not meet that test and I must oppose it. While the bill recognizes an issue of concern, it does too little to affirm the urgency of achieving a two-state resolution, fails to oppose unilateral actions by all sides, and is silent on supporting the Obama Administration's efforts to negotiate peace.

I look forward to working with my colleagues in Congress and the administration in a more productive manner to achieve lasting peace and a comprehensive two-state solution.

Mr. ISRAEL. Mr. Speaker, I rise as a co-sponsor and strong supporter of H. Res. 1765 because this resolution affirms the imperative for a negotiated solution to the Israeli-Palestinian conflict. Palestinian efforts to pursue declarations or recognitions of statehood outside of the peace process are unacceptable. This threatens compromise and a peaceful solution.

I thank Chairman BERMAN for offering this important resolution and my colleagues in the House for calling on Palestinian leaders to cease all efforts at circumventing the negotiation process. Only through this direct Israel-Palestinian dialogue can we move forward to compromise and lasting peace. Unilateral declarations do not support this process, but rather threaten peace and deepen conflicts.

It is time to focus on the Israeli-Palestinian peace process. Any attempts to bypass negotiations threaten the security and survival of the State of Israel, and the creation of a viable and democratic Palestinian state.

I firmly believe that a lasting compromise can be reached through direct negotiations and compromise. That is the way forward for Israelis, Palestinians, and the United States. Secretary of State Clinton had it right when she noted that "it is only a negotiated agreement between the parties that will be sustainable."

That is why I strongly oppose any Palestinian efforts to unilaterally declare statehood and abandon efforts for a negotiated two-state solution to the Israeli-Palestinian conflict. Today, I am pleased that there is bipartisan agreement that the House of Representatives must do everything in our power to reaffirm the need for a peace process and to move these talks forward toward a lasting solution.

Mr. WAXMAN. Mr. Speaker, no country has done more than the United States to advance the cause of Palestinian statehood.

We have done so in recognition of Palestinian aspirations for a brighter and more stable future as well as Israel's desire for a secure and peaceful coexistence with its neighbors.

As one of the largest grantors of Palestinian aid, we have worked to ensure that a future Palestinian state has the political, economic and social infrastructure to support a stable functioning democracy.

But our efforts have been predicated on the Palestinians' own internationally-witnessed commitments to seek a negotiated solution to achieve a two-state peace agreement. These commitments served at the core of the 1991 Madrid conference, and were codified in the 1993 Oslo Accords, the 2003 Roadmap for Peace, the 2007 Annapolis declaration, two UN Security Council resolutions sponsored by the Bush Administration in 2002 and 2008, and reaffirmed at the 2010 summit brokered by President Obama.

It is only through direct negotiations that the parties can resolve the core issues of borders, water, refugees, Jerusalem, and the security arrangements and produce an agreement that ends the conflict and sustains a viable independent Palestinian state.

For all who complain that Israeli settlement construction is the primary obstacle to the peace talks, the reality is that Israeli leaders have time and again shown bold leadership to make difficult concessions on this issue and others for the sake of peace. The Israeli government's recent 10-month settlement moratorium and its serious consideration of a further extension are proof that settlements are not the stumbling block keeping us from direct talks.

Rather, it is the Palestinian leadership's unwillingness to make tough choices that has sidelined the process. And if anything, a unilateral drive to statehood is chilling evidence.

A strategy to bypass the negotiations process and unilaterally declare Palestinian statehood will turn the clock backward, not forward. It is a reckless tactic that threatens to intensify the conflict and alienate the United States, which by law would be prohibited from providing aid to an independent Palestinian State that does not, among other conditions, have a full and normal relationship with Israel.

I urge my colleagues to support this resolution and call on others in the international community to pressure the Palestinian leader-

ship to demonstrate their dedication to achieving statehood by returning to the negotiating table.

Mr. KUCINICH. Mr. Speaker, I rise in opposition to H. Res. 1765, a resolution supporting a negotiated solution to the Israeli-Palestinian conflict and condemning unilateral declarations of a Palestinian state. It is a one-sided resolution that advocates for an approach that would prevent the very two-state solution it advocates.

H. Res. 1765 rightly expresses support for a negotiated solution to the Israeli-Palestinian conflict. As a strong proponent of peace and reconciliation, I believe that true long-term stability and security for Israel depends upon peaceful coexistence with its Palestinian neighbors. Indeed, an imposed solution will not bring either side closer to the security, peace and coexistence that have been elusive for the last sixty-plus years.

This resolution condemns the unilateral actions recently taken by the Palestinian Authority to seek recognition of a Palestinian state within 1967 borders. Yet it mentions nothing of the continued settlement building in the West Bank and East Jerusalem that led to the breakdown in negotiations. While I do not support the actions taken by the Palestinian Authority, their efforts are a direct result of failed negotiations and continued settlement building that threaten the two-state solution.

If we only hold one side accountable, good faith negotiations cannot proceed. A just solution to this conflict requires recognition that negotiations will not be successful as long as the United States allows settlement building in the West Bank and East Jerusalem to continue. We cannot claim to be acting in Israel's best interest while turning a blind eye to actions that actively undermine its security.

Mr. Speaker, I have been to the region. I have spoken to Israelis and Palestinians. Most of them want peace and they have been waiting too long for it. The political process and realities on the ground do not create conditions that are conducive to making peace a reality.

True support of a just, negotiated solution requires us to hold both sides accountable. This resolution fails to do that. I urge my colleagues to oppose this resolution.

Mr. BERMAN. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and agree to the resolution, H. Res. 1765.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

INTERNATIONAL PROTECTING GIRLS BY PREVENTING CHILD MARRIAGE ACT OF 2010

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (S. 987) to protect girls in developing countries through the prevention of child marriage, and for other purposes.

The Clerk read the title of the bill.
The text of the bill is as follows:

S. 987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “International Protecting Girls by Preventing Child Marriage Act of 2010”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Child marriage, also known as “forced marriage” or “early marriage”, is a harmful traditional practice that deprives girls of their dignity and human rights.

(2) Child marriage as a traditional practice, as well as through coercion or force, is a violation of article 16 of the Universal Declaration of Human Rights, which states, “Marriage shall be entered into only with the free and full consent of intending spouses”.

(3) According to the United Nations Children’s Fund (UNICEF), an estimated 60,000,000 girls in developing countries now ages 20 through 24 were married under the age of 18, and if present trends continue more than 100,000,000 more girls in developing countries will be married as children over the next decade, according to the Population Council.

(4) Between $\frac{1}{2}$ and $\frac{3}{4}$ of all girls are married before the age of 18 in Niger, Chad, Mali, Bangladesh, Guinea, the Central African Republic, Mozambique, Burkina Faso, and Nepal, according to Demographic Health Survey data.

(5) Factors perpetuating child marriage include poverty, a lack of educational or employment opportunities for girls, parental concerns to ensure sexual relations within marriage, the dowry system, and the perceived lack of value of girls.

(6) Child marriage has negative effects on the health of girls, including significantly increased risk of maternal death and morbidity, infant mortality and morbidity, obstetric fistula, and sexually transmitted diseases, including HIV/AIDS.

(7) According to the United States Agency for International Development (USAID), increasing the age at first birth for a woman will increase her chances of survival. Currently, pregnancy and childbirth complications are the leading cause of death for women 15 to 19 years old in developing countries.

(8) Most countries with high rates of child marriage have a legally established minimum age of marriage, yet child marriage persists due to strong traditional norms and the failure to enforce existing laws.

(9) Secretary of State Hillary Clinton has stated that child marriage is “a clear and unacceptable violation of human rights”, and that “the Department of State categorically denounces all cases of child marriage as child abuse”.

(10) According to an International Center for Research on Women analysis of Demographic and Health Survey data, areas or regions in developing countries in which 40 percent or more of girls under the age of 18 are married are considered high-prevalence areas for child marriage.

(11) Investments in girls’ schooling, creating safe community spaces for girls, and programs for skills building for out-of-school girls are all effective and demonstrated strategies for preventing child marriage and creating a pathway to empower girls by addressing conditions of poverty, low status, and norms that contribute to child marriage.

SEC. 3. CHILD MARRIAGE DEFINED.

In this Act, the term “child marriage” means the marriage of a girl or boy, not yet the minimum age for marriage stipulated in law in the country in which the girl or boy is a resident or, where there is no such law, under the age of 18.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) child marriage is a violation of human rights, and the prevention and elimination of child marriage should be a foreign policy goal of the United States;

(2) the practice of child marriage undermines United States investments in foreign assistance to promote education and skills building for girls, reduce maternal and child mortality, reduce maternal illness, halt the transmission of HIV/AIDS, prevent gender-based violence, and reduce poverty; and

(3) expanding educational opportunities for girls, economic opportunities for women, and reducing maternal and child mortality are critical to achieving the Millennium Development Goals and the global health and development objectives of the United States, including efforts to prevent HIV/AIDS.

SEC. 5. STRATEGY TO PREVENT CHILD MARRIAGE IN DEVELOPING COUNTRIES.

(a) ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—The President is authorized to provide assistance, including through multilateral, nongovernmental, and faith-based organizations, to prevent the incidence of child marriage in developing countries through the promotion of educational, health, economic, social, and legal empowerment of girls and women.

(2) PRIORITY.—In providing assistance authorized under paragraph (1), the President shall give priority to—

(A) areas or regions in developing countries in which 40 percent or more of girls under the age of 18 are married; and

(B) activities to—

(i) expand and replicate existing community-based programs that are successful in preventing the incidence of child marriage;

(ii) establish pilot projects to prevent child marriage; and

(iii) share evaluations of successful programs, program designs, experiences, and lessons.

(b) STRATEGY REQUIRED.—

(1) IN GENERAL.—The President shall establish a multi-year strategy to prevent child marriage and promote the empowerment of girls at risk of child marriage in developing countries, which should address the unique needs, vulnerabilities, and potential of girls under age 18 in developing countries.

(2) CONSULTATION.—In establishing the strategy required by paragraph (1), the President shall consult with Congress, relevant Federal departments and agencies, multilateral organizations, and representatives of civil society.

(3) ELEMENTS.—The strategy required by paragraph (1) shall—

(A) focus on areas in developing countries with high prevalence of child marriage;

(B) encompass diplomatic initiatives between the United States and governments of developing countries, with attention to human rights, legal reforms, and the rule of law;

(C) encompass programmatic initiatives in the areas of education, health, income generation, changing social norms, human rights, and democracy building; and

(D) be submitted to Congress not later than one year after the date of the enactment of this Act.

(c) REPORT.—Not later than three years after the date of the enactment of this Act,

the President should submit to Congress a report that includes—

(1) a description of the implementation of the strategy required by subsection (b);

(2) examples of best practices or programs to prevent child marriage in developing countries that could be replicated; and

(3) an assessment, including data disaggregated by age and sex to the extent possible, of current United States funded efforts to specifically prevent child marriage in developing countries.

(d) COORDINATION.—Assistance authorized under subsection (a) shall be integrated with existing United States development programs.

(e) ACTIVITIES SUPPORTED.—Assistance authorized under subsection (a) may be made available for activities in the areas of education, health, income generation, agriculture development, legal rights, democracy building, and human rights, including—

(1) support for community-based activities that encourage community members to address beliefs or practices that promote child marriage and to educate parents, community leaders, religious leaders, and adolescents of the health risks associated with child marriage and the benefits for adolescents, especially girls, of access to education, health care, livelihood skills, microfinance, and savings programs;

(2) support for activities to educate girls in primary and secondary school at the appropriate age and keeping them in age-appropriate grade levels through adolescence;

(3) support for activities to reduce education fees and enhance safe and supportive conditions in primary and secondary schools to meet the needs of girls, including—

(A) access to water and suitable hygiene facilities, including separate lavatories and latrines for girls;

(B) assignment of female teachers;

(C) safe routes to and from school; and

(D) eliminating sexual harassment and other forms of violence and coercion;

(4) support for activities that allow adolescent girls to access health care services and proper nutrition, which is essential to both their school performance and their economic productivity;

(5) assistance to train adolescent girls and their parents in financial literacy and access economic opportunities, including livelihood skills, savings, microfinance, and small-enterprise development;

(6) support for education, including through community and faith-based organizations and youth programs, that helps remove gender stereotypes and the bias against girls used to justify child marriage, especially efforts targeted at men and boys, promotes zero tolerance for violence, and promotes gender equality, which in turn help to increase the perceived value of girls;

(7) assistance to create peer support and female mentoring networks and safe social spaces specifically for girls; and

(8) support for local advocacy work to provide legal literacy programs at the community level to ensure that governments and law enforcement officials are meeting their obligations to prevent child and forced marriage.

SEC. 6. RESEARCH AND DATA.

It is the sense of Congress that the President and all relevant agencies should, as part of their ongoing research and data collection activities—

(1) collect and make available data on the incidence of child marriage in countries that receive foreign or development assistance from the United States where the practice of child marriage is prevalent; and

(2) collect and make available data on the impact of the incidence of child marriage and the age at marriage on progress in meeting key development goals.

SEC. 7. DEPARTMENT OF STATE'S COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

The Foreign Assistance Act of 1961 is amended—

(1) in section 116 (22 U.S.C. 2151n), by adding at the end the following new subsection:

“(g) The report required by subsection (d) shall include, for each country in which child marriage is prevalent, a description of the status of the practice of child marriage in such country. In this subsection, the term ‘child marriage’ means the marriage of a girl or boy, not yet the minimum age for marriage stipulated in law or under the age of 18 if no such law exists, in the country in which such girl or boy is a resident.”; and

(2) in section 502B (22 U.S.C. 2304), by adding at the end the following new subsection:

“(i) The report required by subsection (b) shall include, for each country in which child marriage is prevalent, a description of the status of the practice of child marriage in such country. In this subsection, the term ‘child marriage’ means the marriage of a girl or boy, not yet the minimum age for marriage stipulated in law or under the age of 18 if no such law exists, in the country in which such girl or boy is a resident.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BERMAN) and the gentleman from Indiana (Mr. BURTON) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I rise in support of S. 987, the International Protecting Girls by Preventing Child Marriage Act of 2010 and yield myself as much time as I may consume. Mr. Speaker, this legislation, S. 987, is the corresponding legislation to legislation introduced by our colleague from Minnesota (Ms. MCCOLLUM), H.R. 2103.

Child marriage is one of the most harmful practices affecting girls in the developing world today. Globally, more than 60 million girls under the age of 18, many only 12 or 13, are married, usually to men more than twice or three times their age. Between one-half and three-fourths of all girls are married before the age of 18 in countries such as Chad, Mali, Bangladesh, and Nepal. Should these numbers remain consistent in the next 10 years, there will be 25,000 new child brides every day.

Marrying at such a young age comes at a terrible cost for these girls—girls who, in most developed countries, would otherwise still be happily play-

ing sports and singing in their school choir. These young girls are at an increased risk for health problems like HIV/AIDS due to the sexual history of their older partners. In addition, young girls are at risk of complications during pregnancy and childbirth. In fact, childbirth complications are the leading cause of death for women 15 to 19 years old in developing countries.

Not only are child brides at a higher risk for disease and death during childbirth, they are frequently victims of domestic abuse. Premature marriage deprives girls of their dignity and dooms these girls to a life of poverty and dependence. It is for these reasons, and many more, that child marriage is categorized as both child abuse and a violation of human rights.

Poverty and a lack of education are both key contributing factors to why young women fall victim to child marriages. Girls who live in impoverished homes are twice as likely to marry under 18, and 60 percent of girls involved in child marriages have no education.

Families struck by poverty cannot afford to keep their daughters in school and often do not have the resources to provide for their daughters at all. Marrying off female children is often the only alternative for struggling families. With an often false promise of a better life for their daughters, parents marry their girls off at an all-too-early age.

However, there are undoubtedly better alternatives. This bill before us seeks to eliminate the harmful practice of child marriage overseas. It requires an integrated, strategic approach by our government to reduce the incidence of child marriage by authorizing the President to provide assistance through multilateral, non-governmental, and faith-based organizations to prevent the incidence of child marriage and to promote the educational, health, economic, social, and legal empowerment of girls and women. It also requires the President to establish a multiyear strategy in developing countries and promote the empowerment of girls at risk of child marriage.

Mr. Speaker, we need to invest in these young girls and provide safe spaces where they can evolve socially and become self-sufficient. Empowering young girls through education can help prevent child marriages and lead to a brighter and healthier future for millions worldwide.

I want to thank Representatives MCCOLLUM and CRENSHAW for their leadership on this bill, and I encourage my colleagues to support the bill, which will be an invaluable investment in the future of millions of girls around the world.

Mr. Speaker, I am now pleased to yield 7 minutes to the gentlelady from Minnesota (Ms. MCCOLLUM), the au-

thor, along with Congressman CRENSHAW, of the corresponding House legislation.

Ms. MCCOLLUM. Mr. Speaker, every year in the world's poorest countries, millions of girls are forced into marriage. Girls as young as age 8, but often 13, 14, and 15 years old, are sold by impoverished parents to settle debts or they are given away to become the wives of men who are years or even decades older. For a young girl, a child, to be forced into marriage to an adult man can only be described as a life of slavery, child molestation, and servitude. This is not marriage. It is a violation of the most basic human rights of a child.

On the floor today is S. 987, the International Protecting Girls by Preventing Child Marriage Act, a bill that was passed unanimously in the United States Senate. Let me repeat. This bill passed unanimously. Every Republican and every Democrat in the Senate supported it.

I want to commend Senators RICHARD DURBIN and OLYMPIA SNOWE, along with the other bipartisan cosponsors, for their tremendous efforts to protect vulnerable girls.

It is my honor to be the sponsor of the companion bill in the House, and I want to thank my Republican colleagues, Mr. CRENSHAW, Mr. LATOURETTE, Mr. SCHOCK, and Mr. LATHAM, for their bipartisan support for ending child marriage.

According to UNICEF, child marriage is “the most prevalent form of sexual abuse and exploitation of girls.” One in every seven girls in the developing world is forced into marriage sometime before the age of 15, millions of girls every year.

A 13-year-old that is forced into marriage will not go to school. She is most certainly guaranteed to be a victim of domestic violence. She is condemned to a lifetime of poverty, and she is more likely to die or be disabled in childbirth, and because she is a child, her infant is more likely to die.

HIV infection, maternal death, child death, gender-based violence, and extreme poverty are all deadly obstacles to development that destroys families, weakens communities, and destabilizes countries. Child marriage contributes to all of these destructive problems.

The photo I have with me was taken by a brilliant photojournalist, Stephanie Sinclair, who documented child marriage in Afghanistan. This 11-year-old girl in this photo, Ghulam, is not seated with her grandfather. The man next to this child is her husband-to-be. This little girl's father gave her away to be married because he was too poor to care for her. Ghulam's value to her husband comes from her ability to work in the field, care for animals, and because she's a virgin. In this country, a man treating an 11-year-old as his wife would be imprisoned as a sexual

predator, a pedophile. In Afghanistan, an 11-year-old's abuser is her husband.

□ 1950

It does not matter where in this world an 11-year-old girl is; she should never be anyone's wife. Today we have an opportunity to put the lives of vulnerable girls ahead of what is all too common at times partisan political games that take place in this House. Today we can show our constituents in the world that the life of every girl has value and limitless potential if they can grow up free from exploitation.

It is my firm belief that girls, girls everywhere—in America, in Ethiopia, in Afghanistan—deserve the right to enter adulthood with the freedom to decide for themselves who their husband will be. A girl is not a commodity to be traded. She is a precious member of a community who needs to be valued and allowed to grow into adulthood.

This Congress and the American people spend billions of tax dollars on foreign assistance. The U.S. has a direct interest and an opportunity to ensure that girls in the developing world can grow up to be healthy, productive, contributing members of their communities and their countries.

Not only do girls deserve the right to choose their future husband; they deserve the opportunity to get an education, to contribute their skills and their talents to develop their countries.

This legislation supports and expands the successful models already in place for promoting girls' education, protecting the human rights of girls, and eliminating the practice of child marriage. This bill authorizes existing State Department funds to be used to implement a strategy to protect girls from being forced into marriage. This bill does not spend one additional dollar that is not already appropriated by Congress for health, education, democracy, or other development activities.

Earlier this week, I was honored to receive a letter from Archbishop Desmond Tutu of South Africa, urging the House to pass S. 987. The letter says: "Child marriage is a harmful practice that treats young girls as property, stops their education, and robs them of their childhood and dignity." The archbishop goes on: "We thank you for your attention and dedication to passing this bill before Congress adjourns. By doing so, you may help make the difference between lives of opportunity or enslavement for millions of young girls in the developing world."

Mr. Speaker, child marriage is sanctioned sexual abuse that destroys girls' lives. The choice before this Congress is to do nothing as young girls and children continue to be enslaved, raped, and condemned to a life of abuse and poverty; or we can join the U.S. Senate and vote to pass this legislation

and have the United States stand with millions of girls today and tomorrow who seek nothing more than the freedom, the opportunity, and the time to be allowed to be children and grow into adulthood without being forced into marriage.

I thank Chairman BERMAN for his support, and I urge all my colleagues to vote to protect millions of girls in this world from sexual abuse.

THE ELDERS FOUNDATION,
London, UK, December 13, 2010.

Hon. BETTY MCCOLLUM,
Longworth House Office Building,
Washington, DC.

Hon. ANDER CRENSHAW,
Cannon House Office Building,
Washington, DC.

DEAR REPRESENTATIVES MCCOLLUM AND CRENSHAW: As Chair of The Elders, I am writing to thank you for your leadership and support of the International Protecting Girls by Preventing Child Marriage Act (S. 987 and H.R. 2103). The Senate passed the bill by unanimous consent on 1 December 2010, and we now encourage the House of Representatives to pass this important measure.

As an independent group of global leaders, brought together by Nelson Mandela, we seek to address major causes of human suffering and promote the shared interests of humanity. Part of that effort involves speaking out about gender discrimination and the oppression of girls and women, issues we know many members of the House care about as well.

Child marriage is a harmful practice that treats young girls as property, stops their education and robs them of their childhood and dignity. Child brides are at far greater risk of dying in childbirth, while their children are also less likely to survive infancy than the children of older mothers. Often married to much older men, child brides are more vulnerable than their unmarried peers to sexually transmitted diseases including HIV and AIDS. There is compelling evidence that child marriage is a significant brake on the achievement of no less than six of the eight Millennium Development Goals. UNICEF estimates that in developing countries, 60 million girls now aged 20-24 were married under the age of 18. That number is likely to increase by 100 million over the next decade if these trends continue.

In our recent Washington Post op-ed, President Mary Robinson and I told the story of Dhaki, a 13-year-old girl from Ethiopia who was married to a man eleven years her senior. Her husband regularly forced himself upon her. Her cries were ignored by neighbours who shunned her for not respecting the wishes of her husband. Thanks to a local development program, Dhaki has since been freed from this torture and is continuing her education.

My fellow Elders and I strongly believe that the International Protecting Girls by Preventing Child Marriage Act can provide assistance to developing countries to help them reduce child marriage rates and promote the empowerment of girls and women worldwide. It will help innocent girls like Dhaki who were trapped in abusive, forced marriages that amount to a modern version of slavery. Please consider this letter a public endorsement of this legislation by The Elders.

We thank you for your attention and dedication to passing this bill before Congress adjourns. By doing so, you may help make the difference between lives of opportunity

or enslavement for millions of young girls in the developing world.

God Bless You.

ARCHBISHOP DESMOND TUTU,
Chair.

Mr. BURTON of Indiana. I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Speaker, I rise today in support of the International Protecting Girls By Preventing Child Marriage Act.

Recently, Nelson Mandela asked a group of the world's most thoughtful and experienced political and moral leaders to identify the largest issues fueling humanitarian problems, and forced child marriage is at the top of the list. Child marriage denies girls the chance to get a full education. Every country in the world that has advanced has educated their women as the first step. Child marriage prevents girls from contributing to their communities in the fullest way possible, and it contributes to the health crisis among women and babies in countries around the world.

In the next 10 years, it's estimated that over 100 million young girls will be forcibly married if we don't act, and the policy of the United States right now is to write more reports. With this bill, we can make a huge difference with no additional taxpayer moneys being spent. This bill gives clear guidelines on how already-appropriated moneys are to be spent in countries with the greatest problems, in ways that are culturally sensitive and community-based. It requires the State Department to track the issue annually as part of our human rights considerations.

Mr. Speaker, this bill will save lives and save dreams, and I urge my colleagues on both sides of the aisle to support it.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

I rise, as do others on our side of the aisle today, as a supporter of efforts to combat child marriage in developing countries but in opposition to the Senate bill that we are considering today. I want you to know, before I make all my remarks, that I have actually seen forced child marriages in countries like Saudi Arabia firsthand. And it is a horrible thing, and I am very supportive of stopping that practice.

It's truly distressing to know that there still are countries where underage girls, like in Saudi Arabia, are compelled to marry much older men and lose their innocence and hope forever. The health of such young girls can suffer, as can their future opportunities to lead productive lives filled with normal social and economic opportunities, lives in which they can

contribute with their full potential to their societies and their economies.

Concern over this problem is not a partisan issue. For example, in response to the plight of such young women and to ensure that the prevention of child marriage is an integral part of U.S. efforts to promote respect for fundamental universally recognized human rights, in May of last year, Ranking Member ROS-LEHTINEN of the Foreign Affairs Committee expressly included pertinent language in the Republican alternative version for the State Department authorization bill, H.R. 2475.

However, much has changed in our domestic fiscal environment over the course of the last 2 years. Here at home, we have Americans who are losing their houses, their homes, State and local governments that are on the verge of bankruptcy, cities that are reducing their police and firefighting forces, an economy that is close to stalling due to lack of growth, and I could go on and on. But in light of all these facts, even the provision that had been included in the Republican proposal, or the authorization of State Department operations, last year would now need to be revised to cut spending and address the budgetary challenges that we face.

Regrettably, the bill adopted by the Senate that we are considering today does not reflect the current fiscal realities. The Congressional Budget Office has stated that the manner in which the provisions of this bill are drafted would result in \$108 million of authorized funding and \$67 million in actual outlays over the next few years, which is different than what we have heard here on the floor.

□ 2000

Further, despite inquiries to the Congressional Research Service and, through CRS, the State Department and Agency for International Development, there is apparently no available confirmed figure on exactly how much aid the United States already provides to fight child marriage overseas.

We do know that such U.S. assistance programs, programs that specifically include the prevention of child marriage as an objective, are already underway. But no one can tell us how much taxpayer funding is already being used to fight child marriage in developing countries.

To achieve the policy objectives we seek, while taking into account the economic challenges and limitations our Nation, our constituents are facing, this week Congresswoman ROS-LEHTINEN introduced a bill on the prevention of child marriage which enjoys the support of several of our colleagues in this House. That bill reflects modifications that Ranking Member ROS-LEHTINEN had sought to make to the Senate text before it came to the floor,

but they were not accepted. Instead of the \$67 million in outlays over the next 5 years in the Senate text before us, the provisions of that bill would have resulted in less than \$1 million in potential costs.

The Republican alternative proposed the following:

First, we make it clear that child marriage is a violation of human rights and that its prevention should be a goal of U.S. foreign policy;

Second, since there's currently no legislative requirement for a U.S. strategy for assistance to prevent child marriage, we require the creation of such a multiyear strategy;

Third, we require a report within 1 year that would inform us on the progress of the required strategy and, perhaps more important, give us a comprehensive assessment of what we already are doing and funding in the effort to fight child marriage; and

Finally, that the practice of child marriage in other countries be reported each year as part of the annual Human Rights Report, and that the practice of child marriage also be reported for those countries that are potential recipients of U.S. security assistance.

I believe the alternative approach that was proposed would have achieved the goals we desire without adding to our economic burdens. Regrettably, we are faced with S. 987 and its price tag of \$67 million.

Mr. Speaker, having outlined my concerns with the bill before us today, I ask my colleagues to vote "no" on this bill.

I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I assume the gentleman from Indiana has no further speakers.

Mr. BURTON of Indiana. I have no further speakers, but I will add one more comment if I may, and that is: Make no mistake about it—

Mr. BERMAN. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Well, I have not yielded my time, so I will use my time. I will be happy to use your time.

Mr. BERMAN. I would yield the gentleman such time as he may consume, up to a point, everything except 1 minute.

Mr. BURTON of Indiana. I won't take the full minute. Thank you, Mr. Chairman.

Let me just say that I don't want anyone to think we're not very sympathetic to the problem. We are, but the fiscal problems we face in this country right now are of paramount concern to all of us. And for that reason, we must bring this to a vote, and that's the reason why I ask for it.

Mr. Speaker, I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume. And I do it simply in the context of urging my colleagues to vote for this

legislation; to point out, number 1, that this is not an entitlement program. This is an authorization. It is not an appropriation.

To the extent, after we pass this legislation and it is signed into law, that the statement takes its appropriated resources and uses some of those resources to develop the strategic plan to work with these organizations for what the gentleman himself concedes is a very important cause, those resources will come from some other form of resources. They will not be additional spending unless there is an appropriation. And this bill is not an appropriations bill; it is an authorization bill.

I urge my colleagues to support it. It's a critical issue.

Ms. SLAUGHTER. Mr. Speaker, I rise today in support of the International Protecting Girls by Preventing Child Marriage Act.

Child marriage is an international epidemic, with 100 million girls projected to marry in the next decade.

Not only do these young girls lose the opportunity to achieve their full potential, but they also are at risk for serious health consequences. Childbirth is five times more deadly for girls under 15 than for women in their twenties, and pregnancy is the most common cause of death for girls between the age of 15 and 19.

HIV/AIDS is another serious risk for child brides, as they frequently marry more sexually experienced men. In many countries in sub-Saharan Africa, girls under the age of 19 are more than twice as likely to contract HIV as boys of the same age.

Young girls frequently experience trauma and violence in these marriages.

A front page article in *The New York Times* on November 7, 2010 told the story of Farzana, a young girl living in Afghanistan.

Although she dreamed of being a teacher, Farzana was engaged at age 8 and married four years later. Her husband beat her for the first time on her wedding day, and the beatings continued for four years. She was forbidden to see her mother.

Farzana tells us, "I thought of running away from that house, but then I thought: what will happen to the name of my family? No one in our family has asked for divorce. So how can I be the first?"

Left with few choices, Farzana set herself on fire. After burning half her body, she lived—but only after 57 days in the hospital and multiple surgeries.

Farzana's dream of becoming a teacher was killed by a premature marriage.

She—and millions of others like her—deserve better.

The bill that we are considering today will help realize the dreams of many young girls like Farzana by expanding assistance to prevent child marriage and empower girls around the world.

Young girls everywhere deserve the opportunity to make their own decisions and determine their own destiny.

Mr. JOHNSON of Georgia. Mr. Speaker, I rise today in support of S. 987, legislation that would authorize the United States to provide assistance for the prevention of child marriage

in the developing world. Regrettably, child marriage continues to be an all-too-common practice in many third-world countries. We as a nation have a moral obligation to do all that we can to assist with the prevention of this deplorable custom. Marrying before puberty or during early to mid-adolescence places young women in dire circumstances—where they face severe health risks in pregnancy and childbirth, where they are trapped in positions of complete dependence and where they are subjected to verbal and physical abuse at the hands of their spouses. It is imperative for the United States to take a strong stance against this practice by investing in efforts to prevent child marriage and empower susceptible young women in these developing nations.

Mr. CROWLEY. Mr. Speaker, I rise today to support the International Protecting Girls by Preventing Child Marriage Act of 2010.

This bill is a measure that represents the best of American foreign policy. It addresses an abuse that I think all of us agree should not happen in the 21st century.

Girls should have the chance to enjoy their childhood in the peace and security of their own families—not be married off to the highest bidder, or anyone else for that matter.

And, research shows that this is not just about girls—while the vast majority of those trapped in child marriage are girls, boys too are among the victims.

This is a moral issue. By passing this bill, we have a chance to state clearly and on the record that child marriage is a human rights abuse.

But, this is not only a moral issue—it is also about improving health, reducing maternal mortality, slowing the spread of HIV/AIDS and reducing poverty.

Study after study has shown that when we do these things, we not only help create a safer world for women and children, but we also help improve the security of the United States.

It is true that there may be some very minor costs associated with this bill. However, they pale in comparison to our obligation to do what is right.

I want to thank my colleague from Minnesota BETTY MCCOLLUM and Senator DICK DURBIN from Illinois for leading this effort. Both of them have been indefatigable champions of the rights of women and children and we wouldn't be considering this bill today without them.

I urge all of my colleagues to support the International Protecting Girls by Preventing Child Marriage Act.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in strong support of S. 987, the International Protecting Girls by Preventing Child Marriage Act. I'd like to thank Congresswoman MCCOLLUM and Senator DURBIN for introducing this legislation and for their longstanding leadership on this issue.

Child marriage is a true tragedy, as well as a serious human rights violation. Sixty million girls worldwide, some as young as eight years old, have been forced into early marriage. Child brides have little, if any, control over their lives, their bodies, and their futures. Not only do girls forced into early marriage lose the opportunity to attend school and develop as children, they also face serious health con-

sequences and substantially higher rates of domestic violence.

Girls who are married at a young age are also typically forced into early sexual activity, but their bodies are not physically suited for giving birth. According to the International Center for Research on Women, pregnancy is the leading cause of death worldwide for girls aged 15–19.

Child marriage is often linked to a lack of education, opportunity, and resources. Girls from poor households are far more likely to be given away as child brides; some families view it as a way to guarantee their daughters' future, while others see girls as an economic liability. Either way, studies have shown that girls who are married before 18 are more likely to remain poor and less likely to receive education.

We need to do much more to prevent child marriage. I am an original cosponsor of the International Protecting Girls by Preventing Child Marriage Act, which makes preventing child marriage an international priority for the U.S. Government. This legislation requires the State Department, as part of their annual Country Reports on Human Rights, to report on countries with high rates of child marriage in their annual, and the White House to create an action plan on combating child marriage.

Mr. Speaker, by passing this legislation, we take an important step toward ending child marriage around the world, and ensuring that all girls have the opportunity to learn and grow as children. I urge my colleagues to join me in supporting this legislation.

Mr. CONYERS. Mr. Speaker, I rise in support of S. 987, the International Protecting Girls by Preventing Child Marriage Act. This important legislation will ensure a healthy life for young women across the globe by recognizing child marriage as a human rights violation and developing a comprehensive strategy that will include preventive approaches to ending the harmful practice of child marriage.

Child marriage, also known as "forced marriage" is a common tradition in poor and rural communities. Poverty is a common thread in developing countries that carry this tradition of forced marriages. Limited family resources result in families offering their daughters in marriage with the hope of securing a better future and thus, escaping the trap of poverty. However, millions of girls who marry young are instead stripped of their childhood and deprived of their basic human rights as well as opportunities for education, employment and health. Moreover, they are subjected to extreme poverty, hard labor, domestic violence and maternal health risks that often ultimately lead to their death. In fact, child marriage is the leading cause of death for girls ages 15 to 19 in developing countries.

These facts are troubling and daunting. Nevertheless, we have the resources to change and eradicate this practice by supporting comprehensive policies that will advance the necessary education and health awareness that will cause these communities to question this tradition's consequences. According to the United Nations Children Fund (UNICEF), an estimated 60 million girls in developing countries, now ages 20 to 24, were married under the age of 18. If present trends continue, more than one hundred million more

girls in developing countries will be married as children over the next decade, according to the Population Council. This is a dangerous trend that the world cannot allow to continue or endure.

It is important that the United States support these voiceless young girls and recognize child marriage as a human rights violation. This issue must be addressed, monitored, and prevented. The way of doing this is by passing this bill. I urge all of my colleagues to support vote "yes."

Mr. BERMAN. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and pass the bill, S. 987.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BURTON of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 4853, TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010

Mr. POLIS (during consideration of S. 987), from the Committee on Rules, submitted a privileged report (Rept. No. 111-682) on the resolution (H. Res. 1766) providing for consideration of the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CALLING ON STATE DEPARTMENT TO LIST VIETNAM AS A RELIGIOUS FREEDOM VIOLATOR

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 20) calling on the State Department to list the Socialist Republic of Vietnam as a "Country of Particular Concern" with respect to religious freedom, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 20

Whereas the Secretary of State, under the International Religious Freedom Act of 1998

(IRFA) and its amendment in 1999, and under authority delegated by the President, designates nations found guilty of “particularly severe violations of religious freedom as ‘Countries of Particular Concern’” (CPC);

Whereas when the United States designates a nation as a CPC, the intent is to place protection and promotion of religious freedom as a diplomatic priority in bilateral relations, including taking actions specified in section 405(a)(b)(c) of the IRFA;

Whereas in November 2006, the State Department announced that the CPC designation was lifted from the Socialist Republic of Vietnam;

Whereas in explaining the lifting of the designation, State Department officials have stated that Vietnam “has turned a corner . . . and has what looks like religious freedom” and that Vietnam “does not meet the criteria for a severe violator of religious freedom” under terms set by the IRFA;

Whereas the criteria for designating countries as a CPC, as set forth in section 3(11) of the IRFA, are for “systematic, ongoing, and egregious violations of religious freedom including violations, such as—(A) torture or cruel, inhuman, or degrading treatment or punishment; (B) prolonged detention without charges; (C) causing the disappearance of persons by the abduction or clandestine detention of those persons; and (D) other flagrant denial of the right of life, liberty, or the security of persons.”;

Whereas in 2004, the Vietnamese National Assembly issued Directive 21/2004/PL-UBTVQH11 to regulate religious activities;

Whereas this directive contains several articles that seriously interfere with religious freedom and impose heavy government control on religious activities;

Whereas, on September 15, 2004, the State Department added Vietnam to the CPC list and Ambassador at Large for International Religious Freedom, John Hanford, stated, “at least 45 religious believers remain imprisoned . . . Protestants have been pressured by authorities to renounce their faith, and some have been subjected to physical abuse.”;

Whereas to avoid possible sanctions or other “commensurate actions” recommended by section 405(a)(b) of the IRFA, in May 2005 the United States and Vietnam reached a “binding agreement” consistent with section 405(c) of the IRFA;

Whereas although the terms of that “binding agreement” have never been fully publicized, the United States Commission on International Religious Freedom 2006 Annual Report stated that the United States agreed to lift the CPC designation if the Government of Vietnam fully implemented legislation on religious freedom and rendered previous contradictory regulations obsolete, instructed local authorities strictly and completely to adhere to the new legislation to ensure compliance, facilitated the process by which religious congregations are able to open houses of worship, and gave special consideration to prisoners and cases of concern raised by the United States during the granting of prisoner amnesties;

Whereas the Unified Buddhist Church of Vietnam (UBCV), the Hoa Hao Buddhists, and the Cao Dai groups continue to face unwarranted abuses because of their attempts to organize independently of the Vietnamese Government, including the detention and imprisonment of individual members of these religious communities;

Whereas villagers of Con Dau, Da Nang, have suffered severe violence, including beatings with batons and electric rods during a

May 2010 incident, at the hands of Vietnamese Government officials for attempting to protect their historic Catholic cemetery and other parish properties from an attempted government forced sale of these properties;

Whereas over the last 3 years, 18 Hoa Hao Buddhists have been arrested for distributing sacred texts or publically protesting the religious restrictions placed on them by the Vietnamese Government, at least 12 remain in prison, including 4 sentenced in 2007 for staging a peaceful hunger strike;

Whereas five members of the Cao Dai religious community remain in prison for distributing materials in Cambodia critical of the Vietnamese Government’s restrictions on Cao Dai religious practice, for this action they were sentenced to up to 13 years imprisonment;

Whereas five Khmer Buddhists were arrested in February 2007 for organizing peaceful demonstrations opposing the restriction of language training and ordination ceremonies for Khmer Buddhist monks;

Whereas Protestants continue to face beatings and other ill-treatment, harassment, fines, threats, and forced renunciations of faith;

Whereas according to Human Rights Watch, 355 Montagnard Protestants remain in prison, arrested after 2001 and 2004 demonstrations for land rights and religious freedom in the Central Highlands;

Whereas according to the United States Commission on International Religious Freedom, there are reports that some Montagnard Protestants were imprisoned because of their religious affiliation or activities or because religious leaders failed to inform on members of their religious community who allegedly participated in demonstrations;

Whereas according to the United States Commission on International Religious Freedom 2008 Annual Report, religious freedom advocates and human rights defenders Nguyen Van Dai, Le Thi Cong Nhan, and Fr. Thaddeus Nguyen Van Ly are in prison under Article 88 of the Criminal Code and Fr. Nguyen Van Loi is being held without official detention orders under house arrest;

Whereas at least 15 individuals are being detained in long term house arrest for reasons related to their faith, including the most venerable Thich Quang Do and most of the leadership of the UBCV;

Whereas according to United States Commission on International Religious Freedom 2008 Annual Report, there are still too many abuses of and restrictions on religious freedom;

Whereas UBCV monks and youth groups leaders are harassed and detained and charitable activities are denied, Vietnamese officials discriminate against ethnic minority Protestants denying medical, housing, and education benefits to children and families, an ethnic minority Protestant was beaten to death for refusing to recant his faith, over 600 Hmong Protestant churches are refused legal recognition or affiliation, leading to harassment, detentions, and home destructions, and a government handbook on religion instructs government officials to control existing religious practice, halt “enemy forces” from “abusing religion” to undermine the Vietnamese Government, and “overcome the extraordinary growth of Protestantism.”;

Whereas since August 2008, the Vietnamese Government has arrested and sentenced at least eight individuals and beaten, tear-gassed, harassed, publicly slandered, and

threatened Catholics engaged in peaceful activities seeking the return of Catholic Church properties confiscated by the Vietnamese Government after 1954 in Hanoi, including in the Thai Ha parish;

Whereas in September 2008, immediately preceding a visit by Deputy Secretary of State, John Negroponte, Vietnam arrested five journalists and human rights defenders, including two journalists and bloggers reportedly covering the prayer vigils held by Catholics in Hanoi; and

Whereas the United States Commission on International Religious Freedom, prominent nongovernmental organizations, and representative associations of Vietnamese-American, Montagnard-American, and Khmer-American organizations have called for the redesignation of Vietnam as a CPC: Now, therefore, be it

Resolved, That the House of Representatives—

(1) strongly encourages the Department of State to place Vietnam on the list of “Countries of Particular Concern” for particularly severe violations of religious freedom;

(2) strongly condemns the ongoing and egregious violations of religious freedom in Vietnam, including the detention of religious leaders and the long-term imprisonment of individuals engaged in peaceful advocacy; and

(3) calls on Vietnam to lift restrictions on religious freedom and implement necessary legal and political reforms to protect religious freedom.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BERMAN) and the gentleman from Indiana (Mr. BURTON) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I rise in support of this resolution and yield myself such time as I may consume.

This resolution calls on the State Department to list the Socialist Republic of Vietnam as a “Country of Particular Concern” with respect to religious freedom.

I want to thank my colleague, Congressman ED ROYCE of California, for introducing this important resolution.

This year marks 15 years since the normalization of diplomatic relations between the United States and Vietnam. Bilateral relations have deepened in recent years with Hanoi emerging as an important partner in ensuring a peaceful and secure Asia-Pacific region.

We have seen close cooperation on a number of important fronts, including regional security and nonproliferation. Unfortunately, the lack of progress in the area of protecting basic rights and civil liberties enshrined in Vietnam’s

constitution remains an impediment to our bilateral ties.

Since the Bush administration lifted the "Country of Particular Concern" designation for Vietnam in November of 2006, freedom of religion and expression have come under increasing attack. Hanoi has tightened its control of religious organizations with numerous reports documenting physical harassment, intimidation, surveillance, seizure of church properties, arrests, and other forms of ill treatments made against Catholics, Protestants, Khmer Buddhists, and others.

As Secretary Clinton rightfully noted during her visit to Hanoi this October, the United States takes notice of these curbs on religious freedom in Vietnam. Two recent events stand out as particularly egregious.

First is the dispute at Bat Nha pagoda last September, when 400 monks and nuns were assaulted and forcibly evicted. The majority of these monks and nuns have subsequently left Vietnam due to a lack of protection by the government.

More recently, this May, several hundred Vietnamese Catholic villagers in Con Dau were attacked by tear gas and bullets, during a funeral procession, for refusing to relocate as the government had ordered. Several detainees have been held incommunicado since May and have not been allowed to visit their families.

I urge my colleagues to support this resolution and stand up for religious freedom in Vietnam.

I will be handing over the management of this legislation for the remainder of the time to the chairman of the Asia and Pacific Islands Subcommittee of the House Foreign Affairs Committee, Mr. FALEOMAVAEGA.

I reserve the remainder of my time.

The SPEAKER pro tempore (Mr. TONKO). Without objection, the gentleman from American Samoa will control the time.

There was no objection.

□ 2010

Mr. BURTON of Indiana. Mr. Speaker, I yield 5 minutes to our very good friend and colleague, the ranking member of the Foreign Affairs Subcommittee on Terrorism, Nonproliferation and Trade, the author of the measure, Mr. ROYCE of California.

Mr. ROYCE. Mr. Speaker, as author of this resolution, I rise in support of House Resolution 20, calling on the State Department to list the Socialist Republic of Vietnam as a Country of Particular Concern with respect to religious freedom.

I also want to say I appreciate very much the assistance of Chairman BERMAN in bringing this to the House floor, the assistance of Ranking Member ROS-LEHTINEN, and Mr. BURTON, but also the assistance of Congressman Joseph Cao in his support and his concern about this issue.

I would like to share with the Members in this body today that the House of Representatives has an opportunity to send a very strong message to the Communist government in Vietnam. And that message, if we pass this resolution, is that its abuses against peaceful religious practitioners of all faiths and all creeds are unacceptable.

As we reflect for a minute on some of the conditions that those who practice their faith have to contend with in Vietnam, you think about the 350 Montagnard Christians who remain imprisoned for their beliefs, other religious groups like the Unified Buddhist Church of Vietnam, the Hoa Hao Buddhists, the Cao Dai Buddhists. They face severe persecution from the Communist government of Vietnam.

Recently, residents of Con Dau, Da Nang, have suffered severe violence, including beatings with batons, beatings with electric rods during a May assault at the hands of Vietnamese government officials. And what was the charge? Attempting to protect their historic Catholic cemetery from government seizure.

I met with the Venerable Thich Quang Do in Vietnam. I had several conversations with him. He was under house arrest. He has spent the last 33 years of his life either in prison or under house arrest.

I think for a minute about Pastor Nguyen Cong Chinh whose picture is right here. He has been interrogated more than 300 times, he has been beaten over 20 times, and this is a photograph after one of those beatings. He is one of the many faces, I would say battered faces, of religious freedom in Vietnam.

In its 2010 annual report, the U.S. Commission on International Religious Freedom found as follows:

"Vietnam's overall human rights record remains poor and has deteriorated." They cite police officers and plainclothesmen and the Religious Security Police—yes, the Religious Security Police—routinely harassing and intimidating those who pray outside of government-approved religions. They cite beatings with electric batons, sexual assault of monks, and confiscation of property and forced evictions.

While the State Department has documented some of these abuses, real action is needed. By re-listing Vietnam as a CPC, as this resolution instructs, the State Department could bring about real change. In addition to the naming and shaming aspect of the report, a wide range of sanctions, from limitations on foreign aid to denial of visas for those in the government, can be levied on the regimes that carry out these abuses. Unfortunately, the Obama administration hasn't used this tool. This will make that tool available.

Some will ask if a CPC redesignation can have any impact. Well, let's look

at the prior experience on this. After being listed as a CPC in 2004, Vietnam immediately released several prominent dissidents and democracy advocates, and issued ordinances that prohibited the forced renunciation of faith. These were concrete results achieved with a CPC designation, and more can be achieved with a re-listing of Vietnam. Sadly, after Vietnam was permanently removed from the list in 2006, religious freedom and tolerance has been on a continuous downward slide.

The Vietnam War is history. We have deepening relations with Vietnam. But that fact doesn't mean we should short-change religious liberty. Frankly, we know that raising these issues with Hanoi isn't on the top of our diplomats' list. They are uncomfortable with raising these human rights abuses. But by putting Vietnam on this list, where it belongs, we are at least giving promoting religious freedom a chance of being part of our policy towards Vietnam.

Mr. Speaker, it is time to put the House on record in support of the Vietnamese people and religious freedom in Vietnam. Indeed, the right to freely practice your religion is a universal sacred right.

Mr. FALEOMAVAEGA. Mr. Speaker, I reserve the balance of my time.

Mr. BURTON of Indiana. Mr. Speaker, I yield 6 minutes to my very good friend from Louisiana (Mr. CAO).

Mr. CAO. Mr. Speaker, the International Religious Freedom Act, or IRFA, requires the U.S. Commission on International Religious Freedom to prepare an annual report on the state of religious freedom throughout the world. IRFA also provides that any country which commits systematic, ongoing, and egregious violations of religious freedom be placed on a list of countries of particular concern, or CPC, which opens these nations up to economic sanctions by the United States.

After several years of urging from the U.S. Commission on International Religious Freedom, Vietnam was eventually designated a Country of Particular Concern in 2004 and 2005, and this designation led to modest but unprecedented improvements in the government's treatment of worshippers.

Since 2006, however, the U.S. State Department has declined to designate Vietnam as a CPC, and during the ensuing 4 years there have been no further significant improvements and even some backtracking in the progress made on the ability for those of faith to freely practice their religion.

The October 2009 report of the U.S. Commission on International Religious Freedom found:

"There continue to be far too many serious abuses and restrictions of religious freedom in Vietnam. Individuals

continue to be imprisoned or detained for reasons related to their religious activity or religious freedom advocacy. Police and government officials are not held fully accountable for abuses; independent religious activity remains illegal; and legal protection for government-approved religious organizations are both vague and subject to arbitrary or discriminatory interpretation based on political factors."

"In addition, improvements experienced by some religious communities are not experienced by others, including the Unified Buddhist Church of Vietnam, independent Hoa Hao, Cao Dai, and Protestant groups, and some ethnic minority Protestants and Buddhists. Also, over the past year property disputes between the government and the Catholic Church in Hanoi led to detention, threats, harassment, and violence by contract thugs against peaceful prayer vigils and religious leaders."

There are disturbing reports from the northern highland of public officials forcing believers to renounce their faith and documented cases in the central highland of religious prisoners being taken. Elsewhere, violent actions against Catholics at Tam Toa, Bau Sen, Loan Ly, and against Buddhists at Bat Nha and Phuoc Hue seem to have increased in frequency and intensity.

More systematically, property seizure has been used as a means to control religious practice. Since the complete takeover of South Vietnam in 1975, the Communist government of Vietnam has seized many religious institutions and effectively banned their existence. A prime example is the complete property seizure of the Unified Buddhist Church of Vietnam in 1981, leading to its dissolution. The Unified Buddhist Church of Vietnam has been outlawed since, and its religious leaders have been constantly harassed. Other religions such as the Hoa Hao Buddhist and the Cao Dai have suffered a similar fate.

Almost as a rule, all land disputes against the Catholic Church in Vietnam result in violence. A great number of Catholic institutions in North Vietnam have been seized in the 1950s and in South Vietnam since the takeover in 1975.

□ 2020

Parishioners of Thai Ha Church in Hanoi were beaten by police and government thugs while attending a prayer vigil for the return of the church's properties. They also proceeded to desecrate or destroy religious symbols and properties. Those who were perceived to be leaders of these protests were arrested. This pattern of abuse has been repeated the last few years at parishes, including Dong Chiem and the St. Paul of Chartres Monastery in the Diocese of Vinh Long.

More recently, the government of Da Nang City ordered the Catholic town of

Con Dau, among surrounding towns, to vacate their homes, farmlands, and their historic cemetery to make way for a high-end resort to be built by a joint venture with private companies.

When the people of Con Dau resisted the order, violence broke out during the funeral procession of a member of the parish. The police seized the casket and cremated the body of the deceased, against her last wish. Many members of the funeral procession were beaten, arrested, convicted and sentenced to prison on trumped-up charges. Others have fled the country and are seeking asylum. Mr. Nguyen Nam, a member of the funeral procession, was interrogated numerous times and died after severe beatings.

Mr. Speaker, does anyone in this distinguished Chamber doubt the need for us to take action? How can we as a Nation stand by idly while a government that we increasingly supported with improved ties over the past 15 years commits such atrocities against its own people?

As a Vietnamese American, I ask for the passage of House Resolution 20, calling on the State Department to list the Socialist Republic of Vietnam as a Country of Particular Concern.

Mr. FALEOMAVAEGA. Mr. Speaker, I continue to reserve the balance of my time.

Mr. BURTON of Indiana. Mr. Speaker, I yield 5 minutes to one of the great advocates of human rights, not only in Vietnam but around the world, a leader on the Foreign Affairs Committee, the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding. I want to thank Mr. ROYCE for this very, very important and timely resolution, and both the chairman and ranking member, Chairman BERMAN and ILEANA ROS-LEHTINEN, for bringing this very, very important resolution to the floor as the session winds down.

Mr. Speaker, in early July, Nam Nguyen, this is Nam Nguyen right here, a Catholic from Con Dau, was savagely beaten to death for his faith by the Vietnamese police. His brother, Tai Nguyen, testified at an August Tom Lantos Human Rights Commission hearing that police repeatedly kicked his brother in the chest and the back and on his temples. Of course, that means there are fewer marks on the face, but his body was riddled with punches and broken bones.

"Blood," he said, "poured out of his nose and ears." Tai said his brother told his wife he couldn't handle the beatings anymore. The wife, seeing her husband's broken body, knelt in front of the police and begged them to stop. In response, they punched and kicked him again and again and again, and Nam Nguyen died in his wife's arms, this man right here.

What was Nam Nguyen's alleged crime? His faith in Jesus Christ and his

devotion to his Catholic parish. The entire Catholic community and its property in Con Dau, you see, is in the process of being confiscated or stolen by the Vietnamese authorities. The faithful are a ripe target for the atheistic Government of Vietnam. The proximate cause for the crackdown and unspeakable violence was the May 4 funeral of an elderly woman and an attempt to bury her in the town's Catholic cemetery.

Nam Nguyen was a pallbearer when the police busted up the funeral procession of over 1,000 people, beating over 100 mourners, arresting dozens, and deliberately beating two pregnant women so as to kill their unborn babies. They even tried to take the casket. The reign of terror on this 85-year-old Catholic community continues to this day. At least two remain in prison, and the persecution shows no sign of abating.

What happened in Con Dau isn't an isolated incident. According to the U.S. Commission on International Religious Freedom, its annual 2010 report, "Property disputes between the government and the Catholic Church continue to lead to harassment, property destruction and violence, sometimes by contract thugs hired by the government to break up peaceful prayer vigils." Now we know that includes funerals as well. Other faith communities have seen a significant spike in harassment, persecution, confiscation, and violence as well.

Mr. Speaker, in 2005, I led a human rights mission to Hanoi, Hue and Ho Chi Minh City. I met with almost 60 pastors, priests and leading Buddhists, including the Venerable Thich Quang Do, who was under pagoda arrest. All expressed hope and varying degrees of optimism due to an apparent easing of religious persecution in Vietnam.

U.S. Ambassador at Large for International Religious Freedom John Hanford told us that there were promises of further reform made and what he called "deliverables," concrete actions by the Vietnamese Government that it said it would do in the area of religious freedom, coupled with a trade agreement, and all of that led to the lifting of the Country of Particular Concern, or CPC, designation.

Do you know what happened then? Hanoi responded with a massive retaliation against both political and religious believers. Signers of Bloc 8406, the magnificent human rights manifesto promoting respect for the rule of law and nonviolence, a manifesto that parallels China's Charter 08 and Czechoslovakia's Charter 77, were hunted down methodically and imprisoned. Many religious believers who expected a thaw and reform and openness were arrested and in some cases re-arrested and sent to prison.

Father Ly, this man here, is a Catholic priest and a prisoner of conscience

for 17 years in jail, a man who committed no crimes. I met Father Ly when he was under house arrest in Hue. He was rearrested in 2007, held in confinement and denied emergency medical attention. So bad is he that even the Vietnamese let him out under kind of a humanitarian parole, but he is still under arrest.

Look at this picture of him taken at trial. Look at the animosity in the eyes of these guards. And when they get behind closed doors, Mr. Speaker, they beat and they break bones and they break heads, and it leads to death or permanent maiming.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BURTON of Indiana. I yield the gentleman an additional 1 minute.

Mr. SMITH of New Jersey. Did CPC designation help mitigate religious persecution prior to being lifted? It appears so. The U.S. Commission on Religious Freedom notes that Hanoi released prisoners, it expanded some legal protections for nationally recognized groups, and prohibited the policy of forced renunciations, at least in some cases, and expanded the zone of toleration.

Congress, the President, and all of us who espouse fundamental human rights ought to be outraged at Vietnam's turn for the worse. We should stand with the oppressed, and not the oppressors. President Obama should redesignate Vietnam a Country of Particular Concern for its egregious violations of human rights. CPC, independently prescribed by statute, the International Religious Freedom Act, has in the past and can again be a very, very useful tool in promoting religious liberty.

Mr. FALEOMAVAEGA. I yield myself such time as I may consume.

Mr. Speaker, I want to thank my good friend, the gentleman from Indiana, for our co-management of this important legislation, and thank my colleagues, Mr. ROYCE and Mr. CAO and my good friend Mr. SMITH, for their most eloquent statements concerning this proposed resolution.

I have no doubt in my mind in terms of the concerns that have been expressed by my colleagues, as well as the substance of this proposed resolution; but I do have some concerns. While I fully understand the concerns reflected in the resolution, which was introduced almost 2 years ago, it is based on what I believe is information that somewhat did not indicate the progress that Vietnam has made over the recent years.

□ 2030

I think if we look at the statement that was made by our current Ambassador to Vietnam, U.S. Ambassador to Vietnam, Mr. Michael Michalak, in his speech that he gave before the Human Rights Day Event at the U.S. Embassy and the American Center of Vietnam

just this month, a couple of weeks ago, "Another area where over the past 3 years I have seen strong improvements is religious freedoms where individuals are now largely free to practice their deeply felt convictions. Pagodas, churches, temples, and mosques throughout Vietnam are full. Improvements include increased religious participation, large-scale religious gatherings—some with more than 100,000 participants, growing numbers of registered and recognized religious organizations, increasing number of new churches and pagodas, and bigger involvement of religious groups in charitable activities. President Nguyen Minh Triet also met with Pope Benedict XVI at the Vatican, and Vietnam and the Holy See agreed to a Vatican appointment of a nonresident representative for Vietnam as a first step towards the establishment of full diplomatic relations."

Ambassador Michalak first said, "However, some significant problems remain, including occasional harassment and excessive use of force by local government officials against religious groups in some outlying locations. Specifically, there were several problematic high-profile incidents over the past year, including where the authorities used excessive force against Catholic parishioners in land disputes outside of Hanoi at Dong Chiem parish and outside of Da Nang at Con Dau parish. These incidents called into question Vietnam's commitment to the rule of law and hurt Vietnam's otherwise positive image on religious freedom. Registration of protestant congregations also remains slow and cumbersome in some areas of the country, particularly in the Northwest Highlands."

Even so, the U.S. Department of State has not found that these incidents rise to the level of listing Vietnam as a country of particular concern, and I am confident that while recognizing and understanding the concerns reflected by the resolution and the testimony of my colleagues, the State Department will make a determination on CPC designation in keeping with the statutory requirements of the International Religious Freedom Act rather than in some responsive consideration in terms of what we are trying to do here this evening.

Despite isolated incidents which all of us oppose, Vietnam is a multireligious country with all major religions present, including Buddhism, Christianity, Protestantism, and Islam. Vietnam boasts the second largest Christian population in Southeast Asia. Vietnam has approximately 22.3 million religious followers, accounting for one-fifth of the population, and over 25,000 religious worship establishments.

According to the Vietnamese Government, so far the government has recognized 15 new religious organizations,

including seven Protestant denominations, making the total of recognized religions 32. The state has assisted in the publication of the Bible in four ethnic minority languages, including Bana, Ede, Giarai, and H'Mong, and facilitated the construction and reconstruction of over 150 religious establishments.

Vietnam has four Buddhist Academies, 32 Buddhist schools, hundreds of classes on Buddhism, six grand seminaries, and one Protestant seminary. 1,177 religious leaders are actively participating in social management.

The Vietnam Episcopal Council officials attended the ad limina at the Vatican. Thousands of Catholic followers in Vietnam joined a range of activities to celebrate the 2010 Jubilee Year, including 300 years of the presence of Catholicism and 50 years of the establishment of Catholic hierarchy in the country. In June, Vietnam and the Vatican agreed to promote the process of establishing diplomatic relations, and the Pope agreed to appoint a nonresident representative of the Holy See for Vietnam.

The training and education of religious dignitaries and priests have been maintained and expanded. Throughout the country, there are around 17,000 seminarians, and Buddhist monks and nuns are enrolled in religious training courses. Vietnam has four Buddhist academies, of which the scale and training quality are being raised. Thousands of Buddhist nuns and monks also gathered for the great Buddhist Festival that marks the 1000th anniversary of the Thang Long-Hanoi from July 27 to August 2, and Vietnam is actively preparing for the Summit of World Buddhism at the end of this year.

In February of last year, the improvement of religious freedom in Vietnam was acknowledged by the Vatican Under Secretary of State, Monsignor Pietro Parolin, the Pope's Envoy, during his visit to Vietnam more than a month after House Resolution 20 was drafted and introduced. While I am no expert on Catholic relations with the Vietnamese Government, I do believe we should seriously consider Monsignor Parolin's views, since he is in a better position to speak for and on behalf of the Catholic Church, in my humble opinion.

For example, it is my understanding that some of the claims, again, of my friends of the resolution about the Catholic Church stem from land disputes and not necessarily religious disputes at all. Regardless, the Catholic Church is moving forward in establishing better relations with Vietnam.

If one were to single out the U.S. Government's mishandling of the Waco siege in 1993, we might find ourselves at the receiving end of this resolution if other countries had chosen to take us to task when the United States Bureau of Alcohol, Tobacco, Firearms,

and Explosives failed to execute a search warrant at the Branch Davidian Ranch in Mount Carmel, located 9 miles east-northeast of Waco, Texas, at which time the siege was initiated by the Federal Bureau of Investigation, which ended 50 days later with the death of 76 people, including more than 20 children.

This said, Mr. Speaker, Vietnam recognizes that it has work to do, and Vietnam is trying to improve its record on all fronts.

Last month, I was in Hanoi, where I met with His Excellency Mr. Nguyen Van Son, chairman of the Foreign Affairs Committee, National Assembly of the Socialist Republic of Vietnam, and His Excellency Mr. Ngo Quang Xuan, vice-chairman of the Foreign Affairs Committee of the National Assembly of the Socialist Republic of Vietnam. We had serious discussions about religious freedom, and I can assure my colleagues that there is a strong commitment on the part of the Vietnamese Government to respect and facilitate religious freedom, and the central government is working with the local government to bring about this change.

Having visited Vietnam five times, Mr. Speaker, during my tenure as chairman of this subcommittee, I have also personally worshipped in Catholic parishes with local Vietnamese and, in the case of my own church, I can verify that the Government of Vietnam has been very supportive of the LDS Church as it seeks to establish official recognition in accordance with the laws of that country.

As a member of the LDS Church, I am always reluctant to oppose any resolution dealing with religious freedom because the Church of Jesus Christ of Latter-Day Saints is the only religion, Mr. Speaker, the only church in the United States against which an extermination order was issued sanctioning mass removal or extermination against American citizens. The extermination order was a military order signed by then Missouri Governor Lilburn W. Boggs on October 27, 1838, directing that the Mormons be driven from the State or be exterminated.

On June 25, 1976, after some 138 years, Governor CHRISTOPHER BOND, who is now a U.S. Senator, issued an executive order rescinding the extermination order, recognizing its legal invalidity and formally apologizing on behalf of the people of the State of Missouri for the suffering it had caused the Latter-Day Saints. I thank Senator BOND for this.

Knowing the history of the LDS Church and the short-term and long-term consequences that the forced exile of over 10,000 Latter-Day Saints—all United States citizens—had on those before and yet to come, I am firmly rooted in the belief that each of us should be allowed to claim the privilege of worshipping Almighty God ac-

cording to the dictates of our own conscience, and allow all men the same privilege. Let them worship how, where, or what they may.

So while I agree in principle in speaking up for religious freedom, Mr. Speaker, and I do with utmost respect, my colleagues and those who worked so hard in bringing this resolution to the floor—this year we are celebrating 15 years of diplomatic relations with Vietnam. As one who served during the Vietnam War at the height of the Tet Offensive, I know we have come a long way, and I sincerely hope that we ought to continue making this a better effort to establish good relations with this country.

On the matter of human rights, I hope we will also consider that the U.S. cannot assume, Mr. Speaker, the moral high ground when it comes to Vietnam.

□ 2040

What I mean by this is, from 1961 to 1971, the United States Government's military sprayed more than 11 million gallons of Agent Orange in Vietnam, subjecting millions of innocent civilians to dioxin, which is a toxin known to be one of the deadliest chemicals ever made by man. Despite the suffering that has occurred ever since, there seems to be no real interest on the part of our government to clean up the mess that we left behind.

I believe we can and should do better. For this reason, Mr. Speaker, I reluctantly oppose the resolution.

Mr. Speaker, with reluctance, I rise today in opposition to H. Res. 20, calling on the State Department to list the Socialist Republic of Vietnam as a "Country of Particular Concern" with respect to religious freedom.

While I fully understand the concerns reflected in H. Res. 20, this Resolution, which was introduced almost two years ago on January 6, 2009, is based on out-dated information that is not representative of Vietnam's progress.

Also, a nearly identical provision, which was also flawed, already passed the House as part of H.R. 2410, the Foreign Relations Authorization Act, which begs the question—why are we doing this again?

The passage of resolutions has real-world consequences and impacts our relations with other countries. At a minimum, we should give thoughtful consideration to best ways forward and channel resolutions through the subcommittees of jurisdiction so that agreements on language can be reached before we take up these measures on the House floor.

Regrettably, this was not the case with this resolution. The Subcommittee on Asia, the Pacific and the Global Environment, which has broad jurisdiction for U.S. policy affecting the region, was bypassed for the sake of maintaining a 2-1 ratio of majority to minority suspensions, and our own U.S. Ambassador to Vietnam, the Honorable Michael W. Michalak, was not consulted. While I realize that we represent separate branches of government, I believe Ambassador Michalak is in a better position than any of us to know where Vietnam

stands in its progress regarding religious freedom.

Ambassador Michalak, in his remarks at the Human Rights Day Event held at the U.S. Embassy and American Center in Vietnam on December 9, 2010, stated:

Another area where over the past three years I have seen strong improvements is religious freedom where individuals are now largely free to practice their deeply felt convictions. Pagodas, churches, temples and mosques throughout Vietnam are full. Improvements include increased religious participation, large-scale religious gatherings—some with more than 100,000 participants, growing numbers of registered and recognized religious organizations, increasing number of new churches and pagodas, and bigger involvement of religious groups in charitable activities. President Nguyen Minh Triet also met with Pope Benedict XVI at the Vatican, and Vietnam and the Holy See agreed to a Vatican appointment of a non-resident Representative for Vietnam as a first step toward the establishment of full diplomatic relations.

Ambassador Michalak also expressed some concerns, which I also share. He stated:

However, some significant problems remain including occasional harassment and excessive use of force by local government officials against religious groups in some outlying locations. Specifically, there were several problematic high-profile incidents over the past year including where the authorities used excessive force against Catholic parishioners in land disputes outside of Hanoi at Dong Chiem parish and outside of Danang at Con Dau parish. These incidents call into question Vietnam's commitment to the rule of law and hurt Vietnam's otherwise positive image on religious freedom. Registration of Protestant congregations also remains slow and cumbersome in some areas of the country, particularly in the Northwest Highlands.

Even so, the U.S. Department of State has not found that these incidents rise to the level of listing Vietnam as Country of Particular Concern and I am confident that while recognizing and understanding the concerns reflected in the Resolution, the State Department will make a determination on CPC designation in keeping with the statutory requirements of the International Religious Freedom Act rather than in response to consideration, or passage, of this Resolution by the U.S. House of Representatives.

Despite isolated incidents which all of us oppose, Vietnam is a multi-religion country with all major religions present including Buddhism, Christianity, Protestantism and Islam. Vietnam boasts the second largest Christian population in Southeast Asia. Vietnam has approximately 22.3 million religious followers, accounting for one fifth of the population and over 25,000 religious worship establishments.

According to Vietnam, so far the government has recognized 15 new religious organizations including 7 Protestant denominations, making the total of recognized religions 32. The State has assisted the publication of the Bible in 4 ethnic minority languages including Bana, Ede, Giarai and H'Mong, and facilitated the construction and reconstruction of over 1,500 religious establishments.

Vietnam has 4 Buddhist Academies, 32 Buddhist schools, hundreds of classes on

Buddhism, 6 grand seminaries and one Protectionist Seminary. 1,177 religious leaders are actively participating in social management.

Vietnam Episcopal Council officials attended Ad-limina at the Vatican. Thousands of Catholic followers in Vietnam joined a range of activities to celebrate the 2010 Jubilee Year including 300 years of the presence of Catholicism and 50 years of the establishment of Catholic hierarchy in the country. In June, Vietnam and the Vatican agreed to promote the process of establishing diplomatic relations and the Pope agreed to appoint a "non-resident representative" of the Holy See for Vietnam.

The training and education of religious dignitaries and priests have been maintained and expanded. Throughout the country, there are around 17,000 seminarians and Buddhist monks and nuns are enrolled in religious training courses. The Vietnam Buddhist has 4 Buddhist Academies, of which the scale and training quality are being raised.

Thousands of Buddhist nuns and monks also gathered for the Great Buddhist Festival to mark the 1000th anniversary of Thang Long-Hanoi from July 27 to August 2, and Vietnam is actively preparing for the Summit of World Buddhism at the end of the year 2010.

In February 2009, the improvement of religious freedom in Vietnam was acknowledged by Vatican Undersecretary of State Monsignor Pietro Parolin, the Pope's Envoy, during his visit to Vietnam, more than a month after H. Res. 20 was drafted and introduced. While I am no expert on Catholic relations with the Vietnamese government, I do believe we should seriously consider Monsignor Parolin's views since he is better positioned to speak for and on behalf of the Catholic Church rather than Members of Congress whose information from third parties may be distorted. For example, it is my understanding that some of the claims laid out in H. Res. 20 about the Catholic Church stem from land disputes and not religious disputes at all.

Regardless, the Catholic Church is moving forward in establishing better relations with Vietnam, as are the Buddhists, although H. Res. 20 also mischaracterizes Vietnam's relationship with the Buddhists by singling out isolated incidents. If one were to single out the U.S. government's mishandling of the Waco Siege in 1993, we might find ourselves at the receiving end of a resolution like H. Res. 20 if other countries had chosen to take us to task when the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) failed to execute a search warrant at the Branch Davidian ranch at Mount Carmel, located nine miles east-northeast of Waco, Texas, at which time a siege was initiated by the Federal Bureau of Investigation which ended 50 days later with the death of 76 people, including more than 20 children.

This said, Vietnam recognizes it has work to do, and Vietnam is trying to improve its record on all fronts. Last month, I was in Hanoi where I met with H.E. Mr. Nguyen Van Son, Chairman of the Foreign Affairs Committee, National Assembly of the Socialist Republic of Viet Nam, and H.E. Mr. Ngo Quang Xuan, Vice-Chairman of the Foreign Affairs Com-

mittee, National Assembly of the Socialist Republic of Viet Nam. We had serious discussions about religious freedom and I can assure my colleagues that there is a strong commitment on the part of the Vietnamese Government to respect and facilitate religious freedom, and the central government is working with the local government to bring about change.

Having visited Vietnam five times during my tenure as Chairman of the Subcommittee on Asia, the Pacific and the Global Environment, I have also personally worshipped in parishes with local Vietnamese and, in the case of my own Church, I can verify that the Government of Viet Nam has been very supportive of efforts of The Church of Jesus Christ of Latter-day Saints as it seeks to establish official recognition in accordance with the laws of the land.

As a Member of The Church of Jesus-Christ of Latter-day Saints (LDS), I am always reluctant to oppose any resolution dealing with religious freedom because The Church of Jesus Christ of Latter-day Saints is the only religion in the United States against which an Extermination Order was issued sanctioning mass removal or death against American citizens. The Extermination Order was a military order signed by Missouri Governor Lilburn W. Boggs on October 27, 1838 directing that the Mormons be driven from the state or exterminated.

On June 25, 1976, after some 138 years, Governor CHRISTOPHER S. BOND, who is now a U.S. Senator, issued an executive order rescinding the Extermination Order, recognizing its legal invalidity and formally apologizing on behalf of the state of Missouri for the suffering it had caused the Latter-day Saints, and I thank Senator BOND for this.

Knowing the history of the LDS Church and the short-term and long-term consequences this forced exile of over 10,000 Latter-day Saints had on those before and yet to come, I am firmly rooted in the belief that each of us should be allowed to claim the privilege of worshipping Almighty God according to the dictates of our own conscience, and allow all men the same privilege, let them worship how, where, or what they may.

So, while I agree in principle with speaking up for religious freedom and respect my colleagues who authored, co-sponsored, and who will vote in favor of this resolution, in the case of H. Res. 20, I must oppose. This year, the U.S. celebrated 15 years of diplomatic relations with Vietnam. As one who served during the Vietnam War at the height of the Tet Offensive, I know we've come a long way and that resolutions like this don't serve to move us forward but may have the opposite effect when we fail to acknowledge sincere and measurable progress.

On the matter of human rights, I hope we will also consider that the U.S. cannot assume the moral high ground when it comes to Vietnam. From 1961 to 1971, the U.S. sprayed more than 11 million gallons of Agent Orange in Vietnam, subjecting millions of innocent civilians to dioxin—a toxin known to be one of the deadliest chemicals made by man. Despite the suffering that has occurred ever since, there seems to be no real interest on the part of the U.S. to clean up the mess we left be-

hind. Instead, we spend our time offering up resolutions like this which fail to make anything right. I believe we can and should do better and this is why I oppose H. Res. 20.

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise to express my support for H. Res. 20, calling on the State Department to list the Socialist Republic of Vietnam as a "Country of Particular Concern" with respect to religious freedom.

The State Department removed Vietnam from the CPC list in 2006, and since then, the human rights situation in that country has deteriorated significantly. After a brief improvement while Vietnam was seeking membership in the World Trade Organization, the Vietnamese government returned to its former ways—intimidation and repression of basic human freedoms. According to the U.S. Commission on International Religious Freedom's (USCIRF) recently released annual report, "The government of Vietnam continues to control government-approved religious communities, severely restrict independent religious practice, and repress individuals and groups viewed as challenging political authority."

Vietnam remains a severe violator of religious freedoms, and the CPC designation is a potentially powerful tool that should be used to highlight this shortcoming and encourage action. USCIRF has recommended CPC status for Vietnam every year since 2001, and continues to do so this year, advising that "[g]iven these ongoing and serious violations, the uneven pace of religious freedom progress after the CPC designation was lifted, the continued detention of prisoners of concern, and new evidence of severe religious freedom abuses, USCIRF again recommends that Vietnam be designated as a CPC in 2010."

I urge my colleagues to support this resolution, and I strongly urge the State Department to follow the advice of the Commission and redesignate Vietnam as a Country of Particular Concern.

I reserve the balance of my time.

Mr. BURTON of Indiana. May I inquire of the Chair how much time we have on each side.

The SPEAKER pro tempore. The gentleman from Indiana has 3 minutes remaining. The gentleman from American Samoa has 5½ minutes remaining.

Mr. BURTON of Indiana. At this time, I yield 1 additional minute to my colleague from California (Mr. ROYCE).

Mr. ROYCE. I thank the gentleman for yielding.

Mr. Speaker, the U.S. Commission on International Religious Freedom has one job, and that is to monitor religious freedom around the world. The conclusion they have come to is that the situation is so egregious in Vietnam today that that government needs to be put back on the Country of Particular Concern list now.

What they cite as the reason, as the rationale, is that, over the past 2 years, those speaking out against restrictions on religious freedom and human rights continue to be arrested; they continue to be detained. Over the past year, they have said violence by contract thugs against peaceful prayer vigils and religious leaders continues. As a matter of fact, they cite it is accelerating.

We are not talking about deaths that occurred in 1838 right now. My colleagues and I are talking about what happened 2 months ago in terms of people losing their lives in Vietnam because they are speaking out for religious freedom.

Lastly, in terms of what was shared with me by the Venerable Thich Quang Do, he said, They are not allowing us to practice our Buddhist faith. The Communist government is trying to change the faith. That is why we are speaking out.

Mr. FALEOMAVAEGA. I yield myself such time as I may consume.

Mr. Speaker, I just want to say for the record and to make absolutely clear that in no way do I have any disagreements with the concerns and the statements made by my colleagues and of their honest opinions and assessments as to the situation of religious freedom in Vietnam.

I have no further requests for time, and I reserve the balance of my time.

Mr. BURTON of Indiana. May I make an inquiry of my colleague, Mr. Speaker.

Do you have any time you would like to yield to our side?

Mr. FALEOMAVAEGA. In the spirit of democracy and bipartisanship, I would glad to yield 1 minute to my colleague from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding. I will let Mr. SMITH of New Jersey take that 1 minute and I thank him for his generosity.

Mr. SMITH of New Jersey. I thank my friend for yielding.

Mr. Speaker, worldwide, Communist dictatorships either crush or seek to control religious organizations. I have seen this in my 30 years as a Member of Congress.

I remember in the early 1980s how the Romanian apologists, as MSM was coming up for renewal every year, would rush over and meet with Members of Congress. They would have very slick talking points about the number of churches and about the number of believers in Romania. All the while, people were suffering in the prisons, or the gulags, people who happened to be pastors or believers; and it was all part of a disinformation campaign.

I would say to my colleagues that Vietnam uses the exact same tactic. They will give you numbers. They will give you some fact sheets; but if you are a believer who is not under the control of that dictatorship and if you happen to be part of the Unified Buddhist Church, like the Venerable Thich Quang Do, and not the church or the unified or the Buddhist temples that are under the control of the government, watch out. They will be knocking on your door. You will either be under pagoda arrest or find yourself in prison. The same goes for the monsignors and the others who are

evangelicals who are finding themselves being severely repressed in Vietnam.

Members really have to back this resolution.

Mr. FALEOMAVAEGA. Mr. Speaker, I reserve the balance of my time.

Mr. BURTON of Indiana. As I understand it, Mr. Speaker, I have 2 minutes remaining.

The SPEAKER pro tempore. That is correct.

Mr. BURTON of Indiana. I am happy to yield 1 minute to my good friend from Louisiana (Mr. CAO).

Mr. CAO. Thank you very much.

In this recent trip to Vietnam that I made with Chairman FALEOMAVAEGA, I happened to visit my sister in the outskirts of Saigon. I was there for about 15 minutes. As soon as I left, guess who showed up? The police. The police showed up and interrogated my brother-in-law. They asked him why we were there, how many people were there, what did we talk about.

Now, if they were to do that to a family member of a U.S. Congressman, what would they do to the normal Vietnamese citizen in Vietnam?

There are no protections whatsoever. There is a difference between practicing your religion and practicing your faith. In practicing religion, you can go in there and pray, which is good; but practicing faith is when you have to advocate for people's rights to worship, for people's rights to defend their families, to defend their property, and to defend their faiths and their views. In that regard, the Vietnamese Government has been lacking in every aspect.

Mr. FALEOMAVAEGA. I yield myself such time as I may consume.

Mr. Speaker, I want to compliment and thank my colleague from Louisiana. In fact, it was a high privilege and honor for me to be part of our congressional delegation that visited Vietnam.

There were some very serious issues about even allowing my colleague from Louisiana to come with us because, as we all know, this government is not a democracy. It is still a Communist country, controlled by a party structure very different from ours.

What I did insist on of the officials of the Vietnamese Government was that, if my friend Congressman CAO was not going to come with me, then I wasn't going to go to Vietnam, and they did accede to our request. I think it was a real educational experience, even for the Vietnamese officials, to see that my good friend Congressman CAO was not a bad guy after all. I tried to stress the fact that, although we may belong to two separate political parties with different beliefs and understandings, it doesn't mean that we shouldn't continue to be friends.

In the aftermath of our visit to Vietnam, more than anything, I would say

that the officials of the Vietnamese Government were very impressed by my good friend Congressman CAO—the first Vietnamese American ever elected to this sacred body, as a Member of this great institution. I am very proud as a fellow American to tell the 90-some million Vietnamese people out there that this is what America is all about, that only in America is someone of Congressman CAO's caliber able to be elected as a Member of this body.

With that, I want to say that I am very, very happy to see him, and I wish him all the best in his future endeavors.

I reserve the balance of my time.

Mr. BURTON of Indiana. Mr. Speaker, in closing, I would just like to say that I think it has been proven conclusively by my colleagues here speaking tonight that Christians, Buddhists and Catholics have been prodded with electric prods; they have been beaten; they have been gagged; and they have been mistreated.

There is a very strong concern among many of us in Congress that the CPC designation should be reimposed. If the State Department says that Hanoi in Vietnam has turned a corner, the corner that it has turned is down a very dark alley, and we need to enlighten that to let the Vietnamese people know that we stand with them for religious freedom.

I rise in vigorous support of this resolution which reiterates the call of the United States Commission on International Religious Freedom that Vietnam be re-designated as a Country of Particular Concern, CPC.

The State Department, when it lifted the CPC designation for Vietnam, largely for commercial reasons, stated that Hanoi had "turned a corner."

Well, as the facts listed in this resolution amply demonstrate, a corner was indeed turned when it comes to religious freedom in Vietnam and we then ended up in a grim, dark alley.

This is the dark alley where the Vietnamese regime's security officers gagged prominent advocate for religious freedom Father Ly (LEE) during his trial, a mere four months after the State Department claimed Vietnam had supposedly turned a corner.

This is the dark alley from which agents sprang to detain a Norwegian citizen outside a Buddhist monastery where she had gone to present a prestigious human rights award.

This is the dark alley of the Communist regime in Vietnam where guests of a Congressional delegation, invited by the United States Ambassador to discuss human rights and religious freedom, were blocked from entering his residence by armed Vietnamese police.

This is the dark alley where Protestants have been beaten and Buddhist monks have been harassed and detained.

This is the dark alley where members of a Catholic funeral procession last spring were beaten with batons and tortured with electric rods.

Can the State Department continue to credibly claim that the Vietnamese regime has

turned a corner on religious freedom and is on a positive trend?

If so, would State Department diplomats be willing to walk the walk with Vietnamese monks and priests around that corner to confront what lurks in the shadows beyond?

The facts more than justify Vietnam's redesignation as a country of particular concern with regard to religious freedom.

The Vietnamese regime must be held accountable for its fundamental violations of religious rights.

The Vietnamese people need to know that the U.S. stands with them and unequivocally supports and defends their right to exercise their religious freedoms unimpeded.

This resolution is long overdue.

I urge my colleagues to offer their vigorous support.

Mr. BURTON of Indiana. I yield back the balance of my time.

Mr. FALEOMAVAEGA. I thank the gentleman from Indiana and, Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and agree to the resolution, H. Res. 20, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. FALEOMAVAEGA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 2050

APPROVING REGULATIONS TO IMPLEMENT VETERANS EMPLOYMENT OPPORTUNITIES

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1757) providing for the approval of final regulations issued by the Office of Compliance to implement the Veterans Employment Opportunities Act of 1998 that apply to the House of Representatives and employees of the House of Representatives.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1757

Resolved,

SECTION 1. APPROVAL OF REGULATIONS.

The regulations issued by the Office of Compliance on March 21, 2008, and stated in section 4, with the technical corrections described in section 3 and to the extent applied by section 2, are hereby approved.

SEC. 2. APPLICATION OF REGULATIONS.

(a) IN GENERAL.—For purposes of applying the issued regulations as a body of regulations required by section 304(a)(2)(B)(i) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(a)(2)(B)(i)), the portions of the issued regulations that are unclassified or classified with an "H" designation shall apply to the House of Representatives and employees of the House of Representatives.

(b) DEFINITION.—In this section, the term "employee of the House of Representatives" has the meaning given the term in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301), except as limited by the regulations (as corrected under section 3).

SEC. 3. TECHNICAL CORRECTIONS.

(a) CURRENT NAMES OF OFFICES AND HEADS OF OFFICES.—A reference in the issued regulations—

(1) to the Capitol Guide Board or the Capitol Guide Service (which no longer exist) shall be considered to be a reference to the Office of Congressional Accessibility Services;

(2) to the Capitol Police Board shall be considered to be a reference to the Capitol Police;

(3) to the Senate Restaurants (which are no longer public entities) shall be disregarded; and

(4) in sections 1.110(b) and 1.121(c), to the director of an employing office shall be considered to be a reference to the head of an employing office.

(b) CROSS REFERENCES TO PROVISIONS OF REGULATIONS.—A reference in the issued regulations—

(1) in paragraphs (1) and (m) of section 1.102, to subparagraphs (3) through (8) of paragraph (g) of that section shall be considered to be a reference to paragraph (g) of that section;

(2) in section 1.102(l), to subparagraphs (aa) through (dd) of section 1.102(g) shall be considered to be a reference to subparagraphs (aa) through (dd) of that section (as specified in the regulations classified with an "H" classification);

(3) in section 1.102(m), to subparagraphs (aa) through (ee) of section 1.102(g) shall be considered to be a reference to subparagraphs (aa) through (ee) of that section (as specified in the regulations classified with an "S" classification);

(4) in section 1.111(d), to section 1.102(o) shall be considered to be a reference to section 1.102(p); and

(5) in section 1.112, to section 1.102(h) shall be considered to be a reference to section 1.102(i).

(c) CROSS REFERENCES TO OTHER PROVISIONS OF LAW.—A reference in the issued regulations—

(1) to the Veterans Employment Opportunities Act shall be considered to be a reference to the Veterans Employment Opportunities Act of 1998;

(2) to 2 U.S.C. 43d(a) shall be considered to be a reference to section 105(a) of the Second Supplemental Appropriations Act, 1978;

(3) to 2 U.S.C. 1316a(3) shall be considered to be a reference to section 4(c)(3) of the Veterans Employment Opportunities Act of 1998;

(4) to 5 U.S.C. 2108(3)(c) shall be considered to be a reference to section 2108(3)(C) of title 5, United States Code;

(5) to the Americans with Disabilities Act shall be considered to be a reference to the Americans with Disabilities Act of 1990;

(6) to the Soil Conservation and Allotment Act shall be considered to be a reference to the Soil Conservation and Domestic Allotment Act; and

(7) to the Agricultural Adjustment Act shall be considered to be a reference to the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(d) OTHER CORRECTIONS.—In the issued regulations—

(1) in section 1.102(g)(1) (in the regulations classified with an "H" classification), the "and" at the end shall be disregarded;

(2) section 1.102(g)(7) (in the regulations classified with an "H" classification) shall be considered to have an "or" at the end;

(3) section 1.109 shall be considered to have an "and" after paragraph (a);

(4) the second sentence of section 1.116 shall be disregarded;

(5) section 1.118(b) shall be considered to have an "and" after paragraph (2) rather than paragraph (1);

(6) a reference in sections 1.118(c)(1) and 1.120(b)(1) to veterans' "preference eligible" shall be considered to be a reference to "preference eligible";

(7) sections 1.118(c) and 1.120(b) shall be considered to have an "and" after paragraph (1); and

(8) section 1.121(b)(6)(B) shall be considered to have an "and" at the end.

SEC. 4. REGULATIONS.

When approved by the House of Representatives for the House of Representatives, these regulations will have the prefix "H." When approved by the Senate for the Senate, these regulations will have the prefix "S." When approved by Congress for the other employing offices covered by the CAA, these regulations will have the prefix "C."

In this draft, "H&S Regs" denotes the provisions that would be included in the regulations applicable to be made applicable to the House and Senate, and "C Reg" denotes the provisions that would be included in the regulations to be made applicable to other employing offices.

PART 1—Extension of Rights and Protections Relating to Veterans' Preference Under Title 5, United States Code, to Covered Employees of the Legislative Branch (section 4(c) of the Veterans Employment Opportunities Act of 1998)

SUBPART A—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 4 OF THE VEOA

Sec.

1.101 Purpose and scope.

1.102 Definitions.

1.103 Adoption of regulations.

1.104 Coordination with section 225 of the Congressional Accountability Act.

SEC. 1.101. PURPOSE AND SCOPE.

(a) Section 4(c) of the VEOA. The Veterans Employment Opportunities Act (VEOA) applies the rights and protections of sections 2108, 3309 through 3312, and subchapter I of chapter 35 of title 5 U.S.C., to certain covered employees within the Legislative branch.

(b) Purpose of regulations. The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 4(c)(4) of the VEOA, in accordance with the rulemaking procedure set forth in section 304 of the CAA (2 U.S.C. §1384). The purpose of subparts B, C and D of these regulations is to define veterans' preference and the administration of veterans' preference as applicable to Federal employment in the Legislative branch. (5 U.S.C. §2108, as applied by the VEOA). The purpose of subpart E of these regulations is to ensure that the principles of the veterans' preference laws are integrated into the existing employment and

retention policies and processes of those employing offices with employees covered by the VEOA, and to provide for transparency in the application of veterans' preference in covered appointment and retention decisions. Provided, nothing in these regulations shall be construed so as to require an employing office to reduce any existing veterans' preference rights and protections that it may afford to preference eligible individuals.

H Regs: (c) Scope of Regulations. The definition of "covered employee" in Section 4(c) of the VEOA limits the scope of the statute's applicability within the Legislative branch. The term "covered employee" excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made by a Member of Congress within an employing office, as defined by Sec. 101 (9)(A-C) of the CAA, 2 U.S.C. §1301 (9)(A-C) or; (3) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (4) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

S Regs: (c) Scope of Regulations. The definition of "covered employee" in Section 4(c) of the VEOA limits the scope of the statute's applicability within the Legislative branch. The term "covered employee" excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made or directed by a Member of Congress within an employing office, as defined by Sec. 101(9)(A-C) of the CAA, 2 U.S.C. §1301 (9)(A-C) or; (3) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; (4) who is appointed pursuant to 2 U.S.C. §43d(a); or (5) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

C Reg: (c) Scope of Regulations. The definition of "covered employee" in Section 4(c) of the VEOA limits the scope of the statute's applicability within the Legislative branch. The term "covered employee" excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (3) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

SEC. 1.102. DEFINITIONS.

Except as otherwise provided in these regulations, as used in these regulations:

(a) Accredited physician means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate)

by the State in which the doctor practices. The phrase "authorized to practice by the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

(b) Act or CAA means the Congressional Accountability Act of 1995, as amended (Pub. L. 104-1, 109 Stat. 3, 2 U.S.C. §§1301-1438).

(c) Active duty or active military duty means full-time duty with military pay and allowances in the armed forces, except (1) for training or for determining physical fitness and (2) for service in the Reserves or National Guard.

(d) Appointment means an individual's appointment to employment in a covered position, but does not include any personnel action that an employing office takes with regard to an existing employee of the employing office.

(e) Armed forces means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(f) Board means the Board of Directors of the Office of Compliance.

H Regs: (g) Covered employee means any employee of (1) the House of Representatives; and (2) the Senate; (3) the Capitol Guide Board; (4) the Capitol Police Board; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance, but does not include an employee (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made by a Member of Congress; (cc) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (dd) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

S Regs: (g) Covered employee means any employee of (1) the House of Representatives; and (2) the Senate; (3) the Capitol Guide Board; (4) the Capitol Police Board; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance, but does not include an employee (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made or directed by a Member of Congress; (cc) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; (dd) who is appointed pursuant to 2 U.S.C. §43d(a); or (ee) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

C Reg: (g) Covered employee means any employee of (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; or (6) the Office of Compliance, but does not include an employee: (aa) whose appointment is made by the President with the advice and consent of the Senate; or (bb) whose appointment is made by a Member of

Congress or by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (cc) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

(h) Covered position means any position that is or will be held by a covered employee.

(i) Disabled veteran means a person who was separated under honorable conditions from active duty in the armed forces performed at any time and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pensions because of a public statute administered by the Department of Veterans Affairs or a military department.

(j) Employee of the Office of the Architect of the Capitol includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(k) Employee of the Capitol Police Board includes any member or officer of the Capitol Police.

(l) Employee of the House of Representatives includes an individual occupying a position the pay of which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (dd) of paragraph (g) above.

(m) Employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (ee) of paragraph (g) above.

H Regs: (n) Employing office means: (1) the personal office of a Member of the House of Representatives; (2) a committee of the House of Representatives or a joint committee of the House of Representatives and the Senate; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate.

S Regs: (n) Employing office means: (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee of the House of Representatives and the Senate; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate.

C Reg: (n) Employing office means: the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(o) Office means the Office of Compliance.

(p) Preference eligible means veterans, spouses, widows, widowers or mothers who meet the definition of "preference eligible" in 5 U.S.C. §2108(3)(A)-(G).

(q) Qualified applicant means an applicant for a covered position whom an employing office deems to satisfy the requisite minimum job-related requirements of the position. Where the employing office uses an entrance examination or evaluation for a covered position that is numerically scored, the term "qualified applicant" shall mean that the applicant has received a passing score on the examination or evaluation.

(r) Separated under honorable conditions means either an honorable or a general discharge from the armed forces. The Department of Defense is responsible for administering and defining military discharges.

(s) Uniformed services means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(t) VEOA means the Veterans Employment Opportunities Act of 1998 (Pub. L. 105-339, 112 Stat. 3182).

(u) Veterans means persons as defined in 5 U.S.C. §2108(1), or any superseding legislation.

SEC. 1.103. ADOPTION OF REGULATIONS.

(a) Adoption of regulations. Section 4(c)(4)(A) of the VEOA generally authorizes the Board to issue regulations to implement section 4(c). In addition, section 4(c)(4)(B) of the VEOA directs the Board to promulgate regulations that are "the same as the most relevant substantive regulations (applicable with respect to the Executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)" of section 4(c) of the VEOA. Those statutory provisions are section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of the VEOA requires a regulation to be issued. Specifically, it is the Board's considered judgment based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other "substantive regulations (applicable with respect to the Executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)" of section 4(c) of the VEOA that need be adopted.

(b) Modification of substantive regulations. As a qualification to the statutory obligation to issue regulations that are "the same as the most substantive regulations (applicable with respect to the Executive branch)", section 4(c)(4)(B) of the VEOA authorizes the Board to "determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under" section 4(c) of the VEOA.

(c) Rationale for Departure from the Most Relevant Executive Branch Regulations. The Board concludes that it must promulgate regulations accommodating the human resource systems existing in the Legislative branch; and that such regulations must take into account the fact that the Board does not possess the statutory and Executive Order based government-wide policy making authority underlying OPM's counterpart VEOA regulations governing the Executive branch. OPM's regulations are designed for the competitive service (defined in 5 U.S.C. §2102(a)(2)), which does not exist in the employing offices subject to this regulation. Therefore, to follow the OPM regulations would create detailed and complex rules and procedures for a workforce that does not

exist in the Legislative branch, while providing no VEOA protections to the covered Legislative branch employees. We have chosen to propose specially tailored regulations, rather than simply to adopt those promulgated by OPM, so that we may effectuate Congress' intent in extending the principles of the veterans' preference laws to the Legislative branch through the VEOA.

SEC. 1.104. COORDINATION WITH SECTION 225 OF THE CONGRESSIONAL ACCOUNTABILITY ACT.

Statutory directive. Section 4(c)(4)(C) of the VEOA requires that promulgated regulations must be consistent with section 225 of the CAA. Among the relevant provisions of section 225 are subsection (f)(1), which prescribes as a rule of construction that definitions and exemptions in the laws made applicable by the CAA shall apply under the CAA, and subsection (f)(3), which states that the CAA shall not be considered to authorize enforcement of the CAA by the Executive branch.

SUBPART B—VETERANS' PREFERENCE—GENERAL PROVISIONS

Sec.

1.105 Responsibility for administration of veterans' preference.

1.106 Procedures for bringing claims under the VEOA.

SEC. 1.105. RESPONSIBILITY FOR ADMINISTRATION OF VETERANS' PREFERENCE.

Subject to section 1.106, employing offices with covered employees or covered positions are responsible for making all veterans' preference determinations, consistent with the VEOA.

SEC. 1.106. PROCEDURES FOR BRINGING CLAIMS UNDER THE VEOA.

Applicants for appointment to a covered position and covered employees may contest adverse veterans' preference determinations, including any determination that a preference eligible applicant is not a qualified applicant, pursuant to sections 401-416 of the CAA, 2 U.S.C. §§1401-1416, and provisions of law referred to therein; 206a(3) of the CAA, 2 U.S.C. §§1401, 1316a(3); and the Office's Procedural Rules.

SUBPART C—VETERANS' PREFERENCE IN APPOINTMENTS

Sec.

1.107 Veterans' preference in appointments to restricted covered positions.

1.108 Veterans' preference in appointments to non-restricted covered positions.

1.109 Crediting experience in appointments to covered positions.

1.110 Waiver of physical requirements in appointments to covered positions.

SEC. 1.107. VETERANS' PREFERENCE IN APPOINTMENTS TO RESTRICTED POSITIONS.

In each appointment action for the positions of custodian, elevator operator, guard, and messenger (as defined below and collectively referred to in these regulations as restricted covered positions) employing offices shall restrict competition to preference eligible applicants as long as qualified preference eligible applicants are available. The provisions of sections 1.109 and 1.110 below shall apply to the appointment of a preference eligible applicant to a restricted covered position. The provisions of section 1.108 shall apply to the appointment of a preference eligible applicant to a restricted covered position, in the event that there is more than one preference eligible applicant for the position.

Custodian—One whose primary duty is the performance of cleaning or other ordinary

routine maintenance duties in or about a government building or a building under Federal control, park, monument, or other Federal reservation.

Elevator operator—One whose primary duty is the running of freight or passenger elevators. The work includes opening and closing elevator gates and doors, working elevator controls, loading and unloading the elevator, giving information and directions to passengers such as on the location of offices, and reporting problems in running the elevator.

Guard—One whose primary duty is the assignment to a station, beat, or patrol area in a Federal building or a building under Federal control to prevent illegal entry of persons or property; or required to stand watch at or to patrol a Federal reservation, industrial area, or other area designated by Federal authority, in order to protect life and property; make observations for detection of fire, trespass, unauthorized removal of public property or hazards to Federal personnel or property. The term guard does not include law enforcement officer positions of the Capitol Police Board.

Messenger—One whose primary duty is the supervision or performance of general messenger work (such as running errands, delivering messages, and answering call bells).

SEC. 1.108. VETERANS' PREFERENCE IN APPOINTMENTS TO NON-RESTRICTED COVERED POSITIONS.

(a) Where an employing office has duly adopted a policy requiring the numerical scoring or rating of applicants for covered positions, the employing office shall add points to the earned ratings of those preference eligible applicants who receive passing scores in an entrance examination, in a manner that is proportionately comparable to the points prescribed in 5 U.S.C. §3309. For example, five preference points shall be granted to preference eligible applicants in a 100-point system, one point shall be granted in a 20-point system, and so on.

(b) In all other situations involving appointment to a covered position, employing offices shall consider veterans' preference eligibility as an affirmative factor in the employing office's determination of who will be appointed from among qualified applicants.

SEC. 1.109. CREDITING EXPERIENCE IN APPOINTMENTS TO COVERED POSITIONS.

When considering applicants for covered positions in which experience is an element of qualification, employing offices shall provide preference eligible applicants with credit:

(a) for time spent in the military service (1) as an extension of time spent in the position in which the applicant was employed immediately before his/her entrance into the military service, or (2) on the basis of actual duties performed in the military service, or (3) as a combination of both methods. Employing offices shall credit time spent in the military service according to the method that will be of most benefit to the preference eligible applicant; and

(b) for all experience material to the position for which the applicant is being considered, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether he/she received pay therefor.

SEC. 1.110. WAIVER OF PHYSICAL REQUIREMENTS IN APPOINTMENTS TO COVERED POSITIONS.

(a) Subject to (c) below, in determining qualifications of a preference eligible for appointment, an employing office shall waive:

(1) with respect to a preference eligible applicant, requirements as to age, height, and

weight, unless the requirement is essential to the performance of the duties of the position; and

(2) with respect to a preference eligible applicant to whom it has made a conditional offer of employment, physical requirements if, in the opinion of the employing office, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the preference eligible applicant, the preference eligible applicant is physically able to perform efficiently the duties of the position;

(b) Subject to (c) below, if an employing office determines, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the preference eligible applicant, that an applicant to whom it has made a conditional offer of employment is preference eligible as a disabled veteran as described in 5 U.S.C. §2108(3)(c) and who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the covered position, the employing office shall notify the preference eligible applicant of the reasons for the determination and of the right to respond and to submit additional information to the employing office, within 15 days of the date of the notification. The director of the employing office may, by providing written notice to the preference eligible applicant, shorten the period for submitting a response with respect to an appointment to a particular covered position, if necessary because of a need to fill the covered position immediately. Should the preference eligible applicant make a timely response, the highest ranking individual or group of individuals with authority to make employment decisions on behalf of the employing office shall render a final determination of the physical ability of the preference eligible applicant to perform the duties of the position, taking into account the response and any additional information provided by the preference eligible applicant. When the employing office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the preference eligible applicant.

(c) Nothing in this section shall relieve an employing office of any obligations it may have pursuant to the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the Act, 2 U.S.C. §1302(a)(3).

SUBPART D—VETERANS' PREFERENCE IN REDUCTIONS IN FORCE

Sec.

1.111. Definitions applicable in reductions in force.

1.112. Application of preference in reductions in force.

1.113. Crediting experience in reductions in force.

1.114. Waiver of physical requirements in reductions in force.

1.115. Transfer of functions.

SEC. 1.111. DEFINITIONS APPLICABLE IN REDUCTIONS IN FORCE.

(a) Competing covered employees are the covered employees within a particular position or job classification, at or within a particular competitive area, as those terms are defined below.

(b) Competitive area is that portion of the employing office's organizational structure, as determined by the employing office, in which covered employees compete for retention. A competitive area must be defined solely in terms of the employing office's organizational unit(s) and geographical loca-

tion, and it must include all employees within the competitive area so defined. A competitive area may consist of all or part of an employing office. The minimum competitive area is a department or subdivision of the employing office within the local commuting area.

(c) Position classifications or job classifications are determined by the employing office, and shall refer to all covered positions within a competitive area that are in the same grade, occupational level or classification, and which are similar enough in duties, qualification requirements, pay schedules, tenure (type of appointment) and working conditions so that an employing office may reassign the incumbent of one position to any of the other positions in the position classification without undue interruption.

(d) Preference Eligibles. For the purpose of applying veterans' preference in reductions in force, except with respect to the application of section 1.114 of these regulations regarding the waiver of physical requirements, the following shall apply:

(1) "active service" has the meaning given it by section 101 of title 37;

(2) "a retired member of a uniformed service" means a member or former member of a uniformed service who is entitled, under statute, to retired, retirement, or retainer pay on account of his/her service as such a member; and

(3) a preference eligible covered employee who is a retired member of a uniformed service is considered a preference eligible only if

(A) his/her retirement was based on disability—

(i) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(ii) caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by sections 101 and 1101 of title 38;

(B) his/her service does not include twenty or more years of full-time active service, regardless of when performed but not including periods of active duty for training; or

(C) on November 30, 1964, he/she was employed in a position to which this subchapter applies and thereafter he/she continued to be so employed without a break in service of more than 30 days.

The definition of "preference eligible" as set forth in 5 U.S.C. §2108 and section 1.102(o) of these regulations shall apply to waivers of physical requirements in determining an employee's qualifications for retention under section 1.114 of these regulations.

H&S Regs: (e) Reduction in force is any termination of a covered employee's employment or the reduction in pay and/or position grade of a covered employee for more than 30 days and that may be required for budgetary or workload reasons, changes resulting from reorganization, or the need to make room for an employee with reemployment or restoration rights. The term "reduction in force" does not encompass a termination or other personnel action: (1) predicated upon performance, conduct or other grounds attributable to an employee, or (2) involving an employee who is employed by the employing office on a temporary basis, or (3) attributable to a change in party leadership or majority party status within the House of Congress where the employee is employed.

C Reg: (e) Reduction in force is any termination of a covered employee's employment or the reduction in pay and/or position grade of a covered employee for more than 30 days and that may be required for budgetary or workload reasons, changes resulting from

reorganization, or the need to make room for an employee with reemployment or restoration rights. The term "reduction in force" does not encompass a termination or other personnel action: (1) predicated upon performance, conduct or other grounds attributable to an employee, or (2) involving an employee who is employed by the employing office on a temporary basis.

(f) Undue interruption is a degree of interruption that would prevent the completion of required work by a covered employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, work generally would not be considered to be unduly interrupted if a covered employee needs more than 90 days after the reduction in force to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made under this part to a program accorded low priority by the employing office, or to a vacant position.

SEC. 1.112. APPLICATION OF PREFERENCE IN REDUCTIONS IN FORCE.

Prior to carrying out a reduction in force that will affect covered employees, employing offices shall determine which, if any, covered employees within a particular group of competing covered employees are entitled to veterans' preference eligibility status in accordance with these regulations. In determining which covered employees will be retained, employing offices will treat veterans' preference as the controlling factor in retention decisions among such competing covered employees, regardless of length of service or performance, provided that the preference eligible employee's performance has not been determined to be unacceptable. Provided, a preference eligible employee who is a "disabled veteran" under section 1.102(h) above who has a compensable service-connected disability of 30 percent or more and whose performance has not been determined to be unacceptable by an employing office is entitled to be retained in preference to other preference eligible employees. Provided, this section does not relieve an employing office of any greater obligation it may be subject to pursuant to the Worker Adjustment and Retraining Notification Act (29 U.S.C. §2101 et seq.) as applied by section 102(a)(9) of the CAA, 2 U.S.C. §1302(a)(9).

SEC. 1.113. CREDITING EXPERIENCE IN REDUCTIONS IN FORCE.

In computing length of service in connection with a reduction in force, the employing office shall provide credit to preference eligible covered employees as follows:

(a) a preference eligible covered employee who is not a retired member of a uniformed service is entitled to credit for the total length of time in active service in the armed forces;

(b) a preference eligible covered employee who is a retired member of a uniformed service is entitled to credit for:

(1) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) the total length of time in active service in the armed forces if he is included under 5 U.S.C. §3501(a)(3)(A), (B), or (C); and

(c) a preference eligible covered employee is entitled to credit for:

(1) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or association

of producers described in section 10(b) of the Agricultural Adjustment Act; and

(2) service rendered as an employee described in 5 U.S.C. §2105(c) if such employee moves or has moved, on or after January 1, 1966, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in 5 U.S.C. §2105(c).

SEC. 1.114. WAIVER OF PHYSICAL REQUIREMENTS IN REDUCTIONS IN FORCE.

(a) If an employing office determines, on the basis of evidence before it, that a covered employee is preference eligible, the employing office shall waive, in determining the covered employee's retention status in a reduction in force:

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the employing office, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the employee, the preference eligible covered employee is physically able to perform efficiently the duties of the position.

(b) If an employing office determines that a covered employee who is a preference eligible as a disabled veteran as described in 5 U.S.C. §2108(3)(c) and has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the covered position, the employing office shall notify the preference eligible covered employee of the reasons for the determination and of the right to respond and to submit additional information to the employing office within 15 days of the date of the notification. Should the preference eligible covered employee make a timely response, the highest ranking individual or group of individuals with authority to make employment decisions on behalf of the employing office, shall render a final determination of the physical ability of the preference eligible covered employee to perform the duties of the covered position, taking into account the evidence before it, including the response and any additional information provided by the preference eligible. When the employing office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the preference eligible covered employee.

(c) Nothing in this section shall relieve an employing office of any obligation it may have pursuant to the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3).

SEC. 1.115. TRANSFER OF FUNCTIONS.

(a) When a function is transferred from one employing office to another employing office, each covered employee in the affected position classifications or job classifications in the function that is to be transferred shall be transferred to the receiving employing office for employment in a covered position for which he/she is qualified before the receiving employing office may make an appointment from another source to that position.

(b) When one employing office is replaced by another employing office, each covered employee in the affected position classifications or job classifications in the employing office to be replaced shall be transferred to the replacing employing office for employment in a covered position for which he/she

is qualified before the replacing employing office may make an appointment from another source to that position.

SUBPART E—ADOPTION OF VETERANS' PREFERENCE POLICIES, RECORDKEEPING & INFORMATIONAL REQUIREMENTS.

Sec.

1.116. Adoption of veterans' preference policy.

1.117. Preservation of records made or kept.

1.118. Dissemination of veterans' preference policies to applicants for covered positions.

1.119. Information regarding veterans' preference determinations in appointments.

1.120. Dissemination of veterans' preference policies to covered employees.

1.121. Written notice prior to a reduction in force.

SEC. 1.116. ADOPTION OF VETERANS' PREFERENCE POLICY.

No later than 120 calendar days following Congressional approval of this regulation, each employing office that employs one or more covered employees or that seeks applicants for a covered position shall adopt its written policy specifying how it has integrated the veterans' preference requirements of the Veterans Employment Opportunities Act of 1998 and these regulations into its employment and retention processes. Upon timely request and the demonstration of good cause, the Executive Director, in his/her discretion, may grant such an employing office additional time for preparing its policy. Each such employing office will make its policies available to applicants for appointment to a covered position and to covered employees in accordance with these regulations. The act of adopting a veterans' preference policy shall not relieve any employing office of any other responsibility or requirement of the Veterans Employment Opportunity Act of 1998 or these regulations. An employing office may amend or replace its veterans' preference policies as it deems necessary or appropriate, so long as the resulting policies are consistent with the VEOA and these regulations.

SEC. 1.117. PRESERVATION OF RECORDS MADE OR KEPT.

An employing office that employs one or more covered employees or that seeks applicants for a covered position shall maintain any records relating to the application of its veterans' preference policy to applicants for covered positions and to workforce adjustment decisions affecting covered employees for a period of at least one year from the date of the making of the record or the date of the personnel action involved or, if later, one year from the date on which the applicant or covered employee is notified of the personnel action. Where a claim has been brought under section 401 of the CAA against an employing office under the VEOA, the respondent employing office shall preserve all personnel records relevant to the claim until final disposition of the claim. The term "personnel records relevant to the claim", for example, would include records relating to the veterans' preference determination regarding the person bringing the claim and records relating to any veterans' preference determinations regarding other applicants for the covered position the person sought, or records relating to the veterans' preference determinations regarding other covered employees in the person's position or job classification. The date of final disposition of the charge or the action means the latest of the date of expiration of the statutory period within which the aggrieved per-

son may file a complaint with the Office or in a U.S. District Court or, where an action is brought against an employing office by the aggrieved person, the date on which such litigation is terminated.

SEC. 1.118. DISSEMINATION OF VETERANS' PREFERENCE POLICIES TO APPLICANTS FOR COVERED POSITIONS.

(a) An employing office shall state in any announcements and advertisements it makes concerning vacancies in covered positions that the staffing action is governed by the VEOA.

(b) An employing office shall invite applicants for a covered position to identify themselves as veterans' preference eligible applicants, provided that in doing so:

(1) the employing office shall state clearly on any written application or questionnaire used for this purpose or make clear orally, if a written application or questionnaire is not used, that the requested information is intended for use solely in connection with the employing office's obligations and efforts to provide veterans' preference to preference eligible applicants in accordance with the VEOA;

(2) the employing office shall state clearly that disabled veteran status is requested on a voluntary basis, that it will be kept confidential in accordance with the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3), that refusal to provide it will not subject the individual to any adverse treatment except the possibility of an adverse determination regarding the individual's status as a preference eligible applicant as a disabled veteran under the VEOA, and that any information obtained in accordance with this section concerning the medical condition or history of an individual will be collected, maintained and used only in accordance with the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3); and

(3) the employing office shall state clearly that applicants may request information about the employing office's veterans' preference policies as they relate to appointments to covered positions, and shall describe the employing office's procedures for making such requests.

(c) Upon written request by an applicant for a covered position, an employing office shall provide the following information in writing:

(1) the VEOA definition of veterans' "preference eligible" as set forth in 5 U.S.C. §2108 or any superseding legislation, providing the actual, current definition in a manner designed to be understood by applicants, along with the statutory citation;

(2) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to appointments to covered positions, including any procedures the employing office shall use to identify preference eligible employees; and

(3) the employing office may provide other information to applicants regarding its veterans' preference policies and practices, but is not required to do so by these regulations.

(d) Employing offices are also expected to answer questions from applicants for covered positions that are relevant and non-confidential concerning the employing office's veterans' preference policies and practices.

SEC. 1.119. INFORMATION REGARDING VETERANS' PREFERENCE DETERMINATIONS IN APPOINTMENTS.

Upon written request by an applicant for a covered position, the employing office shall

promptly provide a written explanation of the manner in which veterans' preference was applied in the employing office's appointment decision regarding that applicant. Such explanation shall include at a minimum:

(a) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to appointments to covered positions; and

(b) a statement as to whether the applicant is preference eligible and, if not, a brief statement of the reasons for the employing office's determination that the applicant is not preference eligible.

SEC. 1.120. DISSEMINATION OF VETERANS' PREFERENCE POLICIES TO COVERED EMPLOYEES.

(a) If an employing office that employs one or more covered employees provides any written guidance to such employees concerning employee rights generally or reductions in force more specifically, such as in a written employee policy, manual or handbook, such guidance must include information concerning veterans' preference under the VEOA, as set forth in subsection (b) of this regulation.

(b) Written guidances described in subsection (a) above shall include, at a minimum:

(1) the VEOA definition of veterans' "preference eligible" as set forth in 5 U.S.C. §2108 or any superseding legislation, providing the actual, current definition along with the statutory citation;

(2) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to reductions in force, including the procedures the employing office shall take to identify preference eligible employees; and

(3) the employing office may provide other information in its guidances regarding its veterans' preference policies and practices, but is not required to do so by these regulations.

(c) Employing offices are also expected to answer questions from covered employees that are relevant and non-confidential concerning the employing office's veterans' preference policies and practices.

SEC. 1.121. WRITTEN NOTICE PRIOR TO A REDUCTION IN FORCE.

(a) Except as provided under subsection (c), a covered employee may not be released due to a reduction in force, unless the covered employee and the covered employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (b), at least 60 days before the covered employee is so released.

(b) Any notice under paragraph (a) shall include—

(1) the personnel action to be taken with respect to the covered employee involved;

(2) the effective date of the action;

(3) a description of the procedures applicable in identifying employees for release;

(4) the covered employee's competitive area;

(5) the covered employee's eligibility for veterans' preference in retention and how that preference eligibility was determined;

(6) the retention status and preference eligibility of the other employees in the affected position classifications or job classifications within the covered employee's competitive area, by providing:

(A) a list of all covered employee(s) in the covered employee's position classification or

job classification and competitive area who will be retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible; and

(B) a list of all covered employee(s) in the covered employee's position classification or job classification and competitive area who will not be retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible; and

(7) a description of any appeal or other rights which may be available.

(c) The director of the employing office may, in writing, shorten the period of advance notice required under subsection (a), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

(d) No notice period may be shortened to less than 30 days under this subsection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from American Samoa (Mr. FALEOMAVAEGA) and the gentleman from California (Mr. DANIEL E. LUNGREN) each will control 20 minutes.

The Chair recognizes the gentleman from American Samoa.

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks in the RECORD on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from American Samoa?

There was no objection.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Veterans Employment Opportunities Act of 1988, or VEOA, extends veterans' preference rights to covered applicants and employees, in covered positions, throughout the legislative branch. The act is implemented in the legislative branch through the Congressional Accountability Act of 1995.

Implementation of the VEOA requires the board of directors of the Office of Compliance to issue regulations and the House and Senate to approve them. Without congressionally approved regulations, the VEOA does not apply to Congress and the rest of the legislative branch.

Under the Congressional Accountability Act, congressional approval of these regulations can be accomplished by adopting approval resolutions covering the House and the rest of the legislative branch. The resolution before us now covers the House, and the next resolution on the schedule, Senate Concurrent Resolution 77, will cover the rest of the legislative branch, except the Senate, which has already adopted a resolution covering itself.

This process will complete legislative branch coverage under the VEOA. It has bipartisan and bicameral support.

The regulations we are considering today have been awaiting congress-

sional approval since March 21, 2008. The executive branch has already implemented VEOA hiring preferences. With today's congressional approval, qualified veterans who apply for covered positions in the legislative branch will be given preference rights among job applicants and remedies to enforce those rights. It is fitting that we move forward on approving these regulations to help our returning veterans, and now is the right time to do it.

I reserve the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 1757. As mentioned by the gentleman from American Samoa, it provides for the approval of final regulations issued by the Office of Compliance to implement the Veterans Employment Opportunity Act of 1998 and apply that act to the House of Representatives and employees of the House.

In 1998, Congress passed the Veterans Employment Opportunities Act, and that gave veterans improved access to Federal job opportunities. It also established a redress system for preference-eligible veterans in the event that their preference rights were violated.

These new regulations finally fulfill that law and ensure that the Veterans Employment Opportunities Act of 1998 applies fully, not just to the executive branch and other Federal employees, but also to the legislative branch and our employees as well.

I support this bill. I thank my colleague Mr. BRADY for his authorship of this resolution. Getting to this point has been a long process. I appreciate his support and the efforts of his staff. I urge my colleagues to support our veterans by passing House Resolution 1757.

I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I also yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa (Mr. FALEOMAVAEGA) that the House suspend the rules and agree to the resolution, H. Res. 1757.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR THE APPROVAL OF FINAL REGULATIONS ISSUED BY THE OFFICE OF COMPLIANCE TO IMPLEMENT THE VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and concur

in the concurrent resolution (S. Con. Res. 77) to provide for the approval of final regulations issued by the Office of Compliance to implement the Veterans Employment Opportunities Act of 1998 that apply to certain legislative branch employing offices and their covered employees.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

S. CON. RES. 77

Resolved by the Senate (the House of Representatives concurring), That the following regulations issued by the Office of Compliance on March 21, 2008, and stated in section 4, with the technical corrections described in section 3 and to the extent applied by section 2, are hereby approved:

SEC. 2. APPLICATION OF REGULATIONS.

(a) IN GENERAL.—For purposes of applying the issued regulations as a body of regulations required by section 304(a)(2)(B)(iii) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(a)(2)(B)(iii)), the portions of the issued regulations that are unclassified or classified with a “C” designation shall apply to all covered employees that are not employees of the House of Representatives or employees of the Senate, and employing offices that are not offices of the House of Representatives or the Senate.

(b) DEFINITIONS.—In this section, the terms “employee of the House of Representatives”, “employee of the Senate”, “covered employee”, and “employing office” have the meanings given the terms in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301), except as limited by the regulations (as corrected under section 3).

SEC. 3. TECHNICAL CORRECTIONS.

(a) CURRENT NAMES OF OFFICES AND HEADS OF OFFICES.—A reference in the issued regulations—

(1) to the Capitol Guide Board or the Capitol Guide Service (which no longer exist) shall be considered to be a reference to the Office of Congressional Accessibility Services;

(2) to the Capitol Police Board shall be considered to be a reference to the Capitol Police;

(3) to the Senate Restaurants (which are no longer public entities) shall be disregarded; and

(4) in sections 1.110(b) and 1.121(c), to the director of an employing office shall be considered to be a reference to the head of an employing office.

(b) CROSS REFERENCES TO PROVISIONS OF REGULATIONS.—A reference in the issued regulations—

(1) in paragraphs (l) and (m) of section 1.102, to subparagraphs (3) through (8) of paragraph (g) of that section shall be considered to be a reference to paragraph (g) of that section;

(2) in section 1.102(l), to subparagraphs (aa) through (dd) of section 1.102(g) shall be considered to be a reference to subparagraphs (aa) through (dd) of that section (as specified in the regulations classified with an “H” classification);

(3) in section 1.102(m), to subparagraphs (aa) through (ee) of section 1.102(g) shall be considered to be a reference to subparagraphs (aa) through (ee) of that section (as specified in the regulations classified with an “S” classification);

(4) in section 1.111(d), to section 1.102(o) shall be considered to be a reference to section 1.102(p); and

(5) in section 1.112, to section 1.102(h) shall be considered to be a reference to section 1.102(i).

(c) CROSS REFERENCES TO OTHER PROVISIONS OF LAW.—A reference in the issued regulations—

(1) to the Veterans Employment Opportunities Act shall be considered to be a reference to the Veterans Employment Opportunities Act of 1998;

(2) to 2 U.S.C. 43d(a) shall be considered to be a reference to section 105(a) of the Second Supplemental Appropriations Act, 1978;

(3) to 2 U.S.C. 1316a(3) shall be considered to be a reference to section 4(c)(3) of the Veterans Employment Opportunities Act of 1998;

(4) to 5 U.S.C. 2108(3)(c) shall be considered to be a reference to section 2108(3)(C) of title 5, United States Code;

(5) to the Americans with Disabilities Act shall be considered to be a reference to the Americans with Disabilities Act of 1990;

(6) to the Soil Conservation and Allotment Act shall be considered to be a reference to the Soil Conservation and Domestic Allotment Act; and

(7) to the Agricultural Adjustment Act shall be considered to be a reference to the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(d) OTHER CORRECTIONS.—In the issued regulations—

(1) section 1.109 shall be considered to have an “and” after paragraph (a);

(2) the second sentence of section 1.116 shall be disregarded;

(3) section 1.118(b) shall be considered to have an “and” after paragraph (2) rather than paragraph (1);

(4) a reference in sections 1.118(c)(1) and 1.120(b)(1) to veterans’ “preference eligible” shall be considered to be a reference to “preference eligible”;

(5) sections 1.118(c) and 1.120(b) shall be considered to have an “and” after paragraph (1); and

(6) section 1.121(b)(6)(B) shall be considered to have an “and” at the end.

SEC. 4. REGULATIONS.

When approved by the House of Representatives for the House of Representatives, these regulations will have the prefix “H.” When approved by the Senate for the Senate, these regulations will have the prefix “S.” When approved by Congress for the other employing offices covered by the CAA, these regulations will have the prefix “C.”

In this draft, “H&S Regs” denotes the provisions that would be included in the regulations applicable to be made applicable to the House and Senate, and “C Reg” denotes the provisions that would be included in the regulations to be made applicable to other employing offices.

PART 1—Extension of Rights and Protections Relating to Veterans’ Preference Under Title 5, United States Code, to Covered Employees of the Legislative Branch (section 4(c) of the Veterans Employment Opportunities Act of 1998)

SUBPART A—MATTERS OF GENERAL APPLICABILITY TO ALL REGULATIONS PROMULGATED UNDER SECTION 4 OF THE VEOA

Sec.

1.101 Purpose and scope.

1.102 Definitions.

1.103 Adoption of regulations.

1.104 Coordination with section 225 of the Congressional Accountability Act.

SEC. 1.101. PURPOSE AND SCOPE.

(a) Section 4(c) of the VEOA. The Veterans Employment Opportunities Act (VEOA) ap-

plies the rights and protections of sections 2108, 3309 through 3312, and subchapter I of chapter 35 of title 5 U.S.C., to certain covered employees within the Legislative branch.

(b) Purpose of regulations. The regulations set forth herein are the substantive regulations that the Board of Directors of the Office of Compliance has promulgated pursuant to section 4(c)(4) of the VEOA, in accordance with the rulemaking procedure set forth in section 304 of the CAA (2 U.S.C. §1384). The purpose of subparts B, C and D of these regulations is to define veterans’ preference and the administration of veterans’ preference as applicable to Federal employment in the Legislative branch. (5 U.S.C. §2108, as applied by the VEOA). The purpose of subpart E of these regulations is to ensure that the principles of the veterans’ preference laws are integrated into the existing employment and retention policies and processes of those employing offices with employees covered by the VEOA, and to provide for transparency in the application of veterans’ preference in covered appointment and retention decisions. Provided, nothing in these regulations shall be construed so as to require an employing office to reduce any existing veterans’ preference rights and protections that it may afford to preference eligible individuals.

H Regs: (c) Scope of Regulations. The definition of “covered employee” in Section 4(c) of the VEOA limits the scope of the statute’s applicability within the Legislative branch. The term “covered employee” excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made by a Member of Congress within an employing office, as defined by Sec. 101 (9)(A–C) of the CAA, 2 U.S.C. §1301 (9)(A–C) or; (3) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (4) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

S Regs: (c) Scope of Regulations. The definition of “covered employee” in Section 4(c) of the VEOA limits the scope of the statute’s applicability within the Legislative branch. The term “covered employee” excludes any employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made or directed by a Member of Congress within an employing office, as defined by Sec. 101(9)(A–C) of the CAA, 2 U.S.C. §1301 (9)(A–C) or; (3) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; (4) who is appointed pursuant to 2 U.S.C. §43d(a); or (5) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

C Reg: (c) Scope of Regulations. The definition of “covered employee” in Section 4(c) of the VEOA limits the scope of the statute’s applicability within the Legislative branch. The term “covered employee” excludes any

employee: (1) whose appointment is made by the President with the advice and consent of the Senate; (2) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (3) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). Accordingly, these regulations shall not apply to any employing office that only employs individuals excluded from the definition of covered employee.

SEC. 1.102. DEFINITIONS.

Except as otherwise provided in these regulations, as used in these regulations:

(a) Accredited physician means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices. The phrase “authorized to practice by the State” as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider.

(b) Act or CAA means the Congressional Accountability Act of 1995, as amended (Pub. L. 104–1, 109 Stat. 3, 2 U.S.C. §§1301–1438).

(c) Active duty or active military duty means full-time duty with military pay and allowances in the armed forces, except (1) for training or for determining physical fitness and (2) for service in the Reserves or National Guard.

(d) Appointment means an individual’s appointment to employment in a covered position, but does not include any personnel action that an employing office takes with regard to an existing employee of the employing office.

(e) Armed forces means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(f) Board means the Board of Directors of the Office of Compliance.

H Regs: (g) Covered employee means any employee of (1) the House of Representatives; and (2) the Senate; (3) the Capitol Guide Board; (4) the Capitol Police Board; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance, but does not include an employee (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made by a Member of Congress; (cc) whose appointment is made by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (dd) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

S Regs: (g) Covered employee means any employees of (1) the House of Representatives; and (2) the Senate; (3) the Capitol Guide Board; (4) the Capitol Police Board; (5) the Congressional Budget Office; (6) the Office of the Architect of the Capitol; (7) the Office of the Attending Physician; and (8) the Office of Compliance, but does not include an employee (aa) whose appointment is made by the President with the advice and consent of the Senate; (bb) whose appointment is made or directed by a Member of Congress; (cc) whose appointment is made by a committee

or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; (dd) who is appointed pursuant to 2 U.S.C. §43d(a); or (ee) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

C Reg: (g) Covered employee means any employee of (1) the Capitol Guide Service; (2) the Capitol Police; (3) the Congressional Budget Office; (4) the Office of the Architect of the Capitol; (5) the Office of the Attending Physician; or (6) the Office of Compliance, but does not include an employee: (aa) whose appointment is made by the President with the advice and consent of the Senate; or (bb) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress or a joint committee of the House of Representatives and the Senate; or (cc) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code). The term covered employee includes an applicant for employment in a covered position and a former covered employee.

(h) Covered position means any position that is or will be held by a covered employee.

(i) Disabled veteran means a person who was separated under honorable conditions from active duty in the armed forces performed at any time and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pensions because of a public statute administered by the Department of Veterans Affairs or a military department.

(j) Employee of the Office of the Architect of the Capitol includes any employee of the Office of the Architect of the Capitol, the Botanic Gardens, or the Senate Restaurants.

(k) Employee of the Capitol Police Board includes any member or officer of the Capitol Police.

(l) Employee of the House of Representatives includes an individual occupying a position the pay of which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (dd) of paragraph (g) above.

(m) Employee of the Senate includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (8) of paragraph (g) above nor any individual described in subparagraphs (aa) through (ee) of paragraph (g) above.

H Regs: (n) Employing office means: (1) the personal office of a Member of the House of Representatives; (2) a committee of the House of Representatives or a joint committee of the House of Representatives and the Senate; or (3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate.

S Regs: (n) Employing office means: (1) the personal office of a Senator; (2) a committee of the Senate or a joint committee of the House of Representatives and the Senate; or (3) any other office headed by a person with the final authority to appoint, or be directed by a Member of Congress to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate.

C Reg: (n) Employing office means: the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Compliance.

(o) Office means the Office of Compliance.

(p) Preference eligible means veterans, spouses, widows, widowers or mothers who meet the definition of “preference eligible” in 5 U.S.C. §2108(3)(A)–(G).

(q) Qualified applicant means an applicant for a covered position whom an employing office deems to satisfy the requisite minimum job-related requirements of the position. Where the employing office uses an entrance examination or evaluation for a covered position that is numerically scored, the term “qualified applicant” shall mean that the applicant has received a passing score on the examination or evaluation.

(r) Separated under honorable conditions means either an honorable or a general discharge from the armed forces. The Department of Defense is responsible for administering and defining military discharges.

(s) Uniformed services means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(t) VEOA means the Veterans Employment Opportunities Act of 1998 (Pub. L. 105–339, 112 Stat. 3182).

(u) Veterans means persons as defined in 5 U.S.C. §2108(1), or any superseding legislation.

SEC. 1.103. ADOPTION OF REGULATIONS.

(a) Adoption of regulations. Section 4(c)(4)(A) of the VEOA generally authorizes the Board to issue regulations to implement section 4(c). In addition, section 4(c)(4)(B) of the VEOA directs the Board to promulgate regulations that are “the same as the most relevant substantive regulations (applicable with respect to the Executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)” of section 4(c) of the VEOA. Those statutory provisions are section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code. The regulations issued by the Board herein are on all matters for which section 4(c)(4)(B) of the VEOA requires a regulation to be issued. Specifically, it is the Board’s considered judgment based on the information available to it at the time of promulgation of these regulations, that, with the exception of the regulations adopted and set forth herein, there are no other “substantive regulations (applicable with respect to the Executive branch) promulgated to implement the statutory provisions referred to in paragraph (2)” of section 4(c) of the VEOA that need be adopted.

(b) Modification of substantive regulations. As a qualification to the statutory obligation to issue regulations that are “the same as the most substantive regulations (applicable with respect to the Executive branch)”, section 4(c)(4)(B) of the VEOA authorizes the Board to “determine, for good cause shown and stated together with the

regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under" section 4(c) of the VEOA.

(c) Rationale for Departure from the Most Relevant Executive Branch Regulations. The Board concludes that it must promulgate regulations accommodating the human resource systems existing in the Legislative branch; and that such regulations must take into account the fact that the Board does not possess the statutory and Executive Order based government-wide policy making authority underlying OPM's counterpart VEOA regulations governing the Executive branch. OPM's regulations are designed for the competitive service (defined in 5 U.S.C. §2102(a)(2)), which does not exist in the employing offices subject to this regulation. Therefore, to follow the OPM regulations would create detailed and complex rules and procedures for a workforce that does not exist in the Legislative branch, while providing no VEOA protections to the covered Legislative branch employees. We have chosen to propose specially tailored regulations, rather than simply to adopt those promulgated by OPM, so that we may effectuate Congress' intent in extending the principles of the veterans' preference laws to the Legislative branch through the VEOA.

SEC. 1.104. COORDINATION WITH SECTION 225 OF THE CONGRESSIONAL ACCOUNTABILITY ACT.

Statutory directive. Section 4(c)(4)(C) of the VEOA requires that promulgated regulations must be consistent with section 225 of the CAA. Among the relevant provisions of section 225 are subsection (f)(1), which prescribes as a rule of construction that definitions and exemptions in the laws made applicable by the CAA shall apply under the CAA, and subsection (f)(3), which states that the CAA shall not be considered to authorize enforcement of the CAA by the Executive branch.

SUBPART B—VETERANS' PREFERENCE—GENERAL PROVISIONS

Sec.

- 1.105 Responsibility for administration of veterans' preference.
- 1.106 Procedures for bringing claims under the VEOA.

SEC. 1.105. RESPONSIBILITY FOR ADMINISTRATION OF VETERANS' PREFERENCE.

Subject to section 1.106, employing offices with covered employees or covered positions are responsible for making all veterans' preference determinations, consistent with the VEOA.

SEC. 1.106. PROCEDURES FOR BRINGING CLAIMS UNDER THE VEOA.

Applicants for appointment to a covered position and covered employees may contest adverse veterans' preference determinations, including any determination that a preference eligible applicant is not a qualified applicant, pursuant to sections 401–416 of the CAA, 2 U.S.C. §§1401–1416, and provisions of law referred to therein; 206a(3) of the CAA, 2 U.S.C. §§1401, 1316a(3); and the Office's Procedural Rules.

SUBPART C—VETERANS' PREFERENCE IN APPOINTMENTS

Sec.

- 1.107 Veterans' preference in appointments to restricted covered positions.
- 1.108 Veterans' preference in appointments to non-restricted covered positions.
- 1.109 Crediting experience in appointments to covered positions.
- 1.110 Waiver of physical requirements in appointments to covered positions.

SEC. 1.107. VETERANS' PREFERENCE IN APPOINTMENTS TO RESTRICTED POSITIONS.

In each appointment action for the positions of custodian, elevator operator, guard, and messenger (as defined below and collectively referred to in these regulations as restricted covered positions) employing offices shall restrict competition to preference eligible applicants as long as qualified preference eligible applicants are available. The provisions of sections 1.109 and 1.110 below shall apply to the appointment of a preference eligible applicant to a restricted covered position. The provisions of section 1.108 shall apply to the appointment of a preference eligible applicant to a restricted covered position, in the event that there is more than one preference eligible applicant for the position.

Custodian—One whose primary duty is the performance of cleaning or other ordinary routine maintenance duties in or about a government building or a building under Federal control, park, monument, or other Federal reservation.

Elevator operator—One whose primary duty is the running of freight or passenger elevators. The work includes opening and closing elevator gates and doors, working elevator controls, loading and unloading the elevator, giving information and directions to passengers such as on the location of offices, and reporting problems in running the elevator.

Guard—One whose primary duty is the assignment to a station, beat, or patrol area in a Federal building or a building under Federal control to prevent illegal entry of persons or property; or required to stand watch at or to patrol a Federal reservation, industrial area, or other area designated by Federal authority, in order to protect life and property; make observations for detection of fire, trespass, unauthorized removal of public property or hazards to Federal personnel or property. The term guard does not include law enforcement officer positions of the Capitol Police Board.

Messenger—One whose primary duty is the supervision or performance of general messenger work (such as running errands, delivering messages, and answering call bells).

SEC. 1.108. VETERANS' PREFERENCE IN APPOINTMENTS TO NON-RESTRICTED COVERED POSITIONS.

(a) Where an employing office has duly adopted a policy requiring the numerical scoring or rating of applicants for covered positions, the employing office shall add points to the earned ratings of those preference eligible applicants who receive passing scores in an entrance examination, in a manner that is proportionately comparable to the points prescribed in 5 U.S.C. §3309. For example, five preference points shall be granted to preference eligible applicants in a 100-point system, one point shall be granted in a 20-point system, and so on.

(b) In all other situations involving appointment to a covered position, employing offices shall consider veterans' preference eligibility as an affirmative factor in the employing office's determination of who will be appointed from among qualified applicants.

SEC. 1.109. CREDITING EXPERIENCE IN APPOINTMENTS TO COVERED POSITIONS.

When considering applicants for covered positions in which experience is an element of qualification, employing offices shall provide preference eligible applicants with credit:

- (a) for time spent in the military service
- (1) as an extension of time spent in the position in which the applicant was employed

immediately before his/her entrance into the military service, or (2) on the basis of actual duties performed in the military service, or (3) as a combination of both methods. Employing offices shall credit time spent in the military service according to the method that will be of most benefit to the preference eligible applicant.

(b) for all experience material to the position for which the applicant is being considered, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether he/she received pay therefor.

SEC. 1.110. WAIVER OF PHYSICAL REQUIREMENTS IN APPOINTMENTS TO COVERED POSITIONS.

(a) Subject to (c) below, in determining qualifications of a preference eligible for appointment, an employing office shall waive:

(1) with respect to a preference eligible applicant, requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) with respect to a preference eligible applicant to whom it has made a conditional offer of employment, physical requirements if, in the opinion of the employing office, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the preference eligible applicant, the preference eligible applicant is physically able to perform efficiently the duties of the position;

(b) Subject to (c) below, if an employing office determines, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the preference eligible applicant, that an applicant to whom it has made a conditional offer of employment is preference eligible as a disabled veteran as described in 5 U.S.C. §2108(3)(c) and who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the covered position, the employing office shall notify the preference eligible applicant of the reasons for the determination and of the right to respond and to submit additional information to the employing office, within 15 days of the date of the notification. The director of the employing office may, by providing written notice to the preference eligible applicant, shorten the period for submitting a response with respect to an appointment to a particular covered position, if necessary because of a need to fill the covered position immediately. Should the preference eligible applicant make a timely response, the highest ranking individual or group of individuals with authority to make employment decisions on behalf of the employing office shall render a final determination of the physical ability of the preference eligible applicant to perform the duties of the position, taking into account the response and any additional information provided by the preference eligible applicant. When the employing office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the preference eligible applicant.

(c) Nothing in this section shall relieve an employing office of any obligations it may have pursuant to the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the Act, 2 U.S.C. §1302(a)(3).

SUBPART D—VETERANS' PREFERENCE IN REDUCTIONS IN FORCE

Sec.

- 1.111. Definitions applicable in reductions in force.

1.112. Application of preference in reductions in force.

1.113. Crediting experience in reductions in force.

1.114. Waiver of physical requirements in reductions in force.

1.115. Transfer of functions.

SEC. 1.111. DEFINITIONS APPLICABLE IN REDUCTIONS IN FORCE.

(a) Competing covered employees are the covered employees within a particular position or job classification, at or within a particular competitive area, as those terms are defined below.

(b) Competitive area is that portion of the employing office's organizational structure, as determined by the employing office, in which covered employees compete for retention. A competitive area must be defined solely in terms of the employing office's organizational unit(s) and geographical location, and it must include all employees within the competitive area so defined. A competitive area may consist of all or part of an employing office. The minimum competitive area is a department or subdivision of the employing office within the local commuting area.

(c) Position classifications or job classifications are determined by the employing office, and shall refer to all covered positions within a competitive area that are in the same grade, occupational level or classification, and which are similar enough in duties, qualification requirements, pay schedules, tenure (type of appointment) and working conditions so that an employing office may reassign the incumbent of one position to any of the other positions in the position classification without undue interruption.

(d) Preference Eligibles. For the purpose of applying veterans' preference in reductions in force, except with respect to the application of section 1.114 of these regulations regarding the waiver of physical requirements, the following shall apply:

(1) "active service" has the meaning given it by section 101 of title 37;

(2) "a retired member of a uniformed service" means a member or former member of a uniformed service who is entitled, under statute, to retired, retirement, or retainer pay on account of his/her service as such a member; and

(3) a preference eligible covered employee who is a retired member of a uniformed service is considered a preference eligible only if

(A) his/her retirement was based on disability—

(i) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(ii) caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by sections 101 and 1101 of title 38;

(B) his/her service does not include twenty or more years of full-time active service, regardless of when performed but not including periods of active duty for training; or

(C) on November 30, 1964, he/she was employed in a position to which this subchapter applies and thereafter he/she continued to be so employed without a break in service of more than 30 days.

The definition of "preference eligible" as set forth in 5 U.S.C. §2108 and section 1.102(o) of these regulations shall apply to waivers of physical requirements in determining an employee's qualifications for retention under section 1.114 of these regulations.

H&S Regs: (e) Reduction in force is any termination of a covered employee's employment or the reduction in pay and/or position

grade of a covered employee for more than 30 days and that may be required for budgetary or workload reasons, changes resulting from reorganization, or the need to make room for an employee with reemployment or restoration rights. The term "reduction in force" does not encompass a termination or other personnel action: (1) predicated upon performance, conduct or other grounds attributable to an employee, or (2) involving an employee who is employed by the employing office on a temporary basis, or (3) attributable to a change in party leadership or majority party status within the House of Congress where the employee is employed.

C Reg: (e) Reduction in force is any termination of a covered employee's employment or the reduction in pay and/or position grade of a covered employee for more than 30 days and that may be required for budgetary or workload reasons, changes resulting from reorganization, or the need to make room for an employee with reemployment or restoration rights. The term "reduction in force" does not encompass a termination or other personnel action: (1) predicated upon performance, conduct or other grounds attributable to an employee, or (2) involving an employee who is employed by the employing office on a temporary basis.

(f) Undue interruption is a degree of interruption that would prevent the completion of required work by a covered employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, work generally would not be considered to be unduly interrupted if a covered employee needs more than 90 days after the reduction in force to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made under this part to a program accorded low priority by the employing office, or to a vacant position.

SEC. 1.112. APPLICATION OF PREFERENCE IN REDUCTIONS IN FORCE.

Prior to carrying out a reduction in force that will affect covered employees, employing offices shall determine which, if any, covered employees within a particular group of competing covered employees are entitled to veterans' preference eligibility status in accordance with these regulations. In determining which covered employees will be retained, employing offices will treat veterans' preference as the controlling factor in retention decisions among such competing covered employees, regardless of length of service or performance, provided that the preference eligible employee's performance has not been determined to be unacceptable. Provided, a preference eligible employee who is a "disabled veteran" under section 1.102(h) above who has a compensable service-connected disability of 30 percent or more and whose performance has not been determined to be unacceptable by an employing office is entitled to be retained in preference to other preference eligible employees. Provided, this section does not relieve an employing office of any greater obligation it may be subject to pursuant to the Worker Adjustment and Retraining Notification Act (29 U.S.C. §2101 et seq.) as applied by section 102(a)(9) of the CAA, 2 U.S.C. §1302(a)(9).

SEC. 1.113. CREDITING EXPERIENCE IN REDUCTIONS IN FORCE.

In computing length of service in connection with a reduction in force, the employing office shall provide credit to preference eligible covered employees as follows:

(a) a preference eligible covered employee who is not a retired member of a uniformed service is entitled to credit for the total length of time in active service in the armed forces;

(b) a preference eligible covered employee who is a retired member of a uniformed service is entitled to credit for:

(1) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) the total length of time in active service in the armed forces if he is included under 5 U.S.C. §3501(a)(3)(A), (B), or (C); and

(c) a preference eligible covered employee is entitled to credit for:

(1) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or association of producers described in section 10(b) of the Agricultural Adjustment Act; and

(2) service rendered as an employee described in 5 U.S.C. §2105(c) if such employee moves or has moved, on or after January 1, 1966, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in 5 U.S.C. §2105(c).

SEC. 1.114. WAIVER OF PHYSICAL REQUIREMENTS IN REDUCTIONS IN FORCE.

(a) If an employing office determines, on the basis of evidence before it, that a covered employee is preference eligible, the employing office shall waive, in determining the covered employee's retention status in a reduction in force:

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the employing office, on the basis of evidence before it, including any recommendation of an accredited physician submitted by the employee, the preference eligible covered employee is physically able to perform efficiently the duties of the position.

(b) If an employing office determines that a covered employee who is a preference eligible as a disabled veteran as described in 5 U.S.C. §2108(3)(c) and has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the covered position, the employing office shall notify the preference eligible covered employee of the reasons for the determination and of the right to respond and to submit additional information to the employing office within 15 days of the date of the notification. Should the preference eligible covered employee make a timely response, the highest ranking individual or group of individuals with authority to make employment decisions on behalf of the employing office, shall render a final determination of the physical ability of the preference eligible covered employee to perform the duties of the covered position, taking into account the evidence before it, including the response and any additional information provided by the preference eligible. When the employing office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the preference eligible covered employee.

(c) Nothing in this section shall relieve an employing office of any obligation it may

have pursuant to the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3).

SEC. 1.115. TRANSFER OF FUNCTIONS.

(a) When a function is transferred from one employing office to another employing office, each covered employee in the affected position classifications or job classifications in the function that is to be transferred shall be transferred to the receiving employing office for employment in a covered position for which he/she is qualified before the receiving employing office may make an appointment from another source to that position.

(b) When one employing office is replaced by another employing office, each covered employee in the affected position classifications or job classifications in the employing office to be replaced shall be transferred to the replacing employing office for employment in a covered position for which he/she is qualified before the replacing employing office may make an appointment from another source to that position.

SUBPART E—ADOPTION OF VETERANS' PREFERENCE POLICIES, RECORDKEEPING & INFORMATIONAL REQUIREMENTS.

Sec.

1.116. Adoption of veterans' preference policy.

1.117. Preservation of records made or kept.

1.118. Dissemination of veterans' preference policies to applicants for covered positions.

1.119. Information regarding veterans' preference determinations in appointments.

1.120. Dissemination of veterans' preference policies to covered employees.

1.121. Written notice prior to a reduction in force.

SEC. 1.116. ADOPTION OF VETERANS' PREFERENCE POLICY.

No later than 120 calendar days following Congressional approval of this regulation, each employing office that employs one or more covered employees or that seeks applicants for a covered position shall adopt its written policy specifying how it has integrated the veterans' preference requirements of the Veterans Employment Opportunities Act of 1998 and these regulations into its employment and retention processes. Upon timely request and the demonstration of good cause, the Executive Director, in his/her discretion, may grant such an employing office additional time for preparing its policy. Each such employing office will make its policies available to applicants for appointment to a covered position and to covered employees in accordance with these regulations. The act of adopting a veterans' preference policy shall not relieve any employing office of any other responsibility or requirement of the Veterans Employment Opportunity Act of 1998 or these regulations. An employing office may amend or replace its veterans' preference policies as it deems necessary or appropriate, so long as the resulting policies are consistent with the VEOA and these regulations.

SEC. 1.117. PRESERVATION OF RECORDS MADE OR KEPT.

An employing office that employs one or more covered employees or that seeks applicants for a covered position shall maintain any records relating to the application of its veterans' preference policy to applicants for covered positions and to workforce adjustment decisions affecting covered employees for a period of at least one year from the date of the making of the record or the date

of the personnel action involved or, if later, one year from the date on which the applicant or covered employee is notified of the personnel action. Where a claim has been brought under section 401 of the CAA against an employing office under the VEOA, the respondent employing office shall preserve all personnel records relevant to the claim until final disposition of the claim. The term "personnel records relevant to the claim", for example, would include records relating to the veterans' preference determination regarding the person bringing the claim and records relating to any veterans' preference determinations regarding other applicants for the covered position the person sought, or records relating to the veterans' preference determinations regarding other covered employees in the person's position or job classification. The date of final disposition of the charge or the action means the latest of the date of expiration of the statutory period within which the aggrieved person may file a complaint with the Office or in a U.S. District Court or, where an action is brought against an employing office by the aggrieved person, the date on which such litigation is terminated.

SEC. 1.118. DISSEMINATION OF VETERANS' PREFERENCE POLICIES TO APPLICANTS FOR COVERED POSITIONS.

(a) An employing office shall state in any announcements and advertisements it makes concerning vacancies in covered positions that the staffing action is governed by the VEOA.

(b) An employing office shall invite applicants for a covered position to identify themselves as veterans' preference eligible applicants, provided that in doing so:

(1) the employing office shall state clearly on any written application or questionnaire used for this purpose or make clear orally, if a written application or questionnaire is not used, that the requested information is intended for use solely in connection with the employing office's obligations and efforts to provide veterans' preference to preference eligible applicants in accordance with the VEOA; and

(2) the employing office shall state clearly that disabled veteran status is requested on a voluntary basis, that it will be kept confidential in accordance with the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3), that refusal to provide it will not subject the individual to any adverse treatment except the possibility of an adverse determination regarding the individual's status as a preference eligible applicant as a disabled veteran under the VEOA, and that any information obtained in accordance with this section concerning the medical condition or history of an individual will be collected, maintained and used only in accordance with the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3).

(3) the employing office shall state clearly that applicants may request information about the employing office's veterans' preference policies as they relate to appointments to covered positions, and shall describe the employing office's procedures for making such requests.

(c) Upon written request by an applicant for a covered position, an employing office shall provide the following information in writing:

(1) the VEOA definition of veterans' "preference eligible" as set forth in 5 U.S.C. §2108 or any superseding legislation, providing the

actual, current definition in a manner designed to be understood by applicants, along with the statutory citation;

(2) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to appointments to covered positions, including any procedures the employing office shall use to identify preference eligible employees;

(3) the employing office may provide other information to applicants regarding its veterans' preference policies and practices, but is not required to do so by these regulations.

(d) Employing offices are also expected to answer questions from applicants for covered positions that are relevant and non-confidential concerning the employing office's veterans' preference policies and practices.

SEC. 1.119. INFORMATION REGARDING VETERANS' PREFERENCE DETERMINATIONS IN APPOINTMENTS.

Upon written request by an applicant for a covered position, the employing office shall promptly provide a written explanation of the manner in which veterans' preference was applied in the employing office's appointment decision regarding that applicant. Such explanation shall include at a minimum:

(a) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to appointments to covered positions; and

(b) a statement as to whether the applicant is preference eligible and, if not, a brief statement of the reasons for the employing office's determination that the applicant is not preference eligible.

SEC. 1.120. DISSEMINATION OF VETERANS' PREFERENCE POLICIES TO COVERED EMPLOYEES.

(a) If an employing office that employs one or more covered employees provides any written guidance to such employees concerning employee rights generally or reductions in force more specifically, such as in a written employee policy, manual or handbook, such guidance must include information concerning veterans' preference under the VEOA, as set forth in subsection (b) of this regulation.

(b) Written guidances described in subsection (a) above shall include, at a minimum:

(1) the VEOA definition of veterans' "preference eligible" as set forth in 5 U.S.C. §2108 or any superseding legislation, providing the actual, current definition along with the statutory citation;

(2) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to reductions in force, including the procedures the employing office shall take to identify preference eligible employees.

(3) the employing office may provide other information in its guidances regarding its veterans' preference policies and practices, but is not required to do so by these regulations.

(c) Employing offices are also expected to answer questions from covered employees that are relevant and non-confidential concerning the employing office's veterans' preference policies and practices.

SEC. 1.121. WRITTEN NOTICE PRIOR TO A REDUCTION IN FORCE.

(a) Except as provided under subsection (c), a covered employee may not be released due to a reduction in force, unless the covered employee and the covered employee's exclusive representative for collective-bargaining

purposes (if any) are given written notice, in conformance with the requirements of paragraph (b), at least 60 days before the covered employee is so released.

(b) Any notice under paragraph (a) shall include—

(1) the personnel action to be taken with respect to the covered employee involved;

(2) the effective date of the action;

(3) a description of the procedures applicable in identifying employees for release;

(4) the covered employee's competitive area;

(5) the covered employee's eligibility for veterans' preference in retention and how that preference eligibility was determined;

(6) the retention status and preference eligibility of the other employees in the affected position classifications or job classifications within the covered employee's competitive area, by providing:

(A) a list of all covered employee(s) in the covered employee's position classification or job classification and competitive area who will be retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible, and

(B) a list of all covered employee(s) in the covered employee's position classification or job classification and competitive area who will not be retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible.

(7) a description of any appeal or other rights which may be available.

(c) The director of the employing office may, in writing, shorten the period of advance notice required under subsection (a), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

(d) No notice period may be shortened to less than 30 days under this subsection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from American Samoa (Mr. FALEOMAVAEGA) and the gentleman from California (Mr. DANIEL E. LUNGREN) each will control 20 minutes.

The Chair recognizes the gentleman from American Samoa.

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on Senate Concurrent Resolution 77.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from American Samoa?

There was no objection.

Mr. FALEOMAVAEGA. I yield myself such time as I may consume.

Mr. Speaker, agreeing to Senate Concurrent Resolution 77 will complete legislative branch coverage under the VEOA. The Senate has already covered itself. Thus, qualified veterans who apply for covered positions within the legislative branch will be given preference rights among job applicants and remedies to enforce those rights. This initiative has bipartisan and bicameral support.

I reserve the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of Senate Concurrent Resolution 77 which does approve the final regulations implementing the Veterans Employment Opportunities Act of 1998. Almost identical to the legislation we just passed, this bill would extend the regulations to offices that serve both the House and the Senate.

These regulations are long overdue. I thank the chairman and his staff for their diligence in moving them forward. I thank the gentleman from American Samoa for bringing this to the floor.

I urge my colleagues to support our veterans by passing Senate Concurrent Resolution 77.

I yield back the balance of my time. Mr. FALEOMAVAEGA. Mr. Speaker, I also yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa (Mr. FALEOMAVAEGA) that the House suspend the rules and concur in the concurrent resolution, S. Con. Res. 77.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING STATUES IN CAPITOL FOR DISTRICT OF COLUMBIA AND TERRITORIES

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5493) to provide for the furnishing of statues by the District of Columbia for display in Statuary Hall in the United States Capitol, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FURNISHING OF STATUES FOR STATUARY HALL BY DISTRICT OF COLUMBIA AND TERRITORIES AND POSSESSIONS.

(a) IN GENERAL.—The President is authorized to invite each jurisdiction described in section 3 to provide and furnish a statue, in marble or bronze, of a deceased person who has been a citizen of the jurisdiction, and illustrious for his or her historic renown or for distinguished civic or military services, such as the jurisdiction may deem to be worthy of this national commemoration; and when so furnished, the same shall be placed in Statuary Hall in the United States Capitol.

(b) LIMITATION.—No statue of any individual may be placed in Statuary Hall pursuant to this Act until after the expiration of the 10-year period which begins on the date of the individual's death.

SEC. 2. REPLACEMENT OF STATUES.

(a) REQUEST BY JURISDICTION.—

(1) IN GENERAL.—A jurisdiction described in section 3 may request the Joint Committee on the Library of Congress to approve the replacement of a statue the jurisdiction has

provided for display in Statuary Hall in the United States Capitol under section 1.

(2) CONDITIONS.—A request shall be considered under paragraph (1) only if—

(A) the request has been approved by a resolution adopted by the legislature of the jurisdiction (or its equivalent) and the request has been approved by the chief executive of the jurisdiction; and

(B) the statue to be replaced has been displayed in the United States Capitol for at least 10 years as of the time the request is made, except that the Joint Committee may waive this requirement for cause at the request of the jurisdiction.

(b) AGREEMENT UPON APPROVAL.—If the Joint Committee on the Library of Congress approves a request under subsection (a), the Architect of the Capitol shall enter into an agreement with the jurisdiction involved to carry out the replacement in accordance with the request and any conditions the Joint Committee may require for its approval. Such agreement shall provide that—

(1) the new statue shall be subject to the same conditions and restrictions as apply to any statue provided by the jurisdiction under section 1; and

(2) the jurisdiction shall pay any costs related to the replacement, including costs in connection with the design, construction, transportation, and placement of the new statue, the removal and transportation of the statue being replaced, and any unveiling ceremony.

(c) LIMITATION ON NUMBER OF STATUES.—Nothing in this section shall be interpreted to permit any jurisdiction described in section 3 to have more than 1 statue on display in the United States Capitol.

(d) OWNERSHIP OF REPLACED STATUES.—

(1) TRANSFER OF OWNERSHIP.—Subject to the approval of the Joint Committee on the Library, ownership of any statue replaced under this section shall be transferred to the jurisdiction involved.

(2) PROHIBITING SUBSEQUENT DISPLAY IN CAPITOL.—If any statue is removed from the United States Capitol as part of a transfer of ownership under paragraph (1), then it may not be returned to the Capitol for display unless such display is specifically authorized by Federal law.

(e) RELOCATION OF STATUES.—The Architect of the Capitol, upon the approval of the Joint Committee on the Library and with the advice of the Commission of Fine Arts as requested, is authorized and directed to provide for the reception, location, and relocation of any statues received on or after the date of the enactment of this Act from a jurisdiction under section 1.

SEC. 3. JURISDICTIONS DESCRIBED.

The jurisdictions described in this section are as follows:

(1) The District of Columbia.

(2) The Commonwealth of Puerto Rico.

(3) Guam.

(4) American Samoa.

(5) The United States Virgin Islands.

(6) The Commonwealth of the Northern Mariana Islands.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from American Samoa (Mr. FALEOMAVAEGA) and the gentleman from California (Mr. DANIEL E. LUNGREN) each will control 20 minutes.

The Chair recognizes the gentleman from American Samoa.

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise

and extend their remarks in the RECORD and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from American Samoa?

There was no objection.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in strong support of H.R. 5493, as amended, which will invite each of the territories, and especially including the District of Columbia, to provide a statue to be placed with other such statues from the 50 States that are now all over the U.S. Capitol.

First of all, I do want to thank the chairman of the Committee on House Administration, the gentleman from Pennsylvania, my good friend, Mr. BRADY, for his support and leadership in bringing this legislation, and also, my good friend from California (Mr. LUNGREN) for his support. With the help of Chairman BRADY and his staff, H.R. 5493 now includes language making it favorable to have this bill brought now before the floor for consideration as it was approved by the committee.

□ 2100

I want to especially thank my good friend and colleague, the distinguished lady from the District of Columbia, Ms. ELEANOR NORTON, for her willingness to work with us on this important bill. And I want to acknowledge the joint efforts that we have made in advocating the importance of this bill for the five U.S. territories and especially also for the District of Columbia, which is basically to provide and furnish to the Architect of the Capitol a statue honoring a prominent citizen of such jurisdiction to be placed in the National Statuary Hall in the same manner as statues now honoring citizens of the States.

Since its inception in 1864, the National Statuary Hall holds a grand display of statues donated to commemorate each of the 50 States. The various statues with their historical significance have added to the aesthetics and overall impressive architectural design of the U.S. Capitol. To the 3 million to 5 million annual visitors to the U.S. Capitol, the National Statuary Hall serves as a reminder of the values and significant contributions of certain individuals that shape the foundation upon which this great country was founded.

And 5 years ago, the Architect of the Capitol received a marble statue of Po'pay from the State of New Mexico and a bronze statue of Sarah Winnemucca from the State of Nevada, making the entire collection complete in its representation of the 50 States under the original law of 1864. It was also at the same time that I introduced a bill to invite territories, including at the time American Samoa, Guam, Puerto Rico, and the U.S. Virgin Is-

lands, to furnish statues to be placed in the National Statuary Hall. The language was similar to the one proposed by the former Delegate from Guam Ben Blaz in 1985, except I proposed permission for the territories to furnish a single statue.

Earlier this year, I introduced a similar bill with modified language to include the CNMI. I am pleased that H.R. 5493 now has incorporated all of these requests. And again, I want to thank Chairman BRADY and Ranking Member LUNGREN and members of the House Administration Committee and staff for their support of this proposal.

With that, Mr. Speaker, I urge support of this bill and reserve the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 5493. This bill permits the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands to each display one statue here in the U.S. Capitol.

Mr. Speaker, the District of Columbia and these territories of the United States are important pieces of the larger mosaic that make up our national identity, and I support their right to honor a noteworthy figure of their communities. Statues are funded by the individual territories. Therefore, this legislation is unusual; it's budget-neutral. In the coming years, I look forward to welcoming these statues to the Congress and learning more about the individuals that each such entity chooses to honor.

So I would urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I gladly yield all the time that she wants to my good friend, the distinguished Delegate from the District of Columbia, Ms. ELEANOR HOLMES NORTON.

Ms. NORTON. I thank my good friend from American Samoa, with whom I work so closely and so often.

Mr. Speaker, I am particularly grateful this evening to Chairman BRADY for working so closely with me on the bill for statues for the District of Columbia, a bill I have introduced for years but that did not move until Mr. BRADY became chair.

However, Ranking Member DAN LUNGREN deserves special thanks for today's bill. When he said he could not support my bill for two statues for the District, he didn't say "no" to everything. He introduced his own bill for one statue for the District and one for each of the territories. The bill before the House this evening is essentially that bill, the Lungren bill.

Our original bill for two statues for the District of Columbia was intro-

duced only to give some small recognition to the taxpayers of the District, who get little enough recognition for their taxpaying status. In the end, in the spirit of compromise represented by Mr. LUNGREN's bill, I decided that we should seek to move Mr. LUNGREN's bill at this time, and I thank him for his bill.

We recognize that the statues for each State are mere symbols, but for us, they are symbols of American citizenship itself, as embedded in the recognition of their own outstanding citizens by each State. One need only go downstairs in this House to watch visitors from their own congressional districts as they view their statues to see the power of the patriotism and pride the statues inspire in their own constituents.

The Lungren bill creates a dilemma for the District of Columbia, however. So great was the desire for the statues generated by my bill that when citizens were asked to indicate who they wanted to represent the city in statue for the United States Capitol, well, the citizens chose two great Americans, had their statues designed and actually built and placed in the District's city hall until such time as this bill, or my original bill, passed the House. And if this bill passes, for now, they will have to decide which one of two great men will represent the city. This will be difficult because it speaks volumes about who we are in the District, that the two men chosen were not only longtime distinguished District of Columbia residents but also are great Americans apart from their District identity.

Frederick Douglass, born a slave, who became the greatest human rights leader of his time but also was U.S. Marshal for the District of Columbia. And District of Columbia recorder of deeds. And, of course, resident of Southeast Washington, whose majestic home is now a National Park Service site with thousands of visitors who come each year. And Pierre L'Enfant, the great patriot of the American Revolutionary War, later appointed by George Washington to design the Nation's Capital.

We have decided it is better to have to decide which one of two great residents of the District of Columbia will represent our city for now than to have no choice at all. I ask this House to support this bill. And again, I thank Mr. LUNGREN for his compromise in introducing it.

Mr. DANIEL E. LUNGREN of California. I yield myself as much time as I may consume.

I thank the gentlelady for those nice comments. I understand the importance of having a statue that reflects the people of the District of Columbia and the territories. I remember the pride that we had, as Californians, when we brought the statue of Ronald Reagan here just about a year and a

half ago. That is a great example of someone who was not born in California but someone who rose to great prominence in California and someone who loved our State.

□ 2110

So I appreciate very, very much, and I love this spirit of bipartisanship that the city has shown to choose Mr. L'Enfant, who, of course, was a historic figure before we had the Democratic or Republican Parties, and Frederick Douglass, a prominent Republican and a great American.

So I thank you for that great choice. And I know who I'd vote for, but you have a choice of two great Americans representing the District of Columbia. I would urge my colleagues to support this resolution.

I yield back the balance of my time.
Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

I want to echo the sentiments expressed earlier by my colleague from the District of Columbia, again, commending and thanking our good friend from California for his support and his leadership in bringing this piece of legislation to the floor, and especially Chairman BRADY and all his efforts and the members of his staff for their hard work in bringing this bill.

Mr. HOYER. Mr. Speaker, the U.S. Capitol features statues from every State in our Union—statues that honor some of the most memorable and influential people in America's history. The people of the District of Columbia are part of our Union, as well: They pay federal taxes, vote in presidential elections, and share citizenship with us. But when it comes to seeing the District's most notable citizens honored here in the Capitol, in their own city, the people of Washington, DC have again been left out. That needs to change.

This bill would give the people of the District of Columbia—along with the people of the territories of Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands—their due in the U.S. Capitol. I believe, in fact, that the District of Columbia deserves two statues, just like any State; but failing that, I believe that some recognition is better than none.

The people of the District of Columbia have made remarkable contributions to America's history, its culture, and its ongoing work to guarantee equal rights to all—and it's time that those contributions are recognized here in the heart of our democracy. I urge my colleagues to support this bill.

Ms. BORDALLO. Mr. Speaker, I rise today in strong support of the bill in the nature of a substitute to H.R. 5493, a bill to provide for the furnishing of a statue by each of the U.S. Territories and the District of Columbia for display in Statuary Hall in the United States Capitol. I would like to thank my colleagues Congresswoman ELEANOR HOLMES NORTON of Washington, DC, and Congressman ENI FALEOMAVAEGA of American Samoa for their work on this legislation. I would also like to thank Congressman ROBERT BRADY, Chairman

of the Committee on House Administration and Congressman DANIEL LUNGREN, Ranking Member of the Committee on House Administration for working with the Delegates from the territories and agreeing to amend the bill with substitute language that authorizes one statue for each of the U.S. territories.

For Americans across the country, one of the key highlights of a visit to the U.S. Capitol is locating and observing the statues representing their home states. It is an opportunity to see that their local history is represented and valued in our Nation's Capitol, and a chance to share that history with others from around the country. However, visitors from America's five territories and the District of Columbia are disappointed to find that they have no representation in this time-honored tradition.

H.R. 5493, as amended, would remedy this situation by permitting each of the U.S. territories and the District of Columbia to house one memorial statue in the U.S. Capitol Building. These statues would be placed among the existing 100 state statues and would show the historical ties the U.S. territories and states have shared. Like the 50 states, each territory has a unique and rich history, and each new statue in the National Statuary Hall Collection will allow the U.S. territories the opportunity to share that history with the millions of visitors who visit the U.S. Capitol Building each year. I urge my colleagues to grant the Americans who reside in the U.S. Territories and the District of Columbia this opportunity and vote in favor of H.R. 5493, as amended.

Mr. SABLAN. Mr. Speaker, I support H.R. 5493, authorizing the District of Columbia, American Samoa, Guam, Puerto Rico, the Virgin Islands, and the Northern Mariana Islands each to display a statue here in the Capitol.

I thank the gentleman from American Samoa, ENI FALEOMAVAEGA, who has championed this idea to include the territories for many years. And I thank my colleagues on both sides of the aisle who support the non-state areas of our country each having one statue of a distinguished person they regard as worthy of praise and commemoration displayed here.

Currently, the National Statuary Hall Collection holds statues from all 50 states. Each has produced native sons or daughters who exemplify the state's sense of itself or who have played a significant role in the history of this great United States of America. H.R. 5493 will recognize that the non-state areas of our Nation have also contributed and sacrificed for America. As Americans, we, too, would like to share our experience and our pride, as embodied in one individual, with the rest of the American people here in our Capitol.

I ask that my colleagues support H.R. 5493.

Mr. BRADY of Pennsylvania. Mr. Speaker, H.R. 5493, as amended, will grant to the District of Columbia and the five territories of the United States the right to each place one statue honoring a distinguished individual into the National Statuary Hall Collection in the U.S. Capitol. Currently, there are 100 statues in the Collection, with each of the 50 states represented by two statues.

The Committee on House Administration had originally reported two bills on this subject. H.R. 5493, by the gentlewoman from the

District of Columbia, would have given the District the right to have two statues. H.R. 5711, by the gentleman from American Samoa, would have given American Samoa, Guam, Puerto Rico, the Northern Mariana Islands and the Virgin Islands one statue each.

It became unlikely that these bills could pass the House separately, and there has been continuing controversy about giving the District of Columbia two statues. Therefore, I am supporting this amended legislation in the form recommended by the Ranking Minority Member, Representative LUNGREN, to grant each jurisdiction one statue. I have become convinced that this is an excellent compromise which will provide an opportunity for all of these jurisdictions to enjoy representation in the National Statuary Hall Collection.

Mr. Speaker, no Federal funds would be needed to implement this legislation. All costs of production and placement of the statues would be borne by the District of Columbia and the five territories.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa (Mr. FALEOMAVAEGA) that the House suspend the rules and pass the bill, H.R. 5493, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide for the furnishing of statues by the District of Columbia and territories and possessions of the United States for display in Statuary Hall in the United States Capitol."

A motion to reconsider was laid on the table.

HONORING NORMAN YOSHIO MINETA

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1377) honoring the accomplishments of Norman Yoshio Mineta, and for other purposes.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1377

Whereas, in 1931, Norman Yoshio Mineta was born in San Jose, California, to Japanese immigrant parents, Kunisaku and Kane Mineta;

Whereas, in 1942, during World War II, when President Franklin Delano Roosevelt signed Executive Order 9066, branding individuals of Japanese descent as "enemy aliens" solely on the basis of their ancestry and authorizing the relocation and incarceration of 120,000 individuals of Japanese descent, Norman Yoshio Mineta and his family were forced to leave their home and live in the Santa Anita racetrack paddocks for 3 months before they were sent to their permanent assignment for the following years, the Heart Mountain internment camp near Cody, Wyoming;

Whereas, in 1953, upon graduation from the University of California Berkeley's School of

Business Administration, Norman Yoshio Mineta joined the United States Army and served as an intelligence officer in Japan and Korea;

Whereas, in 1967, Norman Yoshio Mineta was appointed to a vacant seat on San Jose's city council, making him the first minority and first Asian American city council member in San Jose, and he was subsequently elected to that seat;

Whereas, in 1971, Norman Yoshio Mineta was elected mayor of San Jose, making him the first Asian American mayor of a major United States city, during which time he provided leadership for all communities of San Jose, including minority communities, strengthening community relations between racial and ethnic minorities and the city, including the San Jose Police Department;

Whereas, from 1975 to 1995, Norman Yoshio Mineta was elected to the House of Representatives to represent California's 15th District in the heart of Silicon Valley, serving as chairman of the Committee on Public Works and Transportation of the House of Representatives, the Committee's Aviation Subcommittee, and the Committee's Surface Transportation Subcommittee, where he was a key author of the landmark Intermodal Surface Transportation Efficiency Act of 1991, taking politics out of funding for transportation and infrastructure by creating a new collaborative approach to planning;

Whereas Silicon Valley is the home of the Norman Y. Mineta San Jose International Airport;

Whereas, in 1977, Norman Yoshio Mineta, along with Frank Horton, then a Republican Member of Congress from New York, introduced into Congress a bipartisan resolution that established the first 10 days of May, the month when the first Japanese immigrants arrived in the United States in 1843 and when Chinese laborers completed the transcontinental railroad in 1869, as Asian Pacific American Heritage Week, which later was made into an annual event;

Whereas, in 1990, the entire month of May was proclaimed to be Asian Pacific American Heritage Month;

Whereas, in 1978, under the leadership of Norman Yoshio Mineta, Congress established the Commission on Wartime Relocation and Internment of Civilians and passed the most important reparations bill of our time, H.R. 442, the Civil Liberties Act of 1988, by which the United States Government officially apologized for sending families of Japanese descent to internment camps and redressed the injustices endured by Japanese-Americans during World War II, including by making available a total of \$1,200,000,000, which included the creation of the Civil Liberties Public Education Fund to educate the public about lessons learned from the internment;

Whereas, in 1994, Norman Yoshio Mineta founded and chaired the bicameral and bipartisan Congressional Asian Pacific American Caucus (CAPAC), comprised of Members of Congress who have strong interests in promoting Asian American and Pacific Islander issues and advocating the concerns of Asian Americans and Pacific Islanders;

Whereas CAPAC continues to advance the full participation of the Asian American and Pacific Islander community in our democracy, particularly in the arena of public policy;

Whereas, in 2000, Norman Yoshio Mineta became the first Asian American to hold a post in a Presidential Cabinet as Secretary of Commerce under President William J. Clinton and, in 2001, he became the first Asian American to serve as Secretary of

Transportation under President George W. Bush, again displaying his honor and ability to serve his country in a bipartisan manner;

Whereas Norman Yoshio Mineta has founded, served as a board member of, or been a key supporter of many community organizations critical to the infrastructure of the Asian American and Pacific Islander community, including the Japanese American Citizens League Norman Y. Mineta Fellowship Program, the Asian Pacific American Institute for Congressional Studies, the National Council for Asian Pacific Americans, the APIA Vote's Norman Y. Mineta Leadership Institute, the Asian American Action Fund, the Asian Academy Hall of Fame, the Asian Leaders Association, Nikkei Youth, Organizing for America, the United States Asia Center, and the America's Opportunity Fund;

Whereas Norman Yoshio Mineta received the Presidential Medal of Freedom, the highest civilian award in the United States, in 2006 from President George W. Bush, and the Grand Cordon, Order of the Rising Sun from the Japanese Government, which was the highest honor bestowed upon an individual of Japanese descent outside of Japan; and

Whereas after experiencing one of the worst examples of Government-sanctioned racial discrimination in our Nation's history, Norman Yoshio Mineta dedicated the greater part of his working life to the service of his community and his country, and carried out his service with exemplary dignity and integrity: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors the accomplishments and legacy of a great American hero, Norman Yoshio Mineta, for his groundbreaking contributions to the Asian American and Pacific Islander community and to our Nation through his leadership in strengthening civil rights and liberty for all and for his dedication and service to the United States; and

(2) memorializes the sacrifices and suffering that many Asian Americans, Pacific Islanders, and others like Norman Yoshio Mineta endured so that we may unite with compassion and pursue truth, liberty, justice, and equality for all in the United States and the world.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from American Samoa (Mr. FALEOMAVAEGA) and the gentleman from California (Mr. DANIEL E. LUNGREN) each will control 20 minutes.

The Chair recognizes the gentleman from American Samoa.

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from American Samoa?

There was no objection.

Mr. FALEOMAVAEGA. Mr. Speaker, at this time I would like to yield all the time that he may want to consume to the distinguished author of this proposed resolution, the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Speaker, as the chair of the Congressional Asian Pa-

cific American Caucus, I rise in support of House Resolution 1377 and to pay tribute to my dear friend and mentor, Norman Yoshio Mineta.

Throughout his career, Norm, a distinguished former Member of this House, has broken through many glass ceilings, not just for himself, but also for the rest of us.

Norm was the first Asian American mayor of a major city, the first Asian American to hold a Presidential Cabinet position, trusted by both Democratic and Republican administrations.

Norm has dedicated and continues to dedicate much of his energy toward the building of the infrastructure needed for the Asian American and Pacific Islander communities to grow and thrive to what they are today.

When I think of Norm's legacy in our community, Mr. Speaker, I am reminded of the poem, "Footprints in the Sand." The poem's last line reads: "During your times of trial and suffering, when you see only one set of footprints, it was then that I carried you."

Norm was one of the first in our community to see a light at the end of our path, a path cleared by so many greats before him, and to lead us forward. As with many movements, at times we stumbled and wanted nothing more than to forget the past and bury our heads in shame. But Norm never let us stop from moving forward on our path to claim our rights as Americans. In good times, Norm marched beside us. When times were tough, Norm carried us, strengthened only by his vision of the possible and his undying patriotism and loyalty to this country.

Norm had a hand in establishing and strengthening so many of our community's key national organizations and, hence, deepened those footprints. These span from policy advocacy coalitions like the National Health Council of Asian Pacific Americans, to voter engagement organizations like APIA Vote, to organizations and fellowship programs that develop the future leaders of our community, such as the Asian Pacific American Institute for Congressional Studies, to the National Japanese American Memorial Foundation and the Japanese American Citizens League, to establishing the Congressional Asian Pacific American Caucus, which I chair today.

Some of the national accomplishments, because he is so connected to our communities, Mr. Speaker, it is easy to forget what a major player Norm has been on a national level.

During his 20 years in Congress, Norm rose to the chairmanship of the House Transportation Committee, where he authored the landmark Intermodal Surface Transportation Efficiency Act of 1991.

And Norm was instrumental in the passage of H.R. 442, the Civil Liberties Act of 1988, which provided an official

government apology and redress for Japanese Americans interned during World War II, people like Norm, and the late Congressman Bob Matsui, his wife, Congresswoman DORIS MATSUI and myself.

In his last year in office, President Clinton appointed Norm Secretary of the Commerce Department, making him the first Asian American to hold a Cabinet post.

The following year, when President George W. Bush was organizing his Cabinet, he searched the country for the most qualified person on transportation issues and a leader who could put the interests of the country above party politics. President Bush found that leader in Norm and appointed him Secretary of Transportation. Norm served as Secretary of Transportation from 2001 to 2006, the longest serving Secretary in the history of the Department.

How fortunate our country was, Mr. Speaker, to have had a tested, experienced leader like Norm Mineta at the helm of the Transportation Department during the 9/11 terrorist attacks. Norm issued a historic order to ground all civilian air travel on that fateful day and had the skill to get the thousands of planes back up in the air and the passengers safely home to their families.

What impresses me most about Norm's leadership as Secretary of Transportation after the attacks, and perhaps what many do not know, is his strong opposition to racial and religious profiling. Having grown up in a time when Norm and his family were led away from their homes by rifles and bayonets and interned in Wyoming solely because of their ancestry, he refused to allow the same injustices to happen to innocent Muslim and Arab Americans.

From his time in local government as mayor of San Jose, to his years in Congress rising to the chairman of the House Transportation Committee, to his leadership as Secretary of Commerce for President Clinton and Secretary of Transportation for President Bush, Norm has remained rooted in social justice and love of country.

In 1980, Mr. Speaker, with the help of Norm Mineta, Congress established the Commission on Wartime Relocation and Internment of Civilians. This commission was charged with the duty of examining executive order 9066, which led to the internment of over 120,000 American citizens during World War II.

Three years later, in 1983, the commission issued its findings in the book "Personal Justice Denied," concluding that the internment was based on racial prejudice, war hysteria and a failure of political leadership.

Let me repeat, Mr. Speaker, a failure of political leadership.

Throughout his long and distinguished service to our Nation, Norm

Mineta has committed himself to making sure that our country never has a failure in political leadership like it did 7 years ago.

Every time I step into the well of this House, I'm reminded of the example Norm set for me and for others throughout his life in public service.

It is telling that during this heated political climate, both Republican and Democrats can come together to honor a man whose service supersedes party affiliation.

I thank Norm for his years of friendship and mentorship. I thank his family, his wife, Deni, his two sons, David and Stuart, his stepsons, Robert and Mark, his grandchildren, and his sister, Etsu, and four other brothers and sisters for giving Norm a life outside of work. And we know that Norm still has many years of advocacy and leadership still in him.

Mr. Speaker, I want to also thank Chairman BRADY and the House leadership for bringing this resolution to the floor.

And before I ask my colleagues to support this passage, and before I yield back the balance of my time, I just want to make it clear that this is not a memorial resolution. This is a resolution to recognize a man and his work while he's still alive and appreciated. And I know that, quite frankly, he's not prepared to accommodate a memorial.

And so with that, Mr. Speaker, I want to thank my colleagues, the leadership, for this opportunity to be able to recognize and honor an American first, a man who understands that ethnicity is important, nationality is important, our flag is important. But most of all, our allegiance to the Constitution is utmost. For that I thank you.

□ 2120

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 1377, honoring the accomplishments of Norm Mineta. I am glad the gentleman from California made it clear that, while we honor him, Mr. Mineta is not yielding back his time; he is very much with us.

Mr. Speaker, Secretary Mineta has had a distinguished and praiseworthy career in public service, and I am pleased to join my colleagues in honoring him.

Born in San Jose, California, in 1931 to Japanese immigrant parents, it was during World War II, due to Executive Order 9066, that he and his family were deemed enemy aliens and were forced to leave their home and live in the Santa Anita racetrack paddocks for 3 months before they were then sent to their permanent location at the Heart Mountain internment camp near Cody, Wyoming. And as was suggested by the

gentleman from California (Mr. HONDA), despite this humiliation, Secretary Mineta persevered.

In 1953, he graduated from the University of California Berkeley School of Business Administration and joined the United States Army, serving as an intelligence officer in Japan and Korea. In 1967, he became the first person of minority descent to serve on the San Jose City Council. In 1971, he was elected mayor of San Jose, thereby becoming the first Asian American mayor of a major U.S. city.

In 1975, he was elected to the U.S. House of Representatives, representing the 15th District of California. He served in this House until 1995. In Congress, he chaired the Committee on Public Works and Transportation, and was a key author of the landmark Intermodal Surface Transportation Efficiency Act of 1991. He also, as was said, helped establish the Asian-Pacific American Heritage Week and Asian-Pacific American Heritage Month, which rightly recognizes the role and participation of Japanese immigrants and Chinese laborers in our country.

It was through his leadership, along with others, including Senator INOUE on the Senate side, that the Commission on Wartime Relocation and Internment of Civilians was established in 1978, and 10 years later the Civil Liberties Act was passed, offering appropriate apology for the actions taken against Japanese Americans during World War II.

Mr. Speaker, I was proud to serve as vice chairman of that commission. It was at the urging of Mr. Mineta and Bob Matsui that I agreed to serve on that commission. I remember with great pride that while the issue was somber and tragic, the pursuit of truth and justice was something we all shared, guided by the leadership of Norm Mineta.

In 2000, Secretary Mineta became the first Asian American to hold a post in a Presidential cabinet, as he served as Secretary of Commerce under President Clinton, and then, of course, in 2001 became the first Asian American to serve as our Secretary of Transportation.

He was awarded the Presidential Medal of Freedom in 2006, that of course the highest civilian award given in the United States, and granted the Grand Cordon, the Order of the Rising Sun, the highest honor bestowed upon an individual of Japanese descent by the Japanese government.

Norm Mineta has lived a great life of service, of sacrifice, and dedication to this country. This resolution appropriately honors his accomplishments, his legacy, and it also inspires and encourages us to reflect upon and remember the lessons of his distinguished life.

I might say it was a pleasure to serve in the House of Representatives during the 1980s with Norm Mineta. You may

have differences of opinion with him, but he never allowed it to rise to a level of being disagreeable. He was someone that you could always speak with. And even though you may have different positions on issues on this floor, I don't think I ever heard a cross word come from Norm Mineta with respect to other Members in this House.

I certainly thank Congressman HONDA and Congresswoman CHU, both from the great State of California, for offering this resolution, and I am proud to be a cosponsor and urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, there seems to be a California conspiracy here in considering this important legislation. But be that as it may, I am honored to yield 5 minutes to the distinguished lady from California (Ms. CHU).

Ms. CHU. Mr. Speaker, I rise today to honor one of America's great pioneers. Secretary Norman Mineta is a role model for Americans of every color, background, and creed. His story is one of sacrifice, hardship, dedication, and triumph. His success in the face of adversity is not only important to Asian Americans but to all Americans.

Secretary Mineta was born to Japanese immigrant parents who came to America for a better life, even though they faced harsh conditions, particularly in the halls of Congress. After passage of the Asian Exclusion Act, Japanese immigrants were prohibited from becoming citizens, forced to carry papers with them at all times, and often harassed and detained. If they couldn't produce the proper documents, authorities threw them into prison or even out of the country.

But it didn't end there. When Mineta was a young boy, he and his parents were rounded up, forced out of their home, and shipped off to live in the Santa Anita racetrack on the infamous order of President Roosevelt during World War II. Three months later, they ended up at Heart Mountain internment camp near Cody, Wyoming, where they lived surrounded by barbed wire as the war dragged on.

For some, such treatment would make them abandon their country, but not Secretary Mineta. After graduating from business school at Cal Berkeley, he signed up for the Army and served the very Nation that imprisoned his family, and he served as an intelligence officer in Japan and Korea.

This dedication to service never left him, and when asked to join the San Jose City Council he jumped at the chance. With this City Council seat, he became the first minority and first Asian American City Council member in San Jose. It wasn't long before he was elected the first Asian American mayor of a major U.S. city, and thus began a long line of major accomplishments for a leader who was ahead of his time.

It is because of Secretary Mineta, who introduced legislation when he was in Congress, that we designate May as Asian-Pacific American Heritage Month. Because of that, today all Americans are reminded of the many contributions Asian Americans have made to this country. It was Secretary Mineta who spearheaded the long push and final passage of the Japanese American reparations bill. Because of him, finally there was an apology and relief to the 120,000 Japanese Americans who lost everything while being interned during World War II just because of their ancestry.

And it was Secretary Mineta who co-founded and cochaired the Congressional Asian Pacific American Caucus. Today, our caucus is 11 members strong, providing a unified voice for issues unique to the Asian American community.

And that was all before he became Secretary. A decade ago, he was appointed by President Clinton as the U.S. Secretary of Commerce, making him the first Asian American to be a Cabinet member, and then he was appointed—the only Democratic Cabinet Secretary under President George Bush—to head the Department of Transportation. And, after 5 years in the post, he became the longest-serving Transportation Secretary in the Department's history.

I can think of no one more deserving for this body to honor than Secretary Mineta. He is an inspiration to many, including me, and we owe a debt of gratitude for all that he has done to put Asian Americans on the map and to put America on the map. It is because of his leadership that America is a better and stronger Nation today.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I am very pleased to yield 3 minutes to the gentleman from North Carolina (Mr. COBLE) to make sure this is not just an all-California event.

□ 2130

Mr. COBLE. Mr. Speaker, I thank my friend from California for having yielded.

As has been mentioned, Mr. Speaker, the distinguished career of Norm Mineta included service in the House of Representatives, where he represented his district in California. As furthermore has been noted, he was subsequently appointed as the U.S. Department of Transportation Secretary, having served as George W. Bush's DOT Secretary.

I met Norm Mineta initially in the well of the people's House. It involved one of the first bills that I managed on the floor. In fact, it was my first managed bill. Norm and I were on opposite sides of that bill, and Norm's side prevailed. Norm then came to me across the aisle and expressed his thanks for the manner in which I had managed

the bill. I was a fledgling rookie, Mr. Speaker; Norm Mineta, a seasoned, highly-regarded Member of the United States House of Representatives. But this was vintage Mineta, always making others feel special, always elevating others.

Once he became the DOT Secretary, Norm learned that I had previously served in the United States Coast Guard. The Coast Guard at that time was a Department of Transportation service. Norm Mineta then began addressing me simply as "Coasty." To this day, I am known by Norm Mineta as "Coasty."

So, Norm, your old "Coasty" pal is honored to have participated in this resolution recognizing the accomplishments of Norm Mineta. Best regards to you, Norm, and to your family.

Mr. FALEOMAVAEGA. Mr. Speaker, from California to Massachusetts, I gladly yield 3 minutes to my good friend, the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I came to the floor to do a Special Order, which I will do subsequently, but I then saw that this was on the agenda and I was moved to speak.

I had the great honor of being the chairman of the Subcommittee on Administrative Law when the Japanese reparations and apology bill was passed. Norm Mineta and the late Bob Matsui approached me when I became chairman, this was several years after the report had come out, and we talked about it.

I had, in college, read the case, which appalled me, when the U.S. Supreme Court denied any relief to the Japanese Americans who had been so brutally mistreated with no justification, so I was well aware of it when I came here, and I was very pleased to have the opportunity to work with two great men, Norm Mineta and Bob Matsui, to undo this.

I had the enormous honor, Mr. Speaker, inspired by them, of being able to read on the floor of this House the words from that bill, "On behalf of the Nation, Congress apologizes." I cannot think of a greater example of the true strength of this Nation than for us to have voted, Yes, we apologize. We did wrong. So I was very pleased to work with Norm.

But here is the point I wanted to add. I had been the chairman. It was my job to do this, and we got the bill through. Several years after that, at the Japanese American Citizens League, a group of younger people offered an amendment to support the right of gay men and lesbians, people like myself, to express their love for each other by marrying. That was early in the movement for this, and there was kind of a generational divide, I believe, about what should happen.

Norm Mineta, by then a senior Member of Congress, was involved. Now, he

got involved voluntarily. Members here will understand. We have enough controversy here on the floor. We don't generally seek out controversies that don't involve our formal duties. Indeed, we tend to duck them.

Norm Mineta intervened in that debate, not inappropriately, but in the formal sense of an intervention, and said, in words that move me to this day, that a gay man, myself, had been the chairman of the committee that brought forward this bill, and after that, how could he and how could an organization in which he played a major role deny our basic rights?

Now, obviously that meant a great deal to me, but it meant something of universal appeal. Here was Norm Mineta, having worked hard and led us to deal with the grave injustice to which he had been subjected, making a point that I hope Members will understand: Injustice cannot be divided and fought by some and not by others. It cannot be that people will object only when they are treated unfairly but turn their backs when others are treated the same.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FALEOMAVAEGA. I yield the gentleman 1 additional minute.

Mr. FRANK of Massachusetts. Norm Mineta, in a very uncharacteristic act, not for Norm, who was a great, generous man, Norm Mineta, in an act uncharacteristic for a Member of Congress, involved himself in that debate to make the point—not simply about me; I was incidental to the broader point he was making—that human rights ought to be treated as indivisible, that it is not for this group and that group, and that people should, yes, fight for themselves, but having fought for themselves, they should not stint from fighting for others.

That was a lesson that Norm taught a whole lot of people in, as has been said, not an obnoxious way, a loud way, but with a genuine warmth and sincerity.

As I look back at some point on my congressional career, having had the opportunity to work with Norm Mineta on that bill and having watched the way in which he dealt with it, the way in which he turned what could have been a source of anger into a lesson for all of us about the indivisibility of the fight for justice, will be one of the highlights.

I thank all of those involved for bringing this forward.

Mr. DANIEL E. LUNGREN of California. If the gentleman from American Samoa has no other speakers, I yield back the balance of my time.

Mr. FALEOMAVAEGA. I yield myself such time as I may consume.

Mr. Speaker, not wanting to be repetitious, and I think all has been said by our previous speakers, I do want to thank the gentleman from California

for his support of this legislation, and Chairman BRADY as well and members of the House Administration Committee.

Mr. Speaker, I learned something that I don't think was ever mentioned in my personal and close association and in knowing this giant named Norm Mineta and my former colleague, the late Congressman Bob Matsui. The interesting thing about the history of these two distinguished gentleman, Mr. Speaker, is that they were both incarcerated in these relocation camps that I call concentration camps when they were in their early years, 5, 6, 7 years of age.

One of the distinguished things that I always remember that Norm shared with us, the story about being in these relocation camps when they were in their youth, was the nature of how these machine gun nests were being placed within the compound. The interesting thing is they asked what is the purpose of having these machine gun nests on these compounds where the Japanese Americans were being interned. They were told these were to protect them from outsiders who may come to do them harm. What is even more ironic about this is the fact that the machine guns were pointed inward into the compound, rather than having any sense of concern to worry about what may happen outside the compound.

Mr. Speaker, as a former member of the 100th Battalion, 442nd Infantry Group in the State of Hawaii, it has been my privilege to serve as a proud member of the 100th Battalion, 442nd Infantry.

Just to give you a little sense of history of what the legacy and what Norm Mineta represents as far as American history is concerned, despite all the height of racism and bigotry that was heaped against Americans who happened to be of Japanese ancestry—they were herded like cattle, over 100,000 Americans, men, women, and children, put in several of these camps for fear that they might cause problems and whatever they felt was necessary—but despite all of that, despite all of that, some 10,000 Japanese American men volunteered to serve and fight our enemy during World War II, and as a result, the 100th Battalion, 442nd Infantry were organized. And get a load of this, Mr. Speaker, there were 18,000 individual medals, 9,000 Purple Hearts, some 560 Silver Stars, 52 Distinguished Service Crosses, and only one Medal of Honor. Only one Medal of Honor, Mr. Speaker.

I am so happy that during the Clinton administration this was corrected. When there was a review process, 19 additional Medals of Honor were awarded to these Japanese American soldiers who fought for our country in World War II, and it so happens that Senator INOUE was one of those recipients of the Medal of Honor.

So I want to share that little bit of history with my colleagues. Norm Mineta is truly a giant of a man, and among the 15 million Asian Pacific Americans, we are so proud to see what he has done, not only as a leader, but providing tremendous service to our Nation.

□ 2140

I want to say that, Mr. Speaker, respectfully, and with my good friend from Massachusetts and the delegation from California for their support of this proposed legislation.

We gather today to honor a special man—a dear friend and mentor to me—Mr. Norman Yoshio Mineta. I thank the gentleman from California, Mr. HONDA, for sponsoring this resolution, and I thank my fellow Members of Congress who join us today.

Norman Mineta is a ground-breaker and a pioneer. His accomplishments and his character make him a role model to former colleagues, to Members of Congress and other government leaders, to his former constituents and his community, to Asian-Pacific Americans, and to anyone wanting to make a contribution to their country through public service.

As a pioneer, Mr. Mineta is a man of many "firsts." He was the first Asian-Pacific American mayor of a major U.S. city, serving as mayor of San Jose from 1971–1975. He was also the first Asian American to hold a post in the presidential cabinet, appointed as Secretary of Commerce in 2000 by President Clinton. In 2001, Mineta was appointed to a cabinet post once again as Secretary of Transportation in the Bush Administration, also becoming the first Asian-Pacific American to hold the position, and the first Secretary of Transportation to have previously served in a cabinet position. At the end of his term in 2006, Mineta was the longest-serving Secretary of Transportation since the position's inception in 1967.

Before his successes in the Clinton and Bush administrations, Mineta represented California's Silicon Valley area in the U.S. House of Representatives for 20 years. During his years of outstanding leadership, Mineta also chaired the House Public Works and Transportation Committee between 1992 and 1994. Before becoming Committee Chair, he served as Chair for the Committee's Aviation Subcommittee from 1981 to 1988, and its Surface Transportation Subcommittee from 1989 to 1991.

In my own life, Mr. Mineta has played an influential role, setting the path for future Asian-Pacific Americans who serve in this Chamber. In 1994, Mineta founded the Congressional Asian Pacific American Caucus (CAPAC), and served as its first Chair. Since inception, CAPAC has been a strong advocate for the Asian-Pacific American community on critical issues such as housing, healthcare, immigration, civil rights, economic development, and education, just to name a few. I am honored to serve with Mr. HONDA and our fellow members in this body of advocates, continuing the groundbreaking path that Norman Mineta helped to pave for the Asian-Pacific American community.

Truly Norman Mineta's service is remarkable. Yet what makes his story even more remarkable is his example of overcoming hardship while maintaining a heart of service. Born in San Jose to Japanese immigrant parents, a young Mineta, along with thousands of other Japanese immigrants and Japanese Americans, spent the early years of his life in Japanese internment camps. Yet Mineta continued with a spirit of service and excellence, graduating from business school, serving as an intelligence officer in the U.S. Army, and later reaching unprecedented heights in his service to his Silicon Valley community, the Asian American community, and the nation.

Today I ask my fellow Members of Congress to honor a man whose character, patriotism, and heart of service calls for our sincere respect and gratitude. Norm, today I celebrate and thank you for your service. More importantly, I thank you for your example to the citizens of this nation.

I urge my colleagues to support this legislation.

Mr. AL GREEN of Texas. Mr. Speaker, it is with great enthusiasm that I support House Resolution 1377 honoring the accomplishments of the Honorable Norman Mineta. Former Congressman Norman Mineta is an outstanding leader and a noble American.

Former Congressman Mineta lived through a dark time in our Nation's history when we forced Japanese Americans into internment camps based solely on their heritage. He was forced to leave his home and eventually sent to the Heart Mountain Internment Camp near Cody, Wyoming. This injustice is in part what prompted him to champion the struggle against social injustice and oppression. Congressman Mineta addressed the injustices Japanese Americans endured during World War II with H.R. 442, the Civil Liberties Act of 1988, which passed with his leadership. He persisted in fighting for justice and equal rights for all. He has a human rights legacy worthy of being honored by this august body.

Hence, today as we honor him for his accomplishments, we are reminded of the moral imperative to fight against human indignities and injustices. Former Congressman Mineta not only understood the value of acknowledging our past mistakes but also took meaningful actions to ensure that history does not repeat itself.

Former Congressman Mineta reminds us that collaborative efforts with the Asian American community can produce a greater America. This is evidenced by his founding the Congressional Asian Pacific American Caucus (CAPAC) which continues to use collaborative efforts to promote ideals for the well-being of Asian American and Pacific Islanders, as well as all Americans.

The history of Asian Americans and Pacific Islanders will continue to shape our Nation as their contributions make America a greater nation. This is why Asian American and Pacific Islander issues must continue to be a part of the great American debate.

Today, we honor Former Congressman Mineta for his accomplishments which have strengthened our entire nation. His legacy continues to remind us that liberty and justice for all can indeed be a reality for all.

Ms. HIRONO. Mr. Speaker, I rise today in support of H. Res. 1377, which recognizes the

accomplishments of a great American and a role model for the entire American Asian and Pacific Islander community—Norman Yoshio Mineta.

Secretary Mineta's long list of accomplishments have and continue to be a source of great pride to the Asian American community. At a time when few Asian Americans or Pacific Islanders were visible in the public sector, Norm was elected to Congress and rose to become Chairman of the House Transportation and Infrastructure Committee, on which I currently serve. I am always happy to see his face among the many portraits of chairmen lining the walls of the committee room. He served as Secretary of Commerce under President Bill Clinton and Secretary of Transportation under President George W. Bush.

I especially remember Norm's swearing in as Secretary of Commerce. I met Norm shortly after becoming Hawaii's Lieutenant Governor. We quickly became friends. I was so thrilled when I learned of his appointment as Secretary of Commerce that I flew up to Washington on very short notice to attend his swearing-in ceremony.

In addition to his more publicly acknowledged accomplishments, Norm is well recognized as a champion for ensuring the full participation of Asian Americans and Pacific Islanders in American life. He is an acknowledged leader in attaining redress for Japanese Americans who were interned during World War II. As a child, his family was relocated to an internment camp so he understood well how the injustice, hardship, and humiliation of this shameful episode impacted the Japanese American community. As a member of Congress, he established the Congressional Asian Pacific American Caucus (CAPAC), which remains active today.

We are all proud of Norm and thankful for all he did during his many years of public and private service. But I also want to say something about the man. He is a delight. Norm is a great storyteller; he has great comic timing and a wonderful sense of humor. I feel very lucky to call him friend.

Norman Mineta exemplifies the Japanese concept of *gaman*—to endure the seemingly unbearable with patience and dignity. He was dealt a difficult hand in being uprooted with his family and forced to live behind barbed wire for the sin of being of Japanese ethnicity. But he has created a beautiful life full of accomplishment, the love of friends and family, and the knowledge that he has truly made a difference.

Ms. HARMAN. Mr. Speaker, I rise today to honor the many achievements, years of public service and the tremendous contributions to the Asian American and Pacific Islander community made by my friend and former colleague, Norman Mineta.

Norman's remarkable life has taken him from a World War II Wyoming internment camp to the Halls of Congress and consecutive cabinet positions under two Presidents—one Democrat and one Republican.

He was still in Congress when I was first elected—and a mentor to California newbies like me. When he resigned in 1995 to join Lockheed Martin, he did a considerable amount of good in my district and our friendship grew.

In 2000, he was appointed by President Clinton as the Secretary of Commerce—the first Asian American to hold a Cabinet post. He then became the longest serving Secretary of Transportation in U.S. history, under President Bush.

As the lone Democrat in a Republican Cabinet, Norm was a trailblazer for bipartisanship at a time when the Nation was deeply divided.

When the planes hit the Pentagon and Twin Towers on 9/11, Norm was the steady hand that the country needed to issue the unprecedented order to ground all civilian aircraft traffic.

As a public official who has served his country for more than 40 years, Norm has been an advocate of equal rights and opportunity for all Americans, has faced and overcome serious debilitating back problems and been devoted to his wife Deni and their blended family.

Norm is a wonderful man and reflects the best in a public servant.

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise today in support of H. Res. 1377, honoring the accomplishments of Norman Yoshio Mineta.

Norm Mineta has had an extraordinary career as a public servant, making countless contributions both to our nation and to the city of San Jose, which I've had the pleasure of representing since 1995.

Norm Mineta was born in San Jose in 1931, to Japanese immigrant parents who owned a successful insurance company. In 1942, following the attack on Pearl Harbor, Executive Order 9066 declared all persons of Japanese ancestry to be "enemy aliens," and his family, along with many other Japanese-American families, was forced to relocate to an internment camp. Despite this treatment, Mr. Mineta's father volunteered to teach Japanese to American soldiers, and Mr. Mineta himself ultimately participated in the Reserve Officers Training Program while at the University of California at Berkeley, and after graduating in 1953, served as an Army intelligence officer in Japan and Korea. Following his military service, Mr. Mineta returned to San Jose to join his father at the Mineta Insurance Agency. He was active in the community, serving on the Santa Clara Council of Churches, and the city's Human Relations Commission. In 1967, he was appointed to fill a vacant City Council seat, which he was later elected to, and in 1971, he became the first Asian American mayor of a major U.S. city, when he was elected as mayor of San Jose. From 1975 to 1995, an important period of growth in Silicon Valley, Norm Mineta represented California's 15th district in the U.S. House of Representatives. Over the course of his ten-term tenure in Congress, his many accomplishments included co-founding the Congressional Asian Pacific American Caucus, securing a formal apology and financial reparations for interned Japanese Americans, and serving as the Chairman of the House Public Works and Transportation Committee. In 1995, Mr. Mineta returned to the private sector as a Vice President at Lockheed Martin. In addition, he served as Chair of the National Civil Aviation Review Commission, which offered a number of proposals for Federal Aviation Administration (FAA) reform that were adopted by President Clinton. In 2000, Mr. Mineta became the

first Asian American to serve in a Presidential Cabinet when he was named as President Clinton's Secretary of Commerce. The following year, President George W. Bush asked him to serve as his Secretary of Transportation, where he played a key role in the nation's response to the attacks of September 11. In 2002, the San Jose International Airport was renamed the Norman Y. Mineta San Jose International Airport in honor of this native son. In 2006, President Bush awarded Mr. Mineta with the Presidential Medal of Freedom, the highest civilian award in the United States. He has also received the Grand Cordon of the Order of the Rising Sun from the Japanese Government.

I urge my colleagues to join me in supporting this resolution and honoring Mr. Mineta's contributions and service to our country and to the city of San Jose.

Mr. MCNERNEY. Mr. Speaker, I rise today in support of H. Res. 1377, a resolution honoring the accomplishments of Norman Yoshio Mineta. As a proud member of the Congressional Asian Pacific American Caucus (CAPAC), I think it is important to honor Mr. Mineta, the founder and first chair of the organization, and I commend my colleague, Mr. HONDA for introducing this resolution.

Despite suffering a great historic injustice and spending several difficult childhood years in an internment camp during World War II, Norm Mineta has dedicated much of his life to public service. Mr. Mineta served our country in the Army as an intelligence officer in Korea and Japan before starting his political career as the first minority city council member in San Jose, California. He went on to serve as San Jose's mayor, after which he became a Member of Congress. Mr. Mineta was also a trusted adviser to presidents of both political parties, serving as Secretary of Commerce in the Clinton Administration and as Secretary of Transportation under President George W. Bush. In these capacities, Mr. Mineta achieved many significant accomplishments in transportation, technology, national security, commerce, and minority rights.

Norm Mineta is a true leader of our country, and it is only fitting that he is honored for his lifetime of commitment and work. I encourage my colleagues to support H. Res. 1377, and look forward to its passage.

Mr. BECERRA. Mr. Speaker, I rise today in support of H. Res. 1377, a resolution honoring the accomplishments and legacy of a great American patriot, Norman Yoshio Mineta.

Mr. Mineta's life began like that of so many other Americans. He was born in 1931 in San Jose, California, the son of immigrant parents. However, unlike the typical American story, he and the Mineta family were forced to leave their home and live in the Heart Mountain internment camp near Cody, Wyoming, during World War II. Norm Mineta overcame this experience and went on to graduate from the University of California at Berkeley and serve his country as an intelligence officer in the United States Army.

Most of us know Norm Mineta as Secretary Mineta. In 2000, Secretary Mineta became the first Asian American to serve in a Presidential Cabinet when he was appointed Secretary of Commerce by President William J. Clinton. He continued to break new barriers when he be-

came the first Asian American to serve as Secretary of Transportation in President George W. Bush's cabinet. He went on to become America's longest serving Secretary of Transportation.

For many of us, Norm will always be "Secretary Mineta" because of the respect and leadership which has become synonymous with his name. He is a true political trailblazer and leader of the Asian American and Pacific Islander community. In 1967, he was the first Asian American to serve on the San Jose city council and he became the first Asian American mayor of a major United States city when he was elected to lead San Jose in 1971.

From 1975 to 1995, Secretary Mineta continued to serve the San Jose community as its Representative in the U.S. House of Representatives. During his twenty years in the House, he championed legislation that established Asian Pacific American Heritage Week, the Commission on Wartime Relocation and Internment of Civilians, and the Civil Liberties Act of 1988, the seminal reparations bill where the United States Government officially apologized for sending families of Japanese descent to internment camps during World War II. He helped author the Americans with Disabilities Act, which became law in 1990. He also co-authored the Intermodal Surface Transportation Efficiency Act of 1991, which gave state and local governments control over highway and mass transit decisions. Under his leadership, then-Congressman Mineta founded and chaired the bicameral and bipartisan Congressional Asian Pacific American Caucus, which continues to promote and advocate Asian American and Pacific Islander concerns and issues.

To this day, Secretary Mineta remains a prominent leader within the Asian American and Pacific Islander community through his work with numerous civic organizations. He is a recognized expert on transportation and homeland security issues. He received the highest civilian award in the United States when he was awarded the Presidential Medal of Freedom in 2006.

Of course, we could spend a good portion of our lifetime reciting Norm Mineta's achievements. I, however, would like to close my remarks by simply heralding what I believe to be the true mark of this great American statesman: through thick and thin, Norm Mineta has carried his country on his shoulders. With Secretary Mineta, no one is left behind and America can never have a bad day. For that, Norm Mineta has earned our eternal affection and commands our grateful respect.

Mr. Speaker, I urge all of my colleagues to support H. Res. 1377, a tribute to a distinguished former member of this body, Norman Yoshio Mineta.

Ms. MATSUI. Mr. Speaker, I rise today in support of House Resolution 1377, which honors the accomplishments of Norman Y. Mineta. Known to us as Norm, Mr. Mineta has played an important role in our nation's history: completing many firsts; and helping to pave the path for many more to follow.

A distinguished serviceman, he joined the United States Army as a young man, and completed tours of duty as an intelligence officer in both Japan and Korea.

Norm served our great state as a Member of this body from 1975 to 1995, working tire-

lessly to improve the lives of California families. With his support, and that of my late husband Bob Matsui, Congress established the Commission on Wartime Relocation and Internment of Civilians. Moreover, they were instrumental in passing H.R. 442, the Civil Liberties Act of 1988, which served as the official apology for sending families of Japanese descent to internment camps and redressed the injustices endured by Japanese-Americans during World War II.

Norm also served as Chairman of the House Public Works and Transportation Committee, authored the landmark Intermodal Surface Transportation Efficiency Act of 1991, and founded the Congressional Asian Pacific American Caucus, CAPAC.

His lists of 'firsts' include being the first Asian American mayor of a major United States city when he became mayor of San Jose in 1971, and he was the first Asian American in a Presidential Cabinet. As many of us remember, Norm also served as a Secretary of Commerce under President Bill Clinton, and as a Secretary of Transportation under President George W. Bush.

Mr. Speaker, Norm Mineta has had a long and respected career in public service. As the resolution before us states, the House of Representatives honors the accomplishments and legacy of Norman Yoshio Mineta, for his groundbreaking contributions to the Asian American and Pacific Islander community and to our Nation as a whole through his leadership in strengthening civil rights and liberty for all and for his dedication and service.

I urge my colleagues to vote in favor of H. Res. 1377.

Ms. LEE of California. Mr. Speaker, I rise in support of the resolution honoring my dear friend and former colleague, Congressman Norman Mineta, the founder of the Congressional Asian Pacific American Caucus.

After attending the University of California, Berkeley in my district, Congressman Mineta served as an intelligence officer in Korea and Japan.

He was the first minority and Asian American city council member in San Jose, and was elected the first Asian American mayor of a major U.S. city.

As a child, Congressman Mineta and his family suffered great loss when they were sent to an internment camp after the Japanese attack on Pearl Harbor.

Upon his election to Congress, he worked tirelessly to pass the Civil Liberties Act of 1988, which officially apologized to and compensated Japanese families for their discriminatory and immoral internment.

I had the privilege to work with Norm while serving Mayor of Oakland, then Congressman Ron Dellums' staff. I vividly remember sitting next to him on a flight from Washington, DC to San Francisco. During that flight, he told me his remarkable life story, which established our long term friendship. As a staffer, he treated me with respect, and I am proud to call him my friend.

After his long career in Congress, Congressman Mineta became the first Asian American Cabinet member, first as Secretary of Commerce under President William J. Clinton and then as Secretary of Transportation under President George W. Bush.

I wholeheartedly support this resolution honoring the accomplishments of an outstanding and inspiring public servant, colleague, trailblazer, and friend, Congressman Norman Mineta.

Mr. WU. Mr. Speaker, I rise today to support H. Res. 1377 to honor the accomplishments of Norman Yoshio Mineta, a pioneering public servant whom I am privileged to call my friend.

I thank my colleagues, Congressman MIKE HONDA and Congresswoman JUDY CHU, for introducing this important resolution.

Norm Mineta has served this country and the Asian American and Pacific Islander community with great distinction and unparalleled humility. The many "firsts" he has to his name—the first Asian American mayor of a major U.S. city, the first chair of the Congressional Asian Pacific American Caucus, and the first Asian American member of a presidential Cabinet—dot a remarkable career that has been dedicated to bettering lives through efficient transportation, expanding civil rights for all, and strengthening Asian American and Pacific Islander participation in public life.

I thank my dear friend Norm Mineta for his tremendous and longstanding leadership, and I look forward to continuing to work with him on behalf of the Asian American and Pacific Islander community.

Mr. BACA. Mr. Speaker, I ask unanimous consent to address the House for one minute.

I rise in strong support of H. Res. 1377, a resolution honoring the accomplishments of Norman Yoshio Mineta.

There are not too many public servants that are requested to serve as a cabinet member by a President of a different political party.

Norman Yoshio Mineta's good nature, astute knowledge and seamless ability to be a first-rate mediator gave rise to his selection to serve our country regardless of the political party at the helm.

He was the U.S. Secretary of Transportation for President George W. Bush and U.S. Secretary of Commerce for President Clinton.

Despite being forced to leave his home and relocate to the Hear Mountain internment camp during World War II (a sad example of civil rights injustice), Secretary Mineta's love of country never faltered.

He fought for our freedom in the U.S. Army, and later was elected mayor of San Jose, California.

He continued his public service as U.S. Representative to the 15th district of California where he founded and chaired the bicameral and bipartisan Congressional Asian Pacific American Caucus (CAPAC).

Secretary Mineta dedicated his life to our country and we are a better Nation because of his work and legacy.

Secretary Mineta is the fitting recipient of the Presidential Medal of Freedom, the highest civilian award in the United States, in 2006, and the Grand Cordon, Order of the Rising Sun from the Japanese Government, which was the highest honor bestowed upon an individual of Japanese descent outside of Japan.

Secretary Mineta, we thank you for your service to our Nation.

I urge my colleagues to support H. Res. 1377 in recognition of his lifetime of service to our Nation.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa (Mr. FALEOMAVAEGA) that the House suspend the rules and agree to the resolution, H. Res. 1377.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. FALEOMAVAEGA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

DEFICIT REDUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I have been troubled by what seems to me a mistaken focus in the debate about reducing the deficit. I do agree that it is important to reduce the deficit. Indeed, Mr. Speaker, I now believe that I am more focused on reducing the deficit than many of my colleagues, including on the other side of the aisle, who have with great alacrity put deficit reduction aside in favor of a fairly indiscriminate degree of tax reductions.

A couple of weeks ago, we were told that reducing the deficit was the number one priority, but reducing the taxes, particularly on the wealthiest in America, rapidly overtook deficit reduction. I hope we will get back to it. What troubles me is the extent to which people, mainly on the Republican side, but elsewhere as well, have said that what we need to do most to get the deficit down, as we should, is to reduce entitlements. That's a polite way of saying they want to cut Social Security and Medicare and Medicaid, even though Medicaid is not an entitlement. But those are the things that are on the agenda.

In fact, that is neither socially or economically the sensible way to begin with the short-term—near-term deficit reduction we need. We shouldn't say short-term. We do, I believe, need some stimulus. I'm glad we are extending unemployment compensation. I wish we were doing more to help cities and States keep people on the payroll. The private sector has added jobs in these

past few months. Job growth has been held down because the public sector has been forced at the State and local level to fire people. But this focus on Medicare and Social Security is mistaken economically and politically.

Mr. Speaker, let me calculate; about 45 years ago, I took an economics course in graduate school from a young assistant professor named Henry Aaron. I was impressed with him then, and I've been impressed with him since. In the New York Times recently he had an article in the op ed page headlined: "All or Nothing Equals Nothing," in which he argued that the focus on reducing the deficit by 2020, which is the time we've set ourselves, which is very important, is an issue that should not encompass a focus on Social Security and Medicare.

He is not saying ignore Social Security and Medicare, only that a rational way to go after the deficit in the near term wouldn't focus on them. And Social Security, as he points out, Social Security is not going to be contributing to the deficit at that point. Indeed, Social Security at this point is in such good economic shape that people have decided Social Security should be a contributor to economic stimulus because we are reducing the revenue that comes into Social Security for 2 years by reducing the payroll tax.

Now I think that's a useful stimulus, but I regret the fact that it was not accompanied by a binding piece of legislation that will return that money from elsewhere in the general fund so that we don't put Social Security further in the hole. But as Henry Aaron points out, yes, we should begin to look at Social Security and the problems of 30 years from now. My own view is that you do that mostly by increasing the level of income on which the tax is levied, but there is no need to begin doing that right away.

I should have said this earlier, Mr. Speaker. Two of the greatest accomplishments of America in the 20th century, Social Security and Medicare, accomplished an important goal. They made it the case that poverty was no longer going to be the rule for many older people. Prior to Social Security and then Medicare, poverty was too often the reward for living long enough if you weren't rich. We have brought older people on the whole—not entirely—out of poverty. There are still enough low-income older people that I greatly regretted the fact that this House and the Senate, which are apparently ready to give multimillionaires tax breaks, couldn't support \$250 per person for Social Security recipients, some of whom were wealthy but many of whom are quite poor. And I have people saying, Well, you don't want to give Warren Buffett \$250. Mr. Buffett, to his credit, has objected to a \$250,000 grant that he is being offered—more than that—in the tax reduction that is

being offered—tax reduction from what current law would be.

But Henry Aaron makes the point that focusing on Social Security is taking up a very controversial issue way prematurely. And as for Medicare, here is what he said, which is of great social and economic importance: “To slash Medicare and Medicaid spending before reforms to the health care system bear fruit would mean reneging on the Nation’s commitment to provide standard health care for the elderly, the disabled, and the poor. The only realistic way to realize big savings in the two programs is to reform the entire health care payment and delivery system in a way that will slow the growth of all health spending.”

I am asking, Mr. Speaker, that Members read this. Henry Aaron is a great economist. He has studied Social Security as well as anybody. He has studied Medicare. He makes the point that focusing almost exclusively on those—or primarily on those—as a way to end the deficit is bad social, economic, and political policy.

Let me say at this point, Mr. Speaker, speaking for myself, not for Aaron, there are things we can do in the near term. If we hadn’t gone into Iraq, that terribly mistaken war in which so many brave Americans suffered, we would have a trillion dollars more than we have today. We are grossly overextended in having military presence all over the world where it is needed and where it isn’t. We continue to spend tens and tens of billions of dollars a year protecting Western Europe when they’re not in danger and can protect themselves.

So let’s focus on reducing military spending, let’s rationalize agriculture spending, let’s put some restraints elsewhere. But as Henry Aaron correctly points out in this article, let’s not make the mistake of focusing on Social Security and Medicare, prematurely in the case of Social Security, and in a socially destructive way with regard to Medicare and Medicaid.

ALL OR NOTHING = NOTHING

(By Henry J. Aaron)

WASHINGTON.—Two plans for reducing the federal deficit are now on the table. One of them, proposed by the chairmen of President Obama’s debt-reduction commission, Erskine Bowles and Alan Simpson, was endorsed on Friday by 11 of the 18 panel members. The other comes from the nonprofit Bipartisan Policy Center. The two plans differ in important ways, but both put everything on the table, including not only things like tax rates and defense spending but also Social Security, Medicare and Medicaid.

This approach is mistaken, and it’s at the heart of why both plans are unlikely to succeed. Deficit reduction should stop debt from growing faster than gross domestic product—and do so within the next decade. But closing the projected long-term gap between Social Security spending and revenues and materially slowing the growth in Medicare and Medicaid spending will take much longer.

The Bipartisan Policy Center’s proposal illustrates this temporal mismatch. It aims to

prevent government debt—now equal to roughly 60 percent of gross national product from growing faster than income does. After some additional increase during the current economic slowdown, this plan would return the ratio of debt to income to below 60 percent by 2020. To that end, it would lower government spending and raise taxes by \$5 trillion over that period. Its menu is replete with controversial items—including cuts in defense spending, a national value-added tax and myriad cuts in domestic spending.

The most highly charged suggestions, however, are its proposed changes in Medicare, Medicaid and Social Security. The plan would convert Medicare into a voucher system under which the elderly and disabled would receive money to buy health insurance. The value of this voucher would increase more slowly than health care costs have grown for the past half century. The proposal would also raise by two- to five-fold the states’ share of part of Medicaid costs.

The Bipartisan Policy Center’s plan would also reduce the share of earnings that Social Security would replace for future retirees. This “replacement rate” is already set to decline under current law, but the plan would cut it further, by as much as 22.5 percent.

The proposed changes in Social Security, Medicare and Medicaid (whose acceptance by Congress is not assured, to say the least) account for only 5 percent of the deficit reduction that the overall plan would achieve by 2020. To be sure, they promise to do considerably more in later years. But they are largely extraneous to the immediate goal of deficit reduction and debt stabilization by 2020.

The president’s debt-reduction commission advances even larger changes to Social Security—cuts of up to 41.5 percent—a longer list of near-term changes to Medicare and a blanket cap on the longer-term growth of overall health care spending. But approach is similar to that of the Bipartisan Policy Center’s in that it relies primarily on cuts in other government spending and on tax increases to reduce the deficit.

Stabilizing the debt must begin as soon as economic recovery is well established and must be accomplished over the next decade in order to prevent the ratio of debt to G.D.P. from becoming excessive. Timely deficit reduction is therefore urgent. Asking Congress simultaneously to reform three of the most important and complicated government programs only jeopardizes the solution of the more immediate problem.

The Social Security challenge plays out over the next quarter-century. Early legislation to close the gap between revenues and spending is desirable, because changes will be less onerous if they are phased in. If President Obama believes that a commission could help to restore balance in Social Security, he should appoint one now, but its work could not do much quickly to help reduce the deficit.

The fiscal challenge posed by Medicare and Medicaid is vastly larger and infinitely more difficult to meet than that posed by Social Security. Some modest savings in Medicare are manageable, along the lines suggested by both commissions, including increased premiums for upper-income beneficiaries and modest increases in Medicare deductibles.

As for Medicaid, its benefits are already stringently limited in some states. In others, payments to providers are so low that doctors shun the program and hospitals suffer losses. To reduce Medicaid benefits now, just as the Affordable Care Act will be adding roughly 16 million new beneficiaries, would risk chaos.

To slash Medicare and Medicaid spending before reforms to the health care system bear fruit would mean reneging on the nation’s commitment to provide standard health care for the elderly, the disabled and the poor. The only realistic way to realize big savings in the two programs is to reform the entire health care payment and delivery system in a way that will slow the growth of all health spending. The Affordable Care Act is intended to initiate such systemic reforms. The best way to rein in growth of spending on Medicare and Medicaid is to put the provisions of that law into action, but this will take many years.

The job that should not be delayed, to stop excessive growth in the federal deficit, is challenging but doable: curb tax expenditures (including tax deductions, credits, exclusions and exemptions); end at least some of the tax cuts that were enacted under President George W. Bush; enact many of the cuts in defense spending advocated by both budget commissions; limit, but not eviscerate, other discretionary spending; and gradually increase Medicare premiums for upper-income beneficiaries.

Congress and President Obama should adopt a three-stage program: start deficit reduction as soon as recovery is securely under way, reform Social Security soon and resolutely carry out the Affordable Care Act so that the growth of Medicare and Medicaid can be slowed. Trying to do everything at once only makes it difficult to do anything at all.

□ 2150

HONORING THE LIFE AND SERVICE OF PETTY OFFICER ZARIAN WOOD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. OLSON) is recognized for 5 minutes.

Mr. OLSON. Mr. Speaker, I rise today to pay tribute to Navy Petty Officer 3rd Class Zarian Wood of Houston, Texas.

Zarian, known as “Z” to his friends, was killed on May 16, 2010, in a bomb blast during a foot patrol in Helmand Province, Afghanistan. He was 29 years old.

After serving in combat in Iraq from 2007 to 2008, Zarian volunteered for a second combat tour. This tour sent him on a 7-month stint to Afghanistan, where he was assigned to India Company, 3rd Battalion, 1st Marine Regiment, 1st Marine Division, I Marine Expeditionary Force.

Z was trained to be a hospital corpsman, the first out of the foxhole to rush to a wounded comrade. Well, in Afghanistan, he was known as “Doc,” serving on the front lines alongside Marine infantrymen from Camp Pendleton, California.

Z was a 1999 graduate of South Houston High School, where he competed on the Trojan wrestling team. After high school, Z worked as a youth pastor and tutor for at-risk children on Houston’s northeast side and as a merchandiser for Coca-Cola before enlisting in the Navy in 2006.

Z was known for living life to the fullest. His life embodies the fabric of

the exceptional men and women who comprise our U.S. military. He is the embodiment of the honorable, courageous, and patriotic young Americans we are privileged to have defending our country. His selfless heroism, both as a civilian and in the military, created a legacy of courage and patriotism that will not be forgotten by those who knew him.

The liberty we cherish in this Nation has come at a great cost. Zarian and his family have paid the ultimate price for our freedom—but it is not without the tremendous gratitude of this Nation, this Congress, and this Congressman.

Mr. Speaker, America cannot repay the debt we owe to Zarian and his family. What can we do?

We can say thank you, thank you, thank you to Z for his selfless commitment to serve our Nation and thank you, thank you, thank you to his family for raising such a strong, wonderful and selfless Navy hero.

Zarian Wood is a true patriot, and a grateful Nation says: Semper Fi, fair winds and following seas.

Z, may you find eternal peace in God's arms.

H.R. 2030, SENATOR PAUL SIMON WATER FOR THE WORLD ACT OF 2009

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Madam Speaker, I submit the following summary of the bill, H.R. 2030.

The Water for the World Act sets a benchmark of providing 100 million of the world's poorest with first-time access to safe and sustainable drinking water and sanitation by 2015. To achieve this, the Act builds upon the success of the 2005 Water for the Poor Act by:

Establishing a Senior Advisor for Water within USAID to implement country-specific water strategies;

Creating a Special Coordinator for International Water within the State Department to coordinate the diplomatic policy of the U.S. with respect to global freshwater issues;

Establishing programs in countries of greatest need that invest in local capacity, education, and coordination with US efforts; and

Emphasizing cross-border and cross-discipline collaboration, as well as the utilization of low-cost technologies, such as hand washing stations and latrines.

The Water for the World Act, S. 624/H.R. 2030, is endorsed by a number of global health and environmental advocates, including Water Advocates, the Natural Resources Defense Council, ONE, Mercy Corps, International Housing Coalition, CARE, and Population Services International.

H.R. 2030 Co-sponsors: Democrats—87, Republicans—10.

IMPORTANT FACTS

The number of children who die every day from diarrheal diseases spread through poor sanitation and hygiene: 4,100.

Every day that Congress delays in addressing this problem, more children unneces-

sarily die. We have the moral obligation to get this legislation done.

The annual economic benefit to the African continent, including in saved time, increased productivity and reduced health costs if the Millennium Development Goals on water and sanitation are met by 2015: \$22 billion.

The amount national governments in sub-Saharan Africa could save in annual public health expenditures if the Millennium Development Goals on water and sanitation are met by 2015: 12% (<http://www.one.org/c/us/pastcampaign/2789/>).

According to the World Health Organization, over 10% of the world's disease are caused purely by unsanitary water supplies.

One billion people do not have access to clean drinking water, and in the past ten years, everyone who has gained access to clean water in developing countries has lived in China or India, nations that are already rapidly improving their public water and sanitation systems.

2.4 Million deaths are caused annually by poor water conditions (4.2% of all deaths), meaning over 65,000 people die everyday that this bill is not signed.

In developing nations, only 5% of rural populations have access to plumbing and over 1 billion people still do not have access to a bathroom, spreading disease and infections.

TALKING POINTS AND QUOTES

Sustainable progress is about much more than water, but never about less.

Water is medicine. Toilets are medicine. The best kind of medicine—the kind that prevents African children from getting sick in the first place. We have known how to provide this medicine—safe water, sanitation, and handwashing, for centuries.

As Martin Luther King, Jr. said: “We will not be satisfied until justice rolls down like waters and righteousness like a mighty stream.”

Supreme Court Justice Kennedy: “This is not my area, but there are 6 billion people on the planet and over 2 billion do not have adequate drinking water. How many hours—and you can't call it man hours because it's women's work—how many hours a year are spent in sub-Saharan Africa bringing water to the family? Answer: 16 billion hours—with a ‘b’—and that is the lowest estimate. For some people that's 6-8 hours a day to get water for their family. You take a photo in sub-Saharan Africa of the elegant, stately African woman with the long colored dress and the water jug on her head—that jug weighs more than the luggage allowance at the airport. The temptation of the rule of law is to say well, you have the Magna Carta, you wait 600 years, then you have a revolution, then a civil war. What about Martin Luther King, Jr.'s ‘fierce urgency of now’! These people cannot and will not wait and they should not.”

The water crisis is a global phenomenon. Around the world today, nearly 1 billion people lack access to clean, safe water. More than 2 billion people lack access to basic sanitation. Most of these people live on less than \$2 a day.

In Haiti, there are no public sewage treatment or disposal systems. Even in the capital, Port-au-Prince, a city of 2 million people, the drainage canals are choked with garbage. It is no wonder that Haiti has the highest infant and child mortality rate in the Western Hemisphere. One-third of Haiti's children do not live to see the age of 5. The leading killer? Water-borne diseases like hepatitis, typhoid, and diarrhea.

In Sub-Saharan Africa, a lack of access to clean water enslaves poor women. Women and girls are forced to walk two or three hours, or more, in each direction, every day, to collect water that is often dirty and unsafe. The U.N. estimates that these women spend a total of 40 billion working hours each year collecting water. That is equivalent to all of the hours worked in France in a year.

Water is even central to the fate of the Middle East. In his book, Paul Simon quoted former Israeli Prime Minister Yitzhak Rabin as saying, “If we solve every other problem in the Middle East but do not satisfactorily resolve the water problem, our region will explode. Peace will not be possible.”

HONORING THE LIFE AND SERVICE OF AMERICA'S PEACEMAKER, AMBASSADOR RICHARD HOLBROOKE

The SPEAKER pro tempore (Mr. SCHAUER). Under the Speaker's announced policy of January 6, 2009, the gentlewoman from Texas (Ms. JACKSON LEE) is recognized for 60 minutes as the designee of the majority leader.

Ms. JACKSON LEE of Texas. Thank you very much, Mr. Speaker.

I am saddened by the occasion on which I come to the floor of the House, but it is a privilege to be able to speak about a great American, for we do not capture the life and the legacy of great Americans. We find ourselves forgetting. Some would say, if we don't remember the past, we are doomed to repeat some of those hills and valleys in the future. Tonight, I want to remember Ambassador Richard Holbrooke, whom this Nation lost on Monday evening.

It is important that his story be told for I would like to know him and for this Nation to know him as America's peacemaker, but many will say that peacemaker had a tough edge.

Before I start, I want to mention his family and express my sympathy to them for their loss—to his wife, his two sons, and his stepchildren—all who loved him so very, very much.

What I would say to you is that this was an action man. He was someone who threw himself into the world of diplomacy. Frankly, there was no challenge of peace too difficult for Ambassador Richard Holbrooke.

One newspaper, USA Today, calls him as he is known in the headline—Bulldozer, Giant of Diplomacy Holbrooke Dies.

Among his credits, the 1995 Bosnian pact, but Richard was also known around the world for being unending and unceasing in his commitment to solving a problem, and he would ask you to work with him to solve that problem.

Henry Kissinger said, If Richard calls you and asks you for something, just say, “Yes.” If you say, “No,” you will eventually get to saying “yes,” but the journey will be very painful.

Ambassador Holbrooke was not prepared to give up. He learned to become

extremely informed about whatever country he was in. He would push for an exit strategy and look for ways to get those who lived in a country to take responsibility for their own security. He didn't mind getting engaged and involved with those who lived in faraway places, whether it was Vietnam or whether it was Bosnia—the resulting agreement, the Dayton peace treaty. The Washington Post headline credited him with deft maneuvering that resulted in that peace treaty. He brokered the accord in Bosnia. He was seeking peace in Afghanistan, and he refused to give up.

So, tonight, it is important that we remember this man, this gentleman—this giant of a man, large in size and with the capacity to do much. America was saddened by his loss. In particular, I note that Ambassador Holbrooke always accepted the call to duty, whether it was as the U.N. ambassador or whether it was as the special envoy which President Obama called him to be. In the time of sadness, many came to present and to give their thoughts. Let me share with you some of those words.

For nearly 50 years, Richard served the country he loved with honor and distinction. He worked as a young foreign service officer during the Vietnam war, and then supported the Paris Peace Talks, which ended that war.

□ 2200

As a young assistant Secretary of State for East Asian and Pacific Affairs, he helped normalize relations with China. As U.S. ambassador to Germany, he helped Europe emerge from a long Cold War and encouraged NATO to welcome new members. The progress that we have made in Afghanistan and Pakistan is due in no small measure to Richard's relentless focus on America's national interests and pursuit of peace and security. He understood in his life, his work, and his interests that they encompass the values that we hold so dear, and as usual, amidst this extraordinary duty, he also mentored young people who will serve our country for decades to come. One of his friends and admirers once said that if you're not on the team and you're in the way, God help you. Like so many Presidents before me, I am grateful that Richard Holbrooke was on my team, as are the American people. President Barack Obama.

I remind you, like so many Presidents before me, I'm grateful that he was on my team. The President understood the kind of strength that Ambassador Holbrooke had. This sounds just like him: If you're not on the team and you're in his way, God help you. But remember, he was doing it for the good of this Nation and for the good of the world.

Another comment on his great life: In a lifetime of passionate, brilliant

service on the front lines of war and peace, freedom and oppression, Richard Holbrooke saved lives, secured peace, and restored hope for countless people around the world. He was central to our efforts to limit ethnic cleansing in Kosovo and paved the way for its independence, and he found a way to break the stalemate in the talks in Cyprus.

Little known to many people, I was proud to nominate him as the United States Ambassador to the United Nations where he helped equip the U.N. to meet the challenges of our 21st-century world. Former President Bill Clinton.

Let me just reiterate these words. He helped restore hope for countless people around the world. I remember engaging with Ambassador Holbrooke in the early stages of my congressional career, and I remember him as the United Nations ambassador: resilient, joyful, persistent, determined, ready to tackle the world for peace. He wasn't bored with his job. He was never bored. He was always ready to do what was right.

Another comment on his life: Richard Holbrooke was a larger-than-life figure who through his brilliance, determination and sheer force of will helped bend the curve of history in the direction of progress. He touched so many lives and helped save countless more. He was a tireless negotiator, a relentless advocate for American interests, and the most talented diplomat we have had in a generation. Vice President JOE BIDEN.

Other words pouring out for him and toward him: From his early days in Vietnam, to his historic role bringing peace to the Balkans, to his last mission in Afghanistan and Pakistan, Richard helped shape our history, manage our perilous present, and secure our future. I had the privilege to know Richard for many years and to call him a friend, colleague, and confidante. As Secretary of State, I have counted on his advice, relied on his leadership. This is a sad day for me, for the State Department and, yes, for the United States of America. Secretary of State Hillary Clinton.

Some would say that States and defense, power and diplomacy, sometimes did not match or mix, but Richard Holbrooke knew how to walk that line. Ambassador Holbrooke was one of the most formidable and consequential public servants of his generation, bringing his uncommon passion, energy, tenacity, and intellect to bear on the most difficult national security interests of our time. Secretary of Defense Robert Gates.

He never lost time fighting for ideals he believed in. He never lost touch with the problems faced by millions of people he never knew. And he never lost hope that those same people could live in peace, security, and safety. Indeed, he shared their vivid aspirations. The Joint Chiefs of Staff, Mike Mullen.

You can see that he interacted with these leaders of our present government and past government quite frequently. He was a frequent visitor to the White House. Those who worked in this area and those who did not knew Ambassador Richard Holbrooke, and he drew the admiration and respect and sometimes the intimidation of those who watched him work and wondered what he would say next. Well, I can tell you as someone who has likewise watched his work, he would be talking about peace.

Further words about him: His drive was immense. His desire to do good in the world was fierce, and he pursued all that he set out to do with a resolution and tenacity that was second to none. His legacy will be his work, his inspiration to so many around the world. That's what we should note about Ambassador Holbrooke: how many miles he accumulated in his travels around the world, how many times in his lifetime around the world he went.

More than we probably could calculate because, when this Nation called him, when there was a conflict, a difficult situation, where people were at odds, where others were suffering, he wanted to intervene and to bring peace. He wanted to see the best of Pakistan and Afghanistan. He wanted those people to thrive and to grow. He wanted the children to have an opportunity for education and to mature into citizens of their nation.

He wanted the people of Afghanistan to have freedom and a good government and good governance. He wanted there to be the opportunity for girls to go to school and women to be respected and held in dignity and to have the same access to opportunities that we cherish here in the United States of America. He cared about our soldiers on the front line, and he knew that they were putting themselves on the line so that he could work his magic and bring resolution.

You know what I would say to my colleagues, I know that the heads of state of both Pakistan and Afghanistan have experienced the similar loss and pain of a giant like Ambassador Holbrooke in losing his life. I know that because both Presidents, Presidents Zardari and Karzai, called the family to express their concern. Presidents called far away from their homes, as one could imagine, because they respected a man who would get in the mix and fight both, if he had to, to draw them together and to iron out or to box out these particular issues that were keeping us from being united around the question of peace.

Further comments about this great man. They noted that Ambassador Holbrooke's service spanned decades and continents confronting profoundly difficult issues and global affairs. The members of the council expressed admiration for his contributions as the

United States' permanent representative to the United Nations, as well as for his energetic and unrelenting commitment to promoting peace and strengthening international cooperation of the United Nations.

I will tell you that his work at the United Nations allowed him to touch governments around the world, and I venture to say that any hotspot that would occur today, this giant of a man would be able to go and begin to develop a solution. Remember what I said, any country that he would go to, he would begin to know more than anyone else about that country and probably more than those who lived there. That's what made him effective. That's what made him have the ability to talk to heads of state and prime ministers and foreign ministers and those who were engaged in the day-to-day diplomacy of that particular country. It was his understanding of their culture, his understanding of their language, his understanding of how they thought, but most of all, his understanding of his own thoughts, and he knew he wanted peace, and he would do what was necessary.

There were so many that considered him friend, but there were really so many more that respected him for being the bulldozer, giant for peace. I call him America's peacemaker.

Further comments that I pay tribute to his diplomatic skills, strategic vision, and legendary determination as the architect of the 1995 Dayton Agreement, Ambassador Holbrooke played a key role in ending the war in Bosnia, the most terrible tragedy on European soil since World War II. At the end of this long and distinguished career, he traveled tirelessly to Afghanistan and Pakistan in pursuit of peace and stability in the region, and he would not stop. My words.

He knew that history is unpredictable, that we sometimes have to defend our security by facing conflict in distant places and that the transatlantic alliance remains indispensable. Secretary General of NATO.

□ 2210

And so Ambassador Holbrooke knew how to put it together, how to work with the various entities that represented the front lines of defense for this Nation and for Europe and other countries. He knew how to walk the walk and talk the talk.

I remember, as a new Member of Congress, coming in during the hostile and the horrible conflict of Bosnia, the ethnic cleansing that occurred in Kosova, and to realize that one man was the pinnacle, the pivotal point of working on the Dayton peace treaty, I tell you how important that was. As a new Member of Congress, I was able to go on the first delegation into Bosnia, then to meet with heads of states of Bosnia and former Yugoslavia and Cro-

atia. We went to Sarajevo, and we landed where there was no actual peace in place at that time. They were looking to finalize the Dayton peace treaty. We were going in to determine whether or not this peace treaty was going to be welcomed by the people.

As we went into this town that was known for its beautiful Alps and skiing opportunities, I was literally shocked. It drew me back to pictures I saw in history books of World War II when Europe looked as if it was completely bombed out and desolate. Whole buildings had their tops knocked off. In libraries, doors were opened and books strewn on the ground. People walking aimlessly through the streets. And as we walked to what was left of a public building to meet the various leaders, there were women who came up to me in the street and asked had I seen their son. In this horrible war, they had lost their son. Is their son alive? in their language, speaking to me.

I know the price of that horrible war by way of seeing those people in pain. Ambassador Holbrooke understood it and worked without ceasing to secure a peace that is lasting today. No peace is a hundred percent. There are always some trials and tribulations, but he laid the framework that is in place today. He left it to us to be vigilant, to give oversight, if you will, and to ensure that people who have been in conflict, who desire to have peace can live in peace.

Further comments about Ambassador Holbrooke: We will always remember his efforts of promoting peace and stability in our region with a deep sense of appreciation and gratitude. Pakistani Prime Minister Gilani.

He will always be remembered for his preeminent role in ending the vicious war in Bosnia, where his force of personality and his negotiating skills combined to drive through the Dayton peace treaty agreement and put a halt to the fighting. British Prime Minister David Cameron.

As you can see, from all walks of life, they poured out their comments of respect for, again, America's peacemaker.

He could always be counted on for his imagination, dedication, and forcefulness. Former Secretary of State Madeline Albright.

Many understood his work, many who were in the business. More comments: Richard Holbrooke's legacy goes well beyond the critical role he played in bringing a decade of fragile peace in the Balkans, welcoming a reunified Germany in an expanding NATO. He also leaves a vast multigenerational intercontinental network of friends. I say that again: He also leaves a vast multigenerational intercontinental network of friends.

Thank you, Ambassador Holbrooke. It means that you have touched people around the world through generations,

and that means that some are left with your spirit, your inspiration, and your training. These words came from the president of the Brookings Institution, Strobe Talbott, one who knows this system well.

And then of course you had the fun stories about him, and one could not speak about him without saying how many different things he was. As it was said in *The Washington Post*: a writer, a diplomat, an editor, a banker, publisher, impresario of numerous organizations. He was a deeply serious man, engaged always in a serious business of saving lives in Vietnam, in Afghanistan, in Bosnia, and I will say at the United Nations.

Yes, Ambassador Holbrooke, you were engaged in saving lives. And to the end of your life, it was your pursuit to save lives. As I indicated, to save the lives of our soldiers in Afghanistan, to save the lives of women and children and families, to save the lives who simply want to go from marketplace to home, the farmers who want to take their goods from Kandahar to Kabul or want to do something else other than poppy crop, he was trying to save their lives in Afghanistan.

As I visited and as I reflect on my visits to Afghanistan and seeing what a unique terrain, how difficult, how challenging it is, I just want to say to my colleagues, Ambassador Holbrooke could have sat in an armchair, could have done armchair diplomacy. In the world of technology, he could have made attempts to communicate in ways other than the kind of "roll up your sleeves, get on an airplane, and go into the harshest places" to bring about peace. But he understood that peace was about a people-to-people relationship. It was something that was special, and he had the special touch.

Further words from a friend: Dick Holbrooke was a friend of mine. Just 2 days before he fell ill, I saw him and his devoted wife at a dinner where he proposed a toast with generosity, affection, self-deprecation, and the sort of comic timing that made you think he had missed his true profession. I liked him enormously. But for all that he did over nearly 50 years of service to his Nation and, indeed, to all human kind, I admired him much, much more.

As you begin to reflect on Ambassador Holbrooke's life, you have to admire him much, much more, and that was from the international editor of *Time* magazine, Michael Elliott.

I am sure that we could count so many emails and Twitter and blogging that is going on right now, first because of the shock of losing this giant of a man, this man that exuded desires for peace; but yet he leaves a life of instruction, that if we are to really develop the kind of world that brings peace to all in the backdrop of Afghanistan and Pakistan and the backdrop of the issues in the Mideast and the backdrop of North and South Korea, it has

to be the kind of hand-to-hand diplomacy, insistent diplomacy, persistent, determined diplomacy, and out-of-the-box diplomacy.

One of the champions of a unique new concept for Pakistani Americans and helping Pakistan, and I was delighted to be able to engage with him on this and the Secretary of State to go to the first inaugural meeting in New York, and that is to develop a Pakistan-American development board that would generate resources and investment by Pakistani Americans and others in Pakistan.

That is a love for the people. He knew that he could start there because he knew that in his interactions, he was not willing to label the entire Pakistan with the frontier area and the unfortunate circumstances that cause Pakistan to be able to be in the way, if you will, of receiving terrorists running from Afghanistan. He knew the circumstances. He knew the harshness of it. But he also knew that there were people every day in Karachi and Lahor, Islamabad, and other places, in Peshawar that wanted to go to school, to open business, to be able to have a democratic government, a judicial system that worked.

And so he put the burden on the Government of Pakistan to say to them, I will work with you if you will work with me. He believed that there could be a solution, so he was excited about this Pakistan development board, similar to the Irish-American board, and he was the heart and soul behind it. And we had a great celebration in New York, and it exists, and it's one of his legacies.

And so I will say to Ambassador Holbrooke, to his spirit and to his legacy, You've left something behind that can help to create peace, that can network across the ocean between the goodwill of the people of America and Pakistani Americans and those in Pakistan who really want to focus in on building a great nation.

□ 2220

Maybe in the spirit of their founding father, Dr. Jinnah, who believed in a democratic process, living harmoniously with Bangladesh and India, Pakistan and Afghanistan and that region. And so I want us to support the concept of his legacy. Just let me read some headlines that are reflective of his history.

Strong American voice in diplomacy in crisis. I can affirm that. Vietnam, Afghanistan, and Pakistan, all resulted out of crisis, but he was a man of diplomacy.

Statesman who defined a generation. Clearly, 50 years of service, there was no doubt that Ambassador Holbrooke's life will be considered an era, a time-frame of American diplomacy, and an approach of get involved and getting to know the people who you had to engage with.

As we listened to reflections about Ambassador Holbrooke, it was noted that he would go to the sites of the chief or the elder statesman or elder warrior or the village or the mountain to be able to draw from that very person who could be part of making peace.

You know, as I reflect on this, I would say to you, that's the kind of diplomacy we need. We're going to have to unshackle ourselves.

It's interesting, as a member of the House Foreign Affairs Committee, Ambassador Holbrooke, in his astuteness, appeared before us a number of times and was always so erudite and brilliant and carefully thinking and analyzing as he responded to questions. But one thing that comes out of his life, and one thing I gleaned as I've had the privilege of representing the people of Houston in the 18th Congressional District, and seeing how the world works on their behalf and trying to be part of the solution and not the problem, people believe America can solve their problems. I know many Americans push back on that and actually say that we can't nation-build and we can't solve everyone's problems. And in the literal sense, they may be right. But if there's a perception that America has the answer, that our democratic values are so strong that we can reach in times of peace, or with peaceful tactics help guide them toward peace, there's nothing wrong with that. I believe Ambassador Richard Holbrooke truly believed that, that our values were so strong that we could, by sheer determination, commitment, and dedication, help those people who could not help themselves.

Time Magazine has Richard Holbrooke, an archetype of American diplomacy. And let me just share these few words. But there have been many career diplomats whose lives overlay the most important historical moments of the last half century. And they name a few. These are friends and rivals of Holbrooke's, who also played key roles and influenced events in ways we're still only beginning to learn.

What made Holbrooke most memorable—and of course the article names a number of individuals—and what lies behind the outpouring of mourning and reminiscence that is sweeping Washington in the wake of his death Monday evening was his personification of what many at home and abroad imagine U.S. diplomacy to be. And I imagine what they're saying is that it was the hands on, get in your face, but come with a smile and tell you we can do this together. That's Ambassador Richard Holbrooke.

Now, he didn't pull any punches. I remember sitting in a meeting with him with Pakistani Americans, and he answered hard questions and sometimes gave hard answers. But he left the room with friends, and they truly believed he was looking for peace in Afghanistan and Pakistan.

Holbrooke, this article goes on to say, was not just a prominent American diplomat who engaged in some of the most consequential international events of this time. In the same way that Shakespeare's characters still seem to live with us today as the archetype for human nobility, vanity, and ambition, so Holbrooke seemed to be the very human version of American diplomacy itself: piledriver powerful yet subtly persuasive, brash, volcanic and occasionally offensive but tactically brilliant and capable of the finest strategic judgment, cold-eyed and sometimes heartlessly realistic but possessing high principles and real deep compassion.

Friends, I just read that from Time. But as you have heard my tribute, it's interesting how these words come from all of us. And as I indicated to you, if Ambassador Holbrooke's legacy is anything, it is, in fact, to leave us with that kind of roadmap. That's the kind of exciting diplomacy we must be engaged in.

The world is not the same. It's not quiet. It's not two heads of state sitting down quietly and having tea and coming to the room and signing the treaty. It is somebody that's hard moving. It is somebody that can be heartless but realistic, high principles, deep compassion, get in the way.

Thank you, Ambassador Holbrooke, for leaving with us a roadmap and leaving us with your legacy and challenges. Because I don't know if the Ambassador, as he was working so diligently, where he felt we were going in Afghanistan, but I believe we must make a commitment in light of his spirit and the sacrifice for his family, friends, as he dedicated almost 100 percent of his time, unending, to finding a resolution and bringing people together.

I would simply say that to President Karzai, for the spirit in which you express your sympathy, I know that Ambassador Holbrooke would be so grateful for movement toward resolving this conflict, toward the ceasing of those who would move from Afghanistan to take refuge and cover in Pakistan. He would welcome the rising up of both governments to go against those acts of terror that were killing their people. He would welcome the resolve of those heads of state to continue fighting for peace and welcome the growth, development, and opportunity for the Pakistani people and the people of Afghanistan. He would welcome that. And I would simply say, we owe this giant of a man that kind of tribute.

Words obviously are nice and nice to be heard. But I would hope that we would be most effective in carrying forth his legacy by actually putting to the test how we can resolve the conflict in Afghanistan without a protracted extension, but also to put the burden, the extra burden of bringing peace, on the Government of Afghanistan and its people working with us,

with that aggressive spirit, can-do spirit that we can solve this and, yes, working with the people of Pakistan.

Let me just relay a story in pictures and show you why this, again, hands-on diplomat was everywhere, meeting now with the President of Pakistan and developing a relationship, a relationship that was tough but good and sincere.

And I pay tribute to the Pakistani Government for the kind words that they have said. And I think the meaningful words, particularly the Ambassador to the United States, who has expressed, from Pakistan, his deepest sympathy. Here with President Karzai. Often they were together and had frank and to-the-point conversation. You can't engage in hand-to-hand diplomacy without being in place where those leaders are, making them feel comfortable that you're working on their behalf.

This is his early stages with President Clinton, who appointed him to the United Nations. You can see that he moved around, and he was eager to be known as a person who, if he got the call, would come.

Let me share some of these live pictures with him that have him and clearly speak to the action that Ambassador Holbrooke was.

□ 2230

This looks to me as the Pakistani flood when he was going into the camps, the most horrific flood over the last couple months that covered some two-thirds of Pakistan. People were moved from their land—disastrous, devastating conditions. Ambassador Holbrooke did not miss an opportunity to go and to check, in this instance, on children and to see what they were doing.

Here, you will find him not sitting in a traditional chair but sitting with the people. And I speculate that this is a meeting in Afghanistan, but here is a man and his child. And Ambassador Holbrooke is not standing. He is not sitting in a chair as we know it, but he is with the people and he is engaging. This is the style, the diplomatic style of Ambassador Holbrooke.

Again, this is not in the comfort of the State Department or any office building, but here he is with the military personnel on one of our battlefields, and my speculation is that again this is in Afghanistan.

Greeting again the people, letting them know that he cares. And, again, Ambassador Holbrooke on the move, meeting some of our allies, some of the coalition forces or the forces that work along with the Afghan forces. Here he is again in the field shaking hands and indicating his interests.

Here, with women, as he greets them. Another out in the field, hands on, ready to serve. Meeting with our military personnel. And, again, always interacting, and our Ambassador to Afghanistan constantly being engaged.

Involving himself again with the people and in the camps. Here, meeting with others who are in camp and being displaced, always working, always hands on.

We can learn a lot from Ambassador Holbrooke, and we can learn a lot from his never say never attitude and his willingness, if you will, to ensure that the solution is his top priority.

Let me just remind you again of how early Ambassador Holbrooke started his career. He had a tremendous career with the United States State Department, and he had actually begun with a response to President Kennedy's call to service for government work in the early 1960s. He always had it in him. Ambassador Holbrooke was undoubtedly a public servant ever since he graduated from Brown University in 1962, when he joined the Foreign Service and was sent to Vietnam. A tough assignment.

At the young age of 24, Richard Holbrooke, an expert on Vietnam issues, was appointed to a team of Vietnam experts, the Phoenix Program, under President Lyndon B. Johnson. Ambassador Holbrooke has always been a champion of peace and democracy, and this began at a young age with a profound dedication to the United States' international diplomacy efforts. Since beginning his career in foreign policy at such a young age, he obviously was at the forefront, at the 1968 peace talks, director of the Peace Corps in Morocco, or as the editor of the Foreign Policy Magazine.

Let me make that clear. He served as the director of the Peace Corps in that area in 1968. Ambassador Holbrooke was always and has always been an archetype of the United States' diplomacy, and his resume only serves to demonstrate how he has been consequential to diplomacy in some of our generation's most tumultuous events.

So, my friends, I thought it was important, shocked, dismayed, and saddened by the loss of Ambassador Richard Holbrooke, that we not fail to acknowledge his legacy in the hours after his passing; for there are still people dying in Afghanistan, civilians; there are still our soldiers on the front lines; there are still terrorists, Taliban, hiding in the mountains of Pakistan, allegations that Osama bin Laden is there as well.

So we know that the world that Ambassador Holbrooke was so engaged in goes on, but we cannot allow it to go on without a pause for a moment to be able to say thank you to this giant of a man, bulldozer for peace, America's peacemaker, but a credit to the world; and, as I said in my earlier remarks, someone who loved this country and loved the ability to draw disaster and to draw nonbelievers out into the open and to make it right; to help the people in a disaster, and to draw those nonbelievers into the circle of diplomacy

to get them working on peace. That is what you were about, Ambassador Holbrooke. I am glad to have been able to call you acquaintance, yes, friend, but most of all an American hero. Such a strong legacy.

I know that this is a very sad time for so many, and so I rise on the floor this evening to be able again to offer my deepest sympathy. But what I would also say is that we have so much to be thankful for, so much to study and read, so much to emulate, so much to be able to go on, so much to use in the continuing effort for peace. We have got a roadmap left to us by Ambassador Richard Holbrooke. And remember an earlier comment that, if he asked you to do something, don't waste your time saying no, because more than likely, with a little pain, you will be there saying yes.

So why don't we just keep his legacy ongoing, realize that he has asked us to continue to make peace. And as long as we fight against it, it is going to be painful, but if we can gather our thoughts together, if we can continue to work together, to work with this administration, the President, the Secretary of State, and the Congress, and really realize that the important end game is peace in Afghanistan and an independent peaceful Pakistan and a peaceful region, but with the idea that people of those countries must take on that burden and really desire peace—maybe that is the message that they have gotten in this terrible tragedy, to desire peace and to fight for it—if that is the case, then this hands-on, lively, and well-versed diplomat's legacy will be embedded in the next days, hours, minutes, next couple of months when we might see a glimmer of sunshine reflecting the hands-on evidence of a man that never tired of seeking people to find peace.

I hope that, as we mourn the loss of Ambassador Richard Holbrooke, the tribute that we give to him that will be ongoing will be an unceasing quest for peace, and I hope that we will find it in his name.

On behalf of the fallen men and women who have given their lives for peace in the United States military, on behalf of the people of the United States of America, we are indeed grateful for the service of Ambassador Holbrooke, and we tell his family thank you for sharing him with the American people.

I submit for inclusion in the RECORD additional materials.

With that, I humbly I yield back my time in the name of peace and respect for Ambassador Richard Holbrooke.

On Monday, I was extremely saddened to hear about the death of Ambassador Richard Holbrooke. He was a great leader and a dedicated representative of peace and democracy throughout the world. I extend my deepest condolences to Ambassador Holbrooke's family, his wife Kati Marton, his brother, Andrew,

and his children, David, Anthony, Christopher and Elizabeth.

Ambassador Holbrooke has had a tremendous career with the United States State Department, which began with a response to President Kennedy's call to service for government work in the early 1960s. Ambassador Holbrooke was undoubtedly a public servant ever since his graduation from Brown University in 1962, when he joined the Foreign Service and was sent to Vietnam. At the young age of 24, Richard Holbrooke, an expert on Vietnam issues, was appointed to a team of Vietnam experts, the Phoenix Program, under President Lyndon B. Johnson. Ambassador Holbrooke has always been a champion of peace and democracy, and this began at a young age with a profound dedication to the United States' international diplomacy efforts.

Since beginning his career in foreign policy at such a young age, Ambassador Holbrooke was always at the forefront of international political issues, whether it was as a public servant at the 1968 Paris Peace Talks, Director of the Peace Corps in Morocco, or as the editor of Foreign Policy magazine. Ambassador Holbrooke will always be an archetype of United States diplomacy, and his resume only serves to demonstrate how he has been consequential to diplomacy in some of our generation's most tumultuous events.

Ambassador Holbrooke never relented in his efforts to expand his efforts to pursue U.S. interests of diplomacy and democracy internationally. In 1977, under President Carter, Richard Holbrooke was Assistant Secretary of State for East Asian and Pacific Affairs. As the youngest person to have been appointed to that position, Ambassador Holbrooke oversaw the normalization of relations with China in 1978, and the warming of the Cold War during his tenure. His diplomatic achievements do not culminate with the establishment of diplomatic relations with China—instead they continued, and arguably exceeded anyone's expectations.

When President Clinton took office in 1993, Mr. Holbrooke returned to work for the United States Government with the State Department. His first appointment was as the U.S. Ambassador to Germany, where he participated in the founding of the American Academy in Berlin as a cultural exchange center.

In 1994, he returned to Washington after being appointed by President Clinton to be the Assistant Secretary of State for European and Canadian Affairs, where he was the lead negotiator in the Balkan Wars. He was strategic in establishing a lasting peace at the Dayton talks that undoubtedly saved thousands of lives. The 1995 Dayton peace accords ended the war in Bosnia—but it required an agreement by the three warring factions, the Serbs, the Croats, and the Bosnian Muslims. Holbrooke's role in this is lasting; he ended the three-year war, and helped develop the framework for a dividing Bosnia into two entities, one of the Bosnian Serbs and another of the Croats and Muslims. Ambassador Holbrooke is a hero of U.S. diplomacy, and undoubtedly had a tremendous importance in facilitating peace, in whatever form, in Bosnia.

After playing a key role in the Dayton Peace Talks, President Bill Clinton named Mr. Holbrooke the next representative of the

United States to the United Nations. Ambassador Holbrooke demonstrated his drive to securing international peace, and his dedication to diplomatic efforts.

His work never ceased, and it continued with President Obama. Under the Obama administration, Ambassador Holbrooke was appointed Special Envoy to Pakistan and to Afghanistan—a region that contains the United States' greatest national security concerns. Just as his responsibility unfolded in the Balkans, his responsibility in Pakistan and Afghanistan posed a major challenge that would not have an easy solution. As we all know, the problems in Afghanistan and Pakistan are multidimensional and are problems that could not be solved overnight. Ambassador Holbrooke knew this, yet he commendably took on the role, and worked courageously and diplomatically in a densely complicated region.

Ambassador Holbrooke was the intermediary between Afghanistan, Pakistan and the United States. Ambassador Holbrooke was fighting, diplomatically, to stabilize the often unpredictable and always fluctuating region. The fight continues to be multifaceted, and Ambassador Holbrooke dealt with fragile economies, containing corruption within governments and elections, destabilizing the Taliban insurgency, a rampant narcotics trade, the presence of Al Qaeda, and maintaining peace and security, all while promoting United States diplomatic efforts. Representing the United States, Ambassador Holbrooke worked to promote economic development in Pakistan through the Kerry-Lugar-Berman Bill, and worked with the Afghan Government and administration to reduce U.S. combat troops and to forge a lasting peace in the region.

He is an example to us all, his life was foreign policy, his dedication was to the United States, and his motivation was diplomacy. Ambassador Holbrooke will always be regarded as a true American diplomat, one who strived for international peace throughout his entire career, of nearly fifty years, as a public servant.

[From the USA Today, Dec. 14, 2010]

'BULLDOZER,' 'GIANT' OF DIPLOMACY
HOLBROOKE DIES—AMONG CREDITS: '95 BOSNIAN PACT

(By the Associated Press)

WASHINGTON—Richard Holbrooke, a brilliant and feisty U.S. diplomat who wrote part of the Pentagon Papers, was the architect of the 1995 Bosnia peace plan and served as President Obama's special envoy to Pakistan and Afghanistan, died Monday, the State Department said. He was 69.

Obama praised Holbrooke for making the country safer, calling him "a true giant of American foreign policy."

Holbrooke, whose forceful style earned him nicknames such as "The Bulldozer" and "Raging Bull," was admitted to the hospital on Friday after becoming ill at the State Department. The former U.S. ambassador to the United Nations had surgery Saturday to repair a tear in his aorta.

Secretary of State Hillary Rodham Clinton called him one of the nation's "fiercest champions and most dedicated public servants."

Holbrooke served under every Democratic president from John F. Kennedy to Obama in a career that began with a foreign service

posting in Vietnam in 1962, and included time as a member of the U.S. delegation to the Paris Peace Talks on Vietnam.

His sizable ego, tenacity and willingness to push hard for diplomatic results won him both admiration and animosity.

"If Richard calls you and asks you for something, just say yes," former secretary of State Henry Kissinger once said. "If you say no, you'll eventually get to yes, but the journey will be very painful."

He learned to become extremely informed about whatever country he was in. He would push for an exit strategy and look for ways to get those who live in a country to take responsibility for their own security.

Holbrooke said in 1999 that he has no qualms about "negotiating with people who do immoral things."

"If you can prevent the deaths of people still alive, you're not doing a disservice to those already killed by trying to do so," he said.

With his decades of service and long list of accomplishments, Holbrooke missed out on a tour as secretary of State, a job he was known to covet. As U.N. ambassador, he was a member of the Clinton Cabinet but his sometimes-brash and combative style contrasted with that of Secretary of State Madeleine Albright.

Born in New York City on April 24, 1941, Holbrooke had an interest in public service early on.

At the Johnson White House, he wrote one volume of the Pentagon Papers, an internal government study of U.S. involvement in Vietnam that was completed in 1967. The study, leaked in 1971 by a former Defense Department aide, had many damaging revelations, including a memo that stated the reason for fighting in Vietnam was based far more on preserving U.S. prestige than preventing communism.

One of his signature achievements was brokering the Dayton Peace Accords that ended the war in Bosnia. He detailed the experience in his 1998 memoir, *To End a War*.

□ 2240

GROWING THE ECONOMY AND JOBS

The SPEAKER pro tempore (Mr. SCHAUER). Under the Speaker's announced policy of January 6, 2009, the gentleman from Missouri (Mr. AKIN) is recognized for 60 minutes as the designee of the minority leader.

Mr. AKIN. Mr. Speaker, it is a pleasure to join you and my colleagues this evening on a subject that has been of great concern and attention to Americans now for a number of years, unfortunately, and that is the subject of the economy and jobs. This ongoing discussion and debate is taking new turns here the last few weeks, and I think it is helpful and perhaps informative to try to put that into perspective somewhat.

The thing that I think that perhaps we have to understand from the beginning is that the whole question of the economy and jobs is owned right now by the Democrats, because that party has been driving the train for the last couple of years.

The distinction between the parties has never been more sharp over the

past 2 years because of the fact that you have had almost entirely party-line voting on major piece of legislation after major piece of legislation. When it came particularly to the stimulus, it was called the stimulus bill, some people called it the "porkulous" bill of a couple of years ago. That was a black and white kind of party-line vote, along with quite a number of other items on the agenda.

So what we have right now is essentially the Democrats have been running things for a couple of years, and we have got a recession going. And the question is, what are we going to do about the economy and about jobs?

There are two solutions to the problem. The ones that the Democrats have proposed over the last couple of years have been a very, very high level of Federal spending, and what they consider to be stimulus, which is more Federal spending, which they think will somehow fix the economy.

For a couple of years I have been here on the floor on Wednesday evenings saying, with all due respect, I don't think that solution will work. I am not saying that it won't work just because I think it won't, which I don't, but also because prominent Democrats have also said that it won't work.

I have quoted Henry Morgenthau, FDR's Secretary of the Treasury. They tried a whole lot of Federal spending. It was the time that "Little Lord Keynes" had come along and it was all the rage. If you get in trouble economically, spend a lot of money, and that will get the economy "stimulated" and you will pull right out of the recession. That is the theory.

It has not worked. It has never worked. And after about 8 years, Henry Morgenthau, a Democrat, came before the House Ways and Means Committee and said, it won't work. He said, we have tried spending, and unemployment is as bad as it ever was, and we have a huge deficit to boot. Well, it didn't work then. It still hasn't worked for the last couple of years.

I think the point as we move forward into this discussion about what are we going to do with the expiring tax cuts left over from the Bush administration, I think it is important to understand where we are in context, and that is we have come to a point where the Democrats have been making the calls and they have been driving this equation and the economy and jobs has not turned around.

We were told at the time of the stimulus bill that if we did not pass the bill, that we could have as much as 8 percent unemployment. Supposedly, if we did pass the bill, unemployment would be lower.

We did pass the bill. Unemployment jumped to about 10 percent. And those numbers are pretty conservative, because people who have been looking for a job for over a certain number of

months are no longer counted as unemployed. So in fact the unemployment number is probably higher, by the way many people would calculate it. So, that is what has gone on.

Now, this is not complicated economics, if we are really serious about creating jobs. But there really are two different party solutions: One is more bureaucracy and food stamps; the other is more jobs and paychecks. That is America's choice, and America chose in the November election to move toward the more jobs and paychecks and less bureaucrats and food stamps. But this is some of the spending we are talking about in the last couple of years. You just can't do this and have it not affect jobs.

We had the Wall Street bailout, which some of it was supported by Bush in the past, but also by the Obama administration. Then you have got this supposed stimulus bill, \$787 billion, which was a total disaster, and other miscellaneous items here. Then, of course, health care reform, which is the biggest of all, ObamaCare, at about \$1 trillion. So you have a tremendous record of Federal spending.

Let's step back a little bit and go back to the things that we know work. You can go to anybody who you know that started a small business, people that run businesses; you can go to Main Street anywhere in America and you can ask the people who run businesses, what does it take to make jobs? It is not very complicated. But you will never be able to, as the Democrats try to do, separate the employer from the employee. If you want jobs, you can't destroy the employer. If you destroy companies, you will have less jobs. It is that simple.

So, let's say that you ask people on Main Street, well, what are the things that you have to worry about in terms of destroying jobs? The thing they are going to tell you probably first out of their mouth is going to be excessive taxes. When you have too much taxes on business, what happens is they use their money to pay the taxes and they don't use their money to invest in new equipment, new processes and new R&D and various ways that when they invest they create more jobs.

So the first thing that is an enemy to job creation is, first of all, excessive taxation. So what we have coming along now, and everybody has known it for years, is these tax cuts are coming along, they are going to expire and it is going to be a massive tax increase.

In fact, we have what in a way is a tax increase train wreck. You could think of it as the train is steaming along and everybody knows the bridge is out. The bridge is out on January 1st, 2011, the tax cuts expire, and what happens then, America receives the largest tax increase in the history of the Nation. Now, that is very bad medicine for an already-sick economy. So that is the situation we are facing.

So there is no surprise about this. Everybody has known these tax cuts are going to expire and there will be this whopping big tax increase, and somebody has to do something about it. So now we are waiting to the last couple of weeks of December to try to deal with this problem. That is not particularly responsible, I suppose.

So what is it when you go to Main Street and you ask businesses, what is it that kills jobs? Well, the first thing is major heavy taxes on businesses and on entrepreneurs and on the people that run businesses. That is the first killer of jobs. Now, we are doing that in spades. We are doing a lot of that. And if these massive tax increases come along, it simply makes it a whole lot worse.

What is the next thing that businesses would talk about that would kill jobs? Well, it is something else that eats into their profits, and that is a whole lot of red tape and government paperwork. So how are we doing in that department?

Well, one of the big bills that the Obama administration, the Democrats, wanted to push was cap-and-tax. That was the tax and tremendous amount of new red tape and bureaucracy to prevent global warming.

Now, if you believe in the theory of global warming, one of the things it says is it is really bad to create CO₂. An honest attempt to stop global warming would say, well, we probably need to stop burning as much carbon in any form and move to some other source of energy generation, which suggests nuclear. If you were to take the number of nuclear power plants in America and double them, you would in effect get rid of the same amount, if you did that, of all the CO₂ produced by every passenger car in America.

The bill didn't do that. The bill created instead more taxes, which, again, kill jobs; and, second of all, a tremendous amount of red tape.

Now, that bill didn't pass because of the fact that even some of the liberals thought this didn't really make a whole lot of sense. Instead, the Obama administration has said, well, what we are going to do is we are just going to implement it through rules and regulations.

What does "rules and regulations" mean? Well, in street language, that means a whole lot of red tape. What does that mean to businesses? It means less jobs. It means it either prevents jobs from being created or kills jobs that are already there, because the red tape again costs them overhead to have to deal with it, and the increasing volume of red tape makes Americans less competitive, which then, of course, shifts jobs overseas.

So the second thing, after a whole lot of taxes that makes it hard on jobs, is too much red tape. Unfortunately, we are doing that as well.

So then you have got a whole series of other things too that are all contributing to this excessive loss of jobs, and that is going to be uncertainty. Now, one of the things the way businesses operate is if you don't know what the future is going to be, you are going to be very careful about taking any risks or making any investment in new equipment or new processes or new technology which is going to create jobs. So uncertainty is the third big enemy of job creation. How are we doing in uncertainty?

□ 2250

Well, what is being talked about as a way of stopping this massive tax increase is simply kicking the can down the road somewhere between a year to two years. And so does that help in terms of uncertainty? Well, people argue is the glass half full or is it half empty? It seems to avert the train wreck, but it is like you've got a train about to go off of a bridge that's out and you build a couple more spans of track further out but the track still ends. And so I suppose you avert a problem but, on the other hand, from an uncertainty point of view, it still creates uncertainty.

If you're wanting to know how you're going to do estate planning in terms of the death tax, to know that the thing is going to be extended with additional coverage up to \$5 million and cover a 35 percent tax rate, but you know that's only going to happen 2 years, that doesn't help you a whole lot in estate planning. It may help for a year or two, but it still leaves a huge question mark.

But not only is the death tax a question mark, but capital gains and dividends. Another thing that takes time to plan for is a question mark. Is it better than having the train go off the cliff? Perhaps. But it still does not solve one of the things that makes it hard to create jobs, and that is if you've got a whole lot of uncertainty. So this, in a sense, may increase, but it certainly doesn't help the high level of uncertainty that's coming along.

In fact, it's been argued in the Wall Street Journal that the whole tax policy now, because there's so many different parts of it that are part of this deal that's been struck, that you really do create almost more uncertainty because there's no definitive final solution. What are we going to do? What is Federal policy on the death tax? Are we going to tax people after they die? One more chance to get them after we have taxed them all their life, the money that they have saved that they didn't get taxed on, we're going to get it again a second time or a third time. So the uncertainty is a big factor in jobs.

The next one is liquidity, which we, again, have not done a good job with. Liquidity is the business owner may

want to go to a bank and get a loan. Typically, those loans are negotiated on about a 5-year basis. They pay a pretty good interest rate because the banker is taking some risk. So the banker, if things go well, does well with it. On the other hand, if the small business struggles or fails, then the banker gets caught, too. So there's the question of liquidity, do the small businesses have the liquidity they need to move forward.

With the new banking regulations you have Federal bureaucrats all over the bank saying, I don't think that's a good loan you've made to Joe Blow over there. And so the Federal Government is second-guessing what the banks do and requiring the banks to have much higher interest rates but also higher percent of collateral for anybody who borrows money. That makes liquidity more difficult. That makes job creation more difficult.

And the last thing of the five things that you will hear when you go to Main Street and ask a business owner what are the things that make it hard to create jobs, they're going to say Federal spending. Federal spending just absorbs money out of the economy. It makes it so the businesses are starving. If you starve businesses, then you're going to starve jobs. You cannot disconnect the business from the jobs that it creates because if you're going to get a job, you're going to work for an employer. It sounds not very complicated. And yet somehow here in Congress we seem to forget—the Democrats seem to make the disconnect on those things.

So these are all policies that have been set up by the U.S. Congress. It is not a surprise that there's unemployment going on because we're violating all five of these basic principles of job creation. So then the debate comes, Well, what are we going to do about these taxes that are expiring? We have had a number of years to think about it, but nobody wanted to do anything about it. But now, after the election, we're starting to say, Hey, this really may be a problem. And the President, because the buck stops with him, to a large degree, has been the first to acknowledge within the Democrat groups between REID, PELOSI and the President, the President is saying, Hey, we better do something about this. If nothing else, whether he is seeing the light, at least he felt the heat in the November elections.

So the question is then you have got this pattern of all five of these things being wrong—the taxes, the red tape, the uncertainty, liquidity problems of the banks, and the Federal spending. All of these things are done the wrong way. And so the Republicans, because things have been so polarized, we voted “no” on all of this stuff, it is quite clear that there is this sharp contrast between what we're going to do now.

Now the contrast becomes more blurred with the proposal of trying to do something at the last minute with the Bush tax cuts. So we're going to do a look at that in a minute and what is the nature of those tax cuts and what was the effect when the tax cuts went into effect.

So, moving along, we continue to see the deficit under the Democrat budgets. Now there was a lot of talk that the Republicans under Bush overspent. And it's true that the Republicans did overspend. You can take a look at some of these. 2002, you had a \$400 billion debt here. It went down, until we get to 2008, this was under Speaker PELOSI's Congress, but you had \$459 billion when Bush was President of deficit, and that a lot of people objected to and said, Hey, that's terrible. We're going to change these elections around. We're going to elect a different President, et cetera, et cetera.

So these were the Bush years; and now look, all of a sudden here you get to 2009, with Obama, and you have got these trillion-dollar deficits, which are three times the very worst that Bush ever had. So we're talking about a level of spending that's unprecedented. So when we use this term on this chart “stupendous spending,” it really is stupendous spending. It is unlike anything we have seen before, and it makes George Bush look like some sort of a Scotch Presbyterian or something because he is not spending at all compared to this trillion-dollar operation that's going on here. Of course, that results in unemployment.

Now I have been critical of the Democrat policies because historically and economically they're going to create unemployment. They have done that. And so the question is, Do you want more bureaucrats and food stamps, or do you want jobs and paychecks? That's what America has to answer. Now what is the solution to this? One of the proposals is to not let these tax cuts expire. Then the question becomes, Well, then doesn't that add to the deficit? Well, part of it does and part of it doesn't. That's kind of the interesting thing that goes on here. If you continue to pay people for not working, which is extending unemployment, and certainly because there is a high level of unemployment, that's appealing. But the trouble is the unemployment is created by those terrible policies of too much taxes, too much Federal spending, the uncertainty, and liquidity, and those other component parts.

So here's the solution to some degree, and that is when you cut taxes, in fact what happens is you don't build a deficit. You reduce the deficit. Well, how can that be? If you cut taxes, it means the government gets less money, doesn't it? If the government gets less money and keeps spending at the same rate, doesn't that mean you

have more and more deficits? The answer is, No.

Because of a very interesting effect that was made public I suppose by an economist by the name of Laffer, quite a cheerful fellow. He was here in the Capitol no more than a few weeks ago. He was an economist under the days of Ronald Reagan. And what he has shown is this red line is the rate of the total Federal tax. The blue lines are the total Federal tax receipts in dollars. And this is the top marginal income tax here, going from all the way up at 90 percent, dropping way down. And it's the top marginal rate that is the rate on all of these supposedly rich people who, by the way, the rich people are the ones, a lot of them, own those businesses that create the jobs. So if you tax them into the dirt, what is going to happen to the jobs? You won't have the jobs. You broke the code. If you want jobs, you're going to have to allow people to keep their wealth and invest in business.

So what Laffer is saying here is we dropped historically. As we drop this top tax rate, take a look at what happens to the total tax receipts of the Federal Government. The tax receipts are going up. Doesn't that seem counterintuitive? Doesn't that seem as though you're making water run uphill? The answer is, no, it is not. And here's, I think, a simple way to try and understand it and it helps cast light on the votes that are coming up here later this week and perhaps even the week of Christmas. There has been certainly the threat that we'll come in on Christmas week and maybe New Year's week as well. It's interesting that we couldn't get our business done so we're going to try and jam it all in at the last minute. And it's also interesting to see what the real priorities are.

So what does this say? Well, for instance, let's say that you are made king for a day or king for a year and your job is to try to raise as much revenue for your kingdom as you can so you can run your government.

□ 2300

You're allowed to do one thing. You can tax a loaf of bread.

Now you start thinking and contemplating, and you say to yourself, Well, if I were to charge a one-penny tax on every loaf of bread—and there are millions of loaves that are sold—why, we'd raise some money.

Then you'd say, hey, instead of a penny, what happens if I charge \$10 for a loaf of bread? Why then, certainly, that would make a difference. If you charged \$10, you'd get much more.

Then you think, Well, wait a minute. Nobody would buy any bread if you put a \$10 tax on it. So you start thinking to yourself, There is probably some optimum between a penny and \$10 where I would get the most revenue on the bread. If I were to raise the tax, I'd ac-

tually lose revenue because more and more people wouldn't buy any bread, and so I'd actually have my tax revenue go down even though I'd raised the taxes. On the other hand, if I were to lower the tax too much, then I wouldn't get as much revenue as I could.

So there is an optimum point, and that's what Laffer is really pointing out here, that the taxes are so high that, when you actually drop the tax, the Federal Government makes more money. You can see it. This is one graphical display. This is just talking about the top marginal income tax rate. We're going to see it even on the larger scale as we take a look specifically at the Bush tax cuts in 2001, particularly the Bush tax cut of May 2003.

So how did things unfold back then in 2003? I have some charts I think you will find very interesting.

These charts are all laid out in essentially the same way. I have three charts in a row. The line that appears right here on all three charts is for May 2003. These are the years across here. This is 2001 March. There were a bunch of tax cuts here. You can see that the job creation isn't looking too solid in here. Some of the tax cuts we did were politically "feel good" kinds of things—giving people some more money to spend and a few things like that—but there was another tax cut which was part of this whole series in May of 2003.

What we're going to focus on is this tax cut. This was capital gains, dividends, and the death tax. Now, those are not popular tax cuts because it seems like they're tax cuts for people who have more money, but again, the people who have more money are also the ones who are driving a lot of those businesses that have the jobs.

So let's take a look at what happens.

This is May 2003. We introduced the tax cut to cut the capital gains, to cut the death tax and the interest, the dividend rate. So let's take a look. This is pretax relief. This is job creation. Every line that goes down indicates that we have lost jobs out of the economy. That's what we've been doing now for a number years. We've been losing jobs out of the economy. This isn't good. We don't want to lose jobs.

Why do we lose jobs? Because we are violating the basic principles of economics.

Now, we were losing jobs during these early years. We did some tax cuts, but the tax cuts didn't seem to turn this around, which suggests that not all tax cuts are necessarily going to create jobs.

Here we go May 2003. Take a look at what happens now to job creation. All the lines going up are creating jobs. You can see there is a pretty good difference between here, which is before the tax cut, and after the tax cut. So we see the immediate reflection in terms of jobs.

Now, are jobs the only things created by this tax cut? That's kind of interesting.

This is what we've been saying all the way along for a couple of years now. My Republican colleagues and I have respectfully stood on the floor and have said we love the Democrats, but they're doing everything wrong to the economy. They're going to create unemployment. They're going to create distress in the economy. They're going to make it hard for businesses, and they're going to ship jobs overseas. We've been saying that. We're saying this is not going to work. You're not going to be able to reduce the deficit. You're going to increase the deficit, and you're going to break the back of America economically if you keep on doing this. We've been saying this over and over again from this floor. Now the numbers, after the last few years, indicate that that's exactly what's happening.

The fact of the matter is we don't have to not learn from history. We can learn something from history here, which is that this tax cut particularly seems to have done an awful lot to change the job picture.

Now, of course, you could always make the case. You could say, Well, maybe it wasn't the tax cut that produced this effect. Maybe something else was going on here that would explain this.

The only other thing that is happening in the economy here is that Greenspan has got the interest rate close to zero, and that of course was driving the big real estate bubble, we now know. That's what happens when the Fed drops their interest rate very low. You have all of this easy money looking for someplace to invest. In this case, they landed on real estate, and created a big problem. So you could say that the interest rate being low could contribute to this, but it's interesting that you get this very stark and immediate contrast when this tax cut goes into place.

Let's continue this because it's kind of a little bit of history that is going to inform us as to where we need to be in the decisions going into the new year.

Here is the same tax cut here. This is again the beginning of 2003, but this is the gross domestic product. Of course, that's a measure of the overall productivity or of the efficiency of the U.S. economy. This is pretax relief. The average GDP was 1.1 percent. You can see it was not only 1.1 percent, which wasn't great for GDP, but it also was kind of spotty. You had this one where it was actually going down in gross domestic product, and these numbers were not very high.

Then you go to the tax cut—capital gains, dividends, and the death tax. Now this is only carrying the thing over to 2006. These are older charts, but they're interesting charts. You can see

the effect afterwards—at least it appears to be an effect—of going from 1.1 to 3.5, depending on which year, but the difference is that it is a marked difference.

The scary question then to suggest is: If there is a causal relationship between this tax cut which allowed businesspeople to make more investment in American businesses, what happens if you turn the economics upside down and do it in reverse? What happens if that tax cut goes away? What does that mean relative to job creation if, all of a sudden, this thing, this event which created more jobs—what happens if you do it upside down? Isn't it logical that if these tax cuts expire that it will have the reverse effect? That it will do the very thing opposite of what it did when it went the other way?

That's a very scary thought because, if all of a sudden we have now 9 or 10 percent unemployment and we do something to make that worse, that's not a very good idea. That's why even moderates and even the President are starting to say, I'm not so sure we want to burden America with the biggest tax increase in the history of the country right at the time when it's not at all clear that we're even out of the last recession.

There are some people who are optimistic. They think, Oh, we pulled out of the other recession that we were in. I'm not so sure.

I measure that based on those same 5 points we've been talking about, which is the problem with excessive taxes, the problem with excessive redtape, the uncertainty created by all kinds of government actions in the marketplace, the liquidity problem in the banks, and of course excessive Federal spending.

So here is GDP after the tax relief. Do you see that the GDP has gone up? The job creation looks good.

Here is the last chart—also very interesting. This is the one that we talked about just a few minutes ago, which appears to almost invalidate the law of gravity. You cut taxes here. This red line here is Federal revenues, and Federal revenues are going down. Then we cut taxes, and you think, Oh, they're going to go down even more. Terrible. There's going to be a huge deficit because we've cut taxes, and now there's going to be a deficit. So the Congressional Budget Office adds it all up, and says, Well, golly. If we're making \$100 with this tax now and if we cut it in half, why, we'll only make \$50.

It seems like a logical assumption, but it's not. Take a look at what happened.

When you cut taxes, businessmen invested the money. Businesses started getting going. As businesses got going, they raised more taxes. So what happened is the Federal revenues actually went up as a result of the tax cut.

That's one of the reasons there is this fundamental difference between Democrats and Republicans. Democrats always want to say, if you're going to do a tax cut, you have to pay for it by cutting something. It sounds like good economics. It's not good economics. The fact of the matter is, if you do tax cuts, if they're the right kind of tax cuts, you actually get more Federal revenues, and it does not hurt the deficit. It helps to reduce the deficit.

□ 2310

That was the effect in 2004, -5, -6 and -7. You can see 4 straight years of increases in Federal revenues as a result of these taxes.

Now, here's the scary question again. I'm going to say it over and over: What happens if you turn this math upside down? Instead of reducing capital gains and death tax and dividends, what happens instead of reducing them if you increase them in the biggest tax increase in the history of the country? Will it not do the exact opposite? And when you increase those taxes, is it not possible that the Federal revenues will drop even more rapidly and the deficit will become even more unmanageable? I think there's good evidence, and many solid economists would say that we do not want to allow these things to expire.

Now, let's just say that the Congress votes in the next couple of days, as I think, being a Member of Congress, I suspect we might well do this. We'll vote and we will pass this supposed tax cut deal. Does that solve the problem of excessive taxes? Well, it gets rid of a problem of the biggest tax increase in the history of the country coming, so it's averting damage. But if you take a look at where we are right now, we are still overtaxing and we've got the unemployment problem. So it's good to avert the evil, but does it really fix where we are? No, it doesn't.

And does that then change the red tape picture? No, the red tape picture is still bad. Does it change the liquidity picture of the banks? No, it doesn't change that. Does it change the high level of Federal spending? No. It makes it worse, because we're spending some money which is not tax cut money, but we are spending money on extending unemployment, which is a legitimate form of Federal spending which does affect the deficit. So it doesn't help the deficit in that way.

And certainly the question of uncertainty is one of those things. Is the glass half full or half empty? Right now, we have certainty there's going to be a train wreck, there's going to be an economic disaster on January 1 because we have not dealt with the massive, massive tax increases coming. There is some certainty in that. It also means there is a big problem coming.

On the other hand, is kicking those tax cuts forward by 1 year or 2 years,

does that create more certainty? Well, the answer is no. It's maybe a little more certain, but it still doesn't give you a basis for planning, for estate planning or for capital gains dividends, those kinds of things for the businessman, no. Their loan cycle is typically a 5-year cycle to the banks, and so having a capital gains dividends policy that's extended out a couple of years doesn't get within that 5-year window. So is there more or less certainty? Well, you can argue back and forth.

So the Republicans are caught sort of in a weird situation. We think, well, certainly you shouldn't nail America with the biggest tax increase in the history of the country, that doesn't make sense, but even if you avert that disaster, does that mean these other elements are taken care of? And the answer is clearly no.

Do you think that the things that are burdening our economy, that's holding down job creation, that makes it very difficult on families, do you think those conditions have been mitigated? No. No, we're still taxing too much. We're still have too much red tape, too much uncertainty, too much Federal spending, and the liquidity problem with the banks is still not taken care of.

So here we are. We've got before us a bill. Republicans are kind of scratching their heads on it because it has some bad parts and some good parts, and we understand what we have to do. This bill is not really going to solve the problem of unemployment. It's not going to solve the problem of overtaxation. It just prevents an evil from happening.

But it is interesting to note what level of risk there is ahead for America if this issue of these taxes is not dealt with, and we're not in a position to be able to do that. That's something that has to happen with the Senate and it has to happen with the President, and they're going to have to get serious about reducing spending and also reducing taxes. And over the next number of months, I have not the slightest doubt that a Republican-run House is going to choose, they're going to choose jobs and paychecks over bureaucracy and unemployment. Not bureaucracy and food stamps. That's not our choice.

Our choice on the American Dream is to allow people to take risks, to invest their own money, and to get jobs and to receive paychecks. We think that's the best form of security. Economically, it is a good paycheck. It's the best thing for a healthy Nation.

And so we will be making proposals to cut taxes, to cut red tape, to create certainty, and to reduce Federal spending, all of those things. We'll be making those proposals, but we won't be able to pass them. We can pass them out of the House, but it's got to get through the Senate. And if it gets

through to the Senate, it has to be approved by the President. So everybody will be able to see what's going on.

Now, in the past when I was here, 2001, 2002, 2003, we passed a number of things through the House that were very good policy that no one paid any attention to. They were killed by Democrats in the Senate because we never had 60 votes in the Senate. A couple of those are kind of interesting.

One of them is an energy bill, because it said we've got to pay attention to the fact that we are dependent on foreign countries, particularly the Middle Eastern foreign countries, for our oil supply. We are too dependent on foreign oil, and so we put a number of energy bills together, killed in the Senate by Democrats.

We also recognized that there was a problem with health care, that there were some things that were out of balance. We said there's some things that have to be done. We've got to do some tort reform. We've got to do some associated health plans. We've got to make some changes in health care. All of those proposals were killed in the Senate by Democrats. 20/20 hindsight, just like energy, fixing health care was an important priority.

And then we also passed a bill particularly to try to rein in the excessive practices of Freddie and Fannie. President Bush on September 11, 2003, in *The New York Times*, not exactly a conservative oracle, said he wanted authority from the House and from the Senate to allow him to regulate Freddie and Fannie because their financial practices were out of control and were really going to become a liability. We passed legislation to do that. It went to the Senate. It was killed by the Democrats in the Senate.

In each of those cases, a Republican House passed legislation that historically, you look back and say, policywise, you're right, nobody noticed it. The media didn't cover it but it occurred, and you can check it. It's part of the *RECORD*. And the same thing could happen in this next year, but I don't think it will. I don't think it will, because I believe that Americans have been paying more attention to what's going on in government.

I believe that Americans are fed up. I believe that Americans are at the point where they're saying that government is no longer the servant of the people, that government is becoming a master. It's an out-of-control government, and it's time to start putting the genie back in the bottle, and they're going to do that one way or the other. The question is whether those of us that have been elected to serve as servants are going to step up to our job, cut the red tape, cut the bureaucracy, cut the Federal spending, cut the taxes, and make the Federal Government a servant of the people.

In order to do that we can't just simply say, well, we're going to take 10

percent off of this department, 10 percent off of that department, 10 percent off another department. We can't say we're going to cut waste, fraud, and abuse, because there isn't any budget item that says waste, fraud, and abuse. It's a more complicated process than that.

What we have to do is go back to the drawing board, which is the U.S. Constitution, and we have to start asking ourselves what are the essential functions that the Federal Government must do and those we must fund. And particularly, that includes providing for the national defense and the other things that are not essential that the Federal Government do. We must start to say maybe we should just plain get out of that business and turn that back over to the States and turn it back over to local cities and to the citizens of America and let them deal with those things, because Americans are fed up. They're fed up with unemployment. They're saying no more bureaucrats, no more food stamps. What we want is jobs and paychecks. And I think that's where the public is heading.

So the question then becomes, well, what's everybody going to do on this big tax bill? The answer is we could avert some evil, but we're not going to solve the real problems that we have to do by simply postponing or kicking these things down the line a little bit and creating more uncertainty and postponing them.

□ 2320

On the other hand, we cannot allow the major tax increase to go forward, so you're going to see a checkered pattern in the voting, particularly the Republicans. There will be some for and some against them, arguing whether the glass is half full or half empty.

But there won't be any argument about what we need to do. There is no argument about the fact that we do not want 10 percent unemployment. There is no argument that we want the Federal Government to be a fearful master. We are sick of that, and it's time for things to change. And that is, to some degree, what has led me personally and quite a number of other Republicans to understanding that as we approach this next year, that there is a new area that we have to go to. And that is, we have to take a good look at this wonderful Chamber; we have to take a good look at the U.S. House and say, Have we really run this place the way it should be run? Or have we allowed a series of fiefdoms over the years to build and develop where we have created a structure that is so unmanageable, so crusty, so interconnected, and from a systems point of view, so unmanageable that even if you put good people in it, you get bad results?

I believe that the results of the excessive growth of the Federal Govern-

ment indicates that there is a need for a redesign of the House entirely. We need to take a good look at the budget process. There is a lot of confusion over earmarks and what should or shouldn't be the job of the Congress to appropriate money constitutionally. We need to take a good look at—you can see that we have started that process by the new schedule that's being published already. It says, we are going to tell people ahead of time, we're going to be in, serving in Congress, on these particular days. There won't be votes before noon time, so committees can actually do their work without telling witnesses that have flown across the country to testify that they have to wait 45 minutes while we name another post office after somebody. And we are going to know for sure that on the day we get out that there won't be votes after 3 o'clock so people can schedule their flights home and can be doing work back in their districts.

So what we're trying to do is to redesign the entire system so we can deal with these kinds of problems. But we're not going to do it with a quick shot that says, Hey, let's just postpone this problem for a year or postpone another problem for another year and a half and have the thing still hanging out there. There has to be specific tax policy. It has to be a tax policy that is friendly to American jobs and allows us to be competitive.

It gives me no satisfaction to see us create a set of rules which are guaranteed to have the international corporations in America say, Hey, you're making the rules so that we can't put jobs in this country. We'll still make a profit. We'll still create jobs. The jobs will be in a foreign country. What good is that to us? It maybe makes some business people or investors a little bit more money, but it isn't where we should be going with Federal policy. Our policy should be, America can be competitive, but let's not create a system where we basically are destroying ourselves. And that's what's going on with excessive taxation and with excessive red tape and all. So that's where we are.

What we're seeing again is this rush in the last week or two of this year to do things that show a priority that is a bit weird. Today I was on the floor a little earlier, and I commented on the fact that a long, long time ago, there was a chance to see a total solar eclipse. Now if you've never had a chance to see something like that, they don't happen very often. But I was out on the edge of Massachusetts, on Cape Cod, and it was an area of the U.S. where there would be a total shadow; that is, the Moon totally comes in the way of the Sun. And right in the middle of the day, the Sun just darkens up slowly. And light doesn't totally disappear, but it is an eerie and strange feeling. That doesn't happen very often that you can observe an eclipse.

What happened today was also a kind of eclipse, what's happening at the end of this year. This is the first time in I believe it's 48 years that the House has not had a defense budget. That is weird. That's an eclipse of reason that we have no defense budget. And so today when the House has no defense budget, instead what do we vote on? Well, we vote on getting rid of the Don't Ask, Don't Tell, so we're going to deal with gay policies in the military. We don't even have a military budget, and we're pushing some social agenda here in the last couple of days for fear that the new people that come in won't really want to do this thing. So at the last minute, we're going to hurry up and do something which you've got three generals—a general of the Army of America, a general of the Air Force of America, a general of the Marine Corps all are saying it's a bad policy. We have got two wars going on. And what are we doing? Are we doing our business? Are we passing a defense budget?

No. No, instead, we're tampering around with social policy to try to make some constituency happy. Why do we want to burden the military with social policy anyway? Why not allow them just to defend us and keep the discussion on social policy as an American and a local kind of question. Let the States deal with it. No, we're not going to pass a military budget. We're going to do that. It is a question of priorities here.

And this effect that we're seeing says there is big trouble next year if we don't do something about what happens. Because if these numbers go in reverse, what you're going to see instead of Federal revenues going up, they're going to go down. What you are going to see in reverse is, if you do the reverse of this change here on GDP, you'll see GDP going from—which is too strong now, it's going to get worse. We can't afford that. We don't want that to happen. And particularly—and this is cruel and harsh to Americans—you're going to see jobs vaporizing and disappearing.

That's not where we need to be going with this Congress. Even in the last couple of days, in the last week or two, depending on if they decide to call us in for Christmas and New Year's, I'm not sure about that. We're not calling the shots on that. But we are not creating the policies which support a good stable economy.

And the policies are available. It's not just Republican policies. I might mention that the person that understood this effect was JFK. He had a recession; and what he did was, he treated it with a good dose of solid, sound tax policy by cutting taxes. And JFK saw this same kind of turnaround while he was a Democrat President. Also Ronald Reagan did the same thing. He inherited a lousy economy, just as

Bush II had done, and he had cut taxes aggressively. People made fun of it. They called it Reaganomics and trickle-down economics and things like that. They made fun of him for a year or two until the economy snapped around, jobs were created, the economy steams off strongly for many years, and these same policies were vindicated. They work. And it worked for George Bush when he did it here.

The question is, Are we going to learn from history? Or are we going to take a recession and turn it into a Great Depression? I'll tell you, there are some areas where we have serious problems in this country that are not all clear, and it gets into some very esoteric areas in the area of real estate, both commercial and residential real estate.

And we have not fixed Freddie and Fannie as a result of this last big housing bubble which has affected people's savings terribly in '08. Many people lost a great deal of savings in '08, and it was caused by a series of things in the housing industry that were not done properly. It's courtesy of the U.S. Congress. It was the fault of the U.S. Congress and the Senate and our policies, relative to loan policies. And we haven't fixed any of those things.

So not only have we not fixed tax increases, not only have we not fixed red tape, not only have we not fixed the problem of liquidity, not only have we maintained an air of uncertainty which is problematic, not only are we excessively spending at the Federal level, we've got some other problems in real estate that are still out there.

So all of these things lead us to understand that there has to be a fundamental change by the way things are done here in Washington, D.C., and it says that we cannot afford the level of Federal spending and the excessive taxation that have burdened our economy the way it has.

It's a treat to be able to join everybody this evening, and it's a treat to be able to talk about these things because this is current and relevant. It's quite possible tomorrow that the vote will come up on the tax thing. And I think what you'll see, as I've said, is kind of a mixed pattern from Republicans.

□ 2330

There's bad stuff in the bill because it's going to increase the deficit. Good stuff in the sense we're preventing a terrible tax increase, but yet, overall, it's not fixing the problem. And the solution to the problem is going to come and it's going to be something that we'll do one piece at a time. We're going to send it over to the Senate, and we're going to give them an opportunity.

One of the things we'll do will be to take the death taxes and say, Let's make a decision. What are we going to do on this? This thing has been running

along since May of 2003. Everybody knows you need to make a decision on it. What are we going to do? Are we going to make it permanent in some way? We're going to let people plan and know what the Federal policy is going to be? Are we going to—after we nail people for taxes all their life, are we going to nail them again when they die? When a son inherits his farm from his dad and the farm is worth a number of million dollars and the protection is only for a \$1 million cap, does the son have to sell the farm, in fact, liquidate the farm, in order to pay the taxes we're going to extract from the person who died?

That's the question. And it's time for us to make a decision. Is it going to be more bureaucrats and food stamps or is it going to be jobs and paychecks? That's the decision before us.

We will send those pieces of legislation to the Senate. You need to look for them. I guarantee you that we'll send them. The question's going to be: What's the Senate going to do and what's the President going to do?

I'm joined here by a very good friend of mine, Congressman KING from Iowa, somebody who has a passion and love for America and a love for free enterprise. And he has a good reason to have a love affair with free enterprise, because he is a small business man, started his own business, sustained his family and has held his head high and proud. He has some tendency to speak sometimes on the floor here in Congress. Many of you may know my good friend Congressman KING, and I'm going to call on him and just ask him if he'd like to make a comment or two about this whole situation that's coming up this week and how it relates to the Bush tax cuts and whether or not it's really going to solve all the problems that the country has and what the solutions really would be. And I believe you'll hear a story that's very common sense, very much in line with free enterprise and the American Dream and refreshing and hopeful. My good friend, Congressman KING.

Mr. KING of Iowa. I thank the gentleman from Missouri for bringing his insight here to the floor of the House so many nights in a row when others might decide to call it a day. There are Americans that are lying awake that are worrying and concerned about what happens here in this United States Congress, this great deliberative body, and the future and the destiny of this country established here often on the floor of the House of Representatives, and that's why every word that's spoken by the gentleman from Missouri and others is essential and it contributes to the direction that America takes.

And as I listened to the gentleman from Missouri, Mr. AKIN, present this very cogent and factual presentation here tonight with the charts to back it

up, and I remember my good friend from Minnesota, Congressman Gil Gutmacht, who used to say that if you have a chart to back it up you're 40 percent more believable. And of course I don't know how you improve upon being completely believable, which is the case with the gentleman from Missouri. But I was inspired as I listened to the gentleman's discussion about the estate tax and what happens, and I think it's so important that we think about the function of tax policies.

And I listen to the class envy on the other side of the aisle. And there are many over there that are steeped in class envy and think that if a person works their entire life and compiles enough money to be worthy of the trouble of the tax man stepping in and taking a chunk of it, as much as they can get, that somehow there's a justice at the end of the generation to take the earnings of that generation and spread it out amongst the other people instead of allowing it to go to the next generation.

And I think about my ancestors that came across the prairie in a covered wagon. I think about my great-grandfather who arrived here from Germany on March 26, 1894, and he had four or five of his children with him, and the balance of his nine children were born here in the United States, the ones that survived. And his dream was to be able to homestead, buy and build a farm for each of those children, nine children that reached maturity. And he bought nine quarter sections of land, 160 acres each, and that's what it took to support a family. You need to raise, oh, six, seven, eight, nine or ten kids on 160 acres.

And he had a diversified farming operation that had a few milk cows, some sows. He raised some corn and later on some soybeans and some oats and some hay ground, and everybody went to work and they built their future and their destiny on that land. And the dream was: Can we hand that land over to the next generation? Can we take this unit and deliver it to the next generation? And his dream, with nine children, buying those nine quarter sections of land was, if he could set each of them up on 160 acres of land that they would inherit from him, that if they took care of the land, they took care of the livestock, it would all take care of them, and they could raise their children, and the next generation could go build upon the equity that was earned in his generation.

Mr. AKIN. You know, I can't help but get excited about what you're saying. You're talking about the American Dream before there was all this tampering government. And the thing that I find just absolutely amazing—let's compare your grandfather to somebody else. And I don't know who it was, but somebody else who, instead of making those sacrifices and doing the hard

work, went out and drank and gambled everything away so he died penniless. Now, the system of tax that is being proposed by the Democrats is going to reward that guy because he won't pay any death taxes at all. And yet your granddad, who made all kinds of personal sacrifices and hard work to set up his children and grandchildren, he's going to get his hide taxed off of him. What kind of tax policy is that? A tax policy should encourage the American Dream, not destroy it.

Mr. KING of Iowa. And if I would say that if he was sitting in Germany in 1893 planning his trip here in 1894, thinking he was faced with tax policy that would confiscate his life's earnings and pass it back to the government and distribute it to the people that were not engaged in the free enterprise—

Mr. AKIN. Fifty percent of his earnings

Mr. KING of Iowa. Or 55 percent. Even if the ball drops at Times Square and we don't get this thing resolved, taking away half of what he'd earned in his lifetime, he would have not had that dream. He's unlikely to have even come to the United States. But he's really unlikely to have bought those nine quarter sections of land, because he would know that before he could hand it off to the next generation, the tax man would come in and swallow up half of it.

And so here's the scenario. I mean, unfortunately for my great-grandfather, he lost all of that land when the stock market crashed in 1929. He didn't lament that. He'd engaged in free enterprise, capitalism, and commerce, and it didn't work out for him. The timing was wrong, and he lived the rest of his life in Pierson, Iowa, a lonely man in a tiny little house. But he had the dream. He had the chance to access the dream. And it didn't work out for him, but his children received the vision of his dream and they went to work and they built, and they raised their children with the same dream that brought him here to the United States.

And so I think today, even though it hasn't worked out for my family in the way that it was envisioned, and there isn't wealth on either side of my family that counts as taxable in the estate tax configuration, no matter what it is, it inspired them nonetheless. They worked nonetheless. They invested capital anyway, and they went to work. And so—

Mr. AKIN. You know, just stopping your story for a minute there, it strikes me that the policies that killed your grandfather's dream in the Great Depression were the same policies that we've been following for the last 2 or 3 years. There's nothing new about it. It was excessive Federal spending, excessive Federal taxation all packaged up as Keynesian economics. And Henry

Morgenthau, after he killed that dream, came to this Congress and said, Guys, it didn't work.

And we're not listening to it, and here we go again doing the same thing. I just feel like we have got to learn something from history. And your grandfather is such an inspiration. And certainly what he passed on was the vision of the fact you can make it in this country. You can go from being poor to being well-to-do if you work hard and you try hard and you live that dream that's in your heart. That's what America's supposed to be about.

I yield.

Mr. KING of Iowa. Well, in the succeeding generations, the dream was passed on even though the equity was not, because they didn't build the equity but the dream was there. The obligation and the duty and the appreciation for America embracing my ancestors coming here was passed on to me, and it said stand up for this United States of America, this free enterprise dream. And today, the families that it's worked out for, those who have made that investment, that hung on to that land, that spent two or three generations or more building a family farm—and let's say now, today, it's not 160 acres that it takes to sustain a family but 1,000 or 1,500 acres that it takes to sustain a family. And that's more accurate.

□ 2340

Let's just say that that unit that was put together, two sections of land now, 640 acres a section, 1,280 acres altogether.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. AKIN. Mr. Chairman, I thank my colleagues for joining us in the discussion here about really the future of America.

KILLING THE AMERICAN DREAM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized until midnight.

Mr. KING of Iowa. Mr. Speaker, and I would ask the gentleman from Missouri if he would mind sticking around here for a seamless transition into this dialogue. And I appreciate being recognized to address you here on the floor of the House. It is always my privilege.

And I would pick this narrative up where it was left off in the transition component of it, and where I was, with 1,288 acres now required to sustain a unit of operation, that would be these acres, and a home place that was built with grain storage and transfer equipment and livestock facilities and those things that make it a system and a unit. Maybe some rented land out there, some rented pasture, some hay ground, some rented crop ground that

keeps this system that is a viable and effective unit. And now, let's imagine that.

Mr. AKIN. A couple tractors, combine, some equipment worth a lot of money.

Mr. KING of Iowa. And let's say five kids. That is a good number. Five kids, and they are raised on this farm.

Now, two sections of land, paid for, and the 90-year-old patriarch of this family has reached the end of his life and he is watching how his life's work that is the legacy of his predecessors, the life's work of almost a century of his memory adding all up to this point where, if he passes away in the first minute of next year, the taxman hovers over the death bed and reaches in and pulls out, aside from the \$1 million exemption, 55 percent of the asset value.

That means that half of the land that has been accumulated goes to pay the taxman. The other half of that land, the five children that would inherit the balance of what is left, would have a 20 percent equity share in the land that is left, 20 percent equity share in 45 percent, roughly, of what was left. None of those children then, on that basis, have enough equity to hold that system, that unit, in place.

And so they look at this and they would think, do I want to be in debt the rest of my life trying to retire this debt, trying to borrow the money to buy the section of land that it takes to pay the taxman and buy the 80 percent that is left that they don't have equity in, that goes to their siblings, and to be able to turn the cash flow to retire it to serve the interest and principal on those two sections of land? And the answer that they will come away with, and a rational banker will tell them: You can't hold this land. I am sorry, but you have got to put it before the auction, sell this land off, pay the taxman, and then distribute the rest of the proceeds amongst your siblings and you get your 20 percent that is left over after taxes.

That means that a century of work, three generations or more that have compiled these assets, is gone, taken away, because of the class envy that comes from the leftists in this Congress and the people that think that the American dream isn't about building equity, and that you shouldn't be able to transfer wealth from generation to generation, and that somehow, because someone else worked and created the capital that this Nation thrives on, you should be punished in the transfer of that wealth into the next generation. The gentleman from Missouri knows this. I know this in the Midwest. They should know this all across America.

Mr. AKIN. I appreciate your yielding for a moment, because what you are talking about, I guess economists would say, there is sort of an economic

lot size. If you have a farm worth 2,000 acres, that may be viable; but if you have to sell off 55 percent of your land, 55 percent of your tractors or your combines or your equipment, and then you divide it across several siblings, it won't work anymore.

So what you have done is not only have you taken away something that was part of the dream that somebody saved all their life to pass on to their kids; we are saying we are going to punish people who want to pass things on to their kids. That is not the American dream. That is killing the American dream.

Now, you raised another thing, and I would like to talk about this. I have heard people, talk show hosts and others, talking about this, and I feel like they are not approaching it from the right way. You are talking about class envy, and it is always the upper class and the middle class and the lower class, and, "I am for the middle class." And it is all this class, class, class stuff. And I feel like saying: Stop. Wait just a minute. I thought America was a classless society. I thought America was a place where you could come here dirt poor, end up as a millionaire, and nobody really made a whole bunch of stuff about that. They didn't tag you with, you can't go to dinner at somebody's house because you are not the right class. That is the way it is in Europe, but that is not the way it is in America. The America I know is classless. And I don't look down my nose at somebody doing a hard job, because the guy working hard is probably going to be the guy who is going to be the millionaire, he is probably going to be hiring my kid to mow his yard for him.

So why do we talk about classes? Why don't we talk about jobs and the American dream? That is what I don't understand.

Mr. KING of Iowa. The gentleman is completely correct on this. I would add to this point. Let's just say that an entrepreneur has a bright idea, and let's say 10 kids. That is a good start on a family, I tell them. And this bright idea from the entrepreneur starts a business, and they build their equity base because of the creativity and the energy and the conviction and the productivity and the competition that they put into the marketplace. This individual reaches that age of 45 or 50, and they can look ahead and say: I can check out of this. I can sell out my business and I can make the rest of this on really solid, stable investments, and I don't have to worry about the rest of my life. And, furthermore, if I continue to work, continue to take risk, continue to produce and expand the capital base of America, everything that I work for, for the rest of my life, is going to go off to the taxman to be redistributed among people across America, and I can't even give it to my children.

What does a rational person do in a case like that? And I will submit to the gentleman from Missouri and the Speaker that a rational person would come to the conclusion that it didn't pay to continue to produce once you reach the level that you could take care of yourself for the rest of your life, because you couldn't pass it along to the next generation. That destroys the American dream, and it blows the entire thing up.

I see my friend, the Judge and the gentleman from Texas, who concluded that legislating from the bench was the wrong thing, and coming to Congress to legislate from here is the right thing. And I yield to the gentleman from Texas.

Mr. GOHMERT. I appreciate my friend from Iowa yielding. In fact, exactly what you are talking about was a real-life case in my extended family. There was a great aunt, predeceased by her husband. They had 2,500 acres in south Texas. It had been built up over a number of generations, over 100 years. They have done exactly what you are talking about. They worked. And, by the sweat of their brow and all the sweat equity, scraping together money, they kept accumulating land and would pass that on.

Well, along comes a greedy Congress that decides: When you are dead, we are going to do as our friend TED POE has talked about happened in a case tried in his court where a guy died in an accident, and a thief came in and stole his wallet out of his pocket while he was dead. Well, that guy went to prison for a long time because he was caught. Well, the government is doing that.

Mr. KING of Iowa. And a place in eternity.

Mr. GOHMERT. Exactly. Anyway, my great aunt's husband predeceased her. When she died, she had left a will that set aside one section of land to be sold to pay off the estate tax. Unfortunately, this was 1986, and that also happened to be a time when FDIC and the SLIC, later the RTC, they started accumulating and they started dumping land around that area.

Land had been valued around \$2,000 at the time of her death in 1986, but within a year or so when the estate was being settled, because of the land being dumped in the area, it fell to \$600, \$700 an acre. The IRS took every acre of the estate, because at the time the land fell to \$600 or \$700. The IRS did allow a year or two extension hoping the land value would come back so they would get to save an acre or two. But out of 2,500 acres, it was around a \$5 million estate at 2,000 acres, and there were some comparables around that when she died to show it was that value. But when it fell to \$600, \$700, the IRS said, "It is all ours, because it will take every acre of land to pay your 55 percent estate tax even after the exemption."

They forced the sale of every acre of land, and her home, where she had designated specific bequests: I want you to have my china; I want you to have my crystal; I want you to have these beautiful pieces of furniture, you to have the table.

Well, we got a cry from her immediate family, "Please come, because the public is coming to this auction. The IRS is auctioning every single item from her home."

I was one of a number of family members, and we had an agreement between ourselves: If the individuals that she had specifically bequeathed things to were able to bid, we let them bid on those things and stayed back.

□ 2350

But it was heartbreaking to see item that Aunt Lilly loved after item she loved being bought by the general public who had come with lots of money to take aunt Lilly's things, all because a greedy Congress couldn't care less that they took every acre, they took her homeplace, and her heir that was willed the home had to buy her home. That is the IRS, and, of course, the IRS is nothing more than the designee of this Congress to go steal things from people, and we make it all legal by what we pass here.

Morally, it is not right what we do in taking people's property, in prying their wallet from the dead carcass of someone because we can, because we have that power. It is not right.

I can tell you, in my immediate family I will never be affected by the estate tax. Not in my immediate family I won't be. But I know as a moral factor, it is wrong. It is just wrong. It is incentive killing.

And speaking of Congress and the things we do, you know, we may be voting as early as tomorrow on this so-called tax extender bill. Leave it to this Congress to figure out a way, when people across America have said, hey, people across America didn't get a pay raise. Social Security, they didn't get a pay raise. They got no COLA. You guys don't get any COLA, you don't get a pay raise. And this Congress, the Democratic majority said, you are right, we are not going to get a pay raise. We hear you. We are not going to get a pay raise.

But, you know what? In this tax extender bill we are going to cut 2 percent off the Social Security tax. In other words, we are going to give ourselves well over a \$2,000 raise next year if this thing passes. I mean, how ingenious was it for this Congress to come up with a way to get a pay raise, when we promised people we weren't going to do that this year?

Mr. KING of Iowa. Well, I thank the gentleman from Texas.

Reclaiming my time, I look at the configuration of this proposal that is coming to the floor tomorrow and I am

troubled by it. There are some good things in it.

To ensure that the current tax brackets can run for 2 years, that is a good thing. It is not as good as it needs to be. It mitigates the damage of the increase that is impending in the death tax, but it doesn't address and fix the problem. It just makes it less egregious. So those are the good things about it.

I am one who supports the credits for ethanol and biodiesel. I could make that argument, and it is not a bumper sticker argument. But the Federal Government has said we want you to invest your private sector capital in producing renewable fuels, and if you will do that, we will make sure there is enough there to get you started.

Well, they invested, at least in my district, 3 years in a row over \$1 billion in renewable energy, and now we are looking at that rug being jerked out from underneath the people that trusted the Federal Government. We may or may not agree on that policy here, but I think the government needs to be consistent.

But in any case, here is what we are really looking at: We need to make the current tax structures permanent. We need to eliminate and abolish the death tax, because it is an immoral tax.

And into this bargain, what do we get? We get an increase in the death tax that goes from zero on up to a \$1 million exemption with a 35 percent tax, and that ax that is hanging over the head instead is a \$1 million exemption and 55 percent.

The current tax is zero. George Steinbrenner's heirs paid zero in death tax, and those who pass away in this year pay zero, no matter what the amount of their equity. Actually, these are the goods things about this proposal.

But the bad things are this: That the unemployment extensions that are there take it out to 99 weeks. We have gotten along for about three generations with 26 weeks of unemployment. We know that that bridges people over a seasonal job, it gives them half a year to find a job. And when you look at the time that people that are on unemployment spend to search for a job, it is about 20 minutes a day in the first weeks of their unemployment, and as that unemployment winds down into the 26th week, it is about 70 minutes a day that they spend looking for a job. They are far more likely to find a job the first week after their unemployment runs out than they are to find a job in the first week that their unemployment starts.

So there is a huge transfer of wealth that takes place there, paid for out of borrowed money that comes from the Chinese, the interest and principal that is dumped on our children, and that is about \$56.5 billion that accumulated there.

Then we have about \$40 billion with the transfer payments. These transfer payments come in the form of refundable tax credits. Refundable tax credits is money that goes off budget, 100 percent of it is borrowed, and a lot of it from the Chinese, that pays people that are do not have a tax liability for the child care tax credit that is there and about two other credits that transfer wealth.

You add this up, that is about \$40 billion in that category, and \$56.5 billion in the other category. So we are in the area of \$101 billion or \$102 billion in transfer of wealth, before you get to the pay control component this, which troubles me.

They lower the payroll tax by 2 percent on the employee side, but not on the employer side, which distorts the equation of a dollar out of the employee, a dollar out of the employer. And most of us see this as that is all money that is earned by the employee. As an employer, I will make that case. But when you distort the equation, then you are presuming that the employer is making money and the employee is not, and the favor goes to the employee side of this. It will take awhile for economics to balance that one out.

But in the end, we have a 2-year extension of current tax structure for personal income tax, which if you think about it from a business perspective, if you have a business plan and a business model and you are going to invest capital in order to try to get a return on that capital, which means make some money, and in the process of doing that you create jobs, if you have a business model that has a 2-year ROI, return on investment, if you have got that kind of a business model, you have already invested that as fast as you could come up with the idea and come up with the capital to invest it. But most of this on the other side, most capital investments are 10 or 15-year returns on investment.

So if you have got a 2-year extension and a tax increase on the other side of that, it doesn't release the capital in such a way that it is going to create the jobs. So we don't get anywhere near the kick out of this for our economy that some of the economists say that we do. And the day will come at the end of these 2 years, we are in the middle then of a presidential race, congressional races, House and the Senate, and the debate then engages again, do we do President Obama's Keynesian economics on steroids, do we continue and add to the \$3 trillion in wasteful spending that has come from that? And they are going to say, well, we gave you your tax model for 2 years and it didn't work. Therefore, we need to go back to spending money like Morganthau admitted was wrong.

I yield to the gentleman from Missouri. I see we have 3 minutes left.

Mr. AKIN. I appreciate your yielding. Certainly I think the point that you have said eloquently I tried to make earlier tonight, and that is what you are looking at here is not the Republican solution. It is not a good economic solution. It is not a good moral solution. It is something that is a Christmas-New Year's solution on something that people have seen for 3 or 4 years coming along, plenty of time, if we really wanted to deal with it.

The other thing is that all of the discussion that I hear is so amazingly oblique to what we should be thinking. It is all about, well, does the middle-class guy get more? Does the rich guy get more? Does the poor guy get more? It is not about that. It is about America. It is about the fact that we have got an economic recession going. It is about the fact that we want the American dream to have some fresh life breathed into it and economic policies that don't rip people off. It is about the fact that socialism is theft. It is not a legitimate function under the Constitution or the government. It is about the fact that we want the government to be the servant and not the master.

It is the time now for us to blow the whistle and say, enough already. It is time to get back to the system that was designed by our forefathers, and not this endless class warfare gibberish which misses the fact that we are USA Americans.

Mr. KING of Iowa. Reclaiming my time, we have the 87 freshmen Republicans and however many Democrats are coming here who are the cavalry coming over the hill, and we ask them to bring the freshness of their convictions here and weigh in. I believe they need an opportunity to weigh in on this tax policy.

I yield to the gentleman from Texas. Mr. GOHMERT. One of the things about this 13 months of unemployment insurance is that if people haven't found a job already, rather than pay them not to work for over a year, train them to do a different job where there are jobs. That is the more caring thing to do.

And one more comment about the tax policy that took all of my great

aunt's land. I bought at the auction her music box that was a church that played Amazing Grace. At the end of the auction, most everybody had left, and the observation I had is there was nothing amazing or graceful about that policy.

Mr. KING of Iowa. I thank the gentleman from Texas and the Speaker for his indulgence.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS of Illinois (at the request of Mr. HOYER) for today.

Ms. WOOLSEY (at the request of Mr. HOYER) for today.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FRANK of Massachusetts) to revise and extend their remarks and include extraneous material:)

Mr. FRANK of Massachusetts, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. YARMUTH, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

(The following Member (at his request) to revise and extend his remarks and include extraneous material:)

Mr. OLSON, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 4005. An act to amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly en-

rolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1061. An act to transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, and for other purposes.

H.R. 6278. An act to amend the National Children's Island Act of 1995 to expand allowable uses for Kingman and Heritage Islands by the District of Columbia, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The Speaker announced her signature to enrolled bills of the Senate of the following titles:

S. 1275. An act to establish a National Foundation on Physical Fitness and Sports to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

S. 1448. An act to amend the Act of August 9, 1955, to authorize the Coquille Indian Tribe, the Confederated Tribes of Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to obtain 99-year lease authority for trust land.

S. 1609. An act to authorize a single fisheries cooperative for the Bering Sea Aleutian Islands longline catcher processor subsector, and for other purposes.

S. 2906. An act to amend the Act of August 9, 1955, to modify a provision relating to leases involving certain Indian tribes.

S. 3794. An act to amend chapter 5 of title 40, United States Code, to include organizations whose membership comprises substantially veterans as recipient organizations for the donation of Federal surplus personal property through State Agencies.

S. 3984. An act to amend and extend the Museum and Library Services Act, and for other purposes.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), the House adjourned until today, Thursday, December 16, 2010, at 10 a.m.

BUDGETARY EFFECTS OF PAYGO LEGISLATION

Pursuant to Public Law 111-139, Mr. SPRATT hereby submits, prior to the vote on passage, the attached estimate of the costs of H.R. 6517, the Omnibus Trade Act of 2010, as amended, for printing in the CONGRESSIONAL RECORD.

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR H.R. 6517, THE OMNIBUS TRADE ACT OF 2010, AS TRANSMITTED TO CBO ON DECEMBER 15, 2010

	Millions of dollars, by fiscal year—										
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015 2011–2020
NET INCREASE OR DECREASE (–) IN THE DEFICIT											
Statutory Pay-As-You-Go Impact ^a	1,104	347	112	–2,449	2,482	0	0	0	–2,433	–73	–24

Note: Components may not sum to totals because of rounding.
Source: Congressional Budget Office and the Joint Committee on Taxation.

EXECUTIVE COMMUNICATIONS,
ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

10896. A letter from the Director — National Institute of Food and Agriculture, Department of Agriculture, transmitting the Department's final rule — Competitive and Noncompetitive Nonformula Federal Assistance Programs — Administrative Provisions for the Sun Grant Program (0524-AA64) received November 29, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10897. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Spiroxamine; Pesticide Tolerances [EPA-HQ-OPP-2010-0136; FRL-8850-9] received November 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10898. A letter from the Secretary, Department of Defense, transmitting a letter of notification that the Department of the Navy intends to expend funds to design the OHIO Replacement SSBN with the flexibility to accommodate female crew; to the Committee on Armed Services.

10899. A letter from the Legal Information Assistant, Department of the Treasury, transmitting the Department's final rule — Community Reinvestment Act Regulations [Docket ID: OTS-2010-0023] (RIN: 1550-AC35) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

10900. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Indonesia pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

10901. A letter from the Secretary, Department of Health and Human Services, transmitting first quarterly report on Progress Toward Promulgating Final Regulations for the Menu and Vending Machine Labeling Provisions of the Patient Protection and Affordable Care Act of 2010, pursuant to Public Law 111-148, section 4205; to the Committee on Energy and Commerce.

10902. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Georgia: Stage II Vapor Recovery [EPA-R04-OAR-2007-0113-201016(a); FRL-9234-4] received November 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10903. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Extension of Attainment Date for the Atlanta, Georgia 1997 8-Hour Ozone Moderate Nonattainment Area [EPA-R04-OAR-2010-0614-201055; FRL-9234-2] received November 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10904. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Regulation of Fuels and Fuel Additives: 2011 Renewable Fuel Standards [EPA-HQ-OAR-2010-0133; FRL-9234-6] (RIN: 2010-AQ16) received November 30, 2010,

pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10905. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Mandatory Reporting of Greenhouse Gases [EPA-HQ-OAR-2008-0508; FRL-9234-7] (RIN: 2060-AQ33) received November 30, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10906. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Custer and Onkama, Michigan) [MB Docket No.: 08-86] received November 29, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10907. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Agency, transmitting the Commission's final rule — Withdrawal of Regulatory Guide 1.39 [NRC-2010-0354] received November 29, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10908. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting Transmittal No. 10-72, pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended; to the Committee on Foreign Affairs.

10909. A letter from the Special Assistant to the President and Director, Office of Administration, transmitting the personnel report for personnel employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Office of Policy Development, and the Office of Administration for FY 2010, pursuant to 3 U.S.C. 113; to the Committee on Oversight and Government Reform.

10910. A letter from the Administrator, Agency for International Development, transmitting the semiannual report on the activities of the Inspector General for the period ending September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

10911. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Board's Performance and Accountability Report for FY 2010, as required by the Government Performance and Results Act and the Accountability of Tax Dollars Act of 2002; to the Committee on Oversight and Government Reform.

10912. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Contractor Insurance/Pension Review (DFARS Case 2009-D025) (RIN: 0750-AG77) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

10913. A letter from the Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10914. A letter from the Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10915. A letter from the Chief Human Capital Officer, Department of Energy, trans-

mitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10916. A letter from the Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10917. A letter from the Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10918. A letter from the Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10919. A letter from the Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10920. A letter from the Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10921. A letter from the Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10922. A letter from the Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10923. A letter from the Acting Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10924. A letter from the Acting Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10925. A letter from the Acting Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10926. A letter from the Acting Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10927. A letter from the Acting Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10928. A letter from the Acting Chief Human Capital Officer, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

10929. A letter from the Chairman, Federal Labor Relations Authority, transmitting the

Authority's Performance and Accountability Report for Fiscal Year 2010; to the Committee on Oversight and Government Reform.

10930. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule — Correction of Administrative Errors [Billing Code 6760-01-P] received November 29, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

10931. A letter from the Acting General Counsel, National Labor Relations Board, transmitting the Board's semiannual report from the office of the Inspector General for the period April 1, 2010 through September 30, 2010, pursuant to Section 5(b) of the Inspector General Act of 1978; to the Committee on Oversight and Government Reform.

10932. A letter from the Director, Office of Personnel Management, transmitting the Office's semiannual report from the office of the Inspector General and the Management Response for the period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

10933. A letter from the Commissioner, Social Security Administration, transmitting the Administration's report for fiscal year 2010 on competitive sourcing efforts as required by Section 647(b) of Division F of the Consolidated Appropriations Act, 2004, Pub. L. 108-199; to the Committee on Oversight and Government Reform.

10934. A letter from the Acting Principal Deputy Assistant Secretary, Indian Affairs, Department of the Interior, transmitting notice that the Department proposes to restore funds to the Absentee-Shawnee Tribe of Oklahoma; to the Committee on Natural Resources.

10935. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France (Eurocopter) Model AS332C, L, L1, and L2 Helicopters [Docket No.: FAA-2010-0907; Directorate Identifier 2010-SW-044-AD; Amendment 39-16436; AD 2010-20-02] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10936. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; PIAGGIO AERO INDUSTRIES S.p.A. Model PIAGGIO P-180 Airplanes [Docket No.: FAA-2010-0778; Directorate Identifier 2010-CE-034-AD; Amendment 39-16490; AD 2010-23-01] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10937. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Austro Engine GmbH Model E4 Diesel Piston Engines [Docket No.: FAA-2010-1055; Directorate Identifier 2010-NE-35-AD; Amendment 39-16498; AD 2010-23-09] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10938. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Series Airplanes [Docket No.: FAA-2010-0279; Directorate Identifier 2009-NM-148-AD; Amendment 39-16496; AD 2010-23-07] (RIN:

2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10939. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier, Inc. Model DHC-8-400 Series Airplanes [Docket No.: FAA-2010-1041; Directorate Identifier 2010-NM-198-AD; Amendment 39-16493; AD 2010-23-04] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10940. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; EADS CASA (Type Certificate Previously Held by Construcciones Aeronauticas, S.A.) Model CN-235, CN-235-100, CN-235-200, and CN-235-300 Airplanes, and Model C-295 Airplanes [Docket No.: FAA-2010-0640; Directorate Identifier 2009-NM-142-AD; Amendment 39-16494; AD 2010-23-05] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10941. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Boeing Company Model 757 and 767 Airplanes [Docket No.: FAA-2010-1040; Directorate Identifier 2010-NM-207-AD; Amendment 39-16492; AD 2010-23-03] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10942. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Corporation Model DC-9-14, DC-9-15, and DC-9-15F Airplanes; and Model DC-9-20, DC-9-30, DC-9-40, and DC-9-50 Series [Docket No.: FAA-2010-0705; Directorate Identifier 2009-NM-206-AD; Amendment 39-16499; AD 2010-23-10] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10943. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A330-201, -202, -203, -223, -223F, -243, and -243F Airplanes, Model A330-300 Series Airplanes, and Model A340-200, A340-300, A340-500, and A340-600 Series Airplanes [Docket No.: FAA-2010-0675; Directorate Identifier 2010-NM-061-AD; Amendment 39-16501; AD 2010-23-12] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10944. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-500 [Docket No.: FAA-2010-0870; Directorate Identifier 2010-CE-045-AD; Amendment 39-16505; AD 2010-23-16] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10945. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier, Inc. Model CL-600-2C10 (Regional Jet Series 700, 701, & 702), CL-600-2D15 (Regional Jet Series 705), and CL-600-2D24 (Regional Jet Series 900) Airplanes [Docket No.: FAA-2010-0700; Directorate Identifier 2010-NM-123-AD; Amendment 39-16500; AD 2010-23-11] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10946. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Boeing Company Model 757 Airplanes [Docket No.: FAA-2010-0483; Directorate Identifier 2010-NM-065-AD; Amendment 39-16502; AD 2010-23-13] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10947. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier, Inc. Model CL-600-2C10 (Regional Jet Series 700, 701, & 702), Model CL-600-2D15 (Regional Jet Series 705), and Model CL-600-2D24 (Regional Jet Series 900) Airplanes [Docket No.: FAA-2010-1106; Directorate Identifier 2010-NM-237-AD; Amendment 39-16508; AD 2010-23-19] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10948. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A380-800 Series Airplanes [Docket No.: FAA-2010-1102; Directorate Identifier 2010-NM-016-AD; Amendment 39-16507; AD 2010-23-18] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10949. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier, Inc. Model BD-700-1A10 and BD-700-1A11 Airplanes [Docket No.: FAA-2010-0548; Directorate Identifier 2010-NM-041-AD; Amendment 39-16497; AD 2010-23-08] (RIN: 2120-AA64) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10950. A letter from the Deputy Assistant General Counsel for Regulation, Department of Transportation, transmitting the Department's final rule — Relocation of Standard Time Zone Boundary in the State of North Dakota: Mercer County [OST Docket No.: OST-2010-0046] received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10951. A letter from the Assistant Chief Counsel for General Law, Department of Transportation, transmitting the Department's final rule — Pipeline Safety: Updates to Pipeline and Liquefied Natural Gas Reporting Requirements [Docket No.: PHMSA-2008-0291; Amdt. Nos. 191-21; 192-115; 193-23; and 195-95] (RIN: 2137-AE33) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10952. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Aging Airplane Program: Widespread Fatigue Damage [Docket No.: FAA-2006-24281; Amendment Nos. 25-132, 26-5, 121-351, 129-48] (RIN: 2120-AI05) received November 19, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10953. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Guidance on Pre-Approved Individual Retirement Arrangements (IRAs) (Rev. Proc. 2010-48) received November 29, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10954. A letter from the Secretary, Department of Transportation, transmitting a report entitled "The Transportation of Hazardous Materials: Insurance, Security, and Safety Costs"; jointly to the Committees on Transportation and Infrastructure and Homeland Security.

10955. A letter from the Director, Office of Management and Budget, transmitting a report identifying accounts containing unvouchered expenditures that are potentially subject to audit by the Comptroller General, pursuant to 31 U.S.C. 3524(b); jointly to the Committees on the Budget, Appropriations, and Oversight and Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. PINGREE of Maine: Committee on Rules. House Resolution 1764. Resolution providing for consideration of the Senate amendment to the bill (H.R. 2965) to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes (Rept. 111-681). Referred to the House Calendar.

Ms. SLAUGHTER: Committee on Rules. House Resolution 1766. Resolution providing for consideration of the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes (Rept. 111-682). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mrs. BACHMANN (for herself, Mr. GOHMERT, Mr. KINGSTON, Mr. MANZULLO, Mr. AKIN, Mr. GARRETT of New Jersey, Mr. KING of Iowa, Mr. BURGESS, Mr. LATTA, and Mr. BILIRAKIS):

H.R. 6522. A bill to prevent pending tax increases and to permanently repeal estate and gift taxes, and for other purposes; to the Committee on Ways and Means.

By Mr. SKELTON:

H.R. 6523. A bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BRADY of Pennsylvania (for himself and Mr. YOUNG of Alaska):

H.R. 6524. A bill to authorize issuance of certificates of documentation authorizing certain vessels to engage in coastwise trade in the carriage of natural gas, and for other

purposes; to the Committee on Transportation and Infrastructure.

By Mrs. KIRKPATRICK of Arizona:

H.R. 6525. A bill to provide for development of the Former Bennett Freeze Area, to contribute to the rehabilitation of the economic, housing, infrastructure, health, and educational condition of those affected by the former Bennett Freeze, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POSEY (for himself, Mr. OLSON, Mr. BRADY of Texas, Ms. FOXX, and Mr. PAUL):

H.R. 6526. A bill to prohibit the payment of death gratuities to the surviving heirs of deceased Members of Congress; to the Committee on House Administration.

By Mr. WEINER:

H.J. Res. 104. A joint resolution disapproving the issuance of a letter of offer with respect to a certain proposed sale of defense articles and defense services to the Kingdom of Saudi Arabia; to the Committee on Foreign Affairs.

By Mr. GARY G. MILLER of California:

H. Con. Res. 334. Concurrent resolution expressing the sense of the Congress that the current Federal income tax deduction for interest paid on debt secured by a first or second home should not be further restricted; to the Committee on Ways and Means.

By Ms. ROS-LEHTINEN:

H. Res. 1763. A resolution directing the Secretary of State to transmit to the House of Representatives copies of all classified Department of State documents assessed by the Department to have been unlawfully disclosed and provided to WikiLeaks and public press outlets; to the Committee on Foreign Affairs.

By Mr. BERMAN (for himself, Mr. POE of Texas, Ms. BERKLEY, Ms. ROS-LEHTINEN, Mr. ACKERMAN, Mr. BURTON of Indiana, Mr. DEUTCH, Mr. PENCE, Mr. CROWLEY, Mrs. McMORRIS RODGERS, Mr. MCMAHON, Mr. GARRETT of New Jersey, Mr. WAXMAN, Mr. TIM MURPHY of Pennsylvania, Mr. NADLER of New York, Mr. SHERMAN, Mr. SCHIFF, Mr. ENGEL, Mr. ISRAEL, Mr. LAMBORN, Mr. CAMPBELL, Mr. BILIRAKIS, Ms. FOXX, Mrs. BLACKBURN, Mr. GENE GREEN of Texas, Mr. LOBIONDO, Ms. GRANGER, Mr. MACK, Mr. KING of New York, Mr. BUCHANAN, Ms. SCHAKOWSKY, Mrs. LOWEY, Mr. COSTA, Mr. KLEIN of Florida, Mr. SIREs, Mr. ROTHMAN of New Jersey, Mr. SCHAUER, Mr. WEINER, Mr. MCCOTTER, Mr. ROGERS of Alabama, Mrs. CAPITO, Mr. MCCLINTOCK, Mr. KING of Iowa, Mr. WOLF, Mr. HENSARLING, Mr. QUIGLEY, Mr. ROE of Tennessee, Mr. SCALISE, Mr. LANCE, Mr. TIBERI, Mr. CULBERSON, Mrs. SCHMIDT, Mr. ROSKAM, and Mr. ALEXANDER):

H. Res. 1765. A resolution supporting a negotiated solution to the Israeli-Palestinian conflict and condemning unilateral measures to declare or recognize a Palestinian state, and for other purposes; to the Committee on Foreign Affairs; considered and agreed to.

By Ms. BALDWIN (for herself, Mr. KIND, Mr. PETRI, Mr. KAGEN, Ms. MOORE of Wisconsin, Mr. OBEY, Mr. SENSENBRENNER, and Mr. RYAN of Wisconsin):

H. Res. 1767. A resolution commending the Wisconsin Badger football team for an outstanding season and 2011 Rose Bowl bid; to the Committee on Education and Labor.

By Mr. HASTINGS of Florida (for himself, Ms. EDWARDS of Maryland, Ms. BORDALLO, Mr. MCGOVERN, Mr. JOHNSON of Georgia, Mr. LEWIS of Georgia, Mr. VAN HOLLEN, Mr. HOLT, Mr. CROWLEY, Mr. KING of New York, Mr. PITTS, Mr. HALL of New York, Mr. CAO, Mr. SCHOCK, Mr. MORAN of Virginia, Mr. OLVER, and Mr. WOLF):

H. Res. 1768. A resolution welcoming the release of Burmese democracy leader and Nobel Peace Prize Laureate Aung San Suu Kyi on November 13, 2010, and calling for a continued focus on securing the release of all political prisoners and prisoners of conscience in Burma; to the Committee on Foreign Affairs, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROHRBACHER (for himself and Mr. KING of Iowa):

H. Res. 1769. A resolution expressing the sense of the House of Representatives that in order to undermine the Taliban and their terrorist allies, the policy of the United States should support the recognition of Afghanistan's ethnic diversity, promoting mutual respect between various communities and regions of the country and bringing democracy closer to the people of Afghanistan by supporting constitutional change that recognizes and enables a democratic, decentralized, federal structure to replace the present failed centralized system of government, providing a political structure that reflects the diversity of the country and that builds trust and goodwill among Afghanistan's many communities; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 1616: Mr. HEINRICH.
H.R. 2112: Mr. CHANDLER.
H.R. 3652: Mr. KLEIN of Florida.
H.R. 4278: Mr. MCCARTHY of California, Ms. CORRINE BROWN of Florida, and Mr. LIPINSKI.
H.R. 4866: Mr. LIPINSKI and Mr. FORBES.
H.R. 4959: Mr. LIPINSKI.
H.R. 5028: Ms. KILPATRICK of Michigan.
H.R. 5434: Mr. TONKO.
H.R. 5510: Mr. TOWNS, Ms. WOOLSEY, Ms. CORRINE BROWN of Florida, and Mr. JACKSON of Illinois.
H.R. 5535: Mr. BRADY of Texas.
H.R. 5597: Mr. LIPINSKI.
H.R. 6045: Ms. FUDGE.
H.R. 6072: Mrs. CAPITO.
H.R. 6199: Mr. FATTAH, Ms. NORTON, and Ms. CLARKE.
H.R. 6458: Mr. MURPHY of Connecticut.
H.R. 6485: Mr. WALDEN.
H.R. 6494: Ms. BALDWIN and Mr. CONAWAY.
H.R. 6520: Ms. WASSERMAN SCHULTZ, Mr. NADLER of New York, Ms. BALDWIN, Mr. GARAMENDI, Mrs. CAPPS, Mr. FATTAH, Mr. LEVIN, Ms. CHU, Mr. QUIGLEY, Mr. LARSEN of Washington, Mr. POLIS, Mrs. DAVIS of California, Mr. DINGELL, Mr. FRANK of Massachusetts, Mr. HASTINGS of Florida, Mr. SESTAK, Mr. ANDREWS, Mr. HOLT, Mr. JOHNSON of Georgia, Mr. DOYLE, Ms. WOOLSEY, Mr. MEEKS of New York, Ms. PINGREE of Maine,

Ms. LEE of California, Ms. NORTON, Mr. ELLISON, Mr. PALLONE, Ms. HARMAN, Mr. LANGEVIN, Mr. ACKERMAN, Mr. PRICE of North Carolina, Mr. GEORGE MILLER of California, Ms. SCHWARTZ, Mr. MCGOVERN, Mr. ISRAEL, Mr. SMITH of Washington, Ms. ROYBAL-ALLARD, Ms. LINDA T. SANCHEZ of California, Mr. WU, Mr. KLEIN of Florida, Mr. TOWNS, Mr. GRIJALVA, Mr. BLUMENAUER, Mr. STARK, Mr. CROWLEY, Ms. BERKLEY, Mr. HALL of New York, Mr. HINCHEY, Mr. WELCH, Ms. SCHKOWSKY, Ms. VELÁZQUEZ, Mr. FILNER, Ms. KILROY, Mr. CAPUANO, Mr. SHERMAN, Ms.

SUTTON, Ms. SLAUGHTER, Mr. WAXMAN, Mr. SCHIFF, Mr. LOEBSACK, Mr. PETERS, Ms. ESHOO, Mr. ENGEL, Mr. HONDA, Mr. COURTNEY, Ms. SHEA-PORTER, Mr. WEINER, Mr. LEWIS of Georgia, Ms. ZOE LOFGREN of California, Mr. COHEN, Mrs. LOWEY, Ms. HIRONO, Mr. BISHOP of New York, Mr. REYES, Mr. CLYBURN, Ms. JACKSON LEE of Texas, and Ms. LORETTA SANCHEZ of California.

H.R. 6521: Mrs. BIGGERT.

H.J. Res. 97: Mrs. BACHMANN.

H. Res. 764: Mr. PETERS and Ms. TSONGAS.
H. Res. 1355: Ms. ZOE LOFGREN of California.

H. Res. 1377: Mr. WAXMAN, Ms. WOOLSEY, Mr. COSTA, Ms. SPEIER, Mr. SCHIFF, Ms. LINDA T. SANCHEZ of California, Mr. MCNERNEY, and Ms. HARMAN.

H. Res. 1461: Mr. OLVER, Ms. MATSUI, Mr. POSEY, Mr. LAMBORN, Mr. CARDOZA, Ms. SPEIER, and Mr. NEAL.

H. Res. 1716: Mr. WOLF, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. LAMBORN.

H. Res. 1725: Mr. TANNER.

H. Res. 1762: Mr. MORAN of Virginia and Mr. LEVIN.

EXTENSIONS OF REMARKS

HONORING GRAND CANYON NATIONAL PARK SUPERINTENDENT STEVE MARTIN

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GRIJALVA. Madam Speaker, I rise today to honor Grand Canyon National Park Superintendent Steve Martin, who has unselfishly given over 35 years of exceptional service to the nation as a steward of our national parks.

During his years as a park ranger and superintendent, Mr. Martin has championed the mission of the National Park Service in protecting the nation's many natural and cultural resources, has resolutely defended parks from degradation and harm, and has generously nurtured new generations of park employees and managers to serve as park stewards.

His career encompassed exemplary service in leadership positions at Grand Teton, Denali and Gates of Arctic National Parks, and in staff positions at Yellowstone and Voyageurs National Parks, where he persistently fostered Americans' deep love for their parks.

In his time as superintendent of Grand Canyon National Park, Mr. Martin served as a tireless advocate for the park, its staff, and its many visitors. Through his efforts to initiate and complete extensive upgrades to the crumbling infrastructure at the Grand Canyon, he helped improve the quality of life for the Havasupai tribe and for park employees, as well as enriching the experiences of the 4.5 million people who visit the Grand Canyon each year.

Mr. Martin fought to protect the South Rim of the Canyon and the Grand Canyon watershed from the toxic threat of uranium mining, which would have polluted the lifeline of the west, the Colorado River, and put at great risk the wildlife and people that call this area home.

He has provided crucial leadership in establishing science as the decisive tool in policy decisions, particularly in his tenacity in demanding Colorado River flow rates that benefit the riparian ecosystem found at the heart of the Grand Canyon.

Serving as the Intermountain Regional Director and the Deputy Director for the National Park Service, Mr. Martin was instrumental in preserving critical management policies which will continue to guide the National Park Service as it prepares to celebrate its centennial.

Madam Speaker, it is fitting that we honor the 35 years of service that Steve Martin has given to the National Park Service, and that we recognize his passion and advocacy to protect and preserve our National Parks.

HONORING TEXAS STATE REPRESENTATIVE JERRY MADDEN—2010 PUBLIC OFFICIAL OF THE YEAR

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. SAM JOHNSON of Texas. Madam Speaker, it is a privilege to recognize before the United States House of Representatives Governing magazine's 2010 Public Official of the Year, and my good friend from the great state of Texas, Jerry Madden.

State Representative Madden has faithfully served the people of the 67th district since his election to the Texas Legislature back in 1992. In his nine consecutive terms, he has held honored roles on twelve committees, including four years as the Chairman of the House Committee on Corrections where he is sitting Vice Chair.

While Madden is the recipient of countless awards, including being named to Texas Monthly's 10 Best Legislators list and the University of Texas at Dallas' Distinguished Alumni group, this top-notch legislator's latest accolade comes as national recognition for turning the State of Texas into a shining model of corrections reform.

A West Point trained engineer by trade, Madden tackled corrections reform with facts and statistics. He found that targeting a relatively small amount of state funds toward treatment, mental health, and rehabilitation programs, rather than spending billions on new prisons, would yield a decrease in the prison population. With that in mind, Madden and his colleagues on the Committee on Corrections formulated public policy that worked. They turned a projected 15,000 inmate rise in the Texas prison population into a population decrease, saving taxpayers money and, more importantly, rescuing lives along the way.

I have known Representative Madden for over a quarter of a century. I have seen him rise from a local leader to the national spokesperson for Texas on Criminal Justice. I can vouch for the testimony he has given Congress and know the respect that national organizations have for his work. In fact, just this month Jerry served as a guest speaker at my Congressional Youth Advisory Council meeting where he shared his extensive knowledge of state government with local high school students.

For his service to America in the United States Army, his service to Texas in the State Legislature, and his priceless contribution to our society through innovative corrections reform, it is with pride and gratitude that I commend State Representative Jerry Madden for a job exceptionally well done.

To my good friend—congratulations, God bless you, and I salute you!

A TRIBUTE TO TESSIE CECIL

HON. BRETT GUTHRIE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GUTHRIE. Madam Speaker, I rise today to honor Tessie Cecil, who has dedicated her career to the citizens of New Haven and the Commonwealth of Kentucky.

Cecil served for 20 years as the Mayor of New Haven, KY, in Nelson County, where she consistently gave her all to the community.

A native of the Philippines, Cecil met and married her husband, Don, while he was stationed with the U.S. Navy in her native country over 30 years ago. She and Don moved to New Haven to raise a family and in 1979, shortly after the move, she was hired as the New Haven city clerk.

Cecil is known for her work to improve the water and sewer systems, sidewalks and parks. She is also proud of her involvement with the veterans' monument in front of City Hall and the Kentucky Railway Museum.

Cecil is a person of integrity and has demonstrated a strong passion for making her community a better place. I join with the citizens of New Haven in thanking her for her years of relentless service.

I ask my colleagues to join me in honoring Tessie Cecil for her commitment to the citizens of New Haven, Nelson County and the Commonwealth of Kentucky.

PERSONAL EXPLANATION

HON. WILLIAM L. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. OWENS. Madam Speaker, I was not present for votes on Tuesday, December 14, 2010 and morning votes on Wednesday, December 15. Had I been present, I would have voted "yes" on rollcall vote 628, "yes" on rollcall vote 629, "yes" on rollcall vote 630, "yes" on rollcall vote 631, "yes" on rollcall vote 632, "yes" on rollcall vote 633, "yes" on rollcall vote 634.

IN MEMORY OF DR. JAMES

EDWARD BYRD

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. SESSIONS. Madam Speaker, I rise today to recognize and remember my friend, Dr. James Edward Byrd. He was kind and generous and a man of great character that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

deeply loved God and country. Dr. Byrd passed away on November 23, 2010 after suffering complications from heart surgery.

Born and raised in Arkansas, Dr. Byrd was a proud graduate of Ouachita Baptist University, where he was a ROTC student during his tenure and the recipient of the Distinguished Military Student Award. Upon graduation, he received his commission in the Army as a Second Lieutenant and proceeded to serve as the Executive Officer, 2MTB 67 Armor and then as the Accountable Officer, 9th Quartermaster Battalion in Germany. Dr. Byrd also earned a Masters in Psychology and a Ph.D. from Southwestern Seminary in Fort Worth, Texas. Most recently, he served as the Vice President for the Texas Baptist Missions Foundation where he traveled around the State of Texas raising money for missions, ministering to local churches, and emphasizing the importance of sharing the gospel. His love for people and winning them to Christ was evident in his actions; I know Dr. Byrd touched countless lives.

I had the distinct privilege and pleasure of having Dr. Byrd serve on my U.S. Academy Selection Board for thirteen years. He proudly served our country as a member of the Arkansas National Guard and the U.S. Army Reserves, with his military career spanning over twenty-three years. His record of exemplary military service and background in education made him well-suited to serve on my Board. He was deeply committed to selecting the best candidates for our military academies; these students who would go onto serve as the next leaders of our military in the generations to come. There are no words that are capable of fully expressing my heartfelt gratitude for his dedicated service to our great Nation.

Dr. Byrd is survived by his loving wife of fifty-one years, Wencie; his sons, Scott, Lance, and Bart; his brother Bill; sisters Alice and Lela Mae; and grandchildren Daniel, Lauren, Blakely, Ryland, and Margaret.

I am honored to have known him and called him my friend. He will be greatly missed. May the peace of God be with those he loved and sustain them through this hour of sorrow.

IN HONOR OF DRS. ROBERT G.
GARD AND JANET WALL

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. FARR. Madam Speaker, I rise today to honor Dr. Robert G. Gard, Jr. and his spouse Dr. Janet Wall of Monterey, California, as the Philanthropists of the Year chosen by the Monterey Institute for International Studies for their commitment to enriching the lives of the Institute's scholars.

Retiring after 31 years in the United States Army, Dr. Gard became President of the Monterey Institute for International Studies. He has been awarded the Defense Distinguished Flying Cross and the Defense Distinguished Service Medal, the Silver Star, and the Bronze Star. Dr. Robert Gard has served our country proudly and it is with great enthusiasm that he continues to contribute to the community.

Dr. Janet Wall, an author and expert on career development and educational review continues to donate her skills to the Institute's Yellow Ribbon program, which offers scholarships and career advice to returned military veterans. Her kindness and guidance has led many veterans to graduate from the Institute and attain successful careers.

Dr. Gard and Dr. Wall established the Gard 'n' Wall Scholarship in Nonproliferation Studies to assist ambitious candidates to excel in the field of Nonproliferation Studies. The esteemed couple has also donated generously to the Robert Gard Scholarship, set up by the Institute to honor the work of Dr. Gard. I am proud to be a part of honoring Drs. Gard and Wall and that I am able to associate myself with the Monterey Institute of International Studies.

Madam Speaker, it is a tremendous honor to recognize Dr. Robert Gard and Dr. Janet Wall for their continued support of the Monterey Institute for International Studies. The Institution is a jewel of higher education on the Central Coast and I offer my sincerest congratulations to this accomplished couple.

HONORING BARBARA A. STINNETT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. HOYER. Madam Speaker, I rise today to recognize Barbara A. Stinnett, a Member of the Calvert County Board of Commissioners from 1986 through 1990; 1998 through 2002; and most recently from 2006 to 2010. It is my distinct honor to show our appreciation for her commitment, dedication and public service to Calvert County, to our great State of Maryland and to our Nation.

Commissioner Stinnett was born in Chicago, Illinois, graduated from Calvert High School and has been a resident of Calvert County for 60 years. Commissioner Stinnett is the mother of 4, a grandmother of 11 grandchildren, and a great-grandmother of 7.

In addition to serving three terms as a County Commissioner, Mrs. Stinnett was employed by State Senator Roy Dyson for 14 years, serving as legislative and administrative assistant in his Congressional Office and his State Senate office. She is the owner-operator of an income tax and accounting service and was previously employed at Wayson's Amusement Company in a financial management position for 17 years.

Calvert County has been well served by Commissioner Stinnett's more than 20 years of dedicated public service. She is an active member of the community in a variety of capacities. She served on the Calvert County Democratic Central Committee, as President of the Calvert County Democratic Women's Club, and as Secretary of the Maryland State Democratic Women's Clubs. In addition, Mrs. Stinnett has been a director of the American Red Cross, Calvert Hospice, the Special Olympics, and the Northern High School Boosters. She has held memberships in numerous organizations ranging from the Calvert Farmland Trust and Calvert Historical Society

to the Calvert County Fire and Rescue Commission and the Calvert County Farm Bureau. In addition, Mrs. Stinnett has been Director of the Calvert County Fair Board, Charter President of Ducks Unlimited and a charter member of Stallings-Williams American Legion Auxiliary, Unit #206.

Through her years of service she has been an advocate of maintaining Calvert County's rich agricultural heritage and assuring that those without a voice are heard. Her energy, frank and realistic approach and ability to connect with people have made her an outstanding public servant who has an unwavering respect for those she represents.

Madam Speaker and colleagues, please join me in honoring Commissioner Barbara A. Stinnett for her years of public service, dedicated work and commitment to excellence on behalf of the people of Calvert County.

PERSONAL EXPLANATION

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GRAVES of Missouri. Madam Speaker, I would like to state my position on the following votes I missed.

On Tuesday, December 14, 2010, I missed rollcall votes 628, 629, 630. Had I been present, I would have voted "aye" on rollcall No. 628, "nay" on rollcall No. 629, and "yea" on rollcall No. 630.

PERSONAL EXPLANATION

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. ETHERIDGE. Madam Speaker, I was unable to cast recorded votes on Tuesday, December 14, on rollcall votes 628, 629, and 630. Had I been present, I would have voted "yes" on all three of these measures:

S. 1405, which designates the Longfellow House-Washington's Headquarters National Historic Site; S. 3167, the Census Oversight Efficiency and Management Reform Act of 2010; and H.R. 6510, which allows the Military Museum of Texas to purchase the property on which it operates.

IN HONOR OF SERGEANT VINCENT
WAYNE ASHLOCK

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. FARR. Madam Speaker, I rise today to honor the life and service of United States Army Staff Sergeant Vincent Wayne Ashlock, who died on December 4, 2010, while serving in Khost Province, Afghanistan. Wayne, as he was known to his family and friends, was a loving father, husband, brother, and son who

devoted his life in equal measures to his family and our nation. Public service was his calling, and while his death leaves a void in the lives of his family, friends, and comrades, Staff Sergeant Ashlock's patriotism, loyalty, and love, will remain an example to all who had the privilege to know him.

Wayne was born in San Jose, California on May 10, 1965. He grew up in the small farming and military town of Merced in the heart of California's San Joaquin Valley. He enjoyed a small town childhood surrounded by brothers and sisters playing little league baseball and exploring Bear Creek.

Wayne began his military career by enlisting in the Army at age eighteen. He served for ten years on active duty before leaving the Army for civilian life. Following the 9/11 attack, his sense of duty and patriotism led Wayne to enlist in the California National Guard. As a Guardsman, Wayne deployed to Iraq, where he drew on his military experience to help train Ugandan troops. He later sought deployment to Afghanistan. To accomplish this, he transferred from the California National Guard, which had no imminent Afghanistan deployments scheduled, to the Mississippi National Guard which did. Once in there, Wayne served with the 287th Engineer Co., 176 Engineer Bde., 101st Airborne Div. (Air Assault). His unit was assigned to help clear home-made bombs and discover ambushes in front of other units. During his military service, Wayne earned many awards and commendations, among them the Army Commendation Medal, the Afghanistan Campaign Medal with a Bronze Service Star, and the Iraq Campaign Medal with a Bronze Service Star.

Wayne is survived by his wife, Angela, and five children, Kali, Jesse, Steven, Erica and Christopher, two grandchildren, Addison and Brady, brothers Ryan, Lonnie, and sister Dawn, his mother Margot, and grandmother Bonnie.

Madam Speaker, I know I speak for the whole House in expressing our heartfelt condolences to Staff Sergeant Ashlock's family. Their loss is our nation's loss. Their pain is our nation's pain. Public service was his calling, and while his death leaves a void in the lives of his family, friends, and comrades, Staff Sergeant Ashlock's patriotism, loyalty, and love, will remain an example to all who had the privilege to know him.

PERSONAL EXPLANATION

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mrs. CAPPS. Madam Speaker, I was not able to be present for the following rollcall votes on December 14, 2010, and would like the RECORD to reflect that I would have voted as follows: rollcall No. 628: "yes"; rollcall No. 629: "yes"; rollcall No. 630: "yes".

PERSONAL EXPLANATION

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GENE GREEN of Texas. Madam Speaker, I rise today to explain my absence from votes cast on December 14, 2010. My voting percentage is over 95% for the 111th Congress, and I rarely miss votes, but due to a prior commitment scheduled before we knew the House would be in session on Tuesday, I was unable to make it back to Washington in time for votes.

On the three votes I missed: to approve S. 1405, the Longfellow House-Washington's Headquarters National Historic Site Designation Act, had I been present, I would have voted "aye;" to approve S. 3167, the Census Oversight Efficiency and Management Reform Act of 2010, had I been present, I would have voted "aye;" to approve H.R. 6510, To direct the Administrator of General Services to convey a parcel of real property in Houston, Texas, to the Military Museum of Texas had I been present, I would have voted "aye."

RECOGNIZING BEULAH B. ROMAN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. KILDEE. Madam Speaker, I rise today to recognize Beulah B. Roman as she celebrates her 105th birthday on December 19. A party will be held in her honor in Burton Michigan to celebrate the occasion.

Born in 1905 at Mandate Ohio, Mrs. Roman relocated to Flint Michigan and worked at the Fisher Body Plant for 35 years retiring in 1961. She has been an active member of Mt. Olive Missionary Baptist Church, joining the congregation in 1928. She has worked with the Missionary Society, the Ada Barry Bible Class, and the Mother's Board. She still attends church services every Sunday. She is also an avid golfer, bowler, reader and likes to solve crossword puzzles.

Mrs. Roman has one son, a daughter-in-law, two grandchildren, four great-grandchildren, many nieces, nephews and numerous friends.

Madam Speaker, please join me in congratulating Beulah B. Roman as she celebrates her 105th birthday. I wish her the best for the day and the coming year.

PERSONAL EXPLANATION

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mrs. LOWEY. Madam Speaker, I regrettably missed rollcall votes on December 14. Had I been present, I would have voted in the following manner: Rollcall No. 628: "yea"; Rollcall No. 629: "yea"; and Rollcall No. 630: "yea."

IN HONOR OF PHILIP MARK CONIGLIO, SR.

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. FARR. Madam Speaker, I rise today to honor the life of Philip Mark Coniglio, Sr. who recently passed away at the age of 85. I am honored that I have this opportunity to recognize this great man as a prominent community businessman and a wonderful friend.

Philip was born and raised in Monterey, California. He attended Monterey High School and Hartnell College. After serving in the Army from 1943 to 1945, Philip worked with his uncles growing grapes. This led Philip to take an interest in grapes and thus, the wine industry. He owned and operated Mediterranean Market for 41 years which was known as a landmark for gourmet food and wines.

Philip was heavily involved in the community; he was a member of the Knights of Columbus, Italian Catholic Federation, Paisano, Sierra Club, and the Compare Club. He also maintained a long-standing tradition of entertaining and cooking dinner for family and friends on Sundays.

I will always remember Philip as a traveler. He had been around the world several times and frequently visited the big island of Hawaii.

Philip is survived by his wife of 59 years, Carla Lepori-Pacini Coniglio; his daughter Cara Mia Coniglio and granddaughter, Tiana Marie Lagemann; daughter, Lisa Paula Kaufmann and son-in-law, Mark Kaufmann and grandsons, Michael Colin and Patrick Joseph Kaufmann; son, Philip Coniglio Jr., and daughter-in-law Star Bullock Coniglio and granddaughter Margaux Isabella Coniglio; and his brother, Peter Coniglio.

Madam Speaker, Philip Mark Coniglio, Sr. touched the lives of many people in the community. He will be missed and I know I speak for the whole House in honoring the life of this dedicated and loving man.

HONORING "BUDDY" FRANK DiPAOLO, JR.

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. KENNEDY. Madam Speaker, I rise today for the purpose of recognizing "Buddy" Frank DiPaolo, Jr. Earlier this year, Buddy Frank retired at the age of 103 from his position as the doorkeeper at the Rhode Island House of Representatives, where he served for the past 32 years.

Not only has Buddy been an exemplary public servant for the State of Rhode Island, but I have been fortunate enough to have known him as a friend and mentor throughout my adult life. I first met Buddy Frank over 25 years ago when he owned the Castle Spa restaurant and I was an undergraduate at Providence College. Throughout my career, dating back to when I first sought elected office in the Rhode Island General Assembly in 1988, I

have turned to Buddy to be one of my most trusted and reliable advisors. I've been honored to be his "number one buddy," but even more blessed to be treated as his "third son."

I consider Buddy's family to be my own; his wife, Eugenia, his four children, Thomas, Claire, Evelyn, and Richard, his sixteen grandchildren, Susan, Steven, Robert, Kathleen, Cheryl, John, Erin, Robin, Kevin, Paul, Pamela, Mark, Claudia, Kristen, Lynn, and Laura, and eighteen grandchildren, Catherine, Michael, Abigail, Katelyn, Jessica, Bryan, William, Tyler, Zackery, Gillian, Seamus, Campbell, Rory, Damian, Gian, Jacqueline, Nicholas, and Timothy. They are all truly blessed to have a patriarch in the truest sense in Buddy Frank, and I thank them for the opportunity to share him as a positive influence in my life.

Buddy Frank will be turning 104 years old on December 24, 2010, and I wish him a happy birthday. I also wish him all the best in his future endeavors. He will continue to carry my own admiration, and that of all who have had the privilege to work with him.

HONORING FRANKLIN COUNTY 4-H

HON. BLAINE LUETKEMEYER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. LUETKEMEYER. Madam Speaker, I ask my colleagues to join me in congratulating the Franklin County 4-H for 75 years of excellence.

The Franklin County 4-H organization originated with 10 members in 1935, and has grown into the largest 4-H organization in the state, with 20 4-H clubs and 700 members. The members are led by over 300 adult and teen volunteer leaders. 4-H engages youth to reach their fullest potential, while advancing the field of youth development in four different areas of focus: head, heart, hands, and health. During the 75 year history, 52 adult volunteers have served for 20 or more years, 9 of whom have served for 30 or more years, a true testament to this important program. In its 75th year, the tradition of 4-H still remains strong throughout Franklin county.

I would like to take this time to commend Franklin County 4-H for all their hard work, and I ask that my colleagues join me in recognizing them for a job well done.

HONORING THE 20TH ANNIVERSARY OF THE EAST BAY ECONOMIC DEVELOPMENT ALLIANCE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. STARK. Madam Speaker, I rise to pay tribute to the 20th anniversary of The East Bay Economic Development Alliance, known as East Bay EDA. On December 2, 2010, East Bay EDA recognized their partnerships, collaborations and achievements, and highlighted the organization's future initiatives and endeavors.

East Bay EDA is a public-private partnership serving the San Francisco East Bay. Its mission is to establish the East Bay as a well-recognized location to grow businesses, attract capital and create quality jobs. It serves as a pivotal point for workforce development, and provides regional initiatives for housing and land use, goods movement, and the development of water infrastructure. It promotes collaboration on regulatory policy between local businesses and government agencies. The organization also promotes business retention best practices among East Bay cities, and has coordinated the Bay Area's efforts to prepare an economic recovery plan to increase the competitiveness of the region.

I congratulate East Bay EDA on 20 years of exemplary service as the organization continues to evaluate and modify its work plan to adjust to changes in the workforce, economy, and State and local governments. I send best wishes for many more years of exemplary service.

IN HONOR OF DR. DICK B. "COACH" LAWITZKE

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. FARR. Madam Speaker, I rise to remember the life Dr. Dick B. "Coach" Lawitzke, who passed away at the age of 84. I am honored to recognize this great man who lived his life helping others.

Dick graduated from Humboldt State College in 1950. Shortly after, he was drafted into the U.S. Army and married his college sweetheart, Millicent. They soon named the beautiful Monterey Peninsula home. He became Superintendent, Principal, teacher, and bus driver of Carmelo Elementary School from 1956 to 1958. Dick was also a sports enthusiast which is why many remember him simply as "Coach". He was Athletic Director at Carmel High School and coached championship teams in basketball and football.

I believe that every community needs a person like Dick; he was always involved in programs positively influencing kids and adamant about adult education. We were close and remained in close contact until recently.

Dick leaves his wife, Millicent; children Loree Burroughs, Amy Consul, and Milton "Mo" Lawitzke; grandchildren Travis Fluegge, Edward Lee Lawitzke, Cayden and Ian Burroughs, and Margo and Nina Consul.

Madam Speaker, I know that the Carmel area community will continue to benefit from the work that Dick "Coach" Lawitzke did and that he is a shining example to those who were inspired to continue his work.

HONORING SERGEANT DENNIS OSTERMAN

HON. ADRIAN SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. SMITH of Nebraska. Madam Speaker, I rise today to commend Sergeant Dennis

Osterman for his forty-five years of dedicated service to the Grand Island Police Department and to the people of Grand Island, Nebraska.

Osterman retired on August 27, 2010, as the longest-serving active police officer in the State of Nebraska. For nearly fifty years Sergeant Osterman has embodied what it means to give back to one's community.

One year after completing his service to the United States Army, Osterman continued to defend and protect his country—only this time in a different uniform. Throughout his incredible tenure, he had held several different roles and accepted various responsibilities without hesitation. The police department and the Grand Island community have changed considerably since that June in 1964 when Osterman joined the force but he has never failed to be an invaluable role model and trusted leader to the incoming generations of police officers and the Grand Island community at large.

I am impressed by Dennis' life-long dedication to the protection of the Grand Island community and I appreciate the sacrifices he has made over the years. I wish him all the best as he starts his retirement and I hope he takes the time to enjoy the community which he spent a lifetime protecting.

HONORING DECEASED AMBASSADOR RICHARD HOLBROOKE

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. WILSON of South Carolina. Madam Speaker, I rise today in honor of Ambassador Richard Holbrooke and his diplomatic career which lasted the better part of five decades. Ambassador Holbrooke's decorated career spanned the globe from Asia to Europe with stops at the U.S. State Department, United Nations, and most recently, as Presidential envoy on Afghanistan-Pakistan policy. His service shaped American foreign policy in such troubled areas as the Balkans and most recently in leading the U.S. in Afghanistan. I concur with the sentiments of many of my colleagues in that his stellar service is deeply appreciated and held in the highest esteem. As co-chair of the Afghanistan Caucus, I especially appreciate his promotion of a civil, democratic society for the people of Afghanistan. Ambassador Holbrooke will be deeply missed.

I would like to express my condolences to his wife, Kati, his two sons, and two stepchildren along with the rest of the Holbrooke family. My thoughts and prayers are with his family at this difficult time.

PAYING TRIBUTE TO MR. TOM HINZ

HON. STEVE KAGEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. KAGEN. Madam Speaker, I rise here today to pay tribute to Mr. Tom Hinz as our

superior Brown County Executive retires. During his time in office, Mr. Hinz has served the people and interests of Brown County to the highest degree, and I ask my colleagues to join me in honoring this remarkable individual.

Tom Hinz has dedicated his life to public service. Well before he assumed his role as Brown County Executive, Tom served in the Army for three years followed by a long career in local law enforcement. Viewed as a leader by his peers, Mr. Hinz was encouraged to run for and was elected to be Brown County's Sheriff after more than 30 years with the police force. His service to the public continued as a member of the Brown County Board of Supervisors, where he served for two years before taking on the responsibility of being Brown County's Executive during what would become the most challenging economic environment in decades.

Community leaders, lawmakers and servants of the public across Northeast Wisconsin hold Tom Hinz in no less than the highest regard. A diplomatic problem solver and skilled manager, Tom has been an extraordinary asset to the community surrounding Green Bay and the 8th Congressional District of Wisconsin's largest county.

Among his many accomplishments, Mr. Hinz launched the LEAN initiative in Brown County in 2009. This implemented techniques that have for years produced impressive results in manufacturing environments, and adapted them to county government. As a result county employees are involved in an effective process that improves quality, reduces costs, and strengthens customer service.

Tom was also a key player in the construction of the Brown County Community Treatment Center, the new 911 Communications Center and the ratification of a long-overdue service agreement between Brown County and the Oneida Tribe of Indians.

Madam Speaker, as Mr. Tom Hinz celebrates his retirement, I ask my colleagues to join me in saluting this exemplary citizen and his lifetime of service to the nation and the communities of Northeast Wisconsin.

PERSONAL EXPLANATION

HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mrs. MCCARTHY of New York. Madam Speaker, I was unavoidably absent on December 14, 2011. If I was present, I would have voted on the following: S. 1405—rollcall No. 628: "yea"; S. 3167—rollcall No. 629: "yea"; and H.R. 6510—rollcall No. 630: "yea."

RECOGNIZING THE ACCOMPLISHMENT OF LORRAINE DARWIN

HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. BOOZMAN. Madam Speaker, I rise today to recognize Lorraine Darwin for her

outstanding contributions to Arkansas students. Lorraine's efforts in the classroom earned her the highest recognition that can be bestowed upon our Nation's kindergarten through 12th grade mathematics and science teachers for outstanding teaching, the Presidential Awards for Excellence for Mathematics and Science Teaching.

As the Pre-AP Precalculus/Trigonometry and AP Calculus Teacher and the Mathematics Department Chairperson at Cabot High School in Cabot, Arkansas, Lorraine exemplifies what it means to be an outstanding educator. Her techniques to engage students in math and improve their understanding of this discipline have been noticed by her students, their parents and her colleagues.

Lorraine's teaching is held in high regard, one of 103 teachers chosen for this award and one of only 51 mathematics teachers. This truly is a major accomplishment in her career. Her passion for teaching not only helps her students, but also inspires those who work with her to do their best to encourage further development in the classroom.

I would like to offer my appreciation for the work of Lorraine Darwin and her determination to provide her students with the best math education as we work to keep America competitive in an increasingly high tech and science oriented global economy.

ON WELCOMING THE RELEASE OF BURMESE DEMOCRACY LEADER AND NOBEL PEACE PRIZE LAUREATE AUNG SAN SUU KYI

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. HASTINGS of Florida. Madam Speaker, I rise today to introduce a House resolution welcoming the release of Burmese democracy leader and Nobel Peace Prize Laureate Aung San Suu Kyi from house arrest on November 13, 2010. Daw Aung San Suu Kyi had been imprisoned in Burma for 15 of the last 21 years. She was first put under house arrest on July 20, 1989, and was offered freedom if she left the country, but refused.

Even under house arrest, Daw Aung San Suu Kyi demonstrated unwavering and determined political leadership, provided inspiration, and garnered respect from the people of Burma and democracy-loving people around the world.

As one of the world's only imprisoned recipients, she was awarded the Nobel Peace Prize in 1991 for her nonviolent struggle against oppression, with the Norwegian Nobel Committee citing her as "one of the most extraordinary examples of civil courage in Asia in recent decades."

Today, however, we must not rejoice. Daw Aung San Suu Kyi has called on all world leaders to stay focused on the plight of each one of the millions of Burmese struggling against the military rule, on the over two thousand two hundred political prisoners suffering unjustly in Burmese prisons, and the thousands of women and children being systematically raped and taken as sex slaves and por-

ters for the military whose rule they suffer under.

Aung San Suu Kyi was awarded both of the highest civilian awards in the United States: the Presidential Medal of Honor in 2000 which recognizes those individuals who have made "an especially meritorious contribution to the security or national interests of the United States, world peace, cultural or other significant public or private endeavors" and, in 2008, the Congressional Medal of Honor for her "courageous and unwavering commitment to peace, nonviolence, human rights, and democracy in Burma."

In one of her most famous speeches, she poignantly conveyed: "It is not power that corrupts but fear. Fear of losing power corrupts those who wield it and fear of the scourge of power corrupts those who are subject to it." Even Aung San Suu Kyi herself freely notes that her release does not constitute a change in the military junta regime's choices in leadership. Six days before her release were the highly-contested November 7th Burmese elections, which were clearly based on a fundamentally flawed process and demonstrated the regime's continued preference for repression and restriction.

Aung San Suu Kyi's freedom must not be restrained. She must be able to travel freely without fear of her recapture at any given moment. Furthermore, this resolution calls for the immediate and unconditional release of all political prisoners and prisoners of conscience in Burma, including Aung San Suu Kyi's supporters in the National League for Democracy and ordinary citizens of Burma, including ethnic minorities, who publicly and courageously speak out against the regime's many injustices.

The ruling junta in Burma must be denied hard currency to continue its campaign of repression and we can do that by working with governments around the world to strengthen sanction regimes against Burma. And, it is time for the Administration to appoint a United States Special Coordinator for Burma.

Madam Speaker, today the House of Representatives has the opportunity to celebrate Daw Aung San Suu Kyi's freedom. And, yet, we celebrate with a heavy heart for all of the millions still suffering in Burma. I urge my colleagues to stand firmly in solidarity with Aung San Suu Kyi and the people of Burma with your support of the passage of this resolution, human rights, an end to the junta-imposed violence, democratic progress, and for the release of all prisoners of conscience in Burma.

DISTRICT OF COLUMBIA ENACTMENT OF NATIONAL POPULAR VOTE

HON. CHELLIE PINGREE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Ms. PINGREE of Maine. Madam Speaker, I rise today to recognize and congratulate the District of Columbia for its recent enactment of the National Popular Vote bill, which would guarantee the Presidency to the candidate who receives the most popular votes in all 50 states and the District.

Just a few weeks ago, Mayor Fenty signed this important legislation, which was passed by unanimous consent by the D.C. Council. National Popular Vote is now law in 7 jurisdictions, and has been passed by 30 legislative chambers in 21 states.

The shortcomings of the current system stem from the winner-take-all rule. Presidential candidates have no reason to pay attention to the concerns of voters in states where they are comfortably ahead or hopelessly behind. In 2008, candidates concentrated over two-thirds of their campaign visits and ad money in just six closely divided "battleground" states. A total of 98 percent of their resources went to just 15 states. Voters in two thirds of the states are essentially just spectators to presidential elections.

Under the National Popular Vote, all the electoral votes from the enacting states would be awarded to the presidential candidate who receives the most popular votes in all 50 states and DC. The bill assures that every vote will matter in every state in every Presidential election.

I look forward to more states, all across the country passing this important piece of legislation.

WILL CHRISTIANITY SURVIVE IN IRAQ?

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. WOLF. Madam Speaker, I submit for the RECORD a letter I received from the Chaldean Assyrian Syriac Council of America regarding the plight of Iraq's ancient Christian community, which is increasingly under assault and facing near extinction from the lands they have inhabited for centuries. The Wall Street Journal just yesterday noted on its editorial page that "some still speak the Aramaic, the ancient language of Jesus Christ."

The Journal further noted that of "the 100,000 Christians who once lived in Mosul, Iraq, only some 5,000 are still there."

While the situation in Iraq is perhaps the most glaring, it is but representative of a larger trend in the Middle East where religious minorities face growing discrimination, repression and outright persecution. The Journal continued, "In Egypt, Coptic Christians have been brutalized. Assaults on churches increase around Easter or Christmas, as worshipers attempt to observe holy days."

During this season of Advent as millions around the world anticipate Christmas, let us be mindful of the fear gripping these communities and commit ourselves to prioritizing their protection and preservation throughout the Middle East. We have a moral obligation to do nothing less. For as the famed abolitionist William Wilberforce once said, "Having heard all this, you may choose to look the other way, but you can never again say that you did not know."

I close with the solemn warning of the Chaldean Assyrian Syriac Council of America to President Obama, in a letter sent this November, in which they noted that the current

situation in Iraq "promises more innocent Christian blood in Iraq, more turmoil in that country, and more shame for America."

CHALDEAN ASSYRIAN SYRIAC

COUNCIL OF AMERICA,

Southfield, MI, December 6, 2010.

Congressman FRANK WOLF,
House of Representatives, Cannon Building,
Washington, DC.

DEAR CONGRESSMAN WOLF: We are witnessing a tragic and historic event: The end of Iraq's native Christian community. And, even more tragically, this has happened due in part because of failed U.S. Policy, with the majority of congressional members taking little or no notice of the destruction of an ethnic and religious identity few know about.

The Christians of Iraq are also known as Assyrians, Chaldeans, Syriacs or Arameans (or even ChaldoAssyrians or Chaldean Syriac Assyrians). They are the heirs of the ancient and pre-Christian civilization of Mesopotamia, the descents of the Assyrians and Babylonians of old. They are also the descents of the first Semitic-speaking Christians, whose churches spanned the entire Middle East and reached China and Japan. At one time, what is today known as the Assyrian Church of the East had more adherents than the Catholic and Protestant Churches combined. Their language is Aramaic, the language of Jesus Christ.

Mesopotamia holds a special place in Biblical history. It is the land from which Abraham left his home, "Ur of the Chaldees," where the Hebrew people lived their captivity and survived into the modern era; where the fall of Nineveh was foreseen by the Prophet Nahum, whose grave lies in Alqush, in Nineveh, the ancient capital of Assyria visited by the Prophet Jonah; where Nebuchadnezzar rebuilt the glorious Babylon where the Prophet Daniel lived.

During the Abbasid Caliphate in Baghdad (758-1258 AD), Mesopotamia's Christians contributed greatly to the advancement of Islamic civilization through their literary and scientific accomplishments, including the translations of important Greek works into Syriac (Aramaic) and Arabic. It was through such accomplishments that the West came to know of the "Golden Age" of Islamic civilization and the Caliphate of Baghdad. Indeed, the very existence of the "House of Wisdom," an institution dedicated to the translation and documentation of all knowledge on philosophy, mathematics, astronomy, and other sciences into Arabic at the time owes itself to the Christians of Iraq.

As a result of the turbulence caused by a pattern of religious persecution and ethnic intolerance, the Christians of Iraq maintained themselves in the area of northern Mesopotamia or Assyria, also known as the Nineveh Plain. Here, and in the surrounding areas, they maintained their religious and ethnic identity and lived in hundreds of villages that dotted the landscape around the Tigris River until the coming modernity, at which time they suffered massacres and genocides at the hands of the Ottomans and their supporters. The First World War saw the uprooting and destruction of hundreds of Aramaic-speaking Christian villages in what is today Southeastern Turkey, Northwestern Iran, and Northern Iraq. Still, the Christian population survived, with its ethnic and religious identity intact.

The formation of the Kingdom Iraq resulted in further tragedy for Christians, with the most infamous being the Semele Massacre; where thousands of women, children, and unarmed men were slaughtered in cold

blood, after being given assurances of protection by the Iraqi government. Crowds in Baghdad streets jubilantly welcomed Iraqi soldiers in what may be one of the most shameful displays in Iraqi history.

Despite the tragedies, the Christian population recovered and helped usher in an age of education and enlightenment for Iraq. Christians made up the most prominent doctors, engineers and scientists in Iraq. As any knowledgeable Iraqi would attest, they constituted, as a group, the most valuable human asset Iraq had. And despite the regime of Saddam Hussein, though politically repressed, Christians excelled in business and science.

Today, this minority may not be so lucky. The massacre that took place in the Lady of Salvation Church on Sunday, October 31, 2010, and the subsequent targeted killings afterwards, has many Christian leaders speaking of leaving Iraq for good. Recently, Archbishop Athanasios Dawood of the Syriac Orthodox Church is saying, "I say clearly and now—the Christian people should leave their beloved land of our ancestors and escape the premeditated ethnic cleansing," he told BBC. "This is better than having them killed one by one."

Scholars Eden Naby and Jamsheed Chosky recently wrote in Foreign Policy that the end of Christianity in Iraq is near. In a letter to President Obama, the Chaldean Assyrian Syriac Council of America, an organization serving this community in the United States, noted that the current situation "promises more innocent Christian blood in Iraq, more turmoil in that country, and more shame for America."

As members of the world community, and as Americans, we bear a responsibility not to allow the disintegration and destruction of this community. Clearly, our entry into Iraq has caused consequences that we cannot walk away from.

Iraq's Christians have a unique heritage whose loss will be mourned by not only Iraq, but the United States and the World. Some have proposed a wholesale evacuation of this community in order to save it. Yet, there are other viable options; such as the recognition of an autonomous zone to be protected and monitored by the United Nations and the United States. It is time to consider the plight of this community seriously and propose action.

Regards,

ISMAT KARMO,
Chairman.

H.R. 4173, THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT—CLARIFICATION OF INTENT WITH RESPECT TO TITLE V, SUBTITLE B

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. MOORE of Kansas. Madam Speaker, as a House conferee for H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), and the chief sponsor of the Nonadmitted and Reinsurance Reform Act (NRRA) that was included as Title V, Subtitle B of the Dodd-Frank Act, I rise to reaffirm these important provisions. The President signed the Dodd-Frank Act into law earlier this year (P.L. 111-203).

The NRRRA seeks to address an issue that most people have never heard of. But it is an issue that we in this House have successfully addressed a number of times in the past few years, and one that affects the lives of millions of Americans, individuals and businesses large and small.

Non-admitted insurance, or surplus lines, is specialty insurance you cannot purchase in the traditional, admitted market. Often called the "safety net" of the insurance market, surplus lines provides for coverage when the traditional market is not available. This is insurance for satellites, toxic chemicals, new inventions, or insurance on homes and businesses in a scarce market.

With my distinguished colleague from New Jersey, Mr. GARRETT, I sponsored the Non-admitted and Reinsurance Reform Act to fix the fragmented, cumbersome regulation of this important marketplace. The goal of the NRRRA was not to eliminate regulatory protections, but to streamline the regulatory regime to enable insurers and brokers to more easily and efficiently comply with state rules and provide much-needed insurance protections to consumers. The law accomplishes this by giving sole regulatory authority over a surplus lines transaction—including the authority to collect premium taxes—to the home state of the insured.

The NRRRA passed the House four times—three times as a stand-alone measure and, finally, as part of the Dodd-Frank Act. With the law's enactment, the responsibility for implementation moves to the states. I'm told that the National Association of Insurance Commissioners (NAIC) is moving swiftly to draft a model agreement and statutory language to enable the states to collect and share surplus lines premium taxes. This sounds like a promising start, but only if the agreement and authorizing legislation are in keeping with the letter and spirit of the NRRRA: to provide a simpler, uniform tax reporting and payment process with a single payment, to the insured's home state, for each transaction.

Premium tax simplification, while important, is but one part of the NRRRA's goals. The broader intent of the law is to provide a comprehensive, uniform solution to the current regulatory mess by addressing the full spectrum of surplus lines regulation: declination and reporting requirements, broker licensing requirements and electronic processing, insurer eligibility standards, and treatment of sophisticated commercial purchasers. Most of the provisions of the law will become effective next July without state action—as I mentioned, the rules of the insured's home state govern multi-state transactions and the insurer eligibility requirements and sophisticated commercial purchaser standards are set forth in the federal law.

Having said that, however, in order to truly realize the promise of the new law, the states need to take this opportunity to adopt a single set of uniform surplus lines regulatory requirements—requirements that are not just similar but the same in every state. I have no stake in how this is accomplished—by individual state laws based on NAIC or NCOIL models, through a standard-setting compact (which is authorized under the NRRRA), or in some other manner. But it can and should be done—and

the states should realize that now is the time to do it.

I urge the Congress to continue closely monitoring the full implementation of these important provisions.

A TRIBUTE TO JOHN ARNOLD

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. EHLERS. Madam Speaker, I rise today to honor John Arnold, the Executive Director of the Feeding America West Michigan Food Bank. After working tirelessly for 28 years to help feed the hungry, John is retiring due to his advanced, inoperable cancer. My prayers and heartfelt thanks go to John and his family.

As the Executive Director for the West Michigan Food Bank for the past 21 years, John has run one of the most innovative food banks in the entire country. During his career, John has helped secure and distribute more than 300 million pounds of food aid across Michigan.

In an ambitious effort to end hunger throughout Michigan, John's food bank took on the challenge of adding the Upper Peninsula of Michigan to their service area. In addition to extending service to remote rural areas, John has developed more than 1,300 outlets for food, to ensure that every person in their 40-county service area has reasonable access to food aid.

The West Michigan Food Bank is so successful that it is able to provide food for less than a tenth of what it would cost at a grocery store. In 2010, the food bank expects to hit the 25 million pound mark for distributed food.

In 1994, under John's leadership, the food bank launched their "Waste Not, Want Not Project" with Michigan State University, to determine how communities in America can adequately address their hunger problems. This project has won international awards and has allowed the food bank to meet its goal of 15 percent growth per year until all needs are met.

As a participant in my church's food distribution program in Grand Rapids, I recognize full well the dramatic impact a little food aid can make in the lives of struggling families.

Although John's life may regrettably be cut short by his aggressive cancer, he should take comfort in knowing that his efforts have helped save and improve the lives of thousands of hungry people across Michigan. We are most grateful for and appreciative of all that John Arnold has done to aid the poor and hungry people in Western and Northern Michigan. He serves as a model for all food bank directors and executives across our Nation.

TRIBUTE TO AIR FORCE SENIOR
AIRMAN MARK ANDREW FOR-
ESTER

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. ADERHOLT. Madam Speaker, one of the most somber and humbling duties of our jobs is when we attend the funerals of our fallen soldiers, sailors, airmen, and marines. On October 7, 2010, I attended such a funeral for a fallen airman who not only was my constituent, but was a family I had grown up with.

I would like to pay tribute to this American Patriot from my hometown of Haleyville, Alabama, who was killed in action on September 29, 2010, in the Uruzgan Province of Afghanistan.

Air Force Senior Airman Mark Andrew For-ester paid the ultimate sacrifice to defend our great nation. Mark was assigned to the 21st Special Tactics Squadron at Pope Air Force Base, North Carolina. He served as an Air Force Combat Controller and was embedded with a Special Forces Unit in Afghanistan.

When I think of a young man like Mark, I think of words like; honor and bravery. "Greater love hath no man than this, that a man lay down his life for his friends."—John 15:13. Mark died while protecting his friends and fellow service members.

In the fall of 1864, President Abraham Lincoln, wrote the following message to the mother of a fallen soldier. "I pray that our Heavenly Father may assuage the anguish of your bereavement and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom." President Lincoln's words ring more powerful today than ever before.

Mark earned numerous awards during his service including a Bronze Star with Valor and a Purple Heart.

It is an honor to be able to say that I was associated with Mark and his family over the years. Our thoughts and prayers continue to be with Mark's family and all those who knew and loved him.

PERSONAL EXPLANATION

HON. GARY C. PETERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. PETERS. Madam Speaker, on December 9, 2010 I missed rollcall vote No. 627 because I was attending a White House signing ceremony for the Animal Crush Video Prohibition Act of 2010—legislation which I helped author. Had I been present I would have voted in favor of H.R. 6412, the Access to Criminal History Records for State Sentencing Commissions Act of 2010, legislation which will help improve criminal sentencing procedures in states throughout the country.

HONORING SERGEANT MATTHEW
THOMAS ABBATE

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Ms. LEE of California. Madam Speaker, I rise today to honor the extraordinary life of Matthew Abbate, Sergeant of the United States Marine Corps. Loved and respected by his family, friends and fellow Marines, Sergeant Abbate was killed in the line of duty in Afghanistan on December 2, 2010. It was his second tour of duty.

At just 26 years of age, Sergeant Abbate had already accomplished many things—including his life-long dream of joining the Marine Corps. He had traveled the world, started a family, and achieved satisfaction and recognition in his military career.

Sergeant Abbate grew up in Piedmont, California with his father Sal Abbate, a local business owner, and his stepmother Jane Whitfield. He attended Beach Elementary School, Piedmont Middle School and Piedmont High School for his freshman year, before residing with his mother and stepfather, Karen and James Binion, in Fresno, California. As a youth, Matthew Abbate was charming, athletic, independent and free-spirited. After graduating from high school in 2002, he moved to Hawaii in search of work that would support his interest in world travel.

As an employee on the Norwegian Star cruise ship, he enjoyed adventures throughout Asia and the Pacific, including Thailand, Australia, Fiji and the Panama Canal. Following those travels, he attained his goal of enlisting in the Marine Corps, and, by the age of 20, was training for his first 10-month tour of duty in Iraq.

Sergeant Abbate's passion and steadfast dedication to the Corps led him to re-enlist after finishing his first tour, and to spend a year in sniper training. Just three months into his mission in Afghanistan, Sergeant Abbate's commitment to service resulted in the ultimate sacrifice.

Among the many sources of pride Sergeant Abbate found in being a Marine, the brotherhood he had with his fellow troops was foremost. He was a stalwart team member and a leader who inspired his peers to vote him as the Marine they'd most like to be.

As we gather in remembrance, we celebrate the life of a man who took great pride in being a loving father, a good person and a brave Marine. Sergeant Abbate leaves behind an extended network of loved ones, including his wife, Stacie Rigall, his two-year-old son, Carson, his parents, stepparents and four siblings.

His contributions to our nation will be remembered for generations to come, and his legacy continues in the hearts of those whose lives he touched in remarkable ways.

Today, California's 9th Congressional District salutes and honors United States Marine Corps Sergeant Matthew Thomas Abbate. His exemplary spirit and sense of public duty will continue to guide others toward courage, fortitude, selflessness and service. Sergeant Matt Abbate was truly a great man and he will be deeply missed. May his soul rest in peace.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GUTIERREZ. Madam Speaker, I was unavoidably absent for votes in the House Chamber yesterday. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes 628, 629 and 630.

IN RECOGNITION OF SECOND BAPTIST CHURCH OF MATAWAN'S
120TH ANNIVERSARY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. PALLONE. Madam Speaker, I rise today to congratulate the Second Baptist Church of Matawan, New Jersey as the parishioners gather to celebrate the church's 120th anniversary. Members of the congregation enthusiastically dedicate their time to religious service in Matawan and its surrounding community. Their actions are undoubtedly deserving of this body's recognition.

The Second Baptist Church of Matawan was founded in 1890 and continues to build upon its rich history. Under the leadership of Reverend Stephen Moore, Reverend Jeffrey Gray, Deacon Willie Kiah and the Church Board of Officers, the Second Baptist Church of Matawan provides a harmonious environment for members of the congregation and the community to build upon their faith. Faithfully serving the members of its congregation, the Second Baptist Church of Matawan adheres to their principles of individual freedom in matters of faith. They continue to welcome new members to their congregation. They have implemented numerous ministries and continue to assist ailing members of the community. Their humble actions and service to the community are commendable.

Madam Speaker, please join me in leading this body in acknowledging the Second Baptist Church of Matawan, as the parishioners celebrate their 120th anniversary. The Second Baptist Church of Matawan community is tremendously valued in my district and the State of New Jersey.

OUR UNCONSCIONABLE NATIONAL
DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is \$13,852,589,330,911.83.

On January 6, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$3,214,163,584,618.03 so far this Congress.

This debt and its interest payments we are passing to our children and all future Americans.

HONORING HOMER C. FLOYD UPON
HIS RETIREMENT FROM PENNSYLVANIA HUMAN RELATIONS
COMMISSION

HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. FATTAH. Madam Speaker, Homer C. Floyd, a champion of civil rights and human relations in the Commonwealth of Pennsylvania for the past four decades, is concluding a remarkable career. Since February 1970, Mr. Floyd has served as Executive Director of the Pennsylvania Human Relations Commission. He has an impressive record of accomplishments in civil rights, and has received numerous awards from organizations including the Pennsylvania NAACP, the International Association of Official Human Rights Organizations, and most recently the Talk Magazine 2009 Person of the Year.

Even before attaining his executive position in Harrisburg, Mr. Floyd amassed a wealth of experience and accomplishment that spans North America. A graduate of the University of Kansas, Homer Floyd played Canadian professional football for the Edmonton Eskimos. He worked as a recreation supervisor in Kansas City, Missouri, and directed a civil rights commission with jurisdiction across the Dakotas, Missouri and Kansas. He consulted with the government of the Virgin Islands and worked with the U.S. Equal Opportunity Employment Commission in Washington. Since his arrival in Harrisburg he has donated his time to a long list of boards and committees and has volunteered on behalf of the Commonwealth of Pennsylvania and numerous community, sports, youth and civil rights organizations in central Pennsylvania. He was married to the late Mattie Longshore and has three children and three grandchildren.

Now Homer C. Floyd is retiring, although it is bound to be a busy retirement based on his high-energy career. His family, friends, colleagues and admirers are gathering for a Retirement Celebration of Audacious Service on Monday December 20, 2010, at the African American Museum in Philadelphia. I ask my colleagues in the House of Representatives to join with me in honoring and congratulating Homer C. Floyd for a valuable and achieving life on behalf of his fellow citizens.

H.R. 4173, THE DODD-FRANK WALL
STREET REFORM AND CONSUMER PROTECTION ACT—CLARIFICATION OF INTENT WITH RESPECT TO SECTION 625

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. MOORE of Kansas. Madam Speaker, as a House conferee for H.R. 4173, the Dodd-

Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), I rise to reaffirm the intent of section 625 of the Dodd-Frank Act, which the President signed into law earlier this year (P.L. 111-203).

For years, many federal mutual holding companies have waived receipt of dividends in reliance on current Office of Thrift Supervision ("OTS") regulations which permit waivers of such dividends. These regulations also provide that such dividend waivers would not affect the exchange ratio in the event of a full conversion to stock form.

Section 625 of the Dodd-Frank Act seeks to maintain the current OTS regulation regarding dividend waivers for federal mutual holding companies which, prior to December 1, 2009, had waived the receipt of dividends pursuant to current OTS regulations permitting such dividend waivers. Section 625 authorizes that these mutual holding companies may continue to do so as long as they provide proper notice beforehand and no finding is made that such dividend waivers constitute a safety and soundness violation. Section 625 also provides that such dividend waivers shall not affect the exchange ratio in the event of a later full conversion by the mutual holding company to stock form. The OTS's regulations (which remain unaltered from when the Dodd-Frank Act was being debated and became law) define a mutual holding company as the top-tier company and includes any mid-tier stock holding company. Therefore, regardless of what level of the federal mutual holding company had or continues to waive the receipt of dividends, the clear intent behind Section 625 is to preserve the current OTS regulations with respect to these institutions.

I commend Chairman FRANK for his leadership in drafting the Dodd-Frank Act, as well as his assistance in working with me to fully preserve and protect the thrift charter, including the dividend treatment of federal mutual holding companies. I also urge the Congress to carefully oversee the implementation of the Dodd-Frank Act, including provisions like Section 625, to ensure the regulators implement them in such a way as Congress intended.

PAYING TRIBUTE TO MR. TOBY PALTZER

HON. STEVE KAGEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. KAGEN. Madam Speaker, I rise here today to pay tribute to Mr. Toby Paltzer as he retires from his distinguished career as Outagamie County Executive. For 11 years, Mr. Paltzer managed Wisconsin's sixth largest county in a manner that always best served its entire people, and I ask my colleagues to join me in honoring this dedicated public servant.

Toby Paltzer's service to Outagamie County goes well beyond his time as Executive. Prior to assuming his current role, Toby served as an Outagamie County board supervisor for 5 years, chairman of Agriculture, Extension Education, Zoning and Land Conservation Committee for 3 years, and was an active member of the Local Emergency Planning Committee for 12 years.

In addition to his government service, Mr. Paltzer has further demonstrated his commitment to the communities in and around Outagamie County, Wisconsin through his 45 years as a member and president of Grand Chute Volunteer Fire and Rescue Department, and his involvement as a mentor in the Outagamie Youth Leaders program.

Widely respected by business leaders and elected officials alike, citizens across Outagamie County will certainly miss Toby Paltzer's effective, efficient and clear-cut leadership. Despite having to weather one of the worst economic storms of our time, he leaves his Executive post having placed Outagamie County on a path to prosperity that will continue to be realized long after his departure.

Madam Speaker, as Mr. Paltzer steps down from his post as Outagamie County Executive, I ask the members of this chamber to join me in paying tribute to this valued member of our community.

TRIBUTE TO JEANETTE ROGERS- ERICKSON

HON. KEVIN MCCARTHY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. MCCARTHY of California. Madam Speaker, I rise today to honor Jeannette Rogers-Erickson, a community leader from Kern County in the State of California.

Mrs. Rogers-Erickson holds board positions in many local organizations, such as the Kern Valley Hospital Foundation, the Kern Valley Hospital Auxiliary, the Kernville Chamber of Commerce, the Kern River Valley Chamber of Commerce, the Kern River Revitalization group, the Exchange Club, the Rotary Club of the Kern Valley, the South Fork Women's Club, the Kern Valley Women's Club, and the Kern Valley Collaborative. Mrs. Rogers-Erickson also belongs to the Kern River Valley Art Association and for many years has had her art "worn" throughout the valley on the annual Whiskey Flat Days official shirts.

In addition to her membership in many local organizations, Mrs. Rogers-Erickson is a board member of the Kern Community Foundation and is on the organizing committee of the newly formed Kern River Valley Community Foundation Fund. She has been active with the Women's and Girls' Fund of Bakersfield as well as a board member of the Probation Auxiliary County of Kern, PACK, which oversees the Kernville-based Camp Erwin Owen for Boys.

For her many great works in the community, Mrs. Rogers-Erickson was selected by Assemblymember Jean Fuller to be the 2007 Woman of the Year for the 32nd California State Assembly District. She is also the recent recipient of the Exchange Club 2010 Book of Golden Deeds given to a local resident who has high integrity, honesty, generosity, great work ethic, and high moral values. An ordained minister, Mrs. Rogers-Erickson is the South Fork Club's Inspirational Chairman and organizes several Pastor Prayer Events throughout the year. She is very active in the Exploring Careers in Health Occupations

Academy, which is a local high school program that partners with the Kern Valley Healthcare District and Cerro Coso College.

I am thankful to Jeanette for all of her service to our community and I hope that she and her husband Charley enjoy her retirement.

HON. ADRIAN SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. SMITH of Nebraska. Madam Speaker, it is with great pride that I rise to recognize the Western Nebraska Community College volleyball team who late last month claimed the school's second ever National Junior College Championship title. The Cougars' win over San Jacinto College in five sets capped a wonderful season.

The Cougars came out strong—winning the first two sets—and holding off a spirited challenge to win in a five-set thriller. I am proud of the Cougars and Coach Giovana Melo—who has guided her team to top-three finishes in all three of her seasons as coach.

Debora Araujo led the way for WNCC with 22 kills in the final match. Kuulei Kabalis was named to the all-tournament team after totaling a school-record 34 digs against San Jacinto and Fernanda Goncalves was named Most Valuable Player of the national tournament.

The WNCC Cougars earned the right to be called national champions. I offer my congratulations to the team, their fans, and their community, who made the season such a memorable one.

CONGRATULATING THE GASCONADE COUNTY 4-H

HON. BLAINE LUETKEMEYER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. LUETKEMEYER. Madam Speaker, I ask my colleagues to join me in congratulating the Gasconade County 4-H for 75 years of excellence.

The original Gasconade County 4-H organization started with the ideas and planning of only 10 individuals. Since its inception in 1935, the Gasconade County 4-H has expanded and now includes 11 4-H clubs, 230 members, and 107 volunteers.

The Gasconade County 4-H engages youth to reach their fullest potential, while advancing the field of youth development in four different areas of focus: head, heart, hands, and health. Through their hands-on learning, these young members build their leadership capabilities and expand their skills which enable them to be proactive forces in their communities and prepare for their future endeavors. In its 75th year, the tradition of 4-H still remains strong throughout Gasconade County.

I congratulate the men and women who continue to advance this important cause, which has had such a positive effect on our youth and on our community. I am extremely

proud. I also encourage more youth to participate in 4-H and other such programs that empower them to reach their full potential. I join the rest of the 9th Congressional District when I wish you all continued success and another 75 years of excellence!

I would like to take this time to commend Gasconade County 4-H for all their hard work, and I ask that my colleagues join me in recognizing them for a job well done!

A TRIBUTE TO THE LIFE OF
BISHOP JOHN T. STEINBOCK

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. COSTA. Madam Speaker, I rise today with my colleagues Mr. RADANOVICH, Mr. CARDOZA, and Mr. NUNES to pay tribute to Bishop John T. Steinbock who passed away on December 5, 2010 at the age of seventy-three in Fresno, California. Bishop Steinbock was a key figure in the Diocese in Fresno which serves more than one million parishioners in eight counties from as far north as Merced County to as far south as Kern County.

Bishop John T. Steinbock was born on July 16, 1937 in Los Angeles, California. He was one of three boys born to Leo and Thelma Steinbock. As a child, the Bishop learned to read from racing forms at the horsetracks and learned to count by playing blackjack. The Bishop's decision to turn towards the priesthood came after his two brothers had joined the seminary. He attended a rigorous college preparatory high school designed for young men considering the priesthood and graduated in 1955. After spending the summer of 1958 learning Spanish at a boardinghouse in Mexico City, he decided that he wanted to become a priest.

On May 1, 1963, Bishop Steinbock was ordained into the priesthood. Upon his ordainment, Bishop Steinbock was assigned to Resurrection Parish located in the Hispanic barrio in Los Angeles, California. During Bishop Steinbock's time in Resurrection Parish, he developed his reputation as a great administrator, a valued skill which would lead his promotion within the Catholic Church. In 1973, Bishop Steinbock was transferred to St. Vibiana's Catholic Cathedral near Skid Row in Los Angeles. During the Bishop's time in East Los Angeles, he ministered to the poor and homeless, often dealing with individuals suffering from mental illness, drug and alcohol addiction, and physical abuse. Bishop Steinbock also became a police chaplain for the Los Angeles Police Department. When reflecting on his time in East Los Angeles, Bishop Steinbock wrote, "The greatest suffering was the loneliness and despair I found in the lives of so many."

Bishop Steinbock would have been content to stay a priest; however he was informed by the late Cardinal Timothy Manning that the late Pope John Paul II had named him to be a Bishop. Bishop Steinbock was hesitant to accept the honor, but was convinced by Cardinal Manning's message that the Pope was simply acting in accordance with God's will for

Bishop Steinbock's life. His first assignment as Bishop was in Orange County serving from 1984 to 1987. He would later serve in Santa Rosa, California until he arrived in Fresno, California in 1991. Bishop Steinbock arrived in Fresno to lead a diocese and quickly rose to the occasion, solving several inherited challenges such as a \$3 million deficit. In addition, during the Bishop's first decade in Fresno the diocese undertook seventy major building or renovation projects on churches, parish halls, offices, and school classrooms.

Bishop Steinbock's style of ministry was uniquely his own. He sought out technology and innovation as a means for communication, evangelization, teaching, and formation. The Bishop also recognized the need for personal and genuine love and concern for his brother priests who were never far from his thoughts and prayers. Bishop Steinbock personally celebrated the Sacrament of Confirmation for virtually every young adult in the Diocese, except in a handful of all the eighty-eight diocesan parishes. Bishop Steinbock's pastoral messages, homilies, and Masses often addressed immigrants, farm workers, the unemployed, the imprisoned, those without health care, restorative justice and love for one's neighbor. Despite the Bishop's busy schedule, he made time to visit each office in the Pastoral Center to spend time with staff and volunteers. On October 23, 2009, Bishop Steinbock celebrated his Silver Jubilee as Bishop of the Diocese of Fresno.

Madam Speaker, Mr. RADANOVICH, Mr. CARDOZA, Mr. NUNES, and I ask our colleagues to join us in honoring the life of Bishop John T. Steinbock as we offer our condolences to his family and celebrate his memory and service to the Diocese of Fresno and California.

IN HONOR AND MEMORY OF JOHN
LENNON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. KUCINICH. Madam Speaker, I rise today in honor of John Lennon, a musician, songwriter, entertainer, international icon, and father, who will be remembered as one quarter of The Beatles—on the 30th Anniversary of his death. His contributions as a songwriter, musician, and artist span every facet of the musical industry and his work is beloved around the world.

John Lennon was born on December 9, 1940 in Liverpool, England and was killed on December 8, 1980 outside of his apartment in New York City. During his lifetime, John was passionate about making the world a better, safer place. He had strong convictions that war was always wrong and that peace was achievable. The ideals he held still resonate today. His music, whether produced alone, with the Beatles, or with Yoko Ono continues to be played on the radio.

John Lennon was a passionate man whom millions of people have come to admire. His death still weighs deeply in the hearts of millions of those who loved his music. He has been the recipient of many awards and hon-

ors, including an appointment as a Member of the Order of the British Empire (MBE) with the other Beatles in 1965. Numerous albums that he had a hand in crafting have been listed on Billboard charts. They have helped put him on lists of the greatest musicians and songwriters of all time. John Lennon was posthumously inducted to the Songwriters Hall of Fame in 1987 and the Rock and Roll Hall of Fame in 1994.

Madam Speaker, please join me in honor and recognition of John Lennon. Mr. Lennon's brilliant artistry, unwavering activism and spirit continue to lighten hearts and enlighten minds by bringing enjoyment and hope to millions. His influence spans continents and generations. Thirty years after his death, his fans are still grieving. John Lennon and his legacy have made and continues to make our Nation and our world a better place.

HONORING THE SERVICE AND
DEDICATION OF GREG HOLYFIELD

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to honor Lt. Wayland Gregory Holyfield for his contributions to the Sixth District of Tennessee while serving on my Washington, DC staff. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. They work long hours—often for little pay or recognition—and their service is simply invaluable to those of us who serve in this esteemed chamber. Throughout my 26 years in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out those who are serving my constituents as my tenure comes to a close.

Greg is one of a distinguished group of staff members who have served a second term on my staff after leaving to pursue graduate degrees and other work. Greg first came to my office as a Legislative Correspondent in 2003, having gained Capitol Hill experience in the office of Senator MARK PRYOR. His hard work soon earned him a promotion to my Legislative Assistant for foreign affairs, immigration, agriculture and other issues. Greg was a valuable resource to me and to constituents with concerns in these policy areas. Greg also lent special expertise to issues related to the music and recording industry, having grown up in a family in Nashville's songwriting business.

Public service came naturally to Greg. Prior to working in my office, he served in the Peace Corps, spending more than two years overseeing agricultural projects in Mali. In 2005 he left my office to join the inaugural class at the Clinton School of Public Service at the University of Arkansas. After graduating from the Clinton School, Greg made the decision to join the Armed Forces and serve his country in the U.S. Army Reserves. We are extremely proud of his service and honored to count him as an alumnus of the office.

When Greg decided to return to Washington, DC, to pursue his love of politics, his timing could not have been better. Greg took on the gargantuan and unenviable task of preparing my official papers to be archived at the Albert Gore Research Center at my alma mater, Middle Tennessee State University. Greg attacked this mountain of paper with impressive organization and patience. Analyzing and cataloging 26 years worth of legislative records, invitations, correspondence and press files is no small feat, and the process of closing my office would not have gone as smoothly without Greg's dedication to the project. Greg's work made it possible for me and my staff to continue at full throttle with the office's legislative work through the end of my term this year. In addition, it has helped to establish a historical record of the district and the legislative process that I hope will be valuable to MTSU students and Middle Tennesseans for generations to come.

It has been wonderful to have Greg on the team once again. Those who worked with him before welcomed the return of his dry sense of humor and natural charm, and the newer members of my staff have developed an appreciation for his passion for the Georgia Bulldogs, enthusiasm for war movies, and love of both types of music—country and western.

Madam Speaker, Greg Holyfield has done great work in the service of the Sixth District of Tennessee. He comes from a good Tennessee family, and I know they are very proud of him. Greg, thank you for your help to my office and your service to our country. I wish you all the best in the future.

HONORING WOLFGANG HERZOG

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. HOLDEN. Madam Speaker, on the evening of December 17, 2010, hundreds of friends and colleagues, as well as state and local officials in southwest Germany, will gather to honor one of the most unique business leaders that I have had the privilege to encounter—Wolfgang Herzog. He serves as the director of utility services for the city of Kaiserslautern, Germany. He has emerged as a leader in German programs designed to further promote and enhance critical host-nation relations with the huge American military components in the region. Kaiserslautern, a city whose U.S. military and business profile is so pronounced that it is now called The American City in Germany, is the home to nearly 55,000 Americans, making it the largest U.S. military outpost overseas.

The cooperation of the U.S. military with the leaders of the community is an essential component of overseas forces activities. It is the host-nation city that makes possible the logistical, social, cultural, and infrastructure that provide for workable and meaningful relations between our troops and the people of a foreign nation which surrounds them.

Over the last two decades Mr. Herzog has escorted numerous city officials and associates to Washington. He has met with multiple

Senators and Representatives to profile the extent of Kaiserslautern's commitment to its American neighbors.

Mr. Herzog has also been welcomed at the Pentagon by the Chairman of the Joint Chiefs of Staff, as well as the Army and Air Force Chiefs of Staff. He has often worked with military staff in providing efficient energy services and protecting environmental standards.

Mr. Herzog has received tributes from senior American military leaders in Kaiserslautern. General Roger Brady, Commander of U.S. Air Forces in Europe presented him with the Medal of Distinction. Army Major General Patricia McQuiston, Commander of the 21st Theater Sustainment Command, decorated him with the Soaring Eagle Award.

The Lord Mayor of Kaiserslautern, Dr. Klaus Weichelt and all of the residents of the region join with me in saying to Mr. Herzog: *Ad Multos Annos!*

HONORING THE SERVICE AND DEDICATION OF EMILY PHELPS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GORDON of Tennessee. Madam Speaker, today I rise to recognize Emily Phelps for her contributions to Tennessee's Sixth Congressional District. As any member of Congress knows, our legislative achievements and successful constituent services program would not be possible without a cadre of great staff working behind the scenes. They work long hours—often for little pay or recognition—and their service is simply invaluable to those of us who serve in this esteemed chamber. Throughout my 26 years in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out those who are serving my constituents as my tenure comes to a close.

Emily Phelps has served as my communications director throughout this last year of my term. Even though I announced a year ago that I was retiring, my staff and I have not slowed down one bit since then. My legislative efforts have continued, and Emily has done a tremendous job of ensuring my constituents know how new laws will affect their families and their communities.

Emily has put in long hours and hard work to manage outreach on Congress' actions on health care reform, the controversy surrounding failing brakes in some Toyota models, and my efforts to ban imports of foreign-generated nuclear waste. After floods ravaged Tennessee this spring, Emily provided up-to-the-minute reports about disaster assistance through my website and outreach to local media. While the Science and Technology Committee's communications director was out on maternity leave, Emily split her time, assisting with hearing, managing a press conference related to the Deepwater Horizon oil spill, and preparing for House consideration of the America COMPETES Act.

Madam Speaker, Emily has a bright, continued future ahead of her in communications.

She is thoughtful, offers good ideas and insight, maintains ease and comfort with reporters, and, as all good staff does, advocates an alternative opinion rather than just agreeing with the status quo.

My staff and I have enjoyed getting to know Emily and having her in the office. Her easy-going nature, with a touch of endearing quirkiness, is a pleasant counter to the clamor of Congress. Emily, I thank you for helping me accomplish so much this year, and I wish you all the best.

HONORING THE SERVICE AND DEDICATION OF CHRISTOPHER RACKENS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to honor Christopher Rackens for his contributions to the Sixth District of Tennessee while serving on my Washington, DC staff. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. They work long hours—often for little pay or recognition—and their service is simply invaluable to those of us who serve in this esteemed chamber. Throughout my 26 years in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out those who are serving my constituents as my tenure comes to a close.

Chris Rackens joined my office during the final week of House consideration of the Patient Protection and Affordable Care Act, a bill that sparked public interest exceeding anything I have seen during my time in Congress. It was a week of unprecedented call volumes that sometimes crashed the House phone system. Although he had just joined us days before, Chris helped to staff the office over the weekend to provide updates to constituents in Middle Tennessee who were following the debate. It was an exciting and challenging time for even the most veteran staffers. Unfazed, Chris jumped right into his staff assistant duties with professionalism under pressure, a great attitude, and a pride in his small-town upbringing that endeared him right away to his colleagues in Washington and Tennessee.

Chris was always eager to tackle any task, which served him well as he was promoted from staff assistant to legislative aide. Chris has covered legislation in the areas of education and government reform, answering constituent concerns and assisting Tennessee universities and state entities that needed assistance working with federal agencies. In addition, he also took on the role of systems administrator for the office, an often thankless and time consuming job.

During the last months, Chris has shown real leadership in the move from our Rayburn office to transition space in preparation for closing my Washington and Tennessee offices. He has handled many of the major

logistical challenges of helping the staff relocate, all while staying on top of a full load of correspondence and legislative work. Our office transition would not have been as successful without him.

Madam Speaker, Chris Rackens has done great work in the service of the Sixth District of Tennessee. He has tremendous charisma and an unfalteringly good attitude that has led him to believe no task is too big or too small to undertake. I know I will continue to hear good things from and about Chris, and I wish him all the best in the future.

HONORING THE SERVICE AND
DEDICATION OF DANA
LICHTENBERG

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to honor Dana Lichtenberg for her contributions to the Sixth District of Tennessee while serving on my Washington, DC staff. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. They work long hours—often for little pay or recognition—and their service is simply invaluable to those of us who serve in this esteemed chamber. Throughout my 26 years in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out those who are serving my constituents as my tenure comes to a close.

Dana joined my staff in 1999 already a seasoned Hill staffer with experience in three congressional offices. After proving herself to possess incredible policy knowledge, she became my Legislative Director in 2007. She manages my legislative staff, oversees my legislative agenda and advises me on issues before the Energy and Commerce Committee.

Many congressmen would count themselves lucky to have a Legislative Director as knowledgeable in one policy area as Dana is in ten. Although telecommunications policy has been her first love, her understanding of health care policy and the Patient Protection and Affordable Care Act is second to none. Her work in my office has taken her deep into small business, consumer protection and intellectual property policy. She will be leaving my office with 15 bills under her belt, notably the NET 911 Improvement Act that helped modernize 911 systems for Internet-based phones and the SPARTA sports agents law that cracks down on unscrupulous sports agent activity at the college level.

In the nearly 12 years since she joined my staff, Dana has seen major changes, from the excitement surrounding three presidential elections and two power shifts in the House, to the heartbreaking and frightening period surrounding the terrorist attacks on September 11, 2001. Throughout it all, Dana has managed a tight legislative team and mentored a number of great legislative staffers who have

thrived under her tutelage and now work have successful careers elsewhere in Congress. Most importantly, Dana has never forgotten who she is working for. No matter how long her list of accomplishments grows, she is never too busy to help a Tennessean who has a concern related to federal legislation and walk them through it with patience and candor. Dana politely discusses legislation point-by-point with constituents who call with concerns, leading to many conversations ending with appreciation and understanding after beginning with angst and opposition. Dana always manages to keep herself busy both in the office and out with her gardening jobs, appreciation for good wine and trips home to her native California.

Madam Speaker, it has been wonderful to have Dana to rely on as my Legislative Director. Dana, thank you for all your help and dedication over these many years. Your hard work has helped to make me a better congressman.

HONORING THE SERVICE AND
DEDICATION OF GRAHAM
SCHNAARS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to honor Graham Schnaars for his contributions to the Sixth District of Tennessee while serving on my Washington, DC staff. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. They work long hours—often for little pay or recognition—and their service is simply invaluable to those of us who serve in this esteemed chamber. Throughout my 26 years in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out those who are serving my constituents as my tenure comes to a close.

Graham comes to Capitol Hill from the field of engineering. He earned a BS from the University of Virginia and a Master's in Structural Engineering from Lehigh University. After working on structural engineering projects from Louisiana to Alaska, and fitting in time to complete a cross-country bike trip to raise awareness for Habitat for Humanity, Graham followed his interest in public policy to Washington, DC.

He began his Hill career with an internship at the House Committee on Science and Technology, which played well to his engineering background and research skills. A native Tennessean himself, Graham volunteered to help my personal office staff handle the overwhelming volume of calls that came in during the health care debate this spring. When the staff put in extra time over the weekend to keep constituents up-to-date, Graham surprised us by showing up and volunteering his services. He surprised us even more by staying with us until the final vote was tallied near midnight.

With his dedicated work ethic, firsthand knowledge of Middle Tennessee and stellar research skills, Graham's was the first name mentioned when a position opened on the legislative staff. As my legislative aide for agriculture, housing and Interior Department issues, Graham has been a valuable resource to me and to constituents with concerns in these areas. He has managed a difficult correspondence load and facilitated meetings with local interest groups on complex issues.

In addition to being a snappy dresser, Graham has been a great member of the team. He has a wry sense of humor, a wonderful attitude and an eagerness to pitch in as needed. At times when the office has been understaffed during the final months of my term, he held down the fort for senior legislative staff—and brought in his now-famous spinach and artichoke dip to help us through.

Madam Speaker, Graham has done stellar work for Middle Tennessee. He has a bright future ahead of him as a policy wonk, and I wish him all the best.

BOEHNER: EYE-OPENING REPORT
DETAILS GOV'T MORTGAGE COM-
PANIES' ROLE IN FINANCIAL
MELTDOWN

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. BOEHNER. Madam Speaker, I submit the following for the RECORD:

BOEHNER: EYE-OPENING REPORT DETAILS GOV'T MORTGAGE COMPANIES' ROLE IN FINANCIAL MELTDOWN

WASHINGTON, DC.—House Speaker-designate John Boehner (R-OH) issued the following statement in response to a report released by the Republican commissioners on the Financial Crisis Inquiry Commission (FCIC) regarding the causes of the financial crisis:

"This eye-opening report details how government mortgage companies played a pivotal role in the financial meltdown by handing out high-risk loans to families who couldn't afford them. After years of being coddled and enabled by Washington politicians, Fannie Mae and Freddie Mac are now on life support, kept afloat by taxpayers fed up with unending bailouts. Through the Pledge to America, Republicans have proposed saving billions for taxpayers by ending government control of Fannie and Freddie, shrinking their portfolios, and establishing minimum capital standards. I appreciate the Republican commissioners' efforts to get to the bottom of what happened and ensure the American people have the full story about the financial crisis. This is a report every taxpayer should read."

Note: Former Rep. Bill Thomas, Keith Hennessey, Douglas Holtz-Eakin, and Peter Wallison are the Republican commissioners on the FCIC. As the Republican commissioners state in their introduction, "these findings and conclusions do not constitute the Commission's report."

INTRODUCTION

On May 20, 2009, Public Law No. 111-21, the Fraud Enforcement and Recovery Act of 2009, was enacted into law, creating the Financial Crisis Inquiry Commission (FCIC).

According to the Act, the FCIC was established to "examine the causes, domestic and global, of the current financial and economic crisis in the United States." The law requires that today, December 15, 2010, the FCIC submit "to the President and to the Congress a report containing the findings and conclusions of the Commission on the causes of the current financial and economic crisis in the United States." This primer contains preliminary findings and conclusions released by Vice Chairman Bill Thomas, Commissioner Keith Hennessey, Commissioner Douglas Holtz-Eakin, and Commissioner Peter J. Wallison, and represents a portion of the findings and conclusions resulting from our work on the FCIC. As the transmission of the report of the FCIC to the President and Congress requires a majority vote of the Commission, these findings and conclusions do not constitute the Commission's report. Rather, this document is an effort to reflect the clear intention of our enabling legislation. Our views have been shaped, in part, by our knowledge of economics and financial markets generally. In the course of our examination, we have studied and drawn from the extensive work already available on the financial crisis. This crisis that we were tasked to study is neither the first nor likely the last of its type, and thus our examination of similar, previous episodes also informed our findings and conclusions. To that end, we see this document as a part of an already rich discussion of the causes of financial crises, both in the United States and around the world. This document adds to that conversation rather than closing it. The two seminal works on the causes of the Great Depression, Milton Friedman and Anna Schwartz's—*A Monetary History of the United States, 1867-1960* and Ben Bernanke's—*Nonmonetary Effects of the Financial Crisis in the Propagation of the Great Depression*, were published in 1963 and 1983, respectively, many decades after the crisis had ended. We anticipate that future generations will continue to provide additional insights into the causes of this financial crisis as well.

Further, we want to stress the extent to which our views have been influenced by the research and investigations conducted by the FCIC since our first meeting in September 2009. The work included conversations with economic historians, finance experts, and other academics, and hundreds of interviews with market participants, regulators, and government officials. While we may have organized and conducted some of these investigations differently given the choice, we have found many elements to be useful. We thank the FCIC staff for their hard work.

We have tried to distill those issues that we think are most important into a series of questions and answers. Different questions were included for different reasons, including those topics that, in our view, are commonly mischaracterized and those most relevant to future policy discussions. Certainly, this is not an exhaustive list.

Our framework reflects a central premise that the financial crisis was distinct from other recent important economic events, including the housing bubble and the prolonged economic recession. We believe that the financial crisis was, at its core, a financial panic that was precipitated by highly correlated mortgage-related losses concentrated at large financial firms in the United States and Europe. While the housing bubble, the financial crisis, and the recession are surely interrelated events, we do not believe that the housing bubble was a suffi-

cient condition for the financial crisis. The unprecedented number of subprime and other weak mortgages in this bubble set it and its effect apart from others in the past.

We look forward to continuing to participate in the ongoing dialogue on the causes of the financial crisis and providing our additional views as they develop.

Vice Chairman Bill Thomas
Commissioner Keith Hennessey
Commissioner Douglas Holtz-Eakin
Commissioner Peter J. Wallison

A copy of the report can be found at the following link: http://republicanleader.house.gov/UploadedFiles/Financial_Crisis_Primer_Final.pdf

HONORING THE SERVICE AND DEDICATION OF JACQUELINE FREDERICK

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GORDON of Tennessee. Madam Speaker, today I rise to recognize Jacqueline Frederick for her contributions to Tennessee's Sixth Congressional District. As any Member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. They work long hours—often for little pay or recognition—and their service is simply invaluable to those of us who serve in this esteemed chamber. Throughout my 26 years in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out those who are serving my constituents as my tenure comes to a close.

Jackie Frederick joined my Washington office as staff assistant after impressing me and my staff throughout her internship as she completed her final semester at American University this spring. During college, she studied political science and studied abroad in Spain. Her research and organizational skills and deep interest in politics and foreign affairs made her an excellent candidate for the staff assistant position when it became available.

During her time with us, Jackie has managed an exceptionally warm and friendly front office. From VIP dignitaries to very young constituents, Jackie has welcomed all with total grace and Southern hospitality. She has helped hundreds of Middle Tennesseans secure passports and schedule tours around Washington, all while providing valuable support to my legislative staff and correspondence program. Her sense of humor, pride in her Miami Cuban heritage and unshakable optimism have made her a great addition to the office.

In the short time she has been with us, Jackie has shown tremendous initiative in conceiving and implementing projects, notably her Constitution Day project. After noting that my Washington office had an abundance of pocket Constitution booklets, Jackie took it upon herself to distribute them. By reaching out to public schools in my district, she was able to put 2,500 Constitutions in the hands of Ten-

nessee students on Constitution Day in September. It was an inspired idea, and it really did our office proud.

Madam Speaker, it has been a pleasure having Jackie with us. In January, she will join the staff of the Embassy of Sri Lanka, where she will serve as executive assistant to the Ambassador. My staff and I are thrilled about this newest chapter in her career and are confident she will do great work there. Jackie, I and your colleagues wish you all the best in the future.

HONORING THE SERVICE AND DEDICATION OF ELIZABETH KELSEY NEVITT

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to honor Elizabeth Kelsey Nevitt for her contributions to the Sixth District of Tennessee while serving on my Washington, DC staff. As any Member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. They work long hours—often for little pay or recognition—and their service is simply invaluable to those of us who serve in this esteemed chamber. Throughout my 26 years in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out those who are serving my constituents as my tenure comes to a close.

Elizabeth Nevitt came to my staff last fall with stellar references from the office of my colleague Congressman ZACK SPACE of Ohio and a background that has made her well-suited for the halls of Congress. She studied communications and political science at Muhlenberg College before taking a position with the University of Michigan. Eventually, her love of politics brought her to our Nation's capital, where she earned her Master's degree in Political Management at The George Washington University and worked in government affairs prior to beginning her service on the Hill. Elizabeth's strong principles, diligent work ethic and appreciation for policy nuances have made her a natural for her chosen career.

In her role as my senior legislative assistant, Elizabeth helped me advance key legislative priorities in the areas of energy, trade and transportation by working with the Energy and Commerce Committee and the Science and Technology Committee. She successfully oversaw House passage of the Radioactive Import Deterrence Act and worked with committee staff to address my concerns and add language to the Home Star Energy Retrofits Act and Motor Vehicle Safety Act. Elizabeth has also worked with stakeholders in my district to see several major local initiatives through the appropriations process. With a great sense of diplomacy and attention to detail, she has been a tireless advocate for the people of the Sixth District of Tennessee and the universities in my district.

Elizabeth is a consummate professional and has been a great addition to my office. She is bright, possesses excellent writing and editing skills, and a curiosity and depth of knowledge that made her an invaluable member of the team. She applies all of her talents to her efforts, whether it's her work as a founder of the Women's Congressional Staff Association or her well known karaoke pursuits.

Madam Speaker, it has been a pleasure having Elizabeth on my staff. I look forward to following her successful career, wherever it takes her, and wish her and her husband, Jason, all the best in the future.

HONORING THE SERVICE AND
DEDICATION OF ERIC FINS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. GORDON of Tennessee. Madam Speaker, today I rise to recognize Eric Fins for his contributions to Tennessee's Sixth Congressional District. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. They work long hours—often for little pay or recognition—and their service is simply invaluable to those of us who serve in this esteemed Chamber. Throughout my 26 years in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out those who are serving my constituents as my tenure comes to a close.

Eric attended American University and graduated Cum Laude in 2008. Following a successful internship with his hometown representative, Congressman JIM MCGOVERN, Eric joined my office as a staff assistant. He maintained a friendly front office and handled every task set in front of him, including the daunting job of ticket distribution for the overwhelming number of constituents who wanted to attend President Obama's inauguration. Eric's hard work earned him a promotion to the role of Legislative Correspondent and then Legislative Assistant.

As a Legislative Correspondent, Eric managed a heavy volume of constituent concerns

on a number of issues, ensuring all received prompt and thorough responses. As a Legislative Assistant, Eric brought a thoughtful approach and an impressive depth of knowledge on a broad range of issues, from immigration to defense to homeland security to financial services. Eric shepherded House passage of the Combat Methamphetamine Enhancement Act, which was signed into law this fall. Meth production continues to be a serious problem in my district, and many Tennesseans will see benefits from Eric's hard work.

Eric should also be commended for his work with my internship program. His patience and good attitude made him such a good fit for the job of intern coordinator that he returned to it even after taking on a full legislative portfolio. By recruiting, training and mentoring an excellent group of interns, Eric did a service both to my staff and to the young people he worked with.

Madam Speaker, it has been a pleasure working with Eric. His dedication and great sense of humor have made him an integral part of the team in Washington and endeared him to his coworkers in Tennessee. We consider him an honorary Tennessean and wish him all the best in his future endeavors.

RECOGNIZING KATHY LUND

HON. TOM MCCLINTOCK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 2010

Mr. MCCLINTOCK. Madam Speaker, I rise today to recognize the service of Kathy Lund of Rocklin, California.

Since her first election to the city council in 1985, Kathy has provided invaluable contributions to the city. She worked to develop a strong fiscal position for the city: formulating a General Plan for Rocklin and assuring that it was followed while also establishing and protecting an emergency fund and setting aside funds to meet the city's future retirement and health-benefit obligations. Kathy also provided much-needed support for numerous school and education initiatives, including Safe Routes to School improvements throughout Rocklin, the development of joint facilities for the Rocklin Unified School District and the construction of the Sierra College interchange.

Her passion for serving her community was further displayed through her work to ensure the safety and well-being of its people. She was instrumental in the creation of the Anti-Gang Task Force, for the development of a city-wide park system, the creation of the six-city Placer County Transportation Agency and for working to guarantee the continuation of essential ambulatory service for Rocklin residents.

Madam Speaker, I can offer no better commendation to Kathy than that which the people of Rocklin have already conferred upon her by continuously reelecting her over the last 25 years to serve on the city council and to six terms as mayor. At a time when cities across our country find themselves struggling financially and desperate to find capable and honorable officials, Kathy Lund has been a sterling example of all that ought to be meant by the designation "public servant." I am proud today to congratulate Kathy on her numerous accomplishments and to thank her for a quarter century of commitment, dedication and service to the people of Rocklin.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, December 16, 2010 may be found in the Daily Digest of today's RECORD.

SENATE—Thursday, December 16, 2010

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Sovereign God, You see all that happens in our world as You lead us by Your mercies and grace. Continue to shower our land with Your blessings, protecting us from the forces that hinder freedom. Give our lawmakers the wisdom to obey You, striving always to do what is right. May their words be true and sincere and their actions be characterized by honor and respect. Help them to keep their promises to You and to one another, no matter how great the challenges may be. Lord, enable them to walk securely in the path of Your will. We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 16, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following leader remarks, if any, the Sen-

ate will proceed to executive session to consider the New START treaty. Roll-call votes are expected to occur throughout the day in relation to amendments to the treaty. The managers of this bill, Senator KERRY and Senator LUGAR, are two of our most experienced Members, and they will do an outstanding job of managing this legislation.

The current continuing resolution expires Saturday at midnight, so we need to take action to consider a funding resolution sometime in the next few days.

Just an update on the schedule: The tax package which we passed yesterday is now in the House. They are going to consider that very likely today. We have the omnibus or the continuing resolution we have to deal with in the near future because, as I have indicated, the funding expires at midnight on Saturday.

The DREAM Act is something we need to work on. It is an extremely important piece of legislation allowing young men and women to join the military. If they serve 2 years in the military, they would be eligible to get their green cards. It also allows them to continue their education. It is an extremely important piece of legislation.

We have the 9/11 health matter; we need to reconsider that. We hope we can move forward on that matter. There are thousands of people who are desperately ill who need to be helped as a result of the terrorist attack that took place on 9/11.

Yesterday the House passed don't ask, don't tell, and we are going to have to deal with that in some way.

We have nominations, including that of Jim Cole, the Deputy Attorney General, we have been trying for several months now to get cleared—that second ranking person in the entire Justice Department. It seems to me we are having trouble getting even a vote on this individual. So that is going to have to be resolved before we leave. It is extremely important we do that.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order leadership time is reserved.

EXECUTIVE SESSION**TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS**

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will proceed to executive session to consider the following treaty which the clerk will report.

The bill clerk read as follows:

Treaty Calendar No. 7, Treaty with Russia on measures for further reduction and limitation of strategic offensive arms.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

OMNIBUS APPROPRIATIONS

Mr. MCCONNELL. Mr. President, I want the American people to see something. This is the bill the majority would have us pass, this Omnibus appropriations bill. It is 2,000 pages long. I think the American people should think back to this time a year ago—last December—when the Democrats did the very same thing. At that point, it was a 2,700-page health care bill because, frankly, they didn't want us to see what was in it. Only afterwards did we find out about the "Cornhusker kickback," the "Louisiana purchase," and all the rest.

This is eerily familiar to anyone who remembers the health care debate. We even have snow in the forecast, which is reminiscent of last year. Last year we voted on health care in a blizzard—the 2,700-page health care bill in the middle of a blizzard.

This bill is so enormous it took the Government Printing Office 2 days to print it. It spends more than \$½ billion a page. Let's take a look at it again.

Here is the bill. It spends—right at 2,000 pages in this bill—it spends \$½ billion a page. It has more than \$½ billion in it for the Democratic health care bill we passed last year, the 2,700-page bill that looked pretty much like this. It has \$½ billion in it for that health care bill we passed last year.

An ever-growing number of Americans looking at that health care bill would like for us to repeal it, not fund it. This is exactly the kind of thing the American people voted against last November—just this kind of thing. We had a referendum on November 2 on how the American people felt about what we have been doing for the last 2 years, and right at the top of the list was the 2,700-page health care bill.

Frankly, it is just unbelievable. Just a few weeks after the voters told us they don't want us rushing major pieces of complicated, costly, far-reaching legislation through Congress, we get this 2,000-page bill. They want to ram this gigantic, trillion-dollar bill through Congress, and they are using, once again, the Christmas break as an inducement to vote for it.

Look, we all know this is not the way to legislate. Americans expect more

from Congress and they demanded more on election day. That is why today I am introducing this clean, one-page continuing resolution that would operate the government through February 18. So we have a choice. We can pass this 2,000-page bill spending \$½ billion a page, or we can do this one-page, clean continuing resolution through February 18 of next year. That is the choice we have.

Once the new Congress is sworn in, we will have a chance to pass a less expensive bill, free of this kind of wasteful spending. Until then, we need to take a step back and respect the will of the voters.

I think the message was pretty clear last November. One pundit referred to it as a restraining order. In other words: Quit doing what you have been doing. Here we are 1 month after the election attempting to pass this 2,000-page bill when we could pass a one-pager that would simply continue the government through February 18.

So we are going to have an opportunity to do this. I hope it makes sense on a bipartisan basis, this one-page continuing resolution until February 18, as an alternative to this 2,000-page monstrosity that spends \$½ billion a page. I don't think there is any question it is the right thing to do, and I hope my colleagues decide in the end that is the direction we ought to take. I am going to introduce this, and I just wanted to highlight it for my colleagues.

TRIBUTES TO RETIRING SENATORS

JIM BUNNING

Mr. MCCONNELL. Madam President, I know there are others on the Senate floor seeking to speak, but I wish to bid farewell to one of our colleagues. Few people can say they have had the same range of experience and successes in life as Senator JIM BUNNING. In fact, there isn't even another Major Leaguer who can say he struck out Ted Williams three times in one game. JIM accomplished that notable feat in just his second year in the majors.

Thirty-nine years after that, he had become the only member of the Baseball Hall of Fame to serve in Congress. For the past 12 years, I have been honored to work alongside this remarkable American in the Senate. We followed different paths in life, but we sure have deep love for Kentucky and its people. It has been my honor over the years to work closely with JIM to advance our common goals.

So today I wish to say a few words about my good friend as we honor his remarkable life and his remarkable service.

JIM was born and raised in Southgate, KY, and it wouldn't surprise anybody to learn he excelled in school and in sports growing up. He played baseball as a teenager at St. Xavier High School in Cincinnati, but it was for his skills as a basketball player

that would earn him an athletic scholarship to Xavier University.

Baseball interrupted his college education, but at his father's insistence, JIM would return to Xavier and earn a degree in economics that would serve him well in Congress over the years. He entered the majors in 1955, and over the course of a storied 17-year career he would play for the Detroit Tigers, the Philadelphia Phillies, the Pittsburgh Pirates, and the Los Angeles Dodgers. JIM is a pretty imposing force at committee hearings—just ask Chairman Bernanke—but he was a dominating presence on the mound long before that.

At 6 feet 4 inches, he was a hard-throwing sidearm who would tumble off the mound with every pitch he threw. By the end of his career, JIM could boast he was the first Major League pitcher to win 100 games, rack up 1,000 strikeouts, and throw no-hitters in both leagues. He finished with an impressive 224 wins, 184 losses, 2,855 strikeouts, and a 3.27 ERA—the career stats that would earn him a spot in the Baseball Hall of Fame.

JIM's two greatest pitching achievements were his no-hitter in 1958 and the perfect game he threw on Father's Day, 1964, a feat that has only been accomplished 20 times in baseball history. Another little known feat was JIMMY's so-called "immaculate inning" in 1959 when he struck out three Red Sox on nine pitches, a feat that has only been achieved 43 other times in baseball history.

Around here we joke that JIM likes to throw the high hard ones, but he developed the skill early. Over a 4-year period with the Phillies, JIM hit more opposing batters with pitches than any other pitcher in the league. In fact, over a 17-year career, he plunked 160 batters or nearly 10 batters a year, making him the 13th most dangerous pitcher of all time, ahead of such other well-known head hunters as Roger Clemens, Nolan Ryan, and Don Drysdale.

JIM has never been afraid of a little chin music, and he brought that same competitive mentality to his life in public service. After baseball, public service seemed like a logical choice. It was JIMMY's turn to give back, and give back is exactly what he did.

When JIM walks out of this Chamber for the last time at the end of this session, he will be able to say with justifiable pride that he has given 33 years of his life to public service and to Kentucky.

Over those three decades, JIM has served in all levels of government—from the Fort Thomas City Council to the Kentucky State Senate, to both Chambers in this building—12 years in the House and 12 in the Senate. He has dedicated his life to serving the people of Kentucky, and Kentuckians are grateful for his service.

In the House, he made a name for himself, among other things, by working tirelessly to strengthen and protect Social Security as chairman of the House Ways and Means Subcommittee on Social Security.

And then, in 1998, he decided to make a run at the U.S. Senate seat which at the time was held by Wendell Ford. It turned out to be a pretty close election, but once he arrived in the Senate, JIM set out to become one of the hardest-working and most influential Members of this Chamber.

He has been a staunch social and fiscal conservative, and a budget hawk who for years has sounded the alarm on the kind of concerns about spending and debt that drove so many Americans to the polls this month. JIM spoke for many Americans when he said in a recent statement that, being a grandfather to many he worries that future generations will be saddled by the poor decisions that are being made today. "For the first time in my life," he said, "I question if my grandchildren will have the same opportunities that I had . . ."

One particular issue that has been close to JIM's heart is the issue of adoption. In 2001, JIM introduced legislation to make adopting more affordable to American families. And in 2007, he introduced legislation to make those tax incentives permanent.

And, of course, if there was ever a controversial issue regarding the national pastime on Capitol Hill, JIM was right at the forefront, including the 2005 hearings related to steroid use in baseball. In one memorable exchange from that hearing, JIM offered the following testimony, from his own experience as a player: "Mr. Chairman," he said, "maybe I'm old-fashioned," [but] I remember players didn't get better as they got older. We all got worse. When I played with Hank Aaron and Willie Mays and Ted Williams, they didn't put on 40 pounds to bulk up in their careers and they didn't hit more homers in their late 30's than they did in their late 20's." It was just this kind of straightforward, commonsense approach to the issues that has won JIM a legion of admirers not only on the baseball diamond, but off of it. And on this issue in particular, JIM's passion and personal perspective helped shed light not only on the dangers of steroid use at the professional level, but on the growing steroid epidemic among young athletes at all levels.

Despite his high profile, JIM never forgot about the issues that mattered most to his constituents back home. He's been a staunch supporter of clean coal technologies as an effective, efficient way to use coal, improve our environment, and bring jobs to Kentucky. Another issue that was extremely important to all Kentuckians was the failed clean up of radioactive contamination that was found in the drinking

water wells of residences near the Department of Energy's uranium enrichment plant in Paducah, KY, in 1988. In 2004, JIM harshly criticized the DOE's cleanup efforts, as well as called several hearings on Capitol Hill to draw attention to DOE's failure to compensate many workers that had been stricken with radiation-related diseases.

In every issue he has taken on, whether national, statewide or local, JIM has been a man of principle from start to finish. He has stayed true to himself. And in a truly remarkable life, he has got a lot to be proud of. But if you were to ask JIM to list his greatest achievement, I don't think he would say it was his election to the U.S. Senate or his induction to the Hall of Fame. They would both come in a distant second and third to the day he married his high school sweetheart, Mary. JIM and Mary still live in the northern Kentucky town where he grew up. They have been married for nearly 60 years. Together, they have raised nine children. And they enjoy nothing more than spending time with the next generation of Bunnings—which last time I checked included 35 grandchildren and 5 great-grandchildren. JIM will tell you there's no secret to his success. He is happy to give all the credit to Mary. As he put it in his Hall of Fame induction speech, she is his "rock."

Today, we honor and pay tribute to our friend and colleague for more than three decades of public service. JIM will be remembered for his two Hall of Fame-worthy careers, for his example of principled leadership, and for his devotion to God, country, and family. On behalf of myself and the entire Senate family, JIM, we thank you for your service, and we wish you the best in the next chapter of your life.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Madam President, I join Senator MCCONNELL in a tribute to my friend and colleague, JIM BUNNING. JIM and I came into the House of Representatives at the same time as parts of the 100th class. I have enjoyed being with him as well in the Senate. JIM and Mary are counted as among the best friends my wife Carol and I have. I agree with Senator MCCONNELL that while people may disagree with JIM BUNNING, no one has ever doubted his courage, his sincerity, his love for this country, his desire to do what is right, and his commitment to all those efforts. So I will greatly miss JIM when he is no longer part of the Senate. I think it is probably time for JIM and Mary to have a little bit of time to spend with all those children, grandchildren, and great-grandchildren. Obviously, we all wish them both well.

OMNIBUS APPROPRIATIONS

Madam President, I will speak for a few moments about the matter Senator MCCONNELL brought to our attention; namely, this almost 2,000-page Omnibus appropriations bill. I know the majority leader has turned to the START treaty, and I think it is fairly obvious why. The American people are focused like a laser beam on this spending bill. I can't turn on the TV without hearing comments by both the commentators as well as people in public life about what this spending bill will do for this country's future.

I think it is time we devote some attention to this spending bill, rather than put it under the table and talk about the START treaty instead, which, after all, we could accomplish at any time.

As the majority leader said, spending for the U.S. Government runs out at midnight Saturday night. I can hear the cries at that time: We have an emergency on our hands. You don't want to shut down the Federal Government, do you? We have to do something.

Well, the something is apparently this 2,000-page, over \$1 trillion bill, which will not have had adequate time for debate or exposure to the American people. Apparently, under the schedule, as it now is, it would not even entitle us to try to amend it. Think about that for a moment. That which is most important to the American people and the subject of the message conveyed in this last election—to stop the wasteful Washington spending—we are not even going to be able to amend the \$1 trillion-plus bill that has been laid before us.

I know—and I think most people in this body know—how important international relations and treaties are, including the START treaty. But I also agree with the colorful comment by James Carville, a former adviser to President Clinton, who has a way with words. He said the American people don't give a pig's patooty about the START treaty.

Obviously, those of us in the Senate do. We understand its importance. But at this moment, the most important thing on the minds of the American people is how we are going to fund the Federal Government without continuing to waste billions of dollars of their money. That is what we ought to be focusing on in the last few hours we have.

Let me address a little bit about what we have found so far in this bill and why so many of us are so concerned about it. The first point I will make is, I don't think ever in the history of the modern Congress that Congress has failed or the Senate has failed to pass a single appropriations bill. The American people should understand that, ordinarily, Congress passes a budget and we each—both bodies—pass

about 12, sometimes 13 bills, to fund the different agencies and departments and functions of the U.S. Government. We didn't do that this year. We didn't pass a single one. We didn't pass a budget. So now the emergency that occurs, because we will run out of funding on Saturday, obviously, is laid at the feet of the majority, which didn't do its work earlier in the year, and that forces us into the position of having to act in this emergency way.

As the Republican leader said, ironically, this is at the same time we were considering the health care legislation last year, the week before Christmas, in a situation in which Members have very little time and ability to change the legislation that is before us, a bill that will cost more than \$1 trillion. Very few Members will have time to analyze it, let alone read it.

Funding of the government, of course, is one of the most important responsibilities that we as Senators have. But as I said, this bill is going to get short shrift on the floor because it appears we will not even have an opportunity to amend it, if the majority leader's schedule holds.

Let's talk about some of the specifics in it. As I said, it costs more than \$1 trillion. There is nearly \$18 billion more spending in this legislation than in the temporary continuing resolution that was enacted last September. In other words, at that time, we understood we needed to begin the process of funding the government, even though not a single appropriations bill had been passed. So we passed legislation that, over a 12-month period, was \$18 billion less than the bill that comes before us now. I don't think this is responsible, and I think most Americans who have had to trim their budgets would agree it is not responsible.

The bill contains more than 6,700 earmarks. Think about that for a moment. There are only 535 Members of Congress. Most of us don't have earmarks in this bill. So at 6,700 earmarks, you are talking about some legislators in the House and Senate having numerous earmarks. The total is \$8 billion worth of earmarks. There is a debate about whether earmarks are good or bad, and some who believe they are OK say it is not that much money. But \$8 billion is a lot of money no matter who is doing the counting—even in the Federal Government. It includes things—and I don't like to make fun of these things because they all have some purpose—like \$247,000 for virus-free wine grapes in Washington. I am sure it is important to have virus-free wine grapes, but the last time I checked, the people who grow grapes are doing fairly well financially and could probably afford, if all the wine growers pool their resources, to come up with \$200,000 to try to make sure their grapes are free of virus.

There is a \$100,000 appropriation for the Edgar Allan Poe Visitor Center in

New York. Edgar Allan Poe is certainly an iconic American literary figure, but for the Federal Government—I mean the taxpayers in Arizona probably don't appreciate the need to pony up money for the Edgar Allan Poe Visitor Center in New York.

The omnibus bill contains upward of a \$1 billion increase in spending for the vastly unpopular health care bill Americans said they didn't want and continue to strongly oppose. Here are a couple of the details on that. There is an allocation of \$750 million for the Prevention and Public Health Fund slush fund for a variety of programs—not named; a \$175.9 million adjustment in the Centers for Medicare and Medicaid Services program management account to implement the massive Medicaid expansion, as well as cuts to Medicare Advantage—something my constituents strongly objected to; an \$80.7 million adjustment for HHS program management, on and on.

There are millions included for implementation of the very controversial Dodd-Frank financial reform bill, including a Securities and Exchange Commission funding increase of \$189 million. That is 17 percent more than last year; a Commodity Futures Trading Commission funding increase of \$117.2 million or a 69-percent increase over last year's funding; Treasury gets increase of \$32.35 million or a 10-percent increase. It goes on and on.

The omnibus also contains \$790 million for an increase in education stimulus programs. A thorough examination of those programs reveals that, at least in some cases, they advance the cause of the teachers unions—at least in my view—more than the cause of educating American children.

Some claim that at least you can say this bill's top line—its gross amount of spending is consistent with the budget proposal advocated by Senators SESSIONS, McCASKILL, and many of the rest of us, including myself. But that is not true, as it turns out. It excludes numerous parts, such as multiyear spending caps, enforcement mechanisms, and limitations on emergency spending designations—something I will talk about in a second. In addition, the majority is using a budgetary sleight of hand to ostensibly meet the spending caps for 2011. This is what I was going to mention. They do this by a trick of retroactively declaring spending in last year's supplemental appropriations bill for Agent Orange claims as an emergency. So that money is spent. It was last year's funding. Now we are going to call that money emergency funding. What is the effect? It doesn't count and reduces the baseline and, like magic, by treating it as an emergency—to the tune of almost \$3.5 billion—they have been able to secure a lower CBO score on the bill and, therefore, not exceed the spending caps. Without the gimmick, they obviously would have ex-

ceeded the spending caps proposed in the Sessions-McCaskill legislation.

I will mention process briefly. This bill is being considered under a deeply flawed process, as the Republican leader said. Voters made a very clear statement, I think, last month. They do not like wasteful Washington spending. They want it to stop. They didn't like the health care bill. They do not want us—here, a week before Christmas—to rush very complex, very large bills through the Congress without time for their representatives to read them, to study them and have an opportunity, potentially, to amend them. But under the schedule laid out, as I said, an open amendment process for this bill would be impossible.

At the very least, one would think Republicans should be entitled to 1 or 2 amendments to each of the 12 appropriations bills that are included within this giant Omnibus appropriations package. Under regular order, each of these bills would take at least several days of floor time and we would consider numerous amendments. That is not going to happen with this bill. Instead, we will do the equivalent of more than a month's work of floor time in a couple of days, with no amendments. And some wonder why Congress' approval rating has fallen to 13 percent. Someone said: Who is the 13 percent? And the answer was: Well, it is our staff and our families. Maybe.

Let me conclude here with a little bit about jobs and energy prices. This bill will raise energy prices in the United States and destroy energy jobs through and including some of the following provisions:

There is a ban on shallow water drilling. I thought the whole idea—especially after the gulf, where we had deepwater drilling problems—was to encourage drilling in shallow waters to make up for that other loss of production. The bill changes the law to triple the time for the Department of the Interior to approve exploration plans for offshore operators from 30 to 90 days. This provision could lead to huge financial penalties to the government, breach of contracts, and add further impediments to creating jobs and energy here at home.

The bill reduces the State's share of Federal onshore oil and gas production revenues to 48 percent, down from the 50-50 split required under current law, and it raises fees for onshore and offshore oil and gas production on Federal lands. These fees amount to a tax that will make domestic energy production more expensive to produce, especially for the small businesses that do so.

There is much more—much more the American people should know—but we are supposed to be talking about an arms control treaty with Russia instead. I want to remind everyone that we are in a lameduck Congress, and my view is that trying to enact such a

huge and complex bill within the narrow postelection timeframe shows disrespect for the democratic process. For that reason and the others I have discussed, I urge my colleagues to oppose cloture on this bill and to pass a sensible continuing resolution of the kind the Republican leader has introduced.

I want to leave no doubt about this final point. Those who are watching this process carefully and who understand how the process works understand that the important vote here is on cloture. It is the first vote. It is, in effect, the vote to consider this omnibus bill. Our constituents will not be fooled by Senators who vote "yes" on cloture to go to this bill—ensuring it will be considered under this rushed process without amendment—but then who vote "no" on final passage, after it is too late to

op the flawed process and say, well, I voted "no" on the bill. Well, of course, they voted "no" on the bill, but then it was too late.

The key vote is on the cloture vote, whenever that might occur, and I am told it might occur at actually 12:01 on Sunday morning—in other words, one minute after midnight. Well, that would be very reminiscent of last year's consideration of the health care bill, where through all the procedural gimmickry this body did not distinguish itself in adopting legislation under a process the American people saw through, objected to, and continue to criticize the legislation adopted as a result of the process as well as its substance.

If we want to do the same thing with this legislation, then it will demonstrate in the very first act relating to spending after the election that this Senate did not get the message sent by the American people.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Madam President, are we in morning business at this point?

The ACTING PRESIDENT pro tempore. We are on the treaty.

Mr. DURBIN. Madam President, I ask unanimous consent to speak as in morning business for no more than 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

OMNIBUS APPROPRIATIONS

Mr. DURBIN. Madam President, I want to respond to what has been said by my friend Senator KYL from Arizona, as well as Senator McCONNELL of Kentucky, about the appropriations bill, which we are going to consider in a very short period of time.

I am a member of this Appropriations Committee. I remember what happened, and I want to put it on the record right now so that some of the things that have been said can be compared to what I think is the reality. This is the reality: The Appropriations

subcommittees—each and every subcommittee of that full committee—met with Democrats and Republicans and prepared a bill. I have the Subcommittee on Financial Services and General Government. Senator SUSAN COLLINS of Maine worked long and hard in preparation of that bill. Other subcommittee chairs did the same thing. There was full bipartisan cooperation in the preparation of each of these subcommittee bills—every single one of them. And the appropriations bill that we will vote on is the combination of all of that effort.

Let me also talk about the amount of money we are going to appropriate to continue to fund the operations of our Federal Government.

It is true, it is over \$1 trillion. In fact, it is \$1.1 trillion in this bill. But what hasn't been said by Senator MCCONNELL and Senator KYL is that is exactly the amount they asked for. Senator MCCONNELL came to the Senate Appropriations Committee and said Republicans will not support this bill unless you bring the spending down to \$1.108 trillion. That is exactly what we bring to the floor to be considered.

So to stand back in horror and look at \$1.1 trillion and say, where did this figure come from, well, it came from Senator MITCH MCCONNELL in a motion he made before the Senate Appropriations Committee. It reflects the amount that he said was the maximum we should spend in this current calendar year on our appropriations bills. He prevailed. It is the same number as the so-called Sessions-McCaskill figure that has been debated back and forth on this floor, voted repeatedly by the Republicans to be the appropriate total number. So we have a bipartisan agreement on the total number. Yet now the Republican leader comes to the floor, stands in horror at the idea of \$1.1 trillion—the very same number he asked for in this bill. You can't have it both ways.

Secondly, they say, well, this is a 2,000-page bill. Well, allow me to explain why.

When you take the work of 12 subcommittees, instead of separate bills and put them in one bill, the total number of pages is going to increase. Maybe the best thing we can give as a Christmas gift to the Senate Republican Caucus is a speed reading course so they can sit down and read these bills. It turns out their fingers get smudgy and their lips get tired if you have more than 100 pages in a bill. Over and over we are told, don't worry about the substance, just count the pages, and if it gets up to a thousand pages, it is clearly a bad bill. Wrong. This 2,000-page bill reflects the work of 12 subcommittees and 12 Republican Senators who helped to assemble and to devise the contents of that bill. It is no surprise that it would reach that number when we put all of the spending

bills—the Appropriations subcommittee bills—into one document.

Another point that is raised—what a surprise—we have this thing thrown at us. We have not seen this before. We don't have time to look at this.

This bill was posted 2 days ago, and will be available not only for every Senator and every staff member but for every citizen of this country to look at in detail. The reason Members have been coming to the floor talking about its contents is they have access to it, and have had for almost 48 hours, and will for an even longer period of time before it is finally considered.

I also want to say that the schedule we are facing here now, which is putting us up against some deadlines—deadlines for the funding of government, a lot of personal family deadlines, which trouble all of us, but we accepted this job and its responsibility—many of these deadlines have come to be because of an exercise of the Senate rules. Time and time again the Republican minority has forced us to go into a cloture vote, into a filibuster—record-breaking numbers of filibusters over the last several years.

If Members of the Senate were to go back home and ask the cable TV viewers who watch C-SPAN what their impression of the Senate is, their impression is an empty Chamber—an empty Chamber because day after weary day we have had to put up with cloture votes and filibusters from the Republican side, delaying us time and time again while we burned off the hours on the clock instead of rolling up our sleeves and actually getting down to business.

Now they come and tell us, well, we are going to threaten to start reading bills. They have a right to do that under the rules. It is really not needed, since all these bills have been posted and any Senator who wanted to read them has now had 48 hours to read this appropriations bill, if they wanted to. But they may burn off hours on the clock again and then complain we are ruining Christmas for Members of the Senate and their families. Well, unfortunately, their hands are not clean.

When it comes to the things included in this bill, incidentally, I have heard many Republican Senators come down here and talk about specific elements in this Appropriations bill they disagree with, and that is their right. But many of the same Senators who are criticizing congressionally directed spending, or earmarks, have earmarks in the bill. That is the height of hypocrisy—to stand up and request an earmark, have it included in the bill, and then fold your arms and piously announce, I am against earmarks. You ought to be consistent enough to know if you are asking for an earmark one day and criticizing it the next, your credibility is going to be challenged. That is a fact.

As far as some of the things that have been talked about, one of them brought up by Senator KYL relates to drilling, and how quickly drilling permits will be issued by the Federal Government.

Our Department of Interior has asked for 90 days to review applications for drilling permits included in the bill. Why would we want to be careful when it comes to drilling permits? America knows why. We saw what happened in the Gulf of Mexico. We saw the damage done. And we know for many businesses and many families and many people, and for a very fragile environment, things will never be the same. Let us avoid that from happening in the future. Waiting 90 days instead of 30 days is hardly an onerous burden to make sure that what is done is done properly and done in a way that won't come back to haunt us.

Finally, to argue this is disrespectful of the democratic process is to ignore the obvious. Time and time and time again, when we have tried to move the democratic process, we have run into a roadblock with filibusters from the other side of the aisle—obstructionism.

I am glad we passed the tax bill yesterday. It was an amazing day. I think the final vote was 81 to 18, which was an incredibly strong bipartisan showing. Let's end this session on a bipartisan note. Let's get away from lobbing bombs back and forth across the aisle. Let us roll up our sleeves and get down to what we need to do.

Senator KYL should come to the floor and offer his amendment on the START treaty. He has talked about needing time to offer amendments. Let's do it, and let's do it this morning. Let's start the amendment process, let's have votes, let's not filibuster anything. Let's get to the vote, vote on the substance, and let's bring it to an end. Then let us bring up the Omnibus appropriations bill and the CR, let the Senate work its will, and let's vote on it.

We have two or three other items we can complete, and if people don't exercise delay tactics, we can get this done in a few days. I urge my colleagues, in the spirit of what we did with the President's tax package, let's return to a more bipartisan approach to completing our business and going home to our families.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. What is the business before the Senate?

The ACTING PRESIDENT pro tempore. The START treaty.

Mr. LUGAR. I thank the Chair. I wish to work with my colleague, the chairman of our committee, to make time available to Senators. I see the distinguished Senator on the floor.

Are you prepared, sir, to make a statement?

Mr. BARRASSO. Madam President, yes, I am.

Mr. LUGAR. I yield to the Senator from Wyoming.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. BARRASSO. Madam President, I rise today to express my views on the new Strategic Arms Reduction Treaty, also known as New START. This treaty is an extremely important and serious matter. New START significantly impacts America's national security and nuclear deterrent. As a result, I believe this treaty deserves adequate time in the Senate—time to examine the issues, time to debate the many flawed provisions, and time to vote on all of the amendments offered for consideration.

The majority leader should not be piecemealing together segments of time for debate on an issue as important as nuclear arms control. The treaty should not be shortchanged and rushed through the Senate. The treaty should not be jammed together with consideration of a 1,924-page omnibus Federal spending bill. The treaty should not be considered during a lameduck session.

Consideration of the treaty will require a substantial amount of time in order to sufficiently address its many flaws. Like many of my colleagues, I plan on offering amendments, amendments designed to protect our national security. This debate concerns the national security of the United States. It is critical that the United States maintains a strong nuclear deterrent in order to defend our Nation and provide assurances to our allies. I have major concerns about the impact the New START will have on Wyoming and on national security.

While I have many issues with the New START, I want to address only a few of my major concerns this morning. First, START straitjackets the U.S. missile defense capabilities. Second, START offers no method to make sure a historically noncompliant Russia state will keep its promises. Third, the approach embodied by START is representative of an outdated and simplistic view of the U.S. position on the world stage.

To begin, I wish to specifically discuss the limitations placed on the U.S. missile defense by the New START. The treaty signed by President Obama and Russian President Medvedev on April 8, 2010, places explicit limitations on U.S. missile defense. The preamble of the treaty—the preamble declares an interrelationship between strategic nuclear offensive weapons and strategic nuclear defensive weapons. It implies the right of Russia to withdraw from the treaty based on U.S. missile defenses that are beyond “current strategic” capabilities. The treaty preamble, the very preamble of the treaty, gives Russia an opportunity to turn

their backs on the treaty at the slightest sign of a shift in American defensive strategy. This language is unacceptable and needs to be removed.

I offered an amendment in the Senate Committee on Foreign Relations to strike this language. The White House resists any attempt to amend the preamble. The administration argues it is a nonbinding concession to Russia. Russia clearly doesn't see it that same way. They have made it quite clear they consider the preamble legally binding. A Russian Foreign Minister stated the treaty contained “legally binding linkage between strategic offensive and strategic defensive weapons.” The Russians have wanted this language for a long time in order to have grounds to claim that the U.S. missile defense program violates an international agreement. This type of constraining language is not unique to the preamble.

The treaty also places a legally binding limitation on missile defense in article V of the treaty. Article V prohibits the transforming of offensive strategic missile launchers into defensive strategic missile launchers. As this Nation continues to face threats from around the world, we should not take any action that will hinder our missile defense options. We need to be able to defend ourselves.

Just like the preamble, the administration makes excuses as to why they have made concessions to the Russians on our missile defense. The current administration claims that they have no plans to use the missile defense options prohibited under the new START treaty. I believe that placing any constraints on future U.S. defense capabilities should not even be up for debate, let alone placed in a treaty on strategic offensive nuclear weapons.

The purpose of New START was to reduce strategic nuclear weapons between the United States and Russia, not limit the ability of the United States to defend ourselves. It is outrageous that the administration would make any concessions to Russia on our national security.

The United States must always remain in charge of our own missile defense—not Russia, not any other country. We should not be tying our hands behind our backs and risking the security of our Nation and our allies. Russia is trying to force the United States to choose between missile defense and the treaty. The clear choice should always be to protect the ability of the United States to defend ourselves. I believe the administration's decision was a serious mistake.

I also have major concerns about the central limits of New START. This treaty is a one-sided agreement aimed at only reducing U.S. strategic nuclear weapons. Russia is currently below the limit for strategic nuclear delivery vehicles under the New START treaty. As

a result, Russia will not have to make reductions. The United States will be the only party required to slash its forces.

Due to loopholes in the treaty counting rules, Russia could deploy more than 1,550 warheads, go above that ceiling and still be in compliance with the treaty. Russia may even be able to deploy more than 2,100 warheads under the treaty. Each deployed heavy bomber, regardless of the actual number of warheads on it, only counts as one deployed strategic warhead. If anything, the limits just tell Russia how many weapons they are allowed to add to their strategic nuclear force. Why would the administration enter into a bilateral treaty that only requires the United States to make sacrifices? This is not acceptable.

New START offers us nothing in return, not even a robust verification mechanism that enables us to make sure Russia is keeping its promises. President Ronald Reagan regularly repeated the phrase “trust, but verify.” He did it repeatedly regarding nuclear weapons. The verification measures play an important role in analyzing the New START. The New START has a weak verification regime.

Former Secretary of State James Baker made the exact point by indicating the New START verification procedure provisions, he said, were weaker than the original New START. Under New START, the U.S. would be limited to 18 inspections per year as opposed to 28 in the past. Under the original START treaty the United States conducted approximately 600 inspections. Under New START the United States is limited to a maximum of 180 inspections. This further plays into Russia's favor due to there being 35 Russian facilities compared to only 17 U.S. facilities to inspect.

The administration also dropped two key provisions from New START. The United States will no longer have continuous monitoring at the Russian nuclear missile assembly plant. We had it in START I. Why are we giving up this important verification component in New START? The United States also will not have full access to Russian nuclear ballistic missile launch telemetry under New START. Under START I we had unrestricted access. Why are we giving that up?

The treaty does not provide us with the verification mechanisms that enable us to make sure Russia is keeping its promises. Instead, there is a lot of trust and precious little verification.

A weaker verification system is even more dangerous due to Russia's long history of noncompliance on arms control treaties. Russia has a record of noncompliance and violations under the original START treaty. Up until the end of the original START treaty

in December of 2009, Russia was continuing to engage in compliance violations. The Department of State compliance reports from 2010 spell out the numerous violations made by the Russians.

Finally, the treaty relies on the false premise that Russia is America's only nuclear rival. This view of the world is outdated and simplistic. Even if we could trust Russia there are numerous other threats such as North Korea and Iran which have repeatedly shown hostility to the United States and to our allies. We should never abandon our defenses and sacrifice our deterrent in the face of increasing international belligerence. It is the equivalent of asking America to stare down the barrel of a gun without knowing whether the gun is loaded, and then to trust the person holding it not to pull the trigger.

In arguing for this treaty the administration has tried to have it both ways. The treaty demands the United States reduce our nuclear strike force by specific numbers. Yet the administration has only offered a vague range of estimates regarding where these cuts would take place. The President's force structure plan provides up to 420 intercontinental ballistic missiles, 14 submarines carrying up to 240 submarine-launched ballistic missiles, and up to 60 nuclear-capable levee bombers.

Even if the administration did cut the absolute maximum number of weapons it has proposed to cut, it would still fail to live up to the reductions demanded by New START. Instead of giving the Senate a specific force structure, the President is repeating his health care playbook and telling us to wait until after the United States ratifies the treaty to find out the details.

It is wrong that the Senate is considering approving this treaty without knowing these details, and these details matter.

The force structure of our nuclear triad is critical to maintaining an effective deterrent. The nuclear triad of the United States spans sea, air, and land. By working together, our nuclear triad complicates and deters any attempt at a successful first strike by anyone on our country. I believe the President's force structure proposal will weaken our nuclear triad.

The American people deserve a full debate on the Senate floor on a treaty of this magnitude. It is my hope that the Senate will take its constitutional responsibility very seriously and provide the New START with the scrutiny it deserves.

I yield the floor.

The ACTING PRESIDENT *pro tempore*. The Senator from Indiana.

Mr. LUGAR. Madam President, I understand the distinguished Senator on the floor wishes to speak. I yield for Senator UDALL.

The ACTING PRESIDENT *pro tempore*. The Senator from Colorado.

Mr. UDALL of Colorado. Madam President, let me start by thanking my good friend from Indiana, not only for yielding the floor to me but for his strong leadership on this crucial treaty before us here in the Senate.

I rise in strong support of the New START treaty. I want to start by reminding my colleagues that arms control treaties are an integral part of this country's modern history, premised on a shared belief that a world with fewer nuclear weapons is a safer world. Even as the Cold War raged, it was Ronald Reagan who committed America to the ultimate goal of eliminating these weapons from the face of the Earth.

Those are his very words. This goal has animated numerous arms control agreements since then and it underpins the New START treaty, an agreement I believe we cannot fail to ratify. The dangers of nuclear proliferation have grown. As the Senator from Indiana knows well, because this has been a part of his life's work, the threat of global nuclear war has receded but the risk of nuclear attack has increased, enabled by the spread of nuclear technology and the danger of materials falling into the wrong hands.

I believe we cannot be seen as a credible leader of a nation strongly committed to meeting our nonproliferation obligations unless we pursue further nuclear arms reductions ourselves. The United States and Russia have over 90 percent of the world's nuclear arms between us. Thus, we have an obligation to verifiably decrease our nuclear stockpiles and reduce this primary threat to global and national security. That is why the New START treaty matters. It establishes limits for U.S. and Russian nuclear weapons to levels lower than the 1991 START Treaty and the 2002 Moscow treaty.

These limits have been validated by our defense planners and ensure that we have the flexibility to meet our security needs.

The treaty also includes a strong verification regime, which Secretary Gates called the "key contribution" of the agreement.

As we debate this agreement today, we should not only consider the consequences of ratification but also the consequences of failure. Because START expired over a year ago, we currently have no treaty and, therefore no constraints on Russia's stockpile or verification of their weapons.

The choice facing U.S. Presidents through the decades has been whether we are better off signing arms agreement with the Russians or pursuing an arms race. Historically, Presidents from both parties and bipartisan majorities in the U.S. Senate have agreed that we are better served by agreements.

Today is no different. As U.S. Strategic Command's General Chilton tes-

tified, without a treaty, Russia is not constrained in its development of force structure, and we have no insight into its nuclear program, making this "the worst of both possible worlds."

Failure to ratify this treaty would make the broad "resetting" of U.S.-Russian relations harder. The distrust it would engender would also reduce or even eliminate the possibility of further bilateral strategic weapons reductions. As former National Security Adviser Brent Scowcroft—I think we would all agree he is one of the wisest Americans about foreign policy—testified earlier this year, "the principal result of non-ratification would be to throw the whole nuclear negotiating situation into a state of chaos."

But we need to remember that this treaty is not just about Washington and Moscow, it is also about the world community and our global relationships. Failure to ratify this treaty would signal to the world that America is not willing to constrain its own weapons arsenal, even as we ask other countries to restrict theirs or avoid joining the "nuclear club" altogether.

It would discourage multilateral cooperation on nonproliferation goals and hinder our ability to lead by example. It would make global cooperation on dealing with rogue states like Iran and North Korea more challenging, tying our hands at a time when the threat from those two countries is increasing.

Treaty opponents have tried to make the case that the dangers of ratifying the agreement outweigh the advantages of ratification. They are simply wrong.

They argue that the treaty limits our ability to develop missile defense capabilities. The head of the Missile Defense Agency argued, that the treaty actually reduces constraints on missile defense. And countless military and civilian leaders, including the former Secretaries of State for the last five Republican Presidents, have publicly stated that New START preserves our ability to deploy effective missile defenses.

Treaty opponents argue it inhibits our ability to maintain an effective and reliable nuclear arsenal. It is true that this administration inherited an underfunded and undervalued nuclear weapons complex. But the President understands that the nuclear experts and infrastructure that maintain our arsenal also help secure loose nuclear materials, verify weapons reductions and develop technologies that underpin our nuclear deterrent.

That is why the President's budget request provides \$7 billion for these programs this year, a 10-percent increase over last year. New START would in no way limit these investments. And as treaty opponents know well, the President has offered an even more robust investment in modernization and refurbishment of our nuclear

infrastructure over the next 10 years, totaling \$84 billion.

The importance of ratifying this treaty goes beyond politics. We know that a lack of demonstrated bipartisan support could poison relations with Russia and our allies. And we cannot risk the loss of American leadership in the world that would ensue if we are perceived as too entangled in our own internal politics to ratify a strategic arms treaty that is clearly beneficial to our own security.

I know that some of my colleagues hope to amend this treaty and, in so doing, kill it, since any changes will require the administration to start from scratch and reopen negotiations with the Russians. I urge them to reconsider and to think about what is at stake.

And I urge them and all my colleagues to listen to our military leadership when they tell us that this treaty is essential to our national security. As Senator LUGAR pointed out yesterday in his eloquent statement, "Rejecting an unequivocal military opinion on a treaty involving nuclear deterrence would be an extraordinary position for the Senate to take."

Let us not allow this to be the first time in history that the Senate denies ratification to a treaty with overwhelming bipartisan support and the endorsement of the full breadth of our military and civilian leaders. I urge my colleagues to support this treaty and to support a safer world.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Madam President, I wish to thank the Senator very much for his comments and his support. It is my understanding that Senator ENSIGN was going to speak at this point in time. He is on his way. We are happy to accommodate that.

Let me say to colleagues that we are open for business. We are ready to entertain amendments people may have. We encourage colleagues to come down here. Obviously, some people have raised the question of the press of time, but it does not seem, from both yesterday and today, that anybody is actually in a rush to bring an amendment.

We are prepared to vote on our side of the aisle. I want to make that very clear. There are 58 Democratic Senators and Senator LUGAR who obviously are working to advance this treaty. We do not have any amendments. We are prepared to vote. So if colleagues want to bring an amendment, now is the time to do it, and we encourage them to do so.

Let me just say that I know Senator BARRASSO just spoke with respect to missile defense. I understand the legitimate concerns that have been expressed by a number of colleagues about the question of missile defense. I wish to make it as clear as possible, from all of the record to date, that the treaty's preamble, first of all, requires

nothing legally whatsoever. There is no legal, binding effect of the preamble—none whatsoever.

Secondly, Secretary Clinton said this and Secretary Henry Kissinger said this: All it is is a statement of fact about the existence of a relationship. It has no restraint whatsoever on our ability to proceed with missile defense.

Moreover, the resolution of ratification could not be more clear about that. There are pages within the resolution and several different individual references to the fact that the missile defense is not affected.

Let me read from it. This is from "Understandings," and this is the missile defense understanding No. 1:

It is the understanding of the United States—

This is what we will pass when we pass this, and I am quoting from it—

that the New START Treaty does not impose any limitations on the deployment of missile defenses other than the requirements of paragraph 3 of Article V of the New START Treaty, which states, "Each Party shall not convert and shall not use ICBM launchers and SLBM launchers for placement of missile defense interceptors therein. Each Party further shall not convert and shall not use launchers of missile defense interceptors for placement of ICBMs and SLBMs therein."

It goes on to say that any New START treaty limitations on the deployment of missile defenses beyond those specifically contained—and I will speak to what they are in a moment—would require an amendment to the New START treaty. That would require an entire new process of ratification in order to live up to the requirements of the treaty process itself.

Now, the specific, tiny, little limitation they are talking about in there is one that the Secretary of Defense said: We don't want; that is, the conversion of a current ICBM silo. There are four of them that are grandfathered into existence here, but the military has determined it is more expensive to do that than to simply build a new silo for a ground-based missile, which is what we plan to do in the event we want to—when we deploy.

So there is, in effect, zero limitation. Every single member of the Strategic Command and the current command has said there is no limitation. Secretary Gates has said there is no limitation. And I believe we will be able to have even some further clarification of the absence of any limitation.

The fact is, if you change that preamble now, you are effectively killing the treaty because it requires the President to go back to the Russians, renegotiate the treaty, and then you have to come back and go through months and months of hearings and re-submission and so forth.

The important thing to focus on is the fact that—and let me quote Henry Kissinger about the language Senator BARRASSO has referred to. He said, "It is a truism, it is not an obligation."

Secretary Gates also emphasized the fact that it has no impact whatsoever on the United States. Secretary Gates reminded us in May that the Russians have always reacted adversely to our plans for missile defense, so they have tried a number of times to try to interrupt that.

Secretary Gates said in his testimony:

This treaty does not accomplish any restraint for them at all.

He also said:

We have a comprehensive missile defense program, and we are going forward with all of it.

In addition to that, General Chilton reported on how he informed the Russians in full about exactly what program we were going forward with, including the recently agreed on deployment at Lisbon for the deployment of missile defense in Europe.

They understand exactly what we are doing, what our plans are, and, notwithstanding that, they signed the treaty. So I think the comfort level of all of our military, of all of those involved with the laboratories, and all of those involved with the Strategic Command ought to speak for itself.

I see Senator ENSIGN is here.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. ENSIGN. Madam President, I rise today to talk about this New START treaty. I have some very serious concerns about it.

I appreciate the work that has been done by my colleagues. This is an incredibly serious issue. I do not question anybody's motives, but I do think there are some serious flaws that lie not only within the four corners of the treaty text but also speak to the manner in which this administration has dealt with Russia. This policy of Russian "reset" has meant that the United States is making major concessions, while our Russian counterparts give up virtually nothing.

Further, I have serious reservations about the manner in which the Senate is considering this treaty. This body, the Senate, is supposed to be the most deliberative body in the world. It is supposed to be a chamber that respects the rights of the minority. Senators are supposed to be afforded the right of unlimited debate and the right to have their amendments considered. Rushing a treaty of this magnitude through a lameduck session is not what the Founders had in mind when they gave this body the power of advice and consent in these serious matters.

The American people sent a clear message in November to concentrate on jobs, taxes, and the economy.

While I do not think this lameduck is the time to debate this very important treaty, I do plan on offering multiple amendments to address this treaty's flaws, as well as the resolution of ratification. My colleagues on both sides of

the aisle will also offer amendments with topics ranging from how this treaty restrains our missile defense capabilities to ceding the Senate's advice and consent power to the flawed Bilateral Consultative Commission.

For example, there needs to be an amendment which addresses the verification regime in this treaty, or lack thereof. Further, it is astounding to me that tactical nuclear weapons were left out of the treaty, considering that Russia has approximately a 10-to-1 advantage. Additionally, we need to consider how the rail-mobile ICBMs are counted, or not counted, and our Russian policy in a much broader sense.

As the Senate moves forward in examining the intended consequences of this treaty, we also need to pay careful attention to those consequences that are unintended because that is where the danger truly lies. In order to properly examine these, the administration needs to provide the Senate with the full negotiating record which it has yet to do. Only upon examination of this record can we accurately determine how Russia views this accord to ensure that their understanding is the same as ours.

On the topic of missile defense, this is clearly a case of the administration wanting to have its cake and eat it too. There should be zero—zero—mention of missile defense within 100 miles of this treaty. Yet there it is, right in the preamble to New START, which clearly recognizes an interrelationship between offensive nuclear weapons and missile defense. I believe this is unacceptable.

Further, if we examine article 5, paragraph 3, of New START, missile defense is again referenced, plain as day, in a provision prohibiting the United States from converting ICBMs or sea-based launchers for missile defense purposes. Where is the wisdom in removing such an option from our toolkit for the whole life of the treaty? Russia must understand that we will not limit our options for national defense based on current plans, ideas, or technology. Should a breakthrough occur in missile defense technology or launcher development we cannot have already ruled out pursuing new courses of action.

In their attempts to persuade Republicans to support the treaty, proponents have attempted to invoke the name of Ronald Reagan. Let's remember that over two decades ago, President Reagan returned from Iceland and made the following statement:

While both sides seek reduction in the number of nuclear missiles and warheads threatening the world, the Soviet Union insisted that we sign an agreement that would deny me and future presidents for 10 years the right to develop, test and deploy a defense against nuclear missiles for the people of the free world. This we could not and would not do.

This clearly states, in his own words, where Ronald Reagan would be on this

New START treaty. Another especially troublesome facet of the New START is that it would establish a Bilateral Consultative Commission with the authority to agree upon additional measures to increase the effectiveness of the treaty. This seems like a broad and vague purview for a commission, and it is unclear why the Senate would delegate its advice and consent responsibilities to a commission. This leads me to ask the question: Since missile defense has fallen under the purview of this treaty, wouldn't it be logical that this commission could make decisions as to what we can and cannot do with our missile defense assets? We must make it clear this commission, the BCC, cannot have the authority to further handicap our national defense as it could otherwise do under this treaty without further scrutiny of the Senate.

I hope we agree as a body to insist that the workings of the BCC are completely visible and accessible to the Senate and that we explicitly make these changes to the treaty itself, not just the resolution of ratification.

As we move forward in examining this treaty, a colleague of mine will be sorely missed. The senior Senator from Missouri, KIT BOND, as vice chairman of the Senate Select Committee on Intelligence is the foremost expert in the Senate and likely in all of Congress on matters of intelligence. At least that is my opinion. I wish to quote my good friend. The Select Committee on Intelligence has been looking at this issue closely over the past several months.

As the vice chairman of this committee, I have reviewed the key intelligence on our ability to monitor this treaty and heard from our intelligence professionals. There is no doubt in my mind that the United States cannot reliably verify the treaty's 1,550 limit on deployed warheads. The administration claims that New START is indispensable to reap the "Reset" benefits with Russia. If a fatally flawed arms control agreement is the price of admission to the Reset game, our Nation is better off if we sit this one out.

I could not agree more. It is naively optimistic to assume that a world with fewer nuclear weapons is the same thing as a safer world. Our security has long depended on a strong and flexible deterrent. New threats are constantly emerging from every corner of the globe. This has been recently demonstrated by Iran's resistance to denuclearization and North Korea's increasingly violent saber rattling. The United States must be able to rapidly adapt and respond to new threats to our security. Now is the time for more flexible deterrent capability, not less.

New START is riddled with U.S. concessions from which I can see little gain. U.S. leadership in this arena will be measured by how well we protect our ability to defend ourselves and our friends, not by how quickly we agree to an imperfect treaty.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Madam President, I ask my colleague from Nevada—he mentioned he had some amendments, and we are ready to do amendments. Is he prepared to go forward with his amendments?

Mr. ENSIGN. Let me check.

Mr. KERRY. Madam President, let me speak to a couple points the Senator from Nevada raised. He talked about the article V ban. I discussed this a few minutes ago with respect to the conversion of ICBM silo launchers. There is a one-paragraph restraint in the treaty with respect to the conversion of those missile defense interceptors. The Foreign Relations Committee, in the course of our hearings, pressed the administration on this question very extensively. There were a lot of questions asked by colleagues on both sides of the aisle. The record unequivocally counters the argument just made by the Senator from Nevada. The ban does not prevent us from deploying the most effective missile defenses possible. I will be specific.

We will soon have some 30 missile defense interceptors in silos in California and Alaska. We are going to have an additional eight extra launchers in Alaska, if we need them. If we need more interceptors, the Missile Defense Agency Director, LTG Patrick O'Reilly, who was originally appointed to that post in the administration of President Bush, told the committee: "For many different reasons," they would "never" recommend converting either ICBM silos or SLBM launchers into missile defense interceptor launchers.

What we are hearing is a completely red herring argument, sort of throw it out there and say that somehow this is a restraint on missile defense. Why is it not a restraint? One reason is cost. It is intriguing to me to hear a lot of colleagues raise this particular missile defense issue in the treaty, when they also raise the issue of the deficit and how much we are spending and how we should not be spending on things people don't want and the military doesn't want. Here is something the military doesn't want. They don't want it because the conversion cost of the last ICBM launcher at Vandenberg into a missile defense interceptor launcher was about \$55 million.

The average cost for a new hardened missile defense interceptor silo in a new missile field is \$36 million. The reason for that is because the Missile Defense Agency has developed a smaller, more effective, special purpose silo to meet its needs.

The annual operating cost for a separate converted silo, which is what our colleagues are complaining about, is actually \$2 million higher per silo, and it is \$2 million higher than a silo which the military thinks is more effective and less expensive to maintain. As Strategic Command General Chilton

noted, we also don't want to force Russia to make a split-second guess as to whether a missile that is flying out of a U.S. silo field is either a missile defense interceptor which may be aimed at a rogue missile or a nuclear-tipped missile aimed at Moscow. That confusion is impossible to distinguish unless we have a completely separate silo field. So converting an old ICBM silo in a particular field where we can't distinguish between an interceptor or an ICBM actually increases the potential of confusion and threat and possibly a dangerous mistake and decision.

With regard to putting a missile defense interceptor in a submarine launch tube, Secretary Gates and Admiral Mullen both said this is not a cost-effective step, and it presents very unique operational challenges. We need to take these red herrings off the table. Secretary Gates and Admiral Mullen both noted it would make much more sense to put missile defense interceptors on aegis-capable surface ships, which is what they are doing, and that is not constrained by any treaty. There is no constraint whatsoever in our ability to go out and do what best meets the needs as defined by the military themselves.

The bottom line is, article V, paragraph 3 does not constrain us one iota. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Madam President, I plan to speak for about an hour for the benefit of scheduling, although I will only scratch the surface of what I will have to say about this treaty.

Let me begin by talking about 14 or 15 specific things I intend to cover at some point when we have time during this debate and note that there will be amendments proposed that deal with many of the items I am going to be mentioning.

First, I think it is important for us to lay out what some of the concerns are.

This morning when I talked about the fact that the Senate is going to have to deal with the funding of the U.S. Government which expires on midnight on Saturday, I noted the fact that the process the majority leader has invoked, to dual-track or consider the START treaty along with the Omnibus appropriations bill, is not a process that allows adequate consideration of either, and the American people sent a signal in the last election that they didn't want us to continue this wasteful Washington spending spree we have been on. Yet the Omnibus appropriations bill, which I am not sure I could lift, will do exactly that.

We ought to be focused on a process by which that can actually be considered with amendments. Under the way the majority leader has outlined our schedule, that does not appear to be possible.

The first concern I have with respect to going to the START treaty at this time is that we are putting the cart before the horse. Our first job needs to be to ensure that the Federal Government doesn't run out of money at midnight on Saturday. Yet the majority leader has turned to the START treaty. Why? I think the obvious—at least one—answer is to divert attention from this big pile of spending that I am pointing to, 6,700 earmarks. If we are talking about the START treaty, we are not talking about the Omnibus appropriations bill. But the American people are talking about government spending. That is what we should be focusing our attention on.

The problem now is that we are on the START treaty, and those of us who want to talk about this and want to amend it and believe we will be denied the opportunity to do so will be accused of not wanting to talk about the START treaty because that is what the majority leader has put on the Senate floor. And he will say: Gee, you have had all this time to talk about it. Why aren't you talking about it? That is part of what is wrong with the process. That is one of the reasons I have been saying you cannot do all these things and do them right.

In addition, the majority leader said this morning we have other things he wants to consider before Christmas as well. There is no earthly way to do all this within the time we have.

Let me mention some of the concerns I will be discussing with respect to the START treaty. I think one thing you have to talk about, first of all, is whether we are going to have sufficient time in order to do what needs to be done to both amend the treaty as well as the resolution of ratification and debate some of the issues, including the issue that my colleague from Massachusetts was just talking about.

Secondly, what were the benefits of the treaty for the United States vis-à-vis Russia? What were the concessions we made to Russia? What do they get out of it? What do we get out of it? My own view is, they got virtually everything out of it, and I do not know what we got out of it, except for the President to say he made another arms control deal with Russia.

Third, where will this treaty leave our nuclear forces, our delivery vehicles, and our warheads in terms of the deterrent capability not only for the United States but the 31 allies who rely on the U.S. nuclear umbrella? We will have cut our forces to the bone. Yet, interestingly, Russia will not be forced to make any reductions at all in these delivery vehicles for the nuclear warheads.

Fourth—and there has been quite a bit of discussion in the media about my work on modernization—where does the administration's modernization plan end up relative to START? The

point here is, if you are going to bring your nuclear warheads down to a bare minimum number or below that you have to make darn sure every single one of them is safe, secure and reliable and they will do what they are supposed to do and everybody needs to know that. But all the experts agree the facilities we have for taking care of our warheads and maintaining them are inadequate for that purpose, and they have to be modernized.

Is the process and the amount of money that has been set aside for that adequate? I will discuss my views on that and the questions that remain about critical funding for the modernization of both our nuclear weapons and the complex necessary to sustain them.

Fifth is the administration's uncertain commitment to the nuclear triad. This I find troubling because while they have committed to a modernization program, they have not yet committed to a program for the modernization of the three legs of the nuclear triad: the delivery systems, the ICBM force, the bomber force, accompanied by cruise missiles and our submarine force. I will be discussing the areas in which I think the commitments in that regard are insufficient and dangerous.

Probably most interesting to a lot of people in this country, and certainly to a lot of our colleagues, is the question of what has occurred with respect to the relinking of strategic offense and defense capabilities. This is the missile defense concern. There is significantly divergent views between the United States and Russia on this question of what the treaty does or does not do with respect to missile defense. Both explicitly and impliedly, there are limitations on U.S. missile defense activities in the treaty.

On the one hand, the Department of Defense has said the United States has plans for developing and deploying missile defense systems that will have adequate capability against ICBMs coming, for example, from Iran. If they have capability against those missiles, they also have capability against Russian missiles.

On the other hand, the U.S. official policy statement that accompanied the treaty and subsequent briefings from the State Department assures the Russians that the United States will not deploy defenses that are capable of undermining the Russian deterrent. That is important because of the way the Russians interpret the preamble and other features of the treaty.

Misunderstanding and conflict between the parties is thus built into the treaty if the United States intends to deploy more capable missiles either to defend Europe or the United States, which it is our stated policy to do. So are we to believe the administration will ever put this treaty at risk over future missile defense plans? That is a subject we will be exploring in-depth.

Seventh, the Senate gave advice to the administration not to limit missile defense or conventional prompt global strike, which is a capability that would permit us to deliver over long ranges, intercontinental ranges, a warhead that is not a nuclear warhead, something which this administration and I think are very important for our future ability to deal with rogue states, for example. Nevertheless, contrary to Congress's instructions, the administration has subjected advanced U.S. conventional military capabilities to limitations in this treaty, and we will discuss that.

Eight is something else. There are people who say there is nothing that stands between us and a nuclear-free world. It is called zero nuclear, the President's stated goal of a world without nuclear weapons. Some say this treaty needs to be adopted, ratified in order to permit us then to take the next step, which is to achieve that great goal. I submit that goal is neither feasible nor desirable, and that to the extent this treaty is deemed as a stepping stone toward that, it is a bad step to take.

Moreover, it is an unwelcome distraction from addressing the true nuclear dangers the President has made very clear are his top priorities; that is, the dangers of proliferation and terrorism.

Ninth is a question about verification, something Senator BOND has talked a great deal about and I am going to be speaking some about because of issues that arose during my trip with Senator FEINSTEIN to Geneva during the time our negotiators were working on this treaty with their Russian counterparts.

It is very clear that with lower force levels, we need better verification. But this New START treaty has substantially weaker verification provisions than its predecessor, START I. Of course, Russia has a history of cheating on every arms control treaty we have ever entered into with them, which amplifies the concern.

There are some comparisons, and I would suggest they are false comparisons, to the SORT treaty, which is the 2002 treaty. It is called the Moscow Treaty; that is, the treaty that deals with our strategic offensive weapons after the fall of the Berlin Wall, the fall of the Soviet Union, and the determination by the United States and Russia both to simply bring down our nuclear forces. We did not need anymore the nuclear forces that existed during the Cold War.

There are some false comparisons there that I think are very important for us to talk about as it relates to this treaty before us.

I think we also need to talk about the New START and Russian reset. I will talk about that a little bit when I begin discussing the reasons for trying to act so quickly here. But I think it

also requires some further discussion because, frankly, Russia is threatening a new arms race if the Senate does not ratify this treaty. Is that the reset the President is so fond of talking about, this new wonderful relationship with the Russian Federation?

Twelfth, I think we need to talk about tactical nuclear weapons. The treaty did not deal with tactical nuclear weapons, and respected Members of this body, including the Vice President of the United States, then a Senator, made clear that after the last treaty the next item on the agenda had to be to deal with tactical nuclear weapons. It should have been, but it was not done here.

Thirteenth—and this deals with some of the amendments that are going to be necessary—there is a Commission in here that somewhat like previous treaty commissions—it is called the Bilateral Consultative Commission—and the treaty delegates to this Commission the ability, even in secret, to modify terms of the treaty—a group of Russians and a group of U.S. negotiators. There is some reference in the committee's resolution of ratification, but, in my view, it is inadequate for the Senate to be able to react in time to notification by that Commission of things it is intending to do in time for the Senate to provide its advice and consent, if those are necessary.

Then, as I mentioned, it is also important for us to determine how this treaty is distracting attention from what the President has said, and I agree, is our top priority; that is, dealing with proliferation and terrorism. This treaty does not do anything to advance our goals in that respect, and I think it would be much better if we could have spent part of the last 2 years better focusing on the illegal nuclear weapons programs of Iran and North Korea and why that should be our top agenda item right now.

Those are some of the things I am going to be talking about. I will not have time to deal with all of them during this first hour. But let me at least briefly talk about the question of adequate time. I do not think Senators are quite aware of some of the procedures that exist with respect to treaty ratification. Because of precedent in the Senate, when cloture is filed, it will close off debate both on amendments to the treaty and the preamble, as well as amendments to the resolution of ratification.

I think it is important to note there are amendments that Members, at least on our side, have that go both to the treaty and preamble and also amendments that deal with the resolution of ratification. In fact, I think there are many more that deal with the latter subject. We are going to have to be able to deal with both of those subject matters. So when Members talk about filing cloture, I think it is

important to realize that would cut off debate on every additional change, even if we have not been able to complete work on the amendments to the resolution of ratification.

Also, I think it should be clear that there have been numerous letters sent to our leadership in the Senate and to the committee leadership from Republican Members of the Foreign Relations Committee, other Republican Senators, the 10 Republican Senators-elect, Representatives from the House Armed Services Committee, and others, indicating this is not the appropriate time or way to deal with this treaty.

Incidentally, I happened to be watching Chris Matthews the other night—a television program—and Lawrence Eagleburger, one of the people who support the treaty, was asked by Matthews what the fuss was about getting it done now and, among other things, this is what Lawrence Eagleburger, former Secretary of State, said:

They want to do it before these lame ducks are out there. That's not the way to move on this issue.

I agree with that. There are a lot of serious things to consider, and the rush to do all the business this lameduck session has is not the best way to get that done.

The chairman of the Foreign Relations Committee yesterday expressed the view that we had plenty of time to do this, comparing the work we have here to the START I treaty. The START I treaty is the predecessor to this New START treaty, though there was the intervening 2002 Moscow Treaty I mentioned before. But just to make two quick points on this: When we dealt with START I, we did not have all the competing considerations, the dual tracking with an Omnibus appropriations bill and the votes we are going to have to take on that, as well as the other items the majority leader has mentioned. Secondly, if we are to talk about an analogous treaty, the START treaty was not considered by the Senate until September of 1992, and the analogy would be that this treaty before us now would be appropriate to bring to the Senate next May, May of 2011. That is how much time elapsed between the two.

I am not suggesting we need that much more time, but I am simply pointing out the fact that it is not analogous. Probably a better analogy would be the INF Treaty. That is a treaty that took the Senate 9 days of floor time. We had no intervening business of any kind. There were 20 votes on amendments and plenty of time to work out consideration of other amendments.

So the idea that, well, some treaties have not taken that long, therefore, why can't we do this one, is a specious argument, and I think when we see the serious issues that need to be considered, our colleagues will appreciate the

need to take adequate time on this agreement.

One of the curious arguments is, we have to do this quickly because the verification provisions of the predecessor START I treaty have lapsed and, as a result, we have a situation that is untenable. As a matter of fact, Robert Gibbs, the Press Secretary, believing that the Senate yesterday was reading the treaty, which did not happen, nevertheless put out a statement, obviously prematurely, and one of the things he said was:

Every minute that the START Treaty is being read on the Senate floor increases the time that we lack verification of Russia's nuclear arsenal.

Well, apart from the fact that he was wrong about the reading of the treaty, he is also wrong about the urgency because of the lack of verification of the Russians. First of all, I am confused by the two main arguments to support the treaty.

No. 1, we have this wonderful relationship with the Russians that has been reset and we are cooperating on all of these things. By the way, we can't trust those guys so we quickly have to put these verification measures in place. There is something that doesn't quite connect there as far as I am concerned.

But I go back to why we don't have verification right now. This story reminds me a little bit about the trial of a fellow who killed both of his parents and then pled for mercy from the court because he was an orphan. This problem of verification was created by the administration. It has nothing to do with action by the Senate, and they have nothing but themselves to blame for whatever verification procedures are not in place.

How did that come about? Well, the START treaty had perfectly good verification provisions in it that could have been continued for another 5 years if the United States had taken the view with Russia that that is what we should do. But the administration said, no, we are going to deliver the START treaty on time so there won't be any hiatus there, so we don't need to continue the verification provisions of START I.

Here is what was said in a joint statement between President Barack Obama and Dmitry Medvedev, President of the Russian Federation, on April 1 of 2009:

The United States and the Russian Federation intend to conclude this agreement before the treaty expires in December.

Originally, we had nothing to worry about because the new treaty would be done by then. It soon became evident that wasn't going to happen, the negotiations were dragging, and the treaty would expire. Did this administration decide to try to continue the existing treaty—which it could have done? It just takes the United States and Rus-

sia agreeing to do it, no Senate action required. No, it didn't do that.

Several of us began to express concerns about this. The Republican ranking member of the Senate Foreign Relations Committee even introduced legislation to provide the necessary legal framework for verification to continue even though the two treaties had lapsed, and I cosponsored that legislation. The administration said, well, what we are going to do is get a bridging agreement with Russia that will bridge the time between the time START lapses and the time the new treaty is ratified.

Michael McFaul, the NSC adviser for Russia, in a press briefing on November 15 of 2009 made that point. He said:

It does expire on December 5 and in parallel, we have a bridging agreement that we are also working on with the Russians, so there is no interruption. The key thing here is verification. We just want to preserve the verification.

So that was the intention. Those of us who expressed concerns about this were at least, I think, somewhat mollified, except that when I went to Geneva, what we found was there had been no conversations whatsoever, and it appeared to me—I came back to the floor and actually called it malpractice—that our negotiators and the Russian negotiators had not thought about, let alone begun, to negotiate what kind of agreement would be put in place in the event the treaty expired and nothing else was in place to provide for verification. But at least they promised we would have this bridging agreement.

Then the administration said—when the treaty was signed and the two Presidents spoke to the issue—that we would continue in the spirit of the previous treaty so there would be no difference in action between the two countries in whatever time period it took for the ratification of the treaty to occur by the two countries' bodies. This is a quotation from the statement of Presidents Medvedev and Obama:

We express our commitment as a matter of principle to continue to work together in the spirit of the START Treaty following its expiration, as well as our firm intention to ensure that a New START Treaty and strategic arms enter into force at the earliest possible date.

It is a complete mystery as to what happened. What happened to the bridging agreement? What happened to this spirit of cooperation we were going to continue in the spirit of the previous treaty? We are now told it is an absolute emergency for the Senate to hurry up and ratify this treaty because the Russians might cheat. Nobody has explained what happened here and nobody has explained why it was important before, but it never got done, and now we have the emergency.

There were documents that trickled in over time, but one of the things we have asked for to try to explain what happened and what this spirit is that

the Presidents both talked about was the negotiating record. We have absolutely been denied access to that negotiating record. The Russians know what we said and what they said. The State Department knows what we said and what they said, but Senators who are asked to give their advice and consent can't be trusted, I guess, to know what was said between the Russian and U.S. negotiators.

Numerous officials of the administration have said there is an urgency to ratify the treaty because we lack verification measures with Russia. That was the statement Senator Clinton made back in August and others have said the same thing. Of course, we do have some verification, but I don't want to get into in open session the national technical means we have. We can discuss that in executive session.

But apart from the mystery about this bridging agreement and the commitment of the two Presidents, this urgency is irrational if we are to believe that we really reset this relationship with Russia. In fact, administration officials have actually denied that the emergency exists, a point that has been made by others. Gary Samore, who is special assistant to the President, said:

I am not particularly worried near term, but over time as the Russians are modernizing their systems and starting to deploy new systems, the lack of inspections will create much more uncertainty.

Absolutely true. I agree with that. But he is not worried in the near term; that is to say, within the next few months.

The Washington Post I thought put it well. In an editorial they said:

But no calamity will befall the United States if the Senate does not act this year. The Cold War threat of the nuclear exchange between Washington and Moscow is, for now, almost nonexistent.

So I don't think it is a valid argument to rush this treaty through in the week before Christmas, that somehow this is an urgent need and that our national security is threatened if we don't do that. I also reject the argument that the only choice for us is this treaty or no treaty. Obviously, there are other choices. When it comes to verification, both countries have the ability to have agreements with each other that provide for the kind of inspection regimes that would be appropriate.

Let me conclude at this point. Ian Kelly, who is a State Department spokesman, made a comment that I think sums it up. He said:

Both sides pledge not to take any measures that would undermine the strategic stability that the START has provided during this period between the expiration of the START treaty and entering into the force of the new treaty, which will take some months.

He is right. But I think the argument that the Senate has to act now—right now—or else our national security is going to be jeopardized by lack of verification is specious, and it certainly

raises questions if we are to examine what the real basis is and what the result of this new reset relationship with Russia is. That is the argument: We have to do this now, because otherwise we won't be able to verify what the Russians are doing. The other argument is that we reset our relationship with Russia and, therefore, if we don't do this, it will make the Russians mad and they will not continue to cooperate with us on important matters they have cooperated with us on. I think it is important to both examine that allegation as well as the question of what the two countries got out of this treaty.

Let me speak for a moment about what the Russians got out of the treaty and what the United States purportedly gets out of the treaty, most of it characterized in this reset language. Russian politician Sergei Kurginyan said:

Russia could not have an easier partner on the topic of nuclear arms than Obama.

He is referring to President Obama.

What exactly did the Russians get out of this? Some said, Well, even though they are no longer a powerful nation they need the superpower status, and entering into a treaty such as this, such as the kinds of treaties that used to be entered into during the Cold War, gives them a feeling of superpower status along with the United States. So it is important for us to do that. First of all, I am not sure you treat a serious reset partner that way, but apart from that, obviously, the Russians felt that if they could negotiate a good treaty with the United States, it would be to their benefit, and I don't question their intentions in doing that.

But what we got out of this in terms of the primary feature of the treaty is to reduce the nuclear warheads and delivery vehicles. The delivery vehicles are the most important thing, in my view. But only the United States reduces its strategic delivery vehicles under this New START treaty. The Russians don't. They currently have about 560 delivery vehicles. These are ICBMs, bomber capability, and submarine capability. The United States has 856. The treaty takes you down to 700 of deployed delivery vehicles. So even under the treaty, Russia can build up to that level by adding 140 launchers they don't currently have, while the United States must cut our forces by 156. One says, Well, why shouldn't it be exactly equal? The United States has obligations beyond those of Russia. Russia has a need to defend its territory. The United States has 31 other countries relying on the U.S. nuclear umbrella. Therefore, the targets we must hold at risk and the concerns we have about adequate delivery vehicles are much different than Russia's. Nonetheless, we have agreed to a parity number here of 700. So they can

build up to that number; we have to build down. That is not exactly a great victory, in my view. In fact, it is the first time since the very disastrous Washington naval treaties with Germany and Japan before World War II that the United States has agreed to one-sided reductions in military might.

I mentioned the bridging agreement before. Where that fell through the cracks, I don't know. The administration was apparently pushing for it. It didn't get it. We still don't know what happened because we haven't been given the record.

On mobile missiles, this is a matter that exercised the Russians when the committee dealt with it in a very modest way in its resolution of ratification. You see, the Russians have had rail mobile missile plans and don't know exactly what they are going to do in the future with rail mobile, but when the committee deigned to speak to this, the Russians reacted like a scalded dog: Well, we recommend the Duma not approve the treaty if we are going to be talking about rail mobile missiles. What about the United States in contention? We shouldn't be talking about U.S. missile defense. No, that is OK, but we don't want to talk about rail mobile missiles. So the Russians successfully prevented any revisions on that and there is maybe a concern now that we made a mistake in not including that. Obviously, the concession makes it much harder to monitor their forces if they go with rail mobile forces.

In addition, we limited the monitors of missile production at Votkinsk. Votkinsk was the missile production facility in Russia that produced many of the missiles the Russians used and this was required by the START I treaty. The Russians didn't want this anymore. I can understand why. If we are going to understand what they are producing in their factory and see what happens when they roll them outside the factory, then we will have a better idea of whether they are cheating. The Russians said from the very beginning, We are not going to let you do that anymore. So they got something very important with regard to verification. Again, the argument is we have to do verification. Understand that verification in this treaty is much weaker than the verification that existed under START I and that could have been continued for another 5 years if the administration had taken that position.

Very troublesome is a reverse in course by the United States and Russia both with regard to MIRVing of ICBMs. We have been working against MIRVing for a long time and finally achieved in the last treaty a recognition of the fact that MIRVed missiles; that is to say, missiles that have numerous warheads on top, are very destabilizing because it creates a situa-

tion where you basically have to use them or you lose them. If we attack a missile silo and kill eight warheads all at once with one strike, that is a major loss. So the idea is that strategic offensive weapons with those MIRVs on them need to get off before they are hit by an incoming missile. Very destabilizing.

So both countries agreed we would move toward a single warhead missile. Well, in this treaty, that all goes by the boards. The United States is going to continue to provide for single warheads, but not Russia. In fact, it is believed that 80 percent of the Russian ICBM force in the future will consist of MIRVed ICBMs. I don't know why the administration walked back from that. Again, we don't know because we don't have the negotiating record.

The SLCM is the submerged launch cruise missile. Now, the START I treaty had a side agreement that limited submerged launch cruise missiles. But this new START treaty ends that side agreement and says even though the United States is retiring our submerged launch cruise missiles, as we intended to do under START I, it appears that Russia is developing a new version of such a missile, with a range of up to approximately 5,000 kilometers, which is a longer range than some ballistic missiles covered by the treaty.

Again, why do we allow a relinkage of a subject as important to us as missile defense with strategic arms limitations and yet not limit rail mobile, SLCMs, and so on? It is a very lopsided result in the negotiations, it seems to me.

I mentioned missile defense. Russia not only achieved a recognition of its position that missile defense is related to strategic offensive systems in the preamble of this treaty, but it negotiated limitations on U.S. missile defense in article V. Importantly, it added some what I will call "bullying" language in the unilateral statement accompanying the treaty. These achievements came after the U.S. gave away ground-based European systems and promised the Senate there would be no treaty limitations on defensive missiles.

Missile defense targets is another area in which the U.S. gave ground. There is ambiguous treaty language which I believe will constrain U.S. ability to maximize the affordability of our missile defense targets. We are not going to be able to reuse old targets.

Telemetry is a big issue the U.S. fought hard on but apparently caved on. We don't have the record, so we don't know what kind of quid pro quo could have been gotten for this. Under START I, one of the most valuable collection methods was the unencrypted telemetry from missile tests by the Russians. They got that from our missile tests. We both knew the capability

of each other's missiles. In a sense, that is stabilizing. But under New START, which is supposed to be improving the situation with regard to certainty, unencrypted data from almost every ballistic missile flight will be not subject to sharing with the other side. At best, five flights a year will be shared. But Russia can choose to never share flight test data from new missiles they are currently developing and testing. They can say here is data from five tests of old missiles, but they don't have to share data as to any of their new missiles. None of our intelligence people will tell you that is an improvement or a good situation.

Here is another disparity in the treaty: conventional prompt global strike. Remember I mentioned the Russian potential plans for rail mobile or cruise missile submarine launch. I think the United States has a very good idea about moving forward with something we call conventional prompt global strike. It is not even a nuclear program. It is a sensible way to deal with some of the emerging threats around the world today, where we may have a need, in a very quick time and over a long distance, to send a conventional warhead to a country. We may not want to have to send a nuclear warhead—Heaven knows what that would start—but it makes sense to have a conventional capability to do this.

The Russians have fought that. It is a little unclear why, since it would totally be aimed at other countries, certainly not Russia. In a treaty nominally about nuclear weapons, we have a specific limitation on the U.S. plans for conventional prompt global strike. It would limit the capability we are seeking to address WMD and terrorist threats by requiring that any such missiles be counted against the already-too-low limit of 700 missiles for delivery of nuclear warheads.

Let's say we were going to deploy 24 of these missiles—to decide a number. That means you have to reduce the 700 by 24. That provides a huge disincentive to deploying these conventional prompt global strike missiles and a dangerous reduction from a negotiated 700 launcher limit in the treaty.

I am not going to get deeply into inspections and verifications. That will have to be dealt with in executive closed session where we can discuss classified matters. Suffice it to say here, in discussing the disparity between what the Russians got and what we got, in a number of inspections this new treaty cuts the number of inspections by more than half compared to START I.

Part of the problem is that none of the inspections that are permitted will ever enable us to have a good sense of the total number of warheads. So that is different from the START I treaty. We are never going to be able to monitor, under this treaty, whether the

Russians are complying with the overall limit on warheads. Again, we will have to get more into that in executive session.

I talked about tactical nukes. I mentioned the fact that when he was a Senator, Vice President BIDEN made remarks during ratification of the 2002 Moscow Treaty. He said:

After entry into force of the Moscow Treaty, getting a handle on Russian tactical nuclear weapons must be a top arms control and nonproliferation objective of the United States Government.

Well, here it is 8 years later, and not only is there no further progress toward that—and I agree with the Vice President—but this treaty, at the insistence of the Russians, has not one word about tactical nuclear weapons. I will be discussing that in more detail later on. I just mention it here to illustrate yet another area where it seems to me there is a great disparity.

I didn't count up all of these things, but there have to be 10 or 12 areas in which the Russians have gotten very much what they bargained for. The question is, What did we get?

We are told that we benefit for the following reasons: We can resume inspections in Russia. As I said, we could have done that by extending the START I treaty. That is a problem of our own making. By allowing that to expire and not renewing or putting into place a bridging agreement or enforcing the joint statement the two Presidents put together in working together in the spirit of START I, the inspections are significantly weaker, as I said.

I will quote Senator BOND. He said:

The administration's new START Treaty has been oversold and overhyped. If we cannot verify that the Russians are complying with each of the treaty's three central limits, then we have no way of knowing whether we are more secure or not. There is no doubt in my mind that the United States cannot reliably verify the treaty's 1,550 limit on deployed warheads.

Senator BOND is exactly right. We will discuss some of that in open session and the rest of it in closed session.

I will conclude this point by noting that the Vice President and others have also suggested that this treaty is important for the United States because it is a valuable part of the so-called reset relationship with the Russians.

I have to ask several questions about this. Why have we assumed this has been such a great success?

My colleague, Senator DURBIN, for example, stated a couple of weeks ago that we need Russia's help in dealing with Iran because that nation is about to bring online a new nuclear powerplant. I remind everybody that Russia built and fueled that powerplant for Iran. So that is a great benefit to this reset relationship.

We will have more to say about that as well. I will conclude this part by

quoting from Dr. Henry Kissinger, who believes the treaty should be ratified. He said:

The argument for this treaty is not to placate Russia. That is not the reason to approve this treaty. Under no condition should a treaty be made as a favor to another country, or to make another country feel better. It has to be perceived to be in the American national interest.

So what are the two big arguments for the treaty? We have to get this verification regime in place because the Russians may cheat. Well, I guess they are our new best friends and we have to keep it that way or else they will get mad. Dr. Kissinger wrote before about this matter of what should motivate us to do an arms control treaty. He said every arms control treaty has to be justified within its own four corners. You can never say a reason to do it is to make the other country feel better or to gain some kind of leverage with the other country or to gain its cooperation in some way. A, it is illegitimate; and, B, it doesn't work. He made that point precisely with respect to this. He is saying that is not a reason to endorse this treaty.

I conclude that the two big arguments are not arguments at all, and, in point of fact, the Russians got a lot more out of this treaty than the United States ever would.

I spoke a little bit about the treaty limits because this is the central idea of the treaty—to reduce the number of warheads and delivery vehicles. I wanted to discuss that in this context because there are a lot of people who believe—and I certainly understand the argument—that it seems like a good idea if both countries are reducing nuclear weapons forces and warheads. That was exactly the theory under the Moscow Treaty of 2002. We didn't need that many warheads and delivery vehicles.

The United States said: We are just going to reduce ours; and Russia said: We have to reduce ours, too, so why don't we have a treaty. The United States said: We can have one, but we don't need one; we are going to do this out of our own best interests because it costs a lot of money. As a favor to Russia, we said: If you want to do a treaty, fine, but we will not make any concessions to do it.

Now we are cutting into the bone and getting the level of delivery vehicles down to 700 could jeopardize our ability to carry out our missions. That is my assertion. There are experts in the administration who have briefed us, who can show exactly where the targets are, where our missiles are, how many we would need, and so on. They say actually we still have enough to do the job.

I am willing to accept their, first of all, patriotic motivations, expertise, and judgment on this issue. But I also note that when you read all of the

statements that all of them made, they appreciate that this is it—this is the limit beyond which we don't dare go. It rests upon several assumptions, including the assumptions that the Russians are never going to break out or cheat. It rests on the assumption that we don't have new targets that we have to worry about.

I suggest, especially with respect to the Chinese development and modernization of its nuclear force, and the role it is beginning to play in the world militarily, it is not necessarily a valid assumption that the targets that existed during the Cold War are all that we will ever have to worry about.

Let me talk briefly about this matter of how we have brought down the number of warheads and missiles, and why it is not necessarily the great thing that the proponents are cracking it up to be. The first point I will reiterate: We did all the giving; they did the taking. We have to reduce the number of our delivery vehicles, and they can actually build up theirs.

At the signing of the treaty, Russia had a total of 640 strategic delivery vehicles, with only 571 of them deployed. That is according to the Moscow defense briefing in 2010 about their missiles and delivery vehicles. Aleksey Arbatov, a former deputy chairman of the Duma Defense Committee said:

The new treaty is an agreement reducing the American and not the Russian strategic nuclear forces. In fact, the latter will be reduced in any case because of the mass removal from the order of battle of obsolete arms and the one-time introduction of new systems.

We believe his statement is correct. I am worried that we have gotten very close to the line. Nothing has changed since 2008 except that the Chinese have been working hard at their modernization. That is when the Bush administration testified that the current level—the levels we have today, not the levels we are going down to—were necessary for deterrence.

I could quote from Secretary Bodman and Secretary Gates who spoke to that issue in September of 2008 to make that point. General Cartwright, Vice Chairman of the Joint Chiefs, who supports the treaty, testified that in 2009 he would be concerned about having fewer than 800 delivery vehicles. I am quoting:

From about 1,100 down to about 500—500 being principally where the Russians would like to be, and 1,100 being principally where we would like to be, now the negotiation starts. I would be very concerned if we got down below those levels, about midpoint.

Secretary Schlesinger said:

As to the stated context of strategic nuclear weapons, the numbers specified are adequate, though barely so.

Those are the views of experts.

Dr. Kissinger, who testified in support of the treaty, said this:

[T]he numbers of American and Russian strategic warheads and delivery systems

have been radically reduced and are approaching levels where the arsenals of other countries will bear on a strategic balance, as will tactical nuclear weapons, particularly given the great asymmetry in their numbers in Russia's favor.

There are two things he is talking about. First, as Russia and the United States bring our forces down, there is a certain point—I am not suggesting we are there yet, but there is a certain point that countries, such as China, for example, can say: Wait a minute, there is now not that much difference between where Russia and China are—Russia and the United States are and where we are, and therefore, if we just build ours up somewhat, we can be at virtual parity with Russia and the United States, and, voila, instead of having two powers with a large number of nuclear warheads, you then have three. So there is an incentive for countries like that to build up once we get down to a certain point.

The other point he makes is with respect to tactical weapons. Tactical does not really relate to the amount of boom the weapon makes, its destructive capabilities, so much as the delivery vehicle it is on. The Russians have a significant advantage in that, as Secretary Kissinger pointed out. So there is an asymmetry that exists both with respect to warheads and delivery vehicles.

General Chilton, when he talked about support for New START, predicated it on no Russian cheating or changes in the geopolitical environment. I would like to read his quotation. He said:

It was decided . . . we would just fix that [Presidential guidance] for our analysis of the force structure for the START negotiations. And so that's how we moved forward. . . . The only assumptions we had to make with regard to the new NPR, which was, of course, in development in parallel at the time [with the START treaty] was that there would be no request for increase in forces. And there was also an assumption that I think is valid, and that is that the Russians in the post-negotiation time period would be compliant with the treaty.

He assumes they are going to be, in other words. But those are the two assumptions on which we had to base a reduction down to this level. I think Senators should ask themselves whether they agree with these assessments in light of the facts that Russia does continue to modernize its force, as does China; that more nuclear forces in those countries necessarily means more potential targets for the United States to hold at risk; and that Russia has violated practically every arms control treaty it signed with the United States; and taking into account what hangs in the balance—the commitment of the United States not only to our 31 allies and the nuclear umbrella we have but also the protection of the United States with our nuclear deterrent. We have little to gain and much to lose if we can't be certain the numbers in New START are adequate.

Let me conclude this point by talking about some counting rules. This is a little esoteric and gets down into the weeds, but it is important to understand in the context of what I am talking about.

Under the treaty, strategic stability may be weakened because there is not a specified loadout of reentry vehicles per missile. That is what we used to have. The counting rules in the treaty present opportunities for allowable cheating that the United States is not likely to pursue—in fact, I would say we will not pursue—but which could give Russia an advantage.

While the United States improves stability in our ICBM force by eliminating the MIRVing I talked about before, Russia will become more reliant on MIRVed ICBMs, and, again, that is destabilizing because it encourages first-strike planning for fixed silo weapons—the “use it or lose it” problem.

The Chairman of our Joint Chiefs of Staff, Admiral Mullen, said:

The United States will “de-MIRV” the Minuteman III ICBM force to a single warhead to enhance the stability of the nuclear balance.

So why would we, then, encourage the Russians to go exactly the opposite direction in this treaty?

Let me quote again. This is from a Russian forces blog, November 30, 2010:

The commander of the Strategic Rocket Forces, Lt.-General Sergei Karakayev, announced today that all new mobile Topol-M missiles will carry multiple warheads. This modification of the missile is officially known as the Yars or RS-24. The first three RS-24 missiles were deployed in Teykovo earlier this year.

That is what I was referring to before, and that promotes strategic instability, not stability.

Finally, due to the bomber accounting rules, at least one Russian military commentator has noted:

Under the treaty, one nuclear warhead will be counted for each deployed heavy bomber which can carry 12 to 234 missiles or bombs depending on its type. Consequently, Russia will retain 2,100 warheads.

Might I inquire how close I am to using the 60 minutes I had intended to speak?

The ACTING PRESIDENT pro tempore. The Senator has about 10 minutes remaining on the hour he asked for, but there is no time limit.

Mr. KYL. I appreciate that there is no time limit on my speaking and I appreciate there is no time limit on my time, but I have an engagement at noon and, second, I did not want to be out here on the floor talking for too long.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. I wish to ask the Senator, if I can—I don't want to interrupt him, but I wanted to inquire, get a sense here—I appreciate a lot of the comments he has made. First of all, let

me say that I have appreciated working very closely with Senator KYL on this for months now. We have had an enormous amount of dialog; we have had a lot of meetings; we have gone back and forth. I think he would agree that we have tried very hard and in good faith to address many of the concerns he has raised, notwithstanding the ones he just raised in his speech, many of which I will speak to as we go along.

But I would like to sort of get a sense from him. He mentioned amendments, others have, but we are now almost at lunchtime, and we don't have an amendment. I would like to get a sense of when we might anticipate really being able to do the business on the treaty.

Mr. KYL. I will be happy to respond. Part of the business of the Senate on the treaty is to expose its flaws and to have a robust debate about those flaws, which can provide the foundation for amendments which we intend to offer.

I was struck by the seriousness and importance, at least in my mind, of the two-page list of amendments my staff acquired from colleagues. As my colleague knows, we actually shared a list of 10 or 12 amendments that I had thought about, and actually some of my colleagues—in fact, we had a couple-of-hour conversation about that one morning to see if we could reach agreement on any of them, which we were not able to do. But there are some very serious amendments, most of which go to the resolution of ratification, and a few go to the treaty or the preamble itself.

I note that yesterday my colleague said—I think I am quoting him correctly—“Make no mistake, we will not allow an amendment to the treaty or the preamble.” Maybe there are the votes to not allow that. But I do think it is important for us, in this discussion, before offering such an amendment, to appreciate why we believe such an amendment would be important.

As my colleague well knows, there is a great deal that can be said about this. I am trying to say it in as succinct a form as I can.

Mr. KERRY. I appreciate it.

Mr. KYL. But there is a great deal of discussion that needs to occur for a predicate for the amendments we intend to offer.

Mr. KERRY. Madam President, I completely respect what the Senator from Arizona has just said, and we obviously want to give him time to lay any predicate to whatever he may perceive to be a flaw. For instance, as he raises the question about the MIRVing, as he just did—and later, I will go through each of these points—but the fact is, the reason the Russians are MIRVing—which we all understand, and there are plenty of letters from the Strategic Command and elsewhere that

will articulate the way in which they do not see that as a threat—the reason they MIRV is because they cannot afford to do some of the other things with respect to the numbers of missiles, so they put more warheads on one missile.

We have preserved a very significant breakout capacity here. As General Chilton and others will point out, it is not a flaw at all. It is actually an advantage which is maintained in this treaty for the American strategic posture. I will go into that later. What the Senator describes as a flaw from his point of view I think the record will well state is sort of a preserved American advantage.

That said, I respect, obviously—we want to get this joined. I think what the Senator has just laid out is very helpful. It will help us join the debate. But I do want to impress that the sooner we can get to some of these amendments, the more we can really discover whether something is, in fact, a flaw or is not a flaw and has been adequately answered.

Mr. KYL. I appreciate my colleague's comment. I note that I think the reason the Russians are going to MIRVing is—at least the primary reason is exactly as Senator KERRY has stated. They have financial limitations on what they can do here, but I don't think one can deny that the result of it is strategic instability compared to moving toward a single warhead missile, such as the United States has been doing and will continue to do.

What I wanted to do in this segment of my remarks before I conclude—and I will advise my colleagues that the next thing I intend to be talking about is the administration's commitment to the nuclear triad, but I don't think I am going to have time to get to that. I would like to conclude now with some comments about modernization.

It has been well known that I have been involved in negotiations with the administration regarding modernization. My colleague and friend, Senator KERRY, has been very helpful, I might say, in occasionally restarting those conversations when they got bogged down a little bit and was helpful—and I specifically have complimented him before and will do it again—in ensuring that the President's increase in the budget for our nuclear modernization program that was in his budget this year will actually be carried out in the funding the Congress does. We had to do a continuing resolution back in September, and I think it was largely due to Senator KERRY's efforts that that funding was included.

I just note that we have had a lot of concern back and forth about whether there is a real commitment to get that done over the years. Obviously, both of us appreciate the fact that no one can guarantee anything, but there is a certain amount of good will and commit-

ment involved here, and certainly the administration needs to be very actively involved in ensuring that the funding required for its modernization program actually comes to pass.

I note that the continuing resolution as passed by the House of Representatives unfortunately conditioned this funding Senator KERRY and I were responsible for—conditioned it on the ratification of the START treaty, saying: If you don't ratify the treaty, you are not going to get the money. Thankfully, a couple of administration officials relatively quickly pushed back on that and said: No, that is not right. The treaty stands on its own, and the modernization program stands on its own, and this funding is necessary.

That is the kind of pushback on what might otherwise be rather petty politics that is going to be required by all of us who understand that modernization is critical in the future.

With that belief predicate, let me state what the problem has been and generally how we went about trying to correct or solve the problem.

The United States, believe it or not—and this is the fault of Republican and Democratic administrations and Republican and Democratic Members of Congress—it is a negligence, I would say a gross negligence on all of our parts. I take some of the blame for not having yelled about this more than I have. But at the same time that every other nuclear power is modernizing its forces, both its facilities and its capability to maintain its weapons, its weapons, and, in the case of the Russians and the Chinese, their delivery systems as well—while every one of them has a capacity to do that, to actually produce a warhead to put back into production when one comes out of production, the United States does not. The country that literally invented these weapons with the Manhattan Project is still using Manhattan Project—that is 1942, in case you have forgotten—era buildings to take care of these most sophisticated weapons. If you were to liken it to a car, it would be like a Ferrari race car or Formula 1 race car, highly technical—I don't think you would want to refurbish those in somebody's old backyard garage.

The bottom line is that these facilities have to be brought up to modern standards to be able to modernize our weapons over time. Why do the weapons have to be modernized? Generally speaking, these are weapons that were designed in the 1970s, built in the 1980s, and built to last 10 years. Do the math. We are still relying on those weapons.

What we found, even though we have cut way back on the funding for what we call surveillance—that is to say, taking a look at several of these weapons every year, taking the skin off, looking down inside, seeing what is rusty and what is loose and so on, to

use an analogy to a car maybe—what we found is that there are significant issues with these weapons that need to be addressed if our commanders and labs are to continue to be able to secure them as safe, secure, and reliable, as they must.

So we need the facilities in which to bring these sophisticated weapons in, take them apart, make sure they are put back together properly with all the requisite either new parts or reused parts or whatever is necessary to continue to allow them to work and get them back into production.

The timeline on this is more than critical. Suffice it to say in this open session of Congress that we dare not waste any more time at all. I think that is one of the reasons why the President's advisers from the laboratories and the Department of Defense and Energy presented this to the President and his nuclear posture review. In the modernization plan he developed, there is a very firm commitment on his part to move forward with this, because no time can be wasted.

To give you one illustration, when we left one of the facilities we had examined—we have been to each of these facilities and we have talked to the people there, and we were given a little souvenir from one of them. It is encased in plastic, a little vacuum tube. It is a vacuum tube such as those that came out of our black-and-white TVs back in the 1960s, I guess. It is still being used in a component of one of our weapons, and they are replacing it with circuit boards, of course.

That is the kind of thing that needs to be modernized in these weapons. So what is it going to take to do it? Well, the Congress, understanding that we had to get about this, in the last Defense bill put in a requirement that the President prepare a plan. It is named after the section of the bill, which was 1251. That section of the bill now is the nomenclature for the plan, the 1251 plan for modernizing our forces.

This followed a speech Secretary Gates made. Let me quote from the speech and then get into a little bit of the detail here. He said:

To be blunt, there is absolutely no way we can maintain a credible deterrent and reduce the number of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

That was pretty much the genesis, that and the so-called Perry-Schlesinger Commission, which ran the red flag up the flagpole to get this program moving. So in fiscal year 2010, the Obama administration devoted \$6.4 billion to nuclear weapon activities, but it has acknowledged that that is a loss of purchasing power of about 20 percent, from 2005—this is by the administration's own calculations. So we knew from the very beginning there was not enough money in the plan to get the job done.

In December, a year ago, 41 Senators—this is before Scott Brown, I might add, joined us—wrote a letter to the President stating:

Funding for such a modernization program beginning in earnest in your FY 11 budget is needed as the U.S. considers the further nuclear weapon reductions proposed in the START follow-on negotiations.

To make a long story short, the administration had a 10-year plan in place that was becoming pretty apparent would not be adequate. That 10-year plan called for about \$7 billion a year over 10 years, to basically operate the facilities. I have said, it is like the money to keep the lights on, but not money for this new modernization of our nuclear warheads or most of it would not have gone to that.

They realized they needed about \$10 billion, at least according to their initial calculations. They got about half of that from the Defense Department, the other half they figured they would get from savings from recalculating interest costs in the latter years of the budget. So they added a \$10 billion slug onto the \$70 billion that was already budgeted for general operation of the system, and said that is our \$80 billion modernization program. But based upon work that had done by laboratories earlier, by other study groups and so on, a lot of experts agreed, including all of the former lab directors, that that slug of \$10 billion would never be adequate for the costly items that needed to be performed over the next decade. Most of us estimated it to be about double that cost or about \$20 billion. I think that is essentially where we are going to end up, by the way.

In any event, the two biggest drivers are two new buildings, facilities that have to be built, one for plutonium work at Los Alamos Lab in New Mexico, the other for uranium work at the so-called Y-12 plant at Oak Ridge, TN. Those two buildings alone could end up costing over \$10 billion. As a result, as I said, we went to the administration and said, we appreciate this modernization plan, but you need to update the plan and incorporate a lot of new costs.

We showed them a lot of areas in which there were deficiencies, including deferred maintenance that had to be performed. We even pointed out there was a billion-dollar unfunded pension liability that would have to be dealt with in order for the scientists to continue to work. I will not go into the quotations here. Vice President BIDEN acknowledged the same thing in a statement he made. I appreciate the fact that, by the way, they complimented our work and our staff for pointing out a lot of these things, which were the bases then for the administration coming back and doing an update to the 1251 plan, which at least incorporated funding for some of the items we had talked about.

There has been some talk about an additional \$4.1 billion, and I know Senator KERRY will confirm this. It grates on me, and I am sure it does on him as well, to hear people referring to this in negotiation terms: Well, they gave KYL another \$4.1 billion. That should be enough.

That is not the point here. This is an ongoing, evolving process. The administration has also identified about another \$2 billion likely to have to be spent within 6 years, but they were only looking at a 5-year process, so that \$4 billion pertains to 5 years. My guess is, there will be another \$6 billion over the last 5 years, and we will ultimately look at about \$20 billion, more or less.

The point is, I did not believe the administration had been sufficiently careful in defining the requirements and identifying the amount of money that would be needed. I have said to many people, including my colleague Senator KERRY, we better not underestimate this for the appropriations Members of Congress. We better let them know upfront, this is going to be pretty costly, and get that out on the table.

To their credit, the administration has now put out new figures. As I will discuss in more detail later, but to summarize here, while that is a big step forward and very welcome, and I will support it all, there are other things that need to be done. One of the biggest concerns I have is that it achieves this objective in part by simply extending the date to complete these two big facilities I mentioned by another 2 years. They would not be complete until 2023 for one and 2024 for the other one.

That has the advantage of getting them outside the 10-year budget window, so you do not count any new money, but it extends the time by which these facilities can be done. And every year we were told it is about a \$200 million expense to keep the existing facilities operating.

So we are losing a lot of money every year that we do not get these two new buildings constructed so we can move into them and get the modernization done. That is the biggest concern I have. I will talk about some others later.

But let me conclude here with a couple of quotations that I think illustrate the importance of doing what we need to do here.

Tom D'Agostino, who is the Deputy NNSA Administrator said:

Our plans for investment in and modernization of the modern security enterprise are essential, irrespective of whether or not the START treaty is ratified.

He and I think all of us agree, it is even more important if we go down to the lower numbers in the START treaty. But this is important either way. I note that former Energy Secretary

Spence Abraham wrote a column in *Weekly Standard* recently that made the same point, that regardless of what is done on the START treaty, this modernization needs to move forward.

I made the point earlier about how the House Democrats conditioned the funding on ratification of START. I hope in the comments that are made on the floor here, it may be the subject of an—in fact, it probably will be the subject of at least one amendment to the resolution of ratification. But this is a place where the debate we have, the comments we make, may be as important as an amendment, because it is a statement of our intention as Senators. I think you will find that republican Senators who support the START treaty, and I am sure Democratic Senators who support the START treaty, will all say, one of the things that has to happen is the modernization of our facilities, along the lines of this updated 1251 plan, and the statements that the administration, as well as we, have made.

Mr. KERRY. Madam President, would the Senator yield?

Mr. KYL. I will yield.

Mr. KERRY. I want to compliment the Senator, and confirm on the record that Senator KYL indeed brought to the attention of the administration and to all of us several points which the laboratory chiefs agreed were in deficiency. And he is absolutely correct, that while it is not directly within the four corners of the treaty, the modernization, per se, obviously if you contemplate reductions, you have to also be able to understand you are maintaining the capacity of your existing force. Senator KYL has been diligent in pursuing that.

I also applaud the administration for responding, and I think he would too, and acknowledging that. So he is correct, that I think this part of the record is an important one. We have met separately with Senator INOUE, with Senator FEINSTEIN, and they have agreed with Senator KYL, that they accept the need to continue down to the levels that the administration has put on the table, and they are committed to doing that.

That said, let me also place in the RECORD a letter from our three laboratory leaders, Dr. George Miller at Lawrence Livermore, Dr. Michael Anastasio, who was just referred to at Los Alamos, and Dr. Paul Hommert at Sandia. I will read the relevant portion. I will put the whole thing in the RECORD. But here is what they say:

We are very pleased by the update to the Section 1251 Report, as it would enable the laboratories to execute our requirements for ensuring a safe, secure, reliable and effective stockpile under the Stockpile Stewardship and Management Plan. In particular, we are pleased because it clearly responds to many of the concerns that we and others have voiced in the past about potential future-year funding shortfalls, and it substantially

reduces risks to the overall program. We believe that, if enacted, the added funding outlined in the Section 1251 Report update—for enhanced surveillance, pensions, facility construction and Readiness in Technical Base and Facilities among other programs—would establish a workable funding level for a balanced program that sustains the science, technology and engineering base. In summary, we believe the proposed budgets provided adequate support to sustain the safety, security, reliability and effectiveness of America's nuclear deterrent within the limit of 1,550 deployed strategic warheads established by the new START Treaty with adequate confidence and acceptable risk.

I think it is very important to sort of do that. I would think we have adequately addressed it, because there is also language in the resolution of ratification that embraces the modernization component. So I thank the Senator from Arizona. I think that has been a constructive component to helping us to be in a position to be able to ratify the treaty.

Mr. KYL. Madam President, I appreciate my colleague's comments. Rather than read the remainder of this, I ask unanimous consent that at the conclusion of my remarks here there will be additional quotations on the need for modernization by former lab directors Dr. Miller, Secretary Schlesinger, and several others.

I would conclude by emphasizing what the lab directors also emphasized in this correspondence. "As we emphasized in our testimonies, implementation of the future vision of the nuclear deterrent will require sustained attention and continued refinement."

The outyears are very important. That is why the record we create in this debate is important to ensuring that those who come after us will appreciate our intentions as we move forward here that we never again take our eye off the ball and allow the deterioration in our nuclear forces to occur, as we have, so we can continue to support them as called for in this modernization plan. I will ask unanimous consent to have those printed in the RECORD at this point, and then make the remainder of the statement at another time when I have not taken up all of my colleagues' time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL QUOTES ON MODERNIZATION

Former laboratory directors: "However, we believe there are serious shortfalls in stockpile surveillance activities, personnel, infrastructure, and the basic sciences necessary to recover from the successive budget reductions of the last five years."⁴⁷

Dr. Michael Anastasio: "I fear that some may perceive that the FY11 budget request meets all of the necessary commitments for the program . . . I am concerned that in the Administration's Section 1251 report, much of the planned funding increase for Weapons Activities do not come to fruition until the second half of the ten year period."⁴⁸

Dr. George Miller: "In my opinion, there is no 'fat' in the program of work that has been

planned and, in fact, significant risks exist; therefore, there is no room for error."⁴⁹

Secretary Schlesinger: "I believe that it is immensely important for the Senate to ensure, what the Administration has stated as its intent, i.e., that there be a robust plan with a continuation of its support over the full ten years, before it proceeds to ratify this START follow on treaty."⁵⁰

Secretary Baker: "Because our security is based upon the safety and reliability of our nuclear weapons, it is important that our government budget enough money to guarantee that those weapons can carry out their mission."⁵¹

Secretary Kissinger: "As part of a number of recommendations, my colleagues, Bill Perry, George Shultz, Sam Nunn, and I have called for significant investment in a repaired and modernized nuclear weapons infrastructure and added resources for the three national laboratories."⁵²

Under Secretary Joseph: "New START must be assessed in the context of a robust commitment to maintain the necessary nuclear offensive capabilities required to meet today's threats and those that may emerge . . . This is a long-term commitment, not a one-year budget bump-up."⁵³

Under Secretary Edelman: "a modernized nuclear force is going to be essential to that. As Secretary Gates suggested in October 2008, it's a sine qua non for maintaining nuclear deterrents."⁵⁴

Secretary Gates: "I see this treaty as a vehicle to finally be able to get what we need in the way of modernization that we have been unable to get otherwise." "We are essentially the only nuclear power in the world that is not carrying out these kinds of modernization programs."⁵⁵

Secretary Gates: "This calls for a reinvigoration of our nuclear weapons complex that is our infrastructure and our science technology and engineering base. And I might just add, I've been up here for the last four springs trying to get money for this and this is the first time I think I've got a fair shot of actually getting money for our nuclear arsenal."⁵⁶

NNSA Administrator Thomas D'Agostino: "The B61 warhead is one of our oldest warheads in the stockpile from a design standpoint. And actually warheads [are] in the stockpile . . . that have vacuum tubes . . . We can't continue to operate in this manner where we're replacing things with vacuum tubes. Neutron generators and power supplies and the radar essentially are components that have to be addressed in this warhead. Also I think importantly this warhead, the work on this warhead, will provide our first real opportunity to actually increase the safety and security of that warhead for 21st century safety and security into that warhead. So when we work on warheads from now on I'd like to be in the position of saying we made it safer, we made it more secure, we increased the reliability to ensure that we would stay very far away from ever having to conduct an underground test."⁵⁷

ENDNOTES

⁴⁷Harold Agnew et al., Letter from 10 Former National Laboratory Directors to Secretary of Defense Robert Gates and Secretary of Energy Steven Chu, May 19, 2010.

⁴⁸Dr. Michael It Anastasio, Director, Los Alamos National Laboratory, Testimony to the Senate Armed Services Committee, July 15, 2010.

⁴⁹Dr. George Miller, Director, Lawrence Livermore National Laboratory, Testimony to the Senate Armed Services Committee, Response to QFR, July 15, 2010.

⁵⁰Secretary James Schlesinger, Testimony to the Senate Foreign Relations Committee. April 29, 2010.

⁵¹Secretary James Baker, Testimony to the Senate Foreign Relations Committee. May 19, 2010.

⁵²Secretary Henry Kissinger, Testimony to the Senate Foreign Relations Committee. May 25, 2010.

⁵³Under Secretary Robert Joseph, Testimony to the Senate Foreign Relations Committee. June 24, 2010.

⁵⁴Under Secretary Eric Edelman, Testimony to the Senate Foreign Relations Committee. June 24, 2010.

⁵⁵Secretary Robert Gates, Testimony to the Senate Armed Services Committee. June 17, 2010.

⁵⁶Secretary Robert Gates, Testimony to the Senate Armed Services Committee. June 17, 2010.

⁵⁷NNSA Administrator Thomas D'Agostino, Testimony to the Senate Armed Services Subcommittee on Strategic Forces, April 14, 2010.

Mr. KERRY. Madam President, I thank the Senator from Arizona. I look forward with anticipation to when he returns to the floor with an amendment. We look forward to moving on that. I also regret that he will not be here, because I would like to be able to answer some of the concerns he raised, because I think there are answers to them. I think it is important obviously for that part of the record.

Some of the questions that were raised were questions about verification. I will not take a long time, because I know the Senator from Nebraska and the Senator from Georgia are waiting to speak. In a letter from the Secretary of Defense to us regarding this issue of verification—and we may well have a closed session where we will discuss that to some degree. But in the letter, Secretary Gates writes to me, and, through me, to the Senate, saying:

The Chairman of the Joint Chiefs of Staff, the Joint Chiefs, the Commander, U.S. Strategic Command, and I assess that Russia will not be able to achieve militarily significant cheating or breakout under New START, due to both the New START verification regime and the inherent survivability and flexibility of the planned U.S. Strategic force structure.

They have confidence in this verification regime. We need to have confidence in the leadership of our military, national security agencies, the intelligence agencies, and the strategic command, all of whom are confident we have the capacity to verify under this treaty.

I ask unanimous consent to have that printed in the RECORD.

THE SECRETARY OF DEFENSE,
PENTAGON,
Washington, DC, Jul 30, 2010.

Hon. JOHN KERRY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: (U) As the Senate considers the New Strategic Arms Reduction Treaty (New START) with Russia, I would like to share the Department's assessment of the military significance of potential Russian cheating or breakout, based on the re-

cent National Intelligence Estimate (NIE) on monitoring the Treaty. As you know, a key criterion in evaluating whether the Treaty is effectively verifiable is whether the U.S. would be able to detect, and respond to, any Russian attempt to move beyond the Treaty's limits in a way that has military significance, well before such an attempt threatened U.S. national security.

(U) The Chairman of the Joint Chiefs of Staff, the Joint Chiefs, the Commander, U.S. Strategic Command, and I assess that Russia will not be able to achieve militarily significant cheating or breakout under New START, due to both the New START verification regime and the inherent survivability and flexibility of the planned U.S. strategic force structure. Additional Russian warheads above the New START limits would have little or no effect on the U.S. assured second-strike capabilities that underwrite stable deterrence. U.S. strategic submarines (SSBNs) at sea, and any alert heavy bombers will remain survivable irrespective of the numbers of Russian warheads, and the survivability of U.S. inter-continental ballistic missiles (ICBMs) would be affected only marginally by additional warheads provided by any Russian cheating or breakout scenario.

(U) If Russia were to attempt to gain political advantage by cheating or breakout, the U.S. will be able to respond rapidly by increasing the alert levels of SSBNs and bombers, and by uploading warheads on SSBNs, bombers, and ICBMs. Therefore, the survivable and flexible U.S. strategic posture planned for New START will help deter any future Russian leaders from cheating or breakout from the Treaty, should they ever have such an inclination.

(U) This assessment does not mean that Russian compliance with the New START Treaty is unimportant. The U.S. expects Russia to fully abide by the Treaty, and the U.S. will use all elements of the verification regime to ensure this is the case. Any Russian cheating could affect the sustainability of the New START Treaty, the viability of future arms control agreements, and the ability of the U.S. and Russia to work together on other issues. Should there be any signs of Russian cheating or preparations to breakout from the Treaty, the Executive branch would immediately raise this matter through diplomatic channels, and if not resolved, raise it immediately to higher levels. We would also keep the Senate informed.

(U) Throughout my testimony on this Treaty, I have highlighted the Treaty's verification regime as one of its most important contributions. Our analysis of the NIE and the potential for Russian cheating or breakout confirms that the Treaty's verification regime is effective, and that our national security is stronger with this Treaty than without it. I look forward to the Senate's final advice and consent of this important Treaty.

Sincerely,

ROBERT M. GATES.

Mr. KERRY. One last quick comment. Senator KYL knows these materials very well. He is an effective advocate for a point of view. But that does not mean that by saying those things, all of them have a factual underpinning or that they are, in fact, the best judgment as to what our military thinks or the national intelligence community thinks about the components of this treaty. Let me give an example. Senator KYL has raised concerns about the

conventional prompt global strike capacity. What he didn't say is, Russia very much wanted to ban strategic range conventional weapons systems altogether. We rejected that approach. The Obama administration said: No; we are not going to ban all conventional capacity. In effect, they decided to proceed along the same approach we used in START I.

Ted Warner, the representative of the Secretary of Defense to the negotiation, testified in the Foreign Relations Committee, saying we agreed to a regime whereby conventionally armed ICBMs or SLBMs—for the folks who don't follow this, those are the inter-continental ballistic missiles or submarine-launched ballistic missiles—would be permitted. But, yes, they did agree to count them under the strategic delivery vehicle and strategic warhead ceilings. Senator KYL sees that as a problem. All of our folks who negotiated this treaty and our military and our strategic thinkers see that as an advantage for the United States. That protects us. We are better off that way. Why? Because it would be extraordinarily difficult to verify compliance with a treaty that limited nuclear-tipped ICBMs and SLBMs but didn't count and, therefore, didn't inspect identical conventionally armed ICBMs and SLBMs. We couldn't tell the difference between them. We would be absolutely foolish on our part to allow the Russians to deploy additional ICBMs and SLBMs based exclusively on their assurance that they are not nuclear armed. How would we know? It is only by putting them under the counting that we, in fact, protect the interests of our country rather than creating a whole sidebar arms race which would make everybody less safe. Not counting those missiles would, in fact, create a new risk—the risk of breakout, that we allow the other side, Russia, the opportunity, even if there were no cheating, to simply leave the treaty and arm those missiles with nuclear warheads on very short notice, and we would all be worse off.

In fact, what Senator KYL was complaining about is something that makes us more stable. If we did what he is sort of hinting he might like to do, we could actually create greater instability, and it would be clearly much more likely to kill the treaty altogether.

Some of these things get raised and they sound like there is reasonableness to them. But when we put them in the overall context of strategic analysis and thinking and the balance, the sort of threat analysis that attaches to any treaty of this sort, what we are trying to work through is sort of reaching an equilibrium between both sides' perceptions of the other side's capacity and of what kind of threat that exposes each side to. That is how we sort of arrive at that equilibrium. That is what has

driven every arms control agreement since their inception. The Pentagon has made very clear that the global prompt strike is going to be developed, but it is going to be developed as a niche capacity. They think it is too expensive to do in huge numbers. It is also very clear that under the best circumstances, it is going to be a long time before that is ready to deploy.

We have boost-glide vehicles still in the proof-of-concept test stage. Nobody has any imagination as to whether they will be ready in 10 or 15 years. The life of this treaty is 10 years. So we are looking beyond the life of the treaty for when they might or might not be ready. There are a host of other concepts out there about this. We are going to get a report from the Pentagon next year on what technologies they think are most promising. It is going to be exceedingly difficult to imagine bringing them online within the 10-year life of this treaty. Any concept of sort of revising things that make this treaty subject to some component of that is, in effect, a guise to try to kill the treaty. I say that about this one component of it. There are many others, many other similar kinds of arguments raised in the last hour. As we go forward, if an amendment arises, we will deal with each of them.

I want colleagues to be aware there is more underneath some of these red herrings than may appear to the eye at first blush.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Georgia.

Mr. ISAKSON. May I inquire if there is a scheduled recess at 12:30?

The PRESIDING OFFICER. We are not under that order.

Mr. ISAKSON. Madam President, I was on the floor last night and addressed my significant concerns with the omnibus and the dual-track process we are on right now. That statement has been made. I come this morning to address the START treaty, the New START treaty. I voted for it to come out of the Foreign Relations Committee to the floor. I want to go through my reasons for having done so. I wanted to talk about what the New START treaty is, not what it is not.

First, I want to pay tribute to DICK LUGAR. He has been a bastion of strength on nuclear proliferation and nonproliferation issues for years. I thank Senator KERRY for the time he gave us to go through hour after hour after hour of hearings and hour after hour of secure briefing in the bowels of the new Visitor Center, where we read the summary of the notes of negotiations on the treaty, where we read the threat initiative and the estimate of the terrorism threat initiative and all the classified documentation about which we cannot speak on this floor. These things are critical to our consideration as we debate this treaty.

I wish to talk about two Senators, one a Democrat and one a Republican. With all due respect to the chairman, it is not he. It is a Democrat by the name of Sam Nunn from Georgia, who chaired the Armed Services Committee, who, along with Senator LUGAR, put together Nunn-Lugar and the cooperative threat initiative. I sought out Senator Nunn and Senator LUGAR in my deliberations during the committee debate and my consideration of what I would do in terms of that committee vote and later a vote on the floor. I wish to make a couple notes about the success of the Nunn-Lugar initiative. Nunn-Lugar is a commitment to see to it that nuclear materials are secure. It is a commitment to see to it that loose nukes around the world don't fall in the hands of those who would kill my grandchildren, your grandchildren or all of us in the United States. I don't think it has been mentioned, but as a result of the Nunn-Lugar initiative, since 1991, since its formation, they have reduced the number of loose nukes in the world by 7,599.

Belarus, the Ukraine, Kazakhstan no longer have nuclear arsenals. Through that comprehensive threat initiative, they have destroyed the weapons, and they have turned weapons of mass destruction into plowshares that are powering powerplants. The nuclear threat initiative does not mean we get out of the business of having a nuclear arsenal. It means we get in the business of security for the nukes that are there and establish goals toward nonproliferation which to all of us is critically important.

My history as far as this goes back to the 1950s. It goes back to Ms. Hamburger's first grade class, when I remember getting under the school desk once a week to practice what we would do if a nuclear attack hit the United States. My history with this goes back to October of 1962 when, as a freshman at the University of Georgia, I stood in fear with all my colleagues and watched what was happening in Cuba, watched the blockade, watched the strength of John Kennedy, who faced the Russians down and ultimately prevented what would have been a nuclear strike against the United States and ultimately our strike against them in Cuba as well as in Russia.

Then I remember the night in October of 1986, when I had the honor to introduce Ronald Reagan in Atlanta the night before he flew to Iceland to begin negotiations on nuclear treaties at that time. In one speech made today, it has been referenced that Reagan rejected what Gorbachev offered at Reykjavik. That is correct. Reagan rejected not doing research and development and building a nuclear arsenal. But what he did insist on was verification of what both countries were doing so we could never have a situation of not having transparency, not having

intelligence, and not knowing what the right and left hand were doing. It was out of that rejection and at his insistence that the beginning of the negotiations for the START treaty began. They were ultimately signed in 1991, under the administration of George H.W. Bush.

Until December 5 of last year, that START treaty had been in place. For those years, the United States had transparency. It had verification. It had cooperative communication back and forth between the two countries that controlled 90 percent of the nuclear weapons in the world. My history with this goes all the way back to climbing under a school desk, to introducing President Ronald Reagan, to 1 year serving on the Foreign Relations Committee of the Senate.

My decision to support the treaty coming out of the committee were based on four principles. The first is inspections. It has been said the inspections have been reduced. What has not been said is the number of sites to inspect have also been greatly reduced. The number of inspections correspond with what is necessary to inspect the Russian arsenal and know whether they are complying with the treaty. Inspections are very important. We learned on 9/11 what happens when we don't have human intelligence on the ground where we need it. What happens is we get surprised. What happened to us on 9/11 is almost 3,000 citizens died at the hands of a heinous attack by radical terrorists because we didn't have as good intelligence as we needed to have. That is why I don't want to turn my back on the opportunity to have human intelligence on the ground in the Russian Federation verifying that they are complying with a mutual pact we have made with them and, correspondingly, the transparency they have to inspect our nuclear arsenal in the United States.

The second point I wish to make that caused me to come to the conclusion it was the right thing to do to support the treaty in committee was the verification process. I have heard some people say this verification process is not as good as the old verification process. I am not going to get into that argument, but this verification process is a heck of a lot better than no verification process at all, which is exactly what we have today.

Since December 5 of last year, we haven't had the human intelligence. We couldn't verify. Verification is critically important because with verification comes communication. With communication comes understanding, and from that understanding and communication comes intelligence. While our inspections are to make sure the quantity of the nuclear arsenal and the warheads and the delivery systems are within compliance, it also gives us interaction to learn what others may

know about nuclear weapons around the world that are not covered by this treaty.

That brings me to one other point. It has been said by some that bilateral treaties are no longer useful in terms of nuclear power; we need multilateral treaties. I have to ask this question: If we reject the one bilateral treaty over nuclear power, how will we ever get to a multilateral treaty? We will not do it. I think it is important to have a bilateral treaty between the two countries that controls 90 percent of the weapons so we see to it, as other countries gain nuclear power, we can bring them into a regimen that requires transparency and accountability too. You will never be able to do that if you reject it between yourself and the Russian Federation.

Now, the third thing I want to talk about for a second—I mentioned Senator Nunn before. He served as Armed Services chairman, and so did John Warner, who is a distinguished retired Republican Member of this Senate. They released a joint statement not too long ago and raised a point I had not thought of. If you will beg my doing this, I will read on the floor of the Senate one of the points they made that was supportive of this treaty. I quote from Senator Nunn and Senator Warner:

... Washington and Moscow should expand use of existing Nuclear Risk Reduction Centers—which we—

Meaning Warner and Nunn—
and other members of Congress—

Meaning DICK LUGAR—
established with President Ronald Reagan to further reduce nuclear threats.

For example, to improve both nations' early warning capabilities, the centers could exchange data on global missile launchers. Other nations could be integrated into this system. It could provide the basis for a joint initiative involving Russia, the United States and the North Atlantic Treaty Organization on a missile defense architecture for Europe that would help address other key issues, like tactical nuclear weapons vulnerable to theft by terrorists. Indeed, when the centers were proposed, they were envisioned to help prevent catastrophic nuclear terrorism. These initiatives can go forward with a New START Treaty.

I thought that observation was very telling and looking prospectively into the future about, again, having the two nations—the Russian Federation and the United States—bring in other people, such as NATO, to be a part of a treaty and a missile defense system that is agreeable with all parties. The absence of negotiation, the absence of transparency, the absence of cooperation ensures that cannot happen.

My fourth point is this: The thing I fear the most as a citizen, the thing I fear the most as a Senator, and the thing I fear the most, quite frankly, as the father of three and grandfather of nine is a nuclear fissionable material getting into the hands of a radical ter-

rorist. That is the fear that all of us dread.

It is critical, when we look at what the Nunn-Lugar initiative has done in the destruction of loose nukes—7,599—what the original START treaty, the foundation it gave us, to begin to reduce nuclear weapon proliferation without reducing our ability to defend ourselves and to launch strikes that are necessary to protect the people of the United States of America.

But I worry about one of the radical terrorists getting hold of one of these materials, and I fear in the absence of transparency, verification, and inspection, we run the risk, unwittingly, of playing into their hands and making that type of a material more and more available.

What is known as the Lugar Doctrine is very important to understand at this stage of the debate. In doing my research on the treaty, and the work that DICK LUGAR and others have done on nonproliferation, I came upon what is known as the Lugar Doctrine. I would like to read it because it answers the question I just raised about a loose nuke getting into the hands of a rogue terrorist:

Every nation that has weapons and materials of mass destruction must account for what it has, spend its own money or obtain international technical and financial resources to safely secure what it has, and pledge that no other nation, cell, or cause will be allowed access or use.

That is as clearly and as succinctly as you can state the future fear that all of us have for this country and what might happen with nuclear weapons.

So in closing my remarks, I went through interviews with Sam Nunn, listened to the chairman and the ranking member, listened to the testimony, Ms. Gottemoeller, and all the others, read the documentation, which everybody else can read in the secure briefing room, and I came to the conclusion that verification is better than no verification at all; that inspections and transparency are what prohibit things like what happened on 9/11 from ever happening again, and that you can never expect multilateral negotiations with other countries that have some degree of nuclear power if the two greatest powers refuse to sit down and negotiate and extend the understanding they have had since 1991.

Only through setting the example, without giving in or capitulating a thing, do we hopefully give hope to the future that my grandchildren and yours can live in a world that will not be free of nukes but will be secure; that loose nukes are not in the hands of bad people; and we have transparency and accountability while still having the capability to defend ourselves and execute the security of the people of the United States of America.

It is for those reasons I supported the New START treaty in the committee,

and I submit it for the consideration of the Members of the Senate.

I yield back my time.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I rise to discuss the New START treaty. In the last 40 years, our country has participated in numerous arms control and nonproliferation efforts. They are a critical element of our national security strategy.

If done right, arms control agreements can enhance U.S. national security by promoting transparency and information—sharing that can inform us about the size, makeup, and operations of other military forces.

They also provide other countries with information about our force and capabilities, and that promotes a strategic balance and discourages an attack on the U.S. or its allies.

Transparency and information sharing enable our military planners to better prepare for a real threat. Without such agreements and understandings, our military and the military of countries like Russia must prepare for worst-case scenarios.

That leads to inefficient, runaway defense spending. If that sounds familiar, that is because we have been down that road before—it was called the arms race.

The U.S. and the former Soviet Union poured massive resources into building not only vast stockpiles of nuclear weapons, but also on the expansive systems needed to defend against incoming bombers and missiles.

Since the late 1960s, arms control agreements and other measures have worked to reduce nuclear forces and systems that support them.

I would note that former President Ronald Reagan, who accelerated nuclear modernization and launched the Star Wars missile defense effort, overcame his initial distaste for arms control agreements. Working with Soviet Premier Gorbachev, Reagan laid the foundation for today's START treaty.

In July 1991, Presidents Bush and Gorbachev signed the START I treaty and the Senate later approved it on an overwhelming and bipartisan vote of 93 to 6—a vote which concluded after 4 days of floor debate. Nebraska's Senators at the time, Jim Exon and Bob Kerrey both supported the START I treaty.

As we consider New START, it is our constitutional duty to address today's concerns and the treaty's merits.

Now I have heard five main concerns during debate.

They are: No. 1, treaty limitations on missile defense; No. 2, sufficiency of modernization plans for nuclear enterprise; No. 3, adequacy of treaty verification measures; No. 4, force structure changes resulting from treaty reductions; No. 5, and the timing of the Senate's deliberations of the treaty.

First, the New START treaty won't affect any current or planned U.S. missile defense efforts. Some point to language in the treaty's preamble and the inclusion of unilateral statements. But they are not legally binding. And changing the preamble would unravel the treaty.

The only binding restriction on missile defense systems arises in article V. It prevents conversion of ICBM silos into missile defense launchers. That has no practical effect because converting silos is more expensive and less desirable than building new silos.

Second, some have questioned the administration's commitment to modernize our nuclear facilities and forces. As the chairman of the Armed Services' Strategic Forces Subcommittee, I held three hearings this year addressing the health of our nuclear weapons complex.

I would note that the administration asked for \$7 billion in Fiscal Year 2011 for stockpile sustainment and infrastructure investments.

That is roughly 10 percent more than 2010 funding.

The administration also plans to invest \$80 billion in the next decade to sustain and modernize the nuclear weapons complex. That is the biggest commitment to the nuclear enterprise in more than a decade. On top of that, the administration recently offered an additional \$4 billion toward modernization goals.

Third, some argue that verification measures are less rigorous than for START I.

Its verification measures expired last December. So, as of today, we have gone 376 days without onsite monitoring and verification in Russia.

The less we are allowed to see for ourselves the more uncertainty we will feel about Russian forces.

New START includes verification measures allowing 18 onsite inspections annually. We determine where and when to go, with very little advance notice to the Russians.

As many of you know, this treaty counts every warhead and delivery system and tracks them with unique identifiers. That is a tremendous advancement in transparency over the previous system of attribution. And it certainly is better than no verification system, which exists at the present time.

Fourth, some express concern about the treaty's impact on the nuclear triad—our strategic bombers, missiles, and ballistic missile submarines.

In testimony and in direct conversations with me, our military leaders have assured that the New START retains the triad.

Proposed reductions by the Pentagon aim to spread across all systems and minimize impacts to any one system or base, thus retaining a safe, secure, and effective triad.

Finally, some indicate that considering New START now prevents the

Senate from spending adequate time to consider the treaty, or that we would be rushing judgment on the treaty.

New START was signed in April of this year, and the Senate has had it for consideration since May.

Together, the Foreign Relations, Intelligence, and Armed Services Committees have held 21 hearings and briefings related to the treaty. The truth is that the Senate has been actively deliberating New START for 7 months.

By comparison the 2002 Moscow Treaty took 9 months to complete and START I took a little more than a year. When it came to floor debate, the 1991 START I treaty required 4 days of debate, while START II, the Chemical Weapons Convention and the 2002 Moscow Treaty each took 2 days.

I am confident that the Senate has fulfilled its responsibility to fully consider and deliberate on New START, and our actions are entirely consistent with the past actions of this body in considering previous arms control agreements.

Those are concerns that have been raised. Now let's look now at the merits.

In recent months, I have spoken about this treaty with key military leaders including Secretary Gates, Admiral Mullen, General Cartwright, and General Chilton.

Each has expressed full support and participation in this treaty. They also fully support the proposed reductions to the nuclear arsenal and the continued sustainment of the nuclear triad.

In addition, Secretary Clinton and every living former Secretary of State—nine in total—have all publicly voiced their support. Five former Secretaries of Defense on both sides of the aisle have endorsed the treaty. Seven former Strategic Command commanders have endorsed the treaty. STRATCOM, headquartered in my State in Omaha, NE, in the Bellevue area, oversees America's strategic nuclear, nonnuclear and cyber defenses.

Also, it is important, I believe, that the U.S. Strategic Command actively played a key role in negotiating the treaty. With that experience, the former STRATCOM commander in chief General Chilton who is recently departed, said:

Our nation will be safer and more secure with this treaty than without it. What we negotiated to is absolutely acceptable to the United States Strategic Command for what we need to do to provide the deterrent for the country.

I wholeheartedly agree.

I am prepared to vote to ratify the New START Treaty because it promotes our national security and can make America and the world safer. It increases transparency between nuclear nations. It promotes cooperation and not suspicion. And it reduces the possibility of a nuclear exchange and

still enables America to respond to the terrible threats that continue in the nuclear age.

I would like to elaborate.

America will be stronger if we can continue to look under Russia's hood, and they under ours. Trust but verify still works.

This treaty will help U.S. Strategic Command accomplish its absolutely vital mission for our Nation.

Further, as the chairman of the U.S. Senate—Russia Interparliamentary Group, I have held many meetings with my Russian counterparts about this treaty. It is a step in the right direction to encourage further cooperation between the U.S. and Russia. As we work toward cooperation, the treaty reestablishes verification measures and increases transparency considerably.

That will reduce uncertainty about Russian forces, and increase their predictability. Without this treaty, our understanding of Russian nuclear forces will continue to deteriorate.

We would have a tendency for U.S. forces to overcompensate for what we don't know.

That is a losing strategy in an era of large budget deficits and needed fiscal constraint. Entering into this treaty demonstrates our commitment to modernizing the nuclear stockpile by making the most of what we have to spend and to keep our country safe.

The New START treaty offers the possibility of providing our military with insights needed to efficiently and successfully provide a safe, reliable, and secure nuclear deterrent.

At the end of the day, the New START treaty builds on successes from previous treaties, and paves the way for further bilateral agreements between the United States and Russia.

It moves us further away from a nuclear war no one wants. Even as it does, we will retain a powerful and effective deterrent capability.

And finally, ratification also will send a strong message to those around the world opposed to proliferation and those seeking to proliferate.

For these reasons, I support the New START treaty and I believe the Senate should ratify it as soon as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I would like to speak briefly on the New START treaty and state the reasons I believe the Senate should go ahead and ratify this treaty.

Let me highlight some key points on, first, what the treaty accomplishes. Let me mention four things.

No. 1, it reduces the number of deployed nuclear warheads by a relatively small number; that is, it takes us from 2,200, which is what we were required to reduce to under the Moscow Treaty, down to 1,550.

Second, its counting regime is not based on attributing a number of warheads to a launch system but, instead,

like the 2002 Moscow Treaty, this treaty actually requires the counting of deployed warheads.

Third, this treaty reestablishes a verification regime of inspectors on the ground. This is something which lapsed a year ago when START I lapsed.

Fourth, this treaty still maintains a credible nuclear deterrent against Russia, against China, against anyone who might threaten our country.

Before discussing some of these points in detail, let me put the New START treaty in some historical perspective, at least as I see it.

As this chart graphically demonstrates, at the peak of the Cold War some 30 years ago there were about 60,000 nuclear warheads. That is clearly an astounding number given that a single warhead would destroy most major American cities and most major cities anywhere in the world.

From 1991, when the first START treaty was signed, until 2002 when the Moscow Treaty was signed, the number of warheads declined dramatically from about 50,000 to a little over 20,000, or about 10,000 for the United States and 10,000 for Russia. This includes spare and deployed warheads not just those that were deployed. The Moscow Treaty took this count further down and allowed 2,200 to 1,700 deployed warheads. Additional spares of about 3,300 were included, and the number rises to somewhere between 5,500 and down to 5,000 warheads for each nation. If the New START treaty is ratified as shown on this chart, down here where this arrow is in the right-hand bottom corner, in 2010, it will take the number of deployed warheads to 1,550 from the Moscow lower limit of 1,700 that was in the Moscow Treaty. That is a very modest reduction compared to what has been done in previous arms control agreements.

After the Cold War ended 20 years ago, it was clear we had an astounding and excessive number of nuclear weapons. I believe it was the hope and the expectation of most Americans that there would be deep reductions in nuclear weapons at that time. That reduction, in my view, has been slow in coming. Our government has declassified the number of nuclear warheads we have in our active stockpile, and that number is 5,113. If asked directly, I believe most Americans would be surprised to know at the end of 2010 we still have over 5,000 nuclear warheads, and we have 2,200 that are deployed.

Today we have a treaty before us that achieves a modest reduction from the Moscow level of 2,200 deployed warheads. As I indicated before, this treaty will take us down to 1,550. Quite frankly, I am surprised some are arguing for having a drawn-out debate over the treaty. START I took about 4 days of floor debate and lowered the number of warheads between Russia and the United States from about 50,000 to

20,000, a 60-percent reduction. The Moscow Treaty lowered the total number of U.S. warheads from about 11,000 to today's level of about 5,000. That took 2 days to debate. That involved a 55-percent reduction. Yet with a relatively modest reduction called for in this treaty, we still have people proposing a floor debate that could extend into the next Congress.

Let me turn to a number of substantive issues associated with the New START treaty that I believe weigh in favor of its ratification by the Senate. First, we have been briefed by the military commanders about the 1,550 deployed warheads that will still be in place once this treaty is approved. This total is comprised of about 700 deployed ICBMs and SLBMs and about 800 total heavy bombers and launchers.

I urge my colleagues to obtain the classified briefing on the treaty. I believe it is clear the commander of the U.S. Strategic Command has analyzed in detail the strategic nuclear force structure of each side under this treaty and is confident we can maintain our deterrence against Russia and China, who hold 96 percent of the world's strategic nuclear warheads.

The resolution of approval as reported by the Senate Foreign Relations Committee speaks to this issue, noting in condition 3 that before any reductions in deployed warheads are made below the current Moscow Treaty level, the President must notify Congress that such reductions are in the "national security interests of the United States."

The second point is that the intelligence community has judged that we are better off with this treaty and its inspection regime than we are without it. Monitoring and verification under START I, which has now expired, was based on counting strategic launch systems and then attributing a number of warheads to each submarine, each airplane, each missile. This counting rule overestimated the number of warheads carried on U.S. strategic systems. The New START treaty is much more specific than START I. It counts only the actual number of warheads carried by each deployed missile. In fact, this is the same counting rule as in the Moscow Treaty which was developed by the prior administration and subsequently approved in the Senate 95 to 0.

Moreover, under this treaty we have the ability to inspect on the ground, with short notice, to determine whether uniquely coded launchers actually carry the declared numbers of warheads. Contrary to what some have claimed, short notice inspections of uniquely identified launchers combined with other intelligence assets give us a high probability of detecting cheating such as uploading more warheads, which would take days to months for Russia to achieve.

Condition 2 of the resolution of approval out of the committee speaks to

the monitoring issue by requiring the President to certify that our National Technical Means or other intelligence assets, combined with our on-the-ground verification capability, is "sufficient to effective monitoring of Russian compliance with the provisions of the Treaty."

Third, there is a larger policy issue of strategic stability. This treaty provides a framework of transparency through inspections and accountability of warheads and launchers. If we are worried about unchecked growth of Russia's strategic nuclear forces, not now but 5 years from now, it makes great sense to approve this treaty.

Many have criticized the treaty because it does not deal with Russia's numerical advantage and tactical nuclear weapons, such as gravity bombs or submarine launched cruise missiles. I would point out that none of the previous nuclear arms control treaties have dealt with tactical nuclear weapons. While I agree we should have discussions with Russia on tactical nuclear weapons, we need this treaty to restart the process of negotiations if we are ever going to achieve the goal of reducing tactical nuclear weapons.

This treaty lays the groundwork for a subsequent negotiation to address tactical nuclear weapons, many of which are deployed close to our NATO allies. If we cannot demonstrate we have the ability to enter into binding obligations on strategic nuclear forces, which are the most easily verifiable, how can we advance to the next step with Russia on reducing their tactical nuclear weapons, which number in the thousands and which are the most easily concealed of the weapons?

The fourth point: Let me turn to the issue of modernization of our own nuclear arsenal. Despite our unsustainable budget deficit—and I notice the Senator from Alabama is on the Senate floor today. He and I both voted against the tax bill. I don't know all of his reasons. One of mine was the unsustainable deficits faced by this country today. But despite these unsustainable budget deficits, this administration is committing an additional \$14 billion over the next 10 years for a total of \$84 billion to modernize our nuclear weapons enterprise to ensure that as we draw that nuclear arsenal down, reduce the numbers in the nuclear arsenal under New START, we will be capable of maintaining those weapons we do rely upon.

Now, this chart shows the 10-year projection for weapons stockpile and infrastructure funding, and my colleagues can see there is a very substantial commitment of funds by this administration to maintain the reliability of our stockpile.

The fifth point I wish to make is that concerns have been raised regarding the nonbinding Russian unilateral missile defense statement. This is separate

from the binding provisions of the treaty. This is a nonbinding statement that Russia made that considers the treaty effective only where there is, as they put it, “no qualitative or quantitative buildup of the missile defense capabilities of the United States of America.”

In testimony before the Armed Services Committee, Secretary of State Clinton stated unequivocally the treaty does not constrain our missile defense efforts. Secretary Clinton went on to say:

Russia has issued a unilateral statement expressing its view. But we have not agreed to this view and we are not bound by it. In fact, we have issued our own statement making it clear that the United States intends to continue improving and deploying effective missile defense.

In the same hearing, Secretary of Defense Gates said:

The treaty will not constrain the United States from deploying the most effective missile defense possible, nor impose additional costs or barriers on those defenses.

Secretary Gates then goes on to say in that hearing:

As the administration’s Ballistic Missile Defense Review and budget makes clear, the United States will continue to improve our capability to defend ourselves, our deployed forces and our allies and partners against ballistic missile threats.

From a historical perspective I would note that similar unilateral statements on missile defense were made by Russia in connection with START I and in connection with START II, both of which treaties were approved by the Congress.

Consistent with the statements by Secretaries Clinton and Gates, the Senate Foreign Relations Committee’s resolution of approval contains an understanding included in the instrument of ratification that “it is the understanding that the New START Treaty does not impose any limitations on the deployment of missile defenses other than the requirement of paragraph 3, article V.”

That section of the treaty prohibits the use of existing ICBM and SLBM launchers for missile defense or the conversion of missile defense launchers for ICBMs except for those that have been converted before the treaty was signed.

On the question of whether we should vote on ratification in this Congress or leave this to the next Congress to consider, some Senators claim that we simply need more time and that other treaties have laid before the Congress for much longer periods. This is simply not the case. Arms control treaties since the ABM Treaty in 1972 were either taken up, debated and ratified within the same Congress or, in the cases of START II, the Moscow Treaty and the Chemical Weapons Treaty were taken up, debated and approved within the Congress from which the Foreign Relations Committee reported a resolution of approval. This historical

precedent on the ratification of arms control treaties runs counter to what some of my colleagues are advocating. It is this congressional session of the Senate that received the treaty, held 21 hearings and briefings and submitted over 900 questions as part of the advise and consent process and it should be this congressional session of the Senate that should finish the job.

Let me conclude with where I started on the New START treaty, it is a relatively modest treaty in terms of reducing the number of nuclear warheads. Our military commanders have analyzed the force structure under the treaty and have concluded it maintains our nuclear deterrent and that it provides on the ground intelligence through verification that the intelligence community believes we are better off with than without. Finally, it is clear that it does not impede our missile defense programs.

In my opinion there is no credible argument that the ratification of this treaty undermines our national security. I urge my colleagues to vote for the ratification of the New START treaty. I thank the chair and yield back any remaining time.

The PRESIDING OFFICER (Mr. COONS). The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, as we begin consideration of the New START treaty, we must understand that the proposal is not made in a vacuum. In one sense, it is an important part of our Nation’s strategic policy. I have served as chairman, ranking member, and a member of the Subcommittee on Strategic Forces, subcommittee of the Armed Services Committee, for 12 years in the Senate. Thus, on these matters of nuclear policy and missile defense that have been before us so many times, I have had a front-row seat on it.

Our President, whose work and proposals absolutely deserve fair and just consideration in the Senate, after appropriate debate, has stated that this treaty is a critical part of his approach to strategic issues, repeatedly insisting that it is needed so the United States can set an example and show leadership in moving toward what he has often stated to be his goal—a nuclear-free world.

This treaty now comes at a time when our Nation is the world’s only nuclear power. We are the only nuclear power to have no nuclear production facility ongoing at this time. It will have to be reconstituted. That has been a sore spot in this Congress for quite a number of years, but it has not happened.

For over a decade, the Senate’s efforts to modernize our aging weapons stockpiles—which our scientists have told us are getting to a point where they have to be fixed—have been blocked by House Democrats, mostly,

and some Republicans there. We have gotten bills out of the Senate to do this, but they have failed in the House. It has been an article of faith on the left in America and abroad on the international left that our goal must be to eliminate all nuclear weapons from the world. President Obama and his administration have often used that rhetoric. But our modernization capability hasn’t been started, and that is a troubling situation. As Secretary Gates has said about modernization, we cannot continue at this rate.

In 2008, I sponsored legislation to create a bipartisan commission of experienced statesmen to do a study of our nuclear posture. The legislation passed and the Commission on the Strategic Posture of the United States did its work. It was headed by Dr. William J. Perry and James R. Schlesinger, a former Defense Secretary of this country—a Democrat and Republican. They reached a consensus on a number of key issues. They concluded that we could reduce our nuclear stockpile more than the current number, but that “modernization is essential to the nonproliferation benefits derived from the extended deterrent.” So they said it was essential to have a modernization program.

I know a lot of the discussion has been ongoing about that. I do believe Senator KYL has done an excellent job in raising this issue, and the administration responded positively in some regards. The Commission also, nicely, in diplomatic language, deflected the administration’s goal of zero nuclear weapons by saying:

It’s clear that the goal of zero nuclear weapons is extremely difficult to attain and would require a fundamental transformation of the world political order.

I think that is about as close as you come from a bipartisan commission expressing serious concerns about this policy. Meanwhile, China, Russia, Pakistan, and India continue to expand their stockpile, while rogue, outlaw nations, such as North Korea and Iran, posing great risk to world peace, advance their nuclear weapons programs.

We will need to talk about this more as this debate goes forward. It is quite clear that the greatest threat to world peace and nuclear danger arises from the rogue nations and other nations that have less secure situations than the Russians do. While it could be very beneficial to have a good treaty with the Russians, this is not the core of the danger this Nation faces today.

We have had very little work, very little success, in getting the kind of robust support from Russia and China that we should have regarding North Korea and Iran. It is inexplicable to me why they would jeopardize their reputation as a positive force in the world to curry favor with rogue nations such as Iran and North Korea. But this administration has been unsuccessful in

gaining the kind of support to ratchet up the sanctions to get those countries that could perhaps make a difference.

The Russians are steadfast in their nuclear program. They have absolutely no intention of going to zero nuclear weapons. I had an opportunity to talk to some of their people, and it is pretty clear to me they thought it was outside the realm of good judgment to discuss going to zero nuclear weapons. They were never going to zero nuclear weapons. They have a 10-to-1 advantage over the United States in tactical nuclear weapons—more maneuverable—and this treaty does absolutely nothing to deal with that situation. The Russians may make some changes in the future, perhaps, but I don't think they are going to do much on tactical nuclear weapons. It is a critical part of their defense strategy.

We understand Russia is willing and has plans at this time to reduce their strategic nuclear stockpile, which is what this treaty deals with, not the tactical weapons, and that is because it represents a necessary economic move for them. Frankly, I don't think they see the United States or Europe as the kind of strategic threat they used to be, and they are willing to pull down those numbers. It is a good thing, and we should celebrate what gains we can obtain.

Some close observers believe this treaty curtails the U.S. programs, such as missile defense, while not curtailing certain Russian modernization programs of the systems they want to advance. In short, the Russians seem to have negotiated more effectively than the United States in this treaty. That is my observation. We wanted it too desperately. I warned our negotiators that they were too committed, too desperate to get this treaty. It would make more difficult the negotiation also with the Russians. I think that has proven to be true.

Let me be plain about my overall concern. First, the idea that it should be the goal of this country to move toward the total elimination of nuclear weapons is not just a fantasy, a wild chimera or some harmless vision; I think it is dangerous. It can only raise questions about the quality of the judgment that underlies our strategic policy.

The question arises, is the fierce determination of this administration to get a treaty a part of their stated goal of moving to zero nuclear weapons and setting "an example" for the world? Is the United States of America, under whose nuclear umbrella resides a host of free and prosperous nations, no longer reliable as a nuclear power? We know many other nations that are part of our nuclear umbrella are worried about our nuclear policy. I can understand that. How far, how low does this world leadership role take us? How few weapons should we go to? Down further

from 1,500, as this treaty would have it—and that might be a sustainable number—to 1,000 or 500? Well, not 500, somebody would say. But I note that Mr. Jim Hoagland, writing in the *Washington Post* on December 10, declared that the treaty fails, in his view, because the numbers are not low enough. He says that "500 or fewer" would be sufficient.

Well, will this example of reducing our weapons cause other nations to follow our good example? I think not. If Iran and North Korea risk their security and their financial soundness on building a nuclear arsenal today, will our example cause them to stop? I think not. Rather, I must conclude it will embolden them. As our weapon numbers fall lower and lower, these rogue nations can begin to see clearly their way to being a peer nuclear competitor of what is now the world's greatest military power. Why would we want to encourage them in that fashion? I think it is a risky goal.

Thus, to the extent that the treaty is an effort to advance the stated goals of this administration—a nuclear-free world—the treaty will be counterproductive and dangerous, I think. If that is what it is about, it is counterproductive, and it will enhance and encourage other nations to have nuclear weapons, and any country that has advanced under our nuclear umbrella who does not now have nuclear weapons may decide they have to have their own, further proliferating nuclear weapons.

At the Halifax International Security Forum a few weeks ago, supported by the German Marshall Fund, Under Secretary of Defense for Policy Michele Flournoy repeated the administration's goal of zero nuclear weapons, and further stated, "It is a vision. It's an aspiration." She acknowledged, "It may not happen in our lifetimes." I can tell you it is not happening in our lifetimes, with a high degree of certainty.

The name of the panel, by the way, had a little bit of an irony to it. It was "A World Without Nukes, Really?" Good question. So some of my Democratic colleagues may say these statements about "no nukes" or, you know, they are just rhetoric, you have to say those things to keep the President's political left in line. The President is not really serious about it. It is not a real goal of his.

Well, I do not know. America leaders usually mean what they say. He has not renounced the policy. Secretary Flournoy was repeating it a few weeks ago at an international conference. I've got to say, a lot of people were not too impressed with that policy, frankly, from our allies around the world.

Even if the President is not telling us accurately what his philosophy is, these words do not mean anything. He is throwing out astonishing visions about what he would like to happen,

the lamb lying down with the lion. What else is he not serious about as we consider this treaty? If one is not accurate about matters as significant as nuclear weapons, we have a grave problem of leadership in this country. Does it mean the President favors modernization of our stockpile? He says so. But, in essence, he has conditioned that support on passing of the treaty when we need to modernize the stockpile whether or not we have a treaty.

Does this give me confidence that the President is clearheaded about our nuclear policy when the Secretary of Defense and former Secretary of Defense and the laboratory directors and the top military people have, without exception, said we need to modernize our nuclear forces, and he is only going to support it if this Congress ratifies the treaty? I do not feel good about that. A lot of people have opposed modernization. They think modernization is a step toward more nuclear weapons, in their mind, and we ought to eliminate nuclear weapons, not have more.

That is, frankly, where the President's political ancestry is. That is where he came from politically. So forgive me if I am not real comfortable about this. Does the President mean it when he says he has not compromised and will not compromise our ability to deploy strategic missile defense systems in Europe?

There is a rub here. Some in this relativistic, postmodern world may not have the slightest concerns that our Commander in Chief's words are ambiguous on matters such as this. They do not believe much in the authority of words anyway. But call me old fashioned. I think words are important. These words that I am hearing worry me. So these views that are fantastical place a cloud of unreality over this entire process.

Secondly, I am not persuaded that this administration has not retreated on nuclear missile defense to a significant degree. I am not persuaded that that has not occurred. For example, the latest WikiLeaks reveal that the administration negotiated away President Bush's plan for a forward missile defense site in Poland in exchange for the Russian cooperation. The *New York Times* summarized these cables on November 29:

Throughout 2009, the cables show, the Russians vehemently objected to American plans for a ballistic missile defense site in Poland and the Czech Republic. . . . In talks with the United States, the Russians insisted that there would be no cooperation on other issues until the European site was scrapped. . . . Six weeks later, Mr. Obama gave the Russians what they wanted: he abruptly replaced the European site with a ship-borne system.

So it makes me a bit nervous. We had a plan to place that in Europe, a two-stage system instead of the three stage we have in the United States, to give us redundant coverage from Iranian attack, and the Russians did not like it.

They did not want a missile defense system on their border, even though, at best, it would have only minimal support against a massive number of missiles that they have. We were only going to put 10, I think, in Poland. But they objected. They objected. The Bush administration stood firm. They got the last treaty by standing firm. Indeed, former Secretary of Defense for Policy Doug Feith wrote an article in one of the major newspapers, an op-ed, I think the Wall Street Journal, saying that they said no, and eventually the Russians agreed to sign.

He raised an important issue. I want to share this with my colleagues whom I know believe so deeply we have to have this treaty or all kinds of bad things will happen. Mr. Feith told the Russians: We do not have to have a treaty with you. We do not have a treaty with other nations that have nuclear weapons. If it is not a good treaty, we are not going to agree to it.

Eventually the Russians agreed. He said the very same insistences, the positions they asserted at that time against the Bush administration that they rejected were demands acquiesced in by this administration in this treaty.

So forgive me if I am a bit dubious about how wonderful this treaty is. I asked the State Department about those cables, and we have not heard any information on them. So there are many more things we need to talk about with regard to the treaty and the overall strategic situation we find ourselves in.

Are we making the world safer? I am worried that we are not. I am worried that this approach may not make us safer. I am well aware that some of our best allies are worried now about the constancy of the United States, the commitment of the United States to a defense, even if, God forbid, nuclear defense of our world allies, that we will not follow through, and so they may have to have their own nuclear weapons.

I know there is a good bit more to discuss in this debate. I encourage this body to be deliberative in its consideration of the treaty. I am not happy that it is being shoved at this point in time. I was so hopeful and expectant that we would be able to give a firm date to start the debate early next year, and we could have a robust debate, not only about the treaty but how it fits into our overall nuclear strategic posture, what are we going to do about missile defense, what are we going to do about updating our stockpile, and what about our triad and delivery systems, what are we going to do about those. Now it is being jammed in here. I understand why. They have got more votes they think now, and the likelihood of it passing is greater now. I think it has a realistic chance of passing next year.

But, more significantly, I think the administration wishes to avoid a full debate about the strategic nuclear policy of the United States. If that is successful, then I think the American people will be the losers, as will the security of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I wanted to ask the Senator before he leaves, it is now 1:30 in the afternoon, and we have yet to have one amendment presented to us. I recognize there is a value to having some of these comments help frame it, but it also can be done in the context of a specific amendment.

I would ask the Senator if he has an amendment he is prepared to offer that could help us move forward?

Mr. SESSIONS. Well, it is difficult to amend a treaty, as the Senator knows, once it has been signed. There are things that can be done. I think, first and foremost, we need to ask ourselves, is this a good thing for the country? Will it advance our interests? I believe we need a pretty big discussion about that and where we stand.

I know Senator KERRY has been supportive of modernization—I believe you have—at least as this treaty has moved forward, if not in the past. And we need to do that. But I am a bit uneasy that the President is basically saying, if you do not pass my treaty, we are not going to modernize, when I think modernization is critical to the security of our country. I also want to know how it fits into our overall strategic policy.

So that is kind of my biggest concern, I say to Senator KERRY. I do not know that the numbers that the treaty takes us to, the reduced numbers themselves are dangerous. Some people say they think it is a bit dangerous, but most experts do not think so. I am not inclined to oppose a treaty on whether it is 1,550 or 1,700 or 1,800. But I think if it is part of a trend to take our numbers down further—perhaps you saw Mr. Hogan's article saying it ought to be 500 or lower. That would make me very concerned and I think would cause serious ramifications internationally. Would you agree? If this treaty would be, say, for 500, it would definitely create some concern and angst around the world?

Mr. KERRY. Well, let me say to my friend—and I appreciate his desire to try to be thoughtful about what the numbers are and about the treaty as a whole. I appreciate that. A couple of comments I want to make. No. 1, the administration is not linking modernization to the treaty. I think it is clear now to Senator KYL. I read a letter before the Senator started speaking from the directors of the three laboratories expressing their satisfaction and gratitude with the levels of funding that have been put in there.

I acknowledge that Senator KYL was correct in finding some inadequacies in

the original funding levels, and the administration, in good faith, has made up for those. What happened over in the House, happened over in the House. It was not instigated by the administration. In fact, the administration has countered that and made it clear that modernization is necessary as a matter of modernizing, in order to keep our arsenal viable.

The second point I wish to make to the Senator, I hope the Senator does not vote against this treaty because he thinks somehow this is a step to some irresponsible slippery slide that takes us to “zero” nuclear weapons without all of the other things that very intelligent, thoughtful statesmen have talked about in the context of less nuclear weapons.

But I should point out to the Senator, Dr. Henry Kissinger, who is an advocate for this concept, not as something we are going to do tomorrow or in the next, you know, 10 years perhaps, 20 years, 30 years, but as an organizing principle, as a way of beginning to think differently about how we resolve conflicts—because whatever you do that moves you toward a world of less nuclear weapons, because we have to get 67 votes here, clearly would build the kind of consensus that says we are doing things that make us safer. So it would have to be accompanied by the other country's transparency, by other countries taking part.

It would also, I would say to the Senator, almost necessarily have to be accompanied by something that today is way out of reach, which is a kind of restraint on conventional weapon growth and involvement and the way in which we try to resolve conflicts between countries.

It is no accident that George Shultz, Bill Perry, and Sam Nunn, as well as both of the 2008 Presidential nominees, Senator MCCAIN and President Obama, have all agreed this is a principle worth trying to move toward. One thing is for certain: The road to a reduced number of nuclear weapons in the world, which would reduce the amount of fissionable material potentially available to terrorists, certainly doesn't pass through a nuclear Tehran. So if we are going to have our bona fides to be able to leverage North Korea and Iran, we need to at least prove we can put together a bilateral agreement between the two countries that have 90 percent of the world's nuclear weapons.

I would hope my colleague would not view this—given all of the signoffs that have accompanied it, from our national security establishment, from the Joint Chiefs of Staff, from military leaders, from the national intelligence community, from our laboratory directors, our strategic commanders—all of them have agreed 1,550, the current number of launchers we have, the 800—this is going to permit the United States to

maintain the advantages we feel we have today.

I hope my colleague would look hard at sort of how Henry Kissinger and George Shultz and Bill Perry have framed this concept of moving in that direction as an organizing principle. I don't expect it in my lifetime. I doubt the Senator does. But I wouldn't vote against this treaty that provides a window into what the Russians are doing, provides verification, reduces the threat, and creates stability. I wouldn't link the two, and I would hope the Senator would not.

I see the Senator from Arizona has arrived.

Mr. SESSIONS. May I ask, I believe earlier today the Senator made the point:

Make no mistake, we are not going to amend the treaty itself. We are willing to accept resolutions that don't kill the treaty.

I think I understand that. But I do assert that, as we both know, amending a treaty is not something that is easily done. So we have to deal with whether we think the treaty is helpful. We can do some things through the amendment process to make it more palatable and acceptable to people who have concerns. I do not dispute that. But I do believe that, fundamentally, this day ought to be about discussing the overall strategic impact of the treaty.

I thank the Senator from Massachusetts.

Mr. KERRY. I thank the Senator. We have incorporated into the resolution of ratification some 13 different declarations, understandings, and conditions. We certainly would welcome more if they are constructive and are not duplicitious. We have already addressed the missile defense issue, the rail-mobile issue, the verification issue. All of those have been addressed. But I welcome and look forward to working with the Senator in the next days to see if we can do that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, we are discussing the New START treaty at this time. I look forward to continued debate and discussion on this vital and important national security issue. I wish to, however, remind colleagues that, as with any other issue that relates to this treaty and the Russians, it can't be totally considered in a vacuum. Events that have transpired in the last several years in Russia should bring great concern and pause to all of us.

I will speak about the situation in Russia today and specifically the con-

tinued imprisonment of Mikhail Khodorkovsky and his associate, Platon Lebedev, and the imminent verdict by a Russian judge to likely extend that imprisonment which was delayed from yesterday to December 27. If we needed any more reason to know what verdict is coming, this is it.

The Russian Government seems to be trying to bury some inconvenient news by issuing it 2 days after Christmas and after this body will probably be finished debating the possible ratification of a treaty with the Russian Federation. Some may see this as evidence that the Russian Government is accommodating U.S. interests and desires. I would be more inclined to believe that if these prisoners were set free. Until that time, I will continue to believe that when Prime Minister Putin says Khodorkovsky should sit in jail, as he said yesterday, that this is exactly the verdict the Russian court will deliver.

The fact is, the political fix has been in for years on this case. Mr. Khodorkovsky built one of the most successful companies in post-Soviet Russia. And while I am under no illusions that some of these gains may have been ill-gotten, the subsequent crimes committed against him by the Russian State have exceeded the boundaries of human decency, equal and lawful justice, and the God-given rights of man.

I ask unanimous consent to have printed in the RECORD an article in Yahoo from yesterday that says "Russia's Putin: Khodorkovsky 'should sit in jail'." That is what the Prime Minister of Russia said about an ongoing judicial situation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Yahoo! News]

RUSSIA'S PUTIN: KHODORKOVSKY 'SHOULD SIT IN JAIL'

(By Lynn Berry, Associated Press)

MOSCOW.—Russian Prime Minister Vladimir Putin declared Thursday that former oil tycoon Mikhail Khodorkovsky is a proven criminal and "should sit in jail," a statement denounced as interference in the trial of a Kremlin foe whose case has come to symbolize the excesses of Putin's rule.

Putin's judgment gave ammunition to government opponents who claim Khodorkovsky is being persecuted by Putin and his allies.

Khodorkovsky is serving an eight-year sentence after being convicted of tax fraud and is awaiting a verdict in a second trial on charges of stealing oil from his own oil company that could keep him in prison for many more years.

Putin was in his first term as president when Khodorkovsky, then Russia's richest man, was arrested in 2003 after funding opposition parties in parliament and challenging Kremlin policies.

Khodorkovsky's lawyers and supporters said Putin's comments during his annual televised call-in show would put undue pressure on the judge as he deliberates and exposed Putin's role as a driving force behind the seven-year legal onslaught.

One of his lawyers, Karinna Moskalenko, said Putin's statements indicate that the judge will find Khodorkovsky guilty.

In addition to saying Khodorkovsky was guilty of economic crimes, Putin once again suggested the former oligarch had ordered the killings of people who stood in his way as he turned Yukos into Russia's largest oil company. Khodorkovsky, whose oil company was taken over by the state, has not been charged with any violent crime.

Putin reminded television viewers that the former Yukos security chief was convicted of involvement in several killings.

"What? Did the security service chief commit all these crimes on his own, at his own discretion?" he said.

Putin said Khodorkovsky's present punishment was "more liberal" than the 150-year prison sentence handed down in the U.S. to disgraced financier Bernard Madoff, who cheated thousands of investors with losses estimated at around \$20 billion.

"Everything looks much more liberal here," Putin said. "Nevertheless, we should presume that Mr. Khodorkovsky's crimes have been proven."

Speaking to reporters afterward, Putin said he had been referring to the conviction in the first case, a distinction he did not make during the televised show.

He insisted the second case would be considered objectively by the court, but said it involved even higher monetary damages than the first case, implying no leniency should be shown.

"I believe that a thief should sit in jail," Putin said.

With more than a touch of sarcasm, Khodorkovsky's lead lawyer, Vadim Klyuvgant, thanked Putin for speaking his mind "because it directly and clearly answers the question of who, with what aims and with what power is putting pressure on the court as the judge is deliberating."

Judge Viktor Danilkin is scheduled to begin reading the verdict on Dec. 27.

If convicted, Khodorkovsky and his partner Platon Lebedev face prison sentences of up to 14 years, which could keep them in prison until at least 2017.

Putin has not ruled out a return to the presidency in 2012, and critics suspect him of wanting to keep Khodorkovsky incarcerated until after the election.

The case has been seen as a test for President Dmitry Medvedev, who has promised to establish independent courts and strengthen the rule of law in Russia.

Mr. MCCAIN. Quoting:

I believe that a thief should sit in jail.

With more than a touch of sarcasm, Khodorkovsky's lead lawyer, Vadim Klyuvgant, thanked Putin for speaking his mind "because it directly and clearly answers the question of who, with what aims and with what powers is putting pressure on the court as the judge is deliberating."

In 2003, when Mr. Khodorkovsky became increasingly outspoken about the Russian Government's abuses of power, its growing authoritarianism, corruption, and disregard for the law, he was arbitrarily arrested and detained under political charges. His company was stolen from him by authorities, and he was thrown in prison through a process that fell far short of the universal standards of due process. Mr. Khodorkovsky was held in those conditions for 7 years, and when his sentence was drawing to a close, new charges

were brought against him which were then even more blatantly political than the previous ones.

Mr. Khodorkovsky, along with Mr. Lebedev, was charged with stealing all of the oil of the company that had been so egregiously stolen from them. The trial has now concluded. So what will happen next? It seems rather clear. After spending 7 years in prison, Mr. Khodorkovsky will likely face many more, which I fear is tantamount to a death sentence.

This case is a travesty of justice for one man, but it is also a revealing commentary on the nature of the Russian Government today.

Yesterday, the Senate voted to take up the New START treaty. To be sure, this treaty should be considered on its merits to our national security. But it is only reasonable to ask—and I ask my colleagues this question—if Russian officials demonstrate such a blatant disregard for the rights and legal obligations owed to one of their own citizens, how will they treat us and the legal obligations, be it this treaty or any other, they owe to us?

What is worse, the sad case of Mikhail Khodorkovsky now looks like one of more modest offenses of corrupt officials ruling Russia today.

I would like to quote from a recent article in the Economist dated December 9, 2010, entitled “Frost at the core,” which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Economist, Dec. 9, 2010]

FROST AT THE CORE

DMITRY MEDVEDEV AND VLADIMIR PUTIN ARE PRESIDING OVER A SYSTEM THAT CAN NO LONGER CHANGE

On December 15th, in a small courtroom in central Moscow, Viktor Danilkin, a softly spoken judge, is due to start delivering a verdict. Its symbolism will go far beyond the fate of the two defendants, Mikhail Khodorkovsky and Platon Lebedev, former principal shareholders in the Yukos oil company. Both men have been in jail since 2003 on charges of tax evasion. Their sentences expire next year. In order to keep them in prison, the government has absurdly charged them with stealing all the company's oil.

Neither the first nor the second trial had much to do with the rule of law. But there the similarity ends. In 2003 Mr. Khodorkovsky personified the injustice and inequality of the 1990s, when tycoons wielded enormous power over a state that could not even pay pensions and salaries on time. Seven years on, Mr. Khodorkovsky is a symbol of the injustices perpetrated by corrupt bureaucrats and members of the security services, who epitomise the nexus between power and wealth. As Mr. Khodorkovsky said in his final statement, “They turned, us, ordinary people, into symbols of a struggle against lawlessness. This is not our achievement. It is theirs.”

The chances that Mr. Khodorkovsky will be found not guilty are slim. If he were, it would be a sign that the system of Vladimir Putin, Russia's former president and current

prime minister, was beginning to come apart. That system, which tolerates corruption and violence, has just received the endorsement of FIFA, which has awarded Russia the prize of hosting the 2018 football World Cup. But its evolution had much to do with Mr. Khodorkovsky's story.

In the 1990s, when businessmen bribed the courts, both parties knew they were in the wrong. After Mr. Khodorkovsky's case, a judge taking instructions from a bureaucrat felt he was in the right. The Russian state not only flagrantly flouted the law for its own interests, but also sent a powerful signal to its bureaucracy that this practice was now okay.

According to Alexander Oslon, a sociologist who heads the Public Opinion Foundation in Moscow, Mr. Putin's rule ushered in a breed of “bureaucrat-entrepreneurs”. They are not as sharp, competitive or successful as the oligarchs of the 1990s, but they are just as possessed by “the spirit of money” in Mr. Olson's phrase, the ideology that has ruled Russia ever since communism collapsed. By the end of the 1990s the commanding heights of the economy had been largely privatised by the oligarchs, so the bureaucrat-entrepreneurs began to privatise an asset which was under-capitalised and weak: the Russian state.

Unlike businessmen of Mr. Khodorkovsky's type, who made their first money in the market, the bureaucrat-entrepreneurs have prospered by dividing up budget revenues and by racketeering. “Entrepreneurs” who hire or work for the security services or the police have done especially well, because they have the ultimate competitive advantage: a licence for violence.

No one worries about conflicts of interest; the notion does not exist. (Everyone remembers the special privileges given to party officials for serving the Soviet state.) As American diplomats are now revealed to have said, the line between most important businesses and government officials runs from blurry to non-existent. Putting Mr. Khodorkovsky in jail, or awarding a large contract to one's own affiliated company, could be justified as a public good. Indeed, more people were in favour of locking up Mr. Khodorkovsky, even though they knew it would benefit only a few Kremlin bureaucrats.

In 1999 the oil price started to climb and petrodollars gushed into Russia, changing the mindset of the political class. Mr. Oslon points out that the most frequently used word in Mr. Putin's state-of-the-nation address in 2002 was “reform” and its variants. A few years later the most frequently used word was “billion”. Divvying up those billions has become the main business in Russia. Corruption no longer meant breaking the rules of the game; it was the game.

Unlike private businessmen, who started to invest in their core businesses (Yukos among them) in the late 1990s, bureaucrat-entrepreneurs have little incentive to do so. Their wealth is dependent on their administrative power, rather than newfangled property rights. The profits are often stashed away in foreign bank accounts or quickly spent: on luxury property in European capitals, or on their children's education in British private schools. All this is inevitably accompanied by anti-Western rhetoric and claims of Russia's resurgence.

THE MESSAGE OF KRASNODAR

On November 4th, National Unity Day, in the small town of Kuschchevskaya in the Krasnodar region, eight adults and four children were killed in a house. They were the family of a wealthy farmer and his guests.

The youngest child, nine months old, suffocated when the killers set the house alight.

Terrible murders can happen in any country. This one stood out because it was the work not of a maniac but of a well-established criminal gang, which has terrorised the region for nearly 20 years. More than 200 trained thugs do its work, including dozens of murders and rapes. Its boss, Sergei Tsapok, was a deputy in the local council and had links with the chief law-enforcement agencies, the tax police and local government. The gang first emerged in the early 1990s, racketeering and carving up valuable plots of land. In 2002 it began to “legalise” and incorporate itself into local state power structures.

Mr. Tsapok's agricultural firm received massive state credits and grants. It employed the head of security of the local prosecution service as its in-house lawyer. In 2008 Mr. Tsapok boasted that he was among the guests at the inauguration of Dmitry Medvedev as Russia's president, according to Novaya Gazeta, an independent Russian newspaper. The gang ran the region not only under the gaze of government, but also in its stead.

When the chief Russian investigator into the murders arrived a few days later from Moscow, he was besieged by complaints from all over the region. Alexander Tkachev, the governor, seemed dismayed by all the fuss: “Such a crime could have happened in any part of the region. Unfortunately, such gangs exist in every municipality.” Despite what happened, he remains in his job.

In the past such bespredel (extreme lawlessness) was mostly restricted to Chechnya and a few other parts of the north Caucasus. But violence has spread, and Kuschchevskaya has caused horror not only because of the child victims, but because it presented a threatening model of a crumbling state. The government used to mask its problems with a thick layer of money. But as this layer gets thinner, the problems become more obvious.

A SHRINKING PIE

Corruption was also excessive in the 2000s, but it was compensated for by strong economic growth and fast-rising incomes. This, and soothing television pictures, created a sense of stability. But the global financial crisis hit the Russian economy harder than that of any other large industrial country, exposing its structural weakness. As Vladislav Inozemtsev, an economist, argues in a recent article, the improvement in living standards was achieved at the cost of massive under-investment in the country's industry and infrastructure. In the late Soviet era capital investment in Russia was 31% of GDP. In the past ten years Russia's capital investment has been, on average, about 21.3% of GDP. (For comparison, the figure over the same period in China was 41%.)

Despite rising oil prices and a construction boom, Mr. Inozemtsev says, in the post-Soviet period Russia has built only one cement factory and not a single oil refinery. The Soviet Union used to build 700km of railways a year. Last year, it built 60km. “We have lived by gobbling up our own future,” he argues. Peter Aven, the head of Alfa Bank, the largest private bank in the country, thinks today is like the late Soviet period: “Once again the main source of wealth is oil and gas, which is being exchanged for imported goods. The state today is no better than Gosplan was in the Soviet Union.”

Russia's trade surplus is shrinking. As imports grow, so does pressure on the rouble.

The government is now running a budget deficit. Mr. Aven says Russia's budget balances at an oil price of \$123 a barrel. Three years ago it balanced at \$30. For all the talk of stability, only 6% of the population can imagine their future in more than five years' time, which may explain why only 2% have private pension plans.

To keep up his approval rating, particularly among pensioners and state workers, Mr. Putin has had to increase general government spending to nearly 40% of GDP (see chart). To pay for this he has raised taxes on businesses, which are already suffocating from corruption and racketeering. While Russia's peers in the BRIC group of leading emerging economies are coping with an inflow of capital, \$21 billion fled out of Russia in the first ten months of the year. Unlike foreign firms such as Pepsi (see article), Russia's private firms are too nervous to invest in their own economy.

That economy is growing by less than 4% a year. This would be respectable in many Western countries, but as Kirill Rogov, an economic and political analyst, argues, it is not enough to sustain the political status quo. When the pie of prosperity was expanding, dissension within the elite made no sense. However, now that money is scarcer and the world is divided into "Mr. Putin's friends and everyone else", as one businessman put it, conflicts are inevitable.

A sense of injustice is now growing in many different groups. Private businessmen and even oligarchs complain about the lack of rules and bureaucratic extortion. Middle-class Muscovites moan that officials in their black luxury cars, with their flashing blue lights, push them off the road and occasionally run them over. People in the north Caucasus feel they are treated like aliens rather than Russian citizens. Everyone is fed up with corruption.

The discontent does not register in Mr. Putin and Mr. Medvedev's joint popularity ratings, which remain at 70%. But growing numbers of the elite feel that the present political and economic model has been exhausted and the country is fast approaching a dead end. "The problem is not that this regime is authoritarian, the problem is that it is unfair, corrupt and ineffective," says one leading businessman. "Corruption will erode and bring down this system." The paradox is that few Russian government officials disagree with this.

At a recent government-sponsored conference on Russia's competitiveness, everyone agreed that the system does not work. Russian politicians sometimes sound like opposition leaders, and Mr. Medvedev makes pledges as if he were a presidential candidate. If Mr. Putin has stopped lamenting the level of corruption in Russia, as he used to, it is only because he believes this is futile and that other countries are the same.

In a democracy, such confessions of impotence from top officials would probably prompt their resignations. In Russia it leads to a discussion of how best to preserve the system. Which tactics work better will be the subject of a conversation between Mr. Putin and Mr. Medvedev when they decide, probably next summer, which of them will become Russia's next president. As Mr. Putin said, the decision will be made on the basis of what is best for Russia. ("Think of them as co-heads of a corporation," Mr. Osion suggests.) The aim is the same, but the styles vary.

Mr. Medvedev calls for innovation and technical modernisation to revive growth. He is appealing through the internet to the

most enterprising people in Russia, and is inviting Russian and foreign scientists to come and innovate in a specially created zone, called Skolkovo, which would be protected against the rest of the country by a high security wall and honest police.

The president, who is keen to keep his job after 2012, will try to persuade Mr. Putin that it is in the interests of the corporation, and of Mr. Putin as one of its main stakeholders, for his predecessor not to return to the Kremlin. He could cite the need for better relations with the West to legitimise the financial interests of the Russian elite, and the inefficiency of the security services as a support base. But even if Mr. Putin would like to retire, can he afford to?

The two men may belong to the same system and want the same thing, but they are formed by different experiences. Mr. Putin, despite his belligerence about the 1990s, is the very epitome of that period. He operates by informal rules and agreements rather than laws and institutions. He became president at the end of a revolutionary decade, when the job carried more risks than rewards. He is cautious, dislikes making decisions and rarely fires anyone, putting loyalty and stability above all else.

Mr. Medvedev, on the other hand, was installed as president after nearly a decade of stability, when the political landscape was cleared of opposition and the coffers were full of money. He is a stickler for formality, though he is a lot less careful, and makes decisions that can destabilise the system—such as firing the previous mayor of Moscow, Yuri Luzhkov. But he is also weaker than Mr. Putin, and may not be able to hang on to power.

The likeliest outcome is that the two will try to preserve their tandem one way or another. Kremlin officials dismiss talk of dead ends as pointless whining and alarmism from liberals. The prevailing view is that the system works and everything will carry on as usual. That may be wrong, however. "Mr. Putin can return to the Kremlin technically, but he cannot do so historically," Mr. Rogov argues. His popularity may be buoyant, but the historic period of stabilisation and restoration which he initiated is coming to an end. Mr. Putin always took great care over symbols, marking the beginning of his rule with the restoration of the Soviet anthem. At the time, it was a symbol of continuity and greatness. Today it sounds increasingly archaic.

As stability turns into stagnation, Mr. Putin is becoming a symbol of the bygone 2000s. Mr. Medvedev, on the other hand, with his tweets and his iPad, has absorbed hopes of change among the younger, more restless set. He has done nothing to justify this; as a recent editorial in *Vedomosti*, a Russian business daily, argued, "Medvedev is strong not because of his deeds, but because he rides an illusion." Nonetheless, the wish for change is real.

DISSENTING VOICES

This is reflected in the media. Glossy lifestyle magazines are becoming politicised; one has even put Lyudmila Alexeeva, an 83-year-old human-rights activist, on its cover. The beating-up of Oleg Kashin, a journalist from *Kommersant*, a mainstream newspaper, troubled the well-heeled more than the murder of Anna Politkovskaya did three years ago, precisely because Mr. Kashin—unlike her—did not oppose the regime or write about Chechnya. And recently Leonid Parfenov, a stylish Russian TV presenter, caused a scandal when, at an awards ceremony attended by Russia's most powerful

media executives, he said that Russian television reporters have turned into servile bureaucrats. "Our television", he said, "can hardly be called a civic or public political institution."

It was not what Mr. Parfenov said that was news, but the fact that he said it at all. He used to steer clear of words like "civic" or "duty", and argue that Russian liberalism was not found in politics, but in fashion boutiques and Moscow coffee shops. Many young, successful Russians shared his view. Mr. Parfenov's speech reflects a change of mood among them, as well as a growing interest in politics. Although state television has enormous sway over older Russians, the young, urban and educated get their news and views from the internet, which remains largely free of Kremlin propaganda.

Stanislav Belkovsky, a political commentator, sees a similarity between Russia's situation and the period of Perestroika reform under Mikhail Gorbachev in the mid-1980s. As then, a large part of the elite has realised that the system is ineffective and is no longer willing to defend it. When ordinary people come to share this view, the system is in grave danger.

That moment may be some time away: the Russian economy is more flexible than the Soviet one, the elite is more diverse, the borders are open and there are safety valves to release dissatisfaction. But as Mr. Khodorkovsky said in a recent interview from jail, the tensions between the declining performance of the Russian economy, the expectations of the population and the corruption of the bureaucracy will erode the system, whoever is president.

With Mr. Putin in power, Russia may suffer deep stagnation, but a collapse of the system would be all the more dramatic. With Mr. Medvedev stagnation may be shorter, but his grip on power would be weaker. This may matter little in the long run, but it makes a big difference for Russians living now—not least for Mr. Khodorkovsky himself.

Mr. MCCAIN. Mr. Khodorkovsky, the *Economist* writes, is a symbol of the injustices perpetrated by corrupt bureaucrats and members of the security services who epitomize the nexus between power and wealth.

The article goes on to describe the staggering scale of corruption in Russia today.

Shortly before his arrest Mr. Khodorkovsky estimated state corruption at around \$30 billion, or 10% of the country's [gross domestic product]. By 2005 the bribes market, according to INDEM, a think-tank, had risen to \$300 billion, or 20% of GDP. As Mr. Khodorkovsky said in a recent interview, most of this was not the bribes paid to traffic police or doctors, but contracts awarded by bureaucrats to their affiliated companies.

I go on to quote from the *Economist*:

Their wealth is dependent on their administrative power, rather than newfangled property rights. The profits are often stashed away in foreign bank accounts or quickly spent: on luxury property in European capitals, or on their children's education in British private schools.

Unsurprisingly, surveys now show that the young would rather have a job in the government or a state firm than in private business. Over the past 10 years, the number of bureaucrats has gone up by 66%, from 527,000 to 878,000, and the cost of maintaining such a

state machine has risen from 15% to 20% of GDP.

Other figures point to the same conclusion as the Economist. In its annual index of perceptions of corruption, Transparency International ranked Russia 154 out of 178 countries—perceived as more corrupt than Pakistan, Yemen, and Zimbabwe. The World Bank considers 122 countries to be better places to do business than Russia. One of those countries is Georgia, which the World Bank ranks as the 12th best country to do business with.

President Medvedev speaks often and at times eloquently about the need for Russia to be governed by the rule of law. Considering the likely outcome of Mr. Khodorkovsky's show trial, it is not surprising that President Medvedev himself has lamented that his anticorruption campaign has produced, in his words, "no results."

Russians who want better for their country and dare to challenge the corrupt bureaucrats who govern it are often targeted with impunity.

One case that has garnered enormous attention both within Russia and around the world is that of Sergei Magnitsky, a tax attorney for an American investor who uncovered the theft by Russian officials of \$230 million from the Russian treasury. Because of Mr. Magnitsky's relentless investigation into this corruption, the Russian Interior Ministry threw him in prison to silence him. He was deprived of clean water, left in a freezing cell for days, and denied medical care. After 358 days of this abuse, Sergei Magnitsky died. He was 37. Not only has the Russian Government held no one accountable for his death, several officials connected to Mr. Magnitsky's imprisonment and murder have actually received commendations.

Then there is the tragic case of Russia's last remaining independent journalist. Last month, Russian journalist Oleg Kashin, who had written critically of a violent youth movement associated with the Kremlin, was beaten by attackers who broke his jaw, both his legs, and many of his fingers—a clear political message to other writers.

No one has been charged for this crime, and writing in the New York Times this Sunday, Mr. Kashin suggests that no one ever will.

"[I]t seems indubitable," he writes, "that the atmosphere of hatred and aggression, artificially fomented by the Kremlin, has become the dominant fact in Russian politics, the reset in relations with the United States and talk of economic modernization notwithstanding. . . . A man with a steel rod is standing behind the smiling politicians who speak of democracy. That man is the real defender of the Kremlin and its order. I got to feel that man with my own head."

Mr. President, I ask unanimous consent this entire article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 11, 2010]

A BEATING ON MY BEAT

(By Oleg Kashin)

On the night of Nov. 6, I was attacked by two young men armed with steel rods. The assault occurred a few feet from the entrance to my house, which is just a 10-minute walk from the Kremlin.

A month later, I am still in the hospital. One of my fingers has been amputated, one of my legs and both halves of my jaw have been broken, and I have several cranial wounds. According to my doctors, I won't be able to go back to my job as a reporter and columnist at Kommersant, an independent newspaper, until spring.

A few hours after the attack, President Dmitri Medvedev went on Twitter to declare his outrage, and he instructed Russia's law enforcement agencies to make every effort to investigate this crime. But no one has been apprehended, and I do not expect that the two young men will ever be identified or caught.

Three theories quickly emerged about who was behind the attack—which was, I believe, an assassination attempt. The first holds that it was the municipal authorities of Khimki, a town between Moscow and St. Petersburg. I had written several articles criticizing a proposed highway between the two cities that would run through the town, something the local authorities want but many residents oppose.

The second theory is that it was Andrei Turchak, the governor of the Pskov region, who was upset by a blog posting of mine arguing that he had his position only because of his ties to the Kremlin.

And the third theory is that the perpetrators came from Nashi, a youth movement I have criticized. The group's appearance on the public scene has accompanied a new level, and acceptance, of violence in Russian politics; members are called "Nashists" by their opponents, as a pun on "fascists," for good reason.

Nashi is closely tied to the Kremlin, which founded the group five years ago in response to fears that Ukraine's Orange Revolution could inspire similar uprisings in Russia. When newspapers reported that Vasily Yakemenko, its former leader and now the minister for youth affairs, might have been involved in the attack on me, he was granted an unscheduled meeting with Prime Minister Vladimir Putin. Was this meant to show that the authorities didn't share such a suspicion—or that they didn't care whether the accusation was true?

What strikes me about the theories is that, in each case, the ultimate perpetrator is the state. And for some reason that seems acceptable to most Russians: practically no one here has questioned the right of the state to resort to extra-legal violence to maintain power, even against journalists.

I don't mean to compare myself to Anna Politkovskaya or Paul Klebnikov, journalists who were killed probably because of their investigative work. But in a way the attack against me is more disturbing. Unlike most of the reporters who have been attacked in Russia in recent years, I have not engaged in any serious investigations into corruption or human rights abuses. I have not revealed any secret documents or irritated influential figures with embarrassing material.

What I have done, though, is criticize Nashi. Indeed, all this year I have called at-

tention to the violence that accompanies the group's every public activity. Even at their legally sanctioned events the members trample—and this is no exaggeration; they literally stomp with their feet—portraits of Russia's "enemies," including human rights activists, politicians and journalists.

I also believe they were the organizers of anonymous acts aimed at the opposition: fabricated video clips, hacker attacks and physical assaults. Some of them were symbolic; for example, an unidentified man once hit Garry Kasparov, the former world chess champion who is an opposition leader, on the head with a chess board.

But even when there is strong evidence of official Nashi involvement, members have gone unpunished. In the summer of 2005 a group of hooligans with baseball bats invaded an opposition meeting and savagely beat the participants. The police detained the attackers, and a list of their names, including some "Nashists," appeared in the papers. But all of the detainees were immediately released, and the case has never gone to court.

Nobody knows for certain whether there is a direct link between the flourishing of Nashi and the increased violence against critics of the state. But it seems indubitable that the atmosphere of hatred and aggression, artificially fomented by the Kremlin, has become the dominant fact in Russian politics, the "reset" in relations with the United States and talk of economic modernization notwithstanding.

A man with a steel rod is standing behind the smiling politicians who speak of democracy. That man is the real defender of the Kremlin and its order. I got to feel that man with my own head.

Mr. MCCAIN. An earlier New York Times news story, dated May 17 of this year, and entitled "Russian Journalists, Fighting Graft, Pay in Blood," describes the fate of other independent journalists in Russia. One is Mikhail Beketov, who exposed corruption in a Moscow suburb. This is what happened to him.

"Last spring, I called for the resignation of the city's leadership," Mr. Beketov said in one of his final editorials. "A few days later, my automobile was blown up. What is next for me?" Not long after, he was savagely beaten outside his home and left to bleed in the snow. His fingers were bashed, and three later had to be amputated, as if his assailants had sought to make sure he would never write another word. He lost a leg. Now 52, he is in a wheelchair, his brain so damaged that he cannot utter a simple sentence.

No one has been charged or held responsible for this crime either.

The same article mentions another journalist, Pyotr Lipatov, who was attacked while covering an opposition rally. As he was leaving, the article says:

[T]hree men pushed him to the ground and punched him repeatedly on the head. "Even when I was unconscious, they didn't let me go," Mr. Lipatov said. This beating was recorded on video by protesters. Mr. Lipatov's colleagues used the video to track down the men who beat him. They were police officers. While Mr. Lipatov, 28, was recovering in the hospital, he said two other police officers visited and urged him to sign a statement saying that he had provoked the attack. . . .

Officials later acknowledged that police officers had been involved in the attack, but

they still brought no charges. Instead, they raided Mr. Lipatov's offices, seized computers and brought a criminal extremism suit against him. They asserted that he had sought to foment "negative stereotypes and negative images of members of the security forces." Fearing for his safety and more criminal charges, he quit.

Sadly, I could go on and on like this, to say nothing of the many unsolved murders. So I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 17, 2010]

RUSSIAN JOURNALISTS, FIGHTING GRAFT, PAY IN BLOOD

(By Clifford J. Levy)

KHIMKI, RUSSIA.—Mikhail Beketov had been warned, but would not stop writing. About dubious land deals. Crooked loans. Under-the-table hush money. All evidence, he argued in his newspaper, of rampant corruption in this Moscow suburb.

"Last spring, I called for the resignation of the city's leadership," Mr. Beketov said in one of his final editorials. "A few days later, my automobile was blown up. What is next for me?"

Not long after, he was savagely beaten outside his home and left to bleed in the snow. His fingers were bashed, and three later had to be amputated, as if his assailants had sought to make sure that he would never write another word. He lost a leg. Now 52, he is in a wheelchair, his brain so damaged that he cannot utter a simple sentence.

The police promised a thorough investigation, but barely looked up from their desks. Surveillance videos were ignored. Neighbors were not interviewed. Information about politicians' displeasure with Mr. Beketov was deemed "unconfirmed," according to interviews with officials and residents.

Prosecutors, who had repeatedly rejected Mr. Beketov's pleas for protection, took over the case, but did not seem to accomplish much more. Mr. Beketov's close colleagues said they were eager to offer insights about who in the government had been stung by his exposés. But no one asked.

Eighteen months later, there have been no arrests.

In retrospect, the violence was an omen, beginning a wave of unsolved attacks and official harassment against journalists, human rights activists and opposition politicians around the region, which includes the Moscow suburbs, but not the city itself. Rarely, if ever, is anyone held responsible.

One editor was beaten in front of his home, and the assailants seized only copies of his articles and other material for the next day's issue, not his wallet or cellphone. Local officials insisted that he sustained his injuries while drunk.

Another journalist was pummeled by plainclothes police officers after a demonstration. It was all captured on video. Even so, the police released a statement saying that he had hurt himself when he was accidentally pushed by the crowd.

These types of attacks or other means of intimidation, including aggressive efforts by prosecutors to shut down news media outlets or nonprofit groups, serve as an unnerving deterrent. And in a few cases in recent years, the violence in the country has escalated into contract killings. Corruption is widespread in Russia, and government often func-

tions poorly. But most journalists and nonprofit groups shy away from delving deeply into these problems.

The culture of impunity in Russia represents the most glaring example of the country's inability to establish real laws in the two decades since the collapse of the Soviet Union. And this failure radiates throughout society, touching upon ordinary men and women who are trying to carve out lives in the new Russia, but are wary of questioning authority.

Russia's president, Dmitri A. Medvedev, has bemoaned the country's "legal nihilism." Yet under Mr. Medvedev and Prime Minister Vladimir V. Putin, it has persisted. And among the major beneficiaries have been the governing party's politicians.

THREATS, THEN A BEATING

Boris Gromov, the governor of the Moscow region, commanded the 40th Army during the Soviet war in Afghanistan, and his opponents believe that he governs with a general's sense of order. Mr. Gromov, appointed by Mr. Putin, has in turn seeded local government with fellow Afghanistan veterans, including the Khimki mayor, Vladimir Strelchenko.

Mikhail Beketov often referred to Mr. Gromov and Mr. Strelchenko as "army boots," and did not think much of their honesty.

Mr. Beketov was brawny like a boxer, fast-talking, perpetually late and prone to latching onto causes. He himself had been an officer in the army paratroops, but then switched to journalism, working as a war correspondent in Afghanistan and Chechnya. His experiences left him with a distaste for overbearing military officials.

He established his newspaper, *Khimkinskaya Pravda* (Khimki Truth), in 2006. He wrote regularly about what he considered corruption among local officials, who were often members of Mr. Putin's governing party, United Russia.

He financed the newspaper himself. It had a circulation of only about 10,000 copies, but it garnered a large following in Khimki, which has a population of 185,000, and the surrounding cities, especially after Mr. Beketov grabbed hold of two topics.

His articles resonated nationally when he questioned why the city had demolished a monument that contained the remains of Soviet fighter pilots. The work was done to widen a road.

And he relentlessly focused on the fate of the Khimki forest, a pristine expanse of old-growth oaks and wild animals, including elk and boars, improbably close to Moscow. With little public notice, the government had planned to build a major highway to St. Petersburg through the forest. Mr. Beketov suspected that officials were secretly profiting from the project.

Local officials, unaccustomed to such criticism, lashed out publicly. Privately, Mr. Beketov received phone threats. He asked the authorities for help, but was rebuffed, his colleagues said. He returned home one day to discover his dog dead on his doorstep. Then his car was blown up.

Instead of investigating the explosion, prosecutors opened a criminal inquiry into his newspaper. His friends said that Mr. Beketov told them that one city official had warned him about his articles.

But he did not relent. "You can imagine what kind of money the authorities plan to fleece from this so-called infrastructure," he wrote about the highway plan.

"For four years, I have observed our authorities," he said. "I have closely

interacted with many senior officials, including Strelchenko himself. Given how the authorities have collected scandals with frightening regularity, I have come to a regrettable conclusion: They are shameless."

On a November evening in 2008, Mr. Beketov was assaulted, most likely by several people, outside his home. He was discovered by a neighbor the next day.

Even as Mr. Beketov later lay in a coma at the hospital, he was not safe. A threat was phoned in: We will finish him off.

His friends and colleagues grew so alarmed that they moved him out of the Khimki hospital to a better, more secure one in neighboring Moscow.

Both the police and prosecutors found the case tough to crack.

Yuliya Zhukova, a spokeswoman in the Moscow region for the investigative committee of the prosecutor general's office, said the office had conducted a thorough inquiry, but ultimately had to suspend it for lack of evidence. She said that investigators needed to interview Mr. Beketov to make progress, but that his doctors would not allow that. (Mr. Beketov has been unable to communicate since the attack.)

Yevgenia Chirikova, a leader of a local environmental group who worked closely with Mr. Beketov on his articles about the highway, said that she was eager to help, but that investigators did not contact her.

"I waited and waited and waited," Ms. Chirikova said. "I knew that according to the rules, they are supposed to question those closest to the victim."

She said she decided to approach the investigators herself. They questioned her for several hours, asking her about her motivations for getting involved in the case, she said.

Ms. Zhukova criticized allies of Mr. Beketov and some journalists for assuming that the attack was related to Mr. Beketov's work.

"Very often, unfortunately, they have presented erroneous information, and misled people regarding the course of the investigation," she said.

Governor Gromov and Mayor Strelchenko declined to be interviewed for this article. After the attack, Mr. Strelchenko said he had played no role in it, but also complained that it was getting too much attention.

"I don't want to say that it was good what happened to Mikhail," he said. "But I want you to separate truth from untruth."

ATTACKS ON TWO EDITORS

To the north on the M-10 highway from Khimki is a city called Solnechnogorsk, where a newspaper, *Solnechnogorsk Forum*, was publishing exposés about how local politicians were seeking to do away with elections to maintain power.

The newspaper's editor, Yuri Grachev, is 73. In February 2009, several men assaulted him as he left his home, putting him in intensive care for a month with a severe concussion, a broken nose and other wounds.

Police officials first said he was drunk and fell down. Then they said he had been the victim of a random robbery, though all that was taken was a folder with material for the newspaper's next issue. The muggers have not been found, and politicians from the governing party, United Russia, said the attack had nothing to do with Mr. Grachev's work. "Maybe it was hooligans or maybe it was by chance," said Nikolai Bozhko, the local party leader, who is also an Afghanistan war veteran. "The idea that it was ordered—I don't believe that."

Prosecutors had better luck finding evidence that *Solnechnogorsk Forum* had committed libel. They have brought charges against the paper, aiming to shut it down.

"The system will stop at nothing to break you," Mr. Grachev said.

Farther up the M-10 Highway is Klin, where an opposition rally was held in March 2009 to protest corruption and increases in utility rates.

As Pyotr Lipatov, editor of an opposition newspaper called Consensus and Truth, was leaving the rally, three men pushed him to the ground and punched him repeatedly on the head. "Even when I was unconscious, they didn't let me go," Mr. Lipatov said.

This beating was recorded on video by protesters. Mr. Lipatov's colleagues used the video to track down the men who beat him. They were police officers.

While Mr. Lipatov, 28, was recovering in the hospital, he said two other police officers visited and urged him to sign a statement saying that he had provoked the attack. He refused. The police then issued a statement.

"According to Lipatov, filming the meeting with his camera, he found himself in the middle of a reactionary crowd, was pushed and fell to the ground," the statement said. Two videos of the demonstration show a different sequence of events.

Officials later acknowledged that police officers had been involved in the attack, but they still brought no charges. Instead, they raided Mr. Lipatov's offices, seized computers and brought a criminal extremism suit against him. They asserted that he had sought to foment "negative stereotypes and negative images of members of the security forces."

Fearing for his safety and more criminal charges, he quit.

"Everyone was against me—the judges, the police, the prosecutors, everyone," he said. "I took over Consensus and Truth because I supported Prime Minister Putin's call to fight corruption. But look what happened. The machine here did everything possible to defeat us."

PROMISES, BUT NO ARRESTS

After the attacks in Khimki, Solnechnogorsk, Klin and elsewhere, the authorities, apparently concerned that the region had developed a reputation as a danger zone for journalists, vowed to protect them.

"Attacks on journalists, naturally, create a special resonance," Governor Gromov's office said. "The regional government believes that every case of an attack on journalists must be thoroughly investigated." Even so, no arrests have been made in any of the cases.

And the harassment has not let up.

On March 31, The New York Times interviewed Ms. Zhukova, the spokeswoman for the investigators, about Mr. Lipatov. The next day, investigators approached him in the central market of Klin and said they urgently wanted to question him about the beating, he said.

The session lasted more than six hours. Mr. Lipatov said they tried to pressure him to sign a statement saying that he had wanted to lead a mob to storm city buildings, thereby justifying the police beating. He said he declined to do so.

Back in Khimki, a new opposition newspaper, Khimki Our Home, was established to help continue Mr. Beketov's work.

The editor, Igor Belousov, 50, is a deeply religious man. He publishes the Russian Orthodox calendar in his newspaper. Before turning to journalism, he was a senior city official, but he resigned because of what he described as pervasive corruption.

Not long after the publication got started, Mr. Belousov was accused of criminal libel by prosecutors and civil libel by Mayor

Strelchenko. In February, the police, without any notice, arrested him on charges of selling cocaine. Court documents show that the case is based exclusively on the testimony of a drug dealer from another city who could not recall basic details of the alleged crime.

"We used to have so many journalists here, but they have all suffered and have all given up," Mr. Belousov said. "Only I remained, and now I am giving up."

Mr. MCCAIN. Russia's beleaguered political opposition, unfortunately, fares no better than its journalists. I have met a few times this year with former Deputy Prime Minister Boris Nemtsov, who organizes peaceful political rallies to protest a lack of democracy in Russia, a right granted under the Russian Constitution. But these rallies are often targeted and violently broken up by Russian authorities.

Considering that this is how Russian officials treat their fellow citizens, it is not hard to see a profound connection between the Russian Government's authoritarian actions at home and its aggressive behavior abroad. The most glaring example of this remains in Georgia. Over 2 years after its invasion, Russia not only continues to occupy 20 percent of Georgia's sovereign territory, it is building military bases there, permitting the ethnic cleansing of Georgians in South Ossetia, and denying access to humanitarian missions—all in violation of Russia's obligations under the cease-fire agreement negotiated by President Sarkozy. In a major recent step, President Saakashvili even renounced the use of force to end Russia's occupation, pledging only to defend nonoccupied Georgia in the event of a Russian attack. And yet Russian officials responded hostilely and dismissively.

I ask my colleagues, when the Russians illegally, in violation of all international law, occupy a sovereign nation—a sovereign nation—and have recognized these two provinces within the international boundaries of Georgia as independent nations, how in the world are we going to trust them to adhere to a treaty?

I have met with the people in Georgia who have been displaced from their homes—the sorrow and the misery inflicted on them. President Sarkozy of France flew in and arranged for a cease-fire. The Russians agreed to it. They are in total violation of it. They are occupying 20 percent of the country of Georgia. I think Nicaragua and one other country have also recognized these two "independent" states in which the Russians are now carrying out ethnic cleansing and stationing Russian military. But not to worry, we can trust the Russians to adhere to solemn treaties and abide by international law.

When we consider the various crimes and abuses of this Russian Government, it is hard to believe that this government shares our deepest values.

This does not mean that we cannot or should not work with the Russian Federation where possible. The world does not work that way. What it does mean is that we need a national debate about the real nature of this Russian Government, about what kind of a relationship is possible with this government, and about the place that Russia should realistically occupy in U.S. foreign policy. The Senate's consideration of the New START treaty offers a chance to have this debate, as does Russian accession to the WTO. Some may want to avoid it, but we cannot.

I believe we need a greater sense of realism about Russia, but that is not the same as pessimism or cynicism or demonization. I am an optimist, even about Russia. I often find sources for hope in the most hopeless of places. Mikhail Khordokovsky has languished in prison for 7 years, and on December 27, he will likely be forced to endure many more. Yet, in a final appeal to the judge in his case, Mr. Khordokovsky gave one of the more moving speeches I have heard in a long time.

Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MIKHAIL KHODORKOVSKY: FULL TRANSCRIPT OF HIS FINAL WORDS

I can recall October 2003. My last day as a free man. Several weeks after my arrest, I was informed that president Putin had decided: I was going to have to "slurp gruel" for 8 years. It was hard to believe that back then.

Seven years have gone by already since that day. Seven years—quite a long stretch of time, and all the more so—when you've spent it in jail. All of us have had time to reassess and rethink many things.

Judging by the prosecutors' presentation: "give them 14 years" and "spit on previous court decisions", over these years they have begun to fear me more, and to respect the law—even less.

The first time around, they at least went through the effort of first repealing the judicial acts that stood in their way. Now—they'll just leave them be; especially since they would need to repeal not two, but more than 60 decisions.

I do not want to return to the legal side of the case at this time. Everybody who wanted to understand something—has long since understood everything. Nobody is seriously waiting for an admission of guilt from me. It is hardly likely that somebody today would believe me if I were to say that I really did steal all the oil produced by my company.

But neither does anybody believe that an acquittal in the YUKOS case is possible in a Moscow court.

Notwithstanding, I want to talk to you about hope. Hope—the main thing in life.

I remember the end of the '80s of the last century. I was 25 then. Our country was living on hope of freedom, hope that we would be able to achieve happiness for ourselves and for our children.

We lived on this hope. In some ways, it did materialise, in others—it did not. The responsibility for why this hope was not realized all the way, and not for everybody, probably lies on our entire generation, myself included.

I remember too the end of the last decade and the beginning of the present, current one. By then I was 35. We were building the best oil company in Russia. We were putting up sports complexes and cultural centres, laying roads, and resurveying and developing dozens of new fields; we started development of the East Siberian reserves and were introducing new technologies. In short,—we were doing all those things that Rosneft, which has taken possession of Yukos, is so proud of today.

Thanks to a significant increase in oil production, including as the result of our successes, the country was able to take advantage of a favourable oil situation. We felt hope that the period of convulsions and unrest—was behind us at last, and that, in the conditions of stability that had been achieved with great effort and sacrifice, we would be able to peacefully build ourselves a new life, a great country.

Alas, this hope too has yet to be justified. Stability has come to look like stagnation. Society has stopped in its tracks. Although hope still lives. It lives on even here, in the Khamovnichesky courtroom, when I am already just this side of 50 years old.

With the coming of a new President (and more than two years have already passed since that time), hope appeared once again for many of my fellow citizens too. Hope that Russia would yet become a modern country with a developed civil society. Free from the arbitrary behaviour of officials, free from corruption, free from unfairness and lawlessness.

It is clear that this can not happen all by itself; or in one day. But to pretend that we are developing, while in actuality,—we are merely standing in one place or sliding backwards, even if it is behind the cloak of noble conservatism,—is no longer possible. Impossible and simply dangerous for the country.

It is not possible to reconcile oneself with the notion that people who call themselves patriots so tenaciously resist any change that impacts their feeding trough or ability to get away with anything. It is enough to recall art. 108 of the Code of Criminal Procedure of the Russian Federation—arresting businessmen for filing of tax returns by bureaucrats. And yet it is precisely the sabotage of reforms that is depriving our country of prospects. This is not patriotism, but rather hypocrisy.

I am ashamed to see how certain persons—in the past, respected by me—are attempting to justify unchecked bureaucratic behaviour and lawlessness. They exchange their reputation for a life of ease, privileges and sops.

Luckily, not all are like that, and there are ever more of the other kind.

It makes me proud to know that even after 7 years of persecutions, not a single one of the thousands of YUKOS employees has agreed to become a false witness, to sell their soul and conscience.

Dozens of people have personally experienced threats, have been cut off from family, and have been thrown in jail. Some have been tortured. But, even after losing their health and years of their lives, people have still kept the thing they deemed to be most important, human dignity.

Those who started this shameful case, Biryukov, Karimov and others, have contemptuously called us “entrepreneurs” [*<kommersanty>*], regarding us as low-lives, capable of anything just to protect our prosperity and avoid prison.

The years have passed. So who are the low-lives now? Who is it that have lied, tortured, and taken hostages, all for the sake of

money and out of cowardice before their bosses?

And this they called “the sovereign’s business” [*<gosudarevoye delo>*]?!

Shameful. I am ashamed for my country.

I think all of us understand perfectly well—the significance of our trial extends far beyond the scope of my fate and Platon’s, and even the fates of all those who have guiltlessly suffered in the course of the sweeping massacre of YUKOS, those I found myself unable to protect, but about whom I remember every day.

Let us ask ourselves: what must be going through the head of the entrepreneur, the high-level organiser of production, or simply any ordinary educated, creative person, looking today at our trial and knowing that its result is absolutely predictable?

The obvious conclusion a thinking person can make is chilling in its stark simplicity: the siloviki bureaucracy can do anything. There is no right of private property ownership. A person who collides with “the system” has no rights whatsoever.

Even though they are enshrined in the law, rights are not protected by the courts. Because the courts are either also afraid, or are themselves a part of “the system”. Should it come as a surprise to anyone then that thinking people do not aspire to self-realisation here, in Russia?

Who is going to modernise the economy? Prosecutors? Policemen? Chekists? We already tried such a modernization—it did not work. We were able to build a hydrogen bomb, and even a missile, but we still can not build—our own good, modern television, our own inexpensive, competitive, modern automobile, our own modern mobile phone and a whole pile of other modern goods as well.

But then we have learnt how to beautifully display others’ obsolete models produced in our country and an occasional creation of Russian inventors, which, if they ever do find a use, it will certainly be in some other country.

Whatever happened with last year’s presidential initiatives in the realm of industrial policy? Have they been buried? They offer the real chance to kick the oil addiction.

Why? Because what the country needs is not one Korolev, and not one Sakharov under the protective wing of the all-powerful Beria and his million-strong armed host, but hundreds of thousands of “korolevs” and “sakharovs”, under the protection of fair and comprehensible laws and independent courts, which will give these laws life, and not just a place on a dusty shelf, as they did in their day—with the Constitution of 1937.

Where are these “korolevs” and “sakharovs” today? Have they left the country? Are they preparing to leave? Have they once again gone off into internal emigration? Or taken cover amongst the grey bureaucrats in order not to fall under the steamroller of “the system”?

We can and must change this.

How is Moscow going to become the financial centre of Eurasia if our prosecutors, “just like” 20 and 50 years ago, are directly and unambiguously calling in a public trial for the desire to increase the production and market capitalisation of a private company—to be ruled a criminally mercenary objective, for which a person ought to be locked up for 14 years? Under one sentence a company that paid more tax than anyone else, except Gazprom, but still underpaid taxes; and with the second sentence it’s obvious that there’s nothing to tax since the taxable item was stolen.

A country that tolerates a situation where the siloviki bureaucracy holds tens and even hundreds of thousands of talented entrepreneurs, managers, and ordinary people in jail in its own interests, instead of and together with criminals, this is a sick country.

A state that destroys its best companies, which are ready to become global champions; a country that holds its own citizens in contempt, trusting only the bureaucracy and the special services—is a sick state.

Hope—the main engine of big reforms and transformations, the guarantor of their success. If hope fades, if it comes to be supplanted by profound disillusionment—who and what will be able to lead our Russia out of the new stagnation?

I will not be exaggerating if I say that millions of eyes throughout all of Russia and throughout the whole world are watching for the outcome of this trial.

They are watching with the hope that Russia will after all become a country of freedom and of the law, where the law will be above the bureaucratic official.

Where supporting opposition parties will cease being a cause for reprisals.

Where the special services will protect the people and the law, and not the bureaucracy from the people and the law.

Where human rights will no longer depend on the mood of the tsar. Good or evil.

Where, on the contrary, the power will truly be dependent on the citizens, and the court—only on law and God. Call this conscience if you prefer.

I believe, this—is how it will be.

I am not at all an ideal person, but I am a person with an idea. For me, as for anybody, it is hard to live in jail, and I do not want to die there.

But if I have to I will not hesitate. The things I believe in are worth dying for. I think I have proven this.

And you opponents? What do you believe in? That the bosses are always right? Do you believe in money? In the impunity of “the system”?

Your Honour!

There is much more than just the fates of two people in your hands. Right here and right now, the fate of every citizen of our country is being decided. Those who, on the streets of Moscow and Chita, Peter and Tomsk, and other cities and settlements, are not counting on becoming victims of police lawlessness, who have set up a business, built a house, achieved success and want to pass it on to their children, not to raiders in uniform, and finally, those who want to honourably carry out their duty for a fair wage, not expecting that they can be fired at any moment by corrupt bosses under just about any pretext.

This is not about me and Platon—at any rate, not only about us. It is about hope for many citizens of Russia. About hope that tomorrow, the court will be able to protect their rights, if yet some other bureaucrats-officials get it into their head to brazenly and demonstratively violate these rights.

I know, there are people, I have named them in the trial, who want to keep us in jail. To keep us there forever! Indeed, they do not even conceal this, publicly reminding everyone about the existence of a “bottomless” case file.

They want to show: they are above the law, they will always accomplish whatever they might “think up”. So far they have achieved the opposite: out of ordinary people they have created a symbol of the struggle with arbitrariness. But for them, a conviction is essential, so they would not become “scapegoats”.

I want to hope that the court will stand up to their psychological pressure. We all know through whom it will come.

I want an independent judiciary to become a reality and the norm in my country. I want the phrase from the Soviet times about "the most just court in the world" to stop sounding just as ironic today as they did back then. I want us not to leave the dangerous symbols of a totalitarian system as an inheritance for our children and grandchildren.

Everybody understands that your verdict in this case—whatever it will be—is going to become part of the history of Russia. Furthermore, it is going to form it for the future generation. All the names—those of the prosecutors, and of the judges—will remain in history, just like they have remained in history after the infamous Soviet trials.

Your Honour, I can imagine perfectly well that this must not be very easy at all for you—perhaps even frightening—and I wish you courage!

Mr. MCCAIN. This is how Mr. Khordokovsky saw the broader implications of his trial:

I will not be exaggerating if I say that millions of eyes throughout all of Russia and throughout the whole world are watching for the outcome of this trial. They are watching with the hope that Russia will after all become a country of freedom and of the law. . . . Where supporting opposition parties will cease being a cause for reprisals. Where the special services will protect the people and the law, and not the bureaucracy from the people and the law. Where human rights will no longer depend on the mood of the tsar—good or evil. Where, on the contrary, the power will truly be dependent on the citizens and the court, only on law and God. For me, as for anybody, it is hard to live in jail, and I do not want to die there. But if I have to I will not hesitate. The things I believe in are worth dying for.

That there are still men and women of such spirit in Russia is a cause for hope. Eventually maybe not this year, or next year, or the year after that, but eventually these Russians will occupy their rightful place as the leaders of their nation—for equal justice can be delayed, and human dignity can be denied, but not forever.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I want to thank and congratulate the Senator from Arizona for his important and impassioned comments about the situation in Russia regarding the rights of Mr. Khordokovsky, and I would associate myself with those comments.

I would say to him, though, one thing. He asked the question, how do you trust Russia? That is precisely why this treaty is so important. A treaty is not built on trust. No one taught us that more than in those famous words of President Reagan: Trust, but verify. We do not have verification today. We are sitting here with no verification. We are in a forced position of "trust," where we do not necessarily. So the sooner we get this treaty ratified, the sooner we provide a foundation underneath the important questions Senator MCCAIN asked; which is, if you cannot

trust them, you have to have verification. The whole point is, you build a relationship even in the worst of times so your country—our country—is more stable and more protected.

During the worst of the Soviet Union, during the worst years of confrontation, we still built up a series of treaties of arms agreements and various other kinds of agreements in order to try to tamp down the potential for hostility. Our hope is, obviously, that we can do that as soon as possible here.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I wish to address a couple of points raised by Senator KYL earlier, and I will address a good number more as the debate goes forward. Let me be very clear for the record ahead of time, because he opened his floor remarks this morning by asserting we don't have time to be able to consider this treaty before the end of the year. Then he said that even though the START I treaty—which I referred to yesterday and he specifically referred to my comments—he said even though it was completed in 4 days—maybe 4 plus, slightly—he said it wasn't done under the same circumstances. It didn't have to compete with other legislation and so forth. Well, that is incorrect. So let's set the record straight.

On the same day the Senate held a cloture vote on the START I treaty and votes on two amendments related to the treaty, on that same day, it voted on the final passage of a tax bill. The following day, when the Senate voted on another amendment related to the treaty, it also agreed to the conference report on Interior appropriations bill, and debated and held two rollcall votes on the Foreign Operations appropriations bill. The following day, it completed the final passage vote on the START treaty. So if our predecessor Senate had the ability to do START I while it passed three or four other bills and held four or five separate votes on those other items, I think it is very clear we have the ability here to be able to do this treaty in the next days.

More importantly, the Senate has been considering this treaty not just for the day and a half we have now been on it. We went on this treaty yesterday and some people chose to not even come to the floor and talk about it. Now we are back here waiting for amendments and no one has yet chosen on the other side to come and bring an amendment. We are ready to vote on the treaty. Fifty-eight Democratic

Senators are ready to vote on the treaty. The only thing we are waiting for is the people who say we don't have time, who haven't brought an amendment to the floor. I clearly smell a sort of self-fulfilling prophecy strategy going on here. But they have to know that when flights are disrupted next week or people can't get home, we are here to do business, and I think it will be clear why we are not able to. So we are going to stay here. We have made that clear. The majority leader has made it clear, and the President and the Vice President made it clear. We are prepared to proceed forward on any amendment with respect to understandings, declarations, or conditions they wish to bring, and certainly to have a robust debate.

I will also reiterate that starting in June of last year, the Foreign Relations Committee was briefed at least five times during the talks with the Russians. That is while the talks were going on. So we have a group of Senators almost 60 strong who at one time or another over a year and a half have been following these negotiations very closely. They have been briefed down in the secure facilities. They have been briefed by the negotiators, by the military, by the intelligence community. The Intelligence Committee has weighed in. The Armed Services Committee has weighed in. The National Security Group has had an opportunity to work on this. Since the treaty was submitted, there have been 12 open and classified hearings with more than 20 witnesses. The Secretary of Defense, the Secretary of State, the Joint Chiefs of Staff Chairman, the Commander of the Strategic Command, and the Director of the Missile Defense Agency have all urged us to pass this treaty.

The question is beginning to be asked not why should we do it now; the question is why aren't we doing it now. I hope we can get some amendments and begin to proceed.

At this point I might share a couple of other thoughts while we are waiting for a couple of other colleagues who requested time to speak. Senator KYL asked the question: What do we get out of this treaty? He juxtaposed what he said the Russians get versus what we get and seemed to imply we are not getting very much. Well, I can assure the Senator from Arizona that the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, the leaders of our Strategic Command, and others don't come before the Congress willy-nilly just to say, Hey, do this, because we don't get anything out of it. Every single one of them has articulated very clearly how they believe this treaty strengthens America's national security, advantages our leadership in the world, and positions us to be able to deal more effectively with Iran and North Korea.

I have to say to my colleagues, you cede the right to come to the floor of

the Senate and talk seriously about Iran and North Korea if you can't talk seriously about the ways in which this treaty enhances our ability to be able to put leverage on those countries. Before we pushed the so-called reset button with Russia, we didn't have their cooperation with respect to Iran. In fact, the Russians were very skeptical about the intelligence we were offering and putting on the table. It wasn't until we sat down with them face to face and went through that that they became alarmed and they began to see, indeed, this question of how we respond to Iran is deadly serious. As a consequence of that, Russia joined with the United States.

I agree with my colleagues, the mere fact they are joining us is not a reason to embrace a treaty if the treaty doesn't do all the other things you need to provide stability and enhance your security. But when it does all those other things and you know the consequences of turning your back on all of those achievements is going to create a negative relationship, you ought to try to weigh that a little bit. It seems to me when someone's point of view comes specifically from the economic engagement, business world, somebody such as Steve Forbes writes that this is important to the economic component of our relationship and to that component of the reset button, I think we can see the breadth of impact a treaty such as this can have.

Let me say a few more words about what we do get out of this. First of all—and this is as significant as any reason there is to be considering this—we get nuclear stability. The fact is that nuclear stability enhances the relationship between the countries so we can do a lot of other things that assist in stabilizing this important relationship in a time of crisis. The fact is, as I mentioned earlier—we all know this—the United States and Russia possess 90 percent of the world's nuclear weapons. Any single one of those weapons accidentally released, stolen, or the materials in them, has the ability to be able to destroy any American city. That is a reality today. So both countries have decided it is in both countries' interests to reduce the dangers that arise when you have misunderstandings or mistrust without the verification that builds the trust, and it is important to establish limits on those weapons in order to achieve that.

Predictability is what comes with this treaty. Transparency is what comes with this treaty. Accountability comes with this treaty. Without this treaty, we don't have the right to count their warheads. With this treaty, we have a specific counting and identifying mechanism which will provide for greater accountability and greater stability.

Secretary Gates said very clearly: "Russia is currently above the treaty

limits in terms of its numbers." So they are going to have to take down warheads. How could it not be in the interests of the United States to have Russia reduce the number of warheads it has today?

There are many other reasons. I see my colleague from North Dakota has arrived. I will go through a number of these others as the opportunity presents itself later. But I think there are a host of reasons that are very clear, and they are part of the record already and we will highlight them as we go forward, as to what we get out of this treaty and why this is directly in the interests of our country, and that is the only reason the President of the United States is submitting this treaty to the Senate. We need to pay close attention to the rationale our military and intelligence community has laid out to us of why they would like this treaty—as Jim Clapper, the head of the intelligence community has said, the sooner the better, the quicker, the sooner, the better.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I come to the floor today to speak in favor of the New START treaty and to do so strongly.

First let me say I have been listening to Chairman KERRY and Senator LUGAR discuss this treaty. I think they have been clear and compelling with respect to the arguments they have advanced. I think Senator KERRY has made abundantly clear why this treaty is entirely in the interests of the United States.

This treaty simultaneously takes real steps toward reducing the number of nuclear arms in the world while also recognizing the important role these weapons play in our national defense. Above all else, I believe this treaty is stabilizing, which should be the goal of any action related to nuclear weapons.

I currently serve as chairman of the Senate ICBM Coalition. North Dakota proudly hosts the only Air Force base in the country that has two nuclear missions. Minot Air Force Base houses both ICBMs and nuclear bombers. As a result, North Dakotans have a special appreciation for the awesome power of these weapons and their critical role in our national security. While most people approach the existence of these weapons purely from an academic standpoint, we in North Dakota are confronted with their reality on a daily basis. Still, we as North Dakotans are only observers. I assure my colleagues there is nothing more sobering than visiting a missile facility and talking with the young men and women who stand every day as the sentinels of our security, or talking with bomber pilots as they prepare to fly halfway around the world to patrol the skies for our protection, which I was fortunate to do this summer. Let me say parentheti-

cally, these young people are extraordinary. We can be incredibly proud of the young men and women of our military. The quality of these young people is extraordinary. These brave men and women live the reality of nuclear deterrence and the stability and the security it brings to our Nation.

As we approach this treaty, our first consideration must be its implications for our ability to maintain deterrence and stability and our overall national security. My colleagues on the ICBM Coalition and I watched closely throughout the negotiation of this treaty. We attended dozens of meetings and briefings to understand the impacts this treaty would have on our national security. I even visited Russia shortly after the treaty was presented to the world and met with many of their top military leadership. After careful and thorough analysis of this treaty, I can say with confidence that this treaty will strengthen our national security. I have no doubt about that fact. There is no question the treaty will reduce the number of launchers that deliver nuclear weapons. This treaty has real cuts to those forces—cuts that perhaps go even deeper than the ICBM Coalition initially would have liked. But after speaking at length with our military leaders, the men and women responsible for developing the plans for the use of these weapons, it is clear to me the numbers contained in this treaty remain sufficient to ensure the success of the nuclear deterrence mission.

They tell me that while absolute numbers are important, there is no precise number that assures our security and enhances our nuclear stability. The bottom line is that we must maintain enough launchers to have a credible and secure deterrent that promotes stability in times of crisis. This treaty does that. It not only maintains our nuclear deterrent, but enshrines it for coming decades.

Beyond protecting a sufficient, credible, nuclear deterrent, this treaty advances our national security in other ways as well. President Ronald Reagan famously said: "Trust, but verify." However, for over a year, we have been unable to inspect Russia's weapons. That is not in our interests. It risks developments that harm our national security going undetected or even misunderstandings that could lead to a national security crisis. This treaty allows us to resume the extensive and intrusive inspections that began under the first START treaty signed by the first President Bush and ratified by this body on a vote of 93 to 6.

This treaty also moves our nuclear security forward at a more advanced level. Although I doubt we can ever rid the world of all nuclear weapons, we are no longer in the midst of a nuclear arms race, and thank God for that. By signaling our commitment to reducing

our nuclear arsenal while still maintaining a sufficient and credible deterrent, this treaty will advance our interests in halting nuclear proliferation.

The single biggest threat to our Nation would be a terrorist organization with a nuclear weapon. This treaty will enhance our ability to deter the development of nuclear weapons by rogue states, and it will reduce the risk that nuclear arms races around the globe destabilize regions of the world or create opportunities for terrorists to acquire nuclear weapons.

Many treaty opponents argue this treaty may weaken our national security. After closely reviewing their concerns and consulting with experts, I do not find their arguments persuasive. Let's look at those arguments in turn.

First, some opponents greatly inflate the importance of a short phrase in the nonbinding preamble of the treaty to argue that it would somehow constrain our missile defense abilities. This ignores the remaining 17 pages of treaty text and 165 pages of protocol text. Let me say, I have long favored missile defense. I have at many times been in the minority on my own side on that question. If I believed this prevented our creating a stable and secure missile defense, I would not favor the treaty.

This treaty doesn't do that. I think it is as clear as it can be. Other than limiting the conversion of existing ICBM launchers to missile defense interceptors, which our military leaders have already said would be more expensive than building new launchers—and more important, in my view—would degrade our ICBM capability, there are no restrictions on our missile defense—none.

Others argue the treaty will restrict future conventional missile capabilities. That is simply not accurate. The treaty fully allows for the use of conventional missiles. We as a nation are free to unilaterally decide what conventional capability we want. We also hear that Russia's tactical weapons should be included in the treaty. I have also been one who has long favored restrictions on tactical nuclear weapons. While I recognize the importance of addressing that threat, a strategic arms treaty, by definition, is not the place to debate them. Never in history have tactical weapons been included in treaties aimed at strategic weapons. That hasn't stopped this Senate from ratifying those agreements, nor has it stopped them for serving our national security interests for decades.

I am quick to recognize that tactical weapons, at some point, can become a strategic issue. The problem we confront is never before in the context of a strategic agreement have we included tactical systems. That is the reality.

Frankly, I would very much like to have tactical weapons included in this treaty. That would be my preference. But that is not the reality of the history of these negotiations.

Mr. President, some argue the number of total warheads goes too low. However, the treaty allows nearly twice as many warheads as launchers. More important, the number of total launchers available is a far more important deterrent for our national security than the number of warheads.

This treaty shows the administration understands the critical need to maintain a sufficient number of launchers to assure continued nuclear stability. With that said, like many other military and civilian experts on our nuclear forces, I would be extremely wary of any efforts to further decrease the number of our launchers. I have argued repeatedly, as chairman of the ICBM caucus, against further reductions at this stage. I believe that is a prudent position.

Finally, opponents argue that the administration has not committed to an investment in the modernization of our nuclear weapons and infrastructure. This argument completely ignores the dramatic increase in the modernization funding the President proposed in his budget. As chairman of the Senate Budget Committee, I can attest to the fact that this increase is unprecedented. This commitment ensures that the remaining launchers and warheads will be reliable and effective in the event we ever need to launch them.

In short, the arguments advanced by those who claim this treaty would hurt our national security are not convincing. That is not just my conclusion; that is the conclusion of former Secretaries of Defense and former Secretaries of State from both the Republican Party and the Democratic Party and previous administrations, as well as current and former military officers who have all publicly stated that this treaty will advance, not harm, our national security.

Let me say I have two major Air Force bases in my State: Grand Forks Air Force Base and Minot Air Force Base. I spend a significant amount of time talking to our top Air Force leadership. I have consulted with them closely on this matter, as chairman of the ICBM caucus. I am absolutely persuaded by the best military thinking available to me that this treaty is entirely in the national security interests of the United States. I believe that is clear.

Mr. President, I am proud of my record in the Senate on national security over the past 23 years, especially when it comes to our nuclear arsenal. For generations, the young men and women who have served at Minot and Grand Forks Air Force Bases have declared peace as their profession, as they defended the United States from global threats through nuclear deterrence. Though they may not be recognized as publicly today as they were 50 years ago, the airmen who stand guard at Minot remain at the vanguard of our

Nation's most important military mission. I would never do anything to undermine the mission they carry out every day.

After a careful review and discussions with our Nation's best nuclear experts, both those in uniform and those who do not wear the uniform, I am confident this treaty makes our Nation safer and more secure.

Mr. President, I will strongly support approving this treaty, and I call on my colleagues to join me in that effort.

I want to conclude as I began, by thanking the chairman and the ranking member for their leadership on this matter. It is in the highest tradition of the United States Senate. Working together in a bipartisan—really non-partisan—way, Senator LUGAR and Senator KERRY have provided vital leadership to this body and this country. We are all very deeply in their debt. I express my gratitude to them both for the statesmanlike quality they have brought to this discussion and debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, as we are waiting for other Senators coming to the floor, hopefully, to offer amendments to the new START Treaty, I have some interesting information that I think is relevant to our discussion today.

As has been suggested by other Senators, the so-called Nunn-Lugar cooperative threat reduction program, in operation for the last 19 years, has made possible, through operations of U.S. military and U.S. contractors, working with their counterparts in Russia, the destruction of very sizable amounts of nuclear weapons—threats that we took very seriously in 1991, and that I hope Americans take very seriously currently.

I have just received a report that, since October—and that is specifically during the month of November—we have eliminated eight more SLBMs in Russia. We have secured 10 more nuclear weapon transport trains and neutralized 100-plus more metric tons of chemical weapons agent.

I mention this because I have been fortunate enough to receive monthly, at least for the last 15 years, similar reports. I have a scoreboard in my office that, in fact, illustrates, first of all, that 7,599 strategic nuclear warheads aimed at the United States have been deactivated through the cooperative threat reduction program. Each one of those warheads, as I have pointed out, without being melodramatic, may have been sufficient to completely eliminate my home city of Indianapolis.

I take seriously the treaty we are looking at now, not so much in terms of the numbers of reductions the treaty

calls for, but simply even if 1,550 warheads are left on both sides, it is an existential problem to both of our countries that we need to take seriously.

In any event, in addition to the 7,599 strategic nuclear warheads deactivated, 791 ICBMs have been destroyed. These were the missiles on which the strategic nuclear warheads were located. So by taking the warheads off of the missiles, then taking down the 791 intercontinental ballistic missiles and destroying them—and then 498 ICBM silos in which these missiles were located were destroyed; 180 ICBM mobile launchers were destroyed; 659 submarine launched ballistic missiles were eliminated, SLBMs; 492 SLBM launchers were eliminated; 32 nuclear submarines capable of carrying and launching ballistic missiles have been destroyed; and 155 bombers were eliminated.

We are talking about so-called carriers. We talk in the treaty about maybe 1,550 warheads left, 700 carriers on both sides. For those who have not followed closely these arguments over the years, these are the elements that have been aimed at us, and these are the vehicles that would have made possible what they were doing.

Anecdotally, without taking the time of other Senators, I will say that during one of my visits with former Senator Sam Nunn, from Georgia, we went to a site in Siberia where, in fact, a missile had been taken out of the ground. This was a missile that we were told had 10 warheads—the multiple reentry vehicle, where you could put multiple missiles on one vehicle. We were in the silo. It was like a large tube that had an elevator going down. I don't know on which floor we finally arrived, but it was a floor in the silo where the Russians stayed as guards or as watch officers. What authority they had was not clear in terms of actually launching the missile or following the orders, wherever they may have come from. But the impression I had from that visit to the silo, before it was destroyed that very day—and we have pictures of it being destroyed in the office. I explain that this is not a nuclear weapon being destroyed, it was just a silo in the ground. But around a table at which the Russians who were on duty sat were pictures of American cities. These were ostensibly the targets of the 10 warheads. It has a chilling effect as you go around to discover which cities they are.

Are they cities that I represent on the chart? The fact is, that was the intent.

It was made known to us in the United States that our total population—not the occasional nuclear terrorist attack—was at risk. I mention all of this once again not as a melodramatic presentation on a very serious treaty, but we are talking about something that is very fundamental. During

the course of the debate I have heard several of my colleagues say—and I think they are mistaken—that right now the American people are focused, as we all are, on how to create jobs, how to make a difference in the economy, and how to bring new hope into the lives of people whose confidence has been destroyed or badly shaken. That is our paramount objective. But at the same time, these problems occur in a world that does not necessarily wish us well and is prepared to leave us in our domestic economy to work our problems out while the rest of the world necessarily takes time out.

I am not one who envisions, after all of this time, a nuclear attack using ICBMs and the carriers that we are talking about. I accept the fact, as a practical matter, that by and large these weapons are maintained for the security of the countries involved. But at the same time, it seems to me to have been prudent throughout the years to have taken the steps we could to take the warheads off of the missiles, destroy the missiles, destroy the silos, and take up the cable in the fields around them and, in essence, to eliminate a lot of the threat.

My scoreboard starts out with 13,300 nuclear warheads. Whether that was the precise number, we are not sure. How did we arrive at that number? We literally had boots on the ground. The subject was discussed frequently today.

The dilemma I foresee, and I am not trying to borrow trouble, is that the boots on the ground, in terms of specifics of the START treaty, ended, as we now know, December 5, 2009. Most of us in the Senate knew of that date. We lamented the fact that was occurring. But the fact is, we have not been able to take action until today's debate to remedy that. We must do so.

This is not a question of a discretionary treaty that somehow might be held over to a more convenient time. The facts of life are that even the program I have discovered, the Cooperative Threat Reduction Program, has diminishing results because the Russians are waiting for work on this fundamental treaty.

In due course, even though we may appropriate in our Defense budget, as I hope we will, substantial moneys for the Nunn-Lugar program next year, our ability to continue to work with the Russian military, Russian contractors outside a situation in which there is no START treaty, and which the Russians may feel there is no expectation of a new START treaty, could mean the monthly reports I have cited today, and most specifically the one for November of this year, may cease coming to my office. The number of warheads removed, the number of missiles destroyed and so forth may simply either stop or we may have no idea what, in fact, the Russians have decided to do.

I appreciate in past debates some of my colleagues have said—and I think they were mistaken, but I understand their point of view—this is Russia's problem. Why were American taxpayer funds ever involved in helping Russians take warheads off missiles, destroying missiles, destroying submarines, in other words to destroy weapons that were aimed at us?

Phrased in those terms, that does not seem to be a sensible bargain; that if you have cooperative threat reduction, and Russians now for 19 years have allowed us to work in their country on their sites where these weapons were located, with not only transparency, an actual feel of the hardware—the silo I was in was real. It was not by electronic means that we found it or surveillance of leaks from diplomacy. It was very real. So was the submarine base I was invited to visit at Sevastopol entirely out of the blue during one occasion in a visit to Russia.

Why was I asked to go there? Because they had a feeling, and correctly, that if they presented to me the fact that there were in existence then six Typhoon submarines, that each one of them had 200 missiles, small missiles on them, that even though Tom Clancy finally discovered the Typhoons in the "Hunt for Red October" story, the Russians may have been operating these submarines up and down our eastern coast for as long as 20 years, whether we knew about it or not—if you saw the submarines, the largest ever produced by any country, and with the 200 warheads, there were chip shots into New York or Philadelphia or any of our large eastern coast metropolitan areas—whether citizens there ever knew there was a threat or not is immaterial. There was—and a very substantial one. Yet the Russians were inviting us to consider the destruction of these huge submarines because the work is very complex, extraordinarily expensive, and it was beyond their abilities at that point.

We could take a choice, to leave six Typhoons in the world that might begin to cruise again, maybe someplace else, or work with them to destroy them. I am here to say that even after several years, only three of the six have been destroyed. It is an extremely complex operation.

This is why we need to have treaty arrangements with the Russians. So there are formal reasons why their government and our government might be prepared to send our military personnel, our civilian contractors, others who might wish to work with us on projects that we believe mutually are important because—and I will give just one more illustration—this is very subjective.

But on one occasion, I was surprised, although I should not have been, that many nuclear warheads, when they are

removed from missiles, are not destroyed. It is difficult to destroy a warhead, very expensive and complex, dangerous for the personnel involved in it.

The Russians did not have very many facilities to do this. So they put many of these warheads into caves or caverns. I was invited into one of these caverns on one occasion. I saw warheads lying there almost like corpses in a morgue, which is what it reminded me of. There were small captions at the top of each of those corpses, in essence, which at least gave—and the Russians told me in translating what was on there—a history of that warhead: when it had been created, what sort of servicing it had received over the years.

I mention this because these particular warheads were not inert matter like sporting goods material. For the safety of the Russians who were involved, they require servicing, apparently, from time to time. One of the reasons why Russians always ask U.S. military and contractors to remove the oldest warheads first was that none of us have had that much of a history as to how long these warheads survive without potential “accidents,” something that could make a huge difference in this particular case for those who were in proximity to that particular cave.

It is a crucial matter for them and for us that we find solutions to this. This is why, I believe, there is urgency in considering the New START treaty, urgency in doing so right now, as a matter of fact, as rapidly as possible, and reentering Americans onto the scene in Russia and, in reciprocal manner, accepting Russians who will be interested in our situation. Because this is important for our two countries, and it is important for many innocent people who were never a part of the designs of these weapons but could, in fact, be vastly affected in the event that we make a mistake. We will make a mistake if we fail to act promptly, knowing what we do about the situation.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I have said a couple times, during the course of our opening comments and subsequently, what a privilege it is to be working with Senator LUGAR on this treaty. I listened to him talk, as I have heard before, about his experiences of traveling over to Russia and going through the process of establishing this extraordinary program. But the country and the world owe him a huge debt of gratitude for his leadership on this issue. His vision, together with Senator Nunn, has made a global difference, and he is properly recognized on a global basis for that.

So I thank him for his comments calling every colleague to focus on this linkage of the threat reduction pro-

gram to the START agreement and to the relationship that comes out of it. I know Senator INHOFE is here. I want to give him a chance. But I would like to say a few words before he does about the verification.

I think it is important, as we go forward, to be very clear about the verification components of this treaty. A number of colleagues have requested the verification regime, and we may yet have further discussion on it. So let me make as clear as I can, this treaty has fully satisfied our intelligence community and our military community and our stockpile verification folks as to the verifiability of the treaty.

Is it slightly different from what we had before with START I? The answer is yes. But, importantly, I wish to underscore why that difference exists because one colleague sort of raised the issue a little while ago. I think it was Senator KYL who talked about why it was we might not have gotten them to do an extension of the START I treaty. Well, the reality is, it takes all parties to be party to that extension.

The fact is, Kazakhstan, Ukraine, Belarus all dropped out of the nuclear game, and all those weapons were deposited into Russia. They were all party to that original agreement. But Russia made clear to the Bush administration, long before President Obama came to power, that they were not going to proceed with that same system anymore, and the reason was, they saw it as a one-sided structure. They felt they did not get anything out of it. We were the only ones who got something out of it. As long as they were not getting something, they made us—put us on notice, we are not continuing that one.

That said, the new START succeeds in streamlining verification and tracking procedures, and it creates a new system, a state-of-the-art inspection system, and very strict reporting guidelines. The compliance and verification measures that are in the New START build on 20 years of verification experience, and they appropriately reflect the technological advances that have been made since 1991, as well as the difference of relationships between the United States and Russia because of the end of the Cold War.

So colleagues need to look at those changes and measure it against the original benchmark, if you will. The fact is, New START's enhanced verification measures have a five-pronged approach, five different components.

One, invasive, onsite inspections.

Two, national technical means. We have always had that, but our national technical means have improved significantly. Without discussing them on the floor, I think colleagues are aware of the capacity of our national technical means.

Three, unique identifiers that will be placed on each weapon. We did not

have that before. Now we are going to have the ability to track each individual weapon, warhead, and count them. That is new. That is increased.

Regular data exchange. We gain a great deal. They gain a great deal. It is a mutual process of exchanging data, which provides stability and assurances for both sides.

Finally, prompt notifications of the movement of any weapons.

The New START permits up to 18 short-notice, onsite inspections each year, in order to determine the accuracy of Russia's data and to verify the compliance. The fact is, this new system is every bit as rigorous as the system that existed previously.

In fact, because of the change I described earlier, the Belarus, Ukraine, Kazakhstan change—we had about 70 inspection sites previously, and those were the nuclear facilities in each of those different countries. But since three of them have now denuclearized, the result is, all the former Soviet Union's remaining nuclear weapons are centralized in Russia, and they are divided between 35 nuclear facilities.

So we go from 70 facilities that we used to have to inspect down to 35. Thus, the decreasing number of annual inspections from 28 in START I to 18 in the New START is almost exactly the equivalent in terms of those allowed under START I because we are inspecting fewer places, and the inspectors are now allowed to gather more types of data during those inspections. The United States is also allowed to use national technical means, which would be reconnaissance satellites, ground stations, ships, all of them, to verify compliance. The treaty expressly prohibits tampering with the other party's national technical means.

Third, Russia has to assign and inform the United States of the specific unique alphanumeric identifiers that are designating the deployed and non-deployed ICBMs and SLBMs and nuclear-capable heavy bombers. This information gives us a great deal more inside look with respect to the tracking patterns on Russian equipment throughout the full life cycle of any of those specific systems.

Fourth, the treaty requires Russia to regularly provide to the United States the aggregate data on strategic offensive forces, including numbers, locations, and technical characteristics of deployed and nondeployed strategic offensive arms.

Fifth, the New START establishes a comprehensive notification regime allowing us to track the movement of Russia's strategic forces and any changes in the status of their strategic weapons.

The fact is, this agreement employs an enormously aggressive, forward-leaning, and effective verification system, and it has been predicated on decades of our doing this very thing with

the same people. This is not new ground we are breaking. We know how to do this. We have built up a certain understanding of each other's capabilities, each other's idiosyncracies and resistances. We know how to do this. The verification system designed for this treaty is specifically designed to be less complicated, less costly, and more effective than the one in the original START treaty.

I have a series of quotes, but I want our colleague to have an opportunity to speak. I will wait and later share with colleagues the number of different distinguished, respected, long-serving personalities within the intelligence community—former LTG Jim Clapper of the Air Force and others—all of whom have affirmed the ability of this verification system to do the job and protect the interests of the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I compliment the Senator from Massachusetts for his endurance. I appreciate that.

I have to say also to the Senator from Indiana, my good friend, I am kind of in a unique position as one who serves on both the Armed Services and the Foreign Relations Committee. I disagree with most of what was just stated by the senior Senator from Massachusetts.

One of the concerns I have had is that we have so many people who want to be in on this, who should be in on this, who have been elected. We have new Senators, one who is occupying the chair right now. We have Senators KIRK and MANCHIN. We also have Senators-elect BLUNT, BOOZMAN, Portman, MORAN, Lee, Johnson, Hoeven, Ayotte, Paul, and Rubio. All of them have signed a letter saying: This is very significant. We really need to be a part of this. This is important.

It is important in a different way to me than it is to others. I am opposed for a number of reasons. I am one of the few bad guys who came out initially and said I opposed it.

We all know what a strategic arms reduction act is. Initially, when we had two superpowers, it made a lot more sense to me. Frankly, I look at this, and I see the concerns I have.

Verification—that sounds good. Yes, we will verify. Yet the number of verifications, inspections, is like 18 per year in the New START as opposed to some 600 over a 15-year period.

Modernization is one thing on which we all agree. We have to modernize. But there has to be a way of doing it. We haven't done it yet.

It was 3 years ago that Secretary Gates said:

No way can we maintain a credible deterrent and reduce the number of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

That is an area where we all agree. How are we going to do that? Right now, I think the generally agreed upon number that it would cost over a period of 10 years would be \$85 billion. We have right now about \$600 million that would be coming up in the next budget cycle. We all know how things work around here. We can only commit funds for the next cycle. There is no assurance at all that we would be able to come through with the other \$84.5 billion in that period. The modernization is not set up in a way where we are in the current year demonstrating the commitment we have to modernize our fleet.

The fact that we are handling this in a lameduck session—most of the stuff we are trying to cram in right now is what we should have been talking about all year long and have not been. They all fall into a category where it looks as if things are going to change in the Senate. We know the House, after the November election, is now a Republican-dominated House. We know we have gained large numbers in the Senate. We also know there are several of my good colleagues who are up for reelection in 2012. I am not sure they all want to join in all of these issues coming up at the last minute. This is one of them.

I look at the quotes we have—the missile defense issue has not been addressed. I know it would take a lot of discussion. There are probably potentially, with the new Congress coming in in January, 40 or 50 different amendments just addressing the missile defense issue. They say: Well, no, this is not a problem. But anytime you have a unilateral statement that was made—which was made by the Russians early on—that this treaty can only operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively and qualitatively—that has been stated, and it has been stated and reaffirmed more recently when Sergei Lavrov said:

We have not yet agreed on this [missile defense] issue and we are trying to clarify how the agreements reached by the two presidents . . . correlate with the actions taken unilaterally by Washington.

The problem is that when the American people look at this, they say that maybe back during the Cold War and maybe back when we had two superpowers, this thing made sense. Frankly, I was not as supportive of this concept back then. But there is certainly justification for it.

Where are we today? Right now, we are probably in the most endangered position we have been in as a nation. I say this from the experience I have had on both of these committees. We have problems. There are certainly problems with North Korea and what they have developed in their capabilities, problems with Syria, certainly problems

with Iran. Our intelligence says—and it is not even classified—that Iran would have the capability of sending a missile to Western Europe and the Eastern United States by 2015.

One of the most disturbing things that happened at the beginning of this administration, a year and a half ago, was when the President came out with his budget and did away with our site in Poland which was a ground interceptor site that would have given us the capability of defending the geography I just mentioned. They took a risk. It wasn't easy for Poland or the Czech Republic, in terms of their radar system, to almost defy Russia, but they were willing to do it. I always remember being a part of the negotiation over there when they said: Are you sure, if we take this bold step, we start agreeing to build a ground interceptor in Poland that would protect that area, are you sure you will not pull the rug out from under us? I said: Absolutely. I had no hint that this would happen, but it did. So in February, right after the new President was inaugurated, of the many things he did that I found objectionable with our defense systems, that was the most egregious.

We are talking about doing a type of strategic arms reduction with Russia. I am not concerned about Russia; I am concerned about these other places. The threat is there. The threat is real. I don't think there are too many people around since 9/11 who don't know that the terrorists would in a heartbeat come after the United States.

When we have something that is written in the preamble—statements have been made over and over again that it would be a violation of this treaty if we were to enhance our missile defense system. Yet we know that Syria is going to have a capability by 2015. To me, that is mind-boggling that people could be sitting around here worrying about this treaty between two countries when I don't look at them as being a threat.

Then we have the issue of force structure. I think we know that not only do we have to have a weapon, we have to have a way of sending it. We all know the triad and how they are not being enhanced by this. That is my major concern.

I was against it from the very beginning. However, this is where we are today. We are in the middle of it. I know I keep hearing on the radio: You are going to be here until Christmas; you shouldn't do that. I will be spending New Year's Eve with our troops in Afghanistan. I am also concerned about what we are doing here in America. Why are we waiting? Last year, we waited until Christmas Eve. I always remember going home Christmas Eve. It happened to fall at the same time. It was the worst snowstorm in the history of Texas and northeastern Oklahoma. I barely made it in time to get home.

Yes, I have 20 kids and grandkids. I would kind of like to see them at Christmas. These are things we could have been doing a long time ago. You wait until the last minute. This is when you want to cram things through that the American people don't want and that should take time. We beat up this thing on this treaty for long enough.

But let's look at what we should be talking about now; that is, running government into the next year so we don't have some type of a stoppage, some type of a crisis on our hands. So the liberals have the omnibus bill that they have up, a bill that is \$1.3 trillion. Here we are talking about we have come up with \$2 trillion—\$3 trillion—\$2 trillion in the first 2 years. This is unheard of in terms of deficits. Look where we are going right now with \$9 billion more in spending than last year, and we thought last year was an absolute disaster.

At the same time, where is the spending going? We have such things as their agenda—\$1.4 billion for a variety of climate change programs. They are not going to give up on that. They are going to keep coming forth trying to spend money. They are talking about the money for the Corporation for Public Broadcasting, talking about zeroing out the efforts in Yucca Mountain. These are things that are in this bill.

What it does to the defense system—everything is enhanced except defense. What is this aversion to trying to rebuild America's defense system? Overall, the defense spending cuts in the omnibus bill amount to \$10.3 billion. That is from the President's request of 2011. It includes the \$450 million to include work on the second engine, the alternate engine. We have already talked about that. We have been discussing that in the Senate Armed Services Committee and the House Armed Services Committee.

We decided, I believe justly—I was on the single engine side of that argument because of the sheer cost. Yet I know the arguments on both sides. We have already done that. We have already debated it. I don't know why we have to come to the floor after we have made these decisions and then look at a bill that cuts the proposed purchase of the F-35s from 42 to 35.

Let's remember what happened a year and a half ago. They talked about doing away with the F-22s, which are the only fifth-generation capability we have. The justification was, look what we are doing with F-35s. That is fine. But so it is going to be 42. This bill would cut it down—further cuts.

So while we are talking about a bill of \$1.3 trillion, it throws money at every kind of social engineering, everything you could have except defense.

The CERP—this program used to be called the commander's emergency relief program. It was one that was my

program. You talk to the commanders in the field, and they will tell you they have a capability of taking care of some of these needs. Whether it used to be Iraq, now Afghanistan, they can accomplish so much more if they can do it right now. That is called CERP. They are already bringing the funding of that down in this bill. I look at over \$1 trillion in funding to implement the very unpopular health care law. If anybody is out there thinking this is going to be an easy lift, I personally think we will be able to defeat this omnibus bill. I think it will be defeated by almost all Republicans and a few of the Democrats, particularly those coming up for reelection in 2012. I would hate to be in a position where I would say: What I am going to run on is the fact that I already voted to put more than \$1 trillion into funding this form of socialized medicine.

That is where we are right now. I do think we need to take a deep breath and just figure that we have a new Congress coming in, a new Senate coming in right after January. We will have plenty of time to allow other Senators who were elected to weigh in on this very critical issue of the New START treaty.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Texas.

Mr. CORNYN. Mr. President, I would like to briefly join my colleagues in explaining some of my concerns, first of all, about the process by which we are taking up something as important as a treaty with regard to nuclear arms. Of course, this is the second part of a two-part constitutional process.

The President sent this treaty to the Senate, along with a transmittal letter dated May 13, 2010, and here we are on December 16, shortly before the Christmas holidays and adjournment, taking up a treaty as important as this. Of course, under article II, section 2 of the United States Constitution, a treaty cannot be ratified without the vote of at least two-thirds of the Members of the Senate.

I know everyone—whether they are for this treaty, whether they are against this treaty, whether they are merely questioning some aspects of the treaty and are perhaps seeking to make some modifications—I believe everyone is approaching this issue with the kind of seriousness and gravity that should be required of a Senator approaching something this serious.

But I have to make this observation: Here we are, as I said, on December 16, 2 days—2 days—after having dropped on us a 1,924-page Omnibus appropriations bill which calls for the Federal Government to spend an additional \$1.2 trillion. The idea that we would later today take up the issue of funding the Federal Government and consider this Omnibus appropriations bill while we would have to basically detour and lay

this treaty by the side—this is, to me, just irresponsible. I do not know any other word to describe it.

We have, in fact, been in session 151 days during 2010. That is right. You heard me correctly. The Senate has actually been in session 151 days this year. I think most people would love to get a paycheck across America and only be expected to show up and do their job 151 days a year.

Now, I know when we go back home, we continue to work with our constituents, to listen to their concerns and otherwise, but my simple point is, when the President sends this treaty over on May 13, 2010, and at the same time, simultaneously, we are being asked to consider this huge Omnibus appropriations bill of \$1.2 trillion—some 2,000 pages long—the idea that we would try to jam through or give expedited consideration to the serious, substantive issues being raised by this treaty is, as I said, poor time management, to say the least, and I think irresponsible.

I want to raise some of the substantive concerns I have about the treaty on which I know there will be further discussions.

First of all, I would point out that the treaty does not itself address tactical—

Mr. KERRY. Mr. President, will the Senator yield for a question?

Mr. CORNYN. Mr. President, I have the floor.

Mr. KERRY. I know. I am just asking if the Senator would yield for a question.

Mr. CORNYN. I would be glad, after I get through my remarks, to yield for some questions.

Mr. KERRY. I appreciate it.

Mr. CORNYN. Mr. President, I would note, as others have noted, that the treaty completely excludes consideration of a limitation on tactical nuclear weapons, even though Russia possesses a significant superiority in terms of numbers over the United States for these types of weapons.

I would just note that some at the Department of Defense have noted that the difference between strategic weapons and tactical weapons has become somewhat muddled and less meaningful in recent decades. I believe a legitimate cause for concern is why we would exclude tactical nuclear weapons, that the Russians have numerical superiority of, and not even seek to regulate or contain those at all, while we are focused strictly on strategic nuclear weapons, of which the United States would have to cut our current numbers and the Russians not at all in order to meet the goals of the treaty.

I would say, secondly, I have concerns about the treaty's provisions on verification. Of course, President Reagan was famous for saying we should trust, but verify when it comes to this type of treaty. I would point out

that Brent Scowcroft, in 1997, pointed out the importance of when we are actually reducing the overall number of weapons, verification becomes that much more important. He said, in 1997:

Current force levels provide a kind of buffer because they are high enough to be relatively insensitive to imperfect intelligence and modest force changes. . . . As force levels go down, the balance of nuclear power can become increasingly delicate and vulnerable to cheating on arms control limits, concerns about nondeployed "hidden missiles" and the actions of nuclear third parties.

So we need to be extraordinarily careful, even more careful now than perhaps we have been in the past with regard to the verification measures.

We know the Russians have taken every advantage to cheat on previous treaties and to be untrustworthy. According to the official State Department reports on arms control compliance, the Russians have previously violated—or are still violating, even as we speak—important provisions of most of the key arms control treaties to which they have been a party, including the original START treaty, the Chemical Weapons Convention, the Biological Weapons Convention, the Conventional Forces in Europe Treaty, and Open Skies.

The New START treaty does not close that gap on verification loopholes that the Russians are already exploiting or, in fact, evading.

As my colleague, Senator BOND—who is, notably, the vice chairman of the Senate Select Committee on Intelligence—has told us, the annual 10-warhead limit on inspections allowed under this treaty permit us to sample only 2 to 3 percent of the total Russian deployed force and, therefore, it will be impossible—it will be literally impossible; limited to 10 annual warhead inspections over a 10-year treaty—to inspect all, much less most, of the 1,550 limit on deployed warheads.

So why would we call this a robust verification provision if we are only allowed to see 2 to 3 percent of the total Russian force?

The New START treaty, unlike its predecessor, permits any number of warheads to be loaded on a missile. So even if the Russians fully cooperated—which I do not believe they have in the past, nor can be trusted to do so in the future—even if they do cooperate with all of the provisions in the New START treaty, these inspections cannot provide the sort of conclusive evidence that you would think would be required given the gravity of the potential risk. They cannot provide conclusive evidence that the Russians are, in fact, complying with the warhead limit.

Third, the New START treaty handcuffs the United States from deploying new capabilities we need to defend our Nation and our allies from missile attacks.

I would just point out that this chart I have in the Chamber demonstrates

the ballistic missile threat that is presented in a map of Europe and Africa and Asia. You will notice that Russia is not even on this map. But you will notice a number of other ballistic missile threats that could affect not only the United States but most certainly our allies. This map is a compilation from the Missile Defense Agency based on information from several agencies in the intelligence community and shows that more than a dozen nations—more than a dozen nations—have developed or are developing

ballistic missile capabilities. Several of these nations are notorious for that—North Korea, Iran, and Libya, just to name a few. But we know others, such as Yemen and Pakistan, have al-Qaida operatives or other extremist groups operating within their borders.

The fact is, we need a robust missile defense capability, not to protect us from Russian ballistic missiles but from ballistic missiles from some of these other nations that have developed them, some of whom have groups such as al-Qaida and other terrorist organizations there that would love to get their hands on some of these weapons and use them against America or our allies. That is why it makes absolutely no sense to constrain our future missile defense options in exchange for reductions in the strategic nuclear weapons of just one country, and that is Russia.

Now, some of my colleagues may be arguing there are no limitations on missile defense in the treaty and that the language in the preamble, which ties our strategic offensive arms to our strategic defensive arms—for the first time ever, by the way—that this preamble language does not mean anything, does not operate as a constraint on our missile defense programs.

But that is not what the Russians have said. That is not how they read it. Of course, the Senate has been denied the negotiating record by which we could actually clarify what was said by American negotiators and Russian negotiators in coming up with this language. Isn't that something you would think the administration would want clarified, if they could clarify it by providing this information? But, no, we have been stonewalled and told: You cannot have it, Senate, even though under article II, section 2 of the Constitution, you have a constitutional duty when it comes to treaty ratification.

I just think it is a very poor way to do business, to say the least, and causes me to question whether there is a uniform understanding of constraints on our missile defense system. Again, you can see that the risk is not just from Russia, it is much more widespread, unfortunately, than that.

Russia has also made a unilateral statement that it claims the right to withdraw from the New START treaty

if the United States does, in fact, expand our missile defense capability. Doug Feith shed some light on this issue earlier in an op-ed piece in the Wall Street Journal.

Mr. Feith, of course, as you remember, is a former Under Secretary of Defense under the Bush administration, and he helped negotiate the Strategic Offensive Reductions Treaty, known as the SORT treaty. He says during those negotiations, the Russians were constantly trying to get the Americans to negotiate away our right to defend ourselves from missile attacks. The Bush administration rightly rejected those Russian demands, and they got a good treaty anyway. But the Obama administration, in this treaty, gave Russia what it wanted when it came to our missile defense, among other concessions as well—a very serious concern, I would say.

The New START treaty has other flaws, but even if it was an outstanding treaty, I think the gravity of what we are about here—in considering this treaty, and reductions in nuclear arms, and trying to make the world a more secure and safer place—that it warrants more careful and deliberate consideration of this treaty than we are going to be able to give during this lameduck session.

I have heard people talk about, well, the fact that this is the Christmas season—of course, we would all like to be with our families. But we recognize the fact that we have important obligations to perform in the Senate. I think all of us are willing to perform those. But the problem is, we have had an election on November 2, and there are a lot of people, as the Senator from Oklahoma said, who were just elected by the American people who would be denied an opportunity to let their voice be heard on such an important issue if this treaty is jammed through during the waning days of the 111th Congress. Now, we know the legitimacy of our government itself rests upon the consent of the governed. The fact is, during the most recent election the American people said they don't like the direction Washington is heading and they want us to change. The idea that we would then—after the election takes place but before the new Senators in Congress are actually sworn in—try to rush through such important matters such as this treaty and deny them an opportunity, and the voices of the people who elected them to be heard, to me, does not speak well of this process, and I think indeed denies us the legitimacy of the consent of the governed, or certainly many of them.

Let's be clear about what is happening. We know the administration wants a vote on this New START treaty because they think they have a better chance of passing it now than when these new Senators are sworn in on January 5. There is no one I have heard

who has suggested there is a national security threat to the United States from delaying the ratification of this treaty by a month. No one. I don't think they could plausibly make such a contention.

I think there is a little bit of an attempt to focus our attention away from the \$1.2 trillion spending tsunami that was unleashed on Congress just 2 days ago in which we are told Senator REID, the majority leader, is going to insist be voted on in just a few days. I think a better alternative to that, and certainly a better alternative than to go through this unnecessary drama about government shutdowns, is to pass a one-page continuing resolution that would keep the government operating until January or February, at which time these newly elected Senators and House Members would be able to participate. It would be the time when we could certainly take up this treaty and give it thoughtful and careful consideration, the kind of debate and amendment process I think our responsibility requires rather than trying to move it through in this irresponsible manner.

This omnibus bill I mentioned earlier will no doubt be called up later today, perhaps, and be attached to a continuing resolution and then cloture filed, asking 60 Senators to agree to close off debate, denying any opportunity for amendments and the kind of consideration I think the American people would want us to have for a \$1.2 trillion spending bill.

We know Christmas is almost here and many Americans look forward to celebrating that important holiday and reflecting on what comes with the new year. I hope our friends on the other side of the aisle will reconsider the tactics they are employing during this lameduck session to try to gloss over or ignore the important substantive concerns many of us have about this very significant treaty and to ram through unpopular legislation just as happened last year on Christmas Eve with the passage of the health care bill. Many Americans remember passing that bill on Christmas Eve in the Senate, and they were outraged by the process, by the back-room negotiations and deals that took place in order to get over the 60-vote threshold.

So this year I would submit that millions of Americans want just one thing from Congress, and that would be a silent night. Let's pray they get it. If the Senator still has a question or two for me, I would be glad to yield for that purpose.

I thank the chair and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I wish to say to my colleague from Texas, I am a little surprised to hear him be quite so harsh about the—I think he used the word “irresponsible”—about why we

are here in this predicament right now. I shouldn't have to remind him, but in this session of Congress there have been more filibusters by his party than at any time from World War I all the way through until the late 1970s.

We have nominees waiting to be passed who have sat there for months who cannot get a vote. When we finally have a cloture vote to get 60 votes to get them out, they get 90, 95 votes in the Senate. They just delay and delay and delay. I am not going to stand here and listen to them come to the floor of the Senate asking why we are trying to do the important business of the country at the last minute because all they have to do is look in the mirror. That is all they have to do, and they will see why we are here.

Then to say we can't do the important business of this treaty in the amount of time we have is totally contradicted by history of every treaty we have worked on. Earlier today we had a Senator say: Well, we can't do that. We have to—we can't dual-track. I pointed out that START I, which was a much more complicated treaty, took 4½ days. On the day they passed it, they passed two or three other pieces of legislation. On the day we went to it, we passed a tax bill and an appropriations bill.

We have reached a new stage in America where we just say something. It doesn't matter if it is based on the truth. Just say it, put it out there, and somebody is going to believe it. Somebody will pick it up.

So I regret that. We have been here for a day. We still haven't had an amendment, and all this talk about serious consideration. I am going to release a breakdown of who has spoken and for how long because it is interesting to take a look at what is going on.

By the way, why would we have to read something? I understand we may have to read the appropriations bill for about a day and a half; have the clerk up here just reading the bill. Now, there is an act of stunning responsibility. Let's just chew up the time of the Senate, keeping everybody up all night reading a bill rather than working on it.

So I have said enough about it. I think what we need to do is do the business of the country, and there is plenty of time to do it and still plenty of time to get home for Christmas if we would spend our time doing that rather than a lot of delay tactics.

Some Senators have also cited an early statement by General Cartwright, the Vice Chairman of the Joint Chiefs of Staff, suggesting he had some concern about the numbers. Let me make clear, here is what General Cartwright said today: “We need START and we need it badly.”

Now, are you going to listen to General Cartwright or are you going to lis-

ten to some of these sort of vague and somewhat similar talking points that keep coming to the floor without an amendment, without any substantive work?

At this point I ask unanimous consent that at 6 p.m. today, the Senate resume legislative session and the majority leader be recognized at that time.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, I rise to object, and I will not. I just want to make sure that at 3:30 I will be allowed to speak.

Mr. KERRY. We are staying on the START agreement at that time.

Mrs. BOXER. So is 3:30 a good time or 3:40?

Mr. KERRY. Mr. President, I intend to yield the floor. I ask unanimous consent that when I yield the floor, the Senator from California be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask for your ruling on the unanimous consent request with respect to 6 p.m. today we move to legislative session and the majority leader be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I wish to thank my chairman of the Foreign Relations Committee, Senator KERRY, with whom I have worked closely. I thank also Senator LUGAR, the ranking member, who at times has been my chair. It does my heart good to see them working closely on this matter. I was also elated to see the test vote we had on this already.

I hope that vote, that test vote, is indicative of where we are going. We were almost at 67. My understanding is that one Member wasn't there to vote. We should be at 67. I hope we can get this done at the earliest opportunity because despite some of the protests of our colleagues saying there hasn't been enough time, my understanding is that we have been on this for 7 months. And no one could have worked harder than our chairman and our ranking member on making sure that every single objection to the New START treaty, every single problem and challenge was heard and that a lot of this was already worked out in the resolution of ratification. So, hopefully, we can get through this.

I have had opportunities, as a member of the Foreign Relations Committee in particular, to ask national security experts what keeps them up at night, what is the one thing they worry about. Whether it comes from the CIA or any other place within the intelligence community, the answer comes

back like this: What keeps them up at night is the possibility that a terrorist could get hold of a nuclear weapon.

I have to say, that worrisome possibility is on the minds of many Americans. The New START treaty makes this less likely. Therefore, ratifying the treaty is in our national interest and, frankly, it is in the interest of the world. The New START treaty requires a 30-percent reduction of deployed strategic weapons on the Russian and American side, with on-the-ground verification. That is key. It reduces delivery systems to 800 per side.

I am not going to speak for very long, I say to my colleagues who have come here, because so much has been said. I can't say it any better. So what I am going to do for most of the remainder of my time is quote from people, Republicans and Democrats, who have been quite eloquent on this issue, in addition to Senators KERRY and LUGAR.

It is clear Democrats and Republicans alike support this treaty. We hear a lot of talk about not labeling each other and coming together. Look, this is an area where we have come together, and all we have to do is put the finishing touches on this ratification and complete this very important work that is in front of us.

In addition to all of our NATO allies supporting this, including those in Eastern Europe—which I think is very important to note—we have the support of all of these American leaders on both sides of the aisle. I will read some of their comments for the RECORD: “I urge the U.S. Senate to ratify the START treaty.” This is a statement from a few days ago from President George Herbert Walker Bush.

This is from Colin Powell, Secretary of State for George W. Bush:

I fully support this treaty and I hope that the Senate will give its advice and consent as soon as possible . . . [T]his treaty is in the best interest of the United States of America, the best interest of the world, and frankly in the best interest of the Russian Federation.

Howard Baker, former Senator, Republican from Tennessee, said just a few days ago:

A world without a binding U.S.-Russian nuclear arms control treaty is a more dangerous place, less predictable, less stable than the one we live in today. . . . Trust, but verify. Ratify this treaty.

George Shultz, a constituent of mine, Secretary of State for President Reagan, wrote with Sam Nunn, a Democrat and former Senator from Georgia whom we all respect on these issues:

Noting the full support of the Secretary of State, the Secretary of Defense, and Chairman of the Joint Chiefs of staff, and following our own review of the treaty, we urge the Senate to give its advice and consent to ratification of New START as early as is feasible.

I hope we don't have a lot of delaying, more delaying tactics around here because it is not necessary.

I heard colleagues say, What is the rush? What is the rush? We have had 7 months. Senators KERRY and LUGAR have bent over backwards and done everything possible to accommodate Senators, such as Senator KYL, who wanted certain assurances on the modernization of our nuclear weapons. They did everything to answer every question. By the way, they will continue to do that as we get to any other issues.

This is what James Schlesinger, Secretary of Defense for Presidents Nixon and Ford, said:

I think it is obligatory for the United States to ratify New START. . . . For the United States, at this juncture, to fail to ratify the treaty in the due course of the Senate's deliberation would have a detrimental effect on our ability to influence others with regard to, particularly, the nonproliferation issue.

So James Schlesinger gets to the point of nonproliferation, the worrisome fact that a terrorist or rogue state could get one of these weapons.

Alan Simpson, an outspoken former Republican Senator from Wyoming, said this:

Nothing in the treaty constrains our ability to develop and deploy a robust missile defense system as our military planners see fit. The idea that this treaty somehow makes major concessions to the Russians on missile defense is just simply not true.

I will quote Pat Buchanan, former White House Communications Director for President Ronald Reagan:

Richard Nixon would have supported this treaty. Ronald Reagan would have supported this treaty, as he loathed nuclear weapons and wished to rid the world of them. And simply because this treaty is “Obama's treaty” does not mean it is not in America's interest.

I don't think I have ever in my life quoted Pat Buchanan on the floor. I am just proving the point that this particular issue is extremely bipartisan. It unites everybody, except apparently a few of our friends on the other side.

Brent Scowcroft, LTG retired, National Security Adviser to Presidents Ford and George H.W. Bush, said this:

New START should not be controversial no matter how liberal or conservative you are.

That also makes the point.

Chuck Hagel, a former Republican Senator, made this statement—and I will not read the entire statement. He ends it by saying:

This would be devastating not just for arms control but for security interests worldwide [if we didn't deal with this issue].

Henry Kissinger has a very long statement. I will not read the entire statement, but he said this:

. . . for all these reasons, I recommend ratification of this treaty. . . . I do not believe this treaty is an obstacle to a missile defense program or modernization. . . . A rejection of this treaty would indicate that a new period of American policy had started that would have an unsettling impact on the international environment.

So here you have somebody who has been deeply involved in foreign relations for so many years saying, in essence—and I am not quoting him here, but I am summing up what I read, that it would be a radical departure from America's foreign policy if we were not to do this.

James Baker, former Secretary of State for President George H.W. Bush, writes:

New START appears to take our country in a direction that can enhance our national security. . . . It can also improve Washington's relationship with Moscow regarding nuclear weapons and delivery vehicles, a relationship that will be vital if the two countries are to cooperate in order to stem nuclear proliferation in countries such as Iran and North Korea. I agree with Secretary of Defense Bob Gates when he wrote last week in the Wall Street Journal that the new treaty provides verification that has been needed since START I expired in December. An effective verification regime is a critical component of arms control and I believe that the world is safer when the United States and Russia are abiding by one.

I will close with a couple of Democratic individuals who have also joined their Republican friends in this.

President Bill Clinton said this:

The START agreement is very important to the future of our national security and it is not a radical agreement. This is something that is profoundly important. This ought to be way beyond party.

He said that a couple days ago. William Perry, we remember well; he was Secretary of Defense for President Clinton. He said:

The treaty puts no meaningful limits on our antiballistic missile defense program. In fact, it reduces restrictions that existed under the previous START Treaty. I recommend ratification.

Former Senator Sam Nunn said this:

Delaying ratification of this treaty, or defeating it, would damage United States security interests and United States credibility globally.

He takes the same tack that I am taking. He is someone who supports this. The Joint Chiefs of Staff, former strategic nuclear commanders, and our intelligence community leadership all have stated that the treaty is essential to our Nation's security.

I am hopeful the Senate will put our Nation's security first by providing its advice and consent to this important treaty.

That was Sam Nunn.

I will close with two more quotes, one from Vice President JOE BIDEN:

Failure to pass the new START Treaty this year would endanger our national security. We would have no Americans on the ground to inspect Russia's nuclear activities, no verification regimes to track Russia's nuclear arsenal, less cooperation between two nations that account for 90 percent of the world's nuclear weapons, and no verified nuclear reduction.

We all know Vice President BIDEN was the respected chair of the Foreign Relations Committee, and it was my honor to serve with him.

Finally, Secretary of State Hillary Rodham Clinton said this:

Failing to ratify the treaty would not only undermine our strategic stability, the predictability, and the transparency, but it would severely impact our potential to lead on the important issue of nonproliferation.

I end where I started. What keeps the intelligence community people up at night is the fear that we don't wrap our arms around nuclear proliferation, and that a weapon gets into the hands of a terrorist or rogue nation. New START is—as our chairman has said many times—not a very broad treaty. It is pretty narrow. It is essential, but it doesn't cover that much new ground. It ensures that we are going to have a mutual reduction in these arms that we will be able to verify, and it makes it less likely that we are going to have the type of proliferation that keeps a lot of us up at night, including the American people, I am sure. We need to take steps in this holiday season toward peace. We need to take steps every day to make sure that the threats we face in this difficult world, with all of our challenges, are diminished.

Once again, I say to my chairman, his leadership has been extraordinary on this. I was beginning to give up hope that we would be able to get this done. He constantly said that we don't give up, we keep pursuing this. It is the right thing to do. And he has done it with Senator LUGAR by his side.

This is a good day. I feel good that we are doing this. I feel that the people, particularly at this time of the year, will feel much better when we get this done in a bipartisan way. I know we will.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, are we working off of already arranged time?

The PRESIDING OFFICER. There is no operating UC for time at this moment.

Mr. BURR. I thank the Chair. I want to make some introductory remarks about the START treaty this afternoon. My real interest lies in the closed session that will take place on a later date. But this is an important debate. I have deep respect for not just the chairman but for the ranking member. But like all Members, I have a passion for this issue. I want to make some general comments at this time about it.

The threat of nuclear engagement between the United States and Russia has diminished greatly since we began arms reduction talks with the Soviets in the 1970s. It is a credit to the agreements of past years that the strategic relationship between the United States and Russia has evolved to a point where Americans and Russians no longer fear a war between NATO and Warsaw powers.

The world has changed in many ways for the better as a result of those bilateral arms reduction efforts. But today, the United States and our allies face emerging and destabilizing nuclear threats from rogue nations and nonstate actors who have shown no willingness to follow or accept international standards or adhere to nonproliferation treaties.

While the new START treaty continues a historic dialog between two great nations, I am concerned that negotiated language in this treaty—especially wording in its preamble about “existence of the interrelationship between strategic offensive arms and strategic defensive arms”—may in fact signal a subtle yet troubling return to the Cold War linkage between offensive and defensive weapons. Some dismiss this wording as the flowery language of diplomats. But words have meaning. Treaty language is not filler. I can only conclude that this specific commitment reflects the current thinking of the President and his administration, which is a departure from their predecessors in past administrations, and offers the Russians a reason to leverage the treaty to their distinct advantage with respect to our efforts to improve upon our missile defenses.

Even if a treaty such as the New START had a place in today's world, several key issues are lacking in the treaty that this body should and would have to address. One, the treaty does not address Russia's tactical nuclear weapons. Two, this treaty does nothing to address stored warheads. Three, this treaty is silent on rail mobile ICBMs. Four, this treaty allows the Russians to encrypt and hide missile test data for all new nuclear weapons they develop.

This treaty places limits on our non-nuclear conventional global strike weapons—unheard of in the past. This treaty submits and subjects our Nation's objectives in missile defense to the review and approval of the Kremlin. This treaty ignores the nuclear capabilities, desires, ambitions, and plans of nations and non-nation actors who seek to undermine and harm U.S. national security interests.

Many pundits have spoken about the urgent need to get the U.S. inspectors on the ground in Russia to verify the state of their new nuclear weapon systems and verify compliance. But when one examines the inspection protocols within this treaty, it will be clear that we must give such advance notification and jump through so many multiple hoops just to get approval to visit a site, by the time an inspection begins there is a high likelihood we will only see what the Russians want us to see and nothing more.

Other supporters of this treaty contend that by ratifying New START we further enhance our relationship and leverage with the Russians, with re-

spect to the destabilizing threats posed by North Korea and Iran. But the Russians already recognize the problems posed by these two countries, because they are along their borders. The Russians should not require this treaty as an incentive to protect their own regional interests.

For these reasons, I remain concerned that by ratifying New START, the Senate would be allowing an outdated and narrow agenda to constrain our defense flexibilities and capabilities at the very point in history where we need a clear-eyed view of the real threats on the horizon.

There is no urgent need to ratify New START this week, next week, or even next year. Given the numerous flaws in this treaty, to say nothing of the flawed backward-looking process that developed it, it is prudent for the Senate to work on ways to improve upon the treaty and how it has been put forth in order to better ensure the strategic interests of the United States and to make sure it is fully protected.

Mr. President, my colleagues, our Nation does need a new start in our relationship with Russia. It needs a new approach. This treaty represents an old approach, based on Cold War relationships. In my estimation, it should be rejected by this body.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I rise in support of a treaty that I actually think is of vital importance to our national security, to our national interests, and to our international reputation in the nonproliferation of nuclear weapons.

Let me first start off by recognizing Senator KERRY, the chairman of our Foreign Relations Committee, and Senator LUGAR, the ranking member. They have done an extraordinary job. I smile as I listen to some of my colleagues say it has not been reviewed enough, it has not been vetted enough. We have had an incredible number of sessions on the question of what the treaty contains and flushing out all of its points and points of view. In a very bipartisan way, the committee has worked assiduously to bring us to this point so that Members can make an informed decision. So I wish to salute the chairman for his incredible work in that regard.

The original START treaty expired on December 5 of last year, 2009. So as of today, December 16, 2010, it has been 376 days since the United States lost the ability to conduct onsite inspections—lost it—not knowing what has happened with those weapons. It has been 376 days since we lost our ability to monitor and verify Russia's nuclear arsenal.

Now, I know some say our relationship with Russia has gotten a lot better. Yes, but it is their arsenal that we

care about. It is about an arsenal that now has a Russian leadership that we are having better relationships with, but we never know what that relationship will be tomorrow. Good relationships are built on firm understandings, and the treaty creates a firm understanding of our respective obligations. That is why we need to move forward and ratify START.

Now, I agree, I have heard some of my colleagues suggest that there are other nations—namely, Iran and North Korea—that presently present maybe a greater threat to our security and the security of our allies, but that is not the point. The point is that the threat of loose nuclear materials anywhere in the world—anywhere in the world, whether in Russia, Iran, or North Korea—is a major concern. The point is that the severity of the threat from those nations does not diminish the threat presented by the Russian nuclear arsenal. Those threats in no way negate the need to continue our non-proliferation regime and conclude a treaty with Russia and then move on to continuing to address the serious threats presented by Iran and North Korea.

Let me just say that on one of those two, on Iran, since my days in the House of Representatives, I have been pursuing Iran, well before some people looked at Iran as a challenge. When I found out the International Atomic Energy Administration was taking voluntary contributions for the United States to help create operational capacity at the Bushehr nuclear facility, I raised those issues and sought to stem the use of U.S. taxpayer dollars going for that purpose. So I understand about Iran and North Korea, but that does not diminish the importance of knowing about this nuclear arsenal.

It is true that political developments in the past two decades have greatly diminished the probability of nuclear war between our nations. But the fact remains that Russia continues to have more than 600 nuclear launch vehicles and more than 2,700 warheads. It is because of those numbers that this Chamber needs to do what is in our national security interests and ratify START now. We need the ability to track and verify Russia's nuclear arsenal. We need onsite inspections. We need the enhanced flexibility of short-notice inspections of deployed and non-deployed systems. We need to be able to verify the numbers of warheads carried on Russian strategic missiles. We need the ability—provided for the first time in this treaty—to track all accountable strategic nuclear delivery systems.

We need a verification regime. Trust, but verify. Trust, but verify. We know those words well. They have been spoken on this floor many times by many of our Republican colleagues, some who are now willing to turn their back on

the truth of those words. The truth is that at the heart of this treaty, the ability for this Nation to verify Russia's nuclear arsenal remains paramount to our security. It remains paramount to continued bilateral cooperation between the United States and Russia.

For these reasons, START has broad bipartisan support, including support from the Secretaries of Defense and State and National Security Advisers for a whole host of Presidents—President Nixon, President Ford, Presidents Reagan, George H.W. Bush, Clinton, and George W. Bush. All of those people have come together regardless of their partisan labels or views, and they all believe this is in our national security interest and necessary if we are to show the world that we demand as much of ourselves as we ask of others.

So as we press the Iranian and North Korean Governments to come into compliance, this treaty demonstrates to all nations that have nuclear aspirations that we are willing to live by the rules; that nonproliferation of nuclear weapons is not an empty wish but a national policy that is in our national interest and the interests of the world; that our willingness to accede to oversight and monitoring of our nuclear weapons and facilities, our willingness to reduce our nuclear arsenal in the interest of global security, and our willingness to cooperate with willing partners is part and parcel of American policy. It is what we believe is right, what we will live by, and what we will demand of all nations.

I hope that with respect to global nuclear security, we can see clear to be able to walk and chew gum at the same time. Some have suggested in this Chamber that we can't do that. We certainly can. We can ratify START and continue to press Iran and North Korea.

You know, this is the one issue I would have hoped we—and we certainly do in some respects, certainly in some of our leadership on the committee, Senator LUGAR and others—it is the one place the Senate has always enjoyed a bipartisan effort. Put the country first in the case of all of those in the world and understand that on this there is no division.

It was Senator Vandenberg, a Republican from Michigan, who once famously said:

To me, bipartisan foreign policy means a mutual effort to unite our official voice at the water's edge . . .

He went on to say:

It does not invoke the remotest surrender of free debate in determining our position. In a word, it simply seeks national security ahead of partisan advantage.

But, sadly, I believe the efforts by some to derail START are politically motivated, putting partisan advantage ahead of national security. Nothing that protects us from the spread of nu-

clear weapons should be politically motivated, not in this brave new world.

Let's be clear. This treaty does not in any way diminish our commitment to keeping this Nation safe and strong. It imposes no limits on current or planned ballistic defense programs by the United States. In fact, the President has committed to a 10-year, \$80 billion plan to modernize our nuclear infrastructure, which represents a 15-percent increase over current spending levels.

The truth is that the United States retains overwhelming strike capacity under this treaty. Under this treaty, we will retain 700 deployed launchers and 1,550 deployed warheads. Keep in mind the overwhelming strike capacity this represents to assure any adversary of a devastating response to any attack on the United States or our allies, which is at the heart of our deterrent posture. In real terms, just to give us a sense of what this means, we will retain enough strike capacity to end civilization as we know it and destroy the entire ecosystem of the planet—far beyond the destructive power of the weapons used in Hiroshima and Nagasaki.

Let's keep in mind that one standard nuclear warhead has an explosive force equal to 100,000 tons of conventional high explosives. The use of 1,000 nuclear warheads has a destructive power of 100 million tons of dynamite and the ability to darken this planet in a nightmare nuclear winter beyond our imagination.

So any argument to the contrary, any argument that we do not retain an overwhelming nuclear strike capacity, is, in my view, a political argument, and I believe that some who have come and said that we can't do this—and then, in the midst of this discussion, in the midst of this treaty debate, I hear omnibus discussions. I cannot believe that something that is about the national security of the United States, making sure future generations of Americans never face that nuclear winter, somehow gets lumped in with all of the other political conversations.

I know I have heard the leadership on the other side of the aisle say their Number 1 goal is for this President to fail at all costs and to make him a one-term President. But, my God, I thought this had nothing to do with that. I thought this had nothing to do with that. I would hope that on an occasion such as this where we are talking about the Nation's security, the ability to verify, the ability to understand what Russia's nuclear weaponry is all about goes beyond the success or failure of this President. It is about the Nation being able to succeed.

Finally, I have heard a lot of talk about how late this is and that it is almost Christmas. I certainly want to be with my family as much as anybody else, but I have to be honest with you,

I want my family and I want the family of every New Jerseyan I represent, of every American for whom I am part of this Senate to have the security that they will never face that nuclear winter.

I cannot accept the statements I have heard here. I was not going to include this in my remarks, but I have heard now several times that we are here so late. Well, you know, this 2-year session of Congress has been so challenging because, time and time again, colleagues—particularly on the other side of the aisle—have used a procedure in the Senate—a right they have, but it is a right that has clearly been abused—to filibuster. What that means is that which we grew up understanding as Americans from the day we were in a classroom and we were taught about a simple majority rule—well, here in the Senate, that simple majority of representing the people of the United States, the 300 million people, is 51. But under the rules of the Senate, when one Senator wants to object to moving forward, ultimately we don't need that simple majority that Americans have come to understand; we end up needing 60. Of course, since neither party possesses those 60 votes, we often end up in a stalemate and are not able to move forward. That has been used time and time again. I would have to do it over 100 times just for the one session of the Congress, for the 2 years of the Congress, to remind people why it is so late in the process—because, time and time again, that process has been used to delay. Even when that process has been broken and the 60 votes have been accomplished, there have been votes that soar in the 80th or 90th percentile of the Members of this body voting to support the proposition. But the time was killed. It is the time not of the Senate but the time of the American people.

Then I have to hear some of my colleagues, in the midst of a debate about a nuclear treaty—understanding that we are trying to prevent and to verify the possibility that weapons get out of the hands of those who have the authority over them, among other reasons to have this treaty—talk about the omnibus. Well, I just find it beyond my imagination, especially when colleagues who are railing about on that are part of asking for hundreds of millions of dollars in earmarks in the omnibus. Then they come and say: Oh, this is a terrible thing, and the treaty is being brought up at the same time, and somehow we should not be able to move to this treaty because of that issue, even though what they rail against is what they have blatantly participated in. This issue is too important—too important to be wound up in that.

In the end, the purpose of this treaty and of U.S. efforts to thwart other nations from going nuclear is to ensure

that future generations will not live with the specter of a nuclear winter and the destruction of civilization as we know it.

We have an opportunity to move—and I would hope move quickly—to do what is right, to ratify START, and lead the world by example. By leading the world by example, then we can also make demands on the rest of the world to make sure they obey and agree and ultimately concur and ultimately live by the same example. That is our opportunity, and that is an opportunity we should not lose.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I thank the Senator from New Jersey. He is a valuable member of our committee, diligent and articulate on these issues. I appreciate the comments he made, particularly reinforcing the comments about the delay.

I remind colleagues that earlier the Senator from Arizona mentioned it is sort of unfair to be doing this at the same time we are doing something else. I remind colleagues that he said START I was completed sort of on its own, freestanding. I wish to correct the record. START I did not, in fact, go through freestanding. On the same day the Senate held the cloture vote on the treaty on START I, it voted on two amendments related to the treaty, and it also voted on the final passage of a tax bill. They managed to do two things at the same time.

The following day, the Senate voted on another amendment related to the treaty. It also agreed on that day to the conference report on Interior appropriations. It passed the DC appropriations bill. Those are two separate items. And it debated and held two rollcall votes on the Foreign Operations bill. Those are four separate bills and items dealt with at the same time they were dealing with START I. The following day, it had the final passage on the START treaty, in about 4 days-plus-and-a-half, I think.

Also, I remind my colleagues, as I should have reminded the Senator from Texas, 13 times colleagues came on the other side of the aisle to Senator LUGAR and asked him to slow down the process of the legislation piece of the treaty because of the need to work on modernization. We did that. Again, colleagues came to us. Way back last summer, we were prepared to move the treaty out of committee so we wouldn't wind up in this situation. Guess who came to us and said: No, it would be better if we had a little more time. Our friends on the other side of the aisle said: Please don't do that vote. I think it would be better for the treaty if we took our time. So we provided another 6 weeks to file questions, get answers, work on modernization, pull people together. Frankly, it was a constructive

process. I am not suggesting it didn't provide some benefits. But we accommodated a request to slow it down to meet the needs of our friends on the other side of the aisle. Then, subsequently, when there were potential complaints that it would be politicizing the Senate and this treaty to have the vote and this debate before the election—we could have done that, but we didn't want the treaty to get caught up in the election process—we voluntarily delayed the process to meet and accommodate some of the concerns of colleagues on the other side of the aisle. Then, when we come back after the election, all of a sudden, we can't do it in a lameduck. We have to do it down the road.

One colleague came to the floor defending the rights of people who are not even sworn in as Senators to somehow weigh in on this treaty. They are not Senators. They may have been elected in this election, but they haven't taken part in the year-and-a-half-long effort of preparing to deal with this treaty. Every Senator here has. All 100 of us walked up to the well, raised our hands, swore to uphold the Constitution of the United States. That Constitution gives us the specific responsibility of advice and consent on a treaty. That is why we are here at this moment. If I had had my druthers, we would have been here weeks ago, but there was always a filibuster, always a delay, always some longer period that some other piece of legislation was taking.

It is important for colleagues to be honest about that. We have had 125 cloture motions since January of 2009. That is as many cloture motions as had been filed between 1919 and 1974, between World War I and the Vietnam war. That is how many cloture motions we had filed since last year alone. In addition, the Republicans came back to the minority in 2007, and we have had to file 264 cloture motions to end a filibuster since 2007. That averages out to 66 per year. In the first 44 years of the existence of this filibuster rule, it was only used about once a year. For 44 years, it was used once a year. In the last few years, it has been used 66 times a year. That is why we are here. That is why we were delayed.

I, personally, look forward, when we return next year, to seeing us adjust that rule. I respect the rights of the minority because I know that is what the Founding Fathers intended. But nobody intended that we have to vote twice to get to a bill, filibuster on the motion to proceed, filibuster on the substance. It simply doesn't make sense, and the American people do not support it. It negates the fundamental concept of majority rule. I am willing to take my lumps, but I think there is a way to not necessarily undo it completely and still create responsible action in the Senate.

Since President Obama took office last year, the Senate has had rollcall votes on 62 nominations. Of those 62, 27 were confirmed with 90 votes or more; 23 were confirmed with 70 votes or more. That means that of the 62 nominations, fully 60 of them were confirmed with more than 70 votes. Over 80 percent of the nominations we have taken votes on have passed with overwhelming support, and almost all of those votes, many of them anyway, took place only after an extraordinarily lengthy delay. Many of these nominations sat on the calendar for over 100 days while people waited for the Senate to act.

On average, the Senate has taken more than five times longer to confirm a circuit court nomination after it was favorably reported by the Judiciary and so forth.

I don't want to chew up all our time going through that, but the record should be fundamentally clear that nobody is rushing anything here. The START treaty debate, the original START treaty began on September 28, 1992, and amendments were proposed. As early as the first day of the debate, they were debating amendments. There were two votes on amendments on the second day of debate. On the third day, there were three amendments, and they ratified the treaty. We ought to be able to move here.

I wish to add a couple thoughts quickly on the subject of the tactical nukes. A number of Senators have expressed concern about why this treaty doesn't deal with tactical nuclear weapons. All of us would agree, you have to acknowledge upfront there is an asymmetry, an imbalance between the numbers of tactical weapons that the Russians have and have deployed and what we have. Remember, first, we needed to replace the original START agreement in order to get verification measures back into place in order to take the steps then necessary to go to sort of the next tier. Secretary Clinton and Secretary Gates explained for the record:

A more ambitious treaty that addressed tactical nuclear weapons would have taken a lot longer to complete, adding significantly to the time before a successor agreement, including the verification measures, could enter into force following START'S expiration in December 2009.

Their fundamental judgment was, yes, we want to get there, but START itself helps you get there. If we sit without those verification measures in place that come with START, we make it much harder to actually reach the agreement we are trying to get to on the tactical. The logic said: Get this agreement back into place. Revitalize the cooperation on arms control. That will empower you subsequently to be able to achieve your goal.

That is not something the Obama administration dreamed up. I emphasize

that to our colleagues on the other side of the aisle. The very respected former Secretaries of Defense, Secretary Bill Perry and Secretary Jim Schlesinger, were part of a bipartisan commission. They reported that the first step they thought necessary was to deal with this. They knew nuclear tactical weapons were an issue. But they also knew our military leaders made it clear they didn't need actual parity on those weapons. Secretary Gates and Admiral Mullen both stated, in response to a question:

Because of the limited range of the tactical weapons and very different roles from those played by strategic nuclear forces, the vast majority of Russian tactical nuclear weapons could not directly influence the strategic nuclear balance between the United States and Russia.

Donald Rumsfeld told the Foreign Relations Committee in 2002:

I don't know that we would ever want to have symmetry between the United States and Russia. Their circumstance is different and their geography's different.

What he is referring to is the vast gulf of the Atlantic Ocean and then Western Europe that is in between Russia and us and the whole original tactical decision of Russia in terms of the Warsaw Pact versus NATO that existed for so many years in the course of the Cold War.

I don't want to be mistaken by my colleagues on the other side. Yes, we want to limit Russia's nuclear tactical weapons. But a desire to limit those tactical weapons is not a reason to reject the START treaty. Frank Miller, who was a senior NSC staffer in the Bush administration, testified to the Arms Services Committee on July 22:

I believe this Treaty is properly focused on the strategic forces of both sides. . . . The tactical forces are clearly a political and military threat to our allies. . . . But I think throwing this treaty away because we haven't gotten our hands on the tacticals is not the way to approach this. I think we have to go after the tacticals separately.

That is exactly what President Obama, Vice President BIDEN, Secretary Clinton, and the rest of our military establishment want to do, but they want the START treaty as the foundation on which to build that effort to try to secure something in terms of tactical weapons.

We should pursue a treaty on tactical nuclear weapons, one that can give us adequate transparency about how many Russia has and that ultimately reduces that number.

Let me say to my colleagues on the other side, that is precisely why we put into the resolution of ratification declaration 11, which says:

The Senate calls upon the President to pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the Russian Federation and of the United States and would secure and reduce tactical nuclear weapons in a verifiable manner.

We address the issues of tactical nuclear weapons, and it was not an oversight. It was a calculated, tactical decision to lay the foundation, renew the relationship with Russia, renew our arms control understandings, and lay the foundation to be able to reach an agreement. That is what Secretary Gates said when he testified before the Armed Services Committee on June 17. He said:

We will never get to that step [of reductions] with the Russians on tactical nukes if this treaty on strategic nuclear weapons is not ratified.

Secretary Gates, appointed by President Bush, said clearly: If we do not ratify this treaty, we do not get to the treaty on tactical nuclear weapons.

So I think the imperative could not be more clear.

The Eastern European leaders see this the same way. And they, after all, are the ones more directly threatened by those weapons. Poland's foreign minister wrote, on November 20, our NATO allies see "New START is a necessary stepping-stone to future negotiations with Russia about reductions in tactical nuclear arsenals, and a prerequisite for the successful revival of the Treaty on Conventional Forces in Europe." The Secretary-General of NATO said the same thing. He said that we need "transparency and reductions of short-range, tactical nuclear weapons in Europe. . . . This is a key concern for allies. . . . But we cannot address this disparity until the New Start treaty is ratified."

I hope our colleagues will stand with our allies and stand with common sense and ratify this treaty so we can get to the issue of tactical nuclear weapons.

I yield the floor.

THE PRESIDING OFFICER. The Senator from North Dakota.

MR. DORGAN. Madam President, first of all, let me say that there are big issues and small issues, some of substantial consequence, others that are of minor importance that are debated here on the floor of the Senate.

This is one of those big issues, one of significant importance, not just to us but to the world. While we get involved in a lot of details in this discussion, the question to be resolved in all of the efforts that are made here dealing with nuclear weapons is, Will we be able to find a way to prevent the explosion of a nuclear weapon in a major city on this planet that will kill hundreds of thousands of people?

The answer to that question comes from efforts about whether we are able to stop the spread of nuclear weapons, to keep nuclear weapons out of the hands of terrorists and rogue nations, and then begin to reduce the number of nuclear weapons.

Let me read, for a moment, from Time magazine in 2002. It refers to something that happened exactly 1

month after 9/11, 2001—the terrible attack that occurred in this country by terrorists that murdered over 3,000 Americans.

One month later, October 11, 2001, something happened. It was described in *Time* magazine because it was not readily known around the rest of the country what had happened. Let me read it:

For a few harrowing weeks last fall—

Referring to October 2001—

a group of U.S. officials believed that the worst nightmare of their lives, something even more horrific than 9/11, was about to come true. In October, an intelligence alert went out to a small number of government agencies, including the Energy Department's top secret Nuclear Emergency Search Team based in Nevada. The report said that terrorists were thought to have obtained a 10-kiloton nuclear weapon from the Russian arsenal and planned to smuggle it into New York City. The source of the report was a mercurial agent code named dragonfire, who intelligence officials believed was of "undetermined" reliability. But dragonfire's claim tracked with a report from a Russian general who believed that his forces were missing a 10-kiloton nuclear device.

Detonated in lower Manhattan, a 10-kiloton nuclear bomb would kill about 100,000 civilians and irradiate 700,000 more, flattening everything—everything—for a half a mile in diameter. And so counterterrorist investigators were on their highest alert.

I continue the quote:

"It was brutal," a U.S. official told *Time* magazine. It was also a highly classified and closely guarded secret. Under the aegis of the White House's Counterterrorism Security Group, part of the National Security Council, news of the suspected nuke was kept secret so as to not panic the people of New York. Senior FBI officials were not even in the loop. Former mayor Rudolph Giuliani said he was never told about the threat. In the end, the investigators found nothing and concluded that dragonfire's information was false. But few of them slept better. They had made a chilling realization: If terrorists had, in fact, managed to smuggle a nuclear weapon into a city, there was almost nothing anyone could have done about it.

Here is the number of nuclear weapons on this planet. The story I just read was about one small nuclear weapon, a Russian 10-kiloton nuclear weapon. There are roughly 25,000 nuclear weapons on this Earth. I just described the apocalyptic seizure that occurred over the potential of one 10-kiloton nuclear weapon missing, potentially acquired by a terrorist, smuggled to New York City, to be detonated in one of our largest cities.

Russia has about 15,000 nuclear weapons, the United States about 9,000, China a couple hundred, France several hundred, Britain a couple hundred; and the list goes on.

Now the question is, What do we do about all that? Will we just waltz along forever and believe that somehow, some way, we will be lucky enough to make sure nobody ever explodes a nuclear weapon in the middle of a city on

this Earth? Because when they do, all life on this planet is going to change. What do we do about that? My colleagues say, let's ratify the START treaty. I fully agree. And there is so much more that needs to be done beyond that. The work that has been done here on the floor of the Senate by my colleagues Senator KERRY and Senator LUGAR is extraordinary work.

Senator LUGAR is here, and I do not know that he has been here previously when I have done this—and people are tired of my doing it, but it is so important—I have always kept in my desk a small piece of the wing of a Backfire bomber that was given to me. Senator LUGAR is responsible for this. This is the piece of a wing of a Backfire bomber. No, we did not shoot it down. Senator LUGAR did not shoot it down, nor did our Air Force. We sawed it up. We sawed the wings off the bomber.

How did that happen? It was done by a the Nunn-Lugar Cooperative Threat Reduction Program in which we actually paid to destroy a Soviet bomber. It makes a whole lot more sense than being engaged in warfare to shoot down this bomber.

I have—and I will not show it—in my desk a hinge from a missile silo that was in the Ukraine that contained a missile with a nuclear weapon on its tip aimed at the United States of America. It is not there anymore. Sunflower seeds grow where a missile once resided. Because of Nunn-Lugar, the American taxpayers and, especially, importantly, arms negotiations that work. We know this works. This is not a theory. We know it works to reduce the number of nuclear weapons by engaging in negotiations and discussions.

I have heard lots of reasons for us not to do this: too soon; not enough information; not enough detail; more need for consideration—all of those things. I have always talked about Mark Twain who said the negative side of a debate never needs any preparation. So I understand it is easy to come to the floor saying: Do not do this. Do not do this. But it is those who decide to do things who always prevail to make this a safer country when you are talking about weapons policies, nuclear weapons, and arms reduction.

Let me describe why we should do this. First of all, this was negotiated over a long period of time with the interests of our country at heart and with substantial negotiation. I was on the National Security Working Group here in the Senate, and we sat down in secret briefings on many occasions, having the negotiators themselves come back and say to us: Here is what we are doing. Let us explain to you where we are in the negotiations. This treaty did not emerge out of thin air. All of us were involved and had the ability to understand what they were doing.

They negotiated a treaty, and we needed to negotiate that treaty be-

cause the circumstances that exist now are that we do not have, given the previous treaties' expiration, the capability to know what the other side is doing—the inspection capability.

Let me describe who supports this treaty. Every former Secretary of State now living, Republican and Democrat: Kissinger, Shultz, Baker, Eagleburger, Christopher, Albright, Powell, Rice—all of them support the treaty. They say it is the right thing for this country, it is important for us to do.

Let me put up especially the comment of Henry Kissinger because he said it this way:

I recommend ratification of this treaty. . . . It should be noted I come from the hawkish side of the debate, so I am not here advocating these measures in the abstract.

He said:

I try to build them into my perception of national interest. I recommend ratification of this treaty.

I just mentioned my colleague Senator LUGAR. He had a partnership with our former colleague, Senator Nunn, and it is properly called Nunn-Lugar, and we have talked a lot about it. I have talked about it many times on the floor of this Senate. It is one of the things we should be so proud of having done. I am sure Senator LUGAR—I have not talked to him about this—but I am sure he regards it as one of the significant accomplishments of his career, the Nunn-Lugar program.

As a result of that program, the Ukraine, Kazakhstan, and Belarus are now free of nuclear weapons. Think of that—free of nuclear weapons. Albania has no more chemical weapons. Madam President, 7,500 nuclear warheads have been deactivated as a result of this program. The weapons of mass destruction that have been eliminated: 32 ballistic missile submarines, 1,400 long-range nuclear missiles, 906 nuclear air-to-surface missiles, 155 bombers that carried nuclear weapons.

It is not hard to see the success of this. I have shown before—and will again—the photographs of what Nunn-Lugar means and its success. You can argue with a lot of things on this floor, but not photographic evidence, it seems to me. Shown in this photograph is the explosion of an SS-18 missile silo that held a missile with a nuclear warhead aimed very likely at an American city.

The silo is gone. The missile is gone. The nuclear warhead is gone. There are now sunflower seeds planted. It is such an important symbol of the success of these kinds of agreements.

This next photograph shows the Nunn-Lugar program eliminating a Typhoon class ballistic missile submarine.

We did not track it in the deep waters of some far away ocean and decide to engage it and succeed in the engagement. We did not do that at all.

We paid money to destroy this submarine.

I have the ground-up copper wire in a little vial in this desk from a submarine that used to carry missiles aimed at America.

Here is an example of what happened under Nunn-Lugar, dismantling a Blackjack bomber. We paid to have that bomber destroyed. We did not shoot it down. We did not have to.

Now this START agreement. ADM Michael Mullen, the Chairman of the Joint Chiefs of Staff—I want everybody to understand this because there are some people coming to the floor saying: Well, from a military standpoint, this might leave us vulnerable, short of what we should have. The Chairman of the Joint Chiefs of Staff says:

I, the Vice Chairman, and the Joint Chiefs, as well as our combatant commanders around the world, stand solidly behind this new treaty, having had the opportunity to provide our counsel, to make our recommendations, and to help shape the final agreements.

We stand behind this treaty, representing the best strategic interests of this country.

Finally, with respect to the issue of funding, I want to make some points about that because I chair the subcommittee that funds nuclear weapons here in the Congress. There has been some discussion that there is not ample funding here for modernization of our current weapons programs. That is not the case. It is not true.

Let me describe where we are with respect to funding, and let me predicate that by saying Linton Brooks was the former NNSA Administrator; that is, he ran the program dealing with nuclear weapons, the nuclear weapons complex. Here is what he said:

START, as I now understand it, is a good idea on its own merits, but I think for those who think it is only a good idea if you only have a strong weapons program, this budget ought to take care of that.

He said:

Coupled with the out-year projections, it takes care of the concerns about the complex, and it does very good things about the stockpile, and it should keep the labs [the National Laboratories] healthy.

He says: "I would have killed for this kind of budget." I would have killed for this kind of budget. This is the man who understands the money needed to make sure our stockpile of nuclear weapons is a stockpile you can have confidence in.

So this notion that somehow there is an underfunding or a lack of funding for the nuclear weapons life extension programs and modernization programs is sheer nonsense.

Let me describe what we have done. As I said, I chair the subcommittee that funds these programs. The President in his budget proposed robust funding. While most other things were held constant—very little growth, in many cases no growth at all; in some cases, less funding than in the past—

the President said for fiscal year 2011, he wanted \$7 billion for the life extension programs and modernization for the current nuclear weapons stock, and that is because people are concerned if we were to use our nuclear weapons, are we assured they work. Well, you know what. I don't mean to minimize that, but the fact is we have so many nuclear weapons, as do the Russians and others, that if one works, unfortunately, it would be a catastrophe for this world. In fact, if they are used, it will be a catastrophe. But having said that, the proposal was \$7 billion. That was a 10-percent increase over fiscal year 2010.

So then the President came out with a budget for the fiscal year we are now going to be in and he said, All right, in response to the people in the Senate—there were some who were insisting on much more spending—he said, All right, we did a 10-percent increase for that year on the programs to modernize our existing nuclear weapons stock, and we will go to another 10-percent increase for next year, fiscal year 2012. So we have a 10-percent increase, and another 10-percent increase.

I was out in North Dakota traveling down some county highway one day and was listening to the news and they described how money from my Appropriations Committee was going to be increased by another \$4 billion for the next 5 years. I am thinking, that is interesting, because nobody has told me about that: \$4 billion added to this; first 10 percent, then 10 percent, now \$4 billion more. And we have people coming to the floor who have previously talked about the difficulty of the Federal debt, \$13 trillion debt, \$1.3 trillion annual budget deficit, choking and smothering this country in debt. They are saying, you know what, we don't have enough money. We are getting 10-percent increases, plus \$4 billion; still not enough, we want more. And the people who run the place say, I would have killed to get a budget like that.

Someplace somebody has to sober up here in terms of what these numbers mean. I swear, if you play out the numbers for the next 5 years, the commitment this administration has made for the life extension programs and the modernization programs for our existing nuclear weapons stock—there is no question we have the capability to certify that our nuclear weapons program is workable and that we ought to have confidence in it.

I don't understand how this debate has moved forward with the notion that somehow this is underfunded. It is not at all. In fact, there is funding for buildings that have not yet been designed. We don't ever do that. In fact, the money for the nuclear weapons program was the only thing that was stuck in at the last minute in the continuing resolution. All the other government programs are on a continuing

resolution which means they are being funded at last year's level, except the nuclear weapons program. That extra money was put in, in the continuing resolution. Why? To try to satisfy those who apparently have an insatiable appetite for more and more and more spending in these areas. We are spending more than at any other time and so much more than anybody in the world has ever spent on these things. So nobody should stand up here with any credibility and suggest this is underfunded. It is not. It is not. The people who understand and run these programs know it is not, yet some here are trying to shove more money into these programs for buildings that haven't even been designed yet. We have never done that before. People know better than that.

Another issue: They say, Well, this is going to limit our ability with respect to antiballistic missile systems. It does not. That has long been discredited. There is nothing here that is going to limit that. They say, Well, but the Russians, they put a provision in that says that they can withdraw because of missile defense—yes, they put that in the last START agreement as well. It doesn't mean anything to us. It is not part of what was agreed to. There is nothing here that is going to limit us with respect to our antiballistic missile programs to protect this country and to protect others.

It is so difficult to think this is some other issue. It is not. One day somebody is going to wake up if we are not smart and if we don't decide that our highest priority is to reduce the number of nuclear weapons and stop the spread of nuclear weapons, one day we will all wake up and we will read a headline that someone has detonated a nuclear weapon somewhere on this planet and killed hundreds of thousands of people in the name of a terrorist act. When that happens, everything about life on this planet is going to change. That is why it is our responsibility. We are the leading nuclear power on Earth. We must lead in this area. I have been distressed for 10 years at what happened in this Senate on the Comprehensive Test Ban Treaty. This country never should have turned that down. We did. We are not testing, but we still should have been the first to ratify the treaty.

The question now is, Will we decide to not be assertive and aggressive on behalf of arms control treaties we have negotiated carefully that have strong bipartisan support? Will we decide that is not important? I hope not. It falls on our shoulders here in the United States of America to lead the world on these issues. We have to try to prevent the issues of Korea and Iran and rogue nations and the spread of others who want nuclear—we have to keep nuclear weapons out of the hands of those who

would use them. Then we have to continue to find ways to reduce the number of nuclear weapons on this Earth. My colleague talked about tactical nuclear weapons. This doesn't involve tactical nuclear weapons. I wish it did, but it doesn't. We have to get through this in order to get to limiting tactical nuclear weapons. The Russians have far more of them than we do, and the quicker we get to that point of negotiating tactical weapons, the better off we are.

In conclusion, I was thinking about how easy it is to come to the floor of the Senate and oppose. The negative side never requires any preparation. That is the case. Mark Twain was right. Abe Lincoln once was in a debate with Douglas and Douglas was propounding a rather strange proposal that Abe Lincoln was discarding and he called it "as thin as the homeopathic soup that was made by boiling the shadow of a pigeon that had starved to death."

Well, you know, I come here and I listen to some of these debates. I respect everybody. I do. Everybody comes here with a point. But I will tell you this: Those who believe this is not in the interest of this country, those who believe we are not adequately funding our nuclear weapon stock, those who believe this is going to hinder our ability for an antiballistic missile system that would protect our country, that is as thin as the homeopathic soup described by Abraham Lincoln. It is not accurate.

This is bipartisan. It is important for the country. We ought to do this sooner, not later.

Let me conclude by saying, the work done by my two colleagues is strong, assertive, bipartisan work that builds on some very important work for the last two decades, Senator KERRY and Senator LUGAR—I don't know whether there will be ever be a Kerry-Lugar, but there was a Nunn-Lugar that has been so important to this country and to the safety and security of this world. I hope this is the next chapter in building block by block this country's responsibility to be a world leader in saying, We want a world that is safer by keeping nuclear weapons out of the hands of those who don't have them, and then aggressively negotiating to try to reduce the nuclear weapons that do now exist.

Some months ago I was at a place outside of Moscow where my colleague Senator LUGAR has previously visited, and that facility is devoted to the training and the security of nuclear weapons. I suspect Senator LUGAR, because he knows a lot about this and has worked a lot on it for a long time, thinks a lot about those issues, as do I. Are we certain that these 25,000 nuclear weapons spread around the world are always secure, always safe, will never be subject to theft? The answer to that

is no, but we are trying very hard. This treaty is one more step in the attempt we must make to exercise our leadership responsibility that is ours. So my compliments to Senator KERRY and Senator LUGAR and to all of the others who are engaged in this discussion and who have worked so hard and have done so for decades on these nuclear weapons issue and arms reduction issues.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

LEGISLATIVE SESSION

Mr. DORGAN. Madam President, I ask unanimous consent to proceed as if in legislative session and as if in morning business for the purpose of clearing processed legislative language.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. For the information of my colleagues, I will run through these unanimous consent requests and then be completed.

GPRA MODERNIZATION ACT OF 2010

Mr. DORGAN. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 678, H.R. 2142.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "GPRA Modernization Act of 2010".

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Strategic planning amendments.
- Sec. 3. Performance planning amendments.
- Sec. 4. Performance reporting amendments.
- Sec. 5. Federal Government and agency priority goals.
- Sec. 6. Quarterly priority progress reviews and use of performance information.
- Sec. 7. Transparency of Federal Government programs, priority goals, and results.
- Sec. 8. Agency Chief Operating Officers.
- Sec. 9. Agency Performance Improvement Officers and the Performance Improvement Council.
- Sec. 10. Format of performance plans and reports.
- Sec. 11. Reducing duplicative and outdated agency reporting.
- Sec. 12. Performance management skills and competencies.

Sec. 13. Technical and conforming amendments.

Sec. 14. Implementation of this Act.

Sec. 15. Congressional oversight and legislation.

SEC. 2. STRATEGIC PLANNING AMENDMENTS.

Chapter 3 of title 5, United States Code, is amended by striking section 306 and inserting the following:

"§306. Agency strategic plans

"(a) Not later than the first Monday in February of any year following the year in which the term of the President commences under section 101 of title 3, the head of each agency shall make available on the public website of the agency a strategic plan and notify the President and Congress of its availability. Such plan shall contain—

"(1) a comprehensive mission statement covering the major functions and operations of the agency;

"(2) general goals and objectives, including outcome-oriented goals, for the major functions and operations of the agency;

"(3) a description of how any goals and objectives contribute to the Federal Government priority goals required by section 1120(a) of title 31;

"(4) a description of how the goals and objectives are to be achieved, including—

"(A) a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to achieve those goals and objectives; and

"(B) a description of how the agency is working with other agencies to achieve its goals and objectives as well as relevant Federal Government priority goals;

"(5) a description of how the goals and objectives incorporate views and suggestions obtained through congressional consultations required under subsection (d);

"(6) a description of how the performance goals provided in the plan required by section 1115(a) of title 31, including the agency priority goals required by section 1120(b) of title 31, if applicable, contribute to the general goals and objectives in the strategic plan;

"(7) an identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the general goals and objectives; and

"(8) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations to be conducted.

"(b) The strategic plan shall cover a period of not less than 4 years following the fiscal year in which the plan is submitted. As needed, the head of the agency may make adjustments to the strategic plan to reflect significant changes in the environment in which the agency is operating, with appropriate notification of Congress.

"(c) The performance plan required by section 1115(b) of title 31 shall be consistent with the agency's strategic plan. A performance plan may not be submitted for a fiscal year not covered by a current strategic plan under this section.

"(d) When developing or making adjustments to a strategic plan, the agency shall consult periodically with the Congress, including majority and minority views from the appropriate authorizing, appropriations, and oversight committees, and shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan. The agency shall consult with the appropriate committees of Congress at least once every 2 years.

"(e) The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of strategic plans under this section shall be performed only by Federal employees.

"(f) For purposes of this section the term 'agency' means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the Government Accountability Office, the United States Postal

Service, and the Postal Regulatory Commission.”.

SEC. 3. PERFORMANCE PLANNING AMENDMENTS.

Chapter 11 of title 31, United States Code, is amended by striking section 1115 and inserting the following:

“§ 1115. Federal Government and agency performance plans

“(a) FEDERAL GOVERNMENT PERFORMANCE PLANS.—In carrying out the provisions of section 1105(a)(28), the Director of the Office of Management and Budget shall coordinate with agencies to develop the Federal Government performance plan. In addition to the submission of such plan with each budget of the United States Government, the Director of the Office of Management and Budget shall ensure that all information required by this subsection is concurrently made available on the website provided under section 1122 and updated periodically, but no less than annually. The Federal Government performance plan shall—

“(1) establish Federal Government performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year for each of the Federal Government priority goals required under section 1120(a) of this title;

“(2) identify the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities contributing to each Federal Government performance goal during the current fiscal year;

“(3) for each Federal Government performance goal, identify a lead Government official who shall be responsible for coordinating the efforts to achieve the goal;

“(4) establish common Federal Government performance indicators with quarterly targets to be used in measuring or assessing—

“(A) overall progress toward each Federal Government performance goal; and

“(B) the individual contribution of each agency, organization, program activity, regulation, tax expenditure, policy, and other activity identified under paragraph (2);

“(5) establish clearly defined quarterly milestones; and

“(6) identify major management challenges that are Governmentwide or crosscutting in nature and describe plans to address such challenges, including relevant performance goals, performance indicators, and milestones.

“(b) AGENCY PERFORMANCE PLANS.—Not later than the first Monday in February of each year, the head of each agency shall make available on a public website of the agency, and notify the President and the Congress of its availability, a performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

“(1) establish performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year;

“(2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (c);

“(3) describe how the performance goals contribute to—

“(A) the general goals and objectives established in the agency’s strategic plan required by section 306(a)(2) of title 5; and

“(B) any of the Federal Government performance goals established in the Federal Government performance plan required by subsection (a)(1);

“(4) identify among the performance goals those which are designated as agency priority goals as required by section 1120(b) of this title, if applicable;

“(5) provide a description of how the performance goals are to be achieved, including—

“(A) the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals;

“(B) clearly defined milestones;

“(C) an identification of the organizations, program activities, regulations, policies, and other activities that contribute to each performance goal, both within and external to the agency;

“(D) a description of how the agency is working with other agencies to achieve its performance goals as well as relevant Federal Government performance goals; and

“(E) an identification of the agency officials responsible for the achievement of each performance goal, who shall be known as goal leaders;

“(6) establish a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal, including, as appropriate, customer service, efficiency, output, and outcome indicators;

“(7) provide a basis for comparing actual program results with the established performance goals;

“(8) a description of how the agency will ensure the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—

“(A) the means to be used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency will compensate for such limitations if needed to reach the required level of accuracy;

“(9) describe major management challenges the agency faces and identify—

“(A) planned actions to address such challenges;

“(B) performance goals, performance indicators, and milestones to measure progress toward resolving such challenges; and

“(C) the agency official responsible for resolving such challenges; and

“(10) identify low-priority program activities based on an analysis of their contribution to the mission and goals of the agency and include an evidence-based justification for designating a program activity as low priority.

“(c) ALTERNATIVE FORM.—If an agency, in consultation with the Director of the Office of Management and Budget, determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Director of the Office of Management and Budget may authorize an alternative form. Such alternative form shall—

“(1) include separate descriptive statements of—

“(A)(i) a minimally effective program; and

“(ii) a successful program; or

“(B) such alternative as authorized by the Director of the Office of Management and Budget, with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity’s performance meets the criteria of the description; or

“(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

“(d) TREATMENT OF PROGRAM ACTIVITIES.—For the purpose of complying with this section, an agency may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

“(e) APPENDIX.—An agency may submit with an annual performance plan an appendix covering any portion of the plan that—

“(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

“(2) is properly classified pursuant to such Executive order.

“(f) INHERENTLY GOVERNMENTAL FUNCTIONS.—The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of performance plans under this section shall be performed only by Federal employees.

“(g) CHIEF HUMAN CAPITAL OFFICERS.—With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (b)(5)(A).

“(h) DEFINITIONS.—For purposes of this section and sections 1116 through 1125, and sections 9703 and 9704, the term—

“(1) ‘agency’ has the same meaning as such term is defined under section 306(f) of title 5;

“(2) ‘crosscutting’ means across organizational (such as agency) boundaries;

“(3) ‘customer service measure’ means an assessment of service delivery to a customer, client, citizen, or other recipient, which can include an assessment of quality, timeliness, and satisfaction among other factors;

“(4) ‘efficiency measure’ means a ratio of a program activity’s inputs (such as costs or hours worked by employees) to its outputs (amount of products or services delivered) or outcomes (the desired results of a program);

“(5) ‘major management challenge’ means programs or management functions, within or across agencies, that have greater vulnerability to waste, fraud, abuse, and mismanagement (such as issues identified by the Government Accountability Office as high risk or issues identified by an Inspector General) where a failure to perform well could seriously affect the ability of an agency or the Government to achieve its mission or goals;

“(6) ‘milestone’ means a scheduled event signifying the completion of a major deliverable or a set of related deliverables or a phase of work;

“(7) ‘outcome measure’ means an assessment of the results of a program activity compared to its intended purpose;

“(8) ‘output measure’ means the tabulation, calculation, or recording of activity or effort that can be expressed in a quantitative or qualitative manner;

“(9) ‘performance goal’ means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;

“(10) ‘performance indicator’ means a particular value or characteristic used to measure output or outcome;

“(11) ‘program activity’ means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

“(12) ‘program evaluation’ means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Federal programs achieve intended objectives.”.

SEC. 4. PERFORMANCE REPORTING AMENDMENTS.

Chapter 11 of title 31, United States Code, is amended by striking section 1116 and inserting the following:

“§ 1116. Agency performance reporting

“(a) The head of each agency shall make available on a public website of the agency and to the Office of Management and Budget an update on agency performance.

“(b)(1) Each update shall compare actual performance achieved with the performance goals

established in the agency performance plan under section 1115(b) and shall occur no less than 150 days after the end of each fiscal year, with more frequent updates of actual performance on indicators that provide data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden.

“(2) If performance goals are specified in an alternative form under section 1115(c), the results shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

“(c) Each update shall—

“(1) review the success of achieving the performance goals and include actual results for the 5 preceding fiscal years;

“(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals during the period covered by the update;

“(3) explain and describe where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 1115(c)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—

“(A) why the goal was not met;

“(B) those plans and schedules for achieving the established performance goal; and

“(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

“(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 of this title;

“(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management;

“(6) describe how the agency ensures the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—

“(A) the means used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency has compensated for such limitations if needed to reach the required level of accuracy; and

“(7) include the summary findings of those program evaluations completed during the period covered by the update.

“(d) If an agency performance update includes any program activity or information that is specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive Order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

“(e) The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of agency performance updates under this section shall be performed only by Federal employees.

“(f) Each fiscal year, the Office of Management and Budget shall determine whether the agency programs or activities meet performance goals and objectives outlined in the agency performance plans and submit a report on unmet goals to—

“(1) the head of the agency;

“(2) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(3) the Committee on Oversight and Governmental Reform of the House of Representatives; and

“(4) the Government Accountability Office.

“(g) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 1 fiscal year, the head of the agency shall submit a performance improvement plan to the Office of Management and Budget to increase program effectiveness for each unmet goal with measurable milestones. The agency shall designate a senior official who shall oversee the performance improvement strategies for each unmet goal.

“(h)(1) If the Office of Management and Budget determines that agency programs or activities have unmet performance goals for 2 consecutive fiscal years, the head of the agency shall—

“(A) submit to Congress a description of the actions the Administration will take to improve performance, including proposed statutory changes or planned executive actions; and

“(B) describe any additional funding the agency will obligate to achieve the goal, if such an action is determined appropriate in consultation with the Director of the Office of Management and Budget, for an amount determined appropriate by the Director.

“(2) In providing additional funding described under paragraph (1)(B), the head of the agency shall use any reprogramming or transfer authority available to the agency. If after exercising such authority additional funding is necessary to achieve the level determined appropriate by the Director of the Office of Management and Budget, the head of the agency shall submit a request to Congress for additional reprogramming or transfer authority.

“(i) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 3 consecutive fiscal years, the Director of the Office of Management and Budget shall submit recommendations to Congress on actions to improve performance not later than 60 days after that determination, including—

“(1) reauthorization proposals for each program or activity that has not met performance goals;

“(2) proposed statutory changes necessary for the program activities to achieve the proposed level of performance on each performance goal; and

“(3) planned executive actions or identification of the program for termination or reduction in the President's budget.”

SEC. 5. FEDERAL GOVERNMENT AND AGENCY PRIORITY GOALS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1119 the following:

“§ 1120. Federal Government and agency priority goals

“(a) **FEDERAL GOVERNMENT PRIORITY GOALS.**—

“(1) The Director of the Office of Management and Budget shall coordinate with agencies to develop priority goals to improve the performance and management of the Federal Government. Such Federal Government priority goals shall include—

“(A) outcome-oriented goals covering a limited number of crosscutting policy areas; and

“(B) goals for management improvements needed across the Federal Government, including—

“(i) financial management;

“(ii) human capital management;

“(iii) information technology management;

“(iv) procurement and acquisition management; and

“(v) real property management;

“(2) The Federal Government priority goals shall be long-term in nature. At a minimum, the Federal Government priority goals shall be up-

dated or revised every 4 years and made publicly available concurrently with the submission of the budget of the United States Government made in the first full fiscal year following any year in which the term of the President commences under section 101 of title 3. As needed, the Director of the Office of Management and Budget may make adjustments to the Federal Government priority goals to reflect significant changes in the environment in which the Federal Government is operating, with appropriate notification of Congress.

“(3) When developing or making adjustments to Federal Government priority goals, the Director of the Office of Management and Budget shall consult periodically with the Congress, including obtaining majority and minority views from—

“(A) the Committees on Appropriations of the Senate and the House of Representatives;

“(B) the Committees on the Budget of the Senate and the House of Representatives;

“(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(D) the Committee on Oversight and Government Reform of the House of Representatives;

“(E) the Committee on Finance of the Senate;

“(F) the Committee on Ways and Means of the House of Representatives; and

“(G) any other committees as determined appropriate;

“(4) The Director of the Office of Management and Budget shall consult with the appropriate committees of Congress at least once every 2 years.

“(5) The Director of the Office of Management and Budget shall make information about the Federal Government priority goals available on the website described under section 1122 of this title.

“(6) The Federal Government performance plan required under section 1115(a) of this title shall be consistent with the Federal Government priority goals.

“(b) AGENCY PRIORITY GOALS.—

“(1) Every 2 years, the head of each agency listed in section 901(b) of this title, or as otherwise determined by the Director of the Office of Management and Budget, shall identify agency priority goals from among the performance goals of the agency. The Director of the Office of Management and Budget shall determine the total number of agency priority goals across the Government, and the number to be developed by each agency. The agency priority goals shall—

“(A) reflect the highest priorities of the agency, as determined by the head of the agency and informed by the Federal Government priority goals provided under subsection (a) and the consultations with Congress and other interested parties required by section 306(d) of title 5;

“(B) have ambitious targets that can be achieved within a 2-year period;

“(C) have a clearly identified agency official, known as a goal leader, who is responsible for the achievement of each agency priority goal;

“(D) have interim quarterly targets for performance indicators if more frequent updates of actual performance provides data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden; and

“(E) have clearly defined quarterly milestones.

“(2) If an agency priority goal includes any program activity or information that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

“(c) The functions and activities of this section shall be considered to be inherently governmental functions. The development of Federal

Government and agency priority goals shall be performed only by Federal employees.”.

SEC. 6. QUARTERLY PRIORITY PROGRESS REVIEWS AND USE OF PERFORMANCE INFORMATION.

Chapter 11 of title 31, United States Code, is amended by adding after section 1120 (as added by section 5 of this Act) the following:

“§ 1121. Quarterly priority progress reviews and use of performance information

“(a) **USE OF PERFORMANCE INFORMATION TO ACHIEVE FEDERAL GOVERNMENT PRIORITY GOALS.**—Not less than quarterly, the Director of the Office of Management and Budget, with the support of the Performance Improvement Council, shall—

“(1) for each Federal Government priority goal required by section 1120(a) of this title, review with the appropriate lead Government official the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

“(2) include in such reviews officials from the agencies, organizations, and program activities that contribute to the accomplishment of each Federal Government priority goal;

“(3) assess whether agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned to each Federal Government priority goal;

“(4) categorize the Federal Government priority goals by risk of not achieving the planned level of performance; and

“(5) for the Federal Government priority goals at greatest risk of not meeting the planned level of performance, identify prospects and strategies for performance improvement, including any needed changes to agencies, organizations, program activities, regulations, tax expenditures, policies or other activities.

“(b) **AGENCY USE OF PERFORMANCE INFORMATION TO ACHIEVE AGENCY PRIORITY GOALS.**—Not less than quarterly, at each agency required to develop agency priority goals required by section 1120(b) of this title, the head of the agency and Chief Operating Officer, with the support of the agency Performance Improvement Officer, shall—

“(1) for each agency priority goal, review with the appropriate goal leader the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

“(2) coordinate with relevant personnel within and outside the agency who contribute to the accomplishment of each agency priority goal;

“(3) assess whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned to the agency priority goals;

“(4) categorize agency priority goals by risk of not achieving the planned level of performance; and

“(5) for agency priority goals at greatest risk of not meeting the planned level of performance, identify prospects and strategies for performance improvement, including any needed changes to agency program activities, regulations, policies, or other activities.”.

SEC. 7. TRANSPARENCY OF FEDERAL GOVERNMENT PROGRAMS, PRIORITY GOALS, AND RESULTS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1121 (as added by section 6 of this Act) the following:

“§ 1122. Transparency of programs, priority goals, and results

“(a) **TRANSPARENCY OF AGENCY PROGRAMS.**—

“(1) **IN GENERAL.**—Not later than October 1, 2012, the Office of Management and Budget shall—

“(A) ensure the effective operation of a single website;

“(B) at a minimum, update the website on a quarterly basis; and

“(C) include on the website information about each program identified by the agencies.

“(2) **INFORMATION.**—Information for each program described under paragraph (1) shall include—

“(A) an identification of how the agency defines the term ‘program’, consistent with guidance provided by the Director of the Office of Management and Budget, including the program activities that are aggregated, disaggregated, or consolidated to be considered a program by the agency;

“(B) a description of the purposes of the program and the contribution of the program to the mission and goals of the agency; and

“(C) an identification of funding for the current fiscal year and previous 2 fiscal years.

“(b) **TRANSPARENCY OF AGENCY PRIORITY GOALS AND RESULTS.**—The head of each agency required to develop agency priority goals shall make information about each agency priority goal available to the Office of Management and Budget for publication on the website, with the exception of any information covered by section 1120(b)(2) of this title. In addition to an identification of each agency priority goal, the website shall also consolidate information about each agency priority goal, including—

“(1) a description of how the agency incorporated any views and suggestions obtained through congressional consultations about the agency priority goal;

“(2) an identification of key factors external to the agency and beyond its control that could significantly affect the achievement of the agency priority goal;

“(3) a description of how each agency priority goal will be achieved, including—

“(A) the strategies and resources required to meet the priority goal;

“(B) clearly defined milestones;

“(C) the organizations, program activities, regulations, policies, and other activities that contribute to each goal, both within and external to the agency;

“(D) how the agency is working with other agencies to achieve the goal; and

“(E) an identification of the agency official responsible for achieving the priority goal;

“(4) the performance indicators to be used in measuring or assessing progress;

“(5) a description of how the agency ensures the accuracy and reliability of the data used to measure progress towards the priority goal, including an identification of—

“(A) the means used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency has compensated for such limitations if needed to reach the required level of accuracy;

“(6) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

“(7) an assessment of whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned;

“(8) an identification of the agency priority goals at risk of not achieving the planned level of performance; and

“(9) any prospects or strategies for performance improvement.

“(c) **TRANSPARENCY OF FEDERAL GOVERNMENT PRIORITY GOALS AND RESULTS.**—The Director of the Office of Management and Budget shall also make available on the website—

“(1) a brief description of each of the Federal Government priority goals required by section 1120(a) of this title;

“(2) a description of how the Federal Government priority goals incorporate views and suggestions obtained through congressional consultations;

“(3) the Federal Government performance goals and performance indicators associated with each Federal Government priority goal as required by section 1115(a) of this title;

“(4) an identification of the lead Government official for each Federal Government performance goal;

“(5) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

“(6) an identification of the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities that contribute to each Federal Government priority goal;

“(7) an assessment of whether relevant agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned;

“(8) an identification of the Federal Government priority goals at risk of not achieving the planned level of performance; and

“(9) any prospects or strategies for performance improvement.

“(d) **INFORMATION ON WEBSITE.**—The information made available on the website under this section shall be readily accessible and easily found on the Internet by the public and members and committees of Congress. Such information shall also be presented in a searchable, machine-readable format. The Director of the Office of Management and Budget shall issue guidance to ensure that such information is provided in a way that presents a coherent picture of all Federal programs, and the performance of the Federal Government as well as individual agencies.”.

SEC. 8. AGENCY CHIEF OPERATING OFFICERS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1122 (as added by section 7 of this Act) the following:

“§ 1123. Chief Operating Officers

“(a) **ESTABLISHMENT.**—At each agency, the deputy head of agency, or equivalent, shall be the Chief Operating Officer of the agency.

“(b) **FUNCTION.**—Each Chief Operating Officer shall be responsible for improving the management and performance of the agency, and shall—

“(1) provide overall organization management to improve agency performance and achieve the mission and goals of the agency through the use of strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

“(2) advise and assist the head of agency in carrying out the requirements of sections 1115 through 1122 of this title and section 306 of title 5;

“(3) oversee agency-specific efforts to improve management functions within the agency and across Government; and

“(4) coordinate and collaborate with relevant personnel within and external to the agency who have a significant role in contributing to and achieving the mission and goals of the agency, such as the Chief Financial Officer, Chief Human Capital Officer, Chief Acquisition Officer/Senior Procurement Executive, Chief Information Officer, and other line of business chiefs at the agency.”.

SEC. 9. AGENCY PERFORMANCE IMPROVEMENT OFFICERS AND THE PERFORMANCE IMPROVEMENT COUNCIL.

Chapter 11 of title 31, United States Code, is amended by adding after section 1123 (as added by section 8 of this Act) the following:

“§ 1124. Performance Improvement Officers and the Performance Improvement Council

“(a) PERFORMANCE IMPROVEMENT OFFICERS.—“(1) ESTABLISHMENT.—At each agency, the head of the agency, in consultation with the agency Chief Operating Officer, shall designate a senior executive of the agency as the agency Performance Improvement Officer.

“(2) FUNCTION.—Each Performance Improvement Officer shall report directly to the Chief Operating Officer. Subject to the direction of the Chief Operating Officer, each Performance Improvement Officer shall—

“(A) advise and assist the head of the agency and the Chief Operating Officer to ensure that the mission and goals of the agency are achieved through strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

“(B) advise the head of the agency and the Chief Operating Officer on the selection of agency goals, including opportunities to collaborate with other agencies on common goals;

“(C) assist the head of the agency and the Chief Operating Officer in overseeing the implementation of the agency strategic planning, performance planning, and reporting requirements provided under sections 1115 through 1122 of this title and sections 306 of title 5, including the contributions of the agency to the Federal Government priority goals;

“(D) support the head of agency and the Chief Operating Officer in the conduct of regular reviews of agency performance, including at least quarterly reviews of progress achieved toward agency priority goals, if applicable;

“(E) assist the head of the agency and the Chief Operating Officer in the development and use within the agency of performance measures in personnel performance appraisals, and, as appropriate, other agency personnel and planning processes and assessments; and

“(F) ensure that agency progress toward the achievement of all goals is communicated to leaders, managers, and employees in the agency and Congress, and made available on a public website of the agency.

“(b) PERFORMANCE IMPROVEMENT COUNCIL.—

“(1) ESTABLISHMENT.—There is established a Performance Improvement Council, consisting of—

“(A) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council;

“(B) the Performance Improvement Officer from each agency defined in section 901(b) of this title;

“(C) other Performance Improvement Officers as determined appropriate by the chairperson; and

“(D) other individuals as determined appropriate by the chairperson.

“(2) FUNCTION.—The Performance Improvement Council shall—

“(A) be convened by the chairperson or the designee of the chairperson, who shall preside at the meetings of the Performance Improvement Council, determine its agenda, direct its work, and establish and direct subgroups of the Performance Improvement Council, as appropriate, to deal with particular subject matters;

“(B) assist the Director of the Office of Management and Budget to improve the performance of the Federal Government and achieve the Federal Government priority goals;

“(C) assist the Director of the Office of Management and Budget in implementing the planning, reporting, and use of performance information requirements related to the Federal Government priority goals provided under sections 1115, 1120, 1121, and 1122 of this title;

“(D) work to resolve specific Governmentwide or crosscutting performance issues, as necessary;

“(E) facilitate the exchange among agencies of practices that have led to performance improvements within specific programs, agencies, or across agencies;

“(F) coordinate with other interagency management councils;

“(G) seek advice and information as appropriate from nonmember agencies, particularly smaller agencies;

“(H) consider the performance improvement experiences of corporations, nonprofit organizations, foreign, State, and local governments, Government employees, public sector unions, and customers of Government services;

“(I) receive such assistance, information and advice from agencies as the Council may request, which agencies shall provide to the extent permitted by law; and

“(J) develop and submit to the Director of the Office of Management and Budget, or when appropriate to the President through the Director of the Office of Management and Budget, at times and in such formats as the chairperson may specify, recommendations to streamline and improve performance management policies and requirements.

“(3) SUPPORT.—

“(A) IN GENERAL.—The Administrator of General Services shall provide administrative and other support for the Council to implement this section.

“(B) PERSONNEL.—The heads of agencies with Performance Improvement Officers serving on the Council shall, as appropriate and to the extent permitted by law, provide at the request of the chairperson of the Performance Improvement Council up to 2 personnel authorizations to serve at the direction of the chairperson.”.

SEC. 10. FORMAT OF PERFORMANCE PLANS AND REPORTS.

(a) SEARCHABLE, MACHINE-READABLE PLANS AND REPORTS.—For fiscal year 2012 and each fiscal year thereafter, each agency required to produce strategic plans, performance plans, and performance updates in accordance with the amendments made by this Act shall—

(1) not incur expenses for the printing of strategic plans, performance plans, and performance reports for release external to the agency, except when providing such documents to the Congress;

(2) produce such plans and reports in searchable, machine-readable formats; and

(3) make such plans and reports available on the website described under section 1122 of title 31, United States Code.

(b) WEB-BASED PERFORMANCE PLANNING AND REPORTING.—

(1) IN GENERAL.—Not later than June 1, 2012, the Director of the Office of Management and Budget shall issue guidance to agencies to provide concise and timely performance information for publication on the website described under section 1122 of title 31, United States Code, including, at a minimum, all requirements of sections 1115 and 1116 of title 31, United States Code, except for section 1115(e).

(2) HIGH-PRIORITY GOALS.—For agencies required to develop agency priority goals under section 1120(b) of title 31, United States Code, the performance information required under this section shall be merged with the existing information required under section 1122 of title 31, United States Code.

(3) CONSIDERATIONS.—In developing guidance under this subsection, the Director of the Office of Management and Budget shall take into consideration the experiences of agencies in making consolidated performance planning and reporting information available on the website as required under section 1122 of title 31, United States Code.

SEC. 11. REDUCING DUPLICATIVE AND OUTDATED AGENCY REPORTING.

(a) BUDGET CONTENTS.—Section 1105(a) of title 31, United States Code, is amended—

(1) by redesignating second paragraph (33) as paragraph (35); and

(2) by adding at the end the following:

“(37) the list of plans and reports, as provided for under section 1125, that agencies identified for elimination or consolidation because the plans and reports are determined outdated or duplicative of other required plans and reports.”.

(b) ELIMINATION OF UNNECESSARY AGENCY REPORTING.—Chapter 11 of title 31, United States Code, is further amended by adding after section 1124 (as added by section 9 of this Act) the following:

“§ 1125. Elimination of unnecessary agency reporting

“(a) AGENCY IDENTIFICATION OF UNNECESSARY REPORTS.—Annually, based on guidance provided by the Director of the Office of Management and Budget, the Chief Operating Officer at each agency shall—

“(1) compile a list that identifies all plans and reports the agency produces for Congress, in accordance with statutory requirements or as directed in congressional reports;

“(2) analyze the list compiled under paragraph (1), identify which plans and reports are outdated or duplicative of other required plans and reports, and refine the list to include only the plans and reports identified to be outdated or duplicative;

“(3) consult with the congressional committees that receive the plans and reports identified under paragraph (2) to determine whether those plans and reports are no longer useful to the committees and could be eliminated or consolidated with other plans and reports; and

“(4) provide a total count of plans and reports compiled under paragraph (1) and the list of outdated and duplicative reports identified under paragraph (2) to the Director of the Office of Management and Budget.

“(b) PLANS AND REPORTS.—

“(1) FIRST YEAR.—During the first year of implementation of this section, the list of plans and reports identified by each agency as outdated or duplicative shall be not less than 10 percent of all plans and reports identified under subsection (a)(1).

“(2) SUBSEQUENT YEARS.—In each year following the first year described under paragraph (1), the Director of the Office of Management and Budget shall determine the minimum percent of plans and reports to be identified as outdated or duplicative on each list of plans and reports.

“(c) REQUEST FOR ELIMINATION OF UNNECESSARY REPORTS.—In addition to including the list of plans and reports determined to be outdated or duplicative by each agency in the budget of the United States Government, as provided by section 1105(a)(37), the Director of the Office of Management and Budget may concurrently submit to Congress legislation to eliminate or consolidate such plans and reports.”.

SEC. 12. PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.

(a) PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Personnel Management, in consultation with the Performance Improvement Council, shall identify the key skills and competencies needed by Federal Government personnel for developing goals, evaluating programs, and analyzing and using performance information for the purpose of improving Government efficiency and effectiveness.

(b) POSITION CLASSIFICATIONS.—Not later than 2 years after the date of enactment of this Act, based on the identifications under subsection (a), the Director of the Office of Personnel Management shall incorporate, as appropriate, such key skills and competencies into relevant position classifications.

(c) **INCORPORATION INTO EXISTING AGENCY TRAINING.**—Not later than 2 years after the enactment of this Act, the Director of the Office of Personnel Management shall work with each agency, as defined under section 306(f) of title 5, United States Code, to incorporate the key skills identified under subsection (a) into training for relevant employees at each agency.

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The table of contents for chapter 3 of title 5, United States Code, is amended by striking the item relating to section 306 and inserting the following:

“306. Agency strategic plans.”.

(b) The table of contents for chapter 11 of title 31, United States Code, is amended by striking the items relating to section 1115 and 1116 and inserting the following:

“1115. Federal Government and agency performance plans.

“1116. Agency performance reporting.”.

(c) The table of contents for chapter 11 of title 31, United States Code, is amended by adding at the end the following:

“1120. Federal Government and agency priority goals.

“1121. Quarterly priority progress reviews and use of performance information.

“1122. Transparency of programs, priority goals, and results.

“1123. Chief Operating Officers.

“1124. Performance Improvement Officers and the Performance Improvement Council.

“1125. Elimination of unnecessary agency reporting.”.

SEC. 14. IMPLEMENTATION OF THIS ACT.

(a) **INTERIM PLANNING AND REPORTING.**—

(1) **IN GENERAL.**—The Director of the Office of Management and Budget shall coordinate with agencies to develop interim Federal Government priority goals and submit interim Federal Government performance plans consistent with the requirements of this Act beginning with the submission of the fiscal year 2013 Budget of the United States Government.

(2) **REQUIREMENTS.**—Each agency shall—

(A) not later than February 6, 2012, make adjustments to its strategic plan to make the plan consistent with the requirements of this Act;

(B) prepare and submit performance plans consistent with the requirements of this Act, including the identification of agency priority goals, beginning with the performance plan for fiscal year 2013; and

(C) make performance reporting updates consistent with the requirements of this Act beginning in fiscal year 2012.

(3) **QUARTERLY REVIEWS.**—The quarterly priority progress reviews required under this Act shall begin—

(A) with the first full quarter beginning on or after the date of enactment of this Act for agencies based on the agency priority goals contained in the Analytical Perspectives volume of the Fiscal Year 2011 Budget of the United States Government; and

(B) with the quarter ending June 30, 2012 for the interim Federal Government priority goals.

(b) **GUIDANCE.**—The Director of the Office of Management and Budget shall prepare guidance for agencies in carrying out the interim planning and reporting activities required under subsection (a), in addition to other guidance as required for implementation of this Act.

SEC. 15. CONGRESSIONAL OVERSIGHT AND LEGISLATION.

(a) **IN GENERAL.**—Nothing in this Act shall be construed as limiting the ability of Congress to establish, amend, suspend, or annul a goal of the Federal Government or an agency.

(b) **GAO REVIEWS.**—

(1) **INTERIM PLANNING AND REPORTING EVALUATION.**—Not later than June 30, 2013, the Comptroller General shall submit a report to Congress that includes—

(A) an evaluation of the implementation of the interim planning and reporting activities conducted under section 14 of this Act; and

(B) any recommendations for improving implementation of this Act as determined appropriate.

(2) **IMPLEMENTATION EVALUATIONS.**—

(A) **IN GENERAL.**—The Comptroller General shall evaluate the implementation of this Act subsequent to the interim planning and reporting activities evaluated in the report submitted to Congress under paragraph (1).

(B) **AGENCY IMPLEMENTATION.**—

(i) **EVALUATIONS.**—The Comptroller General shall evaluate how implementation of this Act is affecting performance management at the agencies described in section 901(b) of title 31, United States Code, including whether performance management is being used by those agencies to improve the efficiency and effectiveness of agency programs.

(ii) **REPORTS.**—The Comptroller General shall submit to Congress—

(I) an initial report on the evaluation under clause (i), not later than September 30, 2015; and

(II) a subsequent report on the evaluation under clause (i), not later than September 30, 2017.

(C) **FEDERAL GOVERNMENT PLANNING AND REPORTING IMPLEMENTATION.**—

(i) **EVALUATIONS.**—The Comptroller General shall evaluate the implementation of the Federal Government priority goals, Federal Government performance plans and related reporting required by this Act.

(ii) **REPORTS.**—The Comptroller General shall submit to Congress—

(I) an initial report on the evaluation under clause (i), not later than September 30, 2015; and

(II) subsequent reports on the evaluation under clause (i), not later than September 30, 2017 and every 4 years thereafter.

(D) **RECOMMENDATIONS.**—The Comptroller General shall include in the reports required by subparagraphs (B) and (C) any recommendations for improving implementation of this Act and for streamlining the planning and reporting requirements of the Government Performance and Results Act of 1993.

Mr. DORGAN. Madam President, I ask unanimous consent that the committee-reported substitute amendment be agreed to; the bill, as amended, be read the third time and passed; the motions to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2142) as amended, was read the third time, and passed.

REDUCTION OF LEAD IN DRINKING WATER ACT

Mr. DORGAN. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 702, S. 3874.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 3874) to amend the Safe Drinking Water Act to reduce lead in drinking water.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. I ask unanimous consent that the bill be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3874) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Reduction of Lead in Drinking Water Act”.

SEC. 2. REDUCING LEAD IN DRINKING WATER.

(a) **IN GENERAL.**—Section 1417 of the Safe Drinking Water Act (42 U.S.C. 300g-6) is amended—

(1) by adding at the end of subsection (a) the following:

“(4) **EXEMPTIONS.**—The prohibitions in paragraphs (1) and (3) shall not apply to—

“(A) pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

“(B) toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.”; and

(2) by amending subsection (d) to read as follows:

“(d) **DEFINITION OF LEAD FREE.**—

“(1) **IN GENERAL.**—For the purposes of this section, the term ‘lead free’ means—

“(A) not containing more than 0.2 percent lead when used with respect to solder and flux; and

“(B) not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures.

“(2) **CALCULATION.**—The weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula: For each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with paragraph (1)(B). For lead content of materials that are provided as a range, the maximum content of the range shall be used.”.

(b) **EFFECTIVE DATE.**—The provisions of subsections (a)(4) and (d) of section 1417 of the Safe Drinking Water Act, as added by this section, apply beginning on the day that is 36 months after the date of the enactment of this Act.

SAFE DRUG DISPOSAL ACT OF 2010

Mr. DORGAN. I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 5809 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 5809) to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. I ask unanimous consent that the substitute at the desk be agreed to; the bill, as amended, be read a third time and passed; the title amendment be agreed to; the motions to reconsider be laid upon the table, and any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4818) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment (No. 4819) was agreed to, as follows:

(Purpose: To amend the title)

Amend the title so as to read: "An Act to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program."

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5809), as amended, was passed.

CLARIFYING THE NATIONAL CREDIT UNION ADMINISTRATION AUTHORITY

Mr. DORGAN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 4036 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 4036) to clarify the National Credit Union Administration authority to make stabilization funding expenditures without borrowing from the Treasury.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. Madam President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 4036) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 4036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STABILIZATION FUND.

(a) ADDITIONAL ADVANCES.—Section 217(c)(3) of the Federal Credit Union Act (12 U.S.C. 1790e(c)(3)) is amended by inserting before the period at the end the following: "and any additional advances".

(b) ASSESSMENTS.—Section 217 of the Federal Credit Union Act (12 U.S.C. 1790e) is amended by striking subsection (d) and inserting the following:

"(d) ASSESSMENT AUTHORITY.—

"(1) ASSESSMENTS RELATING TO EXPENDITURES UNDER SUBSECTION (B).—In order to make expenditures, as described in subsection (b), the Board may assess a special premium with respect to each insured credit union in an aggregate amount that is reasonably calculated to make any pending or future expenditure described in subsection (b), which premium shall be due and payable not later than 60 days after the date of the assessment. In setting the amount of any assessment under this subsection, the Board shall take into consideration any potential impact on credit union earnings that such an assessment may have.

"(2) SPECIAL PREMIUMS RELATING TO REPAYMENTS UNDER SUBSECTION (C)(3).—Not later than 90 days before the scheduled date of each repayment described in subsection (c)(3), the Board shall set the amount of the upcoming repayment and shall determine whether the Stabilization Fund will have sufficient funds to make the repayment. If the Stabilization Fund is not likely to have sufficient funds to make the repayment, the Board shall assess with respect to each insured credit union a special premium, which shall be due and payable not later than 60 days after the date of the assessment, in an aggregate amount calculated to ensure that the Stabilization Fund is able to make the required repayment.

"(3) COMPUTATION.—Any assessment or premium charge for an insured credit union under this subsection shall be stated as a percentage of its insured shares, as represented on the previous call report of that insured credit union. The percentage shall be identical for each insured credit union. Any insured credit union that fails to make timely payment of the assessment or special premium is subject to the procedures and penalties described under subsections (d), (e), and (f) of section 202."

SEC. 2. EQUITY RATIO.

Section 202(h)(2) of the Federal Credit Union Act (12 U.S.C. 1782(h)(2)) is amended by striking "when applied to the Fund," and inserting "which shall be calculated using the financial statements of the Fund alone, without any consolidation or combination with the financial statements of any other fund or entity."

SEC. 3. NET WORTH DEFINITION.

Section 216(o)(2) of the Federal Credit Union Act (12 U.S.C. 1790d(o)(2)) is amended to read as follows:

"(2) NET WORTH.—The term 'net worth'—

"(A) with respect to any insured credit union, means the retained earnings balance of the credit union, as determined under generally accepted accounting principles, together with any amounts that were previously retained earnings of any other credit union with which the credit union has combined;

"(B) with respect to any insured credit union, includes, at the Board's discretion and subject to rules and regulations established by the Board, assistance provided under section 208 to facilitate a least-cost resolution consistent with the best interests of the credit union system; and

"(C) with respect to a low-income credit union, includes secondary capital accounts that are—

"(i) uninsured; and

"(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund."

SEC. 4. STUDY OF NATIONAL CREDIT UNION ADMINISTRATION.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the National Credit Union Administration's supervision of corporate credit unions and implementation of prompt corrective action.

(b) ISSUES TO BE STUDIED.—In conducting the study required under subsection (a), the Comptroller General shall—

(1) determine the reasons for the failure of any corporate credit union since 2008;

(2) evaluate the adequacy of the National Credit Union Administration's response to the failures of corporate credit unions, including with respect to protecting taxpayers, avoiding moral hazard, minimizing the costs of resolving such corporate credit unions, and the ability of insured credit unions to bear any assessments levied to cover such costs;

(3) evaluate the effectiveness of implementation of prompt corrective action by the National Credit Union Administration for both insured credit unions and corporate credit unions; and

(4) examine whether the National Credit Union Administration has effectively implemented each of the recommendations by the Inspector General of the National Credit Union Administration in its Material Loss Review Reports, and, if not, the adequacy of the National Credit Union Administration's reasons for not implementing such recommendation.

(c) REPORT TO COUNCIL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required under this section to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(2) the Committee on Financial Services of the House of Representatives; and

(3) the Financial Stability Oversight Council.

(d) COUNCIL REPORT OF ACTION.—Not later than 6 months after the date of receipt of the report from the Comptroller General under subsection (c), the Financial Stability Oversight Council shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on actions taken in response to the report, including any recommendations issued to the National Credit Union Administration under section 120 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5330).

MEASURES DISCHARGED

Mr. DORGAN. Madam President, I ask unanimous consent that the following postal namings be discharged from the Homeland Security Committee en bloc: S. 3592, H.R. 4602, H.R. 5133, H.R. 5605, H.R. 5606, H.R. 5655, H.R. 5877, and H.R. 6400.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Further, I ask unanimous consent that the Senate proceed

to the immediate consideration of these bills and the immediate consideration of H.R. 6392 which was received from the House and is at the desk en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I ask unanimous consent that the bills be read three times and passed en bloc; the motions to reconsider be laid upon the table en bloc, with no intervening action or debate; and any statements relating to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIRST LIEUTENANT ROBERT WILSON COLLINS POST OFFICE BUILDING

The bill (S. 3592) to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building", was ordered to a third reading, read the third time, and passed, as follows:

S. 3592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FIRST LIEUTENANT ROBERT WILSON COLLINS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, shall be known and designated as the "First Lieutenant Robert Wilson Collins Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "First Lieutenant Robert Wilson Collins Post Office Building".

EMIL BOLAS POST OFFICE

The bill (H.R. 4602) to designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the "Emil Bolas Post Office," was ordered to a third reading, read the third time, and passed.

STAFF SERGEANT FRANK T. CARVILL AND LANCE CORPORAL MICHAEL A. SCHWARZ POST OFFICE BUILDING

The bill (H.R. 5133) to designate the facility of the United States Postal Service located at 331 1st Street in Carlstadt, New Jersey, as the "Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building," was ordered to a third reading, read the third time, and passed.

GEORGE C. MARSHALL POST OFFICE

The bill (H.R. 5605) to designate the facility of the United States Postal

Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the "George C. Marshall Post Office," was ordered to a third reading, read the third time, and passed.

JAMES M. "JIMMY" STEWART POST OFFICE BUILDING

The bill (H.R. 5606) to designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the "James M. 'Jimmy' Stewart Post Office Building," was ordered to a third reading, read the third time, and passed.

JESSE J. MCCRARY, JR. POST OFFICE

The bill (H.R. 5655) to designate the Little River Branch facility of the United States Postal Service located at 140 NE 84th Street in Miami, Florida, as the "Jesse J. McCrary, Jr. Post Office," was ordered to a third reading, read the third time, and passed.

LANCE CORPORAL ALEXANDER SCOTT ARREDONDO, UNITED STATES MARINE CORPS POST OFFICE BUILDING

The bill (H.R. 5877) to designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the "Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building," was ordered to a third reading, read the third time, and passed.

EARL WILSON, JR. POST OFFICE

The bill (H.R. 6400) to designate the facility of the United States Postal Service located at 111 North 6th Street in St. Louis, Missouri, as the "Earl Wilson, Jr. Post Office," was ordered to a third reading, read the third time, and passed.

COLONEL GEORGE JUSKALIAN POST OFFICE BUILDING

The bill (H.R. 6392) to designate the facility of the United States Postal Service located at 5003 Westfields Boulevard in Centreville, Virginia, as the "Colonel George Juskalian Post Office Building," was ordered to a third reading, was read the third time, and passed.

Mr. WARNER. Madam President, I rise today to express my support for the passage of H.R. 6392, a bill to designate the facility of the U.S. Postal Service located at 5003 Westfields Boulevard in Centreville, VA, as the Colonel George Juskalian Post Office Building.

Colonel Juskalian passed away this past Fourth of July, at the age of 96,

having served our nation for nearly 30 years on active duty, including campaigns during World War II, Korea, and Vietnam. After growing up in Massachusetts, he joined the U.S. Army in 1939 and was called to active duty as a first lieutenant in 1940. He served with distinction in World War II, during which time he was captured by the Germans in Tunisia and spent 27 months in prisoner of war camps in Italy, Germany and Poland.

Upon his return home, Colonel Juskalian served in General Eisenhower's secretariat in the Pentagon between 1945 and 1948, and continued to serve our nation with distinction until his retirement with the rank of colonel in 1967. He received the Army's highest award for noncombat service, the Legion of Merit, as well as four Silver Stars, three Bronze Stars, and the Army Commendation Medal, among others.

Apart from his military service, the colonel was a longtime resident of Centreville and was actively involved in his community. He was an active participant in organizations such as the Armenian Assembly of America, American Legion Post 1995, and the Blue and Grey Veterans of Foreign Wars Post 8469 up until his death earlier this year. Many knew the colonel through his volunteer work at local schools, where he shared his strong belief in giving back to our communities and our nation, through military service or otherwise.

By passing this bill and naming the Centreville Post Office facility after Colonel George Juskalian, we will be honoring both Colonel Juskalian's many years of service as well as the sacrifices made by all members of the United States Armed Services. H.R. 6392 has the strong support of the Virginia American Legion, Post 1995, as well as the local division of Veterans of Foreign Wars, Post 8469. I have letters of support from both organizations and, without objection, would like to submit them for the record.

I applaud the efforts of my friend and colleague in the House, Congressman FRANK WOLF, who united the Virginia delegation as co-sponsors of this bill and effectively ushered it through the House of Representatives by a unanimous vote. Now it is time for the Senate to act. I urge my colleagues to join me in supporting swift passage of this bill to honor such a courageous, admirable veteran and proud Virginian.

There being no objection, the material was ordered to be printed in the RECORD as follows:

AMERICAN LEGION POST 1995,
Centreville, VA, August 16, 2010.

Hon. MARK R. WARNER,
U.S. Senate,
Washington, DC.
Hon. FRANK R. WOLF,
U.S. Congress,
Washington, DC.

DEAR SENATOR WARNER/CONGRESSMAN WOLF, It is with great honor and privilege,

and on behalf of American Legion Post 1995, Centreville, Virginia that I submit to you a proposal for designating the United States Postal Facility located at 5003 Westfields Boulevard, Centreville, VA as the "Colonel George Juskalian Post Office." Sadly, Col Juskalian passed away on 4 July 2010.

As Congressman Wolf so eloquently stated in the chambers of the House of Representatives on 26 July, Col Juskalian, U.S. Army (Ret.), served the United States with high distinction for nearly 30 years, including service in WWII, Korea, and Vietnam.

Colonel Juskalian survived the hardships of being a German Prisoner of War, enduring nearly three years harsh treatment in Nazi POW camps. Throughout his ordeal, and in later service in our nation's wars, he upheld the highest ideals of American servicemen. In so doing, he earned two Silver Stars and four Bronze Stars for actions in combat.

Upon leaving the military, he remained a long time resident of the Commonwealth of Virginia and continued to serve his community until his death at age 96. He volunteered and educated our youth in local schools, mainly with a message of the importance of one's giving back to our community and nation. He shared a strong belief in serving—in the military or in other ways—in appreciation for the freedoms and rights enjoyed by all and paid for by few.

Although Centreville, Virginia has many residents that have served our nation with distinction, there is no monument, plaque or memorial dedicated to the men and women of the U.S. Armed Forces. Naming the Centreville Postal Facility for Colonel Juskalian would represent a constant reminder to patrons of the service and sacrifices made by military veterans in their community.

By placing Colonel Juskalian's name and a small memorial in the Centreville Post Office, we honor him and all veterans within our community, past, present, and future.

For God and Country,

PETER F. DEFREECE,
Commander.

BLUE AND GRAY
VETERANS OF FOREIGN WAR POST 8469,
Fairfax Station, VA, August 16, 2010.

Hon. MARK R. WARNER,
U.S. Senate,
Washington, DC.

Hon. FRANK R. WOLF,
U.S. Congress,
Washington, DC.

DEAR SENATOR WARNER AND CONGRESSMAN WOLF: I am writing on behalf of our VFW Post, of which the late Colonel George Juskalian US Army retired was a member, to endorse the recommendation to designate the United States Post Office at 5003 Westfields Blvd, Centreville, VA as the "Colonel George Juskalian Post Office."

This is what Colonel Juskalian looked like in recent years. He always sported a smile and he had a quick wit and he was both an active member of our Post, but he was also the recent Commander of the local chapter of American Ex-Prisoners of War. Here is what he looked like after he came home as a hero of World War II. On 28 January 1943, George rushed forward of friendly lines to help rescue a reconnaissance patrol which had been discovered by an overwhelming German force. Although George was captured and spent the next 27 months in various prison camps, his valor was recognized by the Army and he was awarded the Silver Star Medal, our nation's third highest battlefield award for heroism. While imprisoned

with the British for 3 of his 27 months of captivity, George overcame continuing claustrophobia and helped dig an escape tunnel but was transferred to a camp of only US prisoners in Poland before he could escape. During the bleak late winter of 1945 George and his fellow prisoners were force marched westward to Hammelburg, Germany just in time to see the ill-fated Baum rescue force enter their POW camp without enough force to make it back. George forced an escape anyway and was ultimately recaptured. He was bombed by US planes near Nuremburg and watched as 40 of his comrades died, but he was ultimately liberated by the US 45th Infantry Division.

Upon return to the United States, the scrappy little officer volunteered to undergo refresher infantry training and join in the invasion of Japan but the war ended first. After the war George worked for General of the Army Eisenhower in the Pentagon and must have done an impressive job because he was offered a Regular Army commission during a period when the Army was reduced in size dramatically. During the Korean conflict, George was offered a plum assignment away from the fighting but asked instead to be assigned to Korea. There, George was assigned to command the 1st Battalion, 32nd Infantry Regiment of the 7th Infantry Division, then in combat as part of X Corps. George was ordered to re-take a key hilltop which had just been captured by the Chinese, called "Old Baldy." Because high explosives had denuded the peak, the only covered approach to the objective was across a minefield, through which a path was cleared at the point of a bayonet. The battalion's attack was pressed with such ferocity that much of the hill was re-taken, but the battalion was decimated and withdrawn under orders from higher headquarters. George was awarded a Silver Star for heroism during the action.

After Korea, George had assignments literally around the world but not surprisingly, fate found George, now a full Colonel, in Vietnam during 1963-4 assigned initially as a deputy Corps Advisor in the Mekong Delta, and later as the Inspector General of Military Assistance Command, Vietnam, working directly under General William Westmoreland. George was subsequently assigned as the Deputy Chief of Staff for Operations and Training for the Military District of Washington and retired on 30 April 1967. George's awards include: the Silver Star with Oak Leaf Cluster, the Legion of Merit, the Bronze Star Medal with three Oak Leaf Clusters, the Air Medal, the Army Commendation Medal, the POW Medal, numerous campaign medals; the Combat Infantryman Badge with star, the War Department General Staff Device, and the Parachutist Badge.

Following retirement, George did volunteer work with numerous benevolent and veterans groups. From 1974-80, George was the Director of Graduate Admissions at Southeastern University while he concurrently studied for his Masters in Business and Public Administration. He served a three year appointment to the Veterans Administration Advisory Committee for Former Prisoners of War. He was active with the scouts and served in Armenian community relief and religious organizations and was most recently the Commander of the local chapter of American Ex-Prisoners of War.

In 1838 a young Abraham Lincoln spoke of "the generation just gone to rest," and the War for Independence by saying:

"At the close of that struggle, nearly every adult male had been a participator in some

of its scenes. The consequence was, that of those scenes, in the form of a husband, a father, a son or a brother, a living history was to be found in every family—a history bearing the indubitable testimonies of its own authenticity, in the limbs mangled, in the scars of wounds received, in the midst of the very scenes related—a history, too, that could be read and understood alike by all, the wise and the ignorant, the learned and the unlearned. But those histories are gone. They can be read no more forever. They were a fortress of strength; but what invading foemen could never do the silent artillery of time has done; the leveling of its walls. They are gone. . . ."

Thousands of our World War II heroes are leaving us every day. Centreville needs a lasting reminder of their service and sacrifice for all the generations to come. Please lend your support to designate the United States Post Office at 5003 Westfields Blvd, Centreville, VA as the "Colonel George Juskalian Post Office." Thank you for your consideration.

Very respectfully submitted,
FLOYD D. HOUSTON,
Commander.

RECOGNIZING THE WORK AND IMPORTANCE OF SPECIAL EDUCATION TEACHERS

Mr. DORGAN. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 702 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 702) recognizing the work and importance of special education teachers.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DORGAN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The resolution (S. Res. 702) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, read as follows:

S. RES. 702

Whereas, in 1972, the Supreme Court ruled that children with disabilities have the same right to receive a quality education in the public schools as their nondisabled peers and, in 1975, the Congress passed Public Law 94-142 guaranteeing students with disabilities the right to a free appropriate public education;

Whereas, according to the Department of Education, approximately 6,600,000 children (roughly 13 percent of all school-aged children) receive special education services;

Whereas there are over 370,000 highly qualified special education teachers in the United States;

Whereas the work of special education teachers requires special education teachers to be able to interact and teach students with specific learning disabilities, hearing impairments, speech or language impairments, orthopedic impairments, visual impairments, autism, combined deafness and

blindness, traumatic brain injury, and other health impairments;

- Whereas special education teachers—
- (1) are dedicated;
 - (2) possess the ability to understand the needs of a diverse group of students;
 - (3) have the capacity to use innovative teaching methods tailored to a unique group of students; and
 - (4) understand the differences of the children in their care;

Whereas special education teachers must have the ability to interact and coordinate with a child's parents or legal guardians, social workers, school psychologists, occupational and physical therapists, and school administrators, as well as other educators to provide the best quality education for their students;

Whereas special education teachers help to develop an individualized education program for every special education student based on the needs and abilities of the student; and

Whereas special education teachers dedicate themselves to preparing special education students for success in school and beyond: Now, therefore, be it

Resolved, That Congress—

- (1) recognizes the amount of work required to be a special education teacher; and
- (2) commends special education teachers for their sacrifices and dedication to preparing individuals with special needs for high school graduation, college success, and rewarding careers.

MEASURE READ FIRST TIME—S.J. RES. 42

Mr. DORGAN. Madam President, I understand there is a joint resolution at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the joint resolution for the first time.

The bill clerk read as follows:

A joint resolution (S.J. Res. 42) to extend the continuing resolution until February 18, 2011.

Mr. DORGAN. Madam President, I now ask for its second reading, and in order to place the joint resolution on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The joint resolution will receive its second reading on the next legislative day.

Mr. DORGAN. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE WEAPONS—Continued

Mr. WICKER. Madam President, America had an election on November 2. Let me begin by reminding my colleagues that the American people spoke loudly and clearly in November and chose a far different team to serve in Washington. A vastly different lead-

ership will soon take over in the House of Representatives, and a substantially different group of Senators was chosen by the American people in the election on November 2.

It seems the leadership of this lame-duck Senate is determined, in the waning days of 2010, to pack quite a bit of legislation that normally is debated over a considerable amount of time into just a few days—not only the START treaty that we are on now but also don't ask, don't tell and supposedly the majority leader has not given up on the DREAM Act, which would provide amnesty to many illegal immigrants, and also there is the massive Omnibus appropriations bill with 2,000-plus pages.

So we are here at this time, realizing that if the Congress doesn't act, the government will run out of money on Saturday. I assume a short-term CR will be done to address that. But certainly, it would be much easier if we passed what the minority leader suggested today; that is, a reasonable short-term resolution, so the government can be funded and the lights can stay on until mid-February, and the newly elected Congress—the people's choice—can best decide these great issues that are facing our country.

I did find it interesting, a few moments ago, to hear the chairman of the Foreign Relations Committee scold the Senate about the number of filibusters we have supposedly had in this term of Congress. I believe the statement was made that we have had more filibusters in the last 2 years than we have had in decades or since World War II or words to that effect. Here is why that statement is only true in a very technical sense.

It has been the practice of the majority, during the 3 years I have been in the Senate—and from what I understand much longer before that—to bring a bill to the floor of the Senate. He immediately fills the amendment tree; that is, he offers all the amendments that are allowed under the parliamentary rules of the Senate. That is called filling the tree. It is so nobody else has an opportunity to file an amendment. Then, the majority leader files cloture on that bill. Technically, yes, that is considered a filibuster. But I do not believe that is what most of the American people consider a filibuster and a delaying tactic, with excessive speechifying, when they hear the term “filibuster.”

So let's be clear that there has been an unusual practice—at least in the last 3 or 4 years—of calling up a bill, filling the tree, filing for cloture, and then that goes down in history as a filibuster. With all we have to do and all our leadership has determined we must consider during these waning days of December 2010, we must divide our attention between an expensive 2,000-page omnibus bill and the consider-

ation of a very complicated arms control agreement. It is that agreement I will discuss.

It is hard to imagine a more important, more serious issue than our nuclear weapons stockpile. In my view, such a debate deserves our undivided attention. But we will pivot in a few moments and move to the omnibus bill.

I wish to take what time I have at this point to begin sharing my concerns over this treaty and the effect it might have on national security.

Article II of the Constitution requires that the Senate ratify any treaty the President signs with a two-thirds vote. I take this responsibility very seriously, as I am sure all my colleagues do. This responsibility requires us to review any proposed treaty to ensure it is in the national interest of the United States of America.

As a member of the Senate Armed Services Committee and a member of the Foreign Relations Committee, I have participated in the review of this treaty to date. While I appreciate the efforts of my chairman and my ranking member, I am not convinced that the treaty, in its current form, is in the national interests of the United States of America.

I might add I am not alone in this view. To hear debate on the floor from time to time today, one would think all the learned authorities, all the collective wisdom of the United States of America, present and past, are in favor of the hasty ratification of this treaty. I simply point out that there is a wide variety of information and opinion out there that should be brought to the attention of Members of the Senate and the American people.

First of all, I point out to my colleagues an op-ed by former Secretary of State Condoleezza Rice, which appeared in the December 7, 2010, issue of the Wall Street Journal, entitled “New Start: Ratify, with Caveats.” Secretary Rice is generally in favor of the direction we are headed in the ratification of the START treaty. But she does say we need two caveats before ratification takes place. First, she states that smaller forces make the modernization of our nuclear infrastructure even more urgent. She commends the valiant efforts of Members of the Senate, including Senator JON KYL, to gain more robust modernization of our nuclear weapons. Secondly, the former Secretary of State says the Senate must make absolutely clear that in ratifying this treaty, the United States is not reestablishing the Cold War link between offensive forces and missile defenses. She says it is troubling that New START's preamble is unclear in this respect.

I wonder, if we do decide as a Senate to move toward consideration of this treaty, if we will be allowed to offer amendments to the preamble to address the concerns of our immediate past Secretary of State.

Further, I commend to my colleagues a Wall Street Journal op-ed, dated November 15, 2010, by R. James Woolsey. As my colleagues know, and many Americans know, Mr. Woolsey has a distinguished record as a delegate at large to the START and defense-based negotiations, back during the mid-1980s, as ambassador and chief negotiator for the Conventional Armed Forces of Europe Treaty from 1989 to 1991, and was President Clinton's Director of Central Intelligence from 1993 to 1995. So this bipartisan, experienced, former government official lists four concerns that he has with regard to the New START treaty. No. 1, he wonders about this administration's commitment to modernization. No. 2, he says it needs to be made clear that the United States, in ratifying New START, will not be limited at all in its missile defense, and he does not believe that has been taken care of. No. 3, Director Woolsey, President Clinton's Director of Central Intelligence, says this treaty represents a step backward in the verification process between the United States and Russia. Finally, Mr. Woolsey cites the need for a binding resolution on Russian submarine-launched cruise missiles. So I think there is information Members of the Senate need to hear about and need to consider.

Further, I will mention two opinion pieces. One is by Stephen Rademaker, an Assistant Secretary of State from 2002 to 2006. It is a Washington Post op-ed on Friday, August 20, 2010. Secretary Rademaker authored an opinion piece saying this is no way to approve the New START treaty. In his opinion piece, Mr. Rademaker said Senate critics of New START have largely been cut out of the process.

I know this from personal experience as a member of the Foreign Relations Committee. He goes on to say that all but two Republicans on the Foreign Relations Committee formally asked the administration to share with them the negotiating record of the treaty. They were told no, even though there is precedent for accommodating such requests.

A simple request—had it been accommodated—perhaps could have allayed some of the concerns we have.

In another op-ed, Mr. Rademaker, on December 10 of this year, said START will not stop nuclear proliferation. He points out that the claim that progress in United States-Russian arms control will help stop countries such as Iran from getting nuclear weapons isn't just an argument offered in support of New START, it is also one of the key premises underlying President Obama's embrace of global nuclear disarmament. There is just one problem. He said the notion that faster disarmament will lead to greater progress against nuclear proliferation has never added up.

Then, further, I will quote from a September 8, 2010, Wall Street Journal

piece by John Bolton, a senior fellow at the American Enterprise Institute and former Under Secretary of State for Arms Control and International Security from 2001 to 2005. Secretary Bolton observes that the treaty's return to outmoded Cold War limits on weapons launchers, which will require the United States but not Russia to dismantle existing delivery systems, is a problem. He goes on to say this could cripple America's long-range conventional warhead delivery capabilities, while also severely constraining our nuclear flexibility. He said: "We will pay for this mistake in future conflicts entirely unrelated to Russia."

I say to my colleagues that the jury is still out on this issue. These are experienced public servants, experts, and current observers of the international scene and the nuclear negotiation process. They have given us words that give me pause. It makes me think there is no reason to rush into a hasty ratification of this treaty.

With regard to the process, hearings first started in May of this year. I was one of the Foreign Relations Committee members to request nine witnesses we believed were important and necessary to cover the extent of our concerns.

This request was denied. There is no reason such a request would have been denied. In 12 hearings, there were two witnesses who spoke in opposition to this treaty. Members of the minority party requested others, but it nowhere came anywhere near the normal precedent given to the minority to have at least one witness on each panel. I was concerned that no former National Lab Directors were invited to testify.

It is essential that an appropriate amount of time be spent on the Senate floor considering this treaty. Members who have serious concerns must be permitted the opportunity to offer amendments that would address the full range of problems.

I would simply point out, this is the last quote of this speech today. In endorsing the START treaty, the Washington Post, on November 19, said:

Positive steps had been made and the treaty ought to be approved.

But it went on to say, the Editorial Board of the Washington Post went on to say:

But no calamity will befall the United States if the Senate does not act this year.

I could not agree more with the Washington Post. It will not be a calamity if we are given adequate time to fully discuss, to fully examine, to fully debate all of the ramifications about an issue so profound as our nuclear weapons capability. The worst thing this body could do is shirk our constitutional responsibility by rushing this through in the final days of this lameduck session simply to check the box before the new team, the newly elected team comes to Washington and takes office in January.

I ask unanimous consent that the Wall Street Journal article I referenced be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 7, 2010]

NEW START: RATIFY, WITH CAVEATS

(By Condoleezza Rice)

When U.S. President Bush and Russian President Putin signed the Moscow Treaty in 2002, they addressed the nuclear threat by reducing offensive weapons, as their predecessors had. But the Moscow Treaty was different. It came in the wake of America's 2001 withdrawal from the Anti-Ballistic Missile Treaty of 1972, and for the first time the United States and Russia reduced their offensive nuclear weapons with no agreement in place that constrained missile defenses.

Breaking the link between offensive force reductions and limits on defense marked a key moment in the establishment of a new nuclear agenda no longer focused on the Cold War face-off between the Warsaw Pact and NATO. The real threat was that the world's most dangerous weapons could end up in the hands of the world's most dangerous regimes—or of terrorists who would launch attacks more devastating than 9/11. And since those very rogue states also pursued ballistic missiles, defenses would (alongside offensive weapons) be integral to the security of the United States and our allies.

It is in this context that we should consider the potential contribution of the New Start treaty to U.S. national security. The treaty is modest, reducing offensive nuclear weapons to 1,550 on each side—more than enough for deterrence. While the treaty puts limits on launchers, U.S. military commanders have testified that we will be able to maintain a triad of bombers, submarine-based delivery vehicles and land-based delivery vehicles. Moreover, the treaty helpfully reinstates on-site verification of Russian nuclear forces, which lapsed with the expiration of the original Start treaty last year. Meaningful verification was a significant achievement of Presidents Reagan and George H.W. Bush, and its reinstatement is crucial.

Still, there are legitimate concerns about New Start that must and can be addressed in the ratification process and, if the treaty is ratified, in future monitoring of the Obama administration's commitments.

First, smaller forces make the modernization of our nuclear infrastructure even more urgent. Sen Jon Kyl of Arizona has led a valiant effort in this regard. Thanks to his efforts, roughly \$84 billion is being allocated to the Department of Energy's nuclear weapons complex. Ratifying the treaty will help cement these commitments, and Congress should fully fund the president's program. Congress should also support the Defense Department in modernizing our launchers as suggested in the recent defense strategy study coauthored by former Secretary of Defense Bill Perry and former National Security Adviser Stephen Hadley.

Second, the Senate must make absolutely clear that in ratifying this treaty, the U.S. is not re-establishing the Cold War link between offensive forces and missile defenses. New Start's preamble is worrying in this regard, as it recognizes the "interrelationship" of the two. Administration officials have testified that there is no link, and that the treaty will not limit U.S. missile defenses. But Congress should ensure that future Defense Department budgets reflect this.

Moscow contends that only current U.S. missile-defense plans are acceptable under the treaty. But the U.S. must remain fully free to explore and then deploy the best defenses—not just those imagined today. That includes pursuing both potential qualitative breakthroughs and quantitative increases.

I have personally witnessed Moscow's tendency to interpret every utterance as a binding commitment. The Russians need to understand that the U.S. will use the full-range of American technology and talent to improve our ability to intercept and destroy the ballistic missiles of hostile countries.

Russia should be reassured by the fact that its nuclear arsenal is far too sophisticated and large to be degraded by our missile defenses. In addition, the welcome agreements on missile-defense cooperation reached in Lisbon recently between NATO and Russia can improve transparency and allow Moscow and Washington to work together in this field. After all, a North Korean or Iranian missile is not a threat only to the United States, but to international stability broadly.

Ratification of the treaty also should not be sold as a way to buy Moscow's cooperation on other issues. The men in the Kremlin know that loose nukes in the hands of terrorists—some who operate in Russia's unstable south—are dangerous. That alone should give our governments a reason to work together beyond New Start and address the threat from tactical nuclear weapons, which are smaller and more dispersed, and therefore harder to monitor and control. Russia knows too that a nuclear Iran in the volatile Middle East or the further development of North Korea's arsenal is not in its interest. Russia lives in those neighborhoods. That helps explain Moscow's toughening stance toward Tehran and its longstanding concern about Pyongyang.

The issue before the Senate is the place of New Start in America's future security. Nuclear weapons will be with us for a long time. After this treaty, our focus must be on stopping dangerous proliferators—not on further reductions in the U.S. and Russian strategic arsenals, which are really no threat to each other or to international stability.

A modern but smaller nuclear arsenal and increasingly sophisticated defenses are the right bases for U.S. nuclear security (and that of our allies) going forward. With the right commitments and understandings, ratification of the New Start treaty can contribute to this goal. If the Senate enters those commitments and understandings into a record of ratification, New Start deserves bipartisan support, whether in the lame duck session or next year.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, as we take up the consideration of the New START, we not only have the opportunity, but also an obligation to provide consent on the ratification of this treaty. It is long overdue. We need to regain our ability to provide boots-on-the-ground verification of the Russian nuclear complex.

Over the past 8 months, we have all had ample opportunity to review the documents and reports related to the New START. We have conducted 20 hearings, taken over 900 questions. They were questions asked by Members of the Senate, mainly to the administration, in which those answers have

been provided; 900 questions, over 900 for the record.

In short, we have given significant consideration to the ratification of New START. I know my colleagues on both sides of the aisle are committed to guaranteeing the security of our country and also recognize the obligation to ratify this arms control agreement immediately.

I want to take you back a little bit because I hear my colleagues talking about not having enough time. I want to take you back to a hot day this summer in the Foreign Relations Committee, where—Madam President, you were at that meeting in which those who are now saying we do not have enough time, asked for just a little bit more time, during the impending recess, so we could orderly consider the ratification process.

That was a hot summer day. It is now a snowy day in December, and they are still saying the same thing: Just give us more time. We have had plenty of time.

I compliment Senator KERRY and Senator LUGAR for the manner in which they have considered this treaty. This is a very important treaty for America, and they have made sure that the Senate has had, and each Senator has had, ample opportunity to get all of the information we need—all of the information we need from administration individuals or from experts or from anyone. They have been very open in this process.

They have also given every Member of the Senate ample time to get every question answered, to get all of the material they need, and it is now time for us to take on our responsibility; that is, to take up this treaty for ratification and vote it up or down.

I certainly hope my colleagues will vote to ratify this treaty. I think it is critically important to our national security. In addition to its contributions to American security, one of the most compelling reasons we should ratify this treaty, and do so before we recess, is to regain our insight into Russia's strategic offensive arms.

Since START I expired over a year ago, we have had no comprehensive verification regime in place in order to help us understand Russia's strategic nuclear force. We need the transparency to know what Russia is doing to provide confidence and stability, and we need that confidence and stability to contribute to a safer world. We will only regain that transparency by ratifying this treaty, and we are in dangerous territory without it.

Let me repeat. We need this treaty for verification. We need this treaty to know what Russia is doing, so we can verify what Russia tells us, to make sure, in fact, that it is true. Not only will this treaty enhance the national security of the United States, it will serve as a significant step forward in

our relationship with Russia, a key partner in the overall U.S. strategy to reduce the spread of nuclear weapons worldwide.

Let's be perfectly clear about this. There are still two nations that have the majority of the nuclear weapon capacity in this world; it is Russia and the United States. Working together, we can make this world safer. Working together, we can move forward with reductions in strategic arms around the world. Working together, we provide the leadership so we can move forward against proliferation of nuclear weapons. In fact, we have done that.

But the failure to ratify this treaty could have a major negative impact on the leadership of the United States in this area. The U.S. relationship with the Russian Federation is key in our efforts to curtail Iran's nuclear ambitions. In June, Russia voted for the latest U.N. Security Council sanctions on Iran and later canceled the sale of an advanced arms defensive missile system.

The ratification of New START is essential in reinitiating verification inspections and, more importantly, for the United States and Russia to lead the way in reducing the world's nuclear arms stockpile. This is for leadership. We all talk about making sure Iran does not become a nuclear weapons state. Ratifying the New START treaty will help us in making sure Iran does not become a nuclear weapons state. It keeps the United States and Russia focused on strategic arms reduction and focused on nonproliferation.

The failure to ratify this treaty is a setback in our ability to effectively stop Iran from becoming a nuclear weapons state. New START, the first treaty with Russia in almost a decade, calls for both sides to reduce their deployed warheads modestly from 2,200 to 1,550. The new treaty would restore verification, inspections, and other exchanges of information about the American and Russian arsenals. New START could pay dividends not only by improving nuclear security but by paving the way to greater cooperation between the two powers in dealing with such hot spots as Iran and Afghanistan.

Let me just point out one other part, if I might; that is, previous arms treaties have been ratified with overwhelming bipartisan support. START I was passed 93 to 6 in 1994. The Moscow Treaty passed 95 to 0 in 2003. Legislators recognized then that arms control agreements between Russia and the United States are not just good for the security of our two nations but can lead the way to the world to reduce proliferation of nuclear weapons.

During last month's NATO Summit in Lisbon, the NATO Secretary General stated:

The New START treaty would also pave the way for arms control and disarmament initiatives and other areas that are vital to Euro-Atlantic security.

So I think this is a key moment in the history of the Senate. I know there are many important votes that we take in the Senate. There are many votes we take that have very significant consequences. The ratification of this treaty is just one of those moments. It keeps us on path and enhances our credibility to make the world safer, and does it in a way that enhances the security of the people of the United States of America.

This is a treaty that needs to be ratified and needs to be ratified now. I urge my colleagues to vote in the interests of national security, to move swiftly, and pass this treaty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I understand Senator THUNE is the next to speak on the Republican side. I ask unanimous consent to follow him after he has spoken, and Senator CHAMBLISS would then follow me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota.

Mr. THUNE. I thank the Senator from Illinois for locking in the time. I want to start by saying here we are, jammed against the Christmas break with the majority using Christmas as a backstop to rush through an arms control treaty with the Russians and a trillion-dollar spending bill on a dual-track basis.

What that means is that we are considering, at the same time, two documents encompassing thousands of pages with very little ability to offer meaningful amendments or devote meaningful time to consider the full impact of these documents that will have a far-reaching and long-term impact on our Nation.

As I wrote recently in an op-ed that appeared in National Review Online:

New START misses one opportunity after another to maintain a stable nuclear relationship between our two countries. To remedy this will require significant time on the floor of the Senate. Trying to force it through without ample time for debate and amendments would amount to a Christmas gift to the Russians.

I ask unanimous consent that the op-ed I wrote for National Review Online entitled "Don't Force New START," dated December 9, 2010, be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. THUNE. Madam President, the Nation's attention is fixed firmly on this travesty of an omnibus trillion-dollar appropriations bill which we should be debating now because the current funding resolution for the government ends tomorrow. We should not be debating a significant arms control treaty at this late date and trying to dual-track what I said earlier are thousands of pages of documents that need

appropriate time on the floor of the Senate.

I want to speak, if I might, briefly today to the substance of the START agreement and my concerns about that agreement in its current form. First of all, I want to speak to the issue of missile defense.

The New START treaty not only contains specific limitations on missile defense in article V but also reestablishes an unwise linkage in the preamble to the treaty between offense and defense that was broken when the ABM treaty came to an end.

Moreover, Russia's unilateral statement that the treaty "can operate and be viable only if the United States of America refrains from developing its missile defense capabilities, quantitatively or qualitatively" is extremely troubling.

When viewed together, the New START treaty's preamble and Russia's unilateral statement amount to a Russian attempt to find a leverage point and exert political pressure upon the United States to forestall deploying a robust missile defense capability, by threatening to withdraw from the treaty if we seek to increase our missile defense capabilities.

The remedy for this concern is for the Senate to strike the offensive preamble language. That is why I would wholeheartedly support an effort to strike the preamble as well as an amendment to strike paragraph 3 of article V of the treaty.

Now, with regard to delivery vehicle modernization, and I want to speak specifically in that regard to bombers, nearly 2 years ago I began to have serious concerns about the administration's commitment to developing a follow-on bomber aircraft and its overall commitment to the triad of nuclear delivery vehicles. These concerns were aggravated by the administration's decision to terminate the development program for a new bomber and reexamine the need, the requirement, and the technology.

I was also troubled by Secretary Gates's statement on April 6, 2009, that we will examine all of our strategic requirements in light of post-START arms control negotiations, which leads me to be concerned that this administration would allow the Russians to have a say in whether we would develop a new bomber.

I was gratified to see that the Nuclear Posture Review determined that the United States should sustain the nuclear triad for decades.

However, as the Center for Strategic and Budgetary Assessments recently stated in a report entitled, "Sustaining America's Strategic Advantage in Long-Range Strike," the triad is in danger of becoming a dyad by default because nearly half of the bomber inventory of the United States, 47 percent, predates the Cuban missile crisis,

and the only aircraft the United States possesses today with reach and survivability to have a chance of successfully executing missions more than 1,000 nautical miles into enemy territory from the last air-to-air refueling are 16 combat-ready B-2 bombers.

Madam President, the B-2 was designed in the 1980s and achieved initial operational capability over a decade ago, and they will eventually lose their ability to penetrate advanced air defense systems. The need, the requirement, and the technology for the next-generation bomber is well understood. The need for a new long-range strike capability is urgent because the conflicts of the future will likely feature heavily defended airspace due in large part to the proliferation of relatively inexpensive but extremely sophisticated and deadly air defense systems. We have heard testimony before the Armed Services Committee from intelligence officials that Russia is the developer of most of these advanced air defense systems and is exporting those systems both to China and to other countries in the world.

Various past and present combatant commanders of the Pacific Command, Strategic Command, and Joint Forces Command have each testified in support of the capability the next-generation bomber will provide.

As Senator MCCAIN summarized in his letter to the Foreign Relations Committee on the treaty, the 1251 plan and even the updated plan lack critical details about decisions related to the follow-on ICBM, the next-generation bomber, or a follow-on air-launched cruise missile.

General Chilton, the most recent STRATCOM commander, has spoken about how conversations about these matters need to start now.

Development of replacement delivery vehicles for all three legs of the triad need to begin during the life of New START. Decisions need to be made and development needs to begin within the next 10 years or replacement systems will not be available when current systems reach the end of their service lives. There is no assurance that the next long-range bomber will be nuclear capable. Therefore, I plan to offer an amendment which will require the administration to certify that the President has made a commitment to develop a replacement heavy bomber that is both nuclear and conventionally capable.

With regard to delivery vehicle numbers, on July 9, 2009, at an Armed Services Committee hearing, I asked GEN James Cartwright, the Vice Chairman of the Joint Chiefs, about the administration's commitment at that time to reduce our strategic delivery vehicles to somewhere in the range of 500 to 1,100 systems and to specify at what point in this range would he become

concerned that delivery vehicle reductions would necessitate making our nuclear triad into a dyad. General Cartwright responded, "I would be very concerned if we got down below those levels about midpoint," meaning he would be concerned if the negotiated number fell below 800 delivery vehicles. This treaty caps delivery vehicles at 700—substantially below the number General Cartwright stated a year and a half ago.

The administration makes this odd distinction between deployed and non-deployed delivery vehicles and points out that the total cap for the treaty is 800 deployed and nondeployed systems. Of course, there is a letter from General Cartwright in the RECORD stating he is comfortable with the distinction between deployed and nondeployed delivery vehicles and the overall limits to delivery vehicles. But the real number we are working with here is 700.

I think it is worth noting that former Defense Secretary Schlesinger testified to the Foreign Relations Committee on April 29, 2010, that, "as to the stated context of strategic nuclear weapons, the numbers specified are adequate, though barely so."

With regard to this limit of 700 deployed delivery vehicles, I find it very troubling that the administration has yet to articulate how it will deploy a nuclear force conforming to the number of 700. The administration has informed the Senate how it might field a force of 720 delivery vehicles, which Secretary Gates and Admiral Mullen acknowledged in a hearing before the Senate Armed Services Committee on June 17, 2010, would still require further reductions to meet the treaty's central limits.

They went on to argue that because the United States will have 7 years to reduce its forces to these limits, they did not find it necessary to identify a final force structure at this point, meaning the Senate will commit the United States to a delivery vehicle force of 700 without knowing how that force will be composed. This problem is compounded by the fact that the treaty was so poorly negotiated, that for every ICBM or SLBM deployed with a conventional warhead, one less nuclear vehicle will be available to the United States.

The treaty essentially requires the United States to make unilateral reductions in delivery vehicles, as Russia is already well below the delivery vehicle limits and would drastically reduce its arsenal with or without this treaty. As the Congressional Research Service writes:

Russia currently has only 620 launchers, and this number may decline to around 400 deployed and 444 total launchers. This would likely be true whether or not the treaty enters into force because Russia is eliminating older missiles as they age and deploying newer missiles at a far slower pace than that needed to retain 700 deployed launchers.

Therefore, in light of all these facts, I will seek to offer an amendment or two regarding the delivery vehicle numbers in this treaty. I am also working on several other amendments that I may seek to offer regarding prompt global strike and other issues.

Ultimately, this is a very significant treaty that deserves full and fair consideration, and we should not be jamming the consideration of this treaty up against the Christmas break. As I have indicated, there are substantial issues here that need to be fully vetted, and we obviously do not have the time to consider these issues this year. We should wait until next year to fully consider this treaty and have a full, free, and wide-open debate on this matter, with no restrictions on amendments.

EXHIBIT 1

[From the National Review, Dec. 9, 2010]

DON'T FORCE NEW START

THE TREATY SHOULD NOT BE A CHRISTMAS PRESENT FOR RUSSIA

Twenty-four years ago, Pres. Ronald Reagan traveled to Reykjavik, Iceland, to negotiate an arms control treaty with the Soviet Union. When the Soviets insisted that the treaty must limit America's missile defense program, which was designed to guard against intercontinental ballistic missiles, Reagan walked away. He later explained, "We prefer no agreement than to bring home a bad agreement to the United States."

Apparently times have changed. President Obama wants to jam a deeply flawed arms-control treaty with Russia, known as New START, through a lame-duck session of the Senate just to rack up an accomplishment before the end of the year.

New START misses one opportunity after another to maintain a stable nuclear relationship between our two countries. To remedy this will require significant time on the floor of the Senate. Trying to force it through without ample time for debate and amendments would amount to a Christmas gift to the Russians.

First and foremost, missile defense remains a major point of disagreement between the United States and Russia, and this treaty only makes the situation worse. Russia has threatened to withdraw from the treaty if we expand our missile-defense capabilities. It made a similar threat when the original START was completed under the first President Bush. At that time, President Bush said directly that our missile-defense activities have no bearing on Russia's arms-control obligations. I am concerned that President Obama's response to the Russian threat this time is weaker.

Moreover, the treaty contains a direct limitation on U.S. missile-defense-system deployments. Why does a treaty ostensibly about offensive weapons mention missile defense at all? It appears to have been included only to appease Russia.

Treaty proponents argue that New START furthers the legacy of Ronald Reagan's vision of a world without nuclear weapons. Let's be clear about one thing: President Reagan never would have sacrificed missile defense on the altar of arms control.

Second, Russia has an estimated ten-to-one advantage over the United States in tactical nuclear weapons, a situation that was not addressed at all by New START. These are the kinds of weapons that are most sus-

ceptible to theft or diversion to emerging threats, including terrorists and rogue nations such as North Korea and Iran. They are the weapons Russia has reportedly moved closer to our NATO allies. One of our top goals going into negotiations on this treaty should have been to close that gap, so why wasn't it mentioned? Because the Russians didn't want to talk about it.

Third, treaty proponents argue that the Senate must rush consideration of New START because we now lack the ability to verify what Russia is doing. This would make sense if the verification provisions in the treaty were something to be celebrated and worth rushing into place.

However, New START's verification provisions are much weaker than what we had under the previous treaty. This is a serious concern, because experts say Russia has essentially cheated in one way or another on pretty much every major arms-control treaty to which it is a party.

What's more, as the expiration date of the previous START approached last year, the administration promised it would come up with some sort of "bridging agreement" to keep verification efforts going until the new treaty could be ratified. The parties never finished that agreement, and so any verification gap has been created by the administration.

The Senate has a responsibility to consider treaties thoroughly to ensure they are in our country's best interest. It should not rush its duty now to make up for the Obama administration's mistakes. We lose nothing by postponing consideration of this treaty until the new Congress convenes in a few weeks.

This flawed treaty has too great an impact on America's national security to be taken lightly or rushed for the sake of political pride.

Mr. THUNE. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, before the Senate at this moment is the New START treaty, an agreement between the United States and Russia. This is an effort to try to make this a safer world, to make certain that the nuclear weapons that are in this world are carefully monitored, that they are watched and inspected, and that we reduce any urge to expand nuclear weaponry. It is an attempt to make this a safer world.

The President worked long and hard on this. He brought it for consideration months ago, almost 7 months ago, and we have had hundreds—at least 200 hearings. I am sorry, let me restate that. We have had many Senate hearings—I don't have the exact number before me, but I will get it—on this matter. We have had many efforts at every level to bring experts from across America and from around the world to support our effort and bring this matter before us.

What troubles me, Madam President, is the same thing we discussed earlier at a press conference. We brought this matter to the floor of the Senate over 24 hours ago. Yet speaker after speaker on the Republican side has used this time on the floor of the Senate to come and complain that they do not have

any time to speak on the floor of the Senate. They can't have it both ways. They can't come and give a speech about the treaty, yet say the reason we shouldn't take it up is they don't have an opportunity to speak on the treaty. They do have an opportunity to speak on the treaty, and they have had it for more than 24 hours.

I asked Senator KERRY, as he left the floor: I know the Republicans want to offer amendments to this treaty. How many amendments have been filed?

He said: I will check, but I think only one amendment has been filed.

His staff has said that is the current situation—one amendment by Senator MCCAIN. Here we are, 26 hours into this debate, and one amendment has been filed and no amendments have been called. Yet speaker after speaker comes from the Republican side of the aisle and says: The problem with this treaty is we don't have time to speak—as they speak—and we don't have time to offer amendments—as they fail to offer amendments.

So one has to step back and say that maybe the problem is not a problem of time; maybe the problem is they just don't want to see this treaty passed.

Thank goodness for Senator LUGAR of Indiana, who has spoken up in favor of this treaty. I said earlier at the press conference and would say again with him on the floor that there aren't a handful of people in America who are as expert as he is on this issue of nuclear arms and the safety of those that currently exist. There was a time when people across America thought his name was Senator Nunn-Lugar because they kept hearing Nunn-Lugar, Nunn-Lugar. It was a time when Senator Sam Nunn, a Democrat from Georgia, and Senator LUGAR, a Republican from Indiana, really led this Nation and this world in taking an honest look at nuclear weapons to see how we can make sure they are safe and don't threaten our future. Senator LUGAR knows—because he said as much publicly—that this treaty moves us in the direction of a safer world.

During the height of the Cold War, there were enough nuclear weapons on our planet to destroy all life many times over. Thank goodness the Soviet Union is gone and we are in a new era, a more peaceful era. Still, 20 years later, both Russia and the United States have thousands of nuclear weapons in their arsenals—far more than either side needs for maintaining security.

In an era of terrorist threats, we are faced with new challenges, including a nuclear-armed Pakistan with al-Qaida operating within its borders and countries such as Iran and North Korea pursuing their own nuclear programs.

This week, we have a chance to make a difference—to reduce the number of U.S. and Russian nuclear weapons in a way that not only makes us safer but

also strengthens America's authority in persuading other nations around the world to halt their destabilizing practices.

Senator LUGAR said:

START would strengthen our nonproliferation diplomacy worldwide, limit potential arms competition, and help us focus our defense resources effectively.

What a succinct description of a critically important measure before us. Yet day after day—2 days now—hour after hour, Senate Republicans come to the floor and say we just don't have time to do this.

Efforts to reduce the number of nuclear weapons have always been bipartisan in the past, and they should be bipartisan today. As they say, partisanship should end at the water's edge whether the President is a Democrat or a Republican. If it is good for America, if it makes us safer; if it moves us forward in the goal of a more peaceful world, we should stand together with both parties working on it. Unfortunately, the opposition we have heard over and over on the floor has been from the other side.

I thank Senator JOHN KERRY. I tell you, this man is a dogged and determined legislator, and he has been working this issue harder than I have ever seen him work anything in my life, for the last several weeks, to get to this moment where we bring it up on the floor. He understands that last December when the START I treaty expired, it left the United States without key inspectors in Russia and reduced important security transparency.

I would say to Senator KERRY, the modern patron saint of the Republican Party is Ronald Reagan, and Ronald Reagan, in a few words, summarized his view when it came to negotiating: Trust, but verify. For 376 days, we have been unable to verify what is going on in Russia with their nuclear weapons. We don't know if they are being held safely—treaty compliant. We just don't know. How can we be safer as a nation in blissful ignorance of what is happening?

This New START treaty President Obama brings to us will put inspectors on the ground in Russia and in the United States to make certain both sides live up to the treaty obligations. That is essential. It is something Russian President Medvedev called a “truly historic event.” President Obama said at the signing that this is “an important milestone for nuclear security and nonproliferation, and for U.S.-Russia relations.” I couldn't agree with them more.

Here is the number I was searching for earlier. The Senate has conducted 21 hearings and briefings on the New START treaty—a significant number of opportunities to debate and assess the treaty.

In September, the Senate Committee on Foreign Relations overwhelmingly

approved the treaty on a bipartisan basis. The people supporting this treaty across the board, Democrats and Republicans, represent the best minds in America in recent history on the subject. They include current administration officials, Secretary of State Hillary Clinton, Secretary of Defense Robert Gates, the Chairman of the Joint Chiefs of Staff, Admiral Mike Mullen, as well as Madeleine Albright, former Senator Chuck Hagel, Henry Kissinger, Sam Nunn, Colin Powell, James Schlesinger, George Shultz, Brent Scowcroft, and John Warner. At least seven generals and admirals who commanded our nuclear forces feel the same way.

This does not restrict the United States when it comes to missile defense. It is very clear it does not. It is one of the things that has been said, but the people who say it ignore the obvious. It was several weeks ago when we had a NATO meeting on missile defense moving forward to make our Nation safer, and the Russians were engaged in that dialog. It was a historic breakthrough. They ignored that when they raised that issue.

As Secretary of Defense Bob Gates has said, the new treaty will impose “no limits on us” when it comes to missile defense.

There is a concern, as well, expressed that the treaty does nothing to address the issue of tactical nuclear weapons, where the Russians apparently outnumber us. I agree it is a serious issue that needs to be addressed, especially from a nonproliferation viewpoint, since many of these weapons are deployed in undisclosed locations. However, this treaty, like the Moscow Treaty and the original START agreement, deliberately and rightly focuses on strategic nuclear weapons.

Bipartisanship on issues of national security has been the hallmark of our Nation. Even in the toughest of times and in the most desperate political circumstances we have come together.

For example, in 1992, just after the Cold War came to an end, the Senate ratified the first strategic arms reduction treaty by an overwhelming vote of 93 to 6. Of my Republican Senators who are still here today who were in attendance for the vote—Senators BOND, COCHRAN, GRASSLEY, HATCH, LUGAR, MCCAIN, MCCONNELL, and SHELBY—all voted in support.

In 1996, the Senate voted 87 to 4 in support of START II, including the votes of Republican Senators BENNETT, BOND, COCHRAN, GRASSLEY, GREGG, HATCH, HUTCHISON, LUGAR, MCCAIN, MCCONNELL, and SNOWE.

In 2002, the Senate voted 95 to 0—that is right, 95 to 0—in support of the Moscow Treaty, and 26 of the 27 Republicans there at the time are still here today and they voted in support of that treaty.

At the peak of the Cold War, the stockpile of nuclear weapons held by

all nuclear weapons states was some 70,000 warheads, 1.6 million times the power of the bomb at Hiroshima. We have reduced the number of those weapons by more than two-thirds. Yet today the combined nuclear weapon capability is still equal to 150,000 of the nuclear bombs used in World War II.

Today we have an opportunity to further reduce this threat in a responsible bipartisan way. I do not know when this session will end tonight, but I will say to my colleagues on the other side of the aisle: You have ample opportunity to debate. You have ample opportunity to offer amendments.

Time is not a good excuse. We have been in session now, this day and yesterday—we started at about 3:30. Only one amendment has been filed on the Republican side. If they truly want to engage us in an important debate about this treaty issue, do it now. Don't put it off. We have to reach the point where we can verify what is being done in Russia to make this a safer nation and to move us toward a more peaceful world.

EXECUTIVE CALENDAR

Mr. DURBIN. Madam President, I ask unanimous consent the Senate proceed en bloc to Executive Calendar Nos. 885, 886, 917, and 935; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table; that any statements relating to the nominations be printed in the RECORD, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Catherine C. Eagles, of North Carolina, to be United States District Judge for the Middle District of North Carolina, vice Norwood Carlton Tilley, Jr., retired.

Kimberly J. Mueller, of California, to be United States District Judge for the Eastern District of California, vice Frank C. Damrell, Jr., retired.

John A. Gibney, Jr., of Virginia, to be United States District Judge for the Eastern District of Virginia, vice Robert E. Payne, retired.

James Kelleher Bredar, of Maryland, to be United States District Judge for the District of Maryland, vice J. Frederick Motz, retiring.

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

The PRESIDING OFFICER. The Senator from Georgia.

THE OMNIBUS

Mr. CHAMBLISS. Madam President, I want to speak for a few minutes about the START treaty. Before I do, there is another issue that has been de-

bated on this floor that we are going to continue debating over the next several days, and that is the issue of the funding of the Federal Government. There is an omnibus bill that has been laid out there now, which is something that happens from time to time that is simply not the way business ought to be done in this body.

As we move into the debate on the omnibus bill, there are a lot of us who want to see, obviously, the government remaining open and running at full speed. All of us within this body want to make sure as we do that, we do it the right way.

Frankly, to run in an omnibus bill at the last minute out here that has thousands of earmarks—some of which folks like me requested months and months ago, and until 2 or 3 days ago had no idea those requests would be honored and are now included in there, amounting to billions of dollars. With the issues we have now, including the election that took place on November 2 where the American people spoke loudly and clearly about the way Washington spends money, this is not the way to do business.

I intend to vote against the omnibus bill. I will speak more about that at a later date.

THE NEW START TREATY

I want to speak for a minute on the START treaty, and I want to start off by commending both Senator KERRY and Senator LUGAR who, as the chairman and ranking member on the Foreign Relations Committee, have worked long and hard on this particular measure.

This treaty was signed by the President after negotiations were completed back in the spring. By the time we got the text, and then the additions to the text, I would say it was probably into April or May, whenever it was.

Since that time, I know both Senator KERRY and Senator LUGAR have worked very hard. They have been open for discussion. I have had several discussions with Senator LUGAR about it and have explained my problems with it early on to him. He has been very receptive. I received another letter from him today further explaining some of the issues that are out there.

But that is an indication of how complex this issue is. As a member of the Armed Services Committee and the Intelligence Committee, I have had the opportunity to have any number of briefings. I have been in hearing after hearing. I have been in meeting after meeting with members of the administration as well as outside experts who believe this is right, and those who believe it is wrong. I have been involved in phone calls. I have traveled abroad to visit with our friends in both France and Great Britain to learn about what they are doing with respect to their nuclear inventory.

It is not like folks like me who have to make a decision whether to support

this have not been working on it and trying to understand the complexities of this treaty. Gosh, those Members of the Senate who do not serve on Foreign Relations, Armed Services, or Intelligence do not have the benefit of the extensive briefings those who serve on those committees have had, and they have been trying to understand the operatives that are involved in this treaty also.

My concerns were laid out to Senator LUGAR early on in a letter. I have been very clear in conversations and hearings, including in an extensive conversation that I had with my longtime good friend, Senator Sam Nunn, who, along with Senator LUGAR, in my mind are the two godfathers of the Russia-United States nuclear issue.

The issues that are out there are in the process of being dealt with and resolved—but we are not there, in my mind. I cannot speak for the other 59 folks here, but I can tell you this: There are five major issues I have been concerned with from day one.

First is missile defense and what impact this treaty is going to have on missile defense. I will be honest, I expressed concern about it, including in a hearing in the Armed Services Committee with Secretary Gates, who is an individual for whom I have such great admiration and respect—we can have a difference of opinion on policy from time to time, but I know where Secretary Gates stands when it comes to the national security interests of the United States.

In response to a question I asked him in an Armed Services hearing, he satisfied me with respect to the missile defense issue. Then, like happens with so many other issues when there is a complex treaty like this, we have comments that were made in Portugal in recent weeks about phase 4 of our missile defense plan that all of a sudden raises another issue, or at least a potential issue, that has to be addressed and has to be resolved, in my mind, before I can vote for a treaty I want to support. I continue to work through that particular issue.

The second issue is the issue of modernization of the weapons in the United States. We can look ourselves in the eye, Members of this body and Members of the House, and take part of the blame. We have not funded a modernization program for the updating of nuclear weapons of the United States. Now we have called on the administration to make a commitment, and that commitment is going to have to be a financial commitment as well as a policy commitment. To the credit of the administration, they have worked in a very diligent way—I know with the prodding of Senator KERRY and Senator LUGAR—to address this issue both from a budgetary standpoint as well as a policy standpoint. Again, it is not just this administration that has to be

involved. It is future administrations as well as future Congresses that are going to have to address that issue.

As we decide whether to vote for or against this treaty, we have to satisfy ourselves that future Congresses, future administrations are going to do that. How do we resolve that? I do not yet know. But it is another issue that we have to go through in our minds and satisfy ourselves on the issue of modernization before we can vote for it.

Third is an issue of verification. This is probably the major issue, at least in my mind. The Senator from Illinois just spoke about the fact that we have gone for a year or so now without having the opportunity, under the treaty that expired in 2009, to look at what the Russians are doing and likewise to give the Russians the opportunity to look at what we are doing.

It is important when there is a complex issue like this, and an issue where you have to trust the other side to do certain things, that you have the opportunity to verify after you enter into that trusting relationship with them.

The verification process that is set forth in this New START treaty is frankly significantly different from the verification process that was in the treaty that just expired. There are reasons it needed to be different, and I understand that. But there still is an issue relative to: Do we have the right kind of verification measures in place in this treaty to be able to satisfy our community, both the defense community and the intelligence community, that this treaty gives us everything we need to have to be sure that the Russians are doing what they are supposed to do?

In that vein, one way we are going about the issue of making sure the verification requirements that are set forth in here are adequate is to look at the National Intelligence Estimate that was put out 2 months ago, 6 weeks ago—whenver it was. When it did come out, I sat down and read through it. It is a rather detailed document that sets forth each of the issues in the minds of the intelligence community. And those concerns are dealt with in an appropriate way. There are still some questions in my mind with the classified portion of this treaty that I have to be satisfied with.

I started going through the NIE again, and over the weekend, when it looks like we are going to have plenty of hours to sit down with not much going on, I am going to do that. Hopefully, I am going to satisfy myself on the classified portions.

Last, what is not in this treaty is just as much of concern to me as what is in the treaty; that is, a total lack of addressing the issue of tactical weapons. I understand, because I have asked the question to the State Department, to the intelligence community, the Defense Department—about this issue of

tactical weapons. Their rationale is, look, we cannot deal with tactical weapons until we get this treaty agreed to and signed and deal with the strategic side. Then we can deal with the tactical side.

I don't buy that. I think there was an opportunity that was missed. We are dealing with a country that has fewer strategic weapons than we have. They are going to be huge beneficiaries under this bill from the standpoint of the sheer numbers. On the other hand, they have hundreds and hundreds, perhaps even thousands—we really don't know—more tactical weapons than what we have. It is the tactical weapons that bother me just as much as the strategic weapons because the tactical weapon can be put in a suitcase and delivered to a location that could destroy something domestically, or U.S. assets somewhere else around the world, or people.

The lack of addressing the tactical weapons issue is a problem. Is it enough to say we should not do this? Maybe not. But there are those of us who are wrestling with the issue and trying to do it in the right way. I will have to say that in concluding my eighth year here, I have never had to vote in favor of a treaty that was this complex, this important, and had this much influence on what is going to happen with respect to the safety and security of our country for my children and grandchildren.

I commend Senator KERRY and Senator LUGAR and their staffs for a tremendous amount of work and their openness. We have never asked a question they have not attempted to respond to. I am hopeful, over the next couple days, a week, however long we are going to be here, if we conclude it or if we conclude it next year, that we will be able to ultimately come together as a body and address this issue in a right and positive way.

I yield the floor.

The PRESIDING OFFICER (Mr. DURBIN). The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I am here to join my colleagues who believe that now is the time to ratify the New START treaty. The New START treaty is a continuation of a long history of bipartisan arms control cooperation and it is the culmination of President Ronald Reagan's consistent appeal, as mentioned in previous remarks, to trust, but verify when we are dealing with Russia. At a time when much of America is fed up with this body's inability to work in a bipartisan fashion, I hope we can still work across the aisle to strengthen America's national security and deal with the threat that is posed by nuclear weapons. I certainly applaud the leadership of Senator KERRY and Senator LUGAR and the work they have done on this issue heading the Foreign Relations Committee.

Much like previous arms control treaties, including the old START treaty signed by President George H.W. Bush and the SORT treaty signed by President George W. Bush, the New START treaty is squarely in the national security interests of the United States. The New START treaty will reduce the limit of strategic nuclear arms aimed at the United States. The United States and Russia will be bound to a lower number of nuclear weapons, which will be 30 percent fewer than the current limits under the SORT treaty. The treaty's new rules allow us to count Russia's nuclear weapons more accurately. That is a critical piece as we listened to the concerns of Senator CHAMBLISS about whether we can verify what is going on. These new counting rules give us the ability to more accurately figure out what is happening with Russia's nuclear arsenal.

In addition, New START leaves us the flexibility to determine our own force structure and maintain a robust deterrent capable of protecting us and our allies.

Despite all the concerns raised, this treaty does nothing—let me repeat that, this treaty does nothing—to constrain our missile defense plans. Further, it allows for the modernization of our nuclear weapons complex. We have already heard from the three directors of our nuclear labs that they are happy with the commitment this administration has provided to modernization of our nuclear arsenal. The treaty restores a critical verification regime that was lost when the old START treaty expired. We have gone over a year without important intelligence from these on-the-ground inspections. This gap hinders our insight into Russia's program.

Much like previous agreements, this treaty deserves broad bipartisan backing in the Senate. Past treaties have benefited from overwhelming support in this body. The original START treaty was ratified by a vote of 93 to 6. We can see that on this chart. START II was ratified 87 to 4. The SORT treaty, negotiated by George W. Bush, was ratified by a vote of 95 to 0. That is incredible—no opposition to that treaty. New START has earned the backing of an overwhelming number of foreign policy experts and national security officials across a broad political spectrum, both Republican and Democratic. New START has the unanimous backing of our Nation's military and its leadership, including Secretary Gates, the Chairman of the Joint Chiefs, the commander of America's Strategic Command, and the Director of the Missile Defense Agency. America's military establishment is joined by the support of every living Secretary of State from Secretary Jim Baker to Secretary Condoleezza Rice, as well as five former Secretaries of Defense, nine former National Security

Advisers, and former Presidents Clinton and George H.W. Bush. I know people cannot read this because the writing is so small, but this is the column of former Presidents and Cabinet-rank officials who support New START. Look how long the list is. This is the list of those Cabinet-rank officials who oppose it.

America's intelligence community also strongly supports the New START treaty. It has now been 376 days since we last had inspection teams on the ground in Russia monitoring its nuclear program. Every day we go without this critical intelligence is another day that erodes our understanding of Russia's intentions, plans, and capabilities. New START gives us on-the-ground intelligence we currently do not have and also, for the first time, includes a new unique identifier system which allows us to better track Russia's missiles and delivery systems.

I heard the Senator from Georgia expressing a question about whether this gives us the ability we need to verify what Russia is doing. New START gives us more inspections per facility per year than the old START treaty did. Without this critical information, our intelligence community is hindered from an accurate assessment and our military is forced to engage in costly worst-case-scenario planning.

Our NATO allies also support New START. As chair of the subcommittee responsible for NATO, I am mindful of the defense and security of our NATO alliance members living in Eastern Europe. I was pleased that at the recent NATO Lisbon summit, all 28 NATO allies gave their strong unanimous support for ratification of the New START treaty. In fact, some of the treaty's strongest backers are those countries that are our allies along Russia's borders. The NATO Secretary General said: "A delay in the ratification of the START treaty would be damaging to security in Europe."

Finally, ratification of this treaty should be important to those who are concerned with the nuclear threats posed by Iran and North Korea or who are worried about the threat that is posed by terrorists around the world who are seeking a nuclear weapon or nuclear materials.

I know some critics look at the New START treaty in isolation and say this arms agreement has nothing to do with these proliferation threats. I couldn't disagree more. What does it say to our allies and partners around the globe if we turn our back on a long history of bipartisan support for working with Russia to reduce the nuclear threat? Delaying ratification of a treaty with so much bipartisan support from our military and the national security and foreign policy establishments, a treaty that is so obviously in our national interest, tells the world we are not serious about the nuclear threat. It says

we are not serious about our responsibilities under the nonproliferation treaty. I know my colleagues on both sides of the aisle agree we should do everything in our power to make sure Iran and North Korea and al-Qaida do not have nuclear weapons. If we abdicate our position as a leader on nuclear arms control, we risk losing the authority to build international consensus and stopping rogue nations and ending nuclear proliferation around the globe.

Earlier this year, Brent Scowcroft, former National Security Adviser under President George H.W. Bush, testified to the Foreign Relations Committee that "the principal result of non-ratification would be to throw the whole nuclear negotiating situation into a state of chaos." It is much too dangerous to gamble with nuclear weapons or our national security at a time when we are working with our international partners to press Iran and North Korea on their nuclear weapons programs.

In testimony before the Foreign Relations Committee, former Defense Secretary James Schlesinger said that a failure to ratify this treaty would "have a detrimental effect on our ability to influence others with regard to, particularly, the nonproliferation issue."

That sentiment was echoed by five former Republican Secretaries of State in an op-ed written for the Washington Post a couple weeks ago.

One of the arguments we have heard this afternoon is that we are rushing consideration of this treaty. This is not true.

This chart is an outline that shows how much time has been spent in the past as treaties have come to the floor. The fact is, the Senate has thoroughly considered the New START agreement. We have had plenty of time to review the treaty. Since it was signed in April, the treaty text has been available for everyone to read. It has not changed. We have had over 250 days to examine the treaty and ask questions of the administration. The Senate Foreign Relations Committee held 12 hearings on the treaty.

There were another nine held by other committees. In contrast, there were only four committee hearings held on the SORT treaty and only eight held on START II. The Foreign Relations Committee also accommodated some Members' concerns earlier this year by delaying a vote on the treaty during the August recess. The Obama administration has answered over 900 questions for the record on New START. Nearly every major foreign policy or national security expert has weighed in on the treaty, either in testimony, briefings or in the press.

The history of treaties such as New START shows that the concern that there isn't enough time on the floor to

consider this treaty is not accurate. In general, arms control agreements take an average of 2 to 5 days of floor time. The original START treaty, which was much more complicated and complex and the first of its kind, took only 5 days of floor debate. START II took 2 days of floor consideration. The most recent SORT treaty took 2 days of floor debate. We have already had almost 2 days of floor debate. Other arms control agreements, such as the Treaty on Conventional Armed Forces in Europe and the Chemical Weapons Convention, took 2 days of floor time. We have had more than enough time to consider this treaty on the floor.

Finally, some have expressed concerns that the Senate should not be forced to work so close to their holiday vacations. I think it is important to repeat what retired BG John Adams said in response to that concern. He said:

We have 150,000 U.S. warriors doing their job over Christmas and the New Year. The U.S. Senate should do its job—and ratify this treaty.

I could not agree more with Brigadier General Adams. The Senate should get its work done. We should ratify New START. We should do it before the holidays, before we go home, in this session of Congress. It is time to vote on this critical national security concern.

I yield the floor.

Mr. KERRY. Mr. President, I ask unanimous consent that the order to return to legislative session be delayed and occur at 7 p.m., with the order then for recognition of the majority leader still in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President. It is a delight to see you in the chair.

Mr. President, let me make a brief comment on the last comment from my colleague about the work schedule of the Senate because I have been one of those folks who have decried the fact that we are dual-tracking the START treaty and the Omnibus appropriations bill here with just a week left before Christmas.

I do think it is an imposition on our families and our staff that we need to be working during this period of time. I do not think there is anybody in this body who works any harder than I do. I do not claim to be the hardest working, but I am no stranger to hard work, and I am happy to be here right up to Christmas Eve if that is what it takes.

But my complaint is that this is a problem that has been brought on by the Democratic leadership. All year long, we had the opportunity to do a budget. Did we ever do a budget? No. All year long, we had the opportunity to pass appropriations bills. This is the first time in my memory that the Senate never passed a single appropriations bill—not one.

So now here we are, with a week to go before Christmas, trying to cram everything into the same short period of time. We have to pass a bill to fund the operations of government which will cease on Saturday at midnight. We could have done that in the last 300 days of this year, but, no, we wait until the very last minute. We wait until the last minute to do the tax legislation that just passed out of the Senate and the House is considering this afternoon. In addition to that, we are trying to consider the START treaty. That is the concern a lot of us have.

But let me return to where I was earlier today when I was talking about some of my concerns about the treaty, laying the predicate for some of the amendments we will have as soon as we are done with our comments, our opening statements about the treaty itself.

I had last talked about the modernization program, and Senator KERRY and I had a brief conversation about that, agreeing that this was a very important part of the ability of the United States to have a credible nuclear deterrent. We were talking about the nuclear weapons part of that.

There is a second part of our nuclear deterrent, and that is the delivery vehicles—the missiles, the submarines, the long-range bombers, the cruise missiles—those components of our so-called nuclear triad that enable us to effectively deliver the warheads in the event that should ever be required.

The problem with this part of the modernization package is that we do not have the degree of certainty that I think we need to have the assurance that moving forward with an even lower number of warheads is a safe thing to do. Specifically, we have asked the administration for but have not received assurances with respect to the long-range bomber, the ICBM, and the Minuteman III. Let me just mention those two things.

With regard to the long-range bomber, we have repeatedly asked: Will we have a nuclear capable long-range bomber? That is what the bomber leg of the triad is—a nuclear-capable bomber. Now, it could be a penetrating bomber, it could be a manned bomber, it could be a bomber that carries cruise missiles to get to the target, but it needs to be nuclear capable. We have no assurance. So while everybody in the administration continues to say: “We believe in our nuclear triad,” we are not getting any satisfaction on the question, What about the bomber leg of the triad?

Our current long-range bomber cruise missiles are due to be retired in 2025. Will there be a follow-on? Again, no reassurance. No funding has been provided in the 1251 plan that I spoke of earlier for replacement of an ICBM Minuteman III.

There is some very troubling language in the 1251 update on a follow-on

assessment study. I am going to quote what this assessment study will be predicated on. This is for the ICBM. It is a study that—and I am quoting—“will consider a range of deployment options, with the objective of defining a cost-effective approach for an ICBM follow-on that supports continued reductions in U.S. nuclear weapons while promoting stable deterrence.”

That supports continued reductions in the U.S. nuclear weapons. So the key criteria here is not to carry whatever weapons we think are necessary but, rather, an ICBM force that will be determined and sized in order to achieve those reductions. What I am wondering is whether that suggests that the administration might not maintain an ICBM capability so that it can pursue further reductions or that the ICBM follow-on system will be based on plans for reductions.

Mr. KERRY. Will the Senator—

Mr. KYL. Let me just complete this thought, if I could.

The administration's arms control agenda—my belief—should not be the key factor in determining the level of our ICBM capability.

I will make a note here and allow my colleague to interrupt.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator very much. I just thought it would be helpful if we can talk about a few of these things as we go along.

What I want to ask the Senator is what he thinks is inadequate in the resolution of ratification. Declaration 13 makes it clear that the United States is committed to accomplishing the modernization and replacement of the strategic delivery vehicles.

The service lives of the existing strategic delivery vehicles run well past the 10-year life of this treaty. So my question would be, since the DOD has already scheduled study and decision deadlines, timelines, for the replacement of all of these systems—so since that is outside of the four corners of the treaty, so to speak, why would declaration 13 not state that we are committed to proceeding to the full modernization and replacement of the adequate delivery vehicles?

Mr. KYL. Mr. President, I will be happy to respond to that.

Let me respond first by quoting two key officials from the Obama administration: Secretary Gates and Under Secretary of Defense Jim Miller. This is what I gather their decision is going to be based on.

First, Secretary Gates:

There are placeholders for each of the modernization programs because no decision has been made. They are basically to be decided, and along the lines that Admiral Mullen is just describing, those are decisions we are going to have to make over the next few years in terms of we are going to have to modernize these systems and we are going to have to figure out what we can afford.

Deputy Under Secretary of Defense Jim Miller:

We think the current ICBMs are extremely stable and stabilizing, particularly as we demilitarize to one warhead each.

I would interject, remember, we are doing that while the Russians are MIRVing, which, of course, creates more instability under this treaty.

But to go on with the quotation:

But we will look at concepts that would make them even more survivable over time, which would allow them to be part of a reserve force.

My point in reading these two quotations is to suggest to my colleague that it is troubling that the administration is not willing to commit to making a decision, is not willing to commit to having a nuclear-capable bomber force, is not willing to say that the ICBM force will support the delivery of the warheads required for that leg of the triad but, rather, will be based on what we can afford and be based on our desire to continue to reduce U.S. nuclear weapons, and that perhaps we are developing them in order to be part of a reserve force.

All of this suggests that the one quotation that was read by my colleague is a nice statement but does not reflect the reality of what the administration is actually planning on.

Mr. KERRY. Will the Senator yield further?

Mr. KYL. Yes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. As the Senator knows, a legitimate certain amount of analysis has to be made by DOD in order to be able to submit to the Congress a plan that is realistic both in cost and judgment about what the size will be. Every single testimony, from the Joint Chiefs of Staff through Secretary Gates, has committed to the maintenance of a viable triad. That could not be more clear in this record.

Mr. KYL. If I could just interrupt my colleague, who interrupted me.

Mr. KERRY. Absolutely.

Mr. KYL. A viable triad at a minimum, per se, has to include nuclear capability or it is not part of our nuclear triad, right? And what I am saying here is that the administration is not assuring us that the long-range bomber will be nuclear capable. So maybe we have a dyad now, not a triad.

Mr. KERRY. Mr. President, again—

Mr. KYL. Go ahead. I will yield to my colleague.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. This is very important to the sort of understanding of where we are here and what the real differences are.

All of these systems, all three—DOD has scheduled and put out a timeline. Now, they have to go through that process. The fact is, they have stated in the 1251 report that they are going

to replace the Ohio class submarine when it commences scheduled retirement in 2027. I do not think President Obama is going to be there in 2027, unless there is some extraordinary transition in America. So this goes way beyond this administration in terms of a decision and in terms of a Congress. The Navy is going to sustain the existing Trident II through at least 2042. That is on the books right now with the robust life extension program. The current Minuteman life extension program will keep the fleet in service through 2030. And DOD has already begun the preparatory studies on replacement options, which will begin in 2012. And the soon-to-be-completed long-range bomber issue the Senator just raised is only on what type of new bomber is needed, not whether there will be a new bomber.

So the future Congresses and future administrations are really going to make this decision. So to suggest that somehow the Obama administration can right now have this treaty held accountable to decisions where every one of those delivery platforms is going to be in existence well beyond the life and public service of any of us here I think is a completely inappropriate standard.

I would ask my colleague, why a 2027 date and a 2042 date and a 2030 date and a commitment to a bomber, even though they do not know what kind of bomber, why that is not satisfactory?

Mr. KYL. Let me answer a question with a question.

First of all, given the fact that I think we are taking 30-minute segments each and we are having a debate here, can we agree that we will debate until 7 o'clock, and you can have half the time and I will have half the time? Either that or I am going to have to quit yielding to make my points.

Mr. KERRY. No, no, no. I appreciate that. And the Senator is always good about engaging in this.

Mr. KYL. And I am happy to do it either way.

Mr. KERRY. I just think it is important to get it out. I do not need that time. I think it is important. I want Senator KYL to have his time—

Mr. KYL. Let me respond to this question.

Mr. KERRY. And I will not interrupt him, but I wanted to try to see if we could not engage a little in what the Senate does, which is debate.

Mr. KYL. Mr. President, first of all, this is the kind of engagement we need on this treaty and on so many other issues in this body. Too many times it is a Senator coming down and giving a speech, and half of us or more are not listening. And this kind of colloquy can develop more useful material for our colleagues and for the record than anything else. So I am very happy to engage in it. I just want to make sure I do not run out of my time with my colleague's questions.

But here is how it relates, and here is the importance.

We are being told that even though the delivery systems—and remember, this treaty deals with warheads and delivery systems. Let's leave the warheads off to the side for a moment. The delivery systems—which are the submarines with their missiles, the long-range bombers, with cruise missiles in some cases, and our ICBM force and the Russian counterparts—those delivery systems are constrained in this treaty. The numbers are brought down to 700 deployable systems. So the question we have asked, naturally enough is, Is that enough? Will that work to cover all of the targets we need to cover?

I talked this morning about—and the answer to that question depends in part on what our future plans are because—take the B-52. Most of the pilots who are flying B-52s—I think we are two generations beyond the time these B-52s were built. These are old, aging aircraft. And everybody realizes even the B-1s and to some extent the B-2s need to be replaced. So the decisions to do that need to be made very soon.

Whether 700 is a good number will depend on whether we have an adequate triad to deliver these weapons when the time comes. So naturally we ask the question, What is our triad going to look like? It is true that some of these systems—the new systems that replace what we currently have—will not be available until outside the 10-year limit of the treaty.

But it is also true that every one takes an inordinate amount of time. How do they take so much time? I don't know. It seems as though in World War II we had all kinds of weapons systems come together to be built and fight the war and it is over in 5 or 6 years, but nowadays it takes 5 or 6 years just to get something ready to go, and then it takes them that long to deploy. So these are long timeframes for development and deployment.

It is true the Navy has already made the basic decision for the submarine, but I haven't mentioned the Navy. That is not my concern. But my concern is the IBM force and the bomber force.

I will leave the point with this: What is troubling to me is that on the bomber force, our administration is unwilling to commit we will have a bomber triad nuclear capable. That is an important decision, because if we are talking about 700 delivery vehicles that will not include nuclear-capable bombers, I have a problem. The reason is, because when you get briefed on how we are going to deliver these weapons if, God forbid, they ever have to be delivered or how we are going to deal with a potential Russian breakout, for example, or how we are going to deal with a problem if, let's say, we have an issue with one of our submarine or

ICBM components to the triad, if we don't have a bomb-carrying or cruise missile-carrying nuclear capability with our bombers, then it is quite obvious the viability of our triad is implicated.

So we have to know these things. It is not some esoteric question. We are talking about delivery systems being brought down to 700 and is that too low. It is not too low if we have a very viable triad, but it becomes too low if our triad is not viable.

In the time remaining, let me talk about missile defense. This is something a lot of my colleagues have talked about. It is kind of core to the concerns a lot of us have with the treaty and, frankly, my ultimate support or not will depend, to some extent, on how we resolve this issue, whether it is by amendment to the preamble or the treaty or the resolution of the ratification or a combination of things. But, clearly, this treaty implicates U.S. missile defense, and that is wrong.

One of the chief achievements of the Bush administration was to finally decouple missile defense and strategic offensive weapons and the treaties that deal with strategic offensive weapons. It was somewhat limited in the START treaty, but in the Moscow Treaty of 2002 we said: We are going to reduce our weapons. If the Russians want to do the same, that is fine with us. We don't need a treaty to deal with that. The Russians essentially said: We want a treaty, and we want you to limit your missile defenses. We said no, and they eventually relented and said OK.

I have spoken with Secretary Rice and Under Secretary Feith and other people in the administration who count it as one of their achievements, the fact that we finally decoupled those two issues. In this treaty, they are right back together again and in a way that is inimicable to other defenses by the United States. That is what I want to focus on. We don't think there should be any limitations on U.S. missile defense. Yet the New START treaty not only contains specific limitations, though we were told there wouldn't be any, but it also reestablishes this unwise linkage I talked about in the preamble.

Let me quote three things that Under Secretary Tauscher said as of March 29 of this year:

The treaty does nothing to constrain missile defense . . . this treaty is about strategic weapons. There is no limit on what the United States can do with its missile defense systems.

The third quote:

There are no constraints to missile defense.

Those three statements are not true because it turns out there are limitations and constraints specifically in the treaty. Article V, section 3 specifically constrains a particular kind of missile defense, the United States

using a strategic offensive silo, for example, to use for defense. We have done that before. Our current plans are not to do it again because it is expensive. We might not do it in the future. This administration says it doesn't want to, but it is certainly constraining. How can you say those three statements by Under Secretary Tauscher are true? They are false. The administration simply says: Well, yes, there are limits, but we don't intend to do that anyway, so it is kind of a theoretical limit.

Well, in the first place, why is there a limitation on any missile defense capability in this treaty? We thought this was about, as Secretary Tauscher said, strategic weapons. Well, it turns out the Russians, of course, want to make it also about missile defense. One way they make it about missile defense is by article V, section 3 or paragraph 3, specifically constraining a particular way we would develop missile defense.

That is what we object to, that linkage. Why is that important? Because the Russians have always wanted to limit U.S. missile defenses, and this now gets the foot in the door for them to argue that under the treaty, they would have a right to withdraw if we improve our missile defenses. That gets to the real issue, and that is the preamble to the treaty.

I wish to quote from Richard Perle and Ed Meese, both of whom served in the Reagan administration. Richard Perle was with President Reagan at Reykjavik, a seminal moment in arms control history and for the Reagan administration. It was a time when President Reagan decided missile defenses for the United States were so important that he would walk away from a major strategic offensive weapon proposal that had been made to him by President Gorbachev. Here is what they write:

With this unfortunate paragraph, New START returns to the old Cold War 'balance of terror' and assumes that attempts to defend the U.S. and its allies with missile defenses against strategic attack are threatening to Russia and thus destabilizing. Limiting missile defenses to preserve U.S. vulnerability to Russian strategic nuclear strikes (as defined by the Russians) will result in less effective defenses against any and all countries, including Iran and North Korea.

That is the problem.

How does that problem arise? Because of the language in the preamble. This is the language followed by two signing statements from Russia and the United States that define the intentions of the two countries with respect to this issue of missile defense. Here is what the preamble states:

The current strategic defensive arms do not undermine the viability and effectiveness of the strategic arms of the parties.

That is what it says, in part.

Quote:

Current strategic defensive arms do not undermine the viability and effectiveness of the strategic arms of the parties.

"Current," that is new language. That was not in the START I treaty. So what they are doing is defining the current systems. Why is that important? Because later they talk about any additions that would qualitatively or quantitatively improve our system would allow the Russians to withdraw.

Here is what—well, let me just make one point before I quote that. The administration says the preamble is not important because you can always walk away from a treaty, and even though the Russians say this preamble language gives them the right to walk away from the treaty, they can do it anyway, so what is the big deal?

Well, you can't just do it on a whim. We agree that if there is a matter that is so important to either country that it constitutes an exceptional circumstance referred to in article XIV which is the withdraw clause, then a party could withdraw. So, yes, it is true, that either party can define anything as an exceptional circumstance and therefore withdraw, but that is bad faith and it clearly is something that would be very difficult for a country to do, unless a country had built into the treaty the very excuse that they are talking about as grounds for leaving the treaty. What would that extraordinary event be? Well, it would be the improvement of U.S. missile defense systems.

Here is what Foreign Minister Lavrov said on March 28:

[T]he treaty and all obligations it contains are valid only within the context of the levels which are now present in the sphere of strategic defensive systems.

That is their position. That is their legal position. That is what they mean by "current" in the preamble. The reason that legal opinion is important is because the United States does intend—if you believe Secretary Gates and I certainly do—does intend to develop missile defense capabilities that could qualitatively advance our protection against a missile coming from Russia. It is not necessarily designed for that purpose. It may be designed to thwart an ICBM from Iran or from North Korea, but it has that capability and the Russians can easily define it as such.

Here is the Russian legal opinion:

The treaty between the Russian Federation and the United States of America on the reduction and limitation of strategic offensive arms signed in Prague on April 8, 2010, can operate and be viable only if the United States of America refrains from developing its missile defense capabilities, quantitatively or qualitatively.

Well, we will develop our missile defense capabilities quantitatively and certainly qualitatively. That is what the phased adaptive approach Secretary Gates has announced is all about: a qualitative improvement of our missile defense capabilities. So how would the Russians treat that? Their statement, their signing state-

ment, signed at the time that the treaty was signed, says the exceptional circumstances referred to in article XIV, the withdrawal clause of the treaty, include increasing the capabilities of the U.S. missile defense system in such a way that threatens the potential of the strategic nuclear forces of the Russian Federation.

That is why this preamble is so important. They treat it as the legal basis for their withdrawal if we improve our missile defenses qualitatively, which we most certainly will, and potentially quantitatively.

They have already built this into the record. From my point of view and a lot of my colleagues, this can only be read as an attempt to exert political pressure on the United States to forestall continued development and deployment of our missile defenses, and there is evidence it has already worked. First of all, we have pulled back from the deployment of the ground-based interceptor system that the Bush administration had developed and was prepared to deploy in Poland with the radars associated in Czechoslovakia, and we have also said now that with respect to our NATO deployment of the so-called phased adaptive approach, the first three phases will be deployed, but the fourth phase, the one that is most effective against an ICBM coming from long range, which could include a country such as Russia, is available—not deployed but available—by 2020.

Instead of having a firm rebuttal in response to what the Russians said in the preamble and in their signing statement accompanying the signing of the treaty, what was our response? It was not a firm rebuttal. We didn't say: No, that is not correct. That is not our understanding. That is not what we did, even though we had done that, by the way, with the START treaty. We pushed back very firmly on the Russians' signing statement. But instead, the State Department response to the Russian unilateral statement is as follows:

The United States of America takes note of the statement on missile defense by the Russian Federation. Defense. The United States missile defense systems are not intended to affect the strategic balance with Russia. The United States missile defense systems would be employed to defend the United States against limited missile launches, and to defend its deployed forces, allies and partners against regional threats. The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions.

In other words, don't worry, Russia. We are not going to develop missile defenses that could thwart your strategic offensive capabilities. We are only developing missile defenses that would be effective against regional threats,

against limited missile launches, against limited attack.

So it appears to me that while the Russians have built into this treaty and into the preamble the perfect argument for withdrawal and they have directly said it constitutes exceptional circumstances under their interpretation of article XIV, the United States has not responded with a negative but rather with a statement that says: Don't worry.

Might I inquire, is the original 30 minutes which this side was allotted consumed?

The PRESIDING OFFICER. The Senator from Arizona has no time limitation right now because there is no one following.

Mr. KYL. Let me do this, since I do see Senator CASEY on the floor, and Senator KERRY may have something more to say. Let me try to sum up what I am saying about missile defense, although there is much more to talk about, and this will very definitely be the subject of maybe even the first amendment that is offered on our side because there has been such a cavalier attitude about this on the other side: We don't need any amendments. We don't need any missile defenses. This is serious business. You would never enter into a contract to buy a car or a house, for example, with a degree of uncertainty or disagreement between the parties as to what the terms mean. Think about this treaty. This is a very serious proposition that starts with a fundamental disagreement between the parties and clearly could create enormous complications in our relationships in the future.

If I could just finish this point. Instead of creating a more stable relationship, a relationship built on the reset, a relationship which is built on very clear, transparent views of things on how we are moving forward together, built into this treaty is an inherent conflict that can cause nothing but trouble in the future unless the United States says: Fine. We will not develop any missile defenses that could conceivably be effective against Russia, which then means that they couldn't be effective against an ICBM from Iran or an ICBM from Korea.

This is the dilemma presented by this treaty and its preamble terms. This is what causes us such great concern. I am happy at this point to yield to my colleague, and if he would like to engage in a colloquy, that would be fine.

Mr. KERRY. Mr. President, I thank the Senator from Arizona. I want to take a moment, though, to address this point he made—I think it is central—and then we can talk about it. Then I want to give Senator CASEY an opportunity to speak.

I say to my colleague from Arizona that a lot of us are scratching our heads trying to figure out what we have to do to get the Senator from Ari-

zona to accept yes for an answer—yes on modernization, yes on our willingness to go forward and build a missile defense.

It has been said again and again and again by the highest officials of our government—and I think the President will make some further statement about this, hopefully, within the next hours or the next day—that can indicate the absolute total commitment to proceed forward and the irrelevance of what the Senator is referring to in the context of a statement that is not within the four corners of the agreement, that has no legal binding authority at all—none.

Don't accept my word for it. Secretary of Defense Robert Gates, whom I know the Senator respects enormously, said the following on May 25:

So you know the Russians can say what they want. But as Secretary Clinton said, these unilateral statements are totally outside the treaty, and they have no standing. They are not binding. They never have been.

That is one statement.

LTG Patrick O'Reilly is the Director of the Missile Defense Agency. He testified on June 16, and this is a yes:

I have briefed the Russian officials in Moscow, a rather large group of them, in October of 2009. I went through all 4 phases of the phased adaptive approach, especially phase 4. And while the missiles that we have selected, as far as the interceptors in phase 4, as Dr. Miller says, provide a very effective defense for a regional-type threat, they are not of the size that have a long-range to be able to reach strategic missile fields.

He says:

It's a very verifiable property of these missiles, given their size, and so forth. It was not a very controversial topic of the fact that a missile given the size of the payload, could not reach their strategic fields. I have briefed the Russians personally in Moscow on every aspect of our missile defense development. I believe they understand what it is and that those plans for development are not limited by this treaty.

So in the treaty ratification resolution—here I will make the Senator from Arizona happy, but I will also not please him. The happy part: If we want to be purely technical and sort of be kind of literal as to technical writing of some particular thing, can we say that article V has a limitation on strategic defense? Yes, in the most limited technical way we can say there is a limitation. The limitation is that we can't take intercontinental ballistic missile silos, other than the four already grandfathered—the new ones—and convert them into an interceptor missile silo.

In that sense, we have limited something, but have we limited missile defense? As we think about it in its larger strategic context, the answer is, no, not one iota. Why? Because those particular silos cost more money, and in a deficit-conscious age, where we are trying to cut spending, it is a heck-of-a-lot smarter to dig a new hole, build a new silo that is more effective, more

efficient, less costly, and does the same thing. That is our plan.

So there is no limitation on the ability to actually deploy missile defense. So if we want to play a technical game on the floor and run away and say: Oh, there is a limitation here; that is terrible, well, you can do that, but it doesn't make sense. It doesn't actually limit the plans of this administration to go forward with real missile defense and with a system that allows us to intercept missiles fired from a silo in a missile field in the United States.

What is more, if we do convert those other silos, we don't have a mechanism for determining what kind of missile is coming out of there. Is it an ICBM or an interceptor? What happens if we are firing one of those missiles to intercept a rogue missile from North Korea or wherever, and the Russians happen to misinterpret it and they don't know what it is—there is no plan or anything that says we can do that.

In fact, we are safer, given the way the administration has decided to deploy this. Here is what the resolution of ratification says: It says in understanding No. 1, missile defense—and this is what we will vote on. It says it is the understanding of the United States that the New START treaty does not impose any limitations on the deployment of missile defenses other than the requirements of paragraph 3 of article V that I just referred to about the silos that we don't want to do anyway, which costs the American people more and will make us less safe. We don't want to do that. So that is in there. That is all that is in there.

It then goes on to say that this provision shall not apply to ICBM launchers that were converted prior to the signature of the treaty. Then paragraph (b) says any additional New START treaty limitation on the deployment of missile defense, beyond that one I just referred to that we are talking about, including any limitations that come out of the Bilateral Consultative Commission, those would require an amendment to the New START treaty which could only enter into force with the advice and consent of the United States Senate. That is it. We have control over whatever might happen beyond that one simple silo issue.

I respectfully suggest we ought to listen to the folks who are telling us what they have accomplished. The Secretary of Defense said, from the very beginning of this process more than 40 years ago, the Russians have hated missile defense. It is because we can afford it and they can't; and we are going to be able to build a good one and are building a good one, and they probably aren't. They don't want to devote the resources to it, so they try to stop us from doing it through political means.

This treaty doesn't accomplish that for them. That is what Secretary Gates has said. This treaty doesn't accomplish it. I believe Secretary of Defense

Gates. I believe GEN Patrick O'Reilly, who serves our country with one purpose. He is not a member of a party or here for politics. He believes he is defending the Nation. He says he told the Russians in full that we are doing phase 4. We are going forward.

Finally, Secretary Clinton said to the Foreign Relations Committee that the Obama administration has consistently informed Russia that, while we seek to establish a framework for U.S.-Russian BMD cooperation, the United States cannot agree to constrain or limit U.S. BMD abilities operationally, numerically, qualitatively, geographically, or in other ways. I don't know how much more "yes" you can have in statements.

One last thing with respect to the comment about how they can withdraw: Mr. President, they can withdraw for any reason they want, at any point in time, just by noticing us that they are going to do that. Guess what. So can we. Both parties have the right to withdraw. So this isn't some new component they can withdraw from. The point I make to my colleague—and he is very intelligent and knows these issues very well—the Senator from Arizona knows we can't unilaterally get another country to change its perception of how they may feel threatened. That is what drove the arms race for 50 years.

If the United States of America has an ability to knock down their missiles that they think defend them, and all of a sudden they no longer believe those missiles can defend them because we can knock them down, what do you think they are going to do? They are going to scratch their heads and say: Wow, we ought to develop some method to guarantee that they can't knock them down, or that we have enough of them so that we can overwhelm whatever system they have that knocks them down.

We went through this with President Reagan, and we have spent billions trying to pursue this. We understand that.

The fact is, they are just stating a truism. Those are not my words; those are Dr. Henry Kissinger's words, who said all the preamble does is acknowledge that they believe there is a connection. We have stated simultaneously that we don't care if they believe there is a connection. We stated that. Secretary Clinton stated it, Secretary Gates stated it, and the President has said we are going forward with our phase 4.

Now, it is not connected. There is no legal, binding connection whatsoever in this treaty. This treaty does not constrain America's capacity to develop a robust, qualitatively superior, improved system. If we do, we are going to make a decision, when we deploy it, to accept whatever consequences come with whatever shape and form we do deploy. But there is no restraint on our ability to do it.

In fact, my colleagues on the other side of the aisle ought to be leaping at this opportunity because it, in effect, codifies America's intent and codifies our independence and capacity to go off and do what we are going to do. I wish I could get the Senator from Arizona to accept yes.

Mr. KYL. I have a brief response. There are concerns by a lot of colleagues on my side of the aisle, so it is not just a matter of satisfying JOHN KYL. Let's understand that. I would be happy to take yes for an answer—if that were the answer.

My colleague confuses two things. First, the preamble has been agreed to by both parties. This is not just a Russian statement of intent. The preamble is part of the treaty that we have agreed to. For the first time, it connects missile defense with strategic offensive limitations by saying the current strategic defensive arms do not undermine the viability and effectiveness of the strategic arms of the parties.

Secondly, my colleague says it is a technical argument that the treaty otherwise constrains missile defenses. It is more than a technical argument. It specifically does—and there was no place in this treaty for any limitation on missile defenses or how important or unimportant they are. Why would the Russians insist on putting that in there except to establish the beachhead? The point is that, yes, a strategic arms control treaty will deal with missile defense. It does, and the preamble does too by linking the two.

Why is this important? There is not a technical statement in the treaty that says the United States will limit its missile defenses. That is true. But because the Russians interpret the extraordinary events—the technical term under article IV that would permit a country to withdraw—as specifically including the U.S. development of missile defenses that are qualitatively better than we have now, better than current policy, because that is their interpretation, whether or not we agree with that interpretation, we have created a dichotomy between the two parties to a very important contract. They interpret it one way and we interpret it another. What will the inevitable result be? Disagreement between our countries about a fundamental point, one which, according to the Russians, will require them to engage in a new round of the arms race that will begin, according to President Medvedev.

They are saying: If you don't agree with this, under the circumstances we are going to engage in another round of strategic offense weapon building.

What we on our side are concerned about is that President Obama, who has already backed off the deployment of the GBI system, which was the most robust American missile defense system, and has qualified, it appears, the

deployment of the fourth phase of the phased adaptive approach, and who other people in the administration speak in terms of that—I am talking about the State Department and our signing statement—they suggest we would only develop a missile defense against a limited or regional threat.

Those are reasons to believe this position of Russia is already working to cause the United States to back away from what would have otherwise been a much more robust development of missile defenses to protect the people of the United States.

So that is the argument we are making. We can say that, technically, anybody can withdraw from the treaty all they want to and the preamble doesn't mean anything or so on. Well, it appears to have already had a significant meaning within this administration is the point we are trying to make.

Mr. KERRY. Well, Mr. President, I want the Senator from Pennsylvania to be able to have his chance, and we are running out of time, but I disagree with the Senator with respect to the judgment he has made with regard to what it does or does not do, and we will have an opportunity to be able to further discuss that component of it.

But let me remind the Senator of what Secretary Gates said this May. He said, under the last administration as well as under this one, it has been the U.S. policy not to build a missile defense that would render useless Russia's nuclear capabilities. It has been a missile defense intended to protect against rogue nations, such as North Korea and Iran or countries that have very limited capabilities. He went on to talk about the expense and capacity we have today.

We are going to continue to develop whatever the best system is we are able to develop that could protect the United States of America. We support that. The administration could not be more clear in its determination to continue to do that, including phase IV. I will submit, when we get time and come back, further statements and further clarification to the Senator that hopefully can give him a comfort level that there is no dichotomy, that we are proceeding forward, and the Russians understand what we are doing.

We should not misinterpret. Preambles have historically incorporated statements that one side or the other need for domestic consumption for their politics. There is no misinterpretation here about where we are headed, what we are committed to do, and I would think the recent announcement by the administration in Lisbon and the embrace of this effort through the European countries, our allies, would be strong testimony to the direction we are moving with respect to this missile defense.

We will continue this. I look forward to doing that with my colleague. I

thank him for his courtesy, and I look forward to further discussion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I am grateful for the work our chairman, Chairman KERRY, has put into this treaty over many months now—in fact, many years when you consider his work as a member and now chair of the Foreign Relations Committee.

We are grateful for the debate we have just heard. These are critically important issues we are talking about, and that is one of the reasons why it is critically important we make sure the American people know what the stakes are. Without ratification of this treaty, we are, in fact, less safe than we should be. I think the American people understand that. I also believe the American people want to make sure that even upon ratification of this treaty, the New START treaty, that in no way will our security be undermined as relates to our nuclear arsenal. We can say, without qualification and without hesitation, that ratification of the New START treaty doesn't in any way undermine the safety, security and effectiveness and even the reliability of our nuclear arsenal.

So these are critically important issues. We know there has been kind of a side debate about time and timing. We know that in addition to all the living Secretaries of State who have supported ratification, former President George Herbert Walker Bush, Secretary Gates, and Admiral Mullen, our leading national security team—but also I think the American people want to tell us in a very direct way that we are going to continue to work up to and through the holidays, if that is necessary, because I think a lot of Americans agree with what BG John Adams recently said:

We have 150,000 United States warriors doing their job over Christmas and the new year. The U.S. Senate should do its job and ratify this treaty.

That is not a comment by a public official, that is from BG John Adams.

We know similar treaties in the past have been overwhelmingly bipartisan. I think when we finally get to the vote, this will be as well, and there is evidence of that both in the Foreign Relations Committee—a committee I am proud to be a member of, working with Chairman KERRY on this treaty ratification and the work done in the committee—but also we are seeing a lot of bipartisanship as well in the Senate as we are discussing the eventual ratification.

I wished to talk about two or three issues but, first of all, ratification as it relates to verification.

I think in our own lives, no matter who we are, when we are making an important decision and we are reaching conclusions, we want proof. We want

information that is conclusive so we can make important decisions in our own lives. The same is true, and certainly even more urgent, when we are talking about nuclear weapons. When we talk about a treaty that we are working to ratify, we are talking about a couple of basic issues. One of them is verification.

What does verification mean? Well, it means that, for example, the American people hope we have in place—and they know we will upon ratification—a verification and tracking system that will give us the assurance that will allow us to be secure in the knowledge we are going to be able to do everything humanly possible to verify. The treaty contemplates ways to do that, and there are four or five I will mention.

First of all, invasive onsite inspections, as you would want in any situation in your own life. You would want to make sure you can be onsite. The problem right now is, we have gone all these months without verification in place. So we want to have boots on the ground and experts trained to verify what the situation is when they are reviewing the Russian nuclear weapons.

Second, it allows us to use the wonders of American technology to help us on this—the so-called national technical means.

Third, what is referred to as “unique identifiers” placed on each weapon so you can track each weapon because of that identifier. That is a critically important part of this.

The data exchanges between our two countries and certainly the prompt notification of the movement of weapons.

This treaty permits up to 18 short-notice, onsite inspections each year to determine the accuracy of Russia's data and to verify compliance. We will talk more about that later.

But of course when the American people talk to us, they tell us they expect us to get this right. They want to make sure there is a very strong verification structure in place as we go forward. Without ratification, we would not have that verification in place, and I think a lot of people in the country expect us to ratify for that reason alone, in addition to the other reasons.

We had a good debate today about missile defense—a second issue I will address—and I know we are short on time, but the Senate Foreign Relations Committee made it absolutely clear in the resolution of ratification of the treaty that the treaty itself would not constrain missile defense. Two understandings within that—understandings No. 1 and No. 2—as well as declarations No. 1 and No. 2 specifically address and reiterate the U.S. commitment to developing and deploying missile defenses.

Nothing in this treaty will prevent us from having a safe, secure, and reliable nuclear arsenal and nothing will constrain our ability to have missile de-

fense. In fact, as Chairman KERRY noted—and it is important to repeat this—the committee's resolution that brought the treaty to the floor goes to great lengths to reaffirm and further clarify the treaty's preamble, and Russia's unilateral statement imposes no limits on our ability to develop and deploy these missile defense systems.

I would note also, in connection with missile defense, that our military and civilian leaders—the ones who have studied the treaty, who have vast experience with national security and, in fact, experience with nuclear weapons treaties of the past—have stated that neither the language in the preamble referencing any interrelationship between strategic offensive and defensive forces nor this unilateral statement by the Russians places legally binding obligations on the United States.

In fact, that summary of their position appeared in the Wall Street Journal on April 20, 2010. So that is not just a statement by people on this floor, it is cited in the Wall Street Journal.

I think when you step back from this, especially on missile defense, in order to reach the conclusion that some have reached and the determination they have made against the treaty—I guess on missile defense grounds alone—you would have to believe it is a logical conclusion that Secretary Gates doesn't seem to be too concerned about missile defense. But apparently he is, and he has spoken to this. You would have to conclude Admiral Mullen, who has said we should ratify this, hasn't made a determination about missile defense. I think he has and I think that is why we can rely upon that support and certainly the support of the Missile Defense Agency Director, LTG Patrick O'Reilly, someone whose job it is to be concerned about this and someone who has experience with and involvement in what missile defense means and what it means to our security.

So I think there is ample evidence and ample testimony on the record before our committee and otherwise that indicates in no way does this treaty constrain our ability to develop and deploy missile defense.

I know we are short on time, and I will wrap up, and I will have more to say as we go forward. But when you consider the implications for our security that this treaty involves and also think in a larger sense in terms of how people view this debate in Washington, there are a lot of people who are concerned about our economy. They are concerned about their own jobs and concerned about their own family's economic or financial security. That is a chief source of their anxiety. But I think they also worry about our national defense. They are worried about terrorism and they are worried about attacks and they are worried about national security and their own security.

We need to give them assurances that at least as it relates to nuclear weapons pointed at the American people, that we are taking a significant step here—a historic step—that will ensure we have both a safe, secure, and effective nuclear arsenal to go at any nation that would cause us harm, but at the same time we are taking steps to reduce nuclear weapons across the world to make us, in fact, safer.

We all believe this. Both sides of the aisle believe this. We want a strong national defense and we want to be safe. What we have to do in the next couple days—after thousands and thousands of questions being asked of and answered by the administration, after 15 or so hearings just in the Foreign Relations Committee, after months and months of debate, months and months of testimony, after all that—is complete our work. We have to ratify this treaty, give the American people some peace of mind in this holiday season that our defense is strong, that our nuclear arsenal is strong, and that we can come together and ratify a treaty that has been endorsed across the board by experts in national defense, people who care deeply about our security.

Mr. LEAHY. Mr. President, I support the New Strategic Arms Reduction Treaty, also called the New START Treaty. New START, if ratified, will have several major and positive impacts on our national security and on global nonproliferation. I must express my deep disappointment that the Senate has not yet ratified this treaty, and I join my friends Chairman KERRY and Senator LUGAR in appealing to all Senators for their cooperation and support in ratifying this treaty. The New START treaty is the right move for our country and for our world.

New START builds on a long history of strategic nuclear arms treaties between the United States and Russia and Russia's predecessor, the Soviet Union. Beginning with the Strategic Arms Limitation Talks ratified in 1972, we have entered into three strategic arms control treaties with the Soviet Union and Russia. This number does not include START II, which was ratified by the Senate in 1996 but never entered into force due to subsequent treaty mandates from the Russian Duma. The most recent arms control treaty, the Strategic Offensive Reductions Treaty, or SORT, was ratified unanimously in March 2003.

Unfortunately, both the SALT and original START treaties have expired, with START concluding last December. The expiration of these treaties means that the United States presently has no fully implemented arms control treaty governing the nuclear weapons stockpiles of the United States and Russia. This circumstance is dangerous to our national security and needs to be rectified as soon as possible.

I am not alone in holding that position. A bevy of experts have strongly

urged support for the New START treaty, from all points on the political spectrum. Every senior leader and expert in the current administration supports the quick ratification of New START, from Secretaries Gates and Clinton to a whole range of uniformed leaders such as Admiral Mullen, the Chairman of the Joint Chiefs; General O'Reilly, the Director of the Missile Defense Agency; and General Klotz, the Commander of the Air Force Global Strike Command. General Klotz is joined by many of his predecessors who commanded the Strategic Command and Strategic Air Command, including General Welch, General Chain, General Butler, Admiral Ellis, General Davis, and more. Former Secretaries of Defense have come out in support of New START, including James Schlesinger, William Perry, Frank Carlucci, and Harold Brown. Former Secretaries of State of both parties are also advocating Senate ratification: Colin Powell, Madeleine Albright, George Shultz, James Baker, and Henry Kissinger. The list of distinguished, trusted and experienced advocates goes on and on, reading like a "Who's Who" of the U.S. diplomatic and military communities.

One of the biggest reasons why so many experts are arguing for ratification of this treaty is because it will do a great deal to control Russian nuclear arms and resume verifiable inspections. New START would reduce Russia's deployment of strategic nuclear warheads by about 25 percent. U.S. inspectors have not held an inspection of Russia's nuclear arsenal for a year; New START would resume inspections. Specifically, U.S. inspectors will have 18 annual inspections of Russian delivery vehicles and warheads. No previous treaty has allowed direct U.S. monitoring of Russian warheads for verification purposes. In fact, the close perspective that U.S. inspections would allow under this treaty will eliminate the need to share information about missile flight testing since that information, also called telemetry, was used to determine the number of warheads that a missile carried. New START will let us determine that by counting the warheads themselves, not by evaluating missile flight data. Secretary Gates has confirmed that New START is sufficiently verifiable that the United States could determine if Russia made any attempts to cheat on our break out of the treaty.

Perhaps one of the greatest benefits of New START is its contribution to global nonproliferation, which all of us can agree would be strongly beneficial to our national security interests. The United States will never convince other states to forgo a nuclear program if we do not show our own commitment to ending the nuclear scourge. More importantly, we will not be able to reach agreement with our partners about punitive nonproliferation measures without ratifying New START.

It is difficult to discuss this subject without raising the issue of Iran's nuclear program. Today the international community has put in place deservedly harsh sanctions against Iran's governing regime. These sanctions are so tough that Kenneth Pollack quotes former Iranian President Ayatollah Rafsanjani as calling them "no joke" and warning "that [Iran's] situation is dire." These sanctions required patient international cooperation that cannot survive American preventive attacks. And without sanctions we should give up any hope of ending Iran's nuclear program.

Instead, we must continue to isolate Iran by garnering international support for further escalating sanctions. The United States, not Iran, is the indispensable nation, and to gather support for punitive non-proliferation we must lead by example. New START demonstrates our commitment to limiting the threat of nuclear weapons—even those in our own arsenal. And it bolsters our further requests to other countries to squeeze Iran in ways that the ayatollahs cannot tolerate.

Even while New START will renew our leadership in nuclear nonproliferation, the treaty reserves our right to pursue missile defense options and maintain an effective nuclear deterrent. A nuclear weapon in the hands of a terrorist is extremely unlikely to arrive on the tip of a missile. Even so, the most ardent supporters of spending billions more on strategic missile defense must acknowledge that New START's provisions were so well negotiated as to bar limitations on American defensive technologies. Similarly, the treaty will not prevent us from deterring other nuclear powers. New START allows the United States to maintain a highly credible deterrent.

Expansive and unchecked Russian and American nuclear arsenals are dangerous, expensive, and unnecessary. Eliminating the threat of stolen or illegally purchased nuclear weapons must be among the very gravest threats that the United States faces today. New START will help us diminish and contain that threat. At a time when leaders of both parties are seeking ways to cut the budget deficit, our nuclear program seems like an unnecessary and burdensome vestige of the Cold War. It is difficult if not impossible to credibly argue today that the massive nuclear arsenal we built to deter the Soviet Union serves our needs in today's changed world, where terrorism and the support of terrorism loom so large as threats to our security.

The time has come to do the right thing for the right reasons. Both parties should cooperate, as we have in the past, on issues that will make our country safer. No one should doubt that the New START treaty will do exactly that. Especially on an issue so vitally important to our security, and to

the security of our children and grandchildren, the American people want and deserve a fair and straightforward debate. Partisan point-scoring should be checked at the door. Let us vote to ratify New START.

Mr. REID. Mr. President, we have done a lot of important work this year. We have reformed our health care system to give families more options and more control. We have brought accountability to Wall Street; and reigned in the reckless behavior that led to the economic crisis. We have given relief to millions of Americans hurting because of the economy. Now, it is time for us to protect the national security of the United States.

First of all I want to say that I was pleased that we were able to move forward and start debate on the treaty today. I hope we can continue to have a process that allows for real discussion and debate.

This treaty is critical to the national security of the United States. We know that one of the greatest security threats America faces is a nuclear weapon in the hands of a terrorist. A nuclear-armed terrorist would not be constrained by doctrines of deterrence or mutually assured destruction but could attack and destroy one of our cities without warning. By ratifying this treaty, we can help stop that tragedy from happening.

This treaty would secure nuclear stockpiles by taking nearly 1,500 U.S. and Russian nuclear weapons—weapons that now sit pointed at cities like Washington and Moscow, Chicago and St. Petersburg—and put them on ice. It has been more than a year since American inspectors were on the ground monitoring the Russian nuclear weapons arsenal. It is critical that we ratify this treaty so we can get that window into exactly what the Russians are, or are not, doing.

This treaty preserves a strong U.S. nuclear arsenal. As treaty negotiations were underway, U.S. Military leaders provided analysis and determined the number of nuclear weapons we needed to retain to keep us safe here at home.

With the United States and Russia controlling over 90 percent of the world's nuclear weapons, we need the stability and transparency this treaty would provide.

We aren't ratifying this treaty because we want to be Russia's best friend. But we do need to work together with Russia to stop the most dangerous nuclear threats from around the world, including Iran and North Korea.

By ratifying the START treaty, we will increase our ability to work with other countries to reduce nuclear weapons around the world and to make sure that those weapons are kept safe and secure.

Given the obvious advantages of this treaty to our national security, I hope

we will be able to continue this institution's tradition of bipartisan support for arms control. The START treaty builds on a long history of bipartisan support for treaties which limit the strategic offensive weapons of the United States and Russia.

The Senate, as well, has a long history of broad bipartisan support for these types of treaties.

Continuing that tradition, the Senate Foreign Relations Committee overwhelmingly approved the resolution of ratification of the START treaty with a bipartisan vote of 14 to 4.

The U.S. military leadership unanimously supports the treaty, and Secretary of Defense Robert Gates and Chairman of the Joint Chiefs of Staff Admiral Mullen have spoken in favor of the treaty in their testimony before the Senate.

Secretaries of State from the last five Republican Presidents support the treaty because they know, in their words, the world is safer today because of the decades-long effort to reduce its supply of nuclear weapons.

A wide range of Republican and Democratic national security leaders have come out in support of the treaty, including former President George H.W. Bush, Colin L. Powell, Madeleine K. Albright, LTG Brent Scowcroft, James Schlesinger, Stephen Hadley, Sam Senator Nunn, and Senator JOHN WARNER.

As we enter this historic debate, we want to ensure that all voices are heard. We plan to allow our Republican colleagues the opportunity to express their views and concerns about the treaty and to have a reasonable number of germane and relevant amendments.

Republicans have been included in the process from the beginning—the resolution recommended by the Foreign Relations Committee that we will debate was, at the urging of Senator KERRY, crafted by Senator LUGAR to reflect the views of Republican colleagues, and the Foreign Relations Committee then adopted in its markup two additional Republican amendments.

Senator KYL raised legitimate concerns about the state of the U.S. nuclear weapons complex, and the administration responded with a commitment of \$85 billion to upgrade that complex over the next 10 years.

But there is a difference between legitimate policy concerns and those who simply wish to use procedural tricks to keep the treaty moving forward.

We can easily complete this treaty with a reasonable amount of time, as the Senate has in the past. We can continue our institution's long history of bipartisan support for arms control. And we can take 1,500 nuclear weapons off their launchpads and make the future far safer for the children of America and the world.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I think we have had a good opportunity throughout today and yesterday to open some of the issues and give colleagues a sense of what is in the treaty, the resolution of ratification, and how it addresses many of the concerns. My hope is, perhaps, as we go out of executive session and into legislative session for a period of time, it will give some of us an opportunity to sit down and work together to see if we can find some of the clarifications that might resolve some of those issues for people.

Senator LUGAR and I are both prepared to sit with our colleagues and try to do that, and obviously we look forward to being able to get back to begin the process of legislating on whatever understandings, declarations, and clarifications Senators may have. I would ask my colleagues to carefully read the resolution and look at the many places in which rail-mobile missile defense and all these other issues have been addressed by that resolution.

I see the hour of 7 has arrived, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDING THE GOVERNMENT

Mr. REID. Mr. President, Members on both sides anticipated my filing closure tonight on the spending bill that would take us through next year. Everyone knows we are operating under a continuing resolution that expires Saturday night at midnight. Senator INOUE has worked so very hard for the entire year, working on a bipartisan agreement and in a bipartisan manner, to put together a bill that will responsibly fund the government for the next fiscal year. He has not done this as king. He has done it working with Democrats and Republicans. Senator COCHRAN has been in on all the efforts Senator INOUE has made. The product was filed a few days ago. The overall spending level was supported by 40 Republicans earlier this year.

In addition, the bill contains priorities for Members, Democrats and Republicans. Although some of my Republican colleagues in recent days have publicly distanced themselves from the idea that Members have a role to play in the appropriations process, all of them did nothing privately to withdraw their priorities from this bill.

I will not take a long time tonight, but I will say a few things about this.

It is no surprise because I have said it before. I, like everyone here, support the Constitution of the United States. I don't carry this with me every day but nearly every day. I don't read it every day, but I have a pretty good idea what is in it. One of the things I understand and support is that the Founding Fathers decided we should have a unique form of government, with three separate and equal branches. I believe, as one of the legislators here in the framework of the government set up by the Founding Fathers, that I have a number of responsibilities. One of those responsibilities set forth in that Constitution is to make sure that the executive branch of government does not take power away from us. Three separate, equal branches of government, not three branches of government with one stronger than the other. I think my Republican friends are giving up so much to the executive branch of government in doing away with congressionally directed spending.

It wouldn't matter if George Bush the first, George Bush the second, Jimmy Carter, Ronald Reagan, President Clinton, or Barack Obama were President. I don't like this grab of power. That is what it is. I don't know why people in this branch of government are willing to give that power up. This bill, put together by Senator INOUE and Senator COCHRAN, is a good bill. It is an important piece of legislation. It has priorities that are so vitally important to children.

Mr. President, 300,000 children in America, as a result of our not moving forward, are going to be treated much differently. The Head Start Program has been proven to be something that is vital to the country, and 300,000 children will not be eligible for Head Start because of this. Programs in our schools will be much less than they should be. Senior citizens will be significantly harmed. We have in this legislation programs that will create jobs, jobs through developing infrastructure that is so desperately needed. This action taken by my friends on the other side of the aisle is going to cause people to lose their jobs.

Military construction. I have important bases vital to the security of this Nation in Nevada. They are all going to be damaged as a result of what has happened here. One reason I feel so put upon, which is probably a word that people don't much care whether I am put upon, but I tried to make this something that was good for the Congress. I was elated that one of my Republican friends said: Here is who is going to support you. Here is who is going to support you, up to nine.

I have talked to a number of those Senators. I will not identify them. I know who they are. I have it right here. I won't tonight or any time publicly ever say anything about who they

are, but they know who they are. In the last 24 hours they have walked away from the ability for us to complete this legislation. I was told within the last 24 hours that we had bipartisan support to pass this bill. "Many" is a word that is too large, but a number of Republican Senators told me they would like to see it passed, and they couldn't vote for it.

Those nine Senators—I have called some of them tonight and visited with them—will not support this legislation. We now have a simple choice. Are we going to help the people in America—I have listed some of the people who desperately need this help, and it appears that the answer will be no—or will we wind up passing a short-term CR to keep government running. In reality, we only have one choice, and that is a short-term CR.

I asked my friend Senator MCCONNELL if I should file cloture on the CR we got from the House. He said no. And one thing about Senator MCCONNELL, I have found that he levels with me on issues. There is no need to go through that procedure. It is not worth it to anybody. We will not get a vote on that.

So in the next 24 hours or so, Senator MCCONNELL and I will work to try to come up with a CR to fund the government for a certain period of time. That is where we are right now. I am sorry and disappointed.

Mr. MCCONNELL. Mr. President, may I make a few observations about where we are?

Mr. REID. Yes. I am going to file cloture tonight on the DREAM Act. We will have a cloture vote on that Saturday morning fairly early. I am going to file cloture on don't ask, don't tell tonight. So those will be sequenced for Saturday or whenever we get to them. But we have to move this along. Following that I was told by a number of Republican Senators that they needed 6 or 7 days to debate and offer amendments on the START treaty. That will certainly be available. We will finish, if the math works out the way I believe it will, early Monday morning.

First of all, tomorrow we can debate START to everyone's heart's content. They can offer as many amendments as they want, and then Monday we can go to that again. This would be 3 days already completed on that, 3 or 4 days, whatever is appropriate next week to complete the START treaty. We would wind this up by taking care of the nominations that Senator MCCONNELL and I have been working on. That is the range of things we have to do. I have told the two Senators from New York that I will move to reconsider their vote at some time, but that is going to happen fairly quickly.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, let me respond briefly to the majority

leader. I too want to commend the members of the Appropriations Committee for all the work they have done, particularly Republican members of the Appropriations Committee who did spend an enormous amount of time crafting and developing the 12 different appropriations bills that we should have been acting on all year long. This is the first time in modern history that not a single appropriations bill went across the floor of the Senate—not a one. So the Appropriations Committee members on a bipartisan basis did indeed do their job. The problem was the full Senate didn't do its job. What we ended up with was this, this almost 2,000-page Omnibus appropriations bill which we only got yesterday.

The point is, the work the Appropriations Committee did in many respects was squandered because the full Senate didn't do its job. This is precisely the kind of thing the American people have gotten tired of.

The message we ought to take out of this is that next year, we are going to listen to the American people. We are going to do our work, do it in a timely fashion. There is no more basic work than the funding of the government. That is the first thing we ought to be doing.

Here we are trying to do it right at the end, as an old Congress goes out of office and a new Congress comes in. The message is, let's don't do this anymore. Let's make a bipartisan decision at the beginning of the next session that the basic work of government is going to be done in a timely fashion for an opportunity out here on the floor of the Senate for Members of both parties to offer amendments, make suggestions, and improve the bill.

I too respect the work the Appropriations Committee has done. I don't agree with the priorities we have had here in the Senate about what things are important. As a result of not doing the basic work of government, here we are at the end struggling with this issue. There is only one reason why cloture is not being filed and the majority leader, to his credit, has already said it. He doesn't have the votes. The reason he doesn't have the votes is because Members on this side of the aisle increasingly felt concerned about the way we do business. For many of our Members it was not so much the substance of the bill but the process. Let's learn from this. We will get together, as the majority leader said, and determine what appropriate time for a continuing resolution makes sense to offer to govern on an interim basis, and let's come back here after the holidays with a renewed desire to do our business in a timely fashion and avoid this kind of thing in the future.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, it doesn't take a person with a PhD to understand that I differ with what my friend, the senior Senator from Kentucky, said, things that don't indicate what history is in the Senate. We have been facing 87 filibusters this Congress. For anyone to suggest that the reason the work of Senators INOUE and COCHRAN was not completed is because we didn't do the appropriations bills is far-fetched. Senators INOUE and COCHRAN, in good faith, worked toward what they were told the Democrats and Republicans wanted to do; that is, have a bill that took in the priorities of Democrats and Republicans. The bill that we are talking about isn't a bill that is a Democratic bill. It is a Democratic and Republican bill.

Mr. MCCONNELL. Will my good friend yield for a question?

Mr. DURBIN. Will the majority leader yield for a question?

Mr. REID. I yield to the Senator from Illinois.

Mr. DURBIN. I wish to ask the majority leader, does he recall the time I returned from the Appropriations Committee and said Senator MCCONNELL had come to the committee and said he was going to establish the maximum amount that he would vote for in all the appropriations bills, the 203(b) allocation of \$1.108 trillion? And I said to the majority leader, I think ultimately that is what we are going to be voting for, Senator MCCONNELL's number. Is the Senator from Nevada aware of the fact that the bill we were going to consider was at that number that was asked for by Senator MCCONNELL in the Appropriations Committee?

Mr. REID. Yes, and it satisfied what we had debated here on a number of occasions and voted on, the so-called Sessions-McCaskill number. So we did that. This is not a big balloon that we just threw up to see how it would work out. Senator MCCONNELL, who has had a longstanding association with the Appropriations Committee, that was a number he told us we should work with.

Mr. DURBIN. Will the Senator yield for a further question?

Mr. REID. I am happy to.

Mr. DURBIN. As a former member of the Appropriations Committee, is the Senator aware of the process in that committee, a bipartisan process where the ranking Republican member and the Democratic chairman of each subcommittee sit down to literally have a hearing, mark up a bill, and accept earmarks from both sides of the aisle? That is the common practice and has been followed with the bills that are currently sitting in front of the minority leader?

Mr. REID. Yes. To Senator COCHRAN's credit, there were things he thought should not be in the bill that Senator INOUE was putting together. Senator INOUE, to his credit, said: OK, it does

not go in. Everything people wanted in this bill—in addition to the work that went on in the subcommittee level, the full committee level—anything that was added at a later time had to be approved by both Senator INOUE and Senator COCHRAN.

Mr. DURBIN. On a bipartisan basis.

Mr. REID. That is right.

Mr. DURBIN. In every subcommittee.

Mr. REID. Yes. And things that Senator COCHRAN did not want in, Senator INOUE, being the gentleman he is, said: OK. That is what I will tell my caucus.

Mrs. MURRAY. Will the Senator yield for a question?

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. REID. Yes, I will yield for a question, and, of course, I maintain the floor.

Go ahead.

Mrs. MURRAY. Mr. President, I ask the Senator to yield for a question.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I would ask the leader through the Chair, is he aware that the bill that is before us, that apparently we do not have enough votes for now, has gone through a very long committee process? The transportation and housing bill that I worked with my Republican colleague on, I did not agree with all of his requests, but I gave him a lot in this bill, as we worked our way through it and passed it out of subcommittee, passed it out of the full committee, a committee of which the minority leader is a member.

All of the bills that are involved in this omnibus bill—every one of them—went through a long, long process of committee hearings, subcommittee markups and passage, and full committee markups and passage.

The changes to this bill that have come to the floor have come as a result not of a change in policy, but because we all were told that in order to get an omnibus passed, we had to reduce the amount of that bill that passed out of committee—each of those bills a significant amount—to meet the McCaskill-Sessions level. So we went back and cut a significant amount out of each one of our bills. The result is the omnibus bill before us.

So the 2,000 pages that we are referring to have worked their way through a process. I would ask the leader if he knows this. And the difference is, we had to cut money to meet the level of Sessions-McCaskill. That is what we have before us. And that is what we are being told, after a year's worth of work, that somehow we do not have the capability of knowing what is in the bill. Is the leader aware of that?

Mr. REID. I am aware of it. But my friend, the Republican leader, wants to ask a question or make some statement. But I would say this to my friend

from Washington, remember, this bill, which is 1,900 pages long, consists of the work of 12 subcommittees.

Mrs. MURRAY. Right.

Mr. REID. It is work that has been done over the last year, or more in some instances, to come up with a product. So if you break it down per subcommittee, it is certainly a reasonable number of pages on each subcommittee. Remember, there are 12 subcommittees that are a part of it.

I would be happy to yield, without losing the floor, to my friend, the Republican leader.

Mr. MCCONNELL. I was just going to ask my friend—it is hard to ask a question without making something of a statement in connection with it, if that is OK.

Mr. REID. That is fine.

Mr. MCCONNELL. I was not talking about the process by which the bill was developed in committee. And I started off, I would say to my friend from Nevada, commending the committee for its work. What I was commenting upon was the lack of taking the bill up on the floor of the Senate—over \$1 trillion, the basic work of government.

And so, Mr. President, I would ask my friend, why, if these bills enjoy bipartisan support—and they did—why were they not brought before the full Senate and passed? I think I would say to my friend, I expect it is because you had other priorities. And this is the basic work of government. Why did we not bring any of these bills before the Senate floor?

Mr. REID. I hope the court reporter will take down the smile I have on my face because the answer to the question is kind of easy. We have had to file cloture 87 times in this Congress because, on everything we have tried to do, we have been obstructed. So that is the reason.

Everyone knows we have had some very big issues. When President Obama was elected, we found ourselves in a deep, deep hole. It was so deep, so deep. During the prior administration, we lost 8 million jobs. The month that President Obama and President Bush shared the Presidency, in January—that month—we lost 800,000 jobs. So we had a lot to do.

Now, I know people criticize our doing health care for various reasons. There is criticism we did the bank reform bill, Wall Street reform. We did housing reform. We had a very, very busy Congress to try to dig ourselves out of the hole.

So I say to my friend, who, like me, has been on the Appropriations Committee—I am not on it now but he is—the Appropriations Committee is a wonderful committee. Everyone here knows why we did not have the individual appropriations bills. I say to my friend, I hope next year we can get them done. But I think there is more of a chance next year because we have

gotten a lot done to help get ourselves out of the hole we found ourselves in because of the previous 8 years which created the big hole we had to kind of dig out of.

Mr. REID. Mr. President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 5281.

The PRESIDING OFFICER. Will the Senator withhold for a second?

Mr. REID. Yes, I will.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate returns to legislative session.

Mr. REID. Thank you, Mr. President.

The PRESIDING OFFICER. The majority leader.

REMOVAL CLARIFICATION ACT OF 2010

Mr. REID. Mr. President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 5281.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments numbered 1 and 2 of the Senate to the bill (H.R. 5281) entitled "An Act to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes" and be it further

Resolved, That the House agree to the amendment numbered 3 of the Senate with a House amendment to the Senate amendment.

MOTION TO CONCUR

CLOTURE MOTION

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment No. 3, and I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment No. 3 to H.R. 5281, the Removal Clarification Act [DREAM Act].

Joseph I. Lieberman, John D. Rockefeller, IV, Byron L. Dorgan, Sheldon Whitehouse, Jack Reed, Robert Menendez, Mark Begich, Benjamin L. Cardin, Bill Nelson, Michael F. Bennet, Amy Klobuchar, Patty Murray, Barbara A. Mikulski, Christopher J. Dodd, Richard Durbin, John F. Kerry.

MOTION TO CONCUR WITH AMENDMENT NO. 4822

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment No. 3, with an amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to concur in the House amendment to the Senate amendment No. 3, with an amendment numbered 4822.

The amendment is as follows:

At the end, insert the following:

The provisions of this Act shall become effective 6 days after enactment.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4823 TO AMENDMENT NO. 4822

Mr. REID. Mr. President, I have a second-degree amendment at the desk and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4823 to amendment No. 4822.

The amendment is as follows:

In the amendment, strike "6" and insert "5".

MOTION TO REFER WITH AMENDMENT NO. 4824

Mr. REID. Mr. President, I move to refer the House message to the Senate Judiciary Committee with instructions to report back forthwith, with the following amendment. I ask the clerk to state that motion.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to refer the House message on H.R. 5281 to the Senate Committee on the Judiciary with instructions to report back forthwith, with the following amendment numbered 4824.

The amendment is as follows:

At the end, insert the following:

The Senate Judiciary Committee is requested to conduct a study, nationwide, on the impact of any delay in implementing the provisions of this Act.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4825

Mr. REID. Mr. President, I have an amendment to my instructions, which is at the desk. I ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4825 to the instructions of the motion to refer H.R. 5281.

The amendment is as follows:

At the end, insert the following:

"and include specific data on the impact of families who would benefit from the act, and submit the data within 5 days of enactment.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4826 TO AMENDMENT NO. 4825

Mr. REID. Mr. President, I have a second-degree amendment to my instructions.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4826 to amendment No. 4825.

The amendment is as follows:

In the amendment, strike "5" and insert "2".

Mr. REID. Mr. President, that was the DREAM Act.

SBIR/STTR REAUTHORIZATION ACT OF 1999

Mr. REID. Mr. President, I now ask the Chair to lay before the Senate a message from the House with respect to H.R. 2965, which is the don't ask, don't tell legislation.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2965) entitled "An Act to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes," with a House amendment to the Senate amendment.

MOTION TO CONCUR

CLOTURE MOTION

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment to H.R. 2965, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 2965, the SBIR/STTR Reauthorization Act.

Joseph I. Lieberman, Barbara Boxer, Ron Wyden, Michael F. Bennet, Robert Menendez, Robert P. Casey, Jr., Frank R. Lautenberg, Debbie Stabenow, Mark R. Warner, Tom Udall, Jeff Merkley, Benjamin L. Cardin, Amy Klobuchar, Christopher J. Dodd, Tom Carper, Al Franken.

MOTION TO CONCUR WITH AMENDMENT NO. 4827

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment to H.R. 2965, with an amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to concur in the House amendment to the Senate amendment to H.R. 2965 with an amendment numbered 4827.

The amendment is as follows:

At the end, insert the following:

The provisions of this Act shall become effective immediately.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4828 TO AMENDMENT NO. 4827

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4828 to amendment No. 4827.

The amendment is as follows:

In the amendment, strike "immediately" and insert 5 days.

MOTION TO REFER WITH AMENDMENT NO. 4829

Mr. REID. Mr. President, I have a motion to refer the House message to the Senate Armed Services Committee with instructions to report back forthwith, with the following amendment. And I ask the clerk to state that motion.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to refer the House message to the Committee on Armed Services with instructions to report back forthwith, with the following amendment numbered 4829.

The amendment is as follows:

At the end, insert the following:

The Senate Armed Services Committee is requested to conduct a study on the impact of implementing these provisions on the family of military members.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4830

Mr. REID. Mr. President, I have an amendment to my instructions which is at the desk. I ask the clerk to report that.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4830 to the instructions of the motion to refer H.R. 2965.

The amendment is as follows:

At the end, add the following:

"and that the study should focus attention on the dependent's children".

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4831 TO AMENDMENT NO. 4830

Mr. REID. Mr. President, I have a second-degree amendment to my instructions.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4831 to amendment No. 4830.

The amendment is as follows:

At the end, add the following:

"include any data which might impact local communities".

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorums required under rule XXII be waived with respect to the cloture motions filed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I now ask unanimous consent that we proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

I would say, Mr. President, that we have made contact with the Republicans, and they tonight do not wish to have more debate on the START treaty. So that is why we are moving to morning business. People can talk about whatever they want for the rest of the evening. Tomorrow, I am going to move back to executive session to do the START treaty. I hope we can make progress on that tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKING OUR SERVICEMEMBERS

Mr. McCONNELL. Mr. President, today I rise to recognize the members of America's Armed Forces who are deployed during this Christmas season. The sacrifices of our military and those of their families are always great, but especially so during wartime and the holidays. As most Americans celebrate this time of joy and good cheer it is important that we take a moment to honor and remember the brave men and women in uniform who are defending our well being overseas and to thank their families as well.

Kentucky's military installations have been in the thick of the fight in the war on terror. The 101st Airborne Division at Fort Campbell, for example, is once again overseas. The unit is fully deployed and is executing a critical mission in Afghanistan.

The Army's 3rd Infantry Brigade Combat Team, 1st Infantry Division is currently deploying from Fort Knox to Afghanistan. The Duke Brigade, as it is known, is the first unit of its kind at Fort Knox since the 1990s.

And the Kentucky National Guard continues to deploy to theater. Just

last week, members of the 123rd Civil Engineer Squadron left for Southwest Asia.

I am profoundly grateful for the sacrifice of our servicemembers and military families. And, as a Kentuckian, I swell with pride at the contributions made by units from the Commonwealth's military installations and by Kentucky servicemembers. During this holiday season our prayers are with them.

TRIBUTE TO JOHN BELSKI

Mr. McCONNELL. Mr. President, I wish to recognize Louisville, Kentucky's, longtime meteorologist John Belski, whom a large swath of Kentuckians have relied on for accurate weather forecasts for over 23 years. After a long and successful career, John has retired. This September 8 he presented his final weather broadcast.

John began at WAVE-3 TV in Louisville in July 1987 and has been welcomed into Kentuckians' homes ever since. A typical morning for residents of the greater Louisville area began by tuning in to John for important details about the day's forecast.

Before joining WAVE-3, John worked in Louisville at WLKY-TV and also at stations in St. Louis and Columbia, MO. John's professionalism has earned him several awards, including 15 different Best of Louisville Magazine honors, the Best of Kentucky award by Kentucky Monthly magazine and the LEO Readers' Choice Award, just to name a few.

John was at the center of the hard-hitting winter storm in 1994, when Kentucky was blanketed with a record snowfall of more than 15 inches. In August 2009 he stood watch when a massive rainstorm produced large hail and flash flooding that caused major damage to some of Kentucky's most well known attractions, including Churchill Downs. And who could forget this time last year, when one of the most severe ice storms in Kentucky's history crippled the area, leaving 760,000 residents without power and causing 36 deaths across the State. Throughout it all, John's was a calm and steady voice, providing viewers with critical information.

Now that he has retired, I hope John will have more time to spend with his wife Lynn and his two daughters. John is not just known for his abilities as a meteorologist in Louisville. Whether it be partaking in one of the many county fairs or being present at the Kentucky Derby, John was always there, reporting. He is going to be missed enormously, and I would ask my colleagues to join me in thanking him on behalf of all Kentuckians for his service.

Mr. President, WAVE-3 TV recently published a story on the retirement of their friend, John Belski, and I ask

unanimous consent that the full article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From WAVE3.com, Aug. 18, 2010]

METEOROLOGIST JOHN BELSKI RETIRES FROM WAVE 3 TV

LOUISVILLE, KY (WAVE).—WAVE 3 Meteorologist John Belski will retire from WAVE 3 TV on September 8, 2010, it was announced by Regional Vice-President & General Manager Steve Langford.

"Retirement for a deserving friend should always be looked upon with happiness," said Langford. "While I regret to see John leave the airwaves, I respect his decision and wish him and his family much happiness."

"This is an opportunity for me to explore some new possibilities outside of the TV business," Belski said. "After all these years at WAVE 3 it's time for Kevin Harned to take the reins and lead the weather team."

Kevin Harned and John Belski first met when Kevin was in high school. Harned wrote to Belski asking him to speak to his 4-H Club in Nelson County. That meeting left an indelible mark on Harned who persistently pursued his new career goal to become a television meteorologist. "John has been a great mentor and a great friend," said Harned. "We've covered a lot of severe weather together and hopefully have helped to keep our community safe from harm."

John Belski first joined the WAVE 3 weather team in July 1987. Prior to that, he worked at WLKY-TV in Louisville and also at stations in St. Louis and Columbia, Missouri. In addition to his television forecasts John makes multiple daily postings to his blog, Twitter and Face book sites. Over the years John has been on the air on 18 different radio stations and currently on 84 WHAS-AM and WMPI 105.3 FM. His weather book "Backyard Weather Folklore" sold thousands of copies.

"For the past 23 years John Belski has been the calming voice in the storm while protecting our viewers during severe weather," said Langford. "His folksy, friendly style of forecasting has made him a favorite in our community."

John Belski has received numerous awards from community organizations and publications including 15 different Best of Louisville Magazine honors, the Best of Kentucky by Kentucky Monthly magazine and the LEO's Readers' Choice Award. He has anchored Emmy Award winning coverage of severe weather and received the Special Service Award from the National Weather Service and the Mark Trail Award for public awareness of NOAA weather radios.

John Belski will present his last weather broadcast during WAVE 3 News at 6:00 p.m. on September 8, 2010.

WAVE-TV is owned by Raycom Media, Inc., an employee-owned company which is now one of the nation's largest broadcasters. Currently the company owns and/or operates 42 television stations in 18 states. Raycom Media stations cover more than 10.6 percent of the U.S. television households and employ 3,500 individuals in full- and part-time positions. Through Raycom Sports, the company owns and operates the Continental Tire Bowl in Charlotte and two LPGA golf tournaments, as well as produces pre-season NFL football games for non-owned stations.

TRIBUTES TO RETIRING SENATORS

EVAN BAYH

Mr. DODD. Mr. President, I rise today to pay tribute to a colleague and friend of mine—Senator EVAN BAYH—who will be retiring from the U.S. Senate when the 112th Congress convenes in January. I would like to take this moment to thank EVAN for his service, and wish him, his wife Susan, and their twin boys Beau and Nick, the very best as they embark on the next chapter in their lives.

EVAN comes from a family tradition deeply rooted in public service and committed to improving the lives of our fellow citizens. Our fathers, Birch Bayh and Tom Dodd, served together in the U.S. Senate, and instilled in both of us the desire to serve as we grew older.

EVAN has dedicated the better part of his adult life to serving the people of Indiana. He began his career in public service when he was elected Indiana's Secretary of State in 1986. He then served as Governor of Indiana for two terms starting in 1988. As Governor he focused on fiscal responsibility, lower taxes, job creation and lean government. In 1998, Hoosiers once again demonstrated their faith in EVAN BAYH by electing him to the U.S. Senate.

Throughout his career in public service, EVAN has been particularly vocal on issues related to our national security, economic competitiveness, and job creation. He has demonstrated his willingness to work hard, a fact underscored by his membership on six Senate committees—Aging, Armed Services, Banking, Energy and Natural Resources, Intelligence, and Small Business. He has developed a broad range of subject matter expertise, and has time and again demonstrated his willingness to reach across the aisle to get things done for the people of Indiana.

This Congress, as chairman of the Senate Banking Committee, I had the opportunity to work with EVAN on several vital issues, such as his contributions to the Credit Card Accountability, Responsibility, and Disclosure, CARD, Act and Wall Street reform.

When EVAN leaves the Senate in just a few short weeks, I believe he will be remembered as a public servant who was devoted first and foremost to advancing the interests of Hoosiers, and who was willing to work across the aisle whenever he saw an opportunity to do the right thing for our Nation.

Once again, I would like to thank EVAN for his years of service, and wish him well as he leaves the Senate. It has been a pleasure working with him over the years, and I firmly believe that this body will not be the same without him.

BOB BENNETT

Mr. President, I rise today to pay tribute to a friend and longtime colleague Senator BOB BENNETT who, like

me, will be departing from the U.S. Senate in just a couple of weeks. I would like to take this opportunity to wish BOB, Joyce, and the rest of his family the very best as he leaves the Senate and embarks on this new chapter in his life.

Since he was first elected to this body in 1992, BOB has served the people of Utah well as their Senator. BOB comes from a long line of individuals dedicated to public service, and it is no surprise that he himself decided to go down that path. BOB's grandfather, Heber J. Grant, was the seventh President of the Church of Jesus Christ of Latter-day Saints in Salt Lake City. And BOB's father, Wallace F. Bennett, represented the state of Utah in this very Chamber between 1951 and 1974, serving alongside my father, Tom Dodd.

Throughout the time that I have known and worked with him, I have always found BOB to be receptive to the ideas of others and careful and deliberate in his own evaluation of complex policy questions.

Of course, that is not to say that BOB BENNETT isn't also a determined partisan. Indeed, throughout his three terms here, BOB has been one of the Senate's most consistently conservative voices. But in spite of that, BOB has frequently reached across the partisan divide to seek out areas of common ground and mutual interest with Democrats.

That willingness to engage and cooperate with colleagues has perhaps been most evident in his work on the Senate Banking Committee. Throughout our years of service together on that panel, BOB and I have frequently been among the first to reach out across the aisle and search for solutions to the challenges facing our Nation's financial services sector. And from our work together during the savings and loan crisis, to passage of legislation that provides a safety net for our economy in the event of a devastating terrorist attack, we have achieved some important results.

BOB chaired and I served as vice chairman of the Y2K Committee, to ensure the integrity of our Nation's financial services sector. More recently, in the fall of 2008, when the global financial system was on the verge of collapse and our country was standing at the precipice of an economic depression, BOB took a significant political risk by supporting the Emergency Economic Stabilization Act, which established TARP. I realize that this was an incredibly difficult vote for BOB and every other Member of this Chamber at the time.

But I am convinced that without elected officials who are willing to cast those kinds of tough, yet necessary votes, this country would be a very different place.

So I would like to once again thank BOB for his 18 years of service in this

body and for his willingness to listen to and work with colleagues with whom he hasn't always agreed. And I would like to once again wish BOB and his family the very best as he leaves the Senate this January.

BLANCHE LINCOLN

Mr. President, I rise today to pay tribute to the Senior Senator from Arkansas, BLANCHE LINCOLN, who, like me, will be leaving the U.S. Senate in the coming weeks. I would like to take this moment to thank BLANCHE for her service, and wish her, her husband Dr. Steve Lincoln and her two twin boys Bennett and Reece, the very best as they embark on the next chapter in their lives.

As a seventh generation Arkansan, BLANCHE has dedicated the better part of her adult life to serving the people of Arkansas. She was elected to the U.S. House of Representatives in 1992. After two terms representing Arkansas's first district she retired briefly to give birth to her twin sons. However, the call of public service led her to run for a vacant seat in the U.S. Senate and in 1998, at the age of 38, the people of Arkansas elected her to serve them as their U.S. Senator the youngest woman ever to be elected.

As a young woman growing up on her family farm in the small town of Helena, AR, BLANCHE developed a strong appreciation and understanding for American farmers and ranchers and the important work they do for our country. She carried the lessons she learned, and the values they instilled in her, with her to Congress. Throughout her career in public service, BLANCHE has been particularly vocal on issues related to agriculture, hunger, working families and children.

In 2009, BLANCHE became the first ever woman to chair the Senate Agriculture, Nutrition, and Forestry Committee. She played the key role in brokering the compromise that led to passage of the Food, Conservation, and Energy Act of 2008, otherwise known as the farm bill, which reauthorizes U.S. agriculture policy every 5 years and is of vital importance to farmers and food producers across the country.

Senator LINCOLN and the Agriculture Committee also played a vital role in shaping the derivatives provisions in the Dodd-Frank Wall Street reform bill. These were difficult, highly complex matters, and Senator LINCOLN worked tirelessly to lead her committee throughout the process. Her seriousness and hard work were a tremendous asset to the overall process, and I commend her and her committee for helping to shape the legislation.

In addition to her work on the Agriculture Committee, BLANCHE has been focused on our country's children. She formed the Senate Caucus for Missing, Exploited, and Runaway Children and the Senate Hunger Caucus. She recently worked to pass the child nutri-

tion bill, which will improve the lives of millions of children in our country.

After BLANCHE leaves the Senate, I believe she will be remembered as a tireless public servant who was devoted first and foremost to advancing the interests of the people of her beloved home State, Arkansas.

Once again, I would like to thank BLANCHE for her years of service, and wish her well as she leaves the Senate. It has truly been a pleasure working with her over the years, and I firmly believe that this body will not be the same without her.

KIT BOND

Mr. President, I would like to take a few minutes today to pay tribute to a longtime colleague, the senior Senator from Missouri, who like me will be leaving this body in a few short weeks. It has been an honor to serve with him, and I wish him, his wife Linda, and his son Samuel—who is bravely serving his Nation as a 1st lieutenant in the U.S. Marine Corps and the rest of his family the best of luck in the future.

Senator BOND, or "KIT" as many of us know him, knew at an early age that his calling was public service. After earning his law degree and practicing for a few years here in Washington, DC, he returned to Missouri to run for the U.S. House of Representatives in 1968. While he was unsuccessful in that first run, at the young age of 29 he caught the eye of the then-Missouri Attorney General John Danforth, who hired him as an assistant attorney general.

After heading the Attorney General's Office of Consumer Protection, KIT was elected in his own right to serve as Missouri's State Auditor, and later went on to two terms as Governor of Missouri. He still holds the distinction of having been the youngest Governor elected in his State's history at the age of 33.

KIT was elected to the U.S. Senate in 1986. During his time in this body, he has established himself as a strong advocate for the people and interests of the State of Missouri. He has also established himself as a national leader on issues that are important not only to his State but to our Nation as a whole.

For years, as a member and later chairman of the Small Business and Entrepreneurship Committee, he has served as a leading voice for small businesses.

As the vice chairman of the Senate Select Committee on Intelligence, Senator BOND has worked continuously to ensure our Nation's intelligence community has the tools and resources necessary to keep us safe. Throughout his career in the Senate, he has also been a knowledgeable, leading voice on matters of importance to veterans, and has time and again proven his unwavering support for our men and women in uniform.

As a member of the Appropriations Committee, and chairman and ranking member of the Transportation and Housing Subcommittee, he has played a significant role in advocating for improvements to our nation's roads and other vital infrastructure.

These are just some of the areas which Senator BOND will no doubt be remembered. But I would like to take a moment to speak to an issue which he and I have worked together for many years, for which he may not receive the attention he deserves—his strong advocacy for the health of our nation's children and families.

Senator BOND and I have worked together on these issues for many years. In 1991, his support was vital to gaining enactment of a piece of legislation of which I am most proud—the Family and Medical Leave Act. To date, this bill has been used more than 100 million times to ensure that workers can care for ailing loved ones, or care for a new child, without the fear of losing their job. This seems like common sense now, but it took 7 years, and 2 Presidential vetoes to finally see this important law enacted.

That wouldn't have happened without the involvement of KIT BOND.

He was also one of the key supporters of the successful effort in 2009 to ensure that airline workers have full access to their Family and Medical Leave Act benefits.

Senator BOND and I have also partnered over the years to improve maternal and child health and end preventable birth defects. I was proud to be a cosponsor of the Birth Defects Prevention Act of 1998, which he authored. I was also honored to partner with him and others again in 2003, when we were successful in passing the Birth Defects and Developmental Disabilities Prevention Act. These measures helped to establish, and then expand, the role of the Centers for Disease Control in researching and developing solutions to the problems posed by birth defects and developmental disabilities.

He was also a key Republican sponsor, along with Senator HATCH of Utah, of the Newborn Screening Saves Lives Act, which I authored in the 110th Congress. This legislation is the next step in our work together, and seeks to educate every parent, and provide access for every newborn, to a battery of life-saving prenatal tests. This landmark legislation helps build on the successes which we have had on this issue in the past, and I was pleased that Senator BOND was a supporter yet again, as he has been throughout his career in the Senate.

While we did not always see eye-to-eye on every issue, Senator BOND was always someone with whom those policy disagreements were never personal. He has been an honorable legislator, and a valued colleague during our time serving in the Senate together.

Once again, I would like to wish Senator BOND, his wife Linda, his son Samuel and his family, and all their extended family the very best in all their future endeavors.

SAM BROWNBACK

I would like to say a few words in honor of Senator SAM BROWNBACK, my colleague from Kansas for these past 14 years. Like me, he will be ending his service in the U.S. Senate at the conclusion of this Congress. I would like to congratulate him on his election as Governor of the State of Kansas, and I wish him and his family the very best in his new endeavor.

His election to the governorship should come as no surprise—he has proven time and again that his first priority is serving the people of Kansas. He has a long track record of service, beginning with his 1986 election to the position of State Secretary of Agriculture. At the time of his election, he was only 30 years old, the youngest person ever to hold the position.

After serving as Agriculture Secretary, SAM was elected to the House of Representatives as part of the famous Republican class of 1994. He quickly ascended to the Senate in 1996 with the departure of a Senate and Kansas legend, then-Majority Leader Bob Dole. SAM had some big shoes to fill, and he has done so admirably.

Senator BROWNBACK will be remembered for many things, his conservatism and his passion to name a few, but perhaps the most important is his dedication to his faith. His religious values provided an anchor for everything he did, and led to his pursuit of issues that provided assistance for those in need.

Senator BROWNBACK's commitment to ending the genocide in Darfur is an example of one of those issues. Tragically, more than 200,000 people have died in Darfur and more than 2.5 million have been displaced as a result of the unrest in Sudan. Senator BROWNBACK's expertise and dedication to this critically important issue has made a real impact on the fight to end this horrific crisis. With his retirement, the Senate will lose one of its great human rights champions.

Senator BROWNBACK and I may not have always seen eye-to-eye, but no one ever questioned his commitment to principle, or his commitment to the people of Kansas.

I wish him, his wife Mary, and their five children all the best. While the Senate will miss him, I wish him luck as he embarks on his next journey as the Governor of Kansas.

JAMES BUNNING

Mr. President, I rise today to say a few words of farewell to my colleague from Kentucky, Senator JIM BUNNING. We will both be retiring from this Chamber when this Congress concludes, and I wish him and his wife Mary Catherine, their sons and daughters and the

rest of their family the very best in the future.

As we all know, prior to becoming a politician JIM BUNNING was a world-class baseball pitcher. He had a distinguished career primarily with the Detroit Tigers and Philadelphia Phillies, during which he became the second pitcher in Major League history to record 1,000 strikeouts and 100 wins in both the American and National Leagues. He was inducted into the Baseball Hall of Fame in 1996.

Of course, after such a distinguished career he could have simply hung up his cleats, moved back to his home state of Kentucky, and enjoyed a quiet retirement with his family.

Instead, he decided to take the work ethic and competitive spirit that drove him in baseball and use his energy to give back to his community as a public servant. In 1977, he ran for and won a city council seat in Fort Thomas, KY. He was then elected to the Kentucky State Senate in 1979. After serving in the State Senate as Republican leader, he ran to represent Kentucky's 4th Congressional District in 1986. He also won that election, and served for 12 years in the U.S. House of Representatives.

In 1998, JIM ran to replace Senator Wendell Ford, who was retiring. He kept his winning streak alive, not only winning that initial Senate contest, but also reelection in 2004. When he retires this year, JIM BUNNING will have amassed an impressive winning streak in politics, just as he did in baseball.

As you know, life in the U.S. Senate is about working out disagreements through deliberation and debate. This process of lawmaking has served to ensure that the voices of a broad range of Americans are heard as we work to craft the laws and policies we must ultimately all abide by.

As a Senator, JIM BUNNING has always stood up for his beliefs, and fought for what he thought was right. As a member of the Senate Banking, Budget, Energy, and Finance Committees, Senator BUNNING has been a staunchly conservative voice on economic policy.

While he and I seldom have seen eye to eye on these matters, his deep convictions have given voice to the concerns of citizens who share his point of view, and thereby have helped to shape and enrich our debates on the important questions we have faced over the years.

I wish him further success in whatever endeavors he pursues, as well as many happy, healthy years to come with his family.

RUSS FEINGOLD

Mr. President, I rise today to pay tribute to a longtime colleague and friend of mine, Senator RUSS FEINGOLD, who will be leaving the Senate this January after 18 years of service. I would like to take this opportunity to

wish RUSS and his family the very best as they embark on this new chapter in their lives.

Born and raised in the city of Janesville, WI, RUSS has dedicated the better part of his career to serving the people of his home State. Prior to his first election to the U.S. Senate in 1992, RUSS served as a Wisconsin State senator for nearly a decade. Throughout his career in public service, RUSS has proven to be a passionate and articulate advocate for the people of Wisconsin and their needs.

Since he first entered the Senate, RUSS has perhaps become best-known as one of this body's most stalwart progressives. Indeed, on any number of issues, from campaign finance reform, to the Iraq war, to our work together during Senate consideration of legislation reauthorizing the Foreign Intelligence Surveillance Act, RUSS has demonstrated a strong commitment towards ensuring that respect for human rights, the rule of law, and democracy remain cornerstones of American policy, both at home and abroad.

Over the course of his three terms in the U.S. Senate, RUSS has perhaps become most closely identified in the minds of many Americans with his work on campaign finance reform with Senator McCAIN. In 2002, when the McCain-Feingold campaign finance reform bill was being considered, RUSS took a very courageous position in pushing legislation that, at the time, was relatively unpopular with some of our colleagues on both sides of the aisle. I was proud to join those efforts as the floor manager of McCain-Feingold, and would like to express my gratitude to RUSS for his strong and consistent leadership on that issue.

I have long appreciated RUSS's strong, principled stands on those issues, and have welcomed the opportunity to work with him over the years. I know that RUSS's commitment to justice, fairness, and the rule of law will be missed come January, and I would once again like to wish him the best as he leaves this institution.

BYRON DORGAN

Mr. President, I rise today to pay tribute to a longtime colleague and friend of mine Senator BYRON DORGAN who will be retiring from the U.S. Senate when the 112th Congress convenes in January. I would like to take this moment to thank BYRON for his service, and wish him, his wife, Kim, and the rest of his wonderful family the very best as they embark on this new chapter in their lives.

BYRON has dedicated the better part of his adult life to serving the people of his State. When he was just 26 years old, BYRON became the youngest constitutional officer in North Dakota history when he was appointed to serve as the State's Tax Commissioner. In 1980, BYRON once again demonstrated his commitment to public service when he

was elected to the State's lone House seat. Twelve years later, after six terms in the House, the people of North Dakota once again returned BYRON to Washington, this time as their U.S. Senator.

Throughout his career in public service, BYRON has been particularly vocal on issues related to U.S. agricultural policy. As a young man growing up in the small town of Regent, ND, BYRON developed a strong appreciation for American farmers and ranchers and the important work they do to keep our country fed. Indeed, BYRON's own family worked in the farm equipment business and raised cattle and horses. As a result, he has been a consistent advocate for greater economic security and opportunity in rural America.

Since 2005, BYRON has also served as chairman of the Senate Democratic Policy Committee, where he has played an important role in helping to craft the Senate Democratic policy agenda over the last several years. But after BYRON leaves the Senate in just a few short weeks, I believe he will be remembered as a public servant who was devoted first and foremost to advancing the interests of the people of his beloved home State, North Dakota.

Once again, I would like to thank BYRON for his many years of service, and wish him well as he leaves the Senate. It has truly been a pleasure working with him over the years, and I firmly believe that this body will not be the same without him.

JUDD GREGG

Mr. President, I rise today to bid farewell to my colleague, a fellow New Englander and Banking Committee member, the senior Senator from New Hampshire, JUDD GREGG.

It has been an honor and a pleasure serving with him in this body for the past 18 years. As we both prepare to leave the Senate this year, I would like to take this opportunity to wish him and his family the very best in the future.

Throughout his tenure in the Senate, Senator GREGG has been an ardent advocate for his home State of New Hampshire, and a knowledgeable legislator. Time and again, during floor debate and committee proceedings, he has demonstrated his sharp intellect and deep knowledge of a broad range of issues—particularly on economic and budget policy.

He is a deeply committed public servant, who has been elected by the people of New Hampshire to serve them for 9 years in the House of Representatives, for 4 years as Governor, and as their U.S. Senator for the last 18 years. In fact, they returned him to the Senate in 2004 with the highest number of votes in New Hampshire history. It is clear that his constituents have a great deal of faith in this man, and during his time in Congress, he has represented them and their values extremely well.

As one would expect from a man of New Hampshire, Senator GREGG has always demonstrated his independence, commitment to hard work, and self-sufficiency. Yet he has also been someone that has sought compromise and has been ready to collaborate with those willing to tackle the difficult problems facing our Nation.

In 2001, he was one of the lead Republicans working on the No Child Left Behind law to improve education across the Nation for generations of Americans. In 2003, he and I worked together with Senator Ted Kennedy, Senator LAMAR ALEXANDER, and Senator SUSAN COLLINS to craft the Keeping Children and Families Safe Act, which updated our nation's laws to meet the serious problem of child abuse.

Of course, improving education and ending child abuse are issues on which both liberals and conservatives broadly agree, so bipartisanship and collaboration on these matters is easy.

Of course, in the fall of 2008, our Nation was faced with a nearly unprecedented economic collapse—and the views of liberals and conservatives on how to respond could charitably be described as divergent, at best.

It was at that moment, when our Nation faced a calamity of historical proportions, that Senator GREGG grit his teeth and set to work, negotiating with me, Treasury Secretary Geithner, Federal Reserve Chairman Bernanke, and others, to fashion a legislative response to the crisis.

Despite the heavy criticism that came with being a party to those discussions, he remained a key negotiator, and in the end, the House and Senate approved the Emergency Economic Stabilization Act. Today, our economy, though far from recovered, is far better off than it would have been without this bill and many of the institutions which received assistance have repaid the Treasury with interest.

Let me be clear that was a bill that none of us ever, in our wildest dreams thought we would have to write, or vote to pass. However distasteful, it would have been wrong to allow our financial system to go into full cardiac arrest, with little chance of survival.

The politically expedient route to take would have been to walk away, vote against the bill, and join the pundits, commentators, and bloggers who've said "It never should have passed, and we would have been fine without it anyway."

But that wouldn't be leadership. That wouldn't be statesmanship. And that isn't the type of legislator that JUDD GREGG is.

I would also like to thank Senator GREGG for his work as a member of the Banking Committee. He joined the committee late in his tenure, but his deep knowledge of the economy and expertise in financial matters was greatly appreciated. He played an important

role in helping to craft what became the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Though he was a staunch opponent of some of the bill's provisions, he didn't see that opposition as an impediment to continuing to offer ideas and thoughtful debate in order to shape the legislation into what he thought was a better product.

Yet, as fierce a partisan as Senator GREGG is, he is also a consummate legislator. He knows that the people of New Hampshire sent him here to work hard, and work with the other members of this body. He has shown that at the end of the day, even if you work hard on something, you may not be able to support it—but you will know that you have done your best to advocate for your positions and shape the debate.

The Senate will miss his knowledge and work ethic, and I hope that newly elected members—of both parties—will follow his example.

I wish him, his wife Kathleen, his children and granddaughter the very best.

GEORGE LEMIEUX

Mr. President, I rise today to pay tribute to my colleague, the Senator from Florida, GEORGE LEMIEUX, who will be leaving the U.S. Senate before the 112th Congress convenes. I would like to take this moment to thank GEORGE for his service, and wish him, his wife Meike, and their four children the very best as they embark on the next chapter of their lives.

GEORGE is a native Floridian who has served as deputy attorney general, and later as Governor Charlie Crist's chief of staff.

When Senator Mel Martinez retired in 2009, GEORGE was appointed to fulfill the remainder of the term. Since then he has worked to help the people of Florida through his work as a member of the Senate Armed Services Committee, the Commerce Committee, and the Special Committee on Aging.

Though he has only been in the Senate for a short time, Senator LEMIEUX has been an engaged and hard-working Member of this body. He has emerged as a strong advocate for solving our long-term Federal debt concerns, and a devoted advocate for the people and businesses of his home State of Florida.

While we did not share the same views on a number of issues, Senator LEMIEUX proved that he was a man of deep conviction who was not afraid to stand up for what he believed. He spoke often on the floor to advocate for his positions. However, he showed that he was a serious legislator, and leader, on issues of vital importance to our Nation.

For example, he was the lone Republican to cast a vote in favor of the Small Business Jobs Act. This legislation was designed to expand access to

credit, and provide tax incentives, for small businesses. GEORGE recognized that these were two things that Florida's businesses desperately needed—much more than partisan gridlock.

After GEORGE leaves the Senate in just a few short weeks, I believe he will be remembered as a public servant who was devoted first and foremost to advancing the interests of the people of his home State, Florida.

Once again, I would like to thank GEORGE for his service, and wish him well as he leaves the Senate. It has been a pleasure working with him.

ARLEN SPECTER

Mr. President, I rise today to honor my friend and longtime colleague, Senator ARLEN SPECTER, the longest serving U.S. Senator in Pennsylvania history.

As many of you know, ARLEN and I were freshmen Senators together 30 years ago. I was the only Democrat newly elected to the Senate in 1980. Senator SPECTER was one of 12 new Republicans elected that year, in the so-called "Reagan Landslide," that gave his party the Senate for the first time in 28 years.

I bring this up because, even though I was a new Senator in the minority, we quickly began working on a bipartisan basis. For those listening today, the idea of a bipartisan Senate may seem strange. Back then, it was commonplace and I know that ARLEN and I both hope that newly elected Members of this body will revive this tradition in the coming years.

Early in our Senate careers, ARLEN and I started the Senate Children's Caucus. We believed that as the largest nonvoting constituency in the country, children had the greatest need for champions to advocate on their behalf. The Children's Caucus has provided strong leadership on early childhood education, funding for childcare programs, and making passage of the Family Medical Leave Act reality. I want to thank Senator SPECTER for being one of my partners on these critically important issues for almost 30 years.

Senator SPECTER's accomplishments carry beyond his defense of children. Over the course of his career, he has served as the chairman of three important and influential Senate committees: the Select Committee on Intelligence, the Committee on Veterans' Affairs and the Committee on the Judiciary. In each of these capacities he has worked to ensure that America's legal system is true to our best traditions and ideals, while ensuring that we have the tools to prevent terrorism and protect our citizens. He has also used his role on the Senate Appropriations Subcommittee on Labor, Health and Human Services, and Education to increase research funding for the National Institutes of Health. His work here in the United States Senate has

improved the lives of countless Pennsylvanians and countless Americans.

Of all of Senator SPECTER's achievements, I have yet to mention the most impressive: Since 2005, he has continued to serve while fighting Hodgkin's lymphoma. Twice since being diagnosed, ARLEN has undergone chemotherapy for the disease. Yet he continued serving the people of Pennsylvania.

I have worked with Senator SPECTER both as a Democrat and a Republican, and I can tell you this his commitment to bipartisanship and independence should be a model for all current and future Members of the U.S. Senate.

I would like to thank ARLEN for his many years of service, and wish him and his wife Joan well as he leaves the Senate. It has truly been a pleasure working with him over the years. I know the State of Pennsylvania will miss their senior Senator and I firmly believe that this body will not be the same without him.

GEORGE VOINOVICH

I rise today to honor Senator GEORGE VOINOVICH, my colleague from Ohio who has served with me in this body for 12 years. Senator VOINOVICH has had a distinguished career in Ohio politics, spanning every level of government. His work as a public servant began when he was a bright young assistant attorney general, and has taken him through the Ohio House of Representatives, the mayor's office in Cleveland, the Ohio Governor's Mansion and the U.S. Senate.

Not only will Senator VOINOVICH be remembered for the more than four decades of service to his fellow Ohioans but also for his bipartisanship. He was never afraid to put his beliefs ahead of party, opposing President Bush's \$750 million tax cut proposal in 2003 for example.

I was especially proud to work with Senator VOINOVICH on legislation to help ensure the United States' continued dominance in the world aeronautics industry. Our bill, the Aeronautics Competitiveness Act of 2007, increased research funding, technology transfer, and workforce development, all of which are vital to maintaining the United States' competitive edge. I was also proud to have served on the Foreign Relations committee with him for 5 years, working to strengthen the North Atlantic Treaty Organization, NATO.

Senator VOINOVICH was known as the resident Senate "debt hawk" and has long stood for fiscal responsibility at the local, State and Federal levels.

It has been a pleasure to serve with Senator VOINOVICH. As we depart the Senate, I know this body will miss the presence of one of its more esteemed members and the people of Ohio will miss one of their most dedicated servants. I wish him and his wife Janet many more years of happiness.

Mr. AKAKA. Mr. President, I rise today to bid farewell to a number of

our friends and colleagues who are ending their service in the Senate. Their contributions are too numerous to mention, therefore I would like to take just a few minutes to highlight some of the memories of the Senators I came to know personally.

Some of the departing Senators I have served with for decades. Others were here for only part of a term. All of them worked hard for their constituents and our country.

TED KAUFMAN

Senator Ted Kaufman served for the past 2 years on my Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia.

Throughout Senator Kaufman's time with the subcommittee, he made a remarkable effort to honor the critical work of Federal employees. His regular statements on the Senate floor highlighting their work were an inspiration and I know were greatly appreciated by the dedicated Federal employees in Delaware and across this great Nation. I also appreciated Senator Kaufman's strong leadership on addressing longstanding shortcomings in Presidential transition planning, culminating in the enactment of the Pre-Election Presidential Transition Act this year.

ROLAND BURRIS

Senator Roland Burris served on the Senate Committee on Veterans' Affairs, which I have the honor of chairing. Throughout his months with the Committee, he made time in his busy schedule to attend and participate in numerous committee hearings and meetings. His participation played an important part in the committee's ability to conduct oversight and, ultimately, to improve benefits and care for our Nation's veterans. Senator Burris's work on the committee was a great service to the men and women of Illinois who wore the Nation's uniforms, as well as to servicemembers, veterans, and their families nationwide.

CARTE GOODWIN

Senator Carte Goodwin handled a tough assignment and filled in like an experienced professional. He is a gentleman who knows about and cares for West Virginia deeply, so much so that he moved to Washington to serve and advocate for his State in an emergency situation. Senator Goodwin was friendly and cordial and made himself as helpful as possible during his short tenure.

BLANCHE LINCOLN

My good friend Senator BLANCHE LINCOLN was a passionate advocate for Arkansas throughout her Senate service. She is recognized as a fighter who speaks her mind. She cares deeply about American families. She worked hard on her committee assignments. She has been a champion for farmers, veterans, seniors, and Americans of all

stripes. She can be proud of her service. I thank her for her contributions to this institution and her friendship.

EVAN BAYH

Senator EVAN BAYH served with me on the Committees on Armed Services and Banking, Housing, and Urban Affairs. He showed his commitment to our national security when he took over the Armed Services Readiness Subcommittee at the beginning of this Congress. He was a strong moderate voice for the people of Indiana.

ARLEN SPECTER

I served with Senator ARLEN SPECTER for many years on the Veterans' Affairs Committee. He twice served as the committee's chairman, and, in recent years as I chaired the committee, he remained a strong and vital force working on behalf of our Nation's veterans, on both sides of the dais. He has been an institution in the Senate for many years, and it has been a genuine pleasure working with him. I appreciate and applaud his long, dedicated service to those who have worn our Nation's uniforms.

SAM BROWNBACK

I will miss my good friend Senator SAM BROWNBACK. Despite sitting across the aisle from me, he was always approachable and friendly. I know him to be committed to helping people in Kansas and across the country. He felt so strongly about ending homelessness that I remember him spending the night on the street with a group of homeless people to experience first hand the obstacles they face. That is dedication. He cares about people. Senator BROWNBACK should feel proud about all that he has accomplished to make life better for people in our country.

RUSS FEINGOLD

I want to thank Senator RUSS FEINGOLD for his 18 years of service in the U.S. Senate and his time in public service before that. Senator FEINGOLD has worked with me as an outspoken advocate for so many of the issues that I hold dear, such as protecting Americans' personal privacy and good government.

In the wake of the terrorist attacks of September 11, 2001, there was a rush of strong executive branch moves for authority. Senator FEINGOLD repeatedly joined me and other Members in ensuring civil liberties and privacy protections of all Americans were observed. He was a leader in protecting liberties during debate over reforming the Foreign Intelligence Surveillance Act. When the Department of Homeland Security was established, we worked to ensure that it had a strong official dedicated to protecting privacy. In 2007 I authored the POWER Act, which provided the Homeland Security Chief Privacy Officer with additional powers, and Senator FEINGOLD was a strong supporter, cosponsoring

that bill which then became law in 2008.

I must also mention how proud I was to support Senator FEINGOLD on perhaps his most lasting accomplishment—campaign finance reform. The election process can be opaque, and it is full of more money than ever. However, in the last decade, many of the new campaign finance rules championed by Senator FEINGOLD have curbed many abuses which used to be common. While much work is left to be done in this area, especially with the recent Citizens United ruling, this country and voters owe a tremendous thank-you to Senator FEINGOLD.

BYRON DORGAN

It has been a pleasure to serve with Senator BYRON DORGAN of North Dakota, and I will miss him greatly. I have had the honor to work alongside Senator DORGAN on two committees of great importance to both of our States, the Committee on Indian Affairs and the Committee on Energy and Natural Resources.

Senator DORGAN and I served on the Senate Committee on Indian Affairs together beginning in the 104th Congress. During his tenure as chairman during the last 4 years, I saw firsthand the leadership skills and compassion he possesses. Chairman DORGAN has shown his dedication to all of our Nation's indigenous people: American Indians, Alaska Natives, and Native Hawaiians. Thank you Senator DORGAN for your efforts to improve the quality of life for America's native people.

I am grateful that Chairman DORGAN has been a strong ally to Hawaii's indigenous people, the Native Hawaiian people. He has stood with Senator Daniel Inouye and me as we have worked to have the United States fulfill its obligations to all of its Native people, including Native Hawaiians. Mahalo, Chairman DORGAN, for your aloha to the people of Hawaii.

Senator DORGAN is a great statesman and a gentleman who has served the people of North Dakota in the U.S. Congress for three decades. During our combined service on the Committee on Energy and Natural Resources, I repeatedly saw Senator DORGAN's passion for the people of North Dakota as he worked to make his State a pioneer in renewable energy efforts. For those of us who serve in the Senate, we work tirelessly to advance the needs of not only our home States, but the whole Nation. Senator DORGAN has proven himself both a great North Dakotan and a great American.

The Senate will be a much different place without his leadership, and I know that I am joined by many of my colleagues in wishing him many successes in the future. Many of my constituents in Hawaii will miss his leadership just as his own constituents in North Dakota will.

Mahalo for your friendship and for your service to our Nation. On behalf

of Millie and our family, I send our aloha to you and Kim and your family. We wish you the best as you begin a new chapter in your lives.

CHRIS DODD

I am proud to express my great appreciation and gratitude for Senator CHRIS DODD's service to our country. He brought extraordinary leadership to the Senate that enabled us to make meaningful improvements to the education and economic security of Americans.

I traveled with Senator DODD to South America early in my tenure here in the Senate. Although I enjoy traveling, each time I go abroad I worry about my ability to communicate with my foreign hosts. But, on that trip, the language barrier was not an issue because, as I quickly found out, Senator DODD is fluent in Spanish.

Senator DODD recognizes the importance of language skills and cultural knowledge, not only to survive in the world but to prosper in it. I have truly appreciated his great respect for other cultures and passion for learning. Senator DODD has lent tremendous support to my national foreign language coordination bill, which aims to equip Americans with foreign language skills and knowledge of other cultures. It is just one example of Senator DODD's outstanding work to provide our children with the knowledge and skills they need to achieve prosperity and economic security.

I would also like to thank Senator DODD for his leadership in the 111th Congress. We are making historic and substantial improvements to the health care delivery system and the regulation of our financial system, and neither would have been possible without Senator DODD's guidance, persistence, good judgment, and support.

Senator DODD has been selfless and generous in his efforts to increase access to health care services everywhere in our country, including Hawaii. I am grateful that Senator DODD has always recognized the unique health care needs and challenges of my home State. His contributions have been vital to the protection of Hawaii's system of employer-provided health insurance and ensuring that health care providers in Hawaii are more capable of meeting the uncompensated costs of providing care for the poor and uninsured.

I am proud to have served alongside Chairman DODD on the Senate Committee on Banking, Housing, and Urban Affairs, where he has been a tireless leader and an outstanding consumer advocate. The Dodd-Frank Wall Street Reform and Consumer Protection Act rightfully bears his name because no one has done more to educate, protect, and empower consumers and investors. Through his support, the act makes significant investments in financial literacy and education, and it

provides meaningful disclosures and protections that will allow consumers to make better financial decisions. Americans are now better protected against abusive, predatory, and anticonsumer business practices than they were because of Senator DODD's unmatched contributions. Senator DODD is a great champion of consumers, investors, and financial literacy, and I am honored and humbled to have had the opportunity to work together with him on the Banking Committee.

Since I joined the Senate 20 years ago, Senator DODD has been a great colleague and ally. More importantly, he is kind, generous, trustworthy, and a loving family man, and I am proud to call him my brother and my friend. Although I am saddened to bid him farewell today, I wish Senator DODD well in all of his future endeavors.

Before I close, I would also like to thank and applaud Senator DODD's family Jackie, Grace, and Christina. They have been a source of strength, happiness, and calm for their husband and father.

Mahalo nui loa, CHRIS, for your service and friendship. Millie and I send our warmest aloha to you and your family, and we wish you well as you begin this new chapter of your lives together.

GEORGE VOINOVICH

Finally, I would like to pay tribute to my dear friend and brother, Senator GEORGE VOINOVICH, as he prepares to retire from public life after more than 40 years of dedicated public service.

Senator VOINOVICH's retirement is a sad occasion for me, and it is difficult to put into words what Senator VOINOVICH's friendship has meant to me over the years. Senator VOINOVICH and I have worked so well together on the Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia for many years, where we have both had the honor of serving as chairman. It has truly been a pleasure to serve with him as we have addressed so many difficult government management issues.

Senator VOINOVICH's background as the Governor of Ohio and the mayor of the city of Cleveland provided him with a unique perspective on the Federal Government's management and workforce challenges, and I believe his vast experience made our subcommittee more effective. On a light note, I know that one of Senator VOINOVICH's proudest moments as Governor was watching his beloved Cleveland baseball team reach the World Series for the first time in over 40 years. I am sure that Senator VOINOVICH will enjoy having more time to spend in his hometown of Cleveland during his retirement.

Senator VOINOVICH can take his grandchildren to see parks, buildings, and other improvements he helped

bring about in Ohio during his time as mayor and Governor, but there are few similar opportunities in Federal Government oversight and management. The tough management issues we have tackled seldom make front-page news. But that is what makes Senator VOINOVICH remarkable he chose to focus on the details of the government's toughest management challenges rather than more glamorous issues.

Like me, Senator VOINOVICH has always recognized that the Federal Government's most valuable resource is its workforce of dedicated men and women. I often refer to him as the "father of human capital." We have worked closely together on a large number of workforce initiatives, with the common goal of making the Federal Government the employer of choice in this country. I am especially proud of our work to reform the broken Federal hiring process. I will keep fighting in Congress for our bill—the Federal Hiring Process Improvement Act, S. 736. In the meantime, I am pleased that our joint oversight on this issue has spurred considerable progress in the executive branch.

Senator VOINOVICH and I also worked together on an amendment to last year's National Defense Authorization Act, which included my Non-Foreign Area Retirement Equity Assurance Act, along with several other Federal workforce provisions. I cannot overstate how much Senator VOINOVICH's support for providing retirement equity has meant to the thousands of Federal employees in my home State of Hawaii.

Senator VOINOVICH simply has too many Federal workforce accomplishments to discuss all of them today. However, I would like to point out that he authored the Federal Workforce Flexibility Act to modernize Federal human capital planning, pay, and benefits; the Federal Employee Student Loan Assistance Act; the Senior Executive Service Performance Improvement Act; and many other important bills that have improved the government's ability to provide services.

In addition to his focus on important workforce issues, Senator VOINOVICH has worked tirelessly on complicated management challenges. Our subcommittee has held a total of seven hearings on reforming the security clearance process. This work has been a tremendous success, eliminating the clearance backlog, dramatically reducing processing times, and improving investigation quality. These improvements enhance our national security and help the Federal Government hire the right people for the right jobs.

I am also proud of our work together in establishing Chief Management Officers at the Department of Defense and the Department of Homeland Security. It is vital that we maintain strong focus on management at these critical

departments. I could easily point to so many other things that Senator VOINOVICH has accomplished during his Senate service.

I want to express my deep appreciation to Senator VOINOVICH for his friendship and partnership over the years. He has been a model public servant, and our country is a better and safer place because of his work. I wish Senator VOINOVICH, his lovely wife Janet, and his entire family joy and happiness during his richly deserved retirement.

In closing, the end of this Congress is bittersweet, with so many talented and dedicated public servants leaving this institution. All of them made a lasting impact on the Senate and on our country. Mahalo nui loa, thank you, for all your work.

JIM BUNNING

Mr. CONRAD. Mr. President, I rise today to pay tribute to my colleague, Senator JIM BUNNING. After 12 years in the U.S. Senate, Senator BUNNING is retiring from this chamber at the end of this session.

JIM has led a remarkable life. As a baseball fan, I am especially envious of his first career as a Major League pitcher. He was a classic, hard-nosed competitor, which foreshadowed his style as a public servant later in life. My favorite story about Senator BUNNING's baseball career is that he was the only pitcher to strike out Ted Williams three times in a single game. He is also one of only seven pitchers to throw a perfect game and a no-hitter. Senator BUNNING retired from the sport in 1971 with 2,855 career strikeouts, which, at the time, was the second highest total of all-time. He was rightfully inducted into the Hall of Fame in 1996.

Following his outstanding baseball career, JIM went into politics. And, once again, he was a winner. He has held office at the local, State, and Federal level. After serving Kentucky's 4th District for 12 years in the House of Representatives, Senator BUNNING began his service in this Chamber in 1999. I have served with him on the Budget and Finance committees, and have always known him to freely speak his mind and ask tough questions. He remained true to the fierce style he first demonstrated as a young pitcher who was not afraid to brush back a hitter.

Nor was Senator BUNNING intimidated by the often arcane and technical issues we confronted as members of the Finance Committee. Over the years we have served there as colleagues, we have worked productively on a wide range of legislative proposals that included the taxation of life insurance companies, shortening the depreciation period for farm equipment, and capital gains treatment for songwriters, just to name a few. He was always willing to reach across the aisle to help

achieve a common objective a long-standing Finance Committee tradition.

Senator BUNNING will now enter a new phase in his life, and I am certain he will now have the luxury of spending time with his wonderful family. JIM has the good fortune of being married to his childhood sweetheart, Mary. They met in grade school, and I am impressed that JIM knew at such a young age that he found a truly special person. I find Mary to be an absolutely lovely woman and admire their lasting love for each other. Mary is the mother of their nine children, and JIM and Mary now share 40 grandchildren. I wish JIM, Mary, and their entire family many years of health and happiness.

BLANCHE LINCOLN

Mr. President, I come to the floor today to recognize one of our departing colleagues, the senior Senator from Arkansas, Mrs. BLANCHE LAMBERT LINCOLN.

A 7th generation Arkansan and a native of Helena, AR, Senator LINCOLN grew up on a cotton and rice farm. She spoke often of her experiences on the farm, and fondly recalled how she was a farmer's daughter. It was her experience helping her father work the land that taught her the same core values she brought to the Senate—honesty, fairness, hard work, and common sense.

Senator LINCOLN is the kind of colleague you want to have in the Senate. She is pragmatic. She is rational. And she is reasonable. If you ever had an issue with her you needed to resolve, you could count on her to be someone you could work with. In fact, she is well known as someone who tried to bridge the partisan divide. She even cofounded and cochaired an organization dedicated to working across the aisle to bridge differences and create practical solutions.

Senator LINCOLN first came to Congress in 1992 as a Representative for Arkansas's First Congressional District, serving two terms. Following the birth of her twin boys, Reece and Bennett, she made a successful run for the Senate in 1998.

During her time here in the Senate, she served her home State of Arkansas with great distinction, serving in the same seat as the late Senator Hattie Caraway, the first woman ever elected to the Senate. Like Senator Caraway, who also made history for being the first woman ever to be chairman of a Senate committee, Senator LINCOLN made history in 2009 by becoming the first woman in the 184-year history of the Senate Agriculture Committee to be named chairman.

Senator LINCOLN and I were able to collaborate on many issues during her time in the Senate because we served together on two committees—Agriculture and Finance. On the Agriculture Committee, she was a fierce advocate for her State's agriculture in-

terests, particularly rice and cotton producers. Since farm bills tend to be more regional than party driven, she always represented her producers with vigor. She was a key player in the 2002 and 2008 farm bills, both of which have been widely popular throughout the countryside in the North and the South.

She also looked out for those who are less fortunate, making hunger in our country a signature issue of hers. This year she pushed through the Senate a landmark bill to improve school lunch programs. The child nutrition reauthorization bill she authored contains almost 10 times more new funding than the 2004 child nutrition reauthorization. It includes \$3.2B for the first school lunch program base-level reimbursement increase since 1973. I hope the House will follow the Senate's lead and pass this important bill yet this year.

She also served as the chair of Rural Outreach for the Senate Democratic Caucus. It was in this role that we collaborated to introduce the Rural Revitalization Act, a bill to boost the economy in rural America in the wake of the recent recession. This bill made significant investments in rural development priorities, including infrastructure projects, energy programs, housing assistance and rural health care.

Senator LINCOLN also has been a champion for rural health care issues as a valued member of the Senate Rural Health Caucus. During her time in the Senate, she successfully fought to protect small businesses, health care providers, and, most importantly, seniors in rural communities. Because of Senator LINCOLN's dedication, critical improvements to the Medicare Program were enacted into law. In particular, senior women now have improved access to bone density tests, osteoporosis screenings, and other preventive services.

Senator LINCOLN also authored the Elder Justice Act, legislation enacted into law this year which authorizes new efforts to prevent, detect, treat, and prosecute elder abuse and exploitation. Her work as a lead author of the SHOP Act led to the adoption of tax credits and small business health insurance exchanges in health reform. These legislative accomplishments and many others will leave this country with a lasting legacy of Senator LINCOLN's commitment to improving the health of Arkansans and of all Americans.

On the Finance Committee, Senator LINCOLN was a strong and effective advocate for working families. She worked hard to make sure that the full child tax credit was available to as many low-earning workers with children as possible. She knows how valuable that benefit is for parents who really have to struggle to support their families.

Senator LINCOLN and I share a commitment to promoting savings for retirement. She shares my concern that retirement income security is a growing challenge for the baby boomers who are beginning to head into retirement right now as well as the generations that are following. An important focus for her has been the promotion of employee stock ownership plans, which not only help small businesses—including many successful ones in my State of North Dakota—to grow but also help the employee-owners build a separate pool of retirement savings that they can use during their retirement years.

It is unfortunate that we are losing such a capable and pragmatic colleague as Senator LINCOLN. It will be sad to see the Senate without her next year, but I know nothing but good things await her in her future. I wish her the best.

RUSS FEINGOLD

I would like to pay tribute and recognize the accomplishments of my good friend Senator RUSS FEINGOLD of Wisconsin, who will be leaving the Senate at the end of this session.

Senator FEINGOLD has faithfully served the people of Wisconsin for the last 28 years, serving three terms in the Wisconsin State Senate and three terms in the U.S. Senate. During all of that time, he has never forgotten who put him in office. Every year, Senator FEINGOLD has held listening sessions in all 72 counties of Wisconsin. The input he received in those sessions was his guide for every issue he worked on in the Senate.

RUSS FEINGOLD has also been guided by his tremendous intellect. After growing up in Janesville, WI, he graduated from the University of Wisconsin-Madison and went on to receive a Rhodes Scholarship from Oxford University and a law degree from Harvard Law School.

To say that Senator FEINGOLD has been independent-minded in the Senate is an understatement. He has been a true maverick. He never let party or political pressure influence his efforts here.

The clearest example of this was his work on campaign finance reform with Republican Senator JOHN MCCAIN. After years of struggle, the Bipartisan Campaign Reform Act, known to most as the McCain-Feingold Act, was enacted in 2002. Although the Act continues to evolve and face challenges, it will forever change the landscape of political campaigns in this country. And Senator FEINGOLD has led other efforts to promote clean government, such as moving to electronic filing of campaign finance reports and fighting against lobbyists' gifts to lawmakers.

Senator FEINGOLD has also been an independent voice in the area of foreign policy. He spoke out eloquently against the Iraq war and was one of 21 Democratic Senators to vote against

the Iraq war resolution. And, as a member of the Intelligence Committee and chairman of the Foreign Relations Africa Subcommittee, his opinion on matters related to Africa have carried an added weight.

Of course, I have known Senator FEINGOLD best from his work with me on the Senate Budget Committee. Since he joined the panel in 1997, he has been a powerful voice on the committee for fiscal responsibility. He was one of the leading advocates for restoring the paygo, or pay-as-you-go, requirement to ensure any new mandatory spending or tax cuts are fully paid for. And, in 2009, he introduced a comprehensive Control Spending Now Act, including several important spending reforms that have since been adopted.

It has been a true honor to serve alongside Senator RUSS FEINGOLD. He has made a tremendous contribution to this body, to his State of Wisconsin, and to our Nation. He will certainly be missed. I wish him all the best in his future endeavors.

KIT BOND

Mr. President, I want to join my colleagues in paying tribute to Senator BOND as he prepares to leave the Senate.

Senator BOND and I came to the Senate together in 1987. While we have not seen eye to eye on some issues, I have admired his passion and convictions as he worked to faithfully represent his State.

Even before coming to the Senate, Senator BOND had a distinguished career in public service for the State of Missouri serving as assistant attorney general, State auditor, and later as Governor. He cares deeply about his home State, which is evidenced by his long list of accomplishments in the Senate—a robust highway bill, targeted investments in public housing and infrastructure, and a strong national defense to name just a few.

Senator BOND and I have long shared a common interest in the Missouri River. Though we disagree on how it should be managed and the ability of our State's to utilize this resource, I have enormous respect for my colleague for his passion in defending Missouri's claims to this resource.

In particular, I deeply appreciated Senator BOND's work with me on the Dakota Water Resources Act. This legislation was critical for the economic future of North Dakota. During discussions on the bill, he was a tenacious advocate for his State's interests. His diligence in representing his State, coupled with his willingness to gain a better understanding of the water needs of my State, ultimately helped us reach a compromise acceptable to both States. The people of Missouri can be proud of his work fighting for their interests.

Senator BOND has been a man of his word who served his State and country

with distinction. I wish him well in his future endeavors.

GEORGE VOINOVICH

Mr. President, I would like to take a moment to recognize our retiring colleague from Ohio, Senator GEORGE VOINOVICH.

GEORGE VOINOVICH has led a remarkable life of public service, stretching across all levels of government. Beginning in 1963, Senator VOINOVICH has made the people of Ohio his priority, serving as an assistant attorney general in Ohio, a member of the Ohio House of Representatives, Cuyahoga County commissioner, Lieutenant Governor of OH, Mayor of Cleveland, Governor of Ohio, and finally, U.S. Senator.

Throughout his career, Senator VOINOVICH has been a steady hand, guiding Ohio through difficult times. As mayor, he led the city of Cleveland out of bankruptcy and mismanagement through smart budgeting and pragmatic governing. As Governor, he led Ohio out of a recession and into more prosperous times, holding the State budget's growth to its lowest level in 30 years and overseeing the state's lowest unemployment rate in 25 years.

As Senator, he continued his commitment to fiscal responsibility, focusing on this country's exploding debt and long-term challenges. Senator VOINOVICH also fought for reform of our tax and entitlement systems as author of the SAFE Commission Act and co-sponsor of the Conrad-Gregg Bipartisan Task Force for Fiscal Responsibility Act. Warning about our Nation's fiscal crisis at a Budget Committee hearing in 2009, he testified courageously: "We must find a compromise and we must act now. Many people believe that this generation of Americans will be the first whose standard of living will be less than those before them. Our failure to act now will guarantee that they are right." With Senator VOINOVICH's retirement, the Senate is losing one of its strongest and clearest voices on the importance of fiscal responsibility today to keep our country strong and growing into the future.

I was also pleased to join with Senator VOINOVICH in introducing the Truth in Budgeting Act. Our bill would have put a stop to the fiscally reckless practice of using trust fund surpluses to pay for tax cuts and other spending priorities. Senator VOINOVICH always recognized that our current fiscal policies are putting future generations in the position of having to borrow trillions of dollars to make good on our Social Security, Medicare and other commitments.

I have always respected his commitment to principle and his willingness to take independent positions, regardless of popularity or political expedience. He has rejected the knee-jerk partisan politics that unfortunately have taken hold of Washington over

the past decade, opting instead for reasonable, level-headed discourse. Always willing to reach across the aisle, Senator VOINOVICH has spent his 12 years in the Senate being an honest broker and a true public servant. He will be greatly missed.

I wish a happy and healthy retirement to GEORGE and his wife of 47 years, Janet, and congratulate him on an outstanding career.

JUDD GREGG

Mr. President, I have come to the floor today to pay tribute to Senator JUDD GREGG of New Hampshire, who will be leaving the Senate at the end of this session.

Although I am happy for JUDD and his wife Kathy, as they set off on the next stage of their lives, JUDD's retirement represents a great loss for the U.S. Senate, for the people of New Hampshire, for the entire Nation, and for me personally.

Simply put, JUDD has been an outstanding public servant. He has worked tirelessly and effectively on behalf of his State, first as a Congressman, then as Governor, and then as a Senator. The people of New Hampshire rewarded his faithful service by repeatedly electing him by wide margins. When he was reelected to the Senate in 2004, JUDD received the highest number of votes in New Hampshire history.

JUDD has been a true leader in the Senate. Few Members have the breadth of knowledge and insight that he holds on the key issues that come before this body. Whether it be the budget, education policy, or banking reform, he has been at the center of the debate, and Members on both sides of the aisle seek out and respect his judgment.

I have come to know JUDD best for his work on the Budget Committee. He has been on the committee for all of the 18 years he has been in the Senate. He served as chairman in 2005 and 2006, after Senator Nickles retired, and has been the ranking member ever since.

I could not have asked for a better partner on the committee. It has been a pleasure to work closely with him. Our staffs have also worked very well together, which is a testament to the leadership of JUDD and the example he set in his work with me.

And JUDD has tremendous integrity. His word is his bond.

Although we haven't always agreed on policy, JUDD has always upheld the highest standards of the Senate by knowing how to disagree without being disagreeable. We have had fierce debates over the years, but we have never let that affect our ability to work together.

Of course, the highlight of our work together came in our legislative effort to adopt a bipartisan fiscal task force to address the country's long-term debt crisis. That joint effort was truly one of the most rewarding experiences of my career in the Senate. I will never

forget the days we spent discussing the proposal during a trip in 2006.

While we were not able to pass our legislation in the Senate, our effort resulted in the creation of the President's fiscal commission. It has been an honor to work alongside JUDD in this fight. Like me, JUDD cares deeply about our nation's fiscal future and understands the danger of rising Federal debt. He has been a tenacious advocate of fiscal discipline and putting the budget on a sustainable long-term path.

JUDD is a true-blue fiscal conservative. But that has never stopped him from reaching across the aisle to work with Democrats. In addition to working with me, JUDD teamed up with Senator Ted Kennedy in 2001 to co-author the No Child Left Behind Act. More recently, he teamed up with Senator WYDEN to write the first major bipartisan tax reform legislation in decades, the Bipartisan Tax Fairness and Simplification Act.

Notably, JUDD also played a key role in the bipartisan negotiations that led to the creation of the TARP legislation. TARP was widely criticized during this past election season, but the results are now in, and it is clear that the TARP program was successful in stabilizing the financial sector and helping to prevent the economy from dipping into a full-blown depression. The success of the program and the repayments now coming into the Treasury can be attributed, at least in part, to JUDD's insistence on including provisions in the legislation to protect American taxpayers.

Finally, JUDD's retirement means more to me than just losing a great partner on the Budget Committee. I am also losing a great friend. At a time when Washington is filled with so much partisan rancor and disagreement, we need more individuals from across the aisle to form friendships like ours.

JUDD, I wish you all the best in your retirement. You will truly be missed.

BOB BENNETT

Mr. CORNYN. Mr. President, I join my colleagues in appreciation and admiration of Senator BOB BENNETT.

Senator BENNETT understood the perspectives of America's small business owners. After all, he was one of them. As CEO of Franklin Quest, BOB grew the company from 4 employees to over 1,000. During his tenure the firm became one of the best known providers of time management seminars and products, and became listed on the New York Stock Exchange.

Reducing obstacles for small business owners has been one of Senator BENNETT's top priorities in Washington. In his first 6 months of service, he took to the floor to identify three ways the Federal Government was growing at the expense of the entrepreneur. Those three obstacles—increased regulation,

increased taxation, and increased difficulty in capital formation—remain challenges to job creators today, and BOB has never stopped voicing their concerns.

Senator BENNETT was elected to the U.S. Senate from his beloved State of Utah, which his father, Senator Wallace Bennett, represented for many years. And by the time I was elected to the Chamber, Senator BENNETT had already been one of the "wise ones" in his own right for many years. I have long admired BOB's sincere appreciation and respect for the traditions and history of the Senate—to which he and his father have both contributed tremendously.

Throughout his service here in Washington, BOB's family has helped keep him grounded—all 6 children and 20 grandchildren. Sandy and I wish the best for BOB and his wife Joyce.

SAM BROWNBACK

Mr. President, I join my colleagues in appreciation and admiration of Senator SAM BROWNBACK.

SAM's commitment to public service grew out of the farmlands where he was raised and where his parents still reside. As a student, SAM earned the respect of his peers as State president of the Future Farmers of America and student body president at Kansas State University. The people of Kansas have put their trust in SAM multiple times: as their Secretary of Agriculture, as one of their members in the House of Representatives, and for 14 years in the U.S. Senate.

SAM drew upon his experience in Kansas to shape legislation here in Washington. He offered legislation to create more opportunity for America's farmers, and to reduce foreign trade barriers to their products. In time SAM rose to become a leader on the Senate Appropriations Committee, as well as the Energy and Natural Resources Committee.

SAM also has a heart for victims of disease and human rights violations all over the world. He proposed incentives for drug companies to offer discounts for life-savings medications for people of developing nations. He boldly called for the end to human rights violations in Darfur and Iran. I have been proud to stand with him on numerous pieces of human rights legislation, including the Iran Democratic Transition Act in this Congress.

SAM's tenure in the Senate has come to an end, but not his service to the people of Kansas. They overwhelmingly called him back home to serve as their Governor, and begin the next chapter in his remarkable career. Sandy and I wish him and his family all the best.

JUDD GREGG

Mr. President, today I would like to join with my colleagues in appreciation and admiration of Senator JUDD GREGG of New Hampshire.

JUDD is a native of New Hampshire and after practicing as an attorney in

Nashua, where he was born, he began a devoted career of public service to his State. Before coming to the Senate, JUDD served as a member of his State's executive council, as a Representative, and then on to become, as his father Hugh Gregg had been before him, Governor of the Granite State.

JUDD was a successful and accomplished Governor. When he left Concord to join the Senate, he left his State with not only a balanced budget but a surplus as well. His leadership and record of fiscal responsibility has served as an example for our entire Nation to follow.

His expertise on budgetary and fiscal issues has benefitted all his fellow Senators on the Budget Committee. As both chairman and ranking member of the committee, JUDD put together both excellent staff and the resources necessary to advance our goals of cutting spending, balancing the budget, and reducing our nation's debt. With steps such as his successful sponsorship of the fiscal year 2006 budget resolution, which reduced mandatory spending for the first time in years, hard-working American taxpayers have saved billions thanks to Senator GREGG's efforts.

Senator GREGG and I worked hard together in fighting to reduce our government's burden on taxpayers and the excessive spending that fuels it. We have both fought hard for our government to take our financial future seriously and to make the tough decisions necessary for it to be secured for our generation and for many more to come.

I would like to thank Senator GREGG again for his leadership on these important issues, and his extensive service to the people of New Hampshire. My wife Sandy and I wish Senator GREGG, his wife Kathy, and their family all the best.

KIT BOND

Mr. President, I join my colleagues in appreciation and admiration of Senator KIT BOND. Kit has been a faithful public servant to the people of Missouri for many years. I feel privileged to have had the opportunity to serve alongside him in the U.S. Senate.

Before being elected to this body, KIT made a strong impression as a student, a lawyer, and a public servant. He graduated Cum Laude from Princeton University, and was first in his law school class at the University of Virginia. He practiced law as an assistant attorney general for the State of Missouri under John Danforth, who himself was a future Senator from the "Show-Me State." His colleagues at that time included John Ashcroft, who also went on to serve in this Chamber, and future Supreme Court Justice Clarence Thomas.

KIT often jokes that he transitioned from the second most hated career—a lawyer—to the first: a politician. The people of Missouri have repeatedly affirmed that he made the right choice.

They elected him to be their State Auditor. They elected him as the youngest Governor in Missouri's history. And they have elected him four times to represent them in the U.S. Senate.

Senator BOND brought many of his passions as Governor to this Chamber, including his longtime support for Missouri's successful Parents as Teachers Program. He also kept a special place in his heart for issues relating to children. In time he rose to become a senior member of the Appropriations Committee as well as the Environment and Public Works Committees.

Senator BOND and I worked most closely together on issues relating to national defense and foreign affairs. In this Congress alone, he and I jointly introduced the Military Voting Protection Act of 2009, the Iran Democratic Transition Act of 2010, and a resolution affirming Israel's right to self-defense. His leadership as vice chairman of the Select Committee on Intelligence has been a lasting contribution to the security of our Nation.

KIT has helped shape legislation that will govern our Nation for years to come, but his spirit is what I will miss the most. As he has said: "Serving Missouri has been my life's work. I have walked the land, fished its rivers and been humbled by the honesty and hard work of our people. The highest honor is to receive and safeguard the public trust."

In his retirement, KIT will now have the opportunity to focus his time on his other loves: his wife Linda, his son Sam, and his new daughter-in-law Margaret. The Mizzou Tigers and the St. Louis Cardinals will also likely see him in the stands more often. Sandy and I wish both KIT and Linda the very best as they continue their journey together.

JIM BUNNING

Mr. President, I join my colleagues in appreciation and admiration of Senator JIM BUNNING.

Millions of American baseball fans know JIM as one of the most accomplished athletes of his generation. JIM pitched for both the Detroit Tigers and Philadelphia Phillies during his 17-year career. He was the second pitcher in history to notch 100 wins and strike out 1,000 batters in both the American and National Leagues, and when he retired he was second on the all-time strikeout list. His impressive career earned him a spot in the Baseball Hall of Fame.

While he wore the uniforms of teams in Michigan and Pennsylvania, JIM's heart never left his native Kentucky. Six years after retiring from baseball, JIM decided to run for public office and won a city council seat in Fort Thomas, KY. He was later elected to the Kentucky State Senate and became the Republican leader. Kentuckians then elected JIM to the U.S. House of Rep-

resentatives for the 4th District of Kentucky where he served until 1998. During his time in the House, JIM committed himself to defending Social Security as chairman of the Social Security Subcommittee. His unwavering stance on protecting Social Security contributed to the establishment of the Social Security Administration as a separate agency.

JIM was elected to the Senate in 1998 and quickly became a strong voice for fiscal responsibility. He became the first native Kentuckian on the Finance Committee in 40 years, and also served on the Budget Committee—and in both capacities I had the opportunity to work with him. JIM also served as chairman of the Banking Committee's Economic Policy Subcommittee, where he authored legislation that reformed the National Flood Insurance Program and made it possible for millions of Americans to protect their homes affordably.

JIM's passion for policymaking has helped him shape legislation that will govern our Nation for years to come, but his greatest legacy is his family. He and Mary raised 9 children and have 35 grandchildren and 4 great-grandchildren. Sandy and I offer our best wishes to the entire BUNNING family, and we thank him for his years of service to our great Nation.

GEORGE VOINOVICH

Mr. President, I join my colleagues in appreciation and admiration of Senator GEORGE VOINOVICH.

Senator VOINOVICH represents the great State of Ohio—and in some sense he has never left. He was born and raised in Cleveland, earned a bachelor of arts degree in government from Ohio University, and received a law degree from the Moritz College of Law at the Ohio State University. After more than four decades of public service, he and Janet still live in Cleveland with their family.

Before coming to Washington, Senator VOINOVICH established a long record of service to the people of the Buckeye State: as a member of the State legislature, a Cuyahoga County Commissioner, the Lieutenant Governor of Ohio, mayor of Cleveland and Governor of Ohio. As mayor of Cleveland, he helped turn around the local economy after the city declared bankruptcy in the 1970s. As Governor, George spearheaded economic recovery efforts after Ohio fell into a recession during the early 1990s. He helped reduce Ohio's unemployment rate to a 25-year low and maintained the lowest budgetary growth levels in 30 years. Along the way, he became the only person to hold the highest leadership positions in both the National Governors Association and the National League of Cities.

The people of Ohio sent GEORGE to Washington to serve in the U.S. Senate in 1998 and then reelected him 6 years

ago in a landslide victory. Senator VOINOVICH's policy accomplishments reflect his dedication to maintaining fiscal responsibility, enhancing national security, increasing America's global competitiveness, and improving the federal government's efficiency. His Mortgage Relief Act of 2007 was the first piece of legislation to be signed into law that aimed to lessen the impact of America's foreclosure crisis.

Senator VOINOVICH has also been a strong voice for America's interests and values all over the world. He has been a strong proponent of NATO expansion, U.N. reform, and U.S. public diplomacy efforts. He has also spoken out strongly against global anti-Semitism, racism and other forms of intolerance.

Sandy and I wish all the best to GEORGE and Janet, as well as their three children and eight grandchildren. And we thank GEORGE for his many years of service in the U.S. Senate.

JIM BUNNING

Mr. DEMINT. Mr. President, I rise in tribute to Senator JIM BUNNING, who is retiring after honorably serving the people of Kentucky for 24 years.

Throughout his political career, JIM has been a fierce taxpayer's advocate. A bold defender of life and protector of families. A small business ally. And, a courageous critic of bad government policy.

As the targets of his criticism have learned, JIM's words can sometimes be sharp. That is because cold, hard truths have sharp edges and JIM BUNNING speaks in cold, hard truths.

Even when it comes to his own party.

In the summer of 2008, shortly after a Republican Treasury Secretary obtained the authority to pump unlimited money into Freddie Mac and Fannie Mae, JIM was rightfully upset. "When I picked up the newspaper yesterday, I thought I woke up in France," he told the Secretary in a hearing. "But no," JIM said, "it turned out it was socialism here in the United States."

JIM often asked simple questions that were easy to answer truthfully and didn't tolerate equivocation. In the case of the Fannie and Freddie bailouts, he asked the Treasury Secretary, "Where will the money come from?"

The Treasury Secretary said it was better to "be unspecified and enhance confidence in the market."

JIM asked again saying that "doesn't answer the question. Where is the money going to come from if you have to put it up?"

There was more waffling, but JIM finally pushed the Treasury Secretary to admit the money was going to come from the taxpayer. The taxpayers were going to pay.

He later called for the resignation of that Republican Treasury Secretary because he was, as JIM put it, "acting like the minister of finance in China."

"No company fails in Communist China, because they're all partly owned by the government," JIM noted.

JIM has also been a brave critic of the Federal Reserve. He has told the Fed Chairman, who was appointed by a Republican President and helped orchestrate bailouts for those considered too big to fail that, "You are the definition of a moral hazard."

"Your Fed has become the creature from Jekyll Island," JIM said. And then he asked for the Fed Chairman's resignation, too.

JIM has performed a great public service by bringing attention to the economic damage being caused by the Fed with cheap money when no one else would. He was there calling for more oversight of the Federal Reserve long before it became a Tea Party cause and he deserves credit for driving the issue into the mainstream.

As Senator, you could say JIM's approach has been direct as the fastballs he threw that made him a major league, Hall of Fame pitcher. When the Democrats tried to pass off phony paygo rules as real reform, JIM exposed it as a trick pitch. It was a gimmick to fool Americans into thinking they would pay for their big-spending plans.

The Democrats said paygo would obligate Congress to offset any new spending with new revenues or spending cuts elsewhere in the budget. Soon after, they tried to pass \$10 billion in unpaid for unemployment extensions. Moreover, the Democrats wanted to pass it by unanimous consent. Meaning, no public debate. No rollcall vote. No accountability.

The Democrats bet no one would oppose benefits for the unemployed in this bad economy. They believed, as they continue to, that they can keep giving out money without paying for it and without any consequences.

JIM did not concede. He objected and stood his ground on the Senate floor. And by doing so, he showed everyone what a sham paygo is. The Wall Street Journal called it "his finest hour."

BUNNING announced his retirement in July 2009, more than a year ago. He could have taken it easy during his last years in the Senate. He didn't have to tackle the Treasury, the Fed or insist unemployment extensions be paid for.

But, he did. JIM BUNNING, the Hall of Fame Pitcher, the distinguished Senator, father of 9 and grandfather of 40 cared too much for this country to sit this one out.

He said in his farewell speech that he prays the Members of Congress will stop spending our future generations into higher taxes and a lower standard of living than we have now. I pray for that, too.

Finally, I express my gratitude to Senator BUNNING for supporting the new Republican from his state who will inherit his Senate seat next year. JIM campaigned for someone to take his

place who would say no to bailouts, stop the takeovers, end the wasteful spending and bring down the national debt. The nation will benefit greatly by continuing to have a senator at JIM's desk who believes as much in the principles of free markets and freedom as JIM.

Thank you JIM for giving America your best until the very last inning.

SAM BROWNBACK

I rise in tribute to my good friend, Senator SAM BROWNBACK, who will soon be Governor SAM BROWNBACK.

Senator BROWNBACK leaves this Chamber as a man of character and success. He made a promise to the citizens of Kansas to only serve two terms in the U.S. Senate and he is honoring it.

He will continue to serve his constituents well, as he will soon join the ranks of Republican Governors who are committed to saving freedom and free-markets. SAM and his fellow Republican Governors will stand sentry in their state capitols, defending Americans from unaffordable mandates and unprecedented intrusions by the Federal Government.

The current Secretary of Health and Human Services, Democrat Kathleen Sebelius, left Topeka to come to Washington and impose an unconstitutional health care takeover on all Americans. I am confident Republican Governor-elect SAM BROWNBACK, who is leaving Washington for Topeka, will successfully fight for state rights in court and preserve freedom for Kansans.

SAM won on a platform of opportunity, accountability and responsibility—the very principles his State was founded upon.

His "Road Map for Kansas" is built on ideas to grow the economy, create private-sector jobs, improve education, reform the state government and support Kansas families. This is exactly the kind of leadership our nation so desperately needs. His five-point plan is a clear and bright as the tips of the stars on the Kansas flag.

In addition to the roadmap for Kansas, SAM has promised to institute a spending freeze for his State his very first month in office.

It has been an honor to serve alongside SAM, one of our nation's premier pro-life leaders. He knows no one should be denied the right to life—especially the unborn. As he said in a speech at the 2004 March for Life, "If we demean and degrade one human life, we demean and degrade all human life."

As a U.S. Senator, SAM relentlessly fought to protect the unborn. He was the principle sponsor of the Unborn Child Pain Awareness Act, the Prenatally Diagnosed Conditions Awareness Act, the Human Cloning Prohibition Act, and others. He has also worked to advance the Partial-Birth Abortion Ban Act, the Unborn Victims

of Violence Act, and the Born-Alive Infants Protection Act.

SAM has increased awareness about the joy of adoption. He can personally attest to it. He and his wife Mary and three children Abby, Andy and Elizabeth have welcomed two children in need of a loving home into their lives. The BROWNBACK's youngest son Mark is from Guatemala. Their youngest daughter Jenna is from China, where families are subjected to grave and callous one-child policy.

Thank you SAM for fighting for a better life for all of God's children.

As we bid him farewell, I would like to reflect on one short passage from his book, "From Power to Purpose." In it, SAM wrote "The heart of the matter is the human heart, which is where human goodness begins."

That shows the kind of heart SAM has for public service. His tenure in the U.S. Senate is marked by his compassion and care for his fellow man.

He will be dearly missed here in Washington. But, as Jesus said, "There are many rooms in my Father's house." And SAM is just moving to another room where he will continue to serve God.

GEORGE VOINOVICH

Ms. COLLINS. Mr. President, when GEORGE VOINOVICH came to the Senate in 1998, he brought with him a wealth of experience as a State legislator, county commissioner, mayor, and Governor. More important, he brought an independent mind, common sense, and a commitment to results.

Through more than four decades of public service, he has always been guided by the principle that a fundamental obligation of government is to honor its responsibilities to citizens. His goal has always been to ensure that those in public office "work harder and smarter, and do more with less."

But Senator VOINOVICH is revered here and at home for deeds, not words. As mayor, he brought Cleveland back from bankruptcy and led its transformation into a three-time All-America City. As Governor, he steered Ohio through the recession of the early 1990s, turned a State budget in the red back to black, and helped rebuild Ohio's industry and infrastructure for the 21st century.

From his executive background in local and State government, Senator VOINOVICH knew that any government is only as good as the people working for it. He has been a strong advocate for improved government management, and for recruiting, retaining, rewarding, and recognizing the best government workforce.

It has been my privilege to work closely with Senator VOINOVICH on the Homeland Security and Governmental Affairs Committee. He is devoted to protecting our Nation and our people.

Our committee's work was aided greatly by his leadership of the Subcommittee on Oversight and Government Management, and his conviction that government works only when it ensures that the right people have the right resources to get the job done. He has been instrumental in virtually every major civil service issue for more than a decade and has championed 17 pieces of legislation to transform and improve our Federal workforce.

Since coming to Washington, the "Workforce Senator" has been a watchdog for the interests of the taxpayers and of government employees. Early in his service, the Senior Executive Service Performance Improvement Act and the Chief Human Capital Officers Act recognized that the Federal Government must compete if it is to attract the best. In this Congress, the Federal Hiring Process Improvement Act addressed the need to streamline recruiting so that the right person can be hired at the right time.

And his efforts have been successful. A recent Federal employee survey on the best places to work found that the top three agencies—the Nuclear Regulatory Commission, GAO, and NASA—are the agencies with the personnel flexibilities Senator VOINOVICH worked to achieve.

I know how deeply GEORGE VOINOVICH cares about the men and women who serve as Federal employees because on many issues we have fought together. In particular, I want to recognize his role in pressing for pay for performance reforms in our Federal workforce. If we want an effective government, we must encourage excellence in our workforce, as Senator VOINOVICH clearly understands.

He has been an effective voice for fiscal discipline, for comprehensive tax and entitlement reform, and for enhancing America's competitiveness in a global economy. All of these issues and so many more demonstrate his commitment to honoring responsibilities and achieving results.

When Senator VOINOVICH announced early last year that he would not seek reelection, the outpouring of tributes was heartfelt and bipartisan. As one Ohio newspaper wrote, "Once he latches on to an issue, he doesn't let go until he is satisfied with the outcome."

Senator VOINOVICH's determination, combined with wisdom, experience, and decency, made him an outstanding U.S. Senator and public servant. I thank GEORGE VOINOVICH for his years of service and for his friendship, and wish him and Janet all the best in the years to come.

RUSS FEINGOLD

Mr. KOHL. Mr. President, I take a moment to say a few words about the junior Senator from Wisconsin, Senator RUSS FEINGOLD, who will be leaving the Senate at the end of this session. We have served together in the

Senate, working for the people of Wisconsin every day, since he was elected in 1992. But now Wisconsin is losing a powerful and thoughtful advocate that carried on the proud progressive tradition of Robert LaFollette.

RUSS came to the Senate by winning an upset election, running as an outsider. He famously wrote a promise to the people of Wisconsin on his garage door, and people responded to his sincerity. Keeping that promise has kept him close to the people of Wisconsin as he traveled to every county in the State once a year to hold a listening session. That kind of accessibility, and his pledge to raise his campaign money mostly from the people of Wisconsin, gives him a credibility and integrity that no one in the State can question.

Money and politics has always been an issue that RUSS felt passionately about. So it should be no surprise that his biggest legislative win was when he worked with Senator JOHN MCCAIN to put restrictions on campaign financing with the historic Bi-Partisan Campaign Finance Reform Act, better known as the McCain-Feingold bill. That legislation, like many of his stands over the years, didn't always make him popular with his colleagues, but it was the right thing to do to try and root out corruption and roll back the influence of the special interests. The American people will never have confidence in our system as long as they believe that a politician's support can be bought and sold. RUSS worked to restore confidence in our government and he should be commended for that.

He took a lot of unpopular positions over the years. Most notable was his sole opposition to the Patriot Act. He stood up for his ideals when it would have been easy to brush them aside. But that is the kind of person RUSS is. He was never willing to sacrifice his principles to do the politically easy thing. Our country is safer because of his work.

RUSS also has been a tough budget hawk, working tirelessly to bring down spending and give the next generation a debt-free future. He also helped form the current lobbying rules that restrict gifts, employment, and perks that can be given to members and staff by special interest lobbyists. These policies didn't always make him popular around here—and sometimes caused problems inside his own party—but he was willing to buck the system when he felt he had to.

Janesville should be proud of their hometown son who has accomplished so much. He leaves the Senate, but I hope he doesn't leave public service. His character and intelligence are needed by his community, State and country. We will miss him.

CHRIS DODD

Mr. LEVIN. Mr. President, occasionally in the career of a U.S. Senator, one is given the opportunity to shape

legislation that will bring historic change to our Nation. The Senators who have seized such opportunities stand among the Senate giants of our lifetime: "Scoop" Jackson. Hubert Humphrey. Everett Dirksen. Ted Kennedy.

As this Congress comes to a close, we must say goodbye to CHRIS DODD, a Senator who has seized such opportunities, one whose drive and dedication and wisdom have enabled us to bring great and needed change. Senator CHRIS DODD has been a good friend to me. He has been a leader to those who seek an America that is stronger, fairer and more just.

Senator DODD will be rightly remembered for his essential role in passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act. In the aftermath of a financial crisis that brought the nation's economy to a halt and threatened a second Great Depression, the need for Wall Street reform was clear, but so were the enormous obstacles to passage. In addition to honest disagreements about how best to proceed, we faced determined opposition from Wall Street, which wanted to maintain a status quo that put profits ahead of economic stability. All of us who participated in the debate over that bill know how complex and difficult it was to craft it, and we all have enormous hopes that this landmark bill will curb the excesses that cost so many Americans their jobs and homes and businesses in the financial crisis.

History also will mark Senator DODD's key role in passage of the Patient Protection and Affordable Care Act, a landmark step in the decades-long fight to ensure that every American has access to affordable health care. Taking up the baton for his dear friend, Senator Kennedy, Senator DODD provided strong and sure leadership, again in the face of obstacles that at times threatened the bill's very survival. Thanks to his dedication, health coverage is more secure and affordable for families who have it, and more accessible to families without it.

If Senator DODD had accomplished no other legislative victories than these two, he could rightly claim a place among the Senate's most effective legislators. But CHRIS DODD accomplished much more.

Millions of American families have benefitted from his work in enacting the Family and Medical Leave Act. Before this legislation became law in 1993, Americans faced wrenching choices between their responsibilities at home and at work. Despite two Presidential vetoes, Senator DODD continued fighting until he had succeeded. And today, American workers are able to give their families the time and attention they need without fear of losing their job.

Families and children have been at the heart of much of his work. The

child care and development block grant program, which he fought to establish, has helped millions of low-income families get the child care they so desperately needed. The Head Start program has been a career-long priority, and his hard work to ensure that Head Start remains strong has made a huge difference in countless lives.

His work on behalf of families extends to protecting them from predatory credit card companies. I worked closely with him in the fight for passage of the Credit Card Accountability and Disclosure Act, which provided tough new protections against unfair practices in the credit card industry.

Part of the reason for CHRIS DODD's extraordinarily successful legislative career is that people simply like working with him. He is good-natured, open and non-defensive, willing to listen to differing points of view. His openness is accompanied by an infectious sense of humor that has eased tense moments and helped us all take ourselves a little less seriously, which in turn has helped overcome some mighty serious impasses.

A common thread runs through all his signature accomplishments. Throughout his career, CHRIS DODD has been dedicated to the idea that compassion has a place in this chamber; that as we do our work, we should keep in mind that real families, with real problems, are looking to us for solutions; and that a Senator, with hard work and resourcefulness and teamwork, can make a difference in the lives of those families.

As CHRIS DODD's Senate career draws to a close, speeches will be given, portraits will be hung, someday statues will be raised, but the ultimate monument to his Senate career will be the mother or father who has time to care for a sick child because of the Family and Medical Leave Act. It will be the parent who doesn't have to choose between putting food on the table or providing health insurance for his children. It will be the child who excels in the classroom because of Head Start. The monuments to CHRIS DODD will be the millions of Americans whose lives are safer, more secure and more prosperous because of the work he has done here. No Senator could ask for more meaningful tributes. I will miss his wisdom and his humor as we conduct business here, but I will continue to value his friendship. I wish him and his wonderful family the happiest of times in all the years to come.

RUSS FEINGOLD

Mr. President, true bipartisanship has been in sadly short supply in this Chamber recently. Sadly, at the end of this Congress, the supply of bipartisanship will be a little lower, because we will no longer have the benefit of RUSS FEINGOLD's presence in the Senate.

Senator FEINGOLD's service to the Senate demonstrates that one need not

abandon strongly held convictions to reach bipartisan solutions. His example proves that disagreeing with someone on one issue need not prevent working with them on another issue. He has shown that one can act as a good steward of taxpayer dollars and a careful advocate for fiscal responsibility without leaving behind the working families who need us to stand up for them.

There are many examples of Senator FEINGOLD's search for bipartisan solutions, but justifiably, he is best known for the McCain-Feingold campaign finance legislation. The assault on this legislation in the courts should not distract us from its wisdom. This bipartisan legislation was based upon the inherently American and inherently democratic notion that elections should be decided by the will of the people, and not because of the influence of wealthy donors or moneyed interests. This is a notion that is not Republican or Democratic, not liberal or conservative. It relies not on party loyalty or ideological fervor, but on a sense of justice. That sense of justice is central to what Russ Feingold has brought to the Senate.

Likewise, the civil rights of American citizens are not a matter of party or ideology. I admire Senator FEINGOLD's unflagging commitment to those rights, and his efforts to find a reasonable balance between protecting our safety and preserving our freedom.

Now, Senator FEINGOLD and I have not agreed on every issue. While we both believed the Iraq war was a mistake, he believed we should respond by ending funding for the war. I disagreed, and believed that such a move would harm our troops in the field whom we should support. But I never doubted that Senator FEINGOLD came to his conclusions only after giving careful consideration to the arguments opposing them.

We will miss RUSS FEINGOLD, miss his intellect, his independence, and his dedication. I will always call him my friend. The Senate will be poorer for his absence. But I know that the Nation will continue to enjoy the benefits of his service.

MUSEUM AND LIBRARY SERVICES ACT

Mr. REED. Mr. President, this week, with little fanfare, we completed work on an important bill, through a bipartisan process, by passage of S. 3984, the Museum and Library Services Act of 2010.

This bill updates museum and library services funded through the Institute for Museum and Library Services, IMLS, to better meet the needs of Americans of all ages and in all types of locations.

The Museum and Library Services Act represents our national commitment to the institutions that are es-

sential to building strong and vibrant communities. Through a relatively modest federal investment, this law helps build capacity to support and expand access to library and museum services at the State and local level.

We were able to complete this legislation because we worked together—across the aisle and across the Capitol, and with the input of the museum and library community.

I would like to take a moment to recognize and thank our HELP Committee Chairman TOM HARKIN, Ranking Member MIKE ENZI, and Senator RICHARD BURR for working with me to craft this bipartisan legislation. I would also like to recognize our cosponsors, Senators COCHRAN, COLLINS, and TESTER. In addition, I would like to express my appreciation to House Education and Labor Committee Chairman GEORGE MILLER and Ranking Member JOHN KLINE for quickly guiding this bill through the House.

No piece of legislation can be enacted without the diligent work of dedicated staff. I would like to thank Kristin Romero and Margaret Bomba of the office of legislative counsel who worked with us to draft the bill. I would also like to recognize the efforts of staff: Thomas Showalter, Pam Smith, and Bethany Little with Chairman HARKIN; Beth Buehlmann and Kelly Hastings with Senator ENZI; Celia Sims with Senator BURR; Lory Yudin with the HELP Committee; and in my office, Elyse Wasch, Moira Lenehan-Razzuri, Andrew Olgren, and Jason Kanter.

Additionally, all of us who worked on this bill appreciate the technical assistance and feedback we received from the staff of IMLS. Finally, I would like to commend the American Library Association and the American Association of Museums for developing thoughtful recommendations and working with us to improve museum and library services across the Nation. I especially appreciate the wisdom and input I have received from the vibrant library and museum community in Rhode Island.

I look forward to this legislation being swiftly signed into law.

TRUCK WEIGHTS ON MAINE INTERSTATE HIGHWAYS

Ms. SNOWE. Mr. President, I have an amendment to the continuing resolution, H.R. 3082.

My amendment will rectify an impediment to international commerce flowing through Maine, and protect Maine drivers and pedestrians. For the past year, Maine truckers have operated under a pilot program that allows trucks over 80,000 pounds to move from local roads to safer interstate routes, far from schools and homes. The pilot project has been a great success, and I seek to make it permanent.

Unless we take action before December 17, trucks over 80,000 pounds traveling to or from the Canadian border or within upstate Maine will be forced onto secondary roads, many of them two-lane roads, which run through towns and villages. Trucks traveling between Houlton and Hampden, ME, on these local roads will pass more than three thousand homes, several schools, and hundreds of intersections. Tanker trucks carrying fuel will again be traveling past elementary schools and libraries, and competing with local traffic. Not only is this an inefficient method of moving goods, but it also unnecessarily increases risks on narrow local roads.

What is the result of such truck traffic on local roads? According to a study conducted by the Maine Department of Transportation, traffic fatalities involving trucks weighing 100,000 pounds are 10 times greater on secondary roads in Maine than on exempted interstates. Serious injuries are seven times more likely. The past year's pilot program has proved that Maine's rural interstate is a safer place for large trucks.

Maine Department of Transportation officials strongly support this program. Extensive studies and infrastructure inspections have left State DOT officials confident that heavier trucks carrying interstate and international loads belong on the interstate.

I urge my colleagues to support this straightforward amendment.

Mr. DORGAN. Mr. President, yesterday the Senate voted on the tax bill compromise that was fashioned by the President and Republican leaders in the Congress.

I voted against the compromise.

I recognize that the Republicans in Congress put the President in the position of having to agree to things in the compromise that he strongly objected to. And I also realize that compromise is essential to move forward and to try to fix what is wrong with our economy.

But here is the dilemma. We have two very serious problems that can undermine America's economic future. First is the crushing debt in our fiscal policy. Our debt is currently over \$13 trillion with a yearly deficit of over \$1 trillion. This proposal will substantially increase that debt which I believe will continue to undermine the confidence people have in this country's future.

The estimate that this agreement will increase the debt by over \$1 trillion is far short of what will actually happen. The tax cut extensions are for 2 years and I am certain that in 2 years, in the middle of an election campaign, the tax cuts will be further extended. The total cost of those tax cuts for a decade will be to add \$4 trillion to the Federal debt. Again, I think that will undermine any confidence the American people or, for that matter, others in the world will have about our

ability to rein in a fiscal policy that has us borrowing 40 percent of everything we spend in the Federal Government.

The second serious problem that we face is the slow rate of economic growth that is unlikely to create jobs at a pace that we need. I understand that in order to address this problem we would want to have a further economic stimulus to extend the growth of the economy. However, this economy has been about as stimulated as any economy in history. Adding more stimulus through borrowing seems to me is not the way to promote confidence or economic growth.

Earlier in the week I voted for cloture because I did not want to block a compromise on these matters. However, the specific compromise which we voted on yesterday I believe falls short of what the country needs, especially in dealing with what I believe is the controlling issue of a crushing Federal debt and therefore an erosion of confidence in our economy.

The fact that this agreement was flawed was not the President's fault. Rather, it was due to the position of the Republicans insisting on the extension of tax cuts for the wealthiest Americans. Without that concession, the Republicans made it clear they were going to block any compromise.

If our country is going to remain a world economic power we need to make good decisions and courageous decisions to fix the things we know are wrong. In order to do that, the President is going to need help. It requires more willingness to compromise on the part of the Republicans than they have shown recently.

Mr. CORNYN. Mr. President, this week, the U.S. Senate took an important vote to prevent the largest tax increase in American history—and help get America's job creators off the sidelines.

I voted for this bill for one simple reason: raising taxes during a recession on anyone is not a good idea.

This bill prevents tax increases on every American who pays income taxes, because it keeps the lowest bracket at 10 percent; keeps the highest bracket 35 percent; preserves relief from the marriage penalty—as well as the \$1,000 per child tax credit; blocks higher taxes on capital gains and dividends; protects at least 21 million families from the alternative minimum tax; and reduces the “death tax” by 20 percent from what it would have been on January 1.

Some of my fellow conservatives have reservations about this bill, and I share them. This bill certainly falls far short of what I think we would see if Republicans controlled both Chambers of Congress and the White House. I think we would see a permanent extension of all the 2001 and 2003 tax relief; a much lower estate tax; and zero new

spending or tax breaks for special interests.

But given that President Obama will hold the veto pen for at least 2 more years—and given all the class-warfare rhetoric that the President and the majority have indulged in over the last few years—I consider an extension of tax relief for every American taxpayer to be a remarkable legislative achievement for Republicans. One pundit summed up the agreement this way: “If someone had told me, the day after Election Day 2008, that tax rates on income and capital would not increase for the next four years, I would have laughed at them. Now it's about to come true, and Presidents Obama and Clinton are helping make it happen.”

The only thing I would add to that statement is that several of my colleagues deserve credit for making this agreement happen—especially Senator MCCONNELL, Senator KYL, and Senator GRASSLEY.

Some of my colleagues on the other side of the aisle have also raised objections to this legislation—and I would like to respond to just one of those objections: the claim that it is hypocritical to say you are concerned about the deficit but then vote to keep taxes low on American families and small businesses.

Let me set the record straight on what actually happened to the deficit once the tax relief Congress originally passed in 2001 and 2003 began to kick in to our economy. As our colleagues remind us constantly, deficits did go up during the first years of the Bush administration—in part due to the collapse of the dot-com bubble, the recession, and 9/11. In fact, by fiscal year 2004, the deficit was up to \$413 billion, or 3.5 percent of GDP.

But then, just as the 2001 and 2003 tax relief started to kick in, a strange thing happened to the deficit: It went down to \$318 billion in fiscal year 2005, then down again to \$248 billion in fiscal year 2006, and then down to \$161 billion in fiscal year 2007. By then our deficit was only 1.2 percent of GDP.

Now why did the deficit go down in those years? One big reason is that tax relief helped grow the economy; got about 8 million more people on the payroll between 2003 and 2007; and therefore generated more tax revenue.

I think the person who said it best was Austin Goolsbee, the chairman of the President's Council of Economic Advisers. On “Meet the Press” Sunday, he had this to say: “You cannot reduce the deficit if the economy is not growing, period.” I agree.

Now I also agree that preventing a massive tax increase is not the only thing we must do to get our national debt under control. We must cut government spending—and that means killing the \$1.3 trillion omnibus spending bill the majority introduced yesterday. We must study the proposals of

the President's Debt Commission—and take action to prevent the looming fiscal catastrophe that they described. We must address head-on the need for reform in our entitlement programs like Social Security and Medicare—and put them on a sustainable path. And we must pass a balanced budget amendment to the U.S. Constitution.

We can begin addressing all of these tough decisions in just a few weeks—once the new Congress elected by the American people is sworn in. Today, our urgent decision is whether we want taxes to go up on January 1, or rather extend the tax relief and remove a huge element of uncertainty among our job creators.

I believe the choice is clear, and so do the American people. 69 percent of the American people support this legislation, according to a poll released yesterday by the Washington Post and ABC News.

As usual, the American people have got it right.

RECOGNIZING THE FBI

Ms. MIKULSKI. Mr. President, I rise to congratulate the men and women of the FBI's Baltimore field office who have prevented yet another catastrophic terrorist attack on our Nation. Similar to the plot to bomb the tree lighting ceremony in Portland, OR, over the recent Thanksgiving holiday weekend, the outstanding work of the men and women of the FBI's Baltimore field office was successful in infiltrating and thwarting the planned bombing of a military recruitment center in Catonsville, MD. This deplorable scheme was meant to harm the young men and women who sacrifice so much for our country by serving in the Armed Forces. That is why I am grateful for the FBI's months of careful, covert and skillful investigations and operations to disrupt this plot, put the terrorist behind bars, and keep Marylanders safe.

This is the second time in as many weeks that the FBI has stopped a terrorist plot to harm Americans here at home, reminding us they are on the job 24 hours a day 7 days a week keeping the United States safe. Whether they are catching sexual predators who exploit children on the Internet, targeting scammers who prey on hardworking, middle-class families with mortgage fraud schemes, stopping cyber crooks from hacking into U.S. networks, or preventing terrorists bent on murder and destruction from acquiring weapons of mass destruction, the FBI is committed to protecting our communities with fidelity, bravery and integrity. This job is not easy and most of the time the good work done by FBI employees does not make headlines, but they remain committed to their mission of fighting to protect 300 million Americans nonetheless.

A tremendous amount of detective work was carried out by the FBI and their Federal, State and local law enforcement and homeland security partners to prevent this attack and save lives. The takedown went exactly as planned, and that can be attributed to professionalism and diligence displayed by the many agencies involved. Leading the charge was the Joint Terrorism Task Force, which was integral in coordinating a multiagency team that investigated the threat thoroughly and ensured the safety of Marylanders. In addition, I want to praise the critical contributions to the investigation by the Baltimore City Police Department, Baltimore County Police Department, Maryland State Police, Naval Criminal Investigative Service, Army Recruiting Command, Air Force Recruitment Command, Air Force Office of Special Investigations, Army 902d Military Intelligence Group, Defense Criminal Investigative Services (DCIS) and other DOD components, U.S. Marshals Service, and Immigration and Customs Enforcement.

As chairwoman of the Appropriations Subcommittee on Commerce, Justice, and Science, I know firsthand the importance of the national security responsibilities shouldered by the FBI as they protect us from both homegrown and international terrorism. In a time when many Americans eye the Federal institutions with wariness and disapproval, the FBI continues getting the job done and restoring confidence in our government's ability to keep us safe. Again, I congratulate the FBI's brave men and women for their tireless efforts in protecting our communities, and say to them, "Keep up the fight!"

ARGENTINA DEBT DEFAULT

Mr. WICKER. Mr. President, I rise today to discuss the debt default of the Republic of Argentina. Since it defaulted on its debt 9 years ago, the nation has ignored the judgments of American courts even though Argentina committed to honor such judgments when the debt was originally issued.

In 2001, Argentina defaulted on over \$81 billion in sovereign debt, the largest default in modern history. American creditors were heavily exposed to the losses that resulted from that default and Argentina's debt restructuring. Despite paying off certain creditors in full, Argentina still owes U.S. bondholders over \$3 billion while holding nearly \$54 billion in reserves.

Bondholders have won over 100 U.S. Federal court judgments against Argentina. Additionally, Argentina has not paid claims brought by U.S. companies and other bondholders in international forums, which have collectively issued over \$900 million in judgments against Argentina.

I have been approached on this matter by my constituents in Mississippi

who are concerned about the outstanding court judgments. The issue of Argentina's default also reaches beyond my state's borders to every U.S. taxpayer because some of these losses are qualified tax deductions.

In light of my concerns, I am considering introducing legislation next year to address this issue. This is a step I hope I do not have to make, but I believe previous obligations should be honored.

PORTEOUS IMPEACHMENT

Mr. SESSIONS. Mr. President, I would like to address two matters concerning the impeachment of Judge Porteous. As a former Federal prosecutor and State attorney general, I have reviewed and drafted a number of indictments. I do not believe that evidence of acts committed before confirmation should be withheld from consideration in the impeachment process or that it is inappropriate to aggregate claims together.

The Constitution does not require that all conduct be committed post Federal appointment nor does it stipulate at all when the conduct must occur. Whether treason or bribery occurs before or after confirmation is not the question, but whether or not it occurred. If this were not so, individuals like Judge Porteous, who are very capable of practicing the art of deception and are confirmed, could not be removed from office.

I believe that all four counts against Judge Porteous were well drafted. The Senate has previously stated that "the House has substantial discretion in determining how to aggregate related alleged acts of misconduct in framing Articles of Impeachment and has historically frequently chosen to aggregate multiple factual allegations in a single impeachment article . . . Judge Porteous engaged in a number of elaborate schemes. Having prosecuted fraud, conspiracy, and racketeering cases, I understand that the facts in these types of cases can be extensive and can build up over a period of years. What we should look at is whether the events are sufficiently related so as not to produce prejudice. Each of these counts told a complete story of wrongdoing that was coherent and was held together logically.

Finally, let me say that Judge Porteous's behavior should serve as a reminder to the President of the critical importance of vetting his nominees and as a reminder to this body that a thorough confirmation process is imperative. The process should always emphasize character, integrity, mental and emotional health, and high morals.

OMNIBUS APPROPRIATIONS

Mrs. MURRAY. Mr. President, I wish to join in a colloquy with my ranking

member, Senator BOND, to correct clerical errors to project and attribution tables in the transportation, housing, and urban development title to the Omnibus Appropriations Act for Fiscal Year 2011.

Senator CASEY should be added for attribution to the Economic Development Initiative project for the city of Wilkes-Barre, PA.

The project under the Bus and Bus Facilities Account for Longview Transit Vehicle Replacements, Clark County, WA, should read Longview Transit Vehicle Replacements, Cowlitz County, WA.

The project under Surface Transportation Improvements Bench Boulevard Improvements, Helena, MT, should read Bench Boulevard Improvements, Billings, MT, where the project construction will be taking place.

The project under Surface Transportation Improvements for the Maritime Fire and Safety Administration, WA, should read Maritime Fire and Safety Association, WA.

Senator BOXER should not be listed for attribution to the Marin-Sonoma Narrows, CA, project under the Surface Transportation Investments account, and she should be listed for attribution for the Sonoma-Marin Area Rail Transit, SMART, CA project under the Federal Transit Administration Capital Investment Grant account.

The project under the Surface Transportation Improvement Account listed as SR 522 Corridor Improvements should read SR 522 Corridor Signal Improvements, 61st and 181st Street, WA.

Additionally, Senator FRANKEN should be added as a requester of the Economic Development Initiative project for the Lutheran Social Services of Minnesota, MN, Renovation of Homes for the Disabled.

Mr. BOND. My colleague and chair, Senator MURRAY, is correct. In addition to the projects she mentioned, the project description under the Economic Development Initiative Account for the City of Brewer, ME, should read "For the development of a riverfront trail system as part of the Penobscot Landing redevelopment initiative."

Further, under the technical corrections table, Senators CHAMBLISS and ISAKSON should not be listed for attribution for the Newton County Eastside High School to County Library Trail, GA.

Mrs. MURRAY. I have confirmed with my staff that these projects have been properly disclosed and have been certified to be free of any pecuniary interest.

Mr. BOND. My colleague and chair, Senator MURRAY, is correct, and I concur with these changes.

HONORING OUR ARMED FORCES

SPECIALIST MATTHEW W. RAMSEY

Mr. BENNET. M. President, it is with a heavy heart that I honor the life and

heroic service of SPC Matthew W. Ramsey. Specialist Ramsey, assigned to the 101st Airborne Division, based in Fort Campbell, KY, died on November 29, 2010, of injuries sustained when his unit faced small arms fire. Specialist Ramsey was serving in support of Operation Enduring Freedom in Nangarhar Province, Afghanistan. He was 20 years old.

A native of Quartz Hill, CA, Specialist Ramsey graduated from Quartz Hill High School in 2008 and enlisted in the Army. He served two tours of duty in Afghanistan, both with decoration. Among many other awards, Specialist Ramsey earned the National Defense Service Medal, the Global War on Terrorism Medal, and the NATO Medal.

During over 2 years of service, Specialist Ramsey distinguished himself through his courage, dedication to duty, and unrelenting commitment to family. Shortly after enlistment, Specialist Ramsey learned from his wife that he was to become a father. He saw the Army as a path to attaining a bright future for his new family. His wife, Mirella, is expecting a second child in early 2011.

Specialist Ramsey worked on the front lines of battle, serving in the most dangerous areas of Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. His family remembers him as a dedicated son, husband, and father.

Mark Twain once said, "The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time." Specialist Ramsey's service was in keeping with this sentiment by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

At substantial personal risk, he braved the chaos of combat zones throughout Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America's citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Specialist Ramsey will forever be remembered as one of our country's bravest.

To Wayne and Melissa, Specialist Ramsey's parents, Mirella, his wife, Zachary, his son, and his entire family I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in Matthew's service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

SERGEANT FIRST CLASS JAMES E. THODE

Mr. President, it is with a heavy heart that I honor the life and heroic service of SFC James E. Thode. Sergeant Thode, assigned to the 118th Engineer Company, 1457th Engineer Battalion, Army National Guard, died on December 2, 2010, from injuries he sus-

tained when an improvised explosive device detonated near his patrol. He was serving in support of Operation Enduring Freedom in Khost Province, Afghanistan. He was 45 years old.

A native of Kirtland, NM, Sergeant Thode graduated from Catalina High School, in Tucson, AZ, and the University of Arizona. Sergeant Thode served as an officer in the Farmington, New Mexico, police department for 14 years. He was a senior member of the SWAT team and also served in the Army National Guard, deploying for tours in Iraq and Afghanistan.

During his years of service, Sergeant Thode distinguished himself through his courage, dedication to duty, and willingness to take on any job. Fellow soldiers respected his intensity, and they relied heavily on his leadership. Sergeant Thode was awarded numerous medals and awards, including the Bronze Star, the Purple Heart, the Army Commendation Medal, two Army Achievement Medals, and the Army Good Conduct Medal.

Sergeant Thode worked on the front lines of battle, serving in the most dangerous areas of Afghanistan. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. Friends at the Farmington Police Department note that he was beloved by his colleagues. They remember Sergeant Thode as an effective manager who led by example.

Mark Twain once said, "The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time." Sergeant Thode's service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

Sergeant Thode braved the chaos of combat zone throughout Iraq and Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America's citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Sergeant Thode will forever be remembered as one of our country's bravest.

To Sergeant Thode's entire family—I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in James's service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

REMEMBERING CONGRESSMAN STEPHEN SOLARZ

Mr. DODD. Mr. President, I rise today to pay tribute to a good friend and former colleague of mine, former Congressman Stephen Solarz, who passed away late last month at the age of 70. I would like to take this moment to convey my heartfelt condolences to

Stephen's wife, Nina, the rest of his family, and everyone else who knew, worked with, and enjoyed Stephen during his life.

Stephen and I were both elected to the House of Representatives for the first time in 1974, members of a historic class of 75 Democratic freshmen who came to Washington in the wake of the Watergate scandal. Stephen remained a stalwart of the House, serving the people of his Brooklyn-based congressional district with distinction for nearly two decades.

Throughout his tenure in Congress, Stephen was always attentive to the needs of his constituents, even going so far as to nickname himself "Representative Pothole" for his work on local issues. But in spite of this, Stephen's tenure was perhaps most clearly defined by his work on foreign policy issues. As a member of the House Foreign Affairs Committee throughout his nine terms, Stephen demonstrated a strong and abiding passion for world affairs. Indeed, during his first month in office, Stephen went on an 18-day congressional delegation trip to the Middle East, meeting with the leaders of Israel, Syria, Jordan, and Egypt.

Beginning in 1979, Stephen took on some important leadership positions within the committee, serving first as chairman of the Subcommittee on African Affairs, and subsequently as chairman of the Subcommittee on Asian and Pacific Affairs. During that time, Stephen was absolutely committed to ensuring that human rights and respect for the rule of law remained key pillars of U.S. policy in those regions.

He was an uncompromising supporter of sanctions against the apartheid regime in South Africa; one of Congress's most vocal and persistent critics of the authoritarian government led by Ferdinand Marcos in the Philippines; and a tireless advocate of peace in Cambodia. Stephen was also a strong proponent of diplomacy and engagement, becoming the first United States Congressman to visit North Korea in nearly three decades in 1980. And perhaps just as significantly, Stephen was a committed defender of the House of Representatives who worked extremely hard to carve out a more prominent place for that body in foreign policy discussions.

As a member of the Senate Foreign Relations Committee myself, I had the opportunity to work with Stephen on a number of occasions. And I must say that I was consistently impressed by Stephen's tenacity, intelligence, and commitment to justice and democracy. In nearly everything he did as a Member of Congress, Stephen was always well-prepared, knew the issues inside and out, and was not afraid to challenge those with whom he disagreed. That is the Stephen Solarz that my colleagues and I got to know over the years, and that is, in my view, the kind of Congressman Stephen will most be remembered as.

Once again, I would like to express my sincere condolences to Stephen's family and all those individuals who, like me, had the privilege of knowing him over the years. And I take this opportunity to thank Stephen for his many years of service to this country and his tireless efforts to create a more just and peaceful world.

REMEMBERING RICHARD HOLBROOKE

Mr. FEINGOLD. Mr. President, it is with great sadness that I pay tribute to the memory of my friend Richard Holbrooke, who passed away earlier this week. Richard was a masterful diplomat who brought his extraordinary skills to bear on some of the thorniest issues in U.S. foreign policy. Every step of the way, from his tremendous accomplishments at the Dayton Accords to his work as U.S. Special Envoy for Afghanistan and Pakistan, he showed his deep commitment to our country, and to serving the greater good the world over.

I came to know Richard when we travelled to Africa together in 1999, when he was serving as U.S. Ambassador to the United Nations. He had never been to Africa before, and yet on the trip he was able to thoroughly grasp the complex issues facing the continent immediately. His brilliance was apparent, and it enabled him to identify emerging issues quickly and push for critical action. On that trip our purpose was to focus on the crisis in the Democratic Republic of Congo, but we also saw the incredible devastation of the HIV/AIDS crisis firsthand. Richard called then-U.N. Secretary-General Kofi Annan and told him that the Security Council needed to address AIDS directly. When the Secretary-General responded that the Security Council only addressed security issues, Richard replied that this was, indeed, a security issue. He was right, and the Security Council's subsequent discussion was a turning point as the world community began to understand the depth and severity of the crisis on the African continent.

In the years since, Richard always made time to discuss foreign policy issues with me, and he always truly listened and wanted to understand my point of view, even when we disagreed. This was especially true of his work on Afghanistan and Pakistan. We didn't always see eye to eye about U.S. policy in the region, but he always reached out to me and solicited my views, and I was so appreciative of that. Those efforts on his part said volumes about him and his thoughtful approach to the complex issues he worked on with such commitment and such skill.

We had breakfast the morning after one of his last trips. I could see the toll his work was taking on him, but he was terrific to be with as usual. He was

completely engaging and interested in my perspective, yet still managed to work the whole room, multitasking as always.

Richard Holbrooke was an extraordinary man of many talents who spent his life building a better, more just world for us all. His many accomplishments will live on as a testament to his profound commitment to our nation and to a life of public service. But for me, I will simply miss him as a friend.

THANKING STAFF

Mr. DODD. Mr. President, I rise today to say thank you to the wonderful staff of the Senate Foreign Relations Committee. Earlier this week I had the privilege of chairing my final hearing in that committee, and I want to take a moment to extend my thanks and gratitude to those who have made this committee run so smoothly and professionally over the years.

Bertie Bowman's tenure here dates back to Senator Fulbright, and his extraordinary career, as the longest serving African American on Capitol Hill, speaks volumes about his character and commitment. It has been a true pleasure seeing Bertie at every hearing and it is largely thanks to his efforts, that our hearings run so smoothly.

Meg Murphy, the committee's protocol and foreign travel coordinator, has done a truly wonderful job ensuring that our travel, business meetings, and committee coffees always went off without a hitch. Her phenomenal attention to detail and thoroughness, in addition to her dedication and good humor has made her an invaluable asset to the committee.

I would also like to recognize Samantha Hamilton, Susan Oursler, as well as Gail Coppage for their hard work and dedication.

Last, I would like to thank Frank Lowenstein, staff director of the committee, whom I have gotten to know over the years, including during a trip we took together to the Middle East. I had the privilege of knowing Frank's father, Al Lowenstein, and I can say without a doubt how proud he would be of his son Frank.

ADDITIONAL STATEMENTS

MILWAUKEE BUILDING AND CONSTRUCTION TRADES COUNCIL

• Mr. KOHL. Mr. President, today I recognize and congratulate the Milwaukee Building and Construction Trades Council, MBCTC, on the occasion of their 100th anniversary.

For the past 100 years the MBCTC has literally built Milwaukee. Many of today's notable Milwaukee landmarks and buildings like the Petit National Ice Center, the Performing Arts Center, the Bradley Center, County Stadium, then Miller Park, Potawatomi

Bingo and Casino, the Port Washington and Elm Road Generating Stations and most recently the Marquette Interchange are owed to the tireless work of members of the MBCTC.

Not only has the MBCTC truly had a hand in shaping the Milwaukee we know and love today but it has done so while tending to its membership, the men and women of the building trades who make it all possible. The MBCTC remains true to its founding principles to represent its members in the building and construction trades for justice on the job, better wages and never sacrificing quality for its customers. For a century, their true commitment to members and their families as well as to our Milwaukee community has stood on solid foundation.

On behalf of our State and Nation, I join this centennial celebration in recognition of the Milwaukee Building and Construction Trades Council. Let us honor their hard work and long history of building up Milwaukee into a great place to visit, work, live and raise a family.●

ADDRESSING THE NATIONAL DEBT

● Mr. SANDERS. Mr. President, today I wish to introduce to you one of my constituents, Lawrence "Rip" Kirby of Rutland, VT, who has written to me outlining his ideas on how Congress can and should address our \$13.8 trillion national debt in a fair and sensible way. I am pleased the citizens of Vermont are engaged on this issue, which is of critical importance to not only our State, but indeed the Nation. The decisions that we make on the Senate floor today will impact generations of Americans to come. That is why I would like to share with you what Mr. Kirby wrote:

To reduce the deficit and accumulated debt we must understand their root causes and history:

Short-term problem: The near-collapse of the economy was arrested by means of deficit spending, including corporate bailouts, extended unemployment benefits, and stimulus initiatives. While arguably necessary to stave off an even worse catastrophe, these measures have added to the deficit and the debt.

Solution(s): Our emphasis should not be on recovery of sunk costs but on prevention of future disasters. Break up "too large to fail" businesses through anti-trust laws. Regulate imprudent, secretive, or unfathomable financial arrangements like derivatives. Increase regulated safety margins like reserve requirements for banks and loan limits based on borrower credit ratings. Eliminate conflicts of interest like permitting bond rating agencies to have a financial stake in the companies they rate.

Medium-term problem: Our wars overseas have been funded by massive deficits with no real strategy for repayment. The unexpected length and intractability of these conflicts exacerbates the problem.

Solution(s): Stop the financial bleeding and provide a financial transfusion. To stop the bleeding we must get out of these con-

flicts within a short time (two years at most). Continue intelligence-gathering and maintain air power, but get the boots off the ground. To provide a transfusion, enact a temporary and progressive "war surtax" with a sunset provision.

Long-term problem: Entitlement spending (Medicare, Social Security, etc.) has exceeded its funding as America's longevity has climbed faster than its typical retirement age without tax increases to keep up. The mass retirement of the baby boomers will aggravate this problem as they become greater consumers of entitlements and a lesser source of taxes.

Solution(s): Recognize that longevity is really an advantage, and make better use of people's lengthening ability to work and to contribute. In short, this means gradually raising the age of entitlement eligibility. We must also end the regressive and irrational Social Security tax exemption for earnings above \$108,000.

Long term problem: Our K-12 school system has deteriorated while foreign students have surged ahead in critical subjects like math, science, and language skills. The underlying cause is debated endlessly, but I believe we have replaced the hard work of learning with trendy feel-good initiatives that represent the path of least resistance for both educators and students. We also underfund education, thereby encouraging the employment of second-rate teachers, curricula, and facilities. This exacerbates the deficit by degrading our tax base as emerging generations of Americans are prepared for only menial jobs paying low wages.

Solution(s): Stop experimenting and do what works—get back to basics and pay for excellence. Reward teachers who cultivate competence. Emphasize math, science, and language skills, as well as less tangible, but important skills like inquiry and logic. Recognize sports programs as a way to teach critical social skills, not as a career path. Treat standardized testing as a means to excellence, not as an end in itself. And finally, forget self esteem—it will come on its own when it is earned."

Lawrence "Rip" Kirby
Rutland, Vt.

Thank you, Mr. President, for allowing me to share with you these words of wisdom from an average Vermonter. I hope my colleagues in the Senate take note of Mr. Kirby's sage advice.●

RECOGNIZING HARBOR FARM

● Ms. SNOWE. Mr. President, every holiday season, Americans head to stores in droves to buy the perfect gift for their loved ones or friends during the holiday season. Many will visit small businesses, such as gift shops and local retailers, which offer a variety of products. There is one such store in my home State of Maine, Harbor Farm, that helps keep the Christmas spirit alive year round through a variety of products that celebrate the season.

Harbor Farm is located on Little Deer Isle, a tiny island located off Maine's coast in Penobscot Bay. The island is both a picturesque summer vacationland as well as the year-round home to 300 residents. And Harbor Farm caters to locals and tourists alike with a variety of regional and

international gifts, from candles to apparel and most everything in between. The store also carries gifts made by another local small business, the Deer Isle Granite Company, including beautiful clocks in the shape of the State of Maine as well as cutting boards and coasters.

Additionally, Harbor Farm has a unique "Christmas Room," with a plethora of thoughtful and creative goods and wares. More than simply holiday-themed gifts, the Christmas Room features exceptional items inspired by Maine, including blueberry jewelry made using blue sponge coral as well as moose and snowman ornaments. Harbor Farm also offers delightful Christmas wreaths, made from Maine balsam and beautifully decorated with traditional cones, berries, and bows. In that same vein, the store also sells a number of centerpieces of cedar, balsam, and pine, adorned with candles and faux fruits. Harbor Farm readily ships these special holiday gifts and decorations across the country to a growing list of customers each year.

Another item Harbor Farm specializes in is remarkable tile. The company offers customers a wide array of beautiful tile from 17 States and 17 countries for any room in the home. The designs range from delicately painted lighthouses and landscapes to flowers and farmyards. The staff at Harbor Farm takes the time to assist clients looking to mix tiles for a more elegant and eclectic visual display.

It is evident that the employees of Harbor Farm take great pains to offer their customers high quality items for a broad swath of uses in everyday life. From its reproductions of early American furniture to pottery to clothing accessories, Harbor Farm is a quintessential New England gift shop that has something for everyone. I thank everyone at Harbor Farm for their dedicated efforts to provide shoppers with a pleasant experience, and I wish them many years of success.●

REMEMBERING THE VENERABLE ROS MEY

● Mr. WHITEHOUSE. Mr. President, today I commemorate the extraordinary life of Venerable Ros Mey, the head Buddhist monk and president of the Wat Thormikaram Khmer Temple in Providence. Although he passed away on December 12, 2010, at age 85, his teachings of peace will live on in the vibrant Cambodian community of Rhode Island in which he served.

Venerable Mey was ordained as a Buddhist monk in Providence at age 62 and dedicated himself to his faith, his congregation, and to praying for peace in Cambodia with his fellow worshippers.

Venerable Mey's journey to Rhode Island was a perilous one. He and his family endured forced labor under the

Khmer Rouge regime in Cambodia from 1975 until their escape to Thailand four years later. They made their way to Rhode Island as part of the first wave of refugees from Cambodia. Only several thousand of the 80,000 monks in Cambodia survived the Khmer Rouge.

Venerable Mey turned the adversity he experienced into peaceful teachings by dedicating his life to the Cambodian community in our State. In 1998 he became head monk and president, succeeding the Venerable Maha Ghosananda, also a renowned peace activist. Venerable Mey was a driving force behind a new worship hall at the Wat Thormikaram Temple, which is a spiritual center for Cambodian Buddhists in Rhode Island and across the Nation.

His surviving family, the thousands of Rhode Islanders whose weddings and births he officiated, the Cambodian community, and the people of our State will remember his teachings of peace.●

MESSAGES FROM THE HOUSE

At 9:33 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1774. An act for the relief of Hotaru Nakama Ferschke.

S. 3199. An act to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

S. 3386. An act to protect consumers for certain aggressive sales tactics on the Internet.

S. 4010. An act for the relief of Shigeru Yamada.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 1275. An act to establish a National Foundation on Physical Fitness and Sports to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

S. 1448. An act to amend the Act of August 9, 1955, to authorize the Coquille Indian Tribe, the Confederated Tribes of Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to obtain 99-year lease authority for trust land.

S. 1609. An act to authorize a single fisheries cooperative for the Bering Sea Aleutian Islands longline catcher processor subsector, and for other purposes.

S. 2906. An act to amend the Act of August 9, 1955, to modify a provision relating to leases involving certain Indian tribes.

S. 3794. An act to amend chapter 5 of title 40, United States Code, to include organizations whose membership comprises substantially veterans as recipient organizations for the donation of Federal surplus personal property through State agencies.

S. 3984. An act to amend and extend the Museum and Library Services Act, and for other purposes.

H.R. 1061. An act to transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into

trust for the Hoh Indian Tribe, and for other purposes.

H.R. 6278. An act to amend the National Children's Island Act of 1995 to expand allowable uses for Kingman and Heritage Islands by the District of Columbia, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

At 10:05 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6517. An act to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

At 10:32 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5446. An Act to designate the facility of the United States Postal Service located at 600 Florida Avenue in Cocoa, Florida, as the "Harry T. and Harriette Moore Post Office".

H.R. 5493. An Act to provide for the furnishing of statues by the District of Columbia and territories and possessions of the United States for display in Statuary Hall in the United States Capitol.

H.R. 6205. An Act to designate the facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, as the "Private Isaac T. Cortes Post Office".

H.R. 6494. An Act to amend the National Defense Authorization Act for Fiscal Year 2010 to improve the Littoral Combat Ship program of the Navy.

The message also announced that the House has passed the following bills, without amendment:

S. 30. An Act to amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

S. 3036. An Act to establish the National Alzheimer's Project.

The message further announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 72. Concurrent resolution recognizing the 45th anniversary of the White House Fellows Program.

S. Con. Res. 77. Concurrent resolution to provide for the approval of final regulations issued by the Office of Compliance to implement the Veterans Employment Opportunities Act of 1998 that apply to certain legislative branch employing offices and their covered employees.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2965) entitled "An Act to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes", with an amendment.

ENROLLED BILL SIGNED

At 11:13 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1405. An act to redesignate the Longfellow National Historic Site, Massachusetts, as the "Longfellow House-Washington's Headquarters National Historic Site".

The enrolled bill was subsequently signed by the President pro tempore (Mr. INOUE).

At 1:14 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the Senate amendment to the bill (H.R. 4337) to amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

At 4:17 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 841. An act to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 3447. An act to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes.

S. 3860. An act to require reports on the management of Arlington National Cemetery.

S. 4005. An act to amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2941) to reauthorize and enhance Johanna's Law to increase public awareness and knowledge with respect to gynecologic cancers.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 6198) to amend title 11 of the United States Code to make technical corrections, and for other purposes.

ENROLLED BILLS SIGNED

At 5:53 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1774. An act for the relief of Hotaru Nakama Ferschke.

S. 4010. An act for the relief of Shigeru Yamada.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

MEASURES READ THE FIRST TIME

The following joint resolution was read the first time:

S.J. Res. 42. Joint resolution to extend the continuing resolution until February 18, 2011.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 16, 2010, she had presented to the President of the United States the following enrolled bills:

S. 1275. An act to establish a National Foundation on Physical Fitness and Sports to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

S. 1448. An act to amend the Act of August 9, 1955, to authorize the Coquille Indian Tribe, the Confederated Tribes of Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to obtain 99-year lease authority for trust land.

S. 1609. An act to authorize a single fisheries cooperative for the Bering Sea Aleutian Islands longline catcher processor subsector, and for other purposes.

S. 2906. An act to amend the Act of August 9, 1955, to modify a provision relating to leases involving certain Indian tribes.

S. 3794. An act to amend chapter 5 of title 40, United States Code, to include organizations whose membership comprises substantially veterans as recipient organizations for the donations of Federal surplus personal property through State Agencies.

S. 3984. An act to amend and extend the Museum and Library Services Act, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-8515. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A340-500 and A340-600 Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2010-1110)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8516. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; SOCATA Model TBM 700 Airplanes" ((RIN2120-AA64) (Docket No. FAA-2010-0862)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8517. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky) Model S-92A Helicopters" ((RIN2120-AA64) (Docket No. FAA-2010-1136)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8518. A communication from the Senior Program Analyst, Federal Aviation Adminis-

tration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France (ECF) Model SA330F, G, and J; and AS332C, L, L1, and L2 Helicopters" ((RIN2120-AA64) (Docket No. FAA-2010-0670)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8519. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky) Model S-92A Helicopters" ((RIN2120-AA64) (Docket No. FAA-2010-1136)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8520. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt and Whitney PW4000 Series Turbofan Engines" ((RIN2120-AA64) (Docket No. FAA-2010-0725)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8521. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; The Boeing Company Model 737-600, -700, -700C, -800, and -900 Series Airplanes" ((RIN2120-AA64) (Docket No. FAA-2007-28348)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8522. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; CENTRAIR Models 101, 101A, 101P, and 101AP Gliders" ((RIN2120-AA64) (Docket No. FAA-2010-0735)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8523. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300 B2-1C, B2K-3C, B2-203, B4-2C, B4-103, and B4-203 Airplanes; and Model A300 B4-601, B4-603, B4-620, B4-622, B4-605R, B4-622R, and F4-605R" ((RIN2120-AA64) (Docket No. FAA-2009-1067)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8524. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class B Airspace; Charlotte, NC" ((RIN2120-AA66) (Docket No. FAA-2010-0049)) received during adjournment of the Senate in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8525. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal

Motor Vehicle Safety Standards; Head Restraints" (RIN2127-AK39) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8526. A communication from the Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Brokers of Household Goods Transportation by Motor Vehicle" (RIN2126-AA84) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8527. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Waiver of Acceptable Mission Risk Restriction for Reentry and a Reentry Vehicle" (14 CFR Part 431) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8528. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Office of Commercial Space Transportation; Waiver of Autonomous Reentry Restriction for a Reentry Vehicle" (14 CFR Part 431) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8529. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Civil Penalty Inflation Adjustment Tables" ((RIN2120-AJ50)(Docket No. FAA-2009-0237)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8530. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revocation of Restricted Areas R-3807 Glencoe, LA, and R-6320 Matagorda, TX" ((RIN2120-AA66)(FAA-2010-1014)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8531. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Using Agency for Restricted Areas R-4002, R-4005, R-4006 and R-4007; MD" ((RIN2120-AA66)(Docket No. FAA-2010-1070)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8532. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Fairbanks, Alaska)" (MB Docket No. 10-81, RM-11600) received in the Office of the President of the Senate on December 10, 2010; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 2868. To amend the Homeland Security Act of 2002 to enhance security and protect against acts of terrorism against chemical facilities, to amend the Safe Drinking Water Act to enhance the security of public water systems, and to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works, and for other purposes (Rept. No. 111-370).

By Mr. DORGAN, from the Committee on Indian Affairs, with amendments:

S. 3903. A bill to authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo (Rept. No. 111-371).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs:

Report to accompany H.R. 2142, To require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council (Rept. No. 111-372).

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

S. 3874. A bill to amend the Safe Drinking Act to reduce lead in drinking water.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BROWN of Ohio (for himself and Mr. MERKLEY):

S. 4034. A bill to support United States manufacturing by providing rules and guidance, waiver notices, and departmental and agency actions applicable to the domestic content standards of Federal grants administered by the Department of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. REED (for himself and Ms. STABENOW):

S. 4035. A bill to amend the Public Health Service Act to provide grants for community-based mental health infrastructure improvement; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD:

S. 4036. A bill to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury; considered and passed.

By Mr. SCHUMER (for himself, Mr. KERRY, Mr. AKAKA, Mr. DURBIN, Mr. NELSON of Nebraska, Mr. MENENDEZ, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mrs. SHAHEEN, and Mr. TESTER):

S. 4037. A bill to impose a criminal penalty for unauthorized recording or distribution of images produced using advanced imaging technology during screenings of individuals at airports and upon entry to Federal buildings, and for other purposes; to the Committee on the Judiciary.

By Ms. STABENOW (for herself and Mr. REED):

S. 4038. A bill to increase access to community behavioral health services for all Americans and to improve Medicaid reimbursement for community behavioral health services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CASEY (for himself and Mr. SPECTER):

S. 4039. A bill to amend the Higher Education Act of 1965 to improve education and prevention related to campus sexual violence, intimate partner violence, and stalking; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCONNELL (for himself, Mr. THUNE, Mr. GREGG, Mr. KYL, Mr. VITTER, Mr. KIRK, Mr. ENSIGN, Mr. LEMIEUX, Mr. ALEXANDER, Mr. ISAKSON, Mr. MCCAIN, Mr. CORNYN, Mr. GRAHAM, Mr. HATCH, Mr. WICKER, Mr. JOHANNES, and Mr. ROBERTS):

S.J. Res. 42. A joint resolution to extend the continuing resolution until February 1, 2011; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBERTS (for himself, Mr. HARKIN, Mr. HATCH, and Ms. MURKOWSKI):

S. Res. 702. A resolution recognizing the work and importance of special education teachers; considered and agreed to.

ADDITIONAL COSPONSORS

S. 471

At the request of Ms. SNOWE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 471, a bill to amend the Education Sciences Reform Act of 2002 to require the Statistics Commissioner to collect information from coeducational secondary schools on such schools' athletic programs, and for other purposes.

S. 1415

At the request of Mr. SCHUMER, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1415, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure that absent uniformed services voters and overseas voters are aware of their voting rights and have a genuine opportunity to register to vote and have their absentee ballots cast and counted, and for other purposes.

S. 3221

At the request of Mr. PRYOR, his name was added as a cosponsor of S. 3221, a bill to amend the Farm Security and Rural Investment Act of 2002 to extend the suspension of limitation on the period for which certain borrowers are eligible for guaranteed assistance.

S. 3237

At the request of Mr. HARKIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 3237, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. 3641

At the request of Mr. WHITEHOUSE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor

of S. 3641, a bill to create the National Endowment for the Oceans to promote the protection and conservation of United States ocean, coastal, and Great Lakes ecosystems, and for other purposes.

S. 3804

At the request of Mr. LEAHY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 3804, a bill to combat online infringement, and for other purposes.

S. 3876

At the request of Mr. WYDEN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3876, a bill to amend the Internal Revenue Code of 1986 to extend and modify the alternative fuel vehicle refueling property credit.

S. 4020

At the request of Mr. WICKER, the names of the Senator from Kentucky (Mr. MCCONNELL), the Senator from South Dakota (Mr. THUNE), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), the Senator from Georgia (Mr. ISAKSON), the Senator from Texas (Mr. CORNYN), the Senator from Arizona (Mr. MCCAIN), the Senator from Missouri (Mr. BOND) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of S. 4020, a bill to protect 10th Amendment rights by providing special standing for State government officials to challenge proposed regulations, and for other purposes.

S. 4023

At the request of Mr. LIEBERMAN, the names of the Senator from Hawaii (Mr. INOUE), the Senator from Florida (Mr. NELSON), the Senator from Virginia (Mr. WARNER), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of S. 4023, a bill to provide for the repeal of the Department of Defense policy concerning homosexuality in the Armed Forces known as "Don't Ask, Don't Tell".

S. CON. RES. 71

At the request of Mr. FEINGOLD, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

AMENDMENT NO. 4807

At the request of Mr. MCCAIN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of amendment No. 4807 intended to be proposed to H.R. 3082, a bill making appropriations for military construction, the Department of Veterans Affairs, and related agencies for

the fiscal year ending September 30, 2010, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED (for himself and Ms. STABENOW):

S. 4035. A bill to amend the Public Health Service Act to provide grants for community-based mental health infrastructure improvement; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce, along with my colleague, Senator STABENOW, the Community-Based Mental Health Infrastructure Improvements Act.

Multiple research studies have shown that people with mental illness are at greater risk of preventable health conditions such as heart disease and diabetes and are more likely to die sooner than healthy individuals—in some instances up to 25 years sooner. In order to address this troubling trend, I authored language in the new health insurance reform law to ensure that individuals with multiple co-occurring mental, behavioral, and physical health conditions have access to a coordinated and integrated health care delivery system. Under this provision, Community Mental Health Centers are authorized to provide patients with mental, behavioral, and primary health care all in one location.

Recently, I was pleased to learn that two Community Mental Health Centers in Rhode Island received funding to begin to offer these co-located services. However, many Community Mental Health Centers are unable to provide this broader range of services due to the limited physical space they occupy. The Community-Based Mental Health Infrastructure Improvements Act would authorize grants to states for the construction and modernization of these facilities. Indeed, for some Community Mental Health Centers, facility updates are the first step to enhancing patient care.

I am also pleased that this legislation has been included in a broader piece of legislation that I joined Senator STABENOW in introducing today, the Excellence in Mental Health Act. As a member of the Senate Committee on Health, Education, Labor, and Pensions, I will continue to work to include these important initiatives in legislation that renews and improves Substance Abuse and Mental Health Services Administration, SAMHSA, programs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 4035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Community-Based Mental Health Infrastructure Improvements Act”.

SEC. 2. COMMUNITY-BASED MENTAL HEALTH INFRASTRUCTURE IMPROVEMENT.

Title V of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

“PART H—COMMUNITY-BASED MENTAL HEALTH INFRASTRUCTURE IMPROVEMENTS

“SEC. 560. GRANTS FOR COMMUNITY-BASED MENTAL HEALTH INFRASTRUCTURE IMPROVEMENTS.

“(a) GRANTS AUTHORIZED.—The Secretary may award grants to eligible entities to expend funds for the construction or modernization of facilities used to provide mental health and substance abuse services to individuals.

“(b) ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ means—

“(1) a State that is the recipient of a Community Mental Health Services Block Grant under subpart I of part B of title XIX and a Substance Abuse Prevention and Treatment Block Grant under subpart II of such part; or

“(2) an Indian tribe or a tribal organization (as such terms are defined in sections 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act).

“(c) APPLICATION.—A eligible entity desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing—

“(1) a plan for the construction or modernization of facilities used to provide mental health and substance abuse services to individuals that—

“(A) designates a single State or tribal agency as the sole agency for the supervision and administration of the grant;

“(B) contains satisfactory evidence that such agency so designated will have the authority to carry out the plan;

“(C) provides for the designation of an advisory council, which shall include representatives of nongovernmental organizations or groups, and of the relevant State or tribal agencies, that aided in the development of the plan and that will implement and monitor any grant awarded to the eligible entity under this section;

“(D) in the case of an eligible entity that is a State, includes a copy of the State plan under section 1912(b) and section 1932(b);

“(E)(i) includes a listing of the projects to be funded by the grant; and

“(ii) in the case of an eligible entity that is a State, explains how each listed project helps the State in accomplishing its goals and objectives under the Community Mental Health Services Block Grant under subpart I of part B of title XIX and the Substance Abuse Prevention and Treatment Block Grant under subpart II of such part;

“(F) includes assurances that the facilities will be used for a period of not less than 10 years for the provision of community-based mental health or substance abuse services for those who cannot pay for such services, subject to subsection (e); and

“(G) in the case of a facility that is not a public facility, includes the name and executive director of the entity who will provide services in the facility; and

“(2) with respect to each construction or modernization project described in the application—

“(A) a description of the site for the project;

“(B) plans and specifications for the project and State or tribal approval for the plans and specifications;

“(C) assurance that the title for the site is or will be vested with either the public entity or private nonprofit entity who will provide the services in the facility;

“(D) assurance that adequate financial resources will be available for the construction or major rehabilitation of the project and for the maintenance and operation of the facility;

“(E) estimates of the cost of the project; and

“(F) the estimated length of time for completion of the project.

“(d) SUBGRANTS BY STATES.—

“(1) IN GENERAL.—A State that receives a grant under this section may award a subgrant to a qualified community program (as such term is used in section 1913(b)(1)).

“(2) USE OF FUNDS.—Subgrants awarded pursuant to paragraph (1) may be used for activities such as—

“(A) the construction, expansion, and modernization of facilities used to provide mental health and substance abuse services to individuals;

“(B) acquiring and leasing facilities and equipment (including paying the costs of amortizing the principal of, and paying the interest on, loans for such facilities and equipment) to support or further the operation of the subgrantee;

“(C) the construction and structural modification (including equipment acquisition) of facilities to permit the integrated delivery of behavioral health and primary care of specialty medical services to individuals with co-occurring mental illnesses and chronic medical or surgical diseases at a single service site; and

“(D) acquiring information technology required to accommodate the clinical needs of primary and specialty care professionals.

“(3) LIMITATION.—Not to exceed 15 percent of grant funds may be used for activities described in paragraph (2)(D).

“(e) REQUEST TO TRANSFER OBLIGATION.—An eligible entity that receives a grant under this section may submit a request to the Secretary for permission to transfer the 10-year obligation of facility use, as described in subsection (c)(1)(F), to another facility.

“(f) AGREEMENT TO FEDERAL SHARE.—As a condition of receipt of a grant under this section, an eligible entity shall agree, with respect to the costs to be incurred by the entity in carrying out the activities for which such grant is awarded, that the entity will make available non-Federal contributions (which may include State or local funds, or funds from the qualified community program) in an amount equal to not less than \$1 for every \$1 of Federal funds provided under the grant.

“(g) REPORTING.—

“(1) REPORTING BY STATES.—During the 10-year period referred to in subsection (c)(1)(F), the Secretary shall require that a State that receives a grant under this section submit, as part of the report of the State required under the Community Mental Health Services Block Grant under subpart I of part B of title XIX and the Substance Abuse Prevention and Treatment Block Grant under subpart II of such part, a description of the progress on—

“(A) the projects carried out pursuant to the grant under this section; and

“(B) the assurances that the facilities involved continue to be used for the purpose

for which they were funded under such grant during such 10-year period.

“(2) REPORTING BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary shall establish reporting requirements for Indian tribes and tribal organizations that receive a grant under this section. Such reporting requirements shall include that such Indian tribe or tribal organization provide a description of the progress on—

“(A) the projects carried out pursuant to the grant under this section; and

“(B) the assurances that the facilities involved continue to be used for the purpose for which they were funded under such grant during the 10-year period referred to in subsection (c)(1)(F).

“(h) FAILURE TO MEET OBLIGATIONS.—

“(1) IN GENERAL.—If an eligible entity that receives a grant under this section fails to meet any of the obligations of the entity required under this section, the Secretary shall take appropriate steps, which may include—

“(A) requiring that the entity return the unused portion of the funds awarded under this section for the projects that are incomplete; and

“(B) extending the length of time that the entity must ensure that the facility involved is used for the purposes for which it is intended, as described in subsection (c)(1)(F).

“(2) HEARING.—Prior to requesting the return of the funds under paragraph (1)(B), the Secretary shall provide the entity notice and opportunity for a hearing.

“(i) COLLABORATION.—The Secretary may establish intergovernmental and interdepartmental memorandums of agreement as necessary to carry out this section.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2010 and such sums as may be necessary for each of fiscal years 2011 through 2013.”.

By Mr. MCCONNELL (for himself, Mr. THUNE, Mr. GREGG, Mr. KYL, Mr. VITTER, Mr. KIRK, Mr. ENSIGN, Mr. LEMIEUX, Mr. ALEXANDER, Mr. ISAKSON, Mr. MCCAIN, Mr. CORNYN, Mr. GRAHAM, Mr. HATCH, Mr. WICKER, Mr. JOHANNES, and Mr. ROBERTS):

S.J. Res. 42. A joint resolution to extend the continuing resolution until February 1, 2011; read the first time.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the text of the joint resolution was ordered to be printed in the RECORD, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF THE CONTINUING RESOLUTION UNTIL FEBRUARY 18, 2011.

The Continuing Appropriations Act, 2011 (Public Law 111-242) is amended by striking the date specified in section 106(3) and inserting “February 18, 2011”.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 702—RECOGNIZING THE WORK AND IMPORTANCE OF SPECIAL EDUCATION TEACHERS

Mr. ROBERTS (for himself, Mr. HARKIN, Mr. HATCH, and Ms. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 702

Whereas, in 1972, the Supreme Court ruled that children with disabilities have the same right to receive a quality education in the public schools as their nondisabled peers and, in 1975, the Congress passed Public Law 94-142 guaranteeing students with disabilities the right to a free appropriate public education;

Whereas, according to the Department of Education, approximately 6,600,000 children (roughly 13 percent of all school-aged children) receive special education services;

Whereas there are over 370,000 highly qualified special education teachers in the United States;

Whereas the work of special education teachers requires special education teachers to be able to interact and teach students with specific learning disabilities, hearing impairments, speech or language impairments, orthopedic impairments, visual impairments, autism, combined deafness and blindness, traumatic brain injury, and other health impairments;

Whereas special education teachers—

- (1) are dedicated;
- (2) possess the ability to understand the needs of a diverse group of students;
- (3) have the capacity to use innovative teaching methods tailored to a unique group of students; and
- (4) understand the differences of the children in their care;

Whereas special education teachers must have the ability to interact and coordinate with a child's parents or legal guardians, social workers, school psychologists, occupational and physical therapists, and school administrators, as well as other educators to provide the best quality education for their students;

Whereas special education teachers help to develop an individualized education program for every special education student based on the needs and abilities of the student; and

Whereas special education teachers dedicate themselves to preparing special education students for success in school and beyond: Now, therefore, be it

Resolved, That Congress—

- (1) recognizes the amount of work required to be a special education teacher; and
- (2) commends special education teachers for their sacrifices and dedication to preparing individuals with special needs for high school graduation, college success, and rewarding careers.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4814. Mr. MCCAIN (for himself and Mr. BARRASSO) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4815. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 4805 submitted by Mr. INOUE and intended to be proposed to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 4816. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 4817. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 4805 submitted by Mr. INOUE and intended to be proposed to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 4818. Mr. DORGAN (for Mr. VOINOVICH (for himself, Mr. CARPER, Mrs. BOXER, Mr. INHOFE, Mr. ALEXANDER, Mr. BAUCUS, Mr. BROWN of Ohio, Mr. CARDIN, Ms. COLLINS, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mrs. HAGAN, Mr. HARKIN, Mr. KERRY, Ms. KLOBUCHAR, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. LUGAR, Mr. MERKLEY, Mr. REED, Mr. SCHUMER, Mrs. SHAHEEN, Mr. TESTER, Mr. WARNER, Mr. WHITEHOUSE, Mr. WYDEN, Ms. MURKOWSKI, Mr. MENENDEZ, Mr. WEBB, and Mr. LEVIN)) proposed an amendment to the bill H.R. 5809, to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program.

SA 4819. Mr. DORGAN (for Mr. VOINOVICH (for himself and Mr. CARPER)) proposed an amendment to the bill H.R. 5809, supra.

SA 4820. Mrs. HUTCHISON (for herself, Mr. WICKER, Mr. ENSIGN, Mr. ISAKSON, Mr. THUNE, Mr. DEMINT, Mr. CORNYN, and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 4821. Mr. ROCKEFELLER (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 3082, supra; which was ordered to lie on the table.

SA 4822. Mr. REID proposed an amendment to the bill H.R. 5281, to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes.

SA 4823. Mr. REID proposed an amendment to amendment SA 4822 proposed by Mr. REID to the bill H.R. 5281, supra.

SA 4824. Mr. REID proposed an amendment to the bill H.R. 5281, supra.

SA 4825. Mr. REID proposed an amendment to amendment SA 4824 proposed by Mr. REID to the bill H.R. 5281, supra.

SA 4826. Mr. REID proposed an amendment to amendment SA 4825 proposed by Mr. REID to the bill H.R. 5281, supra.

SA 4827. Mr. REID proposed an amendment to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the

Small Business Technology Transfer Program, and for other purposes.

SA 4828. Mr. REID proposed an amendment to amendment SA 4827 proposed by Mr. REID to the bill H.R. 2965, *supra*.

SA 4829. Mr. REID proposed an amendment to the bill H.R. 2965, *supra*.

SA 4830. Mr. REID proposed an amendment to amendment SA 4829 proposed by Mr. REID to the bill H.R. 2965, *supra*.

SA 4831. Mr. REID proposed an amendment to amendment SA 4830 proposed by Mr. REID to the amendment SA 4829 proposed by Mr. REID to the bill H.R. 2965, *supra*.

SA 4832. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4814. Mr. MCCAIN (for himself and Mr. BARRASSO) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In the preamble to the New START Treaty, strike "Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties,".

SA 4815. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 4805 submitted by Mr. INOUE and intended to be proposed to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 1068, between lines 17 and 18, insert the following:

SEC. 311. MAINTENANCE OF EFFORT REQUIREMENTS.

Paragraph (10)(A) of section 101 of Public Law 111-226 (124 Stat. 2391) is amended—

(1) in clause (ii), by striking "or" after the semicolon;

(2) in clause (iii)(II), by striking "2006." and inserting "2006; or"; and

(3) by adding at the end the following:

"(iv) for State fiscal year 2011, the State will maintain State support for elementary and secondary education and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students), in the aggregate, at a percentage of the total revenues available to the State that is equal to or greater than the total percentage provided for such support for State fiscal year 2010."

SA 4816. Mr. BROWN of Ohio submitted an amendment intended to be

proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VIII, add the following:

SEC. 836. ADDITIONAL DEFINITION RELATING TO PRODUCTION OF SPECIALTY METALS WITHIN THE UNITED STATES.

Section 2533b(m) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(11) The term 'produced', as used in subsections (a) and (b), means melted, or processed in a manner that results in physical or chemical property changes that are the equivalent of melting. The term does not include finishing processes such as rolling, heat treatment, quenching, tempering, grinding, or shaving."

SA 4817. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 4805 submitted by Mr. INOUE and intended to be proposed to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 662, line 6, insert "Provided further, That none of the amounts appropriated under this Act may be used to modify existing policy by providing collective bargaining rights to screeners at the Transportation Security Administration" before the period at the end.

SA 4818. Mr. DORGAN (for Mr. VOINOVICH (for himself, Mr. CARPER, Mrs. BOXER, Mr. INHOFE, Mr. ALEXANDER, Mr. BAUCUS, Mr. BROWN of Ohio, Mr. CARDIN, Ms. COLLINS, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mrs. HAGAN, Mr. HARKIN, Mr. KERRY, Ms. KLOBUCHAR, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. LUGAR, Mr. MERKLEY, Mr. REED, Mr. SCHUMER, Mrs. SHAHEEN, Mr. TESTER, Mr. WARNER, Mr. WHITEHOUSE, Mr. WYDEN, Ms. MURKOWSKI, Mr. MENENDEZ, Mr. WEBB, and Mr. LEVIN)) proposed an amendment to the bill H.R. 5809, to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Diesel Emissions Reduction Act of 2010".

SEC. 2. DIESEL EMISSIONS REDUCTION PROGRAM.

(a) DEFINITIONS.—Section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) any private individual or entity that—
"(i) is the owner of record of a diesel vehicle or fleet operated pursuant to a contract, license, or lease with a Federal department or agency or an entity described in subparagraph (A); and

"(ii) meets such timely and appropriate requirements as the Administrator may establish for vehicle use and for notice to and approval by the Federal department or agency or entity described in subparagraph (A) with respect to which the owner has entered into a contract, license, or lease as described in clause (i).";

(2) in paragraph (4), by inserting "currently, or has not been previously," after "that is not";

(3) by striking paragraph (9);

(4) by redesignating paragraph (8) as paragraph (9);

(5) in paragraph (9) (as so redesignated), in the matter preceding subparagraph (A), by striking "advanced truckstop electrification system,"; and

(6) by inserting after paragraph (7) the following:

"(8) STATE.—The term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands."

(b) NATIONAL GRANT, REBATE, AND LOAN PROGRAMS.—Section 792 of the Energy Policy Act of 2005 (42 U.S.C. 16132) is amended—

(1) in the section heading, by inserting "REBATE," after "GRANT";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities" and inserting "to provide grants, rebates, or low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities, including through contracts entered into under subsection (e) of this section,"; and

(B) in paragraph (1), by striking "tons of";

(3) in subsection (b)—

(A) by striking paragraph (2);

(B) by redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as so redesignated)—

(i) in subparagraph (A), in the matter preceding clause (i), by striking "90" and inserting "95";

(ii) in subparagraph (B)(i), by striking "10 percent" and inserting "5 percent"; and

(iii) in subparagraph (B)(ii), by striking "the application under subsection (c)" and inserting "a verification application";

(4) in subsection (c)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking paragraph (1) and inserting the following:

"(1) EXPEDITED PROCESS.—

"(A) IN GENERAL.—The Administrator shall develop a simplified application process for all applicants under this section to expedite the provision of funds.

"(B) REQUIREMENTS.—In developing the expedited process under subparagraph (A), the Administrator—

"(i) shall take into consideration the special circumstances affecting small fleet owners; and

"(ii) to avoid duplicative procedures, may require applicants to include in an application under this section the results of a competitive bidding process for equipment and installation.

“(2) ELIGIBILITY.—

“(A) GRANTS.—To be eligible to receive a grant under this section, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

“(B) REBATES AND LOW-COST LOANS.—To be eligible to receive a rebate or a low-cost loan under this section, an eligible entity shall submit an application in accordance with such guidance as the Administrator may establish—

“(i) to the Administrator; or

“(ii) to an entity that has entered into a contract under subsection (e).”;

(C) in paragraph (3)(G) (as redesignated by subparagraph (A)), by inserting “in the case of an application relating to nonroad engines or vehicles,” before “a description of the diesel”; and

(D) in paragraph (4) (as redesignated by subparagraph (A))—

(i) in the matter preceding subparagraph (A)—

(I) by inserting “, rebate,” after “grant”; and

(II) by inserting “highest” after “shall give”;

(ii) in subparagraph (C)(iii)—

(I) by striking “a diesel fleets” and inserting “diesel fleets”; and

(II) by inserting “construction sites, schools,” after “terminals.”;

(iii) in subparagraph (E), by adding “and” at the end;

(iv) in subparagraph (F), by striking “; and” and inserting a period; and

(v) by striking subparagraph (G);

(5) in subsection (d)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting “, rebate,” after “grant”; and

(B) in paragraph (2)(A)—

(i) by striking “grant or loan provided” and inserting “grant, rebate, or loan provided, or contract entered into.”; and

(ii) by striking “Federal, State or local law” and inserting “any Federal law, except that this subparagraph shall not apply to a mandate in a State implementation plan approved by the Administrator under the Clean Air Act”; and

(6) by adding at the end the following:

“(e) CONTRACT PROGRAMS.—

“(1) AUTHORITY.—In addition to the use of contracting authority otherwise available to the Administrator, the Administrator may enter into contracts with eligible contractors described in paragraph (2) for the administration of programs for providing rebates or loans, subject to the requirements of this subtitle.

“(2) ELIGIBLE CONTRACTORS.—The Administrator may enter into a contract under this subsection with a for-profit or nonprofit entity that has the capacity—

“(A) to sell diesel vehicles or equipment to, or to arrange financing for, individuals or entities that own a diesel vehicle or fleet; or

“(B) to upgrade diesel vehicles or equipment with verified or Environmental Protection Agency-certified engines or technologies, or to arrange financing for such upgrades.

“(f) PUBLIC NOTIFICATION.—Not later than 60 days after the date of the award of a grant, rebate, or loan, the Administrator shall publish on the website of the Environmental Protection Agency—

“(1) for rebates and loans provided to the owner of a diesel vehicle or fleet, the total number and dollar amount of rebates or loans provided, as well as a breakdown of the

technologies funded through the rebates or loans; and

“(2) for other rebates and loans, and for grants, a description of each application for which the grant, rebate, or loan is provided.”.

(c) STATE GRANT, REBATE, AND LOAN PROGRAMS.—Section 793 of the Energy Policy Act of 2005 (42 U.S.C. 16133) is amended—

(1) in the section heading, by inserting “, REBATE,” after “GRANT”;

(2) in subsection (a), by inserting “, rebate,” after “grant”;

(3) in subsection (b)(1), by inserting “, rebate,” after “grant”;

(4) by amending subsection (c)(2) to read as follows:

“(2) ALLOCATION.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), using not more than 20 percent of the funds made available to carry out this subtitle for a fiscal year, the Administrator shall provide to each State qualified for an allocation for the fiscal year an allocation equal to $\frac{1}{3}$ of the funds made available for that fiscal year for distribution to States under this paragraph.

“(B) CERTAIN TERRITORIES.—

“(i) IN GENERAL.—Except as provided in clause (ii), Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall collectively receive an allocation equal to $\frac{1}{3}$ of the funds made available for that fiscal year for distribution to States under this subsection, divided equally among those 4 States.

“(ii) EXCEPTION.—If any State described in clause (i) does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under clause (i) shall be reallocated pursuant to subparagraph (C).

“(C) REALLOCATION.—If any State does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under this paragraph shall be reallocated to each remaining qualified State in an amount equal to the product obtained by multiplying—

“(i) the proportion that the population of the State bears to the population of all States described in paragraph (1); by

“(ii) the amount otherwise allocatable to the nonqualifying State under this paragraph.”;

(5) in subsection (d)—

(A) in paragraph (1), by inserting “, rebate,” after “grant”;

(B) in paragraph (2), by inserting “, rebates,” after “grants”;

(C) in paragraph (3), in the matter preceding subparagraph (A), by striking “grant or loan provided under this section may be used” and inserting “grant, rebate, or loan provided under this section shall be used”; and

(D) by adding at the end the following:

“(4) PRIORITY.—In providing grants, rebates, and loans under this section, a State shall use the priorities in section 792(c)(4).

“(5) PUBLIC NOTIFICATION.—Not later than 60 days after the date of the award of a grant, rebate, or loan by a State, the State shall publish on the Web site of the State—

“(A) for rebates, grants, and loans provided to the owner of a diesel vehicle or fleet, the total number and dollar amount of rebates, grants, or loans provided, as well as a breakdown of the technologies funded through the rebates, grants, or loans; and

“(B) for other rebates, grants, and loans, a description of each application for which the grant, rebate, or loan is provided.”.

(d) EVALUATION AND REPORT.—Section 794(b) of the Energy Policy Act of 2005 (42 U.S.C. 16134(b)) is amended—

(1) in each of paragraphs (2) through (5) by inserting “, rebate,” after “grant” each place it appears;

(2) in paragraph (5), by striking “and” at the end;

(3) in paragraph (6), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following new paragraph:

“(7) in the last report sent to Congress before January 1, 2016, an analysis of the need to continue the program, including an assessment of the size of the vehicle and engine fleet that could provide benefits from being retrofitted under this program and a description of the number and types of applications that were not granted in the preceding year.”.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 797 of the Energy Policy Act of 2005 (42 U.S.C. 16137) is amended to read as follows:

“SEC. 797. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle \$100,000,000 for each of fiscal years 2012 through 2016, to remain available until expended.

“(b) MANAGEMENT AND OVERSIGHT.—The Administrator may use not more than 1 percent of the amounts made available under subsection (a) for each fiscal year for management and oversight purposes.”.

SEC. 3. AUDIT.

(a) IN GENERAL.—Not later than 360 days after the date of enactment of this Act, the Comptroller General of the United States shall carry out an audit to identify—

(1) all Federal mobile source clean air grant, rebate, or low cost revolving loan programs under the authority of the Administrator of the Environmental Protection Agency, the Secretary of Transportation, or other relevant Federal agency heads that are designed to address diesel emissions from, or reduce diesel fuel usage by, diesel engines and vehicles; and

(2) whether, and to what extent, duplication or overlap among, or gaps between, these Federal mobile source clean air programs exists.

(b) REPORT.—The Comptroller General of the United States shall—

(1) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a copy of the audit under subsection (a); and

(2) make a copy of the audit under subsection (a) available on a publicly accessible Internet site.

(c) OFFSET.—All unobligated amounts provided to carry out the pilot program under title I of division G of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 814) under the heading “MISCELLANEOUS ITEMS” are rescinded.

SEC. 4. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by section 2 shall take effect on October 1, 2011.

(b) EXCEPTION.—The amendments made by subsections (a)(4) and (6) and (c)(4) of section 2 shall take effect on the date of enactment of this Act.

SA 4819. Mr. DORGAN (for Mr. VOINOVICH (for himself and Mr. CARPER)) proposed an amendment to the bill H.R. 5809, to amend the Energy Policy Act of 2005 to reauthorize and

modify provisions relating to the diesel emissions reduction program; as follows:

Amend the title so as to read: "An Act to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program."

SA 4820. Mrs. HUTCHISON (for herself, Mr. WICKER, Mr. ENSIGN, Mr. ISAKSON, Mr. THUNE, Mr. DEMINT, Mr. CORNYN, and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. None of the funds appropriated by this Act may be used by the Federal Communications Commission to adopt or implement, or otherwise bring or litigate any claim or otherwise intervene in, join, participate, or support any claim in any Federal or State court relating to any—

(1) open Internet-based rules, protocols, or standards; or

(2) rules, protocols, or standards regulating the behavior of broadband Internet access service providers with respect to discrimination of broadband traffic, network management practices, managed services, specialized services, or paid prioritization.

SA 4821. Mr. ROCKEFELLER (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II of division G, insert the following:

SUSPENSION OF CERTAIN EPA ACTION

SEC. _____. (a) Except as provided in subsection (b), notwithstanding any provision of the Clean Air Act (42 U.S.C. 7401 et seq.), during the 2-year period beginning on the date of enactment of this Act, the Administrator of the Environmental Protection Agency may not take any action under the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any stationary source permitting requirement or any requirement under section 111 of that Act (42 U.S.C. 7411) relating to carbon dioxide or methane.

(b) Subsection (a) shall not apply to—

(1) any action under part A of title II of the Clean Air Act (42 U.S.C. 7521 et seq.) relating to the vehicle emissions standards contained in Docket No. EPA-HQ-OAR-2009-0171 or Docket No. EPA-HQ-OAR-2009-0472;

(2) any action relating to the preparation of a report or the enforcement of a reporting requirement; or

(3) any action relating to the provision of technical support at the request of a State.

(c) Notwithstanding any other provision of law, no action taken by the Administrator of the Environmental Protection Agency before the end of the 2-year period described in subsection (a) shall be considered to make carbon dioxide or methane a pollutant subject

to regulation under the Clean Air Act (42 U.S.C. 7401 et seq.) for any source other than a new motor vehicle or new motor vehicle engine, as described in section 202(a) of that Act (42 U.S.C. 7521(a)).

SA 4822. Mr. REID proposed an amendment to the bill H.R. 5281, to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; as follows:

At the end, insert the following:

The provisions of this Act shall become effective 6 days after enactment.

SA 4823. Mr. REID proposed an amendment to amendment SA 4822 proposed by Mr. REID to the bill H.R. 5281, to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; as follows:

In the amendment, strike "6" and insert "5".

SA 4824. Mr. REID proposed an amendment to the bill H.R. 5281, to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; as follows:

At the end, insert the following:

The Senate Judiciary Committee is requested to conduct a study, nationwide, on the impact of any delay in implementing the provisions of this Act.

SA 4825. Mr. REID proposed an amendment to amendment SA 4824 proposed by Mr. REID to the bill H.R. 5281, to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; as follows:

At the end, insert the following:

"and include specific data on the impact of families who would benefit from the Act, and submit the data within 5 days of enactment.

SA 4826. Mr. REID proposed an amendment to amendment SA 4825 proposed by Mr. REID to the amendment SA 4824 proposed by Mr. REID to the bill H.R. 5281, to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; as follows:

In the amendment, strike "5" and insert "2".

SA 4827. Mr. REID proposed an amendment to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes; as follows:

At the end, insert the following:

The provisions of this Act shall become effective immediately.

SA 4828. Mr. REID proposed an amendment to amendment SA 4827 proposed by Mr. REID to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes; as follows:

In the amendment, strike "immediately" and insert 5 days.

SA 4829. Mr. REID proposed an amendment to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes; as follows:

At the end, insert the following:

The Senate Armed Services Committee is requested to conduct a study on the impact of implementing these provisions on the family of military members.

SA 4830. Mr. REID proposed an amendment to amendment SA 4829 proposed by Mr. REID to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes; as follows:

At the end, add the following:

"and that the study should focus attention on the dependent children".

SA 4831. Mr. REID proposed an amendment to amendment SA 4830 proposed by Mr. REID to the amendment SA 4829 proposed by Mr. REID to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes; as follows:

At the end, add the following:

"include any data which might impact local communities".

SA 4832. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. VEHICLE WEIGHT LIMITATIONS.

Section 194 of the Consolidated Appropriations Act, 2010 (Public Law 111-117) is amended—

(1) in subsection (b), by striking "be in effect during the 1-year period beginning" and inserting "take effect"; and

(2) by striking subsection (c).

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. KERRY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 16, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, on behalf of Senator SHAHEEN, I ask unanimous consent that Roger Thoman, a legislative fellow in her office, be permitted floor privileges during the consideration of the START Treaty and any votes related to that matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I ask unanimous consent that CDR Brent Breining, a defense legislative fellow assigned to my office, be granted floor privileges for the remainder of the debate on treaty No. 111-5, the New START Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARDIN. Mr. President, I ask unanimous consent that floor privileges be granted to CDR Andre Coleman, a Department of Defense Fellow, who has been extremely helpful in my office, from the Department of the Navy, during the Senate's consideration in executive session of Treaty Document 111-5, the New START Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTROLLING SPENDING

Mr. MCCAIN. Mr. President, I would like to note that we just saw a rather extraordinary event on the floor of the Senate. I first came to the U.S. Senate in 1987, and I saw the practice of earmarking and porkbarrel spending grow and grow and grow, to the point where last November 2 the American people overwhelmingly rejected this practice of out-of-control spending and debt that we have laid on our children and our grandchildren.

I also, along with the Republican leader, would like to thank our members of the Appropriations Committee, who clearly heard that message and heard the outcry when the American people began to become aware of what was contemplated to be done in the Congress of the United States. This outcry reverberated all over America, including the State of Arizona. And the outcry was finally heard by at least 42 Members on this side of the aisle.

So I appreciate the fact the majority leader has agreed to a continuing resolution. But have no doubt as to why it

happened. It happened because the majority leader didn't have the votes. He didn't have 60 votes that would have then allowed for this monstrosity to be foisted off on the American people.

So I wish to thank Members here on this side of the aisle, and some on the other side, who also said they were ready to stand up against this. But most of all, I wish to thank the American people. I thank those who made the calls, those who sent the e-mails, those who stood up and called in to the talk shows all over America and said: We have had enough. Haven't they listened to the message we were trying to send on November 2?

So I think this is a great victory for the American people today because we would have spent \$1.1 trillion, at least \$8 billion of it, \$8.3 billion, in earmarks that had never had a hearing, that had never had any scrutiny, had never seen the light of day, but had been put in by very powerful Members of this body on the Appropriations Committee.

So I would like to extend my gratitude to the American people, the tea partiers, those who have aligned themselves with the cause to stop the spending and the mortgaging of our children's and grandchildren's future. We have amassed a \$40,000 debt for every man, woman, and child in America. The latest commission that reported out clearly indicated we are on a collision course that could bring down the very economy of this country.

So I am encouraged greatly by the action taken tonight to do away with this monstrosity and go back to maybe a one-page continuing resolution to keep the government in business until the new Members of Congress and the new Members of this body who were elected last November can have their voices heard in the deliberations of this body and how their tax dollars are dispensed with and how those that are borrowed are dispensed.

I see the Senator from Missouri is about to speak. I wish to thank her for her efforts in trying to bring about an end to this spending spree.

So I again wish to express my gratitude to all Members, including especially the tough decision made by the Republican members of the Appropriations Committee, to stand so we could stop this thing in its tracks. I want to thank the American people whose voices were heard in this body, and that forced the decision that was made today.

Mr. KIRK. Mr. President, will the Senator yield for a question?

Mr. MCCAIN. Yes.

Mr. KIRK. As the most junior people, for those who don't understand what just happened, did we just win?

Mr. MCCAIN. I think there is very little doubt. The majority leader of the U.S. Senate would not have taken the action he just took if he didn't have 41 votes to stop this monstrosity.

Mr. KIRK. So for economic conservatives, a 1,924-page bill just died?

Mr. MCCAIN. A 1,924-page bill just died.

Mr. KIRK. And 6,000 earmarks will not now move forward?

Mr. MCCAIN. Yes. I feel badly about some of those earmarks because I had so much fun with them.

Mr. KIRK. All of the GOP Senators just signed a letter to the leadership this morning saying we should not move forward with this as representatives of the new mandate. It seems that change has come to the Senate tonight with the death of this \$1.1 trillion bill.

Mr. MCCAIN. I have no doubt.

Mrs. MCCASKILL. Mr. President, I—

Mr. MCCAIN. I am not finished. Do I have the floor?

The PRESIDING OFFICER. Yes, the Senator from Arizona has the floor.

Mr. MCCAIN. I appreciate the regular order.

This may be a seminal moment in the recent history of the Senate. This may be a seminal moment that stops the practice which has moved power all to the appropriators in this body—a few—and taken it away from the rest of us and may return us to an authorizing and then appropriating process. But most importantly, I think it is a seminal moment because for the first time since I have been here, we stood up and said: Enough. Stop.

Mr. KIRK. I congratulate the Senator.

Mr. MCCAIN. Thank you.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. Mr. President, I agree with my colleague from Arizona on many things when it comes to appropriations, including that I have made a decision that earmarking is not a process that I think is the appropriate way to spend public money. But I am a little confused about some of the righteous indignation coming from the Republican side of the aisle about this bill.

The omnibus 2010 they have sitting out there—they are wanting the American people to think this document came from Democrats. They want the American people to think that omnibus 2010, all of those pages sitting there, were done by Democrats. They weren't done by Democrats. Those pages were done by Democrats and Republicans. Every bit of that document was drafted by Republicans and Democrats, right down to the earmarks. And for the minority leader to stand here and act as if this document is something that is the fault of the Democratic Party when he well knows he has been involved—I have been involved in terms of trying to get the number down, and I am glad we succeeded in getting the number down, as has been referenced, to the Sessions-McCaskill number, but this

was a bipartisan effort to get the number down.

The irony is, guess who has earmarks in there. The minority leader, who just voted on a moratorium for earmarks 10 minutes ago. Did he pull his earmarks out? No. Did any of the Republicans who voted for a moratorium on earmarks pull their earmarks out before this bill came to the floor? We could have eliminated a few pages. So I just don't think the righteous indignation works.

This was a bipartisan effort, drafted by Republicans and Democrats. It came to the floor after months of work by Democrats and Republicans. It was presented to this body in a bipartisan way to vote on. I wasn't going to vote for it. I am against it. So I think I have a slight bit of credibility to call these guys on this notion that this is something that sprung from nowhere out of some back room on the Democratic side of the aisle. This sprung from a bipartisan effort of the Appropriations Committee, and every Member on that side of the aisle knows it. They know it. And they know the earmarks in there—there are almost \$700 million of earmarks in there from people who voted on a moratorium on earmarks. That is like being half-pregnant.

They should have said, before this bill ever came to the floor—and they were asked: Would you like your earmarks pulled out? No, no. They were perfectly willing to vote no and take those earmarks home.

So, on one hand, I would have voted no had we had the vote, and I said that from day one. I voted no on the omnibus last year. I voted no on another omnibus because I don't think it is the right way to appropriate. But this is an equal-opportunity sin. The problems with this process don't lie on one side of the aisle; they lie on both sides of the aisle. And the notion that the Republicans are trying to say this is just about the Democrats is the kind of hypocrisy that gives us the lowest ratings we have in terms of confidence of the American people.

We need to own up here. This is not about the Democrats. This is about both sides of the aisle and a flawed appropriations process that couldn't get to the floor because of a lot of obstructionism, and when it finally did get to the floor, it came in one package. But it is not fair for the Republicans to act as though all those pages came from the Democratic side of the aisle. They certainly did not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I wish to thank the Senator from Missouri for her work in setting the ceiling that was adhered to. I don't support this bill, and I didn't ask for any earmarks, and I know the Senator from Missouri did not ask for any earmarks.

I think there have been a lot of frayed feelings, no question. I think we all know that even at the levels—and I would say that I think the appropriators did agree to a number that was passed out here on the floor. But I think we know that even at those levels, spending is higher than it should be.

What I would ask is that the Senator from Missouri and I continue to work together. I know we have an amendment that was going to be a part of whatever passed to really cap spending and drive it down to the appropriate level of spending relative to our gross domestic product. I know it is going to take both sides of the aisle to do that. I know we have had a deficit reduction commission that has just reported and has done some great work. The Senator from Illinois, to his credit, courageously supported that.

So there are a lot of frayed feelings right now. There is a lot that has been attempted to be done here at the end. I know that has created a lot of conflict.

The page is going to turn here soon. The year is going to end. The holidays will come, and we will be able to share a few moments with our families and then come back. What I hope is that in spite of all that has happened—and again, I did not support this piece of legislation for lots of reasons—many, many reasons. I do agree, though, there was a ceiling that was set. I agree this is going to cause some damage. But it was the right thing. It was the right thing for this bill not to go forward, and I hope what we will end up with and have is a continuing resolution that will take us for several months.

Then I would say to the Senator from Missouri that I look forward to working with her. I look forward to working with the Senator from Illinois so we can put in place a construct so that we know where it is we are going. Each year, it is not just that the appropriations bills don't necessarily come forward, and it happens—it has happened in years past. I understand that. They don't necessarily come forward in a way that allows us to spend time with them—one a week or maybe two a week or whatever. But it is also that we don't really know where it is we are going. We don't really have a construct that is taking us to a place over time. So it is my hope that we will either vote on something bold relating to deficit reduction and tax reform or that we will put in place a construct to take us where we need to go.

I don't think it does any good to cast blame, candidly. We are where we are. I think the Senate is taking actions that are appropriate and responsible by moving to a short-term CR. The thing I think is most beneficial to us about that is it allows us to very quickly, in February or March, start moving toward a downward trending line that I think is much better for our country.

I see the Senator from Missouri standing. I think there is a lot we as a body have to work on together. That, to me, is the most important thing before us, and I hope when we come back we will all work very hard to make that happen.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. McCASKILL. Let me just say that had the tone of the minority leader's remarks been the same as the Senator from Tennessee, I probably wouldn't have felt as passionately as I did. I agree with the Senator from Tennessee about the vote on this bill. I have publicly said I wouldn't support it. I didn't support it for a number of reasons. But if we want to work together, then we have to quit trying to score cheap political points.

The notion that the minority floor leader tried to give to the American people that this bill was somehow concocted in some back room by Democrats—everybody knows that is not true. Everybody knows that until about 8 hours ago, there were a bunch of Republicans voting for this. Now, am I glad they are not voting for it? Candidly, I am. I am glad you guys managed to get everybody to not vote for it because I am opposed to it. But what I think was most offensive was trying to trot this bill out here and put a label on it and try to say to the American people that this was something that was done at the eleventh hour to be jammed down people's throats. This was something done in a bipartisan way. THAD COCHRAN had a huge role in that bill, as did every other ranking member on all of the subcommittees on appropriations. So it is offensive to me—it is not that we are defeating the omnibus. I like that. But what is offensive to me is that we have gotten into this bad habit of trying to score cheap political points. And for Senators to come to this floor and say "we won" and do this kind of stuff when you know how many Republicans worked hard on provisions in that bill—and, in fact, Republicans worked hard—frankly, harder than our side did on McCaskill-Sessions.

We had 17 Democrats supporting it. You had unanimous support. I was pleased that we came together in that bipartisan way to bring the number down. We won in bringing the number down to the level Republicans wanted, along with 17 Democrats. That is what Sessions-McCaskill was. I think if we can go forward in the manner the Senator from Tennessee has spoken of, then it is important that we quit trying to mislead somehow the American people that the bill we were going to consider was the product of the Democratic Party, because it wasn't. That is what causes frayed feelings.

You know, the Senator from Tennessee and I have had long discussions. He was surprised to hear about how

angry we were on this side and some of the tactics that were being used. I was surprised to hear about how angry some of the Senators on the Republican side were at some of the tactics that were being used. If there is going to be a moment that we come together, then we need to work a little harder at not scoring cheap political points such as were scored a few minutes ago by the minority leader.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. BEGICH. Mr. President, I say to the Senator from Tennessee, I signed on to the Sessions-McCaskill bill because I think we need to get somewhere with the deficit. We signed a resolution letter to get it under control. I wasn't planning to speak. I was going to head home. But it triggered me when one of our colleagues on that side said, "who wins tonight?" That is not what this should be about. It is not who wins or loses. The American people are losing every day that we have this bickering that goes on. Honestly, I didn't see the pile of paper with the logo on it until I got to my seat. That is not necessary for us to get on with our business.

I was listening to the Senator from Tennessee, who was a former mayor, and I was a former mayor. He was talking like a mayor. That is what we need here, people who think in the long term, how we get there. That is where we need to go. I didn't come here to hear the bickering that just went on a little bit ago and see the prop that was brought out. That is not why Alaska sent me here.

Who wins and loses? My State of Alaska is losing tonight, because we cannot get our work done after a year. Almost a quarter of the Senate sat and worked on this in multiple committees to get this bill to us. Here we are. We can argue the timing and all that, but the fact is, I look to both Democrats and Republicans on the Appropriations Committee. I listen to them, and my staff works with them to hear about the bill that is being put together. I am impressed all the time when I hear the votes that come out of there. They are almost unanimous. That is rare in this world we live in here. We cannot continue to bring props like that down and say who wins and loses, and then giggle about it as they leave the floor.

The public is fed up with that. If there is one thing they told us in November, it was to get busy and quit the gamesmanship. So I am looking forward to the Senator's comments. We had a very productive meeting talking about tax reform, deficit management, and how we need to control spending. That is the direction we have to go in. But we are not going to get there with these games. I know both sides—and you are right, we should not cast blame. We are all at fault here. This may be the moment that we finally say

to ourselves, no more show and tell, no more gimmicks. Let's get serious, and the winners should be the American people. I sat here and listened to the Senator and I feel like the mayor was coming out of him. As a former mayor, he has had to reach across to both sides. Senator GREGG said in his farewell speech that we get work done between the 40 yard lines. He is right. We have to get back there and quit being on the fringes for the media that sits up here, and wherever else they watch us from.

I am looking forward to maybe going home and getting a good night's sleep and coming back with a fresh attitude tomorrow. I am controlling my emotions as best I can tonight. The words of the Senator from Tennessee—I wish those were the words that started the debate tonight. That is not what happened. I look forward to whatever we can do to get through this maze and get on with the show and get what the American people are looking for, and that is results from the Congress maybe will go from 13 percent popularity to 14 percent approval.

Thank you, Mr. President. I yield the floor.

Mr. DURBIN. Mr. President, I thank my colleague from Tennessee for the kind words about the deficit commission. It was a controversial vote. I think it was the right vote to deal with our deficit and the problems we face.

I want to put what happened tonight into some perspective in light of the deficit commission. First, the Omnibus appropriations bill. The total amount being spent there was \$1.108 trillion. The amount of that bill that was earmarked for specific projects was less than 1 percent of that—\$8 billion out of \$1.108 trillion. That is less than 1 percent. And that was within the total amount we were limited to spend. It wasn't as if we added it on. We were given a total amount, and less than 1 percent of it was earmarked as to where it was going, with complete transparency and disclosure. Again, it was \$8 billion.

It troubles me when I hear Members come to the floor, as some did a few minutes ago on the other side, saying we put an end to porkbarrel spending, and now we are dealing with our deficit. Well, \$8 billion is a lot of money to anybody, but in the context of the debt we face as a nation and the need to address it, it is not significant. It is not significant in that context.

I think about the fact that yesterday most of us voted—81 of us—for a tax bill, and included in that tax bill were tax cuts for people who were pretty well off in America; \$20 billion a year in tax cuts for the richest estates in America to escape Federal taxation—\$20 billion. We voted yesterday, and there weren't a lot of high-fives and glorious speeches given about the fact that we were adding \$20 billion to the

deficit with that vote yesterday for the wealthiest people in America. And \$70 billion of it was for tax cuts for people making over a million dollars a year. Nobody came here and talked about deficits then. In fact, it was considered out of bounds.

We decided yesterday, on a bipartisan basis—and I joined in—that getting this economy moving again was critically important. That is why I voted for it—even though two of those provisions I particularly loathe. That is the nature of a compromise.

I want us to remember, as we talk about going to CRs and reducing spending, the tax bill we passed yesterday, which the House may pass today, is a stimulus to a weak economy, in an effort to help businesses, help individuals create more demands for goods and services, and create more jobs and reduce unemployment. That is what it is.

As we take spending out of the Federal side of this equation, we are removing money from the economy. The deficit commission was sensitive to this and said that before you start the cuts in spending for deficit reduction, get well, get the patient well first. Stop the bleeding before you address the fractured bone. Stop the bleeding of the recession. That is why the deficit commission did not call for significant spending cuts until January of 2013. We talked about it for a long time. If we let the deficit break—and that is what we are going to hear, I am afraid, for some time to come—too early, this economy is going to sputter and fail.

We cannot let that happen. It is not in the interest of either political party. We have to find the right combination that moves us toward long-term deficit reality but the short-term economic reality we face. I think the deficit commission got the right balance. I hope we can build on that. I say to Senator CORKER and Senator ALEXANDER, if at the end of the day those of us in the Senate who voted for the deficit commission—in this case, it would be Senator CONRAD, Senator CRAPO, Senator COBURN, and myself—if we could reach the point where we come together in a bipartisan budget resolution based on that deficit commission, if we have a Senate budget resolution—and take the word "bipartisan" out of it—that reflects the feelings of that deficit commission, then that commission will have been a success and put us on the right track, and we can stand strong together.

I hope you agree that would be the best thing for this country. I hope we can reach that point. I thank the Senator for his kind words.

The PRESIDING OFFICER. The Senator from Tennessee, Mr. ALEXANDER, is recognized.

Mr. ALEXANDER. Mr. President, I congratulate my colleague from Tennessee, Senator CORKER, for his usual

common sense, as well as the assistant Democratic leader, Senator DURBIN, for his courage on the debt commission.

I believe that the decision made tonight about the omnibus bill is best for the country, but there could have been a better result. It would have been along the lines of what the Senator from Illinois described. If we had been able earlier in the year to agree on a budget in the Senate, which is how much are we going to spend, and if we could have gone committee by committee—and there are 13 subcommittees, and we both serve on the Appropriations Committee—and we could have brought those to the floor by August, voted on them, and got on with it so the government could run, that would by far be a better result.

There is no need to say why that didn't happen, whether it was a Democratic or Republican fault. It didn't happen. So that falls on all of us to look ahead and see if it can't happen in the future. I believe it can. In fact, I believe that it must. We have a time coming up next year when we will be asked to raise the debt ceiling. We will have before us a recommendation from the debt commission that five of the six Senators who served on it voted for. They stuck their necks way out to do that. The Senator from Illinois, the Senator from North Dakota, and three Republican Senators, as well. So I think it is incumbent upon all of us—we can find points of division fairly easily. That is not hard to do. Finding points of consensus is harder. Cutting taxes is easier. Reducing the debt is going to be harder.

So in the next 3 or 4 months, when we come back, I hope we will build on the conversation that I heard earlier this week with Senators WARNER and CHAMBLISS, and a group of nearly 20 Senators on both sides, who committed themselves to work on the debt commission. I hope we can, in the Appropriations Committee, start out the year with some way of agreeing on a ceiling, and then work together to work within that ceiling so we can run the government.

A continuing resolution for a year is a lousy way to run a government. It wastes money, because you end up funding things that should be cut and not funding things that need increases.

I think this was the right result for the American people of the choices we had tonight. But there could be a better choice. It is our responsibility to see next year if we can offer ourselves, and therefore the American people, that choice.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. CORKER. I also thank the Senator from Illinois. I thank the senior Senator from Tennessee, who is always doing and saying the right thing from the floor and leads us in such a great way.

I say to the Senator from Illinois, through the Chair, I hope there is some way that we don't let what happened over the course of the last 3 months on the deficit reduction commission go to waste. I fear that what is happening right now is that people are beginning to talk about some kind of situation where we then revisit all of these things for the next year or so. I know I am not privy to all the details that all of you worked on for so long, but I do think when this debt ceiling vote comes up, which will be in April, May, or maybe the first week in June, it seems to me that is the next moment in the Senate.

I talked with some of the members of the deficit reduction commission on my side and certainly look forward to talking to the Senator from Illinois about the same thing. I hope there is a way that we actually vote on something that is real and not kick this down the road with some meaningless resolution that makes the American people think we have done something, when in actuality we have done nothing and just kicked it down the road.

I thank the Chair and I hope that is the case.

I yield the floor.

Mr. DURBIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, DECEMBER 17, 2010

Mrs. MCCASKILL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, December 17; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to executive session to resume consideration of the New START treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mrs. MCCASKILL. Mr. President, the START treaty will be open to amendments tomorrow. Senators are encouraged to come to the floor to offer and debate their amendments. Rollcall votes are possible to occur throughout the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mrs. MCCASKILL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 8:36 p.m., adjourned until Friday, December 17, 2010, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Thursday, December 16, 2010:

THE JUDICIARY

CATHERINE C. EAGLES, OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF NORTH CAROLINA.

KIMBERLY J. MUELLER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA.

JOHN A. GIBNEY, JR., OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA.

JAMES KELLEHER BREDAR, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—Thursday, December 16, 2010

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. PASTOR).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 16, 2010.

I hereby appoint the Honorable ED PASTOR to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:
O Lord, have pity on us, for You do we wait.

Be our strength every morning, our salvation in time of trouble.

As You approach, people flee. When You rise up in Your majesty, whole nations seem to scatter.

They realize half-truths have led to confusion, and poor decisions reveal lasting consequences.

In You alone do we find the wisdom which leads to stability both now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois (Mr. SCHOCK) come forward and lead the House in the Pledge of Allegiance.

Mr. SCHOCK led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 10 requests for 1-minute speeches on each side of the aisle.

WORLDWIDE MARRIAGE ENCOUNTER

(Mrs. DAHLKEMPER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. DAHLKEMPER. Mr. Speaker, I rise today to recognize Worldwide Marriage Encounter.

For over 40 years, Worldwide Marriage Encounter has strengthened countless marriages through a weekend workshop to improve a couple's communication. Worldwide Marriage Encounter is totally self-supporting, and no couple is turned away because they do not have the ability to pay. In 2009, over 10,000 couples attended the Worldwide Marriage Encounter weekends in the United States alone.

Marriage is a vital institution in the life of our society. Couples in good marriages live longer and happier lives. Worldwide Marriage Encounter is undertaking a project to recognize the longest married couple from every State, with special recognition to the longest married couple in the United States. As nearly 50 percent of marriages end in divorce, it is truly an inspiration to see how many couples have remained together for so long.

Mr. Speaker, I hope my colleagues will join me in congratulating Worldwide Marriage Encounter and all the volunteers and clergy for their efforts to strengthen marriages throughout our country.

OMNIBUS SPENDING

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute.)

Mr. BUCHANAN. Mr. Speaker, despite \$14 trillion in debt, Congress continues to waste taxpayers' money.

The Senate is now debating the Senate bill, loaded with more than 6,000 earmarks, including research for maple syrup in Vermont. This barrel of pork totals \$8.3 billion.

America's message last month was very clear—stop the reckless spending.

This continued borrowing and spending is putting our country on the road to bankruptcy. Forty-nine out of 50 States have to balance their budgets. Yet, in the last 50 years, we have only managed to balance the Federal budget five times. This has to change.

We need to pass a constitutional balanced budget amendment, and we need to pass it today.

REBUILDING OUR OWN NATION

(Mr. HIMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIMES. Mr. Speaker, I make a point every day to look in The Times at that black box, usually on page 7 or 8, that lists the names of those young men and women who have given their lives in Afghanistan.

Yesterday, it struck me, as we go into Christmas, that there were seven names on that list—six of them under the age of 25. Two of them, Ken Necocchia and Derek Simonetta, were only 21 years old. I wonder if they'd ever bought a drink in a bar or in the country in which they were serving. On the front page of The New York Times: U.S. Intelligence Offers Dim View of Afghan War.

I say all this because this time last year I was in Afghanistan, watching the good work that these young men and women are doing—building roads, building markets, building a nation—and reflecting on the fact that this is a nation that, for 1,000 years, has spit out foreigners as sport.

As we go into Christmas and I think about the kids in my city of Bridgeport, whose schools have leaking roofs, whose highways are crumbling, whose rails are coming apart, I wonder, Mr. Speaker: Is it not time that we start rebuilding this Nation, not one that seems to not want us there?

ANOTHER HOUSING BUBBLE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, American Enterprise Institute fellows Peter Wallison and Edward Pinto have warned, "It is hard to believe, but it looks like the government will soon use the taxpayers' checkbook again to create a vast market for mortgages with low or no down payments and for overstretched borrowers with blemished credit. As in the period leading to the 2008 financial crisis, these loans will again contribute to a housing bubble."

They go on to state, "The goal of Congress and regulators should be to foster the residential mortgage market's return to the standards that used to prevail in 1990, before the affordable housing requirements were imposed on Fannie and Freddie."

We should fix the current problem. For starters, the Dodd-Frank Act needs

to be amended so that quality standards are applied to FHA and other government agencies. This should not impair credit availability for the important home-building and real estate industries.

As a former real estate attorney, I know the government should not overwhelm homeowners with mortgages they cannot afford. This destroys neighborhoods and families.

In conclusion, God bless our troops, and we will never forget September the 11th.

TAX CUTS THROUGH BIPARTISAN COMPROMISE

(Mr. ALTMIRE asked and was given permission to address the House for 1 minute.)

Mr. ALTMIRE. Mr. Speaker, as we work to close out this session of Congress, Members of this House today will vote on a major piece of legislation to extend tax cuts for every American. While this bill is expected to help provide a boost to our economy, perhaps equally important is the way that we arrived at this stage in the legislative process—through bipartisan compromise.

This bill is a result of negotiation between Republicans and Democrats, between the President and the Congress, between the House and the Senate. That's right. This bill which we are going to pass today and send to the President is a result of the type of give-and-take negotiation that is supposed to be part of the legislative process but that, unfortunately, has long been lacking in Congress.

Hopefully, passage of this bill today will be but a sign of things to come. I hope the new Republican leadership in Congress taking office on January 5 will incorporate all points of view—of Republicans and Democrats alike—and will continue working in a bipartisan way to put the American people ahead of partisan politics.

□ 1010

INTERNATIONAL PREVENTING CHILD MARRIAGE ACT

(Mr. SCHOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHOCK. Mr. Speaker, I rise today in support of the International Preventing Child Marriage Act.

I had the opportunity to travel earlier this year in September with the well-respected nonprofit CARE to the country of Ethiopia. During that time, we visited the Hamlin Fistula Hospital and saw firsthand the atrocities and the realities of the situation with so many of these young girls who are forced into early marriages beyond their wishes, marriages that rob their

potential to grow and mature both physically as well as mentally, for them to be able to establish their own life and their own goals and hopes and dreams for them to pursue.

As a leader here in our country and around the world in preventing world poverty and spreading goodwill, there can be nothing better that we can do as a country than to join with our international partners in trying to prevent child marriage, both in Ethiopia as well as other countries around the world, and give these young women the hope and opportunity that people in our country have for themselves.

I urge a "yes" vote.

INCREASING THE NATION'S DEBT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Yesterday, with one vote, the United States Senate increased the debt of the United States by \$858 billion. Is this the best we can do to help those out of work, the best we can do to begin a sustained economic recovery, to enshrine the trickle-down, supply-side tax cuts of the Bush years that have failed so miserably over the last decade and some of the worst aspects of the so-called stimulus debt finance consumption of goods made in China with money borrowed from China?

Worse yet, \$112 billion of this is going to come from Social Security, the first time Congress has ever broken down the firewall between the general fund of the United States and the sacrosanct Social Security trust fund.

No, we could do much, much better.

REJECT THE OMNIBUS APPROPRIATIONS BILL

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, when the Obama administration was faced with a massive omnibus in January of 2009, the President stated that he had to sign it because this is simply last year's business that he had no part of. Well, he's going to face another omnibus this year. This was all done under his watch by the Congress. It's not his fault, but he has a veto pen and he should use it.

This omnibus that's going to come to the President is going to contain more than 6,000 earmarks for things like a couple of hundred thousand that was mentioned for maple syrup research or \$500,000 for biodiesel research from sewage-based biodiesel and thousands and thousands of other earmarks like this.

The President recently said: I agree with those Republican and Democrat Members of Congress who have recently said that, in these challenging days, we simply can't afford what are called earmarks.

Well, Mr. President, please make good on that statement. Veto this omnibus bill coming. Better yet, convince your colleagues in the House and the Senate to reject it before it comes to the floor.

WE CAN DO BETTER

(Mr. DEUTCH asked and was given permission to address the House for 1 minute.)

Mr. DEUTCH. Mr. Speaker, I came to Congress to fight for new jobs, protect the retirement security of America's seniors, and give middle class families a fair shake in this economy. Yet our efforts, the basic bricks in the foundation of a working economy, have been cast aside by my Republican colleagues.

The Republicans have sweetened the tax deal today by demanding that American taxpayers fork over \$26 billion for an estate tax break that will go to about 6,600 families. I offer some perspective.

There are more than 6,600 people in Century Village, King's Point, and each of the major retirement communities I represent. There are more undergraduates at Florida Atlantic University in my district. And my teenage daughters and their high school friends are together on track to have more than 6,600 Facebook friends.

And \$26 billion? 16.2 million Americans who depend on food stamps to eat could eat for a year. 3.5 million American college students at our public universities could see their tuition paid in full. And most striking, more than \$175,000 could go to each of the 140,000 families whose sons and daughters are serving in Afghanistan and Iraq.

We can do better, Mr. Speaker.

EXTEND ALL THE CURRENT TAX RATES FOR EVERY AMERICAN

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, today is December 16, 2010. There are only 15 days left until the American people are burdened with one of the largest tax increases in almost three decades. We must act now to extend all of the current tax rates for every American. We must allow Americans to keep more of their hard-earned money.

Stopping the tax increases leaves more dollars and cents in the pockets of those who need them. It will also encourage small businesses and the private sector to invest and hire. We need to spur economic growth to pull us out of one of the worst economies in our recent history.

The President and his party currently control both Chambers of Congress and will maintain a majority in the Senate and will hold the White House come January. Let's not just

tell our fellow Americans that we listened and have heard their concerns about the economy and their money. Let's show them by extending all the current tax rates for every American and do that without other items that add to the deficit.

WE MUST DO MORE FOR OUR NATIONAL ECONOMY AND JOB MARKET

(Mr. TONKO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TONKO. Mr. Speaker, I rise today proud to represent the third fastest growing high-tech job market in the country, that being Albany and the capital district of New York.

According to a new Tech America Foundation report, Albany grew its high-tech positions last year by 1.6 percent. While this is good news, there is also bad news. Nationwide, the number of high-tech jobs shrank by 3.2 percent. Albany's success is at least partially due to the resources available at the University at Albany's College of Nanoscale Science and Engineering. These jobs were not created by a government handout to millionaires or massive estates. They were created by investing in the local infrastructure and economy to create jobs.

While Albany added 900 high-tech jobs over the past couple of years, with an average wage nearing \$80,000, we must do more to lay the groundwork for our national economy and job market to grow the high-tech outcome. Those investments yield great returns and produce jobs.

OMNIBUS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, it's over 1,900 pages long. It contains more than 6,000 earmarks. It costs over \$1.1 trillion. It's the new Senate omnibus bill and it's a legislative travesty.

A lame duck Congress with Members who won't be here in just 3 weeks should not saddle the American people with hundreds of billions of dollars in new debt. This bill increases spending over last year, even though we ran up a \$1.3 trillion debt this year, and will run up a similarly high deficit next year. We don't need to be growing the Federal Government; we need to be shrinking it.

This bill totally ignores what happened in this country on November 2, but seeing as some of the earmarks come from Senators who won't be back next year, I guess we shouldn't be surprised. The American people are tired of paying their taxes so that \$165,000 can pay for maple syrup research and

\$1 million can go to AFL-CIO training programs.

Congress' approval rating this session is at a record low, 13 percent. With bills like this, we shouldn't be surprised.

TAX CUT PROPOSAL DEFINES CONTRASTING PRIORITIES

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I'm here this morning to simply say that Democrats continue to fight to maintain tax cuts on income up to \$250,000 for couples and \$200,000 for individuals. My Republican colleagues continue to demand tax cuts for all incomes, including millionaires and billionaires.

I ask my Democrats to please continue to extend the unemployment benefits to help out Americans to make it through this recession, and I plead with my Republican colleagues to not hold the middle class and unemployment hostage any longer.

I also recommend that we help the 155 million middle class Americans at a cost of \$214 billion, and I plead with my colleagues to join us in assisting to help because only 4.8 million of the country's wealthiest, at a cost of \$133 billion, is what we are trying to make a decision on.

Please join me and look out for the working people of this country, and let the billionaires continue to pay the bills.

□ 1020

HONORING THE SERVICE AND SACRIFICE OF CORPORAL CHAD STAFFORD WADE

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to honor one of America's bravest, Corporal Chad Stafford Wade of Bentonville, Arkansas, who valiantly sacrificed his life in support of combat missions in Afghanistan. Corporal Wade was a devoted family man and friend who was known to make those around him laugh. He shared his zest for life through the small things he did that put a smile on the faces of those who loved him, demonstrating his love of music, singing his favorite country songs, and enjoying the outdoors.

Corporal Wade taught others the importance of service, joining the Marine Corps in October of 2007. He was a member of the 2nd Battalion, 1st Marine Regiment, 1st Marine Division, I Marine Expeditionary Force based in Camp Pendleton, California, and served in combat missions in Iraq and Afghanistan.

My prayers and the prayers of Arkansans are with Corporal Wade's family, including his wife, Katie, his mom, Tami, and his dad Terence. I humbly offer my thanks to Corporal Wade, a true American hero, for his selfless service to the security and well-being of all Americans, and I ask my colleagues to keep his family in our thoughts and prayers during this very difficult time.

WHERE IS ROBIN HOOD WHEN YOU NEED HIM?

(Ms. EDWARDS of Maryland asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDWARDS of Maryland. Mr. Speaker, where is Robin Hood when you need him? I rise today to express my profound sadness about the tax bill that was passed by the Senate and set to pass in this House that benefits the wealthiest of Americans at the expense of putting billions of dollars of debt onto the backs of our children and grandchildren. Where is Robin Hood?

It's not just about the estate tax for 6,600 families or the tax cuts for the 2 percenters. This is so irresponsible. It contradicts everything, as Democrats, that we have been fighting for for generations. And for those who charge that it's purity or sanctimony, make no mistake, this is about our value as Democrats. It's about the prospect of creating hope and opportunity for our children and grandchildren, and we're not doing it here. Mr. Speaker, I rise today to say that it's time for us to do what's in the interest of working families in this country and not to continue to sacrifice for the very few.

FREE TRADE AGREEMENTS

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, the American people are hurting. We all know that. In my State of California, we have a statewide unemployment rate of 12.5 percent; and in part of the area I am privileged to represent, we have a 15.5 percent unemployment rate. There are steps that we should have taken that we still can take that will help deal with the joblessness problem about which we are all concerned.

I believe that the President has been right on target in talking about the need to open up new markets around the world as we seek to create good manufacturing jobs right here in the United States of America. We can do that if we move as expeditiously as possible to pass not only the Korea Free Trade Agreement, which the President has talked about and he believes is very important, which will be the single-largest bilateral free trade

agreement in the history of the world, but also at the same time within this hemisphere, we need to pass the Panama and Colombia Free Trade Agreements. Jobs can be created for Caterpillar workers, for John Deere workers, for Whirlpool workers right here in this country if we can open up the markets within this hemisphere. Union and nonunion jobs will be created. We need to move now.

THE DEFICIT

(Mr. LYNCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LYNCH. Later on today, Mr. Speaker, we will address this bill which would award a tax cut for the richest 2 percent of Americans, and it's important that we understand the context in which this bill is being addressed. In this current year, the government has taken in \$2.4 trillion in revenue, but we have spent \$3.7 trillion. And so we have a deficit of \$1.3 trillion. If this bill passes, it will add almost \$1 trillion to our national debt.

At current rates, by the year 2040, the interest on the debt will be double the amount that we spend on defense, education, transportation, agriculture, housing, the space program, science, and research and development. We can't keep kicking the can down the road and not address our national debt. We're running out of road, we're running out of time, and the American people deserve a better deal.

COSTLY AND UNNECESSARY SECOND F-35 ENGINE

(Mr. QUIGLEY asked and was given permission to address the House for 1 minute.)

Mr. QUIGLEY. Mr. Speaker, I rise today because, despite opposition from the Secretary of Defense, the President, the Navy, the Air Force, and the Marine Corps, the Senate spending package still includes \$450 million for a second engine for the F-35. Americans across the country are tightening their belts, 15 million are unemployed, and many of those with jobs have not seen raises in years. But the Federal Government seems to think that it is exempt from this shared cost-cutting.

Despite the recession and ballooning debt, we continue to fund wasteful projects like the second engine, which our own military has asserted they neither need or want. Sadly, the second engine is just the tip of the defense spending iceberg, the lowest of the low-hanging fruit. According to a recent report by the Sustainable Defense Task Force, hundreds of billions could be cut from our defense budget without harming national security. There can be no sacred cows. Cost-cutting has to include defense, and it should start with

what Secretary Gates has called the "costly and unnecessary" second F-35 engine.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 4853, TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1766 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES 1766

Resolved, That upon the adoption of this resolution it shall be in order to debate in the House the topics addressed by the motions specified in sections 2 and 3 of this resolution for three hours equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means or their designees.

SEC. 2. After debate pursuant to the first section of this resolution, it shall be in order to take from the Speaker's table the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes, with the Senate amendment to the House amendment to the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Ways and Means or his designee that the House concur in the Senate amendment to the House amendment to the Senate amendment with the amendment printed in the report of the Committee on Rules accompanying this resolution. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

SEC. 3. If the motion described in section 2 of this resolution fails of adoption, the previous question shall be considered as ordered on a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment, on which the Chair shall immediately put the question.

SEC. 4. Until completion of proceedings enabled by the first three sections of this resolution—

(a) the Chair may decline to entertain any intervening motion, resolution, question, or notice;

(b) the Chair may postpone such proceedings to such time as may be designated by the Speaker; and

(c) each amendment and motion considered pursuant to this resolution shall be considered as read.

POINT OF ORDER

Mr. FLAKE. Mr. Speaker, I raise a point of order against H. Res. 1766 because the resolution violates section 426(a) of the Congressional Budget Act. The resolution contains a waiver of all points of order against consideration of the bill, which includes a waiver of section 425 of the Congressional Budget Act, which causes the violation of 426(a).

The SPEAKER pro tempore. The gentleman from Arizona makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

The gentleman has met the threshold burden under the rule, and the gentleman from Arizona and the gentleman from New York each will control 10 minutes of debate on the question of consideration. Following debate, the Chair will put the question of consideration as the statutory means of disposing of the point of order.

The Chair recognizes the gentleman from Arizona.

□ 1030

Mr. FLAKE. Mr. Speaker, I rise today in opposition to this tax package that the House will consider shortly. While there may not be unfunded mandates per se in the bill, this will impose a burden on States and local governments and everyone else here. And particularly it will add a huge burden to our kids and our grandkids, because we are borrowing hundreds of billions of dollars that will go directly to the deficit and directly to our \$14 trillion national debt.

On November 2, I think we got a pretty good message from the taxpayers. They wanted us to stop running deficits and to start paying down the debt. Yet before we even get to the new year, just weeks away from the election, here we are, adding hundreds of billions of dollars to the deficit and to the debt. This compromise shows that Washington just doesn't get it yet. We simply didn't get the message we were supposed to on November 2.

I do support the extension of the 2001 and 2003 tax cuts that were enacted, and we also have to find a remedy for the death tax. But we've got to do it in a different way than this. Congress can take swift action to ensure that taxes don't go up, but we shouldn't be adding the other items that we're doing here. It's taken on the seasonal theme again, of course. It's become a Christmas tree. I'll explain a few of the items in it. But it just notes, more than anything, that we haven't gotten the message, that we're just going about things the same way we always have.

Let me just take one provision here, ethanol. We've been subsidizing ethanol now for nearly 30 years. It's about a \$6 billion a year subsidy. They have the trifecta, the ethanol industry. We mandate its use. We impose tariffs to imports to make sure we can compete, and then we subsidize as well. And we're going to continue to do all those things here for an industry that should be mature at this time, but it's continuing to get subsidies. How in the world that belongs as part of this tax package I'll leave for the voters to decide. But it just shows that we haven't changed. When are we going to wake up to the fact that we can't continue to do business like this anymore?

With regard to ethanol, one of the former backers was former Vice President Al Gore. He said the other day: One of the reasons I made this mistake—this mistake being supporting the subsidizing of ethanol—is that I paid particular attention to the farmers in my home State of Tennessee, and I had a certain fondness for the farmers in the State of Iowa because I was about to run for President.

Now, that's a pretty candid admission. And the reason we have ethanol subsidies is that all Presidential campaigns begin in Iowa. But that's no reason to saddle the rest of the country with this kind of burden. And also the negative impacts on the environment are huge and growing from ethanol, yet we continue to do it just to buy a couple of votes to get this tax bill over the top.

With that, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

I must say that I understand the point of the gentleman. I think spending this kind of money, over \$700 billion over 10 years for 6,600 families in the United States, is a foolish expenditure. I do agree that what we want to do is get the deficit down, and believe me, that does not do it.

Technically, though, this point of order is about whether or not to consider the rule and, ultimately, the underlying measure. And, in reality, it's about trying to block the measure. I believe that that's an abdication of our responsibility. We have to have the opportunity to debate, and without an opportunity for an up-or-down vote on the legislation, we are failing our responsibility. I think that is wrong.

I hope my colleagues will vote "yes" so we can consider the legislation on its merits and vote accordingly and not stop it on a procedural motion.

I have the right to close, but in the end, I will urge my colleagues to vote "yes" to consider the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FLAKE. I appreciate the comments of the gentlelady. She brings up that this is a technicality, that we're just speaking here on a point of order when we should be speaking on the bill and that we should debate this bill on the merits. I would like to. That's why I actually submitted an amendment to the gentlelady's committee, to the Rules Committee, to debate the ethanol provision; yet it wasn't included. We weren't allowed to debate that. And so if we're not allowed to debate that then under the rule, then we have to debate it some other time.

I would love to hear an explanation from the Rules Committee as to why this wasn't included and why only amendments that may make Members feel good about voting on but have no

possibility of delaying this package were even considered.

Mr. DREIER. Will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding.

I would say to my friend that he is absolutely right in pointing to the fact that we had a more than 2-hour hearing in the Rules Committee. The die was already cast. The decision had already been made that the only thing that would be made in order was an opportunity to increase the death tax, that burden on the intergenerational transfer that we believe is important to keep our economy growing. And the amendment that my friend offered, and my California colleague, Mr. HERGER, offered a similar amendment to deal with this notion of ethanol subsidies, which are just plain wrong, and I'm troubled at the fact that this rule does not allow us a chance to address those issues.

Mr. FLAKE. I thank the gentleman.

Just continuing on the ethanol theme, Robert Bryce of the Manhattan Institute said recently: "Between 1999 and 2009, while U.S. ethanol production increased sevenfold to more than 700,000 barrels a day, U.S. oil imports actually increased by more than 800,000 barrels per day. Furthermore, and perhaps more surprising, during the same period, U.S. oil exports—yes, exports—more than doubled to more than 2 million barrels per day."

"Data from the Energy Information Administration show that oil imports closely track U.S. oil consumption. Over the past decade, as domestic oil demand grew, imports increased. When consumption fell, imports dropped. Ramped-up ethanol production levels simply had no apparent effect on oil imports or consumption."

We have every level of the administration, anybody who analyzes this says that this is a boondoggle; and yet it reappears here, a \$6 billion item, not insubstantial, not small. But it appears here in this tax package simply to get it over the line. That simply can't happen anymore if we're going to get control on this debt and deficit.

Let me talk about one other provision of the tax bill. All of us talk about the burden that the payroll tax has, and it is big. And it's tough for taxpayers to pay the payroll tax. I would like to lower it. I think everybody would like to lower it. But the payroll tax is dedicated specifically for Social Security. It goes into the Social Security trust fund.

Under this legislation, we'll have a 2 percent reduction in the payroll tax on the employee side. That will net somebody like me or any Member of Congress here about \$2,000 a year. What does it do for the deficit? It will balloon the deficit by \$120 billion a year.

One year from now, because it's only a 1-year reduction, we'll be faced with this same problem.

What do we do as Republicans? We always say we're not going to raise taxes on anybody, no matter how temporary the tax. We'll be forced politically, with the situation, where do we increase this tax? Do we let it go? If we let it continue, that's another \$120 billion hole in the deficit and in the Social Security trust fund. Why are we doing that?

If we do have payroll tax deductions, we may well want to, but at least let's have commensurate benefit cuts on the other side. Let's address benefits on the other side. If we're not going to lower them, then we shouldn't lower this.

This is simply irresponsible for us to take a bill like this and assume that it's not going to have an impact on the deficit and not going to have an impact on the debt.

Where are we now? Just a few weeks ago, every one of us, I tell you, every one of us running for office said to the voters, we're going to get control of the debt and the deficit. All of us said that. And yet our first actions here, before we even go into the next Congress, is to put a bill on the floor that's going to balloon the debt and deficit. How can we do that? We can't. We shouldn't. That's why I am raising this point of order.

Mr. Speaker, I reserve the balance of my time.

□ 1040

Ms. SLAUGHTER. I continue to reserve the balance of my time.

Mr. FLAKE. May I inquire as to the time remaining?

The SPEAKER pro tempore. The gentleman has 1½ minutes remaining.

Mr. FLAKE. Again, this is a package that we simply cannot afford. We cannot go on as if the deficit and the debt don't matter. Not only that they don't matter, but we expand them considerably. We can continue the tax cuts for every American. We can do that without these extra things in the bill. Let's wait until January. Let's wait until we have a new Congress, and let's do a different deal than this. This is not a deal that is good for the taxpayer; it is not a deal that is good for this institution.

We have said that we will change and that we got the message. This is evidence that we haven't.

I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for his comments this morning. I urge him to vote "no" on this bill if he plans to do that, and I think he will find a great deal of company. But I want to urge my colleagues to vote "yes" on this motion to consider so we may debate and vote on this piece of legislation today.

It is not perfect by any means. I rarely see a piece of perfect legislation. But

remember that what we are doing here is concurring in a Senate bill, which limited the fact of how many changes that we would be able to make.

I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

The question is, Will the House now consider the resolution?

The question of consideration was decided in the affirmative.

The SPEAKER pro tempore. The gentlewoman from New York is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California (Mr. DREIER). All time yielded during consideration of the rule is for debate only. I yield myself such time as I may consume.

GENERAL LEAVE

Ms. SLAUGHTER. I also ask unanimous consent that all Members be given 5 legislative days in which to extend their remarks on House Resolution 1766.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, H. Res. 1766 provides for consideration of the Senate amendment to the House amendment to the Senate amendment to H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act.

The rule provides 3 hours of debate and makes in order a motion offered by the chair of the Committee on Ways and Means that the House concur in the Senate amendment to the House amendment to the Senate amendment to H.R. 4853 with the amendment printed in the Rules Committee report. If that motion fails, the rule causes to be pending a motion to concur in the Senate amendment to the House amendment to the Senate amendment to H.R. 4853.

Finally, until completion of all proceedings, the Chair may decline to entertain any intervening motion, resolution, question, or notice; the Chair may postpone proceedings to a time designated by the Speaker; and each amendment and motion shall be considered as read.

Mr. Speaker, this bipartisan agreement on a framework for extending middle class tax cuts and extending unemployment relief is certainly not perfect. In fact, I don't like it much at all.

In the lead-up to the debate here this morning, a lot of my constituents have encouraged me to oppose it. They know it is an unwarranted handout for millionaires and billionaires at a time when we are still fighting two wars with countless pressing needs here at home and a deficit that would push us further into the red by this giveaway.

A typical sentiment was reflected in a call from Ken, a Niagara Falls resi-

dent, who phoned my office to insist it was wrong-headed for Democrats, who control the House, the Senate, and White House, to agree to extend the Bush tax cuts for the wealthy. His words were: "Barack Obama is still the President of the United States, not MITCH MCCONNELL, and MCCONNELL should not get to dictate tax policy." To that, I say, I hear you. But, nonetheless, today here we are.

There are some good things in this bill. Certainly extending unemployment relief for struggling American workers who may have been laid off and simply need assistance to help them buy groceries and necessities until they find a new job is important.

During the last 2 years, this Congress has voted to cut taxes for working parents and small businesses at least eight times, and lower tuition costs for college students. We have provided the best opportunities for growth and prosperity.

But losing \$25 billion in revenue to provide a tax shelter to 6,600 families who will qualify for this new estate tax handout is just wrong, it is disgraceful, and it is damaging to the entire economic future of this country.

In the aftermath of this negotiation, the President was accused of quitting in the first round, giving away the store, punting on first down, and other things that I don't want to go into here. But while this agreement is flawed, there are parts of it, as I said, that will benefit the American people.

Failure to send the bill to the President's desk for his signature would result in tax hikes on millions of middle class families across our country and loss of unemployment insurance for those who are hardest hit by this recession.

More importantly, I think it might risk slowing the economic recovery. However, I think it is very important for me to make this point: we have lived with these tax cuts for 10 years. It is certainly no secret to any American or anybody else in the world that our unemployment condition is perfectly awful. And to try to pretend to the American people that once we pass this great tax cut for the rich that jobs are suddenly going to rain on us makes us feel like Alice in Wonderland, able to believe 10 impossible things before breakfast. I am just not one of them. It will not make that kind of difference. It simply, once again, makes the rich richer. But that was the price we had to pay for helping the middle class and the unemployed.

I note that many of these tax cuts, as we know, were created 10 years ago. And what have they brought? Nothing but a deep-lasting recession. But what I also want to comment on here is the impossibility of this Congress to let these tax cuts expire, which would in itself decrease the deficit by 50 percent in 2 years, says to me that these will

never expire. And I want to put that in connection with what we have done to the payroll tax.

I consider this one of the greatest threats to Social Security and its future. If anybody here believes, if anyone can stand up and believe that we are going to be able to reinstate that payroll tax on employers and employees, they only need to look at what is happening here today, that after 10 years of experience, which brought us no jobs, we are expanding tax cuts which will, again, bring us no jobs.

If this agreement doesn't become law, I know that the tax rates on the middle class will go up. They are going to end up paying more money, and I hate that, because God knows all the benefits in the last 10 years have gone to the wealthy.

I dread seeing my America, the one I grew up in and I love, where I don't believe that the American Dream is available for children anymore. I am not going to cry about it, but I know that now that the rich are richer and the poor are poorer, the poor children don't think about that much anymore. They think about trying to get an education, if they can, or trying to live another year.

So we have to take this bill up today. No question about it. And I feel very sad about it. But I will tell you that it has been our experience that these are the prices that we have to pay when we negotiate with our partners on the other side. They believe in trickle-down with all their heart: make everybody richer at the top, all those great folks, even those with great inherited wealth, as my colleague Mr. MCGOVERN said, who may never have worked a day in their life, and suddenly jobs are going to be produced. Please, America, please don't believe that. That is not what we are doing here today. We are not doing anything to benefit this economy here today.

That logic of driving up long-term deficits and putting the government in the red more than it is, to hand out money for a tiny fraction of taxpayers, is that really a sensible thing for America to be doing today? I think not. But we know that the other side in the coming years will pursue even more tax breaks for the wealthiest and the wealthiest estates. All of those tangible outcomes are directed toward millionaires and billionaires. As long as I am serving in Congress, I will resist this with every fiber of my being because I don't think it does anything for our economy while adding to the deficit.

In the end, I am here to encourage my colleagues to support this rule so that we may have this 3-hour debate, which will give people plenty of time on both sides to express their opinion. It is a fair process. All the Members will be able to express their views.

I reserve the balance of my time.

□ 1050

Mr. DREIER. Mr. Speaker, let me begin by expressing my appreciation to my very good friend from Rochester, New York, the distinguished chair of the Committee on Rules, Ms. SLAUGHTER, for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, let me begin in the spirit of the season and say that I would like to associate myself with some of the remarks that were offered by the distinguished chair of the Committee on Rules, and express appreciation to Ms. SLAUGHTER for her very, very interesting and thoughtful approach to this issue.

I associate myself with the remarks she made when she said she doesn't like this measure. I associate myself with her in that in saying I don't like this measure that is before us, Mr. Speaker. But I like even less the idea of our imposing a tax increase on every single American who pays their income taxes. I believe that that would have a deleterious effect to the goal that we as Democrats and Republicans alike share.

What is the message that we have gotten over and over and over again and the message that was sent this past November 2? It was create jobs, focus on economic growth, make sure that we can do everything that we possibly can to look at those Americans who are hurting today, and make sure that they have an opportunity to get onto the first rung of the economic ladder. That is the driving message. Obviously, a very important part of that is going to be to reduce the size and scope and reach of the Federal Government, which has undermined the ability for job creation and economic growth to take place.

Now, when I say I don't like this measure that is before us, I don't like the fact, and many of my Republican colleagues have raised this—Mr. FLAKE just raised concerns about the ethanol subsidies. I don't like the fact that we have unemployment benefits that are extended without being paid for. I don't like a number of the provisions here.

But we are in the midst of a very fragile economic recovery at this juncture, and I will tell you, mark my words, Mr. Speaker, beginning in January we are going to focus on cutting spending. I have just come from a meeting with a number of my colleagues, and we are determined to focus on that. That is why it is imperative that today we recognize that the issue that is before us is going to actually be helpful in our quest to deal with job creation and economic growth.

I congratulate President Obama for working in a bipartisan way to address this issue. In fact, I said in the last campaign that one of my priorities was to work to make President Obama a better President. I believe the fact that

he has moved towards recognizing that a pro-growth economic policy has direct ties to the level of taxation imposed on working Americans and job creators is a positive sign, and I believe that moves him in the direction of being a better President.

I also have been encouraged by the fact that he wants to create jobs by opening up new markets around the world. I gave a 1-minute speech this morning talking about the importance of the key U.S.-Korea free trade agreement the President supports and I hope will send to us very soon. It will be the largest bilateral free trade agreement in the history of the world, when you look at the size of our economies. That is something that the President is supporting and I believe we will be able to work on in a bipartisan way.

So, Mr. Speaker, the notion of seeing President Obama shifting to the John F. Kennedy vision and the Ronald Reagan vision on economic growth is a very encouraging indicator to me and many of our colleagues, and should be for the American people as well.

Now, again I will say that Ms. SLAUGHTER is absolutely right; we don't like this measure. But the idea of increasing taxes is something that is anathema to the vision of economic growth and job creation. And it is not just conservative economists who say that, it is not just the supply-siders, of which I consider myself to be one.

Keynesian economists, Mr. Speaker, Keynesian economists, those who subscribe to the view of John Maynard Keynes, who lived until 1950, recognizing and focusing on the issue of spending, those who subscribe to the Keynesian view recognize that increasing taxes on anyone when you are dealing with slow economic growth is a prescription for exacerbating, exacerbating, the problems that you are trying to address.

Mr. Speaker, I have been in the midst of bipartisan discussions over the past several days with a number of my colleagues on the recognition that we have to say that Democrats should recognize that spending cuts need to take place and Republicans need to recognize that tax increases need to take place. It is an interesting discussion, and many argue that that is sort of the give-and-take we have.

But I think it is important as we look at this issue to harken back on history. Next month I will begin my fourth decade here, and I will say that there was a study done in my first decade, during the 1980s, by two professors from Ohio University, Professors Vedder and Gallaway. Their study looked at the impact of tax increases in the quest to try to reduce spending and the size and scope of government and deal with the problem that Democrats and Republicans alike regularly decry, that being the expansion of government.

Well, their study was known as the \$1.58 Study. What it showed, Mr. Speaker, was that every time there was \$1 in taxes increased, the Federal Government increased spending by \$1.58. Now, I remember one of the first measures that I voted against was known as the Tax Equity and Fiscal Responsibility Act of 1982, and in that measure they said there would be \$3 in spending cuts for every \$1 in taxes increased.

Mr. Speaker, as we are here today just days before Christmas, going back to 1982 we got the \$98.5 billion tax increase included in that, but we are still waiting for those \$3 in spending cuts. The Vedder-Gallaway study made it very, very clear, looking on many occasions, the 1990 increase and other studies done since then have shown for every \$1 in taxes increased, spending has increased from \$1.05 to \$1.81, and this is outlined in a piece that was done by Professor Vedder and Stephen Moore in *The Wall Street Journal* this week.

So our notion of saying that increasing taxes is going to deal with the deficit problem is again a specious argument.

Now, many argue that the tax that exists on job creators, those at the upper end, will create a great drain on the Federal Treasury. But if we are going to focus again on job creation and economic growth, Mr. Speaker, I am convinced, based on the vision put forth by Professor Arthur Laffer and many others, that the economic growth that will follow keeping those rates low on job creators will actually increase the flow of revenues to the Federal treasury, and keeping those top rates low, capital gains and dividend rates low, will spur the growth that will create jobs, and many people who today are not working and are in fact receiving unemployment benefits will have opportunity, and they will be joining the productive side of the economy and generating that flow of revenues to the Federal Treasury that we obviously desperately need.

Mr. Speaker, the American people have been asking us to do this for a long period of time. My colleagues have had an opportunity to do it for a long period of time. Unfortunately, here we are just 2 weeks, just 2 weeks before the end of the year, and 2 weeks before the largest income tax rate increase that we have seen in many a year is scheduled to take place.

So while there is much to criticize about this measure, and I could easily vote against it, I believe that the right vote for us to cast is a vote which will ensure that we continue down the road towards job creation and economic growth and allowing the American people to keep more of what they've earned.

Mr. Speaker, I reserve the balance of my time.

□ 1100

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Massachusetts, a member of the Rules Committee, Mr. McGOVERN.

Mr. MCGOVERN. I thank the chairwoman.

Mr. Speaker, I rise in support of the rule but in reluctant opposition to the underlying legislation.

Let me begin by saying that I know there are a lot of good things in this bill. The bill extends tax relief for middle class families. It extends unemployment insurance for Americans who, through no fault of their own, find themselves out of work in this difficult economy. The bill also extends several important tax relief measures that were included in last year's recovery package, including the parity for transit benefits, which is a measure that I have worked on here in the House.

I understand and appreciate the situation in which President Obama found himself. He was faced with the United States Senate that demands a supermajority of 60 votes to order pizza, let alone enact significant legislation. Over the past 2 years, our Republican colleagues in the Senate have blown by the previous records for filibusters. They have made it clear that their overriding political strategy is to say "no" to whatever President Obama proposes, no matter how worthy or popular. And that's unfortunate, but that's the reality we face. And it is unbelievably cynical.

But I believe that the provisions in this bill that give away billions and billions and billions of dollars to the wealthiest Americans are unnecessary, unproductive, and irresponsible. Unnecessary, because over the past few years, while millions of middle class families struggled to pay their mortgages and put food on the table, the wealthiest few in America have done very well. The fat cats on Wall Street are riding high once again with multimillion-dollar bonuses and golden parachutes. Unproductive, because study after study have shown that one of the least effective ways to stimulate the economy is to put more money into the pockets of the rich. The wealthiest few are more likely to save that money rather than invest it in our economy. CBO has found that of all the things we could do to stimulate the economy, tax breaks for the rich people in this country have the worst record of encouraging economic growth. And irresponsible, because this bill will add billions and billions of dollars onto our Nation's debt. None of these tax cuts are paid for.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. SLAUGHTER. I yield the gentleman 30 additional seconds.

Mr. MCGOVERN. We just came through a campaign in which every-

body talked about the need for deficit reduction. The bipartisan Bowles-Simpson commission made it clear that we are on an unsustainable course. When they presented their report, everybody in this town nodded gravely and said this is important work. Yet here we are, less than a month later, making the problem worse.

Mr. Speaker, I cannot support the underlying legislation as written. I know we will have an opportunity to improve this bill by supporting an amendment to pare back some of the estate tax cuts for the wealthiest estates in America. I urge my colleagues to support that amendment.

Mr. Speaker, we can do better than this. We must do better than this. Future generations are counting on us.

Mr. DREIER. Mr. Speaker, I am happy to yield 3 minutes to my very hardworking Rules Committee colleague, the gentlewoman from Grandfather Community, North Carolina (Ms. FOXX).

Ms. FOXX. I thank my distinguished colleague from California (Mr. DREIER) for yielding time.

Mr. Speaker, I first want to make it clear I am opposed to allowing tax increases to go into effect on January 1. However, I am also opposed to this rule and the underlying bill.

It's very interesting to hear our colleagues on the other side of the aisle arguing against the tax bill before us today because of their concerns that we're adding to the deficit. We didn't hear those arguments when they were voting for the trillion-dollar stimulus and all the other trillions they have voted for in the past 4 years. In fact, their stories and those of the President have changed dramatically over the past few days. Mr. Speaker, I would like to put into the RECORD an article in American Thinker, December 14, "Tax Cuts Clearly Explained." The article does a really good job of explaining the flip-flops on the side of the Democrats.

I want to quote a couple of sentences from it. It says, "The Republican position was to keep tax rates where they are now and where they've been since 2003. Democrats fought to keep the Bush tax rates only for those making less than \$250,000 in a year. That is curious, since they've been saying for about 10 years that the 'Bush tax cuts' went only to the wealthiest Americans. Democrats are arguing to keep something they said never existed." So we find our friends again on the other side of the aisle flip-flopping on this issue.

I'd also like to add a couple of more comments from this article. "As a matter of record, the final Bush tax rates passed Congress in mid 2003, shortly after Republicans retook the Senate. From August 2003 to December 2007, over 8 million net new jobs were created and real GDP grew almost 3 percent per year. At the same time, Fed-

eral revenues increased by 2.3 percent of GDP, \$785 billion, putting revenues above the average level of 1960 to 2000, the 40 years before Bush. Unemployment fell to 4.4 percent and the deficit fell to 1.2 percent of GDP. Such was the catastrophe of 4 years of Bush's tax rates and Republican-written Federal budgets.

"You will hear that this or that group, the top 2 percent of those who inherit dad's farm, et cetera, does not 'deserve' to have its taxes kept at the current rate. There are only two alternatives for where that money goes: the family that earned it or the government. If the family doesn't 'deserve' it, does the government?"

It appears from all the comments that our colleagues have made that they believe that the money that the hardworking Americans earn belongs to the government. As a member of the Rules Committee, I have seen up close how the ruling Democrats have violated every promise they made to run an open Congress but have shut out the opportunity to offer amendments.

We should vote down this rule and allow any amendments to be offered.

[From American Thinker, Dec. 14, 2010]

TAX CUTS CLEARLY EXPLAINED

(By Randall Hoven)

If you go to the White House website, right at the top is a bar you can click on to see "Tax Cuts Clearly Explained." If you click, you see a video of one of President Obama's economic advisors using a whiteboard to explain that Republicans are bad, that Obama is above politics, and that if Obama gets his way, jobs and growth and goodness will spring forth.

The video starts out simply enough. Republicans want to extend the Bush tax rates for everyone; Obama wants to leave out the top 2% of income earners. It was all about the Bush tax rates and for how long, and to whom, to extend them.

But then the video starts talking about a host of things unrelated to those tax rates. The economist even lists them on his whiteboard.

- Unemployment insurance,
- Earned income tax credit,
- American opportunity tax credit,
- Child tax credit,
- Payroll tax,
- Investment incentives.

The "clear" explanation is that since the current tax rates for the top 2% would be extended another couple years, this list of unrelated "targeted and temporary" tax cuts must be added to the package to somehow offset them. The concern was that extending current tax rates for the top 2% would increase the deficit too much. So politicians compromised in a way that would increase the deficit more than either party's initial proposal. (Kind of like the way they compromised on TARP in 2008. Remember "sweeteners"?)

Since Congress got into the compromise act, tax credits for ethanol, alternative fuels, and who knows what else have also been added.

In the spirit of clarity, what follows is my attempt to explain tax cuts.

The Republican position was to keep tax rates where they are now and where they've been since 2003.

1. Democrats fought to keep the Bush tax rates only for those making less than \$250,000 in a year. That is curious, since they've been saying for about ten years that the "Bush tax cuts" went only to the wealthiest Americans. Democrats are arguing to keep something they said never existed.

2. According to the Congressional Budget Office, the entire package, as currently proposed in the Senate, would add \$858 billion to the 2011–2020 deficit. Without it, the 2011–2020 deficit would be \$6,246 B. So this package theoretically increases the ten-year deficit by 14%.

3. Of that \$858 B, about \$544 B comes from keeping current tax rates; the rest comes from the new goodies unrelated to the Bush rates. So because Democrats said some part of that \$544 B adds too much to the deficit, they added another \$314 B to the deficit. That is how compromise and "the middle way" work in Washington.

4. The CBO calculates future revenues under the assumption that tax rates have zero effect on the behavior of investors, consumers, employers, etc. Congress forces the CBO to make that assumption. Every economist this side of Paul Krugman knows that that assumption is wrong. One such economist is Christina Romer, President Obama's first choice as chief of his economic advisors. She said a tax increase of 1% of GDP reduces GDP by about 1.84%. And she said that this year in a published, peer-reviewed academic paper.

5. Another top economic adviser to President Obama, Larry Summers, was more direct. "If they do not pass this [tax cut agreement] in the next couple of weeks, it will materially increase the risk of the economy stalling out and that we would have a double-dip [recession]." Bill Clinton advised that passing the tax cuts would "minimize the chances that it [the economy] will slip back [into recession]." Again, top Democrats say we must keep the Bush tax rates or the recession resumes.

6. President Obama's view is that not keeping the Bush tax rates on those making under \$250,000 "would be a grave injustice" and "would deal a serious blow to our economic recovery." Again, this is curious because Democrats keep saying that Bush's tax cuts went only to the wealthiest Americans and caused all the harm we now see to the economy. But apparently, not continuing the Bush policy for 98% of taxpayers would be a "serious blow" to the economy.

7. President Obama believes that keeping the current tax rates for those making over \$250,000 in a year "would cost us \$700 billion" and do "very little to actually grow our economy." He assures us that "economists from all across the political spectrum agree" on that. I believed he polled the same economists who said his stimulus would keep the unemployment rate below 8%.

8. As a matter of record, the final Bush tax rates passed Congress in mid-2003, shortly after Republicans retook the Senate. From August 2003 to December 2007, over eight million net new jobs were created, and real GDP grew almost 3% per year. At that same time, federal revenues increased by 2.3% of GDP (\$785 B), putting revenues above the average level of 1960–2000, the forty years before Bush. Unemployment fell to 4.4%, and the deficit fell to 1.2% of GDP. Such was the catastrophe of four years of Bush's tax rates and Republican-written federal budgets.

9. You will hear that this or that group (the top 2%, those who inherit dad's farm, etc.) does not "deserve" to have its taxes kept at the current rate. There are only two

alternatives for where that money goes: the family that earned it, or the government. If the family doesn't "deserve" it, does the government?

[In fact, it appears from spoken and written comments that our colleagues think that the money that Americans earn should all belong to the government.]

As usual, this is not about anything the Democrats say it is about. If they are worried about the deficit, why did they add to the deficit to get this deal?

Republicans would have compromised by simply extending the current rates for two years instead of permanently. Obama saw that bet and raised unemployment insurance, earned income tax credit, American opportunity tax credit, child tax credit, payroll tax, and investment incentives. Congressional Democrats saw that bet and raised it ethanol and alternative fuels subsidies.

This is all about the Democrats rewarding their interest groups and blaming the certain deficit on Republicans. As usual, the Stupid Party will see that bet, holding a pair of deuces.

I'll try to clarify it with another analogy. A 700-pound man goes to the doctor. The doctor says the man needs to diet, and in fact prescribes a certain salad as the man's meal for the next few months. The 700-pound man agrees to eat the salad each meal—along with three roasted chickens, two pounds of bacon, a large pizza, and four cheeseburgers with the works. In his view, he compromised with his doctor.

Then when the man weighs 800 pounds after a few months, he blames his doctor.

Now you play doctor. Would you make that compromise, given you'll be sued for malpractice if the man gains weight?

Ms. SLAUGHTER. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. I thank the gentlewoman for yielding me this time to speak on this legislation.

It is very clear, because of the fragile state of our economy, that there are many important provisions in this tax bill before us. For middle income families, it means their tax rates will not go up. For people in need of unemployment insurance, it extends those benefits another 13 months. And for families struggling to make ends meet, this bill extends tax credits for them so that they can pay for their children's education and they can take care of their children. These are lifelines for hardworking families that are struggling in this economy.

I have fought my entire public career for these tax breaks to support middle income families to make college more affordable. These provisions help some 155 million Americans in this economy.

But that's not all that's in this tax bill. Tragically, these 155 million Americans were held hostage to a ransom that the Republicans would only help these families, help these individuals, help these students struggling in school if we gave tax cuts to the wealthiest people in this country. It is as if the wealthy don't have enough money and struggling middle class

families have too much. But that was the price that was extracted for this legislation to help these 155 million Americans struggle through this economic downturn.

So we see that some \$25 billion will be lavished on 6,600 of the wealthiest estates in this country. These are estates in excess of \$10 million for a husband and wife. These are estates that have used all of the tax laws to minimize the size of that estate to their advantage before they pay the estate tax. But the Republicans were not prepared to give unemployment insurance to millions of Americans who are struggling to find work unless they could provide this money to the wealthiest people in the country. This is not fair, it will unnecessarily increase the deficit, and it has no stimulative value.

Economist after economist has told us what happens with this money when you give it to the wealthiest people in the country. They put it in the bank, and some day they may use it or they won't use it. It's not like middle income families that have to pay the rent, pay the lights, send their kids to school. It's a completely different operation.

□ 1110

So no stimulative value to giving billions and billions of dollars to the richest 2 percent of the people in the country; it's not fair in terms of the resources of this country being used for those individuals while other families struggle; and it creates deficit unnecessarily. If you're going to create the deficit, at least it ought to be stimulative, at least it ought to grow the economy; that's not what this does. It should be rejected for this reason because this deficit, beginning the first of the year, will start immediately coming out of the hides of programs that support these very same middle income families and the education of their children.

Mr. DREIER. Mr. Speaker, I am happy to yield 3 minutes to my very good friend and California colleague, the gentleman from Elk Grove, Mr. MCCLINTOCK.

Mr. MCCLINTOCK. I thank my friend for yielding.

Mr. Speaker, I commend the Senate for passing the tax relief measure yesterday and I certainly hope that the House passes it today.

According to the CBO, this bill comprises \$136 billion of additional spending. That's true, but that's for \$721 billion of tax relief. That means that 15 percent of this bill is spending; the other 85 percent of it is tax relief. That means no across-the-board increase in income taxes next year, no AMT biting deeper into middle class families, a death tax that is a third less than what it otherwise would have been, threatening far fewer family farms and family businesses with extinction.

If this relief fails, when the ball drops at Times Square on New Year's Eve,

Americans will have just been walloped by a tax tsunami the likes of which we haven't seen since the Smoot-Hawley tariff. Families and small businesses will be spending the new year struggling to pay thousands of dollars of new taxes. A family making \$50,000 will see at least \$3,000 more taken from its paycheck. A small businessperson whose shop makes \$300,000 will have to cut another \$8,400—perhaps the difference between a part-time and full-time job for an employee.

From the left we're told we should raise taxes on the very rich who make over \$200,000 because they don't pay their fair share. Well, according to the IRS, those folks earn 36 percent of all income; they pay 49 percent of all income taxes. But a lot of them aren't people at all. Half of the income earned by small businesses will be hit by these tax increases. These are the job generators that we are depending upon to end the nightmare of unemployment for millions of American families. To confiscate billions of dollars more from them and then expect more jobs to come of it is simply insane.

Some of my fellow conservatives object to the 15 percent of this bill that spends money we don't have and I agree, but that damage can be corrected through offsetting spending reductions next year. The new Republican House majority can do that without the Senate or the President simply by refusing to appropriate funds—and it is committed to doing so. But it cannot rescind the taxes next year without the Senate and the President, who have made their opposition to just such a clean bill abundantly clear. And even if such a retroactive bill could be passed by spring, these families and businesses won't get their tax overpayments refunded to them until they file their returns a year later.

Mr. Speaker, massive tax increases under Hoover turned the recession of 1929 into the depression of the 1930s. Let that not be the legacy of this Congress.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. I thank the gentlelady for yielding the time.

It is fairly extraordinary to listen to the debate coming from the Republican side of the aisle. We are headed toward—before this vote—a \$1.3 trillion deficit next year. With this single vote, we will increase the deficit, the debt of the United States, by \$430 billion this year and \$430 billion next year.

Republicans want to pretend that somehow if you cut your income, you can still balance your budget. That would surprise most Americans. Most Americans don't cut back hours at work when they can't make ends meet at home unless they are forced to by their employer.

These tax cuts, the Bush tax cuts, were put into effect at a time of sur-

plus. The rationale was give people back their money, we have a surplus as far as the eye can see. Now we're teetering on the edge of having the United States of America's debt rating downgraded. And if you increase the debt next year by \$1.7 trillion—and you say, well, don't worry, we'll take care of it with some cuts. Cuts? \$450 billion in 1 year? I don't think so, unless basically you eliminate virtually the entire government, close the prisons, turn the prisoners out, open the borders, no Coast Guard, and we go on down the list. \$450 billion? No, you're not going to do that, and you know you're not going to do that. You're just pre-tending.

But even worse, \$111 billion of this is going to come from Social Security. The Social Security trust fund has been inviolate since it was set up by Franklin Delano Roosevelt and wise men 75 years ago. He said this will be an earned benefit; Congress can't touch the money and can't cut the benefits. No, but what we're going to do in this deal, constructed by the Republicans—no Democrat has ever proposed this, no hearing has ever been held on it—is we're going to give a tax holiday. But don't worry, we'll make the Social Security trust fund whole; we'll go out and borrow \$111 billion from China and we'll inject it back into the Social Security trust fund. What an absurdity and what a threat to the future of Social Security because next year they'll say, hey, we can't afford to subsidize Social Security, we can't afford to borrow \$111 billion from China, but don't let that tax go back up, that will be the largest tax increase on working people in the history of the United States—just like we're hearing now. We go back to the Clinton-era taxes, the largest tax increase in the history of the United States. We created 23 million jobs during the Clinton administration, we balanced the budget of the United States of America, and we did that under the tax rates that would come back into effect on the 1st. But now you're going to attack Social Security, hold the unemployed hostage, and reduce the income of the United States and increase our debt. What a pathetic position to take.

Mr. DREIER. Mr. Speaker, I am happy to yield 2 minutes to my very thoughtful and hardworking colleague from Livonia, Michigan (Mr. McCOTTER).

Mr. MCCOTTER. Mr. Speaker, I rise in opposition to the rule and to the underlying bill.

Amidst our tumultuous age of globalization wherein big government's restructuring is not merely desirable but inevitable, the sovereign people's congressional servants must facilitate the conditions for sustainable economic growth so people can work, and preserve and promote America's economic preeminence in the world.

To accomplish these vital tasks, government must adopt deep and enduring tax relief, and spending, deficit and debt reduction. These policies are neither novel nor fashionable. They are necessary.

Therefore, because I oppose raising taxes, increasing deficits and debt, and worsening the entitlement crisis, I fundamentally object to this compromised tax bill's following provisions:

One, a permanent tax increase in exchange for a temporary tax reprieve is mistaken since any and all tax increases in a recession retard a recovery.

And, two, a raid on Social Security requiring increased Federal debt to fund a temporary tax gimmick that will not increase sustainable employment is also mistaken.

Despite its proponents' best intentions, this bill will not end the suffering of the unemployed and economically anxious Americans. It will prolong it. For we cannot delay the day of big government's restructuring; and, in endeavoring to do so, we make the inevitable more painful, more prolonged, and, because it was unnecessary, more deplorable.

Finally, to those Republicans who claim no choice but to vote for a flawed bill now rather than wait 3 weeks for a better one, I disagree and offer an analogy. Imagine prior to the Battle of the Little Big Horn General Custer looking at his troops and saying: "We must strike now before there are more of us."

I disagree with this and urge my colleagues to reject the bill.

□ 1120

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. CONNOLLY).

Mr. CONNOLLY of Virginia. I thank the gentlelady from New York.

I am in a lonely place today.

Mr. Speaker, I rise in strong support of the tax cut compromise. Although our economy is in recovery, it remains fragile. If we don't pass an extension of the tax cuts now, every American will see smaller paychecks and higher taxes in January.

This compromise provides needed assistance to every American: an extension of the unemployment insurance that the CBO says will add 600,000 jobs; an extension of Earned Income Tax Credits and Child Tax Credits for lower income families; an AMT patch for middle income families; a 2 percent cut in the payroll tax that provides up to \$2,000 in tax relief for workers; a 2-year extension of the income tax rates for all Americans; and business tax cuts that will spur up to \$50 billion in private sector investment in the economy, which is desperately needed.

According to economist Mark Zandi, this compromise will add a full percentage point to the gross domestic

product next year. Although we are in recovery, it is not a robust recovery. We need all of the stimulus we can get. This isn't a perfect bill, but I support the bipartisan compromise.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentleman from Massachusetts will control the time.

There was no objection.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Thank you.

Mr. Speaker, in this dealing-making, it became more important to get a deal—any deal—than to secure an agreement that reflects our American values and accomplishes our goal of renewed economic growth.

This bill is largely a mishmash of rejected Republican ideas that cost too much to accomplish too little. Under this misbegotten deal, we will borrow immense amounts of money from the Chinese and others to provide the wealthiest 1 percent of Americans with a tax cut that is greater than the median income of a Central Texas family for an entire year. This is the same fortunate 1 percent, for the most part, that took two-thirds of all of the income gains in the country during the heart of the Bush years. That is not fair, and it will not encourage significant economic growth.

The Republicans will rule this House for the next 2 years. Let's not give them an early start today. I would vote for a bill that creates more jobs and reduces the debt. This is not it.

Mr. DREIER. I continue to reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 2½ minutes to the gentleman from Colorado (Mr. POLIS).

Mr. POLIS. Mr. Speaker, I rise today in strong support of the rule and the underlying bill.

I am very excited that President Obama has demonstrated that he believes in keeping taxes low for all Americans.

Mr. Speaker, you know, as I talk to people in my district and across the country, people like the fact that the Democrats are the party of staying out of their personal business, that we are not doing the moralizing of how they should live their lives—live your own life; make your own decisions—that we are the party of personal accountability and of personal responsibility. Yet they're always concerned in the back of their minds that the Democrats are going to raise their taxes. That is something I always hear.

Oh, I like the Democrats because of the liberty issues, but you know, I always worry they're going to raise my taxes.

Well, I am proud to say that we are conclusively proving here today that the Democratic Party is the party of

low taxes and that President Obama has a strong pro-growth agenda to keep taxes low for all Americans.

Let me add, by the way, that this tax cut that we are supporting today most benefits middle class Americans. They receive the true benefit from this tax cut. Families making \$40,000 a year receive about a 7 percent rate reduction through this act. For families making \$60,000 a year, it's 6.1 percent, all the way up to families making \$10 million at 4.6 percent.

So this is a progressive tax cut for America. It is one that puts money into the hands of middle class families, who are those who need it the most. They're the families making \$40,000, \$50,000, \$60,000 a year. To tell families making \$50,000 a year that they somehow need to come up with \$800 or \$1,000 more a year in taxes when they're not getting raises is going to put them out of their homes. They're struggling to make mortgage payments as it is.

Mr. Speaker, in my district, there are a few people making over \$1 million. Many of them say, You can raise my taxes. It won't affect my quality of life. But for the people who need it the most, the people making \$40,000, \$50,000, \$60,000, \$90,000 a year, who are struggling to get by—a kid in college—who are struggling to make their mortgage payments, this bill and President Obama have delivered tax relief to them.

In addition, in the midst of a recession, we cannot allow unemployment insurance to run out. Over 2,500 people a week in my home State of Colorado, if we don't act today and renew unemployment insurance, will lose their benefits—again, worsening the housing crisis, reducing the ability of their continuing to make their mortgage or rent payments, and forcing them to become liabilities rather than assets.

We will get them back to work, Mr. Speaker, especially with this pro-growth set of tax cuts that will encourage investment in our economy. We will get these Americans back to work, and we will ensure that everybody someday has the honor of paying at a higher tax bracket.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DREIER. Mr. Speaker, I would like to yield the gentleman an additional 30 seconds, and I would like to ask him to yield to me, if he would.

Mr. POLIS. I yield to my colleague from California.

Mr. DREIER. I thank my friend for yielding, and I would like to congratulate my friend on his very thoughtful statement and to say that, at the end of his remarks, Mr. Speaker, he talked about the notion of job creation/economic growth as a policy. Obviously ensuring that we don't increase taxes for any American who is paying income taxes is key to that.

I would appreciate hearing my colleague's thoughts on that.

Mr. POLIS. If I could request an additional 30 seconds to answer.

Mr. DREIER. Absolutely.

Mr. POLIS. Mr. Speaker, this tax cut that President Obama and the Republicans and Democrats are delivering here today will encourage solid growth in our economy by keeping taxes low and by giving some predictability over a 2-year period so people can make investments and know that the government is not coming in to take their money but will let them keep their money to reinvest in the economy.

Mr. DREIER. I thank my colleague for his remarks.

Mr. Speaker, I reserve the balance of my time.

Mr. TAYLOR. Mr. Speaker, I would like to ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Without objection, the gentleman from Mississippi is recognized.

There was no objection.

Mr. TAYLOR. Mr. Speaker, the rule before us, on a nearly trillion-dollar bill between spending and tax cuts, apparently does not allow for any time for the opponents of this measure. If you look at page 2, line 4, it says this resolution allows for 3 hours equally divided and controlled between the chair and the ranking minority member of the Committee on Ways and Means.

It is my understanding that both of those gentlemen are for the bill. What guarantee do those of us who oppose increasing the deficit by a trillion dollars have of being able to voice our objections if this rule passes?

If Mr. MCGOVERN would like to answer that question, I would welcome it.

Mr. MCGOVERN. My understanding is that there is an informal agreement that there will be time designated for those in opposition; at least an hour.

Mr. TAYLOR. Mr. Speaker, with that in mind, there is no guarantee for those of us who are opposed to raising the national debt by \$1 trillion.

Mr. Speaker, I yield back the balance of my time.

MOTION TO ADJOURN

Mr. TAYLOR. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. TAYLOR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 14, nays 385, answered "present" 1, not voting 33, as follows:

[Roll No. 639]

YEAS—14

Bright	Gohmert	Pascarell
Cao	Hinchey	Taylor
Dahlkemper	Hoekstra	Tiahrt
Flake	Kirkpatrick (AZ)	Visclosky
Garrett (NJ)	Lamborn	

NAYS—385

Ackerman	Cuellar	Jackson Lee
Aderholt	Culberson	(TX)
Adler (NJ)	Cummings	Jenkins
Akin	Davis (CA)	Johnson (GA)
Alexander	Davis (IL)	Johnson (IL)
Altire	Davis (KY)	Johnson, E. B.
Andrews	DeFazio	Johnson, Sam
Arcuri	DeGette	Jones
Austria	DeLauro	Jordan (OH)
Baca	Dent	Kagen
Bachmann	Deutch	Kanjorski
Bachus	Diaz-Balart, L.	Kaptur
Baldwin	Diaz-Balart, M.	Kennedy
Barrett (SC)	Dicks	Kildee
Barrow	Dingell	Kilpatrick (MI)
Bartlett	Djou	Kilroy
Barton (TX)	Doggett	Kind
Bean	Donnelly (IN)	King (IA)
Becerra	Doyle	King (NY)
Berkley	Dreier	Kingston
Berman	Driehaus	Kissell
Biggart	Duncan	Klein (FL)
Bilbray	Edwards (MD)	Kosmas
Bilirakis	Edwards (TX)	Kratovil
Bishop (GA)	Ellison	Kucinich
Bishop (NY)	Emerson	Lance
Bishop (UT)	Engel	Langevin
Blackburn	Eshoo	Larsen (WA)
Blumenauer	Etheridge	Larson (CT)
Blunt	Fallin	Latham
Boccieri	Farr	LaTourette
Boehner	Fattah	Latta
Bonner	Filner	Lee (CA)
Bono Mack	Fleming	Lee (NY)
Boozman	Forbes	Levin
Boren	Fortenberry	Lewis (CA)
Boswell	Fox	Lewis (GA)
Boucher	Frank (MA)	Lipinski
Boustany	Franks (AZ)	LoBiondo
Boyd	Frelinghuysen	Loeb
Brady (PA)	Fudge	Lofgren, Zoe
Brady (TX)	Gallegly	Lowey
Braley (IA)	Garamendi	Lucas
Broun (GA)	Gerlach	Luetkemeyer
Brown, Corrine	Giffords	Lujan
Brown-Waite,	Gonzalez	Lummis
Ginny	Goodlatte	Lungren, Daniel
Buchanan	Gordon (TN)	E.
Burgess	Graves (GA)	Lynch
Burton (IN)	Graves (MO)	Mack
Butterfield	Grayson	Manzullo
Buyer	Green, Al	Marshall
Calvert	Green, Gene	Matheson
Camp	Griffith	Matsui
Campbell	Guthrie	McCarthy (CA)
Cantor	Gutierrez	McCauley
Capito	Hall (NY)	McClintock
Capps	Hall (TX)	McCollum
Capuano	Halvorson	McCotter
Carnahan	Hare	McDermott
Carney	Harman	McGovern
Carson (IN)	Harper	McHenry
Carter	Hastings (FL)	McIntyre
Cassidy	Hastings (WA)	McKeon
Castle	Heinrich	McMahon
Castor (FL)	Heller	McNerney
Chaffetz	Hensarling	Meeks (NY)
Childers	Herger	Melancon
Chu	Herseth Sandlin	Mica
Clarke	Higgins	Michaud
Clay	Hill	Miller (FL)
Cleaver	Himes	Miller (MI)
Clyburn	Miller	Miller (NC)
Coble	Hirono	Miller, Gary
Coffman (CO)	Hodes	Miller, George
Cole	Holden	Minnick
Conaway	Holt	Mitchell
Cannolly (VA)	Honda	Mollohan
Cooper	Hoyer	Moore (KS)
Costa	Hunter	Moore (WI)
Costello	Inglis	Moran (KS)
Courtney	Inslee	Moran (VA)
Crenshaw	Israel	Murphy (CT)
Critz	Issa	Murphy (NY)
Crowley	Jackson (IL)	Murphy, Patrick

Murphy, Tim	Rogers (KY)	Snyder
Myrick	Rogers (MI)	Space
Nadler (NY)	Rohrabacher	Speier
Napolitano	Rooney	Spratt
Neal (MA)	Ros-Lehtinen	Stark
Neugebauer	Roskam	Stearns
Nunes	Ross	Stupak
Nye	Rothman (NJ)	Stutzman
Oberstar	Roybal-Allard	Sullivan
Obey	Royce	Sutton
Olson	Ruppersberger	Tanner
Oliver	Rush	Teague
Ortiz	Ryan (OH)	Terry
Owens	Ryan (WI)	Thompson (CA)
Pallone	Salazar	Thompson (MS)
Pastor (AZ)	Sanchez, Linda	Thompson (PA)
Paul	T.	Thornberry
Paulsen	Sanchez, Loretta	Tiberi
Payne	Scalise	Tierney
Pence	Schakowsky	Titus
Perlmutter	Schauer	Tonko
Perriello	Schiff	Towns
Peters	Schmidt	Tsongas
Peterson	Schock	Upton
Petri	Schrader	Van Hollen
Pingree (ME)	Schwartz	Velázquez
Pitts	Scott (GA)	Walden
Poe (TX)	Scott (VA)	Walz
Polis (CO)	Sensenbrenner	Wasserman
Posey	Serrano	Schultz
Price (GA)	Sessions	Waters
Price (NC)	Sestak	Watson
Putnam	Shadegg	Watt
Quigley	Shea-Porter	Waxman
Radanovich	Sherman	Weiner
Rahall	Shimkus	Welch
Rangel	Shuler	Westmoreland
Reed	Shuster	Wilson (OH)
Rehberg	Simpson	Wilson (SC)
Reichert	Sires	Wittman
Reyes	Slaughter	Wolf
Richardson	Smith (NE)	Woolsey
Rodriguez	Smith (NJ)	Wu
Roe (TN)	Smith (TX)	Yarmuth
Rogers (AL)	Smith (WA)	Young (AK)

ANSWERED "PRESENT"—1

Maloney

NOT VOTING—33

Baird	Foster	McMorris
Berry	Gingrey (GA)	Rodgers
Brown (SC)	Granger	Meek (FL)
Cardoza	Grijalva	Platts
Chandler	Kline (MN)	Pomeroy
Cohen	Linder	Sarbanes
Conyers	Maffei	Skelton
Davis (AL)	Marchant	Turner
Davis (TN)	Markey (CO)	Wamp
Delahunt	Markey (MA)	Whitfield
Ehlers	McCarthy (NY)	Young (FL)
Ellsworth		

□ 1217

Messrs. COFFMAN of Colorado, LIPINSKI, RODRIGUEZ, HEINRICH, MARSHALL, HOLT, ORTIZ, GEORGE MILLER of California, MORAN of Virginia and Ms. SHEA-PORTER changed their vote from "yea" to "nay."

Mr. LAMBORN changed his vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 4853, TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010

The SPEAKER pro tempore (Mr. CUELLAR). The gentleman from Massachusetts has 11 minutes remaining and the gentleman from California has 9½ minutes remaining.

The Chair recognizes the gentleman from Massachusetts.

Mr. MCGOVERN. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. LYNCH).

Mr. LYNCH. I thank the gentleman for yielding.

Mr. Speaker, just to remind Members where we are in this debate, we are about to debate and take up a measure that would, number one, preserve the tax cuts for the wealthiest 2 percent of Americans while we have a \$1.3 trillion deficit in the current year. We would also, if this bill were to pass, create a tax exemption for estates of up to \$10 million. That is for 6,600 individuals, which brings to mind, I will paraphrase Winston Churchill who said, it has been some time since so many have been asked to do so much for so few—and with no legitimate reason, I might add.

We are also talking about raiding the Social Security trust fund for the next 2 years, a total of \$111 billion, and increasing the deficit by about \$1 trillion, which will require us to exceed the national debt limit. So in April or May of next year, with this bill passing, we will definitely exceed the current \$14 trillion debt limit that the country has.

I had a fair opportunity to negotiate contracts when I was an ironworker; and one thing I learned, and it applies to this agreement with the Republican Senate, there's a big difference between compromise and surrender.

□ 1220

What this bill represents is a complete surrender of Democratic principles and standing up for working people and making them carry an undue burden under this new tax law.

Mr. DREIER. Mr. Speaker, I am happy to yield 3 minutes to my very hardworking colleague from Columbus, Indiana, who offered some very thoughtful remarks and endured the Committee on Rules last night, Mr. PENCE.

Mr. PENCE. I thank the ranking member for yielding.

Mr. Speaker, since last summer, I've been among those voices in this Congress calling for action to prevent a tax increase that would affect every American just a few short weeks from now. So I rise with a heavy heart today to say that as I look at this short-term tax deal negotiated by the White House with congressional leaders, that I have concluded after much study that it is a bad deal for taxpayers, it will do little to create jobs, and I cannot support it. Let me say, though, that I have the deepest respect for my colleagues on the Republican side of the aisle who may differ with me on this issue in the final analysis. This is a tough call.

No Republican in this Congress wants to see taxes raised on any American. We all know what we should be doing today is voting to extend all the current tax rates permanently. The reality is that uncertainty is the enemy

of prosperity. And simply by extending some of the tax rates that are on the books today for a few short years, we will not create the certainty necessary to encourage businesses to take out loans, to expend resources in ways that will put people back to work. We just know that.

I was back in Muncie, Indiana, just a couple of days ago. I had a banker walk up to me at Rotary, and he said, What are you going to do on this? Sounds like a tough deal. And I said, You know, I hadn't decided at that point. He said, Well, nobody is going to come walking into my office to sign a 5-year note on a 2-year Tax Code.

So why are we doing 2 years? Well, there's an election in 2 years. I get that. There are people that, for whatever reasons, want to re-debate this in 2 years. I get that. I just don't get how it actually gets people back to work. And with regard to the spending in this bill, we can help families that are hurting in this economy, particularly during this cherished holiday season. But we can also figure out how to pay for it.

Lastly, let me say the American people have spoken on November 2, Mr. Speaker. The American people did not vote for more deficits or more stimulus or more uncertainty in the Tax Code. But that's just what this lame duck Congress is about to give them. I think we can do better. Every Republican in this Congress would like the opportunity to do better. Sadly, this rule does not permit us to even have a fair up-or-down vote on extending all the current tax rates, and I'm profoundly disappointed by that.

And so I rise in opposition to this rule, but I also rise in opposition to the underlying bill. We can do better. We must do better on behalf of hurting families and Americans who want to go back to work.

Mr. MCGOVERN. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. I'll be voting "yes" on the amendment, and if it fails, as I expect it will, I'll be voting "yes" on the bill. I'll vote "yes" on the amendment, because we ought to have a fair estate tax in this country. But, instead, Republicans insist that we increase the deficit \$28 billion over the next 2 years in order to provide the lowest tax rates in 80 years on the richest few dozen families in each of our States.

We should care about the deficit. And to say that the tax rate included in the amendment is unfair is to say that every Republican voted for an unfair tax when they voted for the Bush tax law that was applicable to 2009.

Furthermore, another problem with the estate tax in the bill is that it provides a rate of tax for those deaths that occur in 2010 that is less than zero because the richest families can choose

between a zero tax rate or huge write-offs on their income tax, which might be even lower, and they'll get the best possible tax advice.

Finally, under this bill you're going to have some people who realize that if the patriarch of the family dies this year, they save tens of millions of dollars over next year. I hope that no plugs are pulled.

I am going to vote for the bill only because of one question. Compared to what? If we do not send this bill to the President's desk this year, he will certainly sign a worse bill next year. It is not clear that House Democrats were at the table in the December negotiations, but it is clear that House Republicans will be at the table for the negotiations in January on this bill. The President and Democrats in the Senate have already agreed to this deal and I fear that they would agree to something a little bit worse. So it is with great reluctance that I will vote for this bill, should the amendment fail.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. I would like to make sure that we classify this not as class warfare, if you will, but a Good Samaritan waving the flag. And, frankly, if we take the best of America and recognize that working people need help, the unemployment insurance that is part of this bill is a valid part of it. The child tax credit, the payroll holiday, all of those speak to the vision of this Nation that we have the willingness to share.

We understand when men and women on the front lines of Iraq and Afghanistan, they fight not for any one class or any one community. They fight for America. So when we provide an estate tax that blurs the understanding of America, that we need an estate tax that is \$5 million and \$10 million, we're not telling the truth. The present law provides for most Americans, \$3.5 million for an individual, \$7 million for those who are couples; provides for family businesses; it provide for farmers. It works—and it has worked. It is not necessarily the best. But to give \$25 billion to \$28 billion unnecessarily that would go and take away from education and Social Security and Medicare, domestic spending that is necessary, is a crime.

So this is not about fighting against someone who has a few more dollars than the next person. It's to do what we're sent here to do and make sure that the capitalistic system works for everybody, including those who are now unemployed. Let's get our senses together. Let's get the Senate to understand what the real deal is. Fight for everybody, not just a small special interest group. It's time to stand up and be counted. And I'd like to see this

rule go forward simply because I want to put it to them that you can't spend \$28 billion and waste it on those who don't need it.

□ 1230

Mr. DREIER. Mr. Speaker, I am happy to yield 1½ minutes to our very, very, very diligent and hardworking ranking member of the Committee on Energy and Commerce, the gentleman from Ennis, Texas (Mr. BARTON).

Mr. BARTON of Texas. I thank the distinguished chairman-to-be of the Rules Committee, Mr. DREIER of California, my good friend.

Mr. Speaker, this is not a bad compromise that's before us, but it is also not the best compromise. It's not a bad deal, but it's not the best deal.

The gentleman from California who spoke on the Democratic side just a few minutes ago I think said it best when he said, In January, our Republican friends will be at the table. We are making a compromise today on the Republican side, in my opinion, that we don't have to make. I think the tax cuts should be permanent, not temporary. I think the additional spending should be paid for now, not just added to the deficit.

A funny thing happened in November: We elected over 80 new Republicans. The majority is going from about 255 Democrats to 242 Republicans. You cannot tell me that the week before Christmas that Americans in the business community are deciding what their capital investments are going to be for 2011. Those decisions have already been made. So I am going to vote against the rule and, with reluctance, vote against the bill, not because it's a bad compromise but because we can do better. And I fully expect in January, when the Republicans become the majority party in the House, that we will do better.

So again, this is not the worst bill that has ever been before us, but it could be better and it should be better, and so I would ask my colleagues to vote "no" on the rule and "no" on the bill.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from the great State of New York (Mr. RANGEL).

Mr. RANGEL. For the first time approaching this rule, it is my understanding that if I want to stop \$23 billion from increasing the deficit by knocking out a Senate provision and substituting a Pomeroy, in order to do that I would have to accept the remainder of the Senate bill. I don't think Members of this House should have to make that choice.

It seems to me that if you believe that it is inequitable for a handful of people to receive such a large amount of money at the expense of the deficit, at the expense of discretionary spending, that we should have an opportunity, one, to vote against the Senate

bill in its present form that does that, and two, to vote for Pomeroy, which would allow us to at least control the amount of tax relief that we give to estate taxes.

I yield back the balance of my time, but I do hope we get a rule that will allow us to express exactly how we feel, Republican or Democrat, because if you're not a part of the deal, it's hard to be supporting it.

Mr. MCGOVERN. Mr. Speaker, may I inquire as to how much time is remaining?

The SPEAKER pro tempore. The gentleman from Massachusetts has 3½ minutes remaining. The gentleman from California has 6½ minutes remaining.

Mr. MCGOVERN. Mr. Speaker, at this time, I would like to yield 1½ minutes to my colleague from the Commonwealth of Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. I thank the gentleman for yielding.

Mr. Speaker, like all major bills that we do here, there is good and bad in this bill. There are things I like and things I don't like. That is a normal circumstance here. But in the final analysis I think people have to ask themselves one simple question: Are we ever going to get to the place where we pay our bills? This bill doesn't do it.

In 2002, the last time this House had the opportunity to be fiscally responsible—and that's not the same thing as fiscally conservative or liberal; it's responsible—we voted to let the PAYGO rules go and the results are where we are today. This bill will kill our children, with very little input or benefit at the moment. It is not an emergency.

I want a tax cut just like everyone else, but I also consider myself, and I am a social liberal. I do believe in Social Security and Medicare and senior housing and all the other things that we do here. I do believe in them. I know that others don't, and I respect those who want to cut those programs. Let's have that debate, but let's not do it through the back door. If you believe in those programs, it is incumbent upon us to pay for them. Voting for this bill simply empowers those who want to cut those programs anyway, and I cannot, in good conscience, support that.

This bill must go down even if the deal we get next year is worse. I understand that, but it's not the right thing to do for those of us who believe in the programs we have.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, Democrats and Republicans alike share the goal of job creation and deficit reduction; we regularly hear that argued from both sides of the aisle. The best way for us to do that is to encourage economic growth. Economic growth is the key to dealing with job creation and deficit reduction.

Mr. Speaker, I don't like this bill that is before us, but I like even less the idea of increasing the tax burden on working Americans—in fact, putting into place what would be tantamount to the largest tax increase that we have ever seen.

I am very pleased that President Obama is beginning to embrace the John F. Kennedy vision for economic growth, the vision that has recognized that reducing marginal rates does in fact create jobs and create more opportunity, and the famous John F. Kennedy line, “the rising tide lifts all boats.” The fact that President Obama is now moving into that direction is a very positive thing.

He has also, on another issue that is going to create jobs, done so on the issue of trade. I am pleased that he wants us to move ahead with what will be the largest bilateral free trade agreement in the history of the world, that being the U.S.-Korea Free Trade Agreement. I think it is imperative for us to do this in Colombia and Panama as well so that we can create union and non-union jobs, good manufacturing jobs right here in the United States of America. That is an issue that I hope we are going to be able to address early next year.

So, Mr. Speaker, I believe that it is the right thing for us to do, for us to make sure that we don't increase taxes on working Americans.

With that, I yield back the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I want to close simply by saying that I agree with many of my colleagues who have come to the floor today to express their concern about how these tax cuts—mostly for the rich—will add an incredible debt burden on the backs of our children and our grandchildren. We can do better than this.

I am also worried because I think what my friends on the Republican side want to do is basically kind of take tax cuts for the rich off the table next year when they use a budget axe to go after domestic spending.

I would just say to my colleagues that as we have this debate on tax cuts, there are a lot of people in this country who this debate is meaningless to because they're falling through the cracks. We have an obligation to help strengthen the safety net in this country. And I worry about the agenda that my Republican colleagues are going to pursue next year. I worry that it's going to be on the backs of the most vulnerable in this country, and that is wrong. We have an obligation, a moral obligation to be able to make sure that everybody in this country not only has opportunity, but is also not allowed to fall through the cracks.

We have a hunger problem in this country. We have children who go to sleep at night hungry in the richest country in the world. We should be

ashamed of ourselves. We can do better than add to the deficit by giving more tax cuts to the wealthy.

Mr. Speaker, with that, I withdraw the resolution.

The SPEAKER pro tempore. The resolution is withdrawn.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 6516. An act to make technical corrections to provisions of law enacted by the Coast Guard Authorization Act of 2010.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

BANKRUPTCY TECHNICAL CORRECTIONS ACT OF 2010

Ms. CHU. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 6198) to amend title 11 of the United States Code to make technical corrections; and for related purposes.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

On page 3, strike lines 1 through 5 and insert the following: “and

“(F) in paragraph (51D), by inserting ‘of the filing’ after ‘date’ the 1st place it appears.”

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. CHU) and the gentleman from North Carolina (Mr. MCHENRY) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Ms. CHU. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. CHU. I yield myself such time as I may consume.

Mr. Speaker, on November 19, the Senate passed an amended version of H.R. 6198, the Bankruptcy Technical Corrections Act of 2010. H.R. 6198

makes a series of purely technical corrections in response to certain drafting errors resulting from the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

The Senate amendment simply removes from the bill a provision that corrected a misnumbered paragraph.

It is our understanding that some believe that this provision, which corrects a clear error in bankruptcy law, may possibly cause confusion with respect to other laws that currently contain cross-references to the incorrectly numbered paragraph. While some might question the need for the Senate amendment, we are willing to accommodate the concern.

Accordingly, I urge my colleagues to concur in the Senate amendment to H.R. 6198.

I reserve the balance of my time.

Mr. MCHENRY. I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Bankruptcy Technical Corrections Act of 2010, as amended by the Senate.

The House passed the original version of the bill in late September to make purely technical changes to the Bankruptcy Code. Then, as now, these changes are not intended to make any change to substantive bankruptcy law.

□ 1250

Instead, these changes clean up the text of the Bankruptcy Code to make it easier to use by lawyers and judges.

The Senate amendment strikes one provision of the House bill which would have renumbered the section of the Bankruptcy Code that defines the term "timeshare plan." Rather than define "timeshare plan" in their own State codes, many State legislatures have chosen to incorporate the Federal definition by reference into their State law. The Senate amendment reflects a concern that changing the section number of the Bankruptcy Code definition would have resulted in inaccurate cross references in numerous State codes.

The necessity of the Senate amendment highlights the perils that result when States legislate by reference to provisions of Federal law. The States are sovereign in our system of constitutional federalism and they should exercise an independent duty to legislate without respect to mutable Federal laws.

The House bill, as amended, will clear up some existing confusion in the bankruptcy community regarding provisions of the Bankruptcy Code. It is important that Federal law be technically sound so that the intent of Congress is clear and judges do not use technical loopholes to practice judicial activism.

In particular, it is important that the Bankruptcy Code be technically sound because of the volume of bankruptcy filings during this recession. As

America continues to struggle with high unemployment, bearish capital markets, and massive deficits, the Bankruptcy Code is playing an increasingly important role in our Nation's financial health. Unfortunately, that is the case.

As my colleagues on the Judiciary Committee stated when the House first considered this bill, it is important that the CONGRESSIONAL RECORD reflect the bipartisan acknowledgment that this bill does not, and is not, intended to enact any substantive change to the Bankruptcy Code. Lawyers and judges who practice bankruptcy law should not understand any provision of this bill to confer, modify, or delete any substantive bankruptcy right. Similarly, no inference should be drawn from the absence in this bill of a technical amendment to any other part of the Bankruptcy Code.

With this understanding, I support the bankruptcy technical amendments bill as amended by the Senate, and I share that with my Republican colleagues on the Judiciary Committee.

I yield back the balance of my time.

Ms. CHU. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 6198.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PUBLIC CONTRACT LAW TECHNICAL CORRECTIONS

Ms. CHU. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 1107) to enact certain laws relating to public contracts as title 41, United States Code, "Public Contracts".

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments:

On page 2, in the item related to chapter 35 in the subtitle analysis, strike "**and**" and insert "**or**".

On page 7, strike lines 14 through 20 and insert "In this subtitle, the term "supplies" has the same meaning as the terms "item" and "item of supply".

On page 9, line 20, strike "**support**" and insert "**support**".

On page 25, lines 11 and 12, strike "under section 5376 of title 5" and insert "for level IV of the Executive Schedule".

On page 48, line 34, strike "employee from State or local governments" and insert "individual".

On page 55, line 36, strike "\$2,500" and insert "\$3,000".

On page 56, line 15, strike "\$2,500" and insert "\$3,000".

On page 56, line 19, strike "\$2,500" and insert "\$3,000".

On page 77, line 1, strike "his representatives" and insert "representatives of the Comptroller General".

On page 93, lines 18 and 19, strike "under section 5376 of title 5" and insert "for level IV of the Executive Schedule".

On page 110, line 21, strike "**AND**" and insert "**OR**".

Beginning on page 131, strike line 8 and all that follows through page 132, line 19, and insert the following:

"(c) CONTRACT PERIOD.—The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 5 years unless a longer period is specifically authorized in a law that is applicable to the contract."

On page 185, line 39, strike "AMOUNT" and insert "AMOUNTS".

On page 185, line 40, strike "amount" and insert "amounts".

On page 186, line 1, strike "amount" and insert "amounts".

On page 201, line 13, strike "under section 5376 of title 5" and insert "for level IV of the Executive Schedule".

On page 204, between lines 10 and 11, insert the following:

"(3) PERSON.—The term "person" means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual."

On page 204, line 11, strike "(3)" and insert "(4)".

On page 204, line 14, strike "(4)" and insert "(5)".

On page 204, line 17, strike "(5)" and insert "(6)".

On page 204, line 20, strike "(6)" and insert "(7)".

On page 204, line 24, strike "(7)" and insert "(8)".

On page 204, line 31, strike "(8)" and insert "(9)".

On page 208, line 6, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 209, line 3, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 213, line 36, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 213, line 39, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 214, line 8, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 214, line 13, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 214, line 16, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 214, line 19, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 214, line 24, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 214, line 27, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 214, line 39, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 215, line 3, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 215, line 6, insert "(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)" after "division C".

On page 215, line 10, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 215, line 13, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 215, line 16, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 215, line 19, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 217, line 28, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 219, line 30, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 219, line 33, strike “(except section 3302)” and insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)”.

On page 219, line 38, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 220, line 5, insert “(EXCEPT SECTIONS 1704 AND 2303)” after “DIVISION B”.

On page 220, line 8, insert “(except sections 1704 and 2303)” after “division B”.

On page 220, line 13, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 220, line 16, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 220, line 18, insert “(except sections 1704 and 2303)” after “division B”.

On page 220, line 36, insert “(except sections 1704 and 2303)” after “division B”.

On page 221, line 5, insert “(except sections 1704 and 2303)” after “division B”.

On page 221, line 13, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 221, line 16, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 221, line 26, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 221, line 29, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 222, line 18, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 222, line 22, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 222, line 37, insert “(except sections 3302, 3501(b), 3509, 3906, 4710, and 4711)” after “division C”.

On page 223, line 25, insert “(EXCEPT SECTIONS 1704 AND 2303)” after “DIVISION B”.

On page 236, strike “2006” in the column relating to “Date”.

On page 236, strike the item related to Public Law 109-364.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. CHU) and the gentleman from North Carolina (Mr. McHENRY) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Ms. CHU. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. CHU. I yield myself such time as I may consume.

Mr. Speaker, H.R. 1107 codifies into positive law as title 41, United States Code, certain general and permanent laws related to public contracts. This is a noncontroversial bill that is not intended to make any substantive changes in the law. The Office of Law Revision Counsel periodically suggests to the committee of jurisdiction appropriate revisions to the United States Code in light of the enactment of codified laws. These changes are purely technical in nature. As is typical with the codification process, a number of non-substantive revisions are made, including the reorganization of sections into a more coherent overall structure.

Similar legislation has been introduced and favorably reported in each of the past two Congresses. It passed the House in May of last year. While it has been awaiting action in the Senate, a few additional technical corrections were identified, and they have been incorporated in the version that passed the Senate and that we are considering today.

I urge my colleagues to support this legislation.

I reserve the balance of my time.

Mr. McHENRY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 1107, a bill proposed by the Office of Law Revision Counsel, to update and approve the codification of title 41 of the United States Code. The Judiciary Committee has jurisdiction over law revision bills, and this particular bill deals with the title addressing public contracts.

The Judiciary Committee considered and approved a similar bill last Congress, but it was ultimately not taken up by the House before the end of the Congress. H.R. 1107 and similar law revision bills are important because they ensure that the U.S. Code is up to date, accurate, and usable. I am glad to support this legislation today.

In closing, certainly the floor has been in chaos this afternoon, but we would like to take care of these Judiciary Committee suspension bills so we can get them done before the end of the year, and I appreciate my colleague taking the floor as well.

I yield back the balance of my time.

Ms. CHU. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 1107.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. CHU. Mr. Speaker, I object to the vote on the ground that a quorum is

not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

AUTHORIZING PILOT PROGRAM FOR PATENT CASES

Ms. CHU. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 628) to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

The Clerk read the title of the bill. The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. PILOT PROGRAM IN CERTAIN DISTRICT COURTS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a program, in each of the United States district courts designated under subsection (b), under which—

(A) those district judges of that district court who request to hear cases under which 1 or more issues arising under any Act of Congress relating to patents or plant variety protection are required to be decided, are designated by the chief judge of the court to hear those cases;

(B) cases described in subparagraph (A) are randomly assigned to the judges of the district court, regardless of whether the judges are designated under subparagraph (A);

(C) a judge not designated under subparagraph (A) to whom a case is assigned under subparagraph (B) may decline to accept the case; and

(D) a case declined under subparagraph (C) is randomly reassigned to 1 of those judges of the court designated under subparagraph (A).

(2) SENIOR JUDGES.—Senior judges of a district court may be designated under paragraph (1)(A) if at least 1 judge of the court in regular active service is also so designated.

(3) RIGHT TO TRANSFER CASES PRESERVED.—This section shall not be construed to limit the ability of a judge to request the reassignment of or otherwise transfer a case to which the judge is assigned under this section, in accordance with otherwise applicable rules of the court.

(b) DESIGNATION.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Director of the Administrative Office of the United States Courts shall designate not less than 6 United States district courts, in at least 3 different judicial circuits, in which the program established under subsection (a) will be carried out.

(2) CRITERIA FOR DESIGNATIONS.—

(A) IN GENERAL.—The Director shall make designations under paragraph (1) from—

(i) the 15 district courts in which the largest number of patent and plant variety protection cases were filed in the most recent calendar year that has ended; or

(ii) the district courts that have adopted, or certified to the Director the intention to adopt, local rules for patent and plant variety protection cases.

(B) SELECTION OF COURTS.—From amongst the district courts that satisfy the criteria for designation under this subsection, the Director shall select—

(i) 3 district courts that each have at least 10 district judges authorized to be appointed by the President, whether under section 133(a) of title 28, United States Code, or on a temporary basis under any other provision of law, and at least 3 judges of the court have made the request under subsection (a)(1)(A); and

(ii) 3 district courts that each have fewer than 10 district judges authorized to be appointed by the President, whether under section 133(a) of title 28, United States Code, or on a temporary basis under any other provision of law, and at least 2 judges of the court have made the request under subsection (a)(1)(A).

(c) DURATION.—The program established under subsection (a) shall terminate 10 years after the end of the 6-month period described in subsection (b).

(d) APPLICABILITY.—The program established under subsection (a) shall apply in a district court designated under subsection (b) only to cases commenced on or after the date of such designation.

(e) REPORTS TO CONGRESS.—

(1) IN GENERAL.—At the times specified in paragraph (2), the Director of the Administrative Office of the United States Courts, in consultation with the chief judge of each of the district courts designated under subsection (b) and the Director of the Federal Judicial Center, shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the pilot program established under subsection (a). The report shall include—

(A) an analysis of the extent to which the program has succeeded in developing expertise in patent and plant variety protection cases among the district judges of the district courts so designated;

(B) an analysis of the extent to which the program has improved the efficiency of the courts involved by reason of such expertise;

(C) with respect to patent cases handled by the judges designated pursuant to subsection (a)(1)(A) and judges not so designated, a comparison between the 2 groups of judges with respect to—

(i) the rate of reversal by the Court of Appeals for the Federal Circuit, of such cases on the issues of claim construction and substantive patent law; and

(ii) the period of time elapsed from the date on which a case is filed to the date on which trial begins or summary judgment is entered;

(D) a discussion of any evidence indicating that litigants select certain of the judicial districts designated under subsection (b) in an attempt to ensure a given outcome; and

(E) an analysis of whether the pilot program should be extended to other district courts, or should be made permanent and apply to all district courts.

(2) TIMETABLE FOR REPORTS.—The times referred to in paragraph (1) are—

(A) not later than the date that is 5 years and 3 months after the end of the 6-month period described in subsection (b); and

(B) not later than 5 years after the date described in subparagraph (A).

(3) PERIODIC REPORTS.—The Director of the Administrative Office of the United States Courts, in consultation with the chief judge of each of the district courts designated under subsection (b) and the Director of the Federal Judicial Center, shall keep the com-

mittees referred to in paragraph (1) informed, on a periodic basis while the pilot program is in effect, with respect to the matters referred to in subparagraphs (A) through (E) of paragraph (1).

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. CHU) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Ms. CHU. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. CHU. I yield myself such time as I may consume.

Mr. Speaker, this bill seeks to create a pilot program that will enhance district court expertise in patent cases.

Patent litigation is complex and highly technical. This makes litigation expensive, time consuming, and unpredictable. Moreover, the reversal rate of district court decisions is high, hovering around 50 percent. The bill before us today, H.R. 628, seeks to increase efficiency and consistency in patent and plant variety protection litigation and reduce the reversal rate.

The pilot program created by this bill would enable interested judges in certain district courts to develop expertise in adjudicating patent and plant variety protection cases. This will create a cadre of judges who have advanced knowledge of patent and plant variety protection due to more intensified experience in handling the cases, along with special education and career development opportunities.

By providing judges with more training and experience in patent law, this country will have fairer and more predictable decisions resulting in a positive effect on the economy as a whole, as businesses will be able to allocate more time to inventing and less time litigating.

The program would involve six of the Nation's 94 judicial districts on a strictly voluntary basis. Note this is just a pilot program; and unless Congress chooses to renew it, it will automatically expire after 10 years. The bill mandates reporting requirements to Congress that will help guide our future efforts to further improve the patent system. We will monitor the effects of this program closely.

□ 1300

H.R. 628 has bipartisan support in the Judiciary Committee and broad support from the patent bar and affected industry and trade groups. In 2006, a nearly identical bill, H.R. 5418, was reported by the Judiciary Committee and

passed the House under suspension. The legislation passed the House again under suspension in the last Congress. This Congress, back in March of 2009, this House passed H.R. 628. This amended version before us today expands the number of districts that are eligible to be chosen for this program.

I want to particularly note the efforts of my friends on both sides of the aisle, Representative ISSA and Representative SCHIFF, whose tireless and substantial personal efforts shepherded this bill from start to finish—and we are close to the finish line.

I urge my colleagues to once again join me in supporting this bill.

I reserve the balance of my time.

Mr. POE of Texas. Mr. Speaker, I yield myself as much time as I may consume.

It is widely recognized that patent litigation is too expensive, too time-consuming, and too unpredictable. H.R. 628 addresses these concerns by authorizing a pilot program in certain United States district courts to promote patent expertise among participating judges.

The need for such a program becomes apparent when one considers that fewer than 1 percent of all the cases in United States district courts, on average, are patent cases and that a district court judge typically has a patent case proceed through trial once every 7 years. Nevertheless, these cases account for 10 percent of complex cases, and they require a disproportionate share of attention and judicial resources.

Notwithstanding the investment of additional time and resources, the rate of reversal on claim construction issues—the correct interpretation of which is central to the proper resolution of these cases—is unacceptably high. The premise underlying H.R. 628 is, succinctly stated, practice makes perfect, or at least better. Judges who focus more attention on patent cases will be expected to be better prepared to make decisions that can withstand appellate scrutiny.

The bill that we have before us today is the product of extensive oversight hearing that focused on proposals to improve patent litigation, which was conducted by the Subcommittee on Courts, the Internet, and Intellectual Property in October of 2005. This litigation is similar to H.R. 34 from the 110th Congress and H.R. 5418, a bill that passed the House unanimously during the 109th Congress. More recently, the House passed H.R. 628 on March 17, 2009. The other body passed the legislation with amendments on December 13. The new changes improve the measure by eliminating a \$10 million authorization and by expanding the bill's application to smaller judicial districts.

Mr. Speaker, H.R. 628 requires the director of the Administrative Office of the Courts to select at least six district

courts to participate in a 10-year pilot program that begins no later than 6 months after the date of enactment. The bill specifies criteria the director must employ in determining eligible district courts. It also contains provisions to preserve the random assignment of cases and to prevent the selected districts from becoming magnets for forum-shopping litigants and lawyers.

The litigation additionally requires the director in consultation with the director of the Federal Judicial Center and the chief judge of each participating district to provide the committees on the Judiciary of the House of Representatives and the Senate with periodic progress reports. These reports will enable the Congress and the courts to evaluate whether the pilot program is working and, if so, whether it should be made permanent.

Mr. Speaker, the bill does not substantially amend the patent laws or the judicial process, nor does it serve as a substitute for comprehensive patent reform that is needed. Rather, H.R. 628 constructs a foundation that future Congresses and the courts may use to assess the merits of future related proposals.

Before closing, Mr. Speaker, I would like to take a moment to commend the superb job that the bill's sponsors, Representatives ISSA and SCHIFF, did in seeking out and incorporating the advice of numerous experts as they developed this bipartisan important legislation. Their success and cooperation have resulted in a good bill that deserves the support of Members of the House on both sides of the aisle. I urge Members to support this bill.

I reserve the balance of my time.

Ms. CHU. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. SCHIFF), the sponsor of the bill.

Mr. SCHIFF. Mr. Speaker, I rise in support of H.R. 628, and I want to begin by acknowledging the leadership of my colleague DARRELL ISSA from California in developing this bill. I joined with Mr. ISSA to introduce this important legislation back in the 109th Congress. It has not been a short road to get here today to hopefully enact this bill, but we would not have made it without his leadership.

I partnered with Mr. ISSA on the bill because we share a deep interest in improving the efficiency of the patent process, in reducing litigation costs and inefficiencies in patent review, and also in improving the quality of patents. This bill, in part, grew from a hearing in the 109th Congress on improving Federal court adjudication of patent cases in response to high rates of reversal. At this hearing, a number of proposed options to address this issue were discussed. Serious concerns were expressed about a number of proposals, including those that would cre-

ate new specialized courts and those that would move all patent cases to existing specialized courts. These concerns centered around the need to maintain generalist judges, to preserve random case assignment, and to continue fostering the important legal percolation that currently occurs among the various district courts. Our proposal aims to avoid these pitfalls.

H.R. 628 establishes a mechanism to steer patent cases to judges that have the desire and the aptitude to hear such cases while preserving the principle of random assignment in order to prevent forum shopping among the pilot districts. The legislation will also provide the Congress and the courts with the opportunity to assess the program on a periodic basis. Reports will examine whether the program succeeds in developing greater expertise among participating district judges, the extent to which the program contributes to improving judicial efficiency in deciding these cases, and whether the program should be extended, expanded, or made permanent. By providing our courts with the resources they need to carefully consider patent cases, we will ultimately save the taxpayer money.

While this legislation is an important step at addressing needed patent reforms, I believe that Congress must continue to work on a more comprehensive reform of our patent system, and I look forward to continuing my work with my colleagues in order to address these issues.

Mr. POE of Texas. Mr. Speaker, I yield such time as he wishes to consume to the gentleman from California (Mr. ISSA), who is a sponsor of this bill.

Mr. ISSA. Mr. Speaker, it's been 8 years since this bill began being kicked around as a pilot. Some people would be less happy to announce it than I, but I would like to find them. Eight years ago when I began the dialogue with my colleagues, then the subcommittee ranking member, Mr. BERMAN, said, Tell me more about this problem. And I told him from life experience of the problem of these very talented judges, magistrates, and Federal judges who wanted to do a good job on patents, but it was almost always their first patent, and they lacked a support system to make it happen in both large and small districts. I told them how the southern district of San Diego had found ways to try to improve the system, gleaned some additional expertise from one or two judges who preferred these cases over some others and who actually sought them out. I also told some of my fellow colleagues about the horror stories of a magistrate ascending to the bench, finding that what he got from each of the other members were all their patent cases, and suddenly he had a backlog of these, had to find out what a Markman hearing was, had to start getting into technical issues, one on electronics, another on biotech, another one on telecommunications.

So over the years, we have all been educated well beyond that initial anecdotal example. Then ORRIN HATCH, Chairman HATCH, was supportive. Now Chairman LEAHY is supportive. All along the way, my classmate ADAM SCHIFF has been supportive, along with both chairman, and ranking member at times, HOWARD BERMAN. Chairman CONYERS has continued to be supportive and has helped me, along with Ranking Member LAMAR SMITH, vote this out early on in this Congress.

□ 1310

But I have a special thanks for Chairman LEAHY who made sure this bill was pulled out of the comprehensive patent reform bill because its time truly had come to begin saying to judges throughout the country that, in fact, we were going to help them help themselves be better at this. Although it's called patent pilot, over the years it has been expanded to the number of jurisdictions that it could be used in to where it's become quite clear that this will be a challenge to be expanded countrywide in whatever format the study shows is best.

I find that this Congress, in its lame duck session, has done a few good things. No surprise that this is one that I think is particularly good, particularly good because, as Congressman SCHIFF just said, we are, in fact, dealing in the lame duck session with a problem that has been pervasive since before Congressman SCHIFF and I became Members of this body 10 full years ago.

So as I thank each of you for your passage of this bill, and with full confidence that this will become a broader consensus throughout the Federal system, I also join with my friend and colleague ADAM SCHIFF in saying that the next Congress, in the early days, we must truly dedicate ourselves to comprehensive patent reform, to take each of the major issues that have been difficult and have, Congress after Congress, failed to become law, and find ways to resolve some or all of them for the good of the American people who find themselves spending 2, 3 or 8 or \$10 million on what can often be a frivolous suit.

Again, Mr. POE, I thank you for yielding me the time. I ask all my colleagues to vote for this small but important change in patent law.

Mr. Speaker, I rise today in support of H.R. 628, a bill to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges. Congressman ADAM SCHIFF and I have worked together on this legislation since the last Congress, and I am grateful for the chance to move this legislation forward today.

The high cost of patent litigation is widely publicized, and it is not unusual for a patent suit to cost each party over \$10,000,000. Appeals from district courts to the Court of Appeals for the Federal Circuit are frequent. This

is caused, in part, by the general perception within the patent community that most district court judges are not sufficiently prepared to hear patent cases. I drafted this legislation in an attempt to decrease the cost of litigation by increasing the success of district court judges.

H.R. 628 establishes a pilot project within at least six district courts. Under the pilot, judges decide whether or not to opt into hearing patent cases. If a judge opts in, and a patent case is randomly assigned to that judge, that judge keeps the case. If a case is randomly assigned to a judge who has not opted into hearing patent cases, that judge has the choice of keeping that case or sending it to the group of judges who have opted in. To be a designated court, the court must have at least 10 authorized judges with at least 3 opting in, or certify that they have adopted local rules for patent and plant variety protection cases.

The core intent of this pilot is to steer patent cases to judges that have the desire and aptitude to hear patent cases, while preserving random assignment as much as possible. The pilot will last no longer than 10 years, and periodic studies will occur to determine the pilot project's success.

I am happy to say that H.R. 628 is supported by software, hardware, tech and electronics companies, pharmaceutical companies, biotech companies, district court judges, the American Intellectual Property Law Association, and the Intellectual Property Owners Association among others.

This legislation is a good first step toward improving the legal environment for the patent community in the United States. H.R. 628 should not, however, be taken as a replacement for broader patent reform. We still need to address substantive issues within patent law, and I look forward to working with my colleagues on that broader effort as well.

I thank Judiciary Committee Chairman JOHN CONYERS and Ranking Member LAMAR SMITH, as well Senators HATCH and LEAHY. I also thank my staff and the committee staff who worked so hard to make this possible.

I encourage all of my colleagues to support H.R. 628.

Ms. CHU. Mr. Speaker, I have no further speakers, and I reserve the balance of my time.

Mr. POE of Texas. I yield myself as much time as I may consume.

Mr. Speaker, patent law is complicated. It is difficult. It is messy. Now, that's why law schools have a special track for those that want to be patent lawyers. They get their own certification, in many law schools, because it is so complicated. And then when those cases go to court, they need to be presented to a judge that has a lot of experience in patent law. It is a difficult, complex legal issue in almost every case. And those cases take, sometimes, years before they are resolved in court, then on appeal, and the reversal rate is extremely high.

This legislation, hopefully, corrects that problem in giving those district judges that want to hear these cases that special expertise in hearing a great number of these cases, becoming

experts and understanding the law, the complexities of the law and, hopefully, getting a better and quicker result in the courtrooms of the United States. I support this legislation.

I want to commend, once again, the two representatives from California, Mr. SCHIFF and Mr. ISSA, for their long endurance over sponsoring this legislation.

Mr. Speaker, I yield back the balance of my time.

Ms. CHU. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WEINER). The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 628.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. CHU. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PRESERVING FOREIGN CRIMINAL ASSETS FOR FORFEITURE ACT OF 2010

Ms. CHU. Mr. Speaker, I move to suspend the rules and pass the bill (S. 4005) to amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 4005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preserving Foreign Criminal Assets for Forfeiture Act of 2010".

SEC. 2. PRESERVATION OF PROPERTY SUBJECT TO FORFEITURE UNDER FOREIGN LAW.

Section 2467(d)(3)(A) of title 28, United States Code, is amended to read as follows:

"(A) RESTRAINING ORDERS.—

"(i) IN GENERAL.—To preserve the availability of property subject to civil or criminal forfeiture under foreign law, the Government may apply for, and the court may issue, a restraining order at any time before or after the initiation of forfeiture proceedings by a foreign nation.

"(ii) PROCEDURES.—

"(I) IN GENERAL.—A restraining order under this subparagraph shall be issued in a manner consistent with subparagraphs (A), (C), and (E) of paragraph (1) and the procedural due process protections for a restraining order under section 983(j) of title 18.

"(II) APPLICATION.—For purposes of applying such section 983(j)—

"(aa) references in such section 983(j) to civil forfeiture or the filing of a complaint shall be deemed to refer to the applicable foreign criminal or forfeiture proceedings; and

"(bb) the reference in paragraph (1)(B)(i) of such section 983(j) to the United States shall be deemed to refer to the foreign nation."

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. CHU) and the gentleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Ms. CHU. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. CHU. I yield myself such time as I may consume.

Mr. Speaker, the Preserving Foreign Criminal Assets for Forfeiture Act of 2010 will ensure that U.S. courts can freeze assets while foreign legal proceedings are pending. This fix permits Federal law enforcement to assist foreign governments without waiting for a final judgment in a foreign court.

I want to tell you a story that highlights the importance of this legislation. Years ago, I met a bright young man named Bobby Salcedo, who grew up in my district in El Monte, California. What struck me right away was Bobby's dedication to improving the lives of children and residents of his community. It was that dedication that gave him his incredible energy and passion to achieve as much as he did.

He was an elected member of the El Monte School District. He returned to his alma mater, Mountain View High School, to become its assistant principal, and was studying for his doctorate in education at UCLA.

Aside from his caring, selfless nature, Bobby was very intelligent, driven, and charismatic. It was clear to everyone who knew him that he was going somewhere. He was our rising star.

A year ago, Bobby traveled to Gomez Palacio in the Mexican state of Durango to visit his wife's family for the holidays. On New Year's Eve, he was out with family and friends at a local restaurant when gunmen burst in and dragged Bobby, along with five other men, out of the restaurant at gunpoint. They were then each shot to death execution-style. The next day, all six bodies were found dumped in a ditch. Bobby was only 33 years old.

After the investigation began, it was confirmed that none of the six murder victims were connected to the drug

trade in any way. Bobby and the others were in the wrong place at the wrong time. Their deaths exemplify a growing number of innocent bystanders who are becoming victimized in the cartel violence in Mexico.

It had seemed as though the situation could not get worse. However, only weeks after Bobby was so brutally murdered, the lead state investigator in his case was also shot dead.

For me and thousands of others, Bobby's death is a symbol for both of our countries that progress for peace in Mexico must be made. We cannot allow the death of innocent bystanders or American citizens to pass without consequences. Until there is true accountability for the violence, there is little incentive for the drug lords to keep the peace.

In my conversations with law enforcement, I hear the same thing over and over again. In order to stop this wave of violence on the border and protect both American and Mexican citizens, we must hit the cartels where it hurts the most—their bank accounts and property, which are often located in the United States. So when I heard that Federal courts had severely limited law enforcement's ability to freeze foreign assets in the United States at the request of foreign governments, I had to act.

In 2000, Congress passed the Civil Asset Forfeiture Reform Act of 2000, which authorized Federal courts to assist foreign nations by freezing assets located in the United States while individuals stood trial in foreign courts. This process is consistent with our treaty obligations and, under those same international agreements, foreign courts will offer the United States similar assistance with assets located overseas.

This law is an important tool to fight organized crime, money laundering, and drug trafficking. It allows the U.S. to assist foreign governments in cutting the money supply to international criminal organizations.

Earlier this year, however, Federal courts interpreted the statute to apply only after a final decision has been reached in a foreign court proceeding. After the decision, law enforcement had no way to prevent illicit property from being moved out of our grasp before it was too late.

In the past few months, our government has been unable to protect more than \$550 million that had been identified for forfeiture by foreign governments. This money will remain a continuing resource for criminal organizations, allowing them to fund extensive additional criminal activity.

The bill we are considering today includes due process protections similar to those used for restraining orders in anticipation of domestic forfeiture judgments. It also requires the courts to verify that the relevant foreign tri-

bunal observes due process protections, has subject matter jurisdiction, and is not acting as a result of fraud.

This is just one small step to ensure that international criminal organizations like the cartels that murdered Bobby Salcedo have fewer resources to evade prosecution. It is for Bobby, his family, and the thousands of others who have been affected by cartel violence around the world that I fought to pass this important legislation.

□ 1320

I thank the chairman of the Judiciary Committee for allowing this bill to come to the floor so quickly, and I want to recognize the steadfast bipartisan support of my friend, Judge TED POE, and our colleagues in the Senate, Senators WHITEHOUSE and CORNYN.

This bill has the support of the Department of Justice, which is eager to use this tool to protect our borders and make the world a safer place. I urge my colleagues to support this important legislation.

I reserve the balance of my time.

Mr. POE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 4005, the Preserving Foreign Criminal Assets for Forfeiture Act of 2010, makes a simple, yet very important, technical change to Federal law to facilitate asset preservation for foreign countries. I am pleased to be a cosponsor of this legislation, and I commend my colleague from California (Ms. CHU) in sponsoring this House companion to S. 4005. I would like to thank her for her work on this issue in bringing it before Congress.

Federal law currently provides procedures by which the Federal Government can seek a court order to preserve or freeze certain domestic assets on behalf of a foreign government. This is an important tool to take out of the hands of criminals the proceeds that fund their illegal operations.

Criminals will go to great lengths to stash their ill-gotten profits. And whether it is an international drug cartel, a terrorist group, organized crime syndicate, or simply a savvy computer hacker or corrupt corporation, the key to putting a stop to their crimes is to put a stranglehold on their money that they have illegally obtained. But a recent D.C. circuit court of appeals decision limits the ability of the United States to assist foreign governments in retaining and restraining those assets.

The court interpreted section 2464 of title 28, governing the entry of foreign judgments, to authorize a U.S. court to freeze assets only after the foreign court's final forfeiture judgment. This is a significant limitation on our ability to assist in foreign forfeiture proceedings. If forced to await until a final foreign judgment is entered, we run the risk of allowing thousands, if not millions, of dollars to slip through our hands into the hands of the criminals.

In many countries, like Mexico, their judiciaries operate at a much slower pace than ours, and their prosecution rates are much lower. In fact, the criminal conviction rate in Mexico is less than 10 percent. Therefore, a lot of times, by the time a forfeiture judgment is made, the target has already moved their assets someplace else. This hampers our ability to go after Mexican cartel members who have assets here in the United States. So unless Congress clarifies the scope of section 2467, we run the risk of losing cooperation from foreign governments in our request to seize assets that are held abroad.

The investigation into the multi-billion dollar Ponzi scheme undertaken by Allen Stanford demonstrates our need for foreign countries to continue to freeze assets on our behalf. To date, Switzerland, Canada, and the United Kingdom have restrained a combined \$400 million on behalf of the United States in just the Stanford case. This is money that certainly could have been lost if the United States was prevented from requesting such assistance from our allies until a final judgment was made.

The court of appeals was correct that it is not a court's role to substitute its view or policy for the legislation which has been passed by Congress. So I don't argue with the court's decision; but it is Congress' obligation to change and fix the law so that this does not occur in the future. With adoption of this legislation, Congress is establishing a clear and simple policy on the restraint of foreign assets.

So I commend my colleagues, Senators Whitehouse and Cornyn, and of course the gentlelady from California (Ms. CHU), for their efforts to clarify this statute. We must ensure that foreign governments can continue to rely on our assistance with their criminal prosecutions and the United States will continue to receive the same cooperation from our foreign allies.

I urge my colleagues to support this legislation.

I yield such time as he wishes to consume to the gentleman from Louisiana (Mr. SCALISE).

Mr. SCALISE. I thank my colleague from Texas for yielding.

Mr. Speaker, I rise in strong support of the Preserving Criminal Assets for Forfeiture Act, and I want to commend my colleagues, both Ms. CHU and Judge POE, for bringing this forward.

As he talked about, we've got a problem right now where a court case has allowed a loophole, a major loophole, where criminal organizations are able to shield their assets from our Justice Department. We do not want, and we cannot allow, for these foreign criminal organizations, whether it is drug cartels, money launderers, or others, to be able to shield those assets from the law, not only removing the accountability, but allowing them to keep

those assets that they may use against our law enforcement here in the United States. It is critical that we get this passed quickly to close this loophole and prevent those types of shielding from the law as it is currently happening.

I also want to point out something else that my colleague from Texas talked about. In the Stanford case, this is a case where somebody created a Ponzi scheme that affected lots of people in my State, in Texas, and other States. We cannot allow these kinds of people to be able to shield their assets from justice. Ultimately, they need to have their day in court, and they need to have to face justice for the things that they did to our American citizens here.

I strongly support this legislation and urge all of my colleagues to do so as well.

Ms. CHU. I reserve the balance of my time.

Mr. POE of Texas. I yield myself such time as I may consume.

Mr. Speaker, the forfeiture concept is very important to the helping of our law enforcement agencies throughout the United States. It is the concept that criminals, drug cartels make a lot of money off the crimes they commit; and that money, when confiscated, should be not given back to the perpetrator, of course. It should be used for law enforcement and other worthwhile endeavors.

Under current law, this problem is an extreme problem because of the fact that many times, by the time the criminal cartel has been captured and they go to trial, they have hidden their assets and then there is no money to go back into the forfeiture.

So this legislation prevents this problem from occurring in the future. It allows the seizure of those assets where they can be used for law enforcement. It makes criminals pay the rent on the courthouse and pay for the system that they have created, and it helps in the forfeiture.

I cannot overemphasize how important forfeiture of illegal, ill-gotten gain is to our law enforcement agencies. Just one example of this: down on the Texas border where our sheriffs are operating on the border, we have got one county. The sheriff in Hudspeth County doesn't even have a budget for the motor pool; in other words, he has no vehicles that are funded at taxpayer expense. So the only way he gets vehicles is capturing drug cartels and drug runners when they come into Hudspeth County and forfeiting their vehicles to law enforcement. That is why they have a nice set of Escalades that they use in the fight on the drug cartel.

So forfeiture, whether it is vehicles or whether it is money, is extremely important to law enforcement; and we must continue to help them where we can and make the criminals pay for the

system they have created and pay the rent on the courthouse.

I yield back the balance of my time.

Ms. CHU. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and pass the bill, S. 4005.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1330

GYNECOLOGIC CANCER EDUCATION AND AWARENESS ACT

Mrs. CAPPS. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2941) to reauthorize and enhance Johanna's Law to increase public awareness and knowledge with respect to gynecologic cancers.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. REAUTHORIZATION AND ENHANCEMENT OF JOHANNA'S LAW.

(a) *IN GENERAL.*—Section 317P(d) of the Public Health Service Act (42 U.S.C. 247b-17(d)(4)) is amended—

(1) in paragraph (4), by inserting after “2009” the following: “and \$18,000,000 for the period of fiscal years 2012 through 2014”; and

(2) by redesignating paragraph (4) as paragraph (6).

(b) *CONSULTATION WITH NONPROFIT GYNECOLOGIC CANCER ORGANIZATIONS.*—Section 317P(d) of such Act (42 U.S.C. 247b-17(d)), as amended by subsection (a), is further amended by inserting after paragraph (3) the following:

“(4) *CONSULTATION WITH NONPROFIT GYNECOLOGIC CANCER ORGANIZATIONS.*—In carrying out the national campaign under this subsection, the Secretary shall consult with non-profit gynecologic cancer organizations, with a mission both to conquer ovarian or other gynecologic cancer and to provide outreach to State and local governments and communities, for the purpose of determining the best practices for providing gynecologic cancer information and outreach services to varied populations.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. CAPPS) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Mrs. CAPPS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mrs. CAPPS. I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 2941, a bill to reauthorize Johanna's Law. I would also like to acknowledge the hard work of the bill's sponsor, Representative DELAURO, on this legislation. She has been a tireless supporter of this program and a staunch advocate for this reauthorization.

The bill reauthorizes an existing CDC program to educate women and health care providers about the detection and treatment of gynecological cancers. Gynecological cancers are diagnosed in over 80,000 American women annually and they kill nearly 28,000. The program educates women so that they can recognize the warning signs of gynecological cancers, because when such cancers are found early, treatment is most effective. The program also connects women to patient support services and key national organizations which are fighting gynecological cancers.

I know that many of my colleagues here today are cosponsors of the bill, and I urge you all in joining me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. TERRY. I yield myself such time as I may consume.

Mr. Speaker, I, too, rise in favor of H.R. 2941, otherwise known as Johanna's Law reauthorization. It would reauthorize Johanna's Law, which was first passed by Congress at the end of the 2006 session and directed the Health and Human Services Department to carry out a national campaign to increase awareness of gynecological cancer.

In 2006, 76,515 women were told that they had gynecological cancer and 27,848 died from that cancer. H.R. 2941 would authorize the Centers for Disease Control and Prevention to continue the nationwide campaign which is entitled “Inside Knowledge: Get the Facts About Gynecologic Cancer.” The campaign is designed to increase the awareness and knowledge of health care providers and women with respect to gynecological cancers.

Cancer screenings are effective when they can detect the disease early. It is widely known that the earlier the disease is caught, the greater chance a person has to survive it. However, in the group of gynecological cancers, only cervical cancer has a screening test that can detect the cancer in its earliest stages. It is therefore important that both individual women and their physicians remain aware of the disease and recognize signals that could lead to an earlier detection of the disease. That is why I urge all of my colleagues to support Johanna's Law.

Mr. Speaker, I now yield such time as he may consume to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

Ovarian cancer, if it is caught early, has a 93-percent chance for 5-year survival for women with this terrible cancer, and if they don't catch it early, only 27 percent of the ladies that get it have a chance of survival.

This bill was named after Johanna Silver Gordon, who went to the doctor regularly for her physical. Her doctor missed the ovarian cancer that she had, and, like many women, because the doctor either misdiagnosed or missed it, she passed away, I believe in December of 2006.

This was brought to my attention by a very good friend, Ms. Kolleen Stacy, in Indiana, who had gynecological cancer. She fought it for many years and she was a champion of Johanna's Law, and she brought to the attention of many people, including myself, the problems that women have by not knowing the signs of gynecological cancer problems, in particular ovarian cancer.

It is extremely important that this be caught early. For that reason, that is why this law is so important, because it gives women the opportunity to find out about the problems they may face early so that their survival rate can be increased.

I want to thank DARRELL ISSA, as well as our Democrat colleague who sponsored this bill, for bringing this to the floor a couple of years ago. I am very happy it is being reauthorized today.

What Johanna's Law does is it provides a cancer-specific fact sheet about gynecological cancers in both English and Spanish. It provides a comprehensive gynecological cancer brochure. It provides formative research and concept testing using focus groups to better understand the target audience.

It provides materials for primary care and health care professionals. And that is extremely important, because many physicians don't catch it. It is not because they don't want to; it is because the signs have not been very clearly defined and they haven't seen it. And it is extremely important that these materials for primary care and health care professionals be provided.

It provides print and broadcast public service announcements for women so that they can see on television maybe some of the symptoms that they have that might be leading to a gynecological-type cancer.

It also provides that all materials that have been created through Johanna's Law be sent to television, radio, and printout lists throughout the country. The CDC is tracking and airing the PSAs and audience impressions, and the CDC is also reaching out to groups encouraging the use of these materials.

As my colleague has stated, a lot of women have lost their lives or had

their lives shortened because they didn't know the symptoms of gynecological cancer or ovarian cancer early enough.

This is a very important piece of legislation. I know that there are not a lot of people here speaking about it today, but women across the country who have suffered from various forms of cancer understand the import of legislation like this.

I would like to thank my colleagues in the Senate and my colleagues here in the House for bringing this legislation to the floor. Once again, I am very proud to be a cosponsor of it, and I urge its adoption.

Mr. TERRY. Mr. Speaker, I yield back the balance of my time.

Mrs. CAPPES. Mr. Speaker, I had intended to yield to the bill's author, our colleague from Connecticut, Representative DELAURO, but then her schedule precluded her from attending this hearing. So I am going to read her statement into the RECORD on her behalf.

Every hour, approximately 10 women in the United States are diagnosed with a gynecologic cancer such as ovarian, cervical, and uterine cancers. Each year, we lose over 26,000 of our mothers, our sisters, our daughters, and our friends to one of these terrible cancers. This is a tragedy.

Research shows that many of those deaths could be prevented if more women knew the risk factors and recognized the early symptoms of gynecologic cancers so that they could discuss them with their doctors. Some cancers have a dramatic difference in likely survival when they are diagnosed early. Ovarian cancer, as my colleague just referred to, for example, has just about a threefold difference in survivability between the early time it can be diagnosed and the later time it is often diagnosed.

In 2007, Johanna's Law, the Gynecologic Cancer Education and Awareness Act, was enacted.

□ 1340

This important legislation created a gynecologic cancer education and awareness campaign which is administered by the Centers for Disease Control and Prevention, CDC, to raise awareness of the five main types of gynecologic cancer: cervical, ovarian, uterine, vaginal, and vulvar.

Johanna's Law was originally authorized for 3 years, and H.R. 2941 reauthorizes the program for another 3 years. This bill reauthorizes a national awareness and education program to ensure that those diagnoses are made as early as possible so that women can have a higher chance of survival and authorizes, in addition, funding of \$18 million over the 3-year period. The bill has more than 150 bipartisan cosponsors in the House. It was passed by unanimous voice vote in late September, and the Senate passed revised

language on December 10. It is important that we reauthorize Johanna's Law in this Congress to continue building upon the CDC's efforts to educate women and their health care providers.

In conclusion, our colleague Ms. DELAURO wants to thank Congressman DARRELL ISSA; DAN BURTON, our colleague who has just spoken; and SANDY LEVIN for their committed leadership on this issue.

Ms. DELAURO. Mr. Speaker, I rise today in support of an important bill that enjoys strong and consistent bipartisan support—the reauthorization of Johanna's Law through 2014. This is an important vote. It will help to raise awareness of the warning signs of ovarian cancer.

Better awareness is one of the most critical tools we have. Research shows that many deaths from these diseases could be prevented if more women and health care providers knew the risk factors, and recognized the early symptoms of gynecologic cancers.

Better awareness might have helped Johanna Silver Gordon—in whose honor the bill is named. Johanna lost her life to ovarian cancer despite being a health-conscious woman who visited the gynecologist regularly. Like many women, Johanna had symptoms and clinical signs of ovarian cancer that were missed by both her and her healthcare provider. And her sister, Sheryl Silver, was determined never to let another sister, mother, daughter or friend go through the same thing.

This bill is a big step in that fight. It reauthorizes the existing CDC program that educates women and their health care providers about the symptoms of ovarian and other gynecological cancers. Put simply, it will save lives.

I want to thank Congressmen DARRELL ISSA, DAN BURTON, and SANDY LEVIN for their committed leadership on this issue. And I urge my colleagues to vote for this legislation today. As Johanna's family can tell you, it really will make a difference.

Mr. LEVIN. Mr. Speaker, I rise to urge the passage of H.R. 2941, to renew "Johanna's Law" to increase public awareness and knowledge of gynecological cancers. I am pleased to have introduced this important bill with Representatives DELAURO, ISSA, and BURTON. Johanna's Law established a national public information campaign to educate women and health care providers about the risk factors and early warning signs of gynecologic cancers. This bill before the House carries on that important life-saving work by extending funding of Johanna's Law from 2012 to 2014.

The law was named after Michigan resident Johanna Silver Gordon, a loving mother and dedicated public school teacher, who, despite visiting her doctor regularly, was blindsided by a diagnosis of late-stage ovarian cancer, learning only after her diagnosis that the symptoms she had been experiencing were common symptoms of that disease. Despite the best efforts of her physicians, tragically, Johanna lost her life to ovarian cancer 3½ years after being diagnosed.

Johanna's story is far too common. Although it has been 10 years since she died of ovarian cancer, and 4 years since Congress first passed this important legislation, each

year over 71,000 women in the U.S. are diagnosed with a gynecologic cancer and over 26,000 women are lost to one of these serious cancers. Many of those deaths could be prevented if more women knew and recognized the early symptoms of gynecologic cancers and received prompt treatment.

Today we continue to build on the work we began with the passage of the first Johanna's Law 4 years ago. Our best weapon against gynecological cancers is early detection. A woman's chance of survival is dramatically improved when the gynecological cancer is diagnosed early. Ovarian cancer causes more deaths in women than any other gynecological cancer; however, it has a 93 percent survival rate if detected in Stage One, but only a 20 percent survival rate if detected in Stage Three or Four.

Right now, awareness, education, early diagnosis, and treatment are the most effective weapons we have in our war against gynecological cancers. I urge my colleagues to support Johanna's Law so we can prevail in our battle against these terrible cancers that cut short the lives of our mothers, daughters, sisters, wives, partners and friends. I urge passage of this very important legislation.

Mrs. CAPPS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. CAPPS) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2941.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

S. 841; by the yeas and nays;

S. 3860; by the yeas and nays;

S. 3447, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PEDESTRIAN SAFETY ENHANCEMENT ACT OF 2010

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (S. 841) to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Georgia (Mr. BARROW) that the House suspend the rules and pass the bill.

The vote was taken by electronic device, and there were—yeas 379, nays 30, not voting 24, as follows:

[Roll No. 640]

YEAS—379

Ackerman	Dahlkemper	Issa
Aderholt	Davis (CA)	Jackson (IL)
Adler (NJ)	Davis (IL)	Jackson Lee
Alexander	Davis (KY)	(TX)
Altmire	Davis (TN)	Jenkins
Andrews	DeFazio	Johnson (GA)
Arcuri	DeGette	Johnson (IL)
Austria	Delahunt	Johnson, Sam
Baca	DeLauro	Jones
Bachmann	Dent	Jordan (OH)
Bachus	Deutch	Kagen
Baldwin	Diaz-Balart, L.	Kanjorski
Barrow	Diaz-Balart, M.	Kaptur
Bartlett	Dicks	Kennedy
Beaton (TX)	Dingell	Kildee
Bean	Djou	Kilroy
Becerra	Doggett	Kind
Berkley	Donnelly (IN)	King (IA)
Berman	Doyle	King (NY)
Biggett	Dreier	Kirkpatrick (AZ)
Bilbray	Driehaus	Kissell
Bilirakis	Duncan	Klein (FL)
Bishop (GA)	Edwards (MD)	Kline (MN)
Bishop (NY)	Edwards (TX)	Kosmas
Bishop (UT)	Ehlers	Kratovil
Blackburn	Ellison	Kucinich
Blumenauer	Ellsworth	Lance
Boccieri	Emerson	Langevin
Bonner	Engel	Larsen (WA)
Bono Mack	Eshoo	Larson (CT)
Boozman	Etheridge	Latham
Boren	Fallin	LaTourette
Boswell	Farr	Latta
Boucher	Fattah	Lee (CA)
Boustany	Filner	Lee (NY)
Boyd	Fleming	Levin
Brady (PA)	Forbes	Lewis (CA)
Brady (TX)	Fortenberry	Lewis (GA)
Braleigh (IA)	Foster	Lipinski
Bright	Fox	LoBiondo
Brown, Corrine	Frank (MA)	Loeback
Brown-Waite,	Frelinghuysen	Loggren, Zoe
Ginny	Fudge	Lowey
Buchanan	Gallegly	Lucas
Burgess	Garamendi	Luetkemeyer
Burton (IN)	Gerlach	Lujan
Butterfield	Giffords	Lungren, Daniel
Buyer	Gingrey (GA)	E.
Calvert	Gohmert	Lynch
Camp	Gonzalez	Maffei
Cantor	Goodlatte	Maloney
Cao	Gordon (TN)	Manzullo
Capito	Graves (MO)	Markey (MA)
Capps	Grayson	Marshall
Capuano	Green, Al	Matheson
Carnahan	Green, Gene	Matsui
Carney	Griffith	McCarthy (CA)
Carson (IN)	Grijalva	McCaul
Carter	Guthrie	McCollum
Cassidy	Gutierrez	McCotter
Castle	Hall (NY)	McDermott
Castor (FL)	Hall (TX)	McGovern
Chandler	Halvorson	McHenry
Childers	Hare	McIntyre
Chu	Harman	McKeon
Clarke	Harper	McMahon
Clay	Hastings (FL)	McNerney
Cleaver	Hastings (WA)	Meek (FL)
Clyburn	Heinrich	Meeks (NY)
Coble	Heller	Melancon
Cohen	Herger	Mica
Cole	Herseth Sandlin	Michaud
Conaway	Higgins	Miller (MI)
Connolly (VA)	Hill	Miller (NC)
Conyers	Hinchee	Miller, Gary
Cooper	Hinojosa	Miller, George
Costa	Hirono	Minnick
Costello	Hodes	Mitchell
Courtney	Holden	Mollohan
Crenshaw	Holt	Moore (KS)
Critz	Honda	Moore (WI)
Crowley	Hoyer	Moran (KS)
Cuellar	Inglis	Moran (VA)
Culberson	Inslee	Murphy (CT)
Cummings	Israel	Murphy (NY)

Murphy, Patrick	Rooney	Spratt
Murphy, Tim	Ros-Lehtinen	Stark
Myrick	Roskam	Stearns
Nadler (NY)	Ross	Stupak
Napolitano	Rothman (NJ)	Sullivan
Neal (MA)	Roybal-Allard	Sutton
Neugebauer	Royce	Tanner
Nye	Ruppersberger	Taylor
Oberstar	Rush	Teague
Obey	Ryan (OH)	Terry
Olson	Ryan (WI)	Thompson (CA)
Olver	Salazar	Thompson (MS)
Ortiz	Sanchez, Linda	Thompson (PA)
Owens	T.	Thornberry
Pallone	Sanchez, Loretta	Tiahrt
Pascarella	Sarbanes	Tiberi
Pastor (AZ)	Scalise	Tierney
Paulsen	Schakowsky	Titus
Payne	Schauer	Tonko
Pence	Schiff	Towns
Perlmutter	Schmidt	Tsongas
Perriello	Schock	Turner
Peterson	Schrader	Upton
Petri	Schwartz	Van Hollen
Pingree (ME)	Scott (GA)	Velázquez
Pitts	Scott (VA)	Visclosky
Polis (CO)	Sensenbrenner	Walden
Pomeroy	Serrano	Walz
Posey	Sessions	Wasserman
Price (NC)	Sestak	Schultz
Putnam	Shea-Porter	Waters
Quigley	Sherman	Watson
Rahall	Shimkus	Watt
Rangel	Sires	Waxman
Rehberg	Skelton	Weiner
Reichert	Slaughter	Welch
Richardson	Smith (NE)	Whitfield
Rodriguez	Smith (NJ)	Wilson (OH)
Roe (TN)	Smith (TX)	Wittman
Rogers (AL)	Smith (WA)	Wolf
Rogers (KY)	Snyder	Woolsey
Rogers (MI)	Space	Wu
Rohrabacher	Speier	Yarmuth

NAYS—30

Akin	Hensarling	Paul
Barrett (SC)	Hunter	Poe (TX)
Brown (GA)	Kingston	Price (GA)
Campbell	Lamborn	Reed
Chaffetz	Linder	Shadegg
Coffman (CO)	Lummis	Shuster
Flake	Mack	Stutzman
Franks (AZ)	McClintock	Westmoreland
Garrett (NJ)	Miller (FL)	Wilson (SC)
Graves (GA)	Nunes	Young (AK)

NOT VOTING—24

Baird	Hoekstra	Platts
Berry	Johnson, E. B.	Radanovich
Blunt	Kilpatrick (MI)	Reyes
Boehner	Marchant	Shuler
Brown (SC)	Markey (CO)	Simpson
Cardoza	McCarthy (NY)	Wamp
Davis (AL)	McMorris	Young (FL)
Granger	Rodgers	
Himes	Peters	

□ 1411

Messrs. WILSON of South Carolina, SHUSTER, KINGSTON, CHAFFETZ, LAMBORN, STUTZMAN, MACK, BARRETT of South Carolina, COFFMAN of Colorado, SHADEGG, POE of Texas and AKIN changed their vote from “yea” to “nay.”

Mrs. BACHMANN and Mr. EHLERS changed their vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUIRING REPORTS ON MANAGEMENT OF ARLINGTON NATIONAL CEMETERY

The SPEAKER pro tempore (Ms. EDWARDS of Maryland). The unfinished business is the vote on the motion to suspend the rules and pass the bill (S. 3860) to require reports on the management of Arlington National Cemetery, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 3, not voting 23, as follows:

[Roll No. 641]

YEAS—407

Ackerman	Castle	Foxx
Aderholt	Castor (FL)	Frank (MA)
Adler (NJ)	Chaffetz	Franks (AZ)
Akin	Chandler	Frelinghuysen
Alexander	Childers	Fudge
Altmire	Chu	Gallegly
Andrews	Clarke	Garamendi
Arcuri	Clay	Garrett (NJ)
Austria	Cleaver	Gerlach
Baca	Coble	Giffords
Bachmann	Coffman (CO)	Gingrey (GA)
Bachus	Cohen	Gohmert
Baldwin	Cole	Gonzalez
Barrett (SC)	Conaway	Goodlatte
Barrow	Connolly (VA)	Gordon (TN)
Bartlett	Conyers	Graves (GA)
Barton (TX)	Cooper	Graves (MO)
Bean	Costa	Grayson
Becerra	Costello	Green, Al
Berkley	Courtney	Green, Gene
Berman	Crenshaw	Griffith
Biggert	Critz	Grijalva
Bilbray	Crowley	Guthrie
Bilirakis	Cuellar	Hall (NY)
Bishop (GA)	Culberson	Hall (TX)
Bishop (NY)	Cummings	Halvorson
Bishop (UT)	Dahlkemper	Hare
Blackburn	Davis (CA)	Harman
Blumenauer	Davis (IL)	Harper
Bocieri	Davis (KY)	Hastings (FL)
Boehner	Davis (TN)	Hastings (WA)
Bonner	DeFazio	Heinrich
Bono Mack	DeGette	Heller
Boozman	Delahunt	Hensarling
Boren	DeLauro	Herger
Boswell	Dent	Herseth Sandlin
Boucher	Deutch	Higgins
Boustany	Diaz-Balart, L.	Hill
Boyd	Diaz-Balart, M.	Himes
Brady (PA)	Dicks	Hinche
Brady (TX)	Dingell	Hinojosa
Braley (IA)	Djou	Hirono
Bright	Doggett	Hodes
Broun (GA)	Donnelly (IN)	Hoekstra
Brown, Corrine	Doyle	Holden
Brown-Waite,	Dreier	Holt
Ginny	Drieheaus	Honda
Buchanan	Duncan	Hoyer
Burgess	Edwards (MD)	Hunter
Burton (IN)	Edwards (TX)	Inglis
Butterfield	Ehlers	Inslee
Buyer	Ellison	Israel
Calvert	Ellsworth	Issa
Camp	Emerson	Jackson (IL)
Campbell	Engel	Jackson Lee
Cantor	Eshoo	(TX)
Cao	Etheridge	Jenkins
Capito	Fallin	Johnson (GA)
Capps	Fattah	Johnson (IL)
Capuano	Filner	Johnson, Sam
Carnahan	Flake	Jones
Carney	Fleming	Jordan (OH)
Carson (IN)	Forbes	Kagen
Carter	Fortenberry	Kanjorski
Cassidy	Foster	Kaptur

Kennedy	Mollohan	Schauer
Kildee	Moore (KS)	Schiff
Kilroy	Moore (WI)	Schmidt
Kind	Moran (KS)	Schrader
King (IA)	Moran (VA)	Schwartz
King (NY)	Murphy (CT)	Scott (GA)
Kingston	Murphy (NY)	Scott (VA)
Kirkpatrick (AZ)	Murphy, Patrick	Sensenbrenner
Kissell	Murphy, Tim	Serrano
Klein (FL)	Myrick	Sessions
Kline (MN)	Nadler (NY)	Sestak
Kosmas	Napolitano	Shadegg
Kratovil	Neal (MA)	Shea-Porter
Kucinich	Neugebauer	Sherman
Lamborn	Nunes	Shimkus
Lance	Nye	Shuler
Langevin	Oberstar	Shuster
Larsen (WA)	Obey	Sires
Larson (CT)	Olson	Skelton
Latham	Olver	Slaughter
LaTourette	Ortiz	Smith (NE)
Latta	Owens	Smith (NJ)
Lee (CA)	Pallone	Smith (TX)
Lee (NY)	Pascrell	Smith (WA)
Levin	Pastor (AZ)	Snyder
Lewis (CA)	Paul	Space
Lewis (GA)	Paulsen	Speier
Linder	Payne	Spratt
Lipinski	Perlmutter	Stark
LoBiondo	Perriello	Stearns
Loeb sack	Peters	Stupak
Lofgren, Zoe	Peterson	Stutzman
Lowe y	Petri	Sullivan
Lucas	Pingree (ME)	Sutton
Luetkemeyer	Pitts	Tanner
Lujan	Polis (CO)	Taylor
Lummis	Pomeroy	Teague
Lungren, Daniel	Posey	Terry
E.	Price (GA)	Thompson (CA)
Lynch	Price (NC)	Thompson (MS)
Mack	Putnam	Thompson (PA)
Maffei	Quigley	Thornberry
Maloney	Rahall	Tiberi
Manzullo	Rangel	Tierney
Mark ey (CO)	Reed	Titus
Mark ey (MA)	Rehberg	Tonko
Marshall	Reichert	Towns
Matheson	Reyes	Tsongas
Matsui	Richardson	Turner
McCarthy (CA)	Rodriguez	Upton
McCaul	Roe (TN)	Van Hollen
McClintock	Rogers (AL)	Velázquez
McCollum	Rogers (KY)	Visclosky
McCotter	Rogers (MI)	Walden
McDermott	Rohrabacher	Walz
McGovern	Rooney	Wasserman
McHenry	Ros-Lehtinen	Schultz
McIntyre	Roskam	Waters
McKeon	Ross	Watt
McMahon	Rothman (NJ)	Waxman
McNerney	Roybal-Allard	Weiner
Meek (FL)	Royce	Welch
Meeks (NY)	Ruppersberger	Westmoreland
Melancon	Rush	Whitfield
Mica	Ryan (OH)	Wilson (OH)
Michaud	Ryan (WI)	Wilson (SC)
Miller (FL)	Salazar	Wittman
Miller (MI)	Sánchez, Linda	Wolf
Miller (NC)	T.	Woolsey
Miller, Gary	Sanchez, Loretta	Wu
Miller, George	Sarbanes	Yarmuth
Minnick	Scalise	
Mitchell	Schakowsky	

NAYS—3

Poe (TX) Tiahrt Young (AK)

NOT VOTING—23

Baird	Granger	Pence
Berry	Gutierrez	Platts
Blunt	Johnson, E. B.	Radanovich
Brown (SC)	Kilpatrick (MI)	Schock
Cardoza	Marchant	Simpson
Clyburn	McCarthy (NY)	Wamp
Davis (AL)	McMorris	Watson
Farr	Rodgers	Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1422

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

POST-9/11 VETERANS EDUCATIONAL ASSISTANCE IMPROVEMENTS ACT OF 2010

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (S. 3447) to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 3, not voting 22, as follows:

[Roll No. 642]

YEAS—409

Ackerman	Butterfield	Deutch
Aderholt	Calvert	Diaz-Balart, L.
Adler (NJ)	Camp	Diaz-Balart, M.
Akin	Campbell	Dicks
Alexander	Cantor	Dingell
Altmire	Cao	Djou
Andrews	Capito	Doggett
Arcuri	Capps	Donnelly (IN)
Austria	Capuano	Doyle
Baca	Carnahan	Dreier
Bachmann	Carney	Drieheaus
Bachus	Carson (IN)	Duncan
Baldwin	Carter	Edwards (MD)
Barrett (SC)	Cassidy	Edwards (TX)
Barrow	Castle	Ehlers
Bartlett	Castor (FL)	Ellison
Barton (TX)	Chaffetz	Ellsworth
Bean	Chandler	Emerson
Becerra	Childers	Engel
Berkley	Chu	Eshoo
Berman	Clarke	Etheridge
Biggert	Clay	Fallin
Bilbray	Cleaver	Farr
Bilirakis	Coble	Fattah
Bishop (GA)	Coffman (CO)	Filner
Bishop (NY)	Cohen	Fleming
Bishop (UT)	Cole	Forbes
Brown (GA)	Conaway	Fortenberry
Blumenauer	Connolly (VA)	Foster
Blunt	Conyers	Foxx
Bocieri	Cooper	Frank (MA)
Bonner	Costa	Franks (AZ)
Bono Mack	Costello	Frelinghuysen
Boozman	Courtney	Fudge
Boren	Crenshaw	Gallegly
Boswell	Critz	Garamendi
Boucher	Crowley	Garrett (NJ)
Boustany	Cuellar	Gerlach
Boyd	Culberson	Giffords
Brady (PA)	Cummings	Gingrey (GA)
Brady (TX)	Dahlkemper	Gohmert
Braley (IA)	Davis (CA)	Gonzalez
Bright	Davis (IL)	Goodlatte
Broun (GA)	Davis (KY)	Gordon (TN)
Brown, Corrine	Davis (TN)	Graves (GA)
Brown-Waite,	DeFazio	Graves (MO)
Ginny	DeGette	Grayson
Buchanan	Delahunt	Green, Al
Burgess	DeLauro	Green, Gene
Burton (IN)	Dent	Griffith

Grijalva	Markey (MA)	Rothman (NJ)
Guthrie	Marshall	Roybal-Allard
Gutierrez	Matheson	Royce
Hall (NY)	Matsui	Ruppersberger
Hall (TX)	McCarthy (CA)	Rush
Halvorson	McCaul	Ryan (OH)
Hare	McClintock	Ryan (WI)
Harman	McCollum	Salazar
Harper	McCotter	Sánchez, Linda T.
Hastings (FL)	McDermott	Sanchez, Loretta
Hastings (WA)	McGovern	Sarbanes
Heinrich	McHenry	Scalise
Heller	McIntyre	Schakowsky
Hensarling	McKeon	Schauer
Hergert	McMahon	Schiff
Herseth Sandlin	McNerney	Schmidt
Higgins	Meek (FL)	Schock
Hill	Meeks (NY)	Schrader
Himes	Melancon	Schwartz
Hinchey	Mica	Scott (GA)
Hinojosa	Michaud	Scott (VA)
Hirono	Miller (FL)	Sensenbrenner
Hodes	Miller (MI)	Serrano
Holden	Miller (NC)	Sessions
Holt	Miller, Gary	Sestak
Honda	Miller, George	Shadegg
Hoyer	Minnick	Shea-Porter
Hunter	Mitchell	Sherman
Inglis	Mollohan	Shimkus
Inslée	Moore (KS)	Shuler
Israel	Moran (KS)	Shuster
Issa	Moran (VA)	Sires
Jackson (IL)	Murphy (CT)	Skelton
Jackson Lee	Murphy (NY)	Slaughter
(TX)	Murphy, Patrick	Smith (NE)
Jenkins	Murphy, Tim	Smith (NJ)
Johnson (GA)	Myrick	Smith (TX)
Johnson (IL)	Nadler (NY)	Smith (WA)
Johnson, Sam	Napolitano	Snyder
Jones	Neal (MA)	Space
Jordan (OH)	Neugebauer	Speier
Kagen	Nunes	Spratt
Kanjorski	Nye	Stark
Kaptur	Oberstar	Stearns
Kennedy	Obey	Stupak
Kildee	Olson	Stutzman
Kind	Olver	Sullivan
King (IA)	Ortiz	Sutton
King (NY)	Owens	Tanner
Kingston	Pallone	Taylor
Kirkpatrick (AZ)	Pascarell	Teague
Kissell	Pastor (AZ)	Terry
Klein (FL)	Paul	Thompson (CA)
Kline (MN)	Paulsen	Thompson (MS)
Kosmas	Payne	Thompson (PA)
Kratovil	Pelosi	Thornberry
Kucinich	Perlmutter	Tiahrt
Lamborn	Perriello	Tiberi
Lance	Peters	Tierney
Langevin	Peterson	Titus
Larsen (WA)	Petri	Tonko
Larson (CT)	Pingree (ME)	Towns
Latham	Pitts	Tsongas
LaTourette	Poe (TX)	Turner
Latta	Pollis (CO)	Upton
Lee (CA)	Pomeroy	Van Hollen
Lee (NY)	Posey	Velázquez
Levin	Price (GA)	Visclosky
Lewis (CA)	Price (NC)	Walden
Lewis (GA)	Putnam	Walz
Linder	Quigley	Wasserman
Lipinski	Rahall	Schultz
LoBiondo	Rangel	Waters
Loeback	Reed	Watson
Lofgren, Zoe	Rehberg	Watt
Lowey	Reichert	Waxman
Lucas	Reyes	Weiner
Luetkemeyer	Richardson	Welch
Lujan	Rodriguez	Westmoreland
Lummis	Roe (TN)	Whitfield
Lungren, Daniel E.	Rogers (AL)	Wilson (OH)
Lynch	Rogers (KY)	Wilson (SC)
Mack	Rogers (MI)	Wittman
Maffei	Rohrabacher	Wolf
Maloney	Rooney	Woolsey
Manzulio	Ros-Lehtinen	Wu
Markey (CO)	Roskam	Yarmuth
	Ross	

NAYS—3

Buyer	Flake	Young (AK)
-------	-------	------------

NOT VOTING—22

Baird	Boehner	Cardoza
Berry	Brown (SC)	Clyburn

Davis (AL)	Marchant	Platts
Granger	McCarthy (NY)	Radanovich
Hoekstra	McMorris	Simpson
Johnson, E. B.	Rodgers	Wamp
Kilpatrick (MI)	Moore (WI)	Young (FL)
Kilroy	Pence	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1429

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore (Ms. RICHARDSON). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 29 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1745

AFTER RECESS

The recess having expired, the House was called to order by the SPEAKER pro tempore (Mr. ALTMIRE) at 5 o'clock and 45 minutes p.m.

COMMUNICATION FROM THE CHIEF ADMINISTRATIVE OFFICER OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Chief Administrative Officer of the House of Representatives:

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER, HOUSE OF REPRESENTATIVES,

Washington, DC, December 15, 2010.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I, in my capacity as Custodian of Records for the Office of the Chief Administrative Officer, have been served with a subpoena for documents issued by a grand jury in New York County, New York.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,

DANIEL J. STRODEL.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 4853, TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I

call up House Resolution 1766 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1766

Resolved, That upon the adoption of this resolution it shall be in order to debate in the House the topics addressed by the motions specified in sections 2 and 3 of this resolution for three hours equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means or their designees.

SEC. 2. After debate pursuant to the first section of this resolution, it shall be in order to take from the Speaker's table the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes, with the Senate amendment to the House amendment to the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Ways and Means or his designee that the House concur in the Senate amendment to the House amendment to the Senate amendment with the amendment printed in the report of the Committee on Rules accompanying this resolution. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

SEC. 3. If the motion described in section 2 of this resolution fails of adoption, the previous question shall be considered as ordered on a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment, on which the Chair shall immediately put the question.

SEC. 4. Until completion of proceedings enabled by the first three sections of this resolution—

(a) the Chair may decline to entertain any intervening motion, resolution, question, or notice;

(b) the Chair may postpone such proceedings to such time as may be designated by the Speaker; and

(c) each amendment and motion considered pursuant to this resolution shall be considered as read.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members that cell phone use in the House Chamber is not permitted.

The gentlewoman from New York is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California (Mr. DREIER). All time yielded during consideration of the rule is for debate only. I yield myself such time as I may consume.

GENERAL LEAVE

Ms. SLAUGHTER. I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 1766.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, since I made a rather lengthy speech at our first rule this morning, I am going to be giving up my time to other Members.

So I will at this point reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I thank my friend from Rochester for yielding me the customary 30 minutes and yield myself such time as I might consume.

I think it is very important for us to understand exactly what is taking place here.

About 5 minutes ago I was downstairs and told to appear on the House floor. I am here. I know that there has been a Democratic Caucus held to deal with the changes. I know that lots of people have been following what has transpired over the past few hours, and I think that before we proceed, it would be best for the distinguished chair of the Committee on Rules, Mr. Speaker, to explain to us sort of what's happened and what we're doing and what specific changes Members can anticipate in this rule.

I would be happy to yield to my friend from New York.

Ms. SLAUGHTER. Thank you for yielding.

There are very few changes, if any. The caucus in the Democratic Party is really the most important part of our side of the House. The Speaker is meticulous about working with them to achieve consensus. Frankly, we had a rather raucous meeting this morning at the caucus and it was decided that it would be better if we recessed and took some time to see where we were and to make sure that all facets of the caucus had been listened to. But as I said, there will probably be very little change, if any, from the rule we had this morning.

Mr. DREIER. Well, Mr. Speaker, if I could reclaim my time, there may be very little change, but it is my understanding, just from the brief staff report that I got, that we are going to, under this rule, continue to have a vote on the Pomeroy amendment, which increases the death tax. And following that, because of a concern that was raised by Members on the majority side of the aisle, there was concern that there wouldn't be a final passage vote. So am I correct to infer that we can anticipate the only change being a final passage vote on the measure?

Ms. SLAUGHTER. The gentleman is correct. There were many Members who felt that they needed that extra vote. At the proper time we will make the decision as to whether we will call and ask for a change in the rule.

Mr. DREIER. Mr. Speaker, reclaiming my time again, I am trying to get a clear understanding so that Members of this body will know what the proposed changes are in this rule that is before us that we are debating now. I think that, again, looking back to

what we've gone through over the last several years, transparency, disclosure, accountability, those are the guides that we're trying to use. And so before we proceed, Mr. Speaker, I believe that it's very important to have a clear understanding of exactly what it is that we are considering, and so I would ask the chair if she would explain that to the membership.

I reserve the balance of my time.

□ 1800

Ms. SLAUGHTER. I would be happy to respond to the gentleman.

The only thing I can tell you, Mr. DREIER, as I said before, is that there is no change in this bill. We may or may not ask for an ability to have a separate vote, as you pointed out, so that people will have an up-or-down vote on the bill.

As you know, we are dealing with the resolution, and if the Pomeroy portion of it should go down, then we wouldn't normally have that up-or-down vote. If it should pass, that would normally be the end of our proceedings, and it would go directly to the Senate. We are simply adding, as a precaution and for a number of Members who have requested it, an ability to have that up-or-down vote regardless of whether the amendment passes or fails.

Mr. DREIER. Will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from California.

Mr. DREIER. I am very appreciative of my friend for yielding.

Let me, Mr. Speaker, explain it the way I've understood.

So the rule is identical to the rule that we were debating earlier, that being we are anticipating 3 hours of general debate; we are expecting that there will be a vote then on the proposal by Mr. POMEROY to increase the death tax. Then, Mr. Speaker, we may or may not, following that, have a vote on final passage before the measure is sent to the Senate; and from there, it would then go on to the President.

Is that a correct explanation?

Ms. SLAUGHTER. That is correct.

Mr. DREIER. Thank you very much, Mr. Speaker. I appreciate my friend for having explained it.

I reserve the balance of my time.

Ms. SLAUGHTER. I am now pleased to yield 2 minutes to the gentleman from California (Mr. GARAMENDI).

Mr. GARAMENDI. Madam Chairperson, thank you so very, very much for your leadership and for the change in the rule.

Mr. Speaker, the earlier rule presented a significant problem to us in that it had basically a vote on the Pomeroy amendment; and that would be then, if that passed, the vote on the bill without a separate vote. Separation is very, very important to many of us because we see in this particular piece of legislation numerous serious problems.

For example, we see that the Social Security payroll tax is being reduced, which, for the first time ever in history, I think, has put Social Security's security in play. In the future, we think this may be a very, very serious detriment to the well-being of the Social Security system.

In addition to that, the way in which the taxes are structured, I think, goes basically against some very fundamental principles that were best announced and laid out by Franklin Delano Roosevelt. Etched on the marble at his memorial here in Washington, D.C., are the words that speak, I believe, very directly to this piece of legislation. He said that the test of our progress is not whether those who have much get more but, rather, whether those who have little get enough.

This piece of legislation that we will be voting on, even with the proposed amendment, the Pomeroy amendment, really does give those who have much even more while those who have little get very, very little.

We strongly support the middle class tax cut. That has always been our position. We think President Obama was quite correct in announcing his support for the middle class tax cut. We think that the Republican position of even greater wealth and lower taxes for those who have much—not just a little much but a great, great deal of the wealth of America—is not justified. Therefore, we stand in support of the proposed rule, and we will speak later on the bill.

Mr. DREIER. I continue to reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Illinois (Mr. JACKSON).

Mr. JACKSON of Illinois. Mr. Speaker, I, too, want to join my colleague from California (Mr. GARAMENDI) in supporting the rule and also in expressing my opposition to this bill.

A number of Members of Congress will come and express their opposition to the bill in the debate, and I wanted to use some of the time during the rule to set the climate for what many Members of this body will be hearing. I want to start with a couple of quotes that, I think, ought to drive some of the discussion that will be taking place here on the floor.

The first is from *The Wealth of Nations* in 1776, Adam Smith: "The subjects of every State ought to contribute toward the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the State. As Henry Home (Lord Kames) has written, a goal of taxation should be to 'remedy inequality of riches as much as possible by relieving the poor and burdening the rich.'"

William Jennings Bryan, at the Democratic National Convention, on

July 8, 1896, said, "I am in favor of an income tax. When I find a man"—or a woman—"who is not willing to bear his share of the burdens of the government which protects him, I find a man who is unworthy to enjoy the blessings of a government like ours."

Franklin Delano Roosevelt, in Worcester, Massachusetts, on October 21, 1936, said, "Taxes, after all, are the dues that we pay for the privileges of membership in an organized society."

There will be great debate on the floor of this Congress tonight about extending the Bush-era tax cuts. The Bush-era tax cuts, which are an extension of the Reagan tax cuts of the 1980s, represent one of the most profound shifts of wealth in our Nation from those most vulnerable to those who are well-heeled—those who are better positioned in our society to make their way through life.

So it is our hope, Mr. Speaker, that this debate be conducted in a way that allows for people to participate.

Mr. DREIER. Mr. Speaker, I continue to reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. MILLER).

Mr. GEORGE MILLER of California. I thank the gentlewoman for yielding this time to me.

Mr. Speaker, I rise in support of this rule, as amended, that will give an opportunity to both sides to address what, I think, is an egregious provision in this bill. It, unfortunately, I think, also mirrors another provision in this bill, which is the tax cuts to the wealthiest 2 percent of the people in this country and to a handful of estates, to some 6,000 estates. It gives them a \$25 billion tax cut at a time when working families are struggling to keep their families together.

Also is the fact that it does nothing in terms of stimulus, in terms of job creation. These tax cuts to the wealthy, so many economists have said, is the least stimulative thing you can do. They simply don't spend the money in a timely fashion because they don't need to spend that money. The second one, of course, is that the estate tax provides no stimulative impact either to the economy. In talking about doing this for the sake of the economy, what we are really doing is cutting taxes to people and to estates that will not contribute to economic growth, so we are creating debt that is unnecessary to create.

You know, we are a couple of weeks away from the debt commission. We are a couple of months away from when people were concerned whether the United States was going to look like Greece or Spain or Portugal. Along we come now, and we're not even prepared to make the distinction as to whether or not we would create debt for, hopefully, stimulative purposes and/or just hand out tax breaks to people who

don't need them and who won't contribute to the improvement of the economy. Yet it will clearly be put on the debt of this Nation, and it will clearly have to be dealt with in the ensuing Congresses where it will drive a series of decisions that aren't necessary, but neither was the debt necessary.

I do think this rule is an improvement because it will give the opportunity for those individuals who want to vote against this tax cut for this limited number of estates to do so. Then whether they vote for that or against that or whether that prevails or doesn't prevail, the individuals will still have the ability to vote against this legislation as this is not to suggest that the amendment addresses all that is wrong with this legislation.

□ 1810

It doesn't address the tax cuts for the high income. It doesn't address the complications of the payroll holiday and what that means to the financing of Social Security over the long term, the ability of this Congress to change that a year from now, the fact that that can lead to tax increases for individuals, and that it's less progressive than the higher provision that was in the original Recovery Act to provide assistance to middle-income families.

There are a number of good provisions in this legislation. There are tax provisions in here to help educate their children, to take care of their children, and the extension of unemployment for a year, but I would hope that we would support the rule. As inadequate as this legislation is, I would hope that we would support the rule.

Mr. DREIER. Mr. Speaker, I continue to reserve the balance of my time.

Ms. SLAUGHTER. I am pleased to yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER of New York. I thank the gentlelady for yielding me the time.

Mr. Speaker, I'm going to oppose this bill, however the rule comes out, for several reasons. Number one, if this bill passes, we will extend the upper income tax cuts at a cost of increase in the deficit by \$700 billion over 10 years.

We're told that in 2 years it will expire. Of course, we also know that our friends on the other side of the aisle will try to extend it in 2 years, and in 2 years, we'll have the same kind of coercion. We'll be told that if we don't extend the upper end tax cuts, the middle class tax cuts will also expire, and I don't see any reason to believe that we wouldn't succumb to that coercion 2 years from now in an election year as much as we're doing now in this bill.

So I believe that passing this bill, in effect, would make permanent the upper end tax cuts which, in effect, would generate a \$700 billion increase in the deficit, which would make it al-

most impossible to fund housing, education, everything else we need. It would be the culmination of the 30-year Republican effort to starve the beast, to deliberately create huge deficits in order to provide the political cover for reducing expenditures in housing, education, Social Security, and Medicare.

Secondly, I hope that Mr. POMEROY's amendment on the estate tax will pass, but if it doesn't, that's another problem.

Thirdly, Social Security. We are going, in this bill, to provide for a 1-year tax reduction of 2 percent in the Social Security tax. That will cost us \$120 billion in 1 year, which will be replenished from the general fund, but we know perfectly well that, politically, once you make that tax cut, it will be impossible to restore it, which means it will be \$120 billion a year forever taken away from Social Security but replaced by the general fund.

Now, the conservatives have always told us we have to reduce Social Security, increase the retirement age, reduce benefits, because it contributes to the deficit. We said, no, it doesn't contribute to the deficit. Social Security is walled off; it has nothing to do with the deficit. But now it will be put right in the middle of the deficit debate, and it will cost the general fund \$120 billion a year, \$1.2 trillion over 10 years, and we'll be told you've got to reduce Social Security benefits, increase the retirement age because of the deficit, and it will be in the middle of the deficit debate. We will be told a year or two or three from now, by the way, we'll only replace \$100 billion of the \$120 billion we have taken away from Social Security this year because we need the money for education and housing and something else, and we should not want to be in that position.

FDR decided in 1935 that Social Security would be supported by its own tax, by its own situation of people paying into it year after year so they take it back when they retired. Now we are going to take some of that money away, and we're going to say the general fund will support it. FDR knew that by setting up Social Security as self-financing, it would be difficult to abolish or to reduce. This undoes that genius by the New Deal and puts Social Security at great risk, and, accordingly, Mr. Speaker, I must oppose this bill.

Mr. DREIER. Mr. Speaker, assuming that my friend still has additional speakers, I will continue to reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland (Ms. EDWARDS).

Ms. EDWARDS of Maryland. Mr. Speaker, I'd like to thank the gentlewoman from New York.

As of this morning, I was not prepared, much to my disappointment, to support this rule, but I do support the

rule now and the ability of this House to move forward on this tax cut bill.

It is sad that later on we're going to consider a bill that isn't just about an estate tax that benefits only 6,600 families. It's about what we do with Social Security for the long term, protecting the investment that all of our seniors, people who have invested in Social Security should be able to expect in the years to come. It is about the debt that's going to be saddled onto our children and our grandchildren.

The underlying bill is so problematic in so many ways—and I'll have an opportunity to speak on my opposition to that bill—but I do stand here able to support a rule that allows me to take a vote as a Democrat, to speak to the values that I hold for working people and for working families and for our children and our grandchildren and their future.

Mr. DREIER. Mr. Speaker, I continue to reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. I thank the gentleman from New York.

Mr. Speaker, America faces two great challenges: One, we have too few jobs. Over 15 million Americans who are looking for work can't find it. Even millions more are so discouraged, they don't even go out. Number 2, too much debt; approaching \$14 trillion, in this bill would add \$858 billion more.

Now, President Obama was right in proposing legislation, absolutely right, legislation is needed to revive our economy. And President Obama is right, he is absolutely right, that we should extend those middle class tax cuts for folks up to \$250,000. They need the money. We can't shrink their paycheck, and that will help revive the economy.

But this legislation creates too few jobs and too much debt. The cost per job is in the range of \$390,000. The cost of this is largely because of the success of the Senate Republicans to insist on \$200 million both in estate tax reductions, in high-end tax reductions, that will go to the wealthiest 2 percent of Americans.

This is not about class warfare. This is not about soak the rich. This is about prudent use of taxpayer dollars. If we borrow a dollar, there should be some job bang for that dollar borrowed, and those high-end tax cuts and the estate tax cuts do not generate jobs, but they will be a bill that comes due and must be paid by the middle class and working families of this country.

We have a responsibility to focus on jobs, to focus on economic revival, and to rebuild the middle class. We can do a better job. We could have a bill that extended the Bush tax cuts up to \$250,000, and the money saved, put that into reducing the deficit and infrastructure development. We could have

a bill that focussed on an estate tax that was less generous than what is being considered in this legislation, and we could have a bill that would protect Social Security. Americans know that we cannot take money out from the revenue stream and expect to have solvency in the long term.

So we have a chance to pass the legislation to revive us economically, to treat the middle class right, but to limit the debt.

Mr. DREIER. I continue to reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. COHEN).

□ 1820

Mr. COHEN. Mr. Speaker, I want to thank the chairlady for giving me this opportunity.

I wasn't going to support the rule this morning, but I am going to support it now. I am going to support it because I want to be able to vote to make the estate tax more reasonable, even though the reality is, what we are voting on is whether we are going to give the wealthy with the estate tax a six-course meal with wine or a seven-course meal with wine, and we should be talking about a meat and three.

The fact is, the estate tax with a \$675,000 exemption was started with the Bush tax cuts, and now we are putting it up to a \$5 million exemption per person and \$10 million per couple. It was at a 55 percent rate and precipitously drops in this bill to 35 percent. The benefit to the heirs of the richest people in this country is unbelievable, unfathomable. And what that means, you will have a continued concentration of wealth in a few select families, lords so to speak, princes that have money beyond what anybody needs to have in this Nation and not contribute to others. The fact is, this was a very difficult vote, a very difficult decision for me. I asked my constituents to let me know what they thought. I had hundreds of people call and write and contribute to a poll, and it was about even, for and against.

The fact is, the future of our Nation is at risk. These tax cuts for the most wealthy people in our Nation, for corporations that will not produce jobs, in the hundreds of billions of dollars category, and the inheritance tax will take away the children, the aged, and the needy in years to come who will need support from this Nation. The deficit will be so great that when it comes time for deficit cutting, the cuts are going to come to the people who most are in need.

Hubert Humphrey said, "The moral test of government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the aged; and those in the shadows of life, the sick, the needy, and the handicapped." He and others, like Dr.

King, the Dalai Lama, and others who you look to never talk about giving more to the rich. Mr. GARAMENDI started talking about Franklin Roosevelt. The fact is, those people who are the moral tests will suffer when the cuts are made, and I don't see that as something I should support. I cannot be sure of that.

Mr. DREIER. I continue to reserve the balance of my time.

Ms. SLAUGHTER. I am pleased to yield 2 minutes to the gentleman from Oregon (Mr. DEFazio).

Mr. DEFazio. The lack of response from the Republican side is a bit interesting because we are about to add \$430 billion to this year's deficit if this bill passes. That is \$430 billion borrowed, probably from China, added to the deficit. A record \$1.75 trillion.

Now, we have been told this is the only deal, the best deal. No, we have offered an alternative. And earlier today, I thought we had some prospect of actually voting on it, one that's much less expensive, more targeted to working families, average Americans, and those who are unemployed would have created real jobs with substantial investment in infrastructure projects, not the jobs you are going to get by giving people small tax breaks and saying, Here is some borrowed money from China; go out and buy some goods from China. That will put America on the path to recovery.

Every other industrial nation on Earth is talking about buckling down a little bit and austerity measures and having a sustained recovery. No, not here. We got out the credit card. A trillion dollars—well, no. It's only \$858 billion. And guess what, our kids and grandkids are going to be paying that bill for 30 years. And the most insidious part is that \$111 billion of that will come from the Social Security trust fund.

But don't worry, after we take the money from the Social Security trust fund and ask people to consume with it, present day consumption, in order to take care of Social Security in the long term, we will go out and borrow \$111 billion from China and reinject it into the trust fund. And then a year from today, the Republicans will say to President Obama, You can't raise taxes on every working American. You can't restore the Social Security tax. And, oh, by the way, we just can't afford to subsidize that program anymore. We are just going to have to cut it.

This is a bad deal. It isn't going to create the jobs we could create for a smaller price tag. It's not going to give the relief we, as Democrats, want to give the working families and unemployed Americans and put this country on a path to recovery.

I would urge my colleagues to vote against the rule and get made in order an amendment that would make major structural changes to this deal. It

should not be a take-it-or-leave-it deal dictated by the Republican minority leader.

Mr. DREIER. I will continue to reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Republican Senators have held America hostage, held the American economy hostage, held hostage the middle class. And the President agreed to pay the ransom. Now that ransom can be paid this month with the consent not only of the President, but the Senators and this House. So we can stop the ransom from being paid until the end of the year. And at that point, the President will still be willing to pay the ransom, and the ransom will go up.

If the ransom is going to be paid, let us pay it before it goes up. Knowing that the President had agreed to the major and expensive changes that the Republican Senators demanded, I sought to amend this bill only in a modest way, only to the extent that we could do the deal by the end of the year. And I put forward an amendment that would not increase the cost of the bill by a penny or reduce the tax cuts that the Republicans have been asking for by a penny. I asked only that instead of the payroll tax holiday that needlessly involves the Social Security trust fund and comingles general funds with the Social Security trust fund, that we send out checks as soon as possible so that the money the Republicans have already agreed should go to working families would get to them perhaps in time to pay this year's Christmas bills.

Unfortunately, no effort was made at the highest levels to secure the support of even a couple of Republican Senators for that kind of minor tweaking. And so we stand today with only one choice: pay the ransom now, or pay more ransom later. This is not a place Democrats want to be. But, ultimately, it is better to pay the ransom today than to watch the President pay even more—and I think he'd be willing to pay a bit more—next month.

Therefore, we are going to have to swallow hard. We are going to see an estate tax law so bad that for the richest families where someone died in 2010, the tax rate is going to be less than zero. The family will be able to choose zero, or choose huge reductions in future income taxes. And they will be well advised, and they will pick whatever costs the Treasury the most money, and we will collect less than zero from those families. We will see those with an income—not mere millionaires but people with \$1 million in annual income—get tax relief that they won't spend and don't particularly need.

The choice is to pay the ransom now, or to watch it go up next month.

Mr. DREIER. I continue to reserve the balance of my time.

The SPEAKER pro tempore. The gentlewoman from New York has 8½ minutes remaining.

Ms. SLAUGHTER. I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, let me say to the chairperson of the Rules Committee what a terrific job she is doing. And of course I would urge us all to vote for the rule, but I don't think we should vote for this tax cut.

□ 1830

The idea is that we will kick all the tax cuts down the road for another 2 years.

Have you ever seen anybody kicking a can? They never bend over and pick it up and drop it in the trash can. They just keep kicking it. And that's what we're going to do.

We knew back in 2001 and 2003, when we were told these tax cuts are going to expire in 2011, that they weren't really going to expire. And they're not going to expire either in an election year. Our President isn't going to run in 2012 on a platform that he's going to raise your taxes.

And with regard to Social Security, do we really think that next year we're going to increase payroll taxes by fifty percent from 4 percent to 6¼ percent? We're not going to do that. And so what's really going to happen is that we're going to take money out of the general revenue fund to keep Social Security solvent.

So what we're talking about is not \$900 billion. It's really about \$4 trillion more of lost revenue. That's what we're committing ourselves to over the next several years.

And yet, back in 2001, President Bush inherited a surplus. The discipline of PAYGO had created 3 straight years of surpluses. Imagine. Think about that, because it's not going to happen again in our lifetimes or the lifetimes of our children or grandchildren after this vote is taken tonight. But we had a projected surplus of \$5.6 trillion at the end of the Clinton Administration. In fact, at the end of 2010, we were going to have our debt paid off. Instead of having \$12 trillion plus of debt, we would have paid off all our indebtedness. And we would have fulfilled our responsibility to our children and grandchildren's generation. This doesn't.

This is the wrong thing to do. It's the easy thing to do. Everybody loves a tax cut. You know, let's be Santa Claus. Let's give something to everyone. In fact, there are 81 provisions in this tax bill. Most of us have no idea what they actually do. But look through it; 81 different deductions and exemptions and giveaways and accessions to lobbyists and so on. That's not what we ought to be doing at Christmastime.

We ought, when we sit with our children and our grandchildren on our laps, we ought to be proud that we have secured a better standard of living for each of them, that we have looked into the future, and done the right thing.

The Native Americans who originally lived in this land, they used to make decisions based on how they would affect the seventh generation to come. We can't even look 7 years ahead.

We ought to vote "no" on this tax bill because it's irresponsible. So I urge my colleagues to vote "no" on the bill itself but "yes" on the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I oppose the estate tax provisions in this bill, and I'm thankful that the rule would allow us to vote against this estate tax.

But I also oppose the extension of the high income tax cuts, and I oppose the way we are doing the Social Security situation because I think it will result in damage to Social Security. And this rule does not give me the opportunity to vote against those two things. And therefore, it's my intention to vote against the rule.

I've tried to make it clear to my leadership that I think it's important for me to have that vote on those two issues, and they haven't seen fit to make that in order. So I feel like I must, under those circumstances, vote against the rule.

Mr. DREIER. Mr. Speaker, I continue to reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. I thank the gentlelady for yielding to me, and I regretfully oppose the rule and will oppose the bill. And the most important reason is that this bill will not translate into job creation in the United States of America. All it does is put our taxpayers on the hook for another trillion dollars of borrowed debt that will be from places like China, and from Saudi Arabia, in order to give more tax cuts to the rich over the next 10 years. There is no guarantee that that money will even be invested in the United States of America.

You know, the Dow is up 42 percent. NASDAQ is up 78 percent. Wall Street is on track to see its second-highest profitable year on record with a projected \$144 billion in bonuses going out the door. Couldn't they take some of that and make sure this goes to those who are unemployed and still seeking to earn their way forward in this economy?

This bill will not be a real stimulus. In fact, it will only yield 33 cents of economic impact for every dollar that is borrowed to pay for it. It will not create real robust growth and jobs in this country. There is not even a "Buy America" provision in the bill. I'm so

sad for our Nation that we can't do better and help put America's unemployed back to work.

Mr. DREIER. Mr. Speaker, I continue to reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. TAYLOR), the last speaker I have.

Mr. TAYLOR. Mr. Speaker, May 9, 2001, was my son's 13th birthday. Thirteen was a very unlucky year for him, and every other kid in America. On that day, unemployment was 4.3 percent. Our Nation was \$5,600,286,010,418 in debt.

Nine years and 7 months since the passage of the Bush budget, unemployment is 9.8 percent, and our debt has grown by a staggering \$8,204,749,146,330.57. If there's anyone in this body who wants to tell me that the intended effect was to double the number of unemployed people and to add \$8 trillion to the debt and, therefore, we should do more of this—I rise in opposition to this rule, and I beg this body to defeat this bill.

Mr. DREIER. I yield myself such time as I may consume.

Mr. Speaker, I've listened to a number of my friends offer great quotes. I listened to Mr. JACKSON quote William Jennings Bryant, Franklin Delano Roosevelt, and Adam Smith. I listened to Mr. GARAMENDI quote Teddy Roosevelt. And I've listened to—was it Franklin Roosevelt? Okay. I thought somebody was quoting Teddy Roosevelt.

Well, I'd like to close by quoting one of our great former colleagues, the late Jack Kemp, who, many times stood here in the well and said, if you tax something, you get less of it. If you subsidize something, you get more of it.

In America we tax work, growth, savings, investment, productivity. We subsidize non-work, welfare, consumption, debt, and leisure.

Now, Mr. Speaker, Jack Kemp was revered by Democrats and Republicans alike, and he was someone who understood very clearly that if you increase that tax burden on job creators, you undermine the ability of people who are trying to get onto that first rung of the economic ladder a chance to do that.

□ 1840

We have a very important vote ahead of us. I don't like this bill. I don't know of anyone who stood up and said that they liked this bill, but I like even less the prospect of increasing taxes on every American who pays income taxes today. That is why I believe we should move ahead as expeditiously as possible so that, come January, we can have this laser-like focus in our quest to grow our economy by reducing the size and scope and reach of government so that we can increase opportunity for all Americans.

With that, I yield back the balance of my time.

Ms. SLAUGHTER. I yield myself the balance of my time.

Mr. Speaker, in a moment I will be offering an amendment to the rule, and I want to take this opportunity to briefly describe the amendment.

The amendment shifts initial consideration of the Senate amendment to the House amendment to the Senate amendment to H.R. 4853 into the Committee of the Whole. After 3 hours of general debate, a vote will occur on the amendment printed in the report of the Committee on Rules and the Committee of the Whole shall rise. If the amendment passes, a vote will occur on a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment with the amendment adopted in the Committee of the Whole. If the motion fails, a vote will occur on a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment.

I urge a "yes" vote on the amendment, the rule, and the previous question.

AMENDMENT OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. I have an amendment to this rule at the desk.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Ms. SLAUGHTER:
Strike all after the resolving clause and insert the following:

"That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 4853), to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes. All points of order against consideration of the Senate amendment are waived except those arising under clause 10 of rule XXI. General debate shall be confined to the Senate amendment and the motions addressed by this resolution and shall not exceed three hours equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means or their designees. After general debate, the Senate amendment shall be considered for amendment under the five-minute rule. No amendment shall be in order except the amendment printed in the report of the Committee on Rules accompanying this resolution. That amendment may be offered only by Representative Levin of Michigan or his designee and shall not be debatable. All points of order against that amendment are waived except those arising under clause 10 of rule XXI.

"SEC. 2. Upon disposition of the proposed House amendment made in order in the first section of this resolution, the Committee of the Whole shall rise and report the Senate amendment back to the House with such amendment as may have been adopted.

"SEC. 3. (a) If the Committee of the Whole reports the Senate amendment back to the House with an amendment, the pending question shall be a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment with such amendment.

"(b) If a motion specified in subsection (a) fails of adoption, the pending question shall be a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment.

"SEC. 4. If the Committee of the Whole reports the Senate amendment back to the House without amendment, the pending question shall be a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment.

"SEC. 5. Until completion of proceedings enabled by this resolution—

"(a) the Chair may decline to entertain any intervening motion, resolution, question, or notice;

"(b) the Chair may postpone proceedings in the House to such time as may be designated by the Speaker;

"(c) each amendment and motion considered pursuant to this resolution shall be considered as read; and

"(d) all points of order against pending motions specified in sections 3 and 4 are waived (except those arising under clause 10 of rule XXI), and the previous question shall be considered as ordered on each such motion to final adoption without intervening motion or question of consideration."

Ms. SLAUGHTER. Mr. Speaker, I urge a "yes" vote on the amendment, on the rule, and the previous question.

I yield back the balance of my time, and I move the previous question on the amendment and on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TAYLOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the amendment to House Resolution 1766 will be followed by 5-minute votes on adoption, if ordered; and the motion to suspend the rules on S. 987.

The vote was taken by electronic device, and there were—ayes 230, noes 186, not voting 17, as follows:

[Roll No. 643]

AYES—230

Ackerman	Boren	Chu
Altmire	Boswell	Clarke
Andrews	Boucher	Clay
Arcuri	Brady (PA)	Cleaver
Baca	Braley (IA)	Clyburn
Baird	Brown, Corrine	Cohen
Baldwin	Butterfield	Connolly (VA)
Barrow	Capps	Conyers
Bean	Capuano	Cooper
Becerra	Cardoza	Costa
Berkley	Carnahan	Costello
Berman	Carney	Courtney
Bishop (GA)	Carson (IN)	Critz
Bishop (NY)	Castor (FL)	Crowley
Blumenauer	Chandler	Cuellar
Bocieri	Childers	Cummings

Dahlkemper	Kildee	Polis (CO)	Kingston	Myrick	Schrader	Ellison	Lewis (GA)	Ross
Davis (CA)	Kilpatrick (MI)	Pomeroy	Kline (MN)	Napolitano	Scott (VA)	Ellsworth	Lipinski	Rothman (NJ)
Davis (IL)	Kind	Price (NC)	Kosmas	Neugebauer	Sensenbrenner	Engel	Loeb sack	Roybal-Allard
Davis (TN)	Kirkpatrick (AZ)	Quigley	Lamborn	Nunes	Sessions	Eshoo	Lowey	Ruppersberger
DeGette	Kissell	Rahall	Lance	Obey	Shadegg	Farr	Lujan	Rush
Delahunt	Klein (FL)	Rangel	Latham	Olson	Shimkus	Fattah	Maffei	Ryan (OH)
DeLauro	Kratovil	Reyes	LaTourette	Paul	Shuster	Foster	Maloney	Salazar
Deutch	Kucinich	Richardson	Latta	Paulsen	Simpson	Frank (MA)	Markey (CO)	Sanchez, Linda
Dicks	Langevin	Rodriguez	Lee (NY)	Pence	Skelton	Fudge	Markey (MA)	T.
Dingell	Larsen (WA)	Ross	Lewis (CA)	Petri	Smith (NE)	Garamendi	Marshall	Sanchez, Loretta
Doggett	Larson (CT)	Rothman (NJ)	Linder	Pitts	Smith (NJ)	Giffords	Matheson	Sarbanes
Donnelly (IN)	Lee (CA)	Roybal-Allard	LoBiondo	Platts	Smith (TX)	Gonzalez	Matsui	Schakowsky
Doyle	Levin	Ruppersberger	Lucas	Poe (TX)	Stearns	Gordon (TN)	McCollum	Schauer
Driehaus	Lewis (GA)	Rush	Luetkemeyer	Posey	Stutzman	Green, Al	McDermott	Schiff
Edwards (MD)	Lipinski	Ryan (OH)	Lummis	Price (GA)	Sullivan	Green, Gene	McGovern	Schrader
Edwards (TX)	Loeb sack	Salazar	Lungren, Daniel	Putnam	Taylor	Gutierrez	McIntyre	Schwartz
Ellison	Lofgren, Zoe	Sanchez, Linda	E.	Reed	Terry	Hall (NY)	McNerney	Scott (GA)
Ellsworth	Lowey	T.	Mack	Rehberg	Thompson (PA)	Halvorson	Meek (FL)	Serrano
Engel	Lujan	Sanchez, Loretta	Manzullo	Reichert	Thornberry	Hare	Meeks (NY)	Sestak
Eshoo	Lynch	Sarbanes	McCarthy (CA)	Roe (TN)	Tiahrt	Harman	Melancon	Shea-Porter
Etheridge	Maffei	Schakowsky	McCaul	Rogers (AL)	Tiberi	Hastings (FL)	Miller (NC)	Sherman
Farr	Maloney	Schauer	McClintock	Rogers (KY)	Turner	Heinrich	Miller, George	Shuler
Fattah	Markey (CO)	Schiff	McCotter	Rogers (MI)	Upton	Hersteth Sandlin	Minnick	Sires
Foster	Markey (MA)	Schwartz	McHenry	Rohrabacher	Walden	Higgins	Mitchell	Slaughter
Frank (MA)	Marshall	Scott (GA)	McIntyre	Rooney	Westmoreland	Hill	Mollohan	Smith (WA)
Fudge	Matheson	Serrano	McKeon	Ros-Lehtinen	Whitfield	Himes	Moore (KS)	Snyder
Garamendi	Matsui	Sestak	Mica	Roskam	Wilson (SC)	Hinchey	Moore (WI)	Space
Giffords	McCollum	Shea-Porter	Miller (FL)	Royce	Wittman	Hinojosa	Moran (VA)	Speier
Gonzalez	McDermott	Sherman	Miller (MI)	Ryan (WI)	Wolf	Hirono	Murphy (CT)	Spratt
Gordon (TN)	McGovern	Shuler	Miller, Gary	Scalise	Wu	Hodes	Murphy (NY)	Stark
Grayson	McMahon	Sires	Moran (KS)	Schmidt	Young (AK)	Holden	Murphy, Patrick	Stupak
Green, Al	McNerney	Slaughter	Murphy, Tim	Schock		Honda	Nadler (NY)	Sutton
Green, Gene	Meek (FL)	Smith (WA)				Hoyer	Neal (MA)	T.
Gutierrez	Meeks (NY)	Snyder	Berry	Kilroy	Radanovich	Inslee	Nye	Teague
Hall (NY)	Melancon	Space	Brown (SC)	Marchant	Speier	Israel	Oberstar	Thompson (CA)
Halvorson	Michaud	Spratt	Buyer	McCarthy (NY)	Tanner	Jackson (IL)	Obey	Titus
Hare	Miller (NC)	Stark	Davis (AL)	McMorris	Van Hollen	Jackson Lee	Olver	Tonko
Harman	Miller, George	Stupak	Granger	Rodgers	Wamp	(TX)	Owens	Towns
Hastings (FL)	Minnick	Sutton	Johnson, E. B.	Ortiz	Young (FL)	Johnson (GA)	Pallone	Tsongas
Heinrich	Mitchell	Teague				Kagen	Pascarell	Velázquez
Hersteth Sandlin	Mollohan	Thompson (CA)				Kennedy	Pastor (AZ)	Visclosky
Higgins	Moore (KS)	Thompson (MS)				Kildee	Perlmutter	Walz
Hill	Moore (WI)					Kind	Peters	Wasserman
Himes	Moran (VA)					Kirkpatrick (AZ)	Peterson	Schultz
Hinchey	Murphy (CT)					Kissell	Pingree (ME)	Waters
Hinojosa	Murphy (NY)					Klein (FL)	Polis (CO)	Watson
Hirono	Murphy, Patrick					Kosmas	Pomeroy	Waxman
Hodes	Nadler (NY)					Kucinich	Price (NC)	Weiner
Holden	Neal (MA)					Langevin	Quigley	Welch
Holt	Nye					Larsen (WA)	Rahall	Wilson (OH)
Honda	Oberstar					Larson (CT)	Rangel	Woolsey
Hoyer	Olver					Lee (CA)	Reyes	Yarmuth
Inslee	Owens					Levin	Richardson	
Israel	Pallone							
Jackson (IL)	Pascarell							
Jackson Lee	Pastor (AZ)							
(TX)	Payne							
Johnson (GA)	Perlmutter							
Kagen	Perriello							
Kanjorski	Peters							
Kaptur	Peterson							
Kennedy	Pingree (ME)							

NOT VOTING—17

□ 1917

Messrs. McCOTTER, MCINTYRE, SIMPSON, OBEY, and Ms. KOSMAS changed their vote from “aye” to “no.” Mr. WATT and Ms. FUDGE changed their vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TAYLOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 214, noes 201, not voting 18, as follows:

[Roll No. 644]

AYES—214

Aderholt	Camp	Fox	Ackerman	Brown, Corrine	Courtney
Adler (NJ)	Campbell	Frank (AZ)	Altmire	Butterfield	Critz
Akin	Cantor	Frelinghuysen	Andrews	Capps	Crowley
Alexander	Cao	Gallegly	Arcuri	Capuano	Cuellar
Austria	Capito	Garrett (NJ)	Baca	Cardoza	Cummings
Bachmann	Carter	Gerlach	Baird	Carnahan	Davis (AL)
Bachus	Cassidy	Gingrey (GA)	Baldwin	Carney	Davis (CA)
Barrett (SC)	Castle	Gohmert	Barrow	Carson (IN)	Davis (IL)
Bartlett	Chaffetz	Goodlatte	Bean	Castor (FL)	Davis (TN)
Barton (TX)	Coble	Graves (GA)	Becerra	Chandler	DeGette
Biggert	Coffman (CO)	Graves (MO)	Berkley	Childers	Delahunt
Bilbray	Cole	Griffith	Berman	Chu	DeLauro
Bilirakis	Conaway	Grijalva	Bishop (GA)	Clarke	Deutch
Bishop (UT)	Crenshaw	Guthrie	Bishop (NY)	Clay	Dicks
Blackburn	Culberson	Hall (TX)	Blumenauer	Clyburn	Dingell
Blunt	Davis (KY)	Harper	Boccieri	Cohen	Donnelly (IN)
Boehner	DeFazio	Hastings (WA)	Boren	Connolly (VA)	Doyle
Bonner	Dent	Heller	Boswell	Conyers	Driehaus
Bono Mack	Diaz-Balart, L.	Hensarling	Boucher	Costa	Edwards (MD)
Boozman	Diaz-Balart, M.	Herger	Brady (PA)	Costello	Edwards (TX)
Boustany	Djou	Hoekstra			
Boyd	Dreier	Hunter			
Brady (TX)	Duncan	Inglis			
Bright	Ehlers	Issa			
Brown (GA)	Emerson	Jenkins			
Brown-Waite, Ginny	Fallin	Johnson (IL)			
Buchanan	Filner	Johnson, Sam			
Burgess	Flake	Jones			
Burton (IN)	Fleming	Jordan (OH)			
Calvert	Forbes	King (IA)			
	Fortenberry	King (NY)			

NOES—201

Aderholt	Chaffetz	Griffith
Adler (NJ)	Cleaver	Grijalva
Akin	Coble	Guthrie
Alexander	Coffman (CO)	Hall (TX)
Austria	Cole	Harper
Bachmann	Conaway	Hastings (WA)
Bachus	Cooper	Heller
Barrett (SC)	Crenshaw	Hensarling
Bartlett	Culberson	Herger
Barton (TX)	Dahlkemper	Hoekstra
Biggert	Davis (KY)	Holt
Bilbray	DeFazio	Hunter
Bilirakis	Dent	Inglis
Bishop (UT)	Diaz-Balart, L.	Issa
Blackburn	Diaz-Balart, M.	Jenkins
Blunt	Djou	Johnson (IL)
Boehner	Doggett	Johnson, Sam
Bonner	Dreier	Jones
Bono Mack	Duncan	Jordan (OH)
Boozman	Ehlers	Kanjorski
Boustany	Emerson	Kaptur
Boyd	Etheridge	Kilpatrick (MI)
Brady (TX)	Fallin	King (IA)
Braley (IA)	Filner	King (NY)
Bright	Flake	Kingston
Brown (GA)	Fleming	Kline (MN)
Brown-Waite, Ginny	Forbes	Lamborn
Buchanan	Fortenberry	Lance
Burgess	Fox	Latham
Burton (IN)	Franks (AZ)	LaTourette
Calvert	Frelinghuysen	Latta
Castle	Gallegly	Lee (NY)
	Garrett (NJ)	Lewis (CA)
	Gerlach	Linder
	Gingrey (GA)	LoBiondo
	Gohmert	Lofgren, Zoe
	Goodlatte	Lucas
	Graves (GA)	Luetkemeyer
	Graves (MO)	Lummis
	Grayson	

Lungren, Daniel E.	Petri	Shimkus	Critz	Kildee	Pomeroy	Jenkins	Mica	Ros-Lehtinen
Lynch	Pitts	Shuster	Crowley	Kilpatrick (MI)	Price (NC)	Johnson (IL)	Miller (FL)	Roskam
Mack	Platts	Simpson	Cuellar	Kind	Quigley	Johnson, Sam	Miller (MI)	Royce
Manzullo	Poe (TX)	Skelton	Cummings	Kirkpatrick (AZ)	Reyes	Jones	Miller, Gary	Ryan (WI)
McCarthy (CA)	Posey	Smith (NE)	Dahlkemper	Kissell	Richardson	Jordan (OH)	Moran (KS)	Scalise
McCaul	Price (GA)	Smith (NJ)	Davis (AL)	Klein (FL)	Rodriguez	Kaptur	Murphy, Tim	Schmidt
McClintock	Putnam	Smith (TX)	Davis (CA)	Kosmas	Ross	King (IA)	Myrick	Sessions
McCotter	Reed	Stearns	Davis (IL)	Kratovil	Rothman (NJ)	King (NY)	Neugebauer	Shadegg
McKeon	Rehberg	Stutzman	Davis (TN)	Kucinich	Roybal-Allard	Kingston	Nunes	Shimkus
McMahon	Reichert	Sullivan	DeFazio	Langevin	Ruppersberger	Kline (MN)	Olson	Shuster
Mica	Rodriguez	Taylor	Delahunt	Larsen (WA)	Ryan (OH)	Lamborn	Owens	Smith (NE)
Michaud	Roe (TN)	Terry	DeLauro	Larson (CT)	Sánchez, Linda T.	Lance	Paul	Smith (NJ)
Miller (FL)	Rogers (AL)	Thompson (MS)	Dent	Latham	Sanchez, Loretta	Latta	Pence	Smith (TX)
Miller (MI)	Rogers (KY)	Thompson (PA)	Deutch	LaTourette	Sarbanes	Lee (NY)	Petri	Stearns
Miller, Gary	Rogers (MI)	Thornberry	Dicks	Lee (CA)	Schakowsky	Lewis (CA)	Pitts	Stutzman
Moran (KS)	Rohrabacher	Tiahrt	Dingell	Levin	Schauer	Linder	Platts	Sullivan
Murphy, Tim	Rooney	Tiberi	Doggett	Lewis (GA)	Schiff	Lipinski	Poe (TX)	Taylor
Myrick	Ros-Lehtinen	Turner	Donnelly (IN)	Loeb sack	Schock	LoBiondo	Posey	Terry
Napolitano	Roskam	Upton	Doyle	Lofgren, Zoe	Schrader	Lucas	Price (GA)	Thompson (PA)
Neugebauer	Royce	Walden	Driehaus	Lowe	Schwartz	Luetkemeyer	Putnam	Thornberry
Nunes	Ryan (WI)	Watt	Edwards (MD)	Lujan	Scott (GA)	Lummis	Rahall	Tiahrt
Olson	Scalise	Westmoreland	Edwards (TX)	Lynch	Scott (VA)	Lungren, Daniel E.	Reed	Turner
Paul	Schmidt	Whitfield	Ehlers	Maffei	Sensenbrenner	Mack	Rehberg	Upton
Paulsen	Schock	Wilson (SC)	Ellison	Maloney	Serrano	Manzullo	Reichert	Walden
Payne	Scott (VA)	Wittman	Ellsworth	Markey (CO)	Sestak	McCarthy (CA)	Roe (TN)	Westmoreland
Pence	Sensenbrenner	Wolf	Engel	Markey (MA)	Shea-Porter	McCaul	Rogers (AL)	Whitfield
Perriello	Sessions	Wu	Eshoo	Matheson	Sherman	McClintock	Rogers (KY)	Wilson (SC)
	Shadegg	Young (AK)	Etheridge	Matsui	Shuler	McCotter	Rogers (MI)	Wittman
			Farr	McCollum	Simpson	McKeon	Rohrabacher	Wolf
			Fattah	McDermott	Sires		Rooney	Young (AK)
			Filner	McGovern	Skelton			
			Foster	McIntyre	Slaughter			
			Frank (MA)	McMahon	Smith (WA)			
			Frelinghuysen	McNerney	Snyder			
			Fudge	Meek (FL)	Space			
			Garamendi	Meeks (NY)	Speier			
			Giffords	Melancon	Spratt			
			Gonzalez	Michael	Stark			
			Grayson	Miller (NC)	Stupak			
			Green, Al	Miller, George	Sutton			
			Green, Gene	Minnick	Teague			
			Grijalva	Mitchell	Thompson (CA)			
			Gutierrez	Mollohan	Thompson (MS)			
			Hall (NY)	Moore (KS)	Tiberi			
			Harman	Moore (WI)	Tierney			
			Hastings (FL)	Moran (VA)	Titus			
			Heinrich	Murphy (CT)	Tonko			
			Herseth Sandlin	Murphy (NY)	Towns			
			Higgins	Murphy, Patrick	Tsongas			
			Hill	Nadler (NY)	Velázquez			
			Himes	Napolitano	Visclosky			
			Hinchev	Neal (MA)	Walz			
			Hinojosa	Nye	Wasserman			
			Hirono	Oberstar	Schultz			
			Hodes	Obey	Waters			
			Holt	Pallone	Watson			
			Honda	Pascrell	Watt			
			Hoyer	Pastor (AZ)	Waxman			
			Inslee	Paulsen	Weiner			
			Israel	Payne	Welch			
			Jackson (IL)	Perlmutter	Wilson (OH)			
			Jackson Lee	Perriello	Woolsey			
			(TX)	Peters	Wu			
			Johnson (GA)	Peterson	Yarmuth			
			Kagen	Pingree (ME)				
			Kanjorski	Polis (CO)				
			Kennedy					

NOT VOTING—18

Berry	Marchant	Tanner
Brown (SC)	McCarthy (NY)	Tierney
Buyer	McHenry	Van Hollen
Granger	McMorris	Wamp
Johnson, E. B.	Rodgers	Young (FL)
Kilroy	Ortiz	
Kratovil	Radanovich	

□ 1926

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

INTERNATIONAL PROTECTING GIRLS BY PREVENTING CHILD MARRIAGE ACT OF 2010

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (S. 987) to protect girls in developing countries through the prevention of child marriage, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and pass the bill.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 241, nays 166, not voting 26, as follows:

[Roll No. 645]

YEAS—241

Ackerman	Blumenauer	Carson (IN)
Adler (NJ)	Boccieri	Castle
Altire	Boren	Castor (FL)
Andrews	Boswell	Chandler
Arcuri	Boyd	Chu
Baca	Brady (PA)	Clarke
Baird	Braleigh (IA)	Clay
Baldwin	Bright	Clyburn
Barrow	Brown, Corrine	Cohen
Bean	Butterfield	Connolly (VA)
Becerra	Capps	Conyers
Berkley	Capuano	Cooper
Berman	Cardoza	Costa
Bishop (GA)	Carnahan	Courtney
Bishop (NY)	Carney	Crenshaw

Aderholt	Burgess	Flake
Akin	Burton (IN)	Fleming
Alexander	Calvert	Forbes
Austria	Camp	Fortenberry
Bachmann	Campbell	Fox
Bachus	Cantor	Franks (AZ)
Barrett (SC)	Cao	Galleghy
Bartlett	Capito	Garrett (NJ)
Barton (TX)	Carter	Gerlach
Biggert	Cassidy	Gingrey (GA)
Bilbray	Chaffetz	Goodlatte
Bilirakis	Childers	Graves (GA)
Bishop (UT)	Coble	Graves (MO)
Blackburn	Coffman (CO)	Griffith
Blunt	Cole	Guthrie
Boehner	Conaway	Hall (TX)
Bonner	Costello	Harper
Bono Mack	Culberson	Hastings (WA)
Boozman	Davis (KY)	Heller
Boucher	Diaz-Balart, L.	Hensarling
Boustany	Diaz-Balart, M.	Henger
Brady (TX)	Djou	Hoekstra
Broun (GA)	Dreier	Holden
Brown-Waite,	Duncan	Hunter
Ginny	Emerson	Inglis
Buchanan	Fallin	Issa

NAYS—166

NOT VOTING—26

Berry	Hare	Ortiz
Brown (SC)	Johnson, E. B.	Radanovich
Buyer	Kilroy	Rangel
Cleaver	Marchant	Rush
DeGette	McCarthy (NY)	Salazar
Gohmert	McHenry	Tanner
Gordon (TN)	McMorris	Van Hollen
Granger	Rodgers	Wamp
Halvorson	Oliver	Young (FL)

□ 1933

Messrs. LIPINSKI and COSTELLO changed their vote from “yea” to “nay.”

So (two-thirds not being in the affirmative) the motion was rejected.

The result of the vote was announced as above recorded.

TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010

The SPEAKER pro tempore. Pending any declaration of the House into the Committee of the Whole pursuant to House Resolution 1766, the Chair would note that the Senate amendment to the House amendment to the Senate amendment to the bill H.R. 4853 contains an emergency designation for purposes of pay-as-you-go principles under clause 10(c) of rule XXI and an emergency designation pursuant to section 4(g)(1) of the Statutory Pay-As-You-Go Act of 2010.

Accordingly, the Chair must put the question of consideration under clause 10(c)(3) of rule XXI and under section 4(g)(2) of the Statutory Pay-As-You-Go Act of 2010.

The question is, Will the House now consider the Senate amendment to the House amendment to the Senate amendment?

The question of consideration was decided in the affirmative.

The SPEAKER pro tempore. Pursuant to House Resolution 1766 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the Senate amendment to the

House amendment to the Senate amendment to the bill, H.R. 4853.

□ 1937

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes, with Mr. SABLON in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the Senate amendment is considered read.

General debate shall not exceed 3 hours equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means.

The gentleman from Michigan (Mr. LEVIN) and the gentleman from Michigan (Mr. CAMP) each will control 90 minutes.

PARLIAMENTARY INQUIRIES

Mr. GOHMERT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIR. The gentleman will state his parliamentary inquiry.

Mr. GOHMERT. My parliamentary inquiry is, since the rules of the House allow for someone in opposition to claim time in order to speak on a bill, is that rule being abrogated now, or can we follow the rules and have someone like me, who is opposed to the bill, claim time?

The CHAIR. No such rule is applicable to these proceedings.

Mr. GOHMERT. I'm sorry. I did not understand.

The CHAIR. There is no such rule.

Mr. GOHMERT. So this is set up now, the rules have been abrogated, so no time is allotted to anyone in opposition? Did I understand that correct, Mr. Chairman?

The CHAIR. The gentleman has not stated a parliamentary inquiry.

Mr. GOHMERT. Parliamentary inquiry, then.

The CHAIR. The gentleman will state his inquiry.

Mr. GOHMERT. Under the rules of the House, going back to the Thomas Jefferson rules of the House, as adopted by this majority in this term, someone in opposition to a bill is always given the right to claim time. So I am asking the parliamentary inquiry if that is now the case, or if that rule—the standing rule—is not going to be allowed at this time?

The CHAIR. The gentleman's premise is incorrect.

Mr. GOHMERT. The gentleman's premise is incorrect?

So someone can claim time in opposition? Thank you.

The CHAIR. The House is operating under a rule that allocates control of the time for debate to the chair and ranking minority member of the Committee on Ways and Means.

□ 1940

Mr. TAYLOR. Further parliamentary inquiry, Mr. Chairman.

The CHAIR. The gentleman from Mississippi will state his inquiry.

Mr. TAYLOR. I understand that under the rule just passed, the time has been allocated to a proponent on this side of the aisle for the bill, a proponent on this side of the aisle for the bill. The understanding was, though, that time would be allowed to the opponents of this bill.

I am asking if the Chair or someone would identify who that time will be yielded to.

The CHAIR. The rule provides for the debate time to be allocated equally and controlled by the chair and ranking minority member of the Committee on Ways and Means.

The Chair recognizes the gentleman from Michigan.

Mr. LEVIN. I yield myself such time as I may consume.

The Democratic majority in the House has made it crystal clear that we stand on the side of middle income families, of unemployed workers, of small businesses struggling in this difficult economy. The compromise before us clearly requires painful choices. These choices relate to each of the three criteria for judging the merits of this package: Does it add to the deficit? Does it promote economic growth? And does it promote fairness?

For decades, Republicans have unwisely promoted a view that tax cuts pay for themselves. So while making deficit reduction their rhetoric, they never have had any intention of paying for tax cuts which add to the deficit, plain and simple. Adding to the deficit is defensible if the bill meets another criterion: Does it promote economic growth? Adding to the deficit in the short term as a tool to promote economic growth that will, in turn, help address the long-term deficit has been the basis of vital actions taken by the Democratic majority, actions to stem the financial crisis, jump-start the economy, and save the auto industry. These were necessary steps, sometimes unpopular ones, and steps unfortunately not effectively articulated at times by the administration.

This bill does include important provisions aimed at increasing economic growth and jobs: unemployment insurance for millions out of work who will spend money received to keep their families afloat; the middle income tax cut; the temporary reduction in payroll taxes; and business provisions like the R&D tax credit, the new markets credit, and full expensing of business investment for 1 year.

Unfortunately, in their zeal to undo the Recovery Act, Republicans have insisted that we not extend the successful 48C credit for advanced engineering manufacturing or the Build America Bond program, working to rebuild our economy. The Republicans have insisted on provisions that violate the third criterion, fairness for taxpayers.

In order for the administration to be able to include provisions that help lower and middle income families, it came at the price of assisting the very wealthy, the Republicans' priority. Their position has led to a package where the top six-tenths of 1 percent of the very wealthiest receive 20 percent of the benefits of the tax package. My amendment would strike a blow at this unfairness by replacing the highly irresponsible and unfair Kyl estate tax giveaway. The resulting \$23 billion in additional borrowing won't go to create jobs. It will be used to provide an average tax cut of more than \$1.5 million to the 6,600 wealthiest estates next year. This represents less than three-tenths of 1 percent of all estates.

I urge my colleagues to vote to change this egregious piece of the legislation so the American people can see clearly who puts the interests of the middle class ahead of the very wealthiest. And then the Republicans in the Senate will have a stark choice that might be painful for them. It would make it clear whose side they are on.

I will accept the remainder of the bill because after the approach taken by Republicans in the House and Senate these last weeks, obstructing and holding hostage everything until they get their way on the tax breaks for the very wealthy, I am not willing to put the fate of the middle class and the unemployed in the hands of the Republican majority next year. Especially when voiced by the Senate Republican leader that their main priority is the failure of our President.

I reserve the balance of my time.

Mr. CAMP. Mr. Chairman, I yield myself such time as I may consume.

This House—the people's House—has a simple choice today: raise taxes on families and small businesses or prevent a massive job-killing tax increase from going into effect a mere 16 days from now.

If you think our economy can handle higher taxes, if you think middle class families should lose roughly \$100 per week out of their paychecks, then vote "no" today. Make no mistake about it, a "no" vote today is a vote for higher taxes, taxes that would devastate families and send shock waves throughout our economy.

If you believe we should stop this massive tax increase in its tracks, especially when unemployment is stuck at nearly 10 percent, then vote "yes." If you want to be sure we don't extend the failed Making Work Pay policy from the failed stimulus law that has

the IRS writing checks to people who pay no income or payroll taxes, then vote "yes." If you are opposed to the Federal Government taking more than half of a family farm or business due to a death, then vote "yes." And if you are interested in fundamental tax reform—getting rid of exemptions, deductions, and loopholes that complicate our Tax Code—then vote "yes" because this bill gives us the time that we need to rewrite the Tax Code, cut spending next year, and get our economy back on track.

I know some of my friends want to wait until January when Republicans are back in the majority because they think that we can get a better deal. That is as misguided as it is politically callous. And let me be blunt. It's irresponsible to play a game of chicken with the Senate and the White House next year when middle class Americans are literally forced to pay \$100 more a week in taxes and are forced to suffer even greater job losses. If this bill fails today, that's what will happen. Paychecks and jobs will burn while Washington fiddles.

If that's your stance, then I ask, What better deal could we get? People talk about making tax rates permanent. That's something I support. That's something every Republican in this House supports. But how does waiting until January, February, March, April, or May make that a reality?

The Senate voted yesterday on the DeMint amendment which would have made the rates permanent, and it failed 37-63. Last time I looked, we didn't pick up 23 seats in the United States Senate. And the President has flatly refused to sign such legislation into law. So again, tell me, how do we get a better deal by waiting? It makes no sense to gamble with the American people's jobs and the very paychecks they rely on to put food on the table and keep the house warm this winter.

Americans are suffering through the deepest and longest recession since the Great Depression. This is not a time for political speeches or electoral posturing. This is a time to act responsibly, to do what is right, and to vote "yes." Employers are begging us to pass this legislation. Small businesses and the National Federation of Independent Business are supporting the bill because they know they cannot afford a tax hike. The Business Roundtable which represents the largest employers in the country with over 12 million employees is supporting this bill because they know the economy cannot afford a tax hike.

□ 1950

The U.S. Chamber of Commerce is supporting this legislation because they know we cannot afford a tax hike. The National Association of Manufacturers is supporting this legislation.

Economists across the spectrum, from the far left to the far right, are supporting this legislation, and so should the Members of this House.

By no means is this bill perfect. For example, I think we should have paid for the extension of unemployment insurance and, frankly, we will. I'm committed to producing legislation next year to revamp, reform, and pay for the Federal unemployment benefits our Nation provides. We should not have to choose between adding to the deficit and providing this important help, but we cannot allow that single concern to hold this bill up.

Time has run out. This is our only chance, and the harm to our economy and the hit families would suffer is far too great a risk.

And let's be clear, this bill is about taxes, longstanding tax policy, for that matter, and preventing a tax hike. It isn't about spending. Nearly 90 percent of this bill is tax policy, and that policy is aimed at preventing a tax hike for families and employers or providing direct tax relief to the American worker.

It also protects family farms, ranches and businesses from being hit by the destructive death tax. That will go as high as 55 percent next year if we do not act. Instead, this bill reduces that rate to 35 percent, while increasing the exemption amount from \$1 million to \$5 million.

Now, I know \$1 million sounds like a lot of money, and it is. But think about the family farmers in your districts. Think about the costs of the big machinery it takes to operate and manage their land. Some of the combines I see every day in my district cost a quarter of a million each. That isn't cash in the bank. That's equipment in the field, and the Federal Government has no right to take half of it when mom or dad passes on.

While I support a total repeal of the death tax, at least this bill makes significant improvements to the estate and gift taxes, and it deserves our support.

Members should also know, and the American people should know, that this bill does not contain new policy. New provisions were not snuck in late in the night or behind closed doors. We took a firm stand against new policy. We took a firm stand against policy that had not been renewed repeatedly and, as a result, more than 70 provisions, some of them my own, were excluded from the bill, well over \$100 billion worth.

The most notable provisions of these we terminated were from the failed stimulus bill, like the refundable Making Work Pay credit, the Build America Bonds program, which simply subsidized State and local governments going deeper into debt, and grants in lieu of the low-income housing credit. None of that is in here, nor are there

the usual Washington Christmas tree ornaments. This bill is narrowly focused on tax and unemployment policy.

Unlike the omnibus Democrats are preparing, there are no earmarks like the \$2 million for an Ice Age National Scenic trail in Wisconsin. There isn't a \$3.5 million study on subterranean termites in New Orleans, and there certainly isn't an extra \$1 billion for the new job-killing health care law.

My friends, the election's over. Let's not start the next campaign here today. Let's make the right choice. Let's stop this tax hike from going into effect in 2 weeks. Let's put our constituents' jobs before our own. Let's show the American people we can govern and we can take yes for an answer.

So let's pass this bill with broad bipartisan support, as the Senate did yesterday by a vote of 81-19. I urge my colleagues to vote "yes."

Mr. Chairman, I reserve the balance of my time.

Mr. LEVIN. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Tonight is going to be a rather historic vote. In the old days, the House would initiate tax bills, and then we would send it to the Senate, and then the Senate and the House would come together and have what was known as a conference.

But it's clear to me that rules are changing fast, and now that the House has spoken in terms of a tax bill, in terms of giving some comfort to those people who are unemployed, it seems to me now that it works that the President works with a handful of Republicans and tells us, on the House side, that if we change anything, there's absolutely no deal. I think the President said that these people that were unemployed were being held as hostage.

In addition to that, we find that all of the tax benefits seem to be centered among the people who are the richest that we have in this country, while we find more and more Americans going into poverty. I submit to you that democracy cannot grow with this type of diversity, where we find so much wealth held in the hands of so few and so many other people are without jobs and without hope.

It would seem to me that we have time to correct these things. There's nothing in the Constitution or the House rules that indicates that we can't work closer to Christmas. I know other people believe that this would be a violation of Christian values. But helping those people who are poor, helping those people who are without jobs, I submit to you and to Christians, Jews and Gentiles, that this will be the proper thing to do, with the spirit of Christmas, rather than just to do what people outside of the House have dictated that if we don't do it their way, then these people that we have such a moral commitment to will go without

compensation, and the rest of the people that deserve a tax break would be denied if we don't go along with the package.

So, to Members who are coming to this body, this is a new set of rules, a new set of tradition; but I tell you, it is not the American tradition that I knew and loved so well.

Mr. CAMP. I yield 3 minutes to a distinguished member of the Ways and Means Committee, the gentleman from California (Mr. HERGER).

Mr. HERGER. Madam Chairman, the bill that came to us from the Senate is far from perfect. I'm going to vote "yes" because if the scheduled \$3.8 trillion tax increase takes effect in just 2 weeks, the consequences for our economy could be catastrophic. Even if we reversed this tax hike next year, families and small businesses would see higher taxes immediately on January 1.

According to the Tax Foundation, the average middle class family in my own northern California district would see their Federal income taxes more than double. People in my district are already struggling. Small businesses are barely hanging on. The unemployment rate is near 20 percent in several counties I represent. We simply cannot afford this enormous tax hit.

This has been a difficult decision for me. I'm outraged that the President and the Democratic leaders are demanding billions of dollars in unpaid-for spending on unemployment benefits and special interest giveaways as the price for stopping a massive tax increase.

Additionally, we should be making the current tax rate permanent. If businesses face the threat of another tax increase in 2 years, they will be reluctant to make investments that pay off in 5 or 10 years.

Madam Chairman, we have to provide long-term certainty for America's small businesses. I commend Mr. CAMP for his dedication to protecting taxpayers and his hard work on this legislation. In the next Congress, I look forward to working with Chairman CAMP to fix this bill's flaws. We must bring permanency to the Tax Code, and we must cut wasteful Federal spending, both to pay for the unemployment benefits and also to start bringing down our unsustainable Federal deficit.

Finally, I know from personal experience how much of a burden the death tax is for family businesses. My relatives on my mother's side of the family had to sell our own family's farm in North Dakota just to pay the death tax bill. That should not happen in America.

I urge the House to vote "no" on the Pomeroy death tax amendment and "yes" on the Senate bill.

□ 2000

Mr. LEVIN. I yield 2 minutes to the very distinguished gentleman from

North Dakota, a member of our committee, Mr. POMEROY.

Mr. POMEROY. Madam Chair, for the last five sessions I have worked to try and clarify the rate of estate taxation in this country. I felt the right approach was ultimately to take the 2009 levels and make them permanent.

The amendment that carries my name in this debate would take the 2009 levels for estate taxation instead of the levels contained in the Senate compromise.

The rationale for the 2009 level is pretty compelling. The estate tax in 2009 was the smallest rate of taxation on estates in 80 years.

My friend just referenced an estate tax situation encountered from his family. He did not say it was at a much higher rate of tax than was ultimately achieved in 2009. In fact, the rate in 2009 means 99.8 percent of the families in this country have no estate tax. Zero. It went gradually lower and lower, and in 2009 hit a lower rate of taxation for estates than was ever the case under Ronald Reagan, was ever the case under George Bush I, was ever the case under George W. Bush.

Now, why would we want to go with 2009 levels as opposed to the Senate deal? It's simply a matter of money: \$23 billion over 2. And, quite possibly, the levels in the Senate bill would be the new rate for the estate tax. In that case, we would lose \$90 billion over 10.

I have heard on the other side such concern about unpaid-for unemployment benefits. I have not heard one word about unpaid-for estate tax levels. They would add to the national debt \$23 billion more than the 2009 levels. They don't pay for a cent of it, and they seem to think that is fine. Do you know who benefits from the Senate tax levels compared to the 2009 levels? 6,600 of the wealthiest families.

Let's go with the 2009 levels. Let's save \$23 billion over 2, let's save \$90 billion over 10. Let's tackle these deficits, starting with a fair estate tax level.

Mr. CAMP. I yield 4 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Madam Chair, a gun is pointed at the head of our taxpayers, and it will go off January 1 unless Congress acts.

If we let that gun go off, it is going to hurt families who are struggling to make ends meet, it is going to hurt small businesses trying to survive this recession, it is going to hurt seniors, almost tripling the taxes on the dividends that they need to live month to month and day to day. It is going to hurt businesses trying to track capital. And it is going to revive the death tax, an immoral tax where you work your whole life to build up your nest egg, your small business, your family-owned farm, and when you die, Uncle Sam swoops in and takes more than

half of everything you have earned. All that happens if Congress refuses to act.

Some are here today saying, no, let's not change that death tax. Let's raise that death tax.

Last night on my Facebook page, I got a posting from Tammy Fisher of East Texas. Her family has had to sell 6,000 acres of their timber land to pay the death tax. They held that land for 100 years.

Clarence Leaveritt of Texas is a rancher. His grandmother died. They had to take out a loan from the bank to pay the death tax. They are still paying on it. His father passed away recently, and they had to take out a second loan. Today he is paying two loans to Uncle Sam and can barely keep his ranch. And last night, we heard Democrats say, Those people are stingy and cheap, and haven't worked a day in their life.

All that death tax comes back January 1 if we don't act. And I'll tell you what, we have some very good friends of mine who say, "Look, just let that gun go off because we can get a better deal later." Well, I am conservative and I am skeptical, and I am not raising taxes for anyone for any period, period.

I don't like the spending in this bill, and I offered an amendment, along with other conservatives, to cut \$152 billion from this bill to cover all the costs. We couldn't get a vote on that. We are voting on a lot of things tonight, but not a straight up-or-down vote on trimming government.

We didn't get that vote, but I can tell you, on the spending cuts, this isn't the end of that discussion; it is the beginning. When we have a new Republican majority, I'm going to take that gun down from our taxpayers' head. I'm going to give them a chance to keep their own money, get this economy going, and keep fighting for permanent tax relief and a permanent death tax repeal.

Mr. LEVIN. I now yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. NEAL), an active member of our committee.

Mr. NEAL. I thank the gentleman.

Madam Chair, I am standing in opposition to this proposal. When we debated the middle income tax cut a few weeks ago, I spoke in favor of a tax system that we might design for the future, a progressive system with substantial tax relief for working families, and, in our own Democratic caucus, suggested that the number \$250,000 was too low; that if we raised that ceiling to \$500,000, we could take care of every S corporation, we could take care of every small business person who at the end of the month uses their credit card. That was rejected. But I still thought that was a reasonable compromise.

Now, when my friend Mr. CAMP spoke a couple of minutes ago, he delineated the clearest position of the two parties

when he said he was upset that we were not paying for the extension of unemployment benefits.

For years they borrowed the money for Iraq, they borrowed the money for Afghanistan, and, I challenge anybody on the other side tonight to dispute this point, they borrowed the money for the Bush tax cuts as well. That is what we are discussing here.

Now, the reason that I stand in opposition to this proposal tonight—because there are many good provisions in this bill, including alternative minimum tax, and I do wish the Build America Bonds program was in here—this represents a serious threat to the solvency of the Social Security system. We will never return that number down the road. And you mark my words tonight, what they will argue down the road is the Social Security system has been weakened, proving that you need private accounts. Their fingerprints will be all over it. They will suggest this proves the theory of the benefit of a private account.

So we borrowed the money for Iraq. And when I said to President Bush in 2001 in the Oval Office, “Mr. President, modest tax cuts for middle income Americans,” it was rejected. And that is why we are in the condition that we are in today financially.

Mr. CAMP. I yield 5 minutes to a distinguished member of the Ways and Means Committee, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Madam Chair, I rise today in support of grownups, grownups who realize that the end of the year is coming, and taxes will be raised if we don't act now.

When I first came to Congress, I knew that partisanship had taken over. I knew the enormous extent of the philosophical divide, but I didn't fully realize that entire years would go by without the two sides working together to come up with an answer for the American people. Sadly, it seems it takes a genuine crisis and a sense of panic before we can work together. In any case, here we are.

The bill before us is not the bill that I would have written, that I would have participated in; it is not the bill that conservative radio talk show host or Tea Party constituents would have liked written; and it is not the bill that The New York Times editorial page or the President himself would have written. It is a compromise. This is what a compromise looks like. Some so-called constitutionalists want to ignore the fact that the Constitution itself actually was a compromise, with a capital “C.”

And while we are still in this bipartisan moment of clarity, let me say a few other things. First, while I strongly disagreed with the policies put forth by my Democrat colleagues, I do not envy them for having to preside over

the biggest economic collapse in a generation. And while I believe their economic premise is misguided, I cannot fault any legislator for sticking to his or her principles.

□ 2010

What I do believe is unforgivable, however, is the tremendous uncertainty that has been created over the past few years. Uncertainty is not good for families; it is not good for investors; it is not good for employers.

Regardless of the cause, all economic crises are ultimately a crisis of confidence. Frankly, the Democrat-controlled government has contributed to that. At a basic level, beyond all of the fancy models and theory, the economy is really not that complicated. Uncertainty leads to doubt, doubt leads to fear, and fear leads to paralysis; and that, ladies and gentlemen, is exactly where our country is today.

By refusing to work with this side of the aisle until this point, we have prolonged uncertainty and aggravated the fear. Even here today, in what feels like a great legislative compromise, the most we can deliver for the American people is a year of this and 2 years of that.

The uncertainty must end, Madam Chair, and I believe Mr. CAMP when he says that we are going to work on that in January when the Republican majority takes over. At this point, I don't much care what the policy is. I just think it needs to be set in stone. My constituents want to see all the tax cuts extended permanently, and they want the estate tax eliminated permanently.

Now, let me make it clear: I probably have about five wealthy people living in my district, so some might say, What do they care about the estate tax? While they may not be wealthy, they certainly hope that sometime in their life they will be wealthy or their children will be, and they realize the impact of that. And based on the economic situation, it is kind of a mystery to me why they would even care so much about these rich people, but as I said, they probably would like to work hard and become them.

Madam Chair, we know better and our constituents know better. If they aren't rich, they have lived just long enough to know that in this world there are no free lunches. You have to work for what you get and you have to fight to keep it. So even though many of them are poor and even though many of them are struggling, my constituents don't want handouts. My constituents just want to be able to earn an honest living and rest easy at night knowing that the government isn't going to come in and suddenly swoop in and take everything away from them. For them, Madam Chair, it is more than a matter of principle—it is simply a way of life.

My constituents are upset that the tax cuts aren't permanent, and many of them believe I should vote against this bill.

In short, the story cannot explain that despite the fact that only 2 percent of Americans are rich, more than half the country does not want them to be taxed more to expand government spending. You know, the truth of the matter is, Madam Chair, it is simple. They don't want government's help and they don't want our generosity with other people's money. My constituents simply don't buy it. They don't want a nanny state, and they don't want somebody else to have to pay for it—not their kids, not the Chinese, not their grandchildren, and not rich people.

The Acting CHAIR (Ms. NORTON). The time of the gentlewoman has expired.

Mr. CAMP. I yield the gentlewoman an additional minute.

Ms. GINNY BROWN-WAITE of Florida. I thank the gentleman.

Their philosophy and mine is we want the government to reward hard work, savings, investment, and job creation. I simply don't think these things should be punished, and certainly not in the name of fixing everybody's problems everywhere, because at the end of the day, doing that will just create more problems, more uncertainty, and more panic.

Finally, Madam Chair, my constituents know that we will never climb out of this ditch as long as we keep moving that ladder. Keeping taxes low has to be our goal. That is the ladder to getting out of that ditch.

I urge adoption of the bill.

Mr. LEVIN. Madam Chair, I yield 2 minutes to the distinguished gentleman from Wisconsin (Mr. KIND), a member of our committee.

Mr. KIND. Madam Chair, I rise in opposition to the underlying bill and in support of the Pomeroy amendment. But let's be clear what this legislation does tonight. It adds another \$1 trillion to our national budget deficit over the next 2 years. One trillion dollars.

Given the weak recovery we have going on with our economy, I think everyone is in agreement that now is not the time to be increasing taxes on working families and small businesses. We did that. We had that vote just a couple of weeks ago, where we protected tax relief on the first \$250,000 worth of income, no matter who you are, and on small businesses. That covered 98 percent of Americans.

But for those of you who are saying we need to continue tax breaks for the wealthiest 3 percent that is included in this bill, I say, find corresponding spending cuts in the budget to pay for it so we are not having to go to China to borrow another \$300 billion and adding to the debt burden of our children and grandchildren.

These are two unstated facts that we have before us today that no one is

talking about and that are not being reported in the media. First, our effective tax rate in this country today is at a 60-year low. A 60-year low. That predates the Medicare program and it certainly predates the 80 million baby boomers who are about to begin their massive retirement and join Medicare and Social Security.

But also, the effective tax rate for the wealthiest 3 percent is not the 36 or 39 percent marginal rate that some talk about. The effective tax rate for the wealthiest 3% is 17 percent, after they itemize and they deduct and back out their expenses with the numerous tax loopholes that exist in the current code. That is less than the average working family is paying with their effective tax rate. We cannot sustain that. It is irresponsible.

Now, about a week from now little boys and girls around the country are going to be waiting for Santa Claus' arrival. And I hope they are not watching this debate tonight, because the truth is there is no Santa Claus for the U.S. economy. But there are too many people in this Congress who think that their Kris Kringle is China that they can run to and borrow money from in order to sustain a fiscally and economically reckless policy. Rather than their children leaving out cookies and milk for Santa, they instead should leave out their piggy banks because of what we're doing to them in this bill.

We can do better, and I encourage my colleagues to vote "no" on this legislation.

Mr. CAMP. I yield 5 minutes to a distinguished member of the Ways and Means Committee and the ranking member on the House Budget Committee, the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. I thank the gentleman for yielding.

Madam Chair, let me address just a few of the issues that I have been hearing here on the floor. I am hearing some of my colleagues from the other side of the aisle saying, "We just can't afford these tax cuts." Well, let's look at it.

Only in Washington is not raising taxes on people considered a tax cut. What we are talking about here is not cutting taxes. We are talking about keeping taxes where they are and preventing tax increases.

The second point: We, meaning the government, can't afford this. Whose money is this, after all? Is all the money that is made in America Washington's money, the government's money, or is it the people's money who earned it? I hear all this talk about the death tax, the estate tax. This is going to give a windfall to these people, all this money going to these privileged people who have built these businesses, made all this money. It's their money.

Which is it? Do we have a country built on equal natural rights, where

you can make the most of your life, get up, work hard, take risks, become successful, create jobs, grow businesses, do well, earn success, and, yes, pass it on to your kids? What on Earth is wrong with that? That's the American Dream.

And to my friends on my side of the aisle who simply don't like some of the spending in this bill, I don't like it either. So let's cut the spending next year when we're in charge.

There's junk in the Tax Code. Everybody agrees with this. This is advancing some of the junk in the Tax Code. And what I say to my friends on the other side of the aisle is, next year, let's get rid of that junk in the Tax Code when we're in charge. But right now, let's not hit the American people with a massive tax increase.

If we want to get this debt under control, if we want to get our deficit going down, there are two things we need to be doing: We need to cut spending and we need to grow the economy.

We need prosperity in this country. We need job creation. We need people going from collecting unemployment to having a job and paying taxes so the revenues can reduce the deficit. And if we raise taxes, even the Congressional Budget Office is telling us, if this bill fails and these tax increases continue, we're going to lose 1.25 million jobs next year. Do we want to do that?

Low tax rates give us economic growth. Low tax rates make us competitive in the international economy. Low tax rates allow businesses to plan.

Is this a growth package? No, it's not a growth package. You know why it's not a growth package? Because it still proposes to move this uncertainty forward. It's only a 2-year extension.

□ 2020

So we're not talking about a pro-growth economic package, but we're talking about preventing a destructive economic package from being inflicted on the American people in about 2 weeks. The last thing you want to do is put more uncertainty in the economy, hit the economy with a huge tax increase, trigger a stock market sell-off, and lose jobs.

So do we want to make these permanent? You bet we do. And that's exactly what we're going to be advancing. But the last thing we want to do is inject more uncertainty, raise taxes. We need economic growth. We need spending cuts. That's exactly what we intend on doing. And I think that's the message the voters sent us here. So let's prevent this tax increase from happening. Let's clean up the stuff we don't like in this bill next year. And let's make sure that when people go to Christmas, they know they're not going to have a massive tax increase 5 days later.

Mr. Chairman, this is a bill that is necessary to prevent our economy from getting worse. This is not a bill that's

going to turn it around. Next year, let's pass the policies that will turn this economy around.

Mr. LEVIN. I now yield 15 seconds to Mr. WELCH of Vermont, followed by 3 minutes to Mr. JACKSON of Illinois.

Mr. WELCH. We have been awarded 45 minutes to state our objections to this bill. And it is essentially this: Too much debt, too few jobs, too much risk to Social Security.

Our lead speaker is the member from Illinois (Mr. JACKSON).

Mr. JACKSON of Illinois. Mr. Chairman, in about a month, almost every Member of this body will be speaking at events in their district commemorating the life of Rev. Martin Luther King, Jr., and his famous, "I Have a Dream" speech. Amid the soaring rhetoric and the beautiful prose, Dr. King made a clear point. In a sense, we have come to our Nation's capital "to cash a check. When the architects of our Republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American wants to fall heir. That note was a promise that all men would be guaranteed the inalienable rights of life, liberty, and the pursuit of happiness."

And I paraphrase, It is obvious today that America has defaulted on this promissory note. Instead of honoring this sacred obligation, America has given the people a bad check which has come back marked "insufficient funds." But we refuse to believe the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vault of opportunity in this great Nation. So we have come to cash this check—a check that will give us upon demand the riches of freedom and the security of justice.

Mr. Chairman, if we pass this bill, it will signal a refusal to pay our fair share into the vaults of opportunity for all Americans. It will drive up the debt and put pressure on our Nation's Capital to cut programs for the most vulnerable. If this agreement passes, when out-of-work Americans look in the 112th Congress for help in paying their rent, our Nation's Capital will look to those Americans and say, insufficient funds. When we look to veterans who need health care that is owed them, the 112th Congress will say, insufficient funds. When our schools look for funding they need to teach our kids, our Congress will say, insufficient funds.

Mr. Chairman, this bill will only drive up the deficit, which is already too high in the eyes of the American people. It will put even more pressure on Congress and the President to cut vital programs when we convene next year.

If this sounds familiar to the American people, it should. In the early 1980s, President Reagan's budget director, David Stockman, conceived of a strategy called "starve the beast." By

cutting taxes and increasing military spending, the President could force Congress to cut social spending in order to control the deficit. As Stockman put it, they would cut “real blood and guts stuff.” You heard it from the Budget chairman a few moments ago. When they’re in charge, they plan to cut real blood and guts stuff.

Mr. Chairman, if this tax deal goes through, blood and guts will affect us. At a time when they’re needed the most, they will put these important programs on the chopping block. Indeed, Mr. Chairman, we refuse to believe that the American people should be forced to accept this tax deal, to accept “insufficient funds.” We see \$858 billion that should be in the vaults of opportunity of this Nation. And that’s why we oppose this bill.

Members will follow me opposed to any argument that say there are insufficient funds in the great vaults of opportunity to rebuild this Nation.

Mr. CAMP. I yield 5 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Kentucky (Mr. DAVIS).

Mr. DAVIS of Kentucky. Mr. Chairman, today we debate legislation to prevent taxes from increasing on all taxpayers as our economy struggles to recover. We know without any doubt that virtually all Americans will be forced to send more of their hard-earned dollars to Washington on January 1, 2011, if we fail to act.

Although this legislation is not perfect in my estimation, the package does provide a measure of certainty and predictability that will allow broader debate in the coming Congress without immediately damaging our fragile economy. This package will prevent devastating tax increases from falling on the backs of hardworking Americans, small businesses, and job-creating investments.

This imperfect legislation represents the best agreement that can be reached by Republicans and Democrats determined to avoid the shock to our economy that would come from increasing taxes on the American people and many of our job creators. A vote against this agreement, which would prevent the largest tax increase in history, is really a vote for a \$3.8 trillion job-killing tax increase. Regardless of what side of the aisle the opposition comes from, they’re willing to accept the proposition that taxes will increase for all Americans. They may hope to gain political points, but I am not willing to let perfect stand in the way of good when it comes to matters that negatively impact the paychecks of Kentuckians.

Earlier this week, this package earned the bipartisan support of more than 80 Senators. If we fail today, middle class families will see roughly \$100 per week taken out of their paychecks. Increasing taxes now will cause more

pain for families with tight budgets, force small businesses to cut more employees, and further slow economic growth throughout the Nation.

Critics of extending the tax cuts for Americans have suggested that the cost will add to the deficit in coming years. While taxing is a functioning of government, the Federal Government is not entitled to any specific amount of revenue from the American people. What is the “cost” of letting Americans and job creators keep their own money? Because of budgetary gimmicks in Washington, many Members of Congress have lost sight of the fact that the money Congress spends comes from the American people, is owned by the American people, and the debt we accrue falls on their shoulders. Instead of following the budgetary common sense possessed by most Americans, Democrats and Republicans in Congress have routinely spent well beyond their means.

Now, many of my colleagues are looking to the pockets of the American people to foot the bill rather than making tough choices to cut spending in Washington. If less tax revenue is coming into the Treasury, Congress has an obligation to spend less. Democratic leadership in the House refuses to accept that proposition. Rather than take steps to solve excessive congressional spending, Democrats in Congress have had one response to the problem of our mounting debt: send more money.

Americans have lost faith in the ability of their Federal Government to demonstrate fiscal responsibility and self-control. Why would they trust those who claim the tax increases are the answer to our fiscal problems? With the tax record of this Congress, increasing taxes is tantamount to entrusting your teenager with a credit card.

This past November, voters sent a clear message, a restraining order on Washington: stop the political games with our economy, restore fiscal sanity to Washington, and create certainty and stability in our markets. American families and small businesses can’t afford for Congress to play chicken with their hard-earned tax dollars rather than renewing the expiring tax cuts. Therefore, if Congress chooses to ignore the demands of the people, dragging the debate into the next year, the result will be more money taken out of American families’ paychecks, impeded job creation, and more partisan political bickering.

Were I drafting this legislation, I would repeal the AMT, permanently abolish the estate tax, make the tax reductions permanent for all Americans, and insist that the unemployment compensation be offset by common-sense spending reductions. However, President Obama has made it clear that he won’t sign an extension of cur-

rent tax relief without the unemployment provisions or that makes the 2001 and 2003 tax relief permanent. Congress must develop and adopt a workout plan to eliminate the deficit just like any business or family in financial trouble.

Congress must learn from the mistakes epitomized by Washington’s “bailout” culture and support policies to increase American competitiveness and improve the economic climate for entrepreneurs and small businesses. The road to prosperity allows you to take more home to your family and enjoy the economic freedom that historically has been a hallmark of American culture.

Mr. McDERMOTT. I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. “Moment of Truth” is the very appropriately entitled report of the President’s bipartisan deficit commission, since it took barely a moment for him to cut a deal with Senate Republicans that spikes our national debt upwards almost a trillion dollars in new borrowing from the Chinese and others. This deal borrows from our future to throw tax money at problems with the efficiency of most of its provisions that you would get if people stood and shoveled out cash at the front door of the Capitol.

□ 2030

Billionaire estate bonuses, or 1 percent of the people getting a giant tax cut—that doesn’t provide meaningful job growth.

There is a very good reason we pay Social Security taxes: in order to share in the old-age survivor and disability insurance that is Social Security. This proposed Republican payroll tax holiday is not a day at the beach. It endangers the very fabric of Social Security. That is why the National Committee to Preserve Social Security and Medicare has rightfully called this bad deal “a disaster” for Social Security.

In a very few months, these same Republican privatizers of Social Security will claim, just as they are tonight about the Bush tax proposal, that we are raising taxes on workers when we seek to end this alleged “temporary” payroll tax cut.

This same dangerous deal for Social Security discriminates against so many people, who tonight are on the front lines with their lives, as our firefighters, as our law enforcement officers, as those who educate our children—those who provide vital public services. They don’t get a dime out of this provision. Ninety-five percent of the public employees in Massachusetts and a majority of those in the State of Texas get absolutely no benefit from this provision.

This bill undermines a guiding Democratic principle—dignity for seniors—and it undermines 75 years of Social Security.

Mr. CAMP. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. REICHERT).

Mr. REICHERT. I thank the gentleman for yielding.

Mr. Chairman, I rise to express my support for this bipartisan tax compromise. We need to do this. We need to do this to prevent a massive tax increase on the American people, on American families and on American businesses.

The clock is ticking and the American people are waiting. If Congress doesn't approve this proposal, our small businesses will be saddled and crushed by a \$858 billion tax hike. One-third of all business activity in the United States will see higher taxes—businesses that create 80 percent of our jobs in this country. Raising taxes on small businesses in the middle of a recession is absolutely the last thing Congress should do. Even those in Congress who want to raise taxes must question the timing of doing so when credit is scarce, wages are being cut, and people are losing their jobs.

As I travel around my district, I hear one consistent theme over and over again from small business owners: they need certainty. They want certainty—certainty so they know what Uncle Sam is going to take from them from their bottom lines now and into the future; certainty so they can plan for and make future investments—hire workers and buy equipment; certainty so they can pursue the American Dream without worrying about how government will get in the way.

Opponents of extending all of the individual income tax rates ignore the fact that more than 4.5 million small businesses in America pay taxes at the individual rate, not at the corporate rate. Failure to extend the current individual tax rates is a tax hike on small businesses.

My colleagues who want to discuss comprehensive tax reform should remember that extending all of the rates now will give us the chance to have that discussion without adding a massive tax increase on small businesses.

Avoiding this tax hike is just as important for families across this country as it is for our small businesses. Millions of Americans are employed by small businesses that will face this tax hike; and in many cases, their wages and their jobs hang in the balance of the decision that we will make here today.

The business world needs certainty and families need certainty—certainty to plan for the cost of higher education for their children, certainty to buy homes that they can call their own, and certainty for the day-to-day task of making ends meet in order to provide for the basic needs of their families. Businesses are struggling and families are hurting. The last thing we need government to do is to reach

deeper into their pockets and take their hard-earned dollars.

This compromise package isn't perfect, as has been said over and over—compromise rarely is—but perfection shouldn't be the barrier to what is practical and necessary.

Mr. McDERMOTT. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I came to peace with my decision on this bill this weekend when I was holding my 2-year-old grandson, Brody, who was checking out the Christmas tree. I became focused on the real question before us: Is it right to put \$858 billion of debt on that kid's shoulders? The answer is "no" for three reasons.

First, this bill represents an old and unsuccessful experiment in supply-side economics. It has failed time and time again. In 2001, it was going to create jobs. It didn't create a single net job. Most of us remember when the first President Bush called this type of scheme "voodoo economics." Do you remember that? Well, this is *deja vu* voodoo economics, and we have no interest in erecting a fiscal monument to the failed policies of George Bush.

Second, let's be honest about what this deal is—a bipartisan deal gone bad. It's a case where both sides handed out candy to their favorite constituencies, put the candy together in one pile of \$858 billion of deficit spending and said, We will sober up, just not today.

We've got to have time to eat our spinach, not just our candy. Stop kicking this can down the road. True bipartisanship will happen when both parties confront fiscal reality and become responsible.

Third, we have to face the music as to what this deal is. It's just another case of using an overextended credit card. We cannot build an economy based on consumer credit card spending, which is what got us in the hole in the first place. This deal does not educate one kid; it does not build one bridge; it does not lead to the production of one innovative company. It doesn't build America. It just builds American debt.

So let's learn from our past. Let's put away the credit card. Let's get an unemployment extension the old-fashioned way. Let's have more jobs and less debt.

Let's defeat this bill.

Mr. CAMP. Mr. Chairman, I yield 5 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. I thank the gentleman for yielding time to me.

Mr. Chairman, indeed, this is a sad state of affairs in which we find ourselves and having to deal with this in the waning days of the 111th Congress. In just a mere 16 days, a massive tax increase—\$3.8 trillion—will hit every

American taxpayer at a time when we are dealing with high unemployment, very sluggish economic growth, and uncertainty about our future.

American families and businesses have had uncertainty hanging over their heads for months, and we have known about the date of the expiration of these tax provisions. It is time for this Congress to act. It is way past due.

No one is satisfied. No one in this body, I'm sure, is satisfied completely with this bill. I certainly don't like provisions in it. We may not like the situation that we find ourselves in, but it is this situation that determines our duty to act.

Mr. Chairman, we cannot roll the dice with the American economy and with the fate of American families and American businesses. That would be the height of irresponsibility, and we have seen enough of that in this 111th Congress. Let's examine just some of the provisions in this bill.

If you vote "yes," you are voting to prevent tax increases on working Americans. You are voting to prevent tax increases on small businesses and job-creating investments.

If you vote "no," you are voting for a job-killing \$3.8 trillion tax increase that kicks in on January 1, and it will be paid for by every taxpayer and most small businesses in this country. If you vote "no," you are basically voting to allow for the average middle class family to see \$100 pulled out of their paychecks every week. That is a lot of money for the average family.

If you vote "yes," you are voting to prevent a hike in the death tax on our family farmers and small business owners, who take risks and who have built farms and small businesses—taking those risks in a uniquely American way.

□ 2040

Why do we want to penalize that? Mr. Chair, now there are some who say on our side that we ought to wait. They may think it's good politics. They may think we may have more leverage. Well, it's not all that clear as to what could be gained if we were to wait. But I will say this, Mr. Chair: It's inevitable that there would be delays in enacting any kind of a package, and as a result of the delays, months going by perhaps, we'll see a job-killing massive tax hike on everyone.

For those concerned about the deficit, certainly a concern I share, this tax increase will basically hit economic growth, hit prosperity in this country like a category 5 hurricane. It will put us back into a recession, and the prospects to try to correct these problems will be even worse and make it much more difficult for us to act in the future.

Let's be clear. This is not a pro-growth program as my colleague Mr. RYAN said earlier. This is a 2-year

agreement. It is a first step in correcting the severe problems that we find ourselves in. This will give us time to move forward with fundamental tax reform which, when coupled with spending decreases, cutting spending, we can get our country back on a sustainable economic course, a sustainable path to prosperity, a sustainable path to restore American competitiveness and to restore American leadership at a time when we need to do this from a position of economic strength.

So let's clear the slate so that we can start anew in January to get our country back on a competitive basis. I urge our colleagues on both sides of the aisle to support the passage of this bill.

Mr. LEVIN. It is now my privilege to yield 2 minutes to a member of our committee, the distinguished gentleman from Washington (Mr. McDERMOTT).

Mr. McDERMOTT. Mr. Chair, I rise today in opposition to the Senate amendment to the Middle Class Tax Relief Act of 2010.

This bill has good parts to it for the poor and the middle class, but it gives away \$120 billion to the superrich, \$120 billion the rich don't need, and will not create any jobs. It's a huge giveaway to the superrich in these tough economic times. It just boggles the mind. It's unconscionable. It's indefensible.

We all know the only reason we're even considering this craziness is to get Republican votes in the Senate so they won't filibuster the bill. That Republicans insist on giving away taxpayer money to the rich while sticking it to the poor and the unemployed is worse than wrong. It is without conscience.

Yesterday, my State of Washington announced it will cut all of the working poor health care from the State basic health plan. 66,000 people and 16,000 low-income children will lose their health care. All they will have is the emergency room. It doesn't end there. Washington State is also cutting off 85,000 elderly off their drug assistance program. These are people's lives we're talking about, and we're pushing American families off their last lifelines during a recession to give tax breaks to the rich. That's the Republican tradeoff.

Americans don't want this giveaway. They want us to act with compassion and economic common sense and not help start another Republican economic disaster.

We could and should fix this bill with fair rates, but we won't because Senator McCONNELL says, Give me money for the rich.

I urge you to vote against it.

Mr. Chair, I rise today in opposition to the Senate Amendment to the Middle Class Tax Relief Act of 2010.

This bill has good parts to it for the poor and middle class, but it gives away \$120 billion dollars to the super rich—\$120 billion dol-

lars the rich don't need and will do nothing to create jobs.

A huge give-away to the super-rich in these tough economic times just boggles the mind.

We all know the only reason we're even considering this craziness is to get Republicans votes in the Senate so they won't filibuster the bill.

That Republicans insist on giving away taxpayer money to the rich while sticking it to the poor and unemployed is worse than wrong—it's without conscience.

Just yesterday my own State of Washington announced it will cut all of the working poor from the State basic health plan.

Working poor numbering 66,000 and 16,000 low income children will lose their health care—all they'll have is the emergency room. It doesn't end there—Washington State is pushing 85,000 elderly off of drug assistance too.

This bill undermines Social Security and increases taxes on the poor. Republicans won't ever want to restore the so-called temporary 2-year cut to social security taxes in this bill. Republicans will soon be calling the restoration of this tax, which keeps social security solvent, a 'tax hike'. Then Republicans will bring up privatization as the only way to solve the shortfall. As a replacement to the Making Work Pay Credit, this tax cut actually increases taxes on the poor, and gives even more tax benefits to the rich.

This bill creates only stop-gap funding for unemployment insurance. Next year at this time unemployment will still be high, and we'll have another mean-spirited debate that demonizes the unemployed.

The give-aways and bad policy in this bill are capped off with the wasteful, environmentally disastrous Ethanol subsidy. Subsidizing ethanol distorts food markets and slows this country's real progress toward a sustainable green energy economy.

This bill transfers enormous amounts of wealth from the average American tax payer into the pockets of the wealthiest of this country at a huge cost.

These are people's lives we're talking about. We're pushing American families off their last life lines during a recession to give tax breaks to the super rich. That's the Republican trade off.

Americans don't want this give-away. They want us to act with compassion and economic common sense—and not help start another Republican economic disaster.

We should fix this bill with fair rates for the wealthy and funding for unemployment insurance that lasts until the working families of this country are back on their feet.

I urge my colleagues to vote "no."

Mr. CAMP. I yield 5 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSKAM).

Mr. ROSKAM. Mr. Chair, I thank the gentleman for yielding.

The State of Washington is cutting the working health care for the working poor? That's what we heard a minute ago. But wasn't it just an argument just a couple of months ago, Mr. Chair, that if this body took up the ObamaCare that basically the birds

were going to be chirping and the sun was going to come out and the clouds were going to part and the economy was going to be fabulous and we were not going to have another health care problem again? But what happened? Running ramrod through this body ended up a job-killing health care bill, and now we're wringing our hands. It's amazing to me.

Back when I was in the Illinois General Assembly, Mr. Chair, I used to practice law, and there was one time when I filed a motion at a courthouse and I approached a judge, and he knew that I was a legislator. And with a twinkle in his eye, he said, Well, Mr. ROSKAM, let's see how you voted on the judicial pay raise, and he kind of looked underneath his blotter. He was teasing me, and I quickly said, Well, Your Honor, I voted "no" but I hoped "yes." He thought about that for a second and he said, Motion granted.

Now, I hope today there's a whole lot of show business going on here, because I hope today, Mr. Chair, what's happening is that there's a lot of people who say they're voting "no" that aren't really voting "no." I mean, with due respect to my friend and colleague from the State of Illinois who acknowledged that there's insufficient funds, he thinks there's going to be insufficient funds, Mr. Chair, in the 112th Congress? Hey, look around, 111th Congress, there isn't sufficient funds.

This Congress and this leadership, Mr. Chair, has doubled our national debt in 5 years and, based on their own numbers, will triple that national debt in 10 years. So this is not a news flash that's coming in the 112th Congress. It's here today.

We had Debt Dependence Day here in the United States on August 4 of this year, which was the date at which every dime that went out from the Federal Government, Mr. Chair, was borrowed money. So let's not act as if this is a new issue. This is not a new issue.

Here's the issue that's before us: We're looking at a cataclysmic tax increase that has the potential to drive us and to push us to a tipping point and a spiral that goes further and further down.

Now, let me talk to friends on my side of the aisle who think a better deal is coming. Friends on my side of the aisle say, Oh, we're going to get a better deal. On January 5, we'll pass a bill. On January 6, somehow, miraculously, the Senate is going to pass it. On January 7, the President is going to remove all his objections. Even assuming, Mr. Chair, that that's true, let's think that through for a second.

Okay. So January 7, a new fabulous bill is signed into law. It's not until mid-February until the Internal Revenue Service can deal with that. It's not until mid-March when corporations and payers can deal with it. And so,

again, at the best case scenario, you're looking at sucking the life out of this economy for 90 days. And what does that do to all of our constituents? That puts us in a downward trajectory that none of us want. Nobody wants that.

You know, I think one of the messages of November 2 is that we need to come together and work together. Yeah, there's things in this bill I don't like. There's things in this bill that I'm not pleased with, but I do know that at all costs we need to avoid a job-killing tax increase.

I would be happy to yield to the gentleman from Illinois.

Mr. JACKSON of Illinois. I thank the gentleman for yielding.

I just wanted to ask the question. I was hoping the gentleman might comment on whether or not his impression of the bill was that it was deficit neutral. The gentleman has spoken about the deficit in the past. I wanted to know if he wanted to comment on that.

Mr. ROSKAM. Reclaiming my time, clearly it's not deficit neutral. Clearly, it does add to the deficit, which is why I said that it's not completely satisfactory. So Mr. RYAN, as ranking member and incoming chairman of the Budget Committee, has indicated what his intentions are.

But, you know, I do find it ironic that there is this newfound robust interest on the other side of the aisle as it relates to deficit reduction, notwithstanding the CBO's, OMB's, and everybody else's numbers that the national debt will triple in 10 years based on the current majority.

So I've said my piece, but I think it's very clear that what we need to avoid, Mr. Chair, at all costs, is raising taxes and putting this economy into a spiral out of which real, real difficulties come.

Mr. LEVIN. It is now my pleasure to yield 2 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER), an active member of our committee.

Mr. BLUMENAUER. A vote on this agreement may or may not be good politics, but it is wrong. It continues the Washington tradition of ducking tough issues, making suboptimal choices, and trying to make every interest group happy.

I'll be the first to admit that it contains items I support, including some I've worked hard to enact, but they're not worth the price, no matter how much I've invested in them.

□ 2050

This should be the time when we stopped adding to the deficit with nothing to show for it but a temporary boost to pocketbooks with a minimal boost to the economy and controversies that will continue nonstop through the next election. If, like a prudent family, we must borrow, it should not be for current operations but for long-

term investment. The tinkering around the edges of the tax code and the fixes, like the need to continue to "patch" the AMT in order to protect 30 million people, is counterproductive. It will cost money to repair the broken tax code, but it is an investment well worth the cost.

We should, instead, repeal the AMT, lower the rates, broaden the base, make the code simpler, more fair, and less costly. If we will be \$1 trillion more in debt, we should at least address the infrastructure deficit. That would at least pay for itself with projects that will last for decades while putting hundreds of thousands to work at family wage jobs.

Make no mistake, this vote means an exchange for a little temporary relief weighted in favor of those who need it the least. This bill means Americans will pay more in debt and interest, a sluggish economy, and costs of an unfair tax system. It's a bad bargain for the future of America's families.

Mr. CAMP. I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. I thank the gentleman for yielding.

I don't have time to detail all that is wrong with this bill, so I will focus on one very small part of it. It's the Social Security payroll reduction. I want everybody in this body to remember this figure, this one number: \$2,136. \$2,136—that's the raise that we're all giving ourselves with this bill. That's the raise that we're giving ourselves, and we're borrowing every penny of it from our kids and our grandkids, or probably China.

\$2,136. We don't know where that came from. I asked people in this body, How did that provision get in here? It's not part of extending current tax rates, keeping the tax rates current. This is something completely new. We're told, Oh, somebody in the Senate put that in. But nobody has sought to remove it here. But keep in mind, again, \$2,136. That's how much every Member of this body—because all of us make more than \$106,000 a year, so all of us are giving ourselves a \$2,136 raise with this legislation. We had better remember it because the voters certainly will.

As I mentioned, we're borrowing this money. We don't have it. We can't pull it from another account. There is nothing in the Social Security Trust Fund to take it from, so we're borrowing it, every penny of it. So just remember that number, \$2,136. That's the raise we are giving ourselves with this legislation. I urge a "no" vote.

Mr. LEVIN. I now yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL), a very distinguished colleague on the Ways and Means Committee.

Mr. PASCRELL. Mr. Chairman, our families are hanging by threads—literally—as we debate this tonight. We know the economic wreckage that oc-

curred between 2001 and 2008. Double unemployment, flat wages, and unbridled greed. We didn't do a very good job in correcting the problem in the second 2 years since we took over, no question about it. So these are perilous times.

And I say to my friend from Arizona, both sides agree. We need extraordinary remedies in extraordinary times. Ordinarily, your side and our side would vote against this legislation because it's not paid for. But these are not ordinary times.

You have said in the past "no" to tax relief that every American, even billionaires, could take advantage of, if an extra 2,800 estates don't get a massive tax break at a cost of \$60 billion. We had an agreement on the estate tax. H.R. 4151 provided a \$7 million exemption for families, affecting less than 0.02 percent of the country. That wasn't good enough. So when the negotiations over the next tax relief for America's middle class started, opponents saw the chance. They decided to take the middle class hostage, agree with the tax relief for all of America, only if 2,800 additional estates worth over \$7 million were also provided billions more in tax relief.

The truth of the matter is that I don't know any working class families that own estates worth over \$7 million. Maybe you do in your district. No, you said to middle class tax relief, if the top bracket is not extended for the top 2 percent, so as to give \$63.2 billion to 315,000 families making over \$1 million a year.

I ask for your support of this amendment.

Mr. CAMP. I yield myself such time as I may consume.

Let me just say, the gentleman from Arizona who spoke is a cosponsor of the legislation that would reduce the payroll tax that would give the so-called pay hike to Members of Congress. But let me just say, this payroll tax deduction applies to every working American, just as the rate reductions apply to every small business in America.

I yield 3 minutes to the gentlewoman from Kansas (Ms. JENKINS).

Ms. JENKINS. I thank the gentleman from Michigan for yielding.

When I ran for Congress, I made a pledge to the people of Kansas that I would not vote to raise their taxes. Today I will honor that pledge and vote for the tax bill before us because a "no" vote on this measure is a vote to raise taxes on every American taxpayer, every working parent, every small businessperson, every retiree, everyone. While the economy struggles to get back on its feet and unemployment remains at nearly 10 percent, allowing liberals to achieve their goal of raising taxes on American families and small businesses by nearly \$4 trillion is extremely bad economics.

There are several aspects of this provision that I am adamantly against, including the massive deficit spending

required to extend unemployment benefits for 13 months that are not paid for and the onerous 35 percent death tax which will create hardship for many family farms across the entire Midwest. But failure to pass this legislation will be the equivalent of reaching into the bank account of every middle class family and pulling out an additional \$5,000 next year. The families I represent in Kansas have had to tighten their belts and can't figure out why Washington continues to raid their bank accounts and refuses to tighten the belt of the Federal Government.

It is truly sad that we have reached this point. The current majority could have addressed this issue at any time over the last 2 years, but they were so busy throwing money at solutions in need of problems that they didn't take time to build a budget, appropriate money, or address the issue of taxes, and now our backs are against the wall. While this is far from the ideal permanent extension we desire, a 2-year extension of all the current tax rates provided in this bill gives business some short-term certainty so they can go out and invest and hire new workers to grow the economy, and it provides Congress with a window to truly reform the tax code correctly without a mad scramble next year to undo the damage.

When we reconvene in January, it is imperative that the next Congress, led by a new majority, reform our tax code and the death tax, rein in spending, and balance our budget. Placing punitive and oppressive taxes on hard-working Americans until Washington can agree on how best to accomplish all that is not the right way to go about this. Kansans expect more of their representatives in Washington. I urge my colleagues to cast a vote against tax increases and vote in favor of this bill.

□ 2100

Mr. LEVIN. Mr. Chairman, it is now my privilege to yield 2 minutes to the distinguished Member from the great State of Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Chairman, I rise in favor of this bill. The people in the State of Nevada are having a very tough time right now. We have the highest unemployment rate in the country and the highest mortgage foreclosure rate. The people in my district are particularly hard hit. One in five people that I represent have no jobs. The unemployment benefit extension in this piece of legislation is critical to the very survival of so many of the families that I represent.

Everybody thinks of my district of Las Vegas and North Las Vegas as a very glitzy, shiny, wonderful town, and it is all of those things. But it's a working class town, and most people don't fully appreciate that. I represent construction workers and electricians

and plumbers, Keno runners and cocktail waitresses and waiters and waitresses and valets and porters. All of these people are middle-income wage earners, and the middle-income tax extension is going to be a tremendous help to these families.

The child care tax credit, so many of the people that I represent in Las Vegas are single mothers who are working. The bane of every single mother, and I know this, is good child care at an affordable price. The child care tax credit makes a difference whether these women can go to work or not.

If you add in the alternative minimum tax, 33,000 of the people I represent will be slammed by that if we don't extend it.

Marriage penalty tax, earned income tax, these are all very important to the middle-income wage earners that call Las Vegas and Nevada home.

One of the most important things is the tax extenders that are included in this. Nevada is one of eight States that does not have a State income tax. If you're a State income tax State, you can deduct your State income tax from your Federal income tax. Nevada doesn't have one, so we, a few years ago, along with Brian Baird and a few others, were able to get an extension for sales tax and being able to deduct the sales tax.

The Acting CHAIR (Mr. SNYDER). The time of the gentlewoman has expired.

Mr. CAMP. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, job creation is priority number one. Fourteen million Americans are striving every day to find a job. But what they fail to understand in Washington, to get a job, you've got to promote small business and free enterprise and entrepreneurship.

Seventy percent of all the jobs created in America are created by small business. In my State of Florida, 99 percent of all businesses registered in Tallahassee, our capital, are either small businesses or medium-sized businesses mainly, a couple of hundred employees or less.

To raise taxes in this environment, when many businesses right now are struggling, on the verge of trying to stay open—many of them can't get credit. If we raise the taxes on small businesses—and a lot of people don't realize, a lot of small businesses are subchapter S, LLCs, partnerships, sole proprietorships, so it's all pass-through income to them personally. But raising taxes on small business, they're saying it will affect 48 percent of the businesses if we don't pass this today.

People ask, Why is it that business doesn't have any confidence right now or the confidence they should?

They just don't believe what's happening in Washington. The administra-

tion and this Congress, in their mind, and they're right, is very antibusiness.

So if we want to create jobs, the last thing we should be doing is raising taxes on small businesses. If we want to help families and we want to get people back to work, we need to pass this bill and do what we can. No tax increases come January 1.

Mr. LEVIN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. DAVIS), a member of our committee.

Mr. DAVIS of Illinois. Mr. Chairman, Justice Oliver Wendell Holmes is credited with saying that taxation is the price that we pay for a civilized society. And today we need the money.

As a matter of fact, I was in a meeting 2 days ago at CEDA—that's the organization in Chicago and Cook County that services low-income families—trying to figure out how to help some of my constituents get their homes heated, because it might be snowing in Washington, but it's cold in Chicago.

The telephone rang. Somebody said, Could you take a call from the President? I said, Which President? They said, Well, the President of the United States. And I said, Of course, I'll take it.

I got on the phone and the President said to me, DANNY, we need to pass this bill, and we need to pass it because even though it's cold, it's going to get colder; and there are going to be people who don't have any unemployment compensation benefits, and they can't pay their heating bill. There are going to be people who want to send their kids to college, and without the tax credits for college tuition, they won't be able to pay the tuition.

And I said, Yeah, but, Mr. President, what about those people way up at the top that are getting all of this money?

He said, Well, there might be an opportunity to reduce that.

And I'm looking forward to voting on the Pomeroy amendment so that we can reduce some of that money that they're going to keep in their pockets, put it into the Treasury so that we can help the poor people in Chicago who are cold and don't have any heat.

Mr. CAMP. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. SMITH).

Mr. SMITH of Nebraska. Mr. Chairman, I rise today in support of the underlying tax bill and in opposition to the Pomeroy amendment that would increase the death tax.

It is vital we do not stymie any economic recovery by failing to extend current tax rates. If we fail to enact this legislation, in just two short weeks, taxes will increase on every American.

Our country needs real economic growth, which can't happen if Washington doesn't prevent these tax increases on farmers, ranchers, and small businesses. The sooner we can provide

certainty to American businesses, the sooner they can get our economy back on track and start hiring again.

In particular, I would like to highlight the importance of providing certainty to farmers and ranchers in my district with a lower estate tax rate indexed for inflation. Despite the rhetoric from some, these folks aren't millionaires and billionaires. They want to simply leave their children and grandchildren the land they use to grow and raise food which feeds Americans and others around the world.

In the last year, the value of Nebraska farmland has increased by 9 percent, continuing a trend in which this land has doubled in value over the past decade. Without an estate tax exemption indexed for inflation, these farmers and ranchers will be forced to divide or sell their land, threatening the very existence of farming traditions which, in many cases, have been passed on for several generations.

Grieving families should never be forced to deal with the IRS during a time of mourning. The prosperity earned by generations of Americans should not be forfeited just because one life has reached its end.

I urge my colleagues to support the underlying bill.

Mr. LEVIN. Mr. Chairman, I yield 2 minutes to the distinguished Member from Pennsylvania (Ms. SCHWARTZ).

Ms. SCHWARTZ. Mr. Chairman, tonight I rise in support of middle class Americans. As families and the Nation continue to face economic challenges, we should extend tax cuts for Americans; yet the Republicans insisted that tax cuts apply to all incomes, even multimillionaires. And they are insisting, even tonight, on including an additional tax break for just 6,600 wealthy estates at the expense of tax relief for middle class Americans.

The goals of this tax relief package should be to help middle-income Americans and promote economic growth. And because of the President and Democrats in Congress, most of this bill accomplishes just that.

I commend the pro-growth business provisions, particularly the acceleration of business depreciation and extension of the research and development tax credits, which encourage innovation and investment. And I strongly support the extension of tax breaks for middle class families.

Unfortunately, the Senate Republicans' last-minute estate tax provision does not meet the goal of either economic growth or tax relief for the middle class. It is simply a bonus to the wealthiest few that is not fair, not justifiable, and not fiscally responsible.

Instead, the estate tax proposal that we offer as a substitute saves \$25 billion. The House should vote for this proposal because it promotes economic growth, extends tax cuts for all Americans, and provides sensible estate tax

relief for 99.75 percent of the Nation's small businesses, families, and farms.

Vote for the tax cuts. Vote for fair estate tax policy. Vote for this legislation, as amended.

Mr. CAMP. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. PAULSEN).

□ 2110

Mr. PAULSEN. I thank the gentleman for yielding.

Mr. Chairman, our number one priority in Congress should be enacting pro-growth policies that will put Americans back to work and get our economy back on track.

Sadly, in the past 2 years, this body has done very little to accommodate the record high unemployment that this country has faced. And this tax bill before us today will give us an opportunity to finally change that, because in just 2 weeks our country's small businesses will see a huge job-killing tax increase imposed upon them.

Now, we all know small businesses have been the backbone of our economy for a long period of years. They have served as our Nation's top and chief job creators, generating nearly 7 out of every 10 new jobs created. But according to the National Federation of Independent Business, small business optimism is still at a recessionary level, and only a net 4 percent of firms are even planning to create new jobs. Stopping these tax increases on January 1 will add jobs to the economy.

On the other hand, imposing these job-killing tax increases on our small businesses is only going to further delay an economic recovery that has been denied to the American people. So we must act now to prevent this from happening.

This bill also has a significant impact on our Nation's families. Voting against this bill will lead to a nearly \$100 tax increase on every hardworking American family every single week. These are families that are already struggling to make ends meet in tough economic times, and increasing taxes on them is only going to make matters worse.

Mr. Chairman, this bill is not perfect. Would I like to see these tax rates made permanent? Yes. Would I like to see the spending provisions and portions paid for? Yes. But well over 80 percent of this bill is tax relief. It prevents income tax rates from increasing; it prevents the alternative tax from hitting more middle-income families; it preserves the child tax credit; and it prevents the marriage penalty from being put in place.

Unless we act, on January 1 we will see job-killing taxes. But tonight, and today, we will have an opportunity to support American families and the small businesses that employ them.

Ms. SCHWARTZ. I ask unanimous consent to control the time until the gentleman from Michigan returns.

The Acting CHAIR (Mr. DRIEHAUS). The gentlewoman from Pennsylvania is recognized.

Ms. SCHWARTZ. I yield 1½ minutes to Mr. HOLT from New Jersey.

Mr. HOLT. I rise in opposition.

I am most concerned that this bill will undermine the very idea of Social Security by taking money out of Social Security and promising to make it whole with general revenues.

When FDR and others created Social Security in 1935, it was a political master stroke. Social Security was created as an insurance program and has remained intact for 75 years because Americans have a real sense of ownership for the program. FDR said Social Security should not use general tax revenues.

This bill puts Social Security on the table with tax breaks for the top 2 percent, with estate tax, alternative minimum tax, accelerated depreciation, making it essentially another bargaining chip. If we allow Social Security to become another bargaining chip for dealing politicians, then it will not be long for this world.

In good economic times and bad, this sense of ownership that Americans will get their due from Social Security has allowed it to survive despite determined efforts by determined enemies.

We can find better ways to boost our economy that do not add billions of dollars of debt to pay for tax cuts for the privileged few and do not jeopardize Social Security.

It is with regret that I rise in opposition to this legislation. Less than two weeks ago, I joined a majority of this House in passing middle class tax relief that balanced the needs of working families with our Nation's need to get its fiscal house in order. Unfortunately the Senate failed to pass this bill.

The legislation we are considering today is deeply flawed. We should try to put money in the pockets of working families, and I do not fault President Obama and many of my colleagues who want to get something done on behalf of the millions of Americans who need help. But, this is the wrong way to do it.

Yet, at a time when income inequality in the United States has risen to its highest level in decades, the bill under consideration would shift the burden of funding the Federal government further onto middle-class and working-class families. The bill would give away tax breaks to the wealthiest two percent of households at a cost of more than \$120 billion charged to the national debt.

I am most concerned, however, that the bill undermines the very idea of Social Security. Social Security has been a pillar of our society for generations. When Franklin Delano Roosevelt, Frances Perkins, and others created Social Security in 1935, it was a political masterstroke. Social Security was created as an insurance program and has remained intact for 75 years because Americans have a real sense of ownership for the program.

In good economic times and in bad, regardless of which political party is in power, this sense of ownership—that Americans will get

out that which they put into the Social Security—has allowed it to survive despite the efforts of determined enemies.

A provision in the bill would reduce an employee's contribution to Social Security from 6.2 percent to 4.2 percent of salary. This could have a beneficial stimulative economic effect. The \$112 billion cost to the Social Security trust fund of this payroll tax holiday is supposed to be replaced with money from the general treasury fund. But that is just the problem. In Social Security's history such a commingling of payroll taxes and money from the Treasury at this scale is unprecedented.

This is not just about the financial health of Social Security, rather it is about Social Security's rationale that has worked well for generations. This bill places Social Security on the table with tax breaks for business expenses and tax breaks for the top two percent of Americans—essentially making it just another bargaining chip. If we allow Social Security to become a bargaining chip for dealing politicians, then it will not be long for this world. As much as we need economic stimulus now, we will need Social security for decades to come. Rather than taking money from Social Security, I would support a tax credit—similar to President Obama's Making Work Pay tax credit—that would give working families a sizeable tax break with money from general revenues.

In a message to Congress on January 17, 1935, FDR insisted that Social Security should be self sustaining and that funds for the payment of insurance benefits should not come from the process of general taxation. FDR's message is as correct today as it was 75 years ago.

To be sure, the legislation before us today contains many good provisions that I would support on their own. The bill contains a one year extension of emergency unemployment benefits. According to the Labor Department, there are five job-seekers for every job opening in the U.S. Extending unemployment is the right thing to do morally and for the economy. The legislation would extend middle class tax relief for two years along with many family-friendly tax breaks such as the Child Tax Credit, Earned Income Tax Credit, Alternative Minimum Tax relief, and marriage penalty relief. The bill also would extend expanded transportation benefits for commuters and tax credits like the research and development tax credit to help businesses grow and create jobs.

Congress needs to provide unemployment insurance for Americans searching for work, extend tax relief for working families, and find solutions to our budget crisis. Yet these must not come at the expense of Social Security. It is too important to lose.

Mr. CAMP. I yield 3 minutes to the gentleman from New York (Mr. LEE).

Mr. LEE of New York. Mr. Chairman, I am amazed how my friends across the aisle now, all of a sudden, have found religion when it comes to fiscal issues.

But where were they when we had the \$800 billion stimulus? Where were they with the \$1.2 trillion health care bill that they all promoted? Where were they when the Speaker chose not to enact a budget resolution this year, the

first time in 36 years? And now they're preaching fiscal responsibility when we are out promoting a bill that is not cutting taxes; it is helping to ensure that every American citizen who pays taxes won't be seeing an increase this year. It is truly, truly amazing.

Simply put, this bill before us today will allow taxpayers to keep more of what they earn and will allow small businesses, the engines of our economy, to invest in themselves and invest in jobs. This bill will provide much-needed certainty that businesses have been screaming for. They are looking to invest in themselves and truly what they want to do is hire more workers, but: tell us what the rules are going to be.

Currently, today, businesses are sitting on close to \$2 trillion in cash and liquid assets awaiting to know what the rules are going to be. This bill is not perfect, but it will help set the stage for businesses to get some confidence and certainty in this economy and go out and start investing in U.S. workers. Congress is long overdue in providing this certainty to small businesses, and it is one of the best ways that we can start turning around this economy.

I ran a manufacturing business before coming to Congress. I know what it feels like to look at a production line and not know if you will be able to operate it the next month because Washington is dragging its feet.

By acting now, we can also ensure that small businesses and family farms aren't hit with a 55 percent death tax. We reaffirm our commitment to providing incentives for manufacturers to invest in research and development. And we help every American family by extending current tax rates, the child tax credit, and the marriage penalty relief.

Is this bill perfect? No. Few things are that come out of Washington. But the bottom line is that this bill will allow families to keep more of what they earn and help small businesses grow and invest in themselves.

This is a proven recipe for job creation. I urge my colleagues to support this bipartisan legislation so we can protect taxpayers and get on to the tough work of cutting spending next year.

Mr. LEVIN. I yield 1 minute to the gentleman from New York (Mr. TONKO).

Mr. TONKO. I thank the gentleman for yielding.

This bill is a bad deal for the middle class. If you work hard and play by the rules, you should be rewarded; however, today's bill ignores this. It lines the pockets of the mega-rich at the expense of everyone else.

Our top priority right now should be job creation. We tried the tax cuts proposed today for the last decade under the illusion that they would create jobs. And so I ask, Where are the jobs? Where are the jobs? This recession

wasn't an act of nature; it was man-made. Shame on us if we do the same thing again and expect different results.

I will continue to fight to strengthen the middle class, and I will continue to fight to extend unemployment benefits for the millions who are out of work through no fault of their own. I have voted in favor of both in recent weeks. However, we should not support a giveaway to millionaires and billionaires at the expense of future generations.

Mr. Chairman, this bill needs more jobs and less debt.

Mr. CAMP. I yield 2 minutes to the gentleman from Louisiana (Mr. SCALISE).

Mr. SCALISE. I thank the gentleman from Michigan for yielding.

Mr. Chairman, there are a number of things that have been talked about here that I think need to be addressed. One that I want to address point blank is this concept, this myth, that somehow preventing a tax increase adds money to the deficit.

Only in Washington would some liberal politician think that allowing somebody to keep money in their pockets and not have a tax increase somehow adds to the deficit.

In fact, if you really want to see growth in this country, if you really want to see more money coming into the Federal Government, something that's always been proven is having lower tax rates coupled with controlled spending. And that's the problem, that we don't have those issues being addressed here today. Hopefully, we will address that, and, I know in the new Republican Congress, we will address that we should make these tax rates permanent, including a complete repeal of the death tax, and you'll see some real growth in this country.

But there is a moral imperative here, too. There's been this talk about class warfare on this House floor tonight, and a lot of people running around talking about certain people that should have a tax increase. And that is a moral imperative because who is the greedy one here. Is it the single mother who is struggling to make ends meet right now? Or is it the liberal Washington politician who is trying to saddle her with another 50 percent increase in her tax rate if this bill doesn't pass? Who is the greedy one? Is it the small business owner who is struggling in tough economic times but maybe wants to create another 20 jobs in their small business? Or is it the liberal Washington politician that is going to try to saddle them with thousands of dollars in new taxes that will make it impossible for them to create jobs? That's the moral imperative.

It's time for the liberal Washington politicians to get their hands out of the pockets of the taxpayers and hard-working Americans in this country so we can get some real job growth. I am

glad the gentleman from Michigan, when he becomes the chairman of the Ways and Means Committee next year, wants to address the long-term problems. But in the short term, we need to prevent any American from having their taxes raised, and that's what this debate is all about.

□ 2120

Mr. LEVIN. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts (Mr. LYNCH).

Mr. LYNCH. Mr. Chairman, I thank the gentleman for yielding.

I associate myself with the remarks of the gentleman from Arizona who spoke earlier. There is another important number in this bill, and that number is \$119 billion—\$119 billion. You might ask why that number is important. That is the amount of money that this bill will rob from the Social Security trust fund if it is implemented, at a time when more and more of our seniors rely on Social Security as their sole source of income, at a time when more and more of our seniors are vulnerable and are on fixed income and can't go out and get a second job, at a time when more American workers are desperately needing Social Security benefits because their defined benefit pensions have gone away, any kind of pensions have gone away.

In spite of the remarks of the gentleman from Louisiana who just spoke, it is easy to forget that on most of these issues, Democrats and Republicans agreed. We agreed that 98 percent of Americans needed a tax break continued. We are fighting about that 2 percent. That is where the argument is. We are arguing about people who have \$10 million in an estate. In a windfall to them, should they pay taxes?

It is interesting that in this bill, those people have been protected, but the folks who are on Social Security and the solvency of the Social Security trust fund is fair game. Vote "no" on this measure.

Mr. BRADY of Texas. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Chairman, there's not much time when there's 3 hours and most of that is dedicated to pushing this bill. But the fact is, following up on Social Security tax, it's reduced by 2 percent, from 6.2 percent, for 2 years, which dramatically does affect the solvency of Social Security.

When I proposed the payroll tax holiday, I was going to pay for that—it's in the bill—pay for it with TARP. We were going to take that money from the Wall Street bailout and give it to the people that actually earned it. That would have worked. This isn't paid for.

We were elected into the majority to stop the deficit spending. We do need to extend the current tax rates so that we can give some stability to this econ-

omy. But two years, analysts say, is not going to push businessmen to run out and fix the economy.

This is a mistake. We can do much better for the economy. This is no time to sell out just to get some extensions. We can do better.

Mr. LEVIN. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Maryland (Ms. EDWARDS).

Ms. EDWARDS of Maryland. Mr. Chairman, in 2006, Warren Buffett wrote, "There's class warfare, but it's my class, the rich, that's making war, and we're winning." Today, in this bill, Mr. Buffett's sentiment rings as startlingly true today as it did 4 years ago.

I rise in strong opposition to this bill that will benefit only the wealthiest Americans at the expense of putting billions of dollars in debt on the backs of our children and grandchildren.

Over the last 35 years, our tax policies have concentrated a third of this Nation's wealth in 1 percent of our population, leaving 80 percent of us with 16 percent of our Nation's wealth, the rest. The proposal on the floor today only exacerbates that trend.

Mr. Chairman, we have staked our reputation and the legacy of this 111th Congress on fighting for working families. I just don't understand how we can saddle those same families with unsustainable tax cuts for the wealthy, an estate tax that benefits 6,600 families, and a payroll tax that without question raids Social Security.

If this is war, then let's put away this white flag. I refuse to surrender to those who want to benefit the two-percenters at the expense of the rest of us. To do that would surrender the hopes, the dreams, the retirements, and the paychecks of families all across this country.

It is time to put away the white flag and fight for working families.

Mr. BRADY of Texas. Mr. Chairman, may I inquire as to the time remaining on both sides?

The Acting CHAIR. The gentleman from Texas controls 35 minutes; the gentleman from Michigan controls 52½ minutes.

Mr. BRADY of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. LEVIN. Mr. Chairman, I now yield 2 minutes to a distinguished Member of the Ways and Means Committee, the gentlewoman from California (Ms. LINDA T. SANCHEZ).

Ms. LINDA T. SANCHEZ of California. Mr. Chairman, I rise today in strong opposition to this reckless legislation. There is no question that I strongly support some of the items in this bill. Unemployed Americans desperately need their benefits extended, and I proudly have voted to do so every time I have had the chance. This bill also contains tax cuts for hard-working American families, tax cuts I voted for 2 weeks ago on this very floor.

But this bill holds these good policies hostage to a giant handout to those

who need help the least. It is political bullying at its very worst, an affront to working American families waged by Republicans whose irresponsible decisions got us into this mess in the first place.

This bill contains a radical change to the inheritance tax that will concentrate wealth and power in even fewer hands than it is now. In a country that prides itself on being a meritocracy, not an aristocracy, such a giveaway is irrational. It completely neuters our ability to invest in people and infrastructure.

This bill contains tax breaks for those who will make more than \$250,000 a year, breaks that our country can ill-afford when teachers are being laid off and libraries are being closed, when those who have been unemployed for the longest are losing their safety net, and young men and women are still being asked to serve and die in Iraq and Afghanistan.

The payroll tax cut is another bad idea. Not only does it make Social Security less secure, many public servants, including California teachers, won't see any tax cut at all.

Overall, this bill adds nearly \$1 trillion to the deficit, while doing very, very little to create jobs, spur economic growth, or invest in America's future.

Because I am committed to creating jobs, making retirement secure, and investing in this country, I cannot in good conscience support this bill. Compromise is one thing, surrender is another, and I will not surrender in my fight to ensure that America remains the land of opportunity for all.

Mr. BRADY of Texas. Mr. Chairman, I continue to reserve the balance of my time.

Mr. LEVIN. I now yield 1 minute to the gentleman from Pennsylvania (Mr. ALTMIRE).

Mr. ALTMIRE. Mr. Chairman, I rise in support of this bill because it strikes the right balance between support for the unemployed and those who continue to suffer in the economic downturn, the continuation of pro-American and pro-family economic policies, and providing the much needed certainty for American job creators to make the long-term strategic decisions necessary to help grow our economy.

Now is not the time to raise taxes for anyone in America. One of the key factors that has stalled our economic recovery is the uncertainty about the regulatory environment and tax rates that small businesses will face in the coming years. With passage of this legislation, we can provide the certainty these businesses have sought, enabling them to finally be able to make the long-term strategic and hiring decisions that they were reluctant to do before they knew what the playing field would look like.

I urge my colleagues to support this bipartisan legislation compromise that will help kick-start our economy.

Mr. BRADY of Texas. Mr. Chairman, I continue to reserve the balance of my time.

Mr. LEVIN. Mr. Chairman, I now yield 1 minute to the very distinguished gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Let me first correct the gentleman from Texas, Mr. GOHMERT, when he says that this bill would make the Social Security trust fund less solvent. Every penny that the Social Security trust fund doesn't receive from payroll taxes it gets from the general fund.

But let me especially correct him when he says, oh, the other way to pay for this is by canceling the TARP bill. We canceled the TARP bill six months, seven months ago. He voted against the bill, but that bill passed, was enacted, and returned \$225 billion to the Treasury. Having done that once, we can't make money by just doing it again.

The Republican Senators held this country hostage, they held the middle class tax cuts hostage, they held the American economy hostage. President Obama agreed to pay the ransom. Now the question before this House is, do we block that ransom payment?

□ 2130

The problem is that if we do not make the ransom payment this month, President Obama will be willing to pay just a little bit more next month. So today we will do what we have to do.

Mr. BRADY of Texas. I continue to reserve the balance of my time.

Mr. LEVIN. I now yield 1 minute to the very distinguished gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. For many Americans, tonight their urgent priority is to find a job. It should be our urgent priority to create those jobs for those Americans. I support this imperfect bill because I believe it will help create those jobs. I think a tax cut of \$1,000 a year for a family making \$50,000 will help spur spending. I think that not raising taxes on people who sell real estate or teach school or drive a school bus is the right thing to do.

I think that some degree of tax certainty for business people and investors over the next 2 years will help to spur investment. And I know that every penny that people receive in an unemployment check will be spent as soon as possible—because people have to. And that helps spur the economy as well. And I also hope that the bipartisan agreement tonight to do the easy thing, which is reduce people's taxes, will be followed by a bipartisan agreement to do the hard thing—and that's reduce spending in a way that is sensible, equitable, fair, and necessary. This is not a perfect agreement, but it's a necessary one.

I urge a "yes" vote.

Mr. BRADY of Texas. Mr. Chairman, I yield 4 minutes to the gentleman

from Virginia (Mr. CANTOR) who has been a leader on lowering taxes, fighting the expansion of government, and expanding liberty.

Mr. CANTOR. I thank the gentleman from Texas.

Mr. Chairman, as we contemplate the tax agreement before us, I urge my colleagues to put politics aside and focus on the facts. We are crawling out of the worst economic downturn in generations. Working families and businesses remain gripped by economic uncertainty, and to this day Washington has only made the problem worse. If we want to cut into the 9.8 percent unemployment rate, Mr. Chairman, we have to instill confidence in the economy and begin to foster an environment for job creation. Today, we take our first step toward achieving that goal.

This tax deal is not perfect. And nearly all of us, myself included, disagree with certain elements of this bill. But let us not forget what we're fighting for. The reality is, Mr. Chairman, that on January 1, one of two things is going to happen to all taxpayers and most small businesses: Their tax rates are either going to go up, or they'll stay the same. The choice is to act now or impose the onset of a \$3.8 trillion tax increase that will crush the fragile recovery and cost tens of thousands of jobs nationally. This is an indisputable fact—and an unacceptable result.

Mr. Chairman, this tax increase would punish families and small businesses that cannot afford to pay it. Middle class families will see their taxes go up by \$100 per week. Let me be clear. There's only one path out of this economic crisis—and it's economic growth. But by transferring vast sums of cash out of the private sector and into Washington, Congress would be taking a club to investment, entrepreneurship, and innovation—the very building blocks of what we need to foster economic growth and job creation. About 84 percent of this package, Mr. Chairman, is either tax relief or extension of current tax rates. So, while not perfect, this is the kind of action that most Americans voted for last November.

In addition to preserving all marginal tax rates, it would kill the Making Work Pay credit and replace it with a payroll tax credit for all workers. It would deal with the alternative minimum tax that would begin to hit individuals making well below \$100,000, and would head off a punishing increase in the death tax.

Mr. Chairman, we could try to hold out and pass a different tax bill. But there's no reason to believe that the Senate will pass it or the President would sign it if this fight spills into next year. Meanwhile, Mr. Chairman, the uncertainty associated with a prolonged debate would cause grave economic harm and possibly send us back into a double-dip recession.

With that, Mr. Chairman, I urge my colleagues to pass this current legislation.

Mr. LEVIN. It is now my privilege to yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE of California. I want to thank the gentleman for yielding.

Mr. Chairman, we're voting on a tax package that gives away \$139 billion in tax breaks to the wealthiest 2 percent of Americans over the next 2 years in exchange for \$57 billion in unemployment compensation benefits for the next 13 months. The math just doesn't add up.

Many Members are opposed to this bill because it's bad economic policy. But it's also morally wrong. Last Friday, the Congressional Black Caucus, led by Congressman BOBBY SCOTT, a member of the Budget Committee, proposed a fair deal by eliminating the tax giveaway to the richest in our country and by extending the middle-income tax cuts, unemployment insurance, Temporary Assistance for Needy Families, Build America Bonds, affordable housing provisions, and the earned income and child care tax credit. Our proposal would also protect Social Security by offering a tax rebate instead of a payroll tax holiday to ensure that Social Security is not cut in the future, and it would create the same amount of jobs at half the cost.

We should let the Bush tax break for the rich expire. Period. Extending them for another 2 years digs us deeper into this deficit hole—and we know who will end up paying for it. It won't be the rich. It will be the poor, low-income communities, and communities of color, who lack well-paid lobbyists to look out for their interests here on Capitol Hill. I am reminded also of what Dr. Martin Luther King, Jr., called to our attention: "A bad check such as the one being written today will come back marked 'insufficient funds.'"

Instead of stuffing the stockings of the super rich, we need to stimulate direct job creation and economic recovery efforts. And we should not leave the chronically unemployed, those who have exhausted their 99 weeks of unemployment compensation, out of this deal. They should not be left out in the cold due to insufficient funds.

We should not allow the other side of the aisle to shove these tax breaks for the super rich down our throats in exchange for middle-income tax breaks. As AFL-CIO President Richard Trumka said yesterday in opposition to this bill, "Working families must not continue to bear the cost of unnecessary giveaways to the wealthiest," due to insufficient funds.

CONGRESSIONAL BLACK CAUCUS ALTERNATIVE TO THE PRESIDENT'S COMPROMISE

Members of the Congressional Black Caucus (CBC) are overwhelmingly opposed to the President's compromise with Republicans on

extending all of the Bush-era tax cuts for two years. While we are an ideologically diverse Caucus, the CBC has reached a consensus that we cannot support extending the Bush-era tax cuts for the wealthiest Americans; we can support moving forward on the following:

A 13-month extension of Emergency Unemployment Insurance Benefits plus additional assistance for the chronically unemployed—those Americans who have been unable to find work for more than 99 weeks.

A payroll tax holiday or equivalent payment, such as a tax rebate check, with guarantees that Social Security will not be deprived of revenue.

Targeted tax relief through a 2-year extension of the Bush-era tax cuts for hardworking middle- and low-income families and extending the enhanced provisions included in the American Recovery and Reinvestment Act for the Earned Income Tax Credit, the Child Tax Credit, and the American Opportunity Tax Credit.

The CBC proposal will cost less than half of the President's proposed trillion dollar compromise.

Members of the Congressional Black Caucus are keenly aware of the day-to-day struggles of hardworking American families and the unemployed. In the long-run, we believe permanently extending the Bush-era tax cuts will add trillions of dollars to our national debt thus jeopardizing the fiscal solvency of the United States Government.

This nation has difficult decisions to make in the years ahead and the CBC believes that vital programs, such as public education funding, financial aid for students to go to college, child nutrition programs, Veterans benefits, Social Security and Medicare, will all be put at risk if we permanently extend all of the Bush-era tax cuts. We believe the benefits of these vital programs to all Americans, especially to middle- and low-income Americans, far outweigh any tax cut.

It will take strong political will to make the tough choices necessary to bring our fiscal house in order. One such choice the Caucus made was to consider and reject support for the proposed reduction in the estate tax, which has a two year price tag of \$60 billion and only benefits the wealthiest 2% of American families. Rejecting that choice is particularly timely in light of the recent defeat of a \$250 payment to struggling Social Security recipients who are going another year without a Cost-of-Living-Adjustment. As we move ahead on ways to accelerate our economic recovery and balance our budget, the CBC stands ready to assist the President in a meaningful and responsible way.

Mr. BRADY of Texas. I yield 2 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. I do rise in support of this legislation. Obviously, it's not a perfect bill, but it is a good bill. And we have heard all the policy and political arguments against this bill. Let me just be very clear. It's really time to stop this \$3.8 trillion tax increase that awaits the American people. It's time to take "yes" for an answer. It's really time to get on board. If this bill fails, taxes go up on American savings, investments, income, estates, small businesses. We know what is coming. We know what is awaiting the American people.

As it relates to the estate tax, just think about that one moment. After

January 1, we know people will die. And if this law is not enacted, this bill is not enacted, we know what will happen. Lifetimes of hard work, sacrifice, and thrift will be punished, and this Federal Government will confiscate money from people at 55 percent who have less than \$5 million in assets. It's terribly unfair to family farms and family businesses.

Let's be clear. If you're voting "no," you're voting to raise taxes. Again, if you're voting "no," you're voting to raise taxes by \$3.8 trillion. If you're voting "yes," you're voting to stop a \$3.8 trillion tax increase. This is the vote that counts. The political games are over. No more posturing. The train is pulling out of the station. It's time to get on board. Vote "yes." Stop the tax increase.

□ 2140

Mr. LEVIN. It is now my privilege to yield 1 minute to the gentlewoman from Wisconsin (Ms. MOORE).

Ms. MOORE of Wisconsin. Thank you, Mr. Chairman.

Tonight, by extending the Bush-era tax cuts, the greedy will prevail, and the needy will fail to receive desperately needed social services going forward. Even the so-called middle class Bush-era tax cuts will deliver six times the benefit to the wealthy than to ordinary hardworking families.

How many times do we have to hear Republicans boldly declare, We will starve the beast and deny the least social welfare?

Frankly, this \$1 trillion tax cutting and Social Security gutting feeds right into the 75-year Republican sentiment to eliminate entitlements: \$1 trillion debt and goodbye Social Security net. Lure them with short-term gain and usher in long-term pain.

Colleagues, beware. Tonight begins the undermining of Social Security and Medicare.

Mr. BRADY of Texas. I am proud to yield 2 minutes to the distinguished gentleman from New Jersey (Mr. LANCE).

Mr. LANCE. Thank you very much.

Mr. Chairman, I rise in support of the underlying bill that ensures that taxes will rise on no one in America on New Year's Day, 15 days from now. What a terrible New Year's present that would be to the American people.

This bill creates greater certainty in the business community so that businesses across America can create the jobs this country so desperately needs, especially given our current 9.8 unemployment rate. New jobs will lower our annual deficits. Almost 85 percent of this bill provides tax relief, including preventing the job-killing tax hikes; enacting the AMT patch—extremely important to the district I serve and to New Jersey as a whole; and reducing the Federal estate tax from the scheduled 55 percent rate on January 1 down

to 35 percent—also extremely important to New Jersey where residential real estate is so expensive.

This bill has been endorsed by leading conservatives, including our new reform Governor in New Jersey, Chris Christie. It will give us time in the new Congress to enact fundamental reform, including deficit reduction, a permanent extension of existing tax rates, and the elimination of the Federal estate tax.

Mr. LEVIN. May I inquire as to how much time is remaining on each side?

The Acting CHAIR. The gentleman from Michigan controls 46½ minutes. The gentleman from Texas controls 28½ minutes.

Mr. LEVIN. It is now my real privilege to yield 1 minute to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Thank you, Mr. Chairman.

I rise in opposition to the bill because its passage will make it impossible to ever balance the Federal budget.

This compromise will add about \$900 billion to the national debt. That's more than TARP. That's more than the stimulus package. The 2-year cost of the bill is about the same as the 10-year cost of the health care reform bill. At least we paid for that.

We need to make tough, unpopular choices to balance the budget. Obviously, letting tax cuts expire would be unpopular. But when we ever decide to get serious about the deficit, we will find that the alternatives are even more unpopular because, after today's vote, the choices will necessarily include cuts in Social Security, Medicare, education, and other popular programs.

If we don't have the political will to end the disastrous Bush-era tax cuts now, we certainly won't have that political will during the middle of a Presidential election. The job creation in this bill is paltry—\$400,000 a job. We can do better than that.

Accordingly, Mr. Chairman, I urge my colleagues to make the tough choice and defeat this bill.

Mr. BRADY of Texas. I reserve the balance of my time.

Mr. LEVIN. Mr. Chairman, it is now my privilege to yield 2 minutes to a very active member of our committee, the gentleman from California (Mr. BECERRA).

Mr. BECERRA. I thank the gentleman for yielding.

For more than 200 years, America has worked hard to earn a reputation around the world that, when the going gets tough, America gets going.

We could lead in tough times. We could withstand adversity. We were prepared to sacrifice. Then, as our country matured, we were prepared, not only to do all those tough things, but to do them the right way, and we

were able to somehow figure out where the sweet spot was for prosperity in America—building the middle class: the GI Bill for our troops, Social Security and Medicare for our seniors, the best universities for our kids. As we invested in the middle class, our prosperity bloomed.

Fast-forward to the Bush recession and to the tough times we find ourselves in today. Americans are hanging tough, fighting to hold onto their jobs and their homes. But is everyone in America sharing in the sacrifice? This proposal gives millionaires \$139,000 in tax breaks each year. On top of that, it gives the 6,600 wealthiest Americans a tax break equal to \$23 billion.

Perhaps the most sinister provision in this proposal is the more than \$100 billion that it diverts from the Social Security trust fund and then borrows money from places like China to replace those dollars.

Everyone in America is ready to sacrifice. Everyone in America should be ready to sacrifice. This bill doesn't ask all Americans to sacrifice. The day should come, as the days have come, when all of us are prepared to sacrifice. This is not the bill. This is not the time to change America's history. Let us all work together, to pull together, to let everyone in the world know that we are prepared to sacrifice. America's wealthy are ready to sacrifice as all Americans who are trying to hold onto their jobs and their homes are prepared to sacrifice.

Let's do this together. We have that reputation. We know how to do it. Adversity doesn't concern us. We will do it the right way. Let us pull together. We can do much better than this bill. It is our chance to prove it to America.

Mr. BRADY of Texas. I continue to reserve the balance of my time.

Mr. LEVIN. I now yield 2 minutes to another active, distinguished member of the Ways and Means Committee, the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. I thank the gentleman for yielding.

Mr. Chairman, let me state that there is much in this bill that concerns me.

Specifically at a time when our budget deficits and national debt continue to hold back our economic growth, we should not be passing bonus tax breaks for the wealthiest few in this country and handing the bill to our children and our grandchildren. I also strongly prefer the House-passed language that provides estate tax relief in a responsible manner. Additionally, I worry that the payroll tax provisions, while good for working families in the short run, could undermine the finances of Social Security over the long run.

But, at a time when so many people face uncertainty in a fragile economy, doing nothing is not a very good option.

For far too long in this town, shortsighted partisanship has prevailed against the long-term best interests of our country. We need more bipartisan-ship in Washington, D.C., to tackle our Nation's most pressing problems.

I commend the President for getting us beyond the partisan stalemate and for laying the groundwork for economic progress for the American people.

There are many provisions in this bill that are going to help working families. I strongly support the middle class tax cuts, or at least to keep them going, in this bill. Child tax credits, marriage penalty relief, and education incentives will help middle class families make ends meet and invest for a brighter, more secure economic future.

Most urgently, Congress needs to pass the extension of unemployment benefits contained in this legislation. In my home State of North Carolina, thousands of workers have lost their jobs in the recession caused by the misguided policies of the previous administration. I have met with many, many of these people and have looked them in the eyes as they have told me their stories. These are good people who have worked hard and who have played by the rules. They are depending on these unemployment benefits to get them through these tough times until the economy picks back up and creates good jobs. We are here the week before Christmas, and the last thing we should do is cut off their lifeline.

I will vote to pass this bill, and I urge my colleagues to join me in doing so.

Mr. BRADY of Texas. I continue to reserve the balance of my time.

Mr. LEVIN. It is now my pleasure to yield 1½ minutes to the distinguished gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. I thank the gentleman.

What we are about to do here today is extraordinary, and the impact will be felt by our kids and grandkids for the next 30 years. With one vote, we are going to increase the already projected record deficit for this year of \$1.3 trillion to \$1.7 trillion.

□ 2150

Every penny of income forgone here tonight will be borrowed, much of it from China and some of it from our Social Security trust fund, for the first time in our history. For what? For continuing the failed economic policies of the last 9 years? We've got these tax cuts in place today. How many jobs are they creating? But you tell me we can't afford to invest, we can't rebuild our Nation's crumbling infrastructure, we don't have the money to do that. We know we can create real jobs there. We can increase the productivity of our Nation. We can compete better worldwide if we invest in our infrastructure and our education system and our people.

But no, we're going to have debt-financed, consumption-driven recovery as people buy goods made in China and, of course, the \$112 billion taken out of Social Security. And the Republicans have made it painfully clear tonight that the temporary cut in Social Security income is not temporary. They've said it time and time and time again. There is no such thing as a temporary tax cut.

I hope the White House is listening. They're about to spring the trap, and next year, they will say, Mr. President, you're going to raise taxes on every working American by making Social Security whole. You can't do that. Oh, and by the way, we're tired of subsidizing that program with money we're borrowing.

That is a horrible, horrible step for this Congress to take.

Mr. BRADY of Texas. Yielding myself 30 seconds, I would point out, our Democrat friends have run the first and second highest deficits in American history the last 2 years. They have raised taxes this session \$625 billion, and guess how much went to reduce the deficit? Not one dime. In fact, all that money was sent in twice. No one seriously believes Democrats will use tax increases to lower the debt, but to expand and grow this government.

I reserve the balance of my time.

Mr. LEVIN. It is now my pleasure to yield 1 minute to the gentleman from Florida (Mr. DEUTCH).

Mr. DEUTCH. Mr. Chairman, I rise with deep concerns over the temporary payroll tax cut included in the package before us tonight, not because we shouldn't provide relief to the middle class. We must, tonight. Cutting Social Security contributions could have lasting consequences, however, for our Nation's most successful domestic program.

In a year, in this very Chamber, many of our colleagues across the aisle will likely work to make this tax holiday permanent, just as they are tonight for the Bush tax cuts. Jeopardizing Social Security's independent revenue stream will open retirement benefits to budgetary attacks for the first time and pave the way for attempts to privatize Social Security.

We could give middle class Americans tax relief without threatening Social Security in this way. The unfortunate truth is we will not accomplish that here tonight, even as we do provide struggling working families and jobless Americans with a lifeline that they desperately need.

But we must commit ourselves tonight to the fight that lies ahead. We must be ready to protect Social Security and defend our seniors and working Americans from the attacks that are sure to come.

Mr. BRADY of Texas. I continue to reserve the balance of my time.

Mr. LEVIN. It is now my real pleasure to yield 1½ minutes to the distinguished gentleman from California (Mr. GARAMENDI).

Mr. GARAMENDI. Etched on the stones in the FDR Memorial are his words that are applicable tonight. He said: The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have little. President Roosevelt.

On December 2, the Democrats in this House honored those words. We passed a middle class tax cut, and we passed unemployment insurance, and we provided for those who have little. Tonight, because of the ransom that's been demanded by our Republican colleagues, we're left with a different option. We're left with the option of providing abundance to those who already have much, \$130 billion, every dollar borrowed probably from China. Is that fiscally responsible? I think not.

And furthermore, President Roosevelt, we are, in this bill, about to destroy your greatest heritage, the Social Security system. The Republicans are opening the door to the destruction of the Social Security system and thereby carrying out their 74-year task.

It cannot happen. We provided an alternative and we must not let that happen. I urge a "no" vote.

Mr. CAMP. I continue to reserve the balance of my time.

Mr. LEVIN. It is my pleasure to yield 1 minute to the active Member from Mississippi (Mr. TAYLOR).

Mr. TAYLOR. Our country is going bankrupt. On May 9, 2001, Mr. CAMP, our Nation was \$5.643 trillion in debt with a 4.3 unemployment rate. Guys like you came to the floor and said let's pass the Bush tax cuts. They did. I didn't vote for it. Eight years later when the President left office, our debt had increased by \$4,983,609,000,000, and the unemployment rate had gone up to 7.7 percent.

The argument that somehow these tax cuts are going to magically put people to work is bunk. Since the Bush tax cuts, we are now \$8,204,749,000,000 deeper in debt, and the unemployment rate is a shocking 9.8 percent. How much is enough? How much debt is enough? How many more bills are we going to stick on my kids and my grandkids so that you and others can get reelected?

It is time to draw the line, Mr. CAMP. I do believe in a balanced budget, and I would beg my colleagues, I would beg my colleagues, to defeat this measure.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (Mr. SCHIFF). Members should direct their remarks to the Chair.

Mr. CAMP. I continue to reserve the balance of my time.

Mr. BECERRA. I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I strongly oppose this so-called tax compromise because it represents a windfall for the wealthy, a windfall that will result in one thing and one thing only: insufficient funds for all other social programs.

By holding assistance for the unemployed hostage and giving tax breaks to the billionaires, tax breaks actually that create absolutely no jobs, we will create a big hole, a big hole in all of the support that we need for our children, for women, for veterans, for our education and health programs, and that only names a few, Mr. Chairman. Rather than tax breaks for the wealthy, we need policies that create jobs, jobs that will help our working families.

Mr. Chairman, I urge my colleagues to oppose this flawed tax package because it will yield only one thing, and that is insufficient funds for any of the social programs we need in our country.

Mr. CAMP. I continue to reserve the balance of my time.

Mr. BECERRA. I yield 1 minute to the gentlelady from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. Mr. Chairman, I ask that we send this bill back to the drawing board, work with the President, so that we can really help the unemployed, the 99ers, and not just grow the deficit. Where are the good Samaritans?

We have voted over and over for tax cuts. I believe in them. The House voted for tax cuts 2 weeks ago, but this tax bill is a budget buster and just growing the deficit, the same deficit that we're going to be called upon to do something about.

I want America to thrive. So they cannot be giving tax cuts to billionaires who do not want them. We cannot cut into the Social Security, costing us \$120 billion and impacting firefighters, teachers, and police who do not get a benefit from the payroll tax holiday. I want middle class tax cuts, but I want the Republicans to stop holding us hostage for hardworking Americans to get a dime from this country. They work hard.

I offered an amendment to ensure that the corporations that are getting the tax cuts really do save a job or hire the people who are unemployed. With billions being spent and trillions in the deficit, it is time now to work for middle class Americans.

Mr. Chair, I have deep reservations with portions of this bill, especially as it relates to the estate tax and tax cuts for the wealthiest 2% of Americans. Nevertheless, I do support portions of H.R. 4853, to extend vital tax cuts for America's middle and working class and extending unemployment insurance benefits that will otherwise expire at the end of this month. I have consistently supported and voted for middle class tax cuts, as I did two weeks ago when I voted for the Middle Class

Tax Relief Act of 2010, and the extension of unemployment benefits.

I am deeply saddened that the fate of unemployed, low and middle income Americans has been held hostage by the insistence by Republicans that this legislation include a giveaway to the wealthiest 2% of Americans that is going to irresponsibly expand the already large deficit. I have spoken to and heard from many fine, patriotic, hardworking middle income Americans from Houston, from the great State of Texas, and all across the nation. Middle class American families and small businesses are deeply concerned about our troubled economy, the skyrocketing national deficit, high unemployment rates, job creation, and sorely needed extension of the tax relief and unemployment benefits set to expire at the end of this month. The American people are asking the President and Members of Congress to move swiftly and take decisive action to help restore our economy in a fiscally responsible manner. I am disappointed that Republicans have insisted on holding unemployment benefits and tax cuts for working and middle class families' hostage in order to benefit the wealthiest 2% of Americans.

I also have some serious concerns that the temporary payroll tax cut included in this legislation could jeopardize Social Security. Although this is a temporary tax cut, there will inevitably be debate in the future about extending it before its expiration, which could create substantial shortfalls in Social Security's long term viability. Future extensions of this payroll tax at the expense of Social Security could force hard-earned retirement benefits to compete with other government programs for funding rather than remaining self-sufficient. Tax cuts must be instituted without compromising Social Security.

I would like to thank President Obama for his determined leadership, support and commitment to protecting important tax relief issues for middle-income Americans and the nation's small businesses and farmers during these challenging economic times. I would also like to thank all the Members and their staff who worked diligently to bring this essential legislation to the House floor today in an attempt to do all that we can to protect the American people and move this nation toward fiscally responsible economic recovery.

I support those provisions of H.R. 4853 as amended by Senate Amendment 4753 that provide necessary tax relief to struggling middle income Americans. Under the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act, Senate Amendment 4753, middle-class families and small businesses will see their taxes go down. This measure contains job-creating tax incentives, including incentives to create clean energy jobs, energy-efficient homes, and investments in renewable energy. It also ensures that millions of Americans still looking for work continue to have access to an emergency safety net to afford basic necessities, without extending the amount of time these benefits can be claimed for any given household.

The specific ways that this bill will benefit middle-class families and aid the economic recovery include the following:

It preserves the current income tax rate for middle-class families (2 years).

It reauthorizes the current emergency unemployment insurance program (13 months, or through the end of 2011).

It continues vital middle-class tax credits, including the American Opportunity Tax Credit to help families pay for college, the Child Tax Credit, and the Earned Income Tax Credit (two years).

It helps businesses by allowing them to deduct 100 percent of certain investments in 2011 and 50 percent in 2012.

It extends the state and local sales tax deduction, which is particularly important for states, like Texas, which have no state income tax (2 years).

It extends Alternative Minimum Tax relief through 2011 (2 years).

I have already voted for all of the above benefits.

Unlike those provisions of H.R. 4853 which benefit America's struggling middle class, I do not support the provisions of this legislation which condition that desperately needed relief upon the unconscionably high cost of providing an unnecessary, expensive giveaway to the wealthiest Americans by providing a two-year extension of Bush-era tax cuts for the wealthiest 2% of Americans while lowering their estate tax rate to 35% on estates valued at more than \$5 million for individuals and more than \$10 million for couples. These giveaways to the wealthiest Americans during these dire economic times needlessly add billions of dollars to our skyrocketing deficit yet create no value for our ailing economy since these tax cuts are not tied to job creation and preservation.

I offered an amendment that would require all large businesses and corporations who received a tax benefit under this legislation to report how their tax savings are being used to create or save jobs. Tax cuts for America's largest corporations must be tied to job creation or preservation, which is why I offered my amendment. Failing to tie tax cuts to job creation is irresponsible since it exacerbates our growing deficit without bolstering job creation.

I would like to add my support for the Amendment to H.R. 4853 introduced by my colleague, Mr. POMEROY of North Dakota. This amendment would strike Title III of the Senate amendment to H.R. 4583 and amend the bill to provide two years of estate tax relief at 2009 levels. In calendar years 2011 and 2012, the estate tax exemption amount would be \$3.5 million (\$7 million total for a married couple) and the maximum tax rate on estates would be 45%. Additionally, the amendment would provide estates from decedents in 2010 with the ability to elect to be treated under the 2009 levels or to be treated under current law for tax purposes. This election will allow estates to receive a step up in basis on inherited property rather than the 2010 carryover basis rules. The exemption level and rate are consistent with the estate tax proposal included in the President's FY2010 and FY2011 budgets.

While I am opposed to the portions of H.R. 4853 that amount to an expensive giveaway to the wealthiest 2% of Americans, I want to emphasize that I fully support President Obama's vision for change. I share his commitment to fighting for low and middle-income Americans who are the backbone of this country and our

economy. However, this legislation, especially as it pertains to tax cuts for the top 2% of Americans and estate tax provisions that are regressive and inflate the deficit, does not comport with this vision. I have serious misgivings about extending tax cuts for the wealthiest Americans at the expense of our deficit, especially if these tax cuts are not targeted towards job creation.

I strongly support the tax and unemployment insurance relief that H.R. 4853 provides to middle-income families, small businesses and farmers. But, my friends, I must express my concern that this legislation does not provide extension of unemployment benefits for those unfortunate unemployed Americans who have run up against a brick wall. These so-called "99ers" have been sincerely looking for work for a very long time and have run out of resources to provide for their families and pay their mortgages, pay their bills and buy food. They simply want and need a job to pay for these obligations. H.R. 4853 proposes to give tax cuts to the wealthiest Americans, yet fails to provide for the so-called "99ers."

□ 2200

Mr. BECERRA. I yield 1 minute to the gentleman from Connecticut (Mr. MURPHY).

Mr. MURPHY of Connecticut. Mr. Chairman, my constituents are willing to support this Congress borrowing money, but only if all of that effort is targeted at creating jobs. This bill fails that test. We're going to borrow almost \$900 billion under this bill in order to give \$140,000 in tax cuts to somebody that makes \$1 million. We're going to reduce the estate tax so that only 3,500 families in the entire country pay it next year.

Tax cuts for billionaires don't create jobs. Sure, there are important provisions in this bill that do help the most needy, like extending tax cuts to the middle class and unemployment benefits to those that are out of work. But these benefits are going to be greatly outweighed by the crushing debt that those same families will have to carry and the cuts to education and to health care and to Social Security that will inevitably be passed in order to finance those same tax cuts.

My constituents want a bill that is 100 percent focused on jobs. Unfortunately in this bill, 20 percent of the money goes to almost only 1 percent of Americans. It's not a deal to create jobs. It's not a deal that we can afford.

Mr. CAMP. I yield 2 minutes to the distinguished gentleman from Indiana (Mr. STUTZMAN).

Mr. STUTZMAN. Mr. Chairman, tonight we find ourselves faced with a very important decision with regard to what sort of taxes we face in the coming years. We are not simply voting on whether to "keep tax cuts." We are voting on whether or not we "raise taxes." To let our current tax law expire is to raise taxes on Americans.

Some say that the tax cuts will cost the government \$700 billion. Well, I say

that allowing the current tax cuts to expire will cost taxpayers \$700 billion. Who needs that money the most, our government or the people? If this bill fails and taxes go up in the middle of a very fragile economy, we risk any potential job growth and recovery from this great recession. Refusing to take more of taxpayers' money is not spending we wish we could afford. Taking taxpayers' money is spending the taxpayer cannot afford.

Mr. Chairman, I contend that we cannot punish taxpayers with a massive tax increase to pay for the massive spending problem in Washington. Let's let Americans keep more of their money, and let's start cutting spending and be responsible with the money that they have entrusted us with.

Should we increase taxes to bring more money into the government so that we can pay for the spending that's happened over the last several years? I say no. The message we need to be sending to the citizens of our great Nation is this, that we get it. We are not going to live beyond our means and ask you to foot the bill. We are going to cut spending, eliminate waste, and reduce our national debt responsibly. Let Americans keep their money and see what happens to the economy. Let Americans keep their money and see what happens to the unemployment rate. Let Americans keep their money because it's the responsible thing to do.

Mr. BECERRA. I yield 1 minute to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Chairman, I rise in strong opposition to the Obama tax bill.

I strongly support middle class tax cuts. I strongly support extending unemployment benefits to Oregon families who are still struggling to find jobs. However, this bill is not balanced. The bill extends tax cuts for millionaires and billionaires for 2 years. Yet unemployment insurance is extended for only 1 year. Why are we providing tax cuts to the very wealthy while literally leaving unemployed Americans out in the cold?

Further, this bill is fiscally irresponsible and, as a result, bad for jobs and bad for our economy. The bill costs over \$800 billion over the next 10 years. The bond markets are already reacting to this, interest rates are going up, and this will squelch what anemic job growth we do have.

We should defeat this bill, restore fairness and balance between those who have the most and those who have the least, and cut the cost in length of this tax giveaway to millionaires so that interest rates rise less and job growth can continue. Please defeat this legislation.

Mr. CAMP. I continue to reserve the balance of my time.

Mr. YARMUTH. Mr. Chairman, I ask unanimous consent to control the time until the gentleman from Michigan returns.

The Acting CHAIR. The gentleman from Kentucky is recognized.

Mr. YARMUTH. I yield myself 2 minutes.

Mr. Chairman, when families around the country try to deal with their budgetary issues and there are limited resources available, what they do is, they say, Well, we may have to borrow money; but if we're borrowing money, we're going to borrow it for survival—meaning necessities—or we're going to borrow it to make an investment that will pay off over time.

There are many things in this package that represent those two standards. Unemployment benefits represent necessities. Those are things our citizens need to survive for them and their families, and there are business tax credits in these bills that represent investments that will create jobs and stimulate economic activity. All of those are good things.

On the other hand, there are expenditures in this bill that don't meet either of those standards. These are the expenditures that give over \$100 billion to the wealthiest citizens in this country, the ones whose net worth has dramatically increased over the last decade, who now, 1 percent of this country, control a vast majority of the wealth of this country. They have done extremely well. To give them more money when we're borrowing it is not the kind of priority we need to set. It does not represent an investment in jobs or in stimulative activity, and it does not represent necessities. These are bonuses to people who don't need them.

There are lots of good things in this bill. Unfortunately, the price for getting them is much too high. This is like going to the hospital when you're very sick, and the doctor says, You know, I'm going to give you \$250,000 of care that's going to be really effective for you. It's going to make you well. Unfortunately, you're going to have to eat \$100,000 worth of candy which will do nothing for you. This is the price that we are being asked to pay by Republicans in the Senate for the many good things in this bill. Always, government is about choices. Governing is always about choices and priorities. This is the wrong set of priorities for this country.

Mr. CAMP. I yield 4 minutes to the distinguished gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding.

And, Mr. Chairman, I had not originally thought I would come here to speak. I must admit, I have been watching the debate in my office and have some amount of envy for my colleagues who bring such passion and certainty of their vote as they come to the floor.

As I look at this legislation and listen to my colleagues, I must admit I

consider it to be a very successful negotiation because I am not sure I have heard anybody who really likes the bill. Perhaps that's a hallmark of a successful negotiation. As I look at the legislation, it is the classic challenge of, Is the glass half full or is it half empty? I, for one, have decided it to be half full.

Mr. Chairman, clearly there are items in this legislation that I find not just empty but, frankly, atrocious. Yes, there is tax pork in this legislation. There is an unpaid-for extension of unemployment benefits. Mr. Chairman, at some point, I would hope the majority—soon to be minority in this institution—would realize that we have got to concentrate on the paychecks. Americans want paychecks, not unemployment checks. And if we're going to have them, they need to be paid for. And worst of all, what's happening to Social Security, with the payroll tax without putting any fundamental reform on the table. And what I would say to my friends on the other side of the aisle, It is you who brought that to the table.

Mr. Chairman, I made a pledge to my constituents. I told them I would fight any tax increases. I told them I would try to bring certainty to this economy because that is what businesses need. Trillions of dollars sitting on the sidelines, waiting to come into this economy; but yet the party who has been in control of Congress for 4 years, had the White House for 2 years waits until almost Christmas Eve, and we still don't know what tax rates are. There's no certainty.

□ 2210

The only thing I am certain of is that if we don't pass this legislation, there's about to be a \$3.9 trillion tax increase on the American people, on school teachers, on farmers, on single mothers, on small businesses, on job creators, and, yes, even the vilified wealthy.

Mr. Chairman, we've heard the class warfare rhetoric for quite some time now; and look what it's got us, almost serial double digit unemployment and human suffering.

Mr. Chairman, I've held a lot of jobs in my life. I used to bus tables at the Holiday Inn in College Station, Texas. I used to work on a loading dock and load windows. I used to clean out chicken houses, which to some extent was sufficient training for the present occupation, but that's a subject for a different time.

But, you know what, Mr. Chairman? In all these jobs I've held, no poor person ever hired me. It was somebody who went out and risked capital and took a chance and built something. And yet the left and my colleagues on the other side of the aisle want to vilify this person, that somehow it's bad to go out and be successful and cre-

ate jobs so that people can put roofs over their heads, put food on their table, send their kids to college. I don't get it.

Now, my friends on the other side of the aisle say well, this will add to the deficit. Well, why didn't I hear that argument during the \$1.2 trillion failed stimulus? I didn't hear the great angst and anxiety from my friends on the other side of the aisle at that point when we passed an almost \$400 billion omnibus spending bill. I really didn't hear it.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CAMP. I yield the gentleman an additional 2 minutes.

Mr. HENSARLING. I didn't, Mr. Chairman, hear this angst and anxiety when my friends on the other side of the aisle not only brought us the first trillion dollar deficit in America's history, but backed it up with the second trillion dollar deficit in American history. I didn't hear all this concern. I only hear it now when we're talking about letting the American people keep what they earn.

We're not even talking about a tax cut here. We're talking about preventing a tax increase. So I don't quite understand all of a sudden this great angst and concern about the deficit.

And I might remind all of my colleagues, it is the deficit which is the symptom. It is spending which is the disease. We can clearly get rid of the deficit tonight. Let's increase taxes 60 percent, 60 percent on all Americans. Let's more than double taxes on our children and destroy the American Dream. Sure, we can balance the budget. That doesn't take care of the fiscal insanity.

And so to avoid a further job meltdown—and let me make it very clear, Mr. Chairman, this is not any great economic growth package that is put before us. I don't believe that this is going to be the cornucopia of jobs. What we're trying to do here is avoid further damage to a crippled economy that, again, has almost double-digit unemployment on a serial basis. I wish we had at least 10 years of certainty of these tax rates. I'm sorry it's only two.

I would say to my friends on this side of the aisle who say, well, we could have gotten a better deal: well, I don't know. I wasn't in the room. I didn't negotiate the deal. Maybe their crystal ball is clearer than my crystal ball.

Here's what I see in my crystal ball. I'm absolutely for certain in my crystal ball that come January, Barack Obama is still going to be President of the United States. In my crystal ball, HARRY REID is still going to be Senate majority leader.

The Acting CHAIR. The time of the gentleman has again expired.

Mr. CAMP. I yield the gentleman an additional 30 seconds.

Mr. HENSARLING. That's what I see in my crystal ball. So maybe the

friends on my side of the aisle, maybe you're right. But you have a degree of certainty and clarity of the future I do not have. So, personally, I'm not willing to take the chance.

I'm going to cast the "aye" vote. I'm going to stop the job-killing tax increases. I'm going to add at least a modicum of certainty, 2 years of certainty to the Tax Code. And I'm going to fight to put this Nation back on the road to fiscal sanity because, in this legislation, I see the glass half full.

Mr. LEVIN. It is now my privilege to yield 1 minute to the very distinguished Member from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I'm deeply disappointed in the recently negotiated tax deal by the White House. While one can find items that are politically and practically attractive, in its totality, it borrows just shy of \$1 trillion to pay for, amongst other items, expiring tax breaks for the top 2 percent of our country. My fear is that the 2001–2003 Bush tax cuts will become permanent, and our fiscal future will dim as America struggles with the largest transfer of wealth and debt creation in its history. We should, instead, be investing in capital formation, technological innovation, job creation, and education. These are the real building blocks for a strong future for all Americans.

I'm also deeply, deeply concerned about borrowing from the general fund to cover Social Security payroll taxes. This is the first time in the history of Social Security that the firewall between the general fund and Social Security is being taken down. This is dangerous. It's a bad precedent and one I believe we will all regret.

Mr. CAMP. Mr. Chairman, I reserve the balance of my time.

Mr. LEVIN. It is now my privilege to yield 3 minutes to a member of our committee, the gentleman from Maryland (Mr. VAN HOLLEN), who has been working day and night on this issue.

Mr. VAN HOLLEN. Mr. Chairman, I am pleased to have worked with Congressman POMEROY and Chairman LEVIN and others on the amendment that we're going to be voting on later tonight.

While this House recently passed, and Democrats have been fighting, to ensure that tax rates do not go up on 98 percent of the American people, Senate Republicans made it clear that they will raise, that they will raise taxes on every American if they don't get a special bonus tax break for the very top 2 percent.

In order to break that stalemate, President Obama concluded he needed to cut a deal. What this amendment we will be voting on later tonight does is give the American people a better deal. Specifically, it asks all of us to consider this question: In an era of \$1 trillion deficits, with our national debt ap-

proaching \$14 trillion, barely 2 weeks after the bipartisan fiscal commission's "Moment of Truth" report, should we really be borrowing \$23 billion from China to give the wealthiest 6,600 estates an average tax break of \$1.7 million a year?

Think about it: \$23 billion for the wealthiest 6,600 estates a year, at a time of fiscal challenge, in a Nation of over 300 million people, without any benefit for job creation or economic growth.

Mr. Chairman, much of the deal negotiated by the White House is defensible. But I would say to my colleagues, if we can't agree now that now is not the time to be giving the top three-tenths of 1 percent a multi-million dollar tax break, we're clearly not serious about bringing down the deficit.

There's another way, and that's in the amendment we will be voting on later today. We can adopt the amendment. It will provide a \$3.5 million exemption and 45 percent maximum rate. That's identical, identical to the rates and exemptions that were in effect in 2009 and significantly better than the rates that will take place if we take no action on January 1 when the exemption would go to 1 million and the rate would go to 55 percent. In fact, if enacted, this amendment would represent the lowest estate tax in 77 years up through 2009.

Mr. Chairman, we have to level with the American people. We've got to start somewhere bringing down the deficits. And if we can't settle on the estate tax exemptions and rates that were in place in 2009, which, as I say, were the lowest, the lowest in 77 years, if we can't do that and, instead, we're going to say to the very wealthiest estates, heck, we're going to give you \$23 billion over the next 2 years to benefit just 6,600 estates, how can we look the American people in the eye and say we're serious?

□ 2220

Mr. Chairman, I hope when this amendment comes up later today we can make this deal one that truly benefits all the interests of all the people in this great country.

Mr. CAMP. I continue to reserve the balance of my time.

Mr. LEVIN. I yield 1 minute to the gentleman from California (Mr. FARR).

Mr. FARR. I thank the gentleman for yielding.

Wake up and listen to the sirens, the sirens of the election that were about the deficit in America, and you want to add \$1 trillion to that deficit. Wake up and listen to the sirens of the people who are needing of help.

I can't believe that you talk about this bill as fiscal sanity. It's fiscal insanity, putting us in another trillion dollars of debt, and with this concept of, if you give the rich more money, it will trickle down.

Well, those sirens that are responding to the children that are in need of health care, to the people who need to be rescued, aren't paid for by trickle-down economics. The rich never pay for that. There isn't an ambulance in the country that's paid for by the rich. There isn't a soldier that's paid for by the rich. There isn't a schoolteacher in a public school paid for by the rich. That doesn't happen.

Your putting our country into debt is what Admiral Mullen said is the biggest issue in national security. It's what the debt commission said we couldn't do. There's nothing in this bill that's fiscal sanity. It's insanity. We fixed this debt by closing these tax loopholes, and now you want to give them away. Shame on you.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Members are reminded to direct their remarks to the Chair.

Mr. CAMP. I reserve the balance of my time.

Mr. LEVIN. I am privileged to yield 1 minute to the gentleman from Tennessee (Mr. COHEN).

Mr. COHEN. The definition of insanity is doing the same thing over again and expecting a different result.

To my friends on the Republican side, we did this 10 years ago with the Bush tax cuts, and it didn't work. It has been mentioned over and over again. It built up these deficits, including the wars in Iraq and Afghanistan that you supported so well, and has created this deficit that threatened our country to make us look like a future Ireland, a future Portugal, countries that are in great deficit, problems that we are putting our country and our future into. We don't need to be insane and try to do this over again. I feel like it's a return to Christmas Past.

And there's a book in the New Testament that says: From those who are given much, much is expected. But in this Congress, from those who have much, we are expecting little, we get little from it, and we are giving them the biggest tax breaks of all. And to the people who die and are the richest in our Nation, the Steinbrenners who died with \$1.1 billion, we will be giving them this year a \$450 million free ride and, with the differences in the taxes of 35 or 45 percent, \$100 million. This is wrong, and that's why I'm opposed to the bill.

Mr. CAMP. I yield 5 minutes to a distinguished member of the Ways and Means Committee, the gentleman from Ohio (Mr. TIBERI).

Mr. TIBERI. Mr. Chairman, what an honor and privilege it is to be a Member of this House, and what an amazement it is to me to hear this debate that I have heard so much in the past. The road to prosperity is not through tax increases. The road to prosperity in America is not through class warfare.

My mother and father came to an America, a United States of America,

for a better life, for an opportunity—not a guarantee, an opportunity, for their kids to be successful, for their kids to do well and pay taxes and do well for their kids.

When you're voting on a bill tonight that extends current tax rates, the current Tax Code that represents, Mr. Chairman, three-quarters of this bill, that represents three-quarters of the, quote, spending in this bill, and Members of this body say we have to borrow to allow people to keep the money that they earned, where have we come?

My father was a steelworker who loved John F. Kennedy, who proposed similar types of tax increases. My mother was a seamstress. Neither graduated from high school. They don't believe in class warfare.

Do they support all of this bill? Certainly not. Do I? Certainly not. But the question now, Mr. Chairman, is: Do we allow, on January 1, the largest tax increase in American history? That's the question.

I didn't negotiate this bill. If I were king, I would have certainly negotiated it differently. Only in Washington, D.C., can people keep what they have today and not pay more taxes does it cost the government money.

Think about the farmer who is sick, who is trying to plan his estate. And would I support permanency in the estate tax? Absolutely. And let's eliminate it. But if this bill doesn't pass, a \$1 million exemption occurs for that sick farmer trying to plan his estate. Will he have to sell his land, Mr. Chairman?

How about the single mom with two jobs trying to provide for her two kids? Her taxes will go up. How about the teacher and the police officer raising a family? The marriage penalty. How about the small business owner who pulled me aside on Wednesday and said: I can't even plan my business. I'd like to hire somebody. And you folks in Washington have known for how long that these tax rates were going to go up?

Last year, the majority party had 60 votes in the Senate, had a clear majority in the House. You could have passed something. And here we are, 9 days before Christmas, and the Grinch is about ready to steal it for so many Americans who will see their taxes go up, Mr. Chairman, if this bill isn't passed.

Now, there are a lot of things in this bill that I don't like. But the question today, Mr. Chairman, is: Do we let the perfect be the enemy of the good?

I could sit up here and pick apart pieces of this legislation. But when three-fourths of this is the current Tax Code, three-fourths of this allows for the current rates to continue so taxes don't go up on millions and millions of Americans, Mr. Chairman, it really comes down to this simple logic:

We cannot tax our way to prosperity. We cannot tax our way to fiscal respon-

sibility. We must pass this bill and give 2 years for this Congress, this President, this Senate to come up with a better way, a more simple way to tax Americans; allow them to keep more of their money; provide for a way for capital to work in America's favor and allow America to be more competitive again, with a Tax Code that makes sense.

But the question today is: Do we allow taxes to go up, or do we allow Americans to have some certainty for the next 2 years?

Mr. LEVIN. I yield 1 minute to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, I thank the chair of the committee for allowing me to speak.

I support maintaining the estate tax at the exemption of \$3.5 million. That's not what is in this legislation. And I believe in the value of hard work and rewarding those who are able to succeed, but I know some perceive the estate tax as undermining these values.

However, we know that Americans with multimillion-dollar estates are not the only hard workers in our Nation. We have millions of Social Security recipients who have worked their entire lives but have seen their benefits decline due to no cost of living adjustment for 2 straight years now.

What message do we send our Social Security recipients that we are giving 6,600 families a tax break on the average of \$1.5 million each, but we can't find it appropriate to give our seniors on a fixed income a little bit more breathing room by sending them a \$250 check to allow them to pay their bills and afford their medicine?

The government's calculation tells us that the cost of living has not increased over the last 2 years, but seniors in my district and most of our own districts have done their own calculations. The cost of electricity, gas, and health care have risen dramatically.

I hope to support a bill that will benefit most of my constituents, but this bill does not. Hopefully, we will see amendments that will make it better.

□ 2230

Mr. CAMP. I reserve the balance of my time.

Mr. LEVIN. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. POLIS).

Mr. POLIS. Mr. Chairman, there are a lot of people that believe the Democrats stand for a lot of mainstream American values: keeping our air and water clean so we can breathe and drink freely, improving our public schools, our live-and-let-live policies. But somewhere in the back of a lot of Americans' minds, they are worried that the Democrats are going to raise taxes.

Well, I am proud to say tonight that thanks to the leadership of President

Barack Obama, we are going to deliver one of the largest tax cuts in history.

Here is a \$20 bill, Mr. Chairman. For every \$20 that an American family earns, that earns \$40,000 a year, \$60,000 a year, they are going to get an extra dollar, an extra dollar for every 20 they earn this year. And, yes, there is money that is going to go to people earning \$1 million. They might get 60 or 70 cents for every \$20 they earn, and, yes, we would have rather used that money to reduce the deficit.

But let me tell you, Mr. Chairman, mainstream America, that extra dollar will help keep people in their homes. In addition to that extra dollar, Mr. Chairman, every American that gets a paycheck will get a 2 percent raise this year, thanks to the leadership of President Barack Obama. Two percent right off the payroll tax, every paycheck. I know a lot of companies have frozen their employees' salaries. Federal employees had their salaries frozen.

Well, thanks to the leadership of President Barack Obama, the citizens of our country can rest assured they will not get a tax increase.

Mr. CAMP. I continue to reserve the balance of my time.

Mr. LEVIN. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. SCOTT), a member of the Financial Services Committee.

Mr. SCOTT of Georgia. Ladies and gentlemen of the Congress, the time is now for us to ask the one fundamental question before us: What is in the best interests of the American people at this time? By "American people," I mean every American, from the top of the economic ladder to the bottom, but especially those at the bottom.

This is basically a 24-month stimulus bill, by getting money to those who need it most, who will put it in the marketplace the quickest, which will help us create jobs. Seventy percent of this entire \$853 billion package will go to the low income and the middle income. There is no other way to put it.

And when you talk about rates, we dare not go home here today having raised taxes on the American people. We have got to cut the taxes, keep them down.

Ladies and gentlemen, you have to realize that at the lowest economic ladder, the lowest tax rate is 10 percent. If we don't move, those people at the bottom that we care about, especially us on the Democratic side, their taxes will go up 50 percent.

We've got to move this bill in the best interests of the American people.

Mr. CAMP. I continue to reserve the balance of my time.

Mr. LEVIN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Wisconsin (Mr. KAGEN).

Mr. KAGEN. Mr. Chairman, tonight, well-meaning Members of Congress have been debating who will pay to clean up the mess left behind by President Bush's failed economic policies,

policies that included two tax cuts to the richest Americans at the very same we were prosecuting two wars.

But we all know this: there is no free lunch. And yet the Senate is asking the House of Representatives to designate this bill as an emergency for purposes of pay-as-you-go, thereby failing to live within our means and driving our children deeper into debt.

The Senate also seeks to fix this emergency by immediately turning over \$129 billion of money we don't have to the very wealthiest Americans, wrongly thinking that the Republican-inspired idea of trickle-down economics will work today when it failed miserably in the recent past.

Well, responsibility must begin somewhere. Let it begin here with me. The reality is there is no emergency that justifies handing out tax cuts to millionaires and billionaires at this time. Instead, we should bring our children home from wars overseas, and, after paying for these wars, then determine if we have any money left over for tax cuts to millionaires and billionaires.

America cannot afford tax cuts for the rich. We don't have the money. They do.

Mr. CAMP. I continue to reserve the balance of my time.

Mr. LEVIN. I now yield 2 minutes to the very distinguished gentleman from New York (Mr. WEINER).

Mr. WEINER. I thank the gentleman.

You know, it doesn't take a great deal of courage to come to the floor of the House and say I'm in favor of low taxes. Yes, I think we all want no taxes. We would all like to have no communal needs that we have. We would like to have no national defense. We would like to have no concerns about clean water.

What we hear of the fight about in elections and, frankly, every single day on the floor is, Who do we stand for? Who are we defending?

On this side of the Chamber we believe that those people in the middle class and those struggling to make it, who each and every year for the past two decades have been getting pushed further and further down, need help.

On the other side of this Chamber are people who quite literally stood up all day today to say, I want to give tax cuts to people who make \$1 million and \$1 billion a year; and, wait for it, ladies and gentleman, we want to borrow the money from the Chinese to give it to them.

I want the wealthy to be as wealthy as they can be. I have no grudge against that. I want all of us to be that wealthy. But we should be a country that fights for those who really need the help. We should not be a country that says: You know what? If you're a billionaire, we want to give you a little bit more.

Who's going to pay the bill? Who is ultimately going to pay for this tax

cut? It is going to be our children and our grandchildren. And to come to the floor and say, well, I want to help hard-working Americans, I have to tell you, when the top 1 percent in this country are making as much as the next 25 percent, I think I know who we want to help.

On this side, we want to help those middle class people and those struggling to make it, and my Republican friends all over this evening have been standing up for millionaires and billionaires. That is the fundamental choice that we have to make here.

I believe that this tax bill has fundamental flaws. If you believe that you should be borrowing from Social Security to pay for a payroll tax, you like this bill. But I know a lot of Americans don't believe that.

So I think what we should do, what we should do is make sure that we fix the estate portion of this, and then we should take a step back and say, you know what we should do? Let's stand up for the middle class. That is what the Democrats stand for.

Mr. CAMP. I yield 1½ minutes to the distinguished gentleman from New York (Mr. REED).

Mr. REED. Mr. Chairman, let me first note that this whole situation is an example of what is wrong with Washington. As a new Member, I think we have to stop continuously putting off difficult decisions until we are forced to make a decision in crisis mode as the clock clicks to zero hour. This vote has profound ramifications for every American, and now we are backed into a corner where the current tax rates expire on all taxpayers if we do nothing.

It didn't need to be this way. Shame on the politicians whose inaction over the decade forced us onto this precarious ledge. Shame on the leadership of the past 2 years who put us into this boxed corner.

Good policy cannot be handcuffed by this sort of last minute political guerrilla warfare. The process which brought us to this point is inexcusable, so much so that the average middle class family in my district will pay more than \$1,500 in increased taxes if we fail to act.

Our economic recovery in upstate New York continues to lag. Preventing the pending income and estate tax hikes that will hit every family and business in my district is paramount at this time. But once this bill is passed, we must begin in the next Congress to eradicate out-of-control spending. We cannot be put into this position again.

Mr. LEVIN. Mr. Chairman, it is now my privilege to yield 1 minute to the Speaker of the House, the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding, and I thank him for his leadership on fairness for growing the economy, for reducing the

deficit and for creating jobs, because that is some of what is done in this bill.

I think I want to use my time to make some distinctions here. President Obama and the Democrats have supported initiatives to protect the middle class. We are fighting for the middle class. We are wanting to grow the economy and to create jobs and reduce the deficit, so we must subject whatever legislation that comes before us as to how it meets those tests.

This legislation on the Democratic side of the ledger does create jobs and the demand that creating jobs injects into the economy helps reduce the deficit. For example, unemployment insurance provisions that are in the legislation economists across the board tell us return more money to the economy than almost any initiative you can name. People spend that money quickly. These are people who are looking for work, people who have lost their jobs through no fault of their own. Their unemployment insurance is spent immediately, again injecting demand into the economy, creating jobs.

Low income tax credit, refundable.

□ 2240

Child tax credit; refundable. All of this placed in the hands of the working families in America, again, spent immediately, injecting demand, creating jobs. The college tuition tax credit, very important for America's working families and their children.

So here we are with a bill on one side of the ledger that benefits 155 million Americans. We have tax cuts for the middle class across the board. Everybody gets that tax cut. But in order for the middle class to get that tax cut, the Republicans insist that those who make the top 2 percent in our country get an extra tax cut, adding billions of dollars to the deficit and not creating any jobs. To add insult to injury, they have now added this estate tax provision—and, mind you, the Democratic side of the ledger benefits 155 million Americans. In order for the President to get those terms accepted, the Republicans insisted that \$23 billion in benefits go to the 6,600 wealthiest families in America, 6,600 families holding up tax cuts for 155 million Americans. Is that fair? Does that meet any test of fairness that we have? Again, this \$23 billion not creating jobs, this \$23 billion increasing the deficit by 8 percent in the fiscal year.

Think of what we could do with that \$23 billion. We could triple our research in cancer and diabetes. I think that means something to all Americans, including those 6,600 wealthiest families. We could give a \$7,000 raise to every public school teacher in America. We could create, investing in new technology, 780,000 jobs—780,000 jobs. Instead, we're giving a bonanza to 6,600 of the wealthiest people in America who really don't need the help.

It's just amazing to hear our colleagues on the other side of the aisle talk about deficit reduction when everything on their side of the ledger increases the deficit and does not create jobs. Tax cuts to the wealthiest 2 percent; the most egregious of all, the estate tax provision that they have that benefits not 1 percent, not one-half of 1 percent, but one-quarter of 1 percent of the American people. We have to borrow that money from China and send the bill to our children and our grandchildren. And that is not good policy. It does not have a favorable impact on the deficit. It does not create jobs. It does not grow our economy. It does not stimulate growth in our country.

And so I hope that our colleagues will vote favorably for the Pomeroy amendment to bring some fairness and clarity to the estate tax issue. On that, 99.7 percent of all Americans are exempted. 99.7 percent of all Americans are exempted from paying estate tax under Pomeroy. But we had to get that upper 3 percent in this legislation in order to benefit 155 million Americans. These figures have to be engraved in our being—155 million. You can't have that unless 6,600. I've said it over and over.

And then, on top of all of that, on the Democratic side of the ledger we have the green initiative, 1603, that the Senate put in the bill. This is just a very positive provision for renewable energy—wind, solar, et cetera. But the Republicans said, That's the limit. We won't accept any more. And so all of the initiatives for innovation that have been passed the past few years that should have been extended, we said "no" to innovation, we said "no" to the future, we said "no" to keeping America number one for encouraging our competitiveness.

So if we're talking about growth, we have to talk about investments in the future. If we're talking about being number one, we have to have an innovation agenda to do it. The Republicans said "no" to that. They only said "yes" to tax cuts to the wealthiest.

As Mr. WEINER said, we recognize success. We admire success. We all want to be part of it. God bless them for having the wealth that they have, whether it is inherited or earned. We recognize success and what wealth does to create jobs, et cetera. But we also want to reward work. We want to reward work. So in order to reward work in this legislation, we had to have a big payoff to the top one-quarter percent of America's wealthiest families.

So for my colleagues, as they review this, this is very difficult. Nobody wants taxes to go up for the great middle class. In fact, everybody gets a tax cut in this. We just don't see why we have to give an extra tax cut to the wealthiest and then an extra, extra estate tax benefit to the top one-quarter percent.

As Members have to make up their mind about this, I hope that they will vote for the Pomeroy amendment to this legislation. They'll have to make their own decisions as to whether it is necessary to be held hostage, to pay a king's ransom, in order to help the middle class. We absolutely cannot allow taxes to go up come January 1.

The previous speaker said we have to look to how we were forced to this precarious ledge. Yes, let us look to how we were forced to this precarious ledge. This situation, the recession that we were in—the deep recession that we were in—President Obama was a job creator from day one with the Recovery Act and pulled us back from that recession. The financial crisis that they created, President Obama pulled us back from that. And, oh, by the way, remember the financial crisis? Remember the banks that all that money went to and they didn't extend credit? Now those same people are giving out over \$100 billion in Christmas bonuses. And these Republicans in this House of Representatives are saying, We don't want you to be taxed to the proper extent on that \$100 billion. More money given in bonuses on Wall Street. Think of it. Over \$100 billion dollars. And we want to give them a free ride in terms of paying their fair share.

So if it comes to creating jobs, growing the economy, reducing the deficit, investing in growth and competitiveness and innovation to keep America number one, I applaud President Obama for his side of the ledger. I'm sorry that the price that has to be paid for it is so high. At a time when everybody is preaching the gospel of deficit reduction, the Republicans come in with an increase in the deficit to the tune of over \$100 billion dollars for people in our country who need it the least and, again, where it does not create jobs.

So Members will have to make up their minds as to how we go forward on the bill. But I hope that all of them in their consideration of it will vote for the Pomeroy amendment, which addresses the most egregious—with stiff competition, mind you, in this bill—the most egregious provision when it comes to fairness, reducing the deficit, and not creating jobs.

I, again, commend the chairman of the Ways and Means Committee and all of our colleagues who have had to explain through all of the misrepresentations that have been made about what this legislation is about. And, again, I salute President Obama for getting in the bill what is in there. I'm sorry at the price that has to be paid by our children and grandchildren to the Chinese government to pay for the increase in the deficit that the Republicans insisted upon.

Mr. CAMP. I yield myself such time as I may consume.

The majority party has had large bipartisan majorities in the Senate and

the House and controlled the White House for the last 2 years. And as we know, in the House, the majority can pretty much do what they want, as was demonstrated with the trillion-dollar stimulus bill, as was demonstrated with ObamaCare.

□ 2250

There is some explaining to do.

Why wasn't this issue dealt with before the election? Why didn't the majority bring a bill to the floor before the election?

Now, as Americans face these tax increases, here we are just a few short days before the end of the year, and now, because there is a bipartisan compromise, which incidentally passed the Senate 81–19, I think there is a recognition that this is just no time to be playing games with our economy. The failure to block these tax increases would be a direct hit to families and small businesses and employers, and it would further delay our economic recovery.

For those reasons, I support this bill.

I reserve the balance of my time.

Mr. LEVIN. It is now my privilege to yield 1 minute to the distinguished gentleman from Iowa (Mr. BRALEY).

Mr. BRALEY of Iowa. Mr. Chairman, today, the House will vote on a bill that will explode the deficit by \$858 billion. While this package includes several programs I have proudly supported, I cannot support the underlying bill.

As recently as last week, I voted to give every American a tax cut by making the middle class tax cuts permanent for the millions of American families, consumers, and small business owners who drive our economy. I have consistently voted to extend unemployment insurance to assist the families struggling in this difficult time.

Those were some of the good things included in this deal. Unfortunately, the merits of these good things do not outweigh the bad things in this deal. I cannot justify mortgaging our children's futures to provide a Christmas bonanza to the privileged few. I refuse to support increasing the deficit by at least \$81 billion to provide a tax break to the wealthiest people in this country. I refuse to support a bill that would balloon the deficit by \$23 billion to provide an average tax break of more than \$1.5 million to only 6,600 families a year.

That is why I am voting "no," and I urge you to do the same.

Americans spoke clearly on November 2. Congress must get serious about reducing the deficit and become better stewards of their tax dollars. After endless talk throughout this session about fiscal responsibility, the looming threat of a growing deficit and forcing America's next generation into crushing debt to China—a so-called tax deal has been produced. Today, this House will vote on a bill that will explode the deficit by \$858 billion dollars.

While this package includes several programs I have proudly supported, I cannot support the underlying bill. As recently as last week, I voted to give every American a tax cut by making the middle-class tax cuts permanent for the millions of American families, consumers and small business owners who drive our economy. I have consistently voted to extend unemployment insurance to assist the families struggling in this difficult recession. I have voted to extend the Earned Income Tax Credit and Child Tax Credit to assist our Nation's low-income families who have a difficult enough time making ends meet as it is. I have consistently voted for ethanol and biodiesel tax credits that sustain the growth of our Nation's renewable energy industry and support the jobs of thousands of my constituents in Iowa.

Those were some of the good things included in this deal. Unfortunately, the merits of these good things do not outweigh the bad things in this deal. I cannot justify mortgaging our children's futures to provide a Christmas bonanza to the privileged few. I refuse to support increasing the deficit by at least \$81 billion to provide a tax break to the wealthiest persons in this country. I refuse to support a bill that would balloon the deficit by \$23 billion to provide an average tax break of more than \$1.5 million to only 6,600 families a year. And I unequivocally refuse to threaten the long-term viability of social security with a shell game to pay for diminished social security contributions.

I'm voting "no" on this bad deal because we cannot keep kicking the can down the road when it comes to difficult decisions about the deficit, especially with a package that threatens the financial stability of our Nation. I urge my colleagues to join me in voting "no."

Mr. CAMP. I reserve the balance of my time.

Mr. LEVIN. Mr. Chairman, I now yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. The Speaker was talking about how the Republicans held hostage 150 million Americans in favor of 6,600 families who will get this inflated break on their estate taxes. Who are those families?

The Koch Family: the primary funders of the tea party movement and other conservative causes, having a vast fortune estimated to be as much as \$35 billion. Under the Republican, versus the Pomeroy amendment, that family would realize over \$2 billion extra.

The Walton Family: Wal-Mart; seven descendants; a combined worth of \$87 billion—more than some whole countries. His family will pay \$7 billion less in taxes under the Republican proposal versus the Pomeroy.

The Gallo Family.

The Dorrance Family: the Campbell Soup giant with a combined wealth of \$6.5 billion and a savings of \$522 million.

The Mars Candy Company Family: \$30 billion in wealth. Their estate taxes will go down \$2.5 billion.

Are these the people this Congress is supposed to represent? Let's vote for Pomeroy.

Mr. CAMP. I continue to reserve the balance of my time.

Mr. LEVIN. It is now a real pleasure to yield 1 minute to the very distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, two pieces of legislation tell us a lot about the values of our Republican colleagues.

This bill will take \$114 billion in revenues out of Social Security, helping them make the case ultimately, in a kind of self-fulfilling prophecy, that we can't pay everything we want.

Earlier this session, they voted overwhelmingly and killed a proposal to give each Social Security recipient \$250—not \$250,000 or \$250 million, numbers with which they are more familiar—but \$250. These are people who are going to be facing an increase in Medicare because we learned only in October that there would not be a cost-of-living increase.

We couldn't afford the \$14 billion to give \$250 to older people who are having trouble paying their heating bills, but they can afford \$114 billion that will go to everybody, including to people who make \$100,000 a year, who will get eight times \$250. The values of the Republican Party are revealed by this.

By the way, we are in this situation because of dishonesty. When George Bush and the Republicans passed the tax cuts in 2001, they didn't want to admit the full account of how much it cost.

The Acting CHAIR. The time of the gentleman has expired.

Mr. LEVIN. I yield the gentleman 1 additional minute.

Mr. FRANK of Massachusetts. Not simply are they showing their values, but they said, Oh, you're going to give \$250 to Warren Buffett on Social Security.

They want to give \$250,000 to Warren Buffett, which, to his credit, he doesn't want.

In fact, the reason we are in this bind is, in 2001 and 2003, George Bush and the Republican majorities wanted to pass very large tax cuts despite their professed concern about the deficit—and we now see from this bill that their slogan is "deficit-schmeficit"—but they didn't want to admit how much it would cost, so the CBO couldn't give us the full value of the cost. They made very bad tax policy.

They did it. I voted against it.

They made major changes in the Tax Code to end after 10 years, and they did that Humpty Dumpty roller coaster with the estate tax. That wackiness was their effort to hide the true amount of the hole they were burning in the deficit, so they have only themselves to blame.

But let me return.

They couldn't afford \$14 billion to give \$250 payments to Social Security recipients—and overwhelmingly, they

killed it when we tried to pass it—but they can take \$114 billion out of Social Security.

Mr. CAMP. I continue to reserve the balance of my time.

Mr. LEVIN. It is now my real pleasure to yield 2½ minutes to a Member who has been very active on this issue, the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. Mr. Chairman, with all the back and forth, what we really have before us are two problems facing America.

One is too few jobs: 9.8 percent of Americans who want work are out of work—15 million people. Millions more are so discouraged that they are the underemployed. We have got to find a way to put them back to work.

The second problem we have is too much debt. Without going into the history of how we went from a record surplus to a record deficit, we went from the Clinton tax rates to the Bush tax rates. We went from a surplus of 20 million jobs created to 8 million jobs lost. We have a debt now that is approaching \$14 trillion, and with the passage of this bill, we will be approaching \$15 trillion.

The question for us to the American people is:

If we are going to borrow a dollar for any reason, will there be a job bang for that dollar borrowed?

That dollar borrowed is coming from China. What this legislation will do is literally ask the American middle class to borrow \$200 billion to pay for tax cuts for the wealthiest families. This is not an objection to people being wealthy, as has been said. They can be generous, and they can create jobs. It is about whether that dollar borrowed will produce a job for an out-of-work American—and it won't.

There are other alternatives to what is before us. We should not be borrowing money that won't be productive. What we should do is a very simple alternative that hasn't even been considered:

We can extend the middle class tax cuts, as President Obama wants to, but we can stop it at \$250,000. We can invest the savings in deficit reduction and half in infrastructure development. We can, as Mr. FRANK said, provide a \$250 one-time payment to the folks on Social Security, who haven't had a COLA increase in 2 years. We can have a piece of legislation that will borrow less, reduce the deficit, and create more jobs.

Our responsibility, fundamentally, is to the American middle class. One of the reasons they so fear this debt is because they know, at the end of the day, they will have to repay it—their sons, their daughters. The bondholders will be okay, but the middle class will pay.

□ 2300

Mr. CAMP. Mr. Chairman, I yield myself such time as I may consume.

We've heard a lot of debate on floor this evening, but let's look at what the employers and economists are saying about this legislation and this agreement.

The National Federation of Independent Business, the largest organization in the country representing small businesses: Senate passage of the tax compromise is a good step, the first step, to encourage the certainty that the small business community needs and has repeatedly asked for. Knowing their tax liability will remain low and including a workable estate tax compromise that will not threaten the family business are key components to a small business' ability to move forward, grow their business, and create jobs. Changes to this compromise would jeopardize the needed relief and certainty small businesses need. We encourage the House to take up this measure quickly and pass this bipartisan bill in its current form.

The Business Round Table says: Restoration of these provisions lifts an uncertainty for businesses that will improve their ability to employ more workers and grow the economy.

The U.S. Chamber of Commerce: Enacting this bipartisan framework forged by the President and Congress is one of the best steps Washington can take to eliminate the uncertainty that is preventing our employers from hiring, investing, and growing their businesses.

And what does economist Mark Zandi say, frequently cited by the Speaker as an important voice in economic matters: The fiscal policy compromise reached this week by the Obama administration and congressional Republicans would be good for the economy next year.

It is too risky to play games with the economy. We need to stop this massive tax increase in its tracks. Support this legislation in its current form. Oppose the Pomeroy amendment.

I yield back the balance of my time.

Mr. LEVIN. It is now my pleasure to yield the balance of my time to our distinguished majority leader, Mr. HOYER of Maryland.

Mr. HOYER. I thank the gentleman for yielding.

We have just come through a wrenching election. Wrenching, in large part, because of the pain being experienced by our constituents, some more than others. A pain that they're experiencing in part because they are unemployed or underemployed or working two or three jobs to support themselves and their families. We all heard that pain. We all heard that concern. At the same time as we heard the concern about the pain of economic uncertainty, we heard the concern and the fear about deficits and debt.

And so, my colleagues, we are confronted with two twin challenges: growing our economy and creating

jobs, and confronting this gargantuan deficit that puts at risk our economy and the future of our children. The American public would hope that we would come together and pass that on which we can agree, that on which we can compromise.

This House, in fact, passed two pieces of legislation weeks ago and months ago. Months ago, we passed legislation which would give certainty, and my Republican colleagues talk about certainty and I agree with them. We need to give certainty to families, certainty to businesses, and, yes, certainty to those who are worried about estates. They ought to expect that of us, and we passed 12 months ago a continuation of then-existing law, \$3.5 million per spouse or \$7 million per couple exemption and a 45 percent rate.

But that languished in the United States Senate. It languished because, frankly, there was not a majority or at least not 40 votes to extend certainty. That was unfortunate, in my view, because I think that was an appropriate rate, and I will vote for it on this floor, embodied in the Pomeroy amendment.

And then we passed just a few days ago legislation which would say to all Americans, you will not receive any tax increase on the first \$250,000 of your income if you're a married couple or \$200,000 if you're an individual. All individuals, no matter how rich, no matter how poor, all individuals would have their tax capped, and very frankly, there were only a few Members on this floor on either side of the aisle who disagreed with that proposition.

But as too often happens because we don't get everything we want, we won't take something we want. That's not good for the American people, and it's not good for our country. And very frankly, only three or four Members on the Republican side of the aisle chose to vote for that legislation, notwithstanding the fact it carried out part of what they thought was appropriate, and we agreed. But it was not enough.

The President of the United States has a responsibility to all Americans, and like every President he can't get everything he wants. To that extent, he's like us. We don't get everything we want, and this bill does not represent everything I want. Those of you who have heard me debate time after time know how concerned I am about this debt and deficit, and you have seen me vote on this floor sometimes in the small minority against steps that I thought would exacerbate the budget deficit without a proper return.

This bill, the President of the United States believes, and I believe, will have a positive effect on the economy, and I think we need that. And unlike some of my colleagues, whose views I share but I have reached a different conclusion, I will vote for this bill because I don't want to see middle-income working people in America get a tax increase

because I think that will be a depressant on an economy that needs to be lifted up.

But I am also concerned about the deficit, and I know we're going to borrow every nickel in this bill. I'm for PAYGO. My children, if you ask them, would say they're for PAYGO because they don't want to pay our bills. They're going to have their own bills. Unfortunately, the President and we were confronted with alternatives: Do we extend unemployment insurance when unemployment is at a 9.6 to 9.8 percent rate, or do we let them languish with no certainty? Not certainty about planning whether or not their \$7 million estate can be excluded from taxes, but worrying about whether they can put food on the table tomorrow. But unemployment insurance has languished because we haven't had a deal on upper-income taxes or estate taxes being increased from \$7 million to \$10 million for a couple.

My friends on both sides of the aisle, we need to come together. We need to come together in dealing with this debt. We need to come together in dealing with tax reform. We need to come together in growing jobs. That ought to be the agenda of this next Congress and every Congress thereafter until we accomplish those objectives and the American people have the certainty and confidence that we want them to have.

□ 2310

Now, ladies and gentlemen on the Republican side, very frankly, I have not seen your economic philosophy work. Jack Kemp and I served on the Appropriations Committee, but I don't think supply side is working. Supply side, in my opinion, has the proposition that, if you do less, you get more. Nothing that I have done in life instructs me that, if I do less, I get more. And because of that, because of the concept, if you simply cut taxes on those who are the wealthiest in our society, somehow, magically, the deficit will be eliminated.

Not one year did that happen.

It happened, frankly, when we said the upper 1 percent was going to pay just a little more in 1993, and all of you opposed it—all of you, to a person. And you said it would destroy the economy. Your leader at that point in time—I'm not sure it was the majority leader at that time—Dick Armey said that this would tank the economy.

He was 180 degrees wrong.

In fact, we experienced the best economy we have seen in this country in my lifetime, with 22 million new jobs in 8 years—216,000 jobs per month in the private sector. But unfortunately, under the economic program that we adopted in 2001, we saw the worst economy, the worst job production since Herbert Hoover.

Now, I'm going to vote for this bill because I think it does help the economy, but we are paying too great a

price for it because, very frankly, I don't need a tax cut. That's not to say I don't want a tax cut. But it will not affect my life, and it will not affect the economy. It will exacerbate the debt. That's not good for my children or for our country.

So I would urge all of us, as we vote on this piece of legislation—whatever decision we make—to understand the message that we all received about growing the economy. That is why the President has made this deal that a lot of us don't like, because we think that it was unnecessary to adversely affect the deficit with \$700 billion.

And because we have limited it to 2 years—it's less than that in terms of just the upper income—we did not have to pay that price. But we needed to pay the price. We needed to borrow the money to get this economy moving, to get the middle income people having dollars in their pockets so they can grow the economy. And that's worth the price because we will not solve the deficit problem if we don't get our economy growing. We cannot depress at the same time we try to grow, but we grow in the short term, and we solve the deficit in a little longer term.

So I'm going to vote for the Pomeroy amendment. And then in the final analysis, I will vote for this bill. I believe that folks need certainty, as has been said.

I urge my colleagues, as we vote on this legislation, to commit ourselves on both sides of this aisle to do what America wants us to do—to come together as we did. In 1993, we didn't. Some people lost their jobs because they voted with courage and conviction and correctness.

Ladies and gentlemen, there probably is nobody on this floor who likes this bill; and therefore, the judgment is: Is it better than doing nothing? Some of the business groups believe that it will help. I hope they are right. Not only do I hope they are right, I hope if we pass this bill that they respond and create the jobs that we know they have the resources to do.

This is a jobs bill, in my view, which is why I will vote for it. It could be a better jobs bill if we invested the money that we are giving to the wealthiest in America in job growth. It is a bill that will help those who have been unemployed week after week after week and whose angst has grown and grown and grown.

Ladies and gentlemen, each of us will do our duty as we see it, but let us when we do so pledge that we will do better in the months and years to come.

Ms. HIRONO. Mr. Chair, I rise in reluctant opposition to H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act.

Two weeks ago, I voted for a better bill, the Middle Class Tax Relief Act, which passed the House but was not taken up by the Senate.

That bill would have extended tax cuts for middle class taxpayers, including about 323,000 lower- and middle-income families in my congressional district who make less than \$200,000 (under \$250,000 for joint filers).

The bill that is on the floor today extends tax cuts on all income levels, including the wealthiest Americans, costing \$407.6 billion. Under this bill, the millionaires and billionaires can sleep soundly, secure in the knowledge that their tax cuts will continue for at least another two years, while the unemployed get relief for only 13 months. Economists predict that many millions will continue to be unemployed beyond the 13 months.

This deal is weighted so heavily toward the richest few that the unemployed only receive 7 percent of the total package. We must fight for a better deal.

But my biggest concern has to do with a threat to the solvency of Social Security contained in the legislation. The so-called "payroll tax holiday" in H.R. 4853 raids the Social Security Trust Fund. Anyone who cares about Social Security should be scared by this. This provision reduces the Social Security payroll tax and self-employment tax by two percentage points in 2011. Payroll taxes provide dedicated funding for the Social Security Trust Fund, which is completely separate from the General Fund. Under this bill, these Social Security funds will be repaid by \$112 billion from the General Fund. But this "one-time" infusion from the General Fund puts us on a slippery slope. While this payroll tax holiday expires in one year, there is a serious question as to whether expiration will occur. We can expect a bill to extend this payroll tax holiday because any other outcome would be characterized as a tax increase. A permanent decrease in the Social Security payroll tax will put the Social Security Trust Fund in jeopardy. Republicans will be one step closer to their stated goal of privatizing and dismantling Social Security's safety net. If we want to put more money in the hands of families, we could look at cutting a check for families from the General Fund, but weakening the funding source for Social Security is too risky.

In Hawaii, Social Security benefits serve as a lifeline for 220,000 seniors, disabled people, and dependents. Thousands of my constituents have urged me to preserve Social Security, and I have consistently acted to do so. Earlier this year, I spoke on the House floor in support of preserving this bedrock promise to our nation's seniors and fighting Republicans' plans to privatize or reduce benefits. I also signed a letter to the Fiscal Commission urging that any plans to reduce the deficit make no cuts to Social Security or change the retirement age.

This bill truly is a raw deal for American seniors. One of my constituents in Hilo calls the proposal a "bomb of a cut to Social Security taxes." A majority of Americans oppose cutting Social Security payroll funding and are willing to pay more so that they can be assured that they will get benefits when they retire or become disabled. I don't make pledges lightly, but I pledge that I will vote to return dedicated Social Security payroll tax funding should it be brought up for a vote next year.

Further, this legislation gives an estate tax giveaway to only 6,600 families in our entire

country, giving them each an average additional tax cut of more than \$1.5 million. According to the Tax Policy Center, the new tax would affect the smallest number of estates in any year since 1934. This tax giveaway to the richest families in the country will cost us more than \$68 billion, adding to our deficit without creating jobs or strengthening our economy.

The Levin/Pomeroy Amendment makes the bill a bit fairer by taxing estates at the 2009 rate of 45 percent and covering estates over \$3.5 million, not the \$5 million in the Senate bill. This amendment would save \$23 billion. Extending estate tax relief for two years at the 2009 rate provides Americans with some certainty for estate planning in a way that is much more reasonable and fair than that proposed by the Senate bill.

The key components of this bill that I strongly support include the extension of tax cuts for the middle class and the extension of unemployment insurance for Americans who lost their jobs because of this difficult economy. In addition to my recent vote on extending tax cuts for the middle class, I voted to extend unemployment benefits seven times this year alone.

We've had numerous opportunities to extend the tax cuts for the middle class and extend unemployment benefits. The majority of Republicans voted against these proposals time and again.

On balance, I cannot in good conscience vote for this bill in its present form. The \$858 billion price tag and true cost of the bill—tax cuts for the wealthiest Americans and the impact of the "payroll tax holiday" on Social Security—far outweigh the benefits. This bill is blackmail, holding the unemployed and middle class hostage to give a special deal to the millionaires and billionaires. We must fight for a better deal.

I urge my colleagues to oppose this legislation unless we are able to vote on a bill that genuinely helps the working families that we are here to represent.

Ms. CORRINE BROWN of Florida. Mr. Chair, I rise today in opposition to the irresponsible and immoral tax cuts for the wealthiest Americans included in this bill.

On this very night, senior citizens, disabled people, and poor families in public housing in Sanford, Florida are going without heat during one of the coldest spells in Florida's history. Yet, Congress is about to give billions to billionaires. There is a disconnect between tax cuts for the wealthy and the pain of everyday Americans that is shocking beyond belief.

If we cannot take care of our poorest citizens, why are we giving handouts to the richest? The elections told us that Americans are tired of giveaways to Wall Street and CEOs. But here we go again.

Why are we holding the middle class hostage to extending tax cuts for the top 2% of incomes? We can give away \$700 Billion in income tax cuts, but we can't fix the heat in Sanford public housing.

On Christmas Eve, why are we giving a 25 Billion Dollar gift to forty thousand families, but giving nothing to millions of people who have been unemployed for more than 99 weeks?

The Bible teaches in Proverbs 21:13, "if a man shuts his ears to the cry of the poor, he too will cry out and not be answered."

I have never shut my ears to the cries of Americans who need help, but I will not vote for a bill that ties the fate of many to the wealth of a few.

Mr. VAN HOLLEN. Mr. Chair, after much deliberation, I rise in opposition to today's legislation.

To me, this has never been about the wisdom or necessity of compromise. Like most of my colleagues, I understand the need for compromise, and I fully appreciate the predicament the President found himself in.

While Democrats have been fighting to ensure tax rates do not go up on 98% of Americans, Senate Republicans have made it abundantly clear they are willing to raise taxes on every American this January unless they get a bonus tax break for the wealthiest in our society—and provide a tax-cut bonanza to a handful of super-rich estates.

In order to break the stalemate, the President concluded he needed a deal—a deal that had to balance two of our Nation's very real but competing imperatives: the need to accelerate economic growth, and the need to reduce our national debt.

Some elements of today's legislation strike the right balance. In particular, the middle class tax cuts, unemployment benefits and Recovery Act credits for working families are both economically justifiable and likely to achieve their intended effect.

Unfortunately, other provisions significantly miss the mark. According to the Congressional Budget Office, the \$89 billion spent extending tax breaks for upper income earners is unlikely to create jobs. Moreover, I have significant concerns about the structure and long term consequences of the payroll tax holiday.

But the tipping point in this package is the estate tax. In an era of \$1 trillion deficits, with our national debt approaching \$14 trillion, barely two weeks after the publication of the bipartisan Fiscal Commission's "Moment of Truth" report, does anybody really think we should be borrowing \$23 billion from China to give the wealthiest 6600 estates an average tax break of \$1.7 million a year?

Think about it. \$23 Billion. For the wealthiest 6600 estates a year. In a nation of over 300 million people. Without any benefit whatsoever for job creation or economic growth.

I would say to my colleagues on both sides of the aisle that if we can't look this moment squarely in the eye and conclude that now is not the time to be giving the top three tenths of one percent of Americans a multi-million tax break, we are clearly not serious about tackling the monumental fiscal challenges we face.

And I would remind my colleagues that these fiscal challenges are not theoretical. Earlier this week, Moody's warned that today's legislation increased the likelihood of a downgrade to the United States' Triple-A rating over the next two years. Bond prices have fallen sharply and yields now sit at six month highs. If we're not careful, the bond market could easily take away what today's legislation aims to provide.

Many of my Republican colleagues supporting today's legislation profess a commitment to fiscal discipline and balanced budgets, but turn a blind eye to deficit spending so long as it arises from tax cuts. This is not coincidence. The rationale for the inconsistency has

been succinctly explained by conservative activist Grover Norquist, who once proclaimed: "I don't want to abolish government. I simply want to reduce it to the size where I can drag it into the bathroom and drown it in the bathtub."

After starving government, these same Republicans will undoubtedly be back in the 112th Congress demanding debilitating and draconian cuts in priority investments like education, clean energy and biomedical research. This playbook is as predictable as it is misguided.

Mr. Chair, we simply cannot afford to borrow billions of dollars to perpetuate wasteful and unwarranted tax breaks for our wealthiest citizens at a time of unprecedented and unsustainable national debt—tax breaks that do little for job creation and even less for the economy. I accept the need for a deal. But for our children and our grandchildren, I firmly believe there is a better deal to be had.

Ms. KILPATRICK of Michigan. Mr. Chair, I have been involved in politics for more than three decades. I am proud of my record of public service to the people of the great State of Michigan and to our Nation. Some of the proudest votes I have ever cast in my career have been in support of the economic stimulus package, health care reform, saving our manufacturing base by saving the auto industry, and preventing our banking system from dragging our economy into a full-blown depression. It is my point that we have not done enough to advertise the good things we have done for Americans.

The economic stimulus package provided 95 percent of all Americans with a tax cut, saved or created close to three million jobs, and allowed States and cities to use bonds to fill their budget deficits. Thanks to the revolution in health care by our health care law, the largest deficit reduction law in the history of the United States, all Americans will have access to health care for the first time in history. While this law becomes fully phased in by 2014, some of its mandates are working for Americans now, such as the fact that citizens cannot be denied health care coverage due to pre-existing conditions, filling in the Medicare Part D "doughnut hole," and that insurance companies cannot deny your health insurance once you are ill. The bold Democratic program to save the auto industry, like the Troubled Asset Relief Program (TARP) not only cost taxpayers less than anticipated, taxpayers can potentially reap a profit from these programs. We have been efficient and effective with the peoples' purse.

We are now voting on a tax "deal" that President Barack Obama agreed to with Republicans to extend the 2001 and 2003 tax cuts started by former President George W. Bush. These tax cuts, which were not offset by responsible spending cuts and gave the majority of the tax cuts to the richest one percent of all Americans, were fiscally irresponsible when they were first proposed. They were so controversial and so fiscally unstable, the Republicans refused to make them permanent. It took then Vice President Dick Cheney to come to the Senate to break the 50–50 tie that stopped the bill from final passage.

I would like to take this opportunity to remind all Americans that we have had not one,

not two, but if this bill passes, four major tax cuts at a time in which we are involved in not one, but two, wars. This is the first time in American history that we have had a war and we did not have a tax increase to help pay for that war.

I cannot, and will not, support this fiscally irresponsible bill. This bill is a horrible deal for Americans. Not only does it extend the Bush tax cuts, and the Republicans are willing to hold the extension of unemployment benefits to three million American families to get it done, as the late night infomercials like to say, "wait, there's more."

This bill hammers Social Security. Through this legislation's cut in the payroll tax, the tax that funds Social Security, the long-term stability and safety net for our senior citizens is in jeopardy. For every person who puts money into the Social Security program, two people take money out of it. If you think that this one-third cut to the payroll tax is going to come back in two years, don't count on it. The more that this fund is delayed, the more the Social Security program—a governmental program that has worked for more than seven decades, and which is the sole difference between life in a home or life on the street for over half of our senior citizens—is gutted.

This bill insufficiently helps the unemployed. Michigan has one of the Nation's highest rates of unemployment, and Michiganders desperately need unemployment insurance. But guess what? While this bill extends unemployment for those three million people who currently get it, it does nothing, not one thing at all, for the millions of unemployed workers who have exhausted their benefits under tier four. If you have been out of work more than 99 weeks—and plenty of Americans have been out of work that long through no fault of their own—this bill does not provide what I have been pushing for the last year. That is a new tier five level of unemployment benefits so that workers who have exhausted their federal and state benefits are able to feed their families and keep a roof over their head. If we are going to extend unemployment, let's extend it for all Americans.

This bill is a tax increase for most Americans. While this bill is a sure-shot tax cut for those people making or inheriting millions of dollars, for nearly 50 million hard working Americans, this bill is actually a tax increase. Workers who make less than \$20,000 per year will see a tax increase. And by the way, if you are a federal worker, a worker who will see a pay freeze over the next two years, if your job has not been totally eliminated, you will see a tax increase. Finally, if you work for your state or city government, you will see your taxes increase because of this bill.

This bill is a woefully inefficient way to create jobs. The Congressional Budget Office and other non-partisan, objective organizations have widely stated that tax cuts is, by far, the most inefficient way to create jobs. At a total cost of over \$900 billion, this bill is expected to lower unemployment by less than one percent. The most efficient way to create jobs in an economy in which businesses cannot create them? A federal direct-hire program. I offered such a program as an amendment to the Emergency Supplemental Appropriations bill, a program modeled after the successful Comprehensive Employment and Training Act

(CETA) that would have immediately put more than one million people back to work. It was rejected earlier this year.

I proudly voted for the extension of tax breaks for Americans who make \$250,000 or less. I also proudly voted to extend unemployment benefits for three million American families, and continued to fight for the addition of a tier five level of unemployment benefits. These two fiscally sound policies would help reduce our deficit and stabilize American families during the holiday season and beyond. Unfortunately, this was apparently not good enough for the Republicans, who overwhelmingly did not support the preservation of almost three million jobs in the economic stimulus package, the saving of American manufacturing through the auto loan program, or the more than \$100 billion reduction in our deficit that will be the health care law once it is fully in effect.

I cannot, and will not, support this fiscally irresponsible bill. It is my hope and desire that the wisdom of the Congress prevails and we reject this legislation and start over with a bill that caps the top level of earnings at \$250,000 and adds a tier five level for all of those individuals who are unemployed and have exhausted their state and federal benefits. Our children and grandchildren, who have to pay for these programs, are watching what we do.

Mr. WOLF. Mr. Chair, I support extending the 2001 and 2003 income tax cuts for all taxpayers, reducing or even eliminating the estate tax, and limiting the impact of the alternative minimum tax. If those were the only issues before us today, I would vote for that package to reduce the tax burden on Americans.

But this package is a bridge too far and I will vote no. With this package we are saying "charge it." We aren't even making an attempt to pay for it. We are voting to add over \$857 billion to our Nation's already massive, nearly \$14 trillion debt. This is less than two weeks after the president's debt commission issued its report called "A Moment of Truth," which outlined the looming financial crisis that threatens the future of our country.

We're accumulating a trillion dollar deficit every year. This year, we are paying \$202 billion a year in interest on our debt. That's nearly \$4 billion a week.

By 2021, we will pay nearly \$1 trillion a year solely to service the debt. One trillion.

That's nearly \$19 billion a week or \$2.7 billion a day. Two point seven billion dollars a day just to pay the interest. That is utterly unsustainable.

And money that goes to paying off the interest, let alone the principle, on the debt is money that will not be invested in road construction, or cancer research, or homeland security, or math and science education.

Over four years ago I came to the House floor to propose an independent bipartisan commission to address unsustainable federal spending. It would put everything on the table—entitlements, all other spending and tax policy. The SAFE Commission—short for Securing America's Future Economy—would operate in an authentic and transparent way, holding a series of public meetings across the country to hear from the American people. The commission would send its recommenda-

tions for a way forward to a sustainable economy to Congress, which would be required to vote up or down.

Senator GEORGE VOINOVICH, who is retiring this year and who has been a champion of fiscal integrity throughout his career in public service, was my partner in the Senate as sponsor of the SAFE bill. Congressman JIM COOPER and I also teamed in the 110th and this Congress to push the SAFE bill, garnering 118 cosponsors. Joining the effort in the Senate with Senator VOINOVICH were Senators LIEBERMAN, CONRAD and GREGG.

Senators CONRAD and GREGG introduced a similar bill calling for a deficit commission that became the blueprint for the President's National Commission on Fiscal Responsibility and Reform and on which both senators served. On December 3, a bipartisan majority of 11 of the 18 commission members voted to recommend a bold plan to Congress that would address our Nation's fiscal imbalance by cutting \$4 trillion from the federal budget over the next decade. I commend Senators COBURN, CONRAD, CRAPO, DURBIN, GREGG, and Representative SPRATT for voting to advance the proposal. They recognize the seriousness of our fiscal situation and that the Congress needs to develop a plan for action.

The leaders of the bipartisan fiscal commission, Erskine Bowles and former Senator Alan Simpson, wrote to the president and leaders of Congress:

"Our growing national debt poses a dire threat to this Nation's future. Ever since the economic downturn, Americans have had to make tough choices about how to make ends meet. Now it's time for leaders in Washington to do the same."

Yet today, we see that once again, Washington is punting. Less than 80 hours after the commission's 11 to 7 bipartisan vote, "this compromise" was unveiled at a cost of nearly \$1 trillion in borrowed money. The commission's chairmen told us that "the era of debt denial is over." Yet the legislation before us today clearly demonstrates that that is simply not the case.

To quote Senator COBURN's floor statement of December 8:

"What we need to do, Democrats and Republicans and our Independent colleagues, is recognize the depth and magnitude of our problem right now. There needs to be a great big time out. Who cares who is in charge if there is no country to run that can be salvaged? It doesn't matter.

"Economists worldwide and some of the brightest people at Harvard and MIT, the University of Texas, Pennsylvania, they don't sleep at night right now. They know we are on the razor-thin edge of falling over a cliff.

"The fact is, both parties have laid a trap for future generations by our inaction, our laziness, our arrogance, and a crass desire for power. We are waterboarding the next generation with debt. We are drowning them in obligations because we don't have the courage to come together and address or even debate a real solution. . . . The problem is so big and so urgent and so necessary that we ought to have [a] debate. We ought to make sure the American people know the significance of the problems facing us."

I couldn't agree more.

On Monday, Moody's Investment Service warned that this legislation jeopardizes America's coveted AAA credit rating, and could lead to a negative outlook in as little as two years. For the record, I am inserting its report.

If our credit rating is downgraded, the cost to borrow money will rise.

Everything, from a home loan to a car loan to tuition for college to a credit card bill to interest payments on the debt, will increase. We will be paying more to sustain, not to improve, our existing quality of life.

We need look no farther than Europe to see the destructive impact that results after a nation's financial crisis. There have been riots in Belgium, Spain, France, Ireland, England, Italy, and Latvia. Just Monday, Moody's threatened to further downgrade Spain's credit ratings. Will there be rioting in the streets here like we are now seeing abroad?

This House, and the Senate before us, is continuing on its profligate ways of adding billions of dollars to the nation's credit card, which has been issued by the banks of China and Saudi Arabia, among others.

More than 46 percent of the U.S. debt held by the public is in foreign hands. Saudi Arabia was home to the 9/11 terrorists. Saudi Arabia's Wahhabi brand of Islam is taught in some of the most radical mosques and madrassas around the world, including along the Pakistan/Afghanistan border. Saudi Arabia represses women and persecutes Christians and Jews.

Their textbooks are filled with hateful messages about minority faiths. Just last month a BBC expose' revealed that Saudi textbooks used for weekend education programs to teach about 5,000 Muslim children in Britain, contained claims that "some Jews were transformed into pigs and apes . . ." Further, the books, which again are Saudi national curriculum, contain "text and pictures showing the correct way to chop off the hands and feet of thieves." Is this a country we want to be beholden to?

Or what about communist China, our largest banker, which routinely violates the basic human rights and religious freedom of its own people where Catholic bishops, Protestant ministers and Tibetan monks are jailed for practicing their faith? I've seen how they plundered Tibet with my own eyes. China was once again in the spotlight recently when famed dissident Liu Xiaobo was awarded the Nobel Peace prize. China's response? Place Liu's wife under house arrest, stop other dissidents from attending the award ceremony in Oslo and place them under tight surveillance, and indefinitely postpone trade talks with Norway.

The U.S. intelligence community notes that China's attempts to penetrate U.S. agencies are the most aggressive of all foreign intelligence organizations. According to the FBI, Chinese intelligence services "pose a significant threat both to the national security and to the compromise of U.S. critical national assets." Weapons that entities of the People's Republic of China supplied to Iran were "found to have been transferred to terrorist organizations in Iraq and Afghanistan." China is a significant arms supplier and source of economic strength to the genocidal regime in Sudan. Do we really want China to be our banker?

In a February 2010 piece, Wall Street Journal columnist Gerald Seib wrote, "the Federal budget deficit has long since graduated from nuisance to headache to pressing national concern. Now, however, it has become so large and persistent that it is time to start thinking of it as something else entirely: A national security threat."

These foreign countries, with vastly different aims than our own, could end up negatively influencing U.S. foreign policy by threatening to dump our currency in the world market. Such actions would not be a historical anomaly.

Recall 1956 in the Suez Canal crisis, which some believed signaled the end of Britain and France as world powers. Egypt announced that it was going to nationalize the canal, which outraged the British and French, who then devised a plan to use military force to keep control. The U.S. wanted to avert conflict at any cost. And President Eisenhower threatened to sell the U.S. reserves of the British pound, which would essentially result in the collapse of the British currency. The British changed course, demonstrating the power, the impact, that economic manipulation can have on foreign policy.

Is it conceivable to imagine the Saudis threatening to dump our currency if we don't withdraw from the region? Is it conceivable to imagine China threatening to dump our currency if we don't stop pressing nuclear-armed North Korea?

Simply put, we are presently borrowing hundreds of billions of dollars from countries which pursue aims that are at odds with our national interest and values, both directly and indirectly.

The chairman of the Joint Chiefs of Staff has pointed to our nation's debt as a national security risk. It is expected that, as early as 2014, our nation will spend more on interest payments than was spent on the 2010 defense budget. In case you missed that, we will pay more to borrow money than we will pay to defend our freedom.

This is a package full of numerous perks to sweeten the deal. As the Wall Street Journal editorial, "The Hawkeye Handouts," noted on December 13, Republicans "should worry that the tax bill is turning into a special interest spectacle. The bill revives a \$1 a gallon biodiesel tax credit at a cost of nearly \$2 billion, and there's \$202 million for 'incentives for alternative fuel,' \$331 million for a 50% tax credit for maintaining railroad tracks, and so on. These credits are a form of special interest spending via the tax code, which is precisely the business as usual behavior that Republicans told tea party voters they wouldn't engage in."

Dan Eggen of the Washington Post reported yesterday that "... the ethanol provision ... has cost taxpayers more than \$21 billion since 2006. The Government Accountability Office recently concluded that the credit has had little impact in encouraging ethanol use or production, especially since the government already mandates rising levels of ethanol in gasoline and protects the corn ethanol industry through tariffs."

From farmers producing ethanol to Puerto Ricans making rum to film producers in Hollywood, there's something for everyone. Even

worse, the payroll tax holiday raids, for the first time in our history, the Social Security trust fund, which is already going broke. No one comes away empty handed.

This is, as Charles Krauthammer wrote in the Washington Post on December 10, nothing more than a stimulus by another name—an unfunded stimulus that costs considerably more than the President's stimulus of 2009 that so many on my side of the aisle opposed.

Maya MacGuineas, president of the Committee for a Responsible Federal Budget, hit the nail on the head in an October 2009 National Journal article when she said, "It's like fiscal jenga, where people are piling on more and more debt, and finally, something's going to be the cause of it collapsing, but no one believes their thing is going to be the tipping point."

This package could be the "thing" that takes us closer to the tipping point.

Candidly, I have never been more concerned about our country's future. We see a nation whose young people are lagging behind their peers globally. We see a Senate debating a \$1.1 trillion omnibus spending measure containing over 6,000 earmarks representing over \$8 billion worth of spending. We see a Congress and a president embracing a tax package that risks our nation's highly valued AAA bond rating. All the while we see young men and women in uniform, in distant places like Afghanistan and Iraq, modeling the sort of sacrifice that few Americans even expect from their elected leaders any more.

Only through shared sacrifice can we hope to walk back from the precipice. But instead of asking for sacrifice, the measure before us today provides something for everyone. Maybe not as much as everyone wanted, but what was truly sacrificed? The word compromise implies that both sides in the negotiation give up something. No one gave up anything. Legislation of this magnitude must be balanced by reforms.

But instead of reforms we see recklessness. This legislation walks us further down the path to greater and greater deficits and debt that can only lead to a place none of us wants to go—a bankrupt America. I cannot in good conscience leave that type of country to my children and grandchildren.

At his 1796 farewell address, George Washington admonished his fellow countrymen: "We should avoid ungenerously throwing upon posterity the burden of which we ourselves ought to bear."

Enough is enough. I vote "no."

[From Moody's Weekly Credit Outlook, Dec. 13, 2010]

US TAX PACKAGE IS NEGATIVE FOR US CREDIT, BUT POSITIVE FOR ECONOMIC GROWTH

If the tax and unemployment-benefit package agreed to on 6 December by President Obama and congressional Republican leaders becomes law, it will boost economic growth in the next two years, but adversely affect the federal government budget deficit and debt level. From a credit perspective, the negative effects on government finance are likely to outweigh the positive effects of higher economic growth. Unless there are offsetting measures, the package will be credit negative for the US and increase the likelihood of a negative outlook on the US government's Aaa rating during the next two years

One motivation for the two-year extension of the current personal income tax rates (put in place in 2001 and 2003 and referred to as the "Bush tax cuts") is to prevent a setback to economic and employment growth that would result from higher taxes beginning on 1 January, the expiration date of the earlier tax cuts. Keeping the existing tax rates would not provide an impetus to growth, but raising them would have a negative effect. However, the package also includes, among other things, an extension of unemployment benefits for the long-term unemployed through 2011 and a two-percentage-point cut in the Social Security payroll tax. The latter two measures will give a boost to economic and employment growth in the coming two years, with some forecasters significantly raising their GDP growth numbers in 2011 and 2012.

Higher economic growth should have a positive effect on government revenues and reduce payments related to unemployment. However, the magnitude of this positive effect will be considerably less than the foregone revenue and increased benefit expenditure, resulting in substantially higher budget deficits than would have otherwise been the case. The Congressional Budget Office's most recent estimate of the deficit for fiscal year 2011 was \$1.1 trillion, or 7% of GDP, assuming no expiration of the tax cuts, and \$665 billion (4.2%) in fiscal year 2012. These deficits would raise the ratio of government debt to GDP to 68.5% by the end of fiscal year 2012, compared with 61.6% two years earlier.

The net cost of the proposed package of tax-cut extensions, payroll-tax reductions, unemployment benefits, and some other measures may be \$700-\$900 billion, raising the debt ratio to 72%-73%, depending on the effects on nominal economic growth. The government's ratio of debt to revenue, instead of declining rather steeply over the two years from about 420% at the end of fiscal year 2010, would decline considerably less to somewhere just under 400%. This is a very high ratio compared with both history and other highly rated sovereigns.

Thus, while higher growth and lower unemployment are clearly good for the economy, the package is negative for US government debt metrics. In addition, there is a risk that the two-year extension may be renewed at the end of 2012, given that that period coincides with a presidential election. A permanent extension of the tax cuts alone (without other measures) could result in a considerable increase in deficits and debt levels unless other measures to reduce deficits are adopted. The exhibit below illustrates that the fiscal balance in the coming decade would be considerably higher under such a scenario, all other things being equal, and this would result in a worsening of the government's debt position. A package of options put forth by the fiscal commission at the beginning of this month provides a menu of such measures that would reverse these trends, but their adoption remains uncertain.

Mr. PAUL. Mr. Chair, I recently voted again in favor of H.R. 4853, the Middle Class Tax Relief Act, legislation which ensures the continuation of the Bush-era tax cuts, fixes the AMT patch, and significantly reduces the burden of the estate tax in 2011. If no action had been taken by this Congress, all Americans would have had to pay higher income, dividend, estate, and capital gains taxes beginning on January 1, 2011. I will always vote to lower taxes at all levels, and I will never vote for tax increases.

Many opponents of this bill labor under the mistaken impression that it contains huge amounts of pork, earmarks, and other spending. What they are referring to is hundreds of billions of dollars worth of tax credits. Tax credits are not spending, they are not earmarks, they are not pork: they merely allow people to keep more of their own money. While the Administration's desire in extending these particular credits may be to placate certain constituencies or to spur consumption or investment into certain sectors of the economy, the morally correct position is to allow people to keep their hard-earned money. That money belongs to the people and businesses who earned it, not to the government. If one wants to make it more equitable, then the amount of tax credits should be increased to include everyone.

Characterizing the tax cuts as fiscally irresponsible, as other opponents of the bill have done, is equally misguided. Those who wish to see this deal defeated because it "adds nearly \$900 billion to the National Debt" are punishing taxpayers for the profligacy of the government. The National Debt is nearly \$14 trillion because of excessive spending, not because of tax cuts. Every dollar added to the National Debt is due to the government's inability to rein in spending, not because American taxpayers are paying too little of their salaries to the Federal Government. This is why I vote against all appropriations bills. Allowing taxes to rise and provide more money to the federal government would only serve to further feed the beast that is devouring this country.

This bill also reduces the burden of the estate tax, which according to law is set to return in 2011. This unconscionable tax is an insidious form of double taxation and comes into effect in 2011 with a 55 percent tax rate. Americans should not be penalized for accumulating savings during their lifetimes. The estate tax especially harms small and family-owned businesses, which often must be sold to pay the tax bill. H.R. 4853 reduces this death tax rate from 55 percent to 35 percent, and raises the exemption from \$1 million to \$5 million. While I would prefer to see this tax eliminated completely, this significant tax cut will help thousands of families.

Many people have urged that this tax bill be rejected and that Republicans come back in January to vote on a clean bill. Waiting until the next Congress would also mean that taxpayers would have much more of their salary withheld until any tax cuts could be made. While it is certainly possible to wait until January, we still have a Democratic Senate, and a Democratic president who would likely veto a clean tax bill. I too would prefer to see a completely clean bill, but that is not what we have been given. A vote against the bill before us today would be a vote to raise taxes on all Americans.

Much of the debate about this bill only serves to distract people from discussing substantive change and lead to argument about picayune minutiae. I believe we should abolish the income tax and eliminate the IRS altogether. Congress funded the government using excise taxes for more than 120 years without an income tax, and the Federal Government not surprisingly adhered much more closely to the constitutionally-defined limits of

its powers during that time. Real tax reform can only happen when we insist on reducing the size of the Federal Government and reducing the pork in its bloated budget.

Mr. FRELINGHUYSEN. Mr. Chair, I rise in support of the Tax Relief Act of 2010 and urge its passage.

My Colleagues, the goal of this legislation is to prevent the imposition of the largest tax increase in the history of the world and to continue many valuable tax provisions that promote economic growth.

These goals are my goals. There is never a good time to raise taxes, but I cannot think of a worse time to increase the tax burden on America's hard-working families and job-creating small businesses than in the middle of a weak recovery.

Like all Members, I have strongly supported extending the Bush tax rates, enacted in 2001 and 2003.

Like some of my Colleagues, I have supported extending these lower tax rates for everyone and making that extension permanent. That's why I introduced H.R. 4270 which would lock in these lower tax rates indefinitely.

The important legislation before us today includes many beneficial provisions. For example, the agreement:

Prevents tax increases on every American who pays income taxes.

Eliminates job-killing tax increases on small businesses.

Provides relief from the estate tax for family owned businesses.

Preserves the \$1,000 per child tax credit and marriage penalty relief.

Blocks higher taxes on capital gains and dividends.

Protects at least 21 million households, including 1.6 million in New Jersey, from being hit by the Alternative Minimum Tax (AMT) in 2010.

Provides a one-year payroll tax cut that is worth \$1,400 for the average New Jersey household.

I must acknowledge that I am not pleased that this bill prevents a tax hike on higher income Americans and small businessmen and women, which would have taken effect on New Year's Day 2011, for only two years.

Our economy does not run on temporary, stop-gap half-measures. In order to invest and grow their companies for the future—creating private sector jobs and opportunities in the process—businesses of all sizes need predictability in the tax code. They need certainty in order to plan their operations and workforce expansion. In order to spur job creation, all the tax rates should be extended as far as the eye can see!

The non-partisan Congressional Budget Office estimates that fully extending the 2001 and 2003 tax rates would add between 600,000 and 1.4 million private sector jobs in 2011 and between 900,000 and 2.7 million jobs in 2012. In addition, lower tax rates on capital gains and dividends will boost capital investment and spur economic growth.

I also have strong reservations about some of the spending included in this bill and some of the so-called tax extensions.

For example, the package extends the federal Unemployment insurance (UI) Program for another 13 months and maintains the current cap of 99 weeks of total benefits.

I understand that people need a helping hand and strongly support aiding unemployed Americans. However, the President has insisted that the cost of extending benefits be added to the country's \$14 trillion debt. We can do better than this. The fact is that we CAN help the long-term unemployed AND pay for it.

Likewise, we should object to certain so-called "tax extenders" such as the renewed subsidies for the production and use of corn ethanol. For yet another year, \$6 billion will be extracted from U.S. taxpayers to prop up the struggling ethanol industry while diverting valuable corn supplies from other worthwhile uses.

Despite these and other reasons, I will support this bipartisan agreement. I recognize that a "no" vote on this bill represents a "no" vote on the U.S. economy.

It would be nothing short of a disaster to allow the largest tax increase in U.S. history to crush American families and small business in two short weeks.

Mr. Chair, the larger debate surrounding extension of the lower Bush tax rates underscores the need for Congress to act decisively in the New Year to support private sector job creation, reduce government spending, lower our dangerous public debt and enact permanent tax reform.

Mr. YARMUTH. Mr. Chair, when most people borrow money—and go into debt—it's either for survival or for an investment that will pay off in the future.

Borrowing \$114 billion from China to give massive tax breaks to the wealthiest Americans meets neither of those goals.

Over the last ten years, while economic growth has stalled and middle class wages have stagnated, the wealthy have been doing just fine. In fact, two-thirds of all the income gains made in this country over the last ten years have gone to the wealthiest one percent. And the top one percent now owns more financial wealth than the bottom 90 percent.

They clearly don't need any more help to get ahead.

This \$114 billion tax giveaway to the rich is not an investment in our economy.

Just look at what happened in the decade that followed the passage of these cuts in 2001.

Even if you exclude the beginning of the recession, we saw the slowest economic growth since World War 2: fewer jobs created, fewer businesses started, fewer dollars injected into our economy.

So where did all that money go? Into the bank accounts of the wealthiest few. When their taxes were cut, they banked three times as much money than before. More money was stashed away rather than—as some would have you believe—put into business expansion or job creation.

That's why the Congressional Budget Office ranked an extension of these tax breaks LAST among the options we have to help grow the economy and create jobs.

There are things in this proposal that are about survival, like an extension of unemployment insurance to help the families hit hardest by this recession. There are investments, like the tax credits that will help small businesses expand.

But unfortunately—and ultimately—the long-term costs of this bill are far more damaging to our nation than these short-term gains.

Borrowing money to give tax cuts to the rich—tax cuts that are more than most families make in a year—is unconscionable.

Economics shows this is a dead-end. History proves it would be disastrous. And basic morality dictates that our priorities should focus on making our economy work for EVERYONE—not just the wealthy few.

I urge my colleagues to join me in standing against this proposal and its unacceptable price and yield back the remainder of my time.

Mr. BISHOP of Georgia. Mr. Chair, our economy is still very weak: over 75 percent of American workers are living paycheck-to-paycheck. The unemployment rate stands at 9.8 percent, and over eight million Americans are subsisting on unemployment insurance benefits while they search for work. In Georgia alone, the unemployment rate is over 10 percent. 67,000 additional Georgians filed for unemployment insurance last month. Despite these sobering numbers, our nation is on a dangerous path toward the largest tax increase in over a decade if we do not approve this vital legislation before us today.

We must not let this happen. We must change course. Our nation's workers, retirees, businesses, and job-seekers simply cannot afford the crushing burden of new taxes in today's economy. Raising taxes in this economic environment would stifle investment, slow down job creation, and put severe financial strain on businesses and individuals.

This bipartisan legislation confronts this reality. It temporarily continues the Bush Tax Cuts for the benefit of all Americans. It provides a desperately needed extension of unemployment insurance benefits. It reduces the crushing burden of the estate tax on our nation's family farms and businesses. And it puts money back into the paychecks of America's workers.

I urge my colleagues to take action and vote to send this legislation to the President's desk. Now is the time to act. We owe it to our constituents and to our nation not to let their taxes go up on New Year's Day.

Mr. WAXMAN. Mr. Chair, I will vote for this tax package that is before us tonight.

While there is absolutely no reason to justify or defend the extension of the Bush tax cuts for wealthy Americans, and the unconscionable tax treatment of wealthy estates—both of which were insisted upon by the Republicans—those egregious giveaways to those who need or deserve it least are, in fact, more than balanced by generous support for tens of millions of households across the country.

I will vote for the Pomeroy amendment to restore the estate tax to sensible levels. There is no justification for massive estate tax relief for the Nation's 6,600 wealthiest families, at a cost of \$25 billion to America's taxpayers.

Despite continuing the Bush tax cuts for those earning over \$250,000 per year, and despite the estate tax provisions, this initiative, forged by President Obama, does a lot of good.

We are extending unemployment insurance for 13 more months. It is desperately needed by those who simply cannot find jobs after being out of work for months.

We are providing continued income tax rate relief for two years for the middle class.

The payroll tax holiday is an enormously progressive reform at a time when it is most needed to boost take home pay.

The extension of the child tax credit and the tuition tax credit in particular will greatly assist income security for American families. The green energy tax provisions will help create jobs and promote clean energy technology.

The bottom line is: This economy needs more jobs. We need to get unemployment down and growth up. Working Americans need more cash in their pockets. The economy needs a major jolt to go forward.

This package delivers on these urgent needs.

While I take no pride in any vote to give unearned financial rewards to the very wealthiest among us, I cannot in good conscience be party to legislative deadlock that means only one thing: millions of people cut off from unemployment insurance before Christmas, and a big tax hit on the middle class and working Americans as the new year begins. If we do not act, they will suffer grievously. That must not be permitted to happen.

I must point out that the fact that the tax cuts last only two years and will not be permanently extended is a major plus for me. When our economy recovers, our high priority to reduce the deficit will require us to both cut spending and raise revenues. I am pleased the President has pledged that he will not further extend or make permanent the upper income tax cuts.

I support the President's proposals, and urge my colleagues to join in supporting this legislation.

Mr. VISCLOSKEY. Mr. Chair, I rise in strong opposition to H.R. 4853, legislation based on the agreement between the White House and Congressional Republican leaders that calls for borrowing nearly \$1 trillion over the next two years.

Further, I am appalled that the unemployed are being held hostage in order to ram the flawed measure through Congress. And I have yet to find the equity in extending tax cuts for 24 months, but the solvency of the unemployment fund for 13 months.

I oppose borrowing nearly 1 trillion over the next two years when we have a debt today of \$13.8 trillion.

I oppose borrowing nearly \$1 trillion over the next two years when our projected deficit for Fiscal Year 2011 is \$1.1 trillion.

I oppose borrowing nearly \$1 trillion over the next two years when we will pay \$438 billion in interest on the national debt this year alone. I can't imagine what this figure will look like when interest rates inevitably head higher.

I oppose borrowing nearly \$1 trillion over the next two years for an agreement that fundamentally weakens Social Security through a payroll tax "holiday." The holiday means we will be paying less money than anticipated into Social Security, thus reducing its solvency. In fairness, we're told that the government will "find" the money to make up the loss. Where?

But what's the big deal if this is only temporary? If the debate around the expiration of the Bush tax cuts has taught us anything, it is that, fair or not, a so-called "temporary" tax cut can be quickly re-characterized as an impending tax hike.

If Members of Congress and the President do not have the intestinal fortitude to make thoughtful, tough, permanent decisions today, do you think they will with Presidential and

Congressional elections looming next December? I believe the decisions made this week will become permanent, fundamentally weakening our country.

I oppose borrowing nearly \$1 trillion over the next two years because we have a desperate need for investment in our nation's roads, bridges, ports, railroads, and water services. Just three months ago, the infrastructure in the state of Indiana received a grade of D+ from the Indiana section of the American Society of Civil Engineers in a report that identified a need for billions of dollars in safety and service upgrades. Next year, because of this agreement, we'll be told we just don't have any money left to invest.

Not all the provisions in this agreement are bad. There are many good ones, including making a decision about estate taxes. But they are not all of equal merit. Better approach would have been to examine each tax provision and approve those that encouraged savings and investment the most, then pay for them, and make them permanent.

But no, let's hold the unemployed hostage. Let's borrow nearly \$1 trillion over the next 2 years. Let's reduce the solvency of Social Security. Let's further disinvest in our nation's intellectual and economic infrastructure.

Robin Hood stole from the rich for others. We're stealing from our children for ourselves. My first grade teacher, Sister Marlene, would be ashamed.

I urge my colleagues to oppose this measure.

Mr. CONYERS. Mr. Chair, I regret that I must rise in opposition to the Middle Class Tax Relief Act of 2010. Today's legislation is fiscally irresponsible and recklessly extends Bush era tax cuts for the rich, the millionaires and billionaires, and establishes an extremely low estate tax rate. However, I am supportive of efforts to extend unemployment benefits.

To add insult to injury, this bill includes not one, but two bailouts for the ultra wealthy. In addition to extending income tax cuts for the rich, this bill reduces the estate tax from 55 percent to 35 percent next year. This second bailout will give a gigantic tax giveaway to a few thousand of the richest families in the country and add hundreds of billions to the national debt.

I was also dismayed an increase to the debt ceiling was not included in today's proposal. Congress will have to vote to increase the debt ceiling next year. Many in this body would like to hold the debt ceiling vote hostage and demand massive spending cuts and or make the Bush tax cuts permanent in exchange for their votes. We need to show the American people that tax cuts for the wealthy are not free and that they add huge amounts to the national debt.

Just a few weeks ago, this chamber voted separately to extend both middle class tax cuts and unemployment benefits to those who lost their jobs through no fault of their own. While I agree that we need to protect the most vulnerable, the unemployed and working families who need every cent during this time of economic malaise, it is irresponsible to continue Bush era tax rates for wealthy Americans, which are neither justified nor needed, for the next two years. Furthermore, there is no empirical evidence that tax cuts for rich

have helped the economy in any tangible way. The Act will steal hundreds of billions of dollars of needed revenue for America's fiscal future.

This compromise bill also includes a two percent employee-side payroll tax cut that I fear will weaken the Social Security trust fund. Today's proposal would deny over \$120 billion each year to the Social Security fund and make it easier for conservatives to weaken Social Security's revenue streams in the future. I support giving working Americans extra cash in their pay check, but it should not be taken away from the Social Security trust fund.

Last week, I stated that this tax compromise was a fight for the heart and soul of the Democratic Party. Democrats have always stood for the workers, the disenfranchised, and those who are denied the opportunity to compete for the blessings of the American Dream because of their race, creed, religion, or class. I fear that passage of this bill tonight will tarnish this proud legacy of our party and cause the 98 percent of Americans without estates or astronomical personal wealth to question which party will fight for them. If this bill passes, each and every member of this body should look themselves in the mirror and consider what we have lost in the name of compromise. I encourage my colleagues to reject this flawed bill."

Mr. DINGELL. Mr. Chair, H.R. 4853 was negotiated in the dead of night, and I am outraged by the take-it-or-leave tactics employed to ram this legislation through the House, no less in a lame-duck session. This is not how good legislation is produced, and I am convinced we will feel the repercussions of this for years.

In considering H.R. 4853, the Middle Class Tax Relief Act of 2010, members of the House of Representatives confront the tragic choice of extending unemployment benefits and current middle-class tax rates at the price of enormous tax give-aways to millionaires and fat cats on Wall Street. At a time when American corporations are making record earnings and giving million-dollar holiday bonuses, we are extending tax cuts for the wealthiest two percent of Americans for two years but extending unemployment insurance for only 13 months. This greatly frustrates me, and I believe we must do more to help working families. Equally distressing is the fact that this lop-sided agreement hides another, more insidious provision that could promise to do future violence to the federal program upon which millions of senior citizens in this country rely for their very existence, namely Social Security.

I am somewhat comforted, however, that H.R. 4853 clearly mandates the shortfall in revenue to the Social Security Trust Fund caused by the bill's one-year payroll tax holiday be made whole with a transfer from the Treasury's General Fund. This measure is designed ostensibly to provide Americans with more take-home pay to spend or save as they see fit, but it earns only my hesitant backing for fear that Republicans will attempt to make this provision permanent when it expires next year. Such a move can only be seen as the first step leading to what my colleagues on the other side of the aisle want most: privatizing Social Security.

While I maintain my strong reservations about portions of this tax package that benefit only the wealthiest two percent of all Americans, my colleagues and I cannot in good conscience return to our districts without having secured an extension of unemployment benefits and existing tax rates for middle-class families so aggrieved by the current recession. The good people of the 15th District need the stability of assured unemployment benefits to help get them through this holiday season, giving them time until they find stable employment.

Now is one of the times when it is ultimately better for our government leaders to come together on common ground where it can be found, instead of letting the perfect be the enemy of the good enough. In this case, the government is taking real action to stimulate the economy and help those desperately in need. Democrats are making the choice to protect millions of Americans struggling to keep food on the table and keep the heat on while searching hard for a job. According to the Center for American Progress, the tax deal would save or create 2.2 million jobs through 2012. In Michigan, the importance of the unemployment extension cannot be overstated. In November 2011, almost 300,000 Michiganders will lose their unemployment benefits without federal action. These are real numbers, and this is real money that will have a positive impact on our economy at a time when it is desperately needed.

Absent a better choice, I will vote in favor of H.R. 4853. I do so as Dean of this House and the proud son of a man who helped pass the Social Security Act but demand my colleagues' sacred vow that this bill's payroll tax holiday never again be extended. To do so would be an indefensible assault on the economic and social progress achieved by generations of working-class Americans. I assure you, Madam Speaker and my colleagues on the other side of the aisle, I will do everything in power to make sure Social Security is protected from rascality and available for not only current recipients, but also their children and grandchildren.

Mr. BRALEY of Iowa. Mr. Chair, Americans spoke clearly on November second. Congress must get serious about reducing the deficit and become better stewards of their tax dollars. After endless talk throughout this session about fiscal responsibility, the looming threat of a growing deficit and forcing America's next generation into crushing debt to China—a so-called tax deal has been produced. Today this House will vote on a bill that will explode the deficit by \$858 billion dollars.

While this package includes several programs I have proudly supported, I cannot support the underlying bill. As recently as last week I voted to give every American a tax cut by making the middle class tax cuts permanent for the millions of American families, consumers and small business owners who drive our economy. I have consistently voted to extend unemployment insurance to assist the families struggling in this difficult recession. I have voted to extend the Earned Income Tax Credit and Child Tax Credit to assist our nation's low-income families who have a difficult enough time making ends meet as it is. I have consistently voted in for ethanol and biodiesel

tax credits that sustain the growth of our nation's renewable energy industry and support the jobs of thousands of my constituents in Iowa.

Those were some of the good things included in this deal. Unfortunately, the merits of these good things do not outweigh the bad things in this deal. I cannot justify mortgaging our children's futures to provide a Christmas bonanza to the privileged few. I refuse to support increasing the deficit by at least \$81 billion to provide a tax break to the wealthiest persons in this country. I refuse to support a bill that would balloon the deficit by \$23 billion to provide an average tax break of more than \$1.5 million to only 6,600 families a year. And I unequivocally refuse to threaten the long-term viability of social security with a shell game to pay for diminished social security contributions.

I'm voting "no" on this bad deal because we cannot keep kicking the can down the road when it comes to difficult decisions about the deficit, especially with a package that threatens the financial stability of our nation. I urge my colleagues to join me in voting "no."

Ms. ZOE LOFGREN of California. Mr. Chair, I rise today to express my concerns regarding the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010.

The American economy is slowly recovering from the worst recession we've seen since the Great Depression. While there has been some improvement, the economy is still fragile, and we need to ensure that our tax policy for the near future supports job growth if we are to continue on this path of recovery.

Unfortunately, the tax package that the Senate has sent us today does not support the creation of new jobs.

The United States is quickly being surpassed by other countries in infrastructure and clean energy investments. Rather than supporting tax policies to reverse this trend, the Senate's tax package focuses on tax cuts for the wealthiest in our population and old energy sources that do not present great possibilities for our future.

While the American Recovery and Reinvestment Act (ARRA) made important strides in closing that gap, this legislation is a step backwards. The Senate's tax package includes a one year extension of the Treasury Grant Program enacted in section 1603 of ARRA that allows renewable energy companies to receive a cash grant in lieu of either the production or investment tax credit. The Program was designed to allow renewable energy projects to continue while investor demands for tax credits lagged in a sluggish economy. Unfortunately, a one year extension is insufficient to ensure a steady stream of investment in renewable energy projects and may stall the momentum we've built in creating a strong, green economy.

Further, the tax package fails to include the Advanced Energy Manufacturing Tax Credit from ARRA, a program that was immensely useful. The tax credit was created to expand domestic clean energy manufacturing. America needs to rebuild its manufacturing base to compete in the global marketplace. The Manufacturing Tax Credit is crucial to laying a foundation for the United States to be a leader in the clean energy manufacturing industry.

The failure to extend these critical programs will have negative economic impact across the country and in my district in San Jose. As a Member from Silicon Valley, I represent many renewable energy and energy efficiency companies that are currently utilizing these credits to create jobs and stimulate the economy. By not including robust renewable energy programs as part of our tax policy, we are failing to invest in our economic future, and for that reason, I am unable to vote for the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010.

Mr. JORDAN of Ohio. Mr. Chair, despite the clear message sent by the American people in November, the Obama Administration and the Pelosi Congress continue to borrow and spend like there is no tomorrow.

In another attempt to bring some fiscal responsibility back to this Congress, I submitted an amendment yesterday in the House Rules Committee that would seek \$149 billion in cuts to offset the \$95 billion in new spending in H.R. 4853, the so-called Middle Class Tax Relief Act of 2010.

While I am glad to see this bill temporarily stop the Democrats from raising the income tax rates of every American, I am disappointed that it includes a massive increase in the estate tax that will hurt the families, farmers and small business owners in my district and across America.

I am further disappointed that the new spending in this bill will add to the deficit, further burdening our children and grandchildren with debt that must be repaid. We cannot continue to grow our debt and by loading well-intentioned bills with billions of extra dollars in borrowing and spending.

My amendment would do what the American people are demanding we do: stop the out-of-control federal spending! By returning non-defense appropriations spending to FY 2008 levels, we will realize an immediate savings of \$80 billion. By repealing the remaining stimulus funds, we save another \$69 billion.

Tacking more spending on to bills is a hallmark of Washington politics. It has landed us in record-high debt. We must break away from this trap with a commitment to passing clean bills and eliminating excess waste.

Add at the end of the bill the following:

TITLE ____—APPROPRIATIONS AT LOWER PREVIOUS FISCAL YEAR LEVELS

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2011, and for other purposes, namely:

SEC. ____ (a) The amounts provided in the appropriations Acts for fiscal year 2008 referred to in section 101 of division A of Public Law 110-329 and under the authority and conditions provided in such Acts for projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise provided for, that were conducted in fiscal years 2008 and 2010, and for which appropriations, funds, or other authority were made available in such Acts.

(b) If the amount provided for a project or activity by subsection (a) would be higher than the amount provided in appropriation Acts for fiscal year 2010, such project or ac-

tivity shall be funded at the lower such amount.

SEC. ____ There is hereby enacted into law the provisions of the following:

(1) The Department of Defense Appropriations Act, 2011, as reported in the 111th Congress by the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

(2) The Department of Homeland Security Appropriations Act, 2011, as reported in the 111th Congress by the Subcommittee on Homeland Security of the Committee on Appropriations of the House of Representatives.

(3) The Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2011, as passed in the 111th Congress by the House of Representatives.

SEC. ____ Appropriations made by section ____ shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

SEC. ____ Unless otherwise provided for in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available through September 30, 2011.

SEC. ____ For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2010, and for activities under the Food and Nutrition Act of 2008, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2010, to be continued through the date specified in section 104.

SEC. ____ Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. ____ None of the funds made available in this joint resolution may be used to carry out any program under, promulgate any regulation pursuant to, or defend against any lawsuit challenging any provision of, Public Law 111-148 or Public Law 111-152 or any amendment made by either such Public Law.

SEC. ____ None of the funds made available in this joint resolution may be used for a congressional earmark as defined in clause 9(e) of rule XXI of the Rules of the House of Representatives.

Further, add at the end of the bill the following:

TITLE ____—ARRA RESCISSION AND REPEALS

SEC. ____ . ARRA RESCISSION AND REPEALS.

(a) RESCISSION.—Of the discretionary appropriations made available in division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), all unobligated balances are rescinded.

(b) REPEALS.—Subtitles B and C of title II and titles III through VII of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) are repealed.

Mr. STARK. Mr. Chair, I rise today to oppose H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

Santa Claus is arriving early for a handful of wealthy individuals and industries this year. Wall Street should be throwing a parade today. They can certainly afford one after the

President failed to uphold one of his signature campaign promises of letting tax breaks for the rich expire as planned.

We hear a lot of hand wringing about the deficit, but this “compromise” extends all of the Bush tax cuts for the next 2 years, adding hundreds of billions to the deficit so that millionaires won’t have to pay their fair share of taxes. It also includes billions of deficit financed tax favors to special interests. No one who votes for this package has any credibility left when talking about the deficit.

This bill is skewed toward the very wealthy. According to the Tax Policy Center, the biggest share of the tax cuts will go to the richest families, many with incomes of several million dollars. Households in the top 1 percent of income will see an average tax break that is higher than the annual income of nearly 80 percent of American families. The distribution of the tax savings is disproportionate and just unfair. The wealthiest 20 percent of taxpayers are going to get 60 percent of the tax savings from this extension.

The handouts to the ultra-rich will follow them to the grave. Thousands of millionaires will now be able to die with the confidence that their assets will not be impacted by the estate tax. Without Congressional action, the 44,000 wealthiest families would have paid the estate tax in 2011. Now that the administration has agreed to the most generous estate tax plan in recent history—a \$5 million exemption and 35 percent rate—only the wealthiest 3,600 estates are expected to pay the estate tax in 2011. The theme here is clear: the rich will continue to hold more and more wealth and power in this country while the middle class is warned that it will have to accept cuts to Social Security and Medicare in order to balance the budget.

Every business interest imaginable will get their piece of the pie. The corn ethanol industry, which is already guaranteed a robust market by the federal government, will continue to be showered with subsidies to the tune of \$6 billion a year. You would be mistaken if you think this handout helps farmers. It is actually paid to the oil companies that blend the ethanol—BP claimed over \$500 million from the credit in 2008 alone. And the list goes on. Owners of NASCAR speedways will be able to accelerate their tax write-offs faster than other businesses, rum makers will get an extension of tariff rebates and Hollywood studios will get tax breaks when they produce movies and television shows.

There are good things for working families in this agreement, but they pale in comparison to the gifts to the upper class. Extended Unemployment Insurance benefits will be continued for 13 months and spare millions of Americans from losing their income, allowing them to keep food on their tables and a roof over their heads. Extending improvements made to the Earned Income Tax Credit and the Child Tax Credit made by the Recovery Act also makes sense and will help many families.

A payroll tax holiday will put money into the pockets of people who need it most, but I worry what this will mean for the future of Social Security. The provision also unfairly leaves out thousands of federal workers and teachers in my state of California. It is sad that we have to hand out several hundred billion

dollars worth of benefits for millionaires just to find the votes to help working families make ends meet.

Two weeks ago I voted for the Middle Class Tax Relief Act of 2010 that would have extended tax cuts for middle class Americans. I also voted to extend Unemployment Benefits for working people. Those are the bills we should be sending to the President. But the legislation before us today is a colossus, burying those benefits for Americans struggling to keep a roof over their heads underneath billions in blatant handouts to the wealthiest taxpayers. I urge my colleagues to defeat this legislation.

Mr. PRICE of North Carolina. Mr. Chair, I rise in qualified support of this tax cut agreement. I do so only after carefully weighing its positive elements against its severe flaws and with a realistic sense of the dire consequences should the measure fail.

This conclusion says as much about the gamesmanship of our colleagues on the other side of the aisle—and, I'm afraid, about what we can expect in the next Congress—as it does about the contents of the legislation. No program or priority has been too sacred for House and Senate Republicans to hold hostage in their fervor to extend President Bush's tax cuts for the wealthiest Americans, regardless of how many hard-working families have had to suffer in the process. Programs that have always enjoyed strong bipartisan support—such as unemployment insurance and small business tax credits—have suddenly become “Democratic” priorities, fair game to be stonewalled by Republicans until they could squeeze every last concession out of this deal.

The disconnect between what they say and what they do should be painfully obvious to the American people. How does their support for tax cuts for millionaires and billionaires square with their stated priorities of balancing the budget and growing the economy? Spending \$130 billion over the next 2 years alone on tax cuts for the richest 2 percent of Americans—without paying for a cent of it—is certainly a strange way to demonstrate their fiscal discipline. And it's also the least effective step we can take to spur the economy. If economic recovery were really the goal, they would have extended unemployment insurance the first chance they had, because nothing plows money back into the economy more effectively.

If this is where the Republican Party's true priorities lie, then I have never been prouder to be a Democrat. I have never been prouder to stand up for hard-working Americans who have lost their jobs and cannot find a new one by assuring them that their unemployment insurance will not expire. I have never been prouder to stand up for middle-class families who have seen their savings depleted and cannot afford to have their taxes raised during an economic downturn. To stand up for small businesses by giving them the certainty and support they need to grow and prosper. And to stand up for future generations by allowing expensive tax cuts that benefit only the wealthiest while doing nothing to stimulate the economy to expire on schedule, so that we can finally get back on track toward a balanced budget.

Two weeks ago, this House approved, with my strong support, a bill that would have done all of these things. This earlier version of the legislation before us today would have given all American families a permanent tax cut on the first \$250,000 of their income, including capital gains and dividends; it would have extended AMT relief, the enhanced EITC, and the enhanced child tax credit; and it would have maintained critical expensing provisions to encourage small businesses to invest. Simply put, this bill would have provided tax relief to those who need it most, and with the maximum economic impact. Yet our Republican colleagues dismissed it as a “symbolic” vote.

Since then, the measure has been amended substantially to reflect the negotiations that have occurred between the White House and Congressional leaders. The result is a much more expansive package that has many positive elements but also major negative ones. It is also an expensive package, adding over \$850 billion to the deficit over the next decade. This cost is only justifiable to the extent that the legislation is both effective as an economic stimulus and equitable in its benefits, and each of its provisions should be subjected to these criteria.

On the positive side, the measure will extend unemployment insurance through the end of next year. This is both a moral obligation and a sound economic decision: there is perhaps no greater return on our investment in the short run than to ensure that Americans who have lost their jobs and cannot find another one can continue to make ends meet. At the same time, they put almost all of this money back into the economy, maintaining aggregate demand for goods and services—in stark contrast to tax cuts for the wealthy.

The agreement maintains the historically low tax rates that lower- and middle-income Americans have enjoyed for the past decade for 2 more years. While doing so will not be cheap, we cannot afford to raise taxes on working families during the current downturn, and the stimulative impact of these extensions will be significant. It also extends several tax credits targeted directly at lower- and middle-income Americans, including the refundable child tax credit, the enhanced Earned Income Tax Credit, and important credits or deductions for child care, education, and other essential services. The fact that the child tax credit is refundable for low-income people whose income tax liability is limited will provide a particularly important boost to them and to our economic recovery.

In addition, the package offers critical relief to small businesses, including an extension of the bonus depreciation provision included in the Recovery Act, a 2-year extension of the Research and Development tax credit so critical to the Research Triangle, and several important renewable energy incentives. These and other provisions will provide business owners with the stability and support they need to expand their operations, hire new workers, and continue the economic recovery.

Finally, the legislation includes a payroll tax holiday that will result in a lower tax burden for all American workers next year. Some respected advocates, in North Carolina and elsewhere, have argued that this provision could in fact hurt lower-income workers, com-

pared to the Making Work Pay tax credit that expires this year. Some have also claimed that this provision would threaten Social Security by temporarily reducing payments to the Social Security trust fund.

To be clear, if I had my choice I would prefer to be voting for an extension of Making Work Pay instead of a payroll tax holiday—but that is not the choice we face today. The choice is between a payroll tax holiday and nothing, and the simple fact is that if we do nothing, then lower-income workers will be much worse off than they are now: their income taxes will be higher; they will lose the many other benefits this bill provides, such as enhanced EITC; and they won't receive any form of payroll tax relief. Moreover, because the benefits of a payroll tax holiday will be more broadly shared, the stimulative impact of a payroll tax holiday will be more broadly felt. And as for its impact on Social Security, both the President and the AARP have assured us that the diversion of funds will be both temporary and repaid in full. There are reasons to be concerned about threats to Social Security's future, but this should not be one of them.

Now, these positive elements must be weighed carefully against the major concessions that were made to Republicans during the negotiations that produced this bill. I am referring, of course, to the extension of the Bush tax cuts on income over \$250,000, which will add over \$100 billion to the deficit over the next 2 years while doing almost nothing to stimulate the economy. This is not simply my personal opinion or the view of the Democratic Party: it is a fact confirmed by the Congressional Budget Office and any number of respected economists, and well understood by the American people. As I have already stated, the fact that the Republican leadership held this entire package hostage so that millionaires could get an average tax break of \$100,000 per year tells us exactly where their true priorities lie: Tax cuts for the wealthy are clearly the “holy grail” of their economic policy, to which all other policy outcomes are subjugated.

I am equally disappointed by the inclusion of an estate tax proposal that is little more than a gratuitous giveaway to some 6,600 wealthy families. We hear a lot of dire warnings about the impact of the estate tax on small farmers and business owners, but even to the extent that they would be affected, the compromise estate tax proposal passed by the House last December was more than sufficient to protect them. Now, we are considering a proposal that costs \$23 billion more than the 2009 proposal and will have no economic impact at all aside from letting a few thousand millionaires and billionaires keep even more of their inherited wealth—an average windfall of \$3.5 million per family.

As the details of these provisions have become known, I have actively engaged in discussions here and at home, doing everything within my power to oppose the inclusion of giveaways to the wealthiest Americans in the package. I have joined my colleagues in sending two separate letters to the House leadership opposing the inclusion of upper-income tax cuts and a third letter arguing against the gratuitous estate tax provision, and last week

I voted for the House's middle class tax cut package which omitted these giveaways. I have also signed several letters arguing for a more sensible package of energy incentives in the legislation, including a reduction of the ethanol credit that was added by the Senate at the last minute. I was a strong supporter of the 2009 estate tax compromise offered by Representative EARL POMEROY, which unfortunately failed to pass the Senate, and I will be voting for it again tonight.

While I am deeply disappointed that these efforts have not been more successful, we are now called upon to evaluate this package as it is, not as we would like it to be. The bottom line is that the positive impact of this package for working- and middle-class Americans and our economic recovery outweighs its negative impact on the deficit and its unjust giveaways to the wealthy.

We must also consider the consequences of failing to enact this legislation today. Deferring action on these expiring tax provisions until next year would not only create chaos for American taxpayers; it would also likely result in a package that is nowhere near as generous or as equitable, given the extreme views of the incoming Republican majority on many of its provisions. Republicans leaders openly state that their chief concern in the 112th Congress is not economic recovery, not putting Americans back to work, but ensuring President Obama is a one-term President. While their stated goals may be grossly misguided and narrow, mine will not be. Scuttling this package would mean foregoing what will likely be our last opportunity to provide any stimulus to the economy, given that the Republicans have made clear their opposition to additional aid to states, infrastructure investments, and other countercyclical programs. The need to maintain demand and stimulate growth has not fully abated—this economy is not yet out of the woods. The question is not whether the package before us is the most effective one conceivable—it is not—but whether we will do anything to keep the recovery going before the next Congress shuts the door entirely.

Under these circumstances, I support this legislation despite its flaws. I cannot in good conscience cast a "no" vote that, were it to prevail, would expose working Americans to tax increases and end the EITC and child credit provisions that have benefitted so many people. I cannot in good conscience cast a vote that would rip away the safety net for those not yet able to find work, and in the process hobble an economic recovery. We risk all of these if this bill fails. Our good conscience also causes us to question this bill's violations of tax fairness and fiscal prudence; I have worked and will continue to work to change these things. But tonight we must vote while we have the chance to do so, and on the only vehicle available to us, to protect the vast majority of our constituents and to bring this economy back to health.

Mrs. CAPPS. Mr. Chair, I rise today in somewhat reluctant support of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act. I am supporting this bill because of the tremendous good it will do for middle class families in my district and throughout the country.

This bill extends emergency unemployment benefits for 400,000 Californians whose bene-

fits have expired. Not only do these benefits help working families pay the bills and put food on their tables, they also stimulate economic growth, creating \$1.63 in economic demand for every dollar in benefits.

This bill also extends dozens of tax incentives that benefit middle class families like the college tuition deduction, child tax credit, marriage penalty relief, and the enhanced earned income tax credit. It helps small businesses expand and hire more workers by extending the R&D tax credit, zero percent capital gains tax on long term small business investments, and bonus depreciation for capital investments.

And it also invests in a clean, renewable energy future by extending tax incentives for renewable fuels, energy-efficient appliances and home construction, and the successful Treasury Department grant program for renewable energy projects. These extensions will help local green businesses in my district like Clipper Wind, REC Solar, and CREE Lighting create quality green jobs that can't be shipped overseas. And it will stimulate our economy by expanding our use of cleaner, safer forms of energy.

The bottom line is this bill will create jobs and spur economic growth, and these are provisions that I strongly support. However, this bill also continues to tilt our tax code in favor of the wealthiest three percent of our society. And I oppose those provisions in the strongest of terms.

I support the permanent extension of current tax rates on income up to \$250,000 and, in fact, representing an area with such a high cost of living, I would probably support extending that limit up to \$500,000. But, Mr. Chair, I do not see why we should extend the reduced tax rates for incomes in excess of that.

This proposal to extend the reduced tax rates that only go to millionaires and billionaires will cost taxpayers over \$80 billion, simply adding to our deficit. To add insult to injury, this tax cut extension for the super-rich lasts for two years while emergency unemployment benefits last for only 13 months. And, Mr. Chair, according to virtually all economists these extensions will do virtually nothing to stimulate economic growth.

Adding to the giveaways, Republicans insisted on "fixing" the estate tax to ensure that only 0.14 percent of estates are subject to the tax, adding another \$68 billion to the deficit. I agree that the estate tax needs to be fixed, but this is not the solution. At a time when middle class families continue to struggle, continuing tax cuts that only go to millionaires and billionaires is irresponsible, wasteful and bad economics. These tax cuts for the super wealthy will add nearly \$140 billion to the deficit in just two years.

I am also very concerned that this bill includes a temporary two percent reduction in payroll taxes for all employees and self-employed individuals. While I strongly support additional tax relief to Middle Class families—which this achieves—the payroll tax reduction puts the Social Security Trust Fund at risk of losing its independent revenue stream. I believe we should extend the Making Work Pay Tax Credit, which gave targeted tax relief to those that needed it most without endangering the financial security of Social Security.

Finally, the bill before us needlessly extends the excessive ethanol tax subsidy of 46 cents per gallon. Thanks in part to this harmful subsidy, the U.S. will divert nearly 40 percent of the domestic corn crop from food and feed to fuel this year, which will only exacerbate the growing problem of increasingly volatile and high commodity prices. Lowering this subsidy by just 10 cents per gallon would help reduce these harmful side effects, and save taxpayers roughly \$1 billion next year.

Mr. Chair, I am very disappointed that this important legislation to prevent a tax increase on everyday Americans has been loaded down with so many unnecessary and wasteful provisions. But I'm supporting this bill because the needs of middle class families and small businesses—the backbone of our economy—are too important to be left to die in the hands of Republican leadership next Congress.

This bill is a compromise. It's not the compromise I would have written. But it's the compromise that will get desperately needed help to the families that need it most. Time has run out and we must act now for the good of the American people.

Mr. ACKERMAN. Mr. Chair, I rise today in opposition to H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010.

It is fundamentally wrong to hold for ransom unemployment benefits to the most vulnerable individuals among us for tax cuts to billionaires. That's what happened here: 99.7 percent of us will not be affected by the estate tax, yet a \$23 billion bribe to just 6,600 families across the entire country was needed to get those unemployment benefits in the bill. And, we then add the entire cost of the bill, all \$860 billion, straight to the deficit.

Surely, there are worthwhile provisions in this bill. However, these worthwhile provisions should not be held ransom for tax cuts to the richest taxpayers—\$60 billion in tax cuts for them—some \$24 billion more than the struggling middle class who've been the hardest hit by the economic downturn. I fully support extending such low and middle-class tax relief such as the child tax credit, marriage penalty relief, the dependent care credit, the earned income tax credit, the student loan interest deduction, and Alternative Minimum Tax relief, among others. But don't tell me I have to vote for giving tax cuts to billionaires for two years when we can't even give our seniors on Social Security \$250 for one.

Speaking of Social Security, this bill represents the single greatest threat to the program since President Bush wanted to privatize it. This bill requires a \$111 billion infusion from general funds into the Social Security Trust Fund to make up the difference for cutting two percent from the employee payroll tax. Next year, if the economy hasn't recovered sufficiently, Congress will not have the stomach to let the tax holiday expire—no Member of Congress will want to "raise" payroll taxes by two percent. Any future extension of this tax holiday necessarily means that Social Security will compete with other federal programs, such as veterans, medical research, and defense, for its funding. This dangerous precedent means that Social Security's dedicated funding, payroll taxes, is under attack. This opens the door to means testing and benefit cuts for beneficiaries. Make no mistake, Social Security's

opponents will be enticed to move in for the kill by moving to privatize the program.

I don't oppose extending the middle-class tax cuts for 98 percent or 99 percent of taxpayers. In fact, before this compromise was struck, I supported raising the threshold from \$250,000 to something more reasonable, such as \$400,000, because where my constituents live there is a much higher cost of living than in other parts of the country. However, to hold extending those middle-class tax cuts hostage to pass a bill that will cost more than TARP, more than the stimulus, and add \$860 billion to the national debt, is not acceptable.

Mr. Chair, it's hard to climb the ladder of prosperity if the middle rungs are missing. This bill does nothing to restore those middle rungs; instead, by giving the most to those who need it the least, it perpetuates the failed thinking that somehow the rest of us will benefit. I for one won't pay this ransom—my vote—for a few crumbs when we should be getting what's fair for our constituents. I will vote no on the underlying bill and I ask my colleagues to do so as well.

Mr. BRADY of Texas. Mr. Chair, I rise to revise my remarks regarding the Senate amendment to the House amendment to the Senate amendment to H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

I request the record reflect that Ms. Tammy Fisher is from West Texas, not East Texas.

Mr. LANGEVIN. Mr. Chair, I rise in support of this tax compromise with strong reservations. This bill contains some highly objectionable provisions like unnecessary tax breaks for the wealthiest two percent of Americans and an estate tax modification that will only benefit the richest 6,600 households across the country. These two items alone will cost \$129 billion, which could alternatively be used for deficit reduction. However, I cannot in good conscience allow all of Rhode Island's businesses and families to suffer onerous tax increases at a time when jobs are scarce and people are pinching pennies just to put food on the table.

Providing tax cuts to millionaires and billionaires is both financially unjust and fiscally irresponsible given our current budgetary challenges, but this compromise protects 98 percent of Americans from significant tax increases set to take effect January 1, 2011, and has the potential to create the private sector jobs than can sustain an economic recovery.

This legislation extends the 2001 and 2003 tax cuts for all income levels for two years, and prevents middle-income Rhode Islanders from being hit with higher tax rates under the Alternative Minimum Tax (AMT). It also contains several provisions that would assist families and stimulate our economic recovery, which has been frustratingly slow in Rhode Island as state unemployment has lingered at 12.5 percent.

This compromise includes a 13 month extension of Unemployment Insurance for the thousands of Rhode Islanders who are unable to find work. I have spoken to countless constituents who want to work and are actively looking for employment, but they cannot find jobs. Cutting off their only means of support before the holidays would be an unconscion-

able dereliction of our responsibilities as members of Congress.

Businesses stand to benefit from a two-year extension of the Research and Development Tax Credit, incentives for clean energy production, and a new accelerated depreciation provision, which will allow a 100 percent write off of capital expenditures in 2011 and 50 percent in 2012. These incentives will ease the tax burden on Rhode Island companies seeking to expand their operations and grow their business, providing an extra boost to our local economy.

For Rhode Island families, this proposal includes a two-year increase of the full Child Tax Credit and Earned Income Tax Credit. Together, these provisions will provide ongoing tax cuts to 12 million lower income families. In addition, it fully extends the American Opportunity Tax Credit for two years to ensure more people can afford higher education.

Finally, this bill establishes a year-long tax holiday, providing \$112 billion in relief by cutting the Social Security payroll tax by two percent. Hard working Rhode Islanders could use a little extra income in their pockets—money that will ultimately be spent and pumped back into the economy to create more jobs. This temporary measure will have no negative impact on Social Security. That said, I will not allow this measure to be used as a springboard toward a permanent reduction of Social Security tax revenues that threatens the program's solvency and breaks the promise we have made to our seniors, veterans and disabled Americans.

Mr. Chair, this compromise is neither a perfect nor permanent solution to our economic challenges, but the cost of inaction is something I'm not willing to pass along to my constituents. If a better deal were possible, I would take it. In fact, I was proud to vote for middle class tax relief just two weeks ago, but my Republican colleagues rejected this common sense bill and it failed to pass the Senate. So now we are faced with a choice—accept this compromise or continue playing politics. The time for politics is over. We have less than two weeks before everybody's tax burden increases. I urge my colleagues to act before our time is up.

Ms. CORRINE BROWN of Florida. Mr. Chair, although I support extending lower taxes for the working and middle class and reauthorizing unemployment benefits, I voted against the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (H.R. 4853) because it pays too high a price in terms of tax cuts for the rich. The disconnect between the needs of the country and the wealth of a few was just too much for me to bear.

As the economy recovers, I think it is important to make sure that the working people of America keep as much of their hard-earned dollars as possible. For that reason, I am very happy that this bill extended tax cuts targeted for the middle and working class. The bill helps families make ends meet and provides a tremendous boost to our economy.

Similarly, reauthorizing unemployment benefits provides stability and certainty for those hardest hit by the recession. Moreover, the unemployed will spend their benefits, which spread throughout their communities and help

the entire economy. Low-income tax credits, refundable child tax credits, and college tuition credits in this bill all have the same effect. They invest in our people and stimulate the economy.

Unfortunately, the tax policies forced on us by Republicans will have the opposite effect. We have been there before. I vividly remember when the Bush administration slammed huge tax cuts through Congress. They promised the economy would grow and deficits would never appear. Of course, the opposite occurred. The working and middle class earned less, the wealthy took home more and the deficit exploded, erasing the surplus created under President Clinton.

I categorically oppose a return to Republican tax policies that benefit only the rich at the expense of the Nation. The elections told us that Americans are tired of giveaways to Wall Street and CEOs. But that is exactly what these tax cuts represent. Under the bill passed last night, 40,000 of the wealthiest families in America will save \$25 billion on estate taxes compared to current law. Couples earning over \$250,000 keep an extra \$116 billion over two years. Each billion equals one thousand millions. Just think of all the deficit reduction and extended unemployment benefits that could pay for.

When we are leaving millions of unemployed people empty handed a week before Christmas, it is outrageous to push our country further into debt just to give unnecessary tax cuts to the wealthiest Americans. I simply could not support such a stark contrast in our priorities.

Mr. POMEROY. Mr. Chair, I rise today in opposition to the Senate amendment to the House amendment to the Senate amendment to the bill H.R. 4853—Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

I believe it is important that we extend the so-called Bush tax cuts for everyone while our economy is still struggling to recover, and as long as we can pay for it. This bill as presented to the U.S. House does not meet that test. I am especially disappointed in the provision on the estate tax. I cannot in good conscience cast one of my last significant votes in Congress in favor of a bill that would add tens of millions of dollars to the Federal deficit to benefit the wealthiest few families in the country.

The payroll tax holiday provision included in this package is also troublesome since for the first time in 75 years, the sacrosanct, dedicated revenue stream to provide Social Security benefits is diverted for other purposes. While we have fully protected the Social Security Trust Fund in the legislation and there will be no change in how much money is in the Trust Fund, I am concerned that proponents of private accounts will argue to continue this diversion of the payroll tax beyond one year—perhaps even putting the money into private accounts. At a time when we know that the long term solvency of Social Security will need either greater contributions or significant reductions in benefit, providing a payroll tax holiday is clearly a move in the wrong direction.

Mr. KUCINICH. Mr. Chair, I rise today in support of H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization and Job

Creation Act of 2010 for one simple reason. It includes an extension of federally-subsidized unemployment compensation benefits for thirteen additional months. The importance of extending unemployment benefits for my constituents back home cannot be overstated: these benefits are a critical lifeline for many in my district, as they are for millions of other Americans and their families. In October, the latest month for which data is available, there were 588,000 individuals in the State of Ohio who relied on this benefit to keep their heads and their families' heads above water. The Department of Labor reports that nearly 8.3 million Americans were receiving unemployment compensation as of early November.

Extending federal support for unemployment benefits is the least that we can do on behalf of the estimated 1.2 million people nationwide whose unemployment insurance either recently expired or will expire as they reach the last weeks of their available benefits. Cutting off unemployment benefits only adds to the shame and humiliation that people feel upon losing gainful employment through no fault of their own. For the residents of Ohio, this cutoff has been especially painful as the unemployment rate in Ohio is currently 9.9 percent. Through 2009, of those who were unemployed in my state, nearly a third had been unemployed for 26 weeks or longer. This is the highest rate of long-term unemployment seen in over 15 years. Ohio's economy was already struggling long before the current recession hit. According to the Bureau of Labor Statistics, Ohio lost approximately 430,000 manufacturing jobs from 1990 through July of 2010.

These staggering job losses have a spillover effect, touching every county and city in Ohio, as foreclosure rates have risen to a devastating level. Each year since 1995, the rate of new foreclosure filings in Ohio has grown, and from 1995 to 2009, the rate quadrupled. In 2009, there were a record 89,053 foreclosure filings—that is one foreclosure filing for every 56 housing units in the State of Ohio. In the City of Cleveland alone, there have been more than 38,000 new foreclosure filings since 2005. Because this crisis spread steadily to more middle-class and high-income suburban areas, non-urban areas now have the highest foreclosure rates in the state.

The ripple effects continue. Ohioans are forced to live with others due to foreclosure. They face communities marked with vacant and abandoned properties. The State of Ohio tells us that there are around 58,000 Ohioans who have exhausted the assistance they were getting from the state or federal government. But there are no official counts of the number of underemployed individuals, who are thankful for what they do have but cannot find opportunity to break the cycle of poverty. It is for these people that I cast a "yea" vote on this bill.

The bill contains much more than the unemployment benefits. It provides for a two-year extension of the tax cut provisions passed in 2001 and 2003 for individuals and couples at all income levels and extends the 10 percent, 25 percent, 28 percent, 33 percent and 35 percent marginal tax brackets for two years. It temporarily repeals, for two years, the personal exemption phaseout, "PEP", as well as the itemized deduction limitation that tax-

payers may claim on their income tax filings. It also continues enhanced child tax credits, and the maximum 15 percent rate on capital gains and dividends for taxpayers in the 25 percent tax bracket and above. It reduces the tax known as the "marriage penalty" and it includes a two-year "patch" intended to prevent more than 25 million Americans from being subject to the alternative minimum tax, otherwise scheduled to take effect in the next calendar year. It also extends expensing rules for small businesses.

However, I am gravely concerned that the inclusion of a provision to lower the employee portion of the payroll tax by two percentage points for one year threatens to reduce Social Security to a bargaining chip. This provision significantly weakens Social Security's revenue stream and makes it more vulnerable to the calls for cuts and privatization the program has faced for years. Advocates of this provision point out that Americans may use the money that will not be deducted from their paychecks to pay down the crushing level of personal debt that many are struggling with. But the cost to the Social Security trust fund of \$112 billion is dangerous because it cuts one-third of Social Security's funding this year alone. Worse, the act of temporarily lowering this contribution—normally an accepted deduction from every working American's paycheck—may become a political issue when time comes for this provision to sunset and the payroll tax to be reinstated. Social Security is a vital lifeline for our nation's seniors, and we tread into perilous waters when we tinker with its funding mechanism.

Mr. Chair, this bill contains many provisions about which I have strong reservations, including the payroll tax "holiday," the gutting of the estate tax, subsidies for ethanol and liquid coal, and the extension of low tax rates for the wealthiest Americans. But this bill contains a crucial provision—an extension of unemployment benefits which are critical for millions of Americans. I cannot in good conscience vote against it.

Ms. MCCOLLUM. Mr. Chair, I voted against a fiscally irresponsible \$858 billion tax cut package. Every penny of this budget-busting bill will be borrowed—much of it from China—and the burden placed on the backs of our children and grandchildren.

To keep the economic recovery on track and meet the needs of struggling American families, I do support extending middle class tax cuts and unemployment insurance. But Republicans in Congress held these priorities hostage until millionaires and billionaires were guaranteed tax cuts that they don't need. Tax breaks for the wealthy are a luxury Americans can't afford. This is simply wrong. With unemployment nearly at 10 percent, Members of Congress should be focused on getting all of America back to work, not padding the trust funds for a precious few.

The tax package the House voted on last night was even worse than the one negotiated by the President and Republicans in Congress. The Senate got into the holiday spirit and sent the House a Christmas tree bill loaded down with special interest "sweeteners." Why will NASCAR owners open their stockings this year to find a \$40 million tax break from the American people? Why are Holly-

wood producers getting a \$162 million in special breaks paid for by the American people? Why do rum makers in Puerto Rico get \$235 million? Middle class Americans shouldn't be forced to use the nation's credit card so the special interests receive everything on their wish lists.

America needs honest and responsible policymaking. The federal budget is in crisis and tough decisions are necessary. This tax cut package makes no tough decisions. Instead, kicks the hard choices down the road and makes solving America's fiscal crisis much harder.

Mr. HERGER. Mr. Chair, Title VII of this legislation provides for the extension of a number of tax provisions that expired at the end of 2009, or were set to expire at the end of 2010. I understand an effort was made to limit this title to what are known as the "traditional" tax extenders, with the general test being whether or not an expiring provision had been extended in the past. As a result of this decision, several provisions that expired for the first time at the end of 2009, and that had been included in previous drafts of tax extenders legislation, are not extended in this bill. One of these, the Section 45 production tax credit for electricity produced at open-loop biomass facilities placed in service before October 22, 2004, is important to a number of energy producers in the district I represent. Under current law, these facilities were permitted to claim the production tax credit for 5 years, ending in 2009. Previous tax extension proposals included a 2-year extension of this credit period. As a matter of simple fairness, I believe it is only right that these biomass producers should be able to claim the production tax credit for the same 10-year period afforded to the other renewable electricity producers covered under Section 45.

It is my understanding that no judgment was made on the policy merits of individual expiring tax provisions, and therefore no negative inference should be drawn against provisions that are not included in this legislation simply because they had not been extended in the past. I look forward to working with other members of the Ways and Means Committee in the 112th Congress to review these provisions and determine which ones are worthy of extension.

Mr. HOLT. Mr. Chair, it is with regret that I rise in opposition to this legislation. Less than two weeks ago, I joined a majority of this House in passing middle class tax relief that balanced the needs of working families with our nation's need to get its fiscal house in order. Unfortunately the Senate failed to pass this bill.

The legislation we are considering today is deeply flawed. We should try to put money in the pockets of working families, and I do not fault President Obama and many of my colleagues who want to get something done on behalf of the millions of Americans who need help. But, this is the wrong way to do it.

Yet, at a time when income inequality in the United States has risen to its highest level in decades, the bill under consideration would shift the burden of funding the federal government further onto middle-class and working-class families. The bill would give away tax

breaks to the wealthiest two percent of households at a cost of more than \$120 billion charged to the national debt.

I am most concerned, however, that the bill undermines the very idea of Social Security. Social Security has been a pillar of our society for generations. When Franklin Delano Roosevelt, Frances Perkins, and others created Social Security in 1935, it was a political masterstroke. Social Security was created as an insurance program and has remained intact for 75 years because Americans have a real sense of ownership for the program.

In good economic times and in bad, regardless of which political party is in power, this sense of ownership—that Americans will get out that which they put into the Social Security—has allowed it to survive despite the efforts of determined enemies.

A provision in the bill would reduce an employee's contribution to Social Security from 6.2 percent to 4.2 percent of salary. This could have a beneficial stimulative economic effect. The \$112 billion cost to the Social Security trust fund of this payroll tax holiday is supposed to be replaced with money from the general treasury fund. But that is just the problem. In Social Security's history such a commingling of payroll taxes and money from the Treasury at this scale is unprecedented.

This is not just about the financial health of Social Security, rather it is about Social Security's rationale that has worked well for generations. This bill places Social Security on the table with tax breaks for business expenses, tax breaks for the top two percent of Americans, the estate tax and the Alternative Minimum Tax—essentially making it just another bargaining chip. If we allow Social Security to become a bargaining chip for dealing politicians, then it will not be long for this world. As much as we need economic stimulus now, we will need Social security for decades to come. Rather than taking money from Social Security, I would support a tax credit—similar to President Obama's Making Work Pay tax credit—that would give working families a sizeable tax break with money from general revenues.

In a message to Congress on January 17, 1935, FDR insisted that Social Security should be self-sustaining and that funds for the payment of insurance benefits should not come from the process of general taxation. FDR's message is as correct today as it was 75 years ago.

To be sure, the legislation before us today contains many good provisions that I would support on their own. The bill contains a one year extension of emergency unemployment benefits. According to the Labor Department, there are five job-seekers for every job opening in the U.S. Extending unemployment is the right thing to do morally and for the economy. The legislation would extend middle class tax relief for two years along with many family-friendly tax breaks such as the Child Tax Credit, Earned Income Tax Credit, Alternative Minimum Tax relief, and marriage penalty relief. The bill also would extend expanded transportation benefits for commuters and tax credits like the research and development tax credit to help businesses grow and create jobs.

Congress needs to provide unemployment insurance for Americans searching for work,

extend tax relief working families, and find solutions to our budget crisis. Yet these must not come at the expense of Social Security. It is too important to lose.

Ms. ROYBAL-ALLARD. Mr. Chair, it is with a great deal of regret that I will vote against H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act.

Reaching this decision has not been easy because President Obama fought for and succeeded in getting several provisions into this bill which I wholeheartedly support.

Among those provisions is the extension of unemployment insurance for millions of American families who through no fault of their own have lost their jobs, the child tax credit, the middle class tax cuts, the earned income tax credit and tax breaks for small business. These were major victories for President Obama.

My concern is that the provisions in the bill demanded by Republicans come at too high a price and impact the future well being of our country and our children. Based on the calls I have received, the majority of my constituents agree.

According to economists the demands by Republicans to give the 6,600 wealthiest Americans a tax break of \$23 billion will do nothing to stimulate our economy or create one job.

What this one provision alone will do, however, is increase our out of control deficit by another 8 percent. This is irresponsible and will make it even more difficult for our country to stop mortgaging our future to China; a mortgage which will ultimately fall on the backs of our children and our grandchildren in the years to come.

I also have a deep concern about this bill's impact on Social Security. My fear has to do with the 2 percent reduction in employee contributions to Social Security which has the potential to destroy the guaranteed safety net which keeps millions of older and disabled Americans out of poverty.

While this provision is intended to be temporary, I have learned in my 18 years in Washington that tax cuts are seldom temporary. It is always easier to cut taxes than it is to restore them as this very bill demonstrates.

The Social Security payroll tax provides an independent revenue stream which keeps Social Security from contributing to our nation's budget deficit and outside of the budget process.

If the payroll tax is not restored, which I believe is likely with a Republican majority in the House, Social Security would become dependent on the general fund for revenue.

This would threaten the safety net for seniors and the disabled by making it vulnerable to budget cuts and competition with other essential programs like veterans benefits and safety net programs for children.

By doing this, we could be sowing the seeds for the privatization of Social Security.

Therefore, while this bill does provide short term relief, the potential long term suffering and negative impact of this bill are too high a price to pay.

I cannot in good conscience support this bill with the potential long term negative impact on

Social Security and the unnecessary increased burden the tax cuts for the wealthiest Americans will put on the shoulders of our children and grandchildren.

I am saddened that my Republican colleagues demanded these irresponsible tax cuts for the wealthiest Americans in exchange for the very critical provisions of this bill supported by the President. While I am heartened that we are acting to extend unemployment insurance and protect those still struggling to find work, there is too much in this bill that only adds to our already uncontrollable deficit and does nothing to help our economy or create jobs.

The Acting CHAIR. All time for general debate has expired.

Pursuant to the rule, the Senate amendment shall be considered for amendment under the 5-minute rule.

The Clerk will designate the Senate amendment.

The text of the amendment is as follows:

Senate amendment:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) *SHORT TITLE.*—This Act may be cited as the “Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010”.

(b) *AMENDMENT OF 1986 CODE.*—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—TEMPORARY EXTENSION OF TAX RELIEF

Sec. 101. Temporary extension of 2001 tax relief.

Sec. 102. Temporary extension of 2003 tax relief.

Sec. 103. Temporary extension of 2009 tax relief.

TITLE II—TEMPORARY EXTENSION OF INDIVIDUAL AMT RELIEF

Sec. 201. Temporary extension of increased alternative minimum tax exemption amount.

Sec. 202. Temporary extension of alternative minimum tax relief for nonrefundable personal credits.

TITLE III—TEMPORARY ESTATE TAX RELIEF

Sec. 301. Reinstatement of estate tax; repeal of carryover basis.

Sec. 302. Modifications to estate, gift, and generation-skipping transfer taxes.

Sec. 303. Applicable exclusion amount increased by unused exclusion amount of deceased spouse.

Sec. 304. Application of EGTRRA sunset to this title.

TITLE IV—TEMPORARY EXTENSION OF INVESTMENT INCENTIVES

Sec. 401. Extension of bonus depreciation; temporary 100 percent expensing for certain business assets.

Sec. 402. Temporary extension of increased small business expensing.

TITLE V—TEMPORARY EXTENSION OF UNEMPLOYMENT INSURANCE AND RELATED MATTERS

Sec. 501. Temporary extension of unemployment insurance provisions.

Sec. 502. Temporary modification of indicators under the extended benefit program.

Sec. 503. Technical amendment relating to collection of unemployment compensation debts.

Sec. 504. Technical correction relating to repeal of continued dumping and subsidy offset.

Sec. 505. Additional extended unemployment benefits under the Railroad Unemployment Insurance Act.

TITLE VI—TEMPORARY EMPLOYEE PAYROLL TAX CUT

Sec. 601. Temporary employee payroll tax cut.

TITLE VII—TEMPORARY EXTENSION OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Energy

Sec. 701. Incentives for biodiesel and renewable diesel.

Sec. 702. Credit for refined coal facilities.

Sec. 703. New energy efficient home credit.

Sec. 704. Excise tax credits and outlay payments for alternative fuel and alternative fuel mixtures.

Sec. 705. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.

Sec. 706. Suspension of limitation on percentage depletion for oil and gas from marginal wells.

Sec. 707. Extension of grants for specified energy property in lieu of tax credits.

Sec. 708. Extension of provisions related to alcohol used as fuel.

Sec. 709. Energy efficient appliance credit.

Sec. 710. Credit for nonbusiness energy property.

Sec. 711. Alternative fuel vehicle refueling property.

Subtitle B—Individual Tax Relief

Sec. 721. Deduction for certain expenses of elementary and secondary school teachers.

Sec. 722. Deduction of State and local sales taxes.

Sec. 723. Contributions of capital gain real property made for conservation purposes.

Sec. 724. Above-the-line deduction for qualified tuition and related expenses.

Sec. 725. Tax-free distributions from individual retirement plans for charitable purposes.

Sec. 726. Look-thru of certain regulated investment company stock in determining gross estate of non-residents.

Sec. 727. Parity for exclusion from income for employer-provided mass transit and parking benefits.

Sec. 728. Refunds disregarded in the administration of Federal programs and federally assisted programs.

Subtitle C—Business Tax Relief

Sec. 731. Research credit.

Sec. 732. Indian employment tax credit.

Sec. 733. New markets tax credit.

Sec. 734. Railroad track maintenance credit.

Sec. 735. Mine rescue team training credit.

Sec. 736. Employer wage credit for employees who are active duty members of the uniformed services.

Sec. 737. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.

Sec. 738. 7-year recovery period for motorsports entertainment complexes.

Sec. 739. Accelerated depreciation for business property on an Indian reservation.

Sec. 740. Enhanced charitable deduction for contributions of food inventory.

Sec. 741. Enhanced charitable deduction for contributions of book inventories to public schools.

Sec. 742. Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes.

Sec. 743. Election to expense mine safety equipment.

Sec. 744. Special expensing rules for certain film and television productions.

Sec. 745. Expensing of environmental remediation costs.

Sec. 746. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.

Sec. 747. Modification of tax treatment of certain payments to controlling exempt organizations.

Sec. 748. Treatment of certain dividends of regulated investment companies.

Sec. 749. RIC qualified investment entity treatment under FIRPTA.

Sec. 750. Exceptions for active financing income.

Sec. 751. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.

Sec. 752. Basis adjustment to stock of S corps making charitable contributions of property.

Sec. 753. Empowerment zone tax incentives.

Sec. 754. Tax incentives for investment in the District of Columbia.

Sec. 755. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.

Sec. 756. American Samoa economic development credit.

Sec. 757. Work opportunity credit.

Sec. 758. Qualified zone academy bonds.

Sec. 759. Mortgage insurance premiums.

Sec. 760. Temporary exclusion of 100 percent of gain on certain small business stock.

Subtitle D—Temporary Disaster Relief Provisions

SUBPART A—NEW YORK LIBERTY ZONE

Sec. 761. Tax-exempt bond financing.

SUBPART B—GO ZONE

Sec. 762. Increase in rehabilitation credit.

Sec. 763. Low-income housing credit rules for buildings in GO zones.

Sec. 764. Tax-exempt bond financing.

Sec. 765. Bonus depreciation deduction applicable to the GO Zone.

TITLE VIII—BUDGETARY PROVISIONS

Sec. 801. Determination of budgetary effects.

Sec. 802. Emergency designations.

TITLE I—TEMPORARY EXTENSION OF TAX RELIEF

SEC. 101. TEMPORARY EXTENSION OF 2001 TAX RELIEF.

(a) TEMPORARY EXTENSION.—

(1) IN GENERAL.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking “December 31, 2010” both places it appears and inserting “December 31, 2012”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001.

(b) SEPARATE SUNSET FOR EXPANSION OF ADOPTION BENEFITS UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT.—

(1) IN GENERAL.—Subsection (c) of section 10909 of the Patient Protection and Affordable Care Act is amended to read as follows:

“(c) SUNSET PROVISION.—Each provision of law amended by this section is amended to read as such provision would read if this section had never been enacted. The amendments made by the preceding sentence shall apply to taxable years beginning after December 31, 2011.”

(2) CONFORMING AMENDMENT.—Subsection (d) of section 10909 of such Act is amended by striking “The amendments” and inserting “Except as provided in subsection (c), the amendments”.

SEC. 102. TEMPORARY EXTENSION OF 2003 TAX RELIEF.

(a) IN GENERAL.—Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended by striking “December 31, 2010” and inserting “December 31, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

SEC. 103. TEMPORARY EXTENSION OF 2009 TAX RELIEF.

(a) AMERICAN OPPORTUNITY TAX CREDIT.—

(1) IN GENERAL.—Section 25A(i) is amended by striking “or 2010” and inserting “, 2010, 2011, or 2012”.

(2) TREATMENT OF POSSESSIONS.—Section 1004(c)(1) of the American Recovery and Reinvestment Tax Act of 2009 is amended by striking “and 2010” each place it appears and inserting “, 2010, 2011, and 2012”.

(b) CHILD TAX CREDIT.—Section 24(d)(4) is amended—

(1) by striking “2009 AND 2010” in the heading and inserting “2009, 2010, 2011, AND 2012”, and

(2) by striking “or 2010” and inserting “, 2010, 2011, or 2012”.

(c) EARNED INCOME TAX CREDIT.—Section 32(b)(3) is amended—

(1) by striking “2009 AND 2010” in the heading and inserting “2009, 2010, 2011, AND 2012”, and

(2) by striking “or 2010” and inserting “, 2010, 2011, or 2012”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

TITLE II—TEMPORARY EXTENSION OF INDIVIDUAL AMT RELIEF

SEC. 201. TEMPORARY EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.

(a) IN GENERAL.—Paragraph (1) of section 55(d) is amended—

(1) by striking “\$70,950” and all that follows through “2009” in subparagraph (A) and inserting “\$72,450 in the case of taxable years beginning in 2010 and \$74,450 in the case of taxable years beginning in 2011”, and

(2) by striking “\$46,700” and all that follows through “2009” in subparagraph (B) and inserting “\$47,450 in the case of taxable years beginning in 2010 and \$48,450 in the case of taxable years beginning in 2011”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

(c) REPEAL OF EGTRRA SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to title VII of such Act (relating to alternative minimum tax).

SEC. 202. TEMPORARY EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking “or 2009” and inserting “2009, 2010, or 2011”, and

(2) by striking “2009” in the heading thereof and inserting “2011”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

TITLE III—TEMPORARY ESTATE TAX RELIEF

SEC. 301. REINSTATEMENT OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) **IN GENERAL.**—Each provision of law amended by subtitle A or E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended to read as such provision would read if such subtitle had never been enacted.

(b) **CONFORMING AMENDMENT.**—On and after January 1, 2011, paragraph (1) of section 2505(a) of the Internal Revenue Code of 1986 is amended to read as such paragraph would read if section 521(b)(2) of the Economic Growth and Tax Relief Reconciliation Act of 2001 had never been enacted.

(c) **SPECIAL ELECTION WITH RESPECT TO ESTATES OF DECEDENTS DYING IN 2010.**—Notwithstanding subsection (a), in the case of an estate of a decedent dying after December 31, 2009, and before January 1, 2011, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1986) may elect to apply such Code as though the amendments made by subsection (a) do not apply with respect to chapter 11 of such Code and with respect to property acquired or passing from such decedent (within the meaning of section 1014(b) of such Code). Such election shall be made at such time and in such manner as the Secretary of the Treasury or the Secretary's delegate shall provide. Such an election once made shall be revocable only with the consent of the Secretary of the Treasury or the Secretary's delegate. For purposes of section 2652(a)(1) of such Code, the determination of whether any property is subject to the tax imposed by such chapter 11 shall be made without regard to any election made under this subsection.

(d) **EXTENSION OF TIME FOR PERFORMING CERTAIN ACTS.**—

(1) **ESTATE TAX.**—In the case of the estate of a decedent dying after December 31, 2009, and before the date of the enactment of this Act, the due date for—

(A) filing any return under section 6018 of the Internal Revenue Code of 1986 (including any election required to be made on such a return) as such section is in effect after the date of the enactment of this Act without regard to any election under subsection (c),

(B) making any payment of tax under chapter 11 of such Code, and

(C) making any disclaimer described in section 2518(b) of such Code of an interest in property passing by reason of the death of such decedent, shall not be earlier than the date which is 9 months after the date of the enactment of this Act.

(2) **GENERATION-SKIPPING TAX.**—In the case of any generation-skipping transfer made after December 31, 2009, and before the date of the enactment of this Act, the due date for filing any return under section 2662 of the Internal Revenue Code of 1986 (including any election required to be made on such a return) shall not be earlier than the date which is 9 months after the date of the enactment of this Act.

(e) **EFFECTIVE DATE.**—Except as otherwise provided in this section, the amendments made by this section shall apply to estates of decedents dying, and transfers made, after December 31, 2009.

SEC. 302. MODIFICATIONS TO ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.

(a) **MODIFICATIONS TO ESTATE TAX.**—

(1) **\$5,000,000 APPLICABLE EXCLUSION AMOUNT.**—Subsection (c) of section 2010 is amended to read as follows:

“(c) **APPLICABLE CREDIT AMOUNT.**—

“(1) **IN GENERAL.**—For purposes of this section, the applicable credit amount is the amount

of the tentative tax which would be determined under section 2001(c) if the amount with respect to which such tentative tax is to be computed were equal to the applicable exclusion amount.

“(2) **APPLICABLE EXCLUSION AMOUNT.**—

“(A) **IN GENERAL.**—For purposes of this subsection, the applicable exclusion amount is \$5,000,000.

“(B) **INFLATION ADJUSTMENT.**—In the case of any decedent dying in a calendar year after 2011, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2010’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.”

(2) **MAXIMUM ESTATE TAX RATE EQUAL TO 35 PERCENT.**—Subsection (c) of section 2001 is amended—

(A) by striking “Over \$500,000” and all that follows in the table contained in paragraph (1) and inserting the following:

“Over	\$155,800, plus 35 percent of the
\$500,000.	excess of such amount over
	\$500,000.”

(B) by striking “(1) **IN GENERAL.**—”, and

(C) by striking paragraph (2).

(b) **MODIFICATIONS TO GIFT TAX.**—

(1) **RESTORATION OF UNIFIED CREDIT AGAINST GIFT TAX.**—

(A) **IN GENERAL.**—Paragraph (1) of section 2505(a), after the application of section 301(b), is amended by striking “(determined as if the applicable exclusion amount were \$1,000,000)”.

(B) **EFFECTIVE DATE.**—The amendment made by this paragraph shall apply to gifts made after December 31, 2010.

(2) **MODIFICATION OF GIFT TAX RATE.**—On and after January 1, 2011, subsection (a) of section 2502 is amended to read as such subsection would read if section 511(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 had never been enacted.

(c) **MODIFICATION OF GENERATION-SKIPPING TRANSFER TAX.**—In the case of any generation-skipping transfer made after December 31, 2009, and before January 1, 2011, the applicable rate determined under section 2641(a) of the Internal Revenue Code of 1986 shall be zero.

(d) **MODIFICATIONS OF ESTATE AND GIFT TAXES TO REFLECT DIFFERENCES IN CREDIT RESULTING FROM DIFFERENT TAX RATES.**—

(1) **ESTATE TAX.**—

(A) **IN GENERAL.**—Section 2001(b)(2) is amended by striking “if the provisions of subsection (c) (as in effect at the decedent's death)” and inserting “if the modifications described in subsection (g)”.

(B) **MODIFICATIONS.**—Section 2001 is amended by adding at the end the following new subsection:

“(g) **MODIFICATIONS TO GIFT TAX PAYABLE TO REFLECT DIFFERENT TAX RATES.**—For purposes of applying subsection (b)(2) with respect to 1 or more gifts, the rates of tax under subsection (c) in effect at the decedent's death shall, in lieu of the rates of tax in effect at the time of such gifts, be used both to compute—

“(1) the tax imposed by chapter 12 with respect to such gifts, and

“(2) the credit allowed against such tax under section 2505, including in computing—

“(A) the applicable credit amount under section 2505(a)(1), and

“(B) the sum of the amounts allowed as a credit for all preceding periods under section 2505(a)(2).”

(2) **GIFT TAX.**—Section 2505(a) is amended by adding at the end the following new flush sentence:

“For purposes of applying paragraph (2) for any calendar year, the rates of tax in effect under section 2502(a)(2) for such calendar year shall, in lieu of the rates of tax in effect for preceding calendar periods, be used in determining the amounts allowable as a credit under this section for all preceding calendar periods.”

(e) **CONFORMING AMENDMENT.**—Section 2511 is amended by striking subsection (c).

(f) **EFFECTIVE DATE.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2009.

SEC. 303. APPLICABLE EXCLUSION AMOUNT INCREASED BY UNUSED EXCLUSION AMOUNT OF DECEASED SPOUSE.

(a) **IN GENERAL.**—Section 2010(c), as amended by section 302(a), is amended by striking paragraph (2) and inserting the following new paragraphs:

“(2) **APPLICABLE EXCLUSION AMOUNT.**—For purposes of this subsection, the applicable exclusion amount is the sum of—

“(A) the basic exclusion amount, and

“(B) in the case of a surviving spouse, the deceased spousal unused exclusion amount.

“(3) **BASIC EXCLUSION AMOUNT.**—

“(A) **IN GENERAL.**—For purposes of this subsection, the basic exclusion amount is \$5,000,000.

“(B) **INFLATION ADJUSTMENT.**—In the case of any decedent dying in a calendar year after 2011, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2010’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.

“(4) **DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT.**—For purposes of this subsection, with respect to a surviving spouse of a deceased spouse dying after December 31, 2010, the term ‘deceased spousal unused exclusion amount’ means the lesser of—

“(A) the basic exclusion amount, or

“(B) the excess of—

“(i) the basic exclusion amount of the last such deceased spouse of such surviving spouse, over

“(ii) the amount with respect to which the tentative tax is determined under section 2001(b)(1) on the estate of such deceased spouse.

“(5) **SPECIAL RULES.**—

“(A) **ELECTION REQUIRED.**—A deceased spousal unused exclusion amount may not be taken into account by a surviving spouse under paragraph (2) unless the executor of the estate of the deceased spouse files an estate tax return on which such amount is computed and makes an election on such return that such amount may be so taken into account. Such election, once made, shall be irrevocable. No election may be made under this subparagraph if such return is filed after the time prescribed by law (including extensions) for filing such return.

“(B) **EXAMINATION OF PRIOR RETURNS AFTER EXPIRATION OF PERIOD OF LIMITATIONS WITH RESPECT TO DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT.**—Notwithstanding any period of limitation in section 6501, after the time has expired under section 6501 within which a tax may be assessed under chapter 11 or 12 with respect to a deceased spousal unused exclusion amount, the Secretary may examine a return of the deceased spouse to make determinations with respect to such amount for purposes of carrying out this subsection.

“(6) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection.”

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 2505(a), as amended by section 302(b)(1), is amended to read as follows:

“(1) the applicable credit amount in effect under section 2010(c) which would apply if the donor died as of the end of the calendar year, reduced by”.

(2) Section 2631(c) is amended by striking “the applicable exclusion amount” and inserting “the basic exclusion amount”.

(3) Section 6018(a)(1) is amended by striking “applicable exclusion amount” and inserting “basic exclusion amount”.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to estates of decedents dying and gifts made after December 31, 2010.

(2) CONFORMING AMENDMENT RELATING TO GENERATION-SKIPPING TRANSFERS.—The amendment made by subsection (b)(2) shall apply to generation-skipping transfers after December 31, 2010.

SEC. 304. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall apply to the amendments made by this title.

TITLE IV—TEMPORARY EXTENSION OF INVESTMENT INCENTIVES

SEC. 401. EXTENSION OF BONUS DEPRECIATION; TEMPORARY 100 PERCENT EXPENSING FOR CERTAIN BUSINESS ASSETS.

(a) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(1) by striking “January 1, 2012” in subparagraph (A)(iv) and inserting “January 1, 2014”, and

(2) by striking “January 1, 2011” each place it appears and inserting “January 1, 2013”.

(b) TEMPORARY 100 PERCENT EXPENSING.—Subsection (k) of section 168 is amended by adding at the end the following new paragraph:

“(5) SPECIAL RULE FOR PROPERTY ACQUIRED DURING CERTAIN PRE-2012 PERIODS.—In the case of qualified property acquired by the taxpayer (under rules similar to the rules of clauses (ii) and (iii) of paragraph (2)(A)) after September 8, 2010, and before January 1, 2012, and which is placed in service by the taxpayer before January 1, 2012 (January 1, 2013, in the case of property described in subparagraph (2)(B) or (2)(C)), paragraph (1)(A) shall be applied by substituting ‘100 percent’ for ‘50 percent’.”.

(c) EXTENSION OF ELECTION TO ACCELERATE THE AMT CREDIT IN LIEU OF BONUS DEPRECIATION.—

(1) EXTENSION.—Clause (iii) of section 168(k)(4)(D) is amended by striking “or production” and all that follows and inserting “or production”.

“(I) after March 31, 2008, and before January 1, 2010, and

“(II) after December 31, 2010, and before January 1, 2013, shall be taken into account under subparagraph (B)(ii) thereof.”.

(2) RULES FOR ROUND 2 EXTENSION PROPERTY.—Paragraph (4) of section 168(k) is amended by adding at the end the following new subparagraph:

“(I) SPECIAL RULES FOR ROUND 2 EXTENSION PROPERTY.—

“(i) IN GENERAL.—In the case of round 2 extension property, this paragraph shall be applied without regard to—

“(I) the limitation described in subparagraph (B)(i) thereof, and

“(II) the business credit increase amount under subparagraph (E)(iii) thereof.

“(ii) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made

the election under subparagraph (A) for its first taxable year ending after March 31, 2008, or a taxpayer who made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008—

“(I) the taxpayer may elect not to have this paragraph apply to round 2 extension property, but

“(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer the bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is round 2 extension property.

The amounts described in subclause (II) shall be computed separately from any amounts computed with respect to eligible qualified property which is not round 2 extension property.

“(iii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who neither made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, nor made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008—

“(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2010, and each subsequent taxable year, and

“(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to eligible qualified property which is round 2 extension property.

“(iv) ROUND 2 EXTENSION PROPERTY.—For purposes of this subparagraph, the term ‘round 2 extension property’ means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 401(a) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (and the application of such extension to this paragraph pursuant to the amendment made by section 401(c)(1) of such Act).”.

(d) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 is amended by striking “JANUARY 1, 2011” and inserting “JANUARY 1, 2013”.

(2) The heading for clause (ii) of section 168(k)(2)(B) is amended by striking “PRE-JANUARY 1, 2011” and inserting “PRE-JANUARY 1, 2013”.

(3) Subparagraph (D) of section 168(k)(4) is amended—

(A) by striking clauses (iv) and (v),

(B) by inserting “and” at the end of clause (ii), and

(C) by striking the comma at the end of clause (iii) and inserting a period.

(4) Paragraph (5) of section 168(l) is amended—

(A) by inserting “and” at the end of subparagraph (A),

(B) by striking subparagraph (B), and

(C) by redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 168(n)(2) is amended by striking “January 1, 2011” and inserting “January 1, 2013”.

(6) Subparagraph (D) of section 1400L(b)(2) is amended by striking “January 1, 2011” and inserting “January 1, 2013”.

(7) Subparagraph (B) of section 1400N(d)(3) is amended by striking “January 1, 2011” and inserting “January 1, 2013”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2010, in taxable years ending after such date.

(2) TEMPORARY 100 PERCENT EXPENSING.—The amendment made by subsection (b) shall apply

to property placed in service after September 8, 2010, in taxable years ending after such date.

SEC. 402. TEMPORARY EXTENSION OF INCREASED SMALL BUSINESS EXPENSING.

(a) DOLLAR LIMITATION.—Section 179(b)(1) is amended by striking “and” at the end of subparagraph (B) and by striking subparagraph (C) and inserting the following new subparagraphs:

“(C) \$125,000 in the case of taxable years beginning in 2012, and

“(D) \$25,000 in the case of taxable years beginning after 2012.”.

(b) REDUCTION IN LIMITATION.—Section 179(b)(2) is amended by striking “and” at the end of subparagraph (B) and by striking subparagraph (C) and inserting the following new subparagraphs:

“(C) \$500,000 in the case of taxable years beginning in 2012, and

“(D) \$200,000 in the case of taxable years beginning after 2012.”.

(c) INFLATION ADJUSTMENT.—Subsection (b) of section 179 is amended by adding at the end the following new paragraph:

“(6) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any taxable year beginning in calendar year 2012, the \$125,000 and \$500,000 amounts in paragraphs (1)(C) and (2)(C) shall each be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ‘calendar year 2006’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(B) ROUNDING.—

“(i) DOLLAR LIMITATION.—If the amount in paragraph (1) as increased under subparagraph (A) is not a multiple of \$1,000, such amount shall be rounded to the nearest multiple of \$1,000.

“(ii) PHASEOUT AMOUNT.—If the amount in paragraph (2) as increased under subparagraph (A) is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.”.

(d) COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) is amended by striking “2012” and inserting “2013”.

(e) CONFORMING AMENDMENT.—Section 179(c)(2) is amended by striking “2012” and inserting “2013”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

TITLE V—TEMPORARY EXTENSION OF UNEMPLOYMENT INSURANCE AND RELATED MATTERS

SEC. 501. TEMPORARY EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(A) by striking “November 30, 2010” each place it appears and inserting “January 3, 2012”;

(B) in the heading for subsection (b)(2), by striking “NOVEMBER 30, 2010” and inserting “JANUARY 3, 2012”; and

(C) in subsection (b)(3), by striking “April 30, 2011” and inserting “June 9, 2012”.

(2) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111-5 (26 U.S.C. 3304 note; 123 Stat. 444), is amended—

(A) by striking “December 1, 2010” each place it appears and inserting “January 4, 2012”; and

(B) in subsection (c), by striking “May 1, 2011” and inserting “June 11, 2012”.

(3) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110-449; 26 U.S.C. 3304 note) is amended by striking “April 30, 2011” and inserting “June 10, 2012”.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (E), by striking “and” at the end; and

(2) by inserting after subparagraph (F) the following:

“(G) the amendments made by section 501(a)(1) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010; and”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Unemployment Compensation Extension Act of 2010 (Public Law 111-205).

SEC. 502. TEMPORARY MODIFICATION OF INDICATORS UNDER THE EXTENDED BENEFIT PROGRAM.

(a) INDICATOR.—Section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended, in the flush matter following paragraph (2), by inserting after the first sentence the following sentence: “Effective with respect to compensation for weeks of unemployment beginning after the date of enactment of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (or, if later, the date established pursuant to State law), and ending on or before December 31, 2011, the State may by law provide that the determination of whether there has been a state ‘on’ or ‘off’ indicator beginning or ending any extended benefit period shall be made under this subsection as if the word ‘two’ were ‘three’ in subparagraph (1)(A).”.

(b) ALTERNATIVE TRIGGER.—Section 203(f) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) Effective with respect to compensation for weeks of unemployment beginning after the date of enactment of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (or, if later, the date established pursuant to State law), and ending on or before December 31, 2011, the State may by law provide that the determination of whether there has been a state ‘on’ or ‘off’ indicator beginning or ending any extended benefit period shall be made under this subsection as if the word ‘either’ were ‘any’, the word ‘both’ were ‘all’, and the figure ‘2’ were ‘3’ in clause (1)(A)(ii).”.

SEC. 503. TECHNICAL AMENDMENT RELATING TO COLLECTION OF UNEMPLOYMENT COMPENSATION DEBTS.

(a) IN GENERAL.—Section 6402(f)(3)(C), as amended by section 801 of the Claims Resolution Act of 2010, is amended by striking “is not a covered unemployment compensation debt” and inserting “is a covered unemployment compensation debt”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 801 of the Claims Resolution Act of 2010.

SEC. 504. TECHNICAL CORRECTION RELATING TO REPEAL OF CONTINUED DUMPING AND SUBSIDY OFFSET.

(a) IN GENERAL.—Section 822(2)(A) of the Claims Resolution Act of 2010 is amended by striking “or” and inserting “and”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provisions of the Claims Resolution Act of 2010.

SEC. 505. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) EXTENSION.—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act, as

added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) and as amended by section 9 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111-92), is amended—

(1) by striking “June 30, 2010” and inserting “June 30, 2011”; and

(2) by striking “December 31, 2010” and inserting “December 31, 2011”.

(b) CLARIFICATION ON AUTHORITY TO USE FUNDS.—Funds appropriated under either the first or second sentence of clause (iv) of section 2(c)(2)(D) of the Railroad Unemployment Insurance Act shall be available to cover the cost of additional extended unemployment benefits provided under such section 2(c)(2)(D) by reason of the amendments made by subsection (a) as well as to cover the cost of such benefits provided under such section 2(c)(2)(D), as in effect on the day before the date of the enactment of this Act.

TITLE VI—TEMPORARY EMPLOYEE PAYROLL TAX CUT

SEC. 601. TEMPORARY EMPLOYEE PAYROLL TAX CUT.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) with respect to any taxable year which begins in the payroll tax holiday period, the rate of tax under section 1401(a) of the Internal Revenue Code of 1986 shall be 10.40 percent, and

(2) with respect to remuneration received during the payroll tax holiday period, the rate of tax under 3101(a) of such Code shall be 4.2 percent (including for purposes of determining the applicable percentage under sections 3201(a) and 3211(a)(1) of such Code).

(b) COORDINATION WITH DEDUCTIONS FOR EMPLOYMENT TAXES.—

(1) DEDUCTION IN COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.—For purposes of applying section 1402(a)(12) of the Internal Revenue Code of 1986, the rate of tax imposed by subsection 1401(a) of such Code shall be determined without regard to the reduction in such rate under this section.

(2) INDIVIDUAL DEDUCTION.—In the case of the taxes imposed by section 1401 of such Code for any taxable year which begins in the payroll tax holiday period, the deduction under section 164(f) with respect to such taxes shall be equal to the sum of—

(A) 59.6 percent of the portion of such taxes attributable to the tax imposed by section 1401(a) (determined after the application of this section), plus

(B) one-half of the portion of such taxes attributable to the tax imposed by section 1401(b).

(c) PAYROLL TAX HOLIDAY PERIOD.—The term “payroll tax holiday period” means calendar year 2011.

(d) EMPLOYER NOTIFICATION.—The Secretary of the Treasury shall notify employers of the payroll tax holiday period in any manner the Secretary deems appropriate.

(e) TRANSFERS OF FUNDS.—

(1) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the application of subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

(2) TRANSFERS TO SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.—There are hereby appropriated to the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974

(45 U.S.C. 231n-1(a)) amounts equal to the reduction in revenues to the Treasury by reason of the application of subsection (a)(2). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Account had such amendments not been enacted.

(3) COORDINATION WITH OTHER FEDERAL LAWS.—For purposes of applying any provision of Federal law other than the provisions of the Internal Revenue Code of 1986, the rate of tax in effect under section 3101(a) of such Code shall be determined without regard to the reduction in such rate under this section.

TITLE VII—TEMPORARY EXTENSION OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Energy

SEC. 701. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(c) SPECIAL RULE FOR 2010.—Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for periods during 2010, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods during 2010. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. 702. CREDIT FOR REFINED COAL FACILITIES.

(a) IN GENERAL.—Subparagraph (B) of section 45(d)(8) is amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to facilities placed in service after December 31, 2009.

SEC. 703. NEW ENERGY EFFICIENT HOME CREDIT.

(a) IN GENERAL.—Subsection (g) of section 45L is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to homes acquired after December 31, 2009.

SEC. 704. EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.

(a) IN GENERAL.—Sections 6426(d)(5), 6426(e)(3), and 6427(e)(6)(C) are each amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EXCLUSION OF BLACK LIQUOR FROM CREDIT ELIGIBILITY.**—The last sentence of section 6426(d)(2) is amended by striking “or biodiesel” and inserting “biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp”.

(c) **SPECIAL RULE FOR 2010.**—Notwithstanding any other provision of law, in the case of any alternative fuel credit or any alternative fuel mixture credit properly determined under subsection (d) or (e) of section 6426 of the Internal Revenue Code of 1986 for periods during 2010, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods during 2010. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. 705. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

(a) **IN GENERAL.**—Paragraph (3) of section 451(i) is amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to dispositions after December 31, 2009.

SEC. 706. SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

(a) **IN GENERAL.**—Clause (ii) of section 613A(c)(6)(H) is amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 707. EXTENSION OF GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS.

(a) **IN GENERAL.**—Subsection (a) of section 1603 of division B of the American Recovery and Reinvestment Act of 2009 is amended—

(1) in paragraph (1), by striking “2009 or 2010” and inserting “2009, 2010, or 2011”, and

(2) in paragraph (2)—

(A) by striking “after 2010” and inserting “after 2011”, and

(B) by striking “2009 or 2010” and inserting “2009, 2010, or 2011”.

(b) **CONFORMING AMENDMENT.**—Subsection (j) of section 1603 of division B of such Act is amended by striking “2011” and inserting “2012”.

SEC. 708. EXTENSION OF PROVISIONS RELATED TO ALCOHOL USED AS FUEL.

(a) **EXTENSION OF INCOME TAX CREDIT FOR ALCOHOL USED AS FUEL.**—

(1) **IN GENERAL.**—Paragraph (1) of section 40(e) is amended—

(A) by striking “December 31, 2010” in subparagraph (A) and inserting “December 31, 2011”, and

(B) by striking “January 1, 2011” in subparagraph (B) and inserting “January 1, 2012”.

(2) **REDUCED AMOUNT FOR ETHANOL BLENDS.**—Subsection (h) of section 40 is amended by

striking “2010” both places it appears and inserting “2011”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to periods after December 31, 2010.

(b) **EXTENSION OF EXCISE TAX CREDIT FOR ALCOHOL USED AS FUEL.**—

(1) **IN GENERAL.**—Paragraph (6) of section 6426(b) is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to periods after December 31, 2010.

(c) **EXTENSION OF PAYMENT FOR ALCOHOL FUEL MIXTURE.**—

(1) **IN GENERAL.**—Subparagraph (A) of section 6427(e)(6) is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to sales and uses after December 31, 2010.

(d) **EXTENSION OF ADDITIONAL DUTIES ON ETHANOL.**—

(1) **IN GENERAL.**—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States are each amended in the effective period column by striking “1/1/2011” and inserting “1/1/2012”.

(2) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect on January 1, 2011.

SEC. 709. ENERGY EFFICIENT APPLIANCE CREDIT.

(a) **DISHWASHERS.**—Paragraph (1) of section 45M(b) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting a comma, and by adding at the end the following new subparagraphs:

“(C) \$25 in the case of a dishwasher which is manufactured in calendar year 2011 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings),

“(D) \$50 in the case of a dishwasher which is manufactured in calendar year 2011 and which uses no more than 295 kilowatt hours per year and 4.25 gallons per cycle (4.75 gallons per cycle for dishwashers designed for greater than 12 place settings), and

“(E) \$75 in the case of a dishwasher which is manufactured in calendar year 2011 and which uses no more than 280 kilowatt hours per year and 4 gallons per cycle (4.5 gallons per cycle for dishwashers designed for greater than 12 place settings).”

(b) **CLOTHES WASHERS.**—Paragraph (2) of section 45M(b) is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by adding at the end the following new subparagraphs:

“(E) \$175 in the case of a top-loading clothes washer manufactured in calendar year 2011 which meets or exceeds a 2.2 modified energy factor and does not exceed a 4.5 water consumption factor, and

“(F) \$225 in the case of a clothes washer manufactured in calendar year 2011—

“(i) which is a top-loading clothes washer and which meets or exceeds a 2.4 modified energy factor and does not exceed a 4.2 water consumption factor, or

“(ii) which is a front-loading clothes washer and which meets or exceeds a 2.8 modified energy factor and does not exceed a 3.5 water consumption factor.”

(c) **REFRIGERATORS.**—Paragraph (3) of section 45M(b) is amended by striking “and” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by adding at the end the following new subparagraphs:

“(E) \$150 in the case of a refrigerator manufactured in calendar year 2011 which consumes

at least 30 percent less energy than the 2001 energy conservation standards, and

“(F) \$200 in the case of a refrigerator manufactured in calendar year 2011 which consumes at least 35 percent less energy than the 2001 energy conservation standards.”

(d) **REBASING OF LIMITATIONS.**—

(1) **IN GENERAL.**—Paragraph (1) of section 45M(e) is amended—

(A) by striking “\$75,000,000” and inserting “\$25,000,000”, and

(B) by striking “December 31, 2007” and inserting “December 31, 2010”.

(2) **EXCEPTION FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.**—Paragraph (2) of section 45M(e) is amended—

(A) by striking “subsection (b)(3)(D)” and inserting “subsection (b)(3)(F)”, and

(B) by striking “subsection (b)(2)(D)” and inserting “subsection (b)(2)(F)”.

(3) **GROSS RECEIPTS LIMITATION.**—Paragraph (3) of section 45M(e) is amended by striking “2 percent” and inserting “4 percent”.

(e) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—The amendments made by subsections (a), (b), and (c) shall apply to appliances produced after December 31, 2010.

(2) **LIMITATIONS.**—The amendments made by subsection (d) shall apply to taxable years beginning after December 31, 2010.

SEC. 710. CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) **EXTENSION.**—Section 25C(g)(2) is amended by striking “2010” and inserting “2011”.

(b) **RETURN TO PRE-ARRA LIMITATIONS AND STANDARDS.**—

(1) **IN GENERAL.**—Subsections (a) and (b) of section 25C are amended to read as follows:

“(a) **ALLOWANCE OF CREDIT.**—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year, and

“(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

“(b) **LIMITATIONS.**—

“(1) **LIFETIME LIMITATION.**—The credit allowed under this section with respect to any taxpayer for any taxable year shall not exceed the excess (if any) of \$500 over the aggregate credits allowed under this section with respect to such taxpayer for all prior taxable years ending after December 31, 2005.

“(2) **WINDOWS.**—In the case of amounts paid or incurred for components described in subsection (c)(2)(B) by any taxpayer for any taxable year, the credit allowed under this section with respect to such amounts for such year shall not exceed the excess (if any) of \$200 over the aggregate credits allowed under this section with respect to such amounts for all prior taxable years ending after December 31, 2005.

“(3) **LIMITATION ON RESIDENTIAL ENERGY PROPERTY EXPENDITURES.**—The amount of the credit allowed under this section by reason of subsection (a)(2) shall not exceed—

“(A) \$50 for any advanced main air circulating fan,

“(B) \$150 for any qualified natural gas, propane, or oil furnace or hot water boiler, and

“(C) \$300 for any item of energy-efficient building property.”

(2) **MODIFICATION OF STANDARDS.**—

(A) **IN GENERAL.**—Paragraph (1) of section 25C(c) is amended by striking “2000” and all that follows through “this section” and inserting “2009 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009”.

(B) WOOD STOVES.—Subparagraph (E) of section 25C(d)(3) is amended by striking “, as measured using a lower heating value”.

(C) OIL FURNACES AND HOT WATER BOILERS.—(i) IN GENERAL.—Paragraph (4) of section 25C(d) is amended to read as follows:

“(4) QUALIFIED NATURAL GAS, PROPANE, OR OIL FURNACE OR HOT WATER BOILER.—The term ‘qualified natural gas, propane, or oil furnace or hot water boiler’ means a natural gas, propane, or oil furnace or hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 95.”.

(ii) CONFORMING AMENDMENT.—Clause (ii) of section 25C(d)(2)(A) is amended to read as follows:

“(ii) a qualified natural gas, propane, or oil furnace or hot water boiler, or”.

(D) EXTERIOR WINDOWS, DOORS, AND SKYLIGHTS.—

(i) IN GENERAL.—Subsection (c) of section 25C is amended by striking paragraph (4).

(ii) APPLICATION OF ENERGY STAR STANDARDS.—Paragraph (1) of section 25C(c) is amended by inserting “an exterior window, a skylight, an exterior door,” after “in the case of” in the matter preceding subparagraph (A).

(E) INSULATION.—Subparagraph (A) of section 25C(c)(2) is amended by striking “and meets the prescriptive criteria for such material or system established by the 2009 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the American Recovery and Reinvestment Tax Act of 2009”.

(3) SUBSIDIZED ENERGY FINANCING.—Subsection (e) of section 25C is amended by adding at the end the following new paragraph:

“(3) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any property, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2010.

SEC. 711. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

(a) EXTENSION OF CREDIT.—Paragraph (2) of section 30C(g) is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2010.

Subtitle B—Individual Tax Relief

SEC. 721. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking “or 2009” and inserting “2009, 2010, or 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 722. DEDUCTION OF STATE AND LOCAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 723. CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 724. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 725. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2009.

(2) SPECIAL RULE.—For purposes of subsections (a)(6), (b)(3), and (d)(8) of section 408 of the Internal Revenue Code of 1986, at the election of the taxpayer (at such time and in such manner as prescribed by the Secretary of the Treasury) any qualified charitable distribution made after December 31, 2010, and before February 1, 2011, shall be deemed to have been made on December 31, 2010.

SEC. 726. LOOK-THRU OF CERTAIN REGULATED INVESTMENT COMPANY STOCK IN DETERMINING GROSS ESTATE OF NONRESIDENTS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2009.

SEC. 727. PARITY FOR EXCLUSION FROM INCOME FOR EMPLOYER-PROVIDED MASS TRANSIT AND PARKING BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 132(f) is amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to months after December 31, 2010.

SEC. 728. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) IN GENERAL.—Subchapter A of chapter 65 is amended by adding at the end the following new section:

“SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

“(a) IN GENERAL.—Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

“(b) TERMINATION.—Subsection (a) shall not apply to any amount received after December 31, 2012.”.

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

“Sec. 6409. Refunds disregarded in the administration of Federal programs and federally assisted programs.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 2009.

Subtitle C—Business Tax Relief

SEC. 731. RESEARCH CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 41(h)(1) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 732. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 733. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 45D(f) is amended—

(1) by striking “and” at the end of subparagraph (E),

(2) by striking the period at the end of subparagraph (F), and

(3) by adding at the end the following new subparagraph:

“(G) \$3,500,000,000 for 2010 and 2011.”.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) is amended by striking “2014” and inserting “2016”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2009.

SEC. 734. RAILROAD TRACK MAINTENANCE CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45G is amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2009.

SEC. 735. MINE RESCUE TEAM TRAINING CREDIT.

(a) IN GENERAL.—Subsection (e) of section 45N is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 736. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subsection (f) of section 45P is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2009.

SEC. 737. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

(a) IN GENERAL.—Clauses (iv), (v), and (ix) of section 168(e)(3)(E) are each amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 168(e)(7)(A) is amended by striking “if such building is placed in service after December 31, 2008, and before January 1, 2010,”.

(2) Paragraph (8) of section 168(e) is amended by striking subparagraph (E).

(3) Section 179(f)(2) is amended—

(A) by striking “(without regard to the dates specified in subparagraph (A)(i) thereof)” in subparagraph (B), and

(B) by striking “(without regard to subparagraph (E) thereof)” in subparagraph (C).

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. 738. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS ENTERTAINMENT COMPLEXES.

(a) **IN GENERAL.**—Subparagraph (D) of section 168(i)(15) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 739. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON AN INDIAN RESERVATION.

(a) **IN GENERAL.**—Paragraph (8) of section 168(f) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 740. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) **IN GENERAL.**—Clause (iv) of section 170(e)(3)(C) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 741. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) **IN GENERAL.**—Clause (iv) of section 170(e)(3)(D) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 742. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER INVENTORY FOR EDUCATIONAL PURPOSES.

(a) **IN GENERAL.**—Subparagraph (G) of section 170(e)(6) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 743. ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

(a) **IN GENERAL.**—Subsection (g) of section 179e is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 744. SPECIAL EXPENSING RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) **IN GENERAL.**—Subsection (f) of section 181 is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to productions commencing after December 31, 2009.

SEC. 745. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) **IN GENERAL.**—Subsection (h) of section 198 is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2009.

SEC. 746. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) **IN GENERAL.**—Subparagraph (C) of section 199(d)(8) is amended—

(1) by striking “first 4 taxable years” and inserting “first 6 taxable years”; and

(2) by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 747. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) **IN GENERAL.**—Clause (iv) of section 512(b)(13)(E) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to payments received or accrued after December 31, 2009.

SEC. 748. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) **IN GENERAL.**—Paragraphs (1)(C) and (2)(C) of section 871(k) are each amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 749. RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

(a) **IN GENERAL.**—Clause (ii) of section 897(h)(4)(A) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendment made by subsection (a) shall take effect on January 1, 2010. Notwithstanding the preceding sentence, such amendment shall not apply with respect to the withholding requirement under section 1445 of the Internal Revenue Code of 1986 for any payment made before the date of the enactment of this Act.

(2) **AMOUNTS WITHHELD ON OR BEFORE DATE OF ENACTMENT.**—In the case of a regulated investment company—

(A) which makes a distribution after December 31, 2009, and before the date of the enactment of this Act; and

(B) which would (but for the second sentence of paragraph (1)) have been required to withhold with respect to such distribution under section 1445 of such Code, such investment company shall not be liable to any person to whom such distribution was made for any amount so withheld and paid over to the Secretary of the Treasury.

SEC. 750. EXCEPTIONS FOR ACTIVE FINANCING INCOME.

(a) **IN GENERAL.**—Sections 953(e)(10) and 954(h)(9) are each amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) **CONFORMING AMENDMENT.**—Section 953(e)(10) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 751. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

(a) **IN GENERAL.**—Subparagraph (C) of section 954(c)(6) is amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 752. BASIS ADJUSTMENT TO STOCK OF S CORPS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) **IN GENERAL.**—Paragraph (2) of section 1367(a) is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 753. EMPOWERMENT ZONE TAX INCENTIVES.

(a) **IN GENERAL.**—Section 1391 is amended—

(1) by striking “December 31, 2009” in subsection (d)(1)(A)(i) and inserting “December 31, 2011”; and

(2) by striking the last sentence of subsection (h)(2).

(b) **INCREASED EXCLUSION OF GAIN ON STOCK OF EMPOWERMENT ZONE BUSINESSES.**—Subparagraph (C) of section 1202(a)(2) is amended—

(1) by striking “December 31, 2014” and inserting “December 31, 2016”; and

(2) by striking “2014” in the heading and inserting “2016”.

(c) **TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.**—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation if, after the date of the enactment of this section, the entity which made such nomination amends the nomination to provide for a new termination date in such manner as the Secretary of the Treasury (or the Secretary’s designee) may provide.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to periods after December 31, 2009.

SEC. 754. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) **IN GENERAL.**—Subsection (f) of section 1400 is amended by striking “December 31, 2009” each place it appears and inserting “December 31, 2011”.

(b) **TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.**—Subsection (b) of section 1400A is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(c) **ZERO-PERCENT CAPITAL GAINS RATE.**—

(1) **ACQUISITION DATE.**—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) of section 1400B(b) are each amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(2) **LIMITATION ON PERIOD OF GAINS.**—

(A) **IN GENERAL.**—Paragraph (2) of section 1400B(e) is amended—

(i) by striking “December 31, 2014” and inserting “December 31, 2016”; and

(ii) by striking “2014” in the heading and inserting “2016”.

(B) **PARTNERSHIPS AND S-CORPS.**—Paragraph (2) of section 1400B(g) is amended by striking “December 31, 2014” and inserting “December 31, 2016”.

(d) **FIRST-TIME HOMEBUYER CREDIT.**—Subsection (i) of section 1400C is amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(e) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) **TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.**—The amendment made by subsection (b) shall apply to bonds issued after December 31, 2009.

(3) **ACQUISITION DATES FOR ZERO-PERCENT CAPITAL GAINS RATE.**—The amendments made by subsection (c) shall apply to property acquired or substantially improved after December 31, 2009.

(4) **HOMEBUYER CREDIT.**—The amendment made by subsection (d) shall apply to homes purchased after December 31, 2009.

SEC. 755. TEMPORARY INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAXES TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) *IN GENERAL.*—Paragraph (1) of section 7652(f) is amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2009.

SEC. 756. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

(a) *IN GENERAL.*—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended—

(1) by striking “first 4 taxable years” and inserting “first 6 taxable years”, and

(2) by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) *EFFECTIVE DATE.*—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 757. WORK OPPORTUNITY CREDIT.

(a) *IN GENERAL.*—Subparagraph (B) of section 51(c)(4) is amended by striking “August 31, 2011” and inserting “December 31, 2011”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 758. QUALIFIED ZONE ACADEMY BONDS.

(a) *IN GENERAL.*—Section 54E(c)(1) is amended—

(1) by striking “2008 and” and inserting “2008,”, and

(2) by inserting “and \$400,000,000 for 2011” after “2010,”.

(b) *REPEAL OF REFUNDABLE CREDIT FOR QZABS.*—Paragraph (3) of section 6431(f) is amended by inserting “determined without regard to any allocation relating to the national zone academy bond limitation for 2011 or any carryforward of such allocation” after “54E)” in subparagraph (A)(iii).

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply to obligations issued after December 31, 2010.

SEC. 759. MORTGAGE INSURANCE PREMIUMS.

(a) *IN GENERAL.*—Clause (iv) of section 163(h)(3)(E) is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to amounts paid or accrued after December 31, 2010.

SEC. 760. TEMPORARY EXCLUSION OF 100 PERCENT OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) *IN GENERAL.*—Paragraph (4) of section 1202(a) is amended—

(1) by striking “January 1, 2011” and inserting “January 1, 2012”, and

(2) by inserting “AND 2011” after “2010” in the heading thereof.

(b) *EFFECTIVE DATE.*—The amendments made by this section shall apply to stock acquired after December 31, 2010.

Subtitle D—Temporary Disaster Relief Provisions

PART

Subpart A—New York Liberty Zone

SEC. 761. TAX-EXEMPT BOND FINANCING.

(a) *IN GENERAL.*—Subparagraph (D) of section 1400L(d)(2) is amended by striking “January 1, 2010” and inserting “January 1, 2012”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to bonds issued after December 31, 2009.

Subpart B—GO Zone

SEC. 762. INCREASE IN REHABILITATION CREDIT.

(a) *IN GENERAL.*—Subsection (h) of section 1400N is amended by striking “December 31, 2009” and inserting “December 31, 2011”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 763. LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.

Section 1400N(c)(5) is amended by striking “January 1, 2011” and inserting “January 1, 2012”.

SEC. 764. TAX-EXEMPT BOND FINANCING.

(a) *IN GENERAL.*—Paragraphs (2)(D) and (7)(C) of section 1400N(a) are each amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(b) *CONFORMING AMENDMENTS.*—Sections 702(d)(1) and 704(a) of the Heartland Disaster Tax Relief Act of 2008 are each amended by striking “January 1, 2011” each place it appears and inserting “January 1, 2012”.

SEC. 765. BONUS DEPRECIATION DEDUCTION APPLICABLE TO THE GO ZONE.

(a) *IN GENERAL.*—Paragraph (6) of section 1400N(d) is amended—

(1) by striking “December 31, 2010” both places it appears in subparagraph (B) and inserting “December 31, 2011”, and

(2) by striking “January 1, 2010” in the heading and the text of subparagraph (D) and inserting “January 1, 2012”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to property placed in service after December 31, 2009.

TITLE VIII—BUDGETARY PROVISIONS

SEC. 801. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses.

SEC. 802. EMERGENCY DESIGNATIONS.

(a) *STATUTORY PAYGO.*—This Act is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g)) except to the extent that the budgetary effects of this Act are determined to be subject to the current policy adjustments under sections 4(c) and 7 of the Statutory Pay-As-You-Go Act.

(b) *SENATE.*—In the Senate, this Act is designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(c) *HOUSE OF REPRESENTATIVES.*—In the House of Representatives, every provision of this Act is expressly designated as an emergency for purposes of pay-as-you-go principles except to the extent that any such provision is subject to the current policy adjustments under section 4(c) of the Statutory Pay-As-You-Go Act of 2010.

The Acting CHAIR. No amendment is in order except the amendment printed in the report accompanying House Resolution 1766, which may be offered only by Representative LEVIN of Michigan or his designee and shall not be debatable.

AMENDMENT OFFERED BY MR. LEVIN

Mr. LEVIN. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment printed in House Report 111–682 offered by Mr. LEVIN:

Strike title III and insert the following:

TITLE III—TEMPORARY ESTATE TAX RELIEF

SEC. 301. REINSTATEMENT OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) *IN GENERAL.*—Each provision of law amended by subtitle A or E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended to read as such provision would read if such subtitle had never been enacted.

(b) *CONFORMING AMENDMENT.*—On and after January 1, 2011, paragraph (1) of section 2505(a) of the Internal Revenue Code of 1986 is amended to read as such paragraph would read if section 521(b)(2) of the Economic Growth and Tax Relief Reconciliation Act of 2001 had never been enacted.

(c) *SPECIAL ELECTION WITH RESPECT TO ESTATES OF DECEDENTS DYING IN 2010.*—Notwithstanding subsection (a), in the case of an estate of a decedent dying after December 31, 2009, and before January 1, 2011, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1986) may elect to apply such Code as though the amendments made by subsection (a) do not apply with respect to chapter 11 of such Code and with respect to property acquired or passing from such decedent (within the meaning of section 1014(b) of such Code). Such election shall be made at such time and in such manner as the Secretary of the Treasury or the Secretary's delegate shall provide. Such an election once made shall be revocable only with the consent of the Secretary of the Treasury or the Secretary's delegate. For purposes of section 2652(a)(1) of such Code, the determination of whether any property is subject to the tax imposed by such chapter 11 shall be made without regard to any election made under this subsection.

(d) *EXTENSION OF TIME FOR PERFORMING CERTAIN ACTS.*—

(1) *ESTATE TAX.*—In the case of the estate of a decedent dying after December 31, 2009, and before the date of the enactment of this Act, the due date for—

(A) filing any return under section 6018 of the Internal Revenue Code of 1986 (including any election required to be made on such a return) as such section is in effect after the date of the enactment of this Act without regard to any election under subsection (c),

(B) making any payment of tax under chapter 11 of such Code, and

(C) making any disclaimer described in section 2518(b) of such Code of an interest in property passing by reason of the death of such decedent, shall not be earlier than the date which is 9 months after the date of the enactment of this Act.

(2) *GENERATION-SKIPPING TAX.*—In the case of any generation-skipping transfer made after December 31, 2009, and before the date of the enactment of this Act, the due date for filing any return under section 2662 of the Internal Revenue Code of 1986 (including any election required to be made on such a return) shall not be earlier than the date which is 9 months after the date of the enactment of this Act.

(e) *EFFECTIVE DATE.*—Except as otherwise provided in this section, the amendments made by this section shall apply to estates of decedents dying, and transfers made, after December 31, 2009.

SEC. 302. MODIFICATIONS TO ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.

(a) *MODIFICATIONS TO ESTATE TAX.*—

(1) \$3,500,000 APPLICABLE EXCLUSION AMOUNT.—Subsection (c) of section 2010 is amended to read as follows:

“(C) APPLICABLE CREDIT AMOUNT.—

“(1) IN GENERAL.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under section 2001(c) if the amount with respect to which such tentative tax is to be computed were equal to the applicable exclusion amount.

“(2) APPLICABLE EXCLUSION AMOUNT.—

“(A) IN GENERAL.—For purposes of this subsection, the applicable exclusion amount is \$3,500,000.

“(B) INFLATION ADJUSTMENT.—In the case of any decedent dying in a calendar year after 2011, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2010’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.”

(2) MAXIMUM ESTATE TAX RATE EQUAL TO 45 PERCENT.—Subsection (c) of section 2001 is amended—

(A) by striking “Over \$1,500,000” and all that follows in the table contained in paragraph (1) and inserting the following:

“Over \$1,500,000	\$555,800 plus 45 percent
	of the excess of such
	amount over
	\$1,500,000.”

(B) by striking “(1) IN GENERAL.—”, and

(C) by striking paragraph (2).

(b) MODIFICATIONS OF GIFT TAX RATE.—

(1) IN GENERAL.—On and after January 1, 2011, subsection (a) of section 2502 is amended to read as such subsection would read if section 511(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 had never been enacted.

(2) APPLICABLE EXCLUSION AMOUNT FOR GIFT TAX.—

(A) INFLATION ADJUSTMENT.—Section 2505 is amended by adding at the end the following new subsection:

“(d) INFLATION ADJUSTMENT.—In the case of any calendar year after 2011, the dollar amount in subsection (a)(1) shall be increased by an amount equal to—

“(1) such dollar amount, multiplied by

“(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2010’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.”

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to calendar years beginning after 2011.

(c) MODIFICATION OF GENERATION-SKIPPING TRANSFER TAX.—In the case of any generation-skipping transfer made after December 31, 2009, and before January 1, 2011, the applicable rate determined under section 2641(a) of the Internal Revenue Code of 1986 shall be zero.

(d) MODIFICATIONS OF ESTATE AND GIFT TAXES TO REFLECT DIFFERENCES IN CREDIT RESULTING FROM DIFFERENT TAX RATES.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Section 2001(b)(2) is amended by striking “if the provisions of

subsection (c) (as in effect at the decedent’s death)” and inserting “if the modifications described in subsection (g)”.

(B) MODIFICATIONS.—Section 2001 is amended by adding at the end the following new subsection:

“(g) MODIFICATIONS TO GIFT TAX PAYABLE TO REFLECT DIFFERENT TAX RATES.—For purposes of applying subsection (b)(2) with respect to 1 or more gifts, the rates of tax under subsection (c) in effect at the decedent’s death shall, in lieu of the rates of tax in effect at the time of such gifts, be used both to compute—

“(1) the tax imposed by chapter 12 with respect to such gifts, and

“(2) the credit allowed against such tax under section 2505, including in computing—

“(A) the applicable credit amount under section 2505(a)(1), and

“(B) the sum of the amounts allowed as a credit for all preceding periods under section 2505(a)(2).”.

(2) GIFT TAX.—Section 2505(a) is amended by adding at the end the following new flush sentence:

“For purposes of applying paragraph (2) for any calendar year, the rates of tax in effect under section 2502(a)(2) for such calendar year shall, in lieu of the rates of tax in effect for preceding calendar periods, be used in determining the amounts allowable as a credit under this section for all preceding calendar periods.”

(e) CONFORMING AMENDMENT.—Section 2511 is amended by striking subsection (c).

(f) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2009.

SEC. 303. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall apply to the amendments made by this title.

The Acting CHAIR. The amendment is not debatable.

The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEVIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 194, noes 233, answered “present” 1, not voting 11, as follows:

[Roll No. 646]

AYES—194

Ackerman
Andrews
Arcuri
Baca
Baird
Baldwin
Berman
Bishop (NY)
Blumenauer
Boccheri
Bordallo
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano

Carnahan
Carson (IN)
Castor (FL)
Childers
Christensen
Chu
Clarke
Clever
Clyburn
Cohen
Conyers
Cooper
Courtney
Crowley
Cummings
Dahlkemper
Davis (CA)
Davis (IL)

DeFazio
DeGette
Delahunt
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Ellison
Engel
Eshoo
Etheridge
Faleomavaega
Farr

Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Gonzalez
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Harman
Hastings (FL)
Heinrich
Higgins
Hill
Himes
Hinchey
Hirono
Hodes
Holt
Honda
Hoyer
Inslée
Israel
Jackson (IL)
Jackson Lee
(TX)
Johnson (GA)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Klein (FL)
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Loeb sack
Lofgren, Zoe

Lowey
Lujan
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Matsui
McCollum
McDermott
McGovern
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Norton
Oberstar
Obey
Oliver
Pallone
Pascrell
Payne
Perlmutter
Perriello
Peters
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rangel
Richardson
Rodriguez
Rothman (NJ)
Roybal-Allard

Rush
Sablan
Sánchez, Linda
T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Slaughter
Smith (WA)
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Woolsey
Wu
Yarmuth

NOES—233

Cardoza
Gordon (TN)
Graves (GA)
Graves (MO)
Griffith
Guthrie
Hall (TX)
Halvorson
Hare
Harper
Hastings (WA)
Heller
Hensarling
Herger
Herseth Sandlin
Hinojosa
Hoekstra
Holden
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
Kagen
King (IA)
King (NY)
Kingston
Kirkpatrick (AZ)
Kissell
Kline (MN)
Kosmas
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas

Luetkemeyer Paul
Lummis Paulsen
Lungren, Daniel Pence
E. Peterson
Mack Petri
Manzullo Pitts
Matheson Platts
McCarthy (CA) Poe (TX)
McCaul Posey
McClintock Price (GA)
McCotter Putnam
McHenry Radanovich
McIntyre Rahall
McKeon Reed
McMahon Rehberg
McMorris Reichert
Rodgers Reyes
Mica Roe (TN)
Miller (FL) Rogers (AL)
Miller (MI) Rogers (KY)
Miller, Gary Rogers (MI)
Minnick Rohrabacher
Mitchell Rooney
Mollohan Ros-Lehtinen
Moran (KS) Roskam
Murphy, Tim Ross
Myrick Royce
Neugebauer Ruppersberger
Nunes Ryan (WI)
Nye Salazar
Olson Scalise
Ortiz Schmidt
Owens Schock
Pastor (AZ) Schrader

ANSWERED "PRESENT"—1

Lipinski

NOT VOTING—11

Berry Johnson, E. B. Ryan (OH)
Brown (SC) Marchant Wamp
Gerlach McCarthy (NY) Young (FL)
Granger Pierluisi

□ 2341

Messrs. BRIGHT and HARE changed their vote from "aye" to "no."

Ms. BORDALLO, Mrs. NAPOLITANO and Mr. SMITH of Washington changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Chair, on rollcall Nos. 644, 645, and 646, I was inadvertently detained. Had I been present, I would have voted "yes."

The Acting CHAIR. There being no further amendment in order, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ALTMIRE) having assumed the chair, Mr. SCHIFF, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes, and, pursuant to House Resolution 1766, reported the Senate amendment back to the House.

The SPEAKER pro tempore. Pursuant to section 4 of House Resolution 1766, pending is a motion that the House concur in the Senate amendment to the House amendment to the Senate amendment.

The question is on the motion.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEVIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the motion to concur in the Senate amendment will be followed by a 5-minute vote on the motion to suspend the rules on House Resolution 20, if ordered.

The vote was taken by electronic device, and there were—ayes 277, noes 148, not voting 8, as follows:

[Roll No. 647]

AYES—277

Aderholt Davis (AL) Kissell
Adler (NJ) Davis (CA) Klein (FL)
Alkin Davis (IL) Kline (MN)
Alexander Davis (KY) Kosmas
Altmire Davis (TN) Kratovil
Andrews Delahunt Kucinich
Arcuri Dent Langevin
Austria Diaz-Balart, L. Larsen (WA)
Baca Diaz-Balart, M. Latham
Bachus Dicks LaTourette
Barrett (SC) Dingell Latta
Barrow Djou Lee (NY)
Bartlett Donnelly (IN) Levin
Bean Doyle Lewis (CA)
Berkley Dreier Lipinski
Berman Driehaus LoBiondo
Biggart Duncan Loeback
Bilbray Edwards (TX) Lowey
Bishop (GA) Ehlers Lucas
Bishop (NY) Ellsworth Luetkemeyer
Bishop (UT) Emerson Lummis
Blackburn Emerson Lungen, Daniel
Blunt Etheridge E. Maffei
Bocieri Fallin Fattah
Boehner Fattah Maloney
Bonner Foster Maloney
Bono Mack Frelinghuysen Manzullo
Boozman Gallegly Markey (CO)
Boren Gerlach Marshall
Boswell Giffords Matheson
Boucher Gonzales McCarthy (CA)
Boustany Goodlatte McCaul
Brady (PA) Gordon (TN) McClintock
Brady (TX) Graves (MO) McHenry
Bright Green, Al McIntyre
Brown-Waite, Griffith McKeon
Ginny Guthrie McMahon
Buchanan Gutierrez McMorris
Burton (IN) Hall (NY) Rodgers
Buyer Hall (TX) McNerney
Calvert Halvorson Meek (FL)
Camp Hare Meeks (NY)
Cantor Harman Mica
Cao Harper Miller (FL)
Capps Hastings (WA) Miller (MI)
Cardoza Heller Miller, Gary
Carnahan Hensarling Minnick
Carney Herger Mitchell
Carson (IN) Hersheth Sandlin Mollohan
Carter Higgins Moore (KS)
Cassidy Hill Murphy (NY)
Castle Himes Murphy, Patrick
Castor (FL) Hinojosa Murphy, Tim
Chandler Hodges Myrick
Childers Holden Neugebauer
Clay Hoyer Nunes
Coble Hunter Nye
Coffman (CO) Inglis Oberstar
Cole Israel Olson
Conaway Issa Owens
Connolly (VA) Jenkins Pallone
Costa Johnson (GA) Pascarell
Courtney Johnson (IL) Pastor (AZ)
Crenshaw Johnson, Sam Paul
Critz Jones Paulsen
Crowley Kennedy Perriello
Cuellar Kildee Peters
Culberson King (NY) Peterson
Kirkpatrick (AZ) Petri

Pitts Ryan (WI) Stearns
Platts Salazar Stutzman
Polis (CO) Sarbanes Sutton
Posey Scalise Teague
Price (GA) Schakowsky Terry
Price (NC) Schauer Thompson (PA)
Putnam Schiff Thornberry
Quigley Schock Tiahrt
Radanovich Schwartz Tiberi
Rahall Scott (GA) Titus
Reed Sensenbrenner Tsongas
Reichert Sessions Turner
Richardson Sestak Upton
Roe (TN) Sherman Walden
Rogers (KY) Shimkus Walz
Rogers (MI) Shuler Wasserman
Rohrabacher Shuster Schultz
Rooney Sires Watt
Ros-Lehtinen Skelton Waxman
Roskam Smith (NE) Westmoreland
Ross Smith (NJ) Whitfield
Rothman (NJ) Smith (TX) Wilson (OH)
Royce Snyder Wittman
Ruppersberger Space Young (AK)
Ryan (OH) Spratt

NOES—148

Ackerman Grayson Oliver
Bachmann Green, Gene Ortiz
Baird Grijalva Payne
Baldwin Hastings (FL) Pence
Barton (TX) Heinrich Perlmutter
Becerra Hinchey Pingree (ME)
Bilirakis Hirono Poe (TX)
Blumenauer Hoekstra Pomeroy
Boyd Holt Rangel
Braley (IA) Honda Rehberg
Broun (GA) Inslee Reyes
Brown, Corrine Jackson (IL) Rodriguez
Burgess Jackson Lee Rogers (AL)
Butterfield (TX) Royal-Allard
Campbell Jordan (OH) Rush
Capuano Kagen Sanchez, Linda
Chaffetz Kanjorski T.
Chu Kaptur Sanchez, Loretta
Clarke Kilpatrick (MI) Schrader
Cleaver Kilroy Scott (VA)
Clyburn Kind Serrano
Cohen King (IA) Shadegg
Conyers Kingston Shea-Porter
Cooper Lamborn Simpson
Costello Larson (CT) Slaughter
Cummings Lee (CA) Smith (WA)
Dahlkemper Lewis (GA) Speier
DeFazio Linder Stark
DeGette Lofgren, Zoe Stupak
DeLauro Lujan Sullivan
Doggett Lynch Tanner
Edwards (MD) Mack Taylor
Ellison Markey (MA) Thompson (CA)
Engel Matsui Thompson (MS)
Engel McCollum Tierney
Eshoo McCotter Tonko
Farr McDermott Towns
Filner McGovern Van Hollen
Flake Melancon Velazquez
Fleming Forbes Vislosky
Forbes Fortenberry Waters
Frank (MA) Foyx Watson
Frank (MA) Frank (MA) Weiner
Franks (AZ) Moore (WI) Welch
Fudge Moran (VA) Wilson (SC)
Garamendi Murphy (CT) Wolf
Garrett (NJ) Nadler (NY) Woolsey
Gingrey (GA) Naples (MA) Wu
Gohmert Neal (MA) Yarmuth
Graves (GA) Obey

NOT VOTING—8

Berry Johnson, E. B. Wamp
Brown (SC) Marchant Young (FL)
Granger McCarthy (NY)

□ 0000

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CALLING ON STATE DEPARTMENT TO LIST VIETNAM AS A RELIGIOUS FREEDOM VIOLATOR

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution (H. Res. 20) calling on the State Department to list the Socialist Republic of Vietnam as a "Country of Particular Concern" with respect to religious freedom, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and agree to the resolution, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. POLIS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and insert any extraneous material into the RECORD on H.R. 4853.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS AND PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. POLIS, from the Committee on Rules, submitted a privileged report (Rept. No. 111-685) on the resolution (H. Res. 1771) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules and providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PLATTS (at the request of Mr. BOEHNER) for until 3 p.m. today on account of attending the funeral for Dallastown Mayor Beverly Scott.

SENATE ENROLLED BILLS SIGNED

The Speaker announced her signature to enrolled bills of the Senate of the following titles:

S. 1405. An act to redesignate the Longfellow National Historic Site, Massachusetts, as the "Longfellow House-Washington's Headquarters National Historic Site".

S. 1774. An act for the relief of Hotaru Nakama Ferschke.

S. 4010. An act for the relief of Shigeru Yamada.

ADJOURNMENT

Mr. POLIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 5 minutes a.m.), the House adjourned until today, Friday, December 17, 2010, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

10956. A letter from the Director, National Institute of Food and Agriculture, Department of Agriculture, transmitting the Department's final rule — Establishment of New Agency; Revision of Delegations of Authority (RIN#: A-0521-AA63) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10957. A letter from the Chairman, Council of Economic Advisers, transmitting fifth report regarding the American Recovery and Reinvestment Act through the third quarter of 2010; to the Committee on Appropriations.

10958. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Restriction on Ball and Roller Bearings (DFARS Case 2006-D029) (RIN: 0750-AG57) received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

10959. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Restrictions on the Use of Mandatory Arbitration Agreements (DFARS Case 2010-D004) (RIN: 0750-AG70) received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

10960. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Angola pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

10961. A letter from the Chief, Public Safety & Homeland Security Bureau, Federal Communications Commission, transmitting the Commission's final rule — Improving Public Safety Communications in the 800 MHz Band, New 800 MHz Band Plan for Puerto Rico and the U.S. Virgin Islands [WT Docket: 02-55] received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10962. A letter from the Policy Advisor/Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of the Amateur Service Rules Governing Vanity and Club Station Call Signs, Petition for Rule Making: Amateur Radio Service (Part 97), Petition to Change

Part 97.19(c)(2) of the Amateur Radio Service Rules [WT Docket No.: 09-209] received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10963. A letter from the Chief, Policy and Rules Division, Federal Communications Commission, transmitting the Commission's final rule — Unlicensed Operation in the TV Broadcast Bands, Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band [ET Docket No.: 04-186] [ET Docket No.: 02-380] received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10964. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's sixth annual report on Ethanol Market Concentration, pursuant to Section 1501(a)(2) of the Energy Policy Act of 2005; to the Committee on Energy and Commerce.

10965. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Model Application for Plant-Specific Adoption of TSTF-431, Revision 3, "Change In Technical Specifications End States (BAW-2441)", For Babcock & Wilcox Reactor Plants Using The Consolidated Line Item Improvement Process received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10966. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Miscellaneous Administrative Changes [NRC-2009-0085] (RIN: 3150-AH49) received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10967. A letter from the Secretary, Department of Commerce, transmitting Periodic Report on the National Emergency Caused by the Lapse of the Export Administration Act of 1979 for February 26, 2010 — August 25, 2010; to the Committee on Foreign Affairs.

10968. A letter from the Assistant Attorney General, Department of Justice, transmitting the Semiannual Management Report to Congress for April 1, 2010 through September 30, 2010 and the Inspector General's Semiannual Report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

10969. A letter from the Chairman, Federal Communications Commission, transmitting Commission's Fiscal Year 2010 Agency Financial Report; to the Committee on Oversight and Government Reform.

10970. A letter from the Director, Congressional Affairs, Federal Election Commission, transmitting the Commission's semiannual report from the office of the Inspector General for the period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

10971. A letter from the Chairman, National Capital Planning Commission, transmitting the Commission's Performance and Accountability Report for FY 2010; to the Committee on Oversight and Government Reform.

10972. A letter from the Inspector General, Nuclear Regulatory Commission, transmitting the Commission's Fiscal Year 2010 Commercial and Inherently Governmental Activities Inventories; to the Committee on Oversight and Government Reform.

10973. A letter from the Director, Office of Management and Budget, transmitting proposed legislation to enact a freeze on civilian

basic pay for federal employees; to the Committee on Oversight and Government Reform.

10974. A letter from the Board Members, Railroad Retirement Board, transmitting the Board's Performance and Accountability Report for Fiscal Year 2010, including the Office of Inspector General's Auditor's Report; to the Committee on Oversight and Government Reform.

10975. A letter from the Chairman, Securities and Exchange Commission, transmitting the Semiannual Report of the Inspector General and a separate management report for the period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

10976. A letter from the Human Resources Specialist, United States Tax Court, transmitting annual category rating report for the years 2008 and 2009; to the Committee on Oversight and Government Reform.

10977. A letter from the Clerk, United States Court of Appeals for the Fifth Circuit, transmitting an opinion of the United States Court of Appeals for the Fifth Circuit No. 08-51299 *United States v. Ravis Neal Key* (March 5, 2010); to the Committee on the Judiciary.

10978. A letter from the Administrator, FEMA, Department of Homeland Security, transmitting notification that funding under Title V, subsection 503(b)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, has exceeded \$5 million for the cost of response and recovery efforts for FEMA-3315-EM in the Commonwealth of Massachusetts, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

10979. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Bulk Solid Hazardous Materials: Harmonization with the International Maritime Solid Bulk Cargoes (IMSBC) Code [Docket No.: USCG-2009-0091] (RIN: 1628-AB47) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10980. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Beaufort, SC [Docket No.: USCG-2009-1075] (RIN: 1625-AA09) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10981. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; IJSBA World Finals, Lower Colorado River, Lake Havasu, AZ [Docket No.: USCG-2010-0509] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10982. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Interstate 5 Bridge Repairs, Columbia River, Portland, OR [Docket No.: USCG-2010-0895] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10983. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; New York Air Show at Jones Beach State Park, Atlantic Ocean off of Jones Beach, Wantagh, NY [Docket No.: USCG-2010-0138] (RIN: 1625-AA00) received December

8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10984. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Notification of Arrival in U.S. Ports; Certain Dangerous Cargoes [Docket No.: USCG-2004-19963] (RIN: 1625-AA93) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10985. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation; Monongahela River, Pittsburgh, PA [Docket No.: USCG-2010-0534] (RIN: 1625-AA08) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10986. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zones; Captain of the Port Buffalo Zone; Technical amendment [Docket No.: USCG-2010-0821] (RIN: 1625-AA87) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10987. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Area; Reserved Channel, Boston Harbor, Boston, MA [Docket No.: USCG-2010-0886] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10988. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Patuxent River, Solomons, MD [Docket No.: USCG-2010-0383] (RIN: 1625-AA08) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10989. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks for USS GRAVELY Commissioning Ceremony, Cape Fear River, Wilmington, NC [Docket No.: USCG-2010-0917] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10990. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Passenger Vessels, Sector Southeastern New England Captain of the Port Zone [USCG-2010-0864] (RIN: 1625-AA87) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10991. A letter from the Administrator, Research and Innovative Technology Administration, Department of Transportation, transmitting the Transportation Statistics Annual Report 2009, pursuant to 49 U.S.C. 111(f); to the Committee on Transportation and Infrastructure.

10992. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report on the Fiscal Year 2007 Low Income Home Energy Assistance Program in accordance with section 2610 of the Omnibus Budget Reconciliation Act (OBRA) of 1981, as amended; jointly to the Committees on Energy and Commerce and Education and Labor.

10993. A letter from the Secretary, Department of Health and Human Services, trans-

mitting letter concerning the report mandated by Section 131(d) of the Medicare Improvements for Patients and Providers Act (MIPPA); jointly to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WAXMAN: Committee on Energy and Commerce. H.R. 4678. A bill to require foreign manufacturers of products imported into the United States to establish registered agents in the United States who are authorized to accept service of process against such manufacturers, and for other purposes; with an amendment (Rept. 111-683, Pt. 1). Ordered to be printed.

Mr. CONYERS: Committee on the Judiciary. H.R. 1064. A bill to provide for evidence-based and promising practices related to juvenile delinquency and criminal street gang activity prevention and intervention to help build individual, family, and community strength and resiliency to ensure that youth lead productive, safe, healthy, gang-free, and law-abiding lives; with an amendment (Rept. 111-688, Pt. 1). Ordered to be printed.

[Filed on December 17 (legislative day of December 16), 2010]

Mr. MCGOVERN: Committee on Rules. House Resolution 1771. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, and providing for consideration of motions to suspend the rules (Rept. 111-684). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FRANK: Committee on Financial Services. H.R. 3817. A bill to provide the Securities and Exchange Commission with additional authorities to protect investors from violations of the securities laws, and for other purposes; with an amendment, (Rept. 111-687, Pt. 1); referred to the Committee on Judiciary for a period ending not later than December 17, 2010, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k) of rule X.

Mr. FRANK: Committee on Financial Services. H.R. 3818. A bill to amend the Investment Advisers Act of 1940 to require advisers of certain unregistered investment companies to register with and provide information to the Securities and Exchange Commission, and for other purposes, with an amendment; (Rept. 111-686, Pt. 1); referred to the Committee on Agriculture for a period ending not later than December 17, 2010, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(a) of rule X.

Mr. FRANK: Committee on Financial Services. H.R. 3890. A bill to amend the Securities Exchange Act of 1934 to enhance oversight of nationally recognized statistical rating organizations, and for other purposes; with an amendment; (Rept. 111-685, Pt. 1); referred to

the Committee on Judiciary for a period ending not later than December 17, 2010, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k) of rule X.

TIME LIMITATION OF REFERRED BILLS

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 1064. Referral to the Committees on Education and Labor, Energy and Commerce, and Financial Services for a period ending not later than December 17, 2010.

H.R. 4678. Referral to the Committees on Ways and Means and Agriculture extended for a period ending not later than December 17, 2010.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. DICKS:

H.R. 6527. A bill to provide the Quileute Indian Tribe Tsunami and Flood Protection, and for other purposes; to the Committee on Natural Resources.

By Mr. WALZ (for himself and Mrs. MYRICK):

H.R. 6528. A bill to provide for improvement of field emergency medical services, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MOORE of Kansas:

H.R. 6529. A bill to amend title 31, United States Code, to provide for a Federal license for reinsurers, and for other purposes; to the Committee on Financial Services.

By Mr. INSLEE (for himself, Mrs. BONO MACK, Ms. ESHOO, Mr. COLE, Mr. KILDEE, Mr. DEFAZIO, and Mr. GRIMALVA):

H.R. 6530. A bill to amend the Communications Act of 1934 to establish a position for a representative of Indian Tribes on the Joint Board overseeing the implementation of universal service, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GARRETT of New Jersey (for himself, Mr. KING of New York, and Ms. ROS-LEHTINEN):

H.R. 6531. A bill to amend the Securities Investor Protection Act of 1970 to determine a customer's net equity based on the customer's last statement, to prohibit certain recoveries, to change how trustees are appointed, and for other purposes; to the Committee on Financial Services.

By Mr. ELLISON:

H.R. 6532. A bill to amend the International Emergency Economic Powers Act to establish certain procedures with respect to blocking property of charities; to the Committee on Foreign Affairs.

By Mr. DOYLE (for himself and Mr. TERRY):

H.R. 6533. A bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DOYLE (for himself, Mr. BARTON of Texas, Mr. ACKERMAN, Mr. ADLER of New Jersey, Mr. ALTMIRE, Mr. ARCURI, Mr. BACA, Mr. BERRY, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Mr. BOCCIERI, Mr. BOSWELL, Mr. BRADY of Pennsylvania, Mr. CARNAHAN, Mr. CHANDLER, Ms. CLARKE, Mr. CLAY, Mr. COHEN, Mr. CONNOLLY of Virginia, Mr. CONYERS, Mr. COOPER, Mr. COSTELLO, Mr. COURTNEY, Mr. CRITZ, Mr. CROWLEY, Mr. CUMMINGS, Mrs. DAHLKEMPER, Mr. DELAHUNT, Mr. DONNELLY of Indiana, Ms. EDWARDS of Maryland, Mr. ELLISON, Mr. FARR, Mr. FATTAH, Ms. FUDGE, Mr. GORDON of Tennessee, Mr. GENE GREEN of Texas, Mr. GUTIERREZ, Mr. HALL of New York, Mrs. HALVORSON, Mr. HARE, Mr. HASTINGS of Florida, Mr. HEINRICH, Ms. HERSETH SANDLIN, Mr. BARTLETT, Mrs. BIGGERT, Mr. BILBRAY, Mrs. BLACKBURN, Mr. BLUNT, Mr. BOEHNER, Mr. BROWN of South Carolina, Mr. BUYER, Mrs. CAPITO, Mr. CAO, Mr. CARTER, Mr. CASTLE, Mr. COBLE, Mr. COFFMAN of Colorado, Mr. COLE, Mr. CONAWAY, Mr. DENT, Mrs. EMERSON, Mr. FLEMING, Mr. FORTENBERRY, Ms. FOXX, Mr. FRANKS of Arizona, Mr. FRELINGHUYSEN, Mr. GARRETT of New Jersey, Mr. GERLACH, Mr. GOHMERT, Mr. GOODLATTE, Mr. GRAVES of Georgia, Mr. GUTHRIE, Mr. HALL of Texas, Mr. HERGER, Mr. KING of New York, Mr. KING of Iowa, Mr. KINGSTON, Mr. KLINE of Minnesota, Mr. LAMBORN, Mr. LATOURETTE, Mr. LEE of New York, Mr. LOBIONDO, Mr. MANZULLO, Mr. MCCAUL, Mr. HILL, Mr. HODES, Mr. HOLDEN, Mr. HOLT, Mr. INSLEE, Mr. ISRAEL, Mr. JACKSON of Illinois, Mr. KANJORSKI, Ms. KAPTUR, Mr. KILDEE, Ms. KILROY, Mr. KIND, Mr. KRATOVIL, Mr. KUCINICH, Mr. LIPINSKI, Mrs. LOWEY, Mr. LUJAN, Mr. MAFFEI, Mrs. MALONEY, Ms. MARKEY of Colorado, Ms. MATSUI, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCINTYRE, Mr. MCMAHON, Mr. MEEKS of New York, Mr. MILLER of North Carolina, Mr. MOORE of Kansas, Ms. MOORE of Wisconsin, Mr. MURPHY of Connecticut, Mr. PATRICK J. MURPHY of Pennsylvania, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Mr. NYE, Mr. OBERSTAR, Mr. ORTIZ, Mr. OWENS, Mr. PASTOR of Arizona, Mr. PERRIELLO, Mr. PIERLUISI, Mr. POLIS, Mr. POMEROY, Mr. QUIGLEY, Mr. REYES, Ms. RICHARDSON, Mr. ROSS, Mr. ROTHMAN of New Jersey, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. RYAN of Ohio, Mr. SALAZAR, Mr. SARBANES, Mr. MCCOTTER, Mr. MCKEON, Mr. MICA, Mrs. MILLER of Michigan, Mr. MILLER of Florida, Mr. TIM MURPHY of Pennsylvania, Mr. PAULSEN, Mr. PETRI, Mr. PITTS, Mr. PLATT, Mr. PRICE of Georgia, Mr. REICHERT, Mr. ROHRBACHER, Mr. ROONEY, Mr. SCALISE, Mr. SCHOCK, Mr. SESSIONS, Mr. SHIMKUS, Mr. SHUSTER, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. STEARNS, Mr. SULLIVAN, Mr. TIAHRT, Mr. TIBERI, Mr. TURNER, Mr. UPTON, Mr. WALDEN, Mr. WAMP, Mr. WITTMAN, Mr. SCHAUER, Mr. SCOTT of Georgia, Ms. SCHWARTZ, Mr. SERRANO, Mr. SHERMAN, Mr. SHULER, Ms. SLAUGHTER, Ms. SPEIER, Mr. STUPAK, Ms. SUTTON, Mr. TAYLOR, Mr. TEAGUE, Mr. THOMP-

SON of California, Ms. TITUS, Mr. TONKO, Mr. TOWNS, Ms. TSONGAS, Mr. VAN HOLLEN, Ms. VELAZQUEZ, Mr. VISCLOSKEY, Mr. WALZ, Mr. WAXMAN, Mr. WEINER, Mr. WELCH, Ms. WOOLSEY, and Mr. YARMUTH):

H.R. 6534. A bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame; to the Committee on Financial Services, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RUSH:

H.R. 6535. A bill to advance the mutual interests of the United States and Africa with respect to the promotion of trade and investment and the advancement of socioeconomic development and opportunity, and for other purposes; to the Committee on Foreign Affairs.

By Mr. GENE GREEN of Texas:

H.R. 6536. A bill to authorize the Department of Labor's voluntary protection program and to expand the program to include more small businesses; to the Committee on Education and Labor.

By Mr. LEWIS of Georgia:

H.R. 6537. A bill to amend titles XVIII and XIX of the Social Security Act and other Acts to improve Medicare and other benefits for beneficiaries with kidney disease, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MACK:

H.R. 6538. A bill to prevent pending tax increases and to permanently repeal the estate tax; to the Committee on Ways and Means.

By Mr. WEINER:

H.R. 6539. A bill to amend the Food and Nutrition Act of 2008 to promote nutrition, to increase access to food, and for other purposes; to the Committee on Agriculture.

By Mrs. LOWEY (for herself, Mr. BERMAN, Ms. ROS-LEHTINEN, and Mr. TURNER):

H. Con. Res. 335. Concurrent resolution honoring the exceptional achievements of Ambassador Richard Holbrooke and recognizing the significant contributions he has made to United States national security, humanitarian causes, and peaceful resolutions of international conflict; to the Committee on Foreign Affairs.

By Mr. TURNER:

H. Res. 1770. A resolution honoring the passing of the Honorable Richard Charles Albert Holbrooke, a top ranking United States diplomat, magazine editor, author, professor, Peace Corps official, and investment banker; to the Committee on Foreign Affairs.

By Mr. GARRETT of New Jersey (for himself, Mr. BISHOP of Utah, Mr. CONAWAY, Mr. BROWN of Georgia, Mr. FRANKS of Arizona, Mr. MCHEENY, Ms. FOXX, Mr. TIAHRT, Mr. COFFMAN of Colorado, Mr. BRADY of Texas, Mr. NEUGEBAUER, Mr. OLSON, Mrs. SCHMIDT, Mr. LATTA, Mr. PITTS, Mrs. BACHMANN, Mr. FLEMING, Mr. REED, Mr. ROONEY, Mr. WILSON of South Carolina, Mr. STEARNS, Mr. BURTON of Indiana, Mr. CAMPBELL, Mr. GRAVES of Georgia, Mr. ROE of Tennessee, and Mr. HERGER):

H. Res. 1772. A resolution amending the Rules of the House of Representatives to require House officers and employees to take

annual factual training on the Constitution; to the Committee on Rules.

By Mr. MURPHY of Connecticut (for himself, Mr. LARSON of Connecticut, Mr. COURTNEY, Ms. DELAURO, and Mr. HIMES):

H. Res. 1773. A resolution recognizing the need to improve physical access to many United States postal facilities for all people in the United States in particular disabled citizens; to the Committee on Oversight and Government Reform, and in addition to the Committees on Education and Labor, the Judiciary, Energy and Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROS-LEHTINEN (for herself, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, and Mr. SIRES):

H. Res. 1774. A resolution recognizing Cuban-Americans in the United States; to

the Committee on Oversight and Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 796: Mr. MCCOTTER.
 H.R. 1034: Ms. SUTTON and Mr. WILSON of South Carolina.
 H.R. 1475: Ms. NORTON.
 H.R. 2262: Mr. WAXMAN.
 H.R. 3765: Mr. ISSA and Mr. KINGSTON.
 H.R. 3907: Ms. GIFFORDS.
 H.R. 4946: Mr. GARRETT of New Jersey.
 H.R. 5575: Mr. BACHUS and Mr. JONES.
 H.R. 5807: Mr. MORAN of Virginia.
 H.R. 5833: Mr. FRANK of Massachusetts.
 H.R. 6045: Mr. OLVER.
 H.R. 6074: Mr. ANDREWS.
 H.R. 6147: Ms. ZOE LOFGREN of California and Mr. MCGOVERN.
 H.R. 6241: Ms. NORTON and Mr. ISRAEL.
 H.R. 6377: Mr. THOMPSON of California.

H.R. 6415: Mr. CONAWAY.
 H.R. 6459: Mr. RUPPERSBERGER and Mr. MURPHY of New York.
 H.R. 6513: Mrs. McMORRIS RODGERS.
 H.R. 6521: Mrs. SCHMIDT, Mr. SMITH of New Jersey, Mr. WOLF, Mr. PLATTS, Mrs. EMERSON, Mr. LOBIONDO, and Mr. REICHERT.
 H.J. Res. 97: Mr. CALVERT.
 H.J. Res. 100: Mr. COLE.
 H.J. Res. 103: Mr. COFFMAN of Colorado.
 H. Con. Res. 331: Mr. GONZALEZ and Mr. PASCRELL.
 H. Res. 1122: Mr. HONDA and Ms. DEGETTE.
 H. Res. 1377: Mrs. DAVIS of California and Mr. CARDOZA.
 H. Res. 1461: Mr. GUTHRIE, Mr. MCINTYRE, Ms. LORETTA SANCHEZ of California, Mr. BAIRD, Mr. KENNEDY, Mr. MCGOVERN, Mr. HONDA, Ms. ZOE LOFGREN of California, Mr. COSTA, Mr. RADANOVICH, Mr. PASCRELL, Mr. MORAN of Virginia, and Ms. LINDA T. SANCHEZ of California.
 H. Res. 1709: Mr. REYES and Mr. DAVIS of Illinois.
 H. Res. 1722: Mr. ROTHMAN of New Jersey.
 H. Res. 1762: Mr. PETERS.

EXTENSIONS OF REMARKS

HONORING BRAD ABORN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Brad Aborn upon his retirement as the Mariposa County Supervisor for District 1.

Mr. Aborn has served on the Mariposa County Board of Supervisors since January 2007. During his time on the Board, Mr. Aborn worked tirelessly to serve Mariposa County. He was involved in a number of County projects, including: the Yosemite West Community Plan, the SilverTip Resort project amended site plan application, the new Human Services facility, acquisition of new fire engines and water tenders, funding for 3 new fire stations, obtaining a Fixed Base Operator to oversee the Mariposa/Yosemite Airport, construction of the Red Cloud Library, improvements for Midpines Park, Airport improvement projects, the Seventh Day Adventist Camp project, fuel load reduction projects, road maintenance projects, Agri-nature and Agri-tourism policy, Williamson Act/historical parcels, and the AB 885 statewide issue regarding well and septic system inspections. Mr. Aborn also served as the Board's chair in 2009.

Besides his work on the Board, Mr. Aborn has served the County in a number of other ways. He was the chair of the Local Transportation Commission and the vice president and then president of the Mariposa County Public Financing Corporation.

Mr. Aborn is a dedicated patriot and family man. Before joining the Board, he served in the military for 24 years, first on active duty and then in the reserves. Brad, his wife Irene and their three children now spend their time on the Flying A Ranch, where they breed and raise champion Arabian horses.

Madam Speaker, I rise today to honor Brad Aborn for his dedicated service to the people of Mariposa County. I invite my colleagues to join me in wishing Mr. Aborn many years of continued success.

RECOGNIZING THE ACCOMPLISHMENT OF KAREN LADD

HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. BOOZMAN. Madam Speaker, I rise today to recognize Karen Ladd for her outstanding contributions to Arkansas students. Karen's efforts in the classroom earned her the highest recognition our Nation's kindergarten through 12th grade mathematics and

science teachers may receive for outstanding teaching, the Presidential Awards for Excellence for Mathematics and Science Teaching.

A Chemistry, Advanced Placement Chemistry, and Physics teacher at Nettleton High School, in Jonesboro, Arkansas, Karen exemplifies what it means to be an outstanding educator. Teaching for 33 years, Karen constantly works to challenge her students to succeed, receiving many classroom grants to provide her students with additional resources.

Karen's teaching is held in high regard and her work inspires her colleagues to do their best to encourage further development in the classroom. Her leadership has helped teachers in her region through the Constructing Physics Understanding and Modeling Physics workshops as well as mentoring other teachers. Karen is working to improve science education and help other teachers use innovative methods in the classroom.

I would like to offer my appreciation for the work of Karen Ladd and her determination to provide her students with the best science education as we work to maintain America's global competitiveness in science.

CALPERS DETAILS SEVERAL KEY WAYS THE HEALTH REFORM LAW IS HELPING THEIR MEMBERS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. STARK. Madam Speaker, I rise to share a letter written to the Department of Health and Human Services Secretary Kathleen Sebelius last week. In this letter, copied below, the CEO for the California Public Employees Retirement System, CalPERS, details several key ways the health reform law is already helping their members.

CalPERS is the largest non-federal purchaser of health benefits in the country outside of the Federal Employees Health Benefits Program, FEHBP. They highlight expanded coverage for young adults, removal of lifetime limits on benefits, and assistance with the costs of retiree health benefits as three key ways reform is already making a difference.

Republicans refuse to look at the benefits of health reform and are continuing to insist they will "repeal ObamaCare."

President Obama should be proud to have the right wing label health reform with his name. As this CalPERS example shows, health reform is expanding and improving health coverage already. As time moves forward, the benefits to working families, small businesses, and large companies only increase.

EXECUTIVE OFFICE, CALPERS,

Sacramento, CA, December 10, 2010.

Hon. Kathleen Sebelius,
Secretary, U.S. Department of Health and Human Services, Washington, DC.

DEAR SECRETARY SEBELIUS: As the nation's largest non-federal purchaser of health care, the California Public Employees' Retirement System (CalPERS) has a keen interest in national health care reform. From the beginning, CalPERS supported the reform necessary to contain costs for employers and their employees while maintaining quality health care.

Many health care elements we have championed, such as guaranteed issue policies; eliminating co-pays for preventive services; bans on pre-existing conditions; stabilizing health premiums; supporting innovative delivery system reforms; and patient protection against medical bankruptcies are now major components of health care reform.

We believe that key elements of national health care reform represent a fundamental and positive shift in the way health care will be purchased and delivered in the United States. Together, they will dramatically shape the future of health care in our country and ultimately benefit everyone.

During our recent open enrollment period, CalPERS emphasized the benefits of many health care reform provisions—including extension of dependent coverage, elimination of lifetime limits, and the Early Retiree Reinsurance Program. We are writing to share some of our implementation successes.

(1) *Extension of Dependent Coverage to Age 26*

In recognition of young adults' need for health care coverage, CalPERS launched a massive communication effort to educate and inform employers and members of the extended dependent coverage benefit. We developed special enrollment teams, published communication materials, posted information on our website, and issued press releases highlighting this new health care reform provision.

Our efforts successfully resulted in more than 27,000 young adults being added to their parents' health plans effective January 1, 2011. Best of all, adding them to our program resulted in a 2011 health insurance premium increase of less than 1 percent. Families can now rest easier in these uncertain economic times knowing their dependents, regardless of marital status, can be covered up to age 26.

(2) *Removal of Lifetime Limits*

Most CalPERS health insurance plans have never included lifetime limits on the dollar value of benefits. Further, we proactively monitored our members who were enrolled in the few health plans that did include lifetime limits, so we could work with them to change plans when they approached these limits.

As a result of health care reform, CalPERS has removed lifetime limits from all our plans that had included them, and now our members enjoy more health plan options and less financial risk.

(3) *Early Retiree Reinsurance Program (ERRP)*

For years, CalPERS health plans have included wellness and disease management

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

programs that promote prevention and manage chronic conditions. These programs, now required of ERRP participants, mitigate the on-going fiscal impact of caring for an older population. It's encouraging that these programs can reduce costs.

Notwithstanding this success, approximately 24 percent of our non-Medicare medical and pharmaceutical costs are associated with early retiree health liability. Recognizing this, the Affordable Care Act included much needed provisions for relief from these costs. CalPERS 2010 health premium rates reflected the lowest increase in 14 years.

In anticipation of the Department of Health and Human Services certifying our ERRP application, CalPERS proactively negotiated 2011 health plan contracts that reduced premium increases by more than 3 percent for our non-Medicare plans. We estimate ERRP will provide premium savings of approximately \$200 million based on reimbursement related to more than 115,000 early retirees and their spouses, surviving spouses, and dependents.

We thank you for expeditiously implementing important health care reform provisions and we are committed to being a collaborative partner in ensuring the smooth and successful implementation in the months and years ahead.

If you have any questions regarding our program, please contact me.

Sincerely,

ANNE STAUSBOLL,
Chief Executive Officer.

HONORING VETERAN NEWSPAPER JOURNALIST TYLER WHITLEY FOR 50 YEARS OF EXCEPTIONAL WORK AT RICHMOND, VIRGINIA-AREA NEWSPAPERS

HON. ROBERT C. "BOBBY" SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. SCOTT of Virginia. Madam Speaker, I rise today to honor veteran Richmond Times-Dispatch journalist Tyler Whitley. Mr. Whitley has been a newspaper reporter in Richmond, Virginia, for the last 50 years. He has spent 40 of those years covering the Virginia General Assembly, including the 15 years that I served there.

Mr. Whitley, a Virginia native, is a graduate of Hampden-Sydney College in Hampden-Sydney, Virginia. He started his career in 1960 as an obituary writer at the Richmond News Leader. He later became business editor at the News Leader. In 1992, he joined the Times-Dispatch when the News Leader and the Times-Dispatch merged into a single morning newspaper. He has covered nine governors, fourteen national political conventions, and four redistrictings. He has also traveled to ten countries on assignment.

Mr. Whitley is well-respected by journalists and politicians in Virginia. He is affectionately referred to as the dean of the Virginia capitol press corps. Last week, several journalists and editors, Virginia Governor Bob McDonnell, and former Virginia Governors James Gilmore, L. Douglas Wilder, Gerald Baliles and Linwood Hilton gathered to honor Mr. Whitley. The presence of these Governors at Mr. Whitley's 50th anniversary celebration is a testament to

the admirable professional legacy he has built in the Commonwealth of Virginia.

"If it's true that reporters write the first draft of history, then Tyler has written a lot of history," former Governor Baliles told the Washington Post.

Madam Speaker, it is my pleasure to honor Tyler Whitley for 50 years of exceptional journalism.

HONORING MARY WILLIAMS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Mary Williams upon her retirement as the Mariposa County Community Services Director.

Mrs. Williams began her career with Mariposa County on September 1, 1988 as Extra-Help Senior Services Information and Referral Specialist. She was hired full-time on September 1, 1989, as Assistant Veterans' Services Officer. Over the years, Mrs. Williams was reclassified a number of times, first as a Veteran/Senior Services Assistant in 1990, then as Community Services Deputy Director on October 1, 1993. On August 3, 1998, Mrs. Williams was appointed Community Services Director.

Mrs. Williams worked tirelessly for the citizens of Mariposa County. Among the many projects she was involved in, Mrs. Williams provided senior services, senior nutrition, transit, outreach and support for seniors, education seminars and special events of help and interest to seniors; arranged for the first restaurant meal program for seniors; was responsible for overseeing the scheduling and implementing of activities and programs for seniors such as the annual Senior Exposition, the Senior Prom and Thanksgiving dinner; organized a wide variety of fundraisers; and overseeing the Veterans' Services which provides assistance to Veterans, their dependents, survivors and the general public in obtaining benefits from Federal, State, and local agencies administering programs for Veterans, to name only a few.

Besides her commitments to Mariposa County Community Services, Mrs. Williams also served as a member of a number of groups, including the Future Farmers of America/Western Days and the Farm Bureau, was appointed a member of the Fair Board by the Governor and has worked actively with the Junior Livestock Auction Committee since its formation. Mrs. Williams recently celebrated 50 years of marriage to her husband Kenny and they both look forward to spending more time with their family upon her retirement.

Madam Speaker, I rise today to honor Mary Williams for her dedicated service to the people of Mariposa County. I invite my colleagues to join me in wishing Mrs. Williams many years of continued success.

A SALUTE TO WOMEN IN DEFENSE

HON. MARK S. CRITZ

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. CRITZ. Madam Speaker, I rise to recognize Women In Defense, A National Security Organization that will celebrate its twenty-fifth anniversary this Sunday, December 19, 2010.

Women In Defense began in the fall of 1979 as the brainchild of seven dynamic women, Margo Giordano Anderson, Karen Hopkins, Betty Kimmel, JoHanna Kinley, Diane Lafferman, Lillian Morris, and Rebekah Nottingham. They met and discussed the idea of starting an informal network to assist participants, especially women, in expanding their knowledge of national security issues and of the national defense community in which they participated. The association was incorporated as a nonprofit 501(c)(6) on December 19, 1985.

For 25 years, Women In Defense has provided women a formal environment for professional growth through networking, education, and career development. Its 3,000 members, and 16 chapters throughout the United States, cultivates and supports the advancement and recognition of women in all aspects of national security. Women In Defense also offers the HORIZONS Scholarship, which was established in 1988 to encourage women to pursue careers related to the national security and defense interests, and to provide development opportunities to women already working in these fields.

Madam Speaker, I congratulate Women In Defense for the dramatic impact it has had on professionals who serve the national defense and national security of our nation. Its numerous successes have elevated the presence and stature of women in industry and military leadership. Because of their efforts, the United States benefits from a workforce that is better equipped to serve our great nation.

PERSONAL EXPLANATION

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. PENCE. Madam Speaker, I was absent from the House floor on the legislative day of December 14, 2010. Had I been present, I would have voted "yea" on rollcall votes 628 and 630, and "no" on rollcall vote 629.

THE HALL OF FAME IN HONOR OF AN AMERICAN HERO SPC TIM HALL 173 AIRBORNE BRIGADE, THE UNITED STATES ARMY

HON. DEAN HELLER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. HELLER. Madam Speaker, I rise today to honor the heroic sacrifice and service of

SPC Tim Hall of the 173rd Airborne Brigade of the United States Army. On June 10, 2010, SPC Hall of Reno, Nevada, was severely wounded by a mortar attack in Kabul, Afghanistan. Although he was severely injured and lost both of his legs, SPC Hall continues his courageous effort on the road to recovery. My sincere gratitude, appreciation, and thoughts are with SPC Hall and all of our service members as they continue to heroically and selflessly sacrifice for our Nation. I am honored to represent SPC Hall and his family in Nevada's 2nd Congressional District. I am proud to submit a poem penned in his honor by Albert Caswell for the RECORD.

THE HALL OF FAME

In our country Tis of Thee. . . .
 All in this our Nation of the free . . .
 But stand, the greatest of all Americans indeed. . . .
 Are but all of those who go off the war, for you and me. . . .
 The ones who answer That Call To Arms . . .
 Who put themselves, and their families all in such heartache and grave harm. . . .
 To our Nation's Hall of Fame, belong. . . .
 The ones who now so lie in the soft cold dark graves, so all alone. . . .
 And all of those others who come back home. . . .
 Without arms and legs, and burns upon their bodies own. . . .
 Our best and our brightest, our very bravest who so fight this. . . .
 Her most magnificent names. . . . are all but in our Nation's Hall of Fame!
 Men, like SPC Tim Hall. . . . of the 173 Airborne, who stood tall. . . .
 As a mortar attack, left him dying. . . .
 As it was but then his brave heart to him, started crying. . . .
 Not to give up or to give in. . . . as this warriors new battle would begin!
 With his two fine legs gone, he told himself it was time to move on. . . .
 Get Up. . . . Get Moving. . . . Get Airborne!
 As so deep down in his heart, so worn. . . .
 Was the courage and the faith, to somehow move on. . . .
 Another Hall of Famer born. . . . with his profiles in courage soars . . .
 To new heights. . . . To Teach Us. . . . To So Beseech Us. . . . oh Tim what form!
 As he so Reaches Us, and somehow carries on!
 As one of Nevada's Finest Sons. . . .
 There's gold in his heart, this one!
 For this man is Army Strong!
 Hoooah, for in his heart beats such a song!
 A song of Strength In Honor, all day and all night long!
 And if I had a son, I wish he but shine like this one. . . .
 As thy will be done, for he's in The Hall of Fame this son!
 Showing us all to what new heights a heart can run!
 America's Son!
 So on this Christmas morning as you awake. . . .
 Or during the Festival of lights, would you so take. . . .
 So take the time to remember, all of these. . . .
 Selfless Souls, who so bring us peace!
 Who our Nation's Hall will never cease!

RECOGNIZING THE RETIREMENT OF JUDGE FRANK BELL FROM THE FIRST JUDICIAL COURT OF FLORIDA

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. MILLER of Florida. Madam Speaker, I rise to recognize Judge Frank Bell, upon his retirement from presiding on the county and circuit benches for the past 38 years. Judge Bell spent his career serving the northwest Florida community, and I am proud to recognize his dedication and service.

Judge Bell was born and raised in Pensacola, Florida. After graduating from Pensacola High School, Judge Bell enlisted in the Army. After serving on active duty and in the reserves, Judge Bell attended the University of Southern Mississippi, where he received a B.S. in accounting. He furthered his education at the Cumberland School of Law, Samford University, where he graduated in 1966.

Judge Bell returned to his native Pensacola to practice law. He worked as a sole practitioner, in addition to prosecuting both capital and non-capital cases. In 1972, he was chosen by the people of Escambia County, Florida to serve as a County Judge, and in 1985 he was appointed to the First Judicial Circuit Court of Florida, a job which Judge Bell has carried out with honor and distinction for 25 years.

Judge Bell adheres to the judicial philosophy that impartiality must be preserved to ensure fairness in our legal system. In Judge Bell's view, it is of the upmost importance that judges "convince the litigants that all we want is a fair fight for the party." Some Americans view the justice system with fear and trepidation; however, Judge Bell believes that when citizens experience a fair and impartial judiciary firsthand their opinions change completely. According to Judge Bell, citizens, "after serving on a jury where they see the system work, they develop a positive attitude." Judge Bell's unwavering commitment to upholding the law in an unbiased manner is a prime example of our legal system working at its best and is a great credit to his beloved community.

Madam Speaker, on behalf of the United States Congress, I am honored to recognize Judge Frank Bell for his service to northwest Florida and to the United States of America.

TRIBUTE TO RAY ABRIL, JR.

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. BACA. Madam Speaker, I rise today to ask Congress to pay tribute to an outstanding friend, mentor and community leader, Mr. Ray Abril, Jr. Ray passed away on December 14, 2010.

Born in Colton, California on June 5, 1932, Ray was raised in South Colton where he dedicated his life to his community and to the

improvement of education in the Colton Joint Unified School District.

Ray graduated from Colton High School in 1950. A veteran of the Korean War, he courageously served four years in the Navy.

Ray first became involved in education in the early 1970's, motivated to serve because of the poor state of many local schools at the time. In 1973 he won his first election to the Colton Joint Unified School Board.

Ray often liked to joke that he had a PhD from USC, "The University of South Colton." Throughout his 28 year career with the Colton School Board, Ray played an important part in improving schools. During his time as board member he worked to improve student performance, enhance school safety and increase the number of college-bound students.

A strong advocate for education, Ray was instrumental in advising me on many legislative policy decisions over the years, including my PROUD Act. As a board member, Ray became affectionately known as "The Godfather of the Colton Joint Unified School District." He held the office of Clerk for thirteen years and served as Board President for six years. Ray retired from the Colton Joint Unified Board of Education after 28 years of dedicated service.

Because of Ray's lifelong commitment to education, the Colton Joint Unified School Board decided to recognize him by including his name in the campus of the new high school in Grand Terrace. When complete, the school will be known as the Grand Terrace High School at the Ray Abril, Jr. Educational Complex.

An active member of the community, Ray was involved in a number of organizations including the San Bernardino Countywide Gangs and Drugs Task Force, the Knights of Columbus and the San Bernardino County Superintendent of Schools Advisory Committee. Ray was also a co-founder of the Mexican-American Parent & Student Organization, a group that advocated educational improvements in Colton.

His legacy of work on local issues such as the BNSF rail crossing and his founding of Colton First had a lasting impact on communities across the Inland Empire. After his many years of service, Ray was awarded the Assistance League of San Bernardino's "Living Legend Award" during its 50th anniversary celebration.

Ray was a loving family man. He and his beloved wife Hortensia were married for 53 years before her unfortunate passing. Ray leaves behind his daughters Melinda Medina, Rebecca Gonzales, Nellie Carnero as well as his three sons, Nick, Michael and Dominic. He also leaves behind 19 grandchildren and 29 great-grandchildren.

The thoughts and prayers of my wife, Barbara, Mayor pro tem Joe Baca, Jr., Jeremy, Natalie, Jennifer and I are with his family at this time. I ask my colleagues to join me in remembering a superb American citizen and dedicated community leader. He will be greatly missed and I extend my sincere condolences to his extended family upon the very sad loss of Mr. Ray Abril, Jr.

HONORING SYLVIA L. WARNER

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. ROGERS of Michigan. Madam Speaker, I rise today to pay tribute to Sylvia L. Warner for her outstanding service to the people of Michigan's Eighth Congressional District.

Ms. Warner was born and raised in Roanoke, Virginia. After graduating from Jefferson Senior High School, she began her career in journalism at the Belding Banner where she worked from 1969 through 1973. In her dual role as photographer and reporter, she covered local news in Michigan's Ionia County. It was during this time that she developed her passion for journalism and honed many of her reporting talents.

After leaving the Belding Banner in 1973, she joined The Daily News in Greenville, Michigan. Ms. Warner was promoted through the ranks at the paper where she held several positions. She began as the local reporter for the Family Living Section, then the Managing Editor ending her career with the paper as the Editor. Ms. Warner was instrumental in managing a 10 member staff of reporters and photographers. After 20 years of editorial work focusing on local news and events, Ms. Warner left the publication to pursue other interests.

In 1993, Ms. Warner moved to Lansing, Michigan, and combined her editorial expertise with her passion for politics. She joined the Michigan House Majority Communications Office as a Communications Specialist. Her experience with local and community communications proved to be invaluable to the freshmen House members she was assigned to assist. In 1997, Ms. Warner joined the Michigan Senate Majority Communications Office as Senior Writer and Media Specialist. She was tasked with coordinating special media events and supervising junior writers.

In 1999, I was honored to have Ms. Warner join my Senate Majority Floor Leadership office. She quickly became an invaluable member of my staff. With Ms. Warner's experience and guidance, my ability to communicate and work with media was dramatically improved.

In 2000, when I decided to run for the U.S. House of Representatives, I enlisted Ms. Warner's expertise to serve as my press secretary. With the guidance of a talented team I became the U.S. Representative to Michigan's Eighth Congressional District. This would not have been possible without the years of experience, guidance and faith of such talented people like Ms. Warner.

Since my first congressional race, Ms. Warner has served as an exceptional Press Secretary and has been a cornerstone of my team. After many years of dedicated service, she has decided to move to Michigan to be closer to her children, grandchildren and great grandchild.

I, along with the constituents of Michigan's Eighth District, owe Sylvia Warner a debt of gratitude for her unwavering commitment to public and civic service throughout the years. She will be greatly missed.

I ask my colleagues to join me in thanking Sylvia L. Warner for her service and wish her the best in her retirement.

TRIBUTE TO PATTY BENTLEY

HON. WILLIAM L. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. OWENS. Madam Speaker, I rise today to congratulate Ms. Patty Bentley of Plattsburgh, New York on her retirement after 41 years as a librarian at Plattsburgh State and other institutions.

Patty was born in Kentucky, spent her early childhood in Michigan, and began her career as a medical librarian at the University of Cincinnati in 1970. Since 1977, she has worked to improve the quality of education for upstate New York students at Plattsburgh State. For 34 years, she has served to make her community a better place by volunteering countless hours with various local organizations. Simply put, Plattsburgh would not be what it is today without her tireless efforts.

I have the privilege of calling Patty my friend, and I continue to look to her for guidance on local issues. At the end of this year, Patty will become a retiree, but I am confident that she will never stop serving the community. Mr. Speaker, I thank Patty Bentley for her years of service and congratulate her on 41 wonderful years on the job.

PERSONAL EXPLANATION

HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mrs. MCCARTHY of New York. Madam Speaker, I was unavoidably absent on December 15, 2011. If I was present, I would have voted on the following: H.R. 5446—rollcall No. 631—"yea"; H. Res. 1759—rollcall No. 632—"yea"; S. Con. Res. 72—rollcall No. 633—"yea"; H.R. 6205—rollcall No. 634—"yea"; H. Res. 1764—rollcall No. 635—"yea"; H. Res. 1761—rollcall No. 636—"yea"; H. Res. 1743—rollcall No. 637—"yea"; H.R. 2965—rollcall No. 638—"yea."

HONORING DON SIMMS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Don Simms upon his retirement as the Assistant District Supervisor for the Wildlife Services Central District.

Mr. Simms began his career with the USDA/APHIS/Wildlife Services as an Animal Damage Control Trapper in 1971 in Mariposa County. He eventually left Mariposa County and worked in a number of places in the state and country, including Santa Clara County, Modoc County, San Diego County at the San Diego Wild Animal Park on the wild cheetah project, Alameda County, San Mateo County, and finally on Kodiak Island, Alaska, on a raccoon

rabies project. In 1983, Mr. Simms came back to Mariposa County to become the Assistant District Supervisor for the Wildlife Services Central District.

Mr. Simms has been a dedicated employee of the Wildlife Services program and of Mariposa County. His trapping skills are legendary and he has developed a number of control devices and techniques that have been used in the County and throughout other western states. Mr. Simms has also made presentations on his techniques to Wildlife Services employees in other western states. Mr. Simms has dealt with a wide variety of animals in his time with Wildlife Services, including rattlesnakes, feral pigs, bears, mountain lions and even a Bengal tiger.

In addition to his service to the county, Mr. Simms is a dedicated family man. Don and his wife Judy look forward to having more time to enjoy with their children and grandchildren.

Madam Speaker, I rise today to honor Don Simms for his dedicated service to the people of Mariposa County. I invite my colleagues to join me in wishing Mr. Simms many years of continued success.

ISLAND ELDERLY HOUSING ON
MARTHA'S VINEYARD**HON. BILL DELAHUNT**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. DELAHUNT. Madam Speaker, I rise today to pay tribute to Island Elderly Housing, an organization that has done an outstanding job of serving the people of Martha's Vineyard.

Island Elderly Housing (IEH) was formed in 1976 by local residents of the Island who were active in healthcare, housing, serving elders and the ministry to provide decent, safe and affordable housing for low and moderate income elderly and handicapped persons. Under the able leadership of Carol Lashnits, the agency has created twelve developments totaling 165 units, using both donated land and buildings and financing from the USDA and HUD.

IEH has grown to become a leader in the advocacy and provision of residential and related services for Island elderly and handicapped residents. Since 1981 when IEH received its first construction loan of \$1.9 million from the Farmers Home Administration's Section 515 program, the agency has received more than \$26 million in federal and state grants and loans, and private grants and donations.

As the nonprofit developer and manager for all of the units, IEH is responsible for the fiscal management for all of the development funds as well as the ongoing operating budgets.

Careful management of its funds and its fiscal responsibility has resulted in ongoing receipt of grants and contributions to IEH and its programs from foundations, local religious organizations, and area citizens.

In 2007, Carol Lashnits left her position as Executive Director for IEH and was replaced by Ann Wallace. Under Wallace, with the help of the larger community and a staff of fifteen, supportive services to aging residents have

improved and increased and now include transportation, health, education, advocacy, community building, recreation, exercise, yoga, a meals program, spiritual opportunities, gardening and intergenerational activities.

At the present time the IEH's Board and Executive Director are analyzing the present and future needs of elders on the Island as it plans for its own future activities. It is my hope that its next 30 years will be as productive as its first 30 years have been.

PERSONAL EXPLANATION

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Ms. WOOLSEY. Madam Speaker, on December 14–15, 2010, I was unavoidably detained and was unable to record my vote for Rollcall No. 628–638. Had I been present I would have voted:

Rollcall No. 628—"yes"—Longfellow House–Washington's Headquarters National Historic Site Designation Act.

Rollcall No. 629—"yes"—Census Oversight Efficiency and Management Reform Act of 2010.

Rollcall No. 630—"yes"—To direct the Administrator of General Services to convey a parcel of real property in Houston, Texas, to the Military Museum of Texas, and for other purposes.

Rollcall No. 631—"yes"—Harry T. and Harriette Moore Post Office.

Rollcall No. 632—"yes"—Expressing support for designation of January 23rd as "Ed Roberts Day".

Rollcall No. 633—"yes"—Recognizing the 45th anniversary of the White House Fellows Program.

Rollcall No. 634—"yes"—Private Isaac T. Cortes Post Office.

Rollcall No. 635—"yes"—Providing for consideration of the Senate amendment to H.R. 2965.

Rollcall No. 636—"yes"—Congratulating Auburn University quarterback and College Park, Georgia, native Cameron Newton on winning the 2010 Heisman Trophy for being the most outstanding college football player in the United States.

Rollcall No. 637—"yes"—Congratulating Gerda Weissmann Klein on being selected to receive the Presidential Medal of Freedom.

Rollcall No. 638—"yes"—Don't Ask, Don't Tell Repeal Act of 2010.

INTRODUCTION OF THE QUILEUTE TRIBE TSUNAMI PROTECTION ACT

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. DICKS. Madam Speaker, today I am introducing the Quileute Tribe Tsunami Protection Act. This legislation will provide land to the Quileute Tribe to enable the re-location of many facilities outside the tsunami zone. Many

of you may know that the Quileute Tribe is featured in the Twilight series of movies.

For people like the Quileutes living along the Pacific coast of the Olympic Peninsula in Washington State, a tsunami is a very real threat they face every day. The Quileute day care facility, the elder center, Tribal offices and Tribal members' homes are directly in the path of the tsunami that one day will surely come. Getting the Tribe out of danger is of great concern to all of us, and I am very pleased to introduce legislation to help the Tribe move their people and infrastructure out of the danger zone.

The Olympic National Park completely surrounds the one-mile-square Quileute Reservation, most of which is threatened either by tsunami or the Quillayute River flood zone. The only way to get the Tribe out of the danger zone is for the Park to transfer higher, safer lands to the Tribe. For many years there has been a dispute between the Park and the Tribe about the northern boundary of the Reservation, and this legislation resolves that dispute to the benefit of the Park, the Tribe and the general public. In addition to protecting the Tribe from tsunami threat, this legislation will permanently preserve public access to some of the most beautiful beaches on the Washington State coast, and will permanently protect as wilderness thousands of acres currently in the Olympic National Park.

I want to thank the Quileute Tribe, National Park Service Director Jon Jarvis and Olympic National Park Superintendent Karen Gustin for their hard work over many years to resolve this dispute. There must be Congressional approval for this settlement, so I ask my colleagues to consider the present danger to the Tribe and to support this bill.

RECOGNIZING DENNIS M. DIEMER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. GEORGE MILLER of California. Madam Speaker, I rise with my colleagues Congressman JOHN GARAMENDI, Congresswoman BARBARA LEE, Congressman JERRY MCNERNEY, and Congressman PETE STARK to recognize East Bay Municipal Utility District General Manager Dennis M. Diemer and congratulate him as he approaches his well-earned retirement.

Mr. Diemer's career in public service demonstrates his lifelong commitment to the citizens and communities of the East Bay. We are grateful to him for his service to our constituents.

He began his career with EBMUD in 1981 as a senior environmental engineer, and over the ensuing years he was promoted to positions of increasing responsibility at the agency. In 1995, the board of directors selected him to serve as acting general manager, and he was appointed as general manager on February 13, 1996.

In California, where our water fights are legendary, Dennis' collaborative approach helped EBMUD make strides toward a secure water future. Working with the district's board of di-

rectors, Dennis and his team focused on identifying and working with partners for water supply projects. He played a significant role in ending years of water wars between the East Bay, the Sacramento area, and the environmental community, an effort which evolved into the Freeport Regional Water Project.

Dennis' work has made a long-term difference in the environmental quality of the Bay Area. He has long promoted protection of San Francisco Bay, from his work in the 1980s managing a collaborative effort with local communities to abate uncontrolled sewage discharges into San Francisco to more recent efforts to forge agreements that put EBMUD and local communities on a long term path toward controlling wet weather discharges to the Bay. In addition, under his watch, the district's new long range plan included a pioneering analysis of the potential impacts of climate change on future water supply. These actions will result in better protection of public health and the environment.

Dennis has demonstrated exceptional leadership for EBMUD, making the organizational and process improvements necessary to anticipate and adapt to changes in regulations, technology, the environment, and the world around us.

Madam Speaker, I invite our colleagues to join us in honoring General Manager Dennis Diemer for his dedicated service to the people of California and the Bay Area. We are pleased to join with his family, colleagues, and friends in congratulating Dennis on a long and highly successful career and wish him a happy and healthy retirement.

TRIBUTE TO SUPERVISORS GAIL STEELE AND ALICE LAI-BITKER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. STARK. Madam Speaker, I rise today to pay tribute to Gail Steele and Alice Lai-Bitker, who have chosen to retire from their exemplary service on the Alameda Board of Supervisors at the end of this year. Supervisors Steele and Lai-Bitker have served their districts with honor and distinction.

Supervisor Steele has held many positions of leadership in organizations in Alameda County including Alameda County Mental Health Advisory Board; Chair, Alameda Alliance for Health; Chair, Alameda County Children's Memorial Grove and Flag Committee; President of Oakland-Alameda County Coliseum/Area Joint Power Authority; Chair, Local Agency Formation Commission; Executive Committee of the Association of Bay Area Governments; and the Liaison Committee of the East Bay Regional Parks.

She served on the Hayward City Council from 1974 to 1982, and has represented the Second Supervisory District since June 1992. She served as President of the Board of Supervisors from January 1995 to January 1997, and again from January 2003 to January 2005.

Alice Lai-Bitker was unanimously appointed to the Alameda County Board of Supervisors

in December 2000. She was re-elected twice by voters in District Three, where she is serving until her tenure ends at the end of December 2010. In January 2009, she was selected by her colleagues to serve as President of the Board for 2009 and 2010.

During her tenure as Supervisor, Ms. Lai-Bitker has been a strong advocate for increasing health care for children. She spearheaded the No Wrong Door policy in Social Services to ensure quick and efficient service. Her work on domestic violence includes A Day of Remembrance, honoring victims of domestic violence and assisting in obtaining federal funds for a Family Justice Center in Alameda County.

Ms. Lai-Bitker chairs the Board's Health Committee and serves on the Social Service Committee. She is a member of the Alameda County Transportation Authority and she represents the Board of Supervisors on the Bay Conservation and Development Commission. She is a member of the Board of the George Mark Children's House, the UC Berkeley School of Social Welfare Community and California State University East Bay Institute for Mental Health and Wellness Education.

Supervisors Steele and Lai-Bitker have many notable accomplishments, and have won many awards for their contributions. I join the community in thanking each of these outstanding women for the significant impact they've had in our community.

HONORING BRIAN MULLER

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Brian Muller upon his retirement as the Mariposa County Sheriff/Coroner/Public Administrator.

Mr. Muller has served Mariposa since February of 1981, when he started in the Sheriff's Office as a Jail Officer/Dispatcher. In November of 1985, he became a Deputy Sheriff, after which he received a series of promotions: to Sergeant in 1998, to Lieutenant in 1999 and finally to Undersheriff in 2003. Finally, Mr. Muller was appointed as the Sheriff/Coroner/Public Administrator in January 2008 and he has ably served the County in that capacity since.

While working for the Sheriff's Office, Mr. Muller was responsible for a wide range of duties in the County, including 9-1-1 dispatch, patrol, an adult detention facility, investigations, court security, boat patrol, animal control, coroner, public administrator duties, and Sheriff's Community Organized Policing Effort (SCOPE). Mr. Muller also successfully applied for a number of grants from the State of California that benefited Mariposa County. For his service to the County, Mr. Muller received a number of awards, including the Mariposa Gazette Best Peace Officer award and Law Enforcement Officer of the Year from Mountain Crisis Services.

In addition to his many duties as Sheriff, Mr. Muller has contributed to the County in other ways. Brad and his wife Sarah are actively involved in their church and regularly assist at the Senior Center.

Madam Speaker, I rise today to honor Brad Muller for his dedicated service to the people of Mariposa County. I invite my colleagues to join me in wishing Mr. Muller many years of continued success.

HONORING CLARKE WARDLAW McCANTS, JR.

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. BRADY of Texas. Madam Speaker, I rise today to honor the late Clarke Wardlaw McCants, Jr., of Columbia, South Carolina, who passed away on December 3 of this year. Clarke Wardlaw McCants, Jr., was a brilliant legal mind. Growing up in Columbia in the 1930s, he distinguished himself among his peers as a fine attorney and was recognized by The Best Lawyers in America in its Trusts and Estates Section. An active member of the American Bar Association, he even served as the Editor of the Association's Journal of Real Property and Probate Trust Law.

Not just an outstanding lawyer, Clarke McCants was a kind man who raised a fine family that he took great pride in. He is survived by his wife of 54 years, Anne Lucius McCants and many loving children and grandchildren. It is important that the people of our nation step forward to serve their communities and give back to their country. This was not lost on Clarke McCants who gave generously of his time to his community.

Educated at the University of South Carolina as both an undergraduate and a law school student, he was a very active participant in the student government and many various extra curricular programs on campus such as Omicron Delta Kappa, President of Pi Kappa Alpha, and the debate team.

Between his undergraduate and law school education, Mr. McCants served us all in the United States Army Air Corps as a flight radio operator. His service in World War II earned him one Bronze Star. We are thankful for his service and we can all learn from the life experiences of Clarke Wardlaw McCants, Jr.

In closing, I just wanted to take a moment to share my condolences to the family of Clarke Wardlaw McCants, Jr. The entire staff and I are sorry for your loss and the pain this has caused you and your family.

CONGRATULATING GREENWOOD, SOUTH CAROLINA'S SELF RE- GIONAL HEALTHCARE

HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. BARRETT of South Carolina. Madam Speaker, I rise today to congratulate Greenwood, South Carolina's Self Regional Healthcare on receiving the South Carolina Governor's Quality Award. Presented by the South Carolina Quality Forum; an affiliate of the South Carolina Chamber of Commerce,

the Governor's Quality Award recognizes organizations across the state that have mirrored the superior standards of the Malcolm Baldrige National Quality Award.

As my colleagues know, the Baldrige Program's mission is to improve the competitiveness and performance of U.S. organizations. It is the only formal recognition of performance excellence given by the President of the United States to companies and organizations in the business, healthcare, education, and nonprofit sectors.

Five years in the making, Self Regional was recognized for improving the quality of patient care while simultaneously improving the outlook of its long-term financial performance. I give credit to the team of 2,300 physicians, administrators and volunteers who worked tirelessly to put their patients first. To each and every one of them, I say, a job well done.

I am pleased to see everyone involved at Self Regional being recognized for their hard work and dedication by the Governor's Quality Award. While congratulations are certainly in order, I concur with Mr. Jim Pfeffier, President and CEO of Self Regional, who said, "It is important to note the real winners in this are our patients, for quality and safety are especially important when it comes to addressing the health needs of others."

Since making the commitment to improve its level of patient care, Self Regional has received the Quality Forum's Silver Award twice and the Explorer's Award once. With such a stellar track record, Self Regional is making a name for itself in not only South Carolina, but also, across the nation. I am pleased to add my name to the many that offer Self Regional their heartfelt congratulations on this award.

IN RECOGNITION OF JULIE LANCELLE

HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Ms. SPEIER. Madam Speaker, I rise to honor Julie Lancelle for her outstanding community service in Pacifica, California, since 1986.

Julie moved to Pacifica in 1986 with her husband and daughter and was quickly drawn into the public activism intrinsic to this coastal town. One of her first causes was the opposition to extending the Highway 1 freeway south of Rockaway Beach. The following year she was appointed to the Pacifica Open Space Task Force.

In 1992, Julie was first elected to the Pacifica City Council. After serving a two-year term, she left to spend more time with her children. In 1997, she recommitted herself to community service and became a member of the Pacifica Land Trust Board where she used her years of experience to preserve open space.

She was again elected to the city council in 2002 and during her eight years of service was instrumental in the completion of the Pacifica Strategic Plan, the Palmetto Streetscape Plan and the expansion of the Community Emergency Response Team Program. She advocated for the preservation of

the habitat at Sharp Park, balancing environmental concerns with the recreational pursuits of golf and archery. Julie also represented her community on the Bicycle Pedestrian Advisory Committee and the City/County Association of Governments.

Throughout her life, Julie has been passionate about the outdoors and the preservation of open space. One of the highlights in her career was the purchase of Mori Point and its inclusion into the Golden Gate National Recreational Area. She launched a campaign for that purchase and organized the community to raise money to partner with the Trust for Public Land, the Park Service and the Coastal Conservancy. Thanks to Julie, Mori Point is now a spectacular hiking area open to everyone.

Madam Speaker, it is right to honor my friend and colleague Julie Lancelle for her outstanding advocacy and dedication to her community, particularly on December 15, 2010, the day she retires from the Pacifica City Council.

HONORING CHRIS EBIE

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Chris Ebie upon his retirement as the Mariposa County Auditor.

Mr. Ebie began his career with Mariposa County in September of 1987 as Account Clerk III in the Auditor's Office. In November of 1988, he was promoted to Assistant Auditor. In April 2005, Mr. Ebie briefly left Mariposa County but returned in January 2006 as the Board-appointed County Auditor. In June 2007, Mr. Ebie was officially elected to the position of County Auditor.

In his time with the County, Mr. Ebie worked on a number of projects, including coordinating efforts in assuring the County's compliance with Governmental Accounting Standards Board (GASB) 45, maintaining the County's software and budget structure and implementing the Alternative Measurement Method (AMM) for reporting costs and liabilities associated with health and other non-pension benefits for public employees.

In addition to his service to the County, Mr. Ebie is a dedicated family man. Chris and his wife Grace are the proud parents of four children and the proud grandparents of four grandchildren.

Madam Speaker, I rise today to honor Chris Ebie for his dedicated service to the people of Mariposa County. I invite my colleagues to join me in wishing Mr. Ebie many years of continued success.

HAITI EARTHQUAKE

HON. YVETTE D. CLARKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Ms. CLARKE. Madam Speaker, I rise today to draw attention to the plight of Haiti. As we

all know, Haiti suffered a devastating earthquake in January 2010. The magnitude 7 quake claimed the lives of hundreds of thousands of Haitians, displaced over a million and left the capital of Port-au-Prince and outlying country areas in ruins.

Haiti's road to recovery has been long and arduous. Despite overwhelming support from the international community, the success of redevelopment and rebuilding efforts has been extremely limited. Even today, thousands remain in international displacement camps, many overrun with disease and violence. To date, more than a thousand have died due to the cholera outbreak. Even more continue to suffer in unspeakable poverty and squalor.

One of the strongest obstacles to meaningful recovery in Haiti has been a political environment long plagued with corruption and dishonesty. Despite the presence of over 100 observers, Haiti's presidential election two Sundays ago was overrun with allegations of fraud and overtly questionable practices. It is my hope that the election results are indeed as accurate as possible and that the former First Lady Mirlande Manigat and ruling party candidate Jude Celestin are the true, democratically elected candidates to participate in the Presidential run-off.

Although Haiti experienced numerous political and economic problems prior to the earthquake, the current level of challenges the Haitian people are facing is no longer tolerable. The United States and the international community cannot continue to accept the pace at which Haiti's recovery is taking place, while human lives are at stake. We can all do better, and to choose complacency over deliberate action would be a grave insult to humanity.

As we approach a new year and a new Congress, I urge my colleagues to never forget Haiti and the challenges its people continue to face. As the Representative of a large Caribbean-American constituency and as a daughter of Caribbean, Haiti has always been close to my heart. However, my commitment to helping Haiti does not solely come from my constituency or my familial background. It comes from my identity as a public servant and a citizen of the world. In all of my work, I will continue to give the people of Haiti a voice. I will not give up until my colleagues recognize Haiti and Haiti resurges as the pearl of the Caribbean once again.

Let us never forget that as we unite with the people of Haiti, Haitian-Americans and the Haitian Diaspora to assist with the development of this great nation, we are forever guided by the words etched indelibly on the Haitian flag, 'L'Union fait la force' (Loon yon fe la force) . . . through unity, there is strength!

RECOGNIZING THE CENTENNIAL ANNIVERSARY OF CALIFORNIA STATE UNIVERSITY, FRESNO

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. NUNES. Madam Speaker, I rise today to recognize California State University, Fres-

no as it celebrates its one hundred-year anniversary.

Beginning in 1911 as a small teachers college, Fresno State has built a reputation for its academic standards as well as its athletic achievements. Located in the heart of the San Joaquin Valley, Fresno State has played an important role in the history of the valley, including making it the most productive agricultural region in the world.

Fresno State is one of the few universities in the country to have an on-campus diversified farm of over 1,000 acres. The campus was also the first in the country fully licensed to produce, bottle, and sell wine.

Home to the largest library in the California State University System, Fresno State has educated innovative professionals in everything from winemaking to nursing to liberal arts. The extensive range of degrees offered by the college mirrors the diversity of the valley.

In addition to outstanding academic standards, Fresno State has gained a reputation for its championship-winning athletic program. This includes the Bulldogs baseball team winning the 2008 College World Series.

From its beginnings as the Fresno Normal School, Fresno State has become one of the leading academic institutions in the San Joaquin Valley. I am proud to have the Fresno State campus in my district and congratulate past and present students, teachers, and administrators for 100 years of success.

PERSONAL EXPLANATION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. BURTON of Indiana. Madam Speaker, due to severe weather which delayed my return to Washington, D.C., I was unable to be on the House Floor for rollcall votes 628, 629 and 630. Had I been present I would have voted: yea on rollcall vote 628; nay on rollcall vote 629; and yea on rollcall vote 630.

GERRY HOUSE

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. COOPER. Madam Speaker, today I rise to honor Mr. Gerry House on the occasion of his retirement from WSIX radio and the end of his famous radio show, Gerry House and the House Foundation. Mr. House is an award-winning American radio personality, talented songwriter, stand-up comic and an outstanding Tennessean.

The king of morning radio in Nashville, Gerry has kept listeners company in their cars, offices and homes for three decades. He will be the first-ever country music DJ to join other American radio and television luminaries in the National Association of Broadcasters Hall of Fame.

Gerry is truly engaged in all levels of the music industry. He has written songs for legends like George Strait, Reba McEntire,

LeAnn Rimes, Brad Paisley, Randy Travis, and the Oak Ridge Boys. A savvy businessman, Mr. House also operates a music publishing company, House Notes, which owns the songs he has written.

The sustained excellence of Gerry House and the House Foundation has been recognized by virtually every respected country music and radio association in the United States. It has received three awards from the Country Music Association, seven from the Academy of Country Music, eight Billboard Awards, and nine R&R awards. Gerry is also the recipient of the NAB Marconi Radio Award for Large Market Air Personality of the Year.

Gerry cited his desire to devote more of his time to other projects as his reason for retiring. His loyal fans are eagerly waiting to see what these projects will turn out to be because we all want more of Gerry.

And so, Madam Speaker, it is my privilege to ask my colleagues to join me in saluting Gerry's leadership and accomplishments. The people of Nashville and Middle Tennessee are grateful for Gerry waking us up in the morning in such an enjoyable way. It's hard to make a long commute fun, but Gerry House did it for 30 years.

STANDING WITH OUR ALLY SOUTH KOREA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. WOLF. Madam Speaker, I was deeply saddened and outraged by North Korea's recent attack on Yeonpyeong island which killed four South Koreans and wounded 20. Officials estimated that the North had fired roughly 200 artillery shells onto Yeonpyeong. The November 23 attack was the first on civilian-populated areas since the Korean War.

This is just the latest provocation on the part of Pyongyang—a regime infamous for its deplorable human rights record and Soviet style gulags.

Recently North Korea showed Dr. Siegfried Hecker, the former head of the U.S. Los Alamos National Laboratory, a new modern uranium enrichment facility with 2,000 centrifuges. The North Koreans claimed it is producing low enriched uranium destined for fuel for a new light-water nuclear reactor. According to the Congressional Research Service, "Although Dr. Hecker has said that the centrifuge plant and the new reactor appear to be designed primarily for civilian nuclear power, the uranium facilities could also be used to produce fissile material suitable for nuclear weapons."

These are deeply troubling developments. During this time of heightened tensions in the Korean Peninsula we must actively work with our long-term ally South Korea to ensure a lasting peace in the region and continue to expose the true nature of the North Korea regime which the international community can no longer deny.

BROTHER . . . BROTHER . . . COMBAT MEDIC SPC JEROD HEALTH OSBORNE, UNITED STATES ARMY

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. HALL of Texas. Madam Speaker, I rise today to honor a great American family, and a fallen hero and his brother. On July 5, 2010, Combat Medic SPC Jerod Heath Osborne of Royce, Texas of the 4/73 82nd Airborne, died during an IED explosion in Afghanistan. In his short life he was a combat medic, an Angel on the Battlefield, the ones who rush in while all around the face of hell is going on. The lives that he has saved in his brief but great life will be measured in the future, with children and heroes that he has saved. His brother, a SSG in the 22nd Infantry, on September 21 of that same year almost died in a mortar attack and is currently fighting to save his leg. This family, throughout the generations, has served our nation in the Armed Forces. The very bed of our Nation's freedom is built upon selfless families, our prayers and thoughts go out to them. SSG Grillett has said that his brother Jerod always wanted to be just like him, but now he wants to be like his brother.

Brother . . . Brother . . .

Brother . . . Brother . . .

My . . .

My Brother's Gift . . .

So very precious, as was this . . .

My Brother's Faith, shall forever so wave . . .

My Brothers life, one of such so sure selfless sacrifice . . .

All in his amazing grace . . .

My Brothers life, so very short . . . yet shines so bright!

Moments, are all we have!

To grab hearts, To Make A Difference . . . to Heaven rise!

As an Angel on The Battlefield . . .

As into the face of death Jerod, you so ran . . . and not to yield. . .

To but so save sacred life, as was your mission . . . as was his most divine light! From dusk to dawn, as a battlefield combat medic your courage worn!

As all around you Jerod, the face of death so swarmed!

And what child may be born?

All from your love Jerod, upon battlefields of honor adorned!

That might so save the world, who now lives on . . .

And all those lives you saved, just moments from the grave . . .

And what children, all on this morning will awake?

With but the greatest gift of all, in their hearts to take!

With a Mother or Father, a Sister or Brother whose fine lives you saved . . .

Brother . . . Brother, oh how it's for you I cry!

A promise I've made, as I wipe these tears from my eyes!

That I will live for you, each and every new day, every sunrise!

To the fullest! All in your fine name!

And if ever I have a new son, your name will be his . . . this one!

Brother . . . Brother . . . I am so very proud of you!

All in what you have done . . . oh yes it's true!

Only the good die young, as now you shine all up in Heaven's sun!

As an Angel In The Army of our Lord, with your new battle begun!

To watch over us, as Thy Will Be Done!

Brother . . . Brother . . .

All across Texas this night . . .

As we lay our heads down to rest, as comes a gentle rain . . .

As upon us, are but our Lord's tears to wash over us . . .

And so bless us, to so ease our pain!

As he cries for your most sacred sacrifice, this rain . . .

Brother . . . Brother . . . I can not wait until up in Heaven we meet again. . .

And we won't have to cry anymore, all in this pain . . .

Brother, Brother, once you so wanted to be just like me . . .

Now, I'm the one who so wants . . . to be like you!

Brother . . . Brother . . . Amen. . . .

PERSONAL EXPLANATION

HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. PUTNAM. Madam Speaker, on Thursday, December 9, 2010, Tuesday, December 14, 2010, and Wednesday, December 15, 2010, I was not present for twelve recorded votes. Had I been present, I would have voted the following way: Roll No. 626—"yea"; Roll No. 627—"yea"; Roll No. 628—"yea"; Roll No. 629—"nay"; Roll No. 630—"yea"; Roll No. 631—"yea"; Roll No. 632—"yea"; Roll No. 633—"yea"; Roll No. 634—"yea"; Roll No. 635—"nay"; Roll No. 636—"yea"; Roll No. 637—"yea."

CELEBRATING THE 50TH ANNIVERSARY OF THE COLLEYVILLE GARDEN CLUB

HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. MARCHANT. Madam Speaker, I rise today to recognize the 50th anniversary of the Colleyville Garden Club. Over the last 50 years, the Colleyville Garden Club has been committed to the improvement of Colleyville's parks and gardens.

On January 11, 1961, Florence Eudaly, wife of Colleyville's first mayor, along with several other women, organized the Colleyville Garden Club. The club began by meeting in member's homes with established yearly dues of \$1.00. Since then, the Colleyville Garden Club has grown in membership and continues to support projects in the community with the underlying goals of promoting interest in all phases of gardening, horticultural education, civic beautification, and conservation of natural resources.

The Colleyville Garden Club has spent countless hours involved in projects in the Colleyville community such as Keep Colleyville Beautiful, Arbor Day, Promenade Garden Tour, and many others. The Colleyville Garden Club has designed and installed gardens

throughout the local community including the Colleyville Center, Leone Hodges Butterfly Garden at Kidsville, Colleyville City Hall, Colleyville Parks and Recreation Office, Sparger Park, and Webb House. From 2008 to 2010, the Club generously donated two bronze sculptures and three Lyman Whitaker wind sculptures to McPherson Park.

On behalf of the 24th Congressional District of Texas, it is my distinct pleasure to recognize the Colleyville Garden Club for its 50 years of service in the Colleyville community.

IN RECOGNITION OF THE CENTENNIAL ANNIVERSARY OF CALIFORNIA STATE UNIVERSITY, FRESNO

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. COSTA. Madam Speaker, I rise today with my colleagues, Mr. RADANOVICH and Mr. CARDOZA to extend our sincerest congratulations to California State University, Fresno as they celebrate their centennial anniversary.

As Fresno State celebrates its 100th anniversary, the university is "Powering the New California" in our rapidly changing region as we move forward in the 21st Century. California State University, Fresno, also known as Fresno State, has evolved from its founding as a teachers college to become a renowned center for higher learning in the Central Valley with eight schools and colleges serving over twenty thousand students.

Fresno State was originally founded as Fresno State Normal School on September 11, 1911 under the guidance of its first president Mr. Charles L. McLane. In 1921, Fresno State Normal School changed its name to Fresno State Teachers College and began to share a campus with another fine local institution, Fresno City College, to provide a quality education to local students for whom the distance of universities such as the University of California and Stanford University was too great a hardship. Fresno State Normal School would change its name again to Fresno State College in 1934, and in 1949 the first advanced degrees in English and Education were granted. Forty-five years after Fresno State first opened its doors, it relocated to its present location on Shaw and Cedar Avenues in 1956, where it currently sits on over three hundred acres of land. In 1961, Fresno State College became the charter institution of the California State University System and would officially become known as California State University, Fresno in 1972.

Today, Fresno State enrolls more than 21,500 undergraduate students and 4,400 graduate students and offers Bachelor's, Master's, and Doctoral degrees. In 2011, Fresno State will graduate its 100th class with an anticipated 5,500 students graduating from the institution. Notable among the academic programs at Fresno State, the Sid Craig School of Business has been nationally recognized by the Princeton Review as a "Top Business School," the Jordan College of Agricultural Science and Technology oversees the only

commercial winery in the country run by a university, and the Lyles College of Engineering has the only Geomatics undergraduate program in the Nation. Fresno State is also home to the Henry Madden Library, which with over one million books is the largest academic library between Sacramento and Los Angeles, and serves as a learning resource for the entire region. It is programs and institutions such as these that truly embody the excellence of Fresno State.

Fresno State has not only established itself as a leader in academics, but also in athletics; the school has gained national recognition through their various sports programs such as football, baseball and soccer. For instance, in 1998, Fresno State's women's softball team won the NCAA Women's College World Series by defeating the defending two-time former champions, the University of Arizona. Additionally, a decade later, the Fresno State men's baseball team climbed their way through the College World Series as the lowest ranked seed in post-season play to capture the 2008 NCAA title in a shocking defeat of the University of Georgia. Fresno State's distinguished alumni include Mayor of Fresno, California Ashley Swearingin, three-time Olympic Gold Medalist Laura Berg, former NASA Astronaut and Mission Commander of the Space Shuttle *Columbia* Colonel Rick Husband, U.S. Ambassador to Colombia and Honduras Phillip V. Sanchez, former U.S. Secretary of the Treasury Paul H. O'Neill, former Nevada Governor Kenny Guinn, and 2001 Super Bowl winning quarterback Trent Dilfer.

Madam Speaker, I ask my colleagues to join with Mr. RADANOVICH, Mr. CARDOZA and myself, in recognizing California State University, Fresno as they celebrate their centennial anniversary and continue their outstanding educational leadership for students throughout the Central Valley and the State of California.

HONORING GAIL NEAL

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Gail Neal upon her retirement as the Mariposa County Chief Probation Officer.

Ms. Neal began her career with Mariposa County as clerk II for the District Attorney's office in April 1978. In September 1981, she transferred to the Sheriff's Office, where she was a dispatcher and then a jail officer. In November 1987, Ms. Neal transferred back to the District Attorney's office, where she served as a Clerk III for a short time before being promoted to legal secretary. Ms. Neal began in Probation as a probation aide in May 1989. From there, she received a number of promotions: to Acting Deputy Probation Officer in September of 1990, Deputy Probation Officer in January of 1991, Deputy Probation Officer II in January of 1993, Deputy Probation Officer III in May of 1995, Deputy Chief Probation Officer in January of 2001, Interim Chief Probation Officer in March of 2001 and Chief Probation Officer two weeks later in March of 2001.

Ms. Neal has displayed outstanding leadership, organization and commitment in her time with Mariposa County Probation. Her duties included planning, organizing, directing, supervising and administering activities and operations of the County Probation Department and Juvenile Hall. She also developed and oversaw the Revenue & Recovery Division.

Besides her commitments to Mariposa County Probation, Ms. Neal served as a member of a number of groups, including of the Chief Probation Officers of California, California Probation, Parole and Corrections Association, American Probation and Parole Association, Mariposa County Domestic Violence Coordinating Council, Mariposa County Alcohol & Drug Advisory Board, and was Chair on Mariposa County Juvenile Justice Coordinating Council. In her free time, Ms. Neal also ran a side business as a candle maker.

Madam Speaker, I rise today to honor Gail Neal for her dedicated service to the people of Mariposa County. I invite my colleagues to join me in wishing Ms. Neal many years of continued success.

RECOGNIZING THE SERVICES OF CAMP PATRIOT

HON. ADAM SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. SMITH of Washington. Madam Speaker, I rise today to recognize Camp Patriot and their tremendous service to veterans in the Greater Seattle Area and throughout the country.

Camp Patriot was founded in 2006 to help provide the 2.3 million disabled U.S. veterans with the opportunity to take outdoor trips. The nonprofit group organizes fishing, hunting, skiing, hiking, and motorcycling trips for our brave veterans. Camp Patriot enables disabled veterans the chance to develop relationships with other fellow veterans through outdoor adventures and team building exercises. The program works with outdoor organizations and financial sponsors that provide equipment, supplies, and clothing, and allow veterans to attend the camp free of cost.

Camp Patriot is a relatively new organization yet has done much in their outreach to veterans and their families. One major goal they are currently working toward is the construction of a lodge on Lake Koocanusa in Montana, which would accommodate 20 disabled veterans a week at no charge to the veterans.

Among Camp Patriot's major activities is the annual hike to the summit of Mount Rainier. The inaugural climb took place in July 2007. Most recently, the Camp Patriot team reached the 14,411-foot summit on July 14, 2010. Each year, before the climb, participants travel to Seattle to dine at Qwest Field and tour the stadium with the Seattle Seahawks. Participants also attend a week-long training sponsored by Iron90 Workplace Wellness. Iron90 prepares the veterans for the grueling hike up the summit. Founder Micah Clark, a fellow veteran, often accompanies the hikers on the climb and sees first-hand the effect his organization can have on disabled veterans.

The Greater Seattle community has been very supportive of Camp Patriot's mission in the area. Joint Base Lewis-McChord volunteers moved to help put up tents and prepare food for the participants. They also participate in fishing and hunting trips, assisting Camp Patriot veterans on the way. Additionally, Washington State organizations have helped provide services and materials to help the nonprofit and its participating veterans.

Madam Speaker, I ask that my colleagues in the House of Representatives please join me in honoring Camp Patriot for their commitment to provide for disabled veterans who have given so much for our safety.

RECOGNIZING THE PATCHOGUE-MEDFORD LIBRARY

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. BISHOP of New York. Madam Speaker, I rise to honor the Patchogue-Medford Library for earning the prestigious National Medal for Museum and Library Service. This award recognizes the Patchogue-Medford Library for its commitment to making a difference in the lives of individuals, families, and its community and serves as our Nation's highest honor for libraries and museums.

The Patchogue-Medford Library enjoys a long and colorful history, having served the people of Suffolk County for nearly 130 years. Originally housed in the back room of Floyd Overton's shoe store on East Main Street, the library was formed under the direction of the Patchogue Library Association in June, 1883. The library opened its doors just two months later in August, 1883, housing 635 volumes that included the likes of Mark Twain, Charles Dickens, Jules Verne, and Alexis De Tocqueville.

Following brief stints in a music store and the Lyceum Community Center, the library was adopted in 1899 by Sorosis, an all-purpose women's organization new to the Patchogue neighborhood, with the intention of transforming the private library into a public facility. Sorosis greatly enhanced the library, raising enough funds and community support for the construction of a permanent home in 1908.

Aided by the financial backing of philanthropist Andrew Carnegie, the library earned acclaim across New York State. Today, the Patchogue-Medford Library serves as the sole New York State-designated Central Library for Suffolk County, providing support and innovative services to the people of the First Congressional District of New York.

Throughout all of the changes, growth, and iterations of the Patchogue-Medford Library, the goal of universal literacy has remained at the forefront of the library's agenda. Serving a diverse community, of which nearly one-quarter of the population is Hispanic, the library has taken a non-traditional approach toward literacy in the community.

The library is committed to bringing quality programming to both English-speaking and Spanish-speaking communities, often com-

binning the two groups for mutually beneficial learning experiences. Children are often exposed to bilingual story times, teens engage with each other in the Language Café, and Spanish language computer instructions are offered to more than 2,100 adult students. The Patchogue-Medford Library demonstrates that literacy is important in all its forms, from reading books to reading one another.

Madam Speaker, I am honored to recognize the Patchogue-Medford Library for receiving the National Medal for Museum and Library Service, and I commend the library for its continued commitment to providing vital services to the people of the First Congressional District of New York.

IN HONOR OF PROFESSOR ROBERT SUMMERS' RETIREMENT

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. ANDREWS. Madam Speaker, I rise today to honor Cornell Law School Professor Robert S. Summers, whose tireless dedication to his students and intense passion for the law are worthy of recognition.

Professor Summers grew up on his family's farm in rural Oregon. There, his parents imbued in him a strong work ethic, which he credits for his extensive career of publication and scholarship. He went from driving tractors and school buses to studies at the University of Oregon, and Harvard Law. He has spent the last 50 years as a law professor, 42 of them at Cornell Law School. December 1, 2010 was his final class.

Professor Summers has been an unwavering advocate for his students. He ardently supported increased minority enrollment within law schools, and saw this goal through to fruition, traveling the country holding recruiting and preparatory sessions.

Professor Summers demanded analytical excellence in the classroom. He taught using the traditional Socratic Method, forcing students to learn through argument and questioning, instead of simply providing them with the answers. I was a student in Professor Summers's Contract Law class for first year students, and the class was a formative experience for me. Being called upon to answer questions from Professor Summers was rewarding and challenging and it helped make me the person I am today.

In addition to his laudable career in education, Professor Summers has also made significant contributions to the field of law. He co-authored the Universal Commercial Code, outlining procedures for numerous commercial transactions, and was also called upon by the governments of Russia, Egypt, and Rwanda to help draft their civil codes. He is simply the type of lawyer that many law students aspire to be when they first enter school, but that very few become.

Madam Speaker, Professor Summers' commitment to the legal education of the nation's law students and service to the field of law merit recognition. I am sure Professor Summers will embody the same honor and moral-

ity in his retirement as he did throughout his distinguished career.

A TRIBUTE TO DR. RICHARD BREITMEYER IN RECOGNITION OF HIS EXEMPLARY PUBLIC SERVICE

HON. DANIEL E. LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I rise today to recognize and honor Dr. Richard Breitmeyer, who has provided exemplary public service for over 25 years.

Dr. Richard Breitmeyer has served as the California State Veterinarian at the California Department of Food and Agriculture since 1993—rising to this position through a series of senior appointments at CDFA since 1988. He has also served at the United States Department of Agriculture in Ames, Iowa and Plum Island, New York. Before joining the CDFA in 1984, Breitmeyer was in private veterinary practice.

Throughout his professional career, Dr. Breitmeyer has been a member of both the California and American Veterinary Medical Associations. He also served as president of the U.S. Animal Health Association since 2009 and was co-chair of the USDA Secretary's Advisory Committee for Foreign Animal and Poultry Diseases.

In 2001, USDA Secretary Ann Veneman asked California to loan Dr. Breitmeyer to the USDA to provide leadership in addressing the very real possibility that Foot and Mouth Disease might migrate from the United Kingdom to the United States. It is a testament to Breitmeyer's leadership that this virulent and devastating livestock disease did not enter the United States. Due to this work, the USDA presented Dr. Breitmeyer with the Honor Award in 2002.

Dr. Breitmeyer also led the effort in California to develop animal health emergency response planning with the Governor's Office of Emergency Services—an effort put to the test during the successful eradication of exotic Newcastle disease from Southern California in 2003.

Dr. Richard Breitmeyer is loved and respected by his wife and family, by the team that worked for him at CDFA, and by all those who have interacted with him during his professional life. I am grateful that since his retirement on September 30, 2010, Dr. Breitmeyer has joined the staff at the California Animal Health and Food Safety Laboratory at the University of California, Davis, to continue his outreach activities for livestock and poultry health.

I am pleased to recognize and congratulate Dr. Richard Breitmeyer upon his retirement, and applaud him for his dedication to California.

HONORING REVEREND BRUCE
HENNING DAVIDSON

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. HOLT. Madam Speaker, I rise today to recognize the Reverend Bruce Henning Davidson, Director of the Lutheran Office of Governmental Ministry of New Jersey, who is retiring January 1, 2011. The Office of Governmental Ministry is an advocacy ministry of the Evangelical Lutheran Church of America and communicates the official policies and actions of the church to leaders in state government, particularly on issues of hunger and poverty, and more recently, immigration reform, detention practices, refugee issues and marriage equality.

Reverend Davidson is recognized statewide as an inspiring pastor, an energetic community activist, and as an advocate for justice for all people. Since becoming Director of the Lutheran Office of Governmental Ministry of New Jersey, Reverend Davidson has been a tireless laborer in the vineyard of social service. He founded the New Jersey Advocacy Network to End Homelessness and the Anti-Poverty Network of New Jersey and a number of other community service organizations.

Heeding the biblical command to feed, clothe and shelter the poor and needy, Bruce Davidson made it his business to search out ways for people in need to have an opportunity for a better life. He recognized that the homeless are often people with bad luck—lack of a job, a sick child and no health insurance, a lack of education, or a traumatizing war experience can cause a person to become homeless and this can happen to any of us. He believes that no one should be homeless in America and inspires us to join in the fight against the poverty and indifference that allows this to happen.

Bruce Davidson was born on March 10, 1948 to David E. and Anne H. Davidson. He is a graduate of the Philadelphia school system and Temple University and was ordained following his graduation from the Lutheran Theological Seminary in 1974. He has spent his entire career in New Jersey, ministering to congregations from Cape May in Southern New Jersey to Bergen County in the north.

Wherever he has lived and preached, Bruce Davidson has made an impact, as evidenced by the many organizations that have honored him for his leadership in the community. He received the Equal Justice Award from Legal Services of New Jersey and was recognized by New Jersey Citizen Action and the Bergen County Chapter of NAACP. He was chosen a Distinguished Alumnus by the Community College of Philadelphia.

I have known Bruce Davidson for many years and my admiration for his life's work has no bounds. He is an unselfish and humble man who inspires the best in all of us. He deserves a happy and healthy retirement, with much time to spend with his long-time partner, Donald Barb, and a bit of leisure. But it is hard to think that he will not continue his advocacy for the unfortunate. Please join with me in recognizing Pastor Bruce Davidson and thanking him for a life of service.

10TH ANNIVERSARY OF THE
DELTA REGIONAL AUTHORITY
(DRA)

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mrs. EMERSON. Madam Speaker, I rise to recognize the Delta Regional Authority, DRA, on the occasion of its 10th anniversary. Ten years ago, President Clinton signed into law legislation establishing the DRA. He did so with the widespread bipartisan support of Members of Congress who were eager to give this region a strong foothold up the ladder to success.

The DRA has proven to be effective in leveling the playing field for the Delta region. The DRA helps connect opportunity with the sheer grit, intelligence, and willpower that already exists in the people of the region. For ten years, DRA has made great strides in bridging the gaps that have kept the region isolated from progress.

The DRA is a federal-state partnership that serves 252 counties and parishes in parts of Tennessee, Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi and Missouri. These counties and parishes hold great promise for access and trade in bordering the world's greatest transportation arterial—the Mississippi River.

It has been a privilege for me to work alongside DRA and the people of the Delta region over the years. The educators, healthcare providers, farmers, local officials, small business owners and workers in this part of the country have all made meaningful contributions to overcome unique challenges and make the Delta region a wonderful place to live and work.

The people of the Delta region are fortunate to have a reliable federal partner in the DRA. In its first ten years of work, the DRA has made significant progress tackling the region's unique challenges. For example, the DRA operates a highly successful grant program in each of the eight states it serves, allowing cities and counties to leverage money from other federal agencies and private investors.

An independent report from the U.S. Department of Agriculture's Economic Research Service found that per capita income grew more rapidly in counties where the DRA had the greatest investment. Anyone who knows what it is like to live and work in an area without the most basic infrastructure systems will understand how important the DRA work is to bring critical infrastructure such as new water and sewer services to more than 43,000 families.

I look forward to working with the DRA as it continues to expand its regional initiatives in the areas of health care, transportation, leadership training and information technology, small business development and entrepreneurship, and alternative energy jobs. I am proud to recognize the DRA's first ten years of achievements, and I look forward to working with the DRA to build an even stronger region for our future.

TRIBUTE TO THE LIFE OF JOSEPH
EUGENE QUINN

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. COSTA. Madam Speaker, I rise today with my colleagues Mr. CARDOZA, Mr. KENNEDY, Mr. LANGEVIN and Mr. NEAL, to pay tribute to Mr. Joseph Eugene Quinn who passed away on December 3, 2010 at the age of seventy. Mr. Quinn was an extraordinary man who will long be remembered.

Joseph Eugene Quinn was born in Pawtucket, Rhode Island on March 1, 1940, the third of four sons to the late Joseph L. and Mary E. Quinn. Joseph Eugene, known as Gene by friends and family, attended St. Raphael Academy in Pawtucket and excelled on the football and basketball teams. He graduated from Providence College in 1960 and maintained a life-long commitment to the intellectual and spiritual traditions of the Dominican Order.

After graduation, Gene enlisted in the United States Army. While serving in the military, he travelled extensively and befriended a wide spectrum of people who delighted in exchanging viewpoints on religion, politics and sports.

After his discharge from the Army, Gene moved to Largo, Florida where he became president of Bardmoor Country Club, a real estate and resort development. Gene later moved to Washington, DC and worked on Ronald Reagan's reelection bid in 1984. Mr. Quinn went on to hold a series of increasingly important positions with the Federal Government, and being a fond admirer of President Reagan, he took great pride later in his career when telling friends that he worked in the Ronald Reagan Building. At the time of his passing, Gene was an international trade specialist and project officer for Global Trade Programs at the U.S. Department of Commerce.

Although Mr. Quinn lived in the Washington area for three decades he considered Rhode Island his home and always enjoyed spending summers there.

Mr. Quinn leaves behind his loving wife, Marguerite Slocum Quinn, to whom he was married twenty-three years. They were both founding members of the Anacostia Gracious Arts Program, an urban afterschool arts program for underprivileged youth in Washington. Gene was also a member of the Spouting Rock Beach Association in Newport, RI, the Clambake Club of Newport, the Providence College Alumni Association, and the American Ireland Fund.

In addition to his wife, Mr. Quinn is survived by his daughter, Tara, her husband Andrew Reilly, and his grandchildren, Andrew and Fiona of Middletown, RI. He is also survived by his brothers, Paul of McLean, VA, Thomas of Washington, DC, Francis of New York City, and their families.

Madam Speaker, I ask my colleagues to join Mr. CARDOZA, Mr. KENNEDY, Mr. LANGEVIN, Mr. NEAL and I in remembering the life of this remarkable man as we offer our condolences to his family and celebrate his memory and service to our country.

HONORING JAMES R. BOMBARD

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. BISHOP of New York. Madam Speaker, I am proud to recognize my constituent, James R. Bombard of Port Jefferson, New York, for his hard work and commitment to America's veterans. Jim will retire on December 23rd after twelve years of service at the New York State Division of Veterans Affairs. Jim's many contributions and achievements over a career dedicated to public service have undoubtedly enhanced the lives of our Nation's veterans and expanded opportunities afforded to them.

During his service as an Army paratroop commander during the Vietnam War, Captain Bombard was decorated with the Silver Star and Purple Heart. Following his service, Jim continued on a path of service by advocating for future generations of servicemen and women.

In the late 1980s, Mr. Bombard served as Special Assistant to Congressman Robert J. Mrazek of New York. He worked on the American Homecoming Act of 1988, which allowed Vietnamese children, born of American fathers, to immigrate to the United States. This legislation resulted in America welcoming nearly 100,000 Asian Americans and relatives, enriching our vibrant Vietnamese-American community.

Continuing his dedication to veterans, Jim served as Chief of the New York State Division of Veterans Affairs' Bureau of Veterans Education, working to improve the "veteran friendliness" of New York institutions of higher education. As Legislative Director, two-term President, and Chief of the National Association of State Approving Agencies, Jim has enhanced the policy and curricula that promote quality education and training opportunities for veterans.

Jim's experience in state government, industry, and the halls of Congress have also informed the development and implementation of the post 9/11 GI Bill, which extended full tuition and benefits to the newest generation of American heroes.

Madam Speaker, building a career on expanding opportunity to veterans is a calling of the highest honor. James R. Bombard deserves our gratitude and recognition for his outstanding service and enduring contributions to improving the lives of America's veterans. We wish him continued success in his future endeavors as well as a long and fulfilling retirement.

HONORING JEANNE KAIDY FOR HER ACHIEVEMENT IN BEING SELECTED AS A RECIPIENT OF THE PRESIDENTIAL AWARD FOR EXCELLENCE IN MATHEMATICS AND SCIENCE TEACHING

HON. TOM REED

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. REED. Madam Speaker, I rise today to honor Jeanne Kaidy, a recipient of the Presidential Award for Excellence in Mathematics and Science Teaching.

Ms. Kaidy has been teaching at McQuaid Jesuit High School in Rochester, NY, for twelve years, currently teaching Biology and AP Environmental Science. Ms. Kaidy serves as chair of the Science Department at the high school and an adjunct instructor at Monroe Community College in Rochester, NY. Her lessons have encouraged her students to develop skills in collecting and analyzing field data; as a result, Ms. Kaidy's students continuously achieve some of the highest marks among schools in New York State on the AP Environmental Science exam. Ms. Kaidy's commitment to the academic growth of her students and dedication to her work is deserved of this high honor.

I am proud to honor her for the outstanding achievement of this award. I hope her excellence will be an example to the whole Nation and its hard working teachers.

OUR UNCONSCIONABLE NATIONAL DEBT**HON. MIKE COFFMAN**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is \$13,879,785,054,580.12.

On January 6th, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$3,241,359,308,286.32 so far this Congress.

This debt and its interest payments we are passing to our children and all future Americans.

IN HONOR OF JOHN BELSKI AND HIS 23 YEARS OF EXEMPLARY SERVICE TO OUR COMMUNITY AT WAVE3 NEWS

HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. YARMUTH. Madam Speaker, I rise this morning to mark the retirement of one of Louisville's finest meteorologists and his 23 years of service to my hometown.

Like most Louisvillians, I have trusted John Belski's dependable forecasts for the last two

decades. No easy task, especially given that our community has faced ice storms, floods, and wind storms in the last two years alone. But, through it all, Louisville could count on John Belski to deliver accurate reporting with an award-winning smile.

In his tenure at WAVE 3, Belski reported on weather so unprecedented that it would make even the most seasoned professional nervous. Day in and day out, his attention to detail and calm demeanor provided reassurance and even life-saving information to thousands during the most trying of times.

His talents are not limited to just meteorology. Belski authored an internationally recognized weather folklore book, and was the 2005 World Dainty Champion—a feat achieved while broadcasting live on the air.

We in Louisville are grateful to John and will surely miss his expertise. I am proud to join all of our community in thanking him for his work and wishing him the best in the next chapter of his life.

HONORING MAJOR GENERAL MATTHEW KAMBIK**HON. STEVE AUSTRIA**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. AUSTRIA. Madam Speaker, I rise today to recognize Major General Matthew Kambic for his service to the State of Ohio and our nation on the occasion of his retirement.

It is an honor to join the people of Ohio's 7th Congressional District in congratulating General Kambic upon his retirement as the Assistant Adjutant General for the Ohio Army National Guard for the State of Ohio.

Showing exemplary leadership, he has commanded at many levels including the detachment, troop, battalion and brigade levels. As Assistant Adjutant General for Army he worked to support Ohio's Army National Guard by overseeing the readiness of over 11,000 service members and creating administrative policies and priorities.

General Kambic has a distinguished military background. Prior to joining the Ohio National Guard, he served in the U.S. Army, 66th Armor Battalion, 2nd Armored Division for four years achieving the rank of Sergeant.

He joined the Ohio National Guard while attending Youngstown State University and was commissioned as an armor officer in 1981. In his career, General Kambic also earned his Master of Science in Administration from Central Michigan University.

Previous to his role as Assistant Adjutant General, he served as the Chief of Staff at Joint Force Headquarters, Deputy Chief of Staff for Operations and Plans at Joint Force Headquarters, and Commander of the 37th Armored Brigade.

General Kambic holds many awards and distinctions including the Legion of Merit, the Meritorious Service Medal with five oak leaf clusters, and the Army Commendation Medal with four oak leaf clusters.

For his many years of dedication to the State of Ohio and to this nation, I again join the people of Ohio's 7th Congressional District

in extending our best wishes upon his retirement and wish him success in all his future endeavors.

NANCY CHEN: A FIGHTER FOR
WORKING WOMEN

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Ms. SCHAKOWSKY. Madam Speaker, I want to recognize Nancy Chen, who is retiring after 26 years of service. Nancy is a remarkable woman who has devoted much of her life to promoting and creating policies to help working women and to empowering women and immigrants.

Nancy led the Midwest regional office of Women's Bureau for 13 years. This is the only federal agency designated by Congress to address issues and concerns of working women. Part of the U.S. Department of Labor, its mission is to develop policies and standards to safeguard the interests of working women by advocating for their economic security and that of their families; and promoting quality work environments. Nancy directed and developed the regional program through collaboration and partnership with women's organizations, employers, unions, and other government agencies in the states of Illinois, Indiana, Minnesota, Michigan, Ohio and Wisconsin.

Under Nancy's leadership, the regional office has effectively promoted non-traditional occupations for women, including green jobs and careers in science, technology and engineering. She has helped achieve concrete advances in workplace flexibility and pay equity.

Nancy's career highlights include public and community service in Illinois and Washington, DC. Prior to joining the Women's Bureau, Nancy served as Director of Asian Pacific American Outreach at the Office of Presidential Personnel in the Clinton White House. Before that, she was Director of U.S. Senator Paul Simon's Chicago office, overseeing the Senator's legislative and constituent program relating to Chicago and northern Illinois for 6 years. As a key advisor, she played an important role in Senator Simon's achievements relating to family immigration legislation and economic development in Chicago's immigrant communities.

Nancy serves on the Board of Counselors at the Paul Simon Public Policy Institute. She is also a member on the Gender Equity Advisory Committee for the Illinois State Board of Education. Nancy's community service includes being the founder and past president of the National Women's Political Caucus of Greater Chicago from 1992 to 1994; member of the Illinois Advisory Committee to the United States Commission on Civil Rights for over 10 years; and co-chair of the Obama's Asian American and Pacific Islander, AAPI, National Leadership Council in 2007 and 2008.

Nancy received the 2009 Milestone Award from the Asian American Institute and the first Sandra Otaka Legacy Award from the Asian American Action Fund, Chicago Chapter. She was the recipient of the 2004 Risk Taker and Enabler Award from the Organization of Chi-

nese Americans and the 2009 Distinguished Career Service Award from the U.S. Department of Labor.

Nancy is a skilled organizer, an expert networker, true public servant, and a good friend. Her advocacy and the policies that she helped create will continue to empower and strengthen working women even after her retirement. Her accomplishments are many, and I want to congratulate her on her decades of service to women and families.

BRIEFING ON "SAUDI ARABIA:
FUELING RELIGIOUS PERSECUTION
AND EXTREMISM"

HON. TRENT FRANKS

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. FRANKS of Arizona. Madam Speaker, I would like to submit the following for the RECORD:

REMARKS OF MARIA MCFARLAND, DEPUTY
WASHINGTON DIRECTOR, HUMAN RIGHTS
WATCH

In the last couple of years, Saudi King Abdullah has received praise in some circles for having taken a few cautious steps in support of religious tolerance through his Interfaith Dialogue Initiative. But that initiative has been limited to international settings.

Within Saudi Arabia, repression of religious freedom continues unabated, particularly with respect to Shia Muslims. Saudi textbooks, including those used abroad, include material that promotes hostility toward the Shia creed and other religions and may in some cases justify violence. The right of non-Muslims to worship in private is subject to the whims of the local religious police. Public worship of faiths other than Islam remains prohibited as a matter of policy.

Shia Saudis, who make up an estimated 10-15 percent of the population, are the group most affected by repression of religious freedom. Shia face systematic exclusion in employment, as well as discrimination in religious education and worship.

In some cases, this discrimination amounts to persecution. Professing Shia beliefs in private or in public may lead to arrest and detention. Saudi Shia visiting the holy shrines in Mecca and Medina regularly face harassment by the Wahhabi religious police. A government promise to update the vague law outlining religious police jurisdiction and powers has remained unfulfilled for three years.

In al-Ahsa' province, the governor, Prince Badr bin Jilawi, has repeatedly had Shia citizens arrested and detained on his authority and in violation of Saudi criminal procedure law simply for praying together in private or publicly displaying banners or slogans or wearing clothing associated with certain Shia rituals. In late January or mid-February, six young Shia of al-Ahsa', between 19 and 24 years old, were detained on Prince Badr's orders because of their peaceful exercise of their religious beliefs. As of mid-September, they remained in detention without charge or trial despite a limit of six months for pre-trial detention under the Saudi criminal procedure code. The Saudi government has yet to take meaningful steps to stop these abuses or bring to justice those responsible.

Shia face officially sanctioned discrimination in the judicial system too. There has been no progress in affording Shia outside of the Eastern Province with courts for personal status matters to conclude marriages and adjudicate divorces, inheritances, child custody disputes, and such matters. This affects the so-called Nakhawila, Twelver Shia in Medina, and the Ismailis in Najran province as well as a small group of Zaidi Muslims in Jizan and Najran provinces. There is no separation of secular from religious law in Saudi courts, and all Shia, including in the Eastern Province where they have their own personal status courts, must follow Sunni law as interpreted in Saudi Arabia. Shia are sometimes not allowed to testify in court.

Saudi officials who engage in anti-Shia speech rarely face any reprimand for doing so. For example, on December 31, 2009, Shaikh Muhammad al-'Arifi, the government-paid imam of the Buradi mosque in Riyadh, as well as Salih bin Humaid, Saudi chief judge, visited frontline troops in southern Saudi Arabia fighting Yemeni Huthi rebels, who belong to a branch of Shiism, albeit different from that of most Saudi Shia. Al-'Arifi can be seen in photos wearing camouflage, firing weapons, and preaching to soldiers. Press reports said al-'Arifi stressed the necessity of jihad (holy war) and commended the soldiers for performing their national and religious duty. Upon returning to Riyadh, al-'Arifi, in a sermon on Friday, January 1, 2010 condemned the Huthi rebels and called Ayatollah Ali al-Sistani—an Iranian living in Iraq, who is the highest religious authority for many Saudi Shia—an "obscene, irreligious atheist."

Meanwhile, Saudi authorities have taken steps to silence Shia critics. Saudi domestic intelligence agents have been holding Munir al-Jassas, a Shia who criticized state repression against the Shia online, in detention without charge for over a year. On June 22, 2008, authorities arrested Shia cleric Shaikh Tawfiq al-'Amir, after he spoke out in a sermon against a May 30 statement signed by 22 prominent Saudi Wahhabi clerics, in which they called the "Shia sect an evil among the sects of the Islamic nation, and the greatest enemy and deceivers of the Sunni people." Of the 22 signatories, 11 were current government officials and 6 were former government officials.

In its annual reports on religious freedom on Saudi Arabia, the United States Department of State has consistently and accurately documented severe repression of religious freedom and systematic violations against certain groups, including especially the Shia. Yet, while the United States has for years designated Saudi Arabia as a Country of Particular Concern, it has failed to take meaningful steps to promote reform in Saudi Arabia. The United States has continually waived sanctions provided under the law, and aside from issuing the annual report, has remained mostly silent in public on the subject.

The United States has also applauded King Abdullah's Interfaith Dialogue Initiative (IDI) as evidence of greater promotion of religious tolerance. Cynical observers would see the IDI as a promotional tour of Western countries designed to soften Saudi Arabia's image of an exporter of religious hatred. Uncritical supporters of the initiative claim it as evidence that the kingdom is opening up.

Whatever its motivation, the fact remains that this initiative abroad has had no policy repercussions at home. Saudis recognize domestic state-controlled media reporting on

the IDI as an official campaign, and it only serves to highlight the stark contrasts between ideals upheld abroad and the harsh reality of repression at home. If the United States is serious about promoting religious tolerance in Saudi Arabia, it cannot remain content to publish a report once a year about religious repression or to praise Saudi Arabia for symbolic commitments to religious tolerance. Instead, it must take a clear, public stance on Saudi Arabia's systematic repression of religion and press the Saudi government to undertake effective institutional reforms to end discrimination and repression on the basis of religion in that country.

REMARKS OF MANSOUR AL-HADJ, EDITOR,
AAFAQ

At the outset, I would like to say that my paper is based on my personal experience as someone who was born and grew up in Saudi Arabia, and has always been concerned about Saudi Arabia—since it's my homeland and also since I have been monitoring the Saudi media closely for the last four years as co-founder of the liberal Arabic-language website Aafaq, of which I am currently editor-in-chief.

There is great conflict and tension between liberals and conservatives in Saudi Arabia—but it is unfortunately a fake war, because both sides are working for the government—that is, the House of Saud. Both the liberals—who are actively writing articles for government-owned newspapers or appearing on government-owned TV channels—and the conservatives—who are active in mosques and on websites and who are also appearing on government-owned TV channels—are well aware of their limits and of the red lines that they must not cross.

The one red line that neither conservatives nor liberals dare to cross is talking or writing anything about political reform or the rights of religious minorities. Those who refuse to follow these limits are banned from writing in Saudi newspapers, and many of them are imprisoned and/or prohibited from leaving the country.

Saudi liberals are very hesitant to question the illegal arrest and persecution of reformers. One such case, that went completely unreported in Saudi Arabia, is that of Hadi Al-Mutif, an Isma'ili Shi'ite who has been imprisoned since 1993, serving what is by now the longest prison sentence ever in Saudi Arabia for insulting the Prophet Muhammad. Also, not a single Saudi newspaper reported on the arrest of Mokhlif Al-Shammari, a Saudi human rights activist accused of annoying others for posting online articles criticizing radical sheikhs who call for the eradication of the Shi'ites.

Saudi liberals have never advocated for the reformers who openly demand political and constitutional reform—such as Ali Aldumaini, Matrook Al-Faleh, and Abdallah Al-Hamid, who are officially banned from writing in Saudi newspapers and from traveling outside the country. The liberals do not dare to question the brutal punishments of beheading, amputation and flogging carried out by the Saudi authorities. They avoid writing about the plight of the Shi'a minorities whose mosques are repeatedly shut down and whose imams are arrested for conducting prayers in their homes. They never dare to call for a new and modern interpretation of the Koran, never dare to advocate for gays' and lesbians' right to not be punished or even killed for something they could not choose. All of these issues are on the other side of the red line that they cannot cross.

Last month, Saudi women's rights activist Wajeha al-Huwaider was interviewed by the

LBC (Lebanese Broadcasting Corporation) "No Censorship" show, with airing scheduled for October 2010. However, the show has not yet aired. Observers said that a high-level Saudi official ordered LBC not to broadcast Wajeha's interview, in which she talked about women's right to drive cars in Saudi Arabia, the plight of the Shi'a minorities in the country, the male guardian system, and the unjust punishment of Saudi reformers. Wajeha is banned from writing in Saudi newspapers.

Last week, the Saudi daily Al-Jazirah refused to publish an article by female university professor Fawziyah Abdallah Abu Khaled. In her article, Abu Khaled called the government to allow those who oppose its policies to be part of society and for it to stop persecuting and criminalizing them. She wrote: "Peaceful opposition is part of the social power of any society, and it should not be handled with hostility, eradication, or constant persecution."

The only people who enjoy freedom of expression are the radicals—as long as they do not call for Jihad against the House of Saud. Sheikh Abdel Rahman Al-Barak has called many times for the killing of Shi'ites and many Saudi liberals, and issued a new fatwa stating that the U.S. is the real enemy of the Muslims and that Jihad cannot be superseded by international conventions.

You might ask, what about the launch of the Saudi national dialogue, the establishment of King Abdullah University of Science and Technology, the appointment of the first female vice minister for women's education, the municipal election, the interfaith conferences organized by the Saudi government to which Christians and Jews were invited, and the recent ruling restricting the right to issue fatwas to senior religious leaders.

The national dialogue has accomplished nothing; the new university is a closed and isolated institution for international students and a very few Saudis that is aimed at producing Saudi engineers and doctors, not at encouraging unfettered research, and certainly not to produce new and modern interpretations of the Koran that are peaceful and that respect the Universal Declaration of Human Rights. This university is one of dozens of Islamic universities in Saudi Arabia. The appointment of Noura Al-Fayz as the first female member of the Saudi Arabia Council of Ministers means nothing—she still cannot drive a car, travel by herself, go jogging or engage in other sports, choose her own husband, or receive decent child support if she divorces. Regarding the election, we all know that women were not allowed to vote; and the interfaith conferences will remain meaningless until a church is built in Saudi Arabia and Christians are allowed to worship freely. As to the restriction on fatwas, no one pays any attention at all; new fatwas are issued on a daily basis.

The House of Saud has used its oil wealth to control people's lives. Whether conservative or liberal, ultimately people need to put food on the table, and as long as almost everything in the kingdom is controlled by the government, it will be very difficult to both cross red lines and make a living. That is how the House of Saud maintains its game of balance.

I understand this on a very personal level; I have seen how people struggle to swim upstream under totalitarian regimes. What I cannot understand, however, is how a country like the U.S. that has always championed human Rights and religious freedom has been unable to free a young man who has been imprisoned for 17 years because of his

religious belief as an Isma'ili Shi'ite. I can only hope that the House of Saud is not aiming to play the game of balance internationally—because I have heard that a \$60 billion arms deal is in the works.

REMARKS OF NINA SHEA, DIRECTOR, HUDSON INSTITUTE'S CENTER FOR RELIGIOUS FREEDOM

Last Sunday, a December 2009 cable that was cited by the New York Times but has not yet been posted by Wikileaks says that Saudi donors remain the chief financiers of Sunni militant groups such as Al Qaeda.

America's top financial-counterterrorism official, Treasury Undersecretary Stuart Levey, believes there's a strong link between education and support for terror. As he wrote in the Washington Post last June, to end support for such terror, among other steps: "we must focus on educational reform in key locations to ensure that intolerance has no place in curricula and textbooks. . . . [U]nless the next generation of children is taught to reject violent extremism, we will forever be faced with the challenge of disrupting the next group of terrorist facilitators and supporters."

Saudi Arabia is one such "key location." The kingdom is not just any country with problematic textbooks. As the controlling authority of the two holiest shrines of Islam, Saudi Arabia is able to disseminate its religious materials among the millions of Muslims making the hajj to Mecca each year. Such teachings can, in this context, make a great impression. In addition, Saudi textbooks are also posted on the Saudi Education Ministry's website and are shipped and distributed free by a vast Sunni infrastructure established with Saudi oil wealth to many Muslim schools, mosques and libraries throughout the world. In his book *The Looming Tower*, Lawrence Wright asserts that while Saudis constitute only 1 percent of the world's Muslims, they pay "90 percent of the expenses of the entire faith, overriding other traditions of Islam." Others estimate that, on an annual basis, Saudi Arabia spends three times as much in exporting its Wahhabi ideology as did the Soviets in propagating Communism during the height of the Cold War. From the Netherlands and Bosnia, to Algeria and Tunisia, to Pakistan and Afghanistan, and to Somalia and Nigeria, nationals of these countries have reported that over the past twenty to thirty years local Islamic traditions are being transformed and radicalized under intensifying Saudi influence. The late President of Indonesia Abdurrahman Wahid wrote that Wahhabism was making inroads even in his famously tolerant nation of Indonesia.

To understand why Jim Woolsey and other terrorism experts call Wahhabism as it spreads through the Islamic diaspora "kindling for Usama Bin Laden's match," it is important to know the content of Saudi textbooks. They teach, along with many other noxious lessons, that Jews and Christians are "enemies," and they dogmatically instruct that that it is permissible, even obligatory, to kill various groups of "unbelievers"—apostates (which includes Muslim moderates who reject Saudi Wahhabi doctrine), polytheists (which can include Shias and Sufis, as well as Christians, Hindus, and Buddhists), Jews, and adulterers. The texts also teach that the "punishment for homosexuality is death" and discusses that this can be done by immolation by fire, stoning or throwing the accused from a high place.

Under the Saudi Education Ministry's method of rote learning, these teachings amount to indoctrination, starting in first grade and continuing through high school,

where militant jihad on behalf of "truth" has for years been taught as a sacred duty. The "lesson goals" of one of the text books is to have the children list the "reprehensible" qualities of Jewish people and another, that Jews are pigs and apes.

Reformist Muslims can also be labeled as "apostates," and thus they can be killed with impunity. In the opening fatwa of a Saudi government booklet distributed to educate Muslim immigrants in 2005 by the Saudi embassy in the United States, the Grand Mufti of Saudi Arabia (a cabinet level government post) responded to a question about a Muslim preacher in a European mosque who said "declaring Jews and Christians infidels is not allowed." The Grand Mufti accused the unnamed European cleric of apostasy: "He who casts doubts about their infidelity leaves no doubt about his own infidelity."

The intellectual pioneer of takfiri doctrine is the medieval Islamic scholar Ibn Tamiyya. He is cited as a moral guide in the Saudi textbooks—including in the newly edited, heavily redacted texts used in the Islamic Saudi Academy, a school operated in Fairfax County, VA, by the Saudi embassy. Students of Saudi high school textbooks are instructed to consult his writings when they face vexing moral questions. West Point's Center for Combating Terror found that Ibn Tamiyya's are "by far the most popular texts for modern jihadis."

Saudi foreign-affairs officials and ambassadors do not dispute the need for education reform. Their reactions, though, have alternated over the years between insisting that reforms had already been made and stalling for time by stating that the reforms would take several years more to complete, maybe banking on the hope that American attention would drift.

Four years ago, the Saudis gave a solemn and specific promise to the United States. Its terms were described in a letter from the U.S. assistant secretary of state for legislative affairs to Sen. Jon Kyl, then chairman of the Senate Judiciary Committee's Subcommittee on Terrorism and Homeland Security: "In July of 2006, the Saudi Government confirmed to us its policy to undertake a program of textbook reform to eliminate all passages that disparage or promote hatred toward any religion or religious groups." Furthermore, the State Department letter reported that this pledge would be fulfilled "in time for the start of the 2008 school year."

Saudi Arabia has failed to keep its promise to the United States. One Wikileaks cable from the U.S. embassy reports that Saudi education reform seems "glacial." In its newly released 2010 annual report on religious freedom, the State Department itself asserted, albeit with diplomatic understatement, with respect to Saudi Ministry of Education textbooks: "Despite government revisions to elementary and secondary education textbooks, they retained language intolerant of other religious traditions, especially Jewish, Christian, and Shi'a beliefs, including commands to hate infidels and kill apostates." (emphasis added.)

Meanwhile, Saudi royals have stepped up their philanthropy to higher education around the world, for which they have garnered many encomiums and awards. Hardly a month goes by without a news report that one of the princes is endowing a new center of Islamic and Arabic studies, or a business or scientific department, at a foreign university. The king himself recently founded a new university for advanced science and technology inside Saudi Arabia.

These efforts have bought the royal family much good will, but they should not distract our political leaders from the central concern of the Saudi 1-12 religious curriculum. This is not the time for heaping unqualified praise on the aging monarch for promoting "knowledge-based education," "extending the hand of friendship to people of other faiths," promoting "principles of moderation tolerance, and mutual respect," and the like (phrases with which our diplomatic statements on Saudi Arabia are replete).

The State Department needs to begin regular and detail reporting on the remaining objectionable and violent passages in Saudi government textbooks and to press in a sustained manner for the kingdom to keep its 2006 pledge to us regarding textbook reform. As USCIRF recommends, the administration should also lift the indefinite waiver of any action pursuant to the designation of Saudi Arabia as a "Country of Particular Concern" under the International Religious Freedom Act—the only "CPC" to receive an indefinite waiver.

In one of the Wikileaks cables written earlier this year on Saudi King Abdullah to Secretary Clinton, U.S. Ambassador James Smith makes the following observation: "Reflecting his Bedouin roots, he judges his counterparts on the basis of character, honesty, and trust. He expects commitments to be respected and sees actions, not words, as the true test of commitment. . . ."

Bedouin or not, we should start demanding the same from him.

REMARKS BY R. JAMES WOOLSEY, FORMER DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY

I met on several occasions with the late President of Indonesia, Abdurrahman Wahid, after his Presidency but while he was leading the world's largest libertarian Muslim organization, Nandiatul Ulama. What a truly magnificent man he was. Nandiatul Ulama's members, as is the case for the vast majority of Indonesia's Muslims, espouse essentially the Enlightenment's embrace of reason and in particular it's separation of the spiritual and secular realms. Indonesia's traditions in this regard harken back hundreds of years, and this country that contains more Muslims than any other does not call itself a Muslim nation.

There are hundreds of millions of such truly moderate Muslims in the world, including a very substantial share of those in the U.S. They should be regarded as our colleagues and friends in trying to build a peaceful and prosperous modern world. To use a very rough analogy to the Cold War years, such truly moderate Muslims are something like the Social Democrats and Democratic Socialists—George Orwell, Helmut Schmidt—who were our colleagues in winning the Cold War against a communist empire that called itself "socialist" but whose essence was totalitarian.

Of course terrorists, whether Muslim or not, are not our colleagues and friends but our enemies through and through, just as were the communists' instruments of violence such as the Spetznaz. But some have come to believe that in the world of Islam today these two groupings—moderate Muslims and terrorists—are the only ones that exist. Sadly such is not the case.

During the Cold War there were non-violent totalitarians—such as many members of the American Communist Party—who fervently worked for the triumph of communism and the establishment of a dictatorship of the proletariat but utilizing non-violent means. So also today there are some

Muslim groups and individuals who work hard to replace our Constitution with the totalitarian socio-political doctrine that Islam calls shariah. Shariah has as its objective the establishment of a world-wide caliphate—a theocratic totalitarian state. Along the way to this objective adherence to shariah entails accepting a set of doctrines that calls for: death to apostates and homosexuals, brutal treatment of women, rejection of democracy (and indeed all man-made law), anti-semitism, and much else.

In order to bring about the caliphate—the complete rejection of Article VI of the Constitution—it is not always tactically wise to utilize violence, or violent jihad. Sometimes what Muslim Brotherhood writers call "civilization jihad" is a shrewd tactic. It is well-defined in a document, "An Explanatory Memorandum: On the General Strategic Goal for the Group" entered into evidence in the 2008 case, *United States v. Holy Land Foundation*. The document was written by Mohammed Akram, a senior Hams leader in the U.S. and a member of the Board of Directors of the Muslim Brotherhood in North America. The document makes it clear that what is involved is a "settlement process" lead by the Muslim Brotherhood that constitutes a "grand jihad in eliminating and destroying the Western civilization from within and 'sabotaging' its miserable house by their hands and the hands of the believers so that it is eliminated. . . ."

In the Holy Land Foundation case, which dealt with terrorist financing, it was established that a number of Muslim Brotherhood organizations such as CAIR and ISNA, though not indicted, were part of the terrorist-financing conspiracy.

In short, as during the Cold War, we need to understand that the central distinction is between those who accept democracy and the rule of (man-made) law and those who do not. We were on the same side during the Cold War as socialists George Orwell and Helmut Schmidt and both the Red Army and Gus Hall were on the other. Today we can make common cause with all Muslims who are neither planning to blow up airliners nor working on "eliminating and destroying the Western civilization from within."

But we must not ignore those who are making such efforts or be deterred from dealing with them just because they engage in name-calling, such as labeling those who call them to account as "Islamophobes." Those who bravely stood up against the Spanish Inquisition—whether Muslims, Jews, or Christians—were not "Christianophobes." We need to find Constitutional means—drawings on our experiences during the Cold War—to thwart the Islamist sabotage called for by the Muslim Brotherhood document and to do so in such a way as to protect the rights of those Muslims who are not engaged in either violent jihad or "civilization jihad" against us.

This will require us to think clearly about how to deal with Saudi Arabia, our ally on some aspects of fighting terrorism, but also the principal source of funding of a major share of the terrorists who attack us and the teaching of hatred that fuels the civilization jihad as well.

Above all, we cannot begin to deal with these issues unless we speak clearly. It is time to end the euphemisms and the verbal dancing. One is not accusing all Christians of burning women at the stake if one examines how the Salem witch trials grew out of some Puritan thinking. So too with totalitarian offshoots of any religion, including Islamism. Islamists' efforts to establish a caliphate and sabotage our Constitution have

to be called what they are—they are not random acts of “violent extremists.” They are, for Islamists, jihad. And they must be defeated.

HONORING JOSHUA MATTHEW LEVINE

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. BISHOP of New York. Madam Speaker, I rise to mark the untimely passing of an outstanding young man, Joshua Matthew Levine, one of my constituents who lived in North Haven, NY. Josh, who was only 35 years old, was a much beloved and well-known advocate for organic farming and healthy living. He left a successful job in New York City to move to the Hamptons where he became involved in the burgeoning organic farming movement that has recently attracted so many talented young people across our nation. He began as a volunteer at Quail Hill Farm in Amagansett, a stewardship project of the Peconic Land Trust, a non-profit land preservation organization. Quail Hill is one of the original CSA (Community Supported Agriculture) farms in the United States and serves 200 families as well as supplies food to local restaurants, schools and food pantries. After working a year as a volunteer at the 30-acre farm, he became an apprentice and then was hired as the farm's marketing manager. He also operated the organization's weekly Saturday Farmer's Market.

Along with his wife Susan Ann Jones Levine, he threw himself wholeheartedly into the business of promoting healthy food and healthy living and he would go out of his way to explain the benefits of sustainable agriculture and organic farming to others. He was devoted to his wife and their two children, three-year-old Willa and six-month-old Ezra. At a time when many think of the Hamptons as the land of glitz and glamour, it is refreshing to encounter a young person of such substance with an unwavering dedication to values that make our world a better place—cooperation, hard work and respect for the earth we live on. Josh Levine truly lived his beliefs. He was devoted to the idea of sustaining the land for future generations. On days when the Farmer's Market was open, he would arise at 5 a.m. and go to the farm to get the food and deliver it to the market in time for the opening at 9 a.m. More than 600 people attended his funeral and told stories about how hard he worked and how much he did to help others understand the benefits of healthy living.

One woman recalled how she inadvertently left a large bunch of kale that she had purchased at the farm stand one Saturday. Josh knew that she needed the kale to help in her fight against cancer, and he spent three hours tracking her down after the farm stand had closed and successfully delivered the kale to her freshly packed on ice so that it would not wilt in the sweltering August heat. He believed in what he was doing, and his passion and enthusiasm attracted others. He enjoyed cooking and was an avid follower of the slow food movement. As a tribute to his good works, the mayor ordered the flag to be flown at half

mast on the day of his funeral, a tribute usually reserved for military personnel.

It is with great sadness that I mark the passing of such a vibrant young man, so involved in his community and devoted to his beliefs.

HONORING MAJOR GENERAL GREGORY WAYT

HON. STEVE AUSTRIA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. AUSTRIA. Madam Speaker, I rise today to recognize Major General Gregory Wayt for his service to the State of Ohio and our nation on the occasion of his retirement.

It is an honor to join the people of Ohio's 7th Congressional District in congratulating General Wayt upon his retirement as Adjutant General for the State of Ohio. Serving as Adjutant General since 2004, General Wayt commanded the Ohio National Guard and was responsible for overseeing the day-to-day operation and management of the readiness, fiscal, personnel, equipment, and real property resources of the Guard.

The Ohio National Guard consists of the Ohio Army National Guard, Ohio Air National Guard, Ohio Military Reserve, and Ohio Naval Militia, totaling more than 17,000 personnel.

A 1975 alumnus of The Ohio State University, General Wayt is a Distinguished Military graduate of the university's Reserve Officer Training Corps program. He then served on active duty as an Air Defense Artillery Officer with the U.S. Army until joining the Ohio Army National Guard in 1980.

As a member of the Ohio Army National Guard, General Wayt has commanded and has held staff officer assignments at all levels. Prior to serving as Ohio's Adjutant General, he served as the Commander for the 145th Regiment and the Ohio Regional Training Institute.

He also served as the Deputy Chief of Staff for Plans, Operations, Training, and Military Support and as the Joint Chief of Staff for the Joint Force Headquarters for the Ohio National Guard.

General Wayt has led a distinguished career and holds many awards including the Legion of Merit with one Bronze Oak Leaf Cluster, the Meritorious Service Medal with one Silver Oak Leaf Cluster and One Bronze Oak Leaf Cluster, and the Army Commendation Medal with three Bronze Oak Leaf Clusters.

Ohio's 7th Congressional District has been well served by General Wayt as the district includes the Springfield Air National Guard Base and the Air and Army National Guard Units located at the Rickenbacker International Airport. He has also coordinated efforts in cooperation with the Wright-Patterson Air Force Base and the Defense Supply Center of Columbus. I personally have worked alongside General Wayt as he has been an integral part of supporting our national guard and military facilities across Ohio and our nation.

For his many years of dedication to the State of Ohio and to this nation, I again join the people of Ohio's 7th Congressional District in extending our best wishes upon his retire-

ment and wish him success in all his future endeavors.

IN RECOGNITION OF THE SERVICE OF THE PROFESSIONAL STAFF OF THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. OBERSTAR. Madam Speaker, as my service in Congress and my term as Chairman of the Committee on Transportation and Infrastructure come to a close, I would like to take this opportunity to recognize the professional staff of the Committee. These are the dedicated individuals who do the research, the analysis, the drafting, the corrections, the negotiations, and the leg work needed to bring legislation to the Floor of this House and get it enacted into law.

I honor them all for their diligence, tenacity, intelligence, insightfulness, loyalty, and friendship.

David Heymsfeld has served the Committee on Transportation and Infrastructure for 35 years, as Democratic Staff Director of our Subcommittee on Aviation from 1975 to 1995, and as Democratic Staff Director of the full Committee from 1996 to 2010. He has been the lead staff on legislative and oversight issues in aviation, and, since 1995, has directed all staff activities of the Full Committee.

His responsibilities have required him to master the policy issues involved, to understand the positions of all interested parties and of government officials, to negotiate solutions, which achieve the Committee's policy objectives, to draft legislation, and to plan strategies for passing legislation. He has carried those responsibilities for major aviation legislation, and, since 1995, he has also played a major role in legislation affecting the Federal programs for highway and transit, rail, Coast Guard, water resources, and public buildings.

Our Director of Communications, Jim Berard, has been the voice of the Democratic side of the Committee for 13 years, and served in my personal office and that of Sen. KENT CONRAD for a decade prior. An award-winning journalist before coming to Capitol Hill, Jim has proven himself to be a master communicator, adept at interpreting complex legislative issues for lay audiences.

Jim has been at the center of nearly every major transportation issue I have faced in the past 23 years, handling inquiries from the media, getting them answers, shaping our message, and delivering that message to the public.

Jim is also an accomplished writer, a published author, an historian, and a humanitarian who spends his free time helping build homes for Habitat for Humanity in Maryland, and the St. Bernard Project in Louisiana.

He has been a trusted Member of my personal and Committee staff, and I am grateful to him for his service.

Mary Kerr's extensive communications and public policy experience, along with her legal

education, have made her an invaluable member of my team for the past fifteen years. When I became Chairman in 2007, Mary moved from my personal office, where she had served as Communications Director and Legislative Assistant for eleven years, to become Press Secretary for the Committee on Transportation and Infrastructure. For the past four years, she has served very effectively as the principal spokesperson for four subcommittees: Coast Guard and Maritime Transportation; Economic Development, Public Buildings, and Emergency Management; Railroads, Pipelines, and Hazardous Materials; and Water Resources and Environment.

As T&I Committee Press Secretary, Mary has executed all phases of a comprehensive public affairs program to drive the Committee's visibility in the national news and trade media. She has led the way to successfully promote the Committee's priorities, such as protecting the Nation's waters, holding the railroad industry to the highest level of safety, and making comprehensive reforms to prevent future offshore drilling accidents.

Julie Carpenter Lotz has been a part of the Transportation and Infrastructure Committee staff for four years, working as a Communications Assistant in the Committee's Communications Office.

Julie has been a welcome asset to the Committee and to me. In addition to her professional knowledge and abilities, she has been a great resource for me in personally providing unique information on Committee-related issues that aren't ordinarily noticed. I have found this to be a valuable service.

Julie is intelligent, hard-working and extremely competent. Her communication skills, both written and verbal, as well as her editing abilities, are excellent.

Also, she has been eager to learn new procedures and to expand her knowledge whenever possible.

Julie has an excellent rapport with both staff members and public figures, and is respected by her colleagues for her considerate nature and helpful attitude.

Trinita Evon Brown has over twenty years of experience working for the House and has been with the Committee for seventeen years. She has served the Committee very effectively as Senior Counsel for Oversight and Investigation.

Ms. Brown is responsible for the Committee's oversight and investigations of all six Subcommittee jurisdictions. She has a proven record of accomplishment of high quality work, dedication, and public service. Her efforts have led to millions in recouped Federal tax dollars and the cession of numerous policies and practices harmful to our nation's interests.

Trinita has served the Committee in a variety of positions, including: Counsel for Emergency Management and Counsel for Railroads. In addition, she performed superbly with Full Committee responsibilities including highways, budget and appropriations and Committee jurisdiction.

Her keen judgment and integrity have been an asset to the Committee.

Ken Kopocis has served the Committee as senior counsel conducting oversight. Ken began with the Subcommittee on Water Resources and Environment in 1985 and served

as staff director of that Subcommittee for 13 years. Ken possesses the skills to anticipate, understand and exceed the needs of Members of Congress. He has unparalleled knowledge and experience related to protecting and improving water quality and water resources. His areas of experience include matters relating to water resources development, conservation and management; water pollution control and water infrastructure; hazardous waste cleanup; transportation; and, emergency and disaster response.

Ken has been part of every Water Resources Development Act for a generation. He has worked tirelessly to advance water quality and public health, including initiatives such as the Clean Water Act, the Oil Pollution Act, the response to the events of September 11, 2001, efforts to protect the Great Lakes, Chesapeake Bay and the Everglades, the Superfund program, and invasive species legislation.

Joseph Wender has worked as a Counsel for Oversight and Investigations for nearly two years. He joined the Committee in February 2009, the same month in which Congress enacted the American Recovery and Reinvestment Act. Joe's primary responsibilities have included coordinating the Committee's vigorous oversight of that legislation. Joe served as the lead staffer on nearly a dozen Recovery Act oversight hearings and also worked prodigiously to publish a monthly Committee Recovery Act report.

Joe always ensured that Committee Members had the most accurate and up-to-date information on Recovery Act implementation. In fact, I carry a 'pocket guide,' which Joe produced, which details the use of Recovery Act funds, including projects out to bid, under contract, and underway. I have used that pocket guide daily, and am grateful to Joe for providing such useful irrefutable information. I am proud of the standard he set in carrying out our oversight of the stimulus legislation.

During his service as counsel to the Aviation Subcommittee since February of this year, Alex Burkett has demonstrated insight and abilities as a judicious advocate, writer, and critical thinker. A pilot and lawyer with jet fuel in the veins, Alex has provided thoughtful advice steeped in deep substantive knowledge of aviation and the law. He is a tireless advocate on issues of particular significance to me, including airline competition and aviation safety.

This year Alex took the lead role in planning the Subcommittee's hearing on the United-Continental merger. In the midst of intense conference negotiations on milestone aviation legislation, Alex researched the issues presented by the merger and planned the hearing. His briefing memorandum to Members summarizing the many important issues raised by the merger was insightful and extremely well-written, as is everything he writes, and reflected his steady judgment, natural curiosity, and reliable expertise.

Michael Rodriguez joined the staff of the Subcommittee on Coast Guard and Maritime Transportation as Senior Professional Staff in October 2009. As a 1979 graduate of the United States Merchant Marine Academy, a Navy reserve officer and veteran of Operation Enduring Freedom, and an experienced merchant mariner, Mike has brought a unique and valuable perspective to the Subcommittee.

Mike was an important contributor to the process that led to the Coast Guard Authorization Act of 2010 becoming law on October 15, 2010. During the Deepwater Horizon oil spill and response, Mike helped draft legislation to address several issues related to the operation of the rig. He was able to bring his experience as a mariner to discussions about the accident with some of the Deepwater Horizon survivors. Mike's reputation throughout the U.S. maritime industry and his knowledge of international maritime affairs have made him a much appreciated asset to the Subcommittee.

Also, I would be remiss not to recognize the dedication of our Coast Guard Fellow, Lieutenant Commander Zeita Merchant. With over 13 years of Coast Guard service, she became an asset to my Coast Guard and Maritime Transportation Subcommittee, and worked diligently on a wide range of maritime issues making significant contributions to oversight hearings and legislation.

During her short time on the staff, Lieutenant Commander Merchant made noteworthy contributions on major legislation with her expertise in marine inspections and environmental response. Her knowledge and experience were critical in drafting legislation in response to the Deepwater Horizon oil spill and the passing of the first Coast Guard Authorization legislation to become law since 2006. These efforts resulted in significant increases in the Coast Guard's Marine Safety ranks; significant strides in enhancing the Coast Guard's ability to manage complex major acquisitions; and a keen focus on enhancing the diversity and Equal Employment Opportunities with the Coast Guard.

For the last four years Michael Herman has served as the Senior Counsel for the Subcommittee on Economic Development, Public Buildings, and Emergency Management, with a particular focus on emergency management issues.

During this time, Mike has demonstrated an unmatched understanding of the laws, programs and history of emergency management. Mike's mastery of emergency management is reflected in H.R. 3377, the Disaster Response, Recovery, and Mitigation Act of 2009.

When disasters strike, Members of the Committee and the House as a whole, including the Speaker, rely on his knowledge, counsel, and experience. After tornadoes devastated Wadena County in my district this summer, Mike's unique knowledge and experience supported my work with the affected communities. He also worked directly with local officials helping them navigate the recovery process and understand the assistance available to them.

For the past four years, Jim Kolb served as Staff Director for the Subcommittee on Highways and Transit. Jim's insight and guidance has been invaluable to all Committee Members and staff on a surface transportation issues.

During his service with the Committee, Jim played a key role in the development of legislation to strengthen and improve the nation's intermodal surface transportation network. Jim managed and led the development of the Committee's comprehensive six-year authorization to transform the Federal highway, highway safety, and transit programs, as well as

the Committee's response to the I-35W Bridge collapse and efforts to improve the safety and condition of the nation's highway bridges.

Throughout his service, Jim has been a hard-working, and dedicated public servant, whose advice and counsel I have valued.

Amy Scarton, Counsel to the Subcommittee on Highways and Transit, first joined the Committee staff as a legal intern after graduating from Duke University School of Law nearly a decade ago. Though she left us to work for Congressman EARL BLUMENAUER during the 108th Congress, and then to serve as Chief of Staff to Commissioner Frank Mulvey at the Surface Transportation Board; Amy returned to the Committee in early 2007.

In her role as the lead transit attorney for the Committee, Amy has been instrumental in developing major aspects of my surface transportation reauthorization bill, as well as several other energy and transit bills. Amy's dedication to progressive transportation policies is not only evident in her hard work; she and her husband bike daily to Capitol Hill from their home in Northwest D.C. I will greatly miss Amy's enthusiasm, loyalty, and expertise, and I thank her for her service.

In his two years as Director of Highway Policy for the Subcommittee on Highways and Transit, Todd Kohr has proven himself to be an extremely capable, dedicated, and effective member of the Subcommittee's staff.

Todd joined the staff of the Subcommittee at a pivotal moment for the U.S. transportation system: during the development of my six-year bill to authorize and fundamentally transform the Federal highway and transit programs. Within this process, he drafted the majority of the bill's \$337 billion highway title—displaying an ability to advance my priorities amidst a landscape of transportation policy issues, procedural considerations, competing interest group dynamics, and the complexities of Federal highway law.

In addition to his work on the authorization bill, Todd has acted as the Subcommittee staff lead on a broad portfolio of highway-related issues. His expertise, his attention to detail, his discretion, and his counsel have served me and the Subcommittee well.

Jackie Schmitz, Professional Staff with the Subcommittee on Highways and Transit, has served on my Committee staff for five and a half years. Her dedication to public service and commitment to sound transportation policy have made her an asset to the Committee on Transportation and Infrastructure.

Jackie's work has focused on promoting bicycle and pedestrian infrastructure, improving highway safety, and advancing transportation research and technology. She has assisted the Members of this body in addressing the needs of their communities and has made significant contributions to the Committee's improved standards of ethics and transparency.

I am particularly proud of the work Jackie has done to advance the Safe Routes to School program, which is leaving a legacy of safety and wellness for the next generation. Her hard work is driven by her recognition that all Americans deserve transportation choices that are safe, reliable, and accessible, and I am grateful for her service to the Committee.

Peter Gould, Legislative Assistant for the Subcommittee on Highways and Transit, has

served the Committee for the past four years with a high level of professionalism, dedication to serving the public, and a good-natured sense of humor.

For the past two years Peter has helped me craft the Committee's message through speeches, op-eds, and floor statements, making the case for greater investment in the nation's surface transportation infrastructure as part of the transformational Surface Transportation Authorization Act. As my colleagues and I pressed for this transformational legislation, I was always confident of Peter's messaging and political acumen on presenting this issue to the American public.

Jennifer Esposito has been a key staff member of the Committee since June 2004. As Staff Director of the Subcommittee on Railroads, Pipelines, and Hazardous Materials, Jennifer led the Committee's efforts to enact historic legislation to reauthorize Amtrak and the Federal Railroad Administration's rail safety program, and to develop legislation to address rail security concerns in the wake of the September 11, 2001 attacks. She also led the Committee's efforts to enact the Passenger Rail Investment and Improvement Act of 2008, which created new grant programs for development of high-speed and intercity passenger rail in the United States.

Jennifer also has developed legislation to reauthorize the Department of Transportation's pipeline and hazardous materials safety programs, and conducted extensive oversight investigations of the programs which led to major changes within the Pipeline and Hazardous Materials Safety Administration. Most recently, she conducted an oversight investigation of an Enbridge pipeline rupture in Marshall, Michigan, which unveiled major safety deficiencies.

Rachel Carr has been a staff member on the Committee on Transportation twice over the past ten years. She first served as Staff Assistant for the Subcommittees on Aviation and Railroads from March 2000 to May 2002, while earning her law degree at night. After graduating with honors from the American University Washington College of Law, Ms. Carr continued her legal career in transportation, then rejoined the Committee in March, 2009, as Counsel on the Subcommittee on Railroads, Pipelines and Hazardous Materials.

In her current role, Ms. Carr has been involved with drafting legislation to reauthorize the Department of Transportation's hazardous materials safety program and has been an integral part in oversight of the DOT's implementation of the high-speed and intercity passenger rail and pipeline safety programs.

Joseph E. Connelly is another member of my staff serving with the Subcommittee on Railroads, Pipelines and Hazardous Materials. Though Joe has been with the staff a very short time, having served a little less than two years as Professional Staff and a Fellow from the Federal Railroad Administration, he has helped instill a culture of safety into all of the federal agencies and entities under the jurisdiction of the Committee.

Joe has contributed to the Committee by painstakingly conducting concise, thorough investigations, analyzing complex data and reducing that data into easily definable terms. The results of these investigations helped

transform the Pipeline and Hazardous Materials Safety Administration into a science-based, data-driven Agency. For over 30 years, Joe Connelly has proudly served the American people as a member of the legislative and executive branch. He has made safety his life's work and has contributed immeasurably to the safe transportation of hazardous materials throughout the United States.

I would like to recognize Ryan C. Seiger for his 12 years of service to the Subcommittee on Water Resources and Environment, the last 4 of which he served as Staff Director and Senior Counsel. Ryan has been a thoughtful and dedicated advocate for improving the overall environmental health of the nation for future generations and for taking the steps necessary to achieve the Clean Water Act's goals of "fishable and swimmable" waters. He has a deep understanding of the challenges that remain in protecting the Nation's waters, and has served this country well in exploring innovative ways to overcome these challenges.

I also want to express my gratitude for his encyclopedic knowledge of water resource law, which served us so well in his role as lead House negotiator on the Water Resources Development Act of 2007. Thanks to his work and the work of the rest of the Subcommittee staff, Congress was able to achieve what was only the 107th successful override of a Presidential veto in the history of the nation.

Finally, Madam Speaker, I want to thank Navis Bermudez for her service as Professional Staff to the Subcommittee on Water Resources and Environment. Despite the fact that she has only been with the Subcommittee for the past year, her service to the Committee and to the Congress has been exemplary. During this year, Navis helped the Committee develop and move legislation (H.R. 3534) to address many of the legal shortcomings of the Oil Pollution Act and the Clean Water Act that were exposed by the Deepwater Horizon oil spill disaster. Navis has also been integral in Congressional efforts to reauthorize and strengthen several of the Environmental Protection Agency's targeted watershed programs, including House passage of legislation to reauthorize the National Estuaries Program (H.R. 4715), and efforts to reauthorize EPA's Long Island Sound and Chesapeake Bay program offices.

Navis has proven to be a strong advocate for protecting the nation's water-related environment, and has performed her job with professionalism and competence.

Madam Speaker, the people I have mentioned here are part of the Committee's professional staff. There are many others who perform administrative duties that are equally important to the work done by the Committee. I intend to recognize their contribution in a subsequent statement.

HONORING PRIVATE FIRST CLASS
AUSTIN G. STAGGS

HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. WESTMORELAND. Madam Speaker, it is with great sadness that I come before the U.S. House of Representatives tonight to celebrate the life of Private First Class Austin G. Staggs. PFC Staggs answered his nation's call of duty in 2009 after graduating from North Hills Private School in Millsap, Texas near his hometown of Weatherford, Texas. On November 29, 2010 Austin made the ultimate sacrifice while serving his country and fellow servicemen in the Nangarhar Province of Afghanistan.

Private First Class Staggs was deployed to Afghanistan as part of 101st Airborne Division based in Fort Campbell, Kentucky. He left behind his mother and father, two brothers, two sisters, his wife Sheena Staggs and his son Kallen Staggs. His father Byram Staggs of Senoia, Georgia recalls how adamant he had been about joining the U.S. Army. It had always been his dream he says.

His family also recalled a loving young man who was adored by his siblings. His father said, "He was the most big-hearted kid you've ever met." His stepmother Kelly smiles when she talks about his Skype video calls to their house from Afghanistan. She said he was adored by his nieces and nephews so much that they would push each other out of the way to see him when he called. PFC Staggs' mother, Kaye missed his last call during the Thanksgiving holidays, but his grandmother said she saved his last voicemail so that she can listen to him say "I love you" any time she wants.

Like any soldier PFC Staggs received great satisfaction from the job that he and all fellow U.S. servicemen were doing in Afghanistan. He served his country bravely and took pride in the fact that the work he was doing everyday was touching millions of lives both at home and abroad.

It pains me that fine young men such as PFC Staggs have been killed protecting the freedom of this great country. I know that no words can lessen the sorrow that Austin's family feels, but I am proud to salute such a fine son, brother, husband and father.

PERSONAL EXPLANATION

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. BONNER. Madam Speaker, on Wednesday, December 15, 2010, I was unavoidably detained and unable to cast my vote on H. Res. 1761, a resolution congratulating Auburn University quarterback Cameron Newton on winning the 2010 Heisman Trophy as the most outstanding college football player in the United States.

As an original cosponsor of this legislation, had I been present, I would have voted "aye" on H. Res. 1761.

SENATOR PAUL SIMON WATER
FOR THE WORLD ACT OF 2009

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 2010

Mr. CONYERS. Madam Speaker, I rise tonight, as I have the previous two nights, in order to prod this body to act to save lives before it is too late. It is simply unconscionable that 4,100 children die every day from diarrheal diseases spread through poor sanitation and hygiene. The mortality rate for children killed by waterborne diseases is six times as large as the number of children killed by HIV/AIDS and four times as many as killed by malaria.

Melanie Nakagawa of the National Resources Defense Council has called the international water and sanitation crisis "the most poorly addressed environmental problem of our day." Indeed, nearly one billion people lack safe drinking water. According to the World Health Organization, two and a half billion people lack sufficient water sanitation facilities.

Many of us have seen the impacts of this ongoing tragedy first-hand—from the United States, to Africa, to Haiti, where people are dying every day from cholera because of a lack of access to clean water and sanitation facilities.

The gap between access to safe drinking water and proper sanitation is widening between those living in poverty and the wealthy. The former South African president, Nelson Mandela, challenged global leaders to make access to clean water a basic human right and

to put water and sanitation much higher up on the political, economic and social agendas. "The absence of access to clean water" he stated "is most stark in the widespread impoverishment of the natural environment."

The U.N. agreed with Mandela at the Earth Summit, noting that water is the greatest obstacle to sustainable development and the most visible symbol of the growing gap between the rich and the poor. As the Archbishop Desmond Tutu said, "No issue has ever been more neglected than water and sanitation. And it is neglected because it is of concern mainly to the poor and powerless."

Kofi Annan, former United Nations Secretary General, stated that "access to safe drinking water and sanitation is a fundamental human need and therefore, a basic human right."

We have legislation before Congress that will address these inequities and demonstrate our government's commitment to the fundamental human right of safe and clean water. H.R. 2030, the Senator Paul Simon Water for the World Act of 2009, would give the U.S. government the tools to provide 100 million people with first-time access to clean water and sanitation.

The Senate, which has been repeatedly criticized for not addressing the hundreds of bills passed by this body during the 111th Congress, has already approved the companion to H.R. 2030. And the Senate passed that legislation on September 20, 2010 by unanimous consent.

Despite the occasional partisan differences here in Washington DC, this critical issue has support on both sides of the aisle. There are ten Republican cosponsors of the House bill and eight Republican cosponsors of the Senate bill.

Water for the World is also supported by a broad spectrum of advocates, including Water Advocates, the Natural Resources Defense Council, ONE, Mercy Corps, International Housing Coalition, CARE, and Population Services International, Millennium Water Alliance, Living Water International and Religious Water Working Group.

We are down to the wire and the time to act is now. If the 111th Congress expires without a vote on the House floor, millions of people will have to unnecessarily wait for clean water. And many lives will be unnecessarily lost. While many Americans take water for granted, one-sixth of the world's population, almost a billion people, do not have access to safe drinking water. The Water for the World Act is an important start to addressing this problem. I urge my colleagues to support this legislation before it is too late.

SENATE—Friday, December 17, 2010

The Senate met at 9:30 a.m. and was called to order by the Honorable JEFF MERKLEY, a Senator from the State of Oregon.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

How glorious You are, O God! How majestic are Your works. You make Your judgments known from Heaven and no earthly power can withstand Your might. When we remember Your great deeds in our history, we look to the future with confident hope, for Your indignation is only for a moment, but Your favor is for a lifetime.

Instruct our lawmakers in Your ways. Teach them to number their days that they may have hearts of wisdom. Teach them to believe Your goodwill toward them that they may obey You with joy. And teach them to serve others that they may honor You.

Lord, during this holiday season, remind us to strive for peace on Earth and let that peace begin in our hearts.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEFF MERKLEY, a Senator from the State of Oregon, led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 17, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF MERKLEY, a Senator from the State of Oregon, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. MERKLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, if any, the Senate will proceed to executive session to resume consideration of the New START treaty. The treaty is open to amendments. Senators are encouraged to come to the floor to offer and debate their amendments or make statements regarding this most important piece of legislation.

I would like to begin today having votes on the amendment that has been filed. As a reminder, last night I filed cloture with respect to the House messages on the DREAM Act and the don't ask, don't tell repeal.

The first cloture vote will occur tomorrow morning fairly early. If cloture is not invoked on the DREAM Act, the Senate will proceed immediately to a cloture vote on the don't ask, don't tell repeal. Senators will be notified when any votes are scheduled.

MEASURE PLACED ON THE CALENDAR—S.J. RES. 42

Mr. REID. Mr. President, I have a matter I believe is at the desk, S.J. Res. 42. I think it is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the joint resolution by title for a second time.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 42) to extend the continuing resolution until February 18, 2011.

Mr. REID. I object to any further proceedings with respect to this joint resolution.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

FINISHING THE SESSION

Mr. REID. Mr. President, the path is clear that we can finish our work relatively soon. As I indicated earlier, we are going to have two votes in the morning. Even if cloture is invoked on one or both of those matters, there is no reason we couldn't complete that work tomorrow. There is no reason we would have to extend that into Sunday. We will be happy to do that because we are going to work every day—every day—until we finish this legislative session.

If we get those two things out of the way, we have minimal things left to do. We have to do the health care as it relates to 9/11. Of course, we have to com-

plete the funding for the government. We know what happened last night, so we are looking forward to doing the CR. It is a tremendous disappointment as to what it doesn't do for our country, but that is where we are. The Republicans made that choice, and the American people need to understand that.

I was told 6 or 7 days are needed to debate the START treaty. That is easy to do. We can complete that very quickly. It all depends on our friends on the other side of the aisle, whether they want to continue, as they have this whole Congress, throwing roadblocks in front of everything we do to move forward to a culmination of this debate. We have done some very important things during this Congress, but there is nothing—nothing—more important than the START treaty because it has ramifications far greater than our own country. So I hope everyone will be patient. We know this is the holiday season, but this is something we are going to complete before we leave. I have had conversations with a number of my Republican friends, and they understand the seriousness of this matter.

As I indicated yesterday, the ranking member of the Foreign Relations Committee, RICHARD LUGAR, has been an advocate for this for a long time. We know our chairman, Senator KERRY, believes fervently in this legislation. So I am going to do everything I can to expedite the other matters, and that is the reason cloture was filed on these two issues last night.

I repeat, there is no reason we can't complete everything by tomorrow in the evening. Leaving the days we have spent on this already, which are three in number, we could do Sunday, Monday, Tuesday; that is 6, 7 days. We are set to complete this very quickly. It is all up to people who believe in this to come down and make their statements and to support amendments for the strengthening of this and oppose those that don't. So I hope everyone would understand the importance of the work we have.

The issues dealing with the DREAM Act, I have given many speeches on this floor dealing with the importance of that. It is legislation supported by our Secretary of Defense and the Chairman of the Joint Chiefs. They know how important it is to have quality people in the military. They know we are taking into the military today people who have been convicted of crimes, people who have not graduated from high school, and this would certainly be a way of bringing into the military

people who really want to serve their country. So I hope we can get that done.

Don't ask, don't tell is another issue that is certainly ripe for completion. I appreciate the work of the House in completing that. There is no reason, no matter how they may dislike that legislation, to stand in the way of the START treaty. The don't ask, don't tell, as we all have seen from reading the press, we have enough votes to pass that. It passed in the House for the second time. It picked up 45 votes from the first time they voted on it, so it is gaining strength.

The one reason I think it is so important to do that, to complete the repeal of don't ask, don't tell, one of the problems we have had with the issue of abortion around the country is that it has been determined by the courts not the legislature. There have been numerous articles written about how that is one problem that has caused so much consternation with the abortion issue—because it should have been handled by the legislature. I feel the same way about don't ask, don't tell. We can see the courts moving in on this. We should have the courage to do what is right for the American people and do it legislatively, not leave it to the courts.

The only thing I didn't mention is we have a lot of nominations I am working with the Republican leader on to complete. One person we are concerned about is Jim Cole, the Deputy Attorney General. That is the No. 2 person at the Justice Department. It is a shame it has taken so long to complete.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following treaty, which the clerk will report.

The assistant legislative clerk read as follows:

Treaty calendar No. 7, Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I note the minority leader is here and he may wish to use his leader time now. I understand that.

Mr. McCONNELL. I would say to my friend from Massachusetts, I was going

to make my opening remarks. I believe Senator LEMIEUX is making his farewell address, if you could give us a chance.

Mr. REID. I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, as soon as the leader wants to take the floor, I will see to that. I am not trying to hold the floor. I just wish to say to colleagues that we are now beginning day 3 of consideration of the START treaty. We have not yet voted on or moved on any amendment. So I hope colleagues will take advantage of the extra time we now have, given the events with respect to the omnibus/CR, and we have an opportunity today to quickly get there.

Needless to say, at some point, particularly in the absence of amendments, there will be a higher motivation to move to a cloture vote to move to bring this to a close if that is what it is going to take. We are ready to vote on our side of the aisle. We are ready to vote today on the START treaty.

So I wish to emphasize to colleagues, if there are amendments, now is the time to bring them to the floor, and I hope we can do that. We look forward to a good, robust debate in an effort to try to bring this matter to a close.

I yield the floor to the minority leader at this time.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

GOOD NEWS

Mr. McCONNELL. Mr. President, I am pleased to report two pieces of good news out of Congress today. After 2 years of policies that lacked public support, the tide is beginning to turn.

Today the President will sign a bill that ensures no American—not a single one—gets a tax hike on January 1. Republicans have fought hard for this legislation. Up until last week, most Democrats resisted. But in the end the American people were heard. That is a welcome change from the last 2 years.

The American people have finally been heard on another matter as well. Yesterday, Republicans united against a 2,000-page, \$1.2 trillion spending bill that Democrats were trying to ram through Congress in the final hours of this session. The goal of this bill was perfectly clear. Its purpose was to lock in for another year the same big government policies voters overwhelmingly rejected on November 2.

By approving this bill, we would have helped cement for another year massive increases in spending and helped pave the way for a health care bill most Americans are asking us to repeal.

Once those details became clear, it was imperative that we reject it.

The voters don't want us to wait to cut spending and debt and fight the health care bill next October—they want us to do these things immediately.

So I am proud of my conference for sticking together on these principles.

Here in these final days of the 111th Congress we have held the line on taxes.

We have held the line on spending.

Next, we turn to cutting spending and cutting debt.

The American people are seeing change here in Washington.

They can expect more in the New Year.

TRIBUTE TO RETIRING SENATORS

GEORGE LEMIEUX

Mr. McCONNELL. Mr. President, I rise to pay tribute to a man who has made the most of a short tenure here in the Senate. Shortly after GEORGE LEMIEUX was sworn in last September he said that his goal was to get years of work done in 16 months. And I don't think there is any doubt the junior Senator from Florida made good on that promise.

In his short tenure, GEORGE has served the people of Florida with honor, integrity, and purpose. And while he may be leaving us soon, I am certain this will not be the last time we hear from this incredibly gifted man.

GEORGE grew up in Coral Springs, FL, or "God's country" as he refers to it. He went on to college at Emory, where he graduated magna cum laude and Phi Beta Kappa. As an undergraduate, GEORGE interned for Congressman Clay Shaw and Senator Connie Mack. And then it was on to Georgetown for law school and then private practice back home in Florida.

GEORGE got his start in local politics as chairman of the Broward County Young Republicans. He then went on to make his own bid for the Florida State house in 1998, knocking on more than 10,000 doors in the heavily Democratic district he was hoping to represent.

Despite GEORGE's own campaign loss, he impressed a lot of Republicans and was elected chairman of Broward County Republican Party. In 2003, he was asked to serve as deputy attorney general. And GEORGE answered the call, leaving the law firm he was working in at the time. As deputy attorney general, GEORGE was responsible for a team of 400 lawyers. He also argued and won a death penalty case that earned a unanimous ruling from the U.S. Supreme Court.

GEORGE would go on to serve as the chief of staff to Florida Governor Charlie Crist overseeing the Governor's legislative agenda, policy initiatives, and messaging.

After a year as chief of staff, GEORGE wanted to return home to his young family. "I've got three little men at home," GEORGE said at the time, "and a wife who's a saint."

Despite the demands of work, GEORGE has always made sure not to lose sight of his first priorities. And we have all seen and been touched by the special pride he has for his wife Meike and their three boys Max, Taylor, and Chase, and their newborn daughter Madeleine.

After a couple of years of private practice, GEORGE got the call again to serve when Mel Martinez announced he was retiring from the Senate.

And from the moment he got here, he was determined to do the best job he could. He wasn't going to be a placeholder or a seat warmer, as he put it. Floridians expected vigorous and principled representation, and that is exactly what they got. At the time of his appointment, GEORGE may have been the youngest sitting Member of the Senate, but that didn't stop him from rolling up his sleeves and getting to work. He made an immediate impact by inserting himself into the health care debate as an eloquent and passionate opponent of greater government intervention and an enemy of waste, fraud, and abuse. And the first bill he introduced was the Prevent Health Care Fraud Act of 2009, which proposed a more aggressive approach to recovering the billions of dollars that are lost each year to health care waste, fraud, and abuse.

GEORGE has been deeply involved in efforts to raise awareness about the national debt and promoting free trade. He has been involved in Latin American and Cuban policy. And he was a leader on the gulf oil spill.

He has worked tirelessly to hold BP and the administration accountable for the cleanup and the protection of Florida's beaches. He has been an outspoken critic of the bureaucratic red tape that kept more skimmers from cleaning up the Florida coast. And through his relentless efforts at exposing this lax response, he was able to get dozens of skimmers sent to the Florida coast for cleanup. As GEORGE put it at the time, "We must ensure that BP does not abandon the hard-working families, businesses, and local communities devastated by the spill once the media leaves . . ." After just a few months of on-the-job training as U.S. Senator, GEORGE had found his voice in the midst of the largest environmental disaster in U.S. history.

Upon arriving in this Chamber, George has always maintained a probusiness, anti-tax, and anti-waste voting record, which has made him the re-

cipient of several awards. In August of this year, GEORGE was recognized as the "Taxpayer Hero" by the Council for Citizens Against Government Waste for his work to expose and end wasteful government spending. The following month, GEORGE was honored the "Guardian of Small Business" by the National Federation of Independent Business, as well as the "Tax Fighter" award by the National Tax Limitation Committee.

While GEORGE's impressive tenure in this Chamber has been brief, we enjoyed getting to know him and working with him to advance the best interests of Floridians and all Americans. He has been one of our sharpest and most passionate spokesmen on some of the most important issues we face. He is smart, capable, and willing to work hard. He should be proud of his service. I know I have been proud to call him a colleague and a friend.

We thank him for his impressive service to this Chamber, the people of Florida, and the Nation. And we wish him and his young family all the best in what I hope will be many years of success and happiness ahead.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, again, I repeat that we are beginning the third day of debate on the START treaty. Senator LUGAR and I are anxious to begin debate on an actual amendment. We are prepared to do so as soon as colleagues decide to come to the floor and bring us those amendments. I will repeat that given the press of business and the holidays, we are sort of in a place where we want to afford people that opportunity, but if people don't want to take advantage of that, we are certainly prepared to move to a vote.

I emphasize that there are no amendments from colleagues on the Democratic side. We are prepared to just vote on this treaty. I think perhaps we are getting a signal that other colleagues may want to likewise try to move to conclude this treaty fairly rapidly. Certainly, Senator LUGAR and I are prepared to do so. Senator LUGAR has pressed me to try to see if we can proceed with respect to the procedural votes that would bring us to that point. I have suggested that we ought to perhaps give that a little more time. We are prepared to do so. At some point, I think it will be appropriate for us to do that.

I know Senator LUGAR wants to speak with respect to some of the points that were made yesterday. First, would the Senator be agreeable to having Senator FRANKEN speak?

Mr. LUGAR. Mr. President, I am delighted to delay my remarks to listen to other Senators who have come to the floor. We are eager to try to expedite all of the statements of our Mem-

Mr. KERRY. Would the Senator agree with me that we have been open for business for about 2 days now, and this is the third day, and we need to get to a substantive amendment or perhaps to move to close off the debate and have our last 30 hours?

Mr. LUGAR. I agree with the chairman. I hope that, having raised that issue, Members will come to the floor promptly, amendments will be offered, and votes will be taken.

It appears to me that a number of our colleagues are prepared to conclude business, including our majority leader and the Republican leader. I think that is the sentiment of the body. As a result, given the 9½ hours of open time yesterday and a number of good statements, we did not progress toward any resolution of either amendments or the treaty. I think today we must do so. I support action to accelerate that.

Mr. KERRY. I emphasize that if colleagues want to be here, the majority leader has told me he will keep the Senate open Saturday, Sunday, through the weekend, in order to do so. So it is our choice. But I think, in lieu of complaints about the rapidity with which the holiday is arriving, we might spend time on an actual amendment or votes.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

Mr. FRANKEN. Mr. President, may I ask Senator KERRY one question. When I was presiding yesterday, a Member rose in opposition to the treaty. He was complaining about it coming up now. He pointed to when we got the treaty from the White House, which was in May; is that right?

Mr. KERRY. Mr. President, that is correct, I say to the Senator from Minnesota. I think it was April that it was signed and May when we actually received the submission of the documents themselves.

Mr. FRANKEN. I ask the chairman, when this Senator was presiding, another Senator was on the floor saying that we got this in May, and now it is close to the end of the year, and it is outrageous that we are doing it now.

I ask Senator KERRY, didn't he accommodate those on the other side of this issue several times when they asked for delay themselves?

Mr. KERRY. Mr. President, the Senator is absolutely correct. There was a series of requests from Senators on the other side—which is totally appropriate. I am not suggesting that was inappropriate. I think the record needs to reflect that on those multiple occasions when people requested time in order to be able to prepare, we gave them time.

Senator LUGAR was importuned some 13 times to specifically slow down the treaty process in order to allow for more time to be able to address the

modernization process, which is outside the treaty but not unlinked from it when you are making judgments about this.

Senator KYL brought up some relevant omissions in that modernization process. That extra time allowed us to address that—I hope to his satisfaction but certainly to the improvement of an understanding of where we are proceeding and to increase the funds.

Then we delayed even further when the committee was prepared to vote. There was a request for delay, and we delayed that vote.

Then we delayed even after that in order to avoid the appearance of politicizing the treaty for the election. So we literally took it out and said: OK, we will do it after the election, which is why I think people feel so adamantly that now is the time.

There have been an appropriate series of delays. You cannot come in and ask for delay and then say: Oh my gosh, we are pushed up against the calendar, and it is difficult to do it now—particularly since we are in day 3 and we have plenty of time to even exceed the amount of time in which we did START I.

I thank the Senator from Minnesota for clarifying that. I hope not to get locked into a discussion of process now or what happens when. Let's just do the substance of the treaty and show the country that we have the ability to, in a bipartisan way, meet the national security needs of our Nation. Again, I thank the Senator for his question.

Mr. FRANKEN. Mr. President, I thank the chairman for that clarification.

I rise to discuss missile defense and the New START treaty. Missile defense is one of the persistent areas of concern of the treaty raised by some of my colleagues. However, the reasonable questions that have been raised on the subject can be answered in a very straightforward manner.

The treatment of missile defense in the treaty is no cause to oppose it—quite the opposite. It should garner support for the treaty. Most of those who have raised concerns understand that longstanding Russian anxiety about our missile defense is misplaced. The purpose of our missile defense is not to undermine Russia's deterrent; it is to protect us from attack from the likes of Iran or North Korea. In fact, the Senator who raised the objection about it coming up now, after their request for delay, pointed that out, as if our side didn't understand that, for some reason.

This is longstanding U.S. policy and law across administrations and Congresses controlled by both parties, going back to at least the administration of George H.W. Bush.

Nothing in the treaty bars the development and deployment of missile de-

fense from countering those very real threats from the likes of Iran and North Korea, nor does the treaty give the Russians any say over missile defense or any kind of veto over it.

The fact that we and the Russians remain at odds over missile defense is, to some degree, nothing new. It has not prevented overwhelming support for arms control agreements in the past, including this treaty's predecessor, the original START treaty.

A more radical strand of criticism argues that our missile defense should target Russian forces and should, in fact, seek to render Russian strategic forces useless. I won't have much to say about this criticism. In reality, it is criticism of the entire foreign policy consensus of the United States that has prevailed across party lines at least since the end of the Cold War. Secretary Gates has spoken about the danger and the needless budget-busting expense of this perspective.

Setting this view aside, I want to focus on the more reasonable skeptics of the New START treaty. They have expressed concerns about each of the two mentions of missile defense in the treaty.

Article V, section 3 of the treaty states:

Each party shall not convert and shall not use ICBM launchers and SLBM launchers—

That is submarine-launched ballistic missiles.

for placement of missile defense interceptors therein. Each party further shall not convert and shall not use launchers of missile defense interceptors for replacement of ICBM and SLBMs therein. This provision shall not apply to ICBM launchers that were converted prior to signature of this treaty for placement of missile defense interceptors therein.

In other words, this provision prohibits the conversion and use of ICBM and SLBM launchers from missile defense interceptors and vice versa. However, it grandfathered the five missile silos at Vandenberg Air Force Base that have already been converted to launchers for missile defense interceptors.

Some have seized on this provision as a constraint on our missile defense. In reality, this provision effectively keeps missile defense outside the scope of the treaty—an objective that proponents of missile defense surely desire—at no real cost to us.

The ban on conversion of ICBM silos or SLBM launchers to missile defense is not a meaningful constraint. As LTG Patrick O'Reilly, Director of the Missile Defense Agency, testified, his agency has no plans and never had any plans to convert additional ICBM silos at Vandenberg. It is both less expensive and operationally more effective to build new ground-based interceptors. As General O'Reilly explained, replacing ICBMs with interceptors or adapting SLBMs to be interceptors would be

“a major setback to the development of our missile defenses.”

Substantial conversion of ICBM silos to missile defense would also be unnecessarily risky. Mixing interceptors with their ICBMs, especially in or near ICBM fields, would create an ambiguity problem for the Russians that risks tragic misunderstanding and devastating miscalculation. As GEN Kevin Chilton, Commander of U.S. Strategic Command, put it, seeing a missile launch, the other side may well be uncertain whether the launch was of an offensive or defensive missile.

Eliminating conversion of ICBM silos to defense is eliminating an unnecessary and undesirable option. That is why this so-called limitation on missile defense in article V of the New START treaty is—to use Senator McCain's phrase from the committee hearings—not a meaningful one. Nevertheless, Senator McCain and others have gone on to ask: Even if the limitation is meaningful in itself, why did the administration agree to include it in the treaty? Why did we make this concession on missile defense to the Russians?

The short answer is because we got a very good deal on missile defense, gaining several benefits by agreeing not to do something we were never going to do. That is pretty good negotiating I think.

The five converted missile silos at Vandenberg were a major source of contention in the context of the existing original START treaty. The Russians considered the conversion of those silos a compliance problem. They worried we would be able to convert them back and forth and undermine the treaty's central numerical limits on nuclear weapons. Apparently, in negotiations over this new treaty, the Russians pushed us to either undo the conversions to missile defense at Vandenberg or to count the silos under the New START central limitations on our arsenal.

We met neither of those Russian demands. Instead, in return for agreeing not to perform future conversions that are unnecessary and undesirable, we got the five existing missile defense silos at Vandenberg grandfathered. That means not only do they continue as defense silos, but Russia can no longer raise compliance complaints because we converted those silos to defense.

More importantly, with the conversion ban in place, our missile defenses are not subject to the treaty and its inspection regime. It is true we will exhibit the Vandenberg silos to the Russians on two occasions in the future, to assure them that the five converted silos remain unable to launch ICBMs. But by keeping Vandenberg out of the regular inspection and verification regime established by the new treaty, we deprive the Russians of a precedent for

extending inspections to our defenses elsewhere. If conversion were allowed under the New START treaty, our missile defenses at Fort Greely, for instance, would potentially be subject to intrusive inspection by the Russians, to determine whether any such conversions had taken place.

Instead, with the conversion ban in place, Fort Greely and other missile defenses are off limits. I am not entirely sure why the Russians agreed to this, but it is very good for us, and our negotiators deserve praise for article V, section 3. We kept something of value—namely the existing Vandenberg converted silos—we cleared up a source of contention with the

Russians, and we kept our missile defenses out of the New START regime, ensuring they are not subject to intrusive inspection by the Russians. In exchange, we agreed to ban something that, again, we were never going to do—further convert silos—because that would be unwise in the first place. In other words, article V is a good reason to support the treaty.

But I think the deepest concern of those who have raised questions about missile defense go to the treaty's other reference to missile defense in the preamble, together with the unilateral statement Russia issued on its own on the subject, and the so-called withdrawal clause in the treaty. The treaty's preamble recognizes:

The existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

I don't think anyone would deny that there is such an interrelationship. It is simply a fact. Nor does the preamble impose any obligation on us or on the Russians. It is not a binding limit on us, it requires nothing of us, and has no effect on the nuclear forces limited or not limited by the treaty.

Russia also issued a unilateral statement on missile defense at the time the treaty was signed. This is not part of the treaty and there is no binding force whatsoever on us or on the Russians. We issued a statement in response as well.

Russia's unilateral statement asserts the treaty can only be effective and viable where there is no qualitative or quantitative buildup in our missile defense system capabilities. That is not what the actual treaty's preamble says. Beyond that, the statement goes on to state that a missile defense buildup "such that it would give rise to a threat to the strategic nuclear force potential of the Russian Federation" would count as an extraordinary event under article XIV of the treaty. Article XIV includes the withdrawal clause, which is a standard part of arms control treaties. That clause makes clear

that each country has the right to withdraw from the treaty if it judges that extraordinary events related to the treaty's subject matter have jeopardized its supreme interests.

That judgment cannot be second-guessed. Russia or the United States can always make a decision that its supreme interests require it to withdraw from the treaty under article XIV, and there is nothing the other party can do about it.

Some of my colleagues on the other side are troubled and worried that Russia will seek to leverage the mention of missile defense in the preamble and their unilateral statement to pressure the United States to limit our missile defense. These worries are without foundation. The preamble and unilateral statement add no force whatsoever to article XIV's power of withdrawal from the treaty. And as Secretary Gates testified, we know the Russians have hated missile defense for decades, since strategic arms talks started. There is no surprise here. So it is no surprise that the Russians say a fundamental change in the strategic balance between our countries because of missile defense might lead them to withdraw from the treaty.

But even that threat is far less than it has been made out to be by the treaty's critics. Even the Russians' own unilateral statements count only a missile defense buildup that "would give rise to a threat to the strategic nuclear force potential of the Russian Federation" as potential cause for withdrawal. Right now, we have 30 ground-based interceptors and the Russians will be able to deploy up to 1,500 nuclear warheads. It is accepted you need at least two interceptors for each threat missile.

We can and will continue to improve and deploy our missile defense without changing the fundamental situation with Russia. We can improve and expand our missile defense without threatening strategic stability with Russia. U.S. missile defense simply won't meet the Russians' own description of cause for withdrawal.

But suppose the Russians see things otherwise. What is it that the Russians are actually threatening? Are they threatening to withdraw from the treaty? No. Here is what President Medvedev said on April 9, the day after the treaty was signed, with reference to missile defense:

If events develop in such a way to ultimately change the fundamental situation, Russia would be able to raise this issue with the USA. This is the sense of the interpretation and the verbal statement made yesterday.

So if the Russians decide there has been a change in the fundamental situation on missile defense and offense, then they will "raise this issue with the USA." Not withdraw from the treaty but raise the issue with us. That is a threat I think we can handle.

There is another reason not to be overly concerned. Around the time the United States and Soviet Union signed the original START treaty in 1991, the Soviet Union issued a unilateral statement on the antiballistic missile—or ABM—treaty, which language is virtually identical to the unilateral statement the Russians just issued in connection with the New START treaty.

As you know, the United States did withdraw from the ABM treaty, and Russia, the successor to the U.S.S.R., did not in turn withdraw from the original START treaty, as they threatened to do in the unilateral statement. Why would the Russians structure their unilateral statement exactly like their previous one if they wanted us to take the threat more seriously than the last one? The Russian objection to missile defense is well known and well understood. Their threat to withdraw from the treaty, such as it is, is not strong and the treaty's actual preamble imposes no obligation, restraint or pressure upon us.

The bottom line is that whatever decisions the Obama administration and Congress make on missile defense policy can and will be made independent of Russian threats. Frankly, our missile defense will not threaten strategic stability with them. The New START treaty doesn't alter our calculations on missile defense one iota.

If this is Russia's effort to pressure us on missile defense, it is very weak and easily resisted. I, personally, pledge to make judgments about our missile defense policy on the basis of technical and strategic considerations, entirely independent of Russian pressure, and I am sure my colleagues will do the same.

To sum up, the limitation on conversion of launchers in article V of the New START treaty is, in fact, a major success of our negotiators. In return for agreeing not to convert more ICBM silos, which we were never going to do anyway, we kept our missile defense out of the treaty and away from regular Russian inspection, and we put to rest Russian complaints about our existing converted silos. We got several things of value at very low cost.

Similarly, the mention of missile defense in the preamble and the non-binding statement made by the Russians will not allow them to pressure us or exercise a veto on our missile defense. There is no meaningful pressure there. The threat is exceedingly weak and it is hard to see how my colleagues would take it seriously.

There is simply not a missile defense problem with this treaty, but don't just take it from me. In addition to the extraordinary support this treaty has garnered from foreign policy experts across the political spectrum, there is remarkable support amongst our defense leadership responsible for missile defense. This ranges from the Secretary of Defense to the Chairman of

the Joint Chiefs, the service chiefs, the commander of U.S. Strategic Command responsible for our nuclear deterrent, and the Director of the Missile Defense Agency.

What is more, seven former commanders of Strategic Air Command and U.S. Strategic Command recently wrote to the Foreign Relations and Armed Services Committees to express their support for ratification of the treaty and specifically dismissed objections based on missile defense.

I hope we consider the resolution of ratification on the floor of the Senate as soon as possible. The substantive case for the treaty could not be stronger. It is time to bring it into force.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, I have, I guess, a parliamentary inquiry. Maybe the Senator from Massachusetts, through you, might answer. I think we are at a point in time where it is time for amendments to be offered. I encourage people, on our side of the aisle in particular, if they have amendments, to offer them. At present, I have no amendments personally. I was able to be involved in the resolution of ratification that Senator LUGAR and I drafted early during the committee. But I know a number of my colleagues have been wanting to offer amendments. It seems like there is a lot of time for that to occur today. That ought to be forthcoming so we can get on.

I have some comments I would like to make about the treaty and I guess concerns I have that we would introduce in the middle of this debate some political issues regarding the military that are unnecessary at this moment in time. That can be said later. But it is my hope we can move this along.

I would like to ask the Senator from Massachusetts, through the Chair how the amendment process is working. I know there has been some question on our side about whether amendments to the treaty and amendments to the resolution itself can be offered at the same time. I think it would be helpful—because everybody is impatient. They are wanting to see the amendments come forward and let's move forward with this process. It would be good to know how that process actually would work. There has been a question about the cloture vote and how that impacts pending amendments.

I think, in order to help move this along, it would be good if that could be answered.

Mr. KERRY. Mr. President, let me say to the Senator it may be we need the Parliamentarian on something, but here is my understanding.

There is a distinction, obviously, between an amendment to the treaty and an amendment to the resolution of ratification. Under the parliamentary

rules, there is a vagueness, frankly—according, even to the Parliamentarian—as to how you go back and forth. I think in the language in the particular amendment, you can deal with that issue so you can make certain you are either addressing the resolution of ratification or the treaty itself.

Technically speaking, the treaty has to be dealt with first and then the resolution of ratification subsequently. We can go back and forth. There is no problem in that. Is that accurate, Mr. President—I ask, through you, the Parliamentarian—that we can take an amendment at any time on either the resolution of ratification or the treaty?

The ACTING PRESIDENT pro tempore. By unanimous consent that could be achieved.

Mr. KERRY. So we could take them at any time; by unanimous consent we could actually be defining what we specifically would be agreeing to deal with. But under the rules, technically, you have to do the treaty and then move that aside and go to the resolution of ratification; is that a fair statement?

The ACTING PRESIDENT pro tempore. The Senator is correct.

The Senator from Tennessee.

Mr. CORKER. Mr. President, I am not sure it is my role, because of the way the managers manage this bill, to ask for unanimous consent in that regard. I think that is probably something that either the two leaders should ask or the two managers of the bill. But it would seem to me that would clear up any questions people have about the process itself.

I ask the Senator from Massachusetts, through the Chair, if that is the way it should work, to get that unanimous consent.

Mr. KERRY. To simplify matters, let me say this. We are prepared to take any amendment at any time and to proceed to it, and at a time the amendment comes to us and we both get a chance to look at it, we will address the question to the Parliamentarian, whether we need to ask for unanimous consent or to change the initial language of that particular amendment so it fits into that moment. What we will do is abide by the rules and make sure the amendment is appropriate. But we will take any amendment at any time as we always have in dealing with a treaty. We have always been able to resolve this question of where it applies.

In the end, once we have moved onto the final 30 hours of debate, it is irrelevant anyway; we simply conclude.

Mr. CORKER. Mr. President, I thank the Senator. I would say I was here last night on the floor. I think the Senator was, too, when discussions took place around the CR. I think emotions around here were slightly frayed, and I think everybody wants this session to end. It is my hope it will end with us

doing what is necessary on the START treaty.

I think it would be good to clear that up. I think the last thing we need right now is confusion over that. It seems, instead of taking each amendment at a time—I am not up to any trickery here, I am just trying to clear this up—I think it would be much better—again, this is maybe beyond my pay grade at this moment—if the two bill managers would go ahead, by unanimous consent, and ask for that and move on with it. That way there is no question about whether people have the ability to try to amend either one, and we can move on so people cannot come down here later and say they were blocked from offering certain types of amendments.

Mr. KERRY. Let me say to the Senator, we are working on the appropriate language so we do not, in fact, wind up inadvertently amending the treaty. So we will make certain we proceed in an appropriate way.

But I guarantee any Senator, if they have an amendment, we will be able to take it and we are ready to proceed.

I thank the Senator from Tennessee for his cooperative effort.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I think, having spoken to a couple colleagues, it is quite likely the first amendment that will be offered, relatively soon, will be on the treaty itself so that issue will not have been—we will have time to work the question out that Senator KERRY and Senator CORKER have been talking about.

Senator KERRY and I were involved in a discussion about missile defense last evening. I think that will be probably further debated in connection with the first amendment that is likely to be offered. So let me turn to another matter that is of great concern to some of us and I think will require some resolution, either in an amendment of the treaty or preamble or in the resolution of ratification, and that is the limitation that was placed on our potential prompt global strike—conventional global strike weapon. This is a matter on which the Senate gave its advice. Our role, of course, is advice and consent. In the last Defense bill, section 1251 of the fiscal year 2010 NDAA, we included a statement that the New START treaty should not include any limitations on advanced conventional systems, otherwise known as conventional prompt global strike.

For the purposes of this, let me refer to that now as CPGS. Despite the assurances from some in the administration that wouldn't happen, it did happen. There is both limiting language and language in the preamble that sets the stage for further limitations on CPGS. We were clear about this because I believe we are going to need this. General Chilton has said the same

thing. First, let me make it clear, what we are talking about is a conventional warhead on top of which is a missile that has ICBM-like capabilities, that can quickly reach a spot a long way away to deliver a nonnuclear warhead.

With the WMD and terrorist and other rogue state kinds of threats that exist today, our administration and many of the rest of us have concluded this is a capability we need.

Let me quote General Chilton:

To provide the President a better range of non-nuclear options against rapidly emerging threats, we also require a deployed, conventional prompt global strike capability to hold at risk targets in denied territory that can only be rapidly struck today with nuclear weapon platforms.

That is the rationale for it. That is the administration's statement, and I agree with that.

The Senate provided its advice in Section 1251 of the Defense bill, and here is what Under Secretary of Defense Tauscher assured Senators. She said:

[T]here is no effect for prompt global strike in the treaty.

A March 26, 2010, White House fact sheet assured that:

... the treaty does not contain any constraints on testing, development, or deployment of ... current or planned United States long-range strike capabilities.

Obviously, that statement was meant to assure us that CPGS would not be constrained or limited. But the kicker in there were the words "current" or "planned." That is because there is no current CPGS, and the administration is studying what particular system or systems to move forward with.

So while technically correct that there is nothing current or planned, it is also true the constraints in the treaty will limit whatever system we eventually come up with. The question, therefore, is what happens when, as General Chilton urges us, we develop a CPGS in the future.

Incidentally, General Chilton is the head of our Strategic Command. He is the person responsible for understanding what the threats are and how we can deliver the right ordnance in the right place with perishable intelligence in a very constrained atmosphere, and that is why his views on this are very important. Yet we conceded to Russian demands to place limits on CPGS.

How was this done? The Russians were very clever about this. They knew they were not going to get the United States to back off our plan, so what they said was: You will have to count any of those missiles against the 700 launcher limit on your nuclear delivery vehicles.

That is not a good deal. Most of us believe the 700 is too low to begin with. What we will have to do is, for every single one of these, we will have to subtract that number from the 700. So if

you have 25, now you are down to 675 launchers for nuclear weapons.

That is a constraint. There is no way to describe that in any other terms. Russian Foreign Minister Lavrov said, on March 29:

For the first time, this treaty sets the ceiling, not only for strategic nuclear delivery vehicles, but also for those ones which will be fitted with nonnuclear warheads. The U.S. is carrying out this work, which is why it would be extremely important to set a limit precisely on these types of weapons.

I think he was more straightforward about this than the spokesman for the administration. He said: Sure, we put limits on it, and the United States is moving forward on it. That is why we wanted to put limits on it.

So despite the relationship between strategic and tactical nuclear weapons—but we would not dare deal with tactical weapons either in the preamble or the treaty. Yet in another concession to the Russians, the preamble to the treaty notes that the parties are "mindful of the impact of conventionally armed ICBMs and SLBMs on strategic stability."

Well, first of all, I do not agree with that statement. What is the impact? The impact assumes that we cannot segregate the two, which can be done. Second, are we to believe that tactical nuclear weapons, which the Russians enjoy a huge advantage—some say a 10-to-1 advantage over us—have no impact on strategic stability while conventionally armed ballistic missiles do?

What do Russia's neighbors think of that argument, I might wonder. Clearly, these limits on CPGS and the dangerous language in the preamble were concessions to the Russians. It is not in our interest because we do intend to go forward with this. I think, taken to its extreme, the treaty could prevent the United States from acquiring the non-nuclear strategic capabilities necessary to counter today's principal threats, terrorists and regional adversaries armed with weapons of mass destruction.

We recognize the resolution of ratification has language on this. It does not rescind, and could not rescind, the specific limitation on counting conventionally armed ballistic missiles or mitigate the potential for severe disagreement with the Russians over this issue in the very near future.

I do not think we should ratify a treaty without knowing what kind of CPGS systems may be counted and how that will affect the nuclear triad at the much reduced levels now of 700 delivery vehicles. According to the Department of Defense, an assessment on treaty implications for CPGS proposals will not be ready until 2011. So under the resolution approved by the committee, Senators will not know until the treaty enters into force, when, obviously, it would be too late.

So the bottom line is, with a 700-launch vehicle limit, and CPGS count-

ing against that limit, we will have fewer nuclear delivery vehicles than we negotiated for in the treaty, and that limit will be a disincentive to develop the CPGS as a result.

Second, the language in the preamble regarding the impact of CPGS on strategic stability opens the door to further Russian pressure against the United States not to develop and deploy these systems. Why should we accept these constraints in a treaty that was about nuclear weapons?

Now, I think Senator KERRY had three main points, if I distilled it correctly. First was, well, the Russians wanted to limit us from doing this at all. So, in effect, we should be thankful the only limitation was on the number. I do not think that is a very good argument. As I said, we wanted to talk tactical. The Russians said no, so we did not talk tactical in the strategic treaty. There is no reason why, in a strategic nuclear treaty, we need to talk conventional arms either. But we agreed to do that.

Another argument that Senator KERRY—well, it goes along with some in Russia who have said: Well, it would be very hard for us to know whether a missile launch was a strategic nuclear weapon or one of these conventional Prompt Global Strike weapons.

That is sort of a justification for the Russian position. But most of the experts with whom I have talked say that is not a limitation we need to worry about at all. We could easily agree with the Russians in various ways to assuage their concerns. For example, we can deploy the conventionally armed ballistic missiles in areas that are distinct from our ICBM field, allow them to periodically conduct onsite inspections under separate agreement. That could be done. And there are other mechanisms as well. The key point is that we need these capabilities. I do not think we should limit them in an arms control treaty dealing with strategic nuclear weapons.

The other argument is, well, we are not going to develop these for maybe 10 years, which is outside the life of the treaty. First of all, we should not have constraints on developing them at any point. We should not create the precedent that whatever we do with Prompt Global Strike is going to count against our nuclear delivery limits, which is what this treaty does.

But, finally, there are programs that are being studied right now in the United States that would allow us to put the Prompt Global Strike capability into service quite quickly. We need it; we need it now. For example, there have been proposals for weapons on conventional Trident missiles, to cite one example, that would count and could be deployed in less than 10 years. The National Academy notified Congress in May of 2007 that conventional Trident missiles could be operationally

deployed within 2 years of funding. And there are others.

My point is, we should not be saying: Well, because certain things are not going to happen for 10 years, the treaty lasts 10 years, therefore, we do not have to worry about it. It takes a long time to plan these systems, and if they are going to be constrained by what is in the treaty today, they are likely going to be constrained by provisions in future treaties as well.

This is a bad precedent. It is one of the reasons we think before we were to proceed with this treaty, we would need to have some resolution either in the preamble or the treaty or the resolution of ratification that would give us assurance that we could develop Prompt Global Strike without detracting from our ability to deliver nuclear warheads as well.

I would like to turn to another matter. I mentioned briefly when I began my conversation yesterday morning about the treaty—and that is, that looked at in a larger context, some people have said: Well, this treaty, in and of itself, may not put that many constraints on the United States. Therefore, they are willing to support it. I appreciate the rationale behind the argument.

But there is an argument that this treaty has to be considered in its context. That is one of the reasons the people are concerned about the missile defense issue. But another element of context is the whole modernization issue, which is directly related to, but in a slightly different way relevant to the consideration of the treaty.

But the other aspect of context is that this is a treaty seen by the administration as moving a step forward toward the President's vision of a world without nuclear weapons. There are a lot of people who disagree with that vision and who believe if this treaty is ratified, then, in effect, the administration's very next step is going to be to begin negotiations to do that.

Indeed, administration spokesmen have said precisely that. Secretary Clinton, when New START was signed, talked about the President's vision of the world without nuclear weapons, and said: We are making real progress toward that goal.

There have been numerous administration spokesmen who have made the same point. I will just mention three. Under Secretary Tauscher, whom I referred to earlier; Assistant Secretary of State Rose Gottemoeller, who actually negotiated this treaty; and Assistant Secretary of Defense Alexander Vershbow have all indicated the next round of negotiations the administration intends to engage in, beginning immediately after the ratification of the START treaty, is the march toward the President's vision of a world without nuclear weapons.

I said I do not share that vision. I do not share it for two reasons: I think it

is difficult, if not impossible, to achieve, and I question whether it is a good idea at all. I do not think anybody believes that is something that is achievable in anybody's lifetime, even if it is ever achievable.

But, right now, focusing on this diverts attention, as I think this treaty does, from the efforts to deal with the true threats of today: countries such as Iran and North Korea and nuclear weapons falling into the hands of terrorists. As I said—in fact, let me quote Dr. Rice, who just recently wrote an op-ed in the Wall Street Journal. December 7 is the date. She said:

Nuclear weapons will be with us for a long time. After this treaty, our focus must be on stopping dangerous proliferators, not on further reductions in the U.S. and Russian strategic arsenals, which are really no threat to each other or to international stability.

I agree with that. Let me quote George Kennan, who wrote this a long time ago, but I think it applies today:

The evil of these Utopian enthusiasms was not only or even primarily the wasted time, the misplaced emphasis, the encouragement of false hopes. The evil lay primarily in the fact that those enthusiasms distracted our gaze from the real things that were happening. The cultivation of these Utopian schemes, flattering to our own image of ourselves, took place at the expense of our feeling for reality.

I would apply that to today. While we make a big hullabaloo about signing a treaty between Russia and the United States, countries that are no longer enemies, who are bringing down our strategic arsenals because it is in our own self-interest to do so, and ignore the threats—and I should not say “ignore” because that is to suggest the administration and others have not spent time working on the problem of Iran and North Korea. I ask, however, how much success we have had and whether we need to devote more attention and effort to resolving those problems that are immediately in front of us rather than dealing with a nonproblem in the START treaty with Russia.

Also, I would ask my colleagues to just reflect for a moment on what such a world would be like. You can divide, at least in my lifetime, barely, pre-August 1945, in the last century, and post-August 1945. World War II claimed between 56 and 81 million lives. It is astounding to me we cannot even get a more accurate count of that. That is how destructive and disruptive and cataclysmic World War II was.

But it was ended with two atomic weapons. Since that time, the major powers—Russia, the United States, China—have not fired a shot in anger against each other. Major wars such as World War II, World War I—these kinds of wars have been avoided at least in part because the countries that possess these weapons know they cannot be used against each other in a conflict.

That is the deterrent value. Would it be nice if they had never been in-

vented? Yes. Except for what they accomplished in ending World War II. But they cannot be uninvented, and the reality is, today it does provide a deterrent for the United States to have these weapons, and 31 other countries in the world rely on that deterrent.

So I would just ask those who say it would be wonderful if these weapons did not exist, what would the world look like today, with all of the conflicts that exist, and the opportunity for conventional warfare, unconstrained by the deterrent of a nuclear retaliation?

Nobel Prize winner and arms control expert Thomas Schelling recently observed that: In a world without nuclear weapons, countries would maintain an ability to rearm, and that “every crisis would be a nuclear crisis . . . the urge to preempt would dominate. . . it would be a nervous world.”

Well, to be sure, and that is an understatement. New York Times columnist Roger Cohen wrote:

A world without nuclear weapons sounds nice, but of course that was the world that brought us World War I and World War II. If you like the sound of that, the touchy-feely ‘Ground Zero’ bandwagon is probably for you.

General Brent Scowcroft, who is actually a proponent of this treaty wrote:

Second, given the clear risks and the elusive benefits inherent in additional deep cuts, the burden of proof should be on those who advocate such reductions to demonstrate exactly how and why such cuts would serve to enhance U.S. security. Absent such a demonstration, we should not pursue additional cuts in the mistaken belief that fewer is ipso facto better.

This is a point that was also made by the Bipartisan Congressional Commission on the Strategic Posture of the United States, the so-called Perry-Schlesinger Commission, in which they concluded:

All of the commission members all believe that reaching the ultimate goal of global nuclear elimination would require a fundamental change in geopolitics.

Again, quite an understatement. As I said, even the notion that we would be immediately pursuing, trying to reach this goal after the START treaty is ratified is to bring into question—at least I would suggest—in the minds of the 31 countries that depend on our nuclear deterrent for their security, whether this is a wise idea. There are plenty of folks around the world who have commented on this, national leaders who have commented on this.

Let me just quote a couple to illustrate the breadth of concern about it.

The President of France, Nicolas Sarkozy:

It—

Referring to the French nuclear deterrent—

is neither a matter of prestige nor a question of rank, it is quite simply the nation's life insurance policy.

I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, a list of comments and quotations by people who have spoken to this. Let me just cite maybe one.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1).

Mr. KYL. Bill Kristol, who is, I think, a very astute observer of these matters, wrote in the Washington Post in April of last year:

Yet to justify a world without nuclear weapons, what Obama would really have to envision is a world without war, or without threats of war . . . The danger is that the allure of a world without nuclear weapons can be a distraction—even an excuse for not acting against real nuclear threats. So while Obama talks of a future without nuclear weapons, the trajectory we are on today is toward a nuclear- and missile-capable North Korea and Iran—and a far more dangerous world.

The point of all of the people whom I don't quote here but will include for the RECORD is that the genie will not be put back in the bottle. Countries will have nuclear weapons. As one of them pointed out, if we were ever, by some magic, able to rid the world of nuclear weapons, the threat of one nation quickly acquiring them would be the most destabilizing thing one could imagine. The reality is, it is not going to happen. The United States moving toward that goal is not going to influence anyone, including North Korea or Syria or Iran or other countries that may mean the United States harm.

For those who believe this is a bad idea and who would like to see the President step back from that goal and instead focus more convincingly on dealing with the threats that are near term, ratification of this treaty presents a real problem, especially when the administration talks about the very next thing they want to do after beginning those negotiations is to bring to the Senate the comprehensive test ban treaty which this Senate defeated 11 years ago, and there are even stronger reasons to reject it today.

The bottom line is, one can argue that the dramatic reduction in the arsenals of Russia and United States of strategic weapons has been a good thing. It certainly has been an economically justifiable action for both countries because they are costly. But it has had no discernible effect on nuclear proliferation. We have had more proliferation since, after the Cold War, we began to reduce these weapons. They are unlikely, between the United States and Russia, to be a cause of future conflict.

It is time for global disarmament, starting with President Obama, to recognize this reality and channel their considerable efforts and good intentions toward the true dangers of which I have spoken.

I would like to address one other subject, if I may.

Mr. KERRY. I don't want to interrupt the Senator, but I wonder if, before he goes to another area, he would like to engage in a discussion on this particular one?

Mr. KYL. Mr. President, I would be happy to do that.

Mr. KERRY. If he is pressed for time, I understand that.

Mr. KYL. I am always happy to yield to my friend, and we always engage in interesting colloquies. I had indicated that, as a predicate to amendments, several of us had opening statements we would like to give. I am ready to go to amendments, but there are a couple of things I would like to say before we do.

Mr. KERRY. Then I will reserve my question until later.

Mr. KYL. I will enjoy the colloquy we have when we do get around to it.

Mr. President, we don't have time to get into a lot of detail, but there is the question of verification. This is one of the other major matters people have written about, including Senator BOND, who is the ranking Republican on the Intelligence Committee. It is going to be important for the Senate to have an executive session to go over intelligence, classified information that relates to the question of verification and past Russian compliance or non-compliance with agreements they have made with the United States.

In this short period, I wish to rebut something that continues to be repeated and is simply not true or at least the implication is not true—that we have to do this treaty because we need the verification provisions. The implication is that they are good and strong and will be effective. They won't. The verification provisions are far less than we had in the START I treaty. In the view of many people, they are not going to be effective.

Secretary of State James Baker, who testified early on this treaty, said:

[The verification mechanism in the New START treaty] does not appear as rigorous or extensive as the one that verified the numerous and diverse treaty obligations and prohibitions under START I. This complex part of the treaty is even more crucial when fewer deployed nuclear warheads are allowed than were allowed in the past.

My colleague Senator McCain said:

The New START treaty's permissive approach to verification will result in less transparency and create additional challenges for our ability to monitor Russia's current and future capabilities.

Senator BOND said:

New START suffers from fundamental verification flaws that no amount of tinkering around the edges can fix.

He also said:

The Select Committee on Intelligence has been looking at this issue closely over the past several months . . . There is no doubt in my mind that the United States cannot reliably verify the treaty's 1,550 limit on deployed warheads.

In very simple terms, the reason he is saying that is that there is no overall verification of those warheads. We can look at an individual missile and see how many warheads are on the top, but that doesn't tell us whether they are in compliance with 1,550. That is one of the fundamental flaws.

The amount of telemetry, unencrypted telemetry, from Russian missile tests is reduced to zero unless the Russians decide to give us more than zero.

There is no longer onsite monitoring of the mobile missile final assembly facility at Votkinsk, which has existed for all these years under START I. The Russians didn't want us hanging around there anymore. We didn't even fight for that. It is a critical verification issue with respect to potentially a railcar or other mobile missiles the Russians will be developing. Secretary Gates spoke to that eloquently with respect to the verification provisions in START I. There are fewer onsite inspections. And I can't imagine the Russians would declare a facility, which is the only place we get to visit, and then be doing something nefarious at that particular declared facility. It is the undeclared facilities that represent a big part of the problem.

Former CIA Director James Woolsey said:

New START's verification provisions will provide little or no help in detecting illegal activity at locations the Russians fail to declare, are off-limits to U.S. inspectors, or are underground or otherwise hidden from our satellites.

He makes the point, when he refers to satellites, those are sometimes referred to as our national assets. They do good and they tell us a lot, but they can't possibly tell us all we need to know. That is why we had much more vigorous verification under START I.

There are other things we will be discussing when we get into the classified session on this, but let me conclude this point and my presentation with this reality. We will find—I can say this much, at least, in open session—that the Russians have violated major provisions of most of the agreements we have entered into with them for a long, long time: START I, the Chemical Weapons Convention, the Biological Weapons Convention, the conventional forces in Europe treaty, the Open Skies Treaty, and, by the way, others I won't mention.

The concern would be for a breakout. Today, Russia and the United States are not enemies. That is why a lot of this is of less concern than it ordinarily would be. The big concern is just that ultimate concern of a breakout. What if all of a sudden they decided to confront us over some issue relating to a country on their border or something else and we were not aware they had gained a significant advantage over us? Again, the preparation of the United

States to deal with that takes a long time. I won't get into it here, but it takes a long time. That is why verification and intelligence is so important.

I have talked about two things this morning: the conventional global strike and the verification issues, as well as the general concept of a world without nuclear weapons, which, unfortunately, this treaty, at least in the minds of a lot of people, is viewed as a predicate for and which would be very dangerous.

There are some other issues I eventually wish to speak to, including the whole question of whether, as a rationale for this treaty, the reset relations with Russia have really provided very much help to the United States and whether this treaty should be used as a way of assuaging Russian sensitivities or convincing them to cooperate with us on other things.

Others have talked about tactical nuclear weapons, and there will be amendments we will be offering to deal with that, and we can discuss that later.

There is also the very important matter of the Bilateral Consultative Commission, recognizing that this group of Russian and American negotiators could in secret change terms of the treaty. The resolution of ratification provided for a notice provision, but it is not adequate. I am hoping my colleagues will agree with us on that. We will provide a longer term for notification, with an ability of the Senate to reject terms that are deemed central to the treaty and for which we really need to be providing our consent or nonconsent.

Then finally, something I alluded to here, which is that the United States really ought to be spending more time dealing with the threats that I think are more real to us today, threats coming from places such as Iran and North Korea, rather than assuming that our top priority is to rush it right up to Christmas in order to get it done.

We will have more opportunity to talk about all of those matters later. Hopefully this afternoon, we can begin debating amendments, and we do need to get squared away the issue that Senator CORKER and Senator KERRY talked about, which is how we go about doing that in a way that does not cut off people's rights to offer amendments which are to the resolution of ratification.

EXHIBIT 1

ADDITIONAL STATEMENTS ON THE FOLLY OF ZERO

"The presumption that U.S. movement toward nuclear disarmament will deliver non-proliferation success is a fantasy. On the contrary, the U.S. nuclear arsenal has itself been the single most important tool for non-proliferation in history, and dismantling it would be a huge setback."⁹⁴

"The Obama administration's push for nuclear disarmament has a seductive intellectual and political appeal, but its main points are in contradiction with reality. And when

a security policy is built on fantasy, someone usually gets hurt."⁹⁵

Kenneth Waltz, leading arms controller and professor emeritus of political science at UC Berkeley: "We now have 64 years of experience since Hiroshima. It's striking and against all historical precedent that for that substantial period, there has not been any war among nuclear states."⁹⁶

"And even if Russia and China (and France, Britain, Israel, India, and Pakistan) could be coaxed to abandon their weapons, we'd still live with the fear that any of them could quickly and secretly rearm."⁹⁷

Secretary James Schlesinger, post-Reykjavik (1986): "Nuclear arsenals are going to be with us as long as there are sovereign states with conflicting ideologies. Unlike Aladdin with his lamp, we have no way to force the nuclear genie back into the bottle. A world without nuclear weapons is a utopian dream."⁹⁸

Nicolas Sarkozy, President of France: "It [the French nuclear deterrent] is neither a matter of prestige nor a question of rank, it is quite simply the nation's life insurance policy."⁹⁹

"The idea of a world free of nuclear weapons is not so much an impossible dream as an impossible nightmare."¹⁰⁰

"A world that was genuinely free of nuclear weapons would look very different. War between big powers would once again become thinkable. In previous eras, the rise and fall of great powers has almost always been accompanied by war. The main reason for hoping that the rise of China will be an exception to this grisly rule is that both the U.S. and China have nuclear weapons. They will have to find other ways to act out their rivalries."¹⁰¹

William Kristol: "Yet to justify a world without nuclear weapons, what Obama would really have to envision is a world without war, or without threats of war . . . The danger is that the allure of a world without nuclear weapons can be a distraction—even an excuse for not acting against real nuclear threats . . . So while Obama talks of a future without nuclear weapons, the trajectory we are on today is toward a nuclear- and missile-capable North Korea and Iran—and a far more dangerous world."¹⁰²

"As long as a nukeless world remains wishful thinking and pastoral rhetoric, we'll be all right. But if the Nobel Committee truly cares about peace, its members will think a little harder about trying to make it a reality. Open a history book and you'll see what the modern world looks like without nuclear weapons. It is horrible beyond description."¹⁰³

"So when last we saw a world without nuclear weapons, human beings were killing one another with such feverish efficiency that they couldn't keep track of the victims to the nearest 15 million. Over three decades of industrialized war, the planet averaged about 3 million dead per year. Why did that stop happening?"¹⁰⁴

"A world with nuclear weapons in it is a scary, scary place to think about. The industrialized world without nuclear weapons was a scary, scary place for real. But there is no way to un-ring the nuclear bell. The science and technology of nuclear weapons is widespread, and if nukes are outlawed someday, only outlaws will have nukes."¹⁰⁵

ENDNOTES

⁹⁴Keith Payne, "A Vision Shall Guide Them?" *National Review*. November 2, 2009.

⁹⁵Id.

⁹⁶Jonathan Tepperman, "Why Obama Should Learn to Love the Bomb." *Newsweek*. August 29, 2009.

⁹⁷Id.

⁹⁸Sec. James Schlesinger, "The Dangers of a Nuclear-Free World." *Time*. October 27, 1986.

⁹⁹French President Nicolas Sarkozy Nuclear Policy speech, March 21, 2008.

¹⁰⁰Gideon Rachman, "A nuclear-free world? No Thanks." *Financial Times*. May 4, 2010.

¹⁰¹Id.

¹⁰²William Kristol, "A World Without Nukes—Just Like 1939." *Washington Post*. April 7, 2009.

¹⁰³David Von Drehle, "Want Peace? Give a Nuke the Nobel." *Time*. October 11, 2009.

¹⁰⁴Id.

¹⁰⁵Id.

Mr. KYL. I think it is true, Senator KERRY said that under the precedents of the Senate, we first have to attempt to amend the treaty and the preamble, and to do otherwise or to mix the two up would require unanimous consent.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, we have no intention of trying to use any technicality to deny an ability to offer an amendment. When each amendment comes up, we will find a way to make certain it is appropriate. We obviously have to send a signal at this point where you have to go off the treaty and onto the resolution of ratification. That happens automatically when we file cloture. So once that is done, it really becomes irrelevant.

Mr. KYL. Mr. President, when the Senator says that happens automatically, if cloture is filed and invoked, then both amendments to the treaty, the preamble, and the resolution of ratification are cut off at that point, correct?

Mr. KERRY. No. There still are germane amendments allowed to the resolution of ratification at that point, providing we have at that point completed issues on the treaty.

Mr. KYL. In other words, cloture cuts off both the resolution of ratification amendments as well as treaty and preamble amendments.

Mr. KERRY. Correct. Once it has been invoked, that is correct.

Let me say a couple of things to my friend, if I may. I know he has to run, but in his earlier argument with respect to the prompt global strike—we can get into this, and we will a little bit later, but he said something about how you could eliminate the issue of confusion with the Russians because you could just agree with them, and they could agree, and then you have sort of an identification. The whole point is, they won't agree. They are not going to agree. You can't sort of make this supposition all of a sudden that you can erase a problem simply because they will agree to something they don't want to agree to, which is why we are in the place we are with respect to that issue. That is No. 1.

No. 2, we made the decision, our generals made the decision, our defense folks, that we are better off with this because it, in fact, gives us a greater

capacity to be able to verify what they are doing as well as what we are doing and to understand the makeup of ICBMs as we go forward.

I won't go into this at great length, but let me say to the Senator, I urge him to reread the resolution of ratification. In that resolution, condition 6 addresses these questions. Condition 7 addresses these questions. Understanding 5 addresses strategic range nonnuclear weapons systems and declaration 3 addresses them. I will not go through all of that language right now, but we have addressed this question. Any future treaty with respect to this question of global zero that keeps coming back up—I will talk about this later with the Senator, but the Senator must have a very different vision of where he would like to see the world go and of what would be in the long-term interest globally and of what the impact is of multiple nuclear weapons in the world with a lot more fissionable material, a lot more ability for terrorists to be able to access that fissionable material.

The fact is that in testimony before our committee, Secretary Baker was very clear about the linkage of the Nunn-Lugar threat reduction program and the START treaty. He said directly to the committee that were it not for the START treaty, we would not have been able to reduce the numbers of nuclear weapons and therefore the amount of fissionable material that in many cases was badly guarded or not guarded at all and completely available to the possibility of black market sale and falling into the hands of terrorists. There are many ways to proceed forward.

I would also say to my friend, with respect to this global nuclear zero, it is stunning to me that colleagues are coming to the floor fighting against an organizing principle and concept for how you could move the entire world to a safer place, ultimately, none of which will happen, clearly, without extraordinary changes globally in the way nations relate to each other and behave, how you control fissionable material, and what kind of dispute resolution mechanisms might be available in the future.

But, for heaven's sake, it is incredible to me that you cannot imagine and have a vision of the possibility of a world in which you ultimately work to get this. That is the purpose of human endeavor in this field, in a sense. It is why we have a United Nations. It is why President after President has talked about a world without nuclear weapons, a world that is safer.

Does that mean that all of a sudden we are discarding the present day notion of deterrence? No. Does that mean we are ignoring the reality of how countries have made judgments over the course of the Cold War about peace and war and what the risk is of going to war? Obviously not.

One of the things the Navy did for me was send me to nuclear, chemical, biological warfare school, and I spent an interesting time learning about throw weight and the concentric circles of damage and the extent to which one nuclear weapon wreaks havoc in the world. The concept, to me, of 1,550 of them aimed at each other is still way above any sort of reasonable standards, in my judgment, about what it takes to deter. Do you think we would think about bombing China today or going to war with them? China has, in published, unclassified assessments, one-tenth maybe of the number of weapons we have. I do not think they are feeling particularly threatened by the United States in that context, nor we they, because you arrive at other ways of sort of working through these kinds of things.

So I just think this concept of a nuclear zero is so irrelevant to this debate, particularly given the fact that we are debating a treaty which is the only way to agree to reduce the weapons that requires 67 votes in the Senate. So even if President Obama wanted to try to do something in the future, this treaty does not open the door to it because it would require a next treaty in order to accomplish it and that would require 67 votes and it is pretty obvious you would never get that in the Senate in the current world.

So what are we talking about here? It is sort of a distraction. It is one of these hobgoblins of some folks who are so ideologically narrowly focused that they cannot see the forest for the trees. The choice is between having a treaty that gives you inspection, that every Member of our intelligence community says can be verified, that helps to provide security or not having one and having no inspection and having no verification—none, whatsoever. That is the choice. This is not particularly complicated, unless you want to make it so, for a whole lot of other reasons.

So the concept that doing this treaty is a distraction from dealing with terror is absolutely contradicted by the facts. Witness what Jim Baker and others have said about the Nunn-Lugar Threat Reduction Program and its linkage to START I, not to mention the myriad of other benefits that come, and there you see what Russia has done with the United States in recent months to move with respect to Iran. If we had not had a reset button, if we had not improved the relationship with Russia, if we had not been able to share information and have a cooperative atmosphere, partly increased by virtue of this treaty agreement, if we had not done that, Russia would not have joined with the United States because the relationship would not have been such that they would have been willing to in order to bring greater sanctions against Iran and try to deal with Iran's nuclear program.

So all of these things are linked. To suggest somehow that you can walk in here and just separate them and treat them differently is to ignore the nature of government-to-government relations, to ignore the nature of bilateral relationships, to ignore the nature of human nature in which people react to what other people do, and countries are the same way. They react to the sense of where we are headed. By working together cooperatively, I think we have been able to say we are headed in the same direction, and that is an important message.

There is a lot more to be said on all this, but I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, during the debate, several Senators have noted concerns about the U.S. triad of submarines, land-based missiles, and those weapons with which we will equip our heavy bombers over the duration of the treaty.

Others have cited concerns with the administration's plans for ICBM modernization in the updated 1251 report. They note it could somehow constrain our flexibility and serves to meet some arms control aspirations rather than weapons modernization.

Our resolution of ratification incorporated a declaration concerning the so-called triad. This was done in the committee with an amendment offered by Senator RISCH.

That declaration, No. 13, states:

It is the sense of the Senate that United States deterrence and flexibility is assured by a robust triad of strategic delivery vehicles. To this end, the United States is committed to accomplishing the modernization and replacement of its strategic nuclear delivery vehicles, and to ensuring the continued flexibility of United States conventional and nuclear delivery systems.

That, as I say, was included in our committee work.

Secondly, I wrote to Secretary Gates last week, our Secretary of Defense, regarding the concerns that many Senators have noted about the age and weaponry for our heavy bombers, notably the B-52 and its air-launched cruise missile, and about modernization plans for our ICBMs. I wanted assurances that over the duration of the treaty we will have a triad of systems that is credible, particularly the bomber leg of our triad.

Mr. President, I ask unanimous consent to have printed in the RECORD the response I received from Secretary Gates on December 10.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF DEFENSE,
PENTAGON,

Washington, DC, December 10, 2010.

Hon. RICHARD G. LUGAR,
Ranking Member, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR LUGAR: Thank you for your letter of December 6, 2010, regarding future

U.S. strategic force structure in light of the Nuclear Posture Review (NPR), the Section 1251 Report, and the Update to the 1251 Report. I would like to take this opportunity to address the issues raised in your letter regarding the continuing viability of the U.S. air-launched cruise missile (ALCM) capability and the heavy bomber force, as well as the basing and warhead options for a follow-on intercontinental ballistic missile (ICBM).

Regarding your first concern on the viability of the ALCM inventory and the heavy-bomber leg of the Triad, the Administration intends to replace the current ALCM with an advanced penetrating long range standoff (LRSO) cruise missile. The current ALCM will be maintained through 2030 with multiple service life extension programs to ensure viability of the propulsion systems, guidance and flight control systems and warhead arming components. The Department of Defense intends to field an advanced LRSO capability to replace the ALCM and the Air Force has programmed approximately \$800 million for research, development, test, and evaluation over the next five years for the development of LRSO. As this effort proceeds, we will work with the National Nuclear Security Administration to study options for a safe, secure, and effective nuclear warhead for the LRSO. The Administration is committed to providing a sufficient and credible nuclear standoff attack capability, and ensuring that the bomber leg of the Triad remains fully capable of supporting U.S. deterrent requirements. This commitment to maintaining an effective nuclear standoff attack capability is coupled with the Administration's plans to sustain the heavy-bomber leg of the Triad for the indefinite future and its commitment to the modernization of the heavy bomber force.

The Administration is also committed to sustaining the silo-based Minuteman III force through 2030, as mandated by Congress. This sustainment includes substantial life extension programs and security upgrades, which will allow us to sustain up to 420 single warhead ICBMs at three bases under the New START Treaty. The Administration believes that preparatory analysis for a follow-on ICBM capability in the 2030 timeframe should examine a wide range of options. Silo-based ICBMs have clear advantages; at the same time, considering other alternatives will help to determine a cost-effective approach for a follow-on ICBM that supports continued reductions in U.S. nuclear weapons while promoting stable deterrence. It should be noted that deployment of the follow-on ICBM, in whatever form it takes, will occur well beyond the expiration of New START, if it is ratified and enters into force in the near term. Finally, neither the Update to the 1251 Report nor planning and guidance for a follow-on ICBM will constrain the flexibility of a follow-on design with respect to warhead loadings. In the meantime, plans are currently in work to retain the capability to deploy multiple warheads on the Minuteman III missile, to include periodic operational test launches with more than one warhead.

Thank you for the opportunity to address the important matters you have raised in connection with our Nation's nuclear deterrent, and for your leadership on the New START Treaty.

Sincerely,

ROBERT M. GATES.

Mr. LUGAR. Mr. President, I asked for an assurance that over the duration of the New START treaty the Defense Department will not permit a situation

to arise where heavy bombers lack sufficient and credible nuclear standoff attack capability.

Secretary Gates responded that the current air-launched cruise missile will be maintained through 2030 with multiple lifetime extensions and that "the Administration is committed to providing a sufficient and credible nuclear standoff attack capability, and ensure that the bomber leg of the Triad remains fully capable of supporting U.S. deterrent requirements."

I also sought assurance that the language in the 1251 update will in no way modify the basing of the ICBM leg of the triad nor constrain its future designs with respect to warhead loadings; that is, constraining it to meet some arms control goal of fewer warheads for ICBMs.

Secretary Gates responded that "The Administration is also committed to sustaining the silo-based Minuteman III force through 2030, as mandated by Congress" and that "[N]either the Update to the 1251 Report nor planning and guidance for a follow-on ICBM will constrain the flexibility of a follow-on design with respect to warhead loadings."

Bombers will have sufficient nuclear weapons under New START. We are not going to constrain a future ICBM for purposes of arms control.

With these commitments, and our declaration, I am assured by Secretary of Defense Gates that we will have a credible bomber leg, one that allows us sufficient and flexible responses to strategic change, and that a future ICBM will not be less effective or flexible than our present ICBMs.

Moreover, regarding New START force levels, the combatant commander responsible for executing strategic deterrence operations and planning for nuclear operations, General Chilton, has said this about the New START treaty and its force structure:

Under the New START Treaty, based on U.S. Strategic Command analysis, I assess that the triad of diverse and complementary delivery systems will provide sufficient capabilities to make our deterrent credible and effective. . . . Under the New START Treaty, the United States will retain the military flexibility necessary to ensure each of these for the period of the treaty. . . . U.S. Strategic Command analyzed the required nuclear weapons and delivery vehicle force structure and posture to meet current guidance and provided options for consideration by the Department of Defense . . . this rigorous appraisal rooted in both deterrence strategy and an assessment of potential adversary capabilities, validated both the agreed-upon reductions in the New START Treaty and recommendations in the Nuclear Posture Review.

End of quote from General Chilton.

Note what he said—that this analysis take into account potential adversary capabilities. General Chilton is confident in our deterrent and that the force structure under the treaty and our triad will meet our needs.

I do not think we should dispute either General Chilton or Secretary Gates—long-serving professionals who have served both Presidents Bush and Obama so very well.

I would add, supplementing the excellent comments made by my colleague, the chairman, that from the beginning of our debates in the Senate on arms control treaties or even before that, the so-called Nunn-Lugar Cooperative Threat Reduction Program, there have been many Senators very sincere in their viewpoints that they simply do not like arms control treaties. Furthermore, they would counsel that you cannot trust the Russians. Therefore, adding the two together, if you have an aversion to arms control treaties and agreements and you do not trust the Russians and, furthermore, you do not want to trust the Russians or have any further dealings with them quite apart from treaties on arms control, this leads to certain skepticism, if not outright opposition, to those of us who have been proposing arms control treaties for several years and arms control treaties with the Russians in particular.

I would simply point out, as I tried to yesterday informally, that there are always extraordinary problems with verification of any treaty, and much of the debate on this treaty, in terms of our committee responsibilities and initial statements made by Senators on the floor, zero in on such points, as to the fact that you cannot trust the Russians, and/or there are other things in the world we ought to be paying attention to, much more important than the Russians for that matter, and, further, that somehow this treaty, in particular, will inhibit the defense of our country, specifically through missile defense.

Members of administrations past and present have affirmed it is important to have arms control treaties with the Russians. It has not ever been a question of trusting the Russians. It has been a question of trying to provide verification that the provisions of the treaties that we have negotiated are, in fact, fulfilled. It is a fact, as has been suggested by some Senators, that on several occasions we have found violations or very dubious conduct on the part of the Russians. I have no idea how many times they have testified they have found something doubtful about our performance, but in any event, in the real world of deterrence and the real world of verifiability, there have been abrasions and arguments and disputes.

I would simply say one of the values of the treaties we have had with the Russians, and specifically the START treaty regime, is that they have allowed many of us—the distinguished chairman has made a good number of trips to Russia and to countries that

surround Russia. I have had that responsibility and opportunity for many years likewise.

I testified yesterday during our debate that on one occasion, when I was invited to come to Sevmash, the submarine base, I saw things no American had ever seen before, apparently. When we talk about our intelligence facilities, there were no pictures taken by our intelligence folks, or very good dimensions of what a Typhoon submarine actually looked like or what it did. We had various suppositions. Incredibly, after my visit to Sevmash, where we were not allowed to take pictures, a Russian sent to me a picture of me standing in front of a Typhoon submarine. From our intelligence standpoint, this was the first time anyone had seen a picture of a Typhoon, quite apart from a diligent Senator standing in front of it. Furthermore, we had good opportunities with the Russians to discuss the Typhoon.

I don't specialize in submarines, but I was able to take notes and to make known at least my impressions of that particular situation. Why in the world would someone invite a Senator to come see something of that variety? It came about because we literally had not only boots on the ground in terms of our military but some of us even as Senators. The relationship was such that the Russians, perceiving they needed to get rid of the Typhoon submarines and it was going to be very expensive, technically maybe even dangerous with regard to removal of all of the 200 missiles, decided it was time to do business. The opportunities that come, in other words, from a relationship of that sort sometimes move in directions no one might have anticipated—but to the good, in my judgment. I admitted yesterday only three of the six Typhoons have, in fact, been destroyed. It is a tedious, expensive, difficult process.

But getting back to our debates on the floor of the Senate, I can recall not only during the initial discussion of the Nunn-Lugar Act, but almost annually as appropriations were sought to continue this work, skeptical colleagues, first of all, doubting the value of any type of arrangement with the Russians, and doubting very much whether a dime of American taxpayer money should ever be spent on the Russians in this regard. So some of us, as reasonably and calmly as possible, could say, Well, we think it is probably important that if there are, in fact, nuclear warheads, thousands of them, aimed at our cities as well as our military installations, and we have opportunities and cooperative threat reduction to work as contractors, as Senators, as military officials, whoever, with the Russians, we ought to take those warheads that are aimed at us off the missiles. We ought to physically take the missiles down. We ought to, in

fact, destroy the silos in which they are located, and we think this is probably a valuable use of taxpayer money in terms of our own defense.

Each year, by and large, that argument won, although rarely unanimously. On one occasion, incredible as it may be, Members of the Senate added so many qualifications, so many additional reports that had to be filed by the Defense Department or the State Department or intelligence authorities that the whole fiscal year passed without a single dollar being available for expenditure on any of this armament reduction. In other words, Senators were so involved in attempting to demonstrate their mistrust of the Russians, their demand that our bureaucracy fulfill all sorts of impossible goals, that nothing got done. Eventually over the course of the decade, we evolved to a point where by and large those sorts of debates began to taper off—and I am grateful for that—and we began to see the possibilities not only with regard to the Russians but other countries who had strange weapons that they reported to us and sought our cooperation. This is well beyond even the ability to wind up the nuclear situation in Ukraine or Kazakhstan or Belarus or what have you.

I would cite one more, and that is in the year 2004, the first year in which the Senate voted that at least \$50 million—just \$50 million of about \$500 million that year of the Nunn-Lugar program could be used outside of Russia. So strong were feelings of some in opposition to the Nunn-Lugar program that they saw the fact that it might spread outside of Russia almost as a contaminant, something that ought to be contained. They felt it was bad enough that we had ever had such a thing in Russia, quite apart that we ought to destroy weapons anywhere else. But nevertheless, a majority of the Senate did allow for \$50 million. That very summer authorities in Albania notified the Pentagon that they had found some strange drums up above the capital city of Tirana in Albania, and they wanted to report that to us because they thought they needed assistance, probably for safety's sake of the Albanians who had found the drums. Our officials, having been invited by the Albanians, went in fact to the mountains and they found the drums were filled with nerve gas. Very quickly, they simply put up a modest fence and began to roll the drums in behind the fence.

I was invited to come over at that stage and I did, and I had good visits to our Ambassador to Albania, with their foreign minister and their defense minister, members of their Parliament. Albania at that time was a state that was coming out of a terrible dictatorship—a dictatorship so adverse that it was even difficult for the Soviet Union or

China to deal with. Where in the world the nerve gas came from is a matter of conjecture. But in any event, once we had indicated our hopes that we could work with the Albanians, they invited us to do so and to help them destroy it.

As a matter of fact, as a bonus, while we were up in the mountains they took us by several sheds where there were hundreds of MANPAD missiles—not weapons of mass destruction, but missiles we had furnished, as a matter of fact, to forces in Afghanistan in an earlier war to drive out the former Soviet Union. So we were able to destroy those while we were at it. As an added bonus, the Defense Minister of Albania said, We believe we ought to set up a military academy along the same standards of your military academy at West Point. As a further gesture, we are going to have as a requirement that each of our cadets must master the English language so that we are going to be able to deal with you for some time to come. I felt that was an important gesture. I mention this because in the course of arms control, a good number of things happen that are very important.

I will conclude by saying that Albania 2 years later invited all of the countries of the world to come to their capital and to celebrate the fact that Albania claimed to be the first nation state to fulfill the chemical weapons convention, that all chemical weapons in the country had been destroyed, and we celebrated with them, and it was literally a derivative of the situation we are describing today.

So I ask those who are normally skeptical to continue to ask good questions but likewise to understand the history at least of the last two decades that has been very constructive for our country.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I wish to thank the ranking member, Senator LUGAR, for sharing that account with the Senate. I think it is first of all historic, but secondly I think it is relevant to the interconnectedness between what we are doing here and the long-term ways in which we make our country safer. One can only imagine if one group or another that we are all too familiar with the labels and names of these days had gotten hold of those barrels. The havoc that could have been wreaked somewhere is extraordinary. As the Senator from Indiana knows better than anybody here, some of these nuclear materials were behind creaky old rusty gates; maybe one guard, if any guard; a lock that was so easy to break—I mean, it was infantile, the notion that something was secured. Much of that has changed as a consequence of the program that he and Senator Nunn began, but also the consciousness that has been raised in a lot

of countries around the world. This effort, we believe, continues that.

So I thank him for his leadership, again, on that score. We are awaiting amendments from colleagues and we look forward to entertaining them when they get here.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REED. Mr. President, I rise today to express my support for the New Strategic Arms Reduction Treaty, also known as the New START treaty, which was signed by President Obama and Russian President Medvedev on April 8, 2010, and would replace the START treaty that expired on December 5, 2009.

As a member of the Armed Services Committee, I have had the opportunity to review the implications of this treaty over the course of five hearings and multiple briefings. I am convinced that ratification of this treaty is essential to the security of the United States, and not simply in the context of our relationship with Russia but also in our efforts to counter nuclear proliferation throughout the world.

As a starting point to consider this treaty, it is important to recognize that since December 5, 2009, when the START treaty expired, we have not had inspectors on the ground in Russia to monitor their nuclear weapons complex. It wasn't until December 2008 that the Bush administration and Russia agreed they wanted to replace START before it expired but acknowledged that the task would have to be left to the Obama administration, leaving them 1 year before the treaty was set to expire so they could begin these negotiations.

The reality is that we have not had a verification regime in place or inspectors on the ground in Russia for over a year, and every day that goes by without this treaty in place is another day that the United States lacks the ability to verify effectively and inspect Russia's strategic nuclear forces.

If the Senate rejects this treaty, it may be many years, if ever, before we once again have American inspectors on the ground in Russia.

President Obama stated:

In the absence of START, without the New START treaty being ratified by the Senate, we do not have a verification mechanism to ensure that we know what the Russians are doing . . . And when you have uncertainty in the area of nuclear weapons, that's a much more dangerous world to live in.

The bottom line is this: If you don't trust the Russians, then you should be

voting for this treaty because that is the only way we are going to get, in a timely, effective way, American inspectors back on the ground looking at their nuclear complex.

There is another aspect. Without the New START treaty in place, there is additional strain on our intelligence network to monitor Russia's activities.

In his testimony to the Armed Services Committee, GEN Kevin Chilton, commander of STRATCOM, stated:

Without New START, we would rapidly lose some of our insight into Russian strategic nuclear force developments and activities . . . we would be required increasingly to focus low-density/high-demand intelligence collection and analysis assets on Russian nuclear forces.

These intelligence assets include our satellites, which are already in high demand, particularly in our operations in Afghanistan and Iraq, as well as in emerging threat locations such as Yemen, Somalia, and the Pacific. Furthermore, these national technical means can never supplant the quality of intelligence gathered from onsite inspections by American weapons experts in verifying the quantity, type, and location of Russia's nuclear arsenal.

Dr. James Miller, Principal Deputy Under Secretary of Defense for Policy, remarked:

Onsite inspectors are a vital complement to the data that the United States will receive under New START. They provide the boots-on-the-ground presence to confirm the validity of Russian data declarations and to add to our confidence and knowledge regarding Russian strategic forces located at facilities around the country.

The failure to ratify may present a significant operational cost to our efforts in the war on terrorism. To compensate for the lack of a treaty, our satellite assets could be shifted to maintain some coverage of Russia, which, in the short run, would deny the capability of looking at other places, such as Sudan or Yemen, where we know al-Qaida and its affiliates are establishing sanctuaries. In the longer term, we may consider putting up new satellites—a tremendous cost that would be difficult to bear in a continuing budget crisis and one that would not give us the same kind of information as having inspectors on the ground.

Let me emphasize this again. If this treaty goes unratified, if we don't have inspectors on the ground, then we must rely on our national technical means of verification, which is significantly satellites. Those are, as General Chilton said, high-demand assets. If they are being flown over Russia, I cannot conceive, if we let this treaty elapse over several years, that military commanders will feel confident in not putting more and more satellites over Russia. That takes away from efforts right now to monitor troubled spots around the globe, and it is a real cost to the failure to ratify this treaty.

Ratifying this treaty is also a vital part of our relationship with Russia. It is the essential element in the process of controlling nuclear weapons between the United States and Russia.

I wish to quote my esteemed colleague and manager on the other side, Senator LUGAR, who has long been not only a leader in this effort but someone whose vision and actions already—particularly through his work with Senator Sam Nunn—have made this world a much safer place and one whose debt we are all in nationally. I thank him for that.

Senator LUGAR stated:

We should not be cavalier about allowing our relationship with Moscow to drift or about letting our knowledge of Russian weaponry atrophy.

He is right, as he has been on so many issues with respect to national and international policy.

This process has had a long history of bipartisan support—from the first formal agreements with the Soviet Union under the Carter administration that limited nuclear offensive and defensive weapons, through both terms of President Reagan's administration, which produced the original START treaty, to the overwhelming support of the Senate to ratify these important agreements. All of these agreements had strong, bipartisan support.

This treaty is an important part of renewing our relationship with Russia and will provide the foundation for future negotiations on other nuclear issues.

Ellen Tauscher, Under Secretary of State for Arms Control and International Security, stated:

It's my calculation that we need to get this done now because every day that we don't is a day that not only don't we have boots on the ground, but it's also a day that we can't move on to other parts of the agenda. This was the New START Treaty, but it was also the start of the reset of the relationship, and it is a very big agenda.

We have other issues to consider, such as tactical nuclear devices, which the Russians may have and former countries of the Soviet Union may have. We have a whole set of issues. We have issues with respect to Iran and North Korea. If we can ratify this treaty, we now have momentum to move forward on these other issues.

We all know the proliferation of nuclear weapons threatens more than the security of just Russia and the United States. Indeed, this treaty is central to the continuing need for a worldwide effort to control nuclear weapons. It is every President's worst nightmare that somewhere in the world a nuclear accident will occur, that a rogue state will attain nuclear capability or a nuclear weapon or materials will fall into the hands of a terrorist group. This treaty is an important step toward reducing the number of nuclear weapons around the world and demonstrates to the international community that the

United States and Russia are committed to this goal.

If we don't ratify this agreement and don't continue this 40-year process of working with Russia on limiting nuclear weapons, how can we get them to assist us effectively in addressing the nuclear ambitions of North Korea and Iran? What credibility will we have among the international community to restrain Iran's development of nuclear weapons if it is perceived that we have abandoned our longlasting, long-term, and mutually beneficial attempts with the Russians to limit our nuclear weapons?

We must do everything possible to counter proliferation through protection, containment, interdiction, and a host of different programs.

I again quote Senator LUGAR:

This process must continue if we are to answer the existential threat posed by the proliferation of weapons of mass destruction.

Every missile destroyed, every warhead deactivated, and every inspection implemented makes us safer. Russia and the United States have a choice whether to continue this effort, and that choice is embodied in the New START treaty.

We also understand, too, that as long as we have nuclear weapons, we have to have an effective nuclear arsenal. In its fiscal year 2011 budget, the Obama administration requested \$7 billion for the National Nuclear Security Administration—NNSA—which oversees the U.S. nuclear complex. This request is about 10 percent more than the previous year's budget. That is a significant increase for any department in this government, particularly as we face challenging economic times and an increased deficit.

Indeed, Linton Brooks, the former NNSA Administrator under President George W. Bush, said: "I'd have killed for that budget and that much high-level attention in the administration."

So the issue of dealing with our nuclear arsenal is being addressed with more energy and more resources and more attention than it was in the preceding administration, and I don't think that argument can be used as an attempt to delay the ratification of this treaty.

Many have argued that before we consider this treaty, we must commit to substantial funding increases in the future budgets to modernize the nuclear infrastructure. We are doing that. While I support the need to ensure a safer, more reliable nuclear arsenal—and I applaud the Obama administration's efforts to commit significant resources to do so—we have to recognize this is a recent change. In fact, the Obama administration is not only bringing this treaty to the Senate, it also is bringing to the Congress a level of commitment that was lacking previously. I think both of those are necessary, both of those mutually rein-

force one another and, together, are strong support for the ratification of this treaty.

During an Armed Services Committee hearing in July, I asked Directors of the national labs about the significant commitment of resources this administration has made to the nuclear enterprise. Dr. George Miller, the Director of the Lawrence Livermore National Laboratory, responded:

It is clearly a major step in the right direction. The budget has been declining since about 2005 . . . and this represents a very important and very significant turnaround.

The Obama administration has also outlined an \$85 billion, 10-year plan for NNSA's nuclear weapons activities, which includes an additional \$4.1 billion in spending for fiscal years 2012 through 2016. The \$85 billion represents a 21-percent rise above the fiscal year 2011 spending level. As Secretary of Defense Robert Gates wrote in his preface to the April 2010 Nuclear Posture Review:

These investments, and the NPR's strategy for warhead life extension, represent a credible modernization plan necessary to sustain the nuclear infrastructure and support our Nation's deterrent.

Ratifying this treaty presents us with the opportunity to recommit ourselves to preserving and reinvesting in our nuclear enterprise, including the highly trained workforce, which is so necessary. But again, ratifying this treaty is such an essential part of our national security that it both complements and, in some cases, transcends simply reinvesting in our modernization efforts. But we are doing that, and that should give comfort, I think, to those who see that as an issue, which may—and I don't think so—present some inhibition in ratifying this treaty.

In all the discussions we have had on the content of this treaty, we have often failed to note the caliber and professionalism of the American negotiators who have worked tirelessly on this treaty. This elite cadre of experts have devoted their lives to serving our Nation in promoting nuclear arms control and doing it from very wise, very experienced, and I think very critical notions of what is necessary to protect the United States because that is their first and foremost responsibility.

This impressive team consisted of State Department negotiators, representatives from the Department of Defense's Joint Staff, and from STRATCOM, our military command that is responsible for all these nuclear devices. Most of them took part in the development of START I and the subsequent treaties. They have had the experience of years and years of dealing with the Russians, of understanding the strengths and the weaknesses of our approaches. They captured the lessons learned on what we need to know about the Russian nuclear enterprise

and the best means of achieving our national strategic objectives.

This was not the labor of amateurs, this was the work of people who have devoted their lifetime to try to develop an effective nuclear regime involving inspections and verification, and they know more about what the Russians do and vice versa than anyone else. They were at the heart of these negotiations. Many of the principles behind these treaties are, as a result, complex and nuanced. Most Americans, frankly—and, indeed, many of our colleagues—don't have the means to invest the time to become versed in the technical aspect of launchers, telemetry, and verification regimes. These individuals have spent their lives doing that. We are quite fortunate they have committed themselves to this enterprise and that they have produced this treaty.

Furthermore, former Secretaries of State and Defense from both Republican and Democratic administrations and military commanders, including seven previous commanders of STRATCOM these are the military officers whose professional lives have been devoted to protecting America and commanding every unit that has a nuclear capability—have all urged us to support this START treaty. That is a very, I think, strong endorsement as to the effectiveness of this treaty and the need for this treaty. All of them understand this is in our best national security interest.

Again, all the commanders, all the individuals who have spent every waking hour and, indeed, probably sleepless nights, thinking about their responsibilities for nuclear weapons and their use, consider this treaty essential. That, I think, should be strong evidence for its ratification.

As I mentioned before, the New START treaty builds upon decades of diplomacy and agreements between the United States and Russia. The New START treaty is appropriately structured to address the present conditions of our nuclear enterprise and national security interests, while building on the lessons we have learned from decades of previous treaty negotiations, from decades of implementing past treaties, of finding out what works on the ground, and setting nonproliferation goals for the future. It is important to understand how we got to this point today.

The United States and the Soviet Union signed their first formal agreements limiting nuclear offensive and defensive weapons in May 1972. The Strategic Arms Limitation Talks—known as SALT—produced two agreements—the Interim Agreement on Certain Measures with Respect to the Limitation of Strategic Offensive Arms and the Treaty on the Limitation of Anti-Ballistic Missile Systems. In 1979, these agreements were followed by the

signing of the Strategic Arms Limitation Treaty—known as SALT II—which sought to codify equal limits on U.S. and Soviet strategic offensive nuclear forces. However, President Carter eventually withdrew this treaty from Senate consideration due to the Soviet's invasion of Afghanistan.

Throughout the 1980s, the Reagan administration participated in negotiations on the development of the Intermediate-Range Nuclear Forces—INF—Treaty, which was ultimately signed in 1988. At the negotiations, the Reagan administration called for a “double zero” option, which would eliminate all short- as well as long-range INF systems, a position that, at the time, was viewed by most observers as unattractive to the Soviets.

President Reagan also worked extensively to reduce the number of nuclear warheads, which led to the signing by President George Herbert Walker Bush of the initial START treaty in 1991. Again, the work of President Reagan, and the work of President George Herbert Walker Bush all led to the historic START I treaty. It limited long-range nuclear forces—land-based intercontinental ballistic missiles—ICBMs submarine-launched ballistic missiles—SLBMs and heavy bombers. START also contained a complex verification regime. Both sides collected most of the information needed to verify compliance with their own satellites and remote sensing equipment—known as the national technical means of verification.

But the parties also used data exchanges, notifications, and onsite inspections to gather information about forces and activities limited by the treaty. Taken together, these measures were designed to provide each nation with the ability to deter and detect militarily significant violations. The verification regime and the cooperation needed to implement many of these measures instilled confidence and encouraged openness among the signatories.

The original START treaty was ratified by the Senate in October 1992 by a vote of 93 to 6. We are building literally on the pathbreaking work of President Ronald Reagan and President George Herbert Walker Bush in limiting these classes of systems, using a national means of technology, and putting inspectors on the ground. I find it ironic that we might be at the stage of turning our back on all that work, of walking away from a bipartisan consensus—93 to 6. I don't think that would be in the best interest of this country.

In January 1993, the United States and Russia signed START II, which would further limit warheads. After some delay, the treaty eventually received approval by the Senate in January 1996, but it never entered into force, mainly because of the U.S. withdrawal from the ABM Treaty in June

2002. But, once again, there was another effort along these same lines to limit the numbers of launchers and warheads, and in that same spirit today we have this New START treaty before us.

During a summit meeting with President Putin in November 2001, President George W. Bush announced that the United States would reduce its operationally deployed strategic nuclear warheads to a level between 1,700 and 2,200 warheads during the decade. He stated the United States would reduce its forces unilaterally without signing a formal agreement. However, President Putin indicated Russia wanted to use a formal arms control process, emphasizing the two sides should focus on “reaching a reliable and verifiable agreement” and a “legally binding document.” Yet the Bush administration wanted to maintain the flexibility to size and structure its nuclear forces in response to its own needs and preferred a less formal process.

The United States and Russia ultimately did sign the Strategic Offensive Reductions Treaty, also known as the Moscow Treaty, on May 24, 2002. The Senate ratified the treaty on March 6, 2003, by a vote of 95 to 0; and the Russian Duma approved the treaty also. Once again, a high-level arms treaty negotiated by President George W. Bush with the Russians came to this floor and was unanimously approved.

In mid-2006, the United States and Russia began to discuss their options for arms control after START. However, the two countries were unable to agree on a path forward. Neither side wanted to extend START in its original form. Russia wanted to replace START with a new treaty that would further reduce deployed forces while using many of the same definitions and counting rules in START. The Bush administration initially did not want to negotiate a new treaty but would have been willing to extend some of the START monitoring provisions. President Bush and President Putin agreed at the Sochi summit in April 2008 they would proceed with negotiating a new, legally binding treaty. As I mentioned before, it wasn't until December 2008 that the two sides agreed to replace START before it expired but acknowledged this task would fall to the Obama administration. This administration took that work seriously and diligently and produced a treaty and now it is not only our opportunity but I think our obligation to ratify the treaty.

Some of my colleagues have already described measures in the New START treaty. Let me suggest some of the important details.

Under the New START treaty, the United States and Russia must reduce the number of their strategic arms within 7 years from the date the treaty enters into force. This treaty sets a

limit of 1,550 deployed strategic warheads. All warheads on deployed ICBMs and deployed SLBMs count toward this limit and each deployed heavy bomber equipped for nuclear armaments counts as one warhead toward the limit. This limit is 74 percent lower than the limit of the 1991 START treaty.

Again, let me stop and say, I think if you asked every American the question: Would we be safer with fewer nuclear warheads in the strategic forces of Russia and the United States, the answer would be yes. I think people all recognize the potential danger of the existence of more than enough nuclear weapons to wreak havoc if they were somehow launched.

The New START treaty also sets a limit of 800 deployed and nondeployed ICBM launchers, SLBM launchers, and heavy bombers—which are warheads but also launching systems—puts separate limits on deployed ICBMs and deployed SLBMs and deployed heavy bombers. The limit, again, is less than half the limit established by the 1991 START treaty for deployed delivery vehicles. The sooner we ratify this treaty, the sooner these limitations will be in place and can be enforced.

We are at a point, I think, where we can continue the progress that began—the breakthrough, really, that began with President Reagan, President George Herbert Walker Bush, and, to a degree at least in spirit, carried on with the Moscow Treaty by President George W. Bush, and now can be ratified with legally binding terms in this New START treaty. Once ratified, the new START treaty will be in force for 10 years unless superseded by a subsequent agreement, and of course the United States and Russia have the option to extend the treaty for a period of no more than 5 years and there are withdrawal clauses if we believe our national security requires such a withdrawal. Furthermore, the 2002 Moscow Treaty will terminate with the adoption of this START treaty.

Like the first START treaty, the New START treaty establishes a complex verification and transparency regime that will guard against cheating and will enable the United States to monitor Russia's compliance with the treaty's terms.

The treaty's verification measures build on the lessons learned during the 15 years of implementing the 1991 START treaty and adds new elements tailored to the limitations of this treaty and to the application of this treaty.

Indeed, Assistant Secretary of State Rose Gottemoeller, the head of the U.S. negotiating delegation, stated, “Much was learned over the 15 years in which the START treaty verification regime was implemented, and the United States and Russia sought to take advantage of that knowledge in formulating the verification regime for the new treaty—seeking to maintain

elements which proved useful, to include new measures where necessary, improve those measures that were an unnecessary drag on our strategic forces, and eliminate those that were not essential for verifying the obligations of the New START treaty."

These verification measures include onsite inspections—which we do not have at the moment—data exchanges—which we do not have at the moment—and notifications as well as provisions to facilitate the use of national technical means for treaty monitoring. To increase confidence and transparency, the treaty also provides for the exchange of telemetry information.

Under the terms of the treaty, the parties are required to exchange data on the numbers, locations, and technical characteristics of deployed and nondeployed strategic arms that are subject to the treaty. The parties also agreed to assign and exchange unique identification numbers for each deployed and nondeployed ICBM, SLBM, and nuclear-capable heavy bomber. We literally now will have the serial numbers with which we can monitor their systems. The treaty also establishes a notification regime to track the movement and changes in status of strategic arms. Through these notifications and the unique identification numbers, the United States will be better able to monitor the status of Russian arms throughout their life cycle.

The New START treaty will also allow each nation up to 18 onsite inspections each year. These inspections will include deployed and nondeployed systems at operating bases, as well as nondeployed systems at storage sites, test ranges, and conversion/elimination facilities. These onsite inspections will help verify and confirm the information provided in the data exchanges and notifications, ensuring that Russia is staying within the numbers of the treaty.

Some have asked why have a treaty if Russia is allowed to cheat? It is important to remind ourselves of several points. First, because of its commitment under the Comprehensive Test Ban Treaty, Russia has already been operating under tighter constraints than the United States. They are signatories to the Comprehensive Test Ban Treaty. In 1996, President Clinton and President Yeltsin signed the Comprehensive Test Ban Treaty. The Russian Duma approved the treaty in 2000, but we have yet to ratify the treaty, so Russia, indeed, is operating under more constraints with respect to comprehensive testing than we are.

Second, over a year has passed since the expiration of the original START treaty. Again, since that time there have been no verifications, no inspections, no process in place to work with Russia.

It seems ironic to me that people who are worrying about signing a treaty

and having the Russians cheat are not preoccupied with what the Russians are doing today, since we can't verify. It does not seem to me to make sense to say the way you can eliminate the treaty is eliminate the laws so they cannot cheat.

Again, I think the logic as well as the history as well as the details of this treaty are so compelling and persuasive that we have to ratify this treaty.

Under Secretary of State Ellen Tauscher stated also:

The urgency to verify the treaty is because we currently lack verification measures with Russia. The longer that goes on, the more opportunity there is for misunderstanding and mistrust.

There is a letter to Senator KERRY addressing concerns about cheating from Secretary Gates. Let me at this point commend the Senator from Massachusetts for his extraordinary leadership on this issue. No one knows more about the details of this treaty, the ramifications, the nuances than Senator KERRY. No one has been more articulate, no one has talked with more wisdom, more experience, and more compelling logic than the Senator from Massachusetts when it comes to ratification of this treaty. For his leadership, I thank him. Thank you, Senator.

But Secretary Gates wrote to Senator KERRY to remind him that:

[T]he survivable and flexible U.S. strategic posture planned for New START will help deter any future Russian leaders from cheating or breakout from the treaty, should they ever have such an inclination.

Finally, ratifying the New START treaty will actually provide the right incentive structure to prevent cheating rather than to encourage it.

Let me conclude. Let me again remind my colleagues that this treaty will provide a significantly increased degree of certainty in a very uncertain world. It will continue our relationship with Russia, one that we forged over decades and one that we must use—not just for our mutual benefit but to act against even more pressing threats such as North Korea, such as Iran, and such as thousands of other emerging threats over the next several years.

This treaty will allow us to advance our counterproliferation initiatives across the globe. As such, I urge my colleagues to support ratification of the New START treaty.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Rhode Island. I first of all thank him for his generous comments on a personal level. But let me thank him for his work. I think everybody in the Senate will agree he is, as a member of the Armed Services Committee, one of the most respected voices in the Senate, one of the most diligent, hard-working members of that

committee. He knows and understands our weapons systems, our military needs, our security concerns as well as anybody in the Senate. I have enjoyed enormously the history that he provided in his discussion today. I think it is an important predicate to this debate and I thank him for his work very much, and for the comments he made on the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I support this treaty. The support is overwhelming, and it is bipartisan. The fact that the entire defense establishment and the Pentagon supports this treaty should be significant. The questions that have been raised about the modernization of our, basically, arsenal of nuclear weapons are legitimate. But they are questions that are constantly tended to not only by the appropriate committees in the Congress but by the defense and national security establishment.

The Cold War has now been over for two decades. The United States and Russia still possess 90 percent of the nuclear weapons. The fact is, we need stability in these huge arsenals of nuclear weapons between our two countries. To have this stability then allows us to be able to confront the rest of the world and the dangers that exist with regard to a potential nuclear threat.

While our nuclear triad remains an important component to our overall national security, it is no longer necessary for us to maintain such a huge stockpile. We are facing new threats, and we need new answers.

Here is what we know about the bottom line. This treaty enhances cooperation with Russia. It allows for onsite inspections. It allows for verification of Russia's nuclear arsenal. It also demonstrates to a worldwide audience our commitment to oversight and monitoring of nuclear weapons. This START treaty reduces the number of nuclear warheads in Russia by 30 percent. Preventing a nuclear terrorist attack is paramount. The more we create stability with Russia, it allows us then to increase pressure elsewhere on other countries that we are always concerned about having nuclear weapons. And we are always concerned about those nuclear weapons getting out of their control and getting into the hands of people who would do us harm. Of course, we are certainly concerned about those other countries with nuclear ambitions—one, North Korea, that apparently already possesses nuclear weapons, and the country of Iran, which is

certainly trying to possess nuclear weapons. It is commonsense that what you do is take an arsenal of some over 2,200 nuclear weapons and reduce them. It is just common sense that you would, under a treaty between the two nuclear powers that have 90 percent of the nuclear weapons, that you would start to reduce delivery systems. It just makes common sense that we would be able to have an inspection and verification regime so that we can have that stability between Russia and the United States.

You can always bring up all kinds of things. This does not affect in any way our ability to have a national missile defense system. If we do not ratify this treaty—and it is not only my hope but it is my expectation that we are going to be able to get the 67 votes to ratify this treaty, but if we did not, we would put ourselves in a much less safe position because the previous START treaty expired a year ago.

Without START, there is no recourse or system to inspect warheads. We have been analyzing this treaty now for the last 7 months. The bipartisan support of this treaty, Senator KERRY and Senator LUGAR, along with my colleagues on the Senate Armed Services Committee and the Senate Intelligence Committee, we have been combing through these details.

We constantly have to develop new ways to safeguard our national security. Developing new state-of-the-art systems allows for a more vigorous inspection regime. We have built up some of that experience since the Cold War ended.

When it comes around to investment, the Obama administration has agreed to invest \$85 billion into the nuclear weapons complex. The administration agreed to Senator KYL wanting another \$4 billion increase. That is a modernization that needs to take place at several of our facilities. So let's move on and ratify this treaty. This treaty does not limit our missile defense options. We have clearly and consistently heard from Secretary Gates, Secretary Clinton, the Chairman of the Joint Chiefs of Staff, and many others in the Defense Department state that this is the case.

The treaty's ratification is long overdue in order to secure our Nation's security. I believe we must ratify this treaty now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in legislative session and as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—H.R. 6517

Mr. CASEY. Mr. President, I rise to speak about legislation that has broad bipartisan support and will have a posi-

tive impact, if we pass it, on job creation in the United States. This is H.R. 6517, which is known as the MTB, the miscellaneous terror bill. I will provide some highlights and then ask my colleague, Senator BROWN of Ohio, to comment as well. Then we have a consent request.

First, this bill supports manufacturing jobs. The National Association of Manufacturers supports the bill. When the last bill was signed into law earlier this year, the last MTB bill, at that time it passed the House by a vote of 378 to 43. This was in July. The national manufacturers praised it as "a victory for job creation." This bill, combined with the last bill of the same kind, is expected to increase U.S. production by at least \$4.6 billion over the next 3 years and to support 90,000—imagine that—manufacturing jobs, according to a study.

As I said before, and should repeat again, it has strong bipartisan support. The bill has 40 Republican-sponsored provisions and 40 Democratic-sponsored provisions. It has not just bipartisan support but the support of manufacturers across the country. Domestic producers in the United States are relying on the new provisions in the bill to remain competitive, and these same producers are more likely to grow and support good-paying manufacturing jobs, just at a time when we need jobs in general, but in particular, there is a crying need for manufacturing jobs in the United States as well as a State such as the Commonwealth of Pennsylvania.

A couple of words about one aspect of the bill and then I will turn to Senator BROWN.

One of the provisions, of course, is trade adjustment assistance. The 2009 trade adjustment assistance—known by the acronym TAA—those reforms made significant improvements in this program for workers. Since these changes were implemented, more than 155,000 additional trade-impacted workers who would not have been certified under the former program became eligible for trade adjustment assistance for worker benefits and training opportunities. In total, more than 367,000 workers were certified as eligible for that support in that same timeframe.

A word about Pennsylvania. We have lost—and I think the corresponding number is similar in other States—but imagine this: Since 2001, less than a decade, our State has lost 200,000 manufacturing jobs. This program, the Trade Adjustment Assistance Program, has played a vital role in helping those workers who have lost their jobs in that time period.

There is much more I could say about Pennsylvania, and I will hold that for later. But I did want to turn to my colleague from Ohio, who has worked tirelessly on this issue here in the Senate and in the years when he was a Member of the House of Representatives.

Mr. BROWN of Ohio. Mr. President, I thank the Senator from Pennsylvania. I agree with him that this bill has as broad a public support as you get on a trade bill, a bill that deals directly with tariffs and trade relationships and manufacturing and help for workers who are laid off and help both with training dollars and with health care dollars and health care tax incentives.

It is supported—that is why it passed, I believe, by a voice vote in the House of Representatives last night, meaning nobody spoke out against it when it was passed overwhelmingly by voice vote. There may have been a few scattered "nos." I am not even sure there was that.

The ranking member of the Ways and Means Committee, who will be chairman, Congressman CAMP, from Michigan, was supporting it. The Ways and Means outgoing chairman, also from Michigan, Congressman LEVIN, also supported this.

The AFL-CIO supports it. The National Retail Federation and the U.S. Chamber of Commerce recognize this is good for the country. That is why I am so hopeful my colleagues will not block this legislation.

One person standing up in this Chamber and blocking legislation because it is late in the year—I do not know if they are trying to cut some deal or what the reason is they would use for blocking it. But forget the politics of the support for it around the country, but look what it does that is so important: trade adjustment assistance. Since 2009, 367,000 workers were certified eligible for TAA, trade adjustment assistance. These workers use TAA to acquire new skills. When a worker is laid off, in Erie or right across the State line in Ashtabula, OH, you want to encourage them to go back to school and become, for example, a nurse, if they were working in a plant, and they are 45 years old, or you want them to go back to school and become a computer operator or to have some kind of job that you would hope would pay something comparable to the job they lost. This legislation is essential to do that.

The health care tax credit program helps these trade-affected workers and retirees purchase private health insurance to replace the employer-sponsored coverage they lost. We want people to be able to get back on their feet.

An objection to this motion by Senator CASEY, a "no" vote on this, really does say: Stop. We are not interested in helping you do this.

If we allow the program to go back, if this is defeated, the jobs that are shipped to China or India or other countries we do not have a trade agreement with would no longer be eligible.

I can name by name factories in places such as Cleveland and Mansfield and Toledo and Dayton—and Senator CASEY can in Pittsburgh and Philadelphia, and Altoona and all over his

State—companies that have shut down or moved much of their production to China or India. We want them to be eligible, even though we do not have a bilateral trade agreement with those countries as we do with NAFTA or CAFTA or some of the other bilateral trade agreements we have.

That is why this is so important. I particularly ask my colleagues not to object to the passage of this bill. It has passed the House. We have the exact same language here. It is vetted. The Republican and Democratic leaders in both Houses say we ought to do it. Senator BAUCUS has worked very hard, harder than anyone, to renew TAA before the end of the year.

But I particularly am concerned about the health care tax credit. We have tried to come to the floor and move that already. We have not been successful in doing it because of the peculiar nature of Senate rules and that a very small handful, sometimes as few as one, can stop legislation.

But without the HCTC, come January 1, there will be thousands of people in my State who lose their health insurance. Hundreds of them—if not several thousand—have spouses who will lose their health insurance because of what this will do in terms of the tax credit for health insurance.

So I guess my question to Senator CASEY—and then he can make the motion, which I fully support—is, why? What do you see in this that anybody would object to? I am at a loss to understand why anybody would object to this.

Mr. CASEY. Mr. President, I cannot understand it, especially when you consider the fact that we have 15 million Americans out of work. I know the numbers are high in all of our States. In Pennsylvania, we are fortunate. We are below 9 percent. We are at about 8.8 percent right now—8.6 percent, actually, is the most recent number. That number has been going down, thank goodness. But it is still just below 550,000 people. It was up above 590,000. So we are making some progress, but we are badly in need of manufacturing jobs, and I know the same is true in Ohio.

Mr. President, as if in legislative session, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6517, the Omnibus Trade Act, which was received from the House and is at the desk; that the bill be read three times and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Mr. President, reserving the right to object, and I will object, I wish to share a few thoughts with my colleagues. I think if they knew the basis for the objection I have, they would be supportive of it, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. SESSIONS. Mr. President, let me say, with regard to this legislation, I have supported free trade probably more than my colleagues. I believe in the Andean Trade Agreement that is a part of this. I support the trade assistance that is in the bill and would be glad to remove my objections to them if they wish to move forward with that.

But I have worked for 2 years to try to obtain a simple justice to close a loophole in the tariff laws that has impacted and will close a sleeping bag textile manufacturer in my State. It is in Haleyville, in Winston County, AL. It is in northwest Alabama. It is a poor county. They have a great history. They call it “the free State of Winston.” They claim they seceded from the State of Alabama during the Civil War, and most of their public officials from then until today remain Republicans. But they are an independent, hard-working people. This bill, as written, will close that plant, and it should not happen.

I want to share with you the Chamber of Commerce, NAM and the AFL-CIO have been made aware of this, as we have discussed it over the past years, and they believe this company should receive some relief. But the people who put the bill together did not. And I am very much of the belief—I know my colleagues are—that when you have good people in your State who are being put out of business by a company that was moved to Bangladesh to try to capture this loophole—it is not a little matter.

These are human beings. As I said, I do believe in trade. I think it is best for the world. But I would say to my colleagues, we have to have fair trade. We have to have just trade. And nations around the world, I think, have taken advantage of the overconfidence of the United States in our economy that they can cheat on agreements and manipulate agreements and close down businesses in the United States, and that somehow we are going to pass on by, and that eventually we will get to the point where we just have banking and hospitals in this country.

But manufacturing is an important part of our economy. This company has been able to withstand competition from China and has been successful. But they cleverly figured out how to move it to Bangladesh, using 85 percent Chinese products, and shipping it to the United States and getting around the small tariff that makes a difference between success and failure.

I plead with my colleagues to consider the justice of this matter. Move your bill. I do not think there is any real substantive objection to it. The U.S. Trade Representative expressed a lot of sympathy for this situation, and I thought somewhere the bureaucrats and the politicians were going to put

together a bill that would grant relief so this company would have a chance to continue to be very competitive. They are modern, have high-tech equipment, sewing equipment, good employees. They pay them health care and benefits far more than they are paid anywhere else in the world. And they can still win except for this loophole.

I am at a point where I am not going to go for it anymore. I am not going to stand by and allow nations to cheat on their trade agreements and manipulate trade agreements that, in effect, destroy our industries. I am aware that the Smoot-Hawley trade agreement was part of the Depression. I know all that argument, and I am not against free trade. But I am telling you, we need to stand and defend our industries. I know both of my colleagues share that.

I want to say, I feel strongly about it. I believe this is just. And I think this bureaucracy, this Senate, this Congress, ought to listen to what we are saying and give us some relief. Otherwise, I would be willing to move the parts of the legislation that are not directly relevant to this.

I thank the Presiding Officer.

Mr. CASEY. Mr. President, let me say by way of response to our colleague from Alabama, I have great respect for and appreciate the sentiments he is expressing for workers and employers in his State, fighting hard for them, and the concern about jobs going overseas.

I would say a couple things: No. 1, we did have an opportunity this fall to vote on legislation which would provide both incentives and disincentives to the shipment of jobs overseas by changing the Tax Code. We had a debate about it. One side voted for it—this side—and the other side did not. I just wanted to make that point.

But the other point is that, look, we have a disagreement about this. What I would hope we could do is try to find a way to help firms such as the one that our colleague is trying to protect, and that is certainly understandable. But, at the same time, if we do not pass this bill in totality, we are going to short-change the ability to impact not just the creation of 90,000 manufacturing jobs around the country, including in all of our States, but also trade adjustment assistance. So for the hundreds of thousands of people—tens of thousands in a State such as Pennsylvania, and potentially even more than that, and certainly in all of our States—we have to get this done even if we are trying to work on problems that arise that are specific to one employer or one portion of a particular community.

Mr. SESSIONS. Mr. President, I will be glad to discuss it with my colleague, but I would note that the exemption I am concerned about goes to Third World countries. They are given, under the generalized system of preferences,

or GSP, the right to import pretty much duty-free, but it comes with a crucial condition. That condition is that you do not get to import into the United States under this zero tariff if you are competing with American companies and American jobs—unemployed Americans. If we don't have that manufacturing in the United States, they get this exemption. This is a loophole they achieved under the tariff rules by calling a sleeping bag not a textile, and it is a textile and it should be covered by this. That is all I am saying.

I would ask my colleagues, isn't it true that if the leadership of both parties agree to this amendment, there is plenty of time for it to be accepted, go back to the House, and be passed before we recess? That is what I would ask to be done.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. I see some real potential here. I thank the Senator from Alabama. I know Senator CASEY and I have fought for American manufacturing for pretty much our whole careers. I know Senator SESSIONS has had some disagreements sometimes with our trade policy in this country. I think our trade policy has done more—and the way we do globalization has done as much damage to our country as almost anything in terms of jobs, especially manufacturing jobs.

There are several parts of this bill, as the Senator recognizes—the GSP, about which the Senator obviously has some strong feelings; there are things the Senator has sounded as though he was agreeing with on TAA and with HCTC, with the Andean, and with the other part of the trade issue—I am drawing a blank on the other part of the tariff issue. It seems to me that except for the general standardized preferences, or GSP, it sounds as though we have a lot of agreement.

I hope I can speak for Senator CASEY as well in saying I will certainly work with the Senator on trying to fix the part of the GSP that doesn't work for Alabama. If we can either separate the other ones out and get a UC or work with them together and go back to the House, we are certainly willing to do that.

I just don't want to see us adjourn—whatever day we adjourn, whether it is Monday or Tuesday or Christmas Day, I don't want to see us walk out of here without helping with trade adjustment, without helping with the health care tax credit, and leaving out Andean trade preferences and those things. So let's work together and see if we can do this in the next 24 hours and come back to the floor and work something through, if Senator CASEY agrees with that too.

Mr. SESSIONS. I thank Senator BROWN and Senator CASEY. I do believe that is possible, and I think maybe there is a growing belief that some-

where in this debate about trade, we can reach a common accord across the aisle that, yes, we want to have trade, we want to expand trade that can benefit America, but at the same time we have to not unnecessarily destroy American jobs, and this little part of it is damaging. I tried last year. We spent a year talking about this. It is not something that just got sprung on the floor here at this moment. I think there is a way out of it.

I thank the Senators for being open-minded today.

Mr. CASEY. I thank both of my colleagues.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I support H.R. 6517. This bill extends three of my longstanding trade priorities, Trade Adjustment Assistance, TAA, the Generalized System of Preferences, GSP, and the Andean Trade Preference Act, ATPA. TAA provides job training for workers here at home, training that is more important than ever in these difficult economic times. And GSP and ATPA support thousands of jobs here in the United States and provide livelihoods for millions of people in the developing world as well. If we do not act, these programs will expire on December 31. The bill also includes miscellaneous tariff bill provisions, and provisions to replenish the wool trust fund, all of which will support jobs in Montana and across America. I urge swift passage of this bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMLINT. Mr. President, I know we are discussing a number of different issues on the floor right now, and one of the most important, as my colleagues know, is the START treaty with Russia, and I wish to take a few minutes to talk about it.

We all take our responsibility of advice and consent very seriously for nominations and particularly on a treaty of this magnitude. I am very disappointed that on something of this importance, we are bringing it up in a lame duck Congress at a time when Americans are distracted by one of the most holy holidays for Christians in this country.

None of us minds working through the holidays or through the night on the Nation's business, but it is important that Americans participate in this process with us. They know many of the people who will be voting on this treaty are those who have been turned out of office by Americans in the last election, and they will also know that the reason to rush it through before new Members are sworn in is that those who will be carrying the voice of Americans into the next session may have a different view of some of the things we are doing here.

It is important, as we look at this START treaty, to understand the implications and the background of this

treaty. A number of my colleagues have talked about various aspects of it—about verification, the number of missiles—and I will touch on a few of these things.

I respect the administration's intent to try to enlist the cooperation of Russia on other major issues, such as dealing with Iran and North Korea, and that this is a symbol of our willingness to work with them. I understand that. I understand that is one of the reasons a number of past Secretaries of State have said we need to do this.

I think the administration and many recognize that this treaty only deals with intercontinental ballistic missiles—ICBMs—missiles we have had for years on the shelf as a deterrent, as part of that strategy of mutually assured destruction. Russia had its number of missiles and we had ours, with the understanding that if they fired missiles at us, we would fire missiles at them, and we would destroy each other—mutually assured destruction. These missiles don't defend Americans, except if you say maybe to deter Russians from firing their missiles at us. But as we understand that this treaty only deals with the ICBMs, we recognize it doesn't include many other weapons, such as tactical nuclear weapons, and we also understand it does not have any prohibitions on other countries developing nuclear weapons, nuclear missiles.

We also understand that Russia has basically already met the limitations in this agreement. They are not going to have to draw down their number of missiles or warheads. The United States will reduce the number of missiles—ICBMs—it has. But, again, the other weapons, which are perhaps more dangerous and of more concern to some of our allies, are not included in this treaty.

So I think part of the rationale of moving through with this is that it only deals with one type of missile that is perhaps of limited importance in today's world—although certainly the deterrence will continue to be part of our strategy—and we are just dealing with these so-called strategic weapons and not tactical weapons, and that we can give this up, we can reduce the number we have in order to gain Russia's cooperation in other matters. I understand that rationale. But this is more than just a treaty between the United States and Russia; it is a signal to our allies and to the whole world on what posture America will take in the future on defending our allies, what posture we will take particularly on missile defense. That is where I wish to focus most of my comments today.

There was no argument in the hearings that this treaty is an implicit and explicit agreement by the United States not to develop a missile defense system that can defend against Russian missiles. That should be clear, and there is no argument.

I think we have played with words a little bit in saying it does not limit our plans in missile defense. Our plans are to develop an unlimited system that can shoot down a rogue missile. But in the hearings with Secretary Gates, Secretary Clinton, Chairman KERRY, it was made very clear that this treaty—it made it clear to the Russians and to the whole world that the United States would not even attempt to develop a missile defense system capable of shooting down multiple missiles.

Now, if Russia was the only country in the world capable of developing multiple nuclear missiles, perhaps we could discuss that within that context. But as we know today, there has been a proliferation of nuclear technology to many countries, including Iran and North Korea. We know that other countries such as Pakistan have nuclear weapons. It is not unrealistic to suggest that within a few years there may be numerous countries that have capabilities to fire multiple missiles at the United States or one of our allies.

Americans need to know we are agreeing with this START treaty not to even attempt to develop a system to defend our citizens or our allies against multiple missiles. In the hearing, I made this very clear with a question: Is it our intent not to develop a missile defense system capable of defending against Russian missiles? Senator KERRY, Secretary Gates, and Secretary Clinton agreed that would destabilize our relationship with Russia. So everyone should be clear about what is happening here—that in order to enlist Russia's cooperation in other matters, we are agreeing to a continued strategy of mutually assured destruction not just with Russia but with any country that chooses to develop the ability to fire multiple missiles at one time.

I don't think this treaty is going to decrease proliferation. I think on its face it will increase the proliferation of nuclear weapons around the world. Our enemies will know we don't have the ability to defend against missiles, and our allies will develop their own nuclear weapons because they know we no longer have the capability to defend against not just Russia's missiles, not just strategic missiles, but against tactical nuclear weapons.

Russia has a 10-to-1 advantage right now with modern tactical nuclear weapons that are developed not as a deterrent but to be used on the battlefield. This treaty does not limit their ability to continue to develop these weapons. This treaty implicitly and I think explicitly says we are not going to develop any means to shoot down those shorter range missiles.

For us to be considering something of this gravity during the holidays, when Americans are rightly paying attention to things other than politics, and to rush this through with a few days of

debate, when for the last treaty I looked at, we had 9 days with many amendments, a lot of debate, and finally agreement—we will not only have limited debate and limited amendments, but we are going to try to push this through before we leave to go home for Christmas. The process is wrong.

I would appeal to my colleagues to let this go until next year. Let's give a specific time agreement next year that we will debate this and we will have a vote on it and we will offer amendments and vote on those amendments and show the American people this was a full debate with full transparency about what is in this treaty and then let Senators vote on it, the Senators Americans have elected to speak for them here in the Senate.

I have heard folks say on the Senate floor that we need to rush into this because we can no longer go days, weeks, and months without verification. I think a close look at the verification of the last treaty shows we weren't very close to what was actually going on. There are big loopholes in the verification aspects of this treaty, loopholes that are big enough to hide missiles and nuclear warheads, and I don't think there is a lot of debate about that. A few more weeks is not going to put our country in any more jeopardy. In fact, I think rushing this through could make the world much more dangerous.

My hope is that my colleagues, particularly my Republican colleagues, those who have expressed an interest in voting for this, will say: Enough is enough. Pushing this legislation, along with repealing don't ask, don't tell, the DREAM Act and other bills we are doing at the same time, and all of these requests for unanimous consent to pass bills that people haven't read—there is just too much business, too many distractions to take on something of this gravity at this time in a lameduck Congress.

So I appreciate the opportunity to speak. I respect those who feel as though this treaty is something we should do. But it is my hope that those people will reflect on the importance of this treaty, the signal it sends to our allies all over the world, and work with us to get an open and honest debate on this treaty at the beginning of next year.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

MR. ISAKSON. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GOLD STANDARD AMONG MORTGAGES

MR. ISAKSON. Mr. President, on the 8th day of November of this year, I, along with Senator HAGAN from North Carolina and Senator LANDRIEU from

Louisiana, sent a letter to Secretary Donovan, Chairman Bernanke, Acting Director DeMarco, Chairman Sheila Blair, Chairman Schapiro, and Acting Comptroller Walsh, asking them to look closely at the 941(b) requirements of the Dodd-Frank bill relating to risk retention and to urge them to complete their work on carrying out the intent of that legislation through the amendment that the three of us cosponsored to create the exemption for risk retention requirements by the definition of a qualified mortgage.

I rise today, on one of the final days in this Congress, to raise the importance of this issue because of the current fragile condition of the U.S. housing economy and, most importantly, to underscore what a handful of Senators in this body did last summer in the financial reform bill to begin to improve and strengthen the eroding lending standards that got us into this position in the first place.

I ran a business for 22 years in residential housing in Atlanta. During that time, the average default rate, or delinquent rate, was about 3 percent on mortgages. The foreclosure rate was less than 1½. Things have changed dramatically in the last few years because of sloppy underwriting, no credit, and no documentation. We have seen some unbelievable new numbers. To give you some perspective, according to FDIC, in the third quarter of 2010, total mortgage delinquencies across the country were about 10 percent of the market, or 1 in 10. In Georgia, that number exceeded 12. In the 100-percent government-guaranteed FHA market, the delinquency rate is just above 13 percent and, sadly, in Georgia, in the third quarter that rose above 20 percent—1 in every 5.

We have mounting problems with growing housing inventory—problems that are only made worse with excessive fees currently charged by Freddie Mac and Fannie Mae, frankly, keeping many from being able to refinance into a more affordable mortgage, therefore, becoming delinquent and being foreclosed on.

I am extremely proud of the bipartisan provision that Senator HAGAN, Senator LANDRIEU, and myself added to the financial reform bill. Earlier this year, I began working with Senators LANDRIEU and HAGAN to develop the concept of a qualified residential mortgage, QRM or, as I call it, a “new gold standard” for residential mortgages, which ultimately was included in the credit risk retention title of 941(b) in the financial reform bill. While risk retention can serve as a strong deterrent to excessive risk taken by lenders, it also imposes the potential of a constriction of credit in the mortgage market.

I want to make this point clear. The risk retention provision of the Dodd-Frank bill would require an originator

of a mortgage to retain 5 percent of that mortgage as risk retention. As we all know, tier one capital requirements by the banking system is only 8 percent for the solid footing for the entire bank, and we were going to add another 5 to it just because they make mortgages. What is going to happen is that very few mortgages will be made, and those that will be made will be only the most pristine ones, not necessarily the ones that meet the needs of middle America.

Likewise, our standard makes sure venturesome lending practice can never become qualified residential mortgages. We specifically delineate in the amendment that things such as balloon mortgages, no-doc loans, drive-by appraisals, and interest-only loans, loans with huge prepayment penalties, and negative amortization mortgages would never be considered a qualified mortgage. Against those loans, you should require risk retention and additional security on the part of the lenders.

But in terms of mainstream America, we need to go back to the good old days of the 1960s, 1970s, and 1980s, where if you got a residential mortgage, you had to get a letter from your boss saying that you had a job, your bank had to certify that you had the money in the bank account to pay the downpayment, your credit report had to be a good one saying you could pay your mortgage, the appraiser had to use legitimate information to appraise the house, and the underwriters had to match your debt against your income to ensure that they weren't at too high a risk. That is why in those wonderful days we only had 1.5 percent in foreclosures and less than 3 percent in defaults.

But the easy underwriting that started in 2006, and then accelerated, caused us lots of problems. That is what we are here to try to stop today. I am optimistic that our amendment will be the first step to correct the lending practices of the past and will set on a better path in the future.

In the law, we instructed the regulators to use specific criteria in conjunction with loan performance data to define the contours of the quality residential mortgage exemption. As we said in our November 8 letter to the regulators responsible for writing these rules:

It was our clear legislative intent that, underwriting and product features that data indicate a lower risk of default must be considered. Prior to sponsoring the Amendment, we were provided with analyses of loan level data that demonstrated that loans that satisfy the elements set out in our Amendment default less frequently and cure more often than riskier loans. We understand that each of your agencies have been provided with this analysis, updated to reflect loan performance in 2010. In particular this analysis demonstrates that historically tested standards, including full documentation of bor-

rower income and assets, reasonable total debt-to-income ratios and restrictions on riskier loan features, such as negative amortization and balloon payments, significantly reduce the risk of default. In addition, for loans with lower down payments that have combined loan-to-value ratios greater than 80 percent, the protections provided by mortgage insurance result in lower losses for lenders and investors and fewer foreclosures for borrowers than similar loans that lack insurance. The mortgage insurance provision ensures that the qualified residential mortgage exemption can serve those consumers that cannot afford a 20 percent down payment while putting substantial private capital at risk to drive underwriting discipline.

I am aware these agencies are actively engaged and meeting. I recently received a response from the regulators assuring me that they will be implementing our QRM legislation "in a manner consistent with the language and purposes of that section." It is my hope that these regulators will follow the intent of the legislation, by ensuring a broad spectrum of qualified borrowers will fit under the umbrella of protection under the qualified residential mortgage safety and soundness provisions.

I look forward to continuing to work with my colleagues on the other side in the new Congress to help to continue to improve our system of housing finance. It is with great anticipation that we await the administration's plans to do with Freddie and Fannie.

I have my own ideas, which I have expressed on this floor. I look forward to working with Chairman TIM JOHNSON and Ranking Member SHELBY in the months ahead.

The crisis we have experienced in large foreclosures and defaults, the declines in housing values, and a protracted housing recession, will only be cured in time when we return to a strong and vibrant lending market, where qualified loans and borrowers come together to fuel the housing market once again. Until that happens, I fear that the recession and the recovery we are in will be protracted and will be slow, and the American dream will still be out of reach of too many Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

RARE EARTH ELEMENTS

Mr. BOND. Mr. President, I come to the floor today to talk about the biggest problem no one's ever heard of—America's 100 percent dependence on foreign countries for our rare earth needs—and to introduce legislation that is an essential part of the solution.

If you are at all like me, you may be scratching your head over what exactly are rare-earth metals?

To go back in time a little, more so for some than others, when you were studying the Periodic Table in high school chemistry, rare-earth elements are the metals you were told you would never have to worry about.

Unfortunately, that is the problem—until recently, no one was worrying about rare-earth elements.

But in fact, these metals are critical to U.S. economic and national security.

Back to that high school chemistry class again, rare-earth elements are metallic minerals that significantly enhance the performance of other materials.

These elements are used in small amounts in about every advanced industrial product—we are talking about a wide array of products that Americans depend on every day—from MRI machines to cell phones to computers.

In addition to being an essential component in everyday high-tech products, rare-earth elements are also necessary to our defense industrial base.

Precision guided missiles, secure communications, advanced jet engines, unmanned aerial systems, smart munitions, stealth technology and advanced armor all are rare-earth dependent systems and technologies.

Rare-earth elements also hold unique chemical, magnetic, electrical, luminescence, and radioactive shielding characteristics for environmental and "green technology" applications—like hybrid car engines.

Despite the importance of rare-earth elements, the United States is currently 100 percent import-dependent for our rare-earth needs.

Let me spell that out for you—while the United States today is the world's sole economic and military superpower, there is not a single U.S. or North American company actively producing rare-earth elements, metals, alloys or rare-earth magnets.

The United States Geological Survey, USGS, the National Academies, and the National Materials Advisory Board have all determined that rare earths are "Strategic and Critical" to U.S. Industry and National Defense.

Yet, the U.S. is 100 percent import dependent upon these materials?

How could we have let this happen?

How could we let a critical component of our economy become beholden to foreign entities?

Concerns about the world's dependence on rare-earth minerals are not just some attempt to read the tea leaves about some futuristic problem.

In fact, the problems for some of our allies have already started.

Over the past several months, Japan has sounded the alarm over their inability to acquire supplies of the rare earths to their companies.

What if our own Nation's ability to import rare-earth elements was restricted or stopped all together?

According to a Government Accountability Office report, GAO, earlier this year, it could take as long as 15 years to rebuild our rare-earth industry.

Common sense tells us that—considering our dependence on rare-earth

metals—we don't have another day to waste.

That is what this bill I am cosponsoring today with my good friend, and fellow retiring colleague, Senator BAYH, is all about.

Our legislation will promote the domestic supply and refinement of rare-earth minerals.

It is time to take necessary actions to redevelop a domestic resource of rare-earth elements.

A domestic resource that will ensure we protect our national defense, technology-based industries, and the industrial competitiveness of the United States.

Currently, there are no active rare-earth production facilities in the Western Hemisphere.

However, the Pea Ridge mine in Sullivan, MO, is one of two permitted, but shuttered, mines in the United States.

It is here where, according to the U.S. Geological Survey, the greatest concentrations of both light and heavy rare-earth elements exist, particularly those needed for the defense industry.

Rare-earth ore, or oxides, extracted from these mines need to be reduced into a more pure elemental state before being used by industry.

Redeveloping our rare-earth capabilities will be no easy task—in fact, the hurdles for financing such a refinery are significant.

The cost to construct a modern rare-earth refinery capable of supplying a U.S. consumption of 20,000 tons per year is estimated at more than \$1 billion.

I do not believe it is practical or desirable for the United States to depend upon any single rare-earth mining company to supply our Nation's rare-earth production or supply chain requirements.

This is why our legislation will require a feasibility study on building a U.S. cooperative refinery to process rare-earth ores from mines in the United States or other allied countries.

Such a cooperative, similar to our successful agricultural co-ops all across rural America, will set the stage for the U.S. Government to establish reserves and protect national security.

To brag on my home State for a minute—Missouri would be ideally suited for the location of a cooperative refinery, given the importance of the Pea Ridge deposit.

Missouri's experienced mining and minerals-processing workforce, its favorable access and costs to the utilities needed to operate a refinery and central location and transportation infrastructure all make Missouri well positioned to help preserve our Nation's strategic and economic security.

In dealing with the tremendous costs of establishing a production and refining facility, the legislation would also provide the Department of Defense \$20 million to support the defense supply

chain and also \$30 million for the development of rare Earth magnets.

The time has come for our country to act and for this Congress—certainly the next Congress—to take the necessary steps to secure our economic and strategic future. By ensuring that our Nation has its own domestic supply of rare Earths and the ability to process them, we should be able to compete in the 21st century.

The bill Senator BAYH and I have introduced will do just that. While introducing legislation during the last days of the lameduck may seem like a "Hail Mary," this issue is too important to continue to ignore, and we felt it was necessary to launch a "Hail Mary" in hopes there will be others of our colleagues who will catch it and run with the ball in the next session of Congress—to mix up the metaphors badly.

In fact, ignoring our growing rare Earth needs and the overseas dominance and China's monopoly is how we got into this mess. Senator BAYH and I have laid the groundwork for this bill, and I hope my colleagues in January will call it back up and see it passed.

The bottom line is this: Just as we cannot afford to be dependent solely on foreign oil cartels for our Nation's energy, counting on any one or a few countries to supply all of America's rare Earth needs crucial to our technological innovation and national security needs is too risky a bet.

I thank my colleagues for listening. I hope they will take up the ball in the next Congress and make sure we begin to deal with this very important problem very seriously.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me just say, at this point, to the Senator from Missouri, that I greatly appreciate the comments he made. This question of our dependence on a whole series of things which matter to our national security, including these rare minerals, is an enormously important one, and I think he has done a good service to the Senate to bring it to our attention. So I thank him for that.

Let me also say we are open for business. We would love to get going on some amendments on the START treaty, and I look forward to the opportunity to debate those amendments and, hopefully, have some votes on them in the course of the afternoon.

Until such time as that may become a reality, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. KERRY. Mr. President, I ask unanimous consent to proceed as if in legislative session for the purpose of processing some cleared legislative items.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAL ESTATE JOBS AND INVESTMENT ACT OF 2010

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 505, H.R. 5901.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5901) to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investment in United States real property interests, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Mr. President, I ask unanimous consent that the amendment at the desk be considered and agreed to, the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that the title amendment which is at the desk be considered and agreed to, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4834) was agreed to as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORITY OF TAX COURT TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 of the Internal Revenue Code of 1986 (relating to employees) is amended to read as follows:

“(a) APPOINTMENT AND COMPENSATION.—

“(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

“(2) JUDGE-APPOINTED EMPLOYEES.—

“(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint employees, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the appointing judge.

“(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the law clerk's credit as of the effective date of this subsection shall remain credited to the law clerk and shall be available to the law clerk upon separation from the Federal Government.

“(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without

regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

“(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in courts established under Article III of the Constitution of the United States.

“(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

“(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

“(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

“(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

“(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

“(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

“(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

“(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

“(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

“(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

“(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

“(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

“(10) MERIT SYSTEM PRINCIPLES, PROHIBITED PERSONNEL PRACTICES, AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

“(A) include the principles set forth in section 2301(b) of title 5, United States Code;

“(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

“(C) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

The amendment (No. 4835) was agreed to, as follows:

Amend the title so as to read: “An Act to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees.”.

The amendments were ordered to be engrossed and the bill, as amended, to be read a third time.

The bill (H.R. 5901), as amended, was read the third time and passed.

NATIONAL WILDLIFE REFUGE VOLUNTEER IMPROVEMENT ACT OF 2010

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 693, H.R. 4973.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4973) to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4973) was ordered to be read a third time, was read the third time, and passed.

FRANK MELVILLE SUPPORTIVE HOUSING INVESTMENT ACT OF 2009

Mr. KERRY. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 689, S. 1481.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1481) to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the “Frank Melville Supportive Housing Investment Act of [2009]2010”.

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, section 811 or any other provision of section 811, the reference shall be considered to be made to section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

ISEC. 2. TENANT-BASED RENTAL ASSISTANCE THROUGH CERTIFICATE FUND.

[(a) TERMINATION OF MAINSTREAM TENANT-BASED RENTAL ASSISTANCE PROGRAM.—Section 811 is amended—

[(1) in subsection (b)—

[(A) by striking the subsection designation and all that follows through the end of subparagraph (B) of paragraph (2) and inserting the following:

[(“(b) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary is authorized to provide assistance to private nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

[(“(1) capital advances in accordance with subsection (d)(1), and

[(“(2) contracts for project rental assistance in accordance with subsection (d)(2).”]; and

[(B) by striking “assistance under this paragraph” and inserting “Assistance under this subsection”];

[(2) in subsection (d), by striking paragraph (4); and

[(3) in subsection (1), by striking paragraph (1).

[(b) RENEWAL THROUGH SECTION 8.—Section 811 is amended by adding at the end the following new subsection:

[(“(p) AUTHORIZATION OF APPROPRIATIONS FOR SECTION 8 ASSISTANCE.—

[(“(1) IN GENERAL.—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities in fiscal year 2009 the amount necessary to provide a number of incremental vouchers under such section that is equal to the number of vouchers provided in fiscal year 2008 under the tenant-based rental assistance program under subsection (d)(4) of this section (as in effect before the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2009).

[(“(2) REQUIREMENTS UPON TURNOVER.—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.”.]

SEC. 2. TENANT-BASED RENTAL ASSISTANCE.

(a) RENEWAL THROUGH SECTION 8.—Section 811(d)(4) is amended to read as follows:

“(4) TENANT-BASED RENTAL ASSISTANCE.—

“(A) IN GENERAL.—Tenant-based rental assistance provided under subsection (b)(1) shall be provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

“(B) CONVERSION OF EXISTING ASSISTANCE.—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities an amount not less than the amount necessary to convert the number of authorized vouchers and funding under an annual contributions contract in effect on the date of enactment of the Frank Melville Supportive Housing Investment Act of 2010. Such converted vouchers may be administered by the entity administering the vouchers prior to conversion. For purposes of administering such converted vouchers, such entities shall be considered a ‘public housing agency’ authorized to engage in the operation of tenant-based assistance under section 8 of the United States Housing Act of 1937.

“(C) REQUIREMENTS UPON TURNOVER.—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.”

(b) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary is authorized to the extent amounts are made available in future appropriations Acts, to provide technical assistance to public housing agencies and other administering entities to facilitate using vouchers to provide permanent supportive housing for persons with disabilities, help States reduce reliance on segregated restrictive settings for people with disabilities to meet community care requirements, end chronic homelessness, as “chronically homeless” is defined in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361), and for other related purposes.

SEC. 3. MODERNIZED CAPITAL ADVANCE PROGRAM.

(a) PROJECT RENTAL ASSISTANCE CONTRACTS.—Section 811 is amended—

(1) in subsection (d)(2)—

(A) by inserting “(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.—” after “PROJECT RENTAL ASSISTANCE.—”;

(B) in the first sentence, by inserting after “shall” the following: “comply with subsection (e)(2) and shall”;

(C) by striking “annual contract amount” each place such term appears and inserting “amount provided under the contract for each year covered by the contract”; and

(D) by adding at the end the following new subparagraph:

“(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—

“(i) EXPIRATION OF CONTRACT TERM.—Upon the expiration of each contract term, subject to the availability of amounts made available in appropriation Acts, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, [and any increases,] including adequate reserves and service coordinators as appropriate, except that any contract amounts not used by

a project during a contract term shall not be available for such adjustments upon renewal.

“(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.”

(2) in subsection (e)(2)—

(A) in the first sentence, by inserting before the period at the end the following: “, except that, in the case of the sponsor of a project assisted with any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 or with any tax-exempt housing bonds, the contract shall have an initial term of not less than 360 months and shall provide funding for a term of 60 months”; and

(B) by striking “extend any expiring contract” and insert “upon expiration of a contract (or any renewed contract), renew such contract”.

(b) PROGRAM REQUIREMENTS.—Section 811 is amended—

(1) in subsection (e)—

(A) by striking the subsection heading and inserting the following: “PROGRAM REQUIREMENTS”;

(B) by striking paragraph (1) and inserting the following new paragraph:

“(1) USE RESTRICTIONS.—

“(A) TERM.—Any project for which a capital advance is provided under subsection (d)(1) shall be operated for not less than 40 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary and shall, during such period, be made available for occupancy only by very low-income persons with disabilities.

“(B) CONVERSION.—If the owner of a project requests the use of the project for the direct benefit of very low-income persons with disabilities and, pursuant to such request the Secretary determines that a project is no longer needed for use as supportive housing for persons with disabilities, the Secretary may approve the request and authorize the owner to convert the project to such use.”; and

(C) by adding at the end the following new paragraphs:

“(3) LIMITATION ON USE OF FUNDS.—No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist persons with disabilities.

“(4) MULTIFAMILY PROJECTS.—

“(A) LIMITATION.—Except as provided in subparagraph (B), of the total number of dwelling units in any multifamily housing project (including any condominium or cooperative housing project) containing any unit for which assistance is provided from a capital grant under subsection (d)(1) made after the date of the enactment of the Frank Melville Supportive Housing Investment Act of [2009]2010, the aggregate number that are used for persons with disabilities, including supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

“(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of any project that is a group home or independent living facility.”; and

(2) in subsection (1), by striking paragraph (4).

(c) DELEGATED PROCESSING.—Subsection (g) of section 811 (42 U.S.C. 8013(g)) is amended—

(1) by striking “SELECTION CRITERIA.—” and inserting “SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—”;

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (G), and (H), respectively; and

(3) by adding at the end the following new paragraph:

“(2) DELEGATED PROCESSING.—

“(A) In issuing a capital advance under subsection (d)(1) for any multifamily project (but not including any project that is a group home or independent living facility) for which financing for the purposes described in the last sentence of subsection (b) is provided by a combination of the capital advance and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that—

“(i) is in geographic proximity to the property;

“(ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;

“(iii) may or may not be providing low-income housing tax credits in combination with the capital advance under this section; and

“(iv) agrees to issue a firm commitment within 12 months of delegation.

“(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency [has applied to]is sufficiently qualified to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

“(C) The Secretary shall—

“(i) develop criteria and a timeline to periodically assess the performance of State and local housing agencies in carrying out the duties delegated to such agencies pursuant to subparagraph (A); and

“(ii) retain the authority to review and process projects financed by a capital advance in the event that, after a review and assessment, a State or local housing agency is determined to have failed to satisfy the criteria established pursuant to clause (i).

“(D) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

“(E) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in capital advance amounts or project rental assistance and such reductions shall be subject to appeal.”.

(d) LEVERAGING OTHER RESOURCES.—Paragraph (1) of section 811(g) (as so designated by subsection (c)(1) of this section) is amended by inserting after subparagraph (E) (as so redesignated by subsection (c)(2) of this section) the following new subparagraph:

“(F) the extent to which the per-unit cost of units to be assisted under this section will be supplemented with resources from other public and private sources;”.

(e) **TENANT PROTECTIONS AND ELIGIBILITY FOR OCCUPANCY.**—Section 811 is amended by striking subsection (i) and inserting the following new subsection:

“(i) **ADMISSION AND OCCUPANCY.**—

“(1) **TENANT SELECTION.**—

“(A) **PROCEDURES.**—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

“(B) **REQUIREMENT FOR OCCUPANCY.**—Occupancy in dwelling units provided assistance under this section shall be available only to persons with disabilities and households that include at least one person with a disability.

“(C) **AVAILABILITY.**—Except only as provided in subparagraph (D), occupancy in dwelling units in housing provided with assistance under this section shall be available to all persons with disabilities eligible for such occupancy without regard to the particular disability involved.

“(D) **LIMITATION ON OCCUPANCY.**—Notwithstanding any other provision of law, the owner of housing developed under this section may, with the approval of the Secretary, limit occupancy within the housing to persons with disabilities who can benefit from the supportive services offered in connection with the housing.

“(2) **TENANT PROTECTIONS.**—

“(A) **LEASE.**—The lease between a tenant and an owner of housing assisted under this section shall be for not less than one year, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

“(B) **TERMINATION OF TENANCY.**—An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a rental dwelling unit assisted under this section except—

“(i) for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause; and

“(ii) by providing the tenant, not less than 30 days before such termination or refusal to renew, with written notice specifying the grounds for such action.

“(C) **VOLUNTARY PARTICIPATION IN SERVICES.**—A supportive service plan for housing assisted under this section shall permit each resident to take responsibility for choosing and acquiring their own services, to receive any supportive services made available directly or indirectly by the owner of such housing, or to not receive any supportive services.”.

(f) **DEVELOPMENT COST LIMITATIONS.**—Subsection (h) of section 811 is amended—

(1) in paragraph (1)—

(A) by striking the paragraph heading and inserting “GROUP HOMES”;

(B) in the first sentence, by striking “various types and sizes” and inserting “group homes”;

(C) by striking subparagraph (E); and

(D) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(2) in paragraph (3), by inserting “established pursuant to paragraph (1)” after “cost limitation”; and

(3) by adding at the end the following new paragraph:

“(6) **APPLICABILITY OF HOME PROGRAM COST LIMITATIONS.**—

“(A) **IN GENERAL.**—The provisions of section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(e)) and the cost limits established by the Secretary pursuant to such section with respect to the amount of funds under subtitle A of title II of such Act that may be invested on a per unit basis, shall apply to supportive housing assisted with a capital advance under subsection (d)(1) and the amount of funds under such subsection that may be invested on a per unit basis.

“(B) **WAIVERS.**—The Secretary [shall] may provide for waiver of the cost limits applicable pursuant to subparagraph (A)—

“(i) in the cases in which the cost limits established pursuant to section 212(e) of the Cranston-Gonzalez National Affordable Housing Act may be waived; and

“(ii) to provide for—

“(I) the cost of special design features to make the housing accessible to persons with disabilities;

“(II) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities; and

“(III) the cost of providing the housing in a location that is accessible to public transportation and community organizations that provide supportive services to persons with disabilities.”.

[(g) **REPEAL OF AUTHORITY TO WAIVE SIZE LIMITATIONS.**—Paragraph (1) of section 811(k) is amended—

[(1) in paragraph (1), by striking the second sentence; and

[(2) in paragraph (4), by striking “(or such higher number of persons)” and all that follows through “subsection (h)(6))”].

(g) **CONGRESSIONAL NOTIFICATION OF WAIVER.**—Section 811(k)(1) is amended by adding the following after the second sentence: “Not later than the date of the exercise of any waiver permitted under the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the waiver or the intention to exercise the waiver, together with a detailed explanation of the reason for the waiver.”.

(h) **MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.**—[Subsection (l) of section 811, as amended by the preceding provisions of this Act, is further amended by inserting before paragraph (2) the following new paragraph:] Paragraph (1) of section 811(l) is amended to read as follows:

“(1) **MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.**—The Secretary shall establish a minimum percentage of the amount made available for each fiscal year for capital advances under subsection (d)(1) that shall be used for multifamily projects subject to subsection (e)(4).”.

SEC. 4. PROJECT RENTAL ASSISTANCE COMPETITIVE DEMONSTRATION PROGRAM.

Section 811, as amended by the preceding provisions of this Act, is further amended—

(1) by redesignating subsections (k) through (n) as subsections (l) through (o), respectively; and

(2) by inserting after subsection (j) the following new subsection:

“(k) **PROJECT RENTAL ASSISTANCE-ONLY COMPETITIVE DEMONSTRATION PROGRAM.**—

“(1) **AUTHORITY.**—The Secretary shall carry out a demonstration program under this subsection to expand the supply of supportive

housing for non-elderly adults with disabilities, under which the Secretary shall make funds available for project rental assistance pursuant to paragraph (2) for eligible projects under paragraph (3). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary for the demonstration program under this subsection. The Secretary may not require any State housing finance agency or other entity applying for project rental assistance funds under the demonstration program to identify in such application the eligible projects for which such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in paragraph (3)(B).

“(2) **PROJECT RENTAL ASSISTANCE.**—

“(A) **CONTRACT TERMS.**—Project rental assistance under the demonstration program under this subsection shall be provided—

“(i) in accordance with subsection (d)(2);

“(ii) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

“(B) **LIMITATION ON UNITS ASSISTED.**—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under the demonstration program under this subsection is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

“(C) **PROHIBITION OF CAPITAL ADVANCES.**—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under the demonstration program.

“(D) **ELIGIBLE POPULATION.**—Project rental assistance under the demonstration program under this subsection may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

“(3) **ELIGIBLE PROJECTS.**—An eligible project under this paragraph is a new or existing multifamily housing project for which—

“(A) the development costs are paid with resources from other public or private sources; and

“(B) a commitment has been made—

“(i) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

“(ii) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

“(iii) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

“(4) **STATE AGENCY INVOLVEMENT.**—Assistance under the demonstration may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan

for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

“(A) to identify the target populations to be served by the project;

“(B) to set forth methods for outreach and referral; and

“(C) to make available appropriate services for tenants of the project.

“(5) **USE REQUIREMENTS.**—In the case of any project for which project rental assistance is provided under the demonstration program under this subsection, the dwelling units assisted pursuant to paragraph (2) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in paragraph (2)(D).

“(6) **DURATION OF DEMONSTRATION.**—*The Secretary may provide new project rental assistance contracts pursuant to the demonstration program established under this subsection for a period of not more than 5 years.*

“(7) **REPORT.**—Upon the expiration of the 5-year period [beginning on the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2009] set forth in paragraph (6), the Secretary shall submit to the Congress a report describing the demonstration program under this subsection, analyzing the effectiveness of the program, including the effectiveness of the program compared to the program for capital advances in accordance with subsection (d)(1) (as in effect pursuant to the amendments made by such Act), and making recommendations regarding future models for assistance under this section based upon the experiences under the program.”

SEC. 5. TECHNICAL CORRECTIONS.

Section 811 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2)—

(i) by striking “provides” and inserting “makes available”; and

(ii) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(3) promotes and facilitates community integration for people with significant and long-term disabilities.”;

(2) in subsection (c)—

(A) in paragraph (1), by striking “special” and inserting “housing and community-based services”; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

“(A) make available voluntary supportive services that address the individual needs of persons with disabilities occupying such housing”; and

(ii) in subparagraph (B), by striking the comma and inserting a semicolon;

(3) in subsection (d)(1), by striking “provided under” and all that follows through “shall bear” and inserting “provided pursuant to subsection (b)(1) shall bear”;

(4) in subsection (f)—

(A) in paragraph (3)—

(i) in subparagraph (B), by striking “receive” and inserting “be offered”; and

(ii) by striking subparagraph (C) and inserting the following:

“(C) evidence of the applicant’s experience in—

“(i) providing such supportive services; or

“(ii) creating and managing structured partnerships with service providers for the delivery of appropriate community-based services”;;

(iii) in subparagraph (D), by striking “such persons” and all that follows through “provision of such services” and inserting “tenants”; and

(iv) in subparagraph (E), by inserting “other Federal, and” before “State”; and

(B) in paragraph (4), by striking “special” and inserting “housing and community-based services”;

(5) in subsection (g), in paragraph (1) (as so redesignated by section 3(c)(1) of this Act)—

(A) in subparagraph (D) (as so redesignated by section 3(c)(2) of this Act), by striking “the necessary supportive services will be provided” and inserting “appropriate supportive services will be made available”; and

(B) by striking subparagraph (E) (as so redesignated by section 3(c)(2) of this Act) and inserting the following:

“(E) the extent to which the location and design of the proposed project will facilitate the provision of community-based supportive services and address other basic needs of persons with disabilities, including access to appropriate and accessible transportation, access to community services agencies, public facilities, and shopping”;;

(6) in subsection (j)—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;

(7) in subsection (1) (as so redesignated by section 4(1) of this Act)—

(A) in paragraph (1), by inserting before the period at the end of the first sentence the following: “, which provides a separate bedroom for each tenant of the residence”;;

(B) by striking paragraph (2) and inserting the following:

“(2)(A) The term ‘person with disabilities’ means a person who is 18 years of age or older and less than 62 years of age, who—

“(i) has a disability as defined in section 223 of the Social Security Act,

“(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which—

“(I) is expected to be of long-continued and indefinite duration;

“(II) substantially impedes his or her ability to live independently; and

“(III) is of such a nature that such ability could be improved by more suitable housing conditions; or

“(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

“(B) Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

“(C) The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provi-

sions of this paragraph, the term ‘person with disabilities’ includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in subparagraph (A) who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.”;

(C) by striking paragraph (3) and inserting the following new paragraph:

“(3) The term ‘supportive housing for persons with disabilities’ means dwelling units that—

“(A) are designed to meet the permanent housing needs of very low-income persons with disabilities; and

“(B) are located in housing that make available supportive services that address the individual health, mental health, or other needs of such persons.”;

(D) in paragraph (5), by striking “a project for”; and

(E) in paragraph (6)—

(i) by inserting after and below subparagraph (D) the matter to be inserted by the amendment made by section 841 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569; 114 Stat. 3022); and

(ii) in the matter inserted by the amendment made by subparagraph (A) of this paragraph, by striking “wholly owned and”; and

(8) in subsection (m) (as so redesignated by section 4(1) of this Act)—

(A) in paragraph (2), by striking “sub-

section (c)(1)” and inserting “subsection (d)(1)”; and

(B) in paragraph (3), by striking “sub-

section (c)(2)” and inserting “subsection (d)(2)”.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Subsection (n) of section 811 (as so redesignated by section 4(1) of this Act) is amended to read as follows:

“(n) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for each of fiscal years [2009 through 2012] 2011 through 2015 the following amounts:

“(1) **CAPITAL ADVANCE/PRAC PROGRAM.**—For providing assistance pursuant to subsection (b), such sums as may be necessary.

“(2) **DEMONSTRATION PROGRAM.**—For carrying out the demonstration program under subsection (k), such sums as may be necessary to provide 2,500 incremental dwelling units under such program in fiscal year [2009] 2011 and 5,000 incremental dwelling units under such program in each of fiscal years [2010, 2011, and 2012] 2012, 2013, 2014, and 2015.”.

SEC. 7. NEW REGULATIONS AND PROGRAM GUIDANCE.

Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue new regulations and guidance for the program under section 811 of the Cranston-Gonzalez National Affordable Housing Act for supportive housing for persons with disabilities to carry out such program in accordance with the amendments made by this Act.

SEC. 8. GAO STUDY.

The Comptroller General of the United States shall conduct a study of the supportive housing for persons with disabilities program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) to determine the adequacy

and effectiveness of such program in assisting households of persons with disabilities. Such study shall determine—

(1) the total number of households assisted under such program;

(2) the extent to which households assisted under other programs of the Department of Housing and Urban Development that provide rental assistance or rental housing would be eligible to receive assistance under such section 811 program; and

(3) the extent to which households described in paragraph (2) who are eligible for, but not receiving, assistance under such section 811 program are receiving supportive services from, or assisted by, the Department of Housing and Urban Development other than through the section 811 program (including under the Resident Opportunity and Self-Sufficiency program) or from other sources.

Upon the completion of the study required under this section, the Comptroller General shall submit a report to the Congress setting forth the findings and conclusions of the study.

Mr. KERRY. Mr. President, I ask unanimous consent the committee-reported amendments be considered, a JOHANNIS amendment which is at the desk be agreed to, that the committee-reported amendments, as amended, be agreed to, the bill as amended be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4836) was agreed to, as follows:

On page 19, line 9, strike “811(k)(1) is amended by adding the following” and insert the following: “811(k) is amended—

“(1) in paragraph (1), by adding the following”

On page 19, line 16, strike the second period and insert the following: “; and”.

On page 19, between lines 16 and 17, insert the following:

(2) in paragraph (4)—

(A) by striking “prescribe, subject to the limitation under subsection (h)(6) of this section” and inserting “prescribe”; and

(B) by adding the following after the first sentence: “Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.”

On page 20, strike line 4 and all that follows through page 25, line 14, and insert the following:

SEC. 4. PROJECT RENTAL ASSISTANCE.

Section 811(b) is amended—

(1) in the matter preceding paragraph (1), by striking “is authorized—” and inserting “is authorized to take the following actions”;

(2) in paragraph (1)—

(A) by striking “(1) to provide tenant-based” and inserting “(1) TENANT-BASED ASSISTANCE.—To provide tenant-based”; and

(B) by striking “; and” and inserting a period;

(3) in paragraph (2), by striking “(2) to provide assistance” and inserting “(2) CAPITAL ADVANCES.—To provide assistance”; and

(4) by adding at the end the following:

“(3) PROJECT RENTAL ASSISTANCE.—

“(A) IN GENERAL.—To offer additional methods of financing supportive housing for non-elderly adults with disabilities, the Secretary shall make funds available for project rental assistance pursuant to subparagraph (B) for eligible projects under subparagraph (C). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary. The Secretary may not require any State housing finance agency or other entity applying for such project rental assistance funds to identify in such application the eligible projects for which such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in subparagraph (C)(ii).

“(B) CONTRACT TERMS.—

“(i) CONTRACT TERMS.—Project rental assistance under this paragraph shall be provided—

“(I) in accordance with subsection (d)(2); and

“(II) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

“(ii) LIMITATION ON UNITS ASSISTED.—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under this paragraph is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

“(iii) PROHIBITION OF CAPITAL ADVANCES.—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under this paragraph.

“(iv) ELIGIBLE POPULATION.—Project rental assistance under this paragraph may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

“(C) ELIGIBLE PROJECTS.—An eligible project under this subparagraph is a new or existing multifamily housing project for which—

“(i) the development costs are paid with resources from other public or private sources; and

“(ii) a commitment has been made—

“(I) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

“(II) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

“(III) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

“(D) STATE AGENCY INVOLVEMENT.—Assistance under this paragraph may be provided

only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

“(i) to identify the target populations to be served by the project;

“(ii) to set forth methods for outreach and referral; and

“(iii) to make available appropriate services for tenants of the project.

“(E) USE REQUIREMENTS.—In the case of any project for which project rental assistance is provided under this paragraph, the dwelling units assisted pursuant to subparagraph (B) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in subparagraph (B)(iv).

“(F) REPORT.—Not later than 3 years after the date of the enactment of this paragraph, and again 2 years thereafter, the Secretary shall submit to Congress a report—

“(i) describing the assistance provided under this paragraph;

“(ii) analyzing the effectiveness of such assistance, including the effectiveness of such assistance compared to the assistance program for capital advances set forth under subsection (d)(1) (as in effect pursuant to the amendments made by such Act); and

“(iii) making recommendations regarding future models for assistance under this section.”

On page 28, line 20, strike “(1)” and all that follows through “Act)” on line 21, and insert “(k)”.

On page 29, strike line 1, and all that follows through page 30, line 23, and inserting the following:

(B) in paragraph (2), by striking the first sentence, and inserting the following: “The term ‘person with disabilities’ means a household composed of one or more persons who is 18 years of age or older and less than 62 years of age, and who has a disability.”

On page 31, line 23, strike “(m)” and all that follows through “Act)” on line 24, and insert “(l)”.

On page 32, strike lines 7 through 24, and insert the following:

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Subsection (m) of section 811 is amended to read as follows:

“(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for providing assistance pursuant to this section \$300,000,000 for each of fiscal years 2011 through 2015.”

On page 33, strike lines 1 through 9.

On page 33, line 10, strike “SEC. 8.” and insert “SEC. 7.”

The committee amendments, as amended, were agreed to.

The bill (S. 1481), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the “Frank Melville Supportive Housing Investment Act of 2010”.

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, section 811 or any other provision of section 811, the reference shall be considered to be made to section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

SEC. 2. TENANT-BASED RENTAL ASSISTANCE.

(a) RENEWAL THROUGH SECTION 8.—Section 811(d)(4) is amended to read as follows:

“(4) TENANT-BASED RENTAL ASSISTANCE.—

“(A) IN GENERAL.—Tenant-based rental assistance provided under subsection (b)(1) shall be provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

“(B) CONVERSION OF EXISTING ASSISTANCE.—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities an amount not less than the amount necessary to convert the number of authorized vouchers and funding under an annual contributions contract in effect on the date of enactment of the Frank Melville Supportive Housing Investment Act of 2010. Such converted vouchers may be administered by the entity administering the vouchers prior to conversion. For purposes of administering such converted vouchers, such entities shall be considered a ‘public housing agency’ authorized to engage in the operation of tenant-based assistance under section 8 of the United States Housing Act of 1937.

“(C) REQUIREMENTS UPON TURNOVER.—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.”

(b) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary is authorized to the extent amounts are made available in future appropriations Acts, to provide technical assistance to public housing agencies and other administering entities to facilitate using vouchers to provide permanent supportive housing for persons with disabilities, help States reduce reliance on segregated restrictive settings for people with disabilities to meet community care requirements, end chronic homelessness, as “chronically homeless” is defined in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361), and for other related purposes.

SEC. 3. MODERNIZED CAPITAL ADVANCE PROGRAM.

(a) PROJECT RENTAL ASSISTANCE CONTRACTS.—Section 811 is amended—

(1) in subsection (d)(2)—

(A) by inserting “(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.—” after “PROJECT RENTAL ASSISTANCE.—”;

(B) in the first sentence, by inserting after “shall” the following: “comply with subsection (e)(2) and shall”;

(C) by striking “annual contract amount” each place such term appears and inserting “amount provided under the contract for each year covered by the contract”; and

(D) by adding at the end the following new subparagraph:

“(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—

“(i) EXPIRATION OF CONTRACT TERM.—Upon the expiration of each contract term, subject to the availability of amounts made available in appropriation Acts, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, including adequate reserves and service coordinators as appropriate, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

“(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.”

(2) in subsection (e)(2)—

(A) in the first sentence, by inserting before the period at the end the following: “, except that, in the case of the sponsor of a project assisted with any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 or with any tax-exempt housing bonds, the contract shall have an initial term of not less than 360 months and shall provide funding for a term of 60 months”; and

(B) by striking “extend any expiring contract” and insert “upon expiration of a contract (or any renewed contract), renew such contract”.

(b) PROGRAM REQUIREMENTS.—Section 811 is amended—

(1) in subsection (e)—

(A) by striking the subsection heading and inserting the following: “PROGRAM REQUIREMENTS”;

(B) by striking paragraph (1) and inserting the following new paragraph:

“(1) USE RESTRICTIONS.—

“(A) TERM.—Any project for which a capital advance is provided under subsection (d)(1) shall be operated for not less than 40 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary and shall, during such period, be made available for occupancy only by very low-income persons with disabilities.

“(B) CONVERSION.—If the owner of a project requests the use of the project for the direct benefit of very low-income persons with disabilities and, pursuant to such request the Secretary determines that a project is no longer needed for use as supportive housing for persons with disabilities, the Secretary may approve the request and authorize the owner to convert the project to such use.”; and

(C) by adding at the end the following new paragraphs:

“(3) LIMITATION ON USE OF FUNDS.—No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist persons with disabilities.

“(4) MULTIFAMILY PROJECTS.—

“(A) LIMITATION.—Except as provided in subparagraph (B), of the total number of dwelling units in any multifamily housing project (including any condominium or cooperative housing project) containing any unit for which assistance is provided from a capital grant under subsection (d)(1) made after the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2010, the aggregate number that are used for persons with disabilities, including supportive housing for persons with disabilities,

or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

“(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of any project that is a group home or independent living facility.”; and

(2) in subsection (1), by striking paragraph (4).

(c) DELEGATED PROCESSING.—Subsection (g) of section 811 (42 U.S.C. 8013(g)) is amended—

(1) by striking “SELECTION CRITERIA.—” and inserting “SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—”;

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (G), and (H), respectively; and

(3) by adding at the end the following new paragraph:

“(2) DELEGATED PROCESSING.—

“(A) In issuing a capital advance under subsection (d)(1) for any multifamily project (but not including any project that is a group home or independent living facility) for which financing for the purposes described in the last sentence of subsection (b) is provided by a combination of the capital advance and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that—

“(i) is in geographic proximity to the property;

“(ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;

“(iii) may or may not be providing low-income housing tax credits in combination with the capital advance under this section; and

“(iv) agrees to issue a firm commitment within 12 months of delegation.

“(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency is sufficiently qualified to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

“(C) The Secretary shall—

“(i) develop criteria and a timeline to periodically assess the performance of State and local housing agencies in carrying out the duties delegated to such agencies pursuant to subparagraph (A); and

“(ii) retain the authority to review and process projects financed by a capital advance in the event that, after a review and assessment, a State or local housing agency is determined to have failed to satisfy the criteria established pursuant to clause (i).

“(D) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

“(E) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such

agency and the project sponsor, in writing, the reasons for any reduction in capital advance amounts or project rental assistance and such reductions shall be subject to appeal.”.

(d) **LEVERAGING OTHER RESOURCES.**—Paragraph (1) of section 811(g) (as so designated by subsection (c)(1) of this section) is amended by inserting after subparagraph (E) (as so redesignated by subsection (c)(2) of this section) the following new subparagraph:

“(F) the extent to which the per-unit cost of units to be assisted under this section will be supplemented with resources from other public and private sources;”.

(e) **TENANT PROTECTIONS AND ELIGIBILITY FOR OCCUPANCY.**—Section 811 is amended by striking subsection (i) and inserting the following new subsection:

“(i) **ADMISSION AND OCCUPANCY.**—

“(1) **TENANT SELECTION.**—

“(A) **PROCEDURES.**—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

“(B) **REQUIREMENT FOR OCCUPANCY.**—Occupancy in dwelling units provided assistance under this section shall be available only to persons with disabilities and households that include at least one person with a disability.

“(C) **AVAILABILITY.**—Except only as provided in subparagraph (D), occupancy in dwelling units in housing provided with assistance under this section shall be available to all persons with disabilities eligible for such occupancy without regard to the particular disability involved.

“(D) **LIMITATION ON OCCUPANCY.**—Notwithstanding any other provision of law, the owner of housing developed under this section may, with the approval of the Secretary, limit occupancy within the housing to persons with disabilities who can benefit from the supportive services offered in connection with the housing.

“(2) **TENANT PROTECTIONS.**—

“(A) **LEASE.**—The lease between a tenant and an owner of housing assisted under this section shall be for not less than one year, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

“(B) **TERMINATION OF TENANCY.**—An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a rental dwelling unit assisted under this section except—

“(i) for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause; and

“(ii) by providing the tenant, not less than 30 days before such termination or refusal to renew, with written notice specifying the grounds for such action.

“(C) **VOLUNTARY PARTICIPATION IN SERVICES.**—A supportive service plan for housing assisted under this section shall permit each resident to take responsibility for choosing and acquiring their own services, to receive any supportive services made available directly or indirectly by the owner of such housing, or to not receive any supportive services.”.

(f) **DEVELOPMENT COST LIMITATIONS.**—Subsection (h) of section 811 is amended—

(1) in paragraph (1)—

(A) by striking the paragraph heading and inserting “GROUP HOMES”;

(B) in the first sentence, by striking “various types and sizes” and inserting “group homes”;

(C) by striking subparagraph (E); and

(D) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(2) in paragraph (3), by inserting “established pursuant to paragraph (1)” after “cost limitation”; and

(3) by adding at the end the following new paragraph:

“(6) **APPLICABILITY OF HOME PROGRAM COST LIMITATIONS.**—

“(A) **IN GENERAL.**—The provisions of section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(e)) and the cost limits established by the Secretary pursuant to such section with respect to the amount of funds under subtitle A of title II of such Act that may be invested on a per unit basis, shall apply to supportive housing assisted with a capital advance under subsection (d)(1) and the amount of funds under such subsection that may be invested on a per unit basis.

“(B) **WAIVERS.**—The Secretary may provide for waiver of the cost limits applicable pursuant to subparagraph (A)—

“(i) in the cases in which the cost limits established pursuant to section 212(e) of the Cranston-Gonzalez National Affordable Housing Act may be waived; and

“(ii) to provide for—

“(I) the cost of special design features to make the housing accessible to persons with disabilities;

“(II) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities; and

“(III) the cost of providing the housing in a location that is accessible to public transportation and community organizations that provide supportive services to persons with disabilities.”.

(g) **CONGRESSIONAL NOTIFICATION OF WAIVER.**—Section 811(k) is amended—

(1) in paragraph (1), by adding the following after the second sentence: “Not later than the date of the exercise of any waiver permitted under the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the waiver or the intention to exercise the waiver, together with a detailed explanation of the reason for the waiver.”; and

(2) in paragraph (4)—

(A) by striking “prescribe, subject to the limitation under subsection (h)(6) of this section” and inserting “prescribe”; and

(B) by adding the following after the first sentence: “Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.”.

(h) **MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.**—Paragraph (1) of section 811(l) is amended to read as follows:

“(1) **MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.**—The Secretary shall establish a minimum percentage of the amount made available for each fiscal year for capital advances under subsection (d)(1) that shall be used for multifamily projects subject to subsection (e)(4).”.

SEC. 4. PROJECT RENTAL ASSISTANCE.

Section 811(b) is amended—

(1) in the matter preceding paragraph (1), by striking “is authorized—” and inserting “is authorized to take the following actions:”;

(2) in paragraph (1)—

(A) by striking “(1) to provide tenant-based” and inserting “(1) **TENANT-BASED ASSISTANCE.**—To provide tenant-based”; and

(B) by striking “; and” and inserting a period;

(3) in paragraph (2), by striking “(2) to provide assistance” and inserting “(2) **CAPITAL ADVANCES.**—To provide assistance”; and

(4) by adding at the end the following:

“(3) **PROJECT RENTAL ASSISTANCE.**—

“(A) **IN GENERAL.**—To offer additional methods of financing supportive housing for non-elderly adults with disabilities, the Secretary shall make funds available for project rental assistance pursuant to subparagraph (B) for eligible projects under subparagraph (C). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary. The Secretary may not require any State housing finance agency or other entity applying for such project rental assistance funds to identify in such application the eligible projects for which such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in subparagraph (C)(ii).

“(B) **CONTRACT TERMS.**—

“(i) **CONTRACT TERMS.**—Project rental assistance under this paragraph shall be provided—

“(I) in accordance with subsection (d)(2); and

“(II) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

“(ii) **LIMITATION ON UNITS ASSISTED.**—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under this paragraph is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

“(iii) **PROHIBITION OF CAPITAL ADVANCES.**—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under this paragraph.

“(iv) **ELIGIBLE POPULATION.**—Project rental assistance under this paragraph may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

“(C) **ELIGIBLE PROJECTS.**—An eligible project under this subparagraph is a new or existing multifamily housing project for which—

“(i) the development costs are paid with resources from other public or private sources; and

“(ii) a commitment has been made—

“(I) by the applicable State agency responsible for allocation of low-income housing

tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

“(II) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

“(III) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

“(D) STATE AGENCY INVOLVEMENT.—Assistance under this paragraph may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

“(i) to identify the target populations to be served by the project;

“(ii) to set forth methods for outreach and referral; and

“(iii) to make available appropriate services for tenants of the project.

“(E) USE REQUIREMENTS.—In the case of any project for which project rental assistance is provided under this paragraph, the dwelling units assisted pursuant to subparagraph (B) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in subparagraph (B)(iv).

“(F) REPORT.—Not later than 3 years after the date of the enactment of this paragraph, and again 2 years thereafter, the Secretary shall submit to Congress a report—

“(i) describing the assistance provided under this paragraph;

“(ii) analyzing the effectiveness of such assistance, including the effectiveness of such assistance compared to the assistance program for capital advances set forth under subsection (d)(1) (as in effect pursuant to the amendments made by such Act); and

“(iii) making recommendations regarding future models for assistance under this section.”.

SEC. 5. TECHNICAL CORRECTIONS.

Section 811 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2)—

(i) by striking “provides” and inserting “makes available”; and

(ii) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(3) promotes and facilitates community integration for people with significant and long-term disabilities.”;

(2) in subsection (c)—

(A) in paragraph (1), by striking “special” and inserting “housing and community-based services”; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

“(A) make available voluntary supportive services that address the individual needs of persons with disabilities occupying such housing.”; and

(ii) in subparagraph (B), by striking the comma and inserting a semicolon;

(3) in subsection (d)(1), by striking “provided under” and all that follows through

“shall bear” and inserting “provided pursuant to subsection (b)(1) shall bear”;

(4) in subsection (f)—

(A) in paragraph (3)—

(i) in subparagraph (B), by striking “receive” and inserting “be offered”; and

(ii) by striking subparagraph (C) and inserting the following:

“(C) evidence of the applicant’s experience in—

“(i) providing such supportive services; or

“(ii) creating and managing structured partnerships with service providers for the delivery of appropriate community-based services.”;

(iii) in subparagraph (D), by striking “such persons” and all that follows through “provision of such services” and inserting “tenants”; and

(iv) in subparagraph (E), by inserting “other Federal, and” before “State”; and

(B) in paragraph (4), by striking “special” and inserting “housing and community-based services”;

(5) in subsection (g), in paragraph (1) (as so redesignated by section 3(c)(1) of this Act)—

(A) in subparagraph (D) (as so redesignated by section 3(c)(2) of this Act), by striking “the necessary supportive services will be provided” and inserting “appropriate supportive services will be made available”; and

(B) by striking subparagraph (E) (as so redesignated by section 3(c)(2) of this Act) and inserting the following:

“(E) the extent to which the location and design of the proposed project will facilitate the provision of community-based supportive services and address other basic needs of persons with disabilities, including access to appropriate and accessible transportation, access to community services agencies, public facilities, and shopping.”;

(6) in subsection (j)—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;

(7) in subsection (k)—

(A) in paragraph (1), by inserting before the period at the end of the first sentence the following: “, which provides a separate bedroom for each tenant of the residence”;

(B) in paragraph (2), by striking the first sentence, and inserting the following: “The term ‘person with disabilities’ means a household composed of one or more persons who is 18 years of age or older and less than 62 years of age, and who has a disability.”;

(C) by striking paragraph (3) and inserting the following new paragraph:

“(3) The term ‘supportive housing for persons with disabilities’ means dwelling units that—

“(A) are designed to meet the permanent housing needs of very low-income persons with disabilities; and

“(B) are located in housing that make available supportive services that address the individual health, mental health, or other needs of such persons.”;

(D) in paragraph (5), by striking “a project for”; and

(E) in paragraph (6)—

(i) by inserting after and below subparagraph (D) the matter to be inserted by the amendment made by section 841 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569; 114 Stat. 3022); and

(ii) in the matter inserted by the amendment made by subparagraph (A) of this paragraph, by striking “wholly owned and”; and

(8) in subsection (l)—

(A) in paragraph (2), by striking “subsection (c)(1)” and inserting “subsection (d)(1)”; and

(B) in paragraph (3), by striking “subsection (c)(2)” and inserting “subsection (d)(2)”.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Subsection (m) of section 811 is amended to read as follows:

“(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for providing assistance pursuant to this section \$300,000,000 for each of fiscal years 2011 through 2015.”.

SEC. 7. GAO STUDY.

The Comptroller General of the United States shall conduct a study of the supportive housing for persons with disabilities program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) to determine the adequacy and effectiveness of such program in assisting households of persons with disabilities. Such study shall determine—

(1) the total number of households assisted under such program;

(2) the extent to which households assisted under other programs of the Department of Housing and Urban Development that provide rental assistance or rental housing would be eligible to receive assistance under such section 811 program; and

(3) the extent to which households described in paragraph (2) who are eligible for, but not receiving, assistance under such section 811 program are receiving supportive services from, or assisted by, the Department of Housing and Urban Development other than through the section 811 program (including under the Resident Opportunity and Self-Sufficiency program) or from other sources.

Upon the completion of the study required under this section, the Comptroller General shall submit a report to the Congress setting forth the findings and conclusions of the study.

The PRESIDING OFFICER. The Senator from New Mexico.

AMERICA COMPETES REAUTHORIZATION ACT OF 2010

Mr. BINGAMAN. Mr. President, as if in legislative session and morning business, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 5116 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN of Massachusetts. Mr. President, I rise today in strong support of the reauthorization of the America COMPETES Act, which passed the Senate today. I have heard from a broad coalition of universities, businesses, and educators in my home state of Massachusetts about the positive

impact of the COMPETES Act on our economy. I have listened closely to my constituents' concerns and have concluded that reauthorization of this legislation is absolutely necessary to the long-term economic health of Massachusetts and the United States as a whole. To continue to lead in the 21st century, we must make sure that the United States has the most competitive economy and education system in the world. The COMPETES Act goes a long way to achieving that end, and I am proud to be a cosponsor of today's legislation.

This bill reauthorizes Federal funding to support science, technology, engineering, and mathematics research. The original COMPETES bill was enacted with strong bipartisan support in 2007 and was based upon the recommendations contained in the National Academies' report, "Rising Above the Gathering Storm." That report correctly stated that:

Having reviewed trends in the United States and abroad, the [National Academies] is deeply concerned that the scientific and technological building blocks critical to our economic leadership are eroding at a time when many other nations are gathering strength. We strongly believe that a worldwide strengthening will benefit the world's economy—particularly in the creation of jobs in countries that are far less well-off than the United States. But we are worried about the future prosperity of the United States. Although many people assume that the United States will always be a world leader in science and technology, this may not continue to be the case inasmuch as great minds and ideas exist throughout the world. We fear the abruptness with which a lead in science and technology can be lost—and the difficulty of recovering a lead once lost, if indeed it can be regained at all.

The fears of the authors of "Rising Above the Gathering Storm" are as rel-

evant today as they were prior to the original authorization of COMPETES. We must keep our foot on the gas pedal if we want to win the global race for jobs, economic growth, and new opportunities for our children and grandchildren.

Massachusetts is an innovation-driven economy and has significantly benefited from the COMPETES Act. A 2009 independent study by the Massachusetts Institute of Technology, MIT, found that Massachusetts is home to nearly 7,000 companies founded by MIT alumni. These types of companies exist in part because of the federal research funding that the COMPETES Act provides to universities like MIT. According to the study, those 7,000 businesses have created nearly one million jobs in my State, generating \$164 billion in worldwide sales, 26 percent of the total sales dollars of all Massachusetts companies. I know that many of my Senate colleagues hail from States with similar success stories.

Many of the jobs that stem from the COMPETES Act funding are in export-intensive sectors, such as my State's world-class semiconductor industry. I agree with President Obama that we must double U.S. exports in 5 years. But we can only achieve this worthwhile goal if we encourage students and leading thinkers to make our industries cutting edge so that the worldwide demand for our products grows significantly. Only then will we have sustained economic growth and get our country moving again.

Since arriving in the Senate I have carefully scrutinized every bill with our Nation's fiscal concerns in mind. The compromise struck in this reauthorization recognizes the fiscal cli-

mate of today while still making meaningful investments in our future. For example, the bill sunsets nine programs, eliminates several other duplicative programs, and includes an authorization level that is only half of the House's proposal.

I urge my colleagues in the House of Representatives to join in supporting passage of the America COMPETES Act.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Rockefeller-Hutchison substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time, and that a budget pay-go statement be read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4843) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The pay-go statement will be read.

The assistant legislative clerk read as follows:

Mr. Conrad: This is the Statement of Budgetary Effects of PAYGO Legislation for H.R. 5116, as amended.

Total Budgetary Effects of H.R. 5116 for the 5-year statutory PAYGO Scorecard: \$0.

Total Budgetary Effects of H.R. 5116 for the 10-year statutory PAYGO Scorecard: \$0.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act, as follows:

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR H.R. 5116, THE AMERICA COMPETES REAUTHORIZATION ACT OF 2010 (S:\WPSHR\LEG\NSL\XYWRITE\SC110\3605ASAM.9), TRANSMITTED TO CBO ON DECEMBER 17, 2010 BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

	By fiscal year in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
Statutory Pay-As-You-Go Impact	0	0	0	0	0	0	0	0	0	0	0	0

Note: H.R. 5116 would authorize appropriations for several agencies to support scientific research, industrial innovation, and certain educational activities. The legislation would allow for the collection of fees to offset the administrative costs of a loan guarantee program directed toward small- and medium-sized businesses. CBO estimates that there is no net budgetary impact in a single year.
Source: Congressional Budget Office and Joint Committee on Taxation.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the bill be passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5116), as amended, was passed.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

Mr. KERRY. Mr. President, it is my understanding we now are in executive session on the START treaty?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. Mr. President, we are still open for business and await amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUE. I ask unanimous consent that I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUE. Mr. President, Last evening the Senate made a regrettable decision to defer action on completing

its work on the fiscal year 2011 Appropriations bills. I shouldn't have to remind anyone that we are in mid-December, 1 week before Christmas, nearly 3 months into the fiscal year.

Yet because our Republican colleagues have decided that they cannot support a bill that they helped craft, we now face placing the Federal Government on autopilot for another 2 months under a continuing resolution—a CR.

My colleagues should all understand the consequences of this decision. First, a CR does virtually nothing to accommodate the priorities of the Congress and it abdicates responsibility for providing much needed oversight of the requests of the executive branch.

Each year, the Senate Appropriations subcommittees conduct hundreds of hearings to review the budgets of our government agencies. Our committee members and staffs conduct thousands of meetings with officials from the executive branch, our States and municipalities, leaders and workers from American companies, and the general public.

The committee relies heavily on the work of the Government Accountability Office, the Congressional Budget Office and outside experts to determine spending needs. Tens of thousands of questions are forwarded each year to officials in the executive branch asking them to justify the funding requested for each respective agency.

It is painstaking, detailed work. It requires great knowledge of each of our Federal agencies, a desire to dig into the nitty gritty details of agency budgets and question the programs and functions they manage.

This annual review is conducted in a bi-partisan fashion with Democratic and Republican Members and staff working in close cooperation to determine how our taxpayer funds should best be allocated.

These meetings, reviews, questions, and deliberations together led to the formulation of 12 individual Appropriations bills. Each bill is drafted by the subcommittee chairman and ranking Member in concert, marked up by it subcommittee, and then reviewed, debated, and amended by the full committee.

A year's worth of work came down to a choice. Would the Senate acquiesce in providing a bare bones approach to governing or would it insist upon allocating funding by agency and by program with thousands of adjustments that are the result of the good work of the House and Senate Appropriations committees?

To me, the answer was obvious. Nothing good comes from a CR. The Congress owes it to the American people to demand that programs funded by their hard-earned money will be for the best purposes we can recommend based on

the countless hours of work of our committees and their staff.

Some will point out that a continuing resolution will result in fewer dollars being spent. That is technically correct. A CR will include less spending than was included in the omnibus, but like the old saying goes—you get what you pay for.

The savings in the continuing resolution come primarily by shortchanging national defense and security. Under the CR, the total allocated to the Defense subcommittee for discretionary spending is \$508 billion. Under the omnibus bill the total is \$520.6 billion. So, more than half of the so-called savings is really additional cuts to the Defense Department.

For Homeland Security the CR would cut nearly \$800 million from the omnibus measure.

In fact, if we look at the funding for all security programs in the bill, more than \$15 billion in cuts come from this sector.

Surely we could have all agreed that we shouldn't be determining our national defense and security funding on the fact that Congress was unable to finish its work.

Who among us really believes we should base our recommendations for defense, homeland security, and veterans on whatever level was needed last year? This is no way to run a government. The United States of America is not a second-rate nation, and we should not govern ourselves as if she is second rate.

The continuing resolution by design mandates that programs are to be held at the amounts provided last year, regardless of merit or need. Moreover, in the vacuum this creates, it is left to the bureaucrats to determine how taxpayer funds are allocated, not elected representatives. At this juncture, may I suggest that I believe we who represent our States know more about our States than these bureaucrats. I do not believe the people of Hawaii elected me to serve in the Senate as a rubberstamp.

The alternative I offered was a product of bipartisan cooperation in the Senate. It represented a good-faith effort to fund many of the priorities of the administration, while ensuring that it is the Congress that determines how the people's money will be spent.

While the omnibus bill we drafted provided more funding than the CR, it is by no means the amount sought by the administration. Earlier this year, more than half of this body voted to limit discretionary spending to the so-called Sessions-McCaskill level, which in total is \$29 billion below the cost of the budget requested by the Obama administration. The Appropriations Committee responded to the will of the majority of the Senate and adopted this ceiling on spending. Moreover, we did not use any gimmicks or tricks to hit

this target. Instead, each of our subcommittees was directed to take another look at the funds they were recommending and provide additional cuts. Each was tasked to identify unneeded prior-year funds and to use those to achieve this reduced level. And it was not easy, sir. Many worthwhile programs were cut, but we reduced the bills reported from the committee by \$15 billion—enough to reach the Sessions-McCaskill level while still fully funding and paying for Pell grants and covering all CBO scoring changes. The administration's top priorities have received funding but not always at the level sought. Congressional priorities were cut back. Essential needs were met, but there were no frills.

For many Members, this debate focused on what we call earmarks. Here, too, the Congress tightened its belt. As defined by Senate rules, we reduced our spending that was provided in fiscal year 2010 by nearly 35 percent. Less than \$8 billion was recommended in the omnibus bill for congressionally directed spending programs as compared to more than \$12 billion last year. My colleagues should be advised that since 2006, the Congress has reduced spending on earmarks by just about 75 percent. In total, the omnibus bill recommended less than three-quarters of 1 percent of discretionary funding on the so-called earmarks. A tiny fraction of funds are provided so all of you can support the needs of your constituents which are not funded by the administration.

We have all heard those who say this election was about earmarks. Nothing could be further from the truth. This election was not about earmarks. My colleagues who went home and reminded the voters what they had done for them—yes, with earmarks—are returning to the Senate. If this election was about public distaste for earmarks, why did I receive a higher percentage of votes than any other Member of this body who had an opponent? Why is it that virtually all of my colleagues who took credit for earmarks will be coming back next year?

This election was about gridlock and partisan gamesmanship. And what we saw in the past 24 hours is more of the same—endless delaying tactics, followed by decisionmaking by partisan point-scoring rather than what is good for our Nation.

Some of our colleagues have suggested that since this bill is 2,000 pages long, it is obviously too big. But as we all know, this is not 1 bill; it is 12 bills, funding all government agencies. Of course it is 2,000 pages long. It is simply not rational to object to a bill because of its length. And that is nonsense.

Too often, our debates in the Senate focus on mind-numbing budget totals that are hard to grapple with. But

when the CR is \$15 billion to \$20 billion below the omnibus, it is not just a number; it is specific programs that will be cut or eliminated. When we point out that congressional priorities were curtailed, these are real programs that impact the lives of millions of Americans. When we are talking about a bill as large as the omnibus, we are talking about thousands of such programs.

For example, in the Defense Subcommittee, we prioritized the purchase of more helicopters to move about the rough terrain in Afghanistan. Keep in mind that there are thousands of men and women—American men and women—in uniform, putting themselves in harm's way, sometimes being injured or killed. These funds were not requested in the Pentagon's budget but were identified as a need by field commanders. So the committee justifiably appropriated more than \$900 million to buy new helicopters. This will be lost from the bill when we vote for a CR instead of the omnibus.

We added \$228 million to test and procure the new double-V hull improvements to Stryker armored vehicles, which will dramatically improve soldiers' protection. These were not included in the President's request.

To support our wounded warriors, we added \$100 million for lifesaving medical research in psychological health and traumatic brain injury.

Under the CR, funding for the Cooperative Threat Reduction Program, which secures nuclear weapons and materials in Russia, would be reduced by \$100 million.

There are hundreds of additional examples which could be described in defense alone, from breast cancer research to additional F-18 jets for the Navy which they have declared to be essential.

But it is not just defense that will be impacted. Similar issues will be found in every agency. It is evident, for example, that the threat to the security of the United States evolves every day. As evidenced by the growth of home-grown terrorism, such as the Times Square bomber, the New York subway plot, the Fort Hood shooting, and the recent efforts to blow up aircraft over the United States; whether the Christmas Day bombing attempt or the recent attempt to blow up all-cargo planes, it is critical that careful decisions be made on the allocation of resources to the Department of Homeland Security. But a continuing resolution would not provide the Transportation Security Administration with the resources necessary to enhance our defenses against terrorist attacks, such as Northwest flight 253 and the recent attempts against all-cargo aircraft.

This omnibus bill provides \$375 million above the continuing resolution for TSA to acquire 800 explosives trace detection units, 275 additional canine

teams, hire 31 additional intelligence officers, and strengthen our international aviation security.

This omnibus bill provides \$52 million above the continuing resolution to deploy radiation portal monitors where vulnerabilities exist, such as airports and seaports, and for radiation-detection pagers and backpacks used to detect and identify nuclear materials.

Because we have chosen not to enact an omnibus, we will miss an opportunity to address cyber security at the Department of Transportation. The Department recently assessed the security of its computer systems and found it sorely lacking. Security gaps at the Department are putting at risk computer systems that manage our air traffic and monitor our national infrastructure. The Department requested \$30 million for fiscal year 2011 to fix this problem as soon as possible. An omnibus appropriations bill would have provided this funding, but a CR will do nothing to address this urgent problem.

Not passing this omnibus would halt new national security enhancements intended to improve the FBI's cyber security, weapons of mass destruction, and counterterrorism capabilities and assist in litigation of intelligence and terrorism cases. The FBI will not be able to hire 126 new agents and 32 intelligence analysts to strengthen national security.

The omnibus was better for our brave men and women who work as members of law enforcement to make our streets and the everyday lives of our constituents safer.

Without an omnibus, the Department of Justice will not be able to hire 143 new FBI agents and 157 new prosecutors for U.S. attorneys to target mortgage and financial fraud scammers and schemers who prey on America's hard-working middle-class families and devastated our communities and economy.

When it comes to the health and well-being of our constituents, it is clear that passing an omnibus is just better policy. Again, we are talking about redirecting our resources to address today's needs, not last year's needs.

Specifically, the omnibus bill included \$142 million in vital program increases for the Indian Health Service that are not in the CR, which includes \$44 million for the Indian Health Care Improvement Fund, which provides additional assistance to the neediest tribes; an additional \$46 million for Contract Health Services; an additional \$40 million for contract support costs, as well as support for new initiatives in drug prevention, chronic diseases prevention, and assistance for urban Indian clinics. This omnibus bill would continue the strides that have been made in the recent past to significantly increase funding for the Indian Health Service and thereby provide

more and better medical care for our Native Americans and Alaska Natives. But this CR will bring that to a close.

There are hundreds more examples of what will not be done because the Congress will not pass this bill. However, because the CR turns over decision-making to the executive branch, we cannot even tell this body all the things the bureaucrats will not do that are important to Members of the Congress and to our constituents.

The bill I would have brought to the Senate represented a clear and far superior alternative. It better protected our national security. It ensured that the Congress determines how our citizens' funds will be allocated, as stipulated in our Constitution. It was written in coordination with Senate Republican Members. It was not a perfect document. It represented a lot of compromises. It made \$29 billion in reductions from the President's program. But it was a good bill which ensured the programs important to the American people will be funded. It assumed responsibility for spending decisions that I believe are rightfully the duty of the Congress.

We find ourselves where we are today because we were unable to get this message across. In many respects it was a failure of communication. We were never able to adequately explain to everyone what the good things in this bill would have accomplished. So instead we are now faced with placing the government on autopilot. Our Republican colleagues will allow the administration to determine how to spend funds for another 2 months rather than letting the Congress decide.

In the 2 months, we will very likely find ourselves having to pass another 2,000-page bill that will cost more than \$1 trillion or, once again, abdicating our authority to the administration to determine how taxpayer funds should be spent.

I wish there were a better way, but the decision by our colleagues on the other side who helped craft this bill has left us with no choice.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I think the Senator from North Dakota wanted to engage in a very brief colloquy regarding some of the funding on the modernization program, and I know Senator FEINSTEIN, the chairperson of the Intelligence Committee, wishes to talk about verification a little bit.

I do this with the indulgence of the Senator from California. If an amendment is ready, we are ready to go to an amendment. So we are not trying to delay by any speaker any movement to an amendment. I wish to restate that 58 Senators on this side of the aisle are ready to vote on this treaty this afternoon. We are ready to vote now. If

there are amendments, we are also ready to take up those. We would love to see if we could get the process going.

I don't know if the Senator from North Dakota is here. He may not be here. I see the Senator from Tennessee is on his feet. He may wish to ask a question.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I do think there are getting ready to be some amendments coming forward. I had the opportunity, working with Senator LUGAR, to help write the resolution of ratification with the chairman. I don't personally have amendments, but I do think amendments are coming forth this afternoon. I know I and others are encouraging that process to begin. So I think that is getting ready to take place. My sense is there will be a number of very substantive amendments that come forward.

I wish to make a comment. I think I have helped this process along, and I have enjoyed it thoroughly. I watched something happen last night on the floor of the Senate with our majority leader, whom I respect, coming down and filing cloture on more campaign promise types of issues.

I am one of those who absolutely believes that when it comes to foreign policy, when it comes to military issues taking place overseas, partisanship absolutely should stop at our Nation's shore. That is why I have enjoyed this process so much.

I wish to say to our Presiding Officer that what has happened over the course of the last 12 hours is—by filing cloture last night on don't ask, don't tell and on the DREAM Act during a lameduck session in the middle of the START treaty, what it says is, Republicans—and I don't even like to use partisan labels—but, Republicans, you all need to rise up above partisanship and deal with foreign policy in a bipartisan way, but in the midst of that, we are going to throw some partisan issues in here that are campaign promises we made over the course of this last year when we ran for election.

I have to tell you what that has done. I have watched it. I have been in three meetings this morning. What has happened is it is poisoning the well on this debate on something that is very important. I don't want to see that happen.

I am not one who comes down here and says fiery things or tries to divide. I am just hoping that saner minds will prevail and that these issues that have been brought forth that are absolutely partisan, political issues, brought forth to basically accommodate activist groups around this country, I am hoping those will be taken down or I don't think the future of the START treaty over the next several days is going to be successful based on what I am watching.

I can understand human beings reacting the way they do to what happened last night at 7 o'clock, but I am hoping that is going to change. I am going to continue to work through this, and I am encouraging people to bring amendments forward. I know Senator LUGAR is doing the same. But to ask Republicans to rise up above—and I think we all should rise up above. I think foreign policy and nuclear armaments—there are actually real differences in this case, but I think we should try to work together to resolve those. But to say—to do that in the midst of throwing in political things that are strictly there for political gain doesn't add up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I thank the Chair. I didn't think I was actually yielding the floor. I thought I was yielding for a question, but I am happy to have my colleague make his comments, and I appreciate them.

Let me begin by saying I personally appreciate all of the efforts and good faith and engagement of the Senator from Tennessee, the Senator from Georgia on the committee, Senator LUGAR, and others. This has been bipartisan as a result, and that is the way it ought to be. We had a very significant vote, 14 to 4, coming out of our committee that brought this treaty to the floor. I am proud of that on behalf of the committee, and I think that is the way we ought to deal with it here.

Now, I don't want to get these other issues clouded up in this debate. That is not what I am trying to do, and I am not going to spend much time on it at all except to say this: We don't control what the House of Representatives decides to do. The majority leader does not. They decided to do something and they passed a bill and they sent it over here. That also has bipartisan support. The Senator knows my own feelings about how things should have been sequenced. We are where we are. If we are going to live up to the words of the Senator from Tennessee about keeping this treaty where it ought to be, which is in the square focus of our national security and our interests abroad, et cetera, my hope is that everybody will simply rise above whatever—however they want to view these votes. What is political in one person's eye may be a passionate, deeply felt issue of conscience in somebody else's eye.

I don't want to get this issue confused in that debate. I just don't want that. I think it is important for us to keep our eyes on the ball. This is about our national security, the entire national security community. Generals, admirals, our national strategic commanders, our military leaders from the Joint Chiefs of Staff through the command have all said: Pass this START treaty; we want it now. The issue is not why now, it is why would we delay?

Why would we not do it now? So I hope we will get it done.

I think the chairman of the Intelligence Committee has some powerful reasons for why now, and she has come to the floor by a prearranged agreement to speak at 2 o'clock. So I would like to yield the floor to her for that purpose, if I may.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

I see both the ranking member and the chairman of the committee on the floor. I wish to say a few words about both of them and the good name they give to bipartisanship. Both of them see how much of America's destiny is wrapped up in this treaty and how nuclear weapons become a bane of existence because of their size, because of their number, and because of this inexorable concern that they fall into the wrong hands somehow, some way, someday.

I am one of the few Members of this Senate who is old enough to have seen the bombs go off in Nagasaki and Hiroshima. I know the devastation that a 15- and 21-kiloton bomb can do. These bombs today are five times the size plus, and they can eradicate huge areas. If you put multiple warheads on them, the destruction is inestimable.

Mr. President, what is interesting to me about this debate is the fact that the Intermediate Range Nuclear Forces Treaty was approved by a vote of 93 to 5, the 1991 START agreement was approved by a vote of 9 to 6, and the 2002 Moscow Treaty was approved by a vote of 95 to 0. As the chairman of the committee, the distinguished Senator from Massachusetts, has pointed out time and time again on this floor, those treaties received less deliberation than is being given to this treaty. The relationship between the United States and Russia today is better today than was the relationship when previous treaties were ratified. And the New START treaty we are debating is a fairly modest measure. So I hope it will receive a strong vote for ratification.

Now, for my remarks. I come here as chairman of the Intelligence Committee to address comments that have been made on the other side of the aisle about this treaty, particularly as those comments relate to monitoring provisions. Let me just put out the bona fides.

The Intelligence Committee has studied the June 2010 National Intelligence Estimate on the intelligence community's ability to monitor this treaty. We had a hearing. We submitted more than 70 questions for the record. We received detailed responses from the intelligence community. Committee members and very highly technical, proficient committee staff participated in more than a dozen meetings and briefings on a range of

issues concerning the treaty, focusing on the intelligence monitoring and collection aspects.

The conclusion is on my part that the intelligence community can, in fact, effectively monitor Russian activities under this treaty.

I would also like to say to all Senators I have just reviewed a new intelligence assessment from the CIA dated yesterday. It analyzes the effect of having New START's monitoring provisions in place and the loss on intelligence if the treaty is not ratified. I can't discuss the contents of the assessment on the Senate floor, but the report is available to all Senators. It is available through the Intelligence Committee, and Members are welcome to review this report and other documents, including the National Intelligence Estimate, in our offices in room 211 in the Hart Building.

Let me now describe the ways in which this treaty enhances our Nation's intelligence capabilities. This has been the lens through which the Senate Select Committee on Intelligence has viewed the treaty, and I believe the arguments are strongly positive and persuasive.

First, the intelligence community can carry out its responsibility to monitor Russian activities under the treaty effectively.

Second, this treaty, when it enters into force, will benefit intelligence collection and analysis.

The U.S. intelligence community will use these treaty provisions and other independent tools that we have outside of the treaty, such as the use of national technical means—for example, our satellites—to collect information on Russian forces and whether Russia is complying with the treaty's terms.

The treaty provisions include on-the-ground inspections of Russian nuclear facilities and bases—18 a year. There is going to be an amendment, I gather, to increase that. I will get to that later in my remarks. Second, regular exchanges on data on the warhead and missile production and locations. Third, unique identifiers—a distinct alphanumeric code for each missile and heavy bomber for tracking purposes. I reviewed some of that in intelligence reports this morning. A ban on blocking national technical means from collecting information on strategic forces, and other measures that I am going to go into.

Without the strong monitoring and verification measures provided for in this treaty, we will know less—not more—about the number, size, location, and deployment status of Russian nuclear warheads. That is a fact.

I think most of you know General Chilton, the Commander of the U.S. Strategic Command, who knows a great deal about all of this. He has said this:

Without New START, we would rapidly lose insight into Russian nuclear strategic

force developments and activities, and our force modernization planning and hedging strategy would be more complex and more costly. Without such a regime, we would unfortunately be left to use worse-case analyses regarding our own force requirements.

Think about that. Let me be clear. That is what a “no” vote means on this treaty.

Russian Prime Minister Vladimir Putin made the same point earlier this month. He said that if the United States doesn't ratify the treaty, Russia will have to respond, including augmentation of its stockpile.

That is what voting “no” on this treaty does.

These monitoring provisions are key, as are the trust and transparency they bring, and the only way to get to these provisions is through ratification.

In fact, we have not had any inspections, or other monitoring tools, for over 1 year, since the original START treaty expired; so, today, we have less insight into any new Russian weapons and delivery systems that might be entering their force. That, too, is a fact.

Thirteen months ago, American officials wrapped up a 2-day inspection of a Russian strategic missile base at Teykovo, 130 miles northeast of Moscow, where mobile SS-25 intercontinental ballistic missiles were deployed.

Twelve days later, their Russian counterparts wrapped up a 2-day inspection at Whiteman Air Force Base in Missouri, home to a strategic bomb wing.

Since then, nothing. Since those two inspections—one in Russia and one in the United States—we have essentially gone black on any monitoring, inspection, data exchanges, telemetry, and notification allowed by the old START treaty.

Let me describe the monitoring provisions in this treaty now, because many of them are similar to the original START treaty's provisions.

No. 1, the treaty commits the United States and Russia “not to interfere with the national technical means of verification of the other party.” That means not to interfere with our satellites and “not to use concealment measures that impede verification.”

This means that Russia agrees not to block our satellite observations of their launchers or their testing. Without this treaty, Russia could take steps to deny or block our ability to collect information on their forces. And there are ways this can be done. Let me make clear that, absent this treaty, Russia could try and perhaps block our satellites.

To be clear, national technical means are an important way of identifying some of Russia's activities in deploying and deploying its nuclear forces. However, while I can't be specific here, there are some very important questions that simply cannot be answered through national technical means alone.

I have also reviewed those this morning, and those are available if a Member wants to know exactly what I mean by this. They can go to room 211 in the Hart Building, and members of the intelligence staff can inform them exactly what this means.

That is where other provisions of this treaty—including inspections, data exchanges, unique identifiers—come into play. Without them, we are limited in our understanding.

So believe me, this is a big problem for our intelligence agencies.

The second provision in New START on monitoring is a requirement that Russia provide the United States with regular data notifications. This includes information on the production of any and all new strategic missiles, the loading of warheads onto those missiles, and the location to which strategic forces are deployed.

Under START, similar notifications were vital to our understanding. In fact, the notification provisions under New START are actually stronger than those in the old START agreement, including a requirement that Russia inform the United States when a missile or warhead moves in or out of deployed status.

Third, New START restores our ability to conduct on-the-ground inspections. There are none of them going on today, and none have been going on for over a year. New START allows for 10 so-called “type one” onsite inspections of Russian ICBMs, SLBMs, and bomber bases a year.

The protocols for these type one inspections were written by U.S. negotiators with years of inspection experience under the original START treaty. The day before yesterday, I went over the credentials of our negotiating team in Geneva, and many of them have done onsite inspections. So they know what they need to look for, and they provided those guarantees in this treaty. This is how some of it works.

First, U.S. inspectors choose what base they wish to inspect. It is our choice, not the Russians' choice. Russia is restricted from moving missiles, launchers, and bombers away from that base.

Then, when the inspectors arrive, they are given a full briefing from the Russians. That includes the number of deployed and nondeployed missile launchers or bombers at the base, the number of warheads loaded on each bomber and—and this is important—the number of reentry vehicles on each ICBM or SLBM.

So you can pick your base, go to it, get the briefing. These missiles are all coded with unique identifiers, so you can do your inspection, and you know what you are looking at.

Third, the inspectors choose what they want to inspect. At an ICBM base, the inspectors choose a deployed ICBM for inspection, one they want to inspect. At a submarine base, they

choose an SLBM. If there are any non-deployed launchers, ones not carrying missiles, the inspectors can pick one of those for inspection as well. At air bases, the inspectors can choose up to three bombers for inspection.

Fourth, the actual inspection occurs, with U.S. personnel verifying the number of warheads on the missiles, or on the bombers chosen. As I mentioned earlier, each missile and bomber is coded with a specific code, both numerically and alphabetically, so you know what you have chosen and where it's been before.

Under this framework, our inspectors are provided comprehensive information from the Russian briefers. They are able to choose themselves how they want to verify that this information is correct. And there are ways of doing that to verify.

The treaty also provides for an additional eight inspections a year of non-deployed warheads and facilities where Russia converts or eliminates nuclear arms.

Some people have commented that the number of inspections under New START—that is, the total of 18 that I just described—is smaller than the 28 under the previous START treaty, and that is true. But it is also true that there are half as many Russian facilities to inspect than there were in 1991, when START was signed. I just looked at a map this morning of these Russian bases, of the silo locations, of the bombers, of the submarine pens. The numbers are dramatically smaller than at the end of the Cold War, when the first START treaty was signed.

These inspections should suffice, because the numbers are so down.

In addition, inspections under New START are designed to cover more topics than inspections under the prior START agreement.

In testimony from the Director of the Defense Threat Reduction Agency, called in Washington-ese "DTRA," Kenneth Myers, the agency doing these inspections, said:

Type one inspections will be more demanding on both the DTRA and site personnel, as it combines the main part of what were formerly two separate inspections under START into a single, lengthier inspection.

So, whereas, you go from 28 down to 18, and 10 type one inspections, you can take more time and they are much more comprehensive.

Some of my colleagues who question this treaty have raised a couple of problems with the monitoring provisions. Let me address a couple of them now.

First, under START, United States officials had a permanent presence at the Russian missile production facility at Votkinsk.

Inspectors could watch as missiles left the plant to be shipped to various parts of the country. New START does not include this provision. In fact, the

Bush administration had taken the provision off the table in its negotiations with the Russians prior to leaving office.

New START does, however, require Russia to mark all missiles, as I have been saying, with numeric and alphabetic codes—with these unique identifiers, so that their location can be tracked and their deployment status tracked over the lifetime of the treaty.

The treaty also requires Russia to notify us at least 48 hours before a missile leaves a plant. So we will still have information about missile deployment and production.

Our inspectors and other nuclear experts have testified that these provisions are, in fact, sufficient. Now, look, I appreciate that every one of us does our due diligence. But let me tell you, there is nothing like the view of a former inspector.

There is nothing like the view of people who have actually done this work. These are the people who were involved in the negotiation. There is nothing like the recommendation of the entire top command of our strategic forces, the civilian leadership, and the top officials of our intelligence community, all of whom are for this treaty.

We listen to our military, it seems to me, on views that affect the security of this Nation. We should with respect to this treaty. I have not seen a single warrior come forward—who is in the top command—who has said we should not endorse this treaty. I think that is significant. Instead, dozens have come forward to point out how important this treaty is.

START required the United States and Russia to exchange technical data from missile tests. That is known as telemetry. It required that you release it to each other but not to other countries. That telemetry allows each side to calculate things, such as how many warheads a missile could carry. This was important as the START treaty attributed warheads to missiles. If a Russian missile could carry 10 reentry vehicles, the treaty counted it as having 10 warheads. Information obtained through telemetry was, therefore, important to determine the capabilities of each delivery system.

New START, however, does away with these attribution rules and counts the actual number of warheads deployed on missiles. No more guessing whether a Russian missile is carrying one or eight warheads. With this change, we don't need precise calculations on the capability of Russian missiles in order to tell whether Russia is complying with the treaty's terms, so telemetry is not as necessary to monitor compliance with New START.

Nonetheless, because this came up in the negotiations, as a gesture to transparency, the treaty allows for the exchange of telemetry, between our two countries only, up to five times a year if both sides agree to do so.

In fact, it should be pointed out that if the treaty included a broader requirement to exchange telemetry, the United States might have to share information on interceptors for missile defense, which the Department of Defense has not agreed to do.

Third, there has been a concern raised about Russian breakout capability—a fear that Russia may one day decide to secretly deploy more warheads than the treaty would allow or to secretly build a vast stockpile that could be quickly put into its deployed force. I do not see this as a credible concern. Here is why.

According to public figures, Russian strategic forces are already under or close to the limits prescribed by New START. They have been decreasing over the past decade, not just now but for a long time. There are many reasons for this, but I think it is incontrovertible that is fact.

So the concern about a breakout is a concern that Russia would suddenly decide that it wants to reverse what has been a 10-year trend and deploy more weapons than it currently believes are necessary for its security. They would also have to decide to do this secretly, with a significant risk of being caught.

Because of the monitoring provisions, the inspections, our national technical means, and other ways we have to track Russian nuclear activities, I think Moscow would have a serious disincentive to do that. Moreover, instead of developing a breakout capability, Russia could decide, instead, to simply withdraw from the treaty, just as the United States did when President Bush withdrew from the antiballistic missile treaty.

Finally, even in the event that Russia did violate the treaty and pursue a breakout capability, our nuclear capabilities are more than sufficient to continue to deter Russia and to provide assurances to our allies.

Mr. President, the bottom line is that the intelligence community can effectively monitor this treaty. If you vote no, you are voting against these monitoring provisions.

The second question I raised at the beginning of my remarks that is relevant to New START is whether ratifying the treaty actually enhances our intelligence collection and analysis. This is above and beyond the question of whether the intelligence community will be able to fulfill its responsibility to monitor Russian compliance with the treaty's terms.

Again, I am unable to go into the specifics, but the clear answer to this question is yes. The ability to conduct inspections, receive notifications, enter into continuing discussions with the Russians over the lifetime of the treaty will provide us with information and understanding of Russian strategic forces that we will not have without the treaty. If you vote no, we will not have it.

The intelligence community will need to collect information about Russian nuclear weapons and intentions with or without New START, just as it has since the beginning of the Cold War. But absent the inspectors' boots on the grounds—and that is what is at risk here—the intelligence community will need to rely on other methods.

Put even more simply, the Nation's top intelligence official, Director of National Intelligence James Clapper, has said he thinks "the earlier, the sooner, the better" that this treaty is ratified. "We're better off with it."

You know, I don't think I need to tell this body what is at stake in terms of our relationship with Russia. The Russian Federation is not the Soviet Union, and this is an important reform vehicle of a new, young Russian President who wants to enter into a much more cooperative and transparent time with our country.

Russia has been of help to our country, letting our equipment go through Russian land into Afghanistan when Pakistan has blocked passage and in terms of refusing to sell a missile defense system to Iran that it had previously agreed to provide.

I think what this projects to the world as a whole is very important in this world of asymmetric warfare. What it projects is that the United States and the Russian Federation are willing to stand together. I think the gesture of that standing together that is envisioned in the enhanced cooperation of this treaty should never be underestimated.

Members, we need all of the major powers to come together in this new world of asymmetric warfare in which we are engaged, and most likely will be engaged for a long period of time. So I very much hope that the votes are there for ratification.

Let me end with this: During the 15-year lifespan of the first START agreement, the United States conducted 659 inspections of Russian nuclear facilities, and Russia conducted 481 inspections of our facilities. Again, it has been more than a year since American inspectors were at a Russian nuclear facility. We have been in the dark for 1 year. It is time to bring the light of New START to bear.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from California. I think Senators will agree she has a reputation here for calling things the way she sees them. And as the Chair of the Intelligence Committee, I think all of us are grateful for the diligence with which she approaches these issues of national security. She is ahead of the curve, she doesn't hesitate to hold the President or any of us accountable if she sees something differently, and I

greatly appreciate her insights on the verification measures in this treaty.

Mr. President, I ask unanimous consent that the Senator from Idaho be recognized for 10 minutes, after which the Senator from Arizona, Senator MCCAIN, be recognized to propose an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. RISCH. Mr. President, I come to the floor today to make some general comments about the matter under consideration, and that being the possible ratification of the New START treaty.

First, let me say I come with what I think is a unique perspective, in that I sit on both the Foreign Relations Committee and the Intelligence Committee. In addition to that, I am rather new here so I have a fresh set of eyes, if you will, on these kinds of issues.

The ability to be able to talk about these issues and to debate them and then cast a vote is somewhat frustrating, and that is a view I share with my friend and the distinguished Senator from California, Senator FEINSTEIN, the chairman of the Intelligence Committee. Just like her, my views of this matter are colored to some degree and are affected to some degree by matters that we can't talk about here and that we can't disclose. Nonetheless, that obviously cannot stop us from having hopefully as productive a discussion as possible about this subject matter, and it has been a productive discussion.

There are good things that have come out of this so far, and I am going to talk about those in a minute. But let me say one thing I have been impressed with throughout. I have sat through I can't tell you how many hours of meetings, of briefings, of actual field trips out to facilities, and all those kinds of things, but I have been impressed with the good faith of everyone who is working on this matter.

This is a unique situation that we as Senators have a constitutional responsibility to focus on. Our responsibility in this is equal to the President of the United States. A foreign treaty such as this, the Founding Fathers said, can only come into play if, on the one hand, the President of the United States signs off on it; and if, on the other hand, two-thirds of the Senators sign off on it. So our responsibilities are equal in that regard. As a result of that, all of us need to, in my judgment, approach this on a good-faith basis and on a what-is-best-for-America basis.

All of us have seen the people on TV who are very sarcastic about who is going to win and who is going to lose. The only ones we need to be concerned about who will win and lose are the American people.

I have come to some conclusions throughout this that are new to me. One, of course, is the fact—and these

are some observations I want to make about the whole process—that everyone is approaching this in good faith. The second conclusion that I have reached—and I think is widely held—is that we are much better off if we have a treaty than if we don't have a treaty. I would, however, modify that by saying but not just any treaty.

Those are just observations, along with one other that I have, which is that there are some good things in this particular treaty, not the least of which are the things people have talked about here, and that is, first of all, having a relationship with the Russians; and secondly, having actual inspections, even though they are very attenuated, but nonetheless having inspections; and thirdly, having a table around which people can get around and discuss possible violations or accusations one might have against the other.

That brings me to the next subject I want to talk about, and that is the historical basis we find ourselves in.

The people who did this 40 years ago and actually started the dialog and took us to the first treaty with the Russians are real heroes. They are people who were patriots and people to whom we owe a great deal of gratitude. They have set this stage, if you would, for where we are today.

Probably the most important thing they have given us is a 40-year history of dealing with this. When they sat down at the table, they did the things they did to come to the agreements they did, but the overriding philosophy on the defense of the United States against Russia and the defense of Russia against the United States was that if either one launched against the other, the other would launch, which would ensure the mutual destruction of both parties. That has been the philosophy under which we have operated for the 40 years.

Over the 40 years—sometimes things take a long time to sink in, but I think the Russians have come to the conclusion, as Americans have come to the conclusion, that is not a good thing. The likelihood of either party pulling the trigger on the other, in my judgment, and I think probably in the judgment of most people, is not very likely. Is it possible? Of course, it is possible. Anything is possible. An accidental launch is possible—I do not believe from our side. Without going into the details of this, but through my intelligence work I have looked at the failsafe things we have in place, and I do not believe we are going to have an accidental launch. I do not have the same level of confidence with the other side.

Nonetheless, I believe the likelihood of either party doing this is highly unlikely. Where does that take us to today? The world has changed in 40 years. Forty years ago, when we sat

down with the Russians, we were the two superpowers in the world. We were essentially the two that had these kinds of arms. We were worried about each other—for good reason.

Today that is a very different situation. I am much more concerned, and I think most people are much more concerned, about North Korea, about Iran, and for that matter some other countries that have nuclear weapons, as far as being a threat to us in the United States. One of the overriding concerns I have had and criticisms, if you would, is that we are focusing in this exercise, again on this 40-year history and relationship we have with Russia without bringing into the mix the other real issues—and there are real issues.

The first one I will talk about is modernization. That is one of the good things that has come out of this. There has been tremendous movement since the beginning of this on people's realization that our need to modernize our nuclear stockpile is very real. I commend the administration. I commend the chairman and the cochairman of the committee for pursuing that issue. Great strides have been made in that regard.

The other issue we are going to talk about a lot—in fact, my distinguished colleagues from Wyoming and Arizona are going to lay down an amendment in a moment about an issue that is of top priority to me, and that is the missile defense issue. I am going to talk more about the details of that when we actually get into debating this amendment. Suffice it to say, the concerns I have had and the criticism I have had of this process is we are still talking about this in terms that existed 40 years ago, instead of the terms of the real world we live in today, where we have an overhead threat from nations that we, in my judgment, have not adequately addressed.

I think one of the criticisms I have is we have missed an opportunity on missile defense. We did not miss that opportunity on modernization, but we have missed it on missile defense.

I am going to close with this. It brings me to my last two points. Time is important as you go through these things. I do not like us being up against the deadline we are up against when we have a matter of this magnitude we should be debating. That colors my judgment, what I think is the lack of time for consideration for the most deliberative body of the world to actually deliberate on this issue.

The last one that I have real difficulty with is a matter of what we call the transcripts. You heard me talk earlier about the fact that we have the same responsibilities as the President of the United States in making the decision on this. Yet he has access to the transcripts of the negotiators, and we have been denied access to the transcript of the negotiators, which gives

me pause. Most reasonable people would not accept something, sign on to a contract—which is what we are doing with ratifying this—without knowing all the facts. I can tell you we do not know all the facts. That particularly becomes important. I am troubled by the missile defense issues we have. I would like to know what assurances were given to the Russians regarding missile defense, particularly when I read their independent statements, their third-party statements about this.

I would like to know what is in those transcripts. So that is a very difficult bridge I am going to have to cross.

Nonetheless, my vote on this depends upon the amendments—and there are real amendments addressing real issues in this discussion. My final vote is going to depend upon what actually happens in the amendment process.

I yield the floor for my distinguished colleague from Arizona, Senator McCain.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Would the Senator from Massachusetts give me 1 minute? I wish to say something to the Senator from Idaho.

First of all, I appreciate the constructive way in which he has outlined his approach to these questions. I think he has made a number of important statements about the good side of what is in this treaty. I appreciate he would like to see how we can work through this amendment process.

Let me say to him and other colleagues who are in the same place, actually listening to him I think I gained a greater appreciation for the point he is trying to make with respect to how missile defense has been framed in this discussion. I think he is appropriately trying to step away from only seeing it in the context of the former Soviet Union, U.S., Warsaw Pact, NATO, Russia, and the United States now, and how that offense-defense posture is addressed. Because he is thinking, I believe, if I understand him correctly, about the multiple points of concern from which—obviously, you have to sort of think differently about the deployment.

I would say to him that is precisely, I think, how the administration is thinking about deployment. But it suggested to me that maybe there is a way for us to find common language that, in a declaration or an understanding, might embrace that more to the liking of the Senator, without doing injury to the treaty as a whole so we kill the treaty because we have to go back to the Russians and renegotiate it, which becomes the critical thing. I would like to work with him and some colleagues on that and see if we can come to agreement on it. I think that is an important component.

I would also mention that the Senator has given access to a classified

summary of the negotiating record with respect to missile defense and that was something we worked very hard to get the administration to do and I hope, indeed, that was helpful.

The PRESIDING OFFICER. The senior Senator from Idaho.

Mr. RISCH. Thank you, Mr. Chairman. You have correctly identified the serious concerns that I and a number of others have. I am delighted to hear your invitation to attempt to clarify these matters where we can protect the American people, which is the highest objective that both he and I share.

Regarding the transcripts, I am not satisfied with a summary. I would like to see the transcripts. That is a point we can discuss at another time.

I thank the Senator for his consideration.

Mr. KERRY. Mr. President, I will work with the Senator. Obviously, I believe, if you look at the resolution of ratification, I think we bent over to address it. But if it does not do it for the Senator adequately, I will try to see if we can find a way to do that. We will work on it in the next hours.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCain. Mr. President, I have a parliamentary inquiry: What is the parliamentary situation as it exists on the floor at this time?

The PRESIDING OFFICER. The treaty is pending.

Mr. McCain. Is there not other business before the Senate at this time?

The PRESIDING OFFICER. No, there is not, sir.

Mr. McCain. What about the filing of petitions for cloture on what is known as don't ask, don't tell and what is known as the DREAM Act?

The PRESIDING OFFICER. That is in the legislative session and we are in executive session.

Mr. McCain. That is part of the legislative session and we are in executive session.

The PRESIDING OFFICER. Correct.

Mr. McCain. But time is still pending on the matters in legislative session; is that correct?

The PRESIDING OFFICER. The time of the cloture motion is ripening, but we are in executive session.

Mr. McCain. I understand. So here we are, the date is Friday, December 17, and we are on the START treaty, a treaty—any treaty is a serious matter before the Senate. This is of the utmost seriousness. Meanwhile, there is a cloture motion.

Will the Parliamentarian please correct me. Both these that the time is running on are both privileged messages, which means there is no vote on the motion to proceed; is that correct?

The PRESIDING OFFICER. There is no need for a motion to proceed with the House message.

Mr. McCain. What, we are about 6 weeks after the last election, now discussing the START treaty, and I will

have an amendment I will be proposing in a moment that I think is important. Meanwhile, two other issues, both of which are very controversial, cloture has been filed on and the clock is running.

There are also threats that we may have, again, other votes on things such as relief for the New York 9/11 people, the firefighters issue, and a couple others. Online gambling has been mentioned in the media as one of the majority leader's proposals.

Again, here we are. People spoke clearly on November 2. It was, in the words of the President of the United States, a "shellacking."

What are we doing on December 17? We are in one session of the Senate, the executive session. Meanwhile, the legislative session will go on. Who knows what issue the majority leader will bring—another issue before the Senate, maybe get a couple more privileged messages from the other side, file it, run the clock, 30 hours, and then force the Members of this body, of which there will be five additional Members beginning January 5—and at the same time my friend from Massachusetts and the President of the United States and proponents of the treaty are saying: Put partisanship aside, put your concerns aside, trust us because this is very important for the Nation.

What possible good does it do when the majority leader continues to bring up issues and force us to have votes on them, which is clearly in keeping with the majority on the other side's political agenda? It is kind of a remarkable situation.

I have been around this body for quite some years. I have not seen a degree and intensity of partisanship that I see today in the Senate. All of us want to do what is right for the country. That is why this START treaty deserves serious consideration. It deserves serious consideration by itself. But this body operates in an environment of cooperation and comity. That very much is not in existence today.

We will then, tomorrow, I take it—on Saturday we will go off the executive calendar, onto the legislative calendar, force votes on these two very controversial issues, and then maybe, if it moves him so, the majority leader will bring up another issue as he has in the past to force votes, most of which of those votes he knows very clearly will not succeed but will give him and the other side some kind of political advantage. That was not the message of the last election.

So I think a number of us are growing weary of this on this side of the aisle. We are just growing weary. And we believe the people of this country spoke—in the words of the President of the United States: a shellacking—and we ought to perhaps keep the government in operation, go home, and, in less than 2 weeks or a little over 2

weeks, let the newly elected Members of Congress on both sides of the Capitol address many of these issues.

Now, I do not know if we will get through all the amendments and all of the debate that a solemn treaty deserves before the Senate. I really hope we can. I would also remind my friend from Massachusetts that my colleague from Arizona, certainly the most respected person on this issue on this side of the aisle, has offered a date certain of January 25, with a final vote on February 3, to the other side. That, obviously, has not been acceptable to them. By the way, that would be with the input of the newly elected Senators, not of those who are leaving.

So I look forward to continuing this debate and discussion. And who knows what other issue the majority leader may bring before the Senate—maybe a privileged message again, which would only then require one cloture vote, and we will then be forced to take another politically impactful vote.

So I tell my colleagues that we are getting tired of it. We grow weary. And it is not that we want to "be home for Christmas." I spent six Christmases in a row away from home. But what it is about is responding to the American people.

Yesterday, the American people, in a resounding victory for those who voted November 2, rejected the Omnibus appropriations bill. I believe some of the issues before the Senate deserve the participation of the newly elected Members of the Senate and House.

AMENDMENT NO. 4814

(Purpose: To amend the preamble to strike language regarding the interrelationship between strategic offensive arms and strategic defensive arms)

Mr. MCCAIN. So, Mr. President, at this time, on behalf of myself and the Senator from Wyoming, Mr. BARRASSO, I call up amendment No. 4814.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. BARRASSO, proposes an amendment numbered 4814.

In the preamble to the New START Treaty, strike "Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties,".

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would like to thank my friend and colleague from Wyoming, Dr. BARRASSO. It has been a great privilege for me, since he has been a Member of the Senate, to be with him side by side in a number of battles.

I am particularly proud of the work Senator BARRASSO continues to do on

the issue of ObamaCare. If anyone wants to really be brought up to date, I would commend his Web site, Second Opinion, that Dr. BARRASSO has, and he continues to be incredibly knowledgeable and effective not only here in this body but with the American people.

As a member of the Foreign Relations Committee, Dr. BARRASSO has taken on this issue as well, and I am pleased to be joined with him.

I would say to my colleague from Massachusetts, the distinguished chairman of the Foreign Relations Committee, I know there are a number of Senators who want to speak. I will try to get those lined up and time agreements so that we do not take an inordinate amount of time on this issue, and I think we can do that, say, within the next hour or so.

But this is an important amendment. This is really one of two major issues that concern many Members of this body and many Americans. One is the modernization of our nuclear inventory, which I think continues to be a subject of discussion, agreements, some disagreements, but is important, and my colleague from Arizona, Senator KYL, of course, has been following that issue since the 1980s. I know of no one who has been more heavily involved in that side of the issue. The other is, of course, this whole issue of defensive weapons—how the provisions of the treaty affect the entire ability of the United States, unconstrained by this treaty, to move forward where it deems necessary to put defensive missile systems to protect the security of this country.

I would like to remind you how vital this is. We are living in a world where the North Koreans have nuclear weapons and missiles. The Iranians have missiles and the ability to deliver nuclear weapons. The Pakistanis have nuclear weapons. Other countries throughout the world are developing nuclear weapons and the means to deliver them. So our concern is not so much what the Russians will do in the form of offensive nuclear weaponry—and I will be glad to discuss Russian media reports about the Russians building a new missile and moving ICBMs to the borders of Europe and all that—but the main problem here is, can the United States, under the treaty, have the ability to put into place defensive missiles which will protect the security of the United States of America?

We all know that proliferation of weapons of mass destruction and the means to deliver them is one of the major challenges of the 21st century. So I think it is vital—it is vital—that we make it perfectly clear that there is nothing in this treaty that constrains our ability to pursue that aspect of America's defense. So it is deeply disturbing to so many of us when the preamble of the New START treaty says:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that “current”—

I am going to emphasize the word “current”—

strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties. . . .

The operative word there, my friends, is “current.”

I have been around long enough to have lived through the history of missile defense. It is not that old of an idea. In the middle of the last century, the idea that we could develop and deploy strategic defensive weapons sounded like science fiction and wishful thinking. For the most part, it was.

A few decades later, it was with this view of missile defense’s fantasy that opponents of the idea mocked President Ronald Reagan, who was more committed than any American President before him to the prospect of developing viable missile defense systems—what President Reagan called his Strategic Defense Initiative, which became known to all of us as SDI.

This idea scared the Soviet leaders to death because they realized how serious he was about it and because the idea represented a threat to the very balance of terror that threatened all of mankind during the Cold War. Arms control theorists saw this terror stabilizing—mutual assured destruction as stabilizing—and believed that missile defenses could therefore be destabilizing.

As a result, the key pillar of Cold War arms control was the established interrelationship between strategic offensive weapons and strategic defensive weapons. This linkage was codified in the Anti-Ballistic Missile Treaty, among other treaties and agreements. It established that effective missile defenses, if developed, could threaten the strategic offensive capabilities of the United States and the Soviet Union. For that reason, it limited the development and deployment of such defensive weapons.

President Reagan believed that viable missile defense systems—in particular, his Strategic Defense Initiative—held out the opportunity to eliminate the threat of nuclear holocaust and thereby render nuclear weapons irrelevant. President Reagan was one of the leading proponents of a world without nuclear weapons, and he believed that it was missile defense, not just arms control agreements, that would make that world possible.

My friends, if I may take you on a trip down memory lane, the debate on that subject was spirited, it was passionate, and it was a fundamental debate that took place in this country during the 1980s. That is why, at the Reykjavik Summit of 1986, when Soviet

Premier Mikhail Gorbachev cited the ABM Treaty as legal grounds for imposing what President Reagan believed was a critical limitation on the strategic defense initiative, the President broke off the negotiation and walked out—one of the most remarkable acts in recent history. You can imagine the initial response of the media and others to President Reagan walking out of arms control talks.

With the end of the Cold War and the collapse of the evil empire, the United States and Russia were no longer mortal enemies with the means to threaten one another’s existence. But the proposal of missile defense, this was an opportunity to break once and for all the long-accepted linkage, the interrelationship between strategic offensive and defensive weapons.

In a recent op-ed in the *Wall Street Journal* dated December 7, 2010, former Secretary of State Condoleezza Rice explains why breaking this linkage between offensive nuclear weapons and missile defense was so important in the post-Cold War, post-September 11 world. I quote:

When U.S. President Bush and Russian President Putin signed the Moscow Treaty in 2002, they addressed the nuclear threat by reducing offensive weapons as their predecessors had. But the Moscow Treaty was different. It came in the wake of America’s 2001 withdrawal from the Anti-Ballistic Missile Treaty of 1972. And for the first time, the United States and Russia reduced their offensive nuclear weapons with no agreement in place that constrained missile defenses.

Breaking the link between offensive force reductions and limits on defense marked a key moment in the establishment of a new nuclear agenda no longer focused on the Cold War face-off between the Warsaw Pact and NATO. The real threat was that the world’s most dangerous weapons could end up in the hands of the world’s most dangerous regimes—or of terrorists who would launch attacks more devastating than 9/11. And since those very rogue states also pursued ballistic missiles, defenses would (alongside offensive weapons) be integral to the security of the United States and our allies.

This brief background helps explain a key concern I have with the New START treaty as it relates to missile defense: that because of one clause agreed to by the parties in the treaty preamble, the Russian Government could use the treaty in its present form as a tool of political pressure to limit U.S. decisions about our missile defense systems.

I have followed this issue of missile defense pretty closely while the treaty was being negotiated. As I have said before, I am concerned by the series of events that led to the treaty’s handling of missile defense. First, the Senate was told that this treaty would in no way reference the development and deployment of U.S. missile defense systems.

Here is what Under Secretary of State Ellen Tauscher said on March 29, 2010, and I quote:

The treaty does nothing to constrain missile defense. This treaty is about strategic weapons. There is no limit on what the United States can do with its missile defense systems.

But then, for some reason, after being told this treaty was not about missile defense, the Senate was then told there would be a reference to missile defense after all, but that it would only be in the preamble of the treaty which, of course, is not legally binding. That was worrisome enough, but then we saw the treaty and not only was there a reference to missile defense in the preamble, but there was also a limitation to our missile defense deployments in the body of the treaty itself in article V. This may not be a meaningful limitation, but it is a limitation nonetheless and a legally binding one at that. This sets a very troubling precedent.

What I want to focus on this afternoon is the reference to missile defense that appears in the preamble, because that language carries a lot of historical significance and strategic weight, and it has been the root of mine and other Senators’ concerns about how the Russian Federation could use this treaty as a de facto veto against U.S. missile defense systems. This is what the eighth clause of the preamble says, and I quote from the preamble:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic arms nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

There are many problems with this statement, and more that stem from it. First, it reestablishes—after what I told my colleagues about what happened during the Reagan administration because we worked very hard over the past—I mean over the Bush administration, and I say reestablishes because we worked very hard over the past decade to decouple these two concepts, our offensive nuclear weapons and our missile defenses. During the Cold War, the Soviet Union was always terrified of the prospects of U.S. missile defense. Ever since President Reagan proposed the strategic defense initiative, the Russians have sought to limit development and deployment of our strategic arms because they knew they could never compete. They sought to bind our actions on missile defense through legal obligations in treaties, and when that didn’t work, through political commitments or agreements that could be cited to confer future obligations, and thus transformed into as a political threat. In short, the Russians have always understood that U.S. missile defenses would be superior to any defensive system the Russian Federation, and the Soviet Union before it, could ever deploy, so they have been relentless in trying to block it.

It is for this reason and because the Bush administration worked so hard to break the linkage between strategic offensive and defensive weapons that former Secretary of State Condoleezza Rice concluded her recent op-ed which I cited earlier with the following counsel to this body:

[T]he Senate must make absolutely clear that in ratifying this treaty, the United States is not reestablishing the Cold War link between offensive forces and missile defenses. New START's preamble is worrying in this regard, as it recognizes the 'interrelationship' of the two.

The reestablishment of the interrelationship is one problem with this clause in the preamble, but there are others. A second problem comes in the next line which states:

that this interrelationship will become more important as strategic arms are reduced.

This is only enhancing and strengthening the linkage between our offensive nuclear weapons and our missile defenses. Because this treaty will modestly reduce our strategic nuclear arms, and if the President is serious about his vision of a nuclear-free world—and I believe he is serious—then the importance of this agreed-upon interrelationship will only deepen in the years ahead. This takes an already problematic idea and makes it even more potentially damaging.

The third problem, and the one which potentially has the most direct consequences, comes in the next line which states:

that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

This clause lays the groundwork for the political threat the Russian Federation wants to hold over the United States with regard to its missile defense deployments. By saying that current missile defenses do not undermine the treaty's viability and effectiveness, this agreed-upon language in the preamble establishes that future missile defense deployments could undermine the treaty, thereby establishing a political argument that the Russian Federation will surely use at a future date and try to keep us from building up our missile defenses. In short, we have handed the Russian Government the political pressure they have sought for so long to bind our future decisions and actions on strategic defensive arms.

Imagine a world a few years from now when, God forbid, an Iran or North Korea or some other rogue state has deployed longer range ballistic missiles and a deployable nuclear capability much earlier than we assessed they could. Imagine we are faced with a situation where unforeseen events compel us for the sake of our national security and that of our allies to qualitatively and quantitatively build up our missile defenses to improve our current systems, or develop and deploy new systems, to counter a new and far greater

threat than we expected. And then imagine that the Russian Government tells us that if we consider taking these actions that we deem to be in our national security interests, then such an action to improve our missile defenses would undermine the treaty's effectiveness and viability. This is an unacceptable constraint on U.S. decision-making.

As if to drive home the large potential problems that stem from this clause in the preamble, the Russian Government issued a unilateral statement at the time the treaty was signed. I realize this statement is not legally binding either, but it certainly adds to the political commitment that the Russian Federation believes the United States has made on limiting our missile defenses. This is a remarkable statement, and it deserves to be read in full, and I quote:

The treaty between the Russian Federation and the United States of America on Measures for the Further Reduction and Limitation of Strategic Offensive Arms signed at Prague on April 8, 2010, may be effective and viable only in conditions where there is no qualitative or quantitative buildup in the missile defense system capabilities of the United States of America. Consequently, the extraordinary events referred to in article XIV of the Treaty also include a buildup in the missile defense system capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear force potential of the Russian Federation.

That is a very clear statement made by the Russian Government about the linkage between defensive missile systems and offensive arms. This is the Russian interpretation of what our two governments have agreed to in the preamble. They explicitly draw the connection between strategic offensive and strategic defensive arms. They explicitly state that the United States is limited in its development and deployment of missile defense systems. They explicitly refer to the language in the preamble about the "effectiveness and viability" of the treaty in order to claim that any buildup or improvement in U.S. missile defense systems would undermine the treaty. Then they go one step further. They draw a logical connection between what was agreed to in this clause of the preamble to article XIV of the treaty, which establishes the rights of the parties to withdraw from the treaty and the conditions under which they may do so. In short, the Russian Government has effectively turned a nonbinding political agreement into the pretext of what it believes is a legal obligation under the treaty itself.

You don't have to take my word for it. Listen to what Russian leaders themselves have said. Here is Russian Foreign Minister Sergei Lavrov speaking on March 28, 2010:

[T]he treaty and all obligations it contains are valid only within the context of the lev-

els which are now present in the sphere of strategic defensive weapons.

Here is Foreign Minister Lavrov again on April 6, 2010:

Russia will have the right to exit the accord if the U.S.'s buildup of its missile defense strategic potential in numbers and quality begins to considerably affect the efficiency of Russian strategic nuclear forces . . . Linkage to missile defense is clearly spelled out in the accord and is legally binding.

I would remind my colleagues these are the statements of the Russian Foreign Minister. And here is everybody's favorite President, Dmitry Medvedev, speaking to the Russian Parliament on November 30—November 30, 2010.

Either we reach an agreement on missile defense and create a full-fledged cooperation mechanism, or if we can't come to a constructive agreement, we will see another escalation of the arms race. We will have to make a decision to deploy new strike systems.

Finally, here is my favorite, Prime Minister Vladimir Putin, speaking on "Larry King Live" on December 1, 2010:

I want you and all the American people to know this. At least those spectators who will follow our program here. It's not us who are moving forward our missiles to your territory. It's you who are planning to mount missiles at the vicinity of our borders, of our territory.

We've been told that you'll do it in order to secure against the, let's say, Iranian threat. But such a threat as of now does not exist. Now if the rudders and counter missiles will be deployed in the year 2012 along our borders, or 2015, they will work against our nuclear potential there, our nuclear arsenal. And certainly, that worries us. And we are obliged to take some actions in response.

Unfortunately, at the time the treaty was signed, after agreeing to this problematic clause in the preamble, the U.S. negotiators did not use the opportunity to make a unilateral statement of their own to decisively and unequivocally discredit the Russian Government's claims. Instead, this is the statement the U.S. Government issued in response to the statement I read, the signing statement:

The United States of America takes note of the Statement on Missile Defense by the Russian Federation. The United States missile defense systems are not intended to affect the strategic balance with Russia. The United States missile defense systems would be employed to defend the United States against limited missile launches, and to defend its deployed force, allies and partners against regional threats. The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions.

My friends, I understand diplomacy, and I understand statements that are equivocal. That certainly stands out as one of those.

We could have stated that the development and deployment of U.S. missile defenses are in no way limited by the treaty, its preamble or anything the

Russian Government says about them. We could have stated that the United States does not recognize decisions about its missile defense systems as a legitimate and valid reason for the Russian Federation to withdraw from the treaty, as is its right under article XIV. We could have stated affirmatively that the United States will continue to make both qualitative and quantitative improvements to our missile defense systems, regardless of whether the Russian Federation threatens to or actually chooses to withdraw from the new START treaty. We could have said all that and more. Instead, we simply took note of what the Russians had to say and then spoke passively about our intentions, without addressing the heart of the matter.

What does all this mean? What it means is that the Senate needs to fix the problem presented by this clause in the treaty's preamble. One way to do that—the easiest way—is to simply strike the eighth clause from the preamble text. That is what this proposed amendment would do. It will remove any recognition of an interrelationship between offensive nuclear weapons and missile defense, and it would undercut the logical and political foundation of the Russian unilateral statements, as well as the clearly and repeatedly stated Russian position that this treaty imposes a legally binding limitation on U.S. missile defenses.

I see I am joined on the floor by my friend and cosponsor of this amendment, the Senator from Wyoming. Again, I take this opportunity to thank him for taking the lead in offering this amendment within the Committee on Foreign Relations during the markup of the resolution of ratification. I have had the opportunity to travel overseas with the Senator from Wyoming, to Iraq and Afghanistan and Pakistan and many other places. I appreciate his consistent leadership on matters of national security.

I ask unanimous consent that, since it is our amendment, he be recognized next.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, it is indeed a privilege to join my friend and colleague, the ranking member of the Armed Services Committee. He made mention of the six Christmases he spent away from home. Members of this body and of this Nation know that those Christmases were spent in captivity as a prisoner of war in North Vietnam. I recommend to all of America his book "Faith of my Fathers." I read it on a trip with Senator MCCAIN, heading to Iraq to visit and thank our troops serving several years ago, on Thanksgiving, while we were there with the troops. We were in Baghdad,

Kirkuk, and in the Anbar Province. I had a chance to meet, for the first time, a young marine who was Senator MCCAIN's son.

As we traveled across this globe visiting our soldiers, thanking them—in Afghanistan as well—we had been to Georgia, where he was awarded and received the highest national award from the President and the people of Georgia. Senator MCCAIN is recognized and respected worldwide for his knowledge, for his patriotism, and for his bravery. I think it is critical that we listen to him as we talk about this very important treaty.

The amendment he brings is one to strike the language in the preamble that limits our missile defense. It limits our ability as a nation to defend ourselves. I have major concerns about the Russians trying to limit current and future U.S. missile defense capabilities through the New START. I am committed to our national security and the ability of the United States to defend ourselves.

In my opinion, this treaty, signed by our President and by the Russian President on April 8, 2010, places explicit limits on U.S. missile defense.

There should be no place in a treaty with Russia for the United States to limit our ability to defend and protect our Nation.

Specifically, I believe the language in the preamble, the language in the unilateral statement by Russia the day the treaty was signed, and the language in the statements by senior Russian officials regarding missile defense—all of them show Russia intends to weaken the ability of the United States to defend ourselves.

The language in the preamble provides an explicit linkage between strategic nuclear offensive weapons and strategic nuclear defensive weapons.

The preamble implies the right of Russia to withdraw from the treaty based on U.S. missile defense that is beyond "current strategic" capabilities. The treaty preamble gives Russia an opportunity to turn their backs on the treaty at the slightest sign of a shift in American defensive strategy. This language is unacceptable and needs to be removed.

Senator MCCAIN read from the Wall Street Journal editorial or op-ed by former Secretary of State Condoleezza Rice. She pointed out several very legitimate concerns about the New START treaty that must be resolved during the ratification process.

I wish to repeat and reiterate two sentences that get to the very heart of this amendment that Senator MCCAIN and I are bringing to you today. She stated:

... the Senate must make absolutely clear that in ratifying this treaty, the U.S. is not reestablishing the Cold War link between offensive forces and missile defenses. New START's preamble is worrying in this re-

gard, as it recognizes the "interrelationship" of the two.

Suppose the President of Russia is trying to force the United States to choose between missile defense and the treaty. In that case, I choose missile defense.

The administration continues to claim there is no limit on missile defense and that the administration also claims the preamble is not legally binding. Well, Russia clearly disagrees and believes the opposite to be true. They have made it quite clear they consider the preamble to be legally binding.

Russian Foreign Minister Sergey Lavrov was quoted by Senator MCCAIN on the floor. This very year he stated—and I will reiterate it—that the treaty contained a "legally binding linkage between strategic offensive and strategic defensive weapons."

There is a fundamental disagreement between the United States and Russia on this issue. I believe that placing constraints on future U.S. defense capabilities should not be up for debate, let alone placed in a treaty on strategic offensive nuclear weapons.

It is outrageous that this administration would make any concession to Russia on our national security. I think the administration's decision to include this language was a serious mistake. We should not be tying our hands behind our backs and risking the national security of both our Nation as well as our allies.

The United States must always remain in charge of our missile defense—not Russia or any other country.

As our country continues to face threats from around the world, we should not take any action that will hinder our missile defense options. With concerns over countries such as Iran and North Korea, the United States cannot take any chance on language that could weaken our missile defense capabilities. The administration claims the language in the preamble has no legally binding significance. Then there should be no problem in eliminating that language on missile defense in the preamble of the treaty.

That is why I am privileged to join Senator MCCAIN in offering amendment No. 4814, and I ask my colleagues to give great thought and consideration to what the importance of this amendment is and then go on to adopt it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I have been here and have listened to the two previous speakers. Let me echo and agree with the remarks made by the Senator from Wyoming about the Senator from Arizona. I serve as his second ranking member of the Armed Services Committee, and I have watched his leadership for quite some time now.

Also, I have to say the Senator from Wyoming and I are both on Foreign Relations. I have also watched his leadership in this.

I come from a little different perspective than some because I am on both committees. One of the things I have been concerned about for a long time has been that many people don't have a firm understanding as to the threat we are under in this country. We have heard a lot of different explanations about the intent of article V of the treaty. On the one hand, the Obama administration assures us that there are no limitations on our missile defenses. On the other hand, as has been stated by the two previous speakers, the Russian Foreign Minister states that there are obligations regarding missile defense in the treaty that constitute a legally binding package. I think that was covered well by the senior Senator from Arizona. I will mention three things that pretty well lock in, in my mind, this connection that is there.

The preamble of the treaty recognized the interrelationship between strategic offensive arms and strategic defensive arms, and that interrelationship will become more important as strategic nuclear arms are reduced. That means it will be increased and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic effective arms of the parties.

I quoted yesterday extensively this. The foreign minister of Russia, Sergei Lavrov, said:

We have not yet agreed on this missile defense issue, and we are trying to clarify how the agreements reached by the two presidents could relate with the actions taken unilaterally by Washington.

He added that the Obama administration had not coordinated its missile defense plans with Russia.

There is a stronger statement made in the very beginning that already has been quoted; that is, that the treaty can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively or qualitatively.

I wish to also mention that, as far as this link is concerned, I had occasion to be in Turkey not long ago, and I talked to the Ambassador to Turkey, Eric Edelman. Many of us remember he was the Under Secretary of Defense for Policy. A couple months ago, he made a very strong statement:

New START, unfortunately, introduces limits and obstacles to further development in precisely these means of defending the country. As part of the ratification process, I would hope that, at a minimum, the Senate will express its sense that no further limitations on either Missile Defense or Prompt Global Strike should be considered as part of the future nuclear arms reduction agreements.

He was referring to any other agreements, not just this one.

Allowing any further such constraints could well prove a major error in long-term

strategy because they would trade away areas of U.S. comparative advantage for reductions in Russian strategic forces that would be likely to happen even in the absence of a treaty.

Let me try to break this down. I think an awful lot of people have heard these same words repeated over and over. Yes, certainly there is no one here who can say there is no relationship between any restrictions they are desiring in terms of our ability to have a missile defense system. We know what happened in Poland, and I happened to be over in Afghanistan when the President announced his budget—that was his very first budget. At that time, several of us had been involved with both the Czech Republic, where we were anticipating the building of a radar system, as well as Poland for a ground-based interceptor. One of the things that was very offensive about that was several of us—and I can remember personally the President of the Czech Republic saying to me, in the Czech Republic, are you sure that if we take this risk and we are willing to do this, because we believe it is the right thing to do, that you won't change administrations and come to pull the rug out from under us? And I said, I can certainly give you that assurance. Unfortunately, that is exactly what happened. I think people realize what happened when he gave his military budget. He did away with—he terminated that system.

This is a chart that I think most people agree with. It came from the Congressional Budget Office. As you know, we have over here in Alaska and down in California ground-based interceptors. Originally, there were going to be quite a few more. Then they dropped it down to 44, and recently—under this administration—it went down to 30 ground-based interceptors. So we feel, and I feel—and I think most people agree—that something that is coming in from North Korea and coming across here can be detected, can be shot down, and if missed the first time, you would have another run at it. So I have stated several times we are in pretty good shape for this.

But if you look at the footprint of the coverage, it goes over and barely covers the eastern part of the United States, and of course definitely, over here in Western Europe. If this should happen, I don't think there is anyone—and I have talked to a lot of experts—who believes if for some reason we were not accurate, and not right the first time, there would be another chance to do it. All you have to do is look at this chart and I think you can see that threat is out there; that coverage is out there; that certainly there is a question as to whether we would be able to do it with a ground-based interceptor coming from this direction.

This is Iran over here. The reason we have this on the chart is because it is

pretty well accepted, not even classified, that Iran will have the capability of sending a missile over by—the year they use is 2015. If we had the ground-based interceptor in what we called the third site, which would have been here in Poland, then we would have been in a position to have that deployable, initially, in 2012. That date was then slipped to 2015. Well, 2015 happens to be the same date that the Iranians will have this capability, and that is the scary thing.

Let me go ahead and walk through this on this other chart on the timing. According to the phased adaptive approach, which replaced the idea we are going to have a ground-based interceptor in Poland, it says that in phase one, the 2011 timeframe, we would be able to deploy the current and proven missile defense systems available in the next 2 years, including the sea-based AEGIS system, the SM-3 interceptor—that is the Block 1A—which would be down here.

This is something we have now. This chart shows here something that is coming from Tehran over to the United States, let's say to Washington, DC. If they have this capability over here, we can see that we would have to have a capability of the ground-based interceptor in Poland. So here we are right now, the capability that they have in Iran would be portrayed right here. This is their capability. This is our capability to kill something coming over. That is where they are today. This is where they are going to be in 2015. This IRBM capability would be sometime around the year 2012 or 2013.

When we look at what our capability on this side is, we see that phase one, according to the administration, would be the 2011 timeframe. That is a sea-based AEGIS with the SM-3 interceptor, Block 1A.

Phase two would be the 2015 timeframe. That is when we are getting into—they say after appropriate testing—deploying a more capable version of the SM-3 interceptor, Block 1B. This is the Block 1B right here. So this would give us a little greater capability in both the sea- and the land-based, but that would be for a short- or medium-range missile threat.

Then phase three. This is phase three here. This is what they state we would be able to have by 2018. That would be an SM-3 Block 2A. In order to gravitate to—not quite sure I am accurate on this—what would be the capability that we would have with a ground-based interceptor in Poland, it would have to be the SM-3, 2B.

Phase four, that is the SM-3, 2B, which they are estimating might be as early as 2020. But that is "might be." There is no time range or agreement that it would be. That is in the best scenario.

So by eliminating this capability here, that would have been deployable

by 2015, and going to something that might be deployed by 2020, when they have the capability, we believe, by 2015, that is the scary thing.

I have often said—and I know it is an oversimplification—when you look at the treaty we are talking about, it is with the wrong people. That is not the threat I see out there. I see North Korea. And by the way, North Korea is going to have this same capability, we believe—well, now, actually for 12,000 kilometers, and 10,000 would reach the United States from Tehran. We know—no one denies—that Tehran and North Korea are trading capabilities and technology.

I only wanted to come to say there is a real threat out there. This is something that is real. It is something we have looked at and we were able to accept at one time, before they took down the siting in Poland. So now we have a treaty that I think, by anyone's interpretation—after you have heard the senior Senator from Arizona and the junior Senator from Arizona, and the Senator from Wyoming and others speak on this—that does certainly, at the very least, have the threat of reducing our capability of defending ourselves.

I only want to point that out, to get into the RECORD how serious the threat is, what the timeframe is and why we should be not even considering a treaty unless we have the language incorporated in amendments—that would be offered I believe by a number of Members on this side, including myself—addressing the missile defense.

I yield the floor.

THE PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, if the Senator from Arizona was about to speak on this, I would be happy to let him speak, and then Senator LUGAR and I might respond.

Is the Senator from Arizona able to say, by way of seeing where we are headed here, how long he thinks he might take?

Mr. KYL. Mr. President, I would say to my colleague, maybe 10 minutes is all. I wish to respond to four particular points that have been made here.

THE PRESIDING OFFICER. The Senator from Arizona.

Mr. KERRY. And possibly Senator GRAHAM had a question, and I thought I would also respond to his question, if he wanted to pursue that.

Mr. KYL. Mr. President, I very strongly support the amendment offered by my colleagues, Senators MCCAIN and BARRASSO. The primary point here is the preamble has created a great deal of confusion and it will create discord between the two parties here—between the Russian Federation and the U.S. Government.

There is a built-in conflict, a big problem. It is a tumor here, and it is

going to grow and eventually create a conflict between our two countries that frankly isn't necessary, and that is the purpose for removing this language from the preamble that creates this problem in the first place, that re-establishes the linkage between strategic offensive weapons—which are the subject of the treaty—and missile defenses, which are explicitly not the subject of the treaty.

My colleague Senator MCCAIN pointed out that Secretary Rice had written an op-ed where she said one of the most concerning things—worrisome, I think, was her word—about this treaty is that reestablishment of the linkage which the Bush administration had worked very hard to eliminate. In the Moscow Treaty of 2002 they had eliminated it, making it clear—even though the Russians wanted preamble language or treaty language connecting the two—they were not going to be connected by the United States. We intended to keep our missile defense plans totally separate and apart from any strategic offensive treaty.

The proponents here of this treaty and its language have made some arguments which I think I should respond to briefly. They will probably dwell on some of these again, but I have heard these arguments so far.

One that you hear over and over is that the treaty language is not binding. The simple response to that is: Fine, if it is not binding, then what is the big deal about amending it or simply eliminating this particular provision? Because it is pernicious, it is going to create a lot of problems in the future in terms of disagreements between the two countries—disagreements which are not necessary but which could escalate into a real problem in the relationship between the two countries. So if it is not binding, clearly there shouldn't be a big deal about amending the preamble.

Second, I did hear my colleague from Massachusetts the other day say: Well, these preambles are not that big a deal. They are mostly for domestic consumption. That may be true, but that is a two-way street. We have some domestic consumption here in the United States, too. The American people want the United States to be unconstrained in the development of our missile defenses, and we want to have a little comfort in this treaty that we are not going to be so constrained.

I am well aware of the language in the resolution of ratification, which is simply a statement that says the treaty doesn't limit U.S. missile defenses. That is true, as far as it goes. But, of course, it begs the question of how the Russians interpret the preamble. And they interpret it—as I said 2 days ago, or yesterday, I guess—as a legally binding authority for the Russian Federation to leave the treaty based on its interpretation of extraordinary cir-

cumstances, allowing it under article XIV—the withdrawal clause—to withdraw from the treaty if the United States were to deploy missile defenses that qualitatively or quantitatively improve our condition vis-a-vis Russia, which clearly is going to happen if the United States pursues the plans that Secretary Gates has announced.

Of course, the real question is: In view of the Russian objections, will we in fact do that? And that is the pernicious aspect of this preamble. I am afraid, because the Russians have made such a big deal out of this, the Obama administration is backing away from what were announced as our plans for missile developments.

Third, I would point out the fact that this is a problem created by the administration. The Senate gave its advice in the Defense bill last year when we explicitly said don't include any limitations on missile defense. We also added prompt conventional global strike. So this language was negotiated notwithstanding a warning by the Senate that limitations on missile defense could create a problem in our consent to the treaty.

Fourth, the language, as I said, is inconsistent with—that is to say the language in the preamble is inconsistent with announced plans for U.S. missile defense. My colleague Senator KERRY quoted administration officials as saying, well, we briefed the Russians thoroughly on this. No doubt that is true. It also appears to be true the United States has begun to modify our announced intentions with regard to deployment of missile defense.

My colleague Senator INHOFE pointed out that in place of the ground-based interceptors that the Bush administration had planned to deploy in Poland, along with associated radars in the Czech Republic, to complement the ground-based interceptors already in California and Alaska, primarily dealing with the threat coming from east Asia, the administration announced that it would substitute a phased array—or, rather, a phased adaptive approach, which included, at least in its fourth phase, the potential for intercepting ICBMs that could come from Iran to the United States, but also, of course, anywhere else, including Russia.

That would clearly be a qualitative improvement of missile defenses vis-a-vis Russia, which under their interpretation of the preamble would allow them to withdraw from the treaty. We say no, it wouldn't. Oh no, wait, that was the START I treaty where we said no, it wouldn't. In the START I treaty, the unilateral statement of the United States rejected what the then-Soviets said. The language is almost the same.

The Soviets said: We don't want you to build missile defenses, and if you do, that is a ground for withdrawal from the treaty.

At that point, the United States said: No, it is not.

Did we say that this time? No, not a word. As my colleague Senator McCain said, the United States was silent; instead, in effect saying in our unilateral signing statement: You don't have anything to worry about because we are only going to develop missile defenses good against limited or regional threats. In other words, neither the ground-based interceptor we were going to deploy but President Obama pulled back from Europe nor the phased adaptive approach, which, in its final phase, could be effective against a Russian ICBM—apparently neither of those is going to be deployed.

The administration did not make an announcement to that effect, but they did appear to confirm it when they briefed, in Lisbon a couple of weeks ago, the NATO allies and Russia that the first three phases of the phased adaptive approach would be deployed, but the magic language wasn't used on the fourth. They just said it would be available. Which is it? Are we, in fact, pulling our punches already before the treaty is even ratified because the Russians have objected to it? Isn't this exactly what Secretary Rice warned us about, saying she was worried that we had to, in this treaty, do something about the fact that the Russians had reconnected defense with offense?

That is exactly what the McCain and Barrasso amendment would do. It takes out this language which raises the question, the confusing inter-relationship language between missile defense and missile offense, and it strikes the language that says that current U.S. missile defense is not a problem—of course laying open the whole question of whether what we do in the future will be a problem. That is what the McCain-Barrasso amendment would do.

(Mr. WARNER assumed the Chair)

Mr. MCCAIN. Will my colleague yield for a question?

Mr. KYL. I will be happy to yield to my colleague.

Mr. MCCAIN. The amendment, as you know, strikes the language in the preamble. There are some who allege that a letter from the President—a strong letter from the President—would suffice to address this issue. I wonder what the view is of the Senator from Arizona as to how binding and how impactful that would be as opposed to the existing language which exists in the preamble?

Mr. KYL. Mr. President, I thank my colleague for the question because it sets up a perfect reason why this amendment is necessary. The Russians interpret the preamble as the basis for their legal argument that they can withdraw from the treaty if we do what Secretary Gates has said we are going to do. What would a letter from the President potentially say? Either it is

going to say we intend to go forward and develop and deploy the missile defenses—which would be seen by the Russians as contrary to their national interests, thus further laying a foundation for them to withdraw from the treaty—or the President would confirm the briefing at Lisbon and confirm the U.S. signing statement and say that we don't intend to deploy those, we only intend to deal with limited or regional threats, so the Russians have nothing to worry about. The Senate would be on record in an understanding accompanying the treaty that confirmed all of this. The Senate would at least be on record. But that doesn't commit the President.

I think the only answer to avoid the confusion and to avoid any future President having pressure from the Russians that they are going to withdraw is to just remove the language. That is the beauty by the author of the amendment—it pulls the thorn so the sting no longer can exist.

Mr. GRAHAM. Will the Senator yield? As we play this out, I think there is a lot of bipartisan agreement that the United States needs to develop some form of missile defense. I know Senator KERRY does agree. I am sure the President does. We all live in a very dangerous world. The idea of a missile coming from Iran or North Korea or some other rogue nations is a reality. It is a different topic to talk about neutering a first strike from the Russian Federation.

But the idea that an intercontinental ballistic missile coming to the United States from some rogue nation such as Iran or North Korea—does my colleague believe that is a possibility in the future?

Mr. KYL. Mr. President, I certainly do, and obviously our defense planners worry about that as well.

Mr. GRAHAM. And I believe the President of the United States believes that too.

Mr. KYL. Yes.

Mr. GRAHAM. Here is the problem, and correct me if I am wrong. If we enter into this treaty and the preamble is not clarified or stricken, there could come a point down the road, as we develop these systems to defend against what we all agree is a real national security threat to the United States, what damage would it do to our relationship and what kind of conflict would it create or anxiety in the world at large if the Russians say: We are going to back out of the treaty, because that is the one thing you do not want to happen. You do not want to sign a treaty where you are going to do A, and if you do A, they back out because you put the world in a state of confusion and danger. The idea that all the papers in the world would one day read: Russians back out of strategic arms limitation treaty because of U.S.

deployment of missile defense—to me, that is something we need to deal with with certainty because if that day ever came, it would really be an unnerving event.

It is clear to me that the Russians have taken the preamble language to mean that we have limited ourselves. It is clear to me that the President is trying to say we have not limited ourselves. Senator KERRY says it, I say it, you say it. But if the Russians do not agree with that, it would be better not to do the treaty, in my view, than it would be to create an illusion that the world is safer and have that illusion destroyed.

Just think this through. No matter how much you want a treaty, the worst thing that could happen, in my view, is that two major powers with nuclear weapons sometime in the future have a falling out. That is where we are headed if we do not get this right.

To my colleagues, this is a big event. It is a big moment in terms of our relationship with Russia. But you should not sign a treaty when there is a high likelihood, if we do what we think we need to do, that it will put them in a spot of having to withdraw. That has to be settled.

Taking the preamble out—if we took it out and they still signed the treaty, that would make sense. If you leave it confusing, then you are asking yourself for a headache down the road. Do you agree with that?

Mr. KYL. I certainly do.

I will terminate my conversation here by also adding one other point to my response to my colleague from Arizona about a letter from the President. The problem right now is that such a letter, if it confirmed we were going to move forward with a missile defense system adequate to protect the United States from an ICBM, from more than regional threats, would directly contradict our signing statement. What the President would have to do is say: I hereby reject or repudiate the signing statement that the State Department attached to the treaty when we signed it and state the U.S. position instead as—and then lay out his commitment to deploy a defense system adequate to protect the United States from an ICBM.

Mr. SESSIONS. Will the Senator yield?

Mr. MCCAIN. While the Senator still has the floor, one additional question for my colleague. As we all know, there is nothing more important, probably, that comes before this body than the ratification of treaties. Our Founding Fathers reserved it for the Senate alone.

This treaty is obviously of significant importance—not just the treaty itself but the impact it has around the world. There is certainly something to the allegations that are made, the comments that are made that this could affect U.S.-Russian relations. I think the

Senator from South Carolina and you and I—every Member of this body is very aware of the absolute importance of this treaty and for us to make the decision strictly based on the merits or demerits of this treaty.

The reason I ask my colleague this question is that allegations continue to swirl that there is going to be a vote for or against because of another piece of legislation or for other reasons, for other political reasons. I reject that allegation. I wonder if my colleague from Arizona does as well. I know every Member of this body is making a judgment on this treaty on its merits and their view of its merits or demerits and its importance to the future security of this Nation. And I hope, my colleague from Arizona, that I cleared that up, and I hope my colleague from Arizona will too.

Mr. KYL. Mr. President, I could not agree more with my colleague from Arizona. There have been rumors swirling around here for 3 weeks—for example, when the tax legislation was being negotiated—that somehow or other there was some deal in the works to trade the extension of the existing tax rates for support of the START treaty. There was never any kind of a deal like that going on. No, this treaty stands or falls on its own merits.

The other thing I would say, however, is that I have made the point for a long time that one of the impediments to ratifying this treaty or to debating it and considering it in a meaningful way was the intersection of all of the other business that was being put before the Senate, much of it very partisan, and that it was very difficult. My colleague from Arizona was right in the middle of a sentence a while ago when he was interrupted by another colleague to say that we have some intervening business we have to do. That is the problem. If we are going to debate and consider the treaty and be able to do it in the thoughtful and focused way it really deserves, then we should not have all these other items come popping in and out of the Senate. We are on the treaty for 2 days and then going to be off of it for 2 days, back on it again for another day, and meanwhile now we are voting on this and that and the other thing. That is what I was contending would preclude us from ever really getting to the point where we had time to do the treaty and to do it right. I think my predictions were very correct.

Mr. SESSIONS. Will the Senator yield for a question—Senator KYL. You have been a practicing lawyer and a successful one. You negotiated a lot of agreements here in the Senate.

To follow up on what Senator GRAHAM said, it seems to me that at the very heart of this treaty is a very apparent misunderstanding about the meaning and ability of the United States to deploy a missile defense sys-

tem. When two serious parties enter into negotiations on a matter as serious as nuclear weapons, isn't it a basic part of a good agreement that there are no misunderstandings on important issues?

It seems to me quite clear from repeated Russian statements that they are taking a position very fundamentally contrary to the one the United States should be taking.

Mr. KYL. Mr. President, I am glad to respond to that and summarize this again. Yes. Any lawyer—and we are both lawyers here—knows that if you have an ambiguity in a contract, you are asking for trouble. You are asking for litigation or dispute down the road.

It may not be all that important between two parties or two companies, but when you have two major countries such as Russia and the United States with a lot of tenuous relationships—there are a lot of things on which we agree and some on which we do not agree, very important matters that can arise. If you have a major dispute between the countries, you can affect international relationships not just between the two of us but affecting a whole lot of others in the world as well. You do not want to build in potential conflicts.

There is a double conflict here. The first conflict is between the United States and Russia. The Russians say: If you improve your missile defenses, we get to withdraw from the treaty.

The State Department signing statement says: Don't worry, we are only going to protect against regional or intermediate range threats. But the White House, at the same time, talks about having a letter from the President, or a statement from maybe the Secretary of Defense or somebody, that says: But we are, in fact, going to go forward and develop these kinds of missile defenses, which would, in fact, qualitatively improve our position vis-à-vis Russia.

So not only do we have a disagreement with Russia, we have a disagreement within our own government about our intentions. I do not think the Senate can ratify a treaty with all of this uncertainty out there. We do not know what this country intends to do. There are enough confusing signals that there is not only a potential for a dispute between Russia and the United States but between the Congress and the Obama administration.

Mr. KERRY addressed the Chair.

Mr. MCCAIN. Could I ask unanimous consent to engage in a short colloquy with the—

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, if we can, I think we have had about six or seven missiles launched our way. Now I am going to show you what one good defense can do to alter the balance of

power; and that is what this is all about: reality.

We have just heard the Senator from Arizona—first of all, I am so happy we are engaged in the debate. I thank my colleagues for the seriousness of the debate. And this is where we get to the heart of this, and I look forward to it.

The Senator from Arizona just engaged in a couple questions—the senior Senator—the junior Senator. I have to get this straight. The junior Senator. I have it straight. The other guy is senior in every way. What can I say.

In that colloquy, they suggested there is some kind of confusion and that we are proceeding down a road where somehow we are going to come into some kind of a confrontation over this issue.

Let me begin by saying, it does not take missile defense or any misunderstanding over it—there is not one; I will come to that next—but it does not take that or any other misinterpretation of the treaty for the Russians to decide to get out of the treaty or for the United States to decide to get out of the treaty.

Senator RISCH from Idaho stood here a few minutes ago talking about all the benefits of modernization that are in this treaty, talking about all the good items about knowing what they are doing.

The choice here is between having that modernization locked in the way we have it in the context of the treaty and locked in with a treaty where we have verification or not having it. That is what we are talking about.

The fact is, there is no confusion. First of all, the Congress has passed a law. It is the law of the land, the Defense Act of 1999:

It is the policy of the United States to deploy as soon as technologically possible an effective national missile defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized or deliberate) with funding subject to the annual authorization of appropriations in the annual appropriation of funds for national missile defense.

Unequivocal. No ifs, ands, or buts. The law of the land, which we voted for, is to have a missile defense system; and that is the policy of the United States.

What the Senators have been arguing about is a paragraph that has no legal binding—none whatsoever—no legal binding, standing, whatsoever. It is not part of the four corners of the treaty. It is not part of the treaty. It is a statement. There is no confusion about what that statement means.

Let me read the U.S. unilateral statement, our statement, of April 7, 2010:

The United States missile defense systems are not intended to affect the strategic balance with Russia. The United States missile defense systems would be employed to defend the United States against limited missile launches—

That is, incidentally, language completely in keeping with the National Missile Defense Act of 1999; the same language—

to defend the United States against limited missile launches and to defend its deployed forces, allies—

Allies—
and partners against regional threats.

Some colleagues have come to the floor and questioned whether we are going to be there for our allies. Here is the statement that makes it clear we will be there for our allies.

I read further:

The United States intends to continue improving and deploying its missile defense systems—

Hear that. Please, hear that. That is our signing statement: We intend to continue improving and deploying our missile defense systems—

in order to defend ourselves against limited attack as part of our collaborative approach to strengthening stability in key regions.

Did the Russians understand what we said? Let me read what the Russians said, if I can find it. As early as April 6, 2010, Russian Foreign Minister Lavrov said:

The present treaty does not deal with missile defense systems but with a reduction of strategic arms.

On August 2, 2010, Foreign Minister Lavrov made this especially clear in an article in a Russian publication. He said:

Dedicated from the outset to the reduction and limitation of strategic offensive arms, the new agreement does not impose restriction on the development of missile defense systems.

A month earlier, Deputy Foreign Minister Ryabkov said at a press conference:

Russia did not seek to limit the development of U.S. missile defenses while drawing up a strategic arms cut treaty. We have never set a task to limit the development of the U.S. ABM system—

including the global one by means of the treaty.

There are no such limitations in this treaty.

So the Russians understand what this treaty means. And so do we.

What is the language that the Senator seeks to strike, and why is it problematic, and why will I oppose it?

I oppose it because since it is not within the four corners of the treaty—but, nevertheless, the preamble to the treaty—it requires us to go back to the Russians and renegotiate. That is a treaty killer. Make no mistake, this becomes a treaty killer.

Can we deal with this issue without a treaty killer amendment? The answer is, yes, Senators, we can deal with it. Oh, incidentally, we have dealt with it. We have already dealt with it. It is in the resolution of ratification.

I want to read very clearly to our colleagues the resolution of ratifica-

tion—which, incidentally, I say to my colleagues, it is an understanding, which means it has to be communicated to the Russians. This is communicated to the Russians. And here is what it says, regarding missile defense: It is the understanding of the United States that, A, the New START treaty does not impose any limitations on the deployment of missile defenses other than the requirement of paragraph 3 of article V, which is the one that refers to the silos. We talked about that yesterday. We talked about the silos yesterday, and I will come back to it in a minute. The most relevant language is in B.

Incidentally, the silos are all that our understanding refers to as contained within the treaty. In paragraph B, it says, any additional New START treaty limitations on the deployment of missile defenses beyond those contained in paragraph 3—that is the silos, the conversion of silos—would require an amendment to the New START treaty, which may enter into force for the United States only with the advice and consent of the Senate.

So, in other words, if there were to be any other restraint on missile defense, we are making it clear—and this is communicated to the Russians—that it would require the Senate's advice and consent. It has to come back to us. We control what happens.

So the only component of this that has any legal force of law is the silos.

I would say to my colleagues, are the people who came here last night saying we are spending too much money advocating that we build and allow a silo conversion that costs \$55 million compared to the silos that the military wants to build that cost \$36 million and are brandnew and more effective and more efficient and not confused with the old ICBM silos? What makes more sense?

That is not a limitation on missile defense because we have the right to go out and build any number of fields of silos wherever we think they most effectively work. We can go build those new silos for \$20 some million less than the ones they want to preserve the right to conceivably convert and confuse the world about what is in them.

It is pretty clear there is no limitation on defense because we can do what we want with our bombers. We can do what we want with our submarines. And we can do what we want in terms of our interceptor missiles, fired from fields somewhere that we decide to put them. That is not a limitation on defense under any definition whatsoever.

I might add, for those who quoted a couple of comments by a couple of Russians, they are giving greater credibility to those Russians than they are to the Secretary of Defense, the Secretary of State, the President, the Vice President, the Joint Chiefs of Staff, and our strategic command and the

head of our Missile Defense Agency, all of whom have said: We are going to go ahead with our plans. We are going to do what we want.

So when you look at the language we already have in the resolution of ratification, which will be communicated to the Russians, there is no limitation on our defense for anything we intend to do, want to do, or makes sense for the United States of America.

That said, let's talk about the language and what it does mean that the Senator's amendment seeks to strike. It says the following:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms—

i.e., referring to our plans, and what we have, and what we are doing—

do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

That is all it says. What is that? I tell you what it is. It is a statement of fact. It is a statement of the truth. It is a statement of a truth that was recognized by President George Bush, by Condi Rice, by Jim Baker, and by all of their predecessors, all the way back to Richard Nixon, Henry Kissinger, and others.

What is the statement of fact? Well, here is the statement of fact: Is there a relationship between one person's level of offensive weapons and someone's defensive weapons? I was here with the Senator from Arizona, the senior Senator from Arizona, and we had a long debate in the 1980s over this subject, and he was right. It created a lot of turmoil back and forth over the so-called SDI program, the Strategic Defense Initiative that President Reagan initially proposed. He and I—and Senator KYL may have been here then—were a part of that debate with President Reagan in that period of time. What we learned during that period of time is the reality of this relationship between offense and defense.

I want to take a minute to sort of go through it a little bit because I think it is important to understanding how innocuous these words are and what they sort of recognize in this process.

The policy of our country is now to set out to create a limited defense. I read that. The Strategic Defense Initiative was a much broader, much bigger kind of concept. In fact, in the beginning of that debate, it even contemplated putting weapons up in space and having the ability to shoot down from space, and a whole bunch of other things. We went through a long and tortured debate about all that, which finally sort of exposed this following reality.

Here is the reality: For years, we would each respond to each other as we both built up the numbers of nuclear

weapons. We both contemplated first strike capacity and survivability, second strike capacity, and how the numbers of weapons we had affected the judgment of each side about their security. If one side had a whole bunch of great big missiles with big warheads, as the Russians did—the big SS18A and so forth; they had bigger ones than we did, actually—and that motivated us to think about a whole bunch of other ways to defend against it because we wanted them to know if they did try to do a first strike that they couldn't take us out and we had the ability to come back and annihilate them. That was the theory of mutual destruction that kept everybody building weapons until we had more than 10,000 strategic weapons each and tens of thousands more of depth charges, mines, cruise missiles, and various other platforms for tactical nuclear weapons by which we could deliver a nuclear warhead.

Ronald Reagan, to his credit, and Mikhail Gorbachev came to the conclusion at Reykjavik that this was madness; that nobody could afford to spend endless amounts of money just building up these huge offensive weapons so they could overwhelm the other side, or at least have a sufficient level of threat that the other side was scared to do anything.

I listened earlier to, I think it was Senator KYL and others, talking about how we have prevented some wars. I am convinced, frankly, that we probably didn't invade North Vietnam largely because Russia and China were the surrogates behind the war, both with massive nuclear power, so we never quite went that distance because we always knew there was that counterthreat in the background.

Now that certainly was the threat that existed in those 13 days of October when President Kennedy and Khrushchev squared off over Cuba and we came perilously close to a nuclear war.

So what happened is, when President Reagan put out on the table the idea we were going to go ahead and build a defense, all of a sudden the Russians, who, frankly, couldn't afford it then and can't afford it now, they looked at that defense said: Whoops, what does this do to our calculation about first strike, survivability, second strike, and the nuclear deterrents we have?

If all of a sudden the other side has the ability to shoot down all the weapons or a sufficient number of weapons of the other side in little calculated first strike, second strike, survivability capacity, we have annihilated the theory of deterrence.

If one side gets a qualitative huge advantage and just deploys it—go ahead and deploy it, put it out there. Like these desks here, the front row of desks are our offensive weapons, and the back three rows are all of a sudden a massive defensive system, and all they

have is the front row of desks. Boy, are they going to think differently. Suddenly they say: We either develop that system so we can take it out or we develop a big enough offensive system so we can overwhelm all of it. Right back to the arms race we have struggled to get away from.

That is why the idea that we are going to try to take out of here a non-binding, nonlegal, completely sort of throw-away statement—there is a truism, as Henry Kissinger called it. I know Senator MCCAIN respects Henry Kissinger. I know he talked to him for advice in the course of the Presidential race. He is still one of our wise men of foreign policy and of State craft. He testified to our committee: That statement, you ought to just ignore it, forget about it. It has nothing to do with this treaty, and all it does is state a truism, a fact, a reality.

There is a relationship between offense and defense, and if we can't be—I don't know—capable enough and understand the nuance of this thing well enough to be able to admit the truth about something, given all of the other evidence that is on the table about where we are heading, we would make an enormous mistake to kill the treaty over a nonbinding, near irrelevant piece of text.

Let me just say further I have already pointed out in the resolution of ratification we have obviated the need to have this agreement. We have completely put in there language which I think clarifies. I am happy to work with my colleague further to see if there is some other way to even state more clearly in a declaration or in a condition—we could state it in some way perhaps more clearly, if that satisfies him. But I don't think, given the lack of legal standing, that we are going to kill the treaty over the notion of this.

A couple more things I wish to say about it: Does this assert this link for the first time or reassert a link that has been separated? I have stated the obvious link between offense and defense.

Let me say one other thing. President Reagan, incidentally, had a fascinating idea which a lot of people laughed at initially when he put it out there. He said: Let's share it with the Russians. Now, why would you share it with the Russians? That is President Reagan talking. Because if they know what we are doing, if they know that it is not a guise to get an advantage over them, to somehow be able to surprise them or overwhelm them, but they understand exactly what you are doing, which is precisely what we have done in the course of this European deployment—they know it, they understand it, they see what it is directed at. It is focused on Iran. It is focused on rogue missiles. It is focused on the threat we ought to be focused on. They under-

stand that. Therefore, they don't see it as a reason not to enter into this kind of an agreement.

But if we just unilaterally quietly go off on our own and develop something they think can alter the strategic balance, then their leaders are subject to the same political pressures we are of people who say: Hey, you are not protecting our Nation. You are not thinking about us. The evil United States of America might be trying to blanket us, et cetera.

We both have folks in our political bodies who hate treaties or don't want to deal with us; or they don't want to deal with us and we don't want to deal with them. We understand that. But every President, Republican and Democrat alike, has found that strategically it made sense for the United States of America to, in fact, reach these agreements and to negotiate these agreements. The world has been made safer because of it, and nobody has greater testimony to that than Senator LUGAR, who is passionately for this treaty because, as Jim Baker said, it was START I that created the foundation for the Nunn-Lugar threat reduction program to be able to work and reduce the threat to our country.

I repeat, when Donald Rumsfeld was preparing to negotiate the Moscow Treaty, here is what he said:

We agreed that it is perfectly appropriate to discuss offensive and defensive capabilities together.

As those negotiations began, President Bush said:

We will shortly begin intensive consultations on the interrelated subjects of offensive and defensive systems.

He said the two go hand in hand. What is more, seven former heads of the Strategic Command wrote the Senate Foreign Relations Committee this summer saying:

The relationship between offense and defense is a simple and long accepted reality.

So the Obama administration isn't creating some link. It is acknowledging the reality, and it is acknowledging it—I might add in a paragraph that has no legal standing with respect to the treaty itself, but it is, for whatever benefits or negatives, a sufficient part of that document that it requires under the law to go back to the Russians and do it. But as Secretary Clinton said, it has no legal obligation—obligation—on the United States. It is a statement of fact. So Henry Kissinger said don't worry about the language, and I accept what he is saying.

Finally, the preamble also states the current systems we are planning on don't undermine the viability and effectiveness of either party's strategic arms. It also does not say that the future system we can develop, and we are developing—and the President laid out a clarity about stage 3 and stage 4 deployment with respect to Europe. We can come back to that later if people

want to, but the Russians were briefed on why the treaty has no restraint whatsoever in our phased adaptive approach in Europe, specifically including phase 4.

LtG Patrick O'Reilly, Director of the Missile Defense Agency, told the committee—and, once again, folks can choose to believe LtG Patrick O'Reilly or you can believe a newspaper article in Russia and some Russian official. What matters to us is what we decide to do because we can pull out of this treaty any day we want to.

If we have a qualitative change in our system, and we think it is going to defend the United States of America, you don't think any President in the future isn't going to be the first to say, I am deploying that because it protects the country. You don't think that Senators here aren't going to be the first to stand up and say: Mr. President, you have to deploy it because it protects the country. What is more, we can't reduce below the 1,350 warhead level, folks, without the Senate agreeing to do it.

So we are not on some cascading downward trend. We are in a position where our defense and intelligence community says we need this treaty because we want to get back to the ground. We want to know what Russia is doing, and we would like to catch up to what they are up to.

LtG Patrick O'Reilly said:

I believe the Russians understand what the plan is and that those plans for development are not limited by this treaty.

That is a quote.

He also explained what he told them about it, and I quote again:

Throughout these conversations, it was very clear to me through their questions and responses that they fully understood my presentation; i.e., fourth stage and our commitment to proceed forward.

Now, there is nothing in this treaty that changes our course on missile defense. Bob Gates reminded us of that. And, once again, do you believe Bob Gates or do you want to believe the Russian press? Is it relevant anyway? Because if Bob Gates says we are going to do it and the President says we are going to do it and the Congress says we are going to do it, and we are doing it, it doesn't matter what they say because if they are going to pull out, they will pull out. Until then, we have the advantage of the inspections and the cooperation that comes with this treaty.

Here is what Bob Gates said:

The Russians have always tried to resist our ability to do missile defense, but this treaty doesn't accomplish that for them.

He said:

We have a comprehensive missile defense program and we are going forward with all of it.

So the administration has made clear to the Russians that we are going ahead with missile defense. We don't

need this amendment. It doesn't change Russia's withdrawal rights. It doesn't change what we have already made clear, notwithstanding it does have that minor impact of killing the treaty. So I will oppose it. Much as the Duma's action on START II killed that treaty, it never came into force because of our pulling out of the ABM Treaty. I don't think this amendment will advantage the position of our country.

I know Senator LUGAR wishes to speak, but others are on the Senate floor already.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, in deference to Senator LUGAR, I will be very brief. Also, Senator SESSIONS is here who would like to speak, as well as Senator BARRASSO again, so I will be very brief. I believe the Senator from Illinois is also here.

Mr. KERRY. Mr. President, I wonder if I could ask my colleague—we are at a quarter to 5 now. I wanted to get a sense, because colleagues are asking me, on our side at least, where we stand. Would it be possible to get a time agreement on this?

Mr. MCCAIN. I regret we can't at this time. This is one of the seminal aspects of whether the United States is going to ratify this treaty. To have a time agreement, after all of the fooling around we have been doing on the DREAM Act, on New York City, on all of these other issues that have taken up our time, we will not have a time agreement from this side until all Members on this side have had an opportunity to express their views on this issue.

Mr. KERRY. Mr. President, if I may, I was simply asking a question. Before I yield the floor, let me just say I am not trying to reduce the level of debate. I am just trying to get a sense of how much time we might need. I wish for no Senator to be cut off. It seems to me we ought to have a sense of how many Senators want to speak, of how long they need, and the normal procedure in the Senate is to try to establish that so we can pin down where we are heading.

All I am trying to figure out—let me ask the Senator two questions. No. 1, I would ask the Senator, does he think that sometime in the near term he could have a sense of how many Senators are going to speak and we could try to pin that down. I would ask them that, Mr. President, without losing my right to the floor.

Mr. MCCAIN. Mr. President, was the floor yielded before the Senator spoke?

The PRESIDING OFFICER. It is the understanding of the Chair that the Senator from Massachusetts has the floor.

Mr. MCCAIN. I thank the Chair. Under any circumstances, I wanted to

clarify that. I am glad to answer any question my friend from Massachusetts has. I cannot tell him at this time.

What the Senator from Massachusetts has done is sparked a strong response from this side. So this is not a situation where we come down and everybody just gives a statement. I had not planned on talking again, until I heard the comment of the Senator from Massachusetts. I am sure the Senator from Arizona, Mr. KYL, and the Senator from Wyoming feel the same way. I will try to get a list of speakers. I certainly cannot tell the Senator from Massachusetts when we will be done. Obviously, in the spirit of debate, I have to challenge the assertions of the Senator from Massachusetts because that is what I think this ratification process should be all about. I am sure my colleague understands that.

I want to emphasize that I am not trying to drag this out. I want to make sure, because this is one of the most important parts of this debate—I don't want it to be short-circuited. I promise the Senator from Massachusetts that I am not trying to drag this out.

Mr. KERRY. Mr. President, I completely understand and accept the Senator's desire to have this robust debate, and I welcome it. I agree that some of these issues are contentious and there are different points of view. This is exactly what we ought to be debating. I am in favor of that.

Mr. MCCAIN. I will try to get a limit on the number of speakers.

Mr. KERRY. I appreciate that. I am trying to help colleagues on both sides of the aisle who are trying to figure out where we are headed.

Secondly, I understand the powerful feelings on the other side about this particular issue. I thought we had addressed it. We certainly tried to. In fact, we took an amendment—where is Senator RISCH's amendment? Was it Senator DEMINT's?

We accepted an amendment to the resolution of ratification from, I think, Senator DEMINT. I have it right here—no. Here it is. It is on missile defense. This was very important because Senator RISCH—as he came to the floor today—had talked about this entire way in which we deal with it. No, that's not it. This is a declaration—if I can say to my colleague from Arizona, Senator RISCH—DeMint proposed this amendment, and we accepted it.

It says:

It is the sense of the Senate: A paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the U.S. Armed Forces, and United States allies against nuclear attacks to the best of its ability. Policies based on mutual assured destruction, or intentional vulnerability, can be contrary to the safety and security of both countries. The United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from a strategic relationship based on mutually assured destruction. In a world where biological, chemical, and nuclear weapons, and the

means to deliver them, are proliferating, strategic stability can be enhanced by strategic defensive measures. Accordingly, the United States is and will remain free to reduce their vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges. The United States will welcome steps by the Russian Federation also to adopt a fundamental strategic posture.

That is very powerful language, in my judgment. I am very prepared, if Senator MCCAIN will work with me, to try to find a way that doesn't kill the treaty but that puts in the language that embraces the thoughts that we are trying to convey with respect to our rights.

Mr. MCCAIN. Mr. President, I will be brief. I know Senator LUGAR is waiting, as are two or three of my colleagues. I appreciate what the Senator from Massachusetts just said because it is the best argument for this amendment I have seen.

It says the preamble is nothing, meaningless, doesn't have any effect. If that is the case, then let's get rid of it. Fine, let's throw it away. In fact, he called it a throwaway. Isn't that true, I ask the Senator from Wyoming?

Mr. BARRASSO. Yes, Mr. President. That is exactly what I see here. The senior Senator from Massachusetts said—and this is a transcript from a few minutes ago. He said that the idea that we are going to try to take out of here is nonbinding, nonlegal, completely a throwaway statement.

Mr. MCCAIN. Then what could be the problem? Let's get rid of it.

The second point, of course, the Senator from Massachusetts gave various quotes from Russian leaders about the whole aspect of missile defense. Yet, again, on December 1, 16 days ago, Vladimir Putin, speaking on "Larry King Live"—I am not making this up—said this:

I want you and all the American people to know this. . . . It's you who are planning to mount missiles at the vicinity of our borders, of our territory. We've been told that you'll do it in order to secure against the, let's say, Iranian threat. But such a threat as of now does not exist. Now if the rudders—

Whatever that means—

and the counter missiles will be deployed in the year 2012 along our borders, or 2015, they will work against our nuclear potential there, our nuclear arsenal. And certainly that worries us. And we are obliged to take some actions in response.

That was 16 days ago from the Prime Minister and, we know, the most powerful man in Russia. "We are obliged to take some actions in response."

Of course, one day earlier, President Medvedev said:

Either we reach an agreement on missile defense and create a full-fledged cooperation mechanism, or if we can't come to a constructive agreement, we will see another escalation of the arms race. We will have to make a decision to deploy new strike systems.

That was 17 days ago. Who are we to believe? What are we to believe? Well,

we can clarify it. Take that out of the preamble, and we can clarify that. There are other statements—one by the Russian Foreign Minister Lavrov—and on and on. I don't think there is any doubt.

Also, there are recent press reports saying that "Russia develops new indestructable ICBM to replace Satan." That is on 16 December. There is another news report that says that "Russia has moved Russian missiles; fuels U.S. worries." That is the Wall Street Journal.

U.S. believes Russia has moved short-range tactical nuclear warheads to facilities near North Atlantic Treaty Organization allies as recently as this spring, adding to questions in Congress about Russian compliance with longstanding pledges ahead of a possible vote on a new arms control treaty.

One of the reasons this is very important, I argue, is that, back in 1991, the Russians agreed they would not move any of their tactical nuclear weapons. That was a commitment they made.

So, again, I am befuddled by the reluctance of the Senator from Massachusetts to just simply remove this preamble.

Finally, I will mention the difference between this administration and START I on this same issue. In fact, if you look at the statement the United States made, it is interesting. It says:

The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack—

That word "limited" is interesting—and as part of our collaborative approach to strengthening stability in the key regions.

Now, contrast that with what the United States said at the time of the ratification of START I. The United States said:

While the United States cannot circumscribe the Soviet withdrawal from the START Treaty, if the Soviet Union believes its supreme interests are jeopardized, the full exercise by the United States of its legal rights under the ABM treaty, as we have discussed with the Soviet Union in the past, would not constitute a basis for such withdrawal. The United States will be signing the START Treaty and submitting it to the United States Senate for advice and consent with this view. In addition, the provisions for withdrawal from the START Treaty based on supreme national interests clearly envision that such withdrawal can only be justified by extraordinary events that have jeopardized the parties' supreme interests. The Soviet statements on a future hypothetical that a U.S. withdrawal from the ABM treaty could create such conditions are without legal or military foundation.

I ask my colleagues to look at the differences between the two comments. Finally, I emphasize, again, there is clearly room for some disagreement as to what the Russian intentions are. Should it not be clarified? Should we not have it clear and ask the Russians? Couldn't we ask them tonight and say: What are your intentions regarding missile defense systems? There is contradiction.

On "Larry King Live," your Prime Minister made a strong statement about it, so has the Foreign Minister and others. We have constant communications with the Russians. We can clarify some of this if we just ask the Russians for a statement of clarification.

I hope the Senator from Massachusetts might do that. That also would not change the fact that, given the contradictions in the Russian statements, we should get rid of that meaningless, throwaway provision that this amendment requires.

I thank my colleagues and yield to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, two major arguments have been made against the New START Treaty. They revolve around a missile defense issue that we have been discussing, and verification issues. There may be others, but those two have some importance.

The amendment before us now is to strike a part of the preamble. Let me just say, first of all—and I will conclude with this argument after a reasonable discussion of it. If, in fact, we were to adopt the amendment that is before us, we will kill the treaty. I think Members need to understand that fundamental proposition. We will kill the treaty. Maybe many colleagues did not like the treaty to begin with. As a matter of fact, maybe they have not liked any treaties with the Russians.

There may be colleagues who, as a matter of fact, would not be opposed to a treaty with the Russians on occasion, but not at this particular time and even have stressed that other foreign policy issues are more important and that this is almost a diversion of our attention.

I am one who believes the treaty is important, and I think fundamentally we have to understand this amendment kills the treaty. As we vote yea or nay, we are deciding whether we are going to, in fact, continue to have a debate on this treaty.

Some critics of the New START treaty have argued that it impedes U.S. missile defense plans. Nothing in the treaty changes the bottom line that we control our own missile defense destiny, not Russia. Defense Secretary Gates, Admiral Mullen, and General Patrick O'Reilly, who is in charge of our missile defense programs, have all testified that the treaty does nothing to impede our missile defense plans. The Resolution of Ratification has explicitly reemphasized this in multiple ways.

Some commentators have expressed concern that the treaty's preamble notes the interrelationship between strategic offense and strategic defense. But preambular language does not permit rights nor impose obligations, and

it cannot be used to create an obligation under the treaty. The text in question is stating a truism of strategic planning that an interrelationship exists between strategic offense and strategic defense. As a matter of fact, it always has existed and does exist. We have argued that among ourselves in terms of our own defense, and so have the Russians, as well, in our colloquy with them.

Critics have also worried that the treaty's prohibition on converting ICBM and SLBM launchers to defensive missile silos reduces our missile defense options. But as we have heard, General O'Reilly has stated flatly it would not be in our own interest to pursue such conversions because converting a silo costs an estimated \$19 million more than building a modern, tailor-made new one.

We would say simply that the Bush administration converted the five ICBM test silos at Vandenberg for missile defense interceptors, and these have been grandfathered under the New START treaty. But beyond this, every single program advocated during the Bush and Obama administrations has involved construction of new silos dedicated to defense on land, exactly what the New START treaty permits. General O'Reilly has said a U.S. embrace of silo conversions would be "a tragic setback," for our missile defense program.

Addressing whether there would be utility in converting any existing SLBM launch tube to a launcher of defensive missiles, GEN Kevin Chilton, commander of U.S. Strategic Command, says:

The missile tubes that we have are valuable in the sense that they provide the strategic deterrent. I would not want to trade an SLBM, and how powerful it is and its ability to deter, for a single missile defense interceptor.

Essentially, our military commanders are saying that converting silos to missile defense purposes would never make sense for our efforts to build the best missile defense possible.

Another argument concerning missile defense centers on Russia's unilateral statement upon signature of New START, which expressed its rights to withdraw from the treaty if there is an expansion of U.S. missile defense programs. Unilateral statements are routine to arms control treaties and do not alter the legal rights and obligations of the parties to the treaty. Indeed, Moscow issued a similar statement concerning the START I treaty, implying that its obligations were conditioned upon U.S. compliance with the ABM Treaty. Yet Russia did not, in fact, withdraw from START I when the United States did withdraw from the ABM Treaty in 2001, nor did it withdraw when we subsequently deployed missile defense interceptors in California and Alaska, nor did it withdraw when we announced plans for missile

defenses in Poland and the Czech Republic.

Russia's unilateral statement does nothing to contribute to its right to withdraw from the treaty. That right, which we also possess, is standard in all recent arms control treaties and most treaties considered throughout U.S. history. Some Senators have not fully understood this history, at least in my judgment, when dwelling on the ramifications of deploying the final phases of the European phased adaptive approach to missile defense.

In particular, some Senators appear to argue that phase four would involve the use of the Standard Missile-3 Block IIB, a missile of two stages, which Senators presume could have the capability to threaten Russian missiles. Consequently, they worry Russia may threaten withdrawal over deployment of this defensive missile which is being developed to meet the threat of a more capable Iranian missile. They claim such a threat might delay or inhibit the new defensive missile's deployment.

In fact, we have learned, in scores of hearings and classified briefings, that our military went to great lengths to show that no missile interceptor under deployment could neutralize Russian strategic forces. Lieutenant General O'Reilly stated in June, before our Foreign Relations Committee:

I have briefed Russian officials in Moscow. I went through the details of all four phases of the Phased Adaptive Approach, especially Phase Four. And while the missiles that we have selected as interceptors in Phase Four provide a very effective defense for a regional-type threat, they are not of the size or have the long range to be able to reach Russian strategic missile fields. And it is a very verifiable property of these missiles, given their size and the Russian expertise and understanding what the missiles' capabilities will be, that they could not reach their strategic fields.

No witness has argued that the United States, under this or any future administration that will come to power under the duration of the treaty, will be capable of deploying missile defenses of the kind that could reliably, economically, and persuasively defeat massive, strategic missile attacks on the United States of America wherein thousands of warheads were rained down upon us. This is a technical reality and not a political choice.

The resolution of ratification approved by the Foreign Relations Committee reaffirms the New START treaty will in no way inhibit other missile defenses. It contains an understanding to be included in the instrument of ratification that the New START treaty imposes no limitations on the deployment of U.S. missile defenses other than the requirement to refrain from converting offensive missile launchers. It also states that Russia's April 2010 unilateral statement on missile defense does not impose any legal obligations

on the United States and that any further limitations would require treaty amendment subject to Senate advice and consent.

Consistent with the Missile Defense Act of 1999, it also declares it is U.S. policy to deploy an effective national missile defense system as soon as technologically possible and that it is the paramount obligation of the United States to defend its people, its Armed Forces, and allies against nuclear attack, to the best of our ability.

The committee's resolution also states the Senate expects the executive branch to provide regular briefings on missile defense issues related to the treaty and on United States-Russian missile defense dialogue and cooperation. The resolution also calls for briefings before and after each meeting of the Bilateral Consultative Commission. The executive branch has committed to holding these briefings.

In a revealing moment before the Senate Foreign Relations Committee hearings on the treaty, Secretary Gates testified:

The Russians have hated missile defense ever since the strategic arms talks began, in 1969 . . . because we can afford it and they can't. And we're going to be able to build a good one . . . and they probably aren't. And they don't want to devote the resources to it, so they try and stop us from doing it. . . . This treaty doesn't accomplish that for them. There are no limits on us.

Again, that was a quote from Secretary Gates, and I would paraphrase the Secretary's blunt comments by saying simply that our negotiators won on missile defense. If, indeed, a Russian objective in this treaty was to limit U.S. missile defense, the Russians failed, as the Defense Secretary asserts. Does anyone believe that Russian negotiating ambitions were fulfilled by nonbinding preamble language on the relationship between offense and defensive capabilities or by a unilateral Russian statement with no legal force or by a prohibition on converting silos, which cost more than building new ones? These are toothless, figleaf provisions that do nothing to constrain us.

Moreover, as outlined, our resolution of ratification states explicitly, in multiple ways, we have no intention of being constrained. Our government is involved heavily in missile defense. Strong bipartisan majorities in Congress favor pursuing current missile defense plans. There is no reason to assume this will change.

What the Russians are left with on missile defense is unrealized ambitions. At the end of any treaty negotiation between any two countries there are always unrelated ambitions left on the table by both sides. This has been true throughout diplomatic history. The Russians might want all sorts of things from us, but that does not mean they are going to get them.

If we constrain ourselves from signing a treaty that is in our own interest

on the basis of unrealized Russian ambitions, we are showing no confidence in the ability of our own democracy to make critical decisions in the future. We would be saying we have to live with the diminished security environment that would result from the end of START inspections because we fear the Russians might try in the future to limit missile defense.

Let us be absolutely clear. The President of the United States, the Congress, and the executive branch agencies, on behalf of the American people, control our destiny on missile defense. The Russians can continue to argue and maneuver all they want on this issue, but there is nothing in the treaty that says we have to pay any attention to them.

Therefore, I would say, first and foremost, fundamentally, if we amend the treaty text, the treaty is gone.

That does relate to a second argument we may have later on with regard to verification. We have all pointed out that for over a year, since December 5, 2009, we have not had verification in Russia. Many of us feel that is very important. There may be arguments on what the treaty provides as verification, but if there is no treaty and there is no verification, those arguments are not particularly germane today.

Instead, the best course for the United States is to make clear we will pursue our missile defense plans, whether Russia decides now or in the future not to be a party to the New START treaty, and that Russian threats to withdraw from the treaty will, accordingly, have no impact on our missile defense plans. Just as we were not deterred from withdrawing from the ABM Treaty by Russian threats that such a withdrawal might prompt them to pull out of START I, Russia's threats regarding New START should not deter us from pursuing our missile defense plans.

The ratification of the New START treaty recommitments the United States to this course. It contains an understanding to be included in the instrument of ratification that the New START treaty imposes no limitations on deployment of U.S. missile defenses, other than the requirement to refrain from converting the offensive missile launchers. It also states that Russia's April 2010 unilateral statement on missile defense does not impose any legal obligations on the United States, and any further limitations would require treaty amendment subject to the Senate's advice and consent.

Consistent with the Missile Defense Act of 1999, it also declares it is U.S. policy to deploy an effective national missile defense system as soon as technologically possible, and it is a paramount obligation of the United States to defend its people, its Armed Forces, and its allies against nuclear attack to the best of our ability.

For all these reasons, I urge Senators to reject the amendment before us because it would kill the treaty, it would kill the opportunities the treaty provides for us, and the reasons for doing so, it seems to me—those that have been stated—are very inadequate.

I thank the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I am not going to keep the floor—

Mr. SESSIONS. I have been here for a couple hours.

Mr. KERRY. Mr. President, I am about to completely cover for the Senator. Senator KYL has been working with me. We want to make sure, as I said, everybody gets a chance, so I am just trying to lock it in.

This is coming from me from Senator KYL. I ask unanimous consent that Senator SESSIONS be given 30 minutes; that following Senator SESSIONS, Senator KIRK have 15 minutes; that following him, Senator DODD have 20 minutes; that following him, Senator GRAHAM of South Carolina have 10 minutes; and then Senator DEMINT from South Carolina have 15 minutes.

Mr. MCCAIN. Reserving the right to object, I think the way I have it is that following Senator SESSIONS is Senator GRAHAM and then Senators KIRK and DEMINT. Senator KYL will also want time that is not specified at this time, and I would want time. But could I say to my friend, there will be no more—by unanimous consent there will be no more speakers from this side.

Mr. KERRY. Mr. President, I appreciate that very much.

Mr. SESSIONS. Reserving the right to object, I would not be able to finish my full remarks on this tonight. I mean, I could later tonight, at the end of that, in my 30 minutes, or tomorrow.

Mr. KERRY. Mr. President, could I ask, is the Senator from Alabama saying he can't finish his floor remarks with respect to the treaty or to this amendment?

Mr. SESSIONS. The amendment, and I would ask to be added on at the end or in the morning.

Mr. KERRY. Mr. President, I think we would like, if we could, to wrap up the debate this evening. I ask unanimous consent as it follows, then, that at the end of the list of speakers on the Republican side, Senator SESSIONS be granted the floor—for what period of time would the Senator like?

Mr. SESSIONS. Thirty minutes.

Mr. KERRY. Thirty minutes at the end of that, so the Senator will have—Senator SESSIONS will have two sessions, and we will come back after that.

Mr. President, I ask unanimous consent that I reserve 30 minutes after Senator SESSIONS, and at that time, could I ask—at that time, could we agree at that point to ask for the time for a vote perhaps tomorrow?

Mr. MCCAIN. Reserving the right to object, the understanding, I ask my friend from Massachusetts, is that Senator KYL can be recognized at certain points after this, without a particular time agreement, if that is agreeable?

The PRESIDING OFFICER. Will the Senator from Arizona restate the sequence of speakers on the Republican side, please.

Mr. MCCAIN. Senator SESSIONS with 30 minutes; GRAHAM for 10 minutes; KIRK, 15; DEMINT, 15; KYL and myself, unspecified time; and Senator SESSIONS an additional 30 minutes when it is appropriate, understanding that there will be speakers from the other side intervening in this sequence.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the other speaker on our side will be Senator DODD. As stated, he will come after Senator GRAHAM. I am reserving time, such time as I will use, either after Senator KYL or Senator MCCAIN.

I ask unanimous consent that be the end of the speakers on this amendment, and we will agree to set a time for a vote according to the leadership.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object. What we were trying to do is simply indicate an order so people would know this evening roughly when they would be permitted to speak, what the order would be, how late we would go, and so on. It is my understanding that we will not be on the treaty tomorrow but, rather, that we will be on two other matters the leader has filed cloture on and that we would have some debate preceding the two cloture votes. Therefore, we would not be on the treaty tomorrow. When we go back on the treaty, obviously there may be something that needs to be set on the amendment before we vote.

Mr. KERRY. I really would like to lock it in, if I can, and I think this is a good effort and we can close it this way. Could we agree that this list will be the final list of speakers on this amendment, with the allowance for 5 minutes on each side prior to a vote?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I cannot agree with that. I simply don't know who else might want to speak to it. With the amount of people speaking to this tonight and the fact that presumably we will come back on this Sunday or Monday, I would not anticipate personally—though it is not my amendment—that there would be a tremendous amount of debate left and it would not be our intention to hold off a vote; however, there may be people who want to speak to it, and I may want to have something.

Mr. President, might I also say that Senator THUNE would like to have 15 minutes tonight.

I think that is the best way. Then perhaps we can talk offline.

Mr. KERRY. I think that is fine. We are moving in the right direction. I appreciate the effort of the Senator. We will get there.

Is the Chair clear on the names? Senator SESSIONS for 30 minutes; we request Senator GRAHAM for 10 minutes following that; Senator DODD for 20 minutes following that; Senator KIRK for 15 minutes following that; Senator DEMINT for 10 minutes—15 minutes; Senator THUNE for 15 minutes; and then Senator KYL and Senator MCCAIN for such time as they will use; and Senator KERRY for such time as I choose to use.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. And Senator SESSIONS for an additional—

Mr. KERRY. Senator SESSIONS for an additional 30 minutes at such time between Senator KYL and Senator MCCAIN as they would allow.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I just want to say a couple of things. First, the treaty is important, but its—

Mr. KERRY. Mr. President, I apologize, and I apologize to the Senator. The Senator from New York has informed me that he would like 5 minutes somewhere in there. I ask, according to the unanimous consent agreement, that he be permitted to speak after Senator KIRK. Actually, could he be permitted to speak for 5 minutes after Senator SESSIONS?

I thank the Chair.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, a treaty of this nature is very important. I have served as chairman and ranking member of the Armed Services Strategic Forces Subcommittee, which deals with missile defense and nuclear issues. I think we dealt with it in more detail involving the budgets and those kinds of things than the Foreign Relations Committee that is handling this bill.

I would say it is very important to know how we got to where we are. I think it is very important that we understand the significance of what is happening and the meaning of it. It is going to take some time to do that. A lot of things that have been said this afternoon I don't think fully capture what has happened, and I believe it ought to be corrected.

I would say with regard to missile defense that I have been involved in that for 14 years since I have been in the Senate on the Strategic Forces Subcommittee of Armed Services. I think I know something about it. And I have to disagree with my distinguished col-

league, one of the most distinguished Members of this Senate, that the Russians did not win on missile defense. They have already won and have attempted to codify it in this treaty. It is a very serious matter. I feel that we are going to have to take some time to go through it and understand how we got where we are.

I know it is late on this night, but it is not because I want to be here; it is because this Senate, under the majority, has not been able to move appropriations bills or pass other legislation, and it has all now been jammed up after this election into this lameduck Congress. Now we are not going to be rushed. We should not be rushed.

I would add one more thing. I cannot understand and I am deeply disappointed that the Russians have been so intransigent, hardheaded about this treaty and other relations with the United States. We had every reason to believe and expect and hope we would be moving forward with Russia today in a far more close and harmonious relationship. I cannot understand why, for example, the Russians are negotiating a treaty that gives less inspection capability to the United States than they had before. If they have nothing to hide, what is going on here? I am concerned about this.

Finally, as to whether the treaty is essential, I would note that we don't have a nuclear treaty with the UK—England. We don't have one with France. We don't have one with China. We don't have one with India. We don't have one with Pakistan. We don't have to have this treaty. If it is not a good treaty, we ought not to sign it.

Mr. Feith negotiated the START treaty with the Russians. He told them no on issue after issue, these very same issues, as he recently wrote in the Wall Street Journal in an op-ed, and eventually they accepted the American position. The very issues they raised that Mr. Feith and President Bush rejected have been accepted as a part of this treaty.

Let's talk about a few things that happened. In July of 2006, North Korea tested a ballistic missile, leading many, including myself, to the conclusion that the long-range missile threat against the United States from a rogue threat was imminent. This was constantly talked about on the floor of the Senate, in committee, and, in particular, our subcommittee. A lot of people do not know. We try to be responsive to threats.

What is the threat? The North Korean threat not only increased in the intervening years, but it is also compounded by the reality that Iran has also developed a ballistic missile capability, leading to a recent intelligence estimate that stated that "with sufficient foreign assistance, Iran could probably develop and test an intercontinental ballistic missile capable of

reaching the United States by 2015." By 2015—that is our intelligence estimate, and we generally rely on what they tell us about what they estimate.

So how is this national security imperative—an agreement that we are dealing with today and one that would reduce our nuclear arsenal while our enemies are building theirs up—helpful to us?

The truth is, fundamentally, we spent weeks on this. The administration had its top people working on this treaty with Russia that the Russians negotiated so vociferously because they really weren't concerned about it, frankly, whether it was signed or not, and they knew we wanted it worse than they did. But why have we not been discussing what is really serious; that is, Iran and North Korea and their development of nuclear weapons, how they threaten their neighbors, how North Korea has attacked South Korea, our ally, with which we are bound in a mutual defense treaty, attacked them and killed civilians and military personnel just a few weeks ago. These are the critical issues this Nation ought to be dealing with, and we ought not to at this time be weakening our national missile defense system.

In London, in 2006, I made a talk in which I said I believe we reached a bipartisan consensus on going forward with a missile defense system for the United States and that we were going to plant a missile defense system in Poland, with radar in the Czech Republic, and that the budget had just been approved under the Democratic majority, and I thought that represented a bipartisan agreement to move forward with ground-based interceptors in Europe. And it could have been done. It was expected originally to be capable of being deployed by 2013. Because Congress delayed and funding was not always there, it was set to be deployed by 2016. Remember, the Iranians are capable of hitting the United States, according to the intelligence estimate, by 2015, and we were trying to be sure we met that. We were going to use basically the same system that is utilized in Alaska, utilized in California, that we have in the ground right now to be deployed in Europe.

Many leftists in the United States and some in Europe opposed that, and it was somewhat controversial. I never understood why. The Russians did not like it. They did not like it, but the Czechs and the Poles stood up, they faced down the people who objected, and they were supportive of it. We were planning to go forward when President Bush left office. That is the basic status.

It was in the summer of 2008 that the Bush administration actually signed agreements with Poland and the Czech Republic to install the 10 ground-based interceptors and a fixed radar base in

the Czech Republic. At the same time, Candidate Obama said he would support deployment of ballistic missiles that were "operationally effective."

The day after the U.S. Presidential election, November 5, 2008, President Medvedev in Russia stated that Russia would deploy short-range missiles to the region of Kaliningrad, Leningrad, which borders Poland, if the United States proceeded with their site. It was a threat to the new administration. In typical Russian fashion—issue a threat and test the new President.

Then on January 15, 2009, at the nomination hearing for Under Secretary of Defense for Policy Michele Flournoy, she was asked this by Chairman LEVIN:

On the European missile defense issue, do you believe that it would be important to review the proposed European missile defense deployment in the broader security context of Europe, including our relations with Russia, the Middle East, and to consider those deployments or that deployment as part of a larger consideration of ways in which to enhance ours and Europeans' security?

Ms. Flournoy replied:

Yes, I do, sir. I think it is an important, candid issue for the upcoming quadrennial defense review.

That is our internal defense review. What was that question? That question suggested we might not should go forward without Russia and we should consider how it could affect the relationship.

Within 2 weeks of that hearing, in late January of 2009, but not long after the President had taken office, the Russian media reported that Moscow had cancelled the deployment of these missiles in the Kaliningrad area because the Obama administration was not "pushing ahead" with the third site.

Now, that is pretty stunning. The third site has been a part of our strategic policy for years. The President and Secretary of State under President Bush said they had worked hard to negotiate with the Poles and the Czechs, had gotten their agreement. They had publicly stood up, their leaders had, to defend this third site. Here, the President is waffling right off the bat in the face of Russian pressure.

On February 7, at the annual Wehrkunde Conference, Vice President BIDEN stated:

We will continue to develop missile defenses to counter growing Iranian capabilities. We will do so in consultation with our NATO allies and Russia.

Well, Russia did not want this. They had never wanted this. But President Bush did not let it stop him. President Obama's statement was followed by an announcement from Deputy Secretary of Defense, William Lynn, and Vice Chairman of the Joint Chiefs, James Cartwright, in 2009, in the summer, that the administration was reviewing its defense options in Europe.

Finally, on September 17, 2009, President Obama delivered a bombshell an-

nouncement, stunning and surprising and embarrassing our Czech and Polish allies, and announced his decision to cancel the European third site, saying: This new approach "will provide capabilities sooner, build on proven systems and offer greater defenses against the threat of missile attack than the 2007 European missile defense program."

So I have been involved. Let me parenthetically say this new system he talks about would be better was not even on the drawing board. There was no development planned for this new system, the SM-3 Block 2B. It was not on the drawing board. They conjured it up out of thin air and said: We will have it developed by 2020, when we had a two-stage, ground-based interceptor capable of being deployed by 2016. The Iranian threat, remember, is to be ripe by 2015.

I would just say to generals and others who think this is such an easy deal, how many appropriations processes do we have to go through without failing on a single one to develop an entirely new SM Block 2B by 2020 that is not even on the drawing board today?

What kind of difficulties may occur? We had the bird in hand. We let it go for a bird in the bush. This was a huge concession. Let's go a little bit further. How did it happen? The President, and his negotiators for this treaty, have insisted there is no connection between their negotiations and missile defense: We have not conceded a thing on missile defense. It is a win for us on missile defense. Senator KERRY said it would not lessen our ability to do a missile defense program.

So I would just go a little further. The New START negotiations with the Russians concluded in March of 2010. But they began in March of 2009, before the President canceled the Polish site. So what happened was, as part of the negotiations over this treaty, the Russians made absolutely clear they were not happy and did not want, and would not accept, a missile defense system in Europe, the same thing they told President Bush.

But President Bush did not acquiesce. They said: We do not have to have a treaty. We are going to reduce our weapons systems anyway. We will reduce our weapons system. We will not have a treaty. We do not think you are going to attack us, and we are not interested in attacking you. We do not have to have a treaty. But if we have a treaty, we are not conceding our missile defense system one with, and we believe Poland and the Czech Republic are sovereign nations. If they want to enter into an agreement with the United States to put a missile defense system there, you, Russia, sorry, do not have a veto over it. They no longer are under the Communist boot. They are a free nation.

That is the way all of that went down. I think that is a fair summary of

what happened. The Bush GMD, the ground-based midcourse defense plan, was based on proven technology and was deployable and a new phase-adaptive approach is way out in the future. It is so far out in the future, this President will not be in office, if he is re-elected, to see that it happens. It is a promise in the vapors.

Now, what am I saying? Why am I concerned about this? I just want to repeat that the essence of what happened was, the administration, in negotiating with the Russians, faced a hard-headed approach, typical Russian negotiating strategy, and they blinked. They have always been defensive about it, however. They always did not want it to be believed that this treaty, in any way, compromised our missile defense systems. And their Members have been on the floor defending that.

I am not sure they know all of what I am saying to you. But it is plain to me. I was involved in it. This little quote recently in the Washington Post from Greg Thielmann, a former professional staffer on the Select Committee on Intelligence, stated, concerning the missile defense provisions in the New START treaty:

One of the greatest ironies is that he—

President Obama—

made sure there was no way to attack the treaty as being tough on missile defense.

You see, the President had a spin. That spin was, nothing in this treaty weakens missile defense. But the truth is it had already been weakened. They already canceled a decade-old policy of the United States to place a missile defense system in Europe and backed off of it and gave us, instead, a bird in the bush way out in the future, a new system not even under development.

Why? Well, it was to walk a fine line, I would suggest, to give into the Russians, on the one hand, and to be able to come back to Congress on the other and say they have not given in. The Russians issued a unilateral statement after the START treaty had been announced that the treaty would be viable only if "there was no qualitative or quantitative build up" in U.S. missile defense capabilities.

Well, a lot of you say that does not mean anything. They can say what they want. But as we discussed earlier, at best, there is a very serious misunderstanding between the parties in this treaty. When you have a serious misunderstanding that goes to the heart of what a treaty is about, you do not need to go forward, just like you would not do so with a contract that was being signed. The parties clearly have a misunderstanding of quite a significant nature—about the nature of the contract.

What about foreign policy experts? What have they said? Former Under Secretary of Defense for Policy, Doug Feith, wrote this in the Wall Street Journal very recently:

The incoming Obama administration was eager to repudiate its predecessor's policy. Russian officials saw their opportunity. They asked again for the concessions that they had before unsuccessfully demanded of Mr. Bush. Mr. Obama agreed to treaty language linking offensive reductions with missile defense, limiting launch vehicles and restricting conversions of ICBMs for missile defense purposes. Mr. Obama's poor negotiating is a cautionary tale: If you want it bad, you get it bad.

Well, I remember early on in this process, in private briefings—and I can say what I said to officials there; it is not in any way classified. I said: I am concerned you want this treaty too badly and the Russians will take advantage of that.

I think that is what happened. They wanted this treaty so badly as a symbol, as an effort to express leadership, and to advance an agenda of the hard left in America that does not always like nuclear weapons and things. They have never liked missile defense.

Former Secretary of State Condoleezza Rice, who had done her advanced work on Russia, said this recently—she has indicated she would like to see the treaty confirmed. Very significantly, Secretary Rice said:

Still there are legitimate concerns about New START that must and can be addressed in the ratification process.

Must be addressed in the ratification process. She goes on:

The Senate must make absolutely clear that in ratifying this treaty, the United States is not reestablishing the Cold War link between offensive forces and missile defense. The New START treaty preamble is worrying in this regard as it recognizes the interrelationship of the two.

They say, well, it does not mean much. But it was signed by both Russia and the United States. It means something.

The New York Times, on November 29, reported this, again, to show how we got into this mess concerning diplomatic cables:

Throughout 2009, the cables show the Russians vehemently objected to American plans for a ballistic missile defense site in Poland and the Czech Republic. In talks with the United States, the Russians insisted that there would be no cooperation on other issues until the European site was scrapped. . . . Six weeks later, Mr. Obama gave the Russians what they wanted: he abruptly replaced the European site with a ship-borne system.

That is my observation. I was in the middle of all of these negotiations. We had hearings on these matters. That is what happened. So I can only conclude that the administration negotiated away a necessary missile defense system in Europe, the ability to deploy a proven system at the expense of our national security, at the expense of our NATO allies' security, because they were too anxious and too committed to this treaty, for what purpose I am not sure.

All this time we have been working on this and the biggest concern to

America is other nuclear threats, proliferation and the like.

Mr. Hoagland said in the Washington Post a few days ago that this treaty didn't go far enough. We ought to go to 500 weapons or lower. If you continue to draw down the weapons system, we cease as a Nation to be seen as a credible nuclear power. We encourage others, in my opinion, to develop their own systems, even to the belief that they could be a peer competitor with the United States. This is not a step toward progress and security.

The steps we should take are steps that send clear, unmistakable messages that we believe in our freedom, our integrity, and we are prepared to defend it. We are going to maintain a strong nuclear arsenal necessary for that goal. Once that occurs and we are unequivocal in it and we are prepared to build missile defense systems to defend ourselves from Iran or North Korea or some rogue nation, to defend ourselves against even, I would say, an accidental launch from one of these nations or even Russia, those things are good for peace and good for security. We cannot give them away after 30-plus years of development of a missile defense system that people said would never work. We have proven that we do have a system that can work. It can help protect America. It can give our President strength in negotiating with a nation that happens to have missiles that can reach the United States because he can look them in the eye and say: Send off a missile. We will knock it down. You are not pushing us around. That kind of thing is important. I believe this administration, through the negotiation of this treaty, through their unilateral actions during the time of negotiating the treaty to capitulate on the European site and alter it dramatically, has done something unfortunate. So while the Europeans say this SM-3 is OK and they can live with it, I suppose they can, but we lost something significant. We lost at least 5 years in being able to deploy a system that we need right now.

I know others want to speak. I respect differences of opinion. But the scenario I have given I believe is correct. I am telling the truth. I believe a lot of Senators have not been aware of it. If I am wrong, let's talk about it. But let's don't run this treaty through so fast that we don't have an opportunity to fully understand what this administration has committed our Nation to in such a way that it could weaken our security and create more instability in the world instead of greater stability. Just signing an agreement on a piece of paper does not create security. A consistent, principled, just approach to our legitimate national defense, advocated clearly and forthrightly without misunderstanding, is the best way to have security in this dangerous world.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I commend my colleague from Massachusetts and so many, including our President, for making this the high priority that it is. We know how vital this is for somebody like myself who is so concerned about Iran going nuclear and the cooperation of the Russians being so essential. The bottom line is, this treaty is essential. It is not just better, it is essential.

But I must rise because of a comment my colleague from Arizona made. First let me preface what I say by my enormous respect for him. We have worked together on many issues. Nobody has done more to serve his country in this Chamber than the Senator from Arizona. I know that. He is a veteran. He is a serviceman. He served his country well. It is something I and every other Member of this Chamber greatly respect.

But unfortunately, I heard him say words before in his desire to get this treaty fully debated, he said: "After all of the fooling around on New York City," referring to the Zadroga bill.

This is not fooling around. These men and the thousands of others who rushed to the towers on 9/11 and in the days thereafter were not fooling around. They, just like my colleague from Arizona, were risking their lives. It was like a time of war. The bottom line is that we were attacked. And without asking any questions, the police and firefighters, the construction workers and EMT workers who rushed to the towers risked their lives in a time of war as well. To call helping them fooling around is saddening and frustrating.

We have had a grand tradition in this country, a grand tradition. When veterans fight for us and risk their lives and get injured, we deal with their medical problems. We help them with their medical problems. Those 9/11 heroes who rushed to the towers are no different. When the Senator from New York, Senator GILLIBRAND, and myself and so many others are pushing hard for the Zadroga bill, we are not fooling around. We are fulfilling our duty as patriotic Americans to all of those from New York and elsewhere who rushed to the towers. We understand there are many needs on this floor and the hour is late. That is true. We tried to vote on the bill earlier. We did not get the number of votes. We are now working with our colleagues on the Republican side of the aisle to find a new pay-for because they didn't like the one that came over from the House.

One final point, this is not a New York issue. This is an American issue. This is not just about New York City or New York State, where admittedly the largest number of 9/11 responders came from, but from every State of the

Union, including, I remind my good friend and patriot and veteran from Arizona, between 100 and 200 from the State of Arizona who rushed to New York bravely, selflessly, to help us. We are not asking for a handout. All we are asking is that their medical problems, the cancers and other illnesses that came about because of the glass and the debris that lodged in their lungs when they rushed to service, be treated, just as we treat our veterans.

So I hope after we finish debate on this START treaty—and I understand it should have a full debate—that we will then take up the Zadroga bill. I hope and pray, not only for those on 9/11 who rushed to the towers but for what America is all about, that we, Democrats and Republicans alike, rise to the occasion and pass the Zadroga bill and allow those who served us and are now suffering from cancers and those who will get cancer because of their bravery, their heroism in the finest American tradition, get the medical help they need and deserve. Nine hundred have already died. Thousands are ill and thousands more will learn of their illnesses. We cannot and must not forsake them.

It is not—I underline—fooling around on New York City.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MCCAIN. Mr. President, point of personal privilege. I understand the Senator from New York had some comment. I said—I will be glad to have the record quoted. I said fooling around with the bill concerning New York. The majority leader keeps bringing up that and other pieces of legislation for votes which don't get enough votes. For the Senator from New York to somehow interpret that as my being critical of the bill itself, of course, is an incredible stretch of the imagination and, frankly, I resent it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I understand the comment of the Senator from Arizona. Let me ask this if I may: I appreciate the Senator from Arizona and the Senator from South Carolina agreeing to this.

I ask unanimous consent to amend the request for the order to allow Senator LEVIN to have 10 minutes now and then we would go back to the order with Senator GRAHAM, and Senator BARRASSO would be added for 10 minutes to the overall list.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Mr. President, the missile defense program is not covered or limited by the New START treaty. That is about as simple a statement as I can make, and there has been an awful lot of debate about the missile defense program and allegations that it is limited by this treaty. Let's listen to the experts.

The Secretary of Defense first, in testimony before the Armed Services Committee on June 17, said: The treaty will not constrain the United States from deploying the most effective missile defenses possible nor impose additional costs or barriers on those defenses. I remain confident in the U.S. missile defense program, which has made considerable advancements, including the testing and development of the SM-3 missile, which we will deploy in Europe.

Secretary of State Clinton, in testimony before the Armed Services Committee on June 17:

The treaty does not constrain our missile defense efforts. I want to underscore this because I know there have been a lot of concerns about it, and I anticipate a lot of questions.

Then she said about the preamble:

The treaty's preamble does include language acknowledging the relationship between strategic offensive and defensive forces, but that is simply a statement of fact. It, too, does not in any way constrain our missile defense programs.

General Chilton, commander of the United States Strategic Command:

As the combatant command also responsible for synchronizing global missile defense plans, operations, and advocacy, I can say with confidence—

This is our top commander—that this treaty does not constrain any current or future missile defense plans.

The Senator from Alabama talked about some effort here to carry out some kind of a leftwing agenda. GEN Kevin Chilton is the commander of the United States Strategic Command.

... I can say with confidence this treaty does not constrain any current or future missile defense plans.

The ballistic missile defense review report which was filed earlier this year made it clear that the administration is pursuing a variety of systems and capabilities to defend the homeland in different regions of the world against missile threats from nations such as North Korea and Iran. They talked about the phased adaptive approach to missile defense in Europe. The Secretary of Defense and the Joint Chiefs of Staff have recommended the phased adaptive approach unanimously. These are our top military people. They are advising us. This is not some political agenda which is being implemented by this treaty. This is a military and a security necessity for this country. That is not just me saying that. This is the top military people of our country who are saying it.

The NATO strategic concept, this is what NATO is saying about that phased adaptive approach which has been criticized during an earlier statement. This is what the NATO folks say about it. These are our allies.

The United States-European phased adaptive approach is welcomed as a valuable national contribution to the NATO missile defense architecture.

The Armed Services Committee, in our authorization bill, section 231(b)(8), said the following:

There are no constraints contained in the New START treaty on the development or deployment of effective missile defenses, including all phases of the phased adaptive approach to missile defense in Europe and further enhancements to the ground-based mid-course defense system as well as future missile defenses.

Admiral Mullen—the top uniformed military official in our country—

I see no restrictions in this treaty in terms of our development of missile defense, which is a very important system. . . .

That was in front of the Foreign Relations Committee, chaired with such distinction by Senator KERRY. He said that in May of 2010.

GEN James Cartwright, Vice Chairman of the Joint Chiefs of Staff—he is our No. 2 top uniformed official—here is what General Cartwright said:

... all of the Joint Chiefs are very much behind this treaty . . . we need START and we need it badly.

General O'Reilly, again, director of our Missile Defense Agency:

Throughout the treaty negotiations, I frequently consulted with the New START team on all potential impacts to missile defense. The New START does not constrain our plans to execute the U.S. missile defense program.

And this is what he added:

The New START Treaty actually reduces previous START treaty's constraints on developing missile defense programs in several areas . . . we will have greater flexibility in using it as missile defense test target with regard to launcher locations, telemetry collection, and data processing, thus allowing more efficient test architectures and operationally realistic intercept geometries.

This is not our civilian people who might, allegedly, have some kind of a political agenda. These are our top military people in our country who are telling us there are no constraints on missile defense. Every single one of them supports it. The people who are in charge of our missile defense system strongly support it. The Chairman of the Joint Chiefs of Staff strongly supports it. The suggestion that there is sort of a political agenda behind this treaty flies smack in the face of the sworn—not sworn testimony; they were not under oath; we do not need them under oath—the testimony of our top uniformed military officials in this country. The suggestion that what is driving this is some kind of a political agenda falls completely flat. It runs directly counter to the testimony of these officials.

In terms of the preamble language—and this is where the pending amendment would seek to amend the treaty itself by removing the language, which, of course, kills the treaty; if you amend the treaty here, that is the end of the treaty—the full paragraph says:

Recognizing the existence of the interrelationship between strategic offensive

arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties. . . .

This statement is a longstanding, decades old recognition of an undisputable fact: There is a relationship between strategic offensive and strategic defensive systems. It has been recognized in our nuclear arms limitation and reduction treaties since the 1970s.

This is President George W. Bush on this subject. It is a joint statement with President Putin, on July 22, 2001. This is not President Obama. This is President George W. Bush. This is a joint statement, with President Putin:

We agreed that major changes in the world require concrete discussions of both offensive and defensive systems. . . . We will shortly begin—

We all ought to listen to this. Those who are charging this is some kind of an agenda of President Obama and is not totally in sync with what has come before in terms of START treaties should listen to what President George W. Bush said in 2001.

And I will finish. I think I have run out of time, so I will finish here. I thank the Chair.

I think this is the one statement which is the clearest of them all. This is President George W. Bush:

We—

President Bush and President Putin—

will shortly begin intensive consultations on the interrelated subjects of offensive and defensive systems.

This relationship is as old as our treaties. Statements of interrelationship have been made by Democratic and Republican Presidents, and I would hope that this language would not be stricken. If it is, it will kill the treaty, and it will kill it for a reason which is totally insufficient. And argument here runs smack, again, into the statements of support from our top uniformed military officials.

Again, I want to thank the chairman and ranking member of our Foreign Relations Committee. They have done a superb job in handling these hearings and presenting this to the Senate.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from South Carolina.

Mr. GRAHAM. Madam President, I think I am recognized for 10 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAHAM. Let me know when 9 have expired, if you do not mind.

The PRESIDING OFFICER. Certainly.

Mr. GRAHAM. We are going to have a little exchange here in a minute

about what the last week has been like. There have been some statements that Republicans have not been here offering amendments, that somehow we have sort of been letting time pass at the expense of a meaningful debate on the START treaty. I think we can catalog at least what three of us have been doing in the last week, and that might be informative to the body as to why it has been tough to talk about START in a meaningful way.

But to Senator LEVIN, who is a wonderful man, if this preamble language being taken out of the treaty is a fatal problem, then that bothers me because I do not know if any Russians are listening to this debate, but I have a simple question for your government. Your government has been saying publicly that if we deploy—the United States—four stages of missile defense, you believe that allows you—the Russian Government—to withdraw from the treaty.

We all intend to do that. Our President is saying that we are going to deploy four stages of missile defense to defend this Nation against missile attacks from North Korea, Iran, anywhere else it may come from. If you do not agree with that, let us know now because it is not going to help you or us to sign a treaty and it fall apart later.

So at the end of the day, this is a simple question that needs to be answered in a direct, simple way. Does the Russian Government believe the preamble language that Senator MCCAIN is trying to strike gives them a legal ability to withdraw from the treaty if we move forward on missile defense, as we plan to? That is not complicated. That is a very big deal. And I do not care what an American says about that. I want to hear from the Russian Government as to what you say about that. So get back with me.

Wednesday of last week, Senator KYL said: Here is my view of how we should do START in the lameduck.

I say to the Senator, you suggested that we should get the tax issue behind us, and we need to come up with a way to fund the government, and we could start the debate on the START treaty—last Wednesday. I ask Senator KYL, do you remember saying that?

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Actually, if I could correct it a little bit.

Mr. GRAHAM. OK. Please.

Mr. KYL. I was involved in the negotiations over the tax legislation.

Mr. GRAHAM. Right.

Mr. KYL. And in an effort to prod the people in those negotiations to put their ideas on the table so we could complete work on the tax negotiations, I said: Given the schedule that the leader had announced—the desire to

leave Washington this afternoon, December 17—I felt they needed to follow—and I laid out a schedule, the Senator is right—by which we would complete work on the tax legislation and the funding of the government, so we could begin this treaty last Wednesday. And if we were able to begin the treaty last Wednesday, and we did not have any interruptions in the interim, then a period of about 9 days would have existed, even working through the weekend, and we could have completed it by today. By the way, when I said last Wednesday, obviously, I meant the Wednesday prior.

Mr. GRAHAM. It is my understanding, the majority leader said on the floor of the Senate: Our goal is to try to get out by the 18th because we do not want to be here on Christmas Eve like we were last time. I think that was music to most of our ears.

So could the Senator please walk through with me what the Senate has been dealing with since last Wednesday? The tax debate finally got finished when, last night?

Mr. KYL. Madam President, the House finally concluded its work on the tax extensions and related activities last night. I think ours was a night or two prior to that.

Mr. GRAHAM. You were our lead negotiator on the taxes; is that correct?

Mr. KYL. Well, I am not going to take credit for that because I would get a lot of—

Mr. GRAHAM. But the Senator was deeply involved?

Mr. KYL. Madam President, I will totally deny that I had anything to do with it. But I was involved in the negotiations for the Republican Senate side.

Mr. GRAHAM. OK. And those negotiations have resulted in a vote in the House last night.

What else have we done? Was there an effort to pass the Defense appropriations bill without any ability to amend it, I ask Senator MCCAIN?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. If Senator Byrd were here, he would ask us all to try to abide by the Senate rules and speak through the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. He asked unanimous consent that the three of us be allowed to engage in a colloquy.

Mr. GRAHAM. I apologize.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. My only answer to that is, yes. There was a lot of work and effort and time spent on that issue, yes.

Mr. GRAHAM. I say to Senator KYL, I do believe, in addition, you are our whip on the Republican side; is that correct?

Mr. KYL. Madam President, yes.

Mr. GRAHAM. So one thing that has happened is we have been trying to make sure there was not a vote on the Defense authorization bill in a fashion where there could be no amendment by the Republicans. I think we were successful in beating that; is that correct?

Mr. KYL. Madam President, yes, that is exactly correct. And we were working on that at the same time—well, actually that has been going on now for about 10 or 12 days.

Mr. GRAHAM. How many efforts have there been since the Wednesday in question dealing with the DREAM Act? How many opportunities have we had to deal with different versions of the DREAM Act that may come before the Senate?

Mr. KYL. Madam President, I have forgotten. I would have to tell my colleague, I think it is three. I am not sure. We are now on the sixth version of the DREAM Act.

Mr. GRAHAM. OK. As I understand it, there is going to be another vote on the DREAM Act coming up maybe tomorrow?

Mr. KYL. Madam President, I think that is the schedule, that we would have a cloture vote on the DREAM Act tomorrow morning.

Mr. GRAHAM. And I would assume, as part of the Senator's duties, and some of us who have been involved in immigration, we have been very concerned about that, trying to make sure the DREAM Act does not pass this way because we believe it would be bad for the country; is that correct?

Mr. KYL. Madam President, yes, I have been consulting with our Members on the DREAM Act, on the Defense bill, as the Senator mentioned, on the tax legislation, on what we then called the Omnibus appropriations bill, which—

Mr. GRAHAM. Let's stop there.

The Omnibus appropriations bill was defeated last night; is that correct?

Mr. KYL. Madam President, yes. The majority leader—well, it was not defeated. The majority leader pulled it down in order to reach an agreement with the Republican side on a much slimmed down version, a continuing resolution.

Mr. GRAHAM. Did that take much of your time?

Mr. KYL. Yes, that took a lot of my time, working on the Omnibus appropriations bill. As the Senator knows, when, 2 days ago, we began debate on the START treaty, there was an assumption that I would speak immediately—on the first evening, I said, actually, let's get some business done here first. We need to do the funding of the government. So my first comments were on the Omnibus appropriations bill.

Mr. GRAHAM. As of right now, do we have a deal to fund the government that is firm?

Mr. KYL. Madam President, no. The House of Representatives, I understand, has gone home after adopting a very short-term, I think a 3-day continuing resolution to fund the government since its funding terminates at midnight tomorrow night. We will have to then take up either that—well, we will probably take that up, adopt that, I assume, I hope, by unanimous consent, and then work out the maybe 3-month continuing resolution that will have to be passed by both bodies before we go home.

Mr. GRAHAM. To my friend from Arizona, Senator MCCAIN, are you aware of an effort to repeal the don't ask, don't tell policy, that would allow no Republican amendment, that could be as early as tomorrow or this weekend?

Mr. MCCAIN. I would say, Madam President, that not only on the don't ask, don't tell has the tree been filled but also on the DREAM Act. I have obviously been heavily involved in immigration issues for some years, including things that have happened including the murder of a Border Patrol agent just in the last couple days in Arizona, obviously by someone from the drug cartels. So, yes, there will be, again, a vote with no amendments allowed, again, on either one of those pieces of legislation.

Mr. GRAHAM. Thank you. Feelings are getting a bit raw here and there is no use blaming anybody. It is hard to reach a consensus on how to fund the government. There was an effort to do it that fell apart that I thought was against the mandate of the last election. Thank God we defeated that, but it took a lot of effort. There is an effort to pass the DREAM Act that I think is unseemly and counterproductive.

The PRESIDING OFFICER. The Senator has consumed 9 minutes.

Mr. GRAHAM. Thank you. That has been counterproductive to overall immigration reform, and I don't think it is immigration reform more than it is politics.

So, in conclusion, it has been a week from hell. It has been a week where we are dealing with a lot of big issues, from taxes to funding the government to special interest politics. I have had some time to think about START but not a lot, and it is wearing the body.

This is a major piece of legislation. My good friend, JOHN KERRY, whom I respect, I know has tried to get this debate going in a way we could—to find a conclusion we all could vote on and go home and explain to our constituents. Senator KYL laid that way out. Unfortunately, everything you hoped to have happen from Wednesday to this Friday has, quite frankly, just been unacceptable to a serious debate on START. Here we are, the week before Christmas Eve, and we have talked about a lot of stuff—some important, some politics—and that is the first time I have had the chance to talk about START.

So I am not blaming anybody. But please don't blame me, that I have somehow ignored START, because we have been pretty busy around here stopping some bad ideas or at least trying to.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I know another Senator is about to be recognized and I will not take very long.

Let me just say I understand the frustration of colleagues. I truly do. I think my colleagues know the good-faith efforts the President, the Vice President, myself, and others have made to try to move the schedule here. The fact is, we began debate on this treaty on Wednesday afternoon—Wednesday morning, but we were delayed slightly—Wednesday afternoon after Senator LINCOLN's farewell. We had opening speeches. Everybody argued it was important to have opening speeches and not necessarily have an amendment right away; we need to have openings. So we had openings. Then we had the second day of debate. Today, Friday, we have had the third day of debate.

So tomorrow, Sunday, Monday, Tuesday, Wednesday, we have the opportunity to have the fourth day, fifth day, sixth day, which is what colleagues said we needed to try to accomplish this—maybe 6 days—and I believe we can do it in that period of time.

I have been here for 25 years. I have been here when we have had a Republican President and a Republican majority leader. I have been here when we have had a Democratic President and a Republican majority leader and a Republican House and every variation. Inevitably, we have had some tough choices to face which don't please everybody. There are times when we are forced to try to deal with the business of our country. I respect completely—I have worked so closely with the Senator from Arizona for so many years. I know the feelings are what they are. But this treaty is, in our judgment and in the President's judgment, important to our national security. We have 150,000 troops out there across the world—Iraq, Afghanistan. They are pretty uncomfortable tonight, but they are doing their job. I believe we need to do our job here and not necessarily spend so much time worrying about schedule, which often we don't control, for one reason or another.

I know the Senator is upset about something that came over from the House. We don't control the House. The House made a decision to pass something and send that to us, and the majority leader, for all the obvious reasons, feels compelled it is something he ought to deal with.

So let's do this business. Let's not complain. I think the important thing here is to keep working. It is Friday

night. I will stay as late as anybody wants to bring an amendment. Tomorrow we have some votes. We may or may not have intervening business. I don't know what the outcome of those votes will be. But we have the ability to continue on this treaty, and we certainly have the ability to finish it well before Christmas. The majority leader has made it clear to me. There are only four items or five items that have to be dealt with. The spending, and now that is going to be short-term spending until we resolve the differences. So we have spending. The second item is the two votes tomorrow, that is three items, and perhaps one other vote on the New York thing—I don't know what the situation is on that—and the START treaty. So on two of those items, I think most people understand we are not sure what the outcome is going to be. One we may be on for 1 day. It is hard to say. But other than that, this is the only business.

Mr. DURBIN. Madam President, would the Senator yield for a question?

Mr. KERRY. I am happy to yield.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I have just checked with the clerk and it is my understanding eight amendments have been filed to date on this START treaty.

Mr. KERRY. I think we had about five, but it may have gone up in the time I have been here.

Mr. DURBIN. The latest count, eight amendments. We are on the third day of debate. How many of these amendments have been called for a vote?

Mr. KERRY. We are only on the first amendment.

Mr. DURBIN. I see. Is the Senator from Massachusetts prepared to have a vote on one of these amendments or all of these amendments?

Mr. KERRY. We are prepared to vote actually on the treaty, but they have several amendments. We want to give them time to have those amendments. We are prepared to vote on this amendment.

In fairness, let me be clear. I want to be clear to the Senator from Illinois. I don't think our colleagues have used the process, in terms of this amendment. They have tried in good faith to line up speakers. I think it is important that they have an opportunity to thoroughly debate it and some other amendments. So I am certainly not joining in suggesting they have delayed this with this amendment. I think we have gotten into a good debate and we ought to be able to finish it.

Mr. DURBIN. I am not suggesting it either, but eight amendments have been filed by Republican Senators and I don't know that you have done anything—I am certain you have done nothing to stop them should they want to move forward with those amendments.

It strikes me that we are on our third day of debate, tomorrow will be the

fourth day of debate, and historically many of these treaties have been completed in 2 to 5 days, if I am not mistaken. I ask the Senator from Massachusetts if we can work on this tomorrow, Sunday, Monday, Tuesday—I mean, we could consider the amendments that have been filed; could we not?

Mr. KERRY. Absolutely. Madam President, I would say, obviously, that depends somewhat on what the majority leader's decision is with respect to some of that schedule, but in terms of what we are prepared to do, I believe we can work on it tomorrow. It is my understanding the majority leader said he thought we would be, as well as on Sunday. The majority leader is prepared to continue to proceed forward on this agreement.

Mr. DURBIN. If I could ask the Senator from Massachusetts, through the Chair—this is less question than a statement—but I will try to end it with a question mark. I would like to let the Senator from Massachusetts know that I have withheld the entire day from coming to the floor and speaking about the DREAM Act, which we will be voting on first thing in the morning, although it is very important to me. I wished to give every Senator the opportunity on both sides of the aisle to discuss the New START treaty. I would like to say to the Senator from Massachusetts that when his debate on this matter ends today, as late as it may be, I will come to the floor and speak on the DREAM Act, but I don't want to interrupt what he is doing at this moment in his efforts to give everyone a chance to speak about this national security measure. So that this is in the form of a question, doesn't that sound reasonable?

Mr. KERRY. I thank the Senator for his forbearance and his thoughtfulness with respect to what is going on here on the floor. That is absolutely reasonable, as far as I am concerned.

I will yield for a question from Senator CORKER. Senator DODD is next in line. I am happy to answer a question from my friend.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. I have a few questions, Madam President, through you to the Senator from Massachusetts.

It is my understanding we have a cloture vote in the morning and should cloture be reached, we would then be on that matter for a couple days; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CORKER. So to talk about—I just want to get it straight. There is not going to be any debate on START, should one of the two matters that will be taken up in the morning pass cloture; the whole weekend will be spent on other issues?

Mr. KERRY. Madam President, I am happy to answer.

Mr. CORKER. Let me ask a second question.

Mr. KERRY. Let me answer the first question.

Mr. CORKER. OK. Go ahead.

Mr. KERRY. It doesn't necessarily have to happen that way. That is a choice, I guess, Senators can make. It is entirely possible to yield back time. This is an issue that is well known to every Senator. It has been worked on. It has been voted on. Senators are already accountable for their votes on that issue. It is one that the Senate has debated at great length and had hearings on at great length. If the Senators decide they need the 30 hours, indeed, that can push us along. There is no reason to have to be on it for those 30 hours. I would say to the Senator, it is perfectly plausible we could be back on the START treaty tomorrow, depending on the choices made, first of all, in the votes, and then, secondly, depending on the outcome of the votes, the choices Senators make afterward.

Mr. CORKER. Secondly, Madam President—I appreciate the answer to the first question. My guess is, though, just based on the nature of the topic, I wouldn't be surprised that most of that time is used.

But when a message comes over from the House, when they pass something, whatever one characterizes that as, we don't automatically have to take that up. That can be sent to a committee or left at the desk. We don't have to vote on things that come over from the House of the nature that we are going to be voting on in the morning; is that correct? That is a decision that is made, not something that is automatic.

Mr. KERRY. Madam President, to the best of my understanding, I think the Senator is correct. There are choices that can be exercised by those who are in the position to make those choices, and I think that choice has been made. We are where we are.

Mr. CORKER. So, Madam President, I know the senior Senator from Connecticut is getting ready to speak, someone we all respect. I just want to say, as I said 3 hours ago, as someone who has worked closely with the chairman of the Foreign Relations Committee, and I think I would say in a very constructive way, I think the decision to take up a House measure in the middle of this debate—which I have to say that today there are not many things on the Senate floor that—well, I shouldn't say that. This is one of the more interesting matters I have heard on the Senate floor, where lots of serious issues are being brought up. This is not one of those filibuster kinds of debates. The fact is, we are in the middle of this and we haven't voted on the first amendment and the leadership of the Senate has decided to pivot off that on to something that is totally unrelated to eat up the rest of the weekend.

I just wish to say one more time, I can sense it has totally changed the nature of the debate and people's seriousness or feeling of seriousness about this whole debate.

So I thank you.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. First of all, I wish the Senator from Tennessee had finished the sentence he originally began, which is to say that this is one of the most important things we could take up. But I understand why he checked himself and held back from that.

Mr. CORKER. I would agree.

Mr. KERRY. I would say this to my colleagues. I probably don't have the power or the ability to reach over some of these feelings. I would hope—and this is a prayer as well as a plea on a personal level—that sometimes things happen that are out of some people's control here. I believe we can get through these votes tomorrow and still have time to do something that I know these colleagues of mine—I have had private conversations with them. I know what they think about this treaty behind all of this that is going on. I know they understand the importance of our position in the world, of our capacity to not make foreign policy and national security subject to all these other forces. It is a reach. It is going to require—I understand. I am just asking as one person, one Senator, chairman of the Foreign Relations Committee.

We have put a lot of energy into this effort over the last year and a half. This matters I think to our country. I am not saying that as a Democrat, and I don't think you would say it as a Republican. I think this matters to our country. I think Russia is watching what we are going to do. I think the world is watching what we are going to do. This is about nuclear weapons. It is about stability. We have enormous challenges with Iran and North Korea. Believe me, from all the conversations I have as chairman of this committee with a lot of different leaders, they look to us for what we do and whether we make good on the things we say that matter to us.

I believe this is one of those things they will say: Wow, these guys can't even get their collective acts together to do something as important as a bilateral relationship between the two countries that have 90 percent of the world's nuclear weapons. My prayer is that we can do that in these next 2 days, and I hope we can make that happen.

Mr. KYL. If the Senator will yield briefly, I ask to speak for just 60 seconds. I want to make it clear that I don't think anybody on this side holds Senator KERRY accountable for the fact that this is a confusing and back-and-forth kind of debate between the START treaty and other issues on the floor.

Also, I started to say about 3 weeks ago that, knowing that other people would try to bring issues to the floor, and knowing that we had a lot of other business we had to conclude, I could see this situation developing where despite the best efforts of Senator KERRY and others, it would be very difficult to have the kind of debate we needed on the START treaty.

Unfortunately, my prediction has come true. It has been very difficult because of the intercession of all of these other issues. But Senator KERRY bears no responsibility. The decision to move forward is a joint decision by all of the people on the Democratic side. That, I think, was the critical decision that got us into this problem.

Mr. KERRY. My final comments: I hope the Senate will find the capacity in these next 4, 5, 6, or whatever number of days it is—and the majority leader said he is prepared to allow us to stay here as long as we want to get this business done. The President and the majority leader together have made it clear this is important business that must get done in order for us to complete our business this year. That said, I thank the Senator from Connecticut for his patience.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, with some reluctance, I rise to talk about this issue. Having given what I thought was my last set of remarks on the floor a week or so ago, I thought I would let it lie there rather than come over. But this is such an important matter. In fact, other than amending the Constitution or declarations of war, I don't know of a more important matter than an arms control agreement like this one.

I will begin by commending our colleague from Massachusetts and our colleague from Indiana. They have spent months and months on this, as has the administration, in terms of their negotiations with the Russians on this question. An awful lot has gone into this.

I have been involved in a lot of lameduck sessions over the years, and I can usually predict what happens during lameduck sessions—not much, unfortunately. But that is the way it is. After an election—and rarely does an election produce the same results in terms of membership coming out of the election as you have going in. This last election cycle is no exception. Obviously, the party that has gained seats or control of one Chamber or the other would prefer to wait until a later date. I understand that.

As I said, I have watched lameduck sessions. I am hard-pressed to name one that has produced much because of what happened and what goes on in these matters. So I begin with that observation.

There are matters, it seems to me, that rise beyond the normal pre-

dictions of lameduck sessions. I think this is one. Hence, the reason I decided to express some views on this.

I don't claim to be an expert in this area. Other Members spend far more time on this than I. I don't know all of the details. I have looked at it and have read about it and I have listened to some of the debate. What motivated me to come and ask my colleagues to consider the moment is the fact that so many of the people we respect, who have been engaged over the years in the conduct of arms control and negotiations, almost without exception—and this is one of those rare occurrences where a cross-section of some of the finest leaders this country has produced in the last 100 years, who have been deeply involved in arms control issues, have joined together in a common cause to ask us to ratify and support this treaty.

It is unique in many ways. So whatever expertise or knowledge some bring or don't bring to this debate, I think it warrants our attention that former President George H.W. Bush, former President Clinton, Secretaries of State Albright, Baker, Christopher, Kissinger, Powell, Rice, Schultz, Brown, Carlucci, Cohen, Perry, and Schlesinger—this is a cross-section of both Republicans and Democrats who have been deeply involved in the very subject matter of this debate, all of whom—every one of them—have said do not miss this moment to get this done.

For those of us who are knowledgeable, or less than knowledgeable about the subject matter—and I am not suggesting that because others have said we ought to do this, we should automatically do it, but others have said it is worthy of our support. It is subject matter that is critical to our country, to the national security of our Nation, and we ought to be able to take the time, in my view, despite the interruptions that have occurred on other matters that are important as well. I don't minimize that.

If you ask me, of all the issues we are debating that are on the present list, none comes close to this issue of arms control and this START treaty. This is, again, one of those rare moments that occur here when I think there is at least a strong potential of consensus—largely a consensus over the notion that we ought to ratify this agreement.

I recommend that my colleagues read the statement of Senator RICHARD LUGAR where he went into great detail and depth—it was a lengthy statement he made about why this particular treaty is worthy of our support, and he anticipated some of the arguments against it. It is as thorough and comprehensive an analysis of why this agreement is important and why it is deserving of our support as Senators, regardless of party and the moment—being in a lameduck session, with other

issues that I know have caused great division in this body and are not likely to be resolved. Maybe one or two will, but I doubt it. But this matter transcends that.

I rise, therefore, to offer my thoughts on the matter and to commend Senator KERRY and his staff, Secretary Clinton, Secretary Gates, DICK LUGAR, and others who have been a part of this. There has been 10 long months of debate and discussion, and we are finally able to move forward on this issue. The Senate Foreign Relations Committee had over 20 hearings on this treaty. It has been analyzed and debated for over a year now. Senators KERRY and LUGAR and their staffs have worked in good faith to address all of the concerns of both sides of the aisle. The facts and issues are clear to everybody. I think it is time for us to support this agreement.

I commend President Obama, Secretaries Clinton and Gates, as I mentioned, and the entire national security team for negotiating this vitally important treaty with our Russian counterparts and for providing the Senate with extensive information.

As a member of the Foreign Relations committee, I recall last summer Senator KERRY deferring to several of our colleagues and agreeing to not even vote in committee on this matter but to wait until we came back—leave a little time to analyze and think about all of this. We did that. Then the issue was we would vote on it when we came back after the break. Well, don't do that because we have an election coming up, and it could politicize it. Wait until after the election, and there will be a lameduck session and we can do it then. And here we are.

Again, I respect immensely how Senators KERRY and LUGAR have conducted themselves, respecting the legitimate issues raised. But merely because an issue is legitimate doesn't mean it can't be answered. Ultimately, you have to vote. Nobody ever anticipates absolute unanimity, that there wouldn't be those who felt this agreement was lacking in one aspect or another. The way to express that is vote against it. Those of us who feel this is the right thing to do ought not to be denied the ability to express our support for it.

Historically, weapons treaties in the Senate receive wide bipartisan support. The original START treaty was debated during the collapse of the Soviet Union. It reduced nuclear weapons from 10,000 to 6,000. It was adopted by a vote of 93 to 6 in 5 days. START II, which came 4 years later, took only 2 days of floor time, and it passed 87 to 4. Collectively, you have 9 days, and two major START treaties that were able to be adopted.

There is no reason the New START should not enjoy the same bipartisan support—maybe not in the same numbers. Nonetheless, it is time for us to

act. Since the expiration of the original START treaty in December 2009, as you have heard over and over again, no verification of Russia's nuclear weapons has occurred.

Simply put, this endangers our national security. The longer we fail to verify, the greater the danger our country faces.

Inspectors on the ground and verification safeguards allow our intelligence community to have a better understanding and more knowledge of Russia's nuclear arsenal. As President Reagan famously said, "Trust, but verify." At the moment, we can only trust. I think we all agree that it is time to verify, as well.

The United States and Russia maintain over 90 percent of the world's nuclear weapons. Therefore, it is vital that we take the lead in securing these weapons to create a world with less risk of nuclear devastation, not to, of course, mention reducing the nefarious threat of nuclear terrorism. This new treaty improves upon and enhances the original START treaty signed in 1991 by President George H.W. Bush, ratified in 1994.

I remind my colleagues again that President Bush supports this agreement. One of the authors of the START treaty signed in 1991 urges us Senators—Democrats, Republicans, and Independents—to support this effort.

The New START treaty establishes lower limits—and I know you have heard a lot of this—for U.S. and Russian nuclear forces of 1,550 deployed strategic warheads, 700 deployed intercontinental ballistic missiles, submarine-launched ballistic missiles, and heavy bombers equipped for nuclear armaments.

It will also limit to 800 the total number of deployed and nondeployed ICBM and SLBM launchers and heavy bombers equipped for nuclear armaments.

All of the new limit numbers were verified and are strongly supported by the Department of Defense. Flexibility will be a key result of the new treaty. It will give the United States the flexibility in deploying our own arsenal and in deciding what is put on land, in the air, and at sea.

In addition, this treaty will improve verification and inspection systems for Russia's nuclear weapons which have not been monitored since the treaty expired a year ago. The new verification measures are less costly and complex than the original treaty, I might add.

Let me quote Secretary Gates on this treaty, who said it "establishes an extensive verification regime to ensure that Russia is complying with its treaty obligations. These include short-notice inspections of both deployed and nondeployed systems, verification of the numbers of warheads actually carried on Russian strategic missiles and unique identifiers that will track—for

the first time—all accountable strategic nuclear delivery systems."

That is our own Secretary of Defense, the Secretary of Defense of President Bush, and now the current Secretary of Defense. There has been a lot of talk about missile defense in recent months. Some have claimed that START will in some way inhibit the ability of the United States to defend ourselves in this regard. I urge you to read Senator LUGAR's comments about this issue. He went into great detail to examine this allegation and did so in the most thorough manner.

I urge my colleagues, if they have any issues, read Senator LUGAR's comments about this. Those claims are simply not true. New START does not constrain the United States from developing and deploying defenses against ballistic missiles. Secretary Gates, Chairman of the Joint Chiefs, Admiral Mullen, and Lieutenant General Reilly, the Director of the Missile Defense Agency all concur on this point.

Again, I respect your knowledge, your expertise, and how much you have looked into this. But when you have a Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the Director of the Missile Defense Agency all saying you are wrong on this, respectfully, I suggest maybe when it comes to deciding which side of the argument you are on, I think history will demonstrate that relying on the people who are deeply involved in this ought to outweigh the concerns raised by others.

Concerns have also been raised over modernization of our nuclear weapons infrastructure stockpile. That is not an illegitimate issue. Senator KYL raised this as an important point. I think the President has sought to address these concerns. I don't know if he has done it to the complete satisfaction of those who raised it. He has committed \$80 billion over the next decade to modernize our nuclear weapons. This is more than a reasonable sum, I am told by those who are knowledgeable about this. Once the President requests these funds, it is the job, obviously, of those who will be in Congress to appropriate the money.

I spoke with Senator FEINSTEIN a number of days ago, and others—those in a position to be responsible for this—and they have indicated they will support this and make a strong case for it.

Madam President, this treaty will ensure that we continue to build upon our close relationship with Russia as well—not an insignificant issue—in preventing the spread of dangerous nuclear weapons and creating a more stable and secure world at a time when we would all acknowledge it is becoming less and less so, as we have all painfully seen, even in things like the most recent WikiLeaks situation that occurred on cable traffic.

There are growing problems in Iran and North Korea, and all of the concerns we have about these hot spots around the world.

To be able to bring some stability and respect in this relationship with Russia could not be more important at this hour. So beyond the obvious provisions of the treaty, it is critically important to understand the larger context as well. Senator KERRY and Senator LUGAR have very eloquently described that for our colleagues over the last several days. So there are far more important questions in this treaty than just the provisions contained in it, as important as they are.

This treaty will ensure we continue to build on those close relationships. Our two countries have been collaborating to reduce the threat of nuclear weapons for decades. In the tradition of Presidents Reagan, Clinton, and both President Bushes, this treaty furthers that critical strategic partnership between ourselves and Russia.

Again, 90 percent—90 percent—of the world's nuclear arsenals are controlled by our two countries, and the ability to be able to make some significant reductions not only lessens the tensions between our two nations, but the one thing I think most of us fear is having these weapons end up in the wrong hands. And we know as we are here this evening, on this evening a few days before the Christmas holiday, that there are those tonight who are desperately trying to get their hands on this material, and they are determined to do it. We should take advantage of this moment with a treaty that is as well thought out as this and is supported by a broad cross-section of experts in our Nation and not run the risk that we would allow those who seek to do great harm to us to gain access to these weapons because we failed to move.

Madam President, I fear what will happen if we don't. And my colleagues know what can happen after January 6: The place changes, and the votes may or may not be there. I worry deeply about that. So this is more than just a question of the Christmas holiday. We also know what can happen in a few weeks.

Our two countries have been collaborating to reduce the threat of weapons for decades, and in the tradition, as I said, of those who have come before us, this ought to move forward.

The New START treaty has widespread bipartisan support among current and former military and diplomatic leadership. Some of the finest minds that have ever negotiated these issues have begged and urged us to support this agreement. I mention them again, going back to former Secretaries of State Madeleine Albright, James Baker, Warren Christopher, Henry Kissinger, Colin Powell, Condoleezza Rice, and George Shultz—that goes back over the last generation

or more of our diplomats—and Secretaries of Defense Harold Brown, Frank Carlucci, Bill Cohen, a former colleague of ours, Bill Perry, and Jim Schlesinger. Again, I say respectfully to my colleagues, these are people who have studied this, who know these issues and have dealt with them in the past. To his great credit, George H.W. Bush, who negotiated that START treaty back in 1991, has urged us to do the same. It is not insignificant when you have that kind of endorsement of this kind of an agreement that this body should ignore it or miss the opportunity to act on it.

It is not every day that we have the chance to avert Armageddon. Nothing short of that is at stake, in my view, and that is the reason this is worthy of our time and attention and our vote, even at this time of the year. In fact, one might make the case, what better time of year to make this case than in this holiday season where we talk about peace in the world to all men of good will?

So, Madam President, I urge my colleagues to take whatever time we have in these next few days to cast a vote and leave a legacy to our children and grandchildren and others that in a tough time in our country when we couldn't come to agreement on much, that on this issue—the one that transcends all of politics, transcends all of ideology—we can come together as others have who have urged us to support this effort, that we do the same in this Chamber in these coming days.

I congratulate my colleagues for their work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I know the Senator from Illinois is about to be recognized. I won't be long, but I would like to take a moment.

These are the waning days. Senator DODD is going to be leaving the Senate. I don't know if he will be speaking in the next days on any of these issues that may be before the Senate, so this may well be his last substantive speech before the Senate, and I just wish to thank him.

I have sat next to Senator DODD for 25 years, and his counsel and his wisdom and his eloquence, which we just heard, are indispensable. He knows how I feel about him and about his leaving, but I wish to thank him for his unfailing commitment to work for the disadvantaged in the world, for other countries, for our global relationships, and especially for peace, and I thank him for his comments this evening.

Mr. DODD. Thank you.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I would also like to share, Madam President, my words of appreciation for the Senator from Connecticut. I am just not so sure that is his last speech.

Mr. DODD. Yes, it is.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Madam President, this has been an important week for me, the most junior Senator. We passed bipartisan legislation to prevent a huge scheduled tax increase from hitting our Illinois economy in the teeth of a great recession, and we did this with the support of our President, Barack Obama, whose name is on this very Senate desk. We stopped a 1,924-page, \$1.1 trillion omnibus spending bill with 6,600 earmarks, which was a big victory for restraint on spending. We stopped a House effort this morning to permit Guantanamo Bay terrorists to be transferred to the heartland—likely to Thomson, IL. The revised House bill that just passed now prohibits such a transfer.

Now to the issue at hand. Madam President, I rise in support of this amendment. In my view, the underlying assumptions of the 20th century's Cold War are breaking down. Under the old doctrine of mutual assured destruction, we assumed the Soviet leadership did not want to commit suicide, and neither did we. In the balance of terror, defenses against attack were ignored—banned even, under an outdated treaty—because the assumptions were relatively sound.

These assumptions are breaking down in the 21st century. We face a future in which nations will have nuclear weapons and the missiles to deliver them. Recall that nuclear technology is 1930s-era engineering and missile technology is 1960s-era engineering. Since the laws of physics cannot be classified, it is only a matter of time before other countries, including enemies of the United States, will develop such weapons.

The difference between the 20th and 21st centuries can be described as a difference between capability and intent. In the 20th century, the United States was fairly assured that the Soviet Union lacked the intent to attack America or her friends. In the 21st century, Iran and possibly other countries now regularly demonstrate the intent to carry out an attack. Of the roughly 150 members of the United Nations, only one—Iran—regularly talks with its head of state about wiping another member of the United Nations off the planet.

In such an environment, the assumptions of our security in the 20th century become dangerously out of date. If the United States and our allies face a future in which America faces countries or institutions which have the capability and intent to attack, then the old doctrine of mutual assured destruction and agreements that depend on this doctrine grant us no safety. In the 21st century, we need actual defenses to secure America and our allies.

Against the growing danger of Iran, the safety of America and Israeli families depends on missile defenses. We know Iran has shorter range scud missiles, used liberally against Iraq in a previous war. We know Iran has North Korean No Dong missiles—called Shahab III missiles in Farsi—that have a much longer range to reach Israel. We know Iran has launched a satellite into orbit using a very long range missile called the Safir. Remember, if Iran can orbit a satellite over anywhere on the Earth, it can deorbit a warhead anywhere too. We know Iran has thousands of uranium cascades operating to refine uranium. We know the Bushehr reactor has now been fueled and will soon begin the production of plutonium in Iran. The greatest emerging threat to the United States and Israel is Iran and its missile and fissile material production. Linked with the other speeches of Iran's own head of state, the future security of American and Israeli families depends on missile defense.

I worry about the administration's missile defense intentions. Early in the administration's term, it slowed down the planned upgrade for the missile defenses of the United States itself. It made plans to cut funding for the U.S.-Israel Arrow 3 missile defense system. When I heard about those cuts, I approached the late Jack Murtha, the chairman of the House Appropriations Defense Subcommittee, to stop that move, and I understand Chairman Murtha did exactly that.

The administration canceled plans to put an X-band radar in the Czech Republic and ground-based interceptors in Poland. It even continued to offer to include Russians inside the missile defenses of NATO. Russia is a country that recently attacked Georgia with missiles. Russia fueled the Bushehr reactor in Iran. It may have also delivered air defense radars to Iran—a nation that Presidents Carter, Reagan, Bush, Clinton, Bush, and Obama have all certified as a state sponsor of terror.

The actions of the administration on missile defense appear uncertain. Under this treaty, we appear to be confirming that a Russian wish be preserved—that they continue to have the capability to effectively attack the United States. I would regard this sentiment as part of the last century and not this, and I worry about the new threat from Iran much more than the old threat from Russia.

It should be the policy of the United States to blunt or defeat any attack from Iran against the United States or Israel, no matter what. The statement in the preamble of this treaty should be deleted so that we give strong Senate direction to our policy of providing the strongest defenses possible against the growing danger of Iran.

I am currently confused as to which Cabinet department is preeminent on

this issue. The State Department largely negotiated the preamble, generating pressure for the United States to recognize “undermining the viability and effectiveness of strategic offensive arms of the Parties.” In plain English, we would run our defense programs to preserve the ability of Russia to attack. This outdated, 20th-century thinking is enshrined in the preamble.

Such a policy also preserves the future ability of Iran to deliver an attack against the United States. We are assured that a missile—which does not now exist and has not been deployed—will defend us. The Standard Missile 3 Block 2 Bravo is rumored to be considered for development and deployment. But we cannot be defended by a missile that does not yet exist and has not yet been deployed.

What has happened is that the administration has canceled plans to deploy the GBI system to Poland, which would have defended us and would have been deployed. Much to the embarrassment of our Czech and Polish political allies, we withdrew a real defense system for a planned one—a real deployment for a hoped-for one.

It should be the policy of the United States to defend us against attack. It should be our policy to defend allies against attack. Therefore, we should sign no treaty which acknowledges a need to preserve Russia's ability to attack the United States and that also has the effect of opening a way for Iranian missiles to find their mark against American or Israeli families.

I am struck by this debate. If the treaty does not affect the ability of the United States to defend us or Israel against missile attack, then the amendment should go forward without affect on the treaty. If the treaty does limit the ability of the United States or Israel to defend themselves, then the amendment is absolutely necessary to fulfill the assertions of proponents that the treaty has no relation to defense.

Passage of this amendment improves this treaty for this very new Senator. It focuses the treaty on its key objective and makes this treaty much more likely to pass. Defeat of this amendment weakens this treaty. It focuses the debate on ancillary subjects and makes it much less likely to pass.

The 21st century should be a world in which fewer and fewer ways are available for nations to attack the United States or our allies and greater and greater means for the democracies—especially the United States—to defeat an attack, should war come. Therefore, I urge adoption of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I would like to ask a unanimous consent. Senator DEMINT will be next. After Senator DEMINT, Senator THUNE, according to the list. I ask unanimous

consent, since there were three opponents in a row, if we could insert—I have been asked by Senator MCCAIN to put Senator RISCH in, and I would like to put Senator SHAHEEN before that. So after Senator THUNE, I ask Senator SHAHEEN be recognized for 10 minutes; subsequent to that, Senator RISCH for 10 minutes; and Senator SESSIONS would follow that for 30 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. Finally, quickly, before the Senator from South Carolina begins, I would just say to my friend from Illinois, I would point out to him that actually the Russians have helped Israel by cooperating with us. As a result of this cooperative arrangement we reached, they refused to sell the S-300 air interceptor missile to the Iranians, and that actually is very significant with respect to Israel. So the impact of this treaty is very positive for Israel, in the long run, and I think that is important to note.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. If the Senator will yield, I understand the S-300 has not been delivered, even though the Russians signed a contract to deliver this to the Islamic Republic of Iran. But most of the missile threat to Israel is against Russian-built and designed missiles. The Russians have delivered hundreds of Scud missiles to Syria, which represent the vast bulk of the threat to the people of Israel.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. That is exactly why the Obama administration went out to have a reset button and that is precisely what has created this new cooperation. Since there has been this new cooperation, we have been able to move down a different road.

I don't disagree, there are tens of thousands of rockets in Lebanon and elsewhere that come from outside, but that is the whole purpose of moving in a different direction.

Obviously, as we have said previously, the substance of getting rid of this wouldn't bother me. The problem is, it is technical, and it is in a place where it results in a process that kills the treaty. That is the problem.

I think we have taken care of it. I ask my colleague from Illinois to look at the resolution, look at the DeMint amendment which we adopted, which is very clear about our ability to change this entire “mutual destruction” relationship and move to an “adequate defense.” I think we could even strengthen it further. I am very happy to work with colleagues on a condition or declaration in the next hours that might even improve this further and, if people do not believe it has been adequately stated, we are happy to state it more clearly.

With that, I yield for the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Madam President, I thank my new colleague from Illinois and associate myself with his remarks.

Since the Chairman referenced my amendment, I appreciate his support of the idea of committing ourselves to developing a missile defense system that could protect against Russian missiles. But unfortunately during the debate in committee, when we offered this as a binding amendment on the treaty, it would not be accepted unless we moved it to a mere declaration, which has no force of law. But it is good we have brought it up and recognize it is a major point of contention in the adoption of this treaty.

I would like to begin by speaking in support of the amendment of my colleagues, Senator JOHN MCCAIN and Senator JOHN BARRASSO, to strike the language in the treaty preamble that links offensive and defensive systems and limits our ability as Americans to protect our citizens. We know the Russians would like to limit our missile defense capabilities. Before President Obama signed the treaty, they expressed a desire to make the United States more vulnerable to future attacks. While discussions about the treaty were underway, Prime Minister Putin commented on American missile defenses. Last December, he said: "By building such an umbrella over themselves, [the United States] could feel themselves fully secure and will do whatever they want."

Prime Minister Putin got what he wanted. The Russians successfully linked missile defense to an offensive strategic nuclear weapons treaty.

After President Obama signed the treaty, the Russian Government issued a statement that said the treaty "can operate and be viable only if the United States refrains from developing its missile defense capabilities quantitatively or qualitatively." How much more clear could they be? The understanding of the Russians is that this treaty ties our hands and prohibits us from defending our citizens against Russian missile attacks.

By giving the Russians this lever, the treaty damages the U.S. ability to defend against missile attacks. This has the effect of making America and her allies vulnerable, not only to Russia but to rogue nations. Russia should not be permitted to dictate whether we can develop our missile defense capabilities. No negotiations should require us to sacrifice our sovereignty. The United States has a constitutional duty to protect its citizens and a moral obligation to protect its allies.

Former Director of the CIA James Woolsey said it well in an op-ed he wrote for the Wall Street Journal in November. In it, he asked: "Why has

the administration agreed to a treaty that limits our nonnuclear long-range weapons and runs the risk of constraining our missile defenses?"

The administration's unilateral statement on limited missile defense does not resolve this ambiguity.

This treaty has a flawed premise which I would like to talk about for just a few minutes. The treaty is crafted out of the idea that the United States and Russia play the same role in the world. That is simply not true. The U.S. security umbrella covers over 30 countries. America is a protector of many. Russia, however, is a threat to many but a protector to none.

America's commitments are much greater and parity is unacceptable, especially given Russia's large tactical arsenal, which is not covered at all in this treaty. Moreover, the New START treaty is intended to be a step toward the President's goal of a world without nuclear weapons. President Reagan, who has been quoted at length during this debate, believed the only way to get to a world without nuclear weapons was by making them "impotent and obsolete" through a strong missile defense system. He walked out of negotiations with the Russians rather than sacrifice our missile defense options.

Now I would like to go through the ways the New START will reduce the U.S. forces, while Russia is not forced to make any reductions. All the reductions will be on our side.

The Obama administration champions the fact that the treaty would limit both countries to 1,550 deployed strategic nuclear warheads each. However, given the loophole in the counting rules, the number that can be deployed is several hundred higher. That means no reductions are required on behalf of the Russians.

The treaty's delivery vehicle limit is also troubling. The administration cannot even show the Senate how they intend to change the force structure to reach the new deployed delivery vehicle limits. Russia, however, is already well below the new limits.

To be clear, Russia does not have to destroy any nuclear warheads as part of this treaty. The treaty does not deal with nuclear stockpiles or tactical nuclear weapons. Russia can maintain its huge stockpile of roughly 4,000 tactical nuclear weapons, thousands more than the United States has, because the treaty does not restrict those types of weapons, which can also be affixed to rockets, submarines, and attack aircraft.

The administration lost a key opportunity to address the 10-to-1 disparity between Russia and the U.S. tactical nuclear weapons. Proponents argue we will address tactical nuclear weapons during the next treaty, but that was said during the debate on the last arms control treaty with Russia. The administration has also subjected advanced

conventional U.S. military capabilities to limitation in this new START treaty. Why were these included?

I also have questions about the verification measures in Russia's compliance. Why is it that the New START treaty has a substantially weaker verification regime than START I? Given Russia's history of cheating on arms control treaties, the weaker verification and inspection provisions in this treaty will only exacerbate the problem.

I also have concerns about the negotiating records for this treaty. We have asked repeatedly for these records and the administration has refused to give Senators access to them. We have asked numerous times and there is a precedent from past ratification of arms control treaties to make it available. We need to see the negotiating records to find out exactly what concessions were made during the negotiating process—particularly given the disagreement between what the Russians are saying about missile defense and what we are saying. We need to see what was agreed to during the negotiations. By not providing negotiating records, the administration has only increased concerns.

Supporters of this treaty would like everyone to believe this is a matter of urgent national security, but this is not true. I would like to quote former Secretary of State Lawrence Eagleburger, who said:

They want to do [this treaty] before the lame duckers are out of there. That is not the way to move on this issue.

I agree with the former Secretary. This is not the proper way to move on this issue.

As the Washington Post noted in its editorial of November 19:

No calamity will befall the United States if the Senate does not act this year. The Cold War threat of a nuclear exchange between Washington and Moscow is, for now, nonexistent.

If it was so urgent, why did the administration allow the original START treaty, which included verification provisions, to lapse on December 5, 2009? Surely, they were aware it would be months before this treaty would be completed?

After the START I treaty expired, the two countries issued a joint statement pledging "to continue to work together in the spirit of the START Treaty following its expiration." But that never happened.

Senator LUGAR even had legislation that would have allowed the inspections to continue after December 5, but his legislation was ignored. If these verification measures are so urgent, it seems there would have been more of an effort to pass his bill. The administration's promise to bridge the agreement with Russia to preserve verification has failed.

Special Assistant to the President Gary Samore stated last month he was

“not particularly worried, near-term by the lack of inspections.”

As I said earlier today, I take my responsibility of advice and consent very seriously. We would be harming this institution if we do not seriously evaluate the many serious flaws in this treaty. I worry about many of the long-term negative effects this treaty will have on our security, but I would also like to talk some and explain about why I oppose the treaty in the short term.

First, we should not be ratifying this treaty during the lameduck session.

It is unprecedented to do so. The Heritage Foundation crosschecked the dates of each lameduck session of Congress with the Senate date of treaty ratification for treaties going all of the way back to 1947 and found no major treaty has ever been ratified by a Senate during a lameduck session of Congress. Doing so would violate the principle of consent maintained by the government since the 20th amendment was passed in 1933.

The first two sections of the 20th amendment were created to shorten the lameduck period after an election and before the new officials take office. Treaties ratified during a lameduck session are undemocratic, because many of those who support ratification are no longer accountable to the voters. At a minimum, we should wait until the new Senators are sworn in before we consider voting on this treaty.

Let me note that this is only the second day of full debate of this treaty, during a very hectic session. And it is being dual-tracked or triple-tracked with other matters before the Congress and backed up to the Christmas break. We are still working on a way to make sure the government is funded. This Chamber is also considering holding votes on the DREAM Act and don't ask, don't tell and no telling what else.

When the Senate considered the Intermediate Range Nuclear Forces Treaty, known as the INF, in 1998, the Senate gave it 9 days of floor time, and it was not dual or triple-tracked with other issues. We focused on it and had a debate. The first START treaty was available for the Senate's review for over 400 days. I share the concerns expressed earlier today by my colleague from Tennessee, Senator BOB CORKER. He objected to the dual tracking of matters of national security with partisan issues.

As we are debating this treaty, meetings are being held to strategize ways to get votes on other bills to reward special interests and fulfill campaign promises. The New START treaty will have many implications for our country's security and, surely, something as important as this deserves the Senate's full attention.

As I conclude, I wish to thank again Senators MCCAIN and BARRASSO for their amendment, and for their thor-

ough explanations of why it is so important. They were right to point out that the Bush administration worked very hard to break up the linkage between offensive and defensive missile systems.

That is why former Secretary of State Condoleezza Rice wrote in a recent opinion editorial that: The Senate must make absolutely clear that in ratifying this treaty, the United States is not reestablishing the Cold War link between offensive forces and missile defenses. New START's preamble is worrying in this regard as it recognizes the interrelationship of the two.

By passing the McCain-Barrasso amendment, we can fix this, and we can make sure that this treaty does not limit our ability to defend our citizens.

I yield the floor and I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, I too want to rise in strong support of the McCain-Barrasso amendment to strike language from the preamble of this treaty to link strategic offensive arms and strategic defensive arms. This language in the preamble is highly troubling, because it reestablishes an unwise linkage between offensive arms and defensive arms that was broken when the ABM treaty came to an end.

More troubling is the fact that the New START treaty contains specific limitations on missile defense in article V. Moreover, Russia's unilateral statement that the treaty can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively or qualitatively is also extremely troubling.

When viewed together, the New START treaty's preamble, the limitations on missile defense in article V, and Russia's unilateral statement, amount to a Russian attempt to find a leverage point and exert political pressure upon the United States to forestall deploying a robust missile defense capability by threatening to withdraw from the treaty if we seek to increase our missile defense capabilities.

The remedy for this concern is very simple. It is for the Senate to strike the offensive preamble language. That is why I wholeheartedly support the effort to strike this language from the preamble, as well as an amendment to strike paragraph 3 of article V of the treaty.

There have been conflicting statements made about the preamble and its significance. We have heard supporters of the treaty say that the preamble is a throwaway, and it means nothing. Then, on the other hand, you have got people saying that, well, if you change this, if you strike this language, it is a treaty killer. So we are hearing what are essentially contradictory state-

ments that this means everything and it means nothing. That cannot be. So I would say it is critically important that we as a nation continue to quantitatively and qualitatively build up our missile defense systems. We know that rogue nations such as Iran and North Korea are rapidly building up their ballistic missile capabilities to eventually be able to strike our country.

We cannot let another nation have a vote on whether we build up our missile defenses. I am very confident that if Russia threatens to withdraw from this treaty when we seek to qualitatively and quantitatively improve our missile defenses, the administration will cave in to the Russians. We have already seen something such as this happen with the administration abruptly ending the Bush administration's efforts to build a third missile defense site in Poland and the Czech Republic. Why should we have any confidence that they will not do the same thing when something like this happens again?

That is why it is critically important that we remove this language from the preamble to eliminate any pretext by the Russians to threaten to withdraw from the treaty because we are improving our missile defense capabilities.

It is particularly galling that the administration inserted this missile defense language into the treaty, when one considers that Congress made it abundantly clear at the outset of negotiations on this treaty, specifically in section 1251 of the fiscal year 2010 Defense authorization bill, that there should be no limitation on United States ballistic missile defense systems.

Specifically, we said:

It is the sense of Congress that the President should maintain the stated position of the United States that the follow-on treaty to the START treaty not include any limitations on the ballistic missile defense systems of the United States.

We also received repeated assurances by senior State Department officials that the treaty would do nothing to constrain missile defense. So I was surprised to see that the treaty ended up containing specific limits on some missile defense options in article V, paragraph 3, as I mentioned earlier, as well as this language in the preamble that we are currently considering in the McCain-Barrasso amendment.

When those of us who criticize this treaty point out that Russia may rely on language in the treaty's preamble as a pretext for withdrawal if the United States builds up its missile defense, the administration response is usually to say, the preamble is not legally binding.

Obviously if this language is not legally binding, then it should not be a big deal to delete it from the preamble. But it can be no accident that Russia

used the words “effective” and “viable” in its unilateral statement that it would view American advances in missile defense as grounds for withdrawal from the treaty, thereby creating a textual hook to the treaty for its position.

The unilateral statement is certainly a sign of how Russia interprets the preamble. I believe, therefore, that there is ample reason to be concerned that this administration will not dedicate itself to deploying a robust missile defense that in any way irks Russia. In the preamble Russia has established a pressure point to dissuade this administration from improving our own missile defense system in a quantitative or qualitative way.

Therefore, it is extremely important that the Senate simply remove that preamble language. I wholeheartedly support the McCain-Barrasso amendment. I urge its passage, and ask unanimous consent that I be added as a co-sponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. I would also simply say, again, that I do not think you can have it both ways. You cannot say that this means nothing, and at the same time that it means everything. If it is a throwaway, some language that does not mean anything, that is one thing. But if it is a deal killer for us to suggest that we ought to remove this language, which we think means something, that that is a deal killer, then somehow it means a lot more and it matters a lot more than I think the supporters and proponents of this treaty are letting on.

So I would ask that as we continue the debate, this issue be fully aired. I think we have a lot of people who have come down and talked about it. I think this is at least one amendment that I am aware of on the issue of missile defense. But I do know that in terms of the overall treaty and the concerns that some of us have about it, this issue stands out. The issue of missile defense, when you live in a dangerous world, is a critical issue when it comes to our national security. It is one that we need to take very seriously, and particularly, as has already been mentioned, the threats that we face from rogue nations such as Iran and North Korea. We cannot do anything that would lessen or weaken our ability to defend our country and our allies from threats from those types of countries.

I would say when it comes to this issue, it would make it a lot easier for those who are advocating support for this treaty if the McCain-Barrasso amendment were adopted. We simply delete it and strike this language, which, if it does not mean anything, should not matter all that much. And if it does mean something and it matters, I think that tells us everything we need to know about what the Rus-

sians' intentions are with regard to having that language in the preamble.

Couple that with the statements they have made in the unilateral signing statement, along with the article V language in the treaty itself. This is an issue of great importance, and we should not take it lightly, we should not minimize it. We need to have a full debate on it.

I hope we can stay on this issue. I know of the leader's plan to move tomorrow to some other legislative business. But if this particular agreement is that important to the administration and to this country and to the Senate, then we ought to be able to stay on this, and the legislative items, many of which are political items that are sort of what I would call check-the-box items that the Democratic leadership wants to get voted on, ought to be put off. We can deal with those issues another time, another year.

If we are serious about getting this treaty done, then we ought to stay on it, keep our focus on it, and allow the Senate to have a full, fair debate, open to amendments, and hopefully, ultimately, get this thing disposed of one way or the other.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I wanted to come down and join Senator KERRY and again recognize his leadership, along with Senator LUGAR's, on moving the treaty ratification through the Senate.

I wish to address some of the objections and concerns that are being raised by the critics of the treaty this evening. First, I want to point out that if the Senate were to approve the amendment that Senator MCCAIN and Senator BARRASSO are proposing, that effectively kills the treaty. I think those people who support that amendment understand that. So that is No. 1.

Secondly, one of the issues that has been raised in a number of the statements this evening has had to do with the concern about dual track. Can the Senate deal with this issue while we have so much other business to deal with? Well, I happen to think that in the Senate we can deal with more than one issue at a time. I believe we can walk and chew gum at the same time.

In fact, during consideration of the original START treaty back in 1992, a treaty that was much more complicated than the one that is pending before us, at the first time the Senate was considering the START nuclear disarmament agreement, the Senate, on the same day we debated the treaty back in 1992, passed an Interior appropriations bill, a DC appropriations bill, and we debated and held two rollcall votes on the Foreign Operations bill. So the concern that we cannot deal with this while we are dealing with other issues is not borne out by the historic precedent.

One of the other issues that has been raised this evening by the critics is that we do not need to do this right away; there is no overwhelming national security concern to get this passed now.

I would point out that we have a number of military leaders in this country who disagree with that. Yesterday, GEN James Cartwright, the Vice Chair of the Joint Chiefs of Staff, said:

All the joint chiefs are very much behind the treaty. We need START and we need it badly.

Today GEN Frank Klotz, who is considered one of the military's most experienced and respected nuclear arms experts—he is commander of Air Force global strike command, which is the command that overseas the Air Force's nuclear enterprise—says that the New START treaty with Russia should be ratified immediately.

Again, quoting the general:

I think the START treaty ought to be ratified and it ought to be ratified right now, this week.

With respect to the issues raised about how this treaty impacts missile defense, it is important to point out what some of the most recognized foreign policy, military, national security experts in the country have had to say about this missile defense issue. First, let me quote ADM Mike Mullen, Chairman of the Joint Chiefs, who said:

There is nothing in the treaty that prohibits us from developing any kind of missile defense.

Then LTG Patrick O'Reilly, head of the United States Missile Defense Agency, said:

Relative to the recently expired START treaty, the New START treaty actually reduces constraints on the development of the missile defense program . . . I have briefed the Russians personally in Moscow on every aspect of our missile defense development. I believe they understand what that is. And that those plans for development are not limited by this Treaty.

And then Defense Secretary Robert Gates, who said:

The treaty will not constrain the U.S. from developing and deploying defenses against ballistic missiles, as we have made clear to the Russian government. The U.S. will continue to deploy and improve the interceptors that defend our homeland. We are also moving forward with plans to field missile defense systems to protect our troops and partners in Europe, the Middle East, and Northeast Asia against the dangerous threats posed by rogue nations like North Korea and Iran. Separately from the treaty, we are discussing missile defense cooperation with Russia which we believe is in the interest of both nations. But such talks have nothing to do with imposing any limitations on our programs or deployment plans.

One of the earlier speakers talked about concerns about those within our security umbrella, our allies and NATO, and how they might be affected by the START treaty. The fact is, every one of our NATO allies has come

out in support of passage of the New START treaty. They have all said it is in the interest of the NATO countries.

To go back to what some of the experts have said about missile defense, GEN Kevin Chilton, commander of the U.S. Strategic Command, said:

As the combatant command also responsible for synchronizing global missile defense plans, operations and advocacy, I can say with confidence that this treaty does not constrain any current or future missile defense plans.

Former Secretary of Defense James Schlesinger said:

I don't think it inhibits missile defense in a serious way. I do not think that we will be inhibited by this treaty or even by the Russian pressure with respect to defending ourselves against North Korea and ultimately naturally against Iran.

Former Secretary of Defense William Perry said:

The treaty imposes no meaningful restraints on our ability to develop and deploy ballistic missile defense systems.

Former Secretary of State Henry Kissinger said:

The treaty does not unduly restrict our ability to build and deploy an effective missile defense system.

Finally, former Secretaries of State Kissinger, Shultz, Baker, Eagleburger, and Colin Powell wrote in the Washington Post:

New START preserves our ability to deploy effective missile defenses.

The testimonies of our military commanders and civilian leaders make clear that the treaty does not limit U.S. missile defense plans.

I know we have a lot of experts in the Senate on this issue, but I certainly believe the experts who have spoken about the lack of an impact on our ability as a country to develop a missile defense system are people who should be believed, because they know what they are talking about.

The other thing it is important to point out—and I know Senator KERRY did this earlier—is with respect to the resolution of ratification and some of the concerns that Senator DEMINT raised this evening. I want to read what is in this resolution of ratification. This is language that Senator DEMINT had amended into the resolution to address the concerns he had:

(2) DEFENDING THE UNITED STATES AND ALLIES AGAINST STRATEGIC ATTACK.—It is the sense of the Senate that—

(A) a paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the United States Armed Forces, and United States allies against nuclear attacks to the best of its ability;

(B) policies based on "mutual assured destruction" or intentional vulnerability can be contrary to the safety and security of both countries, and the United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from a strategic relationship based on mutual assured destruction;

(C) in a world where biological, chemical, and nuclear weapons and the means to de-

velop them are proliferating, strategic stability can be enhanced by strategic defensive measures;

(D) accordingly, the United States is and will remain free to reduce the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges;

(E) the United States will welcome steps by the Russian Federation also to adopt a fundamentally defensive strategic posture that no longer views robust strategic defensive capabilities as undermining the overall strategic balance, and stands ready to cooperate with the Russian Federation on strategic defensive capabilities, as long as such cooperation is aimed at fostering and in no way constrains the defensive capabilities of both sides; and

(F) the United States is committed to improving United States strategic defensive capabilities both quantitatively and qualitatively during the period that the New START Treaty is in effect, and such improvements are consistent with the Treaty.

This is language Senator DEMINT proposed that is adopted in the resolution that makes very clear that missile defense is not affected by the treaty.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Arizona.

Mr. KYL. Madam President, I had hoped to be able to respond to some of the things the chairman of the committee said earlier. A lot of words have been spoken in between what he said and what I will say now. I think I have correct what his arguments are. If I don't, I am sure he will set me straight. Let me respond to some of the things Senator KERRY talked about.

One of the most significant is this. It is the question of whether the preamble is important. Is it binding. Is it significant. While on the one hand the argument is made that it is an insignificant instrument, it is not binding and it is a throwaway statement that is sometimes done for domestic consumption, it has also been portrayed as a treaty killer. Both of those things cannot be true. It cannot be insignificant but also be so important as to be a treaty killer. I suppose it is possible for one side to treat it as insignificant and the other side to treat it as very significant. Thus, insofar as the Russians are concerned, it is a treaty killer. That is obvious because it means something to the Russians. That is the point. We have to appreciate the fact that they have set this up so that the preamble, combined with their unilateral statement, represents the case that they make legally for withdrawal under article XIV, if we develop missile defenses that they believe qualitatively improve our situation vis-a-vis themselves.

That is the importance of it. It is important whether they are laying the predicate for withdrawal from the treaty. Think of it. You have two parties to a contract. There is a dispute about what a critical term in the contract means. One party says: It is not that big a deal. The other party says: Yes, it

is. That enables me to vitiate the contract. That is a big deal, because it sets up a future conflict. That is precisely what the problem is in the preamble. So we can't say on the one hand it is insignificant and on the other hand it is a deal killer, a treaty killer.

Second, it is true that either party can withdraw, but only under certain circumstances. When Senator KERRY makes the argument that the Russian threat of withdrawal is not that important because obviously either party can withdraw, that is only true as far as it goes and misses the point. The Russians are setting up, in the instrument, in the preamble and in their unilateral signing statement that accompanied the signing of the treaty, the ground for withdrawal. What they have said is they believe that if we develop our missile defenses, as we have said, then that constitutes the extraordinary circumstances that would give them a right under article XIV to withdraw. So while it is true that either party can withdraw, the question is, is it a withdrawal that is important, that is significant, that we can't ignore, or is it something they will do no matter what and there is nothing we can do about it?

Let me tell you why this is important and go back to the START I treaty. What countries say about these treaties is very important. It sets the groundwork for their approach to foreign relations vis-a-vis each other and, frankly, the position they take. For years the Russians had tried—before them, the Soviets had tried—to get the United States to cut back on or eliminate our missile defense plans. This was the whole point of the famous Reykjavik moment when Ronald Reagan, as much as he would have liked to have rid both sides of their nuclear weapons or as many as possible, nevertheless when it came right down to it, didn't take the deal that Gorbachev offered him which was: You eliminate missile defense and we will eliminate our strategic offensive weapons. I will come back to that in a moment. But it makes the point that the Russians for a long time have been trying to get us to link missile defense and offensive capabilities.

When that occurred in the START I treaty, our negotiators pushed back very hard. Here is what the United States unilateral statement was in response to the Russian statement. And the reason I quote this is because it is diametrically opposed to the approach our negotiators took with respect to this New START treaty. Here is the United States unilateral statement at that time:

While the United States cannot circumscribe the Soviet right to withdraw from the START treaty if it believes its supreme interests are jeopardized, the full exercise by the United States of its legal rights under the ABM treaty—

The treaty that permitted us to have missile defense—

as we have discussed with the Soviet Union in the past, would not constitute a basis for such withdrawal.

In other words, directly contradicting the Russian claim that they could withdraw on that basis.

Continuing the quotation:

The United States will be signing the START treaty and submitting it to the U.S. Senate for advice and consent to ratification with this view.

In addition, the provisions for withdrawal from the START treaty based on supreme national interests clearly envision that such withdrawal could only be justified by extraordinary events that have jeopardized a party's supreme interest. Soviet statements that a future hypothetical withdrawal from the ABM Treaty could create such conditions are without military or legal foundation.

In other words, the United States rejected the argument that the Russians were making, that the United States withdrawal from the ABM Treaty would constitute a legal right of withdrawal for the then-Soviet Union.

You can argue about the merits of that. But the point is, we did not want to leave unresponded to a view of the Russians that we thought was fallacious, that was antithetical to the interests of a good relationship between the two countries, or that could potentially impact our decision on whether to stay within the ABM Treaty. It was important then to push back. So why did not our negotiators in Geneva push back in this treaty when the Russians sought to do the same thing?

My colleague from Massachusetts said: Well, actually Secretary Rumsfeld and even President Bush at one point said we are going to talk to the Russians about our missile defense and strategic offensive weapons. That is true. However, the United States was never prepared to take a position that those two items should be linked in the treaty.

As Doug Feith, the former Under Secretary of Defense, who actually helped to negotiate the treaty of 2002 with the Russians, wrote in the Wall Street Journal recently that when his Russian counterpart said we need to have missile defense tied into this treaty, Doug Feith said no. And he said: Well, we have to have a treaty to establish the structural relationship between our two countries. Doug said: No, we don't. We have relations with 200 countries. We have no treaty like this to establish a structure for our relationships. Doug said: Look, we don't need a treaty with you to bring down our weapons. We are going to do it anyway. If you want a treaty to conform your withdrawal and ours, that is fine. But we are not going to concede missile defense to you. And the Russians finally backed off.

The point was, in these situations we did not allow the Russians to success-

fully make this linkage. But in this case, we not only did not push back but we issued our own unilateral statement that essentially confirmed that we were not going to push the issue with the Russians because our missile defenses would only be good against "regional or limited threats" was the language that was used.

This is a problem because while it is true that the resolution of ratification has some language relative to the establishment of our missile defenses—by the way, let me quote what was not in the language but was offered by Senator DEMINT at the time. What Senator DEMINT said was that:

Accordingly, the United States is and will remain committed to reducing the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges.

The administration was not agreeable to that. They did not want language to say we were committed to this. They insisted on saying instead that we were free to do it. That is part of the problem. We do not know what this administration's real commitment is to the development of such a system. What we do know is that we should not allow the Russians to believe they have a legal right to withdraw from the treaty based on our future development of missile defenses, because they might well threaten to do that. And if they do, it becomes a big deal whether the United States says: Fine, leave the treaty, because we are going to develop these missile defense instead or a President says: Well, I am afraid you are going to leave the treaty, so maybe I will pull my punches and we will not develop the missile defense. That is the problem here.

Condoleezza Rice, in an op-ed in the Wall Street Journal, on December 7, made precisely this point. Here is what she said. After saying on balance she would support the treaty, she said:

Still, there are legitimate concerns about New START that must and can be addressed in the ratification process.

And here is the second point she makes:

The Senate must make absolutely clear that in ratifying this treaty, the U.S. is not reestablishing the Cold War link between offensive forces and missile defenses. New START's preamble is worrying in this regard, as it recognizes the "interrelationship" of the two.

Further: Administration officials have testified there is no link and the treaty won't limit our missile defenses. She says:

Congress should ensure that future Defense Department budgets reflect this.

Continuing:

Moscow contends that only current U.S. missile defense plans are acceptable under the treaty. But the U.S. must remain fully free to explore and then deploy the best defenses—not just those imagined today. That includes pursuing both potential qualitative breakthroughs and quantitative increases.

I have personally witnessed Moscow's tendency to interpret every utterance as a binding commitment. The Russians need to understand that the U.S. will use the full range of American technology and talent to improve our ability to intercept and destroy the ballistic missiles of hostile countries.

She is saying that the preamble is especially worrying in this regard and we need to do something about it. That is what the McCain-Barrasso amendment does. It removes that thorn, it removes that issue, that potential conflict between Russia and the United States if we do go forward with the missile defenses that most of us would hope we intend to do.

Two final points, I think.

Senator KERRY made the point that it is merely a statement of fact that there is a relationship between offense and defense, and in one sense it is true. It is a statement of fact there is a relationship between the two. The point, however, is in a diplomatic agreement here between two countries, it is not always appropriate to acknowledge a particular fact if the purpose of that by one of the parties is to build a foundation for later withdrawal from the pact.

We have never conceded in an offensive weapons treaty a relationship that could infer a quid pro quo between missile defense and strategic offensive weapons, and President Reagan explicitly rejected it at Reykjavik.

My colleague points out that at least in his view one side should never have an advantage over the other or there is an arms race that will occur. I do not agree with that. I think we should have an advantage. I think we should have missile defense. That is the moral response. That is what Ronald Reagan believed.

To the extent the question is: Must the United States give up missile defense as a condition to reducing offensive weapons, President Reagan was willing to take a chance on a new arms race, knowing that the Soviets could not afford to do it. And they did not. He took the chance, and I think it worked out rather well.

So I think to the point of: What is the harm in recreating this relationship, that is the harm, and Condoleezza Rice has made it very clear that in our ratification process, we should eliminate that harm, specifically by pointing to the preamble, and that is what the McCain amendment would do.

A final point. I do not think this requires much elucidation. The question is, What do the Russian officials say? I do not think we need to spend a lot of time on arguments that they believe this would give them a right to withdraw from the treaty. But there was one comment made by my colleague that: Well, who are you going to believe, the Russians or the United States?

The point is, on Russian intentions and interpretations, I would take into

account what the Russians have said. And without going into a long, detailed explanation, here are a few headlines, and maybe quoting from one article. Headline—this is near the time of the signing of the treaty, right at about the time. This is April 6: “Lavrov: Russia may pull out of nuke deal if U.S. expands missile defense.” There are a lot of other headlines and articles that point out the same thing. Here is Bloomberg Business Week: Russia may exit accord if U.S. pursues missile plan. That is according to Defense Minister Sergei Lavrov.

Let me quote a couple things he said, and then I do not need to make this point further because I do not think it has been seriously questioned that the Russians have made it very clear of their intention that the preamble sets up the condition, along with their unilateral statement, for the extraordinary circumstances that would allow their withdrawal under article XIV. This is the article I will put in the RECORD. It is from foreignpolicy.com, and I will ask to put it in the RECORD. But I will quote from it here:

It appears that Russian Defense Minister Sergei Lavrov isn't quite ready to pop the champagne on the new nuclear arms reduction agreement due to be signed in Prague this week.

Russia will have the right to exit the accord if “the U.S.’s build-up of its missile defense strategic potential in numbers and quality begins to considerably affect the efficiency of Russian strategic nuclear forces,” Lavrov told reporters in Moscow today.

Going on in the article:

The issue of missile defense was the major sticking point in negotiations over the treaty, particularly after the United States announced plans to build new facilities in Bulgaria and Romania.

Recall that was after the withdrawal of the radar from the Czech Republic and the missiles from Poland.

Continuing on with the article:

As FP’s Josh Rogin reported last month, a workaround solution to the issue was reached, in which the issue of missile defense is not mentioned in the body of the treaty itself, but discussed in the preamble sections written by each side. The Obama administration has been adamant that the treaty does not limit the U.S. right to expand missile defense, and will likely make that case to skeptical Senate Republicans. Lavrov, apparently, didn’t get the memo:

Russia insists that the agreement includes a link between offensive and defensive systems.

“Linkage to missile defense is clearly spelled out in the accord and is legally binding,” Lavrov said today.

Madam President, I ask unanimous consent that the text of this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAVROV: RUSSIA MAY PULL OUT OF NUKE
DEAL IF U.S. EXPANDS MISSILE DEFENSE
(Posted By Joshua Keating)

It appears that Russian Defense Minister Sergei Lavrov isn't quite ready to pop the

champagne on the new nuclear arms reduction agreement due to be signed in Prague this week:

Russia will have the right to exit the accord if “the U.S.’s build-up of its missile defense strategic potential in numbers and quality begins to considerably affect the efficiency of Russian strategic nuclear forces,” Lavrov told reporters in Moscow today.

The issue of missile defense was the major sticking point in negotiations over the treaty, particularly after the United States announced plans to build new facilities in Bulgaria and Romania.

As FP’s Josh Rogin reported last month, a workaround solution to the issue was reached, in which the issue of missile defense is not mentioned in the body of the treaty itself, but discussed in the preamble sections written by each side. The Obama administration has been adamant that the treaty does not limit the U.S. right to expand missile defense, and will likely make that case to skeptical Senate Republicans. Lavrov, apparently, didn’t get the memo:

Russia insists that the agreement includes a link between offensive and defensive systems. “Linkage to missile defense is clearly spelled out in the accord and is legally binding,” Lavrov said today.

Despite it’s best efforts to separate the issues of arms reduction and missile defense, Russia doesn’t seem likely to let its opposition to the new system go. Lavrov knows that ratification of the treaty won’t be a cakewalk for the Obama administration and that his statements can be used as ammunition by the treaty’s opponents. So while Obama and Medvedev may put pen to paper this week, the next stage of the missile defense fight is just beginning.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. KYL. Sure.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I say to Senator KYL, you, as a lawyer, have negotiated agreements. It seems to me, what I hear you saying is, the United States enters into a binding treaty, equivalent to a party entering into a binding contract, but the other party has laid a groundwork that allows them to exit the treaty and the contract whenever they want to, in essence. Is that correct?

Mr. KYL. Madam President, that is the point I am making, and in contrast to the START I negotiations, where when the Russians said essentially something very similar to this, we pushed back and said: No, you are wrong, that would not be an appropriate reason to withdraw from the treaty. This time we did not do that. We let it pass, therefore, I would suggest, tacitly accepting the legal position of the Russians.

Mr. SESSIONS. Further, it is not a question of whether the U.S. diplomats and negotiators are telling the truth and the Russians are not telling the truth. It is a question of, is there a meeting of the minds? It is a question of what is in the Russian mind as to whether they could have a right to leave the treaty if we proceed with the missile defense?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, that is correct.

Mr. SESSIONS. I thank the Chair.

Mr. KYL. Madam President, that concludes the point I am making, and is well made by Senator SESSIONS right now. That problem can be cured by the amendment that would fix the preamble by eliminating the words that create this conflict. I think that is something we should do by adopting the McCain-Barrasso amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Let me ask my colleague from Arizona something, if I can.

I do not think—I do not think—that it is necessary for us to actually have the divide that is sort of being drawn here over this issue of this preamble, given what the preamble says, and also measured against the realities of this treaty, and without the preamble.

Let’s pretend for a moment there is no preamble. I will come back to the preamble in a minute. But let’s pretend there is no preamble, and we go ahead and we do a very extensive layered defense, as we are planning, and somewhat, and the Russians do not like it. Even without the preamble, is it not true that according to article XIV, paragraph 3, they have a right to say: “That is going to alter the balance of power. If you do that, we do not like it, we are pulling out of the treaty”? Each party shall in exercising its national sovereignty, have the right to withdraw from the treaty if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests. It shall give notice of its decision to the other party.

And that is it. They are out. In 3 months, they are gone. Is that not true?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I say to my colleague, the answer is, yes and no.

Mr. KERRY. Whoa, whoa. It is true they have the right to withdraw; is it not? There is no yes and no. They either have the right to withdraw or they do not. Do they have the right to withdraw?

Mr. KYL. The answer is that while they have the right to do anything—

Mr. KERRY. Do they have the right to withdraw? Madam President, that is the question.

Mr. KYL. Madam President, I say to Senator KERRY, you have asked me a serious question, which requires more than just a yes or no answer.

Mr. KERRY. OK.

Mr. KYL. The answer is, under the terms of the treaty, they have a right to characterize something as an extraordinary event which qualifies

under the terms of the contract between the two parties to withdraw. And it is also true that, technically speaking, that is not a decision which we can countermand in any way. In that sense, it is true that they can withdraw.

But it is also true that this treaty, like any other contract, sets up terms of reference. One of the terms of reference is the supreme national interest clause or the extraordinary circumstance clause. We both agree that clause has to be satisfied in order for a party to be proper or to be—or to properly withdraw from the treaty.

When the START treaty—excuse me, if I could finish. When START was ratified, we pushed back against the Russians when they said: Well, this gives us a right to withdraw from the treaty. We said: No, it doesn't. We made it clear to them they shouldn't withdraw under that circumstance. Here, by being silent, in effect, on it, we are tacitly agreeing with their interpretation, and that is dangerous because I would assume we don't want them to withdraw from the treaty, but they have set up a circumstance which is virtually inevitable because we planned to do the very thing they say will give them the right to withdraw from the treaty.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I appreciate the answer of the Senator. Let me be clear. There is no language in here, none whatsoever in the treaty, that suggests any measurement or judgment as to the weight or rationale or propriety of their notice. It simply says they shall give notice, and having given notice, automatically, the treaty is over in 3 months. There is no measure. There is no court you go to. There is no measure here. You are out. The point I am making is, no matter what, you can get out.

That said, there is a difference here of opinion. The Senator from Arizona chooses to take these outside statements, which are sending us a signal that obviously they are not going to take lightly to some massive, layered defense that they think affects their offensive capacity. I think the Senator understands that. I am convinced the Senator knows that. He is too smart about this stuff, and he knows too much about it not to understand that if the Russians think all of a sudden we have done something that alters that balance, I believe he thinks they are going to react to that somehow. He has nodded in assent. He does believe that.

So all this nonbinding component says is recognizing the existence of the relationship, it doesn't say they are going to get out. It doesn't say at what point it changes things.

What is more, the record could not be more clear from our unbelievably competent personnel working on this—when you look at the comments of—let me go back to them right now.

I know the Senator from Arizona has respect for LTG Patrick O'Reilly. He is a retired U.S. Air Force lieutenant general, and it is his job to defend America against a missile attack. Here is what he said. He says:

Relative to the recently expired START treaty, the New START treaty actually reduces constraints on the development of the missile defense program. Under New START, our targets will no longer be subject to START constraints.

So—and when Senators ask: Well, why didn't we just extend the original START treaty, apart from the fact the other side said they wouldn't, which is pretty significant, in addition to that, our military didn't want to because they wanted to get out from under the constraints of START. So when the man who is the head of missile defense tells me this treaty, in fact, removes constraints and improves our situation, then you add it to the plethora of other significant statements, from Secretary Bob Gates, from Secretary Clinton, from Admiral Mullen, from General Chilton, from the various other parties, every single one of them says we are not constrained in the type of defense that we can and will build.

All this says is recognizing the relationship. It doesn't restrict us from changing that. In fact, we have stated we are going to. So, obviously, at some point down the road, I assume the Russians are going to say this may be going too far. But it is more than 10 years down the road. So for 10 years we know we have a relationship where we can inspect and we can improve our situation.

I would further say to the Senator: Does the Senator agree at least with the fundamental understanding with respect to treaties that the preamble is not, in fact, legally binding and part of the treaty? Does the Senator agree with that?

Mr. KYL. Madam President, in a technical legal sense, I believe that is the way it is interpreted. I might also make another point, just to correct something—and we can have this debate later if you want to—but it is not true that no changes qualitatively or quantitatively in U.S. missile defenses will occur until after the 10 years that this treaty will be enforced. In fact, one of the most critical questions is whether the GBI systems we have deployed in Alaska and California will be available to be deployed in Europe or on the East Coast or somewhere else in 2015 or whether that will be delayed until 2017. So, clearly, there are—and those are the systems that would be potentially effective against a Russian ICBM.

Mr. KERRY. Fair enough. I accept that. There are some things we will do, and it may be that we had this moment of question mark earlier. That may be. I do know this: We are going to plan to do what is in our interests in the coun-

try in terms of our defense, and everybody has said we are committed to proceeding forward.

I want to come to the DeMint language in one moment, but let me finish this question for a second. The Senator agrees this is not a legally binding component he is trying to knock out. The next question is: Does the Senator agree and understand that if you change a comma in what is deemed to be—even though it is not binding, still nevertheless deemed to be the instrument before the Senate—if you change a word, change a comma, you then have to go back to the Russians and you have to negotiate and seek their agreement; does the Senator understand that?

Mr. KYL. Madam President, the answer to the question is, if the Senate, which is supposed to provide its advice and consent—in other words, it is the other half of the equation to the Presidency, and if we are not to be a rubberstamp, and presumably we can take seriously our responsibility to make changes in the treaty or the preamble—if that is our judgment and if we do that, if we eliminate these words in the McCain-Barrasso amendment from the preamble, then the Russians would have to decide either to accept that change or they would negotiate something with the administration that would then be resubmitted, that is correct, and/or there also could be a side agreement that would be entered into.

Mr. KERRY. I agree. But the bottom line is, the Senator has agreed with my statement that we have to go back to the Russians, and that means this treaty doesn't go into force. It also means you don't know what other parts of the negotiation come forward.

So the choice before the Senate is whether you want to take language, which the Senator has agreed is not legally binding, and you want to go back to the Russians and reopen the negotiations for something that doesn't even bind you, when you already have this remarkable amount of evidence saying we are going to go ahead and do what the Senator is interested in doing.

Even further—

Mr. KYL. Would my colleague yield just for one quick question?

Mr. KERRY. I am happy to yield.

Mr. KYL. You said, then, the treaty would have to go back to the Russians. Of course, the Russian Duma is poised to act on this treaty after the Senate does so. The treaty is going to go to the Russians, and unless my colleague is suggesting the Senate has no right to change anything in it, of course, if it is modified, it goes to the Duma and then the Duma decides do they want to accept that change or not.

Mr. KERRY. Madam President, that is a good point by the Senator, and I

don't disagree. He is absolutely correct. The Duma does have to ratify this.

But the point I am trying to make is, it doesn't seem worth trying to have that fight—I mean, if this were a matter that went to the core and essence of where we are heading with the treaty, I would say that is different. But it is not binding. If there was something binding here that required us to do something against our will, sure. But there is no rubberstamp involved in something that has no affect on the actions we have already guaranteed in so many different ways we are going to take. Let me just point out—

Mr. KYL. Would you yield for one quick question?

Mr. KERRY. Sure.

Mr. KYL. If it is not binding, then why does my colleague assume the Duma would have such a hard time accepting the modest change we are proposing?

Mr. KERRY. It is simply a matter of before you get to the Duma, you have to go back and renegotiate this, the treaty doesn't enter into force, and we don't begin what our intelligence community has told us they would like to see happen sooner; the quicker, the better. They want to get to this process.

Moreover, it is also important in another respect. I don't know how much more clear we can be, but I am willing to work with the Senator, and I would love to see if we could sit down in the next hours and come up with something here. We work pretty effectively together, and I think we may be able to do this.

But I don't think these words that are in here are meaningless. In the resolution of ratification, we are saying:

A paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the United States armed forces, and United States allies against nuclear attacks to the best of its ability. Policies based on mutual assured destruction or intentional vulnerability can be contrary to the safety and security of both countries.

That is a pretty—that is even a new—I was attracted to that, frankly, because Senator DEMINT proposed it, and I said: You know, that is not an unreasonable statement for us to make.

Further, we say in the resolution—this is not unimportant:

In a world where biological, chemical, and nuclear weapons and the means to deliver them are proliferating—

This is what our colleagues have been concerned about—

strategic stability can be enhanced by strategic defensive measures.

We are embracing what our colleagues on the other side of the aisle are suggesting ought to be a part of this.

Then, we say—this is the most important paragraph:

Accordingly, the United States is and will remain free to reduce the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges.

We are saying it. That is what we are adopting when we pass this resolution of ratification.

So not only do we have all our defense establishment, intelligence establishment, and civilian command saying we are going to build this system, not only have we briefed the Russians—and according to our leading general who is responsible for this, who says he briefed them, he told them about the fourth phase and they have accepted it—not only do we have that, but we are going on record saying we have this purpose to change this relationship and we are going to proceed to build this system.

I think that to put the whole treaty, given what is in the resolution of ratification, on the chopping block as a result of a nonbinding resolution, frankly, it just doesn't make sense, and particularly given what the Senator agrees with me is the consequence of having to reenter negotiations, and more important, the Senator agrees with me the thing he doesn't like is not legally binding.

So let's have a vote. Thank you.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Arizona.

Mr. KYL. I am rather enjoying this colloquy, so maybe I could extend it just a tad longer. Of course, the United States is free—I mean we are not going to ever let another country say we are not free to do something that is in our national interest. But the point is, the administration was unwilling to say we are committed to doing this. I think that makes a very important point.

The whole point of what we are arguing is that the Russians would like to put whatever pressure they can on the United States not to deliver—excuse me—not to deploy missile defenses that could be effective against Russian strategic systems. That has been their goal for decades. I think we can all stipulate to that. They would like to bring whatever pressure they can bear against the United States to avoid us developing those kinds of systems.

Unfortunately, in the negotiation of this treaty, we have opened ourselves to that kind of pressure by, for the first time, not pushing back against the Russians when they tried to make their usual interrelationship between defense and offense and say that if we develop missile defenses effective against them, then that gives them the legal and binding right to withdraw from the treaty. We didn't push back on that.

Instead, our signing statement said: Don't worry. We are not going to develop that kind of system. We are only going to develop systems that deal

with intermediate threats or regional threats. So even though the Secretary of Defense had announced a missile defense plan on the drawing board here that would go beyond that, A, we didn't push back. We agreed to the preamble language.

We didn't push back against the signing statement the Russians made. Recently, in the briefing in Lisbon, we seemed to confirm our unilateral statement that we were only dealing with regional or limited threats. Then you can throw in the fact that we pulled the proposed missile defense GBIs, ground-based missile interceptors, out of Poland, and the radars associated with that out of the Czech Republic.

All of that suggests the Obama administration is not as serious about missile defense as we would like them to be, and perhaps one of the reasons is because it will anger or upset Russia. So the more pressure Russia can put on the United States not to do it, the more likely the Obama administration is not to do it. The whole point is a matter of pressure—subtle pressure or bullying pressure, which the Russians are pretty good at too.

If this achievement of the START treaty is so important to President Obama—and I think it is—the question is whether he is willing to jeopardize or risk that treaty if the Russians came to him some time later and said: You are developing something on missile defense that bothers us, and if you do that, we are withdrawing. President Obama might say: Don't do that, we will back off.

The evidence suggests that is the approach this administration may be taking. It is worrisome, as Dr. Condoleezza Rice pointed out. That is why she suggested that we fix that problem in the preamble in the ratification process of the treaty.

Mr. KERRY. Mr. President, let me ask my friend this: First of all, I forgot to include in my comments about what we included with the DeMint language in the resolution, which I think you guys ought to be jumping up and down about which is the following:

The United States is committed to improving United States strategic defensive capabilities both quantitatively and qualitatively during the period that the New START Treaty is in effect, and such improvements are consistent with the treaty.

That is about as boldfaced a statement as we could make about where we are heading. I ask the distinguished Senator from Arizona this: If the President clarified that for the Senator in the next 48 hours, or 72 hours, and he were to make more clear to him—to try to address that question particularly for Senator KYL, Senator MCCAIN, and others, would the Senator vote for the treaty?

Mr. KYL. Mr. President, that is a good question. I think the answer is, first of all, that I don't think at this

moment in time he can clarify it in that regard because he can't predict what concerns the Russians will bring to him and what his response at that point will need to be. If, for example—

Mr. KERRY. With all due respect—

Mr. KYL. Let me finish my point. If we were developing a system which the Russians say will bother them because we could use that against them, and they want us to change it in some way, my best guess is that he will be inclined to change it, even though he wrote a letter to us saying: Rest assured I am committed to developing good, strong missile defense for the United States.

I think the Russians are trying to bully this administration, or future administrations, into a position where we will be less certain to do the kind of things that are just in our best interest because we will have to be concerned about the Russian response.

Mr. KERRY. That is fair. Mr. President, if the Senator wants every eventuality of the future covered, that is a hard one. I think the President of the United States—when he speaks and puts something in writing, in whatever form, or tells a Senator to his face, then gives him his word, that is pretty meaningful where I come from.

Mr. KYL. I am not questioning the President's sincerity or his honesty or his current intentions. But nobody can predict the future. President Obama is smart, but he can't predict out into the future the kinds of things that could be implicated as a result of the agreements that are reached.

To finish my point, the whole problem with this is that the Russians are attempting to create a ground for claiming the legal right, as both of us interpret the term in the treaty, to withdraw from the treaty. Why? For only one reason. It is not to create flexibility, as the Senator said. They have the flexibility. It is to create the pressure to apply on this President, or a future President, not to do what we may want to do because of the concern by the Russians as to how that will affect them.

I don't think one can deny the significance and importance of that kind of diplomatic pressure. When we are asking the Russians to help us with the Iranians or North Korea or some other situation, they can say: That's fine except you are trying to do something we don't like in missile defense and then the President doesn't want to have them withdraw from the treaty and would like their cooperation on something else. These things matter.

In the area of diplomacy, you cannot ignore words in a preamble, though it may not be legally binding. Even as my colleague says, they are so important they could be a treaty killer.

Incidentally, I would like to correct something else. I think I am right on this issue. If we modify the treaty in

this regard, I think the question to the Duma is, Do you want to accept this? It is not that we have to go back to negotiations. As a practical matter, we might well do that in order to smooth the relationships. But I think the treaty is sent to the Duma with whatever understandings or amendments we attach to it.

Mr. KERRY. Mr. President, let me say to the Senator that, for better or worse, the way it works—and I think the Senator acknowledged this in his answer to my question—you do have to go back to the Russians and you have to have a negotiation and there has to be an agreement. If it was changed further, we would have to come back and go through the entire process again, in order to review or do a new treaty because it would be a different treaty submitted to us.

Let me say, through the Chair, to my friend, that said, I want to clarify it is not the weight of the words that makes this complicated—and it is not. I am not trying to have it both ways and say the words are irrelevant, but therefore he is saying why don't you change them. But it is the process. It is what happens as a consequence, in terms of when we ratify a treaty, if we ever ratify a treaty. And because they are not binding and, therefore, don't affect what we are obligated to do, and every bit of our obligations have been defined by the generals, admirals, various agency heads, et cetera, that has all been defined.

We have a clarity about where we are going. Here is what is important, and I say this to the Senator from Alabama and the other Senators on the floor, this is part of our advice and consent because we have made it clear—we have done something different. We have gone beyond what they did. We are adding our stamp to this in the resolution of ratification, where we have accepted the DeMint language, which is as forward-leaning as you could be in sending the Russians and the world a notice, regardless of what the administration may or may not have said. We have said it and we control the purse strings and we make that policy about what we are prepared to spend for and develop, and that is a robust missile defense system.

That said, let me come back to one other point the Senator raised about the meaning of what happened in the Polish—with the Poles and the switch and phased adaptive system. The fact is—and this is very important—the Obama administration did not come up with this idea for this change. This was not motivated by some different world view of the President or the Obama administration. This is our military.

As the chairman of the Armed Services Committee laid out fairly clearly and in detailed fashion, the military came to us. They are the ones who came up and said this is a better way

to do this system. In fact, I have a letter from Admiral Mullen. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, June 9, 2010.

Hon. CARL LEVIN,
Chairman, Senate Committee on Armed Services,
Washington, DC.

DEAR MR. CHAIRMAN: In a meeting on 6 May attended by Secretary Gates and General Cartwright, you asked General Cartwright whether the Joint Chiefs and I were on the record as supporting the New START Treaty and the Phased Adaptive Approach for Missile Defense. I have publicly stated that we support these important elements of our national security posture, and I want to take this opportunity to respond to your query in writing.

The Joint Chiefs; the Commander, U.S. Strategic Command; and I fully concur that the United States should accede to the New START Treaty. It will enable the United States to maintain stability at lower levels of deployed nuclear forces, strengthen its leadership role in reducing the proliferation of nuclear weapons throughout the world, and provide the necessary flexibility to structure our strategic nuclear forces to best meet national security interests.

I want to emphasize that, if ratified, the treaty will make our country more secure and advance our core national security interests. In addition to reducing and limiting stockpiles of strategic nuclear arms, it promotes transparency between the parties. Without this treaty and the transparency it provides, both sides would be less certain about the strategic nuclear balance, which in the past led to the huge stockpiles we are now trying to reduce.

The treaty's reductions and limits were based on deliberate and rigorous analysis in the Nuclear Posture Review and borne out of intense negotiations. The Joint Staff played a crucial role in the treaty negotiations in Geneva and the interagency backstopping process in Washington, D.C. In addition, I met with my Russian counterpart, General Makarov, in both Geneva and Moscow to expedite its negotiations. I firmly believe that this treaty is sound in principle and will provide security and stability in the international security environment.

The Joint Chiefs, combatant commanders, and I also fully concur with the Phased Adaptive Approach as outlined in the Ballistic Missile Defense Review Report. As with the Nuclear Posture Review, the Joint Chiefs and combatant commanders were deeply involved throughout the review process.

The Phased Adaptive Approach more directly addresses the threat in Europe and offers several distinct advantages. The approach utilizes existing and proven capabilities and matches the expected capabilities to the anticipated threat. The architecture, land- and sea-based missiles, radars, and defense systems provide the flexibility to upgrade, adjust, position, and reposition assets in a cost-effective manner as the threat evolves and our capabilities develop. In addition, the Phased Adaptive Approach would enable forward-based radars to augment missile defense coverage of the U.S. homeland and offers increased opportunities for allied participation and burden-sharing. Importantly, this Phased Adaptive Approach offers

meaningful capability several years earlier than our most optimistic estimates for our initial approach.

We believe that the Phased Adaptive Approach will adequately protect our European allies and deployed forces, provide the best long-term approach to ballistic missile defense in Europe, and support applying appropriately modified Phased Adaptive Approaches in other key regions as outlined in the Ballistic Missile Defense Review Report.

We appreciate your consideration of the importance of the New START Treaty ratification and stand ready to fully implement the Phased Adaptive Approach for European Ballistic Missile Defense.

Your continued concern and support of our men and women in uniform are greatly appreciated.

Sincerely,

M.G. MULLEN,
Admiral, U.S. Navy.

Mr. KERRY. Admiral Mullen says:

We believe that the Phased Adaptive Approach will adequately protect our European allies and deployed forces, provide the best long-term approach to ballistic missile defense in Europe, and support applying appropriately modified Phased Adaptive Approaches in other key regions as outlined in the Ballistic Missile Defense Review Report.

They are the ones who requested to CARL LEVIN and others, the Joint Chiefs, combatant commanders.

And he said:

... I also fully concur with the Phased Adaptive Approach as outlined in the Ballistic Missile Defense Review Report. As with the Nuclear Posture Review, the Joint Chiefs and combatant commanders were deeply involved throughout the review process.

Mr. KYL. Mr. President, do I have the time?

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. KERRY. I thought I had been recognized.

Mr. KYL. Let me jump in on a couple of points. First of all, it is in my opinion it is incorrect to suggest that the phased adaptive approach is superior to the ground-based or GBI approach. I know there are people in the military who came up here and testified that it was a good idea to do that. Secretary Gates himself said that. I believe, however, if one understood the debate fully, one would appreciate that this was also a political decision made by the President and influenced by other considerations.

This administration has never liked the GBI that the Bush administration developed. It is my opinion that the GBI is more effective than the phased adaptive approach, especially since the administration is not talking about deploying but merely having available the fourth stage. But GBI is a more effective system.

We could have that debate, and I am happy to have that at another time. All I was trying to suggest is that the decision to remove GBI from the plan for Poland and substitute this other approach that is available at a later time, and, in my view, less effective,

and also not have the GBI as a contingent backup until 2017, rather than 2015, were mistakes on our part at least, and at worst were decisions made to placate the Russians. That would not be a good thing.

I am simply trying to illustrate the fact that some believe that already in an effort to try to placate the Russians—maybe that is not the right word—try to act in concert with their wishes—choose to characterize it however you wish—the United States has pulled its punches on missile defense. I don't want that to happen.

With this construct, I am afraid that is the kind of influence they would bring to bear. I will ask my colleague a question. Do I understand the Senator to say that if the United States, for example, attaches understandings and conditions to this treaty, if the Senate were to ratify it, and if we make a change in the preamble, that the treaty does not go to the Russian Duma with those conditions or understandings and the change in the preamble but, rather, has to go back to some negotiating process? I thought the process was that the Russian Duma could add its own conditions or understandings and could either accept or reject the treaty as it came to them from the Senate.

Mr. KERRY. Mr. President, the process is that it goes from us under any circumstances, if we have acted on it, to the Government of Russia. The Government of Russia makes the decision as to whether they are going to negotiate and whether it is a substantive kind of change they object to. They may refuse to put it to the Duma or they may want to renegotiate it. It opens it up to renegotiation. It is not automatic. They don't have to send it to the Duma. They can sit on it.

Mr. KYL. I appreciate that clarification. I hope my colleague is not suggesting that, under no circumstances, should the Senate ever change a treaty so that the other party to the treaty would have to, in effect—well, the Senate would never be able to change a treaty. Put it that way.

Mr. KERRY. No, I agree. I already spoke to that. I said if it is in the four corners of the treaty and has fundamental operative impact on us, I would say, OK, we have to go back and do it. That is not the case here. We are talking about an innocuous, nonbinding, and a recognition of an existing reality that the administrations on both sides have already acknowledged. And Dr. Kissinger and others have said ignore the language, it is meaningless. It is simply a statement of the truth.

Mr. KYL. That is my point exactly. If it is no more than that, I cannot imagine that it would be a treaty killer for the Russians unless there was something else afoot. And that something else—they deem it very important. Why? This is the legal grounds for

them to withdraw from the treaty. That is the point.

This is precisely what Lavrov, the Foreign Minister, said. Linkage to missile defense is clearly spelled out in the accord and is legally binding and they talked about their ability to withdraw under article XIV based upon the U.S. improvement of our missile defense qualitatively or quantitatively. That is why it is so important to the Russians.

I don't know if it is a treaty killer because I think there is so much else in this treaty the Russians want, they are not likely to walk away from this if that language is eliminated. But I do think it is important to them because they are trying—this is the first time they have been able to get their foot in the door and establish that linkage, even though in the preamble—not in the body, although they did put article V in there, which also confirms the linkage. It is so important to them that it may be a problem for ratification on their side because then they would not have established this binding legal right to withdraw from the treaty.

Again, as Senator KERRY has pointed out, either side can make up a reason to withdraw from the treaty. But it is difficult for either side not to have a pretext, a legal pretext, and that is what they are creating here. The legal pretext is the United States developing a missile defense system that goes beyond what the Russians think it should vis-a-vis their strategic offensive capability. That is the whole point, and that is the reason for the amendment.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. KYL. I have taken the time here, so I will yield the floor to Senators SESSIONS and KERRY, if they want to continue.

Mr. KERRY. I will yield too and Senator SESSIONS has been very patient. I wish to say two things, if I can, in closing, very quickly.

No. 1, the point that the Senator just made about the legal pretext for withdrawing from this treaty, let's go back to the colloquy we had a few minutes ago. You don't need a legal pretext. You don't need anything except a judgment on your part there is an extraordinary circumstance that says you want to get out, and the extraordinary circumstance can be that you see your offensive weapons have been dramatically reduced in their impact by our defense. So they do not need a legal pretext. It has nothing to do with what the Senator has just suggested.

The final comment I would make is, perhaps the Senator and I—and I invite this one more time because I think we have moved enormously with the language we have in our resolution of ratification from Senator DEMINT. We worked on it together. I embraced it. I think it is an important statement. Perhaps the Senator and I can find

some further way to include that in here so we are not taking the risk of what they might or might not do.

Neither of us have the ability to predict what their reaction will be. Although I think some people would be pretty clear about the fact that it would not be well received, it could be a serious issue for a lot of different reasons. So if we can avoid that, we have a responsibility to do that in the next day or two. I look forward to working with my colleague, and I thank him for the colloquy.

I yield the floor.

SIGNING AUTHORITY

Mr. KERRY. Mr. President, as if in legislative session and in morning business, I ask unanimous consent that Senator DURBIN be authorized to sign any dual-enrolled bills and joint resolutions during today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS, 2011

Mr. KERRY. Mr. President, as if in legislative session and in morning business, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 105, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. KERRY. Mr. President, I ask unanimous consent that the joint resolution be read three times, passed; that the motion to reconsider be laid upon the table, and any statements be printed in the RECORD, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 105) was ordered to a third reading, was read the third time, and passed.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

Mr. KERRY. Mr. President, I would now inquire—I think Senator SESSIONS is going to be the last speaker; am I correct?

Mr. SESSIONS. I see Senator BARRASSO is here and he may want to speak also. I assume he does.

Mr. KERRY. I don't think we have any more speakers on our side. I think Senator MCCAIN informed me he did not want to speak further, so I think perhaps we are reaching the end of business, although I think Senator DURBIN wanted to speak as in morning business when we have completed everything, as he requested earlier.

So I ask unanimous consent that Senator DURBIN be recognized to wrap up.

Mr. SESSIONS. I see Senator BARRASSO is here. Does the Senator want to follow me?

Mr. KERRY. Mr. President, I ask unanimous consent that when Senator SESSIONS concludes, Senator BARRASSO be recognized for 10 minutes; that after Senator BARRASSO, Senator DURBIN be recognized in morning business.

Mr. DURBIN. Reserving the right to object. I would ask Senator SESSIONS how long he expects to speak.

Mr. SESSIONS. In 10 or 12 minutes I will try to wrap up.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, it has been a very fine discussion between Senator KERRY and Senator KYL, two of our most able Members. Senator KERRY is an able advocate for the treaty, but I do agree with Senator KYL's view that there is more than a misunderstanding concerning missile defense in this treaty. There is a conflict of views about it. It is not an ambiguity, it is more of a misunderstanding or a conflict of views, and a serious agreement, contract, treaty that has a misunderstanding among the parties about a serious matter shouldn't go forward until it is clarified. That would be my view of that.

If it goes back to the Duma and they say: Well, we don't think your missile defense system that you say you might want to build by 2020 will conflict with our treaty reading, so go ahead, then that will be one thing. If they say: No, we firmly disagree; we don't think you should be able to build a missile defense shield in Europe, then we know we have a problem. So that would be how I would feel about it fundamentally at this point.

I just don't feel that if the Russians are serious about a treaty, they would be, in any way, trembling or afraid or upset if we sent the treaty back to them and told them we have a disagreement. This is particularly true when Mr. Putin, on Larry King, just made the statement he did; that if countermissiles will be deployed in the year 2012 or 2015 on our border, they will work against our mutual nuclear potential and we are obligated to take action in response. Mr. Medvedev, in his December statement to the Duma,

makes a similar threat about it. So I think we have a serious problem.

The missile defense issue is very important. I know the Presiding Officer, from Colorado, is knowledgeable about these issues. It is a key issue. It has been going on for years—decades—in the Congress of the United States. There has always been a hard group on the left who have opposed missile defense. They called it Star Wars and mocked it and denigrated it. But the truth is, those treaties, those proposals, have worked, and we now have deployed in Alaska and California missile defense systems capable of knocking down North Korean missiles and probably Iranian missiles, although Iranian missiles coming from the other side of the globe, there is some need to have some redundancy there and that is why the missile defense site was selected in Europe.

President Bush and his team spent some years, invested a lot of time working with the Czechs and the Poles. The Czechs agreed to sign an agreement that they would have a radar site and the Poles signed the agreement that they would accept the missile site and the Russians, as well, objected. They have objected to our missile defense system for years, for reasons that strike me as utterly inexplicable. I cannot see how it is possible that the Russians would see 10 missiles in Poland as somehow being a destabilizing event that would neutralize their thousands of nuclear warheads that they can launch at the United States. It is unthinkable. They have hundreds of missiles they can launch and other ways to deliver nuclear weapons. But they have always opposed it, and they particularly opposed the European site. So this has been a contentious issue.

As chairman and ranking member and member of the Armed Services Strategic Subcommittee—and I believe the Presiding Officer is a member of that subcommittee—we have wrestled with this. But I thought, in 2006, when my Democratic colleagues took the majority in the Senate and fully funded the move forward with our missile defense system, we had reached a bipartisan accord on that, and I made a speech in London to that effect and said we had reached that accord.

But in the course of this negotiation over this treaty and in the course of their relationship with Russia, the Obama administration has made very serious errors. I am convinced of it. I know President Obama was only in the Senate a few years, he was a State Senator, a community activist, and he hasn't been used to dealing with the Russians. Maybe he didn't understand the significance of it, but a series of events has transpired since his election that has resulted in great embarrassment to our allies—the Czechs and the Poles—and has greatly and significantly delayed the deployment of an

effective missile defense system in Europe and has been replaced by some pie-in-the-sky promise that by 2020 we are going to develop a completely new missile system to deploy 5 years later, when the intelligence estimate of the National Intelligence Agency is that the Iranians will have the ability to hit the United States with an ICBM by 2015.

Actually, we could have had our missile site in Europe sooner than 2016. We could have had it there by 2013, experts told us. But because of delays and other things—we were on track to do it by 2016, which would have been a pretty good safety valve to neutralize this growing threat from Iran, which is determined to have nuclear weapons. Iran is a rogue state. They reject United Nations resolutions, inspectors, and any decent importuning by the world community to constrict their dangerous activities.

My friend and colleague, as was cited before, Senator LEVIN, came down after I spoke earlier and made some reference to my remarks, and he quoted General Chilton, who I know the Presiding Officer remembers testifying before our committee and subcommittee. He is the strategic commander who has been there a while.

Senator LEVIN said that this is what General Chilton said: "I can say with confidence that this treaty does not contain any current or future missile defense plans."

It didn't strike me quite right, so I had my staff pull the testimony of the witness. This is the quote he gave at the committee. I think Senator LEVIN missed it or his staff didn't produce it in the correct fashion. He said this: "This treaty does not constrain any current defense plans"—not "future," "current defense plans," because it does provide a basis for legal objections in the future, and there is an ambiguity about the Russian understanding of whether we are going to go forward with missile defense systems in the future. There just is. It is not a little bitty matter; it is an absolute fact. There is a confusion and really a misunderstanding. The Russians are saying one thing, and we are saying another. I think that is very significant.

Why did I make a difference between future and current? At the time General Chilton gave this testimony, on June 16, 2010, President Obama had already canceled the GBI two-stage site in Europe, so that is off the table. The GBI site, the one we planned to do, is not there. The only thing that is left is a promise that we are going to develop from scratch an SM-3 Block 2B.

You say we have an SM-3 missile. It would be hard to develop a new block missile. It is an entirely new missile. It is bigger around; it is taller; it goes longer; it is really an entirely new development process to develop this SM-3 Block 2. The guidance systems that

were used on the Block 3s that were used on ships have been proven very capable, as are our GBI guidance systems. That is where we went.

How did it come about that the President of the United States unilaterally reneged on the U.S. policy to deploy in Poland and the Czech Republic? Essentially, this happened. The day after his election, the Russians announced they were moving missiles near the Polish border. Cables and other documents and testimony indicate that very early in the Presidency of President Obama, the Russians were pushing back hard, again, about missile defense.

The Bush administration refused to be taken in. They knew what they were doing in Europe didn't threaten the Russians, and they were not going to give in to their bluster and did not give in to their bluster. When they stood up in 2002 on the SORT treaty, the Russians eventually signed it without any of this language that constrained our missile defense.

By March of 2009, we were undergoing discussions on the New START treaty—by March. Even before that, the Russians had made clear they were firm this time on missile defense. As the negotiations for the treaty went on, in September President Obama dropped the bombshell, told the Russians that he was going to stop building the third site in Poland as had been planned and then told the Poles later, after it made news. It was quite an embarrassing scene because our allies—sovereign, independent nations on the border of the Russian power who committed to us, stood firm with us to work with us to develop a national missile defense system—had been greatly embarrassed.

We canceled that. That was the plan we were going forward with. It was on plan to be deployed by 2015 or 2016, and it took the missile system that we were using in Alaska and converted it from a three-stage to a two-stage system. That took a little work, but the guidance system and the concept of it were really simpler than the one we had already deployed in Alaska. The generals told us it was not in any way a complex problem to convert their system to a two-stage. So we were on track to deploy a proven system that would work and protect the United States and virtually all of Europe from an Iranian missile attack.

This is all a big mistake, and the Russians kept pushing. One expert said that it is odd that the Obama administration is being criticized for going soft on missile defense when they took great care to make sure it was not a part of the treaty.

Now, you know, I am a former lawyer. I tried cases and prosecuted. What did that mean? Senator KERRY is too. What did that mean? That meant to me exactly what they did. They wanted to

come into this Senate and to say this treaty had very little to do with missile defense. But at the same time, they didn't really believe much in missile defense anyway—that had not been President Obama's strongest belief about how to defend America—and they wanted to placate the Russians, who were giving them a hard time. He, politically, was getting the Nobel Peace Prize. He was wanting to have a signature treaty with the Russians to show how much harmony there could be in the world and reset our relationship. I can understand that. It is a noble goal. But when you go eyeball to eyeball with our Russian friends—they are tough negotiators—you have to defend your interests or they will take you to the cleaners.

I do not believe the President legitimately defended our interests. I believe the weakness in the negotiating situation arose from the fact that they wanted a treaty too badly. They wanted this treaty really badly, and the Russians sensed it and they held out, and they got a number of things that a good, tough negotiating authority would not have given them.

I think it is transparent that, while there is not a lot of language in the treaty that directly constricts missile defense, I believe it is transparent that the cancellation of the two-stage site in Europe, in Poland, was to gain the support of the Russians for this treaty. The Russians are now in a position where they stopped it, and they had a big political win. It reinforced the view that Russia is a powerful nation, that they backed down the United States, and those nations, those former Soviet States that are now independent sovereign nations, those guys better watch out because when the chips are down, the United States is going to choose to be with the big boy—Russia—and they are not going to defend you.

So this was a psychological, political, strategic error of major proportions. It is why—it is part of the concern that this administration is weak on defense. Actually, it is one of the larger errors that I think they have made—maybe the largest. I feel very strongly about it.

So I am just not happy and do not think it is correct to argue that this treaty has nothing to do with national missile defense. It was all about it. It was in the center of the negotiations. It was quite obvious from the very beginning.

They worked hard to put as little as possible in the treaty because they didn't want to come to Congress and say they sold out national missile defense to get this treaty. But they sold it out when they canceled the two-stage site, in my opinion. Maybe they thought—I am sure they thought that was the right thing for America. I am sure they did not think it was so important. But it was important. They

made a mistake, and now ratifying this treaty without getting a clear understanding about the missile defense question places our security at more jeopardy rather than less.

I know the argument is that signing this treaty will make us more secure. But signing documents do not make you more secure. Talk does not make you more secure. It is really actions that count and motives that count, and the Russians are just implacable, and they will push and push until you say no, and then they will make a decision whether they can accept your position.

They will never stop pushing until you say no with clarity and firmness, as Doug Feith testified he did in 2002 dealing with these very same issues. They said we had to agree to this kind of action to limit our missile defense system—you have to agree to it or we will not sign the treaty. Mr. Feith said the truth, which I have always believed. He just wrote this recently, but I raised it with our negotiators when they seemed so anxious for the treaty.

He said: You don't have to have a treaty with Russia. We don't have a treaty with China, we don't have a treaty with India, Pakistan, England, or France—nuclear powers. It would be nice, but if we do not have an agreement—he told the Russians: Look, President Bush has decided we don't need this many nuclear weapons. We are going to reduce our nuclear weapons whether you reduce them or not. We think you are silly not to reduce them because you have more than you need and you are just wasting money on them. So we won't have a treaty; we are just going to reduce our weapons.

Mr. Feith said that the Russians said: OK, we will take missile defense off the table.

They wanted a treaty for other reasons. They wanted to have the prestige of signing a major treaty with the premier military power in the world—the United States at the time—and they signed the treaty. But as soon as they saw a new President, they came right back at it, and the President blinked.

So now we have a difficult decision. I don't want to be negative about rejecting every treaty. I, frankly, don't think the numbers in the treaty are that dangerous to us. I think we can reduce it to the 1,550 nuclear weapons. That is probably an acceptable number—although the President has a goal, repeatedly stated, to eliminate all nuclear weapons. So presumably this is the beginning of his long march, as he would see it, to eliminate all nuclear weapons, which is not only fantastical, it is dangerous. The world is not going to eliminate nuclear weapons if we eliminate ours and set an example next week. That is beyond the looking glass thought. It is not a good idea.

I am worried about this whole process and whether the administration gets the nuclear strategic issues. We

have had nuclear weapons for a long time, and everybody has been careful about it. They have been very careful about it. We have been very concerned about dangers—wars and accidental launches and that sort of thing—but we have not used them. It has provided a certain degree of stability. The American nuclear umbrella, it is undisputed, provides comfort and security to a host of free, progressive, independent nations all over the world.

Let's take Asia—South Korea, the Philippines, Japan, Singapore. These are nations that believe that if they are unjustly attacked, the U.S. umbrella will be there to help them. So do European nations and other nations around the world with which we are allied. If they think we are bringing our numbers down too much, if they think we have a goal to go to zero, if they think we are not committed to utilizing the power we have, what will they do? I suggest that they will develop their own program. Do you think Japan or South Korea cannot develop a nuclear weapon if Iran can? They could do it in short order. They are worried right now, I suggest, as are other nations in the world. So if we do this improperly, if we do this reduction with Russia improperly, we could actually cause proliferation to occur.

If we do as Mr. Hogan said in the Washington Post just a few days ago—that we should go to 500 nuclear weapons or lower—a lot of nations around the world could see their way to develop 200, 300, 400, 500 nuclear weapons and actually be in a position to be a peer competitor of the United States.

So we could actually be encouraging other nations to think they could be on a par with us as nuclear powers. That is a dangerous logic. So I just say we need to be careful about all of that. I do not have confidence that this administration understands these issues. I think this treaty constricts our missile defense and places it at risk.

That is one of my biggest concerns about this treaty.

Mr. BROWN of Massachusetts. Mr. President, I rise today to express my concern with the bilateral Strategic Arms Reduction Treaty—known as New START—that was signed by Presidents Obama and Medvedev on April 8, 2010.

Before I begin, I would like to recognize, first and foremost, the leadership of Senators LUGAR, KERRY and KYL. I've observed their efforts over the past several months to address the concerns of the Senate and, I must say, it has been pretty inspiring.

Senators KYL and LUGAR, in particular, have been especially helpful in providing me and my colleagues with all the information we needed to make an informed decision.

I have also listened to the persuasive remarks made by the senior Senator from Massachusetts on the importance of this treaty, so I thank him as well.

Over the past several months, I have participated in multiple Senate hearings, met with professional organizations based in my State and Washington, DC, military experts in and outside the beltway, former national security advisers to Presidents, current and former Secretaries of State, expert negotiators of past nuclear arms treaties, and a host of foreign policy and nuclear proliferation professionals.

While the information I have received has helped improve my understanding of the treaty and its importance in some areas, it has not improved my confidence in the treaty's ability to address Russia's submissive attitude toward Iran. I will be clear.

The New START treaty is very important, particularly as it relates to enhancing our overall relationship with Russia. At the same time, however, the United States neglected a very real opportunity to secure better Russian assistance in imposing real, crippling sanctions on Iran as a prerequisite to moving the treaty forward.

It is no secret that Iran continues to defy the international community by developing a nuclear program. Iran asserts, of course, that its nuclear program is peaceful. Meanwhile, the United Nations Security Council, the International Atomic Energy Agency and the entire international community have repeatedly found Iran to be in direct violation of its obligations.

Everyone is familiar with the response Iran has provided to the international criticism it has been given.

To no surprise, Iran continues to hide their nuclear plants, deny IAEA access to its facilities and refuse to answer questions about evidence that it is working on a warhead.

Recent intelligence estimates corroborate those findings. Those estimates find that Iran may also be developing advanced missiles—based on Russian designs, no less—that could, for the first time allow Iran to target Western Europe.

While Iran's advancements in missile defense are extremely disturbing, these concerns are enhanced by the fact that it could use them to develop intercontinental ballistic missiles, which experts say could reach the United States by 2015.

I have to ask: Is there a larger threat than a nuclear-armed Iran with a long-range ballistic missile capability?

We need to get serious here.

My point is that while this treaty is extremely important and has many favorable aspects—let's not fool ourselves into thinking that this treaty does anything to keep Russia's feet to the fire on Iran.

The notion that bilateral disarmament will lead directly to greater progress in stemming Iran's nuclear proliferation is without merit. We need Russia's cooperation. Did we get it in this treaty? I am not so sure.

Iran will not be inspired, in some miracle fashion, to all-of-a-sudden dispose of their nuclear aspirations merely because we agree with Russia to limit our warheads, missiles and delivery vehicles in a bilateral way.

Proliferation in Iran would be a game-changer in the Middle East and would threaten the stability of the entire region. Other states would likely seek to build their own nuclear infrastructure as a hedge, creating further volatility.

In the State Department's report on "Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments," it found:

Iran continues to be in violation of Article III of the Non Proliferation Treaty. The United States assesses that Iran has not resolved questions regarding its nuclear program, nor provided the IAEA with requested information to enable it to provide credible assurances about the absence of undeclared nuclear material and activities in Iran. Iran continues to engage in enrichment activity in violation of UN Security Council Resolutions. Despite United Nations Security Council Resolutions, Iran refused to cooperate with the IAEA's ongoing investigation into Iran's past nuclear weapons development activities during the reporting period.

Earlier this year, in a Senate Armed Services hearing on the New START treaty, Secretary of State Clinton asserted that "our close cooperation with Russia on negotiating this New START treaty added significantly to our ability to work with them regarding Iran."

Can someone tell me what particular aspect of this treaty compels Russia to change its conduct with respect to Iran's nuclear program?

The New START treaty makes an attempt to reduce U.S. and Russian nuclear arsenals but fails to address directly the urgent concerns centered in rogue proliferators such as Iran and North Korea.

So while I continue to observe the ongoing debate and am hopeful that we can complete action on New START soon, I remain extremely concerned about the treaty's capacity to curtail the development of Iran's nuclear program.

Anyone who says this treaty demonstrates an improvement to that end is kidding themselves.

Tough, meaningful sanctions against Iran is the only solution. Russia's cooperation to that end is very important, but let's not pretend that agreeing with Russia to limit the number of our warheads will convince Iran to stop their nuclear development.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DREAM ACT

Mr. DURBIN. Mr. President, tomorrow, we are going to have two important votes. I would go so far as to say they are historic. In the history of the United States of America, I do not know how many people have lived in this great Nation. Today there are more than 300 million.

But if you added up all of those who lived in this great Nation since we became a nation, the number would probably be in the billions. In that period of time, only 2,000 men and women have had the honor of being U.S. Senators. It is a humbling statistic, for you, for me, for all of us, to think that we join with so few of our own fellow citizens who have this great opportunity and responsibility.

In the desk drawers around the Senate are the names of the Senators who have served. Some of them are amazing: Daniel Webster, John Kennedy, Robert Kennedy, Ted Kennedy, Mike Mansfield—the list goes on. But there are also many names that have faded into obscurity. You pull open the desk drawer and say: I do not recognize that name. I wonder who that was? One of two thousand I am going to presume served their State and Nation well but left no indelible mark on history. They did their job. That says something for each and every one of them who served here.

But precious few of those 2,000 had a moment in history to do something historic. When we look back in the course of our history, there were opportunities to vote on whether to go to war, to vote on a constitutional amendment, to approve a Supreme Court Justice. All of these things rank in the highest order of the business of the Senate.

But I would say at that top level is the opportunity to vote to extend civil rights and human rights in our Nation, the opportunity to vote for justice. Those are the stories that are told and retold.

The civil rights battles of the 1960s that you and I can vaguely remember from our youth; the giants of the Senate who, when it looked hopeless on the issue of civil rights, found a way. I worked for a man named Paul Douglas who was an extraordinary man and dedicated his life to civil rights. It turned out that his stalwart support made a difference. But what made the real difference was the other Senator from Illinois, Everett McKinley Dirksen, a conservative Republican, who decided he was finally going to pitch in and help to pass civil rights legislation. He is remembered for that. He once said something which may be politically incorrect now. But describing his transition on the issue of civil rights, he said: There is nothing more pregnant than an idea whose time has come.

In his mind, the idea of civil rights had come. When we look back at the Senate of those days and the votes that were cast, for many of the Senators casting those votes, they were painful, difficult votes. The idea of integrating America beyond the Armed Forces, beyond schools, into every aspect of our life was controversial in many parts of our Nation.

It was controversial in the Land of Lincoln, my Home State of Illinois. But the Congressmen and Senators of that day mustered the courage to do it, and they are remembered for that courage. Some of them are exalted for that courage because they did it in the face of opposition, vocal opposition to what they were about. We will have an opportunity tomorrow to vote on what looks like two pedestrian procedural motions, but they are much more. One of them is to eliminate a discriminatory policy in our Armed Services known as don't ask, don't tell. It will be a chance for Members of the Senate to go on record about whether they believe we should move beyond the practices of the past; whether they believe we should acknowledge that people of different sexual orientation can play a valuable role in protecting America. It is a historic vote. I am glad we are going to have it.

Before that vote is another. It is called the DREAM Act. This is a piece of legislation which I have been working on for 10 years. Whenever I am discouraged about how long it has taken, I think of how long these other battles have taken; how many decades it took to bring us to the civil rights vote; how long it took for women to get a right to vote in America; how long it took for the disabled to finally be recognized in America, thanks to the amazing bipartisan leadership of Bob Dole and Tom Harkin in the Senate.

Whenever I feel discouraged that I have been at this for 10 years and still do not have it, I think of those battles, and say to myself: DURBIN, as a student of history, even an amateur student of history, be patient because some of these things take a long time, but they are worth the effort and worth the wait.

The good news is that the House of Representatives did something historic last week. They passed the DREAM Act. I cannot thank Speaker NANCY PELOSI, majority leader STENY HOYER, HOWARD BERMAN, Chairman of the Foreign Relations Committee, and my colleague, LUIS GUTIERREZ of Chicago, enough. What an extraordinary job they did in passing that legislation. It was not easy. The President of the United States, Barack Obama, who had cosponsored the DREAM Act as a Senator, was on the phone asking Democrats and Republicans to join in this effort to move toward justice.

They passed it by a vote of 216 to 198. It was bipartisan legislation, and it

would give a select group of immigrant students who grew up in this country the chance to become legal. I will tell you it would not be easy if this becomes law for them to make that journey from where they are today to legal status.

But last week, the Senate decided that we would accept this challenge as well. After the House passed this bill, our majority leader, HARRY REID, who has been just an amazing ally and friend in this effort, came to the floor and said: We were pursuing another version of this bill to make the point of our commitment to it, but we are pulling that version from the calendar. We are going to vote on the bill that passed the House of Representatives. This will not be a symbolic debate. This debate is for real. If we can pass the bill passed by the House of Representatives, we can send it to the President and make it the law of the land. It will be a real act, not a symbolic, political act.

I thank my colleague for saying that and doing that. The DREAM Act has enjoyed bipartisan and majority support in the Senate virtually every time it has been called. The last time the Senate considered the DREAM Act, it received 52 votes, including 12 Republican votes.

When Republicans last controlled the Senate, the DREAM Act was reported by the Judiciary Committee by a vote of 16 to 3. This has been a strong, bipartisan issue. If some of the Republicans are willing to join us in the Senate, as eight Republicans did in the House, we can make the DREAM Act the law of the land.

This is simply a matter of justice. Let me tell you the story behind the DREAM Act. I have said it before, but I think it is an indication of why it is worth it to pick up the phone and call your Senator or your Congressman, or to send that e-mail or letter, or to perhaps draw them to the side at a public event and tell them your story or your concern.

The story of the DREAM Act goes back more than 10 years ago, when a woman, a Korean woman in Chicago, called our office. She was a single mom with three kids. She ran a dry cleaning establishment. She had just an amazing young daughter. Her daughter was an accomplished concert pianist at the age of 18. Her daughter had been accepted at the Juilliard School of Music in New York. Her mom was beaming with pride as her daughter started to fill out the application form.

At a point where it said: Nationality or citizenship, the daughter turned to the mom and said: What should I put here?

Her mom said: I do not know. You see, we brought you to the United States when you were 2 years old and we never filed any papers for you. So I do not know what to put there.

The girl said: What are we going to do?

The mom said: We are going to call DURBIN.

They called my office. And one of my staffers responded and looked into the law. The law was clear. This 18-year-old girl who had lived in the United States for 16 years, under the law of the United States, was not a citizen and had no legal status in this country whatsoever, and the law said she had to go back to Korea, a place she could never remember, with a language she could barely speak, to live her life.

I thought that was fundamentally unjust. If you want to penalize the mother failing to file papers, that is one thing. But to penalize a girl, who at the age of 2, had no voice in this decision for the rest of her life strikes me as unfair and unjust. So I wrote up the DREAM Act. I went to the Senate Judiciary Committee and found an ally in Senator ORRIN HATCH of Utah.

In fact, it was interesting—I am sure the Presiding Officer will appreciate this—we had a little tussle about who was going to put their name first on this. The first version was Hatch-Durbin. That was OK. I was not as interested in having my name first as getting this passed.

Well, over the years, there have been versions of this bill that have been introduced and considered over the last 10 years. But, sadly, it has not been enacted into law.

The DREAM Act is the right thing to do. It will make America a stronger country. It would strengthen our national security by saying to thousands of young people like that young Korean girl, thousands of highly qualified young people, that they can have a chance to enlist in our Armed Forces and work their way to legal status.

The Defense Department Strategic Plan says the Dream Act would help “shape and maintain a mission-ready All-Volunteer Force.”

That is why the DREAM Act has the support of national security leaders such as Defense Secretary Robert Gates and GEN Colin Powell. Here is what Secretary Gates says:

There is a rich precedent supporting the service of noncitizens in the U.S. military. The DREAM Act represents an opportunity to expand this pool to the advantage of military recruiting and readiness.

The DREAM Act also would stimulate our economy. It gives these talented young immigrants the chance to become tomorrow's engineers and doctors and lawyers and teachers and entrepreneurs.

The nonpartisan Congressional Budget Office said: Make no mistake. Engaging these young people and challenging them to serve in the military or to finish at least 2 years of college is going to make them productive citizens and add to the bounty of the United States as they take on big jobs

and earn their paychecks and build their homes and families. They concluded the DREAM Act would produce \$2.2 billion in net revenues over 10 years.

A recent UCLA study found the DREAM Act students would contribute between \$1.4 and \$3.6 trillion to the U.S. economy during their working lives. Mayor Michael Bloomberg is a person I admire from New York City. He supports the DREAM Act. He stated succinctly:

These are just the kind of immigrants we need to help solve our problems. Some of them will go on to create new small businesses and hire people. It is senseless for us to chase out the home-grown talent that has the potential to contribute so significantly to our country.

Senator SESSIONS of Alabama has left the floor. He did not speak this evening on the DREAM Act, but he has been to the floor many times. He opposes it. JEFF SESSIONS and I are friends. We are on the Judiciary Committee. We do agree from time to time, and we have had some pretty important legislation cosponsored by the two of us.

On this issue we disagree. I have carefully followed his complaints or items that he has brought up on the floor that he thinks are weak in this bill. Last week he said on the floor that the DREAM Act is “a nearly unrestricted amnesty, a guaranteed path to citizenship.”

I appreciate Senator SESSIONS's passion. He has been a strong opponent of the DREAM Act since it was first introduced. With all due respect, that is not what the bill says. Only a select group of students would be able to earn legal status under this legislation.

In fact, according to a recent study by the nonpartisan Migration Policy Institute, only 38 percent of those who were potentially eligible for the DREAM Act would ultimately become legal.

Think about this. About 40 to 50 percent of Hispanic students today drop out of high school.

Fewer than 5 percent of undocumented students go on to college. You can't make it under the DREAM Act unless you graduate from high school, so already about 50 percent of those who are Hispanic are unlikely to qualify. Then only 1 out of 20 enroll in college. And that number may increase. But look at the number it starts with, a small fraction of the Hispanic population. So to argue this is going to introduce opportunities for millions of others doesn't work with the numbers.

The DREAM Act would initially give qualified students a chance to earn what we call conditional non-immigrant status, not legal permanent residence or citizenship. They can only qualify for conditional immigrant status if they prove in a court of law by a preponderance of the evidence the following: They came to the United

States under the age of 15; they are under the age of 30 on the date the bill is signed into law; they have lived in the United States continuously for at least 5 years before the bill becomes law; they have good moral character as determined by the Department of Homeland Security since the date they first came to the United States; they graduated from high school or obtained a GED; and they have registered for selective service.

So the day the DREAM Act is signed into law, to be eligible you must have been in the United States for 5 years. Assume for a moment the President would sign it in a week—not likely, but possible, an answer to my prayers, but possible. That would mean that anyone who came to the United States after 2005 would be ineligible for the DREAM Act. So it is a select group.

Then we say to that select group, you have to meet the following requirements: You have to apply within 1 year of when the bill becomes law or when they obtain a high school degree or GED; they have to pay a \$525 fee; they must submit biometrics information, undergo security and law enforcement background checks and medical examinations. These are all requirements to even be eligible for DREAM Act status.

They would be specifically excluded from becoming a conditional non-immigrant under this bill if: They have a criminal background; they present a national security or terrorist threat; they have ever committed a felony or more than two misdemeanors; they are likely to become a public charge; they have engaged in voter fraud or unlawful voting; they have committed marriage fraud; abused a student visa; or pose a public health risk.

That long list of things I read is an obstacle course which many of these young people will never be able to clear. But we set it up this way intentionally.

During the course of preparing for this, one Senator received a notice that said that the DREAM Act allows the Secretary of Homeland Security to waive all grounds of inadmissibility for illegal aliens including criminals, terrorists, and certain gang members. We had my staff call the Senator's office who put this out and ask: Where did you get that? That is not what it says. They couldn't point to any source.

We then called the Department of Homeland Security and said: All right, give us an answer. Under the DREAM Act, could you waive all these things, would terrorists and criminals have a right? Of course not. The Department of Homeland Security came back and said: No, that isn't what the law says at all.

So we are battling not only passing a bill but a lot of misinformation. That is troublesome.

It is interesting, when I call my Senate colleagues, even those who are

nominally against the bill, it is interesting how many of them say the following to me: Man, DURBIN, why are you doing this to us? I am rolling around in my bed at night wide awake worrying about this vote and thinking about it all the time. I was walking over to the Capitol and a couple of these young kids came up to see me. I talked to them. They were very impressive.

I say to these young people, who would be eligible under the DREAM Act or hope they would be: You are the very best messengers for what we are trying to do. When people meet you and know who you are and what your dreams are, it is hard to believe that you are a threat to the United States. You look like the hope of the United States and what you could bring to us.

Let me tell you the stories of a few of them. These stories tell you why I feel so strongly, as Senator MENENDEZ does, about this issue and why this bill is so important.

Meet Gaby Pacheco. Gaby was brought to the United States from Ecuador at the age of 7 so she certainly had little or no voice in her parents' decision to come here. Here she is pictured in her junior ROTC class which I think is the next chart, her drill team class. She is in the back row on the far right. She was the highest ranking junior ROTC student in her high school in Miami and she received the highest score in the military aptitude test. The Air Force tried to recruit her, but she was unable to enlist because she has no legal status in the United States. Let me tell you what she has done since she couldn't enlist in the Air Force. She has earned two associate degrees in education and is currently working on her BA in special education. She has served as the president of her student government and president of Florida's Junior Community College Student Government Association. Her dream in life is to teach autistic children.

Do we need more teachers of autistic children in America? We certainly do. But she can't do that because she is undocumented.

Gaby was one of four students who walked all the way from Miami, FL to Washington, DC, 1500 miles. This wasn't a little day hike. They came here because they believe in the DREAM Act, and they wanted to let the people in Washington know how much they believed in it. Along the way these four students were joined by hundreds of supporters who came out of villages and towns and walked with them for miles to show their solidarity in this effort.

Meet Benita Veliz. Benita was brought to the United States by her parents in 1993 at the age of 8. She graduated as valedictorian of her high school class at the age of 16. She received a full scholarship to St. Mary's University in Texas. She graduated

from the honors program with a double major in biology and sociology. She wrote her honors thesis about the DREAM Act. Benita sent me a letter recently, and I want to read what she said:

I can't wait to be able to give back to the community that has given me so much. I was recently asked to sing the national anthem for both the United States and Mexico at Cinco de Mayo community assembly. Without missing a beat, I quickly belted out the Star Spangled Banner. I then realized that I had no idea how to sing the Mexican national anthem. I am American. My dream is American. It is time to make our dreams a reality. It is time to pass the DREAM Act.

Benita, how can we say no?

Now meet this young man. His name is Minchul Suk. He was brought to the United States from South Korea by his parents in 1991 when he was 9 years old. He graduated from high school with a 4.2 GPA. He graduated from UCLA with a degree in microbiology, immunology, and molecular genetics. With support from the Korean-American community, he was able to graduate from dental school. He has passed the national boards and licensing exam to become a dentist, but he can't obtain a license because he is not legal. Despite coming here at the age of 9, he is not legal.

He sent me a letter recently. Here is what he wrote:

After spending the majority of my life here, with all my friends and family here, I could not simply pack my things and go to a country I barely remember. I am willing to accept whatever punishment is deemed fitting for that crime; let me just stay and pay for it. . . . I am begging for a chance to prove to everyone that I am not a waste of a human being, that I am not a criminal set on leeching off taxpayers' money. Please give me the chance to serve my community as a dentist.

In Rock Island, IL, my wonderful home State, we have a great clinic for poor people. I went and visited a couple months ago. I said: What do you need? They said: We need a dentist. These poor people don't have a dentist. Do we need dentists in America? You bet we do. We need Minchul Suk. To think when you think he says: "I am willing to accept whatever punishment is deemed fitting for [my] crime." What was his crime? Being brought to the United States at the age of 9? Graduating from UCLA with a degree in microbiology, immunology, and molecular genetics? Taking the boards when he knew he couldn't become a dentist? Is that a crime? I don't think so. Most Americans wouldn't see it that way.

This is Mayra Garcia. This wonderful young woman was brought to the United States at the age of 2. She is 18 now. She is president of the Cottonwood Youth Advisory Commission in her hometown of Cottonwood, AR. She is a member of the National Honor Society, and she graduated from high school last spring with a 3.98 GPA. I am sure the Presiding Officer had a better GPA, but I didn't. Mayra just started

her freshman year at a prestigious university in California.

In an essay about the DREAM Act, she wrote:

From the time I was capable of understanding its significance, my dream was to be the first college graduate in my immediate and extended family. . . . College means more to me than just a four-year degree. It means the breaking of a family cycle. It means progression and fulfillment of an obligation.

Here is what she told me about growing up in the United States:

According to my mom, I cried every day in preschool because of the language barrier. By kindergarten, though, I was fluent in English. . . . English became my way of understanding the world and myself.

Mayra Garcia, like all DREAM Act students, grew up in America. America is her home. English is her language. She dreams in English about a future in this country that she won't have without the DREAM Act.

I want you to meet Eric Balderas. Eric's mom brought him to the United States from Mexico when he was 4 years old. He was valedictorian and student council president at his high school in San Antonio, TX. Eric just began his sophomore year at Harvard University. I met this young man. He came to my office. He is majoring in molecular and cellular biology. He wants to become a cancer researcher. He couldn't do it without the DREAM Act. Do we need more cancer researchers in America? You bet we do. Is there a family in America that hasn't been touched by cancer? We want his talent. We need his talent. Why would we send him away? That is what the DREAM Act is all about.

Here is another great story. These are all good, but they keep getting better. This is Cesar Vargas. This young man is amazing. He was brought to the United States by his parents when he was 5 years old. When he was in college, Cesar tried to enlist in the military after 9/11. He went into the recruiter angry that people were attacking the United States and said: Sign me up. I want to go in the Marines. They said: What is your status?

Well, I am undocumented, but I have been here since I was a little kid, and I am willing to leave college to join the Marine Corps.

They turned him away. Today he is a student at the City University of New York School of Law where he has a 3.8 GPA. He founded the Prosecutor Law Students Association at his school and did an internship with the Brooklyn District Attorney's office. He is fluent in Spanish, Italian, French, and English, and he is close to mastering Cantonese and Russian. He is a talented man. He has received lucrative offers to go to work for corporate law firms outside the United States where his citizenship status will not be an issue. But his dream is to stay in the United States and still enlist in the

military as a member of the Judge Advocate General's Corps. Without the DREAM Act, Cesar has no chance to live his dream of enlisting in the United States military serving our Nation.

This is David Cho. David's parents brought him to the United States from South Korea 10 years ago, when he was 9. Since then, David has been a model American. He had a 3.9 GPA in high school and is now a senior at UCLA where he is majoring in international finance. As you can see, he is the leader of the UCLA marching band. You might see him on television at half time. David wants to serve in the Air Force. If the DREAM Act doesn't pass, he will not get that chance.

Here is another great story: Oscar Vazquez. Oscar was brought to Phoenix, AR by his parents when he was a child. He spent his high school years in junior ROTC and dreamed of enlisting in the military. Here he is in his uniform. But at the end of his junior year, a recruiting officer told Oscar that he was ineligible for military service because he was undocumented. He entered a robot competition sponsored by the National Aeronautics and Space Administration. Oscar and three other DREAM Act students worked for months at a storage room in their high school to try to win this contest. They were competing against students from MIT and other top universities. Oscar's team took first place. Here is Oscar today.

Last year he graduated from Arizona State University with a degree in mechanical engineering.

Oscar was one of only three ASU students who were honored during President Obama's commencement address.

Do we need a mechanical engineer who won a national robot competition to be part of the future of America? You bet we do. Oscar needs his chance.

The last person I will refer to here is Tam Tran. As shown in this picture, this is a lovely young woman, but a sad story. Tam was born in Germany and was brought to the United States by her parents when she was only 6 years old. Her parents are refugees who fled Vietnam as boat people at the end of the Vietnam war. They moved to Germany, and then they came to the United States to join relatives.

An immigration court ruled that Tam and her family could not be deported to Vietnam because they would be persecuted by the Communist government. And the German Government refused to accept them.

Tam literally had no place to go, no country. So she grew up here. She graduated with honors from UCLA, with a degree in American literature and culture. She was studying for a Ph.D. in American civilization at Brown University when earlier this year she was tragically killed in an automobile accident.

Three years ago, Tam was one of the first Dreamers to speak out and testify before the House Judiciary Committee. This is what she said:

I was born in Germany, my parents are Vietnamese, but I have been American raised and educated for the past 18 years. . . . Without the DREAM Act, I have no prospect of overcoming my state of immigration limbo; I'll forever be a perpetual foreigner in a country where I've always considered myself an American.

In 2007, the last time the Senate voted on the DREAM Act, Tam was sitting right up there in that gallery. That day, the DREAM Act received 52 votes, a majority of the Senate. But under our rules, you need 60.

After the vote, I met with her and other students. Tears were in her eyes because her chances just basically had not been fulfilled. She was hopeful. She talked about the need to pass the DREAM Act so she would have a chance to contribute more fully to this country, the home she loved so much.

She will not be here for the vote tomorrow because we lost her in that car accident. But I remember her, and I remember others who are here tonight who understand the importance of this bill. It is not just another exercise in the Senate of legislative authority. It really is an opportunity to give young people like those I have just introduced to you a chance.

Mr. President, it is going to be hard tomorrow. I have been on the phone. I cannot tell you how many of my colleagues have said: I know it is the right thing to do, but it is so hard politically. We know we are going to be accused of supporting amnesty. We know our opponents will use it against us.

I understand that. I have not always taken a courageous path in my own votes, so I am not going to hold myself out as any paragon of Senate virtue. But I just ask each and every one of my Senate colleagues to think about this for a moment. How many chances will you get in your public life to do something like this—to right a wrong, to address an injustice, to give people a chance to be part of this great Nation?

I am a lucky person. My mom was an immigrant to this country. She was brought over here when she was 2 years old. In her time, she might have been a DREAM Act student. She got to be a citizen of the United States. She was naturalized at the age of 23, after she was married and had two kids.

Before she died, I asked her once if I could see her naturalization certificate. She went in the other room, and a minute later came out with it in a big, brown envelope. I pulled it out, and there was a picture of my mom 60 years before. A little piece of paper fluttered to the floor. I picked it up and said: What's this, mom? She said: Look at it. It was a receipt that said: \$2.50. She said: That is the receipt for my filing fee that I had to file to become a citizen. And I thought, if the

government ever came and challenged me, I would have proof that I paid my filing fee. That was my mom. That immigrant woman came to this country and made a life and made a family and brought a son to the Senate.

These stories are the same. The opportunities are there with these young lives to make this a better nation. The opportunity is there if Members of the Senate can summon the courage tomorrow to vote for the DREAM Act and to make these dreams come true.

I would like at this point to yield to my colleague and friend, Senator BOB MENENDEZ.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, first of all, I want to send a heartfelt thanks to the distinguished Senator from Illinois, who has been spending nearly a decade trying to make the dreams of tens of thousands of students a reality. This is really an American dream. This is American as anything else. If there is a person who has fought incredibly hard to make that dream a reality, it is DICK DURBIN. So I am thrilled that before I came to the Senate, while I was arguing for this very same passage in the House of Representatives, there was a DICK DURBIN here in the U.S. Senate raising the voice of all of those who have no voice, trying to call upon the conscience of the Senate to do what is morally right—morally right.

So I salute him, regardless of the vote tomorrow. I hope it is a measure that passes and makes a dream a reality, but he really deserves an enormous amount of credit.

Mr. President, I rise in what will probably be the last opportunity before the vote tomorrow—I do not know who is watching. I do not know how many of our colleagues are tuned in. I hope they are. I am not even speaking to a broader audience. In my mind, this is about 100 Members of the U.S. Senate who have an opportunity to cast a vote that ultimately can transform the lives of tens of thousands of young people who call America their home.

For years, as young people—so many of them who Senator DURBIN showed pictures of; and those are only a fraction of the stories we could tell—they have stood in classrooms in America and pledged allegiance to the flag of the United States proudly. The only national anthem they know is the “Star-Spangled Banner,” which they sing proudly. The only way of life they have known is an American way of life. They have understood what the rules are, and they have lived by those rules in an exemplary fashion. I would be proud to call any one of those young people my son or daughter.

This is an opportunity for the Senate to do what is right with the vote that takes place tomorrow. The House of Representatives has done what is right. It has passed this legislation. It is time

for us to do the same. The time has really come to harness and develop the talent that all of these young people have to offer our country. And they possess some enormous skills and intellect.

We have seen it. It is intellect that could be put for America, at a time in which we are more globally challenged than ever before, where the boundaries of mankind have largely been erased in the pursuit of human capital for the delivery of a service or the production of a product. We are globally challenged, so we need to be at the apex of the curve of intellect—the most highly educated generation of Americans the Nation has ever known.

These young people—valedictorians, salutatorians, engineers, scientists, doctors—all have the opportunity to help America achieve even greater greatness. That is what their dream is all about. That is what an American dream is all about.

The time has come to allow thousands of young men and women, who often are kept from enrolling in colleges, even though they are accepted—this is not about giving anyone anything they cannot achieve. They have to, obviously, on their own merit, be able to gain acceptance to a college or university or on their own merit and desire be able to serve in the Armed Forces of the United States.

That passion is there. The first soldier of an American uniform to die in the war in Iraq was LCpl Jose Gutierrez, a Guatemalan who, at the time of his death, wearing the uniform of the United States, was not even a U.S. citizen at the time. He was a permanent resident. He was willing to serve his country and die for it.

It is an opportunity for these young people, who, in many ways, have lived in the darkness, and, who, through no choice of their own—if we said these young people came to this country of their own volition, of their own choice, of their own determination, maybe—maybe—we might look at it differently. They were brought here by parents at ages in which they had no knowledge and no choice of what their path would be. They were brought here by parents fleeing dictatorships, fleeing oppression, sometimes fleeing dire economic circumstances. But, above all, they made no choice in that. They did not know they were violating any rules, regulations, or laws. They came because their parents brought them.

How many times have I heard in this Chamber that the wrong of a parent should not be subscribed to a child? Yet that is what all those who oppose the DREAM Act are saying: The child must pay for the choices their parents made. Is that an American value? I think not. I think not.

We have an opportunity to have them make full contributions to the American economy through their ingenuity,

through their skills, through their hard work. That is what the DREAM Act has always been about.

I will tell you one story of many that are here. It is of a young man, 20-year-old Piash Ahamed, who, as a child, emigrated with his family from Bangladesh to New Jersey.

After his parents lost their bid for asylum, through no fault of his own, he became an undocumented immigrant. He has been lobbying for passage of the DREAM Act ever since. He said to me:

New Jersey—

And this is so true. It is beyond New Jersey. It is all of these students—

New Jersey has already invested so much money in me, and other undocumented students that are living here, when we went to elementary, middle school and public high school. . . . It doesn't really make any sense for them not to give us an opportunity to finish and actually pay back to America and contribute more through our talent, through our taxes, through so many different ways.

The Dream Act is for people such as Piash Ahamed. It is about helping him and creating the best educated American workforce possible—creating future doctors, future teachers, future businesspeople, future nurses, investors, and entrepreneurs. They are an economic resource we cannot afford to waste.

I bristle when I listen to some of my colleagues who have come to the floor and, right away, whenever we are talking about anything that relates to immigration, slap the name “amnesty” on it, and it becomes something that cannot be touched.

It is not amnesty. Amnesty is when you do something wrong and you get something for nothing. These young people are not going to get something for nothing. They are going to have to serve the Nation. They are going to have to serve the Nation through their intellect, their ingenuity, their ability to produce for America or they are going to serve the Nation in the Armed Forces of the United States, willing to risk their lives—their lives—like LCpl Gutierrez did in Iraq, when he lost his life for the country they call home, for the country they believe in.

They are going to have to qualify. They are going to have to pay tuition. They are going to have to pay taxes. They are going to have to pay fees. As a matter of fact, I am sure the distinguished Senator from Illinois knows that the House version we are voting on is ultimately saying: You have to pay a fee.

As a matter of fact, not only is it not a cost to the government, it is a surplus to the government, according to the Congressional Budget Office. It is going to produce revenue, already, just by the mere act of giving them the possibility of realizing their dream. In essence, they are going to have to pay for their dream. But they are willing to do that, and it is going to create a revenue stream for the Nation.

That is not amnesty. It is not amnesty to wear the uniform of the United States, risk your life. It is not amnesty to give your intellect. And even then, there are those who say: Well, you are going to give them a pathway. Well, that pathway has been elongated. It is incredibly long.

I know some of my colleagues like to come here and say, well, you are going to permit something that they call chain migration. I used this during the last time we had immigration debates. Chain migration. You know when you want to dehumanize something, you don't talk about people. You don't talk about children. You create a sense of something that people can say: Oh, it is chain migration. We don't feel too compassionate about this if we can make it into a dehumanized sense because if this person gets status, then they will be able to claim their relative, and that relative will be able to claim their relative, and so there is this sphere.

These students are not going to be able to do that, certainly not under the bill we are considering a vote for tomorrow. So there is none of that. Let's dispel that too.

At the end of the day, the DREAM Act is a true test of what America is all about: an opportunity to earn your way toward status, to move from being undocumented through no fault of your own to have a temporary status that I think will last a decade before you can do anything else. You have to have a lot of proof of your mettle during that period of time; that you are worthy of becoming a permanent resident of the United States—after a decade. You have to be of good moral character. You have to go and prove yourself even more by successfully attending college or completing honorable military service, even in order to appease those who have raised every bar so this would not be considered—calling the legislation amnesty, which it is not because amnesty is something for nothing.

I have said before, there are even further restrictions that have lowered the age cap as to who can qualify. It keeps intact the ban on in-state tuition. I don't like that. I think if you can ultimately be accepted to a college or university and you are living in that State—but all right, for those who said that was a problem, well, now there is a ban on in-state tuition. You are going to have to pay out-of-State tuition. It prohibits these students from obtaining Pell or other Federal grants and creates a conditional nonimmigrant status that doesn't grant legal permanent residency for at least a decade.

At the end of the day, the DREAM Act is an ultimate test of American values as a nation of immigrants. I often think about people who serve in this Chamber. The only people who can actually make a claim of being not the descendant of immigrants are Native

Americans. After that, everybody at some point in their history was an immigrant.

There has been expansive support for the DREAM Act, and it has been bipartisan support. Colin Powell, former Chairman of the Joint Chiefs of Staff of the United States, former Secretary of State, he supports the DREAM Act.

Defense Secretary Robert Gates, who is the Defense Secretary now in this administration, but a Republican held over by President Obama and asked to serve because of his great leadership, he has recommended in the 2010 and 2012 strategy plan for the Defense Department's Office of the Under Secretary for Defense and Personnel Readiness to help the military shape and maintain a mission-ready, All-Volunteer Force, he wants to see the DREAM Act passed.

David Chu, the Under Secretary of Personnel and Readiness at the Department of Defense during the Bush administration said:

Many of these young people who may wish to join the military have the attributes needed—education, aptitude, fitness, moral qualifications. In fact, many are fluent in both English and their native languages.

We have seen the challenges that we have globally from far off countries where our enemies are not simply armies of a country but of individuals. The languages that could be brought to bear to help us in our national security and in our defense intelligence, in our abilities to understand those entities, all from an American perspective, though, all of these students have that opportunity to do that for America.

Moreover, university presidents, respected education associations, leading Fortune 500 businesses such as Microsoft support this legislation and have called upon the Senate to pass the DREAM Act. In fact, in my home State of New Jersey, the presidents of 11 of New Jersey's community colleges, in consultation with their board of trustees, sent a letter to the New Jersey Congressional Delegation saying help pass the DREAM Act. The letter was signed by the presidents of community colleges in Bergen, Burlington, Camden, Cumberland, Essex, Hudson, Mercer, Middlesex, Passaic, Sussex, and Union Counties.

One of the vice chairmen of the board of trustees at one of the community colleges said in an article:

Although the DREAM Act is Federal legislation, many of us felt it was important the State's community colleges take a stand as the system is often the first stop for many of these students whose ineligibility for State or Federal aid limits their higher education choices. Our role is to educate our students. Our role is not to engage in overall immigration policy.

They want to see the DREAM Act become a reality.

I received a letter from Rutgers University's president, a State university, Richard McCormick. He said:

Young people who have grown up in New Jersey, earned good grades in our high schools, and taken an active part in civic life; however, because of their undocumented status, cannot take the next steps towards a rewarding future.

It is a future that would help my State and, as those stories represented, help States across the country.

In fact, to my Republican colleagues, I would remind them that former Arkansas Governor and Presidential candidate Mike Huckabee explained the economic sense of allowing undocumented children to earn their citizenship. He said:

When a kid comes to this country and he's 4 years old and he had no choice in it—

His parent made that choice—

he still, because he is in this State, it is the State's responsibility—in fact, it is the State's legal mandate—to make sure that child is in school. So let's say that child goes to school. He is in school from kindergarten through the 12th grade. He graduates as valedictorian because he is a smart kid. He works his rear end off and he becomes the valedictorian of the school. The question is: Is he better off going to college and becoming a neurosurgeon or a banker or whatever he might become, and become a taxpayer, and in the process having to apply for and achieve citizenship, or should we have him pick tomatoes? I think it is better if he goes to college and becomes a citizen.

That is Mike Huckabee.

So I will say this to my friends and many of my colleagues. Not every State is like New Jersey where we have a rich history of immigrant populations that have contributed enormously. Some of the people we have serving our country today came from those backgrounds. As a matter of fact, some of them, their lineage comes through people who came into this country undocumented. Yet they have risen to prominence and helped contribute to America. Some of them are some of our outstanding military leaders.

So this is not about amnesty. You have to earn it. This is not about chain migration. You would not be able to claim anyone at all. In my mind, this is all about family values. I hear a lot about that on the Senate floor. This is about an opportunity to take these children who are part of the American family and give them their opportunity to help America succeed.

We wouldn't be in this challenge we are in if our Republican colleagues weren't insisting on a supermajority via the filibuster. There are enough votes in the Senate. A majority of the Senate is willing to vote to make this dream come true. But since our Republican colleagues have used the rules of the Senate to require not a simple majority of 51 of 100 Senators but to require a supermajority of 60, we are in this predicament; otherwise, this bill would pass tomorrow, be sent to the President, and I know the President would sign it, and the dreams and the aspirations, but most importantly the

intellect, the service to country, the service to the Armed Forces would begin to become a reality, all to the Nation's benefit.

So we are here in this set of circumstances because our Republican colleagues have insisted on a supermajority instead of a simple majority that would clearly pass.

Now, for some who don't have immigrant communities such as Illinois or New Jersey, maybe their populous doesn't quite understand the value. Maybe they don't have an understanding of the great vitality and the heartfelt sense of these young people being as American as anyone else. I understand that. We come here by virtue of being elected from a State, and we certainly advocate for the interests of our States. But we are collectively called upon to serve the interests of the Nation. This is an opportunity to serve the interests of the Nation.

The final point I will make is, those are all policy arguments. I hope there will be some profiles in courage tomorrow, individuals who may see this as a political risk. Every vote can be ultimately determined as a political risk. As a matter of fact, for those who believe this is a political risk and voted for the Defense authorization bill to move forward, the majority leader made it very clear when we had that vote in which nearly every Democrat of the Senate voted in favor, he made it very clear there were going to be two amendments that were going to be offered in that bill: don't ask, don't tell and the DREAM Act.

So the 30-second commercial is there already. It is there. Anyone who thinks that somehow voting against the DREAM Act tomorrow is going to save them from that 30-second commercial, they are wrong. It is there. I have to be honest with my colleagues.

As the only Hispanic in the Senate at this point—although this is not uniquely a Hispanic issue. As we can see, these children come from all over the world. The young man I mentioned from New Jersey is from Bangladesh. But the Hispanic community is looking at this vote—40 million. They are the ones who are already U.S. citizens. You may say: Well, what do they care? They understand what this vote is all about. It is not just about these children, which should be enough. They understand this vote is about them, how they are viewed in this country, how they are perceived in this country, whether everything they have done—you know, I bristled when I listened—which is why I wrote my book, "Growing American Roots," because I was tired of seeing all these pundits on the shows who suddenly think that all Hispanics just came here yesterday. We all just crossed the border in an undocumented fashion, and we are all takers instead of givers to the society.

Well, the oldest city in America, St. Augustine, FL, was founded by a per-

son named Pedro Menendez. I am looking at a title search to see if I have any relationship for property in St. Augustine, FL. But it is the oldest city in America, Pedro Menendez, the Governor of Louisiana before Louisiana was a State, who led an all-Mexican division to help stop the British advance on George Washington during the Revolutionary War.

Admiral David Farragut, if you come with me to Farragut Square, I think most Americans wouldn't know that Farragut Square is actually named after ADM David Farragut, a Spaniard who, during the Revolutionary War, led the naval forces on behalf of the Union and coined the famous American phrase: "Damn the torpedoes, full speed ahead," a Spaniard.

The wall of the Vietnam Memorial is loaded with names of Hispanics who gave their lives for this country.

The first soldier to fall in Iraq was LCpl Jose Gutierrez, a Guatemalan who wasn't even a U.S. citizen. The all-Puerto Rican division during the Korean War was one of the most highly decorated in the history of the United States.

You can't find a Major League baseball team without a good part of its roster being Latino. You can't turn on the TV without watching Eva Longoria in "Desperate Housewives."

You can't go to the movies and not see someone such as Jennifer Lopez in one of its leading roles. You can't turn on music—and the list goes on and on.

This community understands what this vote is all about. I don't know how any party can aspire to be the majority party with the largest minority in the country growing exponentially, as we will see by the next census, and continuously take votes and cast aspersions upon a community and think that it can achieve political success.

This DREAM Act is about as much motherhood and apple pie as you can get in the immigration debate. It is about children who didn't have a choice but have made the most of the life they were presented. They have done incredible things in the country they call home—the one they sing the "Star Spangled Banner" about, pledge allegiance to, and the one they are giving it all to.

So this community is going to be watching tomorrow's vote. I certainly hope that when they watch that vote, they are going to see one of the finest moments of the Senate doing what is right—not just by these children but doing what is right by this country—fulfilling our creed. That is what tomorrow's vote is all about. That is what I hope each and every Senator will think about as they cast it. That is the opportunity we have.

This is not just about the dreams of these young people. This is about the dreams that have gone from generation to generation and have made America

the greatest experiment and enterprise in the world. That is what tomorrow's vote is all about, Mr. President. I hope we will cast a vote that will make that dream come true.

With that, I yield the floor.

Mr. DURBIN. Mr. President, I thank my colleague and friend, Senator MENENDEZ, for that great speech. I know it was heartfelt. I thank him for waiting late this evening to come and those who have joined us because they understand that though the hour is late, our time is short before we cast this historic vote.

As I mentioned earlier, as I called my colleagues today, some of whom are on the fence, not sure, they said: I toss and turn thinking about this. I hope they toss and turn all night tonight and wake up tomorrow with a smile and determination on their face to do something right for America, to make sure they will have a good night's sleep Saturday night because they have been able to fulfill the dreams of so many young people who are counting on them tomorrow to rise above their political fears and to really join ranks with so many in this Chamber who, through its history, have shown uncommon political courage in moving this Nation forward in the name of freedom and justice.

Mr. MENENDEZ. If my colleague will yield, I am sure the distinguished Senator from Illinois knows from his long political history that when you toss and turn, you know what is right. You don't toss and turn if you have a commitment and conviction of the choice you are going to make. You toss and turn when you know what the right choice is, but for other reasons you may not be willing to make that choice.

Mr. DURBIN. I think the Senator is correct.

Mr. President, I don't know what the most effective way is in Washington to lobby a bill, but I will tell you that there are no more effective spokesmen and spokeswomen for the DREAM Act than the young men and women who have been walking the Halls of the Senate over the last several weeks, months, and years. They wear caps and gowns, as if they are headed for a graduation, which is what they want to do. They have made the case in a way that I could not on the floor of the Senate because of their determination and the dignity they have brought to us.

Stick with us, I say to each one of them. Don't give up. Tomorrow, we are going to try our very best to rally the votes we need because our cause is right and our time is now.

Mr. LEAHY. Mr. President, the Senate will soon vote on whether we should debate the Development, Relief, and Education for Alien Minors Act, or the DREAM Act. I have been a cosponsor of this important legislation since it was first introduced in the Senate in

2001, and I commend Senator DURBIN and Senator LUGAR for their hard work in advancing the DREAM Act this year. At the very least, we should have a debate about this important legislation.

Enacting the DREAM Act will serve important priorities for our country and for our military. Under current law, when undocumented students graduate from high school, they typically have no opportunity to gain lawful immigration status, a circumstance that often prevents them from pursuing higher education or making other meaningful contributions to our Nation. The bill recognizes the accomplishments of successful students who want to serve our Nation through military service or by obtaining degrees in higher education.

The DREAM Act offers a path to lawful immigration status to individuals who are currently undocumented, but who were brought to the United States at a young age by their parents. The bill is specifically drafted to assist those students who did not act on their own volition to enter the United States unlawfully. In landmark Supreme Court cases like *Plyler v. Doe*, the Supreme Court held that we should not punish children for the actions of their parents. Yet to deny these students a path to lawful status and eventual citizenship does just that.

In December 2009, the Department of Defense cited passage of the DREAM Act as an important strategic goal for 2010–2012. The Pentagon believes that the DREAM Act has potential to expand our all-volunteer military without decreasing the quality of recruits. It is supported by General Colin Powell and many others.

Despite numerous good faith gestures from Democrats in the Senate to work with Republicans on immigration issues, we have been met with silence at best, and obstructionism at worst. Nonetheless, the version of the DREAM Act that we consider today has been modified to address concerns raised by those who have falsely labeled the DREAM Act as a form of amnesty. The Congressional Budget Office estimates that H.R. 6497 will reduce deficits by approximately \$2.2 billion over the years from 2011–2020.

While the cost saving in the new version of the DREAM Act is welcome news, I regret that the students and soldiers who benefit from this bill will now have to wait for 10 years to become eligible to apply for lawful permanent residence. They will have to apply for conditional status twice during that 10 year period and pay more than \$2,500 in fees. I believe that American values call for more generous treatment of individuals who serve our Nation, especially those who are willing to fight on behalf of our Nation overseas. At various points in the past 10 years, several Republican Senators

voted in favor of much more generous versions of this bill. I regret that so few Republicans will support this pared down version of the DREAM Act today.

I wish that we could have achieved bipartisan support in the 111th Congress to enact a comprehensive immigration reform bill. Even without that bipartisan commitment, we should do all we can. The AgJOBS bill, the Uniting American Families Act, the Refugee Protection Act, and the improvement of our immigrant investor program are all reforms that will make our immigration system stronger and more effective. I will continue to work with Senate leadership and Senators from both sides of the aisle to accomplish our shared goals for the broader reform of our Nation's immigration system.

The DREAM Act is a critical step to reforming our immigration system and enables a well-deserving group of young people to better serve our country. I am glad to pledge my full support, and I encourage Senators on both sides of the aisle to do the same.

Mr. BINGAMAN. Mr. President, I rise today to speak in strong support of the DREAM Act.

The DREAM Act provides individuals who were brought to the United States as young children, at the age of 15 or younger, with the opportunity to legalize their status if they work hard, stay out of trouble, graduate high school, and eventually go to college or enlist in the Armed Forces.

Passage of the DREAM Act is the right course of action for a variety of economic and humanitarian reasons. But it also makes sense in terms of strengthening our military's ability to attract talented recruits.

For almost a decade now our Nation's military forces have been deployed in Iraq and Afghanistan. We rely on the courage, commitment, and dedication of an all volunteer force to fill the ranks of the military services. With the stress and hardship of repeated deployments and wartime service, the military has often struggled to maintain appropriate recruitment levels and standards.

According to the Department of Defense, enacting the DREAM Act would help address this issue. The fiscal year 2010–2020 Strategic Plan for the Defense Department provides that passage of the DREAM Act would help ensure we maintain a mission-ready all volunteer force. As explained by then Under Secretary of Defense David Chu in testimony before the Senate Armed Services Committee:

many of these young people may wish to join the military, and have the attributes needed—education, aptitude, fitness, and moral qualifications. . . . the DREAM Act would provide these young people the opportunity of serving the United States in uniform.

We need to face the reality that we have individuals living in this country

who were brought here unlawfully, but at no fault of their own, who have the skills and desire to make significant contributions. Frankly, I fail to see how our Nation benefits from denying hard-working young people who have grown up in our country from becoming productive members of our society. What is the benefit of telling a high school valedictorian who has lived in the United States since the age of five that he or she can't work, pursue higher education, or serve in the military?

As a border State Senator, I understand the concerns about illegal immigration. Over the last several years we have made tremendous strides in enhancing border security, but I recognize that there is still more work to be done.

However, penalizing individuals who came to the U.S. as children at no fault of their own is not the answer. Keeping these young people from bettering their lives through education or preventing them from serving our country by enlisting in the military doesn't make our Nation stronger, more secure, or more economically competitive.

It simply deprives the Armed Forces of the ability to reach out to the many undocumented students who graduate from high school each year, and reinforces a permanent class of less-educated workers who are forced to live in the shadows and who are deprived of the chance to obtain their full potential.

Over the years I have had the opportunity to meet with some of the young people who would benefit from this legislation. Their request is quite simple—that they be given the chance to serve the country where they have grown up, to make a difference in their communities, and to better their lives. These are the values, spirit, and dedication that have made America great, and I urge my colleagues to let them earn this opportunity.

Mr. HARKIN. Mr. President, I am a strong supporter and proud co-sponsor of the DREAM Act. This narrowly tailored, bipartisan legislation, introduced in the Senate by my colleague, Senator DURBIN, and supported by 40 other Senators, would allow young, undocumented immigrants who grew up in the United States to earn legal residency by obtaining a higher education or joining the military. I have cosponsored the DREAM Act for one simple reason: It will enable these young people—who find themselves undocumented in America not due to their own actions, but due to actions of their parents—to reach their potential and contribute to a stronger, more prosperous America.

This legislation has been endorsed by the Secretaries of Defense, Homeland Security, Education, Labor, and Interior. It has been endorsed by numerous former Republican officials, including

many from the Bush administration, and has been cosponsored by many of our current and former Republican colleagues here in the Senate. It is supported by colleges and universities in Iowa and across the United States, as well as religious leaders from a wide range of denominations.

The young people who would qualify under the DREAM Act came here as children. Some came here so early in their lives that they have no memory of living anywhere other than in the United States. Despite the actions of their parents, they are just as American as you and I. Their stories in letters to my office are heartbreaking. If it weren't for the actions of their parents, they would be citizens no different from our own sons and daughters.

These children graduate from high school with honors. They play on our school soccer, football, and basketball teams. They are in the Junior ROTC. They spend time with their friends—friends who may be our own sons and daughters. They want to work after-school jobs, if they were only allowed to work legally. They want to attend college, if they were only allowed to get the student loans necessary to afford it. They want to serve our country, if only they were allowed to enlist.

Yet there are still some who wish to punish these children for the actions of their parents. They say that children who have no control over the decisions of their families must pay the same price as the adults. I am frankly at a loss as to whether there is any other crime that could be committed where an innocent child would be treated as an accessory to an adult, or where the penalty for a child with no ill intent is the same as for an informed adult.

The young men and women who would benefit from this legislation are some of the finest, most upstanding people living in the United States. With an education, they can contribute their great talents to our economy, driving innovation and creating jobs. They are committed to the country they consider home, willing to serve under the American flag, willing to fight and die for our country at a time when our military is stretched perilously thin. I want to encourage these energetic, motivated and dedicated young men and women, not maintain the status quo which casts a dark shadow over them.

I would also like to address some common misunderstandings about who would qualify to obtain legal residency under the DREAM Act. These young people would have had to come to the U.S. by the age of 15, display good moral character, pass thorough criminal and security clearances, and have lived in the United States for at least 5 years. Only those currently under 30 years of age would be eligible. Legal permanent status would not be con-

ferred until after 10 years. They could only sponsor parents or siblings, and only do so after 12 years have passed, and only after any member of their family who has entered the United States illegally has left the United States for 10 years. Every precaution has been taken to prevent the opportunities afforded by the DREAM Act from being abused.

Those who qualify under the DREAM Act would not receive any benefits that naturally born citizens receive. They would only be eligible to apply for Federal student loans that would have to be repaid in full; they would not be eligible for in-state tuition rates or Federal education grants, such as Pell grants. They would receive no preferential treatment.

I remain committed to working with my colleagues for a comprehensive solution to our Nation's broken immigration system. We must strengthen our borders, holding employers accountable if they hire illegal workers, and craft policies that are fair to American workers and taxpayers. But in the meantime, it does not make sense to prevent this small group of young people, already present in the U.S. through no fault of their own, from contributing to our Nation's security and economy.

Mrs. GILLIBRAND. Mr. President, I rise today in support of the DREAM Act. This legislation is critically important. Not only is this a humanitarian issue, but also an economic and security issue. In order to compete in a 21st century world, we must provide education opportunities to all of our students.

Our current laws unfairly penalize thousands of young adults, many of whom know only the United States as home, denying them the opportunity to achieve the American dream. Current law paralyzes the lives of these young people, effectively banning them from college and the military.

Former Secretary of State Colin Powell has publically advocated in support of the DREAM Act, calling it crucial to our national security and our ability to compete in the global marketplace in the coming generations. In a time when our military is strained because of demands in Afghanistan, Iraq and other places of concern around the world, we should be allowing all of our best and our brightest to serve.

The DREAM Act allows young people with good moral character who attend college or provide significant service to our military with an earned path to citizenship. These are young people who received all their education in the United States and know only the United States as home. We need comprehensive immigration reform, but this is an instance where current law is unfairly penalizing thousands of young adults who did nothing wrong.

I want to take this opportunity to highlight the story of a young New

Yorker who exemplifies the DREAM Act. Cesar Vargas was brought by his parents to the United States when he was only 5 years old. It was not his decision to come here, but he grew up in New York, graduated from high school, completed college, and is now in his final year of school at City University of New York School of Law, with a 3.8 GPA. He dreams of becoming a military lawyer after he graduates. But, he cannot fulfill his dream of serving in our military because he is undocumented. Our country would benefit from the dedication of young men and women like Cesar, who grew up as our neighbors and our children's classmates and friends—young men and women who want to serve this great nation of immigrants and give back to the country they call home.

This legislation creates opportunities for young people who did not come here on their own choosing, and ensures that they will become productive members of our society. For these reasons, I support this measure and I implore my colleagues in the Senate to vote in support of this measure, as well.

Mr. UDALL of Colorado. Mr. President, I wish to reiterate what I have long believed to be the right step to take in addressing a longstanding issue that affects young people in my State of Colorado and across this country. That step is to pass legislation known as the DREAM Act that will ensure that upstanding young adults who were brought into this country illegally by no fault of their own have the opportunity to attend college and contribute to our economy or join the military and serve our country.

Just over 3 years ago there was a large bipartisan group of Senators that understood that children who were brought to this country by no fault of their own should not be blamed for the sins of their parents. It is mind-boggling to me that we now have to struggle to get those same Members who are still in the Senate today to support that commonsense notion, which underlies the DREAM Act. I respect the decisions of my colleagues and I want to give my colleagues who have had a change of heart the benefit of the doubt, but my guess is that partisanship is what has prevailed here. I believe this because the bipartisan-approved legislation that the House of Representatives has sent us is more stringent than previous versions of this legislation that was once sponsored and supported by both Republicans and Democrats.

When you run down the list of fees, restrictions, requirements, waiting periods, and other criteria for eligibility in the DREAM Act, you begin to see that this is a robust plan to give high-achieving young people an opportunity to contribute positively to our country. Not only will individuals who were brought to this country before the age

of 16 have to prove they have been in the United States for at least 5 years before applying, they will also have to show that they are in good health, pass a background check, provide biometric data, and pay fees and taxes. Only then will they be allowed to enter a "conditional non-immigrant" status that would allow them to pursue their education or enter the military.

During the 10 years of their conditional status, they would be ineligible for entitlement programs such as welfare, Federal education grants and would be unable to sponsor family members for immigration purposes. They would also have to remain in good standing with the law and prove that they have command of the English language and American civics. If they meet those and other requirements after 10 years, they will then have to get in at the back of the line to wait their turn for a minimum of 3 more years—for an opportunity to naturalize as U.S. citizens. That seems more than fair to me.

The DREAM Act provides a robust and fair-minded plan to help America attract bright and talented individuals to contribute to our economy and strengthen our military. As military leaders who have served under Presidents of both parties have said, this bill will strengthen our readiness by giving these young men and women the chance to join our armed services. Furthermore, studies have shown that students who can realize their full earning potential can ultimately help pump billions of dollars back into our economy. These individuals are future businessmen, scientists, and innovators that could help our economy grow. In fact, the Congressional Budget Office has determined that this legislation would even help to reduce our deficit.

The DREAM Act has been debated for several years. It is finally time for us to do what is right in this situation, put aside partisanship and support this legislation.

DON'T ASK, DON'T TELL

Mr. BINGAMAN. Mr. President, I rise today to speak in support of repealing the so-called don't ask, don't tell policy.

It has been 17 years since this misguided policy was enacted. I believed then, as I believe now, that it was wrong for Congress to legislate in this area. Prohibiting gays and lesbians from openly serving in our Armed Forces is contrary to our Nation's values and weakens our military's ability to recruit and retain competent individuals with critical skills.

By codifying a policy that reinforces discrimination, intolerance, and inequality, we established a system that is inconsistent with the rights embodied in our Constitution and the fundamental notion that a person should

be judged squarely on the basis of his or her qualifications—not the color of their skin, religious beliefs, or sexual orientation.

I recently had the opportunity to visit President Franklin Roosevelt's home in New York—there was a quote that I saw that was particularly moving. In a campaign address delivered in 1940, FDR stated:

I see an America devoted to our freedom—unified by tolerance and by religious faith—a people consecrated to peace, a people confident in strength because their body and their spirit are secure and unafraid.

I think this quote does a good job of capturing the true strength of America—a tolerant people committed to the preservation of freedom.

The ability of a person to serve in our Nation's military should be based on his or her experience, qualifications and conduct. Since the inception of the don't ask, don't tell policy in 1993, over 14,000 gay and lesbian servicemembers have been discharged solely because of their sexuality.

We have lost decorated soldiers and those with mission critical skills, such as Arabic linguists and intelligence specialists. Aside from the loss of necessary expertise, we've also wasted hundreds of millions of dollars in taxpayer money in discharging and replacing individuals who were completely willing and able to serve our country.

The policy is also contrary to the values held by our military professionals. In testimony before the Senate Armed Services Committee, Admiral Mullen, Chairman of the Joint Chiefs of Staff, eloquently expressed this point:

No matter how I look at the issue, I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me personally, it comes down to integrity—theirs as individuals and ours as an institution.

When a person enlists in our Armed Forces and puts his or her life in harm's way in defense of our country, they should be able to serve with honor and dignity without being asked to live a life of deception.

Secretary Gates ordered that a comprehensive review be conducted to assess the impact the repeal of the law could have on military effectiveness and to make recommendations about how a change could be implemented. The report, which was released a couple of weeks ago, surveyed thousands of active and reserve servicemembers as well as their families, veterans groups, health officials, and service academies. It is my understanding that this unprecedented report was the most comprehensive review of a personnel matter ever conducted.

The key finding from this review is that the risk of repealing the don't ask, don't tell policy to overall military effectiveness is low and that the

limited disruptions that may occur in the short-term can be addressed adequately through leadership, education, and training. In short, the Armed Forces are capable of accommodating this change without hampering unit cohesion, readiness, recruiting, and combat operations.

There will never be complete unanimity when it comes to these types of controversial issues. However, the study found that 70 percent of military personnel believed that repealing the law would have positive, mixed, or no effect on them doing their jobs—only 30 percent anticipated that there would be negative consequences. And it is particularly telling that 92 percent of troops who served with a gay or lesbian servicemember believed their ability to work together was very good, good, or neither good or bad.

We've had almost two decades to evaluate the success or failure of this policy and the legislation we are debating takes a very judicious approach. The bill stipulates that the repeal of the policy will not take effect until 60 days after the President, Secretary of Defense, and Chairman of the Joint Chiefs of Staff make certain certifications. In particular, that sufficient implementation procedures are in place to ensure the repeal could be carried out in a manner consistent with standards of military readiness, effectiveness, unit cohesion, and recruiting and retention. In my view this is a very reasonable approach.

The reality is that it is no longer a question of whether this policy should be repealed, it is a matter of how it should be and in what matter. If Congress fails to act, it is very likely that the courts will. If this occurs, implementation may be more difficult and the changes may occur in a more haphazard manner as cases move slowly through the courts.

Keeping this law in place doesn't make us any safer and it is inconsistent with our Nation's commitment to equality. I urge my colleagues to support the repeal of this ill-advised policy.

TRIBUTES TO RETIRING SENATORS

BYRON DORGAN

Mr. ENZI. Mr. President, at the end of each session of Congress it has long been a tradition in the Senate to take a moment to express our appreciation and say goodbye to those who will not be returning in January for the beginning of the next Congress. One of those I know I will miss who will be heading home to North Dakota to begin the next chapter of his life is BYRON DORGAN.

BYRON was raised in the ranching and wheat growing region of North Dakota in the town of Regent. Looking back, he has often said that he graduated in

the top 10 of his high school class. "There were nine of us," he then adds with a smile.

Growing up in a community that was so heavily involved in agriculture gave him an early taste of what rural life is all about. He experienced firsthand the importance of farming to his home State and the hard work associated with taking good care of the land and the resources it provides. He saw the way people who live on farms schedule their days—working from sunrise to sunset, going from task to task knowing there was always more work to be done than there were hours in the day. It was a lesson about the true meaning of hard work that would stay with him throughout his life and help direct his efforts and his service in the Senate.

One issue we shared an interest in and worked together on for years has been sales tax fairness. BYRON took his experience as a former tax administrator and I used my background as an accountant to focus our work on the issue. BYRON's understanding of our tax system and how it must work efficiently to provide the government with the resources that are needed to fund its operations was very impressive. That should come as no surprise to anyone since he had been appointed the tax commissioner of North Dakota at the age of 26, which made him the youngest constitutional officer in the State's history.

We also worked together on the Freedom to Travel to Cuba Act. We hope to change our current policies there because for 40 years they have failed to bring about the results we hope to achieve. It was clear to us both that if we wanted to bring our democratic ideas to Cuba to effect the changes we wanted to achieve, we had to find another way to do it. Fortunately, BYRON's leadership style and his speaking ability were again a great addition to the effort and helped to win us the support we needed to get things rolling.

Looking back on these and other issues, it is clear that BYRON's career has been guided by the lessons he learned as he was growing up about the importance of hard work and always giving your best to the task at hand every day. That is why you will always find him fighting for the needs of rural America and promoting a sense of fairness and equity in our tax system. There can be little doubt that he has accomplished a great deal during his service in the Senate. He has been a champion for rural America, and farmers and ranchers not only in North Dakota but all across the country have been grateful for his efforts and the results he has been able to achieve.

I don't know what BYRON has planned as he begins the next chapter of his life, but I am certain we have not heard the last from him and his wife Kim. They have been a team over the years

as they have worked together for the people of North Dakota. They have made a difference, and they have a great deal to show for their efforts.

In the coming session, I know we will all miss BYRON's effective way of speaking and addressing the concerns of the people of his State. He has a great sense of humor, and his ability to present the case for "his side" has won many an argument—some of them before they had even begun.

Good luck, BYRON. Keep in touch. We will always be pleased to hear from you.

GEORGE VOINOVICH

Mr. President, at the end of each session of Congress, as is our tradition, we take a moment to say goodbye and express our appreciation to those Members who will be returning home at the end of the year. I know we will miss them and the contributions they have made over the years to the debates and deliberations they have participated in on the Senate floor and in committee. One retiring Member I know I will especially miss is GEORGE VOINOVICH.

If ever it could be said of someone that they have never lost touch with their roots, it would be said of GEORGE. GEORGE was raised on Cleveland's east side, and he still lives there. His dad was an architect, and his mother was a schoolteacher. For his own part, until he was in his teens, GEORGE was determined to be a doctor. As he grew up, he found that he didn't get along very well with science, so right about then his direction and his focus changed. Fortunately for Cleveland and all of Ohio, GEORGE then decided that someday he would run for mayor and for Governor, which put him on the path that brought him years later to the U.S. Senate.

Those were big dreams for someone who up until then had only his success as high school class president to show on his political resume. That was also the time when his fellow classmates voted him most likely to succeed. It must have served as his inspiration because he proved them right. Over the years GEORGE proved to be a success at just about everything he set his mind to. That helped him to accomplish just about all that he had predicted and much, much more.

As any observer knows, one of the constant themes that runs through GEORGE's political career has been his determination to be a good steward of the resources we have been blessed to receive. It unsettles him to see waste of any kind, especially when it comes to our budget and the funds taxpayers all across the country send to Washington to run our government.

At each post he has served—mayor, Governor, and now, in the Senate—people have looked to him for his leadership and his willingness to make the tough choices that must be made if we are to provide our children with a fair

chance to live their own version of the American dream. GEORGE has warned us more than once. If we continue to spend so much of our children's future resources, we will leave them with a huge debt and an economy so weak and sluggish as to offer them little hope of ever freeing themselves from it. We ought to listen to him and take his advice—for our sake and theirs.

GEORGE has been a remarkable public servant, and he has served at many different levels of government throughout his career. I know he would be the first to say he wouldn't have been able to do all that without the person he calls the greatest blessing he has received in life by his side. That person is his wife Janet, who has been his greatest source of support and guidance for 48 years. Together they have made a difference wherever they have been.

In the years to come, I will always remember and admire all you did as Governor of Ohio with such a perfect First Lady by your side. I have a hunch you were such a great vote-getter because you had an advantage—a lot of people voted for you because they were also voting for her.

Looking back, we both served as mayors in our home States. When we did we had to find a way to pay for everything. That is why I always had an appreciation for the way you examined every detail of each issue through the lens of your background and how the people back home would feel about it.

Diana joins in sending our best wishes to you both and our thanks and appreciation for all you have done for Ohio and the Nation during your many years of public service. Good luck in all your future endeavors. Keep in touch. You'll be missed. It just won't be the same around here without you.

CHRIS DODD

At the end of each session of Congress it has long been a tradition in the Senate to take a moment to express our appreciation and say goodbye to those who will not be returning in January for the beginning of the next Congress. One of those I know I will miss who will be stepping down to spend more time with his family is CHRIS DODD of Connecticut.

If I could sum up CHRIS's career in the Senate and the way he lives his life every day with one word, I think that word would be "passion." Simply put, CHRIS is the most passionate Senator I have ever known or had the opportunity to work with and observe.

Coming from a well known political family, CHRIS must have learned at an early age the difference that it can make. I have always believed it is the key ingredient to any effort and it often means the difference between success and failure. Looking back, the enthusiasm and spirited focus that CHRIS so clearly brings to every discussion or debate on the Senate floor and

in committee has helped him to create alliances and forge agreements that have led to the passage of legislation that might not have crossed the finish line and made it into law if not for him.

CHRIS has now served for 30 years in the Senate and he has a great deal to show for his efforts. His style of leadership, the relationships he has developed with his colleagues, and his pursuit of his legislative priorities have enabled him to make a difference in many, many ways and have an impact not only in Connecticut but all across the Nation.

One of the greatest achievements of his career has to be the Family and Medical Leave Act that CHRIS authored and helped to shepherd through the Senate into law. Thanks to him, whenever it is needed, employees are now able to take some time off to care for their children or ensure that an elderly family member receives some attention and support.

One more moment that is familiar to us all, was CHRIS's willingness to step in for our good friend, Senator Ted Kennedy, when Ted was in poor health, to help direct the disposition of the health care bill. I am sure it meant a great deal to Ted to know that the effort he was such a vital part of was in such good and capable hands.

Looking ahead, CHRIS isn't really going into retirement. He is taking on another challenge full time—raising his family. He started a family later than some, but the passion he has brought to everything in life has clearly been brought to bear on the care and nurturing of his two daughters. As every father knows, it is always the little ladies who have their dads wrapped around their fingers. As they grow up, each new day is another chapter of their lives that is waiting to be written as Mom and Dad share in the wonder and magic their children experience as they discover the world around them.

Looking back, ever since the day when CHRIS first arrived in the Senate, he has always loved being around good friends, enjoying a good joke, and sharing a good word or two. That is why it came as no surprise when, during a recent interview he said, "I don't know of a single colleague that I have served with in thirty years that I couldn't work with."

That is why CHRIS has been such an effective Senator over the years and why, when the day comes when he casts his last vote and heads home to be with his family, we will all miss him.

CHRIS, I hope you will keep in touch with us. You and your wife Jackie have a great future in store and I am sure you will enjoy every day together. As I have learned with the birth of each child and grandchild—with another just born—each day you spend with your children is more proof of the wis-

dom of the old Irish saying—bricks and mortar may make a house but it is the laughter of our children that makes it a home.

Good luck. God bless.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, last night, as snow fell in Washington, DC, the Senate freeze on confirming judges began to thaw a bit. I thank the leaders for clearing 4 of the 38 judicial nominations awaiting final action by the Senate. These nominations will fill a few of the historically high number of Federal judicial vacancies around the country, including in the Eastern District of California, one of the districts with the highest workloads in the country. All the nominations confirmed last night were reported by the Judiciary Committee without objection way back in May and early June. I hope this is an indication that the other 34 judicial nominees pending in the Senate will receive consideration and a vote by the Senate before the Senate adjourns.

Senate consideration of the four nominations we confirmed last night was long overdue. In fact, these are the first judicial confirmations the Senate has considered since September 13, more than 3 months ago. For months, these nominations and many others have languished before the Senate, without explanation and for no reason. As a result of these needless delays, of the 80 judicial nominations reported favorably by the Judiciary Committee, only 45 have been considered by the Senate. Even with yesterday's confirmations, that remains a historically low number and percentage. Meanwhile, 34 judicial nominees with well-established qualifications and the support of their home State Senators from both parties are still waiting for Senate consideration. Some were sent to the Senate for final action as long ago as last January after being reported unanimously by all Republicans and Democrats on the Judiciary Committee.

Last night, we unanimously confirmed Catherine Eagles to the Middle District of North Carolina, Kimberly Mueller to the Eastern District of California, John Gibney to the Eastern District of Virginia, and James Bredar to the District of Maryland. Judge Eagles and Judge Mueller were reported unanimously by the Judiciary Committee on May 6; Mr. Gibney's nomination was reported unanimously on May 27; and Judge Bredar's nomination was reported unanimously on June 10. Judge Mueller's confirmation is particularly welcome news for the Eastern District of California, which maintains the highest weighted caseload among all Federal judicial districts across the country. There is no reason and still no explanation for these delays.

Since last year, I have been urging all Senators, Democrats and Republicans, to join together to take action to end the crisis of skyrocketing judicial vacancies. That has not happened. I have asked that we return to the longstanding practices that the Senate used to follow when considering nominations from Presidents of both parties. This has not happened. As a result, 34 judicial nominations that have been favorably reported by the Judiciary Committee continue to be stalled on the Senate's Executive Calendar awaiting final consideration and their confirmation.

I hope that our action yesterday in considering a handful of nominations signals a new effort to address the vacancies that have doubled over the last 2 years. Vacancies are now at the historically high level of 108. Fifty of these vacancies are deemed judicial emergency vacancies by the non-partisan Administrative Office of the U.S. Courts. The Senate has received letters from courts around the country calling for help to address their crushing caseloads, including letters from the Chief Judges of the Ninth Circuit Court of Appeals and the U.S. District Courts in California, Colorado, Illinois and the District of Columbia. They have pleaded with us to end the blockade and confirm judges to fill vacancies in their courts.

The Senate should vote on all of the judicial nominations awaiting final action by the Senate. We should do as we did during President Bush's first 2 years in office, and consider every judicial nomination favorably reported by the Judiciary Committee. During those 2 years, the Judiciary Committee favorably reported 100 judicial nominations and the Senate confirmed every one of them, including controversial circuit court nominations reported during the lame duck session in 2002. In contrast, during this first Congress of President Obama's administration, the Senate has considered just 45 of the 80 nominations reported by the Judiciary Committee.

I hope we can build on the belated progress made last night. Agreements to debate and consider nominations have been sought repeatedly. Of the 34 judicial nominations currently stalled on the Executive Calendar, 25 of them were reported unanimously by the 19 Republican and Democratic members of the committee. Another three were reported with strong bipartisan support and only a small number of no votes. Of these 28 bipartisan, consensus nominees, 15 of them were nominated to fill judicial emergency vacancies. They all should have been confirmed within days of being reported. It will be a travesty if they are not all confirmed before the 111th Congress adjourns.

These consensus nominees yet to be considered include six unanimously reported circuit court nominees, and another circuit court nominee supported

by 17 of the 19 Senators on the Judiciary Committee. The nomination of a respected and experienced jurist, Judge Albert Diaz of North Carolina, for a judicial emergency vacancy on the Fourth Circuit has been stalled for 11 months, since last January, despite the support of both his home state Senators, a Democrat and a Republican. Four of the other consensus circuit court nominations would also fill judicial emergency vacancies, and three of them came through the committee with the strong support of two home State Republican Senators. All seven circuit court nominees are superbly qualified and I predict if considered would be confirmed with strong bipartisan support.

Last night we confirmed four district court nominations, but 26 are still being blocked from consideration. Some were reported as long ago as February. Senate inaction on these nominations is a dramatic departure from the traditional practice of considering them expeditiously and with deference to the home State Senators. These 26 district court nominations include 19 nominations reported unanimously by the Judiciary Committee. Thirteen of these nominations are for seats designated as judicial emergencies. All 26 nominees have well-established qualifications and are at the top of the legal community in their home States. All have put their lives and practices on hold in an attempt to serve their country and their community. There is no cause for continuing to block the Senate from considering their nominations and no precedent for extending these delays further.

For the last 17 years, Catherine Eagles has served North Carolina as a superior court judge. Before that, she spent nearly a decade as an attorney in private practice. Her nomination has had the support of both of her home State Senators, Senator BURR, a Republican, and Senator HAGAN, a Democrat—as does the nomination of Alberto Diaz to the Fourth Circuit from North Carolina that remains stalled without final action. The American Bar Association, ABA, Standing Committee on the Federal Judiciary unanimously rated Judge Eagles well-qualified—its highest possible rating—to serve as a District Court Judge. With her confirmation, Judge Eagles will become the first woman to serve on the Middle District of North Carolina, and only the second in the State.

The nomination of Kimberly Jo Mueller to fill a judicial emergency vacancy on the Eastern District of California, one of the busiest courts in the country, was held on the Executive Calendar for more than 7 months. Judge Mueller has served the Eastern District as a Magistrate Judge since 2003. Prior to becoming an attorney, she was a 6-year term as a Sacramento city councilmember before earning her

J.D. from Stanford Law School. Her nomination has the strong support of both of her home State Senators and she was unanimously rated well qualified by the ABA Standing Committee on the Federal Judiciary, its highest possible rating. Judge Mueller will be the only female judge in the Eastern District of California.

John A. Gibney, Jr. was nominated more than eight months ago to fill a judicial emergency vacancy. That Mr. Gibney has the strong support of both Virginia Senators is no surprise since he has a long and distinguished career, practicing law in Richmond, VA, for more than 30 years. Mr. Gibney has represented a wide variety of clients, from business to local governments to private individuals. Currently, he is a partner and a civil litigator in the Richmond, VA, firm ThompsonMcMullan. Mr. Gibney earned his B.A., Phi Beta Kappa, from the College of William & Mary and his J.D. from the University of Virginia. After graduation, he clerked for Justice Harry L. Carrico of the Supreme Court of Virginia.

Judge James Bredar has served for 12 years as a Federal Magistrate Judge on the District Court to which he is now nominated. As a lawyer, Judge Bredar saw the justice system from both sides, first as a Federal prosecutor in Colorado and then as a Federal public defender in Maryland. Judge Bredar will be the first Federal defender to serve as a Federal judge in Maryland. His nomination has the support of both of his home State Senators and received the highest possible rating from the ABA Standing Committee on the Federal Judiciary.

The 34 judicial nominations remaining on the calendar should be accorded the same up-or-down vote as the four considered last night. They should have the same up-or-down vote given to all 100 of President Bush's judicial nominations reported by the committee in his first 2 years. Even if Republican Senators will not follow our example and treat President Obama's nominees as we treated President Bush's, they should at least listen to their own statements from just a few years ago. They said that every judicial nomination reported by the Senate Judiciary Committee was entitled to an up-or-down vote. They spoke then about the constitutional duty of the Senate to consider every judicial nomination. The Constitution has not changed; it has not been amended. The change from the days in which they made those statements is that the American people elected a new President and he is making the nominations.

The Senate should also debate and a vote on those few nominees that Republican Senators opposed in committee. These nominees include Benita Pearson of Ohio, William Martinez of

Colorado, Louis Butler of Wisconsin, Edward Chen of California, John McConnell of Rhode Island, and Goodwin Liu of California. As I have said before, I have reviewed their records and considered their character, background and qualifications. I have heard the criticisms of the Republican Senators on the Judiciary Committee as they have voted against this handful of nominees. I disagree, and believe the Senate would vote on their confirmation. Each of these nominees have been reported favorably by the Judiciary Committee, several of them two or three times, and each deserves an up-or-down vote. That they will not be conservative activist judges should not disqualify them from consideration by the Senate or serving on the bench.

President Obama has reached out and worked with Senators from both sides of the aisle in selecting well-qualified judicial nominees. As chairman of the Judiciary Committee, I have made sure that we have not proceeded on any judicial nominees without the support of both home State Senators. There has been consultation and a thorough and fair process for evaluating nominations. There has been more than enough time for Senators to decide how they want to vote. Now it is time to return to the Senate's longstanding traditions and reject the obstruction that has blocked us month after month from considering judicial nominations. Now is the time to act to address the needs of the Federal courts and the American people who depend on them for justice.

FORENSICS REFORM

Mr. LEAHY. Mr. President, for nearly 2 years, the Senate Judiciary Committee has been examining serious issues in forensic science that go to the heart of our criminal justice system. The committee has studied the problem exhaustively, and we reached out to a wide array of experts and stakeholders. While the days of the 111th Congress are drawing to a close, it is my intention to introduce legislation early next year that represents the culmination of this process. That legislation will strengthen our confidence in the criminal justice system and the evidence it relies upon by ensuring that forensic evidence and testimony is accurate, credible, and scientifically grounded.

In February of 2009, the National Academy of Science, NAS, published a report asserting that the field of forensic science has significant problems that must be urgently addressed. The report suggested that basic research establishing the scientific validity of many forensic science disciplines has never been done in a comprehensive way. It also suggested that the forensic sciences lack uniform and unassailable standards governing the accreditation

of laboratories, the certification of forensic practitioners, and the testing and analysis of evidence. Indeed, I was disturbed to learn about still more cases in which innocent people may have been convicted, perhaps even executed, in part due to faulty forensic evidence.

Since then, the Judiciary Committee has held a pair of hearing on the issue. Committee members, as well as staff, have spent countless hours talking to prosecutors, defense attorneys, law enforcement officers, judges, forensic practitioners, scientists, academic experts, and many, many others to learn as much as we can about what is happening now and what needs to be done. Through the course of this inquiry, we discussed some of the current problems in forensic science that we need to address. But it also became abundantly clear that the men and women who test and analyze forensic evidence do great work that is vital to our criminal justice system. Accordingly, as a former prosecutor, I am committed to strengthening the field of forensics, and the justice system's confidence in it, so that their hard work can be consistently relied upon, as it should be.

While there were varying responses to the findings of the NAS report, one thing was clear: there needed to be a searching review of the state of forensic science work in this country. And it also became clear through this process that there is widespread consensus about the need for change and the kind of change that is needed. Almost everyone I heard from recognized the need for strong and unassailable research to test and establish the validity of the forensic disciplines, as well as the need for consistent and rigorous accreditation and certification standards in the field.

Prosecutors and law enforcement officers want evidence that can be relied upon as definitively as possible to determine guilt and prove it in a court of law. Defense attorneys want strong evidence that can as definitively as possible exclude innocent people. Forensic practitioners want their work to have as much certainty as possible and to be given deserved deference. All scientists and all attorneys who care about these issues want the science that is admitted as evidence in the courtroom to match the science that is proven through rigorous testing and research in the laboratory.

Everyone who cares about forensics also recognizes that there is a dire need for well managed and appropriately directed funding for research, development, training, and technical assistance. It is a good investment, as it will lead to fewer trials and appeals and reduce crime by ensuring that those who commit serious offenses are promptly captured and convicted.

The legislation I intend to introduce next year will address these widely rec-

ognized needs. Among other things, it will require that all forensic science laboratories that receive federal funding or federal business be accredited according to rigorous and uniform standards. It will require that all relevant personnel who perform forensic work for any laboratory or agency that gets federal money become certified in their fields, which will mean meeting standards in proficiency, education, and training.

I expect that the proposal will set up a rigorous process to determine the most serious needs for peer-reviewed research in the forensic science disciplines and will set up grant programs to fund that research. The bill will also provide for this research to lead to appropriate standards and best practices in each discipline. It will also fund research into new technologies and techniques that will allow forensic testing to be done more quickly, more efficiently, and more accurately. I believe these are proposals that will be widely supported by those on all sides of this issue.

The bill that I will introduce will seek to balance carefully a number of competing considerations that are so important to getting a review of forensic science right. It will capitalize on existing expertise and structures, rather than calling for the creation of a costly new agency. And ultimately, improved forensic science will save money, reduce the number of costly appeals, shorten investigations and trials, and help to eliminate wrongful imprisonments.

I understand that sweeping forensic reform and criminal justice reform legislation not only should, but must, be bipartisan. There is no reason for a partisan divide on this issue; fixing this problem does not advance prosecutors or defendants, liberals or conservatives, but justice. I have worked closely with interested Republican Senators on this vital issue. I hope that many Republican Senators will join me in introducing important forensics reform legislation at the beginning of the next Congress, and I will continue to work diligently with Senators on both sides of the aisle to ensure that this becomes the consensus bipartisan legislation that it ought to be.

I want to thank the forensic science practitioners, experts, advocates, law enforcement personnel, judges, and so many others whose input forms the basis for the legislation I will propose. Their passion for this issue and for getting it right gives me confidence that we will work together successfully to make much needed progress.

I hope all Senators will join me next year in advancing important legislation to restore confidence to the forensic sciences and the criminal justice system.

BANKRUPTCY TECHNICAL CORRECTIONS ACT

Mr. LEAHY. Mr. President, on November 19, 2010, the Senate passed the Bankruptcy Technical Corrections Act of 2010. This legislation makes many important technical changes to our bankruptcy laws.

Yesterday, on December 16, the House of Representatives passed this legislation again, with an amendment from the Senate. Senator WHITEHOUSE, chairman of the Judiciary Committee's Subcommittee on Administrative Oversight and the Courts, along with Chairman CONYERS and Ranking Member SMITH of the House Judiciary Committee should be commended for their attention to these issues.

This bipartisan legislation makes numerous technical corrections to the Bankruptcy Code. These revisions are needed as the result in part of the major reforms that took place in 2005. Given the breadth of the 2005 reforms, and the highly technical nature of the code, it was not unexpected that some additional congressional action was needed to make some needed adjustments. Although purely technical, these changes will assist practitioners and judges adjudicate cases under the code more efficiently, and with a savings of judicial resources.

At a time in the United States when Americans are struggling under severe economic conditions and with millions of Americans having lost their homes or in danger of foreclosure, it is especially important for the Bankruptcy Code to operate as efficiently and effectively as possible.

I thank all Senators for their support of this legislation.

NORTH FORK PROTECTION

Mr. BAUCUS. Mr. President, I rise today to speak about one of the things that I love most about Montana—the North Fork of the Flathead River. Everyone who experiences the Flathead Valley in northwestern Montana is awed by its pristine waters, larger than life landscapes, and raw wilderness. With its headwaters in British Columbia, the North Fork of the Flathead River forms the western boundary of Glacier-Waterton International Peace Park. It is one of the last untouched places on our continent. For decades, the North Fork has been threatened by oil and gas and mining proposals in British Columbia. For the last 35 years, I have battled these proposals, one by one, each time victorious. After 35 years, we are beginning a new chapter of international cooperation in the North Fork.

In February of this year, British Columbia and Montana signed a memorandum of understanding, agreeing to prevent mining, oil and gas, and coal-bed methane development in the watershed. Senator TESTER and I have negotiated the retirement of the primary

interest in about 200,000 acres on the U.S. side of the border—about 80 percent of the leased acreage—without cost to the American taxpayer. In June of this year, we asked President Obama to work with Canadian Prime Minister Harper to put in place measures to establish permanent protections for the North Fork. On June 28, the two met in Canada, and pledged cooperative efforts to protect this one of a kind ecosystem. Work is continuing behind the scenes on this effort, and we are very optimistic that it will be successful.

Mr. TESTER. One of the most important pieces of this puzzle is getting measures in place to achieve permanent, sustainable protections. Without that, Montanans will never be certain that we are not just an election away from a change in the conservation status of these lands north of the U.S. border. But, we are on the verge of a breakthrough, and I know that the committee is very supportive of these efforts.

To that end, we would like to confirm that if an international agreement is reached that includes measures to achieve permanent, sustainable protections for the North Fork of the Flathead River and the adjacent area of Glacier-Waterton International Peace Park then the Secretary may use funds available to the National Park Service from the recreation enhancement fee program, to implement conservation measures, to include wildlife management and habitat restoration, where such activities have a direct benefit to Glacier-Waterton International Peace Park consistent with park purposes.

Mr. INOUE. Mr. President, I understand the importance of this matter to the Senators from Montana, and indeed all Americans. As long as the Secretary complies with the authorizing statutes, then I concur that conservation measures at Glacier-Waterton International Peace Park are a suitable use for the funding collected through the recreation enhancement fee program.

Mr. TESTER. I thank the Senator. The North Fork of the Flathead is a true gem of Montana, and this clarification will help us cooperate with Canada to build upon the historic agreement between British Columbia and Montana, and establish permanent protections.

Mr. BAUCUS. I thank the Senator. In 1975, I introduced the bill to designate the Flathead River as a Wild and Scenic River. It was designated as such a year later. For me, that began a lifelong effort to protect the North Fork. At that time I said:

A hundred years from now, and perhaps much sooner, those who follow us will survey what we have left behind . . . let us leave the Flathead as we found it. Let us prove that we care about those who will come after us.

Today, this small step demonstrates that with cooperation between our two

nations, between the Province and the State, we can ensure that every Montanan, every American, and every Canadian who follows us will survey the North Fork of the Flathead River and share our feeling of awestruck wonder that such a place still exists.

AIRLINE WORKER ROLLOVER

Ms. CANTWELL. Mr. President, I would like that thank Chairman BAUCUS for his continuing work in helping me address an issue important to airline workers whose employers went bankrupt after September 11, 2001.

I first started working on this issue in 2007 when I introduced legislation to allow employees of bankrupt commercial airlines to roll their bankruptcy payments into individual retirement accounts to provide for a retirement savings option to those airline workers whose defined benefit plans were terminated or frozen in bankruptcy proceedings.

My legislation attracted bipartisan support from my colleagues, and in 2008, The Worker, Retiree, and Employer Recovery Act, WRERA, was enacted into law, and we worked together to include a provision to allow airline workers to rollover bankruptcy payments into a Roth IRA only. While this was an important step, it is also important to take the next step and allow workers the additional option to rollover bankruptcy payments into a traditional IRA—an option typically available for everyone when deciding which retirement vehicle is right for them.

With the assistance of the distinguished chairman, we began the process of taking that next step during the 111th Congress. In May 2010, Chairmen BAUCUS and LEVIN included the Airline Worker Relief provision with H.R. 4213, the 2010 Jobs Act legislation which extended several expiring tax provisions and provided for technical corrections to pension funding legislation, and the House of Representatives passed the Jobs Act on May 28, 2010.

On June 16 of this year, Chairman BAUCUS also included the airline worker rollover provision when he introduced his substitute amendment to H.R. 4213. However, on June 18, the pension funding relief section of H.R. 4213, absent the airline worker rollover provision, was included in H.R. 3962, the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010. The airline worker rollover provision was not included because unlike the other pension funding relief items that raised revenue, the rollover provision has a modest budgetary cost. Regrettably, the Senate has not since had the opportunity to consider the Rollover provision.

Today Chairman BAUCUS is proposing a substitute amendment to make corrections to the pension funding relief

provisions that were enacted as part of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010. These items are scored to have no revenue effect; so once again, the airline worker rollover provision will not be included. I will not object to this amendment, but at the same time, it is important for the record to clarify our intent to move the airline worker rollover provision on the next available and appropriate legislative vehicle.

Mr. BAUCUS. Mr. President, I thank Senator CANTWELL for her work on this important provision to help airline workers, and I want to make it clear for the record that I will work to include this airline worker rollover provision in the next appropriate legislative vehicle.

REMEMBERING RICHARD HOLBROOKE

Mr. LEVIN. Mr. President, the greatness of our Nation depends not just on our economic or military might or the drive of our people. We are great in part because we seek not just our own prosperity and security but peace and security for all peoples, and because we understand the relationship between their security and our own. And few Americans in our time have done more to advance those goals around the world than Ambassador Richard Holbrooke. His sudden passing this week is a great loss to this Nation, and to anyone anywhere who values peace and freedom.

Richard Holbrooke saw opportunities for peace where others saw only impenetrable thickets of competing interest and implacable enmity. Surely that was true of the Balkans in the 1990s, a region of the world plagued for centuries by ethnic and religious hatreds so deep that many considered them impossible to solve. Richard Holbrooke found a way. Thanks to the tireless work of his diplomatic team on the Dayton Accords, thousands lived who might otherwise have died, and millions were lifted out of the horror of war.

Much has been said and written about Ambassador Holbrooke's larger-than-life personality. His presence was formidable, his ambition as towering as his talent. But that ambition, that forceful intellect and arresting presence, were harnessed to a larger goal—the promotion of his Nation's interest, and the larger interest of the global community.

I had the privilege of working closely with Ambassador Holbrooke when he took on the role of Special Representative for Afghanistan and Pakistan. Here was another place where his talents were needed, another region of the world plagued by centuries-old conflicts and modern-day animosities. I valued his analysis and advice, and admired the way in which he eagerly

sought out information and advice from his own staff and from outside sources. He was decisive and determined, but he came to his positions after seeking out and carefully analyzing diverse viewpoints.

I am saddened at the loss of Richard Holbrooke. I am saddened I will no longer be able to discuss with him the pressing issues of our time. And I am saddened that our nation will never again be able to call upon him to calm the troubled waters of our world. But his legacy is secure. It can be found in the countless younger men and women who learned at his side and will carry on his work. It can be found in the safer, more secure nation that he served. And it can be found in all the war-torn corners of the world where fear and hatred and violence are held at bay thanks to his tireless efforts.

THANKING STAFF

Mr. FEINGOLD. Mr. President, as I leave the Senate I want to take a moment to express my profound thanks to those who have served on my Federal staff over the last 18 years. I feel so fortunate to have had the honor of serving in this body, and the honor of working with these dedicated staff members. I am deeply proud of the work my staff has done, and the outstanding commitment they have shown to serving the people of Wisconsin. I ask that their names be printed in the RECORD.

George R. Aldrich, Ed An, Anneka Anderson, Carol Anthony, Rebecca F. Austin, Jessica G. Bacalzo, Dean T. Baldukas, Mike Bare, Cyndi Bartel, Stephanie Batko, Amanda Beaumont, Jihan Bekiri, Brittany Benowitz, LaMarr Q. Billups, Laura A. Bishop, Yolanda T. Black, Dave Bolles, Patrick Bomhack, Lois M. Boos, Jon Bortin.

Mary Bottari, Laura Bowman, Mark Bromley, Catrell Brown, Jeanne Bruce, Deanna M. Busalacchi, Shawn Campbell, Kevin C. Canan, Sarah Carlson-Wallrath, Aisha Carr, Dawnita S. Chandler, Brian Chelcun, Celine Clark, Nick Cornelisse, Katie Crawley, Kenneth M. Creighton, Jordan Cutler, Bill Dauster, Serena Davila, Hilary DeBlois.

Robert B. Decheine, Danielle Decker, Margaret Della, Jennifer K. Dettmering, Greg L. Deuchars, Hope DeVougas, Cynthia L. Devroy, Steven Driscoll, Jennifer Eberhardt, Suzanne Endres, Erin Erlenborn, Meredith Fahey, John A. Fairbanks, Matthew Farrauto, Neil W. Fehrenbach, William M. Feitlinger, Lara Flint, Thomas E. Ford, Grey Frandsen, Jeri Gabrielson.

Mirna Galic, Adrian G. Garcia, Jeanette Garza, Michelle Gavin, Ari Geller, Paul Geller, Max Gleichman, Kathleen Gohlke, Evan Gottesman, Tim Raducha Grace, Karen Graff, Ryszawnda E. Grant, Laura Grund, Ian A. Gustafson, Carl Hampton, Sean K. Hanley, James L. Hansen, Katie Hanson, Moira F. Harrington, Charlotte Harris-Benn.

Jenny G. Hassemer, Kenneth C. Haugh, Ben Hawkinson, Robb Hecht, Trisha Helchinger, Alyson Herdeman, Elizabeth Hill, Russell A. Hinz, Rea Holmes, Heidi A. Holzhauer, Euphia Hsu-Smith, John B. Hwang, Michael Inners, Mary Irvine, Michael Jacob, Brad Jaffe, Gail C. Junemann, Chris-

topher Kattenburg, David Kaufman, Jeanine M. Kenney.

Maya Khan, Farhana Khera, Timothy P. Killian, Lance Kinne, Leesa Klepper, Katie Klimowicz, Casey Kloststat, Matthew Knopf, Ted Koehler, Joe Komisar, Rebecca Kratz, John Kraus, Chris M. Kujack, Andrew H. Kutler, Ruth E. LaRocque, Laura M. Langer, Peter S.Y. Lau, Savannah Lengsfelder, Robyn Lieberman.

Cindy Liebman, Shannon Lightner, Christine Lindstrom, Todd S. Lipke, Sebastian Lombardi, Rebeca Lopez, Zach Lowe, Jessica Maher, Amy E. Maloney, Sarah Margon, Rheanna Martinez, Susanne M. Martinez, Jackie Martins, Sharmila Matugama, Greg C. May, Patti Jo McCann, Tom N. McCormick, Joy McGlaun, Anne T. McMahon, Molly McNab, Erin Meade.

John M. Medinger, Jeff Miller, Karen R. Miller, Tom M. Miller, Trevor Miller, Nicci M. Millington, Nancy Mitchell, LaKindra Mohr, Bryan N. Mowry, Catherine S. Murphy, Michelle Murray, Jeffrey P. Neterval, John Neureuther, Matt Nikolay, Mustafa Nusraty, Tanya Oakes, Elizabeth M. O'Callahan, Chris Oechsli, Odalo J. Ohiku, Brian O'Leary.

Michael P. O'Leary, Erik Opsal, Erika Pagel, Suzanne Brault Pagel, Mary Palmer, Peter P. Pedraza, Janet L. Piraino, Emily Plagman, Sarah Preis, Elizabeth Prestley, Shelly M. Principe, Emily Pritzkow, Lawanda A. Proctor, Peter Quaranto, Deborah G. Ragland, Caren Ramsey, Kristin L. Rech, Kelly Miller Reed, Jodi L. Reinke, Mary Frances Repko.

Theresa Reuss, Thomas Reynolds, Mary Ann Richmond, Jay Robaldek, Francisco Rodriguez, Susan Rohol, Linda S. Rotblatt, Nick Rotchadl, Maurice A. Rouse, Katie Rowley, Rebecca Rubel, James M. Rudolf, Jacqueline Sadker, David J. Sandretti, Bob Schiff, Mike Schmidt, Darin C. Schroeder, Nicole Schultz, Bob Schweder, Will Sebern.

Jennifer Francis Seeger, Nhora L. Serrano, Geoffrey M. Seymour, Michael J. Shmagin, Melissa F. Shusterman, Ravae Sinclair, Sumner Slichter, Asher Smith, Todd G. Smith, Cecilia Smith-Robertson, Victoria C. Solomon, Greg St. Arnold, Stacia Stanek, Julie E. Stansfield, Danice K. Stanton, Scott Stearns, Matt Steiner, Sara Steines, Jennifer H. Sterling, Chuck Stertz.

Meritene Steward, Kimberly Stietz, Kristin L. Stommel, Karen R. Surret, James S. Swiderski, Anthony J. Taylor, Laura E. Teelin, Jenny Thalheimer, Sara D. Thom, Kitty Thomas, Stacey R. Thompson, Jeremy Tollefson, Rene Torrado, Manuel Vasquez, Ken D. Velasco, James Verbeck, Caroline Wadhams, Ala'a Wafa, Peter Waldman.

Tom Walls, Adam Waskowski, Paul Weinberger, Stephanie A. Weix, Travis West, Heather White, Kirsten White, Margaret Whiting, Joel Wiginton, Michael Wilder, Jennifer J. Williams, Nathan Winn, Mike B. Wittenwyler, Cynthia Woolfolk, Bashoun D. Wray, Tom Wyler, Lisbeth Zeggane, Natale Zimmer, Graham Zorn.

REMEMBERING ROBERT WILLIAM ANDREW FELLER

Mr. GRASSLEY. Mr. President, on November 3, 1918, an American hero—Robert William Andrew Feller—was born in Dallas County, IA, near the town of Van Meter. Sadly, this same hero died on December 15, 2010.

Van Meter is nestled between the steady and rolling Raccoon River on the north side of town, and the lush

and sweeping prairie hills on the south side of town.

In most ways, it is your typical rural Iowa town. There is a post office, a few churches, a bank, a car wash and gas station, and a bar and grill.

There are just under a thousand residents living in Van Meter. And so the Van Meter Bulldogs—from kindergarten through the twelfth grade—still all go to school together in the same building.

But unlike every other small town in Iowa, or America for that matter, there rests in Van Meter on Mill Street a museum paying tribute to the town's hero and favorite son—Bob Feller.

Bob Feller was born and grew up on a farm just outside of Van Meter. Early on his father, who was a farmer, and his mother, who was a nurse and teacher, realized that their young Robert had a talent.

That talent was playing baseball. Specifically, hurling curve balls and sliders and fastballs at whoever dared to step up to the plate against young Bob Feller.

Bob Feller was so focused on baseball and so in love with the sport that his father built a regulation baseball diamond on their Dallas County farm naming it "Oak View Park." Bob and his family recruited other players and formed a team appropriately called "The Oakviews."

Bob Feller said his farm work and chores were what helped to develop his throwing speed and arm strength. His throwing speed and arm strength are what earned him the nicknames of "Rapid Robert" and "Bullet Bob" and "The Heater from Van Meter."

Leveraged with a high left-leg kick and whip-like arm, Bob Feller delivered some of the fastest stuff ever to come down from a pitcher's mound. Batters trembled facing him at home plate. Umpires needed to pay close attention. The crowds were always in awe. And Feller's pitches were blurs.

It wasn't too long before word spread about this baseball wonder. Soon—and still in his teens and not even having graduated high school yet—Feller was pitching to some of his boyhood heroes in front of crowds of tens of thousands of people all across America. He dazzled all who saw him play.

Barely old enough to shave, he found himself playing Major League Baseball for the Cleveland Indians in 1936. He faced the greatest baseball stars of the 1930s, 1940s and 1950s Ted Williams, Lou Gehrig, Hank Greenberg, Mickey Mantle, Nellie Fox.

Frequent opponent and purist hitter Joe DiMaggio said in 1941 about Feller, "I don't think anyone is ever going to throw a ball faster than he does."

A sports reporter said of Feller's pitching, "And his curveball isn't human."

We have all read about Bob Feller's amazing baseball career spent entirely

with the Cleveland Indians where he was the winningest pitcher in club history with 266 wins.

He was an eight-time All Star. He captured a World Series ring in 1948. He pitched three no-hitters, including the only Opening Day no-hitter. He retired with 2,581 career strikeouts. He is enshrined in the Baseball Hall of Fame in Cooperstown, NY.

These are impressive statistics from arguably the best pitcher to ever take the mound. But these stats and this "farm to fame" story is not what made Bob Feller a patriot or hero.

On December 7, 1941, the United States suffered a horrific attack by the Japanese when they bombed us at Pearl Harbor, HI. Just 2 days later after that horrific attack, Bob Feller did something selfless—he signed up to serve in the U.S. Navy to fight in World War II. This caused him to miss playing in the Major Leagues for a solid chunk of his career. He walked away from further baseball glory and records and achievements. Pure selflessness. He served voluntarily as a chief petty officer on the USS *Alabama* between 1941 and 1945.

Although most will remember him for his curveball, Bob Feller most wanted to be recognized for his service in World War II defending the United States from totalitarian powers and promoting liberty and freedom around the world.

Bob Feller's military service and love of country is what he ultimately wanted people to remember.

Across the plains there are everyday heroes serving us now, promoting security for Americans and freedom and liberty abroad. While they may not have sacrificed a professional sports career, they are still heroes and patriots nonetheless. Bob Feller would certainly agree with that assessment.

In Iowa, we grow more than just crops on the farm. We grow heroes, too—heroes like Bob Feller, everyday heroes.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:32 a.m., a message from the House of Representatives, delivered by

Ms. Chiappardi, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 30. An act to amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

S. 841. An act to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 3036. An act to establish the National Alzheimer's Project.

S. 3199. An act to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

S. 3386. An act to protect consumers from certain aggressive sales tactics on the Internet.

S. 3860. An act to require reports on the management of Arlington National Cemetery.

S. 4005. An act to amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings.

H.R. 2941. An act to reauthorize and enhance Johanna's Law to increase public awareness and knowledge with respect to gynecologic cancers.

H.R. 4337. An act to amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

H.R. 4853. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

H.R. 6198. An act to amend title 11 of the United States Code to make technical corrections; and for related purposes.

H.R. 6516. An act to make technical corrections to provisions of law enacted by the Coast Guard Authorization Act of 2010.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

At 4:55 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 6533. An act to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, and for other purposes.

H.J. Res 105. Joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes.

The message also announced that the House has agreed to the following con-

current resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 335. Concurrent resolution honoring the exceptional achievements of Ambassador Richard Holbrooke and recognizing the significant contributions he has made to United States national security, humanitarian causes, and peaceful resolutions of international conflict.

H. Con. Res. 336. Concurrent resolution providing for the sine die adjournment of second session of the One Hundredth Eleventh Congress.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 628) to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 1107) to enact certain laws relating to public contracts as title 41, United States Code, 'Public Contracts'.

The message further announced that pursuant to section 235 of the Tribal Law and Order Act of 2010 (Public Law 111-211), and the order of the House of January 6, 2009, the Speaker appoints the following Members of the House of Representatives to the Indian Law and Order Commission: Ms. HERSETH SANDLIN of South Dakota and Mr. POMEROY of North Dakota.

ENROLLED BILLS SIGNED

At 5:03 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 3447. An act to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes.

H.R. 4602. An act to designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the "Emil Bolas Post Office".

H.R. 5133. An act to designate the facility of the United States Postal Service located at 331 1st Street in Carlstadt, New Jersey, as the "Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building".

H.R. 5605. An act to designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the "George C. Marshall Post Office".

H.R. 5606. An act to designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the "James M. 'Jimmy' Stewart Post Office Building".

H.R. 5655. An act to designate the Little River Branch facility of the United States Postal Service located at 140 NE 84th Street in Miami, Florida, as the "Jesse J. McCrary, Jr. Post Office".

H.R. 5877. An act to designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the "Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building".

H.R. 6392. An act to designate the facility of the United States Postal Service located

at 5003 Westfields Boulevard in Centreville, Virginia, as the "Colonel George Juskalian Post Office Building".

H.R. 6400. An act to designate the facility of the United States Postal Service located at 111 North 6th Street in St. Louis, Missouri, as the "Earl Wilson, Jr. Post Office".

At 6:48 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 3874. An act to amend the Safe Drinking Water Act to reduce lead in drinking water.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6523. An act to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 8:38 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 105. Joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. DURBIN).

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the second time, and placed on the calendar:

S.J. Res. 42. Joint resolution to extend the continuing resolution until February 18, 2011.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 17, 2010, she had presented to the President of the United States the following enrolled bills:

S. 30. An act to amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

S. 1405. An act to redesignate the Longfellow National Historic Site, Massachusetts, as the "Longfellow House-Washington's Headquarters National Historic Site".

S. 1774. An act for the relief of Hotaru Nakama Ferschke.

S. 3199. An act to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

S. 3386. An act to protect consumers from certain aggressive sales tactics on the Internet.

S. 3860. An act to require reports on the management of Arlington National Cemetery.

S. 4005. An act to amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings.

S. 4010. An act for the relief of Shigeru Yamada.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-8533. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled "Use of Community Development Loans by Community Financial Institutions to Secure Advances; Secured Lending by Federal Home Loan Banks to Members and their Affiliates; Transfer of Advances and New Business Activity Regulations" (RIN2590-AA24) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8534. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Confidentiality of Suspicious Activity Reports" (RIN1557-AD17) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8535. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Standards Governing the Release of a Suspicious Activity Report" (RIN1557-AD16) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8536. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Implementation of Additional Changes from the 2009 Annual Review of the Entity List" (RIN0694-AF01) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8537. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Updated Statements of Legal Authority to Reflect Continuation of Emergency Declared in Executive Order 12938" (RIN0694-AF05) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8538. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Arizona State Implementation Plan, Maricopa County" (FRL No. 9233-3) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC-8539. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Technical Corrections to the Standards Applicable to Generators of Hazardous

Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities" (FRL No. 9240-5) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC-8540. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents, Hazardous Wastes, and Hazardous Substances" (FRL No. 9239-8) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC-8541. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions from Existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) Units, Negative Declaration and Withdrawal of EPA Plan Approval" (FRL No. 9240-2) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC-8542. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Minnesota" (FRL No. 9239-2) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC-8543. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; The Milwaukee-Racine and Sheboygan Areas; Determination of Attainment of the 1997 8-hour Ozone Standards" (FRL No. 9238-9) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC-8544. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources" (FRL No. 9238-5) received in the Office of the President of the Senate on December 14, 2010; to the Committee on Environment and Public Works.

EC-8545. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Application for Approval of Extension of Amortization Period" (Revenue Procedure 2010-52) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Finance.

EC-8546. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "2010 Base Period T-Bill Rate" (Rev. Rul. 2010-28) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Finance.

EC-8547. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to actions by non-Iranian companies to facilitate the Government of Iran's censorship activities; to the Committee on Foreign Relations.

EC-8548. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Amendments to General Regulations of the Food and Drug Administration" ((RIN0910-AG55)(Docket No. FDA-2010-N-0560)) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-8549. A communication from the Senior Counsel, Office of the Attorney General, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Certification Process for State Capital Counsel Systems; Removal of Final Rule" (RIN1121-AA76) received in the Office of the President of the Senate on December 13, 2010; to the Committee on the Judiciary.

EC-8550. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Maryland Advisory Committee; to the Committee on the Judiciary.

EC-8551. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 60 Feet (18.3 Meters) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area" (RIN0648-XA048) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8552. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Inseason Action to Close the Commercial Blacknose Shark and Non-Blacknose Small Coastal Shark Fisheries" (RIN0648-XZ95) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8553. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions No. 14 and No. 15" (RIN0648-XY83) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8554. A communication from the Acting Director of the Office of Sustainable Fish-

eries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Reopening of the 2010-2011 Commercial Sector for Black Sea Bass in the South Atlantic" (RIN0648-XZ82) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8555. A communication from the Assistant Administrator for Fisheries, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Emergency Rule Extension, Pollock Catch Limit Revisions" (RIN0648-AW86) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8556. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 17A" (RIN0648-AY10) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8557. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; 2011 Commercial Fishing Season and Adaptive Management Measures for the Atlantic Shark Fishery" (RIN0648-AY98) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8558. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Grouper Management Measures" (RIN0648-BA04) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8559. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Discard Provision for Herring Midwater Trawl Vessels Fishing in Groundfish Closed Area I" (RIN0648-BA16) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8560. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "International Fisheries; South Pacific Tuna Fisheries; Procedures to Request Licenses and a System to Allocate Licenses" (RIN0648-AY91) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 3804, A bill to combat online infringement, and for other purposes (Rept. No. 111-373).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs:

Report to accompany S. 3650, A bill to amend chapter 21 of title 5, United States Code, to provide that fathers of certain permanently disabled or deceased veterans shall be included with mothers of such veterans as preference eligibles for treatment in the civil service (Rept. No. 111-374).

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

H.R. 2062. A bill to amend the Migratory Bird Treaty Act to provide for penalties and enforcement for intentionally taking protected avian species, and for other purposes (Rept. No. 111-375).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 1102. A bill to provide benefits to domestic partners of Federal employees (Rept. No. 111-376).

S. 1649. A bill to prevent the proliferation of weapons of mass destruction, to prepare for attacks using weapons of mass destruction, and for other purposes (Rept. No. 111-377).

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 583. A bill to provide grants and loan guarantees for the development and construction of science parks to promote the clustering of innovation through high technology activities.

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 773. A bill to ensure the continued free flow of commerce within the United States and with its global trading partners through secure cyber communications, to provide for the continued development and exploitation of the Internet and intranet communications for such purposes, to provide for the development of a cadre of information technology specialists to improve and maintain effective cybersecurity defenses against disruption, and for other purposes.

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1274. A bill to amend title 46, United States Code, to ensure that the prohibition on disclosure of maritime transportation security information is not used inappropriately to shield certain other information from public disclosure, and for other purposes.

S. 2764. A bill to reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004, and for other purposes.

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2870. A bill to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes.

From the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2889. A bill to reauthorize the Surface Transportation Board, and for other purposes.

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

S. 3481. A bill to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 3566. A bill to authorize certain maritime programs of the Department of Transportation, and for other purposes.

S. 3597. A bill to improve the ability of the National Oceanic and Atmospheric Administration, the Coast Guard, and coastal States to sustain healthy ocean and coastal ecosystems by maintaining and sustaining their capabilities relating to oil spill preparedness, prevention, response, restoration, and research, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CASEY:

S. 4040. A bill to preserve Medicare beneficiary choice by restoring and expanding the Medicare open enrollment and disenrollment opportunities repealed by section 3204(a) of the Patient Protection and Affordable Care Act; to the Committee on Finance.

By Mr. MENENDEZ (for himself, Mr. DURBIN, and Mr. MERKLEY):

S. 4041. A bill to amend the Electronic Fund Transfer Act to provide protection for consumers who have prepaid cards, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. KLOBUCHAR (for herself, Mr. CORNYN, and Mr. LEAHY):

S. 4042. A bill to permit the disclosure of certain information for the purpose of missing child investigations; to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. REED, Mr. DURBIN, and Mr. UDALL of New Mexico):

S. 4043. A bill to revise and extend provisions under the Garrett Lee Smith Memorial Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself and Mr. MENENDEZ):

S. 4044. A bill to reauthorize and strengthen the Combating Autism Act of 2006 (Public Law 109-416), to establish a National Institute of Autism Spectrum Disorders, to provide for the continuation of certain programs relating to autism, to establish programs to provide services to individuals with autism and the families of such individuals and to increase public education and awareness of autism, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER:

S. 4045. A bill to amend section 924 of title 18, United States Code, to clarify and strengthen the armed career criminal provisions, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY:

S. 4046. A bill to amend title VII of the Civil Rights Act of 1964 to establish provi-

sions with respect to religious accommodations in employment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNETT:

S. 4047. A bill to establish the Federal Acceleration of State Technologies Deployment Program and for related purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN (for herself and Mr. LEAHY):

S. 4048. A bill to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005, the Intelligence Reform and Terrorism Prevention Act of 2004, and the FISA Amendments Act of 2008 until December 31, 2013, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COCHRAN (for himself and Mrs. LINCOLN):

S. Con. Res. 78. A concurrent resolution honoring the work and mission of the Delta Regional Authority on the occasion of the 10th anniversary of the Federal-State partnership created to uplift the 8-State Delta region; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 416

At the request of Mrs. FEINSTEIN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 416, a bill to limit the use of cluster munitions.

S. 3605

At the request of Mr. ROCKEFELLER, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 3605, a bill to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

S. 3929

At the request of Mr. TESTER, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3929, a bill to revise the Forest Service Recreation Residence Program as it applies to units of the National Forest System derived from the public domain by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.

S. RES. 680

At the request of Mr. KERRY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 680, a resolution supporting international tiger conservation efforts and the upcoming Global Tiger Summit in St. Petersburg, Russia.

S. RES. 698

At the request of Mrs. SHAHEEN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 698, a resolution ex-

pressing the sense of the Senate with respect to the territorial integrity of Georgia and the situation within Georgia's internationally recognized borders.

AMENDMENT NO. 4814

At the request of Mr. JOHANNIS, his name was added as a cosponsor of amendment No. 4814 proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

At the request of Mr. THUNE, his name was added as a cosponsor of amendment No. 4814 proposed to Treaty Doc. 111-5, *supra*.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Mr. REED, Mr. DURBIN, and Mr. UDALL of New Mexico):

S. 4043. A bill to revise and extend provisions under the Garrett Lee Smith Memorial Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Garrett Lee Smith Memorial Act, GLSMA, Reauthorization. Six years ago, my former colleague Senator Gordon Smith and I introduced the original GLSMA to address the public health challenge of youth suicide by providing funding to states, Indian tribes, colleges, and universities to develop suicide prevention and intervention programs. Our bill made great strides in combating the growing problem of youth suicide. However, our work remains unfinished. For this reason, joined by colleagues Senator JACK REED, SENATOR RICHARD DURBIN, and Senator TOM UDALL, I am introducing a reauthorization bill to strengthen the existing Federal, State, and local efforts.

Last year, more than 4,000 Americans between the ages of 15 to 24 died by suicide, making suicide the third leading cause of death for this age group and the second leading cause of death among college students. These numbers are devastating. During an economic crisis, the situation is becoming more dire for young adults across the country. Over the past two years, we have seen a substantial increase of calls into suicide crisis centers. Many of these centers are threatened with cutbacks in funding from State and local governments. Despite the success of GLSMA, the latest Indian Health Service numbers show that suicide is the second leading cause of death for American Indian and Alaska Native youth ages 10-24.

Youth suicide represents both a public and mental health tragedy—a tragedy that knows no geographic, racial, ethnic, cultural, or socioeconomic

boundaries. Regrettably, it is one of the leading causes of death among our nation's children; however, suicide is preventable and its causes are treatable. It has been proven that early intervention in mental health problems leads to the most effective treatment. The funding provided through the Garrett Lee Smith Memorial Act supports critical resources our young people need to develop into healthy, happy adults.

The Garrett Lee Smith Memorial Act provides federal grants to promote the development of statewide suicide early intervention and prevention strategies intended to identify and reach out to young people who need mental health services. In addition, this bill makes competitive grants available to colleges and universities to create or enhance the schools' mental and behavioral health programs. It is imperative that we reauthorize the GLSMA in order to ensure those who utilize those important programs continue getting the aid they need before it is too late.

Our reauthorization effort increases funding to the existing programs and make important policy changes to the campus grant program. Whereas the funding level for all three programs in fiscal year 2010 is \$40 million, the reauthorization bill would bring the authorization level to \$260 million over 5 years. As a result, this bill includes increased funding for the Suicide Prevention Resource Center and grants for state, Tribal, and campus prevention efforts. The reauthorization bill also incorporates changes which will allow for increased flexibility in the use of campus grant funds. The original GLSMA authorized the use of campus grant funds only for suicide prevention infrastructure, such as hotlines. The proposed changes would allow for additional flexibility in the use of these funds, including crisis counseling and training of campus staff and students. I believe that these uses are critical to suicide prevention efforts on campuses.

I would like to take a moment to honor Garrett Lee Smith, the namesake of this bill. Six years ago, Garrett's father, Senator Gordon Smith introduced the original bill with me. Three years later, along with Senator Jack Reed, we introduced the original reauthorization. Nothing can be said or done to bring back Gordon and Sharon Smith's son Garrett, but their steadfast support and tireless efforts on behalf of young adults with mental illnesses have given their son the legacy he deserves.

In addition, without the network of groups and individuals who have made it their mission to take on this fight, none of the progress we have made would have been possible. I have worked closely with these groups throughout my tenure in the Senate and I thank them for their support and assistance, and truly value the working relationship we have established.

It is my hope that introducing this reauthorization bill will build momentum for the efforts of my colleagues during the 112th Congress, and I would like to thank Senator REED, Senator DURBIN, and Senator TOM UDALL for their willingness to lead the charge into next Congress. Both of these Senators have been great partners on so many issues over the years and I am happy that they will be here next Congress to lead the efforts on this reauthorization.

The GLSMA has long been a bipartisan, bicameral bill. That must continue next Congress. I hope that my colleagues will support this important legislation. We must continue to build upon these successes and ensure more communities are better equipped to prevent youth suicide through the reauthorization of the GLSMA.

Mr. REED. Mr. President, I am pleased to join Senators DODD, DURBIN, and TOM UDALL in the introduction of the Garrett Lee Smith Memorial Reauthorization Act. This bill, which is dedicated to the son of our former colleague Senator Gordon Smith, would bolster the ability of the Substance Abuse and Mental Health Administration to help prevent suicide among our nation's youth.

My efforts during the original enactment of this law, and now this reauthorization, have been focused on enhancing suicide prevention programs on college campuses. Suicide is the second leading cause of death among college-age students in the United States, with some 1,100 deaths by suicide occurring in this age group each year. Indeed, we can and must do more to curb this trend.

The reauthorization bill we are introducing today would expand existing federally-funded efforts on campuses beyond outreach, education, and awareness about suicide and suicide prevention to include funding for services and the hiring of appropriately trained personnel. These provisions stem from a bill that I introduced in the 108th Congress, the Campus Care and Counseling Act, and I am pleased that they are included in the reauthorization efforts of this law. I thank Senator DODD for his leadership and hard work on this bill, and I look forward to continuing efforts with my colleagues to move this bill in the 112th Congress.

By Mr. DODD (for himself and Mr. MENENDEZ):

S. 4044. A bill to reauthorize and strengthen the Combating Autism Act of 2006 (Public Law 109-416), to establish a National Institute of Autism Spectrum Disorders, to provide for the continuation of certain programs relating to autism, to establish programs to provide services to individuals with autism and the families of such individuals and to increase public education and awareness of autism, and for other

purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Combating Autism Act, CAA, Reauthorization. Six years ago, my former colleague Senator Rick Santorum and I introduced the original CAA to expand Federal investment for Autism research, services, treatment, and awareness efforts. The bill was signed into law by President Bush following a nearly unanimous Congressional vote. The original CAA made great strides in addressing the growing public health problem. However, our work remains unfinished and essential programs are set to expire in 2011. For this reason, joined by my colleague Senator ROBERT MENENDEZ, I am introducing a reauthorization bill to strengthen the existing federal, state, and local efforts.

Autism is one form of Autism Spectrum Disorder, ASD, a group of developmental disabilities caused by atypical brain development. It is a severe neurological disorder that affects language, cognition, emotional development, and the ability to relate and interact with others. Current estimates suggest that over 1 million Americans suffer from some form of autism.

Individuals with ASD tend to have challenges and difficulties with social and communication skills. Many people with ASD also have unique ways of learning, paying attention, or reacting to different sensations. ASD begins during early childhood and lasts throughout a person's life. As the name "autism spectrum disorder" implies, ASD covers a continuum of behaviors and abilities.

Autism is a profound condition that can have a devastating effect on children and their families. We as a nation must devote significantly increased resources to finding answers to the many questions surrounding autism. Families struggling to raise a child with autism deserve our support, and they deserve answers. The legislation we are working to reauthorize will help us continue the journey towards a better understanding of autism and better supporting those living with this difficult condition.

The original CAA represented the largest Federal investment of funding and programs for children and families with autism. The law expanded Federal investment for Autism research through NIH; services, diagnosis and treatment through HRSA; and surveillance and awareness efforts through the CDC. As a result of these efforts, we made significant advances in the understanding of autism. For example, we identified several autism susceptibility genes that are leading to drug discovery and earlier detection of infants at risk for ASD. Our Nation's researchers are now investigating the links between environmental exposures and autism. We improved methods for

autism screening and recommendation for universal autism screening at well baby check-ups. We even developed effective early intervention methods for toddlers with autism.

Unfortunately, major provisions of CAA are set to sunset in 2011. Although some Federal efforts on autism would undoubtedly continue without a reauthorization, the autism community would experience a disastrous loss of momentum. Autism is the fastest growing developmental disability in the Nation. For unknown reasons, the number of children diagnosed with autism has skyrocketed in recent years, from one in 10,000 children born 15 years ago to approximately one in 110 children born today. Although it is more common than Down syndrome, childhood cancer, and cystic fibrosis, autism research currently receives less funding than these other childhood diseases.

Our reauthorization bill would ensure that these critical programs continue, including CDC surveillance programs, HRSA intervention and training programs, and the Interagency Autism Coordinating Committee, IACC. We are building upon the success of the original CAA by making additional investments in an array of service related activities. We create a one-time, single year planning and multiyear service provision demonstration grant programs to States, public, or private non-profit entities. We establish a national technical assistance center to gather and disseminate information on evidence-based treatments, interventions, and services; and, we authorize multiyear grants to provide interdisciplinary training, continuing education, technical assistance, and information to improve services rendered to individuals with ASD and their families.

Finally, we create a new National Institute of Autism Spectrum Disorders within NIH, to consolidate CCA funding and accelerate research focused on prevention, treatment, services, and cures. A cross-agency institute with an aggressive, coordinated, and targeted research agenda aimed at improving the lives of individuals with autism is needed to address the challenges posed by a complex condition that involves many areas of science and services research. It also will provide our research community with a more predictable and accountable budget environment for disorder affecting individuals on this scale.

Over the course of my career I have had the opportunity to meet with several families who are affected by Autism. The parents of children with this disorder are some of the most dedicated and perseverant I have ever worked with. They do more than simply rise to the challenge they have been presented with. They stand up and fight. They fight for themselves, they

fight for their community, and they fight for generations to come, but most of all, they fight for their children. I want to thank these families and their children for sharing their stories and their strength with me. Their stories, anecdotes and struggles give a face to the people all across the country whose lives are touched by this important research, and hearing about them help us to do our jobs better. The CAA would be nothing without them.

Last but certainly not least, I would like to take this opportunity to thank the disability, and more specifically, the autism community and advocacy organizations who have worked tirelessly on this bill. The magnitude and importance of their work on this legislation and other related initiatives will never be properly recognized. There are few advocacy groups that pursue their goals and priorities with as much fervor and fortitude as this community. They have an incredibly challenging but critically important job, and I would like to thank them for their hard work and support throughout the years. None of this progress could have been made without them.

It is my hope that introducing this reauthorization bill will build momentum for the efforts of my colleagues during the 112th Congress, and I would like to thank Senator MENENDEZ for his willingness to lead the charge into next Congress. Senator MENENDEZ has been a great partner on so many issues over the years and I am happy that he will be here next Congress to lead the efforts on this reauthorization.

The CAA was a bipartisan, bicameral bill. That must continue next Congress. I hope that my colleagues will support this important legislation. We must continue to build upon these successes and ensure more communities are better equipped to address this complex public health issue.

By Mr. SPECTER:

S. 4045. A bill to amend section 924 of title 18, United States Code, to clarify and strengthen the armed career criminal provisions, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I have sought recognition to introduce today a bill that strengthens the Armed Career Criminal Act in response to a series of Supreme Court rulings, which wrongly have restricted when and how the Act is applied, and have caused unnecessary and costly litigation with inconsistent results throughout our Federal court system. The Department of Justice has provided extensive technical assistance in the drafting of this bill over many months. I am introducing this legislation, so the next Congress can have my views on this subject.

The Armed Career Criminal Act provides certain and harsh penalties for criminals who are considered espe-

cially dangerous because of their prior serious criminal convictions and subsequent possession of a firearm. It has proven to be one of the strongest crime fighting tools in protecting the public from repeat offenders who are armed.

The Act mandates a 15-year sentence for offenders who have already accumulated three prior convictions for a violent felony or serious drug offense, and are convicted in Federal court for possessing a firearm in violation of section 922(g) of title 18, United States Code. The Armed Career Criminal Act, also referred to as section 924(e) of title 18, United States Code, was part of the Omnibus Crime Control Act passed by the 98th Congress in 1984. The 99th Congress broadened its reach by expanding the crimes that trigger the mandatory 15 year sentence.

The Act provides Federal prosecutors with the ability to take the most dangerous and violent criminals—a small percentage responsible for as much as 70 percent of all crimes—out of circulation. Its effectiveness, however, has been seriously undermined by Supreme Court decisions that have severely limited its reach and needlessly complicated its application. Specifically, these decisions have unfairly restricted what documents a judge may review in order to determine whether a prior conviction triggers the Act's sentencing enhancement, and too narrowly restricted the Act's definition of violent crime. The bill I am introducing, called the Armed Career Criminal Sentencing Act of 2010, negates the impact of these rulings.

In *Taylor v. United States*, 495 U.S. 575, 1990, and *Shepard v. United States*, 544 U.S. 13 (2005), the Supreme Court has required that district courts apply a "categorical approach" when determining whether certain prior convictions trigger the enhanced sentence under section 924(e) of title 18, United States Code. This has led to increased litigation, as well as random and contradictory sentencing results. It has also put an unnecessary burden on the courts.

The "categorical approach" prevents Federal judges from looking at reliable evidence of the facts of qualifying prior convictions and instead only permits Federal judges to review the language of the statute of conviction and certain limited judicial records, such as the charging document, the jury instructions, and the change of plea colloquy. The Supreme Court of the United States has said that its reading of section 924(e) in this regard is colored, in part, by concern that to permit a more probing judicial inquiry could raise right-to-jury-trial issues because the sentence enhancement under section 924(e) increases the statutory maximum sentence of 10 years under section 922(g) to life imprisonment. Under *Apprendi v. New Jersey*, 530 U.S. 466, 490, 2000, a case decided after the enactment of the Armed Career Criminal

Act, any facts, other than prior convictions, which may be used to increase the sentence of a defendant beyond the statutory maximum sentence must be proven to a jury beyond a reasonable doubt.

There have been frequent instances in which armed career criminals have not been sentenced consistent with congressional intent due to this Supreme Court precedent that has significantly narrowed the applicability of section 924(e) and prevented judges from exercising their historic sentencing discretion and judgment.

Few statutory sentencing issues have led to such costly and time-consuming litigation at every level of the Federal court system as the determination of whether the broad range of criminal offenses under State and local law qualify categorically as crimes of violence or serious drug trafficking offenses.

Among the 50 States and territories, there are significant disparities in the content and formulation of State and local criminal laws. There are also differing charging and recordkeeping practices. Based on such fortuities as this, the Supreme Court's precedent has caused an irrational divergence of Armed Career Criminal Act sentences. Fundamental principles of equality and fair treatment, as well as the imperative of vigorously protecting public safety, require far more uniform administration and implementation of the sentencing provisions under section 924(e).

Federal judges are capable of examining and evaluating reliable evidence to determine if a particular conviction or series of convictions merits enhancement and should be entrusted to continue their historic role as sentencing fact finders.

The solution to this problem is simple. The bill I am introducing today eliminates the "categorical approach" and allows judges to return to their traditional sentencing roles and to make the sentencing judgments traditionally assigned to courts. The bill accomplishes this by lowering the maximum sentence under section 924(e) from life to 25 years, and increasing the maximum sentence under section 922(g) from 10 years to 25 years. Equalizing the maximum sentences for the two statutes means that when a judge enhances a sentence for a section 922(g) conviction, as permitted by section 924(e) for armed career criminals, the judge will not increase the statutory maximum sentence of section 922(g) and therefore necessarily avoids any implication of Appendi principles. The Congressional Research Service has reviewed and agreed with this legal analysis.

Because sentences for violations of section 922(g) of title 18, United States Code, by individuals who are not armed career criminals will commonly fall in the range of 10 years or less by oper-

ation of the advisory sentencing guidelines and the reasonable judgment of the sentencing courts, I do not anticipate that there will be many resulting changes in the length of sentence for those individuals, although the increased statutory maximum will apply.

The Armed Career Criminal Act currently defines "violent felony" as "any crime punishable by imprisonment for [more than] one year . . . that . . . (i) has as an element the use, attempted use, or threatened use of physical force against . . . another . . . or . . . (ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another." 18 U.S.C. § 924(e)(2)(B).

To date, the Supreme Court has decided four cases (with another to be argued next month) in an attempt to clarify which State and local violent crime offenses qualify as sentencing enhancements under the Armed Career Criminal Act. In all but one, the Court has too narrowly restricted the Act's definition of violent crime.

Despite the clear language in section 924(e)(2)(B)(ii) that a violent crime includes "conduct that presents a serious potential risk of injury to another," the Court has read this so-called "residual clause" to only apply to crimes that typically involve purposeful, violent, and aggressive conduct—even though there is no such limiting language to be found in the statute's definition of violent crime.

Thus, in *United States v. Begay*, 553 U.S. 137, 2008, the Court found that 11 felony DUI convictions did not qualify as conduct that presents a serious risk of physical injury to another. In *Chambers v. United States*, 129 S. Ct. 687, 2009, the Court held that the crime of failure to report to prison, which is the crime of escape, was a "far cry from the purposeful, violent, and aggressive conduct" required to qualify as a violent crime.

The Supreme Court has also too narrowly restricted the violent felony definition in section 924(e)(2)(B)(i) by holding that the use of physical force against another as an element of a crime must include violent force. In *Johnson v. United States*, 130 S. Ct. 1265, 1271, 2010, the Supreme Court held that a battery conviction under Florida law did not qualify for the Act's sentencing enhancement because "[w]e think it clear that in the context of a statutory definition of 'violent felony,' the phrase 'physical force' means violent force—that is, force capable of causing physical pain or injury to another person." Again, those words—violent force—are nowhere in the statute's definition.

The bill I am introducing today simply and clearly defines qualifying violent crime in two ways—by elements and by conduct—and does not require violent force, just physical force. It

also removes the violent crime definition from the so-called "residual clause" to prevent limitations being read by the Court into its meaning. Under the bill, violent crime includes crimes that have as an element—the use, attempted use, or threatened use of physical force, however slight, against the person of another individual, or that serious bodily injury intentionally, knowingly, or recklessly resulted from the offense conduct.

The bill also defines violent crime to include offenses that, without regard to the formal elements of the crime, involved conduct that presented a serious potential risk of bodily injury to another or intentionally, knowingly, or recklessly resulted in serious bodily injury to another.

Finally, to ensure that an inflexible application of section 924(e) does not result in overly harsh results, this bill gives prosecutors the discretion to file a notice advising the defendant and the court whether the prosecutor will seek to invoke all, some, or none of the prior convictions of the defendant to trigger the penalty enhancement. This is done already for Federal drug penalty enhancements and works well.

By making these simple changes, we can be assured that fundamental principles of equality and fair treatment are followed, and that public safety will be vigorously protected. I urge my colleagues to pass the Armed Career Criminal Sentencing Act of 2010.

By Mr. KERRY:

S. 4046. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodations in employment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KERRY. Mr. President, America was founded on the principle of religious freedom. Many of us are descended not just from the Pilgrims, but from so many others Catholics, Jews, and many more who fled persecution in search of a land where they could practice their religion and simply be who they are. Our very Constitution exists to secure the blessings of that freedom to ourselves and to our children.

Even so, charges of religious discrimination in the workplace have been on the rise for more than a decade. Between 1992 and 2007, the latest period for which we have data, claims of religious discrimination filed with the Equal Employment Opportunity Commission have more than doubled, from 1,388 to 2,880. There is no way to tell how many people simply quit their job rather than complain.

But in a Nation founded on freedom of religion, no American should ever have to choose between keeping a job and keeping faith with their cherished religious beliefs and traditions. I have been deeply involved in this issue since

1996 and once again I am introducing the Workplace Religious Freedom Act.

The Workplace Religious Freedom Act is designed to protect people who encounter on-the-job discrimination because of their religious beliefs and practices. It protects, within reason, time off for religious observances. It protects the wearing of yarmulkes, hijabs, turbans and Mormon garments—all the distinctive marks of religious practices, all the things that people of faith should never be forced to hide.

Writing religious freedom into law is not easy. I have been trying to make the Workplace Religious Freedom Act law for 15 years. I have worked with a range of partners from Senator Santorum and Senator BROWNBACK to Senator LIEBERMAN, and most recently Senator HATCH and I have been working together behind the scenes to move this issue forward. In doing so, it has been a difficult challenge to balance so many interests and legitimate concerns and to keep up with changing times.

This bill represents years of discussion about religious tolerance and equal treatment and is a compromise between many different views. I hope it serves as the beginning of a new discussion as to how we can move forward in the next Congress and beyond because addressing this issue is long overdue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 4046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Workplace Religious Freedom Act of 2010”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) In enacting title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) (referred to in this Act as “title VII”), Congress—

(A) recognized the widespread incidence of and harm caused by religious discrimination in employment;

(B) expressly intended to establish that religion is a class protected from discrimination in employment, as race, color, sex, and national origin are protected classes; and

(C) recognized that, absent undue hardship, a covered employer's failure to reasonably accommodate an employee's religious practice is discrimination within the meaning of that title.

(2) Eradicating religious discrimination in employment is essential to reach the goal of full equal employment opportunity in the United States.

(3) In *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63 (1977), the Supreme Court held that an employer could deny an employee's request for religious accommodation based on any burden greater than a de minimus burden on the employer, and thus narrowed the scope of protection of title VII against religious discrimination in employment, contrary to the intent of Congress.

(4) As a consequence of the *Hardison* decision and resulting appellate and trial court decisions, discrimination against employees on the basis of religion in employment continues to be an unfortunate and unacceptable reality.

(5) Federal, State, and local government, and private employers have a history and have established a continuing pattern of discrimination in unreasonably denying religious accommodations in employment, including in the areas of garb, grooming, and scheduling.

(6) Although this Act addresses requests for accommodation with respect to garb, grooming, and scheduling due to employees' religious practices, enactment of this Act does not represent a determination that other religious accommodation requests do not deserve similar attention or future resolution by Congress.

(7) The Supreme Court has held in *Fitzpatrick v. Bitzer*, 427 U.S. 445 (1976) that Congress has clearly authorized Federal courts to award monetary damages in favor of a private individual against a State government found in violation of title VII, and this holding is supported by *Quern v. Jordan*, 440 U.S. 332 (1979).

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to address the history and widespread pattern of discrimination by private sector employers and Federal, State, and local government employers in unreasonably denying religious accommodations in employment, specifically in the areas of garb, grooming, and scheduling;

(2) to provide a comprehensive Federal prohibition of employment discrimination on the basis of religion, including that denial of accommodations, specifically in the areas of garb, grooming, and scheduling;

(3) to confirm Congress' clear and continuing intention to abrogate States' 11th amendment immunity from claims made under title VII; and

(4) to invoke congressional powers to prohibit employment discrimination, including the powers to enforce the 14th amendment, and to regulate interstate commerce pursuant to section 8 of article I of the Constitution, in order to prohibit discrimination on the basis of religion, including unreasonable denial of religious accommodations, specifically in the areas of garb, grooming, and scheduling.

SEC. 4. AMENDMENTS.

(a) DEFINITIONS.—Section 701(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(j)) is amended—

(1) by inserting “(1)” after “(j)”;

(2) in paragraph (1), as so designated, by striking “he is unable” and inserting “the employer is unable, after initiating and engaging in an affirmative and bona fide effort,”; and

(3) by adding at the end the following:

“(2) For purposes of paragraph (1), with respect to the practice of wearing religious clothing or a religious hairstyle, or of taking time off for a religious reason, an accommodation of such a religious practice—

“(A) shall not be considered to be a reasonable accommodation unless the accommodation removes the conflict between employment requirements and the religious practice of the employee;

“(B) shall be considered to impose an undue hardship on the conduct of the employer's business only if the accommodation imposes a significant difficulty or expense on the conduct of the employer's business when considered in light of relevant factors set

forth in section 101(10)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(10)(B)) (including accompanying regulations); and

“(C) shall not be considered to be a reasonable accommodation if the accommodation requires segregation of an employee from customers or the general public.

“(3) In this subsection:

“(A) The term ‘taking time off for a religious reason’ means taking time off for a holy day or to participate in a religious observance.

“(B) The term ‘wearing religious clothing or a religious hairstyle’ means—

“(i) wearing religious apparel the wearing of which is part of the observance of the religious faith practiced by the individual;

“(ii) wearing jewelry or another ornament the wearing of which is part of the observance of the religious faith practiced by the individual;

“(iii) carrying an object the carrying of which is part of the observance of the religious faith practiced by the individual; or

“(iv) adopting the presence, absence, or style of a person's hair or beard the adoption of which is part of the observance of the religious faith practiced by the individual.”.

SEC. 5. EFFECTIVE DATE; APPLICATION OF AMENDMENTS; SEVERABILITY.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by section 4 take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—This Act and the amendments made by section 4 do not apply with respect to conduct occurring before the date of enactment of this Act.

(c) NO DIMINUTION OF RIGHTS.—With respect to religious practices not described in section 701(j)(2) of the Civil Rights Act of 1964, as amended by section 4(a)(3), nothing in this Act or an amendment made by this Act shall be construed to diminish any right that may exist, or remedy that may be available, on the day before the date of enactment of this Act, for discrimination in employment because of religion by reason of failure to provide a reasonable accommodation of a religious practice, pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(d) SEVERABILITY.—

(1) IN GENERAL.—If any provision of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of the amendments made by this Act and the application of the provision to any other person or circumstance shall not be affected.

(2) DEFINITION OF RELIGION.—If, in the course of determining a claim brought under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), a court holds that the application of the provision described in paragraph (1) to a person or circumstance is unconstitutional, the court shall determine the claim with respect to that person or circumstance by applying the definition of the term “religion” specified in section 701 of that Act (42 U.S.C. 2000e), as in effect on the day before the date of enactment of this Act.

By Mrs. FEINSTEIN (for herself and Mr. LEAHY):

S. 4048. A bill to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005, the Intelligence Reform and Terrorism Prevention Act of 2004, and the FISA

Amendments Act of 2008 until December 31, 2013, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am introducing today, on behalf of Senator LEAHY, Chairman of the Committee on the Judiciary and myself the FISA Sunsets Extension Act of 2010. Since early in this Congress, I have been working with Chairman LEAHY, both in my capacity as Chairman of the Select Committee on Intelligence and as a member of the Judiciary Committee, to enact legislation that extends expiring authorities for the collection of foreign intelligence against terrorists, proliferators, foreign powers, and spies, while ensuring that adequate safeguards exist for the protection of the civil liberties and privacy of Americans.

To that end, the Judiciary Committee reported, in October 2009, S. 1692, a bill that sought to accomplish two main objectives. One was to extend the life of three authorities under FISA which were then due to sunset on December 31, 2009, described as roving, lone wolf, and business records collection, all of which have been previously described to the Senate during the consideration of earlier extensions. Through two short-term measures, those sunsets have been extended to February 28, 2010.

The other main objective was to secure several amendments to statutes on intelligence collection that would improve the balance they strike between protecting national security and protecting civil liberties and privacy. In the course of this Congress, this second objective has been largely achieved through actions that have been taken by the Department of Justice and the FBI under administrative actions. On reviewing those actions, which have been described in a letter from the Attorney General to Chairman LEAHY on December 9, 2010, Chairman LEAHY and I have determined that the one remaining action that we need to take legislatively this Congress is to extend the three important authorities that are now due to sunset on February 28, 2010. The Feinstein-Leahy bill will extend these sunsets to the same date as proposed in S. 1692, December 31, 2013. The Attorney General and the Director of National Intelligence have asked the Congress to extend these authorities.

Additionally, the authority established by the FISA Amendments Act of 2008, regarding collection of foreign intelligence against persons reasonably believed to be outside of the United States, is scheduled to sunset on December 31, 2012. The Feinstein-Leahy bill would extend that authority for one year, to December 31, 2013, so that all of the sunsets of authority under FISA occur on the same date. This will allow the Congress to consider all of the temporary authorities in conjunction.

By acting now on these approaching sunsets, Congress will ensure stability in the foreign intelligence collection system at a time of heightened threat levels and guarantee there are no inadvertent gaps in FISA collection at the beginning of next year.

I urge my colleagues to support this legislation so we can achieve enactment this session.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 78—HONORING THE WORK AND MISSION OF THE DELTA REGIONAL AUTHORITY ON THE OCCASION OF THE 10TH ANNIVERSARY OF THE FEDERAL-STATE PARTNERSHIP CREATED TO UPLIFT THE 8-STATE DELTA REGION

Mr. COCHRAN (for himself and Mrs. LINCOLN) submitted the following concurrent resolution; which was referred to the Committee on Environment and Public Works:

S. CON. RES. 78

Whereas President Clinton, with the approval of Congress and the bipartisan support of congressional sponsors, representing the States of the Delta in both the House of Representatives and the Senate, launched the Delta Regional Authority on December 21, 2000, in an effort to alleviate the economic hardship facing the Delta region and to create a more level playing field for the counties and parishes of such States to compete for jobs and investment;

Whereas the Delta Regional Authority is a Federal-State partnership that serves 252 counties and parishes in parts of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;

Whereas the Delta region holds great promise for access and trade, as the region borders the world's greatest transportation arterial in the Mississippi River;

Whereas the Delta boasts a strong cultural heritage as the birthplace of the blues and jazz music and as home to world famous cuisine, which people throughout the United States and the world identify with the region;

Whereas the counties and parishes served by the Delta Regional Authority constitute an economically-distressed area facing challenges such as undeveloped infrastructure systems, insufficient transportation options, struggling education systems, migration out of the region, substandard health care, and the needs to develop, recruit, and retain a qualified workforce and to build strong communities that attract new industries and employment opportunities;

Whereas the Delta Regional Authority has made significant progress toward addressing such challenges during its first 10 years of work;

Whereas the Delta Regional Authority operates a highly successful grant program in each of the 8 States it serves, allowing cities, counties, and parishes to leverage money from other Federal agencies and private investors;

Whereas the Delta Regional Authority has invested nearly \$86,200,000 into more than 600 projects during the first decade of existence,

leveraging \$1,400,000,000 in private sector investment and producing an overall 22 to 1 return on taxpayer dollars;

Whereas the Delta Regional Authority is working with partners to create or retain approximately 19,000 jobs and is bringing the critical infrastructure to sustain new water and sewer services for more than 43,000 families;

Whereas an independent report from the Department of Agriculture's Economic Research Service found that per capita income grew more rapidly in counties and parishes where the Delta Regional Authority had the greatest investment, showing that each additional dollar of Delta Regional Authority's per capita spending results in a \$15 increase in personal income;

Whereas the Delta Regional Authority has developed a culture of transparency, passing 9 independent audits showing tangible results;

Whereas during its first 10 years, the Delta Regional Authority has laid a strong foundation for working with State Governors, Federal partners, community leaders, and private sector investors to capitalize on the region's strong points and serve as an economic multiplier for the 8-State region, helping communities tackle challenges and cultivating a climate conducive to job creation;

Whereas the Delta Regional Authority has expanded its regional initiatives in the areas of health care, transportation, leadership training, and information technology, and is also increasing efforts in the areas of small business development, entrepreneurship, and alternative energy jobs; and

Whereas the Delta Regional Authority stands prepared to use the groundwork established during its first decade as a springboard to create new opportunities for Delta communities in the future: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes the 10th anniversary of the founding of the Delta Regional Authority; and

(2) honors and celebrates the Delta Regional Authority's first decade of work to improve the economy and well-being of the 8-State Delta region, and the promise of the Delta Regional Authority's continued work in the future.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4833. Mr. INHOFE submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4834. Mr. KERRY (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5901, to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees.

SA 4835. Mr. KERRY (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5901, *supra*.

SA 4836. Mr. KERRY (for Mr. JOHANNES) proposed an amendment to the bill S. 1481, to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

SA 4837. Mr. MCCAIN submitted an amendment intended to be proposed to amendment

SA 4827 proposed by Mr. REID to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes; which was ordered to lie on the table.

SA 4838. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 4827 proposed by Mr. REID to the bill H.R. 2965, supra; which was ordered to lie on the table.

SA 4839. Mr. RISCH (for himself, Mr. CORNYN, Mr. INHOFE, and Mr. LEMIEUX) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4840. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4841. Mr. THUNE submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4842. Mr. THUNE submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4843. Mr. BINGAMAN (for Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. ALEXANDER, Mr. LIEBERMAN, Mr. COONS, and Mr. BROWN of Massachusetts)) proposed an amendment to the bill H.R. 5116, to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

SA 4844. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 5281, to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; which was ordered to lie on the table.

SA 4845. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 303, to reauthorize and improve the Federal Financial Assistance Management Improvement Act of 1999; which was ordered to lie on the table.

SA 4846. Mr. VITTER (for himself, Mr. RISCH, Mr. INHOFE, and Mr. BARRASSO) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4847. Mr. LEMIEUX (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4833. Mr. INHOFE submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010,

with Protocol; which was ordered to lie on the table; as follows:

In paragraph 2 of section VI of Part V of the Protocol to the New START Treaty, strike “a total of no more than ten Type One inspections” and insert “a total of no more than thirty Type One inspections”.

In paragraph 2 of section VII of Part V of the Protocol to the New START Treaty, strike “a total of no more than eight Type Two inspections” and insert “a total of no more than twenty-four Type Two inspections”.

SA 4834. Mr. KERRY (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5901, to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORITY OF TAX COURT TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 of the Internal Revenue Code of 1986 (relating to employees) is amended to read as follows:

“(a) APPOINTMENT AND COMPENSATION.—

“(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

“(2) JUDGE-APPOINTED EMPLOYEES.—

“(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint employees, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the appointing judge.

“(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the law clerk's credit as of the effective date of this subsection shall remain credited to the law clerk and shall be available to the law clerk upon separation from the Federal Government.

“(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

“(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in courts established under Article III of the Constitution of the United States.

“(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

“(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

“(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

“(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

“(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

“(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

“(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

“(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

“(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

“(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

“(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

“(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

“(10) MERIT SYSTEM PRINCIPLES, PROHIBITED PERSONNEL PRACTICES, AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

“(A) include the principles set forth in section 2301(b) of title 5, United States Code;

“(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

“(C) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SA 4835. Mr. KERRY (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5901, to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees; as follows:

Amend the title so as to read: “An Act to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees.”.

SA 4836. Mr. KERRY (for Mr. JOHANNES) proposed an amendment to the bill S. 1481, to amend section 811 of

the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities; as follows:

On page 19, line 9, strike “811(k)(1) is amended by adding the following” and insert the following: “811(k) is amended—

“(1) in paragraph (1), by adding the following”

On page 19, line 16, strike the second period and insert the following: “; and”.

On page 19, between lines 16 and 17, insert the following:

(2) in paragraph (4)—

(A) by striking “prescribe, subject to the limitation under subsection (h)(6) of this section” and inserting “prescribe”;

(B) by adding the following after the first sentence: “Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.”

On page 20, strike line 4 and all that follows through page 25, line 14, and insert the following:

SEC. 4. PROJECT RENTAL ASSISTANCE.

Section 811(b) is amended—

(1) in the matter preceding paragraph (1), by striking “is authorized—” and inserting “is authorized to take the following actions”;

(2) in paragraph (1)—

(A) by striking “(1) to provide tenant-based” and inserting “(1) TENANT-BASED ASSISTANCE.—To provide tenant-based”;

(B) by striking “; and” and inserting a period;

(3) in paragraph (2), by striking “(2) to provide assistance” and inserting “(2) CAPITAL ADVANCES.—To provide assistance”;

(4) by adding at the end the following:

“(3) PROJECT RENTAL ASSISTANCE.—

“(A) IN GENERAL.—To offer additional methods of financing supportive housing for non-elderly adults with disabilities, the Secretary shall make funds available for project rental assistance pursuant to subparagraph (B) for eligible projects under subparagraph (C). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and entities for dwelling units in eligible projects based upon criteria established by the Secretary. The Secretary may not require any State housing finance agency or other entity applying for such project rental assistance funds to identify in such application the eligible projects for which such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in subparagraph (C)(ii).

“(B) CONTRACT TERMS.—

“(i) CONTRACT TERMS.—Project rental assistance under this paragraph shall be provided—

“(I) in accordance with subsection (d)(2); and

“(II) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration,

subject to the availability of sufficient amounts in appropriation Acts.

“(ii) LIMITATION ON UNITS ASSISTED.—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under this paragraph is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

“(iii) PROHIBITION OF CAPITAL ADVANCES.—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under this paragraph.

“(iv) ELIGIBLE POPULATION.—Project rental assistance under this paragraph may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

“(C) ELIGIBLE PROJECTS.—An eligible project under this subparagraph is a new or existing multifamily housing project for which—

“(i) the development costs are paid with resources from other public or private sources; and

“(ii) a commitment has been made—

“(I) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

“(II) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

“(III) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

“(D) STATE AGENCY INVOLVEMENT.—Assistance under this paragraph may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

“(i) to identify the target populations to be served by the project;

“(ii) to set forth methods for outreach and referral; and

“(iii) to make available appropriate services for tenants of the project.

“(E) USE REQUIREMENTS.—In the case of any project for which project rental assistance is provided under this paragraph, the dwelling units assisted pursuant to subparagraph (B) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in subparagraph (B)(iv).

“(F) REPORT.—Not later than 3 years after the date of the enactment of this paragraph, and again 2 years thereafter, the Secretary shall submit to Congress a report—

“(i) describing the assistance provided under this paragraph;

“(ii) analyzing the effectiveness of such assistance, including the effectiveness of such assistance compared to the assistance program for capital advances set forth under subsection (d)(1) (as in effect pursuant to the amendments made by such Act); and

“(iii) making recommendations regarding future models for assistance under this section.”.

On page 28, line 20, strike “(1)” and all that follows through “Act)” on line 21, and insert “(k)”.

On page 29, strike line 1, and all that follows through page 30, line 23, and inserting the following:

(B) in paragraph (2), by striking the first sentence, and inserting the following: “The term ‘person with disabilities’ means a household composed of one or more persons who is 18 years of age or older and less than 62 years of age, and who has a disability.”;

On page 31, line 23, strike “(m)” and all that follows through “Act)” on line 24, and insert “(l)”.

On page 32, strike lines 7 through 24, and insert the following:

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Subsection (m) of section 811 is amended to read as follows:

“(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for providing assistance pursuant to this section \$300,000,000 for each of fiscal years 2011 through 2015.”.

On page 33, strike lines 1 through 9.

On page 33, line 10, strike “SEC. 8.” and insert “SEC. 7.”

SA 4837. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4827 proposed by Mr. REID to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes; which was ordered to lie on the table; as follows:

In section 2, as reported pursuant to Senate amendment 4827, strike “subsection (f)” each place it appears and insert “subsection (g)”.

In subsection (b)(2) of such section, redesignate subparagraph (C) as subparagraph (D) and insert after subparagraph (B) the following new subparagraph (C):

(C) That the report required by subsection (e) regarding the costs of implementing a repeal of section 654 of title 10, United States Code, has been completed and received by the congressional defense committees.

Redesignate subsections (e) and (f) of such section as subsections (f) and (g), respectively, and insert after subsection (d) the following new subsection (e):

(e) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report setting forth a detailed estimate of the costs of implementing a repeal of section 654 of title 10, United States Code, through fiscal year 2015, including an estimate of the costs of implementing—

(1) training and education programs and related materials and contractor support; and

(2) increased or new personnel benefits related to housing, pay, allowances, and the establishment of new relationship statuses for benefits eligibility.

SA 4838. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 4827 proposed by Mr. REID to the bill H.R. 2965, to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other

purposes; which was ordered to lie on the table; as follows:

In section 2(b), as reported pursuant to Senate amendment 4827, strike the stem of paragraph (2) and paragraph (2)(A) and insert the following:

(2) The President transmits to the congressional defense committees a written certification, signed by the President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and each of the Joint Chiefs of Staff, stating each of the following:

(A) That the President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and each of the Joint Chiefs of Staff have considered the recommendations contained in the report and the report's proposed plan of action.

SA 4839. Mr. RISCH (for himself, Mr. CORNYN, Mr. INHOFE, and Mr. LEMIEUX) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In the preamble to the New START Treaty, insert after "strategic offensive arms of the Parties," the following:

Acknowledging there is an interrelationship between non-strategic and strategic offensive arms, that as the number of strategic offensive arms is reduced this relationship becomes more pronounced and requires an even greater need for transparency and accountability, and that the disparity between the Parties' arsenals could undermine predictability and stability.

SA 4840. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In Part One of the Protocol to the New START Treaty, in paragraph 45. (35.), strike "and the self-propelled device on which it is mounted" and insert "and the self-propelled device or railcar or flatcar on which it is mounted".

In Part One of the Protocol to the New START Treaty, in paragraph 57. (45.) (c), insert "or railcar or flatcar" after "self-propelled device".

SA 4841. Mr. THUNE submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In section 1(a) of Article II of the Treaty, strike "700, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers" and insert "720, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers".

SA 4842. Mr. THUNE submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In section 1 of Article II of the Treaty, strike "(a) 700, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers" and all that follows through the period at the end of paragraph (c) and insert the following:

"(a) 800, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers;

(b) 1550, for warheads on deployed ICBMs, warheads on deployed SLBMs, and nuclear warheads counted for deployed heavy bombers.

SA 4843. Mr. BINGAMAN (for Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. ALEXANDER, Mr. LIEBERMAN, Mr. COONS, and Mr. BROWN of Massachusetts)) proposed an amendment to the bill H.R. 5116, to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—this Act may be cited as the "America COMPETES Reauthorization Act of 2010" or the "America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010".

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Budgetary impact statement.

TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Sec. 101. Coordination of Federal STEM education.

Sec. 102. Coordination of advanced manufacturing research and development.

Sec. 103. Interagency public access committee.

Sec. 104. Federal scientific collections.

Sec. 105. Prize competitions.

TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Sec. 201. NASA's contribution to innovation and competitiveness.

Sec. 202. NASA's contribution to education.

Sec. 203. Assessment of impediments to space science and engineering workforce development for minority and under-represented groups at NASA.

Sec. 204. International Space Station's contribution to national competitiveness enhancement.

Sec. 205. Study of potential commercial orbital platform.

Sec. 206. Definitions.

TITLE III—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Sec. 301. Oceanic and atmospheric research and development program.

Sec. 302. Oceanic and atmospheric science education programs.

Sec. 303. Workforce study.

TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

Sec. 401. Short title.

Sec. 402. Authorization of appropriations.

Sec. 403. Under Secretary of Commerce for Standards and Technology.

Sec. 404. Manufacturing Extension Partnership.

Sec. 405. Emergency communication and tracking technologies research initiative.

Sec. 406. Broadening participation.

Sec. 407. NIST Fellowships.

Sec. 408. Green manufacturing and construction.

Sec. 409. Definitions.

TITLE V—SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS SUPPORT PROGRAMS

SUBTITLE A—NATIONAL SCIENCE FOUNDATION

Sec. 501. Short title.

Sec. 502. Definitions.

Sec. 503. Authorization of appropriations.

Sec. 504. National Science Board administrative amendments.

Sec. 505. National Center for Science and Engineering statistics.

Sec. 506. National Science Foundation manufacturing research and education.

Sec. 507. National Science Board report on mid-scale instrumentation.

Sec. 508. Partnerships for innovation.

Sec. 509. Sustainable chemistry basic research.

Sec. 510. Graduate student support.

Sec. 511. Robert Noyce teacher scholarship program.

Sec. 512. Undergraduate broadening participation program.

Sec. 513. Research experiences for high school students.

Sec. 514. Research experiences for undergraduates.

Sec. 515. STEM industry internship programs.

Sec. 516. Cyber-enabled learning for national challenges.

Sec. 517. Experimental Program to Stimulate Competitive Research.

Sec. 518. Sense of the Senate regarding the science, technology, engineering, and mathematics talent expansion program.

Sec. 519. Sense of the Senate regarding the National Science Foundation's contributions to basic research and education.

Sec. 520. Academic technology transfer and commercialization of university research.

Sec. 521. Study to develop improved impact-on-society metrics.

Sec. 522. NSF grants in support of sponsored post-doctoral fellowship programs.

Sec. 523. Collaboration in planning for stewardship of large-scale facilities.

Sec. 524. Cloud computing research enhancement.

Sec. 525. Tribal colleges and universities program.

Sec. 526. Broader impacts review criterion.

Sec. 527. Twenty-first century graduate education.

SUBTITLE B—STEM-TRAINING GRANT PROGRAM

Sec. 551. Purpose.

Sec. 552. Program requirements.

Sec. 553. Grant program.

Sec. 554. Grant oversight and administration.

Sec. 555. Definitions.

Sec. 556. Authorization of appropriations.

TITLE VI—INNOVATION

Sec. 601. Office of innovation and entrepreneurship.

Sec. 602. Federal loan guarantees for innovative technologies in manufacturing.

Sec. 603. Regional innovation program.

Sec. 604. Study on economic competitiveness and innovative capacity of United States and development of national economic competitiveness strategy.

Sec. 605. Promoting use of high-end computing simulation and modeling by small- and medium-sized manufacturers.

TITLE VII—NIST GREEN JOBS

Sec. 701. Short title.

Sec. 702. Findings.

Sec. 703. National Institute of Standards and Technology competitive grant program.

TITLE VIII—GENERAL PROVISIONS

Sec. 801. Government Accountability Office review.

Sec. 802. Salary restrictions.

Sec. 803. Additional research authorities of the FCC.

TITLE IX—DEPARTMENT OF ENERGY

Sec. 901. Science, engineering, and mathematics education programs.

Sec. 902. Energy research programs.

Sec. 903. Basic research.

Sec. 904. Advanced Research Project Agency-Energy.

TITLE X—EDUCATION

Sec. 1001. References.

Sec. 1002. Repeals and conforming amendments.

Sec. 1003. Authorizations of appropriations and matching requirement.

SEC. 2. DEFINITIONS.

In this Act:

(1) **DIRECTOR.**—In title I, the term “Director” means the Director of the Office of Science and Technology Policy.

(2) **STEM.**—The term “STEM” means the academic and professional disciplines of science, technology, engineering, and mathematics.

SEC. 3. BUDGETARY IMPACT STATEMENT.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SEC. 101. COORDINATION OF FEDERAL STEM EDUCATION.

(a) **ESTABLISHMENT.**—The Director shall establish a committee under the National Science and Technology Council, including the Office of Management and Budget, with the responsibility to coordinate Federal programs and activities in support of STEM education, including at the National Science Foundation, the Department of Energy, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Department of Education, and all other Federal agencies that have programs and activities in support of STEM education.

(b) **RESPONSIBILITIES.**—The committee established under subsection (a) shall—

(1) coordinate the STEM education activities and programs of the Federal agencies;

(2) coordinate STEM education activities and programs with the Office of Management and Budget;

(3) encourage the teaching of innovation and entrepreneurship as part of STEM education activities;

(4) review STEM education activities and programs to ensure they are not duplicative of similar efforts within the Federal government;

(5) develop, implement through the participating agencies, and update once every 5 years a 5-year STEM education strategic plan, which shall—

(A) specify and prioritize annual and long-term objectives;

(B) specify the common metrics that will be used to assess progress toward achieving the objectives;

(C) describe the approaches that will be taken by each participating agency to assess the effectiveness of its STEM education programs and activities; and

(D) with respect to subparagraph (A), describe the role of each agency in supporting programs and activities designed to achieve the objectives; and

(6) establish, periodically update, and maintain an inventory of federally sponsored STEM education programs and activities, including documentation of assessments of the effectiveness of such programs and activities and rates of participation by women, underrepresented minorities, and persons in rural areas in such programs and activities.

(b) **RESPONSIBILITIES OF OSTP.**—The Director shall encourage and monitor the efforts of the participating agencies to ensure that the strategic plan under subsection (b)(5) is developed and executed effectively and that the objectives of the strategic plan are met.

(c) **REPORT.**—The Director shall transmit a report annually to Congress at the time of the President’s budget request describing the plan required under subsection (b)(5). The annual report shall include—

(1) a description of the STEM education programs and activities for the previous and current fiscal years, and the proposed programs and activities under the President’s budget request, of each participating Federal agency;

(2) the levels of funding for each participating Federal agency for the programs and activities described under paragraph (1) for the previous fiscal year and under the President’s budget request;

(3) an evaluation of the levels of duplication and fragmentation of the programs and activities described under paragraph (1);

(4) except for the initial annual report, a description of the progress made in carrying out the implementation plan, including a description of the outcome of any program assessments completed in the previous year, and any changes made to that plan since the previous annual report; and

(5) a description of how the participating Federal agencies will disseminate information about federally supported resources for STEM education practitioners, including teacher professional development programs, to States and to STEM education practitioners, including to teachers and administrators in schools that meet the criteria described in subsection (c)(1)(A) and (B) of section 3175 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381j(c)(1)(A) and (B)).

SEC. 102. COORDINATION OF ADVANCED MANUFACTURING RESEARCH AND DEVELOPMENT.

(a) **INTERAGENCY COMMITTEE.**—The Director shall establish or designate a Committee on Technology under the National Science and Technology Council. The Committee shall be responsible for planning and coordinating Federal programs and activities in advanced manufacturing research and development.

(b) **RESPONSIBILITIES OF COMMITTEE.**—The Committee shall—

(1) coordinate the advanced manufacturing research and development programs and activities of the Federal agencies;

(2) establish goals and priorities for advanced manufacturing research and development that will strengthen United States manufacturing;

(3) work with industry organizations, Federal agencies, and Federally Funded Research and Development Centers not represented on the Committee, to identify and reduce regulatory, logistical, and fiscal barriers within the Federal government and State governments that inhibit United States manufacturing;

(4) facilitate the transfer of intellectual property and technology based on federally supported university research into commercialization and manufacturing;

(5) identify technological, market, or business challenges that may best be addressed by public-private partnerships, and are likely to attract both participation and primary funding from industry;

(6) encourage the formation of public-private partnerships to respond to those challenges for transition to United States manufacturing; and

(7) develop, and update every 5 years, a strategic plan to guide Federal programs and activities in support of advanced manufacturing research and development, which shall—

(A) specify and prioritize near-term and long-term research and development objectives, the anticipated time frame for achieving the objectives, and the metrics for use in assessing progress toward the objectives;

(B) specify the role of each Federal agency in carrying out or sponsoring research and development to meet the objectives of the strategic plan;

(C) describe how the Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will foster the transfer of research and development results into new manufacturing technologies and United States based manufacturing of new products and processes for the benefit of society to ensure national, energy, and economic security;

(D) describe how Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will strengthen all levels of manufacturing education and training programs to ensure an adequate, well-trained workforce;

(E) describe how the Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will assist small- and medium-sized manufacturers in developing and implementing new products and processes; and

(F) take into consideration the recommendations of a wide range of stakeholders, including representatives from diverse manufacturing companies, academia, and other relevant organizations and institutions.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Director shall transmit the strategic plan developed under subsection (b)(7) to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science and Technology, and shall transmit subsequent updates to those committees as appropriate.

SEC. 103. INTERAGENCY PUBLIC ACCESS COMMITTEE.

(a) **ESTABLISHMENT.**—The Director shall establish a working group under the National Science and Technology Council with the responsibility to coordinate Federal science agency research and policies related to the dissemination and long-term stewardship of the results of unclassified research, including digital data and peer-reviewed scholarly publications, supported wholly, or in part, by funding from the Federal science agencies.

(b) **RESPONSIBILITIES.**—The working group shall—

(1) identify the specific objectives and public interests that need to be addressed by any policies coordinated under (a);

(2) take into account inherent variability among Federal science agencies and scientific disciplines in the nature of research, types of data, and dissemination models;

(3) coordinate the development or designation of standards for research data, the structure of full text and metadata, navigation tools, and other applications to maximize interoperability across Federal science agencies, across science and engineering disciplines, and between research data and scholarly publications, taking into account existing consensus standards, including international standards;

(4) coordinate Federal science agency programs and activities that support research and education on tools and systems required to ensure preservation and stewardship of all forms of digital research data, including scholarly publications;

(5) work with international science and technology counterparts to maximize interoperability between United States based unclassified research databases and international databases and repositories;

(6) solicit input and recommendations from, and collaborate with, non-Federal stakeholders, including the public, universities, nonprofit and for-profit publishers, libraries, federally funded and non federally funded research scientists, and other organizations and institutions with a stake in long term preservation and access to the results of federally funded research;

(7) establish priorities for coordinating the development of any Federal science agency policies related to public access to the results of federally funded research to maximize the benefits of such policies with respect to their potential economic or other impact on the science and engineering enterprise and the stakeholders thereof;

(8) take into consideration the distinction between scholarly publications and digital data;

(9) take into consideration the role that scientific publishers play in the peer review process in ensuring the integrity of the record of scientific research, including the investments and added value that they make; and

(10) examine Federal agency practices and procedures for providing research reports to the agencies charged with locating and preserving unclassified research.

(c) **PATENT OR COPYRIGHT LAW.**—Nothing in this section shall be construed to undermine any right under the provisions of title 17 or 35, United States Code.

(d) **APPLICATION WITH EXISTING LAW.**—Nothing defined in section (b) shall be construed to affect existing law with respect to Federal science agencies' policies related to public access.

(e) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Director shall transmit a report to Congress describing—

(1) the specific objectives and public interest identified under (b)(1);

(2) any priorities established under subsection (b)(7);

(3) the impact the policies described under (a) have had on the science and engineering enterprise and the stakeholders, including the financial impact on research budgets;

(4) the status of any Federal science agency policies related to public access to the results of federally funded research; and

(5) how any policies developed or being developed by Federal science agencies, as described in subsection (a), incorporate input from the non-Federal stakeholders described in subsection (b)(6).

(f) **FEDERAL SCIENCE AGENCY DEFINED.**—For the purposes of this section, the term “Federal science agency” means any Federal agency with an annual extramural research expenditure of over \$100,000,000.

SEC. 104. FEDERAL SCIENTIFIC COLLECTIONS.

(a) **MANAGEMENT OF SCIENTIFIC COLLECTIONS.**—The Office of Science and Technology Policy shall develop policies for the management and use of Federal scientific collections to improve the quality, organization, access, including online access, and long-term preservation of such collections for the benefit of the scientific enterprise. In developing those policies the Office of Science and Technology Policy shall consult, as appropriate, with—

(1) Federal agencies with such collections; and

(2) representatives of other organizations, institutions, and other entities not a part of the Federal Government that have a stake in the preservation, maintenance, and accessibility of such collections, including State and local government agencies, institutions of higher education, museums, and other entities engaged in the acquisition, holding, management, or use of scientific collections.

(b) **CLEARINGHOUSE.**—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall ensure the development of an online clearinghouse for information on the contents of and access to Federal scientific collections.

(c) **DISPOSAL OF COLLECTIONS.**—The policies developed under subsection (a) shall—

(1) require that, before disposing of a scientific collection, a Federal agency shall—

(A) conduct a review of the research value of the collection; and

(B) consult with researchers who have used the collection, and other potentially interested parties, concerning—

(i) the collection's value for research purposes; and

(ii) possible additional educational uses for the collection; and

(2) include procedures for Federal agencies to transfer scientific collections they no longer need to researchers at institutions or other entities qualified to manage the collections.

(d) **COST PROJECTIONS.**—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall develop a common set of methodologies to be used by Federal agencies for the assessment and projection of costs associated with the management and preservation of their scientific collections.

(e) **SCIENTIFIC COLLECTION DEFINED.**—In this section, the term “scientific collection” means a set of physical specimens, living or inanimate, created for the purpose of supporting science and serving as a long-term research asset, rather than for their market value as collectibles or their historical, artistic, or cultural significance, and, as appropriate and feasible, the associated specimen data and materials.

SEC. 105. PRIZE COMPETITIONS.

(a) **IN GENERAL.**—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following:

“SEC. 24. PRIZE COMPETITIONS.

“(a) **DEFINITIONS.**—In this section:

“(1) **AGENCY.**—The term ‘agency’ means a Federal agency.

“(2) **DIRECTOR.**—The term ‘Director’ means the Director of the Office of Science and Technology Policy.

“(3) **FEDERAL AGENCY.**—The term ‘Federal agency’ has the meaning given under section 4, except that term shall not include any agency of the legislative branch of the Federal Government.

“(4) **HEAD OF AN AGENCY.**—The term ‘head of an agency’ means the head of a Federal agency.

“(b) **IN GENERAL.**—Each head of an agency, or the heads of multiple agencies in cooperation, may carry out a program to award prizes competitively to stimulate innovation that has the potential to advance the mission of the respective agency.

“(c) **PRIZES.**—For purposes of this section, a prize may be one or more of the following:

“(1) A point solution prize that rewards and spurs the development of solutions for a particular, well-defined problem.

“(2) An exposition prize that helps identify and promote a broad range of ideas and practices that may not otherwise attract attention, facilitating further development of the idea or practice by third parties.

“(3) Participation prizes that create value during and after the competition by encouraging contestants to change their behavior or develop new skills that may have beneficial effects during and after the competition.

“(4) Such other types of prizes as each head of an agency considers appropriate to stimulate innovation that has the potential to advance the mission of the respective agency.

“(d) **TOPICS.**—In selecting topics for prize competitions, the head of an agency shall consult widely both within and outside the Federal Government, and may empanel advisory committees.

“(e) **ADVERTISING.**—The head of an agency shall widely advertise each prize competition to encourage broad participation.

“(f) **REQUIREMENTS AND REGISTRATION.**—For each prize competition, the head of an agency shall publish a notice in the Federal Register announcing—

“(1) the subject of the competition;

“(2) the rules for being eligible to participate in the competition;

“(3) the process for participants to register for the competition;

“(4) the amount of the prize; and

“(5) the basis on which a winner will be selected.

“(g) **ELIGIBILITY.**—To be eligible to win a prize under this section, an individual or entity—

“(1) shall have registered to participate in the competition under any rules promulgated by the head of an agency under subsection (f);

“(2) shall have complied with all the requirements under this section;

“(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

“(4) may not be a Federal entity or Federal employee acting within the scope of their employment.

“(h) CONSULTATION WITH FEDERAL EMPLOYEES.—An individual or entity shall not be deemed ineligible under subsection (g) because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

“(i) LIABILITY.—

“(1) IN GENERAL.—

“(A) DEFINITION.—In this paragraph, the term ‘related entity’ means a contractor or subcontractor at any tier, and a supplier, user, customer, cooperating party, grantee, investigator, or detailee.

“(B) LIABILITY.—Registered participants shall be required to agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

“(2) INSURANCE.—Participants shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the head of an agency, for claims by—

“(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant’s insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

“(B) the Federal Government for damage or loss to Government property resulting from such an activity.

“(3) EXCEPTION.—The head of an agency may not require a participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the agency of the intellectual property, trade secrets, or confidential business information of the participant.

“(j) INTELLECTUAL PROPERTY.—

“(1) PROHIBITION ON THE GOVERNMENT ACQUIRING INTELLECTUAL PROPERTY RIGHTS.—The Federal Government may not gain an interest in intellectual property developed by a participant in a competition without the written consent of the participant.

“(2) LICENSES.—The Federal Government may negotiate a license for the use of intellectual property developed by a participant for a competition.

“(k) JUDGES.—

“(1) IN GENERAL.—For each competition, the head of an agency, either directly or through an agreement under subsection (l), shall appoint one or more qualified judges to select the winner or winners of the prize competition on the basis described under subsection (f). Judges for each competition may include individuals from outside the agency, including from the private sector.

“(2) RESTRICTIONS.—A judge may not—

“(A) have personal or financial interests in, or be an employee, officer, director, or agent of any entity that is a registered participant in a competition; or

“(B) have a familial or financial relationship with an individual who is a registered participant.

“(3) GUIDELINES.—The heads of agencies who carry out competitions under this section shall develop guidelines to ensure that the judges appointed for such competitions are fairly balanced and operate in a transparent manner.

“(4) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any committee, board, commission, panel, task force, or similar entity, created solely for the purpose of judging prize competitions under this section.

“(1) ADMINISTERING THE COMPETITION.—The head of an agency may enter into an agreement with a private, nonprofit entity to administer a prize competition, subject to the provisions of this section.

“(m) FUNDING.—

“(1) IN GENERAL.—Support for a prize competition under this section, including financial support for the design and administration of a prize or funds for a monetary prize purse, may consist of Federal appropriated funds and funds provided by the private sector for such cash prizes. The head of an agency may accept funds from other Federal agencies to support such competitions. The head of an agency may not give any special consideration to any private sector entity in return for a donation.

“(2) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, funds appropriated for prize awards under this section shall remain available until expended. No provision in this section permits obligation or payment of funds in violation of section 1341 of title 31, United States Code.

“(3) AMOUNT OF PRIZE.—

“(A) ANNOUNCEMENT.—No prize may be announced under subsection (f) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source.

“(B) INCREASE IN AMOUNT.—The head of an agency may increase the amount of a prize after an initial announcement is made under subsection (f) only if—

“(i) notice of the increase is provided in the same manner as the initial notice of the prize; and

“(ii) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

“(4) LIMITATION ON AMOUNT.—

“(A) NOTICE TO CONGRESS.—No prize competition under this section may offer a prize in an amount greater than \$50,000,000 unless 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives.

“(B) APPROVAL OF HEAD OF AGENCY.—No prize competition under this section may result in the award of more than \$1,000,000 in cash prizes without the approval of the head of an agency.

“(n) GENERAL SERVICE ADMINISTRATION ASSISTANCE.—Not later than 180 days after the date of the enactment of the America COMPETES Reauthorization Act of 2010, the General Services Administration shall provide government wide services to share best practices and assist agencies in developing guidelines for issuing prize competitions. The

General Services Administration shall develop a contract vehicle to provide agencies access to relevant products and services, including technical assistance in structuring and conducting prize competitions to take maximum benefit of the marketplace as they identify and pursue prize competitions to further the policy objectives of the Federal Government.

“(o) COMPLIANCE WITH EXISTING LAW.—

“(1) IN GENERAL.—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.

“(2) OTHER PRIZE AUTHORITY.—Nothing in this section affects the prize authority authorized by any other provision of law.

“(p) ANNUAL REPORT.—

“(1) IN GENERAL.—Not later than March 1 of each year, the Director shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on the activities carried out during the preceding fiscal year under the authority in subsection (b).

“(2) INFORMATION INCLUDED.—The report for a fiscal year under this subsection shall include, for each prize competition under subsection (b), the following:

“(A) PROPOSED GOALS.—A description of the proposed goals of each prize competition.

“(B) PREFERABLE METHOD.—An analysis of why the utilization of the authority in subsection (b) was the preferable method of achieving the goals described in subparagraph (A) as opposed to other authorities available to the agency, such as contracts, grants, and cooperative agreements.

“(C) AMOUNT OF CASH PRIZES.—The total amount of cash prizes awarded for each prize competition, including a description of amount of private funds contributed to the program, the sources of such funds, and the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the agency for recording as obligations and expenditures.

“(D) SOLICITATIONS AND EVALUATION OF SUBMISSIONS.—The methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions.

“(E) RESOURCES.—A description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures.

“(F) RESULTS.—A description of how each prize competition advanced the mission of the agency concerned.”.

(b) REPEAL OF SPACE ACT LIMITATION.—Section 314(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2459f-1) is amended by striking “The Administration may carry out a program to award prizes only in conformity with this section.”.

TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 201. NASA'S CONTRIBUTION TO INNOVATION AND COMPETITIVENESS.

It is the sense of Congress that a renewed emphasis on technology development would enhance current mission capabilities and enable future missions, while encouraging

NASA, private industry, and academia to spur innovation. NASA's Innovative Partnership Program is a valuable mechanism to accelerate technology maturation and encourage the transfer of technology into the private sector.

SEC. 202. NASA'S CONTRIBUTION TO EDUCATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that NASA is uniquely positioned to interest students in science, technology, engineering, and mathematics, not only by the example it sets, but through its educational programs.

(b) EDUCATIONAL PROGRAM GOALS.—NASA shall develop and maintain educational programs—

(1) to carry out and support research based programs and activities designed to increase student interest and participation in STEM, including students from minority and underrepresented groups;

(2) to improve public literacy in STEM;

(3) that employ proven strategies and methods for improving student learning and teaching in STEM;

(4) to provide curriculum support materials and other resources that—

(A) are designed to be integrated with comprehensive STEM education;

(B) are aligned with national science education standards;

(C) promote the adoption and implementation of high-quality education practices that build toward college and career-readiness; and

(5) to create and support opportunities for enhanced and ongoing professional development for teachers using best practices that improve the STEM content and knowledge of the teachers, including through programs linking STEM teachers with STEM educators at the higher education level.

SEC. 203. ASSESSMENT OF IMPEDIMENTS TO SPACE SCIENCE AND ENGINEERING WORKFORCE DEVELOPMENT FOR MINORITY AND UNDERREPRESENTED GROUPS AT NASA.

(a) ASSESSMENT.—The Administrator shall enter into an arrangement for an independent assessment of any impediments to space science and engineering workforce development for minority and underrepresented groups at NASA, including recommendations on—

(1) measures to address such impediments;

(2) opportunities for augmenting the impact of space science and engineering workforce development activities and for expanding proven, effective programs; and

(3) best practices and lessons learned, as identified through the assessment, to help maximize the effectiveness of existing and future programs to increase the participation of minority and underrepresented groups in the space science and engineering workforce at NASA.

(b) REPORT.—A report on the assessment carried out under subsection (a) shall be transmitted to the House of Representatives Committee on Science and Technology and the Senate Committee on Commerce, Science, and Transportation not later than 15 months after the date of enactment of this Act.

(c) IMPLEMENTATION.—To the extent practicable, the Administrator shall take all necessary steps to address any impediments identified in the assessment.

SEC. 204. INTERNATIONAL SPACE STATION'S CONTRIBUTION TO NATIONAL COMPETITIVENESS ENHANCEMENT.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the International Space Station represents a valuable and unique na-

tional asset which can be utilized to increase educational opportunities and scientific and technological innovation which will enhance the Nation's economic security and competitiveness in the global technology fields of endeavor. If the period for active utilization of the International Space Station is extended to at least the year 2020, the potential for such opportunities and innovation would be increased. Efforts should be made to fully realize that potential.

(b) EVALUATION AND ASSESSMENT OF NASA'S INTERAGENCY CONTRIBUTION.—Pursuant to the authority provided in title II of the America COMPETES Act (Public Law 110-69), the Administrator shall evaluate and, where possible, expand efforts to maximize NASA's contribution to interagency efforts to enhance science, technology, engineering, and mathematics education capabilities, and to enhance the Nation's technological excellence and global competitiveness. The Administrator shall identify these enhancements in the annual reports required by section 2001(e) of that Act (42 U.S.C. 16611a(e)).

(c) REPORT TO THE CONGRESS.—Within 120 days after the date of enactment of this Act, the Administrator shall provide to the House of Representatives Committee on Science and Technology and the Senate Committee on Commerce, Science, and Transportation a report on the assessment made pursuant to subsection (a). The report shall include—

(1) a description of current and potential activities associated with utilization of the International Space Station which are supportive of the goals of educational excellence and innovation and competitive enhancement established or reaffirmed by this Act, including a summary of the goals supported, the number of individuals or organizations participating in or benefiting from such activities, and a summary of how such activities might be expanded or improved upon;

(2) a description of government and private partnerships which are, or may be, established to effectively utilize the capabilities represented by the International Space Station to enhance United States competitiveness, innovation and science, technology, engineering, and mathematics education; and

(3) a summary of proposed actions or activities to be undertaken to ensure the maximum utilization of the International Space Station to contribute to fulfillment of the goals and objectives of this Act, and the identification of any additional authority, assets, or funding that would be required to support such activities.

SEC. 205. STUDY OF POTENTIAL COMMERCIAL ORBITAL PLATFORM PROGRAM IMPACT ON SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS.

(a) IN GENERAL.—Section 1003 of the National Aeronautics and Space Administration Authorization Act of 2010 (42 U.S.C. 18421) is amended to read as follows:

“SEC. 1003. STUDY OF POTENTIAL COMMERCIAL ORBITAL PLATFORM PROGRAM IMPACT ON SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS.

“A fundamental and unique capability of NASA is in stimulating science, technology, engineering, and mathematics education in the United States. In ensuring maximum use of that capability, the Administrator shall carry out a study to—

“(1) identify the benefits of and lessons learned from ongoing and previous NASA orbital student programs including, at a minimum, the Get Away Special (GAS) and Earth Knowledge Acquired by Middle School Students (EarthKAM) programs, on science, technology, engineering, and mathematics education;

“(2) assess the potential impacts on science, technology, engineering, and mathematics education of a program that would facilitate the development of scientific and educational payloads involving United States students and educators and the flights of those payloads on commercially available orbital platforms, when available and operational, with the goal of providing frequent and regular payload launches;

“(3) identify NASA expertise, such as NASA science, engineering, payload development, and payload operations, that could be made available to facilitate a science, technology, engineering, and mathematics program using commercial orbital platforms; and

“(4) identify the issues that would need to be addressed before NASA could properly assess the merits and feasibility of the program described in paragraph (2).”.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 12, 2010.

SEC. 206. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of NASA.

(2) NASA.—The term “NASA” means the National Aeronautics and Space Administration.

TITLE III—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 301. OCEANIC AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM.

Section 4001 of the America COMPETES Act (33 U.S.C. 893) is amended—

(1) by inserting “(a) IN GENERAL.—” before “The Administrator”; and

(2) by adding at the end the following:

“(b) OCEANIC AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM.—The Administrator shall implement programs and activities—

“(1) to identify emerging and innovative research and development priorities to enhance United States competitiveness, support development of new economic opportunities based on NOAA research, observations, monitoring modeling, and predictions that sustain ecosystem services;

“(2) to promote United States leadership in oceanic and atmospheric science and competitiveness in the applied uses of such knowledge, including for the development and expansion of economic opportunities; and

“(3) to advance ocean, coastal, Great Lakes, and atmospheric research and development, including potentially transformational research, in collaboration with other relevant Federal agencies, academic institutions, the private sector, and non-governmental programs, consistent with NOAA's mission to understand, observe, and model the Earth's atmosphere and biosphere, including the oceans, in an integrated manner.

“(c) REPORT.—No later than 12 months after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Administrator, in consultation with the National Science Foundation or other such agencies with mature transformational research portfolios, shall develop and submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology that describes NOAA's strategy for enhancing transformational research in its research and development portfolio to increase United

States competitiveness in oceanic and atmospheric science and technology. The report shall—

“(1) define ‘transformational research’;
“(2) identify emerging and innovative areas of research and development where transformational research has the potential to make significant and revolutionary advancements in both understanding and U.S. science leadership;
“(3) describe how transformational research priorities are identified and appropriately balanced in the context of NOAA’s broader research portfolio;

“(4) describe NOAA’s plan for developing a competitive peer review and priority-setting process, funding mechanisms, performance and evaluation measures, and transition-to-operation guidelines for transformational research; and
“(5) describe partnerships with other agencies involved in transformational research.”.

SEC. 302. OCEANIC AND ATMOSPHERIC SCIENCE EDUCATION PROGRAMS.

Section 4002 of the America COMPETES Act (33 U.S.C. 893a) is amended—

(1) by striking “the agency.” in subsection (a) and inserting “agency, with consideration given to the goal of promoting the participation of individuals from underrepresented groups in STEM fields and in promoting the acquisition and retention of highly qualified and motivated young scientists to complement and supplement workforce needs.”;

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following:

“(b) **EDUCATIONAL PROGRAM GOALS.**—The education programs developed by NOAA shall, to the extent applicable—

“(1) carry out and support research based programs and activities designed to increase student interest and participation in STEM;

“(2) improve public literacy in STEM;

“(3) employ proven strategies and methods for improving student learning and teaching in STEM;

“(4) provide curriculum support materials and other resources that—

“(A) are designed to be integrated with comprehensive STEM education;

“(B) are aligned with national science education standards; and

“(C) promote the adoption and implementation of high-quality education practices that build toward college and career-readiness; and

“(5) create and support opportunities for enhanced and ongoing professional development for teachers using best practices that improves the STEM content and knowledge of the teachers, including through programs linking STEM teachers with STEM educators at the higher education level.”;

(4) by striking “develop” in subsection (c), as redesignated, and inserting “maintain”;

(5) by adding at the end thereof the following:

“(e) **STEM DEFINED.**—In this section, the term ‘STEM’ means the academic and professional disciplines of science, technology, engineering, and mathematics.”.

SEC. 303. WORKFORCE STUDY.

(a) **IN GENERAL.**—The Secretary of Commerce, in cooperation with the Secretary of Education, shall request the National Academy of Sciences to conduct a study on the scientific workforce in the areas of oceanic and atmospheric research and development. The study shall investigate—

(1) whether there is a shortage in the number of individuals with advanced degrees in

oceanic and atmospheric sciences who have the ability to conduct high quality scientific research in physical and chemical oceanography, meteorology, and atmospheric modeling, and related fields, for government, nonprofit, and private sector entities;

(2) what Federal programs are available to help facilitate the education of students hoping to pursue these degrees;

(3) barriers to transitioning highly qualified oceanic and atmospheric scientists into Federal civil service scientist career tracks;

(4) what institutions of higher education, the private sector, and the Congress could do to increase the number of individuals with such post baccalaureate degrees;

(5) the impact of an aging Federal scientist workforce on the ability of Federal agencies to conduct high quality scientific research; and

(6) what actions the Federal government can take to assist the transition of highly qualified scientists into Federal career scientist positions and ensure that the experiences of retiring Federal scientists are adequately documented and transferred prior to retirement from Federal service.

(b) **COORDINATION.**—The Secretary of Commerce and the Secretary of Education shall consult with the heads of other Federal agencies and departments with oceanic and atmospheric expertise or authority in preparing the specifications for the study.

(c) **REPORT.**—No later than 18 months after the date of enactment of this Act, the Secretary of Commerce and the Secretary of Education shall transmit a joint report to each committee of Congress with jurisdiction over the programs described in 4002(b) of the America COMPETES Act (33 U.S.C. 893a(b)), as amended by section 302 of this Act, detailing the findings and recommendations of the study and setting forth a prioritized plan to implement the recommendations.

(d) **PROGRAM AND PLAN.**—The Administrator of the National Oceanic and Atmospheric Administration shall evaluate the National Academy of Sciences study and develop a workforce program and plan to institutionalize the Administration’s Federal science career pathways and address aging workforce issues. The program and plan shall be developed in consultation with the Administration’s cooperative institutes and other academic partners to identify and implement programs and mechanisms to ensure that—

(1) sufficient highly qualified scientists are able to transition into Federal career scientist positions in the Administration’s laboratories and programs; and

(2) the technical and management experiences of senior employees are documented and transferred before leaving Federal service.

TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SEC. 401. SHORT TITLE.

This title may be cited as the “National Institute of Standards and Technology Authorization Act of 2010”.

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

(a) **FISCAL YEAR 2011.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce \$918,900,000 for the National Institute of Standards and Technology for fiscal year 2011.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized by paragraph (1)—

(A) \$584,500,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$124,800,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$209,600,000 shall be authorized for industrial technology services activities, of which—

(i) \$141,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than \$5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) \$10,000,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(b) **FISCAL YEAR 2012.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce \$970,800,000 for the National Institute of Standards and Technology for fiscal year 2012.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized by paragraph (1)—

(A) \$661,100,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$84,900,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$224,800,000 shall be authorized for industrial technology services activities, of which—

(i) \$155,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than \$5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) \$10,300,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(c) **FISCAL YEAR 2013.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce \$1,039,709,000 for the National Institute of Standards and Technology for fiscal year 2013.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized by paragraph (1)—

(A) \$676,700,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$121,300,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$241,709,000 shall be authorized for industrial technology services activities, of which—

(i) \$165,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than \$5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) \$10,609,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

SEC. 403. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.

(a) **ESTABLISHMENT.**—The National Institute of Standards and Technology Act is amended by inserting after section 3 the following:

“SEC. 4. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.

“(a) ESTABLISHMENT.—There shall be in the Department of Commerce an Under Secretary of Commerce for Standards and Technology (in this section referred to as the ‘Under Secretary’).

“(b) APPOINTMENT.—The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate.

“(c) COMPENSATION.—The Under Secretary shall be compensated at the rate in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(d) DUTIES.—The Under Secretary shall serve as the Director of the Institute and shall perform such duties as required of the Director by the Secretary under this Act or by law.

“(e) APPLICABILITY.—The individual serving as the Director of the Institute on the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010 shall also serve as the Under Secretary until such time as a successor is appointed under subsection (b).”.

(b) CONFORMING AMENDMENTS.—

(1) TITLE 5, UNITED STATES CODE.—

(A) LEVEL III.—Section 5314 of title 5, United States Code, is amended by inserting before the item “Associate Attorney General” the following:

“Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.”.

(B) LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking “Director, National Institute of Standards and Technology, Department of Commerce.”.

(2) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—Section 5 of the National Institute of Standards and Technology Act (15 U.S.C. 274) is amended by striking the first, fifth, and sixth sentences.

SEC. 404. MANUFACTURING EXTENSION PARTNERSHIP.

(a) COMMUNITY COLLEGE SUPPORT.—Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended—

(1) by striking “and” after the semicolon in paragraph (4);

(2) by striking “Institute.” in paragraph (5) and inserting “Institute; and”; and

(3) by adding at the end the following:

“(6) providing to community colleges information about the job skills needed in small- and medium-sized manufacturing businesses in the regions they serve.”.

(b) INNOVATIVE SERVICES INITIATIVE.—Section 25 of such Act (15 U.S.C. 278k) is amended by adding at the end the following:

“(g) INNOVATIVE SERVICES INITIATIVE.—

“(1) ESTABLISHMENT.—The Director shall establish, within the Centers program under this section, an innovative services initiative to assist small- and medium-sized manufacturers in—

“(A) reducing their energy usage, greenhouse gas emissions, and environmental waste to improve profitability;

“(B) accelerating the domestic commercialization of new product technologies, including components for renewable energy and energy efficiency systems; and

“(C) identification of and diversification to new markets, including support for transitioning to the production of components for renewable energy and energy efficiency systems.

“(2) MARKET DEMAND.—The Director may not undertake any activity to accelerate the domestic commercialization of a new prod-

uct technology under this subsection unless an analysis of market demand for the new product technology has been conducted.”.

(c) REPORTS.—Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (b), is further amended by adding at the end the following:

“(h) REPORTS.—

“(1) IN GENERAL.—In submitting the 3-year programmatic planning document and annual updates under section 23, the Director shall include an assessment of the Director’s governance of the program established under this section.

“(2) CRITERIA.—In conducting the assessment, the Director shall use the criteria established pursuant to the Malcolm Baldrige National Quality Award under section 17(d)(1)(C) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3711a(d)(1)(C)).”.

(d) HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM COST-SHARING.—Section 25(c) of such Act (15 U.S.C. 278k(c)) is amended by adding at the end the following:

“(7) Not later than 90 days after the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010, the Comptroller General shall submit to Congress a report on the cost share requirements under the program. The report shall—

“(A) discuss various cost share structures, including the cost share structure in place prior to such date of enactment, and the effect of such cost share structures on individual Centers and the overall program; and

“(B) include recommendations for how best to structure the cost share requirement to provide for the long-term sustainability of the program.”.

“(8) If consistent with the recommendations in the report transmitted to Congress under paragraph (7), the Secretary shall alter the cost structure requirements specified under paragraph (3)(B) and (5) provided that the modification does not increase the cost share structure in place before the date of enactment of the America COMPETES Reauthorization Act of 2010, or allow the Secretary to provide a Center more than 50 percent of the costs incurred by that Center.”.

(e) ADVISORY BOARD.—Section 25(e)(4) of such Act (15 U.S.C. 278k(e)(4)) is amended to read as follows:

“(4) FEDERAL ADVISORY COMMITTEE ACT APPLICABILITY.—

“(A) IN GENERAL.—In discharging its duties under this subsection, the MEP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

“(B) EXCEPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the MEP Advisory Board.”.

(f) DESIGNATION OF PROGRAM.—

(1) IN GENERAL.—Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k), as amended by subsection (c), is further amended by adding at the end the following:

“(i) DESIGNATION.—

“(1) HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP.—The program under this section shall be known as the ‘Hollings Manufacturing Extension Partnership’.

“(2) HOLLINGS MANUFACTURING EXTENSION CENTERS.—The Regional Centers for the Transfer of Manufacturing Technology created and supported under subsection (a) shall be known as the ‘Hollings Manufacturing Extension Centers’ (in this Act referred to as the ‘Centers’).”.

(2) CONFORMING AMENDMENT TO CONSOLIDATED APPROPRIATIONS ACT, 2005.—Division B of title II of the Consolidated Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2879; 15 U.S.C. 278k note) is amended under the heading “INDUSTRIAL TECHNOLOGY SERVICES” by striking “2007: *Provided further*, That” and all that follows through “Extension Centers.” and inserting “2007.”.

(3) TECHNICAL AMENDMENTS.—

(A) Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended in the matter preceding paragraph (1) by striking “Regional Centers for the Transfer of Manufacturing Technology” and inserting “regional centers for the transfer of manufacturing technology”.

(B) Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (f), is further amended by adding at the end the following:

“(j) COMMUNITY COLLEGE DEFINED.—In this section, the term ‘community college’ means an institution of higher education (as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) at which the highest degree that is predominately awarded to students is an associate’s degree.”.

(h) EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.—Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (g), is further amended by adding at the end the following:

“(k) EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.—The Director shall—

“(1) evaluate obstacles that are unique to small manufacturers that prevent such manufacturers from effectively competing in the global market;

“(2) implement a comprehensive plan to train the Centers to address such obstacles; and

“(3) facilitate improved communication between the Centers to assist such manufacturers in implementing appropriate, targeted solutions to such obstacles.”.

(i) NIST ACT AMENDMENT.—Section 25(f)(3) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(3)) is amended by striking “Director of the Centers program,” and inserting “Director of the Hollings MEP program,”.

SEC. 405. EMERGENCY COMMUNICATION AND TRACKING TECHNOLOGIES RESEARCH INITIATIVE.

(a) ESTABLISHMENT.—The Director shall establish a research initiative to support the development of emergency communication and tracking technologies for use in locating trapped individuals in confined spaces, such as underground mines, and other shielded environments, such as high-rise buildings or collapsed structures, where conventional radio communication is limited.

(b) ACTIVITIES.—In order to carry out this section, the Director shall work with the private sector and appropriate Federal agencies to—

(1) perform a needs assessment to identify and evaluate the measurement, technical standards, and conformity assessment needs required to improve the operation and reliability of such emergency communication and tracking technologies;

(2) support the development of technical standards and conformance architecture to improve the operation and reliability of such emergency communication and tracking technologies; and

(3) incorporate and build upon existing reports and studies on improving emergency communications.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the

Director shall submit to Congress and make publicly available a report describing the assessment performed under subsection (b)(1) and making recommendations about research priorities to address gaps in the measurement, technical standards, and conformity assessment needs identified by the assessment.

SEC. 406. BROADENING PARTICIPATION.

(a) RESEARCH FELLOWSHIPS.—Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-1) is amended by adding at the end the following:

“(c) UNDERREPRESENTED MINORITIES.—In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.”.

(b) POSTDOCTORAL FELLOWSHIP PROGRAM.—Section 19 of such Act (15 U.S.C. 278g-2) is amended by adding at the end the following: “In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.”.

(c) TEACHER DEVELOPMENT.—Section 19A(c) of such Act (15 U.S.C. 278g-2a(c)) is amended by adding at the end the following: “The Director shall give special consideration to an application from a teacher from a high-need school, as defined in section 200 of the Higher Education Act of 1965 (20 U.S.C. 1021).”.

SEC. 407. NIST FELLOWSHIPS.

(a) POST-DOCTORAL FELLOWSHIP PROGRAM.—Section 19 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-2) is amended by striking “, in conjunction with the National Academy of Sciences.”.

(b) RESEARCH FELLOWSHIPS.—Section 18(a) of that Act (15 USC 278g-1(a)) is amended by striking “up to 1.5 percent of the”.

(c) COMMERCE, SCIENCE, AND TECHNOLOGY FELLOWSHIP PROGRAM.—Section 5163(d) of the Omnibus Trade and Competition Act of 1988 (15 U.S.C. 1533) is repealed.

SEC. 408. GREEN MANUFACTURING AND CONSTRUCTION.

The Director shall carry out a green manufacturing and construction initiative—

(1) to develop accurate sustainability metrics and practices for use in manufacturing;

(2) to advance the development of standards, including high performance green building standards, and the creation of an information infrastructure to communicate sustainability information about suppliers; and

(3) to move buildings toward becoming high performance green buildings, including improving energy performance, service life, and indoor air quality of new and retrofitted buildings through validated measurement data.

SEC. 409. DEFINITIONS.

In this title:

(1) DIRECTOR.—The term “Director” means the Director of the National Institute of Standards and Technology.

(2) FEDERAL AGENCY.—The term “Federal agency” has the meaning given such term in section 4 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3703).

(3) HIGH PERFORMANCE GREEN BUILDING.—The term “high performance green building” has the meaning given that term by section 401(13) of the Energy Independence and Security Act of 2009 (42 U.S.C. 17061(13)).

TITLE V—SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS SUPPORT PROGRAMS

SUBTITLE A—NATIONAL SCIENCE FOUNDATION

SEC. 501. SHORT TITLE.

This subtitle may be cited as the “National Science Foundation Authorization Act of 2010”.

SEC. 502. DEFINITIONS.

In this subtitle:

(1) DIRECTOR.—The term “Director” means the Director of the National Science Foundation.

(2) EPSCoR.—The term “EPSCoR” means the Experimental Program to Stimulate Competitive Research.

(3) FOUNDATION.—The term “Foundation” means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(4) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) STATE.—The term “State” means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(6) UNITED STATES.—The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2011.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$7,424,400,000 for fiscal year 2011.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) \$5,974,782,000 shall be made available to carry research and related activities;

(B) \$937,850,000 shall be made available for education and human resources;

(C) \$164,744,000 shall be made available for major research equipment and facilities construction;

(D) \$327,503,000 shall be made available for agency operations and award management;

(E) \$4,803,000 shall be made available for the Office of the National Science Board; and

(F) \$14,718,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 2012.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$7,800,000,000 for fiscal year 2012.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) \$6,234,281,000 shall be made available to carry research and related activities;

(B) \$978,959,000 shall be made available for education and human resources;

(C) \$225,544,000 shall be made available for major research equipment and facilities construction;

(D) \$341,676,000 shall be made available for agency operations and award management;

(E) \$4,808,000 shall be made available for the Office of the National Science Board; and

(F) \$14,732,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2013.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$8,300,000,000 for fiscal year 2013.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized by paragraph (1)—

(A) \$6,637,849,000 shall be made available to carry research and related activities;

(B) \$1,041,762,000 shall be made available for education and human resources;

(C) \$236,764,000 shall be made available for major research equipment and facilities construction;

(D) \$363,670,000 shall be made available for agency operations and award management;

(E) \$4,906,000 shall be made available for the Office of the National Science Board; and

(F) \$15,049,000 shall be made available for the Office of Inspector General.

SEC. 504. NATIONAL SCIENCE BOARD ADMINISTRATIVE AMENDMENTS.

(a) STAFFING AT THE NATIONAL SCIENCE BOARD.—Section 4(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking “not more than 5”.

(b) NATIONAL SCIENCE BOARD REPORTS.—Section 4(j)(2) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(2)) is amended by inserting “within the authority of the Foundation (or otherwise as requested by the Congress or the President)” after “individual policy matters”.

(c) BOARD ADHERENCE TO SUNSHINE ACT.—Section 15(a)(2) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-5(a)(2)) is amended—

(1) by striking “The Board” and inserting “To ensure transparency of the Board’s entire decision-making process, including deliberations on Board business occurring within its various subdivisions, the Board”; and

(2) by adding at the end the following: “The preceding requirement will apply to meetings of the full Board, whenever a quorum is present; and to meetings of its subdivisions, whenever a quorum of the subdivision is present.”.

SEC. 505. NATIONAL CENTER FOR SCIENCE AND ENGINEERING STATISTICS.

(a) ESTABLISHMENT.—There is established within the Foundation a National Center for Science and Engineering Statistics that shall serve as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development.

(b) DUTIES.—In carrying out subsection (a) of this section, the Director, acting through the Center shall—

(1) collect, acquire, analyze, report, and disseminate statistical data related to the science and engineering enterprise in the United States and other nations that is relevant and useful to practitioners, researchers, policymakers, and the public, including statistical data on—

(A) research and development trends;

(B) the science and engineering workforce;

(C) United States competitiveness in science, engineering, technology, and research and development; and

(D) the condition and progress of United States STEM education;

(2) support research using the data it collects, and on methodologies in areas related to the work of the Center; and

(3) support the education and training of researchers in the use of large-scale, nationally representative data sets.

(c) STATISTICAL REPORTS.—The Director or the National Science Board, acting through the Center, shall issue regular, and as necessary, special statistical reports on topics related to the national and international science and engineering enterprise such as the biennial report required by section 4(j)(1)

of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1)) on indicators of the state of science and engineering in the United States.

SEC. 506. NATIONAL SCIENCE FOUNDATION MANUFACTURING RESEARCH AND EDUCATION.

(a) **MANUFACTURING RESEARCH.**—The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to support fundamental research leading to transformative advances in manufacturing technologies, processes, and enterprises that will support United States manufacturing through improved performance, productivity, sustainability, and competitiveness. Research areas may include—

- (1) nanomanufacturing;
- (2) manufacturing and construction machines and equipment, including robotics, automation, and other intelligent systems;
- (3) manufacturing enterprise systems;
- (4) advanced sensing and control techniques;
- (5) materials processing; and
- (6) information technologies for manufacturing, including predictive and real-time models and simulations, and virtual manufacturing.

(b) **MANUFACTURING EDUCATION.**—In order to help ensure a well-trained manufacturing workforce, the Director shall award grants to strengthen and expand scientific and technical education and training in advanced manufacturing, including through the Foundation's Advanced Technological Education program.

SEC. 507. NATIONAL SCIENCE BOARD REPORT ON MID-SCALE INSTRUMENTATION.

(a) **MID-SCALE RESEARCH INSTRUMENTATION NEEDS.**—The National Science Board shall evaluate the needs, across all disciplines supported by the Foundation, for mid-scale research instrumentation that falls between the instruments funded by the Major Research Instrumentation program and the very large projects funded by the Major Research Equipment and Facilities Construction program.

(b) **REPORT ON MID-SCALE RESEARCH INSTRUMENTATION PROGRAM.**—Not later than 1 year after the date of enactment of this Act, the National Science Board shall submit to Congress a report on mid-scale research instrumentation at the Foundation. At a minimum, this report shall include—

(1) the findings from the Board's evaluation of instrumentation needs required under subsection (a), including a description of differences across disciplines and Foundation research directorates;

(2) a recommendation or recommendations regarding how the Foundation should set priorities for mid-scale instrumentation across disciplines and Foundation research directorates;

(3) a recommendation or recommendations regarding the appropriateness of expanding existing programs, including the Major Research Instrumentation program or the Major Research Equipment and Facilities Construction program, to support more instrumentation at the mid-scale;

(4) a recommendation or recommendations regarding the need for and appropriateness of a new, Foundation-wide program or initiative in support of mid-scale instrumentation, including any recommendations regarding the administration of and budget for such a program or initiative and the appropriate scope of instruments to be funded under such a program or initiative; and

(5) any recommendation or recommendations regarding other options for supporting

mid-scale research instrumentation at the Foundation.

SEC. 508. PARTNERSHIPS FOR INNOVATION.

(a) **IN GENERAL.**—The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to establish and to expand partnerships that promote innovation and increase the impact of research by developing tools and resources to connect new scientific discoveries to practical uses.

(b) **PARTNERSHIPS.**—

(1) **IN GENERAL.**—To be eligible for funding under this section, an institution of higher education must propose establishment of a partnership that—

(A) includes at least one private sector entity; and

(B) may include other institutions of higher education, public sector institutions, private sector entities, and nonprofit organizations.

(2) **PRIORITY.**—In selecting grant recipients under this section, the Director shall give priority to partnerships that include one or more institutions of higher education and at least one of the following:

(A) A minority serving institution.

(B) A primarily undergraduate institution.

(C) A 2-year institution of higher education.

(c) **PROGRAM.**—Proposals funded under this section shall seek—

(1) to increase the impact of the most promising research at the institution or institutions of higher education that are members of the partnership through knowledge transfer or commercialization;

(2) to increase the engagement of faculty and students across multiple disciplines and departments, including faculty and students in schools of business and other appropriate non-STEM fields and disciplines in knowledge transfer activities;

(3) to enhance education and mentoring of students and faculty in innovation and entrepreneurship through networks, courses, and development of best practices and curricula;

(4) to strengthen the culture of the institution or institutions of higher education to undertake and participate in activities related to innovation and leading to economic or social impact;

(5) to broaden the participation of all types of institutions of higher education in activities to meet STEM workforce needs and promote innovation and knowledge transfer; and

(6) to build lasting partnerships with local and regional businesses, local and State governments, and other relevant entities.

(d) **ADDITIONAL CRITERIA.**—In selecting grant recipients under this section, the Director shall also consider the extent to which the applicants are able to demonstrate evidence of institutional support for, and commitment to—

(1) achieving the goals of the program as described in subsection (c);

(2) expansion to an institution-wide program if the initial proposal is not for an institution-wide program; and

(3) sustaining any new innovation tools and resources generated from funding under this program.

(e) **LIMITATION.**—No funds provided under this section may be used to construct or renovate a building or structure.

SEC. 509. SUSTAINABLE CHEMISTRY BASIC RESEARCH.

The Director shall establish a Green Chemistry Basic Research program to award competitive, merit-based grants to support re-

search into green and sustainable chemistry which will lead to clean, safe, and economical alternatives to traditional chemical products and practices. The research program shall provide sustained support for green chemistry research, education, and technology transfer through—

(1) merit-reviewed competitive grants to individual investigators and teams of investigators, including, to the extent practicable, young investigators, for research;

(2) grants to fund collaborative research partnerships among universities, industry, and nonprofit organizations;

(3) symposia, forums, and conferences to increase outreach, collaboration, and dissemination of green chemistry advances and practices; and

(4) education, training, and retraining of undergraduate and graduate students and professional chemists and chemical engineers, including through partnerships with industry, in green chemistry science and engineering.

SEC. 510. GRADUATE STUDENT SUPPORT.

(a) **FINDING.**—The Congress finds that—

(1) the Integrative Graduate Education and Research Traineeship program is an important program for training the next generation of scientists and engineers in team-based interdisciplinary research and problem solving, and for providing them with the many additional skills, such as communication skills, needed to thrive in diverse STEM careers; and

(2) the Integrative Graduate Education and Research Traineeship program is no less valuable to the preparation and support of graduate students than the Foundation's Graduate Research Fellowship program.

(b) **EQUAL TREATMENT OF IGERT AND GRF.**—Beginning in fiscal year 2011, the Director shall increase or, if necessary, decrease funding for the Foundation's Integrative Graduate Education and Research Traineeship program (or any program by which it is replaced) at least at the same rate as it increases or decreases funding for the Graduate Research Fellowship program.

(c) **SUPPORT FOR GRADUATE STUDENT RESEARCH FROM THE RESEARCH ACCOUNT.**—For each of the fiscal years 2011 through 2013, at least 50 percent of the total Foundation funds allocated to the Integrative Graduate Education and Research Traineeship program and the Graduate Research Fellowship program shall come from funds appropriated for Research and Related Activities.

(d) **COST OF EDUCATION ALLOWANCE FOR GRF PROGRAM.**—Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) is amended—

(1) by inserting “(a) IN GENERAL.—” before “The Foundation is authorized”; and

(2) by adding at the end the following:

“(b) **AMOUNT.**—The Director shall establish for each year the amount to be awarded for scholarships and fellowships under this section for that year. Each such scholarship and fellowship shall include a cost of education allowance of \$12,000, subject to any restrictions on the use of cost of education allowance as determined by the Director.”.

SEC. 511. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.

(a) **MATCHING REQUIREMENT.**—Section 10A(h)(1) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1a(h)(1)) is amended to read as follows:

“(1) **IN GENERAL.**—An eligible entity receiving a grant under this section shall provide, from non-Federal sources, to carry out the activities supported by the grant—

“(A) in the case of grants in an amount of less than \$1,500,000, an amount equal to at

least 30 percent of the amount of the grant, at least one half of which shall be in cash; and

“(B) in the case of grants in an amount of \$1,500,000 or more, an amount equal to at least 50 percent of the amount of the grant, at least one half of which shall be in cash.”.

(b) **RETIRING STEM PROFESSIONALS.**—Section 10A(a)(2)(A) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1a(a)(2)(A)) is amended by inserting “including retiring professionals in those fields,” after “mathematics professionals”.

SEC. 512. UNDERGRADUATE BROADENING PARTICIPATION PROGRAM.

The Foundation shall continue to support the Historically Black Colleges and Universities Undergraduate Program, the Louis Stokes Alliances for Minority Participation program, the Tribal Colleges and Universities Program, and Hispanic-serving institutions as separate programs.

SEC. 513. RESEARCH EXPERIENCES FOR HIGH SCHOOL STUDENTS.

The Director shall permit specialized STEM high schools conducting research to participate in major data collection initiatives from universities, corporations, or government labs under a research grant from the Foundation, as part of the research proposal.

SEC. 514. RESEARCH EXPERIENCES FOR UNDERGRADUATES.

(a) **RESEARCH SITES.**—The Director shall award grants, on a merit-reviewed, competitive basis, to institutions of higher education, nonprofit organizations, or consortia of such institutions and organizations, for sites designated by the Director to provide research experiences for 6 or more undergraduate STEM students for sites designated at primarily undergraduate institutions of higher education and 10 or more undergraduate STEM students for all other sites, with consideration given to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b). The Director shall ensure that—

(1) at least half of the students participating in a program funded by a grant under this subsection at each site shall be recruited from institutions of higher education where research opportunities in STEM are limited, including 2-year institutions;

(2) the awards provide undergraduate research experiences in a wide range of STEM disciplines;

(3) the awards support a variety of projects, including independent investigator-led projects, interdisciplinary projects, and multi-institutional projects (including virtual projects);

(4) students participating in each program funded have mentors, including during the academic year to the extent practicable, to help connect the students' research experiences to the overall academic course of study and to help students achieve success in courses of study leading to a baccalaureate degree in a STEM field;

(5) mentors and students are supported with appropriate salary or stipends; and

(6) student participants are tracked, for employment and continued matriculation in STEM fields, through receipt of the undergraduate degree and for at least 3 years thereafter.

(b) **INCLUSION OF UNDERGRADUATES IN STANDARD RESEARCH GRANTS.**—The Director shall require that every recipient of a research grant from the Foundation proposing

to include 1 or more students enrolled in certificate, associate, or baccalaureate degree programs in carrying out the research under the grant shall request support, including stipend support, for such undergraduate students as part of the research proposal itself rather than as a supplement to the research proposal, unless such undergraduate participation was not foreseeable at the time of the original proposal.

SEC. 515. STEM INDUSTRY INTERNSHIP PROGRAMS.

(a) **IN GENERAL.**—The Director may award grants, on a competitive, merit-reviewed basis, to institutions of higher education, or consortia thereof, to establish or expand partnerships with local or regional private sector entities, for the purpose of providing undergraduate students with integrated internship experiences that connect private sector internship experiences with the students' STEM coursework. The partnerships may also include industry or professional associations.

(b) **INTERNSHIP PROGRAM.**—The grants awarded under section (a) may include internship programs in the manufacturing sector.

(c) **USE OF GRANT FUNDS.**—Grants under this section may be used—

(1) to develop and implement hands-on learning opportunities;

(2) to develop curricula and instructional materials related to industry, including the manufacturing sector;

(3) to perform outreach to secondary schools;

(4) to develop mentorship programs for students with partner organizations; and

(5) to conduct activities to support awareness of career opportunities and skill requirements.

(d) **PRIORITY.**—In awarding grants under this section, the Director shall give priority to institutions of higher education or consortia thereof that demonstrate significant outreach to and coordination with local or regional private sector entities and Regional Centers for the Transfer of Manufacturing Technology established by section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) in developing academic courses designed to provide students with the skills or certifications necessary for employment in local or regional companies.

(e) **OUTREACH TO RURAL COMMUNITIES.**—The Foundation shall conduct outreach to institutions of higher education and private sector entities in rural areas to encourage those entities to participate in partnerships under this section.

(f) **COST-SHARE.**—The Director shall require a 50 percent non-Federal cost-share from partnerships established or expanded under this section.

(g) **RESTRICTION.**—No Federal funds provided under this section may be used—

(1) for the purpose of providing stipends or compensation to students for private sector internships unless private sector entities match 75 percent of such funding; or

(2) as payment or reimbursement to private sector entities, except for institutions of higher education.

(h) **REPORT.**—Not less than 3 years after the date of enactment of this Act, the Director shall submit a report to Congress on the number and total value of awards made under this section, the number of students affected by those awards, any evidence of the effect of those awards on workforce preparation and jobs placement for participating students, and an economic and ethnic breakdown of the participating students.

SEC. 516. CYBER-ENABLED LEARNING FOR NATIONAL CHALLENGES.

The Director shall, in consultation with appropriate Federal agencies, identify ways to use cyber-enabled learning to create an innovative STEM workforce and to help retrain and retain our existing STEM workforce to address national challenges, including national security and competitiveness, and use technology to enhance or supplement laboratory based learning.

SEC. 517. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) **FINDINGS.**—The Congress finds that—

(1) The National Science Foundation Act of 1950 stated, “it shall be an objective of the Foundation to strengthen research and education in the sciences and engineering, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education.”;

(2) National Science Foundation funding remains highly concentrated, with 27 States and 2 jurisdictions, taken together, receiving only about 10 percent of all NSF research funding; each of these States received only a fraction of one percent of Foundation's research dollars each year;

(3) the Nation requires the talent, expertise, and research capabilities of all States in order to prepare sufficient numbers of scientists and engineers, remain globally competitive and support economic development.

(b) **CONTINUATION OF PROGRAM.**—The Director shall continue to carry out EPSCoR, with the objective of helping the eligible States to develop the research infrastructure that will make them more competitive for Foundation and other Federal research funding. The program shall continue to increase as the National Science Foundation funding increases.

(c) **CONGRESSIONAL REPORTS.**—The Director shall report to the appropriate committees of Congress on an annual basis, using the most recent available data—

(1) the total amount made available, by State, under EPSCoR;

(2) the amount of co-funding made available to EPSCoR States;

(3) the total amount of National Science Foundation funding made available to all institutions and entities within EPSCoR States; and

(4) efforts and accomplishments to more fully integrate the 29 EPSCoR jurisdictions in major activities and initiatives of the Foundation.

(d) **COORDINATION OF EPSCoR AND SIMILAR FEDERAL PROGRAMS.**—

(1) **ANOTHER FINDING.**—The Congress finds that a number of Federal agencies have programs, such as Experimental Programs to Stimulate Competitive Research and the National Institutes of Health Institutional Development Award program, designed to increase the capacity for and quality of science and technology research and training at academic institutions in States that historically have received relatively little Federal research and development funding.

(2) **COORDINATION REQUIRED.**—The EPSCoR Interagency Coordinating Committee, chaired by the National Science Foundation, shall—

(A) coordinate EPSCoR and Federal EPSCoR-like programs to maximize the impact of Federal support for building competitive research infrastructure, and in order to achieve an integrated Federal effort;

(B) coordinate agency objectives with State and institutional goals, to obtain continued non-Federal support of science and technology research and training;

(C) develop metrics to assess gains in academic research quality and competitiveness, and in science and technology human resource development;

(D) conduct a cross-agency evaluation of EPSCoR and other Federal EPSCoR-like programs and accomplishments, including management, investment, and metric-measuring strategies implemented by the different agencies aimed to increase the number of new investigators receiving peer-reviewed funding, broaden participation, and empower knowledge generation, dissemination, application, and national research and development competitiveness;

(E) coordinate the development and implementation of new, novel workshops, outreach activities, and follow-up mentoring activities among EPSCoR or EPSCoR-like programs for colleges and universities in EPSCoR States and territories in order to increase the number of proposals submitted and successfully funded and to enhance statewide coordination of EPSCoR and Federal EPSCoR-like programs;

(F) coordinate the development of new, innovative solicitations and programs to facilitate collaborations, partnerships, and mentoring activities among faculty at all levels in non-EPSCoR and EPSCoR States and jurisdictions;

(G) conduct an evaluation of the roles, responsibilities and degree of autonomy that program officers or managers (or the equivalent position) have in executing EPSCoR programs at the different Federal agencies and the impacts these differences have on the number of EPSCoR State and jurisdiction faculty participating in the peer review process and the percentage of successful awards by individual EPSCoR State jurisdiction and individual researcher; and

(H) conduct a survey of colleges and university faculty at all levels regarding their knowledge and understanding of EPSCoR, and their level of interaction with and knowledge about their respective State or Jurisdictional EPSCoR Committee.

(3) **MEETINGS AND REPORTS.**—The Committee shall meet at least twice each fiscal year and shall submit an annual report to the appropriate committees of Congress describing progress made in carrying out paragraph (2).

(e) **FEDERAL AGENCY REPORTS.**—Each Federal agency that administers an EPSCoR or Federal EPSCoR-like program shall submit to the OSTP as part of its Federal budget submission—

(1) a description of the program strategy and objectives;

(2) a description of the awards made in the previous year, including—

(A) the percentage of reviewers and number of new reviewers from EPSCoR States;

(B) the percentage of new investigators from EPSCoR States;

(C) the number of programs or large collaborator awards involving a partnership of organizations and institutions from EPSCoR and non-EPSCoR States; and

(3) an analysis of the gains in academic research quality and competitiveness, and in science and technology human resource development, achieved by the program in the last year.

(f) **NATIONAL ACADEMY OF SCIENCES STUDY.**—

(1) **IN GENERAL.**—The Director shall contract with the National Academy of Sciences to conduct a study on all Federal agencies that administer an Experimental Program to Stimulate Competitive Research or a program similar to the Experimental Program to Stimulate Competitive Research.

(2) **MATTERS TO BE ADDRESSED.**—The study conducted under paragraph (1) shall include the following:

(A) A delineation of the policies of each Federal agency with respect to the awarding of grants to EPSCoR States.

(B) The effectiveness of each program.

(C) Recommendations for improvements for each agency to achieve EPSCoR goals.

(D) An assessment of the effectiveness of EPSCoR States in using awards to develop science and engineering research and education, and science and engineering infrastructure within their States.

(E) Such other issues that address the effectiveness of EPSCoR as the National Academy of Sciences considers appropriate.

SEC. 518. SENSE OF THE CONGRESS REGARDING THE SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TALENT EXPANSION PROGRAM.

It is the sense of the Congress that—

(1) the Science, Technology, Engineering, and Mathematics Talent Expansion Program established by the National Science Foundation Authorization Act of 2002 continues to be an effective program to increase the number of students, who are citizens or permanent residents of the United States, receiving associate or baccalaureate degrees in established or emerging fields within science, technology, engineering, and mathematics, and its authorization continues;

(2) the strategies employed continue to strengthen mentoring and tutoring between faculty and students and provide students with information and exposure to potential career pathways in science, technology, engineering, and mathematics areas;

(3) this highly competitive program awarded 145 Program implementation awards and 12 research projects in the first 6 years of operations; and

(4) the Science, Technology, Engineering, and Mathematics Talent Expansion Program should continue to be supported by the National Science Foundation.

SEC. 519. SENSE OF THE CONGRESS REGARDING THE NATIONAL SCIENCE FOUNDATION'S CONTRIBUTIONS TO BASIC RESEARCH AND EDUCATION.

(a) **FINDINGS.**—The Congress finds that—

(1) the National Science Foundation is an independent Federal agency created by Congress in 1950 to, among other things, promote the progress of science, to advance the national health, prosperity, and welfare, and to secure the national defense;

(2) the Foundation is the funding source for approximately 20 percent of all federally supported basic research conducted by America's colleges and universities, and is the major source of Federal backing for mathematics, computer science and other sciences;

(3) the America COMPETES Act of 2007 helped rejuvenate our focus on increasing basic research investment in the physical sciences, strengthening educational opportunities in the science, technology, engineering, and mathematics fields and developing a robust innovation infrastructure; and

(4) reauthorization of the America COMPETES Act should continue a robust investment in basic research and education and preserve the essence of the original Act by increasing the investment focus on science, technology, engineering, and mathematics basic research and education as a national priority.

(b) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that—

(1) the National Science Foundation is the finest scientific foundation in the world, and is a vital agency that must support basic re-

search needed to advance the United States into the 21st century;

(2) the National Science Foundation should focus Federal research and development resources primarily in the areas of science, technology, engineering, and mathematics basic research and education; and

(3) the National Science Foundation should strive to ensure that federally-supported research is of the finest quality, is ground breaking, and answers questions or solves problems that are of utmost importance to society at large.

SEC. 520. ACADEMIC TECHNOLOGY TRANSFER AND COMMERCIALIZATION OF UNIVERSITY RESEARCH.

(a) **IN GENERAL.**—Any institution of higher education (as such term is defined in section 101(A) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) that receives National Science Foundation research support and has received at least \$25,000,000 in total Federal research grants in the most recent fiscal year shall keep, maintain, and report annually to the National Science Foundation the universal record locator for a public website that contains information concerning its general approach to and mechanisms for transfer of technology and the commercialization of research results, including—

(1) contact information for individuals and university offices responsible for technology transfer and commercialization;

(2) information for both university researchers and industry on the institution's technology licensing and commercialization strategies;

(3) success stories, statistics, and examples of how the university supports commercialization of research results;

(4) technologies available for licensing by the university where appropriate; and

(5) any other information deemed by the institution to be helpful to companies with the potential to commercialize university inventions.

(b) **NSF WEBSITE.**—The National Science Foundation shall create and maintain a website accessible to the public that links to each website mentioned under (a).

(c) **TRADE SECRET INFORMATION.**—Notwithstanding subsection (a), an institution shall not be required to reveal confidential, trade secret, or proprietary information on its website.

SEC. 521. STUDY TO DEVELOP IMPROVED IMPACT-ON-SOCIETY METRICS.

(a) **IN GENERAL.**—Within 180 days after the date of enactment of this Act, the Director of the National Science Foundation shall contract with the National Academy of Sciences to initiate a study to evaluate, develop, or improve metrics for measuring the potential impact-on-society, including—

(1) the potential for commercial applications of research studies funded in whole or in part by grants of financial assistance from the Foundation or other Federal agencies;

(2) the manner in which research conducted at, and individuals graduating from, an institution of higher education contribute to the development of new intellectual property and the success of commercial activities;

(3) the quality of relevant scientific and international publications; and

(4) the ability of such institutions to attract external research funding.

(b) **REPORT.**—Within 1 year after initiating the study required by subsection (a), the Director shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology

setting forth the Director's findings, conclusions, and recommendations.

SEC. 522. NSF GRANTS IN SUPPORT OF SPONSORED POST-DOCTORAL FELLOWSHIP PROGRAMS.

The Director of the National Science Foundation may utilize funds appropriated to carry out grants to institutions of higher education (as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) to provide financial support for post-graduate research in fields with potential commercial applications to match, in whole or in part, any private sector grant of financial assistance to any post-doctoral program in such a field of study.

SEC. 523. COLLABORATION IN PLANNING FOR STEWARDSHIP OF LARGE-SCALE FACILITIES.

It is the sense of Congress that—

(1) the Foundation should, in its planning for construction and stewardship of large facilities, coordinate and collaborate with other Federal agencies, including the Department of Energy's Office of Science, to ensure that joint investments may be made when practicable;

(2) in particular, the Foundation should ensure that it responds to recommendations by the National Academy of Sciences and working groups convened by the National Science and Technology Council regarding such facilities and opportunities for partnership with other agencies in the design and construction of such facilities; and

(3) for facilities in which research in multiple disciplines will be possible, the Director should include multiple units within the Foundation during the planning process.

SEC. 524. CLOUD COMPUTING RESEARCH ENHANCEMENT.

(a) **RESEARCH FOCUS AREA.**—The Director may support a national research agenda in key areas affected by the increased use of public and private cloud computing, including—

(1) new approaches, techniques, technologies, and tools for—

(A) optimizing the effectiveness and efficiency of cloud computing environments; and

(B) mitigating security, identity, privacy, reliability, and manageability risks in cloud-based environments, including as they differ from traditional data centers;

(2) new algorithms and technologies to define, assess, and establish large-scale, trustworthy, cloud-based infrastructures;

(3) models and advanced technologies to measure, assess, report, and understand the performance, reliability, energy consumption, and other characteristics of complex cloud environments; and

(4) advanced security technologies to protect sensitive or proprietary information in global-scale cloud environments.

(b) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—Not later than 60 days after the date of enactment of this Act, the Director shall initiate a review and assessment of cloud computing research opportunities and challenges, including research areas listed in subsection (a), as well as related issues such as—

(A) the management and assurance of data that are the subject of Federal laws and regulations in cloud computing environments, which laws and regulations exist on the date of enactment of this Act;

(B) misappropriation of cloud services, piracy through cloud technologies, and other threats to the integrity of cloud services;

(C) areas of advanced technology needed to enable trusted communications, processing, and storage; and

(D) other areas of focus determined appropriate by the Director.

(2) **UNSOLICITED PROPOSALS.**—The Director may accept unsolicited proposals that review and assess the issues described in paragraph (1). The proposals may be judged according to existing criteria of the National Science Foundation.

(c) **REPORT.**—The Director shall provide an annual report for not less than 5 consecutive years to Congress on the outcomes of National Science Foundation investments in cloud computing research, recommendations for research focus and program improvements, or other related recommendations. The reports, including any interim findings or recommendations, shall be made publicly available on the website of the National Science Foundation.

(d) **NIST SUPPORT.**—The Director of the National Institute of Standards and Technology shall—

(1) collaborate with industry in the development of standards supporting trusted cloud computing infrastructures, metrics, interoperability, and assurance; and

(2) support standards development with the intent of supporting common goals.

SEC. 525. TRIBAL COLLEGES AND UNIVERSITIES PROGRAM.

(a) **IN GENERAL.**—The Director shall continue to support a program to award grants on a competitive, merit-reviewed basis to tribal colleges and universities (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c), including institutions described in section 317 of such Act (20 U.S.C. 1059d), to enhance the quality of undergraduate STEM education at such institutions and to increase the retention and graduation rates of Native American students pursuing associate's or baccalaureate degrees in STEM.

(b) **PROGRAM COMPONENTS.**—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in STEM;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) **INSTRUMENTATION.**—Funding provided under this section may be used for laboratory equipment and materials.

SEC. 526. BROADER IMPACTS REVIEW CRITERION.

(a) **GOALS.**—The Foundation shall apply a Broader Impacts Review Criterion to achieve the following goals:

(1) Increased economic competitiveness of the United States.

(2) Development of a globally competitive STEM workforce.

(3) Increased participation of women and underrepresented minorities in STEM.

(4) Increased partnerships between academia and industry.

(5) Improved pre-K–12 STEM education and teacher development.

(6) Improved undergraduate STEM education.

(7) Increased public scientific literacy.

(8) Increased national security.

(b) **POLICY.**—Not later than 6 months after the date of enactment of this Act, the Director shall develop and implement a policy for the Broader Impacts Review Criterion that—

(1) provides for educating professional staff at the Foundation, merit review panels, and applicants for Foundation research grants on the policy developed under this subsection;

(2) clarifies that the activities of grant recipients undertaken to satisfy the Broader Impacts Review Criterion shall—

(A) to the extent practicable employ proven strategies and models and draw on existing programs and activities; and

(B) when novel approaches are justified, build on the most current research results;

(3) allows for some portion of funds allocated to broader impacts under a research grant to be used for assessment and evaluation of the broader impacts activity;

(4) encourages institutions of higher education and other nonprofit education or research organizations to develop and provide, either as individual institutions or in partnerships thereof, appropriate training and programs to assist Foundation-funded principal investigators at their institutions in achieving the goals of the Broader Impacts Review Criterion as described in subsection (a); and

(5) requires principal investigators applying for Foundation research grants to provide evidence of institutional support for the portion of the investigator's proposal designed to satisfy the Broader Impacts Review Criterion, including evidence of relevant training, programs, and other institutional resources available to the investigator from either their home institution or organization or another institution or organization with relevant expertise.

SEC. 527. TWENTY-FIRST CENTURY GRADUATE EDUCATION.

(a) **IN GENERAL.**—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to implement or expand research-based reforms in master's and doctoral level STEM education that emphasize preparation for diverse careers utilizing STEM degrees, including at diverse types of institutions of higher education, in industry, and at government agencies and research laboratories.

(b) **USES OF FUNDS.**—Activities supported by grants under this section may include—

(1) creation of multidisciplinary or interdisciplinary courses or programs for the purpose of improved student instruction and research in STEM;

(2) expansion of graduate STEM research opportunities to include interdisciplinary research opportunities and research opportunities in industry, at Federal laboratories, and at international research institutions or research sites;

(3) development and implementation of future faculty training programs focused on improved instruction, mentoring, assessment of student learning, and support of undergraduate STEM students;

(4) support and training for graduate students to participate in instructional activities beyond the traditional teaching assistantship, and especially as part of ongoing educational reform efforts, including at pre-K–12 schools, and primarily undergraduate institutions;

(5) creation, improvement, or expansion of innovative graduate programs such as science master's degree programs;

(6) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to engage in innovation, technology transfer, and entrepreneurship;

(7) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to effectively communicate their research findings to technical audiences outside of their own discipline and to nontechnical audiences;

(8) expansion of successful STEM reform efforts beyond a single academic unit to

other STEM academic units within an institution or to comparable academic units at other institutions; and

(9) research on teaching and learning of STEM at the graduate level related to the proposed reform effort, including assessment and evaluation of the proposed reform activities and research on scalability and sustainability of approaches to reform.

(c) **PARTNERSHIP.**—An institution of higher education may partner with one or more other nonprofit education or research organizations, including scientific and engineering societies, for the purposes of carrying out the activities authorized under this section.

(d) **SELECTION PROCESS.**—

(1) **APPLICATIONS.**—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) in the case of applications that propose an expansion of a previously implemented reform effort at the applicant's institution or at other institutions, a description of the previously implemented reform effort;

(C) evidence of institutional support for, and commitment to, the proposed reform effort, including long-term commitment to implement successful strategies from the current reform effort beyond the academic unit or units included in the grant proposal or to disseminate successful strategies to other institutions; and

(D) a description of the plans for assessment and evaluation of the grant proposed reform activities.

(2) **REVIEW OF APPLICATIONS.**—In selecting grant recipients under this section, the Director shall consider at a minimum—

(A) the likelihood of success in undertaking the proposed effort at the institution submitting the application, including the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit or units;

(B) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on preparing graduate students for diverse careers utilizing STEM degrees;

(C) the likelihood that the institution will sustain or expand the reform beyond the period of the grant; and

(D) the degree to which scholarly assessment and evaluation plans are included in the design of the reform effort.

SUBTITLE B—STEM-TRAINING GRANT PROGRAM

SEC. 551. PURPOSE.

The purpose of this subtitle is to replicate and implement programs at institutions of higher education that provide integrated courses of study in science, technology, engineering, or mathematics, and teacher education, that lead to a baccalaureate degree in science, technology, engineering, or mathematics with concurrent teacher certification.

SEC. 552. PROGRAM REQUIREMENTS.

The Director shall replicate and implement undergraduate degree programs under this subtitle that—

(1) are designed to recruit and prepare students who pursue a baccalaureate degree in science, technology, engineering, or mathe-

matics to become certified as elementary and secondary teachers;

(2) require the education department (or its equivalent) and the departments or division responsible for preparation of science, technology, engineering, and mathematics majors at an institution of higher education to collaborate in establishing and implementing the program at that institution;

(3) require students participating in the program to enter the program through a field-based course and to continue to complete field-based courses supervised by master teachers throughout the program;

(4) hire sufficient teachers so that the ratio of students to master teachers in the program does not exceed 100 to 1;

(5) include instruction in the use of scientifically-based instructional materials and methods, assessments, pedagogical content knowledge (including the interaction between mathematics and science), the use of instructional technology, and how to incorporate State and local standards into the classroom curriculum;

(6) restrict to students participating in the program those courses that are specifically designed for the needs of teachers of science, technology, engineering, and mathematics; and

(7) require students participating in the program to successfully complete a final evaluation of their teaching proficiency, based on their classroom teaching performance, conducted by multiple trained observers, and a portfolio of their accomplishments.

SEC. 553. GRANT PROGRAM.

(a) **IN GENERAL.**—The Director shall establish a grant program to support programs at institutions of higher education to carry out the purpose of this subtitle.

(b) **GEOGRAPHICAL CONSIDERATIONS.**—In the administration of this subtitle, the Director shall take such steps as may be necessary to ensure that grants are equitably distributed across all regions of the United States, taking into account population density and other geographic and demographic considerations.

(c) **AMOUNT OF GRANT.**—Subject to the requirements of subsection (d), the Director may award grants annually on a competitive basis to institutions of higher education in the amount of \$2,000,000, per institution of which—

(1) \$1,500,000 shall be used—

(A) to design, implement, and evaluate a program that meets the requirements of section 552;

(B) to employ master teachers at the institution to oversee field experiences;

(C) to provide a stipend to mentor teachers participating in the program; and

(D) to support curriculum development and implementation strategies for science, technology, engineering, and mathematics content courses taught through the program; and

(2) up to \$500,000 shall be set aside by the grantee for technical support and evaluation services from the institution whose programs will be replicated.

(d) **ELIGIBILITY.**—To be eligible to apply for a grant under this section, an institution of higher education shall—

(1) include former secondary school science, technology, engineering, or mathematics master teachers as faculty in its science department for this program;

(2) grant terminal degrees in science, technology, engineering, and mathematics; and

(3) have a process to be used in establishing partnerships with local educational agencies

for placement of participating students in their field experiences, including a process for identifying mentor teachers working in local schools to supervise classroom field experiences in cooperation with university-based master teachers;

(4) maintain policies allowing flexible entry to the program throughout the undergraduate coursework;

(5) require that master teachers employed by the institution will supervise field experiences of students in the program;

(6) require that the program complies with State certification or licensing requirements and the requirements under section 9101(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)) for highly qualified teachers;

(7) develop during the course of the grant a plan for long-term support and assessment of its graduates, which shall include—

(A) induction support for graduates in their first one to two years of teaching;

(B) systems to determine the teaching status of graduates and thereby determine retention rates; and

(C) methods to analyze the achievement of students taught by graduates, and methods to analyze classroom practices of graduates; and

(8) be able upon completion of the grant at the end of 5 years to fund essential program costs, including salaries of master teachers and other necessary personnel, from recurring university budgets.

(e) **APPLICATION REQUIREMENTS.**—An institution of higher education seeking a grant under the program shall submit an application to the Director in such form, at such time, and containing such information and assurances as the Director may require, including—

(1) a description of the current rate at which individuals majoring in science, technology, engineering, and mathematics become certified as elementary and secondary teachers;

(2) a description for the institution's plan for increasing the numbers of students enrolled in and graduating from the program supported under this subtitle;

(3) a description of the institution's capacity to develop a program in which individuals majoring in science, technology, engineering, and mathematics can become certified as elementary and secondary teachers;

(4) identification of the organizational unit within the department or division of arts and sciences or the science department at the institution that will adopt teacher certification for elementary and secondary teachers as its primary mission;

(5) identification of core faculty within the department or division of arts and sciences or the science department at the institution to champion teacher preparation in their departments by teaching courses dedicated to preparing future elementary and secondary school teachers, helping create new degree plans, advising prospective students within their major, and assisting as needed with program administration;

(6) identification of core faculty in the education department or its equivalent at the institution to champion teacher preparation by creating and teaching courses specific to the preparation of science, technology, engineering, and mathematics and working closely with colleagues in the department or division of arts and sciences or the science department; and

(7) a description of involving practical, field-based experience in teaching and degree plans enabling students to graduate in 4

years with a major in science, technology, engineering, or mathematics and elementary or secondary school teacher certification.

(f) **MATCHING REQUIREMENT.**—An institution of higher education may not receive a grant under this section unless it provides, from non-federal sources, to carry out the activities supported by the grant, an amount that is not less than—

(1) 35 percent of the amount of the grant for the first fiscal year of the grant;

(2) 55 percent of the amount of the grant for the second and third fiscal years of the grant; and

(3) 75 percent of the amount of the grant for the fourth and fifth fiscal years of the grant.

(g) **GUIDANCE.**—Within 90 days after the date of enactment of this Act, the Director shall initiate a proceeding to promulgate guidance for the administration of the grant program established under subsection (a).

SEC. 554. GRANT OVERSIGHT AND ADMINISTRATION.

(a) **IN GENERAL.**—The Director may execute a contract for program oversight and fiscal management with an organization at an institution of higher education, a non-profit organization, or other entity that demonstrates capacity for and experience in—

(1) replicating 1 or more similar programs at regional or national levels;

(2) providing programmatic and technical implementation assistance for the program;

(3) performing data collection and analysis to ensure proper implementation and continuous program improvement; and

(4) providing accountability for results by measuring and monitoring achievement of programmatic milestones.

(b) **OVERSIGHT RESPONSIBILITIES.**—

(1) **MANDATORY DUTIES.**—If the Director executes a contract under subsection (a) with an organization for program oversight and fiscal management, the organization shall—

(A) ensure that a grant recipient faithfully replicates and implements the program or programs for which the grant is awarded;

(B) ensure that grant funds are used for the purposes authorized and that a grant recipient has a system in place to track and account for all Federal grant funds provided;

(C) provide technical assistance to grant recipients;

(D) collect and analyze data and report to the Director annually on the effects of the program on—

(i) the progress of participating students in achieving teaching competence and teaching certification;

(ii) the participation of students in the program by major, compared with local and State needs on secondary teachers by discipline; and

(iii) the participation of students in the program by demographic subgroup;

(E) collect and analyze data and report to the Director annually on the effects of the program on the academic achievement of elementary and secondary school students taught by graduates of programs funded by grants under this subtitle; and

(F) submit an annual report to the Director demonstrating compliance with the requirements of subparagraphs (A) through (E).

(2) **DISCRETIONARY DUTIES.**—At the request of the Director, the organization under contract under subsection (a) may assist the Director in evaluating grant applications.

(c) **REPORTS TO CONGRESS.**—The Director shall submit a copy of the annual report required by subsection (b)(1)(F) to the Senate

Committee on Commerce, Science, and Transportation, the Senate Committee on Health, Education, Labor, and Pensions, the House of Representatives Committee on Science and Technology, and the House of Representatives Committee on Education and Labor.

SEC. 555. DEFINITIONS.

In this subtitle:

(1) **FIELD-BASED COURSE.**—The term “field-based course” means a course of instruction offered by an institution of higher education that includes a requirement that students teach a minimum of 3 lessons or sequences of lessons to elementary or secondary students.

(2) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given that term by section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) **MASTER TEACHER.**—The term “master teacher” means an individual—

(A) who has been awarded a master’s or doctoral degree by an institution of higher education;

(B) whose graduate coursework included courses in mathematics, science, computer science, or engineering;

(C) who has at least 3 years teaching experience in K-12 settings; and

(D) whose teaching has been recognized for exceptional accomplishments in educating students, or is demonstrated to have resulted in improved student achievement.

(4) **MENTOR TEACHER.**—The term “mentor teacher” means an elementary or secondary school classroom teacher who assists with the training of students participating in a field-based course.

(5) **DIRECTOR.**—The term “Director” means the Director of the National Science Foundation.

SEC. 556. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out this subtitle \$10,000,000 for each of fiscal years 2011 through 2013.

TITLE VI—INNOVATION

SEC. 601. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 106 of this Act, is amended by adding at the end the following:

“SEC. 25. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

“(a) **IN GENERAL.**—The Secretary shall establish an Office of Innovation and Entrepreneurship to foster innovation and the commercialization of new technologies, products, processes, and services with the goal of promoting productivity and economic growth in the United States.

“(b) **DUTIES.**—The Office of Innovation and Entrepreneurship shall be responsible for—

“(1) developing policies to accelerate innovation and advance the commercialization of research and development, including federally funded research and development;

“(2) identifying existing barriers to innovation and commercialization, including access to capital and other resources, and ways to overcome those barriers, particularly in States participating in the Experimental Program to Stimulate Competitive Research;

“(3) providing access to relevant data, research, and technical assistance on innovation and commercialization;

“(4) strengthening collaboration on and coordination of policies relating to innovation and commercialization, including those focused on the needs of small businesses and

rural communities, within the Department of Commerce, between the Department of Commerce and other Federal agencies, and between the Department of Commerce and appropriate State government agencies and institutions, as appropriate; and

“(5) any other duties as determined by the Secretary.

“(c) **ADVISORY COMMITTEE.**—The Secretary shall establish an Advisory Council on Innovation and Entrepreneurship to provide advice to the Secretary on carrying out subsection (b).”.

SEC. 602. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 601, is further amended by adding at the end the following:

“SEC. 26. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

“(a) **ESTABLISHMENT.**—The Secretary shall establish a program to provide loan guarantees for obligations to small- or medium-sized manufacturers for the use or production of innovative technologies.

“(b) **ELIGIBLE PROJECTS.**—A loan guarantee may be made under the program only for a project that re-equips, expands, or establishes a manufacturing facility in the United States—

“(1) to use an innovative technology or an innovative process in manufacturing;

“(2) to manufacture an innovative technology product or an integral component of such a product; or

“(3) to commercialize an innovative product, process, or idea that was developed by research funded in whole or in part by a grant from the Federal government.

“(c) **ELIGIBLE BORROWER.**—A loan guarantee may be made under the program only for a borrower who is a small- or medium-sized manufacturer, as determined by the Secretary under the criteria established pursuant to subsection (1).

“(d) **LIMITATION ON AMOUNT.**—A loan guarantee shall not exceed an amount equal to 80 percent of the obligation, as estimated at the time at which the loan guarantee is issued.

“(e) **LIMITATIONS ON LOAN GUARANTEE.**—No loan guarantee shall be made unless the Secretary determines that—

“(1) there is a reasonable prospect of repayment of the principal and interest on the obligation by the borrower;

“(2) the amount of the obligation (when combined with amounts available to the borrower from other sources) is sufficient to carry out the project;

“(3) the obligation is not subordinate to other financing;

“(4) the obligation bears interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks; and

“(5) the term of an obligation requires full repayment over a period not to exceed the lesser of—

“(A) 30 years; or

“(B) 90 percent of the projected useful life, as determined by the Secretary, of the physical asset to be financed by the obligation.

“(f) **DEFAULTS.**—

“(1) **PAYMENT BY SECRETARY.**—

“(A) **IN GENERAL.**—If a borrower defaults (as defined in regulations promulgated by the Secretary and specified in the loan guarantee) on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

“(B) PAYMENT REQUIRED.—Within such period as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

“(C) FORBEARANCE.—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

“(2) SUBROGATION.—

“(A) IN GENERAL.—If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights, as specified in the loan guarantee, of the recipient of the payment or related agreements including, if appropriate, the authority (notwithstanding any other provision of law)—

“(i) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such loan guarantee or related agreement; or

“(ii) to permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines that such an agreement is in the public interest.

“(B) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

“(3) NOTIFICATION.—If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

“(g) TERMS AND CONDITIONS.—A loan guarantee under this section shall include such detailed terms and conditions as the Secretary determines appropriate—

“(1) to protect the interests of the United States in the case of default; and

“(2) to have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

“(h) CONSULTATION.—In establishing the terms and conditions of a loan guarantee under this section, the Secretary shall consult with the Secretary of the Treasury.

“(i) FEES.—

“(1) IN GENERAL.—The Secretary shall charge and collect fees for loan guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

“(2) AVAILABILITY.—Fees collected under this subsection shall—

“(A) be deposited by the Secretary into the Treasury of the United States; and

“(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

“(3) LIMITATION.—In charging and collecting fees under paragraph (1), the Secretary shall take into consideration the amount of the obligation.

“(j) RECORDS.—

“(1) IN GENERAL.—With respect to a loan guarantee under this section, the borrower, the lender, and any other appropriate party shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

“(2) ACCESS.—The Secretary and the Comptroller General of the United States, or their

duly authorized representatives, shall have access to records and other pertinent documents for the purpose of conducting an audit.

“(k) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all loan guarantees issued under this section with respect to principal and interest.

“(l) REGULATIONS.—The Secretary shall issue final regulations before making any loan guarantees under the program. The regulations shall include—

“(1) criteria that the Secretary shall use to determine eligibility for loan guarantees under this section, including—

“(A) whether a borrower is a small- or medium-sized manufacturer; and

“(B) whether a borrower demonstrates that a market exists for the innovative technology product, or the integral component of such a product, to be manufactured, as evidenced by written statements of interest from potential purchasers;

“(2) criteria that the Secretary shall use to determine the amount of any fees charged under subsection (i), including criteria related to the amount of the obligation;

“(3) policies and procedures for selecting and monitoring lenders and loan performance; and

“(4) any other policies, procedures, or information necessary to implement this section.

“(m) AUDIT.—

“(1) ANNUAL INDEPENDENT AUDITS.—The Secretary shall enter into an arrangement with an independent auditor for annual evaluations of the program under this section.

“(2) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall conduct a biennial review of the Secretary's execution of the program under this section.

“(3) REPORT.—The results of the independent audit under paragraph (1) and the Comptroller General's review under paragraph (2) shall be provided directly to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(n) REPORT TO CONGRESS.—Concurrent with the submission to Congress of the President's annual budget request in each year after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Secretary shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of all activities carried out under this section.

“(o) COORDINATION AND NONDUPLICATION.—To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other loan guarantee programs within the Federal Government.

“(p) MEP CENTERS.—The Secretary may use centers established under section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) to provide information about the program established under this section and to conduct outreach to potential borrowers, as appropriate.

“(q) MINIMIZING RISK.—The Secretary shall promulgate regulations and policies to carry out this section in accordance with Office of Management and Budget Circular No. A-129, entitled ‘Policies for Federal Credit Programs and Non-Tax Receivables’, as in effect on the date of enactment of the America COMPETES Reauthorization Act of 2010.

“(r) SENSE OF CONGRESS.—It is the sense of Congress that no loan guarantee shall be made under this section unless the borrower agrees to use a federally-approved electronic employment eligibility verification system to verify the employment eligibility of—

“(1) all persons hired during the contract term by the borrower to perform employment duties within the United States; and

“(2) all persons assigned by the borrower to perform work within the United States on the project.

“(s) DEFINITIONS.—In this section:

“(1) COST.—The term ‘cost’ has the meaning given such term under section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

“(2) INNOVATIVE PROCESS.—The term ‘innovative process’ means a process that is significantly improved as compared to the process in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

“(3) INNOVATIVE TECHNOLOGY.—The term ‘innovative technology’ means a technology that is significantly improved as compared to the technology in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

“(4) LOAN GUARANTEE.—The term ‘loan guarantee’ has the meaning given such term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a). The term includes a loan guarantee commitment (as defined in section 502 of such Act (2 U.S.C. 661a)).

“(5) OBLIGATION.—The term ‘obligation’ means the loan or other debt obligation that is guaranteed under this section.

“(6) PROGRAM.—The term ‘program’ means the loan guarantee program established in subsection (a).

“(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$20,000,000 for each of fiscal years 2011 through 2013 to provide the cost of loan guarantees under this section.”.

SEC. 603. REGIONAL INNOVATION PROGRAM.

The Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 602, is further amended by adding at the end thereof the following:

“SEC. 27. REGIONAL INNOVATION PROGRAM.

“(a) ESTABLISHMENT.—The Secretary shall establish a regional innovation program to encourage and support the development of regional innovation strategies, including regional innovation clusters and science and research parks.

“(b) CLUSTER GRANTS.—

“(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary may award grants on a competitive basis to eligible recipients for activities relating to the formation and development of regional innovation clusters.

“(2) PERMISSIBLE ACTIVITIES.—Grants awarded under this subsection may be used for activities determined appropriate by the Secretary, including the following:

“(A) Feasibility studies.

“(B) Planning activities.

“(C) Technical assistance.

“(D) Developing or strengthening communication and collaboration between and among participants of a regional innovation cluster.

“(E) Attracting additional participants to a regional innovation cluster.

“(F) Facilitating market development of products and services developed by a regional innovation cluster, including through demonstration, deployment, technology transfer, and commercialization activities.

“(G) Developing relationships between a regional innovation cluster and entities or clusters in other regions.

“(H) Interacting with the public and State and local governments to meet the goals of the cluster.

“(3) ELIGIBLE RECIPIENT DEFINED.—In this subsection, the term ‘eligible recipient’ means—

“(A) a State;

“(B) an Indian tribe;

“(C) a city or other political subdivision of a State;

“(D) an entity that—

“(i) is a nonprofit organization, an institution of higher education, a public-private partnership, a science or research park, a Federal laboratory, or an economic development organization or similar entity; and

“(ii) has an application that is supported by a State or a political subdivision of a State; or

“(E) a consortium of any of the entities described in subparagraphs (A) through (D).

“(4) APPLICATION.—

“(A) IN GENERAL.—An eligible recipient shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

“(B) COMPONENTS.—The application shall include, at a minimum, a description of the regional innovation cluster supported by the proposed activity, including a description of—

“(i) whether the regional innovation cluster is supported by the private sector, State and local governments, and other relevant stakeholders;

“(ii) how the existing participants in the regional innovation cluster will encourage and solicit participation by all types of entities that might benefit from participation, including newly formed entities and those rival existing participants;

“(iii) the extent to which the regional innovation cluster is likely to stimulate innovation and have a positive impact on regional economic growth and development;

“(iv) whether the participants in the regional innovation cluster have access to, or contribute to, a well-trained workforce;

“(v) whether the participants in the regional innovation cluster are capable of attracting additional funds from non-Federal sources; and

“(vi) the likelihood that the participants in the regional innovation cluster will be able to sustain activities once grant funds under this subsection have been expended.

“(C) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications from regions that contain communities negatively impacted by trade.

“(5) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to an eligible recipient who agrees to collaborate with local workforce investment area boards.

“(6) COST SHARE.—The Secretary may not provide more than 50 percent of the total cost of any activity funded under this subsection.

“(7) USE AND APPLICATION OF RESEARCH AND INFORMATION PROGRAM.—To the maximum extent practicable, the Secretary shall ensure that activities funded under this subsection use and apply any relevant research, best practices, and metrics developed under the program established in subsection (c).

“(c) SCIENCE AND RESEARCH PARK DEVELOPMENT GRANTS.—

“(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary may award grants for the develop-

ment of feasibility studies and plans for the construction of new science parks or the renovation or expansion of existing science parks.

“(2) LIMITATION ON AMOUNT OF GRANTS.—The amount of a grant awarded under this subsection may not exceed \$750,000.

“(3) AWARD.—

“(A) COMPETITION REQUIRED.—The Secretary shall award grants under this subsection pursuant to a full and open competition.

“(B) GEOGRAPHIC DISPERSION.—In conducting a competitive process, the Secretary shall consider the need to avoid undue geographic concentration among any one category of States based on their predominant rural or urban character as indicated by population density.

“(C) SELECTION CRITERIA.—The Secretary shall publish the criteria to be utilized in any competition for the selection of recipients of grants under this subsection, which shall include requirements relating to the—

“(i) effect the science park will have on regional economic growth and development;

“(ii) number of jobs to be created at the science park and the surrounding regional community each year during its first 3 years;

“(iii) funding to be required to construct, renovate or expand the science park during its first 3 years;

“(iv) amount and type of financing and access to capital available to the applicant;

“(v) types of businesses and research entities expected in the science park and surrounding regional community;

“(vi) letters of intent by businesses and research entities to locate in the science park;

“(vii) capability to attract a well trained workforce to the science park;

“(viii) the management of the science park during its first 5 years;

“(ix) expected financial risks in the construction and operation of the science park and the risk mitigation strategy;

“(x) physical infrastructure available to the science park, including roads, utilities, and telecommunications;

“(xi) utilization of energy-efficient building technology including nationally recognized green building design practices, renewable energy, cogeneration, and other methods that increase energy efficiency and conservation;

“(xii) consideration to the transformation of military bases affected by the base realignment and closure process or the redevelopment of existing buildings, structures, or brownfield sites that are abandoned, idled, or underused into single or multiple building facilities for science and technology companies and institutions;

“(xiii) ability to collaborate with other science parks throughout the world;

“(xiv) consideration of sustainable development practices and the quality of life at the science park; and

“(xv) other such criteria as the Secretary shall prescribe.

“(4) ALLOCATION CONSTRAINTS.—The Secretary may not allocate less than one-third of the total grant funding allocated under this section for any fiscal year to grants under subsection (b) or this subsection without written notification to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committees on Science and Technology and on Energy and Commerce.

“(d) LOAN GUARANTEES FOR SCIENCE PARK INFRASTRUCTURE.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary may guarantee up to 80 per-

cent of the loan amount for projects for the construction or expansion, including renovation and modernization, of science park infrastructure.

“(2) LIMITATIONS ON GUARANTEE AMOUNTS.—The maximum amount of loan principal guaranteed under this subsection may not exceed—

“(A) \$50,000,000 with respect to any single project; and

“(B) \$300,000,000 with respect to all projects.

“(3) SELECTION OF GUARANTEE RECIPIENTS.—The Secretary shall select recipients of loan guarantees under this subsection based upon the ability of the recipient to collateralize the loan amount through bonds, equity, property, and such other things of value as the Secretary shall deem necessary. Recipients of grants under subsection (c) are not eligible for a loan guarantee during the period of the grant. To the extent that the Secretary determines it to be feasible, the Secretary may select recipients of guarantee assistance in accord with a competitive process that takes into account the factors set out in subsection (c)(3)(C) of this section.

“(4) TERMS AND CONDITIONS FOR LOAN GUARANTEES.—The loans guaranteed under this subsection shall be subject to such terms and conditions as the Secretary may prescribe, except that—

“(A) the final maturity of such loans made or guaranteed may not exceed the lesser of—

“(i) 30 years; or

“(ii) 90 percent of the useful life of any physical asset to be financed by the loan;

“(B) a loan guaranteed under this subsection may not be subordinated to another debt contracted by the borrower or to any other claims against the borrowers in the case of default;

“(C) a loan may not be guaranteed under this subsection unless the Secretary determines that the lender is responsible and that provision is made for servicing the loan on reasonable terms and in a manner that adequately protects the financial interest of the United States;

“(D) a loan may not be guaranteed under this subsection if—

“(i) the income from the loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1986; or

“(ii) the guarantee provides significant collateral or security, as determined by the Secretary in coordination with the Secretary of the Treasury, for other obligations the income from which is so excluded;

“(E) any guarantee provided under this subsection shall be conclusive evidence that—

“(i) the guarantee has been properly obtained;

“(ii) the underlying loan qualified for the guarantee; and

“(iii) absent fraud or material misrepresentation by the holder, the guarantee is presumed to be valid, legal, and enforceable;

“(F) the Secretary may not extend credit assistance unless the Secretary has determined that there is a reasonable assurance of repayment; and

“(G) new loan guarantees may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required under section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

“(5) PAYMENT OF LOSSES.—

“(A) IN GENERAL.—If, as a result of a default by a borrower under a loan guaranteed under this subsection, after the holder has made such further collection efforts and instituted such enforcement proceedings as the

Secretary may require, the Secretary determines that the holder has suffered a loss, the Secretary shall pay to the holder the percentage of the loss specified in the guarantee contract. Upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient of the payment. The Secretary shall be entitled to recover from the borrower the amount of any payments made pursuant to any guarantee entered into under this section.

“(B) ENFORCEMENT OF RIGHTS.—The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section.

“(C) FORBEARANCE.—Nothing in this section may be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the guaranteed loan and approved by the Secretary, if budget authority for any resulting subsidy costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990) is available.

“(6) EVALUATION OF CREDIT RISK.—

“(A) The Secretary shall periodically assess the credit risk of new and existing direct loans or guaranteed loans.

“(B) Not later than 2 years after the date of the enactment of the America COMPETES Reauthorization Act of 2010, the Comptroller General of the United States shall—

“(i) conduct a review of the subsidy estimates for the loan guarantees under this section; and

“(ii) submit to Congress a report on the review conducted under this paragraph.

“(7) TERMINATION.—A loan may not be guaranteed under this section after September 30, 2013.

“(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$7,000,000 for each of fiscal years 2011 through 2013 for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of guaranteeing \$300,000,000 in loans under this section, such sums to remain available until expended.

“(e) REGIONAL INNOVATION RESEARCH AND INFORMATION PROGRAM.—

“(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary shall establish a regional innovation research and information program—

“(A) to gather, analyze, and disseminate information on best practices for regional innovation strategies (including regional innovation clusters), including information relating to how innovation, productivity, and economic development can be maximized through such strategies;

“(B) to provide technical assistance, including through the development of technical assistance guides, for the development and implementation of regional innovation strategies (including regional innovation clusters);

“(C) to support the development of relevant metrics and measurement standards to evaluate regional innovation strategies (including regional innovation clusters), including the extent to which such strategies stimulate innovation, productivity, and economic development; and

“(D) to collect and make available data on regional innovation cluster activity in the United States, including data on—

“(i) the size, specialization, and competitiveness of regional innovation clusters;

“(ii) the regional domestic product contribution, total jobs and earnings by key occupations, establishment size, nature of specialization, patents, Federal research and de-

velopment spending, and other relevant information for regional innovation clusters; and

“(iii) supply chain product and service flows within and between regional innovation clusters.

“(2) RESEARCH GRANTS.—The Secretary may award research grants on a competitive basis to support and further the goals of the program established under this subsection.

“(3) DISSEMINATION OF INFORMATION.—Data and analysis compiled by the Secretary under the program established in this subsection shall be made available to other Federal agencies, State and local governments, and nonprofit and for-profit entities.

“(4) REGIONAL INNOVATION GRANT PROGRAM.—The Secretary shall incorporate data and analysis relating to any grant under subsection (b) or (c) and any loan guarantee under subsection (d) into the program established under this subsection.

“(f) INTERAGENCY COORDINATION.—

“(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other programs at the Department of Commerce or other Federal agencies.

“(2) COLLABORATION.—

“(A) IN GENERAL.—The Secretary shall explore and pursue collaboration with other Federal agencies, including through multi-agency funding opportunities, on regional innovation strategies.

“(B) SMALL BUSINESSES.—The Secretary shall ensure that such collaboration with Federal agencies prioritizes the needs and challenges of small businesses.

“(g) EVALUATION.—

“(1) IN GENERAL.—Not later than 3 years after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Secretary shall enter into a contract with an independent entity, such as the National Academy of Sciences, to conduct an evaluation of the program established under subsection (a).

“(2) REQUIREMENTS.—The evaluation shall include—

“(A) whether the program is achieving its goals;

“(B) any recommendations for how the program may be improved; and

“(C) a recommendation as to whether the program should be continued or terminated.

“(h) DEFINITIONS.—In this section:

“(1) REGIONAL INNOVATION CLUSTER.—The term ‘regional innovation cluster’ means a geographically bounded network of similar, synergistic, or complementary entities that—

“(A) are engaged in or with a particular industry sector;

“(B) have active channels for business transactions and communication;

“(C) share specialized infrastructure, labor markets, and services; and

“(D) leverage the region’s unique competitive strengths to stimulate innovation and create jobs.

“(2) SCIENCE PARK.—The term ‘science park’ means a property-based venture, which has—

“(A) master-planned property and buildings designed primarily for private-public research and development activities, high technology and science-based companies, and research and development support services;

“(B) a contractual or operational relationship with one or more science- or research-related institution of higher education or governmental or non-profit research laboratories;

“(C) a primary mission to promote research and development through industry partnerships, assisting in the growth of new ventures and promoting innovation-driven economic development;

“(D) a role in facilitating the transfer of technology and business skills between researchers and industry teams; and

“(E) a role in promoting technology-led economic development for the community or region in which the science park is located. A science park may be owned by a governmental or not-for-profit entity, but it may enter into partnerships or joint ventures with for-profit entities for development or management of specific components of the park.

“(3) STATE.—The term ‘State’ means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

“(i) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in subsection (d)(8), there are authorized to be appropriated \$100,000,000 for each of fiscal years 2011 through 2013 to carry out this section (other than for loan guarantees under subsection (d)).”

SEC. 604. STUDY ON ECONOMIC COMPETITIVENESS AND INNOVATIVE CAPACITY OF UNITED STATES AND DEVELOPMENT OF NATIONAL ECONOMIC COMPETITIVENESS STRATEGY.

(a) STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall complete a comprehensive study of the economic competitiveness and innovative capacity of the United States.

(2) MATTERS COVERED.—The study required by paragraph (1) shall include the following:

(A) An analysis of the United States economy and innovation infrastructure.

(B) An assessment of the following:

(i) The current competitive and innovation performance of the United States economy relative to other countries that compete economically with the United States.

(ii) Economic competitiveness and domestic innovation in the current business climate, including tax and Federal regulatory policy.

(iii) The business climate of the United States and those of other countries that compete economically with the United States.

(iv) Regional issues that influence the economic competitiveness and innovation capacity of the United States, including—

(I) the roles of State and local governments and institutions of higher education; and

(II) regional factors that contribute positively to innovation.

(v) The effectiveness of the Federal Government in supporting and promoting economic competitiveness and innovation, including any duplicative efforts of, or gaps in coverage between, Federal agencies and departments.

(vi) Barriers to competitiveness in newly emerging business or technology sectors, factors influencing underperforming economic sectors, unique issues facing small and medium enterprises, and barriers to the development and evolution of start-ups, firms, and industries.

(vii) The effects of domestic and international trade policy on the competitiveness of the United States and the United States economy.

(viii) United States export promotion and export finance programs relative to export promotion and export finance programs of other countries that compete economically with the United States, including Canada, France, Germany, Italy, Japan, Korea, and the United Kingdom, with noting of export promotion and export finance programs carried out by such countries that are not analogous to any programs carried out by the United States.

(ix) The effectiveness of current policies and programs affecting exports, including an assessment of Federal trade restrictions and State and Federal export promotion activities.

(x) The effectiveness of the Federal Government and Federally funded research and development centers in supporting and promoting technology commercialization and technology transfer.

(xi) Domestic and international intellectual property policies and practices.

(xii) Manufacturing capacity, logistics, and supply chain dynamics of major export sectors, including access to a skilled workforce, physical infrastructure, and broadband network infrastructure.

(xiii) Federal and State policies relating to science, technology, and education and other relevant Federal and State policies designed to promote commercial innovation, including immigration policies.

(C) Development of recommendations on the following:

(i) How the United States should invest in human capital.

(ii) How the United States should facilitate entrepreneurship and innovation.

(iii) How best to develop opportunities for locally and regionally driven innovation by providing Federal support.

(iv) How best to strengthen the economic infrastructure and industrial base of the United States.

(v) How to improve the international competitiveness of the United States.

(3) CONSULTATION.—

(A) IN GENERAL.—The study required by paragraph (1) shall be conducted in consultation with the National Economic Council of the Office of Policy Development, such Federal agencies as the Secretary considers appropriate, and the Innovation Advisory Board established under subparagraph (B). The Secretary shall also establish a process for obtaining comments from the public.

(B) INNOVATION ADVISORY BOARD.—

(i) IN GENERAL.—The Secretary shall establish an Innovation Advisory Board for purposes of obtaining advice with respect to the conduct of the study required by paragraph (1).

(ii) COMPOSITION.—The Advisory Board established under clause (i) shall be comprised of 15 members, appointed by the Secretary—

(I) who shall represent all major industry sectors;

(II) a majority of whom should be from private industry, including large and small firms, representing advanced technology sectors and more traditional sectors that use technology; and

(III) who may include economic or innovation policy experts, State and local government officials active in technology-based economic development, and representatives from higher education.

(iii) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board established under clause (i).

(b) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the completion of the study required by sub-

section (a), the Secretary shall develop, based on the study required by subsection (a)(1), a national 10-year strategy to strengthen the innovative and competitive capacity of the Federal Government, State and local governments, United States institutions of higher education, and the private sector of the United States.

(2) ELEMENTS.—The strategy required by paragraph (1) shall include the following:

(A) Actions to be taken by individual Federal agencies and departments to improve competitiveness.

(B) Proposed legislative actions for consideration by Congress.

(C) Annual goals and milestones for the 10-year period of the strategy.

(D) A plan for monitoring the progress of the Federal Government with respect to improving conditions for innovation and the competitiveness of the United States.

(c) REPORT.—

(1) IN GENERAL.—Upon the completion of the strategy required by subsection (b), the Secretary of Commerce shall submit to Congress and the President a report on the study conducted under subsection (a) and the strategy developed under subsection (b).

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The findings of the Secretary with respect to the study conducted under subsection (a).

(B) The strategy required by subsection (b).

SEC. 605. PROMOTING USE OF HIGH-END COMPUTING SIMULATION AND MODELING BY SMALL- AND MEDIUM-SIZED MANUFACTURERS.

(a) FINDINGS.—Congress finds that—

(1) the utilization of high-end computing simulation and modeling by large-scale government contractors and Federal research entities has resulted in substantial improvements in the development of advanced manufacturing technologies; and

(2) such simulation and modeling would also benefit small- and medium-sized manufacturers in the United States if such manufacturers were to deploy such simulation and modeling throughout their manufacturing chains.

(b) POLICY.—It is the policy of the United States to take all effective measures practicable to ensure that Federal programs and policies encourage and contribute to the use of high-end computing simulation and modeling in the United States manufacturing sector.

(c) STUDY.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, shall carry out, through an interagency consulting process, a study of the barriers to the use of high-end computing simulation and modeling by small- and medium-sized manufacturers in the United States.

(2) FACTORS.—In carrying out the study required by paragraph (1), the Secretary of Commerce, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, shall consider the following:

(A) The access of small- and medium-sized manufacturers in the United States to high-performance computing facilities and resources.

(B) The availability of software and other applications tailored to meet the needs of such manufacturers.

(C) Whether such manufacturers employ or have access to individuals with appropriate expertise for the use of such facilities and resources.

(D) Whether such manufacturers have access to training to develop such expertise.

(E) The availability of tools and other methods to such manufacturers to understand and manage the costs and risks associated with transitioning to the use of such facilities and resources.

(3) REPORT.—Not later than 270 days after the commencement of the study required by paragraph (1), the Secretary of Commerce shall, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, submit to Congress a report on such study. Such report shall include such recommendations for such legislative or administrative action as the Secretary of Commerce considers appropriate in light of the study to increase the utilization of high-end computing simulation and modeling by small- and medium-sized manufacturers in the United States.

(d) AUTHORIZATION OF DEMONSTRATION AND PILOT PROGRAMS.—As part of the study required by subsection (c)(1), the Secretary of Commerce, the Secretary of Energy, and the Director of the Office of Science and Technology Policy may carry out such demonstration or pilot programs as either Secretary or the Director considers appropriate to gather experiential data to evaluate the feasibility and advisability of a specific program or policy initiative to reduce barriers to the utilization of high-end computer modeling and simulation by small- and medium-sized manufacturers in the United States.

TITLE VII—NIST GREEN JOBS

SEC. 701. SHORT TITLE.

This title may be cited as the “NIST Grants for Energy Efficiency, New Job Opportunities, and Business Solutions Act of 2010” or the “NIST GREEN JOBS Act of 2010”.

SEC. 702. FINDINGS.

Congress finds the following:

(1) Over its 20-year existence, the Hollings Manufacturing Extension Partnership has proven its value to manufacturers as demonstrated by the resulting impact on jobs and the economies of all 50 States and the Nation as a whole.

(2) The Hollings Manufacturing Extension Partnership has helped thousands of companies reinvest in themselves through process improvement and business growth initiatives leading to more sales, new markets, and the adoption of technology to deliver new products and services.

(3) Manufacturing is an increasingly important part of the construction sector as the industry moves to the use of more components and factory built sub-assemblies.

(4) Construction practices must become more efficient and precise if the United States is to construct and renovate its building stock to reduce related carbon emissions to levels that are consistent with combating global warming.

(5) Many companies involved in construction are small, without access to innovative manufacturing techniques, and could benefit from the type of training and business analysis activities that the Hollings Manufacturing Extension Partnership routinely provides to the Nation's manufacturers and their supply chains.

(6) Broadening the competitiveness grant program under section 25(f) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)) could help develop and diffuse knowledge necessary to capture a large

portion of the estimated \$100 billion or more in energy savings if buildings in the United States met the level and quality of energy efficiency now found in buildings in certain other countries.

(7) It is therefore in the national interest to expand the capabilities of the Hollings Manufacturing Extension Partnership to be supportive of the construction and green energy industries.

SEC. 703. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY COMPETITIVE GRANT PROGRAM.

(a) IN GENERAL.—Section 25(f)(3) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(3)) is amended—

(1) by striking “to develop” in the first sentence and inserting “to add capabilities to the MEP program, including the development of”; and

(2) by striking the last sentence and inserting “Centers may be reimbursed for costs incurred under the program. These themes—

“(A) shall be related to projects designed to increase the viability both of traditional manufacturing sectors and other sectors, such as construction, that increasingly rely on manufacturing through the use of manufactured components and manufacturing techniques, including supply chain integration and quality management;

“(B) shall be related to projects related to the transfer of technology based on the technological needs of manufacturers and available technologies from institutions of higher education, laboratories, and other technology producing entities; and

“(C) may extend beyond these traditional areas to include projects related to construction industry modernization.”.

(b) SELECTION.—Section 25(f)(5) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(5)) is amended to read as follows:

“(5) SELECTION.—

“(A) IN GENERAL.—Awards under this section shall be peer reviewed and competitively awarded. The Director shall endeavor to select at least one proposal in each of the 9 statistical divisions of the United States (as designated by the Bureau of the Census). The Director shall select proposals to receive awards that will—

“(i) create jobs or train newly hired employees;

“(ii) promote technology transfer and commercialization of environmentally focused materials, products, and processes;

“(iii) increase energy efficiency; and

“(iv) improve the competitiveness of industries in the region in which the Center or Centers are located.

“(B) ADDITIONAL SELECTION CRITERIA.—The Director may select proposals to receive awards that will—

“(i) encourage greater cooperation and foster partnerships in the region with similar Federal, State, and locally funded programs to encourage energy efficiency and building technology; and

“(ii) collect data and analyze the increasing connection between manufactured products and manufacturing techniques, the future of construction practices, and the emerging application of products from the green energy industries.”.

(c) OTHER MODIFICATIONS.—Section 25(f) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)) is amended—

(1) by adding at the end the following:

“(7) DURATION.—Awards under this section shall last no longer than 3 years.

“(8) ELIGIBLE PARTICIPANTS.—In addition to manufacturing firms eligible to participate

in the Centers program, awards under this subsection may be used by the Centers to assist small- or medium-sized construction firms. Centers may be reimbursed under the program for working with such eligible participants.

“(9) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts otherwise authorized or appropriated to carry out this section, there are authorized to be appropriated to the Secretary of Commerce \$7,000,000 for each of the fiscal years 2011 through 2013 to carry out this subsection.”.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.

Not later than May 31, 2013, the Comptroller General of the United States shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology that evaluates the status of the programs authorized in this Act, including the extent to which such programs have been funded, implemented, and are contributing to achieving the goals of the Act.

SEC. 802. SALARY RESTRICTIONS.

(a) OBSCURE MATTER ON FEDERAL PROPERTY.—None of the funds authorized under this Act may be used to pay the salary of any individual who is convicted of violating section 1460 of title 18, United States Code.

(b) USE OF FEDERAL COMPUTERS FOR CHILD PORNOGRAPHY OR EXPLOITATION OF MINORS.—None of the funds authorized under this Act may be used to pay the salary of any individual who is convicted of a violation of section 2252 of title 18, United States Code.

SEC. 803. ADDITIONAL RESEARCH AUTHORITIES OF THE FCC.

Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following:

“SEC. 12. ADDITIONAL RESEARCH AUTHORITIES OF THE FCC.

“In order to carry out the purposes of this Act, the Commission may—

“(1) undertake research and development work in connection with any matter in relation to which the Commission has jurisdiction; and

“(2) promote the carrying out of such research and development by others, or otherwise to arrange for such research and development to be carried out by others.”.

TITLE IX—DEPARTMENT OF ENERGY

SEC. 901. SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS.

(a) IN GENERAL.—Sections 3171, 3175, and 3191 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381h, 7381j, 7381p) are repealed.

(b) AUTHORIZATION OF APPROPRIATIONS FOR SUMMER INSTITUTES.—Section 3185(f) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381n(f)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(4) \$25,000,000 for each of fiscal years 2011 through 2013.”.

(c) CONFORMING AMENDMENTS.—

(1) Subpart B of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381g et seq.) is amended by striking chapters 1, 2, and 5 (42 U.S.C. 7381h, 7381j, 7381p).

(2) Section 3195 of the Department of Energy Science Education Enhancement Act (42

U.S.C. 7381r) is amended by striking “chapters 1, 3, and 4” each place it appears and inserting “chapters 3 and 4”.

SEC. 902. ENERGY RESEARCH PROGRAMS.

(a) NUCLEAR SCIENCE TALENT PROGRAM.—Section 5004(f) of the America COMPETES Act (42 U.S.C. 16532(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(D) \$9,800,000 for fiscal year 2011;

“(E) \$10,100,000 for fiscal year 2012; and

“(F) \$10,400,000 for fiscal year 2013.”; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(D) \$8,240,000 for fiscal year 2011;

“(E) \$8,500,000 for fiscal year 2012; and

“(F) \$8,750,000 for fiscal year 2013.”.

(b) HYDROCARBON SYSTEMS SCIENCE TALENT PROGRAM.—Section 5005 of the America COMPETES Act (42 U.S.C. 16533) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (H), by striking “and” at the end;

(B) in subparagraph (I), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(J) hydrocarbon spill response and remediation.”; and

(2) in subsection (f)(1)—

(A) in subparagraph (B), by striking “and”; and

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(D) \$9,800,000 for fiscal year 2011;

“(E) \$10,000,000 for fiscal year 2012; and

“(F) \$10,400,000 for fiscal year 2013.”.

(c) EARLY CAREER AWARDS.—Section 5006(h) of the America COMPETES Act (42 U.S.C. 16534(h)) is amended by striking “2010” and inserting “2013”.

(d) PROTECTING AMERICA'S COMPETITIVE EDGE (PACE) GRADUATE FELLOWSHIP PROGRAM.—Section 5009(f) of the America COMPETES Act (42 U.S.C. 16536(f)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(4) \$20,600,000 for fiscal year 2011;

“(5) \$21,200,000 for fiscal year 2012; and

“(6) \$21,900,000 for fiscal year 2013.”.

(e) DISTINGUISHED SCIENTIST PROGRAM.—Section 5011(j) of the America COMPETES Act (42 U.S.C. 16537(j)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(4) \$31,000,000 for fiscal year 2011;

“(5) \$32,000,000 for fiscal year 2012; and

“(6) \$33,000,000 for fiscal year 2013.”.

SEC. 903. BASIC RESEARCH.

Section 971(b) of the Energy Policy Act of 2005 (42 U.S.C. 16311(b)) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(5) \$5,247,000,000 for fiscal year 2011;

“(6) \$5,614,000,000 for fiscal year 2012; and
“(7) \$6,007,000,000 for fiscal year 2013.”.

SEC. 904. ADVANCED RESEARCH PROJECTS AGENCY-ENERGY.

Section 5012 of the America COMPETES Act (42 U.S.C. 16538) is amended—

(1) in subsection (a)(3), by striking “subsection (m)(1)” and inserting “subsection (n)(1)”;

(2) in subsection (c)(2)(A), by inserting “and applied” after “advances in fundamental”;

(3) in subsection (e)—

(A) in paragraph (3)—

(i) by striking subparagraph (C) and inserting the following:

“(C) research and development of advanced manufacturing process and technologies for the domestic manufacturing of novel energy technologies; and”;

(ii) in subparagraph (D), by striking “and” after the semicolon at the end;

(B) in paragraph (4), by striking the period at the end and inserting “; and”;

(C) by adding at the end the following:

“(5) pursuant to subsection (c)(2)(C)—

“(A) ensuring that applications for funding disclose the extent of current and prior efforts, including monetary investments as appropriate, in pursuit of the technology area for which funding is being requested;

“(B) adopting measures to ensure that, in making awards, program managers adhere to the purposes of subsection (c)(2)(C); and

“(C) providing as part of the annual report required by subsection (h)(1) a summary of the instances of and reasons for ARPA-E funding projects in technology areas already being undertaken by industry.”;

(4) by redesignating subsections (f) through (m) as subsections (g) through (n), respectively;

(5) by inserting after subsection (e) the following:

“(f) AWARDS.—In carrying out this section, the Director may provide awards in the form of grants, contracts, cooperative agreements, cash prizes, and other transactions.”;

(6) in subsection (g) (as redesignated by paragraph (4))—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

“(1) IN GENERAL.—The Director shall establish and maintain within ARPA-E a staff with sufficient qualifications and expertise to enable ARPA-E to carry out the responsibilities of ARPA-E under this section in conjunction with other operations of the Department.”;

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) in the paragraph heading, by striking “PROGRAM MANAGERS” and inserting “PROGRAM DIRECTORS”;

(ii) in subparagraph (A), by striking “program managers for each of” and inserting “program directors for”;

(iii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking “program manager” and inserting “program director”;

(II) in clause (iv), by striking “, with advice under subsection (j) as appropriate.”;

(III) by redesignating clauses (v) and (vi) as clauses (vi) and (viii), respectively;

(IV) by inserting after clause (iv) the following:

“(v) identifying innovative cost-sharing arrangements for ARPA-E projects, including through use of the authority provided under section 988(b)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16352(b)(3));”;

(V) in clause (vi) (as redesignated by subclause (III)), by striking “; and” and inserting a semicolon; and

(VI) by inserting after clause (vi) (as redesignated by subclause (III)) the following:

“(vii) identifying mechanisms for commercial application of successful energy technology development projects, including through establishment of partnerships between awardees and commercial entities; and”;

(iv) in subparagraph (C), by inserting “not more than” after “shall be”;

(D) in paragraph (3) (as redesignated by subparagraph (A))—

(i) in subparagraph (A)—

(I) in clause (i), by striking “and” after the semicolon at the end; and

(II) by striking clause (ii) and inserting the following:

“(ii) fix the basic pay of such personnel at a rate to be determined by the Director at rates not in excess of Level II of the Executive Schedule (EX-II) without regard to the civil service laws; and

“(iii) pay any employee appointed under this subpart payments in addition to basic pay, except that the total amount of additional payments paid to an employee under this subpart for any 12-month period shall not exceed the least of the following amounts:

“(I) \$25,000.

“(II) The amount equal to 25 percent of the annual rate of basic pay of the employee.

“(III) The amount of the limitation that is applicable for a calendar year under section 5307(a)(1) of title 5, United States Code.”;

(ii) in subparagraph (B), by striking “not less than 70, and not more than 120,” and inserting “not more than 120”;

(7) in subsection (h)(2) (as redesignated by paragraph (4))—

(A) by striking “2008” and inserting “2010”;

and

(B) by striking “2011” and inserting “2013”;

(8) by striking subsection (j) (as redesignated by paragraph (4)) and inserting the following:

“(j) FEDERAL DEMONSTRATION OF TECHNOLOGIES.—The Director shall seek opportunities to partner with purchasing and procurement programs of Federal agencies to demonstrate energy technologies resulting from activities funded through ARPA-E.”;

(9) in subsection (l) (as redesignated by paragraph (4))—

(A) in paragraph (1), by striking “4 years” and inserting “6 years”;

(B) in paragraph (2)(B), by inserting “, and the manner in which those lessons may apply to the operation of other programs of the Department” after “ARPA-E”; and

(10) in subsection (n) (as redesignated by paragraph (4))—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “and” after the semicolon at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

“(C) \$300,000,000 for fiscal year 2011;

“(D) \$306,000,000 for fiscal year 2012; and

“(E) \$312,000,000 for fiscal year 2013.”;

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4); and

(D) in paragraph (4)(B) (as redesignated by subparagraph (C))—

(i) by striking “2.5 percent” and inserting “5 percent”;

(ii) by inserting “, consistent with the goal described in subsection (c)(2)(D) and within

the responsibilities of program directors described in subsection (g)(2)(B)(vii)” after “outreach activities”.

TITLE X—EDUCATION

SEC. 1001. REFERENCES.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the America COMPETES Act (Public Law 110-69).

SEC. 1002. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—The following provisions of the Act are repealed:

(1) Section 6001 (20 U.S.C. 9801).

(2) Part III of subtitle A of title VI (20 U.S.C. 9841).

(3) Subtitle B of title VI (20 U.S.C. 9851 et seq.)

(4) Subtitle C of title VI (20 U.S.C. 9861 et seq.)

(5) Subtitle E of title VI (20 U.S.C. 9881 et seq.)

(b) CONFORMING AMENDMENTS.—The Act is amended—

(1) by redesignating section 6002 (20 U.S.C. 9802) as section 6001;

(2) by redesignating subtitle D of title VI (20 U.S.C. 9871) as subtitle B of title VI; and

(3) by redesignating section 6401 (20 U.S.C. 9871) as section 6201.

SEC. 1003. AUTHORIZATIONS OF APPROPRIATIONS AND MATCHING REQUIREMENT.

(a) TEACHERS FOR A COMPETITIVE TOMORROW.—Section 6116 (20 U.S.C. 9816) is amended to read as follows:

“SEC. 6116. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part \$4,000,000 for each of fiscal years 2011 through 2013, of which—

“(1) \$2,000,000 shall be available to carry out section 6113 for each of fiscal years 2011 through 2013; and

“(2) \$2,000,000 shall be available to carry out section 6114 for each of fiscal years 2011 through 2013.”.

(b) ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS AND MATCHING REQUIREMENT.—Section 6123 (20 U.S.C. 9833) is amended—

(1) in subsection (h)(1)—

(A) by striking “100” and inserting “50”;

and

(B) by striking “200” and inserting “100”;

and

(2) by striking subsection (l) and inserting the following:

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$75,000,000 for each of fiscal years 2011 through 2013.”.

(c) ALIGNMENT OF EDUCATION PROGRAMS.—Section 6201(j), as redesignated by section 1002(b)(3), is amended to read as follows:

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$120,000,000 for each of fiscal years 2011 and 2012.”.

SA 4844. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 5281, to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the House amendment, add the following:

SEC. 17. BORDER FENCE COMPLETION.

(a) **MINIMUM REQUIREMENTS.**—Section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) in subparagraph (A), by adding at the end the following: “Fencing that does not effectively restrain pedestrian traffic (such as vehicle barriers and virtual fencing) may not be used to meet the 700-mile fence requirement under this subparagraph.”;

(2) in subparagraph (B)—

(A) in clause (i), by striking “and” at the end;

(B) in clause (ii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(iii) not later than 1 year after the date of the enactment of the DREAM Act of 2010, complete the construction of all the reinforced fencing and the installation of the related equipment described in subparagraph (A).”; and

(3) in subparagraph (C), by adding at the end the following:

“(iii) **FUNDING NOT CONTINGENT ON CONSULTATION.**—Amounts appropriated to carry out this paragraph may not be impounded or otherwise withheld for failure to fully comply with the consultation requirement under clause (i).”.

(b) **REPORT.**—Not later than 6 months after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to Congress that describes—

(1) the progress made in completing the reinforced fencing required under section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), as amended by this Act; and

(2) the plans for completing such fencing not later than 1 year after the date of the enactment of this Act.

SA 4845. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 303, to reauthorize and improve the Federal Financial Assistance Management Improvement Act of 1999; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “America’s Great Outdoors Act of 2010”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) **DIVISIONS.**—This Act is organized into the following divisions:

(1) Division A—National Park Service Authorizations.

(2) Division B—National Wilderness Preservation System.

(3) Division C—Forest Service Authorizations.

(4) Division D—Department of the Interior Authorizations.

(5) Division E—National Heritage Areas.

(6) Division F—Bureau of Land Management Authorizations.

(7) Division G—Rivers and Trails.

(8) Division H—Water and Hydropower Authorizations.

(9) Division I—Insular Areas.

(10) Division J—Wildlife Conservation and Water Quality Protection and Restoration.

(11) Division K—Oceans and Fisheries.

(12) Division L—Indian Homelands and Trust Land.

(13) Division M—Miscellaneous.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—NATIONAL PARK SERVICE AUTHORIZATIONS

TITLE I—ADDITIONS TO THE NATIONAL PARK SYSTEM

Subtitle A—Valles Caldera National Preserve

Sec. 101. Definitions.

Sec. 102. Valles Caldera National Preserve.

Sec. 103. Transfer of administrative jurisdiction.

Sec. 104. Repeal of Valles Caldera Preservation Act.

Sec. 105. Authorization of appropriations.

Subtitle B—Waco Mammoth National Monument

Sec. 111. Definitions.

Sec. 112. Waco Mammoth National Monument, Texas.

Sec. 113. Administration of National Monument.

Sec. 114. Acquisition of property and boundary management.

Sec. 115. Construction of facilities on non-Federal lands.

Sec. 116. General management plan.

TITLE II—EXISTING UNITS OF THE NATIONAL PARK SYSTEM

Subtitle A—Oregon Caves National Monument Expansion

Sec. 201. Definitions.

Sec. 202. Designations; land transfer; boundary adjustment.

Sec. 203. Administration.

Sec. 204. Voluntary grazing lease or permit donation program.

Sec. 205. Wild and scenic river designations.

Subtitle B—Minuteman Missile National Historic Site Boundary Modification

Sec. 211. Boundary modification.

Subtitle C—Indiana Dunes National Lakeshore Visitor Center

Sec. 221. Dorothy Buell Memorial Visitor Center.

Sec. 222. Indiana Dunes National Lakeshore.

Subtitle D—North Cascades National Park Fish Stocking

Sec. 231. Definitions.

Sec. 232. Stocking of certain lakes in the North Cascades National Park Service Complex.

Subtitle E—Petersburg National Battlefield Boundary Modification

Sec. 241. Boundary modification.

Sec. 242. Administrative jurisdiction transfer.

Subtitle F—Gettysburg National Battlefield Boundary Modification

Sec. 251. Gettysburg National Military Park boundary revision.

Sec. 252. Acquisition and disposal of land.

Subtitle G—Cane River National Historical Park Curatorial Center

Sec. 261. Collections conservation center.

Sec. 262. Technical corrections.

TITLE III—SPECIAL RESOURCE STUDIES

Sec. 301. New Philadelphia, Illinois.

Sec. 302. George C. Marshall Home, Virginia.

Sec. 303. Heart Mountain Relocation Center, Wyoming.

Sec. 304. Colonel Charles Young Home, Ohio.

Sec. 305. United States Civil Rights Trail.

Sec. 306. Camp Hale, Colorado.

TITLE IV—BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL

Sec. 401. Finding.

Sec. 402. Definitions.

Sec. 403. Memorial authorization.

Sec. 404. Repeal of joint resolutions.

TITLE V—GENERAL AUTHORITIES

Subtitle A—Revolutionary War and War of 1812 American Battlefield Funding

Sec. 501. Revolutionary War and War of 1812 American Battlefield protection.

Subtitle B—National Park Service Miscellaneous Authorizations

Sec. 511. National Park System authorities.

Sec. 512. Pearl Harbor ticketing.

Sec. 513. Changes to national park units.

Sec. 514. Technical corrections.

DIVISION B—NATIONAL WILDERNESS PRESERVATION SYSTEM

TITLE XX—ORGAN MOUNTAINS-DESERT PEAKS WILDERNESS

Sec. 2001. Definitions.

Sec. 2002. Designation of wilderness areas.

Sec. 2003. Establishment of National Conservation Areas.

Sec. 2004. General provisions.

Sec. 2005. Prehistoric Trackways National Monument Boundary adjustment.

Sec. 2006. Border security.

Sec. 2007. Authorization of appropriations.

TITLE XXI—ALPINE LAKES WILDERNESS ADDITIONS

Sec. 2101. Expansion of Alpine Lakes Wilderness.

Sec. 2102. Wild and Scenic River designations.

TITLE XXII—DEVIL’S STAIRCASE WILDERNESS

Sec. 2201. Definitions.

Sec. 2202. Devil’s Staircase Wilderness, Oregon.

Sec. 2203. Wild and Scenic River designations, Wasson Creek and Franklin Creek, Oregon.

TITLE XXIII—IDAHO WILDERNESS WATER FACILITIES

Sec. 2301. Treatment of existing water diversions in Frank Church-River of No Return Wilderness and Selway-Bitterroot Wilderness, Idaho.

DIVISION C—FOREST SERVICE AUTHORIZATIONS

TITLE XXX—CHIMNEY ROCK NATIONAL MONUMENT AUTHORIZATION

Sec. 3001. Definitions.

Sec. 3002. Establishment of Chimney Rock National Monument.

Sec. 3003. Administration.

Sec. 3004. Management plan.

Sec. 3005. Land acquisition.

Sec. 3006. Withdrawal.

Sec. 3007. Effect.

Sec. 3008. Authorization of appropriations.

TITLE XXXI—NORTH FORK FLATHEAD RIVER WATERSHED PROTECTION

Sec. 3101. Definitions.

Sec. 3102. Withdrawal.

TITLE XXXII—LAND CONVEYANCES AND EXCHANGES

Subtitle A—Sugar Loaf Fire District Land Exchange

Sec. 3201. Definitions.

Sec. 3202. Land exchange.

Subtitle B—Wasatch-Cache National Forest Land Conveyance

Sec. 3211. Definitions.

Sec. 3212. Conveyance of Federal land to Alta, Utah.

Subtitle C—Los Padres National Forest Land Exchange

Sec. 3221. Definitions.

Sec. 3222. Land exchange.

Subtitle D—Box Elder Land Conveyance

Sec. 3231. Conveyance of certain lands to Mantua, Utah.

Subtitle E—Deafy Glade Land Exchange

Sec. 3241. Land exchange, Mendocino National Forest, California.

Subtitle F—Wallowa Forest Service Compound Conveyance

Sec. 3251. Conveyance to city of Wallowa, Oregon.

Subtitle G—Sandia Pueblo Settlement Technical Amendment

Sec. 3261. Sandia Pueblo Settlement technical amendment.

TITLE XXXIII—GENERAL AUTHORIZATIONS

Subtitle A—Ski Areas Summer Uses

Sec. 3301. Purpose.

Sec. 3302. Ski area permits.

Sec. 3303. Effect.

Subtitle B—National Forest Insect and Disease Authorities

Sec. 3311. Purposes.

Sec. 3312. Definitions.

Sec. 3313. Designation of areas.

Sec. 3314. Support for restoration and response.

Sec. 3315. Authorization of appropriations.

Subtitle C—Good Neighbor Authority

Sec. 3321. Good neighbor agreements.

Subtitle D—Federal Land Avalanche Protection Program

Sec. 3331. Definitions.

Sec. 3332. Avalanche protection program.

DIVISION D—DEPARTMENT OF THE INTERIOR AUTHORIZATIONS

TITLE XL—FEDERAL LAND TRANSACTION FACILITATION ACT REAUTHORIZATION

Sec. 4001. Reauthorization.

TITLE XLI—NATIONAL VOLCANO EARLY WARNING PROGRAM

Sec. 4101. Definitions.

Sec. 4102. National volcano early warning and monitoring program.

Sec. 4103. Management.

Sec. 4104. Authorization of appropriations.

TITLE XLII—UPPER CONNECTICUT RIVER WATERSHED

Sec. 4201. Definitions.

Sec. 4202. Connecticut River grants and technical assistance program.

Sec. 4203. Funding limitations.

Sec. 4204. Termination of authority.

TITLE XLIII—ABANDONED MINE RECLAMATION PAYMENTS

Sec. 4301. Abandoned mine reclamation.

TITLE XLIV—PUBLIC LANDS SERVICE CORPS AMENDMENTS

Sec. 4401. Amendment to short title.

Sec. 4402. References.

Sec. 4403. Amendments to the Public Lands Service Corps Act of 1993.

TITLE XLV—PATENT MODIFICATIONS AND VALIDATIONS

Sec. 4501. Whitefish Lighthouse patent modification, Michigan.

Sec. 4502. Southern Nevada patent validation.

TITLE XLVI—MISCELLANEOUS

Sec. 4601. Land and water conservation fund.

Sec. 4602. United States Fish and Wildlife Service technical amendment.

Sec. 4603. Public Land Order 2568 technical modification.

DIVISION E—NATIONAL HERITAGE AREAS

TITLE L—SUSQUEHANNA GATEWAY NATIONAL HERITAGE AREA

Sec. 5001. Definitions.

Sec. 5002. Susquehanna Gateway National Heritage Area.

Sec. 5003. Designation of local coordinating entity.

Sec. 5004. Management plan.

Sec. 5005. Relationship to other Federal agencies.

Sec. 5006. Private property and regulatory protections.

Sec. 5007. Evaluation; report.

Sec. 5008. Funding limitations.

Sec. 5009. Termination of authority.

TITLE LI—ALABAMA BLACK BELT NATIONAL HERITAGE AREA

Sec. 5101. Definitions.

Sec. 5102. Designation of Alabama Black Belt National Heritage Area.

Sec. 5103. Local coordinating entity.

Sec. 5104. Management plan.

Sec. 5105. Evaluation; report.

Sec. 5106. Relationship to other Federal agencies.

Sec. 5107. Private property and regulatory protections.

Sec. 5108. Funding limitations.

Sec. 5109. Use of Federal funds from other sources.

Sec. 5110. Termination of financial assistance.

TITLE LII—FUNDING LIMITATIONS FOR NATIONAL HERITAGE AREAS

Sec. 5201. Funding limitations for national heritage areas.

DIVISION F—BUREAU OF LAND MANAGEMENT AUTHORIZATIONS

TITLE LX—NATIONAL CONSERVATION AREAS AND HISTORIC SITES

Subtitle A—Río Grande Del Norte National Conservation Area

Sec. 6001. Definitions.

Sec. 6002. Establishment of National Conservation Area.

Sec. 6003. Designation of wilderness areas.

Sec. 6004. General provisions.

Sec. 6005. Authorization of appropriations.

Subtitle B—Gold Hill Ranch, California

Sec. 6011. Definitions.

Sec. 6012. Gold Hill Ranch.

Sec. 6013. Authorization of appropriations.

Subtitle C—Orange County, California

Sec. 6021. Preservation of rocks and small islands along the coast of Orange County, California.

TITLE LXI—LAND CONVEYANCES AND EXCHANGES

Subtitle A—Salmon Lake Land Selection Resolution

Sec. 6101. Purpose.

Sec. 6102. Definitions.

Sec. 6103. Ratification and implementation of agreement.

Subtitle B—Southern Nevada Higher Education Land Conveyance

Sec. 6111. Definitions.

Sec. 6112. Conveyances of Federal land to the System.

Sec. 6113. Authorization of appropriations.

Subtitle C—La Pine, Oregon, Land Conveyance

Sec. 6121. Definitions.

Sec. 6122. Conveyances of land.

TITLE LXII—SLOAN HILLS MINERAL WITHDRAWAL

Sec. 6201. Withdrawal of Sloan Hills Area of Clark County, Nevada.

DIVISION G—RIVERS AND TRAILS

TITLE LXX—NATIONAL WILD AND SCENIC RIVERS SYSTEM AMENDMENTS

Sec. 7001. Molalla River, Oregon.

Sec. 7002. Illabot Creek, Washington.

Sec. 7003. White Clay Creek.

Sec. 7004. Elk River, West Virginia.

TITLE LXXI—NATIONAL TRAIL SYSTEM AMENDMENTS

Sec. 7101. North Country National Scenic Trail Route adjustment.

DIVISION H—WATER AND HYDROPOWER AUTHORIZATIONS

TITLE LXXX—BUREAU OF RECLAMATION PROJECT AUTHORIZATIONS

Sec. 8001. Magna Water District.

Sec. 8002. Bay Area regional water recycling program.

Sec. 8003. Calleguas water project.

Sec. 8004. Hermiston, Oregon, water recycling and reuse project.

Sec. 8005. Central Valley Project water transfers.

Sec. 8006. Land withdrawal and reservation for Cragin Project.

Sec. 8007. Leadville Mine Drainage Tunnel.

Sec. 8008. Reauthorization of base funding for fish recovery programs.

TITLE LXXXI—HYDROPOWER

Sec. 8101. American Falls Reservoir hydro license extension.

Sec. 8102. Little Wood River Ranch hydro license extension.

Sec. 8103. Bonneville Unit hydropower.

Sec. 8104. Hoover power plant allocation.

TITLE LXXXII—MISCELLANEOUS

Sec. 8201. Uintah Water Conservancy District prepayment.

Sec. 8202. Tule River Tribe water development.

Sec. 8203. Inland Empire ground water assessment.

DIVISION I—INSULAR AREAS

Sec. 9001. Conveyance of certain submerged land to the Commonwealth of the Northern Mariana Islands.

DIVISION J—WILDLIFE CONSERVATION AND WATER QUALITY PROTECTION AND RESTORATION

TITLE C—WILDLIFE AND WILDLIFE HABITAT CONSERVATION

Subtitle A—National Fish Habitat Conservation

Sec. 10001. Short title.

Sec. 10002. Findings; purpose.

Sec. 10003. Definitions.

Sec. 10004. National Fish Habitat Board.

Sec. 10005. Fish habitat partnerships.

Sec. 10006. Fish habitat conservation projects.

Sec. 10007. National Fish Habitat Conservation Partnership Office.

Sec. 10008. Technical and scientific assistance.

Sec. 10009. Conservation of aquatic habitat for fish and other aquatic organisms on Federal land.

Sec. 10010. Coordination with States and Indian tribes.

Sec. 10011. Accountability and reporting.

Sec. 10012. Regulations.

Sec. 10013. Effect of subtitle.

Sec. 10014. Nonapplicability of Federal Advisory Committee Act.

Sec. 10015. Funding.

Subtitle B—Marine Turtle Conservation Reauthorization

Sec. 10011. Short title.

Sec. 10012. Amendments to provisions preventing funding of projects in the United States.

Sec. 10013. Limitations on expenditures.

Sec. 10014. Reauthorization of the Marine Turtle Conservation Act of 2004.

Subtitle C—Neotropical Bird Conservation Reauthorization

Sec. 10021. Reauthorization of Neotropical Migratory Bird Conservation Act.

Subtitle D—Joint Ventures for Bird Habitat

Sec. 10031. Short title.

Sec. 10032. Findings and purpose.

Sec. 10033. Definitions.

Sec. 10034. Joint Ventures Program.

Sec. 10035. Joint Venture establishment and administration.

Sec. 10036. Grants and other assistance.

Sec. 10037. Reporting requirements.

Sec. 10038. Treatment of existing joint ventures.

Sec. 10039. Relationship to other authorities.

Sec. 10040. Federal Advisory Committee Act.

Subtitle E—Crane Conservation

Sec. 10041. Short title.

Sec. 10042. Purposes.

Sec. 10043. Definitions.

Sec. 10044. Crane conservation assistance.

Sec. 10045. Crane Conservation Fund.

Sec. 10046. Advisory group.

Sec. 10047. Funding.

Subtitle F—Great Cats and Rare Canids Conservation

Sec. 10051. Short title.

Sec. 10052. Purposes.

Sec. 10053. Definitions.

Sec. 10054. Great Cats and Rare Canids Conservation Fund.

Sec. 10055. Financial assistance.

Sec. 10056. Study of conservation status of felid and canid species.

Sec. 10057. Authorization of appropriations.

Subtitle G—Junior Duck Stamp Conservation and Design Program

Sec. 10061. Short title.

Sec. 10062. Findings.

Sec. 10063. Reporting requirement.

Sec. 10064. Authorization of appropriations.

Subtitle H—Additional Conservation Funding

Sec. 10071. Great Ape Conservation Act of 2000.

Sec. 10072. African Elephant Conservation Act.

Sec. 10073. Asian Elephant Conservation Act of 1997.

Sec. 10074. Rhinoceros and Tiger Conservation Act of 1994.

TITLE CI—INVASIVE SPECIES CONTROL

Sec. 10101. Short title.

Sec. 10102. Findings; purpose.

Sec. 10103. Definitions.

Sec. 10104. Nutria eradication program.

Sec. 10105. Report.

TITLE CII—WATER RESOURCE RESTORATION AND PROTECTION

Subtitle A—Gulf of Mexico Restoration and Protection

Sec. 10201. Short title.

Sec. 10202. Findings and purposes.

Sec. 10203. Gulf of Mexico restoration and protection.

Subtitle B—Lake Tahoe Restoration

Sec. 10211. Short title.

Sec. 10212. Findings and purposes.

Sec. 10213. Definitions.

Sec. 10214. Administration of the Lake Tahoe Basin Management Unit.

Sec. 10215. Consultation.

Sec. 10216. Authorized projects.

Sec. 10217. Environmental restoration priority list.

Sec. 10218. Relationship to other laws.

Sec. 10219. Authorization of appropriations.

Sec. 10220. Conforming amendments.

Subtitle C—Clean Estuaries

Sec. 10221. Short title.

Sec. 10222. National Estuary Program amendments.

Subtitle D—Puget Sound Restoration

Sec. 10231. Puget Sound restoration.

Subtitle E—Columbia River Basin Restoration

Sec. 10241. Short title.

Sec. 10242. Findings.

Sec. 10243. Columbia River Basin restoration.

Subtitle F—Great Lakes Ecosystem Protection

Sec. 10251. Short title.

Sec. 10252. Great Lakes provision modifications.

Sec. 10253. Contaminated sediment remediation approaches, technologies, and techniques.

Sec. 10254. Aquatic nuisance species.

Subtitle G—Long Island Sound Restoration

Sec. 10261. Short title.

Sec. 10262. Amendments.

Sec. 10263. Innovative stormwater management approaches.

Sec. 10264. Nutrient bioextraction pilot project.

Subtitle H—Chesapeake Clean Water and Ecosystem Restoration

Sec. 10271. Short title.

Sec. 10272. Chesapeake Basin program.

Sec. 10273. Federal enforcement.

Sec. 10274. Federal responsibility to pay for stormwater programs.

Sec. 10275. Relationship to National Estuary Program.

Sec. 10276. Separate appropriations account.

Sec. 10277. Chesapeake Basin assurance standards.

Subtitle I—San Francisco Bay Restoration

Sec. 10281. Short title.

Sec. 10282. San Francisco Bay restoration grant program.

TITLE CIII—WATER QUALITY PROTECTION AND RESTORATION PROGRAMS

Subtitle A—Clean Coastal Environment and Public Health

Sec. 10301. Short title.

Sec. 10302. Federal Water Pollution Control Act amendments.

Sec. 10303. Funding for Beaches Environmental Assessment and Coastal Health Act.

Sec. 10304. Study of grant distribution formula.

Sec. 10305. Impact of climate change on pollution of coastal recreation waters.

Sec. 10306. Impact of nutrients on pollution of coastal recreation waters.

Subtitle B—Chesapeake Bay Gateways and Watertrails Network

Sec. 10311. Chesapeake Bay gateways and watertrails network continuing authorization.

Subtitle C—Water Resources Research Amendments

Sec. 10321. Water Resources Research Act amendments.

TITLE CIV—NATIONAL WOMEN'S HISTORY MUSEUM

Sec. 10401. Short title.

Sec. 10402. Definitions.

Sec. 10403. Conveyance of property.

Sec. 10404. Environmental matters.

Sec. 10405. Incidental costs.

Sec. 10406. Land use approvals.

Sec. 10407. Reports.

DIVISION K—OCEANS AND FISHERIES

TITLE CXI—PACIFIC SALMON STRONGHOLD CONSERVATION

Sec. 11101. Short title.

Sec. 11102. Findings; purposes.

Sec. 11103. Definitions.

Sec. 11104. Salmon Stronghold Partnership.

Sec. 11105. Information and assessment.

Sec. 11106. Salmon stronghold watershed grants and technical assistance program.

Sec. 11107. Interagency cooperation.

Sec. 11108. International cooperation.

Sec. 11109. Acquisition and transfer of real property interests.

Sec. 11110. Administrative provisions.

Sec. 11111. Limitations.

Sec. 11112. Reports to Congress.

Sec. 11113. Authorization of appropriations.

TITLE CXII—SHARK CONSERVATION

Sec. 11201. Short title.

Sec. 11202. Amendment of High Seas Driftnet Fishing Moratorium Protection Act.

Sec. 11203. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.

TITLE CXIII—MARINE MAMMAL RESCUE ASSISTANCE

Sec. 11301. Short title.

Sec. 11302. Stranding and entanglement response.

TITLE CXIV—SOUTHERN SEA OTTER RECOVERY AND RESEARCH

Sec. 11401. Short title.

Sec. 11402. Definitions.

Sec. 11403. Southern sea otter recovery and research program.

Sec. 11404. Authorization of appropriations.

Sec. 11405. Termination.

TITLE CXV—INTERNATIONAL FISHERIES STEWARDSHIP AND ENFORCEMENT

Sec. 11501. Short title.

Subtitle A—Administration and Enforcement of Certain Fishery and Related Statutes

Sec. 11511. Authority of the Secretary to enforce statutes.

Sec. 11512. Conforming, minor, and technical amendments.

Sec. 11513. Illegal, unreported, or unregulated fishing.

Sec. 11514. Liability.

Subtitle B—Law Enforcement and International Operations

Sec. 11521. International fisheries enforcement program.

Sec. 11522. International cooperation and assistance program.

Subtitle C—Miscellaneous Amendments

Sec. 11531. Atlantic Tunas Convention Act of 1975.

Sec. 11532. Data sharing.

Sec. 11533. Permits under the High Seas Fishing Compliance Act of 1995.

Sec. 11534. Technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act.

Sec. 11535. Pacific Whiting Act of 2006.

Sec. 11536. Clarification of existing authority.

Sec. 11537. Reauthorizations.

Subtitle D—Implementation of the Antigua Convention

Sec. 11541. Short title.

Sec. 11542. Amendment of the Tuna Conventions Act of 1950.
 Sec. 11543. Definitions.
 Sec. 11544. Commissioners, number, appointment, and qualifications.
 Sec. 11545. General Advisory Committee and Scientific Advisory Subcommittee.
 Sec. 11546. Rulemaking.
 Sec. 11547. Prohibited acts.
 Sec. 11548. Enforcement.
 Sec. 11549. Reduction of bycatch.
 Sec. 11550. Repeal of Eastern Pacific Tuna Licensing Act of 1984.

TITLE CXVI—GULF OF THE FARALLONES AND CORDELL BANK NATIONAL MARINE SANCTUARIES BOUNDARY MODIFICATION AND PROTECTION

Sec. 11601. Short title.
 Sec. 11602. Findings.
 Sec. 11603. Policy and purpose.
 Sec. 11604. Definitions.
 Sec. 11605. National marine sanctuary boundary adjustments.
 Sec. 11606. Management plans and regulations.
 Sec. 11607. Authorization of appropriations.
TITLE CXVII—THUNDER BAY NATIONAL MARINE SANCTUARY
 Sec. 11701. Short title.
 Sec. 11702. Findings and purposes.
 Sec. 11703. Definitions.
 Sec. 11704. Sanctuary boundary adjustment.
 Sec. 11705. Extension of regulations and management.

TITLE CXVIII—NORTHWEST STRAITS MARINE CONSERVATION INITIATIVE REAUTHORIZATION AND EXPANSION

Sec. 11801. Short title.
 Sec. 11802. Reauthorization of Northwest Straits Marine Conservation Initiative Act.

TITLE CXIX—HARMFUL ALGAL BLOOMS HYPOXIA RESEARCH AND CONTROL

Sec. 11901. Short title.
 Sec. 11902. Amendment of Harmful Algal Bloom and Hypoxia Research and Control Act of 1998.
 Sec. 11903. Findings.
 Sec. 11904. Purposes.
 Sec. 11905. Interagency Task Force on Harmful Algal Blooms and Hypoxia.
 Sec. 11906. National harmful algal bloom and hypoxia program.
 Sec. 11907. Regional Research and Action Plans.
 Sec. 11908. Reporting.
 Sec. 11909. Northern Gulf of Mexico Hypoxia.
 Sec. 11910. Authorization of appropriations.
 Sec. 11911. Definitions.
 Sec. 11912. Application with other laws.

TITLE CXXI—CHESAPEAKE BAY SCIENCE, EDUCATION AND ECOSYSTEM ENHANCEMENT

Sec. 12101. Short title.
 Sec. 12102. Reauthorization of Chesapeake Bay Office of National Oceanic and Atmospheric Administration.

TITLE CXXII—CORAL REEF CONSERVATION AMENDMENTS

Sec. 12201. Short title.
 Sec. 12202. Amendment of Coral Reef Conservation Act of 2000.
 Sec. 12203. Purposes.
 Sec. 12204. National coral reef action strategy.
 Sec. 12205. Coral reef conservation program.
 Sec. 12206. Coral Reef Conservation Fund.
 Sec. 12207. Agreements; redesignations.
 Sec. 12208. Emergency assistance.

Sec. 12209. National program.
 Sec. 12210. Study of trade in corals.
 Sec. 12211. International coral reef conservation activities.
 Sec. 12212. Community-based planning grants.
 Sec. 12213. Vessel grounding inventory.
 Sec. 12214. Prohibited activities.
 Sec. 12215. Destruction of coral reefs.
 Sec. 12216. Enforcement.
 Sec. 12217. Permits.
 Sec. 12218. Regional, State, and territorial coordination.
 Sec. 12219. Regulations.
 Sec. 12220. Effectiveness and assessment report.
 Sec. 12221. Authorization of appropriations.
 Sec. 12222. Judicial review.
 Sec. 12223. Definitions.

DIVISION L—INDIAN HOMELANDS AND TRUST LAND

TITLE CXXX—LEASE AUTHORITY

Sec. 13001. Short title.
 Sec. 13002. Finding; purposes.
 Sec. 13003. Definitions.
 Sec. 13004. Extinguishment of claims and title.
 Sec. 13005. Land to be placed in trust for tribes.
 Sec. 13006. Trust land to be converted to fee land.
 Sec. 13007. Tribal trust fund account and allottee trust account.
 Sec. 13008. Attorney fees.
 Sec. 13009. Effect on original reservation boundary.
 Sec. 13010. Effect on tribal water rights.
 Sec. 13011. Disclaimers regarding claims.
 Sec. 13012. Funding.
 Sec. 13013. Effective date.

DIVISION M—BUDGETARY EFFECTS

Sec. 14001. Budgetary effects.

DIVISION A—NATIONAL PARK SERVICE AUTHORIZATIONS

TITLE I—ADDITIONS TO THE NATIONAL PARK SYSTEM

Subtitle A—Valles Caldera National Preserve

SEC. 101. DEFINITIONS.

In this subtitle:

(1) **ELIGIBLE EMPLOYEE.**—The term “eligible employee” means a person who was a full-time or part-time employee of the Trust during the 180-day period immediately preceding the date of enactment of this Act.

(2) **FUND.**—The term “Fund” means the Valles Caldera Fund established by section 106(h)(2) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(h)(2)).

(3) **PRESERVE.**—The term “Preserve” means the Valles Caldera National Preserve in the State.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(5) **STATE.**—The term “State” means the State of New Mexico.

(6) **TRUST.**—The term “Trust” means the Valles Caldera Trust established by section 106(a) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(a)).

SEC. 102. VALLES CALDERA NATIONAL PRESERVE.

(a) **DESIGNATION AS UNIT OF THE NATIONAL PARK SYSTEM.**—To protect, preserve, and restore the fish, wildlife, watershed, natural, scientific, scenic, geologic, historic, cultural, archaeological, and recreational values of the area, the Valles Caldera National Preserve is designated as a unit of the National Park System.

(b) **MANAGEMENT.**—

(1) **APPLICABLE LAW.**—The Secretary shall administer the Preserve in accordance with—

(A) this subtitle; and

(B) the laws generally applicable to units of the National Park System, including—

(i) the National Park Service Organic Act (16 U.S.C. 1 et seq.); and
 (ii) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(2) **MANAGEMENT COORDINATION.**—The Secretary may coordinate the management and operations of the Preserve with the Bandelier National Monument.

(3) **MANAGEMENT PLAN.**—

(A) **IN GENERAL.**—Not later than 3 fiscal years after the date on which funds are made available to implement this subsection, the Secretary shall prepare a management plan for the Preserve.

(B) **APPLICABLE LAW.**—The management plan shall be prepared in accordance with—

(i) section 12(b) of Public Law 91–383 (commonly known as the “National Park Service General Authorities Act”) (16 U.S.C. 1a–7(b)); and
 (ii) any other applicable laws.

(C) **CONSULTATION.**—The management plan shall be prepared in consultation with—

(i) the Secretary of Agriculture;
 (ii) State and local governments;
 (iii) Indian tribes and pueblos, including the Pueblos of Jemez, Santa Clara, and San Ildefonso; and
 (iv) the public.

(c) **ACQUISITION OF LAND.**—

(1) **IN GENERAL.**—The Secretary may acquire land and interests in land within the boundaries of the Preserve by—

(A) purchase with donated or appropriated funds;

(B) donation; or

(C) transfer from another Federal agency.

(2) **ADMINISTRATION OF ACQUIRED LAND.**—On acquisition of any land or interests in land under paragraph (1), the acquired land or interests in land shall be administered as part of the Preserve.

(d) **SCIENCE AND EDUCATION PROGRAM.**—

(1) **IN GENERAL.**—The Secretary shall—

(A) until the date on which a management plan is completed in accordance with subsection (b)(3), carry out the science and education program for the Preserve established by the Trust; and

(B) beginning on the date on which a management plan is completed in accordance with subsection (b)(3), establish a science and education program for the Preserve that—

(i) allows for research and interpretation of the natural, historic, cultural, geologic and other scientific features of the Preserve;

(ii) provides for improved methods of ecological restoration and science-based adaptive management of the Preserve; and

(iii) promotes outdoor educational experiences in the Preserve.

(2) **SCIENCE AND EDUCATION CENTER.**—As part of the program established under paragraph (1)(B), the Secretary may establish a science and education center outside the boundaries of the Preserve.

(e) **GRAZING.**—The Secretary may allow the grazing of livestock within the Preserve to continue—

(1) consistent with this subtitle; and

(2) to the extent the use furthers scientific research or interpretation of the ranching history of the Preserve.

(f) **FISH AND WILDLIFE.**—Nothing in this subtitle affects the responsibilities of the State with respect to fish and wildlife in the State, except that the Secretary, in consultation with the New Mexico Department of Game and Fish—

(1) shall permit hunting and fishing on land and water within the Preserve in accordance with applicable Federal and State laws; and

(2) may designate zones in which, and establish periods during which, no hunting or fishing shall be permitted for reasons of public safety, administration, the protection of wildlife and wildlife habitats, or public use and enjoyment.

(g) **ECOLOGICAL RESTORATION.**—

(1) **IN GENERAL.**—The Secretary shall undertake activities to improve the health of forest, grassland, and riparian areas within the Preserve, including any activities carried out in accordance with title IV of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7301 et seq.).

(2) **COOPERATIVE AGREEMENTS.**—The Secretary may enter into cooperative agreements with adjacent pueblos to coordinate activities carried out under paragraph (1) on the Preserve and adjacent pueblo land.

(h) **WITHDRAWAL.**—Subject to valid existing rights, all land and interests in land within the boundaries of the Preserve are withdrawn from—

(1) entry, disposal, or appropriation under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing laws, geothermal leasing laws, and mineral materials laws.

(i) **VOLCANIC DOMES AND OTHER PEAKS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (3), for the purposes of preserving the natural, cultural, religious, archaeological, and historic resources of the volcanic domes and other peaks in the Preserve described in paragraph (2) within the area of the domes and peaks above 9,600 feet in elevation or 250 feet below the top of the dome, whichever is lower—

(A) no roads or buildings shall be constructed; and

(B) no motorized access shall be allowed.

(2) **DESCRIPTION OF VOLCANIC DOMES.**—The volcanic domes and other peaks referred to in paragraph (1) are—

- (A) Redondo Peak;
- (B) Redondito;
- (C) South Mountain;
- (D) San Antonio Mountain;
- (E) Cerro Seco;
- (F) Cerro San Luis;
- (G) Cerros Santa Rosa;
- (H) Cerros del Abrigo;
- (I) Cerro del Medio;
- (J) Rabbit Mountain;
- (K) Cerro Grande;
- (L) Cerro Toledo;
- (M) Indian Point;
- (N) Sierra de los Valles; and
- (O) Cerros de los Posos.

(3) **EXCEPTION.**—Paragraph (1) shall not apply in cases in which construction or motorized access is necessary for administrative purposes (including ecological restoration activities or measures required in emergencies to protect the health and safety of persons in the area).

(j) **TRADITIONAL CULTURAL AND RELIGIOUS SITES.**—

(1) **IN GENERAL.**—The Secretary, in consultation with Indian tribes and pueblos, shall ensure the protection of traditional cultural and religious sites in the Preserve.

(2) **ACCESS.**—The Secretary, in accordance with Public Law 95-341 (commonly known as the “American Indian Religious Freedom Act”) (42 U.S.C. 1996)—

(A) shall provide access to the sites described in paragraph (1) by members of In-

dian tribes or pueblos for traditional cultural and customary uses; and

(B) may, on request of an Indian tribe or pueblo, temporarily close to general public use 1 or more specific areas of the Preserve to protect traditional cultural and customary uses in the area by members of the Indian tribe or pueblo.

(3) **PROHIBITION ON MOTORIZED ACCESS.**—The Secretary shall maintain prohibitions on the use of motorized or mechanized travel on Preserve land located adjacent to the Santa Clara Indian Reservation, to the extent the prohibition was in effect on the date of enactment of this Act.

(k) **CALDERA RIM TRAIL.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, affected Indian tribes and pueblos, and the public, shall study the feasibility of establishing a hiking trail along the rim of the Valles Caldera on—

(A) land within the Preserve; and

(B) National Forest System land that is adjacent to the Preserve.

(2) **AGREEMENTS.**—On the request of an affected Indian tribe or pueblo, the Secretary and the Secretary of Agriculture shall seek to enter into an agreement with the Indian tribe or pueblo with respect to the Caldera Rim Trail that provides for the protection of—

(A) cultural and religious sites in the vicinity of the trail; and

(B) the privacy of adjacent pueblo land.

(l) **VALID EXISTING RIGHTS.**—Nothing in this subtitle affects valid existing rights.

SEC. 103. TRANSFER OF ADMINISTRATIVE JURISDICTION.

(a) **IN GENERAL.**—Administrative jurisdiction over the Preserve is transferred from the Secretary of Agriculture and the Trust to the Secretary, to be administered as a unit of the National Park System, in accordance with section 102.

(b) **EXCLUSION FROM SANTA FE NATIONAL FOREST.**—The boundaries of the Santa Fe National Forest are modified to exclude the Preserve.

(c) **INTERIM MANAGEMENT.**—

(1) **MEMORANDUM OF AGREEMENT.**—Not later than 90 days after the date of enactment of this Act, the Secretary and the Trust shall enter into a memorandum of agreement to facilitate the orderly transfer to the Secretary of the administration of the Preserve.

(2) **EXISTING MANAGEMENT PLANS.**—Notwithstanding the repeal made by section 104(a), until the date on which the Secretary completes a management plan for the Preserve in accordance with section 102(b)(3), the Secretary may administer the Preserve in accordance with any management activities or plans adopted by the Trust under the Valles Caldera Preservation Act (16 U.S.C. 698v et seq.), to the extent the activities or plans are consistent with section 102(b)(1).

(3) **PUBLIC USE.**—The Preserve shall remain open to public use during the interim management period, subject to such terms and conditions as the Secretary determines to be appropriate.

(d) **VALLES CALDERA TRUST.**—

(1) **TERMINATION.**—The Trust shall terminate 180 days after the date of enactment of this Act unless the Secretary determines that the termination date should be extended to facilitate the transitional management of the Preserve.

(2) **ASSETS AND LIABILITIES.**—

(A) **ASSETS.**—On termination of the Trust—

(i) all assets of the Trust shall be transferred to the Secretary; and

(ii) any amounts appropriated for the Trust shall remain available to the Secretary for the administration of the Preserve.

(B) **ASSUMPTION OF OBLIGATIONS.**—

(i) **IN GENERAL.**—On termination of the Trust, the Secretary shall assume all contracts, obligations, and other liabilities of the Trust.

(ii) **NEW LIABILITIES.**—

(I) **BUDGET.**—Not later than 90 days after the date of enactment of this Act, the Secretary and the Trust shall prepare a budget for the interim management of the Preserve.

(II) **WRITTEN CONCURRENCE REQUIRED.**—The Trust shall not incur any new liabilities not authorized in the budget prepared under subclause (I) without the written concurrence of the Secretary.

(3) **PERSONNEL.**—

(A) **HIRING.**—The Secretary and the Secretary of Agriculture may hire employees of the Trust on a noncompetitive basis for comparable positions at the Preserve or other areas or offices under the jurisdiction of the Secretary or the Secretary of Agriculture.

(B) **SALARY.**—Any employees hired from the Trust under subparagraph (A) shall be subject to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(C) **INTERIM RETENTION OF ELIGIBLE EMPLOYEES.**—For a period of not less than 180 days beginning on the date of enactment of this Act, all eligible employees of the Trust shall be—

(i) retained in the employment of the Trust;

(ii) considered to be placed on detail to the Secretary; and

(iii) subject to the direction of the Secretary.

(D) **TERMINATION FOR CAUSE.**—Nothing in this paragraph precludes the termination of employment of an eligible employee for cause during the period described in subparagraph (C).

(4) **RECORDS.**—The Secretary shall have access to all records of the Trust pertaining to the management of the Preserve.

(5) **VALLES CALDERA FUND.**—

(A) **IN GENERAL.**—Effective on the date of enactment of this Act, the Secretary shall assume the powers of the Trust over the Fund.

(B) **AVAILABILITY AND USE.**—Any amounts in the Fund as of the date of enactment of this Act shall be available to the Secretary for use, without further appropriation, for the management of the Preserve.

SEC. 104. REPEAL OF VALLES CALDERA PRESERVATION ACT.

(a) **REPEAL.**—On the termination of the Trust, the Valles Caldera Preservation Act (16 U.S.C. 698v et seq.) is repealed.

(b) **EFFECT OF REPEAL.**—Notwithstanding the repeal made by subsection (a)—

(1) the authority of the Secretary of Agriculture to acquire mineral interests under section 104(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v-2(e)) is transferred to the Secretary and any proceeding for the condemnation of, or payment of compensation for, an outstanding mineral interest pursuant to the transferred authority shall continue;

(2) the provisions in section 104(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v-2(g)) relating to the Pueblo of Santa Clara shall remain in effect; and

(3) the Fund shall not be terminated until all amounts in the Fund have been expended by the Secretary.

(c) BOUNDARIES.—The repeal of the Valles Caldera Preservation Act (16 U.S.C. 698v et seq.) shall not affect the boundaries as of the date of enactment of this Act (including maps and legal descriptions) of—

- (1) the Preserve;
- (2) the Santa Fe National Forest (other than the modification made by section 103(b));
- (3) Bandelier National Monument; and
- (4) any land conveyed to the Pueblo of Santa Clara.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle B—Waco Mammoth National Monument

SEC. 111. DEFINITIONS.

In this subtitle the following definitions apply:

(1) NATIONAL MONUMENT.—The term “national monument” means the Waco Mammoth National Monument, established in section 112.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(3) MAP.—The term “map” means the map titled “Proposed Boundary Waco-Mammoth National Monument”, numbered T21/80,000, and dated April, 2009.

SEC. 112. WACO MAMMOTH NATIONAL MONUMENT, TEXAS.

(a) ESTABLISHMENT.—There is established the Waco Mammoth National Monument in the State of Texas, as a unit of the National Park System, as generally depicted on the map.

(b) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 113. ADMINISTRATION OF NATIONAL MONUMENT.

(a) IN GENERAL.—The Secretary shall administer the national monument in accordance with this subtitle, the cooperative agreements described in this section, and laws and regulations generally applicable to units of the National Park System, including the National Park Service Organic Act (39 Stat. 535, 16 U.S.C. 1).

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements for the management of the national monument with Baylor University and City of Waco, pursuant to the National Park Service General Authorities Act (16 U.S.C. 1a-2(1)).

SEC. 114. ACQUISITION OF PROPERTY AND BOUNDARY MANAGEMENT.

(a) ACQUISITION OF PROPERTY.—The Secretary is authorized to acquire from willing sellers lands, or interests in lands, within the proposed boundary of the national monument necessary for effective management.

(b) CONDITIONS.—Lands identified in subsection (a) may be acquired—

- (1) by donation, purchase with donated or appropriated funds, transfer from another Federal agency, or by exchange; and
- (2) in the case of lands owned by the State of Texas, or a political subdivision thereof, or Baylor University only by donation or exchange.

SEC. 115. CONSTRUCTION OF FACILITIES ON NON-FEDERAL LANDS.

(a) IN GENERAL.—The Secretary is authorized, subject to the appropriation of necessary funds, to construct essential administrative or visitor use facilities on non-Federal lands within the national monument.

(b) OTHER FUNDING.—In addition to the use of Federal funds authorized in subsection (a),

the Secretary may use donated funds, property, and services to carry out this section.

SEC. 116. GENERAL MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than three years after the date on which funds are made available to carry out this subtitle, the Secretary, in consultation with Baylor University and City of Waco, shall prepare a management plan for the national monument.

(b) INCLUSIONS.—The management plan shall include, at a minimum—

- (1) measures for the preservation of the resources of the national monument;
- (2) requirements for the type and extent of development and use of the national monument;
- (3) identification of visitor carrying capacities for national monument; and
- (4) opportunities for involvement by Baylor University, the City of Waco, the State of Texas, and other local and national entities in the formulation of educational programs for the national monument and for developing and supporting the national monument.

TITLE II—EXISTING UNITS OF THE NATIONAL PARK SYSTEM

Subtitle A—Oregon Caves National Monument Expansion

SEC. 201. DEFINITIONS.

In this subtitle:

(1) MAP.—The term “map” means the map entitled “Oregon Caves National Monument and Preserve”, numbered 150/80,023, and dated May 2010.

(2) MONUMENT.—The term “Monument” means the Oregon Caves National Monument established by Presidential Proclamation Number 876 (36 Stat. 2497), dated July 12, 1909.

(3) NATIONAL MONUMENT AND PRESERVE.—The term “National Monument and Preserve” means the Oregon Caves National Monument and Preserve designated by section 202(a)(1).

(4) NATIONAL PRESERVE.—The term “National Preserve” means the National Preserve designated by section 202(a)(2).

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(6) SECRETARY CONCERNED.—The term “Secretary concerned” means—

(A) the Secretary of Agriculture (acting through the Chief of the Forest Service), with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to land managed by the Bureau of Land Management.

(7) STATE.—The term “State” means the State of Oregon.

SEC. 202. DESIGNATIONS; LAND TRANSFER; BOUNDARY ADJUSTMENT.

(a) DESIGNATIONS.—

(1) IN GENERAL.—The Monument and the National Preserve shall be administered as a single unit of the National Park System and collectively known and designated as the “Oregon Caves National Monument and Preserve”.

(2) NATIONAL PRESERVE.—The approximately 4,070 acres of land identified on the map as “Proposed Addition Lands” shall be designated as a National Preserve.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—Administrative jurisdiction over the land designated as a National Preserve under subsection (a)(2) is transferred from the Secretary of Agriculture to the Secretary, to be administered as part of the National Monument and Preserve.

(2) EXCLUSION OF LAND.—The boundaries of the Rogue River-Siskiyou National Forest

are adjusted to exclude the land transferred under paragraph (1).

(c) BOUNDARY ADJUSTMENT.—The boundary of the National Monument and Preserve is modified to exclude approximately 4 acres of land—

- (1) located in the City of Cave Junction; and
- (2) identified on the map as the “Cave Junction Unit”.

(d) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(e) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Monument shall be considered to be a reference to the “Oregon Caves National Monument and Preserve”.

SEC. 203. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the National Monument and Preserve in accordance with—

- (1) this subtitle;
- (2) Presidential Proclamation Number 876 (36 Stat. 2497), dated July 12, 1909; and

(3) any law (including regulations) generally applicable to units of the National Park System, including the National Park Service Organic Act (16 U.S.C. 1 et seq.).

(b) FIRE MANAGEMENT.—As soon as practicable after the date of enactment of this Act, in accordance with subsection (a), the Secretary shall—

(1) revise the fire management plan for the Monument to include the land transferred under section 202(b)(1); and

(2) in accordance with the revised plan, carry out hazardous fuel management activities within the boundaries of the National Monument and Preserve.

(c) EXISTING FOREST SERVICE CONTRACTS.—

(1) IN GENERAL.—The Secretary shall—

(A) allow for the completion of any Forest Service stewardship or service contract executed as of the date of enactment of this Act with respect to the National Preserve; and

(B) recognize the authority of the Secretary of Agriculture for the purpose of administering a contract described in subparagraph (A) through the completion of the contract.

(2) TERMS AND CONDITIONS.—All terms and conditions of a contract described in paragraph (1)(A) shall remain in place for the duration of the contract.

(3) LIABILITY.—The Forest Service shall be responsible for any liabilities relating to a contract described in paragraph (1)(A).

(d) GRAZING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may allow the grazing of livestock within the National Preserve to continue as authorized under permits or leases in existence as of the date of enactment of this Act.

(2) APPLICABLE LAW.—Grazing under paragraph (1) shall be—

(A) at a level not greater than the level at which the grazing exists as of the date of enactment of this Act, as measured in Animal Unit Months; and

(B) in accordance with each applicable law (including National Park Service regulations).

(e) FISH AND WILDLIFE.—The Secretary shall permit hunting and fishing on land and waters within the National Preserve in accordance with applicable Federal and State laws, except that the Secretary may, in consultation with the Oregon Department of Fish and Wildlife, designate zones in which, and establish periods during which, no hunting or fishing shall be permitted for reasons

of public safety, administration, or compliance by the Secretary with any applicable law (including regulations).

SEC. 204. VOLUNTARY GRAZING LEASE OR PERMIT DONATION PROGRAM.

(a) DONATION OF LEASE OR PERMIT.—

(1) ACCEPTANCE BY SECRETARY CONCERNED.—The Secretary concerned shall accept a grazing lease or permit that is donated by a lessee or permittee for—

(A) the Big Grayback Grazing Allotment located in the Rogue River-Siskiyou National Forest; and

(B) the Billy Mountain Grazing Allotment located on a parcel of land that is managed by the Secretary (acting through the Director of the Bureau of Land Management).

(2) TERMINATION.—With respect to each grazing permit or lease donated under paragraph (1), the Secretary shall—

(A) terminate the grazing permit or lease; and

(B) ensure a permanent end to grazing on the land covered by the grazing permit or lease.

(b) EFFECT OF DONATION.—A lessee or permittee that donates a grazing lease or grazing permit (or a portion of a grazing lease or grazing permit) under this section shall be considered to have waived any claim to any range improvement on the associated grazing allotment or portion of the associated grazing allotment, as applicable.

SEC. 205. WILD AND SCENIC RIVER DESIGNATIONS.

(a) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

“(208) RIVER STYX, OREGON.—The subterranean segment of Cave Creek, known as the River Styx, to be administered by the Secretary of the Interior as a scenic river.”.

(b) POTENTIAL ADDITIONS.—

(1) IN GENERAL.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following:

“(141) OREGON CAVES NATIONAL MONUMENT AND PRESERVE, OREGON.—

“(A) CAVE CREEK, OREGON.—The 2.6-mile segment of Cave Creek from the headwaters at the River Styx to the boundary of the Rogue River Siskiyou National Forest.

“(B) LAKE CREEK, OREGON.—The 3.6-mile segment of Lake Creek from the headwaters at Bigelow Lakes to the confluence with Cave Creek.

“(C) NO NAME CREEK, OREGON.—The 0.6-mile segment of No Name Creek from the headwaters to the confluence with Cave Creek.

“(D) PANTHER CREEK.—The 0.8-mile segment of Panther Creek from the headwaters to the confluence with Lake Creek.

“(E) UPPER CAVE CREEK.—The segment of Upper Cave Creek from the headwaters to the confluence with River Styx.”.

(2) STUDY; REPORT.—Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following:

“(20) OREGON CAVES NATIONAL MONUMENT AND PRESERVE, OREGON.—Not later than 3 years after the date on which funds are made available to carry out this paragraph, the Secretary shall—

“(A) complete the study of the Oregon Caves National Monument and Preserve segments described in subsection (a)(141); and

“(B) submit to Congress a report containing the results of the study.”.

Subtitle B—Minuteman Missile National Historic Site Boundary Modification

SEC. 211. BOUNDARY MODIFICATION.

Section 3(a) of the Minuteman Missile National Historic Site Establishment Act of

1999 (16 U.S.C. 461 note; Public Law 106-115) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) VISITOR FACILITY AND ADMINISTRATIVE SITE.—

“(A) IN GENERAL.—In addition to the components described in paragraph (2), the historic site shall include a visitor facility and administrative site located on the parcel of land described in subparagraph (B).

“(B) DESCRIPTION OF LAND.—The land referred to in subparagraph (A) consists of approximately 25 acres of land within the Buffalo Gap National Grassland in South Dakota as generally depicted on the map entitled ‘Minuteman Missile National Historic Site Boundary Modification’, numbered 406/80,011, and dated July 17, 2009.

“(C) AVAILABILITY OF MAP.—The map described in subparagraph (B) shall be kept on file and available for public inspection in the appropriate offices of the National Park Service.

“(D) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the land described in subparagraph (B) is transferred from the Secretary of Agriculture to the Secretary, to be administered as part of the historic site.

“(E) BOUNDARY ADJUSTMENT.—The boundaries of the Buffalo Gap National Grasslands are modified to exclude the land transferred under subparagraph (D).”.

Subtitle C—Indiana Dunes National Lakeshore Visitor Center

SEC. 221. DOROTHY BUELL MEMORIAL VISITOR CENTER.

(a) MEMORANDUM OF UNDERSTANDING.—The Secretary of the Interior may enter into a memorandum of understanding to establish a joint partnership with the Porter County Convention, Recreation and Visitor Commission. The memorandum of understanding shall—

(1) identify the overall goals and purpose of the Dorothy Buell Memorial Visitor Center;

(2) establish how management and operational duties will be shared;

(3) determine how exhibits, signs, and other information are developed;

(4) indicate how various activities will be funded;

(5) identify who is responsible for providing site amenities;

(6) establish procedures for changing or dissolving the joint partnership; and

(7) address any other issues deemed necessary by the Secretary or the Porter County Convention, Recreation and Visitor Commission.

(b) DEVELOPMENT OF EXHIBITS.—The Secretary may plan, design, construct, and install exhibits in the Dorothy Buell Memorial Visitor Center related to the use and management of the resources at Indiana Dunes National Lakeshore, at a cost not to exceed \$1,500,000.

(c) NATIONAL LAKESHORE PRESENCE.—The Secretary may use park staff from Indiana Dunes National Lakeshore in the Dorothy Buell Memorial Visitor Center to provide visitor information and education.

SEC. 222. INDIANA DUNES NATIONAL LAKESHORE.

Section 19 of the Act entitled “An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes” (16 U.S.C. 460u–19) is amended—

(1) by striking “After notifying” and inserting “(a) After notifying”; and

(2) by adding at the end the following:

“(b) CONTIGUOUS CLARIFIED.—For purposes of subsection (a), lands may be considered contiguous to other lands if the lands touch the other lands, or are separated from the other lands by only a public or private right-of-way, such as a road, railroad, or utility corridor.”.

Subtitle D—North Cascades National Park Fish Stocking

SEC. 231. DEFINITIONS.

In this subtitle:

(1) NORTH CASCADES NATIONAL PARK SERVICE COMPLEX.—The term “North Cascades National Park Service Complex” means collectively the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area.

(2) PLAN.—The term “plan” means the document entitled “North Cascades National Park Service Complex Mountain Lakes Fishery Management Plan and Environmental Impact Statement” and dated June 2008.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 232. STOCKING OF CERTAIN LAKES IN THE NORTH CASCADES NATIONAL PARK SERVICE COMPLEX.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall authorize the stocking of fish in lakes in the North Cascades National Park Service Complex.

(b) CONDITIONS.—

(1) IN GENERAL.—The Secretary is authorized to allow stocking of fish in not more than 42 of the 91 lakes in the North Cascades National Park Service Complex that have historically been stocked with fish.

(2) NATIVE NONREPRODUCING FISH.—The Secretary shall only stock fish that are—

(A) native to the slope of the Cascade Range on which the lake to be stocked is located; and

(B) nonreproducing, as identified in management alternative B of the plan.

(3) CONSIDERATIONS.—In making fish stocking decisions under this subtitle, the Secretary shall make use of relevant scientific information, including the plan and information gathered under subsection (c).

(4) REQUIRED COORDINATION.—The Secretary shall coordinate the stocking of fish under this subtitle with the State of Washington.

(c) RESEARCH AND MONITORING.—The Secretary shall—

(1) continue a program of research and monitoring of the impacts of fish stocking on the resources of the applicable unit of the North Cascades National Park Service Complex; and

(2) beginning on the date that is 5 years after the date of enactment of this Act and every 5 years thereafter, submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the results of the research and monitoring under paragraph (1).

Subtitle E—Petersburg National Battlefield Boundary Modification

SEC. 241. BOUNDARY MODIFICATION.

(a) IN GENERAL.—The boundary of Petersburg National Battlefield is modified to include the properties as generally depicted on the map titled “Petersburg National Battlefield Boundary Expansion”, numbered 325/80,080, and dated June 2007. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

(b) ACQUISITION OF PROPERTIES.—The Secretary of the Interior (referred to in this subtitle as the “Secretary”) is authorized to acquire the lands or interests in land, described

in subsection (a), from willing sellers only by donation, purchase with donated or appropriated funds, exchange, or transfer.

(c) ADMINISTRATION.—The Secretary shall administer any land or interests in land acquired under this section as part of the Petersburg National Battlefield in accordance with applicable laws and regulations.

SEC. 242. ADMINISTRATIVE JURISDICTION TRANSFER.

(a) IN GENERAL.—The Secretary and the Secretary of the Army are authorized to transfer administrative jurisdiction for approximately 1.171 acres of land under the jurisdiction of the Department of the Interior within the boundary of the Petersburg National Battlefield, for approximately 1.170 acres of land under the jurisdiction of the Department of the Army within the boundary of the Fort Lee Military Reservation adjacent to the boundary of the Petersburg National Battlefield.

(b) MAP.—The land to be exchanged is depicted on the map titled “Petersburg National Battlefield Proposed Transfer of Administrative Jurisdiction”, numbered 325/80,081, and dated October 2009. The map shall be available for public inspection in the appropriate offices of the National Park Service.

(c) CONDITIONS OF TRANSFER.—The transfer of administrative jurisdiction authorized in subsection (a) shall be subject to the following conditions:

(1) NO REIMBURSEMENT OR CONSIDERATION.—The transfer shall occur without reimbursement or consideration.

(2) DEADLINE.—The Secretary and the Secretary of the Army shall complete the transfers authorized by this section not later than 120 days after the funds are made available for that purpose.

(3) MANAGEMENT.—The land conveyed to the Secretary under subsection (a) shall be included within the boundary of the Petersburg National Battlefield and shall be administered as part of the park in accordance with applicable laws and regulations.

Subtitle F—Gettysburg National Battlefield Boundary Modification

SEC. 251. GETTYSBURG NATIONAL MILITARY PARK BOUNDARY REVISION.

Section 1 of the Act titled “An Act to revise the boundary of the Gettysburg National Military Park in the Commonwealth of Pennsylvania, and for other purposes”, approved August 17, 1990 (16 U.S.C. 430g-4), is amended by adding at the end the following:

“(d) ADDITIONAL LAND.—In addition to the land identified in subsections (a) and (b), the park shall also include the following, as depicted on the map titled ‘Gettysburg National Military Park Proposed Boundary Addition’, numbered 305/80,045 and dated January 2010:

“(1) The land and interests in land commonly known as the ‘Gettysburg Train Station’ and its immediate surroundings in the Borough of Gettysburg.

“(2) The land and interests in land located along Plum Run in Cumberland Township.”.

SEC. 252. ACQUISITION AND DISPOSAL OF LAND.

Section 2 of that Act (16 U.S.C. 430g-5) is amended by adding at the end of subsection (a) the following: “The Secretary is also authorized to acquire publicly owned property within the area defined in section 1(d)(1) by purchase, from willing sellers only, if efforts to acquire that property without cost have been exhausted. The Secretary may not acquire property within the area defined in section 1(d) by eminent domain.”.

Subtitle G—Cane River National Historical Park Curatorial Center

SEC. 261. COLLECTIONS CONSERVATION CENTER.

Section 304 of the Cane River Creole National Historical Park and National Heritage Area Act (16 U.S.C. 410ccc-2) is amended by adding at the end the following:

“(f) COLLECTIONS CONSERVATION CENTER.—

“(1) IN GENERAL.—Subject to the appropriation of the full cost of construction in advance, the Secretary may enter into an agreement with Northwestern State University (referred to in this subsection as the ‘University’) to construct a facility on land owned by the University to be used—

“(A) to house the museum collection of the historical park;

“(B) to provide additional space for use by the National Center for Preservation Technology and Training; and

“(C) to provide space to the University for educational purposes relating to the Williamson Museum collection, if the University pays an appropriate rental fee to the National Park Service, as determined in the agreement entered into under this paragraph.

“(2) USE OF FEE.—Proceeds from the rental fees collected under paragraph (1)(C) shall be available until expended, without further appropriation, for the historical park.

“(3) TERMS OF LEASE.—The Secretary may enter into a lease with the University for a term of not more than 40 years if the land made available by the University under paragraph (1) is leased at a nominal cost to the Secretary.”.

SEC. 262. TECHNICAL CORRECTIONS.

The Cane River Creole National Historical Park and National Heritage Area Act (16 U.S.C. 410ccc et seq.) is amended—

(1) in the third sentence of section 304(e) (16 U.S.C. 410ccc-2(e)), by striking “of Technology” and inserting “Technology”; and

(2) in section 305(a) (16 U.S.C. 410ccc-3(a)), by striking “interest” and inserting “interests”.

TITLE III—SPECIAL RESOURCE STUDIES

SEC. 301. NEW PHILADELPHIA, ILLINOIS.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) STUDY AREA.—The term “Study Area” means the New Philadelphia archeological site and the surrounding land in the State of Illinois.

(b) STUDY.—The Secretary shall conduct a special resource study of the Study Area.

(c) CONTENTS.—In conducting the study under subsection (b), the Secretary shall—

(1) evaluate the national significance of the Study Area;

(2) determine the suitability and feasibility of designating the Study Area as a unit of the National Park System;

(3) consider other alternatives for preservation, protection, and interpretation of the Study Area by—

(A) Federal, State, or local governmental entities; or

(B) private and nonprofit organizations;

(4) consult with—

(A) interested Federal, State, or local governmental entities;

(B) private and nonprofit organizations; or

(C) any other interested individuals; and

(5) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives considered under paragraph (3).

(d) APPLICABLE LAW.—The study required under subsection (b) shall be conducted in

accordance with section 8 of Public Law 91-383 (16 U.S.C. 1a-5).

(e) REPORT.—Not later than 3 years after the date on which funds are first made available for the study under subsection (b), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study; and

(2) any conclusions and recommendations of the Secretary.

SEC. 302. GEORGE C. MARSHALL HOME, VIRGINIA.

(a) STUDY.—The Secretary of the Interior (referred to in this section as the “Secretary”) shall conduct a special resource study of the Dodona Manor and gardens in Leesburg, Virginia, the home of George C. Marshall during the most important period of Marshall’s career (referred to in this section as the “study area”).

(b) CONTENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the national significance of the study area and the surrounding area;

(2) determine the suitability and feasibility of designating the study area as an affiliated area of the National Park System;

(3) consider other alternatives for the preservation, protection, and interpretation of the study area by—

(A) the Federal Government;

(B) State or local governmental entities;

or

(C) private or nonprofit organizations;

(4) consult with interested—

(A) Federal, State, or local governmental entities;

(B) private or nonprofit organizations; or

(C) any other interested individuals; and

(5) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives considered under paragraph (3).

(c) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with section 8 of Public Law 91-383 (16 U.S.C. 1a-5).

(d) REPORT.—Not later than 3 years after the date on which funds are first made available to carry out the study under subsection (a), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that contains a description of—

(1) the results of the study; and

(2) any conclusions and recommendations of the Secretary.

SEC. 303. HEART MOUNTAIN RELOCATION CENTER, WYOMING.

(a) STUDY.—The Secretary of the Interior shall conduct a special resource study of the Heart Mountain Relocation Center, in Park County, Wyoming.

(b) CONTENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the national significance of the Heart Mountain Relocation Center and surrounding area;

(2) determine the suitability and feasibility of designating the Heart Mountain Relocation Center as a unit of the National Park System;

(3) consider other alternatives for preservation, protection, and interpretation of the site by Federal, State, or local governmental entities, or private and nonprofit organizations;

(4) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives;

(5) identify any potential impacts of designation of the site as a unit of the National Park System on private landowners; and

(6) consult with interested Federal, State, or local governmental entities, federally recognized Indian tribes, private and nonprofit organizations, owners of private property that may be affected by any such designation, or any other interested individuals.

(c) **APPLICABLE LAW.**—The study required under subsection (a) shall be conducted in accordance with section 8 of Public Law 91-383 (16 U.S.C. 1a-5).

(d) **REPORT.**—Not later than 3 years after the date on which funds are first made available for the study under subsection (a), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the results of the study and any conclusions and recommendations of the Secretary.

SEC. 304. COLONEL CHARLES YOUNG HOME, OHIO.

(a) **STUDY.**—The Secretary of the Interior (referred to in this section as the “Secretary”), in consultation with the Secretary of the Army, shall conduct a special resource study of the Colonel Charles Young Home, a National Historic Landmark in Xenia, Ohio (referred to in this section as the “Home”).

(b) **CONTENTS.**—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate any architectural and archeological resources of the Home;

(2) determine the suitability and feasibility of designating the Home as a unit of the National Park System;

(3) consider other alternatives for preservation, protection, and interpretation of the Home by Federal, State, or local governmental entities or private and nonprofit organizations, including the use of shared management agreements with the Dayton Aviation Heritage National Historical Park or specific units of that Park, such as the Paul Laurence Dunbar Home;

(4) consult with the Ohio Historical Society, Central State University, Wilberforce University, and other interested Federal, State, or local governmental entities, private and nonprofit organizations, or individuals; and

(5) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives considered under the study.

(c) **APPLICABLE LAW.**—The study required under subsection (a) shall be conducted in accordance with section 8 of Public Law 91-383 (16 U.S.C. 1a-5).

(d) **REPORT.**—Not later than 3 years after the date on which funds are first made available for the study under subsection (a), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that contains—

(1) the results of the study under subsection (a); and

(2) any conclusions and recommendations of the Secretary.

SEC. 305. UNITED STATES CIVIL RIGHTS TRAIL.

(a) **STUDY REQUIRED.**—The Secretary of the Interior shall conduct a special resource study for the purpose of evaluating a range of alternatives for protecting and interpreting sites associated with the struggle for civil rights in the United States, including alternatives for potential addition of some or all of the sites to the National Trails Sys-

(b) **CONSULTATION.**—The Secretary shall conduct the special resource study in consultation with appropriate Federal, State, county, and local governmental entities.

(c) **STUDY REQUIREMENTS.**—The Secretary shall conduct the study required under subsection (a) in accordance with section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)) and section 5(b) of the National Trails System Act (16 U.S.C. 1244(b)), as appropriate.

(d) **STUDY OBJECTIVES.**—In conducting the special resource study, the Secretary shall evaluate alternatives for achieving the following objectives:

(1) Identifying the resources and historic themes associated with the movement to secure racial equality in the United States for African Americans that, focusing on the period from 1954 through 1968, challenged the practice of racial segregation in the Nation and achieved equal rights for all American citizens.

(2) Making a review of existing studies and reports, such as the Civil Rights Framework Study, to complement and not duplicate other studies of the historical importance of the civil rights movements that may be underway or undertaken.

(3) Establishing connections with agencies, organizations, and partnerships already engaged in the preservation and interpretation of various trails and sites dealing with the civil rights movement.

(4) Protecting historically significant landscapes, districts, sites, and structures.

(5) Identifying alternatives for preservation and interpretation of the sites by the National Park Service, other Federal, State, or local governmental entities, or private and nonprofit organizations, including the potential inclusion of some or all of the sites in a National Civil Rights Trail.

(6) Identifying cost estimates for any necessary acquisition, development, interpretation, operation, and maintenance associated with the alternatives developed under the special resource study.

(e) **REPORT.**—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the results of the study conducted under subsection (c) and any recommendations of the Secretary with respect to the route.

SEC. 306. CAMP HALE, COLORADO.

(a) **DEFINITIONS.**—In this section:

(1) **CAMP HALE.**—The term “Camp Hale” means the area comprising approximately 200,000 acres on the White River and San Isabel National Forests in west-central Colorado located within portions of Eagle, Lake, Pitkin, and Summit counties.

(2) **SECRETARIES.**—The term “Secretaries” means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

(b) **STUDY.**—The Secretaries shall conduct a study of Camp Hale to determine—

(1) the suitability and feasibility of designating Camp Hale as a unit of the National Park System, in accordance with section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)); or

(2) any other designation or management option that would provide for the protection of resources within Camp Hale, including continued management of Camp Hale by the Forest Service.

(c) **REQUIRED ANALYSIS.**—The study under subsection (b) shall include an analysis of—

(1) the significance of Camp Hale in relation to national security during World War II and the Cold War, including—

(A) the use of Camp Hale for training of the 10th Mountain Division and other elements of the United States Armed Forces; and

(B) the use of Camp Hale for training by the Central Intelligence Agency of Tibetan refugees seeking to resist the Chinese occupation of Tibet;

(2) opportunities for public enjoyment and recreation at Camp Hale; and

(3) any operational, management, or private property issues relating to Camp Hale.

(d) **CONGRESSIONAL INTENT.**—It is the intent of Congress that, in conducting the study under subsection (b), the Secretaries not propose any designation that would affect valid existing rights, including—

(1) all interstate water compacts in existence on the date of enactment of this Act (including full development of any apportionment made in accordance with the compacts);

(2) water rights—

(A) decreed at Camp Hale; or

(B) flowing within, below, or through Camp Hale;

(3) water rights in the State of Colorado;

(4) water rights held by the United States; and

(5) the management and operation of any reservoir, including the storage, management, release, or transportation of water.

(e) **REPORT.**—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretaries shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives—

(1) the study conducted under this section; and

(2) any recommendations of the Secretaries relating to Camp Hale.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE IV—BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL

SEC. 401. FINDING.

Congress finds that the contributions of free persons and slaves who fought during the American Revolution were of preeminent historical and lasting significance to the United States, as required by section 8908(b)(1) of title 40, United States Code.

SEC. 402. DEFINITIONS.

In this subtitle:

(1) **FEDERAL LAND.**—

(A) **IN GENERAL.**—The term “Federal land” means the parcel of land—

(i) identified as “Area I”; and

(ii) depicted on the map numbered 869/86501B and dated June 24, 2003.

(B) **EXCLUSION.**—The term “Federal land” does not include the Reserve (as defined in section 8902(a) of title 40, United States Code).

(2) **MEMORIAL.**—The term “memorial” means the memorial authorized to be established under section 403(a).

SEC. 403. MEMORIAL AUTHORIZATION.

(a) **AUTHORIZATION.**—In accordance with subsections (b) and (c), National Mall Liberty Fund D.C. may establish a memorial on Federal land in the District of Columbia to honor the more than 5,000 courageous slaves and free Black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution.

(b) **PROHIBITION ON USE OF FEDERAL FUNDS.**—National Mall Liberty Fund D.C. may not use Federal funds to establish the memorial.

(c) APPLICABLE LAW.—National Mall Liberty Fund D.C. shall establish the memorial in accordance with chapter 89 of title 40, United States Code.

SEC. 404. REPEAL OF JOINT RESOLUTIONS.

Public Law 99-558 (110 Stat. 3144) and Public Law 100-265 (102 Stat. 39) are repealed.

TITLE V—GENERAL AUTHORITIES

Subtitle A—Revolutionary War and War of 1812 American Battlefield Funding

SEC. 501. REVOLUTIONARY WAR AND WAR OF 1812 AMERICAN BATTLEFIELD PROTECTION.

Section 7301(c) of the Omnibus Public Land Management Act of 2009 (Public Law 111-11) is amended as follows:

(1) In paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

“(A) BATTLEFIELD REPORT.—The term “battlefield report” means, collectively—

“(i) the report entitled ‘Report on the Nation’s Civil War Battlefields’, prepared by the Civil War Sites Advisory Commission, and dated July 1993; and

“(ii) the report entitled ‘Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States’, prepared by the National Park Service, and dated September 2007.”; and

(B) in subparagraph (C)(ii), by striking “Battlefield Report” and inserting “battlefield report”.

(2) In paragraph (2), by inserting “eligible sites or” after “acquiring”.

(3) In paragraph (3), by inserting “an eligible site or” after “acquire”.

(4) In paragraph (4), by inserting “an eligible site or” after “acquiring”.

(5) In paragraph (5), by striking “An” and inserting “An eligible site or an”.

(6) By redesignating paragraph (6) as paragraph (8).

(7) By inserting after paragraph (5) the following new paragraphs:

“(6) WILLING SELLERS.—Acquisition of land or interests in land under this subsection shall be from willing sellers only.

“(7) REPORT.—Not later than 5 years after the date of the enactment of this subsection, the Secretary shall submit to Congress a report on the activities carried out under this subsection, including a description of—

“(A) preservation activities carried out at the battlefields and associated sites identified in the battlefield report during the period between publication of the battlefield report and the report required under this paragraph;

“(B) changes in the condition of the battlefields and associated sites during that period; and

“(C) any other relevant developments relating to the battlefields and associated sites during that period.”.

(8) By striking paragraph (8) (as redesignated by paragraph (6)) and inserting the following:

“(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to provide grants under this subsection for each of fiscal years 2010 through 2020—

“(A) \$10,000,000 for the protection of Civil War battlefields; and

“(B) \$10,000,000 for the protection of Revolutionary War and War of 1812 battlefields.”.

Subtitle B—National Park Service Miscellaneous Authorizations

SEC. 511. NATIONAL PARK SYSTEM AUTHORITIES.

(a) NATIONAL PARK SYSTEM ADVISORY BOARD.—Section 3(f) of the Act entitled, “An

Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes”, approved August 21, 1935 (16 U.S.C. 463(f)), is amended in the first sentence by striking “2010” and inserting “2020”.

(b) NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT ADVISORY BOARD.—Section 409(d) of the National Park Service Concessions Management Improvement Act of 1998 (Public Law 105-391) is amended by striking “2009” and inserting “2019”.

(c) NATIONAL PARK SYSTEM UNIFORM PENALTIES.—

(1) FINES AND IMPRISONMENT.—The first section of the Act entitled, “An Act to provide for the protection of national military parks, national parks, battlefield sites, national monuments, and miscellaneous memorials under the control of the War Department”, approved March 2, 1933 (47 Stat. 1420, ch. 180), is amended by striking “such fine and imprisonment.” and inserting “such fine and imprisonment; except if the violation occurs within a park, site, monument, or memorial that is part of the National Park System, where violations shall be subject to the penalty provision set forth in section 3 of the Act of August 25, 1916 (16 U.S.C. 3; commonly known as the ‘National Park Service Organic Act’) and section 3571 of title 18, United States Code.”.

(2) COST OF PROCEEDINGS.—Section 2(k) of the Act entitled, “An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes”, approved August 21, 1935 (16 U.S.C. 462(k)), is amended by striking “cost of the proceedings; except if the violation occurs within an area that is part of the National Park System, where violations shall be subject to the penalty provision set forth in section 3 of the Act of August 25, 1916 (16 U.S.C. 3; commonly known as the ‘National Park Service Organic Act’), and section 3571 of title 18, United States Code.”.

(d) VOLUNTEERS IN THE PARKS.—Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking “\$3,500,000” and inserting “\$10,000,000”.

SEC. 512. PEARL HARBOR TICKETING.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) PEARL HARBOR HISTORIC SITE.—The term “Pearl Harbor historic site” means a historic attraction within the Pearl Harbor Naval Complex, including the USS Bowfin Submarine Museum and Park, the Battleship Missouri Memorial, the Pacific Aviation Museum—Pearl Harbor, and any other historic attraction that the Secretary identifies as a Pearl Harbor historic site and that is not administered or managed by the Secretary.

(3) VISITOR CENTER.—The term “visitor center” means the visitor center located within the Pearl Harbor Naval Complex on lands that are within the World War II Valor in the Pacific National Monument and managed by the Secretary through the National Park Service.

(b) FACILITATION OF ADMISSION TO HISTORIC ATTRACTIONS WITHIN PEARL HARBOR NAVAL COMPLEX.—

(1) IN GENERAL.—The Secretary, in managing the World War II Valor in the Pacific National Monument, may enter into an agreement with the nonprofit organizations or other legally recognized entities that are authorized to administer or manage a Pearl Harbor historic site—

(A) to allow visitors to a Pearl Harbor historic site to gain access to the site by passing through security screening at the Visitor Center; and

(B) to allow the sale of tickets to a Pearl Harbor historic site within the Visitor Center by employees of the National Park Service or by organizations that administer or manage a Pearl Harbor historic site.

(2) TERMS AND CONDITIONS.—In any agreement entered into pursuant to this section, the Secretary—

(A) shall require the organization administering or managing a Pearl Harbor historic site to pay to the Secretary a reasonable fee to recover administrative costs associated with the use of the Visitor Center for public access and ticket sales, the proceeds of which shall remain available, without further appropriation, for use by the National Park Service at the World War II Valor in the Pacific National Monument;

(B) shall ensure the limited liability of the United States arising from the admission of the public through the Visitor Center to a Pearl Harbor historic site and the sale or issuance of any tickets to the site; and

(C) may include any other terms and conditions the Secretary deems appropriate.

(3) LIMITATION OF AUTHORITY.—Under this section, the Secretary shall have no authority—

(A) to regulate or approve the rates for admission to an attraction within the Pearl Harbor historic site;

(B) to regulate or manage any visitor services of any historic sites within the Pearl Harbor Naval Complex other than at those sites managed by the National Park Service as part of World War II Valor in the Pacific National Monument; or

(C) to charge an entrance fee for admission to the World War II Valor in the Pacific National Monument.

(c) PROTECTION OF RESOURCES.—Nothing in this section authorizes the Secretary or any organization that administers or manages a Pearl Harbor historic site to take any action in derogation of the preservation and protection of the values and resources of the World War II Valor in the Pacific National Monument.

SEC. 513. CHANGES TO NATIONAL PARK UNITS.

(a) GEORGE WASHINGTON MEMORIAL PARKWAY.—

(1) PURPOSE.—The purpose of this subsection is to authorize, direct, facilitate, and expedite the transfer of administrative jurisdiction of certain Federal land in accordance with the terms and conditions of this subsection.

(2) DEFINITIONS.—In this subsection:

(A) FARM.—The term “Farm” means the Claude Moore Colonial Farm.

(B) MAP.—The term “Map” means the map titled “GWMP—Claude Moore Proposed Boundary Adjustment”, numbered 850/82003, and dated April 2004. The map shall be available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(C) RESEARCH CENTER.—The term “Research Center” means the Federal Highway Administration’s Turner-Fairbank Highway Research Center.

(D) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(3) ADMINISTRATIVE JURISDICTION TRANSFER.—

(A) TRANSFER OF JURISDICTION.—

(i) IN GENERAL.—The Secretary and the Secretary of Transportation are authorized to transfer administrative jurisdiction for approximately 0.342 acre of land under the

jurisdiction of the Department of the Interior within the boundary of the George Washington Memorial Parkway, generally depicted as "B" on the Map, for approximately 0.479 acre within the boundary of the Research Center land under the jurisdiction of the Department of Transportation adjacent to the boundary of the George Washington Memorial Parkway, generally depicted as "A" on the Map.

(ii) **USE RESTRICTION.**—The Secretary shall restrict the use of 0.139 acre of land within the boundary of the George Washington Memorial Parkway immediately adjacent to part of the north perimeter fence of the Research Center, generally depicted as "C" on the Map, by prohibiting the storage, construction, or installation of any item that may obstruct the view from the Research Center into the George Washington Memorial Parkway.

(B) **REIMBURSEMENT OR CONSIDERATION.**—The transfer of administrative jurisdiction under this section shall occur without reimbursement or consideration.

(C) **COMPLIANCE WITH AGREEMENT.**—

(i) **AGREEMENT.**—The National Park Service and the Federal Highway Administration shall comply with all terms and conditions of the Agreement entered into by the parties on September 11, 2002, regarding the transfer of administrative jurisdiction, management, and maintenance of the lands discussed in the Agreement.

(ii) **ACCESS TO LAND.**—The Secretary shall allow the Research Center access to the land the Secretary restricts under subparagraph (A)(ii) for purposes of maintenance in accordance with National Park Service standards, which includes grass mowing and weed control, tree maintenance, fence maintenance, and visual appearance. No tree 6 inches or more in diameter shall be pruned or removed without the advance written permission of the Secretary. Any pesticide use must be approved in writing by the Secretary prior to application of the pesticide.

(4) **MANAGEMENT OF TRANSFERRED LANDS.**—

(A) **INTERIOR LAND.**—The land transferred to the Secretary under paragraph (3)(A) shall be included in the boundaries of the George Washington Memorial Parkway and shall be administered by the National Park Service as part of the parkway subject to applicable laws and regulations.

(B) **TRANSPORTATION LAND.**—The land transferred to the Secretary of Transportation under paragraph (3)(A) shall be included in the boundary of the Research Center and shall be removed from the boundary of the parkway.

(C) **RESTRICTED-USE LAND.**—The land the Secretary has designated for restricted use under paragraph (3)(A) shall be maintained by the Research Center.

(b) **DISTRICT OF COLUMBIA SNOW REMOVAL.**—Section 3 of the Act entitled, "An Act Providing for the removal of snow and ice from the paved sidewalks of the District of Columbia", approved September 16, 1922 (Sec. 9-603, D.C. Official Code), is amended to read as follows:

"SEC. 3. (a) It shall be the duty of a Federal agency to remove, or cause to be removed, snow, sleet, or ice from paved sidewalks and crosswalks within the fire limits of the District of Columbia that are—

"(1) in front of or adjacent to buildings owned by the United States and under such Federal agency's jurisdiction; or

"(2) public thoroughfares in front of, around, or through public squares, reservations, or open spaces and that are owned by the United States and under such Federal agency's jurisdiction.

"(b) The snow, sleet, or ice removal required by subsection (a) shall occur within a reasonable time period after snow or sleet ceases to fall or after ice has accumulated. In the event that snow, sleet, or ice has hardened and cannot be removed, such Federal agency shall—

"(1) make the paved sidewalks and crosswalks under its jurisdiction described in subsection (a) reasonably safe for travel by the application of sand, ashes, salt, or other acceptable materials; and

"(2) as soon as practicable, thoroughly remove the snow, sleet, or ice.

"(c)(1) The duty of a Federal agency described in subsections (a) and (b) may be delegated to another governmental or non-governmental entity through a lease, contract, or other comparable arrangement.

"(2) If two or more Federal agencies have overlapping responsibility for the same sidewalk or crosswalk they may enter into an arrangement assigning responsibility."

(c) **MARTIN LUTHER KING, JR. NATIONAL HISTORICAL PARK.**—

(1) **AMENDMENTS.**—The Act entitled "An Act to establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes", approved October 10, 1980 (Public Law 96-428; 94 Stat. 1839) is amended—

(A) in the first section, by striking "the map entitled 'Martin Luther King, Junior, National Historic Site Boundary Map', number 489/80,013B, and dated September 1992" and inserting "the map titled 'Martin Luther King, Jr. National Historical Park', numbered 489/80,032, and dated April 2009";

(B) by striking "Martin Luther King, Junior, National Historic Site" each place it appears and inserting "Martin Luther King, Jr. National Historical Park"; and

(C) by striking "historic site" each place it appears and inserting "historical park".

(2) **REFERENCES.**—Any reference in any law (other than this Act), map, regulation, document, record, or other official paper of the United States to the "Martin Luther King, Junior, National Historic Site" shall be considered to be a reference to the "Martin Luther King, Jr. National Historical Park".

(d) **LAVA BEDS NATIONAL MONUMENT WILDERNESS BOUNDARY ADJUSTMENT.**—The first section of the Act of October 13, 1972 (Public Law 92-493; 16 U.S.C. 1132 note), is amended in the first sentence—

(1) by striking "That, in" and inserting the following:

"SECTION 1. In"; and

(2) by striking "ten thousand acres" and all that follows through the end of the sentence and inserting "10,431 acres, as depicted within the proposed wilderness boundary on the map titled 'Lava Beds National Monument, Proposed Wilderness Boundary Adjustment', numbered 147/80,015, and dated September 2005, and those lands within the area generally known as the 'Schonchin Lava Flow', comprising approximately 18,029 acres, as depicted within the proposed wilderness boundary on the map, are designated as wilderness."

SEC. 514. TECHNICAL CORRECTIONS.

(a) **BALTIMORE NATIONAL HERITAGE AREA.**—The Omnibus Public Land Management Act of 2009 (Public Law 111-11) is amended—

(1) in sections 8005(b)(3) and 8005(b)(4) by striking "Baltimore Heritage Area Association" and inserting "Baltimore City Heritage Area Association"; and

(2) in section 8005(i) by striking "EFFECTIVENESS" and inserting "FINANCIAL ASSISTANCE".

(b) **MUSCLE SHOALS NATIONAL HERITAGE AREA.**—Section 8009(j) of the Omnibus Public

Land Management Act of 2009 is amended by striking "EFFECTIVENESS" and inserting "FINANCIAL ASSISTANCE".

(c) **SNAKE RIVER HEADWATERS.**—Section 5002(c)(1) of the Omnibus Public Land Management Act of 2009 is amended by striking "paragraph (205) of section 3(a)" each place it appears and inserting "paragraph (206) of section 3(a)".

(d) **TAUNTON RIVER.**—Section 5003(b) of the Omnibus Public Land Management Act of 2009 is amended by striking "section 3(a)(206)" each place it appears and inserting "section 3(a)(207)".

(e) **CUMBERLAND ISLAND NATIONAL SEASHORE.**—Section 6(b) of the Act titled "An Act to establish the Cumberland Island National Seashore in the State of Georgia, and for other purposes" (Public Law 92-536) is amended by striking "physiographic conditions not prevailing" and inserting "physiographic conditions now prevailing".

(f) **NIAGARA FALLS NATIONAL HERITAGE AREA.**—Section 427(k) of the Consolidated Natural Resources Act of 2008 (Public Law 110-229) is amended by striking "Except as provided for the leasing of administrative facilities under subsection (g)(1), the" and inserting "The".

DIVISION B—NATIONAL WILDERNESS PRESERVATION SYSTEM

TITLE XX—ORGAN MOUNTAINS-DESERT PEAKS WILDERNESS

SEC. 2001. DEFINITIONS.

In this title:

(1) **CONSERVATION AREA.**—The term "Conservation Area" means each of the Organ Mountains National Conservation Area and the Desert Peaks National Conservation Area established by section 2003(a).

(2) **MANAGEMENT PLAN.**—The term "management plan" means the management plan for the Conservation Areas developed under section 2003(d).

(3) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(4) **STATE.**—The term "State" means the State of New Mexico.

SEC. 2002. DESIGNATION OF WILDERNESS AREAS.

(a) **IN GENERAL.**—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness and as components of the National Wilderness Preservation System:

(1) **ADEN LAVA FLOW WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 27,650 acres, as generally depicted on the map entitled "Petrillo Mountains Complex" and dated May 18, 2010, which shall be known as the "Aden Lava Flow Wilderness".

(2) **BROAD CANYON WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 13,900 acres, as generally depicted on the map entitled "Desert Peaks National Conservation Area" and dated May 18, 2010, which shall be known as the "Broad Canyon Wilderness".

(3) **CINDER CONE WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 16,950 acres, as generally depicted on the map entitled "Petrillo Mountains Complex" and dated May 18, 2010, which shall be known as the "Cinder Cone Wilderness".

(4) **ORGAN MOUNTAINS WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 19,400 acres, as generally depicted on the map entitled "Organ

Mountains National Conservation Area" and dated June 22, 2010, which shall be known as the "Organ Mountains Wilderness".

(5) **POTRILLO MOUNTAINS WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana and Luna counties comprising approximately 125,850 acres, as generally depicted on the map entitled "Potrillo Mountains Complex" and dated May 18, 2010, which shall be known as the "Potrillo Mountains Wilderness".

(6) **ROBLEDO MOUNTAINS WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 16,950 acres, as generally depicted on the map entitled "Desert Peaks National Conservation Area" and dated May 18, 2010, which shall be known as the "Robledo Mountains Wilderness".

(7) **SIERRA DE LAS UVAS WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 11,100 acres, as generally depicted on the map entitled "Desert Peaks National Conservation Area" and dated May 18, 2010, which shall be known as the "Sierra de las Uvas Wilderness".

(8) **WHITETHORN WILDERNESS.**—Certain land administered by the Bureau of Land Management in Doña Ana and Luna counties comprising approximately 9,600 acres, as generally depicted on the map entitled "Potrillo Mountains Complex" and dated May 18, 2010, which shall be known as the "Whitethorn Wilderness".

(b) **MANAGEMENT.**—Subject to valid existing rights, the wilderness areas designated by subsection (a) shall be administered by the Secretary in accordance with this title and the Wilderness Act (16 U.S.C. 1131 et seq.) except that—

(1) any reference in the Wilderness Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(c) **INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.**—Any land or interest in land that is within the boundary of a wilderness area designated by subsection (a) that is acquired by the United States shall—

(1) become part of the wilderness area within the boundaries of which the land is located; and

(2) be managed in accordance with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.);

(B) this title; and

(C) any other applicable laws.

(d) **GRAZING.**—Grazing of livestock in the wilderness areas designated by subsection (a), where established before the date of enactment of this Act, shall be administered in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101-405).

(e) **MILITARY OVERFLIGHTS.**—Nothing in this section restricts or precludes—

(1) low-level overflights of military aircraft over the wilderness areas designated by subsection (a), including military overflights that can be seen or heard within the wilderness areas;

(2) the designation of new units of special airspace over the wilderness areas or wilderness additions designated by this title; or

(3) the use or establishment of military flight training routes over wilderness areas

or wilderness additions designated by this title.

(f) **BUFFER ZONES.**—

(1) **IN GENERAL.**—Nothing in this section creates a protective perimeter or buffer zone around any wilderness area designated by subsection (a).

(2) **ACTIVITIES OUTSIDE WILDERNESS AREAS.**—The fact that an activity or use on land outside any wilderness area designated by subsection (a) can be seen or heard within the wilderness area shall not preclude the activity or use outside the boundary of the wilderness area.

(g) **PERMIT AUTHORIZATION.**—The Secretary may continue to authorize the competitive running event permitted from 1970 through 2010 in the vicinity of the boundaries of the Organ Mountains Wilderness designated by subsection (a)(4) in a manner compatible with the preservation of the area as wilderness.

(h) **POTENTIAL WILDERNESS AREA.**—

(1) **ROBLEDO MOUNTAINS POTENTIAL WILDERNESS AREA.**—

(A) **IN GENERAL.**—Certain land administered by the Bureau of Land Management, comprising approximately 100 acres as generally depicted as "Potential Wilderness" on the map entitled "Desert Peaks National Conservation Area" and dated May 18, 2010, is designated as a potential wilderness area.

(B) **USES.**—The Secretary shall permit only such uses on the land described in subparagraph (A) that were permitted on the date of enactment of this Act.

(C) **DESIGNATION AS WILDERNESS.**—

(i) **IN GENERAL.**—On the date on which the Secretary publishes in the Federal Register the notice described in clause (ii), the potential wilderness area designated under subparagraph (A) shall be—

(I) designated as wilderness and as a component of the National Wilderness Preservation System; and

(II) incorporated into the Robledo Mountains Wilderness designated by subsection (a)(6).

(ii) **NOTICE.**—The notice referred to in clause (i) is notice that—

(I) the communications site within the potential wilderness area designated under subparagraph (A) is no longer used;

(II) the associated right-of-way is relinquished or not renewed; and

(III) the conditions in the potential wilderness area designated by subparagraph (A) are compatible with the Wilderness Act (16 U.S.C. 1131 et seq.).

(i) **RELEASE OF WILDERNESS STUDY AREAS.**—Congress finds that, for purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the public land in Doña Ana County administered by the Bureau of Land Management not designated as wilderness by subsection (a)—

(1) has been adequately studied for wilderness designation;

(2) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(3) shall be managed in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(B) this title; and

(C) any other applicable laws.

SEC. 2003. ESTABLISHMENT OF NATIONAL CONSERVATION AREAS.

(a) **ESTABLISHMENT.**—The following areas in the State are established as National Conservation Areas:

(1) **ORGAN MOUNTAINS NATIONAL CONSERVATION AREA.**—Certain land administered by

the Bureau of Land Management in Doña Ana County comprising approximately 84,950 acres, as generally depicted on the map entitled "Organ Mountains National Conservation Area" and dated June 22, 2010, which shall be known as the "Organ Mountains National Conservation Area".

(2) **DESERT PEAKS NATIONAL CONSERVATION AREA.**—Certain land administered by the Bureau of Land Management in Doña Ana County comprising approximately 75,550 acres, as generally depicted on the map entitled "Desert Peaks National Conservation Area" and dated May 18, 2010, which shall be known as the "Desert Peaks National Conservation Area".

(b) **PURPOSES.**—The purposes of the Conservation Areas are to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the cultural, archaeological, natural, geological, historical, ecological, watershed, wildlife, educational, recreational, and scenic resources of the Conservation Areas.

(c) **MANAGEMENT.**—

(1) **IN GENERAL.**—The Secretary shall manage the Conservation Areas—

(A) in a manner that conserves, protects, and enhances the resources of the Conservation Areas; and

(B) in accordance with—

(i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(ii) this title; and

(iii) any other applicable laws.

(2) **USES.**—

(A) **IN GENERAL.**—The Secretary shall allow only such uses of the Conservation Areas that the Secretary determines would further the purposes described in subsection (b).

(B) **USE OF MOTORIZED VEHICLES.**—

(i) **IN GENERAL.**—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Conservation Areas shall be permitted only on roads designated for use by motorized vehicles in the management plan.

(ii) **NEW ROADS.**—No additional road shall be built within the Conservation Areas after the date of enactment of this Act unless the road is necessary for public safety or natural resource protection.

(C) **GRAZING.**—The Secretary shall permit grazing within the Conservation Areas, where established before the date of enactment of this Act—

(i) subject to all applicable laws (including regulations) and Executive orders; and

(ii) consistent with the purposes described in subsection (b).

(D) **UTILITY RIGHT-OF-WAY UPGRADES.**—Nothing in this section precludes the Secretary from renewing or authorizing the upgrading (including widening) of a utility right-of-way in existence as of the date of enactment of this Act through the Organ Mountains National Conservation Area—

(i) in accordance with—

(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) any other applicable law; and

(ii) subject to such terms and conditions as the Secretary determines to be appropriate.

(d) **MANAGEMENT PLAN.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall develop a management plan for each of the Conservation Areas.

(2) **CONSULTATION.**—The management plans shall be developed in consultation with—

(A) interested Federal agencies;

(B) State, tribal, and local governments; and

(C) the public.

(3) **CONSIDERATIONS.**—In preparing and implementing the management plans, the Secretary shall consider the recommendations of Indian tribes and pueblos on methods for providing access to, and protection for, traditional cultural and religious sites in the Conservation Areas.

(e) **INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.**—Any land or interest in land that is within the boundary of a Conservation Area designated by subsection (a) that is acquired by the United States shall—

(1) become part of the Conservation Area within the boundaries of which the land is located; and

(2) be managed in accordance with—

(A) this title; and

(B) any other applicable laws.

(f) **TRANSFER OF ADMINISTRATIVE JURISDICTION.**—On the date of enactment of this Act, administrative jurisdiction over the approximately 2,050 acres of land generally depicted as “Transfer from DOD to BLM” on the map entitled “Organ Mountains National Conservation Area” and dated June 22, 2010, shall—

(1) be transferred from the Secretary of Defense to the Secretary;

(2) become part of the Organ Mountains National Conservation Area; and

(3) be managed in accordance with—

(A) this title; and

(B) any other applicable laws.

SEC. 2004. GENERAL PROVISIONS.

(a) **MAPS AND LEGAL DESCRIPTIONS.**—

(1) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and legal descriptions of the Conservation Areas and the wilderness areas designated by this title with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) **FORCE OF LAW.**—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this title, except that the Secretary may correct errors in the maps and legal descriptions.

(3) **PUBLIC AVAILABILITY.**—The maps and legal descriptions filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(b) **NATIONAL LANDSCAPE CONSERVATION SYSTEM.**—The Conservation Areas and the wilderness areas designated by this title shall be administered as components of the National Landscape Conservation System.

(c) **FISH AND WILDLIFE.**—Nothing in this title affects the jurisdiction of the State with respect to fish and wildlife located on public land in the State, except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may designate zones where, and establish periods during which, hunting, or fishing shall not be allowed for reasons of public safety, administration, the protection for nongame species and their habitats, or public use and enjoyment.

(d) **WITHDRAWALS.**—

(1) **IN GENERAL.**—Subject to valid existing rights, the Federal land within the Conservation Areas, the wilderness areas designated by this title, and any land or interest in land that is acquired by the United States in the Conservation Areas or wilderness areas after the date of enactment of this Act is withdrawn from—

(A) entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) **PARCEL A.**—The approximately 1,300 acres of land generally depicted as “Parcel A” on the map entitled “Organ Mountains National Conservation Area” and dated June 22, 2010, is withdrawn in accordance with paragraph (1), except that the land is not withdrawn from disposal under the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.).

(3) **PARCEL B.**—The approximately 6,500 acres of land generally depicted as “Parcel B” on the map entitled “Organ Mountains National Conservation Area” and dated June 22, 2010, is withdrawn in accordance with paragraph (1), except that the land is not withdrawn for purposes of the issuance of oil and gas pipeline rights-of-way.

SEC. 2005. PREHISTORIC TRACKWAYS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 2103 of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 431 note; Public Law 111-11; 123 Stat. 1097) is amended by striking subsection (b) and inserting the following:

“(b) **DESCRIPTION OF LAND.**—The Monument shall consist of approximately 5,750 acres of public land in Dona Ana County, New Mexico, as generally depicted on the map entitled ‘Desert Peaks National Conservation Area’ and dated May 18, 2010.”

SEC. 2006. BORDER SECURITY.

(a) **IN GENERAL.**—Nothing in this title—

(1) prevents the Secretary of Homeland Security from undertaking law enforcement and border security activities, in accordance with section 4(c) of the Wilderness Act (16 U.S.C. 1133(c)), within the areas designated as wilderness by this title, including the ability to use motorized access within a wilderness area while in pursuit of a suspect;

(2) affects the 2006 Memorandum of Understanding among the Department of Homeland Security, the Department of the Interior, and the Department of Agriculture regarding cooperative national security and counterterrorism efforts on Federal land along the borders of the United States; or

(3) prevents the Secretary of Homeland Security from conducting any low-level overflights over the wilderness areas designated by this title that may be necessary for law enforcement and border security purposes.

(b) **RESTRICTED USE AREA.**—

(1) **WITHDRAWAL.**—The area identified as “Restricted Use Area” on the map entitled “Potrillo Mountains Complex” and dated May 18, 2010, is withdrawn in accordance with section 2004(d)(1).

(2) **ADMINISTRATION.**—Except as provided in paragraphs (3) and (4), the Secretary shall administer the area described in paragraph (1) in a manner that, to the maximum extent practicable, protects the wilderness character of the area.

(3) **USE OF MOTOR VEHICLES.**—The use of motor vehicles, motorized equipment, and mechanical transport shall be prohibited in the area described in paragraph (1), except as necessary for—

(A) the administration of the area (including the conduct of law enforcement and border security activities in the area); or

(B) grazing uses by authorized permittees.

(4) **EFFECT OF SUBSECTION.**—Nothing in this subsection precludes the Secretary from allowing within the area described in paragraph (1) the installation and maintenance of communication or surveillance infrastructure necessary for law enforcement or border security activities.

(c) **RESTRICTED ROUTE.**—The route excluded from the Potrillo Mountains Wilderness identified as “Restricted-Administrative Access” on the map entitled “Potrillo Mountains Complex” and dated May 18, 2010, shall be—

(1) closed to public access; but

(2) available for administrative and law enforcement uses, including border security activities.

SEC. 2007. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE XXI—ALPINE LAKES WILDERNESS ADDITIONS

SEC. 2101. EXPANSION OF ALPINE LAKES WILDERNESS.

(a) **IN GENERAL.**—There is designated as wilderness and as a component of the National Wilderness Preservation System certain Federal land in the Mount Baker-Snoqualmie National Forest in the State of Washington comprising approximately 22,173 acres that is within the Proposed Alpine Lakes Wilderness Additions Boundary, as generally depicted on the map entitled “Proposed Alpine Lakes Wilderness Additions” and dated December 3, 2009, which is incorporated in and shall be considered to be a part of the Alpine Lakes Wilderness.

(b) **ADMINISTRATION.**—

(1) **MANAGEMENT.**—Subject to valid existing rights, the land designated as wilderness by subsection (a) shall be administered by the Secretary of Agriculture (referred to in this section as the “Secretary”), in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that any reference in that Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act.

(2) **MAP AND DESCRIPTION.**—

(A) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the land designated as wilderness by subsection (a) with—

(i) the Committee on Natural Resources of the House of Representatives; and

(ii) the Committee on Energy and Natural Resources of the Senate.

(B) **FORCE OF LAW.**—A map and legal description filed under subparagraph (A) shall have the same force and effect as if included in this Act, except that the Secretary may correct minor errors in the map and legal description.

(C) **PUBLIC AVAILABILITY.**—The map and legal description filed under subparagraph (A) shall be filed and made available for public inspection in the appropriate office of the Forest Service.

(c) **INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.**—Any land or interests in land within the Proposed Alpine Lakes Wilderness Additions Boundary, as generally depicted on the map entitled “Proposed Alpine Lakes Wilderness Additions” and dated December 3, 2009, that is acquired by the United States shall—

(1) become part of the wilderness area; and

(2) be managed in accordance with subsection (b)(1).

SEC. 2102. WILD AND SCENIC RIVER DESIGNATIONS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 205(a)) is amended by adding at the end the following:

“(209) **MIDDLE FORK SNOQUALMIE, WASHINGTON.**—The 27.4-mile segment from the headwaters of the Middle Fork Snoqualmie River near La Bohn Gap in NE ¼ sec. 20, T.

24 N., R. 13 E., to the northern boundary of sec. 11, T. 23 N., R. 9 E., to be administered by the Secretary of Agriculture in the following classifications:

“(A) The approximately 6.4-mile segment from the headwaters of the Middle Fork Snoqualmie River near La Bohn Gap in NE $\frac{1}{4}$ sec. 20, T. 24 N., R. 13 E., to the west section line of sec. 3, T. 23 N., R. 12 E., as a wild river.

“(B) The approximately 21-mile segment from the west section line of sec. 3, T. 23 N., R. 12 E., to the northern boundary of sec. 11, T. 23 N., R. 9 E., as a scenic river.

“(210) PRATT RIVER, WASHINGTON.—The entirety of the Pratt River in the State of Washington, located in the Mount Baker-Snoqualmie National Forest, to be administered by the Secretary of Agriculture as a wild river.”.

TITLE XXII—DEVIL'S STAIRCASE WILDERNESS

SEC. 2201. DEFINITIONS.

In this title:

(1) MAP.—The term “map” means the map entitled “Devil's Staircase Wilderness Proposal” and dated June 15, 2010.

(2) SECRETARY.—The term “Secretary” means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(3) STATE.—The term “State” means the State of Oregon.

(4) WILDERNESS.—The term “Wilderness” means the Devil's Staircase Wilderness designated by section 2202(a).

SEC. 2202. DEVIL'S STAIRCASE WILDERNESS, OREGON.

(a) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 30,540 acres of Forest Service land and Bureau of Land Management land in the State, as generally depicted on the map, is designated as wilderness and as a component of the National Wilderness Preservation System, to be known as the “Devil's Staircase Wilderness”.

(b) MAP; LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Wilderness.

(2) FORCE OF LAW.—The map and legal description prepared under paragraph (1) shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in the map and legal description.

(3) AVAILABILITY.—The map and legal description prepared under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service and Bureau of Land Management.

(c) ADMINISTRATION.—Subject to valid existing rights, the area designated as wilderness by this section shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary that has jurisdiction over the land within the Wilderness.

(d) FISH AND WILDLIFE.—Nothing in this section affects the jurisdiction or responsibilities of the State with respect to fish and wildlife in the State.

(e) ADJACENT MANAGEMENT.—

(1) IN GENERAL.—Nothing in this section creates any protective perimeter or buffer zone around the Wilderness.

(2) ACTIVITIES OUTSIDE WILDERNESS.—The fact that a nonwilderness activity or use on land outside the Wilderness can be seen or heard within the Wilderness shall not preclude the activity or use outside the boundary of the Wilderness.

(f) PROTECTION OF TRIBAL RIGHTS.—Nothing in this section diminishes any treaty rights of an Indian tribe.

(g) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—Administrative jurisdiction over the approximately 49 acres of Bureau of Land Management land north of the Umpqua River in sec. 32, T. 21 S., R. 11 W., is transferred from the Bureau of Land Management to the Forest Service.

(2) ADMINISTRATION.—The Secretary shall administer the land transferred by paragraph (1) in accordance with—

(A) the Act of March 1, 1911 (commonly known as the “Weeks Law”) (16 U.S.C. 480 et seq.); and

(B) any laws (including regulations) applicable to the National Forest System.

SEC. 2203. WILD AND SCENIC RIVER DESIGNATIONS, WASSON CREEK AND FRANKLIN CREEK, OREGON.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 2102) is amended by adding at the end the following:

“(211) FRANKLIN CREEK, OREGON.—The 4.5-mile segment from its headwaters to the line of angle points within sec. 8, T. 22 S., R. 10 W., shown on the survey recorded in the Official Records of Douglas County, Oregon, as M64-62, to be administered by the Secretary of Agriculture as a wild river.

“(212) WASSON CREEK, OREGON.—The 10.1-mile segment in the following classes:

“(A) The 4.2-mile segment from the eastern boundary of sec. 17, T. 21 S., R. 9 W., downstream to the western boundary of sec. 12, T. 21 S., R. 10 W., to be administered by the Secretary of the Interior as a wild river.

“(B) The 5.9-mile segment from the western boundary of sec. 12, T. 21 S., R. 10 W., downstream to the eastern boundary of the northwest quarter of sec. 22, T. 21 S., R. 10 W., to be administered by the Secretary of Agriculture as a wild river.”.

TITLE XXIII—IDAHO WILDERNESS WATER FACILITIES

SEC. 2301. TREATMENT OF EXISTING WATER DIVERSIONS IN FRANK CHURCH-RIVER OF NO RETURN WILDERNESS AND SELWAY-BITTERROOT WILDERNESS, IDAHO.

(a) AUTHORIZATION FOR CONTINUED USE.—The Secretary of Agriculture is authorized to issue a special use authorization to each of the 20 owners of a water storage, transport, or diversion facility (in this section referred to as a “facility”) located on National Forest System land in the Frank Church-River of No Return Wilderness or the Selway-Bitterroot Wilderness (as identified on the map titled “Unauthorized Private Water Divisions located within the Frank Church River of No Return Wilderness”, dated December 14, 2009, or the map titled “Unauthorized Private Water Divisions located within the Selway-Bitterroot Wilderness”, dated December 11, 2009) for the continued operation, maintenance, and reconstruction of the facility if the Secretary determines that—

(1) the facility was in existence on the date on which the land upon which the facility is

located was designated as part of the National Wilderness Preservation System (in this section referred to as “the date of designation”);

(2) the facility has been in substantially continuous use to deliver water for the beneficial use on the owner's non-Federal land since the date of designation;

(3) the owner of the facility holds a valid water right for use of the water on the owner's non-Federal land under Idaho State law, with a priority date that predates the date of designation; and

(4) it is not practicable or feasible to relocate the facility to land outside of the wilderness and continue the beneficial use of water on the non-Federal land recognized under State law.

(b) TERMS AND CONDITIONS.—

(1) EQUIPMENT, TRANSPORT, AND USE TERMS AND CONDITIONS.—In a special use authorization issued under subsection (a), the Secretary is authorized to—

(A) allow use of motorized equipment and mechanized transport for operation, maintenance, or reconstruction of a facility, if the Secretary determines that—

(i) the use is necessary to allow the facility to continue delivery of water to the non-Federal land for the beneficial uses recognized by the water right held under Idaho State law; and

(ii) after conducting a minimum tool analysis for the facility, the use of nonmotorized equipment and nonmechanized transport is impracticable or infeasible; and

(B) preclude use of the facility for the storage, diversion, or transport of water in excess of the water right recognized by the State of Idaho on the date of designation.

(2) ADDITIONAL TERMS AND CONDITIONS.—In a special use authorization issued under subsection (a), the Secretary is authorized to—

(A) require or allow modification or relocation of the facility in the wilderness, as the Secretary determines necessary, to reduce impacts to wilderness values set forth in section 2 of the Wilderness Act (16 U.S.C. 1131) if the beneficial use of water on the non-Federal land is not diminished; and

(B) require that the owner provide a reciprocal right of access across the non-Federal property, in which case, the owner shall receive market value for any right-of-way or other interest in real property conveyed to the United States, and market value may be paid by the Secretary, in whole or in part, by the grant of a reciprocal right-of-way, or by reduction of fees or other costs that may accrue to the owner to obtain the authorization for water facilities.

DIVISION C—FOREST SERVICE AUTHORIZATIONS

TITLE XXX—CHIMNEY ROCK NATIONAL MONUMENT AUTHORIZATION

SEC. 3001. DEFINITIONS.

In this title:

(1) NATIONAL MONUMENT.—The term “national monument” means the Chimney Rock National Monument established by section 3002(a).

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(3) STATE.—The term “State” means the State of Colorado.

SEC. 3002. ESTABLISHMENT OF CHIMNEY ROCK NATIONAL MONUMENT.

(a) ESTABLISHMENT.—There is established in the State the Chimney Rock National Monument—

(1) to preserve, protect, and restore the archeological, cultural, historic, geologic, hydrologic, natural, educational, and scenic resources of Chimney Rock and adjacent land; and

(2) to provide for public interpretation and recreation consistent with the protection of the resources described in paragraph (1).

(b) BOUNDARIES.—

(1) IN GENERAL.—The national monument shall consist of approximately 4,726 acres of land and interests in land, as generally depicted on the map entitled “Boundary Map, Chimney Rock National Monument” and dated January 5, 2010.

(2) MINOR ADJUSTMENTS.—The Secretary may make minor adjustments to the boundary of the national monument to reflect the inclusion of significant archeological resources discovered after the date of enactment of this Act on adjacent National Forest System land.

(3) AVAILABILITY OF MAP.—The map described in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

SEC. 3003. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall—

(1) administer the national monument—

(A) in furtherance of the purposes for which the national monument was established; and

(B) in accordance with—

(i) this title; and

(ii) any laws generally applicable to the National Forest System; and

(2) allow only such uses of the national monument that the Secretary determines would further the purposes described in section 3002(a).

(b) TRIBAL USES.—

(1) IN GENERAL.—The Secretary shall administer the national monument in accordance with—

(A) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); and

(B) the policy described in Public Law 95-341 (commonly known as the “American Indian Religious Freedom Act”) (42 U.S.C. 1996).

(2) TRADITIONAL USES.—Subject to any terms and conditions the Secretary determines to be necessary and in accordance with applicable law, the Secretary shall allow for the continued use of the national monument by members of Indian tribes—

(A) for traditional ceremonies; and

(B) as a source of traditional plants and other materials.

(c) VEGETATION MANAGEMENT.—The Secretary may carry out vegetation management treatments within the national monument, except that the harvesting of timber shall only be used if the Secretary determines that the harvesting is necessary for—

(1) ecosystem restoration in furtherance of the purposes described in section 3002(a); or

(2) the control of fire, insects, or diseases.

(d) MOTOR VEHICLES AND MOUNTAIN BIKES.—The use of motor vehicles and mountain bikes in the national monument shall be limited to the roads and trails identified by the Secretary as appropriate for the use of motor vehicles and mountain bikes.

(e) GRAZING.—The Secretary shall permit grazing within the national monument, where established before the date of enactment of this Act—

(1) subject to all applicable laws (including regulations); and

(2) consistent with the purposes described in section 3002(a).

(f) UTILITY RIGHT-OF-WAY UPGRADES.—Nothing in this title precludes the Secretary

from renewing or authorizing the upgrading of a utility right-of-way in existence as of the date of enactment of this Act through the national monument—

(1) in accordance with—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) any other applicable law; and

(2) subject to such terms and conditions as the Secretary determines to be appropriate.

(g) EDUCATION AND INTERPRETIVE CENTER.—The Secretary may develop and construct an education and interpretive center to interpret the scientific and cultural resources of the national monument for the public.

SEC. 3004. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with Indian tribes with a cultural or historic tie to Chimney Rock, shall develop a management plan for the national monument.

(b) PUBLIC COMMENT.—In developing the management plan, the Secretary shall provide an opportunity for public comment by—

(1) State and local governments;

(2) tribal governments; and

(3) any other interested organizations and individuals.

SEC. 3005. LAND ACQUISITION.

The Secretary may acquire land and any interest in land within or adjacent to the boundary of the national monument by—

(1) purchase from willing sellers with donated or appropriated funds;

(2) donation; or

(3) exchange.

SEC. 3006. WITHDRAWAL.

(a) IN GENERAL.—Subject to valid existing rights, all Federal land within the national monument (including any land or interest in land acquired after the date of enactment of this Act) is withdrawn from—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) subject to subsection (b), operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(b) LIMITATION.—Notwithstanding subsection (a)(3), the Federal land is not withdrawn for the purposes of issuance of gas pipeline rights-of-way within easements in existence as of the date of enactment of this Act.

SEC. 3007. EFFECT.

(a) WATER RIGHTS.—

(1) IN GENERAL.—Nothing in this title affects any valid water rights, including water rights held by the United States.

(2) RESERVED WATER RIGHT.—The designation of the national monument does not create a Federal reserved water right.

(b) TRIBAL RIGHTS.—Nothing in this title affects—

(1) the rights of any Indian tribe on Indian land;

(2) any individually-held trust land or Indian allotment; or

(3) any treaty rights providing for non-exclusive access to or within the national monument by members of Indian tribes for traditional and cultural purposes.

(c) FISH AND WILDLIFE.—Nothing in this title affects the jurisdiction of the State with respect to the management of fish and wildlife on public land in the State.

(d) ADJACENT USES.—Nothing in this title—

(1) creates a protective perimeter or buffer zone around the national monument; or

(2) affects private property outside of the boundary of the national monument.

SEC. 3008. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE XXXI—NORTH FORK FLATHEAD RIVER WATERSHED PROTECTION

SEC. 3101. DEFINITIONS.

In this title:

(1) ELIGIBLE FEDERAL LAND.—The term “eligible Federal land” means—

(A) any federally owned land or interest in land depicted on the Map as within the North Fork Federal Lands Withdrawal Area; or

(B) any land or interest in land located within the North Fork Federal Lands Withdrawal Area that is acquired by the Federal Government after the date of enactment of this Act.

(2) MAP.—The term “Map” means the Bureau of Land Management map entitled “North Fork Federal Lands Withdrawal Area” and dated June 9, 2010.

SEC. 3102. WITHDRAWAL.

(a) WITHDRAWAL.—Subject to valid existing rights, the eligible Federal land is withdrawn from—

(1) all forms of location, entry, and patent under the mining laws; and

(2) disposition under all laws relating to mineral leasing and geothermal leasing.

(b) AVAILABILITY OF MAP.—Not later than 30 days after the date of enactment of this Act, the Map shall be made available to the public at each appropriate office of the Bureau of Land Management.

TITLE XXXII—LAND CONVEYANCES AND EXCHANGES

Subtitle A—Sugar Loaf Fire District Land Exchange

SEC. 3201. DEFINITIONS.

In this subtitle:

(1) DISTRICT.—The term “District” means the Sugar Loaf Fire Protection District of Boulder, Colorado.

(2) FEDERAL LAND.—The term “Federal land” means—

(A) the parcel of approximately 1.52 acres of land in the National Forest that is generally depicted on the map numbered 1, entitled “Sugarloaf Fire Protection District Proposed Land Exchange”, and dated November 12, 2009; and

(B) the parcel of approximately 3.56 acres of land in the National Forest that is generally depicted on the map numbered 2, entitled “Sugarloaf Fire Protection District Proposed Land Exchange”, and dated November 12, 2009.

(3) NATIONAL FOREST.—The term “National Forest” means the Arapaho-Roosevelt National Forests located in the State of Colorado.

(4) NON-FEDERAL LAND.—The term “non-Federal land” means the parcel of approximately 5.17 acres of non-Federal land in unincorporated Boulder County, Colorado, that is generally depicted on the map numbered 3, entitled “Sugarloaf Fire Protection District Proposed Land Exchange”, and dated November 12, 2009.

(5) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

SEC. 3202. LAND EXCHANGE.

(a) IN GENERAL.—Subject to the provisions of this subtitle, if the District offers to convey to the Secretary all right, title, and interest of the District in and to the non-Federal land, and the offer is acceptable to the Secretary—

(1) the Secretary shall accept the offer; and

(2) on receipt of acceptable title to the non-Federal land, the Secretary shall convey

to the District all right, title, and interest of the United States in and to the Federal land.

(b) **APPLICABLE LAW.**—Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) shall apply to the land exchange authorized under subsection (a), except that—

(1) the Secretary may accept a cash equalization payment in excess of 25 percent of the value of the Federal land; and

(2) as a condition of the land exchange under subsection (a), the District shall—

(A) pay each cost relating to any land surveys and appraisals of the Federal land and non-Federal land; and

(B) enter into an agreement with the Secretary that allocates any other administrative costs between the Secretary and the District.

(c) **ADDITIONAL TERMS AND CONDITIONS.**—The land exchange under subsection (a) shall be subject to—

(1) valid existing rights; and

(2) any terms and conditions that the Secretary may require.

(d) **TIME FOR COMPLETION OF LAND EXCHANGE.**—It is the intent of Congress that the land exchange under subsection (a) shall be completed not later than 1 year after the date of enactment of this Act.

(e) **AUTHORITY OF SECRETARY TO CONDUCT SALE OF FEDERAL LAND.**—

(1) **IN GENERAL.**—In accordance with paragraph (2), if the land exchange under subsection (a) is not completed by the date that is 1 year after the date of enactment of this Act, the Secretary may offer to sell to the District the Federal land.

(2) **VALUE OF FEDERAL LAND.**—The Secretary may offer to sell to the District the Federal land for the fair market value of the Federal land.

(f) **DISPOSITION OF PROCEEDS.**—

(1) **IN GENERAL.**—The Secretary shall deposit in the fund established under Public Law 90-171 (commonly known as the “Sisk Act”) (16 U.S.C. 484a) any amount received by the Secretary as the result of—

(A) any cash equalization payment made under subsection (b); and

(B) any sale carried out under subsection (e).

(2) **USE OF PROCEEDS.**—Amounts deposited under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition of land or interests in land in the National Forest.

(g) **MANAGEMENT AND STATUS OF ACQUIRED LAND.**—The non-Federal land acquired by the Secretary under this section shall be—

(1) added to, and administered as part of, the National Forest; and

(2) managed by the Secretary in accordance with—

(A) the Act of March 1, 1911 (commonly known as the “Weeks Law”) (16 U.S.C. 480 et seq.); and

(B) any laws (including regulations) applicable to the National Forest.

(h) **REVOCATION OF ORDERS; WITHDRAWAL.**—

(1) **REVOCATION OF ORDERS.**—Any public order withdrawing the Federal land from entry, appropriation, or disposal under the public land laws is revoked to the extent necessary to permit the conveyance of the Federal land to the District.

(2) **WITHDRAWAL.**—On the date of enactment of this Act, if not already withdrawn or segregated from entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal land is withdrawn until the date of the conveyance of the Federal land to the District.

Subtitle B—Wasatch-Cache National Forest Land Conveyance

SEC. 3211. DEFINITIONS.

In this subtitle:

(1) **FEDERAL LAND.**—The term “Federal land” means the following 3 parcels of National Forest System land located in the Wasatch-Cache National Forest in the incorporated boundary of the Town:

(A) A parcel of land occupied by the administration building of the Town pursuant to Forest Service special use permit SLC102708.

(B) A parcel of land occupied by the public service building of the Town pursuant to Forest Service special use permit SLC102708.

(C) A parcel of land occupied by the water service building of the Town pursuant to Forest Service special use permit SLC102707.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(3) **TOWN.**—The term “Town” means the town of Alta, Utah.

SEC. 3212. CONVEYANCE OF FEDERAL LAND TO ALTA, UTAH.

(a) **IN GENERAL.**—Subject to subsection (b) and valid existing rights, as soon as practicable after the date of enactment of this Act, the Secretary shall convey to the Town, without consideration, all right, title, and interest of the United States in and to the Federal land.

(b) **CONDITIONS.**—

(1) **USE OF FEDERAL LAND.**—As a condition of the conveyance under subsection (a), the Town shall use the Federal land only for public purposes consistent with the applicable special use permit described in section 3211(1).

(2) **DEED AND REVERSION.**—The conveyance under subsection (a) shall be by quitclaim deed, which shall provide that the Federal land shall revert to the Secretary, at the election of the Secretary, if the Federal land is used for a purpose other than a purpose provided under paragraph (1).

(3) **ACREAGE.**—

(A) **IN GENERAL.**—The boundaries of the Federal land conveyed under subsection (a) shall be determined by the Secretary, in consultation with the Town, subject to the condition that the Federal land conveyed may not exceed a total of 2 acres.

(B) **SURVEY AND LEGAL DESCRIPTION.**—The exact acreage and legal description of the Federal land shall be determined, in accordance with subparagraph (A), by a survey approved by the Secretary.

(4) **COSTS.**—The Town shall pay each administrative cost of the conveyance under subsection (a), including the costs of the survey carried out under paragraph (3).

(5) **ADDITIONAL TERMS AND CONDITIONS.**—The conveyance under subsection (a) shall be subject to such terms and conditions as the Secretary may require.

Subtitle C—Los Padres National Forest Land Exchange

SEC. 3221. DEFINITIONS.

In this subtitle:

(1) **FEDERAL LAND.**—The term “Federal land” means the approximately 5 acres of National Forest System land in Santa Barbara County, California, as generally depicted on the map.

(2) **FOUNDATION.**—The term “Foundation” means the White Lotus Foundation, a non-profit foundation located in Santa Barbara, California.

(3) **MAP.**—The term “map” means the map entitled “San Marcos Pass Encroachment for Consideration of Legislative Remedy” and dated June 1, 2009.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

SEC. 3222. LAND EXCHANGE.

(a) **IN GENERAL.**—Subject to the provisions of this section, if the Foundation offers to convey to the Secretary all right, title, and interest of the Foundation in and to a parcel of non-Federal land that is acceptable to the Secretary—

(1) the Secretary shall accept the offer; and

(2) on receipt of acceptable title to the non-Federal land, the Secretary shall convey to the Foundation all right, title, and interest of the United States in and to the Federal land.

(b) **APPLICABLE LAW.**—The land exchange authorized under subsection (a) shall be subject to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(c) **TIME FOR COMPLETION OF LAND EXCHANGE.**—It is the intent of Congress that the land exchange under subsection (a) shall be completed not later than 2 years after the date of enactment of this Act.

(d) **AUTHORITY OF SECRETARY TO CONDUCT SALE OF FEDERAL LAND.**—If the land exchange under subsection (a) is not completed by the date that is 2 years after the date of enactment of this Act, the Secretary may offer to sell to the Foundation the Federal land for fair market value.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The land exchange under subsection (a) and any sale under subsection (d) shall be subject to—

(1) valid existing rights;

(2) the Secretary finding that the public interest would be well served by making the exchange or sale;

(3) any terms and conditions that the Secretary may require; and

(4) the Foundation paying the reasonable costs of any surveys, appraisals, and any other administrative costs associated with the land exchange or sale.

(f) **APPRAISALS.**—

(1) **IN GENERAL.**—The land conveyed under subsection (a) or (d) shall be appraised by an independent appraiser selected by the Secretary.

(2) **REQUIREMENTS.**—An appraisal under paragraph (1) shall be conducted in accordance with nationally recognized appraisal standards, including—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(B) the Uniform Standards of Professional Appraisal Practice.

(g) **DISPOSITION OF PROCEEDS.**—

(1) **IN GENERAL.**—The Secretary shall deposit in the fund established under Public Law 90-171 (commonly known as the “Sisk Act”) (16 U.S.C. 484a) any amount received by the Secretary as the result of—

(A) any cash equalization payment made under subsection (b); and

(B) any sale carried out under subsection (d).

(2) **USE OF PROCEEDS.**—Amounts deposited under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition of land or interests in land in the Los Padres National Forest.

(h) **MANAGEMENT AND STATUS OF ACQUIRED LAND.**—Any non-Federal land acquired by the Secretary under this subtitle shall be managed by the Secretary in accordance with—

(1) the Act of March 1, 1911 (commonly known as the “Weeks Law”) (16 U.S.C. 480 et seq.); and

(2) any laws (including regulations) applicable to the National Forest System.

Subtitle D—Box Elder Land Conveyance**SEC. 3231. CONVEYANCE OF CERTAIN LANDS TO MANTUA, UTAH.**

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the town of Mantua, Utah (in this section referred to as the “town”), all right, title, and interest of the United States in and to parcels of National Forest System land in the Wasatch-Cache National Forest in Box Elder County, Utah, consisting of approximately 31.5 acres within section 27, township 9 north, range 1 west, Salt Lake meridian and labeled as parcels A, B, and C on the map entitled “Box Elder Utah Land Conveyance Act” and dated July 14, 2008.

(b) SURVEY.—If necessary, the exact acreage and legal description of the lands to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the town.

(c) USE OF LAND.—As a condition of the conveyance under subsection (a), the town shall use the land conveyed under such subsection for public purposes.

(d) REVERSIONARY INTEREST.—In the quitclaim deed to the town prepared as part of the conveyance under subsection (a), the Secretary shall provide that the land conveyed to the town under such subsection shall revert to the Secretary, at the election of the Secretary, if the land is used for other than public purposes.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle E—Deafy Glade Land Exchange**SEC. 3241. LAND EXCHANGE, MENDOCINO NATIONAL FOREST, CALIFORNIA.**

(a) DEFINITIONS.—In this section:

(1) COUNTY.—The term “County” means Solano County, California.

(2) FEDERAL LAND.—The term “Federal land” means the parcel of approximately 82 acres of land—

(A) known as the “Fouts Springs Ranch”; and

(B) generally depicted as the “Fouts Springs Parcel” on the map.

(3) MAP.—The term “map” means the map entitled “Fouts Springs-Deafy Glade: Federal and Non-Federal Lands” and dated July 17, 2008.

(4) NON-FEDERAL LAND.—The term “non-Federal land” means the 4 parcels of land comprising approximately 160 acres that are generally depicted as the “Deafy Glade Parcel” on the map.

(5) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(b) LAND EXCHANGE REQUIRED.—Subject to subsections (c) through (f), if the County conveys to the United States such right, title, and interest in and to the non-Federal land that is acceptable to the Secretary, the Secretary shall convey to the County such right, title, and interest to the Federal land that the Secretary considers to be appropriate.

(c) APPLICABLE LAW.—Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) shall apply to the land exchange under this section.

(d) SURVEY; ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—The exact acreage and legal description of the land to be exchanged under subsection (b) shall be determined by a survey satisfactory to the Secretary.

(2) COSTS.—The costs of the survey, appraisal, and any other administrative costs

relating to the land exchange shall be paid by the County.

(e) MANAGEMENT OF ACQUIRED LAND.—The non-Federal land acquired by the Secretary under subsection (b) shall be—

(1) added to, and administered as part of, the Mendocino National Forest; and

(2) managed in accordance with—

(A) the Act of March 1, 1911 (commonly known as the “Weeks Law”) (16 U.S.C. 480 et seq.); and

(B) the laws (including regulations) applicable to the National Forest System.

(f) ADDITIONAL TERMS AND CONDITIONS.—The land exchange under subsection (b) shall be subject to any additional terms and conditions that the Secretary may require, including such terms and conditions as are necessary to ensure that the use of the Federal land does not adversely impact the use of the adjacent National Forest System land.

Subtitle F—Wallowa Forest Service Compound Conveyance**SEC. 3251. CONVEYANCE TO CITY OF WALLOWA, OREGON.**

(a) DEFINITIONS.—In this subtitle:

(1) CITY.—The term “City” means the city of Wallowa, Oregon.

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(3) WALLOWA FOREST SERVICE COMPOUND.—The term “Wallowa Forest Service Compound” means the approximately 1.11 acres of National Forest System land that—

(A) was donated by the City to the Forest Service on March 18, 1936; and

(B) is located at 602 First Street, Wallowa, Oregon.

(b) CONVEYANCE.—On the request of the City submitted to the Secretary by the date that is not later than 1 year after the date of enactment of this Act and subject to the provisions of this subtitle, the Secretary shall convey to the City all right, title, and interest of the United States in and to the Wallowa Forest Service Compound.

(c) CONDITIONS.—The conveyance under subsection (b) shall be—

(1) by quitclaim deed;

(2) for no consideration; and

(3) subject to—

(A) valid existing rights; and

(B) such terms and conditions as the Secretary may require.

(d) USE OF WALLOWA FOREST SERVICE COMPOUND.—As a condition of the conveyance under subsection (b), the City shall—

(1) use the Wallowa Forest Service Compound as a historical and cultural interpretation and education center;

(2) ensure that the Wallowa Forest Service Compound is managed by a nonprofit entity; and

(3) agree to manage the Wallowa Forest Service Compound with due consideration and protection for the historic values of the Wallowa Forest Service Compound.

(e) REVERSION.—In the quitclaim deed to the City, the Secretary shall provide that the Wallowa Forest Service Compound shall revert to the Secretary, at the election of the Secretary, if any of the conditions under subsection (c) or (d) are violated.

Subtitle G—Sandia Pueblo Settlement Technical Amendment**SEC. 3261. SANDIA PUEBLO SETTLEMENT TECHNICAL AMENDMENT.**

Section 413(b) of the T’u’f Shur Bien Preservation Trust Area Act (16 U.S.C. 539m–11(b)) is amended—

(1) in the first sentence of paragraph (4), by striking “conveyance” and inserting “the title to be conveyed”; and

(2) by adding at the end the following:

“(6) FAILURE TO EXCHANGE.—

“(A) IN GENERAL.—If the land exchange authorized under paragraph (1) is not completed by the date that is 180 days after the date of enactment of this paragraph, the Secretary, on receipt of consideration under subparagraph (B) and at the request of the Pueblo and the Secretary of the Interior, shall transfer the National Forest land generally depicted as ‘USFS Land Proposed for Exchange’ on the map entitled ‘Sandia Pueblo/Cibola National Forest: Proposed Lands for Exchange’ and dated July 14, 2009, to the Secretary of the Interior to be held in trust by the United States for the Pueblo, subject to the condition that the land remain in its natural state.

“(B) CONSIDERATION.—In consideration for the National Forest land to be held in trust under subparagraph (A), the Pueblo shall pay to the Secretary the amount that is equal to the difference between—

“(i) the amount that is equal to the fair market value of the National Forest land, as subject to the condition that the National Forest land remain in its natural state; and

“(ii) the amount of compensation owed to the Pueblo by the Secretary for the right-of-way and conservation easement on the Piedra Lisa tract under subsection (c)(2).

“(C) USE OF FUNDS.—Any amounts received by the Secretary under this paragraph shall be deposited and available for use without further appropriation in accordance with paragraph (3).”

TITLE XXXIII—GENERAL AUTHORIZATIONS**Subtitle A—Ski Areas Summer Uses****SEC. 3301. PURPOSE.**

The purpose of this subtitle is to amend the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b)—

(1) to enable snow-sports (other than nordic and alpine skiing) to be permitted on National Forest System land, subject to ski area permits issued by the Secretary of Agriculture under section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b); and

(2) to clarify the authority of the Secretary of Agriculture to permit appropriate additional seasonal or year-round recreational activities and facilities on National Forest System land subject to ski area permits issued by the Secretary of Agriculture under section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b).

SEC. 3302. SKI AREA PERMITS.

Section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) is amended—

(1) in subsection (a), by striking “nordic and alpine ski areas and facilities” and inserting “ski areas and associated facilities”; and

(2) in subsection (b), in the matter preceding paragraph (1), by striking “nordic and alpine skiing operations and purposes” and inserting “skiing and other snow sports and recreational uses authorized by this Act”; and

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(4) by inserting after subsection (b) the following:

“(c) OTHER RECREATIONAL USES.—

“(1) AUTHORITY OF SECRETARY.—Subject to the terms of a ski area permit issued pursuant to subsection (b), the Secretary may authorize a ski area permittee to provide such other seasonal or year-round natural resource-based recreational activities and associated facilities (in addition to skiing and

other snow-sports) on National Forest System land subject to a ski area permit as the Secretary determines to be appropriate.

“(2) REQUIREMENTS.—Each activity and facility authorized by the Secretary under paragraph (1) shall—

“(A) encourage outdoor recreation and enjoyment of nature;

“(B) to the extent practicable—

“(i) harmonize with the natural environment of the National Forest System land on which the activity or facility is located; and

“(ii) be located within the developed portions of the ski area;

“(C) be subject to such terms and conditions as the Secretary determines to be appropriate; and

“(D) be authorized in accordance with—

“(i) the applicable land and resource management plan; and

“(ii) applicable laws (including regulations).

“(3) INCLUSIONS.—Activities and facilities that may, in appropriate circumstances, be authorized under paragraph (1) include—

“(A) zip lines;

“(B) mountain bike terrain parks and trails;

“(C) frisbee golf courses; and

“(D) ropes courses.

“(4) EXCLUSIONS.—Activities and facilities that are prohibited under paragraph (1) include—

“(A) tennis courts;

“(B) water slides and water parks;

“(C) swimming pools;

“(D) golf courses; and

“(E) amusement parks.

“(5) LIMITATION.—The Secretary may not authorize any activity or facility under paragraph (1) if the Secretary determines that the authorization of the activity or facility would result in the primary recreational purpose of the ski area permit to be a purpose other than skiing and other snow-sports.

“(6) BOUNDARY DETERMINATION.—In determining the acreage encompassed by a ski area permit under subsection (b)(3), the Secretary shall not consider the acreage necessary for activities and facilities authorized under paragraph (1).

“(7) EFFECT ON EXISTING AUTHORIZED ACTIVITIES AND FACILITIES.—Nothing in this subsection affects any activity or facility authorized by a ski area permit in effect on the date of enactment of this subsection during the term of the permit.”;

(5) by striking subsection (d) (as redesignated by paragraph (3)), and inserting the following:

“(d) REGULATIONS.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall promulgate regulations to implement this section.”; and

(6) in subsection (e) (as redesignated by paragraph (3)), by striking “the National Environmental Policy Act, or the Forest and Rangelands Renewable Resources Planning Act as amended by the National Forest Management Act” and inserting “the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.)”.

SEC. 3303. EFFECT.

Nothing in the amendments made by this subtitle establishes a legal preference for the holder of a ski area permit to provide activities and associated facilities authorized by section 3(c) of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b(c)) (as amended by section 3302).

Subtitle B—National Forest Insect and Disease Authorities

SEC. 3311. PURPOSES.

The purposes of this subtitle are—

(1) to ensure that adequate emphasis is placed on the mitigation of hazards posed by landscape-scale epidemics of bark beetles and other insects and diseases through the identification of areas affected by the epidemics, including areas in which resulting hazard trees pose a high risk to public health and safety; and

(2) to help focus resources within areas characterized by landscape-scale insect or disease epidemics to mitigate hazards associated with—

(A) falling trees; and

(B) wildfire.

SEC. 3312. DEFINITIONS.

In this subtitle:

(1) AFFECTED STATE.—The term “affected State” includes each of the States of—

(A) Alaska;

(B) Arizona;

(C) California;

(D) Colorado;

(E) Idaho;

(F) Montana;

(G) Nevada;

(H) New Mexico;

(I) Oregon;

(J) South Dakota;

(K) Utah;

(L) Washington; and

(M) Wyoming.

(2) HIGH-RISK AREA.—The term “high-risk area” means a road, trail, or other area that poses a high risk to public health or safety due to hazard trees resulting from landscape-scale tree mortality caused by an insect or disease epidemic.

(3) INSECT OR DISEASE EPIDEMIC AREA.—The term “insect or disease epidemic area” means an area of National Forest System land in which landscape-scale tree mortality caused by an insect or disease epidemic exists.

(4) NATIONAL FOREST SYSTEM.—The term “National Forest System” has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(5) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

SEC. 3313. DESIGNATION OF AREAS.

(a) IDENTIFICATION OF HIGH-RISK AREAS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall identify by map or other appropriate means high-risk areas within the National Forest System in the affected States.

(2) PUBLIC EDUCATION.—In conjunction with the information developed pursuant to this subsection, the Secretary shall develop educational materials that describe the risk posed by hazard trees in high-risk areas and measures that can be taken by the public to avoid or reduce that risk.

(3) CONSULTATION.—In developing the information and educational materials required by this subsection, the Secretary shall consult with interested State, local, and tribal governments, first responders, and other stakeholders.

(4) UPDATES.—The Secretary shall periodically review and revise the information and educational materials required by this subsection to reflect the best available information.

(5) PUBLIC AVAILABILITY.—The information and associated educational materials required by this subsection shall be on file and

available for public inspection, including in the appropriate offices of the Forest Service.

(b) IDENTIFICATION OF INSECT AND DISEASE EPIDEMIC AREAS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall identify by map or other appropriate means insect or disease epidemic areas within the National Forest System in the affected States.

(2) REQUIRED INFORMATION.—The information required by paragraph (1) shall include—

(A) a geographic estimate of the annual mortality caused by the insect or disease epidemic; and

(B) a projection, based on the best available science, of future tree mortality resulting from the insect or disease epidemic.

(3) UPDATES.—The Secretary shall periodically review and revise the information required by paragraph (1) to reflect the best available information.

(4) AVAILABILITY.—The information required by this subsection shall be made available to—

(A) communities in or adjacent to an insect or disease epidemic area that have developed a community wildfire protection plan (as defined in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511));

(B) fire departments and other wildfire-fighting organizations responding to, or likely to respond to, a wildfire in an insect or disease epidemic area; and

(C) the public through the appropriate offices of the Forest Service.

(c) CONTRACTS AND FINANCIAL ASSISTANCE.—To help collect, develop, monitor, and distribute the information and materials required by this section, the Secretary may enter into contracts or provide financial assistance through cooperative agreements in accordance with section 8 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2104) with—

(1) the State Forester or equivalent State official of an affected State;

(2) educational institutions; or

(3) other organizations.

SEC. 3314. SUPPORT FOR RESTORATION AND RESPONSE.

(a) SUPPORT FOR BIOMASS UTILIZATION.—To help reduce the risk to public health and safety from hazard trees and wildfires and to restore ecosystems affected by insect and disease epidemics, the Secretary may assist State and local governments, Indian tribes, private landowners, and other persons in affected States with the collection, harvest, storage, and transportation of eligible material from areas identified pursuant to section 3313(b) in accordance with section 9011(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8111(d)).

(b) RESTORATION ASSISTANCE FOR PRIVATE LANDOWNERS.—The Secretary may make payments to an owner of nonindustrial private forest land in an affected State to carry out emergency measures to restore the land after an insect or disease infestation in accordance with the emergency forest restoration program established under section 407 of the Agricultural Credit Act of 1978 (16 U.S.C. 2206).

(c) NATIONAL FOREST HAZARDOUS FUEL REDUCTION.—The Secretary shall carry out authorized hazardous fuel reduction projects in affected States on National Forest System land on which an epidemic of disease or insects poses a significant threat to an ecosystem component, or forest or rangeland resource, in accordance with the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.).

SEC. 3315. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle such sums as are necessary.

Subtitle C—Good Neighbor Authority**SEC. 3321. GOOD NEIGHBOR AGREEMENTS.**

(a) **DEFINITIONS.**—In this section:

(1) **AUTHORIZED RESTORATION SERVICES.**—The term “authorized restoration services” means similar and complementary forest, rangeland, and watershed restoration services carried out on adjacent Federal land and non-Federal land by either the Secretary or a Governor pursuant to—

(A) a good neighbor agreement; and

(B) a cooperative agreement or contract entered into under subsection (c).

(2) **FEDERAL LAND.**—

(A) **IN GENERAL.**—The term “Federal land” means the following land in a State located in whole or in part west of the 100th meridian:

(i) National Forest System land.

(ii) Public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).

(B) **EXCLUSIONS.**—The term “Federal land” does not include—

(i) a component of the National Wilderness Preservation System, National Wild and Scenic Rivers System, National Trails System, or National Landscape Conservation System;

(ii) a National Monument, National Preserve, National Scenic Area, or National Recreation Area; or

(iii) a wilderness study area.

(3) **FOREST, RANGELAND, AND WATERSHED RESTORATION SERVICES.**—The term “forest, rangeland, and watershed restoration services” means—

(A) activities to treat insect- and disease-infected trees;

(B) activities to reduce hazardous fuels;

(C) activities to maintain roads and trails that cross a boundary between Federal land and non-Federal land; and

(D) any other activities to restore or improve forest, rangeland, or watershed health, including fish and wildlife habitat.

(4) **GOOD NEIGHBOR AGREEMENT.**—The term “good neighbor agreement” means—

(A) a nonfunding master cooperative agreement entered into between the Secretary and a Governor under chapter 63 of title 31, United States Code; or

(B) a memorandum of agreement or understanding entered into between the Secretary and a Governor.

(5) **GOVERNOR.**—The term “Governor” means the Governor or any other appropriate executive official of an affected State.

(6) **SECRETARY.**—The term “Secretary” means—

(A) the Secretary of Agriculture, with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to Bureau of Land Management land.

(b) **GOOD NEIGHBOR AGREEMENTS.**—

(1) **IN GENERAL.**—The Secretary may enter into a good neighbor agreement with a Governor to coordinate the procurement and implementation of authorized restoration services in accordance with this section.

(2) **PUBLIC NOTICE AND COMMENT.**—The Secretary shall make each good neighbor agreement available to the public.

(c) **TASK ORDERS, CONTRACTS, AND COOPERATIVE AGREEMENTS.**—

(1) **IN GENERAL.**—The Secretary may issue a task order for, or enter into a contract (including a sole source contract) or cooperative agreement with, a Governor to carry out authorized restoration services.

(2) **REQUIREMENTS.**—Each task order, contract, or cooperative agreement entered into under paragraph (1) shall be executed in accordance with—

(A) chapter 63 of title 31, United States Code; and

(B) the applicable good neighbor agreement.

(d) **CONTRACT AND SUBCONTRACT REQUIREMENTS.**—

(1) **REQUIREMENTS FOR SERVICES ON FEDERAL LAND.**—

(A) **IN GENERAL.**—For authorized restoration services carried out on Federal land under subsection (c), each contract and subcontract issued under the authority of a Governor shall include the provisions described in subparagraph (B) that would have been included in the contract had the Secretary been a party to the contract.

(B) **APPLICABLE PROVISIONS.**—The provisions referred to in subparagraph (A) are provisions for—

(i) wages and benefits for workers employed by contractors and subcontractors required by—

(I) subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code; and

(II) chapter 6 of title 41, United States Code;

(ii) nondiscrimination; and

(iii) worker safety and protection.

(2) **REQUIREMENTS FOR SMALL BUSINESSES.**—Each contract and subcontract for authorized restoration services under subsection (c) shall comply with provisions for small business assistance and protection that would have been applicable to the contract had the Secretary been a party to the contract.

(3) **LIABILITY.**—The Secretary shall include provisions in each good neighbor agreement, contract, or cooperative agreement, as appropriate, governing the potential liability of the State and the Secretary for actions carried out under this section.

(e) **TERMINATION OF EFFECTIVENESS.**—

(1) **IN GENERAL.**—The authority of the Secretary to enter into cooperative agreements and contracts under this section terminates on September 30, 2019.

(2) **CONTRACT DATE.**—The termination date of a cooperative agreement or contract entered into under this section shall not extend beyond September 30, 2020.

(3) **CONSOLIDATED AUTHORITY.**—

(A) **FEDERAL AND STATE COOPERATIVE WATERSHED RESTORATION AND PROTECTION IN COLORADO.**—Section 331 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106-291; 114 Stat. 996) is repealed.

(B) **FEDERAL AND STATE COOPERATIVE FOREST, RANGELAND, AND WATERSHED RESTORATION IN UTAH.**—Section 337 of the Department of the Interior and Related Agencies Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 3102) is repealed.

(4) **EXISTING CONTRACTS.**—Nothing in the amendments made by this section affects contracts in effect on the day before the date of enactment of this Act.

Subtitle D—Federal Land Avalanche Protection Program**SEC. 3331. DEFINITIONS.**

In this subtitle:

(1) **COMMITTEE.**—The term “Committee” means the Avalanche Artillery Users of North America Committee.

(2) **PROGRAM.**—The term “program” means the avalanche protection program established under section 3332(a).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

SEC. 3332. AVALANCHE PROTECTION PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary shall establish an avalanche protection program to provide information and assistance to users of avalanche-prone National Forest System land.

(b) **OBJECTIVES.**—The objectives of the program include—

(1) to inform and educate the public about the risks posed by avalanches to reduce the potential for injury, death, or property damage;

(2) to provide avalanche forecasts for avalanche-prone areas of the National Forest System that are frequented by recreational or other users;

(3) to provide oversight of activities relating to the prevention and control of avalanches by ski area and other special use permit holders on National Forest System land, including the procurement, control, and use of artillery; and

(4) to facilitate research on the objectives of the program, including research on the development of alternatives to military artillery.

(c) **COORDINATION.**—In carrying out this section, the Secretary shall—

(1) use the resources of—

(A) the National Avalanche Center of the Forest Service; and

(B) other partners; and

(2) work with the Committee and other partners to improve—

(A) coordination among users of artillery used to prevent and control avalanches; and

(B) access to, and the control and use of, artillery and other methods to prevent and control avalanches.

(d) **GRANTS.**—

(1) **IN GENERAL.**—The Secretary may make grants to any person to further the objectives of the program.

(2) **PRIORITY.**—The Secretary shall give priority to grants under paragraph (1) that enhance public safety.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this subsection \$4,000,000 for each of fiscal years 2010 through 2014.

DIVISION D—DEPARTMENT OF THE INTERIOR AUTHORIZATIONS**TITLE XL—FEDERAL LAND TRANSACTION FACILITATION ACT REAUTHORIZATION****SEC. 4001. REAUTHORIZATION.**

The Federal Land Transaction Facilitation Act is amended—

(1) in section 203(2) (43 U.S.C. 2302(2)), by striking “on the date of enactment of this Act was” and inserting “is”;

(2) in section 205 (43 U.S.C. 2304)—

(A) in subsection (a), by striking “this Act” and inserting “America’s Great Outdoors Act of 2010”; and

(B) in subsection (d), by striking “11” and inserting “21”;

(3) in section 206 (43 U.S.C. 2305), by striking subsection (f); and

(4) in section 207(b) (43 U.S.C. 2306(b))—

(A) in paragraph (1)—

(i) by striking “96-568” and inserting “96-586”; and

(ii) by striking “; or” and inserting a semicolon;

(B) in paragraph (2)—

(i) by inserting “Public Law 105-263;” before “112 Stat.”; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(3) the White Pine County Conservation, Recreation, and Development Act of 2006 (Public Law 109-432; 120 Stat. 3028);

“(4) the Lincoln County Conservation, Recreation, and Development Act of 2004 (Public Law 108-424; 118 Stat. 2403);

“(5) subtitle F of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1132 note; Public Law 111-11);

“(6) subtitle O of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 460www note, 1132 note; Public Law 111-11);

“(7) section 2601 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1108); or

“(8) section 2606 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1121).”.

TITLE XLI—NATIONAL VOLCANO EARLY WARNING PROGRAM

SEC. 4101. DEFINITIONS.

In this title:

(1) **PROGRAM.**—The term “program” means the National Volcano Early Warning and Monitoring Program established under section 4102(a).

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

SEC. 4102. NATIONAL VOLCANO EARLY WARNING AND MONITORING PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary shall establish within the United States Geological Survey a program to be known as the “National Volcano Early Warning and Monitoring Program”.

(b) **COMPONENTS.**—The program shall consist of a national volcano watch office and data center, which shall oversee and coordinate the activities of United States Geological Survey regional volcano watch and data centers.

(c) **PURPOSES.**—The purposes of the program are—

(1) to monitor and study volcanoes and volcanic activity throughout the United States at a level commensurate with the threat posed by each volcano; and

(2) to warn and protect people and property from undue and avoidable harm from volcanic activity.

SEC. 4103. MANAGEMENT.

(a) **MANAGEMENT PLAN.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare a management plan for establishing and operating the program.

(2) **INCLUSIONS.**—The management plan shall include—

(A) annual cost estimates of—
(i) operating the program; and
(ii) updating the data collection, monitoring, and analysis systems;

(B) annual standards and performance goals; and

(C) recommendations for establishing new, or enhancing existing, partnerships with State agencies or universities.

(b) **PARTNERSHIPS.**—The Secretary may enter into cooperative agreements or partnerships with State agencies and universities, under which the Secretary may designate the agency or university as volcano observatory partners for the program.

(c) **COORDINATION WITH OTHER FEDERAL AGENCIES.**—The Secretary shall coordinate activities authorized under this title with the heads of relevant Federal agencies including—

(1) the Secretary of Transportation;
(2) the Secretary of Commerce;
(3) the Administrator of the Federal Aviation Administration; and

(4) the Director of the Federal Emergency Management Administration.

(d) **GRANT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary may establish a competitive grant program to support research and monitoring of volcanic activities in furtherance of this title.

(2) **COST-SHARING REQUIREMENT.**—The non-Federal share of the total cost of an activity provided assistance under this subsection shall be 25 percent.

(e) **ANNUAL REPORT.**—The Secretary shall annually submit to Congress a report that describes the activities undertaken during the previous year to carry out this title.

SEC. 4104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title \$15,000,000 for each of fiscal years 2010 through 2020.

TITLE XLII—UPPER CONNECTICUT RIVER WATERSHED

SEC. 4201. DEFINITIONS.

In this title:

(1) **COMMISSIONS.**—The term “Commissions” means the Connecticut River Joint Commissions of New Hampshire and Vermont.

(2) **MANAGEMENT PLAN.**—

(A) **IN GENERAL.**—The term “management plan” means the management plan developed by the Commissions entitled “Connecticut River Corridor Management Plan” and dated May 1997.

(B) **INCLUSIONS.**—The term “management plan” includes any updates to the management plan described in subparagraph (A).

(3) **PROGRAM.**—The term “program” means the Connecticut River Grants and Technical Assistance Program established by section 4202(a).

(4) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(5) **STATE.**—The term “State” means each of the States of New Hampshire and Vermont.

(6) **WATERSHED.**—The term “watershed” means the upper Connecticut River watershed.

SEC. 4202. CONNECTICUT RIVER GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) **IN GENERAL.**—There is established in the Department of the Interior the Connecticut River Grants and Technical Assistance Program.

(b) **PURPOSE.**—The purpose of the program is to provide financial and technical assistance to the States, through the Commissions, to improve management of the watershed in accordance with the management plan.

(c) **FINANCIAL AND TECHNICAL ASSISTANCE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary may provide financial and technical assistance to the Commissions in furtherance of the purposes of this title.

(2) **LIMITATION.**—No financial assistance shall be provided under this title until the date on which the Secretary has approved criteria for financial assistance in accordance with subsection (d).

(d) **CRITERIA.**—

(1) **DEVELOPMENT.**—The Commissions shall develop criteria for—

(A) prioritizing and determining the eligibility of applicants for financial and technical assistance under the program; and

(B) reviewing and prioritizing applications for financial and technical assistance under the program.

(2) **REVIEW; APPROVAL.**—

(A) **SUBMISSION.**—The Commissions shall submit the criteria developed under paragraph (1) to the Secretary for review.

(B) **APPROVAL OR DISAPPROVAL.**—

(i) **IN GENERAL.**—Not later than 180 days after the date on which the Commissions submit the criteria under subparagraph (A), the Secretary shall approve or disapprove the criteria.

(ii) **DISAPPROVAL.**—If the Secretary disapproves the criteria under clause (i), the Secretary shall—

(I) advise the Commissions of the reasons for disapproval;

(II) make recommendations for revisions to the criteria; and

(III) not later than 180 days after the date on which the Commissions submit revised criteria to the Secretary, approve or disapprove the revised criteria.

(C) **CONSIDERATIONS.**—In reviewing the criteria submitted under this paragraph, the Secretary shall consider the extent to which the criteria—

(i) are consistent with the purposes and goals of the management plan; and

(ii) provide for protection of the watershed, including the natural, cultural, historic, and recreational resources within the watershed.

(e) **AUTHORITIES OF THE COMMISSIONS.**—The Commissions may use funds made available under this title to provide financial and technical assistance to State and local governments, nonprofit organizations, and other public and private entities to protect the watershed in accordance with the approved criteria and consistent with the management plan.

SEC. 4203. FUNDING LIMITATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated such sums as are necessary to carry out this title, subject to the limitations of section 5201 applicable to national heritage areas.

(b) **COST-SHARING REQUIREMENT.**—

(1) **IN GENERAL.**—The Federal share of the total cost of any activity under this title shall be not more than 50 percent of the total cost.

(2) **FORM.**—The non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

SEC. 4204. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this title terminates on the date that is 10 years after the date of enactment of this Act.

TITLE XLIII—ABANDONED MINE RECLAMATION PAYMENTS

SEC. 4301. ABANDONED MINE RECLAMATION.

(a) **RECLAMATION FEE.**—Section 402(g)(6)(A) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(6)(A)) is amended by inserting “and section 411(h)(1)” after “paragraphs (1) and (5)”.
(b) **FILLING VOIDS AND SEALING TUNNELS.**—Section 409(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1239(b)) is amended by inserting “and section 411(h)(1)” after “section 402(g)”.
(c) **USE OF FUNDS.**—Section 411(h)(1)(D)(ii) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a(h)(1)(D)(ii)) is amended by striking “section 403” and inserting “section 402(g)(6), 403, or 409”.

TITLE XLIV—PUBLIC LANDS SERVICE CORPS AMENDMENTS

SEC. 4401. AMENDMENT TO SHORT TITLE.

Section 201 of the Public Lands Corps Act of 1993 (16 U.S.C. 1701 note; 107 Stat. 848) is amended to read as follows:

“SEC. 201. SHORT TITLE; REFERENCES.

“(a) **SHORT TITLE.**—This title may be cited as the ‘Public Lands Service Corps Act of 1993’.

“(b) REFERENCES.—Any reference contained in any law, regulation, document, paper, or other record of the United States to the ‘Public Lands Corps Act of 1993’ shall be considered to be a reference to the ‘Public Lands Service Corps Act of 1993’.”.

SEC. 4402. REFERENCES.

A reference in this title to “the Act” is a reference to the Public Lands Service Corps Act of 1993 (16 U.S.C. 1721 et seq.; title II of Public Law 91-378).

SEC. 4403. AMENDMENTS TO THE PUBLIC LANDS SERVICE CORPS ACT OF 1993.

(a) NAME AND PROJECT DESCRIPTION CHANGES.—The Act is amended—

(1) in the title heading, by striking “**PUBLIC LANDS CORPS**” and inserting “**PUBLIC LANDS SERVICE CORPS**”;

(2) in section 204 (16 U.S.C. 1723), in the heading, by striking “public lands corps” and inserting “public lands service corps”;

(3) in section 210(a)(2) (16 U.S.C. 1729(a)(2)), in the heading, by striking “PUBLIC LANDS”;

(4) by striking “Public Lands Corps” each place it appears and inserting “Corps”;

(5) by striking “conservation center” each place it appears and inserting “residential conservation center”;

(6) by striking “conservation centers” each place it appears and inserting “residential conservation centers”;

(7) by striking “appropriate conservation project” each place it appears and inserting “appropriate natural and cultural resources conservation project”;

(8) by striking “appropriate conservation projects” each place it appears and inserting “appropriate natural and cultural resources conservation projects”.

(b) FINDINGS.—Section 202(a) (16 U.S.C. 1721(a)) of the Act, as amended by subsection (a), is amended—

(1) in paragraph (1)—

(A) by striking “Corps can benefit” and inserting “conservation corps can benefit”;

(B) by striking “the natural and cultural” and inserting “natural and cultural”;

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(3) by inserting after paragraph (1) the following:

“(2) Participants in conservation corps receive meaningful education and training, and their experience with conservation corps provides preparation for careers in public service.

“(3) Young men and women who participate in the rehabilitation and restoration of the natural, cultural, historic, archaeological, recreational, and scenic treasures of the United States will gain an increased appreciation and understanding of the public lands and heritage of the United States, and of the value of public service, and are likely to become life-long advocates for those values.”;

(4) in paragraph (4) (as redesignated by paragraph (2)), by inserting “, cultural, historic, archaeological, recreational, and scenic” after “Many facilities and natural”; and

(5) by adding at the end the following:

“(6) The work of conservation corps can benefit communities adjacent to public lands and facilities through renewed civic engagement and participation by corps participants and those they serve, improved student achievement, and restoration and rehabilitation of public assets.”.

(c) PURPOSE.—Section 202(b) (16 U.S.C. 1721(b)) of the Act is amended to read as follows:

“(b) PURPOSES.—The purposes of this Act are—

“(1) to introduce young men and women to public service while furthering their understanding and appreciation of the natural, cultural, historic, archaeological, recreational, and scenic resources of the United States;

“(2) to facilitate training and recruitment opportunities in which service is credited as qualifying experience for careers in the management of such resources;

“(3) to instill in a new generation of young men and women from across the United States, including young men and women from diverse backgrounds, the desire to seek careers in resource stewardship and public service by allowing them to work directly with professionals in agencies responsible for the management of the natural, cultural, historic, archaeological, recreational, and scenic resources of the United States;

“(4) to perform, in a cost-effective manner, appropriate natural and cultural resources conservation projects where such projects are not being performed by existing employees;

“(5) to assist State and local governments and Indian tribes in performing research and public education tasks associated with the conservation of natural, cultural, historic, archaeological, recreational, and scenic resources;

“(6) to expand educational opportunities on public lands and by rewarding individuals who participate in conservation corps with an increased ability to pursue higher education and job training;

“(7) to promote public understanding and appreciation of the missions and the natural and cultural resources conservation work of the participating Federal agencies through training opportunities, community service and outreach, and other appropriate means; and

“(8) to create a grant program for Indian tribes to establish the Indian Youth Service Corps so that Indian youth can benefit from carrying out projects on Indian lands that the Indian tribes and communities determine to be priorities.”.

(d) DEFINITIONS.—Section 203 (16 U.S.C. 1722) of the Act is amended—

(1) by redesignating paragraphs (3) through (7), (8) through (10), and (11) through (13) as paragraphs (5) through (9), (11) through (13), and (15) through (17), respectively;

(2) by striking paragraphs (1) and (2) and inserting the following:

“(1) APPROPRIATE NATURAL AND CULTURAL RESOURCES CONSERVATION PROJECT.—The term ‘appropriate natural and cultural resources conservation project’ means any project for the conservation, restoration, construction, or rehabilitation of natural, cultural, historic, archaeological, recreational, or scenic resources.

“(2) CONSULTING INTERN.—The term ‘consulting intern’ means a consulting intern selected under section 206(a)(2).

“(3) CORPS AND PUBLIC LANDS SERVICE CORPS.—The terms ‘Corps’ and ‘Public Lands Service Corps’ mean the Public Lands Service Corps established under section 204(a).

“(4) CORPS PARTICIPANT.—The term ‘Corps participant’ means an individual enrolled—

“(A) in the Corps or the Indian Youth Service Corps; or

“(B) as a resource assistant or consulting intern.”;

(3) by inserting after paragraph (9) (as redesignated by paragraph (1)) the following:

“(10) INDIAN YOUTH SERVICE CORPS.—The term ‘Indian Youth Service Corps’ means a qualified youth or conservation corps established under section 207 that—

“(A) enrolls individuals between the ages of 15 and 25, inclusive, a majority of whom are Indians; and

“(B) is established pursuant to a tribal resolution that describes the agreement between the Indian tribe and the qualified youth or conservation corps to operate an Indian Youth Service Corps program for the benefit of the members of the Indian tribe.”;

(4) by amending paragraph (12) (as redesignated by paragraph (1)) to read as follows:

“(12) PUBLIC LANDS.—The term ‘public lands’ means any land or water (or interest therein) owned or administered by the United States, including those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, except that such term does not include Indian lands.”;

(5) by amending paragraph (13) (as redesignated by paragraph (1)) as follows:

(A) in subparagraph (A)—

(i) by striking “full-time.”;

(ii) by inserting “on eligible service lands” after “resource setting”; and

(iii) by striking “16” and inserting “15”;

(B) in subparagraph (B), by striking “and” at the end;

(C) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(D) makes available for audit for each fiscal year for which the qualified youth or conservation corps receives Federal funds under this Act, all information pertaining to the expenditure of the funds, any matching funds, and participant demographics.”;

(6) by inserting after paragraph 13 (as redesignated by paragraph (1)) the following:

“(14) RESIDENTIAL CONSERVATION CENTERS.—The term ‘residential conservation centers’ means the facilities authorized under section 205.”;

(7) in paragraph (15) (as redesignated by paragraph (1)), by striking “206” and inserting “206(a)(1)”;

(8) in paragraph (16) (as redesignated by paragraph (1))—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(C) with respect to the National Marine Sanctuary System, coral reefs, and other coastal, estuarine, and marine habitats, and other lands and facilities administered by the National Oceanic and Atmospheric Administration, the Secretary of Commerce.”.

(e) PUBLIC LANDS SERVICE CORPS PROGRAM.—Section 204 of the Act (16 U.S.C. 1723), as amended by subsection (a), is amended—

(1) by redesignating subsections (b) and (c) and subsections (d) through (f) as subsections (c) and (d) and subsections (f) through (h), respectively;

(2) by striking subsection (a) and inserting the following:

“(a) ESTABLISHMENT OF PUBLIC LANDS SERVICE CORPS.—There is established in the Department of the Interior, the Department of Agriculture, and the Department of Commerce a Public Lands Service Corps.

“(b) ESTABLISHMENT OF CORPS OFFICE; COORDINATORS; LIAISON.—

“(1) ESTABLISHMENT OF OFFICES.—

“(A) DEPARTMENT OF THE INTERIOR.—The Secretary of the Interior shall establish a department-level office to coordinate the Corps activities within the Department of the Interior.

“(B) DEPARTMENT OF AGRICULTURE.—The Secretary of Agriculture shall establish

within the Forest Service an office to coordinate the Corps activities within that agency.

“(C) DEPARTMENT OF COMMERCE.—The Secretary of Commerce shall establish within the National Oceanic and Atmospheric Administration an office to coordinate the Corps activities within that agency.

“(2) ESTABLISHMENT OF COORDINATORS.—The Secretary shall designate a Public Lands Service Corps coordinator for each agency under the jurisdiction of the Secretary that administers Corps activities.

“(3) ESTABLISHMENT OF LIAISON.—The Secretary of the Interior shall establish an Indian Youth Service Corps liaison that will—

“(A) provide outreach to Indian tribes about opportunities for establishing Corps and Indian Youth Service Corps programs; and

“(B) coordinate with the Tribal Liaison of the Corporation for National Service to identify and establish Corps and Indian Youth Service Corps opportunities for Indian youth.”;

(3) by amending subsection (c) (as redesignated by paragraph (1)) to read as follows:

“(c) PARTICIPANTS.—

“(1) IN GENERAL.—The Secretary may enroll in the Corps individuals who are—

“(A) hired by an agency under the jurisdiction of the Secretary to perform work authorized under this Act; or

“(B) members of a qualified youth or conservation corps with which the Secretary has entered into a cooperative agreement to perform work authorized under this Act.

“(2) RESOURCE ASSISTANTS AND CONSULTING INTERNS.—The Secretary may also enroll in the Corps resource assistants and consulting interns in accordance with section 206(a).

“(3) ELIGIBILITY REQUIREMENTS.—To be eligible for enrollment as a Corps participant, an individual shall—

“(A) be between the ages of 15 and 25, inclusive; and

“(B) satisfy the requirements of section 137(a)(5) of the National and Community Service Act of 1990 (42 U.S.C. 12591(a)(5)).

“(4) TERMS.—Each Corps participant may be enrolled in the Corps for a term of up to 2 years of service, which may be served over a period that exceeds 2 calendar years.

“(5) CIVIL SERVICE.—An individual may be enrolled as a Corps participant without regard to the civil service and classification laws, rules, or regulations of the United States.

“(6) PREFERENCE.—The Secretary may establish a preference for the enrollment as Corps participants individuals who are economically, physically, or educationally disadvantaged.”;

(4) in subsection (d) (as redesignated by paragraph (1))—

(A) in paragraph (1)—

(i) by striking “contracts and”; and

(ii) by striking “subsection (d)” and inserting “subsection (f)”;

(B) by striking paragraph (2); and

(C) by inserting after paragraph (1) the following:

“(2) RECRUITMENT.—The Secretary shall carry out, or enter into cooperative agreements to provide, a program to attract eligible youth to the Corps by publicizing Corps opportunities through high schools, colleges, employment centers, electronic media, and other appropriate institutions and means.

“(3) PREFERENCE.—In entering into cooperative agreements under paragraph (1) or awarding competitive grants to Indian tribes or tribally authorized organizations under section 207, the Secretary may give preference to qualified youth or conservation

corps that are located in specific areas where a substantial portion of members are economically, physically, or educationally disadvantaged.”;

(5) by inserting after subsection (d) (as redesignated by paragraph (1)) the following:

“(e) TRAINING.—

“(1) IN GENERAL.—The Secretary shall establish a training program based at appropriate residential conservation centers or at other suitable regional Federal or other appropriate facilities or sites to provide training for Corps participants.

“(2) REQUIREMENTS.—In establishing a training program under paragraph (1), the Secretary shall—

“(A) ensure that the duration and comprehensiveness of the training program shall be commensurate with the projects Corps participants are expected to undertake;

“(B) develop department-wide standards for the program that include training in—

“(i) resource stewardship;

“(ii) health and safety;

“(iii) ethics for individuals in public service;

“(iv) teamwork and leadership; and

“(v) interpersonal communications;

“(C) direct the participating agencies within the Department of the Interior, the Forest Service in the case of the Department of Agriculture, and the National Oceanic and Atmospheric Administration in the case of the Department of Commerce, to develop agency-specific training guidelines to ensure that Corps participants are appropriately informed about matters specific to that agency, including—

“(i) the history and organization of the agency;

“(ii) the mission of the agency; and

“(iii) any agency-specific standards for the management of natural, cultural, historic, archaeological, recreational, and scenic resources; and

“(D) take into account training already received by Corps participants enrolled from qualified youth or conservation corps.”;

(6) in subsection (f) (as redesignated by paragraph (1))—

(A) in paragraph (1)—

(i) in the heading, by striking “IN GENERAL.—” and inserting “USE OF CORPS; PROJECTS.—”;

(ii) by striking “The Secretary may utilize the Corps or any qualified youth or conservation corps to carry out” and inserting the following:

“(A) IN GENERAL.—The Secretary may use the Corps to carry out, with appropriate supervision and training,”;

(iii) by striking “on public lands” and inserting on “on eligible service lands”; and

(iv) by adding at the end the following:

“(B) PROJECTS.—Appropriate natural and cultural resources conservation projects carried out under this section may include—

“(i) protecting, restoring, or enhancing ecosystem components to promote species recovery, improve biological diversity, enhance productivity and carbon sequestration, and enhance adaptability and resilience of eligible service lands and resources to climate change and other natural and human disturbances;

“(ii) promoting the health of eligible service lands, including—

“(I) protecting and restoring watersheds and forest, grassland, riparian, estuarine, marine, or other habitat;

“(II) reducing the risk of uncharacteristically severe wildfire and mitigating damage from insects, disease, and disasters;

“(III) controlling erosion;

“(IV) controlling and removing invasive, noxious, or nonnative species; and

“(V) restoring native species;

“(iii) collecting biological, archaeological, and other scientific data, including climatological information, species populations and movement, habitat status, and other information;

“(iv) assisting in historical and cultural research, museum curatorial work, oral history projects, documentary photography, and activities that support the creation of public works of art related to eligible service lands; and

“(v) constructing, repairing, rehabilitating, and maintaining roads, trails, campgrounds and other visitor facilities, employee housing, cultural and historic sites and structures, and other facilities that further the purposes of this Act.”;

(B) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(C) by inserting after paragraph (1) the following:

“(2) VISITOR SERVICES.—The Secretary may—

“(A) enter into or amend an existing cooperative agreement with a cooperating association, educational institution, friends group, or similar nonprofit partner organization for the purpose of providing training and work experience to Corps participants in areas such as sales, office work, accounting, and management, provided that the work experience directly relates to the conservation and management of eligible service lands; and

“(B) allow Corps participants to help promote visitor safety and enjoyment of eligible service lands, and assist in the gathering of visitor use data.

“(3) INTERPRETATION.—The Secretary may permit Corps participants to provide interpretation or education services for the public under the direct and immediate supervision of an agency employee—

“(A) to provide orientation and information services to visitors;

“(B) to assist agency employees in the delivery of interpretive or educational programs where audience size, environmental conditions, safety, or other factors make such assistance desirable;

“(C) to present programs that relate the personal experience of the Corps participants for the purpose of promoting public awareness of the Corps, the role of the Corps in public land management agencies, and the availability of the Corps to potential participants; and

“(D) to create nonpersonal interpretive products, such as website content, Junior Ranger program books, printed handouts, and audiovisual programs.”;

(7) in subsection (g) (as redesignated by paragraph (1))—

(A) in the matter preceding the first paragraph, by striking “those projects which” and inserting “priority projects and other projects that”; and

(B) by striking paragraph (2) and inserting the following:

“(2) will instill in Corps participants a work ethic and a sense of public service;”;

and

(8) by adding at the end the following:

“(i) OTHER PARTICIPANTS.—The Secretary may allow volunteers from other programs administered or designated by the Secretary to participate as volunteers in projects carried out under this section.

“(j) CRIMINAL HISTORY CHECKS.—

“(1) IN GENERAL.—The requirements of section 189D(b) of the National and Community

Service Act of 1990 (42 U.S.C. 12645g(b)) shall apply to each individual age 18 or older seeking—

“(A) to become a Corps participant;

“(B) to receive funds authorized under this Act; or

“(C) to supervise or otherwise have regular contact with Corps participants in activities authorized under this Act.

“(2) ELIGIBILITY PROHIBITION.—If any of paragraphs (1) through (4) of section 189D(c) of the National and Community Service Act of 1990 (42 U.S.C. 12645g(c)(1)–(4)) apply to an individual described in paragraph (1), that individual shall not be eligible for the position or activity described in paragraph (1), unless the Secretary provides an exemption for good cause.”.

(f) RESIDENTIAL CONSERVATION CENTERS AND PROGRAM SUPPORT.—Section 205 (16 U.S.C. 1724) of the Act is amended—

(1) in the section heading, by striking “conservation” and inserting “residential conservation”;

(2) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—The Secretary may establish residential conservation centers for—

“(A) such housing, food service, medical care, transportation, and other services as the Secretary deems necessary for Corps participants; and

“(B) the conduct of appropriate natural and cultural resources conservation projects under this Act.”;

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(D) in paragraph (2) (as redesignated by subparagraph (C)), in the heading, by striking “FOR CONSERVATION CENTERS”; and

(E) in paragraph (3) (as redesignated by subparagraph (C)), by striking “a State or local government agency” and inserting “another Federal agency, State, local government,”;

(3) in subsection (b)—

(A) by striking “The Secretary” and inserting the following:

“(1) IN GENERAL.—The Secretary”; and

(B) by adding at the end the following:

“(2) TEMPORARY HOUSING.—The Secretary may make arrangements with another Federal agency, State, local government, or private organization to provide temporary housing for Corps participants as needed and available.

“(3) TRANSPORTATION.—In project areas where Corps participants can reasonably be expected to reside at their own homes, the Secretary may fund or provide transportation to and from project sites.”;

(4) by redesignating subsection (d) as subsection (f);

(5) by inserting after subsection (c) the following:

“(d) FACILITIES.—The Secretary may, as an appropriate natural and cultural resources conservation project, direct Corps participants to aid in the construction or rehabilitation of residential conservation center facilities, including housing.

“(e) MENTORS.—The Secretary may recruit from programs, such as Federal volunteer and encore service programs, and from veterans groups, military retirees, and active duty personnel, such adults as may be suitable and qualified to provide training, mentoring, and crew-leading services to Corps participants.”; and

(6) in subsection (f) (as redesignated by paragraph (4)), by striking “that are appropriate” and all that follows through the pe-

riod and inserting “that the Secretary determines to be necessary for a residential conservation center.”.

(g) RESOURCE ASSISTANTS AND CONSULTING INTERNS.—Section 206 of the Act (16 U.S.C. 1725) is amended—

(1) in the section heading, by inserting “and consulting interns” before the period;

(2) by striking subsections (a) and (b) and inserting the following:

“(a) AUTHORIZATION.—

“(1) RESOURCE ASSISTANTS.—

“(A) IN GENERAL.—The Secretary may provide individual placements of resource assistants with any agency under the jurisdiction of the Secretary that carries out appropriate natural and cultural resources conservation projects to carry out research or resource protection activities on behalf of the agency.

“(B) ELIGIBILITY.—To be eligible for selection as a resource assistant, an individual shall be at least 17 years of age.

“(C) PREFERENCE.—In selecting resource assistants for placement under this paragraph, the Secretary shall give a preference to individuals who are enrolled in an institution of higher education or are recent graduates from an institution of higher education, with particular attention given to ensuring full representation of women and participants from Historically Black Colleges and Universities, Hispanic-serving institutions, and Tribal Colleges and Universities.

“(2) CONSULTING INTERNS.—

“(A) IN GENERAL.—The Secretary may provide individual placements of consulting interns with any agency under the jurisdiction of the Secretary that carries out appropriate natural and cultural resources conservation projects to carry out management analysis activities on behalf of the agency.

“(B) ELIGIBILITY.—To be eligible for selection as a consulting intern, an individual shall be enrolled in, and have completed at least 1 full year at, a graduate or professional school that has been accredited by an accrediting body recognized by the Secretary of Education.

“(b) USE OF EXISTING NONPROFIT ORGANIZATIONS.—

“(1) IN GENERAL.—Whenever 1 or more nonprofit organizations can provide appropriate recruitment and placement services to fulfill the requirements of this section, the Secretary may implement this section through such organizations.

“(2) EXPENSES.—Participating organizations shall contribute to the expenses of providing and supporting the resource assistants or consulting interns from sources of funding other than the Secretary, at a level of not less than 25 percent of the total costs (15 percent of which may be from in-kind sources) of each participant in the resource assistant or consulting intern program who has been recruited and placed through that organization.

“(3) REPORTING.—Each participating organization shall be required to submit an annual report evaluating the scope, size, and quality of the program, including the value of work contributed by the resource assistants and consulting interns, to the mission of the agency.”.

(h) TECHNICAL AMENDMENT.—The Act is amended by redesignating sections 207 through 211 (16 U.S.C. 1726 through 1730) as sections 209 through 213, respectively.

(i) INDIAN YOUTH SERVICE CORPS.—The Act is amended by inserting after section 206 (16 U.S.C. 1725) the following:

“SEC. 207. INDIAN YOUTH SERVICE CORPS.

“(a) AUTHORIZATION OF COOPERATIVE AGREEMENTS AND COMPETITIVE GRANTS.—The Secretary is authorized to enter into cooperative agreements with, or make competitive grants to, Indian tribes and qualified youth or conservation corps for the establishment and administration of Indian Youth Service Corps programs to carry out appropriate natural and cultural resources conservation projects on Indian lands.

“(b) APPLICATION.—To be eligible to receive assistance under this section, an Indian tribe or a qualified youth or conservation corps shall submit to the Secretary an application in such manner and containing such information as the Secretary may require, including—

“(1) a description of the methods by which Indian youth will be recruited for and retained in the Indian Youth Service Corps;

“(2) a description of the projects to be carried out by the Indian Youth Service Corps;

“(3) a description of how the projects were identified; and

“(4) an explanation of the impact of, and the direct community benefits provided by, the proposed projects.”.

(j) GUIDANCE.—The Act is amended by inserting after section 207 (as amended by subsection (i)) the following:

“SEC. 208. GUIDANCE.

“Not later than 18 months after funds are made available to the Secretary to carry out this Act, the Secretary shall issue guidelines for the management of programs under the jurisdiction of the Secretary that are authorized under this Act.”.

(k) LIVING ALLOWANCES AND TERMS OF SERVICE.—Section 209 of the Act (16 U.S.C. 1726) (as redesignated by subsection (h)) is amended by striking subsections (a), (b), and (c) and inserting the following:

“(a) LIVING ALLOWANCES.—

“(1) IN GENERAL.—The Secretary shall provide each Corps participant with a living allowance in an amount established by the Secretary.

“(2) COST-OF-LIVING DIFFERENTIAL; TRAVEL COSTS.—The Secretary may—

“(A) apply a cost-of-living differential to the living allowances established under paragraph (1); and

“(B) if the Secretary determines reimbursement to be appropriate, reimburse Corps participants for travel costs at the beginning and end of the term of service of the Corps participants.

“(b) TERMS OF SERVICE.—

“(1) IN GENERAL.—Each Corps participant shall agree to participate for such term of service as may be established by the Secretary.

“(2) CONSULTATIONS.—With respect to the Indian Youth Service Corps, the term of service shall be established in consultation with the affected Indian tribe or tribally authorized organization.

“(c) HIRING PREFERENCE AND FUTURE EMPLOYMENT.—The Secretary may—

“(1) grant to a Corps participant credit for time served as a Corps participant, which may be used toward future Federal hiring;

“(2) provide to a former participant of the Corps or the Indian Youth Service Corps noncompetitive hiring status for a period of not more than 2 years after the date on which the service of the candidate in the Corps or the Indian Youth Service Corps was complete, if the candidate—

“(A) has served a minimum of 960 hours on an appropriate natural or cultural resources conservation project that included at least 120 hours through the Corps or the Indian Youth Service Corps; and

“(B) meets Office of Personnel Management qualification standards for the position for which the candidate is applying;

“(3) provide to a former resource assistant or consulting intern noncompetitive hiring status for a period of not more than 2 years after the date on which the individual has completed an undergraduate or graduate degree, respectively, from an accredited institution, if the candidate—

“(A) successfully fulfilled the resource assistant or consulting intern program requirements; and

“(B) meets Office of Personnel Management qualification standards for the position for which the candidate is applying; and

“(4) provide, or enter into contracts or cooperative agreements with qualified employment agencies to provide, alumni services such as job and education counseling, referrals, verification of service, communications, and other appropriate services to Corps participants who have completed the term of service.”.

(l) NATIONAL SERVICE EDUCATIONAL AWARDS.—Section 210 (16 U.S.C. 1727) of the Act (as redesignated by subsection (h)) is amended—

(1) in subsection (a) (as amended by subsection (a)(4)), in the first sentence—

(A) by striking “participant in the Corps or a resource assistant” and inserting “Corps participant”; and

(B) by striking “participant or resource assistant” and inserting “Corps participant”; and

(2) in subsection (b)—

(A) by striking “either participants in the Corps or resource assistants” and inserting “Corps participants”; and

(B) by striking “or a resource assistant”.

(m) NONDISPLACEMENT.—Section 211 of the Act (16 U.S.C. 1728) (as redesignated by subsection (h)) is amended by striking “activities carried out” and all that follows through the period and inserting “Corps participants.”.

(n) FUNDING.—Section 212 of the Act (16 U.S.C. 1729) (as redesignated by subsection (h)) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the second sentence, by striking “non-federal sources” and inserting “sources other than the Secretary”; and

(ii) by inserting after the second sentence the following: “The Secretary may pay up to 90 percent of the costs of a project if the Secretary determines that the reduction is necessary to enable participation from a greater range of organizations or individuals.”; and

(B) in paragraph (2), by inserting “or Indian Youth Service Corps” after “Corps” each place it appears;

(2) by amending subsection (b) to read as follows:

“(b) FUNDS AVAILABLE UNDER NATIONAL AND COMMUNITY SERVICE ACT.—To carry out this Act, the Secretary shall be eligible to apply for and receive assistance under section 121(b) of the National and Community Service Act (42 U.S.C. 12571(b)).”; and

(3) in subsection (c)—

(A) by striking “section 211” and inserting “section 213”; and

(B) by inserting “or Indian Youth Service Corps” after “Corps”.

(o) AUTHORIZATION OF APPROPRIATIONS.—Section 213 of the Act (16 U.S.C. 1730) (as redesignated by subsection (h)) is amended—

(1) by amending subsection (a) to read as follows:

“(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.”;

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

TITLE XLV—PATENT MODIFICATIONS AND VALIDATIONS

SEC. 4501. WHITEFISH LIGHTHOUSE PATENT MODIFICATION, MICHIGAN.

(a) MODIFICATION OF LAND GRANT PATENT ISSUED BY SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall modify the matter under the heading “SUBJECT ALSO TO THE FOLLOWING CONDITIONS” of paragraph 6 of United States Patent Number 61-2000-0007 by striking “Whitefish Point Comprehensive Plan of October 1992 or for a gift shop” and inserting “Human Use/Natural Resource Plan for Whitefish Point, dated December 2002”.

(b) REVIEW OF MODIFICATIONS AND UNDERTAKINGS.—

(1) MODIFICATIONS TO HUMAN USE/NATURAL RESOURCE PLAN FOR WHITEFISH POINT.—Each modification to the Human Use/Natural Resource Plan for Whitefish Point, dated December 2002, described in the matter under the heading “SUBJECT ALSO TO THE FOLLOWING CONDITIONS” of paragraph 6 of United States Patent Number 61-2000-0007 shall be subject to the review process established under—

(A) section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

(B) part 800 of title 36, Code of Federal Regulations.

(2) FEDERAL OR FEDERALLY ASSISTED UNDERTAKINGS.—Each Federal or federally assisted undertaking (as described in section 106 of the National Historic Preservation Act (16 U.S.C. 470f)) proposed to be carried out within the boundaries of the Whitefish Point Light Station shall be subject to the review process established under—

(A) section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

(B) part 800 of title 36, Code of Federal Regulations.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The modification of United States Patent Number 61-2000-0007 in accordance with subsection (b) shall become effective on the date of the recording of the modification in the Office of the Register of Deeds of Chippewa County of the State of Michigan.

(2) ENDORSEMENT.—The Office of the Register of Deeds of Chippewa County of the State of Michigan is requested to endorse on the recorded copy of United States Patent Number 61-2000-0007 the fact that the Patent Number has been modified in accordance with this title.

SEC. 4502. SOUTHERN NEVADA PATENT VALIDATION.

Patent No. 27-2005-0081 and its associated land reconfiguration issued by the Bureau of Land Management on February 18, 2005, is hereby affirmed and validated as having been issued pursuant to and in compliance with the provisions of the Nevada-Florida Land Exchange Authorization Act of 1988 (Public Law 100-275), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) for the benefit of the desert tortoise and other species and their habitat to increase the likelihood of their recovery. The process utilized by the United States Fish and Wildlife Service and the Bureau of Land Management in reconfiguring the lands as shown on Exhibit 1-4 of the Final Environmental Impact Statement for the Planned Development Project MSHCP, Lincoln County, NV (FWS-R8-ES-2008-N0136) and the reconfiguration provided

for in Special Condition 10 of Army Corps of Engineers Permit No. 000005042 are hereby ratified.

TITLE XLVI—MISCELLANEOUS

SEC. 4601. LAND AND WATER CONSERVATION FUND.

Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5) is amended—

(1) in the matter preceding subsection (a), by striking “During the period ending September 30, 2015, there” and inserting “There”; and

(2) in subsection (c)(1), by striking “through September 20, 2015”.

SEC. 4602. UNITED STATES FISH AND WILDLIFE SERVICE TECHNICAL AMENDMENT.

Section 3 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742b) is amended in subsections (a) and (b) by striking “Assistant Secretary for Fish and Wildlife” each place it appears and inserting “Assistant Secretary for Fish and Wildlife and Parks”.

SEC. 4603. PUBLIC LAND ORDER 2568 TECHNICAL MODIFICATION.

(a) DEFINITIONS.—In this section:

(1) PUBLIC LAND ORDER 2568.—The term “Public Land Order 2568” means Public Land Order 2568, dated December 19, 1961.

(2) WITHDRAWN LAND.—The term “withdrawn land” means land comprising approximately 16,960 acres of land located within the public land reserved (as of the day before the date of enactment of this Act) for the use of the Department of Energy under Public Land Order 2568, as generally depicted on the map entitled “Nevada Solar Demonstration Zone”, dated June 30, 2010.

(b) LAND WITHDRAWAL, JURISDICTION, AND RESERVATION.—

(1) LAND WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this section, all public land and interests in the withdrawn land are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mining laws and mineral and geothermal leasing laws.

(2) TRANSFER OF JURISDICTION.—Effective beginning on the date of enactment of this Act and except as otherwise provided in this section, jurisdiction over the withdrawn land shall be transferred from the Secretary of the Interior to the Secretary of Energy.

(3) RESERVATION.—The withdrawn land shall be withdrawn for—

(A) the purpose of establishing a program to support the testing, evaluation, demonstration, and commercial operation of solar energy technologies by private and public entities, including other Federal agencies; and

(B) the use of the Secretary of Energy to carry out the missions of the Department of Energy and the National Nuclear Security Administration and other uses related to those missions.

(c) LEGAL DESCRIPTION AND MAP.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing a legal description of the withdrawn land; and

(2) file copies of the map described in paragraph (1) and the legal description of the withdrawn land with—

(A) Congress;

(B) the Secretary of Energy; and

(C) the Governor of the State of Nevada.

(d) TECHNICAL CORRECTIONS.—

(1) IN GENERAL.—The map and legal description described in subsection (c) shall have the same force and effect as if the map

and legal description were included in this section.

(2) **ERRORS.**—The Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(e) **WATER RIGHTS.**—

(1) **IN GENERAL.**—Nothing in this section shall result in any forfeiture of any water rights acquired or exercised by the United States prior to the date of enactment of this Act.

(2) **ADDITIONAL WATER RIGHTS.**—The United States shall follow the procedural and substantive requirements of applicable State law in obtaining and holding under this section any water rights not in existence on the date of enactment of this Act.

(f) **MANAGEMENT OF WITHDRAWN LAND.**—The Secretary of Energy shall—

(1) be responsible for the management of the withdrawn land; and

(2) have the authority to issue land use authorizations for the withdrawn land.

(g) **MANAGEMENT PLAN.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall develop a management plan for the withdrawn land that—

(1) establishes criteria for approving testing, evaluation, demonstration, and commercial operation of solar energy projects and related infrastructure by private and public entities, including other Federal agencies infrastructure on the withdrawn land;

(2) establishes a fee or royalty, as appropriate, for commercial solar energy generating facilities on the withdrawn land; and

(3) uses any fee or royalty collected pursuant to paragraph (2), without further appropriation and without fiscal year limitation, for support of activities on the withdrawn land, for purposes such as—

(A) infrastructure improvements, including electricity transmission;

(B) solar demonstration projects, including system performance verification;

(C) acquiring and managing water;

(D) education, research, and training;

(E) mitigating impacts to natural resources;

(F) land use permits and environmental studies associated with the withdrawn land; and

(G) protecting wildlife.

(h) **OTHER MANAGEMENT RESPONSIBILITIES.**—

(1) **INFRASTRUCTURE.**—The Secretary of Energy shall work with other Federal agencies, the State of Nevada, and other interested persons to ensure, to the maximum extent practicable, that adequate infrastructure is available for activities conducted on the withdrawn land.

(2) **NATIONAL DEFENSE TESTING AND TRAINING.**—The Secretary of Energy shall consult with the Secretary of Defense to ensure that solar energy projects or related infrastructure on, or directly related to, the withdrawn land do not significantly impede national defense testing and training.

(i) **USE OF MINERAL MATERIALS.**—Notwithstanding any other provision of this section, the Secretary of Energy may use, without application to the Secretary of the Interior, the sand, gravel, or similar material resources on the withdrawn land of the type subject to disposition under the Act of July 31, 1947 (commonly known as the “Materials Act of 1947”) (30 U.S.C. 601 et seq.), if the use of the resources is required to accomplish the missions of the Department of Energy or the National Nuclear Security Administration or other uses related to those missions.

DIVISION E—NATIONAL HERITAGE AREAS

TITLE I—SUSQUEHANNA GATEWAY NATIONAL HERITAGE AREA

SEC. 5001. DEFINITIONS.

In this title:

(1) **HERITAGE AREA.**—The term “Heritage Area” means the Susquehanna Gateway National Heritage Area established by section 5002(a).

(2) **LOCAL COORDINATING ENTITY.**—The term “local coordinating entity” means the local coordinating entity for the Heritage Area designated by section 5003(a).

(3) **MANAGEMENT PLAN.**—The term “management plan” means the plan developed by the local coordinating entity under section 5004(a).

(4) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(5) **STATE.**—The term “State” means the State of Pennsylvania.

SEC. 5002. SUSQUEHANNA GATEWAY NATIONAL HERITAGE AREA.

(a) **ESTABLISHMENT.**—There is established the Susquehanna Gateway National Heritage Area in the State.

(b) **BOUNDARIES.**—The Heritage Area shall include Lancaster and York Counties, Pennsylvania.

SEC. 5003. DESIGNATION OF LOCAL COORDINATING ENTITY.

(a) **LOCAL COORDINATING ENTITY.**—The Susquehanna Heritage Corporation, a nonprofit organization established under the laws of the State, shall be the local coordinating entity for the Heritage Area.

(b) **AUTHORITIES OF LOCAL COORDINATING ENTITY.**—The local coordinating entity may, for purposes of preparing and implementing the management plan, use Federal funds made available under this title—

(1) to prepare reports, studies, interpretive exhibits and programs, historic preservation projects, and other activities recommended in the management plan for the Heritage Area;

(2) to make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(3) to enter into cooperative agreements with the State, political subdivisions of the State, nonprofit organizations, and other organizations;

(4) to hire and compensate staff;

(5) to obtain funds or services from any source, including funds and services provided under any other Federal program or law; and

(6) to contract for goods and services.

(c) **DUTIES OF LOCAL COORDINATING ENTITY.**—To further the purposes of the Heritage Area, the local coordinating entity shall—

(1) prepare a management plan for the Heritage Area in accordance with section 5004;

(2) give priority to the implementation of actions, goals, and strategies set forth in the management plan, including assisting units of government and other persons in—

(A) carrying out programs and projects that recognize and protect important resource values in the Heritage Area;

(B) encouraging economic viability in the Heritage Area in accordance with the goals of the management plan;

(C) establishing and maintaining interpretive exhibits in the Heritage Area;

(D) developing heritage-based recreational and educational opportunities for residents and visitors in the Heritage Area;

(E) increasing public awareness of and appreciation for the natural, historic, and cultural resources of the Heritage Area;

(F) restoring historic buildings that are—

(i) located in the Heritage Area; and

(ii) related to the themes of the Heritage Area; and

(G) installing throughout the Heritage Area clear, consistent, and appropriate signs identifying public access points and sites of interest;

(3) consider the interests of diverse units of government, businesses, tourism officials, private property owners, and nonprofit groups within the Heritage Area in developing and implementing the management plan;

(4) conduct public meetings at least semi-annually regarding the development and implementation of the management plan; and

(5) for any fiscal year for which Federal funds are received under this title—

(A) submit to the Secretary an annual report that describes—

(i) the accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity; and

(iii) the entities to which the local coordinating entity made any grants;

(B) make available for audit all records relating to the expenditure of the Federal funds and any matching funds; and

(C) require, with respect to all agreements authorizing the expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records relating to the expenditure of the Federal funds.

(d) **PROHIBITION ON ACQUISITION OF REAL PROPERTY.**—

(1) **IN GENERAL.**—The local coordinating entity shall not use Federal funds received under this title to acquire real property or any interest in real property.

(2) **OTHER SOURCES.**—Nothing in this title precludes the local coordinating entity from using Federal funds from other sources for authorized purposes, including the acquisition of real property or any interest in real property.

SEC. 5004. MANAGEMENT PLAN.

(a) **IN GENERAL.**—Not later than 3 years after the date on which funds are first made available to carry out this title, the local coordinating entity shall prepare and submit to the Secretary a management plan for the Heritage Area.

(b) **CONTENTS.**—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies, and recommendations for the conservation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans;

(3) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area;

(4) include an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area relating to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained; and

(5) include an analysis of, and recommendations for, ways in which Federal, State, and local programs, may best be coordinated to further the purposes of this title, including recommendations for the role of the National Park Service in the Heritage Area.

(c) **DISQUALIFICATION FROM FUNDING.**—If a proposed management plan is not submitted to the Secretary by the date that is 3 years after the date on which funds are first made available to carry out this title, the local coordinating entity may not receive additional funding under this title until the date on which the Secretary receives the proposed management plan.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date on which the local coordinating entity submits the management plan to the Secretary, the Secretary shall approve or disapprove the proposed management plan.

(2) CONSIDERATIONS.—In determining whether to approve or disapprove the management plan, the Secretary shall consider whether—

(A) the local coordinating entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the local coordinating entity has provided adequate opportunities (including public meetings) for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area; and

(D) the management plan is supported by the appropriate State and local officials, the cooperation of which is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) DISAPPROVAL AND REVISIONS.—

(A) IN GENERAL.—If the Secretary disapproves a proposed management plan, the Secretary shall—

(i) advise the local coordinating entity, in writing, of the reasons for the disapproval; and

(ii) make recommendations for revision of the proposed management plan.

(B) APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove a revised management plan not later than 180 days after the date on which the revised management plan is submitted.

(e) APPROVAL OF AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review and approve or disapprove substantial amendments to the management plan in accordance with subsection (d).

(2) FUNDING.—Funds appropriated under this title may not be expended to implement any changes made by an amendment to the management plan until the Secretary approves the amendment.

SEC. 5005. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this title affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this title—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 5006. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this title—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, or local agency, or conveys any land use or other regulatory authority to the local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 5007. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of this title for the Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the Heritage Area;

(2) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(c) REPORT.—

(1) IN GENERAL.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(2) REQUIRED ANALYSIS.—If the report prepared under paragraph (1) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(A) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(B) the appropriate time period necessary to achieve the recommended reduction or elimination.

(3) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

SEC. 5008. FUNDING LIMITATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary

to carry out this title, subject to the limitations of section 5201.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried out using funds made available under this title shall be not more than 50 percent.

SEC. 5009. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this title terminates on the date that is 15 years after the date of enactment of this Act.

TITLE LI—ALABAMA BLACK BELT NATIONAL HERITAGE AREA

SEC. 5101. DEFINITIONS.

In this title:

(1) NATIONAL HERITAGE AREA.—The term “National Heritage Area” means the Alabama Black Belt National Heritage Area established by this title.

(2) LOCAL COORDINATING ENTITY.—The term “local coordinating entity” means the Center for the Study of the Black Belt at the University of West Alabama.

(3) MANAGEMENT PLAN.—The term “management plan” means the plan prepared by the local coordinating entity for the National Heritage Area in accordance with this title.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 5102. DESIGNATION OF ALABAMA BLACK BELT NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Alabama Black Belt National Heritage Area in the State of Alabama.

(b) BOUNDARIES.—The National Heritage Area shall consist of sites as designated by the management plan within a core area located in Alabama, consisting of Bibb, Bullock, Butler, Choctaw, Clarke, Conecuh, Dallas, Greene, Hale, Lowndes, Macon, Marengo, Monroe, Montgomery, Perry, Pickens, Sumter, Washington, and Wilcox counties.

SEC. 5103. LOCAL COORDINATING ENTITY.

(a) DESIGNATION.—The Center for the Study of the Black Belt at the University of West Alabama shall be the local coordinating entity for the National Heritage Area.

(b) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

(1) submit a management plan to the Secretary in accordance with this title;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating entity receives Federal funds under this title, specifying—

(A) the specific performance goals and accomplishments of the local coordinating entity;

(B) the expenses and income of the local coordinating entity;

(C) the amounts and sources of matching funds;

(D) the amounts of non-Federal funds leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit, for each fiscal year for which the local coordinating entity receives Federal funds under this title, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(c) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan, the local coordinating entity may use Federal funds received under this title—

(1) to make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) to enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) to hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) to obtain funds or services from any source, including other Federal programs;

(5) to contract for goods or services; and

(6) to support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(d) **PROHIBITION ON ACQUISITION OF REAL PROPERTY.**—The local coordinating entity may not use Federal funds received under this title to acquire any interest in real property.

SEC. 5104. MANAGEMENT PLAN.

(a) **REQUIREMENTS.**—The management plan shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that Federal, State, and local governments, private organizations, and citizens plan to take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national importance and themes of the National Heritage Area that should be protected, enhanced, interpreted, funded, managed, and developed;

(5) include recommendations for resource management policies and strategies, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation of the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any Federal, State, or local government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this title; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating enti-

ty and of each of the major activities described in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan.

(b) **DEADLINE.**—

(1) **IN GENERAL.**—Not later than 3 years after the date on which funds are made available pursuant to this title to develop the management plan, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) **TERMINATION OF FUNDING.**—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity may not receive any additional financial assistance under this title until such time as the management plan is submitted to and approved by the Secretary.

(c) **APPROVAL OF MANAGEMENT PLAN.**—

(1) **REVIEW.**—Not later than 180 days after receiving the management plan, the Secretary shall review and approve or disapprove the management plan on the basis of the criteria listed in paragraph (3).

(2) **CONSULTATION.**—The Secretary shall consult with the Governor of Alabama before approving a management plan.

(3) **CRITERIA FOR APPROVAL.**—In determining whether to approve a management plan, the Secretary shall consider whether—

(A) the local coordinating entity—

(i) represents the diverse interests of the National Heritage Area, including Federal, State, and local governments, natural, and historical resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(ii) has afforded adequate opportunity for public and Federal, State, and local governmental involvement (including through workshops and public meetings) in the preparation of the management plan;

(iii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan; and

(iv) has demonstrated the financial capability, in partnership with others, to carry out the management plan;

(B) the management plan—

(i) describes resource protection, enhancement, interpretation, funding, management, and development strategies which, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(ii) would not adversely affect any activities authorized on Federal land under public applicable laws or land use plans;

(iii) demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, and private sector parties for implementation of the management plan; and

(iv) complies with the requirements of this section; and

(C) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed that the State and local aspects of the management plan will be effectively implemented.

(4) **DISAPPROVAL.**—

(A) **IN GENERAL.**—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) **DEADLINE.**—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) **AMENDMENTS.**—

(A) **IN GENERAL.**—An amendment to the approved management plan that substantially alters such plan shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) **IMPLEMENTATION.**—The local coordinating entity shall not use Federal funds received under this title to implement a substantial amendment to the management plan until the Secretary approves the amendment.

(6) **AUTHORITIES.**—The Secretary may—

(A) provide technical assistance under the authority of this title for the development and implementation of the management plan; and

(B) enter into cooperative agreements with interested parties to carry out this title.

SEC. 5105. EVALUATION; REPORT.

(a) **EVALUATION.**—The Secretary shall conduct an evaluation of the accomplishments of the National Heritage Area. An evaluation conducted under this subsection shall—

(1) assess the progress of the local coordinating entity with respect to—

(A) accomplishing the purposes of this title for the National Heritage Area; and

(B) achieving the goals and objectives of the approved management plan;

(2) analyze the Federal, State, and local government, and private investments in the National Heritage Area to determine the impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the National Heritage Area for purposes of identifying the critical components for sustainability of the National Heritage Area.

(b) **REPORT.**—Not later than 3 years before the date on which authority for Federal funding terminates for the National Heritage Area under this title, based on the evaluation conducted under subsection (a), the Secretary shall submit a report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The report shall include recommendations for the future role of the National Park Service, if any, with respect to the National Heritage Area.

SEC. 5106. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) **IN GENERAL.**—Nothing in this title affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) **CONSULTATION AND COORDINATION.**—The head of any Federal agency planning to conduct activities that may have an impact on the National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) **OTHER FEDERAL AGENCIES.**—Nothing in this title—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 5107. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this title—

(1) abridges the rights of any owner of public or private property, including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, tribal, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, tribal, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, tribal, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity, including development and management of energy, water, or water-related infrastructure;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 5108. FUNDING LIMITATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, subject to the limitations of section 5201.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this title shall be not more than 50 percent. The non-Federal contribution may be in the form of in-kind contributions of goods or services fairly valued.

SEC. 5109. USE OF FEDERAL FUNDS FROM OTHER SOURCES.

Nothing in this title shall preclude the local coordinating entity from using Federal funds available under other laws for the purposes for which those funds were authorized.

SEC. 5110. TERMINATION OF FINANCIAL ASSISTANCE.

The authority of the Secretary to provide financial assistance under this title terminates on the date that is 15 years after the date of the enactment of this title.

TITLE LII—FUNDING LIMITATIONS FOR NATIONAL HERITAGE AREAS

SEC. 5201. FUNDING LIMITATIONS FOR NATIONAL HERITAGE AREAS.

(a) ANNUAL LIMIT.—Except as otherwise expressly authorized by law, the Secretary of the Interior may not provide more than \$1,000,000 for any fiscal year for any individual national heritage area.

(b) CUMULATIVE LIMIT.—Except as otherwise expressly authorized by law, the Secretary of the Interior may not provide more than a total of \$10,000,000 for any individual national heritage area.

DIVISION F—BUREAU OF LAND MANAGEMENT AUTHORIZATIONS

TITLE LX—NATIONAL CONSERVATION AREAS AND HISTORIC SITES

Subtitle A—Río Grande Del Norte National Conservation Area

SEC. 6001. DEFINITIONS.

In this subtitle:

(1) CONSERVATION AREA.—The term “Conservation Area” means the Río Grande del

Norte National Conservation Area established by section 6002(a)(1).

(2) LAND GRANT COMMUNITY.—The term “land grant community” means a member of the Board of Trustees of confirmed and non-confirmed community land grants within the Conservation Area.

(3) MANAGEMENT PLAN.—The term “management plan” means the management plan for the Conservation Area developed under section 6002(d).

(4) MAP.—The term “map” means the map entitled “Río Grande del Norte National Conservation Area” and dated November 4, 2009.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(6) STATE.—The term “State” means the State of New Mexico.

SEC. 6002. ESTABLISHMENT OF NATIONAL CONSERVATION AREA.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Río Grande del Norte National Conservation Area in the State.

(2) AREA INCLUDED.—The Conservation Area shall consist of approximately 235,980 acres of public land in Taos and Río Arriba counties in the State, as generally depicted on the map.

(b) PURPOSES.—The purposes of the Conservation Area are to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the cultural, archaeological, natural, ecological, geological, historical, wildlife, educational, recreational, and scenic resources of the Conservation Area.

(c) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Conservation Area—

(A) in a manner that conserves, protects, and enhances the resources of the Conservation Area; and

(B) in accordance with—

(i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

(ii) this subtitle; and

(iii) any other applicable laws.

(2) USES.—

(A) IN GENERAL.—The Secretary shall allow only such uses of the Conservation Area that the Secretary determines would further the purposes described in subsection (b).

(B) USE OF MOTORIZED VEHICLES.—

(i) IN GENERAL.—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Conservation Area shall be permitted only on roads designated for use by motorized vehicles in the management plan.

(ii) NEW ROADS.—No additional road shall be built within the Conservation Area after the date of enactment of this Act unless the road is needed for public safety or natural resource protection.

(C) GRAZING.—The Secretary shall permit grazing within the Conservation Area, where established before the date of enactment of this Act—

(i) subject to all applicable laws (including regulations) and Executive orders; and

(ii) consistent with the purposes described in subsection (b).

(D) COLLECTION OF PIÑON NUTS AND FIREWOOD.—Nothing in this section precludes the traditional collection of firewood and piñon nuts for noncommercial personal use within the Conservation Area—

(i) in accordance with any applicable laws; and

(ii) subject to such terms and conditions as the Secretary determines to be appropriate.

(E) UTILITY RIGHT-OF-WAY UPGRADES.—Nothing in this section precludes the Sec-

retary from renewing or authorizing the upgrading (including widening) of an existing utility right-of-way through the Conservation Area in a manner that minimizes harm to the purposes of the Conservation Area described in subsection (b)—

(i) in accordance with—

(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) any other applicable law; and

(ii) subject to such terms and conditions as the Secretary determines to be appropriate.

(F) TRIBAL CULTURAL USES.—

(i) ACCESS.—The Secretary shall, in consultation with Indian tribes or pueblos—

(I) ensure the protection of religious and cultural sites in the Conservation Area; and

(II) provide access to the sites by members of Indian tribes or pueblos for traditional cultural and customary uses, consistent with Public Law 95-341 (commonly known as the “American Indian Religious Freedom Act”) (42 U.S.C. 1996).

(ii) TEMPORARY CLOSURES.—In accordance with Public Law 95-341 (commonly known as the “American Indian Religious Freedom Act”) (42 U.S.C. 1996), the Secretary, on request of an Indian tribe or pueblo, may temporarily close to general public use 1 or more specific areas of the Conservation Area in order to protect traditional cultural and customary uses in those areas by members of the Indian tribe or the pueblo.

(d) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall develop a management plan for the Conservation Area.

(2) OTHER PLANS.—To the extent consistent with this subtitle, the plan may incorporate in the management plan the Río Grande Corridor Management Plan in effect on the date of enactment of this Act.

(3) CONSULTATION.—The management plan shall be developed in consultation with—

(A) State and local governments;

(B) tribal governmental entities;

(C) land grant communities; and

(D) the public.

(4) CONSIDERATIONS.—In preparing and implementing the management plan, the Secretary shall consider the recommendations of Indian tribes and pueblos on methods for—

(A) ensuring access to religious and cultural sites;

(B) enhancing the privacy and continuity of traditional cultural and religious activities in the Conservation Area; and

(C) protecting traditional cultural and religious sites in the Conservation Area.

(e) INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.—Any land that is within the boundary of the Conservation Area that is acquired by the United States shall—

(1) become part of the Conservation Area; and

(2) be managed in accordance with—

(A) this subtitle; and

(B) any other applicable laws.

(f) SPECIAL MANAGEMENT AREAS.—

(1) IN GENERAL.—The establishment of the Conservation Area shall not change the management status of any area within the boundary of the Conservation Area that is—

(A) designated as a component of the National Wild and Scenic Rivers System under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.); or

(B) managed as an area of critical environmental concern.

(2) CONFLICT OF LAWS.—If there is a conflict between the laws applicable to the areas described in paragraph (1) and this subtitle, the more restrictive provision shall control.

SEC. 6003. DESIGNATION OF WILDERNESS AREAS.

(a) IN GENERAL.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the Conservation Area are designated as wilderness and as components of the National Wilderness Preservation System:

(1) CERRO DEL YUTA WILDERNESS.—Certain land administered by the Bureau of Land Management in Taos County, New Mexico, comprising approximately 13,420 acres as generally depicted on the map, which shall be known as the “Cerro del Yuta Wilderness”.

(2) RÍO SAN ANTONIO WILDERNESS.—Certain land administered by the Bureau of Land Management in Río Arriba County, New Mexico, comprising approximately 8,000 acres, as generally depicted on the map, which shall be known as the “Río San Antonio Wilderness”.

(b) MANAGEMENT OF WILDERNESS AREAS.—Subject to valid existing rights, the wilderness areas designated by subsection (a) shall be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this subtitle, except that with respect to the wilderness areas designated by this subtitle—

(1) any reference to the effective date of the Wilderness Act shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS IN LAND.—Any land or interest in land within the boundary of the wilderness areas designated by subsection (a) that is acquired by the United States shall—

(1) become part of the wilderness area in which the land is located; and

(2) be managed in accordance with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.);

(B) this subtitle; and

(C) any other applicable laws.

(d) GRAZING.—Grazing of livestock in the wilderness areas designated by subsection (a), where established before the date of enactment of this Act, shall be administered in accordance with—

(1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and

(2) the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101-405).

(e) BUFFER ZONES.—

(1) IN GENERAL.—Nothing in this section creates a protective perimeter or buffer zone around any wilderness area designated by subsection (a).

(2) ACTIVITIES OUTSIDE WILDERNESS AREAS.—The fact that an activity or use on land outside any wilderness area designated by subsection (a) can be seen or heard within the wilderness area shall not preclude the activity or use outside the boundary of the wilderness area.

(f) RELEASE OF WILDERNESS STUDY AREAS.—Congress finds that, for purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the public land within the San Antonio Wilderness Study Area not designated as wilderness by this section—

(1) has been adequately studied for wilderness designation;

(2) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(3) shall be managed in accordance with this subtitle.

SEC. 6004. GENERAL PROVISIONS.

(a) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file the map and legal descriptions of the Conservation Area and the wilderness areas designated by section 6003(a) with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The map and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct errors in the legal description and map.

(3) PUBLIC AVAILABILITY.—The map and legal descriptions filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(b) NATIONAL LANDSCAPE CONSERVATION SYSTEM.—The Conservation Area and the wilderness areas designated by section 6003(a) shall be administered as components of the National Landscape Conservation System.

(c) FISH AND WILDLIFE.—Nothing in this subtitle affects the jurisdiction of the State with respect to fish and wildlife located on public land in the State, except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may designate zones where, and establishing periods when, hunting shall not be allowed for reasons of public safety, administration, or public use and enjoyment.

(d) WITHDRAWALS.—Subject to valid existing rights, any Federal land within the Conservation Area and the wilderness areas designated by section 6003(a), including any land or interest in land that is acquired by the United States after the date of enactment of this Act, is withdrawn from—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(e) TREATY RIGHTS.—Nothing in this subtitle enlarges, diminishes, or otherwise modifies any treaty rights.

SEC. 6005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle B—Gold Hill Ranch, California**SEC. 6011. DEFINITIONS.**

In this subtitle:

(1) GOLD HILL RANCH.—The term “Gold Hill Ranch” means the approximately 272 acres of land located in Coloma, California, as generally depicted on the map entitled “Gold Hill-Wakamatsu Site” and dated May 7, 2009.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 6012. GOLD HILL RANCH.

(a) ACQUISITION.—The Secretary may acquire the Gold Hill Ranch, including any interest in the Gold Hill Ranch, by purchase from a willing seller with donated or appropriated funds, donation, or exchange.

(b) MANAGEMENT.—The Secretary shall manage any land or interest in land acquired under subsection (a) in accordance with—

(1) this subtitle;

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(3) any other applicable laws.

(c) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The Secretary may enter into a cooperative agreement with public or nonprofit entities to interpret the history of the Wakamatsu Tea and Silk Farm Colony and related pioneer history associated with Japanese immigration to the area, including the history of traditional Japanese crops and farming practices and the contribution of those practices to the agricultural economy of the State of California.

(2) INCLUSIONS.—The cooperative agreement referred to in paragraph (1) may include provisions for the design and development of a visitor center to further public education and interpretation of the Gold Hill Ranch.

SEC. 6013. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle C—Orange County, California**SEC. 6021. PRESERVATION OF ROCKS AND SMALL ISLANDS ALONG THE COAST OF ORANGE COUNTY, CALIFORNIA.**

(a) CALIFORNIA COASTAL NATIONAL MONUMENT.—The Act of February 18, 1931, entitled “An Act to reserve for public use rocks, pinnacles, reefs, and small islands along the seacoast of Orange County, California” is amended by striking “temporarily reserved” and all that follows through “United States” and inserting “part of the California Coastal National Monument and shall be administered as such”.

(b) REPEAL OF RESERVATION.—Section 31 of the Act of May 28, 1935, entitled “An Act to authorize the Secretary of Commerce to dispose of certain lighthouse reservations, and for other purposes” is hereby repealed.

TITLE LXI—LAND CONVEYANCES AND EXCHANGES**Subtitle A—Salmon Lake Land Selection Resolution****SEC. 6101. PURPOSE.**

The purpose of this subtitle is to ratify the Salmon Lake Area Land Ownership Consolidation Agreement entered into by the United States, the State of Alaska, and the Bering Straits Native Corporation.

SEC. 6102. DEFINITIONS.

In this subtitle:

(1) AGREEMENT.—The term “Agreement” means the document between the United States, the State, and the Bering Straits Native Corporation that—

(A) is entitled the “Salmon Lake Area Land Ownership Consolidation Agreement”; and

(B) had an initial effective date of July 18, 2007, which was extended until January 1, 2011, by agreement of the parties to the Agreement effective January 1, 2009; and

(C) is on file with Department of the Interior, the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of the House of Representatives.

(2) BERING STRAITS NATIVE CORPORATION.—The term “Bering Straits Native Corporation” means an Alaskan Native Regional Corporation formed under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for the Bering Straits region of the State.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(4) STATE.—The term “State” means the State of Alaska.

SEC. 6103. RATIFICATION AND IMPLEMENTATION OF AGREEMENT.

(a) IN GENERAL.—Subject to the provisions of this subtitle, Congress ratifies the Agreement.

(b) EASEMENTS.—The conveyance of land to the Bering Straits Native Corporation, as

specified in the Agreement, shall include the reservation of the easements that—

(1) are identified in Appendix E to the Agreement; and

(2) were developed by the parties to the Agreement in accordance with section 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b)).

(c) CORRECTIONS.—Beginning on the date of enactment of this Act, the Secretary, with the consent of the other parties to the Agreement, may only make typographical or clerical corrections to the Agreement and any exhibits to the Agreement.

(d) AUTHORIZATION.—The Secretary shall carry out all actions required by the Agreement.

Subtitle B—Southern Nevada Higher Education Land Conveyance

SEC. 6111. DEFINITIONS.

In this subtitle:

(1) BOARD OF REGENTS.—The term “Board of Regents” means the Board of Regents of the Nevada System of Higher Education.

(2) CAMPUSES.—The term “Campuses” means the Great Basin College, College of Southern Nevada, and University of Las Vegas, Nevada, campuses.

(3) FEDERAL LAND.—The term “Federal land” means each of the 3 parcels of Bureau of Land Management land identified on the maps as “Parcel to be Conveyed”, of which—

(A) approximately 40 acres is to be conveyed for the College of Southern Nevada;

(B) approximately 2,085 acres is to be conveyed for the University of Nevada, Las Vegas; and

(C) approximately 285 acres is to be conveyed for the Great Basin College.

(4) MAP.—The term “Map” means each of the 3 maps entitled “Southern Nevada Higher Education Land Act”, dated July 11, 2008, and on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(6) STATE.—The term “State” means the State of Nevada.

(7) SYSTEM.—The term “System” means the Nevada System of Higher Education.

SEC. 6112. CONVEYANCES OF FEDERAL LAND TO THE SYSTEM.

(a) CONVEYANCES.—

(1) IN GENERAL.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) and section 1(c) of the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869(c)), and subject to all valid existing rights, the Secretary shall—

(A) not later than 180 days after the date of enactment of this Act, convey to the System, without consideration, all right, title, and interest of the United States in and to the Federal land for the Great Basin College and the College of Southern Nevada; and

(B) on the receipt of certification of acceptable remediation of environmental conditions existing on the parcel to be conveyed for the University of Nevada, Las Vegas, convey to the System, without consideration, all right, title, and interest of the United States in and to the Federal land for the University of Nevada, Las Vegas.

(2) PHASES.—The Secretary may phase the conveyance of the Federal land under paragraph (1)(B) as remediation is completed.

(b) CONDITIONS.—

(1) IN GENERAL.—As a condition of the conveyance under subsection (a)(1), the Board of Regents shall agree in writing—

(A) to pay any administrative costs associated with the conveyance, including the

costs of any environmental, wildlife, cultural, or historical resources studies;

(B) to use the Federal land conveyed for educational and recreational purposes;

(C) to release and indemnify the United States from any claims or liabilities that may arise from uses carried out on the Federal land on or before the date of enactment of this Act by the United States or any person;

(D) as soon as practicable after the date of the conveyance under subsection (a)(1), to erect at each of the Campuses an appropriate and centrally located monument that acknowledges the conveyance of the Federal land by the United States for the purpose of furthering the higher education of the citizens in the State; and

(E) to assist the Bureau of Land Management in providing information to the students of the System and the citizens of the State on—

(i) public land (including the management of public land) in the Nation; and

(ii) the role of the Bureau of Land Management in managing, preserving, and protecting the public land in the State.

(2) NELLIS AIR FORCE BASE.—

(A) IN GENERAL.—The Federal land conveyed to the System under this subtitle shall be used in accordance with the agreement entitled the “Cooperative Interlocal Agreement between the Board of Regents of the Nevada System of Higher Education, on Behalf of the University of Nevada, Las Vegas, and the 99th Air Base Wing, Nellis Air Force Base, Nevada” and dated June 19, 2009.

(B) MODIFICATIONS.—Any modifications to the interlocal agreement described in subparagraph (A) and any related master plan shall require the mutual assent of the parties to the agreement.

(C) LIMITATION.—In no case shall the use of the Federal land conveyed under subsection (a)(1)(B) compromise the national security mission or aviation rights of Nellis Air Force Base.

(c) USE OF FEDERAL LAND.—

(1) IN GENERAL.—The System may use the Federal land conveyed under subsection (a)(1) for—

(A) any educational or public purpose relating to the establishment, operation, growth, and maintenance of the System, including—

(i) educational facilities;

(ii) housing for students, employees of the System, and educators;

(iii) student life and recreational facilities, public parks, and open space;

(iv) university and college medical and health facilities; and

(v) research facilities; and

(B) any other public purpose that would generally be associated with an institution of higher education, consistent with the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.).

(2) OTHER ENTITIES.—The System may—

(A) consistent with Federal and State law, lease, or otherwise provide property or space at, the Campuses, with or without consideration, to religious, public interest, community, or other groups for services and events that are of interest to the System or to any community located in southern Nevada;

(B) allow any other communities in southern Nevada to use facilities of the Campuses for educational and recreational programs of the community; and

(C) in conjunction with the city of Las Vegas, North Las Vegas, or Pahrump or Clark or Nye County plan, finance (including

through the provision of cost-share assistance), construct, and operate facilities for the city of Las Vegas, North Las Vegas, or Pahrump or Clark or Nye County on the Federal land conveyed for educational or recreational purposes consistent with this section.

(d) REVERSION.—If the Federal land or any portion of the Federal land conveyed under subsection (a)(1) ceases to be used for the System in accordance with this subtitle, the Federal land, or any portion of the Federal land shall, at the discretion of the Secretary, revert to the United States.

SEC. 6113. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle C—La Pine, Oregon, Land Conveyance

SEC. 6121. DEFINITIONS.

In this subtitle:

(1) CITY.—The term “City” means the City of La Pine, Oregon.

(2) COUNTY.—The term “County” means the County of Deschutes, Oregon.

(3) MAP.—The term “map” means the map entitled “La Pine, Oregon Land Transfer” and dated December 11, 2009.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 6122. CONVEYANCES OF LAND.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights and the provisions of this subtitle, and notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary shall convey to the City or County, without consideration, all right, title, and interest of the United States in and to each parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) consist of—

(1) the approximately 150 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as “parcel A”, to be conveyed to the County, which is subject to a right-of-way retained by the Bureau of Land Management for a power substation and transmission line;

(2) the approximately 750 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as “parcel B”, to be conveyed to the County; and

(3) the approximately 10 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as “parcel C”, to be conveyed to the City.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) USE OF CONVEYED LAND.—

(1) IN GENERAL.—Consistent with the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.), the land conveyed under subsection (a) shall be used for the following public purposes and associated uses:

(A) The parcel described in subsection (b)(1) shall be used for outdoor recreation, open space, or public parks, including a rodeo ground.

(B) The parcel described in subsection (b)(2) shall be used for a public sewer system.

(C) The parcel described in subsection (b)(3) shall be used for a public library, public park, or open space.

(2) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions for the conveyances under subsection (a) as the Secretary determines to be appropriate to protect the interests of the United States.

(e) **ADMINISTRATIVE COSTS.**—The Secretary shall require the County to pay all survey costs and other administrative costs associated with the conveyances to the County under this subtitle.

(f) **REVERSION.**—If the land conveyed under subsection (a) ceases to be used for the public purpose for which the land was conveyed, the land shall, at the discretion of the Secretary, revert to the United States.

TITLE LXII—SLOAN HILLS MINERAL WITHDRAWAL

SEC. 6201. WITHDRAWAL OF SLOAN HILLS AREA OF CLARK COUNTY, NEVADA.

(a) **DEFINITION OF FEDERAL LAND.**—In this section, the term “Federal land” means the land identified as the “Withdrawal Zone” on the map entitled “Sloan Hills Area” and dated June 24, 2010.

(b) **WITHDRAWAL.**—Subject to valid rights in existence on the date of introduction of this Act, the Federal land is withdrawn from all forms of—

(1) location, entry, and patent under the mining laws; and

(2) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

DIVISION G—RIVERS AND TRAILS

TITLE LXX—NATIONAL WILD AND SCENIC RIVERS SYSTEM AMENDMENTS

SEC. 7001. MOLALLA RIVER, OREGON.

(a) **DESIGNATION OF WILD AND SCENIC RIVER SEGMENTS, MOLALLA RIVER, OREGON.**—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 2203) is amended by adding at the end the following:

“(213) MOLALLA RIVER, OREGON.—

“(A) **IN GENERAL.**—The following segments in the State of Oregon, to be administered by the Secretary of the Interior as a recreational river:

“(i) **MOLALLA RIVER.**—The approximately 15.1-mile segment from the southern boundary line of T. 7 S., R. 4 E., sec. 19, downstream to the edge of the Bureau of Land Management boundary in T. 6 S., R. 3 E., sec. 7.

“(ii) **TABLE ROCK FORK MOLALLA RIVER.**—The approximately 6.2-mile segment from the easternmost Bureau of Land Management boundary line in the NE¼ sec. 4, T. 7 S., R. 4 E., downstream to the confluence with the Molalla River.

“(B) **WITHDRAWAL.**—Subject to valid existing rights, the Federal land within the boundaries of the river segments designated by subparagraph (A) is withdrawn from all forms of—

“(i) entry, appropriation, or disposal under the public land laws;

“(ii) location, entry, and patent under the mining laws; and

“(iii) disposition under all laws relating to mineral and geothermal leasing or mineral materials.”

(b) **TECHNICAL CORRECTIONS.**—Section 3(a)(102) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(102)) is amended—

(1) in the heading, by striking “SQUAW CREEK” and inserting “WHYCHUS CREEK”;

(2) in the matter preceding subparagraph (A), by striking “McAllister Ditch, including

the Soap Fork Squaw Creek, the North Fork, the South Fork, the East and West Forks of Park Creek, and Park Creek Fork” and inserting “Plainview Ditch, including the Soap Creek, the North and South Forks of Whychus Creek, the East and West Forks of Park Creek, and Park Creek”; and

(3) in subparagraph (B), by striking “McAllister Ditch” and inserting “Plainview Ditch”.

SEC. 7002. ILLABOT CREEK, WASHINGTON.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 7001(a)) is amended by adding at the end the following:

“(214) ILLABOT CREEK, WASHINGTON.—

“(A) The 14.3 mile segment from the headwaters of Illabot Creek to the northern terminus as generally depicted on the map titled ‘Illabot Creek Proposed WSR – Northern Terminus’, dated September 15, 2009, to be administered by the Secretary of Agriculture as follows:

“(i) The 4.3 mile segment from the headwaters of Illabot Creek to the boundary of Glacier Peak Wilderness Area as a wild river.

“(ii) The 10 mile segment from the boundary of Glacier Peak Wilderness to the northern terminus as generally depicted on the map titled ‘Illabot Creek Proposed WSR – Northern Terminus’, dated September 15, 2009, as a recreational river.

“(B) Action required to be taken under subsection (d)(1) for the river segments designated under this paragraph shall be completed through revision of the Skagit Wild and Scenic River comprehensive management plan.”

SEC. 7003. WHITE CLAY CREEK.

(a) **DESIGNATION.**—Section 3(a)(163) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(163)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking “190 miles” and inserting “199 miles”; and

(B) by striking “the recommended designation and classification maps (dated June 2000)” and inserting “the map entitled ‘White Clay Creek Wild and Scenic River Designated Area Map’ and dated July 2008, the map entitled ‘White Clay Creek Wild and Scenic River Classification Map’ and dated July 2008, and the map entitled ‘White Clay Creek National Wild and Scenic River Proposed Additional Designated Segments-July 2008’”; and

(2) by striking subparagraph (B) and inserting the following:

“(B) 22.4 miles of the east branch beginning at the southern boundary line of the Borough of Avondale, including Walnut Run, Broad Run, and Egypt Run, outside the boundaries of the White Clay Creek Preserve, as a recreational river.”; and

(3) by striking subparagraph (H) and inserting the following:

“(H) 14.3 miles of the main stem, including Lamborn Run, that flow through the boundaries of the White Clay Creek Preserve, Pennsylvania and Delaware, and White Clay Creek State Park, Delaware beginning at the confluence of the east and middle branches in London Britain Township, Pennsylvania, downstream to the northern boundary line of the City of Newark, Delaware, as a scenic river.”

(b) **ADMINISTRATION.**—Sections 4 through 8 of Public Law 106-357 (16 U.S.C. 1274 note; 114 Stat. 1393), shall be applicable to the additional segments of the White Clay Creek designated by the amendments made by subsection (a).

SEC. 7004. ELK RIVER, WEST VIRGINIA.

(a) **DESIGNATION.**—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) (as amended by section 7002) is amended by adding at the end the following:

“(215) ELK RIVER, WEST VIRGINIA.—The approximate 5-mile segment of the Elk River from the confluence of the Old Field Fork and the Big Spring Fork in Pocahontas County to the Pocahontas and Randolph County line.”

(b) **STUDY AND REPORT.**—Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) (as amended by section 205(b)(2)) is amended by adding at the end the following:

“(21) ELK RIVER, WEST VIRGINIA.—Not later than 3 years after funds are made available to carry out this paragraph, the Secretary of Agriculture shall complete the study of the 5-mile segment of the Elk River, West Virginia, designated for study in subsection (a), and shall submit to Congress a report containing the results of the study. The report shall include an analysis of the potential impact of the designation on private lands within the 5-mile segment of the Elk River, West Virginia, or abutting that area.”

(c) **EFFECT.**—

(1) **EFFECT ON ACCESS FOR RECREATIONAL ACTIVITIES.**—Consistent with section 13 of the Wild and Scenic Rivers Act (16 U.S.C. 1284), nothing in the designation made by the amendment in subsection (a) shall be construed as affecting access for recreational activities otherwise allowed by law or regulation, including hunting, fishing, or trapping.

(2) **EFFECT ON STATE AUTHORITY.**—Consistent with section 13 of the Wild and Scenic Rivers Act (16 U.S.C. 1284), nothing in the designation made by the amendment in subsection (a) shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations, including the regulation of hunting, fishing, and trapping.

TITLE LXXI—NATIONAL TRAIL SYSTEM AMENDMENTS

SEC. 7101. NORTH COUNTRY NATIONAL SCENIC TRAIL ROUTE ADJUSTMENT.

Section 5(a)(8) of the National Trails System Act (16 U.S.C. 1244(a)(8)) is amended in the first sentence—

(1) by striking “thirty-two hundred” and inserting “4,600”; and

(2) by striking “as ‘Proposed North Country Trail-Vicinity Map’ in” and all that follows through the period at the end of the sentence and inserting “as ‘North Country National Scenic Trail, Authorized Route’ dated February 16, 2005, and numbered 649/80,002.”

DIVISION H—WATER AND HYDROPOWER AUTHORIZATIONS

TITLE LXXX—BUREAU OF RECLAMATION PROJECT AUTHORIZATIONS

SEC. 8001. MAGNA WATER DISTRICT.

(a) **IN GENERAL.**—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

“SEC. 1657. **MAGNA WATER DISTRICT WATER REUSE AND GROUNDWATER RECHARGE PROJECT, UTAH.**

“(a) **AUTHORIZATION.**—The Secretary, in cooperation with the Magna Water District, Utah, may participate in the design, planning, and construction of permanent facilities needed to establish recycled water distribution and wastewater treatment and reclamation facilities that will be used to provide recycled water in the Magna Water District.

“(b) COST SHARING.—

“(1) FEDERAL SHARE.—The Federal share of the capital cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

“(2) NON-FEDERAL SHARE.—Each cost incurred by the Magna Water District after January 1, 2003, relating to any capital, planning, design, permitting, construction, or land acquisition (including the value of re-allocated water rights) for the project described in subsection (a) may be credited towards the non-Federal share of the costs of the project.

“(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.”.

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by inserting after the item relating to section 1656 the following:

“Sec. 1657. Magna Water District water reuse and groundwater recharge project, Utah.”.

SEC. 8002. BAY AREA REGIONAL WATER RECYCLING PROGRAM.

(a) PROJECT AUTHORIZATIONS.—

(1) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) (as amended by section 8001(a)) is amended by adding at the end the following:

“SEC. 1658. CCCSD-CONCORD RECYCLED WATER PROJECT.

“(a) AUTHORIZATION.—The Secretary, in cooperation with the Central Contra Costa Sanitary District, California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

“(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.

“SEC. 1659. CENTRAL DUBLIN RECYCLED WATER DISTRIBUTION AND RETROFIT PROJECT.

“(a) AUTHORIZATION.—The Secretary, in cooperation with the Dublin San Ramon Services District, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

“(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.

“SEC. 1660. PETALUMA RECYCLED WATER PROJECT, PHASES 2A, 2B, AND 3.

“(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Petaluma, California, is authorized to participate in the de-

sign, planning, and construction of recycled water system facilities.

“(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as are necessary.

“SEC. 1661. CENTRAL REDWOOD CITY RECYCLED WATER PROJECT.

“(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Redwood City, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

“(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.

“SEC. 1662. PALO ALTO RECYCLED WATER PIPELINE PROJECT.

“(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Palo Alto, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

“(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.

“SEC. 1663. IRONHOUSE SANITARY DISTRICT (ISD) ANTIOCH RECYCLED WATER PROJECT.

“(a) AUTHORIZATION.—The Secretary, in cooperation with the Ironhouse Sanitary District (ISD), California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

“(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.”.

(2) PROJECT IMPLEMENTATION.—In carrying out sections 1642 through 1648 of the Reclamation Wastewater and Groundwater Study and Facilities Act, and the sections added to such Act by paragraph (1), the Secretary shall enter into individual agreements with the San Francisco Bay Area Regional Water Recycling implementing agencies to fund the projects through the Bay Area Clean Water Agencies (BACWA) or its successor, and may include in such agreements

a provision for the reimbursement of construction costs, including those construction costs incurred prior to the enactment of this Act, subject to appropriations made available for the Federal share of the project under sections 1642 through 1648 of the Reclamation Wastewater and Groundwater Study and Facilities Act and the sections added to such Act by paragraph (1).

(3) CLERICAL AMENDMENTS.—The table of contents of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) (as amended by section 8001(b)) is amended by adding at the end the following:

“Sec. 1658. CCCSD-Concord recycled water project.

“Sec. 1659. Central Dublin recycled water distribution and retrofit project.

“Sec. 1660. Petaluma recycled water project, phases 2a, 2b, and 3.

“Sec. 1661. Central Redwood City recycled water project.

“Sec. 1662. Palo Alto recycled water pipeline project.

“Sec. 1663. Ironhouse Sanitary District (ISD) Antioch recycled water project.”.

(b) MODIFICATION TO AUTHORIZED PROJECTS.—

(1) ANTIOCH RECYCLED WATER PROJECT.—Section 1644(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-27) (as amended by section 512(a) of the Consolidated Natural Resources Act of 2008) is amended—

(A) by striking “is” and inserting “are”; and

(B) by striking “\$2,250,000” and inserting “such sums as are necessary”.

(2) SOUTH BAY ADVANCED RECYCLED WATER TREATMENT FACILITY.—Section 1648(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-31) (as amended by section 512(a) of the Consolidated Natural Resources Act of 2008) is amended—

(A) by striking “is” and inserting “are”; and

(B) by striking “\$8,250,000” and inserting “such sums as are necessary”.

SEC. 8003. CALLEGUAS WATER PROJECT.

Section 1631(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-13(d)) is amended—

(1) in paragraph (1) by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”; and

(2) by adding at the end the following:

“(3) In the case of the Calleguas Municipal Water District Recycling Project authorized by section 1616, the Federal share of the cost of the Project may not exceed the sum determined by adding—

“(A) the amount that applies to the Project under paragraph (1); and

“(B) \$20,000,000.”.

SEC. 8004. HERMISTON, OREGON, WATER RECYCLING AND REUSE PROJECT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) (as amended by section 8003(a)(1)) is amended by adding at the end the following:

“SEC. 1664. CITY OF HERMISTON, OREGON, WATER RECYCLING AND REUSE PROJECT.

“(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Hermiston, Oregon, is authorized to participate in the design, planning, and construction of permanent facilities to reclaim and reuse water in the City of Hermiston, Oregon.

“(b) COST SHARE.—The Federal share of the costs of the project described in subsection (a) shall not exceed 25 percent of the total cost.

“(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project described in subsection (a).”.

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) (as amended by section 8003(a)(3)) is amended by adding at the end the following:

“Sec. 1664. City of Hermiston, Oregon, water recycling and reuse project.”.

SEC. 8005. CENTRAL VALLEY PROJECT WATER TRANSFERS.

(a) AUTHORIZATION OF WATER TRANSFERS, CENTRAL VALLEY PROJECT.—

(1) IN GENERAL.—Subject to paragraph (2), the following voluntary water transfers shall be considered to meet the conditions described in subparagraphs (A) and (I) of section 3405(a)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4709):

(A) A transfer of irrigation water among Central Valley Project contractors from the Friant, San Felipe, West San Joaquin, and Delta divisions.

(B) A transfer from a long-term Friant Division water service or repayment contractor to a temporary or prior temporary water service contractor within the place of use in existence on the date of the transfer, as identified in the Bureau of Reclamation water rights permits for the Friant Division.

(2) CONDITION.—A transfer under paragraph (1) shall comply with all applicable Federal and State law.

(b) FACILITATION OF WATER TRANSFERS, CENTRAL VALLEY PROJECT.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service and the Commissioner of the Bureau of Reclamation, using such sums as are necessary, shall initiate and complete, on the most expedited basis practicable, programmatic documentation to facilitate voluntary water transfers within the Central Valley Project, consistent with all applicable Federal and State law.

(c) REPORT ON CENTRAL VALLEY PROJECT WATER TRANSFERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner of the Bureau of Reclamation (referred to in this subsection as the “Commissioner”) shall submit to the appropriate committees of Congress a report that—

(A) describes the status of efforts to help facilitate and improve the water transfers under this section;

(B) evaluates potential effects of this Act on Federal programs, Indian tribes, Central Valley Project operations, the environment, groundwater aquifers, refuges, and communities; and

(C) provides recommendations on ways to facilitate, and improve the process for—

(i) water transfers within the Central Valley Project; and

(ii) water transfers between the Central Valley Project and other water projects in the State of California.

(2) UPDATES.—Not later than the end of the water year in which the report is submitted under paragraph (1) and each of the 4 water years thereafter, the Commissioner shall update the report.

SEC. 8006. LAND WITHDRAWAL AND RESERVATION FOR CRAGIN PROJECT.

(a) DEFINITIONS.—In this section:

(1) COVERED LAND.—The term “covered land” means the parcel of land consisting of approximately 512 acres, as generally depicted on the Map, that consists of—

(A) approximately 300 feet of the crest of the Cragin Dam and associated spillway;

(B) the reservoir pool of the Cragin Dam that consists of approximately 250 acres defined by the high water mark; and

(C) the linear corridor.

(2) CRAGIN PROJECT.—The term “Cragin Project” means—

(A) the Cragin Dam and associated spillway;

(B) the reservoir pool of the Cragin Dam; and

(C) any pipelines, linear improvements, buildings, hydroelectric generating facilities, priming tanks, transmission, telephone, and fiber optic lines, pumps, machinery, tools, appliances, and other District or Bureau of Reclamation structures and facilities used for the Cragin Project.

(3) DISTRICT.—The term “District” means the Salt River Project Agricultural Improvement and Power District.

(4) LAND MANAGEMENT ACTIVITY.—The term “land management activity” includes, with respect to the covered land, the management of—

(A) recreation;

(B) grazing;

(C) wildland fire;

(D) public conduct;

(E) commercial activities that are not part of the Cragin Project;

(F) cultural resources;

(G) invasive species;

(H) timber and hazardous fuels;

(I) travel;

(J) law enforcement; and

(K) roads and trails.

(5) LINEAR CORRIDOR.—The term “linear corridor” means a corridor of land comprising approximately 262 acres—

(A) the width of which is approximately 200 feet;

(B) the length of which is approximately 11.5 miles;

(C) of which approximately 0.7 miles consists of an underground tunnel; and

(D) that is generally depicted on the Map.

(6) MAP.—The term “Map” means sheets 1 and 2 of the maps entitled “C.C. Cragin Project Withdrawal” and dated June 17, 2008.

(7) SECRETARY.—The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(b) WITHDRAWAL OF COVERED LAND.—Subject to valid existing rights, the covered land is permanently withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(c) MAP.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, in coordination with the Secretary, shall prepare a map and legal description of the covered land.

(2) FORCE AND EFFECT.—The map and legal description prepared under paragraph (1) shall have the same force and effect as if included in this section, except that the Secretary of the Interior may correct clerical and typographical errors.

(3) AVAILABILITY.—The map and legal description prepared under paragraph (1) shall be on file and available for public inspection

in the appropriate offices of the Forest Service and Bureau of Reclamation.

(d) JURISDICTION AND DUTIES.—

(1) JURISDICTION OF THE SECRETARY OF THE INTERIOR.—

(A) IN GENERAL.—Except as provided in subsection (e), the Secretary of the Interior, acting through the Commissioner of Reclamation, shall have exclusive administrative jurisdiction to manage the Cragin Project in accordance with this section and section 213(i) of the Arizona Water Settlements Act (Public Law 108-451; 118 Stat. 3533) on the covered land.

(B) INCLUSION.—Notwithstanding subsection (e), the jurisdiction under subparagraph (A) shall include access to the Cragin Project by the District.

(2) RESPONSIBILITY OF SECRETARY OF THE INTERIOR AND DISTRICT.—In accordance with paragraphs (4)(B) and (5) of section 213(i) of the Arizona Water Settlements Act (Public Law 108-451; 118 Stat. 3533), the Secretary of the Interior and the District shall—

(A) ensure the compliance of each activity carried out at the Cragin Project with each applicable Federal environmental law (including regulations); and

(B) coordinate with appropriate Federal agencies in ensuring the compliance under subparagraph (A).

(e) LAND MANAGEMENT ACTIVITIES ON COVERED LAND.—

(1) IN GENERAL.—The Secretary shall have administrative jurisdiction over land management activities on the covered land and other appropriate management activities pursuant to an agreement under paragraph (2) that do not conflict with, or adversely affect, the operation, maintenance, or replacement (including repair) of the Cragin Project, as determined by the Secretary of the Interior.

(2) INTERAGENCY AGREEMENT.—The Secretary and the Secretary of the Interior, in coordination with the District, may enter into an agreement under which the Secretary may—

(A) undertake any other appropriate management activity in accordance with applicable law that will improve the management and safety of the covered land and other land managed by the Secretary if the activity does not conflict with, or adversely affect, the operation, maintenance, or replacement (including repair) of the Cragin Project, as determined by the Secretary of the Interior; and

(B) carry out any emergency activities, such as fire suppression, on the covered land.

SEC. 8007. LEADVILLE MINE DRAINAGE TUNNEL.

(a) TUNNEL MAINTENANCE; OPERATION AND MAINTENANCE.—Section 703 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4656) is amended to read as follows:

“SEC. 703. TUNNEL MAINTENANCE; OPERATION AND MAINTENANCE.

“(a) LEADVILLE MINE DRAINAGE TUNNEL.—The Secretary shall take any action necessary to maintain the structural integrity of the Leadville Mine Drainage Tunnel—

“(1) to maintain public safety; and

“(2) to prevent an uncontrolled release of water.

“(b) WATER TREATMENT PLANT.—

“(1) IN GENERAL.—Subject to section 705, the Secretary shall be responsible for the operation and maintenance of the water treatment plant authorized under section 701, including any sludge disposal authorized under this title.

“(2) AUTHORITY TO OFFER TO ENTER INTO CONTRACTS.—In carrying out paragraph (1),

the Secretary may offer to enter into 1 or more contracts with any appropriate individual or entity for the conduct of any service required under paragraph (1)."

(b) **REIMBURSEMENT.**—Section 705 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4656) is amended—

(1) by striking "The treatment plant" and inserting the following:

"(a) **IN GENERAL.**—Except as provided in subsection (b), the treatment plant"; and

(2) by adding at the end the following:

"(b) **EXCEPTION.**—The Secretary may—

"(1) enter into an agreement with any other entity or government agency to provide funding for an increase in any operation, maintenance, replacement, capital improvement, or expansion cost that is necessary to improve or expand the treatment plant; and

"(2) upon entering into an agreement under paragraph (1)—

"(A) make any necessary capital improvement to or expansion of the treatment plant; and

"(B) treat flows that are conveyed to the treatment plant, including any—

"(i) surface water diverted into the Leadville Mine Drainage Tunnel; and

"(ii) water collected by the dewatering relief well installed in June 2008.".

(c) **USE OF LEADVILLE MINE DRAINAGE TUNNEL AND TREATMENT PLANT.**—Section 708(a) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4657) is amended—

(1) by striking "(a) The Secretary" and inserting the following:

"(a) **IN GENERAL.**—

"(1) **AUTHORIZATION.**—The Secretary";

(2) by striking "Neither" and inserting the following:

"(2) **LIABILITY.**—Neither";

(3) by striking "The Secretary shall have" and inserting the following:

"(3) **FACILITIES COVERED UNDER OTHER LAWS.**—

"(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary shall have";

(4) by inserting after "Recovery Act." the following:

"(B) **EXCEPTION.**—If the Administrator of the Environmental Protection Agency proposes to amend or issue a new Record of Decision for operable unit 6 of the California Gulch National Priorities List Site, the Administrator shall consult with the Secretary with respect to each feature of the proposed new or amended Record of Decision that may require any alteration to, or otherwise affect the operation and maintenance of—

"(i) the Leadville Mine Drainage Tunnel; or

"(ii) the water treatment plant authorized under section 701.

"(4) **AUTHORITY OF SECRETARY.**—The Secretary may implement any improvement to, or new operation of, the Leadville Mine Drainage Tunnel or water treatment plant authorized under section 701 as a result of a new or amended Record of Decision only upon entering into an agreement with the Administrator of the Environmental Protection Agency or any other entity or govern-

ment agency to provide funding for the improvement or new operation."; and

(5) by striking "For the purpose of" and inserting the following:

"(5) **DEFINITION OF UPPER ARKANSAS RIVER BASIN.**—In".

(d) **AUTHORIZATION OF APPROPRIATIONS.**—Section 708(f) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4657) is amended by striking "sections 707 and 708" and inserting "this section and sections 703, 705, and 707".

(e) **CONFORMING AMENDMENT.**—The table of contents of title VII of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575; 106 Stat. 4601) is amended by striking the item relating to section 703 and inserting the following:

"Sec. 703. Tunnel maintenance; operation and maintenance.".

SEC. 8008. REAUTHORIZATION OF BASE FUNDING FOR FISH RECOVERY PROGRAMS.

Section 3(d)(2) of Public Law 106-392 (114 Stat. 1604) is amended by adding at the end the following: "For each of fiscal years 2012 through 2023, there are authorized to be appropriated such sums as may be necessary to provide for the annual base funding for the Recovery Implementation Programs above and beyond the continued use of power revenues to fund the operation and maintenance of capital projects and monitoring.".

TITLE LXXXI—HYDROPOWER

SEC. 8101. AMERICAN FALLS RESERVOIR HYDRO LICENSE EXTENSION.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 12423, the Federal Energy Regulatory Commission shall, at the request of the licensee for the project, and after reasonable notice and in accordance with the procedures of the Commission under that section, reinstate the license and extend the time period during which the licensee is required to commence the construction of project works to the end of the 3-year period beginning on the date of enactment of this Act.

SEC. 8102. LITTLE WOOD RIVER RANCH HYDRO LICENSE EXTENSION.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 12063, the Federal Energy Regulatory Commission shall, at the request of the licensee for the project, and after reasonable notice and in accordance with the procedures of the Commission under that section—

(1) extend the time period during which the licensee is required to commence the construction of project works to the end of the 3-year period beginning on the date of enactment of this Act; or

(2) if the license for Project No. 12063 has been terminated, reinstate the license and extend the time period during which the licensee is required to commence the construction of project works to the end of the 3-year period beginning on the date of enactment of this Act.

SEC. 8103. BONNEVILLE UNIT HYDROPOWER.

(a) **DIAMOND FORK SYSTEM DEFINED.**—For the purposes of this section, the term "Diamond Fork System" means the facilities described in chapter 4 of the October 2004 Supplement to the 1988 Definite Plan Report for the Bonneville Unit.

(b) **COST ALLOCATIONS.**—Notwithstanding any other provision of law, in order to facilitate hydropower development on the Diamond Fork System, the amount of reimbursable costs allocated to project power in Chapter 6 of the Power Appendix in the October 2004 Supplement to the 1988 Bonneville Unit Definite Plan Report, with regard to power development within the Diamond Fork System, shall be considered final costs as well as costs in excess of the total maximum repayment obligation as defined in section 211 of the Central Utah Project Completion Act of 1992 (Public Law 102-575), and shall be subject to the same terms and conditions.

(c) **NO PURCHASE OR MARKET OBLIGATION; NO COSTS ASSIGNED TO POWER.**—Nothing in this section shall obligate the Western Area Power Administration to purchase or market any of the power produced by the Diamond Fork power plant and none of the costs associated with development of transmission facilities to transmit power from the Diamond Fork power plant shall be assigned to power for the purpose of Colorado River Storage Project ratemaking.

(d) **PROHIBITION ON TAX-EXEMPT FINANCING.**—No facility for the generation or transmission of hydroelectric power on the Diamond Fork System may be financed or refinanced, in whole or in part, with proceeds of any obligation—

(1) the interest on which is exempt from the tax imposed under chapter 1 of the Internal Revenue Code of 1986, or

(2) with respect to which credit is allowable under subpart I or J of part IV of subchapter A of chapter 1 of such Code.

(e) **REPORTING REQUIREMENT.**—If, 24 months after the date of the enactment of this Act, hydropower production on the Diamond Fork System has not commenced, the Secretary of the Interior shall submit a report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate stating this fact, the reasons such production has not yet commenced, and a detailed timeline for future hydropower production.

(f) **LIMITATION ON THE USE OF FUNDS.**—The authority under the provisions of section 301 of the Hoover Power Plant Act of 1984 (Public Law 98-381; 42 U.S.C. 16421a) shall not be used to fund any study or construction of transmission facilities developed as a result of this section.

SEC. 8104. HOOVER POWER PLANT ALLOCATION.

(a) **SCHEDULE A POWER.**—Section 105(a)(1)(A) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(A)) is amended—

(1) by striking "renewal";

(2) by striking "June 1, 1987" and inserting "October 1, 2017"; and

(3) by striking Schedule A and inserting the following:

“Schedule A

Long-term Schedule A contingent capacity and associated firm energy for offers of contracts to Boulder Canyon project contractors

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
Metropolitan Water District of Southern California	249,948	859,163	368,212	1,227,375
City of Los Angeles	495,732	464,108	199,175	663,283
Southern California Edison Company	280,245	166,712	71,448	238,160
City of Glendale	18,178	45,028	19,297	64,325
City of Pasadena	11,108	38,622	16,553	55,175
City of Burbank	5,176	14,070	6,030	20,100
Arizona Power Authority	190,869	429,582	184,107	613,689
Colorado River Commission of Nevada	190,869	429,582	184,107	613,689
United States, for Boulder City	20,198	53,200	22,800	76,000
Totals	1,462,323	2,500,067	1,071,729	3,571,796”.

(b) SCHEDULE B POWER.—Section 105(a)(1)(B) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(B)) is amended to read as follows:

“(B) To each existing contractor for power generated at Hoover Dam, a contract, for delivery commencing October 1, 2017, of the amount of contingent capacity and firm en-
ergy specified for that contractor in the following table:

“Schedule B

Long-term Schedule B contingent capacity and associated firm energy for offers of contracts to Boulder Canyon project contractors

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
City of Glendale	2,020	2,749	1,194	3,943
City of Pasadena	9,089	2,399	1,041	3,440
City of Burbank	15,149	3,604	1,566	5,170
City of Anaheim	40,396	34,442	14,958	49,400
City of Azusa	4,039	3,312	1,438	4,750
City of Banning	2,020	1,324	576	1,900
City of Colton	3,030	2,650	1,150	3,800
City of Riverside	30,296	25,831	11,219	37,050
City of Vernon	22,218	18,546	8,054	26,600
Arizona	189,860	140,600	60,800	201,400
Nevada	189,860	273,600	117,800	391,400
Totals	507,977	509,057	219,796	728,853”.

(c) SCHEDULE C POWER.—Section 105(a)(1)(C) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)(1)(C)) is amended—

(1) by striking “June 1, 1987” and inserting “October 1, 2017”; and

(2) by striking Schedule C and inserting the following:

“Schedule C

Excess Energy

Priority of entitlement to excess energy	State
First: Meeting Arizona’s first priority right to delivery of excess energy which is equal in each year of operation to 200 million kilowatthours: Provided, That in the event excess energy in the amount of 200 million kilowatthours is not generated during any year of operation, Arizona shall accumulate a first right to delivery of excess energy subsequently generated in an amount not to exceed 600 million kilowatthours, inclusive of the current year’s 200 million kilowatthours. Said first right of delivery shall accrue at a rate of 200 million kilowatthours per year for each year excess energy in an amount of 200 million kilowatthours is not generated, less amounts of excess energy delivered.	Arizona
Second: Meeting Hoover Dam contractual obligations under Schedule A of subsection (a)(1)(A), under Schedule B of subsection (a)(1)(B), and under Schedule D of subsection (a)(2), not exceeding 26 million kilowatthours in each year of operation.	Arizona, Nevada, and California
Third: Meeting the energy requirements of the three States, such available excess energy to be divided equally among the States.	Arizona, Nevada, and California”.

(d) SCHEDULE D POWER.—Section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

“(2)(A) The Secretary of Energy is authorized to and shall create from the apportioned allocation of contingent capacity and firm energy adjusted from the amounts authorized in this Act in 1984 to the amounts shown in Schedule A and Schedule B, as modified by the America’s Great Outdoors Act of 2010, a resource pool equal to 5 percent of the full rated capacity of 2,074,000 kilowatts, and associated firm energy, as shown in Schedule D (referred to in this section as ‘Schedule D contingent capacity and firm energy’):

“Schedule D

Long-term Schedule D resource pool of contingent capacity and associated firm energy for new allottees

State	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
New Entities Allocated by the Secretary of Energy	69,170	105,637	45,376	151,013
New Entities Allocated by State				
Arizona	11,510	17,580	7,533	25,113
California	11,510	17,580	7,533	25,113
Nevada	11,510	17,580	7,533	25,113
Totals	103,700	158,377	67,975	226,352

“(B) The Secretary of Energy shall offer Schedule D contingency capacity and firm energy to entities not receiving contingent capacity and firm energy under subparagraphs (A) and (B) of paragraph (1) (referred to in this section as ‘new allottees’) for delivery commencing October 1, 2017 pursuant to this subsection. In this subsection, the term ‘the marketing area for the Boulder City Area Projects’ shall have the same meaning as in appendix A of the General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects published in the Federal Register on December 28, 1984 (49 Federal Register 50582 et seq.) (referred to in this section as the ‘Criteria’).”

“(C)(i) Within 36 months of the date of enactment of the America’s Great Outdoors Act of 2010, the Secretary of Energy shall allocate through the Western Area Power Administration (referred to in this section as ‘Western’), for delivery commencing October 1, 2017, for use in the marketing area for the Boulder City Area Projects 66.7 percent of the Schedule D contingent capacity and firm energy to new allottees that are located within the marketing area for the Boulder City Area Projects and that are—

“(I) eligible to enter into contracts under section 5 of the Boulder Canyon Project Act (43 U.S.C. 617d); or

“(II) federally recognized Indian tribes.

“(ii) In the case of Arizona and Nevada, Schedule D contingent capacity and firm energy for new allottees other than federally recognized Indian tribes shall be offered through the Arizona Power Authority and the Colorado River Commission of Nevada, respectively. Schedule D contingent capacity and firm energy allocated to federally recognized Indian tribes shall be contracted for directly with Western.

“(D) Within 1 year of the date of enactment of the America’s Great Outdoors Act of 2010, the Secretary of Energy also shall allocate, for delivery commencing October 1, 2017, for use in the marketing area for the Boulder City Area Projects 11.1 percent of the Schedule D contingent capacity and firm energy to each of—

“(i) the Arizona Power Authority for allocation to new allottees in the State of Arizona;

“(ii) the Colorado River Commission of Nevada for allocation to new allottees in the State of Nevada; and

“(iii) Western for allocation to new allottees within the State of California, provided that Western shall have 36 months to complete such allocation.

“(E) Each contract offered pursuant to this subsection shall include a provision requiring the new allottee to pay a proportionate share of its State’s respective contribution (determined in accordance with each State’s applicable funding agreement) to the cost of the Lower Colorado River Multi-Species Conservation Program (as defined in section 9401

of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1327)), and to execute the Boulder Canyon Project Implementation Agreement Contract No. 95–PAO–10616 (referred to in this section as the ‘Implementation Agreement’).

“(F) Any of the 66.7 percent of Schedule D contingent capacity and firm energy that is to be allocated by Western that is not allocated and placed under contract by October 1, 2017, shall be returned to those contractors shown in Schedule A and Schedule B in the same proportion as those contractors’ allocations of Schedule A and Schedule B contingent capacity and firm energy. Any of the 33.3 percent of Schedule D contingent capacity and firm energy that is to be distributed within the States of Arizona, Nevada, and California that is not allocated and placed under contract by October 1, 2017, shall be returned to the Schedule A and Schedule B contractors within the State in which the Schedule D contingent capacity and firm energy were to be distributed, in the same proportion as those contractors’ allocations of Schedule A and Schedule B contingent capacity and firm energy.”

(e) TOTAL OBLIGATIONS.—Paragraph (3) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated as subsection (d)(1)) is amended—

(1) in the first sentence, by striking “schedule A of section 105(a)(1)(A) and schedule B of section 105(a)(1)(B)” and inserting “paragraphs (1)(A), (1)(B), and (2)”; and

(2) in the second sentence—

(A) by striking “any” and inserting “each”; and

(B) by striking “schedule C” and inserting “Schedule C”; and

(C) by striking “schedules A and B” and inserting “Schedules A, B, and D”.

(f) POWER MARKETING CRITERIA.—Paragraph (4) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated as subsection (d)(1)) is amended to read as follows:

“(4) Subdivision E of the Criteria shall be deemed to have been modified to conform to this section, as modified by the America’s Great Outdoors Act of 2010. The Secretary of Energy shall cause to be included in the Federal Register a notice conforming the text of the regulations to such modifications.”

(g) CONTRACT TERMS.—Paragraph (5) of section 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) (as redesignated as subsection (d)(1)) is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A) in accordance with section 5(a) of the Boulder Canyon Project Act (43 U.S.C. 617d(a)), expire September 30, 2067;”

(2) in the proviso of subparagraph (B)—

(A) by striking “shall use” and inserting “shall allocate”; and

(B) by striking “and” after the semicolon at the end;

(3) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(D) authorize and require Western to collect from new allottees a pro rata share of Hoover Dam repayable advances paid for by contractors prior to October 1, 2017, and remit such amounts to the contractors that paid such advances in proportion to the amounts paid by such contractors as specified in section 6.4 of the Implementation Agreement;

“(E) permit transactions with an independent system operator; and

“(F) contain the same material terms included in section 5.6 of those long-term contracts for purchases from the Hoover Power Plant that were made in accordance with this Act and are in existence on the date of enactment of the America’s Great Outdoors Act of 2010.”

(h) EXISTING RIGHTS.—Section 105(b) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(b)) is amended by striking “2017” and inserting “2067”.

(i) OFFERS.—Section 105(c) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(c)) is amended to read as follows:

“(c) OFFER OF CONTRACT TO OTHER ENTITIES.—If any existing contractor fails to accept an offered contract, the Secretary of Energy shall offer the contingent capacity and firm energy thus available first to other entities in the same State listed in Schedule A and Schedule B, second to other entities listed in Schedule A and Schedule B, third to other entities in the same State which receive contingent capacity and firm energy under subsection (a)(2) of this section, and last to other entities which receive contingent capacity and firm energy under subsection (a)(2) of this section.”

(j) AVAILABILITY OF WATER.—Section 105(d) of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a(d)) is amended to read as follows:

“(d) WATER AVAILABILITY.—Except with respect to energy purchased at the request of an allottee pursuant to subsection (a)(3), the obligation of the Secretary of Energy to deliver contingent capacity and firm energy pursuant to contracts entered into pursuant to this section shall be subject to availability of the water needed to produce such contingent capacity and firm energy. In the event that water is not available to produce the contingent capacity and firm energy set forth in Schedule A, Schedule B, and Schedule D, the Secretary of Energy shall adjust the contingent capacity and firm energy offered under those Schedules in the same proportion as those contractors’ allocations of Schedule A, Schedule B, and Schedule D contingent capacity and firm energy bears to the full rated contingent capacity and firm energy obligations.”

(k) CONFORMING AMENDMENTS.—Section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) is amended—

(1) by striking subsections (e) and (f); and
 (2) by redesignating subsections (g), (h), and (i) as subsections (e), (f), and (g), respectively.

(1) CONTINUED CONGRESSIONAL OVERSIGHT.—Subsection (e) of section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as redesignated by subsection (k)(2)) is amended—

(1) in the first sentence, by striking “the renewal of”; and

(2) in the second sentence, by striking “June 1, 1987, and ending September 30, 2017” and inserting “October 1, 2017, and ending September 30, 2067”.

(m) COURT CHALLENGES.—Subsection (f)(1) of section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as redesignated by subsection (k)(2)) is amended in the first sentence by striking “this Act” and inserting “the America’s Great Outdoors Act of 2010”.

(n) REAFFIRMATION OF CONGRESSIONAL DECLARATION OF PURPOSE.—Subsection (g) of section 105 of the Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as redesignated by subsection (k)(2)) is amended—

(1) by striking “subsections (c), (g), and (h) of this section” and inserting “this Act”; and

(2) by striking “June 1, 1987, and ending September 30, 2017” and inserting “October 1, 2017, and ending September 30, 2067”.

TITLE LXXXII—MISCELLANEOUS

SEC. 8201. UTAH WATER CONSERVANCY DISTRICT PREPAYMENT.

The Secretary of the Interior shall allow for prepayment of the repayment contract no. 6-05-01-00143 between the United States and the Uintah Water Conservancy District dated June 3, 1976, and supplemented and amended on November 1, 1985, and on December 30, 1992, providing for repayment of municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under terms and conditions similar to those used in implementing section 210 of the Central Utah Project Completion Act (Public Law 102-575), as amended. The prepayment—

(1) shall result in the United States recovering the net present value of all repayment streams that would have been payable to the United States if this section was not in effect;

(2) may be provided in several installments to reflect substantial completion of the delivery facilities being prepaid, and any increase in the repayment obligation resulting from delivery of water in addition to the water being delivered under this contract as of the date of enactment of this Act;

(3) shall be adjusted to conform to a final cost allocation including costs incurred by the Bureau of Reclamation, but unallocated as of the date of the enactment of this Act that are allocable to the water delivered under this contract;

(4) may not be adjusted on the basis of the type of prepayment financing used by the District; and

(5) shall be made such that total repayment is made not later than September 30, 2019.

SEC. 8202. TULE RIVER TRIBE WATER DEVELOPMENT.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(2) TRIBE.—The term “Tribe” means the Tule River Indian Tribe of the Tule River Reservation in the State of California.

(b) STUDY AND REPORT ON ALTERNATIVES.—

(1) STUDY.—Not later than 2 years after the date on which funds are made available

under paragraph (3), the Secretary shall complete a feasibility study to evaluate alternatives (including alternatives for phase I reservoir storage of a quantity of water of not more than 5,000 acre-feet) for the provision of a domestic, commercial, municipal, industrial, and irrigation water supply for the Tribe.

(2) REPORT.—On completion of the study under subsection (a), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate a report describing the results of the study.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this subsection such sums as are necessary.

(c) CONDITIONS FOR FUTURE PROJECTS.—

(1) IN GENERAL.—No project constructed relating to the feasibility study under subsection (b) shall provide any water supply for—

(A) the casino of the Tule River Tribe, as in existence on the date of enactment of this Act;

(B) any expansion of that casino;

(C) any other tribal casino; or

(D) any current or future lodging, dining, entertainment, meeting space, parking, or other similar facility in support of a gaming activity.

(2) AVAILABILITY OF WATER SUPPLIES.—A water supply provided by a project constructed relating to the feasibility study under subsection (b) shall be available to serve—

(A) the domestic, municipal, and governmental (including firefighting) needs of the Tribe and members of the Tribe; and

(B) other commercial, agricultural, and industrial needs not related to a gaming activity.

SEC. 8203. INLAND EMPIRE GROUND WATER ASSESSMENT.

(a) IN GENERAL.—Not later than 2 years after funds are made available to carry out this section, the Secretary of the Interior, acting through the Director of the United States Geological Survey, shall complete a study of water resources in the Rialto-Colton Basin in the State of California (in this section referred to as the “Basin”), including—

(1) a survey of ground water resources in the Basin, including an analysis of—

(A) the delineation, either horizontally or vertically, of the aquifers in the Basin, including the quantity of water in the aquifers;

(B) the availability of ground water resources for human use;

(C) the salinity of ground water resources;

(D) the identification of a recent surge in perchlorate concentrations in ground water, whether significant sources are being flushed through the vadose zone, or if perchlorate is being remobilized;

(E) the identification of impacts and extents of all source areas that contribute to the regional plume to be fully characterized;

(F) the potential of the ground water resources to recharge;

(G) the interaction between ground water and surface water;

(H) the susceptibility of the aquifers to contamination, including identifying the extent of commingling of plume emanating within surrounding areas in San Bernardino County, California; and

(I) any other relevant criteria; and

(2) a characterization of surface and bedrock geology of the Basin, including the effect of the geology on ground water yield and quality.

(b) COORDINATION.—The Secretary shall carry out the study in coordination with the State of California and any other entities that the Secretary determines to be appropriate, including other Federal agencies and institutions of higher education.

(c) REPORT.—Upon completion of the study, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes the results of the study.

DIVISION I—INSULAR AREAS

SEC. 9001. CONVEYANCE OF CERTAIN SUBMERGED LAND TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—The first section of Public Law 93-435 (48 U.S.C. 1705) is amended by inserting “the Commonwealth of the Northern Mariana Islands,” after “Guam,” each place it appears.

(b) REFERENCES TO DATE OF ENACTMENT.—For the purposes of the amendment made by subsection (a), each reference in Public Law 93-435 (48 U.S.C. 1705) to the “date of enactment” shall be considered to be reference to the date of the enactment of this Act.

DIVISION J—WILDLIFE CONSERVATION AND WATER QUALITY PROTECTION AND RESTORATION

TITLE C—WILDLIFE AND WILDLIFE HABITAT CONSERVATION

Subtitle A—National Fish Habitat Conservation

SEC. 10001. SHORT TITLE.

This subtitle may be cited as the “National Fish Habitat Conservation Act”.

SEC. 10002. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) healthy populations of fish and other aquatic organisms depend on the conservation, protection, restoration, and enhancement of aquatic habitats in the United States;

(2) aquatic habitats (including wetlands, streams, rivers, lakes, estuaries, coastal and marine ecosystems, and associated riparian upland habitats that buffer those areas from external factors) perform numerous valuable environmental functions that sustain environmental, social, and cultural values, including recycling nutrients, purifying water, attenuating floods, augmenting and maintaining stream flows, recharging ground water, acting as primary producers in the food chain, and providing essential and significant habitat for plants, fish, wildlife, and other dependent species;

(3) the extensive and diverse aquatic habitat resources of the United States are of enormous significance to the economy of the United States, providing—

(A) recreation for 44,000,000 anglers;

(B) more than 1,000,000 jobs and approximately \$125,000,000,000 in economic impact each year relating to recreational fishing; and

(C) approximately 500,000 jobs and an additional \$35,000,000,000 in economic impact each year relating to commercial fishing;

(4) at least 40 percent of all threatened species and endangered species in the United States are directly dependent on aquatic habitats;

(5) certain fish species are considered to be ecological indicators of aquatic habitat quality, such that the presence of those species in an aquatic ecosystem reflects high-quality habitat for other fish;

(6) loss and degradation of aquatic habitat, riparian habitat, water quality, and water

volume caused by activities such as alteration of watercourses, stream blockages, water withdrawals and diversions, erosion, pollution, sedimentation, and destruction or modification of wetlands have—

(A) caused significant declines in fish populations throughout the United States, especially declines in native fish populations; and

(B) resulted in economic losses to the United States;

(7)(A) providing for the conservation and sustainability of fish and other aquatic organisms has not been fully realized, despite federally funded fish and wildlife restoration programs and other activities intended to conserve aquatic resources; and

(B) conservation and sustainability may be significantly advanced through a renewed commitment and sustained, cooperative efforts that are complementary to existing fish and wildlife restoration programs and clean water programs;

(8) the National Fish Habitat Action Plan provides a framework for maintaining and restoring aquatic habitats to ensure perpetuation of populations of fish and other aquatic organisms;

(9) the United States can achieve significant progress toward providing aquatic habitats for the conservation and restoration of fish and other aquatic organisms through a voluntary, nonregulatory incentive program that is based on technical and financial assistance provided by the Federal Government;

(10) the creation of partnerships between local citizens, Indian tribes, Alaska Native organizations, corporations, nongovernmental organizations, and Federal, State, and tribal agencies is critical to the success of activities to restore aquatic habitats and ecosystems;

(11) the Federal Government has numerous regulatory and land and water management agencies that are critical to the implementation of the National Fish Habitat Action Plan, including—

(A) the United States Fish and Wildlife Service;

(B) the Bureau of Land Management;

(C) the National Park Service;

(D) the Bureau of Reclamation;

(E) the Bureau of Indian Affairs;

(F) the National Marine Fisheries Service;

(G) the Forest Service;

(H) the Natural Resources Conservation Service; and

(I) the Environmental Protection Agency;

(12) the United States Fish and Wildlife Service, the Forest Service, the Bureau of Land Management, and the National Marine Fisheries Service each play a vital role in—

(A) the protection, restoration, and enhancement of fish communities and aquatic habitats in the United States; and

(B) the development, operation, and long-term success of fish habitat partnerships and project implementation;

(13) the United States Geological Survey, the United States Fish and Wildlife Service, and the National Marine Fisheries Service each play a vital role in scientific evaluation, data collection, and mapping for fishery resources in the United States; and

(14) many of the programs for conservation on private farmland, ranchland, and forestland that are carried out by the Secretary of Agriculture, including the Natural Resources Conservation Service and the State and private forestry programs of the Forest Service, are able to significantly contribute to the implementation of the National Fish Habitat Action Plan through the engagement of private landowners.

(b) PURPOSE.—The purpose of this subtitle is to encourage partnerships among public agencies and other interested parties consistent with the mission and goals of the National Fish Habitat Action Plan—

(1) to protect and maintain intact and healthy aquatic habitats;

(2) to prevent further degradation of aquatic habitats that have been adversely affected;

(3) to reverse declines in the quality and quantity of aquatic habitats to improve the overall health of fish and other aquatic organisms;

(4) to increase the quality and quantity of aquatic habitats that support a broad natural diversity of fish and other aquatic species;

(5) to improve fisheries habitat in a manner that leads to improvement of the annual economic output from recreational, subsistence, and commercial fishing;

(6) to ensure coordination and facilitation of activities carried out by Federal departments and agencies under the leadership of—

(A) the Director of the United States Fish and Wildlife Service;

(B) the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration; and

(C) the Director of the United States Geological Survey; and

(7) to achieve other purposes in accordance with the mission and goals of the National Fish Habitat Action Plan.

SEC. 10003. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Commerce, Science, and Transportation, and the Committee on Environment and Public Works, of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) AQUATIC HABITAT.—

(A) IN GENERAL.—The term “aquatic habitat” means any area on which an aquatic organism depends, directly or indirectly, to carry out the life processes of the organism, including an area used by the organism for spawning, incubation, nursery, rearing, growth to maturity, food supply, or migration.

(B) INCLUSIONS.—The term “aquatic habitat” includes an area adjacent to an aquatic environment, if the adjacent area—

(i) contributes an element, such as the input of detrital material or the promotion of a planktonic or insect population providing food, that makes fish life possible;

(ii) protects the quality and quantity of water sources;

(iii) provides public access for the use of fishery resources; or

(iv) serves as a buffer protecting the aquatic environment.

(3) ASSISTANT ADMINISTRATOR.—The term “Assistant Administrator” means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

(4) BOARD.—The term “Board” means the National Fish Habitat Board established by section 10004(a)(1).

(5) CONSERVATION; CONSERVE; MANAGE; MANAGEMENT.—The terms “conservation”, “conserve”, “manage”, and “management” mean to protect, sustain, and, if appropriate, restore and enhance, using methods and procedures associated with modern scientific resource programs (including protection, research, census, law enforcement, habitat

management, propagation, live trapping and translocation, and regulated taking)—

(A) a healthy population of fish, wildlife, or plant life;

(B) a habitat required to sustain fish, wildlife, or plant life; or

(C) a habitat required to sustain fish, wildlife, or plant life productivity.

(6) DIRECTOR.—The term “Director” means the Director of the United States Fish and Wildlife Service.

(7) FISH.—

(A) IN GENERAL.—The term “fish” means any freshwater, diadromous, estuarine, or marine finfish or shellfish.

(B) INCLUSIONS.—The term “fish” includes the egg, spawn, spat, larval, and other juvenile stages of an organism described in subparagraph (A).

(8) FISH HABITAT CONSERVATION PROJECT.—

(A) IN GENERAL.—The term “fish habitat conservation project” means a project that—

(i) is submitted to the Board by a Partnership and approved by the Secretary under section 10006; and

(ii) provides for the conservation or management of an aquatic habitat.

(B) INCLUSIONS.—The term “fish habitat conservation project” includes—

(i) the provision of technical assistance to a State, Indian tribe, or local community by the National Fish Habitat Conservation Partnership Office or any other agency to facilitate the development of strategies and priorities for the conservation of aquatic habitats; and

(ii) the obtaining of a real property interest in land or water, including water rights, in accordance with terms and conditions that ensure that the real property will be administered for the long-term conservation of—

(I) the land or water; and

(II) the fish dependent on the land or water.

(9) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(10) NATIONAL FISH HABITAT ACTION PLAN.—The term “National Fish Habitat Action Plan” means the National Fish Habitat Action Plan dated April 24, 2006, and any subsequent revisions or amendments to that plan.

(11) PARTNERSHIP.—The term “Partnership” means an entity designated by the Board as a Fish Habitat Conservation Partnership pursuant to section 10005(a).

(12) REAL PROPERTY INTEREST.—The term “real property interest” means an ownership interest in—

(A) land;

(B) water (including water rights); or

(C) a building or object that is permanently affixed to land.

(13) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(14) STATE AGENCY.—The term “State agency” means—

(A) the fish and wildlife agency of a State;

(B) any department or division of a department or agency of a State that manages in the public trust the inland or marine fishery resources or the habitat for those fishery resources of the State pursuant to State law or the constitution of the State; or

(C) the fish and wildlife agency of the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, or any other territory or possession of the United States.

SEC. 10004. NATIONAL FISH HABITAT BOARD.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a board, to be known as the “National Fish Habitat Board”:

(A) to promote, oversee, and coordinate the implementation of this subtitle and the National Fish Habitat Action Plan;

(B) to establish national goals and priorities for aquatic habitat conservation;

(C) to designate Partnerships; and

(D) to review and make recommendations regarding fish habitat conservation projects.

(2) MEMBERSHIP.—The Board shall be composed of 27 members, of whom—

(A) 1 shall be the Director;

(B) 1 shall be the Assistant Administrator;

(C) 1 shall be the Chief of the Natural Resources Conservation Service;

(D) 1 shall be the Chief of the Forest Service;

(E) 1 shall be the Assistant Administrator for Water of the Environmental Protection Agency;

(F) 1 shall be the President of the Association of Fish and Wildlife Agencies;

(G) 1 shall be the Secretary of the Board of Directors of the National Fish and Wildlife Foundation appointed pursuant to section 3(g)(2)(B) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(g)(2)(B));

(H) 4 shall be representatives of State agencies, 1 of whom shall be nominated by a regional association of fish and wildlife agencies from each of the Northeast, Southeast, Midwest, and Western regions of the United States;

(I) 1 shall be a representative of the American Fisheries Society;

(J) 2 shall be representatives of Indian tribes, of whom—

(i) 1 shall represent Indian tribes from the State of Alaska; and

(ii) 1 shall represent Indian tribes from the other States;

(K) 1 shall be a representative of the Regional Fishery Management Councils established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852);

(L) 1 shall be a representative of the Marine Fisheries Commissions, which is composed of—

(i) the Atlantic States Marine Fisheries Commission;

(ii) the Gulf States Marine Fisheries Commission; and

(iii) the Pacific States Marine Fisheries Commission;

(M) 1 shall be a representative of the Sportfishing and Boating Partnership Council; and

(N) 10 shall be representatives selected from each of the following groups:

(i) The recreational sportfishing industry.

(ii) The commercial fishing industry.

(iii) Marine recreational anglers.

(iv) Freshwater recreational anglers.

(v) Terrestrial resource conservation organizations.

(vi) Aquatic resource conservation organizations.

(vii) The livestock and poultry production industry.

(viii) The land development industry.

(ix) The row crop industry.

(x) Natural resource commodity interests, such as petroleum or mineral extraction.

(3) COMPENSATION.—A member of the Board shall serve without compensation.

(4) TRAVEL EXPENSES.—A member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5,

United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Board.

(b) APPOINTMENT AND TERMS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a member of the Board described in any of subparagraphs (H) through (N) of subsection (a)(2) shall serve for a term of 3 years.

(2) INITIAL BOARD MEMBERSHIP.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the representatives of the board established by the National Fish Habitat Action Plan shall appoint the initial members of the Board described in subparagraphs (H), (I), and (K) through (N) of subsection (a)(2).

(B) TRIBAL REPRESENTATIVES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall provide to the board established by the National Fish Habitat Action Plan a recommendation of not less than 4 tribal representatives, from which that board shall appoint 2 representatives pursuant to subparagraph (J) of subsection (a)(2).

(3) TRANSITIONAL TERMS.—Of the members described in subsection (a)(2)(N) initially appointed to the Board—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 2 shall be appointed for a term of 3 years.

(4) VACANCIES.—

(A) IN GENERAL.—A vacancy of a member of the Board described in any of subparagraphs (H), (I), or (K) through (N) of subsection (a)(2) shall be filled by an appointment made by the remaining members of the Board.

(B) TRIBAL REPRESENTATIVES.—Following a vacancy of a member of the Board described in subparagraph (J) of subsection (a)(2), the Secretary shall recommend to the Board not less than 4 tribal representatives, from which the remaining members of the Board shall appoint a representative to fill the vacancy.

(5) CONTINUATION OF SERVICE.—An individual whose term of service as a member of the Board expires may continue to serve on the Board until a successor is appointed.

(6) REMOVAL.—If a member of the Board described in any of subparagraphs (H) through (N) of subsection (a)(2) misses 3 consecutive regularly scheduled Board meetings, the members of the Board may—

(A) vote to remove that member; and

(B) appoint another individual in accordance with paragraph (4).

(c) CHAIRPERSON.—

(1) IN GENERAL.—The Board shall elect a member of the Board to serve as Chairperson of the Board.

(2) TERM.—The Chairperson of the Board shall serve for a term of 3 years.

(d) MEETINGS.—

(1) IN GENERAL.—The Board shall meet—

(A) at the call of the Chairperson; but

(B) not less frequently than twice each calendar year.

(2) PUBLIC ACCESS.—All meetings of the Board shall be open to the public.

(e) PROCEDURES.—

(1) IN GENERAL.—The Board shall establish procedures to carry out the business of the Board, including—

(A) a requirement that a quorum of the members of the Board be present to transact business;

(B) a requirement that no recommendations may be adopted by the Board, except

by the vote of $\frac{2}{3}$ of all members present and voting;

(C) procedures for establishing national goals and priorities for aquatic habitat conservation for the purposes of this subtitle;

(D) procedures for designating Partnerships under section 10005; and

(E) procedures for reviewing, evaluating, and making recommendations regarding fish habitat conservation projects.

(2) QUORUM.—A majority of the members of the Board shall constitute a quorum.

SEC. 10005. FISH HABITAT PARTNERSHIPS.

(a) AUTHORITY TO DESIGNATE.—The Board may designate Fish Habitat Partnerships in accordance with this section.

(b) PURPOSES.—The purposes of a Partnership shall be—

(1) to coordinate the implementation of the National Fish Habitat Action Plan at a regional level;

(2) to identify strategic priorities for fish habitat conservation;

(3) to recommend to the Board fish habitat conservation projects that address a strategic priority of the Board; and

(4) to develop and carry out fish habitat conservation projects.

(c) APPLICATIONS.—An entity seeking to be designated as a Partnership shall submit to the Board an application at such time, in such manner, and containing such information as the Board may reasonably require.

(d) APPROVAL.—The Board may approve an application for a Partnership submitted under subsection (c) if the Board determines that the applicant—

(1) includes representatives of a diverse group of public and private partners, including Federal, State, or local governments, nonprofit entities, Indian tribes, and private individuals, that are focused on conservation of aquatic habitats to achieve results across jurisdictional boundaries on public and private land;

(2) is organized to promote the health of important aquatic habitats and distinct geographical areas, keystone fish species, or system types, including reservoirs, natural lakes, coastal and marine environments, and estuaries;

(3) identifies strategic fish and aquatic habitat priorities for the Partnership area in the form of geographical focus areas or key stressors or impairments to facilitate strategic planning and decisionmaking;

(4) is able to address issues and priorities on a nationally significant scale;

(5) includes a governance structure that—

(A) reflects the range of all partners; and

(B) promotes joint strategic planning and decisionmaking by the applicant;

(6) demonstrates completion of, or significant progress toward the development of, a strategic plan to address the causes of system decline in fish populations, rather than simply treating symptoms in accordance with the National Fish Habitat Action Plan; and

(7) ensures collaboration in developing a strategic vision and implementation program that is scientifically sound and achievable.

SEC. 10006. FISH HABITAT CONSERVATION PROJECTS.

(a) SUBMISSION TO BOARD.—Not later than March 31 of each calendar year, each Partnership shall submit to the Board a list of fish habitat conservation projects recommended by the Partnership for annual funding under this subtitle.

(b) RECOMMENDATIONS BY BOARD.—Not later than July 1 of each calendar year, the Board shall submit to the Secretary a description, including estimated costs, of each

fish habitat conservation project that the Board recommends that the Secretary approve and fund under this subtitle, in order of priority, for the following fiscal year.

(c) **CONSIDERATIONS.**—The Board shall select each fish habitat conservation project to be recommended to the Secretary under subsection (b)—

(1) based on a recommendation of the Partnership that is, or will be, participating actively in carrying out the fish habitat conservation project; and

(2) after taking into consideration—

(A) the extent to which the fish habitat conservation project fulfills a purpose of this subtitle or a goal of the National Fish Habitat Action Plan;

(B) the extent to which the fish habitat conservation project addresses the national priorities established by the Board;

(C) the availability of sufficient non-Federal funds to match Federal contributions for the fish habitat conservation project, as required by subsection (e);

(D) the extent to which the fish habitat conservation project—

(i) increases fishing opportunities for the public;

(ii) will be carried out through a cooperative agreement among Federal, State, and local governments, Indian tribes, and private entities;

(iii) increases public access to land or water;

(iv) advances the conservation of fish and wildlife species that are listed, or are candidates to be listed, as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(v) where appropriate, advances the conservation of fish and fish habitats under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and other relevant Federal law and State wildlife action plans; and

(vi) promotes resilience such that desired biological communities are able to persist and adapt to environmental stressors such as climate change; and

(E) the substantiality of the character and design of the fish habitat conservation project.

(d) **LIMITATIONS.**—

(1) **REQUIREMENTS FOR EVALUATION.**—No fish habitat conservation project may be recommended by the Board under subsection (b) or provided financial assistance under this subtitle unless the fish habitat conservation project includes an evaluation plan designed—

(A) to appropriately assess the biological, ecological, or other results of the habitat protection, restoration, or enhancement activities carried out using the assistance;

(B) to reflect appropriate changes to the fish habitat conservation project if the assessment substantiates that the fish habitat conservation project objectives are not being met; and

(C) to require the submission to the Board of a report describing the findings of the assessment.

(2) **ACQUISITION OF REAL PROPERTY INTERESTS.**—

(A) **IN GENERAL.**—No fish habitat conservation project that will result in the acquisition by a State, local government, or other non-Federal entity, in whole or in part, of any real property interest may be recommended by the Board under subsection (b) or provided financial assistance under this subtitle unless the project meets the requirements of subparagraph (B).

(B) **REQUIREMENTS.**—

(i) **IN GENERAL.**—A real property interest may not be acquired pursuant to a fish habitat conservation project by a State, public agency, or other non-Federal entity unless the State, agency, or other non-Federal entity is obligated to undertake the management of the property being acquired in accordance with the purposes of this subtitle.

(ii) **ADDITIONAL CONDITIONS.**—Any real property interest acquired by a State, local government, or other non-Federal entity pursuant to a fish habitat conservation project shall be subject to terms and conditions that ensure that the interest will be administered for the long-term conservation and management of the aquatic ecosystem and the fish and wildlife dependent on that ecosystem.

(e) **NON-FEDERAL CONTRIBUTIONS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), no fish habitat conservation project may be recommended by the Board under subsection (b) or provided financial assistance under this subtitle unless at least 50 percent of the cost of the fish habitat conservation project will be funded with non-Federal funds.

(2) **PROJECTS ON FEDERAL LAND OR WATER.**—Federal funds may be used for payment of 100 percent of the costs of a fish habitat conservation project carried out on Federal land or water, including the acquisition of inholdings within such land or water.

(3) **NON-FEDERAL SHARE.**—The non-Federal share of the cost of a fish habitat conservation project—

(A) may not be derived from a Federal grant program; but

(B) may include in-kind contributions and cash.

(4) **SPECIAL RULE FOR INDIAN TRIBES.**—Notwithstanding paragraph (1) or any other provision of law, any funds made available to an Indian tribe pursuant to this subtitle may be considered to be non-Federal funds for the purpose of paragraph (1).

(f) **APPROVAL.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of receipt of the recommendations of the Board for fish habitat conservation projects under subsection (b), and based, to the maximum extent practicable, on the criteria described in subsection (c)—

(A) the Secretary shall approve, reject, or reorder the priority of any fish habitat conservation project recommended by the Board that is not within a marine or estuarine habitat; and

(B) the Secretary and the Secretary of Commerce shall jointly approve, reject, or reorder the priority of any fish habitat conservation project recommended by the Board that is within a marine or estuarine habitat.

(2) **FUNDING.**—If the Secretary, or the Secretary and the Secretary of Commerce jointly, approves a fish habitat conservation project under paragraph (1), the Secretary, or the Secretary and the Secretary of Commerce jointly, shall use amounts made available to carry out this subtitle to provide funds to carry out the fish habitat conservation project.

(3) **NOTIFICATION.**—If the Secretary, or the Secretary and the Secretary of Commerce jointly, rejects or reorders the priority of any fish habitat conservation project recommended by the Board under subsection (b), the Secretary, or the Secretary and the Secretary of Commerce jointly, shall provide to the Board and the appropriate Partnership a written statement of the reasons that the Secretary, or the Secretary and the Secretary of Commerce jointly, rejected or modified the priority of the fish habitat conservation project.

(4) **LIMITATION.**—If the Secretary, or the Secretary and the Secretary of Commerce jointly, has not approved, rejected, or reordered the priority of the recommendations of the Board for fish habitat conservation projects by the date that is 180 days after the date of receipt of the recommendations, the recommendations shall be considered to be approved.

SEC. 10007. NATIONAL FISH HABITAT CONSERVATION PARTNERSHIP OFFICE.

(a) **ESTABLISHMENT.**—Not later than 1 year after the date of enactment of this Act, the Director shall establish an office, to be known as the “National Fish Habitat Conservation Partnership Office”, within the United States Fish and Wildlife Service.

(b) **FUNCTIONS.**—The National Fish Habitat Conservation Partnership Office shall—

(1) provide funding for the operational needs of the Partnerships, including funding for activities such as planning, project development and implementation, coordination, monitoring, evaluation, communication, and outreach;

(2) provide funding to support the detail of State and tribal fish and wildlife staff to the Office;

(3) facilitate the cooperative development and approval of Partnerships;

(4) assist the Secretary and the Board in carrying out this subtitle;

(5) assist the Secretary in carrying out sections 1008 and 1010;

(6) facilitate communication, cohesiveness, and efficient operations for the benefit of Partnerships and the Board;

(7) facilitate, with assistance from the Director, the Assistant Administrator, and the President of the Association of Fish and Wildlife Agencies, the consideration of fish habitat conservation projects by the Board;

(8) provide support to the Director regarding the development and implementation of the interagency operational plan under subsection (c);

(9) coordinate technical and scientific reporting as required by section 1001i;

(10) facilitate the efficient use of resources and activities of Federal departments and agencies to carry out this subtitle in an efficient manner; and

(11) provide support to the Board for national communication and outreach efforts that promote public awareness of fish habitat conservation.

(c) **INTERAGENCY OPERATIONAL PLAN.**—Not later than 1 year after the date of enactment of this Act, and every 5 years thereafter, the Director, in cooperation with the Assistant Administrator and the heads of other appropriate Federal departments and agencies, shall develop an interagency operational plan for the National Fish Habitat Conservation Partnership Office that describes—

(1) the functional, operational, technical, scientific, and general staff, administrative, and material needs of the Office; and

(2) any interagency agreements between or among Federal departments and agencies to address those needs.

(d) **STAFF AND SUPPORT.**—

(1) **DEPARTMENTS OF INTERIOR AND COMMERCE.**—The Director and the Assistant Administrator shall each provide appropriate staff to support the National Fish Habitat Conservation Partnership Office, subject to the availability of funds under section 10015.

(2) **STATES AND INDIAN TRIBES.**—Each State and Indian tribe is encouraged to provide staff to support the National Fish Habitat Conservation Partnership Office.

(3) **DETAILEES AND CONTRACTORS.**—The National Fish Habitat Conservation Partnership Office may accept staff or other administrative support from other entities—

- (A) through interagency details; or
- (B) as contractors.

(4) **QUALIFICATIONS.**—The staff of the National Fish Habitat Conservation Partnership Office shall include members with education and experience relating to the principles of fish, wildlife, and aquatic habitat conservation.

(5) **WAIVER OF REQUIREMENT.**—The Secretary may waive all or part of the non-Federal contribution requirement under section 10006(e)(1) if the Secretary determines that—

(A) no reasonable means are available through which the affected applicant can meet the requirement; and

(B) the probable benefit of the relevant fish habitat conservation project outweighs the public interest in meeting the requirement.

(e) **REPORTS.**—Not less frequently than once each year, the Director shall provide to the Board a report describing the activities of the National Fish Habitat Conservation Partnership Office.

SEC. 10008. TECHNICAL AND SCIENTIFIC ASSISTANCE.

(a) **IN GENERAL.**—The Director, the Assistant Administrator, and the Director of the United States Geological Survey, in coordination with the Forest Service and other appropriate Federal departments and agencies, shall provide scientific and technical assistance to the Partnerships, participants in fish habitat conservation projects, and the Board.

(b) **INCLUSIONS.**—Scientific and technical assistance provided pursuant to subsection (a) may include—

(1) providing technical and scientific assistance to States, Indian tribes, regions, local communities, and nongovernmental organizations in the development and implementation of Partnerships;

(2) providing technical and scientific assistance to Partnerships for habitat assessment, strategic planning, and prioritization;

(3) supporting the development and implementation of fish habitat conservation projects that are identified as high priorities by Partnerships and the Board;

(4) supporting and providing recommendations regarding the development of science-based monitoring and assessment approaches for implementation through Partnerships;

(5) supporting and providing recommendations for a national fish habitat assessment; and

(6) ensuring the availability of experts to conduct scientifically based evaluation and reporting of the results of fish habitat conservation projects.

SEC. 10009. CONSERVATION OF AQUATIC HABITAT FOR FISH AND OTHER AQUATIC ORGANISMS ON FEDERAL LAND.

To the extent consistent with the mission and authority of the applicable department or agency, the head of each Federal department and agency responsible for acquiring, managing, or disposing of Federal land or water shall cooperate with the Assistant Administrator and the Director to conserve the aquatic habitats for fish and other aquatic organisms within the land and water under the jurisdiction of the department or agency.

SEC. 10010. COORDINATION WITH STATES AND INDIAN TRIBES.

The Secretary shall provide notice to, and coordinate with, the appropriate State agency or tribal agency, as applicable, of each State and Indian tribe within the boundaries of which an activity is planned to be carried

out pursuant to this subtitle by not later than 30 days before the date on which the activity is implemented.

SEC. 10011. ACCOUNTABILITY AND REPORTING.

(a) **IMPLEMENTATION REPORTS.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Board shall submit to the appropriate congressional committees a report describing the implementation of—

- (A) this subtitle; and
- (B) the National Fish Habitat Action Plan.

(2) **CONTENTS.**—Each report submitted under paragraph (1) shall include—

(A) an estimate of the number of acres, stream miles, or acre-feet (or other suitable measure) of aquatic habitat that was protected, restored, or enhanced under the National Fish Habitat Action Plan by Federal, State, or local governments, Indian tribes, or other entities in the United States during the 2-year period ending on the date of submission of the report;

(B) a description of the public access to aquatic habitats protected, restored, or established under the National Fish Habitat Action Plan during that 2-year period;

(C) a description of the opportunities for public fishing established under the National Fish Habitat Action Plan during that period; and

(D) an assessment of the status of fish habitat conservation projects carried out with funds provided under this subtitle during that period, disaggregated by year, including—

(i) a description of the fish habitat conservation projects recommended by the Board under section 10006(b);

(ii) a description of each fish habitat conservation project approved by the Secretary under section 10006(f), in order of priority for funding;

(iii) a justification for—

(I) the approval of each fish habitat conservation project; and

(II) the order of priority for funding of each fish habitat conservation project;

(iv) a justification for any rejection or reordering of the priority of each fish habitat conservation project recommended by the Board under section 10006(b) that was based on a factor other than the criteria described in section 10006(c); and

(v) an accounting of expenditures by Federal, State, or local governments, Indian tribes, or other entities to carry out fish habitat conservation projects.

(b) **STATUS AND TRENDS REPORT.**—Not later than December 31, 2010, and every 5 years thereafter, the Board shall submit to the appropriate congressional committees a report describing the status of aquatic habitats in the United States.

(c) **REVISIONS.**—Not later than December 31, 2011, and every 5 years thereafter, the Board shall revise the goals and other elements of the National Fish Habitat Action Plan, after consideration of each report required by subsection (b).

SEC. 10012. REGULATIONS.

The Secretary may promulgate such regulations as the Secretary determines to be necessary to carry out this subtitle.

SEC. 10013. EFFECT OF SUBTITLE.

(a) **WATER RIGHTS.**—Nothing in this subtitle—

(1) establishes any express or implied reserved water right in the United States for any purpose;

(2) affects any water right in existence on the date of enactment of this Act; or

(3) affects any Federal or State law in existence on the date of enactment of the Act regarding water quality or water quantity.

(b) **STATE AUTHORITY.**—Nothing in this subtitle—

(1) affects the authority, jurisdiction, or responsibility of a State to manage, control, or regulate fish and wildlife under the laws and regulations of the State; or

(2) authorizes the Secretary to control or regulate within a State the fishing or hunting of fish and wildlife.

(c) **EFFECT ON INDIAN TRIBES.**—Nothing in this subtitle abrogates, abridges, affects, modifies, supersedes, or alters any right of an Indian tribe recognized by treaty or any other means, including—

(1) an agreement between the Indian tribe and the United States;

(2) Federal law (including regulations);

(3) an Executive order; or

(4) a judicial decree.

(d) **ADJUDICATION OF WATER RIGHTS.**—Nothing in this subtitle diminishes or affects the ability of the Secretary to join an adjudication of rights to the use of water pursuant to subsection (a), (b), or (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666).

(e) **EFFECT ON OTHER AUTHORITIES.**—

(1) **ACQUISITION OF LAND AND WATER.**—Nothing in this subtitle alters or otherwise affects the authorities, responsibilities, obligations, or powers of the Secretary to acquire land, water, or an interest in land or water under any other provision of law.

(2) **PRIVATE PROPERTY PROTECTION.**—Nothing in this subtitle permits the use of funds made available to carry out this subtitle to acquire real property or a real property interest without the written consent of each owner of the real property or real property interest.

(3) **MITIGATION.**—Nothing in this subtitle permits the use of funds made available to carry out this subtitle for fish and wildlife mitigation purposes under—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(B) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(C) the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082); or

(D) any other Federal law or court settlement.

SEC. 10014. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to—

(1) the Board; or

(2) any Partnership.

SEC. 10015. FUNDING.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **FISH HABITAT CONSERVATION PROJECTS.**—There is authorized to be appropriated to the Secretary to provide funds for fish habitat conservation projects approved under section 10006(f) \$75,000,000 for each of fiscal years 2012 through 2016, of which 5 percent shall be made available for each fiscal year for projects carried out by Indian tribes.

(2) **NATIONAL FISH HABITAT CONSERVATION PARTNERSHIP OFFICE.**—

(A) **IN GENERAL.**—There is authorized to be appropriated to the Secretary for each of fiscal years 2012 through 2016 for the National Fish Habitat Conservation Partnership Office, and to carry out section 10011, an amount equal to the greater of—

(i) \$3,000,000; and

(ii) 25 percent of the amount appropriated for the applicable fiscal year pursuant to paragraph (1).

(B) REQUIRED TRANSFERS.—The Secretary shall annually transfer to other Federal departments and agencies such percentage of the amounts made available pursuant to subparagraph (A) as is required to support participation by those departments and agencies in the National Fish Habitat Conservation Partnership Office pursuant to the interagency operational plan under section 10007(c).

(3) TECHNICAL AND SCIENTIFIC ASSISTANCE.—There are authorized to be appropriated for each of fiscal years 2012 through 2016 to carry out, and provide technical and scientific assistance under, section 10008—

(A) \$10,000,000 to the Secretary for use by the United States Fish and Wildlife Service;

(B) \$10,000,000 to the Assistant Administrator for use by the National Oceanic and Atmospheric Administration; and

(C) \$10,000,000 to the Secretary for use by the United States Geological Survey.

(4) PLANNING AND ADMINISTRATIVE EXPENSES.—There is authorized to be appropriated to the Secretary for each of fiscal years 2012 through 2016 for use by the Board, the Director, and the Assistant Administrator for planning and administrative expenses an amount equal to the greater of—

(A) \$300,000; and

(B) 4 percent of the amount appropriated for the applicable fiscal year pursuant to paragraph (1).

(b) AGREEMENTS AND GRANTS.—The Secretary may—

(1) on the recommendation of the Board, and notwithstanding sections 6304 and 6305 of title 31, United States Code, and the Federal Financial Assistance Management Improvement Act of 1999 (31 U.S.C. 6101 note; Public Law 106-107), enter into a grant agreement, cooperative agreement, or contract with a Partnership or other entity for a fish habitat conservation project or restoration or enhancement project;

(2) apply for, accept, and use a grant from any individual or entity to carry out the purposes of this subtitle; and

(3) make funds available to any Federal department or agency for use by that department or agency to provide grants for any fish habitat protection project, restoration project, or enhancement project that the Secretary determines to be consistent with this subtitle.

(c) DONATIONS.—

(1) IN GENERAL.—The Secretary may—

(A) enter into an agreement with any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code to solicit private donations to carry out the purposes of this subtitle; and

(B) accept donations of funds, property, and services to carry out the purposes of this subtitle.

(2) TREATMENT.—A donation accepted under this section—

(A) shall be considered to be a gift or bequest to, or otherwise for the use of, the United States; and

(B) may be—

(i) used directly by the Secretary; or

(ii) provided to another Federal department or agency through an interagency agreement.

Subtitle B—Marine Turtle Conservation Reauthorization

SEC. 10011. SHORT TITLE.

This subtitle may be cited as the “Marine Turtle Conservation Reauthorization Act of 2010”.

SEC. 10012. AMENDMENTS TO PROVISIONS PREVENTING FUNDING OF PROJECTS IN THE UNITED STATES.

(a) PURPOSE.—Section 2(b) of the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6601(b)) is amended by striking “in foreign countries”.

(b) DEFINITIONS.—Section 3 of the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6602) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking “in foreign countries”; and

(B) in subparagraph (D), by striking “of foreign countries”; and

(2) by adding at the end the following:

“(7) STATE.—The term ‘State’ means—

“(A) each of the several States of the United States;

“(B) the District of Columbia;

“(C) the Commonwealth of Puerto Rico;

“(D) Guam;

“(E) American Samoa;

“(F) the Commonwealth of the Northern Mariana Islands;

“(G) the United States Virgin Islands;

“(H) any other territory or possession of the United States; and

“(I) any Indian tribe.”.

(c) MARINE TURTLE CONSERVATION ASSISTANCE.—Section 4 of the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6603) is amended—

(1) in subsection (b)(1)(A), by inserting “State or” before “foreign country”; and

(2) in subsection (d), by striking “in foreign countries”.

SEC. 10013. LIMITATIONS ON EXPENDITURES.

Section 5(b) of the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6604(b)) is amended—

(1) in paragraph (2), by striking “\$80,000” and inserting “\$150,000”; and

(2) by adding at the end the following:

“(3) LIMITATION ON PROJECTS IN THE UNITED STATES.—Not more than 20 percent of the amounts made available from the Fund for any fiscal year may be used for projects relating to the conservation of marine turtles in the United States.”.

SEC. 10014. REAUTHORIZATION OF THE MARINE TURTLE CONSERVATION ACT OF 2004.

Section 7 of the Marine Turtle Conservation Act of 2004 (16 U.S.C. 6606) is amended by striking “\$5,000,000 for each of fiscal years 2005 through 2009” and inserting “\$4,000,000 for each of fiscal years 2012 through 2016”.

Subtitle C—Neotropical Bird Conservation Reauthorization

SEC. 10021. REAUTHORIZATION OF NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.

Section 10 of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6109) is amended to read as follows:

“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, to remain available until expended—

“(1) \$6,500,000 for fiscal year 2012;

“(2) \$7,000,000 for fiscal year 2013;

“(3) \$8,000,000 for fiscal year 2014;

“(4) \$9,000,000 for fiscal year 2015; and

“(5) \$10,000,000 for fiscal year 2016.

“(b) USE OF FUNDS.—Of the amounts made available under subsection (a) for each fiscal year, not less than 75 percent shall be expended for projects carried out at a location outside of the United States.”.

Subtitle D—Joint Ventures for Bird Habitat

SEC. 10031. SHORT TITLE.

This subtitle may be cited as the “Joint Ventures for Bird Habitat Conservation Act of 2010”.

SEC. 10032. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) migratory birds are of great ecological and economic value to the Nation, contributing to biological diversity, advancing the well-being of human communities through pollination, seed dispersal, and other ecosystem services, and bringing tremendous enjoyment to the tens of millions of Americans who study, watch, feed, or hunt these birds;

(2) sustainable populations of migratory birds depend on the conservation, protection, restoration, and enhancement of terrestrial, wetland, marine, and other aquatic habitats throughout their ranges in the United States, as well as the rest of North America, the Caribbean, and Central and South America;

(3) birds are good indicators of environmental health and provide early warning of the impacts of environmental change, helping to yield the most out of every dollar invested in conservation;

(4) human and environmental stressors are causing the decline of populations of many migratory bird species, many of them once common, and climate change will exacerbate the impacts of these stressors on migratory bird populations;

(5) the coordination of Federal, State, tribal, and local government natural resource conservation efforts and the formation of partnerships that include a diversity of non-governmental conservation organizations, private landowners, and other relevant stakeholders is necessary to accomplish the conservation of migratory bird populations, their habitats, and the ecosystem functions they rely on;

(6) hunters, through their purchase of Federal migratory bird hunting stamps and State hunting licenses, have long supported the conservation of migratory birds and their habitats in the United States through the various State and Federal programs that are supported by the fees charged for such purchases;

(7) the Department of the Interior, through the United States Fish and Wildlife Service, is authorized under a number of broad statutes to undertake many activities with partners to conserve natural resources, including migratory birds and their habitat;

(8) through these authorities, the Service has created and supported a number of joint ventures with diverse partners to help protect, manage, enhance, and restore migratory bird habitat throughout much of the United States and to conserve migratory bird species;

(9) the North American Waterfowl Management Plan, adopted by the United States and Canada in 1986, with Mexico joining as a signatory in 1994, was the first truly landscape-level approach to conserving migratory game birds and the wetland habitats on which they depend, and became the foundation for the voluntary formation of Joint Ventures;

(10) since the adoption of the North American Waterfowl Management Plan, joint ventures have expanded their application to all native birds and other wildlife species that depend on wetlands and associated upland habitats, resulting in significant conservation benefits over the last 20 years;

(11) States possess broad trustee and management authority over fish and wildlife resources within their borders, and have used their authorities to undertake conservation programs to conserve resident and migratory birds and their habitats;

(12) consistent with applicable Federal and State laws, the Federal Government and the

States each have management responsibilities affecting fish and wildlife resources, and should work cooperatively in fulfilling these responsibilities;

(13) other domestic and international conservation projects authorized under the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.) and the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.), and additional bird conservation projects authorized under other Federal authorities, can expand and increase the effectiveness of the joint ventures in protecting and enhancing migratory bird habitats throughout the different ranges of species native to the United States; and

(14) the voluntary partnerships fostered by these joint ventures have served as innovative models for cooperative and effective landscape conservation, with far-reaching benefits to other fish and wildlife populations, and similar joint ventures should be authorized specifically to reinforce the importance and multiple benefits of these models to encourage adaptive resource management and the implementation of flexible conservation strategies in the 21st century.

(b) **PURPOSE.**—The purpose of this subtitle is to establish a program administered by the Director, in coordination with other Federal agencies with management authority over fish and wildlife resources and the States, to develop, implement, and support innovative, voluntary, cooperative, and effective conservation strategies and conservation actions to—

(1) promote, primarily, sustainable populations of migratory birds, and, secondarily, the fish and wildlife species associated with their habitats;

(2) encourage stakeholder and government partnerships consistent with the goals of protecting, improving, and restoring habitat;

(3) establish, implement, and improve science-based migratory bird conservation plans and promote and facilitate broader landscape-level conservation of fish and wildlife habitat; and

(4) coordinate related conservation activities of the Service and other Federal agencies to maximize the efficient and effective use of funds appropriated or otherwise made available to support projects and activities to enhance bird populations and other populations of fish and wildlife and their habitats.

SEC. 10033. DEFINITIONS.

In this subtitle:

(1) **Conservation action.**—The term “conservation action” means activities that—

(A) support the protection, restoration, adaptive management, conservation, or enhancement of migratory bird populations, their terrestrial, wetland, marine, or other habitats, and other wildlife species supported by those habitats, including—

(i) biological and geospatial planning;

(ii) landscape and conservation design;

(iii) habitat protection, enhancement, and restoration;

(iv) monitoring and tracking;

(v) applied research; and

(vi) public outreach and education;

(B) are conducted on lands or waters that—

(i) are administered for the long-term conservation of such lands or waters and the migratory birds thereon, including the marine environment; or

(ii) are not primarily held or managed for conservation but provide habitat value for migratory birds; and

(C) incorporate adaptive management and science-based monitoring, where applicable,

to improve outcomes and ensure efficient and effective use of Federal funds.

(2) **DIRECTOR.**—The term “Director” means the Director of the United States Fish and Wildlife Service.

(3) **IMPLEMENTATION PLAN.**—The term “Implementation Plan” means an Implementation Plan approved by the Director under section 10035.

(4) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) **JOINT VENTURE.**—The term “Joint Venture” means a self-directed, voluntary partnership, established and conducted in accordance with section 10035.

(6) **MANAGEMENT BOARD.**—The term “Management Board” means a Joint Venture Management Board established in accordance with section 10035.

(7) **MIGRATORY BIRDS.**—The term “migratory birds” means those species included in the list of migratory birds that appears in section 10.13 of title 50, Code of Federal Regulations, under the authority of the Migratory Bird Treaty Act.

(8) **PROGRAM.**—The term “Program” means the Joint Ventures Program conducted in accordance with this subtitle.

(9) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(10) **SERVICE.**—The term “Service” means the United States Fish and Wildlife Service.

(11) **STATE.**—The term “State” means—

(A) any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

(B) one or more agencies of a State government responsible under State law for managing fish or wildlife resources.

SEC. 10034. JOINT VENTURES PROGRAM.

(a) **IN GENERAL.**—The Secretary shall conduct, through the United States Fish and Wildlife Service, a Joint Ventures Program administered by the Director. The Director, through the Program, shall develop an administrative framework for the approval and establishment and implementation of Joint Ventures, that—

(1) provides financial and technical assistance to support regional migratory bird conservation partnerships;

(2) develops and implements plans to protect and enhance migratory bird populations throughout their range, that are focused on regional landscapes and habitats that support those populations;

(3) complements and supports activities by the Secretary and the Director to fulfill obligations under—

(A) the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.);

(B) the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.);

(C) the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.);

(D) the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.);

(E) the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.); and

(F) the Partners for Fish and Wildlife Act (16 U.S.C. 3771 et seq.); and

(4) support the goals and objectives of—

(A) the North American Waterfowl Management Plan;

(B) the United States Shorebird Conservation Plan;

(C) the North American Waterbird Conservation Plan;

(D) the Partners in Flight North American Landbird Conservation Plan; and

(E) other treaties, conventions, agreements, or strategies entered into by the United States and implemented by the Secretary that promote the conservation of migratory bird populations and their habitats.

(b) **GUIDELINES.**—Within 180 days after the date of enactment of this Act the Secretary, through the Director, shall publish in the Federal Register guidelines for the implementation of this subtitle, including regarding requirements for approval of proposed Joint Ventures and administration, oversight, coordination among, and evaluation of approved Joint Ventures.

(c) **COORDINATION WITH STATES.**—In the administration of the program authorized under this section, the Director shall coordinate and cooperate with the States to fulfill the purposes of this subtitle.

SEC. 10035. JOINT VENTURE ESTABLISHMENT AND ADMINISTRATION.

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—The Director, through the Program, may enter into an agreement with eligible partners described in paragraph (2) to establish a Joint Venture to fulfill one or more of the purposes set forth in paragraphs (1) through (3) of section 10032(b).

(2) **ELIGIBLE PARTNERS.**—The eligible partners referred to in paragraph (1) are the following:

(A) Federal and State agencies with jurisdiction over migratory bird resources, their habitats, or that implement program activities that affect migratory bird habitats or the ecosystems they rely on.

(B) Affected regional, local, and tribal governments, private landowners, land managers, and other private stakeholders.

(C) Nongovernmental organizations with expertise in bird conservation or fish and wildlife conservation or natural resource and landscape management generally.

(D) Other relevant stakeholders.

(b) **MANAGEMENT BOARD.**—

(1) **IN GENERAL.**—An agreement under this section for a Joint Venture shall establish a Management Board in accordance with this subsection.

(2) **MEMBERSHIP.**—The Management Board shall include a diversity of members representing stakeholder interests from the appropriate geographic region, including, as appropriate, representatives from the Service and other Federal agencies that have management authority over fish and wildlife resources on public lands or in the marine environment, or that implement programs that affect migratory bird habitats, and representatives from the States, and may include—

(A) regional governments and Indian tribes;

(B) academia or the scientific community;

(C) nongovernmental landowners or land managers;

(D) nonprofit conservation or other relevant organizations with expertise in migratory bird conservation, or in fish and wildlife conservation generally; and

(E) private organizations with a dedicated interest in conserving migratory birds and their habitats.

(3) **FUNCTIONS AND RESPONSIBILITIES.**—

(A) **ORGANIZATION AND OPERATIONS PLAN.**—A Management Board, in accordance with the guidelines published by the Director under section 10034 and in coordination with the Director, shall develop, publish, and comply with a plan that specifies the organizational structure of the Joint Venture and prescribes its operational practices and procedures.

(B) **ADMINISTRATION.**—Subject to applicable Federal and State law, the Management

Board shall manage the personnel and operations of the Joint Venture, including—

(i) by appointing a coordinator for the Joint Venture in consultation with the Director, to manage the daily and long-term operations of the Joint Venture;

(ii) approval of other full- or part-time administrative and technical non-Federal employees as the Management Board determines necessary to perform the functions of the Joint Venture, meet objectives specified in the Implementation Plan, and fulfill the purpose of this subtitle; and

(iii) establishment of committees, steering groups, focus groups, geographic or taxonomic groups, or other organizational entities to assist in implementing the relevant Implementation Plan.

(4) **USE OF SERVICE AND FEDERAL AGENCY EMPLOYEES.**—Subject to the availability of appropriations and upon the request from a Management Board, and after consultation with and approval of the Director, the head of any Federal agency may detail to the Management Board, on a reimbursable or nonreimbursable basis, any agency personnel to assist the Joint Venture in performing its functions under this subtitle.

(c) **IMPLEMENTATION PLAN.**—

(1) **SUBMISSION OF PLAN TO DIRECTOR.**—Before the Director enters into an agreement to establish a Joint Venture under subsection (a), the Management Board for the Joint Venture shall submit to the Director a proposed Implementation Plan that shall contain, at a minimum, the following elements:

(A) A strategic framework for migratory bird conservation that includes biological planning; conservation design; habitat restoration, protection, and enhancement; applied research; and monitoring and evaluation activities.

(B) Provisions for effective communication among member participants within the Joint Venture.

(C) A long-term strategy to conduct public outreach and education regarding the purposes and activities of the Joint Venture and activities to regularly communicate to the general public information generated by the Joint Venture.

(D) Coordination with laws and conservation plans referred to in section 10034(a)(3) and (4) that are relevant to migratory birds, and other relevant regional, national, or international initiatives identified by the Director to conserve migratory birds, their habitats, ecological functions, and associated populations of fish and wildlife.

(E) An organizational plan that—

(i) identifies the initial membership of the Management Board and establishes procedures for updating the membership of the Management Board as appropriate;

(ii) describes the organizational structure of the Joint Venture, including proposed committees and subcommittees, and procedures for revising and updating the structure, as necessary; and

(iii) provides a strategy to increase stakeholder participation or membership in the Joint Venture.

(F) Procedures to coordinate the development, implementation, oversight, monitoring, tracking, and reporting of conservation actions approved by the Management Board and an evaluation process to determine overall effectiveness of activities undertaken by the Joint Venture.

(G) A strategy to encourage the contribution of non-Federal financial resources, donations, gifts and in-kind contributions to support the objectives of the Joint Venture and fulfillment of the Implementation Plan.

(2) **REVIEW.**—The Director shall—

(A) coordinate the review of a proposed Implementation Plan submitted under this section; and

(B) ensure that such plan is circulated for review for a period not to exceed 90 days, to—

(i) bureaus within the Service and other appropriate bureaus or agencies within the Department of the Interior;

(ii) appropriate regional migratory bird Flyway Councils;

(iii) national and international boards that oversee bird conservation initiatives under the plans specified in section 10034(a)(4);

(iv) relevant State agencies, regional governmental entities, and Indian tribes;

(v) nongovernmental conservation organizations, academic institutions, or other stakeholders engaged in existing Joint Ventures that have knowledge or expertise of the geographic or ecological scope of the Joint Venture; and

(vi) other relevant stakeholders considered necessary by the Director to ensure a comprehensive review of the proposed Implementation Plan.

(3) **APPROVAL.**—The Director shall approve an Implementation Plan submitted by the Management Board for a Joint Venture if the Director finds that—

(A) the plan provides for implementation of conservation actions to conserve waterfowl and other native migratory birds and their habitats and ecosystems either—

(i) in a specific geographic area of the United States; or

(ii) across the range of a specific species or similar group of like species;

(B) the members of the Joint Venture—

(i) accept the responsibility for implementation of national or international bird conservation plans in the region of the United States to which the plan applies; and

(ii) have demonstrated to the satisfaction of the Director the capacity to implement conservation actions identified in the plan, including (I) the design, funding, monitoring, and tracking of conservation projects that advance the objectives of the Joint Venture; and (II) reporting and conduct of public outreach regarding such projects; and

(C) the plan maximizes, to the extent practicable, coordination with other relevant and active conservation plans or programs within the geographic scope of the Joint Venture to conserve, protect, recover, or restore migratory bird habitats and other fish and wildlife habitat within the operating region of the Joint Venture.

SEC. 10036. GRANTS AND OTHER ASSISTANCE.

(a) **IN GENERAL.**—Except as provided in subsection (b), and subject to the availability of appropriations, the Director may award grants of financial assistance to implement a Joint Venture through—

(1) support of the activities of the Management Board of the Joint Venture and to pay for necessary administrative costs and services, personnel, and meetings, travel, and other business activities; and

(2) support for specific conservation actions and other activities necessary to carry out the Implementation Plan.

(b) **LIMITATION.**—A Joint Venture is not eligible for assistance or support authorized in this section unless the Joint Venture is operating under an Implementation Plan approved by the Director under section 10035.

(c) **CONSERVATION ACTION GRANT CRITERIA.**—The Secretary, through the Director, within 180 days after date of enactment of this Act and after consultation with representatives from Management Boards and

equivalent entities of joint ventures referred to in section 10038, shall publish guidelines for determining funding allocations among joint ventures and priorities for funding among conservation action proposals to meet the purpose of this subtitle and respective Implementation Plans.

(d) **MATCHING REQUIREMENTS.**—If a Management Board determines that two or more proposed conservation actions are of equal value toward fulfillment of the relevant Implementation Plan, priority shall be given to the action or actions for which there exist non-Federal matching contributions that are equal to or exceed the amount of Federal funds available for such action or actions.

(e) **TECHNICAL ASSISTANCE.**—The Secretary, through the Director, may provide technical and administrative assistance for implementation of Joint Ventures and the expenditure of financial assistance under this subsection.

(f) **ACCEPTANCE AND USE OF DONATIONS.**—The Secretary, through the Director, may accept and use donations of funds, gifts, and in-kind contributions to provide assistance under this section.

SEC. 10037. REPORTING REQUIREMENTS.

(a) **ANNUAL REPORTS BY MANAGEMENT BOARDS.**—

(1) **IN GENERAL.**—The Secretary, acting through the Director, shall—

(A) require each Management Board to submit annual reports for all approved Joint Ventures of the Management Board; and

(B) publish within 180 days after the date of enactment of this Act guidelines to implement this subsection.

(2) **CONTENTS.**—Each annual report shall include—

(A) a description and justification of all conservation actions approved and implemented by the Management Board during the period covered by the report;

(B) when appropriate based upon the goals and objectives of an Implementation Plan, an estimate of the total number of acres of migratory bird habitat either restored, protected, or enhanced as a result of such conservation actions;

(C) the amounts and sources of Federal and non-Federal funding for such conservation actions;

(D) the amounts and sources of funds expended for administrative and other expenses of the Joint Venture of the Management Board, including all donations, gifts, and in-kind contributions provided for the Joint Venture;

(E) the status of progress made in achieving the strategic framework of the Implementation Plan of such Joint Venture and fulfillment of the purpose of this subtitle; and

(F) other elements considered necessary by the Director to insure transparency and accountability by Management Boards in the implementation of its responsibilities under this subtitle.

(b) **JOINT VENTURE PROGRAM 5-YEAR REVIEWS.**—

(1) **IN GENERAL.**—The Secretary, acting through the Director, shall at 5 years after the date of enactment of this Act and at 5-year intervals thereafter, complete an objective and comprehensive review and evaluation of the Program.

(2) **REVIEW CONTENTS.**—Each review under this subsection shall include—

(A) an evaluation of the effectiveness of the Program in meeting the purpose of this subtitle specified in section 10032(b);

(B) an evaluation of all approved Implementation Plans, especially the effectiveness of existing conservation strategies, priorities, and methods to meet the objectives of

such plans and fulfill the purpose of this subtitle; and

(C) recommendations to revise the Program or to amend or otherwise revise Implementation Plans to ensure that activities undertaken pursuant to this subtitle address the effects of climate change on migratory bird populations and their habitats, and fish and wildlife habitats, in general.

(3) **CONSULTATION.**—The Secretary, acting through the Director, in the implementation of this subsection—

(A) shall consult with other appropriate Federal agencies with responsibility for the conservation or management of fish and wildlife habitat and appropriate State agencies; and

(B) may consult with appropriate, Indian tribes, Flyway Councils, or regional conservation organizations, public and private landowners, members of academia and the scientific community, and other nonprofit conservation or private stakeholders.

(4) **PUBLIC COMMENT.**—The Secretary, through the Director, shall provide for adequate opportunities for general public review and comment of the Program as part of the 5-year evaluations conducted pursuant to this subsection.

SEC. 10038. TREATMENT OF EXISTING JOINT VENTURES.

For purposes of this subtitle, the Director—

(1) shall treat as a Joint Venture any joint venture recognized by the Director before the date of the enactment of this Act in accordance with the United States Fish and Wildlife Services manual (721FW6); and

(2) shall treat as an Implementation Plan an implementation plan adopted by the management board for such joint venture.

SEC. 10039. RELATIONSHIP TO OTHER AUTHORITIES.

(a) **AUTHORITIES, ETC. OF SECRETARY.**—Nothing in this subtitle affects authorities, responsibilities, obligations, or powers of the Secretary under any other Act.

(b) **STATE AUTHORITY.**—Nothing in this Act preempts any provision or enforcement of a State statute or regulation relating to the management of fish and wildlife resources within such State.

SEC. 10040. FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any boards, committees, or other groups established under this subtitle.

Subtitle E—Crane Conservation

SEC. 10041. SHORT TITLE.

This subtitle may be cited as the “Crane Conservation Act of 2010”.

SEC. 10042. PURPOSES.

The purposes of this subtitle are—

(1) to perpetuate healthy populations of cranes;

(2) to assist in the conservation and protection of cranes by supporting—

(A) conservation programs in countries in which endangered and threatened cranes occur; and

(B) the efforts of private organizations committed to helping cranes; and

(3) to provide financial resources for those programs and efforts.

SEC. 10043. DEFINITIONS.

In this subtitle:

(1) **CONSERVATION.**—

(A) **IN GENERAL.**—The term “conservation” means the use of any method or procedure to improve the viability of crane populations and the quality of the ecosystems and habitats on which the crane populations depend to help the species achieve sufficient popu-

lations in the wild to ensure the long-term viability of the species.

(B) **INCLUSIONS.**—The term “conservation” includes the carrying out of any activity associated with scientific resource management, such as—

(i) protection, restoration, and management of habitat;

(ii) research and monitoring of known populations;

(iii) the provision of assistance in the development of management plans for managed crane ranges;

(iv) enforcement of the Convention;

(v) law enforcement and habitat protection through community participation;

(vi) reintroduction of cranes to the wild;

(vii) conflict resolution initiatives; and

(viii) community outreach and education.

(2) **CONVENTION.**—The term “Convention” has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

(3) **FUND.**—The term “Fund” means the Crane Conservation Fund established by section 10045(a).

(4) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

SEC. 10044. CRANE CONSERVATION ASSISTANCE.

(a) **IN GENERAL.**—Subject to the availability of appropriations and in consultation with other appropriate Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects relating to the conservation of cranes for which project proposals are approved by the Secretary in accordance with this section.

(b) **PROJECT PROPOSALS.**—

(1) **APPLICANTS.**—

(A) **IN GENERAL.**—An applicant described in subparagraph (B) that seeks to receive assistance under this section to carry out a project relating to the conservation of cranes shall submit to the Secretary a project proposal that meets the requirements of this section.

(B) **ELIGIBLE APPLICANTS.**—An applicant described in this subparagraph is—

(i) any relevant wildlife management authority of a country that—

(I) is located within the African, Asian, European, or North American range of a species of crane; and

(II) carries out one or more activities that directly or indirectly affect crane populations;

(ii) the Secretariat of the Convention; and

(iii) any person or organization with demonstrated expertise in the conservation of cranes.

(2) **REQUIRED ELEMENTS.**—A project proposal submitted under paragraph (1)(A) shall include—

(A) a concise statement of the purpose of the project;

(B)(i) the name of each individual responsible for conducting the project; and

(ii) a description of the qualifications of each of those individuals;

(C) a concise description of—

(i) methods to be used to implement and assess the outcome of the project;

(ii) staff and community management for the project; and

(iii) the logistics of the project;

(D) an estimate of the funds and the period of time required to complete the project;

(E) evidence of support for the project by appropriate government entities of countries in which the project will be conducted, if the Secretary determines that such support is required to ensure the success of the project;

(F) information regarding the source and amount of matching funding available for the project; and

(G) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project to receive assistance under this subtitle.

(c) **PROJECT REVIEW AND APPROVAL.**—

(1) **IN GENERAL.**—The Secretary shall—

(A) not later than 30 days after receiving a final project proposal, provide a copy of the proposal to other appropriate Federal officials; and

(B) review each project proposal in a timely manner to determine whether the proposal meets the criteria described in subsection (d).

(2) **CONSULTATION; APPROVAL OR DISAPPROVAL.**—Not later than 180 days after receiving a project proposal, and subject to the availability of appropriations, the Secretary, after consulting with other appropriate Federal officials, shall—

(A) consult on the proposal with the government of each country in which the project is to be carried out;

(B) after taking into consideration any comments resulting from the consultation, approve or disapprove the proposal; and

(C) provide written notification of the approval or disapproval to—

(i) the applicant that submitted the proposal;

(ii) other appropriate Federal officials; and

(iii) each country described in subparagraph (A).

(d) **CRITERIA FOR APPROVAL.**—The Secretary may approve a project proposal under this section if the Secretary determines that the proposed project will enhance programs for conservation of cranes by assisting efforts to—

(1) implement conservation programs;

(2) address the conflicts between humans and cranes that arise from competition for the same habitat or resources;

(3) enhance compliance with the Convention and other applicable laws that—

(A) prohibit or regulate the taking or trade of cranes; or

(B) regulate the use and management of crane habitat;

(4) develop sound scientific information on, or methods for monitoring—

(A) the condition of crane habitat;

(B) crane population numbers and trends;

or

(C) the current and projected threats to crane habitat and population numbers and trends;

(5) promote cooperative projects on the issues described in paragraph (4) among—

(A) governmental entities;

(B) affected local communities;

(C) nongovernmental organizations; or

(D) other persons in the private sector;

(6) carry out necessary scientific research on cranes;

(7) provide relevant training to, or support technical exchanges involving, staff responsible for managing cranes or habitats of cranes, to enhance capacity for effective conservation; or

(8) reintroduce cranes successfully back into the wild, including propagation of a sufficient number of cranes required for this purpose.

(e) **PROJECT SUSTAINABILITY; MATCHING FUNDS.**—To the maximum extent practicable, in determining whether to approve a project proposal under this section, the Secretary shall give preference to a proposed project—

(1) that is designed to ensure effective, long-term conservation of cranes and habitats of cranes; or

(2) for which matching funds are available.

(f) PROJECT REPORTING.—

(1) IN GENERAL.—Each person that receives assistance under this section for a project shall submit to the Secretary, at such periodic intervals as are determined by the Secretary, reports that include all information that the Secretary, after consulting with other appropriate government officials, determines to be necessary to evaluate the progress and success of the project for the purposes of—

- (A) ensuring positive results;
- (B) assessing problems; and
- (C) fostering improvements.

(2) AVAILABILITY TO THE PUBLIC.—Each report submitted under paragraph (1), and any other documents relating to a project for which financial assistance is provided under this subtitle, shall be made available to the public.

SEC. 10045. CRANE CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund established by the matter under the heading “MULTINATIONAL SPECIES CONSERVATION FUND” in title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (112 Stat. 2681-237; 16 U.S.C. 4246) a separate account to be known as the “Crane Conservation Fund”, consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (c); and

(2) amounts appropriated to the Fund under section 10047.

(b) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), upon request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to provide assistance under section 10044.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts in the Fund available for each fiscal year, the Secretary may expend not more than 3 percent, or \$150,000, whichever is greater, to pay the administrative expenses necessary to carry out this subtitle.

(3) LIMITATION.—Not more than 20 percent of the amounts made available from the Fund for any fiscal year may be used for projects relating to the conservation of North American crane species.

(c) ACCEPTANCE AND USE OF DONATIONS.—

(1) IN GENERAL.—The Secretary may accept and use donations to provide assistance under section 10044.

(2) TRANSFER OF DONATIONS.—Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit in the Fund.

SEC. 10046. ADVISORY GROUP.

(a) IN GENERAL.—To assist in carrying out this subtitle, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of cranes.

(b) PUBLIC PARTICIPATION.—

(1) MEETINGS.—The advisory group shall—

- (A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 10047. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund \$3,000,000 for each of fiscal years 2012 through 2016, to remain available until expended.

(b) OFFSET.—Of amounts appropriated to, and available at the discretion of, the Secretary for programmatic and administrative expenditures, a total of \$25,000,000 shall be used to establish the Fund.

Subtitle F—Great Cats and Rare Canids Conservation**SEC. 10051. SHORT TITLE.**

This subtitle may be cited as the “Great Cats and Rare Canids Act of 2010”.

SEC. 10052. PURPOSES.

The purposes of this subtitle are to provide financial resources and to foster international cooperation—

(1) to restore and perpetuate healthy populations of rare felids and rare canids in the wild; and

(2) to assist in the conservation of rare felid and rare canid populations worldwide.

SEC. 10053. DEFINITIONS.

In this subtitle:

(1) CITES.—The term “CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington March 3, 1973 (27 UST 1087; TIAS 8249), including appendices to that convention.

(2) CONSERVATION.—

(A) IN GENERAL.—The term “conservation” means the methods and procedures necessary to bring a species of rare felid or rare canid to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species.

(B) INCLUSIONS.—The term “conservation” includes all activities associated with protection and management of a rare felid or rare canid population, including—

(i) maintenance, management, protection, and restoration of rare felid or rare canid habitat;

(ii) research and monitoring;

(iii) law enforcement;

(iv) community outreach and education;

(v) conflict resolution initiatives; and

(vi) strengthening the capacity of local communities, governmental agencies, non-governmental organizations, and other institutions to implement conservation programs.

(3) FUND.—The term “Fund” means the Great Cats and Rare Canids Conservation Fund established by section 10054(a).

(4) IUCN RED LIST.—The term “IUCN Red List” means the Red List of Threatened Species Maintained by the World Conservation Union.

(5) RARE CANID.—

(A) IN GENERAL.—The term “rare canid” means any of the canid species dhole (*Cuon alpinus*), gray wolf (*Canis lupus*), Ethiopian wolf (*Canis simensis*), bush dog (*Speothos venaticus*), African wild dog (*Lycyaon pictus*), maned wolf (*Chrysocyon brachyurus*), and Darwin's fox (*Pseudalopex fulvipes*) (including any subspecies or population of such a species).

(B) EXCLUSIONS.—The term “rare canid” does not include any subspecies or population that is native to the area comprised of the United States and Canada or the European Union.

(6) RARE FELID.—

(A) IN GENERAL.—The term “rare felid” means any of the felid species lion (*Panthera leo*), leopard (*Panthera pardus*), jaguar (*Panthera onca*), snow leopard (*Uncia uncia*), clouded leopard (*Neofelis nebulosa*), cheetah (*Acinonyx jubatus*), Iberian lynx (*Lynx pardinus*), and Borneo bay cat (*Catopuma badia*) (including any subspecies or population of such a species).

(B) EXCLUSIONS.—The term “rare felid” does not include—

(i) any species, subspecies, or population that is native to the United States; or

(ii) any tiger (*Panthera tigris*).

(7) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 10054. GREAT CATS AND RARE CANIDS CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the multinational species conservation fund established under the heading “MULTINATIONAL SPECIES CONSERVATION FUND” of title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 4246), a separate account to be known as the “Great Cats and Rare Canids Conservation Fund”, consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit in the account under subsection (c); and

(2) amounts appropriated to the account under section 10057.

(b) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines to be necessary to provide assistance under section 10055.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts in the Fund available for each fiscal year, the Secretary may use to pay the administrative expenses of carrying out this subtitle not more than the greater of—

(A) 3 percent; and

(B) \$100,000.

(c) ACCEPTANCE AND USE OF DONATIONS.—

(1) IN GENERAL.—The Secretary may—

(A) accept and use donations to provide assistance under section 10055; and

(B) publish on the Internet website and in publications of the Department of the Interior a notice that the Secretary is authorized to accept and use such donations.

(2) USE.—Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit in the Fund.

SEC. 10055. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Subject to the availability of funds and in consultation with other appropriate Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects for the conservation of rare felid and rare canids for which project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSALS.—

(1) ELIGIBLE APPLICANTS.—A proposal for a project for the conservation of rare felid and canids may be submitted to the Secretary by—

(A) any wildlife management authority of a country that has within its boundaries any part of the range of a rare felid or rare canid species, respectively; and

(B) any person or group with the demonstrated expertise required for conservation in the wild of rare felids or rare canids, respectively.

(2) PROJECT PROPOSALS.—To be eligible for financial assistance for a project under this subtitle, an applicant shall submit to the Secretary a project proposal that includes—

(A) a concise statement of the purposes of the project;

(B) the name of the individual responsible for conducting the project;

(C) a description of the qualifications of the individuals who will conduct the project;

(D) a concise description of—

(i) methods for project implementation and outcome assessment;

(ii) staffing for the project;

(iii) the logistics of the project; and

(iv) community involvement in the project;

(E) an estimate of funds and time required to complete the project;

(F) evidence of support for the project by appropriate governmental entities of the countries in which the project will be conducted, if the Secretary determines that such support is required for the success of the project;

(G) information regarding the source and amount of matching funding available for the project; and

(H) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this subtitle.

(c) **PROJECT REVIEW AND APPROVAL.**—

(1) **IN GENERAL.**—The Secretary shall—

(A) not later than 30 days after receiving a project proposal, provide a copy of the proposal to the appropriate Federal officials; and

(B) review each project proposal in a timely manner to determine whether the proposal meets the criteria specified in subsection (d).

(2) **CONSULTATION; APPROVAL OR DISAPPROVAL.**—Not later than 180 days after receiving a project proposal, and subject to the availability of funds, the Secretary, after consulting with other appropriate Federal officials, shall—

(A) ensure the proposal contains assurances that the project will be implemented in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project;

(B) approve or disapprove the proposal; and

(C) provide written notification of the approval or disapproval to—

(i) the individual or entity that submitted the proposal;

(ii) other appropriate Federal officials; and

(iii) each country within the borders of which the project will take place.

(d) **CRITERIA FOR APPROVAL.**—The Secretary may approve a project proposal under this section if the project will contribute to conservation of rare felids or rare canids in the wild by assisting efforts—

(1) to implement conservation programs;

(2) to address the conflicts between humans and rare felids or rare canids, respectively, that arise from competition for the same habitat or resources;

(3) to enhance compliance with CITES, the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable laws that—

(A) prohibit or regulate the taking or trade of rare felids and rare canids; or

(B) regulate the use and management of rare felid and rare canid habitat;

(4) to develop sound scientific information on, or methods for monitoring—

(A) the condition and health of rare felid or rare canid habitat;

(B) rare felid or rare canid population numbers and trends; and

(C) the ecological characteristics and requirements of populations of rare felids or rare canids for which there are little or no data;

(5) to promote cooperative projects among government entities, affected local communities, nongovernmental organizations, and other persons in the private sector; or

(6) to ensure that funds will not be appropriated for the purchase or lease of land to be used as suitable habitat for felids or canids.

(e) **PROJECT SUSTAINABILITY.**—In approving project proposals under this section, the Secretary shall give preference to conservation projects that are designed to ensure effective, long-term conservation of rare felids and rare canids and their habitats.

(f) **MATCHING FUNDS.**—In determining whether to approve project proposals under this section, the Secretary shall give preference to projects any portion of the costs of which will be provided with matching funds.

(g) **PROJECT REPORTING.**—

(1) **IN GENERAL.**—Each individual or entity that receives assistance under this section for a project shall submit to the Secretary periodic reports (at such intervals as the Secretary considers necessary) that include all information that the Secretary, after consultation with other appropriate government officials, determines to be necessary to evaluate the progress and success of the project for the purposes of ensuring positive results, assessing problems, and fostering improvements.

(2) **AVAILABILITY TO PUBLIC.**—Reports under paragraph (1), and any other documents relating to projects for which financial assistance is provided under this subtitle, shall be made available to the public.

(h) **LIMITATIONS.**—

(1) **USE FOR CAPTIVE BREEDING OR DISPLAY.**—Amounts provided as a grant under this subtitle—

(A) may not be used for captive breeding or display of rare felids and rare canids, other than captive breeding for release into the wild; and

(B) may be used for captive breeding of a species for release into the wild only if no other conservation method for the species is biologically feasible.

(2) **INELIGIBLE COUNTRIES.**—Amounts provided as a grant under this subtitle may not be expended on any project in a country the government of which has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State pursuant to—

(A) section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)) (or any successor to that Act);

(B) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)); or

(C) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)).

(i) **ADVISORY GROUP.**—

(1) **IN GENERAL.**—To assist in carrying out this subtitle, the Secretary may establish an advisory group, consisting of individuals representing public and private organizations actively involved in the conservation of felids and canids.

(2) **PUBLIC PARTICIPATION.**—

(A) **MEETINGS.**—The advisory group shall—

(i) ensure that each meeting of the advisory group is open to the public; and

(ii) provide, at each meeting, an opportunity for interested individuals to present oral or written statements concerning items on the agenda.

(B) **NOTICE.**—The Secretary shall provide to the public timely notice of each meeting of the advisory group, including the meeting agenda.

(C) **MINUTES.**—The minutes of each meeting of the advisory group shall be—

(i) kept by the Secretary; and

(ii) made available to the public.

(3) **NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 10056. STUDY OF CONSERVATION STATUS OF FELID AND CANID SPECIES.

(a) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate a study of felid and canid species listed under the IUCN Red List that are not rare canids or rare felids, respectively, to determine—

(1) the conservation status of each such species in the wild, including identification of any such species that are critically endangered or endangered; and

(2) whether any such species that should be made eligible for assistance under this subtitle.

(b) **REPORT.**—Not later than 2 years after date of enactment of this Act, the Secretary shall submit to Congress a report describing the determinations made in the study, including recommendations of additional felid species and canid species that should be made eligible for assistance under this subtitle.

SEC. 10057. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Fund, \$3,000,000 for each of fiscal years 2012 through 2016 to carry out this subtitle, other than section 10056; and

(2) such sums as are necessary to carry out section 10056.

Subtitle G—Junior Duck Stamp Conservation and Design Program

SEC. 10061. SHORT TITLE.

This subtitle may be cited as the “Junior Duck Stamp Conservation and Design Program Reauthorization Act of 2010”.

SEC. 10062. FINDINGS.

Congress finds the following:

(1) In 2007–2008, sales of the \$5 Junior Duck Stamp generated more than \$100,000 in revenue, all of which was used to provide educational materials for the program, fund scholarships for students, and support and promote the program’s goal of connecting children with nature.

(2) Now in its 20th year, the Junior Duck Stamp Conservation and Design Program is one of this country’s oldest and most successful government-sponsored, youth-focused conservation biology programs. The program continues to build strong partnerships with public and parochial schools, homeschoolers and after-school programs, and other youth-focused education programs throughout the country.

(3) The Junior Duck Stamp Conservation and Design Program continues to foster strong partnerships among Federal and State government agencies, nongovernmental organizations, the business community, and others in the private sector to promote youth conservation initiatives.

(4) With its conservation-focused science and arts curriculum, the Junior Duck Stamp Conservation and Design Program has helped prepare hundreds of thousands of students to become stewards of America’s irreplaceable wild places and treasured outdoor heritage.

SEC. 10063. REPORTING REQUIREMENT.

Section 2(c)(2) of the Junior Duck Stamp Conservation and Design Program Act of 1994 (16 U.S.C. 719(c)(2)) is amended to read as follows:

“(2) **REPORTING REQUIREMENT.**—Beginning in 2011 and every 5 years thereafter, the Secretary shall submit to Congress a report on the status of the Program in each State.”.

SEC. 10064. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Junior Duck Stamp Conservation and Design Program Act of 1994 (16 U.S.C. 719c) is amended to read as follows:

“SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to the Secretary for administrative expenses of the Program \$500,000 for each of fiscal years 2012 through 2016.”.

Subtitle H—Additional Conservation Funding**SEC. 10071. GREAT APE CONSERVATION ACT OF 2000.**

(a) **MULTIYEAR GRANTS.**—Section 4 of the Great Ape Conservation Act of 2000 (16 U.S.C. 6303) is amended—

(1) in subsection (i)—

(A) by striking paragraph (1) and inserting the following:

“(1) **ESTABLISHMENT.**—

“(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of the America’s Great Outdoors Act of 2010, and every 5 years thereafter, the Secretary shall convene a panel of experts to identify the greatest needs and priorities for the conservation of great apes.

“(B) **INCLUSIONS.**—The panel shall include, to the maximum extent practicable, representatives from foreign range states with expertise in great ape conservation.”.

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following:

“(2) **FACTORS FOR CONSIDERATION.**—In identifying conservation needs and priorities under paragraph (1), the panel shall consider relevant great ape conservation plans or strategies, including scientific research and findings relating to—

“(A) the conservation needs and priorities of great apes;

“(B) regional or species-specific action plans or strategies;

“(C) applicable strategies developed or initiated by the Secretary; and

“(D) any other applicable conservation plan or strategy.

“(3) **EXPENSES.**—The Secretary, subject to the availability of appropriations, may pay expenses of convening and facilitating meetings of the panel.”; and

(2) by adding at the end the following:

“(j) **MULTIYEAR GRANTS.**—

“(1) **IN GENERAL.**—The Secretary may award a multiyear grant under this section to an individual or entity that is otherwise eligible for a grant under this section, to carry out a project that the individual or entity demonstrates is an effective, long-term conservation strategy for great apes and the habitats of great apes.

“(2) **ANNUAL GRANTS NOT AFFECTED.**—Nothing in this subsection precludes the Secretary from awarding grants on an annual basis.

“(k) **EXCELLENCE IN GREAT APE CONSERVATION AWARDS.**—

“(1) **IN GENERAL.**—The Secretary, subject to the availability of appropriations, may implement a program to acknowledge outstanding achievement in great ape conservation—

“(A) to enhance great ape conservation; and

“(B) to demonstrate the indebtedness of the entire world to the commitment made by individuals and local communities to protect and conserve populations of great apes.

“(2) **AWARDS.**—In carrying out the program under this subsection, the Secretary may use amounts appropriated under this subsection to make appropriate awards, including—

“(A) cash awards, each of which shall not exceed \$7,500;

“(B) noncash awards;

“(C) posthumous awards; and

“(D) public ceremonies to acknowledge such awards.

“(3) **SELECTION OF AWARD RECIPIENTS.**—The Secretary may select each year for receipt of an award under the program—

“(A) not more than 3 individuals whose contributions to the field of great ape conservation have had a significant and material impact on the conservation of great apes; and

“(B) individuals selected from within great ape range states, whose contributions represent selfless sacrifice and uncommon valor and dedication to the conservation of great apes and the habitats of great apes.

“(4) **NOMINATION GUIDELINES.**—

“(A) **IN GENERAL.**—Not later than 180 days after the date of enactment of this subsection, and after consultation with the heads of other relevant Federal agencies and other governmental and nongovernmental organizations with expertise in great ape conservation, the Secretary shall publish in the Federal Register guidelines specifying the details and process for nominating award candidates.

“(B) **REQUIREMENT.**—The guidelines under subparagraph (A) shall allow for nominations of citizens and noncitizens of the United States.”.

(b) **ADMINISTRATIVE EXPENSES LIMITATION.**—Section 5(b)(2) of the Great Ape Conservation Act of 2000 (16 U.S.C. 6304 (b)(2)) is amended by striking “\$100,000” and inserting “\$150,000”.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—Section 6 of the Great Ape Conservation Act of 2000 (16 U.S.C. 6305) is amended by striking “\$5,000,000 for each of fiscal years 2006 through 2010” and inserting “\$4,000,000 for each of fiscal years 2012 through 2016”.

SEC. 10072. AFRICAN ELEPHANT CONSERVATION ACT.

Section 2306(a) of the African Elephant Conservation Act (16 U.S.C. 4245(a)) is amended by striking “\$5,000,000 for each of fiscal years 2007 through 2012” and inserting “\$4,000,000 for each of fiscal years 2012 through 2016”.

SEC. 10073. ASIAN ELEPHANT CONSERVATION ACT OF 1997.

Section 8(a) of the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4266(a)) is amended by striking “\$5,000,000 for each of fiscal years 2007 through 2012” and inserting “\$4,000,000 for each of fiscal years 2012 through 2016”.

SEC. 10074. RHINOCEROS AND TIGER CONSERVATION ACT OF 1994.

Section 10(a) of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306(a)) is amended by striking “\$10,000,000 for each of fiscal years 2007 through 2012” and inserting “\$8,000,000 for each of fiscal years 2012 through 2016”.

TITLE CI—INVASIVE SPECIES CONTROL**SEC. 10101. SHORT TITLE.**

This title may be cited as the “Nutria Eradication and Control Act Amendments of 2010”.

SEC. 10102. FINDINGS; PURPOSE.

Section 2 of the Nutria Eradication and Control Act of 2003 (Public Law 108–16; 117 Stat. 621) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “and in Louisiana” and inserting “, the State of Louisiana, and the coastal States”; and

(B) in paragraph (2), by striking “in Maryland and Louisiana on Federal, State, and

private land” and inserting “on Federal, State, and private land in the States of Maryland and Louisiana and the coastal States”; and

(C) by striking paragraphs (3) and (4) and inserting the following:

“(3) This Act authorized the Maryland Nutria Project, which has successfully eradicated nutria from more than 130,000 acres of Chesapeake Bay wetland in the State of Maryland and successfully facilitated the creation of voluntary, public-private partnerships and more than 406 cooperative land-owner agreements.

“(4) This Act and the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.) authorized the Coastwide Nutria Control Program, which has reduced nutria-impacted wetland acres in the State of Louisiana from 80,000 acres to 23,141 acres.

“(5) Proven techniques developed under this Act that are eradicating nutria from the State of Maryland and are reducing the acres of nutria-impacted wetland in Louisiana, should be applied to nutria eradication or control programs in the coastal States.”; and

(2) by striking subsection (b) and inserting the following:

“(b) **PURPOSE.**—The purpose of this Act is to authorize the Secretary of the Interior to provide financial assistance to the States of Delaware, Louisiana, Maryland, North Carolina, Oregon, Virginia, and Washington to carry out activities—

“(1) to eradicate or control nutria; and

“(2) to restore nutria-damaged wetland.”.

SEC. 10103. DEFINITIONS.

The Nutria Eradication and Control Act of 2003 (Public Law 108–16; 117 Stat. 621) is amended—

(1) by redesignating sections 3 and 4 as sections 4 and 5, respectively; and

(2) by inserting after section 2 the following:

“SEC. 3. DEFINITIONS.

“In this Act:

“(1) **COASTAL STATE.**—The term ‘coastal State’ means each of the States of Delaware, North Carolina, Oregon, Virginia, and Washington.

“(2) **PROGRAM.**—The term ‘program’ means the nutria eradication program established under section 4(a).

“(3) **PUBLIC-PRIVATE PARTNERSHIP.**—The term ‘public-private partnership’ means a voluntary, cooperative project undertaken by governmental entities or public officials and affected communities, local citizens, nongovernmental organizations, or other entities or individuals in the private sector.

“(4) **SECRETARY.**—The term ‘Secretary’ means the Secretary of the Interior.”.

SEC. 10104. NUTRIA ERADICATION PROGRAM.

Section 4 of the Nutria Eradication and Control Act of 2003 (Public Law 108–16; 117 Stat. 621, 622) (as redesignated by section 10103) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **IN GENERAL.**—Subject to the availability of appropriations, the Secretary may provide financial assistance to the States of Maryland and Louisiana and the coastal States to implement measures—

“(1) to eradicate or control nutria; and

“(2) to restore wetland damaged by nutria.”;

(2) in subsection (b)—

(A) in paragraph (2), by striking “other States” and inserting “the coastal States”; and

(B) in paragraph (3), by striking “marshland” and inserting “wetland”;

(3) in subsection (c)—

“(C) ACTIVITIES.—” and inserting “ACTIVITIES IN THE STATE OF MARYLAND.—”; and

(B) by striking “March 2002” and inserting “March 2002, and updated March 2009”;

(4) in subsection (e), by striking “this section” and inserting “the program”; and

(5) by striking subsection (f) and inserting the following:

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2012 through 2016—

“(1) \$4,000,000 for use in providing financial assistance under the program to each of the States of Maryland and Louisiana; and

“(2) \$5,000,000 for use in providing financial assistance under the program to the other coastal States.”.

SEC. 10105. REPORT.

Section 5 of the Nutria Eradication and Control Act of 2003 (Public Law 108-16; 117 Stat. 622) (as redesignated by section 10103) is amended—

(1) in paragraph (1)—

(A) by striking “2002 document” and inserting “March 2009 update of the document”;

(B) by inserting “and dated March 2002” before the semicolon at the end; and

(C) by striking “and” at the end;

(2) in paragraph (2)—

(A) by striking “develop” and inserting “continue”; and

(B) by striking the period at the end and inserting “; and”; and

(3) by inserting after paragraph (2) the following:

“(3) develop, in cooperation with the appropriate State fish and wildlife agency, long-term nutria control or eradication programs, as appropriate, with the objectives of—

“(A) significantly reducing and restoring the damage nutria cause to coastal wetland in the coastal States; and

“(B) promoting voluntary, public-private partnerships to eradicate or control nutria and restore nutria-damaged wetland in the coastal States.”.

TITLE CII—WATER RESOURCE RESTORATION AND PROTECTION

Subtitle A—Gulf of Mexico Restoration and Protection

SEC. 10201. SHORT TITLE.

This subtitle may be cited as the “Gulf of Mexico Restoration and Protection Act”.

SEC. 10202. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Gulf of Mexico is a valuable resource of national and international importance, continuously serving the people of the United States and other countries as an important source of food, economic productivity, recreation, beauty, and enjoyment;

(2) over many years, the resource productivity and water quality of the Gulf of Mexico and the watershed of the Gulf have been diminished by point and nonpoint source pollution;

(3) the United States should seek to attain the protection and restoration of the Gulf of Mexico ecosystem as a collaborative regional goal of the Gulf of Mexico Program; and

(4) the Administrator of the Environmental Protection Agency, in consultation with other Federal agencies and State and local authorities, should coordinate the effort to meet those goals.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to expand and strengthen cooperative voluntary efforts to restore and protect the Gulf of Mexico;

(2) to expand Federal support for monitoring, management, and restoration activities in the Gulf of Mexico and the watershed of the Gulf;

(3) to commit the United States to a comprehensive cooperative program to achieve improved water quality in, and improvements in the productivity of living resources of, the Gulf of Mexico; and

(4) to establish a Gulf of Mexico Program to serve as a national and international model for the collaborative management of large marine ecosystems.

SEC. 10203. GULF OF MEXICO RESTORATION AND PROTECTION.

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

“SEC. 123. GULF OF MEXICO RESTORATION AND PROTECTION.

“(a) DEFINITIONS.—In this section;

“(1) GULF OF MEXICO ECOSYSTEM.—The term ‘Gulf of Mexico ecosystem’ means the ecosystem of the Gulf of Mexico and the watershed of the Gulf.

“(2) GULF OF MEXICO EXECUTIVE COUNCIL.—The term ‘Gulf of Mexico Executive Council’ means the formal collaborative Executive Council composed of Federal, State, local, and private participants in the Program.

“(3) NEEDS-BASED APPLICANT.—The term ‘needs-based applicant’ means a public entity that meets the economic and affordability criteria established by the Administrator, in consultation with the Program and Gulf of Mexico Executive Council.

“(4) PROGRAM.—The term ‘Program’ means the Gulf of Mexico Program established by the Administrator in 1988 as a nonregulatory, inclusive partnership to provide a broad geographic focus on the primary environmental issues affecting the Gulf of Mexico.

“(5) PROGRAM OFFICE.—The term ‘Program Office’ means the office established by the Administrator to administer the Program that is reestablished by subsection (b)(1)(A).

“(b) CONTINUATION OF GULF OF MEXICO PROGRAM.—

“(1) GULF OF MEXICO PROGRAM OFFICE.—

“(A) REESTABLISHMENT.—The Program Office established before the date of enactment of this section by the Administrator is reestablished as an office of the Environmental Protection Agency.

“(B) REQUIREMENTS.—The Program Office shall be—

“(i) headed by a Director who, by reason of management experience and technical expertise relating to the Gulf of Mexico, is highly qualified to direct the development of plans and programs on a variety of Gulf of Mexico issues, as determined by the Administrator; and

“(ii) located in a State all or a portion of the coastline of which is on the Gulf of Mexico.

“(C) FUNCTIONS.—The Program Office shall—

“(i) coordinate the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies—

“(I) to improve the water quality and living resources in the Gulf of Mexico ecosystem; and

“(II) to obtain the support of appropriate officials;

“(ii) in cooperation with appropriate Federal, State, and local authorities, assist in

developing and implementing specific action plans to carry out the Program;

“(iii) coordinate and implement priority State-led and community-led restoration plans and projects, and facilitate science, research, modeling, monitoring, data collection, and other activities that support the Program through the provision of grants under subsection (d);

“(iv) implement outreach programs for public information, education, and participation to foster stewardship of the resources of the Gulf of Mexico ecosystem;

“(v) develop and make available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Gulf of Mexico ecosystem;

“(vi) serve as the liaison with, and provide information to, the Mexican members of the Gulf of Mexico States Accord and Mexican counterparts of the Environmental Protection Agency; and

“(vii) focus the efforts and resources of the Program Office on activities that will result in measurable improvements to water quality and living resources of the Gulf of Mexico ecosystem.

“(c) INTERAGENCY AGREEMENTS.—The Administrator may enter into 1 or more interagency agreements with other Federal agencies to carry out this section.

“(d) GRANTS.—

“(1) IN GENERAL.—In carrying out the Program, the Administrator, acting through the Program Office, may provide grants to non-profit organizations, State and local governments, institutions of higher education, interstate agencies, and individuals to carry out this section for use in—

“(A) monitoring the water quality and living resources of the Gulf of Mexico ecosystem;

“(B) researching the effects of natural and human-induced environmental changes on the water quality and living resources of the Gulf of Mexico ecosystem;

“(C) developing and executing cooperative strategies that address the water quality and living resource needs in the Gulf of Mexico ecosystem;

“(D) developing and implementing locally based protection and restoration programs or projects within a watershed that complement those strategies, including the creation, restoration, protection, or enhancement of habitat associated with the Gulf of Mexico ecosystem; and

“(E) eliminating or reducing nonpoint sources that discharge pollutants that contaminate the Gulf of Mexico ecosystem, including activities to eliminate leaking septic systems and construct connections to local sewage systems.

“(2) FEDERAL SHARE.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal share of the cost of any project or activity carried out using a grant provided under this section shall not exceed 75 percent, as determined by the Administrator.

“(B) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of a project or activity carried out under this section may include the value of any in-kind services contributed by a non-Federal sponsor.

“(C) EXCEPTION.—For each fiscal year, the Administrator may use up to 10 percent of the funds made available to carry out this subsection for the fiscal year to increase the Federal share of the cost of a project or activity carried out by a needs-based applicant under this section up to 100 percent.

“(e) REPORTS.—

“(1) ANNUAL REPORT.—Not later than December 30, 2011, and annually thereafter, the Director of the Program Office shall submit to the Administrator and make available to the public a report that describes—

“(A) each project and activity funded under this section during the previous fiscal year;

“(B) the goals and objectives of those projects and activities; and

“(C) the net benefits of projects and activities funded under this section during previous fiscal years.

“(2) ASSESSMENT.—

“(A) IN GENERAL.—Not later than April 30, 2011, and every 5 years thereafter, the Administrator, in coordination with the Gulf of Mexico Executive Council, shall complete an assessment, and submit to Congress a comprehensive report on the performance, of the Program.

“(B) REQUIREMENTS.—The assessment and report described in subparagraph (A) shall—

“(i) assess the overall state of the Gulf of Mexico ecosystem;

“(ii) compare the current state of the Gulf of Mexico ecosystem with a baseline assessment;

“(iii) include specific measures to assess any improvements in water quality and living resources of the Gulf of Mexico ecosystem;

“(iv) assess the effectiveness of the Program management strategies being implemented, and the extent to which the priority needs of the region are being met through that implementation; and

“(v) make recommendations for the improved management of the Program, including strengthening strategies being implemented or adopting improved strategies.

“(f) BUDGET ITEM.—The Administrator, in the annual submission to Congress of the budget of the Environmental Protection Agency, shall include a funding line item request for the Program Office as a separate budget line item.

“(g) LIMITATION ON REGULATORY AUTHORITY.—Nothing in this section establishes any new legal or regulatory authority of the Administrator other than the authority to provide grants in accordance with this section.

“(h) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out subsection (d), to remain available until expended—

“(A) \$6,000,000 for fiscal year 2012;

“(B) \$8,000,000 for each of fiscal years 2013 and 2014; and

“(C) \$10,000,000 for each of fiscal years 2015 and 2016.

“(2) PROGRAM OFFICE.—There is authorized to be appropriated to the Program Office for use in paying operating costs (including costs relating to personnel, operations, and administration) not more than \$3,000,000 for each of fiscal years 2012 through 2016.”

Subtitle B—Lake Tahoe Restoration

SEC. 10211. SHORT TITLE.

This subtitle may be cited as the “Lake Tahoe Restoration Act of 2010”.

SEC. 10212. FINDINGS AND PURPOSES.

The Lake Tahoe Restoration Act (Public Law 106-506; 114 Stat. 2351) is amended by striking section 2 and inserting the following:

“SEC. 2. FINDINGS AND PURPOSES.

“(a) FINDINGS.—Congress finds that—

“(1) Lake Tahoe—

“(A) is 1 of the largest, deepest, and clearest lakes in the world;

“(B) has a cobalt blue color, a biologically diverse alpine setting, and remarkable water clarity; and

“(C) is recognized nationally and worldwide as a natural resource of special significance;

“(2) in addition to being a scenic and ecological treasure, the Lake Tahoe Basin is 1 of the outstanding recreational resources of the United States, which—

“(A) offers skiing, water sports, biking, camping, and hiking to millions of visitors each year; and

“(B) contributes significantly to the economies of California, Nevada, and the United States;

“(3) the economy in the Lake Tahoe Basin is dependent on the protection and restoration of the natural beauty and recreation opportunities in the area;

“(4) the Lake Tahoe Basin continues to be threatened by the impacts of land use and transportation patterns developed in the last century that damage the fragile watershed of the Basin;

“(5) the water clarity of Lake Tahoe declined from a visibility level of 105 feet in 1967 to only 70 feet in 2008;

“(6) the rate of decline in water clarity of Lake Tahoe has decreased in recent years;

“(7) a stable water clarity level for Lake Tahoe could be achieved through feasible control measures for very fine sediment particles and nutrients;

“(8) fine sediments that cloud Lake Tahoe, and key nutrients such as phosphorus and nitrogen that support the growth of algae and invasive plants, continue to flow into the lake from stormwater runoff from developed areas, roads, turf, other disturbed land, and streams;

“(9) the destruction and alteration of wetland, wet meadows, and stream zone habitat have compromised the natural capacity of the watershed to filter sediment, nutrients, and pollutants before reaching Lake Tahoe;

“(10) approximately 25 percent of the trees in the Lake Tahoe Basin are either dead or dying;

“(11) forests in the Tahoe Basin suffer from over a century of fire suppression and periodic drought, which have resulted in—

“(A) high tree density and mortality;

“(B) the loss of biological diversity; and

“(C) a large quantity of combustible forest fuels, which significantly increases the threat of catastrophic fire and insect infestation;

“(12) the establishment of several aquatic and terrestrial invasive species (including bass, milfoil, and Asian clam) threatens the ecosystem of the Lake Tahoe Basin;

“(13) there is an ongoing threat to the Lake Tahoe Basin of the introduction and establishment of other invasive species (such as the zebra mussel, New Zealand mud snail, and quagga mussel);

“(14) the report prepared by the University of California, Davis, entitled the ‘State of the Lake Report’, found that conditions in the Lake Tahoe Basin had changed, including—

“(A) the average surface water temperature of Lake Tahoe has risen by more than 1.5 degrees Fahrenheit in the past 37 years; and

“(B) since 1910, the percent of precipitation that has fallen as snow in the Lake Tahoe Basin decreased from 52 percent to 34 percent;

“(15) 75 percent of the land in the Lake Tahoe Basin is owned by the Federal Government, which makes it a Federal responsibility to restore environmental health to the Basin;

“(16) the Federal Government has a long history of environmental preservation at Lake Tahoe, including—

“(A) congressional consent to the establishment of the Tahoe Regional Planning Agency with—

“(i) the enactment in 1969 of Public Law 91-148 (83 Stat. 360); and

“(ii) the enactment in 1980 of Public Law 96-551 (94 Stat. 3233);

“(B) the establishment of the Lake Tahoe Basin Management Unit in 1973;

“(C) the enactment of Public Law 96-586 (94 Stat. 3381) in 1980 to provide for the acquisition of environmentally sensitive land and erosion control grants in the Lake Tahoe Basin;

“(D) the enactment of sections 341 and 342 of the Department of the Interior and Related Agencies Appropriations Act, 2004 (Public Law 108-108; 117 Stat. 1317), which amended the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2346) to provide payments for the environmental restoration projects under this Act; and

“(E) the enactment of section 382 of the Tax Relief and Health Care Act of 2006 (Public Law 109-432; 120 Stat. 3045), which amended the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2346) to authorize development and implementation of a comprehensive 10-year hazardous fuels and fire prevention plan for the Lake Tahoe Basin;

“(17) the Assistant Secretary of the Army for Civil Works was an original signatory in 1997 to the Agreement of Federal Departments on Protection of the Environment and Economic Health of the Lake Tahoe Basin;

“(18) the Chief of Engineers, under direction from the Assistant Secretary of the Army for Civil Works, has continued to be a significant contributor to Lake Tahoe Basin restoration, including—

“(A) stream and wetland restoration;

“(B) urban stormwater conveyance and treatment; and

“(C) programmatic technical assistance;

“(19) at the Lake Tahoe Presidential Forum in 1997, the President renewed the commitment of the Federal Government to Lake Tahoe by—

“(A) committing to increased Federal resources for environmental restoration at Lake Tahoe; and

“(B) establishing the Federal Interagency Partnership and Federal Advisory Committee to consult on natural resources issues concerning the Lake Tahoe Basin;

“(20) at the 2008 and 2009 Lake Tahoe Forums, Senator Reid, Senator Feinstein, Senator Ensign, and Governor Gibbons—

“(A) renewed their commitment to Lake Tahoe; and

“(B) expressed their desire to fund the Federal share of the Environmental Improvement Program through 2018;

“(21) since 1997, the Federal Government, the States of California and Nevada, units of local government, and the private sector have contributed more than \$1,430,000,000 to the Lake Tahoe Basin, including—

“(A) \$424,000,000 from the Federal Government;

“(B) \$612,000,000 from the State of California;

“(C) \$87,000,000 from the State of Nevada;

“(D) \$59,000,000 from units of local government; and

“(E) \$249,000,000 from private interests;

“(22) significant additional investment from Federal, State, local, and private sources is necessary—

“(A) to restore and sustain the environmental health of the Lake Tahoe Basin;

“(B) to adapt to the impacts of changing climatic conditions; and

“(C) to protect the Lake Tahoe Basin from the introduction and establishment of invasive species; and

“(23) the Secretary has indicated that the Lake Tahoe Basin Management Unit has the capacity for at least \$10,000,000 and up to \$20,000,000 annually for the Fire Risk Reduction and Forest Management Program.

“(b) PURPOSES.—The purposes of this Act are—

“(1) to enable the Chief of the Forest Service, the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency, in cooperation with the Planning Agency and the States of California and Nevada, to fund, plan, and implement significant new environmental restoration activities and forest management activities to address in the Lake Tahoe Basin the issues described in paragraphs (4) through (14) of subsection (a);

“(2) to ensure that Federal, State, local, regional, tribal, and private entities continue to work together to manage land in the Lake Tahoe Basin and to coordinate on other activities in a manner that supports achievement and maintenance of—

“(A) the environmental threshold carrying capacities for the region; and

“(B) other applicable environmental standards and objectives;

“(3) to support local governments in efforts related to environmental restoration, stormwater pollution control, fire risk reduction, and forest management activities; and

“(4) to ensure that agency and science community representatives in the Lake Tahoe Basin work together—

“(A) to develop and implement a plan for integrated monitoring, assessment, and applied research to evaluate the effectiveness of the Environmental Improvement Program; and

“(B) to provide objective information as a basis for ongoing decisionmaking, with an emphasis on decisionmaking relating to public and private land use and resource management in the Basin.”.

SEC. 10213. DEFINITIONS.

The Lake Tahoe Restoration Act (Public Law 106-506; 114 Stat. 2351) is amended by striking section 3 and inserting the following:

“SEC. 3. DEFINITIONS.

“In this Act:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) ASSISTANT SECRETARY.—The term ‘Assistant Secretary’ means the Assistant Secretary of the Army for Civil Works.

“(3) CHAIR.—The term ‘Chair’ means the Chair of the Federal Partnership.

“(4) COMPACT.—The term ‘Compact’ means the Tahoe Regional Planning Compact included in the first section of Public Law 96-551 (94 Stat. 3233).

“(5) DIRECTOR.—The term ‘Director’ means the Director of the United States Fish and Wildlife Service.

“(6) ENVIRONMENTAL IMPROVEMENT PROGRAM.—The term ‘Environmental Improvement Program’ means—

“(A) the Environmental Improvement Program adopted by the Planning Agency; and

“(B) any amendments to the Program.

“(7) ENVIRONMENTAL THRESHOLD CARRYING CAPACITY.—The term ‘environmental threshold carrying capacity’ has the meaning given the term in article II of the compact.

“(8) FEDERAL PARTNERSHIP.—The term ‘Federal Partnership’ means the Lake Tahoe Federal Interagency Partnership established

by Executive Order 13957 (62 Fed. Reg. 41249) (or a successor Executive order).

“(9) FOREST MANAGEMENT ACTIVITY.—The term ‘forest management activity’ includes—

“(A) prescribed burning for ecosystem health and hazardous fuels reduction;

“(B) mechanical and minimum tool treatment;

“(C) road decommissioning or reconstruction;

“(D) stream environment zone restoration and other watershed and wildlife habitat enhancements;

“(E) nonnative invasive species management; and

“(F) other activities consistent with Forest Service practices, as the Secretary determines to be appropriate.

“(10) NATIONAL WILDLAND FIRE CODE.—The term ‘national wildland fire code’ means—

“(A) the most recent publication of the National Fire Protection Association code numbered 1141, 1142, or 1144;

“(B) the most recent publication of the International Wildland-Urban Interface Code of the International Code Council; or

“(C) any other code that the Secretary determines provides the same, or better, standards for protection against wildland fire as a code described in subparagraph (A) or (B).

“(11) PLANNING AGENCY.—The term ‘Planning Agency’ means the Tahoe Regional Planning Agency established under Public Law 91-148 (83 Stat. 360) and Public Law 96-551 (94 Stat. 3233).

“(12) PRIORITY LIST.—The term ‘Priority List’ means the environmental restoration priority list developed under section 8.

“(13) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Chief of the Forest Service.

“(14) TOTAL MAXIMUM DAILY LOAD.—The term ‘total maximum daily load’ means the total maximum daily load allocations adopted under section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d)).

“(15) STREAM ENVIRONMENT ZONE.—The term ‘Stream Environment Zone’ means an area that generally owes the biological and physical characteristics of the area to the presence of surface water or groundwater.

“(16) WATERCRAFT.—The term ‘watercraft’ means all motorized and non-motorized watercraft, including boats, personal watercraft, kayaks, and canoes.”.

SEC. 10214. ADMINISTRATION OF THE LAKE TAHOE BASIN MANAGEMENT UNIT.

Section 4 of the Lake Tahoe Restoration Act (Public Law 106-506; 114 Stat. 2353) is amended—

(1) in subsection (b)(3), by striking “basin” and inserting “Basin”; and

(2) by adding at the end the following:

“(c) TRANSIT.—

“(1) IN GENERAL.—The Lake Tahoe Basin Management Unit shall, consistent with the regional transportation plan adopted by the Planning Agency, manage vehicular parking and traffic in the Lake Tahoe Basin Management Unit, with priority given—

“(A) to improving public access to the Lake Tahoe Basin, including the prioritization of alternatives to the private automobile, consistent with the requirements of the Compact;

“(B) to coordinating with the Nevada Department of Transportation, Caltrans, State parks, and other entities along Nevada Highway 28 and California Highway 89; and

“(C) to providing support and assistance to local public transit systems in the management and operations of activities under this subsection.

“(2) NATIONAL FOREST TRANSIT PROGRAM.—Consistent with the support and assistance provided under paragraph (1)(C), the Secretary, in consultation with the Secretary of Transportation, may enter into a contract, cooperative agreement, interagency agreement, or other agreement with the Department of Transportation to secure operating and capital funds from the National Forest Transit Program.

“(d) FOREST MANAGEMENT ACTIVITIES.—

“(1) COORDINATION.—

“(A) IN GENERAL.—In conducting forest management activities in the Lake Tahoe Basin Management Unit, the Secretary shall, as appropriate, coordinate with the Administrator and State and local agencies and organizations, including local fire departments and volunteer groups.

“(B) GOALS.—The coordination of activities under subparagraph (A) should aim to increase efficiencies and maximize the compatibility of management practices across public property boundaries.

“(2) MULTIPLE BENEFITS.—

“(A) IN GENERAL.—In conducting forest management activities in the Lake Tahoe Basin Management Unit, the Secretary shall conduct the activities in a manner that—

“(i) except as provided in subparagraph (B), attains multiple ecosystem benefits, including—

“(I) reducing forest fuels;

“(II) maintaining or restoring biological diversity;

“(III) improving wetland and water quality, including in Stream Environment Zones; and

“(IV) increasing resilience to changing climatic conditions; and

“(ii) helps achieve and maintain the environmental threshold carrying capacities established by the Planning Agency.

“(B) EXCEPTION.—Notwithstanding subparagraph (A)(i), the attainment of multiple ecosystem benefits shall not be required if the Secretary determines that management for multiple ecosystem benefits would excessively increase the cost of a project in relation to the additional ecosystem benefits gained from the management activity.

“(3) GROUND DISTURBANCE.—Consistent with applicable Federal law and Lake Tahoe Basin Management Unit land and resource management plan direction, the Secretary shall—

“(A) establish post-project ground condition criteria for ground disturbance caused by forest management activities; and

“(B) provide for monitoring to ascertain the attainment of the post-project conditions.

“(e) WITHDRAWAL OF FEDERAL LAND.—

“(1) IN GENERAL.—Subject to valid existing rights and paragraph (2), the Federal land located in the Lake Tahoe Basin Management Unit is withdrawn from—

“(A) all forms of entry, appropriation, or disposal under the public land laws;

“(B) location, entry, and patent under the mining laws; and

“(C) disposition under all laws relating to mineral and geothermal leasing.

“(2) DETERMINATION.—

“(A) IN GENERAL.—The withdrawal under paragraph (1) shall be in effect until the date on which the Secretary, after conducting a review of all Federal land in the Lake Tahoe Basin Management Unit and receiving public input, has made a determination on which parcels of Federal land should remain withdrawn.

“(B) REQUIREMENTS.—The determination of the Secretary under subparagraph (A)—

“(i) shall be effective beginning on the date on which the determination is issued;

“(ii) may be altered by the Secretary as the Secretary determines to be necessary; and

“(iii) shall not be subject to administrative renewal.

“(f) ENVIRONMENTAL THRESHOLD CARRYING CAPACITY.—The Lake Tahoe Basin Management Unit shall support the attainment of the environmental threshold carrying capacities.

“(g) COOPERATIVE AUTHORITIES.—

“(1) IN GENERAL.—During the 4 fiscal years following the date of enactment of the Lake Tahoe Restoration Act of 2010, the Secretary, in conjunction with land adjustment projects or programs, may enter into contracts and cooperative agreements with States, units of local government, and other public and private entities to provide for fuel reduction, erosion control, reforestation, Stream Environment Zone restoration, and similar management activities on Federal land and non-Federal land within the projects or programs.

“(2) REPORT ON LAND STATUS.—

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Lake Tahoe Restoration Act of 2010, the Secretary shall submit to Congress a report regarding the management of land in the Lake Tahoe Basin Management Unit Urban Lots Program, including—

“(i) a description of future plans and recent actions for land consolidation and adjustment; and

“(ii) the identification of any obstacles to desired conveyances or interchanges.

“(B) INCLUSIONS.—The report submitted under subparagraph (A) may contain recommendations for additional legislative authority.

“(C) EFFECT.—Nothing in this paragraph delays the conveyance of parcels under—

“(i) the authority of this Act; or

“(ii) any other authority available to the Secretary.

“(3) SUPPLEMENTAL AUTHORITY.—The authority of this subsection is supplemental to all other cooperative authorities of the Secretary.”.

SEC. 10215. CONSULTATION.

The Lake Tahoe Restoration Act (Public Law 106-506; 114 Stat. 2351) is amended by striking section 5 and inserting the following:

“SEC. 5. CONSULTATION.

“In carrying out this Act, the Secretary, the Administrator, and the Director shall, as appropriate and in a timely manner, consult with the heads of the Washoe Tribe, applicable Federal, State, regional, and local governmental agencies, and the Lake Tahoe Federal Advisory Committee.”.

SEC. 10216. AUTHORIZED PROJECTS.

The Lake Tahoe Restoration Act (Public Law 106-506; 114 Stat. 2351) is amended by striking section 6 and inserting the following:

“SEC. 6. AUTHORIZED PROJECTS.

“(a) IN GENERAL.—The Secretary, the Director, and the Administrator, in coordination with the Planning Agency and the States of California and Nevada, may carry out or provide financial assistance to any project or program described in subsection (c) or included in the Priority List under section 8 to further the purposes of the Environmental Improvement Program if the project has been subject to environmental review and approval, respectively, as required under Federal law, article 7 of the Compact, and

State law, as applicable. The Administrator shall use no more than three percent of the funds provided for administering the projects or programs described in subsection (c)(1) and (2).

“(b) MONITORING AND ASSESSMENT.—All projects authorized under subsection (c) and section 8 shall—

“(1) include funds for monitoring and assessment of the results and effectiveness at the project and program level consistent with the program developed under section 11; and

“(2) use the integrated multiagency performance measures established under that section.

“(c) DESCRIPTION OF ACTIVITIES.—

“(1) STORMWATER MANAGEMENT, EROSION CONTROL, AND TOTAL MAXIMUM DAILY LOAD IMPLEMENTATION.—Of the amounts made available under section 18(a), \$40,000,000 shall be made available for grants by the Administrator for the Federal share of the following projects:

“(A) Bijou Stormwater Improvement Project in the City of South Lake Tahoe, California.

“(B) Christmas Valley Stormwater Improvement Project in El Dorado County, California.

“(C) Kings Beach Watershed Improvement Project in Placer County, California.

“(D) Lake Forest Stormwater and Watershed Improvement Project in Placer County, California.

“(E) Crystal Bay Stormwater Improvement Project in Washoe County, Nevada.

“(F) Washoe County Stormwater Improvement Projects 4, 5, and 6 in Washoe County, Nevada.

“(G) Upper and Lower Kingsbury Project in Douglas County, Nevada.

“(H) Lake Village Drive-Phase II Stormwater Improvement in Douglas County, Nevada.

“(I) State Route 28 Spooner to Sand Harbor Stormwater Improvement, Washoe County, Nevada.

“(J) State Route 431 Stormwater Improvement, Washoe County, Nevada.

“(2) STREAM ENVIRONMENT ZONE AND WATERSHED RESTORATION.—Of the amounts made available under section 18(a), \$32,000,000 shall be made available for grants by the Administrator for the Federal share of the following projects:

“(A) Upper Truckee River and Marsh Restoration Project.

“(B) Upper Truckee River Mosher, Reaches 1 & 2.

“(C) Upper Truckee River Sunset Stables.

“(D) Lower Blackwood Creek Restoration Project.

“(E) Ward Creek.

“(F) Third Creek/Incline Creek Watershed Restoration.

“(G) Rosewood Creek Restoration Project.

“(3) FIRE RISK REDUCTION AND FOREST MANAGEMENT.—

“(A) IN GENERAL.—Of the amounts made available under section 18(a), \$136,000,000 shall be made available for assistance by the Secretary for the following projects:

“(i) Projects identified as part of the Lake Tahoe Basin Multi-Jurisdictional Fuel Reduction and Wildfire Prevention Strategy 10-Year Plan.

“(ii) Competitive grants for fuels work to be awarded by the Secretary to communities that have adopted national wildland fire codes to implement the applicable portion of the 10-year plan described in clause (i).

“(iii) Biomass projects, including feasibility assessments and transportation of materials.

“(iv) Angora Fire Restoration projects under the jurisdiction of the Secretary.

“(v) Washoe Tribe projects on tribal lands within the Lake Tahoe Basin.

“(B) MULTIPLE BENEFIT FUELS PROJECTS.—Consistent with the requirements of section 4(d)(2), not more than \$10,000,000 of the amounts made available to carry out subparagraph (A) shall be available to the Secretary for the planning and implementation of multiple benefit fuels projects with an emphasis on restoration projects in Stream Environment Zones.

“(C) MINIMUM ALLOCATION.—Of the amounts made available to carry out subparagraph (A), at least \$80,000,000 shall be made available to the Secretary for projects under subparagraph (A)(i).

“(D) PRIORITY.—Units of local government that have dedicated funding for inspections and enforcement of defensible space regulations shall be given priority for amounts provided under this paragraph.

“(E) COST-SHARING REQUIREMENTS.—As a condition on the receipt of funds, communities or local fire districts that receive funds under this paragraph shall provide a 25 percent match.

“(4) INVASIVE SPECIES MANAGEMENT.—Of the amounts to be made available under section 18(a), \$20,500,000 shall be made available to the Director for the Aquatic Invasive Species Program and the watercraft inspections described in section 9.

“(5) SPECIAL STATUS SPECIES MANAGEMENT.—Of the amounts to be made available under section 18(a), \$20,000,000 shall be made available to the Director for the Lahontan Cutthroat Trout Recovery Program.

“(6) LAKE TAHOE BASIN PROGRAM.—Of the amounts to be made available under section 18(a), \$30,000,000 shall be used to develop and implement the Lake Tahoe Basin Program developed under section 11.

“(d) USE OF REMAINING FUNDS.—Any amounts made available under section 18(a) that remain available after projects described in subsection (c) have been funded shall be made available for projects included in the Priority List under section 8.”.

SEC. 10217. ENVIRONMENTAL RESTORATION PRIORITY LIST.

The Lake Tahoe Restoration Act (Public Law 106-506; 114 Stat. 2351) is amended—

(1) by striking sections 8 and 9;

(2) by redesignating sections 10, 11, and 12 as sections 16, 17, and 18, respectively; and

(3) by inserting after section 7 the following:

“SEC. 8. ENVIRONMENTAL RESTORATION PRIORITY LIST.

“(a) FUNDING.—Subject to section 6(d), of the amounts to be made available under section 18(a), at least \$136,000,000 shall be made available for projects identified on the Priority List.

“(b) DEADLINE.—Not later than February 15 of the year after the date of enactment of the Lake Tahoe Restoration Act of 2010, the Chair, in consultation with the Secretary, the Administrator, the Director, the Planning Agency, the States of California and Nevada, the Federal Partnership, the Washoe Tribe, the Lake Tahoe Federal Advisory Committee, and the Tahoe Science Consortium shall submit to Congress a prioritized list of all Environmental Improvement Program projects for the Lake Tahoe Basin, regardless of program category.

“(c) CRITERIA.—

“(1) IN GENERAL.—The priority of projects included in the Priority List shall be based on the best available science and the following criteria:

“(A) The 5-year threshold carrying capacity evaluation.

“(B) The ability to measure progress or success of the project.

“(C) The potential to significantly contribute to the achievement and maintenance of the environmental threshold carrying capacities identified in the Compact for—

“(i) air quality;

“(ii) fisheries;

“(iii) noise;

“(iv) recreation;

“(v) scenic resources;

“(vi) soil conservation;

“(vii) forest health;

“(viii) water quality; and

“(ix) wildlife.

“(D) The ability of a project to provide multiple benefits.

“(E) The ability of a project to leverage non-Federal contributions.

“(F) Stakeholder support for the project.

“(G) The justification of Federal interest.

“(H) Agency priority.

“(I) Agency capacity.

“(J) Cost-effectiveness.

“(K) Federal funding history.

“(2) SECONDARY FACTORS.—In addition to the criteria under paragraph (1), the Chair shall, as the Chair determines to be appropriate, give preference to projects in the Priority List that benefit existing neighborhoods in the Basin that are at or below regional median income levels, based on the most recent census data available.

“(3) EROSION CONTROL PROJECTS.—For purposes of the Priority List and section 6(c)(1), erosion control projects shall be considered part of the stormwater management and total maximum daily load program of the Environmental Improvement Program. The Administrator shall coordinate with the Secretary on such projects.

“(d) REVISIONS.—

“(1) IN GENERAL.—The Priority List submitted under subsection (b) shall be revised—

“(A) every 4 years; or

“(B) on a finding of compelling need under paragraph (2).

“(2) FINDING OF COMPELLING NEED.—

“(A) IN GENERAL.—If the Secretary, the Administrator, or the Director makes a finding of compelling need justifying a priority shift and the finding is approved by the Secretary, the Executive Director of the Planning Agency, the California Natural Resources Secretary, and the Director of the Nevada Department of Conservation, the Priority List shall be revised in accordance with this subsection.

“(B) INCLUSIONS.—A finding of compelling need includes—

“(i) major scientific findings;

“(ii) results from the threshold evaluation of the Planning Agency;

“(iii) emerging environmental threats; and

“(iv) rare opportunities for land acquisition.

“SEC. 9. AQUATIC INVASIVE SPECIES PREVENTION.

“(a) IN GENERAL.—Not later than 60 days after the date of enactment of the Lake Tahoe Restoration Act of 2010, the Director, in coordination with the Planning Agency, the California Department of Fish and Game, and the Nevada Department of Wildlife, shall deploy strategies that meet or exceed the criteria described in subsection (b) for preventing the introduction of aquatic invasive species into the Lake Tahoe Basin.

“(b) CRITERIA.—The strategies referred to in subsection (a) shall provide that—

“(1) combined inspection and decontamination stations be established and operated at

not less than 2 locations in the Lake Tahoe Basin;

“(2) watercraft not be allowed to launch in waters of the Lake Tahoe Basin if the watercraft—

“(A) has been in waters infested by quagga or zebra mussels;

“(B) shows evidence of invasive species that the Director has determined would be detrimental to the Lake Tahoe ecosystem; or

“(C) cannot be reliably decontaminated in accordance with paragraph (3);

“(3) subject to paragraph (4), all watercraft surfaces and appurtenance (such as anchors and fenders) that contact with water shall be reliably decontaminated, based on standards developed by the Director using the best available science;

“(4) watercraft bearing positive verification of having last launched within the Lake Tahoe Basin may be exempted from decontamination under paragraph (3); and

“(5) while in the Lake Tahoe Basin, all watercraft maintain documentation of compliance with the strategies deployed under this section.

“(c) CERTIFICATION.—The Director may certify State agencies to perform the decontamination activities described in subsection (b)(3) at locations outside the Lake Tahoe Basin if standards at the sites meet or exceed standards for similar sites in the Lake Tahoe Basin established under this section.

“(d) APPLICABILITY.—The strategies and criteria developed under this section shall apply to all watercraft to be launched on water within the Lake Tahoe Basin.

“(e) FEES.—The Director may collect and spend fees for decontamination only at a level sufficient to cover the costs of operation of inspection and decontamination stations under this section.

“(f) CIVIL PENALTIES.—

“(1) IN GENERAL.—Any person that launches, attempts to launch, or facilitates launching of watercraft not in compliance with strategies deployed under this section shall be liable for a civil penalty in an amount not to exceed \$1,000 per violation.

“(2) OTHER AUTHORITIES.—Any penalties assessed under this subsection shall be separate from penalties assessed under any other authority.

“(g) LIMITATION.—The strategies and criteria under subsections (a) and (b), respectively, may be modified if the Secretary of the Interior, in a nondelegable capacity and in consultation with the Planning Agency and State governments, issues a determination that alternative measures will be no less effective at preventing introduction of aquatic invasive species into Lake Tahoe than the strategies and criteria.

“(h) FUNDING.—Of the amounts made available under section 6(c)(4), not more than \$500,000 shall be made available to the Director, in coordination with the Planning Agency and State governments—

“(1) to evaluate the feasibility, cost, and potential effectiveness of further efforts that could be undertaken by the Federal Government, State and local governments, or private entities to guard against introduction of aquatic invasive species into Lake Tahoe, including the potential establishment of inspection and decontamination stations on major transitways entering the Lake Tahoe Basin; and

“(2) to evaluate and identify options for ensuring that all waters connected to Lake Tahoe are protected from quagga and zebra mussels and other aquatic invasive species.

“(i) SUPPLEMENTAL AUTHORITY.—The authority under this section is supplemental to

all actions taken by non-Federal regulatory authorities.

“(j) SAVINGS CLAUSE.—Nothing in this title shall be construed as restricting, affecting, or amending any other law or the authority of any department, instrumentality, or agency of the United States, or any State or political subdivision thereof, respecting the control of invasive species.

“SEC. 10. ARMY CORPS OF ENGINEERS; INTER-AGENCY AGREEMENTS.

“(a) IN GENERAL.—The Assistant Secretary may enter into interagency agreements with non-Federal interests in the Lake Tahoe Basin to use Lake Tahoe Partnership-Miscellaneous General Investigations funds to provide programmatic technical assistance for the Environmental Improvement Program.

“(b) LOCAL COOPERATION AGREEMENTS.—

“(1) IN GENERAL.—Before providing technical assistance under this section, the Assistant Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for the technical assistance.

“(2) COMPONENTS.—The agreement entered into under paragraph (1) shall—

“(A) describe the nature of the technical assistance;

“(B) describe any legal and institutional structures necessary to ensure the effective long-term viability of the end products by the non-Federal interest; and

“(C) include cost-sharing provisions in accordance with paragraph (3).

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of project costs under each local cooperation agreement under this subsection shall be 65 percent.

“(B) FORM.—The Federal share may be in the form of reimbursements of project costs.

“(C) CREDIT.—The non-Federal interest may receive credit toward the non-Federal share for the reasonable costs of related technical activities completed by the non-Federal interest before entering into a local cooperation agreement with the Assistant Secretary under this subsection.

“SEC. 11. LAKE TAHOE BASIN PROGRAM.

“The Administrator, in cooperation with the Secretary, the Planning Agency, the States of California and Nevada, and the Tahoe Science Consortium, shall develop and implement the Lake Tahoe Basin Program that—

“(1) develops and regularly updates an integrated multiagency programmatic assessment and monitoring plan—

“(A) to evaluate the effectiveness of the Environmental Improvement Program;

“(B) to evaluate the status and trends of indicators related to environmental threshold carrying capacities; and

“(C) to assess the impacts and risks of changing climatic conditions and invasive species;

“(2) develops a comprehensive set of performance measures for Environmental Improvement Program assessment;

“(3) coordinates the development of the annual report described in section 13;

“(4) produces and synthesizes scientific information necessary for—

“(A) the identification and refinement of environmental indicators for the Lake Tahoe Basin; and

“(B) the evaluation of standards and benchmarks;

“(5) conducts applied research, programmatic technical assessments, scientific data management, analysis, and reporting related to key management questions;

“(6) develops new tools and information to support objective assessments of land use and resource conditions;

“(7) provides scientific and technical support to the Federal Government and State and local governments in—

“(A) reducing stormwater runoff, air deposition, and other pollutants that contribute to the loss of lake clarity; and

“(B) the development and implementation of an integrated stormwater monitoring and assessment program;

“(8) establishes and maintains independent peer review processes—

“(A) to evaluate the Environmental Improvement Program; and

“(B) to assess the technical adequacy and scientific consistency of central environmental documents, such as the 5-year threshold review; and

“(9) provides scientific and technical support for the development of appropriate management strategies to accommodate changing climatic conditions in the Lake Tahoe Basin.

“SEC. 12. PUBLIC OUTREACH AND EDUCATION.

“(a) **IN GENERAL.**—The Secretary, Administrator, and Director will coordinate with the Planning Agency to conduct public education and outreach programs, including encouraging—

“(1) owners of land and residences in the Lake Tahoe Basin—

“(A) to implement defensible space; and

“(B) to conduct best management practices for water quality; and

“(2) owners of land and residences in the Lake Tahoe Basin and visitors to the Lake Tahoe Basin, to help prevent the introduction and proliferation of invasive species as part of the private share investment in the Environmental Improvement Program.

“(b) **REQUIRED COORDINATION.**—Public outreach and education programs for aquatic invasive species under this section shall—

“(1) be coordinated with Lake Tahoe Basin tourism and business organizations; and

“(2) include provisions for the programs to extend outside of the Lake Tahoe Basin.

“SEC. 13. REPORTING REQUIREMENTS.

“Not later than February 15 of each year, the Administrator, in cooperation with the Chair, the Secretary, the Director, the Planning Agency, and the States of California and Nevada, consistent with section 6(c)(6) and section 11, shall submit to Congress a report that describes—

“(1) the status of all Federal, State, local, and private projects authorized under this Act, including to the maximum extent practicable, for projects that will receive Federal funds under this Act during the current or subsequent fiscal year—

“(A) the project scope;

“(B) the budget for the project; and

“(C) the justification for the project, consistent with the criteria established in section 8(c)(1);

“(2) Federal, State, local, and private expenditures in the preceding fiscal year to implement the Environmental Improvement Program and projects otherwise authorized under this Act;

“(3) accomplishments in the preceding fiscal year in implementing this Act in accordance with the performance measures and other monitoring and assessment activities; and

“(4) public education and outreach efforts undertaken to implement programs and projects authorized under this Act.

“SEC. 14. ANNUAL BUDGET PLAN.

“As part of the annual budget of the President, the President shall submit information

regarding each Federal agency involved in the Environmental Improvement Program (including the Forest Service, the Environmental Protection Agency, and the United States Fish and Wildlife Service), including—

“(1) an interagency crosscut budget that displays the proposed budget for use by each Federal agency in carrying out restoration activities relating to the Environmental Improvement Program for the following fiscal year;

“(2) a detailed accounting of all amounts received and obligated by Federal agencies to achieve the goals of the Environmental Improvement Program during the preceding fiscal year; and

“(3) a description of the Federal role in the Environmental Improvement Program, including the specific role of each agency involved in the restoration of the Lake Tahoe Basin.

“SEC. 15. GRANT FOR WATERSHED STRATEGY.

“(a) **IN GENERAL.**—Of the amounts to be made available under section 18(a), the Administrator shall use not more than \$500,000 to provide a grant, on a competitive basis, to States, federally recognized Indian tribes, interstate agencies, other public or nonprofit agencies and institutions, or institutions of higher education to develop a Lake Tahoe Basin watershed strategy in coordination with the Planning Agency, the States of California and Nevada, and the Secretary.

“(b) **COMMENT.**—In developing the watershed strategy under subsection (a), the grant recipients shall provide an opportunity for public review and comment.

“(c) **COMPONENTS.**—The watershed strategy developed under subsection (a) shall include—

“(1) a classification system, inventory, and assessment of stream environment zones;

“(2) comprehensive watershed characterization and restoration priorities consistent with—

“(A) the Lake Tahoe total maximum daily load; and

“(B) the environmental threshold carrying capacities of Lake Tahoe;

“(3) a monitoring and assessment program consistent with section 11; and

“(4) an adaptive management system—

“(A) to measure and evaluate progress; and

“(B) to adjust the program.

“(d) **DEADLINE.**—The watershed strategy developed under subsection (a) shall be completed by the date that is 2 years after the date on which funds are made available to carry out this section.”.

SEC. 10218. RELATIONSHIP TO OTHER LAWS.

Section 17 of The Lake Tahoe Restoration Act (Public Law 106-506; 114 Stat. 2358) (as redesignated by section 10217(2)) is amended by inserting “, Director, or Administrator” after “Secretary”.

SEC. 10219. AUTHORIZATION OF APPROPRIATIONS.

The Lake Tahoe Restoration Act (Public Law 106-506; 114 Stat. 2351) is amended by striking section 18 (as redesignated by section 10217(2)) and inserting the following:

“SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

“(a) **IN GENERAL.**—There is authorized to be appropriated to carry out this Act \$415,000,000 for a period of 8 fiscal years beginning the first fiscal year after the date of enactment of the Lake Tahoe Restoration Act of 2010.

“(b) **EFFECT ON OTHER FUNDS.**—Amounts authorized under this section and any amendments made by this Act—

“(1) shall be in addition to any other amounts made available to the Secretary,

Administrator, or Director for expenditure in the Lake Tahoe Basin; and

“(2) shall not reduce allocations for other Regions of the Forest Service, Environmental Protection Agency, or United States Fish and Wildlife Service.

“(c) **COST-SHARING REQUIREMENT.**—Except as provided in subsection (d) and section 6(c)(3)(E), the States of California and Nevada shall pay 50 percent of the aggregate costs of restoration activities in the Lake Tahoe Basin funded under section 6 or 8.

“(d) **RELOCATION COSTS.**—Notwithstanding subsection (c), the Secretary shall provide to local utility districts $\frac{3}{4}$ the costs of relocating facilities in connection with—

“(1) environmental restoration projects under sections 6 and 8; and

“(2) erosion control projects under section 2 of Public Law 96-586 (94 Stat. 3381).

“(e) **SIGNAGE.**—To the maximum extent practicable, a project provided assistance under this Act shall include appropriate signage at the project site that—

“(1) provides information to the public on—

“(A) the amount of Federal funds being provided to the project; and

“(B) this Act; and

“(2) displays the visual identity mark of the Environmental Improvement Program.”.

SEC. 10220. CONFORMING AMENDMENTS.

(a) **ADMINISTRATION OF ACQUIRED LAND.**—Section 3(b) of Public Law 96-586 (94 Stat. 3384) is amended—

(1) by striking “(b) Lands” and inserting the following:

“(b) **ADMINISTRATION OF ACQUIRED LAND.**—

“(1) **IN GENERAL.**—Land”; and

(2) by adding at the end the following:

“(2) **INTERCHANGE.**—

“(A) **IN GENERAL.**—Notwithstanding paragraph (1), the Secretary of Agriculture (acting through the Chief of the Forest Service) (referred to in this paragraph as the ‘Secretary’) may interchange (as defined in the first section of Public Law 97-465 (16 U.S.C. 521c)) any land or interest in land within the Lake Tahoe Basin Management Unit described in subparagraph (B) with appropriate units of State government.

“(B) **ELIGIBLE LAND.**—The land or interest in land referred to in subparagraph (A) is land or an interest in land that the Secretary determines is not subject to efficient administration by the Secretary because of the location or size of the land.

“(C) **REQUIREMENTS.**—In any interchange under this paragraph, the Secretary shall—

“(i) insert in the applicable deed such terms, covenants, conditions, and reservations as the Secretary determines to be necessary to ensure—

“(I) protection of the public interest, including protection of the scenic, wildlife, and recreational values of the National Forest System; and

“(II) the provision for appropriate access to, and use of, land within the National Forest System;

“(ii) receive land within the Lake Tahoe Basin of approximately equal value (as defined in accordance with section 6(2) of Public Law 97-465 (96 Stat. 2535)); and

“(iii) for the purposes of any environmental assessment—

“(I) assume the maintenance of the environmental status quo; and

“(II) not be required to individually assess each parcel that is managed under the Lake Tahoe Basin Management Unit Urban Lots Program.

“(D) USE OF LAND ACQUIRED BY UNITS OF STATE GOVERNMENT.—Any unit of State government that receives National Forest System land through an exchange or transfer under this paragraph shall not convey the land to any person or entity other than the Federal Government or a State government.”.

(b) INTERAGENCY AGREEMENT FUNDING.—Section 108(g) of title I of division C of the Consolidated Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2942) is amended by striking “\$25,000,000” and inserting “\$75,000,000”.

Subtitle C—Clean Estuaries

SEC. 10221. SHORT TITLE.

This subtitle may be cited as the “Clean Estuaries Act of 2010”.

SEC. 10222. NATIONAL ESTUARY PROGRAM AMENDMENTS.

(a) PURPOSES OF CONFERENCE.—

(1) DEVELOPMENT OF COMPREHENSIVE CONSERVATION AND MANAGEMENT PLANS.—Section 320(b) of the Federal Water Pollution Control Act (33 U.S.C. 1330(b)) is amended by striking paragraph (4) and inserting the following:

“(4) develop and submit to the Administrator a comprehensive conservation and management plan that—

“(A) identifies the estuary and the associated upstream waters of the estuary to be addressed by the plan, with consideration given to hydrological boundaries;

“(B) recommends priority protection, conservation, and corrective actions and compliance schedules that address point and nonpoint sources of pollution—

“(i) to restore and maintain the chemical, physical, and biological integrity of the estuary, including—

“(I) restoration and maintenance of water quality, including wetlands and natural hydrologic flows;

“(II) a resilient and diverse indigenous population of shellfish, fish, and wildlife; and

“(III) recreational activities in the estuary; and

“(ii) to ensure that the designated uses of the estuary are protected;

“(C)(i) identifies healthy and impaired watershed components, including significant impairments that are outside the area addressed by the plan that could affect the water quality and ecological integrity of the estuary, and the sources of those impairments, by carrying out integrated assessments that include assessments of—

“(I) aquatic habitat and biological integrity;

“(II) water quality; and

“(III) natural hydrologic flows; and

“(ii) provides the applicable Federal or State authority with information on any identified impairments and the sources of those impairments;

“(D) considers current and future sustainable commercial activities in the estuary;

“(E) addresses the impacts of climate change on the estuary, including—

“(i) the identification and assessment of vulnerabilities in the estuary;

“(ii) the development and implementation of adaptation strategies; and

“(iii) the impacts of changes in sea level on estuarine water quality, estuarine habitat, and infrastructure located in the estuary;

“(F) increases public education and awareness with respect to—

“(i) the ecological health of the estuary;

“(ii) the water quality conditions of the estuary; and

“(iii) ocean, estuarine, land, and atmospheric connections and interactions;

“(G) includes performance measures and goals to track implementation of the plan; and

“(H) includes a coordinated monitoring strategy for Federal, State, and local governments and other entities.”.

(2) MONITORING AND MAKING RESULTS AVAILABLE.—Section 320(b) of the Federal Water Pollution Control Act (33 U.S.C. 1330(b)) is amended by striking paragraph (6) and inserting the following:

“(6) monitor (and make results available to the public regarding)—

“(A) water quality conditions in the estuary and the associated upstream waters of the estuary identified under paragraph (4)(A);

“(B) watershed and habitat conditions that relate to the ecological health and water quality conditions of the estuary; and

“(C) the effectiveness of actions taken pursuant to the comprehensive conservation and management plan developed for the estuary under this subsection;”.

(3) INFORMATION AND EDUCATIONAL ACTIVITIES.—Section 320(b) of the Federal Water Pollution Control Act (33 U.S.C. 1330(b)) is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6) the following:

“(7) provide information and educational activities on the ecological health and water quality conditions of the estuary; and”.

(4) CONFORMING AMENDMENT.—The sentence following section 320(b)(8) of the Federal Water Pollution Control Act (as so redesignated) (33 U.S.C. 1330(b)(8)) is amended by striking “paragraph (7)” and inserting “paragraph (8)”.

(b) MEMBERS OF CONFERENCE; COLLABORATIVE PROCESSES.—

(1) MEMBERS OF CONFERENCE.—Section 320(c)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1330(c)(5)) is amended by inserting “not-for-profit organizations,” after “institutions,”.

(2) COLLABORATIVE PROCESSES.—Section 320(d) of the Federal Water Pollution Control Act (33 U.S.C. 1330(d)) is amended—

(A) by striking “(d)” and all that follows through “In developing” and inserting the following:

“(d) USE OF EXISTING DATA AND COLLABORATIVE PROCESSES.—

“(1) USE OF EXISTING DATA.—In developing”; and

(B) by adding at the end the following:

“(2) USE OF COLLABORATIVE PROCESSES.—In updating a plan under subsection (f)(4) or developing a new plan under subsection (b), a management conference shall make use of collaborative processes—

“(A) to ensure equitable inclusion of affected interests;

“(B) to engage with members of the management conference, including through—

“(i) the use of consensus-based decision rules; and

“(ii) assistance from impartial facilitators, as appropriate;

“(C) to ensure relevant information, including scientific, technical, and cultural information, is accessible to members;

“(D) to promote accountability and transparency by ensuring members are informed in a timely manner of—

“(i) the purposes and objectives of the management conference; and

“(ii) the results of an evaluation conducted under subsection (f)(6);

“(E) to identify the roles and responsibilities of members—

“(i) in the management conference proceedings; and

“(ii) in the implementation of the plan; and

“(F) to seek resolution of conflicts or disputes as necessary.”.

(c) ADMINISTRATION OF PLANS.—Section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) is amended by striking subsection (f) and inserting the following:

“(f) ADMINISTRATION OF PLANS.—

“(1) APPROVAL.—Not later than 120 days after the date on which a management conference submits to the Administrator a comprehensive conservation and management plan under this section, and after providing for public review and comment, the Administrator shall approve the plan, if—

“(A) the Administrator determines that the plan meets the requirements of this section; and

“(B) each affected Governor concurs.

“(2) COMPLETENESS.—

“(A) IN GENERAL.—If the Administrator finds that a plan is incomplete under paragraph (1) or (7), the Administrator shall—

“(i) provide the management conference with written notification of the basis of that finding; and

“(ii) allow the management conference to resubmit a revised plan that addresses, to the maximum extent practicable, the comments contained in the written notification of the Administrator described in clause (i).

“(B) RESUBMISSION.—If the Administrator finds that a revised plan submitted under subparagraph (A)(ii) remains incomplete under paragraph (1) or (7), the Administrator shall allow the management conference to resubmit a revised plan under the same procedures described in subparagraph (A).

“(C) SCOPE OF REVIEW.—In determining whether to approve a comprehensive conservation and management plan under paragraph (1) or (7), the Administrator—

“(i) shall limit the scope of review to a determination of whether the plan meets the minimum requirements of this section; and

“(ii) may not impose, as a condition of approval, any additional requirements.

“(3) FAILURE OF THE ADMINISTRATOR TO RESPOND.—If, by the date that is 120 days after the date on which a plan is submitted or resubmitted under paragraphs (1), (2), or (7) the Administrator fails to respond to the submission or resubmission in writing, the plan shall be considered approved.

“(4) FAILURE TO SUBMIT A PLAN.—If, by the date that is 3 years after the date on which a management conference is convened, that management conference fails to submit a comprehensive conservation and management plan or to secure approval for the comprehensive conservation and management plan under this subsection, the Administrator shall terminate the management conference convened under this section.

“(5) IMPLEMENTATION.—

“(A) IN GENERAL.—On the approval of a comprehensive conservation and management plan under this section, the plan shall be implemented.

“(B) USE OF AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated under titles II and VI and section 319 may be used in accordance with the applicable requirements of this Act to assist States with the implementation of a plan approved under paragraph (1).

“(6) EVALUATION.—

“(A) IN GENERAL.—Not later than 5 years after the date of enactment of this paragraph, and every 5 years thereafter, the Administrator shall carry out an evaluation of

the implementation of each comprehensive conservation and management plan developed under this section to determine the degree to which the goals of the plan have been met.

“(B) REVIEW AND COMMENT BY MANAGEMENT CONFERENCE.—In completing an evaluation under subparagraph (A), the Administrator shall submit the results of the evaluation to the appropriate management conference for review and comment.

“(C) REPORT.—

“(i) IN GENERAL.—In completing an evaluation under subparagraph (A), and after providing an opportunity for a management conference to submit comments under subparagraph (B), the Administrator shall issue a report on the results of the evaluation, including the findings and recommendations of the Administrator and any comments received from the management conference.

“(ii) AVAILABILITY TO PUBLIC.—The Administrator shall make a report issued under this subparagraph available to the public, including through publication in the Federal Register and on the Internet.

“(D) SPECIAL RULE FOR NEW PLANS.—Notwithstanding subparagraph (A), if a management conference submits a new comprehensive conservation and management plan to the Administrator after the date of enactment of this paragraph, the Administrator shall complete the evaluation of the implementation of the plan required by subparagraph (A) not later than 5 years after the date of such submission and every 5 years thereafter.

“(7) UPDATES.—

“(A) REQUIREMENT.—Not later than 18 months after the date on which the Administrator makes an evaluation of the implementation of a comprehensive conservation and management plan available to the public under paragraph (6)(C), a management conference convened under this section shall submit to the Administrator an update of the plan that reflects, to the maximum extent practicable, the results of the program evaluation.

“(B) APPROVAL OF UPDATES.—Not later than 120 days after the date on which a management conference submits to the Administrator an updated comprehensive conservation and management plan under subparagraph (A), and after providing for public review and comment, the Administrator shall approve the updated plan, if the Administrator determines that the updated plan meets the requirements of this section.

“(8) PROBATIONARY STATUS.—The Administrator may consider a management conference convened under this section to be in probationary status, if the management conference has not received approval for an updated comprehensive conservation and management plan under paragraph (7)(B) on or before the last day of the 3-year period beginning on the date on which the Administrator makes an evaluation of the plan available to the public under paragraph (6)(C).”

(d) FEDERAL AGENCIES.—Section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) is amended—

(1) by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (m), respectively; and

(2) by inserting after subsection (f) the following:

“(g) FEDERAL AGENCIES.—

“(1) ACTIVITIES CONDUCTED WITHIN ESTUARIES WITH APPROVED PLANS.—After approval of a comprehensive conservation and management plan by the Administrator, any Federal action or activity affecting the estu-

ary shall be conducted, to the maximum extent practicable, in a manner consistent with the plan.

“(2) COORDINATION AND COOPERATION.—

“(A) IN GENERAL.—The Secretary of the Army (acting through the Chief of Engineers), the Administrator of the National Oceanic and Atmospheric Administration, the Director of the United States Fish and Wildlife Service, the Secretary of the Department of Agriculture, the Director of the United States Geological Survey, the Secretary of the Department of Transportation, the Secretary of the Department of Housing and Urban Development, and the heads of other appropriate Federal agencies, as determined by the Administrator, shall, to the maximum extent practicable, cooperate and coordinate activities, including monitoring activities, related to the implementation of a comprehensive conservation and management plan approved by the Administrator.

“(B) LEAD COORDINATING AGENCY.—The Environmental Protection Agency shall serve as the lead coordinating agency under this paragraph.

“(3) CONSIDERATION OF PLANS IN AGENCY BUDGET REQUESTS.—In making an annual budget request for a Federal agency referred to in paragraph (2), the head of such agency shall consider the responsibilities of the agency under this section, including under comprehensive conservation and management plans approved by the Administrator.

“(4) MONITORING.—The heads of the Federal agencies referred to in paragraph (2) shall collaborate on the development of tools and methodologies for monitoring the ecological health and water quality conditions of estuaries covered by a management conference convened under this section.”

(e) GRANTS.—

(1) IN GENERAL.—Subsection (h) (as redesignated by subsection (d)) of section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) is amended—

(A) in paragraph (1), by striking “other public” and all that follows before the period at the end and inserting “and other public or nonprofit private agencies, institutions, and organizations”; and

(B) by adding at the end the following:

“(4) EFFECTS OF PROBATIONARY STATUS.—

“(A) REDUCTIONS IN GRANT AMOUNTS.—The Administrator shall reduce, by an amount to be determined by the Administrator, grants for the implementation of a comprehensive conservation and management plan developed by a management conference convened under this section, if the Administrator determines that the management conference is in probationary status under subsection (f)(8).

“(B) TERMINATION OF MANAGEMENT CONFERENCES.—The Administrator shall terminate a management conference convened under this section, and cease funding for the implementation of the comprehensive conservation and management plan developed by the management conference, if the Administrator determines that the management conference has been in probationary status for 2 consecutive years.”

(2) CONFORMING AMENDMENT.—Section 320(i) of the Federal Water Pollution Control Act (as redesignated by subsection (d)) is amended by striking “subsection (g)” and inserting “subsection (h)”.

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) (as redesignated by subsection (d)) is amended by striking subsection (j) and inserting the following:

“(j) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to the Administrator \$75,000,000 for each of fiscal years 2012 through 2017 for—

“(A) expenses relating to the administration of management conferences by the Administrator under this section, except that such expenses shall not exceed 10 percent of the amount appropriated under this subsection;

“(B) making grants under subsection (h); and

“(C) monitoring the implementation of a conservation and management plan by the management conference, or by the Administrator in any case in which the conference has been terminated.

“(2) ALLOCATIONS.—Of the sums authorized to be appropriated under this subsection, the Administrator shall provide—

“(A) at least \$1,250,000 per fiscal year, subject to the availability of appropriations, for the development, implementation, and monitoring of each conservation and management plan eligible for grant assistance under subsection (h); and

“(B) up to \$5,000,000 per fiscal year to carry out subsection (k).”

(g) RESEARCH.—Section 320(k)(1)(A) of the Federal Water Pollution Control Act (as redesignated by subsection (d)) is amended—

(1) by striking “parameters” and inserting “parameters”; and

(2) by inserting “(including monitoring of both pathways and ecosystems to track the introduction and establishment of nonnative species)” before “, to provide the Administrator”.

(h) NATIONAL ESTUARY PROGRAM EVALUATION.—Section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) is amended by inserting after subsection (k) (as redesignated by subsection (d)) the following:

“(l) NATIONAL ESTUARY PROGRAM EVALUATION.—

“(1) IN GENERAL.—Not later than 5 years after the date of enactment of this paragraph, and every 5 years thereafter, the Administrator shall complete an evaluation of the national estuary program established under this section.

“(2) SPECIFIC ASSESSMENTS.—In conducting an evaluation under this subsection, the Administrator shall—

“(A) assess the effectiveness of the national estuary program in improving water quality, natural resources, and sustainable uses of the estuaries covered by management conferences convened under this section;

“(B) identify best practices for improving water quality, natural resources, and sustainable uses of the estuaries covered by management conferences convened under this section, including those practices funded through the use of technical assistance from the Environmental Protection Agency and other Federal agencies;

“(C) assess the reasons why the best practices described in subparagraph (B) resulted in the achievement of program goals;

“(D) identify any redundant requirements for reporting by recipients of a grant under this section; and

“(E) develop and recommend a plan for limiting reporting any redundancies.

“(3) REPORT.—In completing an evaluation under this subsection, the Administrator shall issue a report on the results of the evaluation, including the findings and recommendations of the Administrator.

“(4) AVAILABILITY.—The Administrator shall make a report issued under this subsection available to management conferences convened under this section and the public, including through publication in the Federal Register and on the Internet.”

(i) CONVENING OF CONFERENCE.—Section 320(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)) is amended—

(1) by striking “(2) CONVENING OF CONFERENCE.—” and all that follows through “In any case” and inserting the following:

“(2) CONVENING OF CONFERENCE.—In any case”; and

(2) by striking subparagraph (B).

(j) GREAT LAKES ESTUARIES.—Section 320(m) of the Federal Water Pollution Control Act (as redesignated by subsection (d)) is amended by striking the subsection designation and all that follows through “and those portions of tributaries” and inserting the following:

“(m) DEFINITIONS.—In this section, the terms ‘estuary’ and ‘estuarine zone’ have the meanings given the terms in section 104(n)(4), except that—

“(1) the term ‘estuary’ also includes near coastal waters and other bodies of water within the Great Lakes that are similar in form and function to the waters described in the definition of ‘estuary’ in section 104(n)(4); and

“(2) the term ‘estuarine zone’ also includes—

“(A) waters within the Great Lakes described in paragraph (1) and transitional areas from such waters that are similar in form and function to the transitional areas described in the definition of ‘estuarine zone’ in section 104(n)(4);

“(B) associated aquatic ecosystems; and

“(C) those portions of tributaries”.

Subtitle D—Puget Sound Restoration

SEC. 10231. PUGET SOUND RESTORATION.

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (as amended by section 10203) is amended by adding at the end the following:

“SEC. 124. PUGET SOUND.

“(a) DEFINITIONS.—In this section:

“(1) ANNUAL PRIORITY LIST.—The term ‘annual priority list’ means the annual priority list compiled under subsection (d).

“(2) COMPREHENSIVE PLAN.—The term ‘comprehensive plan’ means—

“(A) the Puget Sound Action Agenda, a comprehensive conservation and management plan approved under section 320; and

“(B) any amendments to that plan.

“(3) DISTRESSED COMMUNITY.—The term ‘distressed community’ means a community that meets the affordability criteria for distressed communities established by the State of Washington, if the criteria are established after public review and comment.

“(4) EXECUTIVE DIRECTOR.—The term ‘Executive Director’ means the Executive Director of the Puget Sound Partnership.

“(5) PUGET SOUND FEDERAL CAUCUS.—The term ‘Puget Sound Federal Caucus’ means the caucus composed of—

“(A) the 13 Federal agencies that signed a memorandum of understanding on November 17, 2008, to establish a collaborative effort among Federal agencies to better integrate, organize, and align Federal efforts in the Puget Sound ecosystem with the comprehensive plan; and

“(B) such other Federal agencies as the Administrator determines to be appropriate.

“(6) PUGET SOUND PARTNERSHIP.—The term ‘Puget Sound Partnership’ means the agency of the State of Washington, together with associated councils, boards, panels, and caucuses, that is—

“(A) formed under authority of State law for the purpose of protecting and restoring Puget Sound; and

“(B) designated as the management conference under section 320.

“(7) PUGET SOUND TRIBE.—The term ‘Puget Sound tribe’ means any of the federally recognized Indian tribes within the Puget Sound Basin.

“(8) REGIONAL ADMINISTRATOR.—The term ‘Regional Administrator’ means the Regional Administrator for Region 10 of the Environmental Protection Agency.

“(b) DELEGATION OF AUTHORITY; STAFFING.—The Administrator shall delegate to the Regional Administrator such authority, and provide such additional staff, as are necessary to carry out this section.

“(c) DUTIES.—

“(1) IN GENERAL.—In carrying out this section, the Administrator, acting through the Regional Administrator, shall—

“(A) carry out the duties assigned to the Administrator under section 320 as a member of the management conference under that section;

“(B) assist in the development and evaluation of the annual priority list;

“(C) provide funding for activities, projects, programs, and studies identified in the approved annual priority list as necessary to advance the goals and objectives of the comprehensive plan;

“(D) promote innovative methodologies and technologies that are cost-effective and able to advance the identified goals and objectives of the comprehensive plan and Environmental Protection Agency permitting processes;

“(E) coordinate the major functions of the Federal Government relating to the implementation of the comprehensive plan, including activities, projects, programs, and studies for—

“(i) water quality improvements;

“(ii) wetland, riverine, and estuary restoration and protection;

“(iii) nearshore restoration and protection;

“(iv) adaptation to climate change;

“(v) critical land protection or acquisitions; and

“(vi) endangered species recovery;

“(F) coordinate the scientific research projects authorized under this section with the activities of Federal agencies, State agencies, Indian tribes, institutions of higher education, and the Science Panel of the Puget Sound Partnership, including conducting or commissioning studies proposed by the Science Panel and included in the annual priority list;

“(G) assist the Puget Sound Partnership in tracking progress toward meeting the identified goals and objectives of the comprehensive plan by—

“(i) providing information to the performance management system used by the Puget Sound Partnership for the purpose of tracking progress; and

“(ii) coordinating, managing, and reporting environmental data relating to Puget Sound in a manner consistent with methodologies used by the Puget Sound Partnership, including, to the maximum extent practicable, making such data and reports on such data available to the public, including on the Internet, in a timely manner; and

“(H) coordinate activities, projects, programs, and studies for the protection of Puget Sound, the Strait of Georgia, and the Strait of Juan de Fuca with Canadian authorities.

“(2) IMPLEMENTATION METHODS.—The Administrator, acting through the Regional Administrator, may enter into financial assistance agreements, make or facilitate intergovernmental personnel appointments, and use other available methods in carrying out the duties of the Administrator under this subsection.

“(d) ANNUAL PRIORITY LIST.—

“(1) IN GENERAL.—After providing public notice, the Puget Sound Partnership, in consultation with the Puget Sound Federal Caucus, shall annually compile a priority list identifying and prioritizing the activities, projects, programs, and studies intended to be funded during the succeeding fiscal year with the amounts made available for use in entering into financial assistance agreements under subsection (e).

“(2) INCLUSIONS.—The annual priority list compiled under paragraph (1) shall include—

“(A) a prioritized list of specific activities, projects, programs, and studies that will advance the goals and objectives of the approved comprehensive plan;

“(B) information on the activities, projects, programs, and studies specified under subparagraph (A), including a description of—

“(i) the terms of financial assistance agreements;

“(ii) the identities of the financial assistance recipients; and

“(iii) the communities to be served; and

“(C) the criteria and methods established by the Puget Sound Partnership for selection of activities, projects, programs, and studies.

“(3) APPROVAL OF LIST.—

“(A) SUBMISSION.—On August 1 of each calendar year, the Puget Sound Partnership shall submit the annual priority list compiled under paragraph (1) to the Administrator for approval.

“(B) APPROVAL.—The Administrator shall approve or disapprove a list submitted under subparagraph (A) or resubmitted under subparagraph (C) based on a determination of whether the activities, projects, programs, and studies listed advance the goals and objectives of the approved comprehensive plan.

“(C) EFFECT OF DISAPPROVAL.—If the Administrator disapproves a list submitted under subparagraph (A) or (C), the Administrator shall—

“(i) provide the Puget Sound Partnership, in writing, a notification of the basis for the disapproval; and

“(ii) allow the Puget Sound Partnership the opportunity for resubmission of a revised annual priority list that addresses, to the maximum extent practicable, the comments contained in the written disapproval of the Administrator described in clause (i).

“(D) FAILURE OF ADMINISTRATOR TO RESPOND.—If, by the date that is 60 days after the date of submission or resubmission to the Administrator of an annual priority list by the Puget Sound Partnership, the Administrator fails to respond to the submission or resubmission in writing, the annual priority list shall be considered to be approved.

“(4) FAILURE TO COMPILE LIST.—

“(A) IN GENERAL.—If, by the date that is 180 days after the annual date of submission specified in paragraph (3)(A), the Puget Sound Partnership fails to compile an annual priority list in accordance with paragraph (1) or secures only a written disapproval from the Administrator for a list submitted under subparagraph (A) or (C) of paragraph (3), the Administrator shall compile a priority list for the fiscal year that includes—

“(i) activities, projects, programs, or studies that advance the goals and objectives of the approved comprehensive plan;

“(ii) any identified activities, projects, programs, or studies from previously approved priority lists that have not yet been funded;

“(iii) a description of the activities, projects, programs, and studies described in clauses (i) and (ii), including—

“(I) the terms of financial assistance agreements;

“(II) the identities of the financial assistance recipients; and

“(III) the communities to be served; and

“(iv) the criteria and methods established by the Administrator for selection of activities, projects, programs, and studies.

“(B) APPROVAL.—A list compiled by the Administrator in accordance with subparagraph (A) shall be considered to be an approved annual priority list for the purposes of this section.

“(e) IMPLEMENTATION OF COMPREHENSIVE PLAN.—

“(1) IN GENERAL.—The Administrator, acting through the Regional Administrator, may enter into financial assistance agreements to support activities, projects, programs, and studies to implement the comprehensive plan.

“(2) FUNDING.—In providing funding under this subsection, the Administrator shall use—

“(A) such sums as necessary but not greater than 7.5 percent of the funds made available under this section to provide a comprehensive grant to the Puget Sound Partnership for use in—

“(i) tracking the implementation of the comprehensive plan;

“(ii) monitoring environmental outcomes;

“(iii) updating the comprehensive plan;

“(iv) developing the annual priority list; and

“(v) performing other administrative activities relating to the management and implementation of the comprehensive plan;

“(B) not more than 5 percent of the funds made available under this section to carry out the responsibilities of the Administrator under this section;

“(C) not less than the greater of \$2,500,000 or 6 percent of the funds made available under this section to enter into financial assistance agreements with, Puget Sound tribes to carry out specific activities, projects, programs, or studies identified in the approved annual priority list; and

“(D) the remainder of the funds made available under this section to enter into financial assistance agreements for use in implementing specific activities, projects, programs, or studies identified in the approved annual priority list to—

“(i) State, regional, or local governmental agencies or entities;

“(ii) tribal governments, agencies, or entities;

“(iii) Federal agencies; or

“(iv) other public or nonprofit agencies, institutions, or organizations.

“(3) CONDITIONS FOR FUNDING.—

“(A) IN GENERAL.—An entity shall be eligible for funding under subparagraph (C) or (D) of paragraph (2) only if funds will be used for activities, projects, programs, or studies that are identified in an approved annual priority list.

“(B) MEASURABLE OUTCOMES, BENCHMARKS, TARGETS.—The Administrator shall enter into financial assistance agreements under paragraph (2) only if, in the judgment of the Administrator, the Puget Sound Partnership has defined and adopted the measurable outcomes, near-term benchmarks, and long-term targets that are necessary to meet the goals and objectives of the comprehensive plan.

“(4) DISTRIBUTION.—

“(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall obligate all funds made available under paragraph (2) by not later than 180 days after

the date on which the annual priority list is approved in accordance with subsection (d).

“(B) MEANS OF DISTRIBUTION.—The Administrator shall enter into financial assistance agreements to carry out the activities, projects, programs, or studies in the order of priority identified on an approved annual priority list unless—

“(i) the identified financial assistance recipient fails to meet the requirements of the applicable financial assistance agreement; or

“(ii) the Administrator and Puget Sound Partnership agree, in writing, to deviate from the order specified in an approved priority list.

“(5) FAILURE TO DISTRIBUTE.—If all funds made available for use in entering into financial assistance agreements under paragraph (2) are not obligated by the date specified in paragraph (4), the Administrator shall promptly submit to the appropriate committees of the Senate and the House of Representatives a report that—

“(A) describes the reasons for the failure to obligate the funds; and

“(B) provides a date certain by which all funds will be distributed.

“(6) FEDERAL SHARE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of an activity, project, program, or study carried out under this subsection shall be—

“(i) not more than 75 percent of the annual aggregate costs of the activities described in paragraph (2)(A); or

“(ii) not more than 50 percent of the cost of an activity project, program, or study funded under clause (i) or (iv) of paragraph (2)(D).

“(B) EXCEPTIONS.—

“(i) SOLE TRIBAL APPLICANT.—The Administrator shall increase the Federal share to 100 percent for any activity, project, program, or study carried out under this subsection for which a Puget Sound tribe is the sole applicant.

“(ii) DISTRESSED COMMUNITIES.—For each fiscal year, the Administrator may use up to 15 percent of the funds made available to carry out this section for that fiscal year to increase the Federal share up to 100 percent for an activity, project, program, or study funded under paragraph (2)(D) that is located in or directly affects a distressed community.

“(f) ANNUAL BUDGET PLAN.—The President, as part of the annual budget of the Federal Government, shall submit information regarding each Federal agency involved in Puget Sound protection and restoration, including—

“(1) an interagency crosscut budget that describes for each Federal agency—

“(A) amounts obligated for the preceding fiscal year for protection and restoration activities, projects, programs, and studies relating to Puget Sound;

“(B) the estimated budget for the current fiscal year for protection and restoration activities, projects, programs, and studies relating to Puget Sound; and

“(C) the proposed budget for protection and restoration activities, projects, programs, and studies relating to Puget Sound; and

“(2) a description and assessment of the Federal role in the implementation of the comprehensive plan and the specific role of each Federal agency involved in Puget Sound protection and restoration, including specific activities, projects, programs, and studies conducted or planned to achieve the identified goals and objectives of the comprehensive plan.

“(g) REPORT.—Not later than 1 year after the date of enactment of this section and biennially thereafter, the Administrator and the Executive Director of the Puget Sound Partnership shall jointly submit to Congress a report that—

“(1) summarizes the progress made in implementing the comprehensive plan and progress toward achieving—

“(A) the identified goals and objectives described in the comprehensive plan; and

“(B) the measurable outcomes, near-term benchmarks, and long-term targets required under subsection (e)(3)(B);

“(2) summarizes any modifications to the comprehensive plan during the period covered by the report;

“(3) incorporates specific recommendations concerning the implementation of the comprehensive plan;

“(4) summarizes the roles and progress of each Federal agency that has jurisdiction in the Puget Sound watershed toward meeting the identified goals and objectives of the comprehensive plan; and

“(5) includes any other information determined to be relevant by the Administrator or the Executive Director.

“(h) NO EFFECT ON TREATY RIGHTS OR EXISTING AUTHORITY.—Nothing in this section—

“(1) limits, conditions, abrogates, authorizes regulation of, or in any way adversely affects a right reserved by a treaty between the United States and 1 or more Indian tribes; or

“(2) affects any other Federal or State authority that is being used or that may be used to facilitate the cleanup and protection of Puget Sound.

“(i) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to the Administrator to carry out this section \$90,000,000 for each of fiscal years 2012 through 2016, to remain available until expended.

“(2) ELIGIBILITY.—The Puget Sound Partnership shall not receive any funding pursuant to section 320 for any fiscal year in which the Puget Sound Partnership receives funding under subsection (e)(2)(A).”

Subtitle E—Columbia River Basin Restoration

SEC. 10241. SHORT TITLE.

This subtitle may be cited as the “Columbia River Basin Restoration Act of 2010”.

SEC. 10242. FINDINGS.

Congress finds that—

(1) the Columbia River is the largest river in the Pacific Northwest by volume;

(2) the river is 1,253 miles long, with a drainage basin that includes 259,000 square miles, extending to 7 States and British Columbia, Canada, and including all or part of—

(A) multiple national parks;

(B) components of the National Wilderness Preservation System;

(C) National Monuments;

(D) National Scenic Areas;

(E) National Recreation Areas; and

(F) other areas managed for conservation.

(3) the Columbia River Basin and associated tributaries (referred to in this subtitle as the “Basin”) provide significant ecological and economic benefits to the Pacific Northwest and the entire United States;

(4) traditionally, the Basin includes more than 6,000,000 acres of irrigated agricultural land and produces more hydroelectric power than any other North American river;

(5) the Basin—

(A) historically constituted the largest salmon-producing river system in the world,

with annual returns peaking at as many as 30,000,000 fish; and

(B) as of the date of enactment of this Act—

(i) supports economically important commercial and recreational fisheries; and

(ii) is home to 13 species of salmonids and steelhead that area listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(6) the Lower Columbia River Estuary stretches 146 miles from the Bonneville Dam to the mouth of the Pacific Ocean, and much of that area is contaminated with toxic chemicals;

(7) the Middle and Upper Columbia River Basin includes 1,050 miles of the mainstem Columbia River upstream of the Bonneville Dam, including the 1,040 miles of the largest tributary, the Snake River, and all of the tributaries to both rivers;

(8) the nuclear and toxic contamination at the Hanford Nuclear Reservation and the toxic contamination at Superfund sites throughout the Basin present an ongoing risk of contamination throughout the Basin;

(9) polychlorinated biphenyls (commonly known as “PCBs”) and polycyclic aromatic hydrocarbons that have been found in the tissues of salmonids and their prey at concentrations exceeding levels of concern;

(10) legacy contaminants, including PCBs and dichlorodiphenyltrichloroethane, the pesticide commonly known as “DDT”, were banned in 1972, but are still detected in river water, sediments, and juvenile Chinook salmon;

(11) pesticides and emerging contaminants, such as pharmaceutical and personal care products, have been detected in river water and may have effects including hormone disruption and impacts on behavior and reproduction;

(12) the Environmental Protection Agency’s Columbia River Basin Fish Contaminant Survey detected the presence of 92 priority pollutants, including PCBs and DDE (a breakdown of DDT), in fish that are consumed by members of Indian tribes in the Columbia River Basin, as well as by other individuals consuming fish throughout the Columbia River Basin, and a fish consumption survey by the Columbia River Intertribal Fish Commission showed that tribal members were eating 6 to 11 times more fish than the estimated national average of the Environmental Protection Agency; and

(13) with regard to the Flathead River Basin, in the easternmost portion of the Columbia River Basin—

(A) the Flathead River Basin—

(i) has high water quality and aquatic biodiversity;

(ii) supports endangered species and species of special concern listed under United States and Canadian law;

(iii) contains Flathead Lake, the largest freshwater lake in the western United States;

(iv) is an important wildlife corridor that is home to the highest density of large and mid-sized carnivores and the highest diversity of vascular plant species in the United States; and

(v) supports traditional uses such as hunting, fishing, recreation, guiding and outfitting, and logging;

(B) the Flathead River originates in British Columbia and drains into the State of Montana;

(C) such transboundary waters are protected from pollution under the Treaty Relating to the Boundary Waters and Questions

Arising Along the Boundary Between the United States and Canada, signed at Washington on January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the “Boundary Waters Treaty of 1909”);

(D) in 1988, the International Joint Commission determined that the impacts of mining proposals on the environmental values of the Flathead River Basin, including on water quality, sport fish populations, and habitat, could not be fully mitigated;

(E) the Flathead River forms the western and southern boundaries of the world’s first International Peace Park, Waterton-Glacier, which was inscribed as a World Heritage Site in 1995 under the auspices of the World Heritage Convention, adopted by the United Nations Educational, Scientific, and Cultural Organization General Conference on November 16, 1972;

(F) at the 33rd session of the World Heritage Committee in 2009, Decision 33 COM 7B.22 (Annex 3) 2009, the World Heritage Committee urged Canada in 2009 not to permit any mining or energy development in the Upper Flathead River Basin until the relevant environmental assessment processes have been completed and to provide timely opportunities for the United States to participate in environmental assessment processes; and

(G) on February 18, 2010, British Columbia and the State of Montana entered into a memorandum of understanding—

(i) to remove mining and oil and gas development as permissible land uses in the Flathead River Basin;

(ii) to cooperate on fish and wildlife management;

(iii) to collaborate on environmental assessment of projects of cross border significance with the potential to degrade land or water resources; and

(iv) to share information proactively.

SEC. 10243. COLUMBIA RIVER BASIN RESTORATION.

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (as amended by section 10231) is amended by adding at the end the following:

“SEC. 125. COLUMBIA RIVER BASIN RESTORATION.

“(a) DEFINITIONS.—

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) COLUMBIA RIVER BASIN.—The term ‘Columbia River Basin’ means the entire United States portion of the Columbia River watershed.

“(3) COLUMBIA RIVER BASIN PROVINCES.—The term ‘Columbia River Basin Provinces’ means the United States portion of each of the Columbia River Basin Provinces identified in the Fish and Wildlife Plan of the Northwest Power and Conservation Council.

“(4) COLUMBIA RIVER BASIN TOXICS REDUCTION ACTION PLAN.—

“(A) IN GENERAL.—The term ‘Columbia River Basin Toxics Reduction Action Plan’ means the plan developed by the Environmental Protection Agency and the Columbia River Toxics Reduction Working Group in 2010.

“(B) INCLUSIONS.—The term ‘Columbia River Basin Toxics Reduction Action Plan’ includes any amendments to the plan.

“(5) ESTUARY PARTNERSHIP.—The term ‘Estuary Partnership’ means the Lower Columbia River Estuary Partnership, an entity created by the States of Oregon and Washington and the Environmental Protection Agency under section 320.

“(6) ESTUARY PLAN.—

“(A) IN GENERAL.—The term ‘Estuary Plan’ means the Estuary Partnership Comprehensive Conservation and Management Plan adopted by the Environmental Protection Agency and the Governors of Oregon and Washington on October 20, 1999, under section 320.

“(B) INCLUSIONS.—The term ‘Estuary Plan’ includes any amendments to the plan.

“(7) LOWER COLUMBIA RIVER ESTUARY.—The term ‘Lower Columbia River Basin and Estuary’ means the mainstem Columbia River from the Bonneville Dam to the Pacific Ocean and tidally influenced portions of tributaries to the Columbia River in that region.

“(8) MIDDLE AND UPPER COLUMBIA RIVER BASIN.—

“(A) IN GENERAL.—The term ‘Middle and Upper Columbia River Basin’ means the region consisting of the United States portion of the Columbia River Basin above Bonneville Dam.

“(B) INCLUSIONS.—The term ‘Middle and Upper Columbia River Basin’ includes—

“(i) the Snake River and associated tributaries; and

“(ii) the Clark Fork and Pend Oreille Rivers and associated tributaries.

“(9) NORTH FORK OF THE FLATHEAD RIVER.—The term ‘North Fork of the Flathead River’ means the region consisting of the North Fork of the Flathead River watershed, beginning in British Columbia, Canada, ending at the confluence of the North Fork and the Middle Fork of the Flathead River in the State of Montana.

“(10) PROGRAM.—The term ‘Program’ means the Columbia River Basin Restoration Program established under subsection (b)(1).

“(11) TRANSBOUNDARY FLATHEAD RIVER BASIN.—The term ‘transboundary Flathead River Basin’ means the region consisting of the Flathead River watershed, beginning in British Columbia, Canada, and ending at Flathead Lake, Montana.

“(12) WORKING GROUP.—The term ‘Working Group’ means—

“(A) the Columbia River Basin Toxics Reduction Working Group established under subsection (c); and

“(B) with respect to the Lower Columbia River Estuary, the Estuary Partnership.

“(b) COLUMBIA RIVER BASIN RESTORATION PROGRAM.—

“(1) ESTABLISHMENT.—The Administrator shall establish within the Environmental Protection Agency a Columbia Basin Restoration Program.

“(2) SCOPE OF PROGRAM.—

“(A) IN GENERAL.—The Program shall consist of a collaborative stakeholder-based approach to planning and implementing voluntary activities to reduce toxic contamination throughout the Columbia River Basin.

“(B) RELATIONSHIP TO EXISTING ACTIVITIES.—The Program shall—

“(i) build on the work and collaborative structure of the existing Columbia River Toxics Reduction Working Group representing the Federal Government, State, tribal, and local governments, industry, and nongovernmental organizations, which was convened in 2005 to develop a collaborative toxic contamination reduction approach for the Columbia River Basin;

“(ii) in the Lower Columbia River Basin and Estuary, build on the work and collaborative structure of the Estuary Partnership; and

“(iii) coordinate with other efforts, including activities of other Federal agencies in the Columbia River Basin, to avoid duplicating activities or functions.

“(C) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this section, including the establishment of the Program modifies or affects any legal or regulatory authority or program in effect as of the date of enactment of this section, including—

“(i) the roles of Federal agencies in the Columbia River Basin;

“(ii) the roles of States in the Columbia River Basin, including State authority over water allocation under section 101(g);

“(iii) the Snake River Water Rights Act of 2004 (Public Law 108-447; 118 Stat. 3431); or

“(iv) any other Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Columbia River Basin.

“(3) DUTIES.—The Administrator shall—

“(A) provide the Working Group with data, analysis, reports, or other information;

“(B) provide technical assistance to the Working Group, and to States, local government entities, and Indian tribes participating in the Working Group, to assist those agencies and entities in—

“(i) planning or evaluating potential projects;

“(ii) developing the annual priority list;

“(iii) implementing plans;

“(iv) implementing projects; and

“(v) monitoring and evaluating the effectiveness of projects and the implementation of plans and projects;

“(C) provide information to the Working Group on plans already developed by the Administrator or by other Federal agencies to enable the Working Group to avoid unnecessary or duplicative projects or activities;

“(D) provide coordination with other Federal agencies to avoid duplication of activities or functions;

“(E) assist the Working Group with—

“(i) completing and periodically updating the Columbia River Basin Toxics Reduction Action Plan and the Estuary Plan; and

“(ii) ensuring that those plans, when considered together and in light of relevant plans developed by other Federal or State agencies, form a coherent toxic contamination reduction strategy for the entire Columbia River Basin; and

“(F) implement, including by providing funding pursuant to subsection (e), projects and activities, including monitoring and assessment, that—

“(i) are identified by the Working Group in the annual priority list; and

“(ii) are included in the Columbia River Basin Toxics Reduction Action Plan and the Estuary Plan; or

“(II) are identified under subsection (d) and located in the Transboundary Flathead River Basin.

“(4) IMPLEMENTATION METHODS.—The Administrator may enter into interagency agreements, make or facilitate intergovernmental personnel appointments, provide funding, and use other available methods in carrying out the duties of the Administrator under this subsection.

“(c) STAKEHOLDER WORKING GROUP.—

“(1) ESTABLISHMENT.—The Administrator shall establish a Columbia River Basin Toxics Reduction Working Group.

“(2) MEMBERSHIP.—The members of the Working Group shall include, at a minimum, representatives of—

“(A) each State located in whole or in part within the Columbia River Basin;

“(B) each Indian tribe with legally defined rights and authorities in the Columbia River Basin that elects to participate on the Working Group;

“(C) local governments located in the Columbia River Basin;

“(D) industries operating in the Columbia River Basin that affect or could affect water quality;

“(E) electric, water, and wastewater utilities operating in the Columbia River Basin;

“(F) private landowners in the Columbia River Basin;

“(G) soil and water conservation districts in the Columbia River Basin;

“(H) irrigation districts in the Columbia River Basin;

“(I) environmental organizations that have a presence in the Columbia River Basin; and

“(J) the general public in the Columbia River Basin.

“(3) GEOGRAPHIC REPRESENTATION.—The Working Group shall include representation from each of the Columbia River Basin Provinces located in the Columbia River Basin.

“(4) APPOINTMENT.—

“(A) NONTRIBAL MEMBERS.—The Administrator, with the consent of the Governor of each State located in whole or in part within the Columbia River Basin, shall appoint non-tribal members of the Working Group not later than 180 days after the date of enactment of this section.

“(B) TRIBAL MEMBERS.—The governing body of each Indian tribe described in paragraph (2)(B) shall appoint tribal members of the Working Group not later than 180 days after the date of enactment of this section.

“(5) DUTIES.—The Working Group shall—

“(A) assess trends in water quality and toxic contamination or toxics reduction, including trends that affect uses of the water of the Columbia River Basin;

“(B) collect, characterize, and assess data on toxic contamination in the Columbia River Basin;

“(C) develop periodic updates to the Columbia River Basin Toxics Reduction Action Plan and, in the Estuary, the Estuary Plan;

“(D) submit to the Administrator annually a prioritized list of projects, including monitoring, assessment, and toxic contamination reduction projects, that would implement the Columbia River Basin Toxics Reduction Action Plan or, in the Lower Columbia River Estuary, the Estuary Plan, for funding pursuant to subsection (e); and

“(E) monitor the effectiveness of actions taken pursuant to this section.

“(6) LOWER COLUMBIA RIVER ESTUARY.—In the Lower Columbia River Estuary, the Estuary Partnership shall function as the Working Group and execute the duties of the Working Group described in this subsection for such time as the Estuary Partnership is the management conference for the Lower Columbia River National Estuary Program.

“(7) PARTICIPATION BY STATES.—At the discretion of the Governor of a State, the State—

“(A) may elect not to participate in the Working Group established under this paragraph; and

“(B) may provide comments to the Administrator on the prioritized list of projects submitted pursuant to paragraph (5)(D).

“(d) TRANSBOUNDARY FLATHEAD RIVER BASIN.—

“(1) SHORT TITLE.—This subsection may be cited as the ‘Transboundary Flathead River Basin Protection Act of 2010’.

“(2) ACTION BY PRESIDENT.—The President shall take steps to preserve and protect the unique, pristine area of the transboundary Flathead River Basin, with a particular focus on the North Fork of the Flathead River.

“(3) TRANSBOUNDARY COOPERATION.—In taking such steps, the President shall engage in negotiations with the Government of Canada

to establish an executive agreement, or other appropriate tool, to ensure permanent protection for the North Fork of the Flathead River watershed and the adjacent area of Glacier-Waterton National Park.

“(4) PARTICIPATION IN COOPERATIVE EFFORTS.—

“(A) IN GENERAL.—The President may participate in cross-border collaborations with Canada on environmental assessments of any project of cross-border significance that has the potential to degrade land or water resources by providing for on-going involvement of appropriate Federal agencies of the United States in such assessments.

“(B) COLLABORATION.—In carrying out subparagraph (A), the President shall include in collaborations under that subparagraph appropriate Federal agencies, such as—

“(i) the Environmental Protection Agency;

“(ii) the Department of the Interior;

“(iii) the United States Fish and Wildlife Service;

“(iv) the National Park Service;

“(v) the Forest Service; and

“(vi) such other agencies as the President determines to be appropriate.

“(5) ASSESSMENTS AND PROJECTS.—The President, acting through the Administrator, may provide grants under subsection (e) for the following purposes:

“(A) Developing baseline environmental conditions in the transboundary Flathead River Basin.

“(B) Assessing the impact of any proposed projects on the natural resources, water quality, wildlife, or environmental conditions in the transboundary Flathead River Basin.

“(C) Implementation of transboundary cooperative efforts identified by the governments of the United States and Canada under this subsection.

“(D) Projects to protect and preserve the natural resources, water quality, wildlife, and environmental conditions in the transboundary Flathead River Basin.

“(e) FUNDING.—

“(1) IN GENERAL.—The Administrator may provide funding through cooperative agreements, grants, or other means to State and regional water pollution control agencies and entities, other State and local government entities, Indian tribes, nonprofit private agencies, institutions, organizations, and individuals for use in paying costs incurred in carrying out activities—

“(A) that would advance the goals and objectives of the Columbia River Basin Toxics Reduction Action Plan or the Estuary Plan; or

“(B) relating to the cooperative efforts described in subsection (d)(4).

“(2) FEDERAL SHARE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of any project or activity carried out using funds provided to any person (including a State, interstate, or regional agency, an Indian tribe, or a local government entity) under this subsection for a fiscal year—

“(i) shall not exceed 75 percent of the total cost of the project or activity; and

“(ii) shall be made on condition that the non-Federal share of that total cost shall be provided from non-Federal sources.

“(B) EXCEPTIONS.—With respect to cost-sharing for funding provided under this subsection—

“(i) an Indian tribe may use Federal funds for the non-Federal share; and

“(ii) the Administrator may use up to 10 percent of the funds made available to carry out this section to increase the Federal

share under such circumstances as the Administrator determines to be appropriate.

“(C) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of an activity, project, program, or study carried out under this section may include the value of any in-kind services contributed by a non-Federal sponsor.

“(3) ALLOCATION.—In making grants using funds appropriated to carry out this section for fiscal years 2012 and 2013, the Administrator shall use—

“(A) not less than ⅓ of the funds for projects, programs, and studies in the Lower Columbia River Estuary; and

“(B) not less than ⅓ of the funds for projects, programs, and studies in the Middle and Upper Columbia River Basin.

“(4) SUPPORT OF GOVERNORS.—In reviewing requests for funding pursuant to this section, the Administrator may not consider any proposal for funding unless the Governor of the State in which the activity would take place has expressed support for the activity as proposed.

“(5) REPORTING.—Not later than 18 months after the date of receipt of funding under this subsection, and biennially thereafter for the duration of the funding, a person (including a State, interstate, or regional agency, an Indian tribe, or a local government entity) that receives funding under this subsection shall submit to the Administrator a report that describes the progress being made in achieving the purposes of this section using those funds.

“(f) ANNUAL BUDGET PLAN.—The President, as part of the annual budget submission of the President to Congress under section 1105(a) of title 31, United States Code, shall submit information regarding each Federal agency involved in protection and restoration of the Columbia River Basin, including an interagency crosscut budget that displays for each Federal agency—

“(1) the amounts obligated for the preceding fiscal year for protection and restoration projects, programs, and studies relating to the Columbia River Basin;

“(2) the estimated budget for the current fiscal year for protection and restoration projects, programs, and studies relating to the Columbia River Basin; and

“(3) the proposed budget for protection and restoration projects, programs, and studies relating to the Columbia River Basin.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section \$33,000,000 for each of fiscal years 2012 through 2017, to remain available until expended.”.

Subtitle F—Great Lakes Ecosystem Protection

SEC. 10251. SHORT TITLE.

This Act may be cited as the “Great Lakes Ecosystem Protection Act of 2010”.

SEC. 10252. GREAT LAKES PROVISION MODIFICATIONS.

(a) FINDINGS; PURPOSE.—Section 118(a) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (C) as subparagraph (D);

(B) by striking subparagraph (B) and inserting the following:

“(B) the United States should seek to attain the goals embodied and identified in the Great Lakes Regional Collaboration Strategy, the Great Lakes Restoration Initiative Action Plan, and the Great Lakes Water Quality Agreement;

“(C) in order to restore and maintain water quality in the Great Lakes basin, focus areas

for restoration and protection identified in the Great Lakes Regional Collaboration Strategy and the Great Lakes Restoration Initiative Action Plan must be addressed, such as—

“(i) the remediation of toxic substances;

“(ii) the prevention of invasive species and the mitigation of the impacts of the invasive species and the restoration areas impacted by invasive species;

“(iii) the protection and restoration of nearshore health and water quality;

“(iv) the prevention of nonpoint source water pollution;

“(v) habitat and wildlife protection and restoration; and

“(vi) accountability, education, monitoring, evaluation, communication, and partnership activities; and”;

(C) in subparagraph (D) (as redesignated by subparagraph (A)) by inserting “, tribal,” after “State”;

(2) by striking paragraph (2) and inserting the following:

“(2) PURPOSE.—The purpose of this section is to achieve the goals embodied and identified in the Great Lakes Regional Collaboration Strategy, the Great Lakes Restoration Initiative Action Plan, and the Great Lakes Water Quality Agreement—

“(A) by restoring and maintaining the chemical, physical, and biological integrity of the Great Lakes basin ecosystem; and

“(B) through—

“(i) the creation of a Great Lakes Collaboration Partnership;

“(ii) the improved organization and definition of mission on the part of the Environmental Protection Agency;

“(iii) the funding of grants, contracts, and interagency agreements for protection, restoration, and pollution prevention and control in the Great Lakes area; and

“(C) by implementing improved and transparent accountability mechanisms.”; and

(3) in paragraph (3)—

(A) by striking subparagraph (H) and inserting the following:

“(H) ‘Great Lakes Water Quality Agreement’ means the bilateral ‘Agreement on Great Lakes water quality, 1978’ between the United States and Canada, signed at Ottawa on November 22, 1978 (30 UST 1383; TIAS 9257), and amended October 16, 1983 (TIAS 10798) and November 18, 1987 (TIAS 11551) (including any subsequent revisions);”;

(B) in subparagraph (K), by striking “and” after the semicolon;

(C) in subparagraph (L), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

“(M) ‘Action Plan’ means the Great Lakes Restoration Initiative Action Plan, signed on February 21, 2010;

“(N) ‘Blueprint’ means—

“(i) the Great Lakes Restoration Blueprint, a strategy for restoring and protecting water quality in, and the ecosystem of, the Great Lakes basin adopted by the Great Lakes Collaboration Partnership in accordance with this section; and

“(ii) any future amendments or revisions to that strategy;

“(O) ‘Great Lakes Regional Collaboration Strategy’ means the Great Lakes Regional Collaboration Strategy to Protect and Restore the Lakes, signed on December 12, 2005; and

“(P) ‘Needs-based applicant’ means a public or nonprofit entity that meets the economic and affordability criteria established by the Administrator in consultation with the Program Office and Great Lakes Leadership Council.”.

(b) GREAT LAKES MANAGEMENT.—Section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) is amended—

(1) by redesignating paragraphs (1) through (13) as (2) through (14), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

“(1) IN GENERAL.—The Administrator, or a designee of the Administrator, shall—

“(A) coordinate and manage all Federal agency actions to implement the Action Plan, the Blueprint, and the Great Lakes Water Quality Agreement; and

“(B) review and approve—

“(i) the annual priority list to determine whether the proposed activities will advance the goals of the Action Plan and the Blueprint; and

“(ii) on an annual basis, the Federal agency actions taken to implement the approved annual priority list.”;

(3) in paragraph (2) (as redesignated by paragraph (1))—

(A) in subparagraph (A), by striking “,” and inserting a semicolon;

(B) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (F), (G), and (H), respectively; and

(C) by inserting after subparagraph (B) the following:

“(C) provide the support described in paragraph (7);

“(D) provide support to the Great Lakes Interagency Task Force, as required under paragraph (9);

“(E) in consultation with the members of the Great Lakes Regional Collaboration Partnership, be responsible for the creation, updating, and, as necessary, revision of accountability measures, including focus area goals and performance targets and measures.”;

(4) in subparagraphs (B) and (C) of paragraph (4) (as redesignated by paragraph (1)), by striking “subparagraph (c)(1)(C) of this section” and inserting “paragraph (2)(F)”;

(5) by striking paragraph (7) (as redesignated by paragraph (1)) and inserting the following:

“(7) GREAT LAKES GOVERNANCE AND MANAGEMENT.—

“(A) GREAT LAKES LEADERSHIP COUNCIL.—

“(i) ESTABLISHMENT.—There is established a council, to be known as the Great Lakes Leadership Council (referred to in this paragraph as the ‘Council’).

“(ii) DUTIES.—The Council shall—

“(I) in consultation with the Administrator, compile an annual priority list that identifies and prioritizes activities intended to be funded with amounts made available under this subsection during the succeeding fiscal year;

“(II) not later than 1 year after the date of establishment of the Council and on an annual basis thereafter—

“(aa) review and report on progress in meeting the goals and objectives of the Action Plan or the Blueprint;

“(bb) assess the implementation of the Administrator of the most recently approved annual priority list; and

“(cc) make recommendations regarding other relevant Great Lakes issues; and

“(III) make recommendations to the Administrator and the Secretary of State regarding—

“(aa) a process for participating in relevant international fora, such as the Great Lakes Water Quality Agreement; and

“(bb) whether any existing advisory or coordinating bodies are duplicative and should be replaced or eliminated.

“(iii) MEMBERSHIP.—

“(I) VOTING MEMBERS.—The membership of the Council shall include as voting members—

“(aa) the governors of the Great Lake States;

“(bb) up to 8 representatives of tribal governments, to be appointed after direct government-to-government consultation between the Program Office and all Great Lakes tribes—

“(AA) by the Indian tribes located in the Great Lakes basin in the United States; and

“(BB) to the maximum extent practicable, in a manner that ensures that the tribal governments are geographically representative of the Great Lakes basin; and

“(cc) up to 8 mayors, to be appointed by the mayors of areas located in the Great Lakes basin in the United States—

“(AA) in accordance with such procedures and criteria as the Administrator may establish; and

“(BB) to the maximum extent practicable, in a manner that ensures that the mayors are geographically representative of the Great Lakes basin.

“(II) NONVOTING MEMBERS.—The membership of the Council shall include as non-voting members—

“(aa) 1 member who shall be appointed by the Great Lakes Commission;

“(bb) 1 member who shall be appointed by the International Joint Commission;

“(cc) 1 member who shall be appointed by the Great Lakes Fishery Commission;

“(dd) 1 member who shall be a representative of the environmental community in the Great Lakes, to be appointed by the Administrator, after soliciting advice from that community;

“(ee) 1 member who shall be a representative of the agricultural community, to be appointed by the Administrator, after soliciting advice from that community;

“(ff) 1 member who shall be a representative of the Great Lakes business community, to be appointed by the Administrator, after soliciting advice from that community;

“(gg) 1 member who shall be a representative of the scientific community, to be appointed by the Administrator, after soliciting advice from that community; and

“(hh) 1 member who shall be a representative of Canada, as an observer member.

“(III) CHAIRPERSON.—The chairperson of the Council shall rotate on a biennial basis among the Governors of the Great Lakes States.

“(IV) SECRETARY.—The chairperson shall designate a secretary to provide administrative support to the Council.

“(iv) COMMITTEES.—The Council may establish such committees as the Council determines to be appropriate to address concerns of the Council, including—

“(I) executive issues;

“(II) scientific issues;

“(III) implementation issues; and

“(IV) funding issues.

“(v) COUNCIL MEETINGS.—

“(I) IN GENERAL.—The Council shall meet not less frequently than once each year.

“(II) OPEN TO PUBLIC.—The meetings of the Council shall be open to the public.

“(vi) COMMITTEE MEETINGS.—A committee established by the Council under clause (iv) may meet as frequently as necessary to provide support to the Council.”;

(6) by striking paragraph (8) (as redesignated by paragraph (1)) and inserting the following:

“(8) GREAT LAKES COLLABORATION PARTNERSHIP.—

“(A) ESTABLISHMENT.—

“(i) IN GENERAL.—There is established a partnership, to be known as the Great Lakes Collaboration Partnership (referred to in this paragraph as the ‘Partnership’) that shall consist of the Great Lakes Leadership Council and the Great Lakes Interagency Task Force.

“(ii) PURPOSE.—The purpose of the Partnership is to facilitate the creation of a Blueprint under subparagraph (B) that is consistent with the requirements of this paragraph.

“(B) GREAT LAKES RESTORATION BLUEPRINT.—

“(i) IN GENERAL.—

“(I) CONTENTS.—The Blueprint developed by the Partnership shall describe—

“(aa) a strategy for restoring and protecting water quality in, and the ecosystem of, the Great Lakes Basin; and

“(bb) focus and policy areas for achieving the strategy, as well as measurable outcomes and performance targets for achieving the strategy.

“(II) CONSULTATION.—The strategy outlined in the Blueprint shall be achieved through—

“(aa) cooperation among relevant Federal agencies; and

“(bb) consultation and coordination with applicable States, Indian tribes, local governments, institutions of higher education, nongovernmental organizations, and other stakeholders in the Great Lakes basin, as well as representatives of Canada.

“(III) USE OF EXISTING PLANS AND AGREEMENTS.—In developing the Blueprint, the Partnership shall, to the maximum extent practicable, build on existing plans or agreements, such as the Great Lakes Regional Collaboration Strategy, Great Lakes Restoration Initiative Action Plan, and the Great Lakes Water Quality Agreement.

“(ii) FEDERAL SHARE.—

“(I) IN GENERAL.—Except as provided in subclauses (II) and (III) and subsection (c)(13)(E)(i), the Federal share of the cost of an activity, project, program, or study carried out with funds made available under this section shall be not more than 75 percent of the cost of an activity, project, program, or study.

“(II) EXISTING FEDERAL SHARE.—If the Federal share of the cost of an activity, project, program, or study described in subclause (I) is specified in another provision of Federal law in effect as of the date of enactment of the America’s Great Outdoors Act of 2010, the Federal share specified in the other provision shall apply to the activity, project, program, or study.

“(III) NEEDS-BASED APPLICANTS.—For each fiscal year, the Administrator may use up to 10 percent of the funds made available to carry out this section for the fiscal year to increase the Federal share up to 100 percent for a needs-based applicant.

“(iii) REVISION OF THE BLUEPRINT.—Not later than 5 years after the date of enactment of the America’s Great Outdoors Act of 2010, and every 5 years thereafter, the Partnership shall review and update the Blueprint.

“(iv) TRANSITION.—In the first fiscal year after the date of adoption of the Blueprint by the Partnership—

“(I) the Blueprint shall replace the Action Plan as the guiding document for Federal investment in Great Lakes protection and restoration; and

“(II) the Great Lakes Leadership Council shall use the Blueprint to develop the annual priority list under subparagraph (C).

“(v) OPERATION.—In creating, modifying, or revising of the Blueprint, the Partnership

shall consult with and achieve a consensus on the Blueprint with the Great Lakes Interagency Task Force and the voting members of the Great Lakes Leadership Council.

“(C) ANNUAL PRIORITY LIST.—

“(i) IN GENERAL.—After providing public notice, the Great Lakes Leadership Council shall annually compile a priority list that identifies and prioritizes the activities intended to be funded with amounts made available under this subsection during the succeeding fiscal year.

“(ii) LIST COMPONENTS.—The list compiled under clause (i) shall include—

“(I) a prioritized list of specific activities that will advance the goals and objectives of the Action Plan or Blueprint; and

“(II) the criteria and methods established by the Great Lakes Leadership Council for selecting activities, projects, programs, and studies for grants, contracts, and interagency agreements under this subsection.

“(iii) APPROVAL OF LIST.—

“(I) SUBMISSION.—On July 1 of each calendar year, the Great Lakes Leadership Council shall submit the annual priority list compiled under clause (ii) to the Administrator for approval.

“(II) APPROVAL.—The Administrator shall approve or disapprove a list submitted under subclause (I) or resubmitted under subclause (III) based on a determination of whether the activities specified in the list will advance the goals and objectives of the Action Plan or Blueprint.

“(III) EFFECTS OF DISAPPROVAL.—If the Administrator disapproves a list submitted under subclause (I) or (III), the Administrator shall—

“(aa) provide the Great Lakes Leadership Council, in writing, a notification of, and basis for, the disapproval; and

“(bb) allow the Great Lakes Leadership Council the opportunity for resubmission of a revised annual priority list that addresses, to the maximum extent practicable, the comments contained in the written disapproval of the Administrator.

“(IV) FAILURE OF ADMINISTRATOR TO RESPOND.—If, by the date that is 60 days after the date of submission or resubmission to the Administrator of an annual priority list by the Great Lakes Leadership Council, the Administrator fails to respond to the submission or resubmission in writing, the annual priority list shall be considered to be approved.

“(iv) FAILURE TO COMPILE LIST.—

“(I) IN GENERAL.—If, by the date that is 120 days after the annual date of submission specified in clause (iii)(I), the Great Lakes Leadership Council fails to compile an annual priority list in accordance with clause (i) or secures only a written disapproval from the Administrator for a list submitted under subclauses (I) or (III) of clause (iii), the Administrator shall compile a priority list for the fiscal year that includes—

“(aa) a specification, in order of priority, of activities that will assist in meeting the goals and objectives of the Action Plan or Blueprint;

“(bb) the criteria and methods for selecting activities for grants, contracts, and interagency agreements under this subsection; and

“(cc) any activities from previous lists compiled under clause (i) and approved under clause (iii) that have not yet been funded.

“(II) APPROVAL.—A list compiled by the Administrator in accordance with subclause (I) shall be considered to be an approved annual priority list for the purposes of this section.

“(D) TRANSFER OF FUNDS.—Of amounts made available to carry out this section, the Administrator may—

“(i) transfer not more than \$475,000,000 to the head of any Federal department or agency, with the concurrence of the department or agency head, to carry out activities to support the Action Plan, the Blueprint, or the Great Lakes Water Quality Agreement;

“(ii) enter into an interagency agreement with the head of any Federal department or agency to carry out activities described in the annual priority list; and

“(iii) make grants to and enter into cooperative agreements with governmental entities, nonprofit organizations, institutions, and educational institutions to carry out planning, research, monitoring, outreach, training, studies, surveys, investigations, experiments, demonstration projects, and implementation relating to the activities described in the annual priority list.

“(E) SCOPE.—

“(i) IN GENERAL.—The scope of activities carried out pursuant to this section shall be, to the maximum extent practicable, geographically diverse, and include—

“(I) local activities;

“(II) Great Lakes-wide activities; and

“(III) Great Lakes basin activities.

“(ii) LIMITATION.—No amounts made available to carry out this section may be used for any water infrastructure activity (other than a green infrastructure project) for which amounts are made available from—

“(I) a State water pollution control revolving fund established under title VI; or

“(II) a State drinking water revolving loan fund established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12).

“(F) ACTIVITIES BY OTHER FEDERAL AGENCIES.—Each relevant Federal department and agency shall, to the maximum extent practicable—

“(i) maintain the base level of funding for the Great Lakes activities of the agency; and

“(ii) on an annual basis, identify for the Great Lakes Leadership Council new activities for upcoming fiscal years to support the environmental goals of the Action Plan or the Blueprint for inclusion on the annual priority list.

“(G) FUNDING.—

“(i) AUTHORIZATION OF APPROPRIATIONS.—

“(I) IN GENERAL.—Subject to subclause (II), there is authorized to be appropriated to carry out this section \$475,000,000 for each of fiscal years 2012 through 2017.

“(II) COUNCIL FUNDS.—For each of fiscal years 2012 through 2017, out of any amounts made available to the Administrator under subclause (I), not more than \$1,000,000 shall be provided to the Great Lakes Leadership Council established under paragraph (7) for the operating costs of the Council.

“(ii) PARTNERSHIPS.—Of the amounts made available to carry out this section, the Administrator shall transfer expeditiously to the Federal partners such sums as are necessary for subsequent use and distribution by the Federal partners in accordance with this section.”;

(7) by striking paragraph (9) (as redesignated by paragraph (1)) and inserting the following:

“(9) GREAT LAKES INTERAGENCY TASK FORCE.—

“(A) ESTABLISHMENT.—There is established a task force, to be known as the ‘Great Lakes Interagency Task Force’ as described in Executive Order 13340 (33 U.S.C. 1268 note) and relating to the implementation of Federal responsibilities under the Action Plan and the Blueprint.

“(B) MANAGEMENT.—The Administrator shall serve as the chairperson for the Great Lakes Interagency Task Force.

“(C) COORDINATION.—The Program Office shall provide guidance and support to the Great Lakes Interagency Task Force and coordinate, to the maximum extent practicable, with the Great Lakes Leadership Council.

“(D) DUTIES.—The Great Lakes Interagency Task Force shall—

“(i) collaborate with Canada, provinces of Canada, and binational bodies involved in the Great Lakes region regarding policies, strategies, projects, and priorities for the Great Lakes System;

“(ii)(I) coordinate the development of Federal policies, strategies, projects, and priorities for addressing the restoration and protection of the Great Lakes System consistent with the Federal implementation of the approved annual priority list and the Great Lakes Water Quality Agreement, as well as the creation and update of the Blueprint; and

“(II) assist in the appropriate management of the Great Lakes System;

“(iii) use outcome-based goals to guide the implementation of the annual priority list, as well as the creation and update of the Blueprint, relying on existing data and science-based indicators of water quality, related environmental factors, and other information—

“(I) to focus on outcomes such as cleaner water, sustainable fisheries, and biodiversity of the Great Lakes basin; and

“(II) to ensure that Federal policies, strategies, projects, and priorities support measurable results;

“(iv) exchange information regarding policies, strategies, projects, and activities of the agencies represented on the Great Lakes Interagency Task Force relating to—

“(I) the Great Lakes basin;

“(II) the Great Lakes Regional Collaboration Strategy; and

“(III) the Blueprint or the Action Plan;

“(v) coordinate government action associated with the Great Lakes basin;

“(vi) ensure coordinated Federal scientific and other research associated with the Great Lakes basin; and

“(vii) provide technical assistance to the Great Lakes Leadership Council, including in the compilation of the annual priority list.”;

(8) by striking paragraph (11) (as redesignated by paragraph (1)) and inserting the following:

“(11) REPORTS.—

“(A) ANNUAL COMPREHENSIVE RESTORATION REPORT.—Not later than 90 days after the end of each fiscal year, in lieu of the report required under this paragraph as in effect on the day before the date of enactment of the Great Lakes Ecosystem Protection Act of 2010, the Administrator shall submit to Congress and make publicly available a comprehensive report on the overall health of the Great Lakes that includes—

“(i) a description of the achievements during the fiscal year in implementing the annual priority list, the Great Lakes Water Quality Agreement, and any other applicable agreements or amendments that—

“(I) demonstrate, by category (including categories for judicial enforcement, research, State cooperative efforts, and general administration) the amounts expended on Great Lakes water quality initiatives for the fiscal year;

“(II) describe the progress made during the fiscal year in implementing the system of

surveillance of the water quality in the Great Lakes System, including the monitoring of groundwater and sediment, with a particular focus on toxic pollutants;

“(III) describe the prospects of meeting the goals and objectives of the Action Plan, the Blueprint, and the Great Lakes Water Quality Agreement; and

“(IV) provide a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Action Plan, the Blueprint, the Great Lakes Water Quality Agreement, and any other applicable agreements or amendments that—

“(aa) indicate, by category (including categories for judicial enforcement, research, State cooperative efforts, and general administration) the amount anticipated to be expended on Great Lakes water quality initiatives for the applicable fiscal year; and

“(bb) include a report on programs administered by other Federal agencies that make resources available for Great Lakes water quality management efforts;

“(ii) a detailed list of accomplishments of the Action Plan or the Blueprint with respect to each organizational element of the Blueprint and the means by which progress will be evaluated;

“(iii) recommendations for streamlining the work of existing Great Lakes advisory and coordinating bodies, including a recommendation for eliminating any such entity if the work of the entity—

“(I) is duplicative; or

“(II) complicates the protection and restoration of the Great Lakes; and

“(iv) with respect to each priority submitted under paragraph (8)(C) and recommendations submitted by the Great Lakes Leadership Council under subclauses (II) and (III) of paragraph (7)(A)(ii) during the fiscal year, the reasons why the Administrator implemented, or did not implement, the priorities and recommendations.

“(B) CROSSCUT BUDGET.—Not later than 45 days after the date of submission of the budget of the President to Congress, the Director of the Office of Management and Budget, in coordination with the Governor of each Great Lakes State and the Great Lakes Interagency Task Force, shall submit to Congress and make publicly available a financial report, certified by the head of each agency that has budget authority for Great Lakes restoration activities, containing—

“(i) an interagency budget crosscut report that—

“(I) describes the budget proposed, including funding allocations by each agency for the Action Plan or the Blueprint;

“(II) identifies any adjustments made since the date of submission of the budget request;

“(III) identifies the amounts requested by each participating Federal agency to carry out restoration and protection activities in the subsequent fiscal year, listed by the Federal law under which the activity will be carried out;

“(IV) compares specific funding levels allocated for participating Federal agencies by fiscal year; and

“(V) identifies all expenditures since fiscal year 2004 by the Federal Government and State and tribal governments for Great Lakes restoration activities;

“(ii) a detailed accounting by agency and focus area under the Action Plan or the Blueprint of all amounts received, obligated, and expended by all Federal agencies and, to the maximum extent practicable, State and tribal agencies using Federal funds, for Great Lakes restoration activities during the current and previous fiscal years;

“(iii) a budget for the proposed projects (including a description of the project, authorization level, and project status) to be carried out in the subsequent fiscal year, including the Federal share of costs for the projects; and

“(iv) a list of all projects to be undertaken in the subsequent fiscal year, including the Federal share of costs for the projects.”; and

(9) in paragraph (13) (as redesignated by paragraph (1))—

(A) in subparagraph (E)—

(i) by striking clause (i) and inserting the following:

“(i) NON-FEDERAL SHARE REDUCTION FOR CERTAIN STATE, LOCAL, AND TRIBAL GOVERNMENT SPONSORS.—At the discretion of the Administrator, the Administrator may reduce, but not eliminate, the non-Federal share requirement for State, local, or tribal government sponsors, if the Administrator determines that contribution of the full non-Federal share would result in economic hardship for the applicable State, local, or tribal government sponsor.”; and

(B) in subparagraph (H), by striking clause (i) and inserting the following:

“(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to other amounts authorized under this section, there are authorized to be appropriated to carry out this paragraph—

“(I) \$50,000,000 for each of fiscal years 2004 through 2011; and

“(II) \$150,000,000 for each of fiscal years 2012 through 2017.”.

(C) AUTHORIZATION OF APPROPRIATIONS.—Section 118(h) of the Federal Water Pollution Control Act (33 U.S.C. 1268(h)) is amended—

(1) by striking paragraphs (1) through (3);

(2) by inserting the following:

“(1) PROGRAM OFFICE.—Out of any amounts made available to carry out this section, there is authorized to be appropriated to the Program Office to cover the operating costs of the Program Office (including costs relating to personnel, operations, and administration) \$25,000,000 for each of fiscal years 2012 through 2017.

“(2) TASK FORCE.—Out of any amounts made available to carry out this section, there is authorized to be appropriated to the Great Lakes Interagency Task Force to cover the cost of providing technical assistance to the Great Lakes Leadership Council (including the compilation of the annual priority list) \$5,000,000 for each of fiscal years 2012 through 2017.”.

(D) EFFECT OF SECTION.—Nothing in this section or an amendment made by this section affects—

(1) the jurisdiction, powers, or prerogatives of—

(A) any department, agency, or officer of—

(i) the Federal Government; or

(ii) any State or tribal government; or

(B) any international body established by treaty with authority relating to the Great Lakes (as defined in section 118(a)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3))); or

(2) any other Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Great Lakes (as so defined).

SEC. 10253. CONTAMINATED SEDIMENT REMEDIATION APPROACHES, TECHNOLOGIES, AND TECHNIQUES.

Section 106(b) of the Great Lakes Legacy Act of 2002 (33 U.S.C. 1271a(b)) is amended by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—In addition to amounts authorized under other laws, there are authorized to be appropriated to carry out this section—

“(A) \$3,000,000 for each of fiscal years 2004 through 2010; and

“(B) \$5,000,000 for each of fiscal years 2012 through 2016.”.

SEC. 10254. AQUATIC NUISANCE SPECIES.

During the 1-year period beginning on the date of enactment of this Act, the Secretary of the Army shall implement measures recommended in the efficacy study, or provided in interim reports, authorized under section 3061 of the Water Resources Development Act of 2007 (121 Stat. 1121), with such modifications or emergency measures as the Secretary of the Army determines to be appropriate, to prevent aquatic nuisance species from bypassing the Chicago Sanitary and Ship Canal Dispersal Barrier Project referred to in that section and to prevent aquatic nuisance species from dispersing into the Great Lakes.

Subtitle G—Long Island Sound Restoration

SEC. 10261. SHORT TITLE.

This subtitle may be cited as the “Long Island Sound Restoration and Stewardship Act”.

SEC. 10262. AMENDMENTS.

(a) LONG ISLAND SOUND RESTORATION PROGRAM.—

(1) IN GENERAL.—Section 119 of the Federal Water Pollution Control Act (33 U.S.C. 1269) is amended—

(A) by redesignating subsections (a) through (c), (d), (e), and (f) as subsections (b) through (d), (k), (l), and (m), respectively;

(B) by inserting before subsection (b) (as so redesignated) the following:

“(a) DEFINITIONS.—In this section:

“(1) CONFERENCE STUDY.—The term ‘conference study’ means the management conference of the Long Island Sound Study established pursuant to section 320.

“(2) LONG ISLAND SOUND STATE.—The term ‘Long Island Sound State’ means each of the States of Connecticut, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

“(3) LONG ISLAND SOUND TMDL.—The term ‘Long Island Sound TMDL’ means a total maximum daily load established or approved by the Administrator to achieve water quality standards in the waters of the Long Island Sound under section 303(d).

“(4) LONG ISLAND SOUND WATERSHED.—The term ‘Long Island Sound watershed’ means Long Island Sound and the area consisting of the drainage basin leading into Long Island Sound, including—

“(A) the Connecticut River and associated tributaries;

“(B) the Housatonic River and associated tributaries;

“(C) the Thames River and associated tributaries;

“(D) the Pawcatuck River and associated tributaries; and

“(E) all other tributaries in the States of Connecticut and New York that drain into Long Island Sound.

“(5) NEEDS-BASED APPLICANT.—The term ‘needs-based applicant’ means a public entity that meets the economic and affordability criteria established by the Administrator, in consultation with the Director of the Office.

“(6) OFFICE.—The term ‘Office’ means the office established pursuant to subsection (b)(2).”.

(C) by striking subsection (b) (as so redesignated) and inserting the following:

“(b) CONFERENCE STUDY; ESTABLISHMENT OF OFFICE.—The Administrator shall—

“(1) continue the conference study; and

“(2) establish an office in accordance with this section, to be located on or near Long Island Sound.”;

(D) in subsection (d) (as so redesignated)—

(i) in the matter preceding paragraph (1), by striking “Management Conference of the Long Island Sound Study” and inserting “conference study”;

(ii) in paragraph (2)—

(I) in each of subparagraphs (A) through (G), by striking the commas at the end of the subparagraphs and inserting semicolons;

(II) in subparagraph (H), by striking “, and” and inserting a semicolon;

(III) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(IV) by adding at the end the following:

“(J) the impacts of climate change on the Long Island Sound watershed, including—

“(i) the identification and assessment of vulnerabilities in the watershed;

“(ii) the development and implementation of adaptation strategies to reduce those vulnerabilities; and

“(iii) the identification and assessment of the impacts of sea level rise on water quality, habitat, and infrastructure in Long Island Sound; and

“(K) planning initiatives for Long Island Sound that identify the areas that are most suitable for various types or classes of activities in order to reduce conflicts among uses, reduce environmental impacts, facilitate compatible uses, or preserve critical ecosystem services to meet economic, environmental, security, or social objectives;”;

(iii) by striking paragraph (4) and inserting the following:

“(4) develop and implement strategies to increase public education and awareness with respect to the ecological health and water quality conditions of Long Island Sound;”;

(iv) in paragraph (5), by inserting “study” after “conference”;

(v) in paragraph (6)—

(I) by inserting “(including on the Internet)” after “the public”; and

(II) by inserting “study” after “conference”; and

(vi) by striking paragraph (7) and inserting the following:

“(7) monitor the progress made toward meeting the identified goals, actions, and schedules of the Comprehensive Conservation and Management Plan, including through the implementation and support of a monitoring system for the ecological health and water quality conditions of Long Island Sound; and”;

(E) by inserting after subsection (d) (as so redesignated) the following:

“(e) STORMWATER DISCHARGES.—

“(1) REGIONAL STORMWATER PERMITTING.—Notwithstanding section 402(p)(3)(B)(i), and at the request of applicable municipalities within the Long Island Sound watershed, a permit under section 402(p) for discharges composed entirely of stormwater may be issued on a regional basis.

“(2) REGULATIONS.—

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Long Island Sound Restoration and Stewardship Act, and after providing notice and an opportunity for public comment, the Administrator shall promulgate regulations to implement this subsection, including regulations for the issuance of permits under section 402(p) and, specifically, permit issuance on a regional basis under paragraph (1).

“(B) PERMIT REQUIREMENTS.—In carrying out subparagraph (A), the Administrator shall ensure that—

“(i) all permits held by industrial stormwater dischargers located within an

area subject to a municipal discharge permit under section 402(p), regardless of whether the permits are regional permits issued under paragraph (1) or general or individual permits, conform to the conditions included in the municipal discharge permit;

“(ii) all permits held by construction activity dischargers located within an area subject to a municipal discharge permit issued under section 402(p), regardless of whether the permits are regional permits issued under paragraph (1) or general or individual permits, conform to the conditions included in the municipal discharge permit; and

“(iii) monitoring requirements are included in all permits issued under section 402(p).

“(3) TECHNICAL ASSISTANCE.—The Administrator may provide technical assistance to a municipality with respect to the establishment of a regional permit issued under paragraph (1).

“(f) REPORT.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Long Island Sound Restoration and Stewardship Act, and biennially thereafter, the Director of the Office, in consultation with the Governor of each Long Island Sound State participating in the conference study, shall submit to Congress a report that—

“(A) summarizes and assesses the progress made by the Office and the participating Long Island Sound States in implementing the Long Island Sound Comprehensive Conservation and Management Plan, including an assessment of the progress made toward meeting the performance goals and milestones contained in the Plan;

“(B) assesses the key ecological attributes that reflect the health of the ecosystem of the Long Island Sound watershed;

“(C) describes any substantive modifications to the Long Island Sound Comprehensive Conservation and Management Plan made during the 2-year period preceding the date of submission of the report;

“(D) provides specific recommendations to improve progress in restoring and protecting the Long Island Sound watershed, including, as appropriate, proposed modifications to the Long Island Sound Comprehensive Conservation and Management Plan;

“(E) identifies priority actions for implementation of the Long Island Sound Comprehensive Conservation and Management Plan for the 2-year period following the date of submission of the report; and

“(F) describes the means by which Federal funding and actions will be coordinated with the actions of the participating Long Island Sound States and other entities.

“(2) PUBLIC AVAILABILITY.—The Administrator shall make the report described in paragraph (1) available to the public, including on the Internet.

“(g) ANNUAL BUDGET PLAN.—The President shall submit, together with the annual budget of the United States Government submitted under section 1105(a) of title 31, United States Code, information regarding each Federal department and agency involved in the protection and restoration of the Long Island Sound watershed, including—

“(1) an interagency crosscut budget that displays for each department and agency—

“(A) the amount obligated during the preceding fiscal year for protection and restoration projects and studies relating to the watershed;

“(B) the estimated budget for the current fiscal year for protection and restoration

projects and studies relating to the watershed; and

“(C) the proposed budget for succeeding fiscal years for protection and restoration projects and studies relating to the watershed; and

“(2) a summary of any proposed modifications to the Long Island Sound Comprehensive Conservation and Management Plan for the following fiscal year.

“(h) FEDERAL ENTITIES.—

“(1) COORDINATION.—The Administrator shall coordinate the actions of all Federal departments and agencies that impact water quality in the Long Island Sound watershed in order to improve the water quality and living resources of the watershed.

“(2) METHODS.—In carrying out this section, the Administrator, acting through the Director of the Office, may—

“(A) enter into interagency agreements; and

“(B) make intergovernmental personnel appointments.

“(3) FEDERAL PARTICIPATION IN WATERSHED

PLANNING.—A Federal department or agency that owns or occupies real property, or carries out activities, within the Long Island Sound watershed shall participate in regional and subwatershed planning, protection, and restoration activities with respect to the watershed.

“(4) CONSISTENCY WITH COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN.—

“(A) IN GENERAL.—To the maximum extent practicable, the head of each Federal department and agency that owns or occupies real property, or carries out activities, within the Long Island Sound watershed shall ensure that the property and all activities carried out by the department or agency are consistent with the Long Island Sound Comprehensive Conservation and Management Plan (including any related subsequent agreements and plans).

“(B) FORESTED LANDS AND RIPARIAN HABITAT.—Not later than 2 years after the date of enactment of the Long Island Sound Restoration and Stewardship Act, the Administrator shall coordinate with the head of each Federal agency that owns or occupies real property within the Long Island Sound watershed to develop and implement—

“(i) a plan to maximize, to the extent practicable, forest cover and riparian habitat on the property; and

“(ii) a plan for reforestation and riparian habitat recovery, if necessary, on the property.

“(C) STORMWATER MANAGEMENT PRACTICES.—Not later than 2 years after the date of enactment of the Long Island Sound Restoration and Stewardship Act, the Administrator shall coordinate with the head of each Federal agency that owns or occupies real property within the Long Island Sound watershed to develop and implement a plan to minimize or eliminate the discharge of stormwater.

“(D) PLUM ISLAND.—Notwithstanding any other provision of law, the Administrator of General Services shall ensure that any sale or other disposition of real and related personal property and transportation assets pursuant to section 540 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110-329; 122 Stat. 3688) preserves or enhances the environmental, ecological, cultural, historic, and scenic characteristics of the property or assets.

“(i) TRADING PROGRAM.—

“(1) ESTABLISHMENT.—The Administrator shall, in consultation with the Governor of each Long Island Sound State—

“(A) not later than September 30, 2011, publish a proposal for a voluntary interstate nitrogen trading program with respect to Long Island Sound that includes the generation, trading, and use of nitrogen credits to facilitate the attainment and maintenance of the Long Island Sound TMDL; and

“(B) not later than March 1, 2012, establish a voluntary interstate nitrogen trading program with respect to Long Island Sound that includes the generation, trading, and use of nitrogen credits to facilitate the attainment and maintenance of the Long Island Sound TMDL.

“(2) REQUIREMENTS.—The trading program established under paragraph (1) shall, at a minimum—

“(A) establish procedures or standards for certifying, verifying, and enforcing nitrogen credits to ensure that credit-generating practices from both point sources and nonpoint sources are achieving actual reductions in nitrogen; and

“(B) establish procedures or standards for providing public transparency with respect to trading activity.

“(j) ANNUAL PRIORITY LIST.—

“(1) IN GENERAL.—After providing notice, the Director of the Office, in consultation with the Governors of each Long Island Sound State participating in the conference study, shall annually compile a priority list identifying and prioritizing the activities, projects, programs, and studies intended to be funded during the succeeding fiscal year with the amounts made available under subsection (k).

“(2) INCLUSIONS.—The annual priority list compiled under paragraph (1) shall include—

“(A) a prioritized list of specific activities, projects, programs, and studies that—

“(i) advance the goals and objectives of the approved Long Island Sound Comprehensive Conservation and Management Plan; and

“(ii) select, to the maximum extent practicable and consistent with clause (i), those projects for which the matching funds available exceed the minimum level required under subsection (k)(3).

“(B) information on the activities, projects, programs, and studies specified under subparagraph (A), including a description of—

“(i) the terms of financial assistance agreements or interagency agreements;

“(ii) the identities of the financial assistance recipients or the Federal agency parties to the interagency agreements; and

“(iii) the communities to be served; and

“(C) the criteria and methods established by the Director of the Office for the selection of activities, projects, programs, and studies.

“(3) APPROVAL OF LIST.—

“(A) SUBMISSION.—On August 1 of each calendar year, the Director of the Office shall submit the annual priority list compiled under paragraph (1) to the Administrator for approval.

“(B) APPROVAL.—The Administrator shall approve or disapprove a list submitted under subparagraph (A) or resubmitted under subparagraph (C) based on a determination of whether—

“(i) the activities, projects, programs, and studies listed advance the goals and objectives of the approved Long Island Sound Comprehensive Conservation and Management Plan; and

“(ii) the list, as a whole, meets the criteria established under subsection (j)(2)(A)(ii).

“(C) EFFECT OF DISAPPROVAL.—If the Administrator disapproves a list submitted under subparagraph (A) or (C), the Administrator shall—

“(i) provide the Director of the Office, in writing, a notification of the basis for the disapproval; and

“(ii) allow the Director of the Office the opportunity for resubmission of a revised annual priority list that addresses, to the maximum extent practicable, the comments contained in the written disapproval of the Administrator described in clause (i).

“(D) FAILURE OF ADMINISTRATOR TO RESPOND.—If, by the date that is 60 days after the date of submission or resubmission to the Administrator of an annual priority list by the Director of the Office, the Administrator fails to respond to the submission or resubmission in writing, the annual priority list shall be considered to be approved.

“(4) FAILURE TO COMPILE LIST.—

“(A) IN GENERAL.—If, by the date that is 180 days after the annual date of submission specified in paragraph (3)(A), the Director of the Office fails to compile an annual priority list in accordance with paragraph (1) or secures only a written disapproval from the Administrator for a list submitted under subparagraph (A) or (C) of paragraph (3), the Administrator shall compile a priority list for the fiscal year that includes—

“(i) activities, projects, programs, or studies that advance the goals and objectives of the approved Long Island Sound Comprehensive Conservation and Management Plan;

“(ii) any identified activities, projects, programs, or studies from previously approved priority lists that have not yet been funded;

“(iii) information on the activities, projects, programs, and studies specified under clause (i) and (ii), including a description of—

“(I) the terms of financial assistance agreements or interagency agreements;

“(II) the identities of the financial assistance recipients or the Federal agency parties to the interagency agreements; and

“(III) the communities to be served; and

“(iv) the criteria and methods established by the Administrator for selection of activities, projects, programs, and studies.

“(B) APPROVAL.—A list compiled by the Administrator in accordance with subparagraph (A) shall be considered to be an approved annual priority list for the purposes of this section.”

(F) by striking subsection (k) (as so redesignated) and inserting the following:

“(k) GRANTS.—

“(1) IN GENERAL.—The Administrator may provide grants under this subsection for activities, projects, programs, and studies included on an annual priority list approved pursuant to subsection (j).

“(2) ELIGIBILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Administrator may provide grants under this subsection to State, interstate, and regional water pollution control agencies and other public and nonprofit private agencies, institutions, and organizations.

“(B) CONSTRUCTION OF TREATMENT WORKS.—

“(i) IN GENERAL.—The Administrator may provide a grant under this subsection for the construction of a publicly owned treatment works, including municipal separate storm sewer systems (which may use low-impact development technologies or other innovative approaches or methods to address combined sewer overflows), within a Long Island Sound State only—

“(I) to a municipal, intermunicipal, State, or interstate agency;

“(II) if the State in which the recipient agency is located has established, or the Ad-

ministrator has established for the State, allocations for discharges within the State in a Long Island Sound TMDL; and

“(III) if the project is included on an annual priority list approved pursuant to subsection (j).

“(ii) MINIMUM FUNDING.—To the extent practicable, the Administrator shall make grants to agencies under this subparagraph in a manner that ensures that each Long Island Sound State meeting the criteria established in clause (i)(II) receives for each fiscal year not less than 5 percent of the total amount made available in grants under this subparagraph in that fiscal year.

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the total cost of an activity, project, program, or study funded by a grant provided under this subsection shall not exceed—

“(i) 95 percent, in the case of a citizen involvement or citizen education grants;

“(ii) 65 percent of the costs of construction, in the case of a grant to construct a municipal storm sewer system made under this subsection to a municipality that is subject to a regional permit issued under subsection (e)(1); or

“(iii) 50 percent, in the case of any other activity, project, program, or study.

“(B) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of an activity, project, program, or study carried out under this section may include the value of any in-kind services contributed by a non-Federal sponsor.

“(C) EXCEPTION.—The Administrator may use up to 15 percent of the funds made available to carry out this subsection for a fiscal year to increase the Federal share up to 100 percent for an activity, project, program, or study that is carried out by a needs-based applicant.

“(D) NON-FEDERAL SHARE.—Each grant provided under this subsection shall be provided on the condition that the non-Federal share of the costs of the activity, project, program, or study funded by the grant are provided from non-Federal sources.”

(G) by striking subsection (m) (as so redesignated) and inserting the following:

“(m) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section (other than subsection (k)) such sums as are necessary for each of fiscal years 2012 through 2016.

“(2) RELATIONSHIP TO OTHER FUNDING.—The conference study shall be eligible to receive funding under section 320(g), except to the extent that funds provided under this section for projects and programs are used for the general administration of the management conference under section 320.

“(3) GRANTS.—There are authorized to be appropriated to carry out subsection (k)—

“(A) for grants described in subsection (k)(2)(B) to construct publicly owned treatment works, including municipal separate storm sewer systems (which may use low-impact development technologies or other innovative approaches or methods to address combined sewer overflows)—

“(i) \$125,000,000 for fiscal year 2012; and

“(ii) \$250,000,000 for each of fiscal years 2013 through 2016; and

“(B) for all grants other than those described in subsection (k)(2)(B), \$40,000,000 for each of fiscal years 2012 through 2016.”

(b) LONG ISLAND SOUND STEWARDSHIP PROGRAM.—

(1) LONG ISLAND SOUND STEWARDSHIP ADVISORY COMMITTEE.—Section 8 of the Long Is-

land Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public Law 109-359) is amended—

(A) in subsection (g), by striking “2011” and inserting “2016”; and

(B) by adding at the end the following:

“(h) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to—

“(1) the Advisory Committee; or

“(2) any board, committee, or other group established under this Act.”

(2) REPORTS.—Section 9(b)(1) of the Long Island Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public Law 109-359) is amended in the matter preceding subparagraph (A) by striking “2011” and inserting “2016”.

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 11 of the Long Island Sound Stewardship Act of 2006 (33 U.S.C. 1269 note; Public Law 109-359) is amended—

(A) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—There are authorized to be appropriated to the Administrator for each of fiscal years 2012 through 2016—

“(1) to provide grants under section 7, \$25,000,000; and

“(2) to carry out other provisions of this Act, such additional sums as are necessary.”

and

(B) in subsection (b), by striking “under this section each” and inserting “to carry out this Act for a”.

(4) EFFECTIVE DATE.—The amendments made by this subsection take effect on October 1, 2010.

SEC. 10263. INNOVATIVE STORMWATER MANAGEMENT APPROACHES.

Title V of the Federal Water Pollution Control Act (33 U.S.C. 1361 et seq.) is amended—

(1) by redesignating section 519 as section 520; and

(2) by inserting after section 518 the following:

“SEC. 519. INNOVATIVE STORMWATER MANAGEMENT APPROACHES.

“To the maximum extent practicable, the Administrator shall consider the use of innovative stormwater management practices and approaches, including nutrient trading with respect to water quality and the use of low impact development technologies, in meeting the requirements of this Act.”

SEC. 10264. NUTRIENT BIOEXTRACTION PILOT PROJECT.

(a) DEFINITION OF NUTRIENT BIOEXTRACTION.—In this section, the term “nutrient bioextraction” means an environmental management strategy under which nutrients are removed from an aquatic ecosystem through the harvest of enhanced biological production, including the aquaculture of suspension-feeding shellfish or algae.

(b) PILOT PROJECT.—Not later than 2 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall carry out a pilot project to demonstrate the efficacy of nutrient bioextraction for the removal of nitrogen and phosphorous from the waters of the Long Island Sound watershed.

(c) REPORT.—Not later than 5 years after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results of the pilot project under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,000,000.

Subtitle H—Chesapeake Clean Water and Ecosystem Restoration

SEC. 10271. SHORT TITLE.

This subtitle may be cited as the “Chesapeake Clean Water and Ecosystem Restoration Act”.

SEC. 10272. CHESAPEAKE BASIN PROGRAM.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

“SEC. 117. CHESAPEAKE BASIN PROGRAM.

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATIVE COST.—The term ‘administrative cost’ means the cost of salaries and fringe benefits incurred in administering a financial assistance agreement under this section.

“(2) ASIAN OYSTER.—The term ‘Asian oyster’ means the species *Crassostrea ariakensis*.

“(3) BASELINE.—The term ‘baseline’—

“(A) means the basic standard or level of the nitrogen and phosphorus control requirements a credit seller shall achieve to be eligible to generate saleable nitrogen and phosphorus credits; and

“(B) consists of the nitrogen and phosphorus load reductions required of individual sources to meet water quality standards and load or waste load allocations under all applicable total maximum daily loads and watershed implementation plans.

“(4) BASIN COMMISSIONS.—The term ‘basin commissions’ means—

“(A) the Interstate Commission on the Potomac River Basin established under the interstate compact consented to and approved by Congress under the Joint Resolution of July 11, 1940 (54 Stat. 748, chapter 579) and Public Law 91–407 (84 Stat. 856);

“(B) the Susquehanna River Basin Commission established under the interstate compact consented to and approved by Congress under Public Law 91–575 (84 Stat. 1509) and Public Law 99–468 (100 Stat. 1193); and

“(C) the Chesapeake Bay Commission, a tri-State legislative assembly representing Maryland, Virginia, and Pennsylvania created in 1980 to coordinate Bay-related policy across State lines and to develop shared solutions.

“(5) CHESAPEAKE BASIN.—The term ‘Chesapeake Basin’ means—

“(A) the Chesapeake Bay; and

“(B) the area consisting of 19 tributary basins within the Chesapeake Basin States through which precipitation drains into the Chesapeake Bay.

“(6) CHESAPEAKE BASIN ECOSYSTEM.—The term ‘Chesapeake Basin ecosystem’ means the ecosystem of the Chesapeake Basin.

“(7) CHESAPEAKE BASIN PROGRAM.—The term ‘Chesapeake Basin Program’ means the program, formerly known as the ‘Chesapeake Bay Program’, directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement (including any successor programs).

“(8) CHESAPEAKE BASIN STATE.—The term ‘Chesapeake Basin State’ means any of—

“(A) the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia; or

“(B) the District of Columbia.

“(9) CHESAPEAKE BAY AGREEMENT.—The term ‘Chesapeake Bay Agreement’ means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Basin ecosystem and the living resources of the Chesapeake Basin ecosystem and signed by the Chesapeake Executive Council.

“(10) CHESAPEAKE BAY TIDAL SEGMENT.—The term ‘Chesapeake Bay tidal segment’ means any of the 92 tidal segments that—

“(A) make up the Chesapeake Bay; and

“(B) are identified by a Chesapeake Basin State pursuant to section 303(d).

“(11) CHESAPEAKE BAY TMDL.—

“(A) IN GENERAL.—The term ‘Chesapeake Bay TMDL’ means the total maximum daily load (including any revision) established or approved by the Administrator for nitrogen, phosphorus, and sediment loading to the waters in the Chesapeake Bay and the Chesapeake Bay tidal segments.

“(B) INCLUSIONS.—The term ‘Chesapeake Bay TMDL’ includes nitrogen, phosphorus, and sediment allocations in temporal units of greater-than-daily duration, if the allocations—

“(i) are demonstrated to achieve water quality standards; and

“(ii) do not lead to violations of other applicable water quality standards for local receiving waters.

“(12) CHESAPEAKE EXECUTIVE COUNCIL.—The term ‘Chesapeake Executive Council’ means the signatories to the Chesapeake Bay Agreement.

“(13) CLEANING AGENT.—The term ‘cleaning agent’ means a laundry detergent, dishwashing compound, household cleaner, metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, phosphate compound, or other substance that is intended to be used for cleaning purposes.

“(14) CREDIT.—The term ‘credit’ means a unit provided for 1 pound per year reduction of nitrogen, phosphorus, or sediment that is—

“(A) delivered to the tidal portion of the Chesapeake Bay; and

“(B) eligible to be sold under the trading programs established by this section.

“(15) DIRECTOR.—The term ‘director’ means the Director of the Chesapeake Basin Program Office of the Environmental Protection Agency.

“(16) LOCAL GOVERNMENT.—The term ‘local government’ means any county, city, or other general purpose political subdivision of a State with jurisdiction over land use.

“(17) MENHADEN.—The term ‘menhaden’ means members of stocks or populations of the species *Brevoortia tyrannus*.

“(18) NUTRIA.—The term ‘nutria’ means the species *Myocastor coypus*.

“(19) OFFSET.—The term ‘offset’ means a reduction of loading of nitrogen, phosphorus, or sediment, as applicable, in a manner that ensures that the net loading reaching the Chesapeake Bay and the Chesapeake Bay tidal segments from a source—

“(A) does not increase; or

“(B) is reduced.

“(20) SIGNATORY JURISDICTION.—The term ‘signatory jurisdiction’ means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

“(21) TRIBUTARY BASIN.—The term ‘tributary basin’ means an area of land or body of water that—

“(A) drains into any of the 19 Chesapeake Bay tributaries or tributary segments; and

“(B) is managed through watershed implementation plans under this Act.

“(b) RENAMING AND CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

“(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall—

“(A) rename the Chesapeake Bay Program, as in existence on the date of enactment of the Chesapeake Clean Water and Ecosystem

Restoration Act, as the ‘Chesapeake Basin Program’; and

“(B) continue to carry out the Chesapeake Basin Program.

“(2) MEETINGS.—

“(A) IN GENERAL.—The Chesapeake Executive Council shall meet not less frequently than once each year.

“(B) OPEN TO PUBLIC.—

“(i) IN GENERAL.—Subject to clause (ii), a meeting of the Chesapeake Executive Council shall be held open to the public.

“(ii) EXCEPTION.—The Chesapeake Executive Council may hold executive sessions that are closed to the public.

“(3) PROGRAM OFFICE.—

“(A) IN GENERAL.—The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Basin Program Office.

“(B) FUNCTION.—The Chesapeake Basin Program Office shall provide support to the Chesapeake Executive Council by—

“(i) implementing and coordinating science, research, modeling, support services, monitoring, data collection, and other activities that support the Chesapeake Basin Program;

“(ii) developing and making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Basin ecosystem;

“(iii) in cooperation with appropriate Federal, State, and local authorities, assisting the signatories to the Chesapeake Bay Agreement in developing and implementing specific action plans to carry out the responsibilities of the signatories to the Chesapeake Bay Agreement;

“(iv) coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

“(I) improve the water quality and living resources in the Chesapeake Basin ecosystem; and

“(II) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

“(v) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Basin.

“(C) TRANSPARENCY AND ACCOUNTABILITY.—The Administrator shall establish and maintain a user-friendly, public-facing website to foster greater accountability, transparency, and knowledge regarding the Chesapeake Basin ecosystem health and restoration efforts by providing—

“(i) information on all Chesapeake Basin Program Office functions described in subparagraph (B);

“(ii) accountability information, including findings from audits, inspectors general, and the Government Accountability Office;

“(iii) data on relevant economic, financial, grant, and contract information in user-friendly visual presentations to enhance public awareness of the use of covered funds;

“(iv) links to other government websites at which key information relating to efforts to improve the water quality of the Chesapeake Bay watershed may be found;

“(v) printable reports on covered funds obligated, expressed by month, to each State and congressional district; and

“(vi) links to other government websites containing information concerning covered funds, including Federal agency and State websites.

“(c) INTERAGENCY AGREEMENTS.—The Administrator may enter into an interagency agreement with a Federal agency to carry out this section.

“(d) TECHNICAL ASSISTANCE AND FINANCIAL ASSISTANCE.—

“(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council, the Administrator may provide technical assistance, and assistance awards, to soil conservation districts, nonprofit organizations, State and local governments, basin commissions, and institutions of higher education to carry out this section, subject to such terms and conditions as the Administrator considers appropriate.

“(2) FEDERAL SHARE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of a financial assistance agreement provided under paragraph (1) shall be determined by the Administrator in accordance with guidance issued by the Administrator.

“(B) CHESAPEAKE BASIN STEWARDSHIP AWARDS PROGRAM.—The Federal share of a financial assistance agreement provided under paragraph (1) to carry out an implementing activity under subsection (h)(2) shall not exceed 75 percent of eligible project costs, as determined by the Administrator.

“(3) NON-FEDERAL SHARE.—A financial assistance agreement under paragraph (1) shall be provided on the condition that non-Federal sources provide the remainder of eligible project costs, as determined by the Administrator.

“(4) NITROGEN AND PHOSPHORUS TRADING GUARANTEE PILOT PROGRAM.—The project manager of the Chesapeake nitrogen and phosphorus trading guarantee program established under subsection (e)(1)(D) shall be eligible to receive technical assistance or financial assistance under this subsection.

“(e) IMPLEMENTATION, MONITORING, AND CENTERS OF EXCELLENCE FINANCIAL ASSISTANCE AWARDS.—

“(1) FINANCIAL ASSISTANCE AWARDS.—

“(A) IMPLEMENTATION FINANCIAL ASSISTANCE AWARDS.—The Administrator shall enter into an implementation financial assistance agreement with the Chesapeake Basin State, or a designee of a Chesapeake Basin State (including a soil conservation district, nonprofit organization, local government, institution of higher education, basin commission, or interstate agency), for the purposes of implementing an approved watershed implementation plan of the Chesapeake Basin State under subsection (i) and achieving the goals established under the Chesapeake Bay Agreement, subject to such terms and conditions as the Administrator considers to be appropriate.

“(B) MONITORING FINANCIAL ASSISTANCE AWARDS.—The Administrator may enter into a monitoring financial assistance agreement with—

“(i) a Chesapeake Basin State, designee of a Chesapeake Basin State, soil conservation district, nonprofit organization, local government, institution of higher education, or basin commission for the purpose of monitoring the ecosystem of freshwater tributaries to the Chesapeake Bay; or

“(ii) any of the States of Delaware, Maryland, or Virginia (or a designee), the District of Columbia (or a designee), nonprofit organization, local government, institution of higher education, or interstate agency for the purpose of monitoring the Chesapeake Bay, including the tidal waters of the Chesapeake Bay.

“(C) CENTERS OF EXCELLENCE FINANCIAL ASSISTANCE AWARDS.—The Administrator, in

consultation with the Secretary of Agriculture, may enter into financial assistance agreements with institutions of higher education, consortia of such institutions, or nonprofit organizations for the purpose of establishing and supporting centers of excellence for water quality and agricultural practices—

“(i) to develop new technologies and innovative policies and practices for agricultural producers to reduce nitrogen, phosphorous, and sediment pollution;

“(ii) to quantify the expected load reductions of those pollutants to be achieved in the Chesapeake Basin through the implementation of current and newly developed technologies, policies, and practices; and

“(iii) to provide to the Administrator and the Secretary recommendations for—

“(I) the widespread deployment of those technologies, policies, and practices among agricultural producers; and

“(II) the application of those technologies, policies, and practices in Chesapeake Basin computer models.

“(D) CHESAPEAKE NITROGEN AND PHOSPHORUS TRADING GUARANTEE PILOT PROGRAM.—

“(i) IN GENERAL.—The Administrator, in consultation with the Chesapeake Basin States and with the concurrence of the Secretary of Agriculture, shall establish a Chesapeake nitrogen and phosphorus trading guarantee pilot program (referred to in this subparagraph as the ‘guarantee pilot program’) to support—

“(I) the interstate trading program established under subsection (j)(6); and

“(II) the environmental services market program under section 1245 of the Food Security Act of 1985 (16 U.S.C. 3845).

“(ii) PURPOSES.—The purposes of the guarantee pilot program are—

“(I) to develop innovative policies and practices to more efficiently and effectively implement best management practices, primarily on agricultural land;

“(II) to leverage public funding to raise private capital to accelerate the restoration of the Chesapeake Bay by providing a Federal guarantee on nitrogen and phosphorus credit purchases;

“(III) to support nitrogen and phosphorus trading throughout the Chesapeake Basin; and

“(IV) to demonstrate the effectiveness of environmental services markets.

“(iii) PROJECT MANAGER.—

“(I) IN GENERAL.—The Administrator shall designate a project manager to carry out the guarantee pilot program.

“(II) QUALIFICATIONS.—The project manager shall be an institution of higher education, a nonprofit organization, or a basin commission that—

“(aa) demonstrates thorough knowledge and understanding of best management practices that result in nitrogen and phosphorus reductions in the Chesapeake Basin;

“(bb) demonstrates thorough knowledge and understanding of the Chesapeake watershed computer model of the Environmental Protection Agency;

“(cc) demonstrates thorough knowledge and understanding of the relevant Federal and State environmental regulations relating to the Chesapeake Basin;

“(dd) has a demonstrated history of discharging fiduciary responsibilities with transparency and in accordance with all applicable accounting standards; and

“(ee) has relevant experience relating to environmental services markets, including pollution offsets and transactions involving pollution offsets.

“(III) DUTIES.—

“(aa) IN GENERAL.—The project manager shall provide guarantees to purchasers of nitrogen and phosphorus credits under the interstate trading program established under subsection (j)(6).

“(bb) MANAGERIAL DUTIES.—In carrying out the guarantee pilot program, the project manager shall—

“(AA) identify best management practices that result in the greatest reduction in pollution levels;

“(BB) establish offset metrics for calculation, verification, and monitoring protocols in collaboration with Federal and State programs;

“(CC) manage and oversee project verification and monitoring processes;

“(DD) establish procedures that minimize transaction costs and eliminate unnecessary or duplicative administrative processes;

“(EE) take ownership of the nitrogen and phosphorus reduction offsets from any private funding source for an activity carried out under this subparagraph;

“(FF) enter into agreements with private funding sources that enable a private funding source, at the conclusion of a project, to sell the verified nitrogen and phosphorus reduction offset to the program manager at an agreed upon price, or to sell the verified nitrogen and phosphorus reduction offsets; and

“(GG) manage the Chesapeake Nitrogen and Phosphorus Trading Guarantee Fund.

“(iv) CREDIT PURCHASER REQUIREMENTS.—As a condition of receiving a guarantee under this subparagraph, a purchaser shall comply with—

“(I) the regulations promulgated by the Administrator under subsection (j)(6);

“(II) any application procedure that the Administrator, in consultation with the project manager, determines to be necessary; and

“(III) any other applicable laws (including regulations).

“(v) TERMINATION.—The guarantee pilot program shall terminate on the date that is 5 years after the date of the establishment of the interstate trading program under subsection (j)(6).

“(vi) REPORTS.—

“(I) IN GENERAL.—The project manager shall—

“(aa) ensure public transparency for all nitrogen and phosphorus trading activities through a publicly available trading registry; and

“(bb) submit an annual report to the Administrator, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

“(II) CONTENTS.—A report under subclause (I)(bb) shall include a description of—

“(aa) the activities funded by the guarantee pilot program;

“(bb) the total quantity of nitrogen and phosphorus reduced and an identification of the data used to support those quantifications;

“(cc) the efficiency of each project carried out under the guarantee pilot program, measured in pounds of pollution reduced per dollar expended;

“(dd) the total quantity of nitrogen, phosphorus, and sediment reduced; and

“(ee) the total amount of private funds leveraged.

“(E) CHESAPEAKE NITROGEN AND PHOSPHORUS TRADING GUARANTEE FUND.—

“(i) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the ‘Chesapeake Nitrogen and Phosphorus Trading

Guarantee Fund' (referred to in this subparagraph as the 'Fund'), to be administered by the Administrator, to be available for 5 years after the date of the establishment of the interstate trading program under subsection (j)(6) and subject to appropriation, for the purposes described in subparagraph (D)(ii).

"(ii) TRANSFERS TO FUND.—The Fund shall consist of such amounts as are appropriated to the Fund under subsection (p)(2)(v).

"(iii) PROHIBITION.—Amounts in the Fund may not be made available for any purpose other than a purpose described in clause (i).

"(iv) TERMINATION.—Subject to clause (v), the Fund shall terminate on the date that is 5 years after the date of establishment of the interstate trading program under subsection (j)(6).

"(v) UNOBLIGATED AMOUNTS.—On the termination of the Fund, the Administrator shall—

"(I) require the return of any unobligated amounts in the Fund to the Secretary of the Treasury; or

"(II) reauthorize the use of the Fund for the purposes described in clause (i).

"(vi) ANNUAL REPORTS.—

"(I) IN GENERAL.—Not later than 60 days after the end of each fiscal year beginning with the first fiscal year after the date of the establishment of the interstate trading program under subsection (j)(6), the Administrator shall submit to the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the operation of the Fund during the fiscal year.

"(II) CONTENTS.—Each report shall include, for the fiscal year covered by the report, the following:

"(aa) A statement of the amounts deposited in the Fund.

"(bb) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

"(cc) Recommendations for additional authorities to fulfill the purpose of the Fund.

"(dd) A statement of the balance remaining in the Fund at the end of the fiscal year.

"(2) ADMINISTRATION.—

"(A) IN GENERAL.—Subject to subparagraph (C), in making implementation financial assistance awards to each of the Chesapeake Basin States for a fiscal year under this subsection, the Administrator shall ensure that not less than—

"(i) 10 percent of the funds available to make such financial assistance awards are made to the States of Delaware, New York, and West Virginia (or designees of those States); and

"(ii) 20 percent of the funds available to make such financial assistance awards are made to States (or designees of the States) for the sole purpose of providing technical assistance to agricultural producers and forest owners to access conservation programs and other resources devoted to improvements in, and protection of, water quality in the Chesapeake Bay and the tributaries of the Chesapeake Bay, in accordance with subparagraph (B).

"(B) TECHNICAL ASSISTANCE.—A State (or designees of a State) may use any soil conservation district, nonprofit organization, private sector vendor, or other appropriately qualified provider to deliver technical assistance to agricultural producers and forest owners under subparagraph (A)(ii).

"(C) NONAPPLICABILITY TO DC.—This paragraph shall not apply to any implementation

financial assistance award provided to the District of Columbia.

"(3) PROPOSALS.—

"(A) IMPLEMENTATION FINANCIAL ASSISTANCE AWARDS.—

"(i) IN GENERAL.—A Chesapeake Basin State described in paragraph (1) may apply for a financial assistance agreement under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to implement programs and achieve the goals established under the Chesapeake Bay Agreement.

"(ii) IMPLEMENTATION FINANCIAL ASSISTANCE AGREEMENT CONTENTS.—A proposal under clause (i) shall include—

"(I) a description of the proposed actions that the Chesapeake Basin State commits to take within a specified time period, including 1 or more of actions that are designed—

"(aa) to achieve and maintain all applicable water quality standards, including standards necessary to support the aquatic living resources of the Chesapeake Bay and related tributaries and to protect human health;

"(bb) to restore, enhance, and protect the finfish, shellfish, waterfowl, and other living resources, habitats of those species and resources, and ecological relationships to sustain all fisheries and provide for a balanced ecosystem;

"(cc) to preserve, protect, and restore those habitats and natural areas that are vital to the survival and diversity of the living resources of the Chesapeake Bay and associated rivers;

"(dd) to develop, promote, and achieve sound land use practices that protect and restore watershed resources and water quality, reduce or maintain reduced pollutant loadings for the Chesapeake Bay and related tributaries, and restore and preserve aquatic living resources;

"(ee) to promote individual stewardship and assist individuals, community-based organizations, businesses, local governments, and schools to undertake initiatives to achieve the goals and commitments of the Chesapeake Bay Agreement; or

"(ff) to provide technical assistance to agricultural producers, forest owners, and other eligible entities, through technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses;

"(II) except with respect to any implementation financial assistance agreement proposal by the District of Columbia, a commitment to dedicate not less than 20 percent of the financial assistance award for the Chesapeake Bay under this subsection to support technical assistance for agricultural and forest land or nitrogen and phosphorus management practices that protect and restore watershed resources and water quality, reduce or maintain reduced pollutant loadings for the Chesapeake Bay and related tributaries, and restore and preserve aquatic living resources; and

"(III) the estimated cost of the actions proposed to be taken during the year.

"(B) MONITORING FINANCIAL ASSISTANCE AWARDS.—

"(i) IN GENERAL.—An eligible entity described in paragraph (1)(B) may apply for a financial assistance agreement under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to monitor freshwater or estuarine ecosystems, including water quality.

"(ii) MONITORING FINANCIAL ASSISTANCE AGREEMENT CONTENTS.—A proposal under this subparagraph shall include—

"(I) a description of the proposed monitoring system;

"(II) certification by the Director that such a monitoring system includes such parameters as the Director determines to be necessary to assess progress toward achieving the goals of the Chesapeake Clean Water and Ecosystem Restoration Act; and

"(III) the estimated cost of the monitoring proposed to be conducted during the year.

"(iii) CONSULTATION.—The Administrator shall consult with—

"(I) the Director of the United States Geological Survey regarding the design and implementation of the freshwater monitoring systems established under this subsection;

"(II) the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration regarding the design and implementation of the estuarine monitoring systems established under this subsection;

"(III) with respect to the freshwater monitoring system, the basin commissions, institutions with expertise in clean water and agricultural policy and practices, and the Chesapeake Basin States regarding the design and implementation of the monitoring systems established under this subsection—

"(aa) giving particular attention through fine scale instream and infield stream-edge and groundwater analysis to the measurement of the water quality effectiveness of agricultural conservation program implementation, including the Chesapeake Bay Watershed Initiative under section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb-4); and

"(bb) analyzing the effectiveness of stormwater pollution control and mitigation using green infrastructure techniques in subwatersheds that have high levels of impervious surfaces;

"(IV) with respect to the estuarine monitoring system, institutions of higher education with expertise in estuarine systems and the Chesapeake Basin States regarding the monitoring systems established under this subsection;

"(V) the Chesapeake Basin Program Scientific and Technical Advisory Committee regarding independent review of monitoring designs giving particular attention to integrated freshwater and estuarine monitoring strategies; and

"(VI) Federal departments and agencies, including the Department of Agriculture, regarding cooperation in implementing monitoring programs.

"(f) FEDERAL FACILITIES COORDINATION.—

"(1) SUBWATERSHED PLANNING AND RESTORATION.—A Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Basin shall participate in regional and subwatershed planning and restoration programs.

"(2) COMPLIANCE WITH AGREEMENTS AND PLANS.—The head of each Federal agency that owns or occupies real property in the Chesapeake Basin shall ensure that the property, and actions taken by the agency with respect to the property, comply with—

"(A) the Chesapeake Bay Agreement;

"(B) the Federal Agencies Chesapeake Ecosystem Unified Plan;

"(C) the Chesapeake Basin action plan developed in accordance with subsection (h)(1)(A); and

"(D) any subsequent agreements and plans.

"(3) FOREST COVER AT FEDERAL FACILITIES.—Not later than January 1, 2012, the Administrator, with the advice of the Chief of

the Forest Service and the appropriate Chesapeake Basin State forester, shall coordinate with the head of each Federal agency that owns or operates a facility within the Chesapeake Basin (as determined by the Administrator) to develop plans to maximize forest cover at the facility through—

“(A) the preservation of existing forest cover; or

“(B) with respect to a facility that has been previously disturbed or developed, the development of a reforestation plan.

“(g) FEDERAL ANNUAL ACTION PLAN AND PROGRESS REPORT.—The Administrator, in accordance with Executive Order 13508 entitled ‘Chesapeake Bay Protection and Restoration’ and signed on May 12, 2009 (74 Fed. Reg. 23099), shall—

“(1)(A) make available to the public, not later than March 31 of each year—

“(i) a financial report, to be submitted to Congress beginning with the budget submission for fiscal year 2012 by the Director of the Office of Management and Budget, in consultation with other appropriate Federal agencies and the chief executive of each Chesapeake Bay State, containing—

“(I) a summary of an interagency crosscut budget that displays—

“(aa) the proposed funding for any Federal restoration activity to be carried out during the following fiscal year, including any planned interagency or intraagency transfer, for each Federal agency that carries out restoration activities;

“(bb) to the extent that information is available, the estimated funding for any State restoration activity to be carried out during the following fiscal year;

“(cc) all expenditures for Federal restoration activities during the preceding 3-fiscal-year period, the current fiscal year, and the following fiscal year; and

“(dd) all expenditures, to the extent that information is available, for State restoration activities during the equivalent time period described in item (cc);

“(II) a detailed accounting of all funds received and obligated by all Federal agencies for restoration activities during the current and preceding fiscal years, including the identification of funds that were transferred to a Chesapeake Bay State for restoration activities;

“(III) to the extent that information is available, a detailed accounting from each State of all funds received and obligated from a Federal agency for restoration activities during the current and preceding fiscal years; and

“(IV) a description of each proposed Federal and State restoration activity to be carried out during the following fiscal year, as those activities correspond to the activities described in items (aa) and (bb) of subclause (I);

“(ii) an annual progress report that—

“(I) assesses the key ecological attributes that reflect the health of the Chesapeake Basin ecosystem;

“(II) reviews indicators of environmental conditions in the Chesapeake Bay;

“(III) distinguishes between the health of the Chesapeake Basin ecosystem and the results of management measures;

“(IV) assesses implementation of the action plan during the preceding fiscal year;

“(V) recommends steps to improve progress in restoring and protecting the Chesapeake Bay and tributaries; and

“(VI) describes how Federal funding and actions will be coordinated with the actions of States, basin commissions, and others; and

“(iii) an annual report, detailed at the State and sector level where applicable, submitted by the Administrator to the Chesapeake Basin States and the public on specific regulations, guidance documents, permitting requirements, enforcement actions, and other activities carried out in accordance with the Executive Order, including actions relating to the Chesapeake Bay TMDL and State watershed implementation plans; and

“(B) submit each report described in subparagraph (A) to—

“(i) the Committees on Agriculture, Appropriations, Natural Resources, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives; and

“(ii) the Committees on Agriculture, Nutrition, and Forestry, Appropriations, Environment and Public Works, and Commerce, Science, and Transportation of the Senate; and

“(2) create and maintain, with the concurrence of the Secretary of Agriculture, a Chesapeake Basin-wide database containing comprehensive data on implementation of agricultural conservation management practices in the Chesapeake Basin that—

“(A) includes conservation management practice implementation data, including, to the maximum extent feasible, all publicly and privately funded conservation practices, as of the effective date of the Chesapeake Clean Water and Ecosystem Restoration Act;

“(B) includes data on subsequent conservation management practice implementation projects funded by, or reported to, the Department of Agriculture, the appropriate department of any Chesapeake Basin State, a local soil and water conservation district, or any similar institution;

“(C) except with respect to data associated with a permit or recorded in the trading registry, as provided in subsection (j)(6)(B)(vii), presents the required data to the Administrator in statistical or aggregate form without identifying any—

“(i) individual owner, operator, or producer; or

“(ii) specific data gathering site;

“(D) is made available to the public not later than December 31, 2010; and

“(E) is updated not less frequently than once every 2 years.

“(h) CHESAPEAKE BASIN PROGRAM.—

“(1) MANAGEMENT STRATEGIES.—The Administrator, in coordination with other members of the Chesapeake Executive Council, shall ensure that management plans are developed and implemented by Chesapeake Basin States to achieve and maintain—

“(A) for each of the Chesapeake Basin States—

“(i) the sediment, nitrogen, and phosphorus goals of the Chesapeake Bay Agreement for the quantity of sediment, nitrogen, and phosphorus entering the Chesapeake Bay and the tidal tributaries of the Chesapeake Bay; and

“(ii) the water quality requirements necessary to restore living resources in the Chesapeake Bay and the tidal tributaries of the Chesapeake Bay; and

“(B) for the signatory States—

“(i) the Chesapeake Bay Basinwide Toxins Reduction and Prevention Strategy goal of reducing or eliminating the input of chemical contaminants from all controllable sources to levels that result in no toxic or bioaccumulative impact on the living resources of the Chesapeake Basin ecosystem or on human health;

“(ii) habitat restoration, protection, creation, and enhancement goals established by

Chesapeake Bay Agreement for wetland, riparian forests, and other types of habitat associated with the Chesapeake Basin ecosystem; and

“(iii) the restoration, protection, creation, and enhancement goals established by the Chesapeake Bay Agreement for living resources associated with the Chesapeake Basin ecosystem.

“(2) CHESAPEAKE BASIN STEWARDSHIP FINANCIAL ASSISTANCE AWARDS PROGRAM.—The Administrator, in cooperation with the Chesapeake Executive Council, shall—

“(A) establish a Chesapeake Basin Stewardship Financial Assistance Program; and

“(B) in carrying out that program—

“(i) offer technical assistance and financial assistance under subsection (d) to States (or designees of States), local governments, soil conservation districts, institutions of higher education, nonprofit organizations, basin commissions, and private entities in the Chesapeake Basin region to implement—

“(I) cooperative watershed strategies that address the water quality, habitat, and living resource needs in the Chesapeake Basin;

“(II) locally based protection and restoration programs or projects within a watershed that complement the State watershed implementation plans, including the creation, restoration, or enhancement of habitat associated with the Chesapeake Basin ecosystem;

“(III) activities for increased spawning and other habitat for migratory fish by removing barriers or constructing fish passage devices, restoring streams with high habitat potential for cold water fisheries such as native brook trout, or other habitat enhancements for fish and waterfowl;

“(IV) activities for increased recreational access to the Chesapeake Bay and the tidal rivers and freshwater tributaries of the Chesapeake Bay; and

“(V) innovative nitrogen, phosphorus, or sediment reduction efforts; and

“(ii) give preference to cooperative projects that involve local governments, soil conservation districts, and sportsmen associations, especially cooperative projects that involve public-private partnerships.

“(i) ACTIONS BY STATES.—

“(1) WATERSHED IMPLEMENTATION PLANS.—

“(A) PLANS.—

“(i) IN GENERAL.—Not later than November 1, 2011, each Chesapeake Basin State, after providing for reasonable notice and 1 or more public meetings, may submit to the Administrator for approval a watershed implementation plan for the Chesapeake Basin State.

“(ii) TARGETS.—The watershed implementation plan shall establish reduction targets, key actions, and schedules for reducing, to levels that will attain water quality standards, the loads of nitrogen, phosphorus, and sediment, including pollution from—

“(I) point sources, including point source stormwater discharges; and

“(II) nonpoint sources.

“(iii) POLLUTION LIMITATIONS.—

“(I) IN GENERAL.—The pollution limitations shall be the nitrogen, phosphorus, and sediment load and wasteload allocations sufficient to meet and maintain Chesapeake Bay and Chesapeake Bay tidal segment water quality standards.

“(II) STRINGENCY.—A watershed implementation plan shall be designed to attain, at a minimum, the pollution limitations described in subclause (I).

“(iv) PLAN REQUIREMENTS.—Each watershed implementation plan shall—

“(I) include State-adopted management measures, including rules or regulations,

permits, consent decrees, and other enforceable or otherwise binding measures, to require and achieve reductions from point and nonpoint pollution sources;

“(II) include programs to achieve voluntary reductions from pollution sources, including an estimate of the funding commitments necessary to implement the programs and a plan for working to secure the funding;

“(III) include any additional requirements or actions that the Chesapeake Basin State determines to be necessary to attain the pollution limitations by the deadline established in this paragraph;

“(IV) provide for enforcement mechanisms, including a penalty structure for failures, such as fees or forfeiture of State funds, including Federal funds distributed or otherwise awarded by the State to the extent the State is authorized to exercise independent discretion in amounts of such distributions or awards, for use in case a permittee, local jurisdictions, or any other party fails to adhere to assigned pollutant limitations, implementation schedules, or permit terms;

“(V) include a schedule for implementation that—

“(aa) is divided into 2-year periods, along with computer modeling, or other appropriate analysis, to demonstrate the projected reductions in nitrogen, phosphorus, and sediment loads associated with each 2-year period; and

“(bb) demonstrates reasonable additional progress toward achievement of the goals described in—

“(AA) subclause (VIII)(aa); and

“(BB) clauses (i) and (ii) of subparagraph (B);

“(VI) include the stipulation of alternate actions as contingencies;

“(VII) account for how the Chesapeake Basin State will address additional loadings from new or expanded sources of pollution through reserved allocations, offsets, planned future controls, implementation of new technologies, or other actions;

“(VIII) provide assurances that—

“(aa) if compared to modeled estimated loads during calendar year 2008, the initial plan shall be designed to achieve, not later than May 31, 2017, at least 60 percent of the nitrogen, phosphorus, and sediment reduction requirements described in clause (iii)(I);

“(bb) the Chesapeake Basin State will have adequate personnel and funding (or a plan to secure such personnel or funding), and authority under State (and, as appropriate, local) law to carry out the implementation plan, and is not prohibited by any provision of Federal or State law from carrying out the implementation plan; and

“(cc) to the extent that a Chesapeake Basin State has relied on a local government for the implementation of any plan provision, the Chesapeake Basin State has the responsibility for ensuring adequate implementation of the provision;

“(IX) include adequate provisions for public participation; and

“(X) upon the approval of the Administrator, be made available to the public on the Internet.

“(B) IMPLEMENTATION.—

“(i) IN GENERAL.—In implementing a watershed implementation plan, each Chesapeake Basin State shall follow a strategy developed by the Administrator for the implementation of adaptive management principles to ensure full implementation of all plan elements by not later than May 12, 2025, including—

“(I) biennial evaluations of State actions;

“(II) progress made toward implementation;

“(III) determinations of necessary modifications to future actions in order to achieve objectives including achievement of water quality standards; and

“(IV) appropriate provisions to adapt to climate changes.

“(ii) DEADLINE.—Not later than May 12, 2025, each Chesapeake Basin State shall—

“(I) fully implement the watershed implementation plan of the State; and

“(II) have in place all the mechanisms outlined in the plan that are necessary to attain the applicable pollutant limitations for nitrogen, phosphorus, and sediments.

“(C) PROGRESS REPORTS.—Not later than May 12, 2014, and biennially thereafter, each Chesapeake Basin State shall submit to the Administrator a progress report that, with respect to the 2-year period covered by the report—

“(i) includes a listing of all management measures that were to be implemented in accordance with the approved watershed implementation plan of the Chesapeake Basin State, including a description of the extent to which those measures have been fully implemented;

“(ii) includes a listing of all the management measures described in clause (i) that the Chesapeake Basin State has failed to fully implement in accordance with the approved watershed implementation plan of the Chesapeake Basin State;

“(iii) includes monitored and collected water quality data;

“(iv) includes appropriate computer modeling data or other appropriate analyses that detail the nitrogen, phosphorus, and sediment load reductions projected to be achieved as a result of the implementation of the management measures and mechanisms carried out by the Chesapeake Basin State;

“(v) demonstrates reasonable additional progress made by the State toward achievement of the requirements and deadlines described in subparagraph (A)(iv)(VIII)(aa) and clauses (i) and (ii) of subparagraph (B);

“(vi) includes, for the subsequent 2-year period, implementation goals and Chesapeake Basin Program computer modeling data detailing the projected pollution reductions to be achieved if the Chesapeake Basin State fully implements the subsequent round of management measures;

“(vii) identifies compliance information, including violations, actions taken by the Chesapeake Basin State to address the violations, and dates, if any, on which compliance was achieved; and

“(viii) specifies any revisions to the watershed implementation plan submitted under this paragraph that the Chesapeake Basin State determines are necessary to attain the applicable pollutant limitations for nitrogen, phosphorus, and sediments.

“(2) ISSUANCE OF PERMITS.—

“(A) IN GENERAL.—Notwithstanding any other provision of this Act (including any exclusion or exception contained in a definition under section 502) and in accordance with State laws (including regulations), after providing appropriate opportunities for public comment, for the purpose of achieving the nitrogen, phosphorus, and sediment reductions required under a watershed implementation plan, a Chesapeake Basin State, or, if the State is not authorized to administer the permit program under section 402, the Administrator, may impose limitations or other controls, including permit requirements, on any discharge or runoff from a pollution source, including point and nonpoint sources, located within the Chesapeake

Basin State that the program administrator determines to be necessary.

“(B) ENFORCEMENT.—The Chesapeake Basin States and the Administrator shall enforce any permits issued in accordance with the watershed implementation plan in the same manner as permits issued under section 402 are enforced.

“(3) AGRICULTURAL AND PRIVATE FORESTLAND ASSURANCE STANDARDS.—A conservation plan adopted by a Chesapeake Basin State under subsection (h) of section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb-4) shall be considered to be compliance assurance for an agricultural or private forest landowner under that section (16 U.S.C. 3839bb-4) if—

“(A) the plan fully recognizes and takes into consideration all obligations imposed by this Act;

“(B) the State in which the land is located has allocated and scheduled a portion of the reduction in the Chesapeake Bay TMDL to relevant landowners for purposes of meeting the load reduction in pollutants required for that watershed under the Chesapeake Bay TMDL or an approved State management plan under subsection (h) or this subsection;

“(C) the scheduled reductions in pollutants allocated to the relevant landowners and projected to be achieved by the conservation practices of the landowners have been certified by an independent auditing authority that is in compliance with the guidelines established by the Secretary of Agriculture pursuant to section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb-4) and approved by the State;

“(D) implementation of the conservation plan is certified not less frequently than once every 2 years after the date of initial certification by an independent auditing authority that is in compliance with the guidelines established by the Secretary of Agriculture pursuant to section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb-4) and approved by the State; and

“(E) the State management plan under subsection (h) or the watershed implementation plan under this subsection contains compliance mechanisms, including a penalty structure (such as fees or forfeiture of Federal or State funds that would otherwise be awarded) determined to be adequate by the Administrator in case of failure to develop or fully implement a conservation plan.

“(4) STORMWATER PERMITS.—

“(A) IN GENERAL.—Effective beginning on January 1, 2013, the Chesapeake Basin State shall provide assurances to the Administrator that—

“(i) the owner or operator of any development or redevelopment project possessing an impervious footprint that exceeds a threshold to be determined by the Administrator through rulemaking, will use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the property with regard to the temperature, rate, volume, and duration of flow, using onsite infiltration, evapotranspiration, and reuse approaches, if feasible; and

“(ii) as a further condition of permitting such a development or redevelopment, the owner or operator of any development or redevelopment project possessing an impervious footprint that exceeds a threshold to be determined by the Administrator through rulemaking will compensate for any unavoidable impacts to the predevelopment hydrology of the property with regard to the temperature, rate, volume, and duration of flow, such that—

“(I) the compensation within the affected subwatershed shall provide in-kind or out-of-kind mitigation of function at ratios to be determined by the Administrator through rulemaking;

“(II) the compensation outside the affected subwatershed shall provide in-kind or out-of-kind mitigation, at ratios to be determined by the Administrator through rulemaking, within the tributary watershed in which the project is located; and

“(III) if mitigation of unavoidable impacts is not feasible, the Administrator may approve stringent fee-in-lieu systems.

“(B) REGULATIONS.—

“(i) IN GENERAL.—Not later than November 19, 2012, the Administrator shall promulgate regulations that—

“(I) define the term ‘predevelopment hydrology’ for purposes of subparagraph (A);

“(II) establish the thresholds under subparagraph (A);

“(III) establish the compensation ratios under items (I) and (II) of subparagraph (A)(ii); and

“(IV) establish the fee-in-lieu systems under subparagraph (A)(ii)(III).

“(ii) REQUIREMENT.—In developing the regulations under clause (i), including establishing minimum standards for new development and redevelopment, the Administrator shall take into consideration, based on an evaluation of field science and practice, factors such as—

“(I) the benefit to—

“(aa) overall watershed protection and restoration of redevelopment of brownfields or other previously developed or disturbed sites; and

“(bb) water quality improvement through lot-level stormwater management.

“(iii) TREATMENT OF PENDING STORMWATER PERMITS.—In consultation with the Chesapeake Basin States and interested stakeholders, and taking into consideration any compliance schedules developed by any Chesapeake Basin State prior to June 30, 2010, the Administrator shall develop guidance regarding the treatment of pending stormwater permits for the Chesapeake Basin States.

“(C) FAILURE TO PROVIDE ASSURANCES.—If a Chesapeake Basin State that submits a Watershed Implementation Plan under this subsection fails to provide the assurances required under subparagraph (A), effective beginning on May 12, 2013, the Administrator may withhold funds otherwise available to the Chesapeake Basin State under this Act, in accordance with subparagraphs (A) and (B) of subsection (j)(5).

“(5) PHOSPHATE BAN.—

“(A) PHOSPHORUS IN CLEANING AGENTS.—Each Chesapeake Basin State shall provide to the Administrator, not later than 3 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, assurances that within the jurisdiction, except as provided in subparagraph (B), a person may not use, sell, manufacture, or distribute for use or sale any cleaning agent that contains more than 0.0 percent phosphorus by weight, expressed as elemental phosphorus, except for a quantity not exceeding 0.5 percent phosphorus that is incidental to the manufacture of the cleaning agent.

“(B) PROHIBITED QUANTITIES OF PHOSPHORUS.—Each Chesapeake Basin State shall provide to the Administrator, not later than 3 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, assurances that, within the jurisdiction, a person may use, sell, manufac-

ture, or distribute for use or sale a cleaning agent that contains greater than 0.0 percent phosphorus by weight, but does not exceed 8.7 percent phosphorus by weight, if the cleaning agent is a substance that the Administrator, by regulation, excludes from the limitation under subparagraph (A), based on a finding that compliance with that subparagraph would—

“(i) create a significant hardship on the users of the cleaning agent; or

“(ii) be unreasonable because of the lack of an adequate substitute cleaning agent.

“(C) FAILURE TO PROVIDE ASSURANCES.—If a Chesapeake Basin State that submits a Watershed Implementation Plan under this subsection fails to provide the necessary assurances under subparagraphs (A) and (B) by not later than 3 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator may withhold funds otherwise available to the Chesapeake Basin State under this Act, in accordance with subparagraphs (A) and (B) of subsection (j)(5).

“(j) ACTION BY ADMINISTRATOR.—

“(1) IN GENERAL.—Not later than 60 days after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator shall establish any minimum criteria that the Administrator determines to be necessary that any proposed watershed implementation plan must meet before the Administrator may approve such a plan.

“(2) COMPLETENESS FINDING.—Not later than 60 days after the date on which the Administrator receives a new or revised proposed watershed implementation plan from a Chesapeake Basin State, or not later than 60 days after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act (if the Basin State has already submitted a watershed implementation plan), the Administrator shall make a completeness determination based on whether the minimum criteria for the plan established under paragraph (1) have been met.

“(3) APPROVAL AND DISAPPROVAL.—

“(A) DEADLINE.—Not later than 90 days after determining that a watershed implementation plan meets minimum completeness criteria in accordance with paragraph (2), the Administrator shall approve or disapprove the plan.

“(B) FULL AND PARTIAL APPROVAL AND DISAPPROVAL.—In carrying out this paragraph, the Administrator shall—

“(i) approve a watershed implementation plan if the Administrator determines that the plan meets all applicable requirements under subsection (i)(1); and

“(ii) approve the plan in part and disapprove the plan in part if only a portion of the watershed implementation plan meets those requirements.

“(C) CONDITIONAL APPROVAL.—The Administrator shall—

“(i) conditionally approve the original or a revised watershed implementation plan based on a commitment of the Chesapeake Basin State submitting the plan to adopt specific enforceable management measures by not later than 1 year after the date of approval of the plan revision; but

“(ii) treat a conditional approval as a disapproval under this paragraph if the Chesapeake Basin State fails to comply with the commitment of the Chesapeake Basin State.

“(D) SCOPE OF REVIEW.—In reviewing watershed implementation plans for approval or disapproval, the Administrator shall—

“(i) ensure the completeness of the plan submission pursuant to subsection (i)(1)(A)(iv);

“(ii) limit any additional review to the adequacy of the plan to attain water quality standards; and

“(iii) not impose, as a condition of approval, any additional requirements.

“(E) FULL APPROVAL REQUIRED.—An original or revised watershed implementation plan shall not be treated as meeting the requirements of this section until the Administrator approves the entire original or revised plan.

“(F) CORRECTIONS.—In any case in which the Administrator determines that the action of the Administrator approving, disapproving, or conditionally approving any original or revised State watershed implementation plan was in error, the Administrator shall—

“(i) in the same manner as the approval, disapproval, conditional approval, or promulgation, revise the action of the Administrator, as appropriate, without requiring any further submission from the Chesapeake Basin State; and

“(ii) make the determination of the Administrator, and the basis for that determination, available to the public.

“(G) EFFECTIVE DATE.—The provisions of a State watershed implementation plan shall take effect upon the date of approval of the plan.

“(4) CALLS FOR PLAN REVISION.—In any case in which the Administrator determines that watershed implementation plan for any area is inadequate to attain or maintain applicable pollution limitations, the Administrator—

“(A) shall notify the Chesapeake Basin State of, and require the Chesapeake Basin State to revise the plan to correct the inadequacies;

“(B) may establish reasonable deadlines (not to exceed 180 days after the date on which the Administrator provides the notification) for the submission of a revised watershed implementation plan;

“(C) shall make the findings of the Administrator under paragraph (3) and notice provided under subparagraph (A) public;

“(D) shall require as an element of any revised plan by the Chesapeake Basin State that the State adhere to the requirements applicable under the original watershed implementation plan, except that the Administrator may adjust any dates (other than attainment dates) applicable under those requirements, as appropriate; and

“(E) shall disapprove any revised plan submitted by a Chesapeake Basin State that fails to adhere to the requirements described in subparagraph (D).

“(5) FEDERAL IMPLEMENTATION.—If a Chesapeake Basin State that has submitted a watershed implementation plan under subsection (i)(1)(A)(i) fails to submit a required revised watershed implementation plan, submit a biennial report, correct a previously missed 2-year commitment made in a watershed implementation plan, or remedy a disapproval of a watershed implementation plan, the Administrator shall, by not later than 30 days after the date of the failure and after issuing a notice to the State and providing a period of not less than 1 year during which the failure may be corrected—

“(A) notwithstanding sections 601(a) and 603(g), reserve up to 75 percent of the amount of the capitalization grant to the Chesapeake Basin State for a water pollution control revolving fund under section 603 for activities that are—

“(i) selected by the Administrator; and

“(ii) consistent with the watershed implementation plans described in subparagraph (C);

“(B) withhold all funds otherwise available to the Chesapeake Basin State (or a designee) under this Act, except for the funds available under title VI;

“(C) develop and administer the watershed implementation plan for the Chesapeake Basin State until the Chesapeake Basin State has remedied the plan, reports, or achievements to the satisfaction of the Administrator;

“(D) in addition to requiring compliance with all other statutory and regulatory requirements, require that all permits issued under section 402 for new or expanding discharges of nitrogen, phosphorus, or sediment shall acquire offsets that exceed, by a ratio to be determined by the Administrator through rulemaking, the quantities of nitrogen, phosphorus, or sediment that would be discharged under the permit, taking into account attenuation, equivalency, and uncertainty; and

“(E) for the purposes of developing and implementing a watershed implementation plan under subparagraph (C)—

“(i) incorporate into the Federal plan all applicable requirements for nonpoint sources included as part of the most recently approved watershed implementation plan of the Chesapeake Basin State;

“(ii) issue such permits to point sources as the Administrator determines to be necessary to control discharges sufficient to meet the pollution reductions required to meet applicable water quality standards;

“(iii) enforce such nonpoint source requirements under Federal law in the same manner and with the same stringency as required under most recently approved watershed implementation plan of the Chesapeake Basin State; and

“(iv) enforce such point source permits in the same manner as other permits issued under section 402 are enforced.

“(6) NITROGEN, PHOSPHORUS, AND SEDIMENT TRADING PROGRAMS.—

“(A) ESTABLISHMENT.—Not later than May 12, 2012, the Administrator, in cooperation with the Secretary of Agriculture and each Chesapeake Basin State, shall establish, by regulation, an interstate nitrogen and phosphorus trading program for the Chesapeake Basin for the generation, trading, and use of nitrogen and phosphorus credits to facilitate the attainment and maintenance of water quality standards in the Chesapeake Bay and the Chesapeake Bay tidal segments.

“(B) TRADING SYSTEM.—The trading program established under this subsection shall, at a minimum—

“(i) define and standardize nitrogen and phosphorus credits and establish procedures or standards for ensuring equivalent water quality benefits for all credits;

“(ii) establish procedures or standards for certifying, verifying, and enforcing nitrogen and phosphorus credits to ensure that credit-generating practices from both point sources and nonpoint sources are achieving actual reductions in nitrogen and phosphorus, including provisions for allowing the use of third parties to verify and certify credits sold within and across State lines;

“(iii) establish procedures or standards for generating, quantifying, trading, and applying credits to meet regulatory requirements and allow for trading to occur between and across point source or nonpoint sources, including a requirement that purchasers of credits that propose to satisfy all or part of the obligation to reduce nitrogen and phosphorus through the use of credits shall compensate in a timely manner, through further limitations on the discharges of the pur-

chaser or through a new trade, for any deficiency in those reductions that results from the failure of a credit seller to carry out any activity that was to generate the credits;

“(iv) establish baseline requirements that a credit seller shall meet before becoming eligible to generate saleable credits, which shall be at least as stringent as applicable water quality standards, total maximum daily loads (including applicable wasteload and load allocations), and watershed implementation plans;

“(v) ensure that credits and trade requirements are incorporated, directly or by reference, into enforceable permit requirements under the more stringent of the national pollutant discharge elimination system established under section 402 or the system of the applicable State permitting authority, for all credit purchasers covered by the permits;

“(vi) ensure that private contracts between credit buyers and credit sellers contain adequate provisions to ensure enforceability under applicable law;

“(vii) establish procedures or standards to ensure public transparency for all nitrogen and phosphorus trading activities, including the establishment of a publicly available trading registry, which shall include—

“(I) the information used in the certification and verification process; and

“(II) recorded trading transactions (such as the establishment, sale, amounts, and use of credits);

“(viii) in addition to requiring compliance with all other statutory and regulatory requirements, ensure that, in any case in which a segment of the Chesapeake Basin is impaired with respect to nitrogen and phosphorus being traded and a total maximum daily load for that segment has not yet been implemented for the impairment—

“(I) trades are required to result in progress toward or the attainment of water quality standards in that segment; and

“(II) credit buyers in that segment may not rely on credits produced outside of the segment;

“(ix) require that the application of credits to meet regulatory requirements under this section not cause or contribute to exceedances of water quality standards, total maximum daily loads, or wasteload or load allocations for affected receiving waters, including avoidance of localized impacts;

“(x) except as part of a consent agreement, consent judgment, enforcement order, plea agreement, or sentencing condition, prohibit the purchase of credits from any entity that is in noncompliance with an enforceable permit issued under section 402;

“(xi) consider and incorporate, to the extent consistent with the minimum requirements of this Act, as determined by the Administrator, in consultation with the Secretary of Agriculture, elements of State trading programs in existence on the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act;

“(xii) allow for, as appropriate, the aggregation and banking of credits by third parties;

“(xiii) provide, to the maximum extent practicable, that credit-generating practices are achieving equivalent reductions in nitrogen and phosphorus before using the credits; and

“(xiv) provide for appropriate temporal consistency between the time period during which the credit is generated and the time period during which the credit is used.

“(C) FACILITATION OF TRADING.—In order to attract market participants and facilitate the cost-effective achievement of water-quality

goals, the Administrator, in consultation with the Secretary of Agriculture, shall ensure that the trading program established under this paragraph—

“(i) includes measures to mitigate credit buyer risk;

“(ii) makes use of the best available science in order to minimize uncertainty and related transaction costs to traders by supporting research and other activities that increase the scientific understanding of nonpoint nitrogen and phosphorus pollutant loading and the ability of various structural and nonstructural alternatives to reduce the loads;

“(iii) eliminates unnecessary or duplicative administrative processes; and

“(iv) incorporates a permitting approach under the national pollutant discharge elimination system established under section 402 that—

“(I) allows trading to occur without requiring the reopening or reissuance of the base permits to incorporate individual trades; and

“(II) incorporates any such trades, directly through a permit amendment or addendum, or indirectly by any appropriate mechanism, as enforceable terms of those permits on approval of the credit purchase by the permitting authority, in accordance with the requirements of the Chesapeake Basin Program, this Act, and regulations promulgated pursuant to this Act.

“(D) SEDIMENT TRADING.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator, in consultation with the Secretary of Agriculture, shall convene a task force, to be composed of representatives from the Chesapeake Basin States and public and private entities—

“(I) to identify any scientific, technical, or other issues that would hinder the rapid deployment of an interstate sediment trading program; and

“(II) to provide to the Administrator recommendations to overcome any of the obstacles to rapid deployment of such a trading system.

“(ii) INTERSTATE SEDIMENT TRADING PROGRAM.—

“(I) ESTABLISHMENT.—Based on the recommendations of the task force established under clause (i), the Administrator, in cooperation with each Chesapeake Basin State, shall establish an interstate sediment trading program for the Chesapeake Basin for the generation, trading, and use of sediment credits to facilitate the attainment and maintenance water quality standards in the Chesapeake Bay and the Chesapeake Bay tidal segments.

“(II) REQUIREMENT.—The interstate sediment trading program established under subclause (I) shall include, at a minimum, definitions, procedures, standards, requirements, assurances, allowances, prohibitions, and evaluations comparable to the interstate nitrogen and phosphorus trading program established under subparagraph (A).

“(III) DEADLINE.—Upon a finding of the Administrator, based on the recommendation of the task force established under clause (i), that such a sediment trading program would substantially advance the achievement of Bay water quality objectives and would be feasible, the interstate trading program under this clause shall be established by the later of—

“(aa) May 12, 2014; and

“(bb) the date on which each issue described in clause (i) can be feasibly overcome.

“(E) EVALUATION OF TRADING.—

“(i) REPORTS.—Not less frequently than once every 5 years after the date of establishment of the interstate nitrogen and phosphorus trading program under this paragraph, the Administrator shall submit to Congress a report describing the results of the program with respect to enforceability, transparency, achievement of water quality results, and whether the program has resulted in any localized water pollution problem.

“(ii) IMPROVEMENTS.—Based on the reports under clause (i), the Administrator shall make improvements to the trading program under this paragraph to ensure achievement of the environmental and programmatic objectives of the program.

“(F) EFFECT ON OTHER TRADING SYSTEMS.—Nothing in this paragraph affects the ability of a State to establish or implement an applicable intrastate trading program.

“(7) AUTHORITY RELATING TO DEVELOPMENT.—The Administrator shall—

“(A) establish, for projects resulting in impervious development, guidance relating to site planning, design, construction, and maintenance strategies to ensure that the land maintains predevelopment hydrology with regard to the temperature, rate, volume, and duration of flow;

“(B) compile a database of best management practices, model stormwater ordinances, and guidelines with respect to the construction of low-impact development infrastructure and nonstructural low-impact development techniques for use by States, local governments, and private entities; and

“(C) not later than 180 days after promulgation of the regulations under subsection (i)(4)(B), issue guidance, model ordinances, and guidelines to carry out this paragraph.

“(8) ASSISTANCE WITH RESPECT TO STORMWATER DISCHARGES.—

“(A) FINANCIAL ASSISTANCE AWARD PROGRAM.—The Administrator may enter into financial assistance agreements with any local government within the Chesapeake Basin that adopts the guidance, best management practices, ordinances, and guidelines issued and compiled under paragraph (7).

“(B) USE OF FUNDS.—A financial assistance agreement provided under subparagraph (A) may be used by a local government to pay costs associated with—

“(i) developing, implementing, and enforcing the guidance, best management practices, ordinances, and guidelines issued and compiled under paragraph (7); and

“(ii) implementing projects designed to reduce or beneficially reuse stormwater discharges.

“(9) CONSUMER AND COMMERCIAL PRODUCT REPORT.—Not later than 3 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator, in consultation with the Chesapeake Executive Council, shall—

“(A) review consumer and commercial products (such as lawn fertilizer), the use of which may affect the water quality of the Chesapeake Basin or associated tributaries, to determine whether further product nitrogen and phosphorus content restrictions are necessary to restore or maintain water quality in the Chesapeake Basin and those tributaries; and

“(B) submit to the Committees on Appropriations, Environment and Public Works, and Commerce, Science, and Transportation of the Senate and the Committees on Appropriations, Natural Resources, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives a

product nitrogen and phosphorus report detailing the findings of the review under subparagraph (A).

“(10) AGRICULTURAL ANIMAL WASTE-TO-BIOENERGY DEPLOYMENT PROGRAM.—

“(A) DEFINITIONS.—In this paragraph:

“(i) AGRICULTURAL ANIMAL WASTE.—The term ‘agricultural animal waste’ means manure from livestock, poultry, or aquaculture.

“(ii) ELIGIBLE TECHNOLOGY.—The term ‘eligible technology’ means a technology that converts or proposes to convert agricultural animal waste into—

“(I) heat;

“(II) power; or

“(III) biofuels.

“(B) FINANCIAL ASSISTANCE AGREEMENT PROGRAM.—The Administrator, in coordination with the Secretary of Agriculture, may enter into financial assistance agreements with any person or partnership of persons for the purpose of carrying out projects to deploy an eligible technology in agricultural animal waste-to-bioenergy treatment that has significant potential to reduce agricultural animal waste volume, recover nitrogen and phosphorus, improve water quality, decrease pollution potential, and recover energy.

“(C) PROJECT SELECTION.—

“(i) IN GENERAL.—In selecting applicants for financial assistance agreements under this paragraph, the Administrator shall select projects that—

“(I) reduce—

“(aa) impacts of agricultural animal waste on surface and groundwater quality;

“(bb) emissions to the ambient air; and

“(cc) the release of pathogens and other contaminants to the environment; and

“(II) quantify—

“(aa) the degree of waste stabilization to be realized by the project; and

“(bb) nitrogen and phosphorus reduction credits that could contribute to the nitrogen and phosphorus trading program for the Chesapeake Basin under this subsection.

“(ii) PRIORITIZATION.—The Administrator shall prioritize projects based on—

“(I) the level of nitrogen and phosphorus reduction achieved;

“(II) geographical diversity among the Chesapeake Basin States; and

“(III) differing types of agricultural animal waste.

“(D) FEDERAL SHARE.—The amount of a financial assistance awarded under this paragraph shall not exceed 50 percent of the cost of the project to be carried out using funds from the financial assistance award.

“(K) PROHIBITION ON INTRODUCTION OF ASIAN OYSTERS.—Not later than 2 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator shall promulgate regulations—

“(1) to designate the Asian oyster as a ‘biological pollutant’ in the Chesapeake Bay and tidal waters pursuant to section 502;

“(2) to prohibit the issuance of permits under sections 402 and 404 for the discharge of the Asian oyster into the Chesapeake Bay and Chesapeake Bay tidal segments; and

“(3) to specify conditions under which scientific research on Asian oysters may be conducted within the Chesapeake Bay and Chesapeake Bay tidal segments.

“(1) CHESAPEAKE NUTRIA ERADICATION PROGRAM.—

“(1) FINANCIAL ASSISTANCE AUTHORITY.—Subject to the availability of appropriations, the Secretary of the Interior (referred to in this subsection as the ‘Secretary’), may provide financial assistance to the States of

Delaware, Maryland, and Virginia to carry out a program to implement measures—

“(A) to eradicate or control nutria; and

“(B) to restore marshland damaged by nutria.

“(2) GOALS.—The continuing goals of the program shall be—

“(A) to eradicate nutria in the Chesapeake Basin ecosystem; and

“(B) to restore marshland damaged by nutria.

“(3) ACTIVITIES.—In the States of Delaware, Maryland, and Virginia, the Secretary shall require that the program under this subsection consist of management, research, and public education activities carried out in accordance with the document published by the United States Fish and Wildlife Service entitled ‘Eradication Strategies for Nutria in the Chesapeake and Delaware Bay Watersheds’, dated March 2002, or any updates to the document.

“(m) REVIEW OF STUDIES ON THE IMPACTS OF MENHADEN ON THE WATER QUALITY OF THE CHESAPEAKE BAY.—

“(1) RESEARCH REVIEW.—The Administrator, in cooperation and consultation with the Administrator of the National Oceanic and Atmospheric Administration, shall—

“(A) prepare a report that reviews and summarizes existing, peer reviewed research relating to the impacts of menhaden on water quality, including the role of menhaden as filter feeders and the impacts on dissolved oxygen levels, nitrogen and phosphorus levels, phytoplankton, zooplankton, detritus, and similar issues by menhaden at various life stages;

“(B) identify important data gaps or additional menhaden population studies, if any, relating to the impacts of the menhaden population on water quality; and

“(C) provide any recommendations for additional research or study.

“(2) REPORT AND RECOMMENDATIONS.—Not later than 5 years after the date of enactment of the Chesapeake Clean Water and Ecosystem Restoration Act, the Administrator shall submit the report and recommendations required in paragraph (1) to—

“(A) the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works Committee of the Senate; and

“(B) the Committee on Natural Resources and the Committee on Transportation and Infrastructure Committee of the House of Representatives.

“(n) EFFECT ON OTHER REQUIREMENTS.—

“(1) IN GENERAL.—Nothing in this section removes or otherwise affects any other obligation for a point source to comply with other applicable requirements under this Act.

“(2) VIOLATIONS BY STATES.—

“(A) ENFORCEMENT ACTION BY ADMINISTRATOR.—The failure of a Chesapeake Basin State that submits a watershed implementation plan under subsection (i) to submit a biennial report, meet or correct a previously missed 2-year commitment made in a watershed implementation plan, or implement a watershed implementation plan or permit program under this section shall—

“(i) constitute a violation of this Act; and

“(ii) subject the State to an enforcement action by the Administrator.

“(B) ENFORCEMENT ACTION BY CITIZENS.—

“(i) IN GENERAL.—The failure of a Chesapeake Basin State that submits a watershed implementation plan under subsection (i) to meet or correct a previously missed 2-year commitment made in a watershed implementation plan or implement a watershed implementation plan or permit program under

this section shall subject the appropriate State officer to a civil action seeking injunctive relief commenced by a citizen on behalf of the citizen.

“(ii) JURISDICTION, VENUE, NOTICE, AND LITIGATION COSTS.—

“(I) IN GENERAL.—A citizen may commence a civil action on behalf of the citizen against a State under clause (i), subject to the requirements for notice, venue, and intervention described in subsections (b) and (c) of section 505 for a suit brought under section 505(a)(1)(A).

“(II) JURISDICTION.—Jurisdiction over a suit brought under subclause (I) shall be the district courts, as described in section 505(a).

“(III) LITIGATION COSTS.—The court may award litigation costs for suit brought under subclause (I), as described in section 505(d).

“(iii) SAVINGS CLAUSE.—Nothing in this subsection affects the ability of a citizen to bring an action for civil enforcement on behalf of the citizen under section 505.

“(o) GOVERNMENT AND INDEPENDENT EVALUATIONS.—

“(1) INSPECTORS GENERAL REVIEWS.—

“(A) IN GENERAL.—The Inspectors General of the Environmental Protection Agency and the Department of Agriculture shall jointly evaluate and submit to Congress reports describing the implementation of this section not less frequently than once every 3 years.

“(B) INCLUSIONS.—Each report under subparagraph (A) shall include an assurance that, with respect to the period covered by the report—

“(i) funds authorized for the restoration activities were distributed and used in a manner that are consistent with the objectives of improving the water quality in the Chesapeake Bay ecosystem;

“(ii) mechanisms were in place to ensure that restoration activities are properly implemented;

“(iii) mechanisms were in place to ensure that progress toward water quality goals for the Chesapeake Bay ecosystem are achieved;

“(iv) the allocation of funds reflected the responsibility and contribution of each Chesapeake Bay State toward achieving water quality goals;

“(v) restoration activities were carried out in accordance with this section;

“(vi) the factual information and assumptions incorporated in Chesapeake Bay modeling efforts were accurate; and

“(vii) implementation was adequately tracked and accounted for in Chesapeake Bay modeling efforts, including tracking of privately funded and government-funded practices.

“(2) INDEPENDENT REVIEWS.—

“(A) IN GENERAL.—The Administrator shall enter into a contract with the National Academy of Sciences or the National Academy of Public Administration under which the Academy shall conduct 2 reviews of the Chesapeake Basin restoration efforts under this section.

“(B) INCLUSIONS.—Each review under subparagraph (A) shall include an assessment of—

“(i) progress made toward meeting the goals of this section;

“(ii) efforts by Federal, State, and local governments and the private sector in implementing this section;

“(iii) the methodologies (including computer modeling) and data (including monitoring data) used to support the implementation of this section; and

“(iv) the economic impacts, including—

“(I) a comprehensive analysis of the costs of compliance;

“(II) the benefits of restoration;

“(III) the value of economic losses avoided;

“(IV) a regional analysis of items (I) through (III), by Chesapeake Basin State and by sector, to the maximum extent practicable; and

“(V) an analysis of nitrogen, phosphorus, or sediment credits for future delivery and the impact of that futures trading on nitrogen, phosphorus, or sediment price volatility.

“(C) REPORTS.—The National Academy of Sciences or the National Academy of Public Administration shall submit to the Administrator a report describing the results of the reviews under this paragraph, together with recommendations regarding the reviews (including any recommendations with respect to efforts of the Environmental Protection Agency or any other Federal or State agency required to implement applicable water quality standards in the Chesapeake Basin and achieve those standards in the Chesapeake Bay and Chesapeake Bay tidal segments), if any, by not later than—

“(i) May 12, 2015, with respect to the first review required under this paragraph; and

“(ii) May 12, 2020, with respect to the second review required under this paragraph.

“(p) AUTHORIZATION OF APPROPRIATIONS.—

“(1) CHESAPEAKE BASIN PROGRAM OFFICE.—There is authorized to be appropriated to the Chesapeake Basin Program Office to carry out subsection (b)(2) \$20,000,000 for each of fiscal years 2012 through 2017.

“(2) IMPLEMENTATION, MONITORING, AND CENTERS OF EXCELLENCE FINANCIAL ASSISTANCE AWARDS.—

“(A) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated or otherwise made available to carry out this section, there are authorized to be appropriated to the Administrator—

“(i) to carry out a program to establish and support centers of excellence for water quality and agricultural policies and practices under subsection (e)(1)(C), \$10,000,000 for each of fiscal years 2012 through 2017;

“(ii) to provide implementation of financial assistance agreements under subsection (e)(3)(A), \$80,000,000 for each of fiscal years 2012 through 2017, to remain available until expended;

“(iii) to carry out a freshwater monitoring program under subsection (e)(3)(B), \$5,000,000 for each of fiscal years 2012 through 2017;

“(iv) to carry out a Chesapeake Bay and tidal water monitoring program under subsection (e)(3)(B), \$5,000,000 for each of fiscal years 2012 through 2017; and

“(v) to carry out the Chesapeake nitrogen and phosphorus trading guarantee pilot program under subsection (e)(1)(D), \$20,000,000 for the period of fiscal years 2012 through 2017.

“(B) COST SHARING.—The Federal share of the cost of a program carried out using funds from a financial assistance agreement provided—

“(i) under subparagraph (A)(ii) shall not exceed—

“(I) 80 percent, with respect to funds provided for the provision of technical assistance to agricultural producers and forest owners; and

“(II) with respect to all other activities under that subparagraph—

“(aa) for the States of Delaware, New York, and West Virginia, shall not exceed 75 percent; and

“(bb) for the States of Maryland, Pennsylvania, and Virginia and for the District of Columbia, shall not exceed 50 percent; and

“(ii) under clause (i), (iii), or (iv) of subparagraph (A) shall not exceed 80 percent.

“(3) CHESAPEAKE STEWARDSHIP FINANCIAL ASSISTANCE AWARDS.—There is authorized to be appropriated to carry out subsection (h)(2) \$15,000,000 for each of fiscal years 2012 through 2017.

“(4) STORM WATER POLLUTION PLANNING AND IMPLEMENTATION FINANCIAL ASSISTANCE AWARDS.—

“(A) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized or otherwise made available to carry out this section, there are authorized to be appropriated to the Administrator—

“(i) to carry out subsection (j)(8)(B)(i), \$10,000,000; and

“(ii) to carry out subsection (j)(8)(B)(ii), \$1,500,000,000.

“(B) COST-SHARING.—A financial assistance agreement provided for a project under—

“(i) subsection (j)(8)(B)(i) may not be used to cover more than 80 percent of the cost of the project; and

“(ii) subsection (j)(8)(B)(ii) may not be used to cover more than 75 percent of the cost of the project.

“(5) NUTRIA ERADICATION FINANCIAL ASSISTANCE AWARDS.—

“(A) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Interior to provide financial assistance in the Chesapeake Basin under subsection (1) \$4,000,000 for each of fiscal years 2012 through 2017.

“(B) COST-SHARING.—

“(i) FEDERAL SHARE.—The Federal share of the cost of carrying out the program under subsection (1) may not exceed 75 percent of the total costs of the program.

“(ii) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of carrying out the program under subsection (1) may be provided in the form of in-kind contributions of materials or services.

“(6) AGRICULTURAL ANIMAL WASTE-TO-BIOENERGY DEPLOYMENT FINANCIAL ASSISTANCE AWARDS.—There is authorized to be appropriated to carry out the agricultural animal waste-to-bioenergy deployment program under subsection (j) \$30,000,000 for the period of fiscal years 2012 to 2017, to remain available until expended.

“(7) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 10 percent of the annual amount of any financial assistance agreement provided by the Administrator or Secretary under any program described in this subsection may be used for administrative costs.

“(8) AVAILABILITY.—Amounts authorized to be appropriated under this subsection shall remain available until expended.

“(q) SEVERABILITY.—A determination that any provision of this section is invalid, illegal, unenforceable, or in conflict with any other law shall not affect the validity, legality, or enforceability of the remaining provisions of this section.

“(r) APPLICABILITY.—

“(1) IN GENERAL.—The authority provided by this section applies solely to Chesapeake Basin States.

“(2) OTHER STATES.—Nothing in this section modifies or otherwise affects any authority provided by this Act with respect to any provision of law (including a regulation) applicable to any other State.”

SEC. 10273. FEDERAL ENFORCEMENT.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the first sentence, by striking “section 402” and inserting “section 117, 402,”;

(B) in paragraph (3), by inserting “section 117 or” before “section 402”;

(2) in subsection (d), in the first sentence, by inserting “section 117 or” after “a permit issued under”; and

(3) in subsection (g)—

(A) in paragraph (1)(A), by inserting “section 117 or” before “section 402”; and

(B) in paragraph (7), by striking “section 402” and inserting “section 117, 402.”.

SEC. 10274. FEDERAL RESPONSIBILITY TO PAY FOR STORMWATER PROGRAMS.

Section 313 of the Federal Water Pollution Control Act (33 U.S.C. 1323) is amended by adding at the end the following:

“(c) REASONABLE SERVICE CHARGES.—Reasonable service charges described in subsection (a) include any reasonable non-discriminatory fee, charge, or assessment that is—

“(1) based on some fair approximation of the proportionate contribution of the property or facility to stormwater pollution (in terms of quantities of pollutants, or volume or rate of stormwater discharge or runoff from the property or facility); and

“(2) used to pay or reimburse the costs associated with any stormwater management program (whether associated with a separate storm sewer system or a sewer system that manages a combination of stormwater and sanitary waste), including the full range of programmatic and structural costs attributable to collecting stormwater, reducing pollutants in stormwater, and reducing the volume and rate of stormwater discharge, regardless of whether that reasonable fee, charge, or assessment is denominated a tax.”.

SEC. 10275. RELATIONSHIP TO NATIONAL ESTUARY PROGRAM.

Section 320(b) of the Federal Water Pollution Control Act (33 U.S.C. 1330(b)) is amended in the last sentence by inserting “or section 117” after “this section”.

SEC. 10276. SEPARATE APPROPRIATIONS ACCOUNT.

Section 1105(a) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (35) and (36) as paragraphs (36) and (37), respectively;

(2) by redesignating the second paragraph (33) (relating to obligational authority and outlays requested for homeland security) as paragraph (35); and

(3) by adding at the end the following:

“(38) a separate statement for the Chesapeake Nitrogen and Phosphorus Trading Guarantee Fund established under section 117(e)(1)(E) of the Federal Water Pollution Control Act (33 U.S.C. 1267(e)(1)(E)), which shall include the estimated amounts of—

“(A) deposits in the Fund;

“(B) obligations; and

“(C) outlays from the Fund.”.

SEC. 10277. CHESAPEAKE BASIN ASSURANCE STANDARDS.

Section 1240Q of the Food Security Act of 1985 (16 U.S.C. 3839bb-4) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

“(h) ASSURANCE STANDARDS.—

“(1) DEFINITION OF CHESAPEAKE BASIN STATE.—In this subsection, the term ‘Chesapeake Basin State’ means any of—

“(A) the States of Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia; or

“(B) the District of Columbia.

“(2) PURPOSE.—The purpose of this subsection is to develop environmental assurance standards for use by the Chesapeake Basin States to ensure that agricultural producers and nonindustrial private forest land-

owners in the Chesapeake Bay watershed are implementing achievable and economically practicable conservation activities, consistent with the water quality standards of the applicable Chesapeake Basin State, that—

“(A) reduce nitrogen, phosphorus, and sediment loads; and

“(B) fulfill water quality requirements under applicable Federal and State law.

“(3) DUTIES OF SECRETARY.—

“(A) IN GENERAL.—The Secretary, using existing partnerships and programs, to the maximum extent practicable, and with the concurrence of the Administrator of the Environmental Protection Agency, shall identify conservation practice standards and other conservation activities, including risk assessment and conservation planning, designed to achieve the nitrogen, phosphorus, and sediment allocations that Chesapeake Basin States can incorporate in—

“(i) a State management plan under section 117(h)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1267(h)(1)); or

“(ii) a State watershed implementation plan under section 117(i) of the Federal Water Pollution Control Act (33 U.S.C. 1267(i)).

“(B) ESTABLISHMENT OF GUIDELINES.—The Secretary shall establish third-party verification and auditing guidelines for Chesapeake Basin States to ensure that activities designed to meet the conservation practice standards under subparagraph (A) are being implemented.

“(C) TECHNICAL ASSISTANCE.—The Secretary shall provide conservation technical assistance—

“(i) to educate agricultural and private forest landowners in the Chesapeake Bay watershed regarding Federal and State regulatory water quality requirements and activities the landowners could carry out—

“(I) to achieve compliance with the requirements; and

“(II) to improve wildlife habitat;

“(ii) to assist those landowners in selecting and implementing conservation activities that will achieve and maintain compliance with Federal and State regulatory water quality requirements; and

“(iii) to support voluntary efforts to improve water quality and wildlife habitat.

“(D) MEMORANDUM OF UNDERSTANDING.—The Secretary may enter into a memorandum of understanding with the Administrator of the Environmental Protection Agency and the Chesapeake Basin States to coordinate conservation planning for agricultural and nonindustrial private forestland to meet applicable Federal and State water quality requirements, including applicable nitrogen, phosphorus, and sediment allocations.

“(4) EFFECT OF ASSURANCE STANDARDS.—

“(A) COMPLIANCE.—Except as provided in subparagraph (B), an agricultural or private forest landowner that is not subject to the requirements of the national pollutant discharge elimination system of section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), but that implements all applicable conservation practices or other conservation activities in accordance with a conservation plan adopted under this subsection that meets the requirements of section 117(i)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1267(i)(3)) and any additional State water quality requirements, shall be considered to be in full compliance with the applicable nitrogen, phosphorus, and sediment allocations for the Chesapeake Bay watershed established pursuant to sec-

tion 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d)).

“(B) EXCEPTION.—Subparagraph (A) does not apply to any agreement entered into with the Natural Resources Conservation Service regarding a comprehensive nutrient management plan.

“(5) UPDATING PRACTICE STANDARDS, ALLOCATIONS, AND PLANS.—Nothing in this subsection limits the ability of—

“(A) the Secretary or the Administrator of the Environmental Protection Agency to update applicable conservation practice standards;

“(B) the Administrator to update the Chesapeake Bay TMDL (as defined in section 117(a) of the Federal Water Pollution Control Act (33 U.S.C. 1267(a))) or any wasteload allocation or load allocation under the Chesapeake Bay TMDL; or

“(C) the Administrator or any Chesapeake Basin State to update any watershed implementation plan.”.

Subtitle I—San Francisco Bay Restoration

SEC. 10281. SHORT TITLE.

This subtitle may be cited as the “San Francisco Bay Restoration Act”.

SEC. 10282. SAN FRANCISCO BAY RESTORATION GRANT PROGRAM.

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (as amended by section 10243) is amended by adding at the end the following:

“SEC. 126. SAN FRANCISCO BAY RESTORATION GRANT PROGRAM.

“(a) DEFINITIONS.—In this section:

“(1) ANNUAL PRIORITY LIST.—The term ‘annual priority list’ means the annual priority list compiled under subsection (b).

“(2) COMPREHENSIVE PLAN.—The term ‘comprehensive plan’ means—

“(A) the comprehensive conservation and management plan approved under section 320 for the San Francisco Bay estuary; and

“(B) any amendments to that plan.

“(3) ESTUARY PARTNERSHIP.—The term ‘Estuary Partnership’ means the San Francisco Estuary Partnership, the entity that is designated as the management conference under section 320.

“(b) ANNUAL PRIORITY LIST.—

“(1) IN GENERAL.—After providing public notice, the Administrator shall annually compile a priority list identifying and prioritizing the activities, projects, and studies intended to be funded with the amounts made available under subsection (c).

“(2) INCLUSIONS.—The annual priority list compiled under paragraph (1) shall include—

“(A) activities, projects, or studies, including restoration projects and habitat improvement for fish, waterfowl, and wildlife, that advance the goals and objectives of the approved comprehensive plan;

“(B) information on the activities, projects, programs, or studies specified under subparagraph (A), including a description of—

“(i) the identities of the financial assistance recipients; and

“(ii) the communities to be served; and

“(C) the criteria and methods established by the Administrator for selection of activities, projects, and studies.

“(3) CONSULTATION.—In developing the priority list under paragraph (1), the Administrator shall consult with and consider the recommendations of—

“(A) the Estuary Partnership;

“(B) the State of California and affected local governments in the San Francisco Bay estuary watershed; and

“(C) any other relevant stakeholder involved with the protection and restoration of

the San Francisco Bay estuary that the Administrator determines to be appropriate.

“(c) GRANT PROGRAM.—

“(1) IN GENERAL.—Pursuant to section 320, the Administrator may provide funding through cooperative agreements, grants, or other means to State and local agencies, and public or nonprofit agencies, institutions, and organizations, including the Estuary Partnership, for activities, studies, or projects identified on the annual priority list.

“(2) MAXIMUM AMOUNT OF GRANTS; NON-FEDERAL SHARE.—

“(A) MAXIMUM AMOUNT OF GRANTS.—Amounts provided to any individual or entity under this section for a fiscal year shall not exceed an amount equal to 75 percent of the total cost of any eligible activities that are to be carried out using those amounts.

“(B) NON-FEDERAL SHARE.—The non-Federal share of the total cost of any eligible activities that are carried out using amounts provided under this section shall be—

“(i) not less than 25 percent; and

“(ii) provided from non-Federal sources.

“(d) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section \$35,000,000 for each of fiscal years 2012 through 2021.

“(2) ADMINISTRATIVE EXPENSES.—Of the amount made available to carry out this section for a fiscal year, the Administrator shall use not more than 5 percent to pay administrative expenses incurred in carrying out this section.

“(3) RELATIONSHIP TO OTHER FUNDING.—Nothing in this section limits the eligibility of the Estuary Partnership to receive funding under section 320(g).

“(4) PROHIBITION.—No amounts made available under subsection (c) may be used for the administration of a management conference under section 320.”.

TITLE CIII—WATER QUALITY PROTECTION AND RESTORATION PROGRAMS

Subtitle A—Clean Coastal Environment and Public Health

SEC. 10301. SHORT TITLE.

This subtitle may be cited as the “Clean Coastal Environment and Public Health Act of 2010”.

SEC. 10302. FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS.

(a) ADOPTION OF NEW OR REVISED CRITERIA AND STANDARDS.—Section 303(i)(2)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1313(i)(2)(A)) is amended by striking “paragraph (1)(A)” each place it appears and inserting “paragraph (1)”.

(b) REVISED CRITERIA FOR COASTAL RECREATION WATERS.—Section 304(a)(9) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)(9)) is amended—

(1) in subparagraph (A), by striking “methods, as appropriate” and inserting “methods, including rapid testing methods”; and

(2) by adding at the end the following:

“(C) PUBLICATION OF PATHOGEN AND PATHOGEN INDICATOR LIST.—Upon publication of the new or revised water quality criteria under subparagraph (A), the Administrator shall publish in the Federal Register a list of all pathogens and pathogen indicators studied in developing the new or revised water quality criteria.”.

(c) SOURCE IDENTIFICATION.—

(1) MONITORING PROTOCOLS.—Section 406(a)(1)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1346(a)(1)(A)) is amended by striking “methods for moni-

toring” and inserting “methods for monitoring protocols that are most likely to detect pathogenic contamination”.

(2) STATE REPORTS; SOURCE TRACKING.—Section 406(b) of the Federal Water Pollution Control Act (33 U.S.C. 1346(b)) is amended—

(A) in paragraph (3)(A)(ii), by striking “public” and inserting “public and all environmental agencies of the State with authority to prevent or treat sources of pathogenic contamination in coastal recreation waters”; and

(B) by adding at the end the following:

“(5) CONTENTS OF MONITORING AND NOTIFICATION PROGRAMS.—For the purposes of this section, a program for monitoring, assessment, and notification shall include, consistent with performance criteria published by the Administrator under subsection (a), monitoring, public notification, source tracking, and sanitary surveys, and may include prevention efforts, not already funded under this Act to address identified sources of contamination by pathogens and pathogen indicators in coastal recreation waters adjacent to beaches or similar points of access that are used by the public.”.

(d) USE OF RAPID TESTING METHODS.—

(1) CONTENTS OF STATE AND LOCAL GOVERNMENT PROGRAMS.—Section 406(c)(4)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1346(c)(4)(A)) is amended by striking “methods” and inserting “methods, including a rapid testing method after the last day of the 1-year period following the date of validation of that rapid testing method by the Administrator.”.

(2) VALIDATION AND USE OF RAPID TESTING METHODS.—

(A) VALIDATION OF RAPID TESTING METHODS.—Not later than October 15, 2012, the Administrator of the Environmental Protection Agency (referred to in this subtitle as the “Administrator”) shall complete an evaluation and validation of a rapid testing method for the water quality criteria and standards for pathogens and pathogen indicators described in section 304(a)(9)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)(9)(A)).

(B) GUIDANCE FOR USE OF RAPID TESTING METHODS.—

(i) IN GENERAL.—Not later than 180 days after the date of completion of the validation under subparagraph (A), and after providing notice and an opportunity for public comment, the Administrator shall publish guidance for the use at coastal recreation waters adjacent to beaches or similar points of access that are used by the public of rapid testing methods that will enhance the protection of public health and safety through rapid public notification of any exceedance of applicable water quality standards for pathogens and pathogen indicators.

(ii) PRIORITIZATION.—In developing guidance under clause (i), the Administrator shall require the use of rapid testing methods at those beaches or similar points of access that are the most used by the public.

(3) DEFINITION OF RAPID TESTING METHOD.—Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

“(26) RAPID TESTING METHOD.—The term ‘rapid testing method’ means a method of testing the water quality of coastal recreation waters for which results are available as soon as practicable and not more than 4 hours after receipt of the applicable sample by the testing facility.”.

(e) NOTIFICATION OF FEDERAL, STATE, AND LOCAL AGENCIES; CONTENT OF STATE AND LOCAL PROGRAMS.—Section 406(c) of the Fed-

eral Water Pollution Control Act (33 U.S.C. 1346(c)) is amended—

(1) in paragraph (5)—

(A) in the matter preceding subparagraph (A), by striking “prompt communication” and inserting “communication, within 2 hours of the receipt of the results of a water quality sample,”;

(B) by striking subparagraph (A) and inserting the following:

“(A)(i) in the case of any State in which the Administrator is administering the program under section 402, the Administrator, in such form as the Administrator determines to be appropriate; and

“(ii) in the case of any State other than a State to which clause (i) applies, all agencies of the State government with authority to require the prevention or treatment of the sources of coastal recreation water pollution; and”;

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively;

(3) by inserting after paragraph (5) the following:

“(6) measures for an annual report to the Administrator, in such form as the Administrator determines to be appropriate, on the occurrence, nature, location, pollutants involved, and extent of any exceedance of applicable water quality standards for pathogens and pathogen indicators;”;

(4) in paragraph (7) (as redesignated by paragraph (2))—

(A) by striking “the posting” and inserting “the immediate posting”; and

(B) by striking “and” at the end;

(5) in paragraph (8) (as redesignated by paragraph (2)), by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following:

“(9) the availability of a geographical information system database that the State or local government program shall use to inform the public about coastal recreation waters and that—

“(A) is publicly accessible and searchable on the Internet;

“(B) is organized by beach or similar point of access;

“(C) identifies applicable water quality standards, monitoring protocols, sampling plans and results, and the number and cause of coastal recreation water closures and advisory days; and

“(D) is updated within 24 hours of the availability of revised information;

“(10) measures to ensure that closures or advisories are made or issued within 2 hours after the receipt of the results of a water quality sample exceeding applicable water quality standards for pathogens and pathogen indicators;

“(11) measures that inform the public of identified sources of pathogenic contamination; and

“(12) analyses of monitoring protocols to determine which protocols are most likely to detect pathogenic contamination.”.

(f) NATIONAL LIST OF BEACHES.—Section 406(g) of the Federal Water Pollution Control Act (33 U.S.C. 1346(g)) is amended by striking paragraph (3) and inserting the following:

“(3) UPDATES.—Not later than 1 year after the date of enactment of the Clean Coastal Environment and Public Health Act of 2010, and biennially thereafter, the Administrator shall update the list described in paragraph (1).”.

(g) COMPLIANCE REVIEW.—Section 406(h) of the Federal Water Pollution Control Act (33 U.S.C. 1346(h)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

and indenting the subparagraphs appropriately;

(2) by striking “In the” and inserting the following:

“(1) IN GENERAL.—In the”; and

(3) by adding at the end the following:

“(2) COMPLIANCE REVIEW.—On or before July 31 of each calendar year beginning 18 months after the date of enactment of the Clean Coastal Environment and Public Health Act of 2010, the Administrator shall—

“(A) prepare a written assessment of compliance with—

“(i) all statutory and regulatory requirements of this section for each State and local government; and

“(ii) conditions of each grant made under this section to a State or local government;

“(B) notify the State or local government of each such assessment; and

“(C) make each of the assessments available to the public in a searchable database on the Internet on or before December 31 of the applicable calendar year.

“(3) CORRECTIVE ACTION.—If a State or local government that the Administrator notifies under paragraph (2) is not in compliance with any requirement or grant condition described in paragraph (2) and fails to take such action as is necessary to comply with the requirement or condition by the date that is 1 year after the date of notification, any grants made under subsection (b) to the State or local government, after the last day of that 1-year period and while the State or local government is not in compliance with all requirements and grant conditions described in paragraph (2), shall have a Federal share of not to exceed 50 percent.

“(4) GAO REVIEW.—Not later than December 31 of the third calendar year beginning after the date of enactment of the Clean Coastal Environment and Public Health Act of 2010, the Comptroller General shall—

“(A) conduct a review of the activities of the Administrator under paragraphs (2) and (3) during the first and second calendar years beginning after that date of enactment; and

“(B) submit to Congress a report on the results of the review.”.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 406(i) of the Federal Water Pollution Control Act (33 U.S.C. 1346(i)) is amended by striking “\$30,000,000 for each of fiscal years 2001 through 2005” and inserting “\$60,000,000 for each of fiscal years 2012 through 2016”.

SEC. 10303. FUNDING FOR BEACHES ENVIRONMENTAL ASSESSMENT AND COASTAL HEALTH ACT.

Section 8 of the Beaches Environmental Assessment and Coastal Health Act of 2000 (114 Stat. 877) is amended by striking “2005” and inserting “2015”.

SEC. 10304. STUDY OF GRANT DISTRIBUTION FORMULA.

(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Administrator shall commence a study of the formula for the distribution of grants under section 406 of the Federal Water Pollution Control Act (33 U.S.C. 1346) for the purpose of identifying potential revisions of that formula.

(b) CONTENTS.—In conducting the study under this section, the Administrator shall take into consideration—

(1) the base cost to States of developing and maintaining water quality monitoring and notification programs;

(2) the varied beach monitoring and notification needs of the States, including beach mileage, beach usage, and length of beach season; and

(3) other factors that the Administrator determines to be appropriate.

(c) CONSULTATION.—In conducting the study under this section, the Administrator shall consult with appropriate Federal, State, and local agencies.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the results of the study under this section, including any recommendation for revision of the distribution formula referred to in subsection (a).

SEC. 10305. IMPACT OF CLIMATE CHANGE ON POLLUTION OF COASTAL RECREATION WATERS.

(a) STUDY.—The Administrator shall conduct a study on the long-term impact of climate change on pollution of coastal recreation waters.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) INFORMATION ON POTENTIAL CONTAMINANT IMPACTS.—The report shall include information on potential contaminant impacts on—

(A) ground and surface water resources; and

(B) public and ecosystem health in coastal communities.

(3) MONITORING.—The report shall—

(A) address monitoring required to document and assess changing conditions of coastal water resources, recreational waters, and ecosystems; and

(B) review the current ability to assess and forecast impacts associated with long-term climate change.

(4) FEDERAL ACTIONS.—The report shall highlight necessary Federal actions to help advance the availability of information and tools to assess and mitigate the impacts and effects described in paragraphs (2) and (3) in order to protect public and ecosystem health.

(5) CONSULTATION.—In developing the report, the Administrator shall work in consultation with agencies active in the development of the National Water Quality Monitoring Network and the implementation of the Ocean Research Priorities Plan and Implementation Strategy.

SEC. 10306. IMPACT OF NUTRIENTS ON POLLUTION OF COASTAL RECREATION WATERS.

(a) STUDY.—The Administrator shall conduct a study of available scientific information relating to the impacts of nutrient excesses and algal blooms on coastal recreation waters.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) information regarding the impacts of nutrient excesses and algal blooms on coastal recreation waters and coastal communities; and

(B) recommendations of the Administrator for actions to be carried out by the Administrator to address those impacts, including, if applicable, through the establishment of numeric water quality criteria.

(3) CONSULTATION.—In developing the report under paragraph (1), the Administrator

shall work in consultation with the heads of other appropriate Federal agencies (including the National Oceanic and Atmospheric Administration), States, and local governmental entities.

Subtitle B—Chesapeake Bay Gateways and Watertrails Network

SEC. 10311. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK CONTINUING AUTHORIZATION.

Section 502 of the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; Public Law 105-312) is amended by striking subsection (c) and inserting the following:

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.”.

Subtitle C—Water Resources Research Amendments

SEC. 10321. WATER RESOURCES RESEARCH ACT AMENDMENTS.

(a) CONGRESSIONAL FINDINGS AND DECLARATIONS.—Section 102 of the Water Resources Research Act of 1984 (42 U.S.C. 10301) is amended—

(1) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively;

(2) in paragraph (8) (as so redesignated), by striking “and” at the end; and

(3) by inserting after paragraph (6) the following:

“(7) additional research is required into increasing the effectiveness and efficiency of new and existing treatment works through alternative approaches, including—

“(A) nonstructural alternatives;

“(B) decentralized approaches;

“(C) water use efficiency; and

“(D) actions to reduce energy consumption or extract energy from wastewater.”.

(b) EVALUATION OF WATER RESOURCES RESEARCH PROGRAM.—Section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303) is amended by striking subsection (e) and inserting the following:

“(e) EVALUATION OF WATER RESOURCES RESEARCH PROGRAM.—

“(1) IN GENERAL.—The Secretary shall conduct a careful and detailed evaluation of each institute at least once every 5 years to determine—

“(A) the quality and relevance of the water resources research of the institute;

“(B) the effectiveness of the institute at producing measured results and applied water supply research; and

“(C) whether the effectiveness of the institute as an institution for planning, conducting, and arranging for research warrants continued support under this section.

“(2) PROHIBITION ON FURTHER SUPPORT.—If, as a result of an evaluation under paragraph (1), the Secretary determines that an institute does not qualify for further support under this section, no further grants to the institute may be provided until the qualifications of the institute are reestablished to the satisfaction of the Secretary.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended by striking “for each of fiscal years 2007 through 2011” and inserting “for each of fiscal years 2012 through 2016”.

(d) ADDITIONAL APPROPRIATIONS WHERE RESEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE NATURE.—Section 104(g)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)(1)) is amended by striking “for each of fiscal years 2007 through 2011” and inserting “for each of fiscal years 2012 through 2016”.

TITLE CIV—NATIONAL WOMEN'S HISTORY MUSEUM

SEC. 10401. SHORT TITLE.

This title may be cited as the "National Women's History Museum Act of 2010".

SEC. 10402. DEFINITIONS.

In this title:

(1) **ADMINISTRATOR.**—The term "Administrator" means the Administrator of General Services.

(2) **CERCLA.**—The term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(3) **COMMITTEES.**—The term "Committees" means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(4) **MUSEUM.**—The term "Museum" means the National Women's History Museum, Inc., a District of Columbia nonprofit corporation exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986.

(5) **PROPERTY.**—The term "Property" means the property located in the District of Columbia, subject to survey and as determined by the Administrator, generally consisting of Squares 325 and 326. The Property is generally bounded by 12th Street, Independence Avenue, C Street, and the James Forrestal Building, all in Southwest Washington, District of Columbia, and shall include all associated air rights, improvements thereon, and appurtenances thereto.

SEC. 10403. CONVEYANCE OF PROPERTY.

(a) **AUTHORITY TO CONVEY.**—

(1) **IN GENERAL.**—Subject to the requirements of this title, the Administrator shall convey the Property to the Museum, on such terms and conditions as the Administrator considers reasonable and appropriate to protect the interests of the United States and further the purposes of this title.

(2) **AGREEMENT.**—As soon as practicable, but not later than 180 days after the date of enactment of this title, the Administrator shall enter into an agreement with the Museum for the conveyance.

(3) **TERMS AND CONDITIONS.**—The terms and conditions of the agreement shall address, among other things, mitigation of developmental impacts to existing Federal buildings and structures, security concerns, and operational protocols for development and use of the property.

(b) **PURCHASE PRICE.**—

(1) **IN GENERAL.**—The purchase price for the Property shall be its fair market value based on its highest and best use as determined by an independent appraisal commissioned by the Administrator and paid for by the Museum.

(2) **SELECTION OF APPRAISER.**—The appraisal shall be performed by an appraiser mutually acceptable to the Administrator and the Museum.

(3) **TERMS AND CONDITIONS FOR APPRAISAL.**—

(A) **IN GENERAL.**—Except as provided by subparagraph (B), the assumptions, scope of work, and other terms and conditions related to the appraisal assignment shall be mutually acceptable to the Administrator and the Museum.

(B) **REQUIRED TERMS.**—The appraisal shall assume that the Property does not contain hazardous waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) or hazardous substances (as defined in section 101 of CERCLA (42 U.S.C. 9601) or other applicable environmental statutes) which require response action (as defined in such sections).

(c) **APPLICATION OF PROCEEDS.**—The purchase price shall be paid into the Federal Buildings Fund established under section 592 of title 40, United States Code. Upon deposit, the Administrator may expend, in amounts specified in appropriations Acts, the proceeds from the conveyance for any lawful purpose consistent with existing authorities granted to the Administrator.

(d) **QUIT CLAIM DEED.**—The Property shall be conveyed pursuant to a quit claim deed.

(e) **USE RESTRICTION.**—The Property shall be dedicated for use as a site for a national women's history museum for the 99-year period beginning on the date of conveyance to the Museum.

(f) **REVERSION.**—

(1) **BASES FOR REVERSION.**—The Property shall revert to the United States, at the option of the United States, without any obligation for repayment by the United States of any amount of the purchase price for the property, if—

(A) the Property is not used as a site for a national women's history museum at any time during the 99-year period referred to in subsection (e); or

(B) the Museum has not commenced construction of a museum facility on the Property in the 5-year period beginning on the date of enactment of this Act, other than for reasons beyond the control of the Museum as reasonably determined by the Administrator.

(2) **ENFORCEMENT.**—The Administrator may perform any acts necessary to enforce the reversionary rights provided in this section.

(3) **CUSTODY OF PROPERTY UPON REVERSION.**—If the Property reverts to the United States pursuant to this section, such property shall be under the custody and control of the Administrator.

(g) **CLOSING.**—The conveyance pursuant to this title shall occur not later than 3 years after the date of enactment of this Act. The Administrator may extend that period for such time as is reasonably necessary for the Museum to perform its obligations under section 10404(a).

SEC. 10404. ENVIRONMENTAL MATTERS.

(a) **AUTHORIZATION TO CONTRACT FOR ENVIRONMENTAL RESPONSE ACTIONS.**—The Administrator is authorized to contract with the Museum or an affiliate thereof for the performance (on behalf of the Administrator) of response actions on the Property.

(b) **CREDITING OF RESPONSE COSTS.**—Any costs incurred with the use of non-Federal funds by the Museum or an affiliate thereof pursuant to subsection (a) shall be credited to the purchase price for the Property.

(c) **NO EFFECT ON COMPLIANCE WITH ENVIRONMENTAL LAWS.**—Nothing in this title, or any amendment made by this title, affects or limits the application of or obligation to comply with any environmental law, including section 120(h) of CERCLA (42 U.S.C. 9620(h)).

SEC. 10405. INCIDENTAL COSTS.

Subject to section 10404, the Museum shall bear any and all costs associated with complying with the provisions of this title, including studies and reports, surveys, relocating tenants, and mitigating impacts to existing Federal buildings and structures resulting directly from the development of the property by the Museum.

SEC. 10406. LAND USE APPROVALS.

(a) **EXISTING AUTHORITIES.**—Nothing in this title shall be construed as limiting or affecting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(b) **COOPERATION.**—

(1) **ZONING AND LAND USE.**—Subject to paragraph (2), the Administrator shall reasonably cooperate with the Museum with respect to any zoning or other land use matter relating to development of the Property in accordance with this title. Such cooperation shall include consenting to applications by the Museum for applicable zoning and permitting with respect to the property.

(2) **LIMITATIONS.**—The Administrator shall not be required to incur any costs with respect to cooperation under this subsection and any consent provided under this subsection shall be premised on the property being developed and operated in accordance with this title.

SEC. 10407. REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter until the end of the 5-year period following conveyance of the Property or until substantial completion of the museum facility (whichever is later), the Museum shall submit annual reports to the Administrator and the Committees detailing the development and construction activities of the Museum with respect to this title.

DIVISION K—OCEANS AND FISHERIES

TITLE CXI—PACIFIC SALMON STRONGHOLD CONSERVATION

SEC. 11101. SHORT TITLE.

This title may be cited as the "Pacific Salmon Stronghold Conservation Act of 2010".

SEC. 11102. FINDINGS; PURPOSES.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Several species of salmon native to the rivers of the United States are highly migratory, interacting with salmon originating from Canada, Japan, Russia, and South Korea and spending portions of their life history outside of the territorial waters of the United States. Recognition of the migratory and transboundary nature of salmon species has led countries of the North Pacific to seek enhanced coordination and cooperation through multilateral and bilateral agreements.

(2) Salmon are a keystone species, sustaining more than 180 other species in freshwater and marine ecosystems. They are also an indicator of ecosystem health and potential impacts of climate change.

(3) Salmon are a central part of the culture, economy, and environment of Western North America.

(4) Economic activities relating to salmon generate billions of dollars of economic activity and provide thousands of jobs.

(5) During the anticipated rapid environmental change during the period beginning on the date of the enactment of this Act, maintaining key ecosystem processes and functions, population abundance, and genetic integrity will be vital to ensuring the health of salmon populations.

(6) Salmon strongholds provide critical production zones for commercial, recreational, and subsistence fisheries.

(7) Taking into consideration the frequency with which fisheries have collapsed during the period preceding the date of the enactment of this Act, using scientific research to correctly identify and conserve core centers of abundance, productivity, and diversity is vital to sustain salmon populations and fisheries in the future.

(8) Measures being undertaken as of the date of the enactment of this Act to recover threatened or endangered salmon stocks, including Federal, State, and local programs to restore salmon habitat, are vital. These

measures will be complemented and enhanced by identifying and sustaining core centers of abundance, productivity, and diversity in the healthiest remaining salmon ecosystems throughout the range of salmon species.

(9) The effects of climate change are affecting salmon habitat at all life history stages and future habitat conservation must consider climate change projections to safeguard natural systems under future climate conditions.

(10) Greater coordination between public and private entities can assist salmon strongholds by marshaling and focusing resources on scientifically supported, high priority conservation actions.

(b) PURPOSES.—The purposes of this title are—

(1) to expand Federal support and resources for the protection and restoration of the healthiest remaining salmon strongholds in North America to sustain core centers of salmon abundance, productivity, and diversity in order to ensure the long-term viability of salmon populations—

(A) in the States of California, Idaho, Oregon, and Washington, by focusing resources on cooperative, incentive-based efforts to conserve the roughly 20 percent of salmon habitat that supports approximately two-thirds of salmon abundance; and

(B) in the State of Alaska, a regional stronghold that produces more than one-third of all salmon, by increasing resources available to public and private organizations working cooperatively to conserve regional core centers of salmon abundance and diversity;

(2) to maintain and enhance economic benefits related to fishing or associated with healthy salmon stronghold habitats, including flood protection, recreation, water quantity and quality, carbon sequestration, climate change mitigation and adaptation, and other ecosystem services; and

(3) to complement and add to existing Federal, State, and local salmon recovery efforts by using sound science to identify and sustain core centers of salmon abundance, productivity, and diversity in the healthiest remaining salmon ecosystems throughout their range.

SEC. 11103. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term “Administrator” means the Assistant Administrator for Fisheries Service of the National Oceanic and Atmospheric Administration.

(2) BOARD.—The term “Board” means the Salmon Stronghold Partnership Board established under section 11104.

(3) CHARTER.—The term “charter” means the charter of the Board developed under section 11104(g).

(4) DIRECTOR.—The term “Director” means the Director of the United States Fish and Wildlife Service.

(5) ECOSYSTEM SERVICES.—The term “ecosystem services” means an ecological benefit generated from a healthy, functioning ecosystem, including clean water, pollutant filtration, regulation of river flow, prevention of soil erosion, regulation of climate, and fish production.

(6) PROGRAM.—Except as otherwise provided, the term “program” means the salmon stronghold watershed grants and technical assistance program established under section 11106(a).

(7) SALMON.—The term “salmon” means any of the wild anadromous *Oncorhynchus* species that occur in the Western United States, including—

(A) chum salmon (*Oncorhynchus keta*);

(B) pink salmon (*Oncorhynchus gorbuscha*);

(C) sockeye salmon (*Oncorhynchus nerka*);

(D) chinook salmon (*Oncorhynchus tshawytscha*);

(E) coho salmon (*Oncorhynchus kisutch*); and

(F) steelhead trout (*Oncorhynchus mykiss*).

(8) SALMON STRONGHOLD.—The term “salmon stronghold” means all or part of a watershed or that meets biological criteria for abundance, productivity, diversity (life history and run timing), habitat quality, or other biological attributes important to sustaining viable populations of salmon throughout their range, as defined by the Board.

(9) SALMON STRONGHOLD PARTNERSHIP.—The term “Salmon Stronghold Partnership” means the Salmon Stronghold Partnership established under section 11104(a)(1).

(10) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of Commerce.

SEC. 11104. SALMON STRONGHOLD PARTNERSHIP.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish a Salmon Stronghold Partnership that is a cooperative, incentive-based, public-private partnership among appropriate Federal, State, tribal, and local governments, private landowners, and nongovernmental organizations working across political boundaries, government jurisdictions, and land ownerships to advise the Secretary on the identification and conservation of salmon strongholds.

(2) MEMBERSHIP.—To the extent possible, the membership of the Salmon Stronghold Partnership shall include each entity described under subsection (b).

(3) LEADERSHIP.—The Salmon Stronghold Partnership shall be managed by a Board established by the Secretary to be known as the Salmon Stronghold Partnership Board.

(b) SALMON STRONGHOLD PARTNERSHIP BOARD.—

(1) IN GENERAL.—The Board shall consist of representatives with strong scientific or technical credentials and expertise as follows:

(A) One representative from each of—

(i) the National Marine Fisheries Service, as appointed by the Administrator;

(ii) the United States Fish and Wildlife Service, as appointed by the Director;

(iii) the Forest Service, as appointed by the Chief of the Forest Service;

(iv) the Environmental Protection Agency, as appointed by the Administrator of the Environmental Protection Agency;

(v) the Bonneville Power Administration, as appointed by the Administrator of the Bonneville Power Administration;

(vi) the Bureau of Land Management, as appointed by the Director of the Bureau of Land Management; and

(vii) the Northwest Power and Conservation Council, as appointed by the Northwest Power and Conservation Council.

(B) One representative from the natural resources staff of the office of the Governor or of an appropriate natural resource agency of a State, as appointed by the Governor, from each of the States of—

(i) Alaska;

(ii) California;

(iii) Idaho;

(iv) Oregon; and

(v) Washington.

(C) Not less than 3 and not more than 5 representatives from Indian tribes or tribal

commissions located within the range of a salmon species, as appointed by such Indian tribes or tribal commissions, in consultation with the Board.

(D) One representative from each of 3 nongovernmental organizations with salmon conservation and management expertise, as selected by the Board.

(E) One national or regional representative from an association of counties, as selected by the Board.

(F) Representatives of other entities with significant resources regionally dedicated to the protection of salmon ecosystems that the Board determines are appropriate, as selected by the Board.

(2) FAILURE TO APPOINT.—If a representative described in subparagraph (B), (C), (D), (E), or (F) of paragraph (1) is not appointed to the Board or otherwise fails to participate in the Board, the Board shall carry out its functions until such representative is appointed or joins in such participation.

(c) MEETINGS.—

(1) FREQUENCY.—Not less frequently than 3 times each year, the Board shall meet to provide opportunities for input from a broader set of stakeholders.

(2) NOTICE.—Prior to each meeting, the Board shall give timely notice of the meeting to the public, the government of each county, and tribal government in which a salmon stronghold is identified by the Board.

(d) BOARD CONSULTATION.—The Board shall seek expertise from fisheries experts from agencies, colleges, or universities, as appropriate.

(e) CHAIRPERSON.—The Board shall nominate and select a Chairperson from among the members of the Board.

(f) COMMITTEES.—The Board—

(1) shall establish a standing science advisory committee to assist the Board in the development, collection, evaluation, and peer review of statistical, biological, economic, social, and other scientific information; and

(2) may establish additional standing or ad hoc committees as the Board determines are necessary.

(g) CHARTER.—The Board shall develop a written charter that—

(1) provides for the members of the Board described in subsection (b);

(2) may be signed by a broad range of partners, to reflect a shared understanding of the purposes, intent, and governance framework of the Salmon Stronghold Partnership; and

(3) includes—

(A) the defining criteria for a salmon stronghold;

(B) the process for identifying salmon strongholds; and

(C) the process for reviewing and awarding grants under the program, including—

(i) the number of years for which such a grant may be awarded;

(ii) the process for renewing such a grant;

(iii) the eligibility requirements for such a grant;

(iv) the reporting requirements for projects awarded such a grant; and

(v) the criteria for evaluating the success of a project carried out with such a grant.

(h) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

SEC. 11105. INFORMATION AND ASSESSMENT.

The Administrator shall carry out specific information and assessment functions associated with salmon strongholds, in coordination with other regional salmon efforts, including—

(1) triennial assessment of status and trends in salmon strongholds;

(2) geographic information system and mapping support to facilitate conservation planning;

(3) projections of climate change impacts on all habitats and life history stages of salmon;

(4) development and application of models and other tools to identify salmon conservation actions projected to have the greatest positive impacts on salmon abundance, productivity, or diversity within salmon strongholds; and

(5) measurement of the effectiveness of the Salmon Stronghold Partnership activities.

SEC. 11106. SALMON STRONGHOLD WATERSHED GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) **IN GENERAL.**—The Administrator, in consultation with the Director, shall establish a salmon stronghold watershed grants and technical assistance program, as described in this section.

(b) **PURPOSE.**—The purpose of the program shall be to support salmon stronghold protection and restoration activities, including—

(1) to fund the administration of the Salmon Stronghold Partnership in carrying out the charter;

(2) to encourage cooperation among the entities represented on the Board, local authorities, and private entities to establish a network of salmon strongholds, and assist locally in specific actions that support the Salmon Stronghold Partnership;

(3) to support entities represented on the Board—

(A) to develop strategies focusing on salmon conservation actions projected to have the greatest positive impacts on abundance, productivity, or diversity in salmon strongholds; and

(B) to provide financial assistance to the Salmon Stronghold Partnership to increase local economic opportunities and resources for actions or practices that provide long-term or permanent conservation and that maintain key ecosystem services in salmon strongholds, including—

(i) payments for ecosystem services; and

(ii) demonstration projects designed for specific salmon strongholds;

(4) to maintain a forum to share best practices and approaches, employ consistent and comparable metrics, forecast and address climate impacts, and monitor, evaluate, and report regional status and trends of salmon ecosystems in coordination with related regional and State efforts;

(5) to carry out activities and existing conservation programs in, and across, salmon strongholds on a regional scale to achieve the goals of the Salmon Stronghold Partnership;

(6) to accelerate the implementation of recovery plans in salmon strongholds that have salmon populations listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(7) to develop and make information available to the public pertaining to the Salmon Stronghold Partnership; and

(8) to conduct education outreach to the public, in coordination with other programs, to encourage increased stewardship of salmon strongholds.

(c) **SELECTION.**—Projects that will be carried out with assistance from the program shall be selected and administered as follows:

(1) **SITE-BASED PROJECTS.**—A project that will be carried out with assistance from the program within 1 State shall be selected as follows:

(A) **STATE SELECTION.**—If a State has a competitive grant process relating to salmon conservation in effect as of the date of the enactment of this Act and has a proven record of implementing an efficient, cost-effective, and competitive grant program for salmon conservation or has a viable plan to provide accountability under the program—

(i) the National Fish and Wildlife Foundation, in consultation with the Board, shall provide program funds to the State; and

(ii) the State shall select and administer projects to be carried out in such State, in consideration of criteria developed pursuant to subsection (d).

(B) **NATIONAL FISH AND WILDLIFE FOUNDATION SELECTION.**—If a State does not meet the criteria described in subparagraph (A)—

(i) the Administrator, in consultation with the Director, shall provide funds to the National Fish and Wildlife Foundation; and

(ii) the National Fish and Wildlife Foundation, in consultation with the Board, shall select and administer projects to be carried out in such State, in consideration of criteria developed pursuant to subsection (d).

(2) **MULTISITE AND PROGRAMMATIC INITIATIVES.**—For a project that will be carried out with assistance from the program in more than 1 State or that is a programmatic initiative that affects more than 1 State—

(A) the Administrator, in consultation with the Director, shall provide funds to the National Fish and Wildlife Foundation; and

(B) the National Fish and Wildlife Foundation, in consultation with the Board, shall select and administer such projects to be carried out, in consideration of criteria developed pursuant to subsection (d).

(d) **CRITERIA FOR APPROVAL.**—

(1) **CRITERIA DEVELOPED BY THE BOARD.**—

(A) **REQUIREMENT TO DEVELOP.**—The Board shall develop and provide advisory criteria for the prioritization of projects funded under the program in a manner that enables projects to be individually ranked in sequential order by the magnitude of the project's positive impacts on salmon abundance, productivity, or diversity.

(B) **SPECIFIC REQUIREMENTS.**—The criteria required by subparagraph (A) shall require that a project that receives assistance under the program—

(i) contributes to the conservation of salmon;

(ii) meets the criteria for eligibility established in the charter;

(iii) (I) addresses a factor limiting or threatening to limit abundance, productivity, diversity, habitat quality, or other biological attributes important to sustaining viable salmon populations within a salmon stronghold; or

(II) is a programmatic action that supports the Salmon Stronghold Partnership;

(iv) addresses limiting factors to healthy ecosystem processes or sustainable fisheries management;

(v) has the potential for conservation benefits and broadly applicable results; and

(vi) meets the requirements for—

(I) cost sharing described in subsection (e); and

(II) the limitation on administrative expenses described in subsection (f).

(C) **SCHEDULE FOR DEVELOPMENT.**—The Board shall—

(i) develop and provide the criteria required by subparagraph (A) prior to the initial solicitation of projects under the program; and

(ii) revise such criteria not less often than once each year.

(e) **COST SHARING.**—

(1) **FEDERAL SHARE.**—

(A) **NON-FEDERAL LAND.**—For any fiscal year, the Federal share of the cost of a project that receives assistance under the program and that is carried out on land that is not owned by the United States shall not exceed 50 percent of the total cost of the project.

(B) **FEDERAL LAND.**—For any fiscal year, the Federal share of the cost of a project that receives assistance under the program and that is carried out on land that is owned by the United States, including the acquisition of inholdings, may be up to 100 percent of the total cost of the project.

(2) **NON-FEDERAL SHARE.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the non-Federal share of the cost of a project that receives assistance under the program may not be derived from Federal grant programs, but may include in-kind contributions.

(B) **BONNEVILLE POWER ADMINISTRATION.**—Any amounts provided by the Bonneville Power Administration directly or through a grant to another entity used to carry out a project that receives assistance under the program shall be credited toward the non-Federal share of the cost of the project.

(f) **ADMINISTRATIVE EXPENSES.**—Of the amount available to a State or the National Fish and Wildlife Foundation under the program for each fiscal year, such State and the National Fish and Wildlife Foundation shall not expend more than 5 percent of such amount for administrative and reporting expenses necessary to carry out this section.

(g) **REPORTS.**—

(1) **REPORTS TO STATES OR NFWF.**—Each person who receives assistance through a State or the National Fish and Wildlife Foundation under the program for a project shall provide periodic reports to the State or the National Fish and Wildlife Foundation, as appropriate, that includes the information required by the State or the National Fish and Wildlife Foundation to evaluate the progress and success of the project.

(2) **REPORTS TO THE ADMINISTRATOR.**—Not less frequently than once every 3 years, each State that is provided program funds under subsection (c)(1)(A) and the National Fish and Wildlife Foundation shall provide reports to the Administrator that include the information required by the Administrator to evaluate the implementation of the program.

SEC. 11107. INTERAGENCY COOPERATION.

The head of each Federal agency or department responsible for acquiring, managing, or disposing of Federal land that is within a salmon stronghold shall, to the extent consistent with the mission of the agency or department and existing law, cooperate with the Administrator and the Director—

(1) to conserve the salmon strongholds; and

(2) to effectively coordinate and streamline Salmon Stronghold Partnership activities and delivery of overlapping, incentive-based programs that affect the salmon stronghold.

SEC. 11108. INTERNATIONAL COOPERATION.

(a) **AUTHORITY TO COOPERATE.**—The Administrator and the Board may share status and trends data, innovative conservation strategies, conservation planning methodologies, and other information with North Pacific countries, including Canada, Japan, Russia, and South Korea, and appropriate international entities to promote conservation of salmon and salmon habitat.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Administrator and the Board, or entities that are members of the Board, should and are encouraged to provide

information to North Pacific countries, including Canada, Japan, Russia, and South Korea, and appropriate international entities to support the development of a network of salmon strongholds across the nations of the North Pacific.

SEC. 11109. ACQUISITION AND TRANSFER OF REAL PROPERTY INTERESTS.

(a) **USE OF REAL PROPERTY.**—No project that will result in the acquisition by the Secretary or the Secretary of the Interior of any land or interest in land, in whole or in part, may receive funds under this title unless the project is consistent with the purposes of this title.

(b) **PRIVATE PROPERTY PROTECTION.**—No Federal funds made available to carry out this title may be used to acquire any real property or any interest in any real property without the written consent of the 1 or more owners of the property or interest in property.

(c) **TRANSFER OF REAL PROPERTY.**—No land or interest in land, acquired in whole or in part by the Secretary of the Interior with Federal funds made available under this title to carry out a salmon stronghold conservation project may be transferred to a State, other public agency, or other entity unless—

(1) the Secretary of the Interior determines that the State, agency, or entity is committed to manage, in accordance with this title and the purposes of this title, the property being transferred; and

(2) the deed or other instrument of transfer contains provisions for the reversion of the title to the property to the United States if the State, agency, or entity fails to manage the property in accordance with this title and the purposes of this title.

(d) **REQUIREMENT.**—Any real property interest conveyed under subsection (c) shall be subject to such terms and conditions as will ensure, to the maximum extent practicable, that the interest will be administered in accordance with this title and the purposes of this title.

SEC. 11110. ADMINISTRATIVE PROVISIONS.

(a) **CONTRACTS, GRANTS, AND TRANSFERS OF FUNDS.**—In carrying out this title, the Secretary may—

(1) after consideration of a recommendation of the Board and notwithstanding sections 6304 and 6305 of title 31, United States Code, and the Federal Financial Assistance Management Improvement Act of 1999 (Public Law 106-107; 31 U.S.C. 6101 note), enter into cooperative agreements, contracts, and grants;

(2) notwithstanding any other provision of law, apply for, accept, and use grants from any person to carry out the purposes of this title; and

(3) make funds available to any Federal agency or department to be used by the agency or department to award financial assistance for any salmon stronghold protection, restoration, or enhancement project that the Secretary determines to be consistent with this title.

(b) **DONATIONS.**—

(1) **IN GENERAL.**—The Secretary may—

(A) enter into an agreement with any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 to authorize the organization to carry out activities under this title; and

(B) accept donations of funds or services for use in carrying out this title.

(2) **PROPERTY.**—The Secretary of the Interior may accept donations of property for use in carrying out this title.

(3) **USE OF DONATIONS.**—Donations accepted under this section—

(A) shall be considered to be gifts or bequests to, or for the use of, the United States; and

(B) may be used directly by the Secretary (or, in the case of donated property under paragraph (2), the Secretary of the Interior) or provided to other Federal agencies or departments through interagency agreements.

(c) **INTERAGENCY FINANCING.**—The Secretary may participate in interagency financing, including receiving appropriated funds from other agencies or departments to carry out this title.

(d) **STAFF.**—Subject to the availability of appropriations, the Administrator may hire such additional full-time employees as are necessary to carry out this title.

SEC. 11111. LIMITATIONS.

Nothing in this title may be construed—

(1) to create a reserved water right, express or implied, in the United States for any purpose, or affect the management or priority of water rights under State law;

(2) to affect existing water rights under Federal or State law;

(3) to affect any Federal or State law in existence on the date of the enactment of this Act regarding water quality or water quantity;

(4) to affect the authority, jurisdiction, or responsibility of any agency or department of the United States or of a State to manage, control, or regulate fish and resident wildlife under a Federal or State law or regulation;

(5) to authorize the Secretary or the Secretary of the Interior to control or regulate hunting or fishing under State law;

(6) to abrogate, abridge, affect, modify, supersede, or otherwise alter any right of a federally recognized Indian tribe under any applicable Federal or tribal law or regulation; or

(7) to diminish or affect the ability of the Secretary or the Secretary of the Interior to join the adjudication of rights to the use of water pursuant to subsections (a), (b), or (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666).

SEC. 11112. REPORTS TO CONGRESS.

Not less frequently than once every 3 years, the Administrator, in consultation with the Director, shall submit to Congress a report describing the activities carried out under this title, including the recommendations of the Administrator, if any, for legislation relating to the Salmon Stronghold Partnership.

SEC. 11113. AUTHORIZATION OF APPROPRIATIONS.

(a) **GRANTS.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to the Administrator, to be distributed by the National Fish and Wildlife Foundation as a fiscal agent, to provide grants under the program, \$30,000,000 for each of fiscal years 2011 through 2015.

(2) **BOARD.**—The National Fish and Wildlife Foundation shall, from the amount appropriated pursuant to the authorization of appropriations in paragraph (1), make available sufficient funds to the Board to carry out its duties under this title.

(b) **TECHNICAL ASSISTANCE.**—For each of fiscal years 2011 through 2015, there is authorized to be appropriated to the Administrator \$300,000 to provide technical assistance under the program and to carry out section 11105.

(c) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to an authorization of appropriations in this section are authorized to remain available until expended.

TITLE CXII—SHARK CONSERVATION

SEC. 11201. SHORT TITLE.

This title may be cited as the “Shark Conservation Act of 2010”.

SEC. 11202. AMENDMENT OF HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.

(a) **ACTIONS TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.**—Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking “and” at the end;

(B) in subparagraph (E), by inserting “and” after the semicolon; and

(C) by adding at the end the following:

“(F) to adopt shark conservation measures, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea;”;

(2) in paragraph (2), by striking “and” at the end;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

“(3) seeking to enter into international agreements that require measures for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that are comparable to those of the United States, taking into account different conditions; and”.

(b) **ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.**—Subparagraph (A) of section 609(e)(3) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(e)(3)) is amended—

(1) by striking the “and” before “bycatch reduction requirements”; and

(2) by striking the semicolon at the end and inserting “, and shark conservation measures;”.

(c) **EQUIVALENT CONSERVATION MEASURES.**—

(1) **IDENTIFICATION.**—Subsection (a) of section 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k) is amended—

(A) in the matter preceding paragraph (1), by striking “607, a nation if—” and inserting “607”;;

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(ii) by moving clauses (i) and (ii) (as so redesignated) 2 ems to the right;

(C) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(D) by moving subparagraphs (A) through (C) (as so redesignated) 2 ems to the right;

(E) by inserting before subparagraph (A) (as so redesignated) the following:

“(1) a nation if—”;

(F) in subparagraph (C) (as so redesignated) by striking the period at the end and inserting “; and”; and

(G) by adding at the end the following:

“(2) a nation if—

“(A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

“(B) the nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable

to that of the United States, taking into account different conditions.”.

(2) INITIAL IDENTIFICATIONS.—The Secretary of Commerce shall begin making identifications under paragraph (2) of section 610(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)), as added by paragraph (1)(G), not later than 1 year after the date of the enactment of this Act.

SEC. 11203. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

Paragraph (1) of section 307 of Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) by amending subparagraph (P) to read as follows:

“(P)(i) to remove any of the fins of a shark (including the tail) at sea;

“(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;

“(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or

“(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;”;

(2) by striking the matter following subparagraph (R) and inserting the following:

“For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds 5 percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph, the term ‘naturally attached’, with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.”.

TITLE CXIII—MARINE MAMMAL RESCUE ASSISTANCE

SEC. 11301. SHORT TITLE.

This title may be cited as the “Marine Mammal Rescue Assistance Amendments of 2010”.

SEC. 11302. STRANDING AND ENTANGLEMENT RESPONSE.

(a) COLLECTION AND UPDATING OF INFORMATION.—Section 402(b)(1)(A) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421a(b)(1)(A)) is amended by inserting “or entangled” after “stranded”.

(b) ENTANGLEMENT RESPONSE AGREEMENTS.—

(1) IN GENERAL.—Section 403 of that Act (16 U.S.C. 1421b) is amended—

(A) by striking the section heading and inserting the following:

“SEC. 403. STRANDING OR ENTANGLEMENT RESPONSE AGREEMENTS.”;

and

(B) by striking “stranding.” in subsection (a) and inserting “stranding or entanglement.”.

(2) CLERICAL AMENDMENT.—The table of contents for title IV of that Act is amended by striking the item relating to section 403 and inserting the following:

“Sec. 403. Stranding or entanglement response agreements.”.

(c) LIABILITY.—Section 406(a) of such Act (16 U.S.C. 1421e(a)) is amended by inserting “or entanglement” after “stranding”.

(d) ENTANGLEMENT DEFINED.—

(1) IN GENERAL.—Section 410 of such Act (16 U.S.C. 1421h) is amended—

(A) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(B) by inserting before paragraph (2) (as so redesignated) the following:

“(1) The term ‘entanglement’ means an event in the wild in which a living or dead marine mammal has gear, rope, line, net, or other material wrapped around or attached to it and is—

“(A) on a beach or shore of the United States; or

“(B) in waters under the jurisdiction of the United States.”.

(2) CONFORMING AMENDMENT.—Section 408(a)(2)(B)(i) of such Act (16 U.S.C. 1421f-1(a)(2)(B)(i)) is amended by striking “section 410(6)” and inserting “section 410(7)”.

(e) UNUSUAL MORTALITY EVENT FUNDING.—Section 405 of such Act (16 U.S.C. 1421d) is amended—

(1) by striking “to compensate persons for special costs” in subsection (b)(1)(A)(i) and inserting “to make advance, partial, or progress payments under contracts or other funding mechanisms for property, supplies, salaries, services, and travel costs”;

(2) by striking “preparing and transporting” in subsection (b)(1)(A)(ii) and inserting “the preparation, analysis, and transportation of”;

(3) by striking “event for” in subsection (b)(1)(A)(ii) and inserting “event, including such transportation for”;

(4) by striking “and” after the semicolon in subsection (c)(2);

(5) by striking “subsection (d).” in subsection (c)(3) and inserting “subsection (d); and”;

(6) by adding at the end of subsection (c) the following:

“(4) up to \$500,000 per fiscal year (as determined by the Secretary) from amounts appropriated to the Secretary for carrying out this title and the other titles of this Act.”.

(f) JOHN H. PRESCOTT MARINE MAMMAL RESCUE AND RESPONSE FUNDING PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 408(h) of such Act (16 U.S.C. 1421f-1(h)) is amended to read as follows:

“(h) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, other than subsection (a)(3), \$7,000,000 for each of fiscal years 2011 through 2015, to remain available until expended, of which—

“(A) \$6,000,000 may be available to the Secretary of Commerce; and

“(B) \$1,000,000 may be available to the Secretary of the Interior.

“(2) RAPID RESPONSE FUND.—There are authorized to be appropriated to the John H. Prescott Marine Mammal Rescue and Rapid Response Fund established by subsection (a)(3), \$500,000 for each of fiscal years 2011 through 2015.

“(3) ADDITIONAL RAPID RESPONSE FUNDS.—There shall be deposited into the Fund established by subsection (a)(3) up to \$500,000 per fiscal year (as determined by the Secretary) from amounts appropriated to the Secretary for carrying out this title and the other titles of this Act.”.

(2) ADMINISTRATIVE COSTS AND EXPENSES.—Section 408(f) of such Act (16 U.S.C. 1421f-1(f)) is amended to read as follows:

“(f) ADMINISTRATIVE COSTS AND EXPENSES.—Of the amounts available each fiscal year to carry out this section, the Secretary may expend not more than 6 percent or \$120,000, whichever is greater, to pay the

administrative costs and administrative expenses to implement the program under subsection (a). Any such funds retained by the Secretary for a fiscal year for such costs and expenses that are not used for such costs and expenses before the end of the fiscal year shall be provided under subsection (a).”.

(3) EMERGENCY ASSISTANCE.—Section 408 of such Act (16 U.S.C. 1421f-1) is amended—

(A) in subsection (a)—

(i) by striking the material preceding paragraph (2) and inserting the following:

“(a) IN GENERAL.—

“(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall conduct a program to be known as the John H. Prescott Marine Mammal Rescue and Response Funding Program, to provide for the recovery or treatment of marine mammals, the collection of data from living or dead stranded or entangled marine mammals for scientific research regarding marine mammal health, facility operation costs that are directly related to those purposes, and stranding or entangling events requiring emergency assistance. All funds available to implement this section shall be distributed to eligible stranding network participants for the purposes set forth in this paragraph and paragraph (2), except as provided in subsection (f).”;

(ii) by redesignating paragraph (2) as paragraph (4) and inserting after paragraph (1) the following:

“(2) CONTRACT AUTHORITY.—To carry out the activities set out in paragraph (1), the Secretary may enter into grants, cooperative agreements, contracts, or such other agreements or arrangements as the Secretary deems appropriate.

“(3) PRESCOTT RAPID RESPONSE FUND.—There is established in the Treasury an interest bearing fund to be known as the ‘John H. Prescott Marine Mammal Rescue and Rapid Response Fund’, which shall consist of a portion of amounts deposited into the Fund under subsection (h) or received as contributions under subsection (i), and which shall remain available until expended without regard to any statutory or regulatory provision related to the negotiation, award, or administration of any grants, cooperative agreements, and contracts.”; and

(iii) in paragraph (4)(A), as redesignated by clause (ii)—

(I) by striking “designated as of the date of the enactment of the Marine Mammal Rescue Assistance Act of 2000, and in making such grants” and inserting “as defined in subsection (g). The Secretary”; and

(II) by striking “subregions.” and inserting “subregions where such facilities exist.”;

(B) by striking subsections (d) and (e) and inserting the following:

“(d) LIMITATION.—

“(1) IN GENERAL.—Support for an individual project under this section may not exceed \$200,000 for any 12-month period.

“(2) UNEXPENDED FUNDS.—Amounts provided as support for an individual project under this section that are unexpended or unobligated at the end of such period—

“(A) shall remain available until expended; and

“(B) shall not be taken into account in any other 12-month period for purposes of paragraph (1).

“(e) MATCHING REQUIREMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the non-Federal share of the costs of an activity conducted with funds under this section shall be 25 percent of such Federal costs.

“(2) **WAIVER.**—The Secretary shall waive the requirements of paragraph (1) with respect to an activity conducted with emergency funds disbursed from the Fund established by subsection (a)(3).

“(3) **IN-KIND CONTRIBUTIONS.**—The Secretary may apply to the non-Federal share of an activity conducted with a grant under this section the amount of funds, and the fair market value of property and services, provided by non-Federal sources and used for the activity.”; and

(C) in subsection (g), by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following:

“(2) **EMERGENCY ASSISTANCE.**—The term ‘emergency assistance’ means assistance provided for a stranding or entangling event—

“(A) that—

“(i) is not an unusual mortality event as defined in section 409(7);

“(ii) leads to an immediate increase in required costs for stranding or entangling response, recovery, or rehabilitation in excess of regularly scheduled costs;

“(iii) may be cyclical or endemic; and

“(iv) may involve out-of-habitat animals; or

“(B) is found by the Secretary to qualify for emergency assistance.”.

(4) **CONTRIBUTIONS.**—Section 408 of such Act (16 U.S.C. 1421f–1) is amended by adding at the end the following:

“(i) **CONTRIBUTIONS.**—For purposes of carrying out this section, the Secretary may solicit, accept, receive, hold, administer, and use gifts, devises, and bequests without any further approval or administrative action.”.

(5) **PRESCOTT RESCUE AND RAPID RESPONSE FUND DEFINED.**—

(A) **IN GENERAL.**—Section 410 of such Act (16 U.S.C. 1421h), as amended by subsection (d)(1) of this section, is further amended—

(i) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(ii) by inserting after paragraph (3) the following:

“(4) The term ‘Prescott Rescue and Response Fund’ means the John H. Prescott Marine Mammal Rescue and Response Fund established by section 408(a).”.

(B) **CONFORMING AMENDMENT.**—Section 408(a)(2)(B)(i) of such Act (16 U.S.C. 1421f–1(a)(2)(B)(i)), as amended by subsection (d)(2) of this section, is further amended by striking “section 410(7)” and inserting “section 410(8)”.

(6) **CONFORMING AMENDMENT.**—The section heading for section 408 is amended to read as follows:

“SEC. 408. JOHN H. PRESCOTT MARINE MAMMAL RESCUE AND RESPONSE FUNDING PROGRAM.”.

(g) **AUTHORIZATION OF APPROPRIATIONS FOR MARINE MAMMAL UNUSUAL MORTALITY EVENT FUND.**—Section 409 of such Act (16 U.S.C. 1421g) is amended—

(1) by striking “1993 and 1994;” in paragraph (1) and inserting “2011 through 2015;”;

(2) by striking “1993 and 1994;” in paragraph (2) and inserting “2011 through 2015;”;

and

(3) by striking “fiscal year 1993.” in paragraph (3) and inserting “each of fiscal years 2011 through 2015.”.

TITLE CXIV—SOUTHERN SEA OTTER RECOVERY AND RESEARCH

SEC. 11401. SHORT TITLE.

This title may be cited as the “Southern Sea Otter Recovery and Research Act”.

SEC. 11402. DEFINITIONS.

In this title:

(1) **RECOVERY AND RESEARCH PROGRAM.**—The term “recovery and research program” means the southern sea otter recovery and research program carried out under section 11403(a).

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service and the Director of the United States Geological Survey.

SEC. 11403. SOUTHERN SEA OTTER RECOVERY AND RESEARCH PROGRAM.

(a) **PROGRAM.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior, acting through the United States Fish and Wildlife Service and the United States Geological Survey, shall carry out a recovery and research program for southern sea otter populations along the coast of California, informed by—

(A) the prioritized research recommendations of the Final Revised Recovery Plan for the southern sea otter (*Enhydra lutris nereis*) published by the United States Fish and Wildlife Service and dated February 24, 2003;

(B) the Research Plan for California Sea Otter Recovery issued by the United States Fish and Wildlife Service Southern Sea Otter Recovery Implementation Team and dated March 2, 2007; and

(C) any other recovery, research, or conservation plan adopted by the United States Fish and Wildlife Service after the date of the enactment of this Act in accordance with otherwise applicable law.

(2) **REQUIREMENTS.**—The recovery and research program shall include—

(A) monitoring, analysis, and assessment of southern sea otter population demographics, health, causes of mortality, and life history parameters, including range-wide population surveys; and

(B) development and implementation of measures to reduce or eliminate potential factors limiting southern sea otter populations that relate to marine ecosystem health or human activities.

(b) **APPOINTMENT OF RECOVERY IMPLEMENTATION TEAM.**—Not later than 1 year after the commencement of the recovery and research program under subsection (a), the Secretary shall appoint persons to a southern sea otter recovery implementation team as authorized in accordance with section 4(f)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)(2)).

(c) **SOUTHERN SEA OTTER RESEARCH AND RECOVERY GRANTS.**—

(1) **GRANT AUTHORITY.**—The Secretary shall establish a peer-reviewed, merit-based process to award competitive grants for research regarding southern sea otters and for projects assisting the recovery of southern sea otter populations.

(2) **PEER REVIEW PANEL.**—The Secretary shall establish as necessary a peer review panel to provide scientific advice and guidance to prioritize proposals for grants under this subsection.

(3) **RESEARCH GRANT SUBJECTS.**—Research funded with grants under this subsection—

(A) shall be in accordance with the research recommendations of any plan referred to in subsection (a); and

(B) may include research on topics such as—

(i) causes of sea otter mortality;

(ii) southern sea otter demographics and natural history;

(iii) effects and sources of poor water quality on southern sea otters (including pollutants, nutrients, and toxicants) and mecha-

nisms for addressing those effects and sources;

(iv) effects and sources of infectious diseases and parasites affecting southern sea otters;

(v) limitations on the availability of food resources for southern sea otters and the impacts of food limitation on southern sea otter carrying capacity;

(vi) interactions between southern sea otters and coastal fisheries and other human activities in the marine environment;

(vii) assessment of the keystone ecological role of sea otters in coastal marine ecosystems of southern and central California, including the direct and indirect effects of sea otter predation, especially as those effects influence human welfare, resource use, and ecosystem services; and

(viii) assessment of the adequacy of emergency response and contingency plans.

(4) **RECOVERY PROJECT SUBJECTS.**—Recovery projects funded with grants under this subsection—

(A) shall be conducted in accordance with recovery recommendations of any plan referred to in subsection (a) and the findings of the research conducted under this section; and

(B) may include projects—

(i) to protect and recover southern sea otters;

(ii) to reduce, mitigate, or eliminate potential factors limiting southern sea otter populations that are related to human activities, including projects—

(I) to reduce, mitigate, or eliminate factors contributing to mortality, adversely affecting health, or restricting distribution and abundance; and

(II) to reduce, mitigate, or eliminate factors that harm or reduce the quality of southern sea otter habitat or the health of coastal marine ecosystems; and

(iii) to implement emergency response and contingency plans.

(d) **REPORT.**—The Secretary shall—

(1) not later than 1 year after the date of the enactment of this Act, submit to Congress a report on—

(A) the status of southern sea otter populations;

(B) implementation of the recovery and research program and the grant program under this title; and

(C) any relevant formal consultations conducted during the 2 years preceding the date of the enactment of this Act, and any other consultations the Secretary determines to be relevant, under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) with respect to the southern sea otter; and

(2) not later than 2 years after the date of the enactment of this Act and every 5 years thereafter, and in consultation with a southern sea otter recovery implementation team that is otherwise being used by the Secretary under section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)), submit to Congress and make available to the public a report that includes—

(A) an evaluation of—

(i) southern sea otter health;

(ii) causes of southern sea otter mortality; and

(iii) the interactions of southern sea otters with the coastal marine ecosystems of California;

(B) an evaluation of actions taken—

(i) to improve southern sea otter health;

(ii) to reduce southern sea otter mortality; and

(iii) to improve southern sea otter habitat;

(C) recommendations for actions that may be taken pursuant to all applicable law—

(i) to improve southern sea otter health;

(ii) to reduce the occurrence of human-related mortality; and

(iii) to improve the health of the coastal marine ecosystems of California;

(D) recommendations for funding to carry out this title; and

(E) a description of any formal consultations that the Secretary determines to be relevant to the research and recovery program established under this title that are conducted in accordance with section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) after the date of the enactment of this Act.

SEC. 11404. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this title \$5,000,000 for each of fiscal years 2011 through 2016.

(b) MINIMUM PERCENTAGES FOR GRANTS AND PROJECTS.—During the period of fiscal years 2011 through 2016 for which funds are authorized to be appropriated under subsection (a)—

(1) not less than 30 percent of the total amounts appropriated for that period shall be for research grants under section 11403(c)(3); and

(2) not less than 30 percent of the total amounts appropriated for that period shall be for recovery projects under section 11403(c)(4).

(c) ADMINISTRATIVE EXPENSES.—Of the amounts made available for each fiscal year to carry out this title, the Secretary may expend not more than the greater of 7 percent of the amounts, or \$150,000, to pay the administrative expenses necessary to carry out this title.

SEC. 11405. TERMINATION.

This title shall have no force or effect on and after the date on which the Secretary (as that term is used in section 4(c)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)(2)) publishes a determination that the southern sea otter should be removed from the lists published under section 4(c) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)).

TITLE CXV—INTERNATIONAL FISHERIES STEWARDSHIP AND ENFORCEMENT

SEC. 11501. SHORT TITLE.

This title may be cited as the “International Fisheries Stewardship and Enforcement Act”.

Subtitle A—Administration and Enforcement of Certain Fishery and Related Statutes

SEC. 11511. AUTHORITY OF THE SECRETARY TO ENFORCE STATUTES.

(a) IN GENERAL.—

(1) ENFORCEMENT OF STATUTES.—The Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating shall enforce the statutes to which this section applies in accordance with the provisions of this section.

(2) UTILIZATION OF NONDEPARTMENTAL RESOURCES.—The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in carrying out this section.

(3) STATUTES TO WHICH APPLICABLE.—This section applies to—

(A) the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.);

(B) the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 et seq.);

(C) the Dolphin Protection Consumer Information Act (16 U.S.C. 1385);

(D) the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.);

(E) the North Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5001 et seq.);

(F) the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.);

(G) the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2431 et seq.);

(H) the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.);

(I) the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5601 et seq.);

(J) the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 et seq.);

(K) the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773 et seq.);

(L) any other Act in *pari materia*, so designated by the Secretary after notice and an opportunity for a hearing; and

(M) the Antigua Convention Implementing Act of 2010.

(b) ADMINISTRATION AND ENFORCEMENT.—The Secretary shall prevent any person from violating any Act to which this section applies in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though sections 308 through 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857 through 1861) were incorporated into and made a part of each such Act. Except as provided in subsection (c), any person that violates any Act to which this section applies is subject to the penalties, and entitled to the privileges and immunities, provided in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) in the same manner and by the same means as though sections 308 through 311 of that Act were incorporated into and made a part of each such Act.

(c) SPECIAL RULES.—

(1) IN GENERAL.—Notwithstanding the incorporation by reference of certain sections of the Magnuson-Stevens Fishery Conservation and Management Act under subsection (b), if there is a conflict between a provision of this subsection and the corresponding provision of any section of the Magnuson-Stevens Fishery Conservation and Management Act so incorporated, the provision of this subsection shall apply.

(2) CIVIL ADMINISTRATIVE ENFORCEMENT.—The amount of the civil penalty for a violation of any Act to which this section applies shall not exceed \$250,000 for each violation. Each day of a continuing violation shall constitute a separate violation.

(3) CIVIL JUDICIAL ENFORCEMENT.—The Attorney General, upon the request of the Secretary, may commence a civil action in an appropriate district court of the United States to enforce this title and any Act to which this section applies, and such court shall have jurisdiction to award civil penalties or such other relief as justice may require, including a permanent or temporary injunction. The amount of the civil penalty for a violation of any Act to which this section applies shall not exceed \$250,000 for each violation. Each day of a continuing violation shall constitute a separate violation. In determining the amount of a civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations and such other matters as justice may require. In imposing such penalty, the district court may also

consider information related to the ability of the violator to pay.

(4) CRIMINAL FINES AND PENALTIES.—

(A) INDIVIDUALS.—In the case of an individual, any offense described in subsection (e)(2), (3), (4), (5), or (6) is punishable by a fine of not more than \$500,000, imprisonment for not more than 5 years, or both. If, in the commission of such offense, an individual uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this title, or places any such officer in fear of imminent bodily injury the maximum term of imprisonment is 10 years.

(B) OTHER PERSONS.—In the case of any other person, any offense described in subsection (e)(2), (3), (4), (5), or (6) is punishable by a fine of not more than \$1,000,000.

(5) OTHER CRIMINAL VIOLATIONS.—Any person (other than a foreign government or any entity of such government) who knowingly violates any provision of subsection (e) of this section, or any provision of any regulation promulgated pursuant to this title, is guilty of a criminal offense punishable—

(A) in the case of an individual, by a fine of not more than \$500,000, imprisonment for not more than 5 years, or both; and

(B) in the case of any other person, by a fine of not more than \$1,000,000.

(6) CRIMINAL FORFEITURES.—

(A) IN GENERAL.—A person found guilty of an offense described in subsection (e), or who is convicted of a criminal violation of any Act to which this section applies, shall forfeit to the United States—

(i) any property, real or personal, constituting or traceable to the gross proceeds obtained, or retained, as a result of the offense including any marine species (or the fair market value thereof) taken or retained in connection with or as a result of the offense; and

(ii) any property, real or personal, used or intended to be used to commit or to facilitate the commission of the offense, including any shoreside facility, including its conveyances, structure, equipment, furniture, appliances, stores, and cargo.

(B) PROCEDURE.—Pursuant to section 2461(c) of title 28, United States Code, the provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) thereof, shall apply to criminal forfeitures under this section.

(7) ADDITIONAL ENFORCEMENT AUTHORITY.—In addition to the powers of officers authorized pursuant to subsection (b), any officer who is authorized by the Secretary, or the head of any Federal or State agency that has entered into an agreement with the Secretary under subsection (a) to enforce the provisions of any Act to which this section applies may, with the same jurisdiction, powers, and duties as though section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861) were incorporated into and made a part of each such Act—

(A) search or inspect any facility or conveyance used or employed in, or which reasonably appears to be used or employed in, the storage, processing, transport, or trade of fish or fish products;

(B) inspect records pertaining to the storage, processing, transport, or trade of fish or fish products;

(C) detain, for a period of up to 14 days, any shipment of fish or fish product imported into, landed on, introduced into, exported from, or transported within the jurisdiction of the United States, or, if such fish or fish product is deemed to be perishable, sell and

retain the proceeds therefrom for a period of up to 14 days; and

(D) make an arrest, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony, search and seize, in accordance with any guidelines which may be issued by the Attorney General, and execute and serve any subpoena, arrest warrant, search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction.

(8) SUBPOENAS.—In addition to any subpoena authority pursuant to subsection (b), the Secretary may, for the purposes of conducting any investigation under this section, or any other statute administered by the Secretary, issue subpoenas for the production of relevant papers, photographs, records, books, and documents in any form, including those in electronic, electrical, or magnetic form.

(d) DISTRICT COURT JURISDICTION.—The several district courts of the United States shall have jurisdiction over any actions arising under this section. For the purpose of this section, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of section 3238 of title 18, United States Code.

(e) PROHIBITED ACTS.—It is unlawful for any person—

(1) to violate any provision of this section or any Act to which this section applies or any regulation promulgated thereunder;

(2) to refuse to permit any authorized enforcement officer to board, search, or inspect a vessel, conveyance, or shoreside facility that is subject to the person's control for purposes of conducting any search, investigation, or inspection in connection with the enforcement of this section or any Act to which this section applies or any regulation promulgated thereunder;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation, or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section or any Act to which this section applies;

(5) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section or any Act to which this section applies;

(6) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this section or any Act to which this section applies, or any data collector employed by or under contract to the National Marine Fisheries Service to carry out responsibilities under this section or any Act to which this section applies;

(7) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or fish product

taken, possessed, transported, or sold in violation of any treaty or binding conservation measure adopted pursuant to an international agreement or organization to which the United States is a party; or

(8) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.

(f) REGULATIONS.—The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out this section or any Act to which this section applies.

SEC. 11512. CONFORMING, MINOR, AND TECHNICAL AMENDMENTS.

(a) HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.—

(1) ENFORCEMENT.—Section 606 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826g) is amended—

(A) by inserting “(a) DETECTING, MONITORING, AND PREVENTING VIOLATIONS.—” before “The President”; and

(B) by adding at the end the following:

“(b) ENFORCEMENT.—This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”

(2) BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.—Section 607(2) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826h(2)) is amended by striking “whose vessels” and inserting “that”.

(3) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.—

(A) IDENTIFICATION.—Section 609(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(a)) is amended to read as follows:

“(a) IDENTIFICATION.—

“(1) IN GENERAL.—The Secretary shall identify, and list in the report under section 607, a nation if that nation is engaged, or has been engaged at any time during the preceding 3 years, in illegal, unreported, or unregulated fishing and—

“(A) such fishing undermines the effectiveness of measures required under the relevant international fishery management organization;

“(B) the relevant international fishery management organization has failed to implement effective measures to end the illegal, unreported, or unregulated fishing activity by vessels of that nation, or the nation is not a party to, or does not maintain cooperating status with, such organization; or

“(C) there is no international fishery management organization with a mandate to regulate the fishing activity in question.

“(2) OTHER IDENTIFYING ACTIVITIES.—The Secretary shall also identify, and list in the report under section 607, a nation if—

“(A) it is violating, or has violated at any time during the preceding 3 years, conservation and management measures required under an international fishery management agreement to which the United States is a party and the violations undermine the effectiveness of such measures, taking into account the factors described in paragraph (1); or

“(B) it is failing, or has failed at any time during the preceding 3 years, to effectively address or regulate illegal, unreported, or unregulated fishing in areas described in paragraph (1)(C).

“(3) TREATMENT OF CERTAIN ENTITIES AS IF THEY WERE NATIONS.—Where the provisions of this Act apply to the act, or failure to act, of a nation, they shall also be applicable, as appropriate, to any other entity that is competent to enter into an international fishery management agreement.”

(B) IUU CERTIFICATION PROCEDURE.—

(i) CERTIFICATION.—Section 609(d)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(1)) is amended by striking “of its fishing vessels” each place it appears.

(ii) ALTERNATIVE PROCEDURE.—Section 609(d)(2) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(2)) is amended—

(I) by striking “procedure for certification,” and inserting “procedure,”;

(II) by striking “basis of fish” and inserting “basis, for allowing importation of fish”; and

(III) by striking “harvesting nation not certified under paragraph (1)” and inserting “nation issued a negative certification under paragraph (1)”.

(4) EQUIVALENT CONSERVATION MEASURES.—Section 610(a)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)(1)) is amended—

(A) by striking “calendar year” and inserting “3 years”; and

(B) by striking “practices;” and inserting “practices—”.

(b) DOLPHIN PROTECTION CONSUMER INFORMATION ACT.—Section 901 of the Dolphin Protection Consumer Information Act (16 U.S.C. 1385) is amended—

(1) by adding at the end of subsection (d) the following:

“(4) It is a violation of section 11511 of the International Fisheries Stewardship and Enforcement Act for any person to assault, resist, oppose, impede, intimidate, or interfere with and authorized officer in the conduct of any search, investigation or inspection under this Act.”; and

(2) by striking subsection (e) and inserting the following:

“(e) ENFORCEMENT.—This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”

(c) TUNA CONVENTIONS ACT OF 1950.—Section 8 of the Tuna Conventions Act of 1950 (16 U.S.C. 957) is amended—

(1) by striking “regulations.” in subsection (a) and inserting “regulation or for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including the false identification of species, harvesting vessel or nation or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”;

(2) by striking subsection (d) and inserting the following:

“(d) It shall be unlawful for any person—

“(1) to refuse to permit any officer authorized to enforce the provisions of this Act to board a fishing vessel subject to such person's control for purposes of conducting any search, investigation, or inspection in connection with the enforcement of this Act or any regulation promulgation or permit issued under this Act;

“(2) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigation or inspection described in paragraph (1);

“(3) to resist a lawful arrest for any act prohibited by this section; or

“(4) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.”;

(3) by striking subsections (e) through (g) and redesignating subsection (h) as subsection (f); and

(4) by inserting after subsection (d) the following:

“(e) **ENFORCEMENT.**—This section shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”.

(d) **NORTHERN PACIFIC ANADROMOUS STOCKS ACT OF 1992.**—

(1) **UNLAWFUL ACTIVITIES.**—Section 810 of the Northern Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5009) is amended—

(A) by striking “purchases” in paragraph (5) and inserting “purposes”;

(B) by striking “search or inspection” in paragraph (5) and inserting “search, investigation, or inspection”;

(C) by striking “search or inspection” in paragraph (6) and inserting “search, investigation, or inspection”;

(D) by striking “or” after the semicolon in paragraph (8);

(E) by striking “title.” in paragraph (9) and inserting “title; or”;

(F) by adding at the end the following:

“(10) for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”.

(2) **ADMINISTRATION AND ENFORCEMENT.**—Section 811 of the Northern Pacific Anadromous Stocks Act of 1992 (16 U.S.C. 5010) is amended to read as follows:

“**SEC. 811. ADMINISTRATION AND ENFORCEMENT.**

“This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”.

(e) **PACIFIC SALMON TREATY ACT OF 1985.**—Section 8 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3637) is amended—

(1) by striking “search or inspection” in subsection (a)(2) and inserting “search, investigation, or inspection”;

(2) by striking “search or inspection” in subsection (a)(3) and inserting “search, investigation, or inspection”;

(3) by striking “or” after the semicolon in subsection (a)(5);

(4) by striking “section.” in subsection (a)(6) and inserting “section; or”;

(5) by adding at the end of subsection (a) the following:

“(7) for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”; and

(6) by striking subsections (b) through (f) and inserting the following:

“(b) **ADMINISTRATION AND ENFORCEMENT.**—This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”.

(f) **SOUTH PACIFIC TUNA ACT OF 1988.**—

(1) **PROHIBITED ACTS.**—Section 5(a) of the South Pacific Tuna Act of 1988 (16 U.S.C. 973c(a)) is amended—

(A) by striking “search or inspection” in paragraph (8) and inserting “search, investigation, or inspection”;

(B) by striking “search or inspection” in paragraph (10)(A) and inserting “search, investigation, or inspection”;

(C) by striking “or” after the semicolon in paragraph (12);

(D) by striking “retained.” in paragraph (13) and inserting “retained; or”;

(E) by adding at the end the following:

“(14) for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”.

(2) **ADMINISTRATION AND ENFORCEMENT.**—The South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.) is amended by striking sections 7 and 8 (16 U.S.C. 973e and 973f) and inserting the following:

“**SEC. 7. ADMINISTRATION AND ENFORCEMENT.**

“This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”.

(g) **ANTARCTIC MARINE LIVING RESOURCES CONVENTION ACT OF 1984.**—

(1) **UNLAWFUL ACTIVITIES.**—Section 306 of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2435) is amended—

(A) by striking “which he knows, or reasonably should have known, was” in paragraph (3);

(B) by striking “search or inspection” in paragraph (4) and inserting “search, investigation, or inspection”;

(C) by striking “search or inspection” in paragraph (5) and inserting “search, investigation, or inspection”;

(D) by striking “or” after the semicolon in paragraph (6);

(E) by striking “section.” in paragraph (7) and inserting “section; or”;

(F) by adding at the end the following:

“(8) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”.

(2) **REGULATIONS.**—Section 307 of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2436) is amended by adding “Notwithstanding the provisions of subsections (b), (c), and (d) of section 553 of title 5, United States Code, the Secretary of Commerce may publish in the Federal Register a final rule to implement conservation measures, described in section 635(a) of this title, that are in effect for 12 months or less, adopted by the Commission, and not objected to by the United States within the time period allotted under Article IX of the Convention. Upon publication in the Federal Register, such conservation measures shall be in force with respect to the United States.” after “title.”.

(3) **PENALTIES AND ENFORCEMENT.**—The Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431 et seq.) is amended—

(A) by striking sections 308 and 309 (16 U.S.C. 2437 and 2438);

(B) by striking subsection (b), (c), and (d) of section 310 (16 U.S.C. 2439) and redesignating subsection (e) as subsection (c); and

(C) by inserting after subsection (a) the following:

“(b) **ADMINISTRATION AND ENFORCEMENT.**—This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”.

(h) **ATLANTIC TUNAS CONVENTION ACT OF 1975.**—

(1) **VIOLATIONS.**—Section 7 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971e) is amended—

(A) by striking subsections (e) and (f) and redesignating subsection (g) as subsection (f); and

(B) by inserting after subsection (d) the following:

“(e) **MISLABELING.**—It shall be unlawful for any person to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including the false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”.

(2) **ENFORCEMENT.**—Section 8 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971f) is amended—

(A) by striking subsections (a) and (c);

(B) by striking “(b) **INTERNATIONAL ENFORCEMENT.**—” in subsection (b) and inserting “This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”; and

(C) by striking “shall have the authority to carry out the enforcement activities specified in section 8(a) of this Act” each place it appears and inserting “shall enforce this Act”.

(i) **NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.**—Section 207 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5606) is amended—

(1) in the section heading, by striking “**PENALTIES.**” and inserting “**ENFORCEMENT.**”

(2) in subsection (a)—

(A) in paragraph (2), by striking “search or inspection” and inserting “search, investigation, or inspection”;

(B) in paragraph (3), by striking “search or inspection” and inserting “search, investigation, or inspection”;

(C) in paragraph (5), by striking “or” after the semicolon;

(D) in paragraph (6), by striking “section.” and inserting “section; or”;

(E) by adding at the end the following:

“(7) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”; and

(3) by striking subsections (b) through (f) and inserting the following:

“(b) **ADMINISTRATION AND ENFORCEMENT.**—This title shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”.

(j) **WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT.**—

(1) **ADMINISTRATION AND ENFORCEMENT.**—Section 506(c) of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6905(c)) is amended to read as follows:

“(c) **ADMINISTRATION AND ENFORCEMENT.**—This title shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”.

(2) PROHIBITED ACTS.—Section 507(a) of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6906(a)) is amended—

(A) by striking “suspension, on” in paragraph (2) and inserting “suspension of”;

(B) by striking “title.” in paragraph (14) and inserting “title; or”;

(C) by adding at the end the following:

“(15) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”.

(k) NORTHERN PACIFIC HALIBUT ACT OF 1982.—

(1) PROHIBITED ACTS.—Section 7 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e) is amended—

(A) by redesignating subdivisions (a) and (b) as paragraphs (1) and (2), respectively, and subdivisions (1) through (6) of paragraph (1), as redesignated, as subparagraphs (A) through (F);

(B) by striking “search or inspection” in paragraph (1)(B), as redesignated, and inserting “search, investigation, or inspection”;

(C) by striking “search or inspection” in paragraph (1)(C), as redesignated, and inserting “search, investigation, or inspection”;

(D) by striking “or” after the semicolon in paragraph (1)(E), as redesignated;

(E) by striking “section.” in paragraph (1)(F), as redesignated, and inserting “section”;

(F) by adding at the end of paragraph (1), as redesignated, the following:

“(G) to make or submit any false record, account, or label for, or any false identification of, any fish or fish product (including false identification of the species, harvesting vessel or nation, or the location where harvested) which has been, or is intended to be imported, exported, transported, sold, offered for sale, purchased, or received in interstate or foreign commerce.”.

(2) ADMINISTRATION AND ENFORCEMENT.—The Northern Pacific Halibut Act of 1982 (16 U.S.C. 773 et seq.) is amended—

(A) by striking sections 3, 9, and 10 (16 U.S.C. 773f, 773g, and 773h); and

(B) by striking subsections (b) through (f) of section 11 (16 U.S.C. 773i) and inserting the following:

“(b) ADMINISTRATION AND ENFORCEMENT.—This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”.

SEC. 11513. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

(a) IN GENERAL.—Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i), as amended by section 11532 of this division, is further amended by adding at the end the following:

“(c) VESSELS AND VESSEL OWNERS ENGAGED IN ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.—The Secretary may—

“(1) develop, maintain, and make public a list of vessels and vessel owners engaged in illegal, unreported, or unregulated fishing, including vessels or vessel owners identified by an international fishery management organization or arrangement made pursuant to an international fishery agreement, whether or not the United States is a party to such organization or arrangement;

“(2) take appropriate action against listed vessels and vessel owners, including action against fish, fish parts, or fish products from

such vessels, in accordance with applicable United States law and consistent with applicable international law, including principles, rights, and obligations established in applicable international fishery management and trade agreements; and

“(3) provide notification to the public of vessels and vessel owners identified by international fishery management organizations or arrangements made pursuant to an international fishery agreement as having been engaged in illegal, unreported, or unregulated fishing, as well as any measures adopted by such organizations or arrangements to address illegal, unreported, or unregulated fishing.

“(d) RESTRICTIONS ON PORT ACCESS OR USE.—Action taken by the Secretary under subsection (c)(2) that includes measures to restrict use of or access to ports or port services shall apply to all ports of the United States and its territories.

“(e) REGULATIONS.—The Secretary may promulgate regulations to implement subsections (c) and (d).”.

(b) ADDITIONAL MEASURES.—

(1) AMENDMENT OF THE HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.—

(A) IUU CERTIFICATION PROCEDURE; EFFECT OF CERTIFICATION.—Section 609(d)(3) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(3)) is amended by striking “that has not been certified by the Secretary under this subsection, or” in subparagraph (A)(i).

(B) CONSERVATION CERTIFICATION PROCEDURE; EFFECT OF CERTIFICATION.—Section 610(c)(5) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(c)(5)) is amended by striking “that has not been certified by the Secretary under this subsection, or”.

(2) AMENDMENT OF THE HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT.—

(A) DENIAL OF PORT PRIVILEGES.—Section 101 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a) is amended—

(i) by striking subsection (a)(2) and inserting the following:

“(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

“(A) withhold or revoke the clearance required by section 60105 of title 46, United States Code, for—

“(i) any large-scale driftnet fishing vessel that is documented under the law of the United States or of a nation included on a list published under paragraph (1); or

“(ii) any fishing vessel of a nation that receives a negative certification under section 609(d) or 610(c) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d) or 1826k(c)); and

“(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States, except for the purpose of inspecting the vessel, conducting an investigation, or taking other appropriate enforcement action.”;

(ii) by striking “or illegal, unreported, or unregulated fishing” each place it appears in subsection (b)(1) and (2);

(iii) by striking “or” after the semicolon in subsection (b)(3)(A)(i);

(iv) by striking “nation.” in subsection (b)(3)(A)(ii) and inserting “nation; or”;

(v) by adding at the end of subsection (b)(3)(A) the following:

“(iii) upon receipt of notification of a negative certification under section 609(d)(1) or 610(c)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(1) or 1826k(c)(1)).”;

(vi) by inserting “or after issuing a negative certification under section 609(d)(1) or 610(c)(1) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(d)(1) and 1826k(c)(1)),” after “paragraph (1),” in subsection (b)(4)(A); and

(vii) by striking subsection (b)(4)(A)(i) and inserting the following:

“(i) any prohibition established under paragraph (3) is insufficient to cause that nation—

“(I) to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation;

“(II) to address illegal, unreported, or unregulated fishing activities for which a nation has been identified under section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j); or

“(III) to address bycatch of a protected living marine resource for which a nation has been identified under section 610 of such Act (16 U.S.C. 1826k); or”.

(B) DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.—Section 102 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826b) is amended by striking “such nation has terminated large-scale driftnet fishing or illegal, unreported, or unregulated fishing by its nationals and vessels beyond the exclusive economic zone of any nation.” and inserting “such nation has—

“(1) terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation;

“(2) addressed illegal, unreported, or unregulated fishing activities for which a nation has been identified under section 609 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j); or

“(3) addressed bycatch of a protected living marine resource for which a nation has been identified under section 610 of that Act (16 U.S.C. 1826k).”.

SEC. 11514. LIABILITY.

Any claims arising from the actions of any officer, authorized by the Secretary to enforce the provisions of this title or any Act to which this title applies, taken pursuant to any scheme for at-sea boarding and inspection authorized under any international agreement to which the United States is a party may be pursued under chapter 171 of title 28, United States Code, or such other legal authority as may be pertinent.

Subtitle B—Law Enforcement and International Operations

SEC. 11521. INTERNATIONAL FISHERIES ENFORCEMENT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Secretary shall, subject to the availability of appropriations, establish an International Fisheries Enforcement Program within the Office of Law Enforcement of the National Marine Fisheries Service.

(2) PURPOSE.—The Program shall be an interagency program established and administered by the Secretary in coordination with the heads of other departments and agencies for the purpose of detecting and investigating illegal, unreported, or unregulated fishing activity and enforcing the provisions of this title.

(3) STAFF.—The Program shall be staffed with representation from the U.S. Coast Guard, U.S. Customs and Border Protection, U.S. Food and Drug Administration, and any other department or agency determined by

the Secretary to be appropriate and necessary to detect and investigate illegal, unreported, or unregulated fishing activity and enforce the provisions of this title.

(b) PROGRAM ACTIONS.—

(1) STAFFING AND OTHER RESOURCES.—At the request of the Secretary, the heads of other departments and agencies providing staff for the Program shall—

(A) by agreement, on a reimbursable basis or otherwise, participate in staffing the Program;

(B) by agreement, on a reimbursable basis or otherwise, share personnel, services, equipment (including aircraft and vessels), and facilities with the Program; and

(C) to the extent possible, and consistent with other applicable law, extend the enforcement authorities provided by their enabling legislation to the other departments and agencies participating in the Program for the purposes of conducting joint operations to detect and investigate illegal, unreported or unregulated fishing activity and enforcing the provisions of this title.

(2) BUDGET.—The Secretary and the heads of other departments and agencies providing staff for the Program, may, at their discretion, develop interagency plans and budgets and engage in interagency financing for such purposes.

(3) 5-YEAR PLAN.—Within 180 days after the date on which the Program is established under subsection (a), the Secretary shall develop a 5-year strategic plan for guiding interagency and intergovernmental international fisheries enforcement efforts to carry out the provisions of this title. The Secretary shall update the plan periodically as necessary, but at least once every 5 years.

(4) COOPERATIVE ACTIVITIES.—The Secretary, in coordination with the heads of other departments and agencies providing staff for the Program, may—

(A) create and participate in task forces, committees, or other working groups with other Federal, State or local governments as well as with the governments of other nations for the purposes of detecting and investigating illegal, unreported, or unregulated fishing activity and carrying out the provisions of this title; and

(B) enter into agreements with other Federal, State, or local governments as well as with the governments of other nations, on a reimbursable basis or otherwise, for such purposes.

(c) POWERS OF AUTHORIZED OFFICERS.—Notwithstanding any other provision of law, while operating under an agreement with the Secretary entered into under section 11511 of this title, and conducting joint operations as part of the Program for the purposes of detecting and investigating illegal, unreported or unregulated fishing activity and enforcing the provisions of this title, authorized officers shall have the powers and authority provided in that section.

(d) INFORMATION COLLECTION, MAINTENANCE AND USE.—

(1) IN GENERAL.—The Secretary and the heads of other departments and agencies providing staff for the Program shall, to the maximum extent allowable by law, share all applicable information, intelligence, and data related to the harvest, transportation, or trade of fish and fish product in order to detect and investigate illegal, unreported, or unregulated fishing activity and to carry out the provisions of this title.

(2) COORDINATION OF DATA.—The Secretary, through the Program, shall coordinate the collection, storage, analysis, and dissemination of all applicable information, intel-

ligence, and data related to the harvest, transportation, or trade of fish and fish product collected or maintained by the member agencies of the Program.

(3) CONFIDENTIALITY.—The Secretary, through the Program, shall ensure the protection and confidentiality required by law for information, intelligence, and data related to the harvest, transportation, or trade of fish and fish product obtained by the Program.

(4) DATA STANDARDIZATION.—The Secretary and the heads of other departments and agencies providing staff for the Program shall, to the maximum extent practicable, develop data standardization for fisheries related data for Program agencies and with international fisheries enforcement databases as appropriate.

(5) ASSISTANCE FROM INTELLIGENCE COMMUNITY.—Upon request of the Secretary, elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall collect information related to illegal, unreported, or unregulated fishing activity outside the United States about individuals who are not United States persons (as defined in section 105A(c)(2) of such Act (50 U.S.C. 403-5a(c)(2))). Such elements of the intelligence community shall collect and share such information with the Secretary through the Program for law enforcement purposes in order to detect and investigate illegal, unreported, or unregulated fishing activities and to carry out the provisions of this title. All collection and sharing of information shall be in accordance with the National Security Act of 1947 (50 U.S.C. 401 et seq.).

(6) INFORMATION SHARING.—The Secretary, through the Program, shall have authority to share fisheries-related data with other Federal or State government agency, foreign government, the Food and Agriculture Organization of the United Nations, or the secretariat or equivalent of an international fisheries management organization or arrangement made pursuant to an international fishery agreement, if—

(A) such governments, organizations, or arrangements have policies and procedures to safeguard such information from unintended or unauthorized disclosure; and

(B) the exchange of information is necessary—

(i) to ensure compliance with any law or regulation enforced or administered by the Secretary;

(ii) to administer or enforce treaties to which the United States is a party;

(iii) to administer or enforce binding conservation measures adopted by any international organization or arrangement to which the United States is a party;

(iv) to assist in investigative, judicial, or administrative enforcement proceedings in the United States; or

(v) to assist in any fisheries or living marine resource related law enforcement action undertaken by a law enforcement agency of a foreign government, or in relation to a legal proceeding undertaken by a foreign government.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$30,000,000 to the Secretary for each of fiscal years 2011 through 2016 to carry out this section.

SEC. 11522. INTERNATIONAL COOPERATION AND ASSISTANCE PROGRAM.

(a) INTERNATIONAL COOPERATION AND ASSISTANCE PROGRAM.—The Secretary may establish an international cooperation and assistance program, including grants, to pro-

vide assistance for international capacity building efforts.

(b) AUTHORIZED ACTIVITIES.—In carrying out the program, the Secretary may—

(1) provide funding and technical expertise to other nations to assist them in addressing illegal, unreported, or unregulated fishing activities;

(2) provide funding and technical expertise to other nations to assist them in reducing the loss and environmental impacts of derelict fishing gears, reducing the bycatch of living marine resources, and promoting international marine resource conservation;

(3) provide funding, technical expertise, and training, in cooperation with the International Fisheries Enforcement Program under section 11521 of this title, to other nations to aid them in building capacity for enhanced fisheries management, fisheries monitoring, catch and trade tracking activities, enforcement, and international marine resource conservation;

(4) establish partnerships with other Federal agencies, as appropriate, to ensure that fisheries development assistance to other nations is directed toward projects that promote sustainable fisheries; and

(5) conduct outreach and education efforts in order to promote public and private sector awareness of international fisheries sustainability issues, including the need to combat illegal, unreported, or unregulated fishing activity and to promote international marine resource conservation.

(c) GUIDELINES.—The Secretary may establish guidelines necessary to implement the program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$5,000,000 for each of fiscal years 2011 through 2016 to carry out this section.

Subtitle C—Miscellaneous Amendments

SEC. 11531. ATLANTIC TUNAS CONVENTION ACT OF 1975.

(a) ELIMINATION OF ANNUAL REPORT.—Section 11 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971j) is repealed.

(b) CERTAIN REGULATIONS.—Section 6(c)(2) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(2)) is amended—

(1) by inserting “(A)” after “(2)”; and

(2) by striking “(A) submission” and inserting “the presentation”;

(3) by striking “arguments, and (B) oral presentation at a public hearing. Such” and inserting “written or oral statements at a public hearing. After consideration of such presentations, the”; and

(4) by adding at the end the following:

“(B) The Secretary may issue final regulations to implement Commission recommendations referred to in paragraph (1) of this subsection concerning trade restrictive measures against nations or fishing entities without regard to the requirements of subparagraph (A) of this paragraph and subsections (b) and (c) of section 553 of title 5, United States Code.”

SEC. 11532. DATA SHARING.

(a) HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.—Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i), as amended by section 11202 of this division, is amended—

(1) by inserting “(a) IN GENERAL.—” before “The Secretary.”;

(2) by striking “organizations” the first place it appears and inserting, “organizations, or arrangements made pursuant to an international fishery agreement (as defined in section 3(24) of the Magnuson-Stevens Fishery Conservation and Management Act),”;

(3) by striking “and” after the semicolon in paragraph (3), as added by section 11202 of this division;

(4) by striking “territories.” in paragraph (4), as redesignated by section 11202 of this division, and inserting “territories; and”; and

(5) by adding at the end the following:

“(5) urging other nations, through the regional fishery management organizations of which the United States is a member, bilaterally and otherwise to seek and foster the sharing of accurate, relevant, and timely information—

“(A) to improve the scientific understanding of marine ecosystems;

“(B) to improve fisheries management decisions;

“(C) to promote the conservation of protected living marine resources;

“(D) to combat illegal, unreported, and unregulated fishing; and

“(E) to improve compliance with conservation and management measures in international waters.

“(b) INFORMATION SHARING.—In carrying out this section, the Secretary may disclose, as necessary and appropriate, information to the Food and Agriculture Organization of the United Nations, international fishery management organizations (as so defined), or arrangements made pursuant to an international fishery agreement, if such organizations or arrangements have policies and procedures to safeguard such information from unintended or unauthorized disclosure.”

(b) CONFORMING AMENDMENT.—Section 402(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b)(1)) is amended—

(1) by striking “or” after the semicolon in subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (J); and

(3) by inserting after subparagraph (G) the following:

“(H) to the Food and Agriculture Organization of the United Nations, international fishery management organizations, or arrangements made pursuant to an international fishery agreement as provided for in the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i(b));

“(I) to any other Federal or State government agency, foreign government, the Food and Agriculture Organization of the United Nations, or the secretariat or equivalent of an international fisheries management organization or arrangement made pursuant to an international fishery agreement, as provided in section 621(d)(6) of the International Fisheries Stewardship and Enforcement Act; or”.

SEC. 11533. PERMITS UNDER THE HIGH SEAS FISHING COMPLIANCE ACT OF 1995.

Section 104(f) of the High Seas Fishing Compliance Act (16 U.S.C. 5503(f)) is amended to read as follows:

“(f) VALIDITY.—A permit issued under this section is void if—

“(1) 1 or more permits or authorizations required for a vessel to fish, in addition to a permit issued under this section, expire, are revoked, or are suspended; or

“(2) the vessel is no longer eligible for United States documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.”.

SEC. 11534. TECHNICAL CORRECTIONS TO THE WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT.

Section 503 of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6902) is amended—

(1) by striking “Management Council and” in subsection (a) and inserting “Management Council, and one of whom shall be the chairman or a member of”;

(2) by striking subsection (c)(1) and inserting the following:

“(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”; and

(3) by striking subsection (d)(2)(B)(ii) and inserting the following:

“(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”.

SEC. 11535. PACIFIC WHITING ACT OF 2006.

(a) SCIENTIFIC EXPERTS.—Section 605(a)(1) of the Pacific Whiting Act of 2006 (16 U.S.C. 7004(a)(1)) is amended by striking “at least 6 but not more than 12” inserting “no more than 2”.

(b) EMPLOYMENT STATUS.—Section 609(a) of the Pacific Whiting Act of 2006 (16 U.S.C. 7008(a)) is amended to read as follows:

“(a) EMPLOYMENT STATUS.—Individuals appointed under section 603, 604, 605, or 606 of this title, other than officers or employees of the United States Government, shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”.

SEC. 11536. CLARIFICATION OF EXISTING AUTHORITY.

Notwithstanding any other provision of law, the Secretary of Commerce may promulgate regulations that allow for the replacement or rebuilding of a vessel qualified under subsections (a)(7) and (g)(1)(A) of section 219 of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2886).

SEC. 11537. REAUTHORIZATIONS.

(a) INTERNATIONAL DOLPHIN CONSERVATION PROGRAM.—Section 304(c)(1) of the Marine Mammal Protection Act (16 U.S.C. 1414a(c)(1)) is amended by adding at the end the following:

“(5) \$1,000,000 for each of fiscal years 2011 through 2015.”.

(b) PACIFIC SALMON TREATY ACT OF 1985.—Section 16(d)(2)(A) of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3645(d)(2)(A)) is amended by striking “and 2009,” and inserting “2009, 2010, 2011, 2012, 2013, 2014, and 2015”.

(c) SOUTH PACIFIC TUNA ACT OF 1988.—Section 20(a) of the South Pacific Tuna Act of 1988 (16 U.S.C. 973r(a)) is amended by striking “1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002,” each place it appears and inserting “2011 through 2015”.

Subtitle D—Implementation of the Antigua Convention

SEC. 11541. SHORT TITLE.

This title may be cited as the “Antigua Convention Implementing Act of 2010”.

SEC. 11542. AMENDMENT OF THE TUNA CONVENTIONS ACT OF 1950.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made

to a section or other provision of the Tuna Conventions Act of 1950 (16 U.S.C. 951 et seq.).

SEC. 11543. DEFINITIONS.

Section 2 (16 U.S.C. 951) is amended to read as follows:

“SEC. 2. DEFINITIONS.

“In this Act:

“(1) ANTIGUA CONVENTION.—The term ‘Antigua Convention’ means the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention Between the United States of America and the Republic of Costa Rica, signed at Washington, November 14, 2003.

“(2) COMMISSION.—The term ‘Commission’ means the Inter-American Tropical Tuna Commission provided for by the Convention.

“(3) CONVENTION.—The term ‘Convention’ means—

“(A) the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, by the United States of America and the Republic of Costa Rica;

“(B) the Antigua Convention, upon its entry into force for the United States, and any amendments thereto that are in force for the United States; or

“(C) both such Conventions, as the context requires.

“(4) IMPORT.—The term ‘import’ means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

“(5) PERSON.—The term ‘person’ means an individual, partnership, corporation, or association subject to the jurisdiction of the United States.

“(6) UNITED STATES.—The term ‘United States’ includes all areas under the sovereignty of the United States.

“(7) U.S. COMMISSIONERS.—The term ‘U.S. commissioners’ means the members of the commission.

“(8) U.S. SECTION.—The term ‘U.S. section’ means the U.S. Commissioners to the Commission and a designee of the Secretary of State.”.

SEC. 11544. COMMISSIONERS, NUMBER, APPOINTMENT, AND QUALIFICATIONS.

Section 3 (16 U.S.C. 952) is amended to read as follows:

“SEC. 3. COMMISSIONERS.

“(a) COMMISSIONERS.—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the eastern tropical Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council, and one of whom shall be the chairman or a member of the Pacific Fishery Management Council. Not more than 2 Commissioners may be appointed who reside in a State other than a State whose vessels maintain a substantial fishery in the area of the Convention.

“(b) ALTERNATE COMMISSIONERS.—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate

Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise, at any meeting of the Commission or of the General Advisory Committee or Scientific Advisory Subcommittee established pursuant to section 4(b), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

“(C) ADMINISTRATIVE MATTERS.—

“(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

“(2) COMPENSATION.—The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

“(3) TRAVEL EXPENSES.—

“(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners to meetings of the IATTC and other meetings the Secretary deems necessary to fulfill their duties, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

“(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.”.

SEC. 11545. GENERAL ADVISORY COMMITTEE AND SCIENTIFIC ADVISORY SUBCOMMITTEE.

Section 4 (16 U.S.C. 953) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) GENERAL ADVISORY COMMITTEE.—

“(1) APPOINTMENTS; PUBLIC PARTICIPATION; COMPENSATION.—

“(A) The Secretary, in consultation with the Secretary of State, shall appoint a General Advisory Committee which shall consist of not more than 25 individuals who shall be representative of the various groups concerned with the fisheries covered by the Convention, including nongovernmental conservation organizations, providing to the maximum extent practicable an equitable balance among such groups. Members of the General Advisory Committee will be eligible to participate as members of the U.S. delegation to the Commission and its working groups to the extent the Commission rules and space for delegations allow.

“(B) The chair of the Pacific Fishery Management Council's Advisory Subpanel for Highly Migratory Fisheries and the chair of the Western Pacific Fishery Management Council's Advisory Committee shall be members of the General Advisory Committee by virtue of their positions in those Councils.

“(C) Each member of the General Advisory Committee appointed under subparagraph (A) shall serve for a term of 3 years and is eligible for reappointment.

“(D) The General Advisory Committee shall be invited to attend all non-executive meetings of the United States Section and at

such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

“(E) The General Advisory Committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The General Advisory Committee shall publish and make available to the public a statement of its organization, practices and procedures. Meetings of the General Advisory Committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in timely fashion. The General Advisory Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

“(2) INFORMATION SHARING.—The Secretary and the Secretary of State shall furnish the General Advisory Committee with relevant information concerning fisheries and international fishery agreements.

“(3) ADMINISTRATIVE MATTERS.—

“(A) The Secretary shall provide to the General Advisory Committee in a timely manner such administrative and technical support services as are necessary for its effective functioning.

“(B) Individuals appointed to serve as a member of the General Advisory Committee—

“(i) shall serve without pay, but while away from their homes or regular places of business to attend meetings of the General Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and

“(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”; and

(2) by striking so much of subsection (b) as precedes paragraph (2) and inserting the following:

“(b) SCIENTIFIC ADVISORY COMMITTEE.—(1) The Secretary, in consultation with the Secretary of State, shall appoint a Scientific Advisory Subcommittee of not less than 5 nor more than 15 qualified scientists with balanced representation from the public and private sectors, including nongovernmental conservation organizations.”.

SEC. 11546. RULEMAKING.

Section 6 (16 U.S.C. 955) is amended—

(1) by striking the section heading and inserting the following:

“SEC. 6. RULEMAKING.”; and

(2) by striking subsections (a) and (b) and inserting the following:

“(a) REGULATIONS.—The Secretary, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the Department in which the Coast Guard is operating, may promulgate such regulations as may be necessary to carry out the United States international obligations under the Convention and this Act, including recommendations and decisions adopted by the Commission. In cases where the Secretary has discretion in the implementation of 1 or more measures adopted by the Commission that would govern fisheries under the authority of a Regional Fishery Management Council, the

Secretary may, to the extent practicable within the implementation schedule of the Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

“(b) JURISDICTION.—The Secretary may promulgate regulations applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.”.

SEC. 11547. PROHIBITED ACTS.

Section 8 (16 U.S.C. 957) is amended to read as follows:

“SEC. 8. PROHIBITED ACTS.

“It is unlawful for any person—

“(1) to violate any provision of this chapter or any regulation or permit issued pursuant to this Act;

“(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this Act;

“(3) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 10) to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation or inspection in connection with the enforcement of this Act or any regulation, permit, or the Convention;

“(4) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any such authorized officer in the conduct of any search, investigations, or inspection in connection with the enforcement of this Act or any regulation, permit, or the Convention;

“(5) to resist a lawful arrest for any act prohibited by this Act;

“(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in paragraph (1) or (2);

“(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section;

“(8) to knowingly and willfully submit to the Secretary false information regarding any matter that the Secretary is considering in the course of carrying out this Act;

“(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this Act, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act;

“(10) to engage in fishing in violation of any regulation adopted pursuant to section 6(c) of this Act;

“(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

“(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished;

“(13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States; and

“(14) to import, in violation of any regulation adopted pursuant to section 6(c) of this Act, any fish in any form of those species

subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any tuna in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 6(c) of this Act, unless such person provides such proof as the Secretary of Commerce may require that a fish described in this paragraph offered for entry into the United States is not ineligible for such entry under the terms of section 6(c) of this Act.”.

SEC. 11548. ENFORCEMENT.

Section 10 (16 U.S.C. 959) is amended to read as follows:

“SEC. 10. ENFORCEMENT.

“This Act shall be enforced under section 11511 of the International Fisheries Stewardship and Enforcement Act.”.

SEC. 11549. REDUCTION OF BYCATCH.

Section 15 (16 U.S.C. 962) is amended by striking “vessel” and inserting “vessels”.

SEC. 11550. REPEAL OF EASTERN PACIFIC TUNA LICENSING ACT OF 1984.

The Eastern Pacific Tuna Licensing Act of 1984 (16 U.S.C. 972 et seq.) is repealed.

TITLE CXVI—GULF OF THE FARALLONES AND CORDELL BANK NATIONAL MARINE SANCTUARIES BOUNDARY MODIFICATION AND PROTECTION

SEC. 11601. SHORT TITLE.

This title may be cited as the “Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act”.

SEC. 11602. FINDINGS.

Congress finds the following:

(1) The Gulf of the Farallones extends approximately 100 miles along the coast of Marin and Sonoma Counties of northern California. It includes approximately one-half of California’s nesting seabirds, rich benthic marine life on hard-rock substrate, prolific fisheries, and substantial concentrations of resident and seasonally migratory marine mammals.

(2) Cordell Bank is adjacent to the Gulf of the Farallones and is a submerged island with spectacular, unique, and nationally significant marine environments.

(3) These marine environments have national and international significance, exceed the biological productivity of tropical rain forests, and support high levels of biological diversity.

(4) These biological communities are easily susceptible to damage from human activities, and must be properly conserved for themselves and to protect the economic viability of their contribution to national and regional economies.

(5) The Gulf of Farallones and the Cordell Bank include some of the United States richest fishing grounds and support important commercial and recreational fisheries. These fisheries are regulated by State and Federal fishery agencies and are supported and fostered through protection of the waters and habitats of Gulf of the Farallones National Marine Sanctuary and Cordell Bank National Marine Sanctuary.

(6) The report of the Commission on Ocean Policy established by section 3 of the Oceans Act of 2000 (Public Law 106-256; 33 U.S.C. 857-19) calls for comprehensive protection for the most productive ocean environments and recommends that they be managed as ecosystems.

(7) New scientific discoveries by the Office of National Marine Sanctuaries support comprehensive protection for these marine environments by broadening the geographic

scope of the existing Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary.

(8) Cordell Bank is at the nexus of an ocean upwelling system, which produces the highest biomass concentrations on the west coast of the United States.

SEC. 11603. POLICY AND PURPOSE.

(a) POLICY.—It is the policy of the United States to protect and preserve living and other resources of the Gulf of the Farallones and Cordell Bank marine environments.

(b) PURPOSE.—The purposes of this title are the following:

(1) To extend the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary as described in section 11605.

(2) To strengthen the protections that apply in the Sanctuaries.

(3) To provide for the education and interpretation for the public of the ecological value and national importance of the Sanctuaries.

(4) To manage human uses of the Sanctuaries under this title and the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.).

(c) EFFECT ON FISHING ACTIVITIES.—Nothing in this title is intended to alter any existing authorities regarding the conduct and location of fishing activities in the Sanctuaries.

SEC. 11604. DEFINITIONS.

In this title:

(1) CORDELL BANK NMS.—The term “Cordell Bank NMS” means the Cordell Bank National Marine Sanctuary.

(2) FARALLONES NMS.—The term “Farallones NMS” means the Gulf of the Farallones National Marine Sanctuary.

(3) SANCTUARIES.—The term “Sanctuaries” means the Farallones NMS and the Cordell Bank NMS.

(4) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

SEC. 11605. NATIONAL MARINE SANCTUARY BOUNDARY ADJUSTMENTS.

(a) GULF OF THE FARALLONES.—

(1) BOUNDARY ADJUSTMENT.—The areas described in paragraph (2) are added to the Farallones NMS described in part 922.80 of title 15, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

(2) AREAS INCLUDED.—

(A) IN GENERAL.—The areas referred to in paragraph (1) are the following:

(i) All submerged lands and waters, including living marine and other resources within and on those lands and waters, from the mean high water line to the boundary described in subparagraph (B).

(ii) The submerged lands and waters, including living marine and other resources within those waters, within the approximately two-square-nautical-mile portion of the Cordell Bank NMS (as in effect immediately before the enactment of this Act) that is located south of the area that is added to Cordell Bank NMS by subsection (b)(2).

(B) BOUNDARY DESCRIBED.—The boundary referred to in subparagraph (A)(i) commences from the mean high water line referred to in this subparagraph as the “MHWL”) at 39.00000 degrees north in a westward direction approximately 29 nautical miles (referred to in this subparagraph as “nm”) to 39.00000 north, 124.33333 west. The boundary then extends in a southeasterly direction to 38.30000 degrees north, 124.00000 degrees west, approximately 44 nm westward of Bodega Head. The boundary then extends eastward to the most northeastern corner of

the expanded Cordell Bank NMS at 38.30000 north, 123.20000 degrees west, approximately 6 nm miles westward of Bodega Head. The boundary then extends in a southeasterly direction to 38.26390 degrees north, 123.18138 degrees west at the northwestern most point of the current Gulf of the Farallones Boundary. The boundary then follows the current northern Gulf of the Farallones NMS boundary in a northeasterly direction to the MHWL near Bodega Head. The boundary then follows the MHWL in a northeasterly and northwesterly direction to the commencement point at the intersection of the MHWL and 39.00000 north. Coordinates listed in this subparagraph are based on the North American Datum 1983 and the geographic projection.

(b) CORDELL BANK.—

(1) BOUNDARY ADJUSTMENT.—The area described in paragraph (2) is added to the existing Cordell Bank NMS described in part 922.80 of title 15, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

(2) AREA INCLUDED.—

(A) IN GENERAL.—The area referred to in paragraph (1) consists of all submerged lands and waters, including living marine and other resources within those waters, within the boundary described in subparagraph (B).

(B) BOUNDARY.—The boundary referred to in subparagraph (A) commences at the most northeastern point of the Cordell Bank NMS boundary (as in effect immediately before the enactment of this Act) at 38.26390 degrees north, 123.18138 degrees west and extends northwestward to 38.30000 degrees north, 123.20000 degrees west, approximately 6 nautical miles (referred to in this subparagraph as “nm”) west of Bodega Head. The boundary then extends westward to 38.30000 degrees north, 124.00000 degrees west, approximately 44 nautical miles west of Bodega Head. The boundary then turns southeastward and continues approximately 34 nautical miles to 37.76687 degrees north, 123.75142 degrees west, and then approximately 15 nm eastward to 37.76687 north, 123.42694 west at an intersection with the current Cordell Bank NMS boundary. The boundary then follows the current Cordell Bank NMS boundary, which is coterminous with the current Gulf of the Farallones boundary, in a northeasterly and then northwesterly direction to its commencement point at 38.26390 degrees north, 123.18138 degrees west. Coordinates listed in this subparagraph are based on NAD83 Datum and the geographic projection.

(c) INCLUSION IN THE SYSTEM.—The areas included in the Sanctuaries under subsections (a) and (b) shall be managed as part of the National Marine Sanctuary System, established by section 301(c) of the National Marine Sanctuaries Act (16 U.S.C. 1431(c)), in accordance with that Act.

(d) UPDATED NOAA CHARTS.—The Secretary shall—

(1) produce updated National Oceanic and Atmospheric Administration nautical charts for the areas in which the Sanctuaries are located, as modified by subsections (a) and (b); and

(2) include on those nautical charts the boundaries of the Sanctuaries, as so modified.

(e) BOUNDARY ADJUSTMENTS.—In producing revised nautical charts required by subsection (d) and in describing the boundaries in regulations issued by the Secretary, the Secretary may make technical modifications to the boundaries described in this section for clarity and ease of identification, as appropriate.

SEC. 11606. MANAGEMENT PLANS AND REGULATIONS.

(a) **DRAFT PLANS.**—Not later than 24 months after the date of the enactment of this Act, the Secretary shall complete a draft supplemental management plan for each of the Sanctuaries, as modified by subsections (a) and (b) of section 11605, that—

(1) focuses on management of the areas of the Sanctuaries described in such subsections (a) and (b); and

(2) does not weaken the resource protections in effect on the date of the enactment of this Act for the Sanctuaries.

(b) **REVISED PLANS.**—

(1) **REQUIREMENT TO REVISE.**—The Secretary shall issue a revised management plan for each of the Sanctuaries at the conclusion of the first management review for the Sanctuaries initiated after the date of the enactment of this Act under section 304(e) of the National Marine Sanctuaries Act (16 U.S.C. 1434(e)) and issue such final regulations as may be necessary to implement such plans.

(2) **CONTENTS OF PLANS.**—Revisions to the management plan for each of the Sanctuaries under this section shall, in addition to matters required under section 304(a)(2) of the National Marine Sanctuaries Act (16 U.S.C. 1434(a)(2))—

(A) facilitate all appropriate public and private uses of the national marine sanctuary to which each respective plan applies consistent with the primary objective of sanctuary resource protection;

(B) establish temporal and geographical zoning if necessary to ensure protection of the resources of each of the Sanctuaries;

(C) identify priority needs for research—

(i) to improve management of the Sanctuaries; or

(ii) to diminish threats to the health of the ecosystems in the Sanctuaries;

(D) establish a long-term ecological monitoring program and database, including the development and implementation of a resource information system to disseminate information on the ecosystem, history, culture, and management of the Sanctuaries;

(E) identify alternative sources of funding needed to fully implement the provisions of each such plan to supplement appropriations made to carry out the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.);

(F) ensure coordination and cooperation between the superintendents of each of the Sanctuaries and other Federal, State, and local authorities with jurisdiction over areas within or adjacent to one of the Sanctuaries to manage issues affecting the Sanctuaries, including surface water runoff, stream and river drainages, and navigation;

(G) in the case of revisions to such plan for the Farallones NMS, promote cooperation with farmers and ranchers operating in the watersheds adjacent to the Farallones NMS and establish voluntary best management practices programs;

(H) promote cooperative and educational programs with fishing vessel operators and crews operating in the waters of the Sanctuaries, and, whenever possible, include individuals who engage in fishing and their vessels in cooperative research, assessment, and monitoring programs and educational programs to promote sustainable fisheries, conservation of resources, and navigational safety; and

(I) promote education and public awareness, among users of the Sanctuaries, about the need for marine resource conservation and safe navigation and marine transportation.

(c) **APPLICATION OF EXISTING REGULATIONS.**—The regulations for Farallones NMS

in subpart H of part 922 of title 15, Code of Federal Regulations (or any corresponding similar regulation) or of the Cordell Bank NMS in subpart K of such part 922 (or any corresponding similar regulation), including any regulations issued as a result of a joint management plan review for the Sanctuaries conducted pursuant to section 304(e) of the National Marine Sanctuaries Act (16 U.S.C. 1434(e)), shall apply to the areas added to each Sanctuary, respectively, under subsection (a) or (b) of section 5 until the Secretary modifies such regulations in accordance with subsection (d) of this section.

(d) **REVISED REGULATIONS.**—

(1) **IN GENERAL.**—Not later than 24 months after the date of the enactment of this Act, the Secretary shall—

(A) carry out an assessment of necessary revisions to the regulations for the Sanctuaries to ensure the protection of the resources of the Sanctuaries in a manner that is consistent with the purposes and policies of the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the goals and objectives for the areas added to either of the Sanctuaries under subsection (a) or (b) of section 11605; and

(B) issue final regulations for the Sanctuaries that include any revisions identified in the assessment carried out under subparagraph (A).

(2) **REGULATION OF SPECIFIC ACTIVITIES.**—In carrying out the assessment required by paragraph (1)(A), the Secretary shall consider appropriate regulations for—

(A) the deposit or release of introduced species into the Sanctuaries; and

(B) the alteration of stream and river drainage into the Sanctuaries.

(3) **CONSIDERATIONS.**—In carrying out the assessment required by paragraph (1)(A), the Secretary shall consider exempting from further regulation under the National Marine Sanctuaries Act or this title discharges that are permitted under a National Pollution Discharge Elimination System permit that is in effect on the date of the enactment of this Act, or under a new or renewed National Pollution Discharge Elimination System permit if such permit—

(A) does not increase pollution in the Sanctuaries; and

(B) that originates—

(i) in the Russian River Watershed outside the boundaries of the Gulf of the Farallones National Marine Sanctuary; or

(ii) from the Bodega Marine Laboratory.

(e) **PUBLIC PARTICIPATION.**—The Secretary shall provide for the participation of the general public in the review and revision of the management plans for the Sanctuaries and relevant regulations under this section.

SEC. 11607. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this title—

(1) \$3,000,000 for each of fiscal years 2011 through 2015, for activities other than construction and acquisition activities; and

(2) \$3,500,000 for fiscal year 2011 and such sums as may be necessary for each of fiscal years 2012 through 2015 for construction and acquisition activities.

TITLE CXVII—THUNDER BAY NATIONAL MARINE SANCTUARY**SEC. 11701. SHORT TITLE.**

This title may be cited as the “Thunder Bay National Marine Sanctuary and Underwater Preserve Boundary Modification Act”.

SEC. 11702. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Thunder Bay National Marine Sanctuary and Underwater Preserve in Lake Huron contains more than 100 recorded historic vessel losses.

(2) The areas immediately surrounding the Sanctuary, including the offshore waters of Presque Isle and Alcona counties, Michigan, contain an equal number of historic vessel losses.

(3) Many of these shipwrecks and underwater cultural resources are popular recreational diving destinations and all contribute to our collective maritime heritage.

(4) These resources are susceptible to damage from human activities and must be properly preserved for their innate value and to protect the economic viability of their contribution to national and regional economies.

(b) **PURPOSES.**—The purposes of this title are—

(1) to expand the Thunder Bay National Marine Sanctuary and Underwater Preserve boundaries to encompass the offshore waters of Presque Isle and Alcona counties, Michigan, and outward to the international border between the United States and Canada; and

(2) to provide the underwater cultural resources of those areas equal protection to that currently afforded to the Sanctuary.

SEC. 11703. DEFINITIONS.

In this title:

(1) **SANCTUARY.**—The term “Sanctuary” means the Thunder Bay National Marine Sanctuary and Underwater Preserve.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce.

SEC. 11704. SANCTUARY BOUNDARY ADJUSTMENT.

(a) **BOUNDARY ADJUSTMENT.**—Notwithstanding any other provision of law, including section 922.190 of title 15, Code of Federal Regulations, as in effect on the date of the enactment of this Act, the Sanctuary shall consist of the geographic area described in subsection (b).

(b) **EXPANDED SANCTUARY BOUNDARY.**—The area referred to in subsection (a) is all submerged lands, including the underwater cultural resources, lakeward of the mean high water line, within the boundaries of a line formed by connecting points in succession beginning at a point along the mean high water line located approximately at 45.6262N, 84.2043W at the intersection of the northern Presque Isle and northeastern Cheboygan County boundary, then north to a point approximately 45.7523N, 84.2011W, then northeast to a point approximately 45.7777N, 84.1231W, then due east to the international boundary between the United States and Canada approximately located at 45.7719N, 83.4840W then following the international boundary between the United States and Canada in a generally southeasterly direction to a point located approximately at 44.5128N, 82.3295W, then due west to a point along the mean high water line located approximately at 44.5116N, 83.3186W at the intersection of the southern Alcona County and northern Iosco County boundary, returning to the first point along the mean high water line.

(c) **AUTHORITY TO MAKE MINOR ADJUSTMENTS.**—The Secretary may make minor adjustments to the boundary described in subsection (b) to facilitate enforcement and clarify the boundary to the public if the resulting boundary is consistent with the purposes described in section 11702(b).

(d) **INCLUSION IN THE NATIONAL MARINE SANCTUARY SYSTEM.**—The area described in subsection (b), as modified in accordance with subsection (c), shall be managed as part

of the National Marine Sanctuary System established by section 301(c) of the National Marine Sanctuaries Act (16 U.S.C. 1431(c)), in accordance with that Act.

(e) **UPDATED NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CHARTS.**—The Secretary shall—

(1) produce updated National Oceanic and Atmospheric Administration charts for the area in which the Sanctuary is located; and

(2) include on such charts the boundaries of the Sanctuary described in subsection (b), as modified in accordance with subsection (c).

SEC. 11705. EXTENSION OF REGULATIONS AND MANAGEMENT.

(a) **REGULATIONS.**—The regulations applicable to the Sanctuary codified in subpart R of part 922 of title 15, Code of Federal Regulations, as in effect on the date of the enactment of this Act, shall apply to the geographic area added to the Sanctuary pursuant to section 11704, unless the Secretary specifies otherwise by regulation.

(b) **EXISTING CERTIFICATIONS.**—The Secretary may certify that any license, permit, approval, other authorization, or right to conduct a prohibited activity authorized pursuant to section 922.194 of title 15, Code of Federal Regulations, that exists on the date of the enactment of this Act shall apply to such an activity conducted within the geographic area added to the Sanctuary pursuant to section 11704.

(c) **DATE OF SANCTUARY DESIGNATION.**—For purposes of section 922.194 of title 15, Code of Federal Regulations, the date of Sanctuary designation shall be the date of the enactment of this Act.

(d) **MANAGEMENT PLAN.**—To the extent practicable, the Secretary shall apply the management plan in effect for the Sanctuary on the date of the enactment of this Act to the geographic area added to the Sanctuary pursuant to section 11704.

TITLE CXVIII—NORTHWEST STRAITS MARINE CONSERVATION INITIATIVE REAUTHORIZATION AND EXPANSION

SEC. 11801. SHORT TITLE.

This title may be cited as the “Northwest Straits Marine Conservation Initiative Reauthorization Act of 2010”.

SEC. 11802. REAUTHORIZATION OF NORTHWEST STRAITS MARINE CONSERVATION INITIATIVE ACT.

The Northwest Straits Marine Conservation Initiative Act (title IV of Public Law 105–384; 112 Stat. 3458) is amended—

(1) by striking “Commission (in this title referred to as the ‘Commission’),” and inserting “Commission.”;

(2) by striking sections 403 and 404;

(3) by redesignating section 405 as section 410; and

(4) by inserting after section 402 the following:

“SEC. 403. FINDINGS.

“Congress makes the following findings:

“(1) The marine waters and ecosystem of the Northwest Straits in Puget Sound in the State of Washington represent a unique resource of enormous environmental and economic value to the people of the United States.

“(2) During the 20th century, the environmental health of the Northwest Straits declined dramatically as indicated by impaired water quality, declines in marine wildlife, collapse of harvestable marine species, loss of critical marine habitats, ocean acidification, and sea level rise.

“(3) At the start of the 21st century, the Northwest Straits have been threatened by sea level rise, ocean acidification, and other effects of climate change.

“(4) In 1998, the Northwest Straits Marine Conservation Initiative Act (title IV of Public Law 105–384) was enacted to tap the unprecedented level of citizen stewardship demonstrated in the Northwest Straits and create a mechanism to mobilize public support and raise capacity for local efforts to protect and restore the ecosystem of the Northwest Straits.

“(5) The Northwest Straits Marine Conservation Initiative helps the National Oceanic and Atmospheric Administration and other Federal agencies with their marine missions by fostering local interest in marine issues and involving diverse groups of citizens.

“(6) The Northwest Straits Marine Conservation Initiative shares many of the same goals with the National Oceanic and Atmospheric Administration, including fostering citizen stewardship of marine resources, general ecosystem management, and protecting federally managed marine species.

“(7) Ocean literacy and identification and removal of marine debris projects are examples of on-going partnerships between the Northwest Straits Marine Conservation Initiative and the National Oceanic and Atmospheric Administration.

“SEC. 404. DEFINITIONS.

“In this title:

“(1) **COMMISSION.**—The term ‘Commission’ means the Northwest Straits Advisory Commission established by section 402.

“(2) **INDIAN TRIBE.**—The term ‘Indian tribe’ has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(3) **NORTHWEST STRAITS.**—The term ‘Northwest Straits’ means the marine waters of the Strait of Juan de Fuca and of Puget Sound from the Canadian border to the south end of Snohomish County.

“SEC. 405. MEMBERSHIP OF THE COMMISSION.

“(a) **COMPOSITION.**—The Commission shall be composed of up to 14 members who shall be appointed as follows:

“(1) One member appointed by a consensus of the members of a marine resources committee established under section 408 for each of the following counties of the State of Washington:

“(A) San Juan County.

“(B) Island County.

“(C) Skagit County.

“(D) Whatcom County.

“(E) Snohomish County.

“(F) Clallam County.

“(G) Jefferson County.

“(2) Two members appointed by the Secretary of the Interior in trust capacity and in consultation with the Northwest Indian Fisheries Commission or the Indian tribes affected by this title collectively, as the Secretary of the Interior considers appropriate, to represent the interests of such tribes.

“(3) One member appointed by the Governor of the State of Washington to represent the interests of the Puget Sound Partnership.

“(4) Four members appointed by the Governor of the State of Washington who—

“(A) are residents of the State of Washington; and

“(B) are not employed by a Federal, State, or local government.

“(b) **VACANCIES.**—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

“(c) **CHAIRPERSON.**—The Commission shall select a Chairperson from among its members.

“(d) **MEETING.**—The Commission shall meet at the call of the Chairperson, but not less frequently than quarterly.

“(e) **LIAISON.**—

“(1) **IN GENERAL.**—The Secretary of Commerce shall, acting through the Under Secretary for Oceans and Atmosphere and in consultation with the Director of the Commission appointed under section 407(a), appoint an employee of the National Oceanic and Atmospheric Administration—

“(A) to serve as a liaison between the Commission and the Department of Commerce; and

“(B) to attend meetings and other events of the Commission as a nonvoting participant.

“(2) **LIMITATION.**—Service as a member of the Commission by the employee appointed under paragraph (1)—

“(A) is limited to the employee’s service as a liaison and attendance of meetings and other events as a nonvoting participant; and

“(B) does not obligate the employee to perform any duty of the Commission under section 406(b).

“SEC. 406. GOAL AND DUTIES OF THE COMMISSION.

“(a) **GOAL.**—The goal of the Commission is to protect and restore the marine waters, habitats, and species of the Northwest Straits region to achieve ecosystem health and sustainable resource use by—

“(1) designing and initiating projects that are driven by sound science, local priorities, community-based decisions, and the ability to measure results;

“(2) building awareness and stewardship and making recommendations to improve the health of the Northwest Straits marine resources;

“(3) maintaining and expanding diverse membership and partner organizations;

“(4) expanding partnerships with governments of Indian tribes and continuing to foster respect for tribal cultures and treaties; and

“(5) recognizing the importance of economic and social benefits that are dependent on marine environments and sustainable marine resources.

“(b) **DUTIES.**—The duties of the Commission are the following:

“(1) To provide resources and technical support for marine resources committees established under section 408.

“(2) To work with such marine resources committees and appropriate entities of Federal and State governments and Indian tribes to develop programs to monitor the overall health of the marine ecosystem of the Northwest Straits.

“(3) To identify factors adversely affecting or preventing the restoration of the health of the marine ecosystem and coastal economies of the Northwest Straits.

“(4) To develop scientifically sound restoration and protection recommendations, informed by local priorities, that address such factors.

“(5) To assist in facilitating the successful implementation of such recommendations by developing broad support among appropriate authorities, stakeholder groups, and local communities.

“(6) To develop and implement regional projects based on such recommendations to protect and restore the Northwest Straits ecosystem.

“(7) To serve as a public forum for the discussion of policies and actions of Federal, State, or local government, an Indian tribe, or the Government of Canada with respect to the marine ecosystem of the Northwest Straits.

“(8) To inform appropriate authorities and local communities about the marine ecosystem of the Northwest Straits and about

issues relating to the marine ecosystem of the Northwest Straits.

“(9) To consult with all affected Indian tribes in the region of the Northwest Straits to ensure that the work of the Commission does not violate tribal treaty rights.

“(c) BENCHMARKS.—The Commission shall carry out its duties in a manner that promotes the achieving of the benchmarks described in subsection (f)(2).

“(d) COORDINATION AND COLLABORATION.—The Commission shall carry out the duties described in subsection (b) in coordination and collaboration, when appropriate, with Federal, State, and local governments and Indian tribes.

“(e) REGULATORY AUTHORITY.—The Commission shall have no power to issue regulations.

“(f) ANNUAL REPORT.—

“(1) IN GENERAL.—Each year, the Commission shall prepare, submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Under Secretary for Oceans and Atmosphere, and make available to the public an annual report describing—

“(A) the activities carried out by the Commission during the preceding year; and

“(B) the progress of the Commission in achieving the benchmarks described in paragraph (2).

“(2) BENCHMARKS.—The benchmarks described in this paragraph are the following:

“(A) Protection and restoration of marine, coastal, and nearshore habitats.

“(B) Prevention of loss and achievement of a net gain of healthy habitat areas.

“(C) Protection and restoration of marine populations to healthy, sustainable levels.

“(D) Protection of the marine water quality of the Northwest Straits region and restoration of the health of marine waters.

“(E) Collection of high-quality data and promotion of the use and dissemination of such data.

“(F) Promotion of stewardship and understanding of Northwest Straits marine resources through education and outreach.

“SEC. 407. COMMISSION PERSONNEL AND ADMINISTRATIVE MATTERS.

“(a) DIRECTOR.—The Manager of the Shorelands and Environmental Assistance Program of the Department of Ecology of the State of Washington may, upon the recommendation of the Commission and the Director of the Padilla Bay National Estuarine Research Reserve, appoint and terminate a Director of the Commission. The employment of the Director shall be subject to confirmation by the Commission.

“(b) STAFF.—The Director may hire such other personnel as may be appropriate to enable the Commission to perform its duties. Such personnel shall be hired through the personnel system of the Department of Ecology of the State of Washington.

“(c) ADMINISTRATIVE SERVICES.—If the Governor of the State of Washington makes available to the Commission the administrative services of the State of Washington Department of Ecology and Padilla Bay National Estuarine Research Reserve, the Commission shall use such services for employment, procurement, grant and fiscal management, and support services necessary to carry out the duties of the Commission.

“SEC. 408. MARINE RESOURCES COMMITTEES.

“(a) IN GENERAL.—The government of each of the counties referred to in subparagraphs (A) through (G) of section 405(a)(1) may establish a marine resources committee that—

“(1) complies with the requirements of this section; and

“(2) receives from such government the mission, direction, expert assistance, and financial resources necessary—

“(A) to address issues affecting the marine ecosystems within its county; and

“(B) to work to achieve the benchmarks described in section 406(f)(2).

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—Each marine resources committee established pursuant to this section shall be composed of—

“(A) members with relevant scientific expertise; and

“(B) members that represent balanced representation, including representation of—

“(i) local governments, including planning staff from counties and cities with marine shorelines;

“(ii) affected economic interests, such as ports and commercial fishers;

“(iii) affected recreational interests, such as sport fishers; and

“(iv) conservation and environmental interests.

“(2) TRIBAL MEMBERS.—With respect to a county referred to in subparagraphs (A) through (G) of section 405(a)(1), each Indian tribe with usual and accustomed fishing rights in the waters of such county and each Indian tribe with reservation lands in such county, may appoint one member to the marine resources committee for such county. Such member may be appointed by the respective tribal authority.

“(3) CHAIRPERSON.—

“(A) IN GENERAL.—Each marine resources committee established pursuant to this section shall select a chairperson from among members by a majority vote of the members of the committee.

“(B) ROTATING POSITION.—Each marine resources committee established pursuant to this section shall select a new chairperson at a frequency determined by the county charter of the marine resources committee to create a diversity of representation in the leadership of the marine resources committee.

“(c) DUTIES.—The duties of a marine resources committee established pursuant to this section are the following:

“(1) To assist in assessing marine resource problems in concert with governmental agencies, tribes, and other entities.

“(2) To assist in identifying local implications, needs, and strategies associated with the recovery of Puget Sound salmon and other species in the region of the Northwest Straits listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) in coordination with Federal, State, and local governments, Indian tribes, and other entities.

“(3) To work with other entities to enhance the scientific baseline and monitoring program for the marine environment of the Northwest Straits.

“(4) To identify local priorities for marine resource conservation and develop new projects to address those needs.

“(5) To work closely with county leadership to implement local marine conservation and restoration initiatives.

“(6) To coordinate with the Commission on marine ecosystem objectives.

“(7) To educate the public and key constituencies regarding the relationship between healthy marine habitats, harvestable resources, and human activities.

“SEC. 409. NORTHWEST STRAITS MARINE CONSERVATION FOUNDATION.

“(a) ESTABLISHMENT.—The Director of the Commission and the Director of the Padilla Bay National Estuarine Research Reserve may enter into an agreement with an organi-

zation described in section 501(c)(3) of the Internal Revenue Code of 1986 to establish a nonprofit foundation to support the Commission and the marine resources committees established under section 408 in carrying out their duties under this title.

“(b) DESIGNATION.—The foundation authorized by subsection (a) shall be known as the ‘Northwest Straits Marine Conservation Foundation’.

“(c) RECEIPT OF GRANTS.—The Northwest Straits Marine Conservation Foundation may, if eligible, apply for, accept, and use grants awarded by Federal agencies, States, local governments, regional agencies, interstate agencies, corporations, foundations, or other persons to assist the Commission and the marine resources committees in carrying out their duties under this title.

“(d) TRANSFER OF FUNDS.—The Northwest Straits Marine Conservation Foundation may transfer funds to the Commission or the marine resources committees to assist them in carrying out their duties under this title.

“SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Secretary of Commerce for the use of the Commission such sums as may be necessary to carry out the provisions of this title.”

TITLE CXIX—HARMFUL ALGAL BLOOMS HYPOXIA RESEARCH AND CONTROL

SEC. 11901. SHORT TITLE.

This title may be cited as the ‘Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010’.

SEC. 11902. AMENDMENT OF HARMFUL ALGAL BLOOM AND HYPOXIA RESEARCH AND CONTROL ACT OF 1998.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 note).

SEC. 11903. FINDINGS.

Section 602 is amended to read as follows:

“SEC. 602. FINDINGS.

“Congress finds the following:

“(1) Harmful algal blooms and hypoxia—

“(A) are increasing in frequency and intensity in the Nation’s coastal waters and Great Lakes;

“(B) pose a threat to the health of coastal and Great Lakes ecosystems;

“(C) are costly to coastal economies; and

“(D) threaten the safety of seafood and human health.

“(2) Excessive nutrients in coastal waters have been linked to the increased intensity and frequency of hypoxia and some harmful algal blooms. There is a need to identify more workable and effective actions to reduce the negative impacts of harmful algal blooms and hypoxia on coastal waters.

“(3) The National Oceanic and Atmospheric Administration, through its ongoing research, monitoring, observing, education, grant, and coastal resource management programs and in collaboration with the other Federal agencies on the Interagency Task Force, along with States, Indian tribes, and local governments, possesses capabilities necessary to support a near and long-term comprehensive effort to prevent, reduce, and control the human and environmental costs of harmful algal blooms and hypoxia.

“(4) Harmful algal blooms and hypoxia can be triggered and exacerbated by increases in nutrient loading from point and nonpoint

sources. Since much of these increases originate in upland areas and are delivered to marine and freshwater bodies via river discharge, integrated and landscape-level research and control strategies are required.

“(5) Harmful algal blooms and hypoxia affect many sectors of the coastal economy, including tourism, public health, and recreational and commercial fisheries. According to a recent report produced by the National Oceanic and Atmospheric Administration, the United States seafood and tourism industries suffer annual losses of \$82,000,000 due to economic impacts of harmful algal blooms.

“(6) Global climate change and its effect on oceans and the Great Lakes may ultimately affect harmful algal bloom and hypoxic events.

“(7) Proliferations of harmful and nuisance algae can occur in all United States waters, including coastal areas and estuaries, the Great Lakes, and inland waterways, crossing political boundaries and necessitating regional coordination for research, monitoring, mitigation, response, and prevention efforts.

“(8) After the passage of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, federally funded and other research has led to several technological advances, including remote sensing, molecular and optical tools, satellite imagery, and coastal and ocean observing systems, that—

“(A) provide data for forecast models;

“(B) improve the monitoring and prediction of these events; and

“(C) provide essential decisionmaking tools for managers and stakeholders.”.

SEC. 11904. PURPOSES.

The Act is amended by inserting after section 602, as amended by section 11903 of this title, the following:

“SEC. 602A. PURPOSES.

“The purposes of this title are—

“(1) to provide for the development and coordination of a comprehensive and integrated national program to address harmful algal blooms and hypoxia through baseline research, monitoring, prevention, mitigation, and control;

“(2) to provide for the assessment of environmental, socioeconomic, and human health impacts of harmful algal blooms and hypoxia on a regional and national scale, and to integrate this assessment into marine and freshwater resource decisions; and

“(3) to facilitate regional, State, tribal, and local efforts to develop and implement appropriate harmful algal bloom and hypoxia response plans, strategies, and tools including outreach programs and information dissemination mechanisms.”.

SEC. 11905. INTERAGENCY TASK FORCE ON HARMFUL ALGAL BLOOMS AND HYPOXIA.

Section 603(a) is amended—

(1) in each of paragraphs (1) through (11), by striking “the” the first instance such term appears and inserting “The”;

(2) in each of paragraphs (1) through (10), by striking the semicolon and inserting a period;

(3) in paragraph (11), by striking “Quality; and” and inserting “Quality.”;

(4) by redesignating paragraph (12) as paragraph (13);

(5) by inserting after paragraph (11) the following:

“(12) The Centers for Disease Control.”;

and

(6) in paragraph (13), as redesignated, by striking “such other” and inserting “Other”.

SEC. 11906. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM.

The Act is amended by inserting after section 603 the following:

“SEC. 603A. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM.

“(a) ESTABLISHMENT.—The Under Secretary, acting through the Task Force established under section 603(a), shall establish and maintain a national harmful algal bloom and hypoxia program in accordance with this section.

“(b) ACTION STRATEGY.—

“(1) IN GENERAL.—The Task Force shall develop a national harmful algal blooms and hypoxia action strategy that—

“(A) is consistent with the purposes of this title;

“(B) includes a statement of goals and objectives; and

“(C) includes an implementation plan.

“(2) PUBLICATION.—Once the action strategy is developed, the Task Force shall—

“(A) submit the action strategy to Congress; and

“(B) publish the action strategy in the Federal Register.

“(3) PERIODIC REVISION.—The Task Force shall periodically review and revise the action strategy as necessary.

“(c) TASK FORCE FUNCTIONS.—The Task Force shall—

“(1) coordinate interagency review of plans and policies of the Program;

“(2) assess interagency work and spending plans for implementing the activities of the Program;

“(3) review the Program’s distribution of Federal grants and funding to address research priorities;

“(4) support the implementation of the actions and strategies identified in the Regional Research and Action Plans under subsection (e);

“(5) support the development of institutional mechanisms and financial instruments to further the goals of the program;

“(6) coordinate and integrate the research of all Federal programs, including ocean and Great Lakes science and management programs and centers, that address the chemical, biological, and physical components of marine and freshwater harmful algal blooms and hypoxia;

“(7) expedite the interagency review process by ensuring timely review and dispersal of required reports and assessments under this title;

“(8) promote the development of new technologies for predicting, monitoring, and mitigating harmful algal blooms and hypoxia conditions; and

“(9) establish such interagency working groups that the Task Force determines to be necessary.

“(d) LEAD FEDERAL AGENCY.—The National Oceanic and Atmospheric Administration shall have primary responsibility for administering the Program.

“(e) PROGRAM DUTIES.—In administering the Program, the Under Secretary shall—

“(1) develop and promote a national strategy to understand, detect, predict, control, mitigate, and respond to marine and freshwater harmful algal bloom and hypoxia events;

“(2) prepare work and spending plans for implementing the activities of the Program and developing and implementing the Regional Research and Action Plans;

“(3) administer merit-based, competitive grant funding—

“(A) to support the projects maintained and established by the Program; and

“(B) to address the research and management needs and priorities identified in the Regional Research and Action Plans;

“(4) coordinate and work cooperatively with regional, State, tribal, and local government agencies and programs that address marine and freshwater harmful algal blooms and hypoxia;

“(5) coordinate with the Secretary of State to support international efforts on marine and freshwater harmful algal bloom and hypoxia information sharing, research, mitigation, control, and response activities;

“(6) identify additional research, development, and demonstration needs and priorities relating to monitoring, prevention, control, mitigation, and response to marine and freshwater harmful algal blooms and hypoxia, including methods and technologies to protect the ecosystems affected by marine and freshwater harmful algal blooms;

“(7) integrate, coordinate, and augment existing education programs to improve public understanding and awareness of the causes, impacts, and mitigation efforts for marine and freshwater harmful algal blooms and hypoxia;

“(8) facilitate and provide resources for training State and local coastal and water resource managers in the methods and technologies for monitoring, controlling, and mitigating marine and freshwater harmful algal blooms and hypoxia;

“(9) support regional efforts to control and mitigate outbreaks through—

“(A) communication of the contents of the Regional Research and Action Plans and maintenance of online data portals for other information about harmful algal blooms and hypoxia to State and local stakeholders within the region for which each plan is developed; and

“(B) overseeing the development, review, and periodic updating of Regional Research and Action Plans;

“(10) convene at least 1 meeting of the Task Force each year; and

“(11) perform such other tasks as may be delegated by the Task Force.

“(f) NOAA ACTIVITIES.—The Under Secretary shall—

“(1) maintain and enhance the following existing competitive programs at the National Oceanic and Atmospheric Administration relating to marine and freshwater algal blooms and hypoxia;

“(2) carry out marine and Great Lakes harmful algal bloom and hypoxia events response activities;

“(3) carry out, in coordination with the Environmental Protection Agency, other freshwater harmful algal bloom and hypoxia events response activities;

“(4) establish new programs and infrastructure as necessary to develop and enhance the critical observations, monitoring, modeling, data management, information dissemination, and operational forecasts required to meet the purposes of this title;

“(5) enhance communication and coordination among Federal agencies carrying out marine and freshwater harmful algal bloom and hypoxia activities; and

“(6) increase the availability to appropriate public and private entities of—

“(A) analytical facilities and technologies;

“(B) operational forecasts; and

“(C) reference and research materials.

“(g) COOPERATIVE EFFORTS.—The Under Secretary shall work cooperatively and avoid duplication of effort with other offices, centers, and programs within NOAA, other agencies represented on the Task Force, and States, tribes, and nongovernmental organizations concerned with marine and aquatic

issues to coordinate harmful algal blooms and hypoxia and related activities and research.

“(h) FRESHWATER PROGRAM.—With respect to the freshwater aspects of the Program, other than aspects occurring in the Great Lakes, the Administrator, in consultation with the Under Secretary, through the Task Force, shall—

“(1) carry out the duties otherwise assigned to the Under Secretary under this section and section 603B, including the activities described in subsection (f);

“(2) research the ecology of freshwater harmful algal blooms;

“(3) monitor and respond to freshwater harmful algal blooms events in lakes other than the Great Lakes, rivers, and reservoirs;

“(4) mitigate and control freshwater harmful algal blooms; and

“(5) identify in the President’s annual budget request to Congress how much funding is proposed to carry out the activities proposed in subsection (f).

“(i) INTEGRATED COASTAL AND OCEAN OBSERVATION SYSTEM.—The collection of monitoring and observation data under this title shall comply with all data standards and protocols developed pursuant to the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 et seq.). Such data shall be made available through the system established under that Act.”

SEC. 11907. REGIONAL RESEARCH AND ACTION PLANS.

The Act, as amended by section 11906, is further amended by inserting after section 603A the following:

“SEC. 603B. REGIONAL RESEARCH AND ACTION PLANS.

“(a) IN GENERAL.—In administering the Program, the Under Secretary shall—

“(1) identify appropriate regions and subregions to be addressed by each Regional Research and Action Plan; and

“(2) oversee the development and implementation of Regional Research and Action Plans.

“(b) PLAN DEVELOPMENT.—The Under Secretary shall develop and submit to the Task Force for approval a regional research and action plan for each region, which shall build upon any existing State or regional plans the Under Secretary determines to be appropriate and shall identify appropriate elements for the region, including—

“(1) baseline ecological, social, and economic research needed to understand the biological, physical, and chemical conditions that cause, exacerbate, and result from harmful algal blooms and hypoxia;

“(2) regional priorities for ecological and socio-economic research on issues related to, and impacts of, harmful algal blooms and hypoxia;

“(3) research, development, and demonstration activities needed to develop and advance technologies and techniques for minimizing the occurrence of harmful algal blooms and hypoxia and improving capabilities to predict, monitor, prevent, control, and mitigate harmful algal blooms and hypoxia;

“(4) State, tribal, and local government actions that may be implemented—

“(A) to support long-term monitoring efforts and emergency monitoring as needed;

“(B) to minimize the occurrence of harmful algal blooms and hypoxia;

“(C) to reduce the duration and intensity of harmful algal blooms and hypoxia in times of emergency;

“(D) to address human health dimensions of harmful algal blooms and hypoxia; and

“(E) to identify and protect vulnerable ecosystems that could be, or have been, affected by harmful algal blooms and hypoxia;

“(5) mechanisms by which data, information, and products are transferred between the Program and State, tribal, and local governments and research entities;

“(6) communication, outreach and information dissemination efforts that State, tribal, and local governments and stakeholder organizations can undertake to educate and inform the public concerning harmful algal blooms and hypoxia and alternative coastal resource-utilization opportunities that are available; and

“(7) the roles Federal agencies can play to help facilitate implementation of the plans.

“(c) CONSULTATION.—In developing plans under this section, the Under Secretary shall—

“(1) coordinate with State coastal management and planning officials;

“(2) coordinate with tribal resource management officials;

“(3) coordinate with water management and watershed officials from coastal States and noncoastal States with water sources that drain into water bodies affected by harmful algal blooms and hypoxia;

“(4) coordinate with the Administrator and such other Federal agencies as the Under Secretary determines to be appropriate; and

“(5) consult with—

“(A) public health officials;

“(B) emergency management officials;

“(C) science and technology development institutions;

“(D) economists;

“(E) industries and businesses affected by marine and freshwater harmful algal blooms and hypoxia;

“(F) scientists, with expertise concerning harmful algal blooms or hypoxia, from academic or research institutions; and

“(G) other stakeholders.

“(d) BUILDING ON AVAILABLE STUDIES AND INFORMATION.—In developing plans under this section, the Under Secretary shall—

“(1) utilize and build on existing research, assessments, and reports, including those carried out pursuant to existing law and other relevant sources; and

“(2) consider the impacts, research, and existing program activities of all United States coastlines and fresh and inland waters, including the Great Lakes, the Chesapeake Bay, and estuaries and tributaries.

“(e) SCHEDULE.—The Under Secretary shall—

“(1) begin development of plans in at least $\frac{1}{3}$ of the regions not later than 9 months after the date of the enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010;

“(2) begin development of plans in at least another $\frac{1}{3}$ of the regions not later than 21 months after such date;

“(3) begin development of plans in the remaining regions not later than 33 months after such date; and

“(4) ensure that each Regional Research and Action Plan developed under this section is—

“(A) completed and approved by the Under Secretary not later than 12 months after the date on which the development of such plan begins; and

“(B) updated not less frequently than once every 5 years after the completion of such plan.

“(f) FUNDING.—

“(1) IN GENERAL.—Subject to available appropriations, the Under Secretary shall make funding available to eligible organiza-

tions to implement the research, monitoring, forecasting, modeling, and response actions included under each approved Regional Research and Action Plan. The Program shall select recipients through a merit-based, competitive process and seek to fund research proposals that most effectively align with the research priorities identified in the relevant Regional Research and Action Plan.

“(2) APPLICATION; ASSURANCES.—Any organization seeking funding under this subsection shall submit an application to the Program at such time, in such form and manner, and containing such information and assurances as the Program may require. The Program shall require any organization receiving funds under this subsection to utilize the mechanisms described in subsection (e)(5) to ensure the transfer of data and products developed under the Plan.

“(3) ELIGIBLE ORGANIZATION.—In this subsection, the term ‘eligible organization’ means—

“(A) an institution of higher education, other non-profit organization, State, tribal, or local government, commercial organization, or Federal agency that meets the requirements of this section and such other requirements as may be established by the Under Secretary; and

“(B) with respect to nongovernmental organizations, an organization that is subject to regulations promulgated or guidelines issued to carry out this section, including United States audit requirements that are applicable to nongovernmental organizations.”

SEC. 11908. REPORTING.

Section 603 is amended by adding at the end the following:

“(j) REPORT.—Not later than 2 years after the submission of the action strategy under section 603A, the Under Secretary shall submit a report to the appropriate congressional committees that describes—

“(1) the proceedings of the annual Task Force meetings;

“(2) the activities carried out under the Program and the Regional Research and Action Plans, and the budget related to these activities;

“(3) the progress made on implementing the action strategy; and

“(4) the need to revise or terminate activities or projects under the Program.

“(k) PROGRAM REPORT.—Not later than 5 years after the date of enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010, the Task Force shall submit a report on harmful algal blooms and hypoxia in marine and freshwater systems to Congress that—

“(1) evaluates the state of scientific knowledge of harmful algal blooms and hypoxia in marine and freshwater systems, including their causes and ecological consequences;

“(2) evaluates the social and economic impacts of harmful algal blooms and hypoxia, including their impacts on coastal communities, and review those communities’ efforts and associated economic costs related to event forecasting, planning, mitigation, response, and public outreach and education;

“(3) examines and evaluates the human health impacts of harmful algal blooms and hypoxia, including any gaps in existing research;

“(4) describes advances in capabilities for monitoring, forecasting, modeling, control, mitigation, and prevention of harmful algal blooms and hypoxia, including techniques for, integrating landscape- and watershed-level water quality information into marine

and freshwater harmful algal bloom and hypoxia prevention and mitigation strategies at Federal and regional levels;

“(5) evaluates progress made by, and the needs of, Federal, regional, State, tribal, and local policies and strategies for forecasting, planning, mitigating, preventing, and responding to harmful algal blooms and hypoxia, including the economic costs and benefits of such policies and strategies;

“(6) includes recommendations for integrating, improving, and funding future Federal, regional, State, tribal, and local policies and strategies for preventing and mitigating the occurrence and impacts of harmful algal blooms and hypoxia;

“(7) describes communication, outreach, and education efforts to raise public awareness of harmful algal blooms and hypoxia, their impacts, and the methods for mitigation and prevention; and

“(8) describes extramural research activities carried out under section 605(b).”.

SEC. 11909. NORTHERN GULF OF MEXICO HYPOXIA.

Section 604 is amended to read as follows: **“SEC. 604. NORTHERN GULF OF MEXICO HYPOXIA.**

“(a) **TASK FORCE INITIAL PROGRESS REPORTS.**—Beginning not later than 12 months after the date of the enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2010, the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force shall submit an annual report to the appropriate congressional committees and the President that describes the progress made by Task Force-directed activities carried out or funded by the Environmental Protection Agency Gulf of Mexico Program Office toward attainment of the goals of the Gulf Hypoxia Action Plan 2008.

“(b) **TASK FORCE 2-YEAR PROGRESS REPORTS.**—Beginning 2 years after the date on which the Administrator submits the report required under subsection (a), and every 2 years thereafter, the Administrator, through the Task Force, shall submit a report to the appropriate congressional committees and the President that describes the progress made by Task Force-directed activities and activities carried out or funded by the Environmental Protection Agency Gulf of Mexico Program Office toward attainment of the goals of the Gulf Hypoxia Action Plan 2008.

“(c) **CONTENTS.**—Each report required under this section shall—

“(1) assess the progress made toward nutrient load reductions, the response of the hypoxic zone and water quality throughout the Mississippi/Atchafalaya River Basin, and the economic and social effects;

“(2) evaluate lessons learned; and

“(3) recommend appropriate actions to continue to implement or, if necessary, revise the strategy set forth in the Gulf Hypoxia Action Plan 2008.”.

SEC. 11910. AUTHORIZATION OF APPROPRIATIONS.

Section 605 is amended to read as follows: **“SEC. 605. AUTHORIZATION OF APPROPRIATIONS.**

“(a) **IN GENERAL.**—There are authorized to be appropriated, for each of the fiscal years 2011 through 2015—

“(1) to the Under Secretary to carry out sections 603A and 603B, \$34,000,000, of which—

“(A) \$2,000,000 may be used for the development of Regional Research and Action Plans and the reports required under section 603B;

“(B) \$3,000,000 may be used for the research and assessment activities related to marine and freshwater harmful algal blooms at NOAA research laboratories;

“(C) \$8,000,000 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms Program (ECOHAB);

“(D) \$5,500,000 may be used to carry out the Monitoring and Event Response for Harmful Algal Blooms Program (MERHAB);

“(E) \$1,500,000 may be used to carry out the Northern Gulf of Mexico Ecosystems and Hypoxia Assessment Program (MERHAB);

“(F) \$5,000,000 may be used to carry out the Coastal Hypoxia Research Program (CHRP);

“(G) \$5,000,000 may be used to carry out the Prevention, Control, and Mitigation of Harmful Algal Blooms Program (PCM);

“(H) \$1,000,000 may be used to carry out the Event Response Program; and

“(I) \$3,000,000 may be used to carry out the Infrastructure Program; and

“(2) to the Administrator to carry out sections 603A(h) and 604, \$7,000,000.

“(b) **EXTRAMURAL RESEARCH ACTIVITIES.**—The Under Secretary shall ensure that a substantial portion of funds appropriated pursuant to subsection (a) that are used for research purposes are allocated to extramural research activities.”.

SEC. 11911. DEFINITIONS.

(a) **IN GENERAL.**—The Act is amended by inserting after section 605 the following:

“SEC. 605A. DEFINITIONS.

“In this title:

“(1) **ADMINISTRATOR.**—The term ‘Administrator’ means the Administrator of the NOAA.

“(2) **HARMFUL ALGAL BLOOM.**—The term ‘harmful algal bloom’ means marine and freshwater phytoplankton that proliferate to high concentrations, resulting in nuisance conditions or harmful impacts on marine and aquatic ecosystems, coastal communities, and human health through the production of toxic compounds or other biological, chemical, and physical impacts of the algae outbreak.

“(3) **HYPOXIA.**—The term ‘hypoxia’ means a condition where low dissolved oxygen in aquatic systems causes stress or death to resident organisms.

“(4) **NOAA.**—The term ‘NOAA’ means the National Oceanic and Atmospheric Administration.

“(5) **PROGRAM.**—The term ‘Program’ means the Integrated Harmful Algal Bloom and Hypoxia Program established under section 603A.

“(6) **REGIONAL RESEARCH AND ACTION PLAN.**—The term ‘Regional Research and Action Plan’ means a plan established under section 603B.

“(7) **STATE.**—The term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, and any Indian tribe.

“(8) **TASK FORCE.**—The term ‘Task Force’ means the Interagency Task Force established by section 603(a).

“(9) **UNDER SECRETARY.**—The term ‘Under Secretary’ means the Under Secretary of Commerce for Oceans and Atmosphere.”.

“(10) **UNITED STATES COASTAL WATERS.**—The term ‘United States coastal waters’ includes the Great Lakes.”.

(b) **CONFORMING AMENDMENT.**—Section 603(a) is amended by striking “Hypoxia (hereinafter referred to as the ‘Task force’).” and inserting “Hypoxia.”.

SEC. 11912. APPLICATION WITH OTHER LAWS.

The Act is amended by inserting after section 606 the following:

“SEC. 607. EFFECT ON OTHER FEDERAL AUTHORITY.

“Nothing in this title supersedes or limits the authority of any agency to carry out its

responsibilities and missions under other laws.”.

TITLE CXX—CHESAPEAKE BAY SCIENCE, EDUCATION AND ECOSYSTEM ENHANCEMENT

SEC. 12001. SHORT TITLE.

This title may be cited as the “Chesapeake Bay Science, Education, and Ecosystem Enhancement Act of 2010”.

SEC. 12002. REAUTHORIZATION OF CHESAPEAKE BAY OFFICE OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

Section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “(1) The Secretary” and inserting the following:

“(1) **IN GENERAL.**—The Secretary”; and

(ii) by striking “(in this section referred to as the ‘Office’);” and

(B) by striking paragraphs (2) and (3) and inserting the following:

“(2) **DIRECTOR.**—

“(A) **IN GENERAL.**—The Office shall be headed by a Director, who shall be selected by the Secretary of Commerce from among individuals who have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

“(B) **DUTIES.**—The Director shall be responsible for—

“(i) the administration and operation of the Office; and

“(ii) carrying out the provisions of this section.”; and

(2) in subsection (b)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

“(b) **PURPOSE.**—The purpose of this section is to focus the relevant science, research, and resource management capabilities of the National Oceanic and Atmospheric Administration as they apply to the Chesapeake Bay, and to utilize the Office to—”;

(B) in paragraph (2), by striking “Secretary of Commerce” and inserting “Administrator”;

(C) in paragraph (3)—

(i) by striking the matter preceding subparagraph (A) and inserting the following:

“(3) coordinate with the programs and activities of the National Oceanic and Atmospheric Administration in furtherance of its coastal and ocean resource stewardship mission, including—”;

(ii) in subparagraph (A)—

(I) in clauses (vi) and (vii), by striking “and” after each semicolon; and

(II) by inserting after clause (vii) the following:

“(viii) coastal hazards, resilient coastal communities, and climate change; and

“(ix) research, scientific assessment, and adaptation to climate change; and”;

(iii) in subparagraph (B)—

(I) in clause (iii), by striking “and” after the semicolon;

(II) in clause (iv), by inserting “and” after the semicolon; and

(III) by adding at the end the following:

“(v) integrated ecosystem assessments.”;

(D) in paragraph (4), by inserting “as appropriate to further the purposes of this section” before the semicolon at the end;

(E) by striking paragraph (5);

(F) by redesignating paragraph (6) as paragraph (5);

(G) by striking paragraph (7); and

(H) by adding at the end the following:

“(6) perform such functions as may be necessary to support the programs referred to in paragraph (3).”; and

(3) by striking subsections (c), (d), and (e) and inserting the following:

“(c) PROGRAM ACTIVITIES.—

“(1) IN GENERAL.—The Director shall implement the program activities required under this subsection—

“(A) to support the activity of the Chesapeake Executive Council; and

“(B) to further the purposes of this section.

“(2) ENSURING SCIENTIFIC AND TECHNICAL MERIT.—The Director shall—

“(A) establish and utilize an effective and transparent mechanism to ensure that projects funded under this section have undergone appropriate peer review, using, to the extent practicable, the capabilities of the Maryland and Virginia Sea Grant Program;

“(B) provide other appropriate means to determine that such projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area; and

“(C) ensure that all data and other products generated by any project funded under this section be provided to the Director.

“(3) CONSULTATION WITH CHESAPEAKE EXECUTIVE COUNCIL.—In implementing the program activities authorized under this section, the Director shall consult with the Chesapeake Executive Council to ensure that the activities of the Office are consistent with the purposes and priorities of the Chesapeake Bay Agreement and plans developed pursuant to the Agreement.

“(4) INTEGRATED COASTAL OBSERVATIONS AND MAPPING.—

“(A) IN GENERAL.—The Director shall collaborate with scientific and academic institutions, Federal and State agencies, nongovernmental organizations, and other constituents in the Chesapeake Bay watershed—

“(i) to incorporate Chesapeake Bay observations into the United States Integrated Ocean Observation System; and

“(ii) to coordinate coastal mapping requirements and projects.

“(B) SPECIFIC REQUIREMENTS.—To support the actions described in subparagraph (A) and provide a complete set of environmental information for the Chesapeake Bay, the Director shall—

“(i) coordinate existing monitoring, observing, and mapping activities in the Chesapeake Bay;

“(ii) identify new data collection needs and deploy new technologies, as appropriate;

“(iii) facilitate the collection and analysis of the scientific information necessary for the management of living marine resources and the marine habitat associated with such resources;

“(iv) coordinate with regional partners to manage and interpret the information described in clause (iii); and

“(v) support regional partners to ensure the information described in clause (iii) is organized into products that are useful to policy makers, resource managers, scientists, and the public.

“(C) CHESAPEAKE BAY INTERPRETIVE BUOY SYSTEM.—To further the development and implementation of the Chesapeake Bay Interpretive Buoy System, the Director shall—

“(i) support the establishment and implementation of the Captain John Smith Chesapeake National Historic Trail;

“(ii) delineate key waypoints along the trail and provide appropriate real-time data and information for trail users;

“(iii) interpret data and information for use by educators and students to inspire stewardship of Chesapeake Bay; and

“(iv) incorporate the Chesapeake Bay Interpretive Buoy System into the Integrated Ocean Observing System regional network of observatories, in keeping with the purposes of the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 et seq.).

“(5) CHESAPEAKE BAY WATERSHED EDUCATION AND TRAINING PROGRAM.—

“(A) IN GENERAL.—The Director shall establish a Chesapeake Bay watershed education and training program, which shall—

“(i) continue and expand the Chesapeake Bay watershed education programs offered by the Office on the day before the date of the enactment of the Chesapeake Bay Science, Education, and Ecosystem Enhancement Act of 2010;

“(ii) improve the understanding of elementary and secondary school students and teachers of the living resources of the ecosystem of the Chesapeake Bay;

“(iii) provide community education to improve watershed protection; and

“(iv) meet the educational goals of the most recent Chesapeake Bay Agreement.

“(B) GRANT PROGRAM.—The Director shall, subject to the availability of appropriations, award grants to support education and training projects that enhance understanding and assessment of a specific environmental problem in the Chesapeake Bay watershed or a goal of the Chesapeake Bay Program, or protect or restore living resources of the Chesapeake Bay watershed, including projects that—

“(i) provide classroom education, including the development and use of distance learning and other innovative technologies, related to the Chesapeake Bay watershed;

“(ii) provide watershed educational experiences in the Chesapeake Bay watershed;

“(iii) provide professional development for teachers related to the Chesapeake Bay watershed and the dissemination of pertinent education materials oriented to varying grade levels;

“(iv) demonstrate or disseminate environmental educational tools and materials related to the Chesapeake Bay watershed;

“(v) demonstrate field methods, practices, and techniques including assessment of environmental and ecological conditions and analysis of environmental problems;

“(vi) build the capacity of organizations to deliver high quality environmental education programs; and

“(vii) educate local land use officials and decision makers on the relationship of land use to natural resource and watershed protection.

“(C) COLLABORATION.—The Director shall provide technical assistance to support the education and training program established under subparagraph (A) in collaboration with the heads of other relevant Federal agencies.

“(6) COASTAL AND LIVING RESOURCES MANAGEMENT AND HABITAT PROGRAM.—

“(A) IN GENERAL.—The Director shall establish a Chesapeake Bay coastal living resources management and habitat program to support coordinated management, protection, characterization, and restoration of priority Chesapeake Bay habitats and living resources, including oysters, blue crabs, and submerged aquatic vegetation.

“(B) ACTIVITIES.—Under the program required by subparagraph (A), the Director may, subject to the availability of appropriations, carry out or enter into grants, contracts, and cooperative agreements and provide technical assistance to support—

“(i) native oyster restoration;

“(ii) fish and shellfish aquaculture;

“(iii) establishment of submerged aquatic vegetation propagation programs;

“(iv) the development of programs that protect and restore critical coastal habitats;

“(v) habitat mapping, characterization, and assessment techniques necessary to identify, assess, and monitor restoration actions;

“(vi) application and transfer of applied scientific research and ecosystem management tools to fisheries and habitat managers;

“(vii) collection, synthesis, and sharing of information to inform and influence coastal and living resource management issues; and

“(viii) such other activities as the Director considers appropriate to carry out the program established under subparagraph (A).

“(d) REPORTS.—

“(1) IN GENERAL.—Not less frequently than once every 2 years, the Director shall submit a report to Congress that describes—

“(A) the activities of the Office; and

“(B) the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay.

“(2) ACTION PLAN.—Each report submitted under paragraph (1) shall include an action plan for the 2-year period following submission of the report, consisting of—

“(A) a list of recommended research, monitoring, and data collection activities necessary to continue implementation of the strategy under subsection (b)(2); and

“(B) recommendations to integrate the activities of the National Oceanic and Atmospheric Administration with the activities of the partners in the Chesapeake Bay Program in order to meet the commitments of the Chesapeake Bay Agreement.

“(e) AGREEMENTS.—

“(1) IN GENERAL.—The Director may, subject to the availability of appropriations, enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the provisions of this section.

“(2) USE OF OTHER RESOURCES.—For purposes of understanding, protecting, and restoring the Chesapeake Bay, the Director may use, with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency, or instrumentality of the United States, or of any State, local government, Indian tribal government, or of any political subdivision thereof if the Director receives consent from the Department, agency, instrumentality, State, government, or political subdivision concerned for such use.

“(3) DONATIONS.—The Director may accept donations of funds, other property, and services for use in understanding, protecting, and restoring the Chesapeake Bay. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

“(f) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the National Oceanic and Atmospheric Administration.

“(2) CHESAPEAKE BAY AGREEMENT.—The term ‘Chesapeake Bay Agreement’ means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the Chesapeake Bay ecosystem and are signed by the Chesapeake Executive Council.

“(3) CHESAPEAKE BAY PROGRAM.—The term ‘Chesapeake Bay Program’ means the regional Chesapeake Bay restoration partnership that includes Maryland, Pennsylvania,

Virginia, the District of Columbia, the Chesapeake Bay Commission, the Environmental Protection Agency, other appropriate Federal agencies, and participating citizen and local elected official advisory groups.

“(4) **CHESAPEAKE EXECUTIVE COUNCIL.**—The term ‘Chesapeake Executive Council’ means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that agreement.

“(5) **DIRECTOR.**—The term ‘Director’ means the Director of the Chesapeake Bay Office.

“(6) **OFFICE.**—The term ‘Office’ means the Chesapeake Bay Office established under subsection (a).

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section—

- “(1) \$17,000,000 for fiscal year 2011;
- “(2) \$18,700,000 for fiscal year 2012;
- “(3) \$20,570,000 for fiscal year 2013; and
- “(4) \$22,627,000 for fiscal year 2014.”.

TITLE CXXI—CORAL REEF CONSERVATION AMENDMENTS

SEC. 12101. SHORT TITLE.

This title may be cited as the “Coral Reef Conservation Amendments Act of 2010”.

SEC. 12102. AMENDMENT OF CORAL REEF CONSERVATION ACT OF 2000.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

SEC. 12103. PURPOSES.

Section 202 (16 U.S.C. 6401) is amended to read as follows:

“SEC. 202. PURPOSES.

“The purposes of this title are—

- “(1) to preserve, sustain, and restore the condition of coral reef ecosystems;
- “(2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities, the Nation, and the world;
- “(3) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;
- “(4) to assist in the preservation of coral reef ecosystems by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;
- “(5) to provide financial resources for those programs and projects;
- “(6) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects; and
- “(7) to provide mechanisms to prevent and minimize damage to coral reefs.”.

SEC. 12104. NATIONAL CORAL REEF ACTION STRATEGY.

Section 203 (16 U.S.C. 6402) is amended to read as follows:

“SEC. 203. NATIONAL CORAL REEF ACTION STRATEGY.

“(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of the Coral Reef Conservation Amendments Act of 2010, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives and publish in the Federal Register a na-

tional coral reef ecosystem action strategy, consistent with the purposes of this title. The Secretary shall periodically review and revise the strategy as necessary. In developing this national strategy, the Secretary may consult the Coral Reef Task Force established under Executive Order 13089 (June 11, 1998).

“(b) **GOALS AND OBJECTIVES.**—The action strategy shall include a statement of goals and objectives and an implementation plan, including a description of the funds obligated each fiscal year to advance coral reef conservation. The action strategy and implementation plan shall include discussion of—

- “(1) coastal uses and management, including land-based sources of pollution;
- “(2) climate change;
- “(3) water and air quality;
- “(4) mapping and information management;
- “(5) research, monitoring, and assessment;
- “(6) international and regional issues;
- “(7) outreach and education;
- “(8) local strategies developed by the States or Federal agencies, including regional fishery management councils; and
- “(9) conservation.”.

SEC. 12105. CORAL REEF CONSERVATION PROGRAM.

(a) **IN GENERAL.**—Section 204 (16 U.S.C. 6403) is amended—

(1) in subsection (a), by striking “Secretary, through the Administrator and” and inserting “Secretary,”;

(2) by amending subsection (c) to read as follows:

“(c) **ELIGIBILITY.**—Any natural resource management authority of a State or other government authority with jurisdiction over coral reef ecosystems, or whose activities directly or indirectly affect coral reef ecosystems, or educational or nongovernmental institutions with demonstrated expertise in the conservation of coral reef ecosystems, may submit a coral conservation proposal to the Secretary under subsection (e).”;

(3) in subsection (d)—

(A) by amending the subsection heading to read as follows:

“(d) **PROJECT DIVERSITY.**—”; and

(B) by amending paragraph (3) to read as follows:

“(3) Remaining funds shall be awarded for—

“(A) projects (with priority given to community-based local action strategies) that address emerging priorities or threats, including international and territorial priorities, or threats identified by the Secretary; and

“(B) other appropriate projects, as determined by the Secretary, including monitoring and assessment, research, pollution reduction, education, and technical support.”;

(4) by amending subsection (g) to read as follows:

“(g) **CRITERIA FOR APPROVAL.**—The Secretary may not approve a project proposal under this section unless the project is consistent with the coral reef action strategy under section 203 and will enhance the conservation of coral reef ecosystems nationally or internationally by—

- “(1) implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reef ecosystems and biodiversity;
- “(2) addressing the conflicts arising from the use of environments near coral reef ecosystems or from the use of corals, species associated with coral reef ecosystems, and coral products;

“(3) enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reef ecosystems or regulate the use and management of coral reef ecosystems;

“(4) developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems and their biodiversity, including factors that cause coral disease, ocean acidification, and bleaching;

“(5) promoting and assisting the implementation of cooperative coral reef ecosystem conservation projects that involve affected local communities, nongovernmental organizations, or others in the private sector;

“(6) increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long-term conservation, including how they function to protect coastal communities;

“(7) mapping the location, distribution, and biodiversity of coral reef ecosystems;

“(8) developing and implementing techniques to monitor and assess the status and condition of coral reef ecosystems and biodiversity;

“(9) developing and implementing cost-effective methods to restore degraded coral reef ecosystems and biodiversity;

“(10) responding to, or taking action to help mitigate the effects of, coral disease, ocean acidification, and bleaching events;

“(11) promoting activities designed to prevent or minimize damage to coral reef ecosystems, including the promotion of ecologically sound navigation and anchorages; or

“(12) promoting and assisting entities to work with local communities, and all appropriate governmental and nongovernmental organizations, to support community-based planning and management initiatives for the protection of coral reef systems.”; and

(5) in subsection (j), by striking “coral reefs” and inserting “coral reef ecosystems”.

(b) **CONFORMING AMENDMENTS.**—Subsections (b), (d), (e), (f), (h), (i), and (j) of section 204 (16 U.S.C. 6403) are each amended by striking “Administrator” each place it appears and inserting “Secretary”.

SEC. 12106. CORAL REEF CONSERVATION FUND.

Section 205 (16 U.S.C. 6404) is amended—

(1) by amending subsection (a) to read as follows:

“(a) **FUND.**—The Secretary may enter into agreements with nonprofit organizations promoting coral reef ecosystem conservation by authorizing such organizations to receive, hold, and administer amounts received pursuant to this section. Such organizations shall invest, reinvest, and otherwise administer and maintain such amounts and any interest or revenues earned in a separate interest-bearing account established by such organizations solely to support partnerships between the public and private sectors that further the purposes of this title and are consistent with the national coral reef action strategy under section 203.”;

(2) by striking “Administrator” each place such term appears and inserting “Secretary”; and

(3) in subsection (c), by striking “the grant program” and inserting “any grant program”.

SEC. 12107. AGREEMENTS; REDESIGNATIONS.

The Act (16 U.S.C. 6401 et seq.) is amended—

(1) by redesignating section 206 (16 U.S.C. 6405) as section 207;

(2) by redesignating section 207 (16 U.S.C. 6406) as section 208;

(3) by redesignating section 208 (16 U.S.C. 6407) as section 218;

(4) by redesignating section 209 (16 U.S.C. 6408) as section 219;

(5) by redesignating section 210 (16 U.S.C. 6409) as section 221; and

(6) by inserting after section 205 (16 U.S.C. 6404) the following:

“SEC. 206. AGREEMENTS.

“(a) IN GENERAL.—The Secretary may execute and perform such contracts, leases, grants, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this title.

“(b) COOPERATIVE AGREEMENTS.—In addition to the general authority provided under subsection (a), the Secretary may enter into, extend, or renegotiate agreements with universities and research centers with national or regional coral reef research institutes to conduct ecological research and monitoring explicitly aimed at building capacity for more effective resource management. Pursuant to any such agreements these institutes shall—

“(1) collaborate directly with governmental resource management agencies, nonprofit organizations, and other research organizations;

“(2) build capacity within resource management agencies to establish research priorities, plan interdisciplinary research projects and make effective use of research results; and

“(3) conduct public education and awareness programs for policy makers, resource managers, and the general public on coral reef ecosystems, best practices for coral reef and ecosystem management and conservation, their value, and threats to their sustainability.

“(c) USE OF OTHER AGENCIES’ RESOURCES.—For purposes related to the conservation, preservation, protection, restoration, or replacement of coral reefs or coral reef ecosystems and the enforcement of this title, the Secretary may use, with their consent and with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency, or instrumentality of the United States, or of any State, local government, tribal government, Territory, or possession, or of any political subdivision thereof, or of any foreign government or international organization.

“(d) AUTHORITY TO UTILIZE GRANT FUNDS.—“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may apply for, accept, and obligate research grant funding from any Federal source operating competitive grant programs if such funding furthers the purpose of this title.

“(2) EXCEPTION.—The Secretary may not apply for, accept, or obligate any grant funding under paragraph (1) for which the granting agency lacks authority to grant funds to Federal agencies, or for any purpose or subject to conditions that are prohibited by law or regulation.

“(3) USE OF FUNDS.—Appropriated funds may be used to satisfy a requirement to match grant funds with recipient agency funds, except that no grant may be accepted that requires a commitment in advance of appropriations.

“(4) DEPOSIT OF FUNDS.—Funds received from grants shall be deposited in the National Oceanic and Atmospheric Administration account for the purpose for which the grant was awarded.

“(e) TRANSFER OF FUNDS.—Under an agreement entered into pursuant to subsection (a), and subject to the availability of funds, the Secretary may transfer funds to, and

may accept transfers of funds from, Federal agencies, instrumentalities and laboratories, State and local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450(b)), organizations and associations representing Native Americans, native Hawaiians, and Native Pacific Islanders, educational institutions, nonprofit organizations, commercial organizations, and other public and private persons or entities, except that no more than 5 percent of funds appropriated to carry out this section may be transferred. The 5 percent limitation shall not apply to section 204 or 210.”.

SEC. 12108. EMERGENCY ASSISTANCE.

Section 207, as redesignated by section 12107(1) of this title, is amended to read as follows:

“SEC. 207. EMERGENCY ASSISTANCE.

“The Secretary, in cooperation with the Federal Emergency Management Agency, as appropriate, may provide assistance to any State, local, or territorial government agency with jurisdiction over coral reef ecosystems to address any unforeseen or disaster-related circumstance pertaining to coral reef ecosystems.”.

SEC. 12109. NATIONAL PROGRAM.

Section 208, as redesignated by section 12107(2) of this title, is amended to read as follows:

“SEC. 208. NATIONAL PROGRAM.

“(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may conduct activities, including activities with local, State, regional, or international programs and partners, as appropriate, to conserve coral reef ecosystems, that are consistent with this title, the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

“(b) AUTHORIZED ACTIVITIES.—Activities authorized under subsection (a) include—

“(1) mapping, monitoring, assessment, restoration, socioeconomic and scientific research that benefit the understanding, sustainable use, biodiversity, and long-term conservation of coral reef ecosystems;

“(2) enhancing public awareness, education, understanding, and appreciation of coral reef ecosystems;

“(3) removing, and providing assistance to States in removing, abandoned fishing gear, marine debris, and abandoned vessels from coral reef ecosystems to conserve living marine resources;

“(4) responding to incidents and events that threaten and damage coral reef ecosystems;

“(5) conservation and management of coral reef ecosystems;

“(6) centrally archiving, managing, and distributing data sets and providing coral reef ecosystem assessments and services to the general public with local, regional, or international programs and partners; and

“(7) activities designed to prevent or minimize damage to coral reef ecosystems, including those activities described in section 212.

“(c) DATA ARCHIVE, ACCESS, AND AVAILABILITY.—The Secretary, in coordination with similar efforts at other Departments and agencies shall provide for the long-term stewardship of environmental data, products, and information via data processing, storage,

and archive facilities pursuant to this title. The Secretary may—

“(1) archive environmental data collected by Federal, State, local agencies, and tribal organizations and federally funded research;

“(2) promote widespread availability and dissemination of environmental data and information through full and open access and exchange to the greatest extent possible, including in electronic format on the Internet;

“(3) develop standards, protocols, and procedures for sharing Federal data with State and local government programs and the private sector or academia; and

“(4) develop metadata standards for coral reef ecosystems in accordance with Federal Geographic Data Committee guidelines.

“(d) EMERGENCY RESPONSE, STABILIZATION, AND RESTORATION.—

“(1) ESTABLISHMENT OF ACCOUNT.—The Secretary shall establish an account, to be known as the Emergency Response, Stabilization, and Restoration Account (referred to in this subsection as the ‘Account’), in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), for implementation of this subsection for emergency actions. Amounts appropriated for the Account under section 219, and funds authorized by sections 213(d)(1)(C)(ii) and 214(f)(3)(B), shall be deposited into the Account and made available for use by the Secretary as specified in sections 213 and 214.

“(2) DEPOSIT AND INVESTMENT OF CERTAIN FUNDS.—Any amounts received by the United States pursuant to sections 213(d)(1)(C)(ii) and 212(f)(3)(B) shall be deposited into the Account. The Secretary of Commerce may request the Secretary of the Treasury to invest such portion of the Damage Assessment Restoration Revolving Fund that the Secretary of Commerce determines is not required to meet the current needs of the Fund. Such investments shall be made by the Secretary of the Treasury in public debt securities, with maturities suitable to the needs of the Fund, as determined by the Secretary of Commerce and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned by such investments shall be available for use by the Secretary without further appropriation and remain available until expended.”.

SEC. 12110. STUDY OF TRADE IN CORALS.

(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Secretary of the Interior, shall conduct a study on the economic, social, and environmental values and impacts of the United States market in corals and coral products.

(b) CONTENTS.—The study shall—

(1) assess the economic and other values of the United States market in coral and coral products, including import and export trade;

(2) identify primary coral species used in the coral and coral product trade and locations of wild harvest;

(3) assess the environmental impacts associated with wild harvest of coral;

(4) assess the effectiveness of current public and private programs aimed at promoting conservation in the coral and coral product trade;

(5) identify economic and other incentives for coral reef conservation as part of the coral and coral product trade; and

(6) identify additional actions, if necessary, to ensure that the United States market in coral and coral products does not

contribute to the degradation of coral reef ecosystems.

(c) **REPORT.**—Not later than 30 months after the date of the enactment of this Act, the Secretary shall submit a report of the study conducted under this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$100,000 to the Secretary to carry out this section.

SEC. 12111. INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.

The Act is amended by inserting after section 208, as redesignated by section 12107(2) of this title, the following:

“SEC. 209. INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.

“(a) **INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.**—

“(1) **IN GENERAL.**—The Secretary shall carry out international coral reef conservation activities consistent with the purposes of this title with respect to coral reef ecosystems in waters outside the jurisdiction of the United States. The Secretary shall develop and implement an international coral reef ecosystem strategy pursuant to subsection (b).

“(2) **COORDINATION.**—In carrying out this subsection, the Secretary—

“(A) shall consult with the Secretary of State, the Administrator of the Agency for International Development, the Secretary of the Interior, and other relevant Federal agencies, and relevant United States stakeholders;

“(B) shall take into account coral reef ecosystem conservation initiatives of other nations, international agreements, and intergovernmental and nongovernmental organizations so as to provide effective cooperation and efficiencies in international coral reef conservation; and

“(C) may consult with the Coral Reef Task Force.

“(b) **INTERNATIONAL CORAL REEF ECOSYSTEM STRATEGY.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of the Coral Reef Conservation Amendments Act of 2010, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Foreign Affairs of the House of Representatives, and publish in the Federal Register, an international coral reef ecosystem strategy, consistent with the purposes of this title and the national strategy required under section 203(a). The Secretary shall periodically review and revise this strategy as necessary.

“(2) **CONTENTS.**—The strategy developed by the Secretary under paragraph (1) shall—

“(A) identify coral reef ecosystems throughout the world that are of high value for United States marine resources, that support high-seas resources of importance to the United States such as fisheries, or that support other interests of the United States;

“(B) summarize existing activities by Federal agencies and entities described in subsection (a)(2) to address the conservation of coral reef ecosystems identified pursuant to subparagraph (A);

“(C) establish goals, objectives, and specific targets for conservation of priority international coral reef ecosystems;

“(D) describe appropriate activities to achieve the goals and targets for international coral reef conservation, in particular those that leverage activities already conducted under this title;

“(E) develop a plan to coordinate implementation of the strategy with entities described in subsection (a)(2) in order to leverage current activities under this title and other conservation efforts globally;

“(F) identify appropriate partnerships, grants, or other funding and technical assistance mechanisms to carry out the strategy; and

“(G) develop criteria for prioritizing partnerships under subsection (c).

“(c) **INTERNATIONAL CORAL REEF ECOSYSTEM PARTNERSHIPS.**—

“(1) **IN GENERAL.**—The Secretary shall establish an international coral reef ecosystem partnership program to provide support, including funding and technical assistance, for activities that implement the strategy developed pursuant to subsection (b).

“(2) **MECHANISMS.**—The Secretary shall provide the support described in paragraph (1) through existing authorities, working in collaboration with the entities described in subsection (a)(2).

“(3) **AGREEMENTS.**—The Secretary may execute and perform such contracts, leases, grants, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this section.

“(4) **TRANSFER OF FUNDS.**—To implement this section and subject to the availability of funds, the Secretary may—

“(A) transfer funds to a foreign government or international organization; and

“(B) accept transfers of funds from entities described in subparagraph (A), except that not more than 5 percent of the funds appropriated to carry out this section may be transferred.

“(5) **CRITERIA FOR APPROVAL.**—The Secretary may not approve a partnership proposal under this section unless the partnership—

“(A) is consistent with the international coral reef conservation strategy developed pursuant to subsection (b); and

“(B) meets the criteria specified in such strategy.”.

SEC. 12112. COMMUNITY-BASED PLANNING GRANTS.

The Act is amended by inserting after section 209, as added by section 12111 of this title, the following:

“SEC. 210. COMMUNITY-BASED PLANNING GRANTS.

“(a) **IN GENERAL.**—The Secretary may award grants to entities that have received grants under section 204 to provide additional funds to such entities to work with local communities and through appropriate Federal and State entities to prepare and implement plans for the increased protection of coral reef areas identified by the community and scientific experts as high priorities for focused attention. These plans shall—

“(1) support the attainment of 1 or more of the criteria described in section 204(g);

“(2) be developed at the community level;

“(3) utilize watershed-based approaches;

“(4) provide for coordination with Federal and State experts and managers; and

“(5) build upon local approaches, strategies, or models, including traditional or island-based resource management concepts.

“(b) **TERMS AND CONDITIONS.**—The provisions of subsections (b), (d), (f), and (h) of section 204 apply to grants awarded under subsection (a), except that, for the purpose of applying section 204(b)(1) to grants under this section, ‘75 percent’ shall be substituted for ‘50 percent’.”.

SEC. 12113. VESSEL GROUNDING INVENTORY.

The Act is amended by inserting after section 210, as added by section 12112 of this title, the following:

“SEC. 211. VESSEL GROUNDING INVENTORY.

“(a) **IN GENERAL.**—The Secretary may maintain an inventory of all vessel grounding incidents involving coral reefs, including a description of—

“(1) the impacts to affected coral reef ecosystems;

“(2) vessel and ownership information, if available;

“(3) the estimated cost of removal, mitigation, or restoration;

“(4) the response action taken by the owner, the Secretary, the Commandant of the Coast Guard, or other Federal or State agency representatives;

“(5) the status of the response action, including the dates of vessel removal and mitigation or restoration and any actions taken to prevent future grounding incidents; and

“(6) recommendations for additional navigational aids or other mechanisms for preventing future grounding incidents.

“(b) **IDENTIFICATION OF AT-RISK REEFS.**—The Secretary may—

“(1) use information from any inventory maintained under subsection (a) or any other available information source to identify coral reef ecosystems that have a high incidence of vessel impacts, including groundings and anchor damage;

“(2) identify appropriate measures, including the acquisition and placement of aids to navigation, moorings, designated anchorage areas, fixed anchors and other devices, to reduce the likelihood of such impacts; and

“(3) develop a strategy and timetable to implement such measures, including cooperative actions with other government agencies and nongovernmental partners.”.

SEC. 12114. PROHIBITED ACTIVITIES.

(a) **IN GENERAL.**—The Act is amended by inserting after section 211, as added by section 12113 of this title, the following:

“SEC. 212. PROHIBITED ACTIVITIES AND SCOPE OF PROHIBITIONS.

“(a) **PROVISIONS AS COMPLEMENTARY.**—The provisions of this section are in addition to, and shall not affect the operation of, other Federal, State, or local laws or regulations providing protection to coral reef ecosystems.

“(b) **DESTRUCTION, LOSS, TAKING, OR INJURY.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), it is unlawful for any person to destroy, take, cause the loss of, or injure any coral reef or any component thereof.

“(2) **EXCEPTIONS.**—The destruction, loss, taking, or injury of a coral reef or any component thereof is not unlawful if it—

“(A) was caused by the use of fishing gear used in a manner permitted under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or other Federal or State law;

“(B) was caused by an activity that is authorized or allowed by Federal or State law (including lawful discharges from vessels, such as graywater, cooling water, engine exhaust, ballast water, or sewage from marine sanitation devices), unless the destruction, loss, or injury resulted from actions such as vessel groundings, vessel scrapings, anchor damage, excavation not authorized by Federal or State permit, or other similar activities;

“(C) was the necessary result of bona fide marine scientific research (including marine scientific research activities approved by Federal, State, or local permits), other than excessive sampling or collecting, or actions such as vessel groundings, vessel scrapings, anchor damage, excavation, or other similar activities;

“(D) could not be reasonably avoided and was caused by a Federal Government agency during—

“(i) an emergency that posed an unacceptable threat to human health or safety or to the marine environment;

“(ii) an emergency that posed a threat to national security; or

“(iii) an activity necessary for law enforcement or search and rescue; or

“(E) was caused by an action taken by the master of the vessel in an emergency situation to ensure the safety of the vessel or to save a life at sea.

“(C) INTERFERENCE WITH ENFORCEMENT.—It is unlawful for any person to interfere with the enforcement of this title by—

“(1) refusing to permit any officer authorized to enforce this title to board a vessel (other than a vessel operated by the Department of Defense or United States Coast Guard) subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this title;

“(2) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this title or any such authorized officer in the conduct of any search or inspection performed under this title; or

“(3) submitting false information to the Secretary or any officer authorized to enforce this title in connection with any search or inspection conducted under this title.

“(d) VIOLATIONS OF TITLE, PERMIT, OR REGULATION.—It is unlawful for any person to violate any provision of this title, any permit issued pursuant to this title, or any regulation promulgated pursuant to this title.

“(e) POSSESSION AND DISTRIBUTION.—It is unlawful for any person to possess, sell, deliver, carry, transport, or ship by any means any coral taken in violation of this title.”.

(b) EMERGENCY ACTION REGULATIONS.—

(1) RULEMAKING.—The Secretary of Commerce shall—

(A) initiate a rulemaking proceeding to prescribe the circumstances and conditions under which the exception in section 212(b)(2)(E) of the Coral Reef Conservation Act of 2000, as added by subsection (a), applies; and

(B) issue a final rule pursuant to that rulemaking as soon as practicable but not later than 1 year after the date of enactment of this Act.

(2) SAVINGS PROVISION.—Nothing in this subsection may be construed to require the issuance of the regulations described in paragraph (1) before the exception provided by section 212(b)(2)(E) of the Coral Reef Conservation Act of 2000 is in effect.

SEC. 12115. DESTRUCTION OF CORAL REEFS.

The Act is amended by inserting after section 212, as added by section 12114 of this title, the following:

“SEC. 213. DESTRUCTION, LOSS, OR TAKING OF, OR INJURY TO, CORAL REEFS.

“(a) LIABILITY.—

“(1) LIABILITY TO THE UNITED STATES.—Except as provided in subsection (f), all persons who engage in an activity that is prohibited under subsection (b) or (d) of section 212, or create an imminent risk of such prohibited activity, are jointly and severally liable to the United States for an amount equal to the sum of—

“(A) response costs and damages resulting from the destruction, loss, taking, or injury, or imminent risk thereof, including damages resulting from the response actions;

“(B) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

“(C) interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

“(2) LIABILITY IN REM.—

“(A) IN GENERAL.—Any vessel used in an activity that is prohibited under subsection (b) or (d) of section 212, or creates an imminent risk of such prohibited activity, shall be liable in rem to the United States for an amount equal to the sum of—

“(i) response costs and damages resulting from such destruction, loss, or injury, or imminent risk thereof, including damages resulting from the response actions;

“(ii) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

“(iii) interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

“(B) MARITIME LIEN.—The amount of liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

“(3) DEFENSES.—A person or vessel is not liable under this subsection if that person or vessel establishes that the destruction, loss, taking, or injury was caused solely by an act of God, an act of war, or an act or omission of a third party (other than an employee or agent of the defendant or one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly with the defendant), and the person or master of the vessel acted with due care.

“(4) NO LIMIT TO LIABILITY.—Nothing in sections 30501 through 30512 of title 46, United States Code, or section 30706 of such title shall limit liability to any person under this title.

“(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

“(1) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction, loss, or taking of, or injury to, coral reefs, or components thereof, or to minimize the risk or imminent risk of such destruction, loss, or injury.

“(2) DAMAGE ASSESSMENT.—

“(A) IN GENERAL.—The Secretary shall—

“(i) assess damages (as defined in section 221(8)) to coral reefs; and

“(ii) consult with State officials regarding response and damage assessment actions undertaken for coral reefs within State waters.

“(B) NO DOUBLE RECOVERY.—There shall be no double recovery under this chapter for coral reef damages, including the cost of damage assessment, for the same incident.

“(c) COMMENCEMENT OF CIVIL ACTION FOR RESPONSE COSTS AND DAMAGES.—

“(1) COMMENCEMENT.—The Attorney General, upon the request of the Secretary, may commence a civil action against any person or vessel that may be liable under subsection (a) for response costs, seizure, forfeiture, storage, or disposal costs, and damages, and interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). The Secretary, acting as trustee for coral reefs for the United States, shall submit a request for such an action to the Attorney General whenever a person or vessel may be liable for such costs or damages.

“(2) VENUE IN CIVIL ACTIONS.—

“(A) IN GENERAL.—A civil action under this title may be brought in the United States district court for any district in which—

“(i) the defendant is located, resides, or is doing business, in the case of an action against a person;

“(ii) the vessel is located, in the case of an action against a vessel; or

“(iii) the destruction, loss, or taking of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury.

“(B) OUTSIDE UNITED STATES JURISDICTION.—If some or all of the coral reef or component thereof that is the subject of a civil action under this title is not within the territory covered by any United States district court, such action may be brought in—

“(i) the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred; or

“(ii) the United States District Court for the District of Columbia.

“(d) USE OF RECOVERED AMOUNTS.—

“(1) IN GENERAL.—Any costs, including response costs and damages recovered by the Secretary under this section shall—

“(A) be deposited into an account or accounts in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), or the Natural Resource Damage Assessment and Restoration Fund established by the Department of the Interior and Related Agencies Appropriations Act, 1992 (43 U.S.C. 1474b), as appropriate given the location of the violation;

“(B) be available for use by the Secretary without further appropriation and remain available until expended; and

“(C) be available, as the Secretary considers appropriate—

“(i) to reimburse the Secretary or any other Federal or State agency that conducted activities under subsection (a) or (b) for costs incurred in conducting the activity;

“(ii) to reimburse the Emergency Response, Stabilization, and Restoration Account established under section 208(d)(1) for amounts used for authorized emergency actions; and

“(iii) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any coral reefs, or components thereof, including the reasonable costs of monitoring, or to minimize or prevent threats of equivalent injury to, or destruction of coral reefs, or components thereof.

“(2) RESTORATION CONSIDERATIONS.—In the development of restoration alternatives under paragraph (1)(C), the Secretary shall consider State and territorial preferences and, if appropriate, shall prioritize restoration projects with geographic and ecological linkages to the injured resources.

“(e) STATUTE OF LIMITATIONS.—An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed not later than 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the coral reefs, or components thereof, to which the action relates.

“(f) FEDERAL GOVERNMENT ACTIVITIES.—In the event of threatened or actual destruction of, loss of, or injury to a coral reef or component thereof resulting from an incident caused by a component of any Department or agency of the United States Government, the cognizant Department or agency shall satisfy its obligations under this section by promptly, in coordination with the Secretary, taking appropriate actions to respond to and mitigate the harm and restoring or replacing the coral reef or components thereof and reimbursing the Secretary for all assessment costs.”.

SEC. 12116. ENFORCEMENT.

The Act is amended by inserting after section 213, as added by section 12115 of this title, the following:

“SEC. 214. ENFORCEMENT.

“(a) **IN GENERAL.**—The Secretary shall conduct enforcement activities to carry out this title.

“(b) **POWERS OF AUTHORIZED OFFICERS.**—

“(1) **IN GENERAL.**—Any person who is authorized to enforce this title may—

“(A) board, search, inspect, and seize any vessel or other conveyance suspected of being used to violate this title, any regulation promulgated under this title, or any permit issued under this title, and any equipment, stores, and cargo of such vessel, except that such authority shall not exist with respect to vessels owned or time chartered by a uniformed service (as defined in section 101 of title 10, United States Code) as warships or naval auxiliaries;

“(B) seize wherever found any component of coral reef taken or retained in violation of this title, any regulation promulgated under this title, or any permit issued under this title;

“(C) seize any evidence of a violation of this title, any regulation promulgated under this title, or any permit issued under this title;

“(D) execute any warrant or other process issued by any court of competent jurisdiction;

“(E) exercise any other lawful authority; and

“(F) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited under section 212.

“(2) **NAVAL AUXILIARY DEFINED.**—In this subsection, the term ‘naval auxiliary’ means a vessel, other than a warship, that is owned by or under the exclusive control of a uniformed service and used at the time of the destruction, take, loss or injury for government, noncommercial service, including combat logistics force vessels, pre-positioned vessels, special mission vessels, or vessels exclusively used to transport military supplies and materials.

“(c) **CIVIL ENFORCEMENT AND PERMIT SANCTIONS.**—

“(1) **CIVIL ADMINISTRATIVE PENALTY.**—Any person subject to the jurisdiction of the United States who violates this title or any regulation promulgated or permit issued under this title, shall be liable to the United States for a civil administrative penalty of not more than \$200,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation. In determining the amount of civil administrative penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, and any history of prior violations, and such other matters as justice may require. In assessing such penalty, the Secretary may also consider information related to the ability of the violator to pay.

“(2) **PERMIT SANCTIONS.**—The Secretary may deny, suspend, amend, or revoke, in whole or in part, any permit issued or applied for under this title by—

“(A) any person subject to the jurisdiction of the United States who violates this title or any regulation or permit issued under this title; or

“(B) any person who has failed to pay or defaulted on a payment agreement of any civil penalty or criminal fine or liability as-

sessed pursuant to any natural resource law administered by the Secretary.

“(3) **IMPOSITION OF CIVIL JUDICIAL PENALTIES.**—Any person who violates any provision of this title or any regulation promulgated or permit issued under this title, shall be subject to a civil judicial penalty not to exceed \$250,000 for each such violation. Each day of a continuing violation shall constitute a separate violation. The Attorney General, upon the request of the Secretary, may commence a civil action in an appropriate district court of the United States, and such court shall have jurisdiction to award civil penalties and such other relief as justice may require. In determining the amount of a civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require. In imposing such penalty, the district court may also consider information related to the ability of the violator to pay.

“(4) **NOTICE.**—No penalty or permit sanction shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

“(5) **IN REM JURISDICTION.**—A vessel used in violating this title, any regulation promulgated under this title, or any permit issued under this title, shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

“(6) **COLLECTION OF PENALTIES.**—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States (plus interest at current prevailing rates from the date of the final order). In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review. Any person who fails to pay, on a timely basis, the amount of an assessment of a civil penalty shall be required to pay, in addition to such amount and interest, attorney’s fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person’s penalties and nonpayment penalties that are unpaid as of the beginning of such quarter.

“(7) **COMPROMISE OR OTHER ACTION BY SECRETARY.**—The Secretary may compromise, modify, or remit, with or without conditions, any civil administrative penalty or permit sanction which is or may be imposed under this section and that has not been referred to the Attorney General for further enforcement action.

“(8) **JURISDICTION.**—

“(A) **IN GENERAL.**—The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this section.

“(B) **OFFENSES.**—Each violation shall be a separate offense and the offense shall be deemed to have been committed—

“(i) in the district in which the violation first occurred; and

“(ii) in any other district, as authorized by law.

“(C) **AMERICAN SAMOA.**—For the purpose of this paragraph, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.

“(d) **FORFEITURE.**—

“(1) **CRIMINAL FORFEITURE.**—

“(A) **IN GENERAL.**—A person who is convicted of an offense in violation of this title shall forfeit to the United States—

“(i) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of the offense, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

“(ii) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of the offense, including, without limitation, any vessel (including the vessel’s equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

“(B) **APPLICABILITY OF CONTROLLED SUBSTANCES ACT.**—Pursuant to section 2461(c) of title 28, United States Code, the provisions of subsections (a), (b), (c), and (e) through (q) of section 413 of the Controlled Substances Act (21 U.S.C. 853) shall apply to criminal forfeitures under this section.

“(2) **CIVIL FORFEITURE.**—Property subject to forfeiture to the United States, in accordance with the provisions of chapter 46 of title 18, United States Code, and to which no private property rights exist, includes—

“(A) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of a violation of this title, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

“(B) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of a violation of this title, including, without limitation, any vessel (including the vessel’s equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

“(3) **APPLICATION OF THE CUSTOMS LAWS.**—All provisions of law relating to seizure, summary judgment, and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale of such property, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, insofar as applicable and not inconsistent with the provisions of this section. For seizures and forfeitures of property under this section by the Secretary, the duties imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by officers designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

“(4) **PRESUMPTION.**—For the purposes of this section, there is a rebuttable presumption that all coral reefs, or components thereof, found onboard a vessel that is used or seized in connection with a violation of this title or of any regulation promulgated under this title were taken, obtained, or retained in violation of this title or of a regulation promulgated under this title.

“(e) **PAYMENT OF STORAGE, CARE, AND OTHER COSTS.**—Any person assessed a civil

penalty for a violation of this title or of any regulation promulgated under this title and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any property seized in connection with the violation.

“(f) EXPENDITURES.—

“(1) DISPOSITION OF RECEIPTS.—Notwithstanding section 3302 of title 31, United States Code, or section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861), amounts received by the United States as civil penalties under subsection (c) of this section, forfeitures of property under subsection (d) of this section, and costs imposed under subsection (e) of this section, shall—

“(A) be placed into an account;

“(B) be available for use by the Secretary without further appropriation; and

“(C) remain available until expended.

“(2) USE OF FORFEITURES AND STORAGE REIMBURSEMENTS.—Amounts received under this section for forfeitures under subsection (d) and costs imposed under subsection (e) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any property seized in connection with a violation of this title or any regulation promulgated under this title.

“(3) USE OF CIVIL PENALTIES.—Amounts received under this section as civil penalties under subsection (c) and any amounts remaining after the operation of paragraph (2) of this subsection shall be—

“(A) used to stabilize, restore, or otherwise manage the coral reef with respect to which the violation occurred that resulted in the penalty or forfeiture;

“(B) transferred to the Emergency Response, Stabilization, and Restoration Account established under section 208(d) or an account described in section 213(d)(1), to reimburse such account for amounts used for authorized emergency actions;

“(C) used to conduct monitoring and enforcement activities;

“(D) used to conduct research on techniques to stabilize and restore coral reefs;

“(E) used to conduct activities that prevent or reduce the likelihood of future damage to coral reefs;

“(F) used to stabilize, restore or otherwise manage any other coral reef; or

“(G) used to pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation promulgated under this title.

“(g) CRIMINAL ENFORCEMENT.—

“(1) INTERFERENCE WITH ENFORCEMENT.—Any person (other than a foreign government or any entity of such government) who knowingly commits any act prohibited under section 212(c)—

“(A) shall be imprisoned for not more than 5 years;

“(B) shall be fined not more than \$500,000 (for an individual) or \$1,000,000 (for an organization); and

“(C) if in the commission of any such offense the individual uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this title, or places any such officer in fear of imminent bodily injury, shall be imprisoned for not more than 10 years.

“(2) INTENTIONAL VIOLATION.—Any person (other than a foreign government or any entity of such government) who knowingly violates subsection (b), (d), or (e) of section 212

shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

“(3) NEGLIGENCE VIOLATION.—Any person (other than a foreign government or any entity of such government) who violates subsection (b), (d), or (e) of section 212, and who, in the exercise of due care should know that such person's conduct violates subsection (b), (d), or (e) of section 212, shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

“(4) JURISDICTION.—The district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this subsection. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of section 3238 of title 18, United States Code. For the purpose of this paragraph, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.

“(h) SUBPOENAS.—In the case of any investigation or hearing under this section or any other natural resource statute administered by the National Oceanic and Atmospheric Administration which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

“(i) PRESERVATION OF COAST GUARD AUTHORITY.—Nothing in this section may be construed to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

“(j) INJUNCTIVE RELIEF.—

“(1) ACTUAL OR IMMINENT RISK OF DESTRUCTION.—If the Secretary determines that there is an imminent risk of destruction or loss of, or injury to, a coral reef, or that there has been actual destruction or loss of, or injury to, a coral reef which may give rise to liability under section 213 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the coral reef, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

“(2) VIOLATION OF TITLE.—Upon the request of the Secretary, the Attorney General may seek to enjoin any person who is alleged to be in violation of any provision of this title, or any regulation or permit issued under this title, and the district courts shall have jurisdiction to grant such relief.

“(k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the internal waters of the United States, the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, the Exclusive Economic Zone of the United States as described in Presidential Proclamation 5030 of March 10, 1983, and the continental shelf, consistent with international law.

“(l) NATIONWIDE SERVICE OF PROCESS.—In any action by the United States under this title, process may be served in any district

where the defendant is found, resides, transacts business, or has appointed an agent for the service of process, and for civil cases may also be served in a place not within the United States in accordance with rule 4 of the Federal Rules of Civil Procedure.

“(m) VENUE IN CIVIL ACTIONS.—

“(1) IN GENERAL.—A civil action under this title may be brought in the United States district court for any district in which—

“(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

“(B) the vessel is located, in the case of an action against a vessel; or

“(C) the destruction of, loss of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury.

“(2) EXTRATERRITORIAL JURISDICTION.—If some or all of the coral reef or a component of the coral reef that is the subject of the action is not within the territory covered by any United States district court, such action may be brought in—

“(A) the United States district court for the district closest to the location in which the destruction, loss, injury, or risk of injury occurred; or

“(B) the United States District Court for the District of Columbia.”

SEC. 12117. PERMITS.

The Act is amended by inserting after section 214, as added by section 12116 of this title, the following:

“SEC. 215. PERMITS.

“(a) IN GENERAL.—The Secretary may issue coral reef conservation permits, in accordance with regulations issued under this title, to allow for the conduct of—

“(1) bona fide research; and

“(2) activities that would otherwise be prohibited under this title or the regulations issued under this title.

“(b) LIMITATION OF NON-RESEARCH ACTIVITIES.—The Secretary may not issue a permit under this section for activities other than for bona fide research unless the Secretary determines that—

“(1) the activity proposed to be conducted is compatible with 1 or more of the purposes set forth in section 202(b);

“(2) the activity conforms to the provisions of all other laws and regulations applicable to the area for which such permit is to be issued; and

“(3) there is no practicable alternative to conducting the activity in a manner that destroys, causes the loss of, or injures any coral reef or any component of a coral reef.

“(c) TERMS AND CONDITIONS.—The Secretary may place any terms and conditions on a permit issued under this section that the Secretary considers to be reasonable.

“(d) FEES.—

“(1) ASSESSMENT AND COLLECTION.—Subject to regulations issued under this title, the Secretary may assess and collect fees as specified in this subsection.

“(2) AMOUNT.—Any fee assessed for a permit issued under this section shall be equal to the sum of—

“(A) all costs incurred, or expected to be incurred, by the Secretary in processing the permit application, including indirect costs; and

“(B) if the permit is approved, all costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity and educating the public about the activity and coral reef resources related to the activity.

“(3) COLLECTION AND USE OF FEES.—Fees collected by the Secretary under this subsection—

“(A) shall be available for use only to the extent provided in advance in appropriations Acts; and

“(B) may be used by the Secretary for issuing and administering permits under this section.

“(4) WAIVER OR REDUCTION OF FEES.—For any fee assessed under paragraph (2) of this subsection, the Secretary may—

“(A) accept in-kind contributions in lieu of a fee; or

“(B) waive or reduce the fee.

“(e) FISHING.—Nothing in this section may be considered to require a person to obtain a permit under this section for the conduct of any fishing activities not prohibited by this title or regulations issued under this title.”.

SEC. 12118. REGIONAL, STATE, AND TERRITORIAL COORDINATION.

The Act is amended by inserting after section 215, as added by section 12117 of this title, the following:

“SEC. 216. REGIONAL, STATE, AND TERRITORIAL COORDINATION.

“(a) REGIONAL COORDINATION.—The Secretary and other Federal members of the Coral Reef Task Force shall work in coordination and collaboration with other Federal agencies, States, and United States territorial governments to implement the strategies developed under section 203, including regional and local strategies, to address multiple threats to coral reefs and coral reef ecosystems.

“(b) RESPONSE AND RESTORATION ACTIVITIES.—The Secretary shall enter into written agreements with any States in which coral reefs are located regarding the manner in which response and restoration activities will be conducted within the affected State's waters. Nothing in this subsection may be construed to limit Federal response and restoration activity authority before any such agreement is final.

“(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—All cooperative enforcement agreements in place between the Secretary and States affected by this title shall be updated to include enforcement of this title where appropriate.”.

SEC. 12119. REGULATIONS.

The Act is amended by inserting after section 216, as added by section 12118, the following:

“SEC. 217. REGULATIONS.

“(a) IN GENERAL.—The Secretary may issue such regulations as are necessary and appropriate to carry out the purposes of this title.

“(b) APPLICATION.—This title and any regulations promulgated under this title shall be applied in accordance with international law.

“(c) LIMITATION.—No restrictions under this title shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.”.

SEC. 12120. EFFECTIVENESS AND ASSESSMENT REPORT.

Section 218, as redesignated by section 12107(3) of this title, is amended to read as follows:

“SEC. 218. EFFECTIVENESS AND ASSESSMENT REPORT.

“(a) EFFECTIVENESS REPORT.—Not later than March 1, 2011, and every 3 years thereafter, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Com-

mittee on Natural Resources of the House of Representatives that describes all activities undertaken to implement the strategy, including—

“(1) a description of the funds obligated by each participating Federal agency to advance coral reef conservation during each of the 3 fiscal years after the fiscal year in which the report is submitted;

“(2) a description of Federal interagency and cooperative efforts with States and United States territories to prevent or address overharvesting, coastal runoff, or other anthropogenic impacts on coral reefs, including projects undertaken with the Department of the Interior, Department of Agriculture, the Environmental Protection Agency, and the United States Army Corps of Engineers;

“(3) a summary of the information contained in the vessel grounding inventory established under section 210, including additional authorization or funding, needed for response and removal of such vessels; and

“(4) a description of Federal disaster response actions taken pursuant to the National Response Plan to address damage to coral reefs and coral reef ecosystems.

“(b) ASSESSMENT REPORT.—Not later than March 1, 2014, and every 5 years thereafter, the Secretary will submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives that contains an assessment of the conditions of United States coral reefs, accomplishments under this title, and the effectiveness of management actions to address threats to coral reefs.”.

SEC. 12121. AUTHORIZATION OF APPROPRIATIONS.

Section 219, as redesignated by section 12107(4) of this title, is amended—

(1) by amending subsection (a) to read as follows:

“(a) AMOUNTS AUTHORIZED.—

“(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this title—

“(A) \$34,000,000 for fiscal year 2011;

“(B) \$36,000,000 for fiscal year 2012;

“(C) \$38,000,000 for fiscal year 2013; and

“(D) \$40,000,000 for each of the fiscal years 2014 through 2015.

“(2) ALLOCATIONS.—Of the amounts authorized in each fiscal year pursuant to paragraph (1)—

“(A) not less than 24 percent shall be used for the coral reef conservation grant program authorized under section 204;

“(B) not less than 6 percent shall be used for Fishery Management Councils; and

“(C) up to 10 percent shall be used for the account referred to in section 205(a).”;

(2) in subsection (b), by striking “\$1,000,000” and inserting “\$2,000,000”; and

(3) by striking subsections (c) and (d) and inserting the following:

“(c) COMMUNITY-BASED PLANNING GRANTS.—There are authorized to be appropriated to the Secretary for the 5-year period ending on September 30, 2015, \$10,000,000, which shall be used to carry out the grant program authorized under section 210 and shall remain available until expended.

“(d) INTERNATIONAL CORAL REEF CONSERVATION PROGRAM.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2011 through 2015, \$8,000,000, which shall be used to carry out international coral reef conservation activities authorized under section 209 and shall remain available until expended.”.

SEC. 12122. JUDICIAL REVIEW.

The Act is amended by inserting after section 219, as redesignated by section 12107(4) of this title, the following:

“SEC. 220. JUDICIAL REVIEW.

“(a) IN GENERAL.—Chapter 7 of title 5, United States Code, shall not apply to any action taken by the Secretary under this title, except that—

“(1) a final agency action taken by the Secretary pursuant to paragraph (1) or (2) of sections 214(c) may not be reviewed unless an interested person files a complaint, not later than 30 days after the date of such action, in the United States District Court for the appropriate district; and

“(2) a final agency action taken by the Secretary pursuant to section 215 may not be reviewed unless an interested person files a petition for review, not later than 120 days after the date of such action, in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts business that is directly affected by such action.

“(b) NO REVIEW IN ENFORCEMENT PROCEEDINGS.—Final agency action with respect to which review could have been obtained under subsection (a)(2) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

“(c) COST OF LITIGATION.—In any judicial proceeding under subsection (a), the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party if the court determines that such award is appropriate.”.

SEC. 12123. DEFINITIONS.

Section 221, as redesignated by section 12107(5) of this title, is amended to read as follows:

“SEC. 221. DEFINITIONS.

“In this title:

“(1) BIODIVERSITY.—The term ‘biodiversity’ means the variability among living organisms from all sources, including terrestrial, marine, and other aquatic ecosystems and the ecological complexes of which they are part, and diversity within species, between species, and of ecosystems.

“(2) BONA FIDE RESEARCH.—The term ‘bona fide research’ means scientific research on corals, the results of which are likely—

“(A) to be eligible for publication in a referred scientific journal;

“(B) to contribute to the basic knowledge of coral biology or ecology; or

“(C) to identify, evaluate, or resolve conservation problems.

“(3) CORAL.—The term ‘coral’ means species of the phylum Cnidaria, including—

“(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), Alcyonacea (soft corals), and Helioporacea (blue coral) of the class Anthozoa; and

“(B) all species of the families Milleporidae (fire corals) and Stylasteridae (stylasterid hydrocorals) of the class Hydrozoa.

“(4) CORAL REEF.—The term ‘coral reef’ means limestone structures composed in whole or in part of living corals, as described in paragraph (3), their skeletal remains, or both, and including other corals, associated sessile invertebrates and plants, and associated seagrasses.

“(5) CORAL REEF COMPONENT.—The term ‘coral reef component’ means any part of a coral reef, including individual living or dead corals, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

“(6) CORAL REEF ECOSYSTEM.—The term ‘coral reef ecosystem’ means the system of coral reefs and geographically associated species, habitats, and environment, including any adjacent or associated mangroves and seagrass habitats, and the processes that control its dynamics.

“(7) CORAL PRODUCTS.—The term ‘coral products’ means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

“(8) DAMAGES.—The term ‘damages’ includes—

“(A) compensation for—

“(i) the cost of replacing, restoring, or acquiring the equivalent of the coral reef, or a component of the coral reef; and

“(ii) the lost services of, or the value of the lost use of, the coral reef or component thereof, or the cost of activities to minimize or prevent threats of, equivalent injury to, or destruction of coral reefs or components thereof, pending restoration or replacement or the acquisition of an equivalent coral reef or a component of the coral reef;

“(B) the reasonable cost of damage assessments under section 213;

“(C) the reasonable costs incurred by the Secretary in implementing section 208(d);

“(D) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

“(E) the reasonable cost of curation, conservation and loss of contextual information of any coral encrusted archaeological, historical, and cultural resource;

“(F) the cost of legal actions under section 213, undertaken by the United States, associated with the destruction or loss of, or injury to, a coral reef or component thereof, including the costs of attorney time and expert witness fees; and

“(G) the indirect costs associated with the costs listed in subparagraphs (A) through (F) of this paragraph.

“(9) EMERGENCY ACTIONS.—The term ‘emergency actions’ means all necessary actions to prevent or minimize the additional destruction or loss of, or injury to, coral reefs or components of coral reefs, or to minimize the risk of such additional destruction, loss, or injury.

“(10) EXCLUSIVE ECONOMIC ZONE.—The term ‘Exclusive Economic Zone’ means the waters of the Exclusive Economic Zone of the United States under Presidential Proclamation 5030, dated March 10, 1983.

“(11) PERSON.—The term ‘person’ means any individual, private or public corporation, partnership, trust, institution, association, or any other public or private entity, whether foreign or domestic, private person or entity, or any officer, employee, agent, Department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

“(12) RESPONSE COSTS.—The term ‘response costs’ means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, a coral reef, or a component of a coral reef, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 213.

“(13) SECRETARY.—The term ‘Secretary’ means—

“(A) for purposes of sections 201 through 211, sections 218 through 220 (except as otherwise provided in subparagraph (B)), and this section, the Secretary of Commerce, acting through the Administrator of the National

Oceanic and Atmospheric Administration; and

“(B) for purposes of sections 212 through 218 and 220—

“(i) the Secretary of the Interior for any coral reef or component thereof located in (I) the National Wildlife Refuge System, (II) the National Park System, and (III) the waters surrounding Wake Island under the jurisdiction of the Secretary of the Interior, as set forth in Executive Order 11048 (27 Fed. Reg. 8851 (September 4, 1962)); or

“(ii) the Secretary of Commerce for any coral reef or component thereof located in any area not described in clause (i).

“(14) SERVICE.—The term ‘service’ means functions, ecological or otherwise, performed by a coral reef or a component of a coral reef.

“(15) STATE.—The term ‘State’ means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

“(16) TERRITORIAL SEA.—The term ‘Territorial Sea’ means the waters of the Territorial Sea of the United States under Presidential Proclamation 5928, dated December 27, 1988.”

DIVISION L—INDIAN HOMELANDS AND TRUST LAND

TITLE CXXX—LEASE AUTHORITY

SEC. 13001. SHORT TITLE.

This title may be cited as the “Blackfoot River Land Settlement Act of 2010”.

SEC. 13002. FINDING; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) it is the policy of the United States to promote tribal self-determination and economic self-sufficiency and encourage the resolution of disputes over historical claims through mutually agreed upon settlements between Indian tribes and the United States;

(2) the Shoshone-Bannock Tribes, a federally recognized Indian tribe with tribal headquarters at Fort Hall, Idaho—

(A) adopted a tribal constitution and by-laws on March 31, 1936, that were approved by the Secretary of the Interior on April 30, 1936, pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq.) (commonly known as the “Indian Reorganization Act”);

(B) has entered into various treaties with the United States, including the Second Treaty of Fort Bridger, executed on July 3, 1868; and

(C) has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union;

(3)(A) in 1867, President Andrew Johnson designated by Executive order the Fort Hall Reservation for various bands of Shoshone and Bannock Indians;

(B) the Reservation is located near the cities of Blackfoot and Pocatello in southeastern Idaho; and

(C) article 4 of the Second Treaty of Fort Bridger secured the Reservation as a “permanent home” for the Shoshone-Bannock Tribes;

(4)(A) according to the Executive order referred to in paragraph (3)(A), the Blackfoot River, as the river existed in its natural state—

(i) is the northern boundary of the Reservation; and

(ii) flows in a westerly direction along that northern boundary; and

(B) within the Reservation, land use in the River watershed is dominated by—

(i) rangeland;

(ii) dry and irrigated farming; and

(iii) residential development;

(5)(A) in 1964, the Corps of Engineers completed a local flood protection project on the River—

(i) authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 170); and

(ii) sponsored by the Blackfoot River Flood Control District No. 7;

(B) the project consisted of building levees, replacing irrigation diversion structures, replacing bridges, and channel realignment; and

(C) the channel realignment portion of the project severed various parcels of land located contiguous to the River along the boundary of the Reservation, resulting in Indian land being located north of the Realigned River and non-Indian land being located south of the Realigned River;

(6) beginning in 1999, the Cadastral Survey Office of the Bureau of Land Management conducted surveys of—

(A) 25 parcels of Indian land; and

(B) 19 parcels of non-Indian land;

(7) many non-Indian landowners and non-Indians acquiring Indian land have filed claims in the Snake River Basin Adjudication seeking water rights that included a place of use on Indian land; and

(8) the enactment of this Act and the distribution of funds in accordance with section 13012(b) would represent an agreement among—

(A) the Tribes;

(B) the allottees;

(C) the non-Indians acquiring Indian land; and

(D) the non-Indian landowners.

(b) PURPOSES.—The purposes of this title are—

(1) to resolve the disputes resulting from realignment of the River by the Corps of Engineers during calendar year 1964 pursuant to the project described in subsection (a)(5)(A); and

(2) to achieve a fair, equitable, and final settlement of all claims and potential claims arising from those disputes.

SEC. 13003. DEFINITIONS.

In this title:

(1) ALLOTTEE.—The term “allottee” means an heir of an original allottee of the Reservation who owns an interest in a parcel of land that is—

(A) held in trust by the United States for the benefit of the allottee; and

(B) located north of the Realigned River within the exterior boundaries of the Reservation.

(2) INDIAN LAND.—The term “Indian land” means any parcel of land that is—

(A) held in trust by the United States for the benefit of the Tribes or the allottees;

(B) located north of the Realigned River; and

(C) identified in exhibit A of the survey of the Bureau of Land Management entitled “Survey of the Blackfoot River of 2002 to 2005”, which is located at—

(i) the Fort Hall Indian Agency office of the Bureau of Indian Affairs; and

(ii) the Blackfoot River Flood Control District No. 7, 75 East Judicial, Blackfoot, Idaho.

(3) NON-INDIAN ACQUIRING INDIAN LAND.—The term “non-Indian acquiring Indian land” means any individual or entity that—

(A) has acquired or plans to acquire Indian land; and

(B) is included on the list contained in exhibit C of the survey referred to in paragraph (2)(C).

(4) **NON-INDIAN LAND.**—The term “non-Indian land” means any parcel of fee land that is—

(A) located south of the Realigned River; and

(B) identified in exhibit B of the survey referred to in paragraph (2)(C).

(5) **NON-INDIAN LANDOWNER.**—The term “non-Indian landowner” means any individual who holds fee title to non-Indian land.

(6) **REALIGNED RIVER.**—The term “Realigned River” means that portion of the River that was realigned by the Corps of Engineers during calendar year 1964 pursuant to the project described in section 13002(a)(5)(A).

(7) **RESERVATION.**—The term “Reservation” means the Fort Hall Reservation established by Executive order during calendar year 1867 and confirmed by treaty during calendar year 1868.

(8) **RIVER.**—The term “River” means the Blackfoot River located in the State of Idaho.

(9) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(10) **TRIBES.**—The term “Tribes” means the Shoshone-Bannock Tribes.

SEC. 13004. EXTINGUISHMENT OF CLAIMS AND TITLE.

Except as provided in sections 13005 and 13006, effective beginning on the date on which the amounts appropriated pursuant to section 13012 are distributed in accordance with that section, all claims and all past, present, and future right, title, and interest in and to the Indian land and non-Indian land shall be extinguished.

SEC. 13005. LAND TO BE PLACED IN TRUST FOR TRIBES.

Effective beginning on the date on which the amounts appropriated pursuant to section 13012 are distributed in accordance with that section to the Blackfoot River Flood Control District No. 7, the non-Indian land shall be considered to be held in trust by the United States for the benefit of the Tribes.

SEC. 13006. TRUST LAND TO BE CONVERTED TO FEE LAND.

Effective beginning on the date on which the amounts appropriated pursuant to section 13012 are distributed in accordance with that section to the tribal trust fund account and the allottee trust account, the Indian land shall be transferred to the Blackfoot River Flood Control District No. 7 for conveyance to the non-Indians acquiring Indian land.

SEC. 13007. TRIBAL TRUST FUND ACCOUNT AND ALLOTTEE TRUST ACCOUNT.

(a) **TRIBAL TRUST FUND ACCOUNT.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States an account, to be known as the “tribal trust fund account”, consisting of such amounts as are deposited in the account under section 13012(b)(1).

(2) **INVESTMENT.**—The Secretary of the Treasury shall invest amounts in the tribal trust fund account for the benefit of the Tribes, in accordance with applicable laws and regulations.

(3) **DISTRIBUTION.**—The Secretary of the Treasury shall distribute amounts in the tribal trust fund account to the Tribes pursuant to a budget adopted by the Tribes that contains a description of—

(A) the amounts required by the Tribes; and

(B) the intended uses of the amounts, in accordance with paragraph (4).

(4) **USE OF FUNDS.**—The Tribes may use amounts in the tribal trust fund account (including interest earned on those amounts), without fiscal year limitation, for activities relating to—

(A) construction of a natural resources facility;

(B) water resources needs;

(C) economic development;

(D) land acquisition; and

(E) such other purposes as the Tribes determine to be appropriate.

(b) **ALLOTTEE TRUST ACCOUNT.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States an account, to be known as the “allottee trust account”, consisting of such amounts as are deposited in the account under section 13012(b)(2).

(2) **DEPOSIT INTO IIMS.**—Not later than 60 days after the date on which amounts are deposited in the allottee trust account under section 13012(b)(2), the Secretary of the Treasury shall deposit the amounts into individual Indian money accounts for the allottees.

(3) **INVESTMENT.**—The Secretary of the Treasury shall invest amounts in the individual Indian money accounts under paragraph (2) in accordance with applicable laws and regulations.

SEC. 13008. ATTORNEY FEES.

(a) **IN GENERAL.**—Subject to subsection (b), of the amounts appropriated pursuant to section 13012(a), the Secretary shall pay to the attorneys of the Tribes and the non-Indian landowners such attorneys fees as are approved by the Tribes and the non-Indian landowners.

(b) **LIMITATION.**—The total amount of attorneys fees paid by the Secretary under subsection (a) shall not exceed 2 percent of the amounts distributed to the Tribes, allottees, and the non-Indian landowners under section 13012(b).

SEC. 13009. EFFECT ON ORIGINAL RESERVATION BOUNDARY.

Nothing in this title affects the original boundary of the Reservation, as established by Executive order during calendar year 1867 and confirmed by treaty during calendar year 1868.

SEC. 13010. EFFECT ON TRIBAL WATER RIGHTS.

Nothing in this title extinguishes or conveys any water rights of the Tribes, as established in the agreement entitled “1990 Fort Hall Indian Water Rights Agreement” and ratified by section 4 of the Fort Hall Indian Water Rights Act of 1990 (Public Law 101-602; 104 Stat. 3060).

SEC. 13011. DISCLAIMERS REGARDING CLAIMS.

Nothing in this title—

(1) affects in any manner the sovereign claim of the State of Idaho to title in and to the beds and banks of the River under the equal footing doctrine of the Constitution of the United States;

(2) affects any action by the State of Idaho to establish that title under section 2409a of title 28, United States Code (commonly known as the “Quiet Title Act”);

(3) affects the ability of the Tribes or the United States to claim ownership of the beds and banks of the River; or

(4) extinguishes or conveys any water rights of non-Indian landowners or the claims of such landowners to water rights in the Snake River Basin Adjudication.

SEC. 13012. FUNDING.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this title \$1,000,000.

(b) **DISTRIBUTION.**—After the date on which all attorneys fees are paid under section

13008, the amount appropriated pursuant to subsection (a) shall be distributed among the Tribes, the allottees, and the Blackfoot River Flood Control District No. 7 as follows:

(1) 28 percent shall be deposited into the tribal trust fund account established by section 13007(a)(1).

(2) 25 percent shall be deposited into the allottee trust account established by section 13007(b)(1).

(3) 47 percent shall be provided to the Blackfoot River Flood Control District No. 7 for—

(A) distribution to the non-Indian landowners on a pro rata, per-acre basis; and

(B) associated administrative expenses.

(c) **PER CAPITA PAYMENTS PROHIBITED.**—No amount received by the Tribes under this title shall be distributed to a member of the Tribes on a per capita basis.

SEC. 13013. EFFECTIVE DATE.

This title takes effect on the date on which the amount described in section 13012(a) is appropriated.

DIVISION M—BUDGETARY EFFECTS

SEC. 14001. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 4846. Mr. VITTER (for himself, Mr. RISCH, Mr. INHOFE, and Mr. BARRASSO) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In Article V of the Treaty, strike section 3.

SA 4847. Mr. LEMIEUX (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of Article I of the New START Treaty, add the following:

3. The Parties shall enter into negotiations within one year of ratification of this Treaty to address the disparity between the non-strategic (tactical) nuclear weapons stockpiles of the Parties, in accordance with the September 1991 United States commitments under the Presidential Nuclear Initiatives and Russian Federation commitments made by President Gorbachev in October 1991 and reaffirmed by President Yeltsin in January 1992. The negotiations shall not include discussion of defensive missile systems.

PRIVILEGES OF THE FLOOR

Mr. KERRY. Mr. President, I ask unanimous consent, on behalf of Senator MANCHIN, that Sylvia Pletos, a military fellow and New START treaty specialist on his staff, be granted the privilege of the floor during the balance of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed en bloc to Executive Calendar Nos. 937 and 1093; that the nominations be confirmed en bloc and the motions to reconsider be considered made and laid upon the table; that any statements relating to the nominations be printed in the RECORD as if read; that the President be immediately notified of the Senate's action; further, that on Saturday, December 18, after the cloture votes with respect to the House messages regarding H.R. 5281 and H.R. 2965, and notwithstanding rule XXII, if applicable, the Senate resume executive session and there be 2 minutes of debate equally divided and controlled between Senators LEAHY and SESSIONS or their designees prior to a vote on confirming Calendar No. 656, Albert Diaz, and Calendar No. 936, Ellen Hollander; that upon the use or yielding back of that time, the Senate proceed to vote on confirmation in the order listed; that upon confirmation, the motions to reconsider be considered made and laid upon the table; that any statements relating to the nominations be printed in the RECORD as if read and the President be immediately notified of the Senate's action; further, that any time consumed during the votes and debate on the judges count postcloture, if applicable, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

THE JUDICIARY

Susan Richard Nelson, of Minnesota, to be United States District Judge for the District of Minnesota.

Denise Jefferson Casper, of Massachusetts, to be United States District Judge for the District of Massachusetts.

ORDERS FOR SATURDAY,
DECEMBER 18, 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. on Saturday, December 18; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume executive session to consider the New START treaty; that following any leader remarks in executive session, the Senate proceed to legislative session and be in a period of morning business until 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees; at that at 10:30 a.m., the Senate resume consideration of the House message with respect to H.R. 5281 and proceed to vote on the motion to invoke cloture on the motion to concur with respect to H.R. 5281; and that if cloture is not invoked, there be 2 minutes for debate equally divided prior to the next vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, Senators should expect a series of up to four rollcall votes at 10:30 a.m. tomorrow.

The first vote will be on cloture with respect to the DREAM Act. If cloture is not invoked, the next vote would be cloture with respect to don't ask, don't tell. The final two votes will be on confirmation of two judicial nominations.

ADJOURNMENT UNTIL 9 A.M.
TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 10:07 p.m., adjourned until Saturday, December 18, 2010, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate:

OFFICE OF SPECIAL COUNSEL

CAROLYN N. LERNER, OF MARYLAND, TO BE SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, FOR THE TERM OF FIVE YEARS, VICE SCOTT J. BLOCH, RESIGNED.

PRIVACY AND CIVIL LIBERTIES OVERSIGHT
BOARD

ELISEBETH COLLINS COOK, OF ILLINOIS, TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD FOR A TERM EXPIRING JANUARY 29, 2014. (NEW POSITION)

JAMES XAVIER DEMPSEY, OF CALIFORNIA, TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD FOR A TERM EXPIRING JANUARY 29, 2016. (NEW POSITION)

CONFIRMATIONS

Executive nominations confirmed by the Senate, Friday, December 17, 2010:

THE JUDICIARY

SUSAN RICHARD NELSON, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA.

DENISE JEFFERSON CASPER, OF MASSACHUSETTS, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Friday, December 17, 2010*

The House met at 9 a.m. and was called to order by the Speaker.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Attentive to Your word, O Lord, and waiting for You to fulfill Your promises, we pray with the psalmist of old: "When I call, answer me, O God of justice. From anguish, You release me. Have mercy and hear me. My people, how long will your hearts be closed, will you love what is futile and seek what is false? It is the Lord who grants favors to those whom he loves; the Lord hears when we call upon Him. Fear Him; do not sin. Ponder His faithfulness and be still. Make justice your sacrifice, and trust in the Lord, both now and forever."

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. CUELLAR) come forward and lead the House in the Pledge of Allegiance.

Mr. CUELLAR led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 4602. An act to designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the "Emil Bolas Post Office".

H.R. 5133. An act to designate the facility of the United States Postal Service located at 331 1st Street in Carlstadt, New Jersey, as the "Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building".

H.R. 5605. An act to designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the "George C. Marshall Post Office".

H.R. 5606. An act to designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the "James M. 'Jimmy' Stewart Post Office Building".

H.R. 5655. An act to designate the Little River Branch facility of the United States Postal Service located at 140 NE 84th Street in Miami, Florida, as the "Jesse J. McCrary, Jr. Post Office".

H.R. 5877. An act to designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the "Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building".

H.R. 6400. An act to designate the facility of the United States Postal Service located at 111 North 6th Street in St. Louis, Missouri, as the "Earl Wilson, Jr. Post Office".

H.R. 6392. An act to designate the facility of the United States Postal Service located at 5003 Westfields Boulevard in Centreville, Virginia, as the "Colonel George Juskalian Post Office Building".

The message also announced that the Senate has passed with an amendment a bill of the House of the following title in which the concurrence of the House is requested:

H.R. 2142. An act to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council.

The message also announced that the Senate has passed with amendments bills of the House of the following titles in which the concurrence of the House is requested:

H.R. 5809. An act to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 3592. An act to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building".

S. 3874. An act to amend the Safe Drinking Water Act to reduce lead in drinking water.

S. 4036. An act to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to five requests for 1-minute from each side of the aisle.

DREAM ACT

(Mr. BACA asked and was given permission to address the House for 1 minute.)

Mr. BACA. This week our colleagues in the Senate have an opportunity to straighten our future economy and create equal opportunity for America's young people. By recognizing students who want to contribute through military service or higher education, the American DREAM Act has a positive impact on all of us; and if we remember the Ten Commandments, honor thy father and mother, many of these children came to the United States out of respect for their parents. They had no choice and they are here. They deserve an opportunity to have the same that other students have by attending our schools, going on to college, and then they also pray in a lot of our churches. They deserve the same opportunities that others have.

We all know that the DREAM Act is one piece of a larger reform that is needed to fix our broken immigration system, but it is a critical first step. I urge the Senate to pass the DREAM Act as soon as possible so that the President can act quickly to sign the bill into law and give many of our students an opportunity to have the opportunity that many others have had in this country.

VETOING THE OMNIBUS BILL

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, at a time when Americans are worried about the state of the economy, the Senate tried to push a reckless \$1.1 trillion spending bill. The omnibus bill contained over 6,000 earmarks costing taxpayers close to \$8 billion. The 2,000-page bill took over 2 days to print. I agree with Speaker-elect JOHN BOEHNER's statement: "This bill represents exactly what the American people have rejected: more spending, more earmarks, and more big government."

Senate liberals tried to bulldoze this legislation with pork-filled spending. For example, \$1.8 million to study swine odor and manure management in Ames, Iowa; \$2.19 million for the Center for Grape Genetics in New York; \$1.76 million for a honey bee lab in Texas.

Withdrawing the bill shows the people can make a difference thanks to the Tea Party activists and radio talk show hosts such as Mark Levin.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

MIDDLE CLASS RELIEF IN TAX PACKAGE

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, last night, the House finally passed on a bipartisan basis and sent to the President a middle class tax relief package which also included extended unemployment insurance. For the middle class, it provides tax relief of \$1,500 for a typical working family with income up to \$75,000; \$1,000 for income at \$50,000; and \$500 for incomes of \$25,000. It also includes extended unemployment insurance, a 13-month extension of Federal support for 99 weeks of unemployment insurance for laid-off workers.

The package also includes the child tax credit, extends the child tax credit for 2 years. It's worth about \$1,000, doubled from \$500 for qualifying children under the age of 17. And a payroll tax cut creates a \$120 billion payroll tax cut that's worth about \$1,400 for the average New Jersey household of \$71,000 in average income. Alternative minimum tax relief, earned income tax credit, higher education tax credit to help afford sending your children to college, and also tax cuts for business investment, basically allowing businesses to expense all of their qualified investments in 2011.

I think it was very important that we passed this, Mr. Speaker. I'm glad it's now going to the President.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ALTMIRE). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

FIRST LIEUTENANT ROBERT WILSON COLLINS POST OFFICE BUILDING

Mr. CUELLAR. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3592) to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FIRST LIEUTENANT ROBERT WILSON COLLINS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 100

Commerce Drive in Tyrone, Georgia, shall be known and designated as the "First Lieutenant Robert Wilson Collins Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "First Lieutenant Robert Wilson Collins Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. CUELLAR) and the gentleman from South Carolina (Mr. WILSON) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. CUELLAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CUELLAR. I now yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Oversight and Government Reform, I'm pleased to present S. 3592, legislation that designates the United States Postal Service facility located at 100 Commerce Drive, Tyrone, Georgia, as the First Lieutenant Robert Wilson Collins Post Office Building.

Introduced by Senator SAXBY CHAMBLISS of Georgia, S. 3592 passed the Senate unanimously yesterday, December 16, 2010.

Mr. Speaker, First Lieutenant Robert Wilson Collins was assigned to the 1st Battalion, 64th Armor Regiment, 2nd Brigade Combat Team, out of Fort Stewart, Georgia. A class of 2008 graduate of West Point, Lieutenant Collins deployed in support of Operation Iraqi Freedom in the fall of 2009 and served as a platoon leader while his unit provided support during the national elections in Iraq.

□ 0910

Understanding the importance of maintaining the morale of the unit's soldiers and keeping them connected to family and friends at home, Lieutenant Collins maintained a Facebook page for the unit, allowing the unit to share photos and messages with loved ones.

Sadly, on April 7, 2010, Lieutenant Collins was killed when enemy forces attacked his vehicle with an improvised explosive device in Mosul, Iraq. He was 24 years of age.

Lieutenant Collins is survived by his parents, Retired Lieutenant Colonels Deacon and Sharon Collins, and Nicole, his childhood sweetheart and girlfriend of 8 years.

Mr. Speaker, let us pay tribute to the life and service of First Lieutenant Robert Wilson Collins by designating this postal facility on Commerce Drive in Tyrone, Georgia, his home town.

I ask my colleagues to join me in supporting Senate bill 3592, and I reserve the balance of my time.

Mr. WILSON of South Carolina. Mr. Speaker, I yield myself such time as I may consume.

I am very honored to join in with my colleague Congressman CUELLAR in support of this legislation which was introduced by Senator SAXBY CHAMBLISS. I know that it has been championed by Congressman LYNN WESTMORELAND.

I particularly have an interest in recognizing Lieutenant Collins. I am very grateful, myself, to be the son of a Flying Tiger. I am very grateful to have served for 31 years in the Army Guard and Reserve. In fact, I was stationed many summers at Fort Stewart, Georgia, so I identify with the 3rd Infantry Division. I am particularly grateful that I have four sons currently serving in the military. Two of my sons have served in Iraq. And so I know the great efforts of our troops and the sacrifices of military families.

His obituary truly indicates an extraordinary young person:

"First Lieutenant Robert Wilson Collins of Tyrone, Georgia, was killed in action on April 7, 2010, in Iraq in support of Operation Iraqi Freedom. First Lieutenant Collins was born in 1985 in Red Bank, New Jersey, and graduated from Sandy Creek High School, class of 2004. After high school, he graduated from the United States Military Academy at West Point, New York, class of 2008. First Lieutenant Collins was the first member of the United States Military Academy class of 2008 to die in combat. He was serving as a platoon leader in B Company, 1-64 Armor Battalion, 2nd Brigade Combat Team, 3rd Infantry Division.

"He is survived by his parents, Lieutenant Colonel Retired Burkitt Deacon Collins and Lieutenant Colonel Retired Sharon L.G. Collins of Tyrone, Georgia; paternal grandmother, Susan R. Collins of Laurel, Mississippi; aunts, Susan D. Groff of Lancaster, Pennsylvania; Mary Margaret Anderson and her husband Robert Earl of Ellisville, Mississippi; and Susan G. Stringfellow of Purvis, Mississippi; childhood sweetheart and girlfriend of 8 years, Nicolle Williams of Tyrone, Georgia; best friend, Andrew Gardner of Miami, Florida; his band of brothers: First Lieutenant Andrew Collins, First Lieutenant Sean Flachs, First Lieutenant Tim Konze, First Lieutenant Dan McLeod, Greg Maduro, First Lieutenant Phil Raquepau, and First Lieutenant Clifford Walker; battle buddy, First Lieutenant John F. Parsons; and numerous friends, extended family members, and comrades in arms."

Funeral services were held April 17 at New Hope Baptist Church at 10 o'clock, and it was conducted by Rev. Scott Pickering, Dr. Rick Long, and Chaplain Lieutenant Colonel Mark Fairbrother officiating. Interment followed at Forest Lawn Memorial Park in Newnan, Georgia. And in lieu of flowers, there

was a request for donations to the First Lieutenant Robert Wilson Collins Patriot Spirit Scholarship, care of Bank of Georgia, 100 Westpark Drive, Peachtree City, Georgia 30269.

Again, certainly the obituary, knowing that this was such an extraordinary young person, protecting our country by defeating the terrorists overseas, I am honored to join in urging support of the legislation.

[From the Times-Herald.com, April 15, 2010]

1LT ROBERT WILSON COLLINS

1LT Robert Wilson Collins of Tyrone, GA, was killed in action on April 7, 2010, in Iraq in support of Operation Iraqi Freedom. 1LT Collins was born in 1985 in Red Bank, NJ, and graduated from Sandy Creek High School, Class of 2004. After high school he graduated from The United States Military Academy at West Point, NY, Class of 2008. 1LT Collins was the first member of the USMA Class of 2008 to die in combat. He was serving as a Platoon Leader in B Company, 1-64 Armor Battalion, 2nd Brigade Combat Team, 3rd Infantry Division.

He is survived by his parents, LTC (RET) Burkitt (Deacon) Collins and LTC (RET) Sharon L.G. Collins of Tyrone, GA; paternal grandmother, Susan R. Collins of Laurel, MS; aunts, Susan D. Groff of Lancaster, PA; Mary Margaret Anderson and her husband Robert Earl of Ellisville, MS; and Susan G. Stringfellow of Purvis, MS; childhood sweetheart and girlfriend of 8 years, Nicolle Williams of Tyrone, GA; best friend, Andrew Gardner of Miami, FL; his Band of Brothers: 1LT Andrew Collins, 1LT Sean Flachs, 1LT Tim Konze, 1LT Dan McLeod, Greg Maduro, 1LT Phil Raquepau and 1LT Clifford Walker; Battle Buddy, 1LT John F. Parsons; and numerous friends, extended family members, and Comrades in Arms.

Funeral services will be held Saturday, April 17 at New Hope Baptist Church (North Campus) at 10 o'clock with Rev. Scott Pickering, Dr. Rick Long, and Chaplain LTC Mark E. Fairbrother officiating. Interment to follow at Forest Lawn Memorial Park in Newnan. In lieu of flowers those desiring may make donations to the 1LT Robert Wilson Collins Patriot Spirit Scholarship, c/o Bank of Georgia, 100 Westpark Drive, Peachtree City, GA 30269. Those wishing can make an online condolence at www.parrottfuneralhome.com.

The family will receive friends Friday evening from 5 until 8 p.m. at Parrott Funeral Home and Crematory in Fairburn, GA.

I yield back the balance of my time.

Mr. CUELLAR. Mr. Speaker, I again urge my colleagues to join me in supporting this measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. CUELLAR) that the House suspend the rules and pass the bill, S. 3592.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CUELLAR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the

Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

RECOGNIZING MARK TWAIN AS AN AMERICAN LITERARY ICON

Mr. CUELLAR. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1733) recognizing Mark Twain as one of America's most famous literary icons on the 175th anniversary of his birth and the 100th anniversary of his death, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1733

Whereas, on November 30, 1835, Samuel Langhorne Clemens, one of the most prolific and influential writers and orators in America, was born in Florida, Missouri;

Whereas Clemens suffered many childhood setbacks including incessant poor health until age 9 and the death of his father at age of 12;

Whereas growing up along the emerging Mississippi port city of Hannibal, Missouri, watching the frequent steamboat stops and working as a printer and editorial assistant at his brother's newspaper, Clemens discovered his passion for writing;

Whereas Clemens, at the age of 17, moved to St. Louis, Missouri, and became a river pilot's apprentice, eventually becoming a licensed river pilot in 1858;

Whereas Samuel Clemens then worked for several newspapers across the United States after the river trade was halted by the Civil War in 1861;

Whereas Clemens assumed his pen name, Mark Twain, based on his experience as a river pilot;

Whereas Mark Twain means two fathoms or 12 feet when the depth of water for a boat is being sounded, or that it is safe to navigate;

Whereas Twain's first work to gain notoriety was his short story, "The Celebrated Jumping Frog of Calaveras County", which appeared in the New York Saturday Press on November 18, 1865;

Whereas Mark Twain composed 28 books as well as numerous short stories, letters, and sketches, including such classics as "Life on the Mississippi", "The Adventures of Tom Sawyer", "The Prince and the Pauper", and "The Adventures of Huckleberry Finn";

Whereas Twain first declared his disappointment with politics in "A Connecticut Yankee in King Arthur's Court", where he depicted the absurdities of political and social norms by setting them in the court of King Arthur;

Whereas Mark Twain was a staunch civil rights advocate believing strongly in emancipation and said, "Lincoln's Proclamation . . . not only set the black slaves free, but set the white man free also."; and

Whereas Mark Twain was an adamant supporter of women's suffrage, saying in his most famous speech, "Votes for Women":

"Referring to woman's sphere in life, I'll say that woman is always right. For twenty-five years I've been a woman's rights man. I have always believed, long before my mother died, that, with her gray hairs and admirable intellect, perhaps she knew as much as I did. Perhaps she knew as much about voting as I.

"I should like to see the time come when women shall help to make the laws. I should like to see that whiplash, the ballot, in the hands of women. As for this city's government, I don't want to say much, except that it is a shame—a shame; but if I should live twenty-five years longer—and there is no reason why I shouldn't—I think I'll see women handle the ballot. If women had the ballot to-day, the state of things in this town would not exist.

"If all the women in this town had a vote today they would elect a mayor at the next election, and they would rise in their might and change the awful state of things now existing here." Now, therefore, be it

Resolved, That the House of Representatives recognizes Mark Twain as one of America's most famous literary icons and commemorates him on the 175th anniversary of his birth and the 100th anniversary of his death.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. CUELLAR) and the gentleman from Missouri (Mr. LUETKEMEYER) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. CUELLAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CUELLAR. I now yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Oversight Government Reform, I am pleased to present House Resolution 1733, a resolution recognizing Mark Twain as one of America's most famous literary icons on the 175th anniversary of his birth and the 100th anniversary of his death. House Resolution 1733 was introduced by our colleague, the gentleman from Arkansas, Representative VIC SNYDER, on November 18, 2010. This measure enjoys the support of over 60 Members of the House.

Mr. Speaker, Mark Twain was born as Samuel Langhorne Clemens in the town of Florida, Missouri, on November 30, 1835. Famously, he was born 2 weeks after the closest approach to Earth of Halley's Comet, which made its next approach 1 day after his death in 1910.

At the age of 4, Twain moved to Hannibal, Missouri, a Mississippi River town that would inspire some of his most beloved works. At age 12, he became a printer's apprentice; and at age 16, he began working as a typesetter and contributor of articles and humorous sketches for the Hannibal Journal, a newspaper owned by his brother Orion. At age 18, he worked briefly as a printer in New York City, Philadelphia, St. Louis, Cincinnati, taking time to educate himself at public libraries in the evenings.

After returning to Missouri at age 22, he was inspired to be a steamboat

pilot, earning significant income, learning intimate details of the river, and where he was inspired to give himself his pen name Mark Twain, which refers to the depth of two fathoms, or 12 feet, the right depth for safe passage of a riverboat.

He worked on riverboats until 1861, when the Civil War stopped traffic along the Mississippi River. He then traveled west, working as a miner and for newspapers in various towns. His first success as a writer came when his humorous short story, "The Celebrated Jumping Frog of Calaveras County," was published in a New York weekly, *The Saturday Press*, on November 18, 1865. This launched his renown as a writer, bringing attention across the country.

After traveling to Europe and the Middle East on assignment from a local newspaper, he moved with his family to Buffalo, New York, and then to Hartford, Connecticut. It was in Hartford that Twain wrote his most famous works, "The Adventures of Tom Sawyer," "The Prince and the Pauper," "Life on the Mississippi," "Adventures of Huckleberry Finn," and "A Connecticut Yankee in King Arthur's Court."

He gave lectures around the world, patented three inventions, and developed a lasting friendship with one of history's most famous scientists and inventors, Nikola Tesla.

Twain died at age 74 on April 21, 1910, a year after making his famous prediction: "I came in with Halley's Comet in 1835. It is coming again next year, and I expect to go out with it. It will be the greatest disappointment of my life if I don't go out with Halley's Comet. The Almighty has said, no doubt: 'Now here are these two unaccountable freaks; they came in together, they must go out together.'"

William Faulkner called Mark Twain "the father of American literature," and he is rightly remembered as such. We can also remember and honor him for his advocacy on behalf of emancipation and women's suffrage.

In closing, no study of American literature is complete without the works of Mark Twain. Mr. Speaker, let us, therefore, honor this giant of American literature on the 100th anniversary of his death through the passage of House Resolution 1733.

I urge my colleagues to join me in supporting it, and I reserve the balance of my time.

Mr. LUETKEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 1733, recognizing Mark Twain as one of America's most famous literary icons on the 175th anniversary of his birth and the 100th anniversary of his death.

□ 0920

Born Samuel Langhorne Clemens in Florida, Missouri, on November 30,

1835, Mark Twain left school at the age of 13 to go to work as a printer's apprentice. He went on to become an editorial assistant at a newspaper and river pilot, where he gained his famous pseudonym. Mark Twain began writing for a newspaper during the Civil War, and his short story "The Celebrated Jumping Frog of Calaveras County" was published in 1865. Twain would, of course, go on to author "The Adventures of Tom Sawyer" and "The Adventures of Huckleberry Finn," among 28 other books and numerous short stories.

Mr. Speaker, it is altogether fitting and proper that we recognize Mark Twain and his rich contributions to our country's literary history. This wonderful occasion has also inspired me to rediscover the great works of Mark Twain with my granddaughter and connect this imaginary world with the reality of his boyhood home in Hannibal. It is critical for us to foster a love for reading among children and our grandchildren because it is part of what makes them kids.

I am also extremely honored and fortunate to represent Hannibal in Congress and would encourage folks to visit the area in northeast Missouri and discover the inspiration for some of the greatest literary works of American history. Mark Twain and the city of Hannibal are integral parts of Missouri's heritage, and I am proud to recognize him on this very special day.

To that end, a Mark Twain quote: "Twenty years from now, you will be more disappointed by the things that you didn't do than by the ones that you did. So throw off the bowlines, sail away from the safe harbor, catch the trade winds in your sail. Explore, dream, discover."

I urge all Members to join me in strong support of this resolution.

I reserve the balance of my time.

Mr. CUELLAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, as a boy growing up in southern Oregon, Medford, Oregon, I was blessed with a wonderful public school system. Of course, that is about a half century ago now, but you only have a good school system if you have good teachers, and I did: Mr. Merriman and Elsie Butler and Devere Taylor and John Smock and Mrs. Leininger and Irv Myrick, and I do a disservice to all of them by naming just a few.

Chuck Nevi was one of those teachers, and he helped me explore America and humanity through the words of Mark Twain.

For a boy growing up in 1950s America, the world of riverboats, scalawags, runaway slaves, and sassy, independent, barefooted boys was magical. The world of Mark Twain taught readers universal truths about the human

animal, and some of those truths are not flattering. Like all youngsters, I imagined myself to be Huckleberry Finn, and when Huck Finn chooses what he believes will be hell and eternal damnation so that his love, loyalty, and friendship with a runaway slave will be preserved, well, for me, being raised in a town with few minorities, I learned both about racism and about the power of even young boys to find the real truths and confront confusing human institutions that allowed racism to persist.

A few weeks ago, I saw the news report of Tina Fey winning the Mark Twain Prize for American Humor, and it reminded me that this year, 2010, should be acknowledged for the 100th anniversary of Mark Twain's death and the 175th anniversary of his birth. And so even though it was late in the session, I filed this resolution on his birthday to honor Mark Twain.

Mr. Speaker, when parents are away from their babies, particularly during these holidays, we talk about our kids, and so I will. My 4-year-old, Penn, and my three 2-year-olds, Aubrey, Wyatt and Sullivan, are the four little boy Huck Finns in our Arkansas household geographically not far from Huck Finn's world, but such a different world now, one that 19th century contemporaries of a young Sam Clemens would not recognize, except, of course, for his insights into the strengths and weaknesses of human nature. And because of that genius, that genius expressed with humor, I hope my young boys, my young Huck Finns, learn to love the world and works of Mark Twain.

Mr. LUETKEMEYER. I yield back the balance of my time.

Mr. CUELLAR. Mr. Speaker, again I urge my colleagues to join me in supporting this measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. CUELLAR) that the House suspend the rules and agree to the resolution, H. Res. 1733, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GPRA MODERNIZATION ACT OF 2010

Mr. CUELLAR. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2142) to require the review of Government programs at least once every 5 years for purposes of assessing their performance and improving their operations, and to establish the Performance Improvement Council.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “GPRA Modernization Act of 2010”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Strategic planning amendments.

Sec. 3. Performance planning amendments.

Sec. 4. Performance reporting amendments.

Sec. 5. Federal Government and agency priority goals.

Sec. 6. Quarterly priority progress reviews and use of performance information.

Sec. 7. Transparency of Federal Government programs, priority goals, and results.

Sec. 8. Agency Chief Operating Officers.

Sec. 9. Agency Performance Improvement Officers and the Performance Improvement Council.

Sec. 10. Format of performance plans and reports.

Sec. 11. Reducing duplicative and outdated agency reporting.

Sec. 12. Performance management skills and competencies.

Sec. 13. Technical and conforming amendments.

Sec. 14. Implementation of this Act.

Sec. 15. Congressional oversight and legislation.

SEC. 2. STRATEGIC PLANNING AMENDMENTS.

Chapter 3 of title 5, United States Code, is amended by striking section 306 and inserting the following:

“§306. Agency strategic plans

“(a) Not later than the first Monday in February of any year following the year in which the term of the President commences under section 101 of title 3, the head of each agency shall make available on the public website of the agency a strategic plan and notify the President and Congress of its availability. Such plan shall contain—

“(1) a comprehensive mission statement covering the major functions and operations of the agency;

“(2) general goals and objectives, including outcome-oriented goals, for the major functions and operations of the agency;

“(3) a description of how any goals and objectives contribute to the Federal Government priority goals required by section 1120(a) of title 31;

“(4) a description of how the goals and objectives are to be achieved, including—

“(A) a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to achieve those goals and objectives; and

“(B) a description of how the agency is working with other agencies to achieve its goals and objectives as well as relevant Federal Government priority goals;

“(5) a description of how the goals and objectives incorporate views and suggestions obtained through congressional consultations required under subsection (d);

“(6) a description of how the performance goals provided in the plan required by section 1115(a) of title 31, including the agency priority goals required by section 1120(b) of title 31, if applicable, contribute to the general goals and objectives in the strategic plan;

“(7) an identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the general goals and objectives; and

“(8) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations to be conducted.

“(b) The strategic plan shall cover a period of not less than 4 years following the fiscal year in which the plan is submitted. As needed, the head of the agency may make adjustments to the strategic plan to reflect significant changes in the environment in which the agency is operating, with appropriate notification of Congress.

“(c) The performance plan required by section 1115(b) of title 31 shall be consistent with the agency’s strategic plan. A performance plan may not be submitted for a fiscal year not covered by a current strategic plan under this section.

“(d) When developing or making adjustments to a strategic plan, the agency shall consult periodically with the Congress, including majority and minority views from the appropriate authorizing, appropriations, and oversight committees, and shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan. The agency shall consult with the appropriate committees of Congress at least once every 2 years.

“(e) The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of strategic plans under this section shall be performed only by Federal employees.

“(f) For purposes of this section the term ‘agency’ means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the Government Accountability Office, the United States Postal Service, and the Postal Regulatory Commission.”.

SEC. 3. PERFORMANCE PLANNING AMENDMENTS.

Chapter 11 of title 31, United States Code, is amended by striking section 1115 and inserting the following:

“§1115. Federal Government and agency performance plans

“(a) **FEDERAL GOVERNMENT PERFORMANCE PLANS.**—In carrying out the provisions of section 1105(a)(28), the Director of the Office of Management and Budget shall coordinate with agencies to develop the Federal Government performance plan. In addition to the submission of such plan with each budget of the United States Government, the Director of the Office of Management and Budget shall ensure that all information required by this subsection is concurrently made available on the website provided under section 1122 and updated periodically, but no less than annually. The Federal Government performance plan shall—

“(1) establish Federal Government performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year for each of the Federal Government priority goals required under section 1120(a) of this title;

“(2) identify the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities contributing to each Federal Government performance goal during the current fiscal year;

“(3) for each Federal Government performance goal, identify a lead Government official who shall be responsible for coordinating the efforts to achieve the goal;

“(4) establish common Federal Government performance indicators with quarterly targets to be used in measuring or assessing—

“(A) overall progress toward each Federal Government performance goal; and

“(B) the individual contribution of each agency, organization, program activity, regulation, tax expenditure, policy, and other activity identified under paragraph (2);

“(5) establish clearly defined quarterly milestones; and

“(6) identify major management challenges that are Governmentwide or crosscutting in nature and describe plans to address such chal-

lenges, including relevant performance goals, performance indicators, and milestones.

“(b) **AGENCY PERFORMANCE PLANS.**—Not later than the first Monday in February of each year, the head of each agency shall make available on a public website of the agency, and notify the President and the Congress of its availability, a performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

“(1) establish performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year;

“(2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (c);

“(3) describe how the performance goals contribute to—

“(A) the general goals and objectives established in the agency’s strategic plan required by section 306(a)(2) of title 5; and

“(B) any of the Federal Government performance goals established in the Federal Government performance plan required by subsection (a)(1);

“(4) identify among the performance goals those which are designated as agency priority goals as required by section 1120(b) of this title, if applicable;

“(5) provide a description of how the performance goals are to be achieved, including—

“(A) the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals;

“(B) clearly defined milestones;

“(C) an identification of the organizations, program activities, regulations, policies, and other activities that contribute to each performance goal, both within and external to the agency;

“(D) a description of how the agency is working with other agencies to achieve its performance goals as well as relevant Federal Government performance goals; and

“(E) an identification of the agency officials responsible for the achievement of each performance goal, who shall be known as goal leaders;

“(6) establish a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal, including, as appropriate, customer service, efficiency, output, and outcome indicators;

“(7) provide a basis for comparing actual program results with the established performance goals;

“(8) a description of how the agency will ensure the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—

“(A) the means to be used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency will compensate for such limitations if needed to reach the required level of accuracy;

“(9) describe major management challenges the agency faces and identify—

“(A) planned actions to address such challenges;

“(B) performance goals, performance indicators, and milestones to measure progress toward resolving such challenges; and

“(C) the agency official responsible for resolving such challenges; and

“(10) identify low-priority program activities based on an analysis of their contribution to the mission and goals of the agency and include an

evidence-based justification for designating a program activity as low priority.

“(C) **ALTERNATIVE FORM.**—If an agency, in consultation with the Director of the Office of Management and Budget, determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Director of the Office of Management and Budget may authorize an alternative form. Such alternative form shall—

“(1) include separate descriptive statements of—

- “(A)(i) a minimally effective program; and
- “(ii) a successful program; or

“(B) such alternative as authorized by the Director of the Office of Management and Budget, with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of the description; or

“(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

“(d) **TREATMENT OF PROGRAM ACTIVITIES.**—For the purpose of complying with this section, an agency may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

“(e) **APPENDIX.**—An agency may submit with an annual performance plan an appendix covering any portion of the plan that—

“(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

“(2) is properly classified pursuant to such Executive order.

“(f) **INHERENTLY GOVERNMENTAL FUNCTIONS.**—The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of performance plans under this section shall be performed only by Federal employees.

“(g) **CHIEF HUMAN CAPITAL OFFICERS.**—With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (b)(5)(A).

“(h) **DEFINITIONS.**—For purposes of this section and sections 1116 through 1125, and sections 9703 and 9704, the term—

“(1) ‘agency’ has the same meaning as such term is defined under section 306(f) of title 5;

“(2) ‘crosscutting’ means across organizational (such as agency) boundaries;

“(3) ‘customer service measure’ means an assessment of service delivery to a customer, client, citizen, or other recipient, which can include an assessment of quality, timeliness, and satisfaction among other factors;

“(4) ‘efficiency measure’ means a ratio of a program activity's inputs (such as costs or hours worked by employees) to its outputs (amount of products or services delivered) or outcomes (the desired results of a program);

“(5) ‘major management challenge’ means programs or management functions, within or across agencies, that have greater vulnerability to waste, fraud, abuse, and mismanagement (such as issues identified by the Government Accountability Office as high risk or issues identified by an Inspector General) where a failure to perform well could seriously affect the ability of an agency or the Government to achieve its mission or goals;

“(6) ‘milestone’ means a scheduled event signifying the completion of a major deliverable or a set of related deliverables or a phase of work;

“(7) ‘outcome measure’ means an assessment of the results of a program activity compared to its intended purpose;

“(8) ‘output measure’ means the tabulation, calculation, or recording of activity or effort that can be expressed in a quantitative or qualitative manner;

“(9) ‘performance goal’ means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;

“(10) ‘performance indicator’ means a particular value or characteristic used to measure output or outcome;

“(11) ‘program activity’ means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

“(12) ‘program evaluation’ means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Federal programs achieve intended objectives.”

SEC. 4. PERFORMANCE REPORTING AMENDMENTS.

Chapter 11 of title 31, United States Code, is amended by striking section 1116 and inserting the following:

“§ 1116. Agency performance reporting

“(a) The head of each agency shall make available on a public website of the agency and to the Office of Management and Budget an update on agency performance.

“(b)(1) Each update shall compare actual performance achieved with the performance goals established in the agency performance plan under section 1115(b) and shall occur no less than 150 days after the end of each fiscal year, with more frequent updates of actual performance on indicators that provide data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden.

“(2) If performance goals are specified in an alternative form under section 1115(c), the results shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

“(c) Each update shall—

“(1) review the success of achieving the performance goals and include actual results for the 5 preceding fiscal years;

“(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals during the period covered by the update;

“(3) explain and describe where a performance goal has not been met (including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 1115(c)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—

“(A) why the goal was not met;

“(B) those plans and schedules for achieving the established performance goal; and

“(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

“(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 of this title;

“(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management;

“(6) describe how the agency ensures the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—

“(A) the means used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency has compensated for such limitations if needed to reach the required level of accuracy; and

“(7) include the summary findings of those program evaluations completed during the period covered by the update.

“(d) If an agency performance update includes any program activity or information that is specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive Order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

“(e) The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of agency performance updates under this section shall be performed only by Federal employees.

“(f) Each fiscal year, the Office of Management and Budget shall determine whether the agency programs or activities meet performance goals and objectives outlined in the agency performance plans and submit a report on unmet goals to—

“(1) the head of the agency;

“(2) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(3) the Committee on Oversight and Governmental Reform of the House of Representatives; and

“(4) the Government Accountability Office.

“(g) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 1 fiscal year, the head of the agency shall submit a performance improvement plan to the Office of Management and Budget to increase program effectiveness for each unmet goal with measurable milestones. The agency shall designate a senior official who shall oversee the performance improvement strategies for each unmet goal.

“(h)(1) If the Office of Management and Budget determines that agency programs or activities have unmet performance goals for 2 consecutive fiscal years, the head of the agency shall—

“(A) submit to Congress a description of the actions the Administration will take to improve performance, including proposed statutory changes or planned executive actions; and

“(B) describe any additional funding the agency will obligate to achieve the goal, if such an action is determined appropriate in consultation with the Director of the Office of Management and Budget, for an amount determined appropriate by the Director.

“(2) In providing additional funding described under paragraph (1)(B), the head of the agency shall use any reprogramming or transfer authority available to the agency. If after exercising such authority additional funding is necessary to achieve the level determined appropriate by the Director of the Office of Management and Budget, the head of the agency shall submit a request to Congress for additional reprogramming or transfer authority.

“(i) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 3 consecutive fiscal years, the Director of the Office of Management and Budget shall submit recommendations to Congress on actions to improve performance not later than 60 days after that determination, including—

“(1) reauthorization proposals for each program or activity that has not met performance goals;

“(2) proposed statutory changes necessary for the program activities to achieve the proposed

level of performance on each performance goal; and

“(3) planned executive actions or identification of the program for termination or reduction in the President’s budget.”.

SEC. 5. FEDERAL GOVERNMENT AND AGENCY PRIORITY GOALS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1119 the following:

“§ 1120. Federal Government and agency priority goals

“(a) **FEDERAL GOVERNMENT PRIORITY GOALS.**—

“(1) The Director of the Office of Management and Budget shall coordinate with agencies to develop priority goals to improve the performance and management of the Federal Government. Such Federal Government priority goals shall include—

“(A) outcome-oriented goals covering a limited number of crosscutting policy areas; and

“(B) goals for management improvements needed across the Federal Government, including—

“(i) financial management;

“(ii) human capital management;

“(iii) information technology management;

“(iv) procurement and acquisition management; and

“(v) real property management;

“(2) The Federal Government priority goals shall be long-term in nature. At a minimum, the Federal Government priority goals shall be updated or revised every 4 years and made publicly available concurrently with the submission of the budget of the United States Government made in the first full fiscal year following any year in which the term of the President commences under section 101 of title 3. As needed, the Director of the Office of Management and Budget may make adjustments to the Federal Government priority goals to reflect significant changes in the environment in which the Federal Government is operating, with appropriate notification of Congress.

“(3) When developing or making adjustments to Federal Government priority goals, the Director of the Office of Management and Budget shall consult periodically with the Congress, including obtaining majority and minority views from—

“(A) the Committees on Appropriations of the Senate and the House of Representatives;

“(B) the Committees on the Budget of the Senate and the House of Representatives;

“(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(D) the Committee on Oversight and Government Reform of the House of Representatives;

“(E) the Committee on Finance of the Senate;

“(F) the Committee on Ways and Means of the House of Representatives; and

“(G) any other committees as determined appropriate;

“(4) The Director of the Office of Management and Budget shall consult with the appropriate committees of Congress at least once every 2 years.

“(5) The Director of the Office of Management and Budget shall make information about the Federal Government priority goals available on the website described under section 1122 of this title.

“(6) The Federal Government performance plan required under section 1115(a) of this title shall be consistent with the Federal Government priority goals.

“(b) **AGENCY PRIORITY GOALS.**—

“(1) Every 2 years, the head of each agency listed in section 901(b) of this title, or as otherwise determined by the Director of the Office of Management and Budget, shall identify agency priority goals from among the performance goals

of the agency. The Director of the Office of Management and Budget shall determine the total number of agency priority goals across the Government, and the number to be developed by each agency. The agency priority goals shall—

“(A) reflect the highest priorities of the agency, as determined by the head of the agency and informed by the Federal Government priority goals provided under subsection (a) and the consultations with Congress and other interested parties required by section 306(d) of title 5;

“(B) have ambitious targets that can be achieved within a 2-year period;

“(C) have a clearly identified agency official, known as a goal leader, who is responsible for the achievement of each agency priority goal;

“(D) have interim quarterly targets for performance indicators if more frequent updates of actual performance provides data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden; and

“(E) have clearly defined quarterly milestones.

“(2) If an agency priority goal includes any program activity or information that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

“(c) The functions and activities of this section shall be considered to be inherently governmental functions. The development of Federal Government and agency priority goals shall be performed only by Federal employees.”.

SEC. 6. QUARTERLY PRIORITY PROGRAMS REVIEWS AND USE OF PERFORMANCE INFORMATION.

Chapter 11 of title 31, United States Code, is amended by adding after section 1120 (as added by section 5 of this Act) the following:

“§ 1121. Quarterly priority programs reviews and use of performance information

“(a) **USE OF PERFORMANCE INFORMATION TO ACHIEVE FEDERAL GOVERNMENT PRIORITY GOALS.**—Not less than quarterly, the Director of the Office of Management and Budget, with the support of the Performance Improvement Council, shall—

“(1) for each Federal Government priority goal required by section 1120(a) of this title, review with the appropriate lead Government official the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

“(2) include in such reviews officials from the agencies, organizations, and program activities that contribute to the accomplishment of each Federal Government priority goal;

“(3) assess whether agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned to each Federal Government priority goal;

“(4) categorize the Federal Government priority goals by risk of not achieving the planned level of performance; and

“(5) for the Federal Government priority goals at greatest risk of not meeting the planned level of performance, identify prospects and strategies for performance improvement, including any needed changes to agencies, organizations, program activities, regulations, tax expenditures, policies or other activities.

“(b) **AGENCY USE OF PERFORMANCE INFORMATION TO ACHIEVE AGENCY PRIORITY GOALS.**—Not less than quarterly, at each agency required to develop agency priority goals required by section 1120(b) of this title, the head of the agency and Chief Operating Officer, with the support

of the agency Performance Improvement Officer, shall—

“(1) for each agency priority goal, review with the appropriate goal leader the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

“(2) coordinate with relevant personnel within and outside the agency who contribute to the accomplishment of each agency priority goal;

“(3) assess whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned to the agency priority goals;

“(4) categorize agency priority goals by risk of not achieving the planned level of performance; and

“(5) for agency priority goals at greatest risk of not meeting the planned level of performance, identify prospects and strategies for performance improvement, including any needed changes to agency program activities, regulations, policies, or other activities.”.

SEC. 7. TRANSPARENCY OF FEDERAL GOVERNMENT PROGRAMS, PRIORITY GOALS, AND RESULTS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1121 (as added by section 6 of this Act) the following:

“§ 1122. Transparency of programs, priority goals, and results

“(a) **TRANSPARENCY OF AGENCY PROGRAMS.**—

“(1) **IN GENERAL.**—Not later than October 1, 2012, the Office of Management and Budget shall—

“(A) ensure the effective operation of a single website;

“(B) at a minimum, update the website on a quarterly basis; and

“(C) include on the website information about each program identified by the agencies.

“(2) **INFORMATION.**—Information for each program described under paragraph (1) shall include—

“(A) an identification of how the agency defines the term ‘program’, consistent with guidance provided by the Director of the Office of Management and Budget, including the program activities that are aggregated, disaggregated, or consolidated to be considered a program by the agency;

“(B) a description of the purposes of the program and the contribution of the program to the mission and goals of the agency; and

“(C) an identification of funding for the current fiscal year and previous 2 fiscal years.

“(b) **TRANSPARENCY OF AGENCY PRIORITY GOALS AND RESULTS.**—The head of each agency required to develop agency priority goals shall make information about each agency priority goal available to the Office of Management and Budget for publication on the website, with the exception of any information covered by section 1120(b)(2) of this title. In addition to an identification of each agency priority goal, the website shall also consolidate information about each agency priority goal, including—

“(1) a description of how the agency incorporated any views and suggestions obtained through congressional consultations about the agency priority goal;

“(2) an identification of key factors external to the agency and beyond its control that could significantly affect the achievement of the agency priority goal;

“(3) a description of how each agency priority goal will be achieved, including—

“(A) the strategies and resources required to meet the priority goal;

“(B) clearly defined milestones;

“(C) the organizations, program activities, regulations, policies, and other activities that contribute to each goal, both within and external to the agency;

“(D) how the agency is working with other agencies to achieve the goal; and

“(E) an identification of the agency official responsible for achieving the priority goal;

“(4) the performance indicators to be used in measuring or assessing progress;

“(5) a description of how the agency ensures the accuracy and reliability of the data used to measure progress towards the priority goal, including an identification of—

“(A) the means used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency has compensated for such limitations if needed to reach the required level of accuracy;

“(6) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

“(7) an assessment of whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned;

“(8) an identification of the agency priority goals at risk of not achieving the planned level of performance; and

“(9) any prospects or strategies for performance improvement.

“(c) **TRANSPARENCY OF FEDERAL GOVERNMENT PRIORITY GOALS AND RESULTS.**—The Director of the Office of Management and Budget shall also make available on the website—

“(1) a brief description of each of the Federal Government priority goals required by section 1120(a) of this title;

“(2) a description of how the Federal Government priority goals incorporate views and suggestions obtained through congressional consultations;

“(3) the Federal Government performance goals and performance indicators associated with each Federal Government priority goal as required by section 1115(a) of this title;

“(4) an identification of the lead Government official for each Federal Government performance goal;

“(5) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

“(6) an identification of the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities that contribute to each Federal Government priority goal;

“(7) an assessment of whether relevant agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned;

“(8) an identification of the Federal Government priority goals at risk of not achieving the planned level of performance; and

“(9) any prospects or strategies for performance improvement.

“(d) **INFORMATION ON WEBSITE.**—The information made available on the website under this section shall be readily accessible and easily found on the Internet by the public and members and committees of Congress. Such information shall also be presented in a searchable, machine-readable format. The Director of the Office of Management and Budget shall issue guidance to ensure that such information is provided in a way that presents a coherent picture of all Federal programs, and the performance of the Federal Government as well as individual agencies.”.

SEC. 8. AGENCY CHIEF OPERATING OFFICERS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1122 (as added by section 7 of this Act) the following:

“§ 1123. Chief Operating Officers

“(a) **ESTABLISHMENT.**—At each agency, the deputy head of agency, or equivalent, shall be the Chief Operating Officer of the agency.

“(b) **FUNCTION.**—Each Chief Operating Officer shall be responsible for improving the management and performance of the agency, and shall—

“(1) provide overall organization management to improve agency performance and achieve the mission and goals of the agency through the use of strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

“(2) advise and assist the head of agency in carrying out the requirements of sections 1115 through 1122 of this title and section 306 of title 5;

“(3) oversee agency-specific efforts to improve management functions within the agency and across Government; and

“(4) coordinate and collaborate with relevant personnel within and external to the agency who have a significant role in contributing to and achieving the mission and goals of the agency, such as the Chief Financial Officer, Chief Human Capital Officer, Chief Acquisition Officer/Senior Procurement Executive, Chief Information Officer, and other line of business chiefs at the agency.”.

SEC. 9. AGENCY PERFORMANCE IMPROVEMENT OFFICERS AND THE PERFORMANCE IMPROVEMENT COUNCIL.

Chapter 11 of title 31, United States Code, is amended by adding after section 1123 (as added by section 8 of this Act) the following:

“§ 1124. Performance Improvement Officers and the Performance Improvement Council

“(a) **PERFORMANCE IMPROVEMENT OFFICERS.**—

“(1) **ESTABLISHMENT.**—At each agency, the head of the agency, in consultation with the agency Chief Operating Officer, shall designate a senior executive of the agency as the agency Performance Improvement Officer.

“(2) **FUNCTION.**—Each Performance Improvement Officer shall report directly to the Chief Operating Officer. Subject to the direction of the Chief Operating Officer, each Performance Improvement Officer shall—

“(A) advise and assist the head of the agency and the Chief Operating Officer to ensure that the mission and goals of the agency are achieved through strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

“(B) advise the head of the agency and the Chief Operating Officer on the selection of agency goals, including opportunities to collaborate with other agencies on common goals;

“(C) assist the head of the agency and the Chief Operating Officer in overseeing the implementation of the agency strategic planning, performance planning, and reporting requirements provided under sections 1115 through 1122 of this title and sections 306 of title 5, including the contributions of the agency to the Federal Government priority goals;

“(D) support the head of agency and the Chief Operating Officer in the conduct of regular reviews of agency performance, including at least quarterly reviews of progress achieved toward agency priority goals, if applicable;

“(E) assist the head of the agency and the Chief Operating Officer in the development and use within the agency of performance measures in personnel performance appraisals, and, as appropriate, other agency personnel and planning processes and assessments; and

“(F) ensure that agency progress toward the achievement of all goals is communicated to leaders, managers, and employees in the agency and Congress, and made available on a public website of the agency.

“(b) **PERFORMANCE IMPROVEMENT COUNCIL.**—

“(1) **ESTABLISHMENT.**—There is established a Performance Improvement Council, consisting of—

“(A) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council;

“(B) the Performance Improvement Officer from each agency defined in section 901(b) of this title;

“(C) other Performance Improvement Officers as determined appropriate by the chairperson; and

“(D) other individuals as determined appropriate by the chairperson.

“(2) **FUNCTION.**—The Performance Improvement Council shall—

“(A) be convened by the chairperson or the designee of the chairperson, who shall preside at the meetings of the Performance Improvement Council, determine its agenda, direct its work, and establish and direct subgroups of the Performance Improvement Council, as appropriate, to deal with particular subject matters;

“(B) assist the Director of the Office of Management and Budget to improve the performance of the Federal Government and achieve the Federal Government priority goals;

“(C) assist the Director of the Office of Management and Budget in implementing the planning, reporting, and use of performance information requirements related to the Federal Government priority goals provided under sections 1115, 1120, 1121, and 1122 of this title;

“(D) work to resolve specific Governmentwide or crosscutting performance issues, as necessary;

“(E) facilitate the exchange among agencies of practices that have led to performance improvements within specific programs, agencies, or across agencies;

“(F) coordinate with other interagency management councils;

“(G) seek advice and information as appropriate from nonmember agencies, particularly smaller agencies;

“(H) consider the performance improvement experiences of corporations, nonprofit organizations, foreign, State, and local governments, Government employees, public sector unions, and customers of Government services;

“(I) receive such assistance, information and advice from agencies as the Council may request, which agencies shall provide to the extent permitted by law; and

“(J) develop and submit to the Director of the Office of Management and Budget, or when appropriate to the President through the Director of the Office of Management and Budget, at times and in such formats as the chairperson may specify, recommendations to streamline and improve performance management policies and requirements.

“(3) **SUPPORT.**—

“(A) **IN GENERAL.**—The Administrator of General Services shall provide administrative and other support for the Council to implement this section.

“(B) **PERSONNEL.**—The heads of agencies with Performance Improvement Officers serving on the Council shall, as appropriate and to the extent permitted by law, provide at the request of the chairperson of the Performance Improvement Council up to 2 personnel authorizations to serve at the direction of the chairperson.”.

SEC. 10. FORMAT OF PERFORMANCE PLANS AND REPORTS.

(a) **SEARCHABLE, MACHINE-READABLE PLANS AND REPORTS.**—For fiscal year 2012 and each fiscal year thereafter, each agency required to produce strategic plans, performance plans, and performance updates in accordance with the amendments made by this Act shall—

(1) not incur expenses for the printing of strategic plans, performance plans, and performance reports for release external to the agency,

except when providing such documents to the Congress;

(2) produce such plans and reports in searchable, machine-readable formats; and

(3) make such plans and reports available on the website described under section 1122 of title 31, United States Code.

(b) **WEB-BASED PERFORMANCE PLANNING AND REPORTING.**—

(1) **IN GENERAL.**—Not later than June 1, 2012, the Director of the Office of Management and Budget shall issue guidance to agencies to provide concise and timely performance information for publication on the website described under section 1122 of title 31, United States Code, including, at a minimum, all requirements of sections 1115 and 1116 of title 31, United States Code, except for section 1115(e).

(2) **HIGH-PRIORITY GOALS.**—For agencies required to develop agency priority goals under section 1120(b) of title 31, United States Code, the performance information required under this section shall be merged with the existing information required under section 1122 of title 31, United States Code.

(3) **CONSIDERATIONS.**—In developing guidance under this subsection, the Director of the Office of Management and Budget shall take into consideration the experiences of agencies in making consolidated performance planning and reporting information available on the website as required under section 1122 of title 31, United States Code.

SEC. 11. REDUCING DUPLICATIVE AND OUTDATED AGENCY REPORTING.

(a) **BUDGET CONTENTS.**—Section 1105(a) of title 31, United States Code, is amended—

(1) by redesignating second paragraph (33) as paragraph (35); and

(2) by adding at the end the following:

“(37) the list of plans and reports, as provided for under section 1125, that agencies identified for elimination or consolidation because the plans and reports are determined outdated or duplicative of other required plans and reports.”.

(b) **ELIMINATION OF UNNECESSARY AGENCY REPORTING.**—Chapter 11 of title 31, United States Code, is further amended by adding after section 1124 (as added by section 9 of this Act) the following:

“§ 1125. Elimination of unnecessary agency reporting

“(a) **AGENCY IDENTIFICATION OF UNNECESSARY REPORTS.**—Annually, based on guidance provided by the Director of the Office of Management and Budget, the Chief Operating Officer at each agency shall—

“(1) compile a list that identifies all plans and reports the agency produces for Congress, in accordance with statutory requirements or as directed in congressional reports;

“(2) analyze the list compiled under paragraph (1), identify which plans and reports are outdated or duplicative of other required plans and reports, and refine the list to include only the plans and reports identified to be outdated or duplicative;

“(3) consult with the congressional committees that receive the plans and reports identified under paragraph (2) to determine whether those plans and reports are no longer useful to the committees and could be eliminated or consolidated with other plans and reports; and

“(4) provide a total count of plans and reports compiled under paragraph (1) and the list of outdated and duplicative reports identified under paragraph (2) to the Director of the Office of Management and Budget.

“(b) **PLANS AND REPORTS.**—

“(1) **FIRST YEAR.**—During the first year of implementation of this section, the list of plans and reports identified by each agency as outdated or duplicative shall be not less than 10

percent of all plans and reports identified under subsection (a)(1).

“(2) **SUBSEQUENT YEARS.**—In each year following the first year described under paragraph (1), the Director of the Office of Management and Budget shall determine the minimum percent of plans and reports to be identified as outdated or duplicative on each list of plans and reports.

“(c) **REQUEST FOR ELIMINATION OF UNNECESSARY REPORTS.**—In addition to including the list of plans and reports determined to be outdated or duplicative by each agency in the budget of the United States Government, as provided by section 1105(a)(37), the Director of the Office of Management and Budget may concurrently submit to Congress legislation to eliminate or consolidate such plans and reports.”.

SEC. 12. PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.

(a) **PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.**—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Personnel Management, in consultation with the Performance Improvement Council, shall identify the key skills and competencies needed by Federal Government personnel for developing goals, evaluating programs, and analyzing and using performance information for the purpose of improving Government efficiency and effectiveness.

(b) **POSITION CLASSIFICATIONS.**—Not later than 2 years after the date of enactment of this Act, based on the identifications under subsection (a), the Director of the Office of Personnel Management shall incorporate, as appropriate, such key skills and competencies into relevant position classifications.

(c) **INCORPORATION INTO EXISTING AGENCY TRAINING.**—Not later than 2 years after the enactment of this Act, the Director of the Office of Personnel Management shall work with each agency, as defined under section 306(f) of title 5, United States Code, to incorporate the key skills identified under subsection (a) into training for relevant employees at each agency.

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The table of contents for chapter 3 of title 5, United States Code, is amended by striking the item relating to section 306 and inserting the following:

“306. Agency strategic plans.”.

(b) The table of contents for chapter 11 of title 31, United States Code, is amended by striking the items relating to section 1115 and 1116 and inserting the following:

“1115. Federal Government and agency performance plans.

“1116. Agency performance reporting.”.

(c) The table of contents for chapter 11 of title 31, United States Code, is amended by adding at the end the following:

“1120. Federal Government and agency priority goals.

“1121. Quarterly priority progress reviews and use of performance information.

“1122. Transparency of programs, priority goals, and results.

“1123. Chief Operating Officers.

“1124. Performance Improvement Officers and the Performance Improvement Council.

“1125. Elimination of unnecessary agency reporting.”.

SEC. 14. IMPLEMENTATION OF THIS ACT.

(a) **INTERIM PLANNING AND REPORTING.**—

(1) **IN GENERAL.**—The Director of the Office of Management and Budget shall coordinate with agencies to develop interim Federal Government priority goals and submit interim Federal Government performance plans consistent with the requirements of this Act beginning with the sub-

mission of the fiscal year 2013 Budget of the United States Government.

(2) **REQUIREMENTS.**—Each agency shall—

(A) not later than February 6, 2012, make adjustments to its strategic plan to make the plan consistent with the requirements of this Act;

(B) prepare and submit performance plans consistent with the requirements of this Act, including the identification of agency priority goals, beginning with the performance plan for fiscal year 2013; and

(C) make performance reporting updates consistent with the requirements of this Act beginning in fiscal year 2012.

(3) **QUARTERLY REVIEWS.**—The quarterly priority progress reviews required under this Act shall begin—

(A) with the first full quarter beginning on or after the date of enactment of this Act for agencies based on the agency priority goals contained in the Analytical Perspectives volume of the Fiscal Year 2011 Budget of the United States Government; and

(B) with the quarter ending June 30, 2012 for the interim Federal Government priority goals.

(b) **GUIDANCE.**—The Director of the Office of Management and Budget shall prepare guidance for agencies in carrying out the interim planning and reporting activities required under subsection (a), in addition to other guidance as required for implementation of this Act.

SEC. 15. CONGRESSIONAL OVERSIGHT AND LEGISLATION.

(a) **IN GENERAL.**—Nothing in this Act shall be construed as limiting the ability of Congress to establish, amend, suspend, or annul a goal of the Federal Government or an agency.

(b) **GAO REVIEWS.**—

(1) **INTERIM PLANNING AND REPORTING EVALUATION.**—Not later than June 30, 2013, the Comptroller General shall submit a report to Congress that includes—

(A) an evaluation of the implementation of the interim planning and reporting activities conducted under section 14 of this Act; and

(B) any recommendations for improving implementation of this Act as determined appropriate.

(2) **IMPLEMENTATION EVALUATIONS.**—

(A) **IN GENERAL.**—The Comptroller General shall evaluate the implementation of this Act subsequent to the interim planning and reporting activities evaluated in the report submitted to Congress under paragraph (1).

(B) **AGENCY IMPLEMENTATION.**—

(i) **EVALUATIONS.**—The Comptroller General shall evaluate how implementation of this Act is affecting performance management at the agencies described in section 901(b) of title 31, United States Code, including whether performance management is being used by those agencies to improve the efficiency and effectiveness of agency programs.

(ii) **REPORTS.**—The Comptroller General shall submit to Congress—

(I) an initial report on the evaluation under clause (i), not later than September 30, 2015; and

(II) a subsequent report on the evaluation under clause (i), not later than September 30, 2017.

(C) **FEDERAL GOVERNMENT PLANNING AND REPORTING IMPLEMENTATION.**—

(i) **EVALUATIONS.**—The Comptroller General shall evaluate the implementation of the Federal Government priority goals, Federal Government performance plans and related reporting required by this Act.

(ii) **REPORTS.**—The Comptroller General shall submit to Congress—

(I) an initial report on the evaluation under clause (i), not later than September 30, 2015; and

(II) subsequent reports on the evaluation under clause (i), not later than September 30, 2017 and every 4 years thereafter.

(D) **RECOMMENDATIONS.**—The Comptroller General shall include in the reports required by

subparagraphs (B) and (C) any recommendations for improving implementation of this Act and for streamlining the planning and reporting requirements of the Government Performance and Results Act of 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. CUELLAR) and the gentleman from California (Mr. ISSA) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. CUELLAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CUELLAR. Mr. Speaker, I yield myself such time as I may consume.

First of all, I want to thank Government Oversight Committee Chairman ED TOWNS and Ranking Member ISSA. We worked on this legislation together to address a bill that I believe will be important for the Congress to strengthen its oversight over the executive branch. If we don't pass this, Congress will not be in a strong position to provide legislative oversight. I think everybody agrees that every Member of Congress should do everything to stop unnecessary and wasteful spending. In order to eliminate Federal Government waste, we must know which Federal agencies and programs are working and which are not. We need to examine data of performance efficiency at Federal agencies in order to make responsible budgetary decisions. We need the Senate amendment to H.R. 2142, the Government Performance Results Modernization Act of 2010. The concept is not complicated. We can cut down on the debt by cutting down on waste. With greater government efficiency, we can produce cost savings for every American taxpayer.

This bill will shine light on ineffective Federal programs to root out wasteful spending. Federal agencies are supposed to clearly identify ambitious, high-priority goals and assess their performance and effectiveness to evaluate its direct impact on the American people and the government. This will provide the needed information to make informed budgetary decisions. It also eliminates duplicative, outdated, and unused reporting. In the first year, all old-fashioned, ineffective reporting will be eliminated by 10 percent. And we will continue to streamline across the board. It requires OMB and agencies to submit recommendations to Congress about how to improve the reporting process. This eliminates stacks of unused performance reports that nobody reads or uses at this time. It also heightens transparency to generate government credibility. The information generated will be easily accessible

and made publicly available to Congress and the American people.

□ 0930

It also increases government accountability. Federal agencies are held accountable by requiring all agencies to conduct quarterly performance reports on how effectively they are working to meet their goals and to make sure that there is government accountability, and, therefore, we have government accountability. This will lead to government credibility also.

It elevates the role of agencies to bring accountability. Instead of paper-pushing across government, the deputy secretary or chief operating officer is held accountable for the effectiveness and success of the agency. This puts a face and a name to performance of agencies and programs. It creates a mechanism to penalize agencies that fail to meet goals.

This was an amendment that Senator COBURN added over there on the Senate side, and on the Senate side we worked with Senator MARK WARNER, and so I want to thank him, JOE LIEBERMAN, and Senator AKAKA. But we worked closely with Senator COLLINS, Senator VOINOVICH, and Senator COBURN, who added an amendment, the amendment that creates this mechanism to penalize agencies that don't meet its goals. And we at the last minute spoke to Senator JEFF SESSIONS about this particular bill, and this bill got the support. As you know, it was UC'd. It passed unanimously in the Senate yesterday with the input of our Republican colleagues on the Senate side.

The amendment that Senator COBURN added creates a mechanism to penalize agencies that fail to meet goals. Which means, if an agency program has not met its performance goals for a fiscal year, this bill will require action, and this will ensure the goals are met and actively pursued throughout the year.

The bottom line is, this will allow us to provide legislative oversight over the executive branch. Whether it is a Democratic or a Republican President, this is something we need to do. The American taxpayers deserve a government that is transparent, efficient, and accountable, and I ask Members to support H.R. 2142.

We do have Republican colleagues in the Congress here that, when we passed this bill unanimously from the House floor some months ago, we had Republicans that cosponsored this.

So at this time, I would ask Members to support H.R. 2142.

I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, I will be brief.

Mr. CUELLAR, you have been a good Member. You have worked hard on this. We worked together on this.

When this number left the House, it was a different bill. In the first hour of the new Congress, I intend on working

hard to bring up a bill that looks more like your original bill, has some additional learning experiences, and try to bring it back as quickly as possible.

I cannot support your bill today. This is not the bill that left the House. It is also a bill that still has \$75 million not paid for.

But it's not the \$75 million. As much as we talked about paid-for and PAYGO and offset and how do we do things, our real problem here today is that, as it came back from the Senate, it looks an awful lot like somebody just picked up your number and redid your bill.

Now, I know you want this, and you deserve it for the hard work you did. But this bill is simply a series of mandates that codifies a management style that needs no legislation. This legislation does not create something that the President cannot and is not already doing.

We, in Congress, want goal-setting. Historically, we look to OMB, and that goal-setting is intended to be objective, to hold agencies to standards determined not just by their own agency. As the bill is written today, basically, an agency sets its own goals, announces its own goals, and OMB has a secondary role. This does not create a real requirement for performance-based program analysis. The bill that left with an amendment that you very much helped carve, and we did it together, would have done that.

I don't like the idea that, in the day after the day after the day after we probably should have long gone home but we are waiting for the CR, that they bring something on suspension. Given a few days of regular order, given one round-trip to the committee, we could change this. But if we changed it, of course we would be back with the Senate, which UC'd a completely different bill than the one you worked so hard on.

It might pass today, but it won't have my vote, my support, and I will urge and am urging all the Members on both sides of the aisle to defeat the bill, not because you don't deserve a bill with your name on it on this subject. You have worked hard. But because this isn't the bill that you deserve to have become law.

I know you are leaving Congress. You are a good Member who has worked hard on our committee, and I thank you for that. And I promise you, starting January 5, we will work together with you, if you will donate the time, to do the bill you wanted to do. And that, I guarantee you, will be my first priority, if it is not passed today.

I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair reminds all Members to address their remarks to the Chair.

Mr. CUELLAR. Mr. Speaker, first of all, I want to thank the ranking member, who will be the chairman of Government Oversight. I want to thank him and his staff, because we did work on this together.

It went over to the Senate. We were trying to move it over here as quickly as possible. The Senators did make some changes, but the biggest change, I believe, was to reduce the cost. Because, you recall, it was an authorization of \$150 million, got cut in half to \$75 million, which means that the agencies will be absorbing this cost, so it won't cost any appropriations, number one.

Number two, I believe one of the major amendments was Senator COBURN from Oklahoma, who basically put the teeth on requiring Congress and OMB to take action if an agency or a program doesn't meet those performance goals.

So, again, I respectfully disagree with you on that. But I believe the amendments that Senator COBURN added are actually good, because it does add the teeth or the mechanism to enforce if an agency doesn't do its job by meeting those goals.

I do want to thank again the ranking member and the chairman, also, and the staff on both sides, the Republican staff and our side. We worked on this bill, because this is a bill that Mr. ISSA and I believe strongly in, and TODD PLATTS, also. So I want to say thank you for the work that we are doing. And hopefully we can work on other items. If not, we will be working together on this bill again. But I do want to say thank you for the work that Members on both sides of the aisle have done.

I reserve the balance of my time.

Mr. ISSA. I yield myself such time as I may consume.

Mr. Speaker, I think we've both said what comes from our heart. We're losing a good Member who worked hard on our committee. This is not a good bill. This is not the bill he would have done. So I respectfully ask all Members to vote "no" on this. I will vote "no" not because of the author and not because of his effort, but because it simply isn't good enough.

If we are going to spend even \$75 million on new mandates, we have a standard that has to be a standard of excellence, a standard that truly makes improvements, and a standard that in fact does not simply allow the President to do what he already has the power to do. We can do this in the next Congress. We will do this.

Again, Mr. Speaker, I express my interest in working with members of the committee now and members of the committee in the future to fashion a bill with this same name, and, if I'm allowed, even the same number, so that we can pass it in its original form or in an improved form in the next Congress.

I reluctantly say we must oppose this bill.

I yield back the balance of my time.

Mr. CUELLAR. I again thank the ranking member. I urge all Members to support H.R. 2142, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. CUELLAR) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2142.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. ISSA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 0940

RECOGNIZING 100TH ANNIVERSARY OF CATHOLIC CHARITIES USA

Mr. CUELLAR. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1621) recognizing the 100th anniversary of the historic founding of Catholic Charities USA.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1621

Whereas Catholic Charities USA was founded in 1910 on the campus of Catholic University of America in Washington, DC, as the National Conference of Catholic Charities;

Whereas under the leadership of Msgr. John O'Grady, who served as Executive Secretary from 1920 to 1961, the National Conference of Catholic Charities became a leading voice for compassionate social reforms grounded in Catholic teachings;

Whereas in 1986, the National Conference of Catholic Charities changed its name to Catholic Charities USA;

Whereas this year, 2010, Catholic Charities USA is celebrating its centennial anniversary;

Whereas Catholic Charities USA is the national office for over 1,700 local Catholic Charities agencies and institutions nationwide;

Whereas Catholic Charities' mission is to provide service to people in need, to advocate for justice in social structures, and to call people of goodwill to do the same by working with individuals, families, and communities to help them meet their needs, address their issues, eliminate oppression, and build a just and compassionate society;

Whereas Catholic Charities USA has the goal of providing strong leadership and support to assist local diocesan agencies in their efforts to reduce poverty, support families, and empower communities;

Whereas Catholic Charities USA, inspired by Catholic teachings, maintain programs focused on poverty in the United States, parenthood, immigration, human trafficking,

disaster response and relief, and climate change;

Whereas Catholic Charities USA and its members provide help and create hope for more than 8.5 million people each year, regardless of faith; and

Whereas Catholic Charities USA supports local agencies through advocacy, networking, national voice, training, financial support, and leadership: Now, therefore, be it Resolved, That the House of Representatives—

(1) recognizes and celebrates the 100th anniversary of the historic founding of the National Conference of Catholic Charities, now called Catholic Charities USA; and

(2) honors and praises Catholic Charities USA for being a national leader in the efforts to fight poverty and to strengthen the United States in times of need and crisis.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. CUELLAR) and the gentleman from California (Mr. ISSA) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. CUELLAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CUELLAR. I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Government Oversight and Reform, I am pleased to present H. Res. 1621, a resolution recognizing the 100th anniversary of the historic founding of Catholic Charities USA, introduced by our colleague, the gentleman from New Jersey, Representative RUSH HOLT, on September 15, 2010. The measure enjoys the support of over 70 cosponsors.

Mr. Speaker, Catholic Charities was founded in 1910 here in Washington, DC on the campus of Catholic University of America as the National Conference of Catholic Charities. It was created to promote the creation of Catholic Charities across the country, encourage professional social work practice, to bring solidarity to those in charitable ministries and to advocate for the poor.

Today, Catholic Charities serves over 9 million people of all faiths and backgrounds each year. They provide training and technical assistance to member organizations, assist in disaster relief operations, and maintain a range of networks with groups committed to social justice.

Mr. Speaker, let us therefore congratulate the historic founding of the organization through the passage of H. Res. 1621. I urge my colleagues to join me in supporting this.

I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, H. Res. 1621 does what we should do in recognizing really great organizations for the work they do. Catholic Charities for 100

years has represented the best in charity, not as the name might suggest as Catholics or for Catholics, but Catholic Charities are people helping people regardless of their religion around this country. So I join with the majority in urging support for H. Res. 1621.

I reserve the balance of my time.

Mr. CUELLAR. Mr. Speaker, at this time I yield such time as he may consume to the sponsor of the bill, the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, as this session of Congress moves to an end, I would also like to thank the gentleman from Texas for his service and for bringing this up now.

We will recognize with this resolution and celebrate the 100th anniversary of this historic organization that is a force for good, a leading voice in the United States for compassionate service and care and for social reform. More than 1,700 local Catholic Charities, agencies and institutions nationwide carry out the mission to provide service to people in need, to advocate for justice and social structures, to call people of good will to do the same by working with individuals and families and communities to help them meet their needs, address their issues, eliminate oppression, and build a just and compassionate society.

Catholic Charities focuses on poverty, but has important work in parenthood, in immigration, human trafficking, disaster response and relief, climate change and other such things.

Catholic Charities provides help and hope for more than 8.5 million people each year. For example, it provides food service to millions of people; immigration services; refugee services; addiction services; adoption services; temporary shelter; transitional housing; and much, much more, in a compassionate, nonsectarian way.

This really is an example of what we can do together as a community. I see this in New Jersey under the auspices of the bishop of the diocese of Metuchen, Bishop Bootkoski; the bishop of Trenton, Bishop O'Connell; dedicated people, such as Francis Dolan, Joyce Campbell and Marianne Majewski. On the national scene, Rev. Snyder, the national president, provides every day a fine example of how service and care and compassion that are motivated by faith and religious teaching are delivered in a nonsectarian way without proselytizing and available to people of all faiths.

These people let their works, their good works, speak. Communities that are marred by disasters such as hurricanes, fires and floods find Catholic Charities there as one of the greatest providers of financial and technical assistance and training and, most of all, compassion and care.

I ask my colleagues to join me in recognizing 100 years of good works of Catholic Charities USA.

Mr. ISSA. Mr. Speaker, time is short. I believe this will be unanimously passed. And whether it is Father Joe Carroll in San Diego or countless heads of various charities headed by clergymen or lay people around the country, Catholic Charities today, after 100 years, is being honored on behalf of the kind of outreach of people helping people that America does best.

With that, I thank the gentleman for bringing this bill to our attention. I am glad we were able to do this in the 11th hour. I urge its support.

I yield back the balance of my time.

Mr. CUELLAR. Mr. Speaker, first of all I want to say I am returning back to Congress. I want to just put that on the record. So I do look forward to working with Mr. HOLT and Mr. ISSA and other Members.

Again, as this might be the last oversight bill that we have, again I want to thank the Democrat staff, Chairman TOWNS, the ranking member and his staff also for working with us, because I think this committee has done a lot of good work, and I appreciate the work they have done, all of us working together in a bipartisan way.

At this time I will ask Members to support this resolution.

Mr. ISSA. Mr. Speaker, if the gentleman will yield, I join with the gentleman, of course, in supporting this bill. I too look forward to working with the gentleman as he returns in the next Congress. But my notes indicated he was leaving the committee. If that is not true, then I truly look forward to working with him on the committee. If he is on another committee, I look forward to working with him in his new role, but on his legislation.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. 1621, "Recognizing the 100th Anniversary of the Historic Founding of Catholic Charities USA." Let me begin by thanking my colleague Representative RUSH HOLT for introducing this incredibly important piece of legislation into the House of Representatives, as it is imperative that we recognize and support Catholic Charities' USA 100th anniversary.

Mr. Speaker, as an enthusiast of Catholic Charities USA and co-sponsor of this resolution, I urge my colleagues to support this measure by recognizing the importance of Catholic Charities USA and their 100 years of service to our great nation.

Since the Catholic Charities USA founding in 1910 on the campus of Catholic University of America in Washington, DC, Catholic Charities has worked to establish well over 1,700 local Catholic Charities agencies and institutions around the nation.

The vision of Catholic Charities USA is direct and simple, to help "people in need achieve self-sufficiency." Yet Catholic Charities USA continues to touch hundreds of thousands of lives by providing vulnerable individuals with greatly needed care, nourishment, and compassion. As an advocate for social justice, Catholic Charities USA works to empower committees around the nation maintain-

ing that each individual is entitled to a life of dignity and opportunity that allows each person to reach their full potential. As part of our government, it is dire that we provide our constituents and all Americans with a good quality of life. By recognizing the centennial anniversary of Catholic Charities USA, we are acknowledging the extreme, positive impact of their efforts all over America and the work they do to provide all with a high quality of life, respect, and dignity. Furthermore, we would be commending and applauding Catholic Charities USA's efforts to provide children, the poor, the disabled, the elderly, and the powerless with resources like housing, food, economic security, health, a place in the workforce, and education.

As for the 18th district of Texas, I would be utterly remiss if I did not take time to recognize and relay my sincerest gratitude for all that the Catholic Charities of the Archdiocese of Galveston-Houston has done, and continues to do in Houston. For over 60 years Catholic Charities has served the human and social service needs of Houstonians by providing communities with programs aimed at promoting and facilitating self-sufficiency. Teaching and preparing one to be self-sufficient is perhaps one of the most beautiful ways to help human kind. The Chinese proverb, "Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime," sheds light on the wisdom of teaching and the importance of self-sufficiency. The Archdiocese of Galveston-Houston employs this lesson through numerous programs for the elderly, refugees and immigrants, and those affected by HIV/AIDS, cancer, and devastating illnesses. One of their greatest outreach missions provided to Houstonians is disaster relief. As you well know Hurricane Ike was a grave environmental catastrophe, leaving many surviving Houstonians in disarray, bereavement, poverty, and great sadness. Yet Catholic Charities offered free disaster recovery assistance for Hurricane Ike survivors in the form of counseling and resources. Additionally, Catholic Charities AIDS ministry provides holistic services to those suffering from HIV/AIDS in form of case management, HIV education, and compassionate non-judgmental responses. Also, through the Share Your Blessings Program, Catholic Charities is working to provide impoverished Houston families with Christmas joy and hope by seeking Angel Sponsors to provide such families with much needed personal items. Catholic Charities services in and around Houston have greatly helped the 18th district and their efforts are to be commended.

Furthermore, Catholic Charities USA is inspired to reduce poverty, support families and parenthood, empower communities, and eliminate oppression. The spirit of this great organization is the embodiment of goodwill towards man, compassion, and social justice. Madam Speaker, I urge my colleagues to stand in support of this measure and to support the 100 years of monumental contributions made by Catholic Charities USA. To give them honor and praise for being a national leader in their efforts to combat poverty, promote social justice, and treat all with dignity.

Mr. Speaker, I believe our body would be slipshod if we were not to pass this extraordinary measure to recognize and support

Catholic Charities USA 100th anniversary and their historic founding in 1910 and all that they continue to do to better our society. I urge my colleagues to stand with Rep. HOLT and myself and vote in favor of H.R. 1621, "Recognizing the 100th Anniversary of the Historic Founding of Catholic Charities USA."

Mr. CUELLAR. Mr. Speaker, I ask Members to support the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. CUELLAR) that the House suspend the rules and agree to the resolution, H. Res. 1621.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

□ 0950

COMMENDING THE WISCONSIN BADGER FOOTBALL TEAM

Mr. HOLT. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1767) commending the Wisconsin Badger football team for an outstanding season and 2011 Rose Bowl bid.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1767

Whereas the Wisconsin Badgers completed a dominant regular season, winning the Big Ten Title, finishing 11 and 1, and earning a bid to the Rose Bowl on January 1, 2011;

Whereas the annual Rose Bowl is the oldest of all college bowl games, and its history and prestige have earned it the title "The Granddaddy of Them All";

Whereas the Rose Bowl was first played in 1902 and since 1945 has been the highest attended college football bowl game;

Whereas University of Wisconsin-Madison Chancellor Biddy Martin has exhibited strong leadership for the University of Wisconsin and an unyielding commitment to academic excellence for its student athletes;

Whereas Athletic Director Barry Alvarez, a three-time Rose Bowl winning coach, helped lead the Badgers back to Pasadena, California;

Whereas Head Coach Bret Bielema showed tremendous leadership, guiding the Badgers to an outstanding 11 and 1 season;

Whereas the Badgers have achieved an outstanding overall 49 and 15 record under Coach Bielema's tenure;

Whereas Offensive Coordinator Paul Chryst, a finalist for the Broyles Award as the Nation's top assistant coach, leads a prolific Badger offense, which ranks in the top 20 nationally in scoring, rushing, and total offense;

Whereas the Badgers defeated the number one ranked Ohio State Buckeyes, 31 to 18, on a warm fall night in Madison, Wisconsin;

Whereas this contest featured an electrifying opening kickoff return for a touchdown by David Gilreath, a play that will go down in Camp Randall Stadium history;

Whereas one week after defeating Ohio State, the Badgers dug deep to win at

Kinnick Stadium in Iowa City, Iowa, despite missing several key players due to injury;

Whereas senior quarterback Scott Tolzien, the most accurate passer in college football, won the Johnny Unitas Golden Arm Award for his on-field performance, as well as his character;

Whereas for a second consecutive season, the Badger football team features 22 players that were selected to the Academic All-Big Ten team, surpassing the previous record of 19 set in 2007, Coach Bielema's second season;

Whereas senior offensive lineman Gabe Carimi won the Outland Trophy, an honor given to the best interior lineman in college football, in addition to being selected to the Academic All-Big Ten Team as a civil engineering major;

Whereas senior defensive end J.J. Watt is an Academic All-Big Ten Team selection, and winner of the Lott IMPACT Trophy, awarded nationally to a defensive player for his athletic, academic, and community achievements;

Whereas the Wisconsin Badgers had six offensive linemen selected to the All-Big Ten Team, when only five players start at the position;

Whereas the Wisconsin Badgers are the least penalized team in the United States, displaying remarkable discipline and leadership on the field;

Whereas Texas Christian University has also earned a Rose Bowl bid after a successful season;

Whereas the University of Wisconsin looks forward to badgering the Horned Frogs on New Year's Day; and

Whereas Wisconsin Badger fans sold out Camp Randall for the entire season and are known for their loyal and fervent support: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the Wisconsin Badger football team for an outstanding season and 2011 Rose Bowl bid;

(2) applauds Coach Bret Bielema for his leadership not only on the football field, but also in the community; and

(3) recognizes the achievements of the players, coaches, students, alumni, and staff who were instrumental in helping the Wisconsin Badgers make it to Pasadena, California.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. HOLT) and the gentleman from Tennessee (Mr. ROE) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

GENERAL LEAVE

Mr. HOLT. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 1767 in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOLT. I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 1767, which commends the Wisconsin Badger football team for an outstanding season and a 2011 Rose Bowl bid. I present this resolution on behalf of Representative BALDWIN. Representative BALDWIN in-

troduced this, and it is supported by others from the Badger State.

The Wisconsin Badgers just completed a dominant regular season, winning the Big Ten title, finishing 11-1, and earning a bid to the Rose Bowl game on New Year's Day 2011.

The Rose Bowl is the oldest of all college football bowl games, first played in 1902. Since 1945, it has been the most highly attended college football bowl game in the country.

I would like to extend my congratulations to the University of Wisconsin-Madison chancellor, Biddy Martin; three-time winning Rose Bowl coach and athletic director, Barry Alvarez; and Head Coach Bret Bielema, for their outstanding season.

The Badgers have achieved an outstanding overall 49-15 record under Coach Bielema's tenure. For a second consecutive season, the Badger football team features 22 players selected to the Academic All-Big Ten team, surpassing the previous record of 19 set a few years ago. The team also—and this is worth noting—is the least penalized team in the United States, displaying remarkable discipline and leadership on the field.

Mr. Speaker, I would like to thank Representative BALDWIN for introducing this resolution and once again express my support for House Resolution 1767.

I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of House Resolution 1767, a resolution commending the Wisconsin Badger football team for an outstanding season in the 2011 Rose Bowl bid.

The 2010 Wisconsin Badgers finished the regular season with a sterling 11-1 record, were co-champions of the Big Ten conference, and earned a trip to the Rose Bowl. The path to the Rose Bowl started early, with a victory over the number one-ranked Ohio State Buckeyes in a nationally televised game, and the season just got better from there.

The Badgers were a prolific offensive machine, averaging 45.2 points per conference game. It was the second highest per game total in conference history. Numerous players earned spots on the All-American teams for their performances on the field this year, including Gabe Carimi, John Moffitt, Lance Kendricks, J.J. Watt, and John Clay. Carimi was named winner of the prestigious Outland Trophy, an award given every year to the Nation's best interior lineman.

Of course, all these accomplishments would not have been possible without their head coach, Bret Bielema. Bielema's achievements have also been recognized, as he was recently named a finalist for the Bear Bryant Award, the award given to the top college football team in the country.

We wish the Badgers the best of luck on January 1, and I urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. HOLT. Mr. Speaker, I am pleased to recognize the gentlewoman from Wisconsin (Ms. BALDWIN), the author of this resolution, for such time as she may consume.

Ms. BALDWIN. Mr. Speaker, I rise today in strong support of H. Res. 1767, a resolution commending the Wisconsin Badger football team for an outstanding season and for their 2011 Rose Bowl bid.

The Wisconsin Badgers completed a terrific regular season and won the Big Ten title. They finished their season 11-1. They are the least penalized team in the country. The Badger offense ranks in the top 20 nationally in scoring, rushing, and total offense. Twenty-two Badger players were selected to the Academic All-Big Ten Team. And even more exciting, our Wisconsin Badgers earned a well-deserved bid to the Rose Bowl on January 1, 2011.

It has been a pleasure for me to watch our Badger football team excel this season. I know I am joined by fans at home in Wisconsin and, indeed, alumni and fans around the country in feeling great pride in the University of Wisconsin-Madison and this stellar accomplishment. It is true that our football team enjoys very loyal and fervent support from fans and alumni. Badger fans sold out Camp Randall Stadium for the entire season. And what a season it was.

My colleagues may remember a warm night in October when the Badgers defeated the number one-ranked Ohio State Buckeyes 31-18. It was really an incredible game. I'll never forget the opening kickoff return by David Gilreath for a touchdown. And after the game, fans rushed to the field in a sea of red. What a game.

The following week, the Badgers barnstormed into Iowa and beat a strong Hawkeyes team in an inspiring comeback. The Badger defense cemented the 1-point win with a key defensive stand.

The Badgers' success on the field is guided by strong guidance from University of Wisconsin leaders. I would like to acknowledge a few key folks who have contributed to this outstanding season. University of Wisconsin-Madison Chancellor Biddy Martin has exhibited incredibly strong leadership for the University of Wisconsin. Chancellor Martin displays an unyielding commitment to academic excellence for Wisconsin's student athletes and is assuredly a big reason behind this great season.

I also want to acknowledge Athletic Director Barry Alvarez, a three-time Rose Bowl-winning coach, who had a strong hand in helping lead the Badgers back to Pasadena, California.

And, of course, we are grateful to the strong leadership of Head Coach Bret

Bielema, who showed tremendous resolve in guiding the Badgers to an outstanding 11-1 season. Indeed, the Badgers have achieved a stellar 49-15 record overall during Coach Bielema's tenure. In addition to his prowess on the field, Coach Bielema is a leader in his community. He does tremendous work to promote breast cancer awareness and survival.

In addition, our Badger defensive coordinator, Paul Chryst, is a finalist for the Broyles Award as the Nation's top assistant coach.

Football fans watch the game because of the skill and talent of the players. At Wisconsin, we're lucky enough to have the privilege of watching players on the field who also show exceptional leadership off the field.

Senior quarterback Scott Tolzien, the most accurate passer in college football, won the Johnny Unitas Golden Arm Award for his on-field performance as well as his character.

Senior defensive end J.J. Watt is an academic All-Big Ten Team selection and winner of the Lott IMPACT Trophy, awarded nationally to a defensive player, for his athletic, academic, and community achievements.

And senior offensive lineman Gabe Carimi won the Outland Trophy, an honor given to the best interior lineman in college football, in addition to being selected to the Academic All-Big Ten Team as a civil engineering major.

As my colleagues know, the annual Rose Bowl game is the oldest college bowl game and its history and prestige have earned it the title of "The Granddaddy of Them All." This 2011 Rose Bowl bid is exciting for the Wisconsin Badgers as well as TCU, Texas Christian University, who we will meet in Pasadena. Wisconsin looks forward to "badgering" the Horned Frogs on New Year's Day.

I urge my colleagues to support H. Res. 1767, which recognizes the achievements of the players, coaches, students, alumni, and staff who were instrumental in helping the Wisconsin Badgers make it to Pasadena, California. Regardless of your political affiliation or football allegiance, there's always an open invitation from the Wisconsin Badgers to "teach you how to Bucky."

We'll see you in Pasadena. On Wisconsin!

Mr. ROE of Tennessee. Mr. Speaker, I have no further requests for time, but I would like to congratulate the Wisconsin football team. It's difficult for me to be here because they destroyed my small school this year, Austin Peay, but we do appreciate the large check you sent us.

I yield back the balance of my time.

Mr. HOLT. Mr. Speaker, I ask passage of this bill, H. Res. 1767, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from New Jersey (Mr. HOLT) that the House suspend the rules and agree to the resolution, H. Res. 1767.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. HOLT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 1000

HONORING ACHIEVEMENTS OF AMBASSADOR RICHARD HOLBROOKE

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 335) honoring the exceptional achievements of Ambassador Richard Holbrooke and recognizing the significant contributions he has made to United States national security, humanitarian causes, and peaceful resolutions of international conflict, as amended.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

H. CON. RES. 335

Whereas Ambassador Richard Holbrooke devoted nearly 50 years of his life to public service, working tirelessly to defend United States interests abroad and foster peace amongst warring factions for the betterment of United States and international stability and security;

Whereas Ambassador Holbrooke was a proud New York native who attended Scarsdale High School before continuing his education at Brown University in 1962, where he was editor of the Brown Daily Herald;

Whereas one month after graduating from university, Ambassador Holbrooke, inspired by President Kennedy's call to service, entered the Foreign Service, where he spent the next 6 years focused on Vietnam, including serving with the United States Agency for International Development (USAID) in the Mekong Delta, as an assistant to Ambassadors Henry Cabot Lodge and Maxwell Taylor, as an author of one volume of the Pentagon Papers, and a member of the team led by Averell Harriman and future Secretary of State Cyrus Vance at the Paris Peace talks in 1968;

Whereas from 1970 to 1972 Ambassador Holbrooke served as the Peace Corps Director in Morocco;

Whereas Ambassador Holbrooke was the only person to have served as Assistant Secretary of State for two regions of the world, having served as Assistant Secretary of State for East Asian and Pacific Affairs from 1977 to 1981, during which he was a tireless advocate for the expanded admission of tens of thousands of Indochinese refugees to the United States, and as Assistant Secretary of State for European and Canadian Affairs from 1994 to 1996;

Whereas Ambassador Holbrooke brokered the 1995 Dayton Accords which ended over 3 years of bloody sectarian war that took the lives of more than 100,000 Bosnians;

Whereas Ambassador Holbrooke marshaled many diplomatic and military tools and deftly negotiated concessions from all warring factions that created the conditions for peace;

Whereas Ambassador Holbrooke's relentless pursuit of a negotiated solution to ethnic and religious conflict in Bosnia saved tens of thousands of innocent lives;

Whereas Ambassador Holbrooke served as United States Ambassador to Germany from 1993 to 1994, where he helped to found the American Academy of Berlin, a center for United States-German cultural exchange;

Whereas from 1999 to 2001, Ambassador Holbrooke served as the United States Permanent Representative to the United Nations where he was a critical partner in the implementation of Congressionally-led efforts to lower the dues the United States paid to the United Nations, to implement certain reforms to the United Nations financial system, to settle substantial and longstanding United States arrears to the United Nations, to improve management within the United Nations, to include Israel in the United Nations' Western European and Others Group, to end Israel's longtime exclusion from regional deliberations, to render more effective the United Nations' efforts to address conflicts and save lives in Africa and East Timor, and to raise the profile of public health as a matter of global security, including through debate and passage of United Nations Security Council Resolution 1308 on HIV/AIDS;

Whereas Ambassador Holbrooke continued to marshal international attention and resources to combat the HIV/AIDS crisis by catalyzing the private sector response to the global AIDS pandemic through the Global Business Coalition on HIV/AIDS, Tuberculosis and Malaria, which mobilized corporations to address HIV/AIDS, garnered CEOs to be an advocacy force in the fight, and served as the private sector focal point for the Global Fund on HIV/AIDS, Tuberculosis and Malaria;

Whereas Ambassador Holbrooke served as a steadfast emissary of the United States as the Special Representative for Afghanistan and Pakistan, tirelessly advocating for United States interests and peace in the region, mobilizing unprecedented international support, facilitating economic, transit, trade, and security cooperation between Afghanistan and Pakistan, and working to enhance stability, to build prosperity, and to counter extremism and terrorism in the region;

Whereas Ambassador Holbrooke forged a new civilian-led, multi-agency approach seeking to bring stability and development to the lives of millions striving for a better future;

Whereas Ambassador Holbrooke was one of the most talented diplomats for the United States and possessed a fierce determination and intelligence in advocating for United States security interests around the world, including in Southeast Asia and post-Cold War Europe, at the United Nations, and most recently in Afghanistan and Pakistan;

Whereas Ambassador Holbrooke was a prolific writer and communicator, serving as the Managing Editor of Foreign Policy, authoring works such as "To End A War", "Counsel to the President", one volume of the Pentagon Papers, and a monthly column in The Washington Post, and sharing the art of mediation with countless audiences;

Whereas Ambassador Holbrooke lent his expertise toward the improvement of management and organization for a host of non-governmental organizations, serving as a board member of Refugees International, the Council on Foreign Relations, the National Endowment for Democracy, the American Museum of Natural History, and the Citizens Committee for New York City, as Chairman of the Asia Society, as Founding Chairman of the American Academy in Berlin, and as a Woodrow Wilson Scholar;

Whereas Ambassador Holbrooke motivated many Americans to enter public service and served as an inspirational leader and public servant, mentoring countless United States Department of State officers and future ambassadors;

Whereas from Southeast Asia to post-Cold War Europe and around the globe, people have a better chance of a peaceful future because of Ambassador Holbrooke's lifetime of service;

Whereas Ambassador Holbrooke was renowned internationally for his energy, persistence, sharp intellect, and skills of persuasion; and

Whereas Ambassador Holbrooke leaves behind his beloved wife Kati, sons David and Anthony, step-children Elizabeth and Chris, daughter-in-law Sarah, four grandchildren, and countless friends and colleagues: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) honors the exceptional achievements of Ambassador Richard Holbrooke and recognizes the significant contributions he has made to United States national security, humanitarian causes, and peaceful resolutions of international conflict; and

(2) respectfully requests that the Clerk of the House transmit an enrolled copy of this resolution to the family of Ambassador Richard Holbrooke.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BERMAN) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution, which recognizes and honors the life and career of one of America's most potent diplomatic assets, Ambassador Richard C. Holbrooke.

For opening comments, I yield as much time as she may consume to someone who was a close and great friend of his. She is the chair of the Foreign Operations Subcommittee of the House Appropriations Committee, the chief sponsor of this resolution on which the ranking member and I have joined, the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise in support of H. Con. Res. 335, a concurrent resolution in remembrance and appreciation of Ambassador Richard Holbrooke.

The passing of Ambassador Holbrooke on Monday, December 13, is a great loss for the American people. One of our Nation's most talented diplomats, Richard Holbrooke possessed a fierce determination and unsurpassed brilliance in advocating for American security, diplomatic and development interests around the world—in Southeast Asia and post-Cold War Europe, at the United Nations, and most recently in Afghanistan and Pakistan. His exceptional accomplishments as a peacemaker, diplomat, writer, scholar, manager, and mentor will define his legacy as one of the true great foreign policy giants of our time.

I was honored and privileged to have known Richard Holbrooke from his time brokering the Dayton Peace Accords, helping to end the ethnic cleansing and genocide in the Balkans. His political acumen, deft maneuvering and relentless, dogged pursuit of peace saved tens of thousands of innocent lives in Bosnia and helped to stabilize one of the most volatile regions in the world.

In his role as Special Representative to Afghanistan and Pakistan, it was a privilege to work with him as our Nation navigates an intractable situation for regional and global security.

Throughout his career, he served the United States as a tireless advocate, loyal patriot and tenacious fighter for U.S. interests. Richard Holbrooke was a giant of diplomacy and a trusted voice for me and many other Members of Congress who valued his counsel. Our Nation owes him a debt of gratitude for his many years of service.

My thoughts and prayers and deepest sympathies are with his beloved wife, Kati; his children and grandchildren; and countless friends and colleagues.

We will miss you, Richard. Rest in peace, my friend. However, I know your wise advice will continue to guide us.

I urge all of my colleagues to support this resolution in honor of one of our country's greatest diplomats.

Ms. ROS-LEHTINEN. I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution of which I am proud to be an original cosponsor.

I want to thank my good friend from New York, Congresswoman NITA LOWEY, for her timely work in authoring this resolution; and of course I thank my chairman, Mr. BERMAN of California, as well.

The sudden and unexpected passing of Ambassador Richard Holbrooke earlier this week was a shock to all of us. The depth of sadness that we felt at the news was a testament to his exemplary life of service to our country in so many different capacities.

Ambassador Holbrooke was one of the most consequential world diplomats of the last half century, and his tireless work in pursuit of United States national interests and international peace have put us all in his debt.

His advocacy for peace was, of course, most clearly shown during the conflict in Bosnia. His tenacity and force of will brought the warring parties to the negotiation table in Dayton, Ohio, where he skillfully brokered the accord that ended over 3 years of atrocities and bloody conflict.

□ 1010

Over 100,000 perished in the Bosnian war, and it is impossible to say how many thousands may have been saved by Ambassador Holbrooke's actions at Dayton. And while that accomplishment would have been enough to mark any diplomatic career with high distinction, it was only one of the many facets of his service which continued to the very end of his life. As Assistant Secretary of State for two regions of the world, East Asia and Europe; as United States Ambassador to the United Nations; and as U.S. Special Representative for Afghanistan and Pakistan, he made his mark on many issues that remain urgent concerns today. In New York at the U.N., he did much of the heavy lifting on congressionally led efforts to rein in U.N. spending, to make more equitable the dues paid by the United States, and to improve the standing of Israel in that multinational body.

Sadly, those concerns have returned with a renewed urgency—with the need for fundamental reform of the U.N. budgets and the virulently anti-Israel U.N. Human Rights Council—and the Congress can only hope to have such a tenacious, principled partner in the future.

Ambassador Holbrooke made his final appearance before our Committee on Foreign Affairs in the spring of last year as U.S. Special Representative for Afghanistan and Pakistan. We lament the loss of his matchless skills in those critical regions. We grieve at his passing, but let us honor his service by renewing our own commitment to success in Afghanistan.

At this time we extend our condolences, our thoughts, and our prayers to his wife Kati and to his children. While we mourn the loss of a dedicated public servant, they mourn the loss of a husband and a father.

I urge all of my colleagues to join me in this expression of gratitude for the service of Ambassador Richard Holbrooke.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I am pleased to yield 2 minutes to my colleague the gentlelady from California (Ms. HARMAN), someone who worked for

a very long time on issues with Ambassador Holbrooke.

Ms. HARMAN. I thank the gentleman for yielding and I am very pleased that our colleague NITA LOWEY has brought this resolution to the floor.

Mr. Speaker, after learning some encouraging news about Richard Holbrooke's condition last weekend, hearing that my friend had died felt like a sucker punch. Four days later, it still does.

I suppose, in an ironic way, Richard would smile at the enormous impact he had on friend and foe alike. He was a life force, a force of nature—someone always operating on multiple levels, in high gear, and in more than three dimensions. I used to chafe when in the middle of a phone call he would put me on hold to talk to someone else. But I bet he did that to everyone.

He was a consummate juggler—the master diplomat. He knew precisely what he was prepared to tell someone, and what he was not. Though it takes years to settle on how history will view someone, my guess is Richard Holbrooke will be considered, hands down, as the best diplomat of our generation. Indeed, he will be in a small pantheon that includes Benjamin Franklin, Thomas Jefferson, and Averell Harriman.

But the public Richard is not all of it: The private Richard was a generous and loyal friend. Before joining the Obama administration, he chaired the Global Business Coalition on HIV/AIDS. For a time, one of our grandchildren was on its staff. He loved her, and forever after asked about her life and her boyfriends. No question the huge staff he built over his many careers over many years is devastated by his untimely death. Surely Megan Quitken is. To Kati, whom he adored, and the extended Holbrooke family, we mourn your loss—and our country's loss.

I like to think that Richard has just put us all on hold while he takes another call.

Ms. ROS-LEHTINEN. I continue to reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I am very pleased to yield 1 minute to the Speaker of the House of Representatives, the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. I thank the chairman for yielding and I commend him and Ranking Member, soon-to-be Chairwoman ILEANA ROS-LEHTINEN for giving us this opportunity to address the resolution presented by our chairwoman, Congresswoman NITA LOWEY, who chairs the Foreign Ops subcommittee.

All of you on Foreign Affairs and on Foreign Ops in appropriations know full well the magnitude of the leader that Richard Holbrooke was. As I address some personal remarks about him, I want to say how significant it

was that he understood the important role that Congress plays in our foreign policy, whether it was as the Ambassador to the United Nations, whether it was in his work forging a peace agreement, the Dayton Accords, or whether it was in his role now as Special Envoy to Afghanistan and Pakistan.

He would come to Capitol Hill bringing his tremendous and brilliant mind, his great intellect, his boundless energy, and his sense of humor. He had a tenacity about him that was unsurpassed. His determination was palpable. You could see it in the air. When he addressed an issue, you knew that a solution would be found and he, indeed, worked very, very hard in all that he did; but he also brought, as I say, a brilliant, great intellect.

With the passing of Ambassador Holbrooke, our country has lost a brilliant and respected diplomat. We have—but his life and his legacy will continue to affect our search for peace in the world, resolution of conflict, improving relationships among countries, having a values based American foreign policy.

He was a strong fighter for peace throughout the world and an advocate for American values at the United Nations. He will be long remembered, again, for forging the agreement among bitter rivals to end 3 years of bloody sectarian war in the former Yugoslavia. Now that peace is in the region, it is hard to remember how bitter that fight was, one forever, that went on for a long time.

I just want to say this aside, just to tell you the magnitude of the task that he had. When Adolf Hitler was asked how he learned the power of hatred, he said he learned it by watching the Balkans, people who had come to Vienna, settled there in some ghettos, and he saw how they interacted among themselves in a very, very bitter way. That gives you a flavor for the attitudes of people in the region.

They came to the table in Dayton. Richard Holbrooke understood, he put himself in the shoes of each of these rivals, and was able to forge an agreement. It was quite historic. Again, the force of his determination was key to securing peace, restoring hope, and saving lives. It was really monumental. It is thought that his work in the Balkans saved thousands of lives.

Today, as the resolution states, Congress recognizes him for the monumental contributions he has made to United States national security, humanitarian causes, and peaceful resolutions of international conflict.

Again, all of us who have worked with him admired his great intellect and tenacity to resolve conflict. When we got news of his passing, which was shocking to all of us, we immediately flew a flag over the Capitol that evening in his name. How appropriate—this great patriot—how appropriate

that there would be a flag flying in his name over the Capitol of the United States. I think that is a tremendous, tremendous tribute.

I hope it is a comfort to Kati, our dear friend—many of us are personal friends of the Holbrookes—to his children, to their children and to the many who loved him that so many people in our country and throughout the world mourn their loss with a deep, deep sadness and that we are praying for them at this sad time.

□ 1020

Ms. ROS-LEHTINEN. Mr. Speaker, I continue to reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I am very pleased to yield 1 minute to my colleague from Ohio, the State where Ambassador Holbrooke's most difficult and successful diplomatic effort took place, Ms. KAPTUR.

Ms. KAPTUR. I want to thank the distinguished chairman of the committee, my friend, HOWARD BERMAN, for yielding me this minute to use this resolution in recognition of Ambassador Richard Holbrooke as a moment to extend the deepest condolences from the people of Ohio to Kati and to his family, to all those whose lives he touched and tried to heal.

I can remember one time in Cleveland, Ambassador Holbrooke during one large gathering walking through meetings with his garrulous nature, and full of life, and keeping Ohio in a very special corner of his heart. I remember how proud he was of his own heritage, of his wife's heritage, and how hard he worked for our country. One can only imagine all those flights from capital to capital trying to piece together the Dayton Peace Accord and his absolutely indefatigable efforts on behalf of peace around the world.

He will truly, truly be missed by the people of Ohio. I am just very fortunate to be a Representative from that State who had the privilege of knowing him and working with him over the years. And America is better, the world is better, because of his life.

I thank the gentleman for yielding and allowing me this time on the floor today.

Mr. BERMAN. Mr. Speaker, I yield 1 minute to our retiring colleague from California, herself with diplomatic experience, Ambassador DIANE WATSON.

Ms. WATSON. Mr. Speaker, I take great honor in coming and saluting Ambassador Holbrooke. He was a person that we can all be proud of, because among ambassadors, he stood above them head and shoulders and represented the will and the morality of our country around this globe.

Being a member of that elite corps is something that will always remain deep in my heart and my mind that I had the privilege of serving 2 years as

an ambassador myself. And during the 6 weeks of training that we had, Ambassador Holbrooke was always held as the standard by which we performed our duties for the United States of America.

I offer my condolences to his family and his broad global family from the State of California. I'm very proud to have served with him in that department. It was a short period of time, but oh, what an experience. May God bless the family, and I know he's up there presiding over all of the matters that will affect our countries and bring peace. God bless.

Ms. ROS-LEHTINEN. I have no further requests for time, and I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

We have heard from the Speaker of the House; from the author of the resolution, Mrs. LOWEY; from Ambassador Holbrooke's dear friend, and of a variety of aspects both of his accomplishments and of his nature, and it was quite a series of accomplishments, in all parts of the world, in the diplomatic sphere, in the development assistance sphere, in southeast Asia, in the Balkans, obviously more recently in South Asia.

What I would love to do here on the House floor, because I think in a way it might best illustrate what I could say about his talents, was just to speak to the details of six or seven interventions and times that I dealt with him on a particular project over the years, but I feel like I would be bringing WikiLeaks to the House floor were I to go through all of those.

So I will restrain myself just to say he truly was one of a kind. We will miss his brilliance, his energy, his ability to play chess, to see the long term and the unbelievable force of his personality.

Ms. WATERS. Mr. Speaker, I rise to honor Ambassador Richard Holbrooke, who unexpectedly passed away this week. My husband, Ambassador Sidney Williams, and I are very saddened that friend is no longer with us.

We first had the opportunity to meet Ambassador Holbrooke during diplomatic training in 1993. Sidney and Richard had recently been appointed by President Bill Clinton to serve as the Ambassadors to the Bahamas and Germany, respectively. As is required of the spouse of an incoming Ambassador, I also went through training to understand certain diplomatic protocol and procedure.

I have fond memories of that time, and I remember Richard as an extremely bright, articulate, and worldly man. He had an imposing presence, a keen intellect and a sharp wit, which had clearly served him well in the decades he trotted the globe making peace, shaping policy, and advancing our interests abroad.

Shortly after we met, he was dispatched to serve as the key negotiator to the 1995 Dayton peace accords, which ended the Bosnian War. I remember thinking that they could not find someone with more expertise or where-

withal to undertake such a complex and important task.

Whether in Vietnam or Afghanistan, the Johnson administration or the Obama administration, a dais at the United Nations or the theater of war, Richard served our country and the international community with grace, with strength, and with distinction.

Our diplomatic community, indeed, our country, has lost a tried and true public servant. During this difficult time, I take some comfort in knowing that the world is a better place because of Ambassador Richard Holbrooke, and I hope anyone who knew him will do the same.

My husband and I extend our deepest sympathies, our thoughts and our prayers to his wife, his children, his family and his many friends and colleagues.

Mr. ROE of Tennessee. I rise in support of this resolution, of which I am proud to be an original cosponsor.

I want to thank my good friend from New York, Representative LOWEY, for her timely work in authoring this tribute.

The sudden and unexpected passing of Ambassador Richard Holbrooke earlier this week was a shock to all of us.

The depth of sadness that we felt at the news was a testament to his exemplary life of service to our country, in so many different capacities.

Ambassador Holbrooke was one of the most consequential world diplomats of the last half-century, and his tireless work in pursuit of United States national interests and international peace have put us all in his debt.

His advocacy for peace was of course most clearly shown during the conflict in Bosnia.

His tenacity and force of will brought the warring parties to the negotiation table in Dayton, Ohio, where he skillfully brokered the accord that ended the over 3 years of atrocities and bloody conflict.

Over 100,000 perished in the Bosnian war, and it is impossible to say how many thousands were saved by Ambassador Holbrooke's actions at Dayton.

And while that accomplishment would have been enough to mark any diplomatic career with high distinction, it was only one of the many facets of his service, which continued to the end of his life.

As Assistant Secretary of State for two regions of the world—East Asia and Europe, as United States ambassador to the United Nations, and as U.S. Special Representative for Afghanistan and Pakistan, he made his mark on many issues that remain urgent concerns today.

In New York at the U.N., he did much of the heavy lifting on Congressionally led efforts to rein in U.N. spending, to rationalize the dues paid by the United States, and to improve the standing of Israel in that multinational body.

Sadly, those concerns have returned with a renewed urgency—with the need for fundamental reform of U.N. budgets and the virulently anti-Israel U.N. Human Rights Council (so called)—and the Congress can only hope to have such a tenacious, principled partner in the future.

Ambassador Holbrooke made his final appearance before our Committee on Foreign Affairs in the spring of last year, as U.S. Special Representative for Afghanistan and Pakistan.

We lament the loss of his matchless skills in those critical regions.

But while we grieve at his passing, let us renew our own commitment to success in Afghanistan as a fitting way to honor his service toward that end.

At this time we extend our condolences, our thoughts, and our prayers to his wife Kati, and to his children.

While we mourn the loss of a dedicated public servant, they mourn the loss of a husband and a father.

I urge all of my colleagues to join me in this expression of gratitude for the service of Ambassador Richard Holbrooke.

Mr. NYE. Mr. Speaker, I rise today to honor the man behind so many pivotal diplomatic achievements that have improved the lives of so many around the world and made our Nation safer: Ambassador Richard Holbrooke.

As a former Foreign Service Officer I first met Ambassador Holbrooke while I was serving at the U.S. Embassy in Macedonia, and most recently during a congressional delegation I led to Afghanistan. I will remember him as a key figure in the middle of many delicate, quintessential diplomatic negotiations.

Few Americans have left as big a mark on U.S. foreign policy as Ambassador Holbrooke. From his historic role brokering peace in the Balkans, to his final mission in the Afghanistan and Pakistan region, Ambassador Holbrooke had a fearless love for his country. He shied away from nothing, always diving head-first into the challenging issues of his time.

With the passing of Ambassador Holbrooke our country, and indeed the world, has lost a brilliant and respected diplomat. But his legacy will live on in the improved relationships we now have with countries in the world's toughest regions.

My heart and prayers are with his wife Kati, his sons David and Anthony, his stepchildren Elizabeth and Chris Jennings, and his daughter-in-law Sarah.

Ms. JACKSON LEE of Texas. Mr. Speaker, on Monday, I was extremely saddened to hear about the death of Ambassador Richard Holbrooke. He was a great leader and a dedicated representative of peace and democracy throughout the world. I extend my deepest condolences to Ambassador Holbrooke's family, his wife Kati Marton, his brother, Andrew, and his children, David, Anthony, Christopher and Elizabeth.

Ambassador Holbrooke has had a tremendous career with the United States State Department, which began with a response to President Kennedy's call to service for government work in the early 1960s. Ambassador Holbrooke was undoubtedly a public servant ever since his graduation from Brown University in 1962, when he joined the Foreign Service and was sent to Vietnam. At the young age of 24, Richard Holbrooke, an expert on Vietnam issues, was appointed to a team of Vietnam experts, the Phoenix Program, under President Lyndon B. Johnson. Ambassador Holbrooke has always been a champion of peace and democracy, and this began at a young age with a profound dedication to the United States' international diplomacy efforts.

Since beginning his career in foreign policy at such a young age, Ambassador Holbrooke was always at the forefront of international po-

litical issues, whether it was as a public servant at the 1968 Paris Peace Talks, Director of the Peace Corps in Morocco, or as a the editor of Foreign Policy magazine. Ambassador Holbrooke will always be an archetype of United States diplomacy, and his resume only serves to demonstrate how he has been consequential to diplomacy in some of our generation's most tumultuous events.

Ambassador Holbrooke never relented in his efforts to expand his efforts to pursue U.S. interests of diplomacy and democracy internationally. In 1977, under President Carter, Richard Holbrooke was Assistant Secretary of State for East Asian and Pacific Affairs. As the youngest person to have been appointed to that position, Ambassador Holbrooke oversaw the normalization of relations with China in 1978, and the warming of the cold war during his tenure. His diplomatic achievements do not culminate with the establishment of diplomatic relations with China—instead they continued, and arguably exceeded anyone's expectations.

When President Clinton took office in 1993, Mr. Holbrooke returned to work for the United States Government with the State Department. His first appointment was as the U.S. Ambassador to Germany, where he participated in the founding of the American Academy in Berlin as a cultural exchange center.

In 1994, he returned to Washington after being appointed by President Clinton to be the Assistant Secretary of State for European and Canadian Affairs, where he was the lead negotiator in the Balkan Wars. He was strategic in establishing a lasting peace at the Dayton talks that undoubtedly saved thousands of lives. The 1995 Dayton peace accords ended the war in Bosnia—but it required an agreement by the three warring factions, the Serbs, the Croats, and the Bosnian Muslims. Holbrooke's role in this is lasting; he ended the 3-year war, and helped develop the framework for dividing Bosnia into two entities, one of the Bosnian Serbs and another of the Croats and Muslims. Ambassador Holbrooke is a hero of U.S. diplomacy, and undoubtedly had tremendous importance in facilitating peace, in whatever form, in Bosnia.

After playing a key role in the Dayton Peace Talks, President Bill Clinton named Mr. Holbrooke as the representative of the United States to the United Nations. Holbrooke's time as the United Nations Ambassador was highlighted in his addressing the problems of global HIV/AIDS. He advocated to United Nations peacekeepers that it was their responsibility to help prevent HIV/AIDS and invited Vice President Al Gore to speak before the Security Council to highlight the growing epidemic. Ambassador Holbrooke warned that the medical section of the peacekeeping department has been under-staffed and suggested that all peacekeepers include the cost of AIDS tests in the budget of future missions. Mr. Holbrooke has been a strong advocate for HIV/AIDS issues having worked with the Global Business Coalition on HIV/AIDS and the Congressional Black Caucus (CBC) during his time as United Nations Ambassador to the United States. During his tenure, Ambassador Holbrooke invited members of the CBC to visit the U.N. Ambassador Holbrooke demonstrated his drive to securing international health and

peace, in his lifetime of dedication to diplomatic efforts.

His work never ceased, and it continued with President Obama. Under the Obama administration, Ambassador Holbrooke was appointed Special Envoy to Pakistan and to Afghanistan—a region that contains the United States' greatest national security concerns. Just as his responsibility unfolded in the Balkans, his responsibility in Pakistan and Afghanistan posed a major challenge that would not have an easy solution. As we all know, the problems in Afghanistan and Pakistan are multidimensional and are problems that could not be solved overnight. Ambassador Holbrooke knew this, yet he commendably took on the role, and worked courageously and diplomatically in a densely complicated region.

Ambassador Holbrooke was the intermediary between Afghanistan, Pakistan and the United States. Ambassador Holbrooke was fighting, diplomatically, to stabilize the often unpredictable and always fluctuating region. The fight continues to be multifaceted, and Ambassador Holbrooke dealt with fragile economies, containing corruption within governments and elections, destabilizing the Taliban insurgency, a rampant narcotics trade, the presence of Al Qaeda, and maintaining peace and security, all while promoting United States diplomatic efforts. Representing the United States, Ambassador Holbrooke worked to promote economic development in Pakistan through the Kerry Lugar Berman Bill, and worked with the Afghani government and administration to reduce U.S. combat troops and to forge a lasting peace in the region.

He is an example to us all, his life was foreign policy, his dedication was to the United States, and his motivation was diplomacy. Ambassador Holbrooke will always be regarded as a true American diplomat, one who strived for international peace throughout his entire career, of nearly 50 years, as a public servant.

We lost a great American peacemaker this week. Ambassador Richard Holbrooke gave his life to the cause of peace. His work over the years speaks for itself, but most importantly, the call that he accepted on behalf of Americans to serve in Afghanistan and Pakistan will resonate for decades. Ambassador Richard Holbrooke was my friend and will never be forgotten.

Mr. CARNAHAN. Mr. Speaker, this week, the world lost a legendary diplomatic figure and master peace negotiator. Ambassador Richard Holbrooke may no longer be with us, but his presence is timeless, as he leaves behind the invaluable lessons of his life's work.

Among his many accomplishments as statesman and steadfast advocate for greater stability throughout the world, Ambassador Holbrooke's most famous contribution to the mission of global peace was his role as chief architect of the Dayton Peace Accords, ending more than three years of bloody war in Bosnia and Herzegovina. Up against deep-seated multi ethnic and religious divisions, a war-torn economy, and lacking government infrastructure, his unwavering commitment to establishing a peace worthy of America's name was fundamental to leading the accords to successful resolution.

As the United States considers a new way forward to reinvigorate Israeli-Palestinian

peace negotiations, Ambassador Holbrooke's memory serves as a powerful reminder of what can be achieved with persistent engagement, pragmatic diplomacy, and impassioned belief—not only in the necessity for resolution, but also in the ability for differing peoples to come together in the name of a common humanity.

The United States remains unwaveringly committed to ensuring Israeli security and its future as a Jewish democratic state, both as a moral imperative and as a crucial strategic relationship. While we have worked to maximize Israel's security, through military partnership and sanctions aimed to prevent Iranian nuclear capabilities, the fact remains, however, that Arab-Israeli tensions pose very real threats to Israeli and regional stability. Now is the time to ever more fervently pursue resolution to the issues that stand in the way of peace: borders, security, settlements, refugees, and Jerusalem.

As Founder and Co-Chair of the American Engagement Caucus, I firmly believe that U.S. leadership is paramount to the success of peace negotiations, and we must make a strong push for a negotiated two-state solution that allows for substantial buy-in from Israelis, Palestinians, and the international community—unilateral actions will only serve to deteriorate progress and deter future collaboration. Let us call on the lessons of Ambassador Holbrooke's work and the strength and resilience of all those affected by conflict in Bosnia to pursue a lasting peace between Arabs and Israelis.

Mr. BERMAN. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 355, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

REDUCTION OF LEAD IN DRINKING WATER ACT

Mr. DOYLE. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3874) to amend the Safe Drinking Act to reduce lead in drinking water.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reduction of Lead in Drinking Water Act".

SEC. 2. REDUCING LEAD IN DRINKING WATER.

(a) IN GENERAL.—Section 1417 of the Safe Drinking Water Act (42 U.S.C. 300g-6) is amended—

(1) by adding at the end of subsection (a) the following:

"(4) EXEMPTIONS.—The prohibitions in paragraphs (1) and (3) shall not apply to—

"(A) pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

"(B) toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.""; and

(2) by amending subsection (d) to read as follows:

"(d) DEFINITION OF LEAD FREE.—

"(1) IN GENERAL.—For the purposes of this section, the term 'lead free' means—

"(A) not containing more than 0.2 percent lead when used with respect to solder and flux; and

"(B) not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures.

"(2) CALCULATION.—The weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula: For each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with paragraph (1)(B). For lead content of materials that are provided as a range, the maximum content of the range shall be used."

(b) EFFECTIVE DATE.—The provisions of subsections (a)(4) and (d) of section 1417 of the Safe Drinking Water Act, as added by this section, apply beginning on the day that is 36 months after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. DOYLE) and the gentleman from Florida (Mr. STEARNS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

GENERAL LEAVE

Mr. DOYLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DOYLE. Mr. Speaker, I yield myself as much time as I shall consume.

Mr. Speaker, I'm honored to manage consideration of S. 3874, the Reduction of Lead in Drinking Water Act. This is the Senate companion to Ms. ESHOO's bill, the Get the Lead Out Act. This bill will update the national lead content standard to nearly eradicate lead in faucets and fixtures which currently contribute up to 20 percent of human lead exposure, according to the EPA.

In a 21st century America, we have a responsibility to do more to protect our children and families against the lead exposure acquired through plumbing systems. The Safe Drinking Water Act, which determines the national lead content standards, currently allows up to 8 percent lead content for faucets and other plumbing fixtures and limits the amount of lead that can leach from plumbing into drinking water.

But health studies have concluded that much smaller amounts of lead exposure can have serious impacts on children and adults, including kidney disease, reduced IQ, hypertension, hearing loss, and brain damage. States have recognized this threat, and in 2006, California enacted the toughest lead content standard for drinking water faucets, fittings, and plumbing systems anywhere in the world. Since then, Vermont and Maryland have also adopted identical laws, and the District of Columbia and Virginia are considering similar legislation.

□ 1030

This bill mirrors the California legislation and will provide for a consistent and effective national standard to ensure that no one will be exposed to a serious health threat which can easily be avoided. This legislation has garnered the support of State health officials, numerous children's health organizations, prominent national environmental organizations, local governments, scientific associations, and national drinking water associations. The Plumbing Manufacturers Institute, the association that represents all major faucet companies and other manufacturers of drinking water plumbing fittings, also supports this legislation.

On December 16, this bill passed the Senate unanimously with bipartisan support. I urge my colleagues to vote for this critical bill in the House today.

I reserve the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, good morning. I rise in opposition to Senate bill 3874 that was introduced by BARBARA BOXER of California, the Reduction of Lead in Drinking Water Act, and urge my colleagues to do likewise.

I want to be clear that simply by opposing this bill, I do not support lead in drinking water, obviously. Let's clear the air on that. Rather, I am opposed to the manner in which this bill tackles the problem and, simply, Mr. Speaker, the unintended consequences that could result. So bear with me.

This legislation lowers the Federal limit for lead allowed in the manufacturing of certain plumbing fixtures that come into contact with water that Americans drink. However, reports in The Washington Post and testimony before Congress suggest that lead service lines are the biggest culprits of

leached lead. People should not mistake this bill as a panacea when other actions like corrosion protection and other treatments, including some lead line replacement, have just as much, if not more, impact on what this legislation purports to do.

Second, we need an education component to this bill. I urge my colleagues to vote against this bill so we can get an education component part of it. I am concerned that do-it-yourselfers, much like me, are going to see this legislation pass, think that their existing faucets are toxic fountains, go to their hardware store to get a new faucet, cut their home piping, thereby releasing lead shavings into their home's pipes, and wind up with water streaming from their faucets with even more lead than had they just left the faucet alone.

And, third, I know many of this bill's supporters believe we need this bill in order to prevent disparate standards among the States and that much of the industry is either meeting the most stringent State standards or is ready to make the move to do so. But, Mr. Speaker, I am not convinced, though, that this bill will provide the kind of preemption that prevents States from enacting different laws after this bill's enactment. The 50 States could do that. If the major producers of faucets in this country are already making the kinds of changes that the bill seeks, and the bill does not solve this preemption problem, then why do we have to pass a Federal bill in the first place?

And, finally, my colleagues and, importantly, the Congressional Budget Office estimate for identical provisions in a House bill projected the cost of the mandate in this bill, introduced by BARBARA BOXER, would be the additional costs to manufacturers, importers, or users associated with producing or acquiring compliant products.

So based on information from industry sources, CBO wrote on July 27, 2010, to expect that some manufacturers would already be in compliance with the new standard because of existing standards in some States, for example, California, Maryland, and Vermont: "However, information from those sources suggest that the incremental cost of manufacturing or importing such products would total hundreds of millions of dollars to the private sector in at least some of the first 5 years the mandate is in effect." Some of those costs could be passed through to end users, including public entities.

While the additional cost to State, local, and tribal entities could be significant, CBO estimates that those costs would total less than the annual threshold established in the Unfunded Mandate Reform Act in 1995 for intergovernmental mandates.

Now what does that mean? Let me just explain. Just because it doesn't create unfunded mandates on the United States Government doesn't

mean it is not going to create a huge amount of unfunded mandates on the private sector. In fact, this would be a large cost for the private sector, even though the advocates for this bill will say there is no unfunded mandates on the government.

To be fair, the industry has challenged these figures that the proponents of this bill have suggested, and most companies will just simply pass their costs along in a highly competitive market. When you look at this bill, the industry is saying that at a maximum the best guess would be almost a 3 percent increase to consumers if and when they need a new faucet valve or fitting. This is not the kind of disparity that we need. We should be able to reconcile these numbers before American jobs are challenged by this bill.

So, Mr. Speaker, there are probably some very worthy reasons to pass this bill, including perhaps stopping bad products produced overseas from entering the stream of U.S. commerce, and we know counterfeit products will be provided. However, and unfortunately, the issues that I have mentioned outweigh the good intentions of this bill that was introduced by BARBARA BOXER in California, and I would urge my colleagues to oppose its passage.

I reserve the balance of my time.

Mr. DOYLE. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would say to my friend—and he is my good friend—that the bill passed unanimously in the Senate. I know he likes to invoke Senator BOXER's name a lot. But the fact of the matter is, every Republican and every Democrat in the United States Senate supported this bill.

I would like to make a couple of points. He talks about the lead in the service lines. And that's true, utility companies—and we have literally dozens of utilities that are in support of this bill—are already constantly making efforts to get lead out of their lines. What we are trying to do is not to make that an exercise in futility by allowing the faucets to return the lead into the lines that they are working so hard to take out.

We talk about preemption. Right now, the standard is 8 percent, so that's a maximum. And the gentleman is correct: a lot of States have gone under that 8 percent limit. But the new standard that we are proposing, the 0.25 percent, is state of the art. That is about as low as you can get it, based on the technology that we have available today. So in effect, the idea that States would somehow be able to preempt and go below that, it just isn't possible as we speak today. So it sort of deals with the preemption issue.

The bill doesn't require people to buy replacements. No one is forced to replace their faucets. And lastly, and dealing with the issue of cost, I have a

letter from the Plumbing Manufacturers Institute, and I would like to quote from it. In the one paragraph dealing with cost, it says: "It is safe to say that this one-time cost for faucet manufacturers will not be anywhere in the magnitude of 'hundreds of millions of dollars' as set forth in the House report for H.R. 5320, the AQUA bill. Unfortunately, the faucet industry source for those numbers failed to vet the calculations with the industry representatives prior to providing the estimate to CBO. We find those numbers to be unreliable and greatly exaggerated."

The SPEAKER pro tempore. The time of the gentleman has expired.

□ 1040

Mr. DOYLE. I yield myself an additional 30 seconds.

So when you put this all together and you see that we have a piece of legislation here which passed the Senate unanimously, and we have an opportunity to set a national standard which is state of the art with the technology that we have today, at a cost that the industry has said is minimal, and many are already complying with, it seems that it would be a shame to let this opportunity pass to protect the health of millions of Americans by making changes that are not onerous on the industry by their own letter, and they endorse the bill and it had unanimous support in the Senate. I would hope that my colleagues in the House will see fit, in a bipartisan fashion, to do this for Americans, make people more safe, improve the quality of water that Americans drink, and do so at a cost that is not onerous to the public or the industry.

I reserve the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman will realize, of course, that oftentimes a bill has a wonderful-sounding name on it. And bills sometimes pass here by unanimous consent; and lo and behold, we go back and find there are unintended consequences. I submit to the gentleman that when the Senate passed this, they might have done that under the same auspices. And I suspect if they looked at it carefully, particularly some of the folks over there that I know, they would not have been in unanimous support of this.

Also when you talk about the Plumbing Manufacturers Institute, as you know, lots of times when people are quoted down here, there are sometimes, and I'm not saying this is always true, but sometimes there is vested interest in an issue. We see sometimes on the floor some people are proponents of an issue, and lo and behold there is some perhaps indirect, discrete, perhaps some vested interest. I have not seen the Plumbing Manufacturers Institute letters, I am not familiar with that, but I suspect I could find

a letter on this side that would refute the Plumbing Manufacturers Institute. In fact, we have many people who have pointed out to us that this is going to increase cost.

So your other argument that people will not react, I have seen people react, particularly young families who perhaps think that there might be lead in the water with their infants, and they might overreact. And what happens when new detection levels are achieved?

So I would say to my friend that we have here a clear case of a difference of opinion. Here we are in 2010 before the Christmas holidays, and we are still talking about something that I think for the most part even you admitted it, a lot of the States are complying and are underneath the requirement. So if that is true, why do we need the bill? You are even making my argument of why do we need this bill that would have unintended consequences when you admit yourself that the States now are underneath the requirement.

I think all of us do not want to have lead in our water. All of us believe that there is some reason for Congress to get involved and to make sure that States comply to Federal preemption and that we also continue to monitor this and see what the latest detection levels are.

But I submit I have been in Congress a number of years, just as you have, and we have specified again and again requirements to not have lead in our water. So I think at this point this bill is probably an overstep, an overreach. And taking your own comment that a lot of the States are underneath the requirement, I'm not sure that we need the bill.

I reserve the balance of my time.

Mr. DOYLE. Mr. Speaker, I yield myself 2 minutes.

I would just say to my friend that Senator INHOFE and Senator ALEXANDER are cosponsors of this bill. I think those two gentlemen, very conservative gentlemen, I think my friend would agree, have looked at the bill and are cosponsors of the bill. I would also say to my friend that I would be happy to share a copy of my letter from the Plumbing Manufacturers Institute with him if he would like to share a letter that he has from anyone who contradicts this. I believe we have shared this letter with your staff, and I hope you would look it over.

I would say to the gentleman and my colleagues, Mr. Speaker, I think we should try to do the best we can do for the American people when it comes to their health. It is true that a handful of States have already adopted lower standards, but it is just a handful of States. We have 50 States, and over 40 still have not done this. So I think it is important we set a national standard. This will in effect set a national standard which uses the best technologies

available to get us as low as we can based on what we know today.

The industry has said that we can do this at minimal cost to the industry. We force no individual to buy replacements. This is something people can choose to do if they want to. I think most families will take advantage of this. For the average faucet, if you look at a faucet that is about \$85, and everyone knows when you go into a store, you can buy faucets that cost \$500, and you can buy faucets that cost \$30 or \$40, or anywhere in between. But if you look at the average, which is around \$80, what we are talking about is somewhere between \$1.70 extra on a faucet, so we are not talking about a big cost.

As I said, I have the industry letter, which I am happy to share with you, saying that they think that it is a good thing, too.

So I would just say to my colleagues, let's do the best we can for all of America. Sure, a handful of States have already taken the lead and have gone further.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DOYLE. I yield myself an additional 30 seconds.

When people's health and safety is involved, we should never skimp on that. If we are going to err, let's err on the side of doing the most we can do based on the technology we have with a bill that does not put any onerous burden on manufacturers, by their own statements, and which many dozens of organizations and utility companies support and that has the support of conservative Senators, cosponsors like Senator INHOFE of Oklahoma and Senator ALEXANDER of Tennessee, and a unanimous vote in the Senate. Let's have a unanimous vote here in the House.

I reserve the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Let me first of all say, when you are quoting conservatives, the former chairman of the Energy and Commerce Committee, Ranking Member JOE BARTON, is against this bill. So when you talk about who is the spokesman in the House, JOE BARTON on Energy and Commerce is the spokesman. You serve on Energy and Commerce, so you obviously would respect his opinion.

Also, I would say to my colleague, we are not a subcommittee of the Senate. We are an independent body. So as much as I respect your voicing accommodation to the Senate frequently here, I submit that the House of Representatives is a totally different body and represents closer to the people, the people who go to Lowe's, the people who go to the hardware stores, and the people who don't want to have overregulation and are trying to create jobs in this economy.

You keep mentioning how the Senate overwhelmingly supports this bill. I

would say rhetorically to you: Did you support the tax cuts last night? Did you support the tax cut extension? A lot of people on the majority did not; yet in the Senate, it was overwhelmingly supported. So oftentimes there is a different approach in the Senate than in the House.

And I suspect if you get elected every 6 years as opposed to every 2 years, you are going to have a little more close relationship with your constituents. You will do town meetings. You will do telephone town meetings. Whereas if you are a U.S. Senator, perhaps you have a large State, you will be doing it through the media. But if you are there in a town meeting when somebody comes up to you face to face and says, STEARNS, why are you going to put this new requirement in? I thought we had the proper levels already in place, and why are you stipulating more regulation?

And so I go back again to your statement that basically this is a case where the States are underneath the requirement. Going by your own statement, I think you have summed up my argument that the bill is not needed.

I reserve the balance of my time.

Mr. DOYLE. Mr. Speaker, I yield myself such time as I may consume.

I would just say to my friend, the one thing I would agree with my friend on is that the House of Representatives is not the United States Senate. I wholeheartedly agree with that.

I would also say to my friend, and I believe he may not have been present that day, but on May 26 of this year, we had a vote in committee on this bill, and Representative BARTON voted for this bill in committee as part of our drinking water bill. So did 18 other Republicans. So the bill passed our committee with 45 members voting in favor.

□ 1050

Mr. STEARNS. Will the gentleman yield?

Mr. DOYLE. I yield to the gentleman from Florida.

Mr. STEARNS. At that point, that was not the bill that BARBARA BOXER introduced in the Senate. That was a bill that was instituted and created in the House.

Mr. DOYLE. Reclaiming my time, that bill was the companion bill here in the House, which was the same as the Boxer bill. It was Ms. ESHOO's bill, which passed the committee 45-1, with 18 Republicans supporting it, including Chairman BARTON, who is my dear friend.

So I would just say to my friend that I would be more concerned with someone coming up to a town hall meeting to me and asking me why we haven't done everything we could to get lead out of drinking water. The standard is 8 percent in my State; to my knowledge, we don't have a lower standard.

So I certainly appreciate legislation like this which sets the lowest standard we can attain with the technology we have and do so in a way that's not onerous to either the public or the manufacturers who support this bill.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members to address their remarks to the Chair.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

This debate has probably gone on too long for this. I will wrap up and just say to my colleagues that at the point that Mr. BARTON had an understanding with Mr. WAXMAN, it was under different understandings for the funding of the bill, the science of the bill, and the labor provisions. These things have since changed.

As you know, if it was the same bill, it would come back under a House bill number, but it is coming back as a Senate bill that was introduced by BARBARA BOXER. So, as you would realize, this is not the same bill; otherwise, what Mr. BARTON agreed upon with Mr. WAXMAN, that would be the bill that we would be voting on. As you know, this is not the bill. This is a different bill.

I urge my colleagues, with that, to vote against the bill, and I yield back the balance of my time so we can move on to other important bills.

Mr. BACA. Mr. Speaker, I rise in strong support of S. 3874, the Reduction of Lead in Drinking Water Act. This bill amends the Safe Drinking Water Act to uniformly reduce the allowable lead content in solder, flux, pipe and fixtures.

It is important to strengthen and clarify national standards for lead in drinking water. Our families and children should feel comfortable knowing that the water they drink is safe. In my district, California's 43rd, we are faced with many water issues and the most severe is perchlorate found in our ground water. Our drinking water was compromised.

No one should have water compromised by perchlorate or lead. This bill is a positive step forward in eliminating the serious health threats and economic burdens caused by lead exposure.

In California, we have a new lead free standard that requires manufacturers to phase out potential exposure from materials in drinking water plumbing by this year. With S. 3874, families in other states will have greater protection from lead exposure.

I urge my colleagues to show their commitment to the safety of America's families and support S. 3874, the Reduction of Lead in Drinking Water Act.

Mr. DOYLE. I yield myself 30 seconds.

I want to thank my friend for this debate. I would say to my friend that this bill is identical to the bill that we had in the House. It is an identical bill. It is identical in portion. It is not the entire bill that we had in the House, but this portion of the bill is identical to the bill that we had in the House.

I would hope my colleagues would join our colleagues in the Senate in supporting this legislation.

I yield back the balance of my time. The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. DOYLE) that the House suspend the rules and pass the bill, S. 3874.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. STEARNS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

LOCAL COMMUNITY RADIO ACT OF 2010

Mr. DOYLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6533) to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Local Community Radio Act of 2010".

SEC. 2. AMENDMENT.

Section 632 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (Public Law 106-553; 114 Stat. 2762A-111), is amended to read as follows:

"SEC. 632. (a) The Federal Communications Commission shall modify the rules authorizing the operation of low-power FM radio stations, as proposed in MM Docket No. 99-25, to—

"(1) prescribe protection for co-channels and first- and second-adjacent channels; and

"(2) prohibit any applicant from obtaining a low-power FM license if the applicant has engaged in any manner in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934 (47 U.S.C. 301).

"(b) Any license that was issued by the Federal Communications Commission to a low-power FM station prior to April 2, 2001, and that does not comply with the modifications adopted by the Commission in MM Docket No. 99-25 on April 2, 2001, shall remain invalid."

SEC. 3. MINIMUM DISTANCE SEPARATION REQUIREMENTS.

(a) IN GENERAL.—The Federal Communications Commission shall modify its rules to eliminate third-adjacent minimum distance separation requirements between—

(1) low-power FM stations; and

(2) full-service FM stations, FM translator stations, and FM booster stations.

(b) RESTRICTION.—

(1) IN GENERAL.—The Federal Communications Commission shall not amend its rules

to reduce the minimum co-channel and first- and second-adjacent channel distance separation requirements in effect on the date of enactment of this Act between—

(A) low-power FM stations; and

(B) full-service FM stations.

(2) WAIVER.—

(A) IN GENERAL.—Notwithstanding paragraph (1), the Federal Communications Commission may grant a waiver of the second-adjacent channel distance separation requirement to low-power FM stations that establish, using methods of predicting interference taking into account all relevant factors, including terrain-sensitive propagation models, that their proposed operations will not result in interference to any authorized radio service.

(B) REQUIREMENTS.—

(i) SUSPENSION.—Any low-power FM station that receives a waiver under subparagraph (A) shall be required to suspend operation immediately upon notification by the Federal Communications Commission that it is causing interference to the reception of an existing or modified full-service FM station without regard to the location of the station receiving interference.

(ii) ELIMINATION OF INTERFERENCE.—A low-power FM station described in clause (i) shall not resume operation until such interference has been eliminated or it can demonstrate to the Federal Communications Commission that the interference was not due to emissions from the low-power FM station, except that such station may make short test transmissions during the period of suspended operation to check the efficacy of remedial measures.

(iii) NOTIFICATION.—Upon receipt of a complaint of interference from a low-power FM station operating pursuant to a waiver authorized under subparagraph (A), the Federal Communications Commission shall notify the identified low-power FM station by telephone or other electronic communication within 1 business day.

SEC. 4. PROTECTION OF RADIO READING SERVICES.

The Federal Communications Commission shall comply with its existing minimum distance separation requirements for full-service FM stations, FM translator stations, and FM booster stations that broadcast radio reading services via an analog subcarrier frequency to avoid potential interference by low-power FM stations.

SEC. 5. ENSURING AVAILABILITY OF SPECTRUM FOR LOW-POWER FM STATIONS.

The Federal Communications Commission, when licensing new FM translator stations, FM booster stations, and low-power FM stations, shall ensure that—

(1) licenses are available to FM translator stations, FM booster stations, and low-power FM stations;

(2) such decisions are made based on the needs of the local community; and

(3) FM translator stations, FM booster stations, and low-power FM stations remain equal in status and secondary to existing and modified full-service FM stations.

SEC. 6. PROTECTION OF TRANSLATOR INPUT SIGNALS.

The Federal Communications Commission shall modify its rules to address the potential for predicted interference to FM translator input signals on third-adjacent channels set forth in section 2.7 of the technical report entitled "Experimental Measurements of the Third-Adjacent Channel Impacts of Low-Power FM Stations, Volume One—Final Report (May 2003)".

SEC. 7. ENSURING EFFECTIVE REMEDIATION OF INTERFERENCE.

The Federal Communications Commission shall modify the interference complaint process described in section 73.810 of its rules (47 CFR 73.810) as follows:

(1) With respect to those low-power FM stations licensed at locations that do not satisfy third-adjacent channel spacing requirements under section 73.807 of the Commission's rules (47 CFR 73.807), the Federal Communications Commission shall provide the same interference protections that FM translator stations and FM booster stations are required to provide as set forth in section 74.1203 of its rules (47 CFR 74.1203) as in effect on the date of enactment of this Act.

(2) For a period of 1 year after a new low-power FM station is constructed on a third-adjacent channel, such low-power FM station shall be required to broadcast periodic announcements that alert listeners that interference that they may be experiencing could be the result of the operation of such low-power FM station on a third-adjacent channel and shall instruct affected listeners to contact such low-power FM station to report any interference. The Federal Communications Commission shall require all newly constructed low-power FM stations on third-adjacent channels to—

(A) notify the Federal Communications Commission and all affected stations on third-adjacent channels of an interference complaint by electronic communication within 48 hours after the receipt of such complaint; and

(B) cooperate in addressing any such interference.

(3) Low-power FM stations on third-adjacent channels shall be required to address complaints of interference within the protected contour of an affected station and shall be encouraged to address all other interference complaints, including complaints to the Federal Communications Commission based on interference to a full-service FM station, an FM translator station, or an FM booster station by the transmitter site of a low-power FM station on a third-adjacent channel at any distance from the full-service FM station, FM translator station, or FM booster station. The Federal Communications Commission shall provide notice to the licensee of a low-power FM station of the existence of such interference within 7 calendar days of the receipt of a complaint from a listener or another station.

(4) To the extent possible, the Federal Communications Commission shall grant low-power FM stations on third-adjacent channels the technical flexibility to remediate interference through the colocation of the transmission facilities of the low-power FM station and any stations on third-adjacent channels.

(5) The Federal Communications Commission shall—

(A) permit the submission of informal evidence of interference, including any engineering analysis that an affected station may commission;

(B) accept complaints based on interference to a full-service FM station, FM translator station, or FM booster station by the transmitter site of a low-power FM station on a third-adjacent channel at any distance from the full-service FM station, FM translator station, or FM booster station; and

(C) accept complaints of interference to mobile reception.

(6) The Federal Communications Commission shall for full-service FM stations that are licensed in significantly populated

States with more than 3,000,000 population and a population density greater than 1,000 people per one square mile land area, require all low-power FM stations licensed after the date of enactment of this Act and located on third-adjacent, second-adjacent, first-adjacent, or co-channels to such full-service FM stations, to provide the same interference remediation requirements to complaints of interference, without regard to whether such complaints of interference occur within or outside of the protected contour of such stations, under the same interference complaint and remediation procedures that FM translator stations and FM booster stations are required to provide to full-service stations as set forth in section 74.1203 of its rules (47 CFR 74.1203) as in effect on the date of enactment of this Act. Notwithstanding the provisions of section 74.1203, no interference that arises outside the relevant distance for the full-service station class specified in the first column titled "required" for "Co-channel minimum separation (km)" in the table listed in section 73.807(a)(1) of the Commission's rules (47 CFR 73.807(a)(1)) shall require remediation.

SEC. 8. FCC STUDY ON IMPACT OF LOW-POWER FM STATIONS ON FULL-SERVICE COMMERCIAL FM STATIONS.

(a) **IN GENERAL.**—The Federal Communications Commission shall conduct an economic study on the impact that low-power FM stations will have on full-service commercial FM stations.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the study conducted under subsection (a).

(c) **LICENSING NOT AFFECTED BY STUDY.**—Nothing in this section shall affect the licensing of new low-power FM stations as otherwise permitted under this Act.

The **SPEAKER pro tempore**. Pursuant to the rule, the gentleman from Pennsylvania (Mr. DOYLE) and the gentleman from Florida (Mr. STEARNS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

GENERAL LEAVE

Mr. DOYLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The **SPEAKER pro tempore**. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DOYLE. I yield myself such time as I may consume.

Mr. Speaker, I first want to thank Chairman BOUCHER, and to let Mr. BOUCHER know that it has been a privilege to work with him during our years together on the Energy and Commerce Committee, and especially during the 2 years he served as chairman of the Subcommittee on Energy and of the Subcommittee on Communications Technology and the Internet. He has been a great colleague and partner in legislation and a great friend, and I want to wish Chairman BOUCHER only the best in his next steps.

I also want to thank Chairman WAXMAN for strongly supporting this bill that will give local communities across this country access to their airwaves. I am grateful for the support that this bill has from both sides of the aisle, from myself, the former vice chairman of the Communications Subcommittee, to the future vice chairman of the Communications Subcommittee, this bill's lead cosponsor and my good friend, LEE TERRY from Omaha.

We have been working together to bring local community-oriented radio to more cities, counties, and neighborhoods across the country for 10 years now, and I would say to my friend that I think we are finally on the last leg of this journey.

This bill will allow churches, schools, neighborhood groups, and others to put community-oriented programming on the air, and it will help first responders provide those communities with critical information in times of natural disasters and other emergencies.

You see, when the Federal Communications Commission created the Low Power FM radio service, they sought to create opportunities for new voices on the airwaves and to allow local schools, churches, and other community-based organizations to provide programming that is responsive to local community needs and interests. Congress, however, passed the Radio Broadcasting Preservation Act in 2000, and many of those organizations were prevented from communicating to their members, supporters, and residents on the FM radio dial. That bill called for a field study performed by the MITRE Corporation, and for the FCC to recommend to us what we should do.

In 2004, on a unanimous bipartisan basis, the Federal Communications Commission issued a report to Congress which stated that, "Congress should readdress this issue and modify the statute to eliminate the third adjacent channel distant separation requirements for LPFM stations."

For a second time, in November of 2007, and for a third time, again, in September 2009, all five FCC Commissioners agreed that Congress should lift the restriction on LPFM stations and allow them to license new stations in more communities. The bill we have under debate today, the Local Community Radio Act of 2009, does just that.

When they are allowed to exist under current law, LPFM stations have proven to be a vital source of information during local or national emergencies. And these stations promote the arts and education from religious organizations, community groups, organizations promoting literacy, and many other civically oriented organizations; stations like:

KOCZ in Opelousas, Louisiana, which is operated by the Southern Development Foundation, a group active in the African American community. The station broadcasts public affairs shows,

religious programing, hip-hop and zydeco music 24 hours a day. Zydeco music is central to the cultural heritage of the Acadiana region but had mostly disappeared from the airwaves dominated by commercial radio; or

WRFR in Rockland, Maine, which broadcasts talk and call-in shows on issues important to the community on a variety of things. Though six other stations have their transmitters in the station's home in Knox County, WRFR is the only station that originates its programming there; and

WQRZ in Bay St. Louis, Mississippi, which remained on the air during Hurricane Katrina and served as the Emergency Operations Center for Hancock County during the worst storm there in a century.

But Congress has to act on the Commission's recommendations; otherwise, similar stations are prevented from operating in communities across America, communities like mine, which are too large to have any slots for any LPFM stations at 4th adjacent, but could fit several at 3rd.

But you don't have to take my word for it—every FCC Commissioner since 2003 has vouched for this—or the MITRE Corporation's outside study's word for it either. We all know this is going to work because it already works.

Currently, large commercial and non-commercial FM stations duplicate and extend their signals on these same 3rd adjacent channels that the FCC wants to also make available to new non-commercial stations.

This bill has broad support, as evidenced in these letters from almost a dozen leaders, from Catholic and Protestant faiths like the United Church of Christ and the National Association of Evangelicals; a letter from two dozen national and local public interests, civil rights, local groups; and another letter from the Leadership Conference on Civil Rights; and, finally, this letter from the National Federation of Community Broadcasters and the Prometheus Radio Project, all of whom support this bill.

Exactly a year and a day ago, the House passed an earlier version of this legislation, H.R. 4711, a fine bill, but the broadcasters' concerns kept it bottled up in the Senate all year.

□ 1100

I am pleased to tell you that at the 11th hour, in the nick of time the various stakeholders were able to reach an agreement over the disputed language, and all of the Senate holds have been lifted.

This version of the bill was supported by everyone with a stake in broadcasting: Small noncommercial stations, big noncommercial stations like NPR, big commercial stations like the National Association of Broadcasters. This bill deserves my colleagues' support, unanimous support, as well.

The time has finally come for Congress to rewrite this law. The time has come to make the airwaves available to the people they serve. As I said a year ago, the time has come to bring low power to the people.

Mr. Chairman, thank you again for support of this legislation.

LIST OF ORGANIZATIONS THAT SENT LETTERS OF SUPPORT

Director—California Indian Heritage Council (No PDF), Association of California Water Agencies, Wateruse Association, American Water Works Association, Association of Metropolitan Water Agencies, La Clinica de La Raza, A Community Voice Louisiana, Nancy Skinner, Assemblywoman for the 14th District, National Resource Defense Council, California Safe Schools (no PDF).

Planning and Conservation League, Council of the District of Columbia, San Francisco Public Utilities Commission, California Public Health Association, Environmental Defense Fund, East Bay Municipal Utility District, Environmental Justice Coalition for Water, California Rural Legal Assistance Foundation, Community Water Center, Southern California Watershed Alliance.

Clean Water Action, Urban Semillas, Friends of the River, Institute for Socio-Economic Justice, Planning and Conservation League, North Richmond Shoreline Open Space Alliance, California League of Conservation Voters, California Conference of Directors of Environmental Health, San Jerardo Co-Op Inc, Karuk Tribe.

Sierra Club, Consumer Union, Contra Costa Water District, Inland Empire Utilities Agency, Environmental Defense Fund, Ellen Corbett, 10th Senate District, Planning and Conservation League (second one), PMI, Vermont PRIG, and Action Now.

I reserve the balance of my time.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

I think the gentleman did an excellent job. I obviously support this bill. We support it on this side. I think the gentleman said everything, but we are going to also hear from the principal cosponsor, LEE TERRY from Nebraska, who has worked with you. I am told you folks have worked together for almost 8 years. So this is a very significant accomplishment.

I would defend the National Association of Broadcasters because during this process they did have some very technical concerns. I understand now they are supporting it. The new concessions that they brought out I think were helpful, although I am sorry it took so long to bring it together.

It permits any citizen to complain to the FCC that a low power radio station is causing interference to any full power radio station and requires the FCC to shut down the station within 1 business day.

It requires a low power FM station to seek a waiver from the FCC to use the most modern and efficient engineering methods to find spectrum for their station.

It mandates that a full power station that wants to relocate will be able to knock a low power radio station off the

air, but permits the FCC to use waivers and other means to find spectrum for displaced low power FM stations.

I say that only because there are businesses that have in place broadcast spectrum that are operating, have operated for many years, and their concern was that the churches, the community centers, the schools and universities and their low power stations might interfere. I think that that was a legitimate concern. I am glad that the National Association of Broadcasters has now conceded these and worked them out.

Obviously, I think any of us in this body would agree that it is a very important part of democracy to have some of these, shall we say, eclectic type of stations that offer, as you say, church music and church services and hip-hop music. They are tailored in a special way, plus they are available for emergency services. So I commend you and Mr. LEE TERRY, who is going to speak shortly, on this.

Basically the legislation expands the opportunity for, as we say, all of these groups to the 116 million Americans in the top 50 radio markets in the country who thus far have been excluded. It accomplishes this by returning the authority to the FCC for licensing decisions related to low power FM stations.

Major features of the bill, which is very similar to the bill that passed the House last year, are that it fully protects full power stations from interference by new low power radio stations. It responds to the concerns of the NPR and the NAB and protects reading for the blind services. The Senate bill added a requirement that the FCC conduct a study on the economic impact of low power FM stations. So this is all part of the process.

Mr. Speaker, I reserve the balance of my time.

Mr. DOYLE. Mr. Speaker, I yield myself 30 seconds.

I want to thank my friend for his support of the bill. I know he is looking forward to being able to listen to his favorite hip hop music on his favorite low power FM station in Florida.

This has been a long journey. We have tried earnestly to address all of the concerns that the broadcasters have, and there were many at times. But I think we finally reached a point where we all agree, broadcasters, commercial and noncommercial, that we now have a process in place that protects their interests and their concerns and allows local communities now to have this valuable resource.

I reserve the balance of my time.

Mr. STEARNS. Mr. Speaker, I am going to yield to the distinguished gentleman from Nebraska, who also has been the principal author of this bill and worked again tirelessly for 8 years. I would say to my friend on the other side, AKOZ, is that the station that I should listen to for this?

With that, I yield such time as he may consume to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. The gentleman from Jacksonville, Florida, knows the hip-hop station. I am impressed.

But this is grassroots radio. We have had pirate radio. Now we are going to have legitimate grassroots radio. This is empowering to those that have little or no voice in their communities. This is why the gentleman from Pittsburgh and I have worked so diligently over the last 8–10 years. Actually it goes back almost 12 years, when we helped get the MITRE Study, so we could know based on science whether or not there would be interference or not. And when that study, a thorough study, came back and said there would be no interference, MIKE and I began the process of making sure that we could allow on the third adjacency communities to have a licensed FM station.

That is what low power is about, communities. It is not going to blast from Omaha to Lincoln. It probably won't even go from East Omaha to midtown in Omaha or in Pittsburgh. But the reality is it will serve the community.

Just in my district alone, in the Omaha metropolitan area, since beginning this process we have had dozens of community groups contact us about when they will be able to apply for a low power FM station. This includes the Chicano Awareness Center. This includes Catholic Charities. This includes Salem Baptist Church, which is located in the heart of the most impoverished area of my district, one of the most impoverished, unfortunately for the Omaha area, and one of the most impoverished areas in the United States and in the African American community. One of their issues is that they don't have a particular voice for the African American or North Omaha community. So this is why it is empowering. They finally have the opportunity now to have a radio voice with which to communicate community issues.

Today MIKE says this is low power to the people. It is the essence of grassroots radio. This is a day to celebrate for all of our community groups, because they will now be empowered once the Senate takes this up, since all of the objections have been dealt with in the appropriate manner. So this is truly a day for them to celebrate.

Mr. DOYLE. Mr. Speaker, I yield myself 2 minutes.

I just want to share with my colleagues, we have been waiting. We were told this letter was en route, and it has arrived. Just for the record, this is the letter from the National Association of Broadcasters which was addressed to myself and Mr. TERRY informing us both that they are now in support of this bill, that they appreciate the work that our staffs have done with them,

along with the Senate cosponsor, and that they support the bill.

Another piece of good news. CBO has scored this bill. It has no budgetary impact. The CBO score is zero. Another piece of good news for my colleagues who are concerned about cost.

Last, I think it is only fair that we recognize that a lot of people have worked very, very hard on this bill. I would be remiss personally if I didn't thank Kenneth DeGraff, who staffs me on the Telecom Subcommittee, who has put his heart and soul into this legislation and is more responsible than anybody in my office for seeing this day come today.

Also from the Prometheus Radio Project, Pete Tridish; Cheryl Leanza from the United Church of Christ; Michael Daum with Senator CANTWELL's office; Lee Dunn with Senator MCCAIN's office. There have been many, many people who have worked hard. I know that LEE TERRY, his staff too has worked very hard on this issue, and that all of our staffs deserve credit. They are the unsung heroes behind the scenes that do all the work. Brad Schweer with LEE TERRY's office has been just great on this too.

So I want to thank my colleagues.

I reserve the balance of my time.

Mr. STEARNS. Mr. Speaker, I have no further speakers. I think the gentleman has pointed out this is a bipartisan bill. It took awhile. The National Association of Broadcasters are now supporting this, it doesn't cost any money, so I urge its adoption.

I yield back the balance of my time.

Mr. DOYLE. In closing, Mr. Speaker, this bill passed unanimously in the House of Representatives when it was H.R. 1147. This bill has broad bipartisan support.

I want to thank all of my colleagues for their work, and I would hope that we could have a unanimous vote today on the House floor when the bill is brought up.

Mr. WAXMAN. Mr. Speaker, I rise in support of H.R. 6533, the Local Community Radio Act of 2010. I want to thank Chairman BOUCHER for his leadership in guiding this bipartisan bill through the Energy and Commerce Committee and the House last year. I also want to recognize and thank Mr. DOYLE and Mr. TERRY—the original sponsors of the bill—for their tireless leadership in pushing this legislation forward, and for their commitment to expanding diversity, localism, and competition in our media landscape. Mr. DOYLE has been an energetic champion of local community radio, and I greatly appreciate his leadership, flexibility, and perseverance.

I have long-supported expanding Low Power FM radio services. This bill removes a statutory barrier to the creation of potentially thousands of new low power stations across the country. The creation of these stations will further the overriding national policy goals of promoting broadcast localism and diversity. At the same time, this legislation fully protects incumbent radio broadcasters from unreason-

able interference, with a clear dispute resolution process to mitigate interference with station transmissions.

In December 2009, the House has approved the Local Community Radio Act by voice vote. Since that time, however, the bill has been held up in the Senate due to ongoing concerns from some broadcasters. To address these concerns, Mr. DOYLE, Mr. TERRY, Senator CANTWELL, and Senator MCCAIN have been working diligently to eliminate outstanding objections so we can finally pass this legislation and send it to President Obama for signature. It is my hope that the Senate will take up H.R. 6533 promptly and do just that.

Most notably, this revised version of the bill incorporates additional interference remediation procedures preferred by the broadcasters. I am pleased that H.R. 6533 now has the full support of the National Association of Broadcasters. I want to thank NAB for working with us cooperatively to move this legislation closer to passage. I also want to thank the Prometheus Radio Project, the United Church of Christ, and other long-time supporters of Low Power FM services for their input and support.

This is a good bipartisan bill that will promote localism and diversity over the airwaves. I urge my colleagues to support H.R. 6533.

Mr. DOYLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HOLDEN). The question is on the motion offered by the gentleman from Pennsylvania (Mr. DOYLE) that the House suspend the rules and pass the bill, H.R. 6533.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1110

AIDING THOSE FACING FORECLOSURE ACT OF 2010

Mr. CAPUANO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5510) to amend the Emergency Economic Stabilization Act of 2008 to allow amounts under the Troubled Assets Relief Program to be used to provide legal assistance to homeowners to avoid foreclosure, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Aiding Those Facing Foreclosure Act of 2010”.

SEC. 2. FORECLOSURE AVOIDANCE ASSISTANCE.

Section 109 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5219) is amended by adding at the end the following new subsection:

“(d) LEGAL ASSISTANCE.—

“(1) USE OF FUNDS.—The Secretary shall make amounts that were obligated under this title, through the financial instruments

for the Housing Finance Agency Innovation Fund for the Hardest-Hit Housing Markets program of the Secretary (in this subsection referred to as the 'Hardest-Hit Fund'), available to eligible entities, housing finance agencies, or affiliates of such entities or agencies participating in the Hardest-Hit Fund, upon request by such entities, housing finance agencies, or affiliates, for the additional purpose of providing assistance to State and local legal organizations, including nonprofit legal organizations, whose primary business or mission is to provide legal assistance, for use for providing legal assistance to homeowners of owner-occupied homes consisting of from one to four dwelling units who have mortgages on such homes that are in default or delinquency, in danger of default or delinquency, or subject to or at risk of foreclosure, to assist such homeowners with legal issues directly related to such default, delinquency, foreclosure, or any deed in lieu of foreclosure or short sale.

“(2) PROHIBITION ON CLASS ACTIONS.—No funds provided under this subsection to a State or local legal organization, including a nonprofit legal organization, may be used to support any class action litigation.

“(3) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—

“(A) IN GENERAL.—None of the amounts made available under this subsection shall be distributed to—

“(i) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or

“(ii) any organization which employs applicable individuals.

“(B) DEFINITION OF APPLICABLE INDIVIDUAL.—In this paragraph, the term ‘applicable individual’ means an individual who—

“(i) is—

“(I) employed by the organization in a permanent or temporary capacity;

“(II) contracted or retained by the organization; or

“(III) acting on behalf of, or with the express or apparent authority of, the organization; and

“(ii) has been convicted for a violation under Federal law relating to an election for Federal office.

“(4) AUTHORIZATION.—Amounts used as described under paragraph (1) shall be deemed to be for actions authorized under this title.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. CAPUANO) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. CAPUANO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CAPUANO. Mr. Speaker, I yield such time as she may consume to the sponsor of the bill, the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Thank you very much to my dear colleague, Congressman CAPUANO of Massachusetts, for yielding me this time in support of moving today H.R. 5510, the Aiding Those Fac-

ing Foreclosure Act, which merely allows technical clarification language to existing legislation. No authorization of funding or any expansion of existing funding is included in this bill.

I would like to thank my colleagues on both sides of the aisle for their support and for bringing this forth today. In particular, I would like to thank Chairman FRANK and Congressman STEVE LATOURETTE for their ongoing efforts on behalf of homeowners facing foreclosure.

Ohio is among those States labeled as the hardest hit in our Nation by the foreclosure and economic crisis, along with 18 other States. These states receive what is called “hardest hit” assistance funds.

Ohio, among other States, wants the discretion to use a small amount of its existing funds under existing authorities to support legal advice through not-for-profit legal organizations to individual families facing foreclosure. However, Treasury interpreted that existing law didn't allow that. That is why we are here today—to clarify that, in fact, citizens of our Nation who are single-family homeowners do have the right to proper legal advice in such critical mortgage workout proceedings that affect their equity, that affect their family's home and their future.

Millions of people have faced foreclosure across our Nation. Far too many are losing their homes without proper, necessary legal representation. Many even have no idea that they have legal standing in such property proceedings. At such a critical and emotional moment in a family's life, legal advice can help a family find the outcome that works best for them in a foreclosure proceeding. In today's very complex mortgage proceedings, it becomes daunting for affected homeowners to gain the legal advice necessary to navigate the increasingly complex world of distant banks and courts, which often are much more easily navigated by the mortgagor. And certainly the mortgagee should have similar legal rights as well.

We appreciate the fact that the Treasury is sending a letter of support in furtherance of our efforts. Thus, I introduce this legislation as a legislative fix, H.R. 5510. For those States already receiving hardest hit funds, H.R. 5510 increases the State's ability to serve only single-family owner-occupied units that are facing default, delinquency, foreclosure, deed in lieu, or short sale by permitting, if the State so chooses, to use hardest hit funds to support legal services offered by not-for-profit legal aid organizations.

In sum, the bill does not require States to use funds to support legal aid or services. So there's no requirement. This language is only permissive. The bill does not permit funds to be used for class action lawsuits. It only applies to single-family owner-occupied

units. The bill does not permit any organizations like ACORN or others that are not not-for-profit legal assistance groups to receive funding. Further, the bill does not take money away from any State that is already administering its funds. And the bill actually will help relieve pressure on the States that are not hardest hit as other funding becomes available in related housing programs in the future.

So, let me be clear. There's no new money involved here. This is only giving the hardest hit States a new tool, if they so choose to use it, to fight foreclosures in their States and give proper legal standing to all parties involved. Nothing could be more important than allowing families facing foreclosure to be afforded proper legal assistance to rework their loan where that is possible.

Please support passage of H.R. 5510, the Aiding Those Facing Foreclosure Act.

The SPEAKER pro tempore. Without objection, the gentleman from Massachusetts (Mr. FRANK) will control the time.

There was no objection.

Mr. TERRY. Mr. Speaker, I yield myself such time as I may consume.

I rise on behalf of Ranking Member SPENCER BACHUS, the minority in opposition, strong opposition, to H.R. 5510.

Mr. Speaker, here we go again. The American people have rightly demanded an end to the bailouts, but this outgoing Democratic majority just can't seem to let go. Just this past October, Secretary Geithner put out a lengthy report proclaiming the expiration of TARP, but it seems that the \$700 billion bailout isn't quite dead yet.

Just a week away from Christmas Eve, the Democratic majority is today attempting to bring the bailout back to life for the sole purpose of showering taxpayer money on community groups that provide legal assistance. The premises of reopening TARP for this purpose is troubling enough, but perhaps even worse is that we are bypassing any form of regular order to consider this this morning.

We first received the text of this language, which is substantially different from the introduced version, at 9 a.m. this morning. No hearings were held on this legislation. No subcommittee or full committee markup. No CBO score has been produced. We have yet to receive any feedback whatsoever from the Department of Housing and Urban Development or from the President.

We have heard that there's a letter of support, but simply the letter we've received from the Treasury is one outlining why they can't do it. In fact, there's been newspaper articles about how Secretary Geithner has blocked this from occurring. In fact, the General Counsel recently wrote that the proposed legal aid services are not necessary to the implementation or effectiveness of the hardest hit fund because

Congress has provided other specific appropriations that funded the same type of legal aid processes or services proposed by the State and Federal; that legal aid services are not necessary or essential to the implementation of a loan modification program. The case has not been made that there are inadequate resources for legal assistance.

□ 1120

The American people expect better.

The legislation before us today could conceivably result in billions of taxpayer dollars being pumped into community groups similar to the now defunct ACORN. That was not the purpose of the hardest-hit housing market's program nor was it contemplated by the original emergency TARP bailout. Even Treasury Secretary Geithner agrees with that point. TARP was designed to return all unspent funds directly to the taxpayer so that legislative efforts like today's wouldn't be possible. In theory, this legislation could prevent more than \$7 billion from being returned to the taxpayers.

Our goal should be to return as much taxpayer money to the taxpayer, not to invent new ways to make sure that we spend it. TARP was not designed to be a perpetual slush fund.

The drafters of the 2008 TARP clearly understood how tempting it would be to have a \$700 billion pot of money lying around, so they installed a firm expiration date for the program. That hasn't stopped this majority from attempting to use the emergency stabilization money for other purposes; but today's poorly crafted, non-vetted, redundant, duplicative, and perhaps unnecessary bailout is particularly egregious due to the process they followed.

I urge my colleagues to reject this suspension, and if additional legal assistance moneys are required, go through regular order to prove it.

I reserve the balance of my time.

Mr. FRANK of Massachusetts. I yield myself such time as I may consume.

Mr. Speaker, I salute the "good soldier" attitude of my friend from Nebraska. In the absence of any member on the Financial Services Committee, he agreed to stand up and read what was written. He has no way of knowing how silly it is. Nobody explained to him how inaccurate it was.

For example, he says this has not gone through regular order. It is, in fact, exactly the same legislative language that was debated, amended and adopted in the House Financial Services Committee and then in conference during financial reform. It is exactly that.

There is language in here that the gentlewoman from Ohio sensibly agreed to that makes it clear that organizations that have been convicted of criminal abuses can't be here, that

only genuine legal services organizations can get this money and that there can be no class actions. It was carefully done. It's not the gentleman's fault. He wasn't there. I wish the people who had been there had told him that.

This is the legislative language taken from a bill that went through the full legislative procedure and passed the House. In fact, there was a change because we told the gentlewoman from Ohio, who has been very diligent in this regard, that we thought it was best precisely to avoid that kind of argument and to take the language that had already been adopted in the committee, in the conference and on the floor of the House.

Secondly, we are told it's going to cost extra money. No, it will not. In fact, it could save money. In the language that the House passed and the conference committee passed, we authorized \$35 million for exactly this purpose.

What the gentlewoman from Ohio is proposing is that we take money that has already been voted under the TARP and use it for that. The gentleman has been asked to characterize it as a "slush fund." Hardheartedness has rarely come so close to the Christmas season. This slush fund is to go to working Americans who bought homes and who are facing foreclosure. Frankly, we were reasonably certain of this when we passed this earlier this year, but we now know there have been serious legal problems with the foreclosures. Some of them are merely paperwork. Others we have seen are documented abuses.

You are a homeowner in trouble. You have the legal teams coming at you from the lenders, from the servicers and others. You cannot yourself afford a lawyer. You're having trouble meeting your mortgage payment.

What we say is, We will give you access to a lawyer—not in the offensive way. There is no class action here. There is no legal suit that can be brought against the lenders. There maybe should be.

This says, I'm being foreclosed. I don't think I should be foreclosed. They made a mistake. I paid that mortgage; or I got a modification. Somebody forgot it.

All we're asking is, Can we take some money that has already been voted and let that person have a lawyer to go to court—a legal services lawyer, vetted by the local bar association—to defend him?

To the Republican Party, that's a slush fund. I am appalled. I am appalled at the insensitivity and at the cruelty.

By the way, I voted for the TARP money, along with Mr. BOEHNER, the incoming Speaker. They did it at the request of President Bush. As for the bailouts they keep flailing about, every

single bailout that exists in America today was initiated by President George Bush, every single one—AIG, the TARP, the automobiles. It was George Bush who did it, and George Bush, after the election conveniently, said that it was the TARP that saved the economy from the consequences, I think, of mistakes that had been made during his Presidency. So that's the bailout they are talking about.

What we are saying is this:

We put an end to any new money. Given existing money, given the clear documentation that there have been abuses and errors and even, in some cases, fraud in the foreclosure process—although, in some cases, they were just paperwork errors—this is for beleaguered homeowners who are trying to save their homes, who are trying to keep themselves and their families from being kicked out the of their homes in case there was a mistake at legal assistance. If everything is in order, the lawyers can't save them.

What we are saying is, given what has been documented, let's take some of the money that has already been voted in the TARP—that's right. It has no CBO score—and put it there.

Secretary Geithner told me personally that he supports this. I'm sorry the letter isn't here yet, but I think Members will accept the fact that I'm telling the truth when I tell you that I spoke to the Secretary and showed him what we were doing, and he supports it. The language has gone through the full legislative process. It is language taken from the bill.

I hope we will pass this and also have the \$35 million. This is for the hardest-hit States, the States that have had the worst impact. The \$35 million could then be used for the other States. But again, a slush fund? It's a slush fund that can't go to ACORN. I know ACORN is a real focus for them.

It, of course, validates the old saying: Great obsessions from tiny acorns grow.

So every time we try to help any poor people with legal assistance so they are not faced with the unfair situation of being outgunned by an array of lawyers and they don't have any lawyers themselves to defend them, ACORN gets it. ACORN can't get this money on a number of grounds. There can't be class action suits.

If there is a homeowner who is convinced that he or she is being unfairly foreclosed upon and could document errors, should that person be denied legal assistance from money already voted at the request of George Bush and with the support of MITCH MCCONNELL and with the support of the incoming Speaker and with the support of the incoming majority leader? Should they not be able to use it?

I wish this weren't partisan. People tell me, Why are things partisan?

I wish things weren't partisan. I wish I could eat more and not gain weight. I wish a lot of things.

We are here on a partisan situation because what ought to be obvious is that money already appropriated, knowing as we do that there have been abuses in the foreclosure process, ought to be available to appoint genuine lawyers to defend people. By the way, do you know legal services lawyers? They're among the most dedicated people you'll find. These people could be making far more money in private practice, but they're there to help out.

They're restricted. There can't be class action suits. They can't go to a general organization that does legal work. They have to go to a genuine legal services organization, which are often, in my case, always supervised by the State bar association—and it is a slush fund.

You know, I can understand some differences of opinion, but to demean it this way—to call it a “slush fund”—to deny ownership of the bailout, which was, of course, a Republican administration policy and to characterize it that way, all we are saying is money already voted could be made available for genuine legal assistance to help people who are facing unfair foreclosures so they can go to court.

The point is that we get this demeaning characterization. You know, we are supposed to be proud of our system of justice. We are not talking about giving anybody a free pass. What we are saying is working people who are facing foreclosure ought to be able to get to court on, not equal terms with the lenders and the large organizations opposing them, but with some bare minimum of representation—and that's a slush fund. That's a political trick.

□ 1130

I am very disappointed. We had real hopes that we could get some agreement on this. Everybody acknowledges that there have been abuses in the foreclosure process. We know there are people who can't afford lawyers. It will not cost the taxpayers any money. This is money that will be used elsewhere. It's a diversion from money that was otherwise going to be used in the TARP. It doesn't reopen the TARP. I hope it will add to the \$35 million we hope we can get. It has been vetted through the legislative process. The gentlewoman from Ohio, who has been a great crusader on behalf of people in this situation, accepted our suggestion that she take the language that has already been voted on in the House.

So I am disappointed, but I hope that party discipline will not prevail on the Republican side. People—particularly from those States, Ohio, California, Indiana, and Florida, where they are particularly hard hit, but everybody, because everybody will benefit if we can increase this pool—will say something that's apparently terribly radical to my Republican friends. Let's let mem-

bers of legal assistance operations, supervised by their bar associations, subject to their supreme courts and the State's supervision, go to court to defend someone facing an array of high-priced legal talent when they know that they are being foreclosed upon illegally and inappropriately.

And that is apparently a terrible thing to the Republican Party. I am, as I say, appalled. I hope that a sense of fairness will somehow prevail and we can pass this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TERRY. Mr. Speaker, I yield myself such time as I may consume.

I appreciate my friend from Massachusetts pointing out my good soldiering here, but there are certain things that I do know are facts, and that is: Taxpayers are already paying for legal services for the impoverished. It's the Legal Services Corporation. And the appropriation for this year, at least as it currently is listed, is \$440 million.

Perhaps what we're saying here is using the TARP fund as the vehicle and keeping TARP alive is the wrong process here. Perhaps this isn't a TARP or financial services issue. The right way is an appropriation issue.

If the majority is upset that there is not enough money going to legal services for the poor, whether it's for foreclosures or other legal issues, the right path would be addressing the Appropriations Committee and asking for additional funds within an already existing process.

Committee staff is not aware of whether or not Geithner has now said he is in favor of this bill. We don't know of any conversations, but we have no doubt to disagree with the gentleman from Massachusetts' statement that he has had conversations. We've heard about a letter, but we only have one dated September 13.

Mr. FRANK of Massachusetts. Will the gentleman yield?

Mr. TERRY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Yes, the letter is on the way. I state, as a matter of fact, that I personally spoke to Secretary Geithner and he told me, as I explained it, that he supports it.

Does the gentleman doubt my word?

Mr. TERRY. No, and I said I don't doubt your word. I said that.

What we have here is a September 13 letter, but we've also heard that there is another letter, or maybe we are talking about the same letter.

Mr. FRANK of Massachusetts. Will the gentleman yield?

Mr. TERRY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. The letter you are talking about is one in which he says he doesn't have the legal authority to do it. This bill gives him the legal authority. There is no con-

flict. This bill now is a response to that letter. And I repeat that he has said that he is in favor of getting the legal authority to do it.

Mr. TERRY. And reclaiming my time, that's the reason for our opposition here.

The Treasury Department—it wasn't Republicans. It was their own administration and the Cabinet Member, Mr. Geithner, that said TARP doesn't have the powers to be a legal aid fund, so it takes them to have to change this.

I kind of heard both things here, that if the administration was agreeing to this or saying that this was the right thing for TARP or that they had the powers, why was this bill even necessary? But let's say TARP was necessary, or this bill is necessary, because, as Geithner said in the September 13 letter, they don't have the power. So now, 2 years after the fact, they want to change TARP to become a legal aid fund.

I was part of the group that held out our votes because we wanted to make sure that this wasn't going to be a fund that was going to be continuously used, that every dollar that was going to be spent had the opportunity to be recouped so that the taxpayers at the end would not be out any dollars. This changes the whole philosophy of TARP for many people that voted for it.

DEPARTMENT OF THE TREASURY,
Washington, DC, September 13, 2010.

Hon. MARY JO KILROY,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE KILROY: I am writing in response to your recent inquiries about the Housing Finance Agency Innovation Fund for the Hardest-Hit Housing Markets (the “HFA Hardest-Hit Fund”). As you know, we designed the Fund to support new and innovative foreclosure prevention efforts in states—such as Ohio—that have been hardest hit by housing price declines and high unemployment rates. I share your strong commitment to maximizing the impact of the HFA Hardest-Hit Fund and to helping responsible Americans keep their homes.

I also understand your interest in whether the HFA Hardest-Hit Fund can support legal aid services proposed by state HFAs. It is critically important that struggling American families receive accurate and helpful advice about how to take advantage of the Administration's housing relief efforts. Accordingly, I asked George Madison, the General Counsel of the Treasury Department, to review the issue closely. Mr. Madison has concluded that legal aid services cannot be funded through programs such as the HFA Hardest-Hit Fund that are authorized under the Emergency Economic Stabilization Act of 2008 (“EESA”). I have enclosed a detailed memorandum that analyzes the legal issues and statutory limitations.

Thank you for your attention to these critical issues. Although we cannot use EESA funds to support legal aid services, we are fully committed to working with you to ensure that the HFA Hardest-Hit Fund successfully provides targeted aid to struggling

homeowners and encourages innovative solutions to the housing downturn.

Sincerely,

TIMOTHY F. GEITHNER,
Secretary of the Treasury.

Enclosure.

DEPARTMENT OF THE TREASURY,
Washington, DC, September 10, 2010.

MEMORANDUM FOR SECRETARY GEITHNER

FROM: George W. Madison, General Counsel

SUBJECT: Funding of Legal Aid Services in connection with the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets

This memorandum addresses whether the Department of the Treasury ("Treasury") can support certain proposed legal aid services using Troubled Asset Relief Program ("TARP") funds in connection with the Housing Finance Agency Innovation Fund for the Hardest Hit Housing Markets ("HFA Hardest-Hit Fund").

We understand that you intend to share this memorandum with Members of Congress.

I. SUMMARY CONCLUSION.

For the reasons discussed below, we have concluded that legal aid services cannot be funded through programs such as the HFA Hardest-Hit Fund that are funded under the Emergency Economic Stabilization Act of 2008 ("EESA"). Legal aid services are not specifically authorized under EESA. In addition, the proposed legal aid services are not necessary and incidental, as a matter of law, to the implementation or effectiveness of the HFA Hardest-Hit Fund, because: (1) Congress has provided other specific appropriations that fund the same type of legal aid services proposed by the state Housing Finance Agencies ("HFAs"); and (2) legal aid services are not necessary or essential to the implementation of a loan modification program.

II. FACTUAL BACKGROUND.

Treasury has provided funding under EESA for the HFA Hardest-Hit Fund for measures developed by state HFAs to help homeowners in the states that have been hardest hit by the housing downturn. Treasury has designated the HFA Hardest-Hit Fund specifically for implementation in eighteen states, as well as the District of Columbia. Each applicable state HFA (or an eligible entity on its behalf) has developed a range of programs tailored to the needs of its individual state and has submitted funding requests to Treasury. Proposal submission guidelines instruct the eligible state HFAs that the proposed programs must "meet the requirements of EESA."

Staff members from several eligible HFAs have expressed an interest in funding certain types of counseling and/or legal aid services. Accordingly, they requested Treasury's views on the funding of these types of services. In response, we communicated—through a law firm engaged by Treasury to assist it with the implementation of the HFA Hardest-Hit Fund—our conclusion that certain limited counseling services are eligible for funding under EESA, but that the proposed legal aid services are not eligible. This memorandum describes Treasury's legal position in further detail.

III. LEGAL ANALYSIS.

As a general matter, government funds may be used only for their intended purpose. EESA does not expressly authorize payments for legal aid services. Section 101 of EESA authorizes the Secretary of the Treasury to purchase "troubled assets from any financial

institution." And 109(a) authorizes the Secretary to use "loan guarantees and credit enhancements to facilitate loan modifications to prevent avoidable foreclosures." Consistent with this authority, Treasury has specified that HFA Hardest-Hit Fund proposals must facilitate loan modifications using credit enhancements in the form of payments to loan servicers, investors, and borrowers.

EESA does not cite, much less authorize, spending for legal aid services. However, appropriations law does not require that all government expenditures must be specifically or expressly identified by Congress. It is well-settled that when Congress makes an appropriation for an expressly-stated purpose, it also authorizes by implication expenditures that are "necessary or incidental to" the implementation of the expressly stated purpose.

The Comptroller General of the United States has held that three factors must be considered when determining whether a federal government expense is necessary or incidental—as a matter of law—to the implementation of the object of an appropriation (in this case, the implementation of a mortgage modification program under EESA). All three factors must be satisfied.

First, the expenditure must be "reasonably related to the purposes for which the appropriation was made." Second, the expenditure "must not be prohibited by law." And third, the expenditure "must not fall specifically within the scope of some other category of appropriations"—in other words, the expenditures are only authorized if they have not been provided for more specifically by some other appropriation or statutory funding scheme. The last requirement applies even if the more appropriate funding source is exhausted and therefore unavailable. If a federal agency funds an activity under a broad appropriation, despite the fact that the activity been specifically funded by another appropriation, the agency would violate the Anti-Deficiency Act (31 U.S.C. § 1341).

In our view, the expenditure of EESA funds for legal aid services under the HFA Hardest-Hit Fund is prohibited, because it does not satisfy the third factor of the Comptroller General's test. Congress has otherwise appropriated federal funds for the same types of legal aid services proposed by the state HFAs. This conclusion, by itself, is dispositive and means the proposals cannot be funded under the HFA Hardest-Hit Fund.

In addition, we have concerns about whether the HFA proposals satisfy the first factor of the Comptroller General's test. Although the precise legal standard governing this factor is unclear, numerous opinions require a close nexus to a specific statutory purpose—i.e., that expenditures be "necessary" or "essential." We recognize that typical legal aid services, such as those proposed by the various state HFAs, are reasonably related to foreclosure prevention efforts generally. However, we do not believe they are necessary or essential to loan modification programs under the HFA Hardest-Hit Fund.

A. Legal Aid Services Fall Specifically within the Scope of Another Appropriation.

The third factor of the Comptroller General's test prohibits the payment of any expenses if another appropriation "makes more specific provision for such expenditures. In this case, the question is whether the legal aid services proposed by the state HFAs fall within the scope of other existing appropriations.

The answer is yes. Congress has specifically provided funds for legal aid services

through annual appropriations to the Legal Services Corporation (the "LSC"). The LSC uses appropriated funds to make grants to non-profit legal aid programs, which in turn offer legal services to low-income individuals and families. Those services include helping "homeowners prevent foreclosures or renegotiate their loans."

Moreover, Congress recently authorized legal aid specifically related to foreclosure prevention efforts. On July 21, 2010, the President signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-517 (2010) (the "Dodd-Frank Act"):

Section 1498 of the Dodd-Frank Act authorizes HUD to establish and administer a program that funds foreclosure legal assistance to low- and moderate-income homeowners and tenants related to home ownership preservation, home foreclosure prevention, and tenancy associated with home foreclosure;

Section 1498(d)(1) requires that the legal assistance only be provided to "homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure;" and

Section 1498(f) appropriates to the Secretary of HUD \$70 million for fiscal years 2011 and 2012 (\$35 million each year) for these legal aid grants.

In short, Congress already has funded legal aid services through existing appropriations and statutory funding schemes. Accordingly, we believe that providing additional funding for legal aid services under the HFA Hardest-Hit Fund would be contrary to opinions of the Comptroller General and it might violate the Anti-Deficiency Act.

B. Legal Aid Services May Not Constitute a "Necessary Expense."

The first factor of the Comptroller General's test requires that necessary and incidental expenses must be "reasonably related to the purposes for which the appropriation was made." As previously noted, we are not relying upon this analysis, because the HFAs' legal aid proposals clearly do not satisfy the third factor of the Comptroller General's test. Nonetheless, various Members of Congress and other interested parties have raised questions related to this issue. Therefore, we have considered it and concluded that the legal standard may not be satisfied.

Despite a "vast number of decisions over the decades," the Comptroller General has not applied the first prong of its test in a clear and consistent manner." Instead, the Comptroller General has used a variety of different formulations when discussing the standard. "If one lesson emerges, it is that the concept is a relative one." Nonetheless, in numerous opinions, the Comptroller General has required a close nexus between a specific express statutory purpose and any proposed expenditures—i.e., the expenditures must be "necessary" or "essential."

In this case, legal aid services may be reasonably related to foreclosure prevention efforts generally; however, they are not necessary or essential to running a loan modification program. Typically, legal aid lawyers who represent struggling homeowners perform a variety of functions, other than just negotiating mortgage modifications. For example, legal aid lawyers represent borrowers in arbitration proceedings against their lenders; file injunctions and bankruptcy petitions to prevent foreclosure sales; and, when foreclosure sales occur, file exceptions proceedings in state court.

Notably, the HFAs' legal aid proposals do not focus on obtaining modifications under the HFA Hardest-Hit Fund or under Treasury's Home Affordable Modification Program

("HAMP"). Instead, they fall within two general categories: using EESA funds to pay lawyers to represent distressed borrowers in state foreclosure proceedings, or using funds to provide general support to legal aid programs related to foreclosure prevention. Given the breadth of the proposals, legal aid services frequently would result in outcomes other than loan modifications. Accordingly, they are not—by definition—necessary or essential to loan modification programs under the HFA Hardest-Hit Fund. Moreover, even if the HFAs' proposals were more targeted, most borrowers can obtain modifications without traditional legal services. That is, there is no need for representation in court proceedings, no requirement to file papers or cite legal authorities, and no need to negotiate contracts (because the modifications are standardized).

We recognize that some Comptroller General opinions suggest that expenditures merely need to be "reasonably related" or "contribute materially" to an authorized statutory purpose. Here, one could argue that a general statutory purpose of EESA is to prevent foreclosures and that any expenditures reasonably related to that purpose are permissible. We believe that such an interpretation sweeps too broadly. It would authorize an almost unlimited number and variety of government expenditure—i.e., anything that is reasonably related to preventing foreclosures. It also would render meaningless the express provisions in EESA that together provide authority for the HFA Hardest-Hit Fund: Section 101 authorizes the Secretary to purchase "troubled assets from any financial institution," and 109(a) authorizes the Secretary to use "loan guarantees and credit enhancements to facilitate loan modifications to prevent avoidable foreclosures." Lastly, such an interpretation would be contrary to how Treasury has implemented EESA.

C. Certain Limited Intake and Follow-Up Services Are Eligible for EESA Funding.

Finally, it is instructive to compare the HFAs' legal aid proposals to the much narrower intake and follow-up services related to TARP-funded modifications that are provided by homeowner counseling agencies. We previously have concluded that these services satisfy the Comptroller General's test and are eligible for EESA funding.

Most HFAs have submitted proposals to Treasury that include services narrowly tailored to obtaining modifications under the HFA Hardest-Hit Fund programs, such as: (i) making prequalification assessments of eligibility and submitting the qualified applications to the HFAs; (ii) obtaining supporting documentation from the borrowers and providing it to the HFAs; (iii) ensuring that borrowers execute the necessary documents for HFA Hardest-Hit Fund programs; (iv) conducting post-closing meetings with borrowers receiving assistance to ensure that they are complying with the HFA Hardest-Hit Fund programs; and/or (v) verifying the steps that the borrower has taken to find a job.

In contrast to legal aid, these particular services do not fall within the scope of other existing appropriations. Moreover, they are "necessary" and "essential" to running a mortgage modification program, within the meaning of the Comptroller General opinions. The HFAs have represented that in the absence of intake and follow-up services, both the number of applicants and the number of approved participants will be materially smaller. These services are necessary for many borrowers to participate in the HFA

Hardest-Hit Fund programs, and it will be very difficult for many of these programs to run effectively without such services. In addition, intake and follow-up services are directly related to the HFA Hardest-Hit Fund programs. They will neither be available to nor assist applicants to other, non-TARP funded programs.

IV. CONCLUSION.

We recognize that legal aid services—such as representing a borrower in court to avoid a foreclosure, or advising a borrower about his or her legal rights—may be helpful to preventing foreclosures. However, EESA does not expressly authorize payments for such services, and Congress has provided other federal funds for the same types of services proposed by the HFAs. Moreover, unlike the specific counseling services that HFAs have proposed, legal aid services are not necessary or essential to the implementation of the particular HFA Hardest-Hit Fund programs, within the meaning of the Comptroller General opinions. For all these reasons, Treasury has determined that legal aid services are not eligible for EESA funding from the HFA Hardest-Hit Fund.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Well, apparently the gentleman from Nebraska, having denounced those bailouts, now tells us he voted for it. So it's confession time before the House. He apparently voted for the measure that he characterizes as a "bailout" that was such an imposition.

Secondly, I have never heard anything more confusing than this discussion of the letters. Yes, the Secretary wrote and said, I don't now have the authority. And we then said, Okay. We will give you the authority.

Mr. TERRY. Will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Nebraska.

Mr. TERRY. We were referring to the gentlelady from Ohio's statement on the floor that she has a letter saying that they support this. We have not seen a letter that says that.

Mr. FRANK of Massachusetts. I know you haven't seen the letter. I told her that the Secretary told me the letter is coming. The letter is now being cleared by OMB. So we don't have the letter yet—the letter has been written—but I can tell you the Secretary says he wants it.

The gentleman's discussion of the letter is totally confused—and confusing, as a consequence.

Yes, there was a letter saying we don't now have the authority. This gives them the authority, which they welcome. Secondly, this does not extend the TARP at all. This does not extend the TARP in any way. And as to getting repaid, there is legislation that we added to the TARP that requires that at the end of the TARP program, 5 years from the date of it, 2013, the President must submit to us legislation that gives us a way to get it back from the financial services industry.

So, yes, this will be repaid to the taxpayer by the financial services industry. By the way, the TARP is now down to a total of 25. This does not add \$1 or 1 day to the TARP, either in its lifetime or in its funding.

The gentleman said, well, there is money in legal services. Yes. The legal services appropriation last year was passed before we understood the extent of the mistake, the fraud, and the abuse in the foreclosure process. That is exactly right. The \$400 million in legal services did not anticipate what we have since learned about abuses in the foreclosure process.

Finally, the gentleman said do it through the appropriation. We have done that as well. We have asked for \$35 million additional. By the way, this is not extra money. The appropriations would be additional money. But I will look forward to their support when that happens.

Mr. Speaker, I would now yield 3 minutes to the gentlewoman from Ohio (Ms. KILROY).

Ms. KILROY. I thank the chairman, and I thank the gentlelady, my colleague from Ohio, Congresswoman KAPTUR, for bringing this bill forward.

You know, the hardest hit funds were put into place with the intention of assisting and helping people in States that have been hard hit by the foreclosure crisis that has enveloped this country, States like Ohio that have been hit for years over and over again with record foreclosures.

We have tried various ways to assist in this issue, and the President and the Treasury came up with and we approved the Hardest Hit Fund Program, H.R. 5510. That allows States to put together a plan for how they want to address the issue of foreclosures inside their own State. The States need to agree.

Now, some States wanted to include legal services in their plans and were not able to do it. States like Ohio were not able to do it, even though the use of attorneys in the process can be a very cost effective and useful way of moving the cases forward, of coming to agreement, of helping people come up with a plan and helping the banks to agree with it. Sometimes they are needed because there are egregious abuses on the other side in the foreclosure process that need to be addressed. But sometimes, in counties like mine, Franklin County, Ohio, where, when I was a county commissioner, we set up a court mediation process for foreclosures, lawyers are needed and useful in, again, bringing the parties together and helping them resolve the issues with respect to their mortgages, their refinancing, and their ability to keep their home, which is a major investment in their life. And keeping people in their homes also helps our communities. It helps our neighborhoods, because every time we

have a foreclosure, we see crime going up and we see the value of their neighbors' properties going down.

□ 1140

This fix to allow Treasury to approve plans submitted by States that want to use legal services will help this process move forward in an effective, just, and cost-effective way.

I thank the gentleman.

Mr. FRANK of Massachusetts. How much time is remaining?

The SPEAKER pro tempore. The gentleman from Massachusetts has 2 minutes remaining, and the gentleman from Nebraska has 10½ minutes remaining.

Mr. TERRY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. LATOURETTE) who was actually a sponsor of the bill.

Mr. LATOURETTE. Mr. Speaker, I wasn't going to come over and talk on this bill this morning, but there's some things that are upsetting me as we wind down this lame duck session, and I think there's one merciful thing that could happen around here—this lame duck ought to be killed because nothing good's occurring at the moment.

But this particular bill, I am a proud cosponsor of this bill with Ms. KAPTUR and I commend her for moving this legislation; and as a matter of fact, we were engaged in some conversations last night to clear it for unanimous consent. That didn't quite work out because there are, as you know from the debate today, some objections.

But I have to say that having listened to the discussion, the objections fall short, in my estimation. This bill doesn't extend TARP. By the way, for the record, I voted against TARP despite the fact that President Bush wanted us to vote for it, Secretary Paulson and a number of our leadership. I thought it was a bad idea, continue to think it's a bad idea even though some people say it saved America. Bad idea because it had no rules. We're going to do this—no, we're going to do that—we're going to buy banks, whatever.

But, anyway, so the money is already out there, however, and all this bill does is say that States may have an option, if they choose, to take some of the money in the hard hit fund and allow people who are being foreclosed upon unjustly to use those funds for legal representation. No class action, no ACORN, no peanuts, no nothing. I mean, this is a clean bill when it comes to that, and I think that we are letting form subsume substance.

Yesterday, I was on the floor and I was a cosponsor on a piece of legislation with the gentlelady from Minnesota (Ms. MCCOLLUM) that would have just moved money, no new money, would have moved money so that societies that are coercing young girls into marriage, we could build them latrines

so they could go to school or we could make sure that they could stay in school so they're not forced into marriage at the age of 12 and 13. All of a sudden, there is a fiscal argument. When that didn't work, people had to add an abortion element to it.

Look, this is a partisan place. I'm a Republican. I'm glad that we beat their butt in the election and we're going to be in the majority next year. But there comes a time when enough is enough, and MCCOLLUM's bill was a good bill last night. KAPTUR's bill is a good bill today. We should stop the nonsense, approve the bill and move on.

Mr. TERRY. I yield myself such time as I may consume.

The point here is there's an appropriate vehicle and this isn't it. We already have taxpayers paying into legal services. Perhaps there should have been more money in there, but we didn't go through an appropriations process for this area this year. That was the majority's decision here. We can have this argument and debate, but that's the proper course here. And it needs to go through regular service. This is not.

Enough is enough. My friend from Ohio is right, enough is enough. Let's let TARP die. We want it gone. It served its purpose. Let's not keep it alive. Let's use the appropriate ways to do this, which is Legal Services Corporation.

I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield the balance of my time to one of the single most effective fighters against unfair foreclosures on our committee and among the leaders in the Nation, the gentlewoman from California (Ms. WATERS).

The SPEAKER pro tempore. The gentlewoman is recognized for 2 minutes.

Ms. WATERS. Thank you very much.

Mr. Speaker and Members, I'd first like to thank BARNEY FRANK for all of the efforts he's put into helping homeowners and the leadership that he's provided on this committee, the Financial Services Committee.

I'd like to thank MARCY KAPTUR. She has been a stalwart, not on the committee but working every day because she's in one of the hardest hit States, but so am I in California.

It is unthinkable that we could have used TARP funds for every major corporation, all of the banks, all of the too-big-to fail, and yet we would deny homeowners in the heart of his State some assistance. What are we saying? These are people who have followed the American Dream, and we have found that all kinds of exotic products were put on the market. Many of them were tricked into signing on the dotted line, and now we have whole communities that are being boarded up, that are in foreclosure, communities that are being driven into the ground because cities can't afford to keep them up.

We've done everything that we could do. We had the NSP. We have assistance to unemployed folks. We're trying to do everything with not a lot of help from the administration or from the regulatory agencies in general.

The HAMP program simply has not worked. We need to send a message and a real substantive message to the people and homeowners of America that we care about them. We don't want them put on the street. We don't want them losing their homes. The services or the too-big-to-fail banks, everybody has made out on the backs of the American public. What's wrong with using some of the TARP money for legal assistance?

People are trying very hard to fight these battles alone. They can't get in touch with the services. They're trying to figure out where the notes are, who really owns the mortgages. We have found that all kind of robo-signing is going on. This whole industry has failed us and we are allowing these homeowners to swim out there alone by themselves with no help.

Let's help the American people. This is the least that we can do as we close out this 111th Congress. We can not only send this message, but we could stand up and demand that they get the kind of help that will keep them and their families in their homes.

Mr. FRANK of Massachusetts. Mr. Speaker, I would like to submit the following letter from the Secretary of the Treasury Timothy Geithner to Congresswoman MARCY KAPTUR:

DEPARTMENT OF THE TREASURY

Washington, DC, December 17, 2010.

Hon. MARCY KAPTUR,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE KAPTUR: I am writing in support of your proposed legislation, the "Aiding Those Facing Foreclosure Act of 2010", H.R. 5510, as amended for consideration under suspension of the Rules.

This legislation would permit the funding of legal aid and other services to struggling homeowners through the Housing Finance Agency Innovation Fund for the Hardest-Hit Housing Markets program ("Hardest-Hit Fund"). Under current law, funds available under the Emergency Economic Stabilization Act of 2008, which are being used to finance the Hardest-Hit Fund, cannot be used for legal aid services. If the legislation is enacted, I believe Treasury would have the authority to approve proposals for Hardest-Hit Fund monies that were Previously allocated to states to be used for legal aid services to homeowners.

I appreciate your ongoing commitment to this critical issue.

Mr. JOHNSON of Georgia. Mr. Speaker, I rise in support of H.R. 5510, the Aiding Those Facing Foreclosure Act, which would redirect bank bailout funds to help struggling homeowners stay in their homes.

Mr. Speaker, the American people are deeply frustrated with the financial services industry. The same lenders who begged for taxpayer-funded welfare to survive their own mistakes now carelessly and summarily throw American families out of their homes. When they came to Congress hat in hand, having

imperiled the global economy, they implored us to bail them out with claims that the American people would suffer if they were allowed to fail. Now, once again boasting record profits, they are throwing the American people under the bus.

I applaud the distinguished gentlelady from Ohio, Ms. KAPTUR, for her courageous efforts to produce this bill, which would take bank bailout money and put it to good use assisting homeowners who face the nightmare of foreclosure.

I opposed the bank bailout known as TARP in 2008. I am pleased now to support redirecting those funds to a better cause.

I urge swift passage of H.R. 5510, a common sense bill that serves the public interest, not the rich, powerful, and connected.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. CAPUANO) that the House suspend the rules and pass the bill, H.R. 5510, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TERRY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

IKE SKELTON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011

Mr. SKELTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6523) to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the “Ike Skelton National Defense Authorization Act for Fiscal Year 2011”.

(b) REFERENCES.—Any reference in this or any other Act to the “National Defense Authorization Act for Fiscal Year 2011” shall be deemed to refer to the “Ike Skelton National Defense Authorization Act for Fiscal Year 2011”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Organization of Act into divisions; table of contents.

Sec. 3. Congressional defense committees.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.

Sec. 102. Navy and Marine Corps.

Sec. 103. Air Force.

Sec. 104. Defense-wide activities.

Subtitle B—Navy Programs

Sec. 111. Multiyear funding for detail design and construction of LHA Replacement ship designated LHA-7.

Sec. 112. Requirement to maintain Navy airborne signals intelligence, surveillance, and reconnaissance capabilities.

Sec. 113. Report on naval force structure and missile defense.

Sec. 114. Reports on service-life extension of F/A-18 aircraft by the Department of the Navy.

Subtitle C—Joint and Multiservice Matters

Sec. 121. Limitations on biometric systems funds.

Sec. 122. System management plan and matrix for the F-35 Joint Strike Fighter aircraft program.

Sec. 123. Quarterly reports on use of Combat Mission Requirements funds.

Sec. 124. Counter-improvised explosive device initiatives database.

Sec. 125. Study on lightweight body armor solutions.

Sec. 126. Integration of solid state laser systems into certain aircraft.

Sec. 127. Contracts for commercial imaging satellite capacities.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Enhancement of Department of Defense support of science, mathematics, and engineering education.

Sec. 212. Limitation on use of funds by Defense Advanced Research Projects Agency for operation of National Cyber Range.

Sec. 213. Separate program elements required for research and development of Joint Light Tactical Vehicle.

Sec. 214. Program for research, development, and deployment of advanced ground vehicles, ground vehicle systems, and components.

Sec. 215. Demonstration and pilot projects on cybersecurity.

Subtitle C—Missile Defense Programs

Sec. 221. Sense of Congress on ballistic missile defense.

Sec. 222. Repeal of prohibition of certain contracts by Missile Defense Agency with foreign entities.

Sec. 223. Limitation on availability of funds for missile defense interceptors in Europe.

Sec. 224. Medium Extended Air Defense System.

Sec. 225. Acquisition accountability reports on the ballistic missile defense system.

Sec. 226. Authority to support ballistic missile shared early warning with the Czech Republic.

Sec. 227. Report on phased, adaptive approach to missile defense in Europe.

Sec. 228. Independent review and assessment of the Ground-Based Midcourse Defense system.

Sec. 229. Iron Dome short-range rocket defense program.

Subtitle D—Reports

Sec. 231. Report on analysis of alternatives and program requirements for the Ground Combat Vehicle program.

Sec. 232. Cost benefit analysis of future tank-fired munitions.

Sec. 233. Annual Comptroller General report on the VH-(XX) presidential helicopter acquisition program.

Subtitle E—Other Matters

Sec. 241. Sense of Congress affirming the importance of Department of Defense participation in development of next generation semiconductor technologies.

Sec. 242. Pilot program on collaborative energy security.

Sec. 243. Pilot program to include technology protection features during research and development of defense systems.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.

Subtitle B—Energy and Environmental Provisions

Sec. 311. Reimbursement of Environmental Protection Agency for certain costs in connection with the Twin Cities Army Ammunition Plant, Minnesota.

Sec. 312. Payment to Environmental Protection Agency of stipulated penalties in connection with Naval Air Station, Brunswick, Maine.

Sec. 313. Requirements related to the investigation of exposure to drinking water at Camp Lejeune, North Carolina.

Sec. 314. Comptroller General assessment on military environmental exposures.

Subtitle C—Workplace and Depot Issues

Sec. 321. Technical amendments to requirement for service contract inventory.

Sec. 322. Repeal of conditions on expansion of functions performed under prime vendor contracts for depot-level maintenance and repair.

Sec. 323. Prohibition on establishing goals or quotas for conversion of functions to performance by Department of Defense civilian employees.

Subtitle D—Reports

Sec. 331. Additional reporting requirements relating to corrosion prevention projects and activities.

Sec. 332. Modification and repeal of certain reporting requirements.

Sec. 333. Report on Air Sovereignty Alert mission.

- Sec. 334. Report on the SEAD/DEAD mission requirement for the Air Force.
- Sec. 335. Requirement to update study on strategic seaports.

Subtitle E—Limitations and Extensions of Authority

- Sec. 341. Permanent authority to accept and use landing fees charged for use of domestic military airfields by civil aircraft.
- Sec. 342. Extension of Arsenal Support Program Initiative.
- Sec. 343. Limitation on obligation of funds for the Army Human Terrain System.
- Sec. 344. Limitation on obligation of funds pending submission of classified justification material.
- Sec. 345. Requirements for transferring aircraft within the Air Force inventory.
- Sec. 346. Commercial sale of small arms ammunition in excess of military requirements.

Subtitle F—Other Matters

- Sec. 351. Expedited processing of background investigations for certain individuals.
- Sec. 352. Revision to authorities relating to transportation of civilian passengers and commercial cargoes by Department of Defense when space unavailable on commercial lines.
- Sec. 353. Technical correction to obsolete reference relating to use of flexible hiring authority to facilitate performance of certain Department of Defense functions by civilian employees.
- Sec. 354. Authority for payment of full replacement value for loss or damage to household goods in limited cases not covered by carrier liability.
- Sec. 355. Recovery of improperly disposed of Department of Defense property.
- Sec. 356. Operational readiness models.
- Sec. 357. Sense of Congress regarding continued importance of High-Altitude Aviation Training Site, Colorado.
- Sec. 358. Study of effects of new construction of obstructions on military installations and operations.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

- Sec. 401. End strengths for active forces.
- Sec. 402. Revision in permanent active duty end strength minimum levels.

Subtitle B—Reserve Forces

- Sec. 411. End strengths for Selected Reserve.
- Sec. 412. End strengths for Reserves on active duty in support of the Reserves.
- Sec. 413. End strengths for military technicians (dual status).
- Sec. 414. Fiscal year 2011 limitation on number of non-dual status technicians.
- Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

- Subtitle C—Authorization of Appropriations
- Sec. 421. Military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy Generally

- Sec. 501. Ages for appointment and mandatory retirement for health professions officers.
- Sec. 502. Authority for appointment of warrant officers in the grade of W-1 by commission and standardization of warrant officer appointing authority.
- Sec. 503. Nondisclosure of information from discussions, deliberations, notes, and records of special selection boards.
- Sec. 504. Administrative removal of officers from promotion list.
- Sec. 505. Modification of authority for officers selected for appointment to general and flag officer grades to wear insignia of higher grade before appointment.
- Sec. 506. Temporary authority to reduce minimum length of active service as a commissioned officer required for voluntary retirement as an officer.

Subtitle B—Reserve Component Management

- Sec. 511. Removal of statutory distribution limits on Navy reserve flag officer allocation.
- Sec. 512. Assignment of Air Force Reserve military technicians (dual status) to positions outside Air Force Reserve unit program.
- Sec. 513. Temporary authority for temporary employment of non-dual status military technicians.
- Sec. 514. Revision of structure and functions of the Reserve Forces Policy Board.
- Sec. 515. Repeal of requirement for new oath when officer transfers from active-duty list to reserve active-status list.
- Sec. 516. Leave of members of the reserve components of the Armed Forces.
- Sec. 517. Direct appointment of graduates of the United States Merchant Marine Academy into the National Guard.

Subtitle C—Joint Qualified Officers and Requirements

- Sec. 521. Technical revisions to definition of joint matters for purposes of joint officer management.
- Sec. 522. Modification of promotion board procedures for joint qualified officers and officers with Joint Staff experience.

Subtitle D—General Service Authorities

- Sec. 531. Extension of temporary authority to order retired members of the Armed Forces to active duty in high-demand, low-density assignments.
- Sec. 532. Non-chargeable rest and recuperation absence for certain members undergoing extended deployment to a combat zone.
- Sec. 533. Correction of military records.
- Sec. 534. Disposition of members found to be fit for duty who are not suitable for deployment or worldwide assignment for medical reasons.
- Sec. 535. Review of laws, policies, and regulations restricting service of female members of the Armed Forces.

Subtitle E—Military Justice and Legal Matters

- Sec. 541. Continuation of warrant officers on active duty to complete disciplinary action.
- Sec. 542. Enhanced authority to punish contempt in military justice proceedings.
- Sec. 543. Improvements to Department of Defense domestic violence programs.

Subtitle F—Member Education and Training Opportunities and Administration

- Sec. 551. Enhancements of Department of Defense undergraduate nurse training program.
- Sec. 552. Repayment of education loan repayment benefits.
- Sec. 553. Participation of Armed Forces Health Professions Scholarship and Financial Assistance Program recipients in active duty health profession loan repayment program.
- Sec. 554. Active duty obligation for military academy graduates who participate in the Armed Forces Health Professions Scholarship and Financial Assistance program.

Subtitle G—Defense Dependents' Education

- Sec. 561. Enrollment of dependents of members of the Armed Forces who reside in temporary housing in Department of Defense domestic dependent elementary and secondary schools.
- Sec. 562. Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 563. Impact aid for children with severe disabilities.

Subtitle H—Decorations and Awards

- Sec. 571. Clarification of persons eligible for award of bronze star medal.
- Sec. 572. Authorization and request for award of Distinguished-Service Cross to Shinyei Matayoshi for acts of valor during World War II.
- Sec. 573. Authorization and request for award of Distinguished-Service Cross to Jay C. Copley for acts of valor during the Vietnam War.
- Sec. 574. Program to commemorate 60th anniversary of the Korean War.

Subtitle I—Military Family Readiness Matters

- Sec. 581. Appointment of additional members of Department of Defense Military Family Readiness Council.
- Sec. 582. Enhancement of community support for military families with special needs.
- Sec. 583. Modification of Yellow Ribbon Reintegration Program.
- Sec. 584. Expansion and continuation of Joint Family Support Assistance Program.
- Sec. 585. Report on military spouse education programs.
- Sec. 586. Report on enhancing benefits available for military dependent children with special education needs.
- Sec. 587. Reports on child development centers and financial assistance for child care for members of the Armed Forces.

Subtitle J—Other Matters

- Sec. 591. Authority for members of the Armed Forces and Department of Defense and Coast Guard civilian employees and their families to accept gifts from non-Federal entities.
- Sec. 592. Increase in number of private sector civilians authorized for admission to National Defense University.
- Sec. 593. Admission of defense industry civilians to attend United States Air Force Institute of Technology.
- Sec. 594. Updated terminology for Army Medical Service Corps.
- Sec. 595. Date for submission of annual report on Department of Defense STARBASE Program.
- Sec. 596. Extension of deadline for submission of final report of Military Leadership Diversity Commission.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

- Sec. 601. Ineligibility of certain Federal civilian employees for Reservist income replacement payments on account of availability of comparable benefits under another program.

Subtitle B—Bonuses and Special and Incentive Pays

- Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.
- Sec. 612. One-year extension of certain bonus and special pay authorities for health care professionals.
- Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.
- Sec. 614. One-year extension of authorities relating to title 37 consolidated special pay, incentive pay, and bonus authorities.
- Sec. 615. One-year extension of authorities relating to payment of other title 37 bonuses and special pays.
- Sec. 616. One-year extension of authorities relating to payment of referral bonuses.

Subtitle C—Travel and Transportation Allowances

- Sec. 621. Extension of authority to provide travel and transportation allowances for inactive duty training outside of normal commuting distances.
- Sec. 622. Travel and transportation allowances for attendance at Yellow Ribbon Reintegration events.

Subtitle D—Disability, Retired Pay and Survivor Benefits

- Sec. 631. Elimination of cap on retired pay multiplier for members with greater than 30 years of service who retire for disability.
- Sec. 632. Payment date for retired and retiree pay.
- Sec. 633. Clarification of effect of ordering reserve component member to active duty to receive authorized medical care on reducing eligibility age for receipt of non-regular service retired pay.

- Sec. 634. Conformity of special compensation for members with injuries or illnesses requiring assistance in everyday living with monthly personal caregiver stipend under Department of Veterans Affairs program of comprehensive assistance for family caregivers.

- Sec. 635. Sense of Congress concerning age and service requirements for retired pay for non-regular service.

Subtitle E—Commissary and Non-appropriated Fund Instrumentality Benefits and Operations

- Sec. 641. Addition of definition of morale, welfare, and recreation telephone services for use in contracts to provide such services for military personnel serving in combat zones.
- Sec. 642. Feasibility study on establishment of full exchange store in the Northern Mariana Islands.
- Sec. 643. Continuation of commissary and exchange operations at Brunswick Naval Air Station, Maine.

Subtitle F—Other Matters

- Sec. 651. Report on basic allowance for housing for personnel assigned to sea duty.
- Sec. 652. Report on savings from enhanced management of special pay for aviation career officers extending period of active duty.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Improvements to Health Benefits

- Sec. 701. Extension of prohibition on increases in certain health care costs.
- Sec. 702. Extension of dependent coverage under the TRICARE program.
- Sec. 703. Survivor dental benefits.
- Sec. 704. Aural screenings for members of the Armed Forces.
- Sec. 705. Temporary prohibition on increase in copayments under retail pharmacy system of pharmacy benefits program.

Subtitle B—Health Care Administration

- Sec. 711. Administration of TRICARE.
- Sec. 712. Postdeployment health reassessments for purposes of the medical tracking system for members of the Armed Forces deployed overseas.
- Sec. 713. Clarification of licensure requirements applicable to military health-care professionals who are members of the National Guard performing certain duty while in State status.
- Sec. 714. Improvements to oversight of medical training for Medical Corps officers.

- Sec. 715. Health information technology.
- Sec. 716. Education and training on use of pharmaceuticals in rehabilitation programs for wounded warriors.

Subtitle C—Other Matters

- Sec. 721. Repeal of report requirement on separations resulting from refusal to participate in anthrax vaccine immunization program.
- Sec. 722. Comprehensive policy on consistent neurological cognitive assessments of members of the Armed Forces before and after deployment.

- Sec. 723. Assessment of post-traumatic stress disorder by military occupation.

- Sec. 724. Licensed mental health counselors and the TRICARE program.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Policy and Management

- Sec. 801. Disclosure to litigation support contractors.
- Sec. 802. Designation of engine development and procurement program as major subprogram.
- Sec. 803. Enhancement of Department of Defense authority to respond to combat and safety emergencies through rapid acquisition and deployment of urgently needed supplies.
- Sec. 804. Review of acquisition process for rapid fielding of capabilities in response to urgent operational needs.
- Sec. 805. Acquisition of major automated information system programs.
- Sec. 806. Requirements for information relating to supply chain risk.

Subtitle B—Provisions Relating to Major Defense Acquisition Programs

- Sec. 811. Cost estimates for program baselines and contract negotiations for major defense acquisition and major automated information system programs.
- Sec. 812. Management of manufacturing risk in major defense acquisition programs.
- Sec. 813. Modification and extension of requirements of the Weapon System Acquisition Reform Act of 2009.
- Sec. 814. Inclusion of major subprograms to major defense acquisition programs under various acquisition-related requirements.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

- Sec. 821. Provisions relating to fire resistant fiber for production of military uniforms.
- Sec. 822. Repeal of requirement for certain procurements from firms in the small arms production industrial base.
- Sec. 823. Review of regulatory definition relating to production of specialty metals.
- Sec. 824. Guidance relating to rights in technical data.
- Sec. 825. Extension of sunset date for certain protests of task and delivery order contracts.
- Sec. 826. Inclusion of option amounts in limitations on authority of the Department of Defense to carry out certain prototype projects.
- Sec. 827. Permanent authority for Defense Acquisition Challenge Program; pilot expansion of Program.
- Sec. 828. Energy savings performance contracts.
- Sec. 829. Definition of materials critical to national security.

Subtitle D—Contractor Matters

- Sec. 831. Oversight and accountability of contractors performing private security functions in areas of combat operations.

Sec. 832. Extension of regulations on contractors performing private security functions to areas of other significant military operations.

Sec. 833. Standards and certification for private security contractors.

Sec. 834. Enhancements of authority of Secretary of Defense to reduce or deny award fees to companies found to jeopardize the health or safety of Government personnel.

Sec. 835. Annual joint report and Comptroller General review on contracting in Iraq and Afghanistan.

Subtitle E—Other Matters

Sec. 841. Improvements to structure and functioning of Joint Requirements Oversight Council.

Sec. 842. Department of Defense policy on acquisition and performance of sustainable products and services.

Sec. 843. Assessment and plan for critical rare earth materials in defense applications.

Sec. 844. Review of national security exception to competition.

Sec. 845. Requirement for entities with facility clearances that are not under foreign ownership control or influence mitigation.

Sec. 846. Procurement of photovoltaic devices.

Sec. 847. Non-availability exception from Buy American requirements for procurement of hand or measuring tools.

Sec. 848. Contractor logistics support of contingency operations.

Subtitle F—Improve Acquisition Act

Sec. 860. Short title.

PART I—DEFENSE ACQUISITION SYSTEM

Sec. 861. Improvements to the management of the defense acquisition system.

Sec. 862. Comptroller General report on Joint Capabilities Integration and Development System.

Sec. 863. Requirements for the acquisition of services.

Sec. 864. Review of defense acquisition guidance.

Sec. 865. Requirement to review references to services acquisition throughout the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

Sec. 866. Pilot program on acquisition of military purpose nondevelopmental items.

PART II—DEFENSE ACQUISITION WORKFORCE

Sec. 871. Acquisition workforce excellence.

Sec. 872. Amendments to the acquisition workforce demonstration project.

Sec. 873. Career development for civilian and military personnel in the acquisition workforce.

Sec. 874. Recertification and training requirements.

Sec. 875. Information technology acquisition workforce.

Sec. 876. Definition of acquisition workforce.

Sec. 877. Defense Acquisition University curriculum review.

PART III—FINANCIAL MANAGEMENT

Sec. 881. Audit readiness of financial statements of the Department of Defense.

Sec. 882. Review of obligation and expenditure thresholds.

Sec. 883. Disclosure and traceability of the cost of Department of Defense health care contracts.

PART IV—INDUSTRIAL BASE

Sec. 891. Expansion of the industrial base.

Sec. 892. Price trend analysis for supplies and equipment purchased by the Department of Defense.

Sec. 893. Contractor business systems.

Sec. 894. Review and recommendations on eliminating barriers to contracting with the Department of Defense.

Sec. 895. Inclusion of the providers of services and information technology in the national technology and industrial base.

Sec. 896. Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy; Industrial Base Fund.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Department of Defense Management

Sec. 901. Reorganization of Office of the Secretary of Defense to carry out reduction required by law in number of Deputy Under Secretaries of Defense.

Subtitle B—Space Activities

Sec. 911. Integrated space architectures.

Sec. 912. Limitation on use of funds for costs of terminating contracts under the National Polar-Orbiting Operational Environmental Satellite System Program.

Sec. 913. Limitation on use of funds for purchasing Global Positioning System user equipment.

Sec. 914. Plan for integration of space-based nuclear detection sensors.

Sec. 915. Preservation of the solid rocket motor industrial base.

Sec. 916. Implementation plan to sustain solid rocket motor industrial base.

Sec. 917. Review and plan on sustainment of liquid rocket propulsion systems industrial base.

Subtitle C—Intelligence-Related Matters

Sec. 921. Five-year extension of authority for Secretary of Defense to engage in commercial activities as security for intelligence collection activities.

Sec. 922. Modification of attendees at proceedings of Intelligence, Surveillance, and Reconnaissance Integration Council.

Sec. 923. Report on Department of Defense interservice management and coordination of remotely piloted aircraft support of intelligence, surveillance, and reconnaissance.

Sec. 924. Report on requirements fulfillment and personnel management relating to Air Force intelligence, surveillance, and reconnaissance provided by remotely piloted aircraft.

Subtitle D—Cyber Warfare, Cyber Security, and Related Matters

Sec. 931. Continuous monitoring of Department of Defense information systems for cybersecurity.

Sec. 932. Strategy on computer software assurance.

Sec. 933. Strategy for acquisition and oversight of Department of Defense cyber warfare capabilities.

Sec. 934. Report on the cyber warfare policy of the Department of Defense.

Sec. 935. Reports on Department of Defense progress in defending the Department and the defense industrial base from cyber events.

Subtitle E—Other Matters

Sec. 941. Two-year extension of authorities relating to temporary waiver of reimbursement of costs of activities for nongovernmental personnel at Department of Defense Regional Centers for Security Studies.

Sec. 942. Additional requirements for quadrennial roles and missions review in 2011.

Sec. 943. Report on organizational structure and policy guidance of the Department of Defense regarding information operations.

Sec. 944. Report on organizational structures of the geographic combatant command headquarters.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. General transfer authority.

Sec. 1002. Authorization of additional appropriations for operations in Afghanistan, Iraq, and Haiti for fiscal year 2010.

Sec. 1003. Budgetary effects of this Act.

Subtitle B—Counter-Drug Activities

Sec. 1011. Unified counter-drug and counterterrorism campaign in Colombia.

Sec. 1012. Extension and modification of joint task forces support to law enforcement agencies conducting counter-terrorism activities.

Sec. 1013. Reporting requirement on expenditures to support foreign counter-drug activities.

Sec. 1014. Support for counter-drug activities of certain foreign governments.

Sec. 1015. Notice to Congress on military construction projects for facilities of the Department of Defense and foreign law enforcement agencies for counter-drug activities.

Subtitle C—Naval Vessels and Shipyards

Sec. 1021. Extension of authority for reimbursement of expenses for certain Navy mess operations.

Sec. 1022. Expressing the sense of Congress regarding the naming of a naval combat vessel after Father Vincent Capodanno.

Sec. 1023. Requirements for long-range plan for construction of naval vessels.

Subtitle D—Counterterrorism

Sec. 1031. Extension of certain authority for making rewards for combating terrorism.

Sec. 1032. Extension of limitation on use of funds for the transfer or release of individuals detained at United States Naval Station, Guantanamo Bay, Cuba.

Sec. 1033. Certification requirements relating to the transfer of individuals detained at Naval Station, Guantanamo Bay, Cuba, to foreign countries and other foreign entities.

Sec. 1034. Prohibition on the use of funds to modify or construct facilities in the United States to house detainees transferred from United States Naval Station, Guantanamo Bay, Cuba.

Sec. 1035. Comprehensive review of force protection policies.

Subtitle E—Homeland Defense and Civil Support

Sec. 1041. Limitation on deactivation of existing Consequence Management Response Forces.

Subtitle F—Studies and Reports

Sec. 1051. Interagency national security knowledge and skills.

Sec. 1052. Report on establishing a Northeast Regional Joint Training Center.

Sec. 1053. Comptroller General report on previously requested reports.

Sec. 1054. Biennial report on nuclear triad.

Sec. 1055. Comptroller General study on common alignment of world regions in departments and agencies with international responsibilities.

Sec. 1056. Required reports concerning bomber modernization, sustainment, and recapitalization efforts in support of the national defense strategy.

Sec. 1057. Comptroller General study and recommendations regarding security of southern land border of the United States.

Subtitle G—Miscellaneous Authorities and Limitations

Sec. 1061. Public availability of Department of Defense reports required by law.

Sec. 1062. Prohibition on infringing on the individual right to lawfully acquire, possess, own, carry, and otherwise use privately owned firearms, ammunition, and other weapons.

Sec. 1063. Development of criteria and methodology for determining the safety and security of nuclear weapons.

Subtitle H—Other Matters

Sec. 1071. National Defense Panel.

Sec. 1072. Sale of surplus military equipment to State and local homeland security and emergency management agencies.

Sec. 1073. Defense research and development rapid innovation program.

Sec. 1074. Authority to make excess non-lethal supplies available for domestic emergency assistance.

Sec. 1075. Technical and clerical amendments.

Sec. 1076. Study on optimal balance of manned and remotely piloted aircraft.

Sec. 1077. Treatment of successor contingency operation to Operation Iraqi Freedom.

Sec. 1078. Program to assess the utility of non-lethal weapons.

Sec. 1079. Sense of Congress on strategic nuclear force reductions.

TITLE XI—CIVILIAN PERSONNEL MATTERS

Sec. 1101. Clarification of authorities at personnel demonstration laboratories.

Sec. 1102. Requirements for Department of Defense senior mentors.

Sec. 1103. One-year extension of authority to waive annual limitation on premium pay and aggregate limitation on pay for Federal civilian employees working overseas.

Sec. 1104. Extension and modification of enhanced Department of Defense appointment and compensation authority for personnel for care and treatment of wounded and injured members of the Armed Forces.

Sec. 1105. Rate of overtime pay for Department of the Navy employees performing work aboard or dockside in support of the nuclear aircraft carrier forward deployed in Japan.

TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

Subtitle A—Assistance and Training

Sec. 1201. Expansion of authority for support of special operations to combat terrorism.

Sec. 1202. Addition of allied government agencies to enhanced logistics interoperability authority.

Sec. 1203. Expansion of temporary authority to use acquisition and cross-servicing agreements to lend certain military equipment to certain foreign forces for personnel protection and survivability.

Sec. 1204. Authority to pay personnel expenses in connection with African cooperation.

Sec. 1205. Authority to build the capacity of Yemen Ministry of Interior Counter Terrorism Forces.

Sec. 1206. Air Force scholarships for Partnership for Peace nations to participate in the Euro-NATO Joint Jet Pilot Training program.

Sec. 1207. Modification and extension of authorities relating to program to build the capacity of foreign military forces.

Subtitle B—Matters Relating to Iraq, Afghanistan, and Pakistan

Sec. 1211. Limitation on availability of funds for certain purposes relating to Iraq.

Sec. 1212. One-year extension and modification of Commanders' Emergency Response Program.

Sec. 1213. Extension of authority for reimbursement of certain coalition nations for support provided to United States military operations.

Sec. 1214. Extension of authority to transfer defense articles and provide defense services to the military and security forces of Iraq and Afghanistan.

Sec. 1215. No permanent military bases in Afghanistan.

Sec. 1216. Authority to use funds for reintegration activities in Afghanistan.

Sec. 1217. Authority to establish a program to develop and carry out infrastructure projects in Afghanistan.

Sec. 1218. Extension of logistical support for coalition forces supporting operations in Iraq and Afghanistan.

Sec. 1219. Recommendations on oversight of contractors engaged in activities relating to Afghanistan.

Sec. 1220. Extension and modification of Pakistan Counterinsurgency Fund.

Subtitle C—Reports and Other Matters

Sec. 1231. One-year extension of report on progress toward security and stability in Afghanistan.

Sec. 1232. Two-year extension of United States plan for sustaining the Afghanistan National Security Forces.

Sec. 1233. Modification of report on responsible redeployment of United States Armed Forces from Iraq.

Sec. 1234. Report on Department of Defense support for coalition operations.

Sec. 1235. Reports on police training programs.

Sec. 1236. Report on certain Iraqis affiliated with the United States.

Sec. 1237. Report on Department of Defense's plans to reform the export control system.

Sec. 1238. Report on United States efforts to defend against threats posed by the anti-access and area-denial capabilities of certain nation-states.

Sec. 1239. Defense Science Board report on Department of Defense strategy to counter violent extremism outside the United States.

Sec. 1240. Report on merits of an Incidents at Sea agreement between the United States, Iran, and certain other countries.

Sec. 1241. Requirement to monitor and evaluate Department of Defense activities to counter violent extremism in Africa.

Sec. 1242. NATO Special Operations Headquarters.

Sec. 1243. National Military Strategy to Counter Iran and required briefings.

TITLE XIII—COOPERATIVE THREAT REDUCTION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.

Sec. 1302. Funding allocations.

Sec. 1303. Limitation on use of funds for establishment of centers of excellence in countries outside of the former Soviet Union.

Sec. 1304. Plan for nonproliferation, proliferation prevention, and threat reduction activities with the People's Republic of China.

TITLE XIV—OTHER AUTHORIZATIONS

Subtitle A—Military Programs

Sec. 1401. Working capital funds.

Sec. 1402. Study on working capital fund cash balances.

Sec. 1403. Modification of certain working capital fund requirements.

Sec. 1404. Reduction of unobligated balances within the Pentagon Reservation Maintenance Revolving Fund.

Sec. 1405. National Defense Sealift Fund.

Sec. 1406. Chemical Agents and Munitions Destruction, Defense.

Sec. 1407. Drug Interdiction and Counter-Drug Activities, Defense-wide.

Sec. 1408. Defense Inspector General.

Sec. 1409. Defense Health Program.

Subtitle B—National Defense Stockpile

Sec. 1411. Authorized uses of National Defense Stockpile funds.

Sec. 1412. Revision to required receipt objectives for previously authorized disposals from the National Defense Stockpile.

Subtitle C—Chemical Demilitarization Matters

Sec. 1421. Consolidation and reorganization of statutory authority for destruction of United States stockpile of lethal chemical agents and munitions.

Subtitle D—Other Matters

Sec. 1431. Authorization of appropriations for Armed Forces Retirement Home.

Sec. 1432. Authority for transfer of funds to Joint Department of Defense—Department of Veterans Affairs Medical Facility Demonstration Fund for Captain James A. Lovell Health Care Center, Illinois.

TITLE XV—AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR OVERSEAS CONTINGENCY OPERATIONS

Subtitle A—Authorization of Additional Appropriations

Sec. 1501. Purpose.

Sec. 1502. Army procurement.

Sec. 1503. Joint Improvised Explosive Device Defeat Fund.

Sec. 1504. Navy and Marine Corps procurement.

Sec. 1505. Air Force procurement.

Sec. 1506. Defense-wide activities procurement.

Sec. 1507. National Guard and Reserve equipment.

Sec. 1508. Mine Resistant Ambush Protected Vehicle Fund.

Sec. 1509. Research, development, test, and evaluation.

Sec. 1510. Operation and maintenance.

Sec. 1511. Military personnel.

Sec. 1512. Working capital funds.

Sec. 1513. Defense Health Program.

Sec. 1514. Drug Interdiction and Counter-Drug Activities, Defense-wide.

Sec. 1515. Defense Inspector General.

Subtitle B—Financial Matters

Sec. 1521. Treatment as additional authorizations.

Sec. 1522. Special transfer authority.

Subtitle C—Limitations and Other Matters

Sec. 1531. Limitations on availability of funds in Afghanistan Security Forces Fund.

Sec. 1532. Limitations on availability of funds in Iraq Security Forces Fund.

Sec. 1533. Continuation of prohibition on use of United States funds for certain facilities projects in Iraq.

Sec. 1534. Joint Improvised Explosive Device Defeat Fund.

Sec. 1535. Task Force for Business and Stability Operations in Afghanistan and economic transition plan and economic strategy for Afghanistan.

TITLE XVI—IMPROVED SEXUAL ASSAULT PREVENTION AND RESPONSE IN THE ARMED FORCES

Sec. 1601. Definition of Department of Defense sexual assault prevention and response program and other definitions.

Sec. 1602. Comprehensive Department of Defense policy on sexual assault prevention and response program.

Subtitle A—Organizational Structure and Application of Sexual Assault Prevention and Response Program Elements

Sec. 1611. Sexual Assault Prevention and Response Office.

Sec. 1612. Oversight and evaluation standards.

Sec. 1613. Report and plan for completion of acquisition of centralized Department of Defense sexual assault database.

Sec. 1614. Restricted reporting of sexual assaults.

Subtitle B—Improved and Expanded Availability of Services

Sec. 1621. Improved protocols for providing medical care for victims of sexual assault.

Sec. 1622. Sexual assault victims access to Victim Advocate services.

Subtitle C—Reporting Requirements

Sec. 1631. Annual report regarding sexual assaults involving members of the Armed Forces and improvement to sexual assault prevention and response program.

Sec. 1632. Additional reports.

TITLE XVII—GUAM WORLD WAR II LOYALTY RECOGNITION ACT

Sec. 1701. Short title.

Sec. 1702. Recognition of the suffering and loyalty of the residents of Guam.

Sec. 1703. Payments for Guam World War II claims.

Sec. 1704. Adjudication.

Sec. 1705. Grants program to memorialize the occupation of Guam during World War II.

Sec. 1706. Authorization of appropriations.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Sec. 2001. Short title.

Sec. 2002. Expiration of authorizations and amounts required to be specified by law.

Sec. 2003. Funding tables.

TITLE XXI—ARMY MILITARY CONSTRUCTION

Sec. 2101. Authorized Army construction and land acquisition projects.

Sec. 2102. Family housing.

Sec. 2103. Improvements to military family housing units.

Sec. 2104. Authorization of appropriations, Army.

Sec. 2105. Use of unobligated Army military construction funds in conjunction with funds provided by the Commonwealth of Virginia to carry out certain fiscal year 2002 project.

Sec. 2106. Modification of authority to carry out certain fiscal year 2009 project.

Sec. 2107. Modification of authority to carry out certain fiscal year 2010 project.

Sec. 2108. Extension of authorizations of certain fiscal year 2008 projects.

TITLE XXII—NAVY MILITARY CONSTRUCTION

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorization of appropriations, Navy.

Sec. 2205. Technical amendment to reflect multi-increment fiscal year 2010 project.

Sec. 2206. Extension of authorization of certain fiscal year 2008 project.

TITLE XXIII—AIR FORCE MILITARY CONSTRUCTION

Sec. 2301. Authorized Air Force construction and land acquisition projects.

Sec. 2302. Family housing.

Sec. 2303. Improvements to military family housing units.

Sec. 2304. Authorization of appropriations, Air Force.

Sec. 2305. Extension of authorization of certain fiscal year 2007 project.

TITLE XXIV—DEFENSE AGENCIES MILITARY CONSTRUCTION

Subtitle A—Defense Agency Authorizations

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.

Sec. 2402. Energy conservation projects.

Sec. 2403. Authorization of appropriations, Defense Agencies.

Sec. 2404. Modification of authority to carry out certain fiscal year 2010 projects.

Subtitle B—Chemical Demilitarization Authorizations

Sec. 2411. Authorization of appropriations, chemical demilitarization construction, defense-wide.

Sec. 2412. Modification of authority to carry out certain fiscal year 2000 project.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.

Sec. 2502. Authorization of appropriations, NATO.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Army National Guard construction and land acquisition projects.

Sec. 2602. Authorized Army Reserve construction and land acquisition projects.

Sec. 2603. Authorized Navy Reserve and Marine Corps Reserve construction and land acquisition projects.

Sec. 2604. Authorized Air National Guard construction and land acquisition projects.

Sec. 2605. Authorized Air Force Reserve construction and land acquisition projects.

Sec. 2606. Authorization of appropriations, National Guard and Reserve.

Sec. 2607. Extension of authorizations of certain fiscal year 2008 projects.

TITLE XXVII—BASE REALIGNMENT AND CLOSURE ACTIVITIES

Sec. 2701. Authorization of appropriations for base realignment and closure activities funded through Department of Defense Base Closure Account 1990.

Sec. 2702. Authorized base realignment and closure activities funded through Department of Defense Base Closure Account 2005.

Sec. 2703. Authorization of appropriations for base realignment and closure activities funded through Department of Defense Base Closure Account 2005.

Sec. 2704. Transportation plan for BRAC 133 project under Fort Belvoir, Virginia, BRAC initiative.

TITLE XXVIII—MILITARY CONSTRUCTION GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Availability of military construction information on Internet.

- Sec. 2802. Use of Pentagon Reservation Maintenance Revolving Fund for construction or alteration at Pentagon Reservation.
- Sec. 2803. Reduced reporting time limits for certain military construction and real property reports when submitted in electronic media.
- Sec. 2804. Authority to use operation and maintenance funds for construction projects inside the United States Central Command area of responsibility.
- Sec. 2805. Sense of Congress and report regarding employment of veterans to work on military construction projects.
- Subtitle B—Real Property and Facilities Administration
- Sec. 2811. Notice-and-wait requirements applicable to real property transactions.
- Sec. 2812. Treatment of proceeds generated from leases of non-excess property involving military museums.
- Sec. 2813. Limitation on enhanced use leases of non-excess property.
- Sec. 2814. Repeal of expired authority to lease land for special operations activities.
- Sec. 2815. Former Naval Bombardment Area, Culebra Island, Puerto Rico.
- Subtitle C—Provisions Related to Guam Realignment
- Sec. 2821. Extension of term of Deputy Secretary of Defense's leadership of Guam Oversight Council.
- Sec. 2822. Utility conveyances to support integrated water and wastewater treatment system on Guam.
- Sec. 2823. Report on types of facilities required to support Guam realignment.
- Sec. 2824. Report on civilian infrastructure needs for Guam.
- Subtitle D—Energy Security
- Sec. 2831. Consideration of environmentally sustainable practices in Department energy performance plan.
- Sec. 2832. Enhancement of energy security activities of the Department of Defense.
- Subtitle E—Land Conveyances
- Sec. 2841. Land conveyance, Defense Fuel Support Point (DFSP) Whittier, Alaska.
- Sec. 2842. Land conveyance, Fort Knox, Kentucky.
- Sec. 2843. Land conveyance, Naval Support Activity (West Bank), New Orleans, Louisiana.
- Sec. 2844. Land conveyance, former Navy Extremely Low Frequency communications project site, Republic, Michigan.
- Sec. 2845. Land conveyance, Marine Forces Reserve Center, Wilmington, North Carolina.
- Subtitle F—Other Matters
- Sec. 2851. Limitation on availability of funds pending report regarding construction of a new outlying landing field in North Carolina and Virginia.
- Sec. 2852. Requirements related to providing world class military medical centers.
- Sec. 2853. Report on fuel infrastructure sustainment, restoration, and modernization requirements.
- Sec. 2854. Naming of Armed Forces Reserve Center, Middletown, Connecticut.
- Sec. 2855. Sense of Congress on proposed extension of the Alaska Railroad corridor across Federal land in Alaska.
- Sec. 2856. Sense of Congress on improving military housing for members of the Air Force.
- Sec. 2857. Sense of Congress regarding recreational hunting and fishing on military installations.
- TITLE XXIX—OVERSEAS CONTINGENCY OPERATIONS MILITARY CONSTRUCTION
- Sec. 2901. Authorized Army construction and land acquisition projects.
- Sec. 2902. Authorized Air Force construction and land acquisition project.
- Sec. 2903. Authorized Defense Wide Construction and Land Acquisition Projects and Authorization of Appropriations.
- TITLE XXX—MILITARY CONSTRUCTION FUNDING TABLES
- Sec. 3001. Military construction.
- Sec. 3002. Overseas contingency operations.
- DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS
- TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS
- Subtitle A—National Security Programs Authorizations
- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental cleanup.
- Sec. 3103. Other defense activities.
- Sec. 3104. Energy security and assurance.
- Subtitle B—Program Authorizations, Restrictions, and Limitations
- Sec. 3111. Aircraft procurement.
- Sec. 3112. Biennial plan on modernization and refurbishment of the nuclear security complex.
- Sec. 3113. Comptroller General assessment of adequacy of budget requests with respect to the modernization and refurbishment of the nuclear weapons stockpile.
- Sec. 3114. Notification of cost overruns for certain Department of Energy projects.
- Sec. 3115. Establishment of cooperative research and development centers.
- Sec. 3116. Future-years defense environmental management plan.
- Sec. 3117. Extension of authority of Secretary of Energy for appointment of certain scientific, engineering, and technical personnel.
- Sec. 3118. Extension of authority of Secretary of Energy to enter into transactions to carry out certain research projects.
- Sec. 3119. Extension of authority relating to the International Materials Protection, Control, and Accounting Program of the Department of Energy.
- Sec. 3120. Extension of deadline for transfer of parcels of land to be conveyed to Los Alamos County, New Mexico, and held in trust for the Pueblo of San Ildefonso.
- Sec. 3121. Repeal of sunset provision for modification of minor construction threshold for plant projects.
- Sec. 3122. Enhancing private-sector employment through cooperative research and development activities.
- Sec. 3123. Limitation on use of funds for establishment of centers of excellence in countries outside of the former Soviet Union.
- Sec. 3124. Department of Energy energy parks program.
- Subtitle C—Reports
- Sec. 3131. Report on graded security protection policy.
- TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD
- Sec. 3201. Authorization.
- TITLE XXXIV—NAVAL PETROLEUM RESERVES
- Sec. 3401. Authorization of appropriations.
- TITLE XXXV—MARITIME ADMINISTRATION
- Sec. 3501. Authorization of appropriations for national security aspects of the merchant marine for fiscal year 2011.
- Sec. 3502. Extension of Maritime Security Fleet program.
- Sec. 3503. United States Merchant Marine Academy nominations of residents of the Northern Mariana Islands.
- Sec. 3504. Research authority.
- SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.**
- For purposes of this Act, the term “congressional defense committees” has the meaning given that term in section 101(a)(16) of title 10, United States Code.
- DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**
- TITLE I—PROCUREMENT**
- Subtitle A—Authorization of Appropriations
- Sec. 101. Army.
- Sec. 102. Navy and Marine Corps.
- Sec. 103. Air Force.
- Sec. 104. Defense-wide activities.
- Subtitle B—Navy Programs
- Sec. 111. Multiyear funding for detail design and construction of LHA Replacement ship designated LHA-7.
- Sec. 112. Requirement to maintain Navy airborne signals intelligence, surveillance, and reconnaissance capabilities.
- Sec. 113. Report on naval force structure and missile defense.
- Sec. 114. Reports on service-life extension of F/A-18 aircraft by the Department of the Navy.
- Subtitle C—Joint and Multiservice Matters
- Sec. 121. Limitations on biometric systems funds.
- Sec. 122. System management plan and matrix for the F-35 Joint Strike Fighter aircraft program.
- Sec. 123. Quarterly reports on use of Combat Mission Requirements funds.
- Sec. 124. Counter-improvised explosive device initiatives database.
- Sec. 125. Study on lightweight body armor solutions.
- Sec. 126. Integration of solid state laser systems into certain aircraft.
- Sec. 127. Contracts for commercial imaging satellite capacities.
- Subtitle A—Authorization of Appropriations**
- SEC. 101. ARMY.**
- Funds are hereby authorized to be appropriated for fiscal year 2011 for procurement for the Army as follows:
- (1) For aircraft, \$5,908,384,000.
 - (2) For missiles, \$1,670,463,000.
 - (3) For weapons and tracked combat vehicles, \$1,656,263,000.

- (4) For ammunition, \$1,953,194,000.
 (5) For other procurement, \$9,758,965,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2011 for procurement for the Navy as follows:

- (1) For aircraft, \$18,877,139,000.
 (2) For weapons, including missiles and torpedoes, \$3,358,264,000.
 (3) For shipbuilding and conversion, \$15,724,520,000.

- (4) For other procurement, \$6,381,815,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2011 for procurement for the Marine Corps in the amount of \$1,296,838,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2011 for procurement of ammunition for the Navy and the Marine Corps in the amount of \$817,991,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2011 for procurement for the Air Force as follows:

- (1) For aircraft, \$14,668,408,000.
 (2) For ammunition, \$672,420,000.
 (3) For missiles, \$5,444,464,000.
 (4) For other procurement, \$17,845,342,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2011 for Defense-wide procurement in the amount of \$4,398,168,000.

Subtitle B—Navy Programs**SEC. 111. MULTIYEAR FUNDING FOR DETAIL DESIGN AND CONSTRUCTION OF LHA REPLACEMENT SHIP DESIGNATED LHA-7.**

(a) AUTHORITY TO USE MULTIPLE YEARS OF FUNDING.—The Secretary of the Navy may enter into a contract for detail design and construction of the LHA Replacement ship designated LHA-7 that provides that, subject to subsection (b), funds for payments under the contract may be provided from amounts authorized to be appropriated for the Department of Defense for Shipbuilding and Conversion, Navy, for fiscal years 2011 and 2012.

(b) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2011 is subject to the availability of appropriations for that purpose for such later fiscal year.

SEC. 112. REQUIREMENT TO MAINTAIN NAVY AIRBORNE SIGNALS INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE CAPABILITIES.

(a) FINDINGS.—Congress finds the following:

(1) The Navy terminated the EP-X program to acquire a new land-based airborne signals intelligence capability because of escalating costs and funds budgeted for the program were re-allocated to other priorities.

(2) The Navy took this action without planning and budgeting for alternative means to meet operational requirements for tactical-level and theater-level signals intelligence capabilities to support the combatant commands and national intelligence consumers.

(3) The principal Navy airborne signals intelligence capability today is the EP-3E Airborne Reconnaissance Integrated Electronic System II (ARIES II)—the aircraft and associated electronic equipment of this system are aging and will require replacement or substantial ongoing upgrades to continue to meet requirements.

(4) The Special Projects Aircraft (SPA) platform of the Navy is the second critical

element in the airborne signals intelligence capability of the Navy and provides the Navy its most advanced, comprehensive multi-intelligence and quick-reaction capability available.

(b) REQUIREMENT TO MAINTAIN CAPABILITIES.—

(1) PROHIBITION ON RETIREMENT OF PLATFORMS.—The Secretary of the Navy may not retire (or to prepare to retire) the EP-3E Airborne Reconnaissance Integrated Electronic System II or Special Projects Aircraft platform.

(2) MAINTENANCE OF PLATFORMS.—The Secretary of the Navy shall continue to maintain, sustain, and upgrade the EP-3E Airborne Reconnaissance Integrated Electronic System II and Special Projects Aircraft platforms in order to provide capabilities necessary to operate effectively against rapidly evolving threats and to meet combatant commander operational intelligence, surveillance, and reconnaissance requirements.

(3) CERTIFICATION.—Not later than February 1, 2011, and annually thereafter, the Under Secretary of Defense for Intelligence and the Vice Chairman of the Joint Chiefs of Staff shall jointly certify to Congress the following:

(A) The Secretary of the Navy is maintaining and sustaining the EP-3E Airborne Reconnaissance Integrated Electronic System II and Special Projects Aircraft platform in a manner that meets the intelligence, surveillance, and reconnaissance requirements of the commanders of the combatant commands.

(B) Any plan for the retirement or replacement of the EP-3E Airborne Reconnaissance Integrated Electronic System II or Special Projects Aircraft platform will provide, in the aggregate, an equivalent or superior capability and capacity to the platform concerned.

(4) TERMINATION.—The requirements of this subsection with respect to the EP-3E Airborne Reconnaissance Integrated Electronic System II or the Special Projects Aircraft platform shall expire on the commencement of the fielding by the Navy of a platform or mix of platforms and sensors that are, in the aggregate, equivalent or superior to the EP-3E Airborne Reconnaissance Integrated Electronic System II (spiral 3) or the Special Projects Aircraft (P909) platform.

(c) RESTRICTION ON TRANSFER OF SABER FOCUS PROGRAM ISR CAPABILITIES.—

(1) RESTRICTION.—The Secretary of the Navy may not transfer the Saber Focus unmanned aerial system, associated equipment, or processing, exploitation, and dissemination capabilities of the Saber Focus program to the Secretary of the Air Force until 30 days after the Secretary of the Air Force certifies to the congressional defense committees that after such a transfer, the Secretary of the Air Force will provide intelligence, surveillance, and reconnaissance (hereinafter in this section referred to as “ISR”) capabilities at the same or greater capability and capacity level as the capability or capacity level at which the Saber Focus program provides such capabilities to the area of operations concerned as of the date of the enactment of this Act.

(2) CONTINUED NAVY PROVISION OF CAPABILITIES.—The Secretary of the Navy shall continue to provide Saber Focus ISR program capabilities at the same or greater capability and capacity level as the capability or capacity level at which the Saber Focus program provides such capabilities as of the date of the enactment of this Act to the area of operations concerned until—

(A) the certification referred to in paragraph (1) is provided to the congressional defense committees; or

(B) 30 days after the Secretary of Defense certifies to the congressional defense committees that the ISR capabilities of the Saber Focus program are no longer required to mitigate the ISR requirements of the combatant commander in the area of operations concerned.

SEC. 113. REPORT ON NAVAL FORCE STRUCTURE AND MISSILE DEFENSE.

(a) REPORT.—Not later than March 31, 2011, the Secretary of Defense, in coordination with the Secretary of the Navy and the Chief of Naval Operations, shall submit to the congressional defense committees a report on the force structure requirements of the major combatant surface vessels with respect to ballistic missile defense.

(b) MATTERS INCLUDED.—The report shall include the following:

(1) An analysis of whether the requirement for sea-based missile defense can be accommodated by upgrading Aegis ships that exist as of the date of the report or by procuring additional combatant surface vessels.

(2) A discussion of whether such sea-based missile defense will require increasing the overall number of combatant surface vessels beyond the requirement of 88 cruisers and destroyers in the 313-ship fleet plan of the Navy.

(3) A discussion of the process for determining the number of Aegis ships needed by each commander of the combatant commands to fulfill ballistic missile defense requirements, including (in consultation with the Chairman of the Joints Chiefs of Staff) the number of such ships needed to support the phased, adaptive approach to ballistic missile defense in Europe.

(4) A discussion of the impact of Aegis Ashore missile defense deployments, as well as deployment of other elements of the ballistic missile defense system, on Aegis ballistic missile defense ship force structure requirements.

(5) A discussion of the potential effect of ballistic missile defense operations on the ability of the Navy to meet surface fleet demands in each geographic area and for each mission set.

(6) An evaluation of how the Aegis ballistic missile defense program can succeed as part of a balanced fleet of adequate size and strength to meet the security needs of the United States.

(7) A description of both the shortfalls and the benefits of expected technological advancements in the sea-based missile defense program.

(8) A description of the anticipated plan for deployment of Aegis ballistic missile defense ships within the context of the fleet response plan.

SEC. 114. REPORTS ON SERVICE-LIFE EXTENSION OF F/A-18 AIRCRAFT BY THE DEPARTMENT OF THE NAVY.

(a) COST-BENEFIT ANALYSIS OF SERVICE LIFE EXTENSION OF F/A-18 AIRCRAFT.—Before the Secretary of the Navy may enter into a program to extend the service life of F/A-18 aircraft beyond 8,600 hours, the Secretary shall—

(1) conduct a cost-benefit analysis, in accordance with Office of Management and Budget Circular A-94, comparing extending the service life of existing F/A-18 aircraft with procuring additional F/A-18E or F/A-18F aircraft as a means of managing the shortfall of the Department of the Navy in strike fighter aircraft; and

(2) submit to the congressional defense committees a report on such cost-benefit analysis.

(b) **ELEMENTS OF COST-BENEFIT ANALYSIS.**—The cost-benefit analysis required by subsection (a)(1) shall include the following:

(1) An estimate of the full costs, over the period covered by the future-years defense program submitted to Congress under section 221 of title 10, United States Code, with the budget of the President, of extending legacy F/A-18 aircraft beyond 8,600 hours, including—

(A) any increases in operation and maintenance costs associated with operating such aircraft beyond a service life of 8,600 hours; and

(B) the costs with respect to the airframe, avionics, software, and aircraft subsystems and components required to remain relevant in countering future threats and meeting the warfighting requirements of the commanders of the combatant commands.

(2) An estimate of the full costs, over the period covered by such future-years defense program, of procuring such additional F/A-18E or F/A-18F aircraft as would be required to meet the strike fighter requirements of the Department of the Navy in the event the service life of legacy F/A-18 aircraft is not extended beyond 8,600 hours.

(3) An assessment of risks associated with extending the service life of legacy F/A-18 aircraft beyond 8,600 hours, including the level of certainty that the Secretary will be able to achieve such an extension.

(4) An estimate of the cost-per-flight hour incurred in operating legacy F/A-18 aircraft with a service life extended beyond 8,600 hours.

(5) An estimate of the cost-per-flight hour incurred for operating new F/A-18E or F/A-18F aircraft.

(6) An assessment of any alternatives to extending the service life of legacy F/A-18 aircraft beyond 8,600 hours or buying additional F/A-18E or F/A-18F aircraft that may be available to the Secretary to manage the shortfall of the Department of the Navy in strike fighter aircraft.

(c) **ADDITIONAL ELEMENTS OF REPORT.**—In addition to the information required in the cost-benefit analysis under subsection (b), the report under subsection (a)(2) shall include an assessment of the following:

(1) Differences in capabilities of—

(A) legacy F/A-18 aircraft that have undergone service-life extension;

(B) F/A-18E or F/A-18F aircraft; and

(C) F-35C aircraft.

(2) Differences in capabilities that would result under the legacy F/A-18 aircraft service-life extension program if such program would—

(A) provide only airframe-life extensions to the legacy F/A-18 aircraft fleet; and

(B) provide for airframe-life extensions and capability upgrades to the legacy F/A-18 aircraft fleet.

(3) Any disruption that procuring additional F/A-18E or F/A-18F aircraft, rather than extending the service life of legacy F/A-18 aircraft beyond 8,600 hours, would have on the plan of the Navy to procure operational carrier-variant Joint Strike Fighter aircraft.

(4) Any changes that procuring additional F/A-18E or F/A-18F aircraft, rather than extending the service life of legacy F/A-18 aircraft beyond 8,600 hours, would have on the force structure or force mix intended by the Navy for its carrier air wings.

(5) Any other operational implication of extending (or not extending) the service life of legacy F/A-18 aircraft that the Secretary considers appropriate.

(d) **REPORT ON OPERATIONAL F/A-18 AIRCRAFT SQUADRONS.**—Before reducing the number of F/A-18 aircraft in an operational squadron of the Navy or Marine Corps, the Secretary shall submit to the congressional defense committees a report that discusses the operational risks and impacts of reducing the squadron size. The report shall include an assessment of the following:

(1) The effect of the reduction on the operational capability and readiness of the Navy and the Marine Corps to conduct overseas contingency operations.

(2) The effect of the reduction on the capability of the Navy and the Marine Corps to meet ongoing operational demands.

(3) Any mechanisms the Secretary intends to use to mitigate any risks associated with the squadron size reduction.

(4) The effect of the reduction on pilots and ground support crews of F/A-18 aircraft, in terms of training, readiness, and war fighting capabilities.

(e) **REPORT ON F/A-18 AIRCRAFT TRAINING SQUADRONS.**—Before reducing the size of an F/A-18 aircraft training squadron, or transferring an F/A-18 training aircraft for operational needs, the Secretary shall submit to the congressional defense committees a report that describes—

(1) any risks to sustaining required training of F/A-18 aircraft pilots with a reduced training aircraft base; and

(2) any actions the Navy is taking to mitigate the risks described under paragraph (1).

Subtitle C—Joint and Multiservice Matters **SEC. 121. LIMITATIONS ON BIOMETRIC SYSTEMS FUNDS.**

Of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2011 for biometrics programs and operations, not more than 85 percent may be obligated or expended until—

(1) the Secretary of Defense submits to the congressional defense committees a report on the actions taken and planned to be taken—

(A) to implement subparagraphs (A) through (F) of paragraph (16) of the National Security Presidential Directive dated June 5, 2008 (NSPD-59);

(B) to implement the recommendations of the Comptroller General of the United States included in the report of the Comptroller General numbered GAO-08-1065 dated September 2008;

(C) to implement the recommendations of the Comptroller General included in the report of the Comptroller General numbered GAO-09-49 dated October 2008;

(D) to fully and completely characterize the current biometrics architecture and establish the objective architecture for the Department of Defense;

(E) to ensure that an official of the Office of the Secretary of Defense has the authority necessary to be responsible for ensuring that all funding for biometrics programs and operations is programmed, budgeted, and executed; and

(F) to ensure that an officer within the Office of the Joint Chiefs of Staff has the authority necessary to be responsible for ensuring the development and implementation of common and interoperable standards for the collection, storage, and use of biometrics data by all commanders of the combatant commands and their commands; and

(2) a period of 30 days has elapsed after the date on which the report is submitted under paragraph (1).

SEC. 122. SYSTEM MANAGEMENT PLAN AND MATRIX FOR THE F-35 JOINT STRIKE FIGHTER AIRCRAFT PROGRAM.

(a) **SYSTEM MANAGEMENT PLAN.**—

(1) **PLAN REQUIRED.**—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall establish a management plan for the F-35 Joint Strike Fighter aircraft program under which decisions to commit to specified levels of production are linked to progress in meeting specified program milestones, including design, manufacturing, testing, and fielding milestones for critical system maturity elements.

(2) **NATURE OF PLAN.**—The plan under paragraph (1) shall align technical progress milestones with acquisition milestones in a system maturity matrix. The matrix shall provide criteria and conditions for comparing expected levels of demonstrated system maturity with annual production commitments, starting with the fiscal year 2012 production program, and continuing over the remaining life of the system development and demonstration program. The matrix and criteria shall include elements such as the following:

(A) Manufacturing maturity, including on-time deliveries, manufacturing process control, quality rates, and labor efficiency rates.

(B) Engineering maturity, including metrics for the number of new design actions and number of design changes in a given period.

(C) Performance and testing progress, including test points, hours and flights accomplished, capabilities demonstrated, key performance parameters, and attributes demonstrated.

(D) Mission effectiveness and system reliability, including operational effectiveness and reliability growth.

(E) Training, fielding, and deployment status.

(b) **REPORTS TO CONGRESS.**—

(1) **INITIAL REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the plan required by subsection (a). The report shall include—

(A) the proposed system maturity matrix described in subsection (a)(2), including a description, for each element specified in the matrix under subsection (a)(2), of the criteria and milestones to be used in evaluating actual program performance against planned performance for each annual production commitment; and

(B) a description of the actions to be taken to implement the plan.

(2) **UPDATES.**—The Secretary shall submit to Congress, at or about the same time as the submittal to Congress of the budget of the President for any fiscal year after fiscal year 2012 (as submitted pursuant to section 1105(a) of title 31, United States Code), any modification to the plan required by subsection (a) that was made during the preceding calendar year, including a rationale for each such modification.

(c) **REPORT ON CAPABILITIES OF MARINE CORPS VARIANT OF F-35 FIGHTER AIRCRAFT AT INITIAL OPERATING CAPABILITY.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the expected capabilities of the F-35B Joint Strike Fighter aircraft at the time when the Marine Corps plans to declare Initial Operating Capability for the F-35B Joint Strike Fighter aircraft. The report shall be prepared in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(2) ELEMENTS.—The report under paragraph (1) shall include a description of the following with respect to the F-35B Joint Strike Fighter aircraft:

(A) Performance of the aircraft and its subsystems, compared to key performance parameters.

(B) Expected capability to perform Marine Corps missions.

(C) Required maintenance and logistics standards, including mission capability rates.

(D) Expected levels of crew training and performance.

(E) Product improvements that are planned before the Initial Operating Capability of the aircraft to be made after the Initial Operating Capability of the aircraft, as planned in March 2010.

SEC. 123. QUARTERLY REPORTS ON USE OF COMBAT MISSION REQUIREMENTS FUNDS.

(a) QUARTERLY REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than 30 days after the end of each fiscal quarter, the commander of the United States Special Operations Command shall submit to the congressional defense committees a report on the use of Combat Mission Requirements funds during the preceding fiscal quarter.

(2) COMBAT MISSION REQUIREMENTS FUNDS.—For purposes of this section, Combat Mission Requirements funds are amounts available to the Department of Defense for Defense-wide procurement in the Combat Mission Requirements subaccount of the Defense-wide Procurement account.

(b) ELEMENTS.—Each report under subsection (a) shall include, for the fiscal quarter covered by such report, the following:

(1) The balance of the Combat Mission Requirements subaccount at the beginning of such quarter.

(2) The balance of the Combat Mission Requirements subaccount at the end of such quarter.

(3) Any transfer of funds into or out of the Combat Mission Requirements subaccount during such quarter, including the source of any funds transferred into the subaccount, and the objective of any transfer of funds out of the subaccount.

(4) A description of any requirement—

(A) approved for procurement using Combat Mission Requirements funds during such quarter; or

(B) procured using such funds during such quarter.

(5) With respect to each description of a requirement under paragraph (4), the amount of Combat Mission Requirements funds committed to the procurement or approved procurement of such requirement.

(c) FORM.—Each report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

SEC. 124. COUNTER-IMPROVISED EXPLOSIVE DEVICE INITIATIVES DATABASE.

(a) COMPREHENSIVE DATABASE.—

(1) IN GENERAL.—The Secretary of Defense, acting through the Director of the Joint Improvised Explosive Device Defeat Organization, shall develop and maintain a comprehensive database containing appropriate information for coordinating, tracking, and archiving each counter-improvised explosive device initiative within the Department of Defense. The database shall, at a minimum, ensure the visibility of each counter-improvised explosive device initiative.

(2) USE OF INFORMATION.—Using information contained in the database developed under paragraph (1), the Secretary, acting through the Director of the Joint Improvised

Explosive Device Defeat Organization, shall—

(A) identify and eliminate redundant counter-improvised explosive device initiatives;

(B) facilitate the transition of counter-improvised explosive device initiatives from funding under the Joint Improvised Explosive Device Defeat Fund to funding provided by the military departments; and

(C) notify the appropriate personnel and organizations prior to a counter-improvised explosive device initiative being funded through the Joint Improvised Explosive Device Defeat Fund.

(3) COORDINATION.—In carrying out paragraph (1), the Secretary shall ensure that the Secretary of each military department coordinates and collaborates on development of the database to ensure its interoperability, completeness, consistency, and effectiveness.

(b) METRICS.—The Secretary of Defense, acting through the Director of the Joint Improvised Explosive Device Defeat Organization, shall—

(1) develop appropriate means to measure the effectiveness of counter-improvised explosive device initiatives; and

(2) prioritize the funding of such initiatives according to such means.

(c) COUNTER-IMPROVISED EXPLOSIVE DEVICE INITIATIVE DEFINED.—In this section, the term “counter-improvised explosive device initiative” means any project, program, or research activity funded by any component of the Department of Defense that is intended to assist or support efforts to counter, combat, or defeat the use of improvised explosive devices.

SEC. 125. STUDY ON LIGHTWEIGHT BODY ARMOR SOLUTIONS.

(a) STUDY REQUIRED.—The Secretary of Defense shall enter into a contract with a federally funded research and development center to conduct a study to—

(1) assess the effectiveness of the processes used by the Secretary to identify and examine the requirements for lighter weight body armor systems; and

(2) determine ways in which the Secretary may more effectively address the research, development, and procurement requirements regarding reducing the weight of body armor.

(b) MATTERS COVERED.—The study conducted under subsection (a) shall include findings and recommendations regarding the following:

(1) The requirement for lighter weight body armor and personal protective equipment and the ability of the Secretary to meet such requirement.

(2) Innovative design ideas for more modular body armor that allow for scalable protection levels for various missions and threats.

(3) The need for research, development, and acquisition funding dedicated specifically for reducing the weight of body armor.

(4) The efficiency and effectiveness of current body armor funding procedures and processes.

(5) Industry concerns, capabilities, and willingness to invest in the development and production of lightweight body armor initiatives.

(6) Barriers preventing the development of lighter weight body armor (including such barriers with respect to technical, institutional, or financial problems).

(7) Changes to procedures or policy with respect to lightweight body armor.

(8) Other areas of concern not previously addressed by equipping boards, body armor producers, or program managers.

(c) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the study conducted under subsection (a).

SEC. 126. INTEGRATION OF SOLID STATE LASER SYSTEMS INTO CERTAIN AIRCRAFT.

(a) ANALYSIS OF FEASIBILITY REQUIRED.—The Secretary of Defense shall conduct an analysis of the feasibility of integrating solid state laser systems into the aircraft platforms specified in subsection (b) for purposes of permitting such aircraft to accomplish their missions, including to provide close air support.

(b) AIRCRAFT.—The aircraft platforms specified in this subsection shall include, at a minimum, the following:

(1) The C-130 aircraft.

(2) The B-1 bomber aircraft.

(3) The F-35 fighter aircraft.

(c) SCOPE OF ANALYSIS.—The analysis required by subsection (a) shall include a determination of the following:

(1) The estimated cost per unit of each laser system analyzed.

(2) The estimated cost of operation and maintenance of each aircraft platform specified in subsection (b) in connection with each laser system analyzed, noting that the fidelity of such analysis may not be uniform for all aircraft platforms.

SEC. 127. CONTRACTS FOR COMMERCIAL IMAGING SATELLITE CAPACITIES.

(a) TELESCOPE REQUIREMENTS UNDER CONTRACTS AFTER 2010.—Except as provided in subsection (b), any contract for additional commercial imaging satellite capability or capacity entered into by the Department of Defense after December 31, 2010, shall require that the imaging telescope providing such capability or capacity under such contract has an aperture of not less than 1.5 meters.

(b) WAIVER.—The Secretary of Defense may waive the limitation in subsection (a) if—

(1) the Secretary submits to the congressional defense committees written certification that the waiver is in the national security interests of the United States; and

(2) a period of 30 days has elapsed following the date on which the certification under paragraph (1) is submitted.

(c) CONTINUATION OF CURRENT CONTRACTS.—The limitation in subsection (a) may not be construed to prohibit or prevent the Secretary of Defense from continuing or maintaining current commercial imaging satellite capability or capacity in orbit or under contract by December 31, 2010.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Enhancement of Department of Defense support of science, mathematics, and engineering education.

Sec. 212. Limitation on use of funds by Defense Advanced Research Projects Agency for operation of National Cyber Range.

Sec. 213. Separate program elements required for research and development of Joint Light Tactical Vehicle.

Sec. 214. Program for research, development, and deployment of advanced ground vehicles, ground vehicle systems, and components.

Sec. 215. Demonstration and pilot projects on cybersecurity.

Subtitle C—Missile Defense Programs

Sec. 221. Sense of Congress on ballistic missile defense.

Sec. 222. Repeal of prohibition of certain contracts by Missile Defense Agency with foreign entities.

Sec. 223. Limitation on availability of funds for missile defense interceptors in Europe.

Sec. 224. Medium Extended Air Defense System.

Sec. 225. Acquisition accountability reports on the ballistic missile defense system.

Sec. 226. Authority to support ballistic missile shared early warning with the Czech Republic.

Sec. 227. Report on phased, adaptive approach to missile defense in Europe.

Sec. 228. Independent review and assessment of the Ground-Based Midcourse Defense system.

Sec. 229. Iron Dome short-range rocket defense program.

Subtitle D—Reports

Sec. 231. Report on analysis of alternatives and program requirements for the Ground Combat Vehicle program.

Sec. 232. Cost benefit analysis of future tank-fired munitions.

Sec. 233. Annual Comptroller General report on the VH-(XX) presidential helicopter acquisition program.

Subtitle E—Other Matters

Sec. 241. Sense of Congress affirming the importance of Department of Defense participation in development of next generation semiconductor technologies.

Sec. 242. Pilot program on collaborative energy security.

Sec. 243. Pilot program to include technology protection features during research and development of defense systems.

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2011 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, \$10,093,704,000.

(2) For the Navy, \$17,881,008,000.

(3) For the Air Force, \$27,319,627,000.

(4) For Defense-wide activities, \$21,292,576,000, of which \$194,910,000 is authorized for the Director of Operational Test and Evaluation.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. ENHANCEMENT OF DEPARTMENT OF DEFENSE SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION.

(a) DISCHARGE OF SUPPORT THROUGH MILITARY DEPARTMENTS.—Section 2192(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2) The Secretary of Defense may carry out the authority in paragraph (1) through the Secretaries of the military departments.”.

(b) PARTNERSHIP INTERMEDIARIES FOR PURPOSES OF EDUCATION PARTNERSHIPS.—Section 2194 of such title is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

“(e) The Secretary of Defense may permit the director of a defense laboratory to enter into a cooperative agreement with an appropriate entity to act as an intermediary and assist the director in carrying out activities under this section.”.

SEC. 212. LIMITATION ON USE OF FUNDS BY DEFENSE ADVANCED RESEARCH PROJECTS AGENCY FOR OPERATION OF NATIONAL CYBER RANGE.

(a) PROHIBITION ON USE OF FUNDS PENDING REPORT.—Amounts authorized to be appropriated by this Act and available to the Defense Advanced Research Projects Agency may not be obligated or expended for the National Cyber Range established in support of the Comprehensive National Cybersecurity Initiative until the date that is 90 days after the date on which the Under Secretary of Defense for Acquisition, Technology, and Logistics submits to the Committees on Armed Services of the Senate and the House of Representatives a report described in subsection (c).

(b) LIMITATION ON USE OF FUNDS AFTER REPORT.—Commencing on the date that is 90 days after the date on which the Under Secretary submits a report described in subsection (c), amounts described in subsection (a) shall be available for obligation or expenditure only for the purposes of research and development activities that the Under Secretary considers appropriate for ensuring and assessing the functionality of the National Cyber Range.

(c) REPORT.—

(1) IN GENERAL.—The report described in this subsection is a report setting forth a plan for the transition of the National Cyber Range to operation and sustainment.

(2) ELEMENTS.—The report shall include, at a minimum, the following:

(A) An analysis of various potential recipients under the transition of the National Cyber Range.

(B) For each recipient analyzed under subparagraph (A), a description of the proposed transition of the National Cyber Range to such recipient, including the proposed schedule and funding for such transition.

(3) POTENTIAL RECIPIENTS.—The recipients analyzed in the report under paragraph (2)(A) shall include, at a minimum, the following:

(A) A consortium for the operation and sustainment of the National Cyber Range as a government-owned, government-operated facility.

(B) A consortium for the operation and sustainment of the National Cyber Range as a government-owned, contractor-operated facility.

SEC. 213. SEPARATE PROGRAM ELEMENTS REQUIRED FOR RESEARCH AND DEVELOPMENT OF JOINT LIGHT TACTICAL VEHICLE.

In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2012, and each subsequent fiscal year, the Secretary shall ensure that within each research, development, test, and evaluation account of the Army and the Navy a separate, dedicated program element is assigned to the Joint Light Tactical Vehicle.

SEC. 214. PROGRAM FOR RESEARCH, DEVELOPMENT, AND DEPLOYMENT OF ADVANCED GROUND VEHICLES, GROUND VEHICLE SYSTEMS, AND COMPONENTS.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a program for research and development on, and deployment of, advanced technology ground vehicles, ground vehicle systems, and components within the Department of Defense.

(b) GOALS AND OBJECTIVES.—The goals and objectives of the program authorized by subsection (a) are as follows:

(1) To identify and support technological advances that are necessary for the development of advanced technologies for use in ground vehicles of types to be used by the Department of Defense.

(2) To procure and deploy significant quantities of advanced technology ground vehicles for use by the Department.

(3) To maximize the leverage of Federal and nongovernment funds used for the development and deployment of advanced technology ground vehicles, ground vehicle systems, and components.

(c) ELEMENTS OF PROGRAM.—The program authorized by subsection (a) may include—

(1) enhanced research and development activities for advanced technology ground vehicles, ground vehicle systems, and components, including—

(A) increased investments in research and development of batteries, advanced materials, power electronics, fuel cells and fuel cell systems, hybrid systems, and advanced engines;

(B) pilot projects for the demonstration of advanced technologies in ground vehicles for use by the Department of Defense; and

(C) the establishment of public-private partnerships, including research centers, manufacturing and prototyping facilities, and test beds, to speed the development, deployment, and transition to use of advanced technology ground vehicles, ground vehicle systems, and components; and

(2) enhanced activities to procure and deploy advanced technology ground vehicles in the Department, including—

(A) preferences for the purchase of advanced technology ground vehicles;

(B) the use of authorities available to the Secretary of Defense to stimulate the development and production of advanced technology systems and ground vehicles through purchases, loan guarantees, and other mechanisms;

(C) pilot programs to demonstrate advanced technology ground vehicles and associated infrastructure at select defense installations;

(D) metrics to evaluate environmental and other benefits, life cycle costs, and greenhouse gas emissions associated with the deployment of advanced technology ground vehicles; and

(E) schedules and objectives for the conversion of the ground vehicle fleet of the Department to advanced technology ground vehicles.

(d) COOPERATION WITH INDUSTRY AND ACADEMIA.—

(1) IN GENERAL.—The Secretary may carry out the program authorized by subsection (a) through partnerships and other cooperative agreements with private sector entities, including—

(A) universities and other academic institutions;

(B) companies in the automobile and truck manufacturing industry;

(C) companies that supply systems and components to the automobile and truck manufacturing industry; and

(D) any other companies or private sector entities that the Secretary considers appropriate.

(2) **NATURE OF COOPERATION.**—The Secretary shall ensure that any partnership or cooperative agreement under paragraph (1) provides for private sector participants to collectively contribute, in cash or in kind, not less than one-half of the total cost of the activities carried out under such partnership or cooperative agreement.

(e) **COORDINATION WITH OTHER FEDERAL AGENCIES.**—The program authorized by subsection (a) shall be carried out, to the maximum extent practicable, in coordination with the Department of Energy and other appropriate departments and agencies of the Federal Government.

SEC. 215. DEMONSTRATION AND PILOT PROJECTS ON CYBERSECURITY.

(a) **DEMONSTRATION PROJECTS ON PROCESSES FOR APPLICATION OF COMMERCIAL TECHNOLOGIES TO CYBERSECURITY REQUIREMENTS.**—

(1) **PROJECTS REQUIRED.**—The Secretary of Defense and the Secretaries of the military departments shall jointly carry out demonstration projects to assess the feasibility and advisability of using various business models and processes to rapidly and effectively identify innovative commercial technologies and apply such technologies to Department of Defense and other cybersecurity requirements.

(2) **SCOPE OF PROJECTS.**—Any demonstration project under paragraph (1) shall be carried out in such a manner as to contribute to the cyber policy review of the President and the Comprehensive National Cybersecurity Initiative.

(b) **PILOT PROGRAMS ON CYBERSECURITY REQUIRED.**—The Secretary of Defense shall support or conduct pilot programs on cybersecurity with respect to the following areas:

(1) Threat sensing and warning for information networks worldwide.

(2) Managed security services for cybersecurity within the defense industrial base, military departments, and combatant commands.

(3) Use of private processes and infrastructure to address threats, problems, vulnerabilities, or opportunities in cybersecurity.

(4) Processes for securing the global supply chain.

(5) Processes for threat sensing and security of cloud computing infrastructure.

(c) **REPORTS.**—

(1) **REPORTS REQUIRED.**—Not later than 240 days after the date of the enactment of this Act, and annually thereafter at or about the time of the submittal to Congress of the budget of the President for a fiscal year (as submitted pursuant to section 1105(a) of title 31, United States Code), the Secretary of Defense shall, in coordination with the Secretary of Homeland Security, submit to Congress a report on any demonstration projects carried out under subsection (a), and on the pilot projects carried out under subsection (b), during the preceding year.

(2) **ELEMENTS.**—Each report under this subsection shall include the following:

(A) A description and assessment of any activities under the demonstration projects and pilot projects referred to in paragraph (1) during the preceding year.

(B) For the pilot projects supported or conducted under subsection (b)(2)—

(i) a quantitative and qualitative assessment of the extent to which managed security services covered by the pilot project could provide effective and affordable cyber-

security capabilities for components of the Department of Defense and for entities in the defense industrial base, and an assessment whether such services could be expanded rapidly to a large scale without exceeding the ability of the Federal Government to manage such expansion; and

(ii) an assessment of whether managed security services are compatible with the cybersecurity strategy of the Department of Defense with respect to conducting an active, in-depth defense under the direction of United States Cyber Command.

(C) For the pilot projects supported or conducted under subsection (b)(3)—

(i) a description of any performance metrics established for purposes of the pilot project, and a description of any processes developed for purposes of accountability and governance under any partnership under the pilot project; and

(ii) an assessment of the role a partnership such as a partnership under the pilot project would play in the acquisition of cyberspace capabilities by the Department of Defense, including a role with respect to the development and approval of requirements, approval and oversight of acquiring capabilities, test and evaluation of new capabilities, and budgeting for new capabilities.

(D) For the pilot projects supported or conducted under subsection (b)(4)—

(i) a framework and taxonomy for evaluating practices that secure the global supply chain, as well as practices for securely operating in an uncertain or compromised supply chain;

(ii) an assessment of the viability of applying commercial practices for securing the global supply chain; and

(iii) an assessment of the viability of applying commercial practices for securely operating in an uncertain or compromised supply chain.

(E) For the pilot projects supported or conducted under subsection (b)(5)—

(i) an assessment of the capabilities of Federal Government providers to offer secure cloud computing environments; and

(ii) an assessment of the capabilities of commercial providers to offer secure cloud computing environments to the Federal Government.

(3) **FORM.**—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

Subtitle C—Missile Defense Programs

SEC. 221. SENSE OF CONGRESS ON BALLISTIC MISSILE DEFENSE.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress—

(1) that the phased, adaptive approach to missile defense in Europe is an appropriate response to the existing ballistic missile threat from Iran to the European territory of North Atlantic Treaty Organization countries, and to potential future ballistic missile capabilities of Iran;

(2) that the phased, adaptive approach to missile defense in Europe is not intended to, and will not, provide a missile defense capability relative to the ballistic missile deterrent forces of the Russian Federation, or diminish strategic stability with the Russian Federation;

(3) to support the efforts of the United States Government and the North Atlantic Treaty Organization to pursue cooperation with the Russian Federation on ballistic missile defense relative to Iranian missile threats;

(4) that the ground-based midcourse defense system deployed in Alaska and California currently provides adequate defensive

capability for the United States against currently anticipated future long-range ballistic missile threats from Iran, and this capability will be enhanced as the system is improved, including by the planned deployment of an AN/TPY-2 radar in southern Europe in 2011;

(5) that the ground-based midcourse defense system should be maintained, enhanced, and adequately tested to ensure its operational capability through its service life;

(6) that the United States should, as stated in its unilateral statement accompanying the New START Treaty, “continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions”;

(7) that, as part of this effort, the Department of Defense should pursue the development, testing, and deployment of operationally effective versions of all variants of the standard missile-3 for all four phases of the phased, adaptive approach to missile defense in Europe;

(8) that the standard missile-3 block IIB interceptor missile planned for deployment in phase 4 of the phased, adaptive approach should be capable of addressing the potential future threat of intermediate-range and long-range ballistic missiles from Iran, including intercontinental ballistic missiles that could be capable of reaching the United States;

(9) that there are no constraints contained in the New START Treaty on the development or deployment by the United States of effective missile defenses, including all phases of the phased, adaptive approach to missile defense in Europe and further enhancements to the ground-based midcourse defense system, as well as future missile defenses; and

(10) that the Department of Defense should continue the development, testing, and assessment of the two-stage ground-based interceptor in such a manner as to provide a hedge against potential technical challenges with the development of the standard missile-3 block IIB interceptor missile as a means of augmenting the defense of Europe and of the homeland against a limited ballistic missile attack from nations such as North Korea or Iran.

(b) **NEW START TREATY DEFINED.**—In this section, the term “New START Treaty” means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010.

SEC. 222. REPEAL OF PROHIBITION OF CERTAIN CONTRACTS BY MISSILE DEFENSE AGENCY WITH FOREIGN ENTITIES.

Section 222 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1055; 10 U.S.C. 2431 note) is repealed.

SEC. 223. LIMITATION ON AVAILABILITY OF FUNDS FOR MISSILE DEFENSE INTERCEPTORS IN EUROPE.

(a) **LIMITATION ON CONSTRUCTION AND DEPLOYMENT OF INTERCEPTORS.**—No funds authorized to be appropriated by this Act or otherwise made available for the Department of Defense for fiscal year 2011 or any fiscal year thereafter may be obligated or expended for site activation, construction, or deployment of missile defense interceptors on European land as part of the phased, adaptive approach to missile defense in Europe until—

(1) any nation agreeing to host such system has signed and ratified a missile defense

basing agreement and a status of forces agreement authorizing the deployment of such interceptors; and

(2) a period of 45 days has elapsed following the date on which the Secretary of Defense submits to the congressional defense committees the report on the independent assessment of alternative missile defense systems in Europe required by section 235(c)(2) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2235).

(b) **LIMITATION ON PROCUREMENT OR DEPLOYMENT OF INTERCEPTORS.**—No funds authorized to be appropriated by this Act or otherwise made available for the Department of Defense for fiscal year 2011 or any fiscal year thereafter may be obligated or expended for the procurement (other than initial long-lead procurement) or deployment of operational missiles on European land as part of the phased, adaptive approach to missile defense in Europe until the Secretary of Defense, after receiving the views of the Director of Operational Test and Evaluation, submits to the congressional defense committees a report certifying that the proposed interceptor to be deployed as part of such missile defense system has demonstrated, through successful, operationally realistic flight testing, a high probability of working in an operationally effective manner and that such missile defense system has the ability to accomplish the mission.

(c) **WAIVER.**—The Secretary of Defense may waive the limitations in subsections (a) and (b) if—

(1) the Secretary submits to the congressional defense committees written certification that the waiver is in the urgent national security interests of the United States; and

(2) a period of seven days has elapsed following the date on which the certification under paragraph (1) is submitted.

(d) **CONSTRUCTION.**—Nothing in this section shall be construed so as to limit the obligation and expenditure of funds for any missile defense activities not otherwise limited by subsection (a) or (b), including, with respect to the planned deployments of missile defense interceptors on European land as part of the phased, adaptive approach to missile defense in Europe—

(1) research, development, test and evaluation;

(2) site surveys;

(3) studies and analyses; and

(4) site planning and design and construction design.

(e) **CONFORMING REPEAL.**—Section 234 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-81; 123 Stat. 2234) is repealed.

SEC. 224. MEDIUM EXTENDED AIR DEFENSE SYSTEM.

(a) **LIMITATION ON AVAILABILITY OF FUNDS.**—Of the amounts authorized to be appropriated in this title for fiscal year 2011 for research, development, test, and evaluation, Army, of the amount that corresponds with budget activity five, line 117, in the budget transmitted to Congress by the President for fiscal year 2011, not more than 25 percent may be obligated or expended until the date on which—

(1) the Secretary of Defense completes the critical design review and the system program review for the medium extended air defense system program and decides to proceed with the program; and

(2) the Secretary submits in writing to the congressional defense committees a report containing the decision referred to in para-

graph (1) to proceed with the medium extended air defense system.

(b) **FURTHER LIMITATIONS.**—

(1) **IN GENERAL.**—Of the amounts authorized to be appropriated in this title for fiscal year 2011 for research, development, test, and evaluation, Army, of the amount that corresponds with budget activity five, line 117, in the budget transmitted to Congress by the President for fiscal year 2011, not more than 50 percent may be obligated or expended until a period of 30 days have elapsed following the date on which the Secretary submits to the congressional defense committees a report containing the elements specified in paragraph (2).

(2) **ELEMENTS OF REPORT.**—The elements specified in this paragraph for the report described in paragraph (1) are the following:

(A) A detailed description of the decision described in subsection (a)(1) and the explanation for that decision.

(B) A cost estimate performed by the Director of Cost Assessment and Program Evaluation of the medium extended air defense system program, including an analysis of the cost growth in the program and an explanation of what effect such cost growth would have if the program were subject to the provisions of section 2433 of title 10, United States Code (commonly referred to as the “Nunn-McCurdy Act”).

(C) An analysis of alternatives to the medium extended air defense system program and its component elements.

(D) A description of the planned schedule and cost for the development, production, and deployment of the medium extended air defense system, including the cost and schedule for any variations to the baseline program to be fielded by the Armed Forces.

(E) A description of the role of Germany and Italy in the medium extended air defense system program, including the role of such countries in procurement or production of elements of such program.

(F) Any other matters that the Secretary of Defense considers appropriate.

(c) **FORM OF REPORTS.**—The reports submitted under this section shall be submitted in unclassified form, but may include a classified annex.

SEC. 225. ACQUISITION ACCOUNTABILITY REPORTS ON THE BALLISTIC MISSILE DEFENSE SYSTEM.

(a) **BASELINES REQUIRED.**—The Secretary of Defense shall ensure that the Missile Defense Agency establishes and maintains an acquisition baseline for each program element of the ballistic missile defense system, as specified in section 223 of title 10, United States Code.

(b) **ELEMENTS OF BASELINES.**—Each acquisition baseline required by subsection (a) for a program element shall include the following:

(1) A comprehensive schedule for the program element, including—

(A) research and development milestones;

(B) acquisition milestones, including design reviews and key decision points;

(C) key test events, including ground and flight tests and ballistic missile defense system tests; and

(D) delivery and fielding schedules.

(2) A detailed technical description of—

(A) the capability to be developed, including hardware and software;

(B) system requirements;

(C) how the proposed capability satisfies a capability identified by the commanders of the combatant commands on a prioritized capabilities list;

(D) key knowledge points that must be achieved to permit continuation of the pro-

gram and to inform production and deployment decisions; and

(E) how the Missile Defense Agency plans to improve the capability over time.

(3) A cost estimate for the program element, including—

(A) a life cycle cost estimate;

(B) program acquisition unit costs for the program element;

(C) average procurement unit costs and program acquisition costs for the program element; and

(D) an identification when the program joint cost analysis requirements description document is scheduled to be approved.

(4) A test baseline summarizing the comprehensive test program for the program element outlined in the integrated master test plan.

(c) **ANNUAL REPORTS ON ACQUISITION BASELINES.**—

(1) **ANNUAL REPORTS REQUIRED.**—Not later than February 15, 2011, and annually thereafter, the Director of the Missile Defense Agency shall submit to the congressional defense committees a report on the acquisition baselines required by subsection (a). The first such report shall set forth the acquisition baselines, and each later report shall identify the significant changes or variances, if any, in any such baseline from any earlier report under this subsection.

(2) **FORM.**—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

(d) **ANNUAL REPORTS ON MISSILE DEFENSE EXECUTIVE BOARD ACTIVITIES.**—The Director shall include in each report under subsection (c) a description of the activities of the Missile Defense Executive Board during the preceding fiscal year, including the following:

(1) A list of each meeting of the Board during the preceding fiscal year.

(2) The agenda and issues considered at each such meeting.

(3) A description of any decisions or recommendations made by the Board at each such meeting.

SEC. 226. AUTHORITY TO SUPPORT BALLISTIC MISSILE SHARED EARLY WARNING WITH THE CZECH REPUBLIC.

(a) **AUTHORITY TO SUPPORT SHARED EARLY WARNING.**—During fiscal years 2011 and 2012, the Secretary of Defense may carry out a program to provide a ballistic missile shared early warning capability for the United States and the Czech Republic.

(b) **FISCAL YEAR 2011 FUNDING AUTHORIZATION.**—

(1) Of the funds authorized to be appropriated by this Act or any other Act for fiscal year 2011 for Operation and Maintenance, Air Force, \$1,700,000 may be available for the purposes described in subsection (a).

(2) Of the funds authorized to be appropriated by this Act or any other Act for fiscal year 2011 for Other Procurement, Air Force, \$500,000 may be available for the purposes described in subsection (a).

SEC. 227. REPORT ON PHASED, ADAPTIVE APPROACH TO MISSILE DEFENSE IN EUROPE.

(a) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the phased, adaptive approach to missile defense in Europe.

(b) **MATTERS INCLUDED.**—The report under subsection (a) shall include the following:

(1) A detailed explanation of—

(A) the analytic basis (including the analytic process and methodology) that led to the recommendation of the Secretary of Defense and the Joint Chiefs of Staff to pursue

the phased, adaptive approach to missile defense in Europe, including the ability to defend deployed forces of the United States, allies, and partners in Europe, and the United States homeland, against the existing, emerging, and future threat from Iranian ballistic missiles in a timely and flexible manner; and

(B) the planned defensive coverage of Europe provided by such missile defense.

(2) A detailed explanation of the specific elements planned for each of the four phases of the phased, adaptive approach to missile defense in Europe, including schedules and parameters of planned deployments of missile defense systems at sea and on land, and the knowledge points or milestones that will be required prior to operational deployment of those elements.

(3) A description of the factors and processes that will be used to determine the eventual numbers and locations of interceptors that will be deployed at sea and on land, and the concept of operations that will enable the phased, adaptive approach to missile defense in Europe to be operated in a flexible, adaptable, and survivable manner.

(4) A description of the status of the development or production of the various elements of the phased, adaptive approach to missile defense in Europe, particularly the development of the standard missile-3, block IIA and block IIB interceptors, including the technical readiness levels of those systems under development and the plans for retiring the technical risks of such systems.

(5) A description of the advances in technology that are expected to permit enhanced defensive capability of the phased, adaptive approach to missile defense in Europe, including airborne infrared sensor technology, space sensor technology, and enhanced battle management, command, control, and communications.

(6) A discussion of how the phased, adaptive approach to missile defense in Europe will meet the operational needs of the commander of the United States European Command, and how it relates to plans to use a phased, adaptive approach to missile defense in other geographic regions.

(7) An explanation of—

(A) the views of the North Atlantic Treaty Organization on the phased, adaptive approach to missile defense in Europe; and

(B) how such missile defense fits into the current missile defense strategy of NATO.

(C) FORM.—The report shall be in unclassified form, but may include a classified annex.

SEC. 228. INDEPENDENT REVIEW AND ASSESSMENT OF THE GROUND-BASED MIDCOURSE DEFENSE SYSTEM.

(a) INDEPENDENT REVIEW AND ASSESSMENT REQUIRED.—The Secretary of Defense shall select an appropriate entity outside the Department of Defense to conduct an independent review and assessment of the ground-based midcourse defense system.

(b) ELEMENTS.—The review and assessment required by this section shall address the current plans of the Department of Defense with respect to the following:

(1) The force structure and inventory levels necessary for the ground-based midcourse defense system to achieve the planned capabilities of that system, including an analysis of costs and potential advantages of deploying additional operational ground-based interceptor missiles.

(2) The number of ground-based interceptor missiles necessary for operational assets, test assets (including developmental and operational test assets and aging and sur-

veillance test assets), and spare missiles for the ground-based midcourse defense system.

(3) The plan to maintain the operational effectiveness of the ground-based midcourse defense system over the course of its service life, including any modernization or capability enhancement efforts, and any sustainment efforts.

(4) The plan for funding the development, production, deployment, testing, improvement, and sustainment of the ground-based midcourse defense system.

(5) The plan for flight testing the ground-based midcourse defense system, including aging and surveillance tests to demonstrate the continuing effectiveness of the system over the course of its service life.

(6) The plan for production of ground-based interceptor missiles necessary for operational test assets, aging and surveillance test assets, and spare missiles for the ground-based midcourse defense system.

(C) REPORT.—Not later than 180 days after the date of the enactment of this Act, the entity conducting the review and assessment under this section shall submit to the Secretary and the congressional defense committees a report containing—

(1) the results of the review and assessment; and

(2) any recommendations on how the Department of Defense may improve upon its plans to ensure the availability, reliability, maintainability, supportability, and improvement of the ground-based midcourse defense system.

SEC. 229. IRON DOME SHORT-RANGE ROCKET DEFENSE PROGRAM.

Of the funds authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide, the Secretary of Defense may provide up to \$205,000,000 to the government of Israel for the Iron Dome short-range rocket defense system.

Subtitle D—Reports

SEC. 231. REPORT ON ANALYSIS OF ALTERNATIVES AND PROGRAM REQUIREMENTS FOR THE GROUND COMBAT VEHICLE PROGRAM.

(a) REPORT REQUIRED.—Not later than January 15, 2011, the Secretary of the Army shall submit to the congressional defense committees a report on the Ground Combat Vehicle program of the Army. Such report shall include—

(1) the results of the analysis of alternatives conducted prior to milestone A, including any technical data; and

(2) an explanation of any plans to adjust the requirements of the Ground Combat Vehicle program during the technology development phase of such program.

(b) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(c) LIMITATION ON OBLIGATION OF FUNDS.—Of the funds authorized to be appropriated by this or any other Act for fiscal year 2011 for research, development, test, and evaluation, Army, for development of the Ground Combat Vehicle, not more than 50 percent may be obligated or expended until the date that is 30 days after the date on which the report is submitted under subsection (a).

SEC. 232. COST BENEFIT ANALYSIS OF FUTURE TANK-FIRED MUNITIONS.

(a) COST BENEFIT ANALYSIS REQUIRED.—

(1) IN GENERAL.—The Secretary of the Army shall conduct a cost benefit analysis of future munitions to be fired from the M1 Abrams series main battle tank to determine the proper investment to be made in tank munitions, including beyond line of sight technology.

(2) ELEMENTS.—The cost benefit analysis under paragraph (1) shall include—

(A) the predicted operational performance of future tank-fired munitions, including those incorporating beyond line of sight technology, based on the relevant modeling and simulation of future combat scenarios of the Army, including a detailed analysis on the suitability of each munition to address the full spectrum of targets across the entire range of the tank (including close range, mid-range, long-range, and beyond line of sight);

(B) a detailed assessment of the projected costs to develop and field each tank-fired munition included in the analysis, including those incorporating beyond line of sight technology; and

(C) a comparative analysis of each tank-fired munition included in the analysis, including suitability to address known capability gaps and overmatch against known and projected threats.

(3) MUNITIONS INCLUDED.—In conducting the cost benefit analysis under paragraph (1), the Secretary shall include, at a minimum, the Mid-Range Munition, the Advanced Kinetic Energy round, and the Advanced Multipurpose Program.

(b) BRIEFING.—Not later than April 15, 2011, the Secretary shall provide a detailed briefing to the congressional defense committees on the cost benefit analysis conducted under subsection (a).

SEC. 233. ANNUAL COMPTROLLER GENERAL REPORT ON THE VH-(XX) PRESIDENTIAL HELICOPTER ACQUISITION PROGRAM.

(a) ANNUAL GAO REVIEW.—During the period beginning on the date of the enactment of this Act and ending on March 1, 2013, the Comptroller General of the United States shall conduct an annual review of the VH-(XX) aircraft acquisition program.

(b) ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than March 1 of each year beginning in 2011 and ending in 2013, the Comptroller General shall submit to the congressional defense committees a report on the review of the VH-(XX) aircraft acquisition program conducted under subsection (a).

(2) MATTERS TO BE INCLUDED.—Each report on the review of the VH-(XX) aircraft acquisition program shall include the following:

(A) The extent to which the program is meeting development and procurement cost, schedule, performance, and risk mitigation goals.

(B) With respect to meeting the desired initial operational capability and full operational capability dates for the VH-(XX) aircraft, the progress and results of—

(i) developmental and operational testing of the aircraft; and

(ii) plans for correcting deficiencies in aircraft performance, operational effectiveness, reliability, suitability, and safety.

(C) An assessment of VH-(XX) aircraft procurement plans, production results, and efforts to improve manufacturing efficiency and supplier performance.

(D) An assessment of the acquisition strategy of the VH-(XX) aircraft, including whether such strategy is in compliance with acquisition management best-practices and the acquisition policy and regulations of the Department of Defense.

(E) A risk assessment of the integrated master schedule and the test and evaluation master plan of the VH-(XX) aircraft as it relates to—

(i) the probability of success;

(ii) the funding required for such aircraft compared with the funding programmed; and

(iii) development and production concurrency.

(3) **ADDITIONAL INFORMATION.**—In submitting to the congressional defense committees the first report under paragraph (1) and a report following any changes made by the Secretary of the Navy to the baseline documentation of the VH-(XX) aircraft acquisition program, the Comptroller General shall include, with respect to such program, an assessment of the sufficiency and objectivity of—

- (A) the analysis of alternatives;
- (B) the initial capabilities document;
- (C) the capabilities development document; and
- (D) the systems requirement document.

Subtitle E—Other Matters

SEC. 241. SENSE OF CONGRESS AFFIRMING THE IMPORTANCE OF DEPARTMENT OF DEFENSE PARTICIPATION IN DEVELOPMENT OF NEXT GENERATION SEMICONDUCTOR TECHNOLOGIES.

(a) **FINDINGS.**—Congress finds the following:

(1) The next generation of weapons systems, battlefield sensors, and intelligence platforms will need to be lighter, more agile, consume less power, and have greater computational power, which can be achieved by decreasing the feature size of integrated circuits to the nanometer scale.

(2) There is a growing concern in the Department of Defense and the United States intelligence community over the offshore shift in development and production of high capacity semiconductors. Greater reliance on providers of semiconductors in the United States high technology industry would help mitigate the security risks of such an offshore shift.

(3) The development of new manufacturing technologies is recognized in the semiconductor industry as critical to the development of the next generation of integrated circuits.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the United States should pursue research and development capabilities to take the lead in developing and producing the next generation of integrated circuits; and

(2) the Department of Defense should continue to work with industry and academia in pursuing the research and development of advanced manufacturing techniques in support of the development of the next generation of integrated circuits needed for the requirements and specialized applications of the Department of Defense.

SEC. 242. PILOT PROGRAM ON COLLABORATIVE ENERGY SECURITY.

(a) **PILOT PROGRAM.**—The Secretary of Defense, in coordination with the Secretary of Energy, may carry out a collaborative energy security pilot program involving one or more partnerships between one military installation and one national laboratory, for the purpose of evaluating and validating secure, salable microgrid components and systems for deployment.

(b) **SELECTION OF MILITARY INSTALLATION AND NATIONAL LABORATORY.**—If the Secretary of Defense carries out a pilot program under this section, the Secretary of Defense and the Secretary of Energy shall jointly select a military installation and a national laboratory for the purpose of carrying out the pilot program. In making such selections, the Secretaries shall consider each of the following:

(1) A commitment to participate made by a military installation being considered for selection.

(2) The findings and recommendations of relevant energy security assessments of military installations being considered for selection.

(3) The availability of renewable energy sources at a military installation being considered for selection.

(4) Potential synergies between the expertise and capabilities of a national laboratory being considered for selection and the infrastructure, interests, or other energy security needs of a military installation being considered for selection.

(5) The effects of any utility tariffs, surcharges, or other considerations on the feasibility of enabling any excess electricity generated on a military installation being considered for selection to be sold or otherwise made available to the local community near the installation.

(c) **PROGRAM ELEMENTS.**—A pilot program under this section shall be carried out as follows:

(1) Under the pilot program, the Secretaries shall evaluate and validate the performance of new energy technologies that may be incorporated into operating environments.

(2) The pilot program shall involve collaboration with the Office of Electricity Delivery and Energy Reliability of the Department of Energy and other offices and agencies within the Department of Energy, as appropriate, and the Environmental Security Technical Certification Program of the Department of Defense.

(3) Under the pilot program, the Secretary of Defense shall investigate opportunities for any excess electricity created for the military installation to be sold or otherwise made available to the local community near the installation.

(4) The Secretary of Defense shall use the results of the pilot program as the basis for informing key performance parameters and validating energy components and designs that could be implemented in various military installations across the country and at forward operating bases.

(5) The pilot program shall support the effort of the Secretary of Defense to use the military as a test bed to demonstrate innovative energy technologies.

(d) **IMPLEMENTATION AND DURATION.**—If the Secretary of Defense carries out a pilot program under this section, such pilot program shall begin by not later than July 1, 2011, and shall be not less than three years in duration.

(e) **REPORTS.**—

(1) **INITIAL REPORT.**—If the Secretary of Defense carries out a pilot program under this section, the Secretary shall submit to the appropriate congressional committees by not later than October 1, 2011, an initial report that provides an update on the implementation of the pilot program, including an identification of the selected military installation and national laboratory partner and a description of technologies under evaluation.

(2) **FINAL REPORT.**—Not later than 90 days after completion of a pilot program under this section, the Secretary shall submit to the appropriate congressional committees a report on the pilot program, including any findings and recommendations of the Secretary.

(f) **DEFINITIONS.**—For purposes of this section:

(1) The term “appropriate congressional committees” means—

(A) the Committee on Armed Services, the Committee on Energy and Commerce, and the Committee on Science and Technology of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Energy and Natural Resources, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) The term “microgrid” means an integrated energy system consisting of interconnected loads and distributed energy resources (including generators, energy storage devices, and smart controls) that can operate with the utility grid or in an intentional islanding mode.

(3) The term “national laboratory” means—

(A) a national laboratory (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801)); or

(B) a national security laboratory (as defined in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471)).

SEC. 243. PILOT PROGRAM TO INCLUDE TECHNOLOGY PROTECTION FEATURES DURING RESEARCH AND DEVELOPMENT OF DEFENSE SYSTEMS.

(a) **PILOT PROGRAM.**—The Secretary of Defense shall carry out a pilot program to develop and incorporate technology protection features in a designated system during the research and development phase of such system.

(b) **ANNUAL REPORTS.**—Not later than December 31 of each year in which the Secretary carries out the pilot program established under this section, the Secretary shall submit to the congressional defense committees a report on the pilot program, including a list of each designated system included in the program.

(c) **TERMINATION.**—The pilot program established under this section shall terminate on October 1, 2015.

(d) **DEFINITIONS.**—In this section:

(1) The term “designated system” means any system (including a major system, as defined in section 2302(5) of title 10, United States Code) that the Under Secretary of Defense for Acquisition, Technology, and Logistics designates as being included in the pilot program established under this section.

(2) The term “technology protection features” means the technical modifications necessary to protect critical program information, including anti-tamper technologies and other systems engineering activities intended to prevent or delay exploitation of critical technologies in a designated system.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.

Subtitle B—Energy and Environmental Provisions

Sec. 311. Reimbursement of Environmental Protection Agency for certain costs in connection with the Twin Cities Army Ammunition Plant, Minnesota.

Sec. 312. Payment to Environmental Protection Agency of stipulated penalties in connection with Naval Air Station, Brunswick, Maine.

Sec. 313. Requirements related to the investigation of exposure to drinking water at Camp Lejeune, North Carolina.

Sec. 314. Comptroller General assessment on military environmental exposures.

Subtitle C—Workplace and Depot Issues

Sec. 321. Technical amendments to requirement for service contract inventory.

Sec. 322. Repeal of conditions on expansion of functions performed under prime vendor contracts for depot-level maintenance and repair.

Sec. 323. Prohibition on establishing goals or quotas for conversion of functions to performance by Department of Defense civilian employees.

Subtitle D—Reports

Sec. 331. Additional reporting requirements relating to corrosion prevention projects and activities.

Sec. 332. Modification and repeal of certain reporting requirements.

Sec. 333. Report on Air Sovereignty Alert mission.

Sec. 334. Report on the SEAD/DEAD mission requirement for the Air Force.

Sec. 335. Requirement to update study on strategic seaports.

Subtitle E—Limitations and Extensions of Authority

Sec. 341. Permanent authority to accept and use landing fees charged for use of domestic military airfields by civil aircraft.

Sec. 342. Extension of Arsenal Support Program Initiative.

Sec. 343. Limitation on obligation of funds for the Army Human Terrain System.

Sec. 344. Limitation on obligation of funds pending submission of classified justification material.

Sec. 345. Requirements for transferring aircraft within the Air Force inventory.

Sec. 346. Commercial sale of small arms ammunition in excess of military requirements.

Subtitle F—Other Matters

Sec. 351. Expedited processing of background investigations for certain individuals.

Sec. 352. Revision to authorities relating to transportation of civilian passengers and commercial cargoes by Department of Defense when space unavailable on commercial lines.

Sec. 353. Technical correction to obsolete reference relating to use of flexible hiring authority to facilitate performance of certain Department of Defense functions by civilian employees.

Sec. 354. Authority for payment of full replacement value for loss or damage to household goods in limited cases not covered by carrier liability.

Sec. 355. Recovery of improperly disposed of Department of Defense property.

Sec. 356. Operational readiness models.

Sec. 357. Sense of Congress regarding continued importance of High-Altitude Aviation Training Site, Colorado.

Sec. 358. Study of effects of new construction of obstructions on military installations and operations.

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2011 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for oper-

ation and maintenance, in amounts as follows:

(1) For the Army, \$33,921,165,000.

(2) For the Navy, \$38,232,943,000.

(3) For the Marine Corps, \$5,590,340,000.

(4) For the Air Force, \$36,822,516,000.

(5) For Defense-wide activities, \$30,562,619,000.

(6) For the Army Reserve, \$2,879,077,000.

(7) For the Naval Reserve, \$1,367,764,000.

(8) For the Marine Corps Reserve, \$285,234,000.

(9) For the Air Force Reserve, \$3,403,827,000.

(10) For the Army National Guard, \$6,621,704,000.

(11) For the Air National Guard, \$6,042,239,000.

(12) For the United States Court of Appeals for the Armed Forces, \$14,068,000.

(13) For the Acquisition Development Workforce Fund, \$217,561,000.

(14) For Environmental Restoration, Army, \$444,581,000.

(15) For Environmental Restoration, Navy, \$304,867,000.

(16) For Environmental Restoration, Air Force, \$502,653,000.

(17) For Environmental Restoration, Defense-wide, \$10,744,000.

(18) For Environmental Restoration, Formerly Used Defense Sites, \$296,546,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, \$108,032,000.

(20) For Cooperative Threat Reduction programs, \$522,512,000.

Subtitle B—Energy and Environmental Provisions

SEC. 311. REIMBURSEMENT OF ENVIRONMENTAL PROTECTION AGENCY FOR CERTAIN COSTS IN CONNECTION WITH THE TWIN CITIES ARMY AMMUNITION PLANT, MINNESOTA.

(a) AUTHORITY TO REIMBURSE.—

(1) TRANSFER AMOUNT.—Using funds described in subsection (b) and notwithstanding section 2215 of title 10, United States Code, the Secretary of Defense may transfer not more than \$5,611,670.67 in fiscal year 2011 to the Hazardous Substance Superfund.

(2) PURPOSE OF REIMBURSEMENT.—The amount authorized to be transferred under paragraph (1) is to reimburse the Environmental Protection Agency for costs the Agency incurred relating to the response actions performed at the Twin Cities Army Ammunition Plant, Minnesota.

(3) INTERAGENCY AGREEMENT.—The reimbursement described in paragraph (2) is intended to satisfy certain terms of the interagency agreement entered into by the Department of the Army and the Environmental Protection Agency for the Twin Cities Army Ammunition Plant that took effect in December 1987 and that provided for the recovery of expenses by the Agency from the Department of the Army.

(b) SOURCE OF FUNDS.—The transfer of funds authorized in subsection (a) shall be made using funds authorized to be appropriated for fiscal year 2011 for operation and maintenance for Environmental Restoration, Army.

SEC. 312. PAYMENT TO ENVIRONMENTAL PROTECTION AGENCY OF STIPULATED PENALTIES IN CONNECTION WITH NAVAL AIR STATION, BRUNSWICK, MAINE.

(a) AUTHORITY TO TRANSFER FUNDS.—From amounts authorized to be appropriated for fiscal year 2011 for the Department of Defense Base Closure Account 2005, and notwithstanding section 2215 of title 10, United States Code, the Secretary of Defense may transfer an amount of not more than \$153,000

to the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986.

(b) PURPOSE OF TRANSFER.—The purpose of a transfer made under subsection (a) is to satisfy a stipulated penalty assessed by the Environmental Protection Agency on June 12, 2008, against Naval Air Station, Brunswick, Maine, for the failure of the Navy to sample certain monitoring wells in a timely manner pursuant to a schedule included in the Federal facility agreement for Naval Air Station, Brunswick, which was entered into by the Secretary of the Navy and the Administrator of the Environmental Protection Agency on October 19, 1990.

(c) ACCEPTANCE OF PAYMENT.—If the Secretary of Defense makes a transfer authorized under subsection (a), the Administrator of the Environmental Protection Agency shall accept the amount transferred as payment in full of the penalty referred to in subsection (b).

SEC. 313. REQUIREMENTS RELATED TO THE INVESTIGATION OF EXPOSURE TO DRINKING WATER AT CAMP LEJEUNE, NORTH CAROLINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of the Navy and the Agency for Toxic Substances and Disease Registry (hereinafter in this section referred to as “ATSDR”) have been working together for almost two decades to identify the possible effects of exposure to contaminated drinking water at Camp Lejeune, North Carolina.

(2) Multiple studies have been conducted, and are being conducted, which require significant amounts of data and historical documentation, requiring the Department of the Navy and ATSDR to have close collaboration and open access to information.

(3) In June 2010, the Department of the Navy and ATSDR established the Camp Lejeune Data Mining Technical Workgroup to identify and inventory information and data relevant to the ongoing scientific research.

(b) REQUIREMENTS.—

(1) ATSDR ACCESS TO DATA.—By not later than 90 days after the date of the enactment of this Act, the Secretary of the Navy shall ensure that the inventory created by the Camp Lejeune Data Mining Technical Workgroup is accurate and complete and that ATSDR has full access to all of the documents and data listed therein as needed.

(2) AVAILABILITY OF NEW AND NEWLY DISCOVERED DOCUMENTS.—If after the date of enactment of this Act the Secretary of the Navy generates any new document, record, or electronic data, or comes into possession of any existing document, record, or electronic data not previously provided in the Camp Lejeune Data Mining Technical Workgroup, the Secretary of the Navy shall make such information immediately available to ATSDR with an electronic inventory incorporating the newly located or generated document, record, or electronic data.

(3) LIMITATION ON ADJUDICATION OF CLAIMS.—None of the funds authorized to be appropriated by this Act for fiscal year 2011 may be used to adjudicate any administrative claim filed with the Department of the Navy regarding water contamination at Camp Lejeune, North Carolina, until at least 45 days after the date on which the Secretary of the Navy notifies the Committees on Armed Services of the Senate and House of Representatives of the intention of the Secretary to adjudicate the claim.

SEC. 314. COMPTROLLER GENERAL ASSESSMENT ON MILITARY ENVIRONMENTAL EXPOSURES.

(a) FINDINGS.—Congress makes the following findings:

(1) There have been various reports of the exposure of current and former members of the Armed Forces, their dependents, and civilian employees to environmental hazards while living and working on military installations.

(2) There is the need to better understand existing Department of Defense policies and procedures for addressing possible environmental exposures at military installations, determining any correlation between such an exposure and a subsequent health condition, and handling claims and potential compensation.

(3) While many of these possible exposures have been studied and evaluated, the extent to which those exposures caused or contributed to the short- and long-term health conditions of current and former members of the Armed Forces, their dependents, and civilian employees remains largely unknown.

(4) As for these possible exposures and the link between the exposure and subsequent health conditions, there may be better ways for the Federal Government to evaluate, address and, as warranted, provide health benefits or possible compensation as a remedy to these potential exposures.

(b) COMPTROLLER GENERAL ASSESSMENT REQUIRED.—The Comptroller General of the United States shall carry out an assessment of possible exposures to environmental hazards on military installations that includes the following:

(1) An identification of the policies and processes by which the Department of Defense and the military departments respond to environmental hazards on military installations and possible exposures and determine if there is a standard framework.

(2) An identification of the existing processes available to current and former members of the Armed Forces, their dependents, and civilian employees to seek compensation and health benefits for exposures to environmental hazards on military installations.

(3) A comparison of the processes identified under paragraph (2) with other potential options or methods for providing health benefits or compensation to individuals for injuries that may have resulted from environmental hazards on military installations.

(4) An examination of what is known about the advantages and disadvantages of other potential options or methods as well as any shortfalls in the current processes.

(5) Recommendations for any administrative or legislative action that the Comptroller General deems appropriate in the context of the assessment.

(c) REPORT.—Not later than January 1, 2012, the Comptroller General shall submit to the Chairmen and Ranking Members of the Committees on Armed Services of the Senate and the House of Representatives a report on the findings and recommendations, as appropriate, of the Comptroller General with respect to the assessment conducted under subsection (b).

(d) COORDINATION.—In carrying out subsection (b), the Comptroller General shall receive comments from the Secretary of Defense and others, as appropriate.

(e) CONSTRUCTION.—Nothing in this section shall be interpreted to impede, encroach, or delay—

(1) any studies, reviews, or assessments of any actual or potential environmental exposures at any military installation, including the studies included in the Agency for Toxic

Substances and Disease Registry's Annual Plan of Work regarding the water contamination at Camp Lejeune, North Carolina;

(2) the Agency for Toxic Substances and Disease Registry's statutory obligations, including its obligations under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) regarding Superfund sites; or

(3) the remediation of any environmental contamination or hazard at any military installation.

(f) MILITARY INSTALLATION DEFINED.—In this section, the term "military installation" has the meaning given that term in section 2801(c)(4) of title 10, United States Code.

Subtitle C—Workplace and Depot Issues

SEC. 321. TECHNICAL AMENDMENTS TO REQUIREMENT FOR SERVICE CONTRACT INVENTORY.

Section 2330a(c) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) in paragraph (1), in the matter preceding subparagraph (A)—

(A) by striking the second sentence;

(B) by inserting after the first sentence the following new sentence: "The guidance for compiling the inventory shall be issued by the Under Secretary of Defense for Personnel and Readiness, the Under Secretary of Defense (Comptroller), and the Under Secretary of Defense for Acquisition, Technology, and Logistics, as follows:"; and

(C) by inserting after the sentence added by subparagraph (B) the following:

"(A) The Under Secretary of Defense for Personnel and Readiness, as supported by the Under Secretary of Defense (Comptroller), shall be responsible for developing guidance for—

"(i) the collection of data regarding functions and missions performed by contractors in a manner that is comparable to the manpower data elements used in inventories of functions performed by Department of Defense employees; and

"(ii) the calculation of contractor manpower equivalents in a manner that is comparable to the calculation of full-time equivalents for use in inventories of functions performed by Department of Defense employees.

"(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall be responsible for developing guidance on other data elements and implementing procedures.";

(3) by inserting after subparagraph (B) of paragraph (1), as added by paragraph (2), the following:

"(2) The entry for an activity on an inventory under this subsection shall include, for the fiscal year covered by such entry, the following:"; and

(4) in paragraph (2), as redesignated by paragraph (3), by striking subparagraph (E) and inserting the following new subparagraph (E):

"(E) The number of contractor employees, expressed as full-time equivalents for direct labor, using direct labor hours and associated cost data collected from contractors (except that estimates may be used where such data is not available and cannot reasonably be made available in a timely manner for the purpose of the inventory).".

SEC. 322. REPEAL OF CONDITIONS ON EXPANSION OF FUNCTIONS PERFORMED UNDER PRIME VENDOR CONTRACTS FOR DEPOT-LEVEL MAINTENANCE AND REPAIR.

Section 346 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 1979; 10 U.S.C. 2464 note) is repealed.

SEC. 323. PROHIBITION ON ESTABLISHING GOALS OR QUOTAS FOR CONVERSION OF FUNCTIONS TO PERFORMANCE BY DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) PROHIBITION.—The Secretary of Defense may not establish, apply, or enforce any numerical goal, target, or quota for the conversion of Department of Defense functions to performance by Department of Defense civilian employees, unless such goal, target, or quota is based on considered research and analysis, as required by section 235, 2330a, or 2463 of title 10, United States Code.

(b) DECISIONS TO INSOURCE.—In deciding which functions should be converted to performance by Department of Defense civilian employees pursuant to section 2463 of title 10, United States Code, the Secretary of Defense shall use the costing methodology outlined in the Directive-Type Memorandum 09-007 (Estimating and Comparing the Full Costs of Civilian and Military Manpower and Contractor Support) or any successor guidance for the determination of costs when costs are the sole basis for the decision. The Secretary of a military department may issue supplemental guidance to assist in such decisions affecting functions of that military department.

(c) REPORTS.—

(1) REPORT TO CONGRESS.—Not later than March 31, 2011, the Secretary of Defense shall submit to the congressional defense committees a report on the decisions with respect to the conversion of functions to performance by Department of Defense civilian employees made during fiscal year 2010. Such report shall identify, for each such decision—

(A) the agency or service of the Department involved in the decision;

(B) the basis and rationale for the decision; and

(C) the number of contractor employees whose functions were converted to performance by Department of Defense civilian employees.

(2) COMPTROLLER GENERAL REVIEW.—Not later than 120 days after the submittal of the report under paragraph (1), the Comptroller General of the United States shall submit to the congressional defense committees an assessment of the report.

(d) CONSTRUCTION.—Nothing in this section shall be construed—

(1) to preclude the Secretary of Defense from establishing, applying, and enforcing goals for the conversion of acquisition functions and other critical functions to performance by Department of Defense civilian employees, where such goals are based on considered research and analysis; or

(2) to require the Secretary of Defense to conduct a cost comparison before making a decision to convert any acquisition function or other critical function to performance by Department of Defense civilian employees, where factors other than cost serve as a basis for the Secretary's decision.

Subtitle D—Reports

SEC. 331. ADDITIONAL REPORTING REQUIREMENTS RELATING TO CORROSION PREVENTION PROJECTS AND ACTIVITIES.

Section 2228(e) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking “The” and inserting “For the fiscal year covered by the report and the preceding fiscal year, the”; and

(B) by adding at the end the following new subparagraph:

“(E) For the fiscal year covered by the report and the preceding fiscal year, the amount of funds requested in the budget for each project or activity described in subsection (d) compared to the funding requirements for the project or activity.”;

(2) in paragraph (2)(B), by inserting before the period at the end the following: “, including the annex to the report described in paragraph (3)”;

(3) by adding at the end the following new paragraph:

“(3) Each report under this section shall include, in an annex to the report, a copy of the annual corrosion report most recently submitted by the corrosion control and prevention executive of each military department under section 903(b)(5) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4567; 10 U.S.C. 2228 note).”.

SEC. 332. MODIFICATION AND REPEAL OF CERTAIN REPORTING REQUIREMENTS.

(a) **PRIORITIZATION OF FUNDS.**—Subsection (a) of section 323 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (10 U.S.C. 229 note) is amended—

(1) in paragraph (1), by striking “the global war on terrorism” and inserting “overseas contingency operations”; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “units transforming to modularity” and inserting “modular units”; and

(B) in subparagraph (B), by striking “2012” and inserting “2015”.

(b) **BUDGET INFORMATION.**—Subsection (b) of such section is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “the global war on terrorism” and inserting “overseas contingency operations”; and

(ii) by inserting “and” at the end;

(B) in subparagraph (B)—

(i) in clause (i), by striking “units transforming to modularity” and inserting “modular units”; and

(ii) by striking “; and” at the end and inserting a period; and

(C) by striking subparagraph (C); and

(c) by striking paragraph (3).

(c) **ANNUAL REPORT ON ARMY PROGRESS.**—Subsection (c) of such section is amended—

(1) by striking paragraphs (1), (2), (3), (4), (5), (6), and (7);

(2) by redesignating paragraphs (8) and (9) as subparagraphs (D) and (F), respectively;

(3) by submitting “(1)” before “On the date”;

(4) in paragraph (1), as designated by paragraph (3) of this subsection, by striking “in meeting” and all that follows through “shall be itemized” and inserting “in fulfilling the key enabler equipment requirements of modular units and in repairing, recapitalizing, and replacing equipment and materiel used in support of overseas contingency operations underway as of the date of such report, and associated sustainment. Any information included in the report shall be itemized”;

(5) by striking “Each such report” and all that follows through the colon and inserting the following:

“(2) Each such report shall include the following:

“(A) An assessment of the key enabler equipment and personnel of the Army, including—

“(i) a comparison of—

“(I) the authorized level of key enabler equipment;

“(II) the level of key enabler equipment on hand; and

“(III) the planned purchases of key enabler equipment as set forth in the future-years defense program submitted with the budget for such fiscal year;

“(ii) a comparison of the authorized and actual personnel levels for personnel with key enabler personnel specialties with the requirements for key enabler personnel specialties;

“(iii) an identification of any shortfalls indicated by the comparisons in clauses (i) and (ii); and

“(iv) an assessment of the number and type of key enabler equipment that the Army projects it will have on hand by the end of such future-years defense program that will require repair, recapitalization, or replacement at or before the end of the time period covered by such future-years defense program (which assessment shall account for additional repair, recapitalization, or replacement resulting from use of key enabler equipment in overseas contingency operations).”

“(B) If an assessment under subparagraph (A) identifies shortfalls that will exist within the period covered by the future-years defense program submitted in such fiscal year, an identification of the risks associated with such shortfalls and mitigation strategies to address such risks.

“(C) A schedule for the accomplishment of the purposes set forth in paragraph (1).”;

(6) in paragraph (2), as amended by paragraphs (2) and (5) of this subsection, by inserting after subparagraph (D) the following new subparagraph:

“(E) A description of the status of the development of doctrine on how modular combat, functional, and support forces will train, be sustained, and fight.”; and

(7) in subparagraph (F) of paragraph (2) as redesignated by paragraphs (2) and (5) of this subsection, by striking “paragraphs (1) through (8)” and inserting “subparagraphs (A) through (E)”.

(d) **ANNUAL COMPTROLLER GENERAL ON ARMY PROGRESS.**—Subsection (d) of such section is amended to read as follows:

“(d) **ANNUAL COMPTROLLER GENERAL REPORT ON ARMY PROGRESS.**—Not later than 180 days after the date on which the Secretary of the Army submits a report under subsection (c), the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth the Comptroller General’s review of such report. Each report under this subsection shall include such information and recommendations as the Comptroller General considers appropriate in light of such review.”.

(e) **DEFINITIONS.**—Such section is further amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d), as amended by subsection (d) of this section, the following new subsection (e):

“(e) **DEFINITIONS.**—In this section:

“(1) The term ‘contingency operation’ has the meaning given that term in section 101(a)(13) of title 10, United States Code.

“(2) The term ‘key enabler’, in the case of equipment or personnel, means equipment or personnel, as the case may be, that make a modular force or unit as capable or more ca-

pable than the non-modular force or unit it replaced, including the following:

“(A) Equipment such as tactical and high frequency radio, tactical wheeled vehicles, battle command systems, unmanned aerial vehicles, all-source analysis systems, analysis and control elements, fire support sensor systems, firefinder radar, joint network nodes, long-range advanced scout surveillance systems, Trojan Spirit systems (or any successor system), and any other equipment items identified by the Army as making a modular force or unit as capable or more capable than the non-modular force or unit it replaced.

“(B) Personnel in specialties needed to operate or support the equipment specified in subparagraph (A) and personnel in specialties relating to civil affairs, communication and information systems operation, explosive ordnance disposal, military intelligence, psychological operations, and any other personnel specialties identified by the Army as making a modular force or unit as capable or more capable than the non-modular force or unit it replaced.”.

(f) **TERMINATION OF REPORT REQUIREMENT.**—Subsection (f) of such section, as redesignated by subsection (e)(1) of this section, is further amended by striking “fiscal year 2012” and inserting “fiscal year 2015”.

(g) **REPEAL OF REPORT ON DISPOSITION OF RESERVE EQUIPMENT.**—Title III of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) is amended by striking section 349.

(h) **REPEAL OF REPORT ON READINESS OF GROUND FORCES.**—Title III of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181) is amended by striking section 355.

SEC. 333. REPORT ON AIR SOVEREIGNTY ALERT MISSION.

(a) **REPORT REQUIRED.**—Not later than March 1, 2011, the Commander of the United States Northern Command and the North American Aerospace Defense Command shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the Air Sovereignty Alert (hereinafter in this section referred to as “ASA”) mission and Operation Noble Eagle.

(b) **CONSULTATION.**—The Commander shall consult with the Director of the National Guard Bureau who shall review and provide independent analysis and comments on the report required under subsection (a).

(c) **CONTENTS OF REPORT.**—The report required under subsection (a) shall include each of the following:

(1) An evaluation of the ASA mission and of Operation Noble Eagle.

(2) An evaluation of each of the following:

(A) The current ability to perform the ASA mission with respect to training, equipment, and basing.

(B) Any current deficiencies in the ASA mission.

(C) Any changes in threats that would require any change in training, equipment, and basing to effectively support the ASA mission.

(D) An evaluation of whether the ASA mission is fully resourced with respect to funding, personnel, and aircraft.

(E) A description of the coverage of ASA and Operation Noble Eagle units with respect to—

(i) population centers covered; and

(ii) targets of value covered, including symbolic (including national monuments, sports venues, and centers of commerce), critical infrastructure (including power

plants, ports, dams, bridges, and telecommunication nodes), and national security (including military bases and organs of government) targets.

(F) An unclassified, notional area of responsibility conforming to the unclassified response time of the unit represented graphically on a map and detailing the total population and number of targets of value covered, as described in subparagraph (E).

(3) The status of the implementation of the recommendations made in the Government Accountability Office report entitled "Actions Needed to Improve Management of Air Sovereignty Alert Operations to Protect U.S. Airspace" (GAO-09-184).

(d) **FORM OF REPORT.**—The report required by subsection (a) shall be submitted in unclassified form, but may contain a classified annex.

SEC. 334. REPORT ON THE SEAD/DEAD MISSION REQUIREMENT FOR THE AIR FORCE.

(a) **REPORT REQUIRED.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Service of the House of Representatives a report describing the feasibility and desirability of designating the Suppression of Enemy Air Defenses/Destruction of Enemy Air Defenses (hereinafter in this section referred to as "SEAD/DEAD") mission as a responsibility of the Air National Guard.

(b) **CONTENTS OF REPORT.**—The report required under subsection (a) shall include each of the following:

(1) An evaluation of the SEAD/DEAD mission, as in effect on the date of the enactment of this Act.

(2) An evaluation of the following with respect to the SEAD/DEAD mission:

(A) The current ability of the Air National Guard to perform the mission with regards to training, equipment, funding, and basing.

(B) Any current deficiencies of the Air National Guard to perform the mission, including range infrastructure or other improvements needed to support peacetime training and readiness.

(C) The corrective actions and costs required to address any deficiencies described in subparagraph (B).

(c) **CONSULTATION.**—The Secretary of the Air Force shall consult with the Director of the National Guard Bureau who shall review and provide independent analysis and comments on the report required under subsection (a).

SEC. 335. REQUIREMENT TO UPDATE STUDY ON STRATEGIC SEAPORTS.

The Commander of the United States Transportation Command shall update the study entitled "PORT LOOK 2008 Strategic Seaports Study". In updating the study under this section, the Commander shall consider the infrastructure in the vicinity of a strategic port, including bridges, roads, and rail, and any issues relating to the capacity and condition of such infrastructure.

Subtitle E—Limitations and Extensions of Authority

SEC. 341. PERMANENT AUTHORITY TO ACCEPT AND USE LANDING FEES CHARGED FOR USE OF DOMESTIC MILITARY AIRFIELDS BY CIVIL AIRCRAFT.

(a) **IN GENERAL.**—Chapter 159 of title 10, United States Code, is amended by adding at the end the following new section:

"§2697. Acceptance and use of landing fees charged for use of domestic military airfields by civil aircraft

"(a) **AUTHORITY.**—The Secretary of a military department may impose landing fees for

the use by civil aircraft of domestic military airfields under the jurisdiction of that Secretary and may use any fees received under this section as a source of funding for the operation and maintenance of airfields of that department.

"(b) **UNIFORM LANDING FEES.**—The Secretary of Defense shall prescribe the amount of the landing fees that may be imposed under this section. Such fees shall be uniform among the military departments.

"(c) **USE OF PROCEEDS.**—Amounts received for a fiscal year in payment of landing fees imposed under this section for the use of a military airfield shall be credited to the appropriation that is available for that fiscal year for the operation and maintenance of that military airfield, shall be merged with amounts in the appropriation to which credited, and shall be available for that military airfield for the same period and purposes as the appropriation is available.

"(d) **LIMITATION.**—The Secretary of a military department shall determine whether consideration for a landing fee has been received in a lease, license, or other real estate agreement for an airfield and shall use such a determination to offset appropriate amounts imposed under subsection (a) for that airfield."

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2697. Acceptance and use of landing fees charged for use of domestic military airfields by civil aircraft."

SEC. 342. EXTENSION OF ARSENAL SUPPORT PROGRAM INITIATIVE.

Section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398; 10 U.S.C. 4551 note), as amended by section 341 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 69) and section 354 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2264), is further amended—

(1) in subsection (a), by striking "2011" and inserting "2012"; and

(2) in subsection (g)(1), by striking "2011" and inserting "2012".

SEC. 343. LIMITATION ON OBLIGATION OF FUNDS FOR THE ARMY HUMAN TERRAIN SYSTEM.

(a) **LIMITATION.**—Of the amounts authorized to be appropriated for the Human Terrain System (hereinafter in this section referred to as the "HTS") that are described in subsection (b), not more than 85 percent of the amounts remaining unobligated as of the date of enactment of this Act may be obligated until the Secretary of the Army submits to the congressional defense committees each of the following:

(1) A validation of all HTS requirements, including any prior joint urgent operational needs statements.

(2) A certification that policies, procedures, and guidance are in place to protect the integrity of social science researchers participating in HTS, including ethical guidelines and human studies research procedures.

(b) **COVERED AUTHORIZATIONS OR APPROPRIATIONS.**—The amounts authorized to be appropriated described in this subsection are amounts authorized to be appropriated for fiscal year 2011, including such amounts authorized to be appropriated for overseas contingency operations, for—

(1) operation and maintenance for HTS;

(2) procurement for Mapping the Human Terrain hardware and software; and

(3) research, development, test, and evaluation for Mapping the Human Terrain hardware and software.

SEC. 344. LIMITATION ON OBLIGATION OF FUNDS PENDING SUBMISSION OF CLASSIFIED JUSTIFICATION MATERIAL.

Of the amounts authorized to be appropriated in this title for fiscal year 2011 for the Office of the Secretary of Defense, of the amount that corresponds with budget activity four, line 270, in the budget transmitted to Congress by the President for fiscal year 2011, not more than 90 percent may be obligated until 15 days after the information cited in the classified annex accompanying this Act relating to the provision of classified justification material to Congress is provided to the congressional defense committees.

SEC. 345. REQUIREMENTS FOR TRANSFERRING AIRCRAFT WITHIN THE AIR FORCE INVENTORY.

(a) **REQUIREMENTS.**—In proposing the transfer of ownership of any aircraft from ownership by a reserve component of the Air Force to ownership by a regular component of the Air Force, including such a transfer to be made on a temporary basis, the Secretary of the Air Force shall ensure that a written agreement regarding such transfer of ownership has been entered into between the Director of the Air National Guard, the Commander of the Air Force Reserve Command, and the Chief of Staff of the Air Force. Any such agreement shall specify each of the following:

(1) The number of and type of aircraft to be transferred.

(2) In the case of any aircraft transferred on a temporary basis—

(A) the schedule under which the aircraft will be returned to the ownership of the reserve component;

(B) a description of the condition, including the estimated remaining service life, in which any such aircraft will be returned to the reserve component; and

(C) a description of the allocation of resources, including the designation of responsibility for funding aircraft operation and maintenance and a detailed description of budgetary responsibilities, for the period for which the ownership of the aircraft is transferred to the regular component.

(3) The designation of responsibility for funding depot maintenance requirements or modifications to the aircraft generated as a result of the transfer, including any such requirements and modifications required during the period for which the ownership of the aircraft is transferred to the regular component.

(4) Any location from which the aircraft will be transferred.

(5) The effects on manpower that such a transfer may have at any facility identified under paragraph (4).

(6) The effects on the skills and proficiencies of the reserve component personnel affected by the transfer.

(7) Any other items the Director of the Air National Guard or the Commander of the Air Force Reserve Command determines are necessary in order to execute such a transfer.

(b) **SUBMITTAL OF AGREEMENTS TO CONGRESS.**—The Secretary of the Air Force may not take any action to transfer the ownership of an aircraft as described in subsection (a) until the Secretary submits to the congressional defense committees an agreement entered into pursuant to such subsection regarding the transfer of ownership of the aircraft.

SEC. 346. COMMERCIAL SALE OF SMALL ARMS AMMUNITION IN EXCESS OF MILITARY REQUIREMENTS.

(a) **COMMERCIAL SALE OF SMALL ARMS AMMUNITION.**—Small arms ammunition and ammunition components in excess of military requirements, including fired cartridge cases, which are not otherwise prohibited from commercial sale or certified by the Secretary of Defense as unserviceable or unsafe, may not be demilitarized or destroyed and shall be made available for commercial sale.

(b) **DEADLINE FOR GUIDANCE.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance to ensure compliance with subsection (a). Not later than 15 days after issuing such guidance, the Secretary shall submit to the congressional defense committees a letter of compliance providing notice of such guidance.

(c) **PREFERENCE.**—No small arms ammunition and ammunition components in excess of military requirements may be made available for commercial sale under this section before such ammunition and ammunition components are offered for transfer or purchase, as authorized by law, to another Federal department or agency or for sale to State and local law enforcement, firefighting, homeland security, and emergency management agencies pursuant to section 2576 of title 10, United States Code, as amended by this Act.

Subtitle F—Other Matters

SEC. 351. EXPEDITED PROCESSING OF BACKGROUND INVESTIGATIONS FOR CERTAIN INDIVIDUALS.

(a) **EXPEDITED PROCESSING OF SECURITY CLEARANCES.**—Section 1564 of title 10, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection (a):

“(a) **EXPEDITED PROCESS.**—The Secretary of Defense may prescribe a process for expediting the completion of the background investigations necessary for granting security clearances for—

“(1) Department of Defense personnel and Department of Defense contractor personnel who are engaged in sensitive duties that are critical to the national security; and

“(2) any individual who—

“(A) submits an application for a position as an employee of the Department of Defense for which—

“(i) the individual is qualified; and

“(ii) a security clearance is required; and

“(B) is—

“(i) a member of the armed forces who was retired or separated, or is expected to be retired or separated, for physical disability pursuant to chapter 61 of this title; or

“(ii) the spouse of a member of the armed forces who retires or is separated, after the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, for a physical disability as a result of a wound, injuries or illness incurred or aggravated in the line of duty (as determined by the Secretary concerned); or

“(iii) the spouse of a member of the armed forces who dies, after the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, as a result of a wound, injury, or illness incurred or aggravated in the line of duty (as determined by the Secretary concerned).”; and

(2) by adding at the end the following new subsection:

“(f) **USE OF APPROPRIATED FUNDS.**—The Secretary of Defense may use funds authorized to be appropriated to the Department of Defense for operation and maintenance to

conduct background investigations under this section for individuals described in subsection (a)(2).”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to a background investigation conducted after the date of the enactment of this Act.

SEC. 352. REVISION TO AUTHORITIES RELATING TO TRANSPORTATION OF CIVILIAN PASSENGERS AND COMMERCIAL CARGOES BY DEPARTMENT OF DEFENSE WHEN SPACE UNAVAILABLE ON COMMERCIAL LINES.

(a) **TRANSPORTATION ON DOD VEHICLES AND AIRCRAFT.**—Subsection (a) of section 2649 of title 10, United States Code, is amended—

(1) by inserting “AUTHORITY.” before “Whenever”; and

(2) by inserting “, vehicles, or aircraft” in the first sentence after “vessels” both places it appears.

(b) **AMOUNTS CHARGED FOR TRANSPORTATION IN EMERGENCY, DISASTER, OR HUMANITARIAN RESPONSE CASES.**—

(1) **LIMITATION ON AMOUNTS CHARGED.**—The second sentence of subsection (a) of such section is amended by inserting before the period the following: “, except that in the case of transportation provided in response to an emergency, a disaster, or a request for humanitarian assistance, any amount charged for such transportation may not exceed the cost of providing the transportation”.

(2) **CREDITING OF RECEIPTS.**—Subsection (b) of such section is amended by striking “Amounts” and inserting “CREDITING OF RECEIPTS.—Any amount received under this section with respect to transportation provided in response to an emergency, a disaster, or a request for humanitarian assistance may be credited to the appropriation, fund, or account used in incurring the obligation for which such amount is received. In all other cases, amounts”.

(c) **TRANSPORTATION DURING CONTINGENCIES OR DISASTER RESPONSES.**—Such section is further amended by adding at the end the following new subsection:

“(c) **TRANSPORTATION OF ALLIED PERSONNEL DURING CONTINGENCIES OR DISASTER RESPONSES.**—During the 5-year period beginning on the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, when space is available on vessels, vehicles, or aircraft operated by the Department of Defense and the Secretary of Defense determines that operations in the area of a contingency operation or disaster response would be facilitated if allied forces or civilians were to be transported using such vessels, vehicles, or aircraft, the Secretary may provide such transportation on a noninterference basis, without charge.”.

(d) **CONFORMING AMENDMENT.**—Section 2648 of such title is amended by inserting “, vehicles, or aircraft” after “vessels” in the matter preceding paragraph (1).

(e) **TECHNICAL AMENDMENTS.**—

(1) The heading of section 2648 of such title is amended to read as follows:

“**§2648. Persons and supplies: sea, land, and air transportation**”.

(2) The heading of section 2649 of such title is amended to read as follows:

“**§2649. Civilian passengers and commercial cargoes: transportation on Department of Defense vessels, vehicles, and aircraft**”.

(f) **CLERICAL AMENDMENTS.**—The table of sections at the beginning of chapter 157 of such title is amended by striking the items relating to sections 2648 and 2649 and inserting the following new items:

“2648. Persons and supplies: sea, land, and air transportation.

“2649. Civilian passengers and commercial cargoes: transportation on Department of Defense vessels, vehicles, and aircraft.”.

SEC. 353. TECHNICAL CORRECTION TO OBSOLETE REFERENCE RELATING TO USE OF FLEXIBLE HIRING AUTHORITY TO FACILITATE PERFORMANCE OF CERTAIN DEPARTMENT OF DEFENSE FUNCTIONS BY CIVILIAN EMPLOYEES.

Section 2463(d)(1) of title 10, United States Code, is amended by striking “under the National Security Personnel System, as established”.

SEC. 354. AUTHORITY FOR PAYMENT OF FULL REPLACEMENT VALUE FOR LOSS OR DAMAGE TO HOUSEHOLD GOODS IN LIMITED CASES NOT COVERED BY CARRIER LIABILITY.

(a) **CLAIMS AUTHORITY.**—

(1) **IN GENERAL.**—Chapter 163 of title 10, United States Code, is amended by adding at the end the following new section:

“**§2740. Property loss: reimbursement of members and civilian employees for full replacement value of household effects when contractor reimbursement not available**

“The Secretary of Defense and the Secretaries of the military departments, in paying a claim under section 3721 of title 31 arising from loss or damage to household goods stored or transported at the expense of the Department of Defense, may pay the claim on the basis of full replacement value in any of the following cases in which reimbursement for the full replacement value for the loss or damage is not available directly from a carrier under section 2636a of this title:

“(1) A case in which—

“(A) the lost or damaged goods were stored or transported under a contract, tender, or solicitation in accordance with section 2636a of this title that requires the transportation service provider to settle claims on the basis of full replacement value; and

“(B) the loss or damage occurred under circumstances that exclude the transportation service provider from liability.

“(2) A case in which—

“(A) the loss or damage occurred while the lost or damaged goods were in the possession of an ocean carrier that was transporting, loading, or unloading the goods under a Department of Defense contract for ocean carriage; and

“(B) the land-based portions of the transportation were under contracts, in accordance with section 2636a of this title, that require the land carriers to settle claims on the basis of full replacement value.

“(3) A case in which—

“(A) the lost or damaged goods were transported or stored under a contract or solicitation that requires at least one of the transportation service providers or carriers that handled the shipment to settle claims on the basis of full replacement value pursuant to section 2636a of this title; or

“(B) the lost or damaged goods have been in the custody of more than one independent contractor or transportation service provider; and

“(C) a claim submitted to the delivering transportation service provider or carrier is denied in whole or in part because the loss or damage occurred while the lost or damaged goods were in the custody of a prior transportation service provider or carrier or government entity.”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2740. Property loss: reimbursement of members and civilian employees for full replacement value of household effects when contractor reimbursement not available.”.

(b) **EFFECTIVE DATE.**—Section 2740 of title 10, United States Code, as added by subsection (a), shall apply with respect to losses incurred after the date of the enactment of this Act.

SEC. 355. RECOVERY OF IMPROPERLY DISPOSED OF DEPARTMENT OF DEFENSE PROPERTY.

(a) **IN GENERAL.**—Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2790. Recovery of improperly disposed of Department of Defense property

“(a) **PROHIBITION.**—No member of the armed forces, civilian employee of the United States Government, contractor personnel, or other person may sell, lend, pledge, barter, or give any clothing, arms, articles, equipment, or other military or Department of Defense property except in accordance with the statutes and regulations governing Government property.

“(b) **TRANSFER OF TITLE OR INTEREST INEFFECTIVE.**—If property has been disposed of in violation of subsection (a), the person holding the property has no right or title to, or interest in, the property.

“(c) **AUTHORITY FOR SEIZURE OF IMPROPERLY DISPOSED OF PROPERTY.**—If any person is in the possession of military or Department of Defense property without right or title to, or interest in, the property because it has been disposed of in material violation of subsection (a), any Federal, State, or local law enforcement official may seize the property wherever found. Unless an exception to the warrant requirement under the fourth amendment to the Constitution applies, seizure may be made only—

“(1) pursuant to—

“(A) a warrant issued by the district court of the United States for the district in which the property is located, or for the district in which the person in possession of the property resides or is subject to service; or

“(B) pursuant to an order by such court, issued after a determination of improper transfer under subsection (e); and

“(2) after such a court has issued such a warrant or order.

“(d) **INAPPLICABILITY TO CERTAIN PROPERTY.**—Subsections (b) and (c) shall not apply to—

“(1) property on public display by public or private collectors or museums in secured exhibits; or

“(2) property in the collection of any museum or veterans organization or held in a private collection for the purpose of public display, provided that any such property, the possession of which could undermine national security or create a hazard to public health or safety, has been fully demilitarized.

“(e) **DETERMINATIONS OF VIOLATIONS.**—(1) The district court of the United States for the district in which the property is located, or the district in which the person in possession of the property resides or is subject to service, shall have jurisdiction, regardless of the current approximated or estimated value of the property, to determine whether property was disposed of in violation of subsection (a). Any such determination shall be by a preponderance of the evidence.

“(2) Except as provided in paragraph (3), in the case of property, the possession of which could undermine national security or create a hazard to public health or safety, the de-

termination under paragraph (1) may be made after the seizure of the property, as long as the United States files an action seeking such determination within 90 days after seizure of the property. If the person from whom the property is seized is found to have been lawfully in possession of the property and the return of the property could undermine national security or create a hazard to public health or safety, the Secretary of Defense shall reimburse the person for the market value for the property.

“(3) Paragraph (2) shall not apply to any firearm, ammunition, or ammunition component, or firearm part or accessory that is not prohibited for commercial sale.

“(f) **DELIVERY OF SEIZED PROPERTY.**—Any law enforcement official who seizes property under subsection (c) and is not authorized to retain it for the United States shall deliver the property to an authorized member of the armed forces or other authorized official of the Department of Defense or the Department of Justice.

“(g) **SCOPE OF ENFORCEMENT.**—This section shall apply to the following:

“(1) Any military or Department of Defense property disposed of on or after the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 in a manner that is not in accordance with statutes and regulations governing Government property in effect at the time of the disposal of such property.

“(2) Any significant military equipment disposed of on or after January 1, 2002, in a manner that is not in accordance with statutes and regulations governing Government property in effect at the time of the disposal of such significant military equipment.

“(h) **RULE OF CONSTRUCTION.**—The authority of this section is in addition to any other authority of the United States with respect to property to which the United States may have right or title.

“(i) **DEFINITIONS.**—In this section:

“(1) The term ‘significant military equipment’ means defense articles on the United States Munitions List for which special export controls are warranted because of their capacity for substantial military utility or capability.

“(2) The term ‘museum’ has the meaning given that term in section 273(1) of the Museum Services Act (20 U.S.C. 9172(1)).

“(3) The term ‘fully demilitarized’ means, with respect to equipment or material, the destruction of the military offensive or defensive advantages inherent in the equipment or material, including, at a minimum, the destruction or disabling of key points of such equipment or material, such as the fuselage, tail assembly, wing spar, armor, radar and radomes, armament and armament provisions, operating systems and software, and classified items.

“(4) The term ‘veterans organization’ means any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 165 of such title is amended by inserting after the item relating to section 2789 the following new item:

“2790. Recovery of improperly disposed of Department of Defense property.”.

SEC. 356. OPERATIONAL READINESS MODELS.

(a) **REVIEW OF MODELS.**—Not later than September 30, 2011, the Director of the Congressional Budget Office shall conduct a study to identify, compare, and contrast the budget preparation tools and models used by

each of the military departments to determine funding levels for operational readiness requirements during the programming, planning, budgeting, and execution process and report the findings to the congressional defense committees. In carrying out such study, the Director shall—

(1) assess whether any additional or alternative verified and validated operational readiness model used by any military department for budgeting for flying or ground equipment hours, steaming days, equipment operations, equipment maintenance, and depot maintenance should be incorporated into the budget process of that military department; and

(2) identify any shortcomings or deficiencies in the approach of each military department in building the operational readiness budget for that department.

(b) **CONGRESSIONAL BRIEFING.**—Not later than April 1, 2012, in conjunction with the submission by the Secretary of Defense of the budget justification documents for fiscal year 2013, the Secretaries of each of the military departments, or designated representatives thereof, shall brief the congressional defense committees on their respective responses to the study conducted by the Director of the Congressional Budget Office. Each such briefing shall include—

(1) a description of how the military department concerned plans to address any deficiencies in the development of the operational readiness budget of such department identified in the study; and

(2) a description of how the modeling tools identified in the study could be used by the military department to improve the development of the operational readiness budget for the department.

SEC. 357. SENSE OF CONGRESS REGARDING CONTINUED IMPORTANCE OF HIGH-ALTITUDE AVIATION TRAINING SITE, COLORADO.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The High-Altitude Aviation Training Site in Gypsum, Colorado, is the only Department of Defense aviation school that provides an opportunity for rotor-wing military pilots to train in high-altitude, mountainous terrain, under full gross weight and power management operations.

(2) The High-Altitude Aviation Training Site is operated by the Colorado Army National Guard and is available to pilots of all branches of the Armed Forces and to pilots of allied countries.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the High-Altitude Army Aviation Training Site continues to be critically important to ensuring the readiness and capabilities of rotor-wing military pilots; and

(2) the Department of Defense should take all appropriate actions to prevent encroachment on the High-Altitude Army Aviation Training Site.

SEC. 358. STUDY OF EFFECTS OF NEW CONSTRUCTION OF OBSTRUCTIONS ON MILITARY INSTALLATIONS AND OPERATIONS.

(a) **OBJECTIVE.**—It shall be an objective of the Department of Defense to ensure that the robust development of renewable energy sources and the increased resiliency of the commercial electrical grid may move forward in the United States, while minimizing or mitigating any adverse impacts on military operations and readiness.

(b) **DESIGNATION OF SENIOR OFFICIAL AND LEAD ORGANIZATION.**—

(1) **DESIGNATION.**—Not later than 30 days after the date of the enactment of this Act,

the Secretary of Defense shall designate a senior official of the Department of Defense, and a lead organization of the Department of Defense, to—

(A) serve as the executive agent to carry out the review required by subsection (d);

(B) serve as a clearinghouse to coordinate Department of Defense review of applications for projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, and received by the Department of Defense from the Secretary of Transportation; and

(C) accelerate the development of planning tools necessary to determine the acceptability to the Department of Defense of proposals included in an application for a project submitted pursuant to such section.

(2) **RESOURCES.**—The Secretary shall ensure that the senior official and lead organization designated under paragraph (1) are assigned such personnel and resources as the Secretary considers appropriate to carry out this section.

(c) **INITIAL ACTIONS.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, acting through the senior official and lead organization designated pursuant to subsection (b), shall—

(1) conduct a preliminary review of each application for a project filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, that may have an adverse impact on military operations and readiness, unless such project has been granted a determination of no hazard. Such review shall, at a minimum, for each such project—

(A) assess the likely scope and duration of any adverse impact of such project on military operations and readiness; and

(B) identify any feasible and affordable actions that could be taken in the immediate future by the Department, the developer of such project, or others to mitigate such adverse impact and to minimize risks to national security while allowing such project to proceed with development;

(2) develop, in coordination with other departments and agencies of the Federal Government, an integrated review process to ensure timely notification and consideration of projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, that may have an adverse impact on military operations and readiness;

(3) establish procedures for the Department of Defense for the coordinated consideration of and response to a request for a review received from State and local officials or the developer of a renewable energy development or other energy project, including guidance to personnel at each military installation in the United States on how to initiate such procedures and ensure a coordinated Department response while seeking to fulfil the objective under subsection (a); and

(4) develop procedures for conducting early outreach to parties carrying out projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, that could have an adverse impact on military operations and readiness, and to the general public, to clearly communicate notice on actions being taken by the Department of Defense under this section and to receive comments from such parties and the general public on such actions.

(d) **COMPREHENSIVE REVIEW.**—

(1) **STRATEGY REQUIRED.**—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense, acting

through the senior official and lead organization designated pursuant to subsection (b), shall develop a comprehensive strategy for addressing the military impacts of projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code.

(2) **ELEMENTS.**—In developing the strategy required by paragraph (1), the Secretary of Defense shall—

(A) assess of the magnitude of interference posed by projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code;

(B) identify geographic areas selected as proposed locations for projects filed, or which may be filed in the future, with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, where such projects could have an adverse impact on military operations and readiness and categorize the risk of adverse impact in such areas as high, medium, or low for the purpose of informing early outreach efforts under subsection (c)(4) and preliminary assessments under subsection (e); and

(C) specifically identify feasible and affordable long-term actions that may be taken to mitigate adverse impacts of projects filed, or which may be filed in the future, with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, on military operations and readiness, including—

(i) investment priorities of the Department of Defense with respect to research and development;

(ii) modifications to military operations to accommodate applications for such projects;

(iii) recommended upgrades or modifications to existing systems or procedures by the Department of Defense;

(iv) acquisition of new systems by the Department and other departments and agencies of the Federal Government and timelines for fielding such new systems; and

(v) modifications to the projects for which such applications are filed, including changes in size, location, or technology.

(e) **DEPARTMENT OF DEFENSE HAZARD ASSESSMENT.**—

(1) **PRELIMINARY ASSESSMENT.**—The procedures established pursuant to subsection (c) shall ensure that not later than 30 days after receiving a proper application for a project filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, the Secretary of Defense shall review the project and provide a preliminary assessment of the level of risk of adverse impact on military operations and readiness that would arise from the project and the extent of mitigation that may be needed to address such risk.

(2) **DETERMINATION OF UNACCEPTABLE RISK.**—The procedures established pursuant to subsection (c) shall ensure that the Secretary of Defense does not object to a project filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, except in a case in which the Secretary of Defense determines, after giving full consideration to mitigation actions identified pursuant to this section, that such project would result in an unacceptable risk to the national security of the United States.

(3) **CONGRESSIONAL NOTICE REQUIREMENT.**—Not later than 30 days after making a determination of unacceptable risk under paragraph (2), the Secretary of Defense shall submit to the congressional defense committees a report on such determination and the basis for such determination. Such a report shall

include an explanation of the operational impact that led to the determination, a discussion of the mitigation options considered, and an explanation of why the mitigation options were not feasible or did not resolve the conflict.

(4) **NON-DELEGATION OF DETERMINATIONS.**—The responsibility for making a determination of unacceptable risk under paragraph (2) may only be delegated to an appropriate senior officer of the Department of Defense, on the recommendation of the senior official designated pursuant to subsection (b). The following individuals are appropriate senior officers of the Department of Defense for the purposes of this paragraph:

(A) The Deputy Secretary of Defense.

(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(C) The Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.

(f) **REPORTS.**—

(1) **REPORT TO CONGRESS.**—Not later than March 15 each year from 2011 through 2015, the Secretary of Defense shall submit to the congressional defense committees a report on the actions taken by the Department of Defense during the preceding year to implement this section and the comprehensive strategy developed pursuant to this section.

(2) **CONTENTS OF REPORT.**—Each report submitted under paragraph (1) shall include—

(A) the results of a review carried out by the Secretary of Defense of any projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code—

(i) that the Secretary of Defense has determined would result in an unacceptable risk to the national security; and

(ii) for which the Secretary of Defense has recommended to the Secretary of Transportation that a hazard determination be issued;

(B) an assessment of the risk associated with the loss or modifications of military training routes and a quantification of such risk;

(C) an assessment of the risk associated with solar power and similar systems as to the effects of glint on military readiness;

(D) an assessment of the risk associated with electromagnetic interference on military readiness, including the effects of testing and evaluation ranges;

(E) an assessment of any risks posed by the development of projects filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code, to the prevention of threats and aggression directed toward the United States and its territories; and

(F) a description of the distance from a military installation that the Department of Defense will use to prescreen applicants under section 44718 of title 49, United States Code.

(g) **AUTHORITY TO ACCEPT CONTRIBUTIONS OF FUNDS.**—The Secretary of Defense is authorized to accept a voluntary contribution of funds from an applicant for a project filed with the Secretary of Transportation pursuant to section 44718 of title 49, United States Code. Amounts so accepted shall be available for the purpose of offsetting the cost of measures undertaken by the Secretary of Defense to mitigate adverse impacts of such project on military operations and readiness.

(h) **EFFECT OF DEPARTMENT OF DEFENSE HAZARD ASSESSMENT.**—An action taken pursuant to this section shall not be considered to be a substitute for any assessment or determination required of the Secretary of

Transportation under section 44718 of title 49, United States Code.

(i) **SAVINGS PROVISION.**—Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(j) **DEFINITIONS.**—In this section:

(1) The term “military training route” means a training route developed as part of the Military Training Route Program, carried out jointly by the Federal Aviation Administration and the Secretary of Defense, for use by the Armed Forces for the purpose of conducting low-altitude, high-speed military training.

(2) The term “military installation” has the meaning given that term in section 2801(c)(4) of title 10, United States Code.

(3) The term “military readiness” includes any training or operation that could be related to combat readiness, including testing and evaluation activities.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.

Sec. 402. Revision in permanent active duty end strength minimum levels.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.

Sec. 412. End strengths for Reserves on active duty in support of the Reserves.

Sec. 413. End strengths for military technicians (dual status).

Sec. 414. Fiscal year 2011 limitation on number of non-dual status technicians.

Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

Subtitle C—Authorization of Appropriations

Sec. 421. Military personnel.

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2011, as follows:

- (1) The Army, 569,400.
- (2) The Navy, 328,700.
- (3) The Marine Corps, 202,100.
- (4) The Air Force, 332,200.

SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following new paragraphs:

- “(1) For the Army, 547,400.
- “(2) For the Navy, 324,300.
- “(3) For the Marine Corps, 202,100.
- “(4) For the Air Force, 332,200.”.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) **IN GENERAL.**—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2011, as follows:

- (1) The Army National Guard of the United States, 358,200.
- (2) The Army Reserve, 205,000.
- (3) The Navy Reserve, 65,500.
- (4) The Marine Corps Reserve, 39,600.
- (5) The Air National Guard of the United States, 106,700.
- (6) The Air Force Reserve, 71,200.
- (7) The Coast Guard Reserve, 10,000.

(b) **END STRENGTH REDUCTIONS.**—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

(c) **END STRENGTH INCREASES.**—Whenever units or individual members of the Selected Reserve of any reserve component are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2011, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

- (1) The Army National Guard of the United States, 32,060.
- (2) The Army Reserve, 16,261.
- (3) The Navy Reserve, 10,688.
- (4) The Marine Corps Reserve, 2,261.
- (5) The Air National Guard of the United States, 14,584.
- (6) The Air Force Reserve, 2,992.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2011 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

- (1) For the Army Reserve, 8,395.
- (2) For the Army National Guard of the United States, 27,210.
- (3) For the Air Force Reserve, 10,720.
- (4) For the Air National Guard of the United States, 22,394.

SEC. 414. FISCAL YEAR 2011 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

(a) **LIMITATIONS.**—

(1) **NATIONAL GUARD.**—Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2011, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) **ARMY RESERVE.**—The number of non-dual status technicians employed by the Army Reserve as of September 30, 2011, may not exceed 595.

(3) **AIR FORCE RESERVE.**—The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2011, may not exceed 90.

(b) **NON-DUAL STATUS TECHNICIANS DEFINED.**—In this section, the term “non-dual

status technician” has the meaning given that term in section 10217(a) of title 10, United States Code.

SEC. 415. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.

During fiscal year 2011, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

- (1) The Army National Guard of the United States, 17,000.
- (2) The Army Reserve, 13,000.
- (3) The Navy Reserve, 6,200.
- (4) The Marine Corps Reserve, 3,000.
- (5) The Air National Guard of the United States, 16,000.
- (6) The Air Force Reserve, 14,000.

Subtitle C—Authorization of Appropriations

SEC. 421. MILITARY PERSONNEL.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2011 a total of \$138,540,700,000.

(b) **CONSTRUCTION OF AUTHORIZATION.**—The authorization of appropriations in subsection (a) supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2011.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy Generally

Sec. 501. Ages for appointment and mandatory retirement for health professions officers.

Sec. 502. Authority for appointment of warrant officers in the grade of W-1 by commission and standardization of warrant officer appointing authority.

Sec. 503. Nondisclosure of information from discussions, deliberations, notes, and records of special selection boards.

Sec. 504. Administrative removal of officers from promotion list.

Sec. 505. Modification of authority for officers selected for appointment to general and flag officer grades to wear insignia of higher grade before appointment.

Sec. 506. Temporary authority to reduce minimum length of active service as a commissioned officer required for voluntary retirement as an officer.

Subtitle B—Reserve Component Management

Sec. 511. Removal of statutory distribution limits on Navy reserve flag officer allocation.

Sec. 512. Assignment of Air Force Reserve military technicians (dual status) to positions outside Air Force Reserve unit program.

Sec. 513. Temporary authority for temporary employment of non-dual status military technicians.

Sec. 514. Revision of structure and functions of the Reserve Forces Policy Board.

Sec. 515. Repeal of requirement for new oath when officer transfers from active-duty list to reserve active-status list.

Sec. 516. Leave of members of the reserve components of the Armed Forces.

Sec. 517. Direct appointment of graduates of the United States Merchant Marine Academy into the National Guard.

Subtitle C—Joint Qualified Officers and Requirements

Sec. 521. Technical revisions to definition of joint matters for purposes of joint officer management.

Sec. 522. Modification of promotion board procedures for joint qualified officers and officers with Joint Staff experience.

Subtitle D—General Service Authorities

Sec. 531. Extension of temporary authority to order retired members of the Armed Forces to active duty in high-demand, low-density assignments.

Sec. 532. Non-chargeable rest and recuperation absence for certain members undergoing extended deployment to a combat zone.

Sec. 533. Correction of military records.

Sec. 534. Disposition of members found to be fit for duty who are not suitable for deployment or worldwide assignment for medical reasons.

Sec. 535. Review of laws, policies, and regulations restricting service of female members of the Armed Forces.

Subtitle E—Military Justice and Legal Matters

Sec. 541. Continuation of warrant officers on active duty to complete disciplinary action.

Sec. 542. Enhanced authority to punish contempt in military justice proceedings.

Sec. 543. Improvements to Department of Defense domestic violence programs.

Subtitle F—Member Education and Training Opportunities and Administration

Sec. 551. Enhancements of Department of Defense undergraduate nurse training program.

Sec. 552. Repayment of education loan repayment benefits.

Sec. 553. Participation of Armed Forces Health Professions Scholarship and Financial Assistance Program recipients in active duty health profession loan repayment program.

Sec. 554. Active duty obligation for military academy graduates who participate in the Armed Forces Health Professions Scholarship and Financial Assistance program.

Subtitle G—Defense Dependents' Education

Sec. 561. Enrollment of dependents of members of the Armed Forces who reside in temporary housing in Department of Defense domestic dependent elementary and secondary schools.

Sec. 562. Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

Sec. 563. Impact aid for children with severe disabilities.

Subtitle H—Decorations and Awards

Sec. 571. Clarification of persons eligible for award of bronze star medal.

Sec. 572. Authorization and request for award of Distinguished-Service Cross to Shinyei Matayoshi for acts of valor during World War II.

Sec. 573. Authorization and request for award of Distinguished-Service Cross to Jay C. Copley for acts of valor during the Vietnam War.

Sec. 574. Program to commemorate 60th anniversary of the Korean War.

Subtitle I—Military Family Readiness Matters

Sec. 581. Appointment of additional members of Department of Defense Military Family Readiness Council.

Sec. 582. Enhancement of community support for military families with special needs.

Sec. 583. Modification of Yellow Ribbon Reintegration Program.

Sec. 584. Expansion and continuation of Joint Family Support Assistance Program.

Sec. 585. Report on military spouse education programs.

Sec. 586. Report on enhancing benefits available for military dependent children with special education needs.

Sec. 587. Reports on child development centers and financial assistance for child care for members of the Armed Forces.

Subtitle J—Other Matters

Sec. 591. Authority for members of the Armed Forces and Department of Defense and Coast Guard civilian employees and their families to accept gifts from non-Federal entities.

Sec. 592. Increase in number of private sector civilians authorized for admission to National Defense University.

Sec. 593. Admission of defense industry civilians to attend United States Air Force Institute of Technology.

Sec. 594. Updated terminology for Army Medical Service Corps.

Sec. 595. Date for submission of annual report on Department of Defense STARBASE Program.

Sec. 596. Extension of deadline for submission of final report of Military Leadership Diversity Commission.

Subtitle A—Officer Personnel Policy Generally

SEC. 501. AGES FOR APPOINTMENT AND MANDATORY RETIREMENT FOR HEALTH PROFESSIONS OFFICERS.

(a) AGE FOR ORIGINAL APPOINTMENT AS HEALTH PROFESSIONS OFFICER.—Section 532(d)(2) of title 10, United States Code, is amended by striking “reserve”.

(b) MANDATORY RETIREMENT AGE FOR HEALTH PROFESSIONS OFFICERS.—

(1) ADDITIONAL CATEGORIES OF OFFICERS ELIGIBLE FOR DEFERRAL OF MANDATORY RETIREMENT FOR AGE.—Paragraph (2) of section 1251(b) of such title is amended—

(A) in subparagraph (B), by striking “or” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following new subparagraph:

“(D) an officer in a category of officers designated by the Secretary of the military de-

partment concerned for the purposes of this paragraph as consisting of officers whose duties consist primarily of—

“(i) providing health care;

“(ii) performing other clinical care; or

“(iii) performing health care-related administrative duties.”.

(2) CONFORMING AMENDMENT.—Paragraph (1) of such section is amended by striking “the officer will be performing duties consisting primarily of providing patient care or performing other clinical duties.” and inserting “the officer—

“(A) will be performing duties consisting primarily of providing patient care or performing other clinical duties; or

“(B) is in a category of officers designated under subparagraph (D) of paragraph (2) whose duties will consist primarily of the duties described in clause (i), (ii), or (iii) of such subparagraph.”.

SEC. 502. AUTHORITY FOR APPOINTMENT OF WARRANT OFFICERS IN THE GRADE OF W-1 BY COMMISSION AND STANDARDIZATION OF WARRANT OFFICER APPOINTING AUTHORITY.

(a) REGULAR OFFICERS.—

(1) AUTHORITY FOR APPOINTMENTS BY COMMISSION IN WARRANT OFFICER W-1 GRADE.—The first sentence of section 571(b) of title 10, United States Code, is amended by striking “by the Secretary concerned” and inserting “, except that with respect to an armed force under the jurisdiction of the Secretary of a military department, the Secretary concerned may provide by regulation that appointments in that grade in that armed force shall be made by commission”.

(2) APPOINTING AUTHORITY.—The second sentence of such section is amended by inserting before the period at the end the following: “, and appointments (whether by warrant or commission) in the grade of regular warrant officer, W-1, shall be made by the President, except that appointments in that grade in the Coast Guard shall be made by the Secretary concerned”.

(b) RESERVE OFFICERS.—Subsection (b) of section 12241 of such title is amended to read as follows:

“(b) Appointments in permanent reserve warrant officer grades shall be made in the same manner as is prescribed for regular warrant officer grades by section 571(b) of this title.”.

(c) PRESIDENTIAL FUNCTIONS.—Except as otherwise provided by the President by Executive order, the provisions of Executive Order 13384 (10 U.S.C. 531 note) relating to the functions of the President under the second sentence of section 571(b) of title 10, United States Code, shall apply in the same manner to the functions of the President under section 12241(b) of title 10, United States Code.

SEC. 503. NONDISCLOSURE OF INFORMATION FROM DISCUSSIONS, DELIBERATIONS, NOTES, AND RECORDS OF SPECIAL SELECTION BOARDS.

(a) NONDISCLOSURE OF BOARD PROCEEDINGS.—Section 613a of title 10, United States Code, is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) PROHIBITION ON DISCLOSURE.—The proceedings of a selection board convened under section 573, 611, or 628 of this title may not be disclosed to any person not a member of the board, except as authorized or required to process the report of the board. This prohibition is a statutory exemption from disclosure, as described in section 552(b)(3) of title 5.”;

(2) in subsection (b), by striking “AND RECORDS” and inserting “NOTES, AND RECORDS”; and

(3) by adding at the end the following new subsection:

“(c) **APPLICABILITY.**—This section applies to all selection boards convened under section 573, 611, or 628 of this title, regardless of the date on which the board was convened.”.

(b) **REPORTS OF BOARDS.**—Section 628(c)(2) of such title is amended by striking “sections 576(d) and 576(f)” and inserting “sections 576(d), 576(f), and 613a”.

(c) **RESERVE BOARDS.**—Section 14104 of such title is amended—

(1) by striking subsection (a) and inserting the following new subsection:

“(a) **PROHIBITION ON DISCLOSURE.**—The proceedings of a selection board convened under section 14101 or 14502 of this title may not be disclosed to any person not a member of the board, except as authorized or required to process the report of the board. This prohibition is a statutory exemption from disclosure, as described in section 552(b)(3) of title 5.”;

(2) in subsection (b), by striking “AND RECORDS” and inserting “NOTES, AND RECORDS”; and

(3) by adding at the end the following new subsection:

“(c) **APPLICABILITY.**—This section applies to all selection boards convened under section 14101 or 14502 of this title, regardless of the date on which the board was convened.”.

SEC. 504. ADMINISTRATIVE REMOVAL OF OFFICERS FROM PROMOTION LIST.

(a) **ACTIVE-DUTY LIST.**—Section 629 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

“(d) **ADMINISTRATIVE REMOVAL.**—Under regulations prescribed by the Secretary concerned, if an officer on the active-duty list is discharged or dropped from the rolls or transferred to a retired status after having been recommended for promotion to a higher grade under this chapter, but before being promoted, the officer’s name shall be administratively removed from the list of officers recommended for promotion by a selection board.”.

(b) **RESERVE ACTIVE-STATUS LIST.**—Section 14310 of such title is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

“(d) **ADMINISTRATIVE REMOVAL.**—Under regulations prescribed by the Secretary concerned, if an officer on the reserve active-status list is discharged or dropped from the rolls or transferred to a retired status after having been recommended for promotion to a higher grade under this chapter or having been found qualified for Federal recognition in the higher grade under title 32, but before being promoted, the officer’s name shall be administratively removed from the list of officers recommended for promotion by a selection board.”.

SEC. 505. MODIFICATION OF AUTHORITY FOR OFFICERS SELECTED FOR APPOINTMENT TO GENERAL AND FLAG OFFICER GRADES TO WEAR INSIGNIA OF HIGHER GRADE BEFORE APPOINTMENT.

(a) **LIMITED AUTHORITY FOR OFFICERS SELECTED FOR APPOINTMENT TO GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.**—

(1) **IN GENERAL.**—Chapter 45 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 777a. Wearing of insignia of higher grade before appointment to a grade above major general or rear admiral (frocking): authority; restrictions

“(a) **AUTHORITY.**—An officer serving in a grade below the grade of lieutenant general or, in the case of the Navy, vice admiral, who has been selected for appointment to the grade of lieutenant general or general, or, in the case of the Navy, vice admiral or admiral, and an officer serving in the grade of lieutenant general or vice admiral who has been selected for appointment to the grade of general or admiral, may be authorized, under regulations and policies of the Department of Defense and subject to subsection (b), to wear the insignia for that higher grade for a period of up to 14 days before assuming the duties of a position for which the higher grade is authorized. An officer who is so authorized to wear the insignia of a higher grade is said to be ‘frocked’ to that grade.

“(b) **RESTRICTIONS.**—An officer may not be authorized to wear the insignia for a grade as described in subsection (a) unless—

“(1) the Senate has given its advice and consent to the appointment of the officer to that grade;

“(2) the officer has received orders to serve in a position outside the military department of that officer for which that grade is authorized;

“(3) the Secretary of Defense (or a civilian officer within the Office of the Secretary of Defense whose appointment was made with the advice and consent of the Senate and to whom the Secretary delegates such approval authority) has given approval for the officer to wear the insignia for that grade before assuming the duties of a position for which that grade is authorized; and

“(4) the Secretary of Defense has submitted to Congress a written notification of the intent to authorize the officer to wear the insignia for that grade.

“(c) **BENEFITS NOT TO BE CONSTRUED AS ACCRUING.**—(1) Authority provided to an officer as described in subsection (a) to wear the insignia of a higher grade may not be construed as conferring authority for that officer to—

“(A) be paid the rate of pay provided for an officer in that grade having the same number of years of service as that officer; or

“(B) assume any legal authority associated with that grade.

“(2) The period for which an officer wears the insignia of a higher grade under such authority may not be taken into account for any of the following purposes:

“(A) Seniority in that grade.

“(B) Time of service in that grade.

“(d) **LIMITATION ON NUMBER OF OFFICERS FROCKED.**—The total number of officers who are authorized to wear the insignia for a higher grade under this section shall count against the limitation in section 777(d) of this title on the total number of officers authorized to wear the insignia of a higher grade.”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“777a. Wearing of insignia of higher grade before appointment to a grade above major general or rear admiral (frocking): authority; restrictions.”.

(b) **REPEAL OF WAITING PERIOD FOLLOWING CONGRESSIONAL NOTIFICATION FOR OFFICERS SELECTED FOR APPOINTMENT TO GENERAL AND FLAG OFFICER GRADES BELOW LIEUTENANT GENERAL AND VICE ADMIRAL.**—Section

777(b)(3)(B) of such title is amended by striking “and a period of 30 days has elapsed after the date of the notification”.

SEC. 506. TEMPORARY AUTHORITY TO REDUCE MINIMUM LENGTH OF ACTIVE SERVICE AS A COMMISSIONED OFFICER REQUIRED FOR VOLUNTARY RETIREMENT AS AN OFFICER.

(a) **ARMY.**—Section 3911(b)(2) of title 10, United States Code, is amended by striking “January 6, 2006, and ending on December 31, 2008” and inserting “the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 and ending on September 30, 2013”.

(b) **NAVY AND MARINE CORPS.**—Section 6323(a)(2)(B) of such title is amended by striking “January 6, 2006, and ending on December 31, 2008” and inserting “the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 and ending on September 30, 2013”.

(c) **AIR FORCE.**—Section 8911(b)(2) of such title is amended by striking “January 6, 2006, and ending on December 31, 2008” and inserting “the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 and ending on September 30, 2013”.

Subtitle B—Reserve Component Management

SEC. 511. REMOVAL OF STATUTORY DISTRIBUTION LIMITS ON NAVY RESERVE FLAG OFFICER ALLOCATION.

Section 12004(c) of title 10, United States Code, is amended—

(1) by striking paragraphs (2), (3), and (5); and

(2) by redesignating paragraph (4) as paragraph (2).

SEC. 512. ASSIGNMENT OF AIR FORCE RESERVE MILITARY TECHNICIANS (DUAL STATUS) TO POSITIONS OUTSIDE AIR FORCE RESERVE UNIT PROGRAM.

Section 10216(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(3) Paragraph (1) does not apply to a military technician (dual status) who is employed by the Air Force Reserve in an area other than the Air Force Reserve unit program, except that not more than 50 of such technicians may be assigned outside of the unit program at the same time.”.

SEC. 513. TEMPORARY AUTHORITY FOR TEMPORARY EMPLOYMENT OF NON-DUAL STATUS MILITARY TECHNICIANS.

(a) **EXCEPTION FOR TEMPORARY EMPLOYMENT.**—Section 10217 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “or” at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(3) is hired as a temporary employee pursuant to the exception for temporary employment provided by subsection (d) and subject to the terms and conditions of such subsection.”; and

(2) by adding at the end the following new subsection:

“(d) **EXCEPTION FOR TEMPORARY EMPLOYMENT.**—(1) Notwithstanding section 10218 of this title, the Secretary of the Army or the Secretary of the Air Force may employ, for a period not to exceed two years, a person to fill a vacancy created by the mobilization of a military technician (dual status) occupying a position under section 10216 of this title.

“(2) The duration of the temporary employment of a person in a military technician position under this subsection may not exceed the shorter of the following:

“(A) The period of mobilization of the military technician (dual status) whose vacancy is being filled by the temporary employee.

“(B) Two years.

“(3) No person may be hired under the authority of this subsection after the end of the 2-year period beginning on the date of the enactment of this subsection.”.

(b) **EXCEPTION FROM PERMANENT LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.**—Subsection (c) of such section is amended by adding at the end the following new paragraph:

“(3) An individual employed as a non-dual status technician as described in subsection (a)(3) shall not be consider a non-dual status technician for purposes of paragraphs (1) and (2).”.

SEC. 514. REVISION OF STRUCTURE AND FUNCTIONS OF THE RESERVE FORCES POLICY BOARD.

(a) **REVISION OF STRUCTURE.**—

(1) **IN GENERAL.**—Section 10301 of title 10, United States Code, is amended to read as follows:

“§ 10301. Reserve Forces Policy Board

“(a) **IN GENERAL.**—As provided in section 175 of this title, there is in the Office of the Secretary of Defense a board known as the ‘Reserve Forces Policy Board’ (in this section referred to as the ‘Board’).

“(b) **FUNCTIONS.**—The Board shall serve as an independent adviser to the Secretary of Defense to provide advice and recommendations to the Secretary on strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the reserve components.

“(c) **MEMBERSHIP.**—The Board consists of 20 members, appointed or designated as follows:

“(1) A civilian appointed by the Secretary of Defense from among persons determined by the Secretary to have the knowledge of, and experience in, policy matters relevant to national security and reserve component matters necessary to carry out the duties of chair of the Board, who shall serve as chair of the Board.

“(2) Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon the recommendation of the Secretary of the Army—

“(A) one of whom shall be a member of the Army National Guard of the United States or a former member of the Army National Guard of the United States in the Retired Reserve; and

“(B) one of whom shall be a member or retired member of the Army Reserve.

“(3) Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon the recommendation of the Secretary of the Navy—

“(A) one of whom shall be an active or retired officer of the Navy Reserve; and

“(B) one of whom shall be an active or retired officer of the Marine Corps Reserve.

“(4) Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon the recommendation of the Secretary of the Air Force—

“(A) one of whom shall be a member of the Air National Guard of the United States or a former member of the Air National Guard of the United States in the Retired Reserve; and

“(B) one of whom shall be a member or retired member of the Air Force Reserve.

“(5) One active or retired reserve officer or enlisted member of the Coast Guard des-

ignated by the Secretary of Homeland Security.

“(6) Ten persons appointed or designated by the Secretary of Defense, each of whom shall be a United States citizen having significant knowledge of and experience in policy matters relevant to national security and reserve component matters and shall be one of the following:

“(A) An individual not employed in any Federal or State department or agency.

“(B) An individual employed by a Federal or State department or agency.

“(C) An officer of a regular component of the armed forces on active duty, or an officer of a reserve component of the armed forces in an active status, who—

“(i) is serving or has served in a senior position on the Joint Staff, the headquarters staff of a combatant command, or the headquarters staff of an armed force; and

“(ii) has experience in joint professional military education, joint qualification, and joint operations matters.

“(7) A reserve officer of the Army, Navy, Air Force, or Marine Corps who is a general or flag officer recommended by the chair and designated by the Secretary of Defense, who shall serve without vote—

“(A) as military adviser to the chair;

“(B) as military executive officer of the Board; and

“(C) as supervisor of the operations and staff of the Board.

“(8) A senior enlisted member of a reserve component recommended by the chair and designated by the Secretary of Defense, who shall serve without vote as enlisted military adviser to the chair.

“(d) **MATTERS TO BE ACTED ON.**—The Board may act on those matters referred to it by the chair and on any matter raised by a member of the Board or the Secretary of Defense.

“(e) **STAFF.**—The Board shall be supported by a staff consisting of one full-time officer from each of the reserve components listed in paragraphs (1) through (6) of section 10101 of this title who holds the grade of colonel (or in the case of the Navy, the grade of captain) or who has been selected for promotion to that grade. These officers shall also serve as liaisons between their respective components and the Board. They shall perform their staff and liaison duties under the supervision of the military executive officer of the Board in an independent manner reflecting the independent nature of the Board.

“(f) **RELATIONSHIP TO SERVICE RESERVE POLICY COMMITTEES AND BOARDS.**—This section does not affect the committees and boards prescribed within the military departments by sections 10302 through 10305 of this title, and a member of such a committee or board may, if otherwise eligible, be a member of the Board.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall take effect on July 1, 2011.

(b) **REVISION TO ANNUAL REPORT REQUIREMENT.**—Section 113(c)(2) of title 10, United States Code, is amended by striking “the reserve programs of the Department of Defense and on any other matters” and inserting “on any reserve component matter”.

SEC. 515. REPEAL OF REQUIREMENT FOR NEW OATH WHEN OFFICER TRANSFERS FROM ACTIVE-DUTY LIST TO RESERVE ACTIVE-STATUS LIST.

Section 12201(a)(2) of title 10, United States Code, is amended by striking “An officer transferred from the active-duty list of an armed force to a reserve active-status list of an armed force under section 647 of this title” and inserting “If an officer is trans-

ferred from the active-duty list of an armed force to a reserve active-status list of an armed force in accordance with regulations prescribed by the Secretary of Defense, the officer”.

SEC. 516. LEAVE OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES.

(a) **CARRYOVER OF ACCUMULATED LEAVE TO SUCCEEDING PERIOD OF ACTIVE SERVICE.**—Section 701 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(k) A member of a reserve component who accumulates leave during a period of active service may carry over any leave so accumulated to the member's next period of active service, subject to the accumulation limits in subsections (b), (d), and (f), without regard to separation or release from active service if the separation or release is under honorable conditions. The taking of leave carried over under this subsection shall be subject to the provisions of this section.”.

(b) **PAYMENT FOR UNUSED ACCRUED LEAVE.**—Section 501(a) of title 37, United States Code, is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(4) in the case of an officer or an enlisted member of a reserve component who is not serving on active duty, separation or release from the reserve component under honorable conditions, or death; and

“(5) in the case of an enlisted member of a reserve component who is not serving on active duty, termination of enlistment in conjunction with the commencement of a successive enlistment, or appointment as an officer.”.

SEC. 517. DIRECT APPOINTMENT OF GRADUATES OF THE UNITED STATES MERCHANT MARINE ACADEMY INTO THE NATIONAL GUARD.

Section 305(a)(5) of title 32, United States Code, is amended by striking “or the United States Coast Guard Academy” and inserting “the United States Coast Guard Academy, or the United States Merchant Marine Academy”.

Subtitle C—Joint Qualified Officers and Requirements

SEC. 521. TECHNICAL REVISIONS TO DEFINITION OF JOINT MATTERS FOR PURPOSES OF JOINT OFFICER MANAGEMENT.

Section 668(a) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “multiple” in the matter preceding subparagraph (A) and inserting “integrated”; and

(B) by striking “and” at the end of the subparagraph (D) and inserting “or”; and

(2) by striking paragraph (2) and inserting the following new paragraph:

“(2) In the context of joint matters, the term ‘integrated military forces’ refers to military forces that are involved in the planning or execution (or both) of operations involving participants from—

“(A) more than one military department; or

“(B) a military department and one or more of the following:

“(i) Other departments and agencies of the United States.

“(ii) The military forces or agencies of other countries.

“(iii) Non-governmental persons or entities.”.

SEC. 522. MODIFICATION OF PROMOTION BOARD PROCEDURES FOR JOINT QUALIFIED OFFICERS AND OFFICERS WITH JOINT STAFF EXPERIENCE.

(a) BOARD COMPOSITION.—Subsection (c) of section 612 of title 10, United States Code, is amended to read as follows:

“(c)(1) Each selection board convened under section 611(a) of this title that will consider an officer described in paragraph (2) shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is a joint qualified officer.

“(2) Paragraph (1) applies with respect to an officer who—

“(A) is serving on, or has served on, the Joint Staff; or

“(B) is a joint qualified officer.

“(3) The Secretary of Defense may waive the requirement in paragraph (1) in the case of—

“(A) any selection board of the Marine Corps; or

“(B) any selection board that is considering officers in specialties identified in paragraph (2) or (3) of section 619a(b) of this title.”.

(b) INFORMATION FURNISHED TO SELECTION BOARDS.—Section 615 of such title is amended in subsections (b)(5) and (c) by striking “in joint duty assignments of officers who are serving, or have served, in such assignments” and inserting “of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers”.

(c) ACTION ON REPORT OF SELECTION BOARDS.—Section 618(b) of such title is amended—

(1) in paragraph (1), by striking “are serving, or have served, in joint duty assignments” and inserting “are serving on, or have served on, the Joint Staff or are joint qualified officers”;

(2) in subparagraphs (A) and (B) of paragraph (2), by striking “in joint duty assignments of officers who are serving, or have served, in such assignments” and inserting “of officers who are serving on, or have served on, the Joint Staff or are joint qualified officers”; and

(3) in paragraph (4), by striking “in joint duty assignments” and inserting “who are serving on, or have served on, the Joint Staff or are joint qualified officers”.

Subtitle D—General Service Authorities

SEC. 531. EXTENSION OF TEMPORARY AUTHORITY TO ORDER RETIRED MEMBERS OF THE ARMED FORCES TO ACTIVE DUTY IN HIGH-DEMAND, LOW-DENSITY ASSIGNMENTS.

(a) EXTENSION OF AUTHORITY.—Section 688a(f) of title 10, United States Code, is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

(b) REPORT REQUIRED.—Not later than April 1, 2011, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing an assessment by the Secretary of the need to extend the authority provided by section 688a of title 10, United States Code, beyond December 31, 2011. The report shall include, at a minimum, the following:

(1) A list of the current types of high-demand, low-density capabilities (as defined in such section) for which the authority is being used to address operational requirements.

(2) For each high-demand, low-density capability included in the list under paragraph (1), the number of retired members of the Armed Forces who have served on active duty at any time during each of fiscal years 2007 through 2010 under the authority.

(3) A plan to increase the required active duty strength for the high-demand, low-density capabilities included in the list under paragraph (1) to eliminate the need to use the authority.

SEC. 532. NON-CHARGEABLE REST AND RECOVERY ABSENCE FOR CERTAIN MEMBERS UNDERGOING EXTENDED DEPLOYMENT TO A COMBAT ZONE.

(a) IN GENERAL.—Chapter 40 of title 10, United States Code, is amended by inserting after section 705 the following new section:

“§ 705a. Rest and recuperation absence: certain members undergoing extended deployment to a combat zone

“(a) REST AND RECOVERY AUTHORIZED.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may provide a member of the armed forces described in subsection (b) the benefits described in subsection (c).

“(b) COVERED MEMBERS.—A member of the armed forces described in this subsection is any member who—

“(1) is assigned or deployed for at least 270 days in an area or location—

“(A) that is designated by the President as a combat zone; and

“(B) in which hardship duty pay is authorized to be paid under section 305 of title 37; and

“(2) meets such other criteria as the Secretary of Defense may prescribe in the regulations required by subsection (a).

“(c) BENEFITS.—The benefits described in this subsection are the following:

“(1) A period of rest and recuperation absence for not more than 15 days.

“(2) Round-trip transportation at Government expense from the area or location in which the member is serving in connection with the exercise of the period of rest and recuperation.

“(d) CONSTRUCTION WITH OTHER LEAVE.—Any benefits provided a member under this section are in addition to any other leave or absence to which the member may be entitled.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 705 the following new item:

“705a. Rest and recuperation absence: certain members undergoing extended deployment to a combat zone.”.

SEC. 533. CORRECTION OF MILITARY RECORDS.

(a) MEMBERS ELIGIBLE TO REQUEST REVIEW OF RETIREMENT OR SEPARATION WITHOUT PAY FOR PHYSICAL DISABILITY.—Section 1554(a) of title 10, United States Code, is amended—

(1) by striking “an officer” and inserting “a member or former member of the uniformed services”; and

(2) by striking “his case” and inserting “the member’s case”.

(b) LIMITATION ON REDUCTION IN PERSONNEL ASSIGNED TO DUTY WITH SERVICE REVIEW AGENCY.—1559(a) of such title is amended by striking “December 31, 2010” and inserting “December 31, 2013”.

SEC. 534. DISPOSITION OF MEMBERS FOUND TO BE FIT FOR DUTY WHO ARE NOT SUITABLE FOR DEPLOYMENT OR WORLDWIDE ASSIGNMENT FOR MEDICAL REASONS.

(a) DISPOSITION.—

(1) IN GENERAL.—Chapter 61 of title 10, United States Code, is amended by inserting after section 1214 the following new section:

“§ 1214a. Members determined fit for duty in Physical Evaluation Board evaluation: prohibition on involuntary administrative separation due to unsuitability based on medical conditions considered in evaluation

“(a) DISPOSITION.—Except as provided in subsection (c), the Secretary of the military department concerned may not authorize the involuntary administrative separation of a member described in subsection (b) based on a determination that the member is unsuitable for deployment or worldwide assignment based on the same medical condition of the member considered by a Physical Evaluation Board during the evaluation of the member.

“(b) COVERED MEMBERS.—A member covered by subsection (a) is any member of the armed forces who has been determined by a Physical Evaluation Board pursuant to a physical evaluation by the board to be fit for duty.

“(c) REEVALUATION.—(1) The Secretary of the military department concerned may direct the Physical Evaluation Board to reevaluate any member described in subsection (b) if the Secretary has reason to believe that a medical condition of the member considered by the Physical Evaluation Board during the evaluation of the member described in that subsection renders the member unsuitable for continued military service based on the medical condition.

“(2) A member determined pursuant to reevaluation under paragraph (1) to be unfit to perform the duties of the member’s office, grade, rank, or rating may be retired or separated for physical disability under this chapter.

“(3) The Secretary of Defense shall be the final approval authority for any case determined by the Secretary of a military department to warrant administrative separation based on a determination that the member is unsuitable for continued service due to the same medical condition of the member considered by a Physical Evaluation Board that found the member fit for duty.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 61 of such title is amended by inserting after the item relating to section 1214 the following new item:

“1214a. Members determined fit for duty in Physical Evaluation Board evaluation: prohibition on involuntary administrative separation due to unsuitability based on medical conditions considered in evaluation.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to members evaluated for fitness for duty by Physical Evaluation Boards on or after that date.

SEC. 535. REVIEW OF LAWS, POLICIES, AND REGULATIONS RESTRICTING SERVICE OF FEMALE MEMBERS OF THE ARMED FORCES.

(a) REVIEW REQUIRED.—The Secretary of Defense, in coordination with the Secretaries of the military departments, shall conduct a review of laws, policies, and regulations, including the collocation policy, that may restrict the service of female members of the Armed Forces to determine whether changes in such laws, policies, and regulations are needed to ensure that female members have an equitable opportunity to compete and excel in the Armed Forces.

(b) SUBMISSION OF RESULTS.—Not later than April 15, 2011, the Secretary of Defense shall submit to the congressional defense

committees a report containing the results of the review.

Subtitle E—Military Justice and Legal Matters

SEC. 541. CONTINUATION OF WARRANT OFFICERS ON ACTIVE DUTY TO COMPLETE DISCIPLINARY ACTION.

Section 580 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(f) A warrant officer subject to discharge or retirement under this section, but against whom any action has been commenced with a view to trying the officer by court-martial, may be continued on active duty, without prejudice to such action, until the completion of such action.”.

SEC. 542. ENHANCED AUTHORITY TO PUNISH CONTEMPT IN MILITARY JUSTICE PROCEEDINGS.

(a) IN GENERAL.—Section 848 of title 10, United States Code (article 48 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 848. Art. 48. Contempts

“(a) **AUTHORITY TO PUNISH CONTEMPT.**—A judge detailed to a court-martial, a court of inquiry, the United States Court of Appeals for the Armed Forces, a military Court of Criminal Appeals, a provost court, or a military commission may punish for contempt any person who—

“(1) uses any menacing word, sign, or gesture in the presence of the judge during the proceedings of the court-martial, court, or military commission;

“(2) disturbs the proceedings of the court-martial, court, or military commission by any riot or disorder; or

“(3) willfully disobeys the lawful writ, process, order, rule, decree, or command of the court-martial, court, or military commission.

“(b) **PUNISHMENT.**—The punishment for contempt under subsection (a) may not exceed confinement for 30 days, a fine of \$1,000, or both.

“(c) **INAPPLICABILITY TO MILITARY COMMISSIONS UNDER CHAPTER 47A.**—This section does not apply to a military commission established under chapter 47A of this title.”.

(b) **EFFECTIVE DATE.**—Section 848 of title 10, United States Code (article 48 of the Uniform Code of Military Justice), as amended by subsection (a), shall apply with respect to acts of contempt committed after the date of the enactment of this Act.

SEC. 543. IMPROVEMENTS TO DEPARTMENT OF DEFENSE DOMESTIC VIOLENCE PROGRAMS.

(a) **IMPLEMENTATION OF OUTSTANDING COMPTROLLER GENERAL RECOMMENDATIONS.**—Consistent with the recommendations contained in the report of the Comptroller General of the United States titled “Status of Implementation of GAO’s 2006 Recommendations on the Department of Defense’s Domestic Violence Program” (GAO-10-577R), the Secretary of Defense shall complete, not later than one year after the date of enactment of this Act, implementation of actions to address the following recommendations:

(1) **DEFENSE INCIDENT-BASED REPORTING SYSTEM.**—The Secretary of Defense shall develop a comprehensive management plan to address deficiencies in the data captured in the Defense Incident-Based Reporting System to ensure the system can provide an accurate count of domestic violence incidents, and any consequent disciplinary action, that are reported throughout the Department of Defense.

(2) **ADEQUATE PERSONNEL.**—The Secretary of Defense shall develop a plan to ensure

that adequate personnel are available to implement recommendations made by the Defense Task Force on Domestic Violence.

(3) **DOMESTIC VIOLENCE TRAINING DATA FOR CHAPLAINS.**—The Secretary of Defense shall develop a plan to collect domestic violence training data for chaplains.

(4) **OVERSIGHT FRAMEWORK.**—The Secretary of Defense shall develop an oversight framework for Department of Defense domestic violence programs, to include oversight of implementation of recommendations made by the Defense Task Force on Domestic Violence, including budgeting, communication initiatives, and policy compliance.

(b) **IMPLEMENTATION REPORT.**—The Secretary of Defense shall submit to the congressional defense committees an implementation report within 90 days of the completion of actions outlined in subsection (a).

Subtitle F—Member Education and Training Opportunities and Administration

SEC. 551. ENHANCEMENTS OF DEPARTMENT OF DEFENSE UNDERGRADUATE NURSE TRAINING PROGRAM.

(a) **CLARIFICATION OF DEGREE COVERED BY PROGRAM.**—Subsection (a) of section 2016 of title 10, United States Code, is amended by striking “a nursing degree” and inserting “a bachelor of science degree in nursing”.

(b) **GRADUATION RATES OF TRAINING PROGRAMS.**—Subsection (b) of such section is amended by inserting “in nursing” after “bachelor of science degree”.

(c) **LOCATION OF PROGRAMS.**—Subsection (d) of such section is amended to read as follows:

“(d) **LOCATION OF PROGRAMS.**—(1) An academic institution selected to operate an undergraduate nurse training program shall establish the program at or near a military installation that has a military treatment facility designated as a medical center with inpatient capability and multiple graduate medical education programs located on the installation or within reasonable proximity to the installation.

“(2) Before approving a location as the site of an undergraduate nurse training program, the Secretary of Defense shall conduct an assessment to ensure that the establishment of the program at that location will not adversely impact or displace existing nurse training programs, either conducted by the Department of Defense or by a civilian entity, at the location.”.

(d) **PILOT PROGRAM.**—

(1) **IMPLEMENTATION.**—Paragraph (2) of section 525(d) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2287; 10 U.S.C. 2016 note) is amended by striking “July 1, 2011” and inserting “December 31, 2011”.

(2) **GRADUATION RATES.**—Paragraph (3) of such section is amended—

(A) by striking the “The pilot program shall achieve” and inserting “The goal of the pilot program is to achieve”; and

(B) by striking “nurse training program” and inserting “nurse training programs”.

SEC. 552. REPAYMENT OF EDUCATION LOAN REPAYMENT BENEFITS.

(a) **ENLISTED MEMBERS ON ACTIVE DUTY IN SPECIFIED MILITARY SPECIALTIES.**—Section 2171 of title 10, United States Code, is amended by adding at the end the following new subsections:

“(g) Except a person described in subsection (e) who transfers to service making the person eligible for repayment of loans under section 16301 of this title, a member of the armed forces who fails to complete the period of service required to qualify for loan repayment under this section shall be subject to the repayment provisions of section 303a(e) of title 37.

“(h) The Secretary of Defense may prescribe, by regulations, procedures for implementing this section, including standards for qualified loans and authorized payees and other terms and conditions for making loan repayments. Such regulations may include exceptions that would allow for the payment as a lump sum of any loan repayment due to a member under a written agreement that existed at the time of a member’s death or disability.”.

(b) **MEMBERS OF SELECTED RESERVE.**—Section 16301 of such title is amended by adding at the end the following new subsections:

“(h) Except a person described in subsection (e) who transfers to service making the person eligible for repayment of loans under section 2171 of this title, a member of the armed forces who fails to complete the period of service required to qualify for loan repayment under this section shall be subject to the repayment provisions of section 303a(e) of title 37.

“(i) The Secretary of Defense may prescribe, by regulations, procedures for implementing this section, including standards for qualified loans and authorized payees and other terms and conditions for making loan repayments. Such regulations may include exceptions that would allow for the payment as a lump sum of any loan repayment due to a member under a written agreement that existed at the time of a member’s death or disability.”.

SEC. 553. PARTICIPATION OF ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM RECIPIENTS IN ACTIVE DUTY HEALTH PROFESSION LOAN REPAYMENT PROGRAM.

Section 2173(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(4) The person is enrolled in the Armed Forces Health Professions Scholarship and Financial Assistance Program under subchapter I of chapter 105 of this title for a number of years less than is required to complete the normal length of the course of study required for the health profession concerned.”.

SEC. 554. ACTIVE DUTY OBLIGATION FOR MILITARY ACADEMY GRADUATES WHO PARTICIPATE IN THE ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.

(a) **MILITARY ACADEMY GRADUATES.**—Section 4348(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(4) That if an appointment described in paragraph (2) or (3) is tendered and the cadet participates in a program under section 2121 of this title, the cadet will fulfill any unserved obligation incurred under this section on active duty, regardless of the type of appointment held, upon completion of, and in addition to, any service obligation incurred under section 2123 of this title for participation in such program.”.

(b) **NAVAL ACADEMY GRADUATES.**—Section 6959(a) of such title is amended by adding at the end the following new paragraph:

“(4) That if an appointment described in paragraph (2) or (3) is tendered and the midshipman participates in a program under section 2121 of this title, the midshipman will fulfill any unserved obligation incurred under this section on active duty, regardless of the type of appointment held, upon completion of, and in addition to, any service obligation incurred under section 2123 of this title for participation in such program.”.

(c) **AIR FORCE ACADEMY GRADUATES.**—Section 9348(a) of such title is amended by adding at the end the following new paragraph:

“(4) That if an appointment described in paragraph (2) or (3) is tendered and the cadet participates in a program under section 2121 of this title, the cadet will fulfill any unserved obligation incurred under this section on active duty, regardless of the type of appointment held, upon completion of, and in addition to, any service obligation incurred under section 2123 of this title for participation in such program.”.

Subtitle G—Defense Dependents' Education

SEC. 561. ENROLLMENT OF DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO RESIDE IN TEMPORARY HOUSING IN DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS.

Section 2164(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(3)(A) Under the circumstances described in subparagraph (B), the Secretary may, at the discretion of the Secretary, permit a dependent of a member of the armed forces to enroll in an educational program provided by the Secretary pursuant to this subsection without regard to the requirement in paragraph (1) with respect to residence on a military installation.

“(B) Subparagraph (A) applies only if—

“(i) the dependents reside in temporary housing (regardless of whether the temporary housing is on Federal property)—

“(I) because of the unavailability of adequate permanent living quarters on the military installation to which the member is assigned; or

“(II) while the member is wounded, ill, or injured; and

“(ii) the Secretary determines that the circumstances of such living arrangements justify extending the enrollment authority to include the dependents.”.

SEC. 562. CONTINUATION OF AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—Of the amount authorized to be appropriated for fiscal year 2011 pursuant to section 301(5) for operation and maintenance for Defense-wide activities, \$30,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of section 572 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 20 U.S.C. 7703b).

(b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT CHANGES DUE TO BASE CLOSURES, FORCE STRUCTURE CHANGES, OR FORCE RELOCATIONS.—Of the amount authorized to be appropriated for fiscal year 2011 pursuant to section 301(5) for operation and maintenance for Defense-wide activities, \$10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b) of section 572 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 20 U.S.C. 7703b).

(c) LOCAL EDUCATIONAL AGENCY DEFINED.—In this section, the term “local educational agency” has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 563. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

Of the amount authorized to be appropriated for fiscal year 2011 pursuant to section 301(5) for operation and maintenance for

Defense-wide activities, \$10,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-77; 20 U.S.C. 7703a).

Subtitle H—Decorations and Awards

SEC. 571. CLARIFICATION OF PERSONS ELIGIBLE FOR AWARD OF BRONZE STAR MEDAL.

(a) LIMITATION ON ELIGIBLE PERSONS.—Section 1133 of title 10, United States Code, is amended to read as follows:

“§ 1133. Bronze Star: limitation on persons eligible to receive

“The decoration known as the ‘Bronze Star’ may only be awarded to a member of a military force who—

“(1) at the time of the events for which the decoration is to be awarded, was serving in a geographic area in which special pay is authorized under section 310 or paragraph (1) or (3) of section 351(a) of title 37; or

“(2) receives special pay under section 310 or paragraph (1) or (3) of section 351(a) of title 37 as a result of those events.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 57 of such title is amended by striking the item relating to section 1133 and inserting the following new item:

“1133. Bronze Star: limitation on persons eligible to receive.”.

(c) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) applies to the award of the Bronze Star after October 30, 2000.

SEC. 572. AUTHORIZATION AND REQUEST FOR AWARD OF DISTINGUISHED-SERVICE CROSS TO SHINYEI MATAYOSHI FOR ACTS OF VALOR DURING WORLD WAR II.

(a) AUTHORIZATION.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the Armed Forces, the Secretary of the Army is authorized and requested to award the Distinguished-Service Cross under section 3742 of that title to Shinyei Matayoshi for the acts of valor referred to in subsection (b).

(b) ACTS OF VALOR DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of Tech Sergeant Shinyei Matayoshi on April 7, 1945, as a member of Company G, 2d Battalion, 442d Regimental Combat Team during World War II.

SEC. 573. AUTHORIZATION AND REQUEST FOR AWARD OF DISTINGUISHED-SERVICE CROSS TO JAY C. COPELEY FOR ACTS OF VALOR DURING THE VIETNAM WAR.

(a) AUTHORIZATION.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the Armed Forces, the Secretary of the Army is authorized and requested to award the Distinguished-Service Cross under section 3742 of such title to former Captain Jay C. Copley of the United States Army for the acts of valor during the Vietnam War described in subsection (b).

(b) ACTS OF VALOR DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of then Captain Jay C. Copley on May 5, 1968, as commander of Company C of the 1st Battalion, 50th Infantry, attached to the 173d Airborne Brigade during an engagement with a regimental-size enemy force in Bin Dinh Province, South Vietnam.

SEC. 574. PROGRAM TO COMMEMORATE 60TH ANNIVERSARY OF THE KOREAN WAR.

(a) COMMEMORATIVE PROGRAM AUTHORIZED.—The Secretary of Defense may establish and conduct a program to commemorate the 60th anniversary of the Korean War (in this section referred to as the “commemorative program”). In conducting the commemorative program, the Secretary of Defense shall coordinate and support other programs and activities of the Federal Government, State and local governments, and other persons and organizations in commemoration of the Korean War.

(b) SCHEDULE.—If the Secretary of Defense establishes the commemorative program, the Secretary shall determine the schedule of major events and priority of efforts for the commemorative program to achieve the commemorative objectives specified in subsection (c). The Secretary of Defense may establish a committee to assist the Secretary in determining the schedule and conducting the commemorative program.

(c) COMMEMORATIVE ACTIVITIES AND OBJECTIVES.—The commemorative program may include activities and ceremonies to achieve the following objectives:

(1) To thank and honor veterans of the Korean War, including members of the Armed Forces who were held as prisoners of war or listed as missing in action, for their service and sacrifice on behalf of the United States.

(2) To thank and honor the families of veterans of the Korean War for their sacrifices and contributions, especially families who lost a loved one in the Korean War.

(3) To highlight the service of the Armed Forces during the Korean War and the contributions of Federal agencies and governmental and non-governmental organizations that served with, or in support of, the Armed Forces.

(4) To pay tribute to the sacrifices and contributions made on the home front by the people of the United States during the Korean War.

(5) To provide the people of the United States with a clear understanding and appreciation of the lessons and history of the Korean War.

(6) To highlight the advances in technology, science, and medicine related to military research conducted during the Korean War.

(7) To recognize the contributions and sacrifices made by the allies of the United States during the Korean War.

(d) USE OF THE UNITED STATES OF AMERICA KOREAN WAR COMMEMORATION AND SYMBOLS.—Subsection (c) of section 1083 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1918), as amended by section 1067 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2134) and section 1052 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 764), shall apply to the commemorative program.

(e) COMMEMORATIVE FUND.—

(1) ESTABLISHMENT OF NEW ACCOUNT.—If the Secretary of Defense establishes the commemorative program, the Secretary the Treasury shall establish in the Treasury of the United States an account to be known as the “Department of Defense Korean War Commemoration Fund” (in this section referred to as the “Fund”).

(2) ADMINISTRATION AND USE OF FUND.—The Fund shall be available to, and administered by, the Secretary of Defense. The Secretary of Defense shall use the assets of the Fund only for the purpose of conducting the commemorative program and shall prescribe

such regulations regarding the use of the Fund as the Secretary of Defense considers to be necessary.

(3) **DEPOSITS.**—There shall be deposited into the Fund the following:

(A) Amounts appropriated to the Fund.

(B) Proceeds derived from the use by the Secretary of Defense of the exclusive rights described in subsection (c) of section 1083 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1918).

(C) Donations made in support of the commemorative program by private and corporate donors.

(4) **AVAILABILITY.**—Subject to paragraph (5), amounts in the Fund shall remain available until expended.

(5) **TREATMENT OF UNOBLIGATED FUNDS; TRANSFER.**—If unobligated amounts remain in the Fund as of September 30, 2013, the Secretary of the Treasury shall transfer the remaining amounts to the Department of Defense Vietnam War Commemorative Fund established pursuant to section 598(e) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 113 note). The transferred amounts shall be merged with, and available for the same purposes as, other amounts in the Department of Defense Vietnam War Commemorative Fund.

(f) **ACCEPTANCE OF VOLUNTARY SERVICES.**—

(1) **AUTHORITY TO ACCEPT SERVICES.**—Notwithstanding section 1342 of title 31, United States Code, the Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the commemorative program. The Secretary of Defense shall prohibit the solicitation of any voluntary services if the nature or circumstances of such solicitation would compromise the integrity or the appearance of integrity of any program of the Department of Defense or of any individual involved in the program.

(2) **COMPENSATION FOR WORK-RELATED INJURY.**—A person providing voluntary services under this subsection shall be considered to be a Federal employee for purposes of chapter 81 of title 5, United States Code, relating to compensation for work-related injuries. The person shall also be considered a special governmental employee for purposes of standards of conduct and sections 202, 203, 205, 207, 208, and 209 of title 18, United States Code. A person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of voluntary services under this subsection.

(3) **REIMBURSEMENT OF INCIDENTAL EXPENSES.**—The Secretary of Defense may provide for reimbursement of incidental expenses incurred by a person providing voluntary services under this subsection. The Secretary of Defense shall determine which expenses are eligible for reimbursement under this paragraph.

(g) **REPORT REQUIRED.**—If the Secretary of Defense conducts the commemorative program, the Inspector General of the Department of Defense shall submit to Congress, not later than 60 days after the end of the commemorative program, a report containing an accounting of—

(1) all of the funds deposited into and expended from the Fund;

(2) any other funds expended under this section; and

(3) any unobligated funds remaining in the Fund as of September 30, 2013, that are transferred to the Department of Defense Vietnam War Commemorative Fund pursuant to subsection (e)(5).

(h) **LIMITATION ON EXPENDITURES.**—Using amounts appropriated to the Department of Defense, the Secretary of Defense may not expend more than \$5,000,000 to carry out the commemorative program.

Subtitle I—Military Family Readiness Matters

SEC. 581. APPOINTMENT OF ADDITIONAL MEMBERS OF DEPARTMENT OF DEFENSE MILITARY FAMILY READINESS COUNCIL.

(a) **INCLUSION OF SPOUSE OF GENERAL OR FLAG OFFICER.**—Subsection (b) of section 1781a of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (E) as subparagraph (F); and

(B) by inserting after subparagraph (D) the following new subparagraph:

“(E) The spouse of a general or flag officer.”; and

(2) in paragraph (2), by striking “subparagraphs (C) and (D)” and inserting “subparagraphs (C), (D), and (E)”.

(b) **INCLUSION OF DIRECTOR OF OFFICE OF COMMUNITY SUPPORT FOR MILITARY FAMILIES WITH SPECIAL NEEDS.**—Subsection (b)(1) of such section is further amended by adding at the end the following new subparagraph:

“(G) The Director of the Office of Community Support for Military Families With Special Needs.”.

(c) **CLARIFICATION OF APPOINTMENT OPTIONS FOR EXISTING MEMBER.**—Subparagraph (F) of subsection (b)(1) of such section, as redesignated by subsection (a)(1)(A), is amended to read as follows:

“(F) In addition to the representatives appointed under subparagraphs (B) and (C), the senior enlisted advisor, or the spouse of a senior enlisted member, from each of the Army, Navy, Marine Corps, and Air Force.”.

(d) **APPOINTMENT BY SECRETARY OF DEFENSE.**—Subsection (b) of such section is further amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking “, who shall be appointed by the Secretary of Defense”;

(B) in subparagraph (C), by striking “, who shall be appointed by the Secretary of Defense” both places it appears; and

(C) in subparagraph (D), by striking “by the Secretary of Defense”;

(2) by adding at the end the following new paragraph:

“(3) The Secretary of Defense shall appoint the members of the Council required by subparagraphs (B) through (F) of paragraph (1).”.

SEC. 582. ENHANCEMENT OF COMMUNITY SUPPORT FOR MILITARY FAMILIES WITH SPECIAL NEEDS.

(a) **DIRECTOR OF THE OFFICE OF COMMUNITY SUPPORT FOR MILITARY FAMILIES WITH SPECIAL NEEDS.**—Subsection (c) of section 1781c of title 10, United States Code, is amended to read as follows:

“(c) **DIRECTOR.**—(1) The head of the Office shall be the Director of the Office of Community Support for Military Families With Special Needs, who shall be a member of the Senior Executive Service or a general officer or flag officer.

“(2) In the discharge of the responsibilities of the Office, the Director shall be subject to the supervision, direction, and control of the Under Secretary of Defense for Personnel and Readiness.”.

(b) **ADDITIONAL RESPONSIBILITY FOR OFFICE.**—Subsection (d) of such section is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

“(7) To conduct periodic reviews of best practices in the United States in the provision of medical and educational services for children with special needs.”.

(c) **ENHANCEMENT OF SUPPORT.**—Section 563 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2304) is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following new subsections:

“(c) **MILITARY DEPARTMENT SUPPORT FOR LOCAL CENTERS TO ASSIST MILITARY CHILDREN WITH SPECIAL NEEDS.**—The Secretary of a military department may establish or support centers on or in the vicinity of military installations under the jurisdiction of such Secretary to coordinate and provide medical and educational services for children with special needs of members of the Armed Forces who are assigned to such installations.

“(d) **ADVISORY PANEL ON COMMUNITY SUPPORT FOR MILITARY FAMILIES WITH SPECIAL NEEDS.**—

“(1) **ESTABLISHMENT.**—Not later than 90 days after the date of the enactment of this subsection, the Secretary of Defense shall establish an advisory panel on community support for military families with special needs.

“(2) **MEMBERS.**—The advisory panel shall consist of seven individuals who are a member of a military family with special needs. The Secretary of Defense shall appoint the members of the advisory panel.

“(3) **DUTIES.**—The advisory panel shall—

“(A) provide informed advice to the Director of the Office of Community Support for Military Families With Special Needs on the implementation of the policy required by subsection (e) of section 1781c of title 10, United States Code, and on the discharge of the programs required by subsection (f) of such section;

“(B) assess and provide information to the Director on services and support for children with special needs that is available from other departments and agencies of the Federal Government and from State and local governments; and

“(C) otherwise advise and assist the Director in the discharge of the duties of the Office of Community Support for Military Families With Special Needs in such manner as the Secretary of Defense and the Director jointly determine appropriate.

“(4) **MEETINGS.**—The Director shall meet with the advisory panel at such times, and with such frequency, as the Director considers appropriate. The Director shall meet with the panel at least once each year. The Director may meet with the panel through teleconferencing or by other electronic means.”.

SEC. 583. MODIFICATION OF YELLOW RIBBON REINTEGRATION PROGRAM.

(a) **OFFICE FOR REINTEGRATION PROGRAMS.**—Subsection (d)(1) of section 582 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 10101 note) is amended—

(1) by striking “The Under” and inserting the following:

“(A) **IN GENERAL.**—The Under”; and

(2) in the last sentence—

(A) by striking “The office may also” and inserting the following:

“(B) **PARTNERSHIPS AND ACCESS.**—The office may”; and

(B) by inserting “and the Department of Veterans Affairs” after “Administration”; and

(C) by adding at the end the following new sentence: "Service and State-based programs may provide access to curriculum, training, and support for services to members and families from all components."

(b) **CENTER FOR EXCELLENCE IN REINTEGRATION.**—Subsection (d)(2) of such section is amended by adding at the end the following new sentence: "The Center shall develop and implement a process for evaluating the effectiveness of the Yellow Ribbon Reintegration Program in supporting the health and well-being of members of the Armed Forces and their families throughout the deployment cycle described in subsection (g)."

(c) **STATE DEPLOYMENT CYCLE SUPPORT TEAMS.**—Subsection (f)(3) of such section is amended by inserting "and community-based organizations" after "service providers".

(d) **OPERATION OF PROGRAM DURING DEPLOYMENT AND POST-DEPLOYMENT-RECONSTITUTION PHASES.**—Subsection (g) of such section is amended—

(1) in paragraph (3), by inserting "and to decrease the isolation of families during deployment" after "combat zone"; and

(2) in paragraph (5)(A), by inserting "providing information on employment opportunities," after "communities".

(e) **ADDITIONAL OUTREACH SERVICE.**—Subsection (h) of such section, as amended by section 595(1) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2338), is amended by adding at the end the following new paragraph:

"(15) Resiliency training to promote comprehensive programs for members of the Armed Forces to build mental and emotional resiliency for successfully meeting the demands of the deployment cycle."

SEC. 584. EXPANSION AND CONTINUATION OF JOINT FAMILY SUPPORT ASSISTANCE PROGRAM.

Section 675 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 119 Stat. 2273; 10 U.S.C. 1781 note) is amended—

(1) in subsection (b)—

(A) by striking "not more than" and inserting "not less than"; and

(B) by striking "Up to" and inserting "At least"; and

(2) in subsection (h), by striking "at the end of the three-year period beginning on the date on which funds are first obligated for the program" and inserting "on December 31, 2012".

SEC. 585. REPORT ON MILITARY SPOUSE EDUCATION PROGRAMS.

(a) **REVIEW REQUIRED.**—The Secretary of Defense shall carry out a review of all education programs of the Department of Defense and Department of Veterans Affairs designed to support spouses of members of the Armed Forces.

(b) **ELEMENTS OF REVIEW.**—At a minimum, the review shall evaluate the following:

(1) All education programs of the Department of Defense and Department of Veterans Affairs that are in place to advance educational opportunities for military spouses.

(2) The efficacy and effectiveness of such education programs.

(3) The extent to which the availability of educational opportunities for military spouses influences the decisions of members to remain in the Armed Forces.

(4) A comparison of the costs associated with providing military spouse education opportunities as an incentive to retain members rather than recruiting or training new members.

(c) **SUBMISSION OF RESULTS.**—Not later than 180 days after the date of the enactment

of this Act, the Secretary of Defense shall submit to the congressional defense committees a report containing—

(1) the results of the review; and

(2) such recommendations as the Secretary considers necessary for improving military spouse education programs.

(d) **CONSULTATION.**—In conducting the review and preparing the report, the Secretary of Defense shall consult with the Secretary of Veterans Affairs regarding education programs of Department of Veterans Affairs assisting spouses of members of the Armed Forces.

SEC. 586. REPORT ON ENHANCING BENEFITS AVAILABLE FOR MILITARY DEPENDENT CHILDREN WITH SPECIAL EDUCATION NEEDS.

(a) **REPORT REQUIRED.**—Not later than September 30, 2011, the Secretary of the Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the needs of military families with children with special education needs and evaluating options to enhance the benefits available to such families and children under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in meeting such needs.

(b) **CONSULTATION.**—The Secretary of Defense shall prepare the report in consultation with the Secretary of Education.

(c) **ELEMENTS.**—In preparing the report, the Secretary of Defense shall—

(1) identify and assess obstacles faced by military families with children with special education needs in obtaining a free appropriate public education to address such needs;

(2) identify and assess evidence-based research and best practices for providing special education and related services (as those terms are defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)) for military children with special education needs;

(3) assess timeliness in obtaining special education and related services described in paragraph (2);

(4) determine and document the cost associated with obtaining special education and related services described in paragraph (2);

(5) assess the feasibility of establishing an individualized education program for military children with special education needs that is applicable across jurisdictions of local educational agencies in order to achieve reciprocity among States in acknowledging such programs;

(6) identify means of improving oversight and compliance with the requirements of section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414) relating to a local educational agency supporting an existing individualized education program for a child with special education needs who is relocating to another State pursuant to the permanent change of station of a military parent until an individualized education program is developed and approved for such child in the State to which the child relocates;

(7) assess the feasibility of establishing an expedited process for resolution of complaints by military parents with a child with special education needs about lack of access to education and related services otherwise specified in the individualized education program of the child;

(8) assess the feasibility of permitting the Department of Defense to contact the State to which a military family with a child with special education needs will relocate pursuant to a permanent change of station when the orders for such change of station are

issued, but before the family takes residence in such State, for the purpose of commencing preparation for education and related services specified in the individualized education program of the child;

(9) assess the feasibility of establishing a system within the Department of Defense to document complaints by military parents regarding access to free and appropriate public education for their children with special education needs;

(10) identify means to strengthen the monitoring and oversight of special education and related services for military children with special education needs under the Interstate Compact on Educational Opportunities for Military Children; and

(11) consider such other matters as the Secretary of Defense and the Secretary of Education jointly consider appropriate.

SEC. 587. REPORTS ON CHILD DEVELOPMENT CENTERS AND FINANCIAL ASSISTANCE FOR CHILD CARE FOR MEMBERS OF THE ARMED FORCES.

(a) **REPORTS REQUIRED.**—Not later than six months after the date of the enactment of this Act, and every two years thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on Department of Defense child development centers and financial assistance for child care provided by the Department of Defense off-installation to members of the Armed Forces.

(b) **ELEMENTS.**—Each report required by subsection (a) shall include the following, current as of the date of such report:

(1) The number of child development centers currently located on military installations.

(2) The number of dependents of members of the Armed Forces utilizing such child development centers.

(3) The number of dependents of members of the Armed Forces that are unable to utilize such child development centers due to capacity limitations.

(4) The types of financial assistance available for child care provided by the Department of Defense off-installation to members of the Armed Forces (including eligible members of the reserve components).

(5) The extent to which members of the Armed Forces are utilizing such financial assistance for child care off-installation.

(6) The methods by which the Department of Defense reaches out to eligible military families to increase awareness of the availability of such financial assistance.

(7) The formulas used to calculate the amount of such financial assistance provided to members of the Armed Forces.

(8) The funding available for such financial assistance in the Department of Defense and in the military departments.

(9) The barriers to access, if any, to such financial assistance faced by members of the Armed Forces, including whether standards and criteria of the Department of Defense for child care off-installation may affect access to child care.

(10) Any other matters the Secretary considers appropriate in connection with such report, including with respect to the enhancement of access to Department of Defense child care development centers and financial assistance for child care off-installation for members of the Armed Forces.

Subtitle J—Other Matters**SEC. 591. AUTHORITY FOR MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE AND COAST GUARD CIVILIAN EMPLOYEES AND THEIR FAMILIES TO ACCEPT GIFTS FROM NON-FEDERAL ENTITIES.**

(a) CODIFICATION AND EXPANSION OF EXISTING AUTHORITY TO COVER ADDITIONAL MEMBERS AND EMPLOYEES.—Chapter 155 of title 10, United States Code, is amended by inserting after section 2601 the following new section:

“§ 2601a. Direct acceptance of gifts by members of the armed forces and Department of Defense and Coast Guard employees and their families

“(a) REGULATIONS GOVERNING ACCEPTANCE OF GIFTS.—(1) The Secretary of Defense (and the Secretary of Homeland Security in the case of the Coast Guard) shall issue regulations to provide that, subject to such limitations as may be specified in such regulations, the following individuals may accept gifts from nonprofit organizations, private parties, and other sources outside the Department of Defense or the Department of Homeland Security:

“(A) A member of the armed forces described in subsection (b).

“(B) A civilian employee of the Department of Defense or Coast Guard described in subsection (c).

“(C) The family members of such a member or employee.

“(D) Survivors of such a member or employee who is killed.

“(2) The regulations required by this subsection shall—

“(A) apply uniformly to all elements of the Department of Defense and, to the maximum extent feasible, to the Coast Guard; and

“(B) require review and approval by a designated agency ethics official before acceptance of a gift to ensure that acceptance of the gift complies with the Joint Ethics Regulation.

“(b) COVERED MEMBERS.—This section applies to a member of the armed forces who, while performing active duty, full-time National Guard duty, or inactive-duty training on or after September 11, 2001, incurred an injury or illness—

“(1) as described in section 1413a(e)(2) of this title; or

“(2) under other circumstances determined by the Secretary concerned to warrant treatment analogous to members covered by paragraph (1).

“(c) COVERED EMPLOYEES.—This section applies to a civilian employee of the Department of Defense or Coast Guard who, while an employee on or after September 11, 2001, incurred an injury or illness under a circumstance described in paragraph (1) or (2) of subsection (c).

“(d) GIFTS FROM CERTAIN SOURCES PROHIBITED.—The regulations issued under subsection (a) may not authorize the acceptance of a gift from a foreign government or international organization or their agents.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2601 the following new item:

“2601a. Direct acceptance of gifts by members of the armed forces and Department of Defense and Coast Guard employees and their families.”.

SEC. 592. INCREASE IN NUMBER OF PRIVATE SECTOR CIVILIANS AUTHORIZED FOR ADMISSION TO NATIONAL DEFENSE UNIVERSITY.

Section 2167(a) of title 10, United States Code, is amended by striking “20 full-time

student positions” and inserting “35 full-time student positions”.

SEC. 593. ADMISSION OF DEFENSE INDUSTRY CIVILIANS TO ATTEND UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY.

(a) ADMISSION AUTHORITY.—Chapter 901 of title 10, United States Code, is amended by inserting after section 9314 the following new section:

“§ 9314a. United States Air Force Institute of Technology: admission of defense industry civilians

“(a) ADMISSION AUTHORIZED.—(1) The Secretary of the Air Force may permit defense industry employees described in subsection (b) to receive instruction at the United States Air Force Institute of Technology in accordance with this section. Any such defense industry employee may be enrolled in, and may be provided instruction in, a program leading to a graduate degree in a defense focused curriculum related to aeronautics and astronautics, electrical and computer engineering, engineering physics, mathematics and statistics, operational sciences, or systems and engineering management.

“(2) No more than 125 defense industry employees may be enrolled at the United States Air Force Institute of Technology at any one time under the authority of paragraph (1).

“(3) Upon successful completion of the course of instruction at the United States Air Force Institute of Technology in which a defense industry employee is enrolled, the defense industry employee may be awarded an appropriate degree under section 9314 of this title.

“(b) ELIGIBLE DEFENSE INDUSTRY EMPLOYEES.—For purposes of this section, an eligible defense industry employee is an individual employed by a private firm that is engaged in providing to the Department of Defense significant and substantial defense-related systems, products, or services. A defense industry employee admitted for instruction at the United States Air Force Institute of Technology remains eligible for such instruction only so long as that person remains employed by the same firm.

“(c) ANNUAL DETERMINATION BY THE SECRETARY OF THE AIR FORCE.—Defense industry employees may receive instruction at the United States Air Force Institute of Technology during any academic year only if, before the start of that academic year, the Secretary of the Air Force, or the designee of the Secretary, determines that providing instruction to defense industry employees under this section during that year—

“(1) will further the military mission of the United States Air Force Institute of Technology; and

“(2) will be done on a space-available basis and not require an increase in the size of the faculty of the school, an increase in the course offerings of the school, or an increase in the laboratory facilities or other infrastructure of the school.

“(d) PROGRAM REQUIREMENTS.—The Secretary of the Air Force shall ensure that—

“(1) the curriculum in which defense industry employees may be enrolled under this section is not readily available through other schools and concentrates on the areas of focus specified in subsection (a)(1) that are conducted by military organizations and defense contractors working in close cooperation; and

“(2) the course offerings at the United States Air Force Institute of Technology continue to be determined solely by the needs of the Department of Defense.

“(e) TUITION.—(1) The United States Air Force Institute of Technology shall charge tuition for students enrolled under this section at a rate not less than the rate charged for employees of the United States outside the Department of the Air Force.

“(2) Amounts received by the United States Air Force Institute of Technology for instruction of students enrolled under this section shall be retained by the school to defray the costs of such instruction. The source, and the disposition, of such funds shall be specifically identified in records of the school.

“(f) STANDARDS OF CONDUCT.—While receiving instruction at the United States Air Force Institute of Technology, defense industry employees enrolled under this section, to the extent practicable, are subject to the same regulations governing academic performance, attendance, norms of behavior, and enrollment as apply to Government civilian employees receiving instruction at the school.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 9314 the following new item:

“9314a. United States Air Force Institute of Technology: admission of defense industry civilians.”.

SEC. 594. UPDATED TERMINOLOGY FOR ARMY MEDICAL SERVICE CORPS.

Paragraph (5) of section 3068 of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking “Pharmacy, Supply, and Administration” and inserting “Administrative Health Services”; and

(2) in subparagraph (C), by striking “Sanitary Engineering” and inserting “Preventive Medicine Sciences”; and

(3) in subparagraph (D), by striking “Optometry” and inserting “Clinical Health Sciences”.

SEC. 595. DATE FOR SUBMISSION OF ANNUAL REPORT ON DEPARTMENT OF DEFENSE STARBASE PROGRAM.

Section 2193b(g) of title 10, United States Code, is amended by striking “90 days after the end of each fiscal year” and inserting “March 31 of each year”.

SEC. 596. EXTENSION OF DEADLINE FOR SUBMISSION OF FINAL REPORT OF MILITARY LEADERSHIP DIVERSITY COMMISSION.

Section 596(e)(1) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4478) is amended by striking “12 months” and inserting “18 months”.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS**Subtitle A—Pay and Allowances**

Sec. 601. Ineligibility of certain Federal civilian employees for Reservist income replacement payments on account of availability of comparable benefits under another program.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.

Sec. 612. One-year extension of certain bonus and special pay authorities for health care professionals.

Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.

Sec. 614. One-year extension of authorities relating to title 37 consolidated special pay, incentive pay, and bonus authorities.

Sec. 615. One-year extension of authorities relating to payment of other title 37 bonuses and special pays.

Sec. 616. One-year extension of authorities relating to payment of referral bonuses.

Subtitle C—Travel and Transportation Allowances

Sec. 621. Extension of authority to provide travel and transportation allowances for inactive duty training outside of normal commuting distances.

Sec. 622. Travel and transportation allowances for attendance at Yellow Ribbon Reintegration events.

Subtitle D—Disability, Retired Pay and Survivor Benefits

Sec. 631. Elimination of cap on retired pay multiplier for members with greater than 30 years of service who retire for disability.

Sec. 632. Payment date for retired and retrain pay.

Sec. 633. Clarification of effect of ordering reserve component member to active duty to receive authorized medical care on reducing eligibility age for receipt of non-regular service retired pay.

Sec. 634. Conformity of special compensation for members with injuries or illnesses requiring assistance in everyday living with monthly personal caregiver stipend under Department of Veterans Affairs program of comprehensive assistance for family caregivers.

Sec. 635. Sense of Congress concerning age and service requirements for retired pay for non-regular service.

Subtitle E—Commissary and Non-appropriated Fund Instrumentality Benefits and Operations

Sec. 641. Addition of definition of morale, welfare, and recreation telephone services for use in contracts to provide such services for military personnel serving in combat zones.

Sec. 642. Feasibility study on establishment of full exchange store in the Northern Mariana Islands.

Sec. 643. Continuation of commissary and exchange operations at Brunswick Naval Air Station, Maine.

Subtitle F—Other Matters

Sec. 651. Report on basic allowance for housing for personnel assigned to sea duty.

Sec. 652. Report on savings from enhanced management of special pay for aviation career officers extending period of active duty.

Subtitle A—Pay and Allowances

SEC. 601. INELIGIBILITY OF CERTAIN FEDERAL CIVILIAN EMPLOYEES FOR RESERVE INCOME REPLACEMENT PAYMENTS ON ACCOUNT OF AVAILABILITY OF COMPARABLE BENEFITS UNDER ANOTHER PROGRAM.

(a) **INELIGIBILITY FOR PAYMENTS.**—Section 910(b) of title 37, United States Code, is amended by adding at the end the following new paragraph:

“(3) A civilian employee of the Federal Government who is also a member of a reserve component is not entitled to a payment under this section for any period for which the employee is entitled to—

“(A) a differential payment under section 5538 of title 5; or

“(B) a comparable benefit under an administratively established program for civilian employees absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services.”.

(b) **EFFECTIVE DATE.**—Subsection (b)(3) of section 910 of title 37, United States Code, as added by subsection (a), shall apply with respect to payments under such section for months beginning on or after the date of the enactment of this Act.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

The following sections of title 37, United States Code, are amended by striking “December 31, 2010” and inserting “December 31, 2011”:

(1) Section 308b(g), relating to Selected Reserve reenlistment bonus.

(2) Section 308c(i), relating to Selected Reserve affiliation or enlistment bonus.

(3) Section 308d(c), relating to special pay for enlisted members assigned to certain high-priority units.

(4) Section 308g(f)(2), relating to Ready Reserve enlistment bonus for persons without prior service.

(5) Section 308h(e), relating to Ready Reserve enlistment and reenlistment bonus for persons with prior service.

(6) Section 308i(f), relating to Selected Reserve enlistment and reenlistment bonus for persons with prior service.

(7) Section 910(g), relating to income replacement payments for reserve component members experiencing extended and frequent mobilization for active duty service.

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR HEALTH CARE PROFESSIONALS.

(a) **TITLE 10 AUTHORITIES.**—The following sections of title 10, United States Code, are amended by striking “December 31, 2010” and inserting “December 31, 2011”:

(1) Section 2130a(a)(1), relating to nurse officer candidate accession program.

(2) Section 16302(d), relating to repayment of education loans for certain health professionals who serve in the Selected Reserve.

(b) **TITLE 37 AUTHORITIES.**—The following sections of title 37, United States Code, are amended by striking “December 31, 2010” and inserting “December 31, 2011”:

(1) Section 302c–1(f), relating to accession and retention bonuses for psychologists.

(2) Section 302d(a)(1), relating to accession bonus for registered nurses.

(3) Section 302e(a)(1), relating to incentive special pay for nurse anesthetists.

(4) Section 302g(e), relating to special pay for Selected Reserve health professionals in critically short wartime specialties.

(5) Section 302h(a)(1), relating to accession bonus for dental officers.

(6) Section 302j(a), relating to accession bonus for pharmacy officers.

(7) Section 302k(f), relating to accession bonus for medical officers in critically short wartime specialties.

(8) Section 302l(g), relating to accession bonus for dental specialist officers in critically short wartime specialties.

SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

The following sections of title 37, United States Code, are amended by striking “De-

cember 31, 2010” and inserting “December 31, 2011”:

(1) Section 312(f), relating to special pay for nuclear-qualified officers extending period of active service.

(2) Section 312b(c), relating to nuclear career accession bonus.

(3) Section 312c(d), relating to nuclear career annual incentive bonus.

SEC. 614. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO TITLE 37 CONSOLIDATED SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES.

The following sections of title 37, United States Code, are amended by striking “December 31, 2010” and inserting “December 31, 2011”:

(1) Section 331(h), relating to general bonus authority for enlisted members.

(2) Section 332(g), relating to general bonus authority for officers.

(3) Section 333(i), relating to special bonus and incentive pay authorities for nuclear officers.

(4) Section 334(i), relating to special aviation incentive pay and bonus authorities for officers.

(5) Section 335(k), relating to special bonus and incentive pay authorities for officers in health professions.

(6) Section 351(h), relating to hazardous duty pay.

(7) Section 352(g), relating to assignment pay or special duty pay.

(8) Section 353(i), relating to skill incentive pay or proficiency bonus.

(9) Section 355(h), relating to retention incentives for members qualified in critical military skills or assigned to high priority units.

SEC. 615. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER TITLE 37 BONUSES AND SPECIAL PAYS.

The following sections of title 37, United States Code, are amended by striking “December 31, 2010” and inserting “December 31, 2011”:

(1) Section 301b(a), relating to aviation officer retention bonus.

(2) Section 307a(g), relating to assignment incentive pay.

(3) Section 308(g), relating to reenlistment bonus for active members.

(4) Section 309(e), relating to enlistment bonus.

(5) Section 324(g), relating to accession bonus for new officers in critical skills.

(6) Section 326(g), relating to incentive bonus for conversion to military occupational specialty to ease personnel shortage.

(7) Section 327(h), relating to incentive bonus for transfer between armed forces.

(8) Section 330(f), relating to accession bonus for officer candidates.

SEC. 616. ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF REFERRAL BONUSES.

The following sections of title 10, United States Code, are amended by striking “December 31, 2010” and inserting “December 31, 2011”:

(1) Section 1030(i), relating to health professions referral bonus.

(2) Section 3252(h), relating to Army referral bonus.

Subtitle C—Travel and Transportation Allowances

SEC. 621. EXTENSION OF AUTHORITY TO PROVIDE TRAVEL AND TRANSPORTATION ALLOWANCES FOR INACTIVE DUTY TRAINING OUTSIDE OF NORMAL COMMUTING DISTANCES.

Section 408a(e) of title 37, United States Code, is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

SEC. 622. TRAVEL AND TRANSPORTATION ALLOWANCES FOR ATTENDANCE AT YELLOW RIBBON REINTEGRATION EVENTS.

(a) PAYMENT OF TRAVEL COSTS AUTHORIZED.—

(1) IN GENERAL.—Chapter 7 of title 37, United States Code, is amended by inserting after section 411k the following new section:

“§ 411l. Travel and transportation allowances: attendance of members and other persons at Yellow Ribbon Reintegration Program events

“(a) ALLOWANCES AUTHORIZED.—(1) Under uniform regulations prescribed by the Secretaries concerned, a member of the uniformed services authorized to attend a Yellow Ribbon Reintegration Program event may be provided travel and transportation allowances in order that the member may attend a Yellow Ribbon Reintegration Program event.

“(2) Under uniform regulations prescribed by the Secretaries concerned, travel and transportation allowances may be provided for a person designated pursuant to subsection (b) in order for the person to accompany a member in attending a Yellow Ribbon Reintegration Program event if the Secretary concerned determines that the presence of the person at the event may contribute to the purposes of the event for the member.

“(b) DESIGNATION OF PERSONS ELIGIBLE FOR ALLOWANCE.—A member of the uniformed services who is eligible to attend a Yellow Ribbon Reintegration Program event may designate one or more persons, including another member of the uniformed services, for purposes of receiving travel and transportation allowances described in subsection (c) to attend a Yellow Ribbon Reintegration Program event. The designation of a person for purposes of this section shall be made in writing and may be changed at any time.

“(c) AUTHORIZED TRAVEL AND TRANSPORTATION.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home or place of business of the authorized person and the location of the Yellow Ribbon Reintegration Program event.

“(2) In addition to transportation under paragraph (1), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established under section 404(d) of this title.

“(3) The transportation authorized by paragraph (1) may be provided by any of the following means:

“(A) Transportation in-kind.

“(B) A monetary allowance in place of transportation in-kind at a rate to be prescribed by the Secretaries concerned.

“(C) Reimbursement for the commercial cost of transportation.

“(4) An allowance payable under this subsection may be paid in advance.

“(5) Reimbursement payable under this subsection may not exceed the cost of Government-procured commercial round-trip air travel.

“(d) YELLOW RIBBON REINTEGRATION PROGRAM EVENT DEFINED.—In this section, the term ‘Yellow Ribbon Reintegration Program event’ means an event authorized under section 582 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 10101 note).”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 411k the following new item:

“411l. Travel and transportation allowances: attendance of members and other persons at Yellow Ribbon Reintegration Program events.”.

(b) APPLICABILITY.—No reimbursement may be provided under section 411l of title 37, United States Code, as added by subsection (a), for travel and transportation costs incurred before September 30, 2010.

Subtitle D—Disability, Retired Pay and Survivor Benefits

SEC. 631. ELIMINATION OF CAP ON RETIRED PAY MULTIPLIER FOR MEMBERS WITH GREATER THAN 30 YEARS OF SERVICE WHO RETIRE FOR DISABILITY.

(a) COMPUTATION OF RETIRED PAY.—The table in section 1401(a) of title 10, United States Code, is amended—

(1) in the column designated “Column 2”, by inserting “, not to exceed 75%,” after “percentage of disability” both places it appears; and

(2) by striking column 4.

(b) RECOMPUTATION OF RETIRED OR RETAINER PAY TO REFLECT LATER ACTIVE DUTY OF MEMBERS WHO FIRST BECAME MEMBERS BEFORE SEPTEMBER 8, 1980.—The table in section 1402(d) of such title is amended—

(1) in the column designated “Column 2”, by inserting “, not to exceed 75%,” after “percentage of disability”; and

(2) by striking column 4.

(c) RECOMPUTATION OF RETIRED OR RETAINER PAY TO REFLECT LATER ACTIVE DUTY OF MEMBERS WHO FIRST BECAME MEMBERS AFTER SEPTEMBER 7, 1980.—The table in section 1402a(d) of such title is amended—

(1) in the column designated “Column 2”, by inserting “, not to exceed 75 percent,” after “percentage of disability”; and

(2) by striking column 4.

(d) APPLICATION OF AMENDMENTS.—The tables in sections 1401(a), 1402(d), and 1402a(d) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act, shall continue to apply to the computation or recomputation of retired or retainer pay for persons who first became entitled to retired or retainer pay under subtitle A of such title on or before the date of the enactment of this Act. The amendments made by this section shall apply only with respect to persons who first become entitled to retired or retainer pay under such subtitle after that date.

SEC. 632. PAYMENT DATE FOR RETIRED AND RETAINER PAY.

(a) SETTING PAYMENT DATE.—Section 1412 of title 10, United States Code, is amended—

(1) by striking “Amounts” and inserting “(a) ROUNDING.—Amounts”; and

(2) by adding at the end the following new subsection:

“(b) PAYMENT DATE.—Amounts of retired pay and retainer pay due a retired member of the uniformed services shall be paid on the first day of each month beginning after the month in which the right to such pay accrues.”.

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

“§ 1412. Administrative provisions”.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 71 of such title is amended by striking the item relating to section 1412 and inserting the following new item:

“1412. Administrative provisions.”.

(c) EFFECTIVE DATE.—Subsection (b) of section 1412 of title 10, United States Code, as added by subsection (a), shall apply begin-

ning with the first month that begins more than 30 days after the date of the enactment of this Act.

SEC. 633. CLARIFICATION OF EFFECT OF ORDERING RESERVE COMPONENT MEMBER TO ACTIVE DUTY TO RECEIVE AUTHORIZED MEDICAL CARE ON REDUCING ELIGIBILITY AGE FOR RECEIPT OF NON-REGULAR SERVICE RETIRED PAY.

Section 12731(f)(2)(B) of title 10, United States Code, is amended by adding at the end the following new clause:

“(iii) If a member described in subparagraph (A) is wounded or otherwise injured or becomes ill while serving on active duty pursuant to a call or order to active duty under a provision of law referred to in the first sentence of clause (i) or in clause (ii), and the member is then ordered to active duty under section 12301(h)(1) of this title to receive medical care for the wound, injury, or illness, each day of active duty under that order for medical care shall be treated as a continuation of the original call or order to active duty for purposes of reducing the eligibility age of the member under this paragraph.”.

SEC. 634. CONFORMITY OF SPECIAL COMPENSATION FOR MEMBERS WITH INJURIES OR ILLNESSES REQUIRING ASSISTANCE IN EVERYDAY LIVING WITH MONTHLY PERSONAL CAREGIVER STIPEND UNDER DEPARTMENT OF VETERANS AFFAIRS PROGRAM OF COMPREHENSIVE ASSISTANCE FOR FAMILY CAREGIVERS.

Subsection (c) of section 439 of title 37, United States Code, is amended to read as follows:

“(c) AMOUNT.—The amount of monthly special compensation payable to a member under subsection (a) shall be the amount as follows:

“(1) The monthly amount of aid and attendance payable under section 1114(r)(2) of title 38.

“(2) Upon the establishment by the Secretary of Veterans Affairs pursuant to subparagraph (C) of section 1720G(a)(3) of title 38 of the schedule of monthly personal caregiver stipends under the Department of Veterans Affairs program of comprehensive assistance for family caregivers under subparagraph (A)(ii)(V) of such section, the monthly personal caregiver stipend payable with respect to similarly circumstanced veterans under such schedule, rather than the amount specified in paragraph (1).”.

SEC. 635. SENSE OF CONGRESS CONCERNING AGE AND SERVICE REQUIREMENTS FOR RETIRED PAY FOR NON-REGULAR SERVICE.

It is the sense of Congress that—

(1) the amendments made to section 12731 of title 10, United States Code, by section 647 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 160) were intended to reduce the minimum age at which members of a reserve component of the Armed Forces would begin receiving retired pay according to time spent deployed, by three months for every 90-day period spent on active duty over the course of a career, rather than limiting qualifying time to such periods wholly served within the same fiscal year, as interpreted by the Department of Defense; and

(2) steps should be taken by the Department of Defense to implement the congressional intent outlined in paragraph (1).

Subtitle E—Commissary and Non-appropriated Fund Instrumentality Benefits and Operations

SEC. 641. ADDITION OF DEFINITION OF MORALE, WELFARE, AND RECREATION TELEPHONE SERVICES FOR USE IN CONTRACTS TO PROVIDE SUCH SERVICES FOR MILITARY PERSONNEL SERVING IN COMBAT ZONES.

Section 885 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 265; 10 U.S.C. 2304 note) is amended by adding at the end the following new subsection:

“(C) MORALE, WELFARE, AND RECREATION TELEPHONE SERVICES DEFINED.—In this section, the term ‘morale, welfare, and recreation telephone services’ means unofficial telephone calling center services supporting calling centers provided by the Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other nonappropriated fund instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.”.

SEC. 642. FEASIBILITY STUDY ON ESTABLISHMENT OF FULL EXCHANGE STORE IN THE NORTHERN MARIANA ISLANDS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the results of a study to determine the feasibility of replacing the “Shoppette” of the Army and Air Force Exchange Service in the Northern Mariana Islands with a full-service exchange store.

SEC. 643. CONTINUATION OF COMMISSARY AND EXCHANGE OPERATIONS AT BRUNSWICK NAVAL AIR STATION, MAINE.

(a) CONTINUATION OF OPERATIONS.—The Secretary of Defense shall provide for the continuation of commissary and exchange operations at Brunswick Naval Air Station, Maine, until the later of the following:

(1) The closure of Brunswick Naval Air Station.

(2) The end of the 60-day period beginning on the date on which the Secretary of Defense makes the determination under subsection (b).

(b) REVIEW AND DETERMINATION.—Not earlier than 120 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) review any report prepared by the Comptroller General of the United States relating to commissary and exchange operations at Brunswick Naval Air Station, Maine; and

(2) based on such review, make a determination regarding whether such operations should be continued.

Subtitle F—Other Matters

SEC. 651. REPORT ON BASIC ALLOWANCE FOR HOUSING FOR PERSONNEL ASSIGNED TO SEA DUTY.

(a) REPORT REQUIRED.—Not later than July 1, 2011, the Secretary of Defense shall submit to the congressional defense committees a report containing the following:

(1) A review of the standards used to determine the monthly rates of basic allowance for housing for personnel assigned to sea duty (under section 403 of title 37, United States Code).

(2) A review of the legislative framework and policies applicable to eligibility and levels of compensation for single and married personnel, with and without dependents, who are assigned to sea duty.

(3) Any recommendation for modifications of title 37, United States Code, relating to

basic allowance for housing for personnel who are assigned to sea duty that the Secretary considers appropriate, including an estimate of the cost of each modification.

(b) ELEMENTS OF REVIEWS.—In conducting the reviews for purposes of subsection (a), the Secretary shall consider whether existing law, policies, and housing standards are suitable in terms of the following:

(1) The cost and availability of housing ashore for personnel assigned to sea duty.

(2) The pay and allowances (other than basic allowance for housing) payable to personnel who are assigned to sea duty, including basic pay, career sea pay, and the family separation allowance.

(3) The comparability in levels of compensation for single and married personnel, with and without dependents, who are assigned to sea duty.

(4) The provision of appropriate quality of life and retention incentives for members in all grades who are assigned to sea duty.

(5) The provision of appropriate recognition and motivation for promotion to higher military grades of personnel who are assigned to sea duty.

(6) Budgetary constraints and rising personnel costs.

SEC. 652. REPORT ON SAVINGS FROM ENHANCED MANAGEMENT OF SPECIAL PAY FOR AVIATION CAREER OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.

(a) REPORT REQUIRED.—Not later than August 1, 2011, the Secretary of Defense shall submit to the congressional defense committees a report regarding the use and management of the special pay programs authorized in section 301b of title 37, United States Code, for aviation career officers extending a period of active duty.

(b) ELEMENTS OF REPORT.—The report required by subsection (a) shall include the following:

(1) A review of the programs operated by the Secretaries of the military departments, including—

(A) directives and guidelines issued by the Secretary of Defense;

(B) the number of aviation officers receiving the special pay, listed by weapon system;

(C) the weapon systems for which special pay is not authorized and the number of aviation officers affected by such exclusion;

(D) the policy and structure of the programs and the retention philosophy supporting the policy and structure of the programs;

(E) the amounts paid to individual aviation officers, annually and over the course of a career; and

(F) the amounts budgeted annually for such programs.

(2) An accounting of aviation officers receiving the special pay who have an active duty service commitment and the totals of aviation officers and allocated funding by types of active duty service commitment.

(3) A review of retention trends for aviation officers, generally and by weapon system, within the military departments and an assessment of the factors that influence retention trends, and the reliability and durability of those trends if such factors are altered.

(4) An assessment of the funds that can be saved by restructuring or eliminating such programs to reduce payments to aviation officers associated with those weapon systems with strong retention trends and aviation officers with active duty service commitments.

(5) A review of the demand for former military aviation officers to fulfill commercial airline hiring requirements, recent data re-

garding airline hiring of former military aviation officers, and an assessment of the methods used by airlines to qualify pilot candidates for employment as commercial pilots.

(6) Any recommendations for modifications of title 37, United States Code, relating to special pay for aviation career officers extending a period of active duty.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Improvements to Health Benefits

Sec. 701. Extension of prohibition on increases in certain health care costs.

Sec. 702. Extension of dependent coverage under the TRICARE program.

Sec. 703. Survivor dental benefits.

Sec. 704. Aural screenings for members of the Armed Forces.

Sec. 705. Temporary prohibition on increase in copayments under retail pharmacy system of pharmacy benefits program.

Subtitle B—Health Care Administration

Sec. 711. Administration of TRICARE.

Sec. 712. Postdeployment health reassessments for purposes of the medical tracking system for members of the Armed Forces deployed overseas.

Sec. 713. Clarification of licensure requirements applicable to military health-care professionals who are members of the National Guard performing certain duty while in State status.

Sec. 714. Improvements to oversight of medical training for Medical Corps officers.

Sec. 715. Health information technology.

Sec. 716. Education and training on use of pharmaceuticals in rehabilitation programs for wounded warriors.

Subtitle C—Other Matters

Sec. 721. Repeal of report requirement on separations resulting from refusal to participate in anthrax vaccine immunization program.

Sec. 722. Comprehensive policy on consistent neurological cognitive assessments of members of the Armed Forces before and after deployment.

Sec. 723. Assessment of post-traumatic stress disorder by military occupation.

Sec. 724. Licensed mental health counselors and the TRICARE program.

Subtitle A—Improvements to Health Benefits

SEC. 701. EXTENSION OF PROHIBITION ON INCREASES IN CERTAIN HEALTH CARE COSTS.

(a) CHARGES UNDER CONTRACTS FOR MEDICAL CARE.—Section 1097(e) of title 10, United States Code, is amended by striking “September 30, 2009” and inserting “September 30, 2011”.

(b) CHARGES FOR INPATIENT CARE.—Section 1086(b)(3) of such title is amended by striking “September 30, 2010” and inserting “September 30, 2011”.

SEC. 702. EXTENSION OF DEPENDENT COVERAGE UNDER THE TRICARE PROGRAM.

(a) DEPENDENT COVERAGE.—

(1) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 1110b. TRICARE program: extension of dependent coverage

“(a) IN GENERAL.—In accordance with subsection (c), an individual described in subsection (b) shall be deemed to be a dependent

(as described in section 1072(2)(D) of this title) for purposes of coverage under the TRICARE program.

“(b) INDIVIDUAL DESCRIBED.—An individual described in this subsection is an individual who—

“(1) would be a dependent under section 1072(2) of this title but for exceeding an age limit under such section;

“(2) has not attained the age of 26;

“(3) is not eligible to enroll in an eligible employer-sponsored plan (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986);

“(4) is not otherwise a dependent of a member or a former member under any subparagraph of section 1072(2) of this title; and

“(5) meets other criteria specified in regulations prescribed by the Secretary, similar to regulations prescribed by the Secretary of Health and Human Services under section 2714(b) of the Public Health Service Act.

“(c) PREMIUM.—(1) The Secretary shall prescribe by regulation a premium (or premiums) for coverage under the TRICARE program provided pursuant to this section to an individual described in subsection (b).

“(2) The monthly amount of the premium in effect for a month for coverage under the TRICARE program pursuant to this section shall be the amount equal to the cost of such coverage that the Secretary determines on an appropriate actuarial basis.

“(3) The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums under this subsection.

“(4) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section for such fiscal year.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1110a the following new item:

“1110b. TRICARE program: extension of dependent coverage.”.

(b) EFFECTIVE DATE AND REGULATIONS.—The amendments made by this section shall take effect on January 1, 2011. The Secretary of Defense shall prescribe an interim final rule with respect to such amendments, effective not later than January 1, 2011.

SEC. 703. SURVIVOR DENTAL BENEFITS.

Paragraph (2) of section 1076a(k) of title 10, United States Code, is amended to read as follows:

“(2) Such term includes any such dependent of a member who dies—

“(A) while on active duty for a period of more than 30 days; or

“(B) while such member is a member of the Ready Reserve.”.

SEC. 704. AURAL SCREENINGS FOR MEMBERS OF THE ARMED FORCES.

(a) TINNITUS SCREENING.—

(1) STUDY REQUIRED.—Not later than September 30, 2011, the Secretary of Defense shall conduct a study to identify the best tests currently available to screen members of the Armed Forces for tinnitus.

(2) PLAN.—Not later than December 31, 2011, the Secretary shall develop a plan to ensure that all members of the Armed Forces are screened for tinnitus prior to and after a deployment to a combat zone.

(3) REPORT.—Not later than December 31, 2011, the Secretary shall submit to the congressional defense committees a report containing the results of the study under paragraph (1) and the plan under paragraph (2).

(b) IMPROVING AURAL PROTECTION FOR MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—In accordance with section 721 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4506), the Secretary of Defense shall examine methods to improve the aural protection for members of the Armed Forces in combat.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the methods to improve aural protection examined under subsection (a).

(c) CENTER OF EXCELLENCE.—The Secretary shall ensure that all studies, findings, plans, and reports conducted or submitted under this section are transmitted to the center of excellence established by section 721 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4506).

SEC. 705. TEMPORARY PROHIBITION ON INCREASE IN COPAYMENTS UNDER RETAIL PHARMACY SYSTEM OF PHARMACY BENEFITS PROGRAM.

During the period beginning on October 1, 2010, and ending on September 30, 2011, the cost sharing requirements established under paragraph (6) of section 1074g(a) of title 10, United States Code, for pharmaceutical agents available through retail pharmacies covered by paragraph (2)(E)(ii) of such section may not exceed amounts as follows:

- (1) In the case of generic agents, \$3.
- (2) In the case of formulary agents, \$9.
- (3) In the case of nonformulary agents, \$22.

Subtitle B—Health Care Administration

SEC. 711. ADMINISTRATION OF TRICARE.

Subsection (a) of section 1073 of title 10, United States Code, is amended—

(1) by striking “Except” and inserting “(1) Except”; and

(2) by adding at the end the following new paragraph:

“(2) Except as otherwise provided in this chapter, the Secretary of Defense shall have responsibility for administering the TRICARE program and making any decision affecting such program.”.

SEC. 712. POSTDEPLOYMENT HEALTH REASSESSMENTS FOR PURPOSES OF THE MEDICAL TRACKING SYSTEM FOR MEMBERS OF THE ARMED FORCES DEPLOYED OVERSEAS.

(a) REQUIREMENT FOR POSTDEPLOYMENT HEALTH REASSESSMENTS.—Paragraph (1) of subsection (b) of section 1074f of title 10, United States Code, is amended to read as follows:

“(1)(A) The system described in subsection

(a) shall include the use of predeployment medical examinations and postdeployment medical examinations (including the assessment of mental health and the drawing of blood samples) and postdeployment health reassessments to—

“(i) accurately record the health status of members before their deployment;

“(ii) accurately record any changes in their health status during the course of their deployment; and

“(iii) identify health concerns, including mental health concerns, that may become manifest several months following their deployment.

“(B) The postdeployment medical examination shall be conducted when the member is redeployed or otherwise leaves an area in which the system is in operation (or as soon as possible thereafter).

“(C) The postdeployment health reassessment shall be conducted at an appropriate

time during the period beginning 90 days after the member is redeployed and ending 180 days after the member is redeployed.”.

(b) INCORPORATION IN REASSESSMENTS OF ELEMENTS OF PREDEPLOYMENT AND POSTDEPLOYMENT MEDICAL EXAMINATIONS.—Paragraph (2) of such subsection is amended by striking “and postdeployment medical examination” and inserting “medical examination, postdeployment medical examination, and postdeployment health reassessment”.

(c) RECORDKEEPING.—Subsection (c) of such section is amended—

(1) by inserting “and reassessments” after “medical examinations”; and

(2) by inserting “and the prescription and administration of psychotropic medications” after “including immunizations”.

(d) QUALITY ASSURANCE.—Subsection (d) of such section is amended—

(1) in paragraph (1), by striking “and postdeployment medical examinations” and inserting “, postdeployment medical examinations, and postdeployment health reassessments”; and

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting “and reassessments” after “postdeployment health assessments”; and

(B) in subparagraph (B), by inserting “and reassessments” after “such assessments”.

SEC. 713. CLARIFICATION OF LICENSURE REQUIREMENTS APPLICABLE TO MILITARY HEALTH-CARE PROFESSIONALS WHO ARE MEMBERS OF THE NATIONAL GUARD PERFORMING CERTAIN DUTY WHILE IN STATE STATUS.

Section 1094(d) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting “or (3)” after “paragraph (2)”; and

(2) in paragraph (2), by inserting “as being described in this paragraph” after “paragraph (1)”; and

(3) by adding at the end the following new paragraph:

“(3) A health-care professional referred to in paragraph (1) as being described in this paragraph is a member of the National Guard who—

“(A) has a current license to practice medicine, osteopathic medicine, dentistry, or another health profession; and

“(B) is performing training or duty under section 502(f) of title 32 in response to an actual or potential disaster.”.

SEC. 714. IMPROVEMENTS TO OVERSIGHT OF MEDICAL TRAINING FOR MEDICAL CORPS OFFICERS.

(a) REVIEW OF TRAINING PROGRAMS FOR MEDICAL OFFICERS.—

(1) REVIEW.—The Secretary of Defense shall conduct a review of training programs for medical officers (as defined in section 101(b)(14) of title 10, United States Code) to ensure that the academic and military performance of such officers has been completely documented in military personnel records. The programs reviewed shall include, at a minimum, the following:

(A) Programs at the Uniformed Services University of the Health Sciences that award a medical doctor degree.

(B) Selected residency programs at military medical treatment facilities, as determined by the Secretary, to include at least one program in each of the specialties of—

- (i) anesthesiology;
- (ii) emergency medicine;
- (iii) family medicine;
- (iv) general surgery;
- (v) neurology;
- (vi) obstetrics/gynecology;
- (vii) pathology;

- (viii) pediatrics; and
- (ix) psychiatry.

(2) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the findings of the review under paragraph (1).

(b) **ANNUAL REPORT ON GRADUATE MEDICAL EDUCATION PROGRAMS.**—

(1) **ANNUAL REPORT.**—Not later than April 1, 2011, and annually thereafter through 2015, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the graduate medical education programs of the Department of Defense.

(2) **ELEMENTS.**—Each report under paragraph (1) shall include the following:

(A) An identification of each graduate medical education program of the Department of Defense in effect during the previous fiscal year, including for each such program, the military department responsible, the location, the medical specialty, the period of training required, and the number of students by year.

(B) The status of each program referred to in subparagraph (A), including, for each such program, an identification of the fiscal year in which the last action was taken with respect to each of the following:

- (i) Initial accreditation.
- (ii) Continued accreditation.
- (iii) If applicable, probation, and the reasons for probationary status.
- (iv) If applicable, withheld or withdrawn accreditation, and the reasons for such action.

(C) A discussion of trends in the graduate medical education programs of the Department.

(D) A discussion of challenges faced by such programs, and a description and assessment of strategies and plans to address such challenges.

(E) Such other matters as the Secretary considers appropriate.

SEC. 715. HEALTH INFORMATION TECHNOLOGY.

(a) **ENTERPRISE RISK ASSESSMENT METHODOLOGY STUDY.**—

(1) **STUDY REQUIRED.**—The Secretary of Defense shall conduct an enterprise risk assessment methodology study of all health information technology programs of the Department of Defense.

(2) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report containing the results of the study required under paragraph (1).

(b) **REPORT ON HEALTH INFORMATION TECHNOLOGY ORGANIZATIONAL STRUCTURE AND FUTURE PLANS.**—

(1) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the organizational structure for health information technology within the Department of Defense.

(2) **ELEMENTS.**—The report required under paragraph (1) shall include the following:

(A) Organizational charts for all organizations involved with health information technology showing, at a minimum, the senior positions in each office and each activity.

(B) A description of the functions and responsibilities, to include policy formulation, policy and program execution, and program oversight, of each senior position for health information technology.

(C) An assessment of how well the health information systems of the Department of

Defense interact with the health information systems of—

- (i) the Department of Veterans Affairs; and
- (ii) entities other than the Federal Government.

(D) A description of the role played by the Interagency Program Office established by section 1635 of the Wounded Warrior Act (title XVI of Public Law 110-181; 10 U.S.C. 1071 note) and whether the office is satisfactorily performing the functions required by such section, as well as recommendations for administrative or legislative action as the Secretary considers appropriate.

(E) A complete description of all future plans for legacy systems and new electronic health record initiatives, including the joint virtual lifetime electronic record.

(F) The results of the survey described in paragraph (3).

(3) **SURVEY.**—The Secretary shall conduct a survey of users of the health information technology systems of the Department of Defense to assess the benefits and failings of such systems.

(4) **DEFINITIONS.**—In this subsection:

(A) The term “senior position” means a position filled by a member of the senior executive service, a position on the Executive Schedule established pursuant to title 5, United States Code, or a position filled by a general or flag officer.

(B) The term “senior personnel” means personnel who are members of the senior executive service, who fill a position listed on the Executive Schedule established pursuant to title 5, United States Code, or who are general or flag officers.

(c) **REPORT ON GAO REPORT REQUIRED.**—Not later than March 31, 2011, the Secretary of Defense shall submit to the congressional defense committees a report on the report by the Comptroller General of the United States titled “Information Technology: Opportunities Exist to Improve Management of DOD’s Electronic Health Record Initiative” (GAO-11-50), including—

(1) the status of implementing the recommendations made in such report; and

(2) for each such recommendation that has not been implemented, the reason why the recommendation has not been implemented.

SEC. 716. EDUCATION AND TRAINING ON USE OF PHARMACEUTICALS IN REHABILITATION PROGRAMS FOR WOUNDED WARRIORS.

(a) **EDUCATION AND TRAINING REQUIRED.**—The Secretary of Defense shall develop and implement training, available through the Internet or other means, on the use of pharmaceuticals in rehabilitation programs for seriously ill or injured members of the Armed Forces.

(b) **RECIPIENTS OF TRAINING.**—The training developed and implemented under subsection (a) shall be training for each category of individuals as follows:

(1) Patients in or transitioning to a wounded warrior unit, with special accommodation in such training for such patients with cognitive disabilities.

(2) Nonmedical case managers.

(3) Military leaders.

(4) Family members.

(c) **ELEMENTS OF TRAINING.**—The training developed and implemented under subsection (a) shall include the following:

(1) An overview of the fundamentals of safe prescription drug use.

(2) Familiarization with the benefits and risks of using pharmaceuticals in rehabilitation therapies.

(3) Examples of the use of pharmaceuticals for individuals with multiple, complex inju-

ries, including traumatic brain injury and post-traumatic stress disorder.

(4) Familiarization with means of finding additional resources for information on pharmaceuticals.

(5) Familiarization with basic elements of pain and pharmaceutical management.

(6) Familiarization with complementary and alternative therapies.

(d) **TAILORING OF TRAINING.**—The training developed and implemented under subsection (a) shall appropriately tailor the elements specified in subsection (c) for and among each category of individuals set forth in subsection (b).

(e) **REVIEW OF PHARMACY.**—

(1) **REVIEW.**—The Secretary shall review all policies and procedures of the Department of Defense regarding the use of pharmaceuticals in rehabilitation programs for seriously ill or injured members of the Armed Forces.

(2) **RECOMMENDATIONS.**—Not later than September 20, 2011, the Secretary shall submit to the congressional defense committees any recommendations for administrative or legislative action with respect to the review under paragraph (1) as the Secretary considers appropriate.

Subtitle C—Other Matters

SEC. 721. REPEAL OF REPORT REQUIREMENT ON SEPARATIONS RESULTING FROM REFUSAL TO PARTICIPATE IN ANTHRAX VACCINE IMMUNIZATION PROGRAM.

Section 1178 of title 10, United States Code, is amended—

(1) by striking “(a) REQUIREMENT TO ESTABLISH SYSTEM.—”; and

(2) by striking subsection (b).

SEC. 722. COMPREHENSIVE POLICY ON CONSISTENT NEUROLOGICAL COGNITIVE ASSESSMENTS OF MEMBERS OF THE ARMED FORCES BEFORE AND AFTER DEPLOYMENT.

(a) **COMPREHENSIVE POLICY REQUIRED.**—Not later than January 31, 2011, the Secretary of Defense shall develop and implement a comprehensive policy on consistent neurological cognitive assessments of members of the Armed Forces before and after deployment.

(b) **UPDATES.**—The Secretary shall revise the policy required by subsection (a) on a periodic basis in accordance with experience and evolving best practice guidelines.

SEC. 723. ASSESSMENT OF POST-TRAUMATIC STRESS DISORDER BY MILITARY OCCUPATION.

(a) **ASSESSMENT.**—The Secretaries of the military departments shall each conduct an assessment of post-traumatic stress disorder incidence by military occupation, including identification of military occupations with a high incidence of such disorder.

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretaries shall each submit to the congressional defense committees a report on the assessment under subsection (a).

(c) **CENTERS OF EXCELLENCE.**—The Secretary of Defense shall ensure that all studies, findings, plans, and reports conducted or submitted under this section are transmitted to the centers of excellence established by sections 1621 and 1622 of the Wounded Warrior Act (title XVI of Public Law 110-181).

SEC. 724. LICENSED MENTAL HEALTH COUNSELORS AND THE TRICARE PROGRAM.

Not later than June 20, 2011, the Secretary of Defense shall prescribe the regulations required by section 717 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 1073 note).

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS**Subtitle A—Acquisition Policy and Management**

- Sec. 801. Disclosure to litigation support contractors.
- Sec. 802. Designation of engine development and procurement program as major subprogram.
- Sec. 803. Enhancement of Department of Defense authority to respond to combat and safety emergencies through rapid acquisition and deployment of urgently needed supplies.
- Sec. 804. Review of acquisition process for rapid fielding of capabilities in response to urgent operational needs.
- Sec. 805. Acquisition of major automated information system programs.
- Sec. 806. Requirements for information relating to supply chain risk.

Subtitle B—Provisions Relating to Major Defense Acquisition Programs

- Sec. 811. Cost estimates for program baselines and contract negotiations for major defense acquisition and major automated information system programs.
- Sec. 812. Management of manufacturing risk in major defense acquisition programs.
- Sec. 813. Modification and extension of requirements of the Weapon System Acquisition Reform Act of 2009.
- Sec. 814. Inclusion of major subprograms to major defense acquisition programs under various acquisition-related requirements.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

- Sec. 821. Provisions relating to fire resistant fiber for production of military uniforms.
- Sec. 822. Repeal of requirement for certain procurements from firms in the small arms production industrial base.
- Sec. 823. Review of regulatory definition relating to production of specialty metals.
- Sec. 824. Guidance relating to rights in technical data.
- Sec. 825. Extension of sunset date for certain protests of task and delivery order contracts.
- Sec. 826. Inclusion of option amounts in limitations on authority of the Department of Defense to carry out certain prototype projects.
- Sec. 827. Permanent authority for Defense Acquisition Challenge Program; pilot expansion of Program.
- Sec. 828. Energy savings performance contracts.
- Sec. 829. Definition of materials critical to national security.

Subtitle D—Contractor Matters

- Sec. 831. Oversight and accountability of contractors performing private security functions in areas of combat operations.
- Sec. 832. Extension of regulations on contractors performing private security functions to areas of other significant military operations.
- Sec. 833. Standards and certification for private security contractors.

Sec. 834. Enhancements of authority of Secretary of Defense to reduce or deny award fees to companies found to jeopardize the health or safety of Government personnel.

Sec. 835. Annual joint report and Comptroller General review on contracting in Iraq and Afghanistan.

Subtitle E—Other Matters

- Sec. 841. Improvements to structure and functioning of Joint Requirements Oversight Council.
- Sec. 842. Department of Defense policy on acquisition and performance of sustainable products and services.
- Sec. 843. Assessment and plan for critical rare earth materials in defense applications.
- Sec. 844. Review of national security exception to competition.
- Sec. 845. Requirement for entities with facility clearances that are not under foreign ownership control or influence mitigation.
- Sec. 846. Procurement of photovoltaic devices.
- Sec. 847. Non-availability exception from Buy American requirements for procurement of hand or measuring tools.
- Sec. 848. Contractor logistics support of contingency operations.

Subtitle F—Improve Acquisition Act

Sec. 860. Short title.

PART I—DEFENSE ACQUISITION SYSTEM

- Sec. 861. Improvements to the management of the defense acquisition system.
- Sec. 862. Comptroller General report on Joint Capabilities Integration and Development System.
- Sec. 863. Requirements for the acquisition of services.
- Sec. 864. Review of defense acquisition guidance.
- Sec. 865. Requirement to review references to services acquisition throughout the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.
- Sec. 866. Pilot program on acquisition of military purpose nondevelopmental items.

PART II—DEFENSE ACQUISITION WORKFORCE

- Sec. 871. Acquisition workforce excellence.
- Sec. 872. Amendments to the acquisition workforce demonstration project.
- Sec. 873. Career development for civilian and military personnel in the acquisition workforce.
- Sec. 874. Recertification and training requirements.
- Sec. 875. Information technology acquisition workforce.
- Sec. 876. Definition of acquisition workforce.
- Sec. 877. Defense Acquisition University curriculum review.

PART III—FINANCIAL MANAGEMENT

- Sec. 881. Audit readiness of financial statements of the Department of Defense.
- Sec. 882. Review of obligation and expenditure thresholds.
- Sec. 883. Disclosure and traceability of the cost of Department of Defense health care contracts.

PART IV—INDUSTRIAL BASE

- Sec. 891. Expansion of the industrial base.
- Sec. 892. Price trend analysis for supplies and equipment purchased by the Department of Defense.
- Sec. 893. Contractor business systems.
- Sec. 894. Review and recommendations on eliminating barriers to contracting with the Department of Defense.
- Sec. 895. Inclusion of the providers of services and information technology in the national technology and industrial base.
- Sec. 896. Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy; Industrial Base Fund.

Subtitle A—Acquisition Policy and Management**SEC. 801. DISCLOSURE TO LITIGATION SUPPORT CONTRACTORS.**

(a) IN GENERAL.—Section 2320 of title 10, United States Code, is amended—

(1) in subsection (c)(2)—

(A) by striking “subsection (a), allowing” and inserting “subsection (a)— ‘(A) allowing’; and

(B) by adding at the end the following new subparagraph:

“(B) allowing a covered litigation support contractor access to and use of any technical, proprietary, or confidential data delivered under a contract for the sole purpose of providing litigation support to the Government in the form of administrative, technical, or professional services during or in anticipation of litigation; or”; and

(2) by inserting after subsection (f) the following:

“(g) In this section, the term ‘covered litigation support contractor’ means a contractor (including an expert or technical consultant) under contract with the Department of Defense to provide litigation support, which contractor executes a contract with the Government agreeing to and acknowledging—

“(1) that proprietary or nonpublic technical data furnished will be accessed and used only for the purposes stated in that contract;

“(2) that the covered litigation support contractor will take all reasonable steps to protect the proprietary and nonpublic nature of the technical data furnished to the covered litigation support contractor; and

“(3) that such technical data provided to the covered litigation support contractor under the authority of this section shall not be used by the covered litigation support contractor to compete against the third party for Government or non-Government contracts.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 120 days after the date of the enactment of this Act.

SEC. 802. DESIGNATION OF ENGINE DEVELOPMENT AND PROCUREMENT PROGRAM AS MAJOR SUBPROGRAM.

(a) DESIGNATION AS MAJOR SUBPROGRAM.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall designate an engine development and procurement program as a major subprogram of the F-35 Lightning II aircraft major defense acquisition program, in accordance with section 2430a of title 10, United States Code.

(b) ORIGINAL BASELINE.—For purposes of reporting requirements referred to in section 2430a(b) of title 10, United States Code, for

the major subprogram designated under subsection (a), the Secretary shall use the Milestone B decision as the original baseline for the subprogram.

(c) ACTIONS FOLLOWING CRITICAL COST GROWTH.—

(1) IN GENERAL.—Subject to paragraph (2), to the extent that the Secretary elects to restructure the Lightning II aircraft major defense acquisition program subsequent to a reassessment and actions required by subsections (a) and (c) of section 2433a of title 10, United States Code, during fiscal year 2010, and also conducts such reassessment and actions with respect to an F-35 engine development and procurement program (including related reporting based on the original baseline as defined in subsection (c)), the requirements of section 2433a of such title with respect to a major subprogram designated under subsection (a) shall be considered to be met with respect to the major subprogram.

(2) LIMITATION.—Actions taken in accordance with paragraph (1) shall be considered to meet the requirements of section 2433a of title 10, United States Code, with respect to a major subprogram designated under subsection (a) only to the extent that designation as a major subprogram would require the Secretary of Defense to conduct a reassessment and take actions pursuant to such section 2433a for such a subprogram upon enactment of this Act. The requirements of such section 2433a shall not be considered to be met with respect to such a subprogram in the event that additional programmatic changes, following the date of the enactment of this Act, cause the program acquisition unit cost or procurement unit cost of such a subprogram to increase by a percentage equal to or greater than the critical cost growth threshold (as defined in section 2433(a)(5) of such title) for the subprogram.

SEC. 803. ENHANCEMENT OF DEPARTMENT OF DEFENSE AUTHORITY TO RESPOND TO COMBAT AND SAFETY EMERGENCIES THROUGH RAPID ACQUISITION AND DEPLOYMENT OF URGENTLY NEEDED SUPPLIES.

(a) REQUIREMENT TO ESTABLISH PROCEDURES.—Subsection (a) of section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (10 U.S.C. 2302 note) is amended—

(1) in the matter preceding paragraph (1), by striking “items” and inserting “supplies”; and

(2) by striking paragraph (1) and inserting the following new paragraph (1):

“(1)(A) currently under development by the Department of Defense or available from the commercial sector; or

“(B) require only minor modifications to supplies described in subparagraph (A); and”.

(b) ISSUES TO BE ADDRESSED.—Subsection (b) of such section is amended—

(1) in paragraph (1)(B), by striking “items” and inserting “supplies”; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking “items” and inserting “supplies”; and

(B) in subparagraphs (A) and (B), by striking “an item” and inserting “the supplies”; and

(C) in subparagraph (C), by inserting “and utilization” after “deployment”.

(c) RESPONSE TO COMBAT EMERGENCIES.—Subsection (c) of such section is amended—

(1) by striking “equipment” each place it appears other than paragraph (5) and inserting “supplies”; and

(2) by striking “combat capability” each place it appears;

(3) by striking “that has resulted in combat fatalities” each place it appears and inserting “that has resulted in combat casualties, or is likely to result in combat casualties”; and

(4) in paragraph (1), by striking “is” and inserting “are”; and

(5) in paragraph (2)—

(A) in subparagraph (A), by striking “is” each place it appears and inserting “are”; and

(B) in subparagraph (B), by striking “fatalities” at the end and inserting “casualties”; and

(6) by amending paragraph (3) to read as follows:

“(3) In any fiscal year in which the Secretary makes a determination described in paragraph (1), the Secretary may use any funds available to the Department of Defense for that fiscal year for acquisitions of supplies under this section if the determination includes a written finding that the use of such funds is necessary to address the combat capability deficiency in a timely manner. The authority of this section may not be used to acquire supplies in an amount aggregating more than \$200,000,000 during any such fiscal year.”;

(7) in paragraph (4)—

(A) by inserting “, in consultation with the Director of the Office of Management and Budget,” after “shall”; and

(B) by striking “Each such notice” and inserting “For each such determination, the notice under the preceding sentence”; and

(8) in paragraph (5), by striking “that equipment” and inserting “the supplies concerned”.

(d) WAIVER OF CERTAIN STATUTES AND REGULATIONS.—Subsection (d)(1) of such section is amended by striking “equipment” in subparagraphs (A), (B), and (C) and inserting “supplies”.

(e) TESTING REQUIREMENT.—Subsection (e) of such section is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “an item” and inserting “the supplies”; and

(B) in subparagraph (B), by striking “of the item” and all that follows through “requirements document” and inserting “of the supplies in meeting the original requirements for the supplies (as stated in a statement of the urgent operational need”;

(2) in paragraph (2)—

(A) by striking “an item” and inserting “supplies”; and

(B) by striking “the item” and inserting “the supplies”; and

(3) in paragraph (3), by striking “items” each place it appears and inserting “supplies”.

(f) LIMITATION.—Subsection (f) of such section is amended to read as follows:

“(f) LIMITATION.—In the case of supplies that are part of a major system for which a low-rate initial production quantity determination has been made pursuant to section 2400 of title 10, United States Code, the quantity of such supplies acquired using the procedures prescribed pursuant to this section may not exceed an amount consistent with complying with limitations on the quantity of articles approved for low-rate initial production for such system. Any such supplies shall be included in any relevant calculation of quantities for low-rate initial production for the system concerned.”.

SEC. 804. REVIEW OF ACQUISITION PROCESS FOR RAPID FIELDING OF CAPABILITIES IN RESPONSE TO URGENT OPERATIONAL NEEDS.

(a) REVIEW OF RAPID ACQUISITION PROCESS REQUIRED.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall complete a review of the process for the fielding of capabilities in response to urgent operational needs and submit a report on the review to the congressional defense committees.

(2) REVIEW AND REPORT REQUIREMENTS.—The review pursuant to this section shall include consideration of various improvements to the acquisition process for rapid fielding of capabilities in response to urgent operational needs. For each improvement, the report on the review shall discuss—

(A) the Department’s review of the improvement;

(B) if the improvement is being implemented by the Department, a schedule for implementing the improvement; and

(C) if the improvement is not being implemented by the Department, an explanation of why the improvement is not being implemented.

(3) IMPROVEMENTS TO BE CONSIDERED.—The improvements that shall be considered during the review are the following:

(A) Providing a streamlined, expedited, and tightly integrated iterative approach to—

(i) the identification and validation of urgent operational needs;

(ii) the analysis of alternatives and identification of preferred solutions;

(iii) the development and approval of appropriate requirements and acquisition documents;

(iv) the identification and minimization of development, integration, and manufacturing risks;

(v) the consideration of operation and sustainment costs;

(vi) the allocation of appropriate funding; and

(vii) the rapid production and delivery of required capabilities.

(B) Clearly defining the roles and responsibilities of the Office of the Secretary of Defense, the Joint Chiefs of Staff, the military departments, and other components of the Department of Defense for carrying out all phases of the process.

(C) Designating a senior official within the Office of the Secretary of Defense with primary responsibility for making recommendations to the Secretary on the use of the authority provided by subsections (c) and (d) of section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (10 U.S.C. 2302 note), as amended by section 803 of this Act, in appropriate circumstances.

(D) Establishing a target date for the fielding of a capability pursuant to each validated urgent operational need.

(E) Implementing a system for—

(i) documenting key process milestones, such as funding, acquisition, fielding, and assessment decisions and actions; and

(ii) tracking the cost, schedule, and performance of acquisitions conducted pursuant to the process.

(F) Establishing a formal feedback mechanism for the commanders of the combatant commands to provide information to the Joint Chiefs of Staff and senior acquisition officials on how well fielded solutions are meeting urgent operational needs.

(G) Establishing a dedicated source of funding for the rapid fielding of capabilities in response to urgent operational needs.

(H) Issuing guidance to provide for the appropriate transition of capabilities acquired through rapid fielding into the traditional budget, requirements, and acquisition process for purposes of contracts for follow-on

production, sustainment, and logistics support.

(I) Such other improvements as the Secretary considers appropriate.

(b) DISCRIMINATING URGENT OPERATIONAL NEEDS FROM TRADITIONAL REQUIREMENTS.—

(1) EXPEDITED REVIEW PROCESS.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall develop and implement an expedited review process to determine whether capabilities proposed as urgent operational needs are appropriate for fielding through the process for the rapid fielding of capabilities or should be fielded through the traditional acquisition process.

(2) ELEMENTS.—The review process developed and implemented pursuant to paragraph (1) shall—

(A) apply to the rapid fielding of capabilities in response to joint urgent operational need statements and to other urgent operational needs statements generated by the military departments and the combatant commands;

(B) identify officials responsible for making determinations described in paragraph (1);

(C) establish appropriate time periods for making such determinations;

(D) set forth standards and criteria for making such determinations based on considerations of urgency, risk, and life-cycle management;

(E) establish appropriate thresholds for the applicability of the review process, or of elements of the review process; and

(F) authorize appropriate officials to make exceptions from standards and criteria established under subparagraph (D) in exceptional circumstances.

(3) COVERED CAPABILITIES.—The review process developed and implemented pursuant to paragraph (1) shall provide that, subject to such exceptions as the Secretary considers appropriate for purposes of this section, the acquisition process for rapid fielding of capabilities in response to joint urgent operational needs is appropriate only for capabilities that—

(A) can be fielded within a period of two to 24 months;

(B) do not require substantial development effort;

(C) are based on technologies that are proven and available; and

(D) can appropriately be acquired under fixed price contracts.

(4) INCLUSION IN REPORT.—The Secretary shall include a description of the expedited review process implemented pursuant to paragraph (1) in the report required by subsection (a).

SEC. 805. ACQUISITION OF MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS.

(a) PROGRAM TO IMPROVE INFORMATION TECHNOLOGY PROCESSES.—

(1) IN GENERAL.—Chapter 131 of title 10, United States Code, is amended by inserting after section 2223 the following new section:

“§ 2223a. Information technology acquisition planning and oversight requirements

“(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a program to improve the planning and oversight processes for the acquisition of major automated information systems by the Department of Defense.

“(b) PROGRAM COMPONENTS.—The program established under subsection (a) shall include—

“(1) a documented process for information technology acquisition planning, requirements development and management, project management and oversight, earned value management, and risk management;

“(2) the development of appropriate metrics that can be implemented and monitored on a real-time basis for performance measurement of—

“(A) processes and development status of investments in major automated information system programs;

“(B) continuous process improvement of such programs; and

“(C) achievement of program and investment outcomes;

“(3) a process to ensure that key program personnel have an appropriate level of experience, training, and education in the planning, acquisition, execution, management, and oversight of information technology systems;

“(4) a process to ensure sufficient resources and infrastructure capacity for test and evaluation of information technology systems;

“(5) a process to ensure that military departments and Defense Agencies adhere to established processes and requirements relating to the planning, acquisition, execution, management, and oversight of information technology programs and developments; and

“(6) a process under which an appropriate Department of Defense official may intervene or terminate the funding of an information technology investment if the investment is at risk of not achieving major project milestones.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 of such title is amended by inserting after the item relating to section 2223 the following new item:

“2223a. Information technology acquisition planning and oversight requirements.”.

(b) ANNUAL REPORT TO CONGRESS.—Section 2445b(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

“(5) For each major automated information system program for which such information has not been provided in a previous annual report—

“(A) a description of the business case analysis (if any) that has been prepared for the program and key functional requirements for the program;

“(B) a description of the analysis of alternatives conducted with regard to the program;

“(C) an assessment of the extent to which the program, or portions of the program, have technical requirements of sufficient clarity that the program, or portions of the program, may be feasibly procured under firm, fixed-price contracts;

“(D) the most recent independent cost estimate or cost analysis for the program provided by the Director of Cost Assessment and Program Evaluation in accordance with section 2334(a)(6) of this title;

“(E) a certification by a Department of Defense acquisition official with responsibility for the program that all technical and business requirements have been reviewed and validated to ensure alignment with the business case; and

“(F) an explanation of the basis for the certification described in subparagraph (E).

“(6) For each major automated information system program for which the information required under paragraph (5) has been provided in a previous annual report, a summary of any significant changes to the information previously provided.”.

SEC. 806. REQUIREMENTS FOR INFORMATION RELATING TO SUPPLY CHAIN RISK.

(a) AUTHORITY.—Subject to subsection (b), the head of a covered agency may—

(1) carry out a covered procurement action; and

(2) limit, notwithstanding any other provision of law, in whole or in part, the disclosure of information relating to the basis for carrying out a covered procurement action.

(b) DETERMINATION AND NOTIFICATION.—The head of a covered agency may exercise the authority provided in subsection (a) only after—

(1) obtaining a joint recommendation by the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense, on the basis of a risk assessment by the Under Secretary of Defense for Intelligence, that there is a significant supply chain risk to a covered system;

(2) making a determination in writing, in unclassified or classified form, with the concurrence of the Under Secretary of Defense for Acquisition, Technology, and Logistics, that—

(A) use of the authority in subsection (a)(1) is necessary to protect national security by reducing supply chain risk;

(B) less intrusive measures are not reasonably available to reduce such supply chain risk; and

(C) in a case where the head of the covered agency plans to limit disclosure of information under subsection (a)(2), the risk to national security due to the disclosure of such information outweighs the risk due to not disclosing such information; and

(3) providing a classified or unclassified notice of the determination made under paragraph (2) to the appropriate congressional committees, which notice shall include—

(A) the information required by section 2304(f)(3) of title 10, United States Code;

(B) the joint recommendation by the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense as specified in paragraph (1);

(C) a summary of the risk assessment by the Under Secretary of Defense for Intelligence that serves as the basis for the joint recommendation specified in paragraph (1); and

(D) a summary of the basis for the determination, including a discussion of less intrusive measures that were considered and why they were not reasonably available to reduce supply chain risk.

(c) DELEGATION.—The head of a covered agency may not delegate the authority provided in subsection (a) or the responsibility to make a determination under subsection (b) to an official below the level of the service acquisition executive for the agency concerned.

(d) LIMITATION ON DISCLOSURE.—If the head of a covered agency has exercised the authority provided in subsection (a)(2) to limit disclosure of information—

(1) no action undertaken by the agency head under such authority shall be subject to review in a bid protest before the Government Accountability Office or in any Federal court; and

(2) the agency head shall—

(A) notify appropriate parties of a covered procurement action and the basis for such action only to the extent necessary to effectuate the covered procurement action;

(B) notify other Department of Defense components or other Federal agencies responsible for procurements that may be subject to the same or similar supply chain risk,

in a manner and to the extent consistent with the requirements of national security; and

(C) ensure the confidentiality of any such notifications.

(e) DEFINITIONS.—In this section:

(1) HEAD OF A COVERED AGENCY.—The term “head of a covered agency” means each of the following:

- (A) The Secretary of Defense.
- (B) The Secretary of the Army.
- (C) The Secretary of the Navy.
- (D) The Secretary of the Air Force.

(2) COVERED PROCUREMENT ACTION.—The term “covered procurement action” means any of the following actions, if the action takes place in the course of conducting a covered procurement:

(A) The exclusion of a source that fails to meet qualification standards established in accordance with the requirements of section 2319 of title 10, United States Code, for the purpose of reducing supply chain risk in the acquisition of covered systems.

(B) The exclusion of a source that fails to achieve an acceptable rating with regard to an evaluation factor providing for the consideration of supply chain risk in the evaluation of proposals for the award of a contract or the issuance of a task or delivery order.

(C) The decision to withhold consent for a contractor to subcontract with a particular source or to direct a contractor for a covered system to exclude a particular source from consideration for a subcontract under the contract.

(3) COVERED PROCUREMENT.—The term “covered procurement” means—

(A) a source selection for a covered system or a covered item of supply involving either a performance specification, as provided in section 2305(a)(1)(C)(ii) of title 10, United States Code, or an evaluation factor, as provided in section 2305(a)(2)(A) of such title, relating to supply chain risk;

(B) the consideration of proposals for and issuance of a task or delivery order for a covered system or a covered item of supply, as provided in section 2304c(d)(3) of title 10, United States Code, where the task or delivery order contract concerned includes a contract clause establishing a requirement relating to supply chain risk; or

(C) any contract action involving a contract for a covered system or a covered item of supply where such contract includes a clause establishing requirements relating to supply chain risk.

(4) SUPPLY CHAIN RISK.—The term “supply chain risk” means the risk that an adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of a covered system so as to surveil, deny, disrupt, or otherwise degrade the function, use, or operation of such system.

(5) COVERED SYSTEM.—The term “covered system” means a national security system, as that term is defined in section 3542(b) of title 44, United States Code.

(6) COVERED ITEM OF SUPPLY.—The term “covered item of supply” means an item of information technology (as that term is defined in section 11101 of title 40, United States Code) that is purchased for inclusion in a covered system, and the loss of integrity of which could result in a supply chain risk for a covered system.

(7) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) in the case of a covered system included in the National Intelligence Program

or the Military Intelligence Program, the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the congressional defense committees; and

(B) in the case of a covered system not otherwise included in subparagraph (A), the congressional defense committees.

(f) EFFECTIVE DATE.—The requirements of this section shall take effect on the date that is 180 days after the date of the enactment of this Act and shall apply to—

(1) contracts that are awarded on or after such date; and

(2) task and delivery orders that are issued on or after such date pursuant to contracts that awarded before, on, or after such date.

(g) SUNSET.—The authority provided in this section shall expire on the date that is three years after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Major Defense Acquisition Programs

SEC. 811. COST ESTIMATES FOR PROGRAM BASELINES AND CONTRACT NEGOTIATIONS FOR MAJOR DEFENSE ACQUISITION AND MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS.

Section 2334 of title 10, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by striking “paragraph (2)” and inserting “paragraph (3)”; and

(ii) by striking “, the rationale for selecting such confidence level, and, if such confidence level is less than 80 percent, the justification for selecting a confidence level of less than 80 percent; and” and inserting “and the rationale for selecting such confidence level;”;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph (2):

“(2) ensure that such confidence level provides a high degree of confidence that the program can be completed without the need for significant adjustment to program budgets; and”;

(2) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(3) by inserting after subsection (d) the following new subsection (e):

“(e) ESTIMATES FOR PROGRAM BASELINE AND ANALYSES AND TARGETS FOR CONTRACT NEGOTIATION PURPOSES.—(1) The policies, procedures, and guidance issued by the Director of Cost Assessment and Program Evaluation in accordance with the requirements of subsection (a) shall provide that—

“(A) cost estimates developed for baseline descriptions and other program purposes conducted pursuant to subsection (a)(6) are not to be used for the purpose of contract negotiations or the obligation of funds; and

“(B) cost analyses and targets developed for the purpose of contract negotiations and the obligation of funds are based on the Government’s reasonable expectation of successful contractor performance in accordance with the contractor’s proposal and previous experience.

“(2) The Program Manager and contracting officer for each major defense acquisition program and major automated information system program shall ensure that cost analyses and targets developed for the purpose of contract negotiations and the obligation of funds are carried out in accordance with the requirements of paragraph (1) and the policies, procedures, and guidance issued by the Director of Cost Assessment and Program Evaluation.

“(3) Funds that are made available for a major defense acquisition program or major automated information system program in accordance with a cost estimate conducted pursuant to subsection (a)(6), but are excess to a cost analysis or target developed pursuant to paragraph (2), shall remain available for obligation in accordance with the terms of applicable authorization and appropriations Acts.

“(4) Funds described in paragraph (3)—

“(A) may be used—

“(i) to cover any increased program costs identified by a revised cost analysis or target developed pursuant to paragraph (2);

“(ii) to acquire additional end items in accordance with the requirements of section 2308 of this title; or

“(iii) to cover the cost of risk reduction and process improvements; and

“(B) may be reprogrammed, in accordance with established procedures, only if determined to be excess to program needs on the basis of a cost estimate developed with the concurrence of the Director of Cost Assessment and Program Evaluation.”.

SEC. 812. MANAGEMENT OF MANUFACTURING RISK IN MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue comprehensive guidance on the management of manufacturing risk in major defense acquisition programs.

(b) ELEMENTS.—The guidance issued under subsection (a) shall, at a minimum—

(1) require the use of manufacturing readiness levels as a basis for measuring, assessing, reporting, and communicating manufacturing readiness and risk on major defense acquisition programs throughout the Department of Defense;

(2) provide guidance on the definition of manufacturing readiness levels and how manufacturing readiness levels should be used to assess manufacturing risk and readiness in major defense acquisition programs;

(3) specify manufacturing readiness levels that should be achieved at key milestones and decision points for major defense acquisition programs;

(4) identify tools and models that may be used to assess, manage, and reduce risks that are identified in the course of manufacturing readiness assessments for major defense acquisition programs; and

(5) require appropriate consideration of the manufacturing readiness and manufacturing readiness processes of potential contractors and subcontractors as a part of the source selection process for major defense acquisition programs.

(c) MANUFACTURING READINESS EXPERIENCE.—The Secretary shall ensure that—

(1) the acquisition workforce chapter of the annual strategic workforce plan required by section 115b of title 10, United States Code, includes an assessment of the critical manufacturing readiness knowledge and skills needed in the acquisition workforce and a plan of action for addressing any gaps in such knowledge and skills; and

(2) the need of the Department for manufacturing readiness knowledge and skills is given appropriate consideration, comparable to the consideration given to other program management functions, as the Department identifies areas of need for funding through the Defense Acquisition Workforce Development Fund established in accordance with the requirements of section 1705 of title 10, United States Code.

(d) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term “major

defense acquisition program” has the meaning given that term in section 2430(a) of title 10, United States Code.

SEC. 813. MODIFICATION AND EXTENSION OF REQUIREMENTS OF THE WEAPON SYSTEM ACQUISITION REFORM ACT OF 2009.

(a) **EXTENSION OF REPORTING REQUIREMENTS.**—Section 102(b) of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111–23; 123 Stat. 1714; 10 U.S.C. 2430 note) is amended—

(1) in paragraph (2), by inserting “, and not later than February 15 of each year from 2011 through 2014” after “Not later than 180 days after the date of the enactment of this Act”; and

(2) in paragraph (3), by striking “The first annual report” and inserting “Each annual report from 2010 through 2014”.

(b) **CLARIFICATION THAT PROTOTYPES MAY BE ACQUIRED FROM COMMERCIAL, GOVERNMENT, OR ACADEMIC SOURCES.**—Paragraph (4) of section 203(a) of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111–23; 123 Stat. 1722; 10 U.S.C. 2430 note) is amended to read as follows:

“(A) That prototypes—

“(A) may be required under paragraph (1) or (3) for the system to be acquired or, if prototyping of the system is not feasible, for critical subsystems of the system; and

“(B) may be acquired from commercial, government, or academic sources.”.

(c) **CLARIFICATION THAT CERTIFICATIONS ARE NOT REQUIRED FOR MAJOR DEFENSE ACQUISITION PROGRAMS FOLLOWING MILESTONE C APPROVAL.**—Section 204(c)(2) of the Weapon Systems Acquisition Reform Act of 2009 (123 Stat. 1724) is amended—

(1) in subparagraph (A), by striking “; and” and inserting a semicolon;

(2) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(C) has not yet achieved a Milestone C approval.”.

(d) **CLARIFICATION THAT CERTAIN MILESTONE B CERTIFICATION CRITERIA MAY BE WAIVED.**—

(1) **WAIVER AUTHORITY.**—Effective as of May 22, 2009, section 2366b(d) of title 10, United States Code, as amended by section 205(a)(1) of the Weapon Systems Acquisition Reform Act of 2009 (123 Stat. 1724), is amended—

(A) in paragraph (1), by striking “specified in paragraph (1) or (2) of subsection (a)” and inserting “specified in paragraph (1), (2), or (3) of subsection (a)”; and

(B) in paragraph (2), by striking “specified in paragraphs (1) and (2) of subsection (a)” and inserting “specified in paragraphs (1), (2), and (3) of subsection (a)”.

(2) **DETERMINATION REGARDING SATISFACTION OF CERTIFICATION COMPONENTS.**—Effective as of May 22, 2009, and as if included therein as enacted, section 205(b)(1) of the Weapon Systems Acquisition Reform Act of 2009 (10 U.S.C. 2366b note) is amended by striking “certification components specified in paragraphs (1) and (2) of subsection (a) of section 2366b of title 10, United States Code” and inserting “certification components specified in paragraphs (1), (2), and (3) of subsection (a) of section 2366b of title 10, United States Code”.

(e) **CORRECTION TO REFERENCE.**—Effective as of May 22, 2009, and as if included therein as enacted, section 205(c) of the Weapon Systems Acquisition Reform Act of 2009 (10 U.S.C. 2433a note) is amended by striking “section 2433a(c)(3)” and inserting “section 2433a(c)(1)(C)”.

SEC. 814. INCLUSION OF MAJOR SUBPROGRAMS TO MAJOR DEFENSE ACQUISITION PROGRAMS UNDER VARIOUS ACQUISITION-RELATED REQUIREMENTS.

(a) **REPORTING REQUIREMENTS.**—Section 2430a(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting “(1)” before “If the Secretary”;

(3) in subparagraph (A), as so redesignated, by inserting “(other than as provided in paragraph (2))” before the semicolon; and

(4) by adding at the end the following new paragraph:

“(2) For a major defense acquisition program for which a designation of a major subprogram has been made under subsection (a), unit costs under this chapter shall be submitted in accordance with the definitions in subsection (d).”.

(b) **MILESTONE A APPROVAL CERTIFICATION REQUIREMENTS.**—Section 2366a of such title is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “a major defense acquisition program certified by the Milestone Decision Authority under subsection (a), if the projected cost of the program” and inserting “a major defense acquisition program certified by the Milestone Decision Authority under subsection (a) or a designated major subprogram of such program, if the projected cost of the program or subprogram”; and

(B) in paragraph (2), by inserting “or designated major subprogram” after “major defense acquisition program”; and

(2) in subsection (c)—

(A) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (3), (4), (5), and (6), respectively; and

(B) by inserting after paragraph (1) the following new paragraph (2):

“(2) The term ‘designated major subprogram’ means a major subprogram of a major defense acquisition program designated under section 2430a(a)(1) of this title.”.

(c) **MILESTONE B APPROVAL CERTIFICATION REQUIREMENTS.**—Section 2366b of such title is amended—

(1) in subsection (b)(1)—

(A) by striking “any changes to the program” and inserting “any changes to the program or a designated major subprogram of such program”; and

(B) in subparagraph (B), by striking “otherwise cause the program” and inserting “otherwise cause the program or subprogram”; and

(2) in subsection (g)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph (2):

“(2) The term ‘designated major subprogram’ means a major subprogram of a major defense acquisition program designated under section 2430a(a)(1) of this title.”.

(d) **CONFORMING AMENDMENTS TO SECTION 2399.**—Subsection (a) of section 2399 of such title is amended to read as follows:

“(a) **CONDITION FOR PROCEEDING BEYOND LOW-RATE INITIAL PRODUCTION.**—(1) The Secretary of Defense shall provide that a covered major defense acquisition program or a covered designated major subprogram may not proceed beyond low-rate initial production until initial operational test and evaluation of the program or subprogram is completed.

“(2) In this subsection:

“(A) The term ‘covered major defense acquisition program’ means a major defense

acquisition program that involves the acquisition of a weapon system that is a major system within the meaning of that term in section 2302(5) of this title.

“(B) The term ‘covered designated major subprogram’ means a major subprogram designated under section 2430a(a)(1) of this title that is a major subprogram of a covered major defense acquisition program.”.

(e) **CONFORMING AMENDMENTS TO SECTION 2434.**—Section 2434(a) of such title is amended—

(1) by inserting “(1)” before “The Secretary of Defense”; and

(2) by adding at the end the following new paragraph:

“(2) The provisions of this section shall apply to any major subprogram of a major defense acquisition program (as designated under section 2430a(a)(1) of this title) in the same manner as those provisions apply to a major defense acquisition program, and any reference in this section to a program shall be treated as including such a subprogram.”.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 821. PROVISIONS RELATING TO FIRE RESISTANT FIBER FOR PRODUCTION OF MILITARY UNIFORMS.

(a) **EXTENSION.**—Section 829 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 229; 10 U.S.C. 2533a note) is amended in subsection (f) by striking “on the date that is five years after the date of the enactment of this Act” and inserting “on January 1, 2015”.

(b) **PROHIBITION ON SPECIFICATION IN SOLICITATIONS.**—No solicitation issued before January 1, 2015, by the Department of Defense may include a requirement that proposals submitted pursuant to such solicitation must include the use of fire resistant rayon fiber.

(c) **REPORT REQUIRED.**—

(1) **IN GENERAL.**—Not later than March 15, 2011, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the supply chain for fire resistant fiber for the production of military uniforms.

(2) **ELEMENTS.**—The report required by paragraph (1) shall include, at a minimum, an analysis of the following:

(A) The current and anticipated sources of fire resistant rayon fiber for the production of military uniforms.

(B) The extent to which fire resistant rayon fiber has unique properties that provide advantages for the production of military uniforms.

(C) The extent to which the efficient procurement of fire resistant rayon fiber for the production of military uniforms is impeded by existing statutory or regulatory requirements.

(D) The actions the Department of Defense has taken to identify alternatives to fire resistant rayon fiber for the production of military uniforms.

(E) The extent to which such alternatives provide an adequate substitute for fire resistant rayon fiber for the production of military uniforms.

(F) The impediments to the use of such alternatives, and the actions the Department has taken to overcome such impediments.

(G) The extent to which uncertainty regarding the future availability of fire resistant rayon fiber results in instability or inefficiency for elements of the United States textile industry that use fire resistant rayon fiber, and the extent to which that instability or inefficiency results in less efficient

business practices, impedes investment and innovation, and thereby results or may result in higher costs, delayed delivery, or a lower quality of product delivered to the Government.

(H) The extent to which any modifications to existing law or regulation may be necessary to ensure the efficient acquisition of fire resistant fiber or alternative fire resistant products for the production of military uniforms.

SEC. 822. REPEAL OF REQUIREMENT FOR CERTAIN PROCUREMENTS FROM FIRMS IN THE SMALL ARMS PRODUCTION INDUSTRIAL BASE.

(a) **REPEAL.**—Section 2473 of title 10, United States Code, is repealed.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 146 of such title is amended by striking the item relating to section 2473.

SEC. 823. REVIEW OF REGULATORY DEFINITION RELATING TO PRODUCTION OF SPECIALTY METALS.

(a) **REVIEW REQUIRED.**—The Secretary of Defense shall review the regulations specified in subsection (b) to ensure that the definition of the term “produce” in such regulations complies with the requirements of section 2533b of title 10, United States Code. In carrying out the review, the Secretary shall seek public comment, consider congressional intent, and revise the regulations as the Secretary considers necessary and appropriate.

(b) **REGULATIONS SPECIFIED.**—The regulations referred to in subsection (a) are any portion of subpart 252.2 of the defense supplement to the Federal Acquisition Regulation that includes a definition of the term “produce” for purposes of implementing section 2533b of title 10, United States Code.

(c) **COMPLETION OF REVIEW.**—The Secretary shall complete the review required by subsection (a) and any necessary and appropriate revisions to the defense supplement to the Federal Acquisition Regulation not later than 270 days after the date of the enactment of this Act.

SEC. 824. GUIDANCE RELATING TO RIGHTS IN TECHNICAL DATA.

(a) **REVIEW OF GUIDANCE.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall review guidance issued by the military departments on the implementation of section 2320(e) of title 10, United States Code, to ensure that such guidance is consistent with the guidance issued by the Under Secretary of Defense for Acquisition, Technology, and Logistics and the requirements of this section. Such guidance shall be designed to ensure that the United States—

(1) preserves the option of competition for contracts for the production and sustainment of systems or subsystems that are developed exclusively with Federal funds as defined in accordance with the amendments made by this section; and

(2) is not required to pay more than once for the same technical data.

(b) **RIGHTS IN TECHNICAL DATA.**—Section 2320(a) of title 10, United States Code, is amended—

(1) in paragraph (2)(F)(i)—

(A) by redesignating subclauses (I) and (II) as subclauses (II) and (III), respectively; and

(B) by inserting before subclause (II), as so redesignated, the following new subclause (I):

“(I) rights in technical data described in subparagraph (A) for which a use or release restriction has been erroneously asserted by a contractor or subcontractor;” and

(2) in paragraph (3), by striking “for the purposes of definitions under this para-

graph” and inserting “for the purposes of paragraph (2)(B), but shall be considered to be Federal funds for the purposes of paragraph (2)(A)”.

(c) **VALIDATION OF PROPRIETARY DATA RESTRICTIONS.**—Section 2321(d)(2) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking “A challenge” and inserting “Except as provided in subparagraph (C), a challenge”; and

(2) by adding at the end the following new subparagraph (C):

“(C) The limitation in this paragraph shall not apply to a case in which the Secretary finds that reasonable grounds exist to believe that a contractor or subcontractor has erroneously asserted a use or release restriction with regard to technical data described in section 2320(a)(2)(A) of this title.”.

SEC. 825. EXTENSION OF SUNSET DATE FOR CERTAIN PROTESTS OF TASK AND DELIVERY ORDER CONTRACTS.

Paragraph (3) of section 2304c(e) of title 10, United States Code, is amended to read as follows:

“(3) Paragraph (1)(B) and paragraph (2) of this subsection shall not be in effect after September 30, 2016.”.

SEC. 826. INCLUSION OF OPTION AMOUNTS IN LIMITATIONS ON AUTHORITY OF THE DEPARTMENT OF DEFENSE TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A), by inserting “(including all options)” after “not in excess of \$100,000,000”; and

(B) in subparagraph (B), by inserting “(including all options)” after “in excess of \$100,000,000”; and

(2) in subsection (e)(3)(A), by inserting “(including all options)” after “does not exceed \$50,000,000”.

SEC. 827. PERMANENT AUTHORITY FOR DEFENSE ACQUISITION CHALLENGE PROGRAM; PILOT EXPANSION OF PROGRAM.

(a) **PERMANENT AUTHORITY.**—Section 2359b of title 10, United States Code, is amended—

(1) by striking subsections (j) and (k); and

(2) by redesignating subsection (l) as subsection (j).

(b) **PILOT PROGRAM.**—Section 2359b of title 10, United States Code, as amended by subsection (a), is further amended by adding at the end the following new subsection (k):

“(k) **PILOT PROGRAM FOR PROGRAMS OTHER THAN MAJOR DEFENSE ACQUISITION PROGRAMS.**—

“(1) **IN GENERAL.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall carry out a pilot program to expand the use of the authority provided in this section to provide opportunities for the introduction of innovative and cost-saving approaches to programs other than major defense acquisition programs through the submission, review, and implementation, where appropriate, of qualifying proposals.

“(2) **QUALIFYING PROPOSALS.**—For purposes of this subsection, a qualifying proposal is an offer to supply a nondevelopmental item that—

“(A) is evaluated as achieving a level of performance that is at least equal to the level of performance of an item being procured under a covered acquisition program and as providing savings in excess of 15 percent after considering all costs to the Government of implementing such proposal; or

“(B) is evaluated as achieving a level of performance that is significantly better than

the level of performance of an item being procured under a covered acquisition program without any increase in cost to the Government.

“(3) **REVIEW PROCEDURES.**—The Under Secretary shall adopt modifications as may be needed to the procedures applicable to the Challenge Program to provide for Department of Defense review of, and action on, qualifying proposals. Such procedures shall include, at a minimum, the issuance of a broad agency announcement inviting interested parties to submit qualifying proposals in areas of interest to the Department.

“(4) **DEFINITIONS.**—In this subsection:

“(A) **NONDEVELOPMENTAL ITEM.**—The term ‘nondevelopmental item’ has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

“(B) **COVERED ACQUISITION PROGRAM.**—The term ‘covered acquisition program’ means any acquisition program of the Department of Defense other than a major defense acquisition program, but does not include any contract awarded under an exception to competitive acquisition authorized by the Small Business Act (15 U.S.C. 631 et seq.)

“(C) **LEVEL OF PERFORMANCE.**—The term ‘level of performance’, with respect to a nondevelopmental item, means the extent to which the item demonstrates required item functional characteristics.

“(5) **SUNSET.**—The authority to carry out the pilot program under this subsection shall terminate on the date that is five years after the date of the enactment of this Act.”.

SEC. 828. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) **COMPETITION REQUIREMENTS FOR TASK OR DELIVERY ORDERS UNDER ENERGY SAVINGS PERFORMANCE CONTRACTS.**—Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) is amended by adding at the end the following:

“(c) **TASK OR DELIVERY ORDERS.**—(1) The head of a Federal agency may issue a task or delivery order under an energy savings performance contract by—

“(A) notifying all contractors that have received an award under such contract that the agency proposes to discuss energy savings performance services for some or all of its facilities and, following a reasonable period of time to provide a proposal in response to the notice, soliciting from such contractors the submission of expressions of interest in, and contractor qualifications for, performing site surveys or investigations and feasibility designs and studies, and including in the notice summary information concerning energy use for any facilities that the agency has specific interest in including in such task or delivery order;

“(B) reviewing all expressions of interest and qualifications submitted pursuant to the notice under subparagraph (A);

“(C) selecting two or more contractors (from among those reviewed under subparagraph (B)) to conduct discussions concerning the contractors’ respective qualifications to implement potential energy conservation measures, including—

“(i) requesting references and specific detailed examples with respect to similar efforts and the resulting energy savings of such similar efforts; and

“(ii) requesting an explanation of how such similar efforts relate to the scope and content of the task or delivery order concerned;

“(D) selecting and authorizing—

“(i) more than one contractor (from among those selected under subparagraph (C)) to

conduct site surveys, investigations, feasibility designs and studies, or similar assessments for the energy savings performance contract services (or for discrete portions of such services), for the purpose of allowing each such contractor to submit a firm, fixed-price proposal to implement specific energy conservation measures; or

“(ii) one contractor (from among those selected under subparagraph (C)) to conduct a site survey, investigation, feasibility design and study, or similar assessment for the purpose of allowing the contractor to submit a firm, fixed-price proposal to implement specific energy conservation measures;

“(E) providing a debriefing to any contractor not selected under subparagraph (D);

“(F) negotiating a task or delivery order for energy savings performance contracting services with the contractor or contractors selected under subparagraph (D) based on the energy conservation measures identified; and

“(G) issuing a task or delivery order for energy savings performance contracting services to such contractor or contractors.

“(2) The issuance of a task or delivery order for energy savings performance contracting services pursuant to paragraph (1) is deemed to satisfy the task and delivery order competition requirements in section 2304c(d) of title 10, United States Code, and section 303J(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253j(d)).

“(3) The Secretary may issue guidance as necessary to agencies issuing task or delivery orders pursuant to paragraph (1).”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) is inapplicable to task or delivery orders issued before the date of enactment of this Act.

SEC. 829. DEFINITION OF MATERIALS CRITICAL TO NATIONAL SECURITY.

(a) **DEFINITIONS.**—Section 187 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e) **DEFINITIONS.**—In this section:

“(1) The term ‘materials critical to national security’ means materials—

“(A) upon which the production or sustenance of military equipment is dependent; and

“(B) the supply of which could be restricted by actions or events outside the control of the Government of the United States.

“(2) The term ‘military equipment’ means equipment used directly by the armed forces to carry out military operations.

“(3) The term ‘secure supply’, with respect to a material, means the availability of a source or sources for the material, including the full supply chain for the material and components containing the material.”.

(b) **AMENDMENT RELATING TO DUTIES.**—Subsection (b) of section 187 of such title is amended to read as follows:

“(b) **DUTIES.**—In addition to other matters assigned to it by the Secretary of Defense, the Board shall—

“(1) determine the need to provide a long term secure supply of materials designated as critical to national security to ensure that national defense needs are met;

“(2) analyze the risk associated with each material designated as critical to national security and the effect on national defense that the nonavailability of such material would have;

“(3) recommend a strategy to the President to ensure a secure supply of materials designated as critical to national security;

“(4) recommend such other strategies to the President as the Board considers appropriate to strengthen the industrial base with

respect to materials critical to national security; and

“(5) publish not less frequently than once every two years in the Federal Register recommendations regarding materials critical to national security, including a list of specialty metals, if any, recommended for addition to, or removal from, the definition of ‘specialty metal’ for purposes of section 2533b of this title.”.

Subtitle D—Contractor Matters

SEC. 831. OVERSIGHT AND ACCOUNTABILITY OF CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS IN AREAS OF COMBAT OPERATIONS.

(a) **ENHANCEMENT OF OVERSIGHT AND ACCOUNTABILITY.**—Section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 2302 note) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (A), by striking “comply with regulations” and inserting “ensure that the contractor and all employees of the contractor or any subcontractor who are responsible for performing private security functions under such contract comply with regulations”;

(B) in subparagraph (B)—

(i) by striking “comply with” and all that follows through “in accordance with” and inserting “ensure that the contractor and all employees of the contractor or any subcontractor who are responsible for performing private security functions under such contract comply with”; and

(ii) by striking “and” at the end;

(C) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following new subparagraph:

“(D) ensure that the contract clause is included in subcontracts awarded to any subcontractor at any tier who is responsible for performing private security functions under the contract.”;

(2) by redesignating subsections (c) and (d) as subsections (f) and (g), respectively; and

(3) by inserting after subsection (b) the following new subsections:

“(c) **OVERSIGHT.**—It shall be the responsibility of the head of the contracting activity responsible for each covered contract to ensure that the contracting activity takes appropriate steps to assign sufficient oversight personnel to the contract to—

“(1) ensure that the contractor responsible for performing private security functions under such contract comply with the regulatory requirements prescribed pursuant to subsection (a) and the contract requirements established pursuant to subsection (b); and

“(2) make the determinations required by subsection (d).

“(d) **REMEDIES.**—The failure of a contractor under a covered contract to comply with the requirements of the regulations prescribed under subsection (a) or the contract clause inserted in a covered contract pursuant to subsection (b), as determined by the contracting officer for the covered contract—

“(1) shall be included in appropriate databases of past performance and considered in any responsibility determination or evaluation of the past performance of the contractor for the purpose of a contract award decision, as provided in section 6(j) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(j));

“(2) in the case of an award fee contract—

“(A) shall be considered in any evaluation of contract performance by the contractor for the relevant award fee period; and

“(B) may be a basis for reducing or denying award fees for such period, or for recovering

all or part of award fees previously paid for such period; and

“(3) in the case of a failure to comply that is severe, prolonged, or repeated—

“(A) shall be referred to the suspension or debarment official for the appropriate agency; and

“(B) may be a basis for suspension or debarment of the contractor.

“(e) **RULE OF CONSTRUCTION.**—The duty of a contractor under a covered contract to comply with the requirements of the regulations prescribed under subsection (a) and the contract clause inserted into a covered contract pursuant to subsection (b), and the availability of the remedies provided in subsection (d), shall not be reduced or diminished by the failure of a higher or lower tier contractor under such contract to comply with such requirements, or by a failure of the contracting activity to provide the oversight required by subsection (c).”.

(b) **REVISED REGULATIONS AND CONTRACT CLAUSE.**—

(1) **DEADLINE FOR REGULATIONS.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall revise the regulations prescribed pursuant to section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 2302 note) to incorporate the requirements of the amendments made by subsection (a).

(2) **COMMENCEMENT OF APPLICABILITY OF REVISIONS.**—The revision of regulations under paragraph (1) shall apply to the following:

(A) Any contract that is awarded on or after the date that is 120 days after the date of the enactment of this Act.

(B) Any task or delivery order that is issued on or after the date that is 120 days after the date of the enactment of this Act pursuant to a contract that is awarded before, on, or after the date that is 120 days after the date of the enactment of this Act.

(3) **COMMENCEMENT OF INCLUSION OF CONTRACT CLAUSE.**—A contract clause that reflects the revision of regulations required by the amendments made by subsection (a) shall be inserted, as required by such section 862, into the following:

(A) Any contract described in paragraph (2)(A).

(B) Any task or delivery order described in paragraph (2)(B).

SEC. 832. EXTENSION OF REGULATIONS ON CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS TO AREAS OF OTHER SIGNIFICANT MILITARY OPERATIONS.

(a) **AREAS OF OTHER SIGNIFICANT MILITARY OPERATIONS.**—Section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 2302 note), as amended by section 831, is further amended—

(1) by striking “combat operations” each place it appears and inserting “combat operations or other significant military operations”; and

(2) in subsection (f), as redesignated by such section 831—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(B) in paragraph (1)—

(i) by inserting “either” after “constituting”; and

(ii) by adding at the end the following: “In making designations under this paragraph, the Secretary shall ensure that an area is not designated in whole or part as both an area of combat operations and an area of other significant military operations.”; and

(C) by inserting after paragraph (1) the following new paragraph (2):

“(2) OTHER SIGNIFICANT MILITARY OPERATIONS.—For purposes of this section, the term ‘other significant military operations’ means activities, other than combat operations, as part of an overseas contingency operation that are carried out by United States Armed Forces in an uncontrolled or unpredictable high-threat environment where personnel performing security functions may be called upon to use deadly force.”

(b) ADDITIONAL AREAS CONSIDERED FOR DESIGNATION.—

(1) DETERMINATION REQUIRED FOR CERTAIN AREAS.—Not later than 150 days after the date of the enactment of this Act, the Secretary of Defense shall make a written determination for each of the following areas regarding whether or not the area constitutes an area of combat operations or an area of other significant military operations for purposes of designation as such an area under section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 2302 note), as amended by this section:

- (A) The Horn of Africa region.
- (B) Yemen.
- (C) The Philippines.

(2) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a copy of each written determination under paragraph (1), together with an explanation of the basis for such determination.

(c) LIMITATION AND EXCEPTION.—Section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 2302 note), as amended by subsection (a) and by section 831, is further amended—

(1) by redesignating subsection (g), as redesignated by such section 831, as subsection (h) and inserting after subsection (f) the following new subsection (g):

“(g) LIMITATION.—With respect to an area of other significant military operations, the requirements of this section shall apply only upon agreement of the Secretary of Defense and the Secretary of State. An agreement of the Secretaries under this subsection may be made only on an area-by-area basis. With respect to an area of combat operations, the requirements of this section shall always apply.”; and

(2) in subsection (h), as so redesignated—

(A) by striking the subsection designation and “EXCEPTION.—” and inserting the following:

“(h) EXCEPTIONS.—

“(1) INTELLIGENCE ACTIVITIES.—”; and

(B) by adding at the end the following new paragraph:

“(2) NONGOVERNMENTAL ORGANIZATIONS.—The requirements of this section shall not apply to a nonprofit nongovernmental organization receiving grants or cooperative agreements for activities conducted within an area of other significant military operations if the Secretary of Defense and the Secretary of State agree that such organization may be exempted. An exemption may be granted by the agreement of the Secretaries under this paragraph on an organization-by-organization or area-by-area basis. Such an exemption may not be granted with respect to an area of combat operations.”.

(d) REPORT ON IMPLEMENTATION.—Not later than 180 days after a designation of an area as an area of combat operations or an area of other significant military operations pursuant to subsection (b)(2), the Secretary of Defense, in coordination with the Secretary of State, shall submit to Congress a report on

steps taken or planned to be taken to implement the regulations prescribed under section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 2302 note) in such area. In the case of any agreement by the Secretaries to limit the applicability of such section or exempt nongovernmental organizations from such section, pursuant to subsections (g) or (h)(1) of such section (as added by subsection (c)), the report shall document the basis for such agreement.

SEC. 833. STANDARDS AND CERTIFICATION FOR PRIVATE SECURITY CONTRACTORS.

(a) REVIEW OF THIRD-PARTY STANDARDS AND CERTIFICATION PROCESSES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) determine whether the private sector has developed—

(A) operational and business practice standards applicable to private security contractors; and

(B) third-party certification processes for determining whether private security contractors adhere to standards described in subparagraph (A); and

(2) review any standards and processes identified pursuant to paragraph (1) to determine whether the application of such standards and processes will make a substantial contribution to the successful performance of private security functions in areas of combat operations or other significant military operations.

(b) REVISED REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall revise the regulations promulgated under section 862 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 2302 note) to ensure that such regulations—

(1) establish criteria for defining standard practices for the performance of private security functions, which shall reflect input from industry representatives as well as the Inspector General of the Department of Defense; and

(2) establish criteria for weapons training programs for contractors performing private security functions, including minimum requirements for weapons training programs of instruction and minimum qualifications for instructors for such programs.

(c) INCLUSION OF THIRD-PARTY STANDARDS AND CERTIFICATIONS IN REVISED REGULATIONS.—

(1) STANDARDS.—If the Secretary determines that the application of operational and business practice standards identified pursuant to subsection (a)(1)(A) will make a substantial contribution to the successful performance of private security functions in areas of combat operations or other significant military operations, the revised regulations promulgated pursuant to subsection (b) shall incorporate a requirement to comply with such standards, subject to such exceptions as the Secretary may determine to be necessary.

(2) CERTIFICATIONS.—If the Secretary determines that the application of a third-party certification process identified pursuant to subsection (a)(1)(B) will make a substantial contribution to the successful performance of private security functions in areas of combat operations or other significant military operations, the revised regulations promulgated pursuant to subsection (b) may provide for the consideration of such certifications as a factor in the evaluation of proposals for award of a covered contract for the provision of private security functions, subject to such

exceptions as the Secretary may determine to be necessary.

(d) DEFINITIONS.—In this section:

(1) COVERED CONTRACT.—The term “covered contract” means—

(A) a contract of the Department of Defense for the performance of services;

(B) a subcontract at any tier under such a contract; or

(C) a task order or delivery order issued under such a contract or subcontract.

(2) CONTRACTOR.—The term “contractor” means, with respect to a covered contract, the contractor or subcontractor carrying out the covered contract.

(3) PRIVATE SECURITY FUNCTIONS.—The term “private security functions” means activities engaged in by a contractor under a covered contract as follows:

(A) Guarding of personnel, facilities, or property of a Federal agency, the contractor or subcontractor, or a third party.

(B) Any other activity for which personnel are required to carry weapons in the performance of their duties.

(e) EXCEPTION.—The requirements of this section shall not apply to contracts entered into by elements of the intelligence community in support of intelligence activities.

SEC. 834. ENHANCEMENTS OF AUTHORITY OF SECRETARY OF DEFENSE TO REDUCE OR DENY AWARD FEES TO COMPANIES FOUND TO JEOPARDIZE THE HEALTH OR SAFETY OF GOVERNMENT PERSONNEL.

(a) EXPANSION OF DISPOSITIONS SUBJECT TO AUTHORITY.—Section 823 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2412; 10 U.S.C. 2302 note) is amended—

(1) in subsection (c), by adding at the end the following new paragraph:

“(5) In an administrative proceeding, a final determination of contractor fault by the Secretary of Defense pursuant to subsection (d).”;

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following new subsection (d):

“(d) DETERMINATIONS OF CONTRACTOR FAULT BY SECRETARY OF DEFENSE.—

“(1) IN GENERAL.—In any case described by paragraph (2), the Secretary of Defense shall—

“(A) provide for an expeditious independent investigation of the causes of the serious bodily injury or death alleged to have been caused by the contractor as described in that paragraph; and

“(B) make a final determination, pursuant to procedures established by the Secretary for purposes of this subsection, whether the contractor, in the performance of a covered contract, caused such serious bodily injury or death through gross negligence or with reckless disregard for the safety of civilian or military personnel of the Government.

“(2) COVERED CASES.—A case described in this paragraph is any case in which the Secretary has reason to believe that—

“(A) a contractor, in the performance of a covered contract, may have caused the serious bodily injury or death of any civilian or military personnel of the Government; and

“(B) such contractor is not subject to the jurisdiction of United States courts.

“(3) CONSTRUCTION OF DETERMINATION.—A final determination under this subsection may be used only for the purpose of evaluating contractor performance, and shall not be determinative of fault for any other purpose.”.

(b) DEFINITION OF CONTRACTOR.—Paragraph (1) of subsection (e) of such section, as redesignated by subsection (a)(2) of this section, is amended to read as follows:

“(1) The term ‘contractor’ means a company awarded a covered contract and a subcontractor at any tier under such contract.”.

(c) TECHNICAL AMENDMENT.—Subsection (c) of such section is further amended in the matter preceding paragraph (1) by striking “subsection (a)” and inserting “subsection (b)”.

(d) INCLUSION OF DETERMINATIONS OF CONTRACTOR FAULT IN DATABASE FOR FEDERAL AGENCY CONTRACT AND GRANT OFFICERS AND SUSPENSION AND DEBARMENT OFFICIALS.—Section 872(c)(1) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4556) is amended by adding at the end the following new subparagraph:

“(E) In an administrative proceeding, a final determination of contractor fault by the Secretary of Defense pursuant to section 823(d) of the National Defense Authorization Act for Fiscal Year 2010 (10 U.S.C. 2302 note).”.

(e) EFFECTIVE DATE.—The requirements of section 823 of the National Defense Authorization Act for Fiscal Year 2010, as amended by subsections (a) through (c), shall apply with respect to the following:

(1) Any contract entered into on or after the date of the enactment of this Act.

(2) Any task order or delivery order issued on or after the date of the enactment of this Act under a contract entered into before, on, or after that date.

SEC. 835. ANNUAL JOINT REPORT AND COMPTROLLER GENERAL REVIEW ON CONTRACTING IN IRAQ AND AFGHANISTAN.

Section 863 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 2302 note) is amended to read as follows:

“SEC. 863. ANNUAL JOINT REPORT AND COMPTROLLER GENERAL REVIEW ON CONTRACTING IN IRAQ AND AFGHANISTAN.

“(a) JOINT REPORT REQUIRED.—

“(1) IN GENERAL.—Except as provided in paragraph (6), every 12 months, the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall submit to the relevant committees of Congress a joint report on contracts in Iraq or Afghanistan.

“(2) PRIMARY MATTERS COVERED.—A report under this subsection shall, at a minimum, cover the following with respect to contracts in Iraq and Afghanistan during the reporting period:

“(A) Total number of contracts awarded.

“(B) Total number of active contracts.

“(C) Total value of all contracts awarded.

“(D) Total value of active contracts.

“(E) The extent to which such contracts have used competitive procedures.

“(F) Total number of contractor personnel working on contracts at the end of each quarter of the reporting period.

“(G) Total number of contractor personnel who are performing security functions at the end of each quarter of the reporting period.

“(H) Total number of contractor personnel killed or wounded.

“(3) ADDITIONAL MATTERS COVERED.—A report under this subsection shall also cover the following:

“(A) The sources of information and data used to compile the information required under paragraph (2).

“(B) A description of any known limitations of the data reported under paragraph

(2), including known limitations of the methodology and data sources used to compile the report.

“(C) Any plans for strengthening collection, coordination, and sharing of information on contracts in Iraq and Afghanistan through improvements to the common databases identified under section 861(b)(4).

“(4) REPORTING PERIOD.—A report under this subsection shall cover a period of not less than 12 months.

“(5) SUBMISSION OF REPORTS.—The Secretaries and the Administrator shall submit an initial report under this subsection not later than February 1, 2011, and shall submit an updated report by February 1 of every year thereafter until February 1, 2013.

“(6) EXCEPTION.—If the total annual amount of obligations for contracts in Iraq and Afghanistan combined is less than \$250,000,000 for the reporting period, for all three agencies combined, the Secretaries and the Administrator may submit, in lieu of a report, a letter stating the applicability of this paragraph, with such documentation as the Secretaries and the Administrator consider appropriate.

“(7) ESTIMATES.—In determining the total number of contractor personnel working on contracts under paragraph (2)(F), the Secretaries and the Administrator may use estimates for any category of contractor personnel for which they determine it is not feasible to provide an actual count. The report shall fully disclose the extent to which estimates are used in lieu of an actual count.

“(b) COMPTROLLER GENERAL REVIEW AND REPORT.—

“(1) IN GENERAL.—Within 180 days after submission of each annual joint report required under subsection (a), but in no case later than August 5 of each year until 2013, the Comptroller General of the United States shall review the joint report and submit to the relevant committees of Congress a report on such review.

“(2) MATTERS COVERED.—A report under this subsection shall, at minimum—

“(A) assess the data and data sources used in developing the joint report;

“(B) review how the Department of Defense, the Department of State, and the United States Agency for International Development are using the data and the data sources used to develop the joint report in managing, overseeing, and coordinating contracting in Iraq and Afghanistan;

“(C) assess the plans of the departments and agency for strengthening or improving the common databases identified under section 861(b)(4); and

“(D) review and make recommendations on any specific contract or class of contracts that the Comptroller General determines raises issues of significant concern.

“(3) ACCESS TO DATABASES AND OTHER INFORMATION.—The Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development shall provide to the Comptroller General full access to information on contracts in Iraq and Afghanistan for the purposes of the review carried out under this subsection, including the common databases identified under section 861(b)(4).”.

Subtitle E—Other Matters

SEC. 841. IMPROVEMENTS TO STRUCTURE AND FUNCTIONING OF JOINT REQUIREMENTS OVERSIGHT COUNCIL.

(a) VICE CHAIRMAN OF JOINT CHIEFS OF STAFF TO BE CHAIRMAN OF COUNCIL.—Subsection (c) of section 181 of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting “Vice” before “Chairman of the Joint Chiefs of Staff”;

(2) in paragraph (2), by striking “, other than the Chairman of the Joint Chiefs of Staff,” and inserting “under subparagraphs (B), (C), (D), and (E) of paragraph (1)”;

(3) by striking paragraph (3).

(b) ROLE OF COMMANDERS OF COMBATANT COMMANDS AS MEMBERS OF COUNCIL.—Paragraph (1) of subsection (c) of such section is further amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(F) in addition, when directed by the chairman, the commander of any combatant command (or, as directed by that commander, the deputy commander of that command) when matters related to the area of responsibility or functions of that command will be under consideration by the Council.”.

(c) CIVILIAN ADVISORS.—

(1) ADDITIONAL CIVILIAN ADVISORS.—Subsection (d) of such section is amended by striking “The Under Secretary” and all that follows through “and expertise.” and inserting: “The following officials of the Department of Defense shall serve as advisors to the Council on matters within their authority and expertise:

“(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(B) The Under Secretary of Defense (Comptroller).

“(C) The Under Secretary of Defense for Policy.

“(D) The Director of Cost Assessment and Program Evaluation.

“(E) The Director of Operational Test and Evaluation.

“(F) Such other civilian officials of the Department of Defense as are designated by the Secretary of Defense for purposes of this subsection.”.

(2) CONFORMING AMENDMENT.—Subsection (b)(3) of such section is amended by striking “Under Secretary of Defense (Comptroller), the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Director of Cost Assessment and Performance Evaluation” and inserting “advisors to the Council under subsection (d)”.

(d) RECOGNITION OF PERMANENT NATURE OF COUNCIL.—Subsection (a) of such section is amended by striking “The Secretary of Defense shall establish” and inserting “There is”.

SEC. 842. DEPARTMENT OF DEFENSE POLICY ON ACQUISITION AND PERFORMANCE OF SUSTAINABLE PRODUCTS AND SERVICES.

(a) FINDING.—Congress finds the following:

(1) Executive Order No. 13514, dated October 5, 2009, requires the departments and agencies of the Federal Government to establish an integrated strategy towards the procurement of sustainable products and services.

(2) The Department of Defense Strategic Sustainability Performance Plan, issued in August 2010, provides a framework for the Department’s compliance with Executive Order No. 13514 and other applicable sustainability requirements.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the achievement by the Department of Defense of the objectives and goals on the procurement of sustainable products and services established by section 2(h) of Executive Order No. 13514.

(2) **ELEMENTS.**—The report required by paragraph (1) shall include the following:

(A) A description of the actions taken, and to be taken, by the Department to identify particular sustainable products and services that contribute to the achievement of the objectives and goals described in paragraph (1).

(B) An assessment of the tools available to the Department to promote the use of particular sustainable products and services identified pursuant to the actions described in subparagraph (A) across the Department, and a description of the actions taken, and to be taken, by the Department to use such tools.

(C) A description of strategies and tools identified by the Department that could assist the other departments and agencies of the Federal Government in procuring sustainable products and services, including a description of mechanisms for sharing best practices in such procurement, as identified by the Department, among the other departments and agencies of the Federal Government.

(D) An assessment of the progress the Department has made toward the achievement of the objectives and goals described in paragraph (1), including the scorecard identified in its Strategic Sustainability Performance Plan.

SEC. 843. ASSESSMENT AND PLAN FOR CRITICAL RARE EARTH MATERIALS IN DEFENSE APPLICATIONS.

(a) **ASSESSMENT REQUIRED.**—

(1) **IN GENERAL.**—The Secretary of Defense shall undertake an assessment of the supply and demand for rare earth materials in defense applications and identify which, if any, rare earth material meets both of the following criteria:

(A) The rare earth material is critical to the production, sustainment, or operation of significant United States military equipment.

(B) The rare earth material is subject to interruption of supply, based on actions or events outside the control of the Government of the United States.

(2) **EVALUATION OF SUPPLY.**—The assessment shall include a comprehensive evaluation of the long-term security and availability of all aspects of the supply chain for rare earth materials in defense applications, particularly the location and number of sources at each step of the supply chain, including—

(A) mining of rare earth ores;

(B) separation of rare earth oxides;

(C) refining and reduction of rare earth metals;

(D) creation of rare earth alloys;

(E) manufacturing of components and systems containing rare earth materials; and

(F) recycling of components and systems to reclaim and reuse rare earth materials.

(3) **EVALUATION OF DEMAND.**—The assessment shall include a comprehensive evaluation of the demand for and usage of rare earth materials in all defense applications, including—

(A) approximations of the total amounts of individual rare earth materials used in defense applications;

(B) determinations of which, if any, defense applications are dependent upon rare earth materials for proper operation and functioning; and

(C) assessments of the feasibility of alternatives to usage of rare earth materials in defense applications.

(4) **OTHER STUDIES AND AGENCIES.**—Any applicable studies conducted by the Department of Defense, the Comptroller General of the United States, or other Federal agencies during fiscal year 2010 may be considered as partial fulfillment of the requirements of this section. The Secretary may consider the views of other Federal agencies, as appropriate.

(5) **SPECIFIC MATERIAL INCLUDED.**—At a minimum, the Secretary shall identify sintered neodymium iron boron magnets as meeting the criteria specified in paragraph (1).

(b) **PLAN.**—For each rare earth material identified pursuant to subsection (a)(1), the Secretary shall develop a plan to ensure the long-term availability of such rare earth material, with a goal of establishing an assured source of supply of such material in critical defense applications by December 31, 2015. In developing the plan, the Secretary shall consider all aspects of the material's supply chain, as described in subsection (a)(2). The plan shall include consideration of numerous risk mitigation methods with respect to the material, including—

(1) an assessment of including the material in the National Defense Stockpile;

(2) in consultation with the United States Trade Representative, the identification of any trade practices known to the Secretary that limit the Secretary's ability to ensure the long-term availability of such material or the ability to meet the goal of establishing an assured source of supply of such material by December 31, 2015;

(3) an assessment of the availability of financing to industry, academic institutions, or not-for-profit entities to provide the capacity required to ensure the availability of the material, as well as potential mechanisms to increase the availability of such financing;

(4) an assessment of the benefits, if any, of Defense Production Act funding to support the establishment of an assured source of supply for military components;

(5) an assessment of funding for research and development related to any aspect of the rare earth material supply chain or research on alternatives and substitutes;

(6) any other risk mitigation method determined appropriate by the Secretary that is consistent with the goal of establishing an assured source of supply by December 31, 2015; and

(7) for steps of the rare earth material supply chain for which no other risk mitigation method, as described in paragraphs (1) through (6), will ensure an assured source of supply by December 31, 2015, a specific plan to eliminate supply chain vulnerability by the earliest date practicable.

(c) **REPORT.**—

(1) **REQUIREMENT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional committees described in paragraph (2) a report containing the findings of the assessment required under subsection (a) and the plan developed under subsection (b).

(2) **CONGRESSIONAL COMMITTEES.**—The congressional committees described in this paragraph are as follows:

(A) The congressional defense committees.

(B) The Committee on Science and Technology, the Committee on Financial Services, and the Committee on Ways and Means of the House of Representatives.

(C) The Committee on Energy and Natural Resources, the Committee on Finance, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 844. REVIEW OF NATIONAL SECURITY EXCEPTION TO COMPETITION.

(a) **REVIEW REQUIRED.**—The Comptroller General of the United States shall review the use of the national security exception to full and open competition provided in section 2304(c)(6) of title 10, United States Code, by the Department of Defense.

(b) **MATTERS REVIEWED.**—The review of the use of the national security exception required by subsection (a) shall include—

(1) the pattern of usage of such exception by acquisition organizations within the Department to determine which organizations are commonly using the exception and the frequency of such usage;

(2) the range of items or services being acquired through the use of such exception;

(3) the process for reviewing and approving justifications involving such exception;

(4) whether the justifications for use of such exception typically meet the relevant requirements of the Federal Acquisition Regulation applicable to the use of such exception;

(5) issues associated with follow-on procurements for items or services acquired using such exception; and

(6) potential additional instances where such exception could be applied and any authorities available to the Department other than such exception that could be applied in such instances.

(c) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review required by subsection (a), including a discussion of each of the matters specified in subsection (b). The report shall include any recommendations relating to the matters reviewed that the Secretary considers appropriate. The report shall be submitted in unclassified form but may include a classified annex.

SEC. 845. REQUIREMENT FOR ENTITIES WITH FACILITY CLEARANCES THAT ARE NOT UNDER FOREIGN OWNERSHIP CONTROL OR INFLUENCE MITIGATION.

(a) **REQUIREMENT.**—The Secretary of Defense shall develop a plan to ensure that covered entities employ and maintain policies and procedures that meet requirements under the national industrial security program. In developing the plan, the Secretary shall consider whether or not covered entities, or any category of covered entities, should be required to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

(b) **COVERED ENTITY.**—A covered entity under this section is an entity—

(1) to which the Department of Defense has granted a facility clearance; and

(2) that is not subject to foreign ownership control or influence mitigation measures.

(c) **GUIDANCE.**—The Secretary of Defense shall issue guidance, including appropriate compliance mechanisms, to implement the requirement in subsection (a). To the extent determined appropriate by the Secretary, the guidance shall require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

(d) **REPORT.**—Not later than 270 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the plan developed pursuant to subsection (a) and the

guidance issued pursuant to subsection (c). The report shall specifically address the rationale for the Secretary's decision on whether or not to require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

SEC. 846. PROCUREMENT OF PHOTOVOLTAIC DEVICES.

(a) **CONTRACT REQUIREMENT.**—The Secretary of Defense shall ensure that each contract described in subsection (b) awarded by the Department of Defense includes a provision requiring the photovoltaic devices provided under the contract to comply with the Buy American Act (41 U.S.C. 10a et seq.), subject to the exceptions to that Act provided in the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) or otherwise provided by law.

(b) **CONTRACTS DESCRIBED.**—The contracts described in this subsection include energy savings performance contracts, utility service contracts, land leases, and private housing contracts, to the extent that such contracts result in ownership of photovoltaic devices by the Department of Defense. For the purposes of this section, the Department of Defense is deemed to own a photovoltaic device if the device is—

(1) installed on Department of Defense property or in a facility owned by the Department of Defense; and

(2) reserved for the exclusive use of the Department of Defense for the full economic life of the device.

(c) **DEFINITION OF PHOTOVOLTAIC DEVICES.**—In this section, the term “photovoltaic devices” means devices that convert light directly into electricity through a solid-state, semiconductor process.

SEC. 847. NON-AVAILABILITY EXCEPTION FROM BUY AMERICAN REQUIREMENTS FOR PROCUREMENT OF HAND OR MEASURING TOOLS.

Section 2533a(c) of title 10, United States Code, is amended by striking “subsection (b)(1)” and inserting “subsection (b)”.

SEC. 848. CONTRACTOR LOGISTICS SUPPORT OF CONTINGENCY OPERATIONS.

(a) **DEFENSE SCIENCE BOARD REVIEW OF ORGANIZATION, TRAINING, AND PLANNING.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall direct the Defense Science Board to carry out a review of Department of Defense organization, doctrine, training, and planning for contractor logistics support of contingency operations.

(b) **MATTERS TO BE ADDRESSED.**—

(1) **IN GENERAL.**—The matters addressed by the review required by subsection (a) shall include, at a minimum, the following:

(A) Department of Defense policies and procedures for planning for contractor logistics support of contingency operations.

(B) Department organization and staffing for the implementation of such policies and procedures.

(C) The development of Department doctrine for contractor logistics support of contingency operations.

(D) The training of Department military and civilian personnel for the planning, management, and oversight of contractor logistics support of contingency operations.

(E) The extent to which the Department should rely upon contractor logistics support in future contingency operations, and the risks associated with reliance on such support.

(F) Any logistics support functions for contingency operations for which the Depart-

ment should establish or retain an organic capability.

(G) The scope and level of detail on contractor logistics support of contingency operations that is currently included in operational plans, and that should be included in operational plans.

(H) Contracting mechanisms and contract vehicles that are currently used, and should be used, to provide contractor logistics support of contingency operations.

(I) Department organization and staffing for the management and oversight of contractor logistics support of contingency operations.

(J) Actions that could be taken to improve Department management and oversight of contractors providing logistics support of contingency operations.

(K) The extent to which logistics support of contingency operations has been, and should be, provided by subcontractors, and the advantages and disadvantages of reliance upon subcontractors for that purpose.

(L) The extent to which logistics support of contingency operations has been, and should be, provided by local nationals and third country nationals, and the advantages and disadvantages of reliance upon such sources for that purpose.

(2) **FINDINGS AND RECOMMENDATIONS.**—The review required by subsection (a) shall include findings and recommendations related to—

(A) legislative or policy guidance to address the matters listed in paragraph (1); and

(B) whether and to what extent the quadrennial defense review (conducted pursuant to section 118 of title 10, United States Code) or assessments by the Chairman of the Joint Chiefs of Staff for the biennial review of the national military strategy (conducted pursuant to section 153(d) of such title) should be required to address requirements for contractor support of the Armed Forces in conducting peacetime training, peacekeeping, overseas contingency operations, and major combat operations, and the risks associated with such support.

(c) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the results of the review required by subsection (a). The report shall include the findings and recommendations of the Defense Science Board, including such recommendations for legislative or administrative action as the Board considers appropriate, together with any comments the Secretary considers appropriate.

Subtitle F—Improve Acquisition Act

SEC. 860. SHORT TITLE.

This subtitle may be cited as the “Improve Acquisition Act of 2010”.

PART I—DEFENSE ACQUISITION SYSTEM

SEC. 861. IMPROVEMENTS TO THE MANAGEMENT OF THE DEFENSE ACQUISITION SYSTEM.

(a) **MANAGEMENT OF THE DEFENSE ACQUISITION SYSTEM.**—Part IV of title 10, United States Code, is amended by inserting after chapter 148 the following new chapter:

“CHAPTER 149—DEFENSE ACQUISITION SYSTEM

“Sec.

“2545. Definitions.

“2546. Civilian management of the defense acquisition system.

“2547. Acquisition-related functions of chiefs of the armed forces.

“2548. Performance assessments of the defense acquisition system.

“§ 2545. Definitions

“In this chapter:

“(1) The term ‘acquisition’ has the meaning provided in section 4(16) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(16)).

“(2) The term ‘defense acquisition system’ means the workforce engaged in carrying out the acquisition of property and services for the Department of Defense; the management structure responsible for directing and overseeing the acquisition of property and services for the Department of Defense; and the statutory, regulatory, and policy framework that guides the acquisition of property and services for the Department of Defense.

“(3) The term ‘element of the defense acquisition system’ means an organization that employs members of the acquisition workforce, carries out acquisition functions, and focuses primarily on acquisition.

“(4) The term ‘acquisition workforce’ has the meaning provided in section 101(a)(18) of this title.

“§ 2546. Civilian management of the defense acquisition system

“(a) **RESPONSIBILITY OF THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.**—Subject to the authority, direction and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall be responsible for the management of the defense acquisition system and shall exercise such control of the system and perform such duties as are necessary to ensure the successful and efficient operation of the defense acquisition system, including the duties enumerated and assigned to the Under Secretary elsewhere in this title.

“(b) **RESPONSIBILITY OF THE SERVICE ACQUISITION EXECUTIVES.**—Subject to the direction of the Under Secretary of Defense for Acquisition, Technology, and Logistics on matters pertaining to acquisition, and subject to the authority, direction, and control of the Secretary of the military department concerned, a service acquisition executive of a military department shall be responsible for the management of elements of the defense acquisition system in that military department and shall exercise such control of the system and perform such duties as are necessary to ensure the successful and efficient operation of such elements of the defense acquisition system.

“§ 2547. Acquisition-related functions of chiefs of the armed forces

“(a) **PERFORMANCE OF CERTAIN ACQUISITION-RELATED FUNCTIONS.**—The Secretary of Defense shall ensure that the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, and the Commandant of the Marine Corps assist the Secretary of the military department concerned in the performance of the following acquisition-related functions of such department:

“(1) The development of requirements relating to the defense acquisition system (subject, where appropriate, to validation by the Joint Requirements Oversight Council pursuant to section 181 of this title).

“(2) The coordination of measures to control requirements creep in the defense acquisition system.

“(3) The development of career paths in acquisition for military personnel (as required by section 1722a of this title).

“(4) The assignment and training of contracting officer representatives when such representatives are required to be members of the armed forces because of the nature of the contract concerned.

“(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the assignment of functions under section 3014(c)(1)(A), section 5014(c)(1)(A), or section 8014(c)(1)(A) of this title, except as explicitly provided in this section.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘requirements creep’ means the addition of new technical or operational specifications after a requirements document is approved by the appropriate validation authority for the requirements document.

“(2) The term ‘requirements document’ means a document produced in the requirements process that is provided for an acquisition program to guide the subsequent development, production, and testing of the program and that—

“(A) justifies the need for a materiel approach, or an approach that is a combination of materiel and non-materiel, to satisfy one or more specific capability gaps;

“(B) details the information necessary to develop an increment of militarily useful, logistically supportable, and technically mature capability, including key performance parameters; or

“(C) identifies production attributes required for a single increment of a program.

“§ 2548. Performance assessments of the defense acquisition system

“(a) PERFORMANCE ASSESSMENTS REQUIRED.—Not later than 180 days after the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Director of Procurement and Acquisition Policy, and the Director of the Office of Performance Assessment and Root Cause Analysis, shall issue guidance, with detailed implementation instructions, for the Department of Defense to provide for periodic independent performance assessments of elements of the defense acquisition system for the purpose of—

“(1) determining the extent to which such elements of the defense acquisition system deliver value to the Department of Defense, taking into consideration the performance elements identified in subsection (b);

“(2) assisting senior officials of the Department of Defense in identifying and developing lessons learned from best practices and shortcomings in the performance of such elements of the defense acquisition system; and

“(3) assisting senior officials of the Department of Defense in developing acquisition workforce excellence under section 1701a of this title

“(b) AREAS CONSIDERED IN PERFORMANCE ASSESSMENTS.—(1) Each performance assessment conducted pursuant to subsection (a) shall consider, at a minimum—

“(A) the extent to which acquisitions conducted by the element of the defense acquisition system under review meet applicable cost, schedule, and performance objectives; and

“(B) the staffing and quality of the acquisition workforce and the effectiveness of the management of the acquisition workforce, including workforce incentives and career paths.

“(2) The Secretary of Defense shall ensure that the performance assessments required by this section are appropriately tailored to reflect the diverse nature of the work performed by each element of the defense acquisition system. In addition to the mandatory areas under paragraph (1), a performance assessment may consider, as appropriate, specific areas of acquisition concern, such as—

“(A) the selection of contractors, including—

“(i) the extent of competition and the use of exceptions to competition requirements;

“(ii) compliance with Department of Defense policies regarding the participation of small business concerns and various categories of small business concerns, including the use of contract bundling and the availability of non-bundled contract vehicles;

“(iii) the quality of market research;

“(iv) the effective consideration of contractor past performance; and

“(v) the number of bid protests, the extent to which such bid protests have been successful, and the reasons for such success;

“(B) the negotiation of contracts, including—

“(i) the appropriate application of section 2306a of this title (relating to truth in negotiations);

“(ii) the appropriate use of contract types appropriate to specific procurements;

“(iii) the appropriate use of performance requirements;

“(iv) the appropriate acquisition of technical data and other rights and assets necessary to support long-term sustainment and follow-on procurement; and

“(v) the timely definitization of any undefinitized contract actions; and

“(C) the management of contractor performance, including—

“(i) the assignment of appropriately qualified contracting officer representatives and other contract management personnel;

“(ii) the extent of contract disputes, the reasons for such disputes, and the extent to which they have been successfully addressed;

“(iii) the appropriate consideration of long-term sustainment and energy efficiency objectives; and

“(iv) the appropriate use of integrated testing.

“(c) CONTENTS OF GUIDANCE.—The guidance issued pursuant to subsection (a) shall ensure that each element of the defense acquisition system is subject to a performance assessment under this section not less often than once every four years, and shall address, at a minimum—

“(1) the designation of elements of the defense acquisition system that are subject to performance assessment at an organizational level that ensures such assessments can be performed in an efficient and integrated manner;

“(2) the frequency with which such performance assessments should be conducted;

“(3) goals, standards, tools, and metrics for use in conducting performance assessments;

“(4) the composition of the teams designated to perform performance assessments;

“(5) any phase-in requirements needed to ensure that qualified staff are available to perform performance assessments;

“(6) procedures for tracking the implementation of recommendations made pursuant to performance assessments;

“(7) procedures for developing and disseminating lessons learned from performance assessments; and

“(8) procedures for ensuring that information from performance assessments are retained electronically and are provided in a timely manner to the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Director of the Office of Performance Assessment and Root Cause Analysis as needed to assist them in performing their responsibilities under this section.

“(d) PERFORMANCE GOALS UNDER GOVERNMENT PERFORMANCE RESULTS ACT OF 1993.—Beginning with fiscal year 2012, the annual

performance plan prepared by the Department of Defense pursuant to section 1115 of title 31 shall include appropriate performance goals for elements of the defense acquisition system.

“(e) REPORTING REQUIREMENTS.—Beginning with fiscal year 2012—

“(1) the annual report prepared by the Secretary of Defense pursuant to section 1116 of title 31, United States Code, shall address the Department's success in achieving performance goals established pursuant to such section for elements of the defense acquisition system; and

“(2) the annual report prepared by the Director of the Office of Performance Assessment and Root Cause Analysis pursuant to section 103(f) of the Weapon Systems Acquisition Reform Act of 2009 (10 U.S.C. 2430 note), shall include information on the activities undertaken by the Department pursuant to such section, including a summary of significant findings or recommendations arising out of performance assessments.”

(b) CLERICAL AMENDMENTS.—The table of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part IV of such subtitle, are each amended by inserting after the item relating to chapter 148 the following new item:

**“149. Defense Acquisition System 2545”.
SEC. 862. COMPTROLLER GENERAL REPORT ON JOINT CAPABILITIES INTEGRATION AND DEVELOPMENT SYSTEM.**

(a) REPORT REQUIRED.—The Comptroller General of the United States shall carry out a comprehensive review of the Joint Capabilities Integration and Development System (in this section referred to as “JCIDS”). Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the review and include in such report any recommendations the Comptroller General considers necessary and advisable to improve or replace JCIDS.

(b) CONTENT OF THE REVIEW.—

(1) PURPOSE.—The purpose of the review required by subsection (a) is to evaluate the effectiveness of JCIDS in achieving the following objectives:

(A) Timeliness in delivering capability to the warfighter.

(B) Efficient use of the investment resources of the Department of Defense.

(C) Control of requirements creep.

(D) Responsiveness to changes occurring after the approval of a requirements document (including changes to the threat environment, the emergence of new capabilities, or changes in the resources estimated to procure or sustain a capability).

(E) Development of the personnel skills, capacity, and training needed for an effective and efficient requirements process.

(2) MATTERS CONSIDERED.—In performing the review, the Comptroller General shall gather information on and consider the following matters:

(A) The time that requirements documents take to receive approval through JCIDS.

(B) The quality of cost information considered in JCIDS and the extent of its consideration.

(C) The extent to which JCIDS establishes a meaningful level of priority for requirements.

(D) The extent to which JCIDS is considering trade-offs between cost, schedule, and performance objectives.

(E) The quality of information on sustainment considered in JCIDS and the extent to which sustainment information is considered.

(F) An evaluation of the advantages and disadvantages of designating a commander of a unified combatant command for each requirements document for which the Joint Requirements Oversight Council is the validation authority to provide a joint evaluation task force to participate in a materiel solution and to—

- (i) provide input to the analysis of alternatives;
- (ii) participate in testing (including limited user tests and prototype testing);
- (iii) provide input on a concept of operations and doctrine;
- (iv) provide end user feedback to the resource sponsor; and
- (v) participate, through the combatant commander concerned, in any alteration of the requirement for such solution.

(C) DEFINITIONS.—In this section:

(1) JOINT CAPABILITIES INTEGRATION AND DEVELOPMENT SYSTEM.—The term “Joint Capabilities Integration and Development System” means the system for the assessment, review, validation, and approval of joint warfighting requirements that is described in Chairman of the Joint Chiefs of Staff Instruction 3170.01G

(2) REQUIREMENTS DOCUMENT.—The term “requirements document” means a document produced in JCIDS that is provided for an acquisition program to guide the subsequent development, production, and testing of the program and that—

(A) justifies the need for a materiel approach, or an approach that is a combination of materiel and non-materiel, to satisfy one or more specific capability gaps;

(B) details the information necessary to develop an increment of militarily useful, logistically supportable, and technically mature capability, including key performance parameters; or

(C) identifies production attributes required for a single increment of a program.

(3) REQUIREMENTS CREEP.—The term “requirements creep” means the addition of new technical or operational specifications after a requirements document is approved.

(4) MATERIEL SOLUTION.—The term “materiel solution” means the development, acquisition, procurement, or fielding of a new item, or of a modification to an existing item, necessary to equip, operate, maintain, and support military activities.

SEC. 863. REQUIREMENTS FOR THE ACQUISITION OF SERVICES.

(a) ESTABLISHMENT OF REQUIREMENTS PROCESSES FOR THE ACQUISITION OF SERVICES.—The Secretary of Defense shall ensure that the military departments and Defense Agencies each establish a process for identifying, assessing, reviewing, and validating requirements for the acquisition of services.

(b) OPERATIONAL REQUIREMENTS.—With regard to requirements for the acquisition of services in support of combatant commands and military operations, the Secretary shall ensure—

(1) that the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, and the Commandant of the Marine Corps implement and bear chief responsibility for carrying out, within the Armed Force concerned, the process established pursuant to subsection (a) for such Armed Force; and

(2) that commanders of unified combatant commands and other officers identified or designated as joint qualified officers have an opportunity to participate in the process of each military department to provide input on joint requirements for the acquisition of services.

(c) SUPPORTING REQUIREMENTS.—With regard to requirements for the acquisition of services not covered by subsection (b), the Secretary shall ensure that the secretaries of the military departments and the heads of the Defense Agencies implement and bear chief responsibility for carrying out, within the military department or Defense Agency concerned, the process established pursuant to subsection (a) for such military department or Defense Agency.

(d) IMPLEMENTATION PLANS REQUIRED.—The Secretary shall ensure that an implementation plan is developed for each process established pursuant to subsection (a) that addresses, at a minimum, the following:

- (1) The organization of such process.
- (2) The level of command responsibility required for identifying, assessing, reviewing, and validating requirements for the acquisition of services in accordance with the requirements of this section and the categories established under section 2330(a)(1)(C) of title 10, United States Code.
- (3) The composition of positions necessary to operate such process.
- (4) The training required for personnel engaged in such process.
- (5) The relationship between doctrine and such process.
- (6) Methods of obtaining input on joint requirements for the acquisition of services.
- (7) Procedures for coordinating with the acquisition process.
- (8) Considerations relating to opportunities for strategic sourcing.

(e) MATTERS REQUIRED IN IMPLEMENTATION PLAN.—Each plan required under subsection (d) shall provide for initial implementation of a process for identifying, assessing, reviewing, and validating requirements for the acquisition of services not later than one year after the date of the enactment of this Act and shall provide for full implementation of such process at the earliest date practicable.

(f) CONSISTENCY WITH JOINT GUIDANCE.—Whenever, at any time, guidance is issued by the Chairman of the Joint Chiefs of Staff relating to requirements for the acquisition of services in support of combatant commands and military operations, each process established pursuant to subsection (a) shall be revised in accordance with such joint guidance.

(g) DEFINITION.—The term “requirements for the acquisition of services” means objectives to be achieved through acquisitions primarily involving the procurement of services.

(h) REVIEW OF SUPPORTING REQUIREMENTS TO IDENTIFY SAVINGS.—The secretaries of the military departments and the heads of the Defense Agencies shall review and validate each requirement described in subsection (c) with an anticipated cost in excess of \$10,000,000 with the objective of identifying unneeded or low priority requirements that can be reduced or eliminated, with the savings transferred to higher priority objectives. Savings identified and transferred to higher priority objectives through review and revalidation under this subsection shall count toward the savings objectives established in the June 4, 2010, guidance of the Secretary of Defense on improved operational efficiencies and the annual reduction in funding for service support contractors required by the August 16, 2010, guidance of the Secretary of Defense on efficiency initiatives. As provided by the Secretary, cost avoidance shall not count toward these objectives.

(i) EXTENSION OF AUTHORITY.—Subsection (e) of section 834 of the National Defense Au-

thorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note) is amended by striking “September 30, 2010” and inserting “December 31, 2011”.

SEC. 864. REVIEW OF DEFENSE ACQUISITION GUIDANCE.

(a) REVIEW OF GUIDANCE.—The Secretary of Defense shall review the acquisition guidance of the Department of Defense, including, at a minimum, the guidance contained in Department of Defense Instruction 5000.02 entitled “Operation of the Defense Acquisition System”.

(b) MATTERS CONSIDERED.—The review performed under subsection (a) shall consider—

(1) the extent to which the acquisition of commercial goods and commodities, commercial and military unique services, and information technology should be addressed in Department of Defense Instruction 5000.02 and other guidance primarily relating to the acquisition of weapon systems, or should be addressed in separate instructions and guidance;

(2) whether long-term sustainment and energy efficiency of weapon systems is appropriately emphasized;

(3) whether appropriate mechanisms exist to communicate information relating to the mission needs of the Department of Defense to the industrial base in a way that allows the industrial base to make appropriate investments in infrastructure, capacity, and technology development to help meet such needs;

(4) the extent to which earned value management should be required on acquisitions not involving the acquisition of weapon systems and whether measures of quality and technical performance should be included in any earned value management system; and

(5) such other matters as the Secretary considers appropriate.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report detailing any changes in the acquisition guidance of the Department of Defense identified during the review required by subsection (a), and any actions taken, or planned to be taken, to implement such changes.

SEC. 865. REQUIREMENT TO REVIEW REFERENCES TO SERVICES ACQUISITION THROUGHOUT THE FEDERAL ACQUISITION REGULATION AND THE DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT.

(a) REVIEW REQUIRED.—The Secretary of Defense, in consultation with the Administrator for Federal Procurement Policy and the heads of such other Federal agencies as the Secretary considers appropriate, shall review the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement to ensure that such regulations include appropriate guidance for and references to services acquisition that are in addition to references provided in part 37 and the Defense Supplement to part 37.

(b) MATTERS CONSIDERED.—The review required by subsection (a) shall consider the extent to which additional guidance is needed—

(1) to provide the tools and processes needed to assist contracting officials in addressing the full range of complexities that can arise in the acquisition of services; and

(2) to enhance and support the procurement and project management community in all aspects of the process for the acquisition of services, including requirements development, assessment of reasonableness, and post-award management and oversight.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

(1) a summary of the findings of the review required by subsection (a); and

(2) any recommendations that the Secretary may have for changes to the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement to address such findings, including identifying any changes that are necessary to improve part 37 (which specifically addresses services acquisitions).

SEC. 866. PILOT PROGRAM ON ACQUISITION OF MILITARY PURPOSE NONDEVELOPMENTAL ITEMS.

(a) PILOT PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Defense may carry out a pilot program to assess the feasibility and advisability of acquiring military purpose nondevelopmental items in accordance with this section.

(2) SCOPE OF PROGRAM.—Under the pilot program, the Secretary may enter into contracts with nontraditional defense contractors for the acquisition of military purpose nondevelopmental items in accordance with the requirements set forth in subsection (b).

(b) CONTRACT REQUIREMENTS.—Each contract entered into under the pilot program—

(1) shall be a firm, fixed price contract, or a firm, fixed price contract with an economic price adjustment clause awarded using competitive procedures in accordance with chapter 137 of title 10, United States Code;

(2) shall be in an amount not in excess of \$50,000,000, including all options;

(3) shall provide—

(A) for the delivery of an initial lot of production quantities of completed items not later than nine months after the date of the award of such contract; and

(B) that failure to make delivery as provided for under subparagraph (A) may result in the termination of such contract for default; and

(4) shall be—

(A) exempt from the requirement to submit certified cost or pricing data under section 2306a of title 10, United States Code, and the cost accounting standards under section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422); and

(B) subject to the requirement to provide data other than certified cost or pricing data for the purpose of price reasonableness determinations, as provided in section 2306a(d) of title 10, United States Code.

(c) REGULATIONS.—If the Secretary establishes the pilot program authorized under subsection (a), the Secretary shall prescribe regulations governing such pilot program. Such regulations shall be included in regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation and shall include the contract clauses and procedures necessary to implement such program.

(d) REPORTS.—

(1) REPORTS ON PROGRAM ACTIVITIES.—Not later than 60 days after the end of any fiscal year in which the pilot program is in effect, the Secretary shall submit to the congressional defense committees a report on the pilot program. The report shall be in unclassified form but may include a classified annex. Each report shall include, for each contract entered into under the pilot program in the preceding fiscal year, the following:

(A) The contractor.

(B) The item or items to be acquired.

(C) The military purpose to be served by such item or items.

(D) The amount of the contract.

(E) The actions taken by the Department of Defense to ensure that the price paid for such item or items is fair and reasonable.

(2) PROGRAM ASSESSMENT.—If the Secretary establishes the pilot program authorized under subsection (a), not later than four years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth the assessment of the Comptroller General of the extent to which the pilot program—

(A) enabled the Department to acquire items that otherwise might not have been available to the Department;

(B) assisted the Department in the rapid acquisition and fielding of capabilities needed to meet urgent operational needs; and

(C) protected the interests of the United States in paying fair and reasonable prices for the item or items acquired.

(e) DEFINITIONS.—In this section:

(1) The term “military purpose nondevelopmental item” means a nondevelopmental item that meets a validated military requirement, as determined in writing by the responsible program manager, and has been developed exclusively at private expense. For purposes of this paragraph, an item shall not be considered to be developed exclusively at private expense if development of the item was paid for in whole or in part through—

(A) independent research and development costs or bid and proposal costs that have been reimbursed directly or indirectly by a Federal agency or have been submitted to a Federal agency for reimbursement; or

(B) foreign government funding.

(2) The term “nondevelopmental item”—

(A) has the meaning given that term in section 4(13) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(13)); and

(B) also includes previously developed items of supply that require modifications other than those customarily available in the commercial marketplace if such modifications are consistent with the requirement in subsection (b)(3)(A).

(3) The term “nontraditional defense contractor” has the meaning given that term in section 2302(9) of title 10, United States Code (as added by subsection (g)).

(4) The terms “independent research and developments costs” and “bid and proposal costs” have the meaning given such terms in section 31.205-18 of the Federal Acquisition Regulation.

(f) SUNSET.—

(1) IN GENERAL.—The authority to carry out the pilot program shall expire on the date that is five years after the date of the enactment of this Act.

(2) CONTINUATION OF CURRENT CONTRACTS.—The expiration under paragraph (1) of the authority to carry out the pilot program shall not affect the validity of any contract awarded under the pilot program before the date of the expiration of the pilot program under that paragraph.

(g) STATUTORY DEFINITION OF NONTRADITIONAL DEFENSE CONTRACTOR.—

(1) NONTRADITIONAL DEFENSE CONTRACTOR.—Section 2302 of title 10, United States Code, is amended by adding at the end the following:

“(9) The term ‘nontraditional defense contractor’, with respect to a procurement or with respect to a transaction authorized under section 2371(a) of this title, means an entity that is not currently performing and

has not performed, for at least the one-year period preceding the solicitation of sources by the Department of Defense for the procurement or transaction, any of the following for the Department of Defense:

“(A) Any contract or subcontract that is subject to full coverage under the cost accounting standards prescribed pursuant to section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) and the regulations implementing such section.

“(B) Any other contract in excess of \$500,000 under which the contractor is required to submit certified cost or pricing data under section 2306a of this title.”

(2) CONFORMING AMENDMENT.—Section 845(f) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended to read as follows:

“(f) NONTRADITIONAL DEFENSE CONTRACTOR DEFINED.—In this section, the term ‘nontraditional defense contractor’ has the meaning provided by section 2302(9) of title 10, United States Code.”

PART II—DEFENSE ACQUISITION WORKFORCE

SEC. 871. ACQUISITION WORKFORCE EXCELLENCE.

(a) ACQUISITION WORKFORCE EXCELLENCE.—Subchapter I of chapter 87 of title 10, United States Code, is amended by inserting after section 1701 the following new section:

“§ 1701a. Management for acquisition workforce excellence

“(a) PURPOSE.—The purpose of this chapter is to require the Department of Defense to develop and manage a highly skilled professional acquisition workforce—

“(1) in which excellence and contribution to mission is rewarded;

“(2) which has the technical expertise and business skills to ensure the Department receives the best value for the expenditure of public resources;

“(3) which serves as a model for performance management of employees of the Department; and

“(4) which is managed in a manner that complements and reinforces the management of the defense acquisition system pursuant to chapter 149 of this title.

“(b) PERFORMANCE MANAGEMENT.—In order to achieve the purpose set forth in subsection (a), the Secretary of Defense shall—

“(1) use the full authorities provided in subsections (a) through (d) of section 9902 of title 5, including flexibilities related to performance management and hiring and to training of managers;

“(2) require managers to develop performance plans for individual members of the acquisition workforce in order to give members an understanding of how their performance contributes to their organization’s mission and the success of the defense acquisition system (as defined in section 2545 of this title);

“(3) to the extent appropriate, use the lessons learned from the acquisition demonstration project carried out under section 1762 of this title related to contribution-based compensation and appraisal, and how those lessons may be applied within the General Schedule system;

“(4) develop attractive career paths;

“(5) encourage continuing education and training;

“(6) develop appropriate procedures for warnings during performance evaluations for members of the acquisition workforce who consistently fail to meet performance standards;

“(7) take full advantage of the Defense Civilian Leadership Program established under

section 1112 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2496; 10 U.S.C. 1580 note prec.);

“(8) use the authorities for highly qualified experts under section 9903 of title 5, to hire experts who are skilled acquisition professionals to—

“(A) serve in leadership positions within the acquisition workforce to strengthen management and oversight;

“(B) provide mentors to advise individuals within the acquisition workforce on their career paths and opportunities to advance and excel within the acquisition workforce; and

“(C) assist with the design of education and training courses and the training of individuals in the acquisition workforce; and

“(9) use the authorities for expedited security clearance processing pursuant to section 1564 of this title.

“(c) **NEGOTIATIONS.**—Any action taken by the Secretary under this section, or to implement this section, shall be subject to the requirements of chapter 71 of title 5.

“(d) **REGULATIONS.**—Any rules or regulations prescribed pursuant to this section shall be deemed an agency rule or regulation under section 7117(a)(2) of title 5, and shall not be deemed a Government-wide rule or regulation under section 7117(a)(1) of such title.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 1701 the following new item:

“1701a. Management for acquisition workforce excellence.”.

SEC. 872. AMENDMENTS TO THE ACQUISITION WORKFORCE DEMONSTRATION PROJECT.

(a) **CODIFICATION INTO TITLE 10.**—

(1) **IN GENERAL.**—Chapter 87 of title 10, United States Code, is amended by inserting after section 1761 the following new section:

“§ 1762. Demonstration project relating to certain acquisition personnel management policies and procedures

“(a) **COMMENCEMENT.**—The Secretary of Defense is authorized to carry out a demonstration project, the purpose of which is to determine the feasibility or desirability of one or more proposals for improving the personnel management policies or procedures that apply with respect to the acquisition workforce of the Department of Defense and supporting personnel assigned to work directly with the acquisition workforce.

“(b) **TERMS AND CONDITIONS.**—(1) Except as otherwise provided in this subsection, any demonstration project described in subsection (a) shall be subject to section 4703 of title 5 and all other provisions of such title that apply with respect to any demonstration project under such section.

“(2) Subject to paragraph (3), in applying section 4703 of title 5 with respect to a demonstration project described in subsection (a)—

“(A) ‘180 days’ in subsection (b)(4) of such section shall be deemed to read ‘120 days’;

“(B) ‘90 days’ in subsection (b)(6) of such section shall be deemed to read ‘30 days’; and

“(C) subsection (d)(1) of such section shall be disregarded.

“(3) Paragraph (2) shall not apply with respect to a demonstration project unless—

“(A) for each organization or team participating in the demonstration project—

“(i) at least one-third of the workforce participating in the demonstration project consists of members of the acquisition workforce; and

“(ii) at least two-thirds of the workforce participating in the demonstration project

consists of members of the acquisition workforce and supporting personnel assigned to work directly with the acquisition workforce; and

“(B) the demonstration project commences before October 1, 2007.

“(c) **LIMITATION ON NUMBER OF PARTICIPANTS.**—The total number of persons who may participate in the demonstration project under this section may not exceed 120,000.

“(d) **EFFECT OF REORGANIZATIONS.**—The applicability of paragraph (2) of subsection (b) to an organization or team shall not terminate by reason that the organization or team, after having satisfied the conditions in paragraph (3) of such subsection when it began to participate in a demonstration project under this section, ceases to meet one or both of the conditions set forth in subparagraph (A) of such paragraph (3) as a result of a reorganization, restructuring, realignment, consolidation, or other organizational change.

“(e) **ASSESSMENTS.**—(1) The Secretary of Defense shall designate an independent organization to conduct two assessments of the acquisition workforce demonstration project described in subsection (a).

“(2) Each such assessment shall include the following:

“(A) A description of the workforce included in the project.

“(B) An explanation of the flexibilities used in the project to appoint individuals to the acquisition workforce and whether those appointments are based on competitive procedures and recognize veteran's preferences.

“(C) An explanation of the flexibilities used in the project to develop a performance appraisal system that recognizes excellence in performance and offers opportunities for improvement.

“(D) The steps taken to ensure that such system is fair and transparent for all employees in the project.

“(E) How the project allows the organization to better meet mission needs.

“(F) An analysis of how the flexibilities in subparagraphs (B) and (C) are used, and what barriers have been encountered that inhibit their use.

“(G) Whether there is a process for—

“(i) ensuring ongoing performance feedback and dialogue among supervisors, managers, and employees throughout the performance appraisal period; and

“(ii) setting timetables for performance appraisals.

“(H) The project's impact on career progression.

“(I) The project's appropriateness or inappropriateness in light of the complexities of the workforce affected.

“(J) The project's sufficiency in terms of providing protections for diversity in promotion and retention of personnel.

“(K) The adequacy of the training, policy guidelines, and other preparations afforded in connection with using the project.

“(L) Whether there is a process for ensuring employee involvement in the development and improvement of the project.

“(3) The first assessment under this subsection shall be completed not later than September 30, 2012. The second and final assessment shall be completed not later than September 30, 2016. The Secretary shall submit to the covered congressional committees a copy of each assessment within 30 days after receipt by the Secretary of the assessment.

“(f) **COVERED CONGRESSIONAL COMMITTEES.**—In this section, the term ‘covered congressional committees’ means—

“(1) the Committees on Armed Services of the Senate and the House of Representatives;

“(2) the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(3) the Committee on Oversight and Government Reform of the House of Representatives.

“(g) **TERMINATION OF AUTHORITY.**—The authority to conduct a demonstration program under this section shall terminate on September 30, 2017.

“(h) **CONVERSION.**—Within 6 months after the authority to conduct a demonstration project under this section is terminated as provided in subsection (g), employees in the project shall convert to the civilian personnel system created pursuant to section 9902 of title 5.”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of subchapter V of chapter 87 of title 10, United States Code, is amended by inserting after the item relating to section 1761 the following new item:

“1762. Demonstration project relating to certain acquisition personnel management policies and procedures.”.

(b) **CONFORMING REPEAL.**—Section 4308 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 10 U.S.C. 1701 note) is repealed.

SEC. 873. CAREER DEVELOPMENT FOR CIVILIAN AND MILITARY PERSONNEL IN THE ACQUISITION WORKFORCE.

(a) **CAREER PATHS.**—

(1) **AMENDMENT.**—Chapter 87 of title 10, United States Code, is amended by inserting after section 1722a the following new section:

“§ 1722b. Special requirements for civilian employees in the acquisition field

“(a) **REQUIREMENT FOR POLICY AND GUIDANCE REGARDING CIVILIAN PERSONNEL IN ACQUISITION.**—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall establish policies and issue guidance to ensure the proper development, assignment, and employment of civilian members of the acquisition workforce to achieve the objectives specified in subsection (b).

“(b) **OBJECTIVES.**—Policies established and guidance issued pursuant to subsection (a) shall ensure, at a minimum, the following:

“(1) A career path in the acquisition field that attracts the highest quality civilian personnel, from either within or outside the Federal Government.

“(2) A deliberate workforce development strategy that increases attainment of key experiences that contribute to a highly qualified acquisition workforce.

“(3) Sufficient opportunities for promotion and advancement in the acquisition field.

“(4) A sufficient number of qualified, trained members eligible for and active in the acquisition field to ensure adequate capacity, capability, and effective succession for acquisition functions, including contingency contracting, of the Department of Defense.

“(5) A deliberate workforce development strategy that ensures diversity in promotion, advancement, and experiential opportunities commensurate with the general workforce outlined in this section.

“(c) **INCLUSION OF INFORMATION IN ANNUAL REPORT.**—The Secretary of Defense shall include in the report to Congress required under section 115b(d) of this title the following information related to the acquisition workforce for the period covered by the report (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, Marine

Corps, Defense Agencies, and Office of the Secretary of Defense):

“(1) The total number of persons serving in the Acquisition Corps, set forth separately for members of the armed forces and civilian employees, by grade level and by functional specialty.

“(2) The total number of critical acquisition positions held, set forth separately for members of the armed forces and civilian employees, by grade level and by other appropriate categories (including by program manager, deputy program manager, and division head positions), including average length of time served in each position. For each such category, the report shall specify the number of civilians holding such positions compared to the total number of positions filled.

“(3) The number of employees to whom the requirements of subsections (b)(2)(A) and (b)(2)(B) of section 1732 of this title did not apply because of the exceptions provided in paragraphs (1) and (2) of section 1732(c) of this title, set forth separately by type of exception.

“(4) The number of times a waiver authority was exercised under section 1724(d), 1732(d), 1734(d), or 1736(c) of this title or any other provision of this chapter (or other provision of law) which permits the waiver of any requirement relating to the acquisition workforce, and in the case of each such authority, the reasons for exercising the authority. The Secretary may present the information provided under this paragraph by category or grouping of types of waivers and reasons.”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of subchapter II of chapter 87 of such title is amended by inserting after the item relating to section 1722a the following new item:

“1722b. Special requirements for civilian employees in the acquisition field.”.

(b) **CAREER EDUCATION AND TRAINING.**—Section 1723 of such title is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

“(b) **CAREER PATH REQUIREMENTS.**—For each career path, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall establish requirements for the completion of course work and related on-the-job training and demonstration of qualifications in the critical acquisition-related duties and tasks of the career path. The Secretary of Defense, acting through the Under Secretary, shall also—

“(1) encourage individuals in the acquisition workforce to maintain the currency of their acquisition knowledge and generally enhance their knowledge of related acquisition management disciplines through academic programs and other self-developmental activities; and

“(2) develop key work experiences, including the creation of a program sponsored by the Department of Defense that facilitates the periodic interaction between individuals in the acquisition workforce and the end user in such end user's environment to enhance the knowledge base of such workforce, for individuals in the acquisition workforce so that the individuals may gain in-depth knowledge and experience in the acquisition process and become seasoned, well-qualified members of the acquisition workforce.”.

SEC. 874. RECERTIFICATION AND TRAINING REQUIREMENTS.

(a) **CONTINUING EDUCATION.**—Section 1723 of title 10, United States Code, as amended by

section 873, is further amended by amending subsection (a) to read as follows:

“(a) **QUALIFICATION REQUIREMENTS.**—(1) The Secretary of Defense shall establish education, training, and experience requirements for each acquisition position, based on the level of complexity of duties carried out in the position. In establishing such requirements, the Secretary shall ensure the availability and sufficiency of training in all areas of acquisition, including additional training courses with an emphasis on services contracting, market research strategies (including assessments of local contracting capabilities), long-term sustainment strategies, information technology, and rapid acquisition.

“(2) In establishing such requirements for positions other than critical acquisition positions designated pursuant to section 1733 of this title, the Secretary may state the requirements by categories of positions.

“(3) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall establish requirements for continuing education and periodic renewal of an individual's certification. Any requirement for a certification renewal shall not require a renewal more often than once every five years.”.

(b) **STANDARDS FOR TRAINING.**—

(1) **IN GENERAL.**—Subchapter IV of Chapter 87 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 1748. Fulfillment standards for acquisition workforce training

“The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall develop fulfillment standards, and implement and maintain a program, for purposes of the training requirements of sections 1723, 1724, and 1735 of this title. Such fulfillment standards shall consist of criteria for determining whether an individual has demonstrated competence in the areas that would be taught in the training courses required under those sections. If an individual meets the appropriate fulfillment standard, the applicable training requirement is fulfilled.”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

“1748. Fulfillment standards for acquisition workforce training.”.

(3) **DEADLINE FOR FULFILLMENT STANDARDS.**—The fulfillment standards required under section 1748 of title 10, United States Code, as added by paragraph (1), shall be developed not later than 270 days after the date of the enactment of this Act.

(4) **CONFORMING REPEAL.**—Section 853 of Public Law 105–85 (111 Stat. 1851) is repealed.

SEC. 875. INFORMATION TECHNOLOGY ACQUISITION WORKFORCE.

(a) **PLAN REQUIRED.**—The Secretary of Defense shall develop and carry out a plan to strengthen the part of the acquisition workforce that specializes in information technology. The plan shall include the following:

(1) Defined targets for billets devoted to information technology acquisition.

(2) Specific certification requirements for individuals in the acquisition workforce who specialize in information technology acquisition.

(3) Defined career paths for individuals in the acquisition workforce who specialize in information technology acquisitions.

(b) **DEFINITIONS.**—In this section:

(1) The term “information technology” has the meaning provided such term in section

11101 of title 40, United States Code, and includes information technology incorporated into a major weapon system.

(2) The term “major weapon system” has the meaning provided such term in section 2379(f) of title 10, United States Code.

(c) **DEADLINE.**—The Secretary of Defense shall develop the plan required under this section not later than 270 days after the date of the enactment of this Act.

SEC. 876. DEFINITION OF ACQUISITION WORKFORCE.

Section 101(a) of title 10, United States Code, is amended by inserting after paragraph (17) the following new paragraph:

“(18) The term ‘acquisition workforce’ means the persons serving in acquisition positions within the Department of Defense, as designated pursuant to section 1721(a) of this title.”.

SEC. 877. DEFENSE ACQUISITION UNIVERSITY CURRICULUM REVIEW.

(a) **CURRICULUM REVIEW.**—Not later than one year after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall lead a review of the curriculum offered by the Defense Acquisition University to ensure it adequately supports the training and education requirements of acquisition professionals, particularly in service contracting, long term sustainment strategies, information technology, and rapid acquisition. The review shall also involve the service acquisition executives of each military department.

(b) **ANALYSIS OF FUNDING REQUIREMENTS FOR TRAINING.**—Following the review conducted under subsection (a), the Secretary of Defense shall analyze the most recent future-years defense program to determine the amounts of estimated expenditures and proposed appropriations necessary to support the training requirements of the amendments made by section 874, including any new training requirements determined after the review conducted under subsection (a). The Secretary shall identify any additional funding needed for such training requirements in the separate chapter on the defense acquisition workforce required in the next annual strategic workforce plan under 115b of title 10, United States Code.

(c) **REQUIREMENT FOR ONGOING CURRICULUM DEVELOPMENT WITH CERTAIN SCHOOLS.**—

(1) **REQUIREMENT.**—Section 1746 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c) **CURRICULUM DEVELOPMENT.**—The President of the Defense Acquisition University shall work with the relevant professional schools and degree-granting institutions of the Department of Defense and military departments to ensure that best practices are used in curriculum development to support acquisition workforce positions.”.

(2) **AMENDMENT TO SECTION HEADING.**—(A) The heading of section 1746 of such title is amended to read as follows:

“§ 1746. Defense Acquisition University”.

(B) The item relating to section 1746 in the table of sections at the beginning of subchapter IV of chapter 87 of such title is amended to read as follows:

“1746. Defense Acquisition University.”.

PART III—FINANCIAL MANAGEMENT

SEC. 881. AUDIT READINESS OF FINANCIAL STATEMENTS OF THE DEPARTMENT OF DEFENSE.

(a) **INTERIM MILESTONES.**—

(1) **REQUIREMENT.**—Not later than 90 days after the date of the enactment of this Act, the Under Secretary of Defense (Comptroller), in consultation with the Deputy

Chief Management Officer of the Department of Defense, the secretaries of the military departments, and the heads of the defense agencies and defense field activities, shall establish interim milestones for achieving audit readiness of the financial statements of the Department of Defense, consistent with the requirements of section 1003 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2439; 10 U.S.C. 2222 note).

(2) **MATTERS INCLUDED.**—The interim milestones established pursuant to paragraph (1) shall include, at a minimum, for each military department and for the defense agencies and defense field activities—

(A) an interim milestone for achieving audit readiness for each major element of the statement of budgetary resources, including civilian pay, military pay, supply orders, contracts, and funds balance with the Treasury; and

(B) an interim milestone for addressing the existence and completeness of each major category of Department of Defense assets, including military equipment, real property, inventory, and operating material and supplies.

(3) **DESCRIPTION IN SEMIANNUAL REPORTS.**—The Under Secretary shall describe each interim milestone established pursuant to paragraph (1) in the next semiannual report submitted pursuant to section 1003(b) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2439; 10 U.S.C. 2222 note). Each subsequent semiannual report submitted pursuant to section 1003(b) shall explain how the Department has progressed toward meeting such interim milestones.

(b) **VALUATION OF DEPARTMENT OF DEFENSE ASSETS.**—

(1) **REQUIREMENT.**—Not later than 120 days after the date of the enactment of this Act, the Under Secretary of Defense (Comptroller) shall, in consultation with other appropriate Federal agencies and officials—

(A) examine the costs and benefits of alternative approaches to the valuation of Department of Defense assets;

(B) select an approach to such valuation that is consistent with principles of sound financial management and the conservation of taxpayer resources; and

(C) begin the preparation of a business case analysis supporting the selected approach.

(2) The Under Secretary shall include information on the alternatives considered, the selected approach, and the business case analysis supporting that approach in the next semiannual report submitted pursuant to section 1003(b) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2439; 10 U.S.C. 2222 note).

(c) **REMEDIAL ACTIONS REQUIRED.**—In the event that the Department of Defense, or any component of the Department of Defense, is unable to meet an interim milestone established pursuant to subsection (a), the Under Secretary of Defense (Comptroller) shall—

(1) develop a remediation plan to ensure that—

(A) the component will meet the interim milestone no more than one year after the originally scheduled date; and

(B) the component's failure to meet the interim milestone will not have an adverse impact on the Department's ability to carry out the plan under section 1003(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2439; 10 U.S.C. 2222 note); and

(2) include in the next semiannual report submitted pursuant to section 1003(b) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2439; 10 U.S.C. 2222 note)—

(A) a statement of the reasons why the Department of Defense, or component of the Department of Defense, will be unable to meet such interim milestone;

(B) the revised completion date for meeting such interim milestone; and

(C) a description of the actions that have been taken and are planned to be taken by the Department of Defense, or component of the Department of Defense, to meet such interim milestone.

(d) **INCENTIVES FOR ACHIEVING AUDITABILITY.**—

(1) **REVIEW REQUIRED.**—Not later than 120 days after the date of the enactment of this Act, the Under Secretary of Defense (Comptroller) shall review options for providing appropriate incentives to the military departments, Defense Agencies, and defense field activities to ensure that financial statements are validated as ready for audit earlier than September 30, 2017.

(2) **OPTIONS REVIEWED.**—The review performed pursuant to paragraph (1) shall consider changes in policy that reflect the increased confidence that can be placed in auditable financial statements, and shall include, at a minimum, consideration of the following options:

(A) Consistent with the need to fund urgent warfighter requirements and operational needs, priority in the release of appropriated funds.

(B) Relief from the frequency of financial reporting in cases in which such reporting is not required by law.

(C) Relief from departmental obligation and expenditure thresholds to the extent that such thresholds establish requirements more restrictive than those required by law.

(D) Increases in thresholds for reprogramming of funds.

(E) Personnel management incentives for the financial and business management workforce.

(F) Such other measures as the Under Secretary considers appropriate.

(3) **REPORT.**—The Under Secretary shall include a discussion of the review performed pursuant to paragraph (1) in the next semiannual report pursuant to section 1003(b) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2439; 10 U.S.C. 2222 note) and for each option considered pursuant to paragraph (2) shall include—

(A) an assessment of the extent to which the implementation of the option—

(i) would be consistent with the efficient operation of the Department of Defense and the effective funding of essential Department of Defense programs and activities; and

(ii) would contribute to the achievement of Department of Defense goals to prepare auditable financial statements; and

(B) a recommendation on whether such option should be adopted, a schedule for implementing the option if adoption is recommended, or a reason for not recommending the option if adoption is not recommended.

SEC. 882. REVIEW OF OBLIGATION AND EXPENDITURE THRESHOLDS.

(a) **PROCESS REVIEW.**—Not later than one year after the date of the enactment of this Act, the Chief Management Officer of the Department of Defense, in coordination with the Chief Management Officer of each military department, the Director of the Office

of Performance Assessment and Root Cause Analysis, the Under Secretary of Defense (Comptroller), and the Comptrollers of the military departments, shall complete a comprehensive review of the use and value of obligation and expenditure benchmarks and propose new benchmarks or processes for tracking financial performance, including, as appropriate—

(1) increased reliance on individual obligation and expenditure plans for measuring program financial performance;

(2) mechanisms to improve funding stability and to increase the predictability of the release of funding for obligation and expenditure; and

(3) streamlined mechanisms for a program manager to submit an appeal for funding changes and to have such appeal evaluated promptly.

(b) **TRAINING.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense (Comptroller) shall ensure that, as part of the training required for program managers and business managers, an emphasis is placed on obligating and expending appropriated funds in a manner that achieves the best value for the Government and that the purpose and limitations of obligation and expenditure benchmarks are made clear.

(c) **REPORT.**—The Deputy Chief Management Officer of the Department of Defense shall include a report on the results of the review under this section in the next update of the strategic management plan transmitted to the Committees on Armed Services of the Senate and the House of Representatives under section 904(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 275; 10 U.S.C. note prec. 2201) after the completion of the review.

SEC. 883. DISCLOSURE AND TRACEABILITY OF THE COST OF DEPARTMENT OF DEFENSE HEALTH CARE CONTRACTS.

(a) **REPORT.**—

(1) **REQUIREMENT.**—Not later than September 30, 2011, the Comptroller General of the United States shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a detailed report on the additional cost to the Department of Defense associated with compliance with the Patient Protection and Affordable Care Act (Public Law 111-148) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

(2) **MATTERS COVERED.**—The report required by paragraph (1) shall include an estimate of—

(A) the additional costs, if any, incurred on health care contracts to comply with such Acts; and

(B) any other additional costs to the Department of Defense to comply with such Acts.

(b) **HEALTH CARE CONTRACT DEFINED.**—In this section, the term “health care contract” means a contract awarded by the Department of Defense in an amount greater than the simplified acquisition threshold for the acquisition of any of the following:

(1) Medical supplies.

(2) Health care services and administration, including the services of medical personnel.

(3) Durable medical equipment.

(4) Pharmaceuticals.

(5) Health care-related information technology.

PART IV—INDUSTRIAL BASE**SEC. 891. EXPANSION OF THE INDUSTRIAL BASE.**

(a) **PROGRAM TO EXPAND INDUSTRIAL BASE REQUIRED.**—The Secretary of Defense shall establish a program to expand the industrial base of the Department of Defense to increase the Department's access to innovation and the benefits of competition.

(b) **IDENTIFYING AND COMMUNICATING WITH FIRMS THAT ARE NOT TRADITIONAL SUPPLIERS.**—The program established under subsection (a) shall use tools and resources available within the Federal Government and available from the private sector to provide a capability for identifying and communicating with firms that are not traditional suppliers, including commercial firms and firms of all business sizes, that are engaged in markets of importance to the Department of Defense in which such firms can make a significant contribution.

(c) **OUTREACH TO LOCAL FIRMS NEAR DEFENSE INSTALLATIONS.**—The program established under subsection (a) shall include outreach, using procurement technical assistance centers, to firms of all business sizes in the vicinity of Department of Defense installations regarding opportunities to obtain contracts and subcontracts to perform work at such installations.

(d) **INDUSTRIAL BASE REVIEW.**—The program established under subsection (a) shall include a continuous effort to review the industrial base supporting the Department of Defense, including the identification of markets of importance to the Department of Defense in which firms that are not traditional suppliers can make a significant contribution.

(e) **FIRMS THAT ARE NOT TRADITIONAL SUPPLIERS.**—For purposes of this section, a firm is not a traditional supplier of the Department of Defense if it does not currently have contracts and subcontracts to perform work for the Department of Defense with a total combined value in excess of \$500,000.

(f) **PROCUREMENT TECHNICAL ASSISTANCE CENTER.**—In this section, the term “procurement technical assistance center” means a center operating under a cooperative agreement with the Defense Logistics Agency to provide procurement technical assistance pursuant to the authority provided in chapter 142 of title 10, United States Code.

SEC. 892. PRICE TREND ANALYSIS FOR SUPPLIES AND EQUIPMENT PURCHASED BY THE DEPARTMENT OF DEFENSE.

(a) **PRICE TREND ANALYSIS PROCEDURES.**—

(1) **IN GENERAL.**—The Secretary of Defense shall develop and implement procedures that, to the maximum extent practicable, provide for the collection and analysis of information on price trends for covered supplies and equipment purchased by the Department of Defense. The procedures shall include an automated process for identifying categories of covered supplies and equipment described in paragraph (2) that have experienced significant escalation in prices.

(2) **CATEGORY OF COVERED SUPPLIES AND EQUIPMENT.**—A category of covered supplies and equipment referred to in paragraph (1) consists of covered supplies and equipment that have the same National Stock Number, are in a single Federal Supply Group or Federal Supply Class, are provided by a single contractor, or are otherwise logically grouped for the purpose of analyzing information on price trends.

(3) **REQUIREMENT TO EXAMINE CAUSES OF ESCALATION.**—An analysis conducted pursuant to paragraph (1) shall include, for any category in which significant escalation in prices is identified, a more detailed examina-

tion of the causes of escalation for such prices within the category and whether such price escalation is consistent across the Department of Defense.

(4) **REQUIREMENT TO ADDRESS UNJUSTIFIED ESCALATION.**—The head of a Defense Agency or the Secretary of a military department shall take appropriate action to address any unjustified escalation in prices being paid for items procured by that agency or military department as identified in an analysis conducted pursuant to paragraph (1).

(b) **ANNUAL REPORT.**—Not later than April 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the analyses of price trends that were conducted for categories of covered supplies and equipment during the preceding fiscal year under the procedures implemented pursuant to paragraph (1). The report shall include a description of the actions taken to identify and address any unjustified price escalation for the categories of items.

(c) **DEFINITIONS.**—In this section:

(1) **SUPPLIES AND EQUIPMENT.**—The term “supplies and equipment” means items classified as supplies and equipment under the Federal Supply Classification System.

(2) **COVERED SUPPLIES AND EQUIPMENT.**—The term “covered supplies and equipment” means all supplies and equipment purchased by the Department of Defense. The term does not include major weapon systems but does include individual parts and components purchased as spare or replenishment parts for such weapon systems.

(d) **SUNSET DATE.**—This section shall not be in effect on and after April 1, 2015.

SEC. 893. CONTRACTOR BUSINESS SYSTEMS.

(a) **IMPROVEMENT PROGRAM.**—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall develop and initiate a program for the improvement of contractor business systems to ensure that such systems provide timely, reliable information for the management of Department of Defense programs by the contractor and by the Department.

(b) **APPROVAL OR DISAPPROVAL OF BUSINESS SYSTEMS.**—The program developed pursuant to subsection (a) shall—

(1) include system requirements for each type of contractor business system covered by the program;

(2) establish a process for reviewing contractor business systems and identifying significant deficiencies in such systems;

(3) identify officials of the Department of Defense who are responsible for the approval or disapproval of contractor business systems;

(4) provide for the approval of any contractor business system that does not have a significant deficiency; and

(5) provide for—

(A) the disapproval of any contractor business system that has a significant deficiency; and

(B) reduced reliance on, and enhanced scrutiny of, data provided by a contractor business system that has been disapproved.

(c) **REMEDIAL ACTIONS.**—The program developed pursuant to subsection (a) shall provide the following:

(1) In the event a contractor business system is disapproved pursuant to subsection (b)(5), appropriate officials of the Department of Defense will be available to work with the contractor to develop a corrective action plan defining specific actions to be taken to address the significant deficiencies identified in the system and a schedule for the implementation of such actions.

(2) An appropriate official of the Department of Defense may withhold up to 10 percent of progress payments, performance-based payments, and interim payments under covered contracts from a covered contractor, as needed to protect the interests of the Department and ensure compliance, if one or more of the contractor business systems of the contractor has been disapproved pursuant to subsection (b)(5) and has not subsequently received approval.

(3) The amount of funds to be withheld under paragraph (2) shall be reduced if a contractor adopts an effective corrective action plan pursuant to paragraph (1) and is effectively implementing such plan.

(d) **GUIDANCE AND TRAINING.**—The program developed pursuant to subsection (a) shall provide guidance and training to appropriate government officials on the data that is produced by contractor business systems and the manner in which such data should be used to effectively manage Department of Defense programs.

(e) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to prohibit an official of the Department of Defense from reviewing, approving, or disapproving a contractor business system pursuant to any applicable law or regulation in force as of the date of the enactment of this Act during the period between the date of the enactment of this Act and the date on which the Secretary implements the requirements of this section with respect to such system.

(f) **DEFINITIONS.**—In this section:

(1) The term “contractor business system” means an accounting system, estimating system, purchasing system, earned value management system, material management and accounting system, or property management system of a contractor.

(2) The term “covered contractor” means a contractor that is subject to the cost accounting standards under section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422).

(3) The term “covered contract” means a cost-reimbursement contract, incentive-type contract, time-and-materials contract, or labor-hour contract that could be affected if the data produced by a contractor business system has a significant deficiency.

(4) The term “significant deficiency”, in the case of a contractor business system, means a shortcoming in the system that materially affects the ability of officials of the Department of Defense and the contractor to rely upon information produced by the system that is needed for management purposes.

(g) **DEFENSE CONTRACT AUDIT AGENCY LEGAL RESOURCES AND EXPERTISE.**—

(1) **REQUIREMENT.**—The Secretary of Defense shall ensure that—

(A) the Defense Contract Audit Agency has sufficient legal resources and expertise to conduct its work in compliance with applicable Department of Defense policies and procedures; and

(B) such resources and expertise are provided in a manner that is consistent with the audit independence of the Defense Contract Audit Agency.

(2) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the steps taken to comply with the requirements of this subsection.

SEC. 894. REVIEW AND RECOMMENDATIONS ON ELIMINATING BARRIERS TO CONTRACTING WITH THE DEPARTMENT OF DEFENSE.

(a) **REVIEW AND RECOMMENDATIONS.**—The Secretary of Defense, acting through the Director of Small Business Programs in the Department of Defense, shall review barriers to firms that are not traditional suppliers to the Department of Defense wishing to contract with the Department of Defense and its defense supply centers and develop a set of recommendations on the elimination of such barriers. The Director shall identify and consult with a wide range of firms that are not traditional suppliers to the Department of Defense for the purpose of identifying such barriers and developing such recommendations.

(b) **DEFINITION.**—For the purposes of this section, a firm is not a traditional supplier of the Department of Defense if it does not currently have contracts and subcontracts to perform work for the Department of Defense with a total combined value in excess of \$500,000.

(c) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report summarizing the findings and recommendations of the review conducted pursuant to this section.

SEC. 895. INCLUSION OF THE PROVIDERS OF SERVICES AND INFORMATION TECHNOLOGY IN THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.

(a) **REVISED DEFINITIONS.**—Section 2500 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “or maintenance” and inserting “integration, services, or information technology”;

(2) in paragraph (4), by striking “or production” and inserting “production, integration, services, or information technology”;

(3) in paragraph (9)(A), by striking “and manufacturing” and inserting “manufacturing, integration, services, and information technology”;

(4) by adding at the end the following new paragraph:

“(15) The term ‘integration’ means the process of providing systems engineering and technical direction for a system for the purpose of achieving capabilities that satisfy program requirements.”.

(b) **REVISED OBJECTIVES.**—Section 2501(a) of such title is amended—

(1) in paragraph (1), by striking “Supplying and equipping” and inserting “Supplying, equipping, and supporting”;

(2) in paragraph (2), by striking “and logistics for” and inserting “logistics, and other activities in support of”;

(3) in paragraph (4), by striking “and produce” and inserting “, produce, and support”;

(4) by redesignating paragraph (6) as paragraph (8) and inserting after paragraph (5) the following new paragraphs:

“(6) Providing for the generation of services capabilities that are not core functions of the armed forces and that are critical to military operations within the national technology and industrial base.

“(7) Providing for the development, production, and integration of information technology within the national technology and industrial base.”.

(c) **REVISED ASSESSMENTS.**—Section 2505(b)(4) of such title is amended by inserting after “of this title)” the following “or major automated information system programs (as defined in section 2445a of this title)”.

(d) **REVISED POLICY GUIDANCE.**—Section 2506(a) of such title is amended by striking

“budget allocation, weapons” and inserting “strategy, management, budget allocation,”.

SEC. 896. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MANUFACTURING AND INDUSTRIAL BASE POLICY; INDUSTRIAL BASE FUND.

(a) **DEPUTY ASSISTANT SECRETARY OF DEFENSE.**—Chapter 7 of title 10, United States Code, is amended by inserting after section 139d the following new section:

“§ 139e. Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy

“(a) **APPOINTMENT.**—There is a Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy, who shall be appointed by the Under Secretary of Defense for Acquisition, Technology, and Logistics and shall report to the Under Secretary.

“(b) **RESPONSIBILITIES.**—The Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy shall be the principal advisor to the Under Secretary of Defense for Acquisition, Technology, and Logistics in the performance of the Under Secretary’s duties relating to the following:

“(1) Providing input on industrial base matters to strategy reviews, including quadrennial defense reviews conducted pursuant to section 118 of this title.

“(2) Establishing policies of the Department of Defense for maintenance of the defense industrial base of the United States.

“(3) Providing recommendations to the Under Secretary on budget matters pertaining to the industrial base.

“(4) Providing recommendations to the Under Secretary on supply chain management and supply chain vulnerability.

“(5) Providing input on industrial base matters to defense acquisition policy guidance.

“(6) Establishing the national security objectives concerning the national technology and industrial base required under section 2501 of this title.

“(7) Executing the national defense program for analysis of the national technology and industrial base required under section 2503 of this title.

“(8) Performing the national technology and industrial base periodic defense capability assessments required under section 2505 of this title.

“(9) Establishing the technology and industrial base policy guidance required under section 2506 of this title.

“(10) Executing the authorities of the Manufacturing Technology Program under section 2521 of this title.

“(11) Carrying out the activities of the Department of Defense relating to the Defense Production Act Committee established under section 722 of the Defense Production Act of 1950 (50 U.S.C. App. 2171).

“(12) Consistent with section 2(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2062(b)), executing other applicable authorities provided under the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), including authorities under titles I and II of such Act.

“(13) Establishing policies related to international technology security and export control issues.

“(14) Establishing policies related to industrial independent research and development programs under section 2372 of this title.

“(15) Such other duties as are assigned by the Under Secretary.

“(c) **RULE OF CONSTRUCTION.**—Nothing in subsection (b)(9) may be construed to limit the authority or modify the policies of the Committee on Foreign Investment in the

United States established under section 721(k) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(k)).”.

(b) **INDUSTRIAL BASE FUND.**—

(1) **IN GENERAL.**—Chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2508. Industrial Base Fund

“(a) **ESTABLISHMENT.**—The Secretary of Defense shall establish an Industrial Base Fund (in this section referred to as the ‘Fund’).

“(b) **CONTROL OF FUND.**—The Fund shall be under the control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, acting through the Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy.

“(c) **AMOUNTS IN FUND.**—The Fund shall consist of amounts appropriated or otherwise made available to the Fund.

“(d) **USE OF FUND.**—Subject to subsection (e), the Fund shall be used—

“(1) to support the monitoring and assessment of the industrial base required by this chapter;

“(2) to address critical issues in the industrial base relating to urgent operational needs;

“(3) to support efforts to expand the industrial base; and

“(4) to address supply chain vulnerabilities.

“(e) **USE OF FUND SUBJECT TO APPROPRIATIONS.**—The authority of the Secretary of Defense to use the Fund under this section in any fiscal year is subject to the availability of appropriations for that purpose.

“(f) **EXPENDITURES.**—The Secretary shall establish procedures for expending monies in the Fund in support of the uses identified in subsection (d), including the following:

“(1) Direct obligations from the Fund.

“(2) Transfers of monies from the Fund to relevant appropriations of the Department of Defense.”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2508. Industrial Base Fund.”.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Department of Defense Management

Sec. 901. Reorganization of Office of the Secretary of Defense to carry out reduction required by law in number of Deputy Under Secretaries of Defense.

Subtitle B—Space Activities

Sec. 911. Integrated space architectures.

Sec. 912. Limitation on use of funds for costs of terminating contracts under the National Polar-Orbiting Operational Environmental Satellite System Program.

Sec. 913. Limitation on use of funds for purchasing Global Positioning System user equipment.

Sec. 914. Plan for integration of space-based nuclear detection sensors.

Sec. 915. Preservation of the solid rocket motor industrial base.

Sec. 916. Implementation plan to sustain solid rocket motor industrial base.

Sec. 917. Review and plan on sustainment of liquid rocket propulsion systems industrial base.

Subtitle C—Intelligence-Related Matters

Sec. 921. Five-year extension of authority for Secretary of Defense to engage in commercial activities as security for intelligence collection activities.

Sec. 922. Modification of attendees at proceedings of Intelligence, Surveillance, and Reconnaissance Integration Council.

Sec. 923. Report on Department of Defense interservice management and coordination of remotely piloted aircraft support of intelligence, surveillance, and reconnaissance.

Sec. 924. Report on requirements fulfillment and personnel management relating to Air Force intelligence, surveillance, and reconnaissance provided by remotely piloted aircraft.

Subtitle D—Cyber Warfare, Cyber Security, and Related Matters

Sec. 931. Continuous monitoring of Department of Defense information systems for cybersecurity.

Sec. 932. Strategy on computer software assurance.

Sec. 933. Strategy for acquisition and oversight of Department of Defense cyber warfare capabilities.

Sec. 934. Report on the cyber warfare policy of the Department of Defense.

Sec. 935. Reports on Department of Defense progress in defending the Department and the defense industrial base from cyber events.

Subtitle E—Other Matters

Sec. 941. Two-year extension of authorities relating to temporary waiver of reimbursement of costs of activities for nongovernmental personnel at Department of Defense Regional Centers for Security Studies.

Sec. 942. Additional requirements for quadrennial roles and missions review in 2011.

Sec. 943. Report on organizational structure and policy guidance of the Department of Defense regarding information operations.

Sec. 944. Report on organizational structures of the geographic combatant command headquarters.

Subtitle A—Department of Defense Management

SEC. 901. REORGANIZATION OF OFFICE OF THE SECRETARY OF DEFENSE TO CARRY OUT REDUCTION REQUIRED BY LAW IN NUMBER OF DEPUTY UNDER SECRETARIES OF DEFENSE.

(a) REDESIGNATION OF CERTAIN POSITIONS IN OFFICE OF SECRETARY OF DEFENSE.—

(1) REDESIGNATION.—Positions in the Office of the Secretary of Defense are hereby redesignated as follows:

(A) The Director of Defense Research and Engineering is redesignated as the Assistant Secretary of Defense for Research and Engineering.

(B) The Director of Operational Energy Plans and Programs is redesignated as the Assistant Secretary of Defense for Operational Energy Plans and Programs.

(C) The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs is redesignated as the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.

(2) REFERENCES.—Any reference in any law, rule, regulation, paper, or other record of the

United States to an office of the Department of Defense redesignated by paragraph (1) shall be deemed to be a reference to such office as so redesignated.

(b) AMENDMENTS TO CHAPTER 4 OF TITLE 10 RELATING TO REORGANIZATION.—

(1) REPEAL OF SEPARATE PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE PROVISIONS.—Sections 133a, 134a, and 136a of title 10, United States Code, are repealed.

(2) COMPONENTS OF OSD.—Subsection (b) of section 131 of such title is amended to read as follows:

“(b) The Office of the Secretary of Defense is composed of the following:

“(1) The Deputy Secretary of Defense.

“(2) The Under Secretaries of Defense, as follows:

“(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(B) The Under Secretary of Defense for Policy.

“(C) The Under Secretary of Defense (Comptroller).

“(D) The Under Secretary of Defense for Personnel and Readiness.

“(E) The Under Secretary of Defense for Intelligence.

“(3) The Deputy Chief Management Officer of the Department of Defense.

“(4) Other officers who are appointed by the President, by and with the advice and consent of the Senate, and who report directly to the Secretary and Deputy Secretary without intervening authority, as follows:

“(A) The Director of Cost Assessment and Program Evaluation.

“(B) The Director of Operational Test and Evaluation.

“(C) The General Counsel of the Department of Defense.

“(D) The Inspector General of the Department of Defense.

“(5) The Principal Deputy Under Secretaries of Defense.

“(6) The Assistant Secretaries of Defense.

“(7) Other officials provided for by law, as follows:

“(A) The Deputy Assistant Secretary of Defense for Developmental Test and Evaluation appointed pursuant to section 139b(a) of this title.

“(B) The Deputy Assistant Secretary of Defense for Systems Engineering appointed pursuant to section 139b(b) of this title.

“(C) The Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy appointed pursuant to section 139c of this title.

“(D) The Director of Small Business Programs appointed pursuant to section 144 of this title.

“(E) The official designated under section 1501(a) of this title to have responsibility for Department of Defense matters relating to missing persons as set forth in section 1501 of this title.

“(F) The Director of Family Policy under section 1781 of this title.

“(G) The Director of the Office of Corrosion Policy and Oversight assigned pursuant to section 2228(a) of this title.

“(H) The official designated under section 2438(a) of this title to have responsibility for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs.

“(8) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.”

(3) PRINCIPAL DEPUTY UNDER SECRETARIES OF DEFENSE.—Section 137a of such title is amended—

(A) in subsections (a)(1), (b), and (d), by striking “Deputy Under” and inserting “Principal Deputy Under”;

(B) in subsection (a)(2), by striking “(A) The” and all that follows through “(5) of subsection (c)” and inserting “The Principal Deputy Under Secretaries of Defense”;

(C) in subsection (c)—

(i) in paragraphs (1), (2), (3), (4), and (5), by striking “One of the Deputy” and inserting “One of the Principal Deputy”;

(ii) in paragraphs (1), (2), and (3), by striking “appointed” and all that follows through “this title”;

(iii) in paragraphs (4) and (5), by striking “shall be” and inserting “is”; and

(iv) in paragraph (5), by inserting before the period at the end the following: “, who shall be appointed from among persons who have extensive expertise in intelligence matters”; and

(D) in subsection (d), by adding at the end the following new sentence: “The Principal Deputy Under Secretaries shall take precedence among themselves in the order prescribed by the Secretary of Defense.”

(4) ASSISTANT SECRETARIES OF DEFENSE GENERALLY.—Section 138 of such title is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking “12” and inserting “16”; and

(ii) in paragraph (2), by striking “(A) The” and all that follows through “The other” and inserting “The”;

(B) in subsection (b)—

(i) in paragraphs (2), (3), (4), (5), and (6), by striking “shall be” and inserting “is”;

(ii) in paragraph (7), by striking “appointed pursuant to section 138a of this title”; and

(iii) by adding at the end the following new paragraphs:

“(8) One of the Assistant Secretaries is the Assistant Secretary of Defense for Research and Engineering. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Research and Engineering shall have the duties specified in section 138b of this title.

“(9) One of the Assistant Secretaries is the Assistant Secretary of Defense for Operational Energy Plans and Programs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Operational Energy Plans and Programs shall have the duties specified in section 138c of this title.

“(10) One of the Assistant Secretaries is the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall have the duties specified in section 138d of this title.”; and

(C) in subsection (d), by striking “and the Director of Defense Research and Engineering” and inserting “the Deputy Chief Management Officer of the Department of Defense, the officials serving in positions specified in section 131(b)(4) of this title, and the Principal Deputy Under Secretaries of Defense”.

(5) ASSISTANT SECRETARY FOR LOGISTICS AND MATERIEL READINESS.—Section 138a(a) of such title is amended—

(A) by striking “There is a” and inserting “The”; and

(B) by striking “, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Assistant Secretary”.

(6) ASSISTANT SECRETARY FOR RESEARCH AND ENGINEERING.—Section 139a of such title is transferred so as to appear after section 138a, redesignated as section 138b, and amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(C) in subsection (a), as so redesignated, by striking “Director of Defense Research and Engineering” and inserting “Assistant Secretary of Defense for Research and Engineering”; and

(D) in subsection (b), as so redesignated—

(i) in paragraph (1), by striking “Director of Defense Research and Engineering,” and inserting “Assistant Secretary of Defense for Research and Engineering.”; and

(ii) in paragraph (2), by striking “Director” and inserting “Assistant Secretary”.

(7) ASSISTANT SECRETARY FOR OPERATIONAL ENERGY PLANS AND PROGRAMS.—Section 139b of such title is transferred so as to appear after section 138b (as transferred and redesignated by paragraph (6)), redesignated as section 138c, and amended—

(A) in subsection (a), by striking “There is a” and all that follows through “The Director” and inserting “The Assistant Secretary of Defense for Operational Energy Plans and Programs”; and

(B) by striking “Director” each place it appears and inserting “Assistant Secretary”;

(C) in subsection (d)(2)—

(i) by striking “Not later than” and all that follows through “military departments” and inserting “The Secretary of each military department”; and

(ii) by striking “who will” and inserting “who shall”; and

(iii) by inserting “so designated” after “The officials”; and

(D) in subsection (d)(4), by striking “The initial” and all that follows through “updates to the strategy” and inserting “Updates to the strategy required by paragraph (1)”.

(8) ASSISTANT SECRETARY FOR NUCLEAR, CHEMICAL, AND BIOLOGICAL DEFENSE PROGRAMS.—Section 142 of such title is transferred so as to appear after section 138c (as redesignated and transferred by paragraph (7)), redesignated as section 138d, and amended—

(A) by striking subsection (a);

(B) by redesignating subsection (b) as subsection (a) and in that subsection, as so redesignated, by striking “The Assistant to the Secretary” and inserting “The Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs”; and

(C) by striking subsection (c) and inserting the following new subsection (b):

“(b) The Assistant Secretary may communicate views on issues within the responsibility of the Assistant Secretary directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense.”.

(c) DEPUTY CHIEF MANAGEMENT OFFICER.—

(1) IN GENERAL.—Chapter 4 of title 10, United States Code, is further amended by inserting after section 132 the following new section:

“§ 132a. Deputy Chief Management Officer

“(a) APPOINTMENT.—There is a Deputy Chief Management Officer of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

“(b) RESPONSIBILITIES.—The Deputy Chief Management Officer assists the Deputy Secretary of Defense in the Deputy Secretary’s

capacity as Chief Management Officer of the Department of Defense under section 132(c) of this title.

“(c) PRECEDENCE.—The Deputy Chief Management Officer takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense.”.

(2) CONFORMING AMENDMENT.—Section 132(c) of such title is amended by striking the second sentence.

(d) SENIOR OFFICIAL RESPONSIBLE FOR PERFORMANCE ASSESSMENTS AND ROOT CAUSE ANALYSES OF MDAPS.—Section 103 of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111–23; 123 Stat. 1715; 10 U.S.C. 2430 note) is transferred to chapter 144 of title 10, United States Code, inserted so as to appear after section 2437, redesignated as section 2438, and amended—

(1) in subsection (b)(2), by striking “section 2433a(a)(1) of title 10, United States Code (as added by section 206(a) of this Act)” and inserting “section 2433a(a)(1) of this title”; and

(2) in subsection (b)(5)—

(A) by striking “section 2433a of title 10, United States Code (as so added)” and inserting “section 2433a of this title”; and

(B) by striking “prior to” both places it appears and inserting “before”;

(3) in subsection (d), by striking “section 2433a of title 10, United States Code (as so added)” and inserting “section 2433a of this title”; and

(4) in subsection (f), by striking “beginning in 2010,”.

(e) REDESIGNATION OF DDTE AS DEPUTY ASSISTANT SECRETARY FOR DEVELOPMENTAL TEST AND EVALUATION AND DSE AS DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR SYSTEMS ENGINEERING.—Section 139d of title 10, United States Code, is amended—

(1) by striking “Director of Developmental Test and Evaluation” each place it appears and inserting “Deputy Assistant Secretary of Defense for Developmental Test and Evaluation”; and

(2) by striking “Director of Systems Engineering” each place it appears and inserting “Deputy Assistant Secretary of Defense for Systems Engineering”;

(3) in subsection (a)—

(A) by striking the subsection heading and inserting “DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR DEVELOPMENTAL TEST AND EVALUATION.—”; and

(B) by striking “Director” each place it appears in paragraphs (2), (3), and (6) and inserting “Deputy Assistant Secretary”;

(C) in paragraph (4), by striking the paragraph heading and inserting “COORDINATION WITH DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR SYSTEMS ENGINEERING.—”; and

(D) in paragraph (5), by striking “Director” in the matter preceding subparagraph (A) and inserting “Deputy Assistant Secretary”; and

(E) in paragraph (6), by striking “Director’s” and inserting “Deputy Assistant Secretary’s”; and

(4) in subsection (b)—

(A) by striking the subsection heading and inserting “DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR SYSTEMS ENGINEERING.—”; and

(B) by striking “Director” each place it appears in paragraphs (2), (3), (5), and (6) and inserting “Deputy Assistant Secretary”;

(C) in paragraph (4), by striking the paragraph heading and inserting “COORDINATION WITH DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR DEVELOPMENTAL TEST AND EVALUATION.—”; and

(D) in paragraph (6), by striking “Director’s” and inserting “Deputy Assistant Secretary’s”.

(f) REORGANIZATION OF CERTAIN PROVISIONS WITHIN CHAPTER 4 TO ACCOUNT FOR OTHER TRANSFERS OF PROVISIONS.—Chapter 4 of title 10, United States Code, is further amended by redesignating sections 139c, 139d (as amended by subsection (e)), and 139e (as added by section 896 of this Act) as sections 139a, 139b, and 139c, respectively.

(g) REPEAL OF STATUTORY REQUIREMENT FOR OFFICE FOR MISSING PERSONNEL IN OSD.—Section 1501(a) of title 10, United States Code, is amended—

(1) by striking the subsection heading and inserting the following: “RESPONSIBILITY FOR MISSING PERSONNEL.—”; and

(2) in paragraph (1)—

(A) by striking “establish within the Office of the Secretary of Defense an office to have responsibility for Department of Defense policy” in the first sentence and inserting “designate within the Office of the Secretary of Defense an official as the Deputy Assistant Secretary of Defense for Prisoner of War/Missing Personnel Affairs to have responsibility for Department of Defense matters”; and

(B) by striking the second sentence;

(C) by striking “of the office” and inserting “of the official designated under this paragraph”; and

(D) by striking “and” at the end of subparagraph (A);

(E) by redesignating subparagraph (B) as subparagraph (C); and

(F) by inserting after subparagraph (A) the following new subparagraph (B):

“(B) policy, control, and oversight of the program established under section 1509 of this title, as well as the accounting for missing persons (including locating, recovering, and identifying missing persons or their remains after hostilities have ceased); and”;

(3) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (3), (4), (5), and (6), respectively;

(4) by inserting after paragraph (1) the following new paragraph (2):

“(2) The official designated under paragraph (1) shall also serve as the Director, Defense Prisoner of War/Missing Personnel Office, as established under paragraph (6)(A), exercising authority, direction, and control over that activity.”.

(5) in paragraph (3), as so redesignated—

(A) by striking “of the office” the first place it appears; and

(B) by striking “head of the office” and inserting “official designated under paragraph (1) and (2)”;

(6) in paragraph (4), as so redesignated—

(A) by striking “office” and inserting “designated official”; and

(B) by inserting after “evasion” the following: “and for personnel accounting (including locating, recovering, and identifying missing persons or their remains after hostilities have ceased)”;

(7) in paragraph (5), as so redesignated, by striking “office” and inserting “designated official”; and

(8) in paragraph (6), as so redesignated—

(A) in subparagraph (A)—

(i) by inserting after “(A)” the following: “The Secretary of Defense shall establish an activity to account for personnel who are missing or whose remains have not been recovered from the conflict in which they were lost. This activity shall be known as the Defense Prisoner of War/Missing Personnel Office.”; and

(ii) by striking “office” both places it appears and inserting “activity”;

(B) in subparagraph (B)(i), by striking “to the office” and inserting “activity”;

(C) in subparagraph (B)(ii)—

(i) by striking “to the office” and inserting “activity”; and

(ii) by striking “of the office” and inserting “of the activity”; and

(D) in subparagraph (C), by striking “office” and inserting “activity”.

(h) CLARIFICATION OF HEAD OF OFFICE FOR FAMILY POLICY.—Section 1781 of title 10, United States Code, is amended—

(1) in subsection (a), by striking the second sentence and inserting the following new sentence: “The office shall be headed by the Director of Family Policy, who shall serve within the office of the Under Secretary of Defense for Personnel and Readiness.”; and

(2) by striking “the Office” each place it appears and inserting “the Director”.

(i) MODIFICATION OF STATUTORY LIMITATION ON NUMBER OF DEPUTY UNDER SECRETARIES OF DEFENSE.—

(1) DELAY IN LIMITATION ON NUMBER OF DUSDS.—Section 906(a)(2) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2426; 10 U.S.C. 137a note) is amended by striking “January 1, 2011” and inserting “January 1, 2015”.

(2) TEMPORARY AUTHORITY FOR ADDITIONAL DUSDS.—During the period beginning on the date of the enactment of this Act and ending on January 1, 2015, the Secretary of Defense may, in the Secretary’s discretion, appoint not more than five Deputy Under Secretaries of Defense in addition to the five Principal Deputy Under Secretaries of Defense authorized by section 137a of title 10, United States Code (as amended by subsection (b)(3)).

(3) REPORT ON PLAN FOR REORGANIZATION OF OSD.—

(A) REPORT REQUIRED.—Not later than September 15, 2013, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth a plan for the realignment of the organizational structure of the Office of the Secretary of Defense to comply with the requirement of section 906(a)(2) of the National Defense Authorization Act for Fiscal Year 2010, as amended by paragraph (1).

(B) ELEMENTS.—In preparing the report required by subparagraph (A), the Secretary shall consider, at a minimum, the feasibility of taking the following actions on or before January 1, 2015:

(i) A merger of the position of Deputy Under Secretary of Defense (Installations and Environment) and the position of Assistant Secretary of Defense for Operational Energy Plans and Programs (as established in accordance with the amendments made by subsection (b)(7)) into a single Assistant Secretary position.

(ii) A realignment of positions within the Office of the Under Secretary of Defense for Policy to eliminate the position of Deputy Under Secretary of Defense (Strategy, Plans, and Forces).

(j) OTHER CONFORMING AMENDMENTS TO TITLE 10.—

(1) Section 179(c) of title 10, United States Code, is amended—

(A) in paragraphs (2) and (3), by striking “Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs” and inserting “Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs”; and

(B) in paragraph (3), by striking “that Assistant to the Secretary” and inserting “Assistant Secretary”.

(2) Section 2272 of such title is amended by striking “Director of Defense Research and

Engineering” each place it appears and inserting “Assistant Secretary of Defense for Research and Engineering”.

(3) Section 2365 of such title is amended—

(A) in subsection (a), by striking “Director of Defense Research and Engineering” and inserting “Assistant Secretary”;

(B) in subsection (d)(1), by striking “Director” and inserting “Assistant Secretary”;

(C) in subsection (d)(2)—

(i) by striking “Director of Defense Research and Engineering” and inserting “Assistant Secretary of Defense for Research and Engineering”; and

(ii) by striking “Director may” and inserting “Assistant Secretary may”; and

(D) in subsection (e), by striking “Director” and inserting “Assistant Secretary”.

(4) Sections 2350a(g)(3), 2366b(a)(3)(D), 2374a(a), and 2517(a) of such title are amended by striking “Director of Defense Research and Engineering” and inserting “Assistant Secretary of Defense for Research and Engineering”.

(5) Section 2902(b) of such title is amended—

(A) in paragraph (1), by striking “Deputy Under Secretary of Defense for Science and Technology” and inserting “official within the Office of the Assistant Secretary of Defense for Research and Engineering who is responsible for science and technology”; and

(B) in paragraph (3), by striking “Deputy Under Secretary of Defense” and inserting “official within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics who is”.

(k) SECTION HEADING AND CLERICAL AMENDMENTS.—

(1) SECTION HEADING AMENDMENTS.—

(A) The heading of section 137a of title 10, United States Code, is amended to read as follows:

“§ 137a. Principal Deputy Under Secretaries of Defense”.

(B) The heading of section 138b of such title, as transferred and redesignated by subsection (b)(6), is amended to read as follows:

“§ 138b. Assistant Secretary of Defense for Research and Engineering”.

(C) The heading of section 138c of such title, as transferred and redesignated by subsection (b)(7), is amended to read as follows:

“§ 138c. Assistant Secretary of Defense for Operational Energy Plans and Programs”.

(D) The heading of section 138d of such title, as transferred and redesignated by subsection (b)(8), is amended to read as follows:

“§ 138d. Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs”.

(E) The section heading of section 139b of such title, as redesignated by subsection (f), is amended to read as follows:

“§ 139b. Deputy Assistant Secretary of Defense for Developmental Test and Evaluation; Deputy Assistant Secretary of Defense for Systems Engineering: joint guidance”.

(F) The heading of section 2438 of such title, as transferred and redesignated by subsection (d), is amended to read as follows:

“§ 2438. Performance assessments and root cause analyses”.

(2) CLERICAL AMENDMENTS.—

(A) The table of sections at the beginning of chapter 4 of such title is amended—

(i) by inserting after the item relating to section 132 the following new item:

“132a. Deputy Chief Management Officer.”;

(ii) by striking the items relating to sections 133a, 134a, and 136a;

(iii) by striking the item relating to section 137a and inserting the following new item:

“137a. Principal Deputy Under Secretaries of Defense.”;

(iv) by inserting after the item relating to section 138a the following new items:

“138b. Assistant Secretary of Defense for Research and Engineering.

“138c. Assistant Secretary of Defense for Operational Energy Plans and Programs.

“138d. Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.”;

(v) by striking the items relating to sections 139a, 139b, 139c, and 139d and inserting the following new items:

“139a. Director of Cost Assessment and Program Evaluation.

“139b. Deputy Assistant Secretary of Defense for Developmental Test and Evaluation; Deputy Assistant Secretary of Defense for Systems Engineering: joint guidance.

“139c. Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy.”; and

(vi) by striking the item relating to section 142.

(B) The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2437 the following new item:

“2438. Performance assessments and root cause analyses.”.

(l) OTHER CONFORMING AMENDMENTS.—

(1) PUBLIC LAW 111-23.—Section 102(b) of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111-23; 123 Stat. 1714; 10 U.S.C. 2430 note) is amended—

(A) by striking “Director of Developmental Test and Evaluation and the Director of Systems Engineering” each place it appears and inserting “Deputy Assistant Secretary of Defense for Developmental Test and Evaluation and the Deputy Assistant Secretary of Defense for Systems Engineering”; and

(B) in paragraph (3)—

(i) by striking the paragraph heading and inserting “ASSESSMENT OF REPORTS BY DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR DEVELOPMENTAL TEST AND EVALUATION AND DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR SYSTEMS ENGINEERING.—”; and

(ii) by striking “Directors” and inserting “Deputy Assistant Secretaries of Defense”.

(2) PUBLIC LAW 110-181.—Section 214 of the National Defense Authorization Act of Fiscal Year 2008 (10 U.S.C. 2521 note) is amended by striking “Director of Defense Research and Engineering” and inserting “Assistant Secretary of Defense for Research and Engineering”.

(m) TECHNICAL AMENDMENTS.—

(1) Section 131(a) of title 10, United States Code, is amended by striking “his” and inserting “the Secretary’s”.

(2) Section 132 of such title is amended by redesignating subsection (d), as added by section 2831(a) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2669), as subsection (e).

(3) Section 135(c) of such title is amended by striking “clauses” and inserting “paragraphs”.

(n) EXECUTIVE SCHEDULE AMENDMENTS.—

(1) NUMBER OF ASSISTANT SECRETARY OF DEFENSE POSITIONS.—Section 5315 of title 5, United States Code, is amended by striking the item relating to Assistant Secretaries of

Defense and inserting the following new item:

“Assistant Secretaries of Defense (16).”.

(2) POSITIONS REDESIGNATED AS ASD POSITIONS.—

(A) Section 5315 of such title is further amended by striking the item relating to Director of Defense Research and Engineering.

(B) Section 5316 of such title is amended by striking the item relating to Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.

(3) AMENDMENTS TO STRIKE REFERENCES TO POSITIONS IN SENIOR EXECUTIVE SERVICE.—Section 5316 of such title is further amended—

(A) by striking the item relating to Director, Defense Advanced Research Projects Agency, Department of Defense;

(B) by striking the item relating to Deputy General Counsel, Department of Defense;

(C) by striking the item relating to Deputy Under Secretaries of Defense for Research and Engineering, Department of Defense; and

(D) by striking the item relating to Special Assistant to the Secretary of Defense.

(o) INAPPLICABILITY OF APPOINTMENT REQUIREMENT TO CERTAIN INDIVIDUALS SERVING ON EFFECTIVE DATE.—

(1) IN GENERAL.—Notwithstanding this section and the amendments made by this section, the individual serving as specified in paragraph (2) on December 31, 2010, may continue to serve in the applicable position specified in that paragraph after that date without the requirement for appointment by the President, by and with the advice and consent of the Senate.

(2) COVERED INDIVIDUALS AND POSITIONS.—The individuals and positions specified in this paragraph are the following:

(A) In the case of the individual serving as Director of Defense Research and Engineering, the position of Assistant Secretary of Defense for Research and Engineering.

(B) In the case of the individual serving as Director of Operational Energy Plans and Programs, the position of Assistant Secretary of Defense for Operational Energy Plans and Programs.

(C) In the case of the individual serving as Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, the position of Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.

(p) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on January 1, 2011.

(2) CERTAIN MATTERS.—Subsection (i) and the amendments made by that subsection, and subsection (o), shall take effect on the date of the enactment of this Act.

Subtitle B—Space Activities

SEC. 911. INTEGRATED SPACE ARCHITECTURES.

The Secretary of Defense and the Director of National Intelligence shall develop an integrated process for national security space architecture planning, development, coordination, and analysis that—

(1) encompasses defense and intelligence space plans, programs, budgets, and organizations;

(2) provides mid-term to long-term recommendations to guide space-related defense and intelligence acquisitions, requirements, and investment decisions;

(3) is independent of, but coordinated with, the space architecture planning, development, coordination, and analysis activities of each military department and each element of the intelligence community (as de-

fined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

(4) makes use of, to the maximum extent practicable, joint duty assignment (as defined in section 668 of title 10, United States Code) positions.

SEC. 912. LIMITATION ON USE OF FUNDS FOR COSTS OF TERMINATING CONTRACTS UNDER THE NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL SATELLITE SYSTEM PROGRAM.

None of the funds authorized to be appropriated or otherwise made available by this Act to the Secretary of Defense for the National Polar-Orbiting Operational Environmental Satellite System Program may be obligated or expended for the costs of terminating a contract awarded under the Program unless the Secretary of Defense and the Secretary of Commerce enter into an agreement under which the Secretary of Defense and the Secretary of Commerce will each be responsible for half the costs of terminating the contract.

SEC. 913. LIMITATION ON USE OF FUNDS FOR PURCHASING GLOBAL POSITIONING SYSTEM USER EQUIPMENT.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), none of the funds authorized to be appropriated or otherwise made available by this Act or any other Act for the Department of Defense may be obligated or expended to purchase user equipment for the Global Positioning System during fiscal years after fiscal year 2017 unless the equipment is capable of receiving the military code (commonly known as the “M code”) from the Global Positioning System.

(b) EXCEPTION.—The limitation under subsection (a) shall not apply with respect to the purchase of passenger vehicles or commercial vehicles in which Global Positioning System equipment is installed.

(c) WAIVER.—The Secretary of Defense may waive the limitation under subsection (a) if the Secretary determines that—

(1) suitable user equipment capable of receiving the military code from the Global Positioning System is not available; or

(2) with respect to a purchase of user equipment, the Department of Defense does not require that user equipment to be capable of receiving the military code from the Global Positioning System.

SEC. 914. PLAN FOR INTEGRATION OF SPACE-BASED NUCLEAR DETECTION SENSORS.

(a) IN GENERAL.—The Secretary of Defense shall, in consultation with the Director of National Intelligence and the Administrator for Nuclear Security, submit to the congressional defense committees a plan to integrate space-based nuclear detection sensors in a geosynchronous orbit on the Space-Based Infrared System or other satellite platforms.

(b) LIMITATION ON USE OF FUNDS FOR THE SPACE-BASED INFRARED SYSTEM.—

(1) IN GENERAL.—Not more than 90 percent of the amounts specified in paragraph (2) may be obligated or expended before the date on which the Secretary of Defense submits to the congressional defense committees the plan required by subsection (a).

(2) AMOUNTS SPECIFIED.—The amounts specified in this paragraph are the following:

(A) The amount authorized to be appropriated by section 103 for procurement for the Air Force for missiles for the Space-Based Infrared System.

(B) The amount authorized to be appropriated by section 201 for research, development, test, and evaluation for the Air Force for the Space-Based Infrared System.

SEC. 915. PRESERVATION OF THE SOLID ROCKET MOTOR INDUSTRIAL BASE.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Administrator of the National Aeronautics and Space Administration, submit to the appropriate committees of Congress a report on the impact of the cancellation of the Constellation program of the National Aeronautics and Space Administration on any anticipated next generation mission requirements for missile defense interceptors, tactical and strategic missiles, targets, and satellite and human spaceflight launch vehicles.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A description and assessment of the effects on Department of Defense programs that utilize solid rocket motors of the cancellation of the Ares I, the Ares V, or their solid rocket alternatives or derivatives, and all supporting elements.

(2) A description of the plans of the Department of Defense to mitigate the impact of the cancellation of the Ares I, the Ares V, or their solid rocket alternatives or derivatives, and all supporting elements, on the United States solid rocket motor industrial base, including a description of the National Aeronautics and Space Administration and Department of Defense funding required to implement such plans between fiscal years 2012 and 2017.

(3) A description of the impact of the cancellation of the Ares I, Ares V, or their solid rocket alternatives or derivatives, and all supporting elements, on international partners in programs such as the D-5 Trident missile.

(4) A detailed description of the source of the data used in the report.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term “appropriate committees of Congress” means—

(1) the Committees on Armed Services, Commerce, Science, and Transportation, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Science and Technology, and Appropriations of the House of Representatives.

SEC. 916. IMPLEMENTATION PLAN TO SUSTAIN SOLID ROCKET MOTOR INDUSTRIAL BASE.

(a) IN GENERAL.—The Secretary of Defense shall develop an implementation plan to sustain the solid rocket motor industrial base that—

(1) is based on the recommendations included in the report submitted to the congressional defense committees under section 1078 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2479); and

(2) includes a funding plan for carrying out the implementation plan.

(b) SUBMITTAL TO CONGRESS.—The implementation plan required by subsection (a) shall be submitted to Congress with the budget of the President for fiscal year 2012 as submitted under section 1105(a) of title 31, United States Code.

SEC. 917. REVIEW AND PLAN ON SUSTAINMENT OF LIQUID ROCKET PROPULSION SYSTEMS INDUSTRIAL BASE.

(a) IN GENERAL.—The Secretary of Defense shall, in consultation with the Administrator of the National Aeronautics and Space Administration, review, and develop a plan to sustain, the liquid rocket propulsion systems industrial base.

(b) ELEMENTS.—The review and plan required by subsection (a) shall address the following:

(1) The capacity to maintain currently available liquid rocket propulsion systems.

(2) The maintenance of an intellectual and engineering capacity to support next generation liquid rocket propulsion systems and engines, as needed.

(3) Opportunities for interagency collaboration and research and development on future propulsion systems.

(c) **SUBMITTAL TO CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees the plan required by subsection (a).

Subtitle C—Intelligence-Related Matters

SEC. 921. FIVE-YEAR EXTENSION OF AUTHORITY FOR SECRETARY OF DEFENSE TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES.

The second sentence of section 431(a) of title 10, United States Code, is amended by striking “December 31, 2010” and inserting “December 31, 2015”.

SEC. 922. MODIFICATION OF ATTENDEES AT PROCEEDINGS OF INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE INTEGRATION COUNCIL.

(a) **FINDINGS.**—Section 923(a)(4) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-163; 117 Stat. 1574; 10 U.S.C. 426 note) is amended by striking “National Foreign Intelligence Program (NFIP), Joint Military Intelligence Program (JMIP), and Tactical Intelligence and Related Activities Program (TIARA)” and inserting “National Intelligence Program (NIP) and a Military Intelligence Program (MIP)”.

(b) **ADDITIONAL AUTHORIZED ATTENDEES.**—Section 426(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(4) Each Secretary of a military department may designate an officer or employee of such military department to attend the proceedings of the Council as a representative of such military department.”.

SEC. 923. REPORT ON DEPARTMENT OF DEFENSE INTERSERVICE MANAGEMENT AND COORDINATION OF REMOTELY PILOTED AIRCRAFT SUPPORT OF INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE.

(a) **REPORT REQUIRED.**—

(1) **REPORT TO SECRETARY OF DEFENSE BY CHIEFS OF STAFF.**—Not later than 120 days after the date of the enactment of this Act, the Chief of Staff of the Army, the Chief of Naval Operations, and the Chief of Staff of the Air Force shall jointly submit to the Secretary of Defense a report, in accordance with this section, on remotely piloted aircraft (RPA) support of intelligence, surveillance, and reconnaissance (ISR) within their respective Armed Forces.

(2) **TRANSMITTAL TO CONGRESS.**—Not later than 30 days after the receipt of the report required by paragraph (1), the Secretary shall transmit the report, together with the assessment and any recommendations of the Secretary (including the matters required pursuant to subsection (b)(2)), to the congressional defense committees.

(b) **ELEMENTS.**—The report required by subsection (a) shall include the following:

(1) In the case of the report required by subsection (a)(1), a description by each chief of staff referred to in that subsection of—

(A) current and planned remotely piloted aircraft inventories to support intelligence, surveillance, and reconnaissance requirements over the period 2011 to 2020, including an identification of systems each Armed Force considers organic and the systems ca-

pable of providing theater-level support to the commanders of the combatant commands;

(B) policy and processes of each Armed Force for coordinating investments in remotely piloted aircraft to meet joint force requirements for intelligence, surveillance, and reconnaissance and to eliminate unnecessary duplication in both development and capability; and

(C) the current employment of remotely piloted aircraft by each Armed Force, including the number of remotely piloted aircraft deployed in support operations, the number of remotely piloted aircraft assigned for training, and the number of remotely piloted aircraft warehoused, the capacity of each Armed Force to process, exploit, and disseminate intelligence, surveillance, and reconnaissance data collected, and the extent to which assets are provided to the joint community to meet requirements of the combatant commands.

(2) In the case of the transmittal required by subsection (a)(2)—

(A) an assessment of the effectiveness of the employment of remotely piloted aircraft by each Armed Force, and a description of the percentage of joint force requirements for intelligence, surveillance, and reconnaissance that are being met by the remotely piloted aircraft of each Armed Force;

(B) a description of the joint concept of operations under which each Armed Force provides intelligence, surveillance, and reconnaissance capabilities through remotely piloted aircraft to meet the requirements of the combatant commands;

(C) a description of the processes by which current requirements of the commanders of the combatant commands for intelligence, surveillance, and reconnaissance are validated, and how the remotely piloted aircraft capabilities of each Armed Force are assigned against validated requirements;

(D) a description of the current intelligence, surveillance, and reconnaissance requirements of each combatant command through remotely piloted aircraft;

(E) a description of how the requirements described under subparagraph (D) are being met;

(F) an identification of any mission degradation or failure within the combatant commands due to lack of intelligence, surveillance, and reconnaissance support;

(G) a description of various means of addressing any shortfalls in meeting the requirements described under subparagraph (D), including temporary shortfalls and permanent shortfalls;

(H) a description of the organization of the Unmanned Aerial System Task Force, including the goals and objectives of the task force and the participation and roles of each Armed Force within the task force;

(I) a description of the organization of the Intelligence, Surveillance, and Reconnaissance Task Force, including the goals and objectives of the task force and the participation and roles of each Armed Force within the task force; and

(J) an identification of any theater-level intelligence, surveillance, and reconnaissance capacity of an Armed Force that is not being made available by services to fulfill joint force requirements for intelligence, surveillance, and reconnaissance.

(c) **REMOTELY PILOTED AIRCRAFT DEFINED.**—In this section, the term “remotely piloted aircraft” means any unmanned aircraft operated remotely, whether within or beyond line-of-sight, including unmanned aerial systems (UAS), unmanned aerial vehi-

cles (UAV), remotely piloted vehicles (RPV), and remotely piloted aircraft (RPA).

SEC. 924. REPORT ON REQUIREMENTS FULFILLMENT AND PERSONNEL MANAGEMENT RELATING TO AIR FORCE INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE PROVIDED BY REMOTELY PILOTED AIRCRAFT.

(a) **REPORT REQUIRED.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Air Force shall, in coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense for Intelligence, submit to the appropriate committees of Congress a report on requirements fulfillment and personnel management in connection with Air Force intelligence, surveillance, and reconnaissance (ISR) provided by remotely piloted aircraft (RPA).

(b) **ELEMENTS.**—The report required by subsection (a) shall include the following:

(1) A description of the Joint Concept of Operation under which the Air Force operates to fulfill intelligence, surveillance, and reconnaissance requirements provided by remotely piloted aircraft.

(2) A description of the current requirements of each combatant command for Air Force intelligence, surveillance, and reconnaissance provided by remotely piloted aircraft, including—

(A) the number of orbits or combat air patrols for each major platform and sensor payload combination;

(B) the number of aircraft, aircraft operators, and ground crews in each orbit or combat air patrol, variations in the numbers of each, and the explanation for such variations;

(C) a description of how requirements are being met by the management of personnel, platforms, sensors, and networks; and

(D) a description of various means of addressing any shortfalls in meeting such requirements, including temporary shortfalls and permanent shortfalls.

(3) A description of manpower management to fulfill Air Force mission requirements for intelligence, surveillance, and reconnaissance requirements provided by remotely piloted aircraft, including the current number of personnel associated with each combat air patrol by remotely piloted aircraft for aircraft pilots, sensor operators, mission intelligence coordinators, and processing, exploitation, and dissemination analysts (in this section referred to as “operators and analysts for remotely piloted aircraft”).

(4) A description of current Air Force manpower requirements for operators and analysts for remotely piloted aircraft, and any plans for meeting such requirements, including—

(A) an identification of any shortfalls in personnel, skill specialties, and grades; and

(B) any plans of the Air Force to address such shortfalls, including—

(i) plans to address shortfalls in applicable career field retention rates; and

(ii) plans for utilization of National Guard and other reserve component personnel to address shortfalls in such personnel, skill specialties, and grades.

(5) A description of the projected Air Force manpower requirements for operators and analysts for remotely piloted aircraft in each of 2015 and 2020, including—

(A) an identification of any significant challenges to achieving such requirements in particular skill specialties and grades; and

(B) any plans of the Air Force to address such challenges.

(6) A description of the collaboration of the Air Force with, and the reliance of the Air Force on, the other Armed Forces and the combat support agencies, in asset management for intelligence, surveillance, and reconnaissance by remotely piloted aircraft, including personnel for processing, exploitation, and dissemination.

(7) A description of potential adverse consequences of operating intelligence, surveillance, and reconnaissance by remotely piloted aircraft, and associated intelligence support infrastructure, in a surge, understaffed state, or both, including—

(A) the impact of having to provide forward processing, exploitation, and dissemination to support emerging capabilities; and

(B) any plans of the Air Force to mitigate such consequences.

(8) A description of the status of Air Force training programs for operators and analysts for remotely piloted aircraft, including the ability to meet Air Force manpower requirements for such operators and analysts, and plans for increasing training capacity to match plans for expanding Air Force intelligence, surveillance, and reconnaissance capabilities.

(C) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

Subtitle D—Cyber Warfare, Cyber Security, and Related Matters

SEC. 931. CONTINUOUS MONITORING OF DEPARTMENT OF DEFENSE INFORMATION SYSTEMS FOR CYBERSECURITY.

(a) IN GENERAL.—The Secretary of Defense shall direct the Chief Information Officer of the Department of Defense to work, in coordination with the Chief Information Officers of the military departments and the Defense Agencies and with senior cybersecurity and information assurance officials within the Department of Defense and otherwise within the Federal Government, to achieve, to the extent practicable, the following:

(1) The continuous prioritization of the policies, principles, standards, and guidelines developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) based upon the evolving threat of information security incidents with respect to national security systems, the vulnerability of such systems to such incidents, and the consequences of information security incidents involving such systems.

(2) The automation of continuous monitoring of the effectiveness of the information security policies, procedures, and practices within the information infrastructure of the Department of Defense, and the compliance of that infrastructure with such policies, procedures, and practices, including automation of—

(A) management, operational, and technical controls of every information system identified in the inventory required under section 3505(c) of title 44, United States Code; and

(B) management, operational, and technical controls relied on for evaluations under section 3545 of title 44, United States Code.

(b) DEFINITIONS.—In this section:

(1) The term “information security incident” means an occurrence that—

(A) actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information such system processes, stores, or transmits; or

(B) constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies with respect to an information system.

(2) The term “information infrastructure” means the underlying framework, equipment, and software that an information system and related assets rely on to process, transmit, receive, or store information electronically.

(3) The term “national security system” has the meaning given that term in section 3542(b)(2) of title 44, United States Code.

SEC. 932. STRATEGY ON COMPUTER SOFTWARE ASSURANCE.

(a) STRATEGY REQUIRED.—The Secretary of Defense shall develop and implement, by not later than October 1, 2011, a strategy for assuring the security of software and software-based applications for all covered systems.

(b) COVERED SYSTEMS.—For purposes of this section, a covered system is any critical information system or weapon system of the Department of Defense, including the following:

(1) A major system, as that term is defined in section 2302(5) of title 10, United States Code.

(2) A national security system, as that term is defined in section 3542(b)(2) of title 44, United States Code.

(3) Any Department of Defense information system categorized as Mission Assurance Category I.

(4) Any Department of Defense information system categorized as Mission Assurance Category II in accordance with Department of Defense Directive 8500.01E.

(c) ELEMENTS.—The strategy required by subsection (a) shall include the following:

(1) Policy and regulations on the following:

(A) Software assurance generally.

(B) Contract requirements for software assurance for covered systems in development and production.

(C) Inclusion of software assurance in milestone reviews and milestone approvals.

(D) Rigorous test and evaluation of software assurance in development, acceptance, and operational tests.

(E) Certification and accreditation requirements for software assurance for new systems and for updates for legacy systems, including mechanisms to monitor and enforce reciprocity of certification and accreditation processes among the military departments and Defense Agencies.

(F) Remediation in legacy systems of critical software assurance deficiencies that are defined as critical in accordance with the Application Security Technical Implementation Guide of the Defense Information Systems Agency.

(2) Allocation of adequate facilities and other resources for test and evaluation and certification and accreditation of software to meet applicable requirements for research and development, systems acquisition, and operations.

(3) Mechanisms for protection against compromise of information systems through the supply chain or cyber attack by acquiring and improving automated tools for—

(A) assuring the security of software and software applications during software development;

(B) detecting vulnerabilities during testing of software; and

(C) detecting intrusions during real-time monitoring of software applications.

(4) Mechanisms providing the Department of Defense with the capabilities—

(A) to monitor systems and applications in order to detect and defeat attempts to penetrate or disable such systems and applications; and

(B) to ensure that such monitoring capabilities are integrated into the Department of Defense system of cyber defense-in-depth capabilities.

(5) An update to Committee for National Security Systems Instruction No. 4009, entitled “National Information Assurance Glossary”, to include a standard definition for software security assurance.

(6) Either—

(A) mechanisms to ensure that vulnerable Mission Assurance Category III information systems, if penetrated, cannot be used as a foundation for penetration of protected covered systems, and means for assessing the effectiveness of such mechanisms; or

(B) plans to address critical vulnerabilities in Mission Assurance Category III information systems to prevent their use for intrusions of Mission Assurance Category I systems and Mission Assurance Category II systems.

(7) A funding mechanism for remediation of critical software assurance vulnerabilities in legacy systems.

(d) REPORT.—Not later than October 1, 2011, the Secretary of Defense shall submit to the congressional defense committees a report on the strategy required by subsection (a). The report shall include the following:

(1) A description of the current status of the strategy required by subsection (a) and of the implementation of the strategy, including a description of the role of the strategy in the risk management by the Department regarding the supply chain and in operational planning for cyber security.

(2) A description of the risks, if any, that the Department will accept in the strategy due to limitations on funds or other applicable constraints.

SEC. 933. STRATEGY FOR ACQUISITION AND OVERSIGHT OF DEPARTMENT OF DEFENSE CYBER WARFARE CAPABILITIES.

(a) STRATEGY REQUIRED.—The Secretary of Defense, in consultation with the Secretaries of the military departments, shall develop a strategy to provide for the rapid acquisition of tools, applications, and other capabilities for cyber warfare for the United States Cyber Command and the cyber operations components of the military departments.

(b) BASIC ELEMENTS.—The strategy required by subsection (a) shall include the following:

(1) An orderly process for determining and approving operational requirements.

(2) A well-defined, repeatable, transparent, and disciplined process for developing capabilities to meet such requirements, in accordance with the information technology acquisition process developed pursuant to section 804 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 10 U.S.C. 2225 note).

(3) The allocation of facilities and other resources to thoroughly test such capabilities in development, before deployment, and before use in order to validate performance and take into account collateral damage and other so-called second-order effects.

(c) ADDITIONAL ELEMENTS.—The strategy required by subsection (a) shall also provide for the following:

(1) Safeguards to prevent—

(A) the circumvention of operational requirements and acquisition processes through informal relationships among the United States Cyber Command, the Armed Forces, the National Security Agency, and the Defense Information Systems Agency; and

(B) the abuse of quick-reaction processes otherwise available for the rapid fielding of capabilities.

(2) The establishment of reporting and oversight processes for requirements generation and approval for cyber warfare capabilities, the assignment of responsibility for providing capabilities to meet such requirements, and the execution of development and deployment of such capabilities, under the authority of the Chairman of the Joint Requirements Oversight Council, the Under Secretary of Defense for Policy, and other officials in the Office of the Secretary of Defense, as designated in the strategy.

(3) The establishment and maintenance of test and evaluation facilities and resources for cyber infrastructure to support research and development, operational test and evaluation, operational planning and effects testing, and training by replicating or emulating networks and infrastructure maintained and operated by the military and political organizations of potential United States adversaries, by domestic and foreign telecommunications service providers, and by the Department of Defense.

(4) An organization or organizations within the Department of Defense to be responsible for the operation and maintenance of cyber infrastructure for research, development, test, and evaluation purposes.

(5) Appropriate disclosure regarding United States cyber warfare capabilities to the independent test and evaluation community, and the involvement of that community in the development and maintenance of such capabilities, regardless of classification.

(6) The role of the private sector and appropriate Department of Defense organizations in developing capabilities to operate in cyberspace, and a clear process for determining whether to allocate responsibility for responding to Department of Defense cyber warfare requirements through Federal Government personnel, contracts with private sector entities, or a combination of both.

(7) The roles of each military department, and of the combat support Defense Agencies, in the development of cyber warfare capabilities in support of offensive, defensive, and intelligence operational requirements.

(8) Mechanisms to promote information sharing, cooperative agreements, and collaboration with international, interagency, academic, and industrial partners in the development of cyber warfare capabilities.

(9) The manner in which the Department of Defense will promote interoperability, share innovation, and avoid unproductive duplication in cyber warfare capabilities through specialization among the components of the Department responsible for developing cyber capabilities.

(d) **REPORT ON STRATEGY.**—

(1) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the strategy required by subsection (a). The report shall include a comprehensive description of the strategy and plans (including a schedule) for the implementation of the strategy.

(2) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 934. REPORT ON THE CYBER WARFARE POLICY OF THE DEPARTMENT OF DEFENSE.

(a) **REPORT REQUIRED.**—Not later than March 1, 2011, the Secretary of Defense shall submit to Congress a report on the cyber warfare policy of the Department of Defense.

(b) **ELEMENTS.**—The report required under this section shall include the following:

(1) A description of the policy and legal issues investigated and evaluated by the Department in considering the range of missions and activities that the Department may choose to conduct in cyberspace.

(2) The decisions of the Secretary with respect to such issues, and the recommendations of the Secretary to the President for decisions on such of those issues as exceed the authority of the Secretary to resolve, together with the rationale and justification of the Secretary for such decisions and recommendations.

(3) A description of the intentions of the Secretary with regard to modifying the National Military Strategy for Cyberspace Operations.

(4) The current use of, and potential applications of, modeling and simulation tools to identify likely cybersecurity vulnerabilities, as well as new protective and remediation means, within the Department.

(5) The application of modeling and simulation technology to develop strategies and programs to deter hostile or malicious activity intended to compromise Department information systems.

(c) **FORM.**—The report required under this section shall be submitted in unclassified form, but may include a classified annex.

SEC. 935. REPORTS ON DEPARTMENT OF DEFENSE PROGRESS IN DEFENDING THE DEPARTMENT AND THE DEFENSE INDUSTRIAL BASE FROM CYBER EVENTS.

(a) **REPORTS ON PROGRESS REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, and March 1 every year thereafter through 2015, the Secretary of Defense shall submit to the congressional defense committees a report on the progress of the Department of Defense in defending the Department and the defense industrial base from cyber events (such as attacks, intrusions, and theft).

(b) **ELEMENTS.**—Each report under subsection (a) shall include the following:

(1) In the case of the first report, a baseline for measuring the progress of the Department of Defense in defending the Department and the defense industrial base from cyber events, including definitions of significant cyber events, an appropriate categorization of various types of cyber events, the basic methods used in various cyber events, the vulnerabilities exploited in such cyber events, and the metrics to be utilized to determine whether the Department is or is not making progress against an evolving cyber threat.

(2) An ongoing assessment of such baseline against key cyber defense strategies (described in subsection (c)) to determine implementation progress.

(3)(A) A description of the nature and scope of significant cyber events against the Department and the defense industrial base during the preceding year, including, for

each such event, a description of the intelligence or other Department data acquired, the extent of the corruption or compromise of Department information or weapon systems, and the impact of such event on the Department generally and on operational capabilities.

(B) For any such event that has been investigated by or on behalf of the Damage Assessment Management Office, a synopsis of each damage assessment report, with emphasis on actions needing remediation.

(4) A comparative assessment of the offensive cyber warfare capabilities of current representative potential United States adversaries and nations with advanced cyber warfare capabilities with the capacity of the United States to defend—

(A) military networks and mission capabilities; and

(B) critical infrastructure.

(5) A comparative assessment of the offensive cyber warfare capabilities of the United States with the capacity of current representative potential United States adversaries and nations with advanced cyber warfare capabilities to defend against cyber attacks.

(6) A comparative assessment of the degree of dependency of current representative potential United States adversaries, nations with advanced cyber warfare capabilities, and the United States on networks that can be attacked through cyberspace.

(7) A description of known or suspected identified supply chain vulnerabilities, including known or suspected supply chain attacks, and actions to remediate such vulnerabilities.

(c) **KEY CYBER DEFENSE STRATEGIES.**—For purposes of subsection (b)(2), key cyber defense strategies include the following:

(1) Relevant valid Homeland Security Presidential Directives and National Security Presidential Directives.

(2) The Comprehensive National Cybersecurity Initiative.

(3) The National Military Strategy for Cyberspace Operations implementation plan.

(d) **PERFORMANCE OF CERTAIN ASSESSMENTS.**—The comparative assessment of critical infrastructure required by subsection (b)(4)(B) shall be performed by the Secretary of Homeland Security, in coordination with the Secretary of Defense and the heads of other agencies of the Government with specific responsibility for critical infrastructure.

(e) **FORM.**—Each report under this section shall be submitted in unclassified form, but may include a classified annex.

Subtitle E—Other Matters

SEC. 941. TWO-YEAR EXTENSION OF AUTHORITIES RELATING TO TEMPORARY WAIVER OF REIMBURSEMENT OF COSTS OF ACTIVITIES FOR NON-GOVERNMENTAL PERSONNEL AT DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.

(a) **EXTENSION OF WAIVER.**—Paragraph (1) of section 941(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4577; 10 U.S.C. 184 note) is amended by striking “fiscal years 2009 and 2010” and inserting “fiscal years 2009 through 2012”.

(b) **ANNUAL REPORT.**—Paragraph (3) of such section is amended by striking “in 2010 and 2011” and inserting “in each year through 2013”.

SEC. 942. ADDITIONAL REQUIREMENTS FOR QUADRENNIAL ROLES AND MISSIONS REVIEW IN 2011.

(a) **ADDITIONAL ACTIVITIES CONSIDERED.**—As part of the quadrennial roles and missions

review conducted in 2011 pursuant to section 118b of title 10, United States Code, the Secretary of Defense shall give consideration to the following activities, giving particular attention to their role in counter-terrorism operations:

- (1) Information operations.
- (2) Detention and interrogation.

(b) **ADDITIONAL REPORT REQUIREMENT.**—In the report required by section 118b(d) of such title for such review in 2011, the Secretary of Defense shall—

- (1) provide clear guidance on the nature and extent of which core competencies are associated with the activities listed in subsection (a); and
- (2) identify the elements of the Department of Defense that are responsible or should be responsible for providing such core competencies.

SEC. 943. REPORT ON ORGANIZATIONAL STRUCTURE AND POLICY GUIDANCE OF THE DEPARTMENT OF DEFENSE REGARDING INFORMATION OPERATIONS.

(a) **REPORT REQUIRED.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the organizational structure and policy guidance of the Department of Defense with respect to information operations.

(b) **REVIEW.**—In preparing the report required by subsection (a), the Secretary shall review the following:

(1) The extent to which the current definition of “information operations” in Department of Defense Directive 3600.1 is appropriate.

(2) The location of the office within the Department of the lead official responsible for information operations of the Department, including assessments of the most effective location and the need to designate a principal staff assistant to the Secretary of Defense for information operations.

(3) Departmental responsibility for the development, coordination, and oversight of Department policy on information operations and for the integration of such operations.

(4) Departmental responsibility for the planning, execution, and oversight of Department information operations.

(5) Departmental responsibility for coordination within the Department, and between the Department and other departments and agencies of the Federal Government, regarding Department information operations, and for the resolution of conflicts in the discharge of such operations, including an assessment of current coordination bodies and decisionmaking processes.

(6) The roles and responsibilities of the military departments, combat support agencies, the United States Special Operations Command, and the other combatant commands in the development and implementation of information operations.

(7) The roles and responsibilities of the defense intelligence agencies for support of information operations.

(8) The role in information operations of the following Department officials:

(A) The Assistant Secretary of Defense for Public Affairs.

(B) The Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict.

(C) The senior official responsible for information processing and networking capabilities.

(9) The role of related capabilities in the discharge of information operations, including public affairs capabilities, civil-military operations capabilities, defense support of public diplomacy, and intelligence.

(10) The management structure of computer network operations in the Department for the discharge of information operations, and the policy in support of that component.

(11) The appropriate use, management, and oversight of contractors in the development and implementation of information operations, including an assessment of current guidance and policy directives pertaining to the uses of contractors for these purposes.

(c) **FORM.**—The report required by subsection (a) shall be submitted in unclassified form, with a classified annex, if necessary.

(d) **DEPARTMENT OF DEFENSE DIRECTIVE.**—Upon the submittal of the report required by subsection (a), the Secretary shall prescribe a revised directive for the Department of Defense on information operations. The directive shall take into account the results of the review conducted for purposes of the report.

(e) **INFORMATION OPERATIONS DEFINED.**—In this section, the term “information operations” means the information operations specified in Department of Defense Directive 3600.1, as follows:

- (1) Electronic warfare.
- (2) Computer network operations.
- (3) Psychological operations.
- (4) Military deception.
- (5) Operations security.

SEC. 944. REPORT ON ORGANIZATIONAL STRUCTURES OF THE GEOGRAPHIC COMBATANT COMMAND HEADQUARTERS.

(a) **REPORT REQUIRED.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall jointly submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the organizational structures of the headquarters of the geographic combatant commands.

(b) **ELEMENTS.**—The report required by subsection (a) shall include the following:

(1) A description of the organizational structure of the headquarters of each geographic combatant command.

(2) An assessment of the benefits and limitations of the different organizational structures in meeting the broad range of military missions of the geographic combatant commands.

(3) A description and assessment of the role and contributions of other departments and agencies of the Federal Government within each organizational structure, including a description of any plans to expand inter-agency participation in the geographic combatant commands in the future.

(4) A description of any lessons learned from the ongoing reorganization of the organizational structure of the United States Southern Command and the United States Africa Command, including an assessment of the value, if any, added by the position of civilian deputy to the commander of the United States Southern Command and to the commander of the United States Africa Command.

(5) Any other matters the Secretary and the Chairman consider appropriate.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. General transfer authority.

Sec. 1002. Authorization of additional appropriations for operations in Afghanistan, Iraq, and Haiti for fiscal year 2010.

Sec. 1003. Budgetary effects of this Act.

Subtitle B—Counter-Drug Activities

Sec. 1011. Unified counter-drug and counter-terrorism campaign in Colombia.

Sec. 1012. Extension and modification of joint task forces support to law enforcement agencies conducting counter-terrorism activities.

Sec. 1013. Reporting requirement on expenditures to support foreign counter-drug activities.

Sec. 1014. Support for counter-drug activities of certain foreign governments.

Sec. 1015. Notice to Congress on military construction projects for facilities of the Department of Defense and foreign law enforcement agencies for counter-drug activities.

Subtitle C—Naval Vessels and Shipyards

Sec. 1021. Extension of authority for reimbursement of expenses for certain Navy mess operations.

Sec. 1022. Expressing the sense of Congress regarding the naming of a naval combat vessel after Father Vincent Capodanno.

Sec. 1023. Requirements for long-range plan for construction of naval vessels.

Subtitle D—Counterterrorism

Sec. 1031. Extension of certain authority for making rewards for combating terrorism.

Sec. 1032. Extension of limitation on use of funds for the transfer or release of individuals detained at United States Naval Station, Guantanamo Bay, Cuba.

Sec. 1033. Certification requirements relating to the transfer of individuals detained at Naval Station, Guantanamo Bay, Cuba, to foreign countries and other foreign entities.

Sec. 1034. Prohibition on the use of funds to modify or construct facilities in the United States to house detainees transferred from United States Naval Station, Guantanamo Bay, Cuba.

Sec. 1035. Comprehensive review of force protection policies.

Subtitle E—Homeland Defense and Civil Support

Sec. 1041. Limitation on deactivation of existing Consequence Management Response Forces.

Subtitle F—Studies and Reports

Sec. 1051. Interagency national security knowledge and skills.

Sec. 1052. Report on establishing a Northeast Regional Joint Training Center.

Sec. 1053. Comptroller General report on previously requested reports.

Sec. 1054. Biennial report on nuclear triad.

Sec. 1055. Comptroller General study on common alignment of world regions in departments and agencies with international responsibilities.

Sec. 1056. Required reports concerning bomber modernization, sustainment, and recapitalization efforts in support of the national defense strategy.

Sec. 1057. Comptroller General study and recommendations regarding security of southern land border of the United States.

Subtitle G—Miscellaneous Authorities and Limitations

Sec. 1061. Public availability of Department of Defense reports required by law.

Sec. 1062. Prohibition on infringing on the individual right to lawfully acquire, possess, own, carry, and otherwise use privately owned firearms, ammunition, and other weapons.

Sec. 1063. Development of criteria and methodology for determining the safety and security of nuclear weapons.

Subtitle H—Other Matters

Sec. 1071. National Defense Panel.

Sec. 1072. Sale of surplus military equipment to State and local homeland security and emergency management agencies.

Sec. 1073. Defense research and development rapid innovation program.

Sec. 1074. Authority to make excess non-lethal supplies available for domestic emergency assistance.

Sec. 1075. Technical and clerical amendments.

Sec. 1076. Study on optimal balance of manned and remotely piloted aircraft.

Sec. 1077. Treatment of successor contingency operation to Operation Iraqi Freedom.

Sec. 1078. Program to assess the utility of non-lethal weapons.

Sec. 1079. Sense of Congress on strategic nuclear force reductions.

Subtitle A—Financial Matters

SEC. 1001. GENERAL TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2011 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION.—Except as provided in paragraph (3), the total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed \$4,000,000,000.

(3) EXCEPTION FOR TRANSFERS BETWEEN MILITARY PERSONNEL AUTHORIZATIONS.—A transfer of funds between military personnel authorizations under title IV shall not be counted toward the dollar limitation in paragraph (2).

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is

transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR OPERATIONS IN AFGHANISTAN, IRAQ, AND HAITI FOR FISCAL YEAR 2010.

In addition to the amounts otherwise authorized to be appropriated by this division, the amounts authorized to be appropriated for fiscal year 2010 in title XV of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84) are hereby increased, with respect to any such authorized amount, as follows:

(1) The amounts provided in sections 1502 through 1507 of such Act for the following procurement accounts are increased as follows:

(A) For aircraft procurement, Army, by \$182,170,000.

(B) For weapons and tracked combat vehicles procurement, Army, by \$3,000,000.

(C) For ammunition procurement, Army, by \$17,055,000.

(D) For other procurement, Army, by \$1,997,918,000.

(E) For the Joint Improvised Explosive Device Defeat Fund, by \$400,000,000.

(F) For aircraft procurement, Navy, by \$104,693,000.

(G) For other procurement, Navy, by \$15,000,000.

(H) For procurement, Marine Corps, by \$18,927,000.

(I) For aircraft procurement, Air Force, by \$209,766,000.

(J) For ammunition procurement, Air Force, by \$5,000,000.

(K) For other procurement, Air Force, by \$576,895,000.

(L) For the Mine Resistant Ambush Protected Vehicle Fund, by \$1,123,000,000.

(M) For defense-wide activities, by \$189,276,000.

(2) The amounts provided in section 1508 of such Act for research, development, test, and evaluation are increased as follows:

(A) For the Army, by \$61,962,000.

(B) For the Navy, by \$5,360,000.

(C) For the Air Force, by \$187,651,000.

(D) For defense-wide activities, by \$22,138,000.

(3) The amounts provided in sections 1509, 1511, 1513, 1514, and 1515 of such Act for operation and maintenance are increased as follows:

(A) For the Army, by \$11,700,965,000.

(B) For the Navy, by \$2,428,702,000.

(C) For the Marine Corps, by \$1,090,873,000.

(D) For the Air Force, by \$3,845,047,000.

(E) For defense-wide activities, by \$1,188,421,000.

(F) For the Army Reserve, by \$67,399,000.

(G) For the Navy Reserve, by \$61,842,000.

(H) For the Marine Corps Reserve, by \$674,000.

(I) For the Air Force Reserve, by \$95,819,000.

(J) For the Army National Guard, by \$171,834,000.

(K) For the Air National Guard, by \$161,281,000.

(L) For the Defense Health Program, by \$33,367,000.

(M) For Drug Interdiction and Counterdrug Activities, Defense-wide, by \$94,000,000.

(N) For the Afghanistan Security Forces Fund, by \$2,604,000,000.

(O) For the Iraq Security Forces Fund, by \$1,000,000,000.

(P) For Overseas Humanitarian, Disaster, and Civic Aid, by \$255,000,000.

(Q) For Overseas Contingency Operations Transfer Fund, by \$350,000,000.

(R) For Working Capital Funds, by \$974,967,000.

(4) The amount provided in section 1512 of such Act for military personnel accounts is increased by \$1,895,761,000.

SEC. 1003. BUDGETARY EFFECTS OF THIS ACT.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, as long as such statement has been submitted prior to the vote on passage of this Act.

Subtitle B—Counter-Drug Activities

SEC. 1011. UNIFIED COUNTER-DRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.

Section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2042), as most recently amended by section 1011 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2441), is further amended—

(1) in subsection (a), by striking "2010" and inserting "2011"; and

(2) in subsection (c), by striking "2010" and inserting "2011".

SEC. 1012. EXTENSION AND MODIFICATION OF JOINT TASK FORCES SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES.

(a) EXTENSION.—Subsection (b) of section 1022 of the National Defense Authorization Act for Fiscal Year 2004 (10 U.S.C. 371 note) is amended by striking "2010" and inserting "2011".

(b) AVAILABILITY OF AUTHORITY.—

(1) ADDITIONAL CONDITION ON AUTHORITY FOR SUPPORT AND ASSOCIATED WAIVER AUTHORITY.—Subsection (d) of such section is amended—

(A) by inserting "(1)" before "Any support"; and

(B) by adding at the end the following new paragraph:

"(2)(A) Support for counter-terrorism activities provided under subsection (a) may only be provided if the Secretary of Defense determines that the objectives of using the counter-drug funds of any joint task force to provide such support relate significantly to the objectives of providing support for counter-drug activities by that joint task force or any other joint task force.

"(B) The Secretary of Defense may waive the requirements of subparagraph (A) if the Secretary determines that such a waiver is vital to the national security interests of the United States. The Secretary shall promptly submit to Congress notice in writing of any waiver issued under this subparagraph.

"(C) The Secretary of Defense may delegate any responsibility of the Secretary under subparagraph (B) to the Deputy Secretary of Defense or to the Under Secretary of Defense for Policy. Except as provided in the preceding sentence, such a responsibility may not be delegated to any official of the Department of Defense or any other official."

(2) ANNUAL CERTIFICATION OF COMPLIANCE.—Subsection (c) of such section is amended by adding at the end the following new paragraph:

"(4) A certification by the Secretary of Defense that any support provided under subsection (a) during such one-year period was

provided in compliance with the requirements of subsection (d).”.

(3) **INTERIM COMPLIANCE REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth—

(A) a description of each support activity provided by a joint task force under subsection (a) of section 1022 of the National Defense Authorization Act for Fiscal Year 2004 (10 U.S.C. 371 note), as of the date of the submittal of such report; and

(B) a certification as to whether or not each such activity has been provided in compliance with the requirements of subsection (d) of such section, as amended by paragraph (1) of this subsection.

SEC. 1013. REPORTING REQUIREMENT ON EXPENDITURES TO SUPPORT FOREIGN COUNTER-DRUG ACTIVITIES.

Section 1022(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-255), as most recently amended by section 1013 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2442), is further amended by striking “February 15, 2010” and inserting “February 15, 2011”.

SEC. 1014. SUPPORT FOR COUNTER-DRUG ACTIVITIES OF CERTAIN FOREIGN GOVERNMENTS.

(a) **IN GENERAL.**—Subsection (a)(2) of section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1881), as most recently amended by section 1014(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2442), is further amended by striking “2010” and inserting “2012”.

(b) **MAXIMUM AMOUNT OF SUPPORT.**—Subsection (e)(2) of such section is amended by striking “either of fiscal years 2009 and 2010” and inserting “any of the fiscal years 2009 through 2012”.

SEC. 1015. NOTICE TO CONGRESS ON MILITARY CONSTRUCTION PROJECTS FOR FACILITIES OF THE DEPARTMENT OF DEFENSE AND FOREIGN LAW ENFORCEMENT AGENCIES FOR COUNTER-DRUG ACTIVITIES.

(a) **NOTICE TO CONGRESS.**—

(1) **NOTICE.**—Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note) is amended—

(A) in subsection (b)(4), by inserting “for the purpose of facilitating” after “within or outside the United States or”; and

(B) in subsection (h)(2)(A)—

(i) by striking “modification or repair” and inserting “construction, modification, or repair”; and

(ii) by striking “a Department of Defense facility” and inserting “any facility”; and

(iii) by striking “purpose” and inserting “purposes”.

(2) **CONSTRUCTION OF NOTICE.**—Subsection (h) of such section is further amended by adding at the end the following new paragraph:

“(3) This subsection may not be construed as an authorization for the use of funds for any military construction project that would exceed the approved cost limitations of an unspecified minor military construction project under section 2805(a)(2) of title 10, United States Code.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to facilities projects for which a decision is made to be carried out on or after that date.

Subtitle C—Naval Vessels and Shipyards

SEC. 1021. EXTENSION OF AUTHORITY FOR REIMBURSEMENT OF EXPENSES FOR CERTAIN NAVY MESS OPERATIONS.

(a) **EXTENSION.**—Subsection (b) of section 1014 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4585) is amended by striking “September 30, 2010” and inserting “September 30, 2015”.

(b) **CLARIFICATION OF SCOPE OF AUTHORITY.**—Subsection (a) of such section is amended by inserting “in any fiscal year” after “may be used”.

SEC. 1022. EXPRESSING THE SENSE OF CONGRESS REGARDING THE NAMING OF A NAVAL COMBAT VESSEL AFTER FATHER VINCENT CAPODANNO.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Father Vincent Capodanno was born on February 13, 1929, in Staten Island, New York.

(2) After attending Fordham University for a year, he entered the Maryknoll Missionary Seminary in upstate New York in 1949, and was ordained a Catholic priest in June 1957.

(3) Father Capodanno’s first assignment as a missionary was working with aboriginal Taiwanese people in the mountains of Taiwan where he served in a parish and later in a school. After several years, Father Capodanno returned to the United States for leave and then was assigned to a Maryknoll school in Hong Kong.

(4) Father Vincent Capodanno volunteered as a Navy Chaplain and was commissioned a Lieutenant in the Chaplain Corps of the United States Naval Reserve in December 28, 1965.

(5) Father Vincent Capodanno selflessly extended his combat tour in Vietnam on the condition he was allowed to remain with the infantry.

(6) On September 4, 1967, during a fierce battle in the Thang Binh District of the Que-Son Valley in Vietnam, Father Capodanno went among the wounded and dying, giving last rites and caring for the injured. He was killed that day while taking care of his Marines.

(7) On January 7, 1969, Father Vincent Capodanno was awarded the Medal of Honor posthumously for comforting the wounded and dying during the Vietnam conflict. For his dedicated service, Father Capodanno was also awarded the Bronze Star, the Purple Heart, the Presidential Unit Citation, the National Defense Service Medal, the Vietnam Service Medal, the Vietnam Gallantry Cross with Palm, and the Vietnam Campaign Medal.

(8) In his memory, the U.S.S. Capodanno was commissioned on September 17, 1973. It is the only Naval vessel to date to have received a Papal blessing by Pope John Paul II in Naples, Italy, on September 4, 1981.

(9) The U.S.S. Capodanno was decommissioned on July 30, 1993.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Secretary of the Navy should name a combat vessel of the United States Navy the “U.S.S. Father Vincent Capodanno”, in honor of Father Vincent Capodanno, a lieutenant in the Navy Chaplain Corps.

SEC. 1023. REQUIREMENTS FOR LONG-RANGE PLAN FOR CONSTRUCTION OF NAVAL VESSELS.

(a) **IN GENERAL.**—Section 231 of title 10, United States Code, is amended to read as follows:

“§ 231. Long-range plan for construction of naval vessels

“(a) **QUADRENNIAL NAVAL VESSEL CONSTRUCTION PLAN.**—At the same time that the budget of the President is submitted under section 1105(a) of title 31 during each year in which the Secretary of Defense submits a quadrennial defense review, the Secretary of the Navy shall submit to the congressional defense committees a long-range plan for the construction of combatant and support vessels for the Navy that supports the force structure recommendations of the quadrennial defense review.

“(b) **MATTERS INCLUDED.**—The plan under subsection (a) shall include the following:

“(1) A detailed construction schedule of naval vessels for the 10-year period beginning on the date on which the plan is submitted, including a certification by the Secretary that the budget for the fiscal year in which the plan is submitted and the budget for the future-years defense program submitted under section 221 of this title are sufficient for funding such schedule.

“(2) A probable construction schedule for the 10-year period beginning on the date that is 10 years after the date on which the plan is submitted.

“(3) A notional construction schedule for the 10-year period beginning on the date that is 20 years after the date on which the plan is submitted.

“(4) The estimated levels of annual funding necessary to carry out the construction schedules under paragraphs (1), (2), and (3).

“(5) For the construction schedules under paragraphs (1) and (2)—

“(A) a determination by the Director of Cost Assessment and Program Evaluation of the level of funding necessary to execute such schedules; and

“(B) an evaluation by the Director of the potential risk associated with such schedules, including detailed effects on operational plans, missions, deployment schedules, and fulfillment of the requirements of the combatant commanders.

“(c) **NAVAL COMPOSITION.**—In submitting the plan under subsection (a), the Secretary shall ensure that such plan is in accordance with section 5062(b) of this title.

“(d) **ASSESSMENT WHEN BUDGET IS INSUFFICIENT.**—If the budget for a fiscal year provides for funding of the construction of naval vessels at a level that is less than the level determined necessary by the Director of Cost Assessment and Program Evaluation under subsection (b)(5), the Secretary of the Navy shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the budget, including the risk associated with a reduced force structure that may result from funding naval vessel construction at such a level.

“(e) **CBO EVALUATION.**—Not later than 60 days after the date on which the congressional defense committees receive the plan under subsection (a), the Director of the Congressional Budget Office shall submit to such committees a report assessing the sufficiency of the estimated levels of annual funding included in such plan with respect to the budget submitted during the year in which the plan is submitted and the future-years defense program submitted under section 221 of this title.

“(f) **CHANGES TO THE CONSTRUCTION PLAN.**—In any year in which a quadrennial defense review is not submitted and the budget of the President submitted under section 1105(a) of title 31 decreases the number of vessels requested in the future-years defense

program submitted under section 221 of this title, the Secretary of the Navy shall submit to the congressional defense committees a report on such decrease including—

“(1) an addendum to the most recent quadrennial defense review that fully explains and justifies the decrease with respect to the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a); and

“(2) a description of the additional reviews and analyses considered by the Secretary after the previous quadrennial defense review was submitted that justify the decrease.

“(g) DEFINITIONS.—In this section:

“(1) The term ‘budget’, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

“(2) The term ‘defense budget materials’, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

“(3) The term ‘quadrennial defense review’ means the review of the defense programs and policies of the United States that is carried out every four years under section 118 of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 9 of such title is amended by striking the item relating to section 231 and inserting the following new item:

“231. Long-range plan for construction of naval vessels.”.

Subtitle D—Counterterrorism

SEC. 1031. EXTENSION OF CERTAIN AUTHORITY FOR MAKING REWARDS FOR COMBATING TERRORISM.

Section 127b(c)(3)(C) of title 10, United States Code, is amended by striking “2010” and inserting “2011”.

SEC. 1032. PROHIBITION ON THE USE OF FUNDS FOR THE TRANSFER OR RELEASE OF INDIVIDUALS DETAINED AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

None of the funds authorized to be appropriated by this Act for fiscal year 2011 may be used to transfer, release, or assist in the transfer or release to or within the United States, its territories, or possessions of Khalid Sheikh Mohammed or any other detainee who—

(1) is not a United States citizen or a member of the Armed Forces of the United States; and

(2) is or was held on or after January 20, 2009, at United States Naval Station, Guantanamo Bay, Cuba, by the Department of Defense.

SEC. 1033. CERTIFICATION REQUIREMENTS RELATING TO THE TRANSFER OF INDIVIDUALS DETAINED AT NAVAL STATION, GUANTANAMO BAY, CUBA, TO FOREIGN COUNTRIES AND OTHER FOREIGN ENTITIES.

(a) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), during the one-year period beginning on the date of the enactment of this Act, the Secretary of Defense may not use any of the amounts authorized to be appropriated by this Act or otherwise available to the Department of Defense to transfer any individual detained at Guantanamo to the custody or effective control of the individual's country of origin, any other foreign country, or any other foreign entity unless the Secretary submits to Congress the cer-

tification described in subsection (b) by not later than 30 days before the transfer of the individual.

(2) EXCEPTION.—Paragraph (1) shall not apply to any action taken by the Secretary to transfer any individual detained at Guantanamo to effectuate an order affecting the disposition of the individual that is issued by a court or competent tribunal of the United States having lawful jurisdiction. The Secretary shall notify Congress promptly upon issuance of any such order.

(b) CERTIFICATION.—The certification described in this subsection is a written certification made by the Secretary of Defense, with the concurrence of the Secretary of State, that the government of the foreign country or the recognized leadership of the foreign entity to which the individual detained at Guantanamo is to be transferred—

(1) is not a designated state sponsor of terrorism or a designated foreign terrorist organization;

(2) maintains effective control over each detention facility in which an individual is to be detained if the individual is to be housed in a detention facility;

(3) is not, as of the date of the certification, facing a threat that is likely to substantially affect its ability to exercise control over the individual;

(4) has agreed to take effective steps to ensure that the individual cannot take action to threaten the United States, its citizens, or its allies in the future;

(5) has taken such steps as the Secretary determines are necessary to ensure that the individual cannot engage or re-engage in any terrorist activity; and

(6) has agreed to share any information with the United States that—

(A) is related to the individual or any associates of the individual; and

(B) could affect the security of the United States, its citizens, or its allies.

(c) PROHIBITION AND WAIVER IN CASES OF PRIOR CONFIRMED RECIDIVISM.—

(1) PROHIBITION.—Except as provided in paragraph (3), during the one-year period beginning on the date of the enactment of this Act, the Secretary of Defense may not use any amount authorized to be appropriated or otherwise made available to the Department of Defense to transfer any individual detained at Guantanamo to the custody or effective control of the individual's country of origin, any other foreign country, or any other foreign entity if there is a confirmed case of any individual who was detained at United States Naval Station, Guantanamo Bay, Cuba, at any time after September 11, 2001, who was transferred to the foreign country or entity and subsequently engaged in any terrorist activity.

(2) WAIVER.—The Secretary of Defense may waive the prohibition in paragraph (1) if the Secretary determines that such a transfer is in the national security interests of the United States and includes, as part of the certification described in subsection (b) relating to such transfer, the determination of the Secretary under this paragraph.

(3) EXCEPTION.—Paragraph (1) shall not apply to any action taken by the Secretary to transfer any individual detained at Guantanamo to effectuate an order affecting the disposition of the individual that is issued by a court or competent tribunal of the United States having lawful jurisdiction. The Secretary shall notify Congress promptly upon issuance of any such order.

(d) DEFINITIONS.—For the purposes of this section:

(1) The term “individual detained at Guantanamo” means any individual who is lo-

cated at United States Naval Station, Guantanamo Bay, Cuba, as of October 1, 2009, who—

(A) is not a citizen of the United States or a member of the Armed Forces of the United States; and

(B) is—

(i) in the custody or under the effective control of the Department of Defense; or

(ii) otherwise under detention at United States Naval Station, Guantanamo Bay, Cuba.

(2) The term “foreign terrorist organization” means any organization so designated by the Secretary of State under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

SEC. 1034. PROHIBITION ON THE USE OF FUNDS TO MODIFY OR CONSTRUCT FACILITIES IN THE UNITED STATES TO HOUSE DETAINEES TRANSFERRED FROM UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA.

(a) IN GENERAL.—None of the funds authorized to be appropriated by this Act may be used to construct or modify any facility in the United States, its territories, or possessions to house any individual described in subsection (c) for the purposes of detention or imprisonment in the custody or under the effective control of the Department of Defense.

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to any modification of facilities at United States Naval Station, Guantanamo Bay, Cuba.

(c) INDIVIDUALS DESCRIBED.—An individual described in this subsection is any individual who, as of October 1, 2009, is located at United States Naval Station, Guantanamo Bay, Cuba, and who—

(1) is not a citizen of the United States or a member of the Armed Forces of the United States; and

(2) is—

(A) in the custody or under the effective control of the Department of Defense; or

(B) otherwise under detention at United States Naval Station, Guantanamo Bay, Cuba.

(d) REPORT ON USE OF FACILITIES IN THE UNITED STATES TO HOUSE DETAINEES TRANSFERRED FROM GUANTANAMO.—

(1) REPORT REQUIRED.—Not later than April 1, 2011, the Secretary of Defense shall submit to the congressional defense committees a report, in classified or unclassified form, on the merits, costs, and risks of using any proposed facility in the United States, its territories, or possessions to house any individual described in subsection (c) for the purposes of detention or imprisonment in the custody or under the effective control of the Department of Defense.

(2) ELEMENTS OF THE REPORT.—The report required in paragraph (1) shall include each of the following:

(A) A discussion of the merits associated with any such proposed facility that would justify—

(i) using the facility instead of the facility at United States Naval Station, Guantanamo Bay, Cuba; and

(ii) the proposed facility's contribution to effecting a comprehensive policy for continuing military detention operations.

(B) The rationale for selecting the specific site for any such proposed facility, including details for the processes and criteria used for identifying the merits described in subparagraph (A) and for selecting the proposed site over reasonable alternative sites.

(C) A discussion of any potential risks to any community in the vicinity of any such proposed facility, the measures that could be

taken to mitigate such risks, and the likely cost to the Department of Defense of implementing such measures.

(D) A discussion of any necessary modifications to any such proposed facility to ensure that any detainee transferred from Guantanamo Bay to such facility could not come into contact with any other individual, including any other person detained at such facility, that is not approved for such contact by the Department of Defense, and an assessment of the likely costs of such modifications.

(E) A discussion of any support at the site of any such proposed facility that would likely be provided by the Department of Defense, including the types of support, the number of personnel required for each such type, and an estimate of the cost of such support.

(F) A discussion of any support, other than support provided at a proposed facility, that would likely be provided by the Department of Defense for the operation of any such proposed facility, including the types of possible support, the number of personnel required for each such type, and an estimate of the cost of such support.

(G) A discussion of the legal issues, in the judgment of the Secretary of Defense, that could be raised as a result of detaining or imprisoning any individual described in subsection (c) at any such proposed facility that could not be raised while such individual is detained or imprisoned at United States Naval Station, Guantanamo Bay, Cuba.

SEC. 1035. COMPREHENSIVE REVIEW OF FORCE PROTECTION POLICIES.

(a) **COMPREHENSIVE REVIEW REQUIRED.**—The Secretary of Defense shall conduct a comprehensive review of Department of Defense policies, regulations, instructions, and directives pertaining to force protection within the Department.

(b) **MATTERS COVERED.**—The review required under subsection (a) shall include an assessment of each of the following:

(1) Information sharing practices across the Department of Defense, and among the State, local, and Federal partners of the Department of Defense.

(2) Antiterrorism and force protection standards relating to buildings, including standoff distances.

(3) Protective standards relating to chemical, biological, radiological, nuclear, and high explosives threats.

(4) Standards relating to access to Department bases.

(5) Standards for identity management within the Department, including such standards for identity cards and biometric identifications systems.

(6) Procedures for validating and approving individuals with regular or episodic access to military installations, including military personnel, civilian employees, contractors, family members of personnel, and other types of visitors.

(7) Procedures for sharing with appropriate Department of Defense officials with responsibility for force protection—

(A) information from the intelligence or law enforcement community regarding possible threats from terrorists or terrorist groups, criminal organizations, or other state and non-state foreign entities actively working to undermine the security interests of the United States; and

(B) information regarding personnel who have engaged in potentially suspicious activities or may otherwise pose a threat.

(8) Any legislative changes recommended for implementing the recommendations contained in the review.

(c) **INTERIM REPORT.**—Not later than September 1, 2012, the Secretary of Defense shall submit an interim report on the comprehensive review required under subsection (a).

(d) **FINAL REPORT.**—Not later than March 1, 2013, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a final report on the comprehensive review required under subsection (a). The final report shall include such findings and recommendations as the Secretary considers appropriate based on the review, including recommended actions to be taken to implement the specific recommendations in the final report. The final report shall be submitted in an unclassified format, but may include a classified annex.

Subtitle E—Homeland Defense and Civil Support

SEC. 1041. LIMITATION ON DEACTIVATION OF EXISTING CONSEQUENCE MANAGEMENT RESPONSE FORCES.

(a) **LIMITATION.**—The Secretary of Defense shall ensure that no Chemical, Biological, Radiological, Nuclear, or High-Yield Explosive Consequence Management Response Force established as of October 1, 2009, is deactivated or disestablished until the Secretary provides a certification described in subsection (b).

(b) **CERTIFICATION.**—The certification described in this subsection is a written certification to the congressional defense committees that there exists within the United States Armed Forces an alternative chemical, biological, radiological, nuclear, or high-yield explosive consequence management response capability that is at least as capable as two Chemical, Biological, Radiological, Nuclear, or High-Yield Explosive Consequence Management Response Forces.

(c) **REPORT REQUIRED.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on plans of the Department of Defense to establish Homeland Response Forces for domestic emergency response to incidents involving weapons of mass destruction.

(2) **ELEMENTS OF REPORT.**—The report required by this subsection shall include the following:

(A) A detailed description of the analysis that led to the decision to establish Homeland Response Forces described in paragraph (1), including—

(i) whether consideration was given to establishing Homeland Response Forces within the Reserves; and

(ii) the reasons for not planning to establish any Homeland Response Forces within the Reserves.

(B) A detailed description of the plans to establish Homeland Response Forces, including—

(i) the cost and schedule to establish, equip, maintain, and operate the proposed Homeland Response Forces;

(ii) guidelines for the employment of Homeland Response Forces; and

(iii) the portion of the costs of Homeland Response Forces that will be borne by the States.

(C) A detailed description of the proposed number and composition of Homeland Response Forces, including—

(i) the number and type of units in each Homeland Response Force; and

(ii) the number of personnel in each Homeland Response Force.

(D) A comparative assessment of the emergency response capabilities of a Homeland

Response Force with the capabilities of a Chemical, Biological, Radiological, Nuclear, or High-Yield Explosive Consequence Management Response Force, including—

(i) a comparison of the equipment proposed for each type of force;

(ii) a comparison of the proposed means of transportation for each type of force;

(iii) an estimate of the time it would take each type of force to deploy to an incident site; and

(iv) an estimate of the operational duration of each type of force at such a site.

(E) A description of the command and control arrangements proposed for the Homeland Response Forces, including a description of the degree to which the Homeland Response Forces would be subject to the direction and control of the Department of Defense, as compared to the Governor of the State in which they are located.

(F) The results of the United States Northern Command study of the possible concepts of operations and of the implementation of the Homeland Response Force plan in such a manner as to provide adequate capability to provide Federal defense support to civil authorities during domestic incidents involving weapons of mass destruction.

(G) Any other matters the Secretary considers appropriate.

(3) **FORM OF REPORT.**—The report required by this subsection shall be in unclassified form, but may include a classified annex.

Subtitle F—Studies and Reports

SEC. 1051. INTERAGENCY NATIONAL SECURITY KNOWLEDGE AND SKILLS.

(a) **STUDY REQUIRED.**—

(1) **SELECTION OF INDEPENDENT STUDY ORGANIZATION.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall select and enter into an agreement with an appropriate independent, nonprofit organization to conduct a study of the matters described in subsection (b).

(2) **QUALIFICATIONS OF ORGANIZATION SELECTED.**—The organization selected shall be qualified on the basis of having relevant expertise in the fields of national security and human capital development, and on the basis of such other criteria as the Secretary of Defense may determine.

(b) **MATTERS TO BE COVERED.**—The study required by subsection (a) shall assess the current state of interagency national security knowledge and skills in Department of Defense civilian and military personnel, and make recommendations for strengthening such knowledge and skills. At minimum, the study shall include assessments and recommendations on—

(1) interagency national security training, education, and rotational assignment opportunities available to civilians and military personnel;

(2) integration of interagency national security education into the professional military education system;

(3) levels of interagency national security knowledge and skills possessed by personnel currently serving in civilian executive and general or flag officer positions, as represented by the interagency education, training, and professional experiences they have undertaken;

(4) incentives that enable and encourage military and civilian personnel to undertake interagency assignment, education, and training opportunities, as well as disincentives and obstacles that discourage undertaking such opportunities; and

(5) any plans or current efforts to improve the interagency national security knowledge and skills of civilian and military personnel.

(c) **REPORT.**—Not later than December 1, 2011, the Secretary of Defense shall submit to the congressional defense committees a report containing the findings and recommendations from the study required by subsection (a).

(d) **DEFINITION.**—In this section, the term “interagency national security knowledge and skills” means an understanding of, and the ability to efficiently and expeditiously work within, the structures, mechanisms, and processes by which the departments, agencies, and elements of the Federal Government that have national security missions coordinate and integrate their policies, capabilities, budgets, expertise, and activities to accomplish such missions.

SEC. 1052. REPORT ON ESTABLISHING A NORTHEAST REGIONAL JOINT TRAINING CENTER.

(a) **REPORT REQUIRED.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the need for the establishment of a Northeast Regional Joint Training Center.

(b) **CONTENTS OF REPORT.**—The report required under subsection (a) shall include each of the following:

(1) A list of facilities in the Northeastern United States at which, as of the date of the enactment of this Act, the Department of Defense has deployed or has committed to deploying joint training.

(2) A description of the extent to which such facilities have sufficient unused capacity and expertise to accommodate and fully utilize joint training.

(3) A list of potential locations for the Northeast Regional Joint Training Center discussed in the report.

(c) **CONSIDERATIONS WITH RESPECT TO LOCATION.**—In determining potential locations for the Northeast Regional Joint Training Center to be discussed in the report required under subsection (a), the Secretary of Defense shall take into consideration Department of Defense facilities that have—

(1) a workforce of skilled personnel;

(2) live, virtual, and constructive training capabilities, and the ability to digitally connect them and the associated battle command structure at the tactical and operational levels;

(3) an extensive deployment history in Operation Enduring Freedom and Operation Iraqi Freedom;

(4) a location in the Northeastern United States;

(5) the capacity or potential capacity to accommodate a target training audience range of 500 to 4,000 additional personnel; and

(6) the capability to accommodate the training of current and future joint forces.

SEC. 1053. COMPTROLLER GENERAL REPORT ON PREVIOUSLY REQUESTED REPORTS.

(a) **REPORT REQUIRED.**—Not later than March 1, 2011, the Comptroller General of the United States shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report evaluating the sufficiency, adequacy, and conclusions of the following reports:

(1) The report on Air Force fighter force shortfalls, as required by the report of the House of Representatives numbered 111-166, which accompanied the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84).

(2) The report on procurement of 4.5 generation fighters, as required by section 131 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2218).

(3) The report on combat air forces restructuring, as required by the report of the House of Representatives numbered 111-288, which accompanied the conference report for the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84).

(b) **MATTERS COVERED BY REPORT.**—The report required by subsection (a) shall examine the potential costs and benefits of each of the following:

(1) The service life extension program costs to sustain the legacy fighter fleet to meet inventory requirements with an emphasis on the service life extension program compared to other options such as procurement of 4.5 generation fighters.

(2) The Falcon Structural Augmentation Roadmap of F-16s, with emphasis on the cost-benefit of such effort and the effect of such efforts on the service life of the airframes.

(3) Any additional programs designed to extend the service life of legacy fighter aircraft.

(c) **PROHIBITION.**—No fighter aircraft may be retired from the Air Force or the Air National Guard inventory in fiscal year 2011 until the date that is 90 days after the date on which the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives receive the report required under subsection (a).

SEC. 1054. BIENNIAL REPORT ON NUCLEAR TRIAD.

(a) **REPORT.**—Not later than March 1 of each even-numbered year, beginning March 1, 2012, the Secretary of Defense, in consultation with the Administrator for Nuclear Security, shall submit to the congressional defense committees a report on the nuclear triad.

(b) **MATTERS INCLUDED.**—The report under subsection (a) shall include the following:

(1) A detailed discussion of the modernization and sustainment plans for each component of the nuclear triad over the 10-year period beginning on the date of the report.

(2) The funding required for each platform of the nuclear triad with respect to operation and maintenance, modernization, and replacement.

(3) Any industrial capacities that the Secretary considers vital to ensure the viability of the nuclear triad.

(c) **NUCLEAR TRIAD DEFINED.**—In this section, the term “nuclear triad” means the nuclear deterrent capabilities of the United States composed of ballistic missile submarines, land-based missiles, and strategic bombers.

SEC. 1055. COMPTROLLER GENERAL STUDY ON COMMON ALIGNMENT OF WORLD REGIONS IN DEPARTMENTS AND AGENCIES WITH INTERNATIONAL RESPONSIBILITIES.

(a) **STUDY REQUIRED.**—The Comptroller General of the United States shall conduct a study to assess the need for and implications of a common alignment of world regions in the internal organization of departments and agencies of the Federal Government with international responsibilities.

(b) **DEPARTMENTS AND AGENCIES.**—The following departments and agencies, at a minimum, shall be included in the study:

(1) The Department of State.

(2) The Department of the Treasury.

(3) The Department of Defense.

(4) The Department of Justice.

(5) The Department of Commerce.

(6) The Department of Homeland Security.

(7) The United States Agency for International Development.

(8) The agencies comprising the intelligence community.

(9) Such other departments, agencies, and Federal organizations with significant international responsibilities as the Comptroller General considers appropriate.

(c) **COOPERATION AND ACCESS.**—The heads of the departments and agencies included in the study shall provide full cooperation with, and access to appropriate information on organizational structures to, the Comptroller General for the purposes of conducting the study.

(d) **MATTERS COVERED.**—The study required under subsection (a) shall, at a minimum, assess—

(1) problems and inefficiencies resulting from lack of a common alignment, including impediments to interagency collaboration;

(2) obstacles to implementing a common alignment;

(3) advantages and disadvantages of a common alignment; and

(4) measures taken to address challenges associated with the lack of a common alignment.

(e) **REPORT.**—The Comptroller General shall submit to Congress a report on the study required under subsection (a) not later than 180 days after the date of the enactment of this Act.

SEC. 1056. REQUIRED REPORTS CONCERNING BOMBER MODERNIZATION, SUSTAINMENT, AND RECAPITALIZATION EFFORTS IN SUPPORT OF THE NATIONAL DEFENSE STRATEGY.

(a) **AIR FORCE REPORT.**—

(1) **REPORT REQUIRED.**—Not later than 360 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a report that includes—

(A) a discussion of the cost, schedule, and performance of all planned efforts to modernize and keep viable the existing B-1, B-2, and B-52 bomber fleets and a discussion of the forecasted service-life and all sustainment challenges that the Secretary of the Air Force may confront in keeping those platforms viable until the anticipated retirement of such aircraft;

(B) a discussion, presented in a comparison and contrast type format, of the scope of the 2007 Next-Generation Long Range Strike Analysis of Alternatives guidance and subsequent Analysis of Alternatives report tasked by the Under Secretary of Defense for Acquisition, Technology, and Logistics in the September 11, 2006, Acquisition Decision Memorandum, as compared to the scope and directed guidance of the year 2010 Long Range Strike Study effort currently being conducted by the Under Secretary of Defense for Policy and the Office of the Secretary of Defense's Cost Assessment and Program Evaluation Office; and

(C) a discussion of the preliminary costs, any development, testing, fielding and operational employment challenges, capability gaps, limitations, and shortfalls of the Secretary of Defense's plan to field a long-range, penetrating, survivable, persistent and enduring “family of systems” as compared to the preliminary costs, any development, testing, fielding, and operational employment of a singular platform that encompasses all the required aforementioned characteristics.

(2) **PREPARATION OF REPORT.**—The report under paragraph (1) shall be prepared by a federally funded research and development center selected by the Secretary of the Air Force and submitted to the Secretary for submittal by the Secretary in accordance with that paragraph.

(b) **COST ANALYSIS AND PROGRAM EVALUATION REPORT.**—Not later than 180 days after

the date of the enactment of this Act, the Director of the Cost Analysis and Program Evaluation of the Office of the Secretary of Defense shall submit to the congressional defense committees a report that includes—

(1) the assumptions and estimated life-cycle costs of the Department's long-range, penetrating, survivable, persistent, and enduring "family of systems" platforms; and

(2) the assumptions and estimated life-cycle costs of the Next Generation Platform program, as planned, prior to the cancellation of the program on April 6, 2009.

SEC. 1057. COMPTROLLER GENERAL STUDY AND RECOMMENDATIONS REGARDING SECURITY OF SOUTHERN LAND BORDER OF THE UNITED STATES.

(a) **STUDY AND REPORT REQUIRED.**—The Comptroller General of the United States shall conduct a study of the security of the southern land border of the United States and ongoing United States Government efforts to improve such security. Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the findings of the study and such recommendations based on such findings as the Comptroller General considers to be appropriate.

(b) **ISSUES ADDRESSED.**—The study and report required by subsection (a) shall address, at a minimum, the following issues:

(1) The extent to which the United States has or has not achieved and maintained operational control over the southern land border of the United States, as defined in section 2(b) of the Secure Fence Act of 2006 (Public Law 109-367; 8 U.S.C. 1701 note).

(2) The extent to which any lack of operational control over the southern land border of the United States has resulted in the operation of illicit networks trafficking in people, drugs, illegal weapons and money, violence associated with such illegal activities, and other impacts adverse to the interests of the United States.

(3) The costs and benefits of steps, including but not limited to the steps identified in subsection (c), that could be taken by elements of the United States Government to achieve operational control over the southern land border of the United States.

(4) The costs and benefits of an increased role for the Department of Defense in taking any such steps.

(5) The adequacy of current information sharing agreements and other related agreements between Federal, State, local, and tribal law enforcement authorities with regard to the security of the southern land border of the United States.

(6) The impact of any increased deployment of unmanned aerial systems or unmanned aircraft on the use and availability of the National Airspace in the area of the southern land border of the United States.

(c) **SPECIFIC STEPS TO BE CONSIDERED.**—The steps to be considered by the Comptroller General pursuant to paragraphs (3) and (4) of subsection (b) shall include the following:

(1) The deployment of additional units or members of the National Guard or other Department of Defense personnel to the southern land border of the United States.

(2) The commitment of additional border patrol agents or other civilian law enforcement personnel to the southern land border of the United States.

(3) The construction of additional fencing, including double-layer and triple-layer fencing.

(4) The increased use of ground-based mobile surveillance systems by military or civilian personnel.

(5) The deployment of additional unmanned aerial systems and manned aircraft to provide surveillance of the southern land border of the United States.

(6) The deployment and provision of capability for radio communications interoperability between U.S. Customs and Border Protection and State, local, and tribal law enforcement agencies.

(7) The construction of checkpoints along the southern land border of the United States.

(8) The use of additional mobile patrols by military or civilian personnel, particularly in rural, high-trafficked areas, as designated by the Commissioner of Customs and Border Protection.

Subtitle G—Miscellaneous Authorities and Limitations

SEC. 1061. PUBLIC AVAILABILITY OF DEPARTMENT OF DEFENSE REPORTS REQUIRED BY LAW.

(a) **PUBLIC AVAILABILITY.**—

(1) **IN GENERAL.**—Chapter 3 of title 10, United States Code, is amended by inserting after section 122 the following new section:

“§ 122a. Public availability of Department of Defense reports required by law

“(a) **IN GENERAL.**—The Secretary of Defense shall ensure that each report described in subsection (b) is made available to the public, upon request submitted on or after the date on which such report is submitted to Congress, through the Office of the Assistant Secretary of Defense for Public Affairs.

“(b) **COVERED REPORTS.**—(1) Except as provided in paragraph (2), a report described in this subsection is any report that is required by law to be submitted to Congress by the Secretary of Defense, or by any element of the Department of Defense.

“(2) A report otherwise described in paragraph (1) is not a report described in this subsection if the report contains—

“(A) classified information;

“(B) proprietary information;

“(C) information that is exempt from disclosure under section 552 of title 5 (commonly referred to as the ‘Freedom of Information Act’); or

“(D) any other type of information that the Secretary of Defense determines should not be made available to the public in the interest of national security.”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 3 of such title is amended by inserting after the item relating to section 122 the following new item:

“122a. Public availability of Department of Defense reports required by law.”.

(b) **EFFECTIVE DATE.**—Section 122a of title 10, United States Code (as added by subsection (a)), shall take effect 90 days after the date of the enactment of this Act, and shall apply with respect to reports that are required by law to be submitted to Congress on or after that date.

SEC. 1062. PROHIBITION ON INFRINGING ON THE INDIVIDUAL RIGHT TO LAWFULLY ACQUIRE, POSSESS, OWN, CARRY, AND OTHERWISE USE PRIVATELY OWNED FIREARMS, AMMUNITION, AND OTHER WEAPONS.

(a) **IN GENERAL.**—Except as provided in subsection (c), the Secretary of Defense shall not prohibit, issue any requirement relating to, or collect or record any information relating to the otherwise lawful acquisition,

possession, ownership, carrying, or other use of a privately owned firearm, privately owned ammunition, or another privately owned weapon by a member of the Armed Forces or civilian employee of the Department of Defense on property that is not—

(1) a military installation; or

(2) any other property that is owned or operated by the Department of Defense.

(b) **EXISTING REGULATIONS AND RECORDS.**—

(1) **REGULATIONS.**—Any regulation promulgated before the date of enactment of this Act shall have no force or effect to the extent that it requires conduct prohibited by this section.

(2) **RECORDS.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall destroy any record containing information described in subsection (a) that was collected before the date of enactment of this Act.

(c) **RULE OF CONSTRUCTION.**—Subsection (a) shall not be construed to limit the authority of the Secretary of Defense to—

(1) create or maintain records relating to, or regulate the possession, carrying, or other use of a firearm, ammunition, or other weapon by a member of the Armed Forces or civilian employee of the Department of Defense while—

(A) engaged in official duties on behalf of the Department of Defense; or

(B) wearing the uniform of an Armed Force; or

(2) create or maintain records relating to an investigation, prosecution, or adjudication of an alleged violation of law (including regulations not prohibited under subsection (a)), including matters related to whether a member of the Armed Forces constitutes a threat to the member or others.

(d) **REVIEW.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall—

(1) conduct a comprehensive review of the privately owned weapons policy of the Department of Defense, including legal and policy issues regarding the regulation of privately owned firearms off of a military installation, as recommended by the Department of Defense Independent Review Related to Fort Hood; and

(2) submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report regarding the findings of and recommendations relating to the review conducted under paragraph (1), including any recommendations for adjustments to the requirements under this section.

(e) **MILITARY INSTALLATION DEFINED.**—In this section, the term “military installation” has the meaning given that term under section 2687(e)(1) of title 10, United States Code.

SEC. 1063. DEVELOPMENT OF CRITERIA AND METHODOLOGY FOR DETERMINING THE SAFETY AND SECURITY OF NUCLEAR WEAPONS.

(a) **IN GENERAL.**—The Secretary of Energy and the Secretary of Defense shall, acting through the Nuclear Weapons Council, develop the following:

(1) Criteria for determining the appropriate baseline for safety and security of nuclear weapons through the life cycle of such weapons.

(2) A methodology for determining the level of safety and security that may be achieved through a life extension program for each type of nuclear weapon.

(b) **REPORT REQUIRED.**—Not later than March 1, 2012, the Secretary of Energy and the Secretary of Defense shall jointly submit to the congressional defense committees a

report containing the criteria and the methodology developed pursuant to subsection (a).

Subtitle H—Other Matters

SEC. 1071. NATIONAL DEFENSE PANEL.

Subsection (f) of section 118 of title 10, United States Code, is amended to read as follows:

“(f) NATIONAL DEFENSE PANEL.—

“(1) ESTABLISHMENT.—Not later than February 1 of a year in which a quadrennial defense review is conducted under this section, there shall be established an independent panel to be known as the National Defense Panel (in this subsection referred to as the ‘Panel’). The Panel shall have the duties set forth in this subsection.

“(2) MEMBERSHIP.—The Panel shall be composed of ten members from private civilian life who are recognized experts in matters relating to the national security of the United States. Eight of the members shall be appointed as follows:

“(A) Two by the chairman of the Committee on Armed Services of the House of Representatives.

“(B) Two by the chairman of the Committee on Armed Services of the Senate.

“(C) Two by the ranking member of the Committee on Armed Services of the House of Representatives.

“(D) Two by the ranking member of the Committee on Armed Services of the Senate.

“(3) CO-CHAIRS OF THE PANEL.—In addition to the members appointed under paragraph (2), the Secretary of Defense shall appoint two members from private civilian life to serve as co-chairs of the panel.

“(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Panel. Any vacancy in the Panel shall be filled in the same manner as the original appointment.

“(5) DUTIES.—The Panel shall have the following duties with respect to a quadrennial defense review:

“(A) While the review is being conducted, the Panel shall review the updates from the Secretary of Defense required under paragraph (8) on the conduct of the review.

“(B) The Panel shall—

“(i) review the Secretary of Defense’s terms of reference and any other materials providing the basis for, or substantial inputs to, the work of the Department of Defense on the quadrennial defense review;

“(ii) conduct an assessment of the assumptions, strategy, findings, and risks of the report on the quadrennial defense review required in subsection (d), with particular attention paid to the risks described in that report;

“(iii) conduct an independent assessment of a variety of possible force structures of the armed forces, including the force structure identified in the report on the quadrennial defense review required in subsection (d);

“(iv) review the resource requirements identified pursuant to subsection (b)(3) and, to the extent practicable, make a general comparison to the resource requirements to support the forces contemplated under the force structures assessed under this subparagraph; and

“(v) provide to Congress and the Secretary of Defense, through the report under paragraph (7), any recommendations it considers appropriate for their consideration.

“(6) FIRST MEETING.—If the Secretary of Defense has not made the Secretary’s appointments to the Panel under paragraph (3) by February 1 of a year in which a quadrennial defense review is conducted under this

section, the Panel shall convene for its first meeting with the remaining members.

“(7) REPORT.—Not later than 3 months after the date on which the report on a quadrennial defense review is submitted under subsection (d) to the congressional committees named in that subsection, the Panel established under paragraph (1) shall submit to those committees an assessment of the quadrennial defense review, including a description of the items addressed under paragraph (5) with respect to that quadrennial defense review.

“(8) UPDATES FROM SECRETARY OF DEFENSE.—The Secretary of Defense shall ensure that periodically, but not less often than every 60 days, or at the request of the co-chairs, the Department of Defense briefs the Panel on the progress of the conduct of a quadrennial defense review under subsection (a).

“(9) ADMINISTRATIVE PROVISIONS.—

“(A) The Panel may request directly from the Department of Defense and any of its components such information as the Panel considers necessary to carry out its duties under this subsection. The head of the department or agency concerned shall cooperate with the Panel to ensure that information requested by the Panel under this paragraph is promptly provided to the maximum extent practical.

“(B) Upon the request of the co-chairs, the Secretary of Defense shall make available to the Panel the services of any federally funded research and development center that is covered by a sponsoring agreement of the Department of Defense.

“(C) The Panel shall have the authorities provided in section 3161 of title 5 and shall be subject to the conditions set forth in such section.

“(D) Funds for activities of the Panel shall be provided from amounts available to the Department of Defense.

“(10) TERMINATION.—The Panel for a quadrennial defense review shall terminate 45 days after the date on which the Panel submits its final report on the quadrennial defense review under paragraph (7).”

SEC. 1072. SALE OF SURPLUS MILITARY EQUIPMENT TO STATE AND LOCAL HOMELAND SECURITY AND EMERGENCY MANAGEMENT AGENCIES.

(a) STATE AND LOCAL AGENCIES TO WHICH SALES MAY BE MADE.—Section 2576 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “State and local law enforcement and firefighting agencies” and inserting “State and local law enforcement, firefighting, homeland security, and emergency management agencies”; and

(B) by striking “in carrying out law enforcement and firefighting activities” and inserting “in carrying out law enforcement, firefighting, homeland security, and emergency management activities”; and

(2) in subsection (b), by striking “State or local law enforcement or firefighting agency” both places it appears and inserting “State or local law enforcement, firefighting, homeland security, or emergency management agency”.

(b) TYPES OF EQUIPMENT THAT MAY BE SOLD.—Subsection (a) of such section is further amended by striking “and protective body armor” and inserting “personal protective equipment, and other appropriate equipment”.

(c) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

“§2576. Surplus military equipment: sale to State and local law enforcement, firefighting, homeland security, and emergency management agencies”.

(2) TABLE OF SECTIONS.—The item relating to section 2576 in the table of sections at the beginning of chapter 153 of such title is amended to read as follows:

“2576. Surplus military equipment: sale to State and local law enforcement, firefighting, homeland security, and emergency management agencies.”.

SEC. 1073. DEFENSE RESEARCH AND DEVELOPMENT RAPID INNOVATION PROGRAM.

(a) PROGRAM ESTABLISHED.—The Secretary of Defense shall establish a competitive, merit-based program to accelerate the fielding of technologies developed pursuant to phase II Small Business Innovation Research Program projects, technologies developed by the defense laboratories, and other innovative technologies (including dual use technologies). The purpose of this program is to stimulate innovative technologies and reduce acquisition or lifecycle costs, address technical risks, improve the timeliness and thoroughness of test and evaluation outcomes, and rapidly insert such products directly in support of primarily major defense acquisition programs, but also other defense acquisition programs that meet critical national security needs.

(b) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue guidelines for the operation of the program. At a minimum such guidance shall provide for the following:

(1) The issuance of an annual broad agency announcement or the use of any other competitive or merit-based processes by the Department of Defense and by each military department for candidate proposals in direct support of primarily major defense acquisition programs, but also other defense acquisition programs as described in subsection (a).

(2) The review of candidate proposals by the Department of Defense and by each military department and the merit-based selection of the most promising cost-effective proposals for funding through contracts, cooperative agreements, and other transactions for the purposes of carrying out the program.

(3) The total amount of funding provided to any project under the program shall not exceed \$3,000,000, unless the Secretary, or the Secretary’s designee, approves a larger amount of funding for the project. Any such approval shall be made on a case-by-case basis and notice of any such approval shall be submitted to the congressional defense committees by not later than 30 days after such approval is made.

(4) No project shall be funded under the program for more than two years, unless the Secretary, or the Secretary’s designee, approves funding for any additional year. Any such approval shall be made on a case-by-case basis and notice of any such approval shall be submitted to the congressional defense committees by not later than 30 days after such approval is made.

(c) TREATMENT PURSUANT TO CERTAIN CONGRESSIONAL RULES.—Nothing in this section shall be interpreted to require or enable any official of the Department of Defense to provide funding under this section to any earmark as defined pursuant to House Rule XXI, clause 9, or any congressionally directed spending item as defined pursuant to Senate Rule XLIV, paragraph 5.

(d) **FUNDING.**—Subject to the availability of appropriations for such purpose, the amounts authorized to be appropriated for research, development, test, and evaluation for each of fiscal years 2011 through 2015 may be used for any such fiscal year for the program established under subsection (a).

(e) **TRANSFER AUTHORITY.**—The Secretary may transfer funds available for the program to the research, development, test, and evaluation accounts of a military department, defense agency, or the unified combatant command for special operations forces pursuant to a proposal, or any part of a proposal, that the Secretary determines would directly support the purposes of the program. The transfer authority provided in this subsection is in addition to any other transfer authority available to the Department of Defense.

(f) **REPORT.**—Not later than 60 days after the last day of a fiscal year during which the Secretary carries out a program under this section, the Secretary shall submit to the congressional defense committees a report that includes a list and description of each project funded under this section, including, for each such project, the amount of funding provided for the project, the defense acquisition program that the project supports, including the extent to which the project meets needs identified in its acquisition plan, the anticipated timeline for transition for the project, and the degree to which a competitive, merit-based process was used to evaluate and select the performers of the projects selected under this program.

(g) **TERMINATION.**—The authority to carry out a program under this section shall terminate on September 30, 2015. Any amounts made available for the program that remain available for obligation on the date the program terminates may be transferred under subsection (e) during the 180-day period beginning on the date of the termination of the program.

SEC. 1074. AUTHORITY TO MAKE EXCESS NON-LETHAL SUPPLIES AVAILABLE FOR DOMESTIC EMERGENCY ASSISTANCE.

(a) **DOMESTIC AUTHORITY.**—Section 2557 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by adding at the end the following new sentence: “In addition, the Secretary may make nonlethal excess supplies of the Department available to support domestic emergency assistance activities.”; and

(2) in subsection (b)—

(A) by inserting “(1)” before “Excess”; and

(B) by adding at the end the following new paragraph:

“(2) Excess supplies made available under this section to support domestic emergency assistance activities shall be transferred to the Secretary of Homeland Security. The Secretary of Defense may provide assistance in the distribution of such supplies at the request of the Secretary of Homeland Security.”.

(b) **CLERICAL AMENDMENTS.**—

(1) **SECTION HEADING.**—The heading of such section is amended to read as follows:

“§2557. Excess nonlethal supplies: availability for humanitarian relief, domestic emergency assistance, and homeless veterans assistance”.

(2) **TABLE OF SECTIONS.**—The item relating to such section in the table of sections at the beginning of chapter 152 of such title is amended to read as follows:

“2557. Excess nonlethal supplies: availability for humanitarian relief, domestic emergency assistance, and homeless veterans assistance.”.

SEC. 1075. TECHNICAL AND CLERICAL AMENDMENTS.

(a) **TITLE 5, UNITED STATES CODE.**—Title 5, United States Code, is amended as follows:

(1) Section 8344(1)(2)(B), as added by section 1122(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2505), is amended by striking “5201 et seq.” and inserting “5211 et seq.”.

(2) Section 9902(a)(2), as added by section 1113(d) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2499), is amended by striking “chapters” both places it appears and inserting “chapter”.

(b) **TITLE 10, UNITED STATES CODE.**—Title 10, United States Code, is amended as follows:

(1) The tables of chapters at the beginning of subtitle A and at the beginning of part II of such subtitle are amended by striking “1031” in the item relating to chapter 53 and inserting “1030”.

(2) Section 127a is amended—

(A) in subsection (a)(1)(A), by striking “Armed Forces” and inserting “armed forces”; and

(B) in subsection (b)(1) by striking “Armed Forces” both places it appears and inserting “armed forces”.

(3) Section 127d(d)(1) is amended by striking “Committee on International Relations” and inserting “Committee on Foreign Affairs”.

(4) Section 132 is amended—

(A) by redesignating subsection (d), as added by section 2831(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2669), as subsection (e); and

(B) in such subsection, by striking “Guam Executive Council” and inserting “Guam Oversight Council”.

(5) Section 139c(d)(4) is amended by adding at period at the end.

(6) Section 139d(a)(6) is amended by striking “propriety” and inserting “proprietary”.

(7) Section 172 is amended—

(A) by striking “(a)” before “The Secretaries”; and

(B) by striking subsection (b).

(8) Section 181(b)(3) is amended by striking “Performance Evaluation” and inserting “Program Evaluation”.

(9) Section 186 is amended by redesignating the second subsection (c) (relating to definitions) as subsection (d).

(10)(A) Section 382 is amended by striking “section 175 or 2332c” in subsections (a), (b)(2)(C), and (d)(2)(A)(ii) and inserting “section 175, 229, or 2332a”.

(B) The heading of such section is amended by striking “**CHEMICAL OR BIOLOGICAL**”.

(C) The table of sections at the beginning of chapter 18 is amended by striking the item relating to section 382 and inserting the following new item:

“382. Emergency situations involving weapons of mass destruction.”.

(11) Section 428(f) is amended by striking “, United States Code,”.

(12) Section 525 is amended—

(A) in subsection (d), by striking “section 601(b)(4)” and inserting “section 601(b)(5)”;

and

(B) in subsection (g)(1)—

(i) by striking “and is not” and inserting “and are not”; and

(ii) by adding at period at the end.

(13) Section 841(c) is amended by striking “trail counsel” and inserting “trial counsel”.

(14) Section 843(b)(2)(B)(v) is amended by striking “Kidnaping; indecent assault;” and inserting “Kidnaping, indecent assault;”.

(15) Section 1030(e)(1) is amended by striking “3 years,” and inserting “three years.”.

(16) Section 1146 is amended—

(A) in subsection (a), by striking “(a) BENEFITS FOR MEMBERS INVOLUNTARILY SEPARATED.—”, as added by section 5(1) of Public Law 110–317 (122 Stat. 3528);

(B) by redesignating the second subsection (b) as subsection (c); and

(C) in subsection (c), as so redesignated—

(i) by striking “BENEFITS FOR” in the subsection heading;

(ii) by striking “Armed Forces” in the matter preceding paragraph (1) and inserting “armed forces”; and

(iii) by striking “the members entitlement” in paragraph (2) and inserting “the member’s entitlement”.

(17) Section 1174(i) is amended by striking “Armed Forces” each place it appears and inserting “armed forces”.

(18) Section 1175a(j)(3) is amended by striking “title 10” and inserting “this title”.

(19) Section 1203(b)(4)(B) is amended by striking “determination,” and inserting “determination”.

(20) Section 1482a(c)(3) is amended by striking “section 1482(a)(11)” and inserting “section 1482(e)(5)(A)”.

(21) Section 1566a(a)(1) is amended by inserting a close parenthesis before the period at the end.

(22) Section 1599c(a)(2)(B) is amended by striking “subchapter 1” and inserting “subchapter I”.

(23) Section 1781b(d) is amended by striking “March 1, 2008, and each year thereafter” and inserting “March 1 each year”.

(24) Section 1781c(h)(1) is amended by striking “180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010, and annually thereafter” and inserting “April 30 each year”.

(25) Section 1788(b) is amended by striking “Armed Forces” and inserting “armed forces”.

(26) Section 2004b(b)(1) is amended by striking “pay grade 0–3” and inserting “pay grade O–3”.

(27) The table of sections at the beginning of chapter 104 is amended by transferring the item relating to section 2113a to appear after the item relating to section 2113.

(28) Section 2130a(b)(1) is amended by striking “Training Program” both places it appears and inserting “Training Corps program”.

(29) Section 2222(a) is amended by striking “Effective October 1, 2005, funds” and inserting “Funds”.

(30) The table of sections at the beginning of subchapter I of chapter 134, as amended by section 1031(a)(2) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2448), is amended by transferring the item relating to section 2241a from the end of the table of sections to appear after the item relating to section 2241.

(31) Section 2323(a)(1)(D) is amended by inserting a close parenthesis before the semicolon.

(32) Section 2362(e)(1) is amended by striking “IV” and inserting “V”.

(33) Section 2366a(c) is amended—

(A) by inserting a space between “(c)” and the subsection heading; and

(B) in paragraph (4), by striking “section 125a(a) of this title” and inserting “section 118b(c)(3) of this title”.

(34) Section 2433(a)(1) is amended by striking “section 2430a(c)” and inserting “section 2430a(d)”.

(35) Section 2433a(b)(2)(B) is amended by striking “section 181(g)(1)” and inserting “section 181(g)(1)”.

(36) Section 2476(d)(2)(D) is amended by striking “Navy Depots” and inserting “Navy depots”.

(37) Section 2488(f) is amended by striking “Armed Forces” both places it appears and inserting “armed forces”.

(38) Section 2533a(d) is amended in paragraphs (1) and (4) by striking “(b)(1)(A), (b)(2), or (b)(3)” and inserting “(b)(1)(A) or (b)(2)”.

(39) Section 2603 is amended by striking “Armed Forces” both places it appears and inserting “armed forces”.

(40) Section 2642(a)(3) is amended by striking “During the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010” and inserting “During the period beginning on October 28, 2009, and ending on October 28, 2014”.

(41) Section 2667(e) is amended—

(A) in paragraph (1)(A)(ii), by striking “sections 2668 and 2669” and inserting “section 2668”; and

(B) in paragraph (5), by striking “subsection (f)” and inserting “subsection (g)”.

(42) Section 2671(a)(2) is amended by striking “Armed Forces” and inserting “armed forces”.

(43) Section 2684a(g)(1) is amended by striking “March 1, 2007, and annually thereafter” and inserting “March 1 each year”.

(44) Section 2687a(a) is amended by striking “31for” and inserting “31 for”.

(45) Section 2694c(d)(4) is amended by inserting “Authorization” after “Military Construction”.

(46) Chapter 160 is amended—

(A) in section 2700(2), by inserting “‘pollutant or contaminant,’ after ‘‘person,’’; and

(B) in section 2701(b)(1), by striking “hazardous substances, pollutants, and contaminants” and inserting “a hazardous substance or pollutant or contaminant”.

(47) The table of subchapters at the beginning of chapter 173 is amended by inserting “Sec.” above “2911”.

(48) Section 2922d is amended by striking “1 or more” each place it appears and inserting “one or more”.

(49) Section 7042(a)(1)(A) is amended by striking the comma after “captain”.

(50) Section 9515 is amended—

(A) in subsection (b), by striking “Section 1356 of the National Defense Authorization Act for 2008” and inserting “section 1356 of the National Defense Authorization Act for Fiscal Year 2008”; and

(B) in subsection (f)(2), by striking “paragraph (2)” and inserting “paragraph (1)”;

(C) in subsection (j)(1), by striking “United States Code.”.

(51) Section 10214 is amended by striking “14508(e)” and inserting “14508(h)”.

(52) Section 10216 is amended by striking “section 115(c)” in subsections (b)(1), (c)(1), and (c)(2)(A) and inserting “section 115(d)”.

(53) Section 10217(c)(1) is amended—

(A) by striking “Effective October 1, 2007, the” and inserting “The”; and

(B) by striking “after the preceding sentence takes effect”.

(54) Section 12203(a) is amended by striking “above” in the first sentence and inserting “of”.

(55) Section 16132a is amended—

(A) in subsection (b)(1), by striking “agreement to service” and inserting “agreement to serve”; and

(B) in subsection (i)(2), by striking “whose”.

(56) Section 16163a(b)(2) is amended by striking “section (j)” and inserting “subsection (j)”.

(c) TITLE 37.—Title 37, United States Code, is amended as follows:

(1) Section 303a(e)(3)(B) is amended by inserting “of” after “result”.

(2) The table of sections at the beginning of chapter 5 is amended by striking the item related to section 312 and inserting the following new item:

“312. Special pay: nuclear-qualified officers extending period of active service.”.

(3) The table of sections at the beginning of chapter 7 is amended—

(A) by striking the item related to section 438 and inserting the following new item:

“411k. Travel and transportation allowances: non-medical attendants for members who are determined to be very seriously or seriously wounded, ill, or injured.”; and

(B) by striking the item related to section 438 and inserting the following new item:

“438. Preventive health services allowance.”.

(4) Section 411k(d)(1) is amended by striking “allowances section” and inserting “allowances under section”.

(d) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010.—Effective as of October 28, 2009, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84) is amended as follows:

(1) Section 325(d)(4) (123 Stat. 2254) is amended by striking “section 236” and inserting “section 235”.

(2) Section 502(c)(3) (123 Stat. 2274) is amended by striking “officers” and inserting “general officers and flag officers”.

(3) Section 581(a)(1)(C) (123 Stat. 2326) is amended by striking “subsection (f)” and inserting “subsection (g), as redesignated by section 582(b)(1)”.

(4) Section 584(a) (123 Stat. 2330) is amended by striking “such Act” and inserting “the Uniformed and Overseas Citizens Absentee Voting Act”.

(5) Section 585(b)(1) (123 Stat. 2331) is amended by striking subparagraphs (A) and (B), and inserting the following new subparagraphs:

“(A) in paragraph (2), by striking ‘section 102(4)’ and inserting ‘section 102(a)(4)’; and

“(B) by striking paragraph (4) and inserting the following new paragraph:

“(4) prescribe a suggested design for absentee ballot mailing envelopes;” and”.

(6) Section 589 (123 Stat. 2334; 42 U.S.C. 1973ff-7) is amended—

(A) in subsection (a)(1)—

(i) by striking “section 107(a)” and inserting “section 107(1)”; and

(ii) by striking “1973ff et seq.” and inserting “1973ff-6(1)”; and

(B) in subsection (e)(1), by striking “1977ff note” and inserting “1973ff note”.

(7) The undesignated section immediately following section 603 (123 Stat. 2350) is designated as section 604.

(8) Section 714(c) (123 Stat. 2382; 10 U.S.C. 1071 note) is amended—

(A) by striking “feasability” both places it appears and inserting “feasibility”; and

(B) by striking “specialties” both places it appears and inserting “specialties”.

(9) Section 813(a)(3) (123 Stat. 2407) is amended by inserting “order” after “task” in the matter to be struck.

(10) Section 921(b)(2) (123 Stat. 2432) is amended by inserting “subchapter I of” before “chapter 21”.

(11) Section 1014(c) (123 Stat. 2442) is amended by striking “in which the support” and inserting “in which support”.

(12) Section 1043(d) (123 Stat. 2457; 10 U.S.C. 2353 note) is amended by striking “et 13 seq.” and inserting “et seq.”.

(13) Section 1055(f) (123 Stat. 2462) is amended by striking “Combating” and inserting “Combatting”.

(14) Section 1063(d)(2) (123 Stat. 2470) is amended by striking “For purposes of this section, the” and inserting “The”.

(15) Section 1080(b) (123 Stat. 2479; 10 U.S.C. 801 note) is amended—

(A) by striking “title 14” and inserting “title XIV”; and

(B) by striking “title 10” and inserting “title X”; and

(C) by striking “the Military Commissions Act of 2006 (10 U.S.C. 948 et seq.; Public Law 109-366)” and inserting “chapter 47A of title 10, United States Code”.

(16) Section 1111(b) (123 Stat. 2495; 10 U.S.C. 1580 note prec.) is amended by striking “the Secretary” in the first sentence and inserting “the Secretary of Defense”.

(17) Section 1113(g)(1) (123 Stat. 2502; 5 U.S.C. 9902 note) is amended by inserting “United States Code,” after “title 5,” the first place it appears.

(18) Section 1202(c) (123 Stat. 2512) is amended—

(A) by striking “1208(f) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2086)” and inserting “1208(f)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2086), as amended by section 1202(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 363), is further amended”; and

(B) by redesignating paragraphs (1) through (8), as proposed to be inserted, as subparagraphs (A) through (H), respectively and indenting the left margin of such subparagraphs, as so redesignated, 4 ems from the left margin.

(19) Section 1261 (123 Stat. 2553; 22 U.S.C. 6201 note) is amended by inserting a space between the first short title and “or”.

(20) Section 1306(b) (123 Stat. 2560) is amended by striking “fiscal year” and inserting “Fiscal Year”.

(21) Subsection (b) of section 1803 (123 Stat. 2612) is amended to read as follows:

“(b) APPELLATE REVIEW UNDER DETAINEE TREATMENT ACT OF 2005.—

“(1) DEPARTMENT OF DEFENSE, EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS HURRICANES IN THE GULF OF MEXICO, AND PANDEMIC INFLUENZA ACT, 2006.—Section 1005(e) of the Detainee Treatment Act of 2005 (title X of Public Law 109-148; 10 U.S.C. 801 note) is amended by striking paragraph (3).

“(2) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006.—Section 1405(e) of the Detainee Treatment Act of 2005 (Public Law 109-163; 10 U.S.C. 801 note) is amended by striking paragraph (3).”.

(22) Section 1916(b)(1)(B) (123 Stat. 2624) is amended by striking the comma after “5941”.

(23) Section 2804(d)(2) (123 Stat. 2662) is amended by inserting “subchapter III of” before “chapter 169”.

(24) Section 2835(f)(1) (123 Stat. 2677) is amended by striking “publically-available” and inserting “publicly available”.

(25) Section 3503(b)(1) (123 Stat. 2719) is amended by striking the extra quotation marks.

(26) Section 3508(1) (123 Stat. 2721) is amended by striking “headline” and inserting “heading”.

(e) DUNCAN HUNTER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009.—The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417) is amended as follows:

(1) Section 143(b)(1) (122 Stat. 4381; 10 U.S.C. 2304 note) is amended by striking “identifies” and inserting “identify”.

(2) Section 231(b) (122 Stat. 4391; 10 U.S.C. 2431 note) is amended by striking “section” and inserting “subsection”.

(3) Section 233(a)(3) (122 Stat. 4393) is amended by striking “122 Stat. 42” and inserting “122 Stat. 43”.

(4) Section 324(b) (122 Stat. 4416; 10 U.S.C. 8062 note) is amended by striking “their” and inserting “its”.

(5) Section 332(e) (122 Stat. 4420; 10 U.S.C. 2911 note) is amended by striking “section (d)” and inserting “subsection (d)”.

(6) Section 358(b) (122 Stat. 4427; 10 U.S.C. 2302 note) is amended by inserting a comma after “Agent”.

(7) Section 596(b)(1)(D) (10 U.S.C. 1071 note), as amended by section 594 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2338), is amended by striking “or flag” the second place it appears.

(8) Section 597(f) (122 Stat. 4481) is amended by striking “meeting” and inserting “meetings”.

(9) Section 604(b) (122 Stat. 4483) is amended by inserting “of” after “(a)(1)”.

(10) Section 619(d) (122 Stat. 4489; 37 U.S.C. 353 note) is amended by striking “such subsections” and inserting “such subsection”.

(11) Section 711(d)(2) (122 Stat. 4501) is amended by striking “1111(b)” and inserting “1111(b)(3)”.

(12) Effective as of October 14, 2008, and as if included in Public Law 110-417 as enacted, section 727(b)(2) is amended by striking “compelling”.

(13) Section 822(c)(1)(A) (122 Stat. 4532) is amended by striking “this title” and inserting “title 10, United States Code”.

(14) Section 863(b)(3)(A) (122 Stat. 4547) is amended by striking “subsection (d)(2)(A)” and inserting “subsection (d)(3)(A)”.

(15) Section 869 (122 Stat. 4553) is amended—

(A) in subsection (b), by striking “433(a)” and inserting “433a(a)”; and

(B) in subsection (c)(4)—
(i) by striking “37(j)” and inserting “37(g)”; and
(ii) by striking “433(j)” and inserting “433(g)”.

(16) Section 873(a)(4) (122 Stat. 4558; 10 U.S.C. 6101 note) is amended by striking “to Government” and inserting “to the Government”.

(17) Section 1111 (10 U.S.C. 143 note), as amended by section 1109 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2492), is amended—

(A) in subsection (a)(1), by striking “section 821” and inserting “section 833”; and

(B) in subsection (b)—
(i) in the matter preceding paragraph (1), by striking “secretary of a military department” and inserting “Secretary of a military department”;
(ii) in paragraph (1)—

(I) by striking “the the requirements” and inserting “the requirements”; and

(II) by striking “this title” and inserting “such title”; and

(iii) in paragraph (2), by striking “any any of the following” and inserting “any of the following”.

(18) Section 1602(5) (122 Stat. 4653; 22 U.S.C. 2368 note) is amended by striking “a Active” and inserting “an Active”.

(19) Section 3113 (122 Stat. 4754; 50 U.S.C. 2444) is amended—

(A) in subsection (b)(2), by inserting a close parenthesis before the semicolon; and

(B) in subsection (d)(2), by striking “fails repay” and inserting “fails to repay”.

(20) Section 3512 (122 Stat. 4770; 48 U.S.C. 1421r) is amended by inserting a period at the end of subsection (f).

(f) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008.—The National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181) is amended as follows:

(1) Section 624 (122 Stat. 153; 37 U.S.C. 307a note) is amended—

(A) in subsection (a), by striking “Operating” and inserting “Operation”; and

(B) in subsection (b), by striking “Operating” and inserting “Operation”.

(2) Effective as of January 28, 2008, and as if included in Public Law 110-181 as enacted, section 804 (122 Stat. 208) is amended—

(A) in subsection (a)(3), by striking “speciality” and inserting “specialty”; and

(B) in subsection (e), by striking “subsection (c)” and inserting “subsection (d)(1)”.

(3) Section 808 (122 Stat. 215; 10 U.S.C. 2330 note) is amended by redesignating the second subsection (c) as subsection (d).

(4) Section 827(a)(2) (122 Stat. 228; 10 U.S.C. 2410n note) is amended by striking “subsection (a)” and inserting “paragraph (1)”.

(5) Section 843 (122 Stat. 236) is amended—
(A) in subsection (a)(2)(C), by striking “paragraph (1)” and inserting “subparagraph (A)”; and

(B) in subsection (b)(2)(C), by striking “paragraph (1)” and inserting “subparagraph (A)”.

(6) Section 890 (122 Stat. 269; 10 U.S.C. 2302 note) is amended—

(A) in subsection (a), by inserting “Act” before “of 1979”;
(B) in subsection (b), by inserting “Act” before “of 1979”; and

(C) in subsection (d)(1), by striking “sections” and inserting “parts”.

(7) Section 1063(a)(16) (122 Stat. 322) is amended by striking “(1)”.

(8) Effective as of January 28, 2008, and as if included in Public Law 110-181 as enacted, section 1075(a) (122 Stat. 333) is amended by striking “June” and inserting “September”.

(9) Section 1243(c) (122 Stat. 396) is amended by striking “(4))” and inserting “(4))”.

(10) Section 1244(a)(3) (122 Stat. 396) is amended by striking “(4))” and inserting “(4))”.

(g) JOHN WARNER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007.—Effective as of October 17, 2006, and as if included therein as enacted, the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) is amended as follows:

(1) Section 321(a)(1) (120 Stat. 2144; 10 U.S.C. 2222 note) is amended by striking “Public Law 190-163” and inserting “Public Law 109-163”.

(2) Section 348(2) (120 Stat. 2159) is amended in the matter to be struck from and inserted in section 366(d) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2523) by striking “within” both places it appears and inserting “Within”.

(3) Section 355(b)(1) (120 Stat. 2162) is amended in the matter to be struck from

section 344 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 10 U.S.C. note prec. 1030) by striking “Operation Iraqi Freedom and Operation Enduring Freedom” and inserting “Operation Enduring Freedom and Operation Iraqi Freedom”.

(4) Section 511(b)(3) (120 Stat. 2183) is amended in the matter preceding subparagraph (A) by striking “section” and inserting “title”.

(5) Section 705(b)(2) (120 Stat. 2281; 10 U.S.C. 1074g note) is amended by striking “section 1074g(a)(2)(E)” and inserting “section 1074g(a)(2)”.

(6) Section 2821(b)(1) (120 Stat. 2474) is amended by inserting “by striking” after “subsection (a)(1),”.

(h) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006.—Effective as of January 6, 2006, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163) is amended as follows:

(1) Section 515(h) (119 Stat. 3237; 10 U.S.C. 10101 note) is amended by striking “10 USC 10101 note.”.

(2) Section 535(b) (119 Stat. 3249; 10 U.S.C. 2101 note) is amended by inserting “of” after “Committee on Armed Services” the first place it appears.

(3) Section 1056(e)(2) (119 Stat. 3440) is amended by striking “Section” and inserting “Effective as of December 2, 2002, and as if included in Public Law 107-314 as enacted, section”.

(4) Section 1057 (119 Stat. 3440) is amended—

(A) in subsection (a)—
(i) in paragraph (5), by striking “4778,”; and
(ii) in paragraph (6), by striking “4747” and inserting “2651”;

(B) in subsection (b)(3)—
(i) by striking “109,”; and

(ii) by adding at the end the following new sentence: “Section 109 is amended by striking ‘State or Territory, Puerto Rico, the Virgin Islands, or the District of Columbia’ each place it appears and inserting ‘State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands’”; and

(C) in subsection (b)(5)—

(i) in the language to be struck from section 324 of title 32, United States Code, by striking the comma after “Rico”; and

(ii) in the language to be inserted in section 324 of title 32, United States Code, by inserting “of” after “Virgin Islands,”.

(5) Section 1104 (119 Stat. 3448) is amended—

(A) in subsection (a)(3)(A), by inserting “the first place it appears” before “and inserting”; and

(B) in subsection (c), by striking “subsection (c)(1)” and inserting “subsection (b)(2)”.

(6) Section 2806(c)(2)(A) (119 Stat. 3507) is amended in the matter to be struck from and inserted in section 2884(b)(1) of title 10, United States Code, by striking “a” both places it appears and inserting “A”.

(i) RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005.—The Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) is amended as follows:

(1) Section 577(b)(12) (10 U.S.C. 113 note), as amended by section 563(e) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4471) is amended by striking “The Secretary shall implement” and inserting “Implementation of”.

(2) Section 1085 (118 Stat. 2065; 10 U.S.C. 113 note), as amended by section 360(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 78) is amended by striking “subsection (a)” and inserting “section 360(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 77)”.

(j) BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003.—Section 1032(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 10 U.S.C. 2358 note) is amended by striking “thereafter,” and inserting “thereafter,”.

(k) WEAPON SYSTEMS ACQUISITION REFORM ACT OF 2009.—Effective as of May 22, 2009, and as if included therein as enacted, section 205 of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111-23; 123 Stat. 1724) is amended—

(1) in subsection (a)(1)(B), by striking “paragraphs (1) and (2)” in the matter to be inserted and inserting “paragraphs (1), (2), and (3)”;

(2) in subsection (c), by striking “2433a(c)(3)” and inserting “2433a(c)(1)(C)”.

(l) TECHNICAL CORRECTION REGARDING SBIR EXTENSION.—Section 9(m)(2) of the Small Business Act (15 U.S.C. 638(m)(2)), as added by section 847(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2420), is amended by striking “is authorized” and inserting “are authorized”.

(m) TECHNICAL CORRECTION REGARDING SMALL SHIPYARDS AND MARITIME COMMUNITIES ASSISTANCE PROGRAM.—Section 3506 of the National Defense Authorization Act for Fiscal Year 2006, as reinstated by the amendment made by section 1073(c)(14) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2475), is repealed.

(n) TECHNICAL CORRECTION REGARDING DOT MARITIME HERITAGE PROPERTY.—Section 6(a)(1)(C) of the National Maritime Heritage Act of 1994 (16 U.S.C. 5405(a)(1)(C)), as amended by section 3509 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2721), is amended by striking “the date of enactment of the Maritime Administration Authorization Act of 2010” and inserting “October 28, 2009”.

(o) TECHNICAL CORRECTION OF CITATION.—Section 42 of the Office of Federal Procurement Policy Act (41 U.S.C. 438) is amended—

(1) in subsection (c)(1) by striking “(41 U.S.C. 607(b))” and inserting “(41 U.S.C. 607(d))”; and

(2) in subsection (c)(2)(A) by inserting “of 1978” after “Contract Disputes Act”.

SEC. 1076. STUDY ON OPTIMAL BALANCE OF MANNED AND REMOTELY PILOTED AIRCRAFT.

(a) STUDY.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall commission a study by an independent, non-profit organization on the optimal balance between manned and remotely piloted aircraft of the Armed Forces.

(2) SELECTION.—The independent, non-profit organization selected for the study under paragraph (1) shall be qualified on the basis of having performed work in the fields of national security and combat systems.

(b) MATTERS INCLUDED.—The study under subsection (a) shall include the following:

(1) With respect to each military department, an assessment of the feasibility and desirability of a more rapid transition from manned to remotely piloted aircraft for a

range of operations, including combat operations.

(2) An evaluation of the current ability of each military department to resist attacks mounted by foreign militaries with significant investments in research and development and deployment of remotely piloted aircraft, including an assessment of each military department's ability to defend against—

(A) a large enemy force of remotely piloted aircraft; and

(B) any other relevant scenario involving remotely piloted aircraft that the Secretary determines appropriate.

(3) An analysis of—

(A) current and future capabilities of foreign militaries in developing and deploying remotely piloted aircraft; and

(B) identified vulnerabilities of United States weapons systems to foreign remotely piloted aircraft.

(4) Conclusions on the matters described in paragraphs (1) through (3) and what the independent, non-profit organization conducting the study determines is the optimal balance of investment in development and deployment of manned versus remotely piloted aircraft.

(c) REPORT.—Not later than December 1, 2011, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report that includes the study under subsection (a).

(d) FORM.—

(1) STUDY.—The study under subsection (a) shall include a classified annex with respect to the matters described in subsection (b)(3).

(2) REPORT.—The report under subsection (c) may include a classified annex.

(e) REMOTELY PILOTED AIRCRAFT DEFINED.—In this section, the term “remotely piloted aircraft” means any unmanned aircraft operated remotely, whether within or beyond line-of-sight, including unmanned aerial systems, unmanned aerial vehicles, remotely piloted vehicles, and remotely piloted aircraft.

SEC. 1077. TREATMENT OF SUCCESSOR CONTINGENCY OPERATION TO OPERATION IRAQI FREEDOM.

Any law applicable to Operation Iraqi Freedom shall apply in the same manner and to the same extent to the successor contingency operation known as Operation New Dawn, except as specifically provided in this Act, any amendment made by this Act, or any other law enacted after the date of the enactment of this Act.

SEC. 1078. PROGRAM TO ASSESS THE UTILITY OF NON-LETHAL WEAPONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should support the research, development, test, and evaluation, procurement, and fielding of effective non-lethal weapons and technologies explicitly designed to, with respect to counterinsurgency operations, reduce military casualties and fatalities, improve military mission accomplishment and operational effectiveness, reduce civilian casualties and fatalities, and minimize undesired damage to property and the environment.

(b) PROGRAM REQUIRED.—

(1) DEMONSTRATION AND ASSESSMENT.—The Secretary of Defense, acting through the Executive Agent for Non-lethal Weapons and in coordination with the Secretaries of the military departments and the combatant commanders, shall carry out a program to demonstrate and assess the utility and effec-

tiveness of non-lethal weapons to provide escalation of force options in counter-insurgency operations.

(2) NON-LETHAL WEAPONS EVALUATED.—In evaluating non-lethal weapons under the program under this subsection, the Secretary shall include non-lethal weapons designed for counter-personnel and counter-materiel missions.

(c) REPORT.—

(1) REPORT REQUIRED.—Not later than October 1, 2011, the Secretary of Defense shall submit to the congressional defense committees a report on the role and utility of non-lethal weapons and technologies in counter-insurgency operations.

(2) ELEMENTS.—The report under paragraph (1) shall include the following:

(A) A description of the results of any demonstrations and assessments of non-lethal weapons conducted during fiscal year 2011.

(B) A description of the Secretary's plans for any demonstrations and assessments of non-lethal weapons to be conducted during fiscal years 2012 and 2013.

(C) A description of the extent to which non-lethal weapons doctrine, training, and employment include the use of strategic communications strategies to enable the effective employment of non-lethal weapons.

(D) A description of the input of the military departments in developing concepts of operations and tactics, techniques, and procedures for incorporating non-lethal weapons into the current escalation of force procedures of each department.

(E) A description of the extent to which non-lethal weapons and technologies are integrated into the standard equipment and training of military units.

SEC. 1079. SENSE OF CONGRESS ON STRATEGIC NUCLEAR FORCE REDUCTIONS.

It is the sense of Congress that no action should be taken to implement the reduction of the strategic nuclear forces of the United States below the levels described in the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms signed on April 8, 2010 (commonly known as the “New START Treaty”), unless the President submits to the congressional defense committees a report on such reduction, including—

(1) the justification for such reduction;

(2) an assessment of the strategic environment, threat, and policy and the technical and operational implications of such reduction; and

(3) written certification by the President that—

(A) either—

(i) the strategic environment or the assessment of the threat allows for such reduction; or

(ii) technical measures to provide a commensurate or better level of safety, security, and reliability as before such reduction have been implemented for the remaining strategic nuclear forces of the United States;

(B) the remaining strategic nuclear forces of the United States provide a sufficient means of protection against unforeseen technical challenges and geopolitical events;

(C) such reduction is compensated by other measures (such as nuclear modernization, conventional forces, and missile defense) that together provide a commensurate or better deterrence capability and level of credibility as before such reduction; and

(D) measures to modernize the nuclear weapons complex are being implemented (or have been implemented) to provide a sufficiently responsive infrastructure to support

the remaining strategic nuclear forces of the United States.

TITLE XI—CIVILIAN PERSONNEL MATTERS

- Sec. 1101. Clarification of authorities at personnel demonstration laboratories.
- Sec. 1102. Requirements for Department of Defense senior mentors.
- Sec. 1103. One-year extension of authority to waive annual limitation on premium pay and aggregate limitation on pay for Federal civilian employees working overseas.
- Sec. 1104. Extension and modification of enhanced Department of Defense appointment and compensation authority for personnel for care and treatment of wounded and injured members of the Armed Forces.
- Sec. 1105. Rate of overtime pay for Department of the Navy employees performing work aboard or dockside in support of the nuclear aircraft carrier forward deployed in Japan.

SEC. 1101. CLARIFICATION OF AUTHORITIES AT PERSONNEL DEMONSTRATION LABORATORIES.

(a) CLARIFICATION OF APPLICABILITY OF DIRECT HIRE AUTHORITY.—Section 1108 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4618; 10 U.S.C. 1580 note) is amended—

(1) in subsection (b), by striking “identified” and all that follows and inserting “designated by section 1105(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2486; 10 U.S.C. 2358 note) as a Department of Defense science and technology reinvention laboratory.”; and

(2) in subsection (c), by striking “2 percent” and inserting “5 percent”.

(b) CLARIFICATION OF APPLICABILITY OF FULL IMPLEMENTATION REQUIREMENT.—Section 1107 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat 357; 10 U.S.C. 2358 note) is amended—

(1) in subsection (a), by striking “that are exempted by” and all that follows and inserting “designated by section 1105(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2486; 10 U.S.C. 2358 note) as Department of Defense science and technology reinvention laboratories.”; and

(2) in subsection (c), by striking “as enumerated in” and all that follows and inserting “designated by section 1105(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat 2486) as a Department of Defense science and technology reinvention laboratory.”.

(c) CORRECTION TO SECTION REFERENCE.—Section 1121 of the National Defense Authorization Act for Fiscal Year 2010 (123 Stat. 2505) is amended—

(1) in subsection (a), by striking “Section 9902(h) of title 5, United States Code” and inserting “Section 9902(g) of title 5, United States Code, as redesignated by section 1113(b)(1)(B)”;

(2) in subsection (b), by striking “section 9902(h) of such title 5” and inserting “such section”.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect as of October 28, 2009.

(2) The amendment made by subsection (a)(2) shall take effect as of the date of enactment of this Act.

SEC. 1102. REQUIREMENTS FOR DEPARTMENT OF DEFENSE SENIOR MENTORS.

(a) IN GENERAL.—The Secretary of Defense shall issue appropriate policies and procedures to ensure that all senior mentors employed by the Department of Defense are—

(1) hired as highly qualified experts under section 9903 of title 5, United States Code; and

(2) required to comply with all applicable Federal laws and regulations on personnel and ethics matters.

(b) SENIOR MENTOR DEFINED.—In this section, the term “senior mentor” means a retired flag, general, or other military officer or retired senior civilian official who provides expert experience-based mentoring, teaching, training, advice, and recommendations to senior military officers, staffs, and students as they participate in war games, warfighting courses, operational planning, operational exercises, and decision-making exercises.

SEC. 1103. ONE-YEAR EXTENSION OF AUTHORITY TO WAIVE ANNUAL LIMITATION ON PREMIUM PAY AND AGGREGATE LIMITATION ON PAY FOR FEDERAL CIVILIAN EMPLOYEES WORKING OVERSEAS.

Effective January 1, 2011, section 1101(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4615), as amended by section 1106(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2487), is further amended by striking “calendar years 2009 and 2010” and inserting “calendar years 2009 through 2011”.

SEC. 1104. EXTENSION AND MODIFICATION OF ENHANCED DEPARTMENT OF DEFENSE APPOINTMENT AND COMPENSATION AUTHORITY FOR PERSONNEL FOR CARE AND TREATMENT OF WOUNDED AND INJURED MEMBERS OF THE ARMED FORCES.

(a) DESIGNATION OF OCCUPATIONS COVERED BY RECRUITMENT AND APPOINTMENT AUTHORITY.—Subsection (a)(2) of section 1599c of title 10, United States Code, is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking “shortage category positions” and inserting “a shortage category occupation or critical need occupation”; and

(B) in clause (ii), by striking “highly qualified persons directly” and inserting “qualified persons directly in the competitive service”; and

(2) by adding at the end the following new subparagraph:

“(C) Any designation by the Secretary for purposes of subparagraph (A)(i) shall be based on an analysis of current and future Department of Defense workforce requirements.”.

(b) EXTENSION.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by inserting “under subsection (a)(1)” after “Secretary of Defense”; and

(B) by striking “September 30, 2012” and inserting “December 31, 2015”; and

(2) in paragraph (2), by striking “September 30, 2012” and inserting “December 31, 2015”.

SEC. 1105. RATE OF OVERTIME PAY FOR DEPARTMENT OF THE NAVY EMPLOYEES PERFORMING WORK ABOARD OR DOCKSIDE IN SUPPORT OF THE NUCLEAR AIRCRAFT CARRIER FORWARD DEPLOYED IN JAPAN.

(a) OVERTIME PAY AT TIME-AND-A-HALF RATE.—Section 5542(a) of title 5, United

States Code, is amended by adding at the end the following new paragraph:

“(6)(A) Notwithstanding paragraphs (1) and (2), for an employee of the Department of the Navy who is assigned to temporary duty to perform work aboard, or dockside in direct support of, the nuclear aircraft carrier that is forward deployed in Japan and who would be nonexempt under the Fair Labor Standards Act but for the application of the foreign area exemption in section 13(f) of that Act (29 U.S.C. 213(f)), the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

“(B) Subparagraph (A) shall expire on September 30, 2014.”.

(b) REPORTS.—

(1) SECRETARY OF NAVY REPORT.—Not later than September 30, 2013, the Secretary of the Navy shall submit to the Secretary of Defense and the Director of the Office of Personnel Management a report that—

(A) describes the use of the authority under paragraph (6) of section 5542(a) of title 5, United States Code, as added by subsection (a), including associated costs, and including an evaluation of the extent to which exercise of the authority helped the Navy in meeting its mission; and

(B) provides a recommendation on whether an extension of the provisions of that paragraph is needed.

(2) REPORT TO CONGRESS.—Not later than March 31, 2014, the Director of the Office of Personnel Management shall submit to the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Armed Services and the Committee on Oversight and Governmental Reform of the House of Representatives a report that—

(A) addresses the use of paragraph (6) of section 5542(a) of title 5, United States Code, as so added, including associated costs, and including an evaluation of the extent to which exercise of the authority helped the Navy in meeting its mission;

(B) describes the extent to which other employees experience the same circumstances as were experienced by those described in that paragraph before its enactment;

(C) provides an analysis of the advantages and disadvantages that would be anticipated from extending the expiration date of the authority under that paragraph, and from expanding the authority under that paragraph to include other employees; and

(D) conveys the report of the Secretary of the Navy referred to in paragraph (1).

TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

Subtitle A—Assistance and Training

- Sec. 1201. Expansion of authority for support of special operations to combat terrorism.
- Sec. 1202. Addition of allied government agencies to enhanced logistics interoperability authority.
- Sec. 1203. Expansion of temporary authority to use acquisition and cross-servicing agreements to lend certain military equipment to certain foreign forces for personnel protection and survivability.
- Sec. 1204. Authority to pay personnel expenses in connection with African cooperation.
- Sec. 1205. Authority to build the capacity of Yemen Ministry of Interior Counter Terrorism Forces.

Sec. 1206. Air Force scholarships for Partnership for Peace nations to participate in the Euro-NATO Joint Jet Pilot Training program.

Sec. 1207. Modification and extension of authorities relating to program to build the capacity of foreign military forces.

Subtitle B—Matters Relating to Iraq, Afghanistan, and Pakistan

Sec. 1211. Limitation on availability of funds for certain purposes relating to Iraq.

Sec. 1212. One-year extension and modification of Commanders' Emergency Response Program.

Sec. 1213. Extension of authority for reimbursement of certain coalition nations for support provided to United States military operations.

Sec. 1214. Extension of authority to transfer defense articles and provide defense services to the military and security forces of Iraq and Afghanistan.

Sec. 1215. No permanent military bases in Afghanistan.

Sec. 1216. Authority to use funds for reintegration activities in Afghanistan.

Sec. 1217. Authority to establish a program to develop and carry out infrastructure projects in Afghanistan.

Sec. 1218. Extension of logistical support for coalition forces supporting operations in Iraq and Afghanistan.

Sec. 1219. Recommendations on oversight of contractors engaged in activities relating to Afghanistan.

Sec. 1220. Extension and modification of Pakistan Counterinsurgency Fund.

Subtitle C—Reports and Other Matters

Sec. 1231. One-year extension of report on progress toward security and stability in Afghanistan.

Sec. 1232. Two-year extension of United States plan for sustaining the Afghanistan National Security Forces.

Sec. 1233. Modification of report on responsible redeployment of United States Armed Forces from Iraq.

Sec. 1234. Report on Department of Defense support for coalition operations.

Sec. 1235. Reports on police training programs.

Sec. 1236. Report on certain Iraqis affiliated with the United States.

Sec. 1237. Report on Department of Defense's plans to reform the export control system.

Sec. 1238. Report on United States efforts to defend against threats posed by the anti-access and area-denial capabilities of certain nation-states.

Sec. 1239. Defense Science Board report on Department of Defense strategy to counter violent extremism outside the United States.

Sec. 1240. Report on merits of an Incidents at Sea agreement between the United States, Iran, and certain other countries.

Sec. 1241. Requirement to monitor and evaluate Department of Defense activities to counter violent extremism in Africa.

Sec. 1242. NATO Special Operations Headquarters.

Sec. 1243. National Military Strategy to Counter Iran and required briefings.

Subtitle A—Assistance and Training

SEC. 1201. EXPANSION OF AUTHORITY FOR SUPPORT OF SPECIAL OPERATIONS TO COMBAT TERRORISM.

Section 1208(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2086), as most recently amended by section 1202(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2511), is further amended by striking “\$40,000,000” and inserting “\$45,000,000”.

SEC. 1202. ADDITION OF ALLIED GOVERNMENT AGENCIES TO ENHANCED LOGISTICS INTEROPERABILITY AUTHORITY.

(a) ENHANCED INTEROPERABILITY AUTHORITY.—Subsection (a) of section 127d of title 10, United States Code, is amended—

(1) by inserting “(1)” before “Subject to”;
(2) by inserting “of the United States” after “armed forces”;

(3) by striking the second sentence; and
(4) by adding at the end the following new paragraphs:

“(2) In addition to any logistic support, supplies, and services provided under paragraph (1), the Secretary may provide logistic support, supplies, and services to allied forces solely for the purpose of enhancing the interoperability of the logistical support systems of military forces participating in combined operations with the United States in order to facilitate such operations. Such logistic support, supplies, and services may also be provided under this paragraph to a nonmilitary logistics, security, or similar agency of an allied government if such provision would directly benefit the armed forces of the United States.
“(3) Provision of support, supplies, and services pursuant to paragraph (1) or (2) may be made only with the concurrence of the Secretary of State.”

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (b), by striking “subsection (a)” in paragraphs (1) and (2) and inserting “subsection (a)(1)”; and
(2) in subsection (c)—

(A) in paragraph (1)—
(i) by striking “Except as provided in paragraph (2), the” and inserting “The”; and
(ii) by striking “this section” and inserting “subsection (a)(1)”; and
(B) in paragraph (2), by striking “In addition” and all that follows through “fiscal year,” and inserting “The value of the logistic support, supplies, and services provided under subsection (a)(2) in any fiscal year may not”.

SEC. 1203. EXPANSION OF TEMPORARY AUTHORITY TO USE ACQUISITION AND CROSS-SERVICING AGREEMENTS TO LEND CERTAIN MILITARY EQUIPMENT TO CERTAIN FOREIGN FORCES FOR PERSONNEL PROTECTION AND SURVIVABILITY.

(a) EXPANSION FOR TRAINING FOR DEPLOYMENT.—Paragraph (3) of section 1202(a) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2412), as most recently amended by section 1252(a) of the National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-181; 122 Stat. 402), is further amended—

(1) by striking “only in Iraq or Afghanistan, or in a peacekeeping operation described in paragraph (1), as applicable, and”; and

(2) by striking “those forces.” and inserting “those forces and only—

“(A) in Iraq or Afghanistan;

“(B) in a peacekeeping operation described in paragraph (1); or

“(C) in connection with the training of those forces to be deployed to Iraq, Afghanistan, or a peacekeeping operation described in paragraph (1) for such deployment.”.

(b) NOTICE AND WAIT ON EXERCISE OF ADDITIONAL AUTHORITY.—Such section is further amended by adding at the end the following new paragraph:

“(5) NOTICE AND WAIT ON PROVISION OF EQUIPMENT FOR CERTAIN PURPOSES.—Equipment may not be provided under paragraph (1) in connection with training as specified in paragraph (3)(C) until 15 days after the date on which the Secretary of Defense submits to the specified congressional committees written notice on the provision of such equipment for such purpose.”.

SEC. 1204. AUTHORITY TO PAY PERSONNEL EXPENSES IN CONNECTION WITH AFRICAN COOPERATION.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1050 the following new section:

“§ 1050a. African cooperation: payment of personnel expenses

“The Secretary of Defense or the Secretary of a military department may pay the travel, subsistence, and special compensation of officers and students of African countries and other expenses that the Secretary considers necessary for African cooperation.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by inserting after the item relating to section 1050 the following new item:

“1050a. African cooperation: payment of personnel expenses.”.

SEC. 1205. AUTHORITY TO BUILD THE CAPACITY OF YEMEN MINISTRY OF INTERIOR COUNTER TERRORISM FORCES.

(a) AUTHORITY.—The Secretary of Defense may, with the concurrence of the Secretary of State, provide assistance during fiscal year 2011 to enhance the ability of the Yemen Ministry of Interior Counter Terrorism Forces to conduct counterterrorism operations against al Qaeda in the Arabian Peninsula and its affiliates.

(b) TYPES OF ASSISTANCE.—

(1) AUTHORIZED ELEMENTS.—Assistance under subsection (a) may include the provision of equipment, supplies, and training.

(2) REQUIRED ELEMENTS.—Assistance under subsection (a) shall be provided in a manner that promotes—

(A) observance of and respect for human rights and fundamental freedoms; and

(B) respect for legitimate civilian authority in Yemen.

(3) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—The Secretary of Defense may not use the authority in subsection (a) to provide any type of assistance described in this subsection that is otherwise prohibited by any provision of law.

(c) FUNDING.—Of the amount authorized to be appropriated by section 301 for operation and maintenance for fiscal year 2011, \$75,000,000 may be utilized to provide assistance under subsection (a).

(d) NOTICE TO CONGRESS.—

(1) IN GENERAL.—Not less than 15 days before providing assistance under subsection (a), the Secretary of Defense shall submit to the committees of Congress specified in paragraph (2) a notice setting forth the assistance to be provided, including the types

of such assistance, the budget for such assistance, and the completion date for the provision of such assistance.

(2) COMMITTEES OF CONGRESS.—The committees of Congress specified in this paragraph are—

(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

SEC. 1206. AIR FORCE SCHOLARSHIPS FOR PARTNERSHIP FOR PEACE NATIONS TO PARTICIPATE IN THE EURO-NATO JOINT JET PILOT TRAINING PROGRAM.

(a) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Secretary of the Air Force may establish and maintain a demonstration scholarship program to allow personnel of the air forces of countries that are signatories of the Partnership for Peace Framework Document to receive undergraduate pilot training and necessary related training through the Euro-NATO Joint Jet Pilot Training (ENJJPT) program. The Secretary of the Air Force shall establish the program pursuant to regulations prescribed by the Secretary of Defense in consultation with the Secretary of State.

(b) TRANSPORTATION, SUPPLIES, AND ALLOWANCE.—Under such conditions as the Secretary of the Air Force may prescribe, the Secretary may provide to a person receiving a scholarship under the scholarship program—

(1) transportation incident to the training received under the ENJJPT program;

(2) supplies and equipment to be used during the training;

(3) flight clothing and other special clothing required for the training;

(4) billeting, food, and health services; and

(5) a living allowance at a rate to be prescribed by the Secretary, taking into account the amount of living allowances authorized for a member of the Armed Forces of the United States under similar circumstances.

(c) RELATION TO EURO-NATO JOINT JET PILOT TRAINING PROGRAM.—

(1) ENJJPT STEERING COMMITTEE AUTHORITY.—Nothing in this section shall be construed or interpreted to supersede the authority of the ENJJPT Steering Committee under the ENJJPT Memorandum of Understanding. Pursuant to the ENJJPT Memorandum of Understanding, the ENJJPT Steering Committee may resolve to forbid any airman or airmen from a Partnership for Peace nation to participate in the Euro-NATO Joint Jet Pilot Training program under the authority of a scholarship under this section.

(2) NO REPRESENTATION.—Countries whose air force personnel receive scholarships under the scholarship program shall not have privilege of ENJJPT Steering Committee representation.

(d) LIMITATION ON ELIGIBLE COUNTRIES.—The Secretary of the Air Force may not use the authority in subsection (a) to provide assistance described in subsection (b) to any foreign country that is otherwise prohibited from receiving such type of assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or any other provision of law.

(e) COST-SHARING.—For purposes of ENJJPT cost-sharing, personnel of an air force of a foreign country who receive a scholarship under the scholarship program may be counted as United States pilots.

(f) PROGRESS REPORT.—Not later than February 1, 2012, the Secretary of the Air Force shall submit to the congressional defense committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate a report on the status of the demonstration program, including the opinion of the Secretary and NATO allies on the benefits of the program and whether or not to permanently authorize the program or extend the program beyond fiscal year 2012. The report shall specify the following:

(1) The countries participating in the scholarship program.

(2) The total number of foreign pilots who received scholarships under the scholarship program.

(3) The amount expended on scholarships under the scholarship program.

(4) The source of funding for scholarships under the scholarship program.

(g) DURATION.—No scholarship may be awarded under the scholarship program after September 30, 2012.

(h) FUNDING SOURCE.—Amounts to award scholarships under the scholarship program shall be derived from amounts authorized to be appropriated for operation and maintenance for the Air Force.

SEC. 1207. MODIFICATION AND EXTENSION OF AUTHORITIES RELATING TO PROGRAM TO BUILD THE CAPACITY OF FOREIGN MILITARY FORCES.

(a) TEMPORARY LIMITATION ON AMOUNT FOR BUILDING CAPACITY TO PARTICIPATE IN OR SUPPORT MILITARY AND STABILITY OPERATIONS.—

(1) IN GENERAL.—Subsection (c)(5) of section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3456), as added by section 1206(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2514), is further amended—

(A) by striking “and not more than” and inserting “not more than”; and

(B) by inserting after “fiscal year 2011” the following: “, and not more than \$100,000,000 may be used during fiscal year 2012”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply with respect to programs under subsection (a) of such section that begin on or after that date.

(b) ONE-YEAR EXTENSION OF AUTHORITY.—Subsection (g) of such section, as most recently amended by section 1206(c) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4625), is further amended by—

(1) by striking “September 30, 2011” and inserting “September 30, 2012”; and

(2) by striking “fiscal years 2006 through 2011” and inserting “fiscal years 2006 through 2012”.

Subtitle B—Matters Relating to Iraq, Afghanistan, and Pakistan

SEC. 1211. LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN PURPOSES RELATING TO IRAQ.

No funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control of the oil resources of Iraq.

SEC. 1212. ONE-YEAR EXTENSION AND MODIFICATION OF COMMANDERS' EMERGENCY RESPONSE PROGRAM.

(a) ONE-YEAR EXTENSION OF CERP AUTHORITY.—Subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3455), as most recently amended by section 1222 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2518), is further amended—

(1) in the subsection heading, by striking “FISCAL YEAR 2010” and inserting “FISCAL YEAR 2011”; and

(2) by striking “fiscal year 2010” and inserting “fiscal year 2011”; and

(3) by striking “operation and maintenance” and all that follows and inserting “operation and maintenance—

“(1) not to exceed \$100,000,000 may be used by the Secretary of Defense in such fiscal year to provide funds for the Commanders' Emergency Response Program in Iraq; and

“(2) not to exceed \$400,000,000 may be used by the Secretary of Defense in such fiscal year to provide funds for the Commanders' Emergency Response Program in Afghanistan.”

(b) QUARTERLY REPORTS.—Subsection (a) of such section, as so amended, is further amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) FORM OF REPORTS.—Each report required under paragraph (1) shall be submitted, at a minimum, in a searchable electronic format that enables the congressional defense committees to sort the report by amount expended, location of each project, type of project, or any other field of data that is included in the report.”

(c) RESTRICTION ON AMOUNT OF PAYMENTS; NOTIFICATION.—Such section, as so amended, is further amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsections:

“(g) RESTRICTION ON AMOUNT OF PAYMENTS.—Funds made available under this section for the Commanders' Emergency Response Program may not be obligated or expended to carry out any project if the total amount of funds made available for the purpose of carrying out the project, including any ancillary or related elements of the project, exceeds \$20,000,000.

“(h) NOTIFICATION.—Not less than 15 days before obligating or expending funds made available under this section for the Commanders' Emergency Response Program for a project in Afghanistan with a total anticipated cost of \$5,000,000 or more, the Secretary of Defense shall submit to the congressional defense committees a written notice containing the following information:

“(1) The location, nature, and purpose of the proposed project, including how the project is intended to advance the military campaign plan for Afghanistan.

“(2) The budget and implementation timeline for the proposed project, including any other funding under the Commanders' Emergency Response Program that has been or is anticipated to be contributed to the completion of the project.

“(3) A plan for the sustainment of the proposed project, including any agreement with either the Government of Afghanistan, a department or agency of the United States Government other than the Department of Defense, or a third party contributor to finance the sustainment of the activities and

maintenance of any equipment or facilities to be provided through the proposed project”.

(d) **DEFINITION.**—Subsection (i) of such section, as redesignated by subsection (c)(1) of this section, is amended by striking “means the program” and all that follows and inserting “means the program that—

“(1) authorizes United States military commanders to carry out small-scale projects designed to meet urgent humanitarian relief requirements or urgent reconstruction requirements within their areas of responsibility; and

“(2) provides an immediate and direct benefit to the people of Iraq or Afghanistan.”.

SEC. 1213. EXTENSION OF AUTHORITY FOR REIMBURSEMENT OF CERTAIN COALITION NATIONS FOR SUPPORT PROVIDED TO UNITED STATES MILITARY OPERATIONS.

(a) **EXTENSION OF AUTHORITY.**—Subsection (a) of section 1233 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 393), as amended by section 1223 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2519), is further amended by striking “section 1509(5) of the National Defense Authorization Act for Fiscal Year 2010” and inserting “section 1510 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011”.

(b) **LIMITATION ON AMOUNT.**—Subsection (d)(1) of such section, as so amended, is further amended in the second sentence by inserting “or 2011” after “fiscal year 2010”.

(c) **EXCEPTION FROM NOTICE TO CONGRESS REQUIREMENTS.**—Subsection (e) of such section, as so amended, is further amended—

(1) by striking “(e) NOTICE TO CONGRESS.—The Secretary of Defense” and inserting the following:

“(e) NOTICE TO CONGRESS.—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the Secretary of Defense”; and

(2) by adding at the end the following new paragraph:

“(2) **EXCEPTION.**—The requirement to provide notice under paragraph (1) shall not apply with respect to a reimbursement for access based on an international agreement.”.

(d) **EXTENSION OF NOTICE REQUIREMENT RELATING TO REIMBURSEMENT OF PAKISTAN FOR SUPPORT PROVIDED BY PAKISTAN.**—Section 1232(b)(6) of the National Defense Authorization Act for Fiscal Year 2008 (122 Stat. 393), as most recently amended by section 1223 of the National Defense Authorization Act for Fiscal Year 2010, is further amended by striking “September 30, 2011” and inserting “September 30, 2012”.

SEC. 1214. EXTENSION OF AUTHORITY TO TRANSFER DEFENSE ARTICLES AND PROVIDE DEFENSE SERVICES TO THE MILITARY AND SECURITY FORCES OF IRAQ AND AFGHANISTAN.

(a) **EXTENSION OF AUTHORITY.**—Subsection (h) of section 1234 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2532) is amended by striking “September 30, 2010” and inserting “December 31, 2011”.

(b) **QUARTERLY REPORTS.**—Subsection (f)(1) of such section is amended by striking “during fiscal year 2010” and inserting “through March 31, 2012”.

SEC. 1215. NO PERMANENT MILITARY BASES IN AFGHANISTAN.

None of the funds authorized to be appropriated by this Act may be obligated or expended by the United States Government to establish any military installation or base for the purpose of providing for the perma-

nent stationing of United States Armed Forces in Afghanistan.

SEC. 1216. AUTHORITY TO USE FUNDS FOR RE-INTEGRATION ACTIVITIES IN AFGHANISTAN.

(a) **AUTHORITY.**—The Secretary of Defense, with the concurrence of the Secretary of State, may utilize not more than \$50,000,000 from funds made available to the Department of Defense for operation and maintenance for fiscal year 2011 to support the reintegration into Afghan society of those individuals who pledge—

(1) to cease all support for the insurgency in Afghanistan;

(2) to live in accordance with the Constitution of Afghanistan;

(3) to cease violence against the Government of Afghanistan and its international partners; and

(4) that they do not have material ties to al Qaeda or affiliated transnational terrorist organizations.

(b) **SUBMISSION OF GUIDANCE.**—

(1) **INITIAL SUBMISSION.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a copy of the guidance issued by the Secretary or the Secretary’s designee concerning the allocation of funds utilizing the authority of subsection (a). Such guidance shall include—

(A) mechanisms for coordination with the Government of Afghanistan and other United States Government departments and agencies as appropriate; and

(B) mechanisms to track rates of recidivism among individuals described in subsection (a).

(2) **MODIFICATIONS.**—If the guidance in effect for the purpose stated in paragraph (1) is modified, the Secretary of Defense shall submit to the congressional defense committees a copy of the modification not later than 15 days after the date on which such modification is made.

(c) **REPORTS.**—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter, the Secretary of Defense shall submit to the appropriate congressional committees a report on activities carried out utilizing the authority of subsection (a).

(d) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the congressional defense committees; and

(2) the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(e) **EXPIRATION.**—The authority to utilize funds under subsection (a) shall expire at the close of December 31, 2011.

SEC. 1217. AUTHORITY TO ESTABLISH A PROGRAM TO DEVELOP AND CARRY OUT INFRASTRUCTURE PROJECTS IN AFGHANISTAN.

(a) **AUTHORITY.**—The Secretary of Defense and the Secretary of State are authorized to establish a program to develop and carry out infrastructure projects in Afghanistan in accordance with the requirements of this section.

(b) **FORMULATION AND EXECUTION OF PROGRAM.**—

(1) **IN GENERAL.**—The Secretary of State and the Secretary of Defense shall jointly develop any project under the program authorized under subsection (a). Except as provided in paragraph (2), the Secretary of State, in coordination with the Secretary of Defense, shall implement any project under the program authorized under subsection (a).

(2) **EXCEPTION.**—The Secretary of Defense shall implement a project under the program authorized under subsection (a) if the Secretary of Defense and the Secretary of State jointly determine that the Secretary of Defense should implement the project.

(c) **TYPES OF PROJECTS.**—Infrastructure projects under the program authorized under subsection (a) may include—

(1) water, power, and transportation projects; and

(2) other projects in support of the counterinsurgency strategy in Afghanistan.

(d) **AUTHORITY IN ADDITION TO OTHER AUTHORITIES.**—The authority to establish the program and develop and carry out infrastructure projects under subsection (a) is in addition to any other authority to provide assistance to foreign countries.

(e) **APPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.**—

(1) **IN GENERAL.**—The administrative provisions of chapter 2 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2381 et seq.) shall apply to funds made available to the Secretary of State for purposes of carrying out infrastructure projects under the program authorized under subsection (a) to the same extent and in the same manner as such administrative provisions apply to funds made available to carry out part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.).

(2) **GIFTS, ETC.**—The Secretary of Defense and the Secretary of State may accept and use in furtherance of the purposes of this section, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purposes.

(f) **FUNDING.**—

(1) **IN GENERAL.**—The Secretary of Defense may use up to \$400,000,000 of funds made available to the Department of Defense for operation and maintenance for fiscal year 2011 to carry out the program authorized under subsection (a).

(2) **AVAILABILITY.**—Funds made available by paragraph (1) are authorized to remain available until September 30, 2012.

(g) **CONGRESSIONAL NOTIFICATION.**—The Secretary of Defense shall notify the appropriate congressional committees not less than 30 days before obligating or expending funds to carry out a project or transferring funds to the Secretary of State for the purpose of implementing a project under the program authorized under subsection (a). Such notification shall be in writing and contain a description of the details of the proposed project, including—

(1) a plan for the sustainment of the project; and

(2) a description of how the project supports the counterinsurgency strategy in Afghanistan.

(h) **RETURN OF UNEXPENDED FUNDS.**—

(1) **IN GENERAL.**—Any unexpended funds transferred to the Secretary of State for the purpose of implementing a project under the program authorized under subsection (a) shall be returned to the Secretary of Defense if the Secretary of State, in coordination with the Secretary of Defense, determines that the project cannot be implemented for any reason or that the project no longer supports the counterinsurgency strategy in Afghanistan.

(2) **AVAILABILITY.**—Any funds returned to the Secretary of Defense under this subsection shall be available for use under this section and shall be treated in the same manner as funds not transferred to the Secretary of State.

(i) REPORTS.—

(1) REPORT REQUIRED.—Not later than 30 days after the end of each fiscal year in which funds are obligated, expended, or transferred under the program authorized under subsection (a), the Secretary of Defense, in coordination with the Secretary of State, shall submit to the appropriate congressional committees a report regarding implementation of the program during such fiscal year.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include the following:

(A) The allocation and use of funds under the program during the fiscal year.

(B) A description of each project for which funds were expended or transferred during the fiscal year.

(j) DEFINITION.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

(2) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

SEC. 1218. EXTENSION OF LOGISTICAL SUPPORT FOR COALITION FORCES SUPPORTING OPERATIONS IN IRAQ AND AFGHANISTAN.

Section 1234 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 394) is amended by striking “fiscal year 2008” each place it appears and inserting “fiscal year 2011”.

SEC. 1219. RECOMMENDATIONS ON OVERSIGHT OF CONTRACTORS ENGAGED IN ACTIVITIES RELATING TO AFGHANISTAN.

(a) RECOMMENDATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Special Inspector General for Afghanistan Reconstruction shall, in consultation with the Inspector General of the Department of Defense, the Inspector General of the United States Agency for International Development, and the Inspector General of the Department of State—

(1) issue recommendations on measures to increase oversight of contractors engaged in activities relating to Afghanistan;

(2) report on the status of efforts of the Department of Defense, the United States Agency for International Development, and the Department of State to implement existing recommendations regarding oversight of such contractors; and

(3) report on the extent to which military and security contractors or subcontractors engaged in activities relating to Afghanistan have been responsible for the deaths of Afghan civilians.

(b) ELEMENTS OF RECOMMENDATIONS.—The recommendations issued under subsection (a)(1) shall include recommendations for reducing the reliance of the United States on—

(1) military and security contractors or subcontractors engaged in activities relating to Afghanistan that have been responsible for the deaths of Afghan civilians; and

(2) Afghan militias or other armed groups that are not part of the Afghan National Security Forces.

SEC. 1220. EXTENSION AND MODIFICATION OF PAKISTAN COUNTERINSURGENCY FUND.

(a) EXTENSION.—Subsection (h) of section 1224 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2521) is amended by striking “September 30, 2010” both places it appears and inserting “September 30, 2011”.

(b) REQUIRED ELEMENTS OF ASSISTANCE.—Subsection (b) of such section is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2) REQUIRED ELEMENTS OF ASSISTANCE.— Assistance provided to the security forces of Pakistan under this section in a fiscal year after fiscal year 2010 shall be provided in a manner that promotes—

“(A) observance of and respect for human rights and fundamental freedoms; and

“(B) respect for legitimate civilian authority within Pakistan.”.

Subtitle C—Reports and Other Matters

SEC. 1231. ONE-YEAR EXTENSION OF REPORT ON PROGRESS TOWARD SECURITY AND STABILITY IN AFGHANISTAN.

Section 1230(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 385), as amended by section 1236 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-81; 123 Stat. 2535), is further amended by striking “2011” and inserting “2012”.

SEC. 1232. TWO-YEAR EXTENSION OF UNITED STATES PLAN FOR SUSTAINING THE AFGHANISTAN NATIONAL SECURITY FORCES.

Section 1231(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 390) is amended by striking “2010” and inserting “2012”.

SEC. 1233. MODIFICATION OF REPORT ON RESPONSIBLE REDEPLOYMENT OF UNITED STATES ARMED FORCES FROM IRAQ.

(a) REPORT REQUIRED.—Subsection (a) of section 1227 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2525; 50 U.S.C. 1541 note) is amended—

(1) by striking “December 31, 2009” and inserting “December 31, 2010”; and

(2) by striking “90 days thereafter” and inserting “180 days thereafter”.

(b) ELEMENTS.—Subsection (b) of such section is amended—

(1) in paragraph (5), by striking “Multi-National Force-Iraq” each place it occurs and inserting “United States Forces-Iraq”; and

(2) by adding at the end the following:

“(6) An assessment of progress to transfer responsibility of programs, projects, and activities carried out in Iraq by the Department of Defense to other United States Government departments and agencies, international or nongovernmental entities, or the Government of Iraq. The assessment should include a description of the numbers and categories of programs, projects, and activities for which such other entities have taken responsibility or which have been discontinued by the Department of Defense. The assessment should also include a discussion of any difficulties or barriers in transitioning such programs, projects, and activities and what, if any, solutions have been developed to address such difficulties or barriers.

“(7) An assessment of progress toward the goal of building the minimum essential capabilities of the Ministry of Defense and the Ministry of the Interior of Iraq, including a description of—

“(A) such capabilities both extant and remaining to be developed;

“(B) major equipment necessary to achieve such capabilities;

“(C) the level and type of support provided by the United States to address shortfalls in such capabilities; and

“(D) the level of commitment, both financial and political, made by the Government

of Iraq to develop such capabilities, including a discussion of resources used by the Government of Iraq to develop capabilities that the Secretary determines are not minimum essential capabilities for purposes of this paragraph.

“(8) A listing and assessment of the anticipated level and type of support to be provided by United States special operations forces to the Government of Iraq and Iraqi special operations forces during the redeployment of United States conventional forces from Iraq. The assessment should include a listing of anticipated critical support from general purpose forces required by United States special operations forces and Iraqi special operations forces. The assessment should also include combat support, including rotary aircraft and intelligence, surveillance, and reconnaissance assets, combat service support, and contractor support needed through December 31, 2011.”.

(c) SECRETARY OF STATE COMMENTS.—Such section is further amended by striking subsection (c) and inserting the following:

“(c) SECRETARY OF STATE COMMENTS.— Prior to submitting the report required under subsection (a), the Secretary of Defense shall provide a copy of the report to the Secretary of State for review. At the request of the Secretary of State, the Secretary of Defense shall include an appendix to the report which contains any comments or additional information that the Secretary of State requests.”.

(d) FORM.—Subsection (d) of such section is amended by striking “, whether or not included in another report on Iraq submitted to Congress by the Secretary of Defense.”.

(e) TERMINATION.—Such section is further amended by adding at the end the following:

“(f) TERMINATION.—The requirement to submit the report required under subsection (a) shall terminate on September 30, 2012.”.

(f) REPEAL OF OTHER REPORTING REQUIREMENTS.—The following provisions of law are hereby repealed:

(1) Section 1227 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3465; 50 U.S.C. 1541 note) (as amended by section 1223 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 373)).

(2) Section 1225 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 375).

SEC. 1234. REPORT ON DEPARTMENT OF DEFENSE SUPPORT FOR COALITION OPERATIONS.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of the coalition support authorities of the Department of Defense during Operation Iraqi Freedom and Operation Enduring Freedom.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the purpose and use of each coalition support authority of the Department of Defense.

(2) For the period of Operation Enduring Freedom ending on September 30, 2010, a summary of the amount of training, equipment, services, or other assistance provided or loaned under any coalition support authority of the Department of Defense set forth, for each such authority, by amount provided or loaned during each fiscal year of such period for each recipient country.

(3) For the period of Operation Iraqi Freedom ending on September 30, 2010, a summary of the amount of training, equipment,

services, or other assistance provided or loaned under any coalition support authority of the Department of Defense set forth, for each such authority, by amount provided or loaned during each fiscal year of such period for each recipient country.

(4) An assessment of the effectiveness of each coalition support authority of the Department of Defense in meeting its intended purpose.

(5) For each recipient country of coalition support under a coalition support authority of the Department of Defense—

(A) a description of the contribution of such country to coalition operations in Operation Enduring Freedom or Operating Iraqi Freedom; and

(B) an assessment of the extent to which coalition support provided by the United States enhanced the ability of such country to participate in coalition operations in Operation Enduring Freedom or Operating Iraqi Freedom.

(6) A description of the actions taken by the Department of Defense to eliminate duplication and overlap in coalition support provided under the coalition support authorities of the Department of Defense.

(7) An assessment by the Secretary of Defense whether there is an ongoing need for each coalition support authority of the Department of Defense, and an estimate of the anticipated future demand for coalition support under such coalition support authorities.

(C) **COALITION SUPPORT AUTHORITIES OF THE DEPARTMENT OF DEFENSE DEFINED.**—In this section, the term “coalition support authorities of the Department of Defense” means the following:

(1) Coalition Support Funds, including the authority to provide specialized training and loan specialized equipment under the Coalition Support Fund (commonly referred to as the “Coalition Readiness Support Program”).

(2) Lift and sustain authority under appropriations Acts or under section 1234 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 394).

(3) Global lift and sustain authority under section 127c of title 10, United States Code.

(4) The authority to provide logistic support, supplies, and services to allied forces participating in combined operations under section 127d of title 10, United States Code.

(5) The temporary authority to lend significant military equipment under acquisition and cross-servicing agreements pursuant to section 1202 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364).

(6) The authority under section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163) to provide assistance to build the capacity of foreign nations to support military or stability operations in which the United States Armed Forces are a participant.

(7) Any other authority that the Secretary of Defense designates as a coalition support authority of the Department of Defense for purposes of the report required by subsection (a).

SEC. 1235. REPORTS ON POLICE TRAINING PROGRAMS.

(a) **DoD INSPECTOR GENERAL REPORT ON AFGHAN NATIONAL POLICE TRAINING PROGRAM.**—

(1) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of Defense shall, in consultation with the Inspector General of the Department of

State, submit to the appropriate committees of Congress a report on the Afghan National Police training program.

(2) **REVIEW.**—In preparing the report required by paragraph (1), the Inspector General of the Department of Defense shall conduct a review of the Afghan National Police training program that focuses on developments since the Inspector General of the Department of Defense and the Inspector General of the Department of State released the report entitled “Department of Defense Obligations and Expenditures of Funds Provided to the Department of State for the Training and Mentoring of the Afghan National Police” (DODIG Report No. D-2010-042, DOSIG Report No. MERO-A-10-06, February 9, 2010).

(3) **ELEMENTS OF REPORT.**—The report required by paragraph (1) shall include the following:

(A) A description of the components, planning, and scope of the Afghan National Police training program since the United States assumed control of the program in 2003.

(B) A description of the cost to the United States of the Afghan National Police training program, including the source and amount of funding, and a description of the allocation of responsibility between the Department of Defense and the Department of State for funding the program.

(C) A description of the allocation of responsibility between the Department of Defense and the Department of State for the oversight and execution of the program.

(D) A description of the personnel and staffing requirements for overseeing and executing the program, both in the United States and in theater, including United States civilian government and military personnel, contractor personnel, and nongovernmental personnel, and non-United States civilian and military personnel, contractor personnel, and nongovernmental personnel.

(E) An assessment of the cost, performance metrics, and planning associated with the transfer of administration of the contract for the Afghan National Police training program from the Department of State to the Department of Defense.

(b) **GAO REPORT ON USE OF GOVERNMENT PERSONNEL RATHER THAN CONTRACTORS FOR TRAINING AFGHAN NATIONAL POLICE.**—

(1) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the use of United States Government personnel rather than contractors for the training of the Afghan National Police.

(2) **ELEMENTS.**—The report required under paragraph (1) shall include the following:

(A) A description of the roles and responsibilities of contractors and United States Government personnel in the Afghan National Police training program and a description of how the division of roles and responsibilities between such contractors and personnel has been determined.

(B) An assessment of the relative advantages and disadvantages of using contractors or United States Government personnel in the Afghan National Police training program, including an assessment of—

(i) the shortfalls and inefficiencies, if any, in contractor performance in the program; and

(ii) options for leveraging United States Government resources and capacity to address the shortfalls and inefficiencies described in clause (i) and to better address current and future needs under the program.

(C) An assessment of the factors, such as oversight, cost considerations, performance, policy, and other factors, that would be impacted by transferring responsibilities for the performance of the Afghan National Police training program from contractors to United States Government personnel.

(D) A review of the lessons learned from the execution and oversight of the police training program in Iraq, and any other relevant police training programs led by the Department of Defense, regarding the relative advantages and disadvantages of using United States Government personnel or contractors to carry out police training programs for foreign nations.

(c) **REPORT ON GOVERNMENT POLICE TRAINING AND EQUIPPING PROGRAMS.**—

(1) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the President shall submit to the appropriate committees of Congress a report on United States Government police training and equipping programs outside the United States.

(2) **ELEMENTS.**—The report required under paragraph (1) shall include the following:

(A) A list of all United States Government departments and agencies involved in implementing police training and equipping programs.

(B) A description of the scope, size, and components of all police training and equipping programs for fiscal years 2010 and 2011, to include for each such program—

(i) the name of each country that received assistance under the program;

(ii) the types of recipient nation units receiving such assistance, including national police, gendarmerie, counternarcotics police, counterterrorism police, Formed Police Units, border security, and customs;

(iii) the purpose and objectives of the program;

(iv) the funding and personnel levels for the program in each such fiscal year;

(v) the authority under which the program is conducted;

(vi) the name of the United States Government department or agency with lead responsibility for the program and the mechanisms for oversight of the program;

(vii) the extent to which the program is implemented by contractors or United States Government personnel; and

(viii) the metrics for measuring the results of the program.

(C) An assessment of the requirements for police training and equipping programs, and what changes, if any, are required to improve the capacity of the United States Government to meet such requirements.

(D) An evaluation of the appropriate role of United States Government departments and agencies in coordinating on and carrying out police training and equipping programs.

(E) An evaluation of the appropriate role of contractors in carrying out police training and equipping programs, and what modifications, if any, are needed to improve oversight of such contractors.

(F) Recommendations for legislative modifications, if any, to existing authorities relating to police training and equipping programs.

(d) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means—

(1) the Committees on Armed Services, Foreign Relations, Homeland Security and Governmental Affairs, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Foreign Affairs, Oversight and Government

Reform, and Appropriations of the House of Representatives.

SEC. 1236. REPORT ON CERTAIN IRAQIS AFFILIATED WITH THE UNITED STATES.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, the Attorney General, the Secretary of Homeland Security, the Administrator of the United States Agency for International Development, and the heads of other appropriate Federal agencies (as determined by the Secretary of Defense), shall submit to the Congress a report containing the information described in subsection (b). In preparing such report, the Secretary of Defense shall use available information from organizations and entities closely associated with the United States mission in Iraq that have received United States Government funding through an official and documented contract, award, grant, or cooperative agreement.

(b) INFORMATION.—The information described in this subsection is the following:

(1) The number of Iraqis who were or are employed by the United States Government in Iraq or who are or were employed in Iraq by an organization or entity closely associated with the United States mission in Iraq that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement.

(2) The number of Iraqis who have applied—

(A) for resettlement in the United States as a refugee under section 1243 of the Refugee Crisis in Iraq Act of 2007 (subtitle C of title XII of division A of Public Law 110-181; 122 Stat. 395 et seq.);

(B) to enter the United States as a special immigrant under section 1244 of such Act; or

(C) to enter the United States as a special immigrant under section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 8 U.S.C. 1101 note).

(3) The status of each application described in paragraph (2).

(4) The estimated number of individuals described in paragraph (1) who have been injured or killed in Iraq.

(c) EXPEDITED PROCESSING.—The Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security shall develop a plan using the report submitted under subsection (a) to expedite the processing of the applications described in subsection (b)(2) in the case of Iraqis at risk as the United States withdraws from Iraq.

SEC. 1237. REPORT ON DEPARTMENT OF DEFENSE'S PLANS TO REFORM THE EXPORT CONTROL SYSTEM.

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate congressional committees a report on the Department of Defense's plans to implement the reforms to the United States export control system recommended by the interagency task force established at the direction of the President on August 13, 2009.

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include an assessment of the extent to which the plans to reform the export control system will—

(1) impact the Defense Technology Security Administration of the Department of Defense;

(2) affect the role of the Department of Defense with respect to export control policy; and

(3) ensure greater protection and monitoring of militarily critical technologies.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Foreign Relations of the Senate.

SEC. 1238. REPORT ON UNITED STATES EFFORTS TO DEFEND AGAINST THREATS POSED BY THE ANTI-ACCESS AND AREA-DENIAL CAPABILITIES OF CERTAIN NATION-STATES.

(a) FINDING.—Congress finds that the 2010 report on the Department of Defense Quadrennial Defense Review concludes that “[a]nti-access strategies seek to deny outside countries the ability to project power into a region, thereby allowing aggression or other destabilizing actions to be conducted by the anti-access power. Without dominant capabilities to project power, the integrity of United States alliances and security partnerships could be called into question, reducing United States security and influence and increasing the possibility of conflict”.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in light of the finding in subsection (a), the Secretary of Defense should ensure that the United States has the appropriate authorities, capabilities, and force structure to defend against any potential future threats posed by the anti-access and area-denial capabilities of potentially hostile foreign countries.

(c) REPORT.—Not later than April 1, 2011, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on United States efforts to defend against any potential future threats posed by the anti-access and area-denial capabilities of potentially hostile nation-states.

(d) ELEMENTS.—The report required under subsection (c) shall include the following:

(1) An assessment of any potential future threats posed by the anti-access and area-denial capabilities of potentially hostile foreign countries, including an identification of the foreign countries with such capabilities, the nature of such capabilities, and the possible advances in such capabilities over the next 10 years.

(2) A description of any efforts by the Department of Defense to address the potential future threats posed by the anti-access and area-denial capabilities of potentially hostile foreign countries.

(3) A description of the authorities, capabilities, and force structure that the United States may require over the next 10 years to address the threats posed by the anti-access and area-denial capabilities of potentially hostile foreign countries.

(e) FORM.—The report required under subsection (c) shall be submitted in unclassified form, but may contain a classified annex if necessary.

(f) DEFINITIONS.—In this section—

(1) the term “anti-access”, with respect to capabilities, means any action that has the effect of slowing the deployment of friendly forces into a theater, preventing such forces from operating from certain locations within that theater, or causing such forces to operate from distances farther from the locus of conflict than such forces would normally prefer; and

(2) the term “area-denial”, with respect to capabilities, means operations aimed to pre-

vent freedom of action of friendly forces in the more narrow confines of the area under a potentially hostile nation-state's direct control, including actions by an adversary in the air, on land, and on and under the sea to contest and prevent joint operations within a defended battlespace.

SEC. 1239. DEFENSE SCIENCE BOARD REPORT ON DEPARTMENT OF DEFENSE STRATEGY TO COUNTER VIOLENT EXTREMISM OUTSIDE THE UNITED STATES.

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Defense Science Board shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the strategy of the Department of Defense to counter violent extremism outside the United States.

(b) ELEMENTS.—The report required by subsection (a) shall include, at a minimum, the following:

(1) A review of the current strategy, research activities, resource allocations, and organizational structure of the Department of Defense for countering violent extremism outside the United States.

(2) A review of interagency coordination and decision-making processes for executing and overseeing strategies and programs for countering violent extremism outside the United States.

(3) An analysis of alternatives and options available to the Department of Defense to counter violent extremism outside the United States.

(4) An analysis of legal, policy, and strategy issues involving efforts to counter violent extremism outside the United States as such efforts potentially affect domestic efforts to interrupt radicalization efforts within the United States.

(5) An analysis of the current information campaign of the Department of Defense against violent extremists outside the United States.

(6) Such recommendations for further action to address the matters covered by the report as the Defense Science Board considers appropriate.

(7) Such other matters as the Defense Science Board determines relevant.

SEC. 1240. REPORT ON MERITS OF AN INCIDENTS AT SEA AGREEMENT BETWEEN THE UNITED STATES, IRAN, AND CERTAIN OTHER COUNTRIES.

(a) REPORT REQUIRED.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretary of State, shall submit to the appropriate congressional committees a report assessing the relative merits of a multilateral or bilateral Incidents at Sea military-to-military agreement between the United States, the Government of Iran, and other countries operating in the Persian Gulf aimed at preventing accidental naval conflict in the Persian Gulf and the Strait of Hormuz.

(b) MATTERS TO BE INCLUDED.—Such assessment should consider and evaluate the current maritime security situation in the Persian Gulf and the effect that such an agreement might have on military and other maritime activities in the region, as well as other United States regional strategic interests.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

SEC. 1241. REQUIREMENT TO MONITOR AND EVALUATE DEPARTMENT OF DEFENSE ACTIVITIES TO COUNTER VIOLENT EXTREMISM IN AFRICA.

(a) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of State, shall monitor and evaluate the impact of United States Africa Command (USAFRICOM) Combined Joint Task Force-Horn of Africa's (CJTF-HOA) activities to counter violent extremism in Africa, including civil affairs, psychological operations, humanitarian assistance, and operations to strengthen the capacity of partner nations.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate congressional committees a report on the following:

(1) An evaluation of the impact of CJTF-HOA's activities described in subsection (a) to advance United States security objectives in the Horn of Africa, including the extent to which CJTF-HOA's activities—

(A) disrupt or deny terrorist networks;
(B) combat violent extremist ideology;
(C) are aligned with USAFRICOM's mission; and

(D) complement programs conducted by the United States Agency for International Development.

(2) USAFRICOM's efforts to monitor and evaluate the impact of CJTF-HOA's activities described in subsection (a), including—

(A) the means by which CJTF-HOA follows up on such activities to evaluate the effectiveness of such activities;

(B) USAFRICOM's specific assessments of CJTF-HOA's activities; and

(C) a description of plans by the Secretary of Defense to make permanent CJTF-HOA's presence in Djibouti.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

SEC. 1242. NATO SPECIAL OPERATIONS HEADQUARTERS.

(a) IN GENERAL.—Section 1244 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2541) is amended—

(1) in subsection (a)—

(A) by striking "fiscal year 2010" and inserting "fiscal year 2011";

(B) by striking "pursuant to section 301(1)"; and

(C) by striking "\$30,000,000" and inserting "\$50,000,000";

(2) in subsection (b)—

(A) by striking "NATO Special Operations Coordination Center" and inserting "NATO Special Operations Headquarters"; and

(B) by striking "NSHQ" and inserting "NSHQ"; and

(3) in subsection (c), by striking "NSCC" each place it appears and inserting "NSHQ".

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking "NATO SPECIAL OPERATIONS COORDINATION CENTER" and inserting "NATO SPECIAL OPERATIONS HEADQUARTERS".

SEC. 1243. NATIONAL MILITARY STRATEGY TO COUNTER IRAN AND REQUIRED BRIEFINGS.

(a) NATIONAL MILITARY STRATEGY REQUIRED.—The Secretary of Defense shall de-

velop a strategy, to be known as the "National Military Strategy to Counter Iran". The strategy should—

(1) provide strategic guidance for activities of the Department of Defense that support the objective of countering threats posed by Iran;

(2) undertake a review of the intelligence in the possession of the Department of Defense to develop a list of gaps in intelligence that limit the ability of the Department of Defense to counter threats emanating from Iran that the Secretary considers to be critical;

(3) undertake a review of the ability of the Department of Defense to counter threats to the United States, its forces, allies, and interests from Iran, including—

(A) contributions of the Department of Defense to the efforts of other agencies of the United States Government to counter or address the threat emanating from Iran; and

(B) any gaps in the capabilities and authorities of the Department.

(b) BRIEFINGS TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall brief the congressional defense committees in classified session regarding any resources, capabilities, or changes to current law the Secretary believes are necessary to address the gaps identified in the strategy required in subsection (a).

TITLE XIII—COOPERATIVE THREAT REDUCTION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.

Sec. 1302. Funding allocations.

Sec. 1303. Limitation on use of funds for establishment of centers of excellence in countries outside of the former Soviet Union.

Sec. 1304. Plan for nonproliferation, proliferation prevention, and threat reduction activities with the People's Republic of China.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501 of the National Defense Authorization Act for Fiscal Year 1997 (50 U.S.C. 2362 note).

(b) FISCAL YEAR 2011 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2011 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for fiscal years 2011, 2012, and 2013.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the \$522,512,000 authorized to be appropriated to the Department of Defense for fiscal year 2011 in section 301(20) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, \$66,732,000.

(2) For strategic nuclear arms elimination in Ukraine, \$6,800,000.

(3) For nuclear weapons storage security in Russia, \$9,614,000.

(4) For nuclear weapons transportation security in Russia, \$45,000,000.

(5) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, \$79,821,000.

(6) For biological threat reduction in the former Soviet Union, \$209,034,000.

(7) For chemical weapons destruction, \$3,000,000.

(8) For defense and military contacts, \$5,000,000.

(9) For Global Nuclear Lockdown, \$74,471,000.

(10) For activities designated as Other Assessments/Administrative Costs, \$23,040,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2011 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (10) of subsection (a) until 15 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2011 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2011 for a purpose listed in paragraphs (1) through (10) of subsection (a) in excess of the specific amount authorized for that purpose.

(2) NOTICE-AND-WAIT REQUIRED.—An obligation of funds for a purpose stated in paragraphs (1) through (10) of subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

SEC. 1303. LIMITATION ON USE OF FUNDS FOR ESTABLISHMENT OF CENTERS OF EXCELLENCE IN COUNTRIES OUTSIDE OF THE FORMER SOVIET UNION.

Not more than \$500,000 of the fiscal year 2011 Cooperative Threat Reduction funds may be obligated or expended to establish a center of excellence in a country that is not a state of the former Soviet Union until the date that is 15 days after the date on which the Secretary of Defense submits to the congressional defense committees a report that includes the following:

(1) An identification of the country in which the center will be located.

(2) A description of the purpose for which the center will be established.

(3) The agreement under which the center will operate.

(4) A funding plan for the center, including—

(A) the amount of funds to be provided by the government of the country in which the center will be located; and

(B) the percentage of the total cost of establishing and operating the center the funds described in subparagraph (A) will cover.

SEC. 1304. PLAN FOR NONPROLIFERATION, PROLIFERATION PREVENTION, AND THREAT REDUCTION ACTIVITIES WITH THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—Not later than April 1, 2011, the Secretary of Defense and the Secretary of Energy shall jointly submit to the congressional defense committees a plan to carry out activities of the Department of Defense Cooperative Threat Reduction Program and the Department of Energy Defense Nuclear Nonproliferation program relating to nonproliferation, proliferation prevention, and threat reduction with the Government of the People's Republic of China during fiscal years 2011 through 2016.

(b) ELEMENTS.—The plan required by subsection (a) shall include the following:

(1) A description of the activities to be carried out under the plan.

(2) A description of milestones and goals for such activities.

(3) An estimate of the annual cost of such activities.

(4) An estimate of the amount of the total cost of such activities to be provided by the Government of the People's Republic of China.

TITLE XIV—OTHER AUTHORIZATIONS

Subtitle A—Military Programs

Sec. 1401. Working capital funds.

Sec. 1402. Study on working capital fund cash balances.

Sec. 1403. Modification of certain working capital fund requirements.

Sec. 1404. Reduction of unobligated balances within the Pentagon Reservation Maintenance Revolving Fund.

Sec. 1405. National Defense Sealift Fund.

Sec. 1406. Chemical Agents and Munitions Destruction, Defense.

Sec. 1407. Drug Interdiction and Counter-Drug Activities, Defense-wide.

Sec. 1408. Defense Inspector General.

Sec. 1409. Defense Health Program.

Subtitle B—National Defense Stockpile

Sec. 1411. Authorized uses of National Defense Stockpile funds.

Sec. 1412. Revision to required receipt objectives for previously authorized disposals from the National Defense Stockpile.

Subtitle C—Chemical Demilitarization Matters

Sec. 1421. Consolidation and reorganization of statutory authority for destruction of United States stockpile of lethal chemical agents and munitions.

Subtitle D—Other Matters

Sec. 1431. Authorization of appropriations for Armed Forces Retirement Home.

Sec. 1432. Authority for transfer of funds to Joint Department of Defense—Department of Veterans Affairs Medical Facility Demonstration Fund for Captain James A. Lovell Health Care Center, Illinois.

Subtitle A—Military Programs

SEC. 1401. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2011 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, \$160,965,000.

(2) For the Defense Working Capital Fund, Defense Commissary, \$1,273,571,000.

SEC. 1402. STUDY ON WORKING CAPITAL FUND CASH BALANCES.

(a) STUDY REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall seek to enter into a contract with a federally funded research and development center with appropriate expertise in revolving fund financial management to carry out a study to determine a sufficient operational level of cash that each revolving fund of the Department of Defense should maintain in order to sustain a single rate or price throughout the fiscal year.

(b) CONTENTS OF STUDY.—In carrying out a study pursuant to a contract entered into under subsection (a), the federally funded research and development center shall—

(1) qualitatively analyze the operational requirements and inherent risks associated with maintaining a specific level of cash within each revolving fund of the Department;

(2) for each such revolving fund, take into consideration any effects on appropriation accounts that have occurred due to changes made in the rates charged by the fund during a fiscal year;

(3) take into consideration direct input from the Secretary of Defense and officials of each of the military departments with leadership responsibility for financial management;

(4) examine the guidance provided and regulations prescribed by the Secretary of Defense and the Secretary of each of the military departments, as in effect on the date of the enactment of this Act, including such guidance with respect to programming and budgeting and the annual budget displays provided to Congress;

(5) examine the effects on appropriations accounts that have occurred due to congressional adjustments relating to excess cash balances in revolving funds;

(6) identify best business practices from the private sector relating to sufficient cash balance reserves;

(7) examine any relevant applicable laws, including the relevant body of work performed by the Government Accountability Office; and

(8) address—

(A) instances where the fiscal policy of the Department of Defense directly follows the law, as in effect on the date of the enactment of this Act, and instances where such policy is more restrictive with respect to the fiscal management of revolving funds than such law requires;

(B) instances where current Department fiscal policy restricts the capability of a revolving fund to achieve the most economical and efficient organization and operation of activities;

(C) fiscal policy adjustments required to comply with recommendations provided in the study, including proposed adjustments to—

(i) the Department of Defense Financial Management Regulation;

(ii) published service regulations and instructions; and

(iii) major command fiscal guidance; and

(D) such other matters as determined relevant by the center carrying out the study.

(c) AVAILABILITY OF INFORMATION.—The Secretary of Defense and the Secretary of each of the military departments shall make available to a federally funded research and development center carrying out a study pursuant to a contract entered into under

subsection (a) all necessary and relevant information to allow the center to conduct the study in a quantitative and analytical manner.

(d) REPORT.—Any contract entered into under subsection (a) shall provide that not later than 9 months after the date on which the Secretary of Defense enters into the contract, the chief executive officer of the entity that carries out the study pursuant to the contract shall submit to the Committees on Armed Services of the Senate and House of Representatives and the Secretary of Defense a final report on the study. The report shall include each of the following:

(1) A description of the revolving fund environment, as of the date of the conclusion of the study, and the anticipated future environment, together with the quantitative data used in conducting the assessment of such environments under the study.

(2) Recommended fiscal policy adjustments to support the initiatives identified in the study, including adjustments to—

(A) the Department of Defense Financial Management Regulation;

(B) published service regulations and instructions; and

(C) major command fiscal guidance.

(3) Recommendations with respect to any changes to any applicable law that would be appropriate to support the initiatives identified in the study.

(e) SUBMITTAL OF COMMENTS.—Not later than 90 days after the date of the submittal of the report under subsection (d), the Secretary of Defense and the Secretaries of each of the military departments shall submit to the Committees on Armed Services of the Senate and House of Representatives comments on the findings and recommendations contained in the report.

SEC. 1403. MODIFICATION OF CERTAIN WORKING CAPITAL FUND REQUIREMENTS.

Section 2208 of title 10, United States Code, is amended—

(1) in subsection (c)(1), by inserting before the semicolon the following: “, including the cost of the procurement and qualification of technology-enhanced maintenance capabilities that improve either reliability, maintainability, sustainability, or supportability and have, at a minimum, been demonstrated to be functional in an actual system application or operational environment”; and

(2) in subsection (k)(2), by striking “\$100,000” and inserting “\$250,000”.

SEC. 1404. REDUCTION OF UNOBLIGATED BALANCES WITHIN THE PENTAGON RESERVATION MAINTENANCE REVOLVING FUND.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall transfer \$53,000,000 from the unobligated balances of the Pentagon Reservation Maintenance Revolving Fund established under section 2674(e) of title 10, United States Code, to the Miscellaneous Receipts Fund of the United States Treasury.

SEC. 1405. NATIONAL DEFENSE SEALIFT FUND.

Funds are hereby authorized to be appropriated for the fiscal year 2011 for the National Defense Sealift Fund in the amount of \$934,866,000.

SEC. 1406. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2011 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, in the amount of \$1,467,307,000, of which—

(1) \$1,067,364,000 is for Operation and Maintenance;

(2) \$392,811,000 is for Research, Development, Test, and Evaluation; and
 (3) \$7,132,000 is for Procurement.

(b) USE.—Amounts authorized to be appropriated under subsection (a) are authorized for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), as amended by section 1421 of this Act; and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

SEC. 1407. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2011 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, in the amount of \$1,160,851,000.

SEC. 1408. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2011 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, in the amount of \$317,154,000.

SEC. 1409. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2011 for expenses, not otherwise provided for, for the Defense Health Program, in the amount of \$30,959,611,000.

Subtitle B—National Defense Stockpile

SEC. 1411. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2011, the National Defense Stockpile Manager may obligate up to \$41,181,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 1412. REVISION TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM THE NATIONAL DEFENSE STOCKPILE.

Section 3402(b)(5) of the National Defense Authorization Act for Fiscal Year 2000 (50 U.S.C. 98d note), as most recently amended by section 1412(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 418), is amended by striking “\$710,000,000” and inserting “\$730,000,000”.

Subtitle C—Chemical Demilitarization Matters

SEC. 1421. CONSOLIDATION AND REORGANIZATION OF STATUTORY AUTHORITY FOR DESTRUCTION OF UNITED STATES STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

(a) RESTATEMENT OF STATUTORY AUTHORITY WITH CONSOLIDATION AND REORGANIZATION.—Section 1412 of the National Defense Authorization Act, 1986 (50 U.S.C. 1521) is amended to read as follows:

“SEC. 1412. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

“(a) IN GENERAL.—The Secretary of Defense shall, in accordance with the provisions of this section, carry out the destruction of the United States’ stockpile of lethal chemical agents and munitions that exists on November 8, 1985.

“(b) DATE FOR COMPLETION.—(1) The destruction of such stockpile shall be completed by the stockpile elimination deadline.

“(2) If the Secretary of Defense determines at any time that there will be a delay in meeting the requirement in paragraph (1) for the completion of the destruction of chemical weapons by the stockpile elimination deadline, the Secretary shall immediately notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of that projected delay.

“(3) For purposes of this section, the term ‘stockpile elimination deadline’ means the deadline established by the Chemical Weapons Convention, but not later than December 31, 2017.

“(c) INITIATION OF DEMILITARIZATION OPERATIONS.—The Secretary of Defense may not initiate destruction of the chemical munitions stockpile stored at a site until the following support measures are in place:

“(1) Support measures that are required by Department of Defense and Army chemical surety and security program regulations.

“(2) Support measures that are required by the general and site chemical munitions demilitarization plans specific to that installation.

“(3) Support measures that are required by the permits required by the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Clean Air Act (42 U.S.C. 7401 et seq.) for chemical munitions demilitarization operations at that installation, as approved by the appropriate State regulatory agencies.

“(d) ENVIRONMENTAL PROTECTION AND USE OF FACILITIES.—(1) In carrying out the requirement of subsection (a), the Secretary of Defense shall provide for—

“(A) maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions referred to in subsection (a), including but not limited to the use of technologies and procedures that will minimize risk to the public at each site; and

“(B) adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions.

“(2) Facilities constructed to carry out this section shall, when no longer needed for the purposes for which they were constructed, be disposed of in accordance with applicable laws and regulations and mutual agreements between the Secretary of the Army and the Governor of the State in which the facility is located.

“(3)(A) Facilities constructed to carry out this section may not be used for a purpose other than the destruction of the stockpile of lethal chemical agents and munitions that exists on November 8, 1985.

“(B) The prohibition in subparagraph (A) shall not apply with respect to items designated by the Secretary of Defense as lethal chemical agents, munitions, or related materials after November 8, 1985, if the State in which a destruction facility is located issues the appropriate permit or permits for the destruction of such items at the facility.

“(e) GRANTS AND COOPERATIVE AGREEMENTS.—(1)(A) In order to carry out subsection (d)(1)(A), the Secretary of Defense may make grants to State and local governments and to tribal organizations (either directly or through the Federal Emergency Management Agency) to assist those governments and tribal organizations in carrying out functions relating to emergency preparedness and response in connection with the disposal of the lethal chemical agents and munitions referred to in subsection (a). Funds available to the Department of Defense for the purpose of carrying out this section may be used for such grants.

“(B) Additionally, the Secretary may provide funds through cooperative agreements with State and local governments, and with tribal organizations, for the purpose of assisting them in processing, approving, and overseeing permits and licenses necessary for the construction and operation of facilities to carry out this section. The Secretary shall ensure that funds provided through such a cooperative agreement are used only for the purpose set forth in the preceding sentence.

“(C) In this paragraph, the term ‘tribal organization’ has the meaning given that term in section 4(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)).

“(2)(A) In coordination with the Secretary of the Army and in accordance with agreements between the Secretary of the Army and the Administrator of the Federal Emergency Management Agency, the Administrator shall carry out a program to provide assistance to State and local governments in developing capabilities to respond to emergencies involving risks to the public health or safety within their jurisdictions that are identified by the Secretary as being risks resulting from—

“(i) the storage of lethal chemical agents and munitions referred to in subsection (a) at military installations in the continental United States; or

“(ii) the destruction of such agents and munitions at facilities referred to in subsection (d)(1)(B).

“(B) Assistance may be provided under this paragraph for capabilities to respond to emergencies involving an installation or facility as described in subparagraph (A) until the earlier of the following:

“(i) The date of the completion of all grants and cooperative agreements with respect to the installation or facility for purposes of this paragraph between the Federal Emergency Management Agency and the State and local governments concerned.

“(ii) The date that is 180 days after the date of the completion of the destruction of lethal chemical agents and munitions at the installation or facility.

“(C) Not later than December 15 of each year, the Administrator shall transmit a report to Congress on the activities carried out under this paragraph during the fiscal year preceding the fiscal year in which the report is submitted.

“(f) REQUIREMENT FOR STRATEGIC PLAN.—(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics and the Secretary of the Army shall jointly prepare,

and from time to time shall update as appropriate, a strategic plan for future activities for destruction of the United States' stockpile of lethal chemical agents and munitions.

“(2) The plan shall include, at a minimum, the following considerations:

“(A) Realistic budgeting for stockpile destruction and related support programs.

“(B) Contingency planning for foreseeable or anticipated problems.

“(C) A management approach and associated actions that address compliance with the obligations of the United States under the Chemical Weapons Convention and that take full advantage of opportunities to accelerate destruction of the stockpile.

“(3) The Secretary of Defense shall each year submit to the Committee on the Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the strategic plan as most recently prepared and updated under paragraph (1). Such submission shall be made each year at the time of the submission to the Congress that year of the President's budget for the next fiscal year.

“(g) MANAGEMENT ORGANIZATION.—(1) In carrying out this section, the Secretary of Defense shall provide for a management organization within the Department of the Army. The Secretary of the Army shall be responsible for management of the destruction of agents and munitions at all sites except Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado.

“(2) The program manager for the Assembled Chemical Weapons Alternative Program shall be responsible for management of the construction, operation, and closure, and any contracting relating thereto, of chemical demilitarization activities at Bluegrass Army Depot, Kentucky, and Pueblo Army Depot, Colorado, including management of the pilot-scale facility phase of the alternative technology selected for the destruction of lethal chemical munitions. In performing such management, the program manager shall act independently of the Army program manager for Chemical Demilitarization and shall report to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(3) The Secretary of Defense shall designate a general officer or civilian equivalent as the director of the management organization established under paragraph (1). Such officer shall have—

“(A) experience in the acquisition, storage, and destruction of chemical agents and munitions; and

“(B) outstanding qualifications regarding safety in handling chemical agents and munitions.

“(h) IDENTIFICATION OF FUNDS.—(1) Funds for carrying out this section, including funds for military construction projects necessary to carry out this section, shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account. Such funds shall not be included in the budget accounts for any military department.

“(2) Amounts appropriated to the Secretary of Defense for the purpose of carrying out subsection (e) shall be promptly made available to the Administrator of the Federal Emergency Management Agency.

“(i) ANNUAL REPORTS.—(1) Except as provided by paragraph (3), the Secretary of Defense shall transmit, by December 15 each year, a report to Congress on the activities carried out under this section during the fiscal year ending on September 30 of the calendar year in which the report is to be made.

“(2) Each annual report shall include the following:

“(A) A site-by-site description of the construction, equipment, operation, and dismantling of facilities (during the fiscal year for which the report is made) used to carry out the destruction of agents and munitions under this section, including any accidents or other unplanned occurrences associated with such construction and operation.

“(B) A site-by-site description of actions taken to assist State and local governments (either directly or through the Federal Emergency Management Agency) in carrying out functions relating to emergency preparedness and response in accordance with subsection (e).

“(C) An accounting of all funds expended (during such fiscal year) for activities carried out under this section, with a separate accounting for amounts expended for—

“(i) the construction of and equipment for facilities used for the destruction of agents and munitions;

“(ii) the operation of such facilities;

“(iii) the dismantling or other closure of such facilities;

“(iv) research and development;

“(v) program management;

“(vi) travel and associated travel costs for Citizens' Advisory Commissioners under subsection (m)(7); and

“(vii) grants to State and local governments to assist those governments in carrying out functions relating to emergency preparedness and response in accordance with subsection (e).

“(D) An assessment of the safety status and the integrity of the stockpile of lethal chemical agents and munitions subject to this section, including—

“(i) an estimate on how much longer that stockpile can continue to be stored safely;

“(ii) a site-by-site assessment of the safety of those agents and munitions; and

“(iii) a description of the steps taken (to the date of the report) to monitor the safety status of the stockpile and to mitigate any further deterioration of that status.

“(3) The Secretary shall transmit the final report under paragraph (1) not later than 120 days following the completion of activities under this section.

“(j) SEMIANNUAL REPORTS.—(1) Not later than March 1 and September 1 each year until the year in which the United States completes the destruction of its entire stockpile of chemical weapons under the terms of the Chemical Weapons Convention, the Secretary of Defense shall submit to the members and committees of Congress referred to in paragraph (3) a report on the implementation by the United States of its chemical weapons destruction obligations under the Chemical Weapons Convention.

“(2) Each report under paragraph (1) shall include the following:

“(A) The anticipated schedule at the time of such report for the completion of destruction of chemical agents, munitions, and materiel at each chemical weapons demilitarization facility in the United States.

“(B) A description of the options and alternatives for accelerating the completion of chemical weapons destruction at each such facility, particularly in time to meet the stockpile elimination deadline.

“(C) A description of the funding required to achieve each of the options for destruction described under subparagraph (B), and a detailed life-cycle cost estimate for each of the affected facilities included in each such funding profile.

“(D) A description of all actions being taken by the United States to accelerate the destruction of its entire stockpile of chem-

ical weapons, agents, and materiel in order to meet the current stockpile elimination deadline under the Chemical Weapons Convention of April 29, 2012, or as soon thereafter as possible.

“(3) The members and committees of Congress referred to in this paragraph are—

“(A) the majority leader and the minority leader of the Senate and the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(B) the Speaker of the House of Representatives, the majority leader and the minority leader of the House of Representatives, and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

“(k) AUTHORIZED USE OF TOXIC CHEMICALS.—Consistent with United States obligations under the Chemical Weapons Convention, the Secretary of Defense may develop, produce, otherwise acquire, retain, transfer, and use toxic chemicals and their precursors for purposes not prohibited by the Chemical Weapons Convention if the types and quantities of such chemicals and precursors are consistent with such purposes, including for protective purposes such as protection against toxic chemicals and protection against chemical weapons.

“(l) SURVEILLANCE AND ASSESSMENT PROGRAM.—The Secretary of Defense shall conduct an ongoing comprehensive program of—

“(1) surveillance of the existing United States stockpile of chemical weapons; and

“(2) assessment of the condition of the stockpile.

“(m) CHEMICAL DEMILITARIZATION CITIZENS' ADVISORY COMMISSIONS.—(1)(A) The Secretary of the Army shall establish a citizens' commission for each State in which there is a chemical demilitarization facility under Army management.

“(B) The Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall establish a chemical demilitarization citizens' commission in Colorado and in Kentucky.

“(C) Each commission under this subsection shall be known as the ‘Chemical Demilitarization Citizens' Advisory Commission’ for the State concerned.

“(2)(A) The Secretary of the Army, or the Department of Defense with respect to Colorado and Kentucky, shall provide for a representative to meet with each commission established under this subsection to receive citizen and State concerns regarding the ongoing program for the disposal of the lethal chemical agents and munitions in the stockpile referred to in subsection (a) at each of the sites with respect to which a commission is established pursuant to paragraph (1).

“(B) The Secretary of the Army shall provide for a representative from the Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) to meet with each commission under Army management.

“(C) The Department of Defense shall provide for a representative from the Office of the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs to meet with the commissions in Colorado and Kentucky.

“(3)(A) Each commission under this subsection shall be composed of nine members appointed by the Governor of the State. Seven of such members shall be citizens from the local affected areas in the State. The other two shall be representatives of State government who have direct responsibilities related to the chemical demilitarization program.

“(B) For purposes of this paragraph, affected areas are those areas located within a 50-mile radius of a chemical weapons storage site.

“(4) For a period of five years after the termination of any commission under this subsection, no corporation, partnership, or other organization in which a member of that commission, a spouse of a member of that commission, or a natural or adopted child of a member of that commission has an ownership interest may be awarded—

“(A) a contract related to the disposal of lethal chemical agents or munitions in the stockpile referred to in subsection (a); or

“(B) a subcontract under such a contract.

“(5) The members of each commission under this subsection shall designate the chair of such commission from among the members of such commission.

“(6) Each commission under this subsection shall meet with a representative from the Army, or the Office of the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs with respect to the commissions in Colorado and Kentucky, upon joint agreement between the chair of such commission and that representative. The two parties shall meet not less often than twice a year and may meet more often at their discretion.

“(7) Members of each commission under this subsection shall receive no pay for their involvement in the activities of their commissions. Funds appropriated for the Chemical Stockpile Demilitarization Program may be used for travel and associated travel costs for commissioners of commissions under this subsection when such travel is conducted at the invitation of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) or the invitation of the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs for the commissions in Colorado and Kentucky.

“(8) Each commission under this subsection shall be terminated after the closure activities required pursuant to regulations prescribed by the Administrator of the Environmental Protection Agency pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) have been completed for the chemical agent destruction facility in such commission's State, or upon the request of the Governor of such commission's State, whichever occurs first.

“(n) INCENTIVE CLAUSES IN CHEMICAL DEMILITARIZATION CONTRACTS.—(1)(A) The Secretary of Defense may, for the purpose specified in paragraph (B), authorize the inclusion of an incentives clause in any contract for the destruction of the United States stockpile of lethal chemical agents and munitions carried out pursuant to subsection (a).

“(B) The purpose of a clause referred to in subparagraph (A) is to provide the contractor for a chemical demilitarization facility an incentive to accelerate the safe elimination of the United States chemical weapons stockpile and to reduce the total cost of the Chemical Demilitarization Program by providing incentive payments for the early completion of destruction operations and the closure of such facility.

“(2)(A) An incentives clause under this subsection shall permit the contractor for the chemical demilitarization facility concerned the opportunity to earn incentive payments for the completion of destruction operations and facility closure activities within target incentive ranges specified in such clause.

“(B) The maximum incentive payment under an incentives clause with respect to a

chemical demilitarization facility may not exceed the following amounts:

“(i) In the case of an incentive payment for the completion of destruction operations within the target incentive range specified in such clause, \$110,000,000.

“(ii) In the case of an incentive payment for the completion of facility closure activities within the target incentive range specified in such clause, \$55,000,000.

“(C) An incentives clause in a contract under this section shall specify the target incentive ranges of costs for completion of destruction operations and facility closure activities, respectively, as jointly agreed upon by the contracting officer and the contractor concerned. An incentives clause shall require a proportionate reduction in the maximum incentive payment amounts in the event that the contractor exceeds an agreed-upon target cost if such excess costs are the responsibility of the contractor.

“(D) The amount of the incentive payment earned by a contractor for a chemical demilitarization facility under an incentives clause under this subsection shall be based upon a determination by the Secretary on how early in the target incentive range specified in such clause destruction operations or facility closure activities, as the case may be, are completed.

“(E) The provisions of any incentives clause under this subsection shall be consistent with the obligation of the Secretary of Defense under subsection (d)(1)(A), to provide for maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions.

“(F) In negotiating the inclusion of an incentives clause in a contract under this subsection, the Secretary may include in such clause such additional terms and conditions as the Secretary considers appropriate.

“(3)(A) No payment may be made under an incentives clause under this subsection unless the Secretary determines that the contractor concerned has satisfactorily performed its duties under such incentives clause.

“(B) An incentives clause under this subsection shall specify that the obligation of the Government to make payment under such incentives clause is subject to the availability of appropriations for that purpose. Amounts appropriated for Chemical Agents and Munitions Destruction, Defense, shall be available for payments under incentives clauses under this subsection.

“(o) DEFINITIONS.—In this section:

“(1) The term ‘chemical agent and munition’ means an agent or munition that, through its chemical properties, produces lethal or other damaging effects on human beings, except that such term does not include riot control agents, chemical herbicides, smoke and other obscuration materials.

“(2) The term ‘Chemical Weapons Convention’ means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103-21).

“(3) The term ‘lethal chemical agent and munition’ means a chemical agent or munition that is designed to cause death, through its chemical properties, to human beings in field concentrations.

“(4) The term ‘destruction’ means, with respect to chemical munitions or agents—

“(A) the demolition of such munitions or agents by incineration or by any other means; or

“(B) the dismantling or other disposal of such munitions or agents so as to make them useless for military purposes and harmless to human beings under normal circumstances.”.

(b) REPEAL OF LAWS RESTATED IN SECTION 1412 AND OBSOLETE PROVISIONS OF LAW.—The following provisions of law are repealed:

(1) Section 125 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1043; 50 U.S.C. 1521 note).

(2) Sections 172, 174, 175, and 180 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2341; 50 U.S.C. 1521 note).

(3) Section 152 of the National Defense Authorization Act for Fiscal Year 1996 (50 U.S.C. 1521 note).

(4) Section 8065 of the Omnibus Consolidated Appropriations Act, 1997 (50 U.S.C. 1521 note).

(5) Section 142 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1521 note).

(6) Section 141 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 537; 50 U.S.C. 1521 note).

(7) Section 8122 of the Department of Defense Appropriations Act, 2003 (Public Law 107-248; 116 Stat. 1566; 50 U.S.C. 1521 note).

(8) Section 923 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2360; 50 U.S.C. 1521 note).

(9) Section 8119 of the Department of Defense Appropriations Act, 2008 (Public Law 110-116; 121 Stat. 1340; 50 U.S.C. 1521 note).

(10) Section 922(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 283; 50 U.S.C. 1521 note).

Subtitle D—Other Matters

SEC. 1431. AUTHORIZATION OF APPROPRIATIONS FOR ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2011 from the Armed Forces Retirement Home Trust Fund the sum of \$71,200,000 for the operation of the Armed Forces Retirement Home.

SEC. 1432. AUTHORITY FOR TRANSFER OF FUNDS TO JOINT DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITY DEMONSTRATION FUND FOR CAPTAIN JAMES A. LOVELL HEALTH CARE CENTER, ILLINOIS.

(a) AUTHORITY FOR TRANSFER OF FUNDS.—Of the funds authorized to be appropriated by section 1409 and available for the Defense Health Program for operation and maintenance, \$132,000,000 may be transferred by the Secretary of Defense to the Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund established by subsection (a)(1) of section 1704 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2571). For purposes of subsection (a)(2) of such section 1704, any funds so transferred shall be treated as amounts authorized and appropriated for the Department of Defense specifically for such transfer.

(b) USE OF TRANSFERRED FUNDS.—For purposes of subsection (b) of such section 1704, facility operations for which funds transferred under subsection (a) may be used are operations of the Captain James A. Lovell Federal Health Care Center, consisting of the North Chicago Veterans Affairs Medical Center, the Navy Ambulatory Care Center, and supporting facilities designated as a combined Federal medical facility under an operational agreement pursuant to section 706 of

the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 455).

TITLE XV—AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR OVERSEAS CONTINGENCY OPERATIONS

Subtitle A—Authorization of Additional Appropriations

- Sec. 1501. Purpose.
- Sec. 1502. Army procurement.
- Sec. 1503. Joint Improvised Explosive Device Defeat Fund.
- Sec. 1504. Navy and Marine Corps procurement.
- Sec. 1505. Air Force procurement.
- Sec. 1506. Defense-wide activities procurement.
- Sec. 1507. National Guard and Reserve equipment.
- Sec. 1508. Mine Resistant Ambush Protected Vehicle Fund.
- Sec. 1509. Research, development, test, and evaluation.
- Sec. 1510. Operation and maintenance.
- Sec. 1511. Military personnel.
- Sec. 1512. Working capital funds.
- Sec. 1513. Defense Health Program.
- Sec. 1514. Drug Interdiction and Counter-Drug Activities, Defense-wide.
- Sec. 1515. Defense Inspector General.

Subtitle B—Financial Matters

- Sec. 1521. Treatment as additional authorizations.
- Sec. 1522. Special transfer authority.

Subtitle C—Limitations and Other Matters

- Sec. 1531. Limitations on availability of funds in Afghanistan Security Forces Fund.
- Sec. 1532. Limitations on availability of funds in Iraq Security Forces Fund.
- Sec. 1533. Continuation of prohibition on use of United States funds for certain facilities projects in Iraq.
- Sec. 1534. Joint Improvised Explosive Device Defeat Fund.
- Sec. 1535. Task Force for Business and Stability Operations in Afghanistan and economic transition plan and economic strategy for Afghanistan.

Subtitle A—Authorization of Additional Appropriations

SEC. 1501. PURPOSE.

The purpose of this subtitle is to authorize appropriations for the Department of Defense for fiscal year 2011 to provide additional funds for overseas contingency operations being carried out by the Armed Forces.

SEC. 1502. ARMY PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2011 for procurement accounts of the Army in amounts as follows:

- (1) For aircraft procurement, \$1,373,803,000.
- (2) For missile procurement, \$343,828,000.
- (3) For weapons and tracked combat vehicles procurement, \$687,500,000.
- (4) For ammunition procurement, \$384,441,000.
- (5) For other procurement, \$5,827,274,000.

SEC. 1503. JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND.

Funds are hereby authorized to be appropriated for fiscal year 2011 for the Joint Improvised Explosive Device Defeat Fund in the amount of \$3,465,868,000.

SEC. 1504. NAVY AND MARINE CORPS PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2011 for procurement accounts of the Navy and Marine Corps in amounts as follows:

- (1) For aircraft procurement, Navy, \$420,358,000.
- (2) For weapons procurement, Navy, \$93,425,000.
- (3) For ammunition procurement, Navy and Marine Corps, \$565,084,000.
- (4) For other procurement, Navy, \$480,735,000.
- (5) For procurement, Marine Corps, \$1,705,069,000.

SEC. 1505. AIR FORCE PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2011 for procurement accounts of the Air Force in amounts as follows:

- (1) For aircraft procurement, \$1,096,520,000.
- (2) For ammunition procurement, \$292,959,000.
- (3) For missile procurement, \$56,621,000.
- (4) For other procurement, \$2,992,681,000.

SEC. 1506. DEFENSE-WIDE ACTIVITIES PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2011 for the procurement account for Defense-wide activities in the amount of \$844,546,000.

SEC. 1507. NATIONAL GUARD AND RESERVE EQUIPMENT.

Funds are hereby authorized to be appropriated for fiscal year 2011 for the procurement of aircraft, missiles, wheeled and tracked combat vehicles, tactical wheeled vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces in the amount of \$700,000,000.

SEC. 1508. MINE RESISTANT AMBUSH PROTECTED VEHICLE FUND.

Funds are hereby authorized to be appropriated for fiscal year 2011 for the Mine Resistant Ambush Protected Vehicle Fund in the amount of \$3,415,000,000.

SEC. 1509. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.

Funds are hereby authorized to be appropriated for fiscal year 2011 for the use of the Department of Defense for research, development, test, and evaluation as follows:

- (1) For the Army, \$150,906,000.
- (2) For the Navy, \$60,401,000.
- (3) For the Air Force, \$266,241,000.
- (4) For Defense-wide activities, \$661,240,000.

SEC. 1510. OPERATION AND MAINTENANCE.

Funds are hereby authorized to be appropriated for fiscal year 2011 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

- (1) For the Army, \$63,202,618,000.
- (2) For the Navy, \$8,692,173,000.
- (3) For the Marine Corps, \$4,136,522,000.
- (4) For the Air Force, \$13,487,283,000.
- (5) For Defense-wide activities, \$9,436,358,000.
- (6) For the Army Reserve, \$286,950,000.
- (7) For the Navy Reserve, \$93,559,000.
- (8) For the Marine Corps Reserve, \$29,685,000.
- (9) For the Air Force Reserve, \$129,607,000.
- (10) For the Army National Guard, \$544,349,000.
- (11) For the Air National Guard, \$350,823,000.
- (12) For the Afghanistan Security Forces Fund, \$11,619,283,000.
- (13) For the Iraq Security Forces Fund, \$1,500,000,000.
- (14) For the Overseas Contingency Operations Transfer Fund, \$506,781,000.

SEC. 1511. MILITARY PERSONNEL.

Funds are hereby authorized to be appropriated for fiscal year 2011 for the Department of Defense for military personnel in the amount of \$15,275,502,000.

SEC. 1512. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2011 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in the amount of \$485,384,000.

SEC. 1513. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2011 for expenses, not otherwise provided for, for the Defense Health Program in the amount of \$1,398,092,000 for operation and maintenance.

SEC. 1514. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2011 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide in the amount of \$457,110,000.

SEC. 1515. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2011 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense in the amount of \$10,529,000.

Subtitle B—Financial Matters

SEC. 1521. TREATMENT AS ADDITIONAL AUTHORIZATIONS.

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

SEC. 1522. SPECIAL TRANSFER AUTHORITY.

(a) **AUTHORITY TO TRANSFER AUTHORIZATIONS.**—

(1) **AUTHORITY.**—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2011 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) **LIMITATION.**—The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed \$4,000,000,000.

(b) **TERMS AND CONDITIONS.**—Transfers under this section shall be subject to the same terms and conditions as transfers under section 1001.

(c) **ADDITIONAL AUTHORITY.**—The transfer authority provided by this section is in addition to the transfer authority provided under section 1001.

Subtitle C—Limitations and Other Matters

SEC. 1531. LIMITATIONS ON AVAILABILITY OF FUNDS IN AFGHANISTAN SECURITY FORCES FUND.

(a) **APPLICATION OF EXISTING LIMITATIONS.**—Funds made available to the Department of Defense for the Afghanistan Security Forces Fund for fiscal year 2011 shall be subject to the conditions contained in subsections (b) through (g) of section 1513 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 428), as amended by subsection (b) of this section.

(b) **MODIFICATION OF PRIOR NOTICE AND REPORTING REQUIREMENTS.**—Section 1513 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 428) is amended—

(1) in subsection (e), by striking “five days” and inserting “15 days”; and

(2) in subsection (g), by adding at the end the following new sentence: "The Secretary may treat a report submitted under section 9010 of the Department of Defense Appropriations Act, 2010 (Public Law 111-118; 123 Stat. 3466), or a successor provision of law, with respect to a fiscal-year quarter as satisfying the requirements for a report under this subsection for that fiscal-year quarter."

SEC. 1532. LIMITATIONS ON AVAILABILITY OF FUNDS IN IRAQ SECURITY FORCES FUND.

(a) APPLICATION OF EXISTING LIMITATIONS.—Subject to subsection (b), funds made available to the Department of Defense for the Iraq Security Forces Fund for fiscal year 2011 shall be subject to the conditions contained in subsections (b) through (g) of section 1512 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 426), as amended by subsection (d) of this section.

(b) COST-SHARE REQUIREMENT.—

(1) REQUIREMENT.—If funds made available to the Department of Defense for the Iraq Security Forces Fund for fiscal year 2011 are used for the purchase of any item or service for Iraq Security Forces, the funds may not cover more than 80 percent of the cost of the item or service.

(2) EXCEPTION.—Paragraph (1) does not apply to any item that the Secretary of Defense determines—

(A) is an item of significant military equipment (as such term is defined in section 47(9) of the Arms Export Control Act (22 U.S.C. 2794(9))); or

(B) is included on the United States Munitions List, as designated pursuant to section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).

(c) LIMITATION ON OBLIGATION OF FUNDS PENDING CERTAIN COMMITMENT BY GOVERNMENT OF IRAQ.—

(1) LIMITATION.—Of the amount available to the Iraq Security Forces Fund as described in subsection (a), not more than \$1,000,000,000 may be obligated until the Secretary of Defense certifies to Congress that the Government of Iraq has demonstrated a commitment to each of the following:

(A) To adequately build the logistics and maintenance capacity of the Iraqi security forces.

(B) To develop the institutional capacity to manage such forces independently.

(C) To develop a culture of sustainment for equipment provided by the United States or acquired with United States assistance.

(2) BASIS FOR CERTIFICATION.—The certification of the Secretary under paragraph (1) shall include a description of the actions taken by the Government of Iraq that, in the determination of the Secretary, support the certification.

(d) MODIFICATION OF PRIOR NOTICE AND REPORTING REQUIREMENTS.—Section 1512 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 426) is amended—

(1) in subsection (e), by striking "five days" and inserting "15 days"; and

(2) in subsection (g), by adding at the end the following new sentence: "The Secretary may treat a report submitted under section 9010 of the Department of Defense Appropriations Act, 2010 (Public Law 111-118; 123 Stat. 3466), or a successor provision of law, with respect to a fiscal-year quarter as satisfying the requirements for a report under this subsection for that fiscal-year quarter."

SEC. 1533. CONTINUATION OF PROHIBITION ON USE OF UNITED STATES FUNDS FOR CERTAIN FACILITIES PROJECTS IN IRAQ.

Section 1508(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4651) shall apply to funds authorized to be appropriated by this title.

SEC. 1534. JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND.

(a) USE AND TRANSFER OF FUNDS.—Subsections (b) and (c) of section 1514 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2439), as in effect before the amendments made by section 1503 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4649), shall apply to the funds made available to the Department of Defense for the Joint Improvised Explosive Device Defeat Fund for fiscal year 2011.

(b) MONTHLY OBLIGATIONS AND EXPENDITURE REPORTS.—

(1) REPORTS REQUIRED.—Not later than 15 days after the end of each month of fiscal year 2011, the Secretary of Defense shall provide to the congressional defense committees a report on the Joint Improvised Explosive Device Defeat Fund explaining monthly commitments, obligations, and expenditures by line of action.

(2) REPEAL OF SUPERSEDED REPORTING REQUIREMENT.—Section 1514 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2439) is amended by striking subsection (e).

SEC. 1535. TASK FORCE FOR BUSINESS AND STABILITY OPERATIONS IN AFGHANISTAN AND ECONOMIC TRANSITION PLAN AND ECONOMIC STRATEGY FOR AFGHANISTAN.

(a) PROJECTS OF TASK FORCE FOR BUSINESS AND STABILITY OPERATIONS IN AFGHANISTAN.—

(1) IN GENERAL.—The Task Force for Business and Stability Operations in Afghanistan may carry out projects to assist the commander of United States Forces-Afghanistan and the Ambassador of the United States Mission in Afghanistan to reduce violence, enhance stability, and support economic normalcy in Afghanistan through strategic business and economic activities.

(2) DIRECTION, CONTROL, AND CONCURRENCE.—A project carried out under paragraph (1) shall be subject to—

(A) the direction and control of the Secretary of Defense; and

(B) the concurrence of the Secretary of State.

(3) SCOPE OF PROJECTS.—The projects carried out under paragraph (1) may include projects that facilitate private investment, industrial development, banking and financial system development, agricultural diversification and revitalization, and energy development in and with respect to Afghanistan.

(4) FUNDING.—The Secretary may use funds available for overseas contingency operations for operation and maintenance for the Army for additional activities to carry out projects under paragraph (1). The amount of funds used under authority in the preceding sentence may not exceed \$150,000,000.

(5) PROHIBITION ON USE OF CERTAIN FUNDS.—Funds provided for the Commanders' Emergency Response Program may not be utilized to support or carry out projects of the Task Force for Business and Stability Operations.

(6) REPORT.—Not later than October 31, 2011, the Secretary of Defense shall submit to the appropriate congressional committees a report describing—

(A) the activities of the Task Force for Business and Stability Operations in Afghanistan in support of Operation Enduring Freedom during fiscal year 2011, including the projects carried out under paragraph (1) during that fiscal year; and

(B) how the activities of the Task Force for Business and Stability Operations in Afghanistan support the long-term stabilization of Afghanistan.

(7) EXPIRATION OF AUTHORITY.—The authority provided in paragraph (1) shall expire on September 30, 2011.

(b) PLAN FOR TRANSITION OF TASK FORCE ACTIVITIES TO AGENCY FOR INTERNATIONAL DEVELOPMENT.—

(1) PLAN REQUIRED.—The Secretary of Defense, the Administrator of the Agency for International Development, and the Secretary of State shall jointly develop a plan to transition the activities of the Task Force for Business and Stability Operations in Afghanistan to the Department of State.

(2) ELEMENTS OF PLAN.—The plan shall describe at a minimum the following:

(A) The activities carried out by the Task Force for Business and Stability Operations in Afghanistan in fiscal year 2011.

(B) Those activities that the Task Force for Business and Stability Operations in Afghanistan carried out in fiscal year 2011 that the Agency for International Development will continue in fiscal year 2012, including those activities that, rather than explicitly continued, may be merged with similar efforts carried out by the Agency for International Development.

(C) Any activities carried out by the Task Force for Business and Stability Operations in Afghanistan in fiscal year 2011 that the Agency for International Development will not continue and the reasons that such activities shall not be continued.

(D) Those actions that may be necessary to transition activities carried out by the Task Force for Business and Stability Operations in Afghanistan in fiscal year 2011 and that will be continued by the Agency for International Development in fiscal year 2012 from the Department of Defense to the Agency for International Development.

(3) REPORT REQUIRED.—At the same time that the budget of the President is submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2012, the Secretary of Defense shall submit the plan to the appropriate congressional committees.

(c) REPORT ON ECONOMIC STRATEGY FOR AFGHANISTAN.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the President, acting through the Secretary of State and the Secretary of Defense, shall submit to the appropriate congressional committees a report on an economic strategy for Afghanistan that—

(A) supports the United States counterinsurgency campaign in Afghanistan; and

(B) promotes economic stabilization in Afghanistan, consistent with a longer-term development plan for Afghanistan; and

(C) enhances the establishment of sustainable institutions in Afghanistan.

(2) ELEMENTS.—The report shall include the following:

(A) An identification of the sectors within the Afghanistan economy that offer the greatest economic opportunities to support the purposes of the economic strategy for Afghanistan set forth under paragraph (1).

(B) An assessment of the capabilities of the Government of Afghanistan to increase revenue generation to meet its own operational and developmental costs in the short-term, medium-term, and long-term.

(C) An assessment of the infrastructure (water, power, rail, road) required to underpin economic development in Afghanistan.

(D) A description of the potential role in the economic strategy for Afghanistan of each of the following:

(i) Private sector investment, including investment by and through the Overseas Private Investment Corporation.

(ii) Efforts to promote public-private partnerships.

(iii) National Priority Programs of the Government of Afghanistan, including the Afghanistan National Solidarity Program, and public works projects.

(iv) International financial institutions, including the International Bank for Reconstruction and Development and the Asian Development Bank.

(v) Efforts to promote trade, including efforts by and through the Export-Import Bank of the United States.

(vi) Department of Defense policies to promote economic stabilization and development, including the Afghanistan First procurement policy and efforts by the Department to enhance transportation, electrification, and communications networks both within Afghanistan and between Afghanistan and neighboring countries.

(E) An evaluation of the regional dimension of an economic strategy for Afghanistan, including a description of economic areas suitable for regional collaboration and a prioritization among such areas for attention under the strategy.

(F) A timeline and milestones for activities that can promote economic stabilization, development, and sustainability in Afghanistan in the short-term, medium-term, and long-term.

(G) Metrics for assessing progress under the economic strategy for Afghanistan.

(d) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the Committees on Armed Services, Foreign Relations, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Foreign Affairs, and Appropriations of the House of Representatives.

TITLE XVI—IMPROVED SEXUAL ASSAULT PREVENTION AND RESPONSE IN THE ARMED FORCES

Sec. 1601. Definition of Department of Defense sexual assault prevention and response program and other definitions.

Sec. 1602. Comprehensive Department of Defense policy on sexual assault prevention and response program.

Subtitle A—Organizational Structure and Application of Sexual Assault Prevention and Response Program Elements

Sec. 1611. Sexual Assault Prevention and Response Office.

Sec. 1612. Oversight and evaluation standards.

Sec. 1613. Report and plan for completion of acquisition of centralized Department of Defense sexual assault database.

Sec. 1614. Restricted reporting of sexual assaults.

Subtitle B—Improved and Expanded Availability of Services

Sec. 1621. Improved protocols for providing medical care for victims of sexual assault.

Sec. 1622. Sexual assault victims access to Victim Advocate services.

Subtitle C—Reporting Requirements

Sec. 1631. Annual report regarding sexual assaults involving members of the Armed Forces and improvement to sexual assault prevention and response program.

Sec. 1632. Additional reports.

SEC. 1601. DEFINITION OF DEPARTMENT OF DEFENSE SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM AND OTHER DEFINITIONS.

(a) **SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM DEFINED.**—In this title, the term “sexual assault prevention and response program” refers to Department of Defense policies and programs, including policies and programs of a specific military department or Armed Force, that, as modified as required by this title—

(1) are intended to reduce the number of sexual assaults involving members of the Armed Forces, whether members are the victim, alleged assailant, or both; and

(2) improve the response of the Department of Defense, the military departments, and the Armed Forces to reports of sexual assaults involving members of the Armed Forces, whether members are the victim, alleged assailant, or both, and to reports of sexual assaults when a covered beneficiary under chapter 55 of title 10, United States Code, is the victim.

(b) **OTHER DEFINITIONS.**—In this title:

(1) The term “Armed Forces” means the Army, Navy, Air Force, and Marine Corps.

(2) The terms “covered beneficiary” and “dependent” have the meanings given those terms in section 1072 of title 10, United States Code.

(3) The term “department” has the meaning given that term in section 101(a)(6) of title 10, United States Code.

(4) The term “military installation” has the meaning given that term by the Secretary concerned.

(5) The term “Secretary concerned” means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy and the Marine Corps; and

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force.

(6) The term “sexual assault” has the definition developed for that term by the Secretary of Defense pursuant to subsection (a)(3) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 113 note), subject to such modifications as the Secretary considers appropriate.

SEC. 1602. COMPREHENSIVE DEPARTMENT OF DEFENSE POLICY ON SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.

(a) **COMPREHENSIVE POLICY REQUIRED.**—Not later than March 30, 2012, the Secretary of Defense shall submit to the congressional defense committees a revised comprehensive policy for the Department of Defense sexual assault prevention and response program that—

(1) builds upon the comprehensive sexual assault prevention and response policy developed under subsections (a) and (b) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 113 note);

(2) incorporates into the sexual assault prevention and response program the new requirements identified by this title; and

(3) ensures that the policies and procedures of the military departments regarding sexual

assault prevention and response are consistent with the revised comprehensive policy.

(b) **CONSIDERATION OF TASK FORCE FINDINGS, RECOMMENDATIONS, AND PRACTICES.**—In developing the comprehensive policy required by subsection (a), the Secretary of Defense shall take into account the findings and recommendations found in the report of the Defense Task Force on Sexual Assault in the Military Services issued in December 2009.

(c) **SEXUAL ASSAULT PREVENTION AND RESPONSE EVALUATION PLAN.**—

(1) **PLAN REQUIRED.**—The Secretary of Defense shall develop and implement an evaluation plan for assessing the effectiveness of the comprehensive policy prepared under subsection (a) in achieving its intended outcomes at the department and individual Armed Force levels.

(2) **ROLE OF SERVICE SECRETARIES.**—As a component of the evaluation plan, the Secretary of each military department shall assess the adequacy of measures undertaken at military installations and by units of the Armed Forces under the jurisdiction of the Secretary to ensure the safest and most secure living and working environments with regard to preventing sexual assault.

(d) **PROGRESS REPORT.**—Not later than October 1, 2011, the Secretary of Defense shall submit to the congressional defense committees a report—

(1) describing the process by which the comprehensive policy required by subsection (a) is being revised;

(2) describing the extent to which revisions of the comprehensive policy and the evaluation plan required by subsection (c) have already been implemented; and

(3) containing a determination by the Secretary regarding whether the Secretary will be able to comply with the revision deadline specified in subsection (a).

(e) **CONSISTENCY OF TERMINOLOGY, POSITION DESCRIPTIONS, PROGRAM STANDARDS, AND ORGANIZATIONAL STRUCTURES.**—

(1) **IN GENERAL.**—The Secretary of Defense shall require the use of consistent terminology, position descriptions, minimum program standards, and organizational structures throughout the Armed Forces in implementing the sexual assault prevention and response program.

(2) **MINIMUM STANDARDS.**—The Secretary of Defense shall establish minimum standards for—

(A) the training, qualifications, and status of Sexual Assault Response Coordinators and Sexual Assault Victim Advocates for the Armed Forces; and

(B) the curricula to be used to provide sexual assault prevention and response training and education for members of the Armed Forces and civilian employees of the department to strengthen individual knowledge, skills, and capacity to prevent and respond to sexual assault.

(3) **RECOGNIZING OPERATIONAL DIFFERENCES.**—In complying with this subsection, the Secretary of Defense shall take into account the responsibilities of the Secretary concerned and operational needs of the Armed Force involved.

Subtitle A—Organizational Structure and Application of Sexual Assault Prevention and Response Program Elements

SEC. 1611. SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE.

(a) **APPOINTMENT OF DIRECTOR.**—There shall be a Director of the Sexual Assault Prevention and Response Office. During the development and implementation of the

comprehensive policy for the Department of Defense sexual assault prevention and response program, the Director shall operate under the oversight of the Advisory Working Group of the Deputy Secretary of Defense.

(b) **DUTIES OF DIRECTOR.**—The Director of the Sexual Assault Prevention and Response Office shall—

(1) oversee implementation of the comprehensive policy for the Department of Defense sexual assault prevention and response program;

(2) serve as the single point of authority, accountability, and oversight for the sexual assault prevention and response program; and

(3) provide oversight to ensure that the military departments comply with the sexual assault prevention and response program.

(c) **ROLE OF INSPECTORS GENERAL.**—

(1) **IN GENERAL.**—The Inspector General of the Department of Defense, the Inspector General of the Army, the Naval Inspector General, and the Inspector General of the Air Force shall treat the sexual assault prevention and response program as an item of special interest when conducting inspections of organizations and activities with responsibilities regarding the prevention and response to sexual assault.

(2) **COMPOSITION OF INVESTIGATION TEAMS.**—The Inspector General inspection teams shall include at least one member with expertise and knowledge of sexual assault prevention and response policies related to a specific Armed Force.

(d) **STAFF.**—

(1) **ASSIGNMENT.**—Not later than 18 months after the date of the enactment of this Act, an officer from each of the Armed Forces in the grade of O-4 or above shall be assigned to the Sexual Assault Prevention and Response Office for a minimum tour length of at least 18 months.

(2) **HIGHER GRADE.**—Notwithstanding paragraph (1), of the four officers assigned to the Sexual Assault Prevention and Response Office under this subsection at any time, one officer shall be in the grade of O-6 or above.

SEC. 1612. OVERSIGHT AND EVALUATION STANDARDS.

(a) **ISSUANCE OF STANDARDS.**—The Secretary of Defense shall issue standards to assess and evaluate the effectiveness of the sexual assault prevention and response program of each Armed Force in reducing the number of sexual assaults involving members of the Armed Forces and in improving the response of the department to reports of sexual assaults involving members of the Armed Forces, whether members of the Armed Forces are the victim, alleged assailant, or both.

(b) **SEXUAL ASSAULT PREVENTION EVALUATION PLAN.**—The Secretary of Defense shall use the sexual assault prevention and response evaluation plan developed under section 1602(c) to ensure that the Armed Forces implement and comply with assessment and evaluation standards issued under subsection (a).

SEC. 1613. REPORT AND PLAN FOR COMPLETION OF ACQUISITION OF CENTRALIZED DEPARTMENT OF DEFENSE SEXUAL ASSAULT DATABASE.

(a) **REPORT AND PLAN REQUIRED.**—Not later than April 1, 2011, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(1) describing the status of development and implementation of the centralized Department of Defense sexual assault database

required by section 563 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4470; 10 U.S.C. 113 note);

(2) containing a revised implementation plan under subsection (c) of such section for completing implementation of the database; and

(3) indicating the date by which the database will be operational.

(b) **CONTENT OF IMPLEMENTATION PLAN.**—The plan referred to in subsection (a)(2) shall address acquisition best practices associated with successfully acquiring and deploying information technology systems related to the centralized sexual assault database, such as economically justifying the proposed system solution and effectively developing and managing requirements.

SEC. 1614. RESTRICTED REPORTING OF SEXUAL ASSAULTS.

The Secretary of Defense shall clarify the limitations on the ability of a member of the Armed Forces to make a restricted report regarding the occurrence of a sexual assault and the circumstances under which information contained in a restricted report may no longer be confidential.

Subtitle B—Improved and Expanded Availability of Services

SEC. 1621. IMPROVED PROTOCOLS FOR PROVIDING MEDICAL CARE FOR VICTIMS OF SEXUAL ASSAULT.

The Secretary of Defense shall establish comprehensive and consistent protocols for providing and documenting medical care to a member of the Armed Forces or covered beneficiary who is a victim of a sexual assault, including protocols with respect to the appropriate screening, prevention, and mitigation of diseases. In establishing the protocols, the Secretary shall take into consideration the gender of the victim.

SEC. 1622. SEXUAL ASSAULT VICTIMS ACCESS TO VICTIM ADVOCATE SERVICES.

(a) **AVAILABILITY OF VICTIM ADVOCATE SERVICES.**—

(1) **AVAILABILITY.**—A member of the Armed Forces or a dependent, as described in paragraph (2), who is the victim of a sexual assault is entitled to assistance provided by a qualified Sexual Assault Victim Advocate.

(2) **COVERED DEPENDENTS.**—The assistance described in paragraph (1) is available to a dependent of a member of the Armed Forces who is the victim of a sexual assault and who resides on or in the vicinity of a military installation. The Secretary concerned shall define the term “vicinity” for purposes of this paragraph.

(b) **NOTICE OF AVAILABILITY OF ASSISTANCE; OPT OUT.**—The member or dependent shall be informed of the availability of assistance under subsection (a) as soon as the member or dependent seeks assistance from a Sexual Assault Response Coordinator. The victim shall also be informed that the services of a Sexual Assault Response Coordinator and Sexual Assault Victim Advocate are optional and that these services may be declined, in whole or in part, at any time.

(c) **NATURE OF REPORTING IMMATERIAL.**—In the case of a member of the Armed Forces, Victim Advocate services are available regardless of whether the member elects unrestricted or restricted (confidential) reporting of the sexual assault.

Subtitle C—Reporting Requirements

SEC. 1631. ANNUAL REPORT REGARDING SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES AND IMPROVEMENT TO SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.

(a) **ANNUAL REPORTS ON SEXUAL ASSAULTS.**—Not later than March 1, 2012, and

each March 1 thereafter through March 1, 2017, the Secretary of each military department shall submit to the Secretary of Defense a report on the sexual assaults involving members of the Armed Forces under the jurisdiction of that Secretary during the preceding year. In the case of the Secretary of the Navy, separate reports shall be prepared for the Navy and for the Marine Corps.

(b) **CONTENTS.**—The report of a Secretary of a military department for an Armed Force under subsection (a) shall contain the following:

(1) The number of sexual assaults committed against members of the Armed Force that were reported to military officials during the year covered by the report, and the number of the cases so reported that were substantiated.

(2) The number of sexual assaults committed by members of the Armed Force that were reported to military officials during the year covered by the report, and the number of the cases so reported that were substantiated. The information required by this paragraph may not be combined with the information required by paragraph (1).

(3) A synopsis of each such substantiated case, organized by offense, and, for each such case, the action taken in the case, including the type of disciplinary or administrative sanction imposed, if any, including court-martial sentences, non-judicial punishments administered by commanding officers pursuant to section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice), and administrative separations.

(4) The policies, procedures, and processes implemented by the Secretary concerned during the year covered by the report in response to incidents of sexual assault involving members of the Armed Force concerned.

(5) The number of substantiated sexual assault cases in which the victim is a deployed member of the Armed Forces and the assailant is a foreign national, and the policies, procedures, and processes implemented by the Secretary concerned to monitor the investigative processes and disposition of such cases and any actions taken to eliminate any gaps in investigating and adjudicating such cases.

(6) A description of the implementation of the accessibility plan implemented pursuant to section 596(b) of such Act, including a description of the steps taken during that year to ensure that trained personnel, appropriate supplies, and transportation resources are accessible to deployed units in order to provide an appropriate and timely response in any case of reported sexual assault in a deployed unit, location, or environment.

(c) **CONSISTENT DEFINITION OF SUBSTANTIATED.**—Not later than December 31, 2011, the Secretary of Defense shall establish a consistent definition of “substantiated” for purposes of paragraphs (1), (2), (3), and (5) of subsection (b) and provide synopses for those cases for the preparation of reports under this section.

(d) **SUBMISSION TO CONGRESS.**—Not later than April 30 of each year in which the Secretary of Defense receives reports under subsection (a), the Secretary of Defense shall forward the reports to the Committees on Armed Services of the Senate and House of Representatives, together with—

(1) the results of assessments conducted under the evaluation plan required by section 1602(c); and

(2) such assessments on the reports as the Secretary of Defense considers appropriate.

(e) **REPEAL OF SUPERSEDED REPORTING REQUIREMENT.**—

(1) REPEAL.—Subsection (f) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 113 note) is repealed.

(2) SUBMISSION OF 2010 REPORT.—The reports required by subsection (f) of section 577 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 113 note) covering calendar year 2010 are still required to be submitted to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives pursuant to the terms of such subsection, as in effect before the date of the enactment of this Act.

SEC. 1632. ADDITIONAL REPORTS.

(a) EXTENSION OF SEXUAL ASSAULT PREVENTION AND RESPONSE SERVICES TO ADDITIONAL PERSONS.—The Secretary of Defense shall evaluate the feasibility of extending department sexual assault prevention and response services to Department of Defense civilian employees and employees of defense contractors who—

(1) are victims of a sexual assault; and
(2) work on or in the vicinity of a military installation or with members of the Armed Forces.

(b) EXTENSION OF SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM TO RESERVE COMPONENTS.—The Secretary of Defense shall evaluate the application of the sexual assault prevention and response program to members of the reserve components, including, at a minimum, the following:

(1) The ability of members of the reserve components to access the services available under the sexual assault prevention and response program, including policies and programs of a specific military department or Armed Force.

(2) The quality of training provided to Sexual Assault Response Coordinators and Sexual Assault Victim Advocates in the reserve components.

(3) The degree to which the services available for regular and reserve members under the sexual assault prevention and response program are integrated.

(4) Such recommendations as the Secretary of Defense considers appropriate on how to improve the services available for reserve members under the sexual assault prevention and response program and their access to the services.

(c) COPY OF RECORD OF COURT-MARTIAL TO VICTIM OF SEXUAL ASSAULT.—The Secretary of Defense shall evaluate the feasibility of requiring that a copy of the prepared record of the proceedings of a general or special court-martial involving a sexual assault be given to the victim in cases in which the victim testified during the proceedings.

(d) ACCESS TO LEGAL ASSISTANCE.—The Secretary of Defense shall evaluate the feasibility of authorizing members of the Armed Forces who are victims of a sexual assault and dependents of members who are victims of a sexual assault to receive legal assistance provided by a military legal assistance counsel certified as competent to provide legal assistance related to responding to sexual assault.

(e) USE OF FORENSIC MEDICAL EXAMINERS.—The Secretary of Defense shall evaluate the feasibility of utilizing, when sexual assaults involving members of the Armed Forces occur in a military environment where civilian resources are limited or unavailable, forensic medical examiners who are specially trained regarding the collection and preservation of evidence in cases involving sexual assault.

(f) SUBMISSION OF RESULTS.—The Secretary of Defense shall submit the results of the

evaluations required by this section to the Committees on Armed Services of the Senate and House of Representatives.

TITLE XVII—GUAM WORLD WAR II LOYALTY RECOGNITION ACT

Sec. 1701. Short title.

Sec. 1702. Recognition of the suffering and loyalty of the residents of Guam.

Sec. 1703. Payments for Guam World War II claims.

Sec. 1704. Adjudication.

Sec. 1705. Grants program to memorialize the occupation of Guam during World War II.

Sec. 1706. Authorization of appropriations.

SEC. 1701. SHORT TITLE.

This title may be cited as the “Guam World War II Loyalty Recognition Act”.

SEC. 1702. RECOGNITION OF THE SUFFERING AND LOYALTY OF THE RESIDENTS OF GUAM.

(a) RECOGNITION OF THE SUFFERING OF THE RESIDENTS OF GUAM.—The United States recognizes that, as described by the Guam War Claims Review Commission, the residents of Guam, on account of their United States nationality, suffered unspeakable harm as a result of the occupation of Guam by Imperial Japanese military forces during World War II, by being subjected to death, rape, severe personal injury, personal injury, forced labor, forced march, or internment.

(b) RECOGNITION OF THE LOYALTY OF THE RESIDENTS OF GUAM.—The United States forever will be grateful to the residents of Guam for their steadfast loyalty to the United States of America, as demonstrated by the countless acts of courage they performed despite the threat of death or great bodily harm they faced at the hands of the Imperial Japanese military forces that occupied Guam during World War II.

SEC. 1703. PAYMENTS FOR GUAM WORLD WAR II CLAIMS.

(a) PAYMENTS FOR DEATH, PERSONAL INJURY, FORCED LABOR, FORCED MARCH, AND INTERNMENT.—Subject to the availability of appropriations authorized to be appropriated under section 1706(a), after receipt of certification pursuant to section 1704(b)(8) and in accordance with the provisions of this title, the Secretary of the Treasury shall make payments as follows:

(1) RESIDENTS INJURED.—Before any payments are made to individuals described in paragraph (2), the Secretary shall pay compensable Guam victims who are not deceased as follows:

(A) If the victim has suffered an injury described in subsection (c)(2)(A), \$15,000.

(B) If the victim is not described in subparagraph (A) but has suffered an injury described in subsection (c)(2)(B), \$12,000.

(C) If the victim is not described in subparagraph (A) or (B) but has suffered an injury described in subsection (c)(2)(C), \$10,000.

(2) SURVIVORS OF RESIDENTS WHO DIED IN WAR.—In the case of a compensable Guam decedent, the Secretary shall pay \$25,000 for distribution to eligible survivors of the decedent as specified in subsection (b). The Secretary shall make payments under this paragraph after payments are made under paragraph (1).

(b) DISTRIBUTION OF SURVIVOR PAYMENTS.—Payments under paragraph (2) of subsection (a) to eligible survivors of an individual who is a compensable Guam decedent shall be made as follows:

(1) If there is living a spouse of the individual, but no child of the individual, all of the payment shall be made to such spouse.

(2) If there is living a spouse of the individual and one or more children of the indi-

vidual, one-half of the payment shall be made to the spouse and the other half to the child (or to the children in equal shares).

(3) If there is no living spouse of the individual, but there are one or more children of the individual alive, all of the payment shall be made to such child (or to such children in equal shares).

(4) If there is no living spouse or child of the individual but there is a living parent (or parents) of the individual, all of the payment shall be made to the parent (or to the parents in equal shares).

(5) If there is no such living spouse, child, or parent, no payment shall be made.

(c) DEFINITIONS.—For purposes of this title:

(1) COMPENSABLE GUAM DECEDENT.—The term “compensable Guam decedent” means an individual determined under section 1704 to have been a resident of Guam who died or was killed as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces, and whose death would have been compensable under the Guam Meritorious Claims Act of 1945 (Public Law 79-224) if a timely claim had been filed under the terms of such Act.

(2) COMPENSABLE GUAM VICTIM.—The term “compensable Guam victim” means an individual determined under section 1704 to have suffered, as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces, any of the following:

(A) Rape or severe personal injury (such as loss of a limb, dismemberment, or paralysis).

(B) Forced labor or a personal injury not under subparagraph (A) (such as disfigurement, scarring, or burns).

(C) Forced march, internment, or hiding to evade internment.

(3) DEFINITIONS OF SEVERE PERSONAL INJURIES AND PERSONAL INJURIES.—The Foreign Claims Settlement Commission shall promulgate regulations to specify injuries that constitute a severe personal injury or a personal injury for purposes of subparagraphs (A) and (B), respectively, of paragraph (2).

SEC. 1704. ADJUDICATION.

(a) AUTHORITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION.—

(1) IN GENERAL.—The Foreign Claims Settlement Commission is authorized to adjudicate claims and determine eligibility for payments under section 1703.

(2) RULES AND REGULATIONS.—The chairman of the Foreign Claims Settlement Commission shall prescribe such rules and regulations as may be necessary to enable it to carry out its functions under this title. Such rules and regulations shall be published in the Federal Register.

(b) CLAIMS SUBMITTED FOR PAYMENTS.—

(1) SUBMITTAL OF CLAIM.—For purposes of subsection (a)(1) and subject to paragraph (2), the Foreign Claims Settlement Commission may not determine an individual is eligible for a payment under section 1703 unless the individual submits to the Commission a claim in such manner and form and containing such information as the Commission specifies.

(2) FILING PERIOD FOR CLAIMS AND NOTICE.—All claims for a payment under section 1703 shall be filed within one year after the Foreign Claims Settlement Commission publishes public notice of the filing period in the Federal Register. The Foreign Claims Settlement Commission shall provide for the notice required under the previous sentence not

later than 180 days after the date of the enactment of this title. In addition, the Commission shall cause to be publicized the public notice of the deadline for filing claims in newspaper, radio, and television media on Guam.

(3) **ADJUDICATORY DECISIONS.**—The decision of the Foreign Claims Settlement Commission on each claim shall be by majority vote, shall be in writing, and shall state the reasons for the approval or denial of the claim. If approved, the decision shall also state the amount of the payment awarded and the distribution, if any, to be made of the payment.

(4) **DEDUCTIONS IN PAYMENT.**—The Foreign Claims Settlement Commission shall deduct, from potential payments, amounts previously paid under the Guam Meritorious Claims Act of 1945 (Public Law 79-224).

(5) **INTEREST.**—No interest shall be paid on payments awarded by the Foreign Claims Settlement Commission.

(6) **REMUNERATION PROHIBITED.**—No remuneration on account of representational services rendered on behalf of any claimant in connection with any claim filed with the Foreign Claims Settlement Commission under this title shall exceed one percent of the total amount paid pursuant to any payment certified under the provisions of this title on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be fined not more than \$5,000 or imprisoned not more than 12 months, or both.

(7) **APPEALS AND FINALITY.**—Objections and appeals of decisions of the Foreign Claims Settlement Commission shall be to the Commission, and upon rehearing, the decision in each claim shall be final, and not subject to further review by any court or agency.

(8) **CERTIFICATIONS FOR PAYMENT.**—After a decision approving a claim becomes final, the chairman of the Foreign Claims Settlement Commission shall certify it to the Secretary of the Treasury for authorization of a payment under section 1703.

(9) **TREATMENT OF AFFIDAVITS.**—For purposes of section 1703 and subject to paragraph (2), the Foreign Claims Settlement Commission shall treat a claim that is accompanied by an affidavit of an individual that attests to all of the material facts required for establishing eligibility of such individual for payment under such section as establishing a prima facie case of the individual's eligibility for such payment without the need for further documentation, except as the Commission may otherwise require. Such material facts shall include, with respect to a claim under paragraph (2) or (3) of section 1703(a), a detailed description of the injury or other circumstance supporting the claim involved, including the level of payment sought.

(10) **RELEASE OF RELATED CLAIMS.**—Acceptance of payment under section 1703 by an individual for a claim related to a compensable Guam decedent or a compensable Guam victim shall be in full satisfaction of all claims related to such decedent or victim, respectively, arising under the Guam Meritorious Claims Act of 1945 (Public Law 79-224), the implementing regulations issued by the United States Navy pursuant thereto, or this title.

SEC. 1705. GRANTS PROGRAM TO MEMORIALIZE THE OCCUPATION OF GUAM DURING WORLD WAR II.

(a) **ESTABLISHMENT.**—Subject to section 1706(b) and in accordance with this section,

the Secretary of the Interior shall establish a grants program under which the Secretary shall award grants for research, educational, and media activities that memorialize the events surrounding the occupation of Guam during World War II, honor the loyalty of the people of Guam during such occupation, or both, for purposes of appropriately illuminating and interpreting the causes and circumstances of such occupation and other similar occupations during a war.

(b) **ELIGIBILITY.**—The Secretary of the Interior may not award to a person a grant under subsection (a) unless such person submits an application to the Secretary for such grant, in such time, manner, and form and containing such information as the Secretary specifies.

SEC. 1706. AUTHORIZATION OF APPROPRIATIONS.

(a) **GUAM WORLD WAR II CLAIMS PAYMENTS AND ADJUDICATION.**—For purposes of carrying out sections 1703 and 1704, there are authorized to be appropriated \$100,000,000, to remain available for obligation until September 30, 2016, to the Foreign Claims Settlement Commission. Not more than 5 percent of funds made available under this subsection shall be used for administrative costs.

(b) **GUAM WORLD WAR II GRANTS PROGRAM.**—For purposes of carrying out section 1705, there are authorized to be appropriated \$5,000,000, to remain available for obligation until September 30, 2016.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the “Military Construction Authorization Act for Fiscal Year 2011”.

SEC. 2002. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) **EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.**—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVII and title XXIX of this division for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2013; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014.

(b) **EXCEPTION.**—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2013; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2014 for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment Program.

SEC. 2003. FUNDING TABLES.

(a) **IN GENERAL.**—The amounts authorized to be appropriated by sections 2104, 2204, 2304, 2403, 2411, 2502, 2606, 2701, and 2703 shall be available in the amounts specified in the funding table in section 3001.

(b) **OVERSEAS CONTINGENCY OPERATIONS.**—The amounts authorized to be appropriated by sections 2901, 2902, and 2903 shall be available in the amounts specified in the funding table in section 3002.

TITLE XXI—ARMY MILITARY CONSTRUCTION

Sec. 2101. Authorized Army construction and land acquisition projects.

Sec. 2102. Family housing.

Sec. 2103. Improvements to military family housing units.

Sec. 2104. Authorization of appropriations, Army.

Sec. 2105. Use of unobligated Army military construction funds in conjunction with funds provided by the Commonwealth of Virginia to carry out certain fiscal year 2002 project.

Sec. 2106. Modification of authority to carry out certain fiscal year 2009 project.

Sec. 2107. Modification of authority to carry out certain fiscal year 2010 project.

Sec. 2108. Extension of authorizations of certain fiscal year 2008 projects.

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or Location	Amount
Alabama	Fort Rucker	\$69,650,000
Alaska	Fort Greely	\$26,000,000
	Fort Richardson.	\$113,238,000
	Fort Wainwright.	\$173,000,000
California	Presidio Monterey.	\$140,000,000
Colorado	Fort Carson	\$106,350,000
Florida	Eglin Air Force Base.	\$6,900,000
	Miami-Dade County.	\$41,000,000
Georgia	Fort Benning.	\$145,400,000
	Fort Gordon	\$4,150,000
	Fort Stewart	\$125,250,000
Hawaii	Fort Shafter	\$81,000,000
	Schofield Barracks.	\$212,000,000
	Tripler Army Medical Center.	\$28,000,000
Kansas	Fort Leavenworth.	\$7,100,000
	Fort Riley ...	\$57,100,000
Kentucky	Fort Campbell.	\$143,900,000
	Fort Knox ...	\$18,800,000
Louisiana	Fort Polk	\$63,250,000
Maryland	Aberdeen Proving Ground.	\$14,600,000
	Fort Meade	\$32,600,000
Missouri	Fort Leonard Wood.	\$111,700,000
New Mexico	White Sands	\$29,000,000
New York	Fort Drum ..	\$228,800,000
	U.S. Military Academy.	\$132,324,000
North Carolina.	Fort Bragg ..	\$310,900,000
Oklahoma	Fort Sill	\$13,800,000

Army: Inside the United States—Continued

State	Installation or Location	Amount
South Carolina	McAlester Army Ammunition Plant.	\$3,000,000
Texas	Fort Jackson.	\$91,000,000
	Fort Bliss	\$149,950,000
	Fort Hood ...	\$145,050,000
	Fort Sam Houston.	\$22,200,000
Virginia	Fort A.P. Hill.	\$93,600,000
	Fort Eustis	\$18,000,000
	Fort Lee	\$18,400,000
Washington	Fort Lewis ..	\$171,800,000
	Yakima Firing Range.	\$3,750,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or Location	Amount
Afghanistan	Bagram	\$101,500,000
Germany	Ansbach	\$31,800,000
	Grafenwoehr	\$75,500,000
	Rhine Ordnance Barracks.	\$35,000,000
	Sembach Air Base.	\$9,100,000
	Wiesbaden Air Base.	\$126,500,000

Army: Family Housing

Country	Installation or Location	Units	Amount
Alaska	Fort Wainwright	110	\$21,000,000
Germany	Baumholder	64	\$34,329,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$2,040,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed \$35,000,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of \$4,565,507,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), \$3,152,562,000.

(2) For military construction projects outside the United States authorized by section 2101(b), \$419,300,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, \$23,000,000.

(4) For host nation support and architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$249,636,000.

(5) For military family housing functions: (A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$92,369,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), \$518,140,000.

(6) For the construction of increment 4 of a brigade complex operations support facility at Vicenza, Italy, authorized by section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 505), \$25,000,000.

(7) For the construction of increment 4 of a brigade complex barracks and community support facility at Vicenza, Italy, authorized by section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 505), \$26,000,000.

(8) For the construction of increment 2 of the Command and Battle Center at Wiesbaden, Germany, authorized by section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110–417; 122 Stat. 4662), \$59,500,000.

SEC. 2105. USE OF UNOBLIGATED ARMY MILITARY CONSTRUCTION FUNDS IN CONJUNCTION WITH FUNDS PROVIDED BY THE COMMONWEALTH OF VIRGINIA TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECT.

(a) FIRE STATION AT FORT BELVOIR, VIRGINIA.—Section 2836(d) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1314), as amended by section 2846 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3527) and section 2849 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109–364; 120 Stat. 2486), is further amended—

(1) in paragraph (2), by inserting “through a project for construction of an Army standard-design, two-company fire station at Fort Belvoir, Virginia,” after “Building 191”; and

(2) by adding at the end the following new paragraph: “(3) The Secretary may use up to \$3,900,000 of available, unobligated Army military construction funds appropriated for a fiscal year before fiscal year 2011, in conjunction with the funds provided under paragraph (1), for the project described in paragraph (2).”

(b) CONGRESSIONAL NOTIFICATION.—The Secretary of the Army shall provide informa-

Army: Outside the United States—Continued

Country	Installation or Location	Amount
Honduras	Soto Cano Air Base.	\$20,400,000
Korea	Camp Walker.	\$19,500,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

tion, in accordance with section 2851(c) of title 10, United States Code, regarding the project described in the amendment made by subsection (a). If it becomes necessary to exceed the estimated project cost of \$8,780,000, including \$4,880,000 contributed by the Commonwealth of Virginia, the Secretary shall utilize the authority provided by section 2853 of such title regarding authorized cost and scope of work variations.

SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2009 PROJECT.

The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110–417; 122 Stat. 4661) is amended by striking “Katterbach” and inserting “Grafenwoehr”.

SEC. 2107. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2010 PROJECT.

In the case of the authorization contained in the table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2628) for Fort Riley, Kansas, for construction of a Brigade Complex at the installation, the Secretary of the Army may construct up to a 40,100 square-foot brigade headquarters consistent with the Army’s construction guidelines for brigade headquarters.

SEC. 2108. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2008 PROJECTS.

(a) EXTENSION.—Notwithstanding section 2002 of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110–181; 122 Stat. 503), authorizations set forth in the table in subsection (b), as provided in section 2101 of that Act (122 Stat. 504), shall remain in effect until October 1, 2011, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2012, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Army: Extension of 2008 Project Authorizations

State	Installation or Location	Project	Amount
Georgia	Fort Stewart	Unit Operations Facilities	\$16,000,000
Hawaii	Schofield Barracks	Tactical Vehicle Wash Facility	\$10,200,000
		Barracks Complex-Wheeler 205	\$51,000,000
Louisiana	Fort Polk	Brigade Headquarters	\$9,800,000
		Child Care Facility	\$6,100,000
Missouri	Fort Leonard Wood	Multipurpose Machine Gun Range	\$4,150,000
Oklahoma	Fort Sill	Multipurpose Machine Gun Range	\$3,300,000
Washington	Fort Lewis	Alternative Fuel Facility	\$3,300,000

TITLE XXII—NAVY MILITARY CONSTRUCTION

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorization of appropriations, Navy.

Sec. 2205. Technical amendment to reflect multi-increment fiscal year 2010 project.

Sec. 2206. Extension of authorization of certain fiscal year 2008 project.

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Inside the United States

State	Installation or Location	Amount
Alabama	Mobile	\$29,082,000
Arizona	Marine Corps Air Station, Yuma.	\$285,060,000
California	Marine Corps Base, Camp Pendleton.	\$362,124,000
	Naval Base, Coronado.	\$67,160,000
	Marine Corps Air Station, Miramar.	\$190,610,000
	San Diego ...	\$193,706,000
	Marine Corps Base, Twentynine Palms.	\$53,158,000

Inside the United States—Continued

State	Installation or Location	Amount
Florida	Blount Island Command.	\$74,620,000
Georgia	Naval Submarine Base, Kings Bay.	\$60,664,000
Hawaii	Marine Corps Base, Camp Smith.	\$29,960,000
	Marine Corps Base, Kaneohe Bay.	\$109,660,000
	Naval Station, Pearl Harbor.	\$108,468,000
Maryland	Naval Support Facility, Indian Head.	\$34,328,000
	Naval Air Station, Patuxent River.	\$42,211,000
North Carolina.	Marine Corps Base, Camp Lejeune.	\$789,393,000
	Marine Corps Air Station, Cherry Point.	\$65,510,000
Rhode Island	Naval Station, Newport.	\$27,007,000
South Carolina.	Marine Corps Air Station, Beaufort.	\$129,410,000

Inside the United States—Continued

State	Installation or Location	Amount
Virginia	Naval Station, Norfolk.	\$12,435,000
	Marine Corps Base, Quantico.	\$143,632,000
Washington	Bangor	\$56,893,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installation or location outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or Location	Amount
Bahrain	Southwest Asia.	\$213,153,000
Djibouti	Camp Lemonier.	\$11,148,000
Guam	Naval Activities, Guam.	\$66,730,000
Japan	Atsugi Naval Air Facility.	\$6,908,000
Spain	Naval Station, Rota.	\$23,190,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

Navy: Family Housing

Location	Installation or Location	Units	Amount
Cuba	Guantanamo Bay	71	\$37,169,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$3,255,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed \$146,020,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of \$4,068,963,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), \$2,865,001,000.

(2) For military construction projects outside the United States authorized by section 2201(b), \$321,129,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, \$20,877,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$120,050,000.

(5) For military family housing functions:
(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$186,444,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$366,346,000.

(6) For the construction of increment 7 of a limited area production and storage complex at Bangor, Washington, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2106), \$19,116,000.

(7) For the construction of increment 2 of a ship repair pier replacement at Norfolk Naval Shipyard, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2633), \$100,000,000.

(8) For the construction of increment 2 of a wharves improvement at Apra Harbor, Guam, authorized by section 2201(b) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2633), \$40,000,000.

(9) For the construction of increment 2 of a tertiary water treatment plant at Marine Corps Base Camp Pendleton, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2632), \$30,000,000.

SEC. 2205. TECHNICAL AMENDMENT TO REFLECT MULTI-INCREMENT FISCAL YEAR 2010 PROJECT.

Section 2204 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2634) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

Navy: Extension of 2008 Project Authorization

Location	Installation or Location	Project	Amount
Worldwide	Unspecified	Host Nation Infrastructure	\$2,700,000

TITLE XXIII—AIR FORCE MILITARY CONSTRUCTION

Sec. 2301. Authorized Air Force construction and land acquisition projects.

Sec. 2302. Family housing.

Sec. 2303. Improvements to military family housing units.

Sec. 2304. Authorization of appropriations, Air Force.

Sec. 2305. Extension of authorization of certain fiscal year 2007 project.

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or Location	Amount
Alabama	Maxwell Air Force Base.	\$13,400,000
Alaska	Eielson Air Force Base.	\$28,000,000
	Elmendorf Air Force Base.	\$30,274,000
Arizona	Davis-Monthan Air Force Base.	\$48,500,000
	Luke Air Force Base.	\$64,410,000
Colorado	Buckley Air Force Base.	\$12,160,000
	Peterson Air Force Base.	\$24,800,000
	U.S. Air Force Academy.	\$27,600,000

Air Force: Inside the United States—Continued

State	Installation or Location	Amount
Delaware	Dover Air Force Base.	\$3,200,000
District of Columbia.	Bolling Air Force Base.	\$13,200,000
Florida	Eglin Air Force Base.	\$11,400,000
	Hurlburt Field.	\$34,670,000
	Patrick Air Force Base.	\$158,009,000
Louisiana	Barksdale Air Force Base.	\$18,140,000
Nevada	Creech Air Force Base.	\$11,710,000
	Nellis Air Force Base.	\$51,640,000
New Jersey ..	McGuire Air Force Base.	\$26,440,000
New Mexico	Cannon Air Force Base.	\$34,000,000
	Holloman Air Force Base.	\$37,970,000
	Kirtland Air Force Base.	\$24,402,000
New York	Fort Drum ..	\$20,440,000
North Dakota	Minot Air Force Base.	\$18,770,000
Oklahoma	Tinker Air Force Base.	\$14,000,000
South Carolina	Charleston Air Force Base.	\$15,000,000
Texas	Dyess Air Force Base.	\$4,080,000
	Lackland Air Force Base.	\$127,280,000

Air Force: Inside the United States—Continued

State	Installation or Location	Amount
Utah	Hill Air Force Base.	\$14,900,000
Virginia	Langley Air Force Base.	\$8,800,000
Wyoming	Camp Guernsey.	\$4,650,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or Location	Amount
Afghanistan	Bagram	\$42,960,000
Bahrain	SW Asia	\$45,000,000
Germany	Kapaun	\$19,600,000
	Ramstein Air Base.	\$22,354,000
	Vilseck	\$12,900,000
Guam	Andersen Air Force Base.	\$50,300,000
Italy	Aviano Air Base.	\$29,200,000
Korea	Kunsan Air Base.	\$7,500,000
Qatar	Al Udeid	\$62,300,000
United Kingdom.	RAF Mildenhall.	\$15,000,000

SEC. 2302. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2304(5)(A), the Secretary of the Air

Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$4,225,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed \$73,800,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2009, for military construction, land acquisition, and military family housing functions of the Department of the Air

Force in the total amount of \$1,885,112,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), \$901,845,000.

(2) For military construction projects outside the United States authorized by section 2301(b), \$307,114,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, \$18,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$66,336,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$78,025,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$513,792,000.

SEC. 2305. EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 2007 PROJECT.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109-364; 120 Stat. 2463), authorization set forth in the table in subsection (b), as provided in section 2302 of that Act (120 Stat. 2455) and extended by section 2306 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2638), shall remain in effect until October 1, 2011, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2012, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Air Force: Extension of 2007 Project Authorization

State	Installation	Project	Amount
Idaho	Mountain Home Air Force Base	Replace Family Housing (457 units)	\$107,800,000

TITLE XXIV—DEFENSE AGENCIES MILITARY CONSTRUCTION

Subtitle A—Defense Agency Authorizations

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.

Sec. 2402. Energy conservation projects.

Sec. 2403. Authorization of appropriations, Defense Agencies.

Sec. 2404. Modification of authority to carry out certain fiscal year 2010 projects.

Subtitle B—Chemical Demilitarization Authorizations

Sec. 2411. Authorization of appropriations, chemical demilitarization construction, defense-wide.

Sec. 2412. Modification of authority to carry out certain fiscal year 2000 project.

Subtitle A—Defense Agency Authorizations

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following tables:

Defense Agencies: Inside the United States

State	Installation or Location	Amount
Arizona	Yuma Proving Ground.	\$8,977,000
California	Point Magu Naval Base.	\$3,100,000
Colorado	Fort Carson	\$3,717,000
District of Columbia.	Bolling Air Force Base.	\$3,000,000
Florida	Eglin Air Force Base.	\$6,030,000
Georgia	Augusta	\$12,855,000
	Fort Benning.	\$26,865,000
	Fort Stewart	\$35,100,000

Defense Agencies: Inside the United States—Continued

State	Installation or Location	Amount
	Hunter Air National Guard Station	\$2,400,000
	Hunter Army Airfield.	\$3,318,000
Hawaii	Hickam Air Force Base.	\$8,500,000
	Pearl Harbor	\$28,804,000
Idaho	Mountain Home Air Force Base.	\$27,500,000
Illinois	Scott Air Force Base.	\$1,388,000
Kentucky	Fort Campbell.	\$38,095,000
Maryland	Andrews Air Force Base.	\$14,000,000
	Bethesda Naval Hospital.	\$80,000,000
	Fort Detrick	\$45,700,000
	Fort Meade	\$219,360,000
Massachusetts	Hanscom Air Force Base.	\$2,900,000
New Mexico	Cannon Air Force Base.	\$116,225,000
	White Sands Missile Range.	\$22,900,000
New York	United States Military Academy.	\$27,960,000
North Carolina	Camp Lejeune.	\$16,646,000
	Fort Bragg ..	\$168,693,000
Ohio	Defense Supply Center, Columbus.	\$7,400,000
Pennsylvania	Defense Distribution Depot New Cumberland	\$96,000,000

Defense Agencies: Inside the United States—Continued

State	Installation or Location	Amount
Texas	Lackland Air Force Base.	\$162,500,000
Virginia	Craney Island.	\$58,000,000
	Fort Belvoir	\$6,300,000
	Pentagon Reservation.	\$63,324,000
	Marine Corps Base, Quantico.	\$47,355,000
Washington	Fort Lewis ..	\$8,400,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following tables:

Defense Agencies: Outside the United States

Country	Installation or Location	Amount
Belgium	Brussels	\$99,174,000
Germany	Katterbach ..	\$37,100,000
	Panzer Kaserne.	\$48,968,000
	Vilseck	\$34,800,000
Japan	Kadena Air Base.	\$3,000,000
	Misawa Air Base.	\$31,000,000
Korea	Camp Carroll.	\$19,500,000
Puerto Rico	Fort Buchanan.	\$58,708,000
Qatar	Al Udeid	\$1,961,000
United Kingdom.	Menwith Hill Station.	\$2,000,000
	Royal Air Force Alconbury.	\$30,308,000

Defense Agencies: Outside the United States—Continued

Country	Installation or Location	Amount
	Royal Air Force Mildenhall.	\$15,900,000

SEC. 2402. ENERGY CONSERVATION PROJECTS.

(a) PROJECTS AUTHORIZED.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(6), the Secretary of Defense may carry out energy conservation projects under chapter 173 of title 10, United States Code, in the amount of \$120,000,000.

(b) AVAILABILITY OF FUNDS FOR RESERVE COMPONENT PROJECTS.—Of the amount authorized to be appropriated by section 2403(6) for energy conservation projects, the Secretary of Defense shall reserve a portion of the amount for energy conservation projects for the reserve components in an amount that is not less than an amount that bears the same proportion to the total amount authorized to be appropriated as the total quantity of energy consumed by reserve facilities (as defined in section 18232(2) of title 10, United States Code) during fiscal year 2010 bears to the total quantity of energy consumed by all military installations (as defined in section 2687(e)(1) of such title) during that fiscal year, as determined by the Secretary.

SEC. 2403. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of \$3,116,137,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), \$1,373,312,000.

(2) For military construction projects outside the United States authorized by section 2401(b), \$382,419,000.

(3) For unspecified minor military construction projects under section 2805 of title 10, United States Code, \$42,856,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, \$10,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$431,617,000.

(6) For energy conservation projects under chapter 173 of title 10, United States Code, \$120,000,000.

(7) For military family housing functions: (A) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$50,464,000.

(B) For credits to the Department of Defense Family Housing Improvement Fund under section 2883 of title 10, United States Code, and the Homeowners Assistance Fund established under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), \$17,611,000.

(8) For the construction of increment 5 of the Army Medical Research Institute of Infectious Diseases Stage I at Fort Detrick, Maryland, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2007 (division B of Public Law 109-364; 120 Stat. 2457), \$17,400,000.

(9) For the construction of increment 3 of replacement fuel storage facilities at Point

Loma Annex, California, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110-181; 122 Stat. 521), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2646), \$20,000,000.

(10) For the construction of increment 3 of the United States Army Medical Research Institute of Chemical Defense replacement facility at Aberdeen Proving Ground, Maryland, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417; 122 Stat. 4689), \$105,000,000.

(11) For the construction of increment 3 of a National Security Agency data center at Camp Williams, Utah, authorized as a Military Construction, Defense-Wide project by the Supplemental Appropriations Act, 2009 (Public Law 111-32; 123 Stat. 1888), \$398,358,000.

(12) For the construction of increment 2 of the hospital at Fort Bliss, Texas, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2642), \$147,100,000.

SEC. 2404. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2010 PROJECTS.

(a) AUTHORIZATION OF PROJECT FOR WHICH FUNDS HAVE BEEN APPROPRIATED.—

(1) AUTHORIZATION.—The table relating to the Missile Defense Agency in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2641) is amended by adding at the end the following:

Worldwide Unspecified.	Range Facility.	\$68,500,000
------------------------	-----------------	--------------

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 2404(a)(1) of that Act (123 Stat. 2644) is amended by striking “\$1,048,783,000” and inserting “\$1,117,283,000”.

(3) PROJECT DESCRIPTION.—In the case of the authorization contained in the amendment made by paragraph (1), the authorized project relates to an Aegis ashore test facility for which funds were made available by title I of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2010 (division E of Public Law 111-117; 123 Stat. 3286) under the heading “MILITARY CONSTRUCTION, DEFENSE-WIDE”.

(b) PURPOSE OF FORT BRAGG PROJECT.—In the case of the authorization contained in the table relating to the TRICARE Management Activity in section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2642) for Fort Bragg, North Carolina, for construction of a Health Clinic at the installation, the Secretary of Defense may construct a Behavioral Health clinic that predominantly provides behavioral health specialty care.

Subtitle B—Chemical Demilitarization Authorizations

SEC. 2411. AUTHORIZATION OF APPROPRIATIONS, CHEMICAL DEMILITARIZATION CONSTRUCTION, DEFENSE-WIDE.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, for military construction and land acquisition for chemical demilitarization in the total amount of \$124,971,000, as follows:

(1) For the construction of phase 12 of a chemical munitions demilitarization facility

at Pueblo Chemical Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104-201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 839), section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107-314; 116 Stat. 2698), and section 2413 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417; 122 Stat. 4697), \$65,569,000.

(2) For the construction of phase 11 of a munitions demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1298), section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107-314; 116 Stat. 2698), and section 2414 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417; 122 Stat. 4697), and section 2412 of this Act, \$59,402,000.

SEC. 2412. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECT.

(a) MODIFICATION.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1298), section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107-314; 116 Stat. 2698), and section 2414 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417; 122 Stat. 4697), is amended—

(1) in the item relating to Blue Grass Army Depot, Kentucky, by striking “\$492,000,000” in the amount column and inserting “\$746,000,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$1,203,920,000”.

(b) CONFORMING AMENDMENT.—Section 2405(b)(3) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 839), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1298), section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107-314; 116 Stat. 2698), and section 2414 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417; 122 Stat. 4697), is further amended by striking “\$469,200,000” and inserting “\$723,200,000”.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.

Sec. 2502. Authorization of appropriations, NATO.

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment Program as provided in section 2806 of title 10, United

States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment Program authorized by section 2501, in the amount of \$258,884,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Army National Guard construction and land acquisition projects.

Sec. 2602. Authorized Army Reserve construction and land acquisition projects.

Sec. 2603. Authorized Navy Reserve and Marine Corps Reserve construction and land acquisition projects.

Sec. 2604. Authorized Air National Guard construction and land acquisition projects.

Sec. 2605. Authorized Air Force Reserve construction and land acquisition projects.

Sec. 2606. Authorization of appropriations, National Guard and Reserve.

Sec. 2607. Extension of authorizations of certain fiscal year 2008 projects.

SEC. 2601. AUTHORIZED ARMY NATIONAL GUARD CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2606(1), the Secretary of the Army may acquire real property and carry out military construction projects for the Army National Guard locations inside the United States, and in the amounts, set forth in the following table:

Army National Guard: Inside the United States

State	Location	Amount
Arizona	Florence	\$16,500,000
Arkansas	Camp Robinson	\$30,000,000
	Fort Chaffee	\$21,500,000
California	Camp Roberts	\$19,000,000
Colorado	Colorado Springs	\$20,000,000
	Fort Carson	\$40,000,000
	Gypsum	\$39,000,000
	Windsor	\$7,500,000
Connecticut	Windsor Locks	\$41,000,000
Delaware	New Castle ..	\$27,000,000
Georgia	Cumming	\$17,000,000
	Dobbins Air Reserve Base	\$10,400,000
Hawaii	Kalaheo	\$38,000,000
Idaho	Gowen Field	\$17,500,000
	Mountain Home	\$6,300,000
Illinois	Springfield ..	\$15,000,000
Kansas	Wichita	\$67,000,000
Kentucky	Burlington ..	\$19,500,000
Louisiana	Fort Polk	\$5,500,000
	Minden	\$28,000,000
Maryland	St. Inigoes ..	\$5,500,000

Army National Guard: Inside the United States—Continued

State	Location	Amount
Massachusetts	Hanscom Air Force Base	\$23,000,000
Michigan	Camp Grayling Range	\$19,000,000
Minnesota ...	Arden Hills	\$29,000,000
	Camp Ripley	\$8,750,000
Nebraska	Lincoln	\$3,300,000
	Mead	\$11,400,000
New Hampshire	Pembroke ...	\$36,000,000
New Mexico ...	Farmington ..	\$8,500,000
North Carolina	High Point ..	\$1,551,000
North Dakota	Camp Grafton	\$11,200,000
Rhode Island ..	East Greenwich	\$27,000,000
South Dakota	Watertown ..	\$25,000,000
Texas	Camp Maxey	\$2,500,000
	Camp Swift	\$2,600,000
	Tacoma	\$25,000,000
Washington ...	Moorefield ..	\$14,200,000
West Virginia	Morgantown ..	\$21,000,000
Wisconsin	Madison	\$5,700,000
Wyoming	Laramie	\$14,400,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2606(1), the Secretary of the Army may acquire real property and carry out military construction projects for the Army National Guard locations outside the United States, and in the amounts, set forth in the following table:

Army National Guard: Outside the United States

Country	Location	Amount
Guam	Barrigada	\$19,000,000
Virgin Islands	St. Croix	\$25,000,000
Puerto Rico	Camp Santiago	\$12,300,000

SEC. 2602. AUTHORIZED ARMY RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(2), the Secretary of the Army may acquire real property and carry out military construction projects for the Army Reserve locations inside the United States, and in the amounts, set forth in the following table:

Army Reserve

State	Location	Amount
California	Fairfield	\$26,000,000
	Fort Hunter Liggett	\$52,000,000
Florida	North Fort Myers	\$13,800,000
	Orlando	\$10,200,000
	Tallahassee ..	\$10,400,000
	Macon	\$11,400,000
Georgia	Quincy	\$12,200,000
Illinois	Michigan City	\$15,500,000
Indiana	Des Moines ..	\$8,175,000
Iowa		

Army Reserve—Continued

State	Location	Amount
Massachusetts	Devens Reserve Forces Training Area	\$4,700,000
Missouri	Belton	\$11,800,000
New Mexico ...	Las Cruces ..	\$11,400,000
New York	Binghamton ..	\$13,400,000
Texas	Denton	\$12,600,000
	Rio Grande ..	\$6,100,000
	San Marcos ..	\$8,500,000
Virginia	Fort A.P. Hill	\$15,500,000
	Fort Story ..	\$11,000,000
	Roanoke	\$14,800,000
Wisconsin	Fort McCoy ..	\$19,800,000

SEC. 2603. AUTHORIZED NAVY RESERVE AND MARINE CORPS RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(3), the Secretary of the Navy may acquire real property and carry out military construction projects for the Navy Reserve and Marine Corps Reserve locations inside the United States, and in the amounts, set forth in the following table:

Navy Reserve and Marine Corps Reserve

State	Location	Amount
California	Marine Corps Base, Twentynine Palms ..	\$5,991,000
Louisiana	New Orleans ..	\$16,281,000
Virginia	Williamsburg ..	\$21,346,000
Washington ...	Yakima	\$13,844,000

SEC. 2604. AUTHORIZED AIR NATIONAL GUARD CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(4), the Secretary of the Air Force may acquire real property and carry out military construction projects for the Air National Guard locations inside the United States, and in the amounts, set forth in the following table:

Air National Guard

State	Location	Amount
Alabama	Montgomery Regional Airport (ANG)	\$7,472,000
Arizona	Davis Monthan Air Force Base	\$4,650,000
	Fort Huachuca ..	\$11,000,000
Delaware	New Castle County Airport ..	\$1,500,000
Florida	Jacksonville International Airport ..	\$6,700,000

Air National Guard—Continued

State	Location	Amount
Georgia	Savannah/ Hilton Head Inter- national Airport	\$7,450,000
Hawaii	Hickam Air Force Base.	\$71,450,000
Illinois	Capital Mu- nicipal Airport.	\$16,700,000
Indiana	Hulman Re- gional Air- port.	\$4,100,000
Maryland	Martin State Airport.	\$11,400,000
New York	Fort Drum .. Stewart Inter- national Airport.	\$2,500,000 \$14,250,000
North Caro- lina.	Stanly Coun- ty Airport.	\$2,000,000
Pennsyl- vania.	State Col- lege Air National Guard Sta- tion	\$4,100,000

Air National Guard—Continued

State	Location	Amount
Tennessee	Nashville Inter- national Airport.	\$5,500,000
Texas	Ellington Field.	\$7,000,000

SEC. 2605. AUTHORIZED AIR FORCE RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2606(5), the Secretary of the Air Force may acquire real property and carry out military construction projects for the Air Force Reserve location inside the United States, and in the amount, set forth in the following table:

Air Force Reserve

State	Location	Amount
Florida	Patrick Air Force Base.	\$3,420,000

SEC. 2606. AUTHORIZATION OF APPROPRIATIONS, NATIONAL GUARD AND RESERVE.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, for the costs of acquisition,

architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), in the following amounts:

(1) For the Department of the Army, for the Army National Guard of the United States, \$873,664,000.

(2) For the Department of the Army, for the Army Reserve, \$318,175,000.

(3) For the Department of the Navy, for the Navy and Marine Corps Reserve, \$61,557,000.

(4) For the Department of the Air Force, for the Air National Guard of the United States, \$194,986,000.

(5) For the Department of the Air Force, for the Air Force Reserve, \$7,832,000.

SEC. 2607. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2008 PROJECTS.

(a) EXTENSION.—Notwithstanding section 2002 of the Military Construction Authorization Act for Fiscal Year 2008 (division B of Public Law 110-181; 122 Stat. 503), the authorization set forth in the tables in subsection (b), as provided in section 2601 and 2604 of that Act, shall remain in effect until October 1, 2011, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2012, whichever is later.

(b) TABLE.—The tables referred to in subsection (a) are as follows:

Army National Guard: Extension of 2008 Project Authorization

State	Installation or Location	Project	Amount
Pennsylvania	East Fallowfield Township	Readiness Center (SBCT)	\$ 8,300,000

Air National Guard: Extension of 2008 Project Authorization

State	Installation or Location	Project	Amount
Vermont	Burlington	Base Security Improvements	\$ 6,600,000

TITLE XXVII—BASE REALIGNMENT AND CLOSURE ACTIVITIES

Sec. 2701. Authorization of appropriations for base realignment and closure activities funded through Department of Defense Base Closure Account 1990.

Sec. 2702. Authorized base realignment and closure activities funded through Department of Defense Base Closure Account 2005.

Sec. 2703. Authorization of appropriations for base realignment and closure activities funded through Department of Defense Base Closure Account 2005.

Sec. 2704. Transportation plan for BRAC 133 project under Fort Belvoir, Virginia, BRAC initiative.

SEC. 2701. AUTHORIZATION OF APPROPRIATIONS FOR BASE REALIGNMENT AND CLOSURE ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, for base realignment and closure activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 1990 estab-

lished by section 2906 of such Act, in the total amount of \$360,474,000, as follows:

(1) For the Department of the Army, \$73,600,000.

(2) For the Department of the Navy, \$162,000,000.

(3) For the Department of the Air Force, \$124,874,000.

SEC. 2702. AUTHORIZED BASE REALIGNMENT AND CLOSURE ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.

Using amounts appropriated pursuant to the authorization of appropriations in section 2703, the Secretary of Defense may carry out base realignment and closure activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, in the amount of \$2,354,285,000.

SEC. 2703. AUTHORIZATION OF APPROPRIATIONS FOR BASE REALIGNMENT AND CLOSURE ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, for base realignment and closure activities, including real property ac-

quisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, in the total amount of \$2,354,285,000.

SEC. 2704. TRANSPORTATION PLAN FOR BRAC 133 PROJECT UNDER FORT BELVOIR, VIRGINIA, BRAC INITIATIVE.

(a) SUBMISSION OF TRANSPORTATION PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a transportation plan for the BRAC 133 project.

(b) TRANSPORTATION PLAN CONDITIONS.—The transportation plan for the BRAC 133 project must address ingress and egress of all personnel to and from the BRAC 133 project site. The transportation plan shall also assess the costs and programming of short-, medium-, and long-term projects, and the use of other methods of transportation, that are necessary to maintain existing level of service, and the proposed funding source to obtain such levels of service, at the following six intersections

(1) The intersection of Beauregard Street and Mark Center Drive.

(2) The intersection of Beauregard Street and Seminary Road.

(3) The intersection of Seminary Road and Mark Center Drive.

(4) The intersection of Seminary Road and the northbound entrance-ramp to I-395.

(5) The intersection of Seminary Road and the northbound exit-ramp from I-395.

(6) The intersection of Seminary Road and the southbound exit-ramp from I-395.

(c) INSPECTOR GENERAL REPORT.—Not later than September 15, 2011, the Inspector General of the Department of Defense shall submit to the congressional defense committees a report evaluating the sufficiency and coordination conducted in completing the requisite environmental studies associated with the site selection of the BRAC 133 project pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Inspector General shall give specific attention to the transportation determinations associated with the BRAC 133 project and review and provide comment on the transportation plan for the BRAC 133 project and the plan's adherence to the conditions imposed by subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term “BRAC 133 project” refers to the proposed office complex to be developed at an established mixed-use business park in Alexandria, Virginia, to implement recommendation 133 of the Defense Base Closure and Realignment Commission contained in the report of the Commission transmitted to Congress on September 15, 2005, under section 2903(e) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(2) The term “level of service” has the meaning given that term in the most-recent Highway Capacity Manual of the Transportation Research Board.

TITLE XXVIII—MILITARY CONSTRUCTION GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Availability of military construction information on Internet.

Sec. 2802. Use of Pentagon Reservation Maintenance Revolving Fund for construction or alteration at Pentagon Reservation.

Sec. 2803. Reduced reporting time limits for certain military construction and real property reports when submitted in electronic media.

Sec. 2804. Authority to use operation and maintenance funds for construction projects inside the United States Central Command area of responsibility.

Sec. 2805. Sense of Congress and report regarding employment of veterans to work on military construction projects.

Subtitle B—Real Property and Facilities Administration

Sec. 2811. Notice-and-wait requirements applicable to real property transactions.

Sec. 2812. Treatment of proceeds generated from leases of non-excess property involving military museums.

Sec. 2813. Limitation on enhanced use leases of non-excess property.

Sec. 2814. Repeal of expired authority to lease land for special operations activities.

Sec. 2815. Former Naval Bombardment Area, Culebra Island, Puerto Rico.

Subtitle C—Provisions Related to Guam Realignment

Sec. 2821. Extension of term of Deputy Secretary of Defense's leadership of Guam Oversight Council.

Sec. 2822. Utility conveyances to support integrated water and wastewater treatment system on Guam.

Sec. 2823. Report on types of facilities required to support Guam realignment.

Sec. 2824. Report on civilian infrastructure needs for Guam.

Subtitle D—Energy Security

Sec. 2831. Consideration of environmentally sustainable practices in Department energy performance plan.

Sec. 2832. Enhancement of energy security activities of the Department of Defense.

Subtitle E—Land Conveyances

Sec. 2841. Land conveyance, Defense Fuel Support Point (DFSP) Whittier, Alaska.

Sec. 2842. Land conveyance, Fort Knox, Kentucky.

Sec. 2843. Land conveyance, Naval Support Activity (West Bank), New Orleans, Louisiana.

Sec. 2844. Land conveyance, former Navy Extremely Low Frequency communications project site, Republic, Michigan.

Sec. 2845. Land conveyance, Marine Forces Reserve Center, Wilmington, North Carolina.

Subtitle F—Other Matters

Sec. 2851. Limitation on availability of funds pending report regarding construction of a new outlying landing field in North Carolina and Virginia.

Sec. 2852. Requirements related to providing world class military medical centers.

Sec. 2853. Report on fuel infrastructure sustainment, restoration, and modernization requirements.

Sec. 2854. Naming of Armed Forces Reserve Center, Middletown, Connecticut.

Sec. 2855. Sense of Congress on proposed extension of the Alaska Railroad corridor across Federal land in Alaska.

Sec. 2856. Sense of Congress on improving military housing for members of the Air Force.

Sec. 2857. Sense of Congress regarding recreational hunting and fishing on military installations.

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. AVAILABILITY OF MILITARY CONSTRUCTION INFORMATION ON INTERNET.

(a) MODIFICATION OF INFORMATION REQUIRED TO BE PROVIDED.—Paragraph (2) of subsection (c) of section 2851 of title 10, United States Code, is amended—

(1) by striking subparagraph (F); and

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(b) EXPANDED AVAILABILITY OF INFORMATION.—Such subsection is further amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(c) CONFORMING AMENDMENTS.—Such subsection is further amended—

(1) in paragraph (1), by striking “that, when activated by a person authorized under paragraph (3), will permit the person” and inserting “that will permit a person”; and

(2) in paragraph (3), as redesignated by subsection (b)(2)—

(A) by striking “to the persons referred to in paragraph (3)” and inserting “on the

Internet site required by such paragraph”; and

(B) by striking “to such persons”.

SEC. 2802. USE OF PENTAGON RESERVATION MAINTENANCE REVOLVING FUND FOR CONSTRUCTION OR ALTERATION AT PENTAGON RESERVATION.

Section 2674(e) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking “Monies” and inserting “Subject to paragraphs (3) and (4), monies”; and

(2) by adding at the end the following new paragraphs:

“(3) If the cost of a construction or alteration activity proposed to be financed in whole or in part using monies from the Fund will exceed the limitation specified in section 2805 of this title for a comparable unspecified minor military construction project, the activity shall be subject to authorization as provided by section 2802 of this title before monies from the Fund are obligated for the activity.

“(4) The authority of the Secretary to use monies from the Fund to support construction or alteration activities at the Pentagon Reservation expires on September 30, 2012.”.

SEC. 2803. REDUCED REPORTING TIME LIMITS FOR CERTAIN MILITARY CONSTRUCTION AND REAL PROPERTY REPORTS WHEN SUBMITTED IN ELECTRONIC MEDIA.

(a) CONVEYANCE OF PROPERTY FOR NATURAL RESOURCE CONSERVATION.—Section 2694a(e) of title 10 United States Code, is amended by inserting before the period at the end the following: “or, if earlier, a period of 14 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title”.

(b) NATO SECURITY INVESTMENT CONTRIBUTIONS.—Section 2806(c)(2)(B) of such title is amended by inserting before the period at the end the following: “or, if earlier, a period of 14 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title”.

(c) FORD ISLAND DEVELOPMENT.—Section 2814(g)(2) of such title is amended by inserting before the period at the end the following: “or, if earlier, a period of 20 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title”.

(d) LEASING OF MILITARY FAMILY HOUSING.—Section 2828(f)(2) of such title is amended by inserting before the period at the end the following: “or, if earlier, a period of 14 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title”.

(e) LEASING OF MILITARY FAMILY HOUSING TO BE CONSTRUCTED.—Section 2835(g)(2) of such title is amended—

(1) by striking “calendar”; and

(2) by inserting before the period at the end the following: “or, if earlier, a period of 14 days has elapsed from the date on which a copy of the analysis is provided in an electronic medium pursuant to section 480 of this title”.

(f) ACQUISITION OR CONSTRUCTION OF MILITARY UNACCOMPANIED HOUSING.—Section 2881a(e)(2) of such title is amended by inserting before the period at the end the following: “or, if earlier, a period of 20 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title”.

(g) USE OF MILITARY CONSTRUCTION ALTERNATIVE AUTHORITY.—Section 2884(a)(4) of such title is amended by inserting before the

period at the end the following: “or, if earlier, a period of 20 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title”.

SEC. 2804. AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS INSIDE THE UNITED STATES CENTRAL COMMAND AREA OF RESPONSIBILITY.

(a) **INCLUSION OF AREA FORMERLY WITHIN UNITED STATES CENTRAL COMMAND AREA OF RESPONSIBILITY.**—Subsection (a) of section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108-136; 117 Stat. 1723), as amended by subsections (a) and (b) of section 2806 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2662), is amended by striking “United States Central Command area of responsibility” and inserting “area of responsibility of the United States Central Command or the area of responsibility and area of interest of Combined Task Force-Horn of Africa”.

(b) **ANNUAL LIMITATION ON USE OF AUTHORITY IN AFGHANISTAN.**—Subsection (c)(2) of section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108-136; 117 Stat. 1723), as amended by section 2806(c) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2663), is amended—

(1) by striking “\$300,000,000 in funds available for operation and maintenance for fiscal year 2010 may be used in Afghanistan upon completing the prenotification requirements under subsection (b)” and inserting “\$100,000,000 in funds available for operation and maintenance for fiscal year 2011 may be used in Afghanistan subject to the notification requirements under subsection (b)”;

(2) by striking “\$500,000,000” and inserting “\$300,000,000”.

(c) **ONE-YEAR EXTENSION OF AUTHORITY.**—Subsection (h) of section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108-136; 117 Stat. 1723), as added by section 2806(a) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2662), is amended—

(1) in paragraph (1), by striking “September 30, 2010” and inserting “September 30, 2011”;

(2) in paragraph (2), by striking “fiscal year 2011” and inserting “fiscal year 2012”.

(d) **DEFINITION.**—Section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108-136; 117 Stat. 1723) is amended by adding at the end the following new subsection:

“(i) **DEFINITIONS.**—In this section:

“(1) The term ‘area of responsibility’, with respect to the Combined Task Force-Horn of Africa, is Kenya, Somalia, Ethiopia, Sudan, Eritrea, Djibouti, and Seychelles.

“(2) The term ‘area of interest’, with respect to the Combined Task Force-Horn of Africa, is Yemen, Tanzania, Mauritius, Madagascar, Mozambique, Burundi, Rwanda, Comoros, Chad, the Democratic Republic of Congo, and Uganda.”.

SEC. 2805. SENSE OF CONGRESS AND REPORT REGARDING EMPLOYMENT OF VETERANS TO WORK ON MILITARY CONSTRUCTION PROJECTS.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the Secretary of Defense should establish a Veterans to Work program to provide an opportunity for apprentices, who are also veterans, to work on military construction projects.

(b) **REPORT.**—

(1) **REPORT REQUIRED.**—Not later than 180 days after enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that includes at a minimum the following:

(A) An assessment of the number of unemployed apprentices, who are also veterans, with data presented by appropriate age groupings.

(B) An evaluation of benefits to be derived from establishing a program to employ apprentices, who are also veterans, in military construction projects, including the impacts of the program on the following:

(i) Workforce sustainability.

(ii) Workforce skills enhancement.

(iii) Short- and long-term cost-effectiveness.

(iv) Improved veteran employment in sustainable wage fields.

(C) Any challenges, difficulties, or problems projected in recruiting apprentices, who are also veterans.

(2) **CONSULTATION.**—The Secretary of Defense shall prepare the report in consultation with the Secretary of Labor and the Secretary of Veterans Affairs.

(c) **DEFINITIONS.**—In this section:

(1) The term “apprentice” means an individual who is employed pursuant to, and individually registered in, a qualified apprenticeship program.

(2) The term “qualified apprenticeship program” means an apprenticeship or other training program that qualifies as an employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(3) The term “veteran” has the meaning given such term in section 101(2) of title 38, United States Code.

Subtitle B—Real Property and Facilities Administration

SEC. 2811. NOTICE-AND-WAIT REQUIREMENTS APPLICABLE TO REAL PROPERTY TRANSACTIONS.

(a) **EXCEPTION FOR LEASES UNDER BASE CLOSURE PROCESS.**—Subsection (a)(1)(C) of section 2662 of title 10, United States Code, is amended by inserting after “United States” the following: “(other than a lease or license entered into under section 2667(g) of this title)”.

(b) **REPEAL OF ANNUAL REPORT ON MINOR REAL ESTATE TRANSACTIONS.**—Subsection (b) of such section is repealed.

(c) **GEOGRAPHIC SCOPE OF REQUIREMENTS.**—Subsection (c) of such section is amended—

(1) by striking “GEOGRAPHIC SCOPE; EXCEPTED” and inserting “EXCEPTED”;

(2) by striking the first sentence; and

(3) by striking “It does not” and inserting “This section does not”.

(d) **REPEAL OF NOTICE AND WAIT REQUIREMENT REGARDING GSA LEASES OF SPACE FOR DOD.**—Subsection (e) of such section is repealed.

(e) **ADDITIONAL REPORTING REQUIREMENTS REGARDING LEASES OF REAL PROPERTY OWNED BY THE UNITED STATES.**—Such section is further amended by inserting after subsection (a) the following new subsection:

“(b) **ADDITIONAL REPORTING REQUIREMENTS REGARDING LEASES OF REAL PROPERTY OWNED BY THE UNITED STATES.**—(1) In the case of a proposed lease or license of real property owned by the United States covered by paragraph (1)(C) of subsection (a), the Secretary concerned shall comply with the notice-and-wait requirements of paragraph (3) of such subsection before—

“(A) issuing a contract solicitation or other lease offering with regard to the transaction; and

“(B) providing public notice regarding any meeting to discuss a proposed contract solicitation with regard to the transaction.

“(2) The report under paragraph (3) of subsection (a) shall include the following with regard to a proposed transaction covered by paragraph (1)(C) of such subsection:

“(A) A description of the proposed transaction, including the proposed duration of the lease or license.

“(B) A description of the authorities to be used in entering into the transaction.

“(C) A statement of the scored cost of the entire transaction, determined using the scoring criteria of the Office of Management and Budget.

“(D) A determination that the property involved in the transaction is not excess property, as required by section 2667(a)(3) of this title, including the basis for the determination.

“(E) A determination that the proposed transaction is directly compatible with the mission of the military installation or Defense Agency at which the property is located and a description of the anticipated long-term use of the property at the conclusion of the lease or license.

“(F) A description of the requirements or conditions within the contract solicitation or other lease offering for the person making the offer to address taxation issues, including payments-in-lieu-of taxes, and other development issues related to local municipalities.

“(G) If the proposed lease involves a project related to energy production, a certification by the Secretary of Defense that the project, as it will be specified in the contract solicitation or other lease offering, is consistent with the Department of Defense performance goals and plan required by section 2911 of this title.

“(3) The Secretary concerned may not enter into the actual lease or license with respect to property for which the information required by paragraph (2) was submitted in a report under subsection (a)(3) unless the Secretary again complies with the notice-and-wait requirements of such subsection. The subsequent report shall include the following with regard to the proposed transaction:

“(A) A cross reference to the prior report that contained the information submitted under paragraph (2) with respect to the transaction.

“(B) A description of the differences between the information submitted under paragraph (2) and the information regarding the transaction being submitted in the subsequent report.

“(C) A description of the payment to be required in connection with the lease or license, including a description of any in-kind consideration that will be accepted.

“(D) A description of any community support facility or provision of community support services under the lease or license, regardless of whether the facility will be operated by a covered entity (as defined in section 2667(d) of this title) or the lessee or the services will be provided by a covered entity or the lessee.

“(E) A description of the competitive procedures used to select the lessee or, in the case of a lease involving the public benefit exception authorized by section 2667(h)(2) of this title, a description of the public benefit to be served by the lease.”.

(f) **CONFORMING AMENDMENTS.**—Such section is further amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “the Secretary submits” in the matter preceding subparagraph (A) and inserting “the Secretary concerned submits”; and

(B) in paragraph (3), by striking “the Secretary of a military department or the Secretary of Defense” and inserting “the Secretary concerned”;

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively;

(3) in subsection (f), as so redesignated—

(A) in paragraph (1), by striking “, and the reporting requirement set forth in subsection (e) shall not apply with respect to a real property transaction otherwise covered by that subsection.”;

(B) in paragraph (3), by striking “or (e), as the case may be”; and

(C) by striking paragraph (4); and

(4) by adding at the end the following new subsection:

“(g) SECRETARY CONCERNED DEFINED.—In this section, the term ‘Secretary concerned’ includes, with respect to Defense Agencies, the Secretary of Defense.”

(g) CONFORMING AMENDMENTS TO LEASE OF NON-EXCESS PROPERTY AUTHORITY.—Section 2667 of such title is amended—

(1) in subsection (c), by striking paragraph (4);

(2) in subsection (d), by striking paragraph (6);

(3) in subsection (e)(1), by striking subparagraph (E); and

(4) in subsection (h)—

(A) by striking paragraphs (3) and (5); and

(B) by redesignating paragraph (4) as paragraph (3).

SEC. 2812. TREATMENT OF PROCEEDS GENERATED FROM LEASES OF NON-EXCESS PROPERTY INVOLVING MILITARY MUSEUMS.

Section 2667(e)(1) of title 10, United States Code, as amended by section 2811(g), is amended by inserting after subparagraph (D) the following new subparagraph (E):

“(E) If the proceeds deposited in the special account established for the Secretary concerned are derived from activities associated with a military museum described in section 489(a) of this title, the proceeds shall be available for activities described in subparagraph (C) only at that museum.”

SEC. 2813. LIMITATION ON ENHANCED USE LEASES OF NON-EXCESS PROPERTY.

(a) IN GENERAL.—Section 2667(b)(7) of title 10, United States Code, is amended by striking the period at the end and inserting “, or otherwise commit the Secretary concerned or the Department of Defense to annual payments in excess of such amount.”

(b) ARMED FORCES RETIREMENT HOME.—Section 1511(i)(2) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 411(i)(2)) is amended—

(1) in subparagraph (D), by striking “; and” and inserting a semicolon;

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(F) may not provide for a leaseback by the Retirement Home with an annual payment in excess of \$100,000, or otherwise commit the Retirement Home or the Department of Defense to annual payments in excess of such amount.”

SEC. 2814. REPEAL OF EXPIRED AUTHORITY TO LEASE LAND FOR SPECIAL OPERATIONS ACTIVITIES.

(a) REPEAL.—Section 2680 of title 10, United States Code, is repealed.

(b) EFFECT OF REPEAL.—The amendment made by subsection (a) shall not affect the

validity of any contract entered into under section 2680 of title 10, United States Code, on or before September 30, 2005.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 159 of such title is amended by striking the item relating to section 2680.

SEC. 2815. FORMER NAVAL BOMBARDMENT AREA, CULEBRA ISLAND, PUERTO RICO.

(a) STUDY REQUIRED.—At the request of the Commonwealth of Puerto Rico, the Secretary of Defense shall conduct a study relating to the presence of unexploded ordnance in a portion of the former bombardment area at Culebra Island, Puerto Rico, transferred to the Commonwealth of Puerto Rico by quitclaim deed. The Secretary shall complete the study within 270 days after receiving the request from the Commonwealth.

(b) CONTENTS OF STUDY.—The study shall include a specific assessment of Flamenco Beach located within the former bombardment area and shall include the following elements for each area:

(1) An estimate of the type and amount of unexploded ordnance.

(2) An estimate of the cost of removing unexploded ordnance.

(3) An examination of the impact of such removal on any endangered or threatened species and their habitat.

(4) An examination of current public access to the former bombardment area.

(5) An examination of any threats to public health or safety and the environment from unexploded ordnance.

(c) CONSULTATION WITH COMMONWEALTH.—In conducting the study, the Secretary of Defense shall consult with the Commonwealth of Puerto Rico regarding the Commonwealth's planned future uses of the former bombardment area. The Secretary shall consider the Commonwealth's planned future uses in developing any conclusions or recommendations the Secretary may include in the study.

(d) DEFINITIONS.—In this section:

(1) The term “quitclaim deed” refers to the quitclaim deed from the United States to the Commonwealth of Puerto Rico, signed by the Secretary of the Interior on August 11, 1982, for that portion of Tract (1b) consisting of the former bombardment area on the island of Culebra, Puerto Rico.

(2) The term “unexploded ordnance” has the meaning given that term by section 101(e)(5) of title 10, United States Code.

Subtitle C—Provisions Related to Guam Realignment

SEC. 2821. EXTENSION OF TERM OF DEPUTY SECRETARY OF DEFENSE'S LEADERSHIP OF GUAM OVERSIGHT COUNCIL.

Subsection (d) of section 132 of title 10, United States Code, as added by section 2831(a) of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2669), is amended by striking “September 30, 2015” and inserting “September 30, 2020”.

SEC. 2822. UTILITY CONVEYANCES TO SUPPORT INTEGRATED WATER AND WASTEWATER TREATMENT SYSTEM ON GUAM.

(a) CONVEYANCE OF UTILITIES.—The Secretary of Defense may convey to the Guam Waterworks Authority (in this section referred to as the “Authority”) all right, title, and interest of the United States in and to the water and wastewater treatment utility systems on Guam, including the Pena Reservoir, for the purpose of establishing an integrated water and wastewater treatment system on Guam.

(b) CONSIDERATION.—

(1) CONSIDERATION REQUIRED.—As consideration for the conveyance of the water and wastewater treatment utility systems on Guam, the Authority shall pay to the Secretary of Defense an amount equal to the fair market value of the utility infrastructure to be conveyed, as determined pursuant to an agreement between the Secretary and the Authority.

(2) DEFERRED PAYMENTS.—At the discretion of the Authority, the Authority may elect to pay the consideration determined under paragraph (1) in equal annual payments over a period of not more than 25 years, starting with the first year beginning after the date of the conveyance of the water and wastewater treatment utility systems to the Authority.

(3) ACCEPTANCE OF IN-KIND SERVICES.—The consideration required by paragraph (1) may be paid in cash or in-kind, as acceptable to the Secretary of Defense. The Secretary of Defense, in consultation with the Secretary of the Interior, shall consider the value of in-kind services provided by the Government of Guam pursuant to section 311 of the Compact of Free Association between the Government of the United States and the Government of the Federated States of Micronesia, approved by Congress in the Compact of Free Association Amendments Act of 2003 (Public Law 108–188; 117 Stat. 2781), section 311 of the Compact of Free Association between the Government of the United States and the Government of the Republic of the Marshall Islands, approved by Congress in such Act, and the Compact of Free Association between the Government of the United States and the Government of the Republic of Palau, approved by Congress in the Palau Compact of Free Association Act (Public Law 99–658; 100 Stat. 3672).

(c) CONDITION OF CONVEYANCE.—As a condition of the conveyance under subsection (a), the Secretary of Defense must obtain at least a 33 percent voting representation on the Guam Consolidated Commission on Utilities, including a proportional representation as chairperson of the Commission.

(d) IMPLEMENTATION REPORT.—

(1) REPORT REQUIRED.—If the Secretary of Defense determines to use the authority provided by subsection (a) to convey the water and wastewater treatment utility systems to the Authority, the Secretary shall submit to the congressional defense committees a report containing—

(A) a description of the actions needed to efficiently convey the water and wastewater treatment utility systems to the Authority; and

(B) an estimate of the cost of the conveyance.

(2) SUBMISSION.—The Secretary shall submit the report not later than 30 days after the date on which the Secretary makes the determination triggering the report requirement.

(e) NEW WATER SYSTEMS.—If the Secretary of Defense determines to use the authority provided by subsection (a) to convey the water and wastewater treatment utility systems to the Authority, the Secretary shall also enter into an agreement with the Authority, under which the Authority will manage and operate any water well or wastewater treatment plant that is constructed by the Secretary of a military department on Guam on or after the date of the enactment of this Act.

(f) ADDITIONAL TERM AND CONDITIONS.—The Secretary of Defense may require such additional terms and conditions in connection with the conveyance under this section as

the Secretary considers appropriate to protect the interests of the United States.

(g) **TECHNICAL ASSISTANCE.**—

(1) **ASSISTANCE AUTHORIZED; REIMBURSEMENT.**—The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may provide technical assistance to the Secretary of Defense and the Authority regarding the development of plans for the design, construction, operation, and maintenance of integrated water and wastewater treatment utility systems on Guam.

(2) **CONTRACTING AUTHORITY; CONDITION.**—The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may enter into memoranda of understanding, cooperative agreements, and other agreements with the Secretary of Defense to provide technical assistance as described in paragraph (1) under such terms and conditions as the Secretary of the Interior and the Secretary of Defense consider appropriate, except that costs incurred by the Secretary of the Interior to provide technical assistance under paragraph (1) shall be covered by the Secretary of Defense.

(3) **REPORT AND OTHER ASSISTANCE.**—Not later than one year after date of the enactment of this Act, the Secretary of the Interior and the Secretary of Defense shall submit to the congressional defense committees, the Committee on Natural Resources of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a report detailing the following:

(A) Any technical assistance provided under paragraph (1) and information pertaining to any memoranda of understanding, cooperative agreements, and other agreements entered into pursuant to paragraph (2).

(B) An assessment of water and wastewater systems on Guam, including cost estimates and budget authority, including authorities available under the Acts of June 17, 1902, and June 12, 1906 (popularly known as the Reclamation Act; 43 U.S.C. 391) and other authority available to the Secretary of the Interior, for financing the design, construction, operation, and maintenance of such systems.

(C) The needs related to water and wastewater infrastructure on Guam and the protection of water resources on Guam identified by the Authority.

SEC. 2823. REPORT ON TYPES OF FACILITIES REQUIRED TO SUPPORT GUAM REALIGNMENT.

(a) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of the Act, the Secretary of Defense shall submit to the congressional defense committees a report on the structural integrity of facilities required to support the realignment of military installations and the relocation of military personnel on Guam.

(b) **CONTENTS OF REPORT.**—The report required by subsection (a) shall contain the following elements:

(1) A threat assessment to the realigned forces, including natural and manmade threats.

(2) An evaluation of the types of facilities and the enhanced structural requirements required to deter the threat assessment specified in paragraph (1).

(3) An assessment of the costs associated with the enhanced structural requirements specified in paragraph (2).

SEC. 2824. REPORT ON CIVILIAN INFRASTRUCTURE NEEDS FOR GUAM.

(a) **REPORT REQUIRED.**—The Secretary of the Interior shall prepare a report—

(1) detailing the civilian infrastructure improvements needed on Guam to directly and

indirectly support and sustain the realignment of military installations and the relocation of military personnel on Guam; and

(2) identifying, to the maximum extent practical, the potential funding sources for such improvements from other Federal departments and agencies and from existing authorities and funds within the Department of Defense.

(b) **CONSULTATION.**—The Secretary of the Interior shall prepare the report required by subsection (a) in consultation with the Secretary of Defense, the Government of Guam, and the Interagency Group on the Insular Areas established by Executive Order No. 13537.

(c) **SUBMISSION.**—The Secretary of the Interior shall submit the report required by subsection (a) to the congressional defense committees and the Committee on Natural Resources of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate not later than 180 days after the date of the enactment of this Act.

Subtitle D—Energy Security

SEC. 2831. CONSIDERATION OF ENVIRONMENTALLY SUSTAINABLE PRACTICES IN DEPARTMENT ENERGY PERFORMANCE PLAN.

Section 2911(c) of title 10, United States Code, is amended—

(1) in paragraph (4), by inserting “and hybrid-electric drive” after “alternative fuels”;

(2) by redesignating paragraph (9) as paragraph (11);

(3) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively;

(4) by inserting after paragraph (4) the following new paragraph:

“(5) Opportunities for the high-performance construction, lease, operation, and maintenance of buildings.”; and

(5) by inserting after paragraph (9) (as redesignated by paragraph (3)) the following new paragraph:

“(10) The value of incorporating electric, hybrid-electric, and high efficiency vehicles into vehicle fleets.”.

SEC. 2832. ENHANCEMENT OF ENERGY SECURITY ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) **ENERGY PERFORMANCE MASTER PLAN.**—

(1) **ENHANCEMENT OF ENERGY PERFORMANCE PLAN TO MASTER PLAN.**—Subsection (b) of section 2911 of title 10, United States Code, is amended to read as follows:

“(b) **ENERGY PERFORMANCE MASTER PLAN.**—(1) The Secretary of Defense shall develop a comprehensive master plan for the achievement of the energy performance goals of the Department of Defense, as set forth in laws, executive orders, and Department of Defense policies.

“(2) The master plan shall include the following:

“(A) A separate master plan, developed by each military department and Defense Agency, for the achievement of energy performance goals.

“(B) The use of a baseline standard for the measurement of energy consumption by transportation systems, support systems, utilities, and facilities and infrastructure that is consistent for all of the military departments.

“(C) A method of measurement of reductions or conservation in energy consumption that provides for the taking into account of changes in the current size of fleets, number of facilities, and overall square footage of facility plants.

“(D) Metrics to track annual progress in meeting energy performance goals.

“(E) A description of specific requirements, and proposed investments, in connection with the achievement of energy performance goals reflected in the budget of the President for each fiscal year (as submitted to Congress under section 1105(a) of title 31).

“(3) Not later than 30 days after the date on which the budget of the President is submitted to Congress for a fiscal year under section 1105(a) of title 31, the Secretary shall submit the current version of the master plan to Congress.”.

(2) **CONFORMING AMENDMENTS.**—Such section is further amended by striking “plan” each place it appears and inserting “master plan”.

(3) **SECTION HEADING AMENDMENT.**—The heading of such section is amended to read as follows:

“§2911. Energy performance goals and master plan for the Department of Defense”.

(b) **EXPANSION OF FACILITIES FOR WHICH USE OF RENEWABLE ENERGY AND ENERGY EFFICIENT PRODUCTS IS REQUIRED.**—

(1) **RENEWABLE ENERGY.**—Subsection (a) of section 2915 of title 10, United States Code, is amended—

(A) by inserting “and facility repairs and renovations” after “military family housing projects”;

(B) by striking “energy performance plan” and inserting “energy performance master plan”.

(2) **CONSIDERATION IN DESIGN.**—Subsection (b)(1) of such section is amended by striking “the design” and all that follows and inserting the following: “the design for the construction, repair, or renovation of facilities (including family housing and back-up power generation facilities) requires consideration of energy systems using solar energy or other renewable forms of energy when use of a renewable form of energy—

“(A) is consistent with the energy performance goals and energy performance master plan for the Department of Defense developed under section 2911 of this title; and

“(B) supported by the special considerations specified in subsection (c) of such section.”.

(3) **ENERGY EFFICIENT PRODUCTS.**—Subsection (e) of such section is amended—

(A) by striking the heading and inserting the following: “USE OF ENERGY EFFICIENT PRODUCTS IN FACILITIES.”;

(B) in paragraph (1)—

(i) by striking “new facility construction” and inserting “construction, repair, or renovation of facilities”; and

(ii) by striking “energy performance plan” and inserting “energy performance master plan”;

(C) by redesignating paragraph (2) as paragraph (3); and

(D) by inserting after paragraph (1) the following new paragraph (2):

“(2) For purposes of this subsection, energy efficient products may include, at a minimum, the following technologies, consistent with the products specified in paragraph (3):

“(A) Roof-top solar thermal, photovoltaic, and energy reducing coating technologies.

“(B) Energy management control and supervisory control and data acquisition systems.

“(C) Energy efficient heating, ventilation, and air conditioning systems.

“(D) Thermal windows and insulation systems.

“(E) Electric meters.

“(F) Lighting, equipment, and appliances that are designed to use less electricity.

“(G) Hybrid vehicle plug-in charging stations.

“(H) Solar-power collecting structures to shade vehicle parking areas.

“(I) Wall and roof insulation systems and air infiltration-mitigation systems, such as weatherproofing.”.

(4) SECTION HEADING AMENDMENT.—The heading of such section is amended to read as follows:

“§ 2915. Facilities: use of renewable forms of energy and energy efficient products”.

(c) OTHER AMENDMENTS.—

(1) CONFORMING AMENDMENT.—Section 2925(a) of title 10, United States Code, is amended by striking “energy performance plan” each place it appears and inserting “energy performance master plan”.

(2) CLERICAL AMENDMENTS.—The table of sections at the beginning of subchapter I of chapter 173 of such title is amended—

(A) by striking the item relating to section 2911 and inserting the following new item:

“2911. Energy performance goals and master plan for the Department of Defense.”; and

(B) by striking the item relating to section 2915 and inserting the following new item:

“2915. Facilities: use of renewable forms of energy and energy efficient products.”.

Subtitle E—Land Conveyances

SEC. 2841. LAND CONVEYANCE, DEFENSE FUEL SUPPORT POINT (DFSP) WHITTIER, ALASKA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army or the Secretary of the Air Force may convey to the City of Whittier, Alaska (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 62 acres, located at the Defense Fuel Support Point (DFSP) Whittier, Alaska, that the Secretary making the conveyance considers appropriate in the public interest.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall pay to the Secretary conveying the property an amount that is not less than the fair market value of the property conveyed, as determined by the Secretary. The Secretary’s determination shall be final. In lieu of all or a portion of cash payment of consideration, the Secretary may accept in-kind consideration, including environmental remediation for the property conveyed.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary conveying property under subsection (a) shall require the City to reimburse the Secretary to cover costs (except costs for environmental remediation of the property) to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and any other administrative costs related to the conveyance. If amounts are collected in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City of Whittier.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover those costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same

purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) COMPLIANCE WITH ENVIRONMENTAL LAWS.—Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(e) TREATMENT OF CASH CONSIDERATION RECEIVED.—Any cash payment received by the United States as consideration for the conveyance under subsection (a) shall be deposited in the special account in the Treasury established under subsection (b) of section 572 of title 40, United States Code, and shall be available in accordance with paragraph (5)(B) of such subsection.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of real property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary of the Interior.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary making the conveyance under subsection (a) may require such additional terms and conditions in connection with the conveyance as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. LAND CONVEYANCE, FORT KNOX, KENTUCKY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Department of Veterans Affairs of the Commonwealth of Kentucky (in this section referred to as the “Department”) all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 194 acres at Fort Knox, Kentucky, for the purpose of permitting the Department to establish and operate a State veterans home and future expansion of the adjacent State veterans cemetery for veterans and eligible family members of the Armed Forces.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) PAYMENT OR COSTS OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall require the Department to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including costs related to environmental documentation and other administrative costs. This paragraph does not apply to costs associated with the environmental remediation of the property to be conveyed.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions

and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2843. LAND CONVEYANCE, NAVAL SUPPORT ACTIVITY (WEST BANK), NEW ORLEANS, LOUISIANA.

(a) CONVEYANCE AUTHORIZED.—Except as provided in subsection (b), the Secretary of the Navy may convey to the Algiers Development District all right, title, and interest of the United States in and to the real property comprising the Naval Support Activity (West Bank), New Orleans, Louisiana, including—

(1) any improvements and facilities on the real property; and

(2) available personal property on the real property.

(b) CERTAIN PROPERTY EXCLUDED.—The conveyance under subsection (a) may not include—

(1) the approximately 29-acre area known as the Secured Area of the real property described in such subsection, which shall remain subject to the Lease; and

(2) the Quarters A site, which is located at Sanctuary Drive, as determined by a survey satisfactory to the Secretary of the Navy.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Navy.

(d) TIMING.—The authority provided in subsection (a) may only be exercised after—

(1) the Secretary of the Navy determines that the property described in subsection (a) is no longer needed by the Department of the Navy; and

(2) the Algiers Development District delivers the full consideration as required by Article 3 of the Lease.

(e) CONDITION OF CONVEYANCE.—The conveyance authorized by subsection (a) shall include a condition that expressly prohibits any use of the property that would interfere or otherwise restrict operations of the Department of the Navy in the Secured Area referred to in subsection (b), as determined by the Secretary of the Navy.

(f) SUBSEQUENT CONVEYANCE OF SECURED AREA.—If at any time the Secretary of the Navy determines and notifies the Algiers Development District that there is no longer a continuing requirement to occupy or otherwise control the Secured Area referred to in subsection (b) to support the mission of the Marine Forces Reserve or other comparable Marine Corps use, the Secretary may convey to the Algiers Development District the Secured Area and the any improvements situated thereon.

(g) SUBSEQUENT CONVEYANCE OF QUARTERS A.—If at any time the Secretary of the Navy determines that the Department of the Navy no longer has a continuing requirement for general officers quarters to be located on the Quarters A site referred to in subsection (b) or the Department of the Navy elects or offers to transfer, sell, lease, assign, gift or otherwise convey any or all of the Quarters A site or any improvements thereon to any third party, the Secretary may convey to the Algiers Development District the real property containing the Quarters A site.

(h) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance of property under this section, consistent with the Lease, as the Secretary considers appropriate to protect the interest of the United States.

(i) **DEFINITIONS.**—In this section:

(1) The term “Algiers Development District” means the Algiers Development District, a local political subdivision of the State of Louisiana.

(2) The term “Lease” means that certain Real Estate Lease for Naval Support Activity New Orleans, West Bank, New Orleans, Louisiana, Lease No. N47692-08-RP-08P30, by and between the United States, acting by and through the Department of the Navy, and the Algiers Development District dated September 30, 2008.

SEC. 2844. LAND CONVEYANCE, FORMER NAVY EXTREMELY LOW FREQUENCY COMMUNICATIONS PROJECT SITE, REPUBLIC, MICHIGAN.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Navy may convey, without consideration, to Humboldt Township in Marquette County, Michigan, all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, in Republic, Michigan, consisting of approximately seven acres and formerly used as an Extremely Low Frequency communications project site, for the purpose of permitting the Township to use the property for public benefit.

(b) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(c) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2845. LAND CONVEYANCE, MARINE FORCES RESERVE CENTER, WILMINGTON, NORTH CAROLINA.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Navy may convey to the North Carolina State Port Authority of Wilmington, North Carolina (in this section referred to as the “Port Authority”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 3.03 acres and known as the Marine Forces Reserve Center in Wilmington, North Carolina, for the purpose of permitting the Port Authority to use the parcel for development of a port facility and for other public purposes.

(b) **INCLUSION OF PERSONAL PROPERTY.**—The Secretary of the Navy may include as part of the conveyance under subsection (a) personal property of the Navy at the Marine Forces Reserve Center that the Secretary of Transportation recommends is appropriate for the development or operation of the port facility and the Secretary of the Navy agrees is excess to the needs of the Navy.

(c) **INTERIM LEASE.**—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary of the Navy may lease the property to the Port Authority.

(d) **CONSIDERATION.**—

(1) **CONVEYANCE.**—The conveyance under subsection (a) shall be made without consideration as a public benefit conveyance for port development if the Secretary of the Navy determines that the Port Authority satisfies the criteria specified in section 554

of title 40, United States Code, and regulations prescribed to implement such section. If the Secretary determines that the Port Authority fails to qualify for a public benefit conveyance, but still desires to acquire the property, the Port Authority shall pay to the United States an amount equal to the fair market value of the property to be conveyed. The fair market value of the property shall be determined by the Secretary.

(2) **LEASE.**—The Secretary of the Navy may accept as consideration for a lease of the property under subsection (c) an amount that is less than fair market value if the Secretary determines that the public interest will be served as a result of the lease.

(e) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Navy and the Port Authority. The cost of such survey shall be borne by the Port Authority.

(f) **ADDITIONAL TERMS.**—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance as the Secretary considers appropriate to protect the interests of the United States.

Subtitle F—Other Matters

SEC. 2851. LIMITATION ON AVAILABILITY OF FUNDS PENDING REPORT REGARDING CONSTRUCTION OF A NEW OUTLYING LANDING FIELD IN NORTH CAROLINA AND VIRGINIA.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The Navy has studied the feasibility and potential locations of a new outlying landing field on the East Coast since 2001.

(2) Since January 2008, the Navy has studied five potential sites in North Carolina and Virginia, whose communities have expressed opposition. Some local governments where the sites under consideration are located have taken formal action in opposition by resolution or correspondence to the Navy and congressional officials.

(b) **LIMITATION ON FUNDS PENDING REPORT.**—

(1) **IN GENERAL.**—The Secretary of the Navy may not obligate or expend funds for the study or development of a new outlying landing field in North Carolina or Virginia after fiscal year 2011 until the Secretary has provided the congressional defense committees a report on the Navy's efforts with respect to the outlying landing field.

(2) **ELEMENTS OF REPORT.**—The report required under paragraph (1) shall include the following:

(A) A description of the actual training requirements and completed training events involving Fleet Carrier Landing Practice operations at Naval Air Station Oceana and Naval Auxiliary Landing Field Fentress for the previous 10 years, to include statistics for the current fiscal year.

(B) An assessment of the aviation training requirements and completed aviation training events conducted on all existing Navy outlying landing fields and installations located in North Carolina and Virginia, to include statistics for the current fiscal year.

(C) An assessment of the suitability of all Naval installations in North Carolina and Virginia to conduct Fleet Carrier Landing Practice operations, including necessary facility modifications and requirements to deconflict with current operations at each installation.

(D) A description of the estimated funding necessary to construct a new outlying landing field at each of the five sites under cur-

rent consideration, and a cost comparison analysis between construction of a new outlying landing field versus use of an existing facility.

(E) A description of all completed or pending environmental studies conducted on any of the five sites currently under consideration, including the methodology, conclusions, and recommendations.

(F) Criteria for the basing of the Joint Strike Fighter F-35 aircraft and a description of the outlying landing field facilities that will be required to support its training requirements.

SEC. 2852. REQUIREMENTS RELATED TO PROVIDING WORLD CLASS MILITARY MEDICAL CENTERS.

(a) **UNIFIED CONSTRUCTION STANDARD FOR MILITARY CONSTRUCTION AND REPAIRS TO MILITARY MEDICAL CENTERS.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall establish a unified construction standard for military construction and repairs for military medical centers that provides a single standard of care. This standard shall also include—

(1) size standards for operating rooms and patient recovery rooms; and

(2) such other construction standards that the Secretary considers necessary to support military medical centers.

(b) **INDEPENDENT REVIEW PANEL.**—

(1) **ESTABLISHMENT; PURPOSE.**—The Secretary of Defense shall establish an independent advisory panel for the purpose of—

(A) reviewing the unified construction standards established pursuant to subsection (a) to determine the standards consistency with industry practices and benchmarks for world class medical construction;

(B) reviewing ongoing construction programs within the Department of Defense to ensure medical construction standards are uniformly applied across applicable military medical centers;

(C) assessing the approach of the Department of Defense approach to planning and programming facility improvements with specific emphasis on—

(i) facility selection criteria and proportional assessment system; and

(ii) facility programming responsibilities between the Assistant Secretary of Defense for Health Affairs and the Secretaries of the military departments;

(D) assessing whether the Comprehensive Master Plan for the National Capital Region Medical, dated April 2010, is adequate to fulfill statutory requirements, as required by section 2714 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111-84; 123 Stat. 2656), to ensure that the facilities and organizational structure described in the plan result in world class military medical centers in the National Capital Region; and

(E) making recommendations regarding any adjustments of the master plan referred to in subparagraph (D) that are needed to ensure the provision of world class military medical centers and delivery system in the National Capital Region.

(2) **MEMBERS.**—

(A) **APPOINTMENTS BY SECRETARY.**—The panel shall be composed of such members as determined by the Secretary of Defense, except that the Secretary shall include as members—

(i) medical facility design experts;

(ii) military healthcare professionals;

(iii) representatives of premier health care centers in the United States; and

(iv) former retired senior military officers with joint operational and budgetary experience.

(B) CONGRESSIONAL APPOINTMENTS.—The chairmen and ranking members of the Committees on the Armed Services of the Senate and House of Representatives may each designate one member of the panel.

(C) TERM.—Members of the panel may serve on the panel until the termination date specified in paragraph (7).

(D) COMPENSATION.—While performing duties on behalf of the panel, a member and any adviser referred to in paragraph (4) shall be reimbursed under Government travel regulations for necessary travel expenses.

(3) MEETINGS.—The panel shall meet not less than quarterly. The panel or its members may make other visits to military treatment centers and military headquarters in connection with the duties of the panel.

(4) STAFF AND ADVISORS.—The Secretary of Defense shall provide necessary administrative staff support to the panel. The panel may call in advisers for consultation.

(5) REPORTS.—

(A) INITIAL REPORT.—Not later than 120 days after the first meeting of the panel, the panel shall submit to the Secretary of Defense a written report containing—

(i) an assessment of the adequacy of the plan of the Department of Defense to address the items specified in subparagraphs (A) through (E) of paragraph (1) relating to the purposes of the panel; and

(ii) the recommendations of the panel to improve the plan.

(B) ADDITIONAL REPORTS.—Not later than February 1, 2011, and each February 1 thereafter until termination of the panel, the panel shall submit to the Secretary of Defense a report on the findings and recommendations of the panel to address any deficiencies identified by the panel.

(6) ASSESSMENT OF RECOMMENDATIONS.—Not later than 30 days after the date of the submission of each report under paragraph (5), the Secretary of Defense shall submit to the congressional defense committees a report including—

(A) a copy of the panel's assessment;

(B) an assessment by the Secretary of the findings and recommendations of the panel; and

(C) the plans of the Secretary for addressing such findings and recommendations.

(7) TERMINATION.—The panel shall terminate on September 30, 2015.

(c) DEFINITIONS.—In this section:

(1) NATIONAL CAPITAL REGION.—The term "National Capital Region" has the meaning given the term in section 2674(f) of title 10, United States Code.

(2) WORLD CLASS MILITARY MEDICAL CENTER.—The term "world class military medical center" has the meaning given the term "world class military medical facility" by the National Capital Region Base Realignment and Closure Health Systems Advisory Subcommittee of the Defense Health Board in appendix B of the report titled "Achieving World Class—An Independent Review of the Design Plans for the Walter Reed National Military Medical Center and the Fort Belvoir Community Hospital" and published in May 2009, as required by section 2721 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417; 122 Stat. 4716).

SEC. 2853. REPORT ON FUEL INFRASTRUCTURE SUSTAINMENT, RESTORATION, AND MODERNIZATION REQUIREMENTS.

Not later than 270 days after the date of the enactment of this Act, the Director of

the Defense Logistics Agency shall submit to the congressional defense committees a report on the fuel infrastructure of the Department of Defense. The report shall include the following:

(1) Fiscal projections for fuel infrastructure sustainment, restoration, and modernization requirements to fully meet Department of Defense sustainment models and industry recapitalization practices.

(2) An assessment of the risk associated with not providing adequate funding to support such fuel infrastructure sustainment, restoration, and modernization requirements.

(3) An assessment of fuel infrastructure real property deficiencies impacting the ability of the Defense Logistics Agency to fully support mission requirements.

(4) An assessment of environmental liabilities associated with current fueling operations.

(5) A list of real property previously used to support fuel infrastructure and an assessment of the environmental liabilities associated with such real property and whether any of such real property can be declared excess to the needs of the Department of Defense.

(6) An assessment of the real property demarcation between the Secretaries of the military departments and the Defense Logistics Agency.

SEC. 2854. NAMING OF ARMED FORCES RESERVE CENTER, MIDDLETOWN, CONNECTICUT.

The newly constructed Armed Forces Reserve Center in Middletown, Connecticut, shall be known and designated as the "Major General Maurice Rose Armed Forces Reserve Center". Any reference in a law, map, regulation, document, paper, or other record of the United States to such Armed Forces Reserve Center shall be deemed to be a reference to the Major General Maurice Rose Armed Forces Reserve Center.

SEC. 2855. SENSE OF CONGRESS ON PROPOSED EXTENSION OF THE ALASKA RAILROAD CORRIDOR ACROSS FEDERAL LAND IN ALASKA.

(a) FINDING.—Congress finds that the Alaska Railroad proposes the extension of its railroad corridor over approximately 950 acres of land located south and east of North Pole, Alaska, including lands located near or adjacent to the Chena River spillway, Eielson Air Force Base, Tanana Flats Training Area (Fort Wainwright), Donnelly Training Area (Fort Wainwright), and Fort Greely.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Department of the Army and the Department of the Air Force should explore means of accommodating the railroad corridor expansion referred to in subsection (a) using existing authorities that will not adversely impact military missions, operations, and training.

SEC. 2856. SENSE OF CONGRESS ON IMPROVING MILITARY HOUSING FOR MEMBERS OF THE AIR FORCE.

(a) FINDING.—Congress makes the following findings:

(1) In the mid-1990s, the Department of Defense became concerned that inadequate and poor quality housing for members of the Armed Forces was adversely affecting the quality of life for members and their families and adversely affecting military readiness by contributing to decisions by members to leave the Armed Forces.

(2) At that time, the Department of Defense designated about 180,000 houses, or nearly two-thirds of its domestic family housing inventory, as inadequate and needing repair or complete replacement.

(3) The Department of Defense believed that it would need about \$20,000,000,000 in appropriated funds and would take up to 40 years to eliminate poor quality military housing through new construction or renovation using its traditional military construction approach.

(4) In 1996, Congress enacted the Military Housing Privatization Initiative to provide the Department of Defense with a variety of authorities to obtain private sector financing and management for the repair, renovation, construction, and management of military family housing.

(5) The Air Force has used the Military Housing Privatization Initiative to award 27 projects at 44 military bases to improve over 37,000 homes.

(6) The Air Force has received \$7,100,000,000 in total development investment from the private sector for new housing with a taxpayer contribution of approximately \$425,000,000, representing a 15 to 1 leveraging of taxpayer dollars.

(7) The Air Force, like the other military services, has been able to leverage varying conditions of housing at military bases into fiscally viable projects by packaging housing inventories at multiple bases into a single transaction.

(8) Congress has approved transactions involving the packaging of multiple bases as a critical tool to maximize the efficient use of taxpayer funds.

(9) Congress supports the goal of the Air Force to complete transactions for the repair, renovation, construction, and management of 100 percent of their military family housing inventory in the United States by December 31, 2012.

(10) The Air Force currently has 6 project solicitations prepared for open competition at 22 Air Force installations to improve over 15,000 homes.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Air Force should use existing authority to carry out solicitations for the 6 military housing projects involving the packaging of 22 bases consistent with the goal of improving 15,000 homes for Air Force personnel and their families by December 31, 2012.

SEC. 2857. SENSE OF CONGRESS REGARDING RECREATIONAL HUNTING AND FISHING ON MILITARY INSTALLATIONS.

It is the sense of the Congress that—

(1) military installations that permit public access for recreational hunting and fishing should continue to permit such hunting and fishing where appropriate;

(2) permitting the public to access military installations for recreational hunting and fishing benefits local communities by conserving and promoting the outdoors and establishing positive relations between the civilian and defense sectors;

(3) any military installations that make recreational hunting and fishing permits available for purchase should provide a discounted rate for active and retired members of the Armed Forces and veterans with disabilities; and

(4) the Department of Defense, all of the service branches, and military installations that permit public access for recreational hunting and fishing should promote access to such installations by making the appropriate accommodations for members of the Armed Forces and veterans with disabilities.

TITLE XXIX—OVERSEAS CONTINGENCY OPERATIONS MILITARY CONSTRUCTION

Sec. 2901. Authorized Army construction and land acquisition projects.

Sec. 2902. Authorized Air Force construction and land acquisition project.

Sec. 2903. Authorized Defense Wide Construction and Land Acquisition Projects and Authorization of Appropriations.

SEC. 2901. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real prop-

erty and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or Location	Amount
Afghanistan	Bagram Air Base	\$270,000,000
	Delaram II	\$4,400,000
	Dwyer	\$74,100,000
	Frontenac	\$8,400,000
	Kandahar	\$80,400,000
	Maywand	\$7,000,000
	Shank	\$98,300,000
	Sharana	\$12,400,000
	Shindand	\$6,100,000
	Tarin Kowt	\$29,600,000
	Tombstone/Bastion	\$112,600,000
	Various locations	\$100,000,000
	Wolverine	\$13,000,000

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) OUTSIDE THE UNITED STATES.—For military construction projects outside the United States authorized by subsection (a), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, in the total amount of \$816,300,000.

(2) UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, in the total amount of \$78,350,000.

(3) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—For architectural and engineering services and construction design under section 2807 of title 10, United States Code, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, in the total amount of \$79,716,000.

(4) OVERSIGHT.—For the Department of Defense Inspector General, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, in the total amount of \$7,000,000.

SEC. 2902. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECT.

(a) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or Location	Amount
Oman	Al Musannah.	\$69,000,000
Qatar	Al Udeid	\$63,000,000

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) OUTSIDE THE UNITED STATES.—For military construction projects outside the United States authorized by subsection (a), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, in the total amount of \$132,000,000.

(2) UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, in the total amount of \$49,584,000.

(3) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—For architectural and engineering services and construction design under section 2807 of title 10, United States Code, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, in the total amount of \$13,422,000.

SEC. 2903. AUTHORIZED DEFENSE WIDE CONSTRUCTION AND LAND ACQUISITION PROJECTS AND AUTHORIZATION OF APPROPRIATIONS.

(a) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property

and carry out military construction projects for the Defense Agencies for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Defense Wide: Outside the United States

Country	Installation or Location	Amount
Classified Location.	Classified Project.	\$41,900,000

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) OUTSIDE THE UNITED STATES.—For military construction projects outside the United States authorized by subsection (a), funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, in the total amount of \$41,900,000.

(2) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—For architectural and engineering services and construction design authorized by section 2807 of title 10, United States Code, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2010, in the total amount of \$4,600,000.

TITLE XXX—MILITARY CONSTRUCTION FUNDING TABLES

Sec. 3001. Military construction.

Sec. 3002. Overseas contingency operations.

SEC. 3001. MILITARY CONSTRUCTION.

**SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)**

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Army	Alabama			
	Fort Rucker	Aviation Component Maintenance Shop	29,000	29,000
	Fort Rucker	Aviation Maintenance Facility	36,000	36,000
Army	Fort Rucker	Training Aids Center	4,650	4,650
Army	Alaska			
	Fort Greely	Fire Station	26,000	26,000
	Fort Richardson	Brigade Complex, Ph 1	67,038	67,038
	Fort Richardson	Multipurpose Machine Gun Range	12,200	12,200
	Fort Richardson	Simulations Center	34,000	34,000
	Fort Wainwright	Aviation Task Force Complex, Ph 1 Incr 2	30,000	0
	Fort Wainwright	Aviation Task Force Complex, Ph 2A (Hangar)	142,650	142,650
	Fort Wainwright	Aviation Task Force Complex, Ph 2B (Company Ops Facility)	27,000	27,000
	Fort Wainwright	Urban Assault Course	3,350	3,350
Army	California			
	Fort Irwin	Water Treatment and Distro System	0	0
Army	Presidio Monterey	Advanced Individual Training Barracks	63,000	63,000

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Army	Presidio Monterey	General Instruction Building	39,000	39,000
Army	Presidio Monterey	Satellite Communications Facility	38,000	38,000
	Colorado			
Army	Fort Carson	Automated Sniper Field Fire Range	3,650	3,650
Army	Fort Carson	Battalion Headquarters	6,700	6,700
Army	Fort Carson	Brigade Complex	56,000	56,000
Army	Fort Carson	Simulations Center	40,000	40,000
	Florida			
Army	Eglin Ab	Chapel	6,900	6,900
Army	Miami-Dade County	Command & Control Facility	41,000	41,000
Army	US Army Garrison Miami	Commissary	19,000	0
	Georgia			
Army	Fort Benning	Land Acquisition	12,200	12,200
Army	Fort Benning	Museum Operations Support Building	32,000	0
Army	Fort Benning	Trainee Barracks, Ph 2	51,000	51,000
Army	Fort Benning	Training Battalion Complex, Ph 2	14,600	14,600
Army	Fort Benning	Training Battalion Complex, Ph 2	14,600	14,600
Army	Fort Benning	Vehicle Maintenance Shop	53,000	53,000
Army	Fort Gordon	Qualification Training Range	0	0
Army	Fort Gordon	Training Aids Center	4,150	4,150
Army	Fort Stewart	Automated Infantry Platoon Battle Course	6,200	6,200
Army	Fort Stewart	Automated Multipurpose Machine Gun Range	9,100	9,100
Army	Fort Stewart	Aviation Unit Operations Complex	47,000	47,000
Army	Fort Stewart	Battalion Complex	18,000	18,000
Army	Fort Stewart	General Instruction Building	8,200	8,200
Army	Fort Stewart	Modified Record Fire Range	3,750	3,750
Army	Fort Stewart	Simulations Center	26,000	26,000
Army	Fort Stewart	Training Aids Center	7,000	7,000
	Hawaii			
Army	Fort Shafter	Command & Control Facility, Ph 1	58,000	58,000
Army	Fort Shafter	Flood Mitigation	23,000	23,000
Army	Schofield Barracks	Barracks	98,000	98,000
Army	Schofield Barracks	Barracks	90,000	90,000
Army	Schofield Barracks	Training Aids Center	24,000	24,000
Army	Tripler Army Medical Center	Barracks	28,000	28,000
	Kansas			
Army	Fort Leavenworth	Vehicle Maintenance Shop	7,100	7,100
Army	Fort Riley	Automated Infantry Squad Battle Course	4,100	4,100
Army	Fort Riley	Automated Qualification/Training Range	14,800	14,800
Army	Fort Riley	Battalion Complex, Ph 1	31,000	31,000
Army	Fort Riley	Known Distance Range	7,200	7,200
	Kentucky			
Army	Fort Campbell	Automated Sniper Field Fire Range	1,500	1,500
Army	Fort Campbell	Brigade Complex	67,000	67,000
Army	Fort Campbell	Company Operations Facilities	25,000	25,000
Army	Fort Campbell	Infantry Squad Battle Course	0	0
Army	Fort Campbell	Rappelling Training Area	5,600	5,600
Army	Fort Campbell	Shoot House	0	0
Army	Fort Campbell	Unit Operations Facilities	26,000	26,000
Army	Fort Campbell	Urban Assault Course	3,300	3,300
Army	Fort Campbell	Vehicle Maintenance Shop	15,500	15,500
Army	Fort Knox	Access Corridor Improvements	6,000	6,000
Army	Fort Knox	Military Operation Urban Terrain Collective Training Facility	12,800	12,800
Army	Fort Knox	Rail Head Upgrade	0	0
	Louisiana			
Army	Fort Polk	Barracks	29,000	29,000
Army	Fort Polk	Emergency Services Center	0	0
Army	Fort Polk	Heavy Sniper Range	4,250	4,250
Army	Fort Polk	Land Acquisition	24,000	24,000
Army	Fort Polk	Land Acquisition	6,000	6,000
	Maryland			
Army	Aberdeen Proving Ground	Auto Tech Evaluate Facility, Ph 2	14,600	14,600
Army	Fort Meade	Indoor Firing Range	7,600	7,600
Army	Fort Meade	Wideband SATCOM Operations Center	25,000	25,000
	Missouri			
Army	Fort Leonard Wood	Barracks	29,000	29,000
Army	Fort Leonard Wood	Brigade Headquarters	12,200	12,200
Army	Fort Leonard Wood	General Instruction Building	7,000	7,000
Army	Fort Leonard Wood	Information Systems Facility	15,500	15,500
Army	Fort Leonard Wood	Training Barracks	19,000	19,000
Army	Fort Leonard Wood	Transient Advanced Trainee Barracks, Ph 2	29,000	29,000
	New Mexico			
Army	White Sands	Barracks	29,000	29,000
	New York			
Army	Fort Drum	Aircraft Fuel Storage Complex	14,600	14,600
Army	Fort Drum	Aircraft Maintenance Hangar	16,500	16,500
Army	Fort Drum	Alert Holding Area Facility	0	0
Army	Fort Drum	Battalion Complex	61,000	61,000
Army	Fort Drum	Brigade Complex, Ph 1	55,000	55,000

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Army	Fort Drum	Infantry Squad Battle Course	8,200	8,200
Army	Fort Drum	Railhead Loading Area	0	0
Army	Fort Drum	Training Aids Center	18,500	18,500
Army	Fort Drum	Transient Training Barracks	55,000	55,000
Army	U.S. Military Academy	Science Facility, Ph 2	130,624	130,624
Army	U.S. Military Academy	Urban Assault Course	1,700	1,700
	North Carolina			
Army	Fort Bragg	Battalion Complex	33,000	33,000
Army	Fort Bragg	Brigade Complex	41,000	41,000
Army	Fort Bragg	Brigade Complex	25,000	25,000
Army	Fort Bragg	Brigade Complex	50,000	50,000
Army	Fort Bragg	Command and Control Facility	53,000	53,000
Army	Fort Bragg	Company Operations Facilities	12,600	12,600
Army	Fort Bragg	Dining Facility	11,200	11,200
Army	Fort Bragg	Murchison Road Right of Way Acquisition	17,000	17,000
Army	Fort Bragg	Staging Area Complex	14,600	14,600
Army	Fort Bragg	Student Barracks	18,000	18,000
Army	Fort Bragg	Vehicle Maintenance Shop	7,500	7,500
Army	Fort Bragg	Vehicle Maintenance Shop	28,000	28,000
	Oklahoma			
Army	Fort Sill	General Purpose Storage Building	13,800	13,800
Army	Fort Sill	Museum Operations Support Building	12,800	0
Army	McAlester	Igloo Storage, Depot Level	3,000	3,000
	South Carolina			
Army	Fort Jackson	Trainee Barracks	28,000	28,000
Army	Fort Jackson	Trainee Barracks Complex, Ph 1	46,000	46,000
Army	Fort Jackson	Training Aids Center	17,000	17,000
	Texas			
Army	Corpus Christi NAS	Rotor Blade Processing Facility, Ph 2	0	0
Army	Fort Bliss	Automated Multipurpose Machine Gun Range	6,700	6,700
Army	Fort Bliss	Company Operations Facilities	18,500	18,500
Army	Fort Bliss	Digital Multipurpose Training Range	22,000	22,000
Army	Fort Bliss	Heavy Sniper Range	3,500	3,500
Army	Fort Bliss	Indoor Swimming Pool	15,500	15,500
Army	Fort Bliss	Light Demolition Range	2,100	2,100
Army	Fort Bliss	Live Fire Exercise Shoothouse	3,150	3,150
Army	Fort Bliss	Scout/Reconnaissance Crew Engagement Gunnery Complex	15,500	15,500
Army	Fort Bliss	Squad Defense Range	3,000	3,000
Army	Fort Bliss	Theater High Altitude Area Defense Battery Complex	17,500	17,500
Army	Fort Bliss	Transient Training Complex	31,000	31,000
Army	Fort Bliss	Urban Assault Course	2,800	2,800
Army	Fort Bliss	Vehicle Bridge Overpass	8,700	8,700
Army	Fort Hood	Battalion Complex	40,000	40,000
Army	Fort Hood	Brigade Complex	38,000	38,000
Army	Fort Hood	Company Operations Facilities	4,300	4,300
Army	Fort Hood	Convoy Live Fire	3,200	3,200
Army	Fort Hood	Live Fire Exercise Shoothouse	2,100	2,100
Army	Fort Hood	Soldier Readiness Processing Center	0	0
Army	Fort Hood	Unmanned Aerial System Hangar	55,000	55,000
Army	Fort Hood	Urban Assault Course	2,450	2,450
Army	Fort Sam Houston	Simulations Center	16,000	16,000
Army	Fort Sam Houston	Training Aids Center	6,200	6,200
	Virginia			
Army	Fort A.P. Hill	1200 Meter Range	14,500	14,500
Army	Fort A.P. Hill	Indoor Firing Range	6,200	6,200
Army	Fort A.P. Hill	Known Distance Range	3,800	3,800
Army	Fort A.P. Hill	Light Demolition Range	4,100	4,100
Army	Fort A.P. Hill	Military Operation Urban Terrain Collective Training Facility	65,000	65,000
Army	Fort Eustis	Warrior in Transition Complex	18,000	18,000
Army	Fort Lee	Automated Qualification Training Range	7,700	7,700
Army	Fort Lee	Company Operations Facility	4,900	4,900
Army	Fort Lee	Museum Operations Support Building	30,000	0
Army	Fort Lee	Training Aids Center	5,800	5,800
	Washington			
Army	Fort Lewis	Barracks	47,000	47,000
Army	Fort Lewis	Barracks Complex	40,000	40,000
Army	Fort Lewis	Rappelling Training Area	5,300	5,300
Army	Fort Lewis	Regional Logistic Support Complex	63,000	63,000
Army	Fort Lewis	Regional Logistic Support Complex Warehouse	16,500	16,500
Army	Yakima	Sniper Field Fire Range	3,750	3,750
	Afghanistan			
Army	Bagram AB	Army Aviation HQ Facilities	19,000	19,000
Army	Bagram AB	Barracks	18,000	18,000
Army	Bagram AB	Consolidated Community Support Area	14,800	14,800
Army	Bagram AB	Eastside Electrical Distribution	10,400	10,400
Army	Bagram AB	Eastside Utilities Infrastructure	29,000	29,000
Army	Bagram AB	Entry Control Point	7,500	7,500
Army	Bagram AB	Joint Defense Operations Center	2,800	2,800
	Germany			

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Army	Ansbach	Physical Fitness Center	13,800	13,800
Army	Ansbach	Vehicle Maintenance Shop	18,000	18,000
Army	Grafenwoehr	Barracks	20,000	20,000
Army	Grafenwoehr	Barracks	19,000	19,000
Army	Grafenwoehr	Barracks	19,000	19,000
Army	Grafenwoehr	Barracks	17,500	17,500
Army	Rhine Ordnance Barracks	Barracks Complex	35,000	35,000
Army	Sembach AB	Confinement Facility	9,100	9,100
Army	Wiesbaden AB	Command and Battle Center, Incr 2	59,500	59,500
Army	Wiesbaden AB	Construct New Access Control Point	5,100	5,100
Army	Wiesbaden AB	Information Processing Center	30,400	30,400
Army	Wiesbaden AB	Sensitive Compartmented Information Facility	91,000	91,000
	Honduras			
Army	Soto Cano AB	Barracks	20,400	20,400
	Italy			
Army	Vicenza	Brigade Complex—Barracks/Community, Incr 4	26,000	26,000
Army	Vicenza	Brigade Complex—Operations Support Facility, Incr 4	25,000	25,000
	Korea			
Army	Camp Walker	Electrical System Upgrade & Natural Gas System	19,500	19,500
	Unspecified			
Army	Troop Trainee Housing	Training Barracks	0	0
	Worldwide Unspecified			
Army	Unspecified Worldwide Locations	Host Nation Support FY 11	28,000	28,000
Army	Unspecified Worldwide Locations	Minor Construction FY 11	23,000	23,000
Army	Unspecified Worldwide Locations	Planning and Design FY 11	221,636	221,636
Total Military Construction, Army			4,078,798	3,954,998
	Alabama			
Navy	Mobile	T-6 Outlying Landing Field	29,082	29,082
	Arizona			
Navy	Yuma	Aircraft Maintenance Hangar	40,600	40,600
Navy	Yuma	Aircraft Maintenance Hangar	63,280	63,280
Navy	Yuma	Communications Infrastructure Upgrade	63,730	63,730
Navy	Yuma	Intermediate Maintenance Activity Facility	21,480	21,480
Navy	Yuma	Simulator Facility	36,060	36,060
Navy	Yuma	Utilities Infrastructure Upgrades	44,320	44,320
Navy	Yuma	Van Pad Complex Relocation	15,590	15,590
	California			
Navy	Camp Pendleton	Bachelor Enlisted Quarters—13 Area	42,864	42,864
Navy	Camp Pendleton	Bachelor Enlisted Quarters—Las Flores	37,020	37,020
Navy	Camp Pendleton	Center for Naval Aviation Technical Training/Fleet Replacement Squadron—Aviation Training and Bachelor Enlisted Quarters.	66,110	66,110
Navy	Camp Pendleton	Conveyance/Water Treatment	100,700	100,700
Navy	Camp Pendleton	Marine Aviation Logistics Squadron-39 Maintenance Hangar Expansion	48,230	48,230
Navy	Camp Pendleton	Marine Corps Energy Initiative	9,950	9,950
Navy	Camp Pendleton	North Region Tert Treat Plant (Incremented)	30,000	30,000
Navy	Camp Pendleton	Small Arms Magazine—Edson Range	3,760	3,760
Navy	Camp Pendleton	Truck Company Operations Complex	53,490	53,490
Navy	Coronado	Maritime Expeditionary Security Group- One (Mesg-1) Consolidated Boat Maintenance Facility.	0	0
Navy	Coronado	Rotary Hangar	67,160	67,160
Navy	Miramar	Aircraft Maintenance Hangar	90,490	90,490
Navy	Miramar	Hangar 4	33,620	33,620
Navy	Miramar	Parking Apron/Taxiway Expansion	66,500	66,500
Navy	Monterey NSA	International Academic Instruction Building	0	0
Navy	San Diego	Bachelor Enlisted Quarters, Homeport Ashore	75,342	75,342
Navy	San Diego	Berthing Pier 12 Replace & Dredging, Ph 1	108,414	108,414
Navy	San Diego	Marine Corps Energy Initiative	9,950	9,950
Navy	Twentynine Palms	Bachelor Enlisted Quarters & Parking Structure	53,158	53,158
	Connecticut			
Navy	New London NSB	Submarine Group 2 Headquarters	0	0
	Florida			
Navy	Blount Island	Consolidated Warehouse Facility	17,260	17,260
Navy	Blount Island	Container Staging and Loading Lot	5,990	5,990
Navy	Blount Island	Container Storage Lot	4,910	4,910
Navy	Blount Island	Hardstand Extension	17,930	17,930
Navy	Blount Island	Paint and Blast Facility	18,840	18,840
Navy	Blount Island	Washrack Expansion	9,690	9,690
Navy	Panama City NSA	Land Acquisition	0	0
Navy	Panama City NSA	Purchase 9 Acres	0	0
Navy	Tampa	Joint Comms Support Element Vehicle Paint Facility	2,300	0
	Georgia			
Navy	Albany MCLB	Maintenance Center Test Firing Range	0	0
Navy	Kings Bay	Security Enclave & Vehicle Barriers	45,004	45,004
Navy	Kings Bay	Waterfront Emergency Power	15,660	15,660
	Hawaii			
Navy	Camp Smith	Physical Fitness Center	29,960	29,960
Navy	Kaneohe Bay	Bachelor Enlisted Quarters	90,530	90,530

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Navy	Kaneohe Bay	Waterfront Operations Facility	19,130	19,130
Navy	Pacific Missile Range Facility	Replace North Loop Electrical Distribution System	0	0
Navy	Pearl Harbor	Center for Disaster Mgt/Humanitarian Assistance	9,140	9,140
Navy	Pearl Harbor	Fire Station, West Loch	0	0
Navy	Pearl Harbor	Joint Pow/Mia Accounting Command	99,328	99,328
Navy	Pearl Harbor	Pre-Fab Bridge Nohili Ditch	0	0
Navy	Pearl Harbor	Welding School Shop Consolidation	0	0
	Maine			
Navy	Portsmouth NSY	Consolidation of Structural Shops	0	0
Navy	Portsmouth NSY	Structural Shops Addition, Ph 1	0	0
	Maryland			
Navy	Indian Head	Advanced Energetics Research Lab Complex Phase 2	0	0
Navy	Indian Head	Agile Chemical Facility, Ph 2	34,238	34,238
Navy	Patuxent River	Atlantic Test Range Addition	0	0
Navy	Patuxent River	Broad Area Maritime Surveillance & E Facility	42,211	42,211
	Mississippi			
Navy	Gulfport	Branch Health Clinic	0	0
	North Carolina			
Navy	Camp Lejeune	2nd Intel Battalion Maintenance/Ops Complex	90,270	90,270
Navy	Camp Lejeune	Armory- II Mef—Wallace Creek	12,280	12,280
Navy	Camp Lejeune	Bachelor Enlisted Quarters—Courthouse Bay	42,330	42,330
Navy	Camp Lejeune	Bachelor Enlisted Quarters—Courthouse Bay	40,780	40,780
Navy	Camp Lejeune	Bachelor Enlisted Quarters—French Creek	43,640	43,640
Navy	Camp Lejeune	Bachelor Enlisted Quarters—Rifle Range	55,350	55,350
Navy	Camp Lejeune	Bachelor Enlisted Quarters—Wallace Creek	51,660	51,660
Navy	Camp Lejeune	Bachelor Enlisted Quarters—Wallace Creek North	46,290	46,290
Navy	Camp Lejeune	Bachelor Enlisted Quarters—Camp Johnson	46,550	46,550
Navy	Camp Lejeune	Explosive Ordnance Disposal Unit Addition—2nd Marine Logistics Group	7,420	7,420
Navy	Camp Lejeune	Hangar	73,010	73,010
Navy	Camp Lejeune	Maintenance Hangar	74,260	74,260
Navy	Camp Lejeune	Maintenance/Ops Complex—2nd Air Naval Gunfire Liaison Company	36,100	36,100
Navy	Camp Lejeune	Marine Corps Energy Initiative	9,950	9,950
Navy	Camp Lejeune	Mess Hall—French Creek	25,960	25,960
Navy	Camp Lejeune	Mess Hall Addition—Courthouse Bay	2,553	2,553
Navy	Camp Lejeune	Motor Transportation/Communications Maintenance Facility	18,470	18,470
Navy	Camp Lejeune	Utility Expansion—Hadnot Point	56,470	56,470
Navy	Camp Lejeune	Utility Expansion—French Creek	56,050	56,050
Navy	Cherry Point Marine Corps Air Station	Bachelor Enlisted Quarters	42,500	42,500
Navy	Cherry Point Marine Corps Air Station	Mariners Bay Land Acquisition—Bogue	3,790	3,790
Navy	Cherry Point Marine Corps Air Station	Missile Magazine	13,420	13,420
Navy	Cherry Point Marine Corps Air Station	Station Infrastructure Upgrades	5,800	5,800
	Pennsylvania			
Navy	Naval Support Activity Mechanicsburg	North Gate Security Improvements	0	0
Navy	Naval Support Activity Mechanicsburg	Quiet Propulsion Load House	0	0
	Rhode Island			
Navy	Newport	Electromagnetic Facility	27,007	27,007
Navy	Newport	Gate Improvements	0	0
Navy	Newport	Submarine Payloads Integration Laboratory	0	0
	South Carolina			
Navy	Beaufort	Air Installation Compatible Use Zone Land Acquisition	21,190	21,190
Navy	Beaufort	Aircraft Hangar	46,550	46,550
Navy	Beaufort	Physical Fitness Center	15,430	15,430
Navy	Beaufort	Training and Simulator Facility	46,240	46,240
	Texas			
Navy	Kingsville NAS	Youth Center	0	0
	Virginia			
Navy	Dahlgren	Building 1200—Missile Support Facility Replacement Phase 1	0	0
Navy	Norfolk	Pier 9 & 10 Upgrades for Ddg 1000	2,400	2,400
Navy	Norfolk	Pier 1 Upgrades to Berth Usns Comfort	10,035	10,035
Navy	Portsmouth	Ship Repair Pier Replacement, Incr 2	100,000	100,000
Navy	Quantico	Academic Facility Addition—Staff Non Commissioned Officer Academy	12,080	12,080
Navy	Quantico	Bachelor Enlisted Quarters	37,810	37,810
Navy	Quantico	Research Center Addition—MCU	37,920	37,920
Navy	Quantico	Student Officer Quarters—the Basic School	55,822	55,822
	Washington			
Navy	Bangor	Commander Submarine Development Squadron 5 Laboratory Expansion Ph1	16,170	16,170
Navy	Bangor	Limited Area Emergency Power	15,810	15,810
Navy	Bangor	Waterfront Restricted Area Emergency Power	24,913	24,913
Navy	Naval Base Kitsap	Charleston Gate Ecp Improvements	0	0
Navy	Naval Base Kitsap	Limited Area Product/Strg Complex (Incremented)	19,116	19,116
	Bahrain Island			
Navy	SW Asia	Navy Central Command Ammunition Magazines	89,280	89,280
Navy	SW Asia	Operations and Support Facilities	60,002	60,002

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Navy	SW Asia	Waterfront Development, Ph 3	63,871	63,871
	Guam			
Navy	Guam	Anderson AFB North Ramp Parking, Ph 1, Inc 2	93,588	0
Navy	Guam	Anderson AFB North Ramp Utilities, Ph 1, Inc 2	79,350	0
Navy	Guam	Apra Harbor Wharves Improvements, Ph 1	40,000	40,000
Navy	Guam	Defense Access Roads Improvements	66,730	66,730
Navy	Guam	Finegayan Site Prep and Utilities	147,210	0
	Japan			
Navy	Atsugi	MH-60r/S Trainer Facility	6,908	6,908
	Spain			
Navy	Rota	Air Traffic Control Tower	23,190	23,190
	Djibouti			
Navy	Camp Lemonier	Camp Lemonier HQ Facility	12,407	0
Navy	Camp Lemonier	General Warehouse	7,324	7,324
Navy	Camp Lemonier	Horn of Africa Joint Operations Center	28,076	0
Navy	Camp Lemonier	Pave External Roads	3,824	3,824
	Worldwide Unspecified			
Navy	Unspecified Worldwide Locations	Planning and Design	120,050	120,050
Navy	Unspecified Worldwide Locations	Unspecified Minor Construction	20,877	20,877
Total Military Construction, Navy			3,879,104	3,516,173
	Alabama			
AF	Maxwell AFB	Adal Air University Library	13,400	13,400
	Alaska			
AF	Elmendorf AFB	Repair Central Heat Plant & Power Plant Boilers	28,000	28,000
AF	Elmendorf AFB	Add/Alter Air Support Operations Squadron Training	4,749	4,749
AF	Elmendorf AFB	Construct Railhead Operations Facility	15,000	15,000
AF	Elmendorf AFB	Dod Joint Regional Fire Training Facility	0	0
AF	Elmendorf AFB	F-22 Add/Alter Weapons Release Systems Shop	10,525	10,525
	Arizona			
AF	Davis-Monthan AFB	Aerospace Maintenance and Regeneration Group Hangar	25,000	25,000
AF	Davis-Monthan AFB	HC-130 Aerospace Ground Equipment Maintenance Facility	4,600	4,600
AF	Davis-Monthan AFB	HC-130J Aerial Cargo Facility	10,700	10,700
AF	Davis-Monthan AFB	HC-130J Parts Store	8,200	8,200
AF	Fort Huachuca	Total Force Integration-Predator Launch and Recovery Element Beddown	11,000	0
AF	Luke AFB	F-35 Academic Training Center	0	54,150
AF	Luke AFB	F-35 Squadron Operations Facility	0	10,260
	California			
AF	Edwards AFB	Flightline Fire Station	0	0
AF	Los Angeles AFB	Consolidated Parking Area, Ph 2	0	0
	Colorado			
AF	Buckley AFB	Land Acquisition	0	0
AF	Buckley AFB	Security Forces Operations Facility	12,160	12,160
AF	Peterson AFB	Rapid Attack Identification Detection Repair System Space Control Facility ..	24,800	24,800
AF	U.S. Air Force Academy	Const Center for Character & Leadership Development	27,600	27,600
	Delaware			
AF	Dover AFB	C-5M/C-17 Maintenance Training Facility, Ph 2	3,200	3,200
	District of Columbia			
AF	Bolling AFB	Joint Air Defense Operations Center	13,200	13,200
	Florida			
AF	Eglin AFB	F-35 Fuel Cell Maintenance Hangar	11,400	11,400
AF	Hurlburt Field	Adal Special Operations School Facility	6,170	6,170
AF	Hurlburt Field	Add to Visiting Quarters (24 Rm)	4,500	4,500
AF	Hurlburt Field	Base Logistics Facility	24,000	24,000
AF	Patrick AFB	Air Force Technical Application Center	158,009	158,009
AF	Patrick AFB	Relocate Main Gate	0	0
	Georgia			
AF	Robins AFB	54th Combat Communications Squadron Warehouse Facility, Ph 2	0	0
	Louisiana			
AF	Barksdale AFB	Weapons Load Crew Training Facility	18,140	18,140
	Missouri			
AF	Whiteman AFB	Consolidated Air Ops Facility	0	0
	Montana			
AF	Malmstrom AFB	Physical Fitness Center, Phase II	0	0
	Nebraska			
AF	Offutt AFB	Kenney/Bellevue Gates	0	0
	Nevada			
AF	Creech AFB	UAS Airfield Fire/Crash Rescue Station	11,710	11,710
AF	Nellis AFB	Communication Network Control Center	0	0
AF	Nellis AFB	F-35 Add/Alter 422 Test Evaluation Squadron Facility	7,870	7,870
AF	Nellis AFB	F-35 Add/Alter Flight Test Instrumentation Facility	1,900	1,900
AF	Nellis AFB	F-35 Flight Simulator Facility	13,110	13,110
AF	Nellis AFB	F-35 Maintenance Hangar	28,760	28,760
	New Jersey			
AF	McGuire AFB	Base Ops/Command Post Facility (TFI)	8,000	8,000
AF	McGuire AFB	Dormitory (120 Rm)	18,440	18,440
	New Mexico			
AF	Cannon AFB	Dormitory (96 Rm)	14,000	14,000

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
AF	Cannon AFB	Family Support Center	0	0
AF	Cannon AFB	UAS Squadron Ops Facility	20,000	20,000
AF	Holloman AFB	Parallel Taxiway, Runway 07/25	0	0
AF	Holloman AFB	UAS Add/Alter Maintenance Hangar	15,470	15,470
AF	Holloman AFB	UAS Maintenance Hangar	22,500	22,500
AF	Kirtland AFB	Aerial Delivery Facility Addition	3,800	3,800
AF	Kirtland AFB	Armament Shop	6,460	6,460
AF	Kirtland AFB	H/MC-130 Fuel System Maintenance Facility	14,142	14,142
AF	Kirtland AFB	Military Working Dog Facility	0	0
AF	Kirtland AFB	Replace Fire Station 3	0	0
	New York			
AF	Fort Drum	20th Air Support Operations Squadron Complex	20,440	20,440
	North Carolina			
AF	Pope AFB	Crash/Fire/Rescue Station	0	0
	North Dakota			
AF	Grand Forks AFB	Central Deployment Center	0	0
AF	Minot AFB	Control Tower/Base Operations Facility	18,770	18,770
	Oklahoma			
AF	Tinker AFB	Air Traffic Control Tower	0	0
AF	Tinker AFB	Upgrade Building 3001 Infrastructure, Ph 3	14,000	14,000
	South Carolina			
AF	Charleston AFB	Civil Engineer Complex (TFI)—Ph 1	15,000	15,000
	South Dakota			
AF	Ellsworth AFB	Maintenance Training Facility	0	0
	Texas			
AF	Dyess AFB	C-130J Add/Alter Flight Simulator Facility	4,080	4,080
AF	Ellington Field	Upgrade Unmanned Aerial Vehicle Maintenance Hangar	7,000	0
AF	Lackland AFB	Basic Military Training Satellite Classroom/Dining Facility No 2	32,000	32,000
AF	Lackland AFB	One-Company Fire Station	5,500	5,500
AF	Lackland AFB	Recruit Dormitory, Ph 3	67,980	67,980
AF	Lackland AFB	Recruit/Family Inprocessing & Info Center	21,800	21,800
AF	Laughlin AFB	Community Event Complex	0	0
AF	Randolph AFB	Fire Crash Rescue Station	0	0
	Utah			
AF	Hill AFB	Consolidated Transportation Facilities, Phase I	0	0
AF	Hill AFB	F-22 T-10 Engine Test Cell	2,800	2,800
AF	Hill AFB	F-35 Add/Alt Building 118 for Flight Simulator	0	3,600
AF	Hill AFB	F-35 Add/Alt Hangar 45W/AMU	0	6,500
AF	Hill AFB	F-35A Modular Storage Magazine	0	2,000
	Virginia			
AF	Langley AFB	F-22 Add/Alter Hangar Bay Lo/Cr Facility	8,800	8,800
	Washington			
AF	Fairchild AFB	Precision Measurement Equipment Laboratory (Pmel) Facility	0	0
AF	McCord AFB	Chapel Center	0	0
	Wyoming			
AF	Camp Guernsey	Nuclear/Space Security Tactics Training Center	4,650	4,650
	Afghanistan			
AF	Bagram AFB	Consolidated Rigging Facility	9,900	9,900
AF	Bagram AFB	Fighter Hangar	16,480	16,480
AF	Bagram AFB	Medevac Ramp Expansion/Fire Station	16,580	16,580
	Bahrain Island			
AF	SW Asia	North Apron Expansion	45,000	45,000
	Germany			
AF	Kapaun	Dormitory (128 Rm)	19,600	19,600
AF	Ramstein AB	Construct C-130J Flight Simulator Facility	8,800	8,800
AF	Ramstein AB	Deicing Fluid Storage & Dispensing Facility	2,754	2,754
AF	Ramstein AB	Unmanned Aerial System Satellite Communication Relay Pads & Facility	10,800	10,800
AF	Vilseck	Air Support Operations Squadron Complex	12,900	12,900
	Guam			
AF	Andersen AFB	Combat Communications Operations Facility	9,200	9,200
AF	Andersen AFB	Commando Warrior Open Bay Student Barracks	11,800	11,800
AF	Andersen AFB	Guam Strike Ops Group & Tanker Task Force	9,100	9,100
AF	Andersen AFB	Guam Strike South Ramp Utilities, Ph 1	12,200	12,200
AF	Andersen AFB	Red Horse Headquarters/Engineering Facility	8,000	8,000
	Italy			
AF	Aviano AFB	Air Support Operations Squadron Facility	10,200	10,200
AF	Aviano AFB	Dormitory (144 Rm)	19,000	19,000
	Korea			
AF	Kunsan AFB	Construct Distributed Mission Training Flight Simulator Facility	7,500	7,500
	Qatar			
AF	Al Udeid	Blatchford-Preston Complex Ph 3	62,300	62,300
	United Kingdom			
AF	Royal Air Force Mildenhall	Extend Taxiway Alpha	15,000	15,000
	Worldwide Unspecified			
AF	Unspecified Worldwide Locations	F-35 Academic Training Center	54,150	0
AF	Unspecified Worldwide Locations	F-35 Flight Simulator Facility	12,190	0
AF	Unspecified Worldwide Locations	Planning & Design	66,336	66,336
AF	Unspecified Worldwide Locations	Unspecified Minor Construction—FY11	18,000	18,000
AF	Various Worldwide Locations	F-35 Squadron Operations Facility	10,260	0

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Total Military Construction, Air Force			1,311,385	1,293,295
	Arizona			
Def-Wide	Marana	Special Operations Forces Parachute Training Facility	0	0
Def-Wide	Yuma	Special Operations Forces Military Free Fall Simulator	8,977	8,977
	California			
Def-Wide	Point Loma Annex	Replce Storage Facility, Incr 3	20,000	20,000
Def-Wide	Point Mugu	Aircraft Direct Fueling Station	3,100	3,100
	Colorado			
Def-Wide	Fort Carson	Special Operations Forces Tactical Unmanned Aerial Vehicle Hangar	3,717	3,717
	District of Columbia			
Def-Wide	Bolling AFB	Replace Parking Structure, Ph 1	3,000	3,000
	Florida			
Def-Wide	Eglin AFB	Special Operations Forces Ground Support Battalion Detachment	6,030	6,030
	Georgia			
Def-Wide	Augusta	National Security Agency/Central Security Service Georgia Training Facility	12,855	12,855
Def-Wide	Fort Benning	Dexter Elementary School Construct Gym	2,800	2,800
Def-Wide	Fort Benning	Special Operations Forces Company Support Facility	20,441	20,441
Def-Wide	Fort Benning	Special Operations Forces Military Working Dog Kennel Complex	3,624	3,624
Def-Wide	Fort Stewart	Health Clinic Addition/Alteration	35,100	35,100
Def-Wide	Hunter Angs	Fuel Unload Facility	2,400	2,400
Def-Wide	Hunter Army Airfield	Special Operations Forces Tactical Equipment Maintenance Facility Expansion.	3,318	3,318
	Hawaii			
Def-Wide	Hickam AFB	Alter Fuel Storage Tanks	8,500	8,500
Def-Wide	Pearl Harbor	Naval Special Warfare Group 3 Command and Operations Facility	28,804	28,804
	Idaho			
Def-Wide	Mountain Home AFB	Replace Fuel Storage Tanks	27,500	27,500
	Illinois			
Def-Wide	Scott Air Force Base	Field Command Facility Upgrade	1,388	1,388
	Kentucky			
Def-Wide	Fort Campbell	Landgraf Hangar Addition, 160th Soar	0	0
Def-Wide	Fort Campbell	Special Operations Forces Battalion Ops Complex	38,095	38,095
	Maryland			
Def-Wide	Aberdeen Proving Ground	US Army Medical Research Institute of Infectious Diseases Replacement, Inc 3	105,000	105,000
Def-Wide	Andrews AFB	Replace Fuel Storage & Distribution Facility	14,000	14,000
Def-Wide	Bethesda Naval Hospital	National Naval Medical Center Parking Expansion	17,100	17,100
Def-Wide	Bethesda Naval Hospital	Transient Wounded Warrior Lodging	62,900	62,900
Def-Wide	Fort Detrick	Consolidated Logistics Facility	23,100	23,100
Def-Wide	Fort Detrick	Information Services Facility Expansion	4,300	4,300
Def-Wide	Fort Detrick	National Interagency Biodefense Campus Security Fencing and Equipment	2,700	2,700
Def-Wide	Fort Detrick	Supplemental Water Storage	3,700	3,700
Def-Wide	Fort Detrick	US Army Medical Research Institute of Infectious Diseases—Stage I, Inc 5	17,400	17,400
Def-Wide	Fort Detrick	Water Treatment Plant Repair & Supplement	11,900	11,900
Def-Wide	Fort Meade	North Campus Utility Plant, Incr 1	219,360	219,360
	Massachusetts			
Def-Wide	Hanscom AFB	Mental Health Clinic Addition	2,900	2,900
	Mississippi			
Def-Wide	Stennis Space Center	SOF Western Maneuver Area (Phase II)	0	0
Def-Wide	Stennis Space Center	SOF Western Maneuver Area (Phase III)	0	0
Def-Wide	Stennis Space Center	Special Operations Forces Land Acquisition, Ph 3	0	0
	New Mexico			
Def-Wide	Cannon AFB	Special Operations Forces Add/Alt Simulator Facility for MC-130	13,287	13,287
Def-Wide	Cannon AFB	Special Operations Forces Aircraft Parking Apron (MC-130J)	12,636	12,636
Def-Wide	Cannon AFB	Special Operations Forces C-130 Parking Apron Phase I	26,006	26,006
Def-Wide	Cannon AFB	Special Operations Forces Hangar/AMU (MC-130J)	24,622	24,622
Def-Wide	Cannon AFB	Special Operations Forces Operations and Training Complex	39,674	39,674
Def-Wide	White Sands	Health and Dental Clinics	22,900	22,900
	New York			
Def-Wide	U.S. Military Academy	West Point MS Add/Alt	27,960	27,960
	North Carolina			
Def-Wide	Camp Lejeune	Tarawa Terrace I Elementary School Replace School	16,646	16,646
Def-Wide	Fort Bragg	McNair Elementary School—Replace School	23,086	23,086
Def-Wide	Fort Bragg	Murray Elementary School—Replace School	22,000	22,000
Def-Wide	Fort Bragg	SOF Baffle Containment for Range 19C	0	0
Def-Wide	Fort Bragg	SOF Medical Support Addition	0	0
Def-Wide	Fort Bragg	Special Operations Forces Admin/Company Operations	10,347	10,347
Def-Wide	Fort Bragg	Special Operations Forces C4 Facility	41,000	41,000
Def-Wide	Fort Bragg	Special Operations Forces Joint Intelligence Brigade Facility	32,000	32,000
Def-Wide	Fort Bragg	Special Operations Forces Operational Communications Facility	11,000	11,000
Def-Wide	Fort Bragg	Special Operations Forces Operations Additions	15,795	15,795
Def-Wide	Fort Bragg	Special Operations Forces Operations Support Facility	13,465	13,465
	Ohio			
Def-Wide	Columbus	Replace Public Safety Facility	7,400	7,400
	Pennsylvania			
Def-Wide	Def Distribution Depot New Cumberland	Replace Headquarters Facility	96,000	96,000
	Texas			

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Def-Wide	Fort Bliss	Hospital Replacement, Incr 2	147,100	147,100
Def-Wide	Lackland AFB	Ambulatory Care Center, Ph 2	162,500	162,500
Def-Wide	Utah Camp Williams	Comprehensive National Cybersecurity Initiative Data Center Increment 2	398,358	398,358
Def-Wide	Virginia Craney Island	Replace Fuel Pier	58,000	58,000
Def-Wide	Fort Belvoir	Dental Clinic Replacement	6,300	6,300
Def-Wide	Pentagon	Pentagon Metro & Corridor 8 Screening Facility	6,473	6,473
Def-Wide	Pentagon	Power Plant Modernization, Ph 3	51,928	51,928
Def-Wide	Pentagon	Secure Access Lane-Remote Vehicle Screening	4,923	4,923
Def-Wide	Quantico	New Consolidated Elementary School	47,355	47,355
Def-Wide	Washington Fort Lewis	Preventive Medicine Facility	8,400	8,400
Def-Wide	Fort Lewis	Special Operations Forces Military Working Dogs Kennel	0	0
Def-Wide	Belgium Brussels	NATO Headquarters Facility	31,863	31,863
Def-Wide	Brussels	Replace Shape Middle School/High School	67,311	67,311
Def-Wide	Germany Katterbach	Health/Dental Clinic Replacement	37,100	37,100
Def-Wide	Panzer Kaserne	Replace Boeblingen High School	48,968	48,968
Def-Wide	Vilseck	Health Clinic Add/Alt	34,800	34,800
Def-Wide	Guam Agana NAS	Hospital Replacement, Incr 2	70,000	0
Def-Wide	Japan Kadena AB	Install Fuel Filters-Separators	3,000	3,000
Def-Wide	Misawa AB	Hydrant Fuel System	31,000	31,000
Def-Wide	Korea Camp Carroll	Health/Dental Clinic Replacement	19,500	19,500
Def-Wide	Qatar Al Udeid	Qatar Warehouse	1,961	1,961
Def-Wide	Puerto Rico Fort Buchanan	Antilles Elementary School/Intermediate School—Replace School	58,708	58,708
Def-Wide	United Kingdom Menwith Hill Station	Menwith Hill Station PSC Construction—Generators 10 & 11	2,000	2,000
Def-Wide	Royal Air Force Alconbury	Alconbury Elementary School Replacement	30,308	30,308
Def-Wide	Royal Air Force Mildenhall	Replace Hydrant Fuel Distribution System	15,900	15,900
Def-Wide	Various Locations Unspecified Worldwide Locations	General Reduction	0	0
Def-Wide	Worldwide Unspecified Unspecified Worldwide Locations	Contingency Construction	10,000	10,000
Def-Wide	Unspecified Worldwide Locations	Energy Conservation Investment Program	120,000	120,000
Def-Wide	Unspecified Worldwide Locations	Planning and Design (DODEA)	79,763	79,763
Def-Wide	Unspecified Worldwide Locations	Planning and Design (DSS)	1,988	1,988
Def-Wide	Unspecified Worldwide Locations	Planning and Design (NSA)	28,239	28,239
Def-Wide	Unspecified Worldwide Locations	Planning and Design (SOCOM)	30,836	30,836
Def-Wide	Unspecified Worldwide Locations	Planning and Design (TMA)	230,300	230,300
Def-Wide	Unspecified Worldwide Locations	Planning and Design (Undistributed)	54,221	54,221
Def-Wide	Unspecified Worldwide Locations	Planning and Design (WHS)	6,270	6,270
Def-Wide	Unspecified Worldwide Locations	Planning and Design-ECIP	0	0
Def-Wide	Unspecified Worldwide Locations	Unspecified Minor Construction (DODEA)	13,841	13,841
Def-Wide	Unspecified Worldwide Locations	Unspecified Minor Construction (JCS)	8,210	8,210
Def-Wide	Unspecified Worldwide Locations	Unspecified Minor Construction (TMA)	4,884	4,884
Def-Wide	Unspecified Worldwide Locations	Unspecified Minor Construction (Undistributed)	3,000	3,000
Def-Wide	Various Worldwide Locations	Unspecified Minor Construction (DLA)	5,258	5,258
Def-Wide	Various Worldwide Locations	Unspecified Minor Construction (SOCOM)	7,663	7,663
Total Military Construction, Defense-Wide			3,118,062	3,048,062
Chem Demil	Colorado Pueblo Depot	Ammunition Demilitarization Facility, Ph 12	65,569	65,569
Chem Demil	Kentucky Blue Grass Army Depot	Ammunition Demilitarization Ph 11	59,402	59,402
Total Chemical Demilitarization Construction, Defense			124,971	124,971
NATO	Worldwide Unspecified NATO Security Investment Program	NATO Security Investment Program	258,884	258,884
Total NATO Security Investment Program			258,884	258,884
Army NG	Alabama Fort McClellan	Live Fire Shoot House	0	0
Army NG	Arizona Florence	Readiness Center	16,500	16,500
Army NG	Arkansas Camp Robinson	Combined Support Maintenance Shop	30,000	30,000
Army NG	Fort Chaffee	Combined Arms Collective Training Facility	19,000	19,000
Army NG	Fort Chaffee	Convoy Live Fire/Entry Control Point Range	0	0
Army NG	Fort Chaffee	Live Fire Shoot House	2,500	2,500

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Army NG	California			
	Camp Roberts	Combined Arms Collective Training Facility	19,000	19,000
	Colorado			
Army NG	Colorado Springs	Readiness Center	20,000	20,000
Army NG	Fort Carson	Regional Training Institute	40,000	40,000
Army NG	Gypsum	High Altitude Army Aviation Training Site/Army Aviation Support Facility ...	39,000	39,000
Army NG	Watkins	Parachute Maintenance Facility	0	0
Army NG	Windsor	Readiness Center	7,500	7,500
	Connecticut			
Army NG	Windsor Locks	Readiness Center (Aviation)	41,000	41,000
	Delaware			
Army NG	New Castle	Armed Forces Reserve Center(JFHQ)	27,000	27,000
	Georgia			
Army NG	Cumming	Readiness Center	17,000	17,000
Army NG	Dobbins ARB	Readiness Center Add/Alt	10,400	10,400
	Hawaii			
Army NG	Kalaeloa	Combined Support Maintenance Shop	38,000	38,000
	Idaho			
Army NG	Gowen Field	Barracks (Operational Readiness Training Complex) Ph1	17,500	17,500
Army NG	Mountain Home	Tactical Unmanned Aircraft System Facility	6,300	6,300
	Illinois			
Army NG	Marseilles TA	Simulation Center	0	0
Army NG	Springfield	Combined Support Maintenance Shop Add/Alt	15,000	15,000
	Iowa			
Army NG	Camp Dodge	Combined Arms Collective Training Facility	0	0
	Kansas			
Army NG	Topeka Army Aviation Support Facility	Taxiway, Parking Ramps and Hanger Alterations	0	0
	Wichita	Field Maintenance Shop	24,000	24,000
Army NG	Wichita	Readiness Center	43,000	43,000
	Kentucky			
Army NG	Burlington	Readiness Center	19,500	19,500
	Louisiana			
Army NG	Fort Polk	Tactical Unmanned Aircraft System Facility	5,500	5,500
Army NG	Minden	Readiness Center	28,000	28,000
	Maryland			
Army NG	St. Inigoes	Tactical Unmanned Aircraft System Facility	5,500	5,500
	Massachusetts			
Army NG	Hanscom AFB	Armed Forces Reserve Center(JFHQ)Ph2	23,000	23,000
	Michigan			
Army NG	Camp Grayling Range	Barracks Replacement, Phase II	0	0
Army NG	Camp Grayling Range	Combined Arms Collective Training Facility	19,000	19,000
Army NG	Camp Grayling Range	Light Demolition Range	0	0
	Minnesota			
Army NG	Arden Hills	Field Maintenance Shop	29,000	29,000
Army NG	Camp Ripley	Infantry Squad Battle Course	4,300	4,300
Army NG	Camp Ripley	Tactical Unmanned Aircraft System Facility	4,450	4,450
	Missouri			
Army NG	Fort Leonard Wood	Regional Training Institute	0	0
	Nebraska			
Army NG	Lincoln	Readiness Center Add/Alt	3,300	3,300
Army NG	Mead	Readiness Center	11,400	11,400
	Nevada			
Army NG	Las Vegas	Cst Ready Building	0	0
Army NG	Nevada National Guard	Las Vegas Field Maintenance Shop	0	0
	New Hampshire			
Army NG	Pembroke	Barracks Facility (Regional Training Institute)	15,000	15,000
Army NG	Pembroke	Classroom Facility (Regional Training Institute)	21,000	21,000
	New Mexico			
Army NG	Farmington	Readiness Center Add/Alt	8,500	8,500
	New York			
Army NG	Ronkonkoma	Flightline Rehabilitation	0	0
	North Carolina			
Army NG	High Point	Readiness Center Add/Alt	1,551	1,551
Army NG	Morrisville	Aasf 1 Fixed Wing Aircraft Hangar Annex	0	0
	North Dakota			
Army NG	Camp Grafton	Readiness Center Add/Alt	11,200	11,200
	Ohio			
Army NG	Camp Sherman	Maintenance Building Add/Alt	0	0
	Rhode Island			
Army NG	East Greenwich	United States Property & Fiscal Office	27,000	27,000
Army NG	Middletown	Readiness Center Add/Alt	0	0
	South Dakota			
Army NG	Watertown	Readiness Center	25,000	25,000
	Texas			
Army NG	Camp Maxey	Combat Pistol/Military Pistol Qualification Course	2,500	2,500
Army NG	Camp Swift	Urban Assault Course	2,600	2,600
	Washington			
Army NG	Tacoma	Combined Support Maintenance Shop	25,000	25,000

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Army NG	West Virginia			
Army NG	Moorefield	Readiness Center	14,200	14,200
Army NG	Morgantown	Readiness Center	21,000	21,000
	Wisconsin			
Army NG	Madison	Aircraft Parking	5,700	5,700
Army NG	Wausau	Field Maintenance Shop	0	0
	Wyoming			
Army NG	Laramie	Field Maintenance Shop	14,400	14,400
	Guam			
Army NG	Barrigada	Combined Support Maint Shop Ph1	19,000	19,000
	Puerto Rico			
Army NG	Camp Santiago	Live Fire Shoot House	3,100	3,100
Army NG	Camp Santiago	Multipurpose Machine Gun Range	9,200	9,200
	Virgin Islands			
Army NG	St. Croix	Readiness Center (JFHQ)	25,000	25,000
	Unspecified			
Army NG	Varlocs	Varlocs	0	0
	Worldwide Unspecified			
Army NG	Unspecified Worldwide Locations	Planning & Design	25,663	25,663
Army NG	Unspecified Worldwide Locations	Unspecified Minor Construction	11,400	11,400
Total Military Construction, Army National Guard			873,664	873,664
	California			
Army Res	Fairfield	Army Reserve Center	26,000	26,000
Army Res	Fort Hunter Liggett	Equipment Concentration Site Tactical Equipment Maint Facility	22,000	22,000
Army Res	Fort Hunter Liggett	Equipment Concentration Site Warehouse	15,000	15,000
Army Res	Fort Hunter Liggett	Grenade Launcher Range	1,400	1,400
Army Res	Fort Hunter Liggett	Hand Grenade Familiarization Range (Live)	1,400	1,400
Army Res	Fort Hunter Liggett	Light Demolition Range	2,700	2,700
Army Res	Fort Hunter Liggett	Tactical Vehicle Wash Rack	9,500	9,500
	Florida			
Army Res	North Fort Myers	Army Reserve Center/Land	13,800	13,800
Army Res	Orlando	Army Reserve Center/Land	10,200	10,200
Army Res	Tallahassee	Army Reserve Center/Land	10,400	10,400
	Georgia			
Army Res	Macon	Army Reserve Center/Land	11,400	11,400
	Illinois			
Army Res	Quincy	Army Reserve Center/Land	12,200	12,200
Army Res	Rockford Usarc	Army Reserve Center	0	0
	Indiana			
Army Res	Michigan City	Army Reserve Center/Land	15,500	15,500
	Iowa			
Army Res	Des Moines	Army Reserve Center	8,175	8,175
	Massachusetts			
Army Res	Devens Reserve Forces Training Area	Automated Record Fire Range	4,700	4,700
	Missouri			
Army Res	Belton	Army Reserve Center	11,800	11,800
	New Jersey			
Army Res	Fort Dix	Automated Multipurpose Machine Gun Range	0	0
	New Mexico			
Army Res	Las Cruces	Army Reserve Center/Land	11,400	11,400
	New York			
Army Res	Binghamton	Army Reserve Center/Land	13,400	13,400
	Texas			
Army Res	Denton	Army Reserve Center/Land	12,600	12,600
Army Res	Fort Hood	Army Reserve Center	0	0
Army Res	Rio Grande	Army Reserve Center/Land	6,100	6,100
Army Res	San Marcos	Army Reserve Center/Land	8,500	8,500
	Virginia			
Army Res	Fort A.P. Hill	Army Reserve Center	15,500	15,500
Army Res	Fort Story	Army Reserve Center	11,000	11,000
Army Res	Roanoke	Army Reserve Center/Land	14,800	14,800
	Wisconsin			
Army Res	Fort McCoy	AT/MOB Billeting Complex, Ph 1	9,800	9,800
Army Res	Fort McCoy	Nco Academy, Ph 2	10,000	10,000
	Unspecified			
Army Res	Varlocs	Varlocs	0	0
	Worldwide Unspecified			
Army Res	Unspecified Worldwide Locations	Planning and Design	25,900	25,900
Army Res	Unspecified Worldwide Locations	Unspecified Minor Construction	3,000	3,000
Total Military Construction, Army Reserve			318,175	318,175
	California			
N/MC Res	Twentynine Palms	Tank Vehicle Maintenance Facility	5,991	5,991
	Louisiana			
N/MC Res	New Orleans	Joint Air Traffic Control Facility	16,281	16,281
	Virginia			

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
N/MC Res	Williamsburg	Navy Ordnance Cargo Logistics Training Camp	21,346	21,346
N/MC Res	Washington			
N/MC Res	Yakima	Marine Corps Reserve Center	13,844	13,844
N/MC Res	Unspecified			
N/MC Res	Varlocs	Varlocs	0	0
N/MC Res	Varlocs	Varlocs	0	0
N/MC Res	Worldwide Unspecified			
N/MC Res	Unspecified Worldwide Locations	Mcnr Unspecified Minor Construction	2,238	2,238
N/MC Res	Unspecified Worldwide Locations	Planning and Design	1,857	1,857
Total Military Construction, Naval Reserve			61,557	61,557
Air NG	Alabama			
Air NG	Montgomery Regional Airport (ANG) Base	Fuel Cell and Corrosion Control Hangar	7,472	7,472
Air NG	Montgomery Regional Airport (ANG) Base	Replace Squad Ops Facility	0	0
Air NG	Alaska			
Air NG	Eielson AFB	Add/Alter Communications Facility	0	0
Air NG	Arizona			
Air NG	Davis Monthan AFB	TFI—Predator FOC—Increased Mission Orbit Tasking	4,650	4,650
Air NG	Fort Huachuca	Total Force Integration—Predator Launch and Recovery Element Beddown	0	11,000
Air NG	Arkansas			
Air NG	Little Rock AFB	Fuel Cell and Corrosion Control Hangar	0	0
Air NG	Colorado			
Air NG	Buckely AFB	Taxiway Juliet and Lima	0	0
Air NG	Delaware			
Air NG	New Castle County Airport	C-130 Aircraft Maintenance Shops (Phase III)	0	0
Air NG	New Castle County Airport	Joint Forces Operations Center-ANG Share	1,500	1,500
Air NG	Florida			
Air NG	Jacksonville IAP	Security Forces Training Facility	6,700	6,700
Air NG	Georgia			
Air NG	Savannah/Hilton Head IAP	Relocate Air Supt Opers Sqdn (Asos) Fac	7,450	7,450
Air NG	Hawaii			
Air NG	Hickam AFB	F-22 Beddown Infrastructure Support	5,950	5,950
Air NG	Hickam AFB	F-22 Hangar, Squadron Operations and AMU	48,250	48,250
Air NG	Hickam AFB	F-22 Upgrade Munitions Complex	17,250	17,250
Air NG	Illinois			
Air NG	Capital Map	CNAF Beddown-Upgrade Facilities	16,700	16,700
Air NG	Indiana			
Air NG	Hulman Regional Airport	Asos Beddown-Upgrade Facilities	4,100	4,100
Air NG	Iowa			
Air NG	Des Moines	Corrosion Control Hangar	0	0
Air NG	Des Moines IAP	Corrosion Control Hangar	0	0
Air NG	Maryland			
Air NG	Martin State Airport	Replace Ops and Medical Training Facility	11,400	11,400
Air NG	Massachusetts			
Air NG	Barnes ANGB	Add to Aircraft Maintenance Hangar	0	0
Air NG	Barnes Municipal Airport	Additions and Renovations to Building 15	0	0
Air NG	Michigan			
Air NG	Alpena Combat Readiness Training Center	Replace Troop Quarters, Phase II	0	0
Air NG	Minnesota			
Air NG	Duluth	Load Crew Training and Weapon Release Shops	0	0
Air NG	New Jersey			
Air NG	177th Fighter Wing, Atlantic City	Fuel Cell and Corrosion Control Hanger	0	0
Air NG	Atlantic City IAP	Fuel Cell and Corrosion Control Hangar	0	0
Air NG	New York			
Air NG	Fort Drum	Reaper Infrastructure Support	2,500	2,500
Air NG	Stewart IAP	Aircraft Conversion Facility	0	0
Air NG	Stewart IAP	Base Defense Group Beddown	14,250	14,250
Air NG	North Carolina			
Air NG	Stanly County Airport	Upgrade Asos Facilities	2,000	2,000
Air NG	Ohio			
Air NG	Toledo Express Airport	Replace Security Forces Complex	0	0
Air NG	Toledo Express Airport	Replace Security Forces Complex	0	0
Air NG	Oregon			
Air NG	Kingsley Field ANG Base	Replace Fire Station	0	0
Air NG	Pennsylvania			
Air NG	State College Angs	Add to and Alter AOS Facility	4,100	4,100
Air NG	Rhode Island			
Air NG	Quonset State Airport	C-130 Parking Apron	0	0
Air NG	South Carolina			
Air NG	Mcentire	Training/Operations Center	0	0
Air NG	Mcentire Joint National Guard Base	Replace Operations and Training	0	0
Air NG	South Dakota			
Air NG	Joe Foss Field	Aircraft Maintenance Shops	0	0
Air NG	Tennessee			
Air NG	Mcghee Tyson ANG Base	Hobbs Road Acquisition	0	0

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Air NG	Nashville IAP	Renovate Intel Squadron Facilities	5,500	5,500
Air NG	Texas			
Air NG	Ellington Field	Upgrade Unmanned Aerial Vehicle Maintenance Hangar	0	7,000
Air NG	Vermont			
Air NG	Burlington International Airport	Upgrade Taxiways and Replace Arm/Disarm Pads	0	0
Air NG	West Virginia			
Air NG	Yeager AFB	Communications Training Fac.	0	0
Air NG	Yeager AFB	Force Protection/Antiterrorism	0	0
Air NG	Wisconsin			
Air NG	General Mitchell International Air- port	Replace Fire Station	0	0
Air NG	Unspecified			
Air NG	Varlocs	Varlocs	0	0
Air NG	Worldwide Unspecified			
Air NG	Unspecified Worldwide Locations	Minor Construction	8,000	8,000
Air NG	Unspecified Worldwide Locations	Planning & Design	9,214	9,214
Total Military Construction, Air National Guard			176,986	194,986
AF Res	Florida			
AF Res	Patrick AFB	Weapons Maintenance Facility	3,420	3,420
AF Res	New York			
AF Res	Niagara ARS	C-130 Flightline Operations Facility, Ph 1	0	0
AF Res	Unspecified			
AF Res	Varlocs	Varlocs	0	0
AF Res	Worldwide Unspecified			
AF Res	Unspecified Worldwide Locations	Planning and Design	1,653	1,653
AF Res	Various Worldwide Locations	Unspecified Minor Construction	2,759	2,759
Total Military Construction, Air Force Reserve			7,832	7,832
FH Con Army	Alaska			
FH Con Army	Fort Wainwright	Family Housing Replacement Constrution (110 Units)	21,000	21,000
FH Con Army	Germany			
FH Con Army	Baumholder	Family Housing Replacement Construction (64 Units)	34,329	34,329
FH Con Army	Worldwide Unspecified			
FH Con Army	Unspecified Worldwide Locations	Construction Improvements (235 Units)	35,000	35,000
FH Con Army	Unspecified Worldwide Locations	Family Housing Planning & Design	2,040	2,040
Total, Family Housing Construction, Army			92,369	92,369
FH Ops Army	Worldwide Unspecified			
FH Ops Army	Unspecified Worldwide Locations	Leasing	203,184	203,184
FH Ops Army	Unspecified Worldwide Locations	Maintenance of Real Property	120,899	120,899
FH Ops Army	Unspecified Worldwide Locations	Miscellaneous Account	1,201	1,201
FH Ops Army	Unspecified Worldwide Locations	Operations	96,142	96,142
FH Ops Army	Unspecified Worldwide Locations	Privatization Support Costs	27,059	27,059
FH Ops Army	Unspecified Worldwide Locations	Utilities Account	69,655	69,655
Total, Family Housing Operation And Maintenance, Army			518,140	518,140
FH Con Navy	Guantanamo Bay, Cuba			
FH Con Navy	Guantanamo Bay	Replace GTMO Housing	37,169	37,169
Total, Family Housing Construction, Navy And Marine Corps			37,169	37,169
FH Con AF	Worldwide Unspecified			
FH Con AF	Unspecified Worldwide Locations	Classified Project	50	0
FH Con AF	Unspecified Worldwide Locations	Construction Improvments	73,750	73,800
Total, Family Housing Construction, Air Force			73,800	73,800
FH Con Navy	Worldwide Unspecified			
FH Con Navy	Unspecified Worldwide Locations	Design	3,255	3,255
FH Con Navy	Unspecified Worldwide Locations	Improvements	146,020	146,020
Total Family Housing Construction, Navy And Marine Corps			149,275	149,275
FH Con AF	Worldwide Unspecified			
FH Con AF	Unspecified Worldwide Locations	Planning & Design	4,225	4,225
Total Family Housing Construction, Air Force			4,225	4,225
FH Ops Navy	Worldwide Unspecified			
FH Ops Navy	Unspecified Worldwide Locations	Furnishings Account	14,478	14,478
FH Ops Navy	Unspecified Worldwide Locations	Leasing	97,484	97,484
FH Ops Navy	Unspecified Worldwide Locations	Maintenance of Real Property	87,134	87,134
FH Ops Navy	Unspecified Worldwide Locations	Management Account	63,551	63,551
FH Ops Navy	Unspecified Worldwide Locations	Miscellaneous Account	464	464

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
FH Ops Navy	Unspecified Worldwide Locations	Privatization Support Costs	26,526	26,526
FH Ops Navy	Unspecified Worldwide Locations	Services Account	16,790	16,790
FH Ops Navy	Unspecified Worldwide Locations	Utilities Account	59,919	59,919
Total Family Housing Operation And Maintenance, Navy And Marine Corps			366,346	366,346
Worldwide Unspecified				
FH Ops AF	Unspecified Worldwide Locations	Furnishings Account	35,399	35,399
FH Ops AF	Unspecified Worldwide Locations	Housing Privatization	53,903	53,903
FH Ops AF	Unspecified Worldwide Locations	Leasing	95,143	95,143
FH Ops AF	Unspecified Worldwide Locations	Leasing Account	528	528
FH Ops AF	Unspecified Worldwide Locations	Maintenance	159,725	159,725
FH Ops AF	Unspecified Worldwide Locations	Maintenance Account	1,971	1,971
FH Ops AF	Unspecified Worldwide Locations	Management Account	1,561	1,561
FH Ops AF	Unspecified Worldwide Locations	Management Account	54,633	54,633
FH Ops AF	Unspecified Worldwide Locations	Miscellaneous Account	1,710	1,710
FH Ops AF	Unspecified Worldwide Locations	Services Account	19,974	19,974
FH Ops AF	Unspecified Worldwide Locations	Utilities Account	89,245	89,245
Total Family Housing Operation And Maintenance, Air Force			513,792	513,792
Worldwide Unspecified				
FH Ops DW	Unspecified Worldwide Locations	Furnishings Account	4,501	4,501
FH Ops DW	Unspecified Worldwide Locations	Furnishings Account	18	18
FH Ops DW	Unspecified Worldwide Locations	Leasing	10,293	10,293
FH Ops DW	Unspecified Worldwide Locations	Leasing	34,124	34,124
FH Ops DW	Unspecified Worldwide Locations	Maintenance of Real Property	707	707
FH Ops DW	Unspecified Worldwide Locations	Maintenance of Real Property	70	70
FH Ops DW	Unspecified Worldwide Locations	Management Account	365	365
FH Ops DW	Unspecified Worldwide Locations	Operations	50	50
FH Ops DW	Unspecified Worldwide Locations	Services Account	29	29
FH Ops DW	Unspecified Worldwide Locations	Utilities Account	10	10
FH Ops DW	Unspecified Worldwide Locations	Utilities Account	297	297
Total Family Housing Operation And Maintenance, Defense-Wide			50,464	50,464
Worldwide Unspecified				
HOAP	Unspecified Worldwide Locations	Homeowners Assistance Program	16,515	16,515
Total Homeowners Assistance Fund			16,515	16,515
Worldwide Unspecified				
FHIF	Unspecified Worldwide Locations	Family Housing Improvement Fund	1,096	1,096
Total DOD Family Housing Improvement Fund			1,096	1,096
Maryland				
BRAC 05	Bethesda (Wrnmcc)	Defense Access Roads—Medical Center Entrance	20,000	20,000
BRAC 05	Bethesda (Wrnmcc)	Traffic Mitigation, Incr 2	7,600	7,600
Texas				
BRAC 05	Fort Sam Houston	San Antonio Military Medical Center (North), Incr 4	93,941	93,941
Virginia				
BRAC 05	Fort Belvoir	Hospital Replacement, Incr 5	63,637	63,637
BRAC 05	Fort Belvoir	NGA Headquarters Facility	83,328	83,328
BRAC 05	Fort Belvoir	Office Complex, Incr 4	5,610	5,610
Worldwide Unspecified				
BRAC 05	Unspecified Worldwide Locations	Rescission	0	0
BRAC 05	Various	Environmental	19,555	19,555
BRAC 05	Various	Environmental	73,511	73,511
BRAC 05	Various	Environmental	15,201	15,201
BRAC 05	Various	Military Personnel Permanent Change of Station	1,456	1,456
BRAC 05	Various	Military Personnel Permanent Change of Station	1,277	1,277
BRAC 05	Various	Operation and Maintenance	476,764	476,764
BRAC 05	Various	Operation and Maintenance	99,570	99,570
BRAC 05	Various	Operation and Maintenance	887,231	887,231
BRAC 05	Various	Operation and Maintenance	321,888	321,888
BRAC 05	Various	Other	121,584	121,584
BRAC 05	Various	Other	3,601	3,601
BRAC 05	Various	Other	6,853	6,853
BRAC 05	Various	Other	51,678	51,678
Total Base Realignment and Closure Account 2005			2,354,285	2,354,285
Worldwide Unspecified				
BRAC IV	Base Realignment & Closure, Air Force	Base Realignment & Closure	124,874	124,874
BRAC IV	Base Realignment & Closure, Army	Base Realignment & Closure	73,600	73,600
BRAC IV	Base Realignment & Closure, Navy	Base Realignment & Closure	162,000	162,000
Total Base Realignment and Closure Account 1990			360,474	360,474

SEC. 3001. MILITARY CONSTRUCTION
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
GR	Unspecified			
	Unspecified Worldwide Locations	General Reductions	0	0
Total General Reductions			0	
Total Military Construction			18,747,368	18,190,547

SEC. 3002. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS.

SEC. 3002. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Army	Afghanistan			
Army	Airborne	Rotary Wing Parking	1,200	0
Army	Bagram AFB	Army Aviation HQ Facilities	0	0
Army	Bagram AFB	Barracks	0	0
Army	Bagram AFB	Command & Control Facility	13,600	13,600
Army	Bagram AFB	Consolidated Community Support Area	0	0
Army	Bagram AFB	Consolidated Laboratory	0	13,800
Army	Bagram AFB	Counter-Improvised Explosive Device Task Force Compound	24,000	24,000
Army	Bagram AFB	Detention Facility in Parwan Detainee Housing	23,000	0
Army	Bagram AFB	Dining Facility	2,650	6,000
Army	Bagram AFB	Eastside Electrical Distribution	0	0
Army	Bagram AFB	Eastside Utilities Infrastructure	0	0
Army	Bagram AFB	Entry Control Point	0	0
Army	Bagram AFB	Joint Defense Operations Center	0	0
Army	Bagram AFB	Military Police HQ	2,800	5,500
Army	Bagram AFB	Replace Temporary Guard Towers	5,500	5,500
Army	Bagram AFB	Role III Hospital	35,000	42,000
Army	Bagram AFB	Tanker Truck Off-Load Facility	5,700	0
Army	Bagram AFB	Task Force Freedom Compound	18,000	18,000
Army	Bagram AFB	Troop Housing, Ph 4	23,000	23,000
Army	Bagram AFB	Troop Housing, Ph 5	29,000	29,000
Army	Bagram AFB	Troop Housing, Ph 6	29,000	29,000
Army	Bagram AFB	Troop Housing, Ph 7	29,000	29,000
Army	Bagram AFB	Troop Housing, Ph 8	29,000	29,000
Army	Bagram AFB	Vet Clinic & Kennel	2,600	2,600
Army	Delaram II	Entry Control Point and Access Roads	0	4,400
Army	Dwyer	Dining Facility	6,000	9,000
Army	Dwyer	Entry Control Point	5,100	5,100
Army	Dwyer	Rotary Wing Apron	44,000	44,000
Army	Dwyer	Wastewater Treatment Facility	16,000	16,000
Army	Frontenac	Waste Management Complex	4,200	4,200
Army	Frontenac	Wastewater Treatment Facility	4,200	4,200
Army	Jalalabad	Rotary Wing Parking	1,100	0
Army	Kandahar	Command & Control Facility	5,200	5,200
Army	Kandahar	North Area Utilities, Ph 2	21,000	26,000
Army	Kandahar	Special Operations Forces Joint Operations Center	6,000	9,200
Army	Kandahar	Troop Housing, Ph 4	20,000	20,000
Army	Kandahar	Troop Housing, Ph 5	20,000	20,000
Army	Kandahar	Troop Housing, Ph 6	20,000	0
Army	Kandahar	Troop Housing, Ph 7	20,000	0
Army	Maywand	Wastewater Treatment Facility	7,000	7,000
Army	Shank	Ammunition Supply Point	25,000	23,000
Army	Shank	Electrical Utility Systems, Ph 2	0	6,400
Army	Shank	Expand Extended Cooperation Programme 1 and Extended Cooperation Programme 2.	16,000	16,000
Army	Shank	Guard Towers	2,400	5,200
Army	Shank	Roads and Utilities, Ph 1	8,000	25,000
Army	Shank	Special Operations Forces Parking Apron	0	15,000
Army	Shank	Wastewater Treatment Plant	0	7,700
Army	Sharana	Bulk Materials Transfer Station	12,400	12,400
Army	Shindand	Medical Facility	7,700	0
Army	Shindand	Waste Management Complex	0	6,100
Army	Tarin Kowt	Medical Facility	5,500	0
Army	Tarin Kowt	Rotary Wing Parking and Taxiway, Ph 2	24,000	24,000
Army	Tarin Kowt	Wastewater Treatment Facility	4,200	5,600
Army	Tombstone/Bastion	Command & Control HQ	0	13,600
Army	Tombstone/Bastion	Contingency Housing	41,000	0
Army	Tombstone/Bastion	Dining Facility	12,800	27,000
Army	Tombstone/Bastion	Paved Roads	0	9,800
Army	Tombstone/Bastion	Rotary Wing Parking	35,000	35,000
Army	Tombstone/Bastion	Waste Management Complex Expansion	0	14,200
Army	Tombstone/Bastion	Wastewater Treatment Facility	13,000	13,000
Army	Various Locations	Air Pollution Abatement	0	0
Army	Various Locations	Community Facilities	0	0
Army	Various Locations	Hospital and Medical Facilities	0	0

SEC. 3002. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS
(In Thousands of Dollars)

Account	State/Country and Installation	Project Title	Budget Request	Agreement
Army	Various Locations	Operational Facilities	0	0
Army	Various Locations	Route Gypsum, Ph 1	40,000	50,000
Army	Various Locations	Route Gypsum, Ph 2	0	50,000
Army	Various Locations	Supply Facilities	0	0
Army	Various Locations	Supporting Activities	0	0
Army	Various Locations	Troop Housing Facilities	0	0
Army	Various Locations	Utility Facilities	0	0
Army	Wolverine	Perimeter Fence	5,100	0
Army	Wolverine	Rotary Wing Apron	24,000	0
Army	Wolverine	Wastewater Treatment Facility	13,000	13,000
	Worldwide Unspecified			
Army	Unspecified Worldwide Locations	Minor Construction	78,330	78,330
Army	Unspecified Worldwide Locations	Planning & Design	89,716	79,716
Army	Unspecified Worldwide Locations	Rescission (Public Law 111-117)	0	0
Army	Unspecified Worldwide Locations	Transfer to DOD Inspector General	0	7,000
Total Military Construction, Army			929,996	981,346
	Bahrain Island			
Navy	Sw Asia	Navy Central Command Ammunition Magazines	0	0
Navy	Sw Asia	Operations & Support Facilities	0	0
	Djibouti			
Navy	Camp Lemonier	General Warehouse	0	0
Navy	Camp Lemonier	Pave External Roads	0	0
Total Military Construction, Navy			0	
	Afghanistan			
AF	Bagram AFB	Consolidated Rigging Facility	0	0
AF	Bagram AFB	Fighter Hanger	0	0
AF	Bagram AFB	Medevac Ramp Expansion/Fire Station	0	0
AF	Kandahar	Expand Cargo Handling Area	7,100	0
AF	Kandahar	Expeditionary Airlift Shelter	7,400	0
AF	Sharana	Runway	35,000	0
AF	Shindand	Passenger & Cargo Terminal	15,800	0
AF	Tombstone/Bastion	Expand Fuels Operations and Storage	2,500	0
AF	Tombstone/Bastion	Parallel Taxiway	86,000	0
AF	Tombstone/Bastion	Refueler Apron	55,000	0
AF	Various Locations	Maintenance and Production Facilities	0	0
AF	Various Locations	Operational Facilities	0	0
AF	Various Locations	Supply Facilities	0	0
AF	Warrior	Runway	8,700	0
	Bahrain Island			
AF	Sw Asia	North Apron Expansion	0	0
	Oman			
AF	AL Musannah	Airlift Ramp & Fuel Facilities	0	69,000
	Qatar			
AF	AL Udeid	Blatchford-Preston Complex, Ph 3	0	0
AF	AL Udeid	Tactical Ramp/Vehicle Maintenance Facility	0	63,000
	Worldwide Unspecified			
AF	Unspecified Worldwide Locations	Planning & Design	13,422	13,422
AF	Unspecified Worldwide Locations	Rescission (Public Law 111-117)	0	0
AF	Unspecified Worldwide Locations	Unspecified Minor Construction—FY11 OCO	49,584	49,584
Total Military Construction, Air Force			280,506	195,006
	Conus Classified			
Def-Wide	Classified Location	Classified Project	41,900	41,900
Def-Wide	Worldwide Unspecified	Planning and Design	4,600	4,600
	Qatar			
Def-Wide	AL Udeid	Qatar Warehouse	0	0
Total Military Construction, Defense-Wide			46,500	46,500
Total Military Construction			1,257,002	1,222,852

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.

Sec. 3102. Defense environmental cleanup.

Sec. 3103. Other defense activities.

Sec. 3104. Energy security and assurance.

Subtitle B—Program Authorizations, Restrictions, and Limitations

Sec. 3111. Aircraft procurement.

Sec. 3112. Biennial plan on modernization and refurbishment of the nuclear security complex.

Sec. 3113. Comptroller General assessment of adequacy of budget requests with respect to the modernization and refurbishment of the nuclear weapons stockpile.

Sec. 3114. Notification of cost overruns for certain Department of Energy projects.

Sec. 3115. Establishment of cooperative research and development centers.

- Sec. 3116. Future-years defense environmental management plan.
- Sec. 3117. Extension of authority of Secretary of Energy for appointment of certain scientific, engineering, and technical personnel.
- Sec. 3118. Extension of authority of Secretary of Energy to enter into transactions to carry out certain research projects.
- Sec. 3119. Extension of authority relating to the International Materials Protection, Control, and Accounting Program of the Department of Energy.
- Sec. 3120. Extension of deadline for transfer of parcels of land to be conveyed to Los Alamos County, New Mexico, and held in trust for the Pueblo of San Ildefonso.
- Sec. 3121. Repeal of sunset provision for modification of minor construction threshold for plant projects.
- Sec. 3122. Enhancing private-sector employment through cooperative research and development activities.
- Sec. 3123. Limitation on use of funds for establishment of centers of excellence in countries outside of the former Soviet Union.
- Sec. 3124. Department of Energy energy parks program.
- Subtitle C—Reports
- Sec. 3131. Report on graded security protection policy.

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2011 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of \$11,214,755,000, to be allocated as follows:

- (1) For weapons activities, \$7,028,835,000.
- (2) For defense nuclear nonproliferation activities, \$2,667,167,000.
- (3) For naval reactors, \$1,070,486,000.
- (4) For the Office of the Administrator for Nuclear Security, \$448,267,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for the National Nuclear Security Administration as follows:

- (1) Project 11-D-801, reinvestment project phase 2, Los Alamos National Laboratory, Los Alamos, New Mexico, \$20,000,000.
- (2) Project 11-D-601, sanitary effluent reclamation facility expansion, Los Alamos National Laboratory, Los Alamos, New Mexico, \$15,000,000.

SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2011 for defense environmental cleanup activities in carrying out programs necessary for national security in the amount of \$5,588,039,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2011 for other defense activities in carrying out programs necessary for national security in the amount of \$878,209,000.

SEC. 3104. ENERGY SECURITY AND ASSURANCE.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2011 for energy security and assurance programs necessary for national security in the amount of \$6,188,000.

Subtitle B—Program Authorizations, Restrictions, and Limitations

SEC. 3111. AIRCRAFT PROCUREMENT.

Of the amounts authorized to be appropriated and made available for obligation under section 3101(1) for weapons activities for any fiscal year before fiscal year 2012, the Secretary of Energy may procure not more than two aircraft.

SEC. 3112. BIENNIAL PLAN ON MODERNIZATION AND REFURBISHMENT OF THE NUCLEAR SECURITY COMPLEX.

(a) IN GENERAL.—Subtitle A of title XLII of the Atomic Energy Defense Act (50 U.S.C. 2521 et seq.) is amended by inserting after section 4203 the following new section:

“SEC. 4203A. BIENNIAL PLAN ON MODERNIZATION AND REFURBISHMENT OF THE NUCLEAR SECURITY COMPLEX.

“(a) IN GENERAL.—In each even-numbered year, beginning in 2012, the Administrator for Nuclear Security shall include in the plan for maintaining the nuclear weapons stockpile required by section 4203 a plan for the modernization and refurbishment of the nuclear security complex.

“(b) PLAN DESIGN.—

“(1) IN GENERAL.—The plan required by subsection (a) shall be designed to ensure that the nuclear security complex is capable of supporting the following:

“(A) Except as provided in paragraph (2), the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a).

“(B) The nuclear posture of the United States as set forth in the most recent Nuclear Posture Review.

“(2) EXCEPTION.—If, at the time the plan is submitted under subsection (a), a national security strategy report has not been submitted to Congress under section 108 of the National Security Act of 1947 (50 U.S.C. 404a), the plan required by subsection (a) shall be designed to ensure that the nuclear security complex is capable of supporting the national defense strategy recommended in the report of the most recent Quadrennial Defense Review.

“(c) PLAN ELEMENTS.—The plan required by subsection (a) shall include the following:

“(1) A description of the modernization and refurbishment measures the Administrator determines necessary to meet the requirements of—

“(A) the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a) or the national defense strategy recommended in the report of the most recent Quadrennial Defense Review, as applicable under subsection (b); and

“(B) the Nuclear Posture Review.

“(2) A schedule for implementing the measures described in paragraph (1) during the ten years following the date on which the plan for maintaining the nuclear weapons stockpile required by section 4203 and into which the plan required by subsection (a) is incorporated is submitted to Congress under section 4203(c).

“(3) Consistent with the budget justification materials submitted to Congress in support of the Department of Energy budget for

the fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), an estimate of the annual funds the Administrator determines necessary to carry out the plan required by subsection (a), including a discussion of the criteria, evidence, and strategies on which the estimate is based.

“(d) FORM.—The plan required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

“(e) NUCLEAR WEAPONS COUNCIL ASSESSMENT.—

“(1) ASSESSMENT REQUIRED.—For each plan required by subsection (a), the Nuclear Weapons Council established by section 179 of title 10, United States Code, shall conduct an assessment that includes the following:

“(A) An analysis of the plan, including—

“(i) whether the plan supports the requirements of the national security strategy of the United States or the most recent Quadrennial Defense Review, whichever is applicable under subsection (b), and the Nuclear Posture Review; and

“(ii) whether the modernization and refurbishment measures described under paragraph (1) of subsection (c) and the schedule described under paragraph (2) of such subsection are adequate to support such requirements.

“(B) An analysis of whether the plan adequately addresses the requirements for infrastructure recapitalization of the facilities of the nuclear security complex.

“(C) If the Nuclear Weapons Council determines that the plan does not adequately support modernization and refurbishment requirements under subparagraph (A) or the nuclear security complex facilities infrastructure recapitalization requirements under subparagraph (B), a risk assessment with respect to—

“(i) supporting the annual certification of the nuclear weapons stockpile under section 4203; and

“(ii) maintaining the long-term safety, security, and reliability of the nuclear weapons stockpile.

“(2) REPORT REQUIRED.—Not later than 180 days after the date on which the Administrator submits the plan required by subsection (a), the Nuclear Weapons Council shall submit to the congressional defense committees a report detailing the assessment required under paragraph (1).

“(f) DEFINITIONS.—In this section:

“(1) The term ‘nuclear security complex’ means the physical facilities, technology, and human capital of the following:

“(A) The national security laboratories (as defined in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471)).

“(B) The Kansas City Plant, Kansas City, Missouri.

“(C) The Nevada Test Site, Nevada.

“(D) The Savannah River Site, Aiken, South Carolina.

“(E) The Y-12 National Security Complex, Oak Ridge, Tennessee.

“(F) The Pantex Plant, Amarillo, Texas.

“(2) The term ‘Quadrennial Defense Review’ means the review of the defense programs and policies of the United States that is carried out every four years under section 118 of title 10, United States Code.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Atomic Energy Defense Act is amended by inserting after the item relating to section 4203 the following new item:

“Sec. 4203A. Biennial plan on modernization and refurbishment of the nuclear security complex.”.

SEC. 3113. COMPTROLLER GENERAL ASSESSMENT OF ADEQUACY OF BUDGET REQUESTS WITH RESPECT TO THE MODERNIZATION AND REFURBISHMENT OF THE NUCLEAR WEAPONS STOCKPILE.

(a) IN GENERAL.—Section 3255 of the National Nuclear Security Administration Act (50 U.S.C. 2455) is amended to read as follows:

“SEC. 3255. COMPTROLLER GENERAL ASSESSMENT OF ADEQUACY OF BUDGET REQUESTS WITH RESPECT TO THE MODERNIZATION AND REFURBISHMENT OF THE NUCLEAR WEAPONS STOCKPILE.

“(a) GAO STUDY AND REPORTS.—(1) For the nuclear security budget materials submitted in each fiscal year by the Administrator, the Comptroller General of the United States shall conduct a study on whether both the budget for the fiscal year following the fiscal year in which such budget materials are submitted and the future-years nuclear security program submitted to Congress in relation to such budget under section 3253 provide for funding of the nuclear security complex at a level that is sufficient for the modernization and refurbishment of the nuclear security complex.

“(2) Not later than 90 days after the date on which the Administrator submits the nuclear security budget materials, the Comptroller General shall submit to the congressional defense committees a report on the study under paragraph (1), including—

“(A) the findings of such study; and

“(B) whether the nuclear security budget materials support the requirements for infrastructure recapitalization of the facilities of the nuclear security complex.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘budget’ means the budget for a fiscal year that is submitted to Congress by the President under section 1105(a) of title 31, United States Code.

“(2) The term ‘nuclear security budget materials’ means the materials submitted to Congress by the Administrator in support of the budget for a fiscal year.

“(3) The term ‘nuclear security complex’ means the physical facilities, technology, and human capital of the following:

“(A) The national security laboratories.

“(B) The Kansas City Plant, Kansas City, Missouri.

“(C) The Nevada Test Site, Nevada.

“(D) The Savannah River Site, Aiken, South Carolina.

“(E) The Y-12 National Security Complex, Oak Ridge, Tennessee.

“(F) The Pantex Plant, Amarillo, Texas.”.

(b) CLERICAL AMENDMENT.—The table of contents for the National Nuclear Security Administration Act is amended by striking the item relating to section 3255 and inserting the following new item:

“Sec. 3255. Comptroller General assessment of adequacy of budget requests with respect to the modernization and refurbishment of the nuclear weapons stockpile.”.

SEC. 3114. NOTIFICATION OF COST OVERRUNS FOR CERTAIN DEPARTMENT OF ENERGY PROJECTS.

(a) IN GENERAL.—Subtitle A of title XLVII of the Atomic Energy Defense Act (50 U.S.C. 2741 et seq.) is amended by adding at the end the following new section:

“SEC. 4713. NOTIFICATION OF COST OVERRUNS FOR CERTAIN DEPARTMENT OF ENERGY PROJECTS.

“(a) ESTABLISHMENT OF COST AND SCHEDULE BASELINES.—

“(1) STOCKPILE LIFE EXTENSION PROJECTS.—

“(A) IN GENERAL.—The Administrator for Nuclear Security shall establish a cost and

schedule baseline for each nuclear stockpile life extension project of the National Nuclear Security Administration.

“(B) PER UNIT COST.—The cost baseline developed under subparagraph (A) shall include, with respect to each life extension project, an estimated cost for each warhead in the project.

“(C) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Administrator shall submit the cost and schedule baseline to the congressional defense committees.

“(2) DEFENSE-FUNDED CONSTRUCTION PROJECTS.—

“(A) IN GENERAL.—The Secretary of Energy shall establish a cost and schedule baseline under the project management protocols of the Department of Energy for each construction project that is—

“(i) in excess of \$50,000,000; and

“(ii) carried out by the Department using funds authorized to be appropriated for a fiscal year pursuant to a DOE national security authorization.

“(B) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Secretary shall submit the cost and schedule baseline to the congressional defense committees.

“(3) DEFENSE ENVIRONMENTAL MANAGEMENT PROJECTS.—

“(A) IN GENERAL.—The Secretary shall establish a cost and schedule baseline under the project management protocols of the Department of Energy for each defense environmental management project that is—

“(i) in excess of \$50,000,000; and

“(ii) carried out by the Department pursuant to such protocols.

“(B) NOTIFICATION TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 30 days after establishing a cost and schedule baseline under subparagraph (A), the Secretary shall submit the cost and schedule baseline to the congressional defense committees.

“(b) NOTIFICATION OF COSTS EXCEEDING BASELINE.—The Administrator or the Secretary, as applicable, shall notify the congressional defense committees not later than 30 days after determining that—

“(1) the total cost for a project referred to in paragraph (1), (2), or (3) of subsection (a) will exceed an amount that is equal to 125 percent of the cost baseline established under subsection (a) for that project; and

“(2) in the case of a stockpile life extension project referred to in subsection (a)(1), the cost for any warhead in the project will exceed an amount that is equal to 200 percent of the cost baseline established under subsection (a)(1)(B) for each warhead in that project.

“(c) NOTIFICATION OF DETERMINATION WITH RESPECT TO TERMINATION OR CONTINUATION OF PROJECTS.—Not later than 90 days after submitting a notification under subsection (b) with respect to a project, the Administrator or the Secretary, as applicable, shall—

“(1) notify the congressional defense committees with respect to whether the project will be terminated or continued; and

“(2) if the project will be continued, certify to the congressional defense committees that—

“(A) a revised cost and schedule baseline has been established for the project and, in the case of a stockpile life extension project referred to in subparagraph (A) or (B) of subsection (a)(1), a revised estimate of the cost for each warhead in the project has been made;

“(B) the continuation of the project is necessary to the mission of the Department of Energy and there is no alternative to the project that would meet the requirements of that mission; and

“(C) a management structure is in place adequate to manage and control the cost and schedule of the project.

“(d) APPLICABILITY OF REQUIREMENTS TO REVISED COST AND SCHEDULE BASELINES.—A revised cost and schedule baseline established under subsection (c) shall—

“(1) be submitted to the congressional defense committees with the certification submitted under subsection (c)(2); and

“(2) be subject to the notification requirements of subsections (b) and (c) in the same manner and to the same extent as a cost and schedule baseline established under subsection (a).”.

(b) CLERICAL AMENDMENT.—The table of contents for the Atomic Energy Defense Act is amended by inserting after the item relating to section 4712 the following new item:

“Sec. 4713. Notification of cost overruns for certain Department of Energy projects.”.

SEC. 3115. ESTABLISHMENT OF COOPERATIVE RESEARCH AND DEVELOPMENT CENTERS.

(a) COOPERATIVE RESEARCH AND DEVELOPMENT CENTERS.—

(1) IN GENERAL.—Section 4813 of the Atomic Energy Defense Act (division D of Public Law 107-314; 50 U.S.C. 2794) is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection (b):

“(b) COOPERATIVE RESEARCH AND DEVELOPMENT CENTERS.—(1) Subject to the availability of appropriations provided for such purpose, the Administrator for Nuclear Security shall establish a cooperative research and development center described in paragraph (2) at each national security laboratory.

“(2) A cooperative research and development center described in this paragraph is a center to foster collaborative scientific research, technology development, and the appropriate transfer of research and technology to users in addition to the national security laboratories.

“(3) In establishing a cooperative research and development center under this subsection, the Administrator—

“(A) shall enter into cooperative research and development agreements with governmental, public, academic, or private entities; and

“(B) may enter into a contract with respect to constructing, purchasing, managing, or leasing buildings or other facilities.”.

(2) DEFINITION.—Subsection (c) of such section, as redesignated by paragraph (1)(A), is amended by adding at the end the following new paragraph:

“(5) The term ‘national security laboratory’ has the meaning given that term in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471).”.

(3) SECTION HEADING.—The heading of such section is amended by inserting “and cooperative research and development centers” after “partnerships”.

(b) CLERICAL AMENDMENT.—The table of contents for the Atomic Energy Defense Act is amended by striking the item relating to section 4813 and inserting the following new item:

“Sec. 4813. Critical technology partnerships and cooperative research and development centers.”.

SEC. 3116. FUTURE-YEARS DEFENSE ENVIRONMENTAL MANAGEMENT PLAN.

(a) IN GENERAL.—Title XLIV of the Atomic Energy Defense Act (50 U.S.C. 2581 et seq.) is amended by inserting after section 4402 the following new section:

“SEC. 4402A. FUTURE-YEARS DEFENSE ENVIRONMENTAL MANAGEMENT PLAN.

“(a) IN GENERAL.—The Secretary of Energy shall submit to Congress each year, at or about the same time that the President's budget is submitted to Congress for a fiscal year under section 1105(a) of title 31, United States Code, a future-years defense environmental management plan that—

“(1) reflects the estimated expenditures and proposed appropriations included in that budget for the Department of Energy for environmental management; and

“(2) covers a period that includes the fiscal year for which that budget is submitted and not less than the four succeeding fiscal years.

“(b) ELEMENTS.—Each future-years defense environmental management plan required by subsection (a) shall contain the following:

“(1) A detailed description of the projects and activities relating to defense environmental management to be carried out during the period covered by the plan at the sites specified in subsection (c) and with respect to the activities specified in subsection (d).

“(2) A statement of proposed budget authority, estimated expenditures, and proposed appropriations necessary to support such projects and activities.

“(3) With respect to each site specified in subsection (c), the following:

“(A) A statement of each milestone included in an enforceable agreement governing cleanup and waste remediation for that site for each fiscal year covered by the plan.

“(B) For each such milestone, a statement with respect to whether each such milestone will be met in each such fiscal year.

“(C) For any milestone that will not be met, an explanation of why the milestone will not be met and the date by which the milestone is expected to be met.

“(c) SITES SPECIFIED.—The sites specified in this subsection are the following:

“(1) The Idaho National Laboratory, Idaho.

“(2) The Waste Isolation Pilot Plant, Carlsbad, New Mexico.

“(3) The Savannah River Site, Aiken, South Carolina.

“(4) The Oak Ridge National Laboratory, Oak Ridge, Tennessee.

“(5) The Hanford Site, Richland, Washington.

“(6) Any defense closure site of the Department of Energy.

“(7) Any site of the National Nuclear Security Administration.

“(d) ACTIVITIES SPECIFIED.—The activities specified in this subsection are the following:

“(1) Program support.

“(2) Program direction.

“(3) Safeguards and security.

“(4) Technology development and deployment.

“(5) Federal contributions to the Uranium Enrichment Decontamination and Decommissioning Fund established under section 1801 of the Atomic Energy Act of 1954 (42 U.S.C. 2297g).”.

(b) CLERICAL AMENDMENT.—The table of contents for the Atomic Energy Defense Act is amended by inserting after the item relating to section 4402 the following new item:

“Sec. 4402A. Future-years defense environmental management plan.”.

SEC. 3117. EXTENSION OF AUTHORITY OF SECRETARY OF ENERGY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

Section 4601(c)(1) of the Atomic Energy Defense Act (50 U.S.C. 2701(c)(1)) is amended by striking “September 30, 2011” and inserting “September 30, 2016”.

SEC. 3118. EXTENSION OF AUTHORITY OF SECRETARY OF ENERGY TO ENTER INTO TRANSACTIONS TO CARRY OUT CERTAIN RESEARCH PROJECTS.

Section 646(g)(10) of the Department of Energy Organization Act (42 U.S.C. 7256(g)(10)) is amended by striking “September 30, 2010” and inserting “September 30, 2015”.

SEC. 3119. EXTENSION OF AUTHORITY RELATING TO THE INTERNATIONAL MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM OF THE DEPARTMENT OF ENERGY.

Section 3156(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 50 U.S.C. 2343(b)(1)) is amended by striking “January 1, 2013” and inserting “January 1, 2018”.

SEC. 3120. EXTENSION OF DEADLINE FOR TRANSFER OF PARCELS OF LAND TO BE CONVEYED TO LOS ALAMOS COUNTY, NEW MEXICO, AND HELD IN TRUST FOR THE PUEBLO OF SAN ILDEFONSO.

(a) ENVIRONMENTAL RESTORATION.—If the Secretary of Energy determines under any authority previously established by law that a parcel of land described in subsection (c) requires environmental restoration or remediation, the Secretary shall, to the maximum extent practicable, complete the environmental restoration or remediation of the parcel not later than September 30, 2022, and otherwise in compliance with such law.

(b) CONVEYANCE OR TRANSFER.—If the Secretary determines under any authority previously established by law that environmental restoration or remediation cannot reasonably be expected to be completed with respect to a parcel of land described in subsection (c) by September 30, 2022, the Secretary shall not convey or transfer the parcel of land.

(c) PARCELS OF LAND.—A parcel of land described in this subsection is a parcel of land under the jurisdiction or administrative control of the Secretary at or in the vicinity of Los Alamos National Laboratory that the Secretary has previously identified as suitable for conveyance or transfer in a report submitted to the congressional defense committees prior to the date of the enactment of this Act.

SEC. 3121. REPEAL OF SUNSET PROVISION FOR MODIFICATION OF MINOR CONSTRUCTION THRESHOLD FOR PLANT PROJECTS.

(a) MINOR CONSTRUCTION THRESHOLD.—Paragraph (3) of section 4701 of the Atomic Energy Defense Act (50 U.S.C. 2741(3)), as amended by section 3118(b) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2709), is amended by striking “\$5,000,000” and inserting “\$10,000,000”.

(b) NOTIFICATION.—Section 3118(c) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2709) is amended by striking “during fiscal year 2010”.

SEC. 3122. ENHANCING PRIVATE-SECTOR EMPLOYMENT THROUGH COOPERATIVE RESEARCH AND DEVELOPMENT ACTIVITIES.

(a) IN GENERAL.—The Administrator for Nuclear Security shall encourage cooperative research and development activities at

the national security laboratories (as defined in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471)) that lead to the creation of new private-sector employment opportunities.

(b) REPORTS.—Not later than January 31 of each year from 2012 through 2017, the Administrator shall submit to Congress a report detailing the number of new private-sector employment opportunities created as a result of the previous years' cooperative research and development activities at each national security laboratory.

SEC. 3123. LIMITATION ON USE OF FUNDS FOR ESTABLISHMENT OF CENTERS OF EXCELLENCE IN COUNTRIES OUTSIDE OF THE FORMER SOVIET UNION.

Not more than \$500,000 of the funds authorized to be appropriated by section 3101(a)(2) for defense nuclear nonproliferation activities may be obligated or expended to establish a center of excellence in a country that is not a state of the former Soviet Union until the date that is 15 days after the date on which the Administrator for Nuclear Security submits to the congressional defense committees a report that includes the following:

(1) An identification of the country in which the center will be located.

(2) A description of the purpose for which the center will be established.

(3) The agreement under which the center will operate.

(4) A funding plan for the center, including—

(A) the amount of funds to be provided by the government of the country in which the center will be located; and

(B) the percentage of the total cost of establishing and operating the center the funds described in subparagraph (A) will cover.

SEC. 3124. DEPARTMENT OF ENERGY ENERGY PARKS PROGRAM.

(a) IN GENERAL.—The Secretary of Energy may establish a program to permit the establishment of energy parks on former defense nuclear facilities.

(b) OBJECTIVES.—The objectives for establishing energy parks pursuant to subsection (a) are the following:

(1) To provide locations to carry out a broad range of projects relating to the development and deployment of energy technologies and related advanced manufacturing technologies.

(2) To provide locations for the implementation of pilot programs and demonstration projects for new and developing energy technologies and related advanced manufacturing technologies.

(3) To set a national example for the development and deployment of energy technologies and related advanced manufacturing technologies in a manner that will promote energy security, energy sector employment, and energy independence.

(4) To create a business environment that encourages collaboration and interaction between the public and private sectors.

(c) CONSULTATION.—In establishing an energy park pursuant to subsection (a), the Secretary shall consult with—

(1) the local government with jurisdiction over the land on which the energy park will be located;

(2) the local governments of adjacent areas; and

(3) any community reuse organization recognized by the Secretary at the former defense nuclear facility on which the energy park will be located.

(d) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this

Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of the program under subsection (a). The report shall include such recommendations for additional legislative actions as the Secretary considers appropriate to facilitate the development of energy parks on former defense nuclear facilities.

(e) **DEFENSE NUCLEAR FACILITY DEFINED.**—In this section, the term “defense nuclear facility” has the meaning given the term “Department of Energy defense nuclear facility” in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

Subtitle C—Reports

SEC. 3131. REPORT ON GRADED SECURITY PROTECTION POLICY.

(a) **REPORT.**—Not later than February 1, 2011, the Secretary of Energy shall submit to the congressional defense committees a report on the implementation of the graded security protection policy of the Department of Energy.

(b) **MATTERS INCLUDED.**—The report under subsection (a) shall include the following:

(1) A comprehensive plan and schedule (including any benchmarks, milestones, or other deadlines) for implementing the graded security protection policy.

(2) An explanation of the current status of the graded security protection policy for each site with respect to the comprehensive plan under paragraph (1).

(3) An explanation of the Secretary’s objective end-state for implementation of the graded security protection policy (such end-state explanation shall include supporting justification and rationale to ensure that robust and adaptive security measures meet the graded security protection policy requirements).

(4) Identification of each site that has received an exception or waiver to the graded security protection policy, including the justification for each such exception or waiver.

(5) A schedule for “force-on-force” exercises that the Secretary considers necessary to maintain operational readiness.

(6) A description of a program that will provide proper training and equipping of personnel to a certifiable standard.

(c) **FORM.**—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2011, \$28,640,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) **AMOUNT.**—There are hereby authorized to be appropriated to the Secretary of Energy \$23,614,000 for fiscal year 2011 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) **PERIOD OF AVAILABILITY.**—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for national security aspects of the merchant marine for fiscal year 2011.

Sec. 3502. Extension of Maritime Security Fleet program.

Sec. 3503. United States Merchant Marine Academy nominations of residents of the Northern Mariana Islands.

Sec. 3504. Research authority.

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL SECURITY ASPECTS OF THE MERCHANT MARINE FOR FISCAL YEAR 2011.

Funds are hereby authorized to be appropriated for fiscal year 2011, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for Maritime Administration programs associated with maintaining national security aspects of the merchant marine, as follows:

(1) For expenses necessary for operations of the United States Merchant Marine Academy, \$100,020,000, of which—

(A) \$63,120,000 shall remain available until expended for Academy operations;

(B) \$6,000,000 shall remain available until expended for refunds to Academy midshipmen for improperly charged fees; and

(C) \$30,900,000 shall remain available until expended for capital improvements at the Academy.

(2) For expenses necessary to support the State maritime academies, \$15,007,000, of which—

(A) \$2,000,000 shall remain available until expended for student incentive payments;

(B) \$2,000,000 shall remain available until expended for direct payments to such academies; and

(C) \$11,007,000 shall remain available until expended for maintenance and repair of State maritime academy training vessels.

(3) For expenses necessary to dispose of vessels in the National Defense Reserve Fleet, \$10,000,000.

(4) For expenses to maintain and preserve a United States-flag merchant marine to serve the national security needs of the United States under chapter 531 of title 46, United States Code, \$174,000,000.

(5) For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program authorized by chapter 537 of title 46, United States Code, \$60,000,000, of which \$3,688,000 shall remain available until expended for administrative expenses of the program.

SEC. 3502. EXTENSION OF MARITIME SECURITY FLEET PROGRAM.

Chapter 531 of title 46, United States Code, is amended—

(1) in section 53104(a), by striking “2015” and inserting “2025”;

(2) in section 53106(a)(1)(C), by striking “for each fiscal years 2012, 2013, 2014, and 2015” and inserting “for each of fiscal years 2012 through 2025”; and

(3) in section 53111(3), by striking “2015” and inserting “2025”.

SEC. 3503. UNITED STATES MERCHANT MARINE ACADEMY NOMINATIONS OF RESIDENTS OF THE NORTHERN MARIANA ISLANDS.

Section 51302(b) of title 46, United States Code, is amended—

(1) in paragraph (3), by inserting “the Northern Mariana Islands,” after “Guam,”; and

(2) by striking paragraph (5) and redesignating paragraph (6) as paragraph (5).

SEC. 3504. RESEARCH AUTHORITY.

Section 51301 title 46, United States Code, is amended—

(1) by inserting “as an institution of higher education” after “Academy”; and

(2) by striking “States.” and inserting “States, to conduct research with respect to maritime-related matters, and to provide such other appropriate academic support, assistance, training, and activities in accordance with the provisions of this chapter as the Secretary may authorize.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. McKEON) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. SKELTON. I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1150

Mr. SKELTON. I yield myself such time as I might consume.

Mr. Speaker, today is the beginning of the end of a long journey, a journey that started with the submission of the President’s budget on February 1, 2010. The law requires the President to send us a budget, and he did his duty.

But our obligation in concerning the budget goes deeper. The Founding Fathers entrusted Congress with the care of the Armed Forces. The Constitution, article I, section 8 requires that we here in Congress raise and support Armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces. That is our duty.

Most of you, like me, have spent time with our troops overseas. Their dedication, their courage, their devotion never cease to amaze me. Their service and sacrifice is matched only by that of their families who bear the same burden. Their sacrifice is, at times, almost unbearable. Yet they do it, and not for us but for the American people. However, we bear the awesome burden of repaying their sacrifice.

For 48 consecutive years, the Congress has carried out its duty to the men and women of the military by passing a defense authorization bill. It is a job that has never been easy. There have been many years where we have almost failed. In my 34 years here in Congress, through 12 military conflicts, including the most divisive wars in American history, the Congress has wavered but never failed.

This bill is a must-pass piece of legislation. Don’t let anyone tell you different. There are literally hundreds of needed provisions in here that will not become law any other way. I have time to only name a few. This bill stops an increase in health care fees from hitting the families of military personnel. It authorizes military families to extend TRICARE coverage to their dependent children until age 26. And it

adopts comprehensive legislation fighting sexual assault in the military. It creates a counter-IED database, and it enhances the effort to develop new, lightweight body armor. It gives DOD new tools and authorizes it to reduce its energy demand while improving military readiness. It bolsters our defense against cyberattacks. It requires independent assessments of the National Nuclear Security Administration modernization plan and of the annual budget request for sustaining a strong deterrent. It aligns the Navy's long-term shipbuilding plan with the QDR. It includes significant acquisition reform, the Improve Acquisition Act of 2010 which could save as much as \$135 billion over the next 5 years. It provides for critical funding for our warfighters. It allows for a 1.4 percent raise in pay for our troops. It provides funding for training equipment to sustain the Afghan security forces. It provides essential funding to keep weapons of mass destruction out of the hands of terrorists. It creates additional positions for mental health care providers to treat our warriors who come home in need. It extends a number of special pay and bonuses for our brave warfighters.

Now some Members are claiming, falsely, that the language in the bill on the Guantanamo detainees is not strong enough. Let me tell you what the bill actually does. It prohibits the transfer or release of detainees into the United States or its territories. It prohibits the use of any DOD funding to build or modify any DOD facility in our country for the detention of any Guantanamo Bay detainee. This restriction applies not only to Thompson, Illinois, but to the whole country. It prohibits the transfer or release of any Guantanamo Bay detainee to any country which has received a detainee and allowed that detainee to return to the battlefield.

This the most thorough and comprehensive set of restrictions ever placed on the transfer and release of detainees. It is substantially stronger than current law, and voting against this bill will have the effect of making it easier to bring detainees into the United States, easier to transfer them to other countries that have failed to hold them in the past.

We all know that this year's journey toward passage has been rancorous and difficult, like few others. No one is happy with everything that has been done in the bill. That is just the nature of Congress. In finding common ground, we have to give a little bit. We cannot give when it comes to supporting the men and women in the Armed Forces. We stand today on the dividing line between success and failure. We do not fail now. Let's finish the journey. Vote for the National Defense Authorization Act.

I reserve the balance of my time.

Mr. McKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise to speak with a heavy heart for a couple of reasons. One is the process that has brought us to this point. And the other is that this will be the last defense bill for my good friend and partner on the committee, IKE SKELTON, our chairman.

He has been a force on the committee and within the defense community for decades. The way he has conducted business on the committee sets an example for all members of the committee and for this Congress to follow.

Considering IKE's legacy, the actions of the Democratic leaders in the Senate and the House are all the more frustrating to me. They have made it completely clear that they place a higher priority on repealing the Pentagon's Don't Ask, Don't Tell policy than on the National Defense Authorization Act.

The procedure that is set up in the House for passing legislation is, for the House to pass a bill, it goes through committee, goes through hearings. Finally it is passed by the committee, passed on the floor. And then a similar process should be followed in the Senate. And then once those two bills have been passed, we have conferees appointed. The conferees get together and negotiate the differences in the bills, and final bills are brought back to the floor.

To this date, we have not had a Senate bill passed on the floor. So this brings us to this point without a Senate bill and giving individual Senators the opportunity to have a line-item veto on the House bill after we pass it here and send it back over.

Many of the provisions that we have passed in our bill went through a semi-conference, and some of the provisions which were championed by the House, including a higher pay raise for our troops than the statutorily mandated pay raise of 1.4 percent, a provision which would have exempted critical force protection and medevac personnel from any troop cap in Afghanistan, and several provisions regarding the Nation's nuclear and missile defense policies, those found themselves on the cutting room floor of the conference. Most of those provisions have significant support in the House of Representatives.

Mr. Speaker, the American people have spoken. And in the process that we had, the election, they are demanding a process that is better than the one that got us to this point. They want a legislative process that works to provide our troops with the resources they need, not a process that is held up for months and then rushed through in the waning minutes of a lame duck session.

The process in the Senate, coupled with the Democratic leadership's goal

of advancing legislation to repeal Don't Ask, Don't Tell ahead of the annual defense authorization bill, has politicized the National Defense Authorization Act, and it's indicative of a flawed process with misguided priorities. In a time of war, Mr. Speaker, this is unconscionable.

One thing I can promise to the American people and to our military: They will no longer be used as a political football. We will return to regular order in the next Congress, and I think that is something that we can all look forward to with pleasure.

Now, back to my good friend, the chairman on the committee. I want to commend him for years of service to this Nation, to this Congress, to the people that he has represented. We all owe him a debt of gratitude, and I have appreciated working with him, especially in these last 2 years, as I had the opportunity to serve as the ranking member alongside him. We will all miss him. IKE, we owe you much and appreciate your service.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I appreciate the kind words of the gentleman from California (Mr. McKEON). It has been an absolute pleasure to work with him, and I compliment him on his future role in this Congress as the head of this fantastic committee. I know he will make us proud and make all of our Congress Members proud in his leadership next year. I thank him very, very much.

I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK), my friend and my colleague.

□ 1200

Mr. FRANK of Massachusetts. Mr. Speaker, I join the ranking member in paying tribute to the extraordinary public service of our colleague from Missouri who really exemplifies what it means to be a legislator of integrity and commitment and effectiveness.

I do, however, want to differ with his rather distorted picture of the history here when he says we went outside of regular order. This House passed the Defense bill under regular order with committee hearings and debate on the floor. We sent it to the Senate. Because some Senators objected to repealing Don't Ask, Don't Tell, which was included in the Defense bill to start with 17 years ago, it was twice filibustered. The reason we are here now is that twice Republican minorities filibustered the bill. That was the breakdown of regular order.

But here we are today. Speaker PELOSI and Leader HOYER took a very important stance and said, when the Senate asked us, we will break Don't Ask, Don't Tell off from the regular bill, but we want to be sure both passes, and that is what we are in the process of doing. To the credit of the

Senate leader and Senator LIEBERMAN, they will be voting on cloture for Don't Ask, Don't Tell tomorrow.

In light of that, while there is much in this bill with which I disagree, I strongly urge those who share many of my views to vote for it. Let me be very clear, I think it is very important to repeal Don't Ask, Don't Tell. I honor the work that was done under the leadership of the gentleman from Missouri, although I have some disagreements with it. But the point is that the success of the repeal of Don't Ask, Don't Tell is tied to the success of this bill in a perfectly reasonable way. In legislatures, people need to compromise. So I am going to vote for this bill. I vote for it knowing that tomorrow the Senate will begin cloture. There will be things in this total bill that many of us will like and dislike, but I think it speaks well of the Nation and the process we are going through. And I urge those who share some of my objections to some pieces of this bill to vote for it so we can go ahead and get the whole thing done. I would also point out that even if we were to defeat this bill, much of what I don't like would happen in the appropriations bill.

So I urge those who join me in having concerns about Don't Ask, Don't Tell to help us pass this bill and get this thing going.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. WILSON), the ranking member on the Military Personnel Subcommittee.

Mr. WILSON of South Carolina. Mr. Speaker, we stand here today 7 months after the House passed its version of the 2011 defense authorization bill because the leadership of the other body dithered instead of doing the right thing for all members of our armed services. As a result, the Senate has not passed its version of the defense authorization. Then in a last minute rush to get a defense bill, any defense bill, we stand on the floor today to debate for 40 minutes under suspension of the rules a 900-page bill, a \$600 billion measure that is a stripped down, weakened version of what the House enacted in May.

We may hear some good things about the bill, but let me remind Members that this rush to have a bill has cost the men and women in uniform. This bill is stripping out key House provisions in the name of expediency. It falls short in many ways.

This bill is named in honor of Chairman IKE SKELTON who has devoted years of dedicated service to the men and women of the Armed Forces. I want to say thank you to Chairman SKELTON for his unwavering commitment to the House of Representatives, to the Committee on Armed Services, and to every man and woman who is serving in uniform now and for the past 35 years.

Regretfully, this bill which he heavily influenced through passage in the House does not fully reflect his lifelong commitment and dedication. Despite the omissions in the bill, I will reluctantly urge Members to support the bill.

Mr. SKELTON. I yield 1 minute to the gentleman from Rhode Island (Mr. LANGEVIN), the chairman of the Subcommittee on Strategic Forces.

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of H.R. 6523. I would like to first of all thank Chairman SKELTON for his dedication to national security and bipartisan leadership on our committee. I congratulate him on this bill which is appropriately named in his honor.

The bill before us today strengthens our critical strategic programs, including increasing the reliability, safety and security of our nuclear arsenal. It reduces the risk of nuclear proliferation to terrorists by funding these urgent efforts above last year's levels. It also enhances our missile defenses by supporting the President's phased adaptive approach and preserving a hedge against potential threats from Iran and North Korea.

And, finally, it sustains our national security space assets by supporting near-term warfighter needs, space protection, and space situational awareness. This bill is integral to our national security, and I strongly urge its adoption today.

I would be remiss, however, if I didn't say how disappointed I was that certain cyber-provisions that I included in the original National Defense Authorization Act were not retained in the final bill. The United States is very vulnerable to a cyberattack, and we are woefully unprepared. I will continue to pursue this as a top priority in the next Congress.

I thank the chairman for his great work on this bill.

I rise in strong support of H.R. 6523, the National Defense Authorization Act for Fiscal Year 2011.

I would like to thank Chairman SKELTON for his extraordinary dedication to national security and bipartisan leadership on our Committee. And I would like to congratulate him on this bill, and I am extremely proud that our FY2011 National Defense Authorization bill is named in his honor.

This bill authorizes and strengthens critical national security programs of our strategic forces, providing robust defenses against the most pressing threats to U.S. national security.

It provides \$7 billion for weapons activities, and additional \$624 million over last year's funding, to strengthen the reliability, safety and security of our nuclear arsenal. It establishes criteria and independent reviews to increase accountability in this vital area of national security.

It reduces the risk that nuclear weapons might spread to other countries or to terrorists intent on targeting thousands of innocent lives by providing full funding to key nonproliferation

efforts. This includes \$530.5 million over last year's level to strengthen these urgent efforts.

It makes important investments to support effective development and deployment of missile defenses against current and emerging threats to the United States and our allies. It protects our troops and allies by strengthening theater missile defenses. It supports the President's Phased Adaptive Approach to missile defense in Europe, requiring close cooperation with our European allies and effective testing. And it preserves a hedge against potential long-range missile threats from Iran and North Korea to our homeland, and requires an independent assessment to ensure we proceed with a reliable plan.

The bill also sustains our vital unclassified national security space assets, by supporting near-term war fighter needs, and strengthening space situational awareness and space protection.

While I am pleased to see the defense bill include many of these positive strategic items, I am also greatly disheartened that language enhancing our national cybersecurity efforts were removed from the final version of this bill. Our government is under attack every single day in cyberspace, yet we lack the coordination and strategy to properly defend ourselves or operate efficiently online. Recent issues such as the Wikileaks's Cablegate, the STUXNET Virus and the disclosure of high level attacks on our Department of Defense only drive home the urgency of addressing this crisis with a strong coordinated response.

While there are many important provisions for the Department of Defense cyber efforts in this bill, the DOD already has the assets to begin addressing this crisis. The real challenges lie in securing our federal networks and developing a real comprehensive policy for addressing transnational threats as well as engaging international partners. I will continue to push this issue as a top national security priority next year.

I want to once again thank Chairman SKELTON and congratulate him on moving this bill forward. It supports our critical national security priorities, and I strongly recommend its adoption today.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES), the ranking member on the Readiness Subcommittee.

Mr. FORBES. Mr. Speaker, I, too, want to echo my compliments to the chairman for his service to this body and to the armed services of this country. But 7 months ago, Mr. Speaker, when this bill passed, my good friend, the chairman, said that there was no difference between Republicans and Democrats regarding the fighting of terrorism and where we stood. We passed a provision out of here that prohibited terrorists at Guantanamo Bay from coming to the United States. Unfortunately, that provision was left out of this bill until about 2 hours ago when it was put in, but it has a huge difference because it is only for 1 year.

Mr. Speaker, the problem with that is 2 years ago when this administration came in, a prosecution of the worst terrorists that had ever hit the United

States, the 9/11 defendants, was under way and had been under way for 18 months—56 motions. The prosecutor said we would have had a guilty plea within 6 months. This administration not only stopped all of that prosecution, but has refused for the last 2 years to prosecute the worst terrorists that have ever hit this soil. And when we put a provision in there that said we would never bring those detainees to this soil, it sent a message to them, go ahead and prosecute them.

With this provision, Mr. Speaker, what we are now saying is, because of our majority on the other side, well, give us another year to think about it. But, Mr. Speaker, I am optimistic for two reasons: one, because I believe next year we will have a bill that we won't be at the 11th hour doing; and, secondly, I know under the ranking member who will become the chairman, he will fight to make sure that we permanently prohibit those detainees from ever touching U.S. soil.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to my friend and colleague, the gentleman from Arkansas (Mr. SNYDER), the chairman of the Subcommittee on Oversight and Investigations.

Mr. SNYDER. Probably there is no greater honor serving in the House than to support our military families. Each of us on the Armed Services Committee, as well as do all Members of the Congress, take this responsibility very seriously. No one has served more honorably than the gentleman from Missouri (Mr. SKELTON). No one is a prouder honorary marine than the gentleman from Missouri (Mr. SKELTON). *Semper fi*, Mr. Chairman.

One important provision in this bill gives military families the same right civilian families now have to keep children up to age 26 on their insurance. That will not occur unless this bill passes, and I strongly recommend a vote for the bill.

Mr. McKEON. Mr. Speaker, the gentleman who just spoke, Mr. SNYDER, is also leaving us. He retired. I want to thank him for the years of service that he rendered to this committee and to this Congress and to the Nation.

At this time, Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TURNER), the ranking member on the Strategic Forces Subcommittee.

Mr. TURNER. Mr. Speaker, I would like to thank Ranking Member McKEON for his leadership on our committee and certainly for his support for our men and women in uniform in what has been this long year of trying to get a bill passed for the National Defense Authorization Act.

I would also like to thank our chairman, IKE SKELTON. IKE is leaving us with an incredibly distinguished career. He has led the Armed Services Committee in an incredibly bipartisan way. I know that on both sides of the

aisle, people have appreciated his leadership, his counsel, and his dedication to what is a strong national defense.

But I must rise to point out that this bill really shouldn't be the Ike Skelton National Defense Authorization Act; this should be the Nancy Pelosi National Defense Authorization Act. It is just a shame that this House and our committee labored for a year to put together a bill. The Senate never passed a bill. What we have before us is not what came out of our committee. It is not what came out of the subcommittees. It is not what was passed here on the House floor. In the NANCY PELOSI fashion of running this House, this bill was drafted somewhere in a back room in the Capitol and then brought forward for everyone to read.

□ 1210

This is not the way that we should be doing a bill.

One of the things that has been left on the table that should be in here is protection of our men and women in uniform and their custody rights. We had a provision in the bill that passed this House that would have prevented family law courts from across this country taking custody away from our men and women in uniform when they returned from deployment, based upon their absence.

There are a number of provisions that were in the bill that was passed by this House that should have remained in it. Instead, we get this truncated process and a bill that was drafted in a back room. Unfortunately, this does not serve our men and women in uniform, and it doesn't serve our national security. We are going to pass a truncated bill that is going to do limited things when we had an opportunity to take the year-long process of the deliberations of this body and really improve the circumstances for our men and women and our national defense.

Mr. SKELTON. I yield 1 minute to my friend, the chairwoman of the Subcommittee on Terrorism, the chairwoman from California (Ms. SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I thank the chairman.

For our portion of the legislation, the Terrorism, Unconventional Threats and Capabilities Subcommittee focused on several of the Defense Department's most important challenges: The fight to interrupt the flow of violent extremists and the ideological underpinning of radicalization; the development and the deployment of innovative and critical technologies; and defending our homeland from attacks and managing the consequences of catastrophic incidents, including natural disasters, and, of course, trying to get our arms around cybersecurity of this Nation.

It has been an honor to serve as the chairwoman of the subcommittee. And, more importantly, Mr. Chairman, to

IKE SKELTON, it has been an honor to serve with you these 14 years on this committee. I urge my colleagues to pass this bill.

For our portion of the legislation, the Terrorism, Unconventional Threats and Capabilities Subcommittee, focused on several of the Defense Department's most important challenges:

The fight to interrupt the flow of violent extremists and the ideological underpinnings of radicalization;

The development and deployment of innovative and critical technologies; and

Defending our homeland from attacks and managing the consequences of catastrophic incidents including natural disasters.

It has been an honor serving as the chairwoman of this subcommittee and I would like to thank Chairman SKELTON for the opportunity and we will truly miss you.

The subcommittee fully funds U.S. Special Operations Command (SOCOM) with more than \$9.8 billion dollars to improve the readiness and capabilities of our Special Operations Forces.

The subcommittee also provides an additional \$301.5 million to support unfunded requirements articulated by U.S. Special Operations Command, bringing the total authorized amount for SOCOM to more than \$10 billion dollars.

Support for our Special Operations Forces demonstrates the subcommittee's commitment to SOCOM's critical mission areas, including counterterrorism, counterinsurgency, unconventional warfare and counter-proliferation activities across the world.

Our subcommittee mark also includes provisions that will require the Secretary of Defense to develop new strategies to counter irregular warfare challenges.

It is important that we keep in mind the fact that we cannot kill our way out of this struggle against violent extremists.

Therefore, the subcommittee provides language and funding to improve the Department's use of science and technology, and support emerging areas of research that enhance our ability to deal with challenges from radicalization and irregular warfare.

The subcommittee mark also funds initiatives designed to strengthen our cybersecurity activities, and other efforts that will help us better understand how to better counter adversarial and extremists' use of the internet.

The TUTC mark also includes guidance to enhance the research capabilities of defense laboratories, as well as additional funding for science, technology, engineering and mathematics workforce initiatives that will ensure the DOD has a competent and diverse pipeline of skilled scientists and engineers.

Finally, as with the previous fiscal year, the committee fully funds the Defense Threat Reduction Agency, Chemical Biological Defense and Chemical Demilitarization programs.

These important provisions ensure our military remains up-to-date and ready to prevent and respond to major attacks.

As you can see, this subcommittee's mark looks outside the normal realm of our traditional threats and force protection.

I believe this subcommittee's mark is not just authorizing programs, but more importantly, encouraging innovation within the Department of Defense.

I want to thank Members for their expertise and input.

And I would also like to thank the TUTC Committee Staff, Tim McClees, Alex Kugajevksy, Eryn Robinson, Kevin Gates, Peter Villano, and Andrew Tabler.

As before, the TUTC subcommittee worked in a bipartisan way to craft authorizing language covering each of these critical areas for the Department of Defense.

I would especially like to thank Ranking Member JEFF MILLER (R-FL) for his contribution.

And I would also like to thank Chairman ORTIZ and the Readiness subcommittee for their help in ensuring that we are able to include valuable personnel and laboratory authorities that will make certain that the Department of Defense is able to recruit and retain the highest caliber scientists and engineers needed to ensure our technological superiority, now and in the future.

This is a critical concern for our subcommittee, and we continue to pay special attention to these and other technology issues.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. WITTMAN), the ranking member on the Oversight and Investigations Subcommittee.

Mr. WITTMAN. Mr. Speaker, I would like to begin by recognizing Ranking Member McKEON for his leadership and for his thoughtfulness in this whole process of leading the House Armed Services Committee on the minority side.

I also want to recognize our outgoing chairman, IKE SKELTON. What a tremendous legacy of service to this Nation, of devotion to our men and women in uniform. I know everybody out there that has served this Nation during his time in Congress is better off for his leadership here on the House Armed Services Committee, and I thank him for that.

He has been a mentor to many of us on the committee. Every once in a while taking his hand, placing it on your shoulder, giving you a thoughtful word or a little advice or a little input on this whole process that we go through here has really affected many of us on the House Armed Services Committee, and I thank him deeply for that.

We have before us the national defense authorization bill, which I'm happy to support but disappointed in the process and how we have gotten here. I'm concerned in that the House put a significant amount of effort into passing a national defense authorization act, with all the members having their input there and with, I think, there being a very thoughtful process. The concern now is that we have a bill before us very different than the one that came before the House previously, one that had been crafted without that transparency, without that input of all the members of the committee. Again, that disturbs all of us. The process needs to go through where everybody's

thoughts and ideas are incorporated into the bill.

I hope and I am confident, in the future, that will not happen again. Our men and women in uniform deserve better. They deserve the total commitment to make sure that we do everything possible to pass a national defense authorization act that has all the provisions in there that each member of the committee has worked so hard to put in there.

Mr. SKELTON. I yield 1 minute to the distinguished majority leader of our House, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. I thank the distinguished chairman of the Armed Services Committee, one of the great leaders with whom I have had the opportunity to serve over these last three decades, a man of great character, extraordinary intellect, and unbridled commitment to the men and women who serve in our Armed Forces.

I think all of us who have had the opportunity of serving with IKE SKELTON of Missouri have been impressed by his commitment, awed by his depth of knowledge, and encouraged for the security of our country by his leadership. So I rise to pay tribute. This bill is named in his honor. This will be the last bill that he will shepherd as chairman.

Two of the Members of the minority side have spoken and lamented the process that we are following today. I shared that lamentation. And I say to my friends, the reason we are in this pickle is because members of your party in the United States Senate would not allow us to proceed under regular order even though regular order had a majority of votes in the United States Senate. So it is nice to complain and wring our hands, but if obstructionism is the objective in the other body, then regular order has been denied us.

We have an option. We can say they denied us regular order and, therefore, we failed; or, we can do what we did last night—take something that's not perfect but is better than inaction.

IKE SKELTON, CARL LEVIN, and JOHN MCCAIN worked very hard. And, as I understand it, the door was open to an invitation as well on your side.

I rise in strong support of this bill, not because I believe it is a perfect bill, but I believe it is a necessary bill. This defense authorization bill is about securing our Nation in stronger and smarter ways. It builds on our strong record of putting new and better weapons into the battlefield, increasing support for human intelligence collection, cybersecurity, and security for our skies and our ports and our borders, and looking out for our troops, our veterans, and, importantly, their families as well.

This bill authorizes crucial national security programs for fiscal year 2011;

much better than a CR, short-term or long-term. It promotes efforts to disrupt and destroy terrorist networks and strengthens the ability of our Special Forces to act directly against terrorist organizations. It increases our international cooperation against terrorists, especially against the Taliban in Afghanistan and Pakistan.

Because of the changing threats in the post-Cold War world, this bill, as well, invests in ballistic missile defense and nuclear counterproliferation, including the President's efforts to secure all of the world's known vulnerable nuclear material in the next 4 years.

The defense authorization bill also supports the well-being of our troops and the strength of our Armed Forces. It keeps TRICARE strong and ensures that military families can keep their children on TRICARE until they are 26.

It also reduces strain on our forces by providing 7,000 more personnel for the Army and 5,000 for the Air Force, while helping all of the services rebuild their worn-down equipment and weapons systems.

This bill is an important bill for us to pass. It will pass on a bipartisan basis, and I appreciate that, and I want to thank Mr. McKEON for his efforts to make sure that we pass it on a bipartisan basis. He recognizes, as I do, as Mr. SKELTON recognizes, this is not the best process. We could have done and should have done better. Frankly, we did better.

Seven months ago, we passed a bill that has been referred to as the work product of a bipartisan effort to keep our country strong and to make sure that our men and women in uniform were well thought of, well cared for, well equipped, and we made them as safe as possible.

□ 1220

That was not to happen. Our responsibility is therefore to do the best we can. This appears to be the best we can.

I am not surprised that IKE SKELTON never wavered for a minute in trying to make sure that we passed a bill that was worthy of the men and women who risk their lives and are ready to be deployed at a moment's notice to defend our freedom and our country.

IKE SKELTON, we are proud to be your colleague. You have served your country well, you have served this institution well, and you have been as good a friend as our men and women in the Armed Forces have ever had. America is indeed blessed by God and by the service of men and women of the character, intellect and commitment of people like you.

Thank you, IKE SKELTON.

Mr. McKEON. Mr. Speaker, may I inquire as to the time remaining on both sides?

The SPEAKER pro tempore. The gentleman from California has 8½ minutes

remaining and the gentleman from Missouri has 9½ minutes remaining.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT), the ranking member on the Air and Land Forces Subcommittee.

Mr. BARTLETT. I thank the gentleman for yielding.

When I came to the Congress 18 years ago, I was assigned to the Armed Services Committee. The subcommittee slots on Armed Services are determined by seniority and Member preferences. We all get together in a room and we select our committees, and as the more popular committees are filled, less and less opportunities are available to junior Members. For reasons that I am not sure I fully understand, the Personnel Subcommittee is always the last to fill up, and since I was the lowest ranking person on the Republican side, I ended up on the Personnel Subcommittee.

IKE SKELTON was then senior enough on the Democrat side that he chaired that Personnel Subcommittee. And those were tough times for the military. We really didn't have enough money, and I remember that IKE was really stressed. He was stressed to the point that he was actually emotional that we didn't have enough money to meet the needs of our service people.

I saw then a Congressman who was deeply concerned about the military, and I remember how all of us on the subcommittee were relieved when the appropriators gave us another \$1 billion. Do you remember that, IKE? It was Jack Murtha who led that fight, and we got another \$1 billion for our personnel.

I have now worked with IKE and served with him for these last 18 years. I have gone with him on really hard-working CODELS.

IKE, I can't imagine a more dedicated person, someone more interested in our troops, more knowledgeable about our military, more concerned about the future of our country. It has been, sir, an honor to work with you, and I am certainly going to support the Ike Skelton National Defense Authorization Act.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to my friend and colleague, the chairman of the Subcommittee on Air and Land Forces, who very shortly will be the ranking member of the entire Committee on Armed Services, the gentleman from Washington (Mr. SMITH).

Mr. SMITH of Washington. Mr. Speaker, first of all, I want to add my congratulations to our chairman, IKE SKELTON, for his outstanding service to this Congress and more than anything for his outstanding service to our troops. Anyone who has worked with IKE, anyone who has worked on this committee, knows that that is always his first priority, the men and women who serve in our military, and they

could not possibly have had a better advocate through his years on the Armed Services Committee. He will be missed.

Once again, he has done his job and done it well. Every year he has made sure that we get a defense authorization bill passed, and it has not always been easy. Certainly it was not easy this year. But he got it done, I should say with the able assistance of the ranking member, soon to be chairman, BUCK McKEON. That is one thing we agree on in a bipartisan way: We get this bill done.

It is always important. It is especially important when we have troops in harm's way in Afghanistan and Iraq to get the authorizing bill done, to make sure that we give our troops and the military the support that it deserves.

Now, I will disagree on the process. It is wrong and just not factual to blame the House leadership for the process that we have today. We got our job done. We did it. We passed the bill. The Senate didn't act on it. The only alternative we had was to put this slimmed down bill up today or have no bill at all, which we all agree is not acceptable. If the Senate had acted, we would have had a much better bill. But as it is, we have a very good bill because of the hard work of both Republicans and the Democrats on the committee.

The one issue that I do want to mention, however, is the bone of contention here, and that is the issue of where terrorists can be held, tried, or dealt with. This bill prohibits them from being brought into the United States.

We are not going to be able to continually offshore bringing these terrorists to justice. There are legal problems that can come down on us and jeopardize our ability to deal with them in the way we need to if we continue to have this blocked. Nobody wants them here, but will we have find a way to deal with them.

I worry that the language in this bill restricts it in a way that could jeopardize our ability to properly deal with these folks that threaten us so greatly. I hope going forward we will figure out a reasonable resolution to that.

But, again, I congratulate IKE SKELTON. Also on our side of the aisle, not just Mr. SKELTON, but Mr. SPRATT, Mr. ORTIZ, Mr. TAYLOR, Mr. SNYDER and Mr. Abercrombie, who left a little while ago. We lost a lot of folks off the top row of the Armed Services Committee. They have all served our country well, and they have my admiration and the admiration of all Americans.

Mr. McKEON. Mr. Speaker, I would like to echo the words of Mr. SMITH in honoring all of those men that he just mentioned that served for so many years on this committee.

At this time I yield 2 minutes to the gentleman from Arizona (Mr. FRANKS).

Mr. FRANKS of Arizona. Mr. Speaker, I want to echo the comments that have been made here regarding IKE SKELTON. It is fairly rare when someone so nobly transcends political party and even persuasions to try to do what he or she believes is right for the country and for the future of humanity. I congratulate him and wish him the best God can give him everywhere he goes from this point forward.

Thank you, sir.

Mr. Speaker, they say that the crux of leadership is being able to differentiate between the critical and the peripheral, and I believe more than anything else today, the challenge before us in this process is that we have allowed the peripheral to overcome the critical, and this process has been subject to that failure on our part.

To correct the record on one point, the majority says that the minority Members of the Senate stopped this bill. What they did was to try to resist an effort to use the national defense authorization bill as a vehicle for cultural and social engineering. That is something that both parties should avoid doing now and in the future, because I believe that it is a disgrace to the country and a disgrace to the process.

Our focus here should be on doing that thing that most likely protects and defends the freedom in this country and allows it to go forth as a beacon of hope for the whole world. In the future, I would hope that we would see the national defense authorization bill protected as a bill strictly designed to defend and protect the arsenal of freedom and the cause of human freedom in general. We owe that to the American people, we owe that to the men and women in this country that are in the military, and we owe it to the cause of human freedom.

Mr. SKELTON. I yield 1 minute to my friend the gentlewoman from California (Mrs. DAVIS), the chair of the Subcommittee on Military Personnel.

Mrs. DAVIS of California. Mr. Speaker, before I briefly summarize the Personnel Subcommittee portion of the Ike Skelton National Defense Authorization Act, I want to thank the bill's namesake.

Chairman SKELTON, as my colleagues on both sides of the aisle have said, has been a most extraordinary leader, and I am personally very grateful for his mentorship. Our country, Mr. SKELTON, IKE, is better for your service, and you will be greatly missed.

The bill before us improves the quality of life for our servicemembers, for their families and military survivors, and I am pleased that the chairman as well as my colleagues have spoken about how important these personnel issues are. In fact, we know our national security is embodied in our people who serve.

□ 1230

There are many important elements to that bill. It allows a 1.4 percent pay raise to keep pace with the private sector; authorizes TRICARE beneficiaries to extend health coverage to children up to age 26 and bars increases in medical care premiums; improves access to mental health and other medical providers; and it puts in place recommendations for sexual assault prevention from the Defense Task Force on Sexual Assault in the Military Services.

I urge my colleague to support the Ike Skelton National Defense Authorization Act.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. THORNBERRY), a member of the committee, who will be the vice chairman of the committee in the next Congress.

Mr. THORNBERRY. Mr. Speaker, I, too, want to rise and express my respect and gratitude for a number of the senior members of this committee who will not be with us in the next Congress: the gentleman from South Carolina (Mr. SPRATT), the gentleman from Mississippi (Mr. TAYLOR), my colleague from Texas (Mr. ORTIZ), and my friend from Arkansas, Dr. SNYDER. Each of them have made innumerable contributions not only to the committee but to national security.

Mr. Speaker, I think it is absolutely appropriate to name a defense authorization bill after our chairman, Mr. SKELTON, who, over the totality of his career, has made innumerable contributions not only to this body and to the committee, but to the national security of the country.

I think it is unfortunate that this particular bill has followed the tortured process it has in getting here. In some ways, it's unworthy of the contributions that the gentleman from Missouri has made over the course of his career. I think it is going to be very important for us moving forward to try to, just as we return the House to a more regular order where Members can make contributions, that the whole process of a defense authorization bill can return to a more regular order.

I'd like to just mention a couple of provisions. One was mentioned on bringing detainees here from Guantanamo. Mr. Speaker, I think it's important to have that provision here, but we should remember that how we got here was a rash and irresponsible campaign promise by the President that he was going to close Guantanamo within the first year. And as the administration has tried to dodge and weave its way around keeping that promise, we have come to a virtual standstill on bringing those detainees through a judicial process. I hope that this bill is the first step towards making that happen, getting back to a regular judicial process for those detainees.

The other provision I want to mention is the acquisition reform, an important first step to be sure, but it will be very important for this committee also to follow it up and measure the effectiveness, because every dollar spent is critical to be effective.

Mr. SKELTON. I yield 1 minute to my friend and colleague, the chairman of the Subcommittee on Seapower, the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR. Mr. Speaker, I come to rise in support of this bill, but most of all, to tell the American people what a great man this bill is named after. Under his guidance, the House Armed Services Committee, the first hearing that was held under his leadership was to address the problem of underbody explosions to American vehicles. Under IKE SKELTON, the previous Secretary of Defense wanted to build 5,000 mine-resistant vehicles. The first hearing under IKE's watch was to discuss the possibility of building mine-resistant vehicles. We set the bar at 15,000. The next day, the new Secretary of Defense, Secretary Gates, said, No, it's not going to be 15,000. It's going to be 17,000. Now that number stands at about 19,000.

What has that accomplished? In 2005, the Mississippi Guard went to Iraq. Twenty-eight of my fellow Mississippians died from underbody explosions to vehicles. In 2009, the Mississippi Guard went back to Iraq. They were attacked 85 times. They did not lose a limb, they did not lose a life, because of the mine-resistant vehicles they were traveling in.

On IKE SKELTON's watch, the fleet has grown by seven ships. We have a friendly game of one-upmanship in this Chamber, incoming Mr. Chairman. I've got believe IKE SKELTON set the bar very high for you. I look forward to you doing even better.

IKE SKELTON, thank you for the magnificent job you've done in saving the lives of our troops.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. CONAWAY), a member of the committee.

Mr. CONAWAY. I, too, want to add my deep respect and gratitude to the outgoing chairman, IKE SKELTON, a man that I have come to know and love these 4 years under his tutelage in the chairmanship, and I wish him and his terrific wife, Patty, all the very best in the next chapter in their life.

I also want to brag on the fact that the acquisition reform language made it into the final cut. A lot of work went into that from really good folks. I'm looking forward to being part of the monitoring system to make sure that it gets implemented properly.

As a part of that, we're also anxious to continue to hold the Department of Defense and all of the various branches' feet to the fire with respect

to auditable financial statements. As you know, the Department of Defense cannot audit its own books today. It is an important initiative. There are great folks in the Pentagon working hard. I'm looking forward to the next 2 years, being a part of that process that makes sure they continue to have the resources they need to get the audit work done so that the Department of Defense can tell the American people that they are, in fact, spending the money that we so precious allot to them properly in the way to go.

Again, let me add one last thank you to IKE SKELTON for his tutelage and mentorship over the years on the committee. We're going to miss you, IKE, sir, and all the best and Godspeed in your next career.

The SPEAKER pro tempore. The gentleman from California has 1 minute remaining and the gentleman from Missouri has 5½ minutes remaining.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to my friend, the distinguished gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding and rise in emphatic support of the IKE SKELTON National Defense Authorization Act for Fiscal Year 2011.

This bill, as befits its title, makes record investments in our Nation's military, authorizing \$725 billion to strengthen national security. Our friends on the other side of the aisle have said that they would do things differently next year. It'll be interesting to see whether or not this becomes a high water mark for defense spending, given the deficits, debt, and other fiscal policy obstacles that remain in our future, that loom over our future. This bill fully funds operations in Afghanistan and Iraq, while modernizing the force to prepare and be ready for the threats of today and the wars of tomorrow.

Mr. Chairman, I have served on the Armed Services Committee for 28 years. I have always believed that our first order of business is to fund the defense of this Nation. This will be the last defense authorization bill on which I have had the honor of working side by side with my great friend, IKE SKELTON. I will be honored to cast my final vote for a good bill that funds our deployed troops, keeps our many commitments, and secures the Nation of threats foreign and abroad and bears the name of a real patriot, a great patriot, ISAAC NEWTON SKELTON, known to all of us and loved by all of us by the name of IKE.

I urge my colleagues to join us in supporting this bill with this worthy name.

The SPEAKER pro tempore. The gentleman from California has 1½ minutes remaining and the gentleman from Missouri has 4 minutes remaining.

Mr. McKEON. I reserve the balance of my time.

Mr. SKELTON. I yield 1 minute to my friend, the gentleman from New Jersey (Mr. ANDREWS), a member of our committee.

Mr. ANDREWS. I want to first associate myself with the remarks from my friend Mr. CONAWAY and the work we had the chance to do together on acquisition reform. And I'm so proud to cast this vote for a bill that's so aptly named after IKE SKELTON.

The measure of a person's achievement is not found in the pages of lawbooks or in the annals of politics. The measure of Chairman SKELTON's achievement is the improvement in the quality of life of troops around the world. This morning, Mr. Chairman, because of you, they are safer; they are better trained; they are better equipped; and, most importantly—and I know this matters to you—their families and their loved ones are in better schools, better housing, and they have better health care.

The chairman has always said that each year was going to be the "year of the troops." He said it every year, and he meant it. Because every year that he served in this Congress, on this committee, and as its chairman, he made it the "year of the troops." His contribution will go far beyond the years and far beyond this bill.

It's an honor to serve with this chairman. Thank you, on behalf of those who wear the uniform of this country, for your selfless patriotism and service to them.

□ 1240

Mr. McKEON. I continue to reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield 30 seconds to a member of our committee, the gentlewoman from Guam (Ms. BORDALLO).

Ms. BORDALLO. Mr. Speaker, I rise in support of the Ike Skelton National Defense Authorization Act.

The bill provides critical authorities for the Department of Defense to ensure that the military buildup on Guam is implemented successfully.

I especially thank Chairman SKELTON and Ranking Member McKEON for ensuring that the most important parts of H.R. 44, the Guam World War II Loyalty Recognition Act, were incorporated into this bill. This provision is so important to my constituents, and it is connected to the success for the military buildup.

Finally, I thank Chairman SKELTON for his steadfast and unwavering support of Guam. We will miss his leadership on the committee and in this body, but it is a well-deserved honor to have this bill named after Chairman SKELTON. I urge support of its passage.

Mr. Speaker, I rise to support H.R. 6523, the Ike Skelton National Defense Authorization Act for Fiscal Year 2011. The bill provides critical authorities for the Department of Defense over the coming year and also includes a pro-

vision, Title 17, that is compromise language to H.R. 44, the Guam World War II Loyalty Recognition Act. This provision is important to my constituents as it resolves a longstanding injustice. Mr. Speaker, I thank the President and his administration, specifically Secretary Ken Salazar and Assistant Secretary Tony Babauta from the Department of the Interior, as well as Deputy Secretary of Defense Bill Lynn, Undersecretary of the Navy Robert Work, Assistant Secretary of Defense Chip Gregson, Assistant Secretary of the Navy Jackalynne Pfannenstiel, Deputy Undersecretary of Defense Dorothy Robyn and Mr. Joe Ludovici of the Joint Guam Program Office who emphasized to the Congress the importance of this provision to our Nation, to the people of Guam, and for maintaining support within the community on Guam for the military build-up.

Although now before us is the compromise language insisted upon by the other body, the people of Guam have sought closure on this matter for many years. Today we have arrived at that critical juncture. It has been 6 years since the Federal Guam War Claims Review Commission fulfilled the mandate of Public Law 107-333 and recommended to Congress the enactment of legislation that takes the form in this Congress as H.R. 44. The military build-up is beginning construction, in earnest, in the next few months and it is important to my constituents that this issue be finally addressed. The compromise, now before us, is identical to the compromise tendered during conference on last year's defense bill. Last year, I was not able to accept the compromise because I needed to first hear from my constituents about their thoughts on its potential ramifications. While the House has overwhelmingly embraced H.R. 44, the full provision and passed it multiple times, and the President and his administration have urged its enactment, regrettably there continues to be objections in the Senate to certain elements of the provision, namely the category of claimants in which descendants of Chamorros who survived the occupation and suffered personal injury but who have since passed away would be compensated. Therefore, the basis and need for this compromise language.

The defense bill also continues to support the Defense Policy Review Initiative and the so-called Guam International Agreement that outline the realignment of military forces in the Western Pacific. The bill recognizes the strategic importance to the bilateral relationship between the United States and Japan of realigning forces within Okinawa, Japan with some realigning to Guam. Specifically, this bill continues our tradition of providing stringent oversight of the military build-up and ensuring accountability with this significant undertaking. One provision, in particular, helps to make sure the military build-up is done right and benefits our civilian community. Section 2822 authorizes the Department of the Navy to convey its water and wastewater system to the Guam Waterworks Authority. This permissive authority outlines Congress's intent for any such conveyance of the water and wastewater systems. Further, it recognizes the efficiency of scale that can be achieved by having one, single and integrated water and wastewater system on Guam. Of importance to some of

my constituents, is that the resources of Fena Reservoir will once again benefit our civilian community.

The bill also reaffirms this Congress's commitment to our men and women in the National Guard. The legislation authorizes \$700 million in the National Guard and Reserve Equipment Account, totaling over \$7.2 billion in funding for National Guard and Reserve equipment requirements. Of particular concern to the Guam National Guard is authorization for a long-awaited \$19 million military construction project for a new Combined Support Maintenance Shop at the Barrigada Joint Force Headquarters complex on Guam. It also extends a critical authority to be able to recruit and retain quality Guardsmen and women from the Commonwealth of the Northern Mariana, CNMI, islands. Section 621, extends for 1 year, authority for eligible members of the National Guard and Reserves to be reimbursed for certain travel expenses in conjunction with inactive duty training. This authority is critical to ensure members of the Guam National Guard residing in the CNMI are able to train with their fellow Guardsmen on Guam and to maintain their readiness in the event they need to support local or federal requirements.

Finally, I extend my deepest thanks to Chairman SKELTON for his steadfast and unwavering support of Guam and issues that are important to our people. He and Ranking Member McKEON remained firm in their support for H.R. 44, and have helped tremendously with ensuring plans for the military build-up reflected the needs and concerns of the people of Guam. We will miss Chairman SKELTON's leadership on the Committee and in this body dearly. We join the Nation in saluting him for all that he has done for the men and women who have served and continue to serve and their families. We look forward to continuing to work under incoming Chairman McKEON's steady leadership, and with the legacy of Chairman SKELTON that he and Congressman SMITH and others will continue to uphold within the Committee. I urge my colleagues to support passage of the Ike Skelton National Defense Authorization Act for our Nation, our troops, and for the people of Guam.

Mr. McKEON. I continue to reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield 30 seconds to my colleague and my friend, the gentleman from Connecticut (Mr. COURTNEY).

Mr. COURTNEY. Mr. Speaker, one of the ways that IKE SKELTON's legacy will be remembered for a long time is with the \$15.7 billion authorization for shipbuilding in this legislation, which will continue this country on the path towards a cost-effective goal of 314 ships, which many chairmen and people who preceded him gave lip service to; but, under his leadership over the last 4 years, we have steadily made progress reforming the LCS Shipbuilding Program and getting to two submarines a year—a goal which was set forth back in 2002 but that finally, with this authorization bill, will be achieved.

In Connecticut a few short months ago, he gave the keynote address at the

USS *Missouri*'s commissioning, which was a proud day for the State of Connecticut and the State of Missouri.

Again, his leadership in terms of getting our Navy to the level we need for our national security is something that we should all pay homage to as it will be remembered for many years to come.

The SPEAKER pro tempore. The gentleman from California has 1½ minutes remaining, and the gentleman from Missouri has 2 minutes remaining.

Mr. McKEON. I continue to reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I wanted to rise today to celebrate the great career of IKE SKELTON.

He and I were classmates. We came here in 1976—he went on the Armed Services Committee; I went on the Appropriations Committee—and we have always worked together.

The issue that I have always enjoyed working with IKE on is the B-2 bomber, the Stealth Bomber. We worked on that. We went out to Missouri many times, to Whiteman. I think that was one of the finest weapons systems that has been developed, and we worked together on converting it to a conventional bomber, which made it a lot more effective, and it has been utilized.

I want to also say that IKE has a tremendous concern about the troops. He has got family members who serve in the military, and he has always been an advocate for the troops. I just want to commend him on his outstanding career and on his great service to this country. The fact that this bill is being named after him is totally appropriate.

I ask everyone to support the bill.

Mr. McKEON. I continue to reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Missouri has 1 minute remaining. The gentleman from California has 1½ minutes remaining.

Mr. SKELTON. Mr. Speaker, I yield 30 seconds to my friend, the gentleman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. Chairman SKELTON, America thanks you. The troops in Texas thank you, and all of the troops around the world thank you.

I thank you for strengthening your commitment to service men and women and their families.

Readiness has been your challenge. I thank you for that. For strengthening the military forces, for making sure they have the right, secure, safe, and the most technologically sophisticated equipment, I thank you.

Likewise, let me say to you: For your demeanor and spirit, for the tears you shed for those who lost their lives, you have never wavered; and for the service that you gave as a young man in the United States military, I cannot thank you enough.

I come today to support this Ike Skelton bill and to ask my colleagues to pay tribute to this American hero.

Mr. Speaker, I rise in strong support of H.R. 6523, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

As a Member of both the Foreign Affairs and Homeland Security Committees, I highly commend Chairman IKE SKELTON for his steadfast leadership and tireless efforts to invest in our military to increase our national security. I join him in strongly supporting the men and women of our Armed Forces; they make the greatest of sacrifices to ensure our national security as a matter of duty. So, I stand here today to say to my colleagues here in Congress, that "now it is our duty to take care of the military families who take care of us!"

This defense bill reflects our commitment to support the men and women who fight to secure not only our citizen's freedom, but the freedom of others. In H.R. 6523, Chairman IKE SKELTON and the Armed Services Committee provide the necessary resources to protect the American people and our national interests at home and abroad.

The National Defense Authorization Act for Fiscal Year 2011 makes record investments in our Nation's military, authorizing a \$725 billion budget to further strengthen our national security, provide our brave men and women in uniform with the tools to do their jobs, and take care of our servicemembers and their families who make sacrifices right there beside them. It utilizes a sound and balanced strategy to provide the resources we need to sustain two wars today and to be prepared for the threats of tomorrow—whatever and wherever they may be.

This legislation: Strengthens counterterrorism efforts and force protection; strengthens missile defense; strengthens nuclear non-proliferation; strengthens support for servicemembers and their families; strengthens military forces; and strengthens defense acquisition.

The National Defense Authorization Act for Fiscal Year 2011, further strengthens our national security by continuing Congress' work to provide the necessary funding, authorities, and oversight for those who defend America from terrorists. It fully supports President Obama's counterinsurgency strategy in Afghanistan, the nation that served as the genesis for multiple attacks against America, including the terrorist attacks of September 11, 2001. The President's plan in Afghanistan continues to show clear signs of tactical success, putting us on the road toward ensuring that Afghanistan will no longer be used as a safe haven for terrorists.

The bill provides the resources to successfully implement this new strategy and continues to fix the dramatic shortfalls of the previous Administration, when the war in Afghanistan was the forgotten war. It supports the President's strategy on both sides of the border, helping to strengthen the relationship with Pakistan by expanding Coalition Support Funds. Additionally, it supports the President's

efforts to strengthen strategic partnerships with key nations, such as Yemen.

The National Defense Authorization Act for Fiscal Year 2011, also takes unprecedented steps to strengthen our missile defense, continuing to move away from the Cold War mentality and instead align our missile defense policy with the threats of the 21st century. The bill provides support to the President's new Phased, Adaptive Approach to missile defense, which places the highest priority on countering our most immediate threats from nations like Iran and North Korea with proven and effective defense systems, while still providing us with the flexibility to be prepared for the threats of tomorrow.

The efforts of terrorist organizations like al Qaeda to obtain nuclear capabilities are among the most serious threats facing America today. While the threat of nuclear war with a superpower is diminishing, the threat of nuclear terrorism and the risk that nuclear materials might spread to countries hostile to the U.S. are increasing. We cannot adequately protect our Nation until we bring our nuclear policy out of the Cold War era and into the 21st century, and the bill fully supports the President's efforts to secure vulnerable nuclear material and prevent the spread of nuclear weapons to those who seek to do us harm. It funds key programs such as the Department of Energy's Global Threat Reduction Initiative and International Nuclear Materials Protection and Cooperation program and the Global Nuclear Lockdown activities under the Department of Defense's Cooperative Threat Reduction Program.

Our Nation has the best military in the world, and Congress remains committed to providing the very best care and benefits to our troops and the families who are always there to lift them up. This year's bill provides a 1.4 percent pay raise to the troops, allows military families to extend TRICARE coverage to their dependent adult children until age 26, improves the Yellow Ribbon Reintegration Program, and restructures certain education benefits. This year's bill also includes the most comprehensive legislation package ever to address sexual assault in the military and creates a more robust domestic violence prevention program.

This defense authorization bill sponsored by my colleague, Representative IKE SKELTON, rightfully enjoys strong bi-partisan support. It shows our military families that we truly value their service and sacrifice, and provides our military with the level of support they need to keep our national security strong. As a member of the Foreign Affairs and Homeland Security Committees from the great State of Texas, which is home to some 15 military bases and has a proud history of national service, I strongly support this legislation and thank my colleagues for joining me in strengthening our national security and taking care of our military families.

Mr. McKEON. Mr. Speaker, I have 1½ minutes remaining, and the chairman has 30 seconds remaining?

The SPEAKER pro tempore. That is correct.

Mr. McKEON. I would like to yield the gentleman from Missouri 30 seconds of my 1½ minutes.

Mr. Speaker, as has been mentioned before, Chairman SKELTON, Mr. SPRATT, Mr. TAYLOR, Mr. ORTIZ, Mr. SNYDER—all on the top row—represent over 100 years of experience, of service, of dedication, of devotion to the troops. To those who were representing us around the world and protecting our freedoms, I want to thank them for their service.

I have had the opportunity of traveling with IKE, and I have watched him relate to the troops and their families. He just has a spirit about him, and they love to see him. They are going to miss him. We are going to miss him on the committee.

I am going to vote for the IKE SKELTON bill, mainly because it's IKE SKELTON, and I encourage all members of our conference to do so.

I yield back the balance of my time.

Mr. SKELTON. Mr. Speaker, I have no further requests for time, but I wish to add a quick note.

In the poem "Flanders Fields," there is a line that reads: to you we throw the torch; be yours to hold it high.

I say that to my friend, my colleague, the gentleman from California, BUCK MCKEON. I pass the torch to him to make sure that he holds it high. I know full well that he will, and he will continue to make us proud as the chairman. I thank him for his friendship, for his cooperation, for his bipartisanship, and I wish him well and Godspeed in the days ahead.

A special note to all the members of our committee:

We have been a family. It has worked well. Great debates. Solid legislation. But I'd be remiss if I didn't say something about the fantastic staff that we have. To name any one of them would be a disservice to those whether they are at the entry level or at the very highest level. Under the leadership of Paul Arcangeli and, previously, Erin Conaton, we have performed well, and I want to thank each one of them.

Thank you for this tremendous, tremendous opportunity.

Mr. HOLT. Mr. Speaker, I rise in support of this bill, albeit with very mixed feelings.

This bill includes a number of very important programs for our military personnel and their families. Of particular importance is the change in law that allows our men and women in uniform to provide health care benefits to their adult children up to age 26, like the rest of the country can currently do. I'm also pleased that the bill provides a 1.4 percent pay raise for our troops to make sure that their pay raise rates match the private sector, and that it funds a school modernization program for the children of our servicemembers. Unfortunately, one critical provision is missing from this bill.

In May when the House passed this bill, it contained a suicide prevention provision that I authored, named in honor of Sergeant Coleman S. Bean of East Brunswick, New Jersey. Coleman did two combat tours in Iraq. In between and after those tours, he sought treat-

ment for post-traumatic stress disorder, PTSD. Because Sergeant Bean was a member of the Individual Ready Reserve, IRR—a pool of Reserve soldiers not assigned to any unit but available for mobilization if needed—he could not get treatment for his condition because the Departments of Defense and Veterans Affairs refused to take ownership of Sergeant Bean and the thousands like him.

The provision I authored sought to prevent future tragedies like the one experienced by Coleman and his family. Simply stated, the provision would require the Defense Department to make quarterly counseling phone calls to reservists like Coleman. Personnel conducting this call would be required to determine the emotional, psychological, medical, and career needs and concerns of the IRR member. Any IRR member identified as being at risk of harming his or her self would be immediately referred to the nearest emergency room for immediate evaluation and treatment by a qualified mental health care provider, and in those cases the Secretary would be required to confirm that the at-risk IRR member has in fact received the evaluation, and if necessary, treatment.

To my amazement and outrage, Senate negotiators demanded that this provision be removed from the conference report, claiming it was unnecessary. Nothing in this world could possibly be more necessary than doing whatever it takes to prevent our veterans from taking their own lives. As I've said on many occasions, if we can find the money to send our troops off to war, we can find the money to care for them when they return. I look forward to working with incoming Chairman BUCK MCKEON and our new Ranking Member, Republican SMITH of Washington, next year to finally get this provision into law.

Mr. BLUMENAUER. Mr. Speaker, today I voted against H.R. 6523 as amended, the Ike Skelton Defense Authorization Act for FY 2011, because we must redefine, refocus and reign in military spending.

We have the largest defense budget in the world. We cannot continue to spend as much on defense as the next 16 countries combined. We cannot continue to spend billions to protect West Germany from the Soviet Union when both ceased to exist 2 decades ago.

Such policies are not fair to our military or to the taxpayer.

In May, I voted for an earlier version of the Defense Authorization bill because it moved closer to ending the egregious Don't Ask, Don't Tell policy that discriminates against brave, qualified Americans who want to serve their country and contained positive elements that could serve as a platform for further improvement.

This bill no longer contains that repeal and further misses an opportunity to appropriately prioritize funding for our national defense. It leaves the door open for more spending on the unneeded alternative engine for the F-35 fighter, authorizes \$10 billion in missile defense, a \$1 billion, 11 percent, increase over last year, and it unnecessarily ties the hands of the President to deal with Guantanamo facilities.

While nothing is more important than providing the resources needed to keep our men and women in uniform safe, the bill is too root-

ed in the past and the unfortunate present operation in Afghanistan, which I've opposed for scaling up, when we should have been scaling down so that we can refine and refocus on programs that will make our country safer and more secure.

RIGID AEROSHELL VARIABLE BUOYANCY AIR VEHICLE—
ADVANCED TECHNOLOGY DEMONSTRATOR

Mr. SKELTON. Mr. Speaker, I am aware that the Force Transformation Directorate, within the Director, Defense Research and Engineering (DDR&E) Office, is developing an advanced, variable buoyancy, rigid-structure air vehicle with vertical take-off and landing (VTOL) capability and the ability to hover, all while operating at maximum weight. Known as the Pelican project, this effort has the potential to provide for airship technology capable of moving large payloads and brigade-sized units to a point of need.

Pelican could assist in establishing a new inter/intra-theater capability that could greatly increase heavy cargo lift capability and effectiveness, reduce the logistics footprint in theater, provide low cost and "green" cargo carriage, and could establish a new disaster relief capability.

The recent Haiti relief operation demonstrates the importance of this capability. Aircraft dependent on runways were initially turned away because there was insufficient ramp space. A VTOL heavy lift transport, requiring little support infrastructure, would have been immune to this problem. The new VTOL air-lift capability can reduce our dependence on foreign airbases and ports, as well as the effectiveness of anti-access strategies employed by our adversaries.

I encourage the Department to maintain development activities and to initiate plans for a capable 60 ton payload vehicle, ensuring close coordination and cooperation with the Air Force, Transportation Command and Air Mobility Command. I further recommend that this effort be made a program of record beginning in Fiscal Year 2013.

Mr. Speaker, I submit the following exchange of letters on H.R. 6523 for printing in the CONGRESSIONAL RECORD:

HOUSE OF REPRESENTATIVES, COMMITTEE ON SCIENCE AND TECHNOLOGY,

Washington, DC, December 21, 2010.

Hon. IKE SKELTON,
Chairman, Committee on Armed Services,
House of Representatives, Washington, DC.

DEAR CHAIRMAN SKELTON: I am writing to you concerning the jurisdictional interest of the Committee on Science and Technology in H.R. 6523, the Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

Our committee recognizes the importance of H.R. 6523 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over the bill, I do not intend to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Committee on Science and Technology, and that a copy of this letter and your response acknowledging our jurisdictional interest will be included in the CONGRESSIONAL RECORD during consideration of this bill by the House.

Thank you for your consideration in this matter.

Sincerely,

BART GORDON,
Chairman.

HOUSE COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 21, 2010.

Hon. BART GORDON,
Chairman, House Committee on Science and Technology, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 6523, the Ike Skelton National Defense Authorization Act for Fiscal Year 2011. I agree that the Committee on Science and Technology has valid jurisdictional claims to certain provisions in this important legislation, and I am most appreciative of your decision not to schedule a mark-up of this bill in the interest of expediting consideration of this important measure. I agree that by agreeing to waive consideration of certain provisions of the bill, the Committee on Science and Technology is not waiving its jurisdictional claims over these matters.

During consideration of this bill on the House floor, I will ask that this exchange of letters be included in the CONGRESSIONAL RECORD.

Very truly yours,

IKE SKELTON,
Chairman.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. SKELTON) that the House suspend the rules and pass the bill, H.R. 6523, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. McKEON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Resolution 1377, by the yeas and nays; concurring in the Senate amendments to H.R. 1107, de novo;

H.R. 6523, by the yeas and nays; concurring in the Senate amendment to H.R. 628, de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

HONORING THE ACCOMPLISHMENTS OF NORMAN YOSHIO MINETA

The SPEAKER pro tempore. The unfinished business is the vote on the mo-

tion to suspend the rules and agree to the resolution (H. Res. 1377) honoring the accomplishments of Norman Yoshio Mineta, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa (Mr. FALEOMAVAEGA) that the House suspend the rules and agree to the resolution.

The vote was taken by electronic device, and there were—yeas 384, nays 0, not voting 49, as follows:

[Roll No. 648]

YEAS—384

Ackerman	Cohen	Gutierrez
Aderholt	Cole	Hall (NY)
Adler (NJ)	Conaway	Hall (TX)
Akin	Connolly (VA)	Halvorson
Alexander	Conyers	Hare
Altmire	Cooper	Harman
Andrews	Costa	Harper
Arcuri	Costello	Hastings (FL)
Austria	Courtney	Hastings (WA)
Baca	Crenshaw	Heinrich
Bachmann	Critz	Heller
Bachus	Crowley	Hensarling
Baldwin	Cuellar	Hergert
Barrow	Culberson	Herseth Sandlin
Bartlett	Cummings	Higgins
Bean	Dahlkemper	Hill
Becerra	Davis (CA)	Himes
Berkley	Davis (IL)	Hinchey
Berman	Davis (KY)	Hirono
Biggert	DeFazio	Hoekstra
Bilbray	DeLauro	Holden
Bilirakis	Dent	Holt
Bishop (GA)	Deutch	Honda
Bishop (NY)	Diaz-Balart, L.	Hoyer
Bishop (UT)	Diaz-Balart, M.	Hunter
Blackburn	Dicks	Inglis
Blumenauer	Dingell	Insee
Blunt	Doggett	Israel
Boccieri	Donnelly (IN)	Issa
Boehner	Doyle	Jackson (IL)
Bonner	Dreier	Jackson Lee
Bono Mack	Driehaus	(TX)
Boozman	Duncan	Jenkins
Boren	Edwards (MD)	Johnson (IL)
Boswell	Edwards (TX)	Jordan (OH)
Boucher	Ehlers	Kagen
Boustany	Ellison	Kanjorski
Brady (TX)	Ellsworth	Kaptur
Bright	Emerson	Kennedy
Brown (GA)	Engel	Kildee
Brown, Corrine	Eshoo	Kilroy
Buchanan	Etheridge	Kind
Burgess	Farr	King (IA)
Burton (IN)	Fattah	King (NY)
Butterfield	Filner	Kingston
Buyer	Flake	Kirkpatrick (AZ)
Calvert	Fleming	Kissell
Camp	Forbes	Klein (FL)
Campbell	Fortenberry	Kline (MN)
Cantor	Foster	Kosmas
Cao	Fox	Kratovil
Capito	Frank (MA)	Kucinich
Capps	Franks (AZ)	Lamborn
Capuano	Frelinghuysen	Lance
Carnahan	Fudge	Langevin
Carson (IN)	Garamendi	Larsen (WA)
Carter	Garrett (NJ)	Larson (CT)
Cassidy	Gerlach	Latham
Castle	Giffords	LaTourette
Castor (FL)	Gingrey (GA)	Latta
Chaffetz	Gohmert	Lee (CA)
Chandler	Gonzalez	Lee (NY)
Childers	Goodlatte	Levin
Chu	Gordon (TN)	Lewis (CA)
Clarke	Graves (GA)	Linder
Clay	Graves (MO)	Lipinski
Cleaver	Green, Al	LoBiondo
Clyburn	Green, Gene	Loeb
Coble	Grijalva	Lofgren, Zoe
Coffman (CO)	Guthrie	Lowey

Lucas	Paulsen	Shimkus
Luetkemeyer	Payne	Shuler
Lujan	Pence	Shuster
Lummis	Perlmutter	Simpson
Lungren, Daniel E.	Perriello	Sires
Lynch	Peters	Skelton
Mack	Peterson	Slaughter
Maffei	Petri	Smith (NE)
Maloney	Pingree (ME)	Smith (NJ)
Manzullo	Pitts	Smith (TX)
Markey (CO)	Platts	Smith (WA)
Markey (MA)	Poe (TX)	Snyder
Marshall	Pollis (CO)	Space
Matheson	Pomeroy	Spratt
Matsui	Posey	Stark
McCarthy (CA)	Price (GA)	Stearns
McClintock	Price (NC)	Stutzman
McCollum	Putnam	Sullivan
McCotter	Rahall	Sutton
McDermott	Rangel	Tanner
McGovern	Reed	Taylor
McHenry	Rehberg	Teague
McIntyre	Reichert	Terry
McKeon	Richardson	Thompson (CA)
McMahon	Rodriguez	Thompson (MS)
McNerney	Roe (TN)	Thompson (PA)
Meeks (NY)	Rogers (AL)	Thornberry
Melancon	Rogers (KY)	Tiahrt
Mica	Rogers (MI)	Tiberi
Michaud	Rohrabacher	Tierney
Miller (FL)	Rooney	Titus
Miller (MI)	Ros-Lehtinen	Tonko
Miller (NC)	Roskam	Towns
Miller, George	Ross	Tsongas
Minnick	Rothman (NJ)	Turner
Mitchell	Roybal-Allard	Upton
Mollohan	Royce	Van Hollen
Moore (KS)	Ruppersberger	Velázquez
Moore (WI)	Rush	Visclosky
Moran (VA)	Ryan (OH)	Walden
Murphy (CT)	Ryan (WI)	Walz
Murphy (NY)	Sánchez, Linda T.	Wasserman
Murphy, Patrick	Sanchez, Loretta	Schultz
Murphy, Tim	Sarbanes	Watson
Myrick	Scalise	Watt
Nadler (NY)	Schakowsky	Waxman
Neal (MA)	Schauer	Weiner
Neugebauer	Schiff	Welch
Nunes	Schmidt	Westmoreland
Nye	Schock	Whitfield
Oberstar	Schrader	Wilson (OH)
Obey	Schwartz	Wilson (SC)
Olson	Scott (GA)	Wittman
Oliver	Scott (VA)	Wolf
Owens	Sensenbrenner	Woolsey
Pallone	Serrano	Wu
Pascarella	Sessions	Yarmuth
Pastor (AZ)	Shadegg	Young (AK)
Paul	Sherman	

NOT VOTING—49

Baird	Galleghy	Miller, Gary
Barrett (SC)	Granger	Moran (KS)
Barton (TX)	Grayson	Napolitano
Berry	Griffith	Ortiz
Boyd	Hinojosa	Quigley
Brady (PA)	Hodes	Radanovich
Braley (IA)	Johnson (GA)	Reyes
Brown (SC)	Johnson, E. B.	Salazar
Brown-Waite,	Johnson, Sam	Sestak
Ginny	Jones	Shea-Porter
Cardoza	Kilpatrick (MI)	Speier
Carney	Lewis (GA)	Stupak
Davis (AL)	Marchant	Wamp
Davis (TN)	McCarthy (NY)	Waters
DeGette	McCauley	Young (FL)
DeLahunt	McMorris	
Djou	Rodgers	
Fallin	Meek (FL)	

□ 1318

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PUBLIC CONTRACT LAW
TECHNICAL CORRECTIONS

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and concurring in the Senate amendments to the bill (H.R. 1107) to enact certain laws relating to public contracts as title 41, United States Code, "Public Contracts".

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and concur in the Senate amendments.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Mr. JACKSON of Illinois. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 385, noes 0, not voting 48, as follows:

[Roll No. 649]

AYES—385

Ackerman	Carson (IN)	Etheridge
Aderholt	Carter	Farr
Adler (NJ)	Cassidy	Fattah
Akin	Castle	Fiener
Alexander	Castor (FL)	Flake
Altmire	Chaffetz	Fleming
Andrews	Chandler	Forbes
Arcuri	Childers	Fortenberry
Austria	Chu	Foster
Baca	Clarke	Fox
Bachmann	Clay	Frank (MA)
Bachus	Clyburn	Franks (AZ)
Baldwin	Coble	Frelinghuysen
Barrow	Coffman (CO)	Fudge
Bartlett	Cohen	Garamendi
Bean	Conaway	Garrett (NJ)
Becerra	Connolly (VA)	Gerlach
Berkley	Conyers	Giffords
Berman	Cooper	Gingrey (GA)
Biggert	Costa	Gohmert
Bilbray	Costello	Gonzalez
Bilirakis	Courtney	Goodlatte
Bishop (GA)	Crenshaw	Gordon (TN)
Bishop (NY)	Critz	Graves (GA)
Bishop (UT)	Crowley	Graves (MO)
Blackburn	Cuellar	Green, Al
Blumenauer	Culberson	Green, Gene
Blunt	Cummings	Grijalva
Bocieri	Dahlkemper	Guthrie
Boehner	Davis (CA)	Gutierrez
Bonner	Davis (IL)	Hall (NY)
Bono Mack	Davis (KY)	Hall (TX)
Boozman	DeFazio	Halvorson
Boren	DeLauro	Hare
Boswell	Dent	Harman
Boucher	Deutch	Harper
Boustany	Diaz-Balart, L.	Hastings (FL)
Brady (TX)	Diaz-Balart, M.	Hastings (WA)
Braley (IA)	Dicks	Heinrich
Bright	Dingell	Heller
Broun (GA)	Doggett	Hensarling
Brown, Corrine	Donnelly (IN)	Heger
Buchanan	Doyle	Herseth Sandlin
Burgess	Dreier	Higgins
Burton (IN)	Driebeaus	Hill
Calvert	Duncan	Himes
Camp	Edwards (MD)	Hinchee
Campbell	Edwards (TX)	Hirono
Cantor	Ehlers	Hoekstra
Cao	Ellison	Holden
Capito	Ellsworth	Holt
Capps	Emerson	Honda
Capuano	Engel	Hoyer
Carnahan	Eshoo	Hunter

Inglis	Melancon	Sarbanes
Insee	Mica	Scalise
Israel	Michaud	Schakowsky
Issa	Miller (FL)	Schauer
Jackson (IL)	Miller (MI)	Schiff
Jackson Lee	Miller (NC)	Schmidt
(TX)	Miller, George	Schock
Jenkins	Minnick	Schrader
Johnson (GA)	Mitchell	Schwartz
Johnson (IL)	Mollohan	Scott (GA)
Jordan (OH)	Moore (KS)	Scott (VA)
Kagen	Moore (WI)	Sensenbrenner
Kanjorski	Moran (VA)	Serrano
Kaptur	Murphy (CT)	Sessions
Kennedy	Murphy (NY)	Shadeegg
Kildee	Murphy, Patrick	Shea-Porter
Kilroy	Murphy, Tim	Sherman
Kind	Myrick	Shimkus
King (IA)	Nadler (NY)	Shuler
King (NY)	Nadler (MA)	Shuster
Kingston	Neugebauer	Simpson
Kirkpatrick (AZ)	Nunes	Sires
Kissell	Nye	Skelton
Klein (FL)	Oberstar	Slaughter
Kline (MN)	Obey	Smith (NE)
Kosmas	Olson	Smith (NJ)
Kratovil	Olver	Smith (TX)
Kucinich	Owens	Smith (WA)
Lamborn	Pallone	Snyder
Lance	Pascarella	Space
Langevin	Pastor (AZ)	Spratt
Larsen (WA)	Paul	Stark
Larson (CT)	Paulsen	Stearns
Latham	Payne	Stutzman
LaTourette	Pence	Sullivan
Latta	Perlmutter	Sutton
Lee (CA)	Perriello	Tanner
Lee (NY)	Peters	Taylor
Levin	Peterson	Teague
Lewis (CA)	Petri	Terry
Lewis (GA)	Pingree (ME)	Thompson (CA)
Linder	Pitts	Thompson (MS)
Lipinski	Platts	Thompson (PA)
LoBiondo	Poe (TX)	Thornberry
Loebach	Polis (CO)	Tiahrt
Loftgren, Zoe	Pomeroy	Tiberi
Lowe	Posey	Tierney
Lucas	Price (GA)	Titus
Luetkemeyer	Price (NC)	Tonko
Lujan	Putnam	Towns
Lummis	Rahall	Tsongas
Lungren, Daniel	Rangel	Turner
E.	Reed	Upton
Lynch	Rehberg	Van Hollen
Mack	Reichert	Velázquez
Maffei	Richardson	Visclosky
Maloney	Rodriguez	Walden
Manzullo	Roe (TN)	Walz
Markey (CO)	Rogers (AL)	Wasserman
Markey (MA)	Rogers (KY)	Schultz
Marshall	Rogers (MI)	Watson
Matheson	Rohrabacher	Watt
Matsui	Rooney	Buyer
McCarthy (CA)	Ros-Lehtinen	Calvert
McCaul	Roskam	Camp
McClintock	Rothman (NJ)	Arcuri
McCollum	Roybal-Allard	Austria
McCotter	Royce	Baca
McDermott	Royce	Bachmann
McGovern	Ruppersberger	Bachus
McHenry	Rush	Barrow
McIntyre	Ryan (OH)	Bartlett
McKeon	Ryan (WI)	Bean
McMahon	Sánchez, Linda	Becerra
McNerney	T.	Berkley
Meeks (NY)	Sanchez, Loretta	Berman
		Biggert
		Bilbray
		Bilirakis
		Bishop (GA)
		Bishop (NY)
		Bishop (UT)
		Blackburn
		Blunt
		Bocieri
		Boehner
		Bonner
		Bono Mack
		Boozman
		Boren
		Boswell
		Boucher
		Boustany
		Brady (TX)
		Braley (IA)
		Bright
		Broun (GA)
		McMorris
		Rodgers
		Meek (FL)
		Miller, Gary
		Moran (KS)
		Napolitano
		Ortiz
		Quigley
		Radanovich
		Reyes
		Salazar
		Sestak
		Speier
		Stupak
		Wamp
		Waters
		Young (FL)

NOT VOTING—48

Baird	DeGette	McMorris
Barrett (SC)	Delahunt	Rodgers
Barton (TX)	Djou	Meek (FL)
Berry	Fallin	Miller, Gary
Boyd	Gallegly	Moran (KS)
Brady (PA)	Granger	Napolitano
Brown (SC)	Grayson	Ortiz
Brown-Waite,	Griffith	Quigley
Ginny	Hinojosa	Radanovich
Butterfield	Hodes	Reyes
Buyer	Johnson, E. B.	Salazar
Cardoza	Jones	Sestak
Carney	Johnson, Sam	Speier
Cleaver	Jones	Stupak
Cole	Kilpatrick (MI)	Wamp
Davis (AL)	Marchant	Waters
Davis (TN)	McCarthy (NY)	Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1327

So (two-thirds being in the affirmative) the rules were suspended and the Senate amendments were concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

IKE SKELTON NATIONAL DEFENSE
AUTHORIZATION ACT FOR FISCAL
YEAR 2011

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 6523) to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. SKELTON) that the House suspend the rules and pass the bill, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 341, nays 48, not voting 44, as follows:

[Roll No. 650]

YEAS—341

Ackerman	Brown, Corrine	Dahlkemper
Aderholt	Buchanan	Davis (CA)
Adler (NJ)	Burgess	Davis (IL)
Akin	Burton (IN)	Davis (KY)
Alexander	Butterfield	DeLauro
Altmire	Buyer	Dent
Andrews	Calvert	Deutch
Arcuri	Camp	Diaz-Balart, L.
Austria	Cantor	Diaz-Balart, M.
Baca	Cao	Dicks
Bachmann	Capito	Dingell
Bachus	Capps	Doggett
Barrow	Carnahan	Donnelly (IN)
Bartlett	Carson (IN)	Doyle
Bean	Carter	Dreier
Becerra	Cassidy	Driebeaus
Berkley	Castle	Edwards (MD)
Berman	Castor (FL)	Edwards (TX)
Biggert	Chaffetz	Ellsworth
Bilbray	Chandler	Emerson
Bilirakis	Childers	Engel
Bishop (GA)	Clay	Etheridge
Bishop (NY)	Cleaver	Fattah
Bishop (UT)	Clyburn	Fleming
Blackburn	Coble	Forbes
Blunt	Coffman (CO)	Fortenberry
Bocieri	Cole	Foster
Boehner	Conaway	Fox
Bonner	Connolly (VA)	Frank (MA)
Bono Mack	Cooper	Franks (AZ)
Boozman	Costa	Frelinghuysen
Boren	Costello	Garrett (NJ)
Boswell	Courtney	Gerlach
Boucher	Crenshaw	Giffords
Boustany	Critz	Gingrey (GA)
Brady (TX)	Crowley	Gohmert
Braley (IA)	Cuellar	Gonzalez
Bright	Culberson	Goodlatte
Broun (GA)	Cummings	Gordon (TN)

Graves (GA) Mack
Graves (MO) Maffei
Green, Al Maloney
Green, Gene Manzullo
Grijalva Markey (CO)
Guthrie Markey (MA)
Gutierrez Marshall
Hall (TX) Matheson
Halvorson McCarthy (CA)
Hare McCaul
Harman McClintock
Harper McCollum
Hastings (FL) McCotter
Hastings (WA) McDermott
Heinrich McGovern
Heller McHenry
Hensarling McIntyre
Herger McKeon
Herseth Sandlin McMahon
Higgins McNeerney
Hill Meeks (NY)
Himes Melancon
Hinchey Mica
Hirono Miller (FL)
Hoekstra Miller (MI)
Holden Miller (NC)
Holt Minnick
Hoyer Mitchell
Hunter Mollohan
Inglis Moore (KS)
Inslee Moran (VA)
Israel Murphy (CT)
Issa Murphy (NY)
Jackson Lee Murphy, Patrick
(TX) Murphy, Tim
Jenkins Myrick
Johnson (GA) Neal (MA)
Jordan (OH) Neugebauer
Kanjorski Nunes
Kaptur Nye
Kennedy Oberstar
Kildee Obey
Kilroy Olson
Kind Owens
King (IA) Pallone
King (NY) Pascrell
Kingston Pastor (AZ)
Kirkpatrick (AZ) Paulsen
Kissell Pence
Klein (FL) Perlmutter
Kline (MN) Perriello
Kosmas Peters
Kratovil Peterson
Lamborn Petri
Lance Pitts
Langevin Platts
Larsen (WA) Poe (TX)
Larson (CT) Polis (CO)
Latham Pomeroy
LaTourette Posey
Latta Price (GA)
Lee (NY) Price (NC)
Levin Putnam
Lewis (CA) Rahall
Linder Rangel
Lipinski Reed
LoBiondo Rehberg
Loeb sack Reichert
Lowey Richardson
Lucas Rodriguez
Luetkemeyer Roe (TN)
Luján Rogers (AL)
Lummis Rogers (KY)
Lungren, Daniel Rogers (MI)
E. Rohrabacher
Lynch Rooney

NAYS—48

Baldwin Fudge
Blumenauer Garamendi
Campbell Hall (NY)
Capuano Honda
Chu Jackson (IL)
Clarke Johnson (IL)
Cohen Kagen
Conyers Kucinich
DeFazio Lee (CA)
Duncan Lewis (GA)
Ehlers Lofgren, Zoe
Ellison Matsui
Eshoo Michaud
Farr Miller, George
Filner Moore (WI)
Flake Nadler (NY)

Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sánchez, Linda
T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Smith (NE)
Smith (TX)
Smith (WA)
Snyder
Space
Spratt
Stearns
Stutzman
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Titus
Tonko
Tsongas
Turner
Upton
Van Hollen
Visclosky
Walden
Walz
Wasserman
Schultz
Weiner
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Wu
Yarmuth
Young (AK)

NOT VOTING—44

Baird
Barrett (SC)
Barton (TX)
Berry
Boyd
Brady (PA)
Brown (SC)
Brown-Waite,
Ginny
Cardoza
Carney
Davis (AL)
Davis (TN)
DeGette
Delahunt
Djou
Fallin
Gallegly
Granger
Grayson
Griffith
Hinojosa
Hodes
Johnson, E. B.
Johnson, Sam
Jones
Kilpatrick (MI)
Marchant
McCarthy (NY)
McMorris
Rodgers
Meek (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1336

Ms. MOORE of Wisconsin, Ms. MATSUI, and Mr. ELLISON changed their vote from “yea” to “nay.”

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Ladies and gentlemen, the House as all of you know, as is too often the case, we are at a point in time in our schedule where, as I said, too often we find ourselves on the brink of a CR or some other document expiring which leaves the government without funds to continue. That will happen tomorrow at midnight.

We have been in constant communication with the United States Senate, and we are not exactly sure what they are going to pass and, more importantly, when they are going to pass it. As a result, we are confronted with the challenge of ensuring that we have passed a document which will ensure that government does not shut down tomorrow night.

Therefore, it is our intent at this point in time to recess to go to the Rules Committee to obtain a short-term CR, for 3 days, until Tuesday night.

Now, there is a lot of grumbling on my side, and I appreciate your courtesy on your side. But having said that, I know there are at least 434 of my colleagues who are not happy about anything right now, and I want you to know I will make that a unanimous judgment. I am not happy, either. But we are in the place where we have a responsibility and we have not yet completed it, for whatever reason. There is a lot of blame to go around, but the fact is we are not where we need to be.

So when we come back from recess—it will take probably 1½, 2 hours, let's

say we come back at 3:30 or 4 o'clock to consider this short-term CR which will get us through whatever the Senate is or is not going to do, I will then hope to be able to announce at that point in time the further schedule for tonight and/or tomorrow; and we would like to preclude the necessity to come back next week. I think that would be consistent—even my side would not grumble at that proposition.

So that's what we are trying to do. I hope you will bear with me. You understand the problem that we are having. It is not a new problem; it exists all the time.

So we are going to recess now. We will come back within a short period of time to do this short-term CR, which will be a simple CR simply extending us through Tuesday. Then at 4 o'clock, we will try to have some more information from the Senate. I will be in communication with Mr. CANTOR and Mr. BOEHNER's office. I talked to Mr. CANTOR's floor person about this and Mr. MCCARTHY about this, and we will have better information at 4 o'clock. I would urge all of you to stay here.

I know that everybody wants to get home. I want to get home myself. I don't live far from here, about an hour; but I have not been by my house and haven't decorated a single—as all of you know, I live alone and, therefore, it's up to me and I haven't been there so it's not done. So I want to get home just like you do.

So bear with us. This is our responsibility. We have two Houses; we've got to agree. So we will let you know at 4 o'clock as we begin the CR where we're going from there and try to have some final word.

Thank you very much.

AUTHORIZING PILOT PROGRAM
FOR PATENT CASES

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and concurring in the Senate amendment to the bill (H.R. 628) to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. CHU) that the House suspend the rules and concur in the Senate amendment.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Mr. BACA. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 371, noes 1, not voting 61, as follows:

[Roll No. 651]

AYES—371

Ackerman	DeLauro	Kind
Aderholt	Dent	King (IA)
Adler (NJ)	Deutch	King (NY)
Akin	Diaz-Balart, L.	Kingston
Alexander	Diaz-Balart, M.	Kirkpatrick (AZ)
Altmire	Dicks	Kissell
Andrews	Dingell	Klein (FL)
Arcuri	Doggett	Kline (MN)
Austria	Donnelly (IN)	Kosmas
Baca	Dreier	Kratovil
Bachmann	Driehaus	Kucinich
Bachus	Duncan	Lamborn
Baldwin	Edwards (MD)	Lance
Barrow	Edwards (TX)	Langevin
Bartlett	Ehlers	Larsen (WA)
Bean	Ellison	Larson (CT)
Berkley	Ellsworth	Latham
Berman	Emerson	LaTourette
Biggert	Engel	Latta
Bilbray	Eshoo	Lee (CA)
Bishop (GA)	Etheridge	Lee (NY)
Bishop (NY)	Farr	Levin
Bishop (UT)	Fattah	Lewis (CA)
Blackburn	Filner	Lewis (GA)
Blumenauer	Flake	Lipinski
Blunt	Fleming	LoBiondo
Bocieri	Fortenberry	Loeb sack
Bonner	Foster	Lofgren, Zoe
Bono Mack	Fox	Lowe
Boozman	Frank (MA)	Lucas
Boren	Frelinghuysen	Luetkemeyer
Boswell	Fudge	Lujan
Boucher	Garamendi	Lummis
Boustany	Garrett (NJ)	Lungren, Daniel
Brady (TX)	Gerlach	E.
Braley (IA)	Giffords	Lynch
Bright	Gingrey (GA)	Mack
Broun (GA)	Gohmert	Maffei
Brown, Corrine	Gonzalez	Maloney
Buchanan	Goodlatte	Manzullo
Burgess	Graves (GA)	Markey (CO)
Burton (IN)	Graves (MO)	Markey (MA)
Buyer	Green, Gene	Marshall
Calvert	Grijalva	Matheson
Camp	Guthrie	Matsui
Campbell	Gutierrez	McCarthy (CA)
Cantor	Hall (NY)	McCaul
Cao	Hall (TX)	McClintock
Capito	Halvorson	McCollum
Capps	Hare	McCotter
Capuano	Harman	McDermott
Carnahan	Harper	McGovern
Carns (IN)	Hastings (FL)	McHenry
Carter	Hastings (WA)	McIntyre
Cassidy	Heinrich	McKeon
Castle	Heller	McMahon
Castor (FL)	Hensarling	McNerney
Chaffetz	Herse th Sandlin	Meeks (NY)
Chandler	Higgins	Mica
Childers	Hill	Michaud
Chu	Himes	Miller (FL)
Clarke	Hinchey	Miller (MI)
Clay	Hirono	Miller (NC)
Cleaver	Hoekstra	Miller, George
Clyburn	Holden	Minnick
Coble	Holt	Mitchell
Coffman (CO)	Honda	Mollohan
Cohen	Hoyer	Moore (WI)
Cole	Hunter	Moran (VA)
Conaway	Inglis	Murphy (CT)
Connolly (VA)	Inslee	Murphy (NY)
Conyers	Israel	Murphy, Patrick
Cooper	Issa	Murphy, Tim
Costa	Jackson (IL)	Myrick
Costello	Jackson Lee	Nadler (NY)
Crenshaw	(TX)	Neal (MA)
Critz	Jenkins	Neugebauer
Crowley	Johnson (GA)	Nunes
Cuellar	Johnson (IL)	Nye
Culberson	Jordan (OH)	Oberstar
Cummings	Kagen	Obey
Dahlkemper	Kanjorski	Olson
Davis (CA)	Kaptur	Olver
Davis (IL)	Kennedy	Owens
Davis (KY)	Kildee	Pallone
DeFazio	Kilroy	Pascarell

Pastor (AZ)	Sánchez, Linda	Sutton
Paulsen	T.	Tanner
Payne	Sanchez, Loretta	Teague
Pence	Sarbanes	Terry
Perriello	Scalise	Thompson (CA)
Peters	Schakowsky	Thompson (MS)
Peterson	Schauer	Thompson (PA)
Petri	Schiff	Thornberry
Pingree (ME)	Schmidt	Tiahrt
Pitts	Schock	Tiberi
Platts	Schrader	Tierney
Poe (TX)	Schwartz	Titus
Polis (CO)	Scott (GA)	Tonko
Posey	Scott (VA)	Towns
Price (GA)	Sensenbrenner	Tsongas
Price (NC)	Serrano	Turner
Putnam	Sessions	Upton
Rahall	Sestak	Van Hollen
Rangel	Shadegg	Velázquez
Reed	Shea-Porter	Visclosky
Rehberg	Sherman	Walden
Reichert	Shimkus	Walz
Richardson	Shuler	Wasserman
Rodriguez	Shuster	Schultz
Roe (TN)	Simpson	Watson
Rogers (AL)	Sires	Watt
Rogers (KY)	Skelton	Waxman
Rogers (MI)	Slaughter	Weiner
Rohrabacher	Smith (NE)	Welch
Rooney	Smith (NJ)	Westmoreland
Ros-Lehtinen	Smith (TX)	Whitfield
Ross	Smith (WA)	Wilson (OH)
Rothman (NJ)	Snyder	Wilson (SC)
Roybal-Allard	Space	Wittman
Royce	Spratt	Wolf
Ruppersberger	Stark	Woolsey
Rush	Stearns	Wu
Ryan (OH)	Stutzman	Yarmuth
Ryan (WI)	Sullivan	Young (AK)

NOES—1

Paul
NOT VOTING—61

Baird	Fallin	Melancon
Barrett (SC)	Forbes	Miller, Gary
Barton (TX)	Franks (AZ)	Moore (KS)
Becerra	Gallely	Moran (KS)
Berry	Gordon (TN)	Napolitano
Bilirakis	Granger	Ortiz
Boehner	Grayson	Perlmutter
Boyd	Green, Al	Pomeroy
Brady (PA)	Griffith	Quigley
Brown (SC)	Herger	Radanovich
Brown-Waite,	Hinojosa	Reyes
Ginny	Hodes	Roskam
Butterfield	Johnson, E. B.	Salazar
Cardoza	Johnson, Sam	Speier
Carney	Jones	Stupak
Courtney	Kilpatrick (MI)	Taylor
Davis (AL)	Linder	Wamp
Davis (TN)	Marchant	Waters
DeGette	McCarthy (NY)	Young (FL)
Delahunt	McMorris	
Djou	Rodgers	
Doyle	Meek (FL)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1349

So (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. McMORRIS RODGERS. Madam Speaker, on rollcall No. 648 on H. Res. 1377, On Motion to Suspend the Rules and Agree, Honoring the accomplishments of Norman Yoshino Mineta, and for other purposes, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea".

Madam Speaker, on rollcall No. 649 on H.R. 1107, On Motion to Suspend the Rules and Concur in the Senate Amendments, An act to enact certain laws relating to public contracts as title 41, United States Code, Public Contracts, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea".

Madam Speaker, on rollcall No. 650 on H.R. 6523, On Motion to Suspend the Rules and Pass, as Amended, Ike Skelton National Defense Authorization Act for Fiscal Year 2011, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea".

Madam Speaker, on rollcall No. 651 on H.R. No. 628, On Motion to Suspend the Rules and Concur in the Senate Amendment, An act to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea".

APPOINTMENTS—INDIAN LAW AND ORDER COMMISSION

The SPEAKER pro tempore (Ms. JACKSON LEE of Texas). Pursuant to section 235 of the Tribal Law and Order Act of 2010 (Public Law 111-211), and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Members to the Indian Law and Order Commission:

Ms. STEPHANIE HERSETH SANDLIN, Brookings, South Dakota; and in addition,

Mr. EARL POMEROY, Bismarck, North Dakota.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 1 o'clock and 50 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1517

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ALTMIRE) at 3 o'clock and 17 minutes p.m.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 105, FURTHER CONTINUING AP-PROPRIATIONS, FISCAL YEAR 2011

Mr. POLIS, from the Committee on Rules, submitted a privileged report (Rept. No. 111-689) on the resolution (H. Res. 1776) providing for consideration of the joint resolution (H.J. Res. 105)

making further continuing appropriations for fiscal year 2011, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. POLIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1776 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1776

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011, and for other purposes. All points of order against consideration of the joint resolution are waived except those arising under clause 10 of rule XXI. The joint resolution shall be considered as read. All points of order against provisions in the joint resolution are waived. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 1 hour.

□ 1520

Mr. POLIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. POLIS. I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 1776.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. I yield myself such time as I may consume.

House Resolution 1776 provides a closed rule for the consideration of H.J. Res. 105, making further continuing appropriations for fiscal year 2011, and for other purposes.

The rule provides 1 hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the joint resolution except those arising under clause 10 of rule XXI. The rule provides that the joint resolution shall be considered as read. The rule waives all points of order against provisions of the joint resolution. Finally, the rule provides one motion to recommit the joint resolution with or without instructions.

Mr. Speaker, I rise today in support of approving a continuing resolution to maintain a level and consistent funding stream for our government.

This resolution is aptly numbered “1776,” a patriotic number for a patriotic bill that will allow government to continue its normal operations until midnight, on Tuesday, to give the Senate a chance to complete its deliberations.

I could take this opportunity to share the frustration of our colleagues at the inability of the Senate to complete its work in a timely manner; but in the spirit of the season, Mr. Speaker, I will simply say that we must pass this continuing resolution to allow the Senate to continue its important work and deliberations to create either a longer term continuing resolution or an omnibus appropriations package that will allow the regular business of government to keep the people of America safe to continue.

I reserve the balance of my time.

Mr. SESSIONS. I yield myself such time as I may consume.

I want to thank my friend, the gentleman from Colorado (Mr. POLIS) not only for his friendship but also for being with us today as we approach the floor on H. Res. 1776.

Mr. Speaker, just last week, I stood right here to do a rule and pointed out that my Democrat colleagues continue to use an unprecedented restrictive and closed process on the House floor, and I am here today to tell the same story.

At least this is very consistent behavior. For 2 years, we have had nothing but closed rules, and here we are today, in fact, in the same place, except what we are doing here today, again, is discussing a long-term continuing resolution, a resolution that went nowhere in the Senate. Yet we are here again today, doing another continuing resolution so that our government does not shut down on Saturday.

Last week, the Rules Committee, under Democrat leadership, reported out an unprecedented long-term martial law rule. They gave themselves 11 days to bring up any bill under a rule that same day, and just yesterday, they reported out an additional martial law rule through Christmas Eve. This only continues the backroom, closed deals that have been pursued throughout the 111th Congress.

What was promised to be the most “open, honest, and ethical” Congress by Speaker NANCY PELOSI when she took the gavel has turned into the most closed, one-sided Congress in history. We tax too much. We spend too much. We regulate too much. We listen too little.

Mr. Speaker, the American people asked for changes in 2008, and they got something that was far worse. In 3 weeks, that will change; but until then, I am here to discuss another closed rule for another continuing resolution.

This day continues to bring about more overspending, which has been a common theme of the last two Con-

gresses—not just another CR but another omnibus. The underlying legislation is a CR to keep the government running until Tuesday. That is true. The Democrats provided no budget this year, and the President has not signed one appropriations bill into law this year. So this legislation and the rule is just another tactic to keep the government running until the majority can figure out its next priority. Well, I assure you it will be all about spending.

Over the past 3 years, nondefense, non-Homeland Security and non-Veterans Affairs discretionary spending has increased by a staggering 88 percent. In the meantime, the Nation's debt has risen to \$13.5 trillion. There have been yearly record deficits since our friends, the Democrats, took the majority and record unemployment. The unemployment rate has now been at or above 9.5 percent for 18 consecutive months.

Republicans want to take spending levels back to 2008, which would save American taxpayers nearly \$100 billion in the first year. I think the American people are fed up with taxing, borrowing, spending, closed rules, and more rules and regulations than we have seen in the past 4 years, which has brought us nothing but more unemployment, higher debt and a monster deficit. Americans have called for an end to the reckless spending and for a new era of fiscal discipline. Yet it continues to fall on deaf ears even today.

This country needs leaders who are willing to make tough financial decisions and fiscal decisions that will bring back our economy, stability, job growth—not just more of the same taxing and spending.

Mr. Speaker, as if continuing the spending levels from 2010 weren't enough, my colleagues on the Democrat side of the aisle are here, acting only today to await a possible Senate omnibus bill that has a total price tag of \$1.1 trillion more to be spent in the next 10 months. That's not called “running the government.” Running the government has already been taken care of. This is \$1.1 trillion.

When will the majority recognize that this simply cannot and should not continue? When will the Democrats understand that taxing and spending and putting our children in an unfavorable position for their futures will not be tolerated?

In true fashion, I know, the Democrats have an agenda, and they need to continue it until the very end, and that is what they are doing. They have shut out Republican ideas for the past 4 years. They continue to shut out the American people. Continuing on the path of reckless government spending will only put us, our children, and our future in debt. Congress must do better.

So, on behalf of my party, the Republican Party, we are on the floor today

to recognize H. Res. 1776. We are going to oppose this rule. We are going to oppose the additional spending, and we promise to do better.

Just last week, I stood right here to do a rule and pointed out that my democrat colleagues continue to use an unprecedented, restrictive, and closed process on the House floor, and here I am again to tell the same story. In fact, last week I was standing here before you Mr. Speaker discussing a long term Continuing Resolution—a resolution that went nowhere in the Senate. Yet, here we are again today, doing another Continuing Resolution so our government does not shut down by this Saturday. Week after week my friends on the other side of the aisle continue to bulldoze their massive spending agenda through the floor of the House with no Republican input, and no regular order. Last week the Rules Committee, under Democrat leadership, reported out an unprecedentedly long martial law rule. They gave themselves eleven days to bring up any bill under a rule the same day, and just yesterday they reported out an additional martial law rule through Christmas Eve. This only continues the backroom, closed deals they have pursued throughout the 111th Congress.

What was promised to be the most “open, honest and ethical” Congress by Speaker PELOSI when she took the gavel, has been the most closed, and one-sided Congress in history. The American people asked for change in 2008 and they got something far worse. They received a Democrat Congress that doesn’t listen to the American people, and a Congress that acts on their own interest and not the interest of the American taxpayer.

Mr. Speaker, in three weeks that will change. But until then, I am here to discuss another closed rule for another Continuing Resolution. The legislation before us continues to over-spend—a common theme over the last two Congresses.

The underlying legislation is a CR to keep the government running until Tuesday. The Democrats provided no budget for this year and the President has not signed one appropriations bill into law—so this legislation and rule is just another tactic to keep the government running until the Majority can kick the responsibility to the Republicans next Congress.

Over the past three years, non-defense, non-homeland security, and non-veterans affairs discretionary spending has increased by a staggering 88 percent. In the meantime, the nation’s debt has risen to \$13.5 trillion, there have been yearly record deficits since the Democrats took the Majority, and the unemployment rate has been at or above 9.5% for 18 consecutive months.

This CR does almost nothing to reverse this trend and instead continues the unsustainable, high rate of spending passed the Democrat Majority last year. This includes more spending for many federal agencies that received massive increases with the Democrat Stimulus bill in 2009. My Republican colleagues and I have pledged to cut non-security spending back to the fiscal year 2008 levels which would save American taxpayers nearly \$100 billion in the first year.

The American people are fed-up with the tax, borrow and spend policies of the past 4

years, which has brought nothing but unemployment, debt and deficit. Americans have called for an end to reckless spending and a new era of fiscal discipline, yet it continues to fall on deaf ears here today. This country needs leaders that are willing to make the tough fiscal decisions that will provide economic stability and job growth, not just more of the same.

In true fashion, my Democrat colleagues continue to push their own agenda on the American people. They have shut out Republicans over the past 4 years, and they continue to shut out the American people. Continuing on the path of reckless government spending, will only put the U.S. further in debt burdening future generations. Congress must do better for the American people. I oppose this rule.

Mr. Speaker, you have heard me say it over and over, but the American people we promised an “open, honest and ethical” Congress, and that is not what they have received. Congress only received the text of this legislation a few hours ago. American’s have called for transparency and bipartisanship and have only seen a secretive dictatorship.

I ask my colleagues to vote no on the rule. Vote “no” to stop the reckless fiscal policies that Speaker PELOSI and the Democrats have pursued over the last 4 years. It is time to end the idea of Big Government and Big Spending.

I yield back the balance of my time.

Mr. POLIS. I yield myself the balance of my time.

Mr. Speaker, I could certainly discuss how the House has passed two appropriations bills this year—the Transportation-HUD appropriations bill and the Military Construction-Veterans Affairs appropriations bill, while the Senate has not passed a single appropriations measure. Last year, the House passed all of the appropriations measures.

I could certainly also discuss how, in the 12 years that the Republicans controlled the House, there were a number of years when not a single regular appropriations measure was enacted by October 1—in 1996, in 2002, and in 2003. In fact, in those 12 years, CRs were enacted 84 times.

Again, Mr. Speaker, in the spirit of the season, in the spirit of charity, and in the spirit of our colleagues’ desire to complete their work in this body, I will simply say that it is critical for the basic functions of government to continue over the next 5 days, particularly during this travel season.

Where would we be on one of the busiest travel weekends of the year if we cut off funding for our air marshals, which the failure of this bill would ensue?

Just yesterday, I was proud that this body passed and sent to the President a bill to keep taxes low for all Americans. I supported this bill, along with 139 of my Democratic colleagues and 138 of my Republican colleagues. In voicing their support for the legislation, many of our friends on both sides of the aisle cited the need for certainty and stability.

Well, Mr. Speaker, this bill before us today provides certainty and predictability for the basic functions of the Federal Government until next Tuesday, at midnight, by which point we will undertake a longer term continuing resolution or other measure to allow for the basic functions of government to continue.

I call upon my colleagues to support this rule and the underlying legislation, and I urge a “yes” vote on the previous question and on the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SESSIONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

□ 1530

PROVIDING FOR THE SINE DIE ADJOURNMENT OF THE SECOND SESSION OF THE 111TH CONGRESS

Mr. POLIS. Mr. Speaker, I send to the desk a privileged concurrent resolution and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 336

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Friday, December 17, 2010, through Friday, December 24, 2010, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns on any day from Sunday, December 19, 2010, through 11:59 a.m. on Monday, January 3, 2011, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SESSIONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this vote on H. Con. Res. 336 will be followed by 5-minute votes on adoption of H. Res. 1776 and motion to suspend the rules on H.R. 2142.

The vote was taken by electronic device, and there were—yeas 196, nays 153, not voting 84, as follows:

[Roll No. 652]

YEAS—196

Adler (NJ)	Gutierrez	Murphy (CT)
Altmire	Hall (NY)	Nadler (NY)
Baldwin	Halvorson	Neal (MA)
Becerra	Hare	Oberstar
Berman	Hastings (FL)	Obey
Blumenauer	Heinrich	Olver
Bocieri	Hereth Sandlin	Pallone
Boren	Higgins	Pascarell
Boswell	Hill	Payne
Boucher	Hinchey	Perlmutter
Braley (IA)	Hirono	Peterson
Bright	Holden	Polis (CO)
Brown, Corrine	Holt	Price (NC)
Butterfield	Honda	Rahall
Campbell	Hoyer	Rangel
Capps	Inslee	Richardson
Capuano	Israel	Roybal-Allard
Carnahan	Jackson (IL)	Ruppersberger
Castle	Jackson Lee	Rush
Castor (FL)	(TX)	Ryan (OH)
Chandler	Johnson (IL)	Sánchez, Linda
Chu	Jordan (OH)	T.
Clarke	Kagen	Sanchez, Loretta
Cleaver	Kanjorski	Sarbanes
Clyburn	Kaptur	Schakowsky
Coffman (CO)	Kennedy	Schauer
Cohen	Kildee	Schiff
Conyers	Kilroy	Schrader
Cooper	Kirkpatrick (AZ)	Scott (GA)
Costa	Kissell	Scott (VA)
Costello	Klein (FL)	Sensenbrenner
Courtney	Kosmas	Serrano
Critz	Kratovil	Sherman
Crowley	Kucinich	Shuler
Cuellar	Langevin	Sires
Cummings	Larsen (WA)	Skelton
Dahlkemper	Larson (CT)	Slaughter
DeFazio	Lee (CA)	Smith (WA)
DeLauro	Levin	Snyder
Deutch	Lewis (GA)	Space
Dicks	Linder	Spratt
Dingell	Loebach	Sutton
Doggett	Lofgren, Zoe	Tanner
Doyle	Lowey	Teague
Driehaus	Luján	Thompson (CA)
Edwards (MD)	Lynch	Thompson (MS)
Edwards (TX)	Maffei	Tierney
Ehlers	Maloney	Titus
Ellison	Markey (CO)	Tonko
Engel	Markey (MA)	Towns
Eshoo	Marshall	Tsongas
Etheridge	Matheson	Van Hollen
Farr	Matsui	Velázquez
Fattah	McCollum	Visclosky
Filner	McDermott	Walz
Foster	McGovern	Watson
Frank (MA)	McMahon	Watt
Fudge	McNerney	Waxman
Garamendi	Meek (FL)	Weiner
Garrett (NJ)	Melancon	Welch
Giffords	Miller (NC)	Whitfield
Gonzalez	Miller, George	Wilson (OH)
Gordon (TN)	Minnick	Woolsey
Grayson	Mollohan	Wu
Green, Gene	Moore (KS)	Yarmuth
Grijalva	Moore (WI)	Young (AK)

NAYS—153

Aderholt	Bilirakis	Brady (TX)
Akin	Bishop (NY)	Brown (GA)
Alexander	Bishop (UT)	Buchanan
Austria	Blackburn	Burgess
Bachmann	Blunt	Burton (IN)
Bachus	Boehner	Buyer
Bartlett	Bonner	Cantor
Biggert	Bono Mack	Cao
Bilbray	Boozman	Capito

Carney	King (NY)	Putnam
Carter	Kingston	Reed
Cassidy	Kline (MN)	Rehberg
Chaffetz	Lamborn	Reichert
Coble	Lance	Roe (TN)
Cole	LaTourette	Rogers (AL)
Conaway	Latta	Rogers (KY)
Connolly (VA)	Lee (NY)	Rogers (MI)
Crenshaw	Lewis (CA)	Rohrabacher
Davis (KY)	LoBiondo	Rooney
Dent	Lucas	Roskam
Diaz-Balart, M.	Luetkemeyer	Royce
Donnelly (IN)	Lummis	Ryan (WI)
Dreier	Lungren, Daniel	Scalise
Duncan	E.	Schmidt
Ellsworth	Mack	Schock
Emerson	Manzullo	Sessions
Flake	McCarthy (CA)	Sestak
Fleming	McCauley	Shadegg
Forbes	McClintock	Shea-Porter
Fortenberry	McCotter	Shimkus
Fox	McHenry	Shuster
Franks (AZ)	McKeon	Simpson
Frelinghuysen	Mica	Smith (NE)
Gerlach	Michaud	Smith (NJ)
Gingrey (GA)	Miller (FL)	Smith (TX)
Gohmert	Miller (MI)	Stearns
Goodlatte	Moran (VA)	Stutzman
Graves (GA)	Myrick	Sullivan
Graves (MO)	Neugebauer	Taylor
Guthrie	Nunes	Terry
Hall (TX)	Nye	Thompson (PA)
Harper	Olson	Thornberry
Hastings (WA)	Owens	Tiahrt
Heller	Paulsen	Tiberi
Hensarling	Pence	Turner
Herger	Perriello	Upton
Hoekstra	Petri	Walden
Hunter	Pitts	Westmoreland
Inglis	Platts	Wilson (SC)
Issa	Poe (TX)	Wolf
Jenkins	Posey	
King (IA)	Price (GA)	

NOT VOTING—84

Ackerman	DeGette	Moran (KS)
Andrews	Delahunt	Murphy (NY)
Arcuri	Diaz-Balart, L.	Murphy, Patrick
Baca	Djaoz	Murphy, Tim
Baird	Fallin	Napolitano
Barrett (SC)	Gallegly	Ortiz
Barrow	Granger	Pastor (AZ)
Barton (TX)	Green, Al	Paul
Bean	Griffith	Peters
Berkley	Harman	Pingree (ME)
Berry	Himes	Pomeroy
Bishop (GA)	Hinojosa	Quigley
Boustany	Hodes	Radanovich
Boyd	Johnson (GA)	Reyes
Brady (PA)	Johnson, E. B.	Rodriguez
Brown (SC)	Johnson, Sam	Ros-Lehtinen
Brown-Waite,	Jones	Ross
Ginny	Kilpatrick (MI)	Rothman (NJ)
Calvert	Kind	Salazar
Camp	Latham	Schwartz
Cardoza	Lipinski	Speier
Carson (IN)	Marchant	Stark
Childers	McCarthy (NY)	Stupak
Clay	McIntyre	Wamp
Culberson	McMorris	Wasserman
Davis (AL)	Rodgers	Schultz
Davis (CA)	Meeks (NY)	Waters
Davis (IL)	Miller, Gary	Wittman
Davis (TN)	Mitchell	Young (FL)

□ 1605

Messrs. COLE, SHUSTER, CARNEY, GRAVES of Missouri, BACHUS, DONNELLY of Indiana, TAYLOR, and Ms. SHEA-PORTER changed their vote from “yea” to “nay.”

Ms. KOSMAS and Mr. YARMUTH changed their vote from “nay” to “yea.”

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 105, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2011

The SPEAKER pro tempore. The unfinished business is the vote on adoption of the resolution (H. Res. 1776) providing for consideration of the joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 184, nays 159, not voting 90, as follows:

[Roll No. 653]

YEAS—184

Altmire	Hall (NY)	Neal (MA)
Baldwin	Halvorson	Oberstar
Becerra	Hare	Obey
Berman	Hastings (FL)	Olver
Bishop (NY)	Heinrich	Owens
Blumenauer	Hereth Sandlin	Pallone
Bocieri	Higgins	Pascarell
Boren	Hill	Payne
Boswell	Hinchey	Perlmutter
Boucher	Holden	Perriello
Braley (IA)	Holt	Peterson
Bright	Honda	Polis (CO)
Brown, Corrine	Hoyer	Price (NC)
Butterfield	Inslee	Rahall
Capps	Israel	Rangel
Capuano	Jackson (IL)	Richardson
Carnahan	Jackson Lee	Roybal-Allard
Carney	(TX)	Ruppersberger
Castor (FL)	Kagen	Rush
Chandler	Kanjorski	Ryan (OH)
Chu	Kaptur	Sánchez, Linda
Clarke	Kennedy	T.
Cleaver	Kildee	Sanchez, Loretta
Clyburn	Kilroy	Sarbanes
Cohen	Kirkpatrick (AZ)	Schakowsky
Cooper	Kissell	Schauer
Costa	Klein (FL)	Schiff
Costello	Kosmas	Schrader
Courtney	Kucinich	Scott (GA)
Critz	Langevin	Scott (VA)
Crowley	Larsen (WA)	Serrano
Cuellar	Larson (CT)	Sestak
Cummings	Lee (CA)	Shea-Porter
Dahlkemper	Levin	Sherman
DeFazio	Lewis (GA)	Sires
DeLauro	Loebach	Skelton
Deutch	Lofgren, Zoe	Slaughter
Dicks	Lowey	Smith (WA)
Dingell	Luján	Snyder
Doggett	Lynch	Space
Donnelly (IN)	Maffei	Spratt
Driehaus	Maloney	Sutton
Edwards (MD)	Markey (CO)	Tanner
Edwards (TX)	Markey (MA)	Teague
Ellison	Marshall	Thompson (CA)
Ellsworth	Matheson	Thompson (MS)
Engel	Matsui	Tierney
Eshoo	McCollum	Titus
Etheridge	McDermott	Tonko
Farr	McGovern	Towns
Fattah	McNerney	Tsongas
Filner	Meek (FL)	Velázquez
Foster	Michaud	Visclosky
Frank (MA)	Miller (NC)	Walz
Fudge	Miller, George	Watson
Garamendi	Minnick	Watt
Giffords	Mollohan	Waxman
Gonzalez	Moore (KS)	Weiner
Gordon (TN)	Moore (WI)	Wilson (OH)
Grayson	Moran (VA)	Woolsey
Green, Gene	Murphy (CT)	Wu
Grijalva	Nadler (NY)	Yarmuth

NAYS—159

Aderholt
Adler (NJ)
Akin
Alexander
Austria
Bachmann
Bachus
Bartlett
Biggert
Billbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Brady (TX)
Broun (GA)
Buchanan
Burgess
Burton (IN)
Buyer
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Connolly (VA)
Crenshaw
Davis (KY)
Dent
Diaz-Balart, M.
Doyle
Dreier
Duncan
Ehlers
Emerson
Flake
Fleming
Forbes
Fortenberry
Foxo
Franks (AZ)
Frelinghuysen

Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Graves (GA)
Graves (MO)
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Ingalls
Issa
Jenkins
Johnson (IL)
Jordan (OH)
King (IA)
King (NY)
Kingston
Kline (MN)
Kratovil
Lamborn
Lance
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMahon
Melancon
Mica
Miller (FL)
Miller (MI)
Myrick
Neugebauer

Nye
Olson
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Reed
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Stearns
Stutzman
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Westmoreland
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—90

Ackerman
Andrews
Arcuri
Baca
Baird
Barrett (SC)
Barrow
Barton (TX)
Bean
Berkley
Berry
Bishop (GA)
Boustany
Boyd
Brady (PA)
Brown (SC)
Brown-Waite,
Ginny
Calvert
Camp
Cardoza
Carson (IN)
Clay
Conyers
Culberson
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeGette
Delahunt

Diaz-Balart, L.
Djou
Fallin
Gallegly
Granger
Green, Al
Griffith
Gutierrez
Harman
Himes
Hinojosa
Hirono
Hodes
Johnson (GA)
Johnson, E. B.
Johnson, Sam
Jones
Kilpatrick (MI)
Kind
Latham
Lipinski
Marchant
McCarthy (NY)
McIntyre
McMorris
Rodgers
Meeks (NY)
Miller, Gary
Mitchell
Moran (KS)
Murphy (NY)

Murphy, Patrick
Murphy, Tim
Napolitano
Nunes
Ortiz
Pastor (AZ)
Paul
Peters
Pingree (ME)
Pomeroy
Quigley
Radanovich
Reyes
Rodriguez
Ros-Lehtinen
Ross
Rothman (NJ)
Salazar
Schwartz
Speier
Stark
Stupak
Van Hollen
Wamp
Wasserman
Schultz
Waters
Welch
Whitfield
Wittman
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1612

So the resolution was agreed to.
The result of the vote was announced as above recorded.
A motion to reconsider was laid on the table.

GPRA MODERNIZATION ACT OF 2010

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and concur in the Senate amendment to the bill (H.R. 2142) to require the review of Government programs at least once every 5 years for purposes of assessing their performance and improving their operations, and to establish the Performance Improvement Council, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. CUELLAR) that the House suspend the rules and concur in the Senate amendment.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 212, nays 131, not voting 90, as follows:

[Roll No. 654]

YEAS—212

Altmire
Baldwin
Berman
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Braley (IA)
Bright
Brown, Corrine
Butterfield
Cao
Capps
Capuano
Carnahan
Carney
Carter
Cassidy
Castle
Castor (FL)
Chandler
Childers
Chu
Clarke
Cleaver
Clyburn
Cohen
Cole
Connolly (VA)
Cooper
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Dahlkemper
DeFazio
DeLauro
Dent
Deutch
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle

Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Poster
Frank (MA)
Fudge
Garamendi
Gerlach
Giffords
Gohmert
Gonzalez
Gordon (TN)
Grayson
Green, Gene
Grijalva
Hall (NY)
Halvorson
Hare
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Hinchey
Hirono
Holden
Holt
Honda
Hoyer
Inslie
Israel
Jackson (IL)
Jackson Lee
(TX)
Johnson (IL)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
King (NY)

Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Lee (CA)
Levin
Lewis (GA)
Loebuck
Lofgren, Zoe
Lowey
Lujan
Lungren, Daniel E.
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCaul
McDermott
McGovern
McNerney
Meek (FL)
Melancon
Michaud
Miller (MI)
Miller (NC)
Miller, George
Minnick
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Nadler (NY)
Neal (MA)
Nye
Oberstar
Obey
Olver
Pallone

Pascarell
Payne
Perlmutter
Perriello
Peterson
Platts
Polis (CO)
Pomeroy
Price (NC)
Rahall
Rangel
Richardson
Rogers (AL)
Roybal-Allard
Ruppersberger
Ryan (OH)
Sanchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer

Schiff
Schrader
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Shuster
Sires
Skelton
Slaughter
Smith (TX)
Smith (WA)
Snyder
Space
Spratt
Sutton
Tanner
Teague
Terry

Thompson (CA)
Thompson (MS)
Thompson (PA)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Visclosky
Walz
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Wolf
Woolsey
Wu
Yarmuth
Young (AK)

NAYS—131

Aderholt
Adler (NJ)
Akin
Alexander
Austria
Bachmann
Bachus
Bartlett
Biggert
Billbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Brady (TX)
Broun (GA)
Buchanan
Burgess
Burton (IN)
Buyer
Campbell
Cantor
Capito
Chaffetz
Coble
Coffman (CO)
Crenshaw
Davis (KY)
Dreier
Duncan
Ehlers
Emerson
Flake
Fleming
Forbes
Fortenberry
Foxy
Franks (AZ)
Frelinghuysen

Garrett (NJ)
Gingrey (GA)
Goodlatte
Graves (GA)
Graves (MO)
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Ingalls
Issa
Jenkins
Jordan (OH)
King (IA)
Kingston
Kline (MN)
Lamborn
Lance
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Mack
Manzullo
McCarthy (CA)
McClintock
McCotter
McHenry
McKeon
McMahon
Mica
Miller (FL)
Miller (MI)
Myrick
Neugebauer
Nunes

Olson
Owens
Paulsen
Pence
Petri
Pitts
Poe (TX)
Posey
Price (GA)
Putnam
Reed
Rehberg
Reichert
Roe (TN)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Simpson
Smith (NE)
Smith (NJ)
Stearns
Stutzman
Sullivan
Taylor
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Westmoreland
Wilson (SC)

NOT VOTING—90

Ackerman
Andrews
Arcuri
Baca
Baird
Barrett (SC)
Barrow
Barton (TX)
Bean
Becerra
Berkley
Berry
Bishop (GA)
Boustany
Boyd
Brady (PA)
Brown (SC)
Brown-Waite,
Ginny
Calvert
Camp
Cardoza
Carson (IN)
Clay
Conyers

Culberson
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeGette
Delahunt
Diaz-Balart, L.
Djou
Fallin
Gallegly
Granger
Green, Al
Griffith
Gutierrez
Harman
Himes
Hinojosa
Hodes
Johnson (GA)
Johnson, E. B.
Johnson, Sam
Jones
Kilpatrick (MI)
Kind

Latham
Lipinski
Marchant
McCarthy (NY)
McCollum
McIntyre
McMorris
Rodgers
Meeks (NY)
Miller, Gary
Mitchell
Moran (KS)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Napolitano
Ortiz
Pastor (AZ)
Paul
Peters
Pingree (ME)
Quigley
Radanovich
Reyes
Rodriguez

Ros-Lehtinen	Speier	Wasserman
Ross	Stark	Schultz
Rothman (NJ)	Stupak	Waters
Rush	Towns	Whitfield
Salazar	Velázquez	Wittman
Schwartz	Wamp	Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1620

Mr. ROGERS of Alabama changed his vote from "nay" to "yea."

So (two-thirds not being in the affirmative) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. DAVIS of California. Mr. Speaker, on Friday, December 17, 2010, I missed the following votes.

Had I been present, I would have voted: "yea" on rollcall No. 652; "yea" on rollcall No. 653; and "yea" on rollcall No. 654.

PERSONAL EXPLANATION

Mr. AL GREEN of Texas. Mr. Speaker, today I was unavoidably detained and missed the votes on:

Adjournment Resolution (H. Con. Res. 336—Sine Die Adjournment) Although H. Con. Res. 336 passed by a vote of 196–153, I respectfully request the opportunity to record my position. Had I been present I would have voted "yea" on rollcall 652.

H. Res. 1776—Rule providing for consideration of H.J. Res. 105—Making further continuing appropriations for fiscal year 2011. Although H. Res. 1776 passed by a vote of 184–159, I respectfully request the opportunity to record my position. Had I been present I would have voted "yea" on rollcall 653.

H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act of 2009 to require the review of Government programs at least once every 5 years for purposes of assessing their performance and improving their operations, and to establish the Performance Improvement Council. Although H.R. 2142 failed under a suspension vote by a vote of 212–131, I respectfully request the opportunity to record my position. Had I been present I would have voted "yea" on rollcall 654.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Ladies and gentlemen of the House, the situation we find ourselves in at this point in time is as follows: I have talked to the leader. He has talked to Senator McCONNELL. They cannot assure us that they will be able to either pass anything tonight or send us anything tomorrow. They don't have an agreement.

In light of that, it is my judgment that the only alternative available to

us is to pass, obviously, this short-term CR, which will keep the government open through Wednesday. We will leave after the last vote in this series, returning Tuesday at 10, with the first votes expected at 11.

Senator REID believes that by Monday they will be able to pass some continuing resolution or some appropriation process for some period of time. We don't know what that is. I just talked to Senator REID 10 minutes ago. There is not an agreement on that.

I know that this is not a happy circumstance during the holiday period, to have to return here; but it would be less happy if we waited here this evening, tomorrow, Sunday and Monday with the Senate not sending us anything. I don't think that is fair to you.

As a result, it is my intent that we will leave here after the last votes on this CR and send it to the Senate. The Senate will take it and will pass it. Senator McCONNELL and Senator REID have agreed that they will pass this.

It is a simple CR, as Chairman OBEY and Mr. LEWIS will explain, and I think that will accommodate us, to the extent it is possible to accommodate us at this time.

I know everybody would like to finish today and go home for the holidays until we return January 5. I am in that rank myself. But we are where we are. That seems to me the best way to accommodate all of you, while at the same time accommodating our responsibility to take the action that is necessary to keep the government operating.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 17, 2010.
HON. NANCY PELOSI,
Speaker, House of Representatives, U.S. Capitol,
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 17, 2010 at 3:15 p.m.:

That the Senate passed S. 1481.
That the Senate passed with amendments H.R. 5901.
That the Senate passed without amendment H.R. 4973.

With best wishes, I am
Sincerely,

LORRAINE C. MILLER.

PARLIAMENTARY INQUIRY

Mr. McDERMOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. DRIEHAUS). The gentleman will state his inquiry.

Mr. McDERMOTT. Mr. Speaker, my question is, if we take one of these green cards and sign it and have it sent back by certified mail, would that be acceptable as a vote in the House, if you are more than 1,000 miles from the Capitol?

The SPEAKER pro tempore. The gentleman has not stated a parliamentary inquiry.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2011

Mr. OBEY. Mr. Speaker, pursuant to the rule, I call up the joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011, and for other purposes, and ask for its immediate consideration.

The SPEAKER pro tempore. Pursuant to House Resolution 1776, the joint resolution is considered read.

The text of the joint resolution is as follows:

H.J. RES. 105

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Continuing Appropriations Act, 2011 (Public Law 111-242) is further amended by striking the date specified in section 106(3) and inserting "December 21, 2010".

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) and the gentleman from California (Mr. LEWIS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, this resolution is very simple. The continuing resolution under which we are now operating expires at midnight on Saturday. This simply extends that underlying resolution to midnight Tuesday.

I urge support.

I reserve the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I do not intend to use any of my time to speak, except to express my appreciation for the sentiments of the gentleman from Washington about our mailing our votes across the country.

In the meantime, I do not intend to call for a vote on the CR. We are going to have to vote on a couple of suspensions, I gather.

I yield back the balance of my time.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1630

PARLIAMENTARY INQUIRY

Mr. JACKSON of Illinois. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. JACKSON of Illinois. Mr. Speaker, are there two more votes before Members dash out of here tonight? There are two more votes.

The SPEAKER pro tempore. That is correct.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 5510, by the yeas;

S. 3874, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

AIDING THOSE FACING FORECLOSURE ACT OF 2010

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 5510) to amend the Emergency Economic Stabilization Act of 2008 to allow amounts under the Troubled Assets Relief Program to be used to provide legal assistance to homeowners to avoid foreclosure, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. CAPUANO) that the House suspend the rules and pass the bill, as amended.

The vote was taken by electronic device, and there were—yeas 210, nays 145, not voting 78, as follows:

[Roll No. 655]

YEAS—210

Altmire	Clay	Ellsworth
Andrews	Cleaver	Engel
Austria	Clyburn	Eshoo
Baca	Cohen	Etheridge
Baldwin	Connolly (VA)	Farr
Barrow	Cooper	Fattah
Bean	Costa	Filner
Becerra	Costello	Foster
Berkley	Courtney	Frank (MA)
Berman	Critz	Fudge
Bishop (GA)	Crowley	Garamendi
Bishop (NY)	Cuellar	Giffords
Boccheri	Cummings	Gonzalez
Boswell	Dahlkemper	Gordon (TN)
Boucher	Davis (CA)	Grayson
Braley (IA)	Davis (IL)	Green, Al
Bright	DeFazio	Green, Gene
Brown, Corrine	DeLauro	Grijalva
Butterfield	Deutch	Hall (NY)
Capps	Diaz-Balart, M.	Halvorson
Capuano	Dicks	Hare
Carnahan	Dingell	Harman
Carney	Doggett	Hastings (FL)
Carson (IN)	Donnelly (IN)	Heinrich
Castor (FL)	Doyle	Higgins
Chandler	Driebeaus	Hill
Childers	Edwards (MD)	Himes
Chu	Edwards (TX)	Hinchee
Clarke	Ellison	Hirono

Holden	Melancon	Schwartz
Holt	Michaud	Scott (GA)
Honda	Miller (NC)	Scott (VA)
Hoyer	Miller, George	Serrano
Inslee	Minnick	Sestak
Israel	Mollohan	Shea-Porter
Jackson (IL)	Moore (WI)	Sherman
Jackson Lee	Moran (VA)	Shuler
(TX)	Murphy (CT)	Sires
Johnson (GA)	Nadler (NY)	Skelton
Kagen	Neal (MA)	Slaughter
Kanjorski	Nye	Smith (WA)
Kaptur	Oberstar	Snyder
Kennedy	Obey	Spratt
Kildee	Oliver	Sutton
Kilroy	Pallone	Tanner
Kirkpatrick (AZ)	Pascarell	Taylor
Kissell	Payne	Teague
Klein (FL)	Perlmutter	Thompson (CA)
Kosmas	Perriello	Thompson (MS)
Kratovil	Peters	Tiberi
Kucinich	Peterson	Tierney
Langevin	Polis (CO)	Titus
Larsen (WA)	Pomeroy	Tonko
Larson (CT)	Price (NC)	Towns
LaTourette	Rahall	Tsongas
Lee (CA)	Rangel	Turner
Levin	Richardson	Van Hollen
Lewis (GA)	Ross	Visclosky
Loeb sack	Rothman (NJ)	Walz
Lofgren, Zoe	Roybal-Allard	Wasserman
Lowe y	Ruppersberger	Schultz
Luján	Rush	Watson
Lynch	Ryan (OH)	Watt
Maloney	Sánchez, Linda	Waxman
Markey (CO)	T.	Weiner
Matsui	Sanchez, Loretta	Welch
McColum	Sarbanes	Wilson (OH)
McDermott	Schakowsky	Woolsey
McGovern	Schauer	Wu
McNerney	Schiff	Yarmuth
Meek (FL)	Schrader	Young (AK)

NAYS—145

Aderholt	Gingrey (GA)	Neugebauer
Adler (NJ)	Gohmert	Nunes
Akin	Goodlatte	Olson
Alexander	Graves (GA)	Owens
Bachmann	Graves (MO)	Paulsen
Bachus	Guthrie	Pence
Bartlett	Hall (TX)	Petri
Biggett	Harper	Pitts
Bilbray	Hastings (WA)	Platts
Bilirakis	Heller	Poe (TX)
Bishop (UT)	Hensarling	Posey
Blackburn	Herger	Price (GA)
Blunt	Hoekstra	Putnam
Bonner	Hunter	Reed
Bono Mack	Inglis	Rehberg
Boozman	Issa	Reichert
Boren	Jenkins	Roe (TN)
Boustany	Johnson (IL)	Rogers (AL)
Brady (TX)	Jordan (OH)	Rogers (KY)
Broun (GA)	King (IA)	Rogers (MI)
Buchanan	Kingston	Rohrabacher
Burgess	Kline (MN)	Rooney
Burton (IN)	Lamborn	Roskam
Camp	Lance	Royce
Campbell	Latham	Ryan (WI)
Cantor	Latta	Scalise
Cao	Lee (NY)	Schmidt
Capito	Lewis (CA)	Schock
Cassidy	LoBiondo	Sensenbrenner
Castle	Lucas	Sessions
Coble	Luetkemeyer	Shimkus
Coffman (CO)	Lummis	Shuster
Cole	Lungren, Daniel	Simpson
Conaway	E.	Smith (NE)
Crenshaw	Mack	Smith (NJ)
Davis (KY)	Manzullo	Smith (TX)
Dent	Marshall	Stearns
Dreier	McCarthy (CA)	Stutzman
Duncan	McCaul	Sullivan
Emerson	McClintock	Terry
Flake	McCotter	Thompson (PA)
Fleming	McHenry	Thornberry
Forbes	McKeon	Tiahrt
Fortenberry	McMahon	Upton
Fox	Mica	Walden
Franks (AZ)	Miller (FL)	Westmoreland
Frelinghuysen	Miller (MI)	Wilson (SC)
Garrett (NJ)	Murphy, Tim	Wolf
Gerlach	Myrick	

NOT VOTING—78

Ackerman	Fallin	Moore (KS)
Arcuri	Gallegly	Moran (KS)
Baird	Granger	Murphy (NY)
Barrett (SC)	Griffith	Murphy, Patrick
Barton (TX)	Gutierrez	Napolitano
Berry	Herseth Sandlin	Ortiz
Blumenauer	Hinojosa	Pastor (AZ)
Boehner	Hodes	Paul
Boyd	Johnson, E. B.	Pingree (ME)
Brady (PA)	Johnson, Sam	Quigley
Brown (SC)	Jones	Radanovich
Brown-Waite,	Kilpatrick (MI)	Reyes
Ginny	Kind	Rodriguez
Buyer	King (NY)	Ros-Lehtinen
Calvert	Linder	Salazar
Cardoza	Lipinski	Shadegg
Carter	Maffei	Space
Chaffetz	Marchant	Speier
Conyers	Markey (MA)	Stark
Culberson	Matheson	Stupak
Davis (AL)	McCarthy (NY)	Velázquez
Davis (TN)	McIntyre	Wamp
DeGette	McMorris	Waters
Delahunt	Rodgers	Whitfield
Diaz-Balart, L.	Meeks (NY)	Wittman
Djou	Miller, Gary	Young (FL)
Ehlers	Mitchell	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1653

Messrs. PUTNAM, BLUNT, Mrs. MILLER of Michigan, Mr. LANCE, and Mrs. MYRICK changed their vote from “yea” to “nay.”

Mr. TIBERI changed his vote from “nay” to “yea.”

So (two-thirds not being in the affirmative) the motion was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. MARKEY of Massachusetts. Mr. Speaker, on rollcall No. 655, I was unavoidably detained, but had I voted I would have voted “yes”.

Ms. HERSETH SANDLIN. Mr. Speaker, I regret that I was unable to participate in one vote on the floor of the House of Representatives today.

The vote was H.R. 5510—Aiding Those Facing Foreclosure Act of 2010. Had I been present, I would have voted “yea” on that question.

REDUCTION OF LEAD IN DRINKING WATER ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (S. 3874) to amend the Safe Drinking Act to reduce lead in drinking water, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. DOYLE) that the House suspend the rules and pass the bill.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 226, nays 109, not voting 98, as follows:

[Roll No. 656]

YEAS—226

Adler (NJ) Green, Gene
Altmire Grijalva
Andrews Hall (NY)
Baldwin Halvorson
Barrow Hare
Bean Harman
Becerra Hastings (FL)
Berkley Heinrich
Berman Herseth Sandlin
Bishop (GA) Higgins
Boccheri Himes
Bono Mack Hinchey
Boren Hirono
Boswell Holden
Boucher Holt
Boustany Honda
Braley (IA) Hoyer
Bright Inslee
Buchanan Jackson (IL)
Butterfield Jackson Lee
Capito (TX)
Capuano Jenkins
Carnahan Johnson (GA)
Carney Johnson (IL)
Carson (IN) Kagen
Cassidy Kanjorski
Castle Kaptur
Chandler Kennedy
Chu Kildee
Clarke Kilroy
Clay Kirkpatrick (AZ)
Cleaver Klein (FL)
Clyburn Kosmas
Connolly (VA) Kratovil
Cooper Kucinich
Costa Lance
Costello Langevin
Courtney Larsen (WA)
Critz Larson (CT)
Crowley Lee (CA)
Cummings Lee (NY)
Dahlkemper Levin
Davis (CA) Lewis (GA)
Davis (IL) Loeb sack
DeFazio Lofgren, Zoe
DeLauro Lowey
Dent Lujan
Deutch Lungren, Daniel
Diaz-Balart, M. E.
Dicks Lynch
Dingell Maloney
Doggett Markey (CO)
Donnelly (IN) Markey (MA)
Doyle Marshall
Dreier Matsui
Driehaus McCollum
Edwards (MD) McDermott
Edwards (TX) McGovern
Ellison McMahon
Ellsworth McNerney
Engel Meek (FL)
Eshoo Melancon
Etheridge Michaud
Farr Miller (NC)
Fattah Miller, George
Filner Minnick
Forbes Mollohan
Fortenberry Moran (VA)
Foster Murphy (CT)
Frank (MA) Nadler (NY)
Fudge Neal (MA)
Garamendi Nye
Giffords Oberstar
Gordon (TN) Obey
Graves (MO) Oliver
Grayson Owens
Green, Al Pallone

NAYS—109

Aderholt Broun (GA)
Akin Burgess
Austria Burton (IN)
Bachmann Camp
Bachus Campbell
Bartlett Cantor
Biggert Cao
Bilbray Coffman (CO)
Bilirakis Cole
Bishop (UT) Conaway
Blackburn Crenshaw
Boozman Duncan
Brady (TX) Emerson

Pascarell Paulsen
Payne Perlmutter
Perrillo Perriello
Peters Petri
Platts Platts
Polis (CO) Polis (CO)
Pomeroy Pomeroy
Price (NC) Price (NC)
Rahall Rahall
Rangel Rangel
Reed Reed
Reichert Reichert
Richardson Richardson
Roe (TN) Roe (TN)
Rohrabacher Rohrabacher
Ross Ross
Rothman (NJ) Rothman (NJ)
Roybal-Allard Roybal-Allard
Ruppersberger Ruppersberger
Rush Rush
Ryan (OH) Ryan (OH)
Ryan (WI) Ryan (WI)
Sánchez, Linda T.
Sarbanes Sarbanes
Schakowsky Schakowsky
Schauer Schauer
Schiff Schiff
Schock Schock
Schradler Schradler
Schwartz Schwartz
Scott (GA) Scott (GA)
Scott (VA) Scott (VA)
Serrano Serrano
Sestak Sestak
Shea-Porter Shea-Porter
Sherman Sherman
Shuler Shuler
Shuster Shuster
Sires Sires
Skelton Skelton
Slaughter Slaughter
Smith (WA) Smith (WA)
Snyder Snyder
Spratt Spratt
Sutton Sutton
Tanner Tanner
Taylor Taylor
Teague Teague
Terry Terry
Thompson (CA) Thompson (CA)
Thompson (MS) Thompson (MS)
Thompson (PA) Thompson (PA)
Tierney Tierney
Titus Titus
Tonko Tonko
Tsongas Tsongas
Turner Turner
Van Hollen Van Hollen
Visclosky Visclosky
Walz Walz
Wasserman Wasserman
Schultz Schultz
Watson Watson
Watt Watt
Waxman Waxman
Weiner Weiner
Welch Welch
Wilson (OH) Wilson (OH)
Wolf Wolf
Woolsey Woolsey
Wu Wu
Yarmuth Yarmuth

Harper Harper
Hastings (WA) Hastings (WA)
Hensarling Hensarling
Herger Herger
Hoekstra Hoekstra
Hunter Hunter
Inglis Inglis
Issa Issa
Jordan (OH) Jordan (OH)
King (IA) King (IA)
Kingston Kingston
Kline (MN) Kline (MN)
Lamborn Lamborn
Latham Latham
LaTourette LaTourette
Latta Latta
Lewis (CA) Lewis (CA)
LoBiondo LoBiondo
Lucas Lucas
Luetkemeyer Luetkemeyer
Lummis Lummis
Mack Mack
Manzullo Manzullo
McCarthy (CA) McCarthy (CA)

McCauley McCauley
McClintock McClintock
McCotter McCotter
McHenry McHenry
McKeon McKeon
Mica Mica
Miller (FL) Miller (FL)
Miller (MI) Miller (MI)
Murphy, Tim Murphy, Tim
Myrick Myrick
Neugebauer Neugebauer
Nunes Nunes
Olson Olson
Pence Pence
Peterson Peterson
Pitts Pitts
Poe (TX) Poe (TX)
Posey Posey
Price (GA) Price (GA)
Putnam Putnam
Rehberg Rehberg
Rogers (AL) Rogers (AL)
Rogers (KY) Rogers (KY)
Rogers (MI) Rogers (MI)

Rooney Rooney
Royce Royce
Scalise Scalise
Schmidt Schmidt
Sensenbrenner Sensenbrenner
Sessions Sessions
Shimkus Shimkus
Simpson Simpson
Smith (NE) Smith (NE)
Smith (NJ) Smith (NJ)
Smith (TX) Smith (TX)
Stearns Stearns
Stutzman Stutzman
Sullivan Sullivan
Thornberry Thornberry
Tiahrt Tiahrt
Tiberi Tiberi
Upton Upton
Walden Walden
Westmoreland Westmoreland
Wilson (SC) Wilson (SC)
Young (AK) Young (AK)

NOT VOTING—98

Ackerman Ackerman
Alexander Alexander
Arcuri Arcuri
Baca Baca
Baird Baird
Barrett (SC) Barrett (SC)
Barton (TX) Barton (TX)
Berry Berry
Bishop (NY) Bishop (NY)
Blumenauer Blumenauer
Blunt Blunt
Boehner Boehner
Bonner Bonner
Boyd Boyd
Brady (PA) Brady (PA)
Brown (SC) Brown (SC)
Brown, Corrine Brown, Corrine
Brown-Waite, Ginny Brown-Waite, Ginny
Buyer Buyer
Calvert Calvert
Capps Capps
Cardoza Cardoza
Carter Carter
Castor (FL) Castor (FL)
Chaffetz Chaffetz
Childers Childers
Coble Coble
Cohen Cohen
Conyers Conyers
Cuellar Cuellar
Culberson Culberson
Davis (AL) Davis (AL)
Davis (KY) Davis (KY)
Davis (TN) Davis (TN)
DeGette DeGette
Delahunt Delahunt
Diaz-Balart, L. Diaz-Balart, L.
Djou Djou
Ehlers Ehlers
Fallin Fallin
Gallegly Gallegly
Gonzalez Gonzalez
Granger Granger
Griffith Griffith
Gutierrez Gutierrez
Heller Heller
Hill Hill
Hinojosa Hinojosa
Hodes Hodes
Israel Israel
Johnson, E. B. Johnson, E. B.
Johnson, Sam Johnson, Sam
Jones Jones
Kilpatrick (MI) Kilpatrick (MI)
Kind Kind
King (NY) King (NY)
Kissell Kissell
Linder Linder
Lipinski Lipinski
Maffei Maffei
Marchant Marchant
Matheson Matheson
McCarthy (NY) McCarthy (NY)
McIntyre McIntyre
McMorris McMorris
Rodgers Rodgers
Meeks (NY) Meeks (NY)

□ 1705

Messrs. DANIEL E. LUNGREN of California and ROHRABACHER changed their vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CONYERS. Mr. Speaker, on December 17, 2010, I regret that I was not present to vote on H. Res. 1776, H.R. 2142, H.R. 5510, and S. 3874, had I been present, I would have voted “yea” on all bills.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent for votes in the House Chamber today. Had I been present, I would have voted “yea” on rollcall votes 652, 653, 654, 655 and 656.

COMMENDING THE WISCONSIN BADGER FOOTBALL TEAM

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution (H. Res. 1767) commending the Wisconsin Badger football team for an outstanding season and 2011 Rose Bowl bid.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOLT) that the House suspend the rules and agree to the resolution.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 6523, IKE SKELTON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011

Mr. GARAMENDI. Madam Speaker, I ask unanimous consent that in the engrossment of H.R. 6523 the Clerk be directed to make conforming amendments to the table of contents.

The SPEAKER pro tempore (Mrs. KIRKPATRICK of Arizona). Is there objection to the request of the gentleman from California?

There was no objection.

ADJOURNMENT TO TUESDAY, DECEMBER 21, 2010

Mr. GARAMENDI. Madam Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on Tuesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DRILLING BAN IN U.S.

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Madam Speaker, the Interior Department said there will be a new ban on offshore drilling in the Gulf of Mexico. That will cost us thousands of good-paying jobs in the gulf region, especially around Texas and Louisiana. The administration promised us that domestic oil production was an important part of our energy future; but for the last 6 months, the Federal Government has blocked drilling at every turn, leaking a permit out here and there only just lately. But now they say it's safe to drill again, and what do they do? They ban drilling.

The Cubans are going to drill offshore next year, and from what they're saying, they will partner with the Russians and the Chinese. Madam Speaker, since when is it okay for China, Russia, and Cuba to drill off our shores and not America? Not only that, the American taxpayer is sending money by the administration to Brazil and Mexico to let those countries drill off their shores. Is the administration at war with the American energy companies? Maybe so.

And that's just the way it is.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with an amendment a bill of the House of the following title:

H.R. 5116. An act to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

□ 1710

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HONORING BEVERLY BUCHHEIT ON HER RETIREMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. CARNAHAN) is recognized for 5 minutes.

Mr. CARNAHAN. Madam Speaker, on the occasion of her retirement, I rise to honor a great citizen of Missouri and the City of St. Louis, Beverly Buchheit. Beverly is a shining example of what our Founders envisioned for America: an engaged and spirited citizen, active in the affairs of her Nation and her community.

Beverly has been a valued member of my staff for over 5 years as a liaison to the City of St. Louis and specialist on senior issues. Beverly has dedicated her life to helping others, shown by her commitment to service to the public schools of the City of St. Louis as an educator, administrator, and community leader. She also served as an elected official, our Democratic committee woman, in the City of St. Louis for over 30 years.

Beverly Buchheit is a woman of strong faith and family. She is a longtime member of the Messiah Lutheran Church of St. Louis. She and her late husband, Valentine "Wally" Buchheit, were married for almost 32 years and raised three children: Dennis Buchheit, Patricia Wood, and Donna Schaeffer. Beverly also deeply loves her seven

grandchildren and two great grandchildren.

Bev, as she is known, is a friend to many. She is loyal to her Nation and to her beloved St. Louis and to her friends and her family. Her work, whether it be volunteering in her neighborhood or mentoring countless teachers, educators, and students she has touched and influenced, is a testimony to her reputation as an exemplary educator and citizen, faithful friend, loving mother, and good neighbor.

I have relied on Beverly for counsel and advice throughout my political career, first as a State representative and now as a Member of this House. I am proud to call Beverly Buchheit a neighbor, a member of my congressional staff, but more importantly, I am proud to call Bev my mentor and my friend. I wish her well.

MEXICAN-AMERICAN BORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Madam Speaker, last Tuesday, north of the Mexican-American border, a number of our Border Patrol agents were trying to stop some bandits, Mexican bandits who were stealing and killing people who were coming across the border illegally. One of the people that was involved in this and was shot was a fellow named Manuel Arianes, AKA Manuel Arellanes Osorio. He is a Mexican in the United States illegally. He was convicted in 2006 for aggravated assault. He had been deported to Mexico twice, and he was in the United States with his colleagues committing more crimes. And a Border Patrol agent, Mr. Brian A. Terry, was shot to death on the border in that area last Tuesday night.

Now, the reason I bring this up—and my good friend, Mr. POE of Texas, who will be talking about this and probably some other things related to it later—we wrote a letter, Mr. POE, myself, and ED ROYCE of California, RALPH HALL of Texas, and PETE OLSON. All of us wrote a letter to the President of the United States, and this was in October. We said, Mr. President, you know, we sent 17,000 National Guard people to the Gulf during the Gulf oil spill because it was a threat to the environment and to the people's livelihoods who live down in that area. And yet the Mexican-American border is 1,980 miles long, and when the President decided to help augment our Border Patrol agents, he sent, I think, 1,300 or 1,400 National Guardsmen down, went down there and only for a short period of time, and they were not right on the border.

We have a war going on on the Mexican-American border. Today, we talked about the spending bills. We talked about taxes. We talked about tax ex-

tenders. And all of those things are extremely important, but we have a war going on on the Mexican-American border with drug dealers and thieves and terrorists coming in from Mexico. And now we understand that we're training, down in Central America, some of the local law enforcement and military with our military people to stop them from moving into places like Costa Rica. We are talking about the drug dealers.

We have a major problem in our hemisphere that threatens the stability of the entire southern part of the United States—Texas, New Mexico, Arizona. And as we know, the Arizona Governor has tried to do everything she can to deal with the problem, and nothing is happening. In fact, the President of the United States and the Justice Department have been fighting her. It just doesn't make any sense whatsoever.

We need to get on with doing what we promised to do, and that is build that border fence and put enough border agents down there and National Guardsmen to deal with the problem and, if necessary, to work with the President of Mexico to put military personnel on both sides of the border to stop these terrorists, drug dealers, and the people that are disrupting what is going on here in the United States.

And you say, Well, that's the border. That doesn't deal with us.

There are signs in Arizona 80 miles north of the border, 80 miles into the United States that say to American citizens, Don't go south of here because it's not safe. We have got ranchers and farmers that have been beaten up and killed in the United States by these drug dealers and these terrorists that are coming across the border.

So we wrote to the President on October 26, Mr. POE and I and my other colleagues, and we followed up with another letter on November 4. And you know what we have heard from the President? Not a darn thing. Nothing. And it's been, what, a month and a half, 2 months.

The President is ignoring this problem and people are dying, and the security of the southern part of the United States—in fact, the entire United States is at risk.

So if I were talking tonight—and I know, Madam Speaker, I can't talk to the President because we are not allowed to talk to people outside the Chamber. But if I were talking to the President, I would say, Mr. President, answer our letters. Pay attention to what's going on, and secure that border. Go talk to the President of Mexico and the others in Central and South America and make sure we stop these drug cartel terrorists from disrupting the United States and threatening the security of our border. This is a war, Mr. President. Get on with it.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 26, 2010.

Hon. BARACK OBAMA,
President of the United States of America, The
White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to you today to express our extreme concern regarding the deteriorating security situation along our Nation's southern border. It seems that every day brings a new report of some atrocity; the most recent being the apparent murder of a U.S. citizen at Falcon Lake, Texas; yet little if anything appears to be being done by our government or the Mexican government to stop the bloodshed and bring the perpetrators to justice.

Protecting our borders and our citizens is a paramount responsibility of the Federal government; enshrined in the preamble of the Constitution. It would be an unforgivable breach of our constitutional responsibilities if we do not take stronger measures not only to prevent the upward spiral of violence from further spilling over into the United States and threaten the safety of U.S. citizens on American soil but to reclaim those areas of our border already overrun by smugglers and criminals. We can no longer pretend that this is simply Mexico's problem. The time has come to recognize that the drug violence along the border is a direct threat to the United States and act accordingly.

First, it has become apparent that the Mexican government and law enforcement authorities are either unwilling or unable to address this problem unilaterally. Therefore, we believe it is imperative that you immediately begin serious dialogue with President Calderon on building a comprehensive framework, in the spirit of Plan Colombia, that will better coordinate a more aggressive and proactive strategy to turn the tide of this conflict.

Second, we must complete construction of the border fence. Any responsibility we have to minimize the impact of the fence on the physical landscape or native species in the region pales in comparison when measured against the value of human lives that will be lost if we do not seal the border.

Finally, we believe it is critical that we deploy additional National Guard troops to the border. Media reports indicate that 17,000 National Guard troops were deployed to the Gulf region to respond to the recent oil spill. Yet, you have only pledged 1,200 National Guard troops to protect the border—and according to media reports only a small fraction of those troops have arrived to date. It is unrealistic, if not pure insanity, to believe that a mere 1,200 National Guard troops, even with the support of the Border Patrol, can effectively cover the nearly 2,000 mile long Southwestern border of the United States. We must put additional bodies on the ground and we must give them the weapons and specify rules of engagement that give them the authority to do whatever is necessary to secure the border. A National Guard trooper armed with only a pistol and given no authority to engage the enemy is useless against a criminal armed with military grade weapons and ammunition.

Mr. President, we implore you to view this situation for what it is, a war and to act accordingly.

Sincerely,

DAN BURTON,
RALPH M. HALL,
EDWARD R. ROYCE,
TED POE,
PETE OLSON.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 4, 2010.

Hon. BARACK OBAMA,
President of the United States of America, The
White House, Washington, DC.

DEAR MR. PRESIDENT: On October 26th I and four of my colleagues, sent you a letter expressing our extreme concerns regarding the deteriorating security situation along our Nation's southern border. Since that time five more Americans have been killed along the border region. Protecting our borders and our citizens is a paramount responsibility of the Federal government; enshrined in the preamble of the Constitution. I strongly urge you to consider the proposals laid out in my letter from October 26th. Americans are dying; it is time to recognize that the drug violence along the border is a direct threat to the United States and act accordingly.

Thank you for giving your personal time and attention to this critically important issue.

Sincerely,

DAN BURTON.

AGENT BRIAN TERRY: U.S. BORDER PATROL—ON THE THIRD FRONT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Madam Speaker, it was about midnight when gunfire erupted in a remote area of Rio Rico, Arizona, a city near the border of Mexico and the United States. Border Patrol agents and unknown gunmen exchanged shots in the dark, and one shot proved to be deadly, claiming a life in this war zone—our southern border, the third front.

Radio chatter alerted dispatch of the incident, and a call for assistance was received this Tuesday night about 11 p.m. Border Patrol agents were making rounds in a very isolated and rugged area just north of the border town of Nogales.

□ 1720

They were trying to catch bandits, the kind that target illegal immigrants. They rob and steal and pillage those immigrants, and our Border Patrol agents protect those immigrants. Banditos have long traveled border districts, robbing these individuals.

But while on patrol Tuesday night, United States Border Agent Brian Terry, and this is his photograph, Madam Speaker. Brian Terry and team members encountered a group of armed gunmen. Upon seeing Agent Terry and three other Border Patrol agents, they opened fire on Agent Terry and his comrades with automatic weapons. Border Patrol Agent Terry was shot in the back with an AK-47. He died en route to a hospital.

Four suspects have been arrested for this dastardly crime. One individual is still at large and on the run. Justice is deserved and needed for these mur-

derers. Border Patrol Agent Terry is irreplaceable—yet another American life claimed by the violent border battle on the third front.

Agent Terry was 40. He was a brother and a son. His family called him a tough, big guy who committed his life to public service. Terry was headed home today to Michigan to see his family for Christmas. He had purchased his plane ticket earlier this week.

He was an agent for 3 years, but he had a military background. Right out of high school, he joined the United States Marine Corps, and he served 3 years. Part of that time he was in the combat zone in Iraq. He later became a police officer and he joined the Border Patrol in 2007. His life was dedicated to public service and the protection of the American people. He had been a member of the elite Border Patrol Tactical Team; and according to his family, he loved that job. He would call home before going on a mission, and he would call when he got back in. The excitement of protecting this Nation fueled his passion in the workplace, and he put his life on the line to protect our security and sovereignty as a Nation. And he paid for it by giving his life.

Madam Speaker, going back to the year 2004, I have a chart that shows assaults that have occurred on our Border Patrol agents. In 2004, about 400 assaults occurred. All of the way to 2009 and even this year, there are over a thousand assaults committed against our Border Patrol agents by illegals arrogantly coming into the United States. Mainly those assaults are by rocks being thrown at those Border Patrol agents and causing injuries. You don't hear too much about the assaults against our border protectors. But the media sure tells us a lot about how important it is that we let people who are here in this country illegally stick around and make the rest of us pay for it.

Agent Terry's fatal shooting is not the first murder of a Border Patrol agent. Border Patrol Agent Robert Rosas of Campo, California, was assassinated in 2009 while responding to criminal activity in a notorious alien and drug smuggling area. The men and women on the border are under constant assault. They are the iron gatekeepers to a violent battle that reveals each day and every night uncontained authority.

Because you see, Madam Speaker, whether we want to admit it or not, there are portions of the Texas-Mexico border, the U.S.-Mexico border, that are under the operational control of the drug cartels. The United States does not have control; Mexico does not have control. Not in all areas, but some areas; and that is where this ruthless third front is taking place. The border war is a bloody battlefield between the law and the outlaws. Once a Texas Ranger told me: Congressman POE,

after dark it gets western on the border. He said we are out-manned, out-gunned, and out-financed by the enemy.

Madam Speaker, we need the moral resolve as a Nation to secure the dignity of our borders and to protect the people who are protecting us, our Border Patrol agents. They are doing the job that we asked them to do, so it is long overdue that we protect the border of this country like we protect the borders of other nations so that no more Border Patrol agents will be murdered by those who sneak into our country.

And that's just the way it is.

HONORING RETIRING CONGRESSIONAL BLACK CAUCUS MEMBERS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE of California. Madam Speaker, I rise today as chair of the Congressional Black Caucus to pay tribute to our colleagues Congresswoman CAROLYN CHEEKS KILPATRICK, Congresswoman DIANE WATSON, Congressman KENDRICK MEEK, members of the Congressional Black Caucus who are retiring at the end of the 111th Congress.

I will say a bit about each of them in a moment, but I do want to recognize and first thank them all for their service to their constituents and to our country and really to the world. Each of them in their own way has contributed to the cause and the mission of the Congressional Black Caucus which was founded almost 40 years ago and continues as the "conscience of the Congress."

Since our founding in 1971, the Congressional Black Caucus has remained true to its mission to root out inequality and injustice. Our voice has been heard throughout the Halls of Congress and throughout the world. We have been advancing the role of government to empower and protect families and children with every legislative tool at our disposal.

Congresswoman KILPATRICK is an immediate past chair of the Congressional Black Caucus who I served under as first vice chair during the 110th Congress.

Congresswoman KILPATRICK is a brilliant and focused lawmaker who I have also had the pleasure of serving with a member of the House Appropriations Committee where she has been a forceful advocate for her constituents and the State of Michigan.

While serving on Capitol Hill, Congresswoman KILPATRICK has worked to level the playing field for minority-owned media outlets and advertising firms that face discrimination from major advertisers. She has hosted fo-

runs on diversity in advertising and was a leading force in the successful effort to secure a Presidential executive order compelling all Federal agencies to increase their contractual opportunities with minority businesses.

Prior to her coming to Washington, Congresswoman KILPATRICK taught business education in the Detroit public schools before being elected to the Michigan State House where she served for 18 years and was the first African-American woman to serve on the Michigan House Appropriations Committee.

Congresswoman KILPATRICK has a deep commitment to our young people and the security of their future. She established the Sojourner Truth Project to inspire young African-American women to be leaders. Her spirit, her heart, and her intellect soar. The world is a better place because of this great woman.

Congresswoman DIANE WATSON, my friend, our colleague, believe it or not is a former elementary school teacher. She continues to educate us all each and every day. She is also a school psychologist who has lectured at both California State Universities at Los Angeles and Long Beach.

In 1975, she became the first African-American woman to be elected to the Los Angeles Unified School District Board of Education, and she led efforts during some very tumultuous times to expand school integration and improve academic standards.

For almost 20 years, Congresswoman WATSON served in the California State Senate where I served later. She was the first African-American woman to serve in that body, and she became a statewide and national advocate for health care long before the rest of the country was talking about health care reform. She was an advocate for consumer protection, women and children.

During her tenure in Sacramento, she served as the chair of the Health and Human Services Committee and as a member of the Judiciary Committee. Let me tell you, and I always say this about Congresswoman WATSON, there were 40 members of the California Senate. I came to politics as a result of Congresswoman Shirley Chisholm running for President. She was the first African-American woman elected to this body. Congresswoman WATSON, I used to watch her as being the only African-American woman in California in the State senate, and how she was able to maintain her integrity, her principles, her intellect and who she was as a black woman and yet negotiate very important legislation on behalf of the whole State. I want to salute her.

Congresswoman WATSON also served as the ambassador to Micronesia. She represented our country in a magnificent way. Throughout her career, she has demonstrated her mastery of foreign policy. She is an international

leader. She is Dr. WATSON who served in that capacity as ambassador until 2001 when she returned to California to run for Congress in a special election after the untimely death of our beloved Congressman Julian Dixon.

□ 1730

She is an exceptional public servant, and she has demonstrated throughout her life a remarkable commitment to improving the human condition. And so we salute you, Congresswoman WATSON, and we look forward to this next chapter of your life.

And also, let me just take a moment to honor the extraordinary career of Congressman KENDRICK MEEK, a man who took up the torch from his mother, our former esteemed colleague, Congresswoman Carrie Meek, and he has carried it further than any of us would have ever imagined.

Other Members will talk more about Congressman MEEK, but we salute all of our retiring Members and wish them well and Godspeed.

DETENTION FACILITIES AT GUANTANAMO BAY, CUBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY of Georgia. Madam Speaker, I come to the floor this evening to again make the case for why the detention facilities at Guantanamo Bay should remain open and why Khalid Sheikh Mohammed—or any other hardened terrorist currently residing at Guantanamo Bay—should never be transferred to the United States to stand trial or for continued detention.

When a clear majority of the American people support keeping Gitmo open—as you can see from this chart to my left, Madam Speaker, this pie chart basically says, when you ask the American people what should happen to Guantanamo, fully 55 percent say keep it open. Only 32 percent are in favor of closing Guantanamo Bay detention facility, and 13 percent had no opinion.

Well, Madam Speaker, President Obama made closing Guantanamo Bay an immediate priority upon taking office, and he pledged to close the facility within his first year in office. It has indeed been troubling that the administration, in its push to close Guantanamo Bay to, so-called, "improve" our world standing, has succumbed to letting untruths dictate the popular story line about how the United States treats its detainees. Rather than expend the effort to correct what have become blatant fabrications, they continue to fight—even as recently as this week—congressional attempts to ban any transfer of detainees to the United States.

Put simply, Madam Speaker, Guantanamo Bay has been and remains the

best option to detain terrorists that pose a threat to our national security at home and abroad. Let me be clear. Guantanamo Bay houses some of the most dangerous terrorists in the world, some of whom have succeeded in their plots to kill American citizens and soldiers. Yet, despite their record of plotting attacks on civilians, beheadings, and using innocent women and children as shields, our military personnel provide the detainees with a host of rights, privileges, and, yes, indeed, respect.

If the administration won't tell the full story about how we treat Guantanamo detainees, Madam Speaker, then I certainly will.

Among the rights and privileges extended include 24/7 medical service, comprised of things like annual dental checkups, eye exams, physical therapy, mental health services, and one medical staffer for every two detainees. Detainees are afforded anywhere from 4 to 20 hours of outdoor recreation daily; are allowed unmonitored legal communication, have access to more than 15,000 books, magazines, and DVDs in 18 different languages; and they are, indeed, allowed to observe their religious customs. Cultural and dietary needs are met. Each detainee receives up to 6,800 calories per day, with six menus from which to choose. No wonder the average weight gain, Madam Speaker, has been 15 to 20 pounds.

That's the reality of Guantanamo Bay. Having gone to these lengths, it is simply, to me, incomprehensible that we would spend hundreds of millions of dollars to transfer these detainees to our shores and make accommodations for them within our borders, especially with a \$13.8 trillion national debt that's only growing.

Furthermore, Madam Speaker, terrorists who cannot be prosecuted should not be released. This is particularly true given that the recidivism data that was released just last week indicates that up to 25 percent of those released from Guantanamo Bay have reaffiliated with terror groups and rejoined the fight against us, continuing to kill Americans.

Madam Speaker, the American people know that the Gitmo detainees—which include terrorist trainees, terrorist financiers, bomb makers, Osama bin Laden's body guards, terrorist recruiters, and would-be suicide bombers—are not minor offenders by any means. Indeed, attempted attacks on our homeland in the skies over Detroit, in the streets of New York City, and in a courthouse square in Portland, Oregon, remind us that the battlefield is not limited to our efforts in Afghanistan and Iraq.

Those that seek to do us harm should never be transferred to our soil or tried in our Federal court system, where they would essentially be provided the same protections under our Constitu-

tion as the very U.S. citizens they would love to kill.

Transferring terrorist detainees to the U.S. could eventually lead to their release—on American soil, Madam Speaker, putting our own citizens at risk. Indeed, any facility where they could be held—whether for trial or lifelong detention—could itself become a terrorist target.

Simply put, the American people believe that bringing Guantanamo Bay detainees to American soil—for any purpose—puts Americans at risk and is a national security threat. The President and his Administration would be wise to listen to the voice of the American people, follow the lead of this Congress, and keep Guantanamo Bay open.

A TRIBUTE TO CONGRESSMAN PATRICK KENNEDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

Mr. LANGEVIN. Madam Speaker, I rise today to honor my colleague and good friend, Congressman PATRICK KENNEDY from Rhode Island.

I have known and worked with PATRICK for more than half of my life now. PATRICK and I were first elected to the Rhode Island General Assembly together in 1988. And I must say, I'm having a bit of a hard time imagining coming back to work in January without him serving in the Congress.

I still remember hearing about his first run for the State House, the young KENNEDY taking on the establishment in Providence. People thought that he didn't have a chance, but they didn't know PATRICK very well. He knocked on every door, shook every hand, and fought for every last vote. In the end, that race wasn't even close.

In the State House, he immediately showed his independence, refusing to toe the party line, much to the surprise of the House leadership at the time. I remember well one of his early efforts to enact responsible gun control measures, an issue that was and is very important to me as well.

PATRICK soon arrived in the Halls of Congress, and as the nephew of President John Kennedy and Senator Robert Kennedy and the son of Senator Edward Kennedy, an intimidating legacy followed closely behind him. But PATRICK didn't strive to fill anyone else's shoes. He worked hard every day to chart his own course and to fight for his constituents in Rhode Island. But, and perhaps without intention, he not only upheld his family's own enduring legacy, he carried it forward by knocking down new barriers as well. His compassion and commitment to promoting social justice for all Americans was clearly evident, particularly when he spoke out on behalf of those suffering from mental illness and addiction.

It is because of PATRICK's efforts that I and many of my colleagues have

gained a new awareness of the tens of millions of Americans who struggle every day with the hidden disability of mental illness or addiction. These people had no voice, no champion until PATRICK stepped up and took on what so many others were afraid to say out loud. Mental health parity legislation passed this Congress because PATRICK KENNEDY fought for every vote, just as he did with that first State House run. He met with every chairman, he sat down with every Member, and he raised this issue at every event that he went to, even if it meant bringing attention to what he once considered his own greatest weakness, but he did so without hesitation once he learned that speaking openly and honestly about his personal battles could move the debate forward and help countless others seek treatment and overcome their own challenges.

Most people know PATRICK as a passionate and outspoken advocate for millions of people, but to really know PATRICK is to watch him sit down one-on-one with a constituent, a child or a senior citizen. And where politicians are often running from place to place to the next event trying to shake the most hands, see the most people, PATRICK would rather sit down and talk with one person about their experiences, about their family, their opinions rather than jump from event to event. He really truly cared about what his votes and his actions and the things he did meant to each Rhode Islander, and I know how much each conversation, each meeting, and each interaction meant to him and how it helped him to grow as a legislator and as a person.

PATRICK, I know your dad must have been so proud to serve with you for these past 16 years. Together, you forged a better path for social justice and equality for the people of Rhode Island and the people of our Nation. As you prepare to leave, know that you have made a profound difference during your time in this great institution, one that will endure and continue to resonate throughout our Nation.

□ 1740

I look forward to continuing our work together, both inside and outside the Halls of Congress. And to quote your dad, Senator Edward Kennedy: "The work goes on, the cause endures, the hope still lives, and the dream shall never die."

With that, I yield to the gentleman from Virginia (Mr. MORAN) the balance of my time.

Mr. MORAN of Virginia. Madam Speaker, I thank my great friend, Mr. LANGEVIN, from Rhode Island.

Madam Speaker, no one has brought more passion to the floor of this Congress than PATRICK KENNEDY. PATRICK has never hesitated to speak out for the poor and the powerless, those who

faced mental and physical disabilities, those who needed someone on their side. The Kennedy family has always been about bringing the marginalized out from the shadows. So the entire Kennedy clan should be so proud of this man, PATRICK KENNEDY, and this Nation should be as grateful for his presence in this Congress.

Let me emphasize, Madam Speaker, the fact that mental health parity would not have become law had it not been for PATRICK KENNEDY. That is a legacy for which this Nation should always be grateful. PATRICK KENNEDY's legacy will continue for generations to come. We can't thank him enough for his service to this Nation and this Congress.

DR. RICHARD LEVIN COMMENCEMENT SPEECH EXCERPTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. YARMUTH) is recognized for 5 minutes.

Mr. YARMUTH. Madam Speaker, last May, President Richard Levin of Yale University delivered a commencement speech, and I think the message he conveyed in that speech is worth repeating here for the Members of this body and also for the American people. I am going to read a portion of the speech and then include the entire commencement speech for the RECORD. These are the words of Dr. Richard Levin:

"Aristotle tells us that we are by nature political animals. But one wonders whether we would recognize the species we have become. Eighteen months ago, the United States elected a new President who was prepared to address intelligently and collaboratively the most pressing problems confronting the Nation—education, health care, climate change, and improving America's image in the rest of the world. Late in the election campaign, the financial crisis intervened, and economic recovery and financial sector reform were added to this ambitious agenda.

"What has happened since does not inspire great confidence in the capacity of our system to deal intelligently with important problems. Why is this happening?"

Dr. Levin says: "Let me make two observations and then trace their implications for how you might conduct yourselves as citizens and participants in political life. First, contemporary political discussion is too often dominated by oversimplified ideologies with superficial appeal to voters. And, second, political actors in the United States give too much weight to the interests of groups with the resources to influence their reelection and too little attention to the costs and benefits of their actions on the wider public.

"In the Federalist No. 10, James Madison addresses the second of these observations in the context of the

fledgling republic established by the U.S. Constitution. He notes that the tendency to pursue self-interest can never be entirely suppressed, but it can be mitigated by the proper design of political institutions.

"The protections that our form of government offers against ideology and faction have attenuated greatly since Madison's time, for at least two reasons. First, mass communication increases the opportunity to sway voters by appeal to simple formulations. Of course, the rise of mass communication could be a tool for raising the level of discourse through more effective education of the electorate. But it interacts with the second attenuating factor: that the money required to win elections through the media has created a dependence on funding from special interest groups. And it is these interest groups who distort reasoned dialogue by sponsoring oversimplified messages.

"To move beyond ideology and faction, we need to raise the level of political discourse. You, as the emerging leaders of your generation," he told the students, "must rise to the challenge.

"In the first paragraph of the Federalist No. 1, writing about the infant republic whose constitution he was endeavoring to defend, Alexander Hamilton asserts:

"It has frequently been remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies are really capable or not of establishing good government from reflection and choice.

"There is much in America's history of the past two-and-a-quarter centuries that would incline us to conclude that Hamilton's question has been answered in the affirmative. Our institutions of representative government have proven themselves to be durable, the rule of law has prevailed, and the scope of personal liberty has expanded far beyond what the Founders envisioned. But today, in the face of oversimplified ideology and the dominance of narrow interests, we must wonder again whether Hamilton's question is still open.

"Women and men of the Yale College class of 2010," Dr. Levin said, "it falls to you, the superbly educated leaders of your generation, to rise above ideology and faction, to bring to bear your intelligence and powers of critical thinking to elevate public discourse, to participate as citizens, and to answer the call to service. Only with your commitment can we be certain that our future will be decided by reflection and choice in the broad best interest of humanity. You can do it. Yes, you can."

Madam Speaker, Dr. Levin made this call to the young women and men who will lead our Nation in the years to come. But all of us should listen.

As we end this Congress and begin a new one, our Nation faces challenges as complex as they are consequential, and we stand at a tipping point. More special interest money is flooding our political system than ever before. Congress is the most partisan it has been in history. The media is often more a source of polarization than information. And the American people don't know whom to believe, if anyone; and I don't blame them.

The result is that our ability to have serious discussions about serious challenges is severely damaged. And now arguably the most significant challenge facing our country is figuring out how to have those conversations. That must be our calling for the 112th Congress. If we fail in this effort, we not only fail Congress, we fail our country.

BACCALAUREATE ADDRESS: RECLAIMING POLITICS

President Richard C. Levin, Yale University

What a journey you have had! Four years of exploring a place so rich with treasure: courses taught by some of the world's most brilliant and creative scholars and scientists, a library with few peers, museums that expose you to the full variety of nature and human cultures, musical and theatrical performances of the highest quality, vigorous intercollegiate and intramural athletic programs, and classmates whose excellence never ceases to astonish—and all this set within the imposing and inspiring architecture of a campus that is itself a museum. You have had the chance to interact with classmates from 50 states and 50 nations, and the great majority of you have taken advantage of Yale's abundant international programs to spend a semester or a summer abroad.

In the classroom, you were encouraged to engage thoroughly and rigorously in thinking independently about the subjects you studied. You were challenged to develop the powers of critical reasoning fundamental to success in any life endeavor. Outside the classroom, as you worked productively in the hundreds of organizations you joined or founded, you exercised the skills of teamwork and leadership. In your overseas experiences, you deepened your capacity for understanding those whose values and cultures differ from your own—preparing you for citizenship in a globally interconnected world. You may not recognize this in yourselves, but you are ready for what is next.

Understandably, you may be uncertain and a bit anxious about what lies ahead. But, if history is to be trusted, you will find many paths open to you. Because of the talent you possessed before you came here, as well as the intellectual and personal growth you have experienced here, you will find, with high likelihood, success in your chosen endeavors. And we expect you to stay connected. The vibrant life of this university is greatly enriched by the deep commitment and active participation of its graduates—think of all the master's teas and guest lectures and college seminars offered by our alumni. And keep in mind that when you thanked your parents a few moments ago, you might also have been thanking the generations of Yale graduates whose gifts past and present supported half the total cost of your education.

Perhaps I am overconfident about your prospects for personal fulfillment and professional success, but I don't think so. If you

will concede my point for the sake of argument, let's ask the next question, one so deeply rooted in Yale's mission and tradition that for most of you, fortunately, it has become ingrained. And that question is: how can I serve? How can I contribute to the wellbeing of those around me, much as we all have done in building communities within the residential colleges and volunteering in so many valuable roles in the city of New Haven? Now is an important time to be asking this question. Let me suggest why, and then let me suggest an answer.

Aristotle tells us that we are by nature political animals. But one wonders whether he would recognize the species that we have become. Eighteen months ago, the United States elected a new president who was prepared to address, intelligently and collaboratively, the most pressing problems confronting the nation—education, health care, climate change, and improving America's image in the rest of the world. Late in the election campaign, the financial crisis intervened, and economic recovery and financial sector reform were added to this ambitious agenda.

What has happened since does not inspire great confidence in the capacity of our system to deal intelligently with important problems. We legislated a stimulus package that was less effective than it should have been, and far less effective than the corresponding measures undertaken in China. Fifteen months later, unemployment in the United States is still 9.9%. After months of stalemate, Congress enacted a health care bill that extends care to millions of uncovered individuals and families, but takes only the most tentative steps toward containing the escalating costs that will create an unsustainable burden of public debt within the next decade or two. We failed to address climate change in time to achieve a meaningful global agreement in Copenhagen. And, although financial sector reform now seems to be a possibility, the debate has been replete with misunderstanding of what actually went wrong and a misplaced desire for revenge.

Why is this happening? Let me make two observations, and then trace their implications for how you might conduct yourselves as citizens and participants in political life. First, contemporary political discussion is too often dominated by oversimplified ideologies with superficial appeal to voters. And, second, political actors in the United States give too much weight to the interests of groups with the resources to influence their re-election, and too little attention to the costs and benefits of their actions on the wider public.

In *The Federalist* (No. 10), James Madison addresses the second of these observations, in the context of the fledgling republic established by the U.S. Constitution. He notes that the tendency to pursue self-interest can never be entirely suppressed, but it can be mitigated by the proper design of political institutions. In contrast to a direct democracy where individuals would tend to vote their own interests, a republican form of government, Madison argues, will have a greater tendency to select representatives who attend to the broader interests of the whole. And, he further argues, representatives in a large republic constituted of a wide range of divergent interests will find it easier to rise above parochialism than those in a smaller republic comprised of a small number of competing factions.

The protections that our form of government offers against ideology and faction

have attenuated greatly since Madison's time, for at least two reasons. First, mass communication increases the opportunity to sway voters by appeal to simple formulations. Of course, the rise of mass communication could be a tool for raising the level of discourse through more effective education of the electorate. But it interacts with the second attenuating factor: that the money required to win elections through the media has created a dependence on funding from special interest groups. And it is these interest groups who distort reasoned dialogue by sponsoring oversimplified messages.

It is easy to see how these developments have thwarted recent efforts to shape responsible public policy. For example, the interest groups opposing health care reform defeated efforts to contain costs by labeling them "death panels," and they defeated the creation of a new public vehicle for providing health insurance by insisting that we must "keep government out of the health care business," when in fact Medicare, Medicaid, and the Veterans Administration already pay nearly 40 per cent of the nation's health care bill. I am not taking sides here, only pointing to the fact that intelligent debate on these subjects was crowded out by ideological distortion.

How can we create a national and global dialogue that transcends such oversimplification and parochialism? Let me suggest that we need each of you to raise the level of debate. You came here to develop your powers of critical thinking, to separate what makes sense from what is superficial, misleading, and seductive. Whether you have studied literature, philosophy, history, politics, economics, biology, physics, chemistry, or engineering, you have been challenged to think deeply, to identify the inconsistent and illogical, and to reason your way to intelligent conclusions. You can apply these powers of critical discernment not simply to fulfill personal aspirations, but to make a contribution to public life.

Every signal you have received in this nurturing community has been unwavering in its message that the growth of your competencies is not to benefit you alone. You have learned in your residential colleges that building a successful community has required you to respect and value one another, and, when appropriate, to moderate your own desires for the benefit of the whole. And so it should be in your lives after Yale. If you are to help to solve this nation's problems—or work across national boundaries to address global problems such as climate, terrorism, and nuclear proliferation—you will need to draw upon both these fruits of a Yale education: the capacity to reason and the ethical imperative to think beyond your own self-interest.

I know that many of you are taking advantage of these first years after graduation to take up public service, and I hope that even more of you will consider this path. There are plenty of jobs in the public sector for enterprising recent graduates; many are short-term but others may lead to careers. Many of you have signed up to be teachers. Others will enter business or the professions. But whatever choice you make, you can help to strengthen the nation and the world—by treating political choices not as triggers for an ideological reflex and not as opportunities to maximize self-interest. To combat reflexive ideologies, you must use the powers of reason that you have developed here to sift through the issues to reach thoughtful, intelligent conclusions. To combat parochialism, you must draw upon the ethical

imperative that Yale has imbued in you—an imperative that begins with the golden rule. Whether you serve in government directly or simply exercise your responsibilities as a citizen and voter, recognize that we will all be best served if we take account not merely of our own self-interest, but the broader interests of humanity. To move beyond ideology and faction, we need to raise the level of political discourse. You, as the emerging leaders of your generation, must rise to this challenge.

In the first paragraph of *The Federalist* (No. 1), writing about the infant republic whose constitution he was endeavoring to defend, Alexander Hamilton asserts:

It has frequently been remarked, that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies . . . are really capable or not, of establishing good government from reflection and choice . . .

There is much in America's history of the past two and a quarter centuries that would incline us to conclude that Hamilton's question has been answered in the affirmative. Our institutions of representative government have proven themselves to be durable; the rule of law has prevailed, and the scope of personal liberty has expanded far beyond what the founders envisioned. But today, in the face of oversimplified ideology and the dominance of narrow interests, we must wonder again whether Hamilton's question is still open.

Women and men of the Yale College class of 2010: It falls to you, the superbly educated leaders of your generation, to rise above ideology and faction, to bring to bear your intelligence and powers of critical thinking to elevate public discourse, to participate as citizens and to answer the call to service. Only with your commitment can we be certain that our future will be decided by "reflection and choice" in the broad best interest of humanity. You can do it. Yes you can.

THANKS AND BEST WISHES FROM
THE HONORABLE DIANE E. WATSON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Madam Speaker, I offer my thanks to BARBARA LEE, who is the chair of the Congressional Black Caucus, and I want to read to you something I will leave to every Member and staff of this House:

"A happy wish for you to receive only the best that this season offers! I thank you for making my experience here one of learning, training, and developing legislative solutions. My motto is 'lift as you climb,' so that is why I am so pleased that California Speaker Emeritus Karen Bass will take my place. So, with that said, I appreciate knowing you."

I want you to know how privileged I have felt serving in this House. As I conclude my 10th year, I go back to Los Angeles to see if I can find another job. I always said that, you know, I can't keep a job.

As you heard, I started out teaching school, and I became a school psychologist. That was the most important

work I could do because I was able to analyze with the young people what it took to give them a quality education and improve their behavior for improving their lives.

Then serving in the California Senate for 20 years and chairing the Health and Human Services Committee, I could guide and fashion legislation that would benefit all Californians.

Then to be able to represent the United States of America abroad was one of the highlights of my life, never thinking that I could rise to that level, but it happened. And then crowning my public service, serving here in this House.

I want to thank my colleagues, I want to thank the staff, and I want to thank my friends for the privilege you have given me. And I would say to you, so long for now. Hope to see you again next year.

□ 1750

FAREWELL TO CONGRESSIONAL BLACK CAUCUS MEMBERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Ms. CLARKE) is recognized for 5 minutes.

Ms. CLARKE. Madam Speaker, as the 111th Congress comes to an end, it is with deep sadness that I come to the floor to wish a fond farewell to several members of the Congressional Black Caucus who will not be moving to the 112th Congress. These members, Congresswoman CAROLYN KILPATRICK, Congresswoman DIANE WATSON, Congressman KENDRICK MEEK, and Congressman ARTUR DAVIS will be sorely missed.

Congresswoman CAROLYN CHEEKS KILPATRICK, AKA "Auntie," as I affectionately called her, has been a friend and mentor throughout my service in Congress. A proud native of Detroit, Congresswoman KILPATRICK has led a long and distinguished career in public service. Before her service in the Michigan State House and later in Congress, she enriched the lives of young people as an educator. Throughout her tenure in the House of Representatives, Congresswoman KILPATRICK has consistently supported the development of minority businesses and brought numerous projects to her home State as an appropriator.

Also leaving us will be Congresswoman DIANE WATSON, who was also a mentor, who I affectionately have referred to as "Lady Di" due to her grace and elegance. Congresswoman WATSON began her career as a school psychologist. Upon entering politics, she's been a tireless advocate for consumer protection and health care. She was a member of the California Assembly and an ambassador to the Federated States of Micronesia during the Clinton administration.

Congressman ARTUR DAVIS has also faithfully served on Capitol Hill. A

former prosecutor, Congressman DAVIS has led a career in public service. He served on the House Ways and Means Committee, and has been a strong advocate for improvements in health care and education throughout the years.

Finally, hailing from the great State of Florida, Congressman KENDRICK MEEK will be leaving us. He is one half of a historic mother-to-son succession to the U.S. House of Representatives and affectionately known as my "Brother." After years in law enforcement, Congressman MEEK continued in public service by entering politics. He came to Congress at the retirement of his mother, Mrs. Carrie Meek. In the House of Representatives, he has faithfully represented the people of Miami and south Florida by focusing on policies that create jobs and improve health care.

The work of Representatives KILPATRICK, WATSON, DAVIS, and MEEK has not gone unnoticed. Their contributions will provide great assistance for not only their constituents, but for all Americans. I firmly believe that they all will continue to be change-makers along whichever paths they follow. Their role as public servants will always remain strong as they continue to enhance their communities. I wish them the best of luck in their next endeavors, and I will cherish the lasting friendship we have always shared.

TRIBUTE TO CONGRESSIONAL BLACK CAUCUS MEMBERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Ms. JACKSON LEE) is recognized for 5 minutes.

Ms. JACKSON LEE of Texas. Madam Speaker, before I begin my tribute to my dear friends that are leaving, I want to make mention again of a dear friend that we lost this week, and that is the Honorable Richard Holbrooke, who served this Nation ably and who was given tribute today by H. Con. Res. 335, as amended.

Just a brief word about Ambassador Holbrooke as I begin to talk about the outstanding Members that I wish to pay tribute to. I'm reminded not only of his courage, the magnitude of his physical size, the love that he had for his family, the love that he had for the Nation, and the admiration that he received from around the world, but I'm reminded of his tenure at the United Nations. He did something that was equal to moving the Earth. He brought peace between two giants: one, the Vice President of the United States, who in fact came to speak about HIV/AIDS, and he drew also to that very issue with the then-chairman of the Foreign Affairs Committee, Chairman Jesse Helms. He thought that was a great accomplishment—and we did too. Members of the Congressional Black Caucus went to the United Nations at

that time. So I am rising to acknowledge Ambassador Holbrooke and will join with my other colleagues who honored him earlier today.

But I have the great, if you will, honor of honoring wonderful, stellar organizations that are coming to pay tribute to a number of members of the Congressional Black Caucus. And I say "organizations" because I know that sororities, fraternities, the NAACP, women's organizations, so many would want to say thank-you to the following members:

First, my dear sister, Ambassador DIANE WATSON. I always call her "Ambassador." And that she is. She carried herself in a framework of peace; of wanting to bring people together; of challenging our consciousness, and doing it with integrity, honesty, and courageousness. Let me thank her for the work that she did in honoring Dr. Dorothy Height and thank her for the work she did in helping to carry forth the vision of C. Delores Tucker. And now, because of my sister DIANE WATSON and myself and the late Congresswoman Millender-McDonald, I can say that we have the Sojourner Truth statue in the United States Congress, which will always be remembered by this great work.

And her sister, the Honorable CAROLYN KILPATRICK, who took up the Sojourner Truth movement, she's the second African American woman to be appointed to the Appropriations Committee. I can tell you CAROLYN KILPATRICK never wavered from investing in people and ensuring that people had resources that came from the taxpayers' dollars. My hat is off to the former Congresswoman and chairwoman of the Congressional Black Caucus.

Might I thank a colleague on the Judiciary Committee, Congressman ARTUR DAVIS. Yes, a former U.S. Attorney, but a vigorous speaker and a progeny of the civil rights movement. He was in fact the beneficiary of the civil rights movement and carried it in dignity by becoming a U.S. Attorney in the district that covered Alabama. We thank him for his work on the Ways and Means Committee, and we thank him for his service on the Judiciary Committee, and wish him well.

The Honorable KENDRICK MEEK is to all of us like a brother. We loved his mother, Carrie. And we saw in him those traits as he worked hard in the 30-somethings in the first couple of years when he was in the Congress, trying to get us back in the majority, but more importantly, speaking to the people.

He ran a fantastic open, wide, welcoming race for the United States Senate. His great days are before him. His wonderful wife and children were a fixture around this place, and we pay tribute to him because of the passion and sacrifice he made for Haitians in his

area and for the many people that he represented.

So, Madam Speaker, let me say to you, sadness falls because we will be losing to great things Members like Congresswoman DIANE WATSON, Congresswoman CAROLYN KILPATRICK, Congressman ARTUR DAVIS, and Congressman KENDRICK MEEK. As my dear sister, Congresswoman DIANE WATSON, is on the floor of the House, I will tell you that is indicative of her work; that she was here for us in the morning, here for us late at night. And so I have no doubt that she will be carrying forth the torch in California, as all the others will be doing. Having just hosted the Attorney General from California, Ms. Harris, I know that you will be a great comfort and nurturer to her.

PARTISAN POLITICS TRUMPING PATRIOTISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, there are some days when I find myself completely baffled by the cynicism of many people who have the privilege to serve here in Washington. Last week, for example, the United States Senate did it again, staying true to its reputation as a graveyard for good legislation. Using the filibuster once again, a minority of Senators blocked the 9/11 Health and Compensation Act. This bill, which the House passed in September, would be the greatest expression of our gratitude for the 9/11 first responders. It would provide health care for those workers who incurred health hazards in their efforts to save lives in the aftermath of that horrific tragedy. But apparently, Madam Speaker, some in Congress are unmoved by the plight of firefighters and emergency medical personnel who breathed in toxic fumes on 9/11.

The only way it appears the right wing in America knows to commemorate 9/11 is through exclusion and religious chauvinism—by insisting that a Muslim community center must not be built even a few blocks away from Ground Zero. They've got no interest whatsoever in lending a compassionate hand to those who answered the call on 9/11; no apparent interest in responding to 9/11 with healing rather than dividing.

□ 1800

No wonder Mayor Bloomberg of New York calls the rejection of the bill “a devastating indictment of Washington politics, a tragic example of partisan politics trumping patriotism.”

If I had a dollar for every time a colleague on the other side of the aisle invoked the bravery of the 9/11 first responders, I'd probably have enough money to offset the cost of the bill. But

talk is cheap, Madam Speaker; they want to play lip service to heroism. They just don't want to invest any actual money to help the heroes. Hundreds of billions in tax breaks for the very richest Americans, that's not only okay by them; it is the one thing that animates the Republican Party more than anything else, but funds for American heroes who got sick answering the call of duty—sorry, that's just too expensive.

Actually, there is one other thing that animates them, and that is the support for endless military occupations halfway around the world. I have yet to hear any of the so-called “deficit hawks” ask questions about how we're going to pay for that.

I will not, Madam Speaker, take any claims of fiscal responsibility seriously from anyone who is not willing to put Afghanistan war spending on the table. Between Iraq and Afghanistan, we have now spent more than \$1.1 trillion in taxpayer money on wars that have undermined our national security goals, increasing rather than diminishing the terrorist threat.

But what about the folks who were there on that one day that the terrorists attacked? Who jumped right into the debris and now suffer from lung damage and devastating respiratory illnesses? They can't get a modest fund from the country whose values they so valiantly embodied that fall morning 9 years ago.

It is an appalling set of priorities. We ought to bring our troops home at once and reinvest the money in our people, including those who showed such courage and who sacrificed so much on 9/11.

COURAGE OF CONVICTION

The SPEAKER pro tempore (Mr. SCHRADER). Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes as the designee of the minority leader.

Mr. GOHMERT. Thank you, Mr. Speaker.

As always, it is an honor and a privilege to address this House, especially when you know the history of this place.

I would like to comment about my friend across the aisle who was talking about the 9/11 first responders. Those were heroes. They are heroes. They are really true testaments to the good in America. So many first responders were going up the stairs to rescue people as most everyone else was fleeing. They are true heroes.

What is not as heroic—in fact, it isn't heroic at all—is to bring a bill before the floor and say, Here is a bunch of heroes we need to help. We're not going to cut spending in any other areas. We know there is massive waste, fraud and abuse all over the place. We know there are entities that really have not been

able to show any real benefit to the American economy, to American freedom, to American security; but we are not going to cut those, because those are favored in our eyes, too. We want you to borrow more money from the Chinese and from whoever is willing to keep buying bonds; and apparently, some people aren't willing to buy bonds at all or aren't willing to finance our continued astronomic debt.

So, even though Chairman Bernanke had assured us in a private meeting that he wasn't doing it, whatever he wants to call it, it sure sounds like monetizing the debt when you print money and buy our own debt, whether you do it directly or buy it from a third party who has just bought our debt.

Those are the kinds of things we are doing. We are saying, We see these heroes who deserve to be cared for and who deserve to have their health needs met. We agree on that. There was total agreement on that as far as I know.

What we didn't agree on was saying, So, as to these little children being born now, these little babies who are in their cribs all over the country, we're going to load them down with tens of thousands of dollars of debt before they ever even get their first jobs. We are going to load them up with debt because we don't have the financial responsibility to carve out money that is being wasted and to say this is where we need to send it.

Had that been done, I know the people on my side of the aisle, who I know and talked to about that bill that was so noble in its intent, would have voted for it as well. It doesn't even have to be that heroic. Just carve out some of the waste, fraud and abuse that this government is involved in, and pay for these things.

That was another problem with the so-called “tax extender bill” that came before the House this week. There were 36 Republicans who voted against it—not terribly heroic even though most of us knew that there could be consequences. I hear there are those who want to further take away committees. Some of us have been told we won't be subcommittee chairmen in the new Congress. It is ironic to see that those who have the most affiliation with tea party groups and the most conservatism, except for a precious few, are pretty much being shut out. So we understand there are the consequences of being shut out of any type of leadership power on this side of the aisle when we stand firm on our convictions.

We needed to extend the tax rates. It wasn't going to stimulate the economy, but it was going to help prevent a disaster, a recession—a double dip recession, a triple dip, whatever you want to call it. Extending the current tax rates was the thing to do. It should have been done months or years ago. The problem was we didn't have

enough courage on our side of the aisle to stand firm and say, We ran on being financially responsible.

We ran and won the majority, making it clear we were going to stop the deficit spending. We made it clear that, if you give us just one more chance in the majority, then we are going to be responsible financially. We are not going to rush bills to the floor no matter the heroic or noble purpose. We need to protect those children being born and those to be born in this country from having to shoulder the debt that we irresponsibly would not address.

That was the concern of the 36 I know who voted against it. We weren't keeping our promise.

Now, I know the tax extension's current rates were absolutely critical. I also know that the Members on our side of the aisle who I know voted for that bill are just a bunch of wonderful folks who have the best interests of this country at heart. They love America. I know people on both sides of the aisle love America and want to do what is best for America, but we have dramatically different visions of how you do that. Frankly, the Democrats won the majority in November of 2006 because we had been doing some deficit spending.

□ 1810

And even though there were wars going on, it needed to stop, and America said that: Okay, Democrats, you've made clear you're going to stop the deficit spending so we'll give you a chance to do that. Four years later, the deficit spending had gone on steroids like nothing anybody has ever seen anywhere in the world. \$3 trillion in deficits in 2 years? It's just unfathomable.

So to come in when we've already saddled that much debt, where we're borrowing over 50 cents of every dollar this majority across the aisle was spending, that's just irresponsible. It's just wrong.

So I deeply regret that my friends across the aisle that brought forth the 9/11 first responders bill did not also carve out the money from things that were not worthy and say this money can be better spent for heroes in this country, and we're going to responsibly do it without adding debt to those who come after us, because in our position, our generation, those of us who are serving in Congress now, we're only here not because we deserve to be born in this country, or those that emigrated to this country deserved to emigrate into here. We are here because of the grace of God, the blessings of God and because this Nation was blessed for over 200 years as a Nation and 200 or 300 years before that going back to Columbus, 1492, and his sacrifice and his courage and even putting his life on the line when the crew was ready to turn

back and putting his life on the line in an effort to keep the crew on track, to give it a few more days, which they did, and as a result, we have so much for which to be grateful and thankful.

But we've been irresponsible, and there are those of us that knew by taking a stand against unpaid-for spending that we ran the risk of being further ostracized by our own party, not getting committees, being removed from committees, not getting chairmanships. We understand that. But this was an important principle. It was important that we try to keep our word when we can.

And I appreciated what my friend from Michigan THADDEUS MCCOTTER had said in talking and justifying his vote against this massive deficit growth because, as we all know, we won the majority. The Republicans won the majority. Come January 5, we will have the majority in this House. It will be a Republican Speaker, JOHN BOEHNER, who will be in the Speaker's chair up there. We will control the House of Representatives for the first time in 4 years. Still won't control the Senate. We'll have additional Senators we didn't have 2 years ago and 4 years ago, and President Obama will still be President, but we will hold the majority in the House of Representatives.

So what THADDEUS had to say was that forcing us to vote for a bill, even though it had this extension of the current tax rate that would help avoid a massive recession, is a bit like Custer saying, Come on, boys, let's attack before there are more of us. Didn't make a lot of sense to some of us. We were going to have more leverage to do what was right and best for this country before we had a majority because it seems to me that once we had the majority, if we will stand on principle then, that we can tell the Senate we're not going to deficit spend. You can't dangle things that we know in our hearts at this end are good for the country and expect us to buy into your deficit spending—we're not going to do it. That that would have been an awful lot of leverage.

And we also know that taxpayers at the lowest tax-paying levels were going to see their income tax go up 50 percent. People that pay 10 percent in income tax were going to have their taxes go up to 15 percent. That's massive when you're not making very much. And the highest wage earners were going to see their taxes go from 35 to about 39½ percent. It was an increase but percentage-wise not anything like at the lowest wage earner level. So there was going to be leverage.

And I appreciate Mr. MCCOTTER's comment. It's like Custer saying, Come on, boys, let's attack now before there are more of us. Well, the tax extension bill was passed, and there are those who said, LOUIS, you were the one who

came up with the payroll tax holiday, and this bill had your bill, your idea in there. It did not. It had a 2 percent reduction from 6.2 percent down to 4.2 percent as the Social Security tax rate. So it was clever, but that also gives Members of Congress over a \$2,100 raise because our Social Security tax—and I guess by saying that, some people in America are shocked. They don't know that we've been paying Social Security tax the whole time I've been in Congress for the last 6 years, but like everyone across America, our Social Security tax will be dropped by 2 percent down from 6.2 to 4.2.

But here again, it was not paid for. We're going to do that on the backs of our children, grandchildren, great-grandchildren. It's wrong, and it needed to be paid for. We ran on the fact that we would do that, and I know the people I talked to that supported that felt like it was what had to be done, but some of us saw it differently, and it may cost us politically but it was the right thing to do.

The Social Security so-called tax or payroll holiday was not paid for, and that was never my idea to have an unpaid-for tax holiday. Because the fact is, that we had enough money from the porkulus, stimulus, whatever you want to call the nine-hundred-and-something billion dollar bill that the President passed immediately, got through Congress, his demand and Speaker PELOSI's pushing, Majority Leader REID's pushing. They got through that monstrosity of a debt increaser. We could have taken that money and had a tax holiday. In my bill, I proposed taking the money from TARP, and I know, I've read the data. Yes, Wall Street contributes to my Democratic colleagues 4-1 over Republicans. I get it. I understand. So obviously they would be for helping Wall Street, so many of them. I've got dear friends who were as offended as I was at what was happening, and I'm grateful for their friendship and for their stance and it did cost some of them.

But we didn't need to be running up the debt, and that's why my tax holiday bill would have allowed people to keep their own money in their own paycheck and, instead of allowing the Secretary of the Treasury—and I agree with Newt Gingrich that probably Hank Paulson was the worst Treasury Secretary we've had certainly in my lifetime, and now Timothy Geithner, he's enjoying having a slush fund where he can throw out, dole out as he sees fit. To Secretary Paulson's credit, he was able to bail out his buddies at his firm Goldman Sachs and see that they not only avoided bankruptcy but got mega wealthy on the backs of the American taxpayers, and also that AIG was kept from having to reorganize in bankruptcy so they could stay wealthy as well, and also pay like \$9 billion, whatever it was they owed, Mr. Paulson's buddies at Goldman Sachs.

□ 1820

But anyway, four-to-one contributions to Democrats over Republicans from Wall Street, and it has really reaped them benefits. The only thing they've had to endure on Wall Street is having the President, having some of the Democrats, by words, accused them of being greedy and money-grubbing and all those words. But they've been able to endure all the slings and arrows that words have brought from the Democratic leadership, including the President, because they knew they were getting megawealthy from their friends they helped elect in the Democratic Party.

A tax holiday needed to be paid for. It would have stimulated the economy. And I realize there are political calculations, and I will readily admit—I may be wrong, but I believe that those who think that having the tax rates extended for 2 years so they have to be debated as the Presidential election is coming up in November 2012 will help Republicans. I didn't see it that way. I still don't see it that way.

I think Republicans are going to pay a price because that 2 percent reduction on Social Security is going to push Social Security more quickly toward bankruptcy or default, and it will enable our friends across the aisle to say, Uh-huh, it's about to go broke. Now you have to raise taxes. Let's do it on those who create jobs. Let's do it on the wealthy. Let's do it on those in small business. Let's pop them hard, raise their taxes. And because people will not want to see their tax rates go up, including their Social Security rate go up, then there will probably be more political interest in raising taxes than our friends across the aisle were not able to do in the last few months.

They may be able to do it through the Senate and through the things that are sent down here in late 2012 because, as one of our friends here on this side of the aisle had said, we've got to be careful, because as this tax extender/stimulus bill showed, when we send the clear message to the administration in the White House and to our friends in the Senate that we stand firmly on our principles, we will not yield, we will not give in to deficit spending unless you give us something in the bill that we know will be good for America, then we'll keep deficit spending, so we get a net wash and maybe net damage. That's not a message we needed to be sending, that if you'll give us something that we know helps America, like extending the current tax rates, we'll forgo our principles on standing firm on stopping deficit spending. It's very unfortunate.

But I would also submit that with regard to the unemployment benefits, 13 more months that were added, I understand, the thought was that this was out of compassion, to help those who are not working, when real compassion

would be creating jobs. The best Christmas present you could give so many Americans this year would be a job—that would have been the thing to do—instead of paying people to continue staying at home.

Now, I know people who have been looking constantly for employment, but because of their age, the things that they have been doing for a living, they can't find a job. I understand that. But true compassion would have been to say, You know what? We went from a matter of months of unemployment insurance we would pay to 2 years, 99 weeks of unemployment that our Democratic friends had pushed through. And now we've added unpaid-for deficit spending, 13 more months of unemployment on top of what we've already done. Compassion would have said, We're more interested in you getting a good job than paying you to continually lose more and more of your self-esteem because you can't find a job, continually go into more depression, as so many I know are because they can't find a job. We would have been better off saying, You know what? In 26 weeks, a year, 99 weeks, another 13 months on top of that, you know, you haven't been able to find a job 6 months or a year? If you haven't, then this is what we need to do. Instead of paying you to sit at home and not work because there are no jobs in your area of expertise, we're going to pay you to retrain in areas where there are jobs. That would be more compassionate. Re-create some self-esteem in people who have lost theirs. That would be more compassion.

Now, we're coming back next week into session, and of course it costs money every time we bring this body back into session. People fly back in from all over the country, drive back in from some places. Some people stay here and don't go home much and lose touch with their constituents. But those of us who go home when we're not in session, it costs money to come back and forth.

It shocks people sometimes to see us flying commercially because they think just because Speaker PELOSI had her own 757 that we all have private planes and fly on those. We don't. And to soon-to-be Speaker BOEHNER's credit, he's giving back that 757 to the Air Force. That's going to be a big deal. That's going to be so helpful to those who are serving in our military service that have been without that plane for the last some years now.

We're coming back next week. It really wasn't necessary, except that there are Members in the majority of the Senate who are not satisfied to have a continuing resolution that would extend the current rate of spending into next year. What was discussed in here, some of our friends across the aisle, they were willing to have a 2-, 3-month—some less, some more—but are

probably going to have a 2-month continuing resolution to continue the current level of spending into, say, next February, and that would give Republicans a chance to get in here. We wouldn't get much time. It's going to mean a lot of work to figure out the proper appropriations to fill in, carry forward after that resolution runs out. But that was going to be agreeable, it sounded like, to this House.

However, the Senate says, You know what? We're not satisfied. We want to pull out more Christmas presents from the American public, from the taxpayers, even though we realize they don't have the money now. We don't have it in the Treasury. We'll have to borrow it. We'll have to print it. We've got too many more Christmas presents we want to come up with to help our buddies with. And so we're not ready to just continue this current level of spending. We've got too many Christmas ornaments we want to put on that spending resolution. That's why we're coming back next week.

We've got a 5-day resolution to keep spending at the current level, and we'll have to come back next week because the Democrats in the Senate—and I can really understand. You know, Majority Leader REID, he had a tough-fought race and had tough opposition, lots of people helping, narrowest race that he might have expected, but he won. And so, by golly, as the old saying has gone for centuries, to the victor goes the spoils. So he is wanting some of these spoils to be put on these bills and not have a clean spending resolution. I get it. I understand that. But it sure would be better for America to stop the runaway spending, stop all the pork being added to these bills, stop all the special earmarks, whether they are going to Republicans or Democratic Senators. It needs to stop. Let's get our spending under control.

□ 1830

So there will be a Christmas present there. My friend, Dr. GINGREY, was speaking in the well about Guantanamo Bay. I can't think about Christmas without thinking about the Christmas present to the five people that have self-admitted that they planned 9/11 and that they were, as of December 8 of 2008, had indicated to the judge at Guantanamo that they were ready to plead guilty. They would enter no more motions. They were ready to get this over with.

And then Senator Obama was elected President, and they immediately sent out the word that they were going to probably be bringing these people to New York City, costing no telling how many billions of dollars to try to protect the city, no telling how much money would have to be spent to prepare facilities. They couldn't be as safe as they are in Guantanamo. I have been there. I have been through them.

As a former judge, those were well-thought-out judicial facilities there, well-thought-out facilities for consultation between the defendants and their attorneys, well-thought out facilities both from a protection aspect and from a judicial aspect.

But Senator Obama made clear that they were going to give them a Christmas gift. They didn't call it that, but obviously that is what it was. Certainly those five don't celebrate Christmas, but they sure did get a Christmas present because after they announced they were going to plead guilty, the administration made clear they were going to give them a good show trial in New York City. So they withdrew their indication that they were going to plead guilty and move forward.

So they have had a wonderful Christmas present. It is good to see the charity for others, and that is interesting charity that was provided by this administration to those who planned and plotted and were able to see 3,000 Americans killed on 9/11. It was wonderful to see the charity, but the problem is we take an oath to defend this country, basically the Constitution, against all enemies foreign and domestic; and it is a problem when you don't do that.

So they got a Christmas present 2 years ago, and they have continued to have a Christmas present. The administration, Attorney General Holder and the President, have given them another one because they have announced we don't know when we are going to get around to trying you so you can't get the death penalty for the foreseeable future because, heck, here is a gift—life. You didn't give the gift of life to those 3,000 Americans on 9/11; you took theirs, but we are going to give it to you and perhaps there is some feeling by us showing them such wonder and gratitude and love and affection that perhaps they will end up embracing us.

But the pleadings that Khalid Sheikh Mohammed has filed on behalf of himself and the other four planners of 9/11 make pretty clear, as they say in their pleading that was filed in March of last year, they praise Allah. If we caused you terror, they say praise Allah. And that it is not over. They say they will defeat us, and we will be destroyed just as surely as those Twin Towers were on 9/11. But the administration has given a gift to them that seems to keep on giving.

We took up the DREAM Act this week. There are people who came over, were brought over as children and who had no control of being brought into this country. So it is easy to understand the warmth and the compassion for people like that. I have met some. They have done well in school, some that I have met. The problem is that they were brought here illegally. And a bigger problem is that still we have not secured our border.

And as we found in 1986, with all of those promises, okay, we will do this, one time in American history, we will give this amnesty to everyone who is here illegally and then we will never do it again because nobody else is getting amnesty. One small problem: they did not secure the borders so now there are millions and millions and millions of people here illegally. Now we are talking about amnesty again.

Some of us had a problem with the bill because it created the ability for people to say, you know what, I meet the criteria here. I am under 16. I have been here more than 5 years and so make me a citizen and then I can turn around and declare that I need my parents here so I can use chain migration to add those who came illegally.

So that is a problem. You say, no, under that DREAM Act, the Secretary of Homeland Security was going to make the determination of whether they fit the criteria. But when I read the bill, I was shocked to see that Homeland Security, the Secretary of Homeland Security, had complete authority. Nobody else had it, undivided authority to grant or not grant the existence to stay here under the DREAM Act and amnesty and the ability to ultimately become citizens. It didn't give it to the Department of Justice because under the Department of Justice is where you find immigration judges. The bill doesn't allow for them. It gives complete authority to Homeland Security.

Now having been a judge, I know if someone were to come before me with an affidavit that says I am under 16 and I have been here for more than 5 years, and if I were looking at the person who provided the affidavit or the sworn testimony, that I might say: But sir, your hair is white or gray or you are balding than I am and your skin is more wrinkled than mine from many, many years out in the sun. I don't believe you are under 16. Perhaps he would be met with words, sometimes through an interpreter: Oh, yeah, I have lived a hard life. That is why my hair is so white and my skin is so wrinkled. Well, an immigration judge would know that unless there is some extraordinary disease, this person is not under 16 years old.

However, when the Secretary of Homeland Security has complete unadulterated authority to decide anything she sees fit, and not only that, a provision that even if they don't meet any of the requirements, she can waive them, that is not a good bill. And especially when they add a provision that whether or not you meet a single one of the requirements to allow you to have the amnesty in the DREAM Act, the mere act of filing the petition will stay enjoined basically any effort to remove you from the country.

Well, we can have some pretty heinous folks around here who should be

removed; but under the bill, once they file a petition, even though they are clearly not under 16, that effort is stayed. They have to allow them here pending a decision by the Secretary of Homeland Security. It is not a good idea.

Now, with regard to the Don't Ask, Don't Tell damage we have done this week in the House, I understand there are many who mean well. There are some who think it would be a great thing to give all of these civil rights to people in the military. But anything that is an impediment to the good order and discipline of the military is not good for the military. The military does not have the civil rights everybody else has. That is why under the Constitution Congress is allowed to do as it did and create the Uniform Code of Military Justice so when I was in the military if I had been arrested for something, I didn't have a right to a random selection of jury panel. The same person who signs the order ordering you to court martial is the same one who gets to pick the jurors who will sit on your case.

Now people in civic life in America would not stand for that. Civilians would not. It would be unconstitutional. But not in the military because they don't have the rights that we do.

I know when I was in the Army at Fort Benning, a young man there in the barracks could not control his overt feelings of homosexuality and so he misread indications from another person in the barracks and found out that he had misread when he crawled into his bunk with him late one night and his advances were not met with the kind of affection that he had hoped.

□ 1840

That's not good for the good order and discipline. When we have people who cannot control their hormones, no matter whether it's heterosexual, homosexual, whatever, they are an impediment to the military. And we out-processed people at Fort Benning when I was there who couldn't control their overt sexuality, whatever it was.

There are some people across America that mean well with this but don't realize this is being shoved down the military's throat. It would have been far more appropriate to have done a survey where the respondents—all of those in the military—are asked and submit a ballot to give their feelings about what effect it would have and whether or not they would reenlist, they would re-up, they would do another term, find out so that it could not be adversely affected in their OER or their enlistment ratings. And then take that result—because we have a voluntary military some have lost sight of, they don't have to stay in. So when we talk about losing hundreds or thousands of people who want to practice homosexuality openly in the military, there has been no regard for how

many thousands or tens of thousands—or who knows how many because a survey wasn't properly done—we don't know how many we will lose, but it will be a lot of people as they have certainly conveyed that to some of us privately.

And there were no solutions in this bill for how you deal with living conditions. Do you put gay men and heterosexual men together? Do you put gay men together? There are all kinds of questions that needed to be properly studied and have not been. But I understand before this group lost the majority across the aisle they had to pander to people who were demanding this kind of thing, but it sure wasn't the military making that demand.

And just as I know there are proponents of this bill who thought they knew what the majority in their district felt, and then it turned out they didn't know what the majority of the people in their district felt because they got beat, and just as there were people in leadership across the aisle who thought they knew what the majority of America was thinking and that tea parties were "astroturf," and then it turned out they completely misread America, there is a decent chance they were misreading the military on this as well. But we rushed headlong, not giving proper concern to the vast majority of those in the military and whether or not they would reenlist, whether or not we would do damage to the good order and discipline.

But you can expect, if Don't Ask, Don't Tell is repealed—it's working fine; if you can control your sexuality, whatever it is, then you stay, you serve. You love your country, it's not overt, then you stay and you serve. Certainly there were homosexuals that were good soldiers in the military when I was there, but it was a private matter and remained that way, and so it did not affect, unless it became overt, the good order and discipline of the military. You can expect though, if that becomes law, there will be demands by those in the military saying, hey, now that we can be overt in the military, we demand to have barracks, we demand to have quarters where we can live together as husband and husband and wife and wife, and now you've got to redo that.

And then of course once that is rammed through the military as well—because they don't have a choice, they can't object to anything the Commander in Chief throws their way because that is a court martial-able offense—they give up their right to free speech, in fact, in the military. It's going to have a tremendous effect across America, which is what was desired.

I also know that there are people across America, including at the White House, who say this is not a Christian

Nation. And I will continue not to debate that point because maybe they're right, I don't know. But I know the foundation of the country, I know how we got started. And so we are coming back, we're told, next Tuesday into session perhaps for part of one day. I could not be sure that we would actually have Special Orders during that one day we come back to deal with the Christmas presents that the Senate Democrats want to convey to people, so I wanted to make sure that this was in the RECORD this year.

And so, Mr. Speaker, if I might inquire at this time how much time is remaining?

The SPEAKER pro tempore. The gentleman from Texas has 17 minutes remaining.

Mr. GOHMERT. Thank you, Mr. Speaker.

Franklin D. Roosevelt, December 21, 1941, said these words—I won't read the whole thing, but he said, "Sincere and faithful men and women are asking themselves this Christmas how can we light our trees, how can we give our gifts, how can we meet and worship with love and with uplifted spirit and heart in a world at war, a world of fighting and suffering and death? How can we pause even for a day, even for Christmas day, in our urgent labor of arming a decent humanity against the enemies which beset it?" He goes on and he says, "I do hereby appoint the first day of the year, 1942, as a day of prayer, of asking forgiveness of our shortcomings of the past, of consecration to the tasks of the present, and asking God's help in spirit, but strong in the conviction of the right, steadfast to endure sacrifice, and brave to achieve a victory of liberty and peace."

He said, "Our strongest weapon in this war is that conviction of the dignity and brotherhood of man which Christmas day signifies. Against enemies who preach the principles of hate and practice them, we set our faith in human love and in God's care for us and all men everywhere. And so I am asking, my associate, my old and good friend, to say a word to the people of America, old and young, tonight, Winston Churchill, Prime Minister of Great Britain," at which time Prime Minister Winston Churchill gave a Christmas message for America because they thought Christmas was a national treasure. And so it was.

In 1942, Roosevelt said these words, "It is significant that tomorrow, Christmas day, our plants and factories will be stilled. That is not true of the other holidays we have long been accustomed to celebrate. On all other holidays work goes on gladly for the winning of the war, so Christmas becomes the only holiday in all the year. I like to think that this is so because Christmas is a holy day. May all it stands for live and grow throughout the years."

In 1944, Franklin D. Roosevelt said, "It's not easy to say 'Merry Christmas' to you, my fellow Americans, in this time of destructive war, nor can I say 'Merry Christmas' lightly tonight to our Armed Forces at their battle stations all over the world or to our allies who fight by their side. Here at home, we celebrate this Christmas day in our traditional American way because of its deep, spiritual meaning to us, because the teachings of Christ are fundamental in our lives, and because we want our youngest generation to grow up knowing the significance of this tradition and the story of the coming of the immortal prince of peace and goodwill." Those are Franklin D. Roosevelt's words, 1944.

He went on and said, "They know the determination of all right-thinking people and nations, that Christmases such as those we have known in these years of world tragedy shall not come again to beset the souls of the children of God. This generation has passed through many recent years of deep darkness, watching the spread of the poison of Hitlerism and fascism in Europe, the growth of imperialism and militarism in Japan, and the final clash of war all the over the world."

□ 1850

"Then came the dark days of the fall of France and the ruthless bombing of England and the desperate battle of the Atlantic and Pearl Harbor and Corregidor and Singapore. Since then, the prayers of good men and women and children the world over have been answered."

He goes on and says, "We pray that until that day when peace comes, God will protect our gallant men and women in the uniforms of the united nations, that he will receive into his infinite grace those who make their supreme sacrifice in the cause of righteousness, in the cause of love of him and his teachings."

Roosevelt went on and said, "We pray that with victory will come a new day of peace on Earth in which all the nations of the Earth will join together for all time. That is the spirit of Christmas, the holy day. May that spirit live and grow throughout the world in all the years to come."

Harry Truman, in his message on December 24th of 1946, included these words. He said, "Again our thoughts and aspirations and the hopes of future years turn to a little town in the hills of Judea where on a winter's night 2,000 years ago the prophecy of Isaiah was fulfilled. Shepherds keeping watch by night over their flock heard the glad tidings of great joy from the angles of the Lord singing 'Glory to God in the highest, and on Earth peace, good will toward men.'"

Truman went on and said, "The message of Bethlehem best sums up our hopes tonight. If we as a nation and the

other nations of the world will accept it, the star of faith will guide us into the place of peace as it did the shepherds on that day of Christ's birth long ago.

"I am sorry to say all is not in harmony in the world today. We have found that it is easier for men to die together on the field of battle than it is for them to live together at home in peace. But those who died have died in vain if in some measure at least we shall not preserve for the peace that spiritual unity in which we won the war.

"The problems facing the United Nations, the world's hope for peace, would overwhelm faint hearts. But as we continue to labor for an enduring peace through that great organization, we must remember that the world was not created in a day. We shall find strength and courage at this Christmastime because so brave a beginning has been made. So, with faith and courage, we shall work to hasten the day when the sword is replaced by the plowshare and nations do not learn war anymore."

He went on and said, "He whose birth we celebrate tonight was the world's greatest teacher." He said, "Therefore, all things whatsoever ye would that men should do to you, do ye even so to them, for this is the law and the prophets. Through all the centuries since he spoke, history has vindicated his teaching. In this great country of ours has been demonstrated the fundamental unity of Christianity and democracy. Under our heritage of freedom for everyone on equal terms, we also share the responsibilities of government."

He went on and said, "We have this glorious land not because of a particular religious faith, not because our ancestors sailed from a particular foreign port. We have our unique national heritage because of a common aspiration to be free and because of our purpose to achieve for ourselves and for our children the good things of life which the Christ declared he came to give all mankind. We have made a good start toward peace in the world. Ahead of us lies the larger task of making the peace secure.

"The progress," Truman said, "we have made, gives hope that in the coming year we shall reach our goal. May 1947 entitled us to the benediction of the master, 'blessed are the peacemakers for they shall be called the children of God.' Because of what we have achieved for peace, because of all the promise our future holds, I say to my fellow countrymen, Merry Christmas." He didn't say "happy holidays," but Truman said "Merry Christmas." "Merry Christmas, and may God bless you all."

There are so many wonderful Christmas messages over the generations from different presidents. I love Truman's comment in '48 when he said,

"The God that made the world and all things herein hath made of one blood all nations of man for to dwell on the face of the Earth." Truman said, "In the spirit of that message from the Acts of the Apostles, I wish you all a Merry Christmas."

In 1953, Dwight Eisenhower had these words for us. On December 24th, 1953, he said, "This evening's ceremony here at the White House is one of many thousands in American traditional celebration of the birth almost 2,000 years ago of the Prince of Peace. For us this Christmas is truly a season of good will and our first peaceful one since 1949. Our national and individual blessings are manifold. Our hopes are bright, even though the world still stands divided in two antagonistic parts.

"More precisely than in any other way, prayer places freedom and communism in opposition, one to the other." Eisenhower said, "The communist can find no reserve of strength in prayer because his doctrine of materialism and stateism denies the dignity of man and consequently the existence of the God. But in America," Eisenhower says, "George Washington long ago rejected exclusive dependence upon mere materialistic values. In the bitter and critical winter at Valley Forge, when the cause of liberty was so near defeat, his recourse was sincere and earnest prayer. From it he received new hope and new strength of purpose, out of which grew the freedom in which we celebrate this Christmas season.

"As religious faith is the foundation of free government, so is prayer an indispensable part of that faith." Eisenhower said, "Would it not be fitting for each of us to speak in prayer to the father of all men and women on this Earth of whatever nation, of whatever race and creed, to ask that he help us and teach us and strengthen us and receive our thanks? Should we not pray that he help us; help us to remember that the founders of this, our country, came first to these shores in search of freedom, freedom of man to walk in dignity, to live without fear beyond the yoke of tyranny, ever to progress; help us to cherish freedom for each of us and for all nations. Might we not pray that he teach us, teach us the security of faith. And may we pray that he strengthen us. Should we not pray that he receive our thanks, for certainly we are grateful for the opportunity given us to use our strength and our faith to meet the problems of this hour. And on this Christmas Eve, all hearts in America are filled with special thanks to God that the blood of those we love no longer spills on battlefields abroad. May he receive the thanks of each of us for this, his greatest bounty, and our supplication that peace on Earth may live with us always."

Now, at that time we were at peace, when Eisenhower spoke those words.

But, of course, we have men and women losing their lives in uniform for our benefit and our freedom and we should, as Eisenhower said, remember them in prayer both for their safety and thanks giving.

President Kennedy had wonderful, wonderful Christmas messages, as did other Presidents.

□ 1900

But let me make sure people understand who don't understand Christianity and don't understand that it is possible to love someone and not agree with their lifestyle; that it's possible to even lay down one's life for people they love even though they disagree completely with their lifestyle.

I serve with colleagues here, as the gentleman from Massachusetts pointed out, who serve here and are openly avowed homosexuals. And I understand that. I have friends who practice homosexuality—people I love, care about. There are people who practice adultery as heterosexuals. And in all those cases, as a member of the military, I would gladly lay down my life for them and their freedom because, as Jesus taught, you don't have to embrace or love somebody's lifestyle to love them with all your heart.

But as we approach this Christmas season, I hope that we will re-engage a love for those yet to take a breath in this world, who are in utero; that we will have a love and affection for those who are being overwhelmed with taxes before they even get their first job; and we will act responsibly to show that love and to cease the damage we're doing to this country. Those are adequate matters of prayer.

And in this, the last hour of this week before we approach the week of Christmas, I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. EDDIE BERNICE JOHNSON of Texas (at the request of Mr. HOYER) for December 16 and the balance of the week.

Mrs. NAPOLITANO (at the request of Mr. HOYER) for today on account of official business in district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CARNAHAN) to revise and extend their remarks and include extraneous material:)

Mr. CARNAHAN, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Ms. LEE of California, for 5 minutes, today.

Mr. RANGEL, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.
Mr. YARMUTH, for 5 minutes, today.
Mr. MURPHY of Connecticut, for 5 minutes, today.

Ms. CLARKE, for 5 minutes, today.
Ms. JACKSON LEE of Texas, for 5 minutes, today.

Mr. FATTAH, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. DEFAZIO, for 5 minutes, today.
Ms. WOOLSEY, for 5 minutes, today.

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. GINGREY of Georgia, for 5 minutes, today.

Mr. SMITH of New Jersey, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, December 21.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. WATSON, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 4036. An act to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury; to the Committee on Financial Services.

ENROLLED BILLS SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2941. An act to reauthorize and enhance Johanna's Law to increase public

awareness and knowledge with respect to gynecologic cancers.

H.R. 4337. An act to amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

H.R. 4602. An act to designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the "Emil Bolas Post Office".

H.R. 4853. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

H.R. 5605. An act to designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the "George C. Marshall Post Office".

H.R. 5606. An act to designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the "James M. 'Jimmy' Stewart Post Office Building".

H.R. 5133. An act to designate the facility of the United States Postal Service located at 331 1st Street in Carlstadt, New Jersey, as the "Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building".

H.R. 5655. An act to designate the Little River Branch facility of the United States Postal Service located at 140 NE 84th Street in Miami, Florida, as the "Jesse J. McCrary, Jr. Post Office".

H.R. 5877. An act to designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the "Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building".

H.R. 6198. An act to amend title 11 of the United States Code to make technical corrections; and for related purposes.

H.R. 6392. An act to designate the facility of the United States Postal Service located at 5003 Westfields Boulevard in Centreville, Virginia, as the "Colonel George Juskalian Post Office Building".

H.R. 6400. An act to designate the facility of the United States Postal Service located

at 111 North 6th Street in St. Louis, Missouri, as the "Earl Wilson, Jr. Post Office".

H.R. 6516. An act to make technical corrections to provisions of law enacted by the Coast Guard Authorization Act of 2010.

SENATE ENROLLED BILLS SIGNED

The Speaker announced her signature to enrolled bills of the Senate of the following titles:

S. 30. An act to amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

S. 841. An act to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 3036. An act to establish the National Alzheimer's Project.

S. 3199. An act to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

S. 3386. An act to protect consumers from certain aggressive sales tactics on the Internet.

S. 3447. An act to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes.

S. 3860. An act to require reports on the management of Arlington National Cemetery.

S. 4005. An act to amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings.

ADJOURNMENT

Mr. GOHMERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 1 minute p.m.), under its previous order, the House adjourned until Tuesday, December 21, 2010, at 10 a.m.

BUDGETARY EFFECTS OF PAYGO LEGISLATION

Pursuant to Public Law 111-139, Mr. SPRATT hereby submits, prior to the vote on passage, the attached estimate of the costs of H.R. 6523, the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, for printing in the CONGRESSIONAL RECORD.

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR H.R. 6523, THE IKE SKELTON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011, AS INTRODUCED IN THE HOUSE ON DECEMBER 15, 2010

	By fiscal year, in millions of dollars—										
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015
NET INCREASE OR DECREASE (–) IN THE DEFICIT											
Statutory Pay-As-You-Go Impact ^a	3,973	–3,968	–6	1	–2	4,370	141	–4,511	1	1	–2

^a H.R. 6523 would affect direct spending, mostly by shifting the timing of certain military retirement payments.

Source: Congressional Budget Office.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

10994. A letter from the Secretary, Department of Transportation, transmitting the annual report of the Maritime Administration (MARAD) for Fiscal Year 2008, pursuant to 46 U.S.C. app. 1118; to the Committee on Armed Services.

10995. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the System's final rule — Truth in Lending [Regulation Z; Docket No.: R-1394] (RIN: AD-7100-56) received December 8, 2010, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Financial Services.

10996. A letter from the Chairman, National Credit Union Administration, transmitting the 2008-2009 Annual Report of the National Credit Union Administration, pursuant to 12 U.S.C. 1752a(d); to the Committee on Financial Services.

10997. A letter from the Director, Office of Policy, Reports and Disclosure, Department of Labor, transmitting the Department's final rule — Rescission of Form T-1, Trust Annual Report; Requiring Subsidiary Organization Reporting on the Form LM-2, Labor Organization Annual Report; Modifying Subsidiary Organization Reporting on the Form LM-3, Labor Organization Annual Report; LMRDA Coverage of Intermediate Labor Organizations; Final Rule (RIN: 1215-AB75; 1245-AA02) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

10998. A letter from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting the Department's final rule — Conduct of Employees and Former Employees; Exemption From Post-Employment Restrictions for Communications Furnishing Scientific or Technological Information (RIN: 1990-AA31) received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10999. A letter from the Secretary, Department of Veterans Affairs, transmitting the Inspector General's semiannual report to Congress for the reporting period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

11000. A letter from the Secretary, Department of the Interior, transmitting the Department's semiannual report from the office of the Inspector General for the period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

11001. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting the Department's FY 2010 Performance and Accountability Report; to the Committee on Oversight and Government Reform.

11002. A letter from the Secretary, Department of Labor, transmitting the Semiannual Report of the Inspector General for the period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

11003. A letter from the Director, Office of Administration, Executive Office of the President, transmitting accounting expenditures from the Unanticipated Needs Account for fiscal year 2010, pursuant to 3 U.S.C. 108; to the Committee on Oversight and Government Reform.

11004. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's Performance and Accountability Report for Fiscal Year 2010; to the Committee on Oversight and Government Reform.

11005. A letter from the Administrator, General Services Administration, transmitting a semiannual report on Office of Inspector General auditing activity, together with a report providing management's perspective on the implementation status of audit recommendations for the period April 1, 2010 to September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Com-

mittee on Oversight and Government Reform.

11006. A letter from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting the Administration's final rule — National Historical Publications and Records Commission Grants [FDMS Docket: NARA-10-0001] (RIN: 3095-AB67) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11007. A letter from the Director of Administration, National Labor Relations Board, transmitting the Board's Performance and Accountability Report for Fiscal Year 2010; to the Committee on Oversight and Government Reform.

11008. A letter from the Director, Office of Government Ethics, transmitting the Office's Performance Accountability Report for Fiscal Year 2010; to the Committee on Oversight and Government Reform.

11009. A letter from the Chairman, Postal Service, transmitting the Semiannual Report of the Inspector General on the Audit, Investigative, and Security Activities of the Postal Service (SAR) for the period of April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

11010. A letter from the Chief, Branch of Listing, USFWS, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for Santa Ana Sucker [Docket No.: FWS-R8-ES-2009-0072] [92210-1117-0000-B4] (RIN: 1018-AW23) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11011. A letter from the Chief, Branch of Recovery and Delisting, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Emergency Rule To Establish a Manatee Refuge in Kings Bay, Citrus County, Florida [Docket No.: FWS-R4-ES-2010-0079] [92220-1113-0000-C3] (RIN: 1018-AX27) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11012. A letter from the Chief, Branch of Endangered Species Listing, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Final Rule Designating Critical Habitat for *Ambrosia pumila* (San Diego ambrosia) [Docket No.: FWS-R8-ES-2009-0054; MO92210-0-0009-B4] (RIN: 1018-AW20) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11013. A letter from the Acting Chief, Branch of Listing, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Polar Bear (*Ursus maritimus*) in the United States [Docket No.: FWS-R7-ES-2009-0042] [92210-1117-0000-FY09-B4] (RIN: 1018-AW56) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11014. A letter from the Chief, Branch of Listing, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants Designation of Critical Habitat for the Vermilion Darter [Docket No.: FWS-R4-ES-2009-0079] [MO 92210-1117-0000-B4] (RIN: 1018-AW52) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11015. A letter from the Assistant Secretary — Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Increased Safety Measures for Energy Development on the Outer Continental Shelf; Correction [Docket ID: BOEM-2010-0034] (RIN: 1010-AD68) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11016. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Atlantic Herring Fishery; Total Allowable Catch Harvested for Management Area 1A [Docket No.: 0907301205-0289-02] (RIN: 0648-XZ70) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11017. A letter from the Secretary, Department of Veterans Affairs, transmitting a letter reporting the FY 2010 expenditures from the Pershing Hall Revolving Fund for projects, activities, and facilities that support the mission of the Department of Veterans Affairs, pursuant to Public Law 102-86, section 403(d)(6)(A); to the Committee on Veterans' Affairs.

11018. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's FY 2008 annual report on the Child Support Enforcement Program; to the Committee on Ways and Means.

11019. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Electronic Funds Transfer of Depository Taxes [TD 9507] (RIN: 1545-BJ13) received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11020. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Cost Limitations for Expensing IRC Section 179 Property (Rev. Proc. 2010-47) received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11021. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Extension of Deadline to Adopt Certain Retirement Plan Amendments [Notice 2010-77] received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11022. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Modification to the Relief and Guidance on Corrections of Certain Failures of a Non-qualified Deferred Compensation Plan to Comply with Section 409(a) [Notice 2010-80] received December 6, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POLIS: Committee on Rules. House Resolution 1776. A Resolution providing for consideration of the joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011, and for other

purposes (Rept. 111-689). Referred to the House Calendar.

Ms. ZOE LOFGREN of California: Committee on Standards of Official Conduct. In the Matter of Nicole Gustafson (Rept. 111-690). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XIII the Committee on Judiciary discharged from further consideration. H.R. 3817 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

Pursuant to clause 2 of rule XIII the Committee on Agriculture discharged from further consideration. H.R. 3818 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

Pursuant to clause 2 of rule XIII the Committee on the Judiciary discharged from further consideration. H.R. 3890 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 1064. Referral to the Committees on Education and Labor, Energy and Commerce, and Financial Services for a period ending not later than December 21, 2010.

H.R. 1174. Referral to the Committee on Homeland Security extended for a period ending not later than December 21, 2010.

H.R. 1425. Referral to the Committee on Appropriations extended for a period ending not later than December 21, 2010.

H.R. 3376. Referral to the Committees on the Judiciary and Homeland Security extended for a period ending not later than December 21, 2010.

H.R. 4678. Referral to the Committees on Ways and Means and Agriculture extended for a period ending not later than December 21, 2010.

H.R. 5105. Referral to the Committee on Agriculture extended for a period ending not later than December 21, 2010.

H.R. 5498. Referral to the Committee on Energy and Commerce extended for a period ending not later than December 21, 2010.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. INSLEE (for himself, Mr. LARSEN of Washington, Mr. MORAN of Kansas, Mr. TIAHRT, Mr. BLUNT, and Mr. McDERMOTT):

H.R. 6540. A bill to require the Secretary of Defense, in awarding a contract for the KC-X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess; to the Committee on Armed Services.

By Mr. FLAKE:

H.R. 6541. A bill to repeal certain incentives and subsidies for renewable fuels; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently

determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON LEE of Texas (for herself, Mr. CONYERS, Ms. WASSERMAN SCHULTZ, Mr. GONZALEZ, and Ms. LINDA T. SANCHEZ of California):

H.R. 6542. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to require the Attorney General to establish guidelines to prevent and address occurrences of bullying, to provide for grant funding to States for programs to prevent and address occurrences of bullying, and to reauthorize the Juvenile Accountability Block Grants program; to the Committee on the Judiciary.

By Mr. DINGELL (for himself, Mr. WAXMAN, Mr. PALLONE, and Mr. STUPAK):

H.R. 6543. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety of drugs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CONYERS:

H.R. 6544. A bill to amend title 18, United States Code, to provide for the protection of the general public, and for other purposes; to the Committee on the Judiciary.

By Mr. CONYERS:

H.R. 6545. A bill to establish a corporate crime database, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HIRONO:

H.R. 6546. A bill to amend titles 23 and 49, United States Code, to improve the effectiveness of transportation programs on Federal lands and to provide funding for park roads and parkways and the Paul S. Sarbanes Transit in Parks Program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GEORGE MILLER of California (for himself and Mrs. MCCARTHY of New York):

H.R. 6547. A bill to amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees; to the Committee on Education and Labor.

By Mr. SCOTT of Virginia:

H.R. 6548. A bill to apply reduced sentences for certain cocaine base offenses retroactively for certain offenders, and for other purposes; to the Committee on the Judiciary.

By Ms. LINDA T. SANCHEZ of California (for herself, Mr. JONES, and Mr. CRITZ):

H.R. 6549. A bill to prevent the evasion of antidumping and countervailing duty orders, and for other purposes; to the Committee on Ways and Means.

By Mr. KUCINICH:

H.R. 6550. A bill to create a full employment economy as a matter of national economic defense; to provide for public investment in capital infrastructure; to provide for reducing the cost of public investment; to retire public debt; to stabilize the Social Security retirement system; to restore the authority of Congress to create and regulate money, modernize and provide stability for the monetary system of the United States, retire public debt and reduce the cost of public investment, and for other public pur-

poses; to the Committee on Financial Services.

By Mr. CROWLEY (for himself, Mr. SERRANO, and Mr. NADLER of New York):

H.R. 6551. A bill to authorize the Secretary of Education to make grants to States and local educational agencies for abatement, removal, and interim controls of polychlorinated biphenyls in public school facilities; to the Committee on Education and Labor, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DeLAURO:

H.R. 6552. A bill to establish the Food Safety Administration to protect the public health by preventing food-borne illness, ensuring the safety of food, improving research on contaminants leading to food-borne illness, and improving security of food from intentional contamination, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL (for himself and Mr. BARTLETT):

H.R. 6553. A bill to direct the Secretary of Energy to establish a pilot program to award grants and loan guarantees to hospitals to carry out projects for the purpose of reducing energy costs and increasing resilience to improve security; to the Committee on Energy and Commerce, and in addition to the Committee on Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. INSLEE:

H.R. 6554. A bill to amend the Federal Property and Administrative Services Act of 1949 and title 10, United States Code, to extend the number of years that multiyear contracts may be entered into for the purchase of advanced biofuel, and for other purposes; to the Committee on Oversight and Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of Iowa (for himself and Mrs. BACHMANN):

H.R. 6555. A bill to repeal the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010; to the Committee on Energy and Commerce, and in addition to the Committees on Appropriations, Ways and Means, Education and Labor, the Judiciary, Natural Resources, House Administration, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. LEE of California (for herself and Mr. SCOTT of Virginia):

H.R. 6556. A bill to provide for the further temporary extension of the emergency unemployment compensation program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of

such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHERMAN:

H.R. 6557. A bill to amend chapter 1 of title 3, United States Code, relating to Presidential succession; to the Committee on the Judiciary.

By Mr. OBEY:

H.J. Res. 105. A joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes; to the Committee on Appropriations; considered and passed.

By Mr. POLIS:

H. Con. Res. 336. Concurrent resolution providing for the sine die adjournment of the second session of the One Hundred Eleventh Congress; considered and agreed to.

By Mrs. BONO MACK:

H. Res. 1775. A resolution expressing the sense of the House of Representatives that the United Nations and other international governmental organizations shall not be allowed to exercise control over the Internet; to the Committee on Foreign Affairs.

By Mr. MURPHY of Connecticut (for himself, Mr. SCOTT of Virginia, Mr. DAVIS of Illinois, Mr. COHEN, Mr. SERRANO, Ms. WASSERMAN SCHULTZ, Ms. SHEA-PORTER, Mr. YARMUTH, Mrs. MALONEY, Mr. HINOJOSA, Ms. CLARKE, Mr. HASTINGS of Florida, Mr. GRIJALVA, Mr. PAYNE, Ms. MOORE of Wisconsin, Mr. HIMES, Mr. THOMPSON of Mississippi, Ms. LEE of California, Mr. ORTIZ, Mr. FILNER, Ms. CHU, Mr. FATTAH, and Mrs. MCCARTHY of New York):

H. Res. 1777. A resolution raising awareness of school pushout and promoting dignity in schools; to the Committee on Education and Labor.

By Mr. CONYERS (for himself, Mr. DAVIS of Illinois, Mr. CLAY, Mr. HASTINGS of Florida, Ms. FUDGE, and Ms. KILPATRICK of Michigan):

H. Res. 1778. A resolution congratulating Kappa Alpha Psi Fraternity, Inc., on the historic milestone of 100 years of serving local and international communities, maintaining a commitment to the betterment of mankind, and enriching the lives of collegiate men throughout the United States; to the Committee on Education and Labor.

By Mr. LEWIS of Georgia:

H. Res. 1779. A resolution honoring the 50th anniversary of the Freedom Rides; to the Committee on the Judiciary.

By Mr. LEWIS of Georgia:

H. Res. 1780. A resolution supporting the goals and ideals of "National Nonviolence Week" to raise awareness of youth violence in the United States; to the Committee on Oversight and Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. DRIEHAUS:

H.R. 6558. A bill for the relief of Bernard Didier Pastor; to the Committee on the Judiciary.

By Ms. PINGREE of Maine:

H.R. 6559. A bill for the relief of Selvin Arevalo; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 2625: Mr. DAVIS of Illinois.

H.R. 3486: Mr. TIM MURPHY of Pennsylvania.

H.R. 4278: Mr. PETRI and Mr. AUSTRIA.

H.R. 5111: Mr. STUTZMAN.

H.R. 5492: Mr. TOWNS.

H.R. 5939: Mr. STUTZMAN.

H.R. 6072: Mr. MURPHY of Connecticut.

H.R. 6415: Mr. MACK.

H.R. 6459: Mr. COURTNEY.

H.R. 6506: Mrs. MILLER of Michigan.

H.R. 6511: Mr. GOODLATTE and Mr. FLEMING.

H.R. 6521: Mr. DJOU, Mr. LANCE, Mr. TIBERI, and Mr. FORTENBERRY.

H.J. Res. 104: Ms. BERKLEY and Mr. CARNEY.

H. Con. Res. 331: Ms. WASSERMAN SCHULTZ.

H. Res. 308: Mr. DAVIS of Illinois.

H. Res. 1461: Mr. THOMPSON of Mississippi, Ms. DEGETTE, Ms. HARMAN, Mrs. BONO MACK, Ms. WOOLSEY, and Mr. COFFMAN of Colorado.

H. Res. 1725: Mr. PRICE of North Carolina.

H. Res. 1762: Mr. SHULER, Ms. BERKLEY, and Mr. WOLF.

H. Res. 1769: Mr. DELAHUNT.

SENATE—Saturday, December 18, 2010

The Senate met at 9 a.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer.

Let us pray.

We wait patiently for You, eternal God, for You have been our help in ages past and our hope for years to come. You listen to the voice of our intercession and permit us to feel Your presence just when we need You most.

Cultivate in our lawmakers a great trust in You. Turn them away from false solutions as they seek Your wisdom and obey Your commands. Lord, make them Your instruments of wisdom, justice, courage, and moderation so that Your will may be done on Earth. Give them a passion to accomplish Your purposes.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate from the President pro tempore (Mr. INOUE).

The bill clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

Washington, DC, December 18, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. COONS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, Senators should expect a series of up to three or

four rollcall votes beginning at 10:30 this morning or thereabouts. The first vote will be on cloture with respect to the DREAM Act. If cloture is not invoked on the DREAM Act, the Senate will proceed to a cloture vote with respect to the don't ask, don't tell repeal.

Following the cloture votes, the Senate will proceed to vote on two confirmations: Albert Diaz, of North Carolina, to be a U.S. circuit judge, and Ellen Hollander from Maryland to be a U.S. district judge.

I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Could the Chair advise me how long was taken in this last quorum call.

The ACTING PRESIDENT pro tempore. Seven minutes.

Mr. REID. I ask unanimous consent that the time for debate continue to be 45 minutes on each side, with the time to begin as outlined in the previous order, but the time that I took speaking to whom I had to speak not count against the 90 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent to resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that prior to any of the succeeding votes, there be 2 minutes of debate, equally divided and controlled in the usual form; further, that after the first vote, the succeeding votes be limited to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senate is now in a period of

morning business, with Senators permitted to speak for a period of up to 10 minutes each.

The Senator from Alabama.

ORDER OF PROCEDURE

Mr. SESSIONS. Mr. President, under the previous discussion we had, I had been authorized to use 15 of our 45 minutes, and I would ask unanimous consent that I be allowed to speak for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. I assume this will be counted against our time.

THE DREAM ACT

Mr. SESSIONS. Mr. President, essential to America's greatness, I truly believe, is our respect for the rule of law. The American people understand this. For years, they have asked Congress and the President to secure the borders and to enforce our immigration laws, but for years Congress has refused to do that. Indeed, as part of this legislative session, there has been no serious movement to do anything that would improve the grievous situation of illegality at our borders. So what we have is contrary to that today, when we will be dealing with the DREAM Act. Leaders in Washington have not only tolerated lawlessness but, in fact, our policies have encouraged it. Americans living near the border are the ones who often pay the steepest price. Illegal drugs, guns, people pour into States such as Arizona and Texas every day. Phoenix has turned into the kidnapping capital of the world. Ranchers in the southern part of the State are forced to accept chaos as a part of their daily lives. Smugglers, traffickers stream across their properties, homes are broken into, livestock killed, families placed in danger. Our government has failed in its duty to protect these citizens in the peaceful possession of their property.

Consider the fate of Robert Krentz, the son of one of Arizona's oldest ranching families working land that had been in the family 100 years. His home had been robbed, their livestock slaughtered. On the night of March 27, he went to mend a fence and check his water line. He reached his brother on the radio to say he was helping someone he believed to be illegally entering the country—helping them—and that was the last time anyone heard from Mr. Krentz. He was found several hours later, shot dead.

The death of Robert Krentz is sadly just one of the many tragedies that could have been avoided if the Federal Government had done its job. Instead, when Arizona tried to support the Federal immigration authorities, they were sued by Attorney General Holder, and the Department of Justice said stay out.

They were sued for trying to protect themselves because the Federal Government would not. Yet here we are in the final days of a lameduck—some say dead duck—Congress considering a bill that would create a major problem to the effective enforcement of immigration laws. People are not happy with us, Mr. President.

I had a little recognition and recalled in the shower this morning a little event with Oliver Cromwell with the long Parliament in England. He said:

It is high time for me to put an end to your sitting in this place. You have grown intolerably odious to the whole nation. In the name of God, go.

I don't think we are odious around here, but I think the American people are not happy with us. I think it is time for us to quit trying to move political bills in a way that is not appropriate, not through the regular process.

The American people are pleading with Congress to enforce our laws. But this bill is a law that, at its fundamental core, is a reward for illegal activity. It is the third time we have tried to schedule a vote on it, and during this lameduck session it is the fifth version of this legislation that has been introduced in the past 2 months. Not one of these bills has gone through committee. Not one of them is subject to amendment.

The House passed a bill after 1 hour of debate, having announced it being brought up 1 day before. In fact, the version we are now considering is the same one that was rammed through the House.

The majority leader has filled the tree. So, once again, the legislation cannot be amended.

For 2 years, Democratic leaders have ignored the public. They have rammed through a lot of unpopular legislation, and sometimes—and too often—the process has been skirted, and it has not been healthy for the Republic, which is one reason people have not been happy with it.

So we are at it again, in these last hours, attempting to force through legislation that is not acceptable to the people.

Proponents of the DREAM Act are sincere, and they insist this is a limited bill for young children of illegal immigrants who graduate from high school, get a college degree, and join the military. But the facts of the legislation are different. The DREAM Act would grant legislation to millions of illegal aliens, regardless of whether they go to or finish college or high

school or serve in the military. It is certainly not limited to children. It would apply to people here illegally who are as old as 30. Because the bill has no cap or sunset, they will remain eligible at any future time.

Mr. President, I know my good friend, Senator DURBIN, who is such an able advocate, challenged me last night, or my staff, saying we were incorrect in saying that the Secretary of HHS would have the ability to waive some of the requirements in the bill. Just for my staff's sake, I want to read this part of the bill. He said it wasn't in there. My staff explained to his staff why they thought it was in there. The waiver section states:

The Secretary of Homeland Security may waive the ground of deportability under paragraph 1 of section 237(a) for humanitarian purposes or family unity.

Maybe we can disagree how that might all be played out, but I think that is clearly a waiver provision in the bill.

The amnesty provision—and this is an amnesty bill, because it provides every possible benefit, including citizenship, to those who are in the country illegally, and I think that is a fair definition of amnesty. The amnesty provisions are so broad that they are open to those who have had multiple criminal convictions of up to two misdemeanors—just not three—and many criminal cases that are felonies are pled down to misdemeanors, including certain sex offenses, drunk driving, and drug offenses.

But the bill goes further, offering a safe harbor to those with pending applications, even if they pose some risk to the country. In other words, if you have filed and sought protection under the act, this can stay any action against you in any deportation proceedings.

I think it is particularly dangerous because the safe harbor would apply to those even from terror-prone regions in the Middle East. In fact, the DREAM Act altogether ignores the lessons of 9/11, going so far as to open up eligibility to those who previously defrauded immigration authorities, provided false documentation, as did many of the 9/11 hijackers on their visa applications.

Some have suggested this should not be a debate about policy but instead about compassion. But good policy, faithfully followed, is compassion. I ask my friends who support the legislation, what is compassionate about ignoring the public wishes and forcing people to live with a lawless border and a lawless immigration system that must be reformed and Congress refuses to reform? I ask them, is it compassionate to put illegal aliens in front of the line, ahead of those who have patiently waited and played by the rules? Is it compassionate to act in a way that undermines the integrity and con-

sistency of our legal system—a system that is so important to our prosperity and liberty?

The message from the public has never been in doubt. Before we consider regular status for anyone living here illegally, we first must secure the border. My friend, BEN NELSON from Nebraska, has spoken on this for a half dozen years. When he speaks, he has a sign behind him that says "border security first." That is what Senator MCCAIN has said. He has been a champion of immigration reform. He says he has come to understand with clarity that we must have security first.

That is what the American people have told us, I am convinced. If we do not do those actions first, if we pass this amnesty, we will signal to the world that we are not serious about the enforcement of our laws or our borders. It will say that you can make plans to bring in your brother, sister, cousin, nephew, and friends into this country illegally as a teenager, and there will be no principled reason in the future for the next Congress then sitting to not pass another DREAM Act. It will only be a matter of time before that next group that is here illegally will make the same heartfelt pleas we hear today.

It is time to end the lawlessness, not surrender to it. It is time to end the lawlessness that is occurring. This is a decisive vote. I urge my colleagues to oppose this reckless bill and commit ourselves, as a nation, to creating an immigration system that is just and lawful and that befits a nation as great as ours.

Mr. President, I ask unanimous consent that the time remaining that I have not used that has been allocated to the Republicans be divided as follows, and not necessarily in this order: Senator MCCAIN, 10 minutes; Senator CHAMBLISS, 5; Senator INHOFE, 10; Senator KYL, 5.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, we have it within our power to fix the broken immigration system. Last year, approximately 600,000 people were arrested entering our country illegally. That is lower than it has been, but a determined leadership from the President, from the Congress, can, within a matter of 1 or 2 years, end this problem, and then we can begin to wrestle with the difficult question of those who have been in our country for some time.

I thank the Chair and yield the floor. The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

ORDER OF PROCEDURE

Mr. LEVIN. How much time has been used by Senator SESSIONS?

The ACTING PRESIDENT pro tempore. The Senator has used 14 minutes.

Mr. LEVIN. Mr. President, I ask unanimous consent that now the Senator from Oregon be recognized for 3 minutes, and then I be recognized for 6 minutes.

The ACTING PRESIDENT pro tempore. Without objection—

Mr. INHOFE. Mr. President, reserving the right to object, can the Senator amend that to include me for 10 minutes following his remarks?

Mr. LEVIN. I so amend my request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Oregon is recognized.

HEALTH CARE

Mr. WYDEN. Mr. President, Senators, let me thank all of you for your many kindnesses over the last 48 hours. When news about your prostate is ricocheting around the blogosphere, all the calls, notes, and even offers to object on my behalf have meant a lot. I only want to say that I just hope this encourages everybody to go out and get those physicals. What this is all about is prevention. We can agree that when it comes to health care that we all ought to focus on prevention.

DON'T ASK, DON'T TELL

Mr. WYDEN. Mr. President, briefly, it was so important for me to be here today because don't ask, don't tell is wrong. I don't care who you love. If you love this country enough to risk your life for it, you should not have to hide who you are. You ought to be able to serve.

The history of our wonderful Nation is spotted with wrongs, but this institution is at its best when it corrects those. That is the opportunity we will have today.

Don't ask, don't tell has resulted in the discharge of over 14,000 patriotic and talented service members who were otherwise qualified to serve their country.

A 2005 Government Accountability Office report says nearly 10 percent of those discharged under don't ask, don't tell have been linguists trained in critical languages such as Arabic, Farsi, and Chinese.

As a member of the Senate Intelligence Committee, let me tell you that turning away Arabic, Farsi, and Chinese speakers is bad for national security. It makes it harder for us to win the war on terror. Don't just take my word for it. The fact is, the military now understands how important it is to make this change.

Today, the Senate has the opportunity to be on the right side of history. Don't ask, don't tell is a wrong that should never have been per-

petrated. Let's move to end it today. Again, let me say thank you to all of you. I look forward to being with all of you next year.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank the Senator from Oregon for his powerful statement and powerful presence. We look forward to 110 percent of that power being back with us in the days ahead.

Mr. WYDEN. I thank the Senator.

Mr. LEVIN. The Armed Services Committee held two excellent hearings to consider the final report of the working group that reviewed the issues associated with the repeal of don't ask, don't tell. That report concluded that allowing gay and lesbian troops to serve in the U.S. Armed Forces, without being forced to conceal their sexual orientation, would present a low risk to the military's effectiveness, even during a time of war, and that 70 percent of the surveyed members believe the impact on their units would be positive, mixed, or of no consequence.

As one servicemember told the working group:

All I care about is can you carry a gun, can you walk the post.

In combat, the troops have told us that what matters is doing the job.

We also learned during the course of our hearings that while predictions of problems after repeal were higher in combat units than among troops, this commission found that the difference disappeared among those who had actual experience serving on the front lines with gay colleagues; that is, experience is a powerful antidote to negative stereotypes about gay service members.

We learned that when our close allies, Great Britain and Canada, were preparing to allow open service by gay and lesbian troops, there were concerns about problems there. Those concerns totally disappeared after they changed their policy to allow service, but those concerns—that level of concern in our allies' armies was higher than the current level of concern in our troops. Both those countries and other allies, such as Israel, made the transition with far less disruption than expected, and their militaries serve alongside ours in Afghanistan with no sign that open service diminishes their or our effectiveness.

Secretary Gates has assured everybody he is not going to certify that the military is ready for repeal until he is satisfied with the advice of the service chiefs that we have mitigated, if not eliminated, to the extent possible, risks to combat readiness, to unit cohesion and effectiveness. We learned that Secretary Gates, Admiral Mullen, and other senior military leaders are concerned that unless we pass this law;

that is, without this legislation, they are going to be forced to implement a change in policy not when they can certify that they are ready, as provided for in this legislation, but when a court orders a change. The only method of repeal that places the timing of repeal and the control of implementation in the hands of our military leaders is the enactment of this bill.

There are a lot of reasons the repeal of don't ask, don't tell can and will, hopefully, happen, but we know it can happen without harming our military's effectiveness. Those are the reasons we can do this safely, but there are other reasons why we must end this discriminatory policy. In Admiral Mullen's memorable words, it is a policy which "forces young men and women to lie about who they are in order to defend their fellow citizens." We should end this policy because it is the right thing to do.

Some have argued that this is social engineering or that this is partisan, even though this change is supported by the overwhelming majority of the American people. They are grossly mistaken.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. One minute.

Mr. LEVIN. Mr. President, I am not here for partisan reasons; I am here because men and women wearing the uniform of the United States who are gay and lesbian have died for this country because gay and lesbian men and women wear the uniform of this country and have their lives on the line right now in Afghanistan, Iraq, and other places for this country. One of those is a captain by the name of Jonathan Hopkins. He finished fourth in his class at West Point, commanded two companies—one in combat—and earned three Bronze Stars, including one for valor in combat. Yet that decorated combat leader had to leave the Army because of don't ask, don't tell. I am here because of SSgt Eric Alva, the first ground unit casualty of the war in Iraq. The first casualty in the war in Iraq was a gay soldier. The mine took off his right leg, and that mine that took off his right leg didn't give a darn whether he was gay or straight. We shouldn't either.

We cannot let these patriots down. Their suffering should end. It will end with the passage of this bill. I urge its passage today. It is the right thing to do.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding that I have 10 minutes, and I would like to ask the Chair to let me know when I have 1 minute remaining.

The ACTING PRESIDENT pro tempore. The Chair will so notify.

Mr. INHOFE. First of all, Mr. President, we have a couple of votes today on things we should have been addressing for a long period of time in order to get to the bottom of them, and one is the DREAM Act.

I think the Senator from Alabama did a thorough job of talking about the problems. I would only say this about the DREAM Act. I have been privileged over the past 20 years to probably give more speeches at naturalization ceremonies than anybody else I know. You look at these people who did it the legal way—they came in and learned the language, and I have to say, Mr. President, they probably know more about the history of this country than many of us in this Chamber. They do it the right way. They study, and they are proud. When I see something like this, which I believe is done purely for political reasons, I just can't imagine slapping these people in the face—the people who did it in the legal way—and saying it is all right to open the door.

So enough on that. I think that was covered by the Senator from Alabama.

I do wish to speak about don't ask, don't tell. I thought back in 1993, during the Clinton administration, that this probably wouldn't work. I was shocked when I found out how well it has worked for this long period of time; that is, the don't ask, don't tell policy. We have a saying in Oklahoma: If it ain't broke, don't fix it. This isn't broke. It is working very well.

This is something else I never believed would work, but I was a product of the draft—I was drafted into the U.S. Army. Yet today we have an all-volunteer force. Our recruitment and retention today in all services is over 100 percent. I look at this, and I wonder what effect this is going to have on that. I think we have some pretty good indications on what that effect would be.

First of all, the study that was supposed to take place was supposed to have the input of the members of the services. The ones I have talked to felt that it was already over. In fact, it was. We go out and ask them for their input as to the repeal of don't ask, don't tell, how it would affect our military and their operations, and then we turn around and go ahead and pass it. We did that on May 27. So I think they didn't respond, as they normally would to a survey, because the decision was already made.

When I look at this and I see things written into this—well, first of all, like 23 percent, even on this survey, said they would leave or think about leaving sooner than they had planned. That is 23 percent. Twenty-seven percent of the military members surveyed said they would not be willing to recommend military service to a family member or close friend. Our studies have shown us that 50 percent of those who join the service do so at the rec-

ommendation of someone who is already in the service.

So when you look at this report, everyone in the working group—and the working group is made up of a large number of people—says they didn't tabulate the results, but when pressed, they said their sense on the don't ask, don't tell policy is that the majority of views expressed were against repeal of the current policy.

I think, if you really want to know, there are four very courageous chiefs of the services who have been willing to stand up and be counted.

General Casey is the Chief of Staff of the Army. After a long statement at a hearing we had on the 3rd of this month, he said:

As such, I believe that implementation of the repeal of don't ask, don't tell in the near term will, one, add another level of stress to an already stretched force; two, be more difficult in combat arms units; and, three, be more difficult for the Army than the report suggests.

At the same December 3 hearing—so this is current stuff—General Schwartz of the Air Force said:

Nonetheless, my best military judgment does not agree with the study assessment that the short-term risk to the military effectiveness is low. . . . I remain concerned with the outlook for low short-term risk of repeal to military effectiveness in Afghanistan.

He goes on to talk about the implementation.

I therefore recommend deferring certification and full implementation until 2012, while initiating training and education efforts soon after you take any decision to repeal.

So there is General Schwartz of the U.S. Air Force agreeing with General Casey that this should not be implemented.

Then in that same hearing, General Amos said:

While the study concludes that . . . repeal can be implemented now, provided it is done in [a] manner that minimizes the burden on leaders in deployed areas, the survey data as it relates to the Marine Corps' combat arms forces does not support that assertion.

He goes on to talk about the element of risk, which is a term we use in the military when you change something, and whether that risk will be low, medium, or high. The risk in this case ranges from medium to high in the estimates of these individuals who really know what they are talking about.

I also have a quote from General Amos of just 2 days ago. This was actually on December 14, as opposed to the 3rd. He said:

When your life hangs on the line, you don't want anything distracting . . . Mistakes and inattention or distractions cost Marines' lives. So the Marines came back and said, "Look, anything that's going to break or potentially break that focus and cause any kind of distraction may have an effect on cohesion." I don't want to permit that opportunity to happen. . . . If you go up to Bethesda Hospital . . . Marines are up there

with no legs, none. We've got Marines at Walter Reed with no limbs.

This is the statement of General Amos. Let me repeat. He said:

When your life hangs on the line, you don't want anything distracting . . . Mistakes and inattention or distractions cost Marines' lives.

So we are talking about marines' lives in this case, and that is the significance.

I could go on. We have been talking about this now for a long period of time as to some of the very serious problems.

I have a letter I read some time ago from 41 retired chaplains who sent a letter to President Obama and Secretary Gates stating that normalizing homosexual behavior in the Armed Forces will pose a significant threat to chaplains' and servicemembers' religious liberty. The letter warned that reversing the policy will negatively impact religious freedom and could even affect military readiness and troop levels because the military would be marginalizing deeply held religious beliefs.

I know we are very short on time—votes are going to be coming up—but I have to respond to something the distinguished chairman of the Armed Services Committee said. He was saying we will not implement this until we find out and make a determination, and he was speaking of himself, Admiral Mullen, the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the President; that they are not going to implement this until they have studied this and determined it is not going to have the risks and all that.

But wait a minute, let's look at what they have already said. They have already made up their minds. President Obama said this year: I will work with Congress and our military to finally repeal the law that denies gay Americans the right to serve the country they love because of who they are. Secretary Gates said: I fully support the President's decision. The question before us is not whether the military prepares to make this change but how we best prepare for it. And Secretary Gates also said he strongly preferred congressional action as opposed to court action. Admiral Mullen had already made up his mind. These are his words: Mr. Chairman, speaking for myself, it is the right thing to do. That is why, when people stand up and say they are not going to do this until such time as these three people certify that it is the right thing to do, they have already done it. That is what is behind this. I don't want anyone out there to think this is an open process.

The last thing I would say is that I will be spending New Year's Eve in Afghanistan with the troops, and I know what they are going to say. They are going to say the same thing they said

before: We were under the impression last January that we were going to have input in this. We haven't had input.

So I think if you want to pursue this, we should have the time to go ahead and do it the right way, not try to do it at the last minute, before—well, one day before my 51st wedding anniversary.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent there be 5 minutes additional time on each side, an additional 5 minutes be allowed for Senator GRAHAM on this side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCAIN. I thank the Chair and my colleagues and the Senator from Illinois.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I start by noting it has been a pleasure to work with Senator LIEBERMAN, Senator COLLINS, Chairman LEVIN, Senator GILLIBRAND, and others in the effort to repeal this outmoded law.

I have spoken many times about the repeal of don't ask, don't tell and how it improves our national security, but I would like to make a few additional short points today before we take this important vote at 10:30.

First, repealing this law is not about scoring political points or catering to a special interest group. Rather, it is about doing the right thing for our national security, especially during a time of two wars. Instead of turning away qualified interpreters, mechanics, infantrymen, and others, we need every able-bodied man and woman who is willing to fight for their country.

An exhaustive study by the Pentagon recently revealed what numerous reports have shown, that don't ask, don't tell can be repealed without harmful effects. In fact, what it shows is our national security will be enhanced by this repeal. That is one of the reasons our Defense Secretary, Robert Gates, and the Chairman of the Joint Chiefs of Staff, Admiral Mullen, have strongly urged us to repeal the law this year, before we adjourn this week.

Second, the United States lags—sadly lags—behind the world's other top militaries which allow open service by gays and lesbians. Our troops fight next to servicemembers from many of these countries every single day. There is no evidence showing that our military operations in Afghanistan or Iraq are negatively affected by allowing gay servicemembers to serve openly alongside U.S. servicemembers.

Third, the vast majority of Americans support repealing this harmful law. As the Pentagon study showed,

our servicemembers are complete professionals. They will comply with the repeal, and they will not allow open service to negatively affect the jobs they do.

Finally, if the Senate does not act to give the Department of Defense and the President the authority to end this policy, then we are leaving the issue in the hands of the courts. Secretary Gates has said it makes far more sense to bring certainty to don't ask, don't tell through legislation rather than through lawsuits.

Let me end with the words of a Marine captain who wrote a courageous opinion piece this week that was in the Washington Post. He said:

It is time for "don't ask, don't tell" to join our other mistakes in the dog-eared chapters of history textbooks. We all bleed red, we all love our country, we are all Marines. In the end, that is all that matters.

I yield the floor.

Mr. GRAHAM. Mr. President, I think Senator McCAIN asked I be recognized for 5 minutes. If that is correct, I would like to proceed.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. GRAHAM. Mr. President, it is a week before Christmas. I don't know where we will be next week. All I can say is, the Senate is taking up some very important matters—the don't ask, don't tell repeal. The Marine Corps Commandant said he believes changing this policy this way would cause distraction among the Marine Corps to the point that he is worried about increased casualties. Let's hope he is wrong. But you have to ask yourself, is he crazy to say that and is he the kind of man who would make such a chilling statement without having thought about it?

My advice to my colleagues is that the Marine Corps Commandant is a serious man who is telling this body and this Nation that repeal, as being envisioned today, could compromise focus on the battlefield, and we are in two wars.

The review from the military is positive in one area, negative in the other. The Army, the Air Force, particularly the Marine Corps have cautioned us not to do this now this way. Other people have said now is the time. I can only tell you that those in close combat units have the most concern about repealing this policy.

Some will say this is a civil rights issue of our time, the day has come, we need to move forward as a nation. The Marine Corps does not have that view. They have a different view, that this is about effectiveness on the battlefield at a time of war, not about civil rights.

It is up to the Members of the body to determine who is right and who is wrong; to be cautious or to boldly go forward. But to those Senators who will take the floor today and announce this as a major advancement of civil

rights in America, please let it be said that you are doing it in a fashion that those who have a different view cannot offer one amendment. We are doing this in a way that the Senate, those of us who want to maybe speak for the Marine Corps and have some amendments and ideas that may make this less distracting, have zero ability to offer an amendment on a policy change that the Commandants of the Marine Corps, the Air Force, and the Army say is problematic.

To those who are pushing this process, it is not appreciated. It is not appreciated by your fellow Senators, and I don't think it is going to be appreciated by the men and women who are going to have to live under this kind of change.

Does that matter? Apparently not. That says a lot about the Senate. That says a lot about modern politics.

To the DREAM Act, I have been involved in comprehensive immigration reform for many years. Senator DURBIN and I have talked about how to make the DREAM Act part of comprehensive immigration reform. To those who have come to my office, you are always welcome to come, but you are wasting your time. We are not going to pass the DREAM Act or any other legalization program until we secure our borders. It will never be done stand-alone. It has to be part of comprehensive immigration reform.

There is a war raging in Mexico that is compromising our national security. I would argue that the best thing for the Senate to do, the House to do, the administration to do, is work together to secure our borders before we do anything else.

To those who are bringing up this bill today, I know why you are doing it. You are not doing it to advance the issue. You are doing it to advance your situation politically. It is not appreciated. You are making it harder. You care more about politics in the last 2 weeks than you care about governing the country. This will not help America do the things America does. It is not appreciated.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. LIEBERMAN. Mr. President, if I may, I would say that of the time we have, this side will yield 5 minutes to the Senator from Virginia, and I thank him for coming over to speak.

Mr. WEBB. Mr. President, I rise in support of the notion that we need to make adjustments to this policy, this don't ask, don't tell policy. I say that after many years of thought and consideration and also in light of the analysis that has been provided by the Department of Defense to the Armed Services Committee, on which I sit.

I would say to my friend from South Carolina, I take the points he has made

about the concerns in small-unit cohesion and that has gone into the formula I have used myself in order to come to this conclusion.

We need, first of all, to understand what this is and what it is not. The question is not whether there should be gays and lesbians in the military. They are already there. According to General Hamm, who conducted this extensive study, approximately the same percentage of the military is gay and lesbian as in our general population. The question is not about whether anyone should be able to engage in inappropriate conduct as a result of this policy, because we will not allow that and we will be very vigorous in our oversight of the Department of Defense to make sure that does not occur.

The question is whether this policy, as it was enacted, works today in a way that, on the one hand, can protect small-unit cohesion or to sort that out and, on the other, allow people to live honest lives.

Here is what we have. We have a Secretary of Defense, who served in the Air Force and who implemented a policy of nondiscrimination when he headed the CIA, coming forward strongly and saying he believes the alteration of this policy will work. I would remind my colleagues, he began as Secretary of Defense in the Bush administration.

We have a Chairman of the Joint Chiefs, who has an extensive career in surface warfare, starting with small destroyers up to commanding fleets, saying he believes the policy should change and that it can work.

We have a Vice Chairman of the Joint Chiefs, a marine, saying he believes this policy should change and it can work.

Most interestingly, we have General Hamm, who conducted this study, a former enlisted Army soldier, an infantry officer whose religious beliefs cause him great concerns about the notion of homosexuality, at the same time saying this policy should change and it can be changed.

That is what we are seeing. The question, and I think Senator GRAHAM laid it out very well, is whether a change in this policy will create difficulties in small-unit cohesion. That depends, as I mentioned during these hearings, on how this policy is implemented. I wrote a letter yesterday to Secretary Gates, wanting to reaffirm my understanding that this repeal would contemplate a sequenced implementation for the provisions for different units in the military as reasonably determined by the service chiefs, the combatant commanders, in coordination with the Secretary of Defense and Chairman of the Joint Chiefs.

I ask unanimous consent it be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WEBB. He responded to me this morning. I ask his full letter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WEBB. He said:

This legislation would indeed permit a certification approach as you suggest. . . . The specific concerns you raise will be foremost in my mind as we develop an implementation plan.

Without this, I would say, I would not be voting to repeal this. I have spent my entire life in and around the military, including 5 years in the Pentagon. With this understanding and with the notion that we need to be putting a policy into place that allows an open way of living among people who have different points of view, I am going to support this legislation.

EXHIBIT 1

U.S. SENATE,
Washington, DC, December 17, 2010.

Hon. ROBERT GATES,
Secretary of Defense, The Pentagon, Washington, DC.

My purpose in writing is to reconfirm my understanding that the certification requirements contained in the Don't Ask, Don't Tell Repeal Act of 2010 contemplate a sequenced implementation of its provisions for different units in the military, as reasonably determined by the service chiefs and unified combatant commanders in coordination with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff.

This was my understanding of the response I received from General Cartwright when I raised the issue during his testimony December 3, 2010. Specifically, I asked if the process could be considered service-by-service, combat arm-by-combat arm, or unit-by-unit. He agreed that this was a correct interpretation.

Knowing of your many current commitments, I would very much appreciate a short, written confirmation or clarification on this matter as soon as possible.

Sincerely,

JIM WEBB,
U.S. Senator.

EXHIBIT 2 SECRETARY OF DEFENSE,

Washington, DC, December 17, 2010.

Hon. JIM WEBB,
U.S. Senate,
Washington, DC.

DEAR SENATOR WEBB: Thank you for your letter of December 17, 2010, regarding the certification requirements contained in the Don't Ask, Don't Tell Repeal Act of 2010.

In response to your question, it is my understanding that this legislation would indeed permit a certification approach as you suggest. We have not determined the specific methodology that would be used should this legislation pass, but I can assure you that the specific concerns that you raise will be foremost in my mind as we develop an implementation plan. Further, the Chairman of the Joint Chiefs of Staff and I remain committed to working closely with the Service Chiefs and the Combatant Commanders in developing this process.

As Admiral Mullen and I have stated previously, neither he nor I would sign a certifi-

cation until we were satisfied, after having consulted with each of the Service Chiefs and Combatant Commanders, that risks to combat readiness, unit cohesion, and effectiveness had, in fact, been mitigated, if not eliminated, to the extent possible for all Services, commands, and units.

Sincerely,

ROBERT M. GATES.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I believe under the previous order I have 5 minutes of Senator MCCAIN's time. I would like to take a minute to speak on this issue of repeal of don't ask, don't tell. I wish to start by talking about the process.

Here we are, once again, at the end of the year, 1 week before Christmas, dealing with a very sensitive, a very emotional issue that is of critical importance to our men and women in the military, as well as every other American, but most significantly those men and women who are willing to put their lives in harm's way to protect America and protect Americans—and they do such a good job of that. What we have seen is the House took up a bill, passed a bill, it comes to the Senate, direct to the floor, no opportunity for amendments, limited opportunity for debate—which we will have today—and then we are going to vote.

I see the assistant majority leader is here. I wish to say that as we move into next year, get ready—get ready—because this game can be played by both sides. There will be a number of bills that are passed in the House next year that the majority is not going to want to vote on. But they better believe those bills are going to be coming to the floor of the Senate in the same way this bill is coming, and we are going to insist on that.

Second, let me just say we are in the middle of two military conflicts, where men and women are getting shot at, injured, killed, doing heroic acts, and providing for freedom in a part of the world that is of critical importance to all Americans and, at the same time, making sure, as they fight that battle in Iraq and Afghanistan, those individuals who would seek to do harm to America and Americans are not allowed to do so.

We have a policy in place called don't ask, don't tell that has been in place for 18 years now and it has worked. Admiral Mullen, in his testimony before the Senate Armed Services Committee, said that as a commander he had to terminate individuals who decided to let it be known they were a member of the gay or lesbian community, and he did.

I said in an additional question to him when he responded to that: Did you have a morale issue when you had to terminate those people? He said: No; morale remained high.

Morale today, in every branch of our service, is probably as high as it has

ever been in the last several decades. Recruiting and retention are at all-time highs. But what does this survey that was sent out on this issue to military personnel and military families show? First of all, it does not address the issue of: Do you support repeal of don't ask, don't tell? They did not ask the question. The survey assumes the repeal and talks about implementation. What is interesting about the survey is that the individuals who conducted it, in addition to sending out pieces of paper, also had personal interviews, they had online, back-and-forth chats with individual members of the military, and a majority of the individuals who wear the uniform of the United States who had personal interaction with the individuals who did the survey were opposed to the repeal of don't ask, don't tell.

The survey does show that nearly 60 percent of the respondents from the Marine Corps and the Army combat arms said they believe repeal would cause a negative impact on their unit's effectiveness. Among marine combat arms, the percentage was 67 percent. And we think this is a good idea? We think it is a good idea when 67 percent of those marines who are in foxholes and are dodging bullets around corners in Afghanistan as we speak today, who say that this is going to have an impact on them, we think it is a good idea to repeal this policy?

And, by the way, this has nothing to do with the valiant service that gays and lesbians have provided to the United States of America. That is a given. We all agree with that. But what the Marine Corps and what the Army, as well as what the Air Force Chief said is this is not the time to repeal this. In the middle of a military conflict is not the time to repeal a policy that is working, that has the potential for affecting morale, it has the potential for affecting unit cohesiveness, and it also, most significantly in my mind, according to both General Casey and General Amos, does have the potential for increasing the risk of harm and death to our men and women who are serving in combat today.

If for no other reason, we ought not to repeal this today. Should it be done at some point in time? Maybe so. But in the middle of a military conflict is not the time to do it. So as we think about this, and we think about the men and women who are serving, and the fact that, as Senator INHOFE alluded to earlier—I will not repeat all of those numbers—but the fact is that if the percentages in response to the survey turn out to be true, then we are going to have about 30 percent of marine combat forces who are going to get out early and not reenlist, and we are going to have to replace them. We have got about 25 percent of those combat troops in the Army who are not going to reenlist and who would like to get out early.

If that happens, we are going to have 250,000 soldiers and marines that need to be replaced in short order. When I asked Secretary Gates about it, he said: Well, that is not going to happen. Well, if it does happen, we are going to have serious consequences.

I do hope common sense will prevail here and that we will not get cloture, and we can move on to something that is extremely important to the men and women of America at this time in our calendar year.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Chair. I would yield myself up to 8 minutes of the time on our side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I want to thank Chairman LEVIN, Senator UDALL of Colorado, and Senator WEBB for their informed and informative remarks in support of the motion to concur with the House in regard to repealing the policy that has come to be known as don't ask, don't tell.

I think that in considering this matter today we have an opportunity not just to right a wrong, not just to honor the service of a group of American patriots who happen to be gay and lesbian, not just to make our military more effective, but to advance the values that the Founders of our country articulated in our original American documents.

I want to talk very briefly about that, because it is important to set what we are doing here in the context of history. From the beginning, America has been a different Nation. We did not define ourselves based on our borders. Our Founders defined America based on our values, and none stated more powerfully than those words in the opening paragraph of the Declaration of Independence that: There are self-evident truths. This is a political statement, a constitutional statement, but also a religious statement.

There are self-evident truths, and one of them is that all of us are created equal and endowed by our Creator with those unalienable rights to life, liberty, and the pursuit of happiness. In the second paragraph, our Founders say, in the Declaration, that they are forming this new government, America, in order to secure those rights to life and liberty. The sad fact is, at the moment they adopted the Declaration of Independence, these rights were not enjoyed for a lot of Americans, including, of course, the slaves, most of all, but women had no legal rights to speak of.

One way I think I like to look at American history is as a journey to realize, generation after generation, in a more perfect way, to make ours a more perfect Union, the rights given in the Declaration of Independence, the rights

promised in the Declaration of Independence and, of course, with a lot of pain and turmoil we have done that with regard to race in our country, certainly true with regard to women.

We have created an ethic. It is the promise of America, but in some sense it is what we also call the American dream, that in this country you are judged not by who you are but how you perform. In this country, no matter where you were born or how you were born, the fact is you are able to go—if you play by the rules and you work hard, you should be able to go as far as your talents will take you, not any characteristic that one might associate with you, any adjective that one might put before the noun “American” whether it is White American, Black American, Christian, Jewish American, gay or straight American, Latino, or European American, that you should be entitled to go as far as your talents and your commitment to our country will take you.

In our generation, it seems to me that the movement to realize the promise of the Declaration has been one of the places that has been most at the forefront and realized most significantly is in regard to gay and lesbian Americans, to promise that, in our time, we will guarantee, as a matter of law, that no one will be denied equal opportunity based on their sexual orientation. They will be judged by the way they live and the way they perform their jobs. That is why the existing don't ask, don't tell policy is, in my opinion, inconsistent with basic American values.

It is not only bad for the military, it is inconsistent with our values. I want to say it is particularly bad for the military, because in our society, the American military is, in my opinion, the one institution that still commands the respect and trust of the American people, because it lives by American values. It fights for American values. It is committed to a larger cause and not divided by any division, including party.

So to force this policy as the don't ask, don't tell does on our military is to force them to be less than they want to be, and less than they can be. Admiral Mullen, the No. 1 uniformed military officer in our country today, said very powerfully:

We—

The military—

are an institution that values integrity, and then asks other people to join us, work with us, fight with us, die with us, and lie about who they are the whole time they are in the military.

That, Admiral Mullen says, is what does not make any sense to me. I agree. The fact is this is not just a theory we are talking about. The fact is that under the don't ask, don't tell policy, more than 14,000 members of our military have been discharged since

1993, not because they performed their military responsibilities inadequately, not because they violated the very demanding code of personal conduct in the military, but simply because of their sexual orientation.

I think if you view this as an issue, that can be controversial in the realm of rhetoric or theory. But if you face those 14,000—and I have talked to a lot of them—yesterday, an Air Force major, commanding more than 200 members of the Air Force—all sorts of commendations, tossed out simply because someone did not like him, found out he was gay, and he was pushed out.

A student at one of the academies, at the top of his class, same thing. Because of his sexual orientation, tossed out. You know we spend, by one estimate, more than half a billion dollars training those 14,000 members of the American military that we discharged solely because of their sexual orientation. What a waste. These people simply want to serve their country.

I know you, Mr. President, have probably had the same experience I have. When you talk to any of the 14,000, why are they lobbying, pleading with us to repeal don't ask, don't tell? They want to go back and serve our country. They want to put their lives on the line for our security and our freedoms. Does it make any sense to say no to them simply because of a private part of their person?

In the survey that was done as part of the Pentagon report, there are some remarkable numbers. One of them is that of the gay and lesbian members of our military surveyed, only 15 percent said they would come out, that they would reveal their sexual orientation. One of them was quoted as saying, and I paraphrase: That is private. That is not part of my responsibility in the military. None of us do that in the military.

And, incidentally, when, as I hope and pray don't ask, don't tell is repealed, gay and lesbian members of the military, just as straight members, will be held to the highest demands and standards of the military code of conduct. If they are involved in any inappropriate behavior, they will be disciplined.

Mr. President, I ask unanimous consent for 2 additional minutes of the time we have.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LIEBERMAN. The other significant number in the survey I thought was this: Well over two-thirds of the members of our military surveyed, 120-some-odd thousand surveyed, said that they thought the military was ready for this change.

I know there has been talk about the marines. There is a fascinating number about the marines. A significant number of the marines are worried about

this change in policy. But among those marines who have served in marine units with gay and lesbian marines, 84 percent say no problem. Why? Because we do not care, when we are out in combat, what somebody's race or gender or ethnicity or religion or sexual orientation is; all we care is whether they have got our back and they are a good member of the unit.

My friends have said that this simply—if, and I hope when this measure passes, and don't ask, don't tell is repealed, it authorizes the repeal, but it does not finish it. It starts a deliberative process in which, without time limit, the Secretary of Defense, the President, the Chairman of the Joint Chiefs of Staff, have to decide that it is time for the repeal to occur. It is a very reasonable process. And it saves the military, as Secretary Gates has said over and over again, from facing an order from a court that forces the military to do this immediately.

Bottom line, and I will speak personally here, I was privileged about 10 years ago—incidentally, thinking of the DREAM Act, I am a grandchild of four immigrants to America. Could they have ever dreamed that I would end up a Senator—2,000 have had the opportunity—to be the first Jewish American to run on a national ticket?

I will never forget. Someone called me up that day and said how thrilled they were, a member of another minority group, and said: You know, Joe, here is what is significant. When a barrier falls for one group of Americans, the doors of opportunity open wider for all Americans.

I think we have that opportunity today to make our great country even greater, and our best-in-the-world military even better.

I yield the floor.

Mr. DURBIN. Mr. President, how much time remains on each side?

The ACTING PRESIDENT pro tempore. There is 23 minutes remaining for the majority, just under 16 minutes to the Republicans.

Mr. DURBIN. I yield to the Senator from California, Mrs. FEINSTEIN, for 7 minutes.

Mrs. FEINSTEIN. Mr. President, let me thank Senator LIEBERMAN for his authorship of and advocacy for repeal of don't ask, don't tell. I wish to use my time to speak about pieces of legislation.

Don't ask, don't tell has been with us now for 17 years. I just pulled a speech I made on the floor 17 years ago. The DREAM Act has been with us for 10 years. So neither of these are surprise bills. Both of these affect large numbers of people in major ways. For many, they are their life. For those who love the military, who see no life outside of the military, don't ask, don't tell is their life. The same for students, the DREAM Act becomes their life.

Let me begin with don't ask, don't tell. Seventeen years ago, Senator BOXER introduced an amendment. I spoke to that amendment. We lost by a vote of 33 to 63. Only one-third of the Senate voted to repeal don't ask, don't tell in what was a benign amendment, essentially a consent resolution, but it lost. It lost despite the testimony of legions of military.

The time has gone by, 17 long years. Many of us believe the policy is unconstitutional. We believe it does more harm than good. And 17 years later, I am only more certain that is the case. The criteria for serving in the U.S. Armed Forces should be courage, competence, and a willingness to serve. No one should be turned away because of who they are—not because of their race, their sex, or their sexual orientation. Since 1993, however, don't ask, don't tell has required gay and lesbian Americans to make a choice. You can serve the country you love, but only if you lie about who you are.

This has forced honorable American soldiers to conceal their true selves from their family, their friends, their fellow servicemembers, and their military superiors. It has deprived the U.S. military of talent and badly needed special skills.

Let me discuss one person. SGT Lacye Presley served two tours of duty in Iraq as an Army medic. The Army awarded her a Bronze Star for her heroic action in keeping several critically wounded civilians alive after a car bomb exploded in their midst. Another Army sergeant who worked with her around the same time said this about Sergeant Presley:

I would serve with Sergeant Presley any day, no doubt about it. She's one of the best medics that I've ever seen in my 18 years of service.

Sergeant Presley was discharged after someone reported her sexual orientation to a senior commander. This is one for Sergeant Presley.

Let me discuss some other affected military personnel. Former PO2 Stephen Benjamin was an Arabic linguist for the Navy. He started his service in 2003, graduated in the top ten percent of his class from the Defense Language Institute, and spent 2 years translating for the Navy. In 2007, he was prepared to deploy to Iraq but was turned away and discharged because it was discovered that he was gay.

Army SGT Darren Manzella served two tours of duty providing medical services in Iraq. He earned three promotions over 6 years and was awarded the Combat Medical Bridge for leading over 100 patrols to treat the wounded and evacuate casualties. But after he confided in a supervisor about his sexuality, he was threatened with discharge, his sexuality was made public, and he was later discharged under don't ask, don't tell.

PVT Randy Miller of Stockton, CA, was a member of an elite Army

paratroop division with a long family history of military service. He spent 2 years training in preparation for deployment and then served a tour of duty in Iraq beginning in the winter of 2005. But when he returned to the United States to be treated for a knee injury, someone reported that he was gay and he was discharged from the Army.

Finally, there is LTC Victor Fehrenbach, a 19-year veteran of the Air Force. He has flown 88 combat missions in Iraq, Afghanistan, Kosovo, and the former Yugoslavia. He received nine Air Medals and five Commendation Medals. When our country was attacked on September 11, 2001, he was hand-selected to fly patrols over Washington, DC, as part of the initial alert crew.

But Colonel Fehrenbach has been recommended for honorable discharge because his sexual orientation was made public in 2008.

These are only five stories. There are at least 13,500 more. All of these men and women volunteered to defend the country they love, only to be discharged because of who they happen to love.

Now I wish to speak about the DREAM Act. I thank those who have supported this, brought it forward—Senator HATCH, Senator DURBIN, as well as Senator LIEBERMAN and Senator COLLINS on repealing don't ask, don't tell. I have supported the DREAM Act since it was first introduced. Each year the support has grown.

Each year approximately 65,000 undocumented young people graduate from America's high schools. Most of these did not make a choice to come to the United States. Many were brought here by their parents, some at 6 months old, 6 years, 12 years—whatever it is. Many of these young people grew up in the United States. They have little or no memory or resources in the country from which they came. They are hard-working young people, dedicated to their education or serving in the Nation's military. They have stayed out of trouble. Some are valedictorians—I happen to know one—and honor roll students. Some are community leaders and have an unwavering commitment to serving the United States.

Mr. President, I would like to tell you about a few college students in California, who would benefit from the DREAM Act.

Ana was born in Mexico. She was brought to the United States when she was 7 years old. She says one of her earliest memories is her mother waking her up early in the morning to go to school in the United States. She quickly learned English and excelled in school. She didn't find out that she was undocumented until she was 13 years old and overheard someone talking

about "illegal aliens." When she asked her father what it meant, he told her that she should never ask about that word again. Like most kids, she didn't know what it meant to be undocumented.

Then, when she was ready to apply for college, her guidance counselor asked for her social security number. This is when the meaning of "undocumented" hit home. She graduated from high school with honors and is currently a sophomore at DeAnza College in California. She is active in her student government and is studying political science.

Ivan was brought to the United States when he was just 10 months old. His family settled in San Bernardino, CA, where Ivan excelled in school. He found out about his undocumented status in the 7th grade when he could not accept an award he earned at a science fair because he didn't have a Social Security number.

Ivan is a Presidential scholar who graduated within the top 1 percent of high school graduates in San Bernardino County. He is currently a senior at California State University and is a pre-med biology major. He hopes to become a doctor in the Army someday and says that it would be an honor to provide care to the brave men and women risking their lives for this country.

Blanca came to the United States in 1989, when she was 6 years old. Her family left Mexico after a devastating earthquake. Blanca's family settled in the San Francisco area, where she attended elementary school and graduated from high school. Although Blanca knew that she was undocumented, her family never spoke about it.

Despite being undocumented, Blanca was determined to get the best education she could. She attended Contra Costa Community College and the University of California Davis. She graduated from college in 2008 and hopes to become a lawyer someday so that she can work to prevent sex trafficking.

Justino was brought to the United States 10 years ago by his mother, along with his two siblings, to escape his abusive father. He attended school and graduated within the top 5 percent of his class. He attends Mount San Antonio College and is a student leader, actively engaged in community service in the Latino community.

Justino says that he has a strong love for his community and has been doing everything he can to improve it just like his role models, Martin Luther King, Jr., and Gandhi.

Because of their undocumented status, these young people are ineligible to serve in the military. They face tremendous obstacles to attending college. For many, English is actually their first language, and they are just like every other American student. Now reaching adulthood, these young

people are left with a dead end. They can't use their educations to contribute to their communities. They can't serve the country they call home by volunteering for military service. In other words, they are dumbed down by their status. They are relegated to the shadows by their status. And along comes the DREAM Act. That provides an opportunity for these young people to prove themselves. It provides the incentive to prove themselves.

It would permit students to become permanent residents if they came here as children, are long-term U.S. residents, have good moral character, attend college, or enlist in the military for 2 years. So already they have to prove themselves. The legislation requires students to wait 10 years before becoming lawful permanent residents and undergo background and security checks and pay any back taxes. This is a multistep process. It is not a free pass.

Additionally, according to CBO, the DREAM Act would actually increase Federal revenues by \$2.3 billion over the 10 years and increase net direct spending by \$912 million between 2011 and 2012.

In addition, the Congressional Budget Office and the Joint Committee on Taxation indicate that enacting the bill would reduce deficits by about \$2.2 billion over 10 years.

DREAM is a winner. Repealing Don't ask, don't tell is what we should do. I hope there are "aye" votes sufficient to pass both of these today.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Arizona.

Mr. KYL. Could I be advised after I have spoken for 5 minutes.

Mr. President, the DREAM Act is an attempt to cure a symptom of a problem. The symptom is that some children have been brought here illegally and they are suffering the consequences of being illegal aliens under American law. The problem is illegal immigration, which causes all manner of other bad results or problems. There are huge costs to society and any number of personal tragedies as a result of illegal immigration, the DREAM Act problems being only one subset.

Just a few days ago, another Border Patrol agent was killed in the State of Arizona, illustrating again another kind of personal tragedy from illegal immigration. Unfortunately, treating symptoms of the problem might make us feel better because we are doing something for a particular group of folks, but it can allow the underlying problem to metastasize. Unfortunately, that is what is happening at our border.

In some respects, the problems are getting worse, not better. Our citizens have a right to be safe and secure. Right now that situation, at least in

my home State, does not pertain. So the first point I make is that we have to secure the border and stop illegal immigration. When we do, there will not be more problems for people associated with education that would be solved by the DREAM Act or other problems associated with illegal immigration. We will have excluded or we will have limited the nature of the problem to simply those who are here now and then, obviously, we can deal with that problem. That is the first point.

Second, this bill is brought to us with no hearings or markup in a committee. It is the sixth version of a DREAM Act. I worked with Senator DURBIN on another version of the DREAM Act in connection with the comprehensive immigration law. There are problems with this bill. Those problems need to be dealt with. But the bill comes before us under a condition in which there can be no amendments. There needs to be amendments.

In the remaining 3 minutes or so I have, let me simply identify 10 particular problems we need to deal with and can only be dealt with by getting together and working it out by having amendments, which we can't do in the short time we have.

The bill would immediately put an estimated 1 to 2 million illegal immigrants on a path to citizenship, a number which will only grow because there is neither a cap nor sunset in the legislation. These people would then have access to a variety of other Federal programs, Federal welfare programs, student loans, Federal work study programs, and the like.

Third, the entire time such individuals are in conditional status, they are not required to attend college or join the military. That is a common misperception. Only when such individuals seek to get lawful permanent resident status do they then have to proceed to complete the requirements for education or military.

Fourth, the education and military requirements can be waived altogether, including for criminal activity—in other words, people who have a serious criminal background.

Five, chain migration, which is something we dealt with in the legislation in 2009, would result from this legislation because once the citizenship is obtained, the individuals would have the right to legally petition for a green card for their family members. That means the numbers could easily triple from the 2 million plus estimated right now.

Sixth, the bill has no age limit for aliens in removal status. This is supposed to be for children, but there is no age limit for people who are in removal proceedings and simply file an application for status under the DREAM Act to stay their removal. That has to be fixed.

Seven, the bill forbids the Secretary of Homeland Security from removing any alien who has a pending application for conditional nonimmigrant status regardless of age or criminal status. In other words, it provides a safe haven for illegal immigrants, some of whom we would not want to allow to stay in the United States and should be subject to removal.

Eighth, the DREAM Act as written provides that applicants who are currently ineligible under current law for status of a green card could nevertheless be eligible under this act. The reason is because some of the grounds of waiver that exist in this act do not exist under current law, but they could be waived for DREAM Act aliens—things such as document fraud, alien absconders, and marriage fraud.

Nine, the act does not actually require that an illegal alien finish any type of degree other than a high school GPD. To receive green card status, the bill requires only that the alien complete 2 years at an institution of higher education. There is not a requirement that they ever receive a degree of any kind. The requirement is that they needn't receive a degree of any kind. This is important.

For those who want to go into the military, there is the requirement for 2 years of service in the uniformed services. When you enlist in the service today, you are enlisting for a commitment of 4 years.

Finally, removal, if it can be demonstrated as resulting in a hardship either to the applicant or to a spouse, the requirements for education can be waived altogether. So a sympathetic Secretary of Homeland Security could obviously create a situation in which there is essentially just a waiver for people to come into the United States.

For these reasons, I urge colleagues to vote against cloture on the DREAM Act.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DURBIN. Mr. President, I yield to three of my colleagues at this point before, I believe, Senator MCCAIN speaks. I yield Senator BENNET 2 minutes, Senator GILLIBRAND for 2 minutes, and Senator SCHUMER for 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. BENNET. Mr. President, I rise today in strong support of the DREAM Act. I have a lot of sympathy for the arguments the Senator from Arizona has made about what is going on in Arizona, what is going on in the Rocky Mountain West, where I come from, which reminds me of the need we have in this country and in this Congress to finally face up to the facts and pass comprehensive immigration reform. But that is not what we are talking about today.

What we are talking about today is the DREAM Act, a narrow bill that

deals with about 65,000 people a year who are here through no fault of their own and have no other country of their own but want to make a contribution to our country—as scholars, as taxpayers, as part of our military—the people who have worked hard, who have played by the rules and they want to do nothing other than make a contribution to the United States of America, much as my grandparents and my mother wanted to make when they came here as immigrants.

So I think on this Christmas Eve it would be more than appropriate for the Senate to join the House and do the right thing and pass the DREAM Act.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mrs. GILLIBRAND. Mr. President, I rise in support of the two very important votes we are having today on the DREAM Act and the repeal of don't ask, don't tell.

The DREAM Act is a moral imperative. These are young people who have come to this country through no fault of their own, who want nothing but to achieve the American dream—either through education or through military service—but they want to be part of this community and be able to give back to this community.

In a country that was founded on immigrants, where the richness of our heritage and culture and the breath of our economy is due to our immigrants, we want to make sure every one of these young people can become American citizens.

With regard to don't ask, don't tell, I cannot think of a policy that greater undermines the integrity of our entire Armed Services and who we are as a Nation. This is a policy that is corrosive. We are saying to men and women who want nothing but to serve this country, to give their lives for this country: No, you cannot because of who you love. I cannot think of something more egregious, more undermining of our command structure and of our goodwill, and the entire fabric of the military lives of the men and women who serve.

Mr. President, I urge my colleagues to look at this as an urgent priority for national security. When we are talking about worrying about having two wars and terrorism at every front, we need to know all of our best and brightest—how many are not serving today because of this policy; how many will return to the military when this policy is removed. All I know is, since this policy has been in place, we have lost 13,000 personnel, more than 10 percent of our foreign language speakers, and more than 800 in mission-critical areas who cannot be easily replaced.

If you care about national security, if you care about our military readiness, then you will repeal this corrosive policy.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, today we vote on two very important issues in the great, long, and often difficult march that America has made toward equality.

That is one of the greatnesses of this country, that we inexorably move to equality. Sometimes it is painful. Sometimes it is difficult. Sometimes we take two steps forward and one step back. But as the great scholar de Tocqueville wrote, when he visited America in the 1830s: The thing that separates America from all the other countries of the world is equality always prevails.

We are dealing with equality on two scores today, in two areas. One is in the military. One of the great things about our military, No. 1, is they defend us and risk their lives for our freedom. But the second is, it has always been an integrating, positive force in America. Any policy that says you cannot serve even though you want to be an American, you are an American, is wrong; bad for our military service and bad for the country.

Second, we speak of the DREAM Act. Inevitably, from the time the first settlers came to New York, the English began to displace the Dutch, and the Dutch were upset. But what does America do? We reach out to newcomers and say: Become Americans and contribute to the American dream and work hard.

There are always people who have reasons to say no. They always fail. They may not fail this morning, but they will fail because the drive for equality is a great American drive. It is part of the American dream, and on both these issues we will prevail.

I yield the floor.

Mr. MCCAIN. Mr. President, over the last 3 years, I have spent a lot of time traveling around the State of Arizona and meeting with my constituents. Many of these trips took me to the southern part of my State where I sat down with ranchers, farmers, small business owners, local officials, and law enforcement officers in the border region and discussed the issues that were important to them and their neighbors. Everywhere I went people told me of their fear and concern over the lack of security along Arizona's border with Mexico.

Due to the drug war in Mexico, the situation along the southern border has proven to be a very serious and real threat to the people living in the region. The violence that continues to plague our southern neighbor by well-armed, well-financed, and very determined drug cartels poses a threat to our national security. Despite the increased efforts of President Calderon to stamp out these bloodthirsty and vicious drug cartels, violence has increased dramatically, claiming over

31,000 lives in Mexico since 2006. The murderers carrying out these crimes are as violent and dangerous as any in the world.

Two weeks ago, the Mexican military arrested a 14-year-old U.S. citizen who has been working as a hit man for the Cartel of the South Pacific. This child assassin came to the attention of the public after YouTube videos surfaced of him decapitating kidnapping victims. When questioned by Mexican authorities, he is quoted as saying, "When we don't find the rivals, we kill innocent people, maybe a construction worker or a taxi driver." Truly disturbing behavior.

This week there was another tragic murder on the U.S. side of the border that took the life of Border Patrol Agent Brian Terry. Our thoughts and prayers go out to his family and his fellow Border Patrol agents. Agent Terry was killed outside of Rio Rico, AZ, during a shootout with a Mexican "rip-crew" that was attempting to rip off a rival drug gang. These incidents are becoming all too common and are a by-product of the lack of resources and personnel along our border.

Incidents like these are why the residents of southern Arizona tell me that they feel that they live in a lawless, forgotten region of the country where they live in constant fear in their own homes. They are begging for our help. It is time—in fact, the time is long overdue—for the Federal Government to fulfill its responsibility to secure our international borders and ensure the safety and well-being of the families and citizens living within those borders.

All of that being said, I still believe that the overwhelming majority of men and women trying to enter our country illegally are looking for nothing more than the opportunity to improve their lives and the lives of their families. Fixing our immigration system, with reforms like the DREAM Act and the implementation of a workable and labor-market-driven guest worker program would benefit our Nation's economy and our society. Such reform would also provide immigrants desperate to come to the United States to look for work a safe alternative to illegal human smugglers or "coyotes" that have cost so many people their lives and dignity. According to the U.S. Border Patrol, 253 people died attempting to cross the Arizona border between September 2009 and October 2010.

With respect to the DREAM Act, I have great sympathy for the students who would benefit from passage of this legislation. I have met personally with many of the students advocating for the bill, and many of their stories are heart-wrenching. Through no fault of their own, they are now caught in legal limbo that leaves them unable to obtain employment in the United States and unequipped to return to the coun-

try of their birth, often a place foreign and completely unknown to them. I truly sympathize with the plight of these men and women.

But I also feel for the men and women of Arizona who live along an unsecure border and have been promised for decades that the Federal Government will do its job and stop the illegal migration and drug trafficking that run through their towns, neighborhoods, and backyards.

I pity the farmers in my State who are unable to harvest their crops because they cannot navigate the burdens of the H-2A agriculture guest worker program. Most of all, however, I sympathize with the families who live in constant fear in their homes and neighborhoods, especially those who have been victimized by criminal elements crossing the border illegally. Consequently, I cannot in good faith put the priorities of these students, as tragic as their situation is, ahead of my constituents and the American people are who are demanding that the Federal Government fulfill its constitutional duty to secure our borders. Once we fulfill this commitment, we can then address the other issues surrounding and plaguing our broken immigration system.

On a practical note, I also believe that any casual, impartial observer will recognize that our inability to secure the border has made immigration reform politically unattainable as the American public insists we stop the flow of illegal entries before considering any changes to our immigration policies. In 1986, we passed what was truly an amnesty and we failed to secure our borders either before or after that bill's passage. Consequently, we now have an estimated 12 to 20 million people living in our country illegally, and the American people have said "enough is enough." They are telling us to "secure our borders first."

We have already made steps in the right direction. In fact, we have shown our ability to work in a bipartisan fashion to secure the border during this Congress. Most recently, in August, the Senate unanimously passed legislation to deploy \$600 million in personnel and new assets to the southwest border. We must continue this important work together.

While it is true that there are more assets and resources at the border now than ever before, we need a complete and comprehensive plan that incorporates the ideas of the State and local law enforcement, elected officials, and the border Governors. In the coming months, I will begin a deliberative and comprehensive process of discovering what is truly needed to secure our borders and give the Governors of our Southern States the peace of mind and assurance they need to certify that their borders are secure.

These elected officials are on the front line and know best what assets,

personnel, and technology are needed. Once the border State Governors certify their State border has been secured and the Federal Government can demonstrate such to the American people—only then should we and can we begin working on comprehensive immigration reform.

I look forward to working with my colleagues in a bipartisan matter to address all of these issues that are important to the American people and the people of Arizona.

Mr. LEAHY. Mr. President, while partisan rancor seems to have seized the Senate on so many issues this year, on at least one count, I am encouraged and hopeful. There may yet be sufficient bipartisan agreement to repeal the discriminatory don't ask, don't tell policy before this Congress ends. I commend those Senators who have pledged to support the repeal, and I renew my own commitment to this worthy effort. It is well past time to put an end to this discriminatory and harmful policy.

Today, in the U.S. Senate, the stage is being set for one of the major civil rights victories of our lifetimes. Years from now, I hope that historians will have good cause to remember this day as a day when the two parties overcame superficial differences to advance the pursuit of equal rights for all Americans. After much effort, and just as much study and discussion, the Senate finally will proceed to an up-or-down vote on repealing this counterproductive policy.

For those who still harbor concerns that enacting this repeal would somehow harm readiness, one simple fact is the clearest answer: Gay and lesbian Americans already serve honorably in the U.S. Armed Forces and have always done so. There is no doubt that they have served in the military since the earliest days of the Republic. The only reason they could do so then, and now—even under today's discriminatory policy—is because they display the same conduct and professionalism that we expect from all of our men and women in uniform. They are no different than anyone else, and they should be treated no differently.

Ending this policy will also bring to an end years of forced, discriminatory and corrosive secrecy. Giving these troops the right to serve openly, allowing them to be honest about who they are, will not cause disciplined service members to suddenly become distracted on the battlefield. It is pandering to suggest that they would be.

This is not only my view. The Chairman of the Joint Chiefs, Admiral Mullen, has said time and again that this is the right thing to do and that it will not harm our military readiness.

Every member of our armed services should be judged solely on his or her contribution to the mission. Repealing don't ask, don't tell will ensure that we

stay true to the principles upon which our great Nation was founded. We ask our troops to protect freedom around the globe. It is time to protect their basic freedoms and equal rights here at home.

Throughout our history, the Senate has shown its ability to reflect and illuminate the Nation's deepest ideals and the Nation's conscience. It is my hope that the Senate will rise to this occasion by breaking through the partisan din to proceed to a debate and vote on repealing this discriminatory and counterproductive policy.

Mr. COONS. Mr. President, I rise to voice my strong support for this legislation which I am proud to co-sponsor and which effectively repeals don't ask, don't tell.

Today, we are at a historic crossroads. Our choice is to continue a policy that conflicts with our founding principles of freedom and liberty for all, or to open the doors of the military to all Americans courageous enough to serve.

Don't ask, don't tell is discrimination, plain and simple. Any American prepared to die for their country should be afforded the respect and admiration they deserve. Brave men and women in uniform are willing to fight for our freedom every day, and it is our responsibility as Senators as Americans first to fight for theirs.

President Truman had the vision and leadership to racially integrate the military at a time when he faced even stronger opposition from political and military leaders than we face today. We should act today in that tradition.

I have met with many courageous members of the military some of whom also happened to be gay or lesbian and listened to congressional testimony on this issue. I share the view of our military leaders that the most pressing question is not whether to repeal don't ask, don't tell, but rather, how to implement a repeal. This is why I am pleased the bill before us today leaves this issue in the hands of military leaders, who are granted the time needed to certify adequate preparation for a repeal reflecting the best interests of our troops.

Under the legislation, a repeal of don't ask, don't tell would be enacted 60 days after the President, Secretary of Defense, and Chairman of the Joint Chiefs certify they have done three things. First, that they have considered the Pentagon working group report on the impact of a repeal. Second, that the Department of Defense has readied the necessary regulations for implementation. Third, that the manner of implementation is consistent with the standards of military readiness, effectiveness, unit cohesion, and recruiting and retention.

This legislation does not stipulate a timeline for this process, but provides a congressional mandate that the pol-

icy must be changed once measures are in place to mitigate any negative impact of a repeal. This includes training, education, and additional steps to ensure a smooth transition to implementing a repeal.

The issue of implementation was one concern shared by all the service chiefs who testified before the Senate Armed Services Committee on December 3, and I am pleased it is adequately addressed in this bill. Another concern shared by all service chiefs was the view that they would prefer that Congress legislate a repeal rather than leave it to the courts. They shared a concern that a court order would compel military leaders to implement a repeal without the time and flexibility required.

As the recent Department of Defense report demonstrated, 70 percent of our troops believe a repeal of don't ask, don't tell will have little impact on military readiness or unit cohesion. Sixty-nine percent believe they have served with someone who is gay or lesbian, and of that group, 92 percent responded that serving with someone who is gay or lesbian had little impact on their unit.

These report findings demonstrate a basic truth that we can deny no longer. Gay Americans have chosen to proudly serve their country, and the current don't ask, don't tell policy forces them to lie about who they are or face discharge. In fact, we have discharged nearly 14,000 brave servicemembers since the law was implemented in 1993, simply because their sexual orientation was disclosed. Those discharged include high-decorated combat veterans, national security experts, and badly needed military linguists when our nation is engaged overseas in two wars. These are losses we can ill afford.

Sexual orientation is not a choice but discrimination is. Homosexuals in the military today face the double burden of risking their lives for their country while being forced to lie about who they are or face discharge. Today, I am pleased to join my colleagues in ending this burden once and for all and repealing don't ask, don't tell.

I wish to voice my strong and unequivocal support for this bill which effectively ends the seventeen year policy of treating homosexuals as inherently unqualified for military service. It is time we join the majority of our allies in allowing those already serving in our military to do so free from discrimination, with integrity and honor.

Mr. DURBIN. Mr. President, over the past few months, we have heard a variety of justifications for why now is not the time to repeal don't ask, don't tell.

Opponents of repeal have said that we should wait for our military leaders to call for change. Well, in the past year, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff—

the two highest-ranking military leaders in America—have told us now is the time for Congress to act.

We have been told that we should wait for the results of the Pentagon study on the effects of ending don't ask, don't tell and recommendations for implementing its repeal. We now have the results of that study. It concludes that the risks associated with overturning don't ask, don't tell are low, with thorough preparation. The repeal bill before us provides for just such preparation.

A survey included in the Pentagon study shows that a substantial majority of servicemembers—about 70 percent—predict little to no negative effects from allowing gay men and lesbians to openly in our military.

Rather than listen to our top military leaders and rank and file servicemembers, opponents of repeal now want to move the goal posts. After months of exhaustive study and debate, they now say they want a survey that asks different questions and to hear from different leaders.

They say the 103-question survey, 95 forums, and 140 focus groups included in the Pentagon study were not sufficient to gauge the affects of repeal.

Enough with the stalling and blocking.

The days of don't ask, don't tell are numbered. This discriminatory policy, which is harmful to our Nation's principles and or national defense, will end. The only question is whether Congress will act and give military leaders the time they seek to make an orderly transition, or continue to delay and risk that the federal courts will demand a more abrupt change.

Congress or the courts. That is the choice.

Secretary Gates warned us as much at the release of the Pentagon study. He said:

Now that we have completed this review, I strongly urge the Senate to pass this legislation and send it to the president for signature before the end of this year. I believe this is a matter of some urgency because, as we have seen in the past year, the federal courts are increasingly becoming involved in this issue.

He continued:

Just a few weeks ago, one lower court ruling forced the department into an abrupt series of changes that were no doubt confusing and distracting to men and women in the ranks. It is only a matter of time before the federal courts are drawn once more into the fray, with the very real possibility that this change would be imposed immediately by judicial fiat—by far the most disruptive and damaging scenario I can imagine, and one of the most hazardous to military morale, readiness and battlefield performance.

Just this week, another legal challenge was filed in federal court by three former servicemembers discharged under don't ask, don't tell.

Their stories illustrate once again the arbitrary and unjust nature of

the current policy, and the harm it causes.

The plaintiffs are Air Force veterans Michael Almy and Anthony Loverde, and Navy veteran Jason Knight. Let me tell you about these brave men.

MAJ Michael Almy is the son of a West Point graduate and served 13 years in the Air Force.

Major Almy deployed to the Middle East several times in the late 1990s, helping to enforce the no-fly zones in Iraq. He deployed again in 2002 and 2004 to support the invasion of Iraq and its aftermath.

Near the end of his 2004 deployment, Major Almy was named the Field Grade Officer of the Year. It was also during this deployment that a member of his unit found e-mails Major Almy sent to another man and the discharge process started.

Major Almy's superiors and subordinates provided glowing character references during the discharge.

This is what one subordinate said—Major Almy:

one of the most respected leaders in the squadron thanks to his no nonsense approach to mission accomplishment.

He added:

I can say without any reservation that Major Almy was the best supervisor I have ever had . . . It would be an absolute travesty to lose such an outstanding officer and superior leader.

Even while his discharge was pending, Major Almy's wing commander recommended his promotion to lieutenant colonel—ahead of his peers.

None of this was enough to save Major Almy's career. Despite his exemplary record, he was discharged for being gay.

The second plaintiff, SSG Anthony Loverde, is also a highly decorated veteran of Operation Iraqi Freedom. He had the difficult and job of a C-130 loadmaster.

During his deployment in 2007, Loverde found that he could no longer pretend to be someone he was not. Upon returning home, he sent his supervisor an email saying he would like to continue to serve, but he could not do so if it also meant continuing to conceal his sexual orientation. That letter started his discharge.

One month after his discharge, Sergeant Loverde received the Air Medal for "superior ability in the presence of perilous conditions."

But that is not the end of Sergeant Loverde's story.

Shortly after his discharge, he went to work for a defense contractor and headed back to Iraq, this time as an openly gay man. As a defense contractor, he shared quarters with servicemembers—without incident.

In a letter last year to the Washington Post, Sergeant Loverde wrote:

At the same time I was being discharged, my younger brother, who served a 15-month tour in Iraq during 2004-05 with the Army in

fantry, was stop-lossed to be sent back for another tour of duty. He had a new wife and a young son; he had fulfilled his initial commitment and wanted to leave the Army to continue his career as a civilian. But our country's needs were too great—he was told he had to keep fighting.

Why, in such a time, would we discharge decorated servicemembers who want to serve our Nation?

The third member in this latest court challenge is PO2 Jason Knight.

Petty Officer Knight enlisted in the Navy in April 2001 and served 5 years. He spent the first 3 of those years as a member of the elite Navy Ceremonial Guard at Arlington National Cemetery. He participated in more than 1,500 military funerals.

In 2004, Petty Officer Knight realized he was gay. He ended his marriage and informed his commander.

He was discharged in April 2005, but because of an error in the paperwork, he remained eligible for recall.

Sure enough, Petty Officer Knight was recalled in 2006, and deployed to Kuwait. During that deployment, he served as an openly gay man and received high praise from those with whom he served.

In 2007, responding to a statement by GEN Peter Pace, then-Chairman of the Joint Chiefs of Staff, that he viewed homosexuality as immoral, Jason Knight wrote a letter to the editor of Stars and Stripes.

In his letter, Petty Officer Knight wrote:

I spent four years in the Navy, buried fallen servicemembers as part of the Ceremonial Guard, served as a Hebrew Linguist in Navy Intelligence, and received awards for exemplary service. However, because I was gay, the Navy discharged me and recouped my \$13,000 sign-on bonus. Nine months later, the Navy recalled me to active duty. Did I accept despite everything that happened? Of course I did, and I would do it again. Because I love the Navy and I love my country. And despite [General] Pace's opinion, my shipmates support me.

For writing those words, Jason Knight was discharged for a second time under don't ask, don't tell.

The men and women discharged under don't ask, don't tell are not asking to be treated as a special class. Just the opposite—they are asking to be treated like everyone else.

Some defenders of the status quo claim that things are working fine under don't ask, don't tell. How in the world can anyone say that after hearing these stories?

At a time when our Nation is fighting two wars, honorable men and women with proven records of outstanding service are being forced out of our military, they are having their careers destroyed, solely because they are gay. It is time for Congress to act and give our military leaders the time they need to bring this flawed policy to a responsible end.

We know that some branches and some members of our armed services

are more skeptical than others of the ability of America's military to adapt to a repeal of don't ask, don't tell.

Lack of complete agreement is no reason to delay.

We have been here before. In 1948, when President Harry Truman signed Executive Order 9981 calling for an end to segregation in the armed forces, he also created a military advisory committee and charged them with examining military rules, procedures, and practices that interfered with equitable treatment of military personnel. It was called the President's Committee on Equality of Treatment and Opportunities in Armed Forces, but it became better known as the Fahy Committee, after its chairman.

In March of 1949, the three Service Secretaries testified before the Fahy Committee. The Secretaries of the Air Force and Navy testified in support of President Truman's executive order. But Secretary of the Army Kenneth Royall argued in favor of maintaining the status quo, saying that the Army was "not an instrument of social evolution."

As it turned out, Secretary Royall was wrong. The U.S. military—and the Army in particular—helped lead the way in creating the vibrant, integrated society we know today.

America has the best trained, most professional military in the history of the world. I am confident that our military can and will meet the challenges of ending discrimination based on sexual orientation, just as they helped lead the way in ending legalized racial discrimination in the past.

Former Senator Edward Brooke served in this body for 12 years in the 1960s and 1970s. He was the first African-American elected to the U.S. Senate since Reconstruction.

He remembers well the injustice of serving in a segregated Army. He recently wrote an impassioned plea for ending don't ask, don't tell. It appeared in the *Boston Globe*. I quoted from it when I spoke on this topic a few days ago. I want to do so again, because what he says bears repeating.

Senator Brooke wrote that don't ask, don't tell "shows disrespect both for the individuals it targets and for the values our military was created to defend."

He wrote:

Regardless of its target, prejudice is always the same. It finds novel expressions and capitalizes on new fears. But prejudice is never new and never right. One thing binds all prejudices together: irrational fear. Decades ago, black servicemembers were the objects of this fear. Many thought that integrating black and white soldiers would harm the military and society. Today, we see that segregation itself was the threat to our values.

He went on to say:

We know that laws that elevate one class of people over another run counter to America's ideals. Yet due to "don't ask, don't

tell," the very people who sacrifice the most to defend our values are subject to such a law. We owe them far more.

One month before President Truman's Executive Order, a Gallup poll showed that only one in four American adults supported ending racial segregation in our military.

Today, 75 percent of Americans say that gay men and lesbians should be allowed to serve openly.

A majority of our servicemembers and our top military leaders say it is time to end the discrimination against gay men and lesbians.

The time for change has come. The only question is whether we will act responsibly and give our military leaders the time they are seeking to make this transition. Or will we continue to delay and let the courts set the timetable?

America is ready to end don't ask, don't tell. Now it is our turn to take the next step forward and end a policy that offends our national principles and harms our national security.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MCCAIN. Mr. President, how much time is remaining on both sides?

The ACTING PRESIDENT pro tempore. The Senator from Arizona has 10 minutes. The Senator from Illinois has 10 minutes 30 seconds.

Mr. MCCAIN. Well, Mr. President, I would ask, is it true the parliamentary situation as it exists right now is that we will be voting on cloture on both what is known as don't ask, don't tell and the DREAM Act?

The ACTING PRESIDENT pro tempore. The Senator is correct. There will be cloture votes on both of those House messages.

Mr. MCCAIN. Meanwhile, on the Executive Calendar, we have the START treaty?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. MCCAIN. And there are no amendments that are in order on either the DREAM Act or don't ask, don't tell, no amendments are in order?

The ACTING PRESIDENT pro tempore. My understanding is there is no place for an amendment on either measure at this time.

Mr. MCCAIN. So here we are, about 6 weeks after an election that repudiated the agenda of the other side, and we are jamming, or trying to jam, major issues through the Senate of the United States because they know they cannot get it done beginning next January 5. They cannot do it next January 5. The American people have spoken, and they are acting in direct repudiation of the message of the American people. That is why they are jamming this through.

My friends, there is a lot of talk about compromise. There is a lot of talk about working together. You think what this "bizarro" world that the majority leader has been carrying

us in, of cloture votes on this, votes on various issues that are on the political agenda of the other side—to somehow think that beginning next January 5 we will all love one another and kumbaya? I do not think so. I do not think so.

Unfortunately, the majority is using the lameduck session to push an agenda, when the fact is lameduck sessions are supposed to be to finish up the work of Congress so the new Congress can act on the issues of the day.

The American people have spoken in what the President of the United States described as a "shellacking." Everything we are doing is completely ignoring that message. Maybe it will require another election.

So, for example, I filed two amendments I believe are relevant to this bill, important to this major change. Those will not be in order.

I have always and consistently stated that I would listen to and fully consider the advice of our military and our military leadership. On December 3, the Committee on Armed Services heard from the Chiefs of our four military services—the Chiefs of our four military services.

General Amos said:

Based on what I know about the very tough fight in Afghanistan, the almost singular focus of our combat forces as they train up and deploy into theater, the necessary tightly woven culture of those combat forces that we are asking so much of at this time, and, finally, the direct feedback from the survey, my recommendation is that we should not implement repeal at this time.

Then he talks about:

Mistakes and inattention or distractions cost Marines' lives.

Cost marines' lives.

[M]arines came back—

After serving in combat—

and they said, "Look, anything that's going to break or potentially break that focus and cause any kind of distraction may have an effect on cohesion." I don't want to permit that opportunity to happen. And I'll tell you why. If you go up to Bethesda . . . Marines are up there with no legs, none. We've got Marines at Walter Reed with no limbs.

General Casey said:

I believe that the implementation of the repeal of Don't Ask, Don't Tell in the near term will, one, add another level of stress to an already stretched force; two, be more difficult in our combat arms units; and, three, be more difficult for the Army than the report suggests.

General Schwartz basically said the same thing.

I have heard from thousands—thousands—of Active-Duty and retired military personnel. I have heard from them, and they are saying: Senator MCCAIN, it isn't broke, and don't fix it.

So all of this talk about how it is a civil rights issue and equality, the fact is, the military has the highest recruiting and highest retention than at any other time in its history. So I understand the other side's argument as to

their social, political agenda. But to somehow allege that it has harmed our military is not justified by the facts.

I hope everybody recognizes this debate is not about the broader social issues that are being discussed in our society, but what is in the best interest of our national security and our military during the time of war.

Now, I am aware this vote will probably pass today in a lameduck session, and there will be high-fives all over the liberal bastions of America. We will see the talk shows tomorrow—a bunch of people talking about how great it is. Most of them never have served in the military or maybe even not even known someone in the military.

And, you know, we will repeal it; all over America there will be gold stars put up in windows in the rural towns and communities all over America that do not partake in the elite schools that bar military recruiters from campus, that do not partake in the salons of Georgetown and the other liberal bastions around the country. But there will be additional sacrifice. I hear that from master sergeants. I hear that from junior officers. I hear that from leaders.

So I am confident that with this repeal our military—the best in the world—will salute and do the best they can to carry out the orders of the Commander in Chief. That is the nature—that is the nature—of our military, and I could not be more proud of them in the performance that they have given us in Iraq and Afghanistan, and before that other conflicts. They will do what is asked of them.

But do not think it will not be at great cost. I will never forget being, just a few weeks ago, at Kandahar. An Army sergeant major, with five tours in Iraq and Afghanistan, in a forward operating base, said: Senator MCCAIN, we live together. We sleep together. We eat together. Unit cohesion is what makes us succeed.

So I hope when we pass this legislation we will understand we are doing great damage, and we could possibly and probably—as the Commandant of the Marine Corps said; and I have been told by literally thousands of members of the military—harm the battle effectiveness which is so vital to the survival of our young men and women in the military.

Mr. President, I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time is remaining on this side?

The ACTING PRESIDENT pro tempore. There remains 10½ minutes to the Senator from Illinois.

Mr. DURBIN. Mr. President, I rise today in support of the DREAM Act and in support of the repeal of don't ask, don't tell. I will focus my remarks on the DREAM Act, but I want to

make it clear to my colleagues, you will not get many chances in the Senate in the course of your career to face clear votes on the issue of justice. This morning, you will have two—not one but two.

The question is whether the Senate will go on record as a Nation prepared to stop discrimination based on sexual orientation. It is a monumental question, a question of great moment, and a question we should face squarely.

There will be a vote, as well, on whether the Senate will stand by thousands of children in America who live in the shadows and dream of greatness. They are children who have been raised in this country. They stand in the classrooms and pledge allegiance to our flag. They sing our Star Spangled Banner, our national anthem. They believe in their heart of hearts this is home. This is the only country they have ever known. All they are asking for is a chance to serve this Nation. That is what the DREAM Act is all about.

Last night, Senator BOB MENENDEZ, who has been my great ally on this, and I stayed late to speak on the Senate floor. I left and went upstairs, and there were many of these young people who were here in support of the DREAM Act, who came by my office and we spent a few minutes together. Some of them have ridden on buses for 28 hours from Austin, TX, to be here, to sit in this gallery, and to pray that 100 Senators will consider the issue of justice and stand up for them.

Some have come to the floor today and criticized this as a political stunt. I wish to tell my friends, I hope you understand my sincerity on this issue. I have been working on this issue for 10 years. These people have been waiting for more than 10 years. To say we are pushing and rushing a vote—for them, it can't come too soon because their lives hang in the balance.

I would just say this is not a procedural vote. It is not a political stunt. We are voting on a bill that has already passed the U.S. House of Representatives. If it passes on the floor of the Senate, it will become the law of the land with the President's signature.

I thank those who have brought us to this moment: the President, who was a cosponsor of the DREAM Act when he served in the Senate; Secretary of Interior Ken Salazar, who is on the floor today, as a former Member of the Senate. What a great ally you have been, Ken, throughout this entire debate; Secretary of Education Arne Duncan; Secretary of Homeland Security, Janet Napolitano; and especially my friend, Senator RICHARD LUGAR of Indiana. What an extraordinarily courageous man he has been to join me in cosponsoring this measure, which is controversial in some places.

What will this bill do? Let me make clear some of the things that have been

said on the floor which are not accurate. First, when this bill is signed into law, the only people eligible to take advantage are those who have been in the United States for 5 years. Anybody who comes after 2005 cannot be eligible, and those who are eligible have 1 year to apply and to pay the \$500 fee and then they have 5 years under the bill to do one of two things: to serve in our U.S. military and risk their lives for America or to finish at least 2 years of college.

What are the odds they are going to do those things? I will tell my colleagues. Today, about half the Hispanic youth in America don't finish high school. Only 1 out of 20 enters college in this status. So the odds are against them. But that isn't the end of it. There is a long list of things they must do in order to qualify for the DREAM Act, including background checks on their moral character and criminal records. If they have been convicted of a felony, they are ineligible; if they have been convicted of more than two misdemeanors, ineligible.

There have been things said on the floor by the Senator from Alabama and others that the Secretary of Homeland Security can waive this requirement. That is not true. It is not true.

I ask unanimous consent to have printed in the RECORD a statement by the Department of Homeland Security which makes it eminently clear she has no power, no directive to have any power under the DREAM Act to waive any of these requirements which bar those with criminal records, who violate the law or have a history of terrorism or threat to national security.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HOMELAND SECURITY
DREAM ACT

MISLEADING CLAIM: The DREAM Act is not limited to children.

FACT: The DREAM Act limits applications to persons who were children when they arrived in the United States (under 16) and are under age 30 on the date of enactment.

MISLEADING CLAIM: The DREAM Act will be funded on the backs of hardworking, law-abiding Americans.

FACT: The DREAM Act is fully paid for by applicants without cost to the Federal Government. It allows for collection of fees to recover "the full costs of providing adjudication and processing services," and requires a total of \$2,525 in surcharges paid by applicants during the process designed to ensure that the DREAM Act does not increase direct federal spending. Not only will the DREAM Act cost the government nothing, but it will actually reduce the deficit over the next ten years. Moreover, as conditional nonimmigrants, these individuals are barred from a broad range of federal public benefits as well as federal tax credits to purchase health insurance in the exchange created by the health care reform bill.

MISLEADING CLAIM: The DREAM Act provides safe harbor for any alien, including criminals, from being removed or deported if they simply submit an application.

FACT: Only individuals who can show that they are *prima facie* eligible for cancellation of removal and conditional nonimmigrant status are prohibited from being removed. A *prima facie* showing of eligibility is not a modest or low standard of legal proof and cannot be satisfied by the alien's signature. In immigration law it is a much more stringent determination.

Prima facie eligibility determinations are required under the existing provisions governing Temporary Protected Status. USCIS must make a determination that an applicant is *prima facie* eligible for TPS under section 244(a)(4) of the INA and implementing regulations at 8 C.F.R. 244.5. USCIS checks the applicant's nationality and verifies identity through biometrics checks. The agency also runs fingerprint checks through the FBI and conducts certain background checks in relevant systems to determine whether there is available derogatory criminal or security information that would call into question the applicant's eligibility for TPS, and thus may require further review. If this initial identity check of the applicant and the background and security checks raise no immediate concerns about TPS eligibility, the applicant will be considered "*prima facie*" eligible for TPS and provided certain "temporary treatment benefits," such as an employment and travel authorization.

DREAM Act applicants would be required to undergo a similar process to establish *prima facie* eligibility.

MISLEADING CLAIM: Certain inadmissible aliens, including those from high-risk regions, will be eligible for amnesty under the DREAM act.

FACT: The DREAM Act is not an amnesty. No one will automatically receive a green card. Rather, the DREAM Act requires a decade-long process for a narrowly tailored group of young persons who were brought to the U.S. years ago as children to resolve their immigration status, thereby allowing America to derive the full benefits of their talents. The editorial board of the Wall Street Journal opined on November 27: "[W]hat is to be gained by holding otherwise law-abiding young people, who had no say in coming to this country, responsible for the illegal actions of others?"

MISLEADING CLAIM: Certain criminal aliens—including drunk drivers—will be eligible for amnesty under the DREAM act.

FACT: Any criminal who applies for the DREAM Act will only hasten their deportation. Anyone who has committed a deportable crime and applies for the DREAM Act will have their application denied and will be placed in removal proceedings. In addition, the DREAM Act creates a new criminal offense punishable by imprisonment of 5 years for anyone who commits fraud on a DREAM Act application. Moreover, all applicants must establish that they are persons of good moral character, which is a much higher standard than that required of other immigrants becoming permanent residents.

MISLEADING CLAIM: Conservative estimates suggest that at least 1.3 million illegal aliens will be eligible for the DREAM act amnesty. In reality, we have no idea how many illegal aliens will apply.

FACT: The non-partisan Congressional Budget Office (CBO) estimates, under the DREAM Act, that 700,000 persons would be able to gain conditional non-immigrant status at the end of the 10-year conditional residency period.

The CBO and the Joint Committee on Taxation (JCT) estimates that the bill will re-

duce deficits by approximately \$2.2 billion over the next ten years. But that figure alone underestimates the enormous benefits to taxpayers because the CBO and JCT do not take into account the increased income that DREAM Act participants will earn due to their legal status and educational attainment. It is estimated that the average DREAM Act participant will make \$1 million over his or her lifetime simply by obtaining legal status, which will bring hundreds of thousands of additional dollars per individual for federal, state, and local treasuries.

America must increase the proportion of persons who graduate from high school and college in order to remain competitive in the global economy. The students who benefit from the DREAM Act will have opportunities to attend college and graduate school not otherwise available to them.

MISLEADING CLAIM: The DREAM Act does not require that an illegal alien finish any type of degree (vocational, two-year, or bachelor's degree) as a condition of amnesty.

FACT: In order to be eligible for the DREAM Act, a person must already have completed a GED or have earned a high school diploma. In order to satisfy the requirements of the DREAM Act, an applicant must acquire a degree from an institution of higher education in the United States or complete at least two years in good standing, or serve in the Armed Forces for at least 2 years without receiving a dishonorable or other than honorable discharge.

MISLEADING CLAIM: Despite their current illegal status, DREAM Act aliens will be given all the rights that legal immigrants receive—including the legal right to sponsor their parents and extended family members for immigration.

FACT: DREAM Act individuals will not be able to sponsor family members for permanent residency for more than a decade. For the first 10 years of their conditional status, DREAM participants would have absolutely no ability to sponsor any family members, not even spouses or minor children. Only after they have earned permanent residency—at the end of that 10-year period—would they be able to sponsor their immediate family members, spouses and children. The spouses and children would have to go to the end of the family preference line, like everyone else, a line that can take many years. Only when an eligible DREAM Act individual earns citizenship—after at least 13 years in conditional and permanent resident status—would they be able to begin the process of sponsoring their parents or siblings. But even then, spouses, children, parents, and siblings who entered the U.S. illegally would have to leave the country for at least 10 years before they could reenter legally. DREAM Act participants would NEVER be able to sponsor extended family members, such as grandparents and cousins.

MISLEADING CLAIM: The DREAM Act allows the Secretary to waive all grounds of inadmissibility for illegal aliens, including criminals and terrorists.

FACT: The DREAM Act expressly limits the Secretary's authority to waive grounds of inadmissibility and deportability. Under this bill, the Secretary may only waive health related grounds; public charge; status-related immigration violations; or violation of previous immigration status. The Secretary cannot waive other grounds of inadmissibility or deportability, including criminal and national security related grounds.

Under the structure of the INA, an alien, when being removed from the country, is ei-

ther subject to grounds of inadmissibility (found at INA section 212) if they have never been legally admitted to the country, or subject to grounds of deportability (found at INA section 237) if the alien was previously lawfully admitted to the country. At the time of adjustment of status or seeking an immigration benefit (such as status under the DREAM Act), an alien is deemed to be an applicant for admission and subject to the grounds of inadmissibility at INA section 212 and would be subject to the waiver authority for section 212 grounds. The Secretary would not have authority to apply a waiver of a ground of deportability (under section 237) when applying for admission (when subject to section 212 grounds).

If an individual was previously admitted to the country (i.e.—a visa overstay), when placed in removal proceedings, the individual would be subject to grounds of deportability at INA section 237 and waiver authority at that time would have to be pursuant to INA section 237. A waiver of INA section 237(a)(1) would not waive other section 237 grounds, which include separate criminal and security grounds. INA section 237(a)(1) does not waive these other grounds of deportability. In other words, the individual would still be subject to the concurrent criminal, security, or other applicable grounds of deportability.

MISLEADING CLAIM: The DREAM Act allows applicants to immediately become permanent residents.

FACT: The DREAM Act does not allow individuals to become permanent residents immediately. In fact, they must wait many years before receiving green cards. Under section 8 of the DREAM Act, only persons who have been granted conditional non-immigrant status for at least nine years are eligible to apply become permanent residents. Section 8(c) allows persons to apply for adjustment to permanent residence one year before the 10 year period of conditional nonimmigrant status expires so U.S. Citizenship and Immigration Service has plenty of opportunity to carefully review applications to determine that only those who meet the stringent requirements of the Act are approved.

MISLEADING CLAIM: The DREAM Act allows individuals to remain in nonimmigrant status indefinitely.

FACT: Conditional nonimmigrant status is not indefinite. It can only be granted for two 5 year periods according to section 7(a) and 7(d) of the bill. At the end of the second 5 year period, individuals can apply for adjustment to permanent residence status. There are no extensions of conditional non-immigrant status for individuals who do not apply to become permanent residents at the end of the second 5 year extension. Let's be clear: Individuals who do not apply for adjustment by the end of the second 5 year period will no longer have legal status in the U.S.

Immigration law generally requires an individual to file an application to obtain legal status. The DREAM Act requires three such filings: the first is for the initial 5 year grant of conditional nonimmigrant status; the second is for another 5 year extension of conditional nonimmigrant status, and the last is for adjustment of status to permanent residence, starting no earlier than 9 years after the initial grant of conditional non-immigrant status.

MISLEADING CLAIM: The DREAM Act does not require that an illegal alien complete military service as a condition for amnesty, and there is already a legal process in

place for illegal aliens to obtain U.S. citizenship through military service.

FACT: The DREAM Act has been strongly embraced by the military as an important element in furthering our nation's readiness. The DREAM Act is part of the Department of Defense's 2010-2012 Strategic Plan to assist the military in its recruiting efforts. The DREAM Act streamlines and simplifies the process by which aliens who wish to serve in the Armed Forces may gain permanent status in the United States.

MISLEADING CLAIM: Current illegal aliens will get Federal student loans, Federal work study programs, and other forms of Federal financial aid.

FACT: DREAM applicants are expressly prohibited from obtaining Pell grants, Federal supplemental educational opportunity grants and other federal grants. DREAM Act beneficiaries would, like all students, be required to pay back any loans they have incurred.

Mr. DURBIN. Let me also say I join my colleague from Alabama in sadness over the loss of a life of a border guard. It is a terrible thing. These men and women are serving our country, and it is a tragedy. But can we blame these young people sitting in the galleries and across America for that, to question the border security? I am for border security.

In July, Senator SCHUMER came to the floor with Senator MCCAIN and added \$600 million more to border security without any objection from either side of the aisle. Oh, I suppose if we were playing this game of negotiating, we could have stood and said: No; no more money for border security until we get the DREAM Act. We didn't do it because we are as dedicated to border security as anyone, and we want to make sure people have the opportunity to vote for border security and to also vote for the DREAM Act.

Let me ask, at this point, how much time is remaining.

The ACTING PRESIDENT pro tempore. There is 5 minutes.

Mr. DURBIN. Five minutes. Thank you.

I wish to say a few things about the people who are involved in this. They are faceless and nameless until we bring them to the floor. This is Benita Veliz. Benita Veliz has an amazing story which I wish to share with my colleagues. Benita was brought to the United States by her parents in 1993, when she was 8 years old. She graduated valedictorian of her class, received a full scholarship to St. Mary's University in Texas, majoring in biology and sociology. Her honors thesis was on the DREAM Act. She sent me a copy of it.

What she has asked for, basically, she says in these words: I was called to a Cinco de Mayo community celebration and asked to sing the national anthems of the United States and Mexico. I couldn't do it. I only knew the words for the American national anthem. I am an American. I want to live my dream. Benita Veliz.

Meet this young man, another who would benefit from the DREAM Act. His name is Minchul Suk. This is an amazing story as well. Brought to the United States from South Korea at the age of 9, graduated from high school with a 4.2 GPA, graduated from UCLA with a degree in microbiology, immunology, and molecular genetics. With the help of the community, they raised enough money for him to finish dental school. He has taken his boards, but he cannot become a dentist in America because he is undocumented. Do we need more dentists in America? Yes, we do, and we need a man of his quality to serve our Nation.

I want you to meet this young man too. His name is David Cho. David is a man you might have seen on television. It is kind of an amazing story. David was brought to the United States at the age of 9, graduated with a 3.9 GPA in high school. He is now a senior at UCLA and the leader of the marching band. He wants to serve in the U.S. Air Force. I say to my friends who stand on the floor and protest their true belief that the military means so much to us as Americans, why would you deny these young people a chance to serve in the military? That is all I am asking.

The last story I wish to tell is about a young man from New York: Cesar Vargas. He has an amazing story. He was brought to this country at a very young age and when 9/11 occurred, he was so mad at those who attacked America he went down to the Marine Corps and said: I want to sign up, and they said: You can't; you are undocumented. So he continued on and is attending the New York University Law School now. He speaks five languages. He has had offers from the biggest law firms, for a lot of money. He turned them down. His dream, under the DREAM Act, is to enlist in the Marine Corps and serve in the Judge Advocate General Corps.

These are the faces of the DREAM Act, and the people who stand before us and try to characterize this as something else don't acknowledge the obvious. These are young men and women who can make America a better place.

I understand this is a difficult vote. It is a difficult vote for many. As a matter of fact, I am not asking for just a vote for the DREAM Act today. From some of my colleagues I am asking for much more. I am asking for what is, in effect, an act of political courage. Many of my colleagues have told me they are lying awake at night tossing and turning over this vote because you know how hard it is going to be politically; that some people will try to use it against you. But I would say, if you can summon the courage to vote for the DREAM Act today, you will join ranks with Senators before you who have come to the floor of this Senate and made history with their courage; who stood and said the cause of justice

is worth the political risk. I am prepared to stand, they said, and vote for civil rights for African Americans, civil rights for women, civil rights for the disabled in America. I am prepared to go back home and face whatever comes.

Most of them have survived quite well because of their genuineness, their conviction and their strength and the fact that their courage is recognized and respected, even if someone disagrees with part of their vote. That is what we face today. We face the same challenge today. I hope my colleagues on both sides of the aisle will summon the courage to vote for justice. We don't get many chances. When it comes to justice for these young people of the DREAM Act or justice for those of different sexual orientation to serve in the military, this is our moment in history to show our courage.

I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, we will soon be voting on two consequential and contentious matters, the DREAM Act and repeal of the legislation concerning the Defense Department's don't ask, don't tell policy. As our ranking member on one of the two committees of jurisdiction recently made clear, the Democratic majority in the Senate is again depriving the American people of the right to have their concerns addressed through debate on amendments by depriving the minority of its right to offer amendments.

When Democrats were in the minority, my good friend, the majority leader, said: This is a "very bad practice," and it "runs against the basic nature of the Senate." In fact, he suggested we should not shut off debate "before any amendments had been offered."

With back-to-back blockage of amendments on both the DREAM Act and legislation repealing don't ask, don't tell, the current majority has set a dubious record by denying the minority its right to amendment a total of 43 times. Let me say that again. The current majority has set a dubious record by denying the minority its right to offer amendments a total of 43 times.

To put that in perspective, in his 4 years as the majority leader, Senator Frist did this 15 times. The current Senate majority in the same amount of time has done it three times—three times—as often. In fact, the current majority has blocked the minority from offering amendments more often than the last six majority leaders combined. The current majority has blocked the minority from offering amendments more often than the last six majority leaders combined.

The danger of following this practice is underscored by the flawed process used on the very measures before us now. The DREAM Act the Senate will vote on today has never had a Senate hearing. In fact, it has not had any Senate committee action in 7 years. But, of course, this is a House bill, and the legislative record there is more sparse still. The House, similar to the Senate, has never had a legislative hearing on the DREAM Act, and it has never had a markup there either. Now the Senate majority is preventing their colleagues from addressing the concerns of the American people by shutting off the ability to offer any amendments on the floor.

So, in sum, there has never been an amendment offered to the DREAM Act at either the committee or floor stage in either House of Congress since President Bush's first term.

I guess our Democratic colleagues believe this bill is so perfect it doesn't need any amendments whatsoever—just a few last-minute rewrites during a lame-duck session. I don't think that is what the American people believe.

In regard to the ill-conceived effort to repeal the military policy on don't ask, don't tell, the majority leader has insisted on pressing forward with this effort, despite the fact that the ranking member of the Armed Services Committee has established the need for additional hearings. The All-Volunteer Force has had many successes, but has this body become so alienated from the enlisted men and women in uniform that liberal interest groups have more influence over military personnel policy than the senior enlisted leaders of the Army and Marine Corps who were denied the opportunity to testify?

This repeal will be rushed through, despite the fact that it is concerning to those in Army combat arms units, and 58 percent of those in Marine Corps combat units believe repeal will be harmful to unit readiness. Should we ignore the volunteers charged with the most difficult missions in our military, combat with the enemy? I think not.

Democrats will deny the opportunity to amend the bill to require the service chiefs to certify that this repeal will not harm combat readiness, although they are responsible for training the force. Why would anyone oppose this change or even the opportunity to vote on this change?

This is harmful during a time of war and an irresponsible manner in which to change policies that the Commandant of the Marine Corps has actually stated could risk lives.

I am going to recommend to my colleagues to heed the advice of my friend from Nevada, which he gave a few years ago, and not vote to shut down the debate and amendment process for these bills, at least until the minority is allowed to offer, debate, and vote on a limited number of amendments, and

the Senate is allowed to be the Senate once again.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I will use leader time.

I say to the people in the Senate and the American public, to hear my friend, the distinguished Republican leader, talk about our having done things procedurally brings a big yawn to the American people. Everyone knows how we have been stymied, stopped, and stunned by the procedural roadblocks of this Republican minority. So we are where we are today. No. 1, we are nearing the end of this congressional session. There is a continuing resolution that has been prepared by Senator INOUE and Senator COCHRAN. It has some things I don't like, but it has been done because we have to do this, and we will finish that in the immediate future.

I am going to speak just briefly on don't ask, don't tell. But to suggest there haven't been adequate hearings on this is simply nonsensical. Senator LEVIN has held 2 days of hearings in the last 30 days. There have been hearings held, reports done by the military. My Republican friends have said: Well, this is something we probably should do, but why don't we have a study by the military and see what the Pentagon thinks. They did that. More than 70 percent of people who have served in the Armed Forces believe it doesn't matter at all.

This is exemplified in a story that appears in the Las Vegas Sun newspaper today, and I will just read two paragraphs from the story:

The Pentagon's report is done, and it concluded that repealing the law would do little to affect troop readiness. In fact, most of the troops interviewed for the report indicated they didn't think it would be a problem. The majority of them said they had served with someone who they believed to be gay or lesbian and it didn't bother them or affect their units' effectiveness.

Mr. President, listen to this. For example, the report quotes a special operations soldier, who said, "We have a gay guy in the unit. He's big, he's mean, and he kills lots of bad guys. No one cares that he's gay." That says it all. As Barry Goldwater said, you don't have to be straight to shoot straight.

Mr. President, the DREAM Act. I first must say to everybody within the sound of my voice that I came to Washington in 1982 to serve in the House of Representatives. One of the people who came in that large Democratic class we had was DICK DURBIN from Illinois. I have gotten to know him extremely well. He is very good. We all know he has the ability to express himself extremely well. I have known him for all these 28 years. We have worked very closely together. He is now the assistant leader of the Senate. I have never known him to feel so strongly about an

issue as he does this DREAM Act. He worked on it for more than a decade. He has shed tears while talking to me about some of the people with whom he visits. We saw the emotion he felt here today. I so admire and appreciate him for the work he has done.

I am committed to passing the DREAM Act. As we work toward a comprehensive approach to reform our country's broken immigration policy, one thing we can do now is ensure that the next generation can contribute to our economy and to our society.

The DREAM Act applies to a very specific group of talented, motivated young people who already call America home. This is their home. It applies only to those who came here at age 15 or younger and have been here at least 5 years. Even then, in order to have a chance at permanent legal residency, they would have to graduate from high school, pass strict criminal background checks, and attend college or serve in the military for at least 2 years.

I have said on this floor before—but I will repeat it—when I first became aware of the problem we had in our country, I was in Smith Valley, NV, an agricultural community in the northeastern part of our State. I was a relatively new Senator. They had gotten all the students there in a very small high school together. I made a presentation to them. When I finished, I could tell there was a girl who wanted to talk to me. She was there; I could see her and feel her presence. I knew she was embarrassed to talk to me, so I said, "Do you want to talk to me?" And she said, "Yes." She alone said to me:

Senator, I am the smartest kid in my class. I have the best grades. But I can't go to college. My parents came here illegally. What am I supposed to do with my life?

At that time, I didn't know that this brilliant, young, beautiful woman of Hispanic origin could not go to college, but she could not. That is what this is all about. I don't know where that young woman is now, whether she has completed college or whether she working in the onion and garlic farms up there—I just don't know. I have thought about that many times.

When we jeopardize our education, we jeopardize our economy. The Congressional Budget Office found that letting these men and women contribute to our society will reduce the deficit by more than \$1 billion. A UCLA study found that the DREAM Act would add as much as \$3.5 trillion to our economy—that is trillion with a "t." That comes from the University of California at Los Angeles. This bill is not only the right thing to do, it is also a very good investment.

The Defense Department also knows it is good for national security. The Pentagon has said it will help it meet the recruitment goals of our All-Volunteer Force. That is why our military

made it part of its 2010 to 2012 strategic plan. That is in their plan, the Pentagon's plan.

Some Republicans are trying to demonize these young men and women, who love this country and want to contribute to it and fight for it. The real faces of the DREAM Act are the dreamers.

I was welcomed to Washington on Thursday. There was a beautiful child there with a graduation hat on, a four-cornered hat. She was a dreamer. She wants to be able to go to college. That is all she wants. And we have others who want to be able to join the military.

The real faces belong to people such as Astrid Silva, who wrote to me from Nevada to tell me this—and I have visited her on many occasions:

I am 22 and have never even stolen a piece of gum from a 7-11; yet, I feel as though my forehead says "felon."

Ricardo Cornejo wrote to me from Las Vegas to tell me that young men like him "would love to fight and give our entire lives for our country."

Opponents use the word "amnesty," hoping to trick people into thinking this bill is something it is not. They are trying to play to people's worst fears.

One Senator said in the presence of one of these dreamers that he could not vote for it because that law said one didn't need to serve. All you need to do is sign up. I say to this U.S. Senator and anyone else suggesting such an absurdity: Read the bill. It takes 2 years of service in the military. It will be longer than 2 years because you have to sign up for more than 2 years. We certainly get our money's worth in that regard. The DREAM Act could not be further from amnesty. It is an opportunity that gives nothing for free and demands a great deal of those who earn legal residency. It is not granting citizenship immediately; it puts them on the pathway to citizenship. It gives nobody incentives to break the law but to contribute to our Nation and its economy.

When it passes—Mr. President, I hope it passes, as my friend Senator DURBIN said today, but it is going to pass—millions of children who grew up in America as Americans will be able to get the education they need to contribute to our economy. Many who have volunteered to defend our country will no longer have to fear being deported.

Democrats know this is good policy. Republicans know it too. That is why Senator ORRIN HATCH coauthored it 10 years ago, and that is why the Wall Street Journal's very conservative editorial board called it a worthy immigration bill within the last few weeks. The only question is whether we will let good policy inform our votes or let partisan politics get in the way of so many futures—not just of these children but our own.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. CARDIN). Morning business is closed.

REMOVAL CLARIFICATION ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 5281, which the clerk will report.

The legislative clerk read as follows:

Motion to concur in the House amendment to the Senate amendment No. 3 to H.R. 5281, an act to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes.

Pending:

Reid motion to concur in the amendment of the House to the amendment of the Senate No. 3 to the bill.

Reid motion to concur in the amendment of the House to the amendment of the Senate No. 3 to the bill, with Reid amendment No. 4822 (to the House amendment to the Senate amendment No. 3), to change the enactment date.

Reid amendment No. 4823 (to amendment No. 4822), of a perfecting nature.

Reid motion to refer the message of the House on the bill to the Committee on the Judiciary, with instructions, Reid amendment No. 4824, to provide for a study.

Reid amendment No. 4825 (to (the instructions) amendment No. 4824), to change the enactment date.

Reid amendment No. 4826 (to amendment No. 4825), of a perfecting nature.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment No. 3 to H.R. 5281, the Removal Clarification Act [DREAM Act].

Joseph I. Lieberman, John D. Rockefeller, IV, Byron L. Dorgan, Sheldon Whitehouse, Jack Reed, Robert Menendez, Mark Begich, Benjamin L. Cardin, Bill Nelson, Michael F. Bennet, Amy Klobuchar, Patty Murray, Barbara A. Mikulski, Christopher J. Dodd, Richard J. Durbin, John F. Kerry

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to concur in the House amendment to the Senate amendment to H.R. 5281, an act to amend title 28, United States Code, clarifying and improving certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from New Hampshire (Mr. GREGG), and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "nay," and the Senator from Utah (Mr. HATCH) would have voted "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 55, nays 41, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—55

Akaka	Franken	Murkowski
Bayh	Gillibrand	Murray
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Reed
Bennett	Johnson	Reid
Bingaman	Kerry	Rockefeller
Boxer	Klobuchar	Sanders
Brown (OH)	Kohl	Schumer
Cantwell	Landrieu	Shaheen
Cardin	Lautenberg	Specter
Carper	Leahy	Stabenow
Casey	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Coons	Lincoln	Warner
Dodd	Lugar	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Feingold	Merkley	
Feinstein	Mikulski	

NAYS—41

Alexander	DeMint	McConnell
Barrasso	Ensign	Nelson (NE)
Baucus	Enzi	Pryor
Bond	Graham	Risch
Brown (MA)	Grassley	Roberts
Brownback	Hagan	Sessions
Burr	Hutchison	Shelby
Chambliss	Inhofe	Snowe
Coburn	Isakson	Tester
Cochran	Johanns	Thune
Collins	Kirk	Vitter
Corker	Kyl	Voinovich
Cornyn	LeMieux	Wicker
Crapo	McCain	

NOT VOTING—4

Bunning	Hatch
Gregg	Manchin

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote or change their vote?

The Chair reminds the galleries that expressions of approval or disapproval are not permitted.

On this vote, the yeas are 55, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. KYL. Mr. President, I move to reconsider the vote.

Mr. SESSIONS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I would like to take a moment to discuss my vote today against ending debate on the Dream Act, a bill that would provide legal status to millions of people in this country who are illegally

present. Before I discuss the substance of the bill, I want to express my frustration on the process of how this bill was brought to the floor for a vote. This bill has been around for nearly 10 years. In 2003, the Senate Judiciary Committee considered and debated the bill, and voted to send it to the full Senate for consideration. It didn't pass at that time, and since then, not one hearing has taken place on the legislation.

The bill we considered today was the sixth version of the Dream Act that we have seen in the last 2 months. Five of the six versions were introduced and immediately put on the calendar, bypassing the committee process. The Judiciary Committee, of which I am a member, didn't have the opportunity to debate it or make it better. Instead, the full Senate was asked to consider the bill as written, without the ability to amend it. You see, the majority leader used his ability to block all amendments through a process known as "filling the tree." This procedure means that no amendments could be in order. No improvements could have been made. The democratic process was effectively blocked.

Now, allow me to express some concerns that I have had about this version of the bill. The Dream Act would legalize an unlimited number of people who are here illegally, including the relatives of the alien that applies. It would put millions of individuals not just young people on a path to citizenship. The bill also leaves the door open to more fraud and abuse of our immigration system. It leaves a lot of discretion to the Secretary of Homeland Security, including authority to waive bars of inadmissibility. This latest version of this legislation provides very few assurances that criminal aliens would be barred from applying. The Dream Act, according to the Congressional Budget Office has a \$5 billion price tag, and could require hard-working Americans to foot the bill for this amnesty program. The bill fails to require individuals to graduate from college or to complete their military service, even though proponents claim that this is the sole mission of the bill. Finally, one of the most alarming provisions of the bill allows aliens who apply, no matter how frivolous their claim, to be granted safe harbor from enforcement officials by prohibiting the Secretary of Homeland Security from removing an alien who has a pending application.

I agree that we should take a hard look at protecting the youth who are forced to come here illegally, unaware of the consequences. However, we also need to be conscious of those people standing in line, all around the world, who follow the law and wait their turn to come here legally. This bill just wouldn't be fair to those people.

Congress and this administration must come to terms with the immigra-

tion problems we have. We need true reform of our immigration laws, starting with border security and enforcement of the laws already on the books. We need to consider changes to our legal immigration system, including expanding or improving visa programs, to make sure people are incentivized to come in legally rather than illegally. These reforms will make the system better for future generations because a short term amnesty program as proposed by the Dream Act—doesn't solve the underlying problem.

I voted against ending debate today because I believe this bill required serious deliberation. I thought we deserved to have amendments considered. It is unfortunate that the majority attempted to push this bill through at the final hour, circumventing the democratic process that allows for amendments and serious debate on an issue that would dramatically undermine our rule of law.

SBIR/STTR REAUTHORIZATION ACT OF 1999—RESUMED

Pending:

Reid motion to concur in the amendment of the House to the amendment of the Senate to the bill.

Reid motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Reid amendment No. 4827 (to the House amendment to the Senate amendment), to change the enactment date.

Reid amendment No. 4828 (to amendment No. 4827), to change the enactment date.

Reid motion to refer the message of the House on the bill to the Committee on Armed Services, with instructions, Reid amendment No. 4829, to provide for a study.

Reid amendment No. 4830 (to (the instructions) amendment No. 4829), of a perfecting nature.

Reid amendment No. 4831 (to amendment No. 4830), of a perfecting nature.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided. The Senate will be in order. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I rise to ask my colleagues on both sides of the political aisle to support this cloture motion. The fact is that removing a form of legalized discrimination from our books, allowing people to serve our military regardless of sexual orientation, is not a liberal or conservative idea; it is not a Republican or Democratic idea; it is an American idea consistent with American values. We have come to a point in our history, I hope, where neither race nor religion, ethnicity nor gender nor sexual orientation should deprive Americans of serving our country as the patriots that they are. This measure would accomplish that result in an orderly way to be determined by the leaders of our military when they decide that the military is ready to implement the change, repeal don't ask, don't tell, without negative effect on military ef-

fectiveness, unit cohesion, and military morale. It is time to right a wrong and put the military in line with the best of American values.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Today is a very sad day. The Commandant of the U.S. Marine Corps says: When your life hangs on the line, you don't want anything distracting. Mistakes and inattention and distractions cost marines' lives. I don't want to permit that opportunity to happen and I will tell you why. You go up to Bethesda Naval Hospital, marines are up there with no legs, none. We have marines in Walter Reed with no limbs.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 2965, the SBIR/STTR Reauthorization Act.

Joseph I. Lieberman, Barbara Boxer, Ron Wyden, Michael F. Bennet, Robert Menendez, Robert P. Casey, Jr., Frank R. Lautenberg, Debbie Stabenow, Mark R. Warner, Tom Udall, Jeff Merkley, Benjamin L. Cardin, Amy Klobuchar, Christopher J. Dodd, Tom Carper, Al Franken.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to concur in the House amendment to the Senate amendment to H.R. 2965, the SBIR/STTR Reauthorization Act, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) is necessarily absent.

I further announce that if present and voting, the Senator from West Virginia (Mr. MANCHIN) would vote "nay."

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from New Hampshire (Mr. GREGG), and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "nay," and the Senator from Kentucky (Mr. BUNNING) would have voted "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 63, nays 33, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—63

Akaka	Franken	Murray
Baucus	Gillibrand	Nelson (NE)
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kerry	Rockefeller
Brown (MA)	Kirk	Sanders
Brown (OH)	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Snowe
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Collins	Levin	Tester
Conrad	Lieberman	Udall (CO)
Coons	Lincoln	Udall (NM)
Dodd	McCaskey	Voinovich
Dorgan	Menendez	Warner
Durbin	Merkley	Webb
Feingold	Mikulski	Whitehouse
Feinstein	Murkowski	Wyden

NAYS—33

Alexander	Crapo	LeMieux
Barrasso	DeMint	Lugar
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Graham	Risch
Burr	Grassley	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	Wicker

NOT VOTING—4

Bunning	Hatch
Gregg	Manchin

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 33. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to. Closure having been invoked, the motion to refer falls.

EXECUTIVE SESSION

NOMINATION OF ALBERT DIAZ TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will resume executive session to consider the following nomination which the clerk will report.

The bill clerk read the nomination of Albert Diaz, of North Carolina, to be United States Circuit Court Judge for the Fourth Circuit.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Mr. President, I yield my time to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mrs. HAGAN. Mr. President, I am thrilled that after 11 months on the Executive Calendar, we are finally voting to confirm Judge Albert Diaz to the Fourth Circuit Court of Appeals. I have spoken about Judge Diaz's qualifications a number of times here on the floor, so I will not list them again. But

let me say that every Senator should feel comfortable voting to confirm this excellent judge to the Federal bench. I have no doubt that as the first Hispanic judge on the Fourth Circuit, he will serve our Nation with distinction. The senior Senator from North Carolina, Mr. BURR, also strongly supports Judge Diaz. I wish to thank him for his work on this nomination.

I wish also to thank the chairman of the Judiciary Committee for his tireless work to confirm so many desperately needed judges, including Judge Diaz. Judge Diaz will make an outstanding addition to the Fourth Circuit. I would urge all of my colleagues to support his nomination.

I yield the floor.

Mr. LEAHY. Mr. President, today the Senate will finally consider two judicial nominations that have been stalled for months on the Executive Calendar after being reported unanimously by the Judiciary Committee.

The first nomination is Albert Diaz of North Carolina, who was nominated in November 2009 to fill a judicial emergency vacancy on the Fourth Circuit. His Republican home State senator, Senator BURR, asked nearly a year ago that the Judiciary Committee "look for an expedited review and referral to the full Senate so that that deficiency on the fourth circuit can be filled." We did and the Judiciary Committee reported his nomination after unanimous rollcall vote—19 to 0—on January 28, nearly 11 months ago. There has been no explanation for the lengthy delays preventing final consideration of his nomination.

Judge Albert Diaz is a respected and experienced North Carolina jurist who served in the Armed Forces.

He has the support of both his home State Senators, Senator HAGAN and Senator BURR. The ABA Standing Committee on the Federal Judiciary rated him unanimously "well qualified", and the North Carolina Bar Association has urged us to confirm him. When he is confirmed today, Judge Diaz will be the first Latino to sit on the Fourth Circuit. I congratulate Judge Diaz and his family on his confirmation.

In addition to Judge Diaz, there are six more superbly qualified consensus circuit court nominees ready for consideration by the Senate, four of them for judicial emergency vacancies. Five of these were reported unanimously, and another was reported with the support of 17 of the 19 Senators on the Judiciary Committee. I predict all six would be confirmed with strong bipartisan support, and I hope all six can get up-or-down votes before the Senate adjourns.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, I join my colleague from North Carolina in praising the nomination of Judge Albert

Diaz, and urge my colleagues to approve this nomination. The Fourth Circuit has suffered for some time under partisan politics. Good nominees have fallen by the wayside, and that time needs to stop.

Judge Diaz is immensely qualified for this position and will serve well on the court. He has proven himself already by earning a reputation as a fair and impartial judge, and also for dedicated public service in the Marines and his community.

After the treatment of some of the nominees for the Fourth Circuit and what they were subjected to, I am impressed that we still have high caliber nominees such as Judge Albert Diaz who would step forward to go through the nomination process.

It is a proud day that Judge Diaz is getting the vote that so many never did. I urge my colleagues to vote in favor of this nomination and get this good man on the Fourth Circuit.

I yield the floor.

The PRESIDING OFFICER (Mr. LEAHY.) All time has expired.

The question is, Will the Senate advise and consent to the nomination of Albert Diaz to be U.S. Circuit Judge for the Fourth Circuit?

The nomination was confirmed.

NOMINATION OF ELLEN LIPTON HOLLANDER TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate on the Hollander nomination.

The Senator from Maryland.

Mr. CARDIN. Mr. President, I am pleased to rise today in support of the confirmation of two judicial confirmations pending before the Senate from my home State of Maryland. Both James Bredar and Ellen Hollander have been nominated by the President to be U.S. district judges for the District of Maryland.

I was pleased to work with our senior Senator, Ms. MIKULSKI, to recommend these nominations to the President last year. I chaired their confirmation hearing in May of this year before the Judiciary Committee, on which I serve. These two judges were approved by a voice vote in the Judiciary Committee in June.

Judge Ellen Hollander currently serves as a judge on the Maryland Court of Special Appeals, Maryland's second highest court, which hears mandatory appeals from our State trial courts in Maryland.

She has served as a judge on that court since 1994. Judge Hollander comes to the Senate with an impressive amount of experience in Federal and State court. She served as a Federal prosecutor in Maryland for 4 years, served as a State circuit court

judge in Baltimore City for 5 years, and has served as a State appellate court judge for 16 years. As a State trial court judge, she heard thousands of criminal and civil cases—hundreds of which went to verdict or final judgment—and handled both jury trials and bench trials. As an appellate judge, she has authored over 1,000 opinions.

The American Bar Association's Standing Committee on the Federal Judiciary evaluated Judge Hollander's nomination and rated her unanimously "well qualified," the highest possible rating.

Judge Hollander, really exemplifies the spirit of public service. She is well known by lawyers and jurors alike in Maryland for her meticulous reasoning process and well-crafted legal opinions. She really is a model of a fair and impartial judge who will dispense equal justice under the law. I know Judge Hollander has also supported efforts to reduce recidivism and is a strong supporter of our drug treatment courts and juvenile diversion programs.

Judge Jim Bredar also comes to the Senate with a wide range of courtroom and litigation experience. He served as a Federal prosecutor in Colorado for 4 years before coming to Maryland and serving as a Federal public defender for 6 years. Since 1998, he has served as a U.S. magistrate judge for U.S. District Court for the District of Maryland, where he works closely with our judges of the U.S. District Court for the District of Maryland. He conducts preliminary proceedings in felony cases, all proceedings in petty offense cases, and all proceedings in misdemeanor and civil matters upon the consent of the parties. Judge Bredar has conducted over 700 mediation and settlement conferences in civil cases.

Judge Bredar has been a member of the Maryland Bar since 1995. The American Bar Association's Standing Committee on the Federal Judiciary evaluated Judge Bredar's nomination and rated him unanimously "well qualified," the highest possible rating.

With Judge Bredar, I see a nominee who is genuinely concerned about broadening the access to justice of Americans to their courts. He believes that we can do better with both our criminal and civil justice systems. I know of Judge's Bredar work as a mediator in our Federal court's alternative dispute resolution program, which has received high praise from Maryland lawyers and litigants alike.

The people of Maryland will be well served by having Judge Bredar and Judge Hollander on the Federal bench in Baltimore. I look forward to the Senate confirming these two outstanding nominations.

We are extremely pleased that we are now getting a chance to vote on the confirmation of Judge Hollander to the Maryland District Court. Senator MIKULSKI has taken the leadership in

bringing forward the nominations that we strongly support, the two of us.

I would yield the time to the senior Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, it is with great pleasure that Senator CARDIN and I bring to the Senate Judge Ellen Hollander, an outstanding woman who is currently a member of the Maryland Court of Special Appeals; has been deemed qualified, very qualified by the Maryland Bar, and every specialized bar in the State of Maryland.

She brings a sense of judicial temperament, great judicial competence, and a commitment to impartial justice. She will be a great addition to the Federal bench in Maryland and to the Federal bench of the United States. She does not live in an ivory tower. Her work on boards and commissions in the nonprofit areas shows a keen involvement in civic affairs. I urge that we adopt the nomination of Judge Hollander. I would hope that we could do it by voice.

Mr. LEAHY. Mr. President, we will now finally have a vote on the nomination of Ellen L. Hollander to serve on the U.S. District Court for the District of Maryland. Her nomination has been pending on the Senate's Executive Calendar since the Judicial Committee reported it unanimously on June 10, more than 6 months ago. Judge Hollander, a well-respected Maryland State judge for the last 16 years, was unanimously rated "well qualified" by the ABA Standing Committee on the Federal Judiciary and has the strong support of both of her home State Senators, Senator MIKULSKI and Senator CARDIN.

After the confirmations today, 30 Federal circuit and district court nominations favorably reported by the Judiciary Committee remain ready for final vote. These include 21 nominations reported unanimously and another 3 reported with strong bipartisan support and only a small number of "no" votes. These 24 nominations should have been confirmed within days of being reported.

In addition, 17 nominations ready for action on the Senate calendar are to fill judicial emergency vacancies. With judicial vacancies at historic highs, we should act on these nominations. We should do as we did during President Bush's first 2 years in office, when the Senate with a Democratic majority had up-or-down votes on all 100 judicial nominations favorably reported by the Judiciary Committee. That included controversial circuit court nominations reported during the lameduck session in 2002. In contrast, during this first Congress of President Obama's administration, the Senate has considered just 49 of the 80 nominations reported by the Judiciary Committee.

I congratulate Judge Hollander and her family on her confirmation today.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Ellen Lipton Hollander, of Maryland, to be United States District Judge for the District of Maryland.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Ellen Lipton Hollander, of Maryland, to be U.S. District Court Judge for the District of Maryland.

Mr. SESSIONS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested.

Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Louisiana (Ms. LANDRIEU) and the Senator from West Virginia (Mr. MANCHIN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from New Hampshire (Mr. GREGG), and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "yea" and the Senator from Utah (Mr. HATCH) would have voted "yea."

The PRESIDING OFFICER (Mr. CARDIN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 280 Ex.]

YEAS—95

Akaka	Ensign	Merkley
Alexander	Enzi	Mikulski
Barrasso	Feingold	Murkowski
Baucus	Feinstein	Murray
Bayh	Franken	Nelson (NE)
Begich	Gillibrand	Nelson (FL)
Bennet	Graham	Pryor
Bennett	Grassley	Reed
Bingaman	Hagan	Reid
Bond	Harkin	Risch
Boxer	Hutchison	Roberts
Brown (MA)	Inhofe	Sanders
Brown (OH)	Inouye	Sanders
Brownback	Isakson	Schumer
Burr	Johanns	Sessions
Cantwell	Johnson	Shaheen
Cardin	Kerry	Shelby
Carper	Kirk	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Coburn	Kyl	Tester
Cochran	Lautenberg	Thune
Collins	Leahy	Udall (CO)
Conrad	LeMieux	Udall (NM)
Coons	Levin	Vitter
Corker	Lieberman	Voinovich
Cornyn	Lincoln	Warner
Crapo	Lugar	Webb
DeMint	McCaïn	Whitehouse
Dodd	McCaskill	Wicker
Dorgan	McConnell	Wyden
Durbin	Menendez	

NOT VOTING—5

Bunning	Hatch	Manchin
Gregg	Landrieu	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

SBIR/STTR REAUTHORIZATION ACT OF 1999—Continued

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, all consent agreements that I have been involved in over the years have been imperfect, but this is the best we could do. I think it is a pretty good one.

I ask unanimous consent that at 3 p.m. today all postcloture time be considered expired and the Reid motion to concur with amendments be withdrawn; that no further amendments or motions be in order, and without further intervening action or debate the Senate proceed to vote on the Reid motion to concur in the House amendment to the Senate amendment on H.R. 2965; that upon disposition of the House message, the Senate then resume executive session and the START treaty and there be 4 minutes of debate prior to a vote in relation to the McCain amendment, No. 4814, with the time equally divided and controlled between Senators KERRY and MCCAIN or their designees; that upon disposition of the McCain amendment, Senator RISCHE be recognized to offer an amendment, with any debate time prior to disposition of the House message with respect to H.R. 2965 equally divided and controlled between the leaders or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Mr. President, reserving the right to object, and I will object, 4 minutes is not adequate for my amendment. There are a couple of speakers, including the cosponsor, Senator BARRASSO.

Mr. REID. Mr. President, I say through the Chair to my friend, the Senator from Arizona, I agree. So tell me what time you think would be appropriate. It does not matter.

Mr. KYL. Mr. President, might I join in this colloquy?

I do not think there needs to be any reference to time for debate. If I could just make a brief statement, I think the purpose for this unanimous consent agreement was to allow Members, by unanimous consent, to speak as in morning business on the don't ask, don't tell bill prior to a vote on that at—

Mr. REID. At 3 o'clock.

Mr. KYL. At 3 o'clock, but that we would be on the treaty, and if people

did not want to talk about the don't ask, don't tell, then we would be on the McCain-Barrasso amendment, and that debate would conclude before 3 o'clock, and then the vote on the McCain-Barrasso amendment would follow the vote on the don't ask, don't tell.

Mr. REID. I think that is totally appropriate. I would just add and say to my friend while the Chair is considering the consent request, one of the reasons we were able to get this agreement is we have worked pretty hard in the last few days, and people felt we should have the afternoon off after we finish this information. As far as I am concerned, I will be in my office. If people want more time, that is fine. But that was one of the conditions that some people wanted on your side, and that is fine with me.

We will come in about midday tomorrow to resume consideration of the START treaty.

Mr. KERRY. Mr. President, reserving the right to object, and I will not.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, so I now understand that we now have a revised request, which is that between now and the hour of 3 o'clock, there will be an opportunity for Senators to speak either on the amendment or on don't ask, don't tell, and following the vote at 3 o'clock on don't ask, don't tell, there would then be a vote on the McCain amendment. Is that correct? I agree with that.

Mr. MCCAIN. Is that agreeable to the manager?

Mr. KERRY. I think that makes sense.

Mr. REID. I would ask, Mr. President, that the request be modified to the effect here as has been indicated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The request is agreed to.

The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, I come to the floor today—and before I speak, I ask unanimous consent that Senator BOXER of California be the next Democratic Senator speaking after I conclude and Senator HUTCHISON has concluded on the Republican side.

Mr. MCCAIN. Mr. President, I reserve the right to object. What is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the motion to concur on H.R. 2965. That is the pending business. As I understand the request from the Senator from Washington, on the Democratic side Senator BOXER will be the next Democrat recognized.

Mrs. MURRAY. Following the Republican speaker.

Mr. MCCAIN. Maybe I am wrong, but I thought the time would be either on the don't ask, don't tell or the START treaty.

Mrs. MURRAY. That is correct. The Senator is correct. I am merely asking for—

The PRESIDING OFFICER. The time will be equally divided between now and 3 o'clock, and the Senators may speak on either subject.

Mr. MCCAIN. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, I come to the floor this afternoon to speak and join in the effort to repeal don't ask, don't tell.

This policy has failed in its intended goals. It has done a tremendous disservice to the men and women who want nothing more than to defend our country, and it is time for this policy to go. I want to begin this afternoon by talking about a true hero from my home State of Washington named Margaret Witt.

She joined the Air Force in 1987 and served honorably for 18 years as a flight nurse—rising to the rank of major. She was described in reviews and by her peers as being an exemplary officer, an effective leader, and a skilled and caring nurse.

But in 2004 her superiors discovered she was a lesbian and, acting under don't ask, don't tell policy they suspended and ultimately discharged her. Margaret lost the job she had given her life to, and our country lost a talented and committed flight nurse.

She did not give up. She went to court. She called witnesses. She made her case. In September of this year, U.S. District Judge Ronald Leighton ruled that she must be reinstated. Judge Leighton said the government gave no compelling reason for dismissing Major Witt, and that the application of don't ask, don't tell was not shown to further the government's interest in promoting military readiness.

That was the right decision, and it was amazing news for Major Witt. She is now working with disabled veterans in Spokane, WA, but she says she is excited to get back in the air and back to helping the troops who need her.

Major Witt is a true hero. Her commitment to our country should be recognized and honored. But she should never have been put in this position. She has the skills, the experience, and the commitment to do her job. The fact that she is a lesbian does not change that one bit.

There are so many reasons to repeal don't ask, don't tell and to do it now. This policy destroys lives. We have all heard stories like Margaret's. There are thousands like it, and for every one we hear there are so many more who suffer silently, whose lives and livelihoods are devastated—not because of something they did but because of who they are: men and women who are

kicked out of the military or who are forced to lie to everyone they work with, who go to sleep petrified they will be found out about and discharged, and who wake up dreading another day of mandated deceit and dishonesty.

It is wrong. It needs to end.

Don't ask, don't tell is depriving our armed services of talented men and women at a time when we need our best on the front lines defending America. We are fighting wars in Iraq and Afghanistan, and we cannot afford to lose critical assets simply because they are gay.

Finally, we also know that repealing don't ask, don't tell will not have an adverse impact on the military. We have heard from military leaders who support this repeal. The Pentagon recently came out with their report that showed that repealing this policy would not inhibit their ability to carry out the missions they are charged with.

In fact, that report said 70 percent of servicemembers believe repeal would have little to no effect on their units.

Repealing don't ask, don't tell is the right thing to do. It is right for our country. It is right for our military. It is right for Major Witt and thousands like her. It is right for people like Rebekah. She is a young woman from Spokane in my home State. She wrote me a letter a couple of months ago and told me she is a senior at Eastern Washington University, and her dream for years has been to join the U.S. Army. She wrote to me and said:

I believe the military is an honorable calling. One of self-sacrifice and dedication—and I would be proud to call myself a soldier.

But there was a problem. Rebekah told me the very sense of honor that called her to serve her country was preventing her from acting on her dream because she told me she is a lesbian. She is very proud of who she is. As long as the official policy of the United States Army is to ask her to bury that pride, to tell her to keep secret a large part of who she is, and to ask her to live what would essentially be a lie, she simply will not be able to serve our country.

Rebekah told me that nothing would make her happier than to be able to graduate this coming spring and start her journey standing up for our Nation. She does not want to feel that she should be ashamed of who she is, and she should not have to.

We need to repeal don't ask, don't tell so young women like Rebekah will not stop dreaming of growing up to serve our country, and so that every man and woman in our Armed Forces can serve their country openly and with pride. We have heard the stories of the lives this policy has ruined. We have heard from top-ranking military officials that it simply does not work. We have heard from servicemembers that they, too, want it to change.

Today, this afternoon, with this historic vote, this country will move a step forward in being proud of every man and woman who serves their country.

For far too long, men and women with courage and commitment to serve our Nation have been asked to hide the truth about who they are. It is shameful. It is a bad policy. Today, it will end.

I look forward to the vote this afternoon and the courage of this Senate to stand up and do the right thing today.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

NEW START TREATY

Mrs. HUTCHISON. Mr. President, I rise today to talk about the START treaty. We have been debating the START treaty off and on throughout the last few days, and there will be an amendment voted on for the resolution after the 3 o'clock vote on don't ask, don't tell.

I wish to talk about the amendment and the treaty itself. This historic treaty is seeking, of course, to limit the strategic long-range nuclear weapons that are currently in U.S. and Russian inventory for a total of 1,550 warheads for each country. While these limits require some reductions in the number of delivery vehicles and deployed warheads both countries possess, a change in the counting of warheads will allow both countries to cut hundreds of them on paper with no actual reductions. For example, under START I, each deployed delivery vehicle was counted as carrying a specified number of warheads regardless of how many warheads were actually equipped on the missile or bomber. New START abandons these rules, instead only counting the number of warheads actually equipped on deployed missiles. In addition, strategic bombers each count as one warhead regardless of how many warheads they are actually carrying.

I also have reservations because of how New START limits our ability to conduct extensive and robust verification activities to ensure compliance with the treaty. The ability to adequately and thoroughly verify the enforcement of the treaty is crucial for two reasons—not only to ensure that both parties are holding up their end of the bargain but also as it relates to possibly one party losing control of missiles they are not accounting for. It is said in many quarters that some of the deteriorating nuclear materials in Russia have somehow gotten through to rogue nations such as North Korea or Iran. So it is very important to have a verification system that keeps count.

I am concerned about the ability to conduct onsite inspections because it has been reduced in this agreement. Under START I, the United States conducted more than 600 inspections over

the course of 15 years. In New START, that number has been substantially reduced to only 180 inspections over the course of 10 years.

There are only two basic types of inspections in New START. Type one inspections focus on sites with deployed and nondeployed strategic systems. Type two focuses on sites with only nondeployed strategic systems. Each side is allowed to conduct 10 type one inspections and 8 type two inspections annually. Under the previous START treaty, there were 12 types of onsite inspections as well as continuous onsite monitoring activities at a certain facility. Even though, as has been mentioned on this floor in the debate, there are fewer facilities, this is a pretty drastic reduction in the ability to actually have the onsite investigations. Because weapons inspectors will only have 10 opportunities per year to inspect just 2 to 3 percent of Russia's force, we will be more reliant than in previous agreements on the full cooperation of Russia.

I really don't know how we could have reached an agreement to substantially reduce our most effective method of enforcement. In fact, a recent State Department report issued by the Obama administration said:

Notwithstanding the overall success of START I implementation, a significant number of long-standing compliance issues that have been raised in the START I treaty's Joint Compliance and Inspection Commission remain unresolved.

Defense. I am also concerned that proposals under the New START treaty may restrict U.S. missile defense capabilities, which could threaten our national security. Of all of the concerns that have been raised, I think this is the most important. It also is part of the amendment we are going to consider this afternoon.

Russia and the United States each issued unilateral statements when they signed New START that clarified their position on the relationship between START and missile defenses.

The official Russian statement said:

The treaty can operate and be viable only if the United States refrains from developing its missile defense capabilities quantitatively or qualitatively.

Contrary to claims by the Obama administration that missile defense will not be negatively impacted, a review of the text of the treaty shows otherwise. The most obvious limitation on missile defense is found in article V, paragraph 3 of the treaty. It says this prevents converting existing intercontinental ballistic missiles, ICBMs, and submarine-launched ballistic missiles, SLBMs, into launchers for missile defense interceptors.

The administration says: Well, it is more expensive to actually convert than to create new ones.

Well, we need to have flexibility. Whether we convert or whether we create new ones should not be a limitation

on the United States. U.S. planning and force requirements might have to change in the future to respond to evolving world threats during New START's tenure. It is important that our Nation be able to adjust our military defense systems if needed. We are not just talking about Russia now. We are talking about adjusting our missile defense capabilities against any other country in the world, including rogue nations we believe have nuclear capabilities. We are not sure how far developed they are, but we know North Korea is trying to have a ballistic missile with a nuclear warhead. We know Iran is too. We know Pakistan has them, and though Pakistan is an ally, it is a fragile government at this point.

Why would we in any way link our own missile defense capabilities with the evolving threats out there, regardless of the present good terms we have with Russia? Why would we do that? That is a unilateral capability that our country must insist we keep for our sovereign Nation.

The McCain amendment would take out of the preamble to this treaty:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

We want to take that out. It is absolutely essential that we take this out of the preamble.

Mr. President, I ask unanimous consent to be added as a cosponsor of the McCain amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, we need to ensure that our defenses are not in any way inhibited by this treaty because we must defend against countries that perhaps are not enemies of Russia, but they might be ours. And to in any way restrict our defenses is not necessary to ensure that we have mutual offensive lowering of numbers.

So I am very concerned about this particular segment. If we can adopt the McCain amendment, of which I am a cosponsor, it would take me a significant way toward believing this treaty would be worthy of ratification.

I am seriously concerned that although it is clear that a number of restrictions will be placed on the United States under this treaty, the same is not necessarily true for our partner to the treaty—Russia.

Dr. Keith Payne, a former Deputy Assistant Secretary of Defense for Forces Policy, has noted that New START's limitations are of little real consequence for Russia because Russia's aged Cold War strategic launchers already have been reduced below New START ceilings. Additionally, many defense analysts predict Russia will

have fewer than 1,500 nuclear warheads by 2012.

Russian defense expert Mikhail Barabonov bluntly makes the same point. He says:

The truth is, Russia's nuclear arsenal is already at or even below the new ceilings.

Already at or even below the new ceilings.

At the time of the signing of the treaty, Russia had a total of just 640 strategic delivery vehicles—only 571 of them deployed . . . It therefore becomes evident that Russia needs no actual reductions to comply. If anything, it may need to bring some of its numbers up to the new limits, not down.

That brings me to the second major point that concerns me about the treaty; that is, the modernization capabilities for our warheads that are part of our arsenal. We can do something about this outside the treaty and still go forward with the ratification, but so far we have not had the assurances that would allow us to know our modernization could be done.

According to the 2010 Nuclear Posture Review, today's nuclear weapons have aged well beyond their originally planned life, and the nuclear complex has fallen into neglect. It has been 18 years since our arsenal has been tested.

I share the concerns of my colleague, Senator KYL, who has been a leader on this issue. We must ensure—and we can do it in a separate, signed ratification resolution—that the United States has a strong plan that provides for a nuclear modernization program that ensures that if we did need to deploy because a rogue nation that is not part of any treaties or is a part of a treaty but isn't going to comply—we need to ensure our deterrent is real. Our deterrent will be real if our warheads are assured of still being capable of being a deterrent, being deployed, being used in the very worst case circumstances.

As President Reagan said, trust, but verify when you are making treaties with other countries, especially this treaty that is going to have such consequences as one that might lower our capability to defend our country from a nuclear missile, a warhead on a missile that could be delivered to our country by a rogue nation.

This has nothing to do with Russia. We don't expect them to launch a missile against the United States, that is for sure. But we do know that there are other nations that are enemies of the United States, that are trying to get, and possibly have, nuclear warheads and the capability to deliver them.

So we need to assure, first and foremost, two things: that our nuclear capabilities are viable, which means we need a modernization program that we can be assured has an arsenal that can work; No. 2, we need to make sure our ability to maintain missile defense is not negatively impacted by this treaty. There is no reason to connect it to a treaty that is going to limit offenses.

As long as our missiles are capable of being deployed, that is leverage we must have. But we certainly have no reason to lower our capability to defend our country unilaterally, which I cannot imagine that any administration—and certainly not the Senate—would sign or ratify a treaty that might take away our capability to defend our country. I would hate for it to be on our watch that we lowered the defenses of the United States, because we are being rushed into ratifying a treaty without the full capability to amend it, or that we don't make sure in every detail, as Senator KYL has said so many times, that we have preserved our capabilities to defend our country against any enemy; and secondly, that we have the capability to go on offense so that any country that might decide to send a nuclear warhead into our territory, or into anyplace where our troops are on the ground fighting for freedom, that that country or that group of rogue nations would know we could respond because our arsenal of weapons is viable.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I ask unanimous consent that the next two Democrats on the list be Senator LEAHY, followed by Senator SHAHEEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I want to respond to the comments of my friend from Texas, who was very passionate in her remarks, by saying it interested me that she raised the name of President Ronald Reagan, because a lot of major players in his administration support this treaty—George Shultz, for one, and also James Baker. In addition, the current Director of National Intelligence, who is responsible for verification, supports this treaty. And LTG Patrick O'Reilly, head of the U.S. Missile Defense Agency, says that the New START treaty actually reduces constraints on the development of missile defense.

I think her comments were very articulate, but they are not correct, because, again, I will place into the RECORD the many leaders from former Republican administrations who are pressing us hard to get this treaty done. As a matter of fact, we haven't had boots on the ground to verify what the Russians are doing for a long time now. This treaty will make sure we can verify. But whether it is Defense Secretary Robert Gates, or Patrick O'Reilly, as I said, head of the U.S. Missile Defense Agency, or the Director of National Intelligence—you also have former Secretary of Defense James Schlesinger saying he doesn't believe this inhibits missile defense. You have the former Secretary of Defense under President Clinton, William Perry, being very strong on this, along

with Secretary of State Henry Kissinger, and so on. In the Washington Post, Henry Kissinger, George Shultz, James Baker, Lawrence Eagleburger, and Colin Powell made the following statement. "New START preserves our ability to deploy effective missile defenses." The testimonies of our military commanders and civilian leaders make it clear that the treaty does not limit U.S. missile defense plans.

I think the biggest danger to our country is not acting on this. If we don't act, it is a danger to the national security of this Nation. I am very pleased to see the incredible bipartisan support outside of this Chamber and, I hope, inside this Chamber. I am very hopeful. But we will find out in the coming days.

I want to also talk about the two very critical votes we cast here moments ago, which are so important to large segments of our communities. The DREAM Act, which would give a path of legality to students who are outstanding in their communities and who want to join the military, or go to college, is an important bill. Because of the filibuster we needed 60 votes. We got 55 votes—a majority—but the Republican filibuster stopped us from passing it.

Today the dreams of young, talented students who grew up in America were crushed because of a filibuster. We have to make it clear to the people who follow this that the Republicans stopped us from passing the DREAM Act, even though we had a few of them join us. I say thank you to those on the other side. We got 55 votes. We had 90 percent of Democrats voting for it and less than 10 percent of Republicans—90 percent of Republicans voted against it. Today, dreams were crushed.

I believe in America. My mother was born in a foreign land and, by the grace of God, she was naturalized, and she kissed the ground of this country. I often think to myself, what if she had a foul-up in her papers somehow, what would have happened to me? Would I be a different person? No, I would be the same human being. America would be my country.

The reason I am so passionate on this is these are young people who would make our country stronger. As a matter of fact, our military says the DREAM Act is a recruiter's dream, because we get the best and the brightest to sign up for the military. In my State, where I am so proud of our incredible diversity, we have a group of young people who are ready to go to college there, start their own businesses there, get jobs there, form their families there, work in their communities. They already are.

I have shown on the floor of the Senate many times individuals who were caught in this limbo state. A lot of them are presidents of their student bodies, A students, leaders in their

communities. Studies show that if the DREAM Act passes, the gross domestic product of our Nation will increase. There is a very good study, a recent study by USC, the University of Southern California, that is very clear on the point.

It seems to me what we did today by failing to end the filibuster, even though we had a strong majority vote, we hurt our country. Why did we hurt our country? Because our children are our future. These are very bright young people, who are very motivated. They would be the only ones to benefit from the DREAM Act.

I am here today with a message: I will never give up until we pass the DREAM Act.

On the good side today, from my perspective, we made some history. We did break a filibuster—a Republican filibuster—on the issue of ending discrimination in the military against gays and lesbians. We voted to end that filibuster and take up the issue of the repeal of don't ask, don't tell. I do believe, in a few hours, that policy will be gone.

There are moments in history that come to us, and for me to be here at this time—and I know I speak for a lot of colleagues—and cast a right for civil rights, cast a vote for justice, cast a vote for equality, and to cast a vote against discrimination is a high honor.

I have to say as a point of personal privilege, I was here when that policy went into effect. It was 1993 and I was a new Member of the Senate. I thought this was the wrong policy at that time. So I said to my staff: Can't we do something and stop this? We decided the best way to try to stop it was to say let's not codify this policy. Let's not put it into law. Let's have an amendment that says it is up to the executive branch. That way, the executive branch could repeal it if it didn't work, and it would be easier.

It is interesting because our thoughts were right on target, because our President does not support don't ask, don't tell, and he would, in a heartbeat, of course, remove it as a policy through Executive order. But because we had voted it into law, we had to act.

I decided to go back to the speech I made on that day, September 9, 1993, and take a look at some of the things I said about don't ask, don't tell. First, I said, on the question of codification—that is, putting don't ask, don't tell into law:

There is no historic precedent for the codification of the military personnel policy that prevents a whole class of Americans from serving their country in the Armed Forces.

I felt it was against precedent, and I said:

There is simply no compelling reason to believe we should break with history and codify such a policy.

I mentioned that, over the past four decades, Congress had declined to im-

pose restrictive personnel policies on the military. I quoted a former Senate Armed Services Committee chairman, Barry Goldwater, who stated:

Banning loyal Americans from the Armed Forces because of their sexual orientation is just plain un-American.

I said the policy is a policy of outright discrimination, which flies in the face of the very American values that the military has sworn to defend.

I lauded the courage of those military personnel who were willing to come forward and testify before Congress way back then. And, of course, fast forward to today, it is incredible that brave men and women serving in uniform in Iraq and in Afghanistan, who put their careers on the line, can stand up and be counted and speak truth to power about this issue.

I think this is an important point. The military has a very strict code of conduct, which it must have. So everybody in the military must adhere to it, whether you are heterosexual, homosexual, or whatever your orientation is; you have to live by the code of conduct. In 1993 we had just come through this horrible scandal called Tailhook. It was awful. You had a series of rapes, and you had a very bad circumstance, which was brought out into the public. Action was taken. So, clearly, heterosexuals in the military, when they misbehave in a sexual way, are going to be punished. It is the same way for improper homosexual behavior. It will not be tolerated.

That is the point. I said that don't ask, don't tell is a policy of discrimination based on your status instead of your behavior.

Here is something else I said in 1993:

It is easy to lose sight of the impact that policies have on people's lives. It is easy to label people that are different from us as "those people." We might be able to temporarily fool ourselves into thinking that those people are not part of our social fabric.

I read into the RECORD some writing of a German philosopher, who wrote about World War II, in which he said:

When the Nazis came for the Jews, I didn't speak up because I was not a Jew. And when the Nazis came for the gypsies, I didn't speak up because I was not a gypsy. And when the Nazis came for the mentally defective, I didn't speak up because I was not mentally defective. When the Nazis came for me, there was no one left to speak up.

So I said: Let's not do this to gay and lesbian people. Let's have a code of behavior that affects us all and does not divide us. We fool ourselves when we say that the gay and lesbian community is not part of our social fabric; that they are not human; that they do not have an effect on our lives. That isn't right. We are all God's children and they are our sons and our daughters.

So in a couple of hours, for me, this issue comes full circle. I got 33 votes that day in 1993 for my amendment not to codify don't ask, don't tell. I got 33

votes, and I was proud of that. I remember Howard Metzenbaum—may he rest in peace—said at that time: The Boxer amendment is a civil rights amendment, and I was proud. But I was so sad to lose badly—33 votes. Today—today—we have come a long way, and we have come a long way because people have put their fear aside and they came forward and they told their stories. They took the light and they focused it on the truth. We have come a long way because of their families who love them and have spoken out. We have come a long way because the military itself, in the Pentagon's recently released survey, said it doesn't matter. Seventy percent of our servicemembers said we don't care about sexual orientation.

So this is America at its best—when we open our arms to equality and freedom and justice.

In closing, I would say there is more work we have to do on this whole issue. There is still a lot of unfairness in our laws—partners not being able to have the same rights as married couples. That is another whole issue we will work on. But I am confident that as Americans we will move forward. When we started out, only White men of property could vote. We have struggled. All this is a struggle. It is not easy. The struggle for freedom is not easy. People have died for freedom in all these communities. It is in our history. But this will be a day that will go down in American history as a day we lifted a barrier, and America is stronger because of it.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Wyoming.

Mr. LEAHY. Mr. President, may I ask a question of the Senator from Wyoming, just for planning purposes? I am going to be recognized next. Approximately how long does the Senator think he will take?

Mr. BARRASSO. Mr. President, 10 to 12 minutes on the START treaty.

Mr. LEAHY. I thank my friend, and I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I come to the floor to talk about the McCain-Barrasso amendment to the New START treaty, and I appreciate hearing all the strong and passionate support for this amendment from my colleagues on the issue of missile defense. We debated this yesterday, well into the evening, and we are going to be voting on this a little after 3 this afternoon.

I think it is important that the American people are given the opportunity to hear the implications of the New START treaty. The New START treaty significantly impacts America's national security and our nuclear deterrent. I believe this treaty places limitations on the ability of our Nation

to defend itself—limitations I believe should not be in the treaty.

The preamble to the New START treaty provides an explicit link between strategic nuclear offensive weapons and strategic nuclear defensive weapons. It also implies the right of Russia to withdraw from the treaty based on U.S. missile defense that is beyond "the current strategic capabilities." Well, by specifying current strategic capabilities, the intent is clear: They are signaling that future U.S. capabilities could pose a problem. Russia does not want us to improve or to expand missile defense capabilities for the United States. For me, this is absolutely unacceptable.

The administration claims the language in the preamble has no legally binding significance. They claim it is simply a nonbinding concession to Russia—a nonbinding concession to Russia. Well, it is important to note that the New START treaty is not the first attempt by Russia to limit our national defense. Russia has wanted language limiting U.S. missile defense for a long time. They are looking for grounds to claim the U.S. missile defense program violates an international agreement.

Russian threats have had an impact on our own missile defense decisions in the past. This administration abandoned previous plans to deploy missile defense systems in Poland and the Czech Republic. It is evident the administration already receives considerable pressure from Russia to limit our Nation's missile defense activities. I believe the language in the treaty will only further add to that pressure and will impact U.S. decisionmaking on our own missile defense.

I wish to emphasize, again, that the United States must always remain in charge of our own missile defense capabilities, not Russia and not any other country. It is unacceptable for the United States to make any concessions on missile defense. Defending our Nation should be a top priority.

Many of my colleagues have come to the floor over and over to highlight this very point. We share a deep concern about the concessions the New START treaty provides to Russia, especially the limitations of our missile defense. There is no legitimate reason for the inclusion of limitations to our national security in this treaty. The New START treaty is just the first step in allowing greater concessions on U.S. missile defense in future agreements.

I think it is also important to point out the continual change in the story by the administration—the one they have provided this Senate regarding the inclusion of missile defense language in the treaty. Originally, the Senate was told the New START treaty would not contain anything on missile defense. Then the Senate was informed there would be no reference to missile defense other than in the preamble of

the treaty but certainly no limitations. Then we found that article V of the treaty contains a limitation on the conversion of ICBM and SLBM launchers into launchers for missile defense. The Senate has a treaty before it now on nuclear strategic offensive weapons with several limitations on missile defense. We are now being told not to worry about these limitations on our ability to defend ourselves in the New START treaty. The administration says: Well, it is only a statement of fact. They say: It isn't legally binding or this administration doesn't plan to use it or it is only an insignificant concession to the Russians.

I do not find any of these arguments comforting. This treaty sets a terrible precedent. The United States should not be placing any constraints on our ability to defend ourselves, no matter the type, the size or the length of time.

Significant disagreements exist between the United States and Russia on missile defense provisions in the New START treaty. Some argue it doesn't matter what Russia says about the issue. Well, I believe it is vital that we examine what Russia has said about this very matter. When two countries enter into a bilateral agreement, there needs to be an actual agreement—an agreement of what is said and an agreement of what it means. Discussing the disagreements between the two parties to the treaty is imperative, and it is part of the Senate's constitutional obligation. The two parties to this treaty—the United States and Russia—need to know how both parties will be acting and how they will both be interpreting the New START treaty. We cannot ignore the differences.

Some proponents of the treaty have argued that passing the McCain-Barrasso amendment will complicate ratification. I reject that idea. I reject the idea that the Senate's advice and consent duty is to take it or leave it. I believe the Senate's advice and consent role is either to accept the treaty or improve the treaty, and that is what this amendment does—it improves the treaty. We, as a Senate, cannot simply be a rubberstamp to treaties due to fears of fixing flaws and improving important provisions.

The Congressional Research Service published a study on the role of the Senate in the treaty process. It is titled "Treaties and Other International Agreements: The Role of The United States Senate." On page 125, the study states:

Amendments are proposed changes in the actual text of the treaty. They amount, therefore, to Senate counteroffers that alter the original deal agreed to by the United States and the other country.

So should the Senate agree to strike the missile defense section of the preamble, we are simply asking the Russians to accept it. The ball is in Russia's court. The Russians can either accept or reject the Senate's

counteroffer. If the text of the preamble is just a nonbinding statement of fact, then Russia should not have any problem in eliminating that portion of the preamble. But if Russia does have a problem with eliminating a so-called nonbinding statement of fact and Russia is willing to jeopardize the entire treaty over it, then every Member of the Senate should be concerned about the provision's impact.

The treaty's preamble, the Russian unilateral statement on missile defense, and remarks by senior Russian officials all show an attempt by Russia to limit or to constrain future U.S. missile defense capabilities. Let's take a look at the Russian unilateral statement. It shows how the Russians will act under the treaty. It states:

The treaty between the Russian Federation and the United States of America on the reduction and limitation of strategic offensive arms signed in Prague on April 8, 2010, can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively or qualitatively.

That is the Russian unilateral statement. Russian Foreign Minister Lavrov stated the treaty contained "legally binding linkage between strategic offensive and strategic defensive weapons." He went on to:

The treaty and all obligations it contains are valid only within the context of the levels which are now present in the sphere of strategic defensive systems.

To me those statements seem very clear. The negotiators have given in and they have allowed limitations on our missile defense capabilities. I have no doubt that Russia will threaten to withdraw from the treaty, should the United States expand its current nuclear capabilities.

There should be no problem in removing the language in the preamble when treaty proponents believe that it has no legally binding significance.

I have been sitting here, visiting and discussing this treaty with Members on both sides. This amendment only strikes a portion of the treaty that people who support the treaty have called nonbinding, legally insignificant, and one Senator called it a throwaway provision. Then they should throw it away. This Senate can ensure that there is no limit on U.S. missile defense by simply passing the McCain-Barrasso amendment. Our missile defense is worth the effort and the time to get it right.

The McCain-Barrasso amendment significantly improves the treaty and I urge my colleagues to vote in favor of this very important amendment.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Vermont.

DON'T ASK, DON'T TELL

Mr. LEAHY. Mr. President, I know in a couple of hours we will be voting on repeal of don't ask, don't tell, now that

we have been able to go past the filibuster of it. I wish to speak about that for a few minutes.

While partisan rancor seems to have seized the Senate on so many occasions this year, on at least this one count I am encouraged and I am hopeful. There is yet sufficient bipartisan agreement to repeal the discriminatory don't ask, don't tell policy before this Congress ends. I commend the Senators who have pledged to support the repeal. Of course I renew my own commitment in support of the effort. It is well past time to put an end to this discriminatory and harmful policy.

Today, in the Senate, the stage is set again for one of the major civil rights victories of our lifetimes. Years from now I hope historians will have good cause to remember that today is the day when the two parties overcame superficial differences to advance the pursuit of equal rights for all Americans. After much effort and just as much study and discussion, the Senate will finally proceed to an up-or-down vote on repealing this counterproductive policy.

For too long we have said let's vote maybe, we are not quite ready for a vote, let's get the filibuster going. I think most Americans expect Senators—after all there are only 100 of us—they expect us to come here and either vote yes or vote no, not vote maybe. A filibuster is voting maybe. To Senators who keep saying I want to think about it more, I want to go longer—we have had years of study. This afternoon it is time for every man and woman in this body to step forward and vote either yes or no. For those who still harbor concerns that enacting this repeal would somehow harm readiness, one simple fact is the clearest answer. Gay and lesbian Americans already serve honorably in the U.S. Armed Forces and they have always done so. There is no doubt that they have served in the military since the earliest days of the Republic. The only reason they could do so, then and now, even under today's discriminatory policy, is because they display the same conduct and professionalism that we expect from all our men and women in uniform. They are no different from anyone else. They should be treated no differently. As one combat veteran said: I don't care whether the soldier next to me is straight or not; I care whether he can shoot straight or not.

In ending this policy we are bringing to an end years of forced discriminatory and corrosive secrecy. Giving these troops the right to serve openly, allowing them to be honest about who they are, will not cause disciplined servicemembers to suddenly become distracted on the battlefield. It is pandering to suggest that they would be.

But that is not only my view. The Chairman of the Joint Chiefs, Admiral Mullen, has said time and time again

that this is the right thing to do, that it will not harm our military readiness.

Gay soldiers and straight soldiers have fought and died for our country throughout the history of this country. Gay soldiers and straight soldiers have fought and died for our country in Iraq and Afghanistan. I think of one of the editorial cartoons showing parents at a military graveyard and they are looking at the grave of their son. One says, "They didn't ask." And the other said, "They didn't tell."

Look at this—three coffins draped in flags. The caption is, "Which is the gay one?"

Like so many other Senators, I have walked on a quiet day through the graveyard at Arlington National Cemetery. I have seen dates going back long before I was born. I see people who have died in our world wars, died in Korea, died in Vietnam, who die now in Iraq and Afghanistan. I look at the names—some from my own State—and like everybody else who walks through, I think of the sacrifice of these people and the sacrifice of their families, the life that would not be lived, the children who might not know a parent, the brother who might not know a sister or sister who might not know a brother, parents who are burying their child. Of course in the natural order, children bury their parents. Here, parents have buried their child.

Does anybody look at those graves and say: Move this one because we just found out that soldier who died in battle was gay? If anybody asked to do that there would be an uproar in this country. So I ask why any question about them serving? Every member of our armed services should be judged solely on his or her contribution to the mission. Repealing don't ask, don't tell will ensure that we stay true to the principles on which our great Nation was founded.

We ask our troops to protect freedom around the globe. Isn't it time that we protect their basic freedoms and equal rights here at home? Throughout our history the Senate has shown its ability to reflect and illuminate the Nation's deepest ideals and the Nation's conscience. It is my hope the Senate will rise to this occasion by breaking through the partisan din and proceed to debate, as we have, and now vote on repealing the discriminatory and counterproductive policy.

I see my good friend and neighbor from across the Connecticut river, Senator SHAHEEN, and I see my friend and colleague—I apologize, I did not see him—the Senator from South Dakota. I know he is waiting. I will yield to him. It is my understanding Senator SHAHEEN will be recognized after Senator THUNE.

I yield the floor.

THE PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I wish to speak to the START treaty, more specifically to the McCain-Barrasso amendment which is the amendment that is currently under consideration and on which we will vote later this afternoon. I want to point out at the outset that you do not have to watch the news very often in this country to realize we live in a dangerous world. There are lots of countries around the world that are run by regimes that not only mistreat their own populations but would love to do harm to countries that are allies of ours, as well as to the United States. That is why a debate about an issue such as missile defense is so important. That is why this particular provision in the START treaty has drawn so much attention, so much concern by many of us who are concerned about the linkage it establishes between offensive strategic arms and defensive strategic arms.

The Senate made it abundantly clear at the outset of the negotiations on the New START treaty, specifically in section 1251 of the fiscal year 2010 National Defense Authorization bill, that there should be no limitations on U.S. ballistic missile defense systems. The New START treaty not only contains specific limitations on those systems, but also reestablishes an unwise linkage between offense and defense that was broken when the ABM Treaty came to an end.

We were told as recently as March 29, by Under Secretary Tauscher, "The treaty does nothing to constrain missile defense. This treaty is about strategic weapons."

I quote again, "There is no limit on what the United States can do with its missile defense systems."

And then quote again, "There are no constraints to missile defense."

Those were all quotes made by Secretary Tauscher on March 29. But these assertions are incorrect in two ways. No. 1, not only are there specific limits on some missile defense options—and I note article V, paragraph 3 of the treaty text itself—but, second, when viewed together with the treaty's preamble, Russia's unilateral statement and statements by senior officials all provide potential for Russia to intimidate the United States by threatening to withdraw from the treaty if the United States seeks to increase its missile defense capabilities.

The treaty's supporters are going to argue that the limit on converting offensive silos for missile defense is meaningless because we don't have any such plans. But the question I come back to is simply this: Why is there a limitation at all on missile defense in a treaty that is meant to deal with nuclear weapons? Why did we concede to the Russians on this important point and can we be sure we will never have such plans. After all, we have converted offensive silos to defensive

silos—for defensive purposes—in the past.

My own view is that particular provision in the treaty text is a direct linkage between offensive and defensive arms. Then you have the preamble and unilateral signing statements that I think are even more telling when it comes to that connection that is drawn between—that interrelationship between offense and defense.

Far more pernicious is the treaty's preamble and the two unilateral signing statements by the Russians and by the United States. The preamble states, "The current strategic defensive arms do not undermine the viability and effectiveness of the strategic arms of the Parties."

The statement suggests that moving beyond current systems might undermine the viability and effectiveness of strategic systems and could provide grounds for withdrawal.

The administration says that either side can withdraw anyway. That is only partially true. The withdrawal clause in the treaty, as it has been in previous treaties, deals with extraordinary events and the preamble and unilateral statements make withdrawal more likely by building in an inevitable pretext.

So you have the preamble, the language in the preamble, you have the direct linkage in the treaty text itself, and then I also want to mention the other point which I think is equally important and that is the Russian unilateral signing statement makes clear Russia's legal opinion. Here is what it says.

The treaty between the Russian Federation and the United States of America on the reduction and limitation of strategic offensive arms signed in Prague on April 8, 2010, can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively or qualitatively.

It further states:

The exceptional circumstances referred to in article XIV, the withdrawal clause of the treaty, include increasing the capabilities of the United States of America's missile defense system in such a way that threatens the potential of the strategic nuclear forces of the Russian Federation.

So the Russians have built into the treaty record their threat that improvement of U.S. missile defense creates the legal pretext for their withdrawal from the treaty. It can only be read as an attempt to exert political pressure to forestall continued development and deployment of U.S. missile defenses.

Was our response to that a firm rebuttal? The answer is no. Unlike the START I agreement where the United States said quite clearly that it did not agree with Russian statements linking that treaty to the U.S. status in the ABM treaty, we did not do that this time.

Instead, the State Department said, in response to the Russian unilateral statement:

The United States of America takes note of the statement on missile defense by the Russian Federation. The United States missile defense systems would be employed to defend the United States against limited missile launches, and to defend its deployed forces, allies and partners against regional threats. The United States intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack, and as part of our collaborative approach to strengthening stability in key regions.

So it would appear that the U.S. position does not contradict the Russian position in the slightest. What then to make of the U.S. missile defense plan previously announced by Secretary Gates, which talks about the deployment of SM-3 missiles in Romania by 2015, Poland by 2018, and then in 2020 the deployment in Europe of the new SM-3 2B missile for the defense of Europe and the United States against ICBMs; is this still our position or is it now the position set forth in the signing statement and as recently briefed to the NATO-Russia Council in Lisbon where the SN03 2B missile was portrayed quite clearly as being "available" rather than "deployed" in the year 2020.

It is clear to me the administration is already coming under considerable pressure by the Russians to limit its missile defense activities in the very near future. Past experience would suggest this administration may be willing to alter its plans to accommodate the Russians, as it did in the case of previous plans to deploy missile defense systems in Poland and the Czech Republic.

How will it respond if the President's prized accomplishment, the START treaty, is at risk? I think it is very clear from the language in the preamble, the direct linkage in the treaty itself, and what the signing statements say, what the Russians' intentions are with regard to this particular issue, which is why it is so important this amendment get adopted.

This amendment the Senators from Arizona and Wyoming have offered would simply strike the language in the preamble that is causing so much concern. We have heard arguments on the floor of the Senate since we started debate on the START treaty that the preamble is nonbinding; in other words, it does not mean anything.

In fact, it was said yesterday by someone on the other side that it is throwaway language. Yet at the same time, it has been argued by others on the other side that it is a treaty killer. It cannot be both. It cannot be a throwaway that is not legally binding and a treaty killer at the same time.

Essentially, what they are saying is, it means nothing and it means everything. That is a direct contradiction.

That is why it is so important this amendment be adopted, which would clarify once and for all, or separate and decouple or delink this connection that exists in this treaty between offensive and defensive arms.

I think the amendment that is before us right now gets at the very heart of the matter, and we all know the Russians and Americans have different views on missile defense. But the attempt to paper over or even ignore these differences in this treaty sets the stage for future misunderstandings or confrontations as the United States continues its missile defense activities, particularly in Europe.

Confusion about U.S. plans is equally dangerous. This is not an issue on which there should be ambiguity, on which there should be confusion, and on which there should be this kind of a difference of opinion.

So I would simply say, as we come here in an hour or so to a final vote on the McCain-Barrasso amendment, that I think it is important for the Senate in our important role when it comes to treaty ratification to make sure we are doing everything that is in the national security interests of the United States and allows us in the best way possible to defend this country and our allies.

If we are limiting in any way our ability when it comes to the issue of missile defense, we are putting in jeopardy and at risk America's national security interests. So this treaty should not be approved. It should not be approved certainly until some of these changes are made, and we can start today by eliminating the linkage and the connection that exists today in the preamble by striking and deleting that language from the preamble of this treaty and making it very clear that the United States intends to preserve all options available to us when it comes to missile defense.

As I said before, this is something—this linkage was broken years ago under the Bush administration. We should not establish now the precedent of allowing those issues to be linked and to give the Russians an opportunity and an excuse to withdraw from this treaty if the United States decides to proceed with what is in its own best national security interests.

So I would urge my colleagues on this amendment—this is an important amendment. We will hopefully have debate on other amendments. I have a couple of amendments to deal with the issue of delivery vehicles which I think is also a very important part of this treaty. But there probably is no more important piece of this treaty than the issue of missile defense when it comes to the vital national security interests of the United States.

So I hope Members will, when this vote comes up later today, vote in favor of the McCain-Barrasso amend-

ment and make it clear that there is to be no linkage, no nexus, between strategic offensive arms and strategic defensive arms so we eliminate once and for all the ambiguity that exists with regard to this issue and allow us to proceed to other amendments on the treaty.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

DADD

Mrs. SHAHEEN. Mr. President, I am here today to express my strong support for the repeal of the don't ask don't tell policy. The Senate took a significant step toward that repeal earlier today. I want to congratulate and thank Senators LIEBERMAN and COLLINS for their strong bipartisan leadership on this issue. I was proud to be a cosponsor of this bill, and I hope we will soon send it to the President for his signature.

It is not often that the Senate gets the opportunity with a single vote to right a wrong, but we have that opportunity here today. This is a historic vote, one for which this Senate will be remembered for a long time. This is our opportunity to fix an outdated, discriminatory and broken policy and to strengthen America's security. The United States, our military, and our security will be better off because of this legislation.

I completely agree with Defense Secretary Robert Gates, who strongly endorsed the repeal and urged the Senate to pass this legislation before the end of the year. Secretary Gates and America's military leadership understand that this discriminatory policy undermines our national security and diminishes our military readiness.

A nation at war is a nation that needs the best, most qualified service members we can find regardless of sexual orientation. At a time when nearly 150,000 American men and women are serving in combat overseas, and at a time when our military is stretched thin across the globe, we simply cannot afford to lose some of our finest soldiers.

Since the policy was instituted in 1993, more than 14,000 service members have been expelled from the military, and an estimated 4,000 service members per year voluntarily leave because of this discriminatory policy. One thousand of those expelled were badly needed specialists with vital mission critical skills, like Arabic speakers and other technical experts.

Don't ask, don't tell also ignores the realities of today's combat environment, where American soldiers are fighting next to allied troops from around the world. In fact, at least 12 nations allowing gays and lesbians to serve openly have fought alongside U.S. service members in Afghanistan. At least 28 countries, including our closest allies, Great Britain, Australia,

Canada, and Israel, already allow open service.

Not only is this policy costing us critical capabilities, it is also unnecessarily costing us a significant amount of money. The military spends as much as \$43,000 to replace each individual charged under the don't ask, don't tell policy. At a time of extremely tight budgets with little money to go around, it just does not make sense to spend tens of thousands of dollars to investigate, try, and replace American soldiers based only on their sexual orientation.

Repeal of this policy has earned the backing of an overwhelming majority of America's Iraq and Afghanistan veterans and countless military leaders, including retired GEN Colin Powell, who says that attitudes and circumstances have changed since the policy was first instituted 17 years ago.

In addition, we now have a good understanding of what our own military men and women feel about the repeal of this policy. The military undertook one of the largest and most comprehensive reviews in its history to make sure those most affected by this change had their views heard and incorporated. The in-depth, 9-month review included a comprehensive survey that was sent to nearly 400,000 active duty and reserve component service members as well as 150,000 military spouses.

The review's final report, released several weeks ago, found that repealing this policy could be accomplished without undermining military readiness and can be initiated immediately. The report found that more than two-thirds of those questioned found that repeal would have no effect on cohesion, effectiveness, unit readiness, or morale.

We used to tell young Americans, "Don't ask what your country can do for you." Yet now we tell the very people who have answered that call, "don't ask, don't tell." This is a civil rights issue. It is a moral issue, and it is a national security issue. Today, the Senate has an historic opportunity to fix this broken and outdated policy.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I rise to echo the words of the distinguished Senator from New Hampshire, Mrs. SHAHEEN, and her support of the repeal of don't ask, don't tell. It is important for our military, it is important for our values, it is important for human rights, it is important for our country.

As we know, for nearly 17 years Federal law has dictated that gay and lesbian Americans serving or hoping to serve in our Nation's military must be silent about their sexual orientation. If that silence were broken, they would face the grim consequences of an almost certain discharge.

The don't ask, don't tell policy, as it has become commonly known, is inconsistent with our American values. It

has robbed the military of valuable personnel who can contribute to military readiness and fulfillment of missions at home and abroad. That is why I opposed this policy in the mid-1990s and have advocated for its repeal ever since.

Throughout this debate I have heard from many Ohioans, including members of our military, expressing profound opposition to the policy of don't ask, don't tell. Ohioans such as Cadet Katherine Miller, LTC Victor Fehrenback, who spoke with me at one of my Thursday morning coffees in the Capitol, MAJ Mike Almy, and many other advocates and servicemembers have worked in their communities. They have walked the Halls of Congress to explain why don't ask, don't tell should be overturned.

Their experiences and that of those they represent are reminders that important battles remain in the fight for human rights and justice in our country. But we know for sure that history is on their side.

Today's vote will affirm what military leaders from Defense Secretary Gates to GEN Colin Powell to Chairman of the Joint Chiefs of Staff Michael Mullen have been saying for some time: Repeal of don't ask, don't tell will make our military stronger. With our Nation at war, it is especially important that our policies promote the recruitment and retention of the very best soldiers, regardless of their race, religion, sexual orientation or gender.

President Obama and Secretary Gates have conducted a year-long review—which many people in this Chamber in both parties, especially my Republican colleagues, asked for—on the impact of fully and openly integrating lesbian and gay Americans into the military. It is no surprise that the report concluded that open service poses no threat to our military readiness or effectiveness.

It is estimated that the don't ask, don't tell policy has cost the American people somewhere between \$300 and \$500 million to implement. It has resulted in the discharge of almost 14,000 soldiers—14,000 soldiers who were discharged not for performance but because of their sexual orientation. These 14,000 Americans include hundreds of Ohioans who offered to lay down their lives for this country. They deserve better than investigations and discharge. They deserve acceptance, affirmation and, most importantly, the right to serve openly and honestly in America's military.

The strength of our Nation is measured not just by the size of the economy or the might of our military, it is measured by acts consistent with our values, the very values our servicemembers defend and that define our Nation's greatness.

The repeal of don't ask, don't tell is a long overdue victory for our military,

a victory for American values, a victory for human rights and, most important, a victory for the American people. I ask support of the measure, a resounding vote out of this Senate to go along with the House so the President can sign this bill and end this policy that has not served the American people well for much of two decades.

I yield the floor, suggest the absence of a quorum, and ask unanimous consent that time under the quorum be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, it is my understanding that the Senator from Pennsylvania is here and wants to speak. Then, I think the Senator from New Jersey is on his way over to speak. Because there have been a number of speeches on the START treaty against it and a number of arguments laid out, I wish to have an opportunity to speak to them. I ask unanimous consent that at 2:30 I be permitted to speak for about 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CASEY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASEY. Mr. President, I rise to discuss the vote that will occur in a little more than an hour on the don't ask, don't tell policy. I have some basic thoughts about it, coming from a State where we have contributed probably as many or more soldiers to almost every major conflict we have had over the last 100 years. We are a State that has over 1 million veterans. We have lost soldiers most recently in the conflicts in Iraq and Afghanistan. In Iraq, our killed-in-action number was just below 200. At last count, it was about 197. In Afghanistan, it is now up to 61, 62 who have been killed in action. People in Pennsylvania know what war is about, what sacrifice is about, because so many families have contributed to that service and that sacrifice.

When it comes to this change in policy we are advocating, I wish to focus on two basic considerations. One is basic integrity and the other is valor. We have had a number of statements made by senior military leaders, part of this administration and others, who

have called for repeal of the policy. Secretary Gates, Secretary of Defense for the Obama administration and for a good while under the administration of President Bush, said:

I fully support the President's decision. The question before us is not whether the military prepares to make this change but how we best prepare for it.

So said Secretary Gates.

Admiral Mullen, Chairman of the Joint Chiefs of Staff, said in pertinent part:

It is my personal belief that allowing gays and lesbians to serve openly would be the right thing to do. No matter how I look at this issue, I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me personally, it comes down to integrity.

His statement goes on from there.

Former Secretary of State Powell fully supports the change. I could go on from there, and I know folks have cited military leaders in the debate. I keep coming back to this question. Secretary Mullen talked about integrity and a policy that forces young men and women to lie.

Former National Security Adviser Jim Jones said, quoting in pertinent part, that the don't ask, don't tell policy:

... has to evolve with the social norms. I think times have changed. The young men and women who wish to serve their country should not have to lie in order to do that.

I wish to focus on that part of it. How can a policy long endure in this country, especially as it relates to the military, that asks people to lie? Every day they have to get up and prepare themselves for service and sometimes literally for battle, a life and death battle. Every day this policy says: But you have to lie about it. You have to keep it a secret. You can't let anyone know. You have to lie.

How can a policy endure in this country that is based upon lying and not telling the truth? That is at the core of our Republic, whether you talk about the rule of law or no man or woman is above the law. All those statements, all that philosophy is undergirded by basic integrity, that we all try to live by the same rules. If we are not telling the truth and we are forcing folks who are willing to serve their country to put themselves in harm's way, which doesn't even begin to describe the sacrifice, some of these soldiers have not only served but been gravely, grievously wounded and some, of course, have been killed in action in the current conflicts and many before that, it is a basic question about integrity. Are we going to continue to support a policy that calls upon people to lie? I don't think the American people support that.

Secondly, the basic and related question of valor. We have public officials across the country, Members of Congress, public officials in our States who

stand on Veterans Day and all kinds of days when we commemorate and pay tribute to those who have sacrificed, those who gave, as Lincoln said, the last full measure of devotion to their country. There are a lot of speeches given and commendations accorded to people who have served the country. But a lot of that will ring hollow if we are saying there is one group of soldiers whom we may not want to have in the military, and if we want them in, then they are going to have to lie about it. These are young men and women who are the definition, the embodiment of service and valor and courage. We can't just get up as a politician and give a speech about patriotism and then be willing to undermine our argument and undermine our military by saying we have to perpetuate a policy that doesn't work and is in conflict with who we are.

I want to read a quotation from someone who has served in the Congress for the last 4 years but someone who has also served our country, someone I know, and he is a friend of mine—I put that on the record—but someone we are very proud of and the work he has done in both forms of service: as a Member of Congress and serving in our military, and that is, Congressman PATRICK MURPHY from Bucks County, PA. For some who do not know their geography, that is on the east side of our State. He has been here in the Congress for 4 years. He will be leaving this month. But he has been a champion of repealing this policy, and he speaks with an integrity and a commitment which I think is unmatched because he is not speaking about this policy theoretically, he is not speaking about this policy in a textbook sense, he is speaking and has fought for the change in this policy from the vantage point of someone who has served and who served in situations where he could have been killed, sometimes every day of the week.

Here is a part of what he has said. There are many things he has said about this, but he said:

The paratroopers from the 82nd Airborne Division in the Army that I served with back in Iraq in 2003 and 2004, they didn't care who you were writing letters back home to, if you had a boyfriend or a girlfriend. They care whether you can handle your assault rifle. Can you kick down a door? Can you do your job so you all come home alive?

That is the challenge he presents to all of us, Congressman PATRICK MURPHY, former member of the 82nd Airborne Division. This policy on the battlefield is not theoretical. It is consequential in at least one sense. If we continue the policy the way it is, we are going to be less effective on the battlefield. If we continue the policy the way it is, we are going to have less people serving at a time when we need extra help.

We need soldiers on the battlefield. We need to continue to have young

men and women who will volunteer to serve, knowing that once they volunteer, this is not sending you to some base somewhere for a couple of years away from conflict—knowing that when you volunteer today—maybe this was not true 10 or 15 years ago—but today when you volunteer, the likelihood of you seeing combat is very high.

So there is a special category of valor and integrity for those who are willing to volunteer to serve their country, especially when they know they could be sent into a firefight.

You do not have to take the word of one or another Senator, but I think we can take the word and base our judgment upon the experience of a Member of Congress, in this case from the House, who has also served in the 82nd Airborne Division. We should remember his words, what folks at home will care about. They care about “whether you can handle your assault rifle.” “Can you kick down a door?” “Can you do your job so you all come home alive?”

When we speak about this policy, this is not theory. This is a debate, at least, about two very important principles: valor, and whether we are going to affirm the valor of others who serve and are willing to serve; and whether we are going to have a policy based upon a core foundational principle of our democracy, which is integrity. That is the basic question we have before us.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BAYH). The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, it is time to stop discrimination. It is time to repeal don't ask, don't tell. This is a policy that should have been repealed long ago—long ago. It should have been repealed for its discriminatory nature. It should have been repealed because the Defense Department's own report makes it clear that those who pointlessly cling to this discriminatory, wrongheaded, shortsighted policy, by claiming the mantle of national security, have absolutely no ground—no ground—to stand on.

Don't ask, don't tell is a ridiculous notion, a bad policy, and a relic of a bygone era. It is keeping brave, able, educated, technically skilled, multilingual, trained soldiers, men and women who want nothing more than to defend their country from doing so.

We are preventing them from making our military even stronger, making it better, and contributing to what we need in a modern military force. In my view, a vote to repeal this antiquated policy is a smart vote. It is the right vote. It is the fair vote. It is a just vote. It is a vote to keep our military strong, keep good people in the military, who want to serve.

Americans who now must remain anonymous, such as an anonymous marine currently serving in Afghanistan says:

So far the military has been my source of work and income for the last 6 years. I don't want that all taken away from me and me being discharged anything but honorably.

He says:

We face the same challenges as all other marines or soldiers but with an extra burden.

Or another anonymous servicemember—a decorated Midwesterner, a shining example of an American marine, with a chest full of ribbons—like others, he risked his life, but, like other marines denying who they are, he was deeply apprehensive about seeking the medical care he needed when he got home for fear of being ousted and losing everything he had worked and sacrificed for, everything he had served for.

He suffered in silence, careful in whom he confided, saying:

You never know who you can trust.

An Arabic linguist—someone whose talents we sorely need against some of the enemies we have today—named Bleu Copas was discharged under don't ask, don't tell, even though he was never identified as gay and his accuser never revealed himself. Imagine that, in a country that values the rule of law and justice, that your accuser never has to reveal themselves, never be subject to cross-examination, never testing the veracity, the truthfulness of what they are saying, and yet have this person be discharged.

This is no way to run a military. We are talking about patriots. We are talking about men and women who want to serve, who are serving, who yearn to serve, who put their lives on the line.

When a C-17 from the 436th Airlift Wing flies into Dover, DE, when rows of flag-draped coffins fill a hangar and the solemn dignity of fallen heroes brings silence and tears to all of us as a nation, do we ask the faith, the color, the sexual preference under those flags? I think not.

Listen to the arguments and rationale of those military leaders who know best.

Former Secretary of the Army Clifford Alexander said:

The policy is an absurdity and borderlines on being an obscenity. What it does is cause people to ask of themselves that they lie to themselves, that they pretend to be something that they are not. There is no empirical evidence that would indicate that it affects military cohesion.

Former Chairman of the Joint Chiefs of Staff, General Shalikashvili, said:

Within the military, the climate has changed dramatically since 1993. . . .

Conversations I've held with servicemembers make clear that, while the military remains a traditional culture, that tradition no longer requires banning open service by gays.

Three-star Retired LTG Claudia Kennedy said:

Army values are taught to soldiers from their earliest days in the Army. Those values

are: Loyalty, duty, mutual respect, selfless service, honor, integrity and personal courage. We teach our soldiers that these are the values we expect them to live up to.

She goes on to say:

I believe that as an institution, our military needs to live up to the values we demand of the servicemembers. . . .

Military leaders need to respect all servicemembers. We need to recognize that loyalty and selfless service are exhibited equally, by servicemembers of every color, gender and sexual orientation.

I think about her words "selfless service." When you voluntarily, in an all-volunteer military, come forth as an American and say: I want to serve my country, I am willing to put my life in harm's way in behalf of the defense of the Nation and my fellow Americans, does that somehow get diminished—that selfless service get diminished—because you are gay?

I think about personal courage. When you are on the battlefield, and you are being shot at, and when you are protecting those who are in your company, and when you are injured, and when you are bleeding, does that personal courage get diminished because you are gay?

Certainly not. Certainly not.

And most convincingly, and to the point, Retired Navy VADM and U.S. Congressman JOE SESTAK said this:

We have to correct this. It's just not right. I can remember being out there in command, and someone would come up to you and start to tell you—and you just want to say, no, I don't want to lose you, you're too good, [too valuable].

Let's take the advice of these military leaders who know that this is a bad policy and it should be repealed. It is a policy that the Pentagon report itself says, if repealed, presents little risk to military readiness and cohesion, and little effect on morale.

In fact, 62 percent of servicemembers responded to the Pentagon's own survey that repeal of don't ask, don't tell would have a positive or no effect on morale.

The PRESIDING OFFICER. The Democrats' time is expired.

There is 15 minutes allocated to Senator KERRY. He is not on the floor.

Mr. MENENDEZ. As a member of that committee, I ask unanimous consent for 1 minute to finish this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MENENDEZ. Thank you, Mr. President.

Let me close by quoting from a letter from the Human Rights Campaign. I think it puts it purposely and exactly:

. . . take a moment to truly comprehend the lives ruined over the last 17 years because of this discriminatory law. The soldiers, sailors, airmen, translators, doctors and more, whose military careers were ended, whose livelihoods were threatened, whose friendships were cut off, all because the forces of bigotry and fear held out for so long.

They can never get those years back. But I hope they know that their sacrifice meant something. Their courage and integrity helped a nation understand what it means to serve. And that, more than anything else, helped bring about this historic change.

That is the vote I hope we will have—one that creates historic change and honors the courage, the integrity, and the service of these men and women.

With that, Mr. President, I yield the floor.

Mr. KYL. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. KLOBUCHAR. Mr. President, I appreciate the Senator from Arizona and the Senator from Massachusetts allowing me to speak for a few minutes.

I wish to lend my strong support as a cosponsor of the repeal of don't ask, don't tell. I have always believed the commitment of our top military leaders is critical to successfully implementing the repeal of this policy. Since February of this year, we have heard testimony from Defense Secretary Gates as well as Chairman of the Joint Chiefs of Staff, ADM Mike Mullen. To this day, both support the repeal of the policy.

Admiral Mullen outlined his concern with the policy pretty succinctly. He said:

No matter how I look at the issue, I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens.

Our country is literally asking our servicemembers to lie.

Earlier this year, Secretary Gates called for a study of the repeal. That study involved comprehensive polls of the U.S. military. After the December release of the report on the implementation of the repeal, we know the majority of our military members—70 percent of Active-Duty military and National Guard and Reserve—have said this change will not have a negative impact on their ability to perform their duties.

So what we have is this: We have the support of the top brass of our military of the United States—something that was incredibly important to implementing this policy change. We have checked that box. We have the support of the majority of our soldiers in the field, who basically said they can live with this policy change or they can live with serving with a soldier who admits they are gay. The last thing we have is this body, this Chamber, and today is the day we checked that box. Today is the day we voted for the repeal.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that the remaining Republican time be equally divided between Senators MCCAIN, KYL, and SESSIONS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, before the Senator gets going, I think we have an understanding. Just so the record is clear, how much Republican time remains at this point?

The PRESIDING OFFICER. Just under 30 minutes.

Mr. KERRY. So it is my understanding they will each have about 10 minutes. I think Senator KYL and Senator SESSIONS will speak, at which point I will have an opportunity to speak, and then Senator MCCAIN, since it is his amendment, would have the last 10 minutes at that point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. I thank the Chair.

Mr. KYL. Mr. President, during one of the last votes, a Member came to me and said: I have not been able to follow this debate. What exactly is the McCain-Barrasso amendment?

With all of the to-and-fro—having votes on different subjects, then going back to the START treaty, then going back to a vote on don't ask, don't tell, then finally a vote on the McCain-Barrasso amendment—I thought it would be good to recapitulate a little bit on what exactly the McCain-Barrasso amendment is and why it is important.

What the amendment does is it removes language that relates to missile defense from the preamble. This treaty was supposed to be about offensive strategic weapons, not about missile defense. In fact, we were told by an administration spokesman that it wouldn't relate to missile defense, but sure enough, there the words are. Why are they there? They are there because the Russians insisted they be there. Why did they insist they be there? Because for decades the Russians have been fixated on U.S. missile defense, trying to find ways to reduce the effect of our missile defense on Russian strategic capabilities. They tried it at Reykjavik with President Reagan. He said no. They tried it again in the first START treaty. They tried it again in the Moscow Treaty of 2002. And they have tried it again here.

The difference between this treaty and the previous times is that the United States always pushed back and said: No, we are going to rely on missile defense. It is the moral thing to do. We are not going to get into quid pro quos with you where we have to reduce our missile defense if you reduce your strategic offensive weapons or some other agreement like that.

In the START I treaty, when the Russians said in their signing statement: We find this interrelationship, and the United States should not advance its missile defense capabilities, the United States pushed back strongly in our statement and said no, that would not be a grounds for withdrawal from the treaty and the Russians need to understand that. They never did withdraw even though we did withdraw from the ABM Treaty so we could build missile defenses.

Well, once again, they have put it in the preamble this time and then, in their signing statement, made very clear their intent that the interrelationship between the two means that if our missile defenses are ever developed to a point where they consider it qualitatively or quantitatively better than it is currently, then they would have the right to withdraw from the treaty; that that would qualify as one of the exceptional circumstances under article XIV, which is the withdrawal clause of the treaty. Why do they want to do that? Obviously to put pressure on the United States not to develop our missile defenses in a way they don't want. They will threaten to withdraw from the treaty if we begin to do that. Some Presidents—I suspect the existing President, for example—would therefore be very wary of going forward with missile defense plans if that means the Russians would withdraw from the treaty.

My colleague Senator KERRY says: Well, the preamble is a meaningless document. It is a throwaway document. It doesn't mean that much. But he also says: However, if we change one comma in the preamble, it will be a treaty-killing amendment.

At first, I said: Well, both of those things can't be true. It can't be both meaningless and of ultimate importance, that it would kill the treaty if we changed it.

On reflection, I think Senator KERRY actually has it right, partially. To the United States, it is meaningless. Our negotiators didn't care what the Russians put in there. It doesn't mean anything to us, but it means everything to the Russians, and that is why I think Senator KERRY is right.

This would be a big problem for the Russians. Why is that so? Because even though we were willing to walk away from that commitment we had always made in the past that there wouldn't be this connection between defense and offense, the Russians got it in here, and it means everything to them because it creates the predicate for their withdrawal from the treaty, and that is what they are trying to establish.

I will close this point by quoting from Dr. Condoleezza Rice, who wrote an op-ed in the Wall Street Journal in which she said we needed to do something about this in our ratification process. She said there are legitimate

concerns that must be addressed in the ratification process.

I am quoting now:

The Senate must make absolutely clear that in ratifying this treaty, the U.S. is not reestablishing the Cold War link between offensive forces and missile defenses. New START's preamble is worrying in this regard as it recognizes the interrelationship between the two.

What this language from Senators BARRASSO and MCCAIN does is simply remove that language from the preamble, thereby removing the thorn, removing the contention, the potential and I would say almost certain conflict that is due to arise between our two countries when the time comes that we do build a missile defense that the Russians don't want.

They say: We are going to withdraw from the treaty.

We say: You can't do that; that is not an extraordinary circumstance.

They say: Yes it is. We identified it as such at the time we signed the treaty, and we are going to leave the treaty.

And then the U.S. President has a dilemma: Do we pull back on our missile defenses or allow the Russians to withdraw from the treaty and all that will portend?

That is why this is important. The amendment cures the problem by simply removing that language from the preamble.

In the remaining time, I wish to briefly respond to four points the President made in his weekly address today relating generally to the same subject.

One of the first points he made is he talked about the number of nuclear weapons—about 25,000 on each side—and the decades that have ensued since the Cold War. Those numbers have come down dramatically, and he said that progress would not have been possible without strategic arms control treaties.

Yes, it would have. It was happening anyway. Both sides were willing to draw both of their delivery vehicles and warheads down because they couldn't afford to keep them. In fact, after the end of the Cold War, the United States, under President Bush, said: We are reducing ours, and Russia, you can do whatever you want to do.

We knew they couldn't afford to keep theirs any more than we could keep ours, and they weren't reducing theirs.

The Russians came to us and said: Gee, we need a treaty.

We said: Why? We don't care how many you have. We are reducing ours.

Eventually, we said: OK. If you want a treaty, fine.

It was a three-page treaty, but it had no connections with missile defenses or anything the Russians wanted.

The point is, it didn't require a treaty for us to bring those levels down.

How about the delivery vehicles? This treaty actually fixes the number

of delivery vehicles above where the Russians are right now. They could actually build up to the level of about 140, as I recall, to get up to the level of 700.

The point is, both countries are reducing the levels to the point that we need, not because of an arms control treaty but because it is in our national interests to do so.

Secondly, the President said that without this treaty, we will risk turning back the progress we have made in our relationship with Russia. I will just repeat what I have said before. Secretary Kissinger and others who have spoken to this point have always warned: Don't predicate the support for a treaty on improving your relationship with someone. The treaty should relate to reducing arms or whatever the subject of the treaty is. It should not be based on anything other than that or you get into a morass of always trying to please the other side and risking that they will withdraw from the treaty.

Third, the President said that it is about the safety and security of the United States of America. I have yet for anybody to tell me what threat we are reducing by agreeing with the Russians that both of us are going to reduce our delivery vehicles and warheads. Actually, the Russians don't have to reduce theirs; they could actually build up under the treaty. I don't think we see any big threat there.

Finally, the President said that every minute we drag our feet is a minute we have no inspectors on the ground at those Russian nuclear sites. We just talked about the fact that we have this reset relationship with the Russians, and we need to continue these good relationships, but we can't trust them, so we have to get our folks on the ground verifying what is going on right now. As I pointed out before, the administration created this problem on its own. We could have had a bridging agreement. We could have simply extended the verification provisions of the previous START treaty, but the Russians didn't want to do that, we are told. Fine, they didn't want to do that. That doesn't mean we had to agree that we will abide by their wishes when it comes to verification.

My colleague says: Well, you can't get them to do something, so we signed the treaty the way the Russians wanted in this regard, and we just have to live with that. The administration might have to live with that, but the Senate is not a rubberstamp, and it seems to me the Senate has a right to say: You let the verification procedures lapse; you didn't have to do that.

Senator LUGAR had a bill that related to the extension of the legal regime whereby both sides would be able to continue to have presence in the other country. We knew that was a problem

at the time. For some reason, the administration didn't pursue it—I suppose because the Russians said no, but that doesn't mean the U.S. Senate has to say: OK, the Russians just say no, and I guess we have to go along with that.

The point here is that I don't think any of the arguments President Obama has made require that we ratify this treaty this week. I would urge my colleagues to seriously consider what Dr. Condoleezza Rice has said, what Senator McCain and others have said here about the necessity of cleaning up this preamble so that we don't reestablish the link with missile defense and inhibit U.S. ability to proceed with missile defense plans in the future.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I would ask to be notified after 6 minutes.

I wish to thank Senator KYL and Senator MCCAIN for their leadership on this issue and state that I believe the McCain amendment is perhaps the most critical amendment that will be raised during this debate because the future of missile defense is critically important for America.

I chaired the Subcommittee on Strategic Forces in the Armed Services Committee. I have been the ranking member of the subcommittee and a member of the committee for 12 years, and I know all of the history on this issue. It has gone on for a great deal of time.

I believe missile defense is critical to our national security. We have invested billions of dollars over 30-plus years developing it, and now that we are actually deploying it in Alaska and California, it is proving to be a shield that will work.

We had plans for a long time to deploy a site in Central Europe. The Bush administration negotiated with the Poles and Czechoslovakia. They signed agreements that they would allow a radar base in the Czech Republic and a missile base in Poland.

When President Obama was elected, the Russians immediately started pushing back on our missile defense plans for reasons I have never fully understood. We are only talking about 10 defensive missiles against hundreds—hundreds, maybe thousands—of Russian missile and launch vehicles. It would in no way threaten their power. Some experts—and I am inclined to agree—thought it related more to the Russian concern about us having a defense relationship with Czechoslovakia and Poland, but I don't know. For some reason, it has been a big deal for them.

They have pushed back very hard. From the Bush administration, Doug Feith, in a Wall Street Journal article recently said—he negotiated in 2002—that they pushed back on it at that time. They said they would not sign a

treaty unless we agreed not to proceed with missile defense. He said no deal. They insisted, and he said no deal. They said: We won't have a treaty if you don't agree. He said: Well, we won't have a treaty. We don't have a treaty with England, India, Pakistan, China, or France, who have nuclear weapons. We don't have to have a treaty with you. We are bringing our numbers down anyway, and you are, too. We would like to have a treaty, but we are not going to limit our missile defense. The Russians signed that treaty.

Now we come and they start the same bluster against the Obama administration, which, unfortunately, gave in. These negotiations started early in the year. The treaty negotiations started in March of 2009. By September of 2009, President Obama unilaterally announced, to the shock of our Polish and Czech allies, that we were not going forward with the Polish site—much to the delight of the Russians, who had achieved a significant victory in a negotiating point that had gone on for many years.

So to say that this treaty has nothing to do with missile defense is not correct. Did the Russians say, thank you, we will be glad to work with you on the treaty? No, they still wanted language in the treaty that put them in a position to walk away from this treaty any time they wanted to if we deployed a missile defense system in Europe. They got it in there, in the preamble. It leaves not just an ambiguity, as I said earlier, it is a misunderstanding, or a disagreement of a central issue. Repeated Russian statements indicate they believe that if we move forward quantitatively or qualitatively with a missile defense system, then they would have a right to get out of the treaty.

I can hear what would happen in the Senate if we start deploying a missile defense system in Europe. A lot of our colleagues would say: If we do that, the Russians will get out of the treaty. We can't do that. It will make it difficult.

In addition, the system we were going to deploy was a GBI two-stage missile in central Europe, Poland. The President stopped this. It was ready and able to be deployed by 2016. It is the same system we have in the United States, except it is two-stage instead of three. The National Intelligence Estimate shows that Iran can reach the United States with a ICBM, and now they are developing nuclear weapons, and they can do it by 2015. We were trying to get this system in by 2016. When they canceled this, it caused an uproar. The White House said: Don't worry, we have a new plan—one I had never heard about. We are going to do an SM-3 Block 2B. We are working on it. Well, have you started? No. Is it under development? We just conjured this up. It is a bigger, rounder missile than the existing SM-3, and it is quite different.

The PRESIDING OFFICER. The Senator used 6 minutes of his time.

Mr. SESSIONS. I thank the Chair. It is a different thing. It would be ready only by 2020. So I contend that this administration, as part of the negotiations over this treaty, in their too-anxious-desire to get this treaty, to reset the relationship with the Russians, which we of course want to do, made a very serious error in capitulating on the third site—sending shock waves among our sovereign nation allies in Central Europe, which used to be a part of the Soviet empire. They have made concessions that are significant.

As a matter of fact, they pretend it had nothing to do with the treaty, but I would say there is no doubt that the abandonment of the Polish site was a way to gain support of the Russians as part of the negotiations in this treaty. And we now have this ephemeral, chimeric vision of a 2020 entirely new missile system for Poland that may or may not ever reach fruition.

Those are my concerns. The McCain amendment would say let's get this straight with the Russians and make Congress know that if it requires a new negotiation with the Russians, so be it. Maybe we can reach an understanding. You could never enter into a treaty or any contract in which the parties have a serious misunderstanding or actual disagreement on a critical part.

I thank the Chair and reserve the remainder of the time on this side.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, would you inform me when I have used 4 minutes?

The PRESIDING OFFICER. Yes.

Mr. KERRY. Our colleagues are fighting against a phantom. All of this argument they have been going on for several days with is about language that has no binding impact on this treaty whatsoever. Senator KYL acknowledged that yesterday. He also acknowledged that if you change it, it requires this treaty to go back to the Russian Government, and then we don't have this treaty. We don't have any verification for whatever number of months that follow. I will come back to that.

A moment ago, Senator KYL said the Russians didn't want to continue the verification methods of START. He somehow insinuates that because they didn't want to continue it, what we have here is something less than what we ought to have for ourselves.

We didn't want to continue the verification and process of START as it existed. In fact, the Bush administration was told that. He knows that. This is phantom debate, what we have going on here. The target is the treaty itself, not this language, because this language doesn't have any legal binding impact on the treaty. In a moment, I will share what impact it has.

Our friends on the other side of the aisle are supplanting their judgment for the judgment of Secretary Gates. We have the right to do that, and you can do that. But I ask people to weigh whether Secretary Gates, who was appointed by George Bush and held over by President Obama, has anything except the interests of our country at heart when he makes this statement in his testimony:

So, you know, the Russians can say what they want, but, as Secretary Clinton said, these unilateral statements are totally outside the treaty. They have no standing. They are not binding. They never have been.

Do you know what the Soviets said at the U.S.-Soviet negotiations on nuclear space arms concerning the interrelationship between strategic defensive weapons compliance with the treaty—and this is START I. They said:

In connection with the treaty between the United States of America and the Union of Soviet Socialist Republics on reduction and limitations of strategic defensive arms, the Soviet side states the following: This treaty may be effective and viable only under conditions of compliance with the treaty between the United States and the USSR on the limitation of antiballistic missile systems as signed May 26, 1972.

That was their signing statement, just like this signing statement. Guess what. The United States of America saw our national security interests in getting out from under the ABM Treaty. We got out from under the ABM treaty. This language, just like the language we are debating today, meant nothing at all. They stayed in the treaty. They didn't pull out. So we are debating something that has no impact whatsoever on this treaty.

Let me go a little further. Secretary Gates said further:

So from the very beginning of this process, more than 40 years ago, the Russians have hated missile defense.

It's because we can afford it and they can't. And we're going to be able to build a good one, and are building a good one, and they probably aren't.

And they don't want to devote the resources to it, so they try and stop us from doing it, through political means. This treaty doesn't accomplish that for them.

My God, after several days, either the Secretary of Defense—and how about LTG Patrick O'Reilly, whose job it is to defend the United States against missile attack. He is the man who runs this agency day to day. You know what he said:

Relative to the recently expired START Treaty, New START Treaty [this treaty we are voting on] actually reduces constraints on the development of the missile defense program.

We have our own leader of the Missile Defense Agency telling us that this is an advantage for the United States of America.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Mr. KERRY. I thank the Chair. Let me get to the heart of the argument

about why this is so critical. The other side is trying to minimize this, saying you can't say that language has no legal binding authority, it is not that important, and turn around and say we can't change it. That is the nub of their argument—that we have to be able to change it because, if we don't change it, somehow nonbinding language is enough for us to say let's have no verification at all. It is a strange tradeoff.

Here is why it matters. Because the preamble is in the instrument that is transmitted to the Senate. Even though it is not the binding component of it, the rules by which we all play are that if you change a comma, or one word, that change has to go back to the Government of Russia, and they have to decide what they want to do. Why is that important relative to this language? Because the public position that they fought for in this negotiation was to achieve binding restraints on U.S. missile defense. That is what they wanted. And as Secretary Gates said—every general and admiral who has looked at this, including Admiral Mullen and General Chilton, have all said they didn't get that. They didn't win that point. We won that point. In any negotiation, when somebody needs something to be able to feel good, or deal with their own politics, sometimes you let them have a little something that is meaningless to you but may mean something to them. That is what we gave them. Take it away and you open this whole treaty. Then they have to figure out how they deal, in other terms, with those politics. I will wait until the classified session that we are going to have on Monday. I can't go into it here, but I will lay out why this treaty is good for the United States and why we believe reopening it would be dangerous. That is why this amendment is dangerous, because it will reopen this and will force—it doesn't constrain us in the least, and the extent to which that is true, I think, will be understood by a lot of colleagues in that session.

To make this even more clear, the President of the United States has written a letter today to Majority Leader HARRY REID and to Minority Leader MCCONNELL. In the letter, which Senator REID has shared with me, it says from the President:

The New START Treaty places no limitations on the development or deployment of our missile defense programs. As the NATO Summit meeting in Lisbon last month underscored, we are proceeding apace with a missile defense system in Europe designed to provide full coverage for NATO members on the continent, as well as deployed U.S. forces, against the growing threat posed by proliferation of ballistic missiles. The final phase of the system will also augment our current defenses against intercontinental ballistic missiles from Iran targeted against the United States.

All NATO allies agreed in Lisbon that the growing threat of missile proliferation, and

our Article 5 commitment of collective defense, requires that the Alliance develop a territorial missile defense capability.

It goes on to talk about that capability. Then he says this, which is critical with respect to this debate. This is the President's letter to the leadership:

In signing the New START Treaty, the Russian Federation issued a statement that expressed its view that the extraordinary events referred to in Article XIV of the Treaty include a "build-up in the missile defense capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear potential of the Russian Federation." Article XIV(3), as you know, gives each Party the right to withdraw from the Treaty if it believes its supreme interests are jeopardized.

The United States did not and does not agree with the Russian statement. We believe that the continued development or deployment of U.S. missile defense systems, including qualitative and quantitative improvements to such systems, do not and will not threaten the strategic balance with the Russian Federation, and have provided policy and technical explanations to Russia on why we believe that to be the case. Although the United States cannot circumscribe Russia's sovereign rights under article XIV, paragraph 3, we believe the continued improvement and deployment of U.S. missile defense systems do not constitute a basis for questioning the effectiveness and viability of the New START treaty and, therefore, would not give rise to circumstances justifying Russia's withdrawal from the treaty.

Regardless of Russia's actions in this regard, as long as I am President and as long as the Congress provides the necessary funding, the United States will continue to develop and deploy effective missile defenses to protect the United States, our deployed forces, and our allies and partners. My administration plans to deploy all four phases of the EPAA. While advances of technology or future changes in the threat could modify the details or timing of the later phases of the EPAA—one reason this approach is called adaptive—I will take every action available to me to support the deployment of all four phases.

Sincerely, Barack Obama, President of the United States.

I think this letter speaks for itself. I think the facts are history. I think the testimony of Secretary Gates and all those others who have come before us that makes it clear the United States has no constraints on missile defense whatsoever, makes clear this amendment is not necessary, and this amendment carries with it dangerous implications for the ultimate ratification implication of the treaty.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. How much time do I have?

The PRESIDING OFFICER. About 13 minutes.

Mr. MCCAIN. I will reserve at least the last 3 minutes for my colleague, Senator KYL.

The PRESIDING OFFICER. Very good.

Mr. MCCAIN. As we all know, we will vote very quickly on the amendment to

the New START treaty. I have offered this amendment along with the Senator from Wyoming, and this amendment is an important and seminal one. It is focused on a key flaw in the treaty—the inclusion in the preamble of the following clause. I wish to read it in full. We have read it before, and I don't understand how the letter the Senator from Massachusetts just read would not then force us to negate this part of the treaty, which says:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and the current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

This language carries a lot of historical significance and strategic weight because it recognizes an interrelationship between nuclear weapons and missile defense. Some believe this type of linkage was appropriate during the Cold War, when the United States and the Soviet Union were existential enemies, with the means to annihilate each other. But it is not appropriate for today, when the United States and the Russian Federation, for all our differences, are not devoted to one another's destruction and when one of the greatest threats to our national security comes from rogue states such as Iran and North Korea, which are developing nuclear weapons and increasingly better means to deliver them. In today's world, with so many new and constantly evolving threats, the United States can't be limited in the development, deployment, and improvements of missile defense systems that we deem to be in our national security interest.

I am concerned, as are many of my colleagues, that the Russian Government believes this clause from the preamble confers a legal obligation on the United States which constrains our missile defenses. Ever since President Reagan proposed a Strategic Defense Initiative, the Russians have sought to limit our strategic defensive arms. They have sought to limit our missile defense programs through legal obligations, and failing that, with political commitments or agreements that could be cited to confer future obligations. Words matter. Words matter.

To open ourselves to this type of political threat by accepting an outdated interrelationship between nuclear weapons and missile defense is wrong. Furthermore, by saying that "current" missile defenses do not undermine the treaty's viability and effectiveness, this clause from the treaty's preamble establishes that future missile defense deployments could undermine the treaty, thereby establishing a political threat the Russian Federation could use to try to constrain U.S. missile defenses. In short, we have handed the

Russian Government the political tool they have sought for so long to bind our future decisions and actions on strategic defensive arms.

Imagine a world, a few years from now, when—God forbid—an Iran or North Korea or some other rogue state has developed and deployed longer range ballistic missiles and a deployable nuclear capability much earlier than we assessed. Imagine we are faced with a situation where unforeseen events compel us, for the sake of our national security and that of our allies, to improve our current systems or to develop and deploy new systems in order to counter a new and far greater threat than we expected. Then consider what the Russian Federation said in a unilateral statement at the signing of the treaty.

This is the statement of the Russian Federation—something that if the Senator from Massachusetts is correct, we should be able to clarify by asking for a statement from the Russian Federation repudiating what they said at the time of the signing statement. This is what they said:

The treaty between the Russian Federation and the United States of America on Measures for the Further Reduction and Limitation of Strategic Offensive Arms signed at Prague on April 8, 2010, may be effective and viable only in conditions where there is no qualitative or quantitative buildup in the missile defense system capabilities of the United States of America.

That is clear language. That is clear, unequivocal language, and I will repeat it:

... where there is no qualitative or quantitative buildup in the missile defense system capabilities of the United States of America. Consequently, the extraordinary events referred to in Article XIV of the Treaty also include a buildup in the missile defense system capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear force potential of the Russian Federation.

That is a very clear statement. It is unequivocal as to what the Russian Federation is saying. One of the things Senator GRAHAM and I and others have said is: Hey, why don't we just drop a letter to the Russian Ambassador or to Vlad or whomever and ask them, clarify this, will you? Are you standing by your statement you made at the signing? Is that the Russian Federation's official policy that has not been revoked?

This is the Russian interpretation of what our two governments have agreed to in the preamble. They seem to believe this clause limits U.S. missile defense systems. They seem to believe the language in this clause about "the effectiveness and viability of the Treaty" means that any buildup or improvement in U.S. missile defense systems would undermine the treaty. They seem to believe there is a clear and legally binding connection between what was agreed to in this clause of the

preamble and article XIV of the treaty, which establishes the rights of the parties to withdraw from the treaty and the conditions under which they may do so.

In short, the Russian Government seems to believe this nonbinding political agreement is the pretext for a legal obligation under the treaty itself, and if the United States builds up its missile defense, Russia will withdraw from the treaty.

Let's listen to what the Russian leaders have said. I mean, this is not made up. This is what they have said.

The Russian Foreign Minister, on March 28, 2010—this year—said this:

The treaty and all obligations it contains are valid only within the context of the levels which are now present in the sphere of strategic defensive weapons.

What could be more clear? Here he says again, in April of 2010—April this year.

Linkage to missile defense is clearly spelled out in the accord and is legally binding.

I mean, if there is any clarification for that statement from the preamble, he just gave it—at least what the Russian version is.

Here is President Dmitry Medvedev on November 30—18 days ago.

Either we reach an agreement on missile defense and create a full-fledged cooperation mechanism, or if we can't come to a constructive agreement, we will see another escalation of the arms race. We will have to make a decision to deploy new strike systems.

Finally, here is Prime Minister Vladimir Putin on "Larry King Live." Larry, we will miss you. I have quoted him so many times. This was on "Larry King Live" on December 1, 2010.

If the counter missiles will be deployed in the year 2012 along our borders, or [2015], they will work against our nuclear potential there, our nuclear arsenal. And certainly that worries us. And we are obliged to take some actions in response.

This is a troubling situation. And it must be corrected by this body. Let me quote again from the recent op-ed by former Secretary of State Condoleezza Rice in the Wall Street Journal:

The Senate must make absolutely clear that in ratifying this treaty, the United States is not reestablishing the Cold War link between offensive forces and missile defenses. New START's preamble is worrying in this regard, as it recognizes the interrelationship of the two.

Now that is a statement by our former Secretary of State, who, by the way, wants this treaty ratified, but she also wants us to fix this. This amendment fixes it—this amendment.

I appreciate the letter from the President of the United States. I am very grateful for it. But the fact is, letters are letters and Presidents don't last forever. But binding treaties do, until they are either broken or they are revoked. To have right in the beginning, at the preamble, a clear and

unequivocal statement that any improvement in our defensive weapon missile systems will then be grounds for withdrawal from the treaty is not anything we should let stand.

The simplest way—

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. MCCAIN. I thank the Chair. Let me finish.

The Senator from Wyoming and I are proposing the amendment which will simply strike the language from the preamble itself. I urge my colleagues to support the amendment, and I yield the remainder of my time to the Senator from Arizona.

Mr. KYL. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Arizona has 2 minutes 10 seconds remaining.

Mr. KYL. Mr. President, is there any time remaining on the Democratic side?

The PRESIDING OFFICER. Twenty-five seconds.

Mr. KYL. Is there anyone who would like to take the 25 seconds?

Senator LEVIN will take the remaining 25 seconds?

Mr. LEVIN. If no one else wants it, I will be happy to take it.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me just say that General Chilton, who is the commander of our U.S. Strategic Command, told the Armed Services Committee on July 20:

As the combatant command also responsible for synchronizing global defense plans, operations, and advocacy, I can say with confidence that this treaty does not constrain current or future missile defense plans.

The McCain amendment would be a treaty killer, and for that reason alone the Senate should defeat it.

On the issue of the interrelationship of offensive and defensive arms, which is the text of the Preamble, President George W. Bush agreed that such an interrelationship exists. In a joint statement with President Putin of July 22, 2001, they said: "We agree that major changes in the world require concrete discussions of both offensive and defensive systems . . . We will shortly begin intensive consultations on the interrelated subjects of offensive and defensive systems."

As all our senior civilian and military officials acknowledge, the treaty does not limit our missile defense plans or programs. Gen. Kevin Chilton, the Commander of U.S. Strategic Command, told the Armed Services Committee on July 20th that "As the combatant command also responsible for synchronizing global missile defense plans, operations, and advocacy, I can say with confidence that this treaty does not constrain any current or future missile defense plans."

On the issue of ICBM silo conversion for missile defense, which the treaty prohibits, this is not a constraint on our missile defense plans or programs. As Lieutenant Gen. Patrick O'Reilly, the Director of our Missile Defense Agency said on June 16th: "replacing ICBMs with Ground-Based Interceptors or adapting Submarine-Launched Ballistic Missiles to be an interceptor would actually be a setback—a major setback—to the development of our missile defenses."

On the subject of the unilateral statements, these are not part of the treaty and do not in any way constrain our missile defenses. We faced a nearly identical situation with the original START treaty, where Russia issued a unilateral statement saying that if we withdrew from the ABM Treaty, that would constitute grounds for their withdrawal from the START treaty. Guess what. We did withdraw from the ABM Treaty, but Russia did not withdraw from START. Our unilateral statement makes clear that we intend to develop and deploy missile defenses, regardless of the Russian statement.

The PRESIDING OFFICER. Time has expired.

The Senator from Arizona.

Mr. KYL. Mr. President, to say the treaty doesn't constrain the United States misses the point of the argument we have been trying to make over the course of the last day and a half.

What the Russians have done is establish a legal pretext for withdrawal from the treaty. They have been very clever about it, and up to the time we had been told the President had sent us a letter, there was no pushback from the United States.

I haven't seen this letter, so it is a little hard to comment on it. It has been given to us 15 minutes before the vote is supposed to start. It hasn't been shared with us. We have no idea what all it says. We have Senator KERRY's quotation of certain parts of it. It is obviously a last-ditch effort to try to win votes or preclude an amendment from passing. It shows the administration is scrambling and making it up as it goes along. That is not the way to deal with a serious subject such as this.

Does the letter commit to the GBI—or the ground-based missile—backup for the phased adaptive approach, as was originally announced? Well, I don't know whether it says that. Does it repudiate the signing statement of the United States Department of State issued by Secretary Tauscher, which of course conflicts with the letter and is the official position of the U.S. Government? Does it conflict with the briefing in Lisbon, where the phased adaptive approach was discussed, and revealed deployment of the first three phases but the fourth phase only being available? When will the deployment occur?

The letter, apparently, says we will have effective defenses—whatever that

means. What does that mean? When would those effective defenses be deployed? Iran intelligence tells us they will have an ICBM by 2015—an ICBM that would require something like the GBI to intercept. But we are told the GBI is—well, A, we are not told whether the GBI is a contingent backup plan; and, B, we are not told whether it will be ready before 2017, which I find strange. Because I think we already have 24 GBIs in Alaska and California, and I don't know why we can't build some more to deploy in Europe.

So I don't know what to make of this letter. Obviously, it comes at the last minute and hasn't been sent to us, and I don't see how we can base a vote on such a letter.

The PRESIDING OFFICER. I believe all time has expired. The Senator from Tennessee.

Mr. CORKER. Mr. President, I would like to just interject, with tremendous respect for my friend from Arizona, this letter is something that actually I have been seeking too. I know a number of us have asked the President to send this letter. I am glad he sent it.

I am going to support the McCain amendment and wish this was not in the preamble. I talked to General Cartwright yesterday who, by the way, has reiterated about what was said about the missile defense system. The preamble in no way limits it. But I wish to say this letter is something I am glad was sent. I asked for this letter, as numbers of people on our side have asked for.

Mr. LUGAR. If the Senator will yield, let me respond. The President sent a copy of the letter to Senator MCCONNELL, our leader. Both leaders got the letter.

The PRESIDING OFFICER. Under the previous order, all postcloture time has expired and the motion to concur with amendment No. 4827 is withdrawn.

The question now is on agreeing to motion to concur in the House amendment to the Senate amendment to H.R. 2965.

Mr. KERRY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from New Hampshire (Mr. GREGG), and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "nay," and the Senator from Kentucky (Mr. BUNNING) would have voted "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The Chair will remind the galleries that expressions of approval or disapproval are not in order.

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—65

Akaka	Feinstein	Murray
Baucus	Franken	Nelson (NE)
Bayh	Gillibrand	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Boxer	Johnson	Rockefeller
Brown (MA)	Kerry	Sanders
Brown (OH)	Kirk	Schumer
Burr	Klobuchar	Shaheen
Cantwell	Kohl	Snowe
Cardin	Landrieu	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Coons	Lincoln	Udall (NM)
Dodd	McCaskill	Voinovich
Dorgan	Menendez	Warner
Durbin	Merkley	Webb
Ensign	Mikulski	Whitehouse
Feingold	Murkowski	Wyden

NAYS—31

Alexander	DeMint	McCain
Barrasso	Enzi	McConnell
Bennett	Graham	Risch
Bond	Grassley	Roberts
Brownback	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Thune
Cochran	Johanns	Vitter
Corker	Kyl	Wicker
Cornyn	LeMieux	
Crapo	Lugar	

NOT VOTING—4

Bunning	Hatch
Gregg	Manchin

The motion was agreed to.

Mrs. BOXER. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. Mr. President, I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I have spoken to the Republican leader. We are going to come in tomorrow around noon. I have spoken to Senator RICH, who has an important amendment to offer on the START treaty. He has indicated he would need about 2 hours of debate. We would hope at or near 2 o'clock to have a series of at least three votes. And today, as we indicated earlier, we are basically through except for the wrap-up. We do have another vote.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume debate on the START treaty, which the clerk will report.

The bill clerk read as follows:

Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms.

Pending:

McCain/Barrasso amendment No. 4814, to amend the preamble to strike language regarding the interrelationship between strategic offensive arms and strategic defensive arms.

The PRESIDING OFFICER. There will be 4 minutes of debate equally divided on the McCain amendment.

The Senator from Wyoming.

Mr. BARRASSO. Mr. President, currently the New START treaty establishes limits on missile defense. Placing constraints on future U.S. defense capabilities should not be up for debate and should not be placed in a treaty on strategic offensive nuclear weapons. Russia is trying to force the United States to choose between missile defense and the treaty. If that is the case, I choose missile defense. We cannot tie our hands behind our back and risk the national security of our Nation and our allies.

This treaty is a bilateral agreement between Russia and the United States. It is clear that there is a disagreement about the actual agreement made. Russia continues to claim that the treaty successfully limits our ability to defend ourselves. Supporters of the treaty claim the limitation on missile defense in the preamble is not binding and that it is legally insignificant and a throwaway provision.

We are talking about the preamble. Like the preamble to the Constitution, "we the people," this is meaningful. Some things we hold dear. The safe and the smart decision would be to eliminate the disagreement by getting rid of that provision entirely.

I urge all colleagues to support the McCain-Barrasso amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, this amendment is unnecessary because, as General Chilton, who is the commander of U.S. Strategic Command, said:

I can say with confidence that this treaty does not constrain any current or future missile defense.

Secretary Gates has said that what the Russians wanted to achieve was a restraint. He said this treaty doesn't accomplish that for them.

Even though the language is completely nonbinding, has no requirement in it whatsoever, this amendment requires us to go back to Russia, renegotiate the treaty, open whatever advantages or disadvantages they may perceive since the negotiation exists, and we would go through a prolonged negotiation. We have no verification whatsoever today because that ceased on December 5 of last year. We need to hold this treaty intact and pass it.

I yield whatever remaining time I have to the chairman of the Armed Services Committee.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, every one of our military leaders has said to the Armed Services Committee and I believe they have reiterated to the Foreign Relations Committee that there are no constraints in this treaty on missile defense, period, end of quote. These are our top military leaders. They are in charge of missile defense. They say there are no constraints.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 4814.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from New Hampshire (Mr. GREGG), and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted "yea" and the Senator from Kentucky (Mr. BUNNING) would have voted "yea."

The result was announced—yeas 37, nays 59, as follows:

[Rollcall Vote No. 282 Ex.]

YEAS—37

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bond	Enzi	Murkowski
Brown (MA)	Graham	Risch
Brownback	Grassley	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Kirk	Vitter
Corker	Kyl	Wicker
Cornyn	LeMieux	
Crapo	Lieberman	

NAYS—59

Akaka	Franken	Nelson (NE)
Baucus	Gillibrand	Nelson (FL)
Bayh	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Inouye	Reid
Bennett	Johnson	Rockefeller
Bingaman	Kerry	Sanders
Boxer	Klobuchar	Schumer
Brown (OH)	Kohl	Shaheen
Cantwell	Landrieu	Specter
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Conrad	Lincoln	Udall (NM)
Coons	Lugar	Voinovich
Dodd	McCaskill	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feingold	Mikulski	Wyden
Feinstein	Murray	

NOT VOTING—4

Bunning	Hatch
Gregg	Manchin

The amendment (No. 4814) was rejected.

Mr. KERRY. I move to reconsider the vote.

Mr. NELSON of Florida. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 4839

Mr. RISCH. Mr. President, is amendment No. 4839 at the desk?

The PRESIDING OFFICER. It is.

The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. RISCH] proposes an amendment numbered 4839.

Mr. RISCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the preamble to the Treaty to acknowledge the interrelationship between non-strategic and strategic offensive arms)

In the preamble to the New START Treaty, insert after "strategic offensive arms of the Parties," the following:

Acknowledging there is an interrelationship between non-strategic and strategic offensive arms, that as the number of strategic offensive arms is reduced this relationship becomes more pronounced and requires an even greater need for transparency and accountability, and that the disparity between the Parties' arsenals could undermine predictability and stability,

Mr. RISCH. Mr. President and fellow Senators, what we are going to do is, tomorrow, at noon, we are going to start with amendment No. 4839. Amendment No. 4839 deals with the relationship between strategic weapons, which this treaty deals with, and tactical weapons, which this treaty does not deal with but should. That is essentially the purpose of this amendment.

I think virtually everyone who is involved in this debate has an opinion on this, No. 1. But almost everyone agrees that the issue of tactical weapons, namely, short-range weapons, is a very serious issue and rises to at least the level of the discussion on strategic weapons, and perhaps even more so.

So tomorrow we are going to have a spirited discussion about those issues. There has actually been quite a bit of debate already on this, and for those of you who are like me, and you take the CONGRESSIONAL RECORD home and read it in the evening, if you go back and look at the debates on the various treaties that dealt with nuclear weapons treaties, you will see that some very bright people, some of whom are still Members of this body, have already spoken on this issue.

I am looking forward to having this discussion tomorrow.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

MORNING BUSINESS

Mr. TESTER. Mr. President, I ask unanimous consent to go into morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TESTER. Mr. President, before I talk about the Forest Jobs and Recreation Act, I want to say, you never looked better, Mr. President. So I appreciate you being in the Chair today.

FOREST JOBS AND RECREATION ACT

Mr. TESTER. Mr. President, I want to talk a little bit about the omnibus bill that was pulled down 2 nights ago because there were not the votes from across the aisle to get the bill moving.

In that omnibus bill, there was a number of very important projects for every State in the Union. But there were a lot of very important projects for the State of Montana in that bill that I am afraid now will be put on the back burner.

Nonetheless, there was also some very important language in the omnibus bill. In my particular case, there was language in that bill that was going to help put people back to work, and that language was contained in a bill we call the Forest Jobs and Recreation Act.

What this bill does is create 660,000 acres of new wilderness. It creates 370,000 permanent acres in new recreation areas. It requires forest restoration and logging of 100,000 acres over 15 years.

It is important in Montana for several reasons. The first reason is, we have been attacked by beetles, the bark beetles that have killed a large percentage of our forests, and we need to give the Forest Service the tools they need to be able to treat that.

The second thing is that in the western part of Montana the economy has been hurt pretty badly. The unemployment rate there is the highest in our State. This bill will create jobs. Let me give you an example.

Over the last year, in Montana, 1,700 jobs were lost in the wood products industry alone. This bill would help get those folks back to work. How? Well, it would help the folks running the chain saws, doing the cutting in the woods, the mills that create dimension lumber and plywood, and those kinds of things, get back up running and employing people.

It would help provide the opportunity for biofuels with these trees, to be able to get a dependable supply, to be able to put the investment in to create biofuels, and move that industry along, to make this country more energy independent.

It would help save our timber infrastructure because, quite frankly, if you look at some of the States in the West, that timber infrastructure is gone, and our ability to manage those forests leaves us when that timber structure goes. That is not the case in Montana, but we are getting very close. It is why

this bill needs to be passed. Unfortunately, it does not look as though it is going to happen at this point in time.

The other part about this bill—as I said, while there were so many projects in the omnibus, the CBO says this bill is deficit neutral, with no cost to the taxpayers. It is a bipartisan bill. It is a bill we have support for from both sides of the aisle, with Governors and Senators and Congressmen and local county commissioners, from both parties.

It is a bill that the Forest Service, through Secretary Vilsack, supports. It is popular with over 70 percent of Montanans.

As I said earlier, we are in dire need of it because our forest is dying, with over 1 million acres of dead and dying trees. This bill has been the subject of intense public debate for the past year and a half since I dropped it in. We had a Senate hearing a year ago, a year ago yesterday, I believe it was. We have had townhall meetings, 11 in total, across Montana. We have had unprecedented transparency with this bill, with it being online and explaining and taking input and changing the bill as it has moved forward, making it a better bill. We have taken suggestions from the public, and where we have been able to address those concerns, we have been able to address them straight-up and move forward. It really is a new way of doing business for the Forest Service, for our forested lands, our government-owned forested lands in this country.

It has not been an easy go. This bill would not have happened 10 years ago. It absolutely would not have happened 20 years ago because for the last 30 years we have had gridlock in our forest industry. We have had conservationists and environmentalists and loggers and mill owners and recreationists all fighting with one another, and nothing has gotten done in the last 30 years.

Well, about 5 years ago these folks got together and they said: You know, we have all been losing. Nobody has been winning. We should set our differences aside—and this body should listen to this—set our differences aside, find a common ground, and move forward with solutions. They did exactly that. It was not easy, but they did exactly that—where everybody gives a little but gets a lot. They sat down at those tables and they met, and they met for years, and they came up with this proposal.

Shortly after I was elected, they came to me and said: Would you carry it?

I looked at it, and I said: You know what, this bill makes sense. It makes sense for Montana. It makes sense for the West.

We were on track to get this bill passed until the omnibus was pulled the other night because of a lack of support. Our No. 1 responsibility right

now is jobs—jobs, jobs, jobs. This bill helped create jobs, helped put people to work in an industry that needs help.

Regardless of what happens from here, it is going to be critically important that we stay focused on jobs in this body. I will tell my colleagues that I think if we do that and we are successful in that, this country will be a better place. It will be a better place for our kids and our grandkids, and it will be a better place for people right now. Quite frankly, I haven't seen a lot of that working together in the last 4 years. When we have a piece of legislation that really isn't a Democratic piece of legislation or a Republican piece of legislation but, rather, a good piece of legislation, it gets caught up in the process.

I will continue to fight for jobs for everybody in this country, particularly in Montana. We will continue to work to get this bill passed and bills like this passed because it is good for the country and it gives the agencies—in this case, the Forest Service—the kinds of tools they need to manage our forests.

As I said before, I was going to ask unanimous consent for the passage of this bill. I have been informed that will be objected to, so there is no reason to go through that formality. But I will say we hope to bring it up again, and hopefully next time we will be successful because it is a good bill.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Idaho.

Mr. RISCH. Mr. President, I wish to respond briefly to my good friend from Montana.

First of all, let me say that I, of course, was at the hearings the Senator referred to in our Energy and Natural Resources Committee. Ordinarily, I wouldn't involve myself at all in the internal matters in Montana. Natural resource issues are best decided by the people who live in the particular counties and in the particular States where that resource is located. On this particular issue, however, one of the areas of land included in the landmass my good friend from Montana described in his bill is an area that is referred to as Mount Jefferson. Mount Jefferson and the area included admittedly are entirely within the State of Montana. However, the only way the southern part can be accessed is through the State of Idaho.

I couldn't agree more with my good friend from Montana in saying that we need to keep our eye on the ball, and that is jobs, jobs, jobs.

The particular area in question is not a large area. I think the total amount is 4,400 acres. The amount I am talking about is about 2,200 acres, but it is used intensively by Idaho people engaging in recreation in the wintertime. Under my good friend's bill, that would have been closed out, and the snowmobiling

particularly would have been prohibited in this area, which is the south side of Mount Jefferson.

I sincerely appreciate my friend's willingness to talk about this and to work on this particular issue. As we go forward with this—and I have no doubt that his commitment to his State will cause him to continue to work with us on this issue and to deal with this particular bill and the areas of land he is talking about in this bill as we go into the next Congress. I commit to work with him, and I hope we can resolve this issue. As I say, the issue of winter snowmobiling only as far as motorized use of this particular area is of great importance to the people of the State of Idaho.

I thank the Senator for his courtesies thus far, and I look forward to working with Senator TESTER in the next Congress on this issue.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Thank you, Mr. President.

I appreciate the remarks of the good Senator from Idaho. I understand the Senator's concern as we have talked about the Mount Jefferson issue before. Overall in the bill, just for the record, we have added 370,000 acres of recreation area for exactly that—snowmobiles. That doesn't solve the problem on Mount Jefferson of the 4,400 acres, but we will continue to work with the Senator from Idaho and move forward to try to get something as close to what meets the needs of everybody as we can. As Vince Lombardi once said, the recipe for failure is trying to please everybody.

I thank the good Senator from Idaho.

The PRESIDING OFFICER. The Senator from Iowa.

TRIBUTES TO RETIRING SENATORS

BYRON DORGAN

Mr. HARKIN. Mr. President, with the close of the 111th Congress, the Senate will lose one of its most popular, articulate, and outspoken Members. I will lose a kindred spirit and a fellow progressive populist, BYRON DORGAN, who has spent his entire four decades in elected office fighting on behalf of family farmers and ranchers, struggling small businesses, ordinary working Americans, and anyone who has been run roughshod over by big business, big banks, or big government.

Both Senator DORGAN and I are proud of our roots in the rural upper midwest. I was raised in Cumming, IA, population 162. He was raised in Regent, ND, population 211. BYRON always liked to joke that he graduated in the top 10 of his class of 9 students.

Senators on both sides of the aisle have come to respect and admire Senator DORGAN's distinctive voice here in

the Senate, a voice that mixes keen intelligence with a great sense of humor, plus a gift for making his arguments with colorful, compelling stories and language. Throughout his more than four decades in public service, he has used that voice to speak out powerfully for farm country in rural America. He has fought hard for policies at the national level to give rural families a better chance at success. He has been a strong supporter of the farm bill's safety net provisions, including countercyclical support for farmers to get them through hard times, and he has been equally outspoken in championing strict limits on Federal farm payments to ensure that the lion's share goes to small family farms, not big agribusiness and absentee farm owners.

As a senior member of the Energy and Natural Resources Committee and chair of the Appropriations Committee's Energy and Water Development Subcommittee, Senator DORGAN has always been an outspoken champion of clean, renewable, homegrown energy, including wind and solar and biofuels. He likes to boast that North Dakota is "the Saudi Arabia of wind." Well, my folks in Iowa might dispute that claim, but we get the point. BYRON and I have both been strong advocates of building a nationwide distribution grid for wind- and solar-generated energy.

I wish to make just one more point about Senator DORGAN. I guess I can say this now since he is retiring and a political opponent won't be able to use it against him. BYRON DORGAN is an intellectual. He has a passion for ideas and knowledge. He even writes books—actually, really good books, the kind that show up on the New York Times bestseller list. I am a great fan of his 2007 book entitled "Take This Job and Ship It: How Corporate Greed and Brain-Dead Politics Are Selling Out America." If you want a blistering and I think dead-on account of the causes of the crash of 2008, read BYRON's other book entitled "Reckless! How Debt, Deregulation, and Dark Money Nearly Bankrupted America."

I consider BYRON DORGAN a great friend, a great Senator, and a great advocate for all working people in this country. He has accomplished many things in his three terms here in the Senate, but I can think of no greater accolade than to say simply that he is a good and decent and honest person with a passion for social justice and a determination to make life better for ordinary Americans.

When the 111th Congress comes to a close, of course, my friendship with BYRON will continue, but I will miss his day-to-day counsel and good humor. I join with the entire Senate family in wishing BYRON and Kim the best in the years ahead.

KIT BOND

Mr. President, with the retirement of Senator KIT BOND at the close of this

Congress, the Senate will lose one of its most respected veteran Members, and a truly distinguished individual with a distinguished career in public service will come to an end. Of course, we would expect big things from a young man who graduated with honors from Princeton and first in his class at the University of Virginia Law School, and KIT BOND did not disappoint.

At age 30, he became assistant attorney general of Missouri, serving under former Senator John Danforth. At age 33, he was elected Governor of the State of Missouri, serving two terms. In 1986, he was elected to the Senate, where he has now served for nearly a quarter of a century.

Over the years, KIT BOND has been a great friend and a frequent collaborator, especially on the Appropriations Committee. For example, in 1993, when the Midwest was devastated by historic floods, Senator BOND was the senior appropriator in the minority party from the nine impacted States, and I was the senior appropriator in the majority party. We took the lead in the Senate, working together very effectively to rally Federal assistance to victims all across the stricken Midwest.

Over the years, we have worked together to improve the locks and dams along the Upper Mississippi. I can say I think we are both proud of our work in the early part of this decade, forging an agreement to authorize the modernization of five of the critical locks so that our goods can move more efficiently up and down the river. We worked very hard for about 4 years to bring together a remarkable coalition of industry and agriculture and the environmental community to make this project possible.

Senator BOND and I are members of a breed of Senators affectionately known around here as "pavers." We both believe very strongly that it is a cardinal responsibility of the Federal Government to invest generously in a first-class national transportation infrastructure—the roads, the bridges, the locks, the dams, and so on—what we call the arteries and the veins of commerce.

Senator BOND and I have also collaborated frequently to boost the rural economy and improve the quality of life of the people who live in our rural communities. In particular, we have used funding through the Housing and Urban Development Subcommittee of Appropriations to approve housing for people of modest means, with a particular focus on rural areas. On this score, I would note Senator BOND was a "compassionate conservative" long before that term came into fashion. He cares deeply about the well-being of the less fortunate in our society, giving them both a helping hand and a hand up. In the mid-1990s, I was proud to work with Senator BOND on the first bipartisan welfare reform bill, mod-

eled, I might say, on the very successful welfare-to-work program we had in Iowa.

Over the years, Senator BOND has recruited and retained an exceptionally talented staff.

In particular, I will cite Jon Kamarek, his outstanding lead staffer for many years on the Appropriations Committee, with whom I have had the pleasure of working on many occasions. I know Senator BOND also places great store by his long-time staffer and current chief of staff, Brian Klippenstein—who, by the way, had the good sense to marry a Democrat from the State of Iowa.

Mr. President, the Senate has been fortunate to have a Senator of KIT BOND's high caliber and character for the last 24 years. In so many ways, he represents the very best in this body—a passion for public service, a willingness to reach across the aisle to get important things done, and an insistence on the highest ethical standards. He has always been determined to do the right thing for the people of Missouri and the entire United States.

For me, it has been a great honor to be his friend and colleague for the last 24 years. Our friendship, of course, will continue. And I wish KIT and Linda the very best in the years ahead.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that at the conclusion of my remarks, Senator HARKIN be recognized again, followed by Senator CARPER, and then Senator BROWN.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING CONGRESSMAN PATRICK J. KENNEDY

Mr. WHITEHOUSE. Mr. President, I rise to make a few brief remarks in honor of Congressman PATRICK JOSEPH KENNEDY of Rhode Island.

With PATRICK's departure from the House of Representatives to seek new challenges and enjoy some well-earned time out of the political spotlight, my home State of Rhode Island is losing a champion for working families and our country is losing a public servant who did as much as anyone else to care for and lift those in the shadows of life.

It is a moment to thank PATRICK for his many contributions to the lives of Rhode Islanders over his 16 years of service in the House but also a moment to reflect on his unique place in the political history of our country.

After all, the 112th Congress will be the first in more than half a century in which no member of the Kennedy family is serving in either the House or the Senate.

In Rhode Island, a State that he adopted, and that adopted him/he first

entered public service at the young age of 21, winning his congressional seat a few short years later in 1994, one of only four GOP seats Democrats won in that election.

Over the years, PATRICK continually faced capable and well-funded opponents, but his constituents had come to recognize and welcome his humble dedication to their lives, re-electing him seven times. He was my younger, but senior, colleague on our delegation.

The arena of politics is combative—all the more so when your last name is Kennedy—but PATRICK persevered, and he persevered despite his own health and addiction challenges.

And instead of running from those challenges, instead of hiding from those challenges, PATRICK had the courage and wisdom to realize that the problem he was experiencing was a problem shared by millions of families in America. Instead of hiding from public scrutiny, he stood tall—not only on his own behalf, but also on behalf of Americans who needed a champion to bring their struggles to the forefront of the national agenda.

With that, PATRICK's campaign for mental health parity took fire, resulting in passage of the landmark Mental Health Parity Act of 2008, an achievement Speaker NANCY PELOSI described as "the legislative feat of the century."

In that fine cause, PATRICK had the chance to work with a towering champion of civil rights, the lion of the Senate, his father.

Peer to peer, man to man, they hashed out the final bill in conference. The father, with his easy, booming laugh and affectionate camaraderie; the son, with his fierce but quiet determination.

Thus did PATRICK help lift up millions of Americans. Thus did he earn a place alongside his father—a man he called his hero, his inspiration. Thus did he emerge as a champion for so many who needed one so badly. Thus did he uphold the best traditions of the family and the Nation he loved.

PATRICK has proudly carried on his family's spirit of service and their fight for social justice. And to be sure, he has always been proud to be Teddy's son. "From the countless lives he lifted," PATRICK said, "to the American promise he helped shape, My father taught me that politics at its very core/was about serving others."

In the service of others, PATRICK too brought to the rough and tumble of politics/traits that made him unique, and he left behind accomplishments that allow him to stand on his own as one of the great legislators of our time.

Indeed, of all the descendants of President Kennedy, and of Bobby Kennedy, and of our own late colleague Ted Kennedy, it was PATRICK who last held public office, PATRICK who longest held public office, PATRICK who youngest held political office, and PATRICK who

most successfully used public office to further the family's mission of lifting up every American.

PATRICK'S success as a Member of Congress came not easily, not from the charm charisma so characteristic in his family but rather from simple hard work, unshakeable integrity, and his formidable determination to win what others had sought.

Henry Wadsworth Longfellow wrote in "The Ladder of St. Augustine":

The heights by great men reached and kept,

Were not achieved by sudden flight,

But they, while their companions slept,

Were toiling upward in the night.

The story of PATRICK KENNEDY is not a story of glamorous sudden flight to glory. It is a tale of long and silent toil, upward, and in the night, in the shadow of his own challenges.

The best part of this story is that PATRICK'S work is not yet finished. Neither his father nor his uncles got to experience life after public service. But, stepping away from the Congress at the age of 43, PATRICK'S road stretches ahead for many more miles.

I know that PATRICK will continue to look for ways to give back to the State that gave him a chance to serve and the Nation that gave his family a chance to thrive. And he will always enjoy the gratitude of Rhode Islanders whom he has served so well and Americans whose burdens he has helped to relieve. And I will always be proud to consider him a legislative inspiration, a political ally, and a beloved friend.

PATRICK, thank you. And I wish you all the best in this new beginning.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

TRIBUTES TO RETIRING SENATORS

RUSS FEINGOLD

Mr. HARKIN. Mr. President, with the close of the 111th Congress, the Senate will lose to retirement Senator RUSS FEINGOLD of Wisconsin—a proud progressive, a fearless reformer, and a genuine maverick in the very best sense of that much-abused term.

During his three terms in this body, Senator FEINGOLD has been a worthy successor to another great progressive reformer from Wisconsin, Senator Robert "Fighting Bob" LaFollette, whose desk I am proud to occupy, here on the Senate floor—and whose portrait is displayed prominently in Senator FEINGOLD'S office.

Like Senator LaFollette, RUSS FEINGOLD knows that it is not enough to be on the side of the angels. It is not enough to have our hearts in the right place. Progressivism, by its very nature, is a fight against entrenched corporate interests, entrenched economic privilege, and entrenched political power. If we are going to succeed

against these forces, we have to know how to fight, and we have to be willing to fight. And, as our colleagues here in the Senate know very well, Senator FEINGOLD is equally skilled at building bridges across the aisle and tenaciously carrying the fight to those who oppose progressive change.

Most famously, we witnessed these talents during Senator FEINGOLD'S relentless campaign to pass the landmark 2002 Bipartisan Campaign Reform Act, better known as the McCain-Feingold law. Senator FEINGOLD and his legislative partner, Senator JOHN MCCAIN, championed this legislation for nearly 2 years, overcoming stiff resistance from both parties, as well as from powerful interests outside the Senate. They faced countless obstacles but refused to give up. They won.

Again, in 2007, in the wake of the Abramoff scandals, Senator FEINGOLD played the key role in pushing through the Honest Leadership and Open Government Act, a tough ethics and lobbying reform bill, which included stringent disclosure requirements and a crack-down on abusive practices by lobbyists.

As chair of the Judiciary Committee's Constitution subcommittee, Senator FEINGOLD cast the Senate's lone vote against the USA PATRIOT Act.

For nearly two decades in this body, Senator FEINGOLD has been an outspoken champion of working Americans—fighting for safer workplaces, the right to organize, stronger public schools, better access to higher education and health care. He has always stood up for Wisconsin's family farmers and rural communities.

Senator FEINGOLD has accomplished important and even historic things during his tenure as U.S. Senator. But, in my book, the highest accolade is simply that RUSS FEINGOLD is a good and decent person, with a passion for fairness, social justice, and honest government.

For me, it has been a great honor to be his friend and colleague for the last 18 years. Our friendship, of course, will continue—as will RUSS FEINGOLD'S fight for the progressive causes we both believe in.

Our great friend Paul Wellstone used to say that "the future belongs to those with passion." By that definition, RUSS FEINGOLD has a wonderful future ahead of him. I join with the entire Senate family in wishing him the very best in the years ahead.

ROBERT BENNETT

Mr. President, in these closing days of the 111th Congress, the Senate will be saying farewell to one of our most seasoned and accomplished Members, respected on both sides of the aisle, Senator ROBERT BENNETT of Utah.

Certainly, no one in this body doubts Senator BENNETT'S staunch conservative values and principles, especially on fiscal and regulatory issues. But,

throughout his 18 years in this body, Senator BENNETT has been a consensus builder, willing to reach across the aisle in order to get important things done for the people of Utah and of the entire United States. Clearly, this thoughtfulness has caused him to lose favor with the more extreme wing of his party, for which he paid a price during the primary election this year. I know I am not alone in mourning the loss of one of the Senate's most thoughtful conservatives.

For example, he partnered with Senator RON WYDEN of Oregon in advocating a legislation to provide universal health insurance coverage.

And in response to the financial crisis of 2008, as a senior member of the Senate banking committee, he supported the Emergency Economic Stabilization Act. Senator BENNETT was widely criticized by those on the right, as was I for the same vote by critics on the left. But he can take great pride in it, because facts are facts: the Troubled Assets Relief Program prevented a total meltdown of our financial system. And almost the entire \$700 billion taxpayer investment has been—or soon will be—paid back to the Treasury. In fact, just this week, the Treasury booked a \$12 billion profit on its previous \$45 billion TARP investment in Citigroup.

I have been proud to call BOB BENNETT my friend for the last 18 years, and I count myself fortunate to have served with him on the Appropriations Committee. He is a gentleman, a bridge-builder, a person of rock-solid character and integrity.

I join with the entire Senate family in wishing BOB and Joyce the very best in the years ahead.

BLANCHE LINCOLN

Mr. President, in these closing days of the 111th Congress, the Senate will be saying farewell to one of our most popular Members, Senator BLANCHE LINCOLN of Arkansas.

During her 12 years in this body, at a time when the Senate has become increasingly partisan and ideologically divided, Senator LINCOLN has charted an alternative course. She has cultivated friendships and collaborations on both sides of the aisle, and has been skilled in forging bipartisan agreements on a wide range of issues.

Last year, Senator LINCOLN succeeded me as chair of the Agriculture Committee. I would note that she is the first Arkansan and the first woman to serve in that position.

She has used that position to champion causes that have been her passion for many years, including revitalizing rural communities, supporting family farmers, promoting biofuels and other forms of renewable energy, and advocating for better nutrition for our school-aged children.

Senator LINCOLN is leaving the Senate at the very top of her game. Just

this week, President Obama signed into law the Claims Resolution Act of 2010, the culmination of Senator LINCOLN's efforts to provide justice for African-American farmers who suffered decades of discrimination in agricultural programs.

Also this week, President Obama signed into law the Healthy, Hunger-Free Kids Act, which will become a major part of Senator LINCOLN's legacy as a Senator.

When I handed over the gavel of the Senate Agriculture Committee to Senator LINCOLN last year, much work had been done on the child nutrition bill but much remained to be done. Senator LINCOLN did a fantastic job—a masterful job—of taking over the child nutrition authorization and shepherding it to a unanimous approval by the Senate. Thanks to her leadership, low-income children will have increased access to Federal nutrition programs, the nutritional quality of the programs will improve, and the financial foundation of the National School Lunch Program will be greatly reinforced.

Senator LINCOLN also exhibited extraordinary leadership earlier this year in the Wall Street reform bill. Again, as the chair of the Senate Agriculture Committee, she was able to forge bipartisan consensus for strong reform of the derivatives market. Indeed, the provision she championed will help to restore integrity to the derivatives markets, it will allow companies to safely use derivatives to manage their business risk, and it will help to prevent future financial crisis. I was proud to support her in those efforts.

For the last 12 years in this body, Senator LINCOLN has been a tireless advocate for the people of her State of Arkansas, for American agriculture, for rural Americans, and for families with small kids. She has been an outstanding Senator and a wonderful friend. I join with my colleagues on both sides of the aisle in wishing BLANCHE and Steve and their twin boys Reece and Bennett the very best in the years ahead.

Mr. President, I yield the floor, and I thank my colleague for his forbearance.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Before Senator HARKIN leaves the floor, let me say I am so pleased that I was literally able to be here on the floor and hear you talk about our colleagues. What a wonderful thing to do, and to single out Democrats and Republicans and to reflect upon their service to their States and to our country. I had to mention that.

You mentioned BLANCHE LINCOLN. A lot of people say I respect my colleague, I think highly of my colleague, but here in the Senate we love BLANCHE. We love BLANCHE and her family. She is such a joy to work with. Always up, even during the course of

the tough year she has had. I remember her more than once saying what doesn't kill you makes you stronger. And she has come through this with a smile and such grace, it is just remarkable. I loved working with her on the Finance Committee, especially on the health care bill that is designed to provide better outcomes for less money.

BOB BENNETT

You mentioned BOB BENNETT. He and I served on the Banking Committee for a number of years. In the end, he lost his seat I think because of his willingness to do what we were rewarded for in Delaware, and that is to reach across the aisle and find ways for Republicans and Democrats to do things together. We will certainly miss him.

RUSS FEINGOLD

RUSS FEINGOLD may be best known for his work on campaign finance reform, but I admire his work very much on helping to strengthen the President's rescission powers. I think the seeds he has planted there will bear fruit maybe next year.

So to him and the others who are leaving us, I say what a joy it was to serve with them, and I especially want to commend and thank you for remembering them as you have done today.

Mr. HARKIN. I thank the Senator very much.

DON'T ASK, DON'T TELL

Mr. CARPER. Mr. President, in November 1948—that was 1 year after my birth—President Harry Truman issued a highly controversial Executive Order. It called for beginning the process to bring to an end the longstanding policy of racial segregation in the Armed Forces of our Nation.

Just a few years earlier, my father and three of my uncles had served on active duty for much of World War II. One of them—Bob Patton—was killed in a kamikaze attack on his aircraft carrier, the USS Suwannee in 1944. But all four of them—my dad and three uncles—were born and raised near the coal mining town of Beckley, WV, where my sister and I were born after the war.

Neither my father nor my uncles ever discussed with us the implication of President Truman's Executive Order. Having said that, I later learned that many of the people in my native State opposed it, as did many people in Danville, VA, the last capital of the Confederacy and the place where my sister and I would grow up.

The transition that followed President Truman's actions was not an easy one, but history would later show the steps he ordered 62 years ago this year were the right ones for our military and for our country.

Twenty years after Truman's historic action, I was commissioned an ensign in the Navy and headed for Pensacola,

FL, to begin the training that would enable me to become a naval flight officer. I had just graduated from Ohio State University—The Ohio State University, I guess—which I attended on a Navy ROTC scholarship. My sister was not in our ROTC unit at Ohio State. In fact, there were no women in that unit, and to the best of my knowledge there were no women in any of our ROTC units across the country nor in our military service academies in America either.

A lot of people thought that was fine, and while there were women who served then in our Armed Forces, they were denied the opportunities that I and a lot of other men had that enabled us to advance in rank and to assume positions of ever greater responsibility. I went on to serve in Southeast Asia and retire as a Navy captain after 23 years of active and reserve duty. No women served with us in my active-duty squadron, but as the years passed that began to change. Young women gained admission into ROTC programs in colleges and universities across America and into our service academies as well. They became pilots, they flew airplanes, helicopters, served on ships, and someday, before too long, they will serve on some submarines as well.

Today, women are admirals and they are generals. While there is still resistance to the transition that continues to this day—and much of that is understandable—most of us who have lived through it would agree this change has helped to make our military and our Nation stronger.

Today, we face a different kind of transition—a challenging one, too—and that is whether to end the policy of don't ask, don't tell. Confronted with this question and how to answer it, I have sought the counsel of a number of people over the past year whose wisdom I value. Foremost among them has been our Secretary of Defense Bob Gates. He has graciously shared his thoughts on this difficult and contentious issue with me and with many of my colleagues, both in private and in public forums.

Today I stand in agreement with the Secretary and with ADM Mike Mullen, the Chairman of our Joint Chiefs of Staff. The time has come to repeal the law that requires young men and women to lie about who they are in order to serve their country.

Having said that, however, I also agree with them that this transition—like several of the others I have talked about—must be done in a way that eases the military into this change over time so that it does not adversely affect or undermine our military readiness, our ability to recruit, and our morale.

The proposal we approved an hour or so ago seeks to do exactly that. It will empower Secretary Gates and our

other military leaders to carefully implement a repeal of don't ask, don't tell in the months ahead. Repeal is not something that is going to happen overnight. The Secretary and the Joint Chiefs are going to do this in a deliberate and responsible way, and it will take some time. Our military leaders have made it clear they want Congress to act now, though, to enable them to begin to implement this repeal of don't ask, don't tell in a thoughtful manner rather than to have the courts force them into it overnight.

I support that approach. I support the approach recommended by our military leaders. I stand behind Secretary Gates and our Nation's other military leaders as they prepare to lead our military and our Nation through this historic transition, rather than to allow the courts to do it for us in ways that we may some day live to regret.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

NET NEUTRALITY AND COMCAST/ NBC MERGER

Mr. FRANKEN. Mr. President, I rise today to talk about the growing threat of corporate control on the flow of information in this country.

Today we have been debating incredibly important issues, and I don't mean to detract from any of them. We need to be doing everything we can to protect our national security and to reduce the threat from nuclear weapons. But while we debate these issues in front of the public, behind the scenes, away from public scrutiny, the Federal Communications Commission is about to decide two distinct but very closely related issues that have the potential to change dramatically the way we get our entertainment, the way we communicate with one another, and, most importantly, the way we use the Internet.

The first matter before the FCC is the proposed merger of Comcast and NBC/Universal. There is no question in my mind that regardless of what you hear from industry, this merger will be bad for consumers on many levels. It will allow Comcast to exploit NBC/Universal's content, charging other cable networks more for access to NBC shows and movies. Do you know what that will do? It will raise your cable bills. And NBC/Universal—which actually owns 37 broadcast or cable networks—will be favored by Comcast to the exclusion of other independent or competing networks. This means Comcast will pay less to carry channels such as the Discovery Network, the Food Channel, Bloomberg, or the Tennis Channel—threatening their financial viability—or these channels will be relegated to the graveyard around channel 690 or 691 or 692, or customers will have to pay even more each month to buy access to these channels.

This is bad for consumers because it is going to put many of these networks out of business. That means less choice and more Comcast/NBC programming.

But it doesn't end there. Comcast also happens to be the Nation's leading wireline broadband Internet provider, which means this single company will both own the programming and run the pipes that bring us that programming. Here again, Comcast will be able to use its overwhelming market share—and in many markets its near monopoly in the Internet business—to favor its own video services, say, its OnDemand service, over companies such as Netflix, that are cheaper and would otherwise win on a level playing field.

These are all major problems with the deal. But it might be tough to understand in the abstract how this deal will affect you, so let me take a minute or two to make this more concrete.

I ask the people sitting in the gallery, the Senate staff watching this speech, and everyone at home in Minnesota: How many of you like your cable and Internet provider?

When you call Comcast or Verizon or AT&T about a problem, how many of you get good service? How many of you like the prices you pay?

When you decide you want to sign up for broadband, and Comcast tells you that they aren't sure when they can come to install your service, and then finally you get an appointment and you have to take a day off from work to wait between 9 a.m. and 2 p.m. for a repairman to come, and then he doesn't come, is that how you feel you deserve to be treated?

Are you getting good service when you call Verizon and spend 10 minutes listening to automated messages and pressing numbers that direct you to more automated messages, and then finally—finally—you get a human being on the line but that person tells you that he or she can't help you and you get put on hold again; is that how you deserve to be treated? Are you getting good service?

When you have had enough with bad service and rapidly rising bills and you decide you want to switch to another company, how many of you have found that you don't have another choice? That there is no other cable provider in your area?

I can tell you that right now, Comcast has about 23 million cable subscribers and about 16 million Internet subscribers. They are already the largest provider of cable service to Americans by a very large margin, and in some areas, they have a total monopoly.

And this is what cable and Internet customer service is like today. Do you think that merging the single largest cable provider, which is also the largest wireline Internet provider, with one of the biggest TV and movie studios in the country, will make any of this bet-

ter? Do you think it will lead to lower prices on your cable and Internet bills? Do you think it will mean more choice for what you can watch and download at home? Do you think it will mean better customer service?

I can assure you that the answer to these questions is no, no, no, and no.

We count on competition in this country to keep corporations in check, and we have designed antitrust laws to ensure that companies are not getting too big or too powerful. These laws were designed to protect consumers, because the one thing we know about corporations is that they are created to maximize shareholder profit—not to protect consumers.

There is nothing wrong with that. We want corporations to grow, and create jobs, and provide goods and services. There are some great corporations based in Minnesota, like General Mills and 3M. In addition to providing you Cheerios and Post-it notes, these companies put a lot of Minnesotans to work.

But when you go shopping for cereal, you have a lot of choice. General Mills may produce Cheerios, but they have to compete with companies such as Kellogg's, which makes Corn Flakes, and Post, which makes Fruity Pebbles. And they all have to compete with the store or value brands.

Let's look at another example of the benefits of competition. When you go out for dinner at a restaurant, you usually have a lot of options. I am guessing you don't go back to the restaurant that served you limp lettuce, mediocre meatloaf, and cold, lumpy mashed potatoes. And I am guessing you wouldn't go back if they told you that you would be served sometime between 9 a.m. and 2 p.m.

Unfortunately, you don't always have that kind of choice when it comes to your cable and Internet service. And this is only going to get worse if the FCC allows the merger between Comcast and NBC to sail through. It is competition—and regulation where there isn't competition—that keeps corporations accountable to consumers.

But don't take my word for it. You can already see what Comcast has up its sleeve. If the merger is allowed to go through, as I mentioned before, we can expect Comcast to favor its own content and leave consumers with less choice.

Take the Tennis Channel, which filed a complaint against Comcast earlier this year. It alleged that Comcast has been favoring the Golf Channel and its own sports channel, Versus, by making those channels available as part of its basic cable package, while putting the Tennis Channel on a so-called "premium tier." In other words, if you get cable from Comcast, you get the Golf Channel and Versus for free, but if you want to watch the Australian Open on

the Tennis Channel, you need to pay another \$5 to \$8 per month.

Yet, Comcast pays the Tennis Channel only a fraction of what it pays itself to carry the Golf Channel or Versus, which are much less popular.

I fear this is a sign of things to come. As media conglomerates get bigger and bigger, they have every incentive to make their own content easier and cheaper to access than everyone else's content.

Now, I have been talking to a lot of people about the possible impact of this merger, and do you know what I keep hearing? Do you know what small businesses and cable programmers are telling me? They are coming to my office discreetly, and they are saying that they oppose this merger—but they can't speak out because they are worried about retaliation from Comcast. And to me, that is the definition of a company with too much market share.

Comcast has put out the word that this merger is a fait accompli. They have announced a slate of 43 officers for NBC, despite promising to refrain from doing so until the review of the merger is complete.

So it is no surprise that small—and some not so small—cable networks see the writing on the wall and are not willing to take the chance of opposing this deal publicly, again, for fear of retaliation by Comcast.

And they are probably right. If this deal goes through, Comcast will have the power to put them out of business. If you knew that, would you stand up and complain to the FCC about Comcast? Probably not.

This type of anticompetitive conduct is exactly why we need the Department of Justice and the FCC to stop this merger.

And this merger is only the first domino in a cascade that is sure to come. Make no mistake, if this merger is approved, if this deal goes through, it will be only a year or 2 before we see AT&T trying to buy ABC/Disney, or Verizon trying to buy CBS/Viacom. And you know what these companies will say? "You let Comcast and NBC do it, now it is our turn." And what will the FCC or the Department of Justice say then?

Now is the time to decide whether we want four or five companies owning and delivering all content. Imagine a world with no independent voices, and no competition.

But now let me go back specifically to Comcast. Not just its cable profile. Let's talk about Comcast's control of the Internet. There is no better example of how Comcast plans to use its virtual monopoly than what we have seen in the last few weeks with its treatment of Netflix.

I think we can all agree that Netflix has changed the way many Americans watch movies, and it all started because one of its founders was sick of

paying late fees for movie rentals. This company is one of our Nation's great success stories—it now has almost 17 million subscribers and generates hundreds of millions of dollars in revenue—and it all happened in just over a decade. But most importantly, it offered an alternative and less expensive option for consumers to watch movies.

Netflix now has a lot of money and can write big checks to buy movies and video content, so I didn't think I needed to worry about them. But then I heard that being the highest bidder for content may not be enough.

As it turns out, cable companies are worried about Netflix's success. It represents the first real competition they have seen in a long time, and they want to shut Netflix down. How can they do that? By cutting off Netflix's access to the things people want to watch. And when is this most problematic? First, it is when Netflix's competitors—like Comcast or Time Warner Cable—also own the programming that Netflix carries. Second, it is when Netflix's competitors are also the ones that sell—and control—access to the Internet.

Neither of these are theoretical. Just last week, Time Warner's CEO brazenly stated that Netflix's deals with Time Warner may not be renewed. Other studio executives are saying the same thing.

And what I am hearing is that Comcast, which is not yet even in control of NBC, plans to reverse course and ultimately pull NBC/Universal's programming from Netflix.

Comcast also recently announced that they are imposing a new fee on Level 3 Communications, the company slated to become the primary delivery mechanism and backbone for Netflix's online streaming movies and TV shows. Coincidentally, Netflix is one of Comcast's main competitors for video delivery, which makes this price hike seem just a little fishy to me.

Regardless of Comcast's motives for charging Level 3, this is a clear warning sign of what we can all expect if this deal goes through.

If this deal goes through, Comcast will make it harder and more expensive for you to watch movies online through any service other than its own. If this deal goes through, Comcast will have the power to limit your choices to watching Comcast-owned content over Comcast's services, like its video OnDemand service.

I use the phrase "if this deal goes through" because this is exactly the sort of anticompetitive behavior that the Department of Justice and the FCC are supposed to stop.

What is even more ludicrous is that this is happening when Comcast and NBC should be on their best behavior. Right now, they are under close scrutiny by two Federal agencies, the FCC and the DOJ. Yet they seem to be mak-

ing even more bold-faced power grabs without any concern about government oversight.

But in addition to the Comcast-NBC merger, what is also before the FCC is a new set of proposed rules that will make it easier for large media conglomerates—like Comcast—to do nothing short of controlling the Internet. The chairman of the FCC is calling this a "net neutrality" proposal. But let's be clear. This is not real net neutrality.

I believe this is one of the most serious issues facing our country today. Let me take a step back and explain what net neutrality is. Put simply, it is the idea that big corporations shouldn't be able to decide who wins or loses on the Internet. It is the idea that the Internet should be a level playing field for everyone, from a blogger to a media conglomerate, from a small businessperson to a powerful corporation. I believe that net neutrality is the free speech issue of our time.

The Internet wasn't created by corporations. It was created using taxpayer dollars, and it has dramatically altered our daily lives in more ways than any of us could have ever dreamed. It is an incredible source of innovation, a hotbed for creativity, and an unbelievable producer of wealth and jobs in this Nation. It was instrumental in putting President Obama in office—but it was also equally instrumental in helping the Tea Party become a powerful force in American politics.

I may not agree with everything the Tea Party movement has done, or everything it stands for, but I do firmly believe that the Tea Party has a right to organize and to post its views on the Internet.

Strong net neutrality principles would ensure that everyone—from the most liberal blogger on Daily Kos—to the most conservative fan of Fox News—would continue to have an equal right of access and an equal ability to communicate with like-minded people.

If corporations are allowed to control the Internet, all of that would change. The Internet has become the public square of the 21st century. This is why Tea Party activists and anyone who cares about personal liberties and freedoms should care about net neutrality.

One popular Minnesota blogger should be able to get his or her information to you as quickly as MSNBC. Or to say it another way, MSNBC shouldn't be able to pay millions to get their Web site to load faster on your computer. We do not want corporations to be able to drown out the voices of smaller, less powerful individuals.

Unfortunately, the proposal before the FCC—which I will admit I haven't seen because it has not been made public—would reportedly allow companies to do just that. It would allow Internet

providers to create a fast lane for companies that can afford to pay a premium. It would allow mobile networks, like AT&T and Verizon Wireless, to completely block content and applications whenever it suits them—for either political or business reasons.

Let me underscore this—this is the first time the FCC has allowed discrimination on the Internet.

Let me give you an example. Maybe you like Google Maps. Well, tough. If the FCC passes this weak rule, Verizon will be able to cutoff access to the Google Maps app on your phone and force you to use their own mapping program, Verizon Navigator, even if it is not as good, even if they charge money, when Google Maps is free.

If corporations are allowed to prioritize content on the Internet, or they are allowed to block applications you access on your iPhone, there is nothing to prevent those same corporations from censoring political speech.

The Obama campaign used a mobile app to help organize volunteers. And now there are a bunch of Tea Party apps you can download. But maybe not for long. Not if your wireless carrier doesn't want you to get them. And that is something every American should care very deeply about.

I am here on the floor today because I think Americans need to understand just how critical net neutrality really is.

This is complicated stuff. But it directly affects all of us.

And it is not just about speech, it is also about entrepreneurship and innovation. It is about our economy.

There is no question in my mind that without significant changes, the proposal currently pending before the FCC would be bad for our economy.

Think about companies like YouTube, which started in a tiny office above a pizzeria, and grew to be worth billions of dollars. At the time, Google had a competing product, Google Video, which was then the standard but was widely seen as inferior. Had Google been able to pay Comcast large amounts of money to make its website faster than YouTube's, YouTube would be nowhere. Fortunately, Google could not pay for priority access, and the rest is history.

Think about Facebook. Once upon a time, it was a small startup. Remember Friendster or MySpace? They were once the dominant social networking sites before Facebook won over users with a vastly superior product. But that might have never happened if Friendster or MySpace had paid lots of money to reach users faster. If Facebook had taken a significantly longer time to load on your computer, it never would have succeeded.

These are just some examples of how today's free and open Internet has fostered innovation, which has created jobs, and has spurred competition,

which has benefited all consumers. Now think of the next Facebook or the next YouTube or the next Amazon. The only way to guarantee that innovation will continue is to have strong net neutrality rules that will protect and maintain today's free and open Internet.

So the FCC has to make two big decisions, one on the Comcast-NBC merger, and one on net neutrality. These decisions will impact every American for years to come.

You may not know this, but the FCC is an independent agency. Independent agencies are nonpartisan. They are not beholden to Congress or to the President, and they certainly should not be beholden to the industries they regulate. That is why I am concerned when I hear that the Chairman of the FCC is calling the CEOs of companies they are supposed to be regulating, seeking their public endorsement of his net neutrality proposal.

Independent agencies are charged with acting in the public interest. So when I hear that the FCC is considering a net neutrality proposal that is supported by the largest media corporations in America, I am suspicious, and you should be too. The FCC should not be worrying about getting the sign-off from the very corporations that it is supposed to be regulating, period.

The FCC has made public its plans to act on its flawed net neutrality proposal this coming Tuesday. I sincerely hope that the FCC will make significant improvements before then, and that each of the Commissioners will think long and hard before they vote to approve a proposal that could actually make things worse for all Americans.

I have also heard that the FCC is going to be acting very soon on the NBC-Comcast merger, and it needs to do this in the light of day, not hidden in the middle of Christmas and New Year's. The American people have a right to know about this merger. I will be supremely disappointed if approval of the merger is slipped through when most of America is unwrapping presents and spending time with their families, not worrying about their cable or Internet bills.

We are at a pivotal moment and we need to stop the cascade of dominos that will forever change how we pay for TV and browse the Internet. But it is not too late. The government has a role to play here, and I hope the FCC will step up, be brave, and do what is right for the American people.

I yield the floor.

TRIBUTES TO RETIRING SENATORS

KIT BOND

Mr. ENZI. Mr. President, At the end of each session of Congress it has long been a tradition in the Senate to take a moment to express our appreciation

and say goodbye to those who will not be returning in January for the beginning of the next Congress. One of those I know we will all miss in the months to come is KIT BOND.

I still remember the first time KIT BOND was drawn to our attention on a national basis. It was 1974 and then Governor KIT BOND was being honored for his work in state and municipal affairs by the Jaycees as one of the Ten Outstanding Young Americans of that year. He was in his thirties and he was already making his mark in the day to day life of his home State at a time when most people his age were still trying to find the "right" career to focus their energies on that would be both challenging and rewarding. After seeing him so recognized and realizing what it meant, I was inspired myself. I have been in awe of him ever since.

That honor that KIT received so many years ago proved to be one of the first to come his way during a four-decade career that now includes his service to the people of Missouri on the State and the Federal level. Over the years he has been a champion for the people of his home State and that is why they have elected and reelected him numerous times. Simply put, he has been an outstanding and highly effective legislator.

It is no secret. KIT has an amazing resume. Actually, it is more a record of success that lists what he has achieved and the results he has been able to obtain that reflect the work he has been a part of that has helped to make our country a better place for us all to live.

Looking back, KIT had already begun to make a name for himself when he graduated from the University of Virginia's law school. He was first in his class and had a number of opportunities awaiting him, some of which he explored, before he returned home to Missouri. Once there he began his career of public service as the State's assistant attorney general under former Senator John Danforth.

Soon thereafter KIT won his first statewide race when he was elected to serve as State Auditor. Two years after that, he became the State's first Republican to serve as Governor since the days of World War II. He was also the youngest Governor the State had ever had.

As Governor he learned a lot of lessons that stemmed from being a Republican Governor with a general assembly with 70 percent Democratic majorities in both Houses. He has commented that those days taught him a great deal about the meaning of bipartisanship. That is why, when he ran for and won a Senate seat, he soon became known for his ability to work with all of his colleagues on a long list of issues.

Over the years, for example, he has been a tireless supporter of our Nation's military. He has also been a

fighter for our veterans and their right to the benefits they have earned through their service.

Another issue close to his heart has been the need to increase the availability of safe and affordable housing and improve the infrastructure of Missouri and the rest of the Nation.

These and many other issues that KIR has taken up during his career reflect his belief in the importance of doing everything we can today to make our tomorrows better for our children and our grandchildren—since their future is ours, too.

I know I am not the only one who will have a moment from time to time next year when I will wish KIR was still around here, walking around with that trademark smile of his, caught up in yet another battle for something he believed in, something he knew would be important to the people of Missouri and the future of our Nation.

Fortunately, whenever we feel the need for a little of his advice or an observation or two we will know where to find him—just down the street, back home in Missouri.

Now that this chapter of KIR's life has ended, I have no doubt another will soon begin. As KIR pointed out, "there are many ways to serve" and "elective office is only one of them."

As he leaves the Senate, I would like to thank him for his willingness to serve; his wife Linda for her support and encouragement along the way; his son Sam for his heroic service in our Armed Forces; and all the members of his family who stood behind him over the years.

Diana and I send our best wishes and heartfelt appreciation to them all. We especially want to thank KIR and Linda for their friendship and for all they have meant to this Senate family of ours that extends from one corner of our Nation to the other.

Keep in touch. We will always enjoy hearing from you with your thoughts about whatever we happen to be taking up on the Senate floor. Good luck and God bless.

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

The President pro tempore (Mr. INOUE) announced that he had signed the following enrolled bills on December 17, 2010, which were previously signed by the Speaker of the House:

S. 3447. An act to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes.

H.R. 4602. An act to designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the "Emil Bolas Post Office".

H.R. 5133. An act to designate the facility of the United States Postal Service

located at 331 1st Street in Carlstadt, New Jersey, as the "Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building".

H.R. 5605. An act to designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the "George C. Marshall Post Office".

H.R. 5606. An act to designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the "James M. 'Jimmy' Stewart Post Office Building".

H.R. 5655. An act to designate the Little River Branch facility of the United States Postal Service located at 140 NE 84th Street in Miami, Florida, as the "Jesse J. McCrary, Jr. Post Office".

H.R. 5877. An act to designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the "Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building".

H.R. 6392. An act to designate the facility of the United States Postal Service located at 5003 Westfields Boulevard in Centreville, Virginia, as the "Colonel George Juskalian Post Office Building".

H.R. 6400. An act to designate the facility of the United States Postal Service located at 111 North 6th Street in St. Louis, Missouri, as the "Earl Wilson, Jr. Post Office".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARKIN, from the Committee on Health, Education, Labor, and Pensions:

Report to accompany S. 3817, A bill to amend the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Abandoned Infants Assistance Act of 1988 to reauthorize the Acts, and for other purposes (Rept. No. 111-378).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. TESTER:

S. 4049. A bill to sustain the economic development and recreational use of National Forest System land and other public land in the State of Montana, to add certain land to the National Wilderness Preservation System, to release certain wilderness study areas, to designate new areas for recreation, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. BROWN of Ohio, Mr. VOINOVICH, and Mr. BUNNING):

S. Res. 703. A resolution recognizing and honoring Bob Feller and expressing the condolences of the Senate to his family on his death; considered and agreed to.

By Mr. SCHUMER (for himself and Mr. BENNETT):

S. Res. 704. A resolution to authorize the printing of a revised edition of the Senate Election Law Guidebook; considered and agreed to.

ADDITIONAL COSPONSORS

AMENDMENT NO. 4814

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of amendment No. 4814 proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

At the request of Mr. BARRASSO, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 4814 proposed to Treaty Doc. 111-5, supra.

At the request of Mr. BOND, his name was added as a cosponsor of amendment No. 4814 proposed to Treaty Doc. 111-5, supra.

AMENDMENT NO. 4847

At the request of Mr. LEMIEUX, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 4847 intended to be proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 703—RECOGNIZING AND HONORING BOB FELLER AND EXPRESSING THE CONDOLENCES OF THE SENATE TO HIS FAMILY ON HIS DEATH

Mr. HARKIN (for himself, Mr. GRASSLEY, Mr. BROWN of Ohio, Mr. VOINOVICH, and Mr. BUNNING) submitted the following resolution; which was considered and agreed to:

S. RES. 703

Whereas Robert William Andrew ("Bob") Feller was born on November 3, 1918, near Van Meter, Iowa;

Whereas Bob Feller learned to play baseball on his parents' farm in Dallas County, Iowa, and commented that "What kid wouldn't enjoy the life I led in Iowa? Baseball and farming, and I had the best of both worlds";

Whereas Feller attended Van Meter High School where he pitched for the baseball team;

Whereas Feller, at the age of 17, joined the Cleveland Indians, where he played for 18 years, his entire career;

Whereas Feller led the American League in wins 6 times;

Whereas Feller led the American League in strikeouts 7 times;

Whereas Feller pitched 3 no-hitters, including the only Opening Day no-hitter, and shares the major league record with 12 one-hitters;

Whereas Feller was an 8-time All-Star;

Whereas Feller was a key member of the 1948 World Series Champion Cleveland Indians;

Whereas Feller threw the second fastest pitch ever officially recorded, at 107.6 miles per hour;

Whereas Feller ended his career with 266 victories and 2,581 strikeouts;

Whereas Feller remains the winningest pitcher in Cleveland Indians history;

Whereas Feller was elected to the Baseball Hall of Fame in 1962, his first year of eligibility;

Whereas Feller enlisted in the Navy 2 days after the attack on Pearl Harbor in 1941;

Whereas Feller served with valor in the Navy for nearly 4 years, missing almost 4 full baseball seasons;

Whereas Feller was stationed aboard the U.S.S. Alabama as a gunnery specialist;

Whereas Feller earned 8 battle stars and was discharged in late 1945; and

Whereas Bob Feller, one of the greatest baseball players of all time, placed service to his country ahead of all else: Now, therefore, be it

Resolved, That the Senate—

(1) honors Bob Feller for transcending the sport of baseball in service to the United States and the cause of democracy and freedom in World War II;

(2) recognizes Bob Feller as one of the greatest baseball players of all time; and

(3) extends its deepest condolences to the family of Bob Feller.

SENATE RESOLUTION 704—TO AUTHORIZE THE PRINTING OF A REVISED EDITION OF THE SENATE ELECTION LAW GUIDEBOOK

Mr. SCHUMER (for himself and Mr. BENNETT) submitted the following resolution; which was considered and agreed to:

S. RES. 704

Resolved, That the Committee on Rules and Administration shall prepare a revised edition of the Senate Election Law Guidebook, Senate Document 109-10, and that such document shall be printed as a Senate document.

SEC. 2. There shall be printed, beyond the usual number, 500 additional copies of the document specified in the first section for the use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4848. Mr. BROWN of Ohio (for Mr. BAUCUS) proposed an amendment to the bill H.R. 4915, to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

SA 4849. Mr. BROWN of Ohio (for Mr. BAUCUS) proposed an amendment to the bill H.R. 4915, supra.

SA 4850. Mr. BROWN of Ohio (for Mr. DODD) proposed an amendment to the bill S. 118, to

amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

SA 4851. Mr. SESSIONS submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4852. Mr. THUNE submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4853. Mr. CORNYN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4848. Mr. BROWN of Ohio (for Mr. BAUCUS) proposed an amendment to the bill H.R. 4915, to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. DEFINITION OF ELIGIBLE PLAN YEAR.

(a) AMENDMENT TO ERISA.—Clause (v) of section 303(c)(2)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)(2)(D)), as added by section 201(a)(1) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, is amended—

(1) by striking “on or after the date of the enactment of this subparagraph” and inserting “on or after June 25, 2010 (March 10, 2010, in the case of an eligible plan)”, and

(2) by adding at the end the following new sentence: “For purposes of the preceding sentence, a plan shall be treated as an eligible plan only if, as of the date of the election with respect to the plan under clause (i)—

“(A) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,

“(B) there are no unpaid minimum required contributions with respect to the plan for purposes of section 4971 of the Internal Revenue Code of 1986 (imposing an excise tax when minimum required contributions are not paid by the due date for the plan year),

“(C) there are no outstanding liens in favor of the plan under subsection (k), and

“(D) the plan sponsor has not initiated a distress termination of the plan under section 4041.”.

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Clause (v) of section 430(c)(2)(D) of the Internal Revenue Code of 1986, as added by section 201(b)(1) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, is amended—

(1) by striking “on or after the date of the enactment of this subparagraph” and inserting “on or after June 25, 2010 (March 10, 2010, in the case of an eligible plan)”, and

(2) by adding at the end the following new sentence: “For purposes of the preceding sentence, a plan shall be treated as an eligible plan only if, as of the date of the election with respect to the plan under clause (i)—

“(A) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,

“(B) there are no unpaid minimum required contributions with respect to the plan for purposes of section 4971 (imposing an excise tax when minimum required contributions are not paid by the due date for the plan year),

“(C) there are no outstanding liens in favor of the plan under subsection (k), and

“(D) the plan sponsor has not initiated a distress termination of the plan under section 4041 of the Employee Retirement Income Security Act of 1974.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by the provisions of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 to which the amendments relate.

SEC. 2. ELIGIBLE CHARITY PLANS.

(a) DEFINITION OF ELIGIBLE CHARITY PLANS.—

(1) IN GENERAL.—Section 104(d) of the Pension Protection Act of 2006, as added by section 202(b) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, is amended to read as follows:

“(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if—

“(1) the plan is maintained by one or more employers employing employees who are accruing benefits based on service for the plan year,

“(2) such employees are employed in at least 20 States,

“(3) more than 98 percent of such employees are employed by an employer described in section 501(c)(3) of such Code and the primary exempt purpose of each such employer is to provide services with respect to children, and

“(4) the plan sponsor elects (at such time and in such form and manner as shall be prescribed by the Secretary of the Treasury) to be so treated.

Any election under this subsection may be revoked only with the consent of the Secretary of the Treasury.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendment made by the provision of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 to which the amendment relates (determined after application of the amendment made by subsection (c)), except that a plan sponsor may elect to apply such amendment to plan years beginning on or after January 1, 2011.

(b) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of the amendments made by section 202(b) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 and the amendment made by subsection (a).

(c) APPLICATION OF NEW RULES TO ELIGIBLE CHARITY PLANS.—

(1) IN GENERAL.—Paragraph (2) of section 202(c) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 is amended to read as follows:

“(2) ELIGIBLE CHARITY PLANS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2010, except that a plan sponsor may elect to apply such amendments to plan years beginning after an earlier date.”.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall take effect as if included in the amendment made by the provision of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 to which the amendment relates.

SEC. 3. SUSPENSION OF CERTAIN FUNDING LEVEL LIMITATIONS.

(a) **LIMITATIONS ON BENEFIT ACCRUALS.**—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 (Public Law 110-458; 122 Stat. 5118) is amended—

(1) by striking “the first plan year beginning during the period beginning on October 1, 2008, and ending on September 30, 2009” and inserting “any plan year beginning during the period beginning on October 1, 2008, and ending on December 31, 2011”;

(2) by striking “substituting” and all that follows through “for such plan year” and inserting “substituting for such percentage the plan’s adjusted funding target attainment percentage for the last plan year ending before September 30, 2009,”; and

(3) by striking “for the preceding plan year is greater” and inserting “for such last plan year is greater”.

(b) **SOCIAL SECURITY LEVEL-INCOME OPTIONS.**—

(1) **ERISA AMENDMENT.**—Section 206(g)(3)(E) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new sentence: “For purposes of applying clause (i) in the case of payments the annuity starting date for which occurs on or before December 31, 2011, payments under a social security leveling option shall be treated as not in excess of the monthly amount paid under a single life annuity (plus an amount not in excess of a social security supplement described in the last sentence of section 204(b)(1)(G)).”

(2) **IRC AMENDMENT.**—Section 436(d)(5) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: “For purposes of applying subparagraph (A) in the case of payments the annuity starting date for which occurs on or before December 31, 2011, payments under a social security leveling option shall be treated as not in excess of the monthly amount paid under a single life annuity (plus an amount not in excess of a social security supplement described in the last sentence of section 411(a)(9)).”

(3) **EFFECTIVE DATE.**—

(A) **IN GENERAL.**—The amendments made by this subsection shall apply to annuity payments the annuity starting date for which occurs on or after January 1, 2011.

(B) **PERMITTED APPLICATION.**—A plan shall not be treated as failing to meet the requirements of sections 206(g) of the Employee Retirement Income Security Act of 1974 (as amended by this subsection) and section 436(d) of the Internal Revenue Code of 1986 (as so amended) if the plan sponsor elects to apply the amendments made by this subsection to payments the annuity starting date for which occurs before January 1, 2011.

(c) **REPEAL OF RELATED PROVISIONS.**—The provisions of, and the amendments made by, section 203 of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 are repealed and the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and the Worker, Retiree, and Employer Recovery Act of 2008 (Public Law 110-458; 122 Stat. 5118) shall be applied as if such section had never been enacted.

SEC. 4. OPTIONAL USE OF 30-YEAR AMORTIZATION PERIODS.

(a) **AMENDMENT TO ERISA.**—Paragraph (8) of section 304(b) of the Employee Retirement Income Security Act of 1974, as amended by the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, is amended by striking “after August 31, 2008” each place it appears in subparagraphs (A)(i), (B)(i)(I), and (B)(i)(II), and inserting “on or after June 30, 2008”.

(b) **AMENDMENT TO INTERNAL REVENUE CODE OF 1986.**—Paragraph (8) of section 431(b) of the Internal Revenue Code of 1986, as amended by the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, is amended by striking “after August 31, 2008” each place it appears in subparagraphs (A)(i) and (B)(i)(I) and inserting “on or after June 30, 2008”.

(c) **EFFECTIVE DATE AND SPECIAL RULES.**—The amendments made by this section shall take effect as of the first day of the first plan year beginning on or after June 30, 2008, except that any election a plan sponsor makes pursuant to this section or the amendments made thereby that affects the plan’s funding standard account for any plan year beginning before October 1, 2009, shall be disregarded for purposes of applying the provisions of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 to that plan year.

SA 4849. Mr. BROWN of Ohio (for Mr. BAUCUS) proposed an amendment to the bill H.R. 4915, to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes; as follows:

Amend the title so as to read: “An Act to amend the Internal Revenue Code of 1986 to make technical corrections to the pension funding provisions of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010.”

SA 4850. Mr. BROWN of Ohio (for Mr. DODD) proposed an amendment to the bill S. 118, to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes; as follows:

On page 45, strike line 1 and all that follows through page 50, line 8.

On page 50, after line 8, insert the following:

TITLE IV—COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010

SEC. 401. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 4851. Mr. SESSIONS submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America

and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (c), add the following:

(14) **NUCLEAR DETERRENCE.**—The Senate declares that it will not support further nuclear reductions that put the United States on a path to zero nuclear weapons, would require the elimination of a leg of the United States nuclear triad, or require significant changes to the nuclear posture or doctrine of the United States in a manner that would undermine the credibility of the nuclear deterrent, the assurance of extended deterrence, or the dissuasive effect of the posture or doctrine on would-be nuclear states or potential nuclear competitors.

SA 4852. Mr. THUNE submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a), add the following:

(11) **DEVELOPMENT OF REPLACEMENT HEAVY BOMBER.**—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the President has made a commitment to develop a replacement heavy bomber that is both nuclear and conventionally capable.

SA 4853. Mr. CORNYN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a), add the following:

(11) **PRESIDENTIAL CERTIFICATION REJECTING INTERRELATIONSHIP BETWEEN STRATEGIC OFFENSIVE AND STRATEGIC DEFENSIVE ARMS.**—The New START Treaty shall not enter into force until the President certifies to the Senate and notifies the President of the Russian Federation in writing that the President rejects the following recognition stated in the preamble to the New START Treaty: “Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties”.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that two additional staff members from Senator LIEBERMAN’s office be granted floor privileges for the duration of the debate on the vote to

invoke cloture on the motion to concur in the House amendment to the Senate amendment to H.R. 2965.

We do not need their names. You are entitled to two and he wants to be able to have four. So I ask that consent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REAL PROPERTY CONVEYANCE

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 6510 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 6510) to direct the Administrator of General Services to convey a parcel of real property in Houston, Texas, to the Military Museum of Texas, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN of Ohio. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6510) was ordered to a third reading, was read the third time, and passed.

AIRPORT AND AIRWAY EXTENSION ACT OF 2010

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6473, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 6473) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6473) was ordered to a third reading, was read the third time, and passed.

LOCAL COMMUNITY RADIO ACT OF 2010

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6533, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 6533) to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I have long argued in favor of greater diversity and localism in broadcasting. Today, Congress takes a positive step by making available more radio broadcast outlets for local content.

I am pleased that Congress has finally passed and sent to the President the Local Community Radio Act, which will increase the number of frequencies available for low power FM, LPFM, radio stations. I am a cosponsor of the Senate version of this legislation, and have been an original cosponsor of similar legislation in each of the previous two Congresses. I commend Senator CANTWELL for her hard work in reaching an agreement with full power broadcasters that will ensure they are protected.

The rash of nationwide consolidation we have witnessed in the broadcast industry over the last decade has been alarming, if predictable. Low power FM stations offer a valuable counterweight to this trend. By using low power stations, community groups can access underutilized spectrum and provide content tailored to smaller communities. The Local Community Radio Act rolls back unnecessary restrictions that have limited the number of frequencies on which LPFM stations can operate.

This legislation is important because LPFM stations provide opportunities for local organizations to serve local communities. Vermont has 11 LPFM stations serving local communities in Vermont from Hyde Park to Brattleboro to Warren. There is room for more in Vermont and across the country.

Low Power FM provides the opportunity for truly local content to flourish, and today's legislation will make more such stations available.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6533) was ordered to a third reading, was read the third time, and passed.

FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2010

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 4915 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 4915) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWN of Ohio. I ask unanimous consent that the Baucus substitute amendment at the desk be considered and agreed to; the bill, as amended, be read a third time, passed, and the motion to reconsider be laid on the table; that the title amendment which is at the desk be considered and agreed to, and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4848) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment (No. 4849) was agreed to, as follows:

(Purpose: To amend the title)

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1986 to make technical corrections to the pension funding provisions of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010."

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4915), as amended, was read the third time and passed.

HONORING AMBASSADOR RICHARD HOLBROOKE

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 335 just received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 335) honoring the exceptional achievements of Ambassador Richard Holbrooke and recognizing the significant contributions he has made to United States national security, humanitarian causes, and peaceful resolutions of international conflict.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. KERRY. Mr. President, today the Senate has been asked to concur with

our colleagues in the House and approve a resolution honoring our friend and a great public servant, Ambassador Richard Holbrooke, who passed away on Monday.

We remember Richard not just as one of America's most distinguished and accomplished statesmen, but as a man who—from Vietnam to his last mission in Afghanistan—really was a warrior for peace. It is fitting that we honor him by approving this resolution.

Richard was an incredible combination of the best qualities of the human spirit—a serious thinker who embraced relentless action; a tough-as-nails negotiator who commanded an enormous and infectious sense of humor; and perhaps above all, a diplomat who knew firsthand just how difficult and frustrating engagement could be, but in his life's legacy reminded all of us just how much engagement could accomplish.

Richard's passing is almost incomprehensible, not just because it was so sudden, but because I cannot imagine Richard Holbrooke in anything but a state of perpetual motion. He was always working. Always hard-charging in the best sense of the word—he had an immense presence—and a brilliance matched only by his perseverance and his passion. He once complained that the bureaucracy in Washington all too often saw suffering around the world as an abstraction. He took Hannah Arendt's famous phrase and flipped it around, saying that sometimes our biggest battles were against the “evils of banality.”

Well, Richard waged—and won—his share of battles against banality and inertia. He was always a man on a mission, the toughest mission, and that mission was waging peace through never-quit diplomacy—and Richard's life's work saved more lives in more places than we can measure. He simply got up every day knowing that—even in difficult circumstances where history's verdict is yet to be handed down—every ounce of energy and every drop of sweat held the promise of making things better for people.

Yes, Richard had an outsized personality, and it was one that he himself could joke about, even relish. He earned the nickname “The Bulldozer” for a reason. But Richard did not push people away. He drew people to him. He was incredibly appreciative of those who worked with him and was unfailingly loyal to them. I remember last January, when Richard came to the Foreign Relations Committee to testify on the war in Afghanistan, he stopped the hearing to introduce his top staff—some 16 people. More than just colleagues, they were his partners. He knew their families and he knew the names of their children. At the State Department he didn't just create an office for Afghanistan and Pakistan, he built a family.

His staff returned his affection and loyalty many times over. Foggy Bot-

tom is filled with men and women inspired and mentored by Richard. Ever since Richard fell ill last Friday morning, dozens of friends and family and staff gathered in the lobby of George Washington Hospital to show their support and wait for news of his condition. When I stopped by on Sunday night, I couldn't help but be moved by the love and the concern. And when news of his passing spread, people began spontaneously gathering at the hospital. And then—something that Richard would have understood and appreciated—they went out together and shared stories about him.

It was impossible to know Richard and not come away with “Holbrooke stories.” Certainly I have my share. Our public careers were intertwined in so many ways, from Vietnam to my Presidential campaign to the conflict in Afghanistan. There were long conference calls, impromptu policy debates when we found ourselves on the same shuttle to LaGuardia, stories shared about our children and lessons learned about being modern Dads, and wonderful wine-filled dinners where we came up with brilliant plans for peace that didn't always seem so brilliant—if they were remembered at all—in the light of day. Richard always made it fun because it is a pleasure to be in the company of someone who loved the job they were doing for the country they loved. And make no mistake—just shy of 70, with a back-breaking schedule—Richard Holbrooke loved what he was doing.

And so, wherever chaos and violence threatened American interests and human lives for nearly a half century, wherever there was a need for courage and insight, Richard Holbrooke showed up for duty. He spent his formative years as a young Foreign Service officer in Vietnam, where he worked in the Mekong Delta and then on the staffs of two American ambassadors, Maxwell Taylor and Henry Cabot Lodge. Given the storied expanse of his career, people sometimes forget that Richard wrote a volume of the “Pentagon Papers,” the seminal work that helped turn the course of the Vietnam war. And as with all of us who served in Vietnam, Richard's experience there informed his every judgment, and left him with the conviction that time spent working even against long odds to see that peace and diplomacy prevailed over war and violence, was time well-invested for the most powerful of nations and the most determined of diplomats.

He was a pragmatist devoted to principle. He believed that the United States could help people around the world at the same time as we defended our interests. Richard once wrote about a meeting he attended in the Situation Room in 1979, when he was Assistant Secretary for East Asia and the Pacific. The South China Sea was being

flooded with tens of thousands of refugees from Vietnam. They were fleeing the regime there, looking for safe haven somewhere else. But most of them were not making it. Instead, they were drowning.

The Seventh Fleet was nearby and could divert to rescue them. But there were those in our government who did not want the Navy to be distracted from its other missions. And besides, what would we do with the refugees? And wouldn't our actions just encourage more people to set sail in rickety boats in an attempt to find freedom? Back and forth the debate went. Ultimately, Vice President Mondale made the decision: America would not stand idly by while people drowned. Richard wrote this: “At this time and distance it may be hard to conceive that the decision, so clearly right, was almost not made. There are people who are alive today because of Mondale's decision; of very few actions by a government official can such a thing be said.”

Well, we can certainly say that—and more—of Richard Holbrooke. Earlier this week, we marked the 15th anniversary of what was perhaps his greatest legacy. On December 14, 1995, the Dayton Peace Accords brought an end to a 3½ year war in Bosnia that had claimed tens of thousands of lives and displaced millions. It is a war that would have inflicted far more misery if Richard had not tirelessly shuttled between the Serbs and the Croats and the Bosnians. He laid the groundwork for the peace talks. And then, over 20 days, he charmed, he cajoled, and ultimately he convinced the three principal leaders to end a war. In the years since, “Dayton” has become a byword for the kind of aggressive diplomacy that Richard practiced. At Dayton, Richard Holbrooke brought himself and the Nation he represented great honor.

We loved that energy, we loved that resolve—that is who Richard was, and he died giving everything he had to one last difficult mission for the country he loved. It is almost a bittersweet bookend that a career of public service that began trying to save a war gone wrong, now ends with a valiant effort to keep another war from going wrong. Over the last 2 years, he and I worked closely together on our policy in Afghanistan and Pakistan. His honesty could be bracing, and I loved that about him. He was always solution-seeking—and always so committed to the mission that he never hesitated to leverage the skills of those around him because it was success he sought, not spotlights.

Through this resolution, we acknowledge his extraordinary public service and we extend our heartfelt sympathy to his family, especially his extraordinary wife Kati; Richard's two sons, David and Anthony; his stepchildren Elizabeth and Chris Jennings; and his daughter-in-law Sarah. We are reminded how much richer all of our

lives have been thanks to the intelligence, humor, and warmth that Richard brought to every day of his life. And we mourn your loss with you.

I will miss working with Richard Holbrooke. And I will remember something he said last year about his enduring faith in America despite the many trials we now face. He said, "I still believe in the possibility of the United States . . . persevering against any challenge." It is difficult to imagine wrestling with the challenges of Afghanistan and Pakistan without him, but we are all sustained by the decades-long example Richard set making the possibility of American perseverance more of a reality. And for that our Nation will always be grateful.

Mr. BROWN of Ohio. Mr. President, I thank Ambassador Holbrooke for the Dayton Accords, held in Dayton, OH, in which Ambassador Holbrooke played such a key roll in bringing forward.

I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc; the motions to reconsider be laid on the table en bloc; and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 335) was agreed to.

The preamble was agreed to.

AUTHORITY TO PRINT

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 704 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

To authorize the printing of a revised edition of the Senate Election Law Guidebook.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN of Ohio. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, with no intervening action or debate, and any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 704) was agreed to, as follows:

S. RES. 704

Resolved, That the Committee on Rules and Administration shall prepare a revised edition of the Senate Election Law Guidebook, Senate Document 109-10, and that such document shall be printed as a Senate document.

SEC. 2. There shall be printed, beyond the usual number, 500 additional copies of the document specified in the first section for the use of the Committee on Rules and Administration.

SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY ACT OF 2009

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 657, S. 118.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 118) to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the "Section 202 Supportive Housing for the Elderly Act of 2010".

(b) *TABLE OF CONTENTS*.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—NEW CONSTRUCTION REFORMS

Sec. 101. Selection criteria.

Sec. 102. Development cost limitations.

Sec. 103. Owner deposits.

Sec. 104. Definition of private nonprofit organization.

Sec. 105. Nonmetropolitan allocation.

TITLE II—REFINANCING

Sec. 201. Approval of prepayment of debt.

Sec. 202. Use of unexpended amounts.

Sec. 203. Use of project residual receipts.

Sec. 204. Additional provisions.

TITLE III—ASSISTED LIVING FACILITIES AND SERVICE-ENRICHED HOUSING

Sec. 301. Amendments to the grants for conversion of elderly housing to assisted living facilities.

Sec. 302. Monthly assistance payment under rental assistance.

TITLE IV—NATIONAL SENIOR HOUSING CLEARINGHOUSE

Sec. 401. National senior housing clearinghouse.

TITLE I—NEW CONSTRUCTION REFORMS

SEC. 101. SELECTION CRITERIA.

Section 202(f)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(f)(1)) is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) the following new subparagraph:

"(F) the extent to which the applicant has ensured that a service coordinator will be employed or otherwise retained for the housing, who has the managerial capacity and responsibility for carrying out the actions described in subparagraphs (A) and (B) of subsection (g)(2);".

SEC. 102. DEVELOPMENT COST LIMITATIONS.

Section 202(h)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(1)) is amended, in the matter preceding subparagraph (A), by inserting "reasonable" before "development cost limitations".

SEC. 103. OWNER DEPOSITS.

Section 202(j)(3)(A) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(3)(A)) is amended by inserting after the period at the end the following: "Such amount shall be used only to cover operating deficits during the first 3 years of oper-

ations and shall not be used to cover construction shortfalls or inadequate initial project rental assistance amounts.".

SEC. 104. DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.

Section 202(k)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(k)(4)) is amended to read as follows:

"(4) The term 'private nonprofit organization' means—

"(A) any incorporated private institution or foundation—

"(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(ii) which has a governing board—

"(I) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located; and

"(II) which is responsible for the operation of the housing assisted under this section, except that, in the case of a nonprofit organization that is the sponsoring organization of multiple housing projects assisted under this section, the Secretary may determine the criteria or conditions under which financial, compliance and other administrative responsibilities exercised by a single-entity private nonprofit organization that is the owner corporation responsible for the operation of an individual housing project may be shared or transferred to the governing board of such sponsoring organization; and

"(iii) which is approved by the Secretary as to financial responsibility; and

"(B) a for-profit limited partnership the sole general partner of which is—

"(i) an organization meeting the requirements under subparagraph (A);

"(ii) a for-profit corporation wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A); or

"(iii) a limited liability company wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A)."

"(B) a for-profit limited partnership the sole general partner of which is—

"(i) an organization meeting the requirements under subparagraph (A);

"(ii) a for-profit corporation wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A); or

"(iii) a limited liability company wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A)."

SEC. 105. NONMETROPOLITAN ALLOCATION.

Paragraph (3) of section 202(l) of the Housing Act of 1959 (12 U.S.C. 1701q(l)(3)) is amended by inserting after the period at the end the following: "In complying with this paragraph, the Secretary shall either operate a national competition for the nonmetropolitan funds or make allocations to regional offices of the Department of Housing and Urban Development.".

TITLE II—REFINANCING

SEC. 201. APPROVAL OF PREPAYMENT OF DEBT.

Subsection (a) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) in the matter preceding paragraph (1), by inserting "for which the Secretary's consent to prepayment is required," after "Affordable Housing Act";

(2) in paragraph (1)—

(A) by inserting "at least 20 years following" before "the maturity date";

(B) by inserting "project-based" before "rental assistance payments contract";

(C) by inserting "project-based" before "rental housing assistance programs"; and

(D) by inserting "or any successor project-based rental assistance program," after "1701s)";

(3) by amending paragraph (2) to read as follows:

"(2) the prepayment may involve refinancing of the loan if such refinancing results in—

"(A) a lower interest rate on the principal of the loan for the project and in reductions in debt service related to such loan; or

"(B) a transaction in which the project owner will address the physical needs of the project, but only if, as a result of the refinancing—

“(i) the rent charges for unassisted families residing in the project do not increase or such families are provided rental assistance under a senior preservation rental assistance contract for the project pursuant to subsection (e); and

“(ii) the overall cost for providing rental assistance under section 8 for the project (if any) is not increased, except, upon approval by the Secretary to—

“(I) mark-up-to-market contracts pursuant to section 524(a)(3) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by non-profit organizations; or

“(II) mark-up-to-budget contracts pursuant to section 524(a)(4) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by eligible owners (as such term is defined in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)); and”;

(4) by adding at the end the following:

“(3) notwithstanding paragraph (2)(A), the prepayment and refinancing authorized pursuant to paragraph (2)(B) involves an increase in debt service only in the case of a refinancing of a project assisted with a loan under such section 202 carrying an interest rate of 6 percent or lower.”.

SEC. 202. USE OF UNEXPENDED AMOUNTS.

Subsection (c) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by striking “USE OF UNEXPENDED AMOUNTS.—” and inserting “USE OF PROCEEDS.—”;

(2) by amending the matter preceding paragraph (1) to read as follows: “Upon execution of the refinancing for a project pursuant to this section, the Secretary shall ensure that proceeds are used in a manner advantageous to tenants of the project, or are used in the provision of affordable rental housing and related social services for elderly persons that are tenants of the project or are tenants of other HUD-assisted senior housing by the private nonprofit organization project owner, private nonprofit organization project sponsor, or private nonprofit organization project developer, including—”;

(3) by amending paragraph (1) to read as follows:

“(1) not more than 15 percent of the cost of increasing the availability or provision of supportive services, which may include the financing of service coordinators and congregate services, except that upon the request of the nonprofit owner, sponsor, or organization and determination of the Secretary, such 15 percent limitation may be waived to ensure that the use of unexpended amounts better enables seniors to age in place;”;

(4) in paragraph (2), by inserting before the semicolon the following: “, including reducing the number of units by reconfiguring units that are functionally obsolete, unmarketable, or not economically viable”;

(5) in paragraph (3), by striking “or” at the end;

(6) in paragraph (4), by striking “according to a pro rata allocation of shared savings resulting from the refinancing.” and inserting a semicolon; and

(7) by adding at the end the following new paragraphs:

“(5) rehabilitation of the project to ensure long-term viability; and

“(6) the payment to the project owner, sponsor, or third party developer of a developer’s fee in an amount not to exceed or duplicate—

“(A) in the case of a project refinanced through a State low income housing tax credit program, the fee permitted by the low income

housing tax credit program as calculated by the State program as a percentage of acceptable development cost as defined by that State program; or

“(B) in the case of a project refinanced through any other source of refinancing, 15 percent of the acceptable development cost.

For purposes of paragraph (6)(B), the term ‘acceptable development cost’ shall include, as applicable, the cost of acquisition, rehabilitation, loan prepayment, initial reserve deposits, and transaction costs.”.

SEC. 203. USE OF PROJECT RESIDUAL RECEIPTS.

Paragraph (1) of section 811(d) of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by striking “not more than 15 percent of”;

(2) by inserting before the period at the end the following: “or other purposes approved by the Secretary”.

SEC. 204. ADDITIONAL PROVISIONS.

Section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended by adding at the end the following new subsections:

“(e) SENIOR PRESERVATION RENTAL ASSISTANCE CONTRACTS.—Notwithstanding any other provision of law, in connection with a prepayment plan for a project approved under subsection (a) by the Secretary or as otherwise approved by the Secretary to prevent displacement of elderly residents of the project in the case of refinancing or recapitalization and to further preservation and affordability of such project, the Secretary shall provide project-based rental assistance for the project under a senior preservation rental assistance contract, as follows:

“(1) Assistance under the contract shall be made available to the private nonprofit organization owner—

“(A) for a term of at least 20 years, subject to annual appropriations; and

“(B) under the same rules governing project-based rental assistance made available under section 8 of the Housing Act of 1937 or under the rules of such assistance as may be made available for the project.

“(2) Any projects for which a senior preservation rental assistance contract is provided shall be subject to a use agreement to ensure continued project affordability having a term of the longer of (A) the term of the senior preservation rental assistance contract, or (B) such term as is required by the new financing.

“(f) SUBORDINATION OR ASSUMPTION OF EXISTING DEBT.—In lieu of prepayment under this section of the indebtedness with respect to a project, the Secretary may approve—

“(1) in connection with new financing for the project, the subordination of the loan for the project under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act) and the continued subordination of any other existing subordinate debt previously approved by the Secretary to facilitate preservation of the project as affordable housing; or

“(2) the assumption (which may include the subordination described in paragraph (1)) of the loan for the project under such section 202 in connection with the transfer of the project with such a loan to a private nonprofit organization.

“(g) FLEXIBLE SUBSIDY DEBT.—The Secretary shall waive the requirement that debt for a project pursuant to the flexible subsidy program under section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715e–1a) be prepaid in connection with a prepayment, refinancing, or transfer under this section of a project if the financial transaction or refinancing cannot be completed without the waiver.

“(h) TENANT INVOLVEMENT IN PREPAYMENT AND REFINANCING.—The Secretary shall not ac-

cept an offer to prepay the loan for any project under section 202 of the Housing Act of 1959 unless the Secretary—

“(1) has determined that the owner of the project has notified the tenants of the owner’s request for approval of a prepayment; and

“(2) has determined that the owner of the project has provided the tenants with an opportunity to comment on the owner’s request for approval of a prepayment, including on the description of any anticipated rehabilitation or other use of the proceeds from the transaction, and its impacts on project rents, tenant contributions, or the affordability restrictions for the project, and that the owner has responded to such comments in writing.

“(i) DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.—For purposes of this section, the term ‘private nonprofit organization’ has the meaning given such term in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)).”.

TITLE III—ASSISTED LIVING FACILITIES AND SERVICE-ENRICHED HOUSING

SEC. 301. AMENDMENTS TO THE GRANTS FOR CONVERSION OF ELDERLY HOUSING TO ASSISTED LIVING FACILITIES.

(a) TECHNICAL AMENDMENT.—The section heading for section 202b of the Housing Act of 1959 (12 U.S.C. 1701q–2) is amended by inserting “AND OTHER PURPOSES” after “ASSISTED LIVING FACILITIES”.

(b) EXTENSION OF GRANT AUTHORITY.—Section 202b(a)(2) of the Housing Act of 1959 (12 U.S.C. 1701q–2(a)(2)) is amended—

(1) by striking “(2) CONVERSION.—Activities” and inserting the following:

“(2) CONVERSION.—

“(A) ASSISTED LIVING FACILITIES.—Activities”; and

(2) by adding at the end the following:

“(B) SERVICE-ENRICHED HOUSING.—Activities designed to convert dwelling units in the eligible project to service-enriched housing for elderly persons.”.

(c) AMENDMENT TO APPLICATION PROCESS.—Section 202b(c)(1) of the Housing Act of 1959 (12 U.S.C. 1701q–2(c)(1)) is amended by inserting “for either an assisted living facility or service-enriched housing” after “activities”.

(d) REQUIREMENTS FOR SERVICES.—Section 202b(d) of the Housing Act of 1959 (12 U.S.C. 1701q–2(d)) is amended to read as follows:

“(d) REQUIREMENTS FOR SERVICES.—

“(1) SUFFICIENT EVIDENCE OF FIRM FUNDING COMMITMENTS.—The Secretary may not make a grant under this section for conversion activities unless an application for a grant submitted pursuant to subsection (c) contains sufficient evidence, in the determination of the Secretary, of firm commitments for the funding of services to be provided in the assisted living facility or service-enriched housing, which may be provided by third parties.

“(2) REQUIRED EVIDENCE.—The Secretary shall require evidence that each recipient of a grant for service-enriched housing under this section provides relevant and timely disclosure of information to residents or potential residents of such housing relating to—

“(A) the services that will be available at the property to each resident, including—

“(i) the right to accept, decline, or choose such services and to have the choice of provider;

“(ii) the services made available by or contracted through the grantee;

“(iii) the identity of, and relevant information for, all agencies or organizations providing any services to residents, which agencies or organizations shall provide information regarding all procedures and requirements to obtain services, any charges or rates for the services, and the rights and responsibilities of the residents related to those services;

“(B) the availability, identity, contact information, and role of the service coordinator; and

“(C) such other information as the Secretary determines to be appropriate to ensure that residents are adequately informed of the services options available to promote resident independence and quality of life.”.

(e) AMENDMENTS TO SELECTION CRITERIA.—Section 202b(e) of the Housing Act of 1959 (12 U.S.C. 1701q-2(e)) is amended—

(1) in paragraph (2)—

(A) by inserting “or service-enriched housing” after “facilities”; and

(B) by inserting “service-enriched housing” after “facility”;

(2) in paragraph (5), by inserting “or service-enriched housing” after “facility”; and

(3) in paragraph (6), by inserting “or service-enriched housing” after “facility”.

(f) AMENDMENTS TO SECTION 8 PROJECT-BASED ASSISTANCE.—Section 202b(f) of the Housing Act of 1959 (12 U.S.C. 1701q-2(f)) is amended—

(1) in paragraph (1), by inserting “or service-enriched housing” after “facilities” each time that term appears; and

(2) in paragraph (2), by inserting “or service-enriched housing” after “facility”.

(g) AMENDMENTS TO DEFINITIONS.—Section 202b(g) of the Housing Act of 1959 (12 U.S.C. 1701q-2(g)) is amended to read as follows:

“(g) DEFINITIONS.—For purposes of this section—

“(1) the term ‘assisted living facility’ has the meaning given such term in section 232(b) of the National Housing Act (1715w(b));

“(2) the term ‘service-enriched housing’ means housing that—

“(A) makes available through licensed or certified third party service providers supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy;

“(B) includes the position of service coordinator, which may be funded as an operating expense of the property; ;

“(C) provides separate dwelling units for residents, each of which contains a full kitchen and bathroom and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the housing; and

“(D) provides residents with control over health care and supportive services decisions, including the right to accept, decline, or choose such services, and to have the choice of provider; and

“(3) the definitions in section 1701(q)(k) of this title shall apply.”.

SEC. 302. MONTHLY ASSISTANCE PAYMENT UNDER RENTAL ASSISTANCE.

Clause (iii) of section 8(o)(18)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(18)(B)(iii)) is amended by inserting before the period at the end the following: “, except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate.”.

TITLE IV—NATIONAL SENIOR HOUSING CLEARINGHOUSE

SEC. 401. NATIONAL SENIOR HOUSING CLEARINGHOUSE.

(a) ESTABLISHMENT.—Not later than 360 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall

establish and operate a clearinghouse to serve as a national repository to receive, collect, process, assemble, and disseminate information regarding the availability and quality of multifamily developments for elderly tenants, including—

(1) the availability of—

(A) supportive housing for the elderly pursuant to section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), including any housing unit assisted with a project rental assistance contract under such section;

(B) properties and units eligible for assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(C) properties eligible for the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986;

(D) units in assisted living facilities insured pursuant to section 221(d)(4) of the National Housing Act (12 U.S.C. 1715(d)(4));

(E) units in any multifamily project that has been converted into an assisted living facility for elderly persons pursuant to section 202b of the Housing Act of 1959 (12 U.S.C. 1701q-2); and

(F) any other federally assisted or subsidized housing for the elderly;

(2) the number of available units in each property, project, or facility described in paragraph (1);

(3) the number of bedrooms in each available unit in each property, project, or facility described in paragraph (1);

(4) the estimated cost to a potential tenant to rent or reside in each available unit in each property, project, or facility described in paragraph (1);

(5) the presence of a waiting list for entry into any available unit in each property, project, or facility described in paragraph (1);

(6) the number of persons on the waiting list for entry into any available unit in each property, project, or facility described in paragraph (1);

(7) the amenities available in each available unit in each property, project, or facility described in paragraph (1), including—

(A) the services provided by such property, project, or facility;

(B) the size and availability of common space within each property, project, or facility;

(C) the availability of organized activities for individuals residing in such property, project, or facility; and

(D) any other additional amenities available to individuals residing in such property, project, or facility;

(8) the level of care (personal, physical, or nursing) available to individuals residing in any property, project, or facility described in paragraph (1);

(9) whether there is a service coordinator in any property, project, or facility described in paragraph (1); and

(10) any other criteria determined appropriate by the Secretary.

(b) COLLECTION AND UPDATING OF INFORMATION.—

(1) INITIAL COLLECTION.—Not later than 180 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a survey requesting information from each owner of a property, project, or facility described in subsection (a)(1) regarding the provisions described in paragraphs (2) through (10) of such subsection.

(2) RESPONSE TIME.—Not later than 60 days after receiving the request described under paragraph (1), the owner of each such property, project, or facility shall submit such information to the Secretary of Housing and Urban Development.

(3) PUBLIC AVAILABILITY.—Not later than 120 days after the Secretary of Housing and Urban

Development receives the submission of any information required under paragraph (2), the Secretary shall make such information publicly available through the clearinghouse.

(4) UPDATES.—The Secretary of Housing and Urban Development shall conduct a biennial survey of each owner of a property, project, or facility described in subsection (a)(1) for the purpose of updating or modifying information provided in the initial collection of information under paragraph (1). Not later than 30 days after receiving such a request, the owner of each such property, project, or facility shall submit such updates or modifications to the Secretary. Not later than 60 days after receiving such updates or modifications, the Secretary shall inform the clearinghouse of such updated or modified information.

(c) FUNCTIONS.—The clearinghouse established under subsection (a) shall—

(1) respond to inquiries from State and local governments, other organizations, and individuals requesting information regarding the availability of housing in multifamily developments for elderly tenants;

(2) make such information publicly available via the Internet website of the Department of Housing and Urban Development, which shall include—

(A) access via electronic mail; and

(B) an easily searchable, sortable, downloadable, and accessible index that itemizes the availability of housing in multifamily developments for elderly tenants by State, county, and zip code;

(3) establish a toll-free number to provide the public with specific information regarding the availability of housing in multifamily developments for elderly tenants; and

(4) perform any other duty that the Secretary determines necessary to achieve the purposes of this section.

(d) RELATIONSHIP WITH OTHER DATABASES.—The Secretary of Housing and Urban Development may make the clearinghouse established under subsection (a) a part of any other multifamily housing database the Secretary is required to establish.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be considered, that a Dodd amendment which is at the desk be agreed to, the committee-substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time, and that a budgetary pay-go statement be read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4850) was agreed to, as follows:

(Purpose: To comply with the Statutory Pay-As-You-Go-Act of 2010)

On page 45, strike line 1 and all that follows through page 50, line 8

On page 50, after line 8, insert the following:

TITLE IV—COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010

SEC. 401. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of

the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The committee-reported substitute amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR S. 118, THE SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY ACT OF 2010, AS PROVIDED TO CBO BY THE SENATE COMMITTEE ON THE BUDGET ON DECEMBER 17, 2010

	By fiscal year, in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
Net Increase in the Deficit												
Statutory Pay-As-You-Go Impact ^a	5	0	0	0	0	0	0	0	0	0	5	5

Note: The language transmitted to CBO on December 17, 2010 included an amendment that would strike Title IV of S. 118 as ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on September 20, 2010.
^a S. 118 would amend the American Homeownership and Economic Opportunity Act of 2000 to increase the number of properties that are eligible to prepay loans issued under Section 202 of the Housing Act of 1959. The bill also would expand the eligible uses for savings generated by refinancing Section 202 loans.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the bill be passed, and the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 118), as amended, was passed, as follows:

S. 118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Section 202 Supportive Housing for the Elderly Act of 2010”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—NEW CONSTRUCTION REFORMS

Sec. 101. Selection criteria.

Sec. 102. Development cost limitations.

Sec. 103. Owner deposits.

Sec. 104. Definition of private nonprofit organization.

Sec. 105. Nonmetropolitan allocation.

TITLE II—REFINANCING

Sec. 201. Approval of prepayment of debt.

Sec. 202. Use of unexpended amounts.

Sec. 203. Use of project residual receipts.

Sec. 204. Additional provisions.

TITLE III—ASSISTED LIVING FACILITIES AND SERVICE-ENRICHED HOUSING

Sec. 301. Amendments to the grants for conversion of elderly housing to assisted living facilities.

Sec. 302. Monthly assistance payment under rental assistance.

TITLE IV—COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010

Sec. 401. Budgetary effects.

TITLE I—NEW CONSTRUCTION REFORMS

SEC. 101. SELECTION CRITERIA.

Section 202(f)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(f)(1)) is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) the following new subparagraph:

“(F) the extent to which the applicant has ensured that a service coordinator will be

The PRESIDING OFFICER. The clerk will read the pay-go statement.

The bill clerk read as follows:

Mr. Conrad: This is the Statement of Budgetary Effects of PAYGO Legislation for S. 118.

Total Budgetary Effects of S. 118 for the 5-year Statutory PAYGO Scorecard: net increase in the deficit of \$5 million.

employed or otherwise retained for the housing, who has the managerial capacity and responsibility for carrying out the actions described in subparagraphs (A) and (B) of subsection (g)(2);”.

SEC. 102. DEVELOPMENT COST LIMITATIONS.

Section 202(h)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(1)) is amended, in the matter preceding subparagraph (A), by inserting “reasonable” before “development cost limitations”.

SEC. 103. OWNER DEPOSITS.

Section 202(j)(3)(A) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(3)(A)) is amended by inserting after the period at the end the following: “Such amount shall be used only to cover operating deficits during the first 3 years of operations and shall not be used to cover construction shortfalls or inadequate initial project rental assistance amounts.”.

SEC. 104. DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.

Section 202(k)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(k)(4)) is amended to read as follows:

“(4) The term ‘private nonprofit organization’ means—

“(A) any incorporated private institution or foundation—

“(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

“(ii) which has a governing board—

“(I) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located; and

“(II) which is responsible for the operation of the housing assisted under this section, except that, in the case of a nonprofit organization that is the sponsoring organization of multiple housing projects assisted under this section, the Secretary may determine the criteria or conditions under which financial, compliance and other administrative responsibilities exercised by a single-entity private nonprofit organization that is the owner corporation responsible for the operation of an individual housing project may be shared or transferred to the governing board of such sponsoring organization; and

“(iii) which is approved by the Secretary as to financial responsibility; and

“(B) a for-profit limited partnership the sole general partner of which is—

“(i) an organization meeting the requirements under subparagraph (A);

“(ii) a for-profit corporation wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A); or

Total Budgetary Effects of S. 118 for the 10-year Statutory PAYGO Scorecard: net increase in the deficit of \$5 million.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this act, as follows:

“(iii) a limited liability company wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A).”.

SEC. 105. NONMETROPOLITAN ALLOCATION.

Paragraph (3) of section 202(l) of the Housing Act of 1959 (12 U.S.C. 1701q(l)(3)) is amended by inserting after the period at the end the following: “In complying with this paragraph, the Secretary shall either operate a national competition for the nonmetropolitan funds or make allocations to regional offices of the Department of Housing and Urban Development.”.

TITLE II—REFINANCING

SEC. 201. APPROVAL OF PREPAYMENT OF DEBT.

Subsection (a) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) in the matter preceding paragraph (1), by inserting “, for which the Secretary’s consent to prepayment is required,” after “Affordable Housing Act”);

(2) in paragraph (1)—

(A) by inserting “at least 20 years following” before “the maturity date”; and

(B) by inserting “project-based” before “rental assistance payments contract”; and

(C) by inserting “project-based” before “rental housing assistance programs”; and

(D) by inserting “, or any successor project-based rental assistance program,” after “1701s)”; and

(3) by amending paragraph (2) to read as follows:

“(2) the prepayment may involve refinancing of the loan if such refinancing results in—

“(A) a lower interest rate on the principal of the loan for the project and in reductions in debt service related to such loan; or

“(B) a transaction in which the project owner will address the physical needs of the project, but only if, as a result of the refinancing—

“(i) the rent charges for unassisted families residing in the project do not increase or such families are provided rental assistance under a senior preservation rental assistance contract for the project pursuant to subsection (e); and

“(ii) the overall cost for providing rental assistance under section 8 for the project (if any) is not increased, except, upon approval by the Secretary to—

“(I) mark-up-to-market contracts pursuant to section 524(a)(3) of the Multifamily Assisted Housing Reform and Affordability Act

(42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by nonprofit organizations; or

“(II) mark-up-to-budget contracts pursuant to section 524(a)(4) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by eligible owners (as such term is defined in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)); and”;

(4) by adding at the end the following:

“(3) notwithstanding paragraph (2)(A), the prepayment and refinancing authorized pursuant to paragraph (2)(B) involves an increase in debt service only in the case of a refinancing of a project assisted with a loan under such section 202 carrying an interest rate of 6 percent or lower.”.

SEC. 202. USE OF UNEXPENDED AMOUNTS.

Subsection (c) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by striking “USE OF UNEXPENDED AMOUNTS.—” and inserting “USE OF PROCEEDS.—”;

(2) by amending the matter preceding paragraph (1) to read as follows: “Upon execution of the refinancing for a project pursuant to this section, the Secretary shall ensure that proceeds are used in a manner advantageous to tenants of the project, or are used in the provision of affordable rental housing and related social services for elderly persons that are tenants of the project or are tenants of other HUD-assisted senior housing by the private nonprofit organization project owner, private nonprofit organization project sponsor, or private nonprofit organization project developer, including—”;

(3) by amending paragraph (1) to read as follows:

“(1) not more than 15 percent of the cost of increasing the availability or provision of supportive services, which may include the financing of service coordinators and congregate services, except that upon the request of the non-profit owner, sponsor, or organization and determination of the Secretary, such 15 percent limitation may be waived to ensure that the use of unexpended amounts better enables seniors to age in place;”;

(4) in paragraph (2), by inserting before the semicolon the following: “, including reducing the number of units by reconfiguring units that are functionally obsolete, unmarketable, or not economically viable”;

(5) in paragraph (3), by striking “or” at the end;

(6) in paragraph (4), by striking “according to a pro rata allocation of shared savings resulting from the refinancing.” and inserting a semicolon; and

(7) by adding at the end the following new paragraphs:

“(5) rehabilitation of the project to ensure long-term viability; and

“(6) the payment to the project owner, sponsor, or third party developer of a developer’s fee in an amount not to exceed or duplicate—

“(A) in the case of a project refinanced through a State low income housing tax credit program, the fee permitted by the low income housing tax credit program as calculated by the State program as a percentage of acceptable development cost as defined by that State program; or

“(B) in the case of a project refinanced through any other source of refinancing, 15 percent of the acceptable development cost.

For purposes of paragraph (6)(B), the term ‘acceptable development cost’ shall include, as applicable, the cost of acquisition, rehabilitation, loan prepayment, initial reserve deposits, and transaction costs.”.

SEC. 203. USE OF PROJECT RESIDUAL RECEIPTS.

Paragraph (1) of section 811(d) of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by striking “not more than 15 percent of”; and

(2) by inserting before the period at the end the following: “or other purposes approved by the Secretary”.

SEC. 204. ADDITIONAL PROVISIONS.

Section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended by adding at the end the following new subsections:

“(e) SENIOR PRESERVATION RENTAL ASSISTANCE CONTRACTS.—Notwithstanding any other provision of law, in connection with a prepayment plan for a project approved under subsection (a) by the Secretary or as otherwise approved by the Secretary to prevent displacement of elderly residents of the project in the case of refinancing or recapitalization and to further preservation and affordability of such project, the Secretary shall provide project-based rental assistance for the project under a senior preservation rental assistance contract, as follows:

“(1) Assistance under the contract shall be made available to the private nonprofit organization owner—

“(A) for a term of at least 20 years, subject to annual appropriations; and

“(B) under the same rules governing project-based rental assistance made available under section 8 of the Housing Act of 1937 or under the rules of such assistance as may be made available for the project.

“(2) Any projects for which a senior preservation rental assistance contract is provided shall be subject to a use agreement to ensure continued project affordability having a term of the longer of (A) the term of the senior preservation rental assistance contract, or (B) such term as is required by the new financing.

“(f) SUBORDINATION OR ASSUMPTION OF EXISTING DEBT.—In lieu of prepayment under this section of the indebtedness with respect to a project, the Secretary may approve—

“(1) in connection with new financing for the project, the subordination of the loan for the project under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act) and the continued subordination of any other existing subordinate debt previously approved by the Secretary to facilitate preservation of the project as affordable housing; or

“(2) the assumption (which may include the subordination described in paragraph (1)) of the loan for the project under such section 202 in connection with the transfer of the project with such a loan to a private nonprofit organization.

“(g) FLEXIBLE SUBSIDY DEBT.—The Secretary shall waive the requirement that debt for a project pursuant to the flexible subsidy program under section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a) be prepaid in connection with a prepayment, refinancing, or transfer under this section of a project if the financial transaction or refinancing cannot be completed without the waiver.

“(h) TENANT INVOLVEMENT IN PREPAYMENT AND REFINANCING.—The Secretary shall not accept an offer to prepay the loan for any

project under section 202 of the Housing Act of 1959 unless the Secretary—

“(1) has determined that the owner of the project has notified the tenants of the owner’s request for approval of a prepayment; and

“(2) has determined that the owner of the project has provided the tenants with an opportunity to comment on the owner’s request for approval of a prepayment, including on the description of any anticipated rehabilitation or other use of the proceeds from the transaction, and its impacts on project rents, tenant contributions, or the affordability restrictions for the project, and that the owner has responded to such comments in writing.

“(i) DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.—For purposes of this section, the term ‘private nonprofit organization’ has the meaning given such term in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)).”.

TITLE III—ASSISTED LIVING FACILITIES AND SERVICE-ENRICHED HOUSING

SEC. 301. AMENDMENTS TO THE GRANTS FOR CONVERSION OF ELDERLY HOUSING TO ASSISTED LIVING FACILITIES.

(a) TECHNICAL AMENDMENT.—The section heading for section 202b of the Housing Act of 1959 (12 U.S.C. 1701q-2) is amended by inserting “AND OTHER PURPOSES” after “ASSISTED LIVING FACILITIES”.

(b) EXTENSION OF GRANT AUTHORITY.—Section 202b(a)(2) of the Housing Act of 1959 (12 U.S.C. 1701q-2(a)(2)) is amended—

(1) by striking “(2) CONVERSION.—Activities” and inserting the following:

“(2) CONVERSION.—

“(A) ASSISTED LIVING FACILITIES.—Activities”; and

(2) by adding at the end the following:

“(B) SERVICE-ENRICHED HOUSING.—Activities designed to convert dwelling units in the eligible project to service-enriched housing for elderly persons.”.

(c) AMENDMENT TO APPLICATION PROCESS.—Section 202b(c)(1) of the Housing Act of 1959 (12 U.S.C. 1701q-2(c)(1)) is amended by inserting “for either an assisted living facility or service-enriched housing” after “activities”.

(d) REQUIREMENTS FOR SERVICES.—Section 202b(d) of the Housing Act of 1959 (12 U.S.C. 1701q-2(d)) is amended to read as follows:

“(d) REQUIREMENTS FOR SERVICES.—

“(1) SUFFICIENT EVIDENCE OF FIRM FUNDING COMMITMENTS.—The Secretary may not make a grant under this section for conversion activities unless an application for a grant submitted pursuant to subsection (c) contains sufficient evidence, in the determination of the Secretary, of firm commitments for the funding of services to be provided in the assisted living facility or service-enriched housing, which may be provided by third parties.

“(2) REQUIRED EVIDENCE.—The Secretary shall require evidence that each recipient of a grant for service-enriched housing under this section provides relevant and timely disclosure of information to residents or potential residents of such housing relating to—

“(A) the services that will be available at the property to each resident, including—

“(i) the right to accept, decline, or choose such services and to have the choice of provider;

“(ii) the services made available by or contracted through the grantee;

“(iii) the identity of, and relevant information for, all agencies or organizations providing any services to residents, which agencies or organizations shall provide information regarding all procedures and requirements to obtain services, any charges or rates for the services, and the rights and responsibilities of the residents related to those services;

“(B) the availability, identity, contact information, and role of the service coordinator; and

“(C) such other information as the Secretary determines to be appropriate to ensure that residents are adequately informed of the services options available to promote resident independence and quality of life.”.

(e) AMENDMENTS TO SELECTION CRITERIA.—Section 202b(e) of the Housing Act of 1959 (12 U.S.C. 1701q–2(e)) is amended—

(1) in paragraph (2)—

(A) by inserting “or service-enriched housing” after “facilities”; and

(B) by inserting “service-enriched housing” after “facility”;

(2) in paragraph (5), by inserting “or service-enriched housing” after “facility”; and

(3) in paragraph (6), by inserting “or service-enriched housing” after “facility”.

(f) AMENDMENTS TO SECTION 8 PROJECT-BASED ASSISTANCE.—Section 202b(f) of the Housing Act of 1959 (12 U.S.C. 1701q–2(f)) is amended—

(1) in paragraph (1), by inserting “or service-enriched housing” after “facilities” each time that term appears; and

(2) in paragraph (2), by inserting “or service-enriched housing” after “facility”.

(g) AMENDMENTS TO DEFINITIONS.—Section 202b(g) of the Housing Act of 1959 (12 U.S.C. 1701q–2(g)) is amended to read as follows:

“(g) DEFINITIONS.—For purposes of this section—

“(1) the term ‘assisted living facility’ has the meaning given such term in section 232(b) of the National Housing Act (1715w(b));

“(2) the term ‘service-enriched housing’ means housing that—

“(A) makes available through licensed or certified third party service providers supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy;

“(B) includes the position of service coordinator, which may be funded as an operating expense of the property; ;

“(C) provides separate dwelling units for residents, each of which contains a full kitchen and bathroom and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the housing; and

“(D) provides residents with control over health care and supportive services decisions, including the right to accept, decline, or choose such services, and to have the choice of provider; and

“(3) the definitions in section 1701(q)(k) of this title shall apply.”.

SEC. 302. MONTHLY ASSISTANCE PAYMENT UNDER RENTAL ASSISTANCE.

Clause (iii) of section 8(o)(18)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(18)(B)(iii)) is amended by inserting before the period at the end the following: “,

except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate.”.

TITLE IV—COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010 SEC. 401. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

RECOGNIZING AND HONORING BOB FELLER

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 703, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 703) recognizing and honoring Bob Feller and expressing the condolences of the Senate to his family on his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HARKIN. Mr. President, today I have submitted a resolution honoring Robert “Bob” Feller, who passed away 2 days ago.

Bob Feller was a great Iowan, great baseball player, and most importantly, a great patriot.

He was born and raised in Van Meter, IA. His father ran the family farm, and his mother was a registered nurse and teacher. His father built a baseball diamond on the farm that he named “Oak View Park.” Feller attended Van Meter High School, where he was a starting pitcher. Feller recalled his childhood: “What kid wouldn’t enjoy the life I led in Iowa? Baseball and farming, and I had the best of both worlds.”

Bob Feller went on to have one of the greatest baseball careers ever. His career spanned 16 seasons, during which he had 2,581 strikeouts and 266 wins. He had three no-hitters and 12 one-hitters. It is no surprise that Mr. Feller was inducted into the Hall of Fame in 1962, his first year of eligibility.

But, we do not just honor Feller because of his athletic achievements. We recognize him as a great American and patriot. He served our Nation in the Navy during World War II, enlisting 2 days after the attack on Pearl Harbor. Although he lost four baseball seasons due to his war service, he never regretted his choice.

Feller said recently, “A lot of folks say that had I not missed those almost

four seasons to World War II—during what was probably my physical prime—I might have had 370 or even 400 wins. But I have no regrets. None at all. I did what any American could and should do: serve his country in its time of need. The world’s time of need. I knew then, and I know today, that winning World War II was the most important thing to happen to this country in the last 100 years.”

Mr. President, this week we lost a great American.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 703) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 703

Whereas Robert William Andrew (“Bob”) Feller was born on November 3, 1918, near Van Meter, Iowa;

Whereas Bob Feller learned to play baseball on his parents’ farm in Dallas County, Iowa, and commented that “What kid wouldn’t enjoy the life I led in Iowa? Baseball and farming, and I had the best of both worlds”;

Whereas Feller attended Van Meter High School where he pitched for the baseball team;

Whereas Feller, at the age of 17, joined the Cleveland Indians, where he played for 18 years, his entire career;

Whereas Feller led the American League in wins 6 times;

Whereas Feller led the American League in strikeouts 7 times;

Whereas Feller pitched 3 no-hitters, including the only Opening Day no-hitter, and shares the major league record with 12 one-hitters;

Whereas Feller was an 8-time All-Star;

Whereas Feller was a key member of the 1948 World Series Champion Cleveland Indians;

Whereas Feller threw the second fastest pitch ever officially recorded, at 107.6 miles per hour;

Whereas Feller ended his career with 266 victories and 2,581 strikeouts;

Whereas Feller remains the winningest pitcher in Cleveland Indians history;

Whereas Feller was elected to the Baseball Hall of Fame in 1962, his first year of eligibility;

Whereas Feller enlisted in the Navy 2 days after the attack on Pearl Harbor in 1941;

Whereas Feller served with valor in the Navy for nearly 4 years, missing almost 4 full baseball seasons;

Whereas Feller was stationed aboard the U.S.S. Alabama as a gunnery specialist;

Whereas Feller earned 8 battle stars and was discharged in late 1945; and

Whereas Bob Feller, one of the greatest baseball players of all time, placed service to his country ahead of all else: Now, therefore, be it

Resolved, That the Senate—

(1) honors Bob Feller for transcending the sport of baseball in service to the United States and the cause of democracy and freedom in World War II;

(2) recognizes Bob Feller as one of the greatest baseball players of all time; and

(3) extends its deepest condolences to the family of Bob Feller.

Mr. BROWN of Ohio. Mr. President, I would like to take a moment to speak about this last resolution. Bob Feller was a Clevelanders through and through. Senator HARKIN is the prime sponsor of this resolution. I have joined him on it. Senator HARKIN sponsored the resolution because Bob Feller was born in Van Meter, IA.

He was signed by the Cleveland Indians at the age of 16, apparently for \$1 and an autographed baseball. He struck out 15 batters in his first Major League start. He struck out 17 in a game at the age of 17. He is the only Major League player in history to strike out in one game the number of batters comparable to his age.

His greatness was he was, perhaps, the hardest throwing pitcher ever in Major League Baseball. He pitched three no-hitters, then a record. It has been passed since. He pitched 12 one-hitters also, sharing that Major League record.

He would have shattered, perhaps, all pitching records short of Cy Young's number of career wins, perhaps, and Walter Johnson's, if he had not served his country for almost 4 years in World War II.

He gladly did it. He won eight battle stars. He served on the USS Alabama as a gunnery specialist. He was so proud of his service to his country. He turned down a huge contract with the Indians in 1942—huge in those days—to join the military to serve his country. He spoke about it frequently and was always very proud of that service.

He barnstormed the country with Satchel Page, the great Black pitcher who was not allowed in the Major Leagues in those days before the color line was broken. Feller and he traveled the country in the "White Major League Baseball" offseason and drew huge crowds, with Page and he facing each other in game after game after game.

He was a key member of the last Indians World Championship in 1948.

I saw Bob Feller pitch once. I was 4 years old, so I do not really remember it. My dad took my brothers Bob and Charlie and me to Bob Feller Day at old Cleveland Municipal Stadium in, I believe, 1957.

My dad loved Bob Feller. He was a legend in Cleveland. His statue is the only professional athlete's statue in Cleveland. Right outside Jacobs Field, on East 9th Street, you can see Bob Feller's statue, with his famous wind-up.

When you go to an Indians game in the new ballpark at Progressive Field—new, it is now more than 15 years old—

when you go to the ballpark, people always say: I will meet you at the Bob Feller statue. That is sort of the place where you meet up with your friends and get your tickets and all of that.

He brought great joy to so many, such as my father. He was, perhaps, the greatest pitcher who ever lived. He died at the age of 92 in Gates Mill. He is survived by his wife Anne; his children Steve, Martin, and Bruce.

I was proud to have gotten to speak a number of times to Bob Feller. I do not pretend to have known him well. But he was always a major presence in Cleveland baseball and a major presence in Cleveland civic life. We are all grateful to him and indebted to him for his service to his country in World War II and to our community before, during, and after World War II. So I wanted to honor with that resolution, with Senator HARKIN, his name and his life.

MODIFIED ORDER OF RECOGNITION

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the previous order relating to recognition of Senator SPECTER on Tuesday, December 21, be modified to provide that he be recognized at 10:30 a.m. that day.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider en bloc Calendar Nos. 1090 and 1091; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table en bloc; that any statements related to the nominations be printed in the RECORD as if read; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

Further, as if in executive session, I ask unanimous consent that on Sunday, December 19, following any vote with respect to the Risch amendment to the START treaty, the Senate then proceed to consider the following nominations: Calendar Nos. 892 and 1092; and vote immediately on confirmation of the nominations, with 2 minutes of debate prior to each confirmation vote, equally divided and controlled between Senator LEAHY and Senator SESSIONS or their designees; that upon confirmation, the motions to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session; further, after the first vote in this sequence, the succeeding votes be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

THE JUDICIARY

Edmond E-Min Chang, of Illinois, to be United States District Judge for the Northern District of Illinois.

Leslie E. Kobayashi, of Hawaii, to be United States District Judge for the District of Hawaii.

Mr. BROWN. Mr. President, as if in executive session, I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate proceed in executive session to consider the following nominations: Calendar No. 703, Benita Pearson, from the Northern Ohio District—if I could for a moment say that she was selected by a committee of 17 appointees from Senator VOINOVICH and me, and Judge Magistrate Pearson was chosen unanimously by this group, submitted to the President by—I submitted her name to the President, the President nominated her. She was voted out of committee in February of this year, out of the Judiciary Committee. I will be thrilled to move forward on that and discuss that tomorrow—also, Calendar No. 813, William Martinez; that debate on each nomination be limited to 60 minutes, equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that upon the use or yielding back of all time, the Senate then proceed to vote on confirmation of the nominations in the order listed; that prior to the second vote, there be 2 minutes of debate divided as specified above; that the second vote be limited to 10 minutes; that upon confirmation, the motion to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDER OF PROCEDURE

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that on Sunday, December 19, following any leader remarks, the Senate resume executive session in and consideration of the START treaty; that there then be 3 hours of debate with respect to the Risch amendment No. 4839, with the time divided as follows: 1 hour under the control of Senator KERRY or his designee and 2 hours under the control of Senator RISCH or his designee; that no amendments be in order to the Risch amendment; further, that upon

the use or yielding back of the time, the Senate proceed to vote with respect to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

consider the New START treaty, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 5:19 p.m., adjourned until Sunday, December 19, 2010.

PROGRAM

Mr. BROWN of Ohio. Mr. President, Senators should expect up to three rollcall votes, beginning at approximately 3 p.m. Those votes will be in relation to the Risch amendment to the START treaty and on confirmation of two judges.

ADJOURNMENT UNTIL 12 NOON TOMORROW

Mr. BROWN of Ohio. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Saturday, December 18, 2010:

THE JUDICIARY

ALBERT DIAZ, OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

ELLEN LIPTON HOLLANDER, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND.

EDMOND E-MIN CHANG, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

LESLIE E. KOBAYASHI, OF HAWAII, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF HAWAII.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

ORDERS FOR SUNDAY, DECEMBER 19, 2010

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 12 noon, on Sunday, December 19; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume executive session to

EXTENSIONS OF REMARKS

JIM MULDOON

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. HOYER. Madam Speaker, I rise today to recognize the achievements of my good friend James (Jim) Muldoon for his commitment, leadership, and achievements in the field of recreational boating and boating safety. I would like to express my appreciation for his dedication to making sailing accessible for everyone, regardless of economic status and physical or intellectual ability.

Mr. Muldoon grew up in Gary, Indiana and didn't learn how to sail until he finished his Air Force service and graduated from the University of Maryland. Since then, Muldoon has been an advocate of community sailing programs at the grassroots level, especially in the areas of youth sailing, training, and safety. He has long been actively involved in international sailing and boating-related organizations. He has captained his own 73-foot yacht, DONNY-BROOK, with a highly competitive amateur team in hundreds of races and has accrued over 75,000 miles of ocean racing.

In August, more than two dozen, sailing and boating-related organizations assembled to honor Mr. Muldoon for his lifelong contributions to boating safety. During the ceremony, Martin O'Malley, Governor of Maryland, awarded Mr. Muldoon with the Chesapeake Bay Ambassador Award. Peter Franchot, Comptroller of the State of Maryland also presented Mr. Muldoon with a Certificate of Recognition for his outstanding contributions to the State. Organizations paying tribute to Mr. Muldoon included the U.S. Coast Guard, Special Olympics of Maryland, American Red Cross, Annapolis Community Boating, Annapolis Community Foundation, Annapolis Sailing School, Chesapeake Bay Yacht Racing Association, Coast Guard Foundation, Downtown Sailing Center Baltimore, Kidship, National Association of State Boating Law Administrators, National Boating Federation, National Boating Safety Advisory Council, National Maritime Heritage Foundation, National Safe Boating Council, National Sailing Hall of Fame, National Water Safety Congress, Sailing Center Chesapeake, Shearwater Sailing Club, Spirit of America, United Safe Boating Institute, United States Coast Guard Auxiliary, United States Power Squadrons, and United States Sailing Association (US SAILING), join together to honor Mr. Muldoon's contributions to the sailing world.

Shelia Hixson, the chair of the Ways and Means Committee of the Maryland House of Delegates, presided over the ceremony and said, "We have no doubt that Mr. Muldoon will make many more contributions to the recreational boating community in years to come, but we wanted to take this opportunity to

thank him for all he has done over the past four decades."

In October, US SAILING awarded Mr. Muldoon its most prestigious award, the Nathanael G. Herreshoff trophy, for his outstanding contributions to the sport of sailing in the U.S. over many years. Since being founded in 1897, U.S. SAILING has been the national governing body (NGB) for sailing and provides leadership for the sport in the United States. Past winners of the Herreshoff trophy have included Harold Sterling Vanderbilt, Harry C. Melges Jr., Gary Jobson, and Roy E. Disney.

US SAILING has also awarded Mr. Muldoon the Timothea Larr trophy for the outstanding vision and guidance he has provided to the advancement of sailor education in the United States. The president of US SAILING, Gary Jobson, said that Mr. Muldoon "has been and always will be an outstanding asset to US SAILING and the general sailing community."

Mr. Muldoon has held more than 30 leadership positions over the years including the following: chair of the Department of Homeland Security's National Boating Safety Advisory Council, member of the Board of Directors and chair of the Development Committee for the Coast Guard Foundation, founder and president of the Brendan Sailing Training Program for Youth with Learning Differences, founding board member and vice president of the National Sailing Hall of Fame, and president, vice president of the Government Relations Committee, administrative division director, and chairman of the Training Committee for US SAILING.

As chairman of the National Boating Safety Advisory Council for eleven years, Mr. Muldoon has influenced the direction of boating safety and increased the awareness and value of on-the-water skills-based training.

I have the honor of serving with my friend, Jim Muldoon, on the Board of Trustees of St. Mary's College of Maryland. He has been an outstanding Chairman of the Board and continues to contribute his talent, vision and resources to the growth and excellence of Maryland's Honors College. While at St. Mary's, he supported the sailing program and collegiate team. His generosity enabled the school to build its new sailing center which is the training center for St. Mary's 2010 national championship sailing team, as well as, a center with classroom facilities for sailing classes and where any student, faculty or staff member can learn to sail free of charge or use the college boats. St. Mary's sailing coach Adam Werblow said "Thanks to Mr. Muldoon's passion, vision, and drive, [St. Mary's] now has the best sailing center in the country."

Mr. Muldoon also facilitated an agreement between St. Mary's College and National Water Safety Congress where Spirit of America's boating safety courses are taught to middle school students.

Mr. Muldoon founded the Brendan Sailing Training Program for Youth with Learning Dif-

ferences. Through this program, he has been able to make sailors out of a lot of people who wouldn't have otherwise had the opportunity.

He has contributed greatly to the Special Olympics Maryland by initiating training Special Olympians and their coaches to sail large yachts in addition to small crafts. This year, for the first time, a boat crewed completely by Special Olympians competed in the Governor's Cup Race. Patricia Fegan, president and CEO of Special Olympics Maryland said, "Jim has not only donated his boat for Special Olympics Maryland fundraising auctions but he also came to Special Olympics Maryland with the idea of having Special Olympians sail aboard his boat on major bay races."

He established a National Faculty; while he was chairman of US SAILING's Training Committee, which has become the curriculum and standards development engine for the education and training of students, instructors, coaches, and instructor trainers.

He also was a key player in the development and funding approval of US SAILING's national keelboat training and certification program.

Mr. Muldoon is credited with significantly strengthening US SAILING's partnership with the U.S. Coast Guard. According to Captain Mark Rizzo, chief of the Office of Auxiliary and Boating Safety for the U.S. Coast Guard, Muldoon is "one of the Coast Guard's most caring and compassionate partners." He assisted with the development of the U.S. Coast Guard's Strategic Plan of the National Recreational Boating Safety Program and most recently he advised the U.S. Coast Guard and its Boating Safety Division that on-the-water skills based training is necessary to increase safety and reduce accidents and fatalities. As a result, more Coast Guard nonprofit grants are being directed toward funding on-the-water programs instead of the previous reliance on classroom only courses and publication of safety brochures.

He currently resides in Washington, DC, with his wife Linda. They have one son, two daughters, and five grandchildren.

I commend Jim Muldoon for his commitment to the sailing and boating safety community. As evidenced, Jim Muldoon has made tremendous contributions to the boating community and it is an honor to represent someone who has been such a prominent figure in the area of community sailing education throughout the past four decades and will continue to make many more contributions in years to come.

PERSONAL EXPLANATION

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GERLACH. Madam Speaker, unfortunately, on Thursday, December 16, 2010, I

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

missed one recorded vote on the House floor. Had I been present, I would have voted "nay" on rollcall 646.

IN HONOR OF THE LIFE AND
CAREER OF LARRY KING

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. KUCINICH. Madam Speaker, I rise today in honor and recognition of the contributions of television and radio host Larry King. Over the course of his forty-three-year career, Mr. King has brought learning, laughter and inspiration to millions of Americans with his nonsense reporting.

Mr. King was not born into fame or fortune. The son of a bar owner and a seamstress, he and his younger brother grew up relying on public assistance after the untimely death of their father. After his graduation from high school, Mr. King's dreams of working as a radio broadcaster took him from New York to Miami, where he found a job performing administrative tasks for a local radio station. Soon he had his own small show, which grew quickly in popularity and opened the door to bigger opportunities. In the following years, Mr. King has published a column for USA Today, hosted his own show on CNN, released a widely read autobiography and appeared in several blockbuster movies including Shrek 2 and Ghostbusters. He has received countless honors, including an Emmy Award, two Peabody Awards and ten Cable ACE Awards.

Mr. King does not present himself as a humanitarian, but he has contributed millions of dollars to charity through his fundraising efforts and his personal donations. He played a crucial role in securing support for victims after natural disasters devastated New Orleans and Haiti. He established the Larry King Cardiac Foundation in an effort to eradicate the illness that claimed his father's life and seriously threatened his own. Mr. King also sits on the board of the Police Athletic League of New York City, a nonprofit organization serving disadvantaged children and youth, and has established a scholarship program at George Washington University's School of Media and Public Affairs.

Madam Speaker and Colleagues, please join me in honoring Larry King for his remarkable contributions to American culture. His life is a testament to the power of hard work and big dreams.

HONORING THE STAGLIN FAMILY

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. KENNEDY. Madam Speaker, I rise today to honor the Staglin family for their ongoing and unparalleled efforts to improve the lives of the hundreds of millions of individuals across the world living with mental illness.

Garen, Shari, Brandon, and Shannon Staglin have made the fight against mental illness their collective mission and have approached the awesome challenge of combating these difficult disorders with a strong and organized effort that is at once inspirational and transformative.

In 16 years, the Staglin's non-profit International Mental Health Research Organization, IMHRO, and the Staglin Music Festival for Mental Health have raised over \$116 million for mental health research. The mission of IMHRO is to alleviate human suffering from mental illness by funding scientific research into the causes, prevention and new treatments of mental disorders. IMHRO produces, supports and builds awareness for fundraising events to raise money for mental health research, directs funding to the most promising research by soliciting and selecting proposals for prevention, treatment and cure of mental disorders, collaborates with affiliate organizations, people and events worldwide to raise and direct funding and minimize duplication of scientific effort, and works to build awareness of scientific achievements and possibilities. Recently, the Staglins have taken the lead in the organization of the Next Frontier Initiative to design and implement a 10-year collaborative neuroscience research effort for the benefit of soldiers and veterans with Traumatic Brain Injury and PTSD.

The efforts of the Staglin family have changed the landscape of how the country approaches mental illness, and are illustrative of the ability of a few dedicated people to truly change the world.

LOESER'S DELI 50TH
ANNIVERSARY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. ENGEL. Madam Speaker, I stand today to commemorate a Bronx institution—Loeser's Deli—which will be celebrating its 50th year in business on January 8, 2011. Fredy Loeser opened the business in 1961 with his father, Ernest, and has spent the last five decades standing behind the counter serving the people of the Bronx. Time has passed and people have come and gone, but Fredy Loeser and Loeser's Deli have stayed right in the Kingsbridge section of the Bronx, making some of the best New York deli one can ever have.

To thank his customers, Fredy will be turning back the clock on his anniversary and will be pricing his food as if it was 1961. I dare anyone in this House to find a better hot dog for 50 cents anywhere in the country!

In this day and age, where businesses come and go and when far too many people are struggling to keep their heads above water, it is a pleasure to honor a man who has worked hard for 50 years, keeping a small business afloat and thriving. Fredy has worked many long hours in these last few decades and he continues to work those hours today.

I want to thank him for his hard work and for being a pillar of our Bronx community all these

years. I want to wish the best to his family—his wife Elayne, his children (Pamela Loeser-Halpern and her husband Michael, Lisa Loeser-Weiss and her husband Gary, Brett Loeser and his wife Alene, and Scott Loeser and his wife Bonnie), and his 12 grandchildren (Julia, Jesse, Lexa, Emily, Andrew, Gregory, Zachary, Samantha, Abigail, Danielle, Drew and Rachel). The success Fredy has enjoyed not only consists of corned beef and pastrami, but it is reflected in the wonderful family he has raised over the years.

I know I am looking forward to my next sandwich from Loeser's and I hope to be enjoying them for many more years to come.

THE PASSING OF JUDGE SAMUEL
PAILTHORPE KING, UNITED
STATES DISTRICT COURT FOR
THE DISTRICT OF HAWAII

HON. MAZIE K. HIRONO

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Ms. HIRONO. Madam Speaker, I rise today to recognize the late Judge Samuel P. King of the U.S. District Court for the District of Hawaii. Judge King passed away on December 7, 2010, at the age of 94. His deep love for Hawaii was evident in his rulings and in the way he carried himself throughout his life.

Samuel Pailthorpe King was born on April 13, 1916, in Hankow, China, to Samuel Wilder King and Pauline Nawahineokalai Evans. The elder King would later serve in the United States House of Representatives as a delegate from the Territory of Hawaii (1935–1943) and as Territorial Governor of Hawaii (1953–1957).

Samuel P. King was a graduate of Punahou School in Honolulu. He also attended Yale University, where he received a B.S. in 1937 and Yale Law School, where he graduated with an LL.B. in 1940. During World War II, King joined the United States Navy and served as a Japanese language translator from 1942 to 1946. He continued his service in the Naval Reserve from 1946 to 1967.

King began to practice law in Honolulu in 1946. In 1956, he became a district magistrate for the City and County of Honolulu. Hawaii Governor William F. Quinn appointed King to a judgeship in the First Circuit Court where he served from 1961 to 1970. In 1966, King joined Judge Gerald R. Corbett in founding Hawaii's Family Court system. In 1970, King resigned as a judge and ran as a Republican for Governor of Hawaii. After losing to incumbent Governor John A. Burns, King returned to private law practice.

On May 22, 1972, President Richard M. Nixon nominated King to the United States District Court for the District of Hawaii. King was confirmed by the United States Senate on June 28, 1972. He began serving as chief judge in 1974. After 10 years as chief judge, King assumed senior status.

With nearly five decades on the bench, Judge Samuel P. King has left a legal legacy that includes decisions ranging from upholding Hawaii's land reform law to halting construction of the H-3 freeway to protecting the rights of the mentally ill.

Judge King was one of five co-authors of the "Broken Trust" essay published in the Honolulu Star-Bulletin in 1997. That essay, written by prominent members of the Native Hawaiian community, was instrumental in bringing change to the leadership and conduct of the Bishop Estate trust that was established to promote the education and wellbeing of Native Hawaiian children. In a 1998 interview, Judge King said, "I know one thing. Every judge has an obligation: If you see something wrong in the community, you speak out against it." With Broken Trust, Judge King did just that.

According to those closest to him, Judge King was particularly proud of his decision protecting the endangered Palila, a 6-inch finch-billed member of the Hawaiian honeycreeper family.

In 1979, Judge King ruled that the State of Hawaii had to protect the bird by eliminating wild goats and sheep from the Palila's only natural habitat on the slopes of Mauna Kea on the island of Hawaii. He ruled that the Palila had standing in the federal court system, and he monitored the bird's welfare for the rest of his life.

Earlier this year, I introduced a bill that would expand the forest habitat of native birds found nowhere else but in the State of Hawaii. The Hakalau Forest National Wildlife Refuge Expansion Act (H.R. 5380) will help preserve Hawaii's unique animals and plants. As the Member of Congress representing one of the most beautiful and ecologically important places in our world, like Judge King, I believe species conservation is a part of my obligation to Hawaii.

I would like to extend my deepest condolences to Judge King's wife of 66 years, Anne Van Patten Griik King; his son, Samuel, Jr.; his daughters, Louise King Lanzilotti and Charlotte King Stretch; and his six grandchildren.

Mahalo nui loa (thank you very much).

IN HONOR AND REMEMBRANCE OF HENRIETTA KING

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. KUCINICH. Madam Speaker, I rise in honor and remembrance of Henrietta King, a devoted mother, wife and friend. Henrietta dedicated her life to cultivating potential in others, whether that meant teaching her children to work the family farm or supporting her husband in his extraordinary career.

Henrietta, or "Henri" as her loved ones knew her, married future boxing promoter Don King in her thirties. The couple's early years in Cleveland, Ohio were a far cry from the life they would build for themselves in years to come. Henrietta stayed by Don's side through his struggles, helping him to become the promoting sensation that he is today. Friends also knew her for her lighthearted side. She had a penchant for gardening, decorating, and collecting extravagant shoes.

Even in times of prosperity, the couple did not forget those who were less fortunate. They

were generous but soft spoken philanthropists, donating, among other things, fire engines to a local fire department and to New York City after the September 11, 2001 attacks.

Madam Speaker and colleagues, please join me in honor and remembrance of Mrs. Henrietta King. I offer my condolences to her husband Donald; her children Deborah, Carl, and Eric; her niece Jean King-Battle; her five grandchildren; and her many friends and extended family members. She will always be remembered for her steadfast and nurturing spirit.

RECOGNIZING THE ACADIANA HIGH SCHOOL RAMS FOOTBALL TEAM ON WINNING THE LOU- ISIANA 5A STATE CHAMPIONSHIP

HON. CHARLES W. BOUSTANY, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. BOUSTANY. Madam Speaker, I wish to congratulate the Acadiana High School Wreckin' Rams football team of Lafayette, Louisiana, for winning their second 5A State Championship. With their win at the Superdome in New Orleans on December 11, 2010, the team joins the level of elite high school football teams in the State. Their win is a source of pride for the students, faculty, and alumni of Acadiana High School, as well as of the people of Lafayette.

This year's squad overcame many hardships this season on their way to the Superdome. The strength, tenacity and determination of the players and coaches to overcome adversity proves that they indeed deserve to be called "champions."

After compiling a 6-4 record in the regular season, the Rams cruised through the playoffs, recording big wins on their drive to New Orleans. The team defeated some of the strongest programs from across Louisiana: East St. John by a score of 56-6; Zachary, 49-7; St. Paul, 41-20; and St. Thomas More in the State semifinals by a score of 31-0.

In the State championship game, the Rams played one of the top teams in the State, the West Monroe Rebels, a team which had won 29 straight games and was the defending State champion. In one of the best high school games of the year, the Rams played their hearts out and emerged victorious with a 21-14 victory over the Rebels.

This team represents the strength, determination, and resilience of the people of Acadiana. I want to commend head coach Ted Davidson for his leadership through the highs and lows of this season, and applaud him and his fellow coaches for keeping the team focused and determined to achieve their goal of a State championship.

Very few teams have won more than one State championship in the history of the Louisiana High School Athletic Association, and with this team's win this year, Acadiana High School joins those select few Louisiana high school football programs. For overcoming adversity early in the season and delivering resounding wins throughout the post season, I congratulate the 2010 Acadiana High School

Wreckin' Rams football team for their victory in the 5A State Championship.

IN MEMORY OF TIM RUSSERT

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. HIGGINS. Madam Speaker, throughout my time in Congress it has been my privilege to meet many of the people involved in running this great institution. Albert Caswell, who works with the Capitol Visitor's Center to give tours for the Wounded Warriors and Make a Wish organizations, is one of those people.

I rise today to ask that a poem written by Mr. Caswell, honoring one of Buffalo's greatest sons, Tim Russert, be added to the official RECORD.

RUSSERT

All on the canvass of our lives . . .
What, are of our gifts as realized?
That we so paint all in our lives . . .
That, which so shows all of us while in our times . . .

As when we are gone, that which so surely shines!

Russ . . . Art . . . A Man of Faith, Who Thou Art!

A Thing of Beauty!

A Truly Great Man, Full of Heart!

A Fine . . . Fine . . . Fine Kind Work of Art!

All in what you have painted, Tim . . .

All in your life's part . . .

Oh yes, in your lifetime Tim . . . you so stood apart!

From all the rest!

First and foremost, it was your love of family, playing The Greatest Part!

Whether, it was Big Russ . . . Like . . . or that lovely wife Maureen . . .

As you so showed us all, life's greatest theme . . .

As your life's Mission, as such . . .

All in your life's ministry, all in your decisions as bestowed upon us . . .

To drink from that cup of life, not sip . . . or think twice . . .

To live each new day full, and on your way and burn bright!

A Man, from humble means . . .

Who, never forgot from where he had come, who inspired all . . . this one!

But to live, That Great American Dream . . . As through your choices, and your most warm inner voices . . .

Where character, faith, and hard work so convened!

A poster child, with that warm smile . . .

As all the while, of what America really means!

As all in your life was seen . . .

God, Faith, Family, and our Country 'Tis of Thee . . .

As you wore them all upon your sleeve . . . When, we Met The Press . . .

In Your Search For the Truth . . .

All in you Tim, we so met the very best!

For in your short, but great lifetime . . .

This your nation, you would bless!

For politics was your life . . .

And now, You and Murrow . . . share the same light!

And in this your world of gotcha . . .

No man of honor, has ever burned more bright!

Because, all our leaders knew there be a fight . . .

But, it would be an honest and fair . . . what was right!
 For it was your Great Love of Life . . .
 Go Buffalo! Go Bills!
 That cries out to all of us this sad night!
 To remind us, in what we saw . . . To carry a smile!
 To love God, Country, Work and Family . . . with all your might!
 To Be The Best, in all you do!
 To go for it!
 To help your friends, to be true!
 And that was but Tim, that was but you!
 To have a heart of a child, to ever carry it and wear a warm smile!
 All in your life's quests, as viewed . . . A Missionary Man . . .
 Who's Life of Faith,
 painted a masterpiece far out across this great land to view!
 A Mission, that our Lord had put you upon this earth to do!

IN PRAISE OF THE TRANS-ATLANTIC LEGISLATORS' DIALOGUE MEETING HELD IN SAN FRANCISCO, CA

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. BERMAN. Madam Speaker, from December 3 to 5, a delegation of Members of the House met with a delegation of Members of the European Parliament for the 69th session of the Transatlantic Legislators' Dialogue. The TLD is the principal inter-parliamentary organization to foster discussion between U.S. and European Union legislators. Following my remarks is the Joint Statement issued by the TLD chairs and vice-chairs summarizing the results of this meeting.

A highlight of this meeting was the participation by the Foreign Minister of Pakistan, His Excellency Shah Mehmood Qureshi, who gave an enlightening presentation on current issues in Pakistan and the South Asia region. His remarks stimulated a lively discussion.

For the past four years, the TLD Congressional delegation has been ably chaired by our colleague, the gentlelady from Nevada, Ms. SHELLEY BERKLEY. Indeed, she has been the driving force in making the TLD an effective mechanism to strengthen the working relationship between the Congress and the European Parliament. In recognition of her energetic commitment to trans-Atlantic diplomacy, the participants honored her at this meeting. As Chairman of the Committee on Foreign Affairs, I join them in commending Ms. BERKLEY for her outstanding leadership of the Transatlantic Legislators' Dialogue.

TRANSATLANTIC LEGISLATORS' DIALOGUE, FROM THE EUROPEAN PARLIAMENT AND THE UNITED STATES CONGRESS, JOINT STATEMENT

Shelley Berkley, Chairwoman, United States Congress Delegation
 Cliff Stearns, Vice Chairman, United States Congress Delegation
 Jim Costa, Vice Chairman, United States Congress Delegation
 Elmar Brok, MEP, Chairman, European Parliament Delegation
 Sarah Ludford, MEP, Vice Chairwoman, European Parliament Delegation

Niki Tzavela, MEP, Vice Chairwoman, European Parliament Delegation

We, the Members of the European Parliament and the United States House of Representatives, held our 69th Interparliamentary meeting (Transatlantic Legislators' Dialogue) in San Francisco, California, from 3-5 December 2010.

Building on the joint statement issued following our last meeting in Madrid on 3-6 June 2010 we reasserted the importance of regular dialogue on political, social, security, economic and environmental challenges that affect all of our citizens. We agreed to report back to our parent bodies on the content and outcome of our discussions in San Francisco, in particular in the areas where joint efforts are likely to produce positive outcomes.

We discussed issues ranging from the global financial situation and trade, to Iran, Iraq, Afghanistan and Pakistan and climate change. We were briefed on data sharing and privacy issues by Mary Ellen Callahan from the Department of Homeland Security and met with the Foreign Minister of Pakistan, His Excellency Shah Mehmood Qureshi.

Our delegations noted that the U.S. and EU must be aware of long-term trends and challenges including the economical and political rise of Asia, cooperation with Latin America, and seek answers to issues like climate change and cybersecurity. In this context, we discussed inviting a NATO representative to the next TLD meeting.

The European Parliament Delegation expressed its gratitude to the U.S. for its vote in support of a strengthened EU presence in the United Nations General Assembly.

We noted the statement by the leaders of the U.S. and the EU giving a central role to the Transatlantic Economic Council (TEC), and outlining "the potential of transatlantic commerce to boost our growth and generate jobs on both sides of the Atlantic." We support the joint efforts to "promote innovation, streamline regulation, and eliminate non-tariff barriers to trade and investment, bringing benefits to business, workers, and consumers in both markets." The reducing of non tariff barriers and the streamlining of regulations were agreed as priorities when the TEC was established. We call on the TEC leaders once again to reach out directly to Congress and the European Parliament.

The October 14 2010 European Parliament Delegation 'Brief on EU-US trade and economic cooperation' was well received and we look forward to further proposals to improve the Transatlantic market. In this respect we also discussed the need for us as legislators to take a more active role to reduce non-tariff barriers to trans-Atlantic trade, including working with executive agencies on a few specific projects, for instance as regards product testing procedures of automobiles and emerging products through advances in nanotechnology.

We discussed ways to further enhance our dialogue and deepen transatlantic ties, even in times of economic constraints and respecting the need for cost effectiveness, including:

- expanding contacts among staff of our institutions,
- inviting EU and U.S. officials to provide perspectives on strategic issues related to financial recovery and economic growth,
- expanding interaction between the U.S. Congress and the European Parliament, including through video-conferencing,
- promoting closer contacts between the Members responsible for specific legislative issues, in particular on a committee to committee basis,

—the possibility of joint hearings and the issuance of joint statements.

In conclusion, we reaffirmed our commitment to strengthening the transatlantic relationship and working in partnership to solve common challenges. We pledged to continue improving the effectiveness of our dialogue in order to realise the full potential of our interparliamentary relationship, as well as to ensure the relevance of the TLD's work to the European Parliament and the United States Congress.

COMMENDING THE MORROW-STEVENS FOUNDATION ON 10 YEARS OF OPERATIONS

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize and congratulate Geraldine and Alan Graham on the 10th anniversary of operations of the Morrow-Stevens Foundation, a non-profit organization they created to provide college scholarships to needy students. Recognizing the importance of education, and the significant challenge that financial hardships often pose to otherwise dedicated students, Geraldine and Alan incorporated the Foundation in 1999 and began awarding scholarships the following year. The Foundation's scholarships are all-encompassing, providing full tuition, room and board, and book stipends for four years of post-secondary education. Long-time residents of Virginia, Geraldine and Alan set up the Morrow-Stevens Foundation Scholarship to be available to deserving students in two of the lowest-income counties in the Commonwealth. To date, the Foundation has awarded eight scholarships and has had five graduates. Its ongoing operation will continue to enable additional deserving, but underprivileged students the opportunity for education and a greater ability to shape their futures.

Madam Speaker, ensuring a quality education for our children is one of our most important responsibilities, and I urge my colleagues to commend Geraldine and Alan Graham and the Morrow-Stevens Foundation for their selfless work in furtherance of that goal and wish them continued success in their noble efforts.

HONORING DR. STEVEN E. HYMAN

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. KENNEDY. Madam Speaker, I rise today to honor Dr. Steven E. Hyman for his service to the academic, scientific, and cultural life of the United States. As Director of the National Institute of Mental Health (NIMH) from 1996-2001, Dr. Hyman was instrumental in transforming the way the nation understands, treats, and responds to mental illness. Under Dr. Hyman's leadership, the NIMH became a world leader in genetic, biological, and

neuroscientific research to improve the lives of the tens of millions of Americans living with mental illness. Since 2001, Dr. Hyman has served as Provost of Harvard University, where his innovative leadership helped usher America's oldest university into the new millennium with a strong emphasis on interdisciplinary and collaborative research. Additionally, Dr. Hyman's role in strengthening the museums, libraries, and cultural institutions of Harvard University has strengthened the rich cultural life of the United States as a whole.

Dr. Hyman is a member of the Institute of Medicine of the National Academy of Sciences. He has received awards for public service from the U.S. Government and from patient advocacy groups such as the National Alliance for the Mentally Ill and the National Mental Health Association. Across the country and over the world, he has lectured on topics ranging from genes, brain, and behavior to the stigma of mental illness. Dr. Hyman is a member of the Society for Neuroscience, the American College of Neuropsychopharmacology and the American College of Psychiatrists. He has served on scientific advisory boards nationally and internationally including the Howard Hughes Medical Institute, the Riken Brain Sciences Institute in Japan, and the Max Planck Institute for Psychiatry in Germany. He is currently Chairman of the Scientific Advisory Board for the Next Frontier Initiative, a new endeavor to design and implement a 10-year collaborative neuroscience research effort for the benefit of soldiers and veterans with Traumatic Brain Injury and PTSD.

As Dr. Hyman prepares to transition from his position as Provost of Harvard University, we honor his legacy as a national leader in science and academia and look forward to his continued contributions to American life.

RECOGNITION FOR RETIRING ASSOCIATE CIRCUIT JUDGE MICHAEL L. MIDYETT, CHARITON COUNTY, MISSOURI

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. CLEAVER. Madam Speaker, I rise on behalf of Missouri's Fifth Congressional District, to take this opportunity to recognize the Honorable Michael L. Midyett, Associate Judge, Chariton County, Missouri. I would like to thank him for his service to his community and to congratulate him upon his upcoming retirement from the bench. I am so pleased Judge Midyett's community is honoring him by recognizing his many years of service on the bench, but especially for his dedication to and caring about the citizens of his community. Only a special person would provide the years of judicial and legal service Judge Midyett has provided through his 21 years of service as the second longest serving Associate Circuit Judge of Chariton county; for over 29 years as an elected official serving the State of Missouri in the Judicial System first as a Prosecuting attorney then as a Judge. Including his years as a practicing attorney, Judge Midyett has served the citizens of Missouri for 39 years in the Judicial system.

It is my understanding that Judge Midyett is best known for his penchant for jury trials and for being hard but fair on criminals. During his tenure as a Chariton County Prosecuting Attorney, Judge Midyett had at least one jury trial each month. For a rural county with a small population, that is a fair amount which proves justice is being served. He believes that all citizens should uphold the law and that no one is above the law. The citizens of Chariton County have known him to be extremely fair and honest. He has upheld the law through his knowledge of the law and his years of experience. Through Judge Midyett's example, others are reminded that Chariton County can only thrive within a strong and just community.

Judge Midyett is a well respected judge in his community. Judge Midyett upholds the traditions and honors of the Judicial Branch of Missouri government. His accomplishments include: Appointments by the Missouri Supreme Court for the Civil Rules Committee; the Judicial Weighted Workload Steering Committee 2006–2008; Board of Directors of the Missouri associate Probate Associate Circuit Judges 2005–2009; former President of the 9th Circuit Bar; past member of Missouri Prosecuting Attorney Associations; past member of National District Attorneys' Association; Associate of Trial Lawyers of America; Association of Lawyers for Pilots Association; City Attorney for Keytesville 1974–1985.

Service to the Keytesville community is a hallmark of Judge Midyett's character. His friends and colleagues honoring him are but a few of the organizations that have grown from his leadership. The Judge has been extremely active in local and civic activities including: Board of Directors of Keytesville Lions Club; former President of Keytesville Lions Club; former President of Keytesville Chamber of Commerce; member of Immanuel Lutheran Church of Salisbury; philosophically and in real terms, Judge Midyett is a proud member of the Chariton County Democratic party.

Foremost among the Judge's many accomplishments has been his recent work obtaining pictures of former Chariton County judges for the Courthouse. Judge Midyett has searched extensively for pictures of the past judges and done an amazing amount of research on the lives of these judges and the times they lived in. What a wonderful legacy to leave your community. Your personal commitment to the legal and judicial system in Keytesville and Chariton County serves as a model for what it means to give back to our communities.

Madam Speaker, once again, I want to share my sincerest congratulations to Judge Midyett as he receives our well deserved recognition. I wish the Judge the best in the years to come.

PERSONAL EXPLANATION

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Ms. GRANGER. Madam Speaker, on rollcall No. 647, I was absent from the House. Had I been present, I would have voted "yes."

HONORING CARLA FURSTENBERG COHEN

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Ms. NORTON. Madam Speaker, I rise today to ask the House of Representatives to honor Carla Furstenberg Cohen, whose creative ideas and feisty energy were embodied in her legendary bookstore, Politics and Prose, here in the Nation's capital. With her partner, Barbara Meade, Carla Cohen, who died on October 11, 2010, built a small storefront with eclectic books into a major public literary salon that defined Washington as more than a gray government town.

Her love of books could not be contained inside the book covers alone, however. Politics and Prose also became a combination discussion platform for authors—from Bill Clinton to Alice Walker—basement coffee shop with open mics for musicians, and a hangout for browsers turned off by the big box chain stores.

No one who knew Carla, as I did at Antioch College, can be surprised that Carla Furstenberg, with her effervescent personality, had the power to create an institution. She did not leave all that energy at college, however. Of course, Carla, like the brightest young women of her generation, got a master's degree, was married for 52 years to David Cohen, and had two children. She worked in urban planning and housing and served as a staff member in the House of Representatives before joining the U.S. Department of Housing and Urban Development.

However, Carla found her true calling at Politics and Prose, "a place where books are not commodities." The bookstore was a meeting place for those who wanted to do more than buy books. People who found it important to have a place to talk about books and about politics, art, and the issues and items of the day often found their way to Politics and Prose.

Carla Cohen threw herself and her savings into Politics and Prose, mortgaging her house and borrowing from family and friends to open the store in 1984, when the mega bookstores were at their high point. The giant retailers responded by trying to copy what they could from the book lovers' intimate atmosphere of Politics and Prose. The bookstore continued to thrive. Despite the recession, its sales, at \$7.5 million, were \$3 million more than two years ago.

Politics and Prose will survive its extraordinary creator. Though the bookstore was put up for sale shortly before Carla Cohen's death, co-owner Barbara Meade is conducting the sale by actually interviewing the six finalists, among more than 50 who made offers.

The lessons should be clear enough. If bookstores want to survive at all in the age of electronic books, they had best study the model that Carla Furstenberg Cohen created.

Madam Speaker, I ask the House of Representatives to join me in celebrating the amazing life of Carla Furstenberg Cohen of Politics and Prose, a legacy with life still to give.

IN RECOGNITION OF THE BATTLEFIELD HIGH SCHOOL BOBCATS, 2010 VIRGINIA AAA DIVISION 6 FOOTBALL STATE CHAMPIONS

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the Battlefield High School Bobcats from Gainesville, Virginia for winning the 2010 Virginia AAA Division 6 State Championship in football.

The Battlefield High School team completed the regular season with a record of 8 wins and 2 losses. To capture the title, Battlefield won four straight playoff games and defeated a team from Hermitage High School in Richmond, Virginia that had only lost once in their previous 47 games. Battlefield also won their second straight Northwest Region Championship this season. This is Battlefield High School's first State Championship in a team sport. The team is one of only 50 high school football teams out of more than 16,000 nationwide to be honored by the MaxPreps Football Tour of Champions with the National Guard National Ranking Trophy. In recognition of his outstanding leadership, the Washington Post named Head Coach Mark Cox the 2010 All-Met Coach of the Year.

It is my honor to enter into the CONGRESSIONAL RECORD the staff, coaches and players who helped Battlefield High School win the 2010 Virginia AAA Division 6 State Championship.

Principal: Amy Ethridge-Conti.

Athletic Director: Ben Stutler.

Head Coach: Mark Cox.

Assistance Coaches: Mark Johnson, Rob Mello, Vic Ceglie, Paul Labazzetta, Jaime Labazzetta, Bobby Coleman, Greg Williams, Kevin Kerns, Sam Newman, Don Fair, John White, Tim Coughlin.

Players: Terrell Tapscott, Andrew Smith, Bobby Curry, Brian Curry, Sidney Henry, Isaiah Wright, Michael Jorgenson, Nathan McGahan, Ishmail Gazawi, Caleb Pinilis, JT Brosnahan, Devon Greene, Ryan Swingle, Devonne Haydon, Jeff Beathard, Cedric Agyeman, Quantray Wilkerson, Nagee Jackson, Anthony Lopez, Jason Hoepker, Jay Onwuka, Lucas Klugh, Chris Wendle, Jake Conway, Grayson Matthews, River Piercy, Eric Michael, Drew Elias, Austin Thibodeaux, Joe Walker, D'Anthonie Delgado, Darius Johnson, Nick Newman, Ryan Newton, Mike Osei, Xavier Stringfellow, Dane Howard, Eddie Cunha, Freddie Potter, Harrison Hyre, Zac Everett, Blaine Varley, David Risoldi, Eric Loehle, Jack Taylor, John Agnos, Ronald Ausberry, Brandon Whaley, Garrett Fox, CJ Incrominias, Brandon Dukeman, Larry Fields, Darion Duncan, William Soloman, Robert Garland, Turner Weeks, Brian Wilson, Jon Hyre, Jacob Payne.

Madam Speaker, I ask that my colleagues join me in congratulating the Battlefield High School Bobcats for winning the 2010 Virginia AAA Division 6 State Championship. This is a well-deserved title that could not have been won without an extraordinary team effort.

IN HONOR OF DARLENE DUNHAM

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. FARR. Madam Speaker, I rise today to recognize the remarkable public service career of Darlene Dunham. Darlene is retiring from her work in Monterey County as the chief of Staff for County Supervisor Simon Salinas. However, she has had a long path of education and leadership before going to work for the County of Monterey. Of historical interest, Darlene was one of the top 16 money winners on the old television game show The Joker's Wild.

Darlene returned to college after having two children, Troy and Denyse. In 1983, she opened her own political consulting and training firm named Darlene Dunham and Associates. By 1998, she had expanded her business by 3 partners and focused on management training and consulting to the agricultural community. She finally received her Masters degree in Leadership at the age of 57.

Darlene spent a decade working in state and local political campaigns as a fundraiser and campaign consultant for now famous Willie Brown, former Speaker of the California Assembly, and former state legislators, now Members of Congress, LUCILLE ROYBAL-ALLARD, XAVIER BECERRA, JIM COSTA, MAXINE WATERS, DIANE WATSON, and myself. While serving as chair of the Monterey County Commission on the Status of Women, Darlene led the first sexual harassment training course for county employees and was one of the first persons certified by the California State Bar Association to train public and private sector personnel including California prison guards.

Along with running her business, Darlene found time to get involved in the community. Darlene has served on the Monterey County Arts Council, she has volunteered with the Salinas Women's Crisis Center, she served as a representative on the Hartnell College Board of Trustees, Vice Chair of the City of Salinas Recreation-Park Commission, and a board member of the Education Foundation for Salinas Union High School District. She was recognized as one of the outstanding women of Monterey County's Commission on the Status of Women. The Salinas Chamber of Commerce gave Darlene their Athena Award for outstanding businesswoman.

Darlene's passion and leadership led her to organize a trip to Morelia, Mexico to provide an opportunity for a group of Elementary School teachers to study the Spanish language and the Mexican culture. Darlene notes that she is looking forward to being retired so she can return to traveling the world with her husband and enjoying her grandchildren Emma, age 4, and Truman, age 1½.

Madam Speaker, I know that I am not alone in recognizing the work of this amazing woman. Darlene has always been involved in the community and her dedication to make Monterey County a better place will surely continue, even after she retires. For all that she has done and all that she will undoubtedly do, I extend my most sincere thanks and warmest wishes to our friend and professional colleague, Ms. Darlene Dunham.

TRIBUTE TO SPANISH FORT HIGH SCHOOL'S TOROS—ALABAMA'S 5A FOOTBALL CHAMPIONS

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. BONNER. Madam Speaker, I rise to honor the great accomplishment of a talented group of young men who worked together to propel the Spanish Fort, Alabama, Toros to the pinnacle of the State Class 5A championship.

On December 2, the Spanish Fort Toros varsity football team ended a historic season by defeating Briarwood Christian 14 to 0 to win the Alabama Class 5A title. This victory represents the first time the Spanish Fort Toros have captured a State football championship during their brief four years of fielding a team.

I would like to congratulate coaches Bryant Vincent, Tommy Walker, Chase Smith, George Brown, Richard Kelly, Duane Davis, Wayne Davis, Earnest Hill, Justin Moore, Michael Beasley, Rob Milam, and the entire Toros team: Connor Mitchell, Otis Smith, Christopher Beasley, Billy Harris, Blake Dees, Joel Poe, Ameriol Finley, Barkley Sims, Garrett Horst, Davares Ambrose, Shane English, Jonathon Cook, Demarco Montgomery, Matthew Harris, Conner McGavin, Troy Brown, Daniel Pond, Michael Tynes, Matt Hall, Devontae Patrick, Brett Lesinger, Kylan Cotton, Hunter Glass, Jarred Hodges, Brendan McCants, Dillen Malone, Alex Thomas, James Rocket, David Sullivan, Cory McCarron, Cameron Bosarge, Keland Dotch, Marcus Walton, Alec Morgan, Jake Clemmenson, Blain Crain, Jack Wilson, Bobby Creighton, Brandon Sledge, Tyler Bexley, Brannan Crosby, Aaron Caldwell, Conner Gates, Jake Brackhan, Byrson Stringer, Russell Whisnant, Tanner McNair, Grant Horst, Will Martin, Chase Holliman, Patrick Connick, Zac Fowler, Reed Pennington, Grey Curtis, Victor Dunning, Chris Morehouse, Zack Burnett, Cameron Gates, Patrick Williamson, Cade Burgin, Osmond Curtis, Walker Betts, Reese Dismukes, Chandler Wilson, Kaleb Hall, Hampton Cline, David Bertagnoli, Kevin Townsend, Timothy Pharez, Grant Curreton, Jared Burtrico, Adam Adcock, John Jagae and Brandon Hayliger.

Congratulations Toros.

HONORING MARY ELLEN
BRANDELL

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. CAMP. Madam Speaker, I rise today to honor Mary Ellen Brandell, who lost her courageous battle with leukemia on September 24, 2010.

I first got to know Mary Ellen when she was working at Central Michigan University, and I was just beginning my political career. She gave this young candidate a lesson in Mt. Pleasant and Isabella County politics and the

confidence to ultimately win a congressional campaign.

Her kindness has stayed with me throughout these years, as I have grown closer to the Brandell family.

In fact, her son Jim is my Chief of Staff. Now a decade into service for this institution, Jim carries with him the sensibilities instilled by Mary Ellen: Family, faith, and true citizenship.

For far too many people, these are mere words, but for Mary Ellen, these were the pillars on which she built and lived her life. And they served her well. She was a constant presence in the Mt. Pleasant community. From continuing her work with the ever-growing Central Michigan University, to her extensive list of charities including most recently with the Isabella County Sesquicentennial Committee, Woodland Hospice, Access to Recreation, and the Rotary Club. In fact, her efforts were so well recognized that she was named Mt. Pleasant Citizen of the Year.

She was also a world traveler, taking yearly trips with Jim to see new corners of our planet. She valued the time she spent with her family, but also used these opportunities to meet distant relatives and make new friends. She was even utilized in her role as a community leader of Mt. Pleasant to reach out to sister cities.

Even with these public and global accomplishments, I know that Mary Ellen's proudest accomplishment was her family, which includes seven children and fifteen grandchildren. She has given them the love and nurturing they needed to grown and excel in their careers and she led by example, by returning to school and getting her master's, specialist and doctoral degrees, after her seventh child was born. And she put her family first, selflessly caring for her husband Dick at home for many years as his health declined prior to his death in 2004.

Mary Ellen was a remarkable woman, and one that cannot be replaced. She will be remembered for all of the lives that she had touched. I will be forever grateful for her kindness and generosity.

TRIBUTE TO PAT HEDGES

HON. KEVIN MCCARTHY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. MCCARTHY of California. Madam Speaker, I rise today to honor a community leader, Pat Hedges, on his retirement after 33 years of service with the San Luis Obispo County Sheriff's Department, most currently as Sheriff-Coroner.

Sheriff Hedges grew up in San Luis Obispo County, graduating from Morro Bay High School in 1970, earning an associate degree from Cuesta College and later a bachelor's degree in administration of justice from California State University, Sacramento. After receiving his degree from Cuesta College, Sheriff Hedges went on to join the United States Coast Guard in 1971, went through boot camp in Alameda, California, and served in the Coast Guard until his retirement in 1997. He

went to work for Pacific Engineering in 1973 and then Thrifty Drug in 1974. In 1977, he began his career with the San Luis Obispo County Sheriff's Department.

Sheriff Hedges was elected Sheriff of San Luis Obispo County in 1998, and served 3 consecutive terms. As Sheriff, he was responsible for law enforcement for an area in excess of 3,200 square miles, oversaw 400 employees, and oversaw a county jail that currently houses more than 500 inmates. Sheriff Hedges instituted many improvements and was instrumental in forging the modern Sheriff's Department. Among many things, Sheriff Hedges helped facilitate opening the new North Patrol Station in Templeton and a DNA laboratory for the department. He improved the efficiency of law enforcement in San Luis Obispo County by creating an Independent Sheriff's Narcotics Unit, forming the Rural Crime Task Force, and implementing school resource officers. Sheriff Hedges also was a founding member of the Anti-Gang Coordinating Council and established the Sexual Assault Felony Enforcement Unit.

Sheriff Hedges currently serves on the Board of Governors for the San Luis Obispo County Narcotics Task Force and has previously served in many community organizations including the North County Women's Shelter and the Sexual Assault Recovery and Prevention Center Board, San Luis Obispo Mental Health Board, California State and San Luis Obispo County Cattlemen's Associations, and the Anti-Gang Coordinating Commission. Sheriff Hedges is a member of the Los Angeles Joint Terrorism Task Force Executive Board.

Dedicated to serving his community in a variety of ways, Sheriff Hedges' leadership at the San Luis Obispo County Sheriff's Department will be deeply missed. I've known Pat for years and value his friendship and support, and while he may no longer be Sheriff, Pat will continue to be a leader in our community. I plan to continue to call on him for advice and counsel, and a good dose of his dry wit.

In this new chapter of his life, I'm sure Pat is looking forward to spending more time with his wife, Sandy, and children. I commend his service to the County of San Luis Obispo, and I hope that Sheriff Hedges enjoys the next stage of his life.

HONORING BYRON LEYDECKER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GEORGE MILLER of California. Madam Speaker, I rise with my colleague Congressman MIKE THOMPSON today to recognize the great accomplishments of our friend Byron Leydecker, who recently announced that he will conclude operation of Friends of the Trinity River, the organization he founded eighteen years ago and has led ever since.

The Trinity River flows through mountains in coastal northern California and is the largest tributary of the Klamath River. These rivers supported huge bountiful populations of both Chinook and Coho salmon, steelhead and

other fish that sustained native Americans for millennia and visitors from other continents for the past two centuries. The impacts of ill-advised and poorly managed development had devastated both the Trinity and the Klamath. Thanks in large part to Byron, the Trinity is on its way to recovery.

He pushed the Department of the Interior to develop and then implement the historic 2000 Trinity Record of Decision, he has worked tirelessly ever since to ensure that the Trinity restoration program goes forward as intended, and he has pushed the agencies to follow the science.

Byron has led an active and vigorous organization over the years, devoting his time, energy, and financial resources to make a real difference in the direction of the Trinity River restoration program, which is today one of the leading efforts of its kind.

Byron and FOTR have worked with the usual alphabet soup of government agencies, as well as tribes, fishermen, and water and power interests, to develop and implement the restoration plan. Byron has always been consistent and persistent, cooperative when possible and tough when needed.

Thanks to Byron and the work of FOTR, the Trinity River is now in better shape than at any time since the 1960s—we have seen increased flows, a healthier fishery, and a stronger scientific foundation for its management.

While there will always be snags and eddies in these undertakings, the successful restoration of the Trinity River will serve as a national model of a restored river below a federal dam. The Trinity River could have no better friend than Byron Leydecker. We are grateful to Byron for his leadership, and thank him for all his work on behalf of healthy rivers and sustainable fisheries.

TRIBUTE TO FORT DALE ACADEMY'S CHAMPIONSHIP EAGLES FOOTBALL TEAM

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. BONNER. Madam Speaker, I rise to honor my alma mater, Greenville's Fort Dale Academy, for its outstanding achievement in capturing the Alabama Independent School Association's Class AAA title.

On November 19, the Fort Dale Academy Eagles soared to victory over their rival, the Monroe Academy Volunteers, winning the state championship by a 49 to 21 margin.

Both teams were outstanding this year, and while I represent Monroe Academy in Congress, I hope they will allow me to express my pride for this unique achievement by my alma mater.

I wish to congratulate the Eagles' head coach James "Speed" Sampley, assistant coaches Daniel Autrey, Josh Beverly, Clint Lowery, Jason Taylor, Jimmy Gardner, Jimmy Phelps, Bert Rice, and Will McInville; and, the Eagles varsity players, Taylor Windham, Matthew Bender, Eli Blackmon, Ryan Salter, Andrew Callen, Stephen Till, Stewart Matthews,

Hunter Armstrong, Ryan Taylor, Dylan Jones, Patrick Russell, Chip Taylor, Mason Stinson, Dow Gardner, Ethan Gregory, Luke Hamm, Zane Speir, Taylor Loftin, Perry Singleton, Jacob Phillips, Miller Owens, Brandon Matthews, Manny Norrell, Sawyer Reeves, Chase Whiddon, Lored Russell, Caleb Luckie, Tripp Neilson, Patten Thompson, Charlie Scofield, Alex Bloodworth, Taylor Hartley, Cade Tillery, Brady Clark, Larry Harold, Tyler Jones, Ethan Edgar, Davis Crocker, Bud Thagard, Chase Smith, Chance Williams, Alex Medley, Jonathan Scott, and Will Davis.

Congratulations on an excellent season and for bringing Fort Dale Academy its first state crown.

PERSONAL EXPLANATION

HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. MARCHANT. Madam Speaker, due to recent major surgery, I have been unable to travel to Washington, DC and would like the RECORD to reflect my stated positions on three major votes that I missed due to my recovery from surgery.

Rollcall vote 625 of December 8, 2010 on HR 5281 that contained the DREAM Act, I would have voted "nay."

Rollcall vote 638 of December 15, 2010 on the Don't Ask, Don't Tell Repeal Act of 2010, I would have voted "nay."

Rollcall vote 647 of December 17, 2010 on the Tax Compromise, I would have voted "nay."

I look forward to returning to Washington, DC next month when cleared to travel by my doctor.

PERSONAL EXPLANATION

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. SIMPSON. Madam Speaker, on rollcall No. 642, to suspend the rules and pass S. 3447 the Post-9/11 Veterans Educational Assistance Improvements Act of 2010, I was unavoidably detained and unable to vote.

Had I been present, I would have voted "aye."

TRIBUTE TO THE DAPHNE HIGH SCHOOL TROJANS-ALABAMA'S 6A FOOTBALL CHAMPIONS

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. BONNER. Madam Speaker, I rise to pay tribute to the outstanding achievement of the Daphne High School Trojan varsity football team in capturing the Alabama Class 6A title.

On December 3, the unbeaten Trojans held tough, despite a determined Hoover High

School that was knocking on the one yard line, to cinch a 7 to 6 victory at the State Class 6A championship game. It was truly a classic in Alabama high school athletics.

I would like to congratulate the Trojan coaching squad, Glenn Vickery, Brian Campbell, Milton Sutton, Mike Vickery, Lawrence Yelding, Bart Sessions, Mike Barnard, Benny Houston, and Nathan McNair as well as the entire Trojan varsity team, including, Israel Lamprakes, Leo Battiste, Kyndal Minnefield, T.J. Yeldon, Torren McGaster, Tyrell Holloway, Ryan Anderson, Justin Jackson, Chris Hill, T.J. Fleeton, Chris Sain, Cartels Young, Horace Johnson, Russ Mosely, Douglas Perdue, Adam Lofton, Brandon Roberts, Trey Jenkins, Zack Morgan, Markell Jones, Jonathan McGaster, Robert Nettles, Jr., Rodrick Tate, Michael Pierce, Jalan Coleman, Trey Rembert, Josh Johnson, Zach Houston, Preston Conley, Trey Thomas, Bennett Barr, Patrick Wilson, Clark Newsome, Daniel Coole, Jeremy Freeman, Zach Sanchez, Malik Pruitt, Dominic Edney, Zack Taylor, Caleb McMillan, Cain Knox, Kevin Wilson, Pierce Parker, Josh Kirchharr, Willie White, Trent Johns, Greg Jenkins, Nic Morgan, Andy Headley, Ben Lewis, Ashton Mcquiter, T.J. Jackson, Carlos Barrera, Jordan Davis, Colton Byrd, Jonathan Perry, Anthony Rudolph, Lucas Carson, Cameron Lemcool, Hunter Broadus, Elliot Williams, Kevin Caldwell, Matthew Mabry, Jeremy Sparks, Ronnie Williams, Monya Brown, Robert Alexander, Jonathan Parslow, Jacob Olmsted, Ryan Olson, Dalis Houston, Clay Myers, Blake Douglas, Adam Daniel, Serge Kolotov, David Phillips, Alex Jackson, James Reynier, Eric Lee, David Carroll, Ryan Pugh, and Duquan Able.

Congratulations, gentlemen on a truly amazing season and Alabama Class 6A victory.

HONORING THE SERVICE AND DEDICATION OF KENT SYLER

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize James Kent Syler for his contributions to the Sixth Congressional District of Tennessee. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. Throughout my time in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out someone who has accomplished an amazing feat that deserves recognition, applause, and perhaps, a test of his sanity; incredibly, Kent Syler has been a part of my staff for all of my 26 years in Congress.

Kent and I both attended Middle Tennessee State University, where we both served as student body president. Kent then came to work for the Tennessee State Democratic Party, where I served as chairman. As my district Chief of Staff, he has managed an outstanding staff in Tennessee, represented me at events

when Congress' voting schedule has prevented me from being home, and provided me with advice and counsel on some of the toughest challenges facing our nation.

So many of my legislative accomplishments would never have been possible without Kent's invaluable contributions and hard work. In the early 1990s, Kent traveled with me to Romania to visit orphanages and talk with Romanian policymakers about the country's adoption policies. His hard work helped lead to the easing of Romania's cumbersome adoption restrictions, allowing hundreds of Romanian children to find loving homes in the United States. Kent also inspired the first regulations on the 1-800 and 1-900 number industry, prompted by a late night TV session when he was on bottle-feeding duty with his then-baby daughter Liala. The Telephone Disclosure and Dispute Resolution Act is now law, and Liala is now a student at MTSU.

Kent and I have done our best to stay true to our principles over the years, and we have never lost faith in MTSU's Blue Raiders. Kent has always had his finger on the pulse of the community, a valuable attribute that has made him a trusted advisor.

Kent is an institution in Rutherford County, which has seen enormous development and nearly tripled in population since he and I first began working together three decades ago. Together, we have worked to improve the quality of life in our community through the expansion to Stones River National Battlefield, the development of the Greenway system and improvements to MTSU.

Kent is one of three men who have stood by me from the very beginning, through victories and disasters—through hell and, literally, high water in the aftermath of tornadoes and severe flooding. Along with Jimmy Stubblefield and Billy G. Smith, Kent has been there every step of the way.

Kent has dedicated his entire adult life to me and to our community. I can't ask for much more than that. He was best man at my wedding. He met his wife Lynell while working for me, and I've watched their daughters Liala and Emily grow up to be bright, accomplished young women.

Madam Speaker, any success I've had is Kent's success. He is a dedicated public servant, a respected leader in his community and a trusted friend. Kent, thank you for all your help and dedication over these many years. I wish you, Lynell, Liala and Emily all the best.

OFFICE OF THE COMMANDANT OF THE MARINE CORPS

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mrs. EMERSON. Madam Speaker, I submit the following.

Ladies and gentlemen, thanks for coming to the oldest post of the Marine Corps, the Marine Barracks of Washington, D.C. A little history on this hall—it is now called the Crawford Hall, named after that great band director that you see on the wall over there. But this was the original stomping grounds of John Philip Sousa.

And this was where John Philip Sousa, who was raised in Washington, D.C. a block-and-a-half from the Marine Barracks of Washington, wrote his many, many military marches. So this is sacred ground for the Marine Corps . . . the grounds were actually discovered by the then-Commandant Lieutenant Colonel Burrows, and the President of the United States, Thomas Jefferson.

It's good to have you here. We're honored to have many distinguished guests with us today.

First, the chairman's lovely wife, Patty. Patty, thank you for braving the rainstorm. I was watching the weather—being a good pilot, I pay very close attention to the weather—and I managed to pick the one day that there was supposed to be heavy rain and a flood in Washington, so I'm glad you're here. And for everybody else that managed to get it out, thank you for being here.

From the great state of Missouri, Representative Emanuel Cleaver is here; Representative Todd Akin, Representative Blaine Luetkemeyer, Representative Paul Broun of the United States Marine Corps, from the great state of Georgia. From the great state of Arkansas, Representative Vic Snyder, United States Marine Corps; and Representative Jane Harman from the great state of California.

The 32nd Commandant of the Marine Corps, and former National Security Advisor, General Jim Jones, and the former first lady of the Marine Corps, his lovely bride Diane. The Under Secretary of the Air Force, former chief of staff of the House Armed Services Committee, and a secret and latent admirer of the United States Marine Corps is with us, [the Honorable Erin Conaton].

A particularly warm welcome to the men and women who really do the heavy-lifting for the committee: Paul Arcangeli is here, the chief of staff of the House Armed Services Committee. Debra Wada is here, the deputy staff director for the House Armed Services Committee. Paul Lewis is here today, general counsel to the House Armed Services Committee, and Will Ebbs is here as a professional staff member and a close personal friend of the United States Marine Corps.

General Joe Dunford, Assistant Commandant of the Marine Corps and his bride Ellyn are with us. Sergeant Major Carlton Kent, sitting at the head table, Sergeant Major of the Marine Corps; the current first lady of the Marine Corps, my lovely bride Bonnie, sitting next to the chairman and a host of fellow general officers from around the national capital region are all here.

Welcome on this radiant morning as we gather to pay tribute to a national hero, an all-around friend to men and women from all branches of service, but in particular, to the United States Marine Corps.

I'm keenly aware of the chairman's adherence to punctuality during committee hearings, having testified before him more than one or two times. So before he puts down the gavel on me, I'll call the chaplain up, we'll ask for grace and then we'll be on for breakfast, and I'll join you after breakfast. Bon appetit.

AFTER BREAKFAST REMARKS

[Someone asked me], "How do you like your new job?" And I think I've been in it about six weeks. I said, "Oh, it's great. There's nothing going on here, just JSF, EFV, 'don't ask, don't tell'—among a few other things."

Speaking of "don't ask, don't tell," I talked to Admiral Willard yesterday, who is the PACOM commander out at Camp Smith in Hawaii, and we were talking about some

joint matters and personnel matters and that kind of stuff.

And I said, "Hey, Bob, how's Korea going?" He said, "You know, this is—as you might imagine—consuming an awful lot of my time." And we talked about Korea for just a little bit. And I said, "Bob, I'll make a deal: I'll trade you 'don't ask, don't tell' for North Korea." And there was silence on the phone. For 40 seconds, you could sense that he was churning the idea—he says, "No, I'll take North Korea."

While we gather here, it's 9:00 am, and it's about 5:30 in the evening in the Helmand province in southern Afghanistan. The sun has just gone down. The night is beginning to cool off rapidly, and Marines are finding their way in from patrols and convoys from all over those 10,000 square miles. And they're coming in, looking for some place to eat chow.

And I doubt seriously that the chow that they're going to find will be quite as good as we have here this morning. Contrary to popular belief, I did not fix this breakfast at 2:00 this morning. It was done by the great chefs that you see running around in here and taking such great care of us. But the 20,000 Marines and sailors will have just come in [to their Forward Operating Bases] all across Helmand Province. Some are getting ready to go out on their night patrols.

The [Marines there] have many things in common. They're tired and they're hungry. Some will have had a rougher day than others. We are in a particularly nasty part of Afghanistan. There is much good news in the Helmand province, but there are also some tough spots that the Marines and the sailors, and those coalition and allied forces are working their way through, up in the northeast corner [of the Helmand Province].

But they all have one thing in common. They may be tired; they may be scared. They may have just seen one of their brothers fall. They may be hungry. But all in all, all 20,000 are a happy lot. Chairman Skelton and I were out on the portico and watched Old Glory being raised up over Marine Barracks Washington, and a lone bugler played. And I was standing there alongside the chairman and thinking, what is it about Marines that they find solace in something as heart-warming as raising the American flag?

I thought about it and I came to the conclusion that there really are about three things that live in the soul of every U.S. Marine. They're almost spiritual in nature. I'm not talking about Baptist or Catholic or Jewish. I'm talking about that sense of spirit that resides in a force such as the United States Marine Corps. These spiritual things define who we are and they define and help explain, to some measure, why we've been able to do the many things the Marine Corps has done over its 235 years of service to our nation.

First, all Marines have a love of country. It's at their core; it's at their very roots. They believe in the ideals of our nation and they feel it's their duty as a citizen to serve this country in some capacity. They chose the Marine Corps over other options. We didn't join them; they joined us.

Second, Marines are willing to sacrifice in service to our country and in service to their fellow Americans—through frequent deployments, through separation from family members and a willingness to give their life for their country and their fellow Marines. This is the life of a U.S. Marine.

Finally, a commitment to a higher calling—a calling that is larger than themselves, that binds them and all Marines together.

This commitment to our Corps, to our country and all that it represents can be seen here at Marine Barracks Washington, on-board the mighty Navy vessels of the 15th, the 26th and the 31st Marine Expeditionary Units—which are at sea today as we have breakfast, and in the Helmand province, with the 20,000 Marines and sailors in southern Afghanistan.

Ladies and gentleman, Chairman Isaac Newton Skelton, IV, known to many as Ike, is a true patriot, an American statesman, and most notably, he has lived his life in service to our great nation. Like our Marines, Chairman Skelton has loved his country above all else, having served it faithfully as a U.S. Representative for over 33 years.

He has willingly sacrificed what most Americans hold dear, a private and personal life. He has sacrificed his family time, his time away from his wife, from his children, and now, from his grandchildren. And like many of his fellow Marines, he has grown old during a time of war. And lastly, no one can doubt his willingness to be part of something that's greater than himself, as he has served his fellow Americans for [these many] years.

Born and raised in the great state of Missouri—or as he would say, Mi-zoor-uh—he's a Phi Beta Kappa graduate of the University of Missouri. He was a Missouri state senator before he joined Congress. And since 1977, Chairman Skelton has represented the 4th district of the "Show-Me" state, an area where the chairman's hero president, Harry S. Truman, was born and raised. For 33 years, Chairman Skelton has kept his constituents and our nation's best interests at heart.

However, for all the countless things he has done in Congress, he is known best for his love and care of the U.S. military serviceman and woman. He was instrumental in the establishment of the Goldwater-Nichols Act. I'm told the only reason his name is not on that bill is because at the time he was too junior a U.S. congressman. But historians say that it was largely his commitment to the bill that helped carry it across the finish line.

Chairman Skelton is known throughout the military as the father of professional military education. Our own Marine Corps University exists down at Quantico in its current form almost singularly due to the support of Chairman Skelton. It exists with a robust staff, professorships, research capability, all because of your efforts, Chairman. You have always recognized the importance of a thinking officer corps.

His prescience is paying huge dividends throughout the world today, as we continue to fight a complex and adaptive enemy in some of the world's toughest spots, all with the keenly educated minds of our young men and women. He has been a leading voice in seeing the fight through in Afghanistan. Before it was popular, he recognized the importance of a stronger military presence in Afghanistan, knowing that failure would only strengthen the resolve of a vicious ideology.

Chairman Skelton is no stranger to the U.S. Marine Corps. Each year since 2001, when U.S. Marines from Task Force 58—5,000 strong—made their debut in Afghanistan, and throughout the many long years in Iraq, Chairman Skelton travelled to theater over and over again to speak and spend time with men and women from all services, but in particular to his Marines, always ready to provide help in any way possible.

He is equally comfortable talking to a lance corporal, a machine gunner, or a three-star general. And if you asked him this

morning, he would probably tell you he'd rather talk to the lance corporal. And I can't say I blame him.

For those of you who don't know, Chairman Skelton is a military history buff. He is particularly fascinated with the World War II Pacific campaign, so much so that on a trip last year through the Pacific region—many of you that are here having breakfast with us this morning were on that trip—he made a point to schedule a stop on the island of Iwo Jima, where he laid a wreath at the memorial on Mount Suribachi.

He has been previously honored by the Marine Corps on three different occasions. He is the 1994 recipient of the Marine Corps University's Chapman Medallion, honoring his efforts to enhance professional military education in our Corps. He is a 2001 recipient of the Marine Corps Semper Fidelis Award, honoring his leadership and support of the United States Marine Corps. He is an honorary graduate of Marine Corps Command and Staff College.

I spoke earlier of the three almost spiritual things that embody a U.S. Marine: love of country, willingness to sacrifice, commitment to something larger than themselves. Ladies and gentlemen, Ike Skelton has all three of these characteristics in spades. Thus it is fitting and appropriate that we recognize him for his unyielding support and devotion to corps and country.

Chairman, today you join your father, who was a Navy man. You join your son Jim, who is an Army colonel, and your son Ike, who is a Navy captain. And as a proud member of the U.S. military, you join them today in the ranks. And now, sir, you have true family bragging rights on all of them because you're about to become a member of the world's finest fighting force.

In the 235-year history of the United States Marine Corps, only 73 other Americans have been awarded the title honorary Marine. It was established to reinforce the special bond between Marines and the American people. Finally, it was established in recognition of individuals who have distinguished themselves through noteworthy service to Corps and country.

Chairman, in honor of all that you stand for, in honor of all that you have accomplished, and in honor of all that you have done for the United States of America and its Marine Corps, you are, without question, deserving of the title of United States Marine. Chairman, will you please join me up front?

CITATION

To all who shall see these presents greetings, know ye that reposing special trust and confidence in the patriotism, fidelity and abilities of the Honorable Ike Skelton, I do appoint him an honorary Marine of the United States Marine Corps for his unyielding support and devotion to Corps and country. In testimony thereof, I, General James F. Amos, Commandant of the Marine Corps, have hereunto inscribed my name. Done in the city of Washington, this first day of December, in the year of our Lord two thousand ten, and in the 235th year of the independence of the United States of America.

You have plenty of things hanging in your office, and I'd appreciate it if you'd take [one of] them down [to make room for this citation]. But this is your certificate of being a United States Marine. Chairman, you are loved by those 202,000 Marines that are on active duty and the hundreds of thousands that have had your fingerprints on them over the last many years that you've been not only a

U.S. Congressman, but, in particular, the Chairman.

Sir, you have loved your Marines. You have loved our men and women. And we are very, very grateful for all that you have done for us. It is our pleasure and our honor to make you a United States Marine.

COMMEMORATING THE RETIREMENT OF LAPEER COUNTY BOARD OF COMMISSIONERS CHAIRMAN DAVID TAYLOR

HON. CANDICE S. MILLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mrs. MILLER of Michigan. Madam Speaker, it is my pleasure to recognize the dedicated public service of Lapeer County Board of Commissioners Chairman David Taylor. On December 31, 2010, David will retire after 14 years as a Member of the Board. He has been Chairman since 1999, leading Lapeer County for over an entire decade. Despite the various challenges and economic difficulties across the State of Michigan, Chairman Taylor has remained resilient and has kept the county on the right path—always working to serve the best interests of the people he has had the privilege to represent.

David's decision to run for County Commissioner came in 1997. But before this, he brought with him a unique background and perspective to help in his new role as leader of the Board of Commissioners. Chairman Taylor was born in Pontiac; he worked on his family farm in Dryden. Later, he was employed for 30 years at the General Motors Pontiac Truck Plant. He then moved on to Metamora Township and served as the Zoning Administrator and was a delivery man for Champion Bus and Truck.

During his time as an elected official, Mr. Taylor has filled numerous committee spots and other posts to help move Lapeer County forward and to create a brighter future for the next generation to follow. He has been a shining example of strong leadership and has provided solid vision for Lapeer County.

It has been my privilege to work with him on a vast array of issues that are vital to Lapeer County during my role as a federal legislator. David has been a tremendous partner, friend and asset to my office. He is always looking to improve the quality of life for all residents and discovering new ways to make Lapeer County a wonderful place to live, raise a family and work.

I commend Chairman Taylor for all his efforts and personal sacrifice during his tenure on the Board. I know David will always have Lapeer County's best interests at heart which is evident by his charity work. We fully know and understand that we are not doing our job if we do not provide a better future for our children . . . and their children. David's work with the Shriners International and their Motorcycle Drill Team is just one of the many examples of how Mr. Taylor is committed to his community and those who will eventually take the reigns as leaders.

Therefore, Madam Speaker, I want to extend my best wishes to David Taylor on this

special occasion. He will be severely missed on the Board, but his presence will still be felt by those who continue to serve. I hope he enjoys doing the things he loves most like spending time with his family, hunting, snowmobiling, volunteering and traveling. His service to the citizens of Lapeer County, the State of Michigan and our Nation is officially recognized and greatly appreciated.

HONORING THE SERVICE AND DEDICATION OF BILLY G. SMITH

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize Billy G. Smith for his contributions to the Sixth Congressional District of Tennessee. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. Throughout my time in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out someone who has accomplished an amazing feat that deserves recognition, applause, and perhaps, a test of his sanity; incredibly, Billy G. has been a part of my staff for all of my 26 years in Congress.

Billy and I have worked together since my first campaign for Congress in 1984. In the Upper Cumberland, Billy emerged as a man who could get things done. After the election, he became my field representative for the area, and he has served my constituents there ever since. My younger staff members fondly say that Billy is old school, and, Madam Speaker, that's just fine by me. Billy is an old soul of the Upper Cumberland — a man who knows his neighbors, memorizes the best fishing holes, and earns his community's trust.

To say Billy has deep roots in the Upper Cumberland would be an understatement. As a boy, Billy helped his father work the farm with mules instead of a tractor. He served as Putnam County Sheriff in the 1970s and has worked as a police officer, a factory foreman, managed food and beverages for a hotel, opened a restaurant called Billy G's, and rented out a building complex. He knows everyone there is to know and is an institution unto himself.

In his 26 years as my field representative, Billy has helped thousands of constituents who have come to my office on the courthouse square in Cookeville. He has warmly received individuals, families and business owners looking for assistance with a federal agency. He has ensured countless people received the Social Security and veterans benefits they deserve. He has heard the concerns and touched the lives of many families in need of help, and he has always kept me informed of the needs of my constituents in Clay, Jackson, Putnam, Overton and Smith counties. Just this year, he found himself trying to help constituents who had lost property in the wake

of damaging floods. He could easily sympathize; his own childhood home also was severely damaged in the storm, but Billy was still in the office ready to help anyone he could.

In all his time working for me and the residents of the Upper Cumberland, Billy has never taken a full vacation, so it may come as no shock to many that Billy has made plans to go into business for himself once again. Most folks who had such accomplished careers would already be well into retirement, but Billy will be continuing on with his work as a small business owner.

A constituent once knitted a sign that hung above Billy's desk that read, "I am just a nobody, trying to help somebody." Billy was fond of telling this to folks who came to my office for assistance. It reassured them that he was there to help, and it let them know their concerns were important to him, and to me. Madam Speaker, it is that generosity and humility that have made him a friend to so many and such a valuable colleague to me. Billy has been a dedicated public servant, a trusted friend and an unstoppable force of nature.

Billy, thank you for all of your help over the years. I wish you all the best in the future.

PERSONAL EXPLANATION

HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mrs. MCCARTHY of New York. Madam Speaker, I was unavoidably absent on December 16, 2010. If I was present, I would have voted on the following:

On Motion to Adjourn—rollcall No. 639—"nay".

S. 841, Pedestrian Enhancement Safety Act of 2010—rollcall No. 640—"yea".

S. 3860, To Require Reports on the Management of Arlington National Cemetery—rollcall No. 641—"yea".

S. 3447, Post 9/11 Veterans Educational Assistance Improvements Act of 2010—rollcall No. 642—"yea".

H. Res. 1766, Agreeing to the Amendment—rollcall No. 643—"aye".

H. Res. 1766, Agreeing to the Resolution, as Amended—rollcall No. 644—"aye".

S. 987, International Protecting Girls by Preventing Child Marriage Act of 2010—rollcall No. 645—"yea".

H.R. 4853, Levin of Michigan Amendment—rollcall No. 646—"aye".

H.R. 4583, Motion to Concur in the Senate Amdt to the House Amdt to the Senate Amdt—rollcall No. 647—"aye".

LITTLE JIMMY DICKENS

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. COOPER. Madam Speaker, today I rise to honor James Cecil Dickens, better known as Little Jimmy Dickens, on the occasion of his 90th birthday. He may be a man of diminutive

stature, but Little Jimmy the renowned entertainer and Grand Ole Opry star, stands taller than the rest.

Jimmy Dickens was the first of thirteen children born to a West Virginia farming family and knew from a young age that he wanted to write and sing country music. He first appeared on local radio in the 1940s under the name "Jimmy the Kid" where he began building his reputation as the master of the country novelty song. Some of his early hits include "Take an Old Cold Tater (And Wait)" (1949), "I'm Little But I'm Loud" (1950), "Country Boy" (1949), and "A-Sleeping at the Foot of the Bed" (1950).

In 1948, Roy Acuff heard Jimmy and invited him to perform on the world-famous Grand Ole Opry stage at the Ryman Auditorium. Little Jimmy was an immediate favorite not only for his unforgettable songs, but also for his flamboyant style and country sense of humor. He became a permanent member of the Grand Ole Opry in 1948, and recently celebrated his 60th anniversary as the longest-tenured Opry member of all time.

Little Jimmy was signed to his first major label, Columbia Records, the same year he became an Opry Member. It was at that time that Dickens formed the band the Country Boys, whose line-up included top-flight musicians Jabbo Arrington, Grady Martin, Bob Moore, Buddy Emmons and Thumbs Carllile. Dickens had a number of hits with the Country Boys, though none bigger than "May the Bird of Paradise Fly Up Your Nose" (1965), which reached number one on the country charts and hit the pop charts, as well. Little Jimmy holds the unique distinction of having hit records in every decade from the 1940s to the 1970s.

But Little Jimmy Dickens' music is only part of his story and only part of what makes him just as popular today as when he first burst onto the country music scene over 60 years ago. He is quick with a joke and he is kind-hearted. He always has time for his fans and often spends hours signing every last autograph after a show. In an ever-changing music industry, Little Jimmy is a constant presence and a reminder that sometimes nice guys finish first.

Jimmy has long been adored by his country music colleagues as well, whether it be fellow legends like the late Hank Williams (who nicknamed Jimmy, "Tater") or modern-day superstar, Brad Paisley (who Jimmy often performs with). It is this adoration that earned him a spot in the Country Music Hall of Fame nearly 30 years ago.

Jimmy is celebrating his 90th year as anyone who knows him might guess he'd celebrate it—by entertaining his fans with good country music and humor. He's even worked his age into his act. "You'll know you're 90-years-old," Jimmy tells his fans, "when you drop something, bend over to pick it up, and think to yourself, 'is there anything else I can do while I'm down here?'"

And so, Madam Speaker, it is my privilege to ask my colleagues to join me in saluting Little Jimmy Dickens—an icon, a legend, and a global ambassador to country music.

DIANE WATSON

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Ms. LEE of California. Madam Speaker, on behalf of the Congressional Black Caucus, it is with great pleasure and pride that I extend my best wishes and congratulations to Congresswoman DIANE WATSON, as she prepares to retire from the United States Congress.

A former elementary school teacher and school psychologist, Congresswoman WATSON has lectured at both California State Universities at Los Angeles and Long Beach. In 1975, she became the first African-American woman to be elected to the Los Angeles Unified School District Board of Education. She led efforts to expand school integration and improve academic standards.

For almost 20 years, Congresswoman WATSON served in the California State Senate where she was the first African-American woman to serve in that body. She became a statewide and national advocate for health care, consumer protection, women, and children. During her tenure in Sacramento, she served as chair of the Senate Health and Human Services Committee and as a member of the Judiciary Committee.

Congresswoman WATSON retired from the State Senate in 1999 when she was appointed by President William Jefferson Clinton to serve as the United States Ambassador to the Federated States of Micronesia. As Ambassador to Micronesia, she represented our country in a magnificent way and has throughout her career demonstrated her mastery of foreign policy. She is truly an international leader. Dr. WATSON served in this capacity until 2001 when she returned to California to run for Congress in a special election after the death of Congressman Julian Dixon.

An exceptional public servant, Congresswoman WATSON has demonstrated a remarkable commitment to improving the human condition, throughout her long and distinguished career. A commonsense legislator and a passionate advocate for justice, she has masterfully used her vote and voice in the United States House of Representatives.

The Congressional Black Caucus honors and salutes Congresswoman WATSON for her legacy of service to the residents of California's 33rd Congressional District and to the global community. We will miss her in the halls of Congress and in the ranks of the CBC. We wish her well as she opens the next chapter of her life, we celebrate her leadership, and thank her for her friendship.

HONORING THE SERVICE AND DEDICATION OF CAROLINE DIAZ-BARRIGA

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize Caroline

Diaz-Barriga for her contributions to the Sixth Congressional District of Tennessee. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. Throughout my time in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out those who are serving my constituents as my tenure comes to a close.

Caroline has served as my field representative for Sumner and Robertson counties since joining my office in 2002. She had previously worked for my colleague Congressman Bob Clement when Robertson County was a part of his district. After he left the House to pursue other endeavors and Robertson County was added to my district, Caroline was a natural choice to run my new offices in Gallatin and Springfield. Her presence there has allowed me to better serve my constituents in the northwestern part of my district over these last nine years. She is an integral player in both counties, attending city council sessions, civic club meetings, and Chamber of Commerce lunches.

In her many years in public service, Caroline has helped countless constituents who have come to my office for assistance. She has warmly received individuals, families and business owners looking for assistance with a federal agency. She has ensured hundreds of residents received the Social Security and veterans benefits they deserve. She has heard the concerns and touched the lives of many families in need of help, and she has always kept me informed of the needs of my constituents. At times, she has found herself playing unusual roles, especially during the too-frequent tornado outbreaks that have occurred in Middle Tennessee. When a tornado struck Gallatin in 2006, Caroline's office in the basement of the Sumner County Courthouse became a place of refuge as residents huddled together to comfort each other and share cell phones to check on loved ones' safety.

Madam Speaker, working with Caroline these past eight years has been a pleasure. No matter what challenges are thrown her way, she always manages to maintain a cheerful, positive attitude. She is a dedicated public servant, a great help to me and a pillar of the community.

Caroline, thank you for all of your help over the years. I wish you, David and your family all the best.

INTRODUCTION OF THE TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS ON FEDERAL LANDS ACT OF 2010

HON. MAZIE K. HIRONO

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Ms. HIRONO. Madam Speaker, I rise to introduce a bill that will significantly improve traffic safety and mobility in our national parks and other public recreational lands through increased funding and expanded authorities. I

urge my colleagues to support this bill, the Transportation Infrastructure Improvements on Federal Lands Act of 2010.

Our national parks contain some of the most important and valuable historic, cultural, and natural treasures in our country. Millions of visitors flock to these parks every year. Yet safe access to and movement around these sites are compromised by severe and chronic underfunding and irrational provisions in current law.

The state of park transportation systems is deplorable. A recent assessment by the National Park Service, NPS, found that 90 percent of the park roads are in poor or fair condition. This compares with 14 percent for major rural roads in the overall federal-aid highways system. One person is killed or injured on a park road every 4.5 hours. If the National Park System were a State, it would rank 13th highest for road fatalities and injuries among all the States.

The NPS received \$240 million in FY2010 through the Park Roads and Parkways program to build, repair, and rehabilitate roads and bridges, less than a third of what the NPS estimates it needs to provide safe and efficient access for visitors. My legislation would double the annual funding to accelerate the retirement of the growing road repair backlog now estimated at \$4.9 billion.

The poor state of park roads is not caused by insufficient funding alone. Under current law, Federal highway funds can be used for reconstruction and rehabilitation, but not for regular maintenance that would help extend the life of the roadway and preserve taxpayers' investment. Consequently, maintenance of roads and bridges is deferred until they have deteriorated to the point where they qualify for major rehabilitation or reconstruction, at far greater expense. Visitors are put at risk when they try to drive around potholes that pock our park roads. My legislation would make regular maintenance of park roads eligible for federal highway funding.

As our national parks become increasingly crowded, alternative transportation systems are being relied upon to a much greater extent to help move visitors around. Unfortunately, that program is also severely underfunded. A third major focus of my bill would raise the annual funding level for the Federal public lands transit program from the current \$24 million to \$100 million, with 60 percent of it being targeted for qualified projects in national parks.

Visitors from throughout our country and around the world are discovering the natural, cultural, and historic wonders that are embodied in our national parks. Their experience should not be diminished, and their safety certainly should not be placed at risk, while they visit our national parks. I urge you to join me in sponsoring this legislation to improve visitor safety and enjoyment of our parks through improved maintenance and management of its transportation systems.

CONGRATULATING MIDWAYUSA

HON. BLAINE LUETKEMEYER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. LUETKEMEYER. Madam Speaker, I ask my colleagues to join me in congratulating MidwayUSA for receiving the prestigious Malcolm Baldrige National Quality Award. Earlier this week representatives from MidwayUSA traveled to Washington, DC, to accept the award.

MidwayUSA is a family-owned, catalog/Internet-based retail merchant that offers shooting, reloading, gunsmithing, and hunting products. Retail customers represent 90 percent of the firm's total business at its two Columbia, Missouri locations, with dealers and international customers making up the remaining 10 percent. More than 95,000 different products from more than 700 vendors are distributed by the company, which employs 243 full-time and 100 part-time workers.

Named after Malcolm Baldrige, the 26th Secretary of Commerce, the Baldrige Award was established by Congress in 1987 to enhance the competitiveness and performance of U.S. businesses. The award promotes excellence in organizational performance, recognizes the achievements and results of U.S. organizations, and publicizes successful performance strategies. The award recipients were selected from a field of 70 applicants. All of the applicants were evaluated rigorously by an independent board of examiners in seven areas: leadership; strategic planning; customer focus; measurement, analysis and knowledge management; workforce focus; process management; and results. The evaluation process for each of the recipients included about 1,000 hours of review and an on-site visit by a team of examiners to clarify questions and verify information in the applications. Since 1988, 80 organizations have received Baldrige Awards. I am extremely proud that MidwayUSA has joined this exclusive list.

Small businesses create jobs and spur economic growth, and I am extremely proud that Columbia's MidwayUSA has been recognized for productivity and quality at a time when our economy is struggling. This kind of success is yet another example of the key role that Missouri's small businesses play in the state and national economies.

I would like to take this time to commend MidwayUSA for all their hard work, and I ask that my colleagues join me in recognizing MidwayUSA for a job well done.

IN HONOR OF KURT CZARNOWSKI FOR HIS 34 YEARS OF DEDICATED PUBLIC SERVICE WITH THE SOCIAL SECURITY ADMINISTRATION

HON. STEPHEN F. LYNCH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. LYNCH. Madam Speaker, I rise today in honor of Kurt Czarnowski in recognition of his

34 years of dedicated public service with the Social Security Administration.

Kurt was raised in the town of Weston, Massachusetts, by his proud parents Edward and Alisca Czarnowski and for the past 27 years, he has lived in Norfolk, Massachusetts, with his wife Anne, their daughter Amy, and son Brian.

Kurt graduated from Hamilton College earning a B.A. degree and then worked as a substitute teacher while pursuing his education, earning a Master's degree in Public Administration at Northeastern University.

Kurt began his Social Security Administration career in 1976 as a Claims Representative in Framingham, Massachusetts. He was selected for the agency's Management Intern Program in 1979 and subsequently worked his way through the management ranks, serving as Programs Analyst, District Manager, Deputy Assistant Regional Commissioner, and Area Director. After holding a number of key positions in the area of public relations, Kurt became the Regional Communications Director in May 2000.

When reflecting on a lifetime of good works, Kurt counts as his greatest achievements his 38 years of marriage to his wife Anne and raising their two children, Amy and Brian, as well as his 34 years of public service with the Social Security Administration.

Madam Speaker, it is my distinct honor to take to the floor of the House today to join with his family, friends and contemporaries to thank Kurt Czarnowski for his dedicated service to the United States of America. I urge my colleagues to join me in recognizing Kurt Czarnowski for his dedicated public service.

HONORING THE SERVICE AND
DEDICATION OF JULIE EUBANK

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize Julie Eubank for her contributions to the Sixth Congressional District of Tennessee. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. Throughout my time in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today I would like to single out Julie Eubank, my Chief of Staff in Washington.

Julie attended high school in Smyrna and attended my alma mater, Middle Tennessee State University. She graduated with a degree in Elementary Education, but one fateful internship with my Murfreesboro office changed her course forever. She was drawn into politics and, with few interruptions, Julie has been a member of my team ever since. She has worn many hats in her time with my office. She began as an intern in 2002 and since then has served as my scheduler and executive assistant, communications director, and as the member services coordinator for the Com-

mittee on Science and Technology. Undoubtedly, her training as a teacher of small children helped her in each task too, whether it was coordinating events, working with reporters or herding cats on the Committee. Her Tennessee roots have helped kept her grounded and her respect and dedication to her community has been apparent throughout.

In October 2009, Julie became Chief of Staff to my Washington office. It's a position that requires enormous responsibility and trust, and Julie took to the job easily.

Madam Speaker, Julie is exactly the kind of lieutenant you'd want to have in your foxhole. She can take a tough assignment, turn on a dime and put it into action. She is a natural as a manager and mentor and has the absolute devotion of my staff. She has good political instincts, which have always been appreciated. Under pressure, she keeps up a great presence of mind and sense of humor. And apparently, quick reflexes. (As The Tennessean was proud to report after a false-alarm lockdown in Rayburn House Office Building, Julie Eubank "doesn't mess around.")

All of her qualities have been put to the test during her time as my Chief of Staff. She has helped the office shift gears from preparing for a reelection fight to transitioning into retirement. She has been there through difficult floor fights and popped champagne after hard-won victories.

Madam Speaker, I have been honored that Julie has dedicated so much of her professional career—so far—to me and my constituents. My colleagues in Tennessee and I are all extremely proud of her accomplishments. I look forward to following her next endeavors.

Julie, I can't thank you enough for your loyalty through the years. I wish you all the best.

H. RES. 1646 CELEBRATING THE
NATIONAL BOOK FESTIVAL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. RANGEL. Madam Speaker, I rise today to praise the dedicated commitment of the Library of Congress to the promotion of reading through its sponsorship of the National Book Festival. I warmly commend Representative DANIEL LUNGREN for taking the initiative to introduce H. Res. 1646.

The National Book Festival occurred on September 25, 2010, in Washington, DC. President Obama and Michelle Obama served as honorary chairs for the important event. Nearly one million people over the past decade have attended. This year, approximately 150,000 bibliophiles gathered together to meet the 70 best-selling authors in attendance.

I am proud that the New York State Library, New York Council for the Humanities and the Empire State Center for the Book partnered together to display New York's rich literary heritage in the Pavilion of the States at the National Book Festival. New York author, Rebecca Stead, also autographed copies of her 2010 Newbery Award-winning book, *When You Reach Me*. New York's involvement at the mall demonstrated a common commitment

with the Library of Congress in encouraging the population to read.

Fostering the joy of reading is a valuable goal. Living in the digital age does not mean we have forgotten the pleasure of reading the printed text. Reading broadens our minds to new possibilities, new worlds, new people and new ideas. The future is based on our ability to read, digest information and pioneer innovative ideas. Formal education in the classroom should be supplemented by self-education.

Urging more people to read also improves our literacy rate. A literate population is necessary to guarantee greater educational opportunities, foster life-long learning, jobs, and underpins our democracy because elected officials depend on an informed citizenry to make decisions.

I admire and am thankful of the efforts made by the Library of Congress to promote the wonder of words.

HONORING MRS. TERRI ALFORD

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. KENNEDY. Madam Speaker, I rise today to honor the service of Mrs. Terri Alford to the U.S. House of Representatives. For 16 years Mrs. Alford has approached her service to the Congress with a professionalism, dedication, and joy that has inspired hundreds of staff and interns and undoubtedly improved the institution of Congress itself. Mrs. Alford's patriotism, love of the arts, and good humor enlivened the U.S. House of Representatives, and her infectious enthusiasm and good nature were a gift for all who had the pleasure of working with her. As Mrs. Alford prepares for retirement to spend more time with her husband, children, and grandchildren, we thank her for her dedicated service and wish her all the best in her future endeavors.

PERSONAL EXPLANATION

HON. CATHY McMORRIS RODGERS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mrs. McMORRIS RODGERS. Madam Speaker, on rollcall No. 631 on, H.R. 5446, On Motion to Suspend the Rules and Pass, To designate the facility of the United States Postal Service located at 600 Florida Avenue in Cocoa, Florida, as the "Harry T. and Harriette Moore Post Office", I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea."

Madam Speaker, on rollcall No. 632 on, H. Res. 1759, On Motion to Suspend the Rules and Agree, Expressing support for designation of January 23rd as "Ed Roberts Day", I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea."

Madam Speaker, on rollcall No. 633 on, S. Con. Res. 72, On Motion to Suspend the

Rules and Agree, A concurrent resolution recognizing the 45th anniversary of the White House Fellows Program, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea."

Madam Speaker, on rollcall No. 634 on, H.R. 6205, On Motion to Suspend the Rules and Pass, "Private Isaac T. Cortes Post Office", I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea."

Madam Speaker, on rollcall No. 635 on, H. Res. 1764, On Agreeing to the Resolution, Providing for consideration of the Senate amendment to H.R. 2965, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay."

Madam Speaker, on rollcall No. 636 on, H. Res. 1761, On Motion to Suspend the Rules and Agree, Congratulating Auburn University quarterback and College Park, Georgia, native Cameron Newton on winning the 2010 Heisman Trophy for being the most outstanding college football player in the United States, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea."

Madam Speaker, on rollcall No. 637 on, H. Res. 1743, On Motion to Suspend the Rules and Agree, as Amended, Congratulating Gerda Weissmann Klein on being selected to receive the Presidential Medal of Freedom, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea."

Madam Speaker, on rollcall No. 638 on, H.R. 2965, On Motion to Concur in the Senate Amendment with an Amendment, Don't Ask, Don't Tell Repeal Act of 2010, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay."

HONORING THE SERVICE AND DEDICATION OF MICHAEL TERRY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize Michael Terry for his contributions to the Sixth Congressional District of Tennessee. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. Throughout my time in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out Mike Terry, my field representative and political advisor and a dedicated public servant.

Mike joined my staff in 1993 after serving as a clerk for the Tennessee State Senate. He brought to the position good political acumen, a keen understanding of Middle Tennessee's values, and a strong network of good relation-

ships across the state. More and more, he has become a true heavyweight in the state's political scene.

He has worked with the business community to ensure my office does all it can to nurture economic growth and facilitate job creation. He has been my liaison with local governments and Chambers of Commerce. He has worked hard, logged miles with me in every corner of the Sixth Congressional District, and led major meetings and events in all 15 counties. He knows what's happening on the ground in every community, and he has been my eyes and ears to let me know how folks at home feel about what's going on in Washington.

Mike is loyal, talented and possesses excellent judgment. I have been extremely lucky to keep him on the team for the better part of two decades, and I have appreciated his dedication and friendship over the years. My staff and I have enjoyed hearing about his scuba diving adventures, his love of virtually every comedy made in the 1980s, and the trials and triumphs of his beloved Tennessee Vols.

Madam Speaker, I could not have accomplished half of what I did without Mike's hard work. Mike, thank you for all your help and loyalty over these many years. I wish you and Lisa all the best.

OUR UNCONSCIONABLE NATIONAL DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is \$13,878,837,351,150.62.

On January 6th, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$3,240,411,604,856.82 so far this Congress.

This debt and its interest payments we are passing to our children and all future Americans.

IN FURTHER RECOGNITION OF THE SERVICE OF THE STAFF OF THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. OBERSTAR. Madam Speaker, in my 44 years serving as a clerk, Administrator, Member, and finally Chairman of what is now the Committee on Transportation and Infrastructure, I have had the opportunity to work with some of the finest staff on Capitol Hill.

Whether they are drafting legislation and managing hearings, or answering the phones and copying documents, each member of the staff makes a vital contribution to the success of the Committee.

As my term as Chairman comes to a close, I would like to take a few moments to recognize these dedicated professionals as they move on to new challenges and opportunities.

Stacie Soumbeniotis Tiongsong has served on this Committee for over 11 years, first as the Staff Director of the Aviation Subcommittee and then as Deputy Chief Counsel of the full Committee. As Staff Director of the Subcommittee, Stacie was responsible for managing all legislation, hearings, markups and all other activities covering civil aviation. She has been intimately involved in the planning and drafting of several landmark aviation bills, including the Aviation and Transportation Security Act of 2001 and the Air Transportation Safety and System Stabilization Act to secure our skies after the September 11th terrorist attacks.

During the last two years, as Deputy Chief Counsel, she participated in the oversight and management of all activities of the Committee and its six Subcommittees, focusing on issues related to highways, aviation, rail, Coast Guard, and economic development, as well as advising on legal and legislative issues regarding Committee jurisdiction.

I want to express my heartfelt thanks to Jen Walsh for her six years of service as Legislative Assistant to the Committee. Jen's keen intellect and professionalism, combined with her warmth and ever-present smile, have served me and all of the Committee members, both Democrats and Republicans, well over the years. I am especially grateful for her service as my liaison with the staff of the Democratic Members of the Committee. Jen has shown a remarkable ability to communicate complex subject matter in an understandable format to the Members, and has been invaluable in ensuring that all the Members and staff of the Committee are well prepared and informed to carry out the responsibilities for which we serve. She is a shining example of the hard-working professionals that serve, often thanklessly, behind-the-scenes to ensure that this Committee and this Congress are able to meet the needs of the Nation.

Bradley Watson has served with the Committee since the end of the 110th Congress. As a Staff Assistant, he has managed the front office with efficiency and professionalism. He has worked diligently in many areas under the Committee jurisdiction and has been a steadfast presence coordinating Committee mark-ups and hearings. Bradley has been a versatile contributor and his research and database abilities have served the Committee well.

Carson Gorecki, a fellow native of Minnesota, served as a Staff Assistant with the Full Committee during the end of this 111th Congress. Starting his career with the Committee as an intern, he was soon hired full-time. Over the course of his time here, he has developed a deep grasp and appreciation of transportation issues and legislation.

Carson played a key role in the production of the monthly report on the American Recovery and Reinvestment Act, material that I consider immensely helpful to me and other Members. His hard work and humor were both welcome additions to the staff, and I express my utmost gratitude for his contribution.

John-Paul C. Hayworth is an outstanding member of the Oversight and Investigations

staff of the Committee. His integrity, energy, and innovative ideas have been a great asset to the Committee and to my work.

Mr. Hayworth's time on the staff has proven his zeal for public service. His responsibilities have enhanced his analytical skills to the benefit of us all. Recently, he concurrently assumed responsibilities with the Economic Development, Public Buildings, and Emergency Management Subcommittee. Chair ELEANOR HOLMES NORTON and the staff of the Subcommittee have found him to be calm and collected, but always with a vibrant sense of humor and a smile, even in the unpredictable environment of the House.

Laurie Bertenthal has been a valued staff member of the Committee for nearly four years. Laurie started as a Staff Assistant for the Oversight and Investigations staff, where she supported groundbreaking Committee investigations, including problems with the U.S. Coast Guard's Deepwater Acquisition program, and Southwest Airlines' "cozy" relationship with the Federal Aviation Administration.

In 2008, Laurie became an integral member of the Aviation Subcommittee, first as Legislative Assistant, and progressed to Professional Staff. Laurie has worked on many important matters pertaining to reauthorization of the FAA and National Transportation Safety Board. Additionally, Laurie played a key role in the recently-enacted Airline Safety and Federal Aviation Administration Extension Act of 2010, P.L. 111-216. Laurie employed her strong research and legislative drafting skills to craft a provision that will create a pilot records database, which will allow airlines to efficiently access pilot applicant records and improve the safety of the flying public.

Jeff Schnobrich has served the Committee on Transportation and Infrastructure for two years, first as an intern, later with the full Committee staff, and finally as a Staff Assistant with the Subcommittee on Highways and Transit.

Jeff has shown himself to be a detail-oriented, dedicated member of my staff. From the beginning, he showed an appreciation for the importance of an effective transportation system to the economic vitality of America. He soon became versed in the intricacies of both Federal transportation policy and Congressional procedures and processes. During his time, he helped lead the Committee's effort to establish a database of Member-designated projects, ensuring transparency and accountability. In all his tasks, he has been efficient, reliable, and a pleasure to work with. I thank Jeff for his years of service and wish him the best.

Rose M. Hamlin has been a stalwart on the Committee staff for 19 years.

She began her service with the Subcommittee on Water Resources where she established herself as a dedicated and effective office manager. In her years of working on the Committee, she concurrently worked on Public Buildings, Coast Guard, and Oversight and Investigations.

Ms. Hamlin is now the Office Manager of the Subcommittee on Railroads, Pipelines and Hazardous Materials. She has played an instrumental role in the passage of several key pieces of legislation, coordinated dozens of hearings and markups, and has ensured that

I and members of the Committee staff remain up-to-date on issues under the Subcommittee's jurisdiction.

Although his time with the Committee has been short, Lee Matsos has done an admirable job as Staff Assistant for the Subcommittee on Water Resources and Environment. Lee's strong background in writing and editing allowed him to contribute to the Committee's national media coverage and concisely summarize the critical weekly news within the Water Resources jurisdiction for the Committee Membership. Lee also served as an able point of contact for witnesses testifying at the Subcommittee's September 30th hearing on the Impact of Green Infrastructure.

In addition, Lee managed the database content and the filing of project requests for the expansive Water Resources Development Act of 2010. He connected constituents to the legislative staff in an eloquent and professional manner. It is clear that Lee has a bright future ahead of him, and we have been lucky to have him on our staff.

Madam Speaker, the essence of the legislative process is collaboration. Each individual member of the Committee on Transportation and Infrastructure staff has played a vital role in the work of the Committee these past four years, and, through collaboration and hard work, has made this Committee the most productive on Capitol Hill.

I wish them all much success in whatever the future brings.

TRIBUTE ON THE BIRTH OF HARRISON CLAY LAVENDER

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. BACHUS. Madam Speaker, I am happy to congratulate Larry Lavender and his wife Kathryn on the birth of their new son, Mr. Harrison Clay Lavender. Harrison was born on December 16, 2010, at 11:14 in the morning.

I am excited for this new blessing to the Lavender family and wish them all the best.

HONORING THE SERVICE AND DEDICATION OF SEAN GILLILAND

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GORDON of Tennessee. Madam Speaker, today I rise to recognize Sean Gilliland for his contributions to Tennessee's Sixth Congressional District. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. They work long hours—often for little pay or recognition—and their service is simply invaluable to those of us who serve in this esteemed chamber. Throughout my 26 years in Congress, I have been fortunate to have many bright, able staff members with an interest in

serving their country by working in this body. Today, I'd like to single out those who are serving my constituents as my tenure comes to a close.

For more than 15 years, Sean Gilliland has been a dedicated and loyal field representative in my Murfreesboro office. He has spent countless hours traveling the district with me and attending parades, open meetings and events in every corner of the district. Sean works tirelessly on behalf of Middle Tennessee's veterans and their families, ensuring they receive the benefits and assistance they deserve, and helping them obtain the medals they earned during their service to our country. Over the years, Sean has helped me send the best and brightest young men and women to our nation's military service academies, filled in for me when my duties in Washington prevented me from attending an event or meeting, and enabled me to better represent the needs and interests of the people of the Sixth District.

Sean's career has been one of service, whether at my office or in the community. He serves on the Board of Directors of Main Street, Leadership Rutherford, the Murfreesboro Youth Orchestra, the Rutherford County Adult Activity Center, and others. He has also donated his time to many other civic committees, and is deeply involved in his church. It is fitting that Sean will leave government service to enter a new kind of public service in the administration of the Primary Care and Hope Clinic, a faith-based non-profit that provides health care to the uninsured.

Madam Speaker, Sean is a loving father, a dedicated husband and an all-around good person. I know that my busy weekend schedules in Tennessee have led him to spend some Independence Day and other holiday celebrations at official functions with me rather than with his wife, Anne, and daughter, Molly. I appreciate the sacrifices they have made over the years.

Sean, thank you for all your help and dedication over these many years. I wish you, Anne and Molly all the best.

BRAZIL HARBORS AMERICAN DAUGHTER

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. POE of Texas. Madam Speaker, Brazil is at it again. We thought they learned their lesson in the case of Sean Goldman, but they have not—as of 2009, there were still over 50 kidnapped children in Brazil, including Nicole Pate, the daughter of my constituent, Marty Pate.

I have come to this floor before to talk about the case of my constituent, Marty Pate. Marty lives in Crosby, Texas, and has not seen his daughter, Nicole, in 4 years. Her mother, Monica, is a native of Brazil. In 2006, she took Nicole on a trip to Brazil and never came back.

Legal documents from Texas give Marty joint custody, and the Hague Convention requires Brazil to work out visitation for Marty.

Marty is not asking for his daughter to be returned—though it is well within his rights to ask for this. He is just asking to see his daughter and have her visit family in the United States.

Marty has gone above and beyond in trying to work with the government of Brazil. He has even offered to drop the charges pending against his ex-wife if it would make a visit with Nicole easier. He has spent over \$10,000 of his own money flying to and from Brazil countless times to see Nicole.

But Brazilian officials have continued to stonewall and ignore their obligations under the Hague Convention. They have allowed Nicole's mother to make a mockery of the Hague process, to file meaningless allegations and attempt to delay the process. So far, it's working. The Government of Brazil has let this case linger for over a year without resolution.

A child's welfare hangs in the balance. Nicole Pate is caught between two worlds—living with her mother in Brazil and not allowed to see her father or her siblings back in the United States. But officials in Brazil don't seem to care. They are taking their sweet time in dealing with this case. In August, it was decided that the case would go before a Federal judge. It is now December and we still don't have a court date.

Madam Speaker, there is a reason that the State Department has labeled Brazil a non-compliant country when it comes to honoring the Hague Convention. It seems that Brazil would rather sign onto treaties and gain all the benefits that come with that—but they don't care about holding up their end of the bargain. The State Department needs to take aggressive action to pressure Brazil into acting with haste when determining the fates of American children. There is no excuse for Brazil to drag their feet while little Nicole Pate sits and wonders why she can't see her daddy.

Even worse is that the behavior of Brazil and other non-compliant Hague countries seems to have no impact on our foreign policy in relation to these countries. We still trade with them, we still send them millions in foreign aid each year, and these countries still violate their treaty obligations. Or in the case of Brazil, become a haven for kidnapped American children.

That is why in the 112th Congress I intend to introduce a bill that will require Congress to vote on foreign aid by country—instead of in one, giant package. The American people should be able to see where we send foreign aid money, and for what purpose. And furthermore, it will allow Congress to hold countries accountable to receiving that money.

It's time for the Government of Brazil to begin honoring their obligations under the Hague Convention. It's time for the State Department to be more aggressive in fighting for kidnapped American children around the world.

And it's time for Marty Pate to be reunited with his kidnapped daughter, Nicole.

And that's just the way it is.

INTRODUCTION OF THE ENFORCING ORDERS AND REDUCING CUSTOMS EVASION (ENFORCE) ACT OF 2010

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, today, joined by Representatives WALTER JONES and MARK CRITZ, I introduce the Enforcing Orders and Reducing Customs Evasion Act, or the ENFORCE Act. This legislation is critical to improving our ability to enforce trade laws.

This bill is about protecting American businesses and the workers that keep those businesses thriving.

Unfortunately, under current law, too many foreign producers flout our trade laws. Too many ship mislabeled goods to the U.S. to avoid paying legally imposed anti-dumping or countervailing duties. And they do this with impunity, rarely paying a price for their crimes.

Many of these fraudsters even have websites advertising how, for a fee, they can help you avoid paying the duties legally owed the United States. In November, my colleague Senator WYDEN of Oregon, published a useful report identifying 12 such Chinese companies.

Most of these companies' evasion schemes involve illegal transshipment through a third country and falsified country-of-origin certificates for Chinese products destined for the United States and other export markets.

This dishonest conduct robs the American people and our federal coffers of money rightly owed. But perhaps more importantly, it gives these deceitful actors an advantage over American businesses. It has forced hundreds of businesses, in my district and others, to permanently close their doors.

Too many businesses like Michel's Furniture in Lynwood, California, in my own district, have shut their doors because through duty evasion, foreign products receive an unfair and illegal price advantage over our home-grown, American products.

That is why I am proud to introduce the bipartisan ENFORCE Act.

The ENFORCE Act strengthens the ability of the Bureau of Customs and Border Protection, CBP, to combat duty evasion by foreign manufacturers. For the first time, domestic producers will have the opportunity to formally petition CBP to investigate possible anti-dumping and countervailing duty evasions.

The ENFORCE Act requires CBP to initiate an investigation and to make timely preliminary and final determinations as to whether an importer engaged (or is engaging) in evasion. No longer will domestic producers wait helplessly by, hoping that CBP will act to vindicate their rights. The bill requires CBP to act and then publicly report on its findings within prescribed timeframes.

Finally, foreign violators will be held accountable for the damage they do to American businesses, workers, and our economy as a whole.

American businesses and workers can compete and win against products from anywhere in the world—if we have a level playing field.

The ENFORCE Act will help create that level playing field, supporting U.S. businesses and their employees.

I urge my colleagues to support this bipartisan, pro-business, pro-American bill.

HONORING THE SERVICE AND DEDICATION OF JOE PATTERSON

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GORDON of Tennessee. Madam Speaker, today I rise to recognize Joe Patterson for his contributions to Tennessee's Sixth Congressional District. As any member of Congress knows, our legislative achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. They work long hours—often for little pay or recognition—and their service is simply invaluable to those of us who serve in this esteemed chamber. Throughout my 26 years in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out those who are serving my constituents as my tenure comes to a close.

Joe Patterson joined my staff in 2000. Incredibly, that makes him one of the newest members of the team in Murfreesboro. It is a joke among my staff that even with a decade of dedicated public service under his belt, Joe is still the low man on the totem pole in my hometown office.

All joking aside, Joe's depth of experience overshadows his seniority. In addition to his work as my field representative and advocate for seniors, persons with disabilities, and those in need of housing assistance, Joe also has the responsibility of helping people who urgently need passports or visas on short notice. Thousands of Sixth District residents might not have been able to attend a loved one's funeral, take a business trip or enjoy a hastily-planned honeymoon if not for his work expediting their passports. Grateful constituents have sent him best wishes from sandy beaches on six continents—he's only waiting on Antarctica.

Joe is an incredibly hard worker. He has a great rapport with the constituents he works with and has deep roots in the community. Stories of his cows getting through fences on his property and roaming all over Cannon County have been the subject of my annual Christmas letters over the years. What has never been publicly recognized until now is Joe's uncanny knowledge of trivial information. Whether the topic is cuisine or the latest hi-tech gadget, Joe can always bring some new and interesting tidbit to the conversation.

An enthusiastic student of aeronautics, Joe has worked with NASA and local school districts to enable teachers in Middle Tennessee to attend Space Shuttle launches at Kennedy Space Center in Florida. The once-in-a-lifetime experience and lesson plans brought back to the classrooms have been a welcome addition to schools across my district. This worthwhile endeavor would not have been possible without Joe's passion for the subject and dedication to the project.

Madam Speaker, Joe has been an integral part of my staff and an invaluable help to the people of the Sixth District of Tennessee. I wish him, his wife, Lori, and their daughter, Kyla, all the best in the future.

REMARKS TO THE HOUSE OF REPRESENTATIVES

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. TANNER. Madam Speaker, it has been a true privilege for Betty Ann and me to represent Tennessee's 8th district in this chamber for the past 22 years, and we will always be grateful to the people of west and middle Tennessee who have given us the chance to do so. We now look forward to the transition from our role in Congress to that of private citizens, often said to be the highest office in our country.

Following the Constitutional Convention, Madam Speaker, a citizen asked Benjamin Franklin what that important body had created, and he replied, "A republic, if you can keep it." At the heart of this governmental model, public officials represent first and foremost the people who elect them.

I worry that our government is in danger of becoming more of a parliamentary system, where elected officials represent first and foremost their political parties. That is not what our founding fathers intended when they established this great nation, and it is not the right approach for our nation going forward.

The American people, by and large, do not reside in the extreme left wing or in the extreme right wing. They are solution-minded citizens who want their elected representatives to work together to address the problems that face us as Americans, not as Democrats or Republicans.

Unfortunately, the current political system, especially following decades of partisan gerrymandering with more to come in the year ahead, does little to incentivize such cooperation. Consequently, the political center in our representative government has been decimated, resulting in a great disservice to the American people.

Many of us certainly understand and share the angst the American people feel in a time of economic uncertainty, two wars, a seemingly insurmountable federal debt and ongoing concerns over homeland security.

These are complex problems that cannot be solved with bumper-sticker solutions, oversimplified soundbites and combative rhetoric. They require cooperation among thoughtful individuals who will put their district and country first.

To address these problems and restore the faith in our republic, those inside and outside government must be willing to extend to one who disagrees the same purity of motive and intellectual honesty one claims for oneself.

That is necessary, Madam Speaker, if we are to keep our republic.

HONORING ABRAHAM "ABE" THOMPSON

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. ISRAEL. Madam Speaker, I rise today to honor the life of Abraham "Abe" Thompson, who passed away on Wednesday, December 15, 2010, at the age of 94.

Abe served honorably during World War II as an officer of the United States Army Air Force in the 747th Squadron of the 456th Heavy Bombardment Group, stationed in Stornara, Italy. Abe flew 49 missions before being shot down on his 50th over Germany. The pilot managed to glide the plane into Switzerland, where the crew parachuted and were subsequently interned. Abe escaped into France after 73 days and made his way to American forces in Lyon.

After he was discharged, Abe raised his family in Yonkers, NY. He then moved to Huntington in the 1970s, after which he earned his law degree at the age of 73. He was an active member of the community, including serving as president of the local AARP chapter as well as a founding member and serving as Commander of the Nassau/Suffolk Long Island Chapter of the American Ex-Prisoners of War.

Abe was the loving husband of the late Bertha Gordon Thompson; devoted companion of Rita DeLuise and her family; adored father of Carole and Steven Roberts, Robert and Rosalie Thompson, and the late Phyllis Gordon; the cherished grandfather of Jennifer and Michael, Adam, Alison and Clark, and Jill and Jim; and the loving great-grandfather of Ned and Grace.

I am so proud that Abe was a member of the 2nd District of New York and I know that he will be missed by the many people whose lives he impacted.

FAREWELL REMARKS

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. TIAHRT. Madam Speaker, in just a few short weeks, my 8th term as Representative for the Fourth Congressional District of Kansas will come to an end, and I want to thank my constituents for giving me the opportunity to serve them these past 16 years. It has been a profound honor to represent Kansas in our Nation's Capital and to be a Member of this Institution.

Much has changed since I first walked onto the House floor in January 1995 following the historic Republican Revolution of 1994. We have witnessed the impeachment of a U.S. president, four years of balanced budgets, the end and beginning of a new millennium, the 9/11 terrorist attacks, an ongoing global war against terror, and the collapse of established financial and business institutions world-wide.

Other things have changed very little. We are still fighting against run-away federal deficit spending. The false notion that new gov-

ernment programs will solve our greatest problems continues to plague Washington despite attempts at cutting waste.

Thanks to the Tea Party movement, a new wave of fiscally conservative Representatives will take office in January, and I am hopeful we will see renewed progress in putting Washington on a diet.

One of the privileges of serving Kansas has been to achieve real results for our communities. During my Congressional tenure, we were successful in repealing the Wright amendment to help lower air fares, return millions of tax dollars back to Kansas to help build dozens of important infrastructure projects, protect the rights of the unborn through the 1998 Tiahrt amendment, secure over \$90 million in funding for the National Institute for Aviation Research at Wichita State University and place a statue of General Dwight D. Eisenhower in the U.S. Capitol Rotunda where it will remain permanently.

Working with Sen. BROWNBACK and Sen. ROBERTS, we successfully fought back attempts to procure a European refueling tanker and have made the case for purchasing an American tanker made by an American company with American workers. It is my continued hope that the Air Force will make the right decision and select the KC-767 that will employ thousands of skilled engineers and workers in Kansas.

Madam Speaker, as I reflect on my service in the House, I want to take this opportunity to thank my wife, Vicki, and my children who have supported me and walked with me on this 16-year journey. Serving in Congress is often most difficult on a member's family. We purposefully chose to serve these 16 years together. My wife and children were part of every term. I was blessed to have them with me to roam the marble halls of Congress, meet America's leaders, and get to know the citizens we served. Watching history unfold with my family by my side gave me many memories I will forever cherish.

Throughout my time as a Member of Congress, I have remembered my family is a gift from God and will always be my greatest accomplishment. Their work on numerous projects throughout Kansas has made our state and country a better place to live, and their love and encouragement continue to inspire me. I am so glad to be finishing this chapter of my life with Vicki, Jessica and John by my side, and we would give anything if Luke were here, too.

Many of the difficult tasks here in Congress could not be done without the hard work of staff. I have been blessed with committed staffers who stood with me as I fought for our Kansas values and a limited government.

My staff, past and present, worked tirelessly, not only for me, but for the people of Kansas and for our country.

Robert Noland has been with me since day one. He has been a loyal and faithful friend and has shown tremendous wisdom in managing my district office. I will never forget his years of hard work and dedication to me and to our state.

Jeff Kahrs has been with me since my first term in office, and I am grateful for his friendship, leadership and counsel over the years. His perception and vision have helped me focus on what's important.

Connie Voss has also been with me since my first term in office. Connie and her husband Joe have been a gift from God to Vicki and me throughout the years, and we deeply appreciate their prayer and faithful support.

Amy Claire Brusch has been with me for nearly 11 years and has served with stellar performance providing leadership on numerous legislative initiatives in my Washington office. Her knowledge of how Capital Hill works has helped me navigate complex legislative and political issues.

Linda Arensdorf has been on my official staff for more than 10 years and has been instrumental in helping manage the district office and working to make sure our constituent service projects are carried out with excellence.

Sam Sackett has also served on my staff for more than a decade and has contributed to several legislative initiatives in Washington and has helped me effectively and clearly communicate my message across the state of Kansas.

Melissa James has been responsible for managing my appointments and has done a tremendous job keeping impeccable schedules. Melissa's attention to detail and her dedication to her job have played an important role in making sure I manage my time wisely.

Chuck Knapp has played a critical role advising me on numerous issues related to policies and district matters. I appreciate his friendship and value his advice that has helped me better serve my constituents.

Josh Bell has served on my staff in several important roles, including as part of my legislative team in Washington as well as in my district office managing special projects for constituents. His faithful dedication and hard work have served me well for many years.

Jeremy Wisdom has provided valuable assistance to countless veterans and other constituents needing help with a federal agency. His knowledge of the federal system and thoughtful approach to problem solving has helped resolve numerous constituent problems.

Jim Richardson has a thorough knowledge of military and defense issues that has been an enormous asset to my legislative office. He has provided critical insight and a thoughtful approach to helping me deal with issues related to our national defense.

Laurel Scott has greeted thousands of Kansans visiting my Washington office over the years. Her warm smile, welcoming personality, and prayers for my family have meant so much to Vicki and me.

Wendy Knox has helped me disseminate our legislative message to the public by working with national media in Washington as well as state and local reporters. Her communication skills and commitment to the conservative cause has helped clarify and focus our messages.

Matthew Storio has served on my staff focusing on several issues related to the aerospace and energy industries. I appreciate the way he applied his skills and knowledge of the legislative process to help ensure Kansans' interests were made a top priority.

Richard Henkle has been a committed legislative staffer who has helped me focus on several issues impacting Kansas. His work on ag-

riculture, bio-security and pro-life issues has made a real difference to our state.

Sarah Osborn has served in my Washington office helping me with the House Economic Competitiveness Caucus agenda as well as ensuring constituent responses were fully addressed. I am grateful for the countless tasks she has done to help make our legislative office run successfully.

Jill Craven has dedicated a meticulous attention to detail and put her talents to work helping constituents receive prompt and informative responses to concerns with government agencies. Her never-quit attitude has benefitted constituents across the state of Kansas.

Mark Dugan has performed admirably in ensuring my office remained responsive to constituents, and he was instrumental in several of my efforts to reach constituents with information about what was happening in Washington.

Joel Katz has served in my Washington office helping the legislative staff meet its deadlines and achieve our goals. His hard-work, commitment to getting the job done and dependability made a huge difference to me and to the constituents he served.

Kenya Cox has an incredible dedication to many causes that have benefitted our district and the entire state. I appreciate her dogged and persistent work ethic in response to constituent requests. Her commitment to resolving problems and her tenacity in getting the job done well is admirable.

Andy Purath has served me in Washington for the last year as a congressional military fellow. I appreciate his hard work in the legislative office and his willingness to serve our country.

Mariam Bell has helped us complete the archive process on deadline and has been a blessing to Vicki and me for many years. I am thankful for her thoughtful approach to handling an enormous task.

I want to also recognize staff who have previously worked for me: Dave Hanna, Matthew Schlapp, Ruth Richman, Karen Casto, Tamara Baker, Gwendolyn Caldwell, Ardena Schienbein, Cindy Gustafson, Pam Porvaznik, Russ Yost, Scott Margolius, Judy Patton, Melissa Beall, Matt Rowden, Brad Ayers, Hannah Woody, Kevin Bruce, Amy Skeen, Amy Butler, Jennilee Browning, Jamie Sauser, Scott Plecs, Timon Oujiri, Aaron Weiss, John Howland, John Brady, Elias Voces, Joan Smutko, Trisha Reagan, Monica Green, Cindy Black, Emily Wellman, Jason Moshier, Courtney English, Joey Rathbone, Chris Israel, Joe Cramer, Sarah Key Sunday, Doddie Bowman, Terry Horton, Amy Lorenzini, Cheryl Arensdorf, Katie Steers, Jenni Schallenkamp, Tiffany Keeler, Nicole Noble, Don Boleski and Arsalan Arif. Without the years of service these people gave, I would not have been able to accomplish so much.

I would like to thank the staff on the House Appropriations Committee that have aided me tremendously through the years: Jeff Shockey, Debbie Weatherly, Dave LesStrang, Steve Crane, Stephanie Meyers, Kevin Jones, Stephen Sepp, Liz Dawson, David Gibbons, Mike Ringler, Ben Nicholson, John Martens, Martin Delgado, Allison Deter, Jennifer Hing, Jenny Kisiah, Frank Cushing, Letitia White, John

Shank, Tom Rice, Michelle Mrdozza, Migo Micconi, Ben Nicholson, Jennifer Miller, Dena Baron, Michael Stephens, Delia Scott, Chris Topik, Greg Knadle, Beth Houser, Rob Nabors, Cheryl Smith, David Reich, Nicole Kunko, John Bartrum, Tammy Hughes and Sandy Farrows.

I also want to acknowledge and thank the staff I have worked with on the House Permanent Select Committee on Intelligence: Mike Meermans, John Stopher, Kathleen Reilly, Meghann Courter, Fred Fleitz and Courtney Littig.

To all of my Congressional colleagues I have worked with over the years: it has been an honor to serve alongside you. Thank you for your friendship and your dedication to our great country.

My family and I deeply appreciate all our supporters and friends who have lifted us up in prayer and those who have given so much to make the impossible happen. For the past 16 years as I traveled to work and saw the Capital dome in the morning, I would pray, "Lord, help me do the right thing."

God has answered that prayer by surrounding me with a family and staff who, along with thousands of friends and supporters, have helped me faithfully carry out my responsibilities.

In the coming months and years, many tough decisions will be made in terms of what we do as a country. The success of our nation depends on engaged citizens who believe, as our Founding Fathers did, that the government should be by the people and for the people. We must all remain in the fight to help make Kansas and our country stronger, more prosperous and an even better place to raise a family.

Vicki and I look forward to continuing that journey with all those who have so faithfully walked with us.

While there are numerous other people that could be mentioned, I again want to say what an honor it has been to serve in the U.S. House of Representatives on behalf of the people of Kansas who sent me here these past 16 years.

May God continue to bless the Great State of Kansas, and may God bless America.

HONORING BLAKE GOETZ

HON. MARY BONO MACK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mrs. BONO MACK. Madam Speaker I rise today to honor a very distinguished member of my community, Fire Chief Blake Goetz.

Today I wish to recognize Fire Chief Blake Goetz, who has dedicated 33 years of service to the City of Palm Springs and over 29 years to the Palm Springs Fire Department. He will retire from his position as Fire Chief on December 31, 2010, and I am pleased to rise to make a few remarks on his impressive accomplishments and many contributions to the City of Palm Springs.

Chief Goetz started his career with the Palm Springs Fire Department in 1981. Over the years, Chief Goetz has remained committed to

safeguarding our community and has greatly increased the Coachella Valley's preparedness for fires, earthquakes and floods. Goetz initiated the Palm Springs Fire Department's Fire Prevention Safety Program to spread awareness of the dangers of fire and fire-related hazards to local grade schools during Fire Protection Week. His work in developing the Palm Springs Community Emergency Response Team (CERT) brought this critically important program to our area, and has greatly enhanced our local community's ability to respond to disaster. Goetz was appointed Fire Chief in 2004, and has continued to be an outstanding public safety official and well-respected leader in the community.

In addition to his time at the Palm Springs Fire Department, Chief Goetz has committed himself to the safety and well-being of the people of the Coachella Valley in many other areas. As a certified emergency manager with the International Association of Emergency Managers from 1998 to 2008, Chief Goetz played an essential role in bringing the Coachella Valley Emergency Managers Association to our community. Goetz has served as a member of the board of directors of Southern California Emergency Services Association and is currently chair of the board of directors of the Palm Springs Federal Credit Union. Goetz holds a lifetime instructor credential in fire science for California Community Colleges, and I am confident that he will continue his efforts towards promoting safety and protecting others after his retirement.

Today I stand proud to honor the admirable accomplishments of Fire Chief Blake Goetz, and extend my sincere appreciation for his distinguished service to the Palm Springs Fire Department and the Coachella Valley.

IN HONOR OF COACH JOE
PATERNO AND HIS 400TH WIN AT
PENN STATE

HON. PATRICK J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Speaker, I rise today to honor a great American, a great coach, a leader among men, who is an icon of college football and is one of Penn State's greatest treasures. Joe has just recently won his 400th college victory. More importantly, Joe's greatest accomplishments are not found on the football field, but in the young men that he has prepared for the game of life. I ask that this tribute penned in honor of him by Albert Caswell be placed in the RECORD.

PA . . . TERNO INSTINCTS

Upon, these fields of green . . .
Have but come, year after year . . . such
young men who dare to dream . . .
Specimens, of such great strength and speed
. . . of might, almost like supermen
who lead . . .
Who one day must walk off this great stage,
with what now to carry them through
their days?
And what do they now have so left, when
their days of glory are gone to them to
bless?

For sixty so odd years, as have so here . . .
As have such young men, so appeared . . .
From boys to men, at Penn State to be so en-
deared . . .

To be blessed, by Joe Pa to be near . . .
Upon, these fields of green so here . . .
For one man, one coach . . . has stood on
principle, oh so very clear . . .

To help build lives, build futures . . . as has
he so strived each year . . .
While, watching over them . . . from boys to
men . . .

Like a Shepherd, watching over his flock
. . . time, and time again . . .

Giving them hopes and dreams, discipline
and honor to each and every one it
seems . . .

Like a Father . . . Like a Son . . . as "with
each student, this new family has run
. . .

Leading, guiding, coaching, teaching, loving
each and every one!

With but his Pa Terno Instincts and dreams
. . .

As Joe Pa, has guided them from their teens
. . . Showing them all how life is won!

Molding them all, into such fine men . . . all
upon these fields of green . . .

His gift to all, a future . . . way beyond these
fields of dreams . . .

Education first! As now we see Joe Pa's fine
worth . . .

As this great love affair, brings such tears to
eyes . . . as Joe Pa's Terno instincts,
give rise!

For Joe, is a giver not a taker . . . bringing
boys to men, to new heights as they
awake here . . .

For few will run in NFL's sun, so what do
they so have left when all is done?

A future! Over four hundred career wins are
great . . .

But, Joe Pa spells victory . . . with one
word, "Graduate!"

With but his heart of lion, for all of them,
Joe Pa will never stop trying!

Oh, upon these fields of green . . . to mold
boys to men, to live their dreams . . .

But to have thousands and thousands, of lov-
ing sons . . .

No greater blessing, or victory to be won . . .
With but Joe's Pa... terno Instincts . . . he
has willed, all on these fields of green
. . .

For upon these fields of green, Joe . . . Pa is
a winner who has won . . .

But, In The Game of Life . . . Joe Pa is but
a Champion this one!

TRIBUTE TO TROOP 184 BLUE
RIDGE COUNCIL OF THE BOY
SCOUTS OF AMERICA

HON. THOMAS S.P. PERRIELLO

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. PERRIELLO. Madam Speaker, I rise today to congratulate Troop 184, Blue Ridge Council, of the Boy Scouts of America, on a momentous achievement. As of October, all five original members of Troop 184 have now attained the rank of Eagle Scout. As an Eagle Scout myself, I know the dedication, character, and commitment that each Scout has shown, and I am proud to recognize them for their hard work and their service to their community.

I would also like to recognize the remarkable leadership of Scoutmasters Kevin Daw-

son and Eugene Moorefield III. Kevin Dawson has also received the award of Silver Beaver from the Blue Ridge Council for his dedication to the Boy Scouts. Mr. Dawson and Mr. Moorefield's truly exceptional leadership and dedication have helped to instill in these young men values that they will carry with them for the rest of their lives. I am honored to recognize their service and leadership.

I ask you to join me in congratulating Gavin Dawson, James Moore, Lee Merryman, Hart Gillespie, and Martin Moorefield for their impressive achievements. These young men have shown the finest qualities of citizenship, leadership, and service, and I look forward to seeing them contribute to their communities for years to come.

CALHOUN HIGH SCHOOL COMPETITIVE
CHEERLEADING TEAM

HON. PHIL GINGREY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GINGREY of Georgia. Madam Speaker, I rise today in honor of the Calhoun High School Lady Yellow Jackets, Georgia's 2010-2011 Competitive Cheerleading State Champions.

Coached by Ginger Reeves, Calhoun's Varsity Competitive Cheerleading Team has been a dominant force in cheerleading in my home state of Georgia, winning four state titles since 2006.

The varsity squad consists of Jade Ables, Nikiki Bertuca, Makenzie Blalock, Erica Carter, Christina Cumbey, Gabby Defalco, Brooke Dixon, Morgan Diamond, Ashlyn Gilbert, Jessica Goswick, Melanie Hampton, Asliyah Harris, Mackenzie Kessler, Katelyn Langston, Kristen Langston, Hannah Magnicheri, Magen Pinyan, Mary Plunkett, and Hillary Rhodes.

I am proud of all of their accomplishments and their contributions to my home state and the 11th District of Georgia.

Madam Speaker, I ask all my colleagues to join me in honoring the Calhoun Lady Yellow Jackets.

PERSONAL EXPLANATION

HON. CATHY McMORRIS RODGERS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mrs. McMORRIS RODGERS. Madam Speaker, on rollcall No. 628 on, H.R. 1405, On Motion to Suspend the Rules and Pass, Longfellow House-Washington's Headquarters National Historic Site Designation Act, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea".

Madam Speaker, on rollcall No. 629 on, S. 3167, On Motion to Suspend the Rules and Pass, Census Oversight Efficiency and Management Reform Act of 2010, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay".

Madam Speaker, on rollcall No. 630 on, H.R. 6510, On Motion to Suspend the Rules and Pass, To direct the Administrator of General Services to convey a parcel of real property in Houston, Texas, to the Military Museum of Texas, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea".

**HONORING THE SACRIFICE OF
JUAN L. RIVADENEIRA AND
JORGE E. VILLACIS**

HON. DEBBIE WASSERMAN SCHULTZ

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Ms. WASSERMAN SCHULTZ. Madam Speaker, I rise today with a heavy heart to honor two brave young men from my District who died recently while serving their country in Afghanistan.

Staff Sgt. Juan L. Rivadeneira of Davie, Florida died November 13th when an insurgent suicide bomber detonated a vest bomb and struck his unit in Kandahar, Afghanistan. He was 27 years old.

Rivadeneira was an Infantryman assigned to Company B., 2nd Battalion, 502nd Infantry Regiment, 101st Airborne Division based out of Fort Campbell, Kentucky.

Staff Sergeant Rivadeneira served in two wars, first in Iraq and then in Afghanistan. And from the moment he enlisted in 2003, he was hard working, a quick learner, and most importantly, a dependable soldier that you wanted at your side.

Not surprisingly, during his seven years in the Army, Juan Rivadeneira was highly decorated for his bravery and commitment to his mission, receiving sixteen medals and badges. His company commander in Iraq, Army Major Robert Rossi said of him, "if someone needed help, he was the one to pick them up."

Corporal Jorge E. Villacis, of Sunrise, Florida died just this past Sunday, December 12th when his unit was attacked by an insurgent with a vehicle-borne improvised explosive device while serving in Howz E Madad, Afghanistan. He was only 24 years old.

Villacis was an Infantryman, who joined the Army in September 2008. Born in New Jersey, Villacis graduated from American Senior High School in Hialeah.

Also based out of Fort Campbell Kentucky, Villacis' awards and decorations include: Army Achievement Medal; National Defense Service Medal; Afghanistan Campaign Medal; Global War Terrorism Service Medal; Army Service Ribbon, and Combat Infantry Badge.

Both of these young men called South Florida home. Both of these young men answered their country's call to service.

And both of these young men left proud, but grieving family members behind.

Juan and Jorge met at Fort Campbell Kentucky and they were deployed to Afghanistan together in June.

Maybe it was the fact that Juan's family had roots in Venezuela, and Jorge's family was from Ecuador.

Maybe it was that both of them hailed from South Florida. Or maybe it was that they just hit it off.

But regardless of the reason, Juan and Jorge soon became close friends. In fact, last year, Juan and Jorge and their families joined together to celebrate Thanksgiving at Fort Campbell.

I didn't have the pleasure to know Staff Sgt. Rivadeneira, nor Corporal Villacis. Nor did our families know each other.

Yet, my family, and our nation owes a deep debt of gratitude for the service and ultimately the untimely loss of these two brave young men.

Neither of these men was forced to serve their country in the military.

Indeed, none of America's soldiers serving our country here or abroad, combat or non-combat, was forced to enlist in the military.

Yet they did. Juan and Jorge both answered our nation's call to serve and like thousands upon thousands of men and women before them, they fought for America's freedom, our liberty, and to ensure that our country remains the free and prosperous nation that it is today.

During this holiday season, and as we reflect upon the past year, we need to recognize the service and sacrifice of those who are serving and have served our country, like Juan and Jorge, who died fighting to protect our American way of life.

While I didn't know Staff Sgt. Juan L. Rivadeneira and Corporal Jorge E. Villacis, personally, mere words cannot express the gratitude I feel for them and their families.

**CARROLLTON HIGH SCHOOL
FOOTBALL TEAM**

HON. PHIL GINGREY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GINGREY of Georgia. Madam Speaker, I rise today in honor of the Carrollton Trojans who have been a dominant force in high school football in my home state of Georgia.

Carrollton ended the season with a 14-1 record and ranked number two in the state in Class AAA. Coached by Rayvan Teague, Carrollton's offense racked up an eye-opening 632 points this season—averaging 42 points a game—while their defense recorded six shut-outs.

I am proud of the Carrollton Trojan's accomplishments and contributions to my home state of Georgia and the 11th District of Georgia.

Madam Speaker, I ask all my colleagues to join me in honoring the Carrollton Trojans.

**HONORING THE SERVICE AND
DEDICATION OF JAMES L.
STUBBLEFIELD**

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize James L. Stubblefield for his contributions to the Sixth Congressional District of Tennessee. As any member of Congress knows, our legislative

achievements and successful constituent services programs would not be possible without a cadre of great staff working behind the scenes. Throughout my time in Congress, I have been fortunate to have many bright, able staff members with an interest in serving their country by working in this body. Today, I'd like to single out someone who has accomplished an amazing feat that deserves recognition, applause, and perhaps, a test of his sanity; incredibly, Jimmy Stubblefield has been a part of my staff for all of my 26 years in Congress.

Jimmy graduated a few years after I did from Middle Tennessee State University and jumped right in to my first campaign for Congress. He has served as my field representative ever since that first election, criss-crossing the district with me and logging countless late nights. Jimmy has helped thousands of Middle Tennesseans resolve issues with federal agencies, straighten out immigration and passport issues and receive needed benefits. He has touched the lives of many families and helped keep my Murfreesboro office running smoothly.

Jimmy has always been known as the man who can get things done. He has worked with community leaders around the district to cut through red tape and make planned improvements a reality. He has helped spearhead the expansion of the Stones River National Battlefield, now one of the top historical destinations in the region. He saw to fruition the development of the Greenway system, which has given Rutherford County residents space to exercise and preserved our community's green spaces in the midst of incredible population growth. Jimmy knows each of these projects like the back of his hand, down to the fences and sign posts. He has ensured our alma mater MTSU has the resources and assistance it needs to accommodate the largest undergraduate student body in the state. Rutherford County has seen incredible development since Jimmy and I began working together, and Jimmy's fingerprints are all over it.

Jimmy serves as president of MTSU's Alumni Association, and he and I have cheered the Blue Raiders through many ups and downs over the years. It's a good thing he's a sports fan because his athletic daughters have kept him busy running to games and cross country meets all around the area. Jimmy met his wife Nancy through my campaign, and it has been wonderful watching Katherine and Margaret grow up.

Jimmy is one of three men who have stood by me from the very beginning, through victories and disasters—through hell and, literally, high water in the aftermath of tornadoes and severe flooding. Along with Kent Syler and Billy G. Smith, Jimmy has been there every step of the way.

Madam Speaker, I could not have accomplished half of what I did without Jimmy's dedication and friendship. Jimmy, thank you for all your help and loyalty over these many years. I wish you, Nancy, Katherine and Margaret all the best.

HONORING MRS. KATHY HINCKLEY

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. KENNEDY. Madam Speaker, I rise today to honor the service of Mrs. Kathy Hinckley to the U.S. House of Representatives and to the constituents of Rhode Island's first district. A tireless worker, Mrs. Hinckley has long been a powerful advocate for those in need. Her love of country, compassion, and loyalty are a shining example to all future public servants. As Mrs. Hinckley prepares to transition to the next phase of her incredible career, we remember her dedicated service to the U.S. House of Representatives and offer gratitude on behalf of the thousands of Rhode Islander's whose lives she touched.

CALHOUN HIGH SCHOOL FOOTBALL TEAM**HON. PHIL GINGREY**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. GINGREY of Georgia. Madam Speaker, I rise today in honor of the Calhoun Yellow Jackets who have been a dominant force in high school football in my home state of Georgia, and in my 11th Congressional District.

Calhoun finished the season with a 14-1 record and ranked number two in the state in Class AA. Coached by Hal Lamb, the team beat the number one ranked team in Class AA to reach the finals, only to lose a heartbreaker in overtime.

The team was led by senior quarterback Landon Curtis; wide receivers JT Palmer, Ben Lamb, Chase Riserson, and Clay Johnson; and running back Dustin Christian.

The Yellow Jackets have won Georgia AA Region Seven for the past ten years straight. I am proud of their accomplishments and contributions to the 11th District of Georgia.

Madam Speaker, I ask all my colleagues to join me in honoring the Calhoun Yellow Jackets, their five-time State Champion cheerleading squad, Superintendent Dr. Judy Stiefel, Principal Kelly Bumgardner, and the entire student body and community of Calhoun, Georgia.

RECOGNIZING AND SUPPORTING THE EFFORTS OF WELCOME BACK VETERANS**HON. CHARLES B. RANGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. RANGEL. Madam Speaker, I rise today to express my full support for H. Res. 1746, a resolution recognizing and observing the efforts of the Boston Red Sox Foundation and other organizations for their Welcome Back Veterans Initiatives. I thank Congressman STEVE ISRAEL for introducing this resolution to

give us the opportunity to move in a definitive direction in improving the care for our veterans.

I am emotionally connected and affected by the plight of returning soldiers and their families. As a Korean War Veteran myself, I know all too well the significant toll that war can have on a soldier's physical and mental well-being, and that of their families. I am very familiar with how substantial support upon returning home can make all the difference.

I, along with other members of the Congressional Black Caucus, welcomed the Boston Red Sox Foundation to our Congressional Black Caucus Foundation Veterans Braintrust to explore and discuss issues concerning our veterans. The Boston Red Sox Foundation's efforts were very impressive.

Given the fact that we are welcoming an increasing amount of our soldiers home who will without a doubt be faced with a multitude of problems that we may not yet be equipped to deal with, this discussion is very timely. For this reason, I am heartened that this resolution encourages our Veterans Affairs Department to establish innovative public-private partnerships in the treatment of PTSD. This is a remarkable turning point in our handling of this condition.

I again thank the gentleman from New York for introducing this resolution and I urge all the members of this body to stand in support with me to ensure our service members are receiving the care they so rightfully deserve.

KENDRICK MEEK**HON. BARBARA LEE**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Ms. LEE of California. Madam Speaker, on behalf of the Congressional Black Caucus, I rise today to honor and celebrate the extraordinary career of Congressman KENDRICK MEEK. A man who took up the torch from his mother—our former esteemed colleague, Congresswoman Carrie Meek—and has carried it further than any of us would have ever imagined. He has truly been a trailblazer here in Washington, DC.

A native of Florida, Congressman MEEK received a Bachelor of Science degree in Criminal Justice in 1989 from Florida A&M University, where he co-founded the school's Young Democrats chapter. After rising to become the first African-American chief of police in Florida, Congressman MEEK was elected to the Florida House of Representatives from 1995 to 1998 and to the Florida Senate from 1999 to 2002. While in the Florida Senate, Congressman MEEK chaired Florida's Coalition to Reduce Class Size and helped gain a major victory for students throughout the state, with 2.5 million Florida citizens voting to approve the initiative.

During the four terms that Congressman MEEK has served Florida's 17th Congressional District in the U.S. House of Representatives, he has lit a spark among all of us and brought a renewed spirit to the mission of not only the Congressional Black Caucus, but to all of Congress. He has sponsored legislation creating a Nationwide Mortgage Fraud Task

Force, expanded trade preferences to Haiti's textile industry, provided tax relief to individuals taken advantage of by Ponzi schemes, and expanded the number of Medicare-supported physician residency training positions in states with a shortage of residents. Congressman MEEK has also been recognized nationally for his commitment to youth issues and for his use of social media as a way of strengthening collaborative communication with his constituents and enhancing civic engagement.

Congressman MEEK has served admirably on the House Committee on Ways and Means and as a member of the Congressional Black Caucus and the Democratic Steering and Policy Committee. On the international level, he has served on the NATO Parliamentary Assembly, an inter-parliamentary organization of legislators representing NATO members and associate countries. He served as Chairman of the Congressional Black Caucus Foundation and led it to its prominent national stature.

Congressman MEEK is a dedicated public servant, who has always fought fiercely for social and economic justice. He has truly inspired a renewed spirit throughout the Congress. On behalf of the Congressional Black Caucus, I honor Congressman MEEK for his outstanding commitment to his district and his country.

PERSONAL EXPLANATION**HON. MICHAEL K. SIMPSON**

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. SIMPSON. Madam Speaker, on rollcall No. 641, to suspend the rules and pass S. 3860, a bill to require reports on the management of Arlington National Cemetery, I was unavoidably detained and unable to vote. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION**HON. CATHY McMORRIS RODGERS**

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mrs. McMORRIS RODGERS. Madam Speaker, on rollcall No. 639 on Motion to adjourn, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay".

Madam Speaker, on rollcall No. 640 on S. 841, On Motion to Suspend the Rules and Pass, Pedestrian Safety Enhancement Act, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea".

Madam Speaker, on rollcall No. 641 on S. 3860, On Motion to Suspend the Rules and Pass, A bill to require reports on the management of Arlington National Cemetery, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea".

Madam Speaker, on rollcall No. 642 on S. 3447, On Motion to Concur in the Senate Amendment with an Amendment, Post-9/11

Veterans Educational Assistance Improvements Act of 2010, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "yea".

Madam Speaker, on rollcall No. 643 on H. Res. 1766, On Agreeing to the Amendment, Providing for consideration of the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay".

Madam Speaker, on rollcall No. 644 on H. Res. 1766, On Agreeing to the Resolution, as Amended, Providing for consideration of the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay".

Madam Speaker, on rollcall No. 645 on S. 987, On Motion to Suspend the Rules and Pass, To protect girls in developing countries through the prevention of child marriage, and for other purposes, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay".

H. RES. 1540: SUPPORTING THE GOAL OF ERADICATING ILLICIT MARIJUANA CULTIVATION ON FEDERAL LANDS AND CALLING ON THE DIRECTOR OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY TO DEVELOP A COORDINATED STRATEGY TO PERMANENTLY DISMANTLE MEXICAN DRUG TRAFFICKING ORGANIZATIONS AND OTHER CRIMINAL GROUPS OPERATING ON FEDERAL LANDS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. KUCINICH. Madam Speaker, I rise in opposition to H. Res. 1540, a resolution supporting the goal of eradicating illicit marijuana cultivation on Federal lands and calling on the Director of the Office of National Drug Control Policy (ONDCP) to develop a coordinated strategy to dismantle Mexican drug trafficking organizations and other criminal groups operating on Federal lands. H. Res. 1540 is an unnecessary statement that continues the Bush administration's failed approach to United States drug policy by overemphasizing military and law enforcement as the primary instruments of U.S. drug policy and its focus on marijuana to the exclusion of other more harmful drugs. If the approach recommended in this resolution were enacted, it would require the diversion of valuable resources from an effective policy already in place.

There is no doubt that the problem identified in the resolution, illicit marijuana cultivation on Federal lands, is real and harmful. Mexican drug trafficking organizations' ("DTOs") use of national forests and parks for illicit marijuana cultivation imperils visitors and damages pristine national resources. However, contrary to the implication of the resolution, ONDCP already has a coordinated strategy to address this problem. ONDCP's 2010 National Drug Control Strategy outlines how it has worked on a coordinated effort to combat the DTOs' illegal cultivation via its High Intensity Drug Trafficking Areas (HIDTA) program in conjunction with the Department of Interior, the U.S. Department of Agriculture, the National Guard, the Department of Justice's Drug Enforcement Agency, the Department of Justice's National Drug Intelligence Center, and state and local law enforcement agencies. In some of these initiatives, such as the Domestic Marijuana Eradication and Investigation Project, ONDCP has provided funding through HIDTA for these efforts. ONDCP has also coordinated a strategy to combat the DTO cultivation of marijuana on Native American reservations.

Moreover, while disrupting organized criminal groups is critical to successfully reducing the violent drug trade in Mexico, there are far more cost-effective ways to undermine the efforts of DTOs than combing the vast public territories in the U.S. for marijuana. U.S. counternarcotics policy must be both evidence-based and cost-effective, especially in the current fiscal environment. The immense public territory on which this cultivation could occur makes aerial surveillance akin to finding a needle in a haystack: it would involve great expense and a militaristic approach to policing vast public lands. Given the practical challenges and enormous resources that would be required to make a sizable dent in eradicating marijuana cultivation on public lands, the policy proposed by H. Res. 1540 is neither evidence-based nor cost-effective. If we are to devote more resources to reducing the supply of illegal drugs in the United States, domestic eradication programs are not the best use of taxpayer dollars.

As the Chair of the Domestic Policy Subcommittee of the Committee on Oversight and Government Reform, with oversight jurisdiction over the Office of National Drug Control Policy, I have held several hearings in the past year which have established that science and research support focusing our counterdrug dollars on drug treatment and evidence-based drug prevention programs. These hearings have also demonstrated that it is a more effective use of our resources to reduce and prevent the public health consequences of drug use such as HIV transmission and overdose deaths.

As Secretary of State Clinton has acknowledged, reducing U.S. consumption of drugs is one of the most effective ways we can help Mexico combat its drug trade. I urge my colleagues to oppose this resolution.

SUPPORTING THE REAUTHORIZATION OF THE CHILD NUTRITION ACT

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. DAVIS of Illinois. Madam Speaker, as we close this year, I wish to voice my support for the advancements we made to the Child Nutrition Act this month. S. 3307, the Healthy, Hunger-Free Kids Act of 2010, which the President signed into law this month, will do much to reduce child hunger and obesity.

Poverty is a stark reality for far too many people in my Congressional District, in Chicago, and in Illinois. In my Congressional District, the poverty rate based on 2008 Census data was 22.6 percent—well above the national average. The child poverty rate in 2008 for my District was 34.1 percent, almost double the national average. There are three primary child nutrition programs that this bill improves: the National School Lunch Program; Women, Infants, and Children, WIC, Program; and the Child and Adult Care Food Program. In Illinois, there are over 1 million children who benefit from the school lunch program, 300,000 who benefit from WIC, and 124,000 who benefit from the Child Care Food program. These children will benefit from our improvements to the Child Nutrition Act, whether they attend child care or school. Further, the state of Illinois will receive approximately \$11 million more dollars per year to help provide food for these children in need.

In addition to increasing federal reimbursements, I am proud that this bill will improve the nutritional quality of children's meals and reduce the availability of high-calorie junk food on school grounds. These steps will help tremendously to promote health and reduce obesity. I am very happy that this bill expands the after-school supper program, which is estimated to provide an additional 21 million meals to low-income children. I have had many people in Chicago tell me about the importance of these programs for children. There also are a number of enhancements to improve the programs' management and integrity. For example, in high poverty communities, the bill eliminates the requirement of paper applications and uses Census data to determine school-wide eligibility. It also establishes professional standards for food service providers and improves food safety requirements.

Given the deep need for improvements in the child nutrition law, I cast my vote in support of the Healthy, Hunger-Free Kids Act of 2010. This said, I wish to voice two disappointments I have with this bill. First, although we increased reimbursement rates per meal by 6 cents, these new resources are not sufficient to cover the local cost of providing the federal free and reduced-priced lunches and breakfasts. The U.S. Department of Agriculture estimates that school districts' costs of providing free lunches exceeds the federal reimbursement by over 30 cents per meal. In urban areas like Chicago, this loss is much closer to 75 cents per meal. Given that over 700,000 students in Illinois participate in the

low-income school lunch program, the financial burden to my school district is great. Subsidizing food so that low-income children can eat healthy meals and learn is important; I believe that the federal government should provide a greater share of the cost for caring for its youngest and most vulnerable citizens.

Second, I am disappointed that one of the offsets for this bill sent to us by the Senate is a reduction in funding for poor families in need of federal aid to purchase food. Children and families who receive food assistance are some of our most vulnerable citizens. In 2009, 1.46 million Illinoisans in 677,000 households received food stamps with an average per month of about \$136 for a total benefit value issued of \$2.3 billion. There are many poor families in Chicago and Illinois who need the full amount of the food benefits. Even if the impact is a few years away, I am disappointed that my vote to provide much-needed improvements in our child nutrition laws occurs by reducing future benefits to the poor. I vow to work actively with my colleagues to replace this funding so that no reduction in food assistance comes to fruition.

DOMESTIC FUEL FOR ENHANCING
NATIONAL SECURITY (D-FENS)
ACT OF 2010

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. INSLEE. Madam Speaker, Admiral Mike Mullen, Chairman of the Joint Chiefs of Staff recently commented at the 2010 Energy Security Forum that "[the Department of Defense] is using 300,000 barrels of oil every day. The energy use per soldier creeps up every year. And our number-one import into Afghanistan is fossil fuel." Admiral Mullen understands how critical an energy supply is to a combat troop; but how safe are our troops if this oil comes from overseas? Our defense sector should adopt more sustainable fuels, which can be produced here in the United States; for the security of our troops.

As an initial step forward, the Secretary of the Navy, Ray Maybus, outlined five formal energy goals to lead the Navy toward a more energy secure fleet:

1. Evaluation of energy factors will be mandatory when awarding Department of the Navy contracts for systems and buildings.

2. Department of the Navy (DoN) will demonstrate a Green Strike Group in local operations by 2012 and sail it by 2016.

3. By 2015, DoN will reduce petroleum use in the commercial fleet by 50 percent.

4. By 2020, DoN will produce at least 50 percent of shore-based energy requirements from alternative sources; 50 percent of Navy and Marine Corps installations will be net-zero.

5. By 2020, 50 percent of total energy consumption will come from alternative sources.

To ultimately realize these goals we need to dramatically scale up advanced biofuel production in the U.S. One way to help scale this nascent industry is to allow government entities to engage in longer term contracts with

fuel producers. These longer term contracts will provide additional market certainty and will ultimately help unlock private investment for construction and development of large advanced biofuel refineries.

That is why I introduced the Domestic Fuel for Enhancing National Security (D-FENS) Act 2010. This bill extends the multi-year contracting authority for advanced biofuels from 5 years to 15 years.

In the great state of Washington, interests from the private sector, universities, and major airports are already working to bring the first generation of biofuels to the market, and their efforts can be greatly enhanced by this legislation. These fuels are based on plants such as camelina, jatropha, and even algae; plants that can be grown right in the Pacific Northwest. In addition to being able to grow these feedstocks in our own backyard, research on the next generation of biofuels is also creating jobs at our highly regarded research institutions. These efforts will make sure that the U.S. secures its competitive edge in this field.

In closing, I urge my colleagues to cosponsor this bill, and hope that we can work together to move it toward passage as soon as possible.

PAUL KRUGMAN AND FACTS VS.
REPUBLICAN MYTHS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. FRANK of Massachusetts. Madam Speaker, in recent years Paul Krugman has been, in my view, the single-most incisive and accurate commentator on our economy. In the New York Times today, December 17, he rebuts very effectively the partisan effort to shift blame for our recent economic crisis away from the failures of deregulation and of financial irresponsibility in the private sector issued by the four Republican Members of the Financial Crisis Inquiry Commission. It is of course the case that government policy failures played some role in the crisis, but the most egregious of these is ignored by these partisans—the refusal of the Republicans in the Bush administration, the Federal Reserve and in Congress to support Democratic efforts to restrict the kind of irresponsible predatory mortgages that should not have been issued and which were a major cause of the crisis. As Mr. Krugman notes, "the G.O.P. commissioners are just doing their job, which is to sustain a conservative narrative. And a narrative that absolves the banks of any wrongdoing, that places all the blame on meddling politicians, is especially important now that Republicans are about to take over the House." Referring to the incoming Chairman of the Financial Services Committee, Mr. Krugman sadly, but with good reason, predicts "that he and his colleagues will do everything they can to block effective regulation of the people and institutions responsible for the economic nightmare of recent years."

Madam Speaker, I ask that Paul Krugman's very important correction to an egregiously erroneous report be printed here.

[From The New York Times, Dec. 16, 2010]

WALL STREET WHITEWASH

(By Paul Krugman)

When the financial crisis struck, many people—myself included—considered it a teachable moment. Above all, we expected the crisis to remind everyone why banks need to be effectively regulated.

How naïve we were. We should have realized that the modern Republican Party is utterly dedicated to the Reaganite slogan that government is always the problem, never the solution. And, therefore, we should have realized that party loyalists, confronted with facts that don't fit the slogan, would adjust the facts.

Which brings me to the case of the collapsing crisis commission.

The bipartisan Financial Crisis Inquiry Commission was established by law to "examine the causes, domestic and global, of the current financial and economic crisis in the United States." The hope was that it would be a modern version of the Pecora investigation of the 1930s, which documented Wall Street abuses and helped pave the way for financial reform.

Instead, however, the commission has broken down along partisan lines, unable to agree on even the most basic points.

It's not as if the story of the crisis is particularly obscure. First, there was a widely spread housing bubble, not just in the United States, but in Ireland, Spain, and other countries as well. This bubble was inflated by irresponsible lending, made possible both by bank deregulation and the failure to extend regulation to "shadow banks," which weren't covered by traditional regulation but nonetheless engaged in banking activities and created bank-type risks.

Then the bubble burst, with hugely disruptive consequences. It turned out that Wall Street had created a web of interconnection nobody understood, so that the failure of Lehman Brothers, a medium-size investment bank, could threaten to take down the whole world financial system.

It's a straightforward story, but a story that the Republican members of the commission don't want told. Literally.

Last week, reports Shahien Nasiripour of The Huffington Post, all four Republicans on the commission voted to exclude the following terms from the report: "deregulation," "shadow banking," "interconnection," and, yes, "Wall Street."

When Democratic members refused to go along with this insistence that the story of Hamlet be told without the prince, the Republicans went ahead and issued their own report, which did, indeed, avoid using any of the banned terms.

That report is all of nine pages long, with few facts and hardly any numbers. Beyond that, it tells a story that has been widely and repeatedly debunked—without responding at all to the debunkers.

In the world according to the G.O.P. commissioners, it's all the fault of government do-gooders, who used various levers—especially Fannie Mae and Freddie Mac, the government-sponsored loan-guarantee agencies—to promote loans to low-income borrowers. Wall Street—I mean, the private sector—erred only to the extent that it got suckered into going along with this government-created bubble.

It's hard to overstate how wrongheaded all of this is. For one thing, as I've already noted, the housing bubble was international—and Fannie and Freddie weren't guaranteeing mortgages in Latvia. Nor were they guaranteeing loans in commercial real estate, which also experienced a huge bubble.

Beyond that, the timing shows that private players weren't suckered into a government-created bubble. It was the other way around. During the peak years of housing inflation, Fannie and Freddie were pushed to the sidelines; they only got into dubious lending late in the game, as they tried to regain market share.

But the G.O.P. commissioners are just doing their job, which is to sustain the conservative narrative. And a narrative that absolves the banks of any wrongdoing, that places all the blame on meddling politicians, is especially important now that Republicans are about to take over the House.

Last week, Spencer Bachus, the incoming G.O.P. chairman of the House Financial Services Committee, told *The Birmingham News* that "in Washington, the view is that the banks are to be regulated, and my view is that Washington and the regulators are there to serve the banks."

He later tried to walk the remark back, but there's no question that he and his colleagues will do everything they can to block effective regulation of the people and institutions responsible for the economic nightmare of recent years. So they need a cover story saying that it was all the government's fault.

In the end, those of us who expected the crisis to provide a teachable moment were right, but not in the way we expected. Never mind relearning the case for bank regulation; what we learned, instead, is what happens when an ideology backed by vast wealth and immense power confronts inconvenient facts. And the answer is, the facts lose.

H.R. 5987, THE SENIORS
PROTECTION ACT

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Ms. ROYBAL-ALLARD. Madam Speaker, I rise today in support of H.R. 5987, the Seniors Protection Act.

H.R. 5987 would provide a one-time payment of \$250 to 54 million American seniors, retired and disabled veterans, and disabled individuals.

Due to low inflation rates, there has not been a COLA, or cost of living adjustment, in an unprecedented two years. But that doesn't mean America's seniors aren't hurting. In the absence of a COLA this modest payment will help America's seniors weather these tough economic times.

In today's economy seniors are confronted by loss of pension income and retirement savings, high prescription drug costs, and reduced access to affordable housing.

While Republican politicians turn a blind eye to seniors and defend America's millionaires club, the leaders in the Democratic Party continue to work for the dignity of older Americans.

The Seniors Protection Act is another effort in the time tested tradition of the Democratic Party defending the rights and interests of America's senior citizens.

We are the party that established Medicare and Social Security, and last year instituted the Seniors Task Force to continue the work the Democrats have done on behalf of seniors.

If not for Social Security assistance, more than 13 million low-income elderly Americans would fall into destitution.

With so many seniors this close to the poverty line, you can be sure that this payment—while small—will have a significant impact on the economic security of millions.

Aside from the import this will have on America's seniors, studies show that disbursements of this nature are a very effective economic stimulus.

When Social Security beneficiaries received \$250 payments as part of the 2009 Recovery Act, 125,000 jobs were created or saved.

We have an opportunity here to make immediate, tangible improvements to both the lives of millions of seniors and the American economy. Please join me, and my colleagues on the Seniors Task Force in supporting H.R. 5987—The Seniors Protection Act.

IN MEMORY OF PATRICK D. DEANS

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 2010

Mr. MICA. Madam Speaker, I rise today in memory of Patrick D. Deans who was killed in military action December 12, 2010 in Afghanistan, Kandahar Province. This 22 year old youthful Army soldier and his family lived in and near the 7th Congressional District. Patrick was raised in the St. Cloud area and I never had a chance to meet him. Because he did not reside in my congressional district at

the time of his death I was not officially notified of his passing. I read about Patrick's life and his service and his death in our local newspaper.

When I read what this young soldier wrote in his Facebook posting on November 10th, one month prior to his being killed in a suicide bomber attack, I felt compelled to include his words and some of his life story in the CONGRESSIONAL RECORD. In his commentary Patrick said, "A veteran is someone who, at one point in their life, wrote a blank check payable to the United States of America for an amount up to, and including their life. That is beyond honor and there are way too many people in this country who no longer remember that fact."

What an incredible statement and prophetic observation from this young man and hero. Before his sacrifice of his own life he clearly realized the commitment he had made to his Nation and also mentioned a reality of how military service and sacrifice is often forgotten by people and public officials. I believe it's important on not only Memorial Day and Veterans Day and now during the holidays and in fact every day that we remember the sacrifice of Patrick D. Deans and thousands of other men and women who have paid the ultimate sacrifice so that we can live as a free people.

Patrick grew up in East Orange county Florida and moved to Narcoossee and east Osceola where he attended Harmony High and played football. He later resided in East Orange County and graduated in 2006 from Timber Creek high school where he was a member of Air Force ROTC Program.

Patrick joined the Army in 2007 and served as an Infantryman until his deployment. His awards and decorations include: Army Commendation Medal, Army Good Conduct Medal, National Defense Service Medal, Afghanistan Campaign Medal, Iraq Campaign Medal, Global War on Terrorism Service Medal, Army Service Medal and Overseas Ribbon. He was posthumously promoted to corporal.

He is the only child of Patrick M. Deans, a corporal with the Orange County Sheriff's Office, and Robyn Deans of Seminole County Florida.

Along with my colleagues in the United States House of Representatives I extend my deepest sympathy to Patrick's family and the eternal gratitude of our Nation.

SENATE—Sunday, December 19, 2010

The Senate met at 12 noon and was called to order by the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

For unto us a Child is born. Unto us a Son is given, and the government shall be upon His shoulders. And His name shall be called Wonderful, Counselor, the Mighty God, the Everlasting Father, the Prince of Peace.

King of kings, we thank You for this season that reminds us of Your love for our world. We confess that we sometimes rush into Your presence, breathless with our needs. Calm our spirits. Turn our thoughts to Your majesty. Help the Members of this body today to see Your purposes more clearly. Give them a passionate commitment to keep Your law, until justice rolls down like waters and righteousness like a mighty stream. We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MICHAEL F. BENNET led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 19, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. BENNET thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, I am meeting and having a conversation with the Republican leader to see if we can come to an agreement on the CR. There are a few issues but nothing we shouldn't be able to work through.

Following any leader remarks, the Senate will resume executive session to resume consideration of the New START treaty. There will be 3 hours of debate with respect to the Risch amendment. The time will be divided as follows: 1 hour under the control of Senator KERRY or his designee, and 2 hours under the control of Senator RISCH or his designee. There will be no amendments in order to this amendment.

At approximately 3 p.m. today the Senate will proceed to a series of up to three rollcall votes. The Risch amendment will be voted on, that is amendment No. 4839; the confirmation of a circuit court judge for the Second District, Raymond J. Lohier, Jr.; and confirmation of a district court judge in Mississippi, Carlton Reeves.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

Mr. REID. Mr. President, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent that we divide the time appropriately among the 3 hours. I would use perhaps 10 minutes at this moment in time.

EXECUTIVE SESSION**TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS**

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following treaty, which the clerk will report.

The legislative clerk read as follows: Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive arms.

Pending:

Risch amendment No. 4839, to amend the preamble to the treaty to acknowledge the interrelationship between nonstrategic and strategic offensive arms.

Mr. KERRY. Mr. President, I ask that the time be divided as follows: I ask unanimous consent that I be permitted to proceed for 10 minutes and then reserve the remainder of our time; the Senator from Idaho will control the time of the Republicans. They will proceed to use up all but 10 minutes of their time. I will come back and respond, at which point they would have 10 minutes held at the back end.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. RISCH. That is agreeable, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, let me begin very quickly. First of all, I wish to thank the Senator from Idaho for his amendment. I appreciate the thought he has put into the consideration of this treaty and his role on the Foreign Relations Committee and the work he has done over the 4 days, and now the fifth day of consideration of this treaty on the floor of the Senate.

The amendment the Senator proposes to put into the treaty is an amendment to the preamble. So we have the same problem we had yesterday. I would just say that up front. But that said, we have great agreement with the substance of what he is trying to put forward in terms of the need to deal with tactical nuclear weapons. We will say more about that afterwards.

If the Senator would be willing, I think we can find a way to incorporate into the resolution of ratification a genuine, meaningful, adequate statement with respect to this linkage between tactical nuclear weapons and overall strategic understanding. I would like to do that, but I know the Senator wants to proceed with this amendment first. I just want him to have that understanding, that we are prepared to say something important, and I think substantive, about tactical nuclear weapons.

I wish to use a couple of minutes, if I may, to respond to a couple of comments made this morning by the minority leader on one of the morning television shows.

First of all, obviously, I regret he will not support the treaty itself. We had an understanding that was probably going to be the case. It is not a surprise. But I find it disappointing, given the entire Republican foreign

policy, national security, experienced statesmen group who are sort of emeritus for our Nation today—including former Secretary of State Larry Eagleburger, former Secretary of State Colin Powell, and former Secretary of State Jim Baker, as well as the list of all of the former Secretaries of State from the Republican side, including former Secretary of State Condoleezza Rice—all support this treaty.

The military supports this treaty. The leader of the Strategic Command, current, and the past former seven, support this treaty. The national intelligence community supports this treaty.

So I hope that in these waning days of this session, as we approach this holiday season which is so focused on the concept of renewal and hope and peace, that we could find the ability in the Senate to embrace in a bipartisan way the security interests of our country.

Particularly with regard to the notion about more time on this treaty, we are now on the fifth day of debate on this treaty. Let's debate today. Even if we had the cloture filing tonight or something, we would still have 2 days more of debate before that ripens and a vote on it, after which we then have 30 hours of debate providing it will pass.

So we are looking at the prospect of having more days of debate on this treaty, a simple building block on top of the START I treaty. We are looking at having more days of debate on this treaty than the START I, START II, and Moscow Treaty all put together.

So I think the Senate, which is appropriate, has time to focus on this treaty. I thought we had a good debate yesterday. The President said:

Regardless of Russia's actions, as long as I am President and as long as the Congress provides the necessary funding, the United States will continue to develop and deploy effective missile defenses to protect the United States.

So I hope our colleagues will give credence to the Secretary of Defense, the Secretary of State, the military, the President of the United States, and to the budget. The chairman of the Appropriations Committee informed me yesterday they have fully funded the modernization, once again, in the CR, just as we did in the previous CR—a sign of good faith of the direction in which we are going.

So all I can say is we have bent over backwards to meet the concerns of our colleagues in a completely non-political, apolitical, totally bipartisan, substantive way that meets the security concerns of the country. I hope we can find reciprocity with respect to that kind of action in the Senate.

So I reserve the remainder of my time. We will respond appropriately on the substance of this amendment at the appropriate time.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. RISCH. Mr. President, first of all, I wish to thank the chairman of the committee and the ranking member of the committee for the cooperation we have had throughout this matter. As I said when I started my debate on this amendment, I believe everyone is working in good faith, in the best interests of the United States, to attempt to develop and ratify a treaty that will be in the best interests of the United States.

I was particularly encouraged this morning to hear the chairman of the committee indicate he believes the substance of what we are talking about is an important issue, and I know he believes that. I know the intelligence community believes it. I know a lot of other parties that are involved believe this is a very important issue. We are going to talk about why this is an important issue as we go forward. After all, when we are dealing with a subject such as this, we are talking about the security of the people of the United States of America. It is not a partisan issue. It is not a win or a loss for anyone. It is developing the best we can possibly do to protect the American people.

I am nonetheless disappointed by yesterday's vote regarding missile defense. I am going to talk about that a little bit when I get into the substance of tactical weapons, but the issue of missile defense, just like the issue of strategic versus tactical weapons, is one that has been around for a long time.

It is not new. It is one of a couple of issues that were around 40 years ago when the people who originally brought us to the table with the Russians to do the work that they did. As I said before, those people were real heroes. They were patriots and did a great job of getting us to the table with the Russians, at a time when nuclear weapons was probably the most important issue facing the world.

A lot of us grew up in an era when we remember having air raid drills. I remember going to friends' houses who actually had shelters in their homes, so if indeed there was a nuclear war, they could take shelter. It is hard to believe that was the situation 40 years ago, but it was. Most people today don't have a recollection of what a serious issue that was. Those people who brought us to the table were real patriots. That was 40 years ago.

As I said before, the world has changed greatly in 40 years. Unfortunately, the dialog regarding strategic missiles has not dramatically changed in the last 40 years. We have been focused almost exclusively on numbers and to the great credit of those originally involved and to the credit of the ranking member, Senator LUGAR, who is here with me today, those numbers have been dramatically reduced. We started out with each side having over

6,000 weapons that could be launched on the other side. We have continuously ratcheted that back under this treaty to 1,550. I don't want to, in any way, denigrate the fact that we have greatly reduced the number of those strategic weapons on each side.

Having said that, one has to wonder what is the difference between 6,000 and 1,550? If either party pushes the button at 6,000 or at 1,550, the world is over as we know it. So although it is important to talk about numbers, I think that in today's world, because of changing conditions, we should be as much focused on a couple of other—well, at least two other issues, one being the missile defense issue, which we talked about at great length yesterday, and the other is the relationship between strategic and tactical weapons.

Frankly, we have been pacifying the Russians regarding missile defense and regarding strategic versus tactical weapons in order to get these treaties. I understand that when you are doing treaty work, when you are negotiating, it has to be a give-and-take proposition. Having said that, these two issues have moved to the forefront and have moved to importance, compared to simply the bare number of weapons and the verification process. Again, I don't want to denigrate the verification process itself; that is important.

Today, Russia is not the threat to us when it comes to nuclear issues, as it was 40 years ago. Indeed, there was no truly great threat to us other than Russia 40 years ago. However, today, most everybody agrees the likelihood of Russia pushing the button or us pushing the button and destroying each other is very unlikely. We have a 40-year history, where we have been through good times and bad times. Neither party—with the exception of the Cuban missile crisis—has come close to or remotely close to or even threatened to push the button and start a nuclear war.

In my judgment, and I think in the judgment of people who deal with this regularly, Russia is not the nuclear threat it was 40 years ago. But there are threats out there that indeed are as bad and worse than what the Russian threat was 40 years ago. How many people believe the rogue countries, North Korea and Iran, would not threaten us—at the very least threaten us—to push the button if they indeed had the ability to immediately do so. We all know it has been reported in the press that both those countries are working feverishly to get themselves in the position where they can have a nuclear weapon mounted, poised, and ready to go, so that when they sit down at the table with us, they can look us in the eye and say: Look, we will push the button if you don't—fill in the blank.

Our media today mocks and jokes about Ahmadinejad and Kim Jong Il as

being dysfunctional people—I think that is the kindest way of putting it. But they will not be joking about it if they get themselves in the position where they are able to legitimately threaten us with pushing the button or pulling the trigger on us with a nuclear attack.

We need to be focusing on the other aspects, starting with missile defense, because if we sit across the table from Kim Jong Il or his representatives or Ahmadinejad and the best we have to offer is a retaliatory strike, that isn't nearly as effective as having an umbrella over the top of us that can knock an errant missile out of the sky. We need a robust missile defense system.

I believe, as we said earlier, that this treaty chills that, because no matter what you say, if you read the unilateral statements made by the parties, the Russians have said that if we go forward with improving, either quantitatively or qualitatively, our missile defense system, this is grounds for withdrawing from this treaty. I don't think we should have a treaty in place that in any way chills the thinking about what we do to protect the American people with a robust missile defense system that could knock out of the sky an attack by either North Korea or Iran or even an accidental launch by the Russians, which, although remote, is a possibility.

Well, today, let's talk about something we can agree on; that is, the importance of tactical weapons in this discussion. As the distinguished chairman mentioned in his opening statement, the importance of the tactical weapons issue is a matter we should be concerned about and we should talk about. I am delighted to hear his offer that, assuming this goes by the bye, we can talk about getting something into the resolution of ratification as opposed to into the treaty.

First, for those who aren't daily speaking on this issue, the difference between strategic and tactical weapons is important. The difference is distance. A strategic weapon can reach your enemy on the other side of the ocean. A tactical weapon is a theater or short-range weapon that can be used on the battlefield. That is the difference between the two. It is a huge difference in a lot of different ways.

Although we all agree it is an important issue, and we all talk about it, nothing is done about it. Indeed, according to the statements that have been made, before we ever sat down at the table with the Russians on this issue, it was agreed we would do nothing about this issue. I hope and I urge that the President, the State Department, and all the others involved will pursue this issue aggressively and quickly once we have this treaty behind us, one way or the other.

What I want to do is to amend the preamble to the treaty, once and for

all, that lays this issue on the table and tells the Russians this is an important issue and that we are no longer going to look the other way and ignore this issue. They have an advantage on us on this issue. Everyone agrees with that. But this is what I want to put into the preamble, and it is not extensive. I have heard the chairman say over and over again that the preamble doesn't mean anything or very little. With all due respect, I disagree with that. I compare it to the preamble of the Constitution of the United States, which means a lot and is frequently quoted in court cases on constitutional issues.

This is what I want to put in:

Acknowledging there is an interrelationship between nonstrategic and strategic offensive arms, that as the number of strategic offensive arms is reduced [as this treaty does] this relationship becomes more pronounced and requires an even greater need for transparency and accountability, and the disparity between the parties' arsenals could undermine predictability and stability.

That is a factual statement that, on our side, virtually everybody agrees to. Obviously, the Russians, I suspect, probably agree to that but don't want to talk about it.

Well, the problem, in its simplest terms, is that we are greatly outgunned by the Russians at this time on the tactical front. Right now, on the strategic front, according to media sources we have approximately 2,100 strategic weapons. The Russians have approximately 1,100 strategic weapons. From an intelligence standpoint, I am not confirming those numbers, but that is what is reported in the press—assuming those numbers are accurate or modestly accurate. We, obviously, are not in parity. We are in a little better shape than the Russians from a strategic standpoint.

When you consider that neither of us believe we will reach for use of our strategic weapons, it doesn't make a lot of difference that we have 1,000 more than they do and probably not that much of a difference if either one pulls the trigger. On the tactical side, however, that is a very different ball game. As we all know, we have defense treaties. The biggest one is NATO, but we have defense partnerships with many countries around the world. Under our nuclear defense umbrella, many countries take refuge. It is here that the tactical weapons become important.

On these tactical weapons, as I said, the Russians have a 10-to-1 advantage over us. Just as important, without getting into intelligence details, they have a vast array of weapons, not only a delivery system but the weapons themselves, which again outgun us and is a serious problem.

Thirdly, just as important, they continue cranking out every day new designs, new technology, new development, and new production of these tac-

tical weapons—continuing to add to the disparity between us and the Russians.

Well, this disparity in our nuclear posture is very well demonstrated by the report Congress commissioned, entitled "America's Strategic Posture." It is published in a book and known as the Perry-Schlesinger Commission. I am going to refer to that briefly because I think probably this, as much as anything, is what people use as a guide to describe where we are as far as our posture on nuclear weapons and especially on tactical weapons, which is what I am focusing on with this particular amendment.

First, let me say the Russians are relying on more tactical nuclear weapons. The Commission report, at page 12, explained that:

As part of its effort to compensate for weaknesses in its conventional forces, Russia's military leaders are putting more emphasis on nonstrategic nuclear forces [what they call NSNF] particularly weapons intended for tactical use on the battlefield. Russia no longer sees itself as capable of defending its vast territory and its nearby interests with conventional forces.

So in very short order, they have explained why the Russians are doing this, why they have us 10-to-1 on this part of the issue, and why they continue to develop it. Well, they do not have the money or the resources or the ability, because of the large territory they have, to defend with conventional forces, and so they reach for these tactical weapons that are smaller and more easily deployed.

There is a description of the tactical nuclear threat in this document at page 13, which, again, I want to quote because I think it says it as concisely as it can be said:

As the Cold War ended, and as noted above, these NSNF—

That is, nonstrategic nuclear forces, short-range weapons—

were reduced under the auspices of the PNIs—

That is, Presidential Nuclear Initiatives—

and also the Treaty on Intermediate Range Nuclear Forces of 1987. Nonetheless, Russia reportedly retains a very large number of such weapons. Senior Russian experts have reported that Russia has 3,800 operational tactical nuclear warheads with a large additional number in reserve. Some Russian military experts have written about use of very low-yield nuclear "scalpels" to defeat NATO forces. The combination of new warhead designs, the estimated production capacity for new nuclear warheads, and precision delivery systems, such as the Iskander short-range tactical ballistic missile (known as the SS-26 in the West), open up new possibilities for Russian efforts to threaten to use nuclear weapons to influence regional conflicts.

That is at page 13.

There is a lack of Russian transparency on this particular issue. One of the things this treaty does that we are talking about today—and I think everyone concedes that this is one of the

important aspects of this treaty—is it gives us transparency with the Russians, at least to some degree. One could argue the degree, but at least there is some transparency. Not so with tactical weapons.

This is what the Commission said:

Like China, Russia has not shown the transparency that its neighbors and the United States desire on such matters. It has repeatedly rebuffed U.S. proposals for non-strategic nuclear forces transparency measures and NATO's request for information. And it is no longer in compliance with its PNI commitments.

So that describes the transparency problem, page 13 of this particular report.

There is a need to have effective deterrence against Russian tactical weapons, and again the report points this out.

Even as it works to engage Russia and assure Russia that it need not fear encirclement and containment, the United States needs to assure that deterrence will be effective whenever it is needed. It must also continue to concern itself with stability in its strategic military relationship with Russia. It must continue to safeguard the interest of its allies as it does so. Their assurance that extended deterrence remains credible and effective may require that the United States retain numbers of types of nuclear capabilities that it might not deem necessary if it were concerned only with its own defense.

Again, this provides a description of the serious issue tactical weapons puts on the table.

Well, there is a very substantial concern about the imbalance between strategic and tactical weapons. As I said, on tactical weapons we are not only balanced, but we probably have an advantage of 1,000, but who cares if neither party really believes it is going to be used. So then you turn to the tactical weapons, which are obviously very different.

This is what the Commission says:

But that balance does not exist in nonstrategic nuclear forces, where Russia enjoys a sizable numerical advantage. As noted above, it stores thousands of these weapons in apparent support of possible military operations west of the Urals. The United States deploys a small fraction of that number in support of nuclear sharing agreements in NATO.

Let me say that again: The United States deploys a small fraction of that number in support of nuclear sharing agreements in NATO.

Precise numbers for the U.S. deployments are classified, but their total is only about 5 percent of the total at the height of the Cold War. Strict U.S.-Russian equivalents in NSNF numbers is unnecessary, but the current imbalance is stark and worrisome to some U.S. allies in Central Europe.

And to this Senator personally.

If and as reductions continue in the number of operationally deployed strategic nuclear weapons, this imbalance will become more apparent and allies less assured.

Further in this report, they say:

The imbalance favoring Russia is worrisome, including for allies, and it will become

more worrisome as the number of strategic weapons is decreased.

Which, of course, is what we are trying to do with this treaty.

Dealing with this imbalance is urgent and, indeed, some commissioners would give priority to this over taking further steps to reduce the number of operationally deployed strategic nuclear weapons.

Obviously for the reasons I said because nobody believes we will ever reach to the strategic nuclear weapons to use them.

U.S. policy should seek reductions in Russian tactical weapons. I think everyone agrees on that, and that is precisely what I am attempting to do with this amendment to the preamble.

The Strategic Posture Commission says:

U.S. policy should be guided by two principles. First, the United States should seek substantial reductions in the large force of Russian nonstrategic nuclear forces (Non-Strategic Nuclear Forces). Second, no changes to the U.S. force posture should be made without comprehensive consultation with all its U.S. allies (and within NATO as such). All allies depending on the U.S. nuclear umbrella should be assured that any changes in its forces do not imply a weakening of the U.S. extended nuclear deterrence guarantees. They could perceive a weakening if the United States (and NATO) does not maintain other features of the current extended nuclear deterrence arrangements than the day-to-day presence of U.S. nuclear bombs. Some allies have made it clear to the commission that such consultations would play a positive role in renewing confidence in U.S. security assurances.

Finally, the Perry-Schlesinger Commission endorsed tactical weapons reductions talks.

The Commission said:

The commission is prepared strongly to endorse negotiations with Russia in order to proceed jointly to further reductions in our nuclear forces as part of a cooperative effort to stabilize relations, stop proliferation, and promote predictability and transparency. The large Russian arsenal of tactical nuclear weapons must be considered in this regard.

Well, obviously everyone is concerned. I am not the only one concerned. Obviously, the Commission isn't the only one concerned about this. Members of this body are and have been for a long time concerned about this.

My distinguished colleague from Maine, Senator COLLINS, wrote to the Secretary of State on December 3, 2010, and she stated:

The characteristics of tactical nuclear weapons, particularly their vulnerability for theft and misuse for nuclear terrorism, make reducing their numbers important now.

Senator COLLINS focused on another aspect of this that we haven't really talked about that much, but certainly strategic weapons have very little opportunity—in fact, in the United States, no opportunity—for access by terrorists. Not so much on the other side. But clearly there is a great difference between tactical and strategic weapons, primarily because of the way they are deployed.

Senator COLLINS also said:

President Obama's 2010 Nuclear Posture Review echoes the concern of nuclear terrorism. "The threat of nuclear war has become remote, but risk of nuclear attack has increased. Today's most immediate and extreme danger is nuclear terrorism. Al-Qaida and their extremist allies are seeking nuclear weapons."

That probably summarizes as clearly as anything the discussion I had at the outset about the difference of 40 years ago versus today and underscores what, in my judgment, is so important about moving this dialog forward instead of staying in the rut of where we were 40 years ago and focusing just on numbers.

Again, it is not just the Republican side of the aisle. Almost a decade ago, the SORT treaty, or Moscow treaty—another nuclear arms reduction treaty—was discussed here on the floor of the Senate, and a number of my colleagues from the other side of the aisle raised this exact question regarding tactical weapons and also underscored how important it was to take on this issue. Again, even though we have advanced 40 years, nothing has happened, and nothing has happened in the last decade. About 10 years ago, the distinguished Members of this body underscored how important it was to take this issue on, and nothing has happened.

Then-Senator BIDEN said on July 9, 2002, in this Chamber:

My question is, if the impetus for this treaty was going down to 1,700 to 2,200, related to the bottom line of what our consensus in our government said we are going to need for our security, and the rationale for the treaty was in part to avoid this kind of debate that took place over tactical nuclear weapons, then it sort of reflects that this is what the President thinks are the most important things to proceed on relative to nuclear weapons. Does he think that dealing with the tactical nuclear weapons are not that relevant or that important now, or that things as they are relative to tactical nuclear stockpiles are OK? Talk to me about that? You understand where I am going?

Well, I do, Mr. Vice President, because that is where I am going today, but nothing has happened over the last decade.

My distinguished colleague, Senator DORGAN, said in this Chamber, when we were talking about this treaty:

And this treaty deals with only strategic nuclear weapons, not theater nuclear weapons. There are thousands and thousands of theater nuclear weapons, such as the nuclear weapons that go on the tips of artillery shells. That is not part of the agreement. It has nothing to do with this agreement.

He was right then, and he is right now as to this agreement.

Senator REED, the Senator from Rhode Island, stated:

The treaty does not specifically address the problem of tactical weapons or MIRV'd ICBMs. The number of Russian tactical nuclear weapons is believed to be between 8,000 and 15,000, while the United States has approximately 2,000. Russian tactical nuclear

weapons are subject to fewer safeguards and more prone to theft and proliferation. These are the proverbial suitcase weapons, often discussed in the press, which are the ones that are most mobile, most difficult to trace and detect. And the treaty does not deal with these weapons at all.

Senator REED was right then on that treaty, and he is right on this treaty.

Regarding that treaty, Senator CONRAD stated:

I was therefore disappointed that a requirement for Russian tactical warhead dismantlement and United States inspection rights were not part of the treaty of Moscow.

Well, he was right, and I share his disappointment today on this, and I think everyone shares that disappointment. That is what I am trying to move forward with this particular amendment.

Senator CONRAD went on to say:

The disconnect between the ability of the United States to maintain current strategic force levels almost indefinitely, and Russia's inevitable strategic nuclear decline due to economic realities, gave our side enormous leverage that I believe we should have used to win Russian concessions on tactical nuclear arms. While I am encouraged that the resolution of ratification before us includes a declaration on accurate accounting and security, it does not mention Russian tactical nuclear reductions. I have prepared a corrective amendment and would welcome the support of the chairman and ranking member of the Foreign Relations Committee.

Thank you, Senator CONRAD. I expect him to come through the door any moment and join me as a cosponsor on this amendment. He had an amendment to the last treaty and that is exactly what I am trying to do on this treaty.

Finally, Senator FEINSTEIN, in talking about that treaty, said:

[T]he treaty does not address tactical nuclear weapons. As my colleagues know, there is a great deal of uncertainty about the number, location, and secure storage of Russian tactical nuclear weapons. Smaller and more portable than strategic weapons, they are vulnerable to theft or sale to terrorist groups. Yet the treaty does not even mention them. This is a glaring oversight and the dangers posed by tactical nuclear weapons—especially now in the post-September 11 world of global terrorism—warrants the immediate attention and action by both Russia and the United States.

She also said:

This treaty marks an important step forward in the relationship between the United States and Russia and reduces the dangers posed by strategic nuclear weapons. Nevertheless, I am concerned that the treaty does not go far enough and I believe its flaws must be addressed if we truly want to make the threat of nuclear war a thing of the past.

What has changed in the last 8 years, indeed in the last 40 years, when it comes to tactical weapons? Not much. As my colleague said 8 years ago, we should have had, in these negotiations, tremendous leverage over the Russians on this particular issue. We have a 1,000-warhead advantage on them. They are already under the numbers, and I

am still not clear what we got when we agreed that the number would be 1,550, when they were already below it and we had to get down to 1,550. I am not sure what we got for that. But it would seem to me at least we should have gotten something in that regard and that something should have had to do with tactical weapons.

As I am winding down, let me correct one thing that is out there in the public domain and that is the State Department's Web site. The State Department has a Web site up that addresses this treaty and deals with many questions surrounding this treaty and has answers for the public, for the media, and for anyone who wants to go there and learn about this particular issue.

I wish to focus on one particular aspect of that; that is, the part that deals with tactical weapons that I am dealing with. The State Department Web site posts—I suppose it is under “frequently asked questions,” the question: “Why doesn't the New START Treaty cover tactical weapons?”

That is a good question: “Why doesn't the new START treaty cover tactical weapons?”

It goes on and states that:

From the outset, as agreed by Presidents Obama and [the President of Russia] . . . the issue of tactical weapons was not raised.

I guess that begs the question: Why wasn't it? But nonetheless, the question is still out there: Why doesn't it address that? This is what they state:

Deferring negotiations on tactical nuclear weapons until after a START successor agreement had been concluded was also the recommendation of the Perry-Schlesinger Strategic Posture Commission.

That is an inaccurate statement. You recall, as I read from the Perry-Schlesinger Report, that is an inaccurate statement. Some members of the Perry-Schlesinger Commission were disturbed by the fact that the Web site said they had recommended they put this off.

On December 17, 2010, half a dozen members of that Commission wrote to Senator KERRY and ranking member Senator LUGAR and were protesting that particular statement on the Web site. I am going to quote from this letter. I am going to put the letter in the RECORD, but I am going to quote some small parts. The letter said:

As Members of the Strategic Posture Commission, we write to provide our own reality check that this does not resemble the recommendation the commission made on Russian tactical nuclear weapons.

It goes on to say:

The Commission specifically said on page 67 of its report that, “The imbalance favoring Russia is worrisome, including for allies, and it will become more worrisome as the number of strategic weapons is decreased. Dealing with this imbalance is urgent and, indeed, some commissioners would give priority to this over taking further steps to reduce the number of operationally deployed strategic nuclear weapons.

I ask unanimous consent to have printed in the RECORD the letter of December 17 I referred to, to Senator KERRY and Senator LUGAR, from members of the Strategic Posture Commission.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 17, 2010.

Senator JOHN KERRY,
Russell Senate Office Bldg.,
Washington, DC.

Senator RICHARD LUGAR,
Hart Senate Office Bldg.,
Washington, DC.

DEAR SENATORS KERRY AND LUGAR: During Senate consideration of New START, Members of the Senate have rightly raised their concern that New START leaves untouched Russia's ten-to-one advantage in tactical nuclear weapons. The official State Department response to this concern is provided by a document on its web site purporting to be a “reality check,” which states that “Deferring negotiations on tactical nuclear weapons until after a START successor agreement had been concluded was also the recommendation of the Perry-Schlesinger Congressional Strategic Posture Commission.” As Members of the Strategic Posture Commission we write to provide our own reality check that this does not resemble the recommendation the Commission made on Russian tactical nuclear weapons.

The Commission was in fact very concerned about Russian tactical nuclear weapons. At page 21 of its report, the Commission noted that the current imbalance in tactical nuclear weapons between the United States and Russia “is stark and worrisome to some U.S. allies in Central Europe.” We took note of the “evidently rising value in Russian military doctrine and national security strategy” of tactical nuclear weapons, and found that “there is a clear allied concern about this development.”

The Commission specifically said on page 67 of its report that “The imbalance favoring Russia is worrisome, including for allies, and it will become more worrisome as the number of strategic weapons is decreased. Dealing with this imbalance is urgent and, indeed, some commissioners would give priority to this over taking further steps to reduce the number of operationally deployed strategic nuclear weapons.” (Emphasis added). In addition, page 68 says, “The United States will need to consider additional initiatives on those NSNF [non-strategic nuclear forces] not constrained by the INF Treaty—i.e., tactical nuclear weapons. U.S. policy should be guided by two principles. First, the United States should seek substantial reductions in the large force of Russian NSNF.” Second, “no changes to the U.S. force posture should be made without comprehensive consultations with all U.S. allies.”

These quotes from the Commission's report demonstrate the error of the State Department's assertion that the administration's approach to New START and tactical nuclear weapons is consistent with the Commission's recommendations.

As members of the Strategic Posture Commission, we have brought this matter to your attention because we believe that the Commission's recommendations regarding negotiations with Russia remain pertinent and that any reference to the Commission's report should be accurate.

Sincerely,

HARRY CARTLAND.

JOHN S. FOSTER, Jr.
FRED C. IKLE.
KEITH B. PAYNE.
JAMES R. SCHLESINGER,
Vice-Chairman.
R. JAMES WOOLSEY, Jr.
Commissioner.

Mr. RISCH. Let me conclude. Here we are, 40 years later and, indeed, a decade later than our most recent foray into this. Other than the raw reduction of numbers of strategic weapons, not a whole lot has changed. But the world has changed dramatically and I urge and I suggest our approach with Russia on these very important issues needs to, likewise, change—and it has not.

Once again, in this Senator's humble opinion and that of a number of other Senators also, we have been bested by the Russians on the missile defense issue. They have convinced us that if we even think about improving, either quantitative or qualitatively, missile defense issues, they will withdraw.

Once again, they convinced us before we ever sat down at table that they would not talk about nuclear weapons.

That is wrong. That is wrongheaded thinking. It was wrong to approach this treaty with that type of thing on the table. So when we are all done and the high-fiving starts and the champagne bottles are opened and the fancy documents are signed, before everybody gets all worked up about what a great and glorious thing this treaty is, I would say it is missing some important things. No. 1 is missile defense, and I guess we already crossed that bridge yesterday; but the other is the oh-so-important issue of tactical weapons.

Fellow Senators, this is your opportunity. If you want to press the reset button with Russia, this gives you your opportunity to press the reset button with Russia and take up this issue that is so important and, indeed, in the minds of many, more important than the issue of strategic weapons.

I yield the floor to Senator KYL.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. First, let me thank Senator RISCH on a fine statement about a very important aspect of this START treaty. He covered the waterfront very well. I only wish there were more than two other colleagues on the Senate floor to hear this debate. Part of the reason I suggested, a long time ago, it was not a good idea to bring up the START treaty just before Christmas is Members would be preoccupied, especially if we tried to go through Saturday and Sunday. Here we are on a Sunday afternoon and there are four Senators, in addition to the Presiding Officer, on the Senate floor. This is a shame because it is an important issue.

Yesterday, the Senate rejected an amendment by Senators MCCAIN and BARRASSO. What they said was that there is some language in the preamble of this treaty that states the inter-

relationship between strategic defensive and offensive weapons and that is not a good idea based upon how the Russians intend to use that language. The argument against it was that it is just a statement of fact, nothing more than that. There is an interrelationship between defense and offense. In effect, what is the big deal?

The Risch amendment is also merely just a statement of fact. In fact, the language of the Risch amendment is virtually identical to the preamble language dealing with missile defenses except it, in effect, substitutes tactical or nonstrategic nuclear weapons for missile defense. It states the interrelationship. I cannot imagine anyone would deny that interrelationship. The Perry-Schlesinger Commission cited by Senator RISCH confirms that interrelationship.

As I said, I can't imagine anyone denying it, and I can't imagine anyone denying the fact that as we reduce our strategic offensive weapons, then the numbers of tactical nuclear weapons becomes all the more important, especially because of the large difference between the Russians and everyone else in the world. It is said to be about 10 to 1—Russia vis-a-vis the United States in tactical nuclear weapons—and all the more discouraging because there is no transparency in what the Russians have and their military doctrine is to actually use those weapons. Our strategic offensive tactical weapons are a deterrent to attack. To the Russians, tactical nuclear weapons are a battlefield weapon just like artillery. There is clearly an interrelationship between the two. It clearly would be to our detriment if we reduce our strategic offensive weapons down to the point that these tactical nuclear weapons could create an imbalance in power. Because the United States has commitments to 31 other countries, it is very important to them, especially the European countries that are in the backdoor of where the Russian tactical missiles could be most effective.

Yesterday, we were told we had to defeat the McCain amendment because it was simply trying to remove from the preamble this statement of fact of this interrelationship. Today, we have the Risch amendment, which is simply to insert a statement of fact about an interrelationship between the strategic and the tactical. There is no principled argument against the Risch amendment. The only argument is the Russians wouldn't like it and they would require that we renegotiate the preamble. I can't think of a better argument for the Risch amendment. We should renegotiate the preamble. All the statements Senator RISCH quoted from Democratic Senators then—one of the most eloquent by the Vice President, who was then a Senator, who said we have to negotiate further any reductions of these tactical nuclear

weapons of the Russians. We should have done it in the 2002 treaty. This was a missed opportunity by the Bush administration. That should be our first order of business.

So the Obama administration, with Vice President—the Obama administration, with Vice President JOE BIDEN, comes into office and was that their first priority? No. Was it any priority? No. Did it get included in the treaty? No. Why? Because the Russians said *nyet*. All the Risch amendment would do is simply insert the words into the preamble. Remember, this is the document that is meaningless, just a throw-away piece of paper, so what harm could it be of making this statement of fact of the interrelationship?

As I said, there is no principled argument against this. The only argument can be the Russians would require some renegotiation. I say, fine, let's bring it on. That should have been negotiated when the treaty was negotiated, not now after the fact.

I appreciated the fact that Senator RISCH put into the CONGRESSIONAL RECORD the statement of the six Commissioners of the Perry-Schlesinger Commission, who had to correct the State Department Web site, which wrongly asserted that they did not believe we should attack this problem of the disparity in tactical nuclear weapons. Senator RISCH quoted from the Commission report that noted the urgency of dealing with this problem.

But did the Obama administration negotiators deal with the problem? No. Why? Because Russia didn't want to.

OK. Sorry. We are sorry about that. But when they asked us to deal with missile defense, and we said: No, not in this treaty, they insisted we put language about missile defense, and if the interrelationship between that and the strategic weapons in the preamble and more important, not just language about the interrelationship but the fact that as strategic numbers come down, then that relationship becomes even more important because defense becomes more important—precisely the same point about tactical nuclear weapons.

People should understand one other thing. There is not a huge difference between strategic and tactical weapons. The actual explosive power of some tactical weapons exceeds that of some strategic weapons. The difference is in the delivery mechanism. One is intended more as a shorter range kind of weapon and the other is a much longer range, ordinarily an intercontinental range. That is the strategic definition.

I cannot think of a principled argument against this. It is not as if we are saying the treaty has to be renegotiated. It is not as if we are saying we have to deal with tactical nuclear weapons. Then-Senator BIDEN said:

After entry into force of the Moscow Treaty [that was done in 2002] getting a handle on

Russian tactical nuclear weapons must be a top arms control and nonproliferation objective of the United States government.

So why wasn't it a top objective of the Obama and Biden administration?

Let me make some other points and I think there are some other colleagues who would like to speak to this and then there are some quotations from other people who supported this treaty who said this is a problem that needs to be dealt with.

One of the things that came up during the course of the negotiations involved a particular kind of Russian tactical nuclear weapon. These are the weapons that could be deployed on submarines. They are basically cruise missile weapons, nonstrategic nuclear weapons.

These could actually reach the United States when deployed on submarines, so, insofar as the United States is concerned, it is a distinction without a difference as to whether they are tactical or they are strategic.

They could be used against the United States with submarines because they are delivered by cruise missiles. These are exactly the kinds of systems that were limited in a binding side agreement reached between the United States and the Soviet Union during negotiation of the first START treaty. Why did the administration forgo a similar agreement in New START?

In other words, you have a precedent, a particular kind of then Soviet nonstrategic nuclear weapon was dealt within a side agreement to the START I treaty, because we understood its importance. This treaty does not inhibit in the least the Russians' ability to deploy a cruise missile, submarine-based, nonstrategic weapon, nuclear weapon.

They did not want us to have the ability to deploy conventional Prompt Global Strike, at least not without counting it against the vehicles that deliver nuclear weapons. So that got into the treaty. The Russians did not want it, so we acceded to their request. When we wanted to put something in about the cruise missiles that would be delivered by submarine, no, we cannot do that, the Russians said.

I presume the administration made this argument. I do not know that they did in the negotiations. You see, we, the Senate, being asked to give our consent to this treaty, have been denied the negotiating records. The Russians know what our negotiators said, but we do not know. The State Department knows, the Russians know, but we do not know.

I do not even know if the United States tried to get that same agreement that was in the START I treaty in this New START treaty. I do not know. But it is not in there. So either we did not try—negligence—or the Russians said no. This is why it is important to recognize the relationship somewhere—maybe we will get a letter

from the President. Maybe he will send another letter to Senator MCCONNELL and say something about this, which, of course, does not mean anything vis-a-vis the Russians.

Why do we not do this in the preamble? Well, we have a chance to do it now, to correct the problem, by adopting the Risch amendment. A final point. The resolution of ratification actually recognizes this little problem, not very effectively, but it recognizes the problem by calling on the President to pursue an agreement with the Russians that would address this disparity in tactical nuclear weapons in the future.

Well, that is what then-Senator BIDEN asked to be done in 2002, when the last treaty was debated in the Senate. We did not do it. So now the resolution of ratification says, well, this is a pretty good idea, actually. We ought to do that in the future sometime. Well, our bargaining power in the future is gone. This is the treaty to do it in. What is the quid pro quo going to be when we go to the Russians next and say, now we want to talk about tactical nuclear weapons. They are going to say, now we want to talk about U.S. missile defenses. How do you like them apples? What is the Obama administration going to say?

One theory I heard was—and this was from a knowledgeable source—that the Russians actually would like to move the bulk of their tactical nuclear weapons from the European theater to their southern border and their eastern border, where they fear some day they may have to use these weapons against a potential invasion from China or from Muslim states to their south, and that they might agree to a concession—if the United States insisted that they move those weapons back from the European theater, they might be willing to do that. That is exactly the kind of concern we have. The Russians want to do that. They are prepared to move their missiles. They know they are going to have to do so for their own self-interests. They are waiting, however, until we say we wish to bring up this question of tactical nukes. They will say: I tell you what, if you will give us something on missile defense, we will be happy to move them back from the European theatre. That is the kind of thing we are looking at. The Russians are great chess players, the best in the world. And they are great negotiators. With all due respect to our negotiators—I cannot blame our negotiators. I do not know whether it was because of a lack of direction from the Commander in Chief or poor negotiation. But one way or the other, we got snookered. We got snookered on missile defense, we got snookered on conventional Prompt Global Strike, we got snookered on tactical nuclear weapons, we got snookered on verification. All of these are issues that we

want to try to deal with in the Senate now during this ratification process.

But Senator KERRY, the chairman of the Foreign Relations Committee, has said, we are not going to amend the treaty. So what are we doing here on a Sunday afternoon? If we are not going to do it, and he has got the votes to see that we do not do it, about all we can do is to make the case to the American people that this was a flawed process and a flawed treaty.

I hope our colleagues will consider the prospect of making some changes here, so that if, in fact, there does have to be some renegotiation, we welcome that. I do not know why the other side believes the Senate is only here as a rubberstamp. You cannot change the treaty, so vote for it. I think that explains this matter of time. Why do you need any time to debate this treaty? Let's get it over with. We have got to ratify the treaty here. Why are you raising all of those objections and questions? We are not going to let you amend it. So why do you think we need to take all of this time?

I think that explains their rationale. I heard one of my colleagues on the other side this morning on national TV say, we have been on this treaty for 2 weeks. No, we have not. We have been on it for 3½ days. That is interspersed with all of the other stuff we have been doing on the Senate floor, which I will not bother to repeat. We are all well aware of it.

But here we are on a Sunday afternoon. We should be debating a very serious proposal by Senator RISCH to simply put wording in the preamble that tracks almost identically the wording that is already in there relative to missile defense, and this would relate to tactical nuclear weapons. Why would we not do that, unless we do not want to change the treaty in any way?

I do not think we should be wasting our time here. The advice and consent clause of the Constitution meant something. The administration did not follow our advice that we gave them when we passed the defense bill last year on missile defense, on Prompt Global Strike. So we do not have to give them our consent, or at least we can say let's make a few changes—a change such as this, that I cannot see any principled argument against. There will be an argument, and the argument will be: Well, the Russians will not like it, we will have to renegotiate. I will be interested to see if there is any other argument.

I hope my colleagues will gradually filter in here on a Sunday afternoon, turn off the football game, come in for a few hours of edification about some very important matters to American security, and, at the end of this afternoon when we vote, support the amendment of my colleague Senator RISCH.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me state at the outset that the amendment offend by the distinguished Senator, Mr. RISCH, would, in essence, terminate the treaty. We have been down this trail yesterday with a long debate about missile defense.

But, in fact, the net result of amending the preamble, and thus the text of the treaty, is to kill it. That is the issue before the Senate. There may be Members in our body who do not like the treaty. There have been some, apparently, who from time to time have not been prepared to support any treaty with Russia.

I have recited, at least from my recollection of previous debates, that many Senators simply said, you can never trust the Russians. You cannot deal with the Russians. Simply what we ought to be doing is to build up defenses of our own so that quite regardless of what the Russians have, what the Russians intend to do, we are prepared for that.

Indeed, that was some of the argumentation at the time President Ronald Reagan first seriously got into these issues. There were persons at that point, and there may still be persons, who believe that somehow or other a complex system of missile defense can be set up that would protect our country against intercontinental ballistic missiles flying in from Russia, from North Korea, from Iran, from whomever might obtain them.

That argument has gone on for decades. To this point, there has not been scientific backup that such a comprehensive missile system could be created, quite apart from what its expense might be, and quite apart from the lack of attention to the recognition of what else is going on in the world.

Indeed it is a curious fact that in this debate some Senators have argued that the Russians are one thing, but a rather diminishing focus, as far as they are concerned; that the real problem is not how ever many intercontinental ballistic missiles the Russians may have, how many warheads that are aimed at our military installations and our cities but, rather, that development of a few nuclear weapons in North Korea, or the possibility of development of some in Iran ought to be the focus for those who are moderate as opposed to those who are still talking ancient history.

Let me be very clear. We are talking this afternoon about an amendment that terminates the treaty and that means we have no New START. Some Senators would say, well, that is fine. Now let's go back to work. Let's send our negotiators into the fray, as if, for some reason or other, we anticipate the Russians, after this rejection, are eager to engage.

In the meanwhile, let me say that for what I would call an indefinite period, while these negotiations might come about, although it is dubious given at

least the rejection not only to the Russians, but the impression of the rest of the world, that we will have an inability, once again, to inspect what is proceeding in Russia.

In other parts of the debate, we may talk about the verification procedures and their adequacy. Some Senators have already suggested that in their judgment those verification procedures may lack the adequacy that would give us confidence, even though the number of bases on which Russia has weapons has decreased by at least a half, and it is a very different situation with regard to inspection.

But, at the same time, many of us have lamented since a year ago December 5 that we have not had so-called boots on the ground; that is, Americans inspecting what is proceeding. I think that is very important. If we reject the treaty today by passing this amendment, that problem will continue. I believe that has to be faced squarely, regardless of what Senators might feel ought to be in the treaty or left out of it. I would say each day that goes by, I do not predict that the Russians are going to construct something especially new and different, but we have come into a mode of feeling, that although that may be important, it has not been important enough for us to take up this treaty, even though it has been clearly signed by the two Presidents of the United States and Russia for some months.

Thank goodness we finally have the treaty before us. I would say that the costs associated with requiring renegotiation of the treaty, I believe, far outweigh the benefits the Senate might gain by demanding a new treaty, new changes in due course. I would say, from my perspective, a rejection of the treaty today will make further limitations on Russian tactical nuclear arms far less likely, not more likely.

The United States has made clear that any future nuclear arms reduction agreement with Russia should include tactical nuclear weapons, and I share that objective. Some critics have overvalued the utility, however, of Russian tactical nuclear weapons, and undervalued our deterrent to them.

Only a fraction of those weapons; that is, the Russian tactical weapons, could be delivered significantly beyond Russia's borders. Pursuant to the INF treaty, the United States and the Soviet Union long ago destroyed intermediate range and shorter range nuclear-armed ballistic missiles and ground-launched cruise missiles, which have a range of between 500 and 5,500 kilometers.

In fact, most of Russia's tactical nuclear weapons have very short ranges. They are used for homeland air defense. Most, as has been suggested, are devoted to the Chinese border or are in storage now. A Russian nuclear attack on NATO countries is effectively de-

terred by NATO conventional superiority, our own tactical nuclear forces, French and British nuclear arsenals, and U.S. strategic forces. In short, Russian tactical nuclear weapons do not threaten our strategic deterrent. Our NATO allies that flank Russia in eastern and northern Europe understand this. I think we need to underline that because we have NATO allies. We have discussed this subject very frequently.

Our NATO allies would seemingly be the most in harm's way of a short-range tactical nuclear weapon. It could be a very short range into the Baltics, for example, or into Poland, but the NATO allies have all strongly endorsed the New START treaty for the reasons I have suggested. They understand the deterrents that are already present to the Russian use of these particular weapons.

It is important to recognize that the science differential between Russian and American tactical nuclear arsenals did not come to pass because of American inattention to this point. During the first Bush administration, our national command authority, with full participation by the military, deliberately made a decision to reduce the number of tactical nuclear weapons we deployed. So it goes back to the first Bush administration, a deliberate decision to reduce the number. They did this irrespective of Russian actions because the threat of a massive ground invasion in Europe had largely evaporated due to the breakup of the former Soviet Union.

In addition, our conventional capabilities had improved to the extent that battlefield nuclear weapons were no longer needed to defend western Europe. That was a military judgment. In this atmosphere, maintaining large arsenals of nuclear artillery shells, land mines, and short-range missile warheads was a bad bargain for us in terms of cost, safety, alliance cohesion, and proliferation risk. In my judgment, Russia should make a similar decision. The risks to Russia of maintaining their tactical nuclear arsenal in its current form are greater than the potential security benefits those weapons might provide. They have not done this in part because of their threat perceptions about their border, particularly their border with China—which, apparently, they want to give an impression to the Chinese who are along a large border and territory largely unoccupied or sparsely occupied by Russians, that these weapons might be utilized against the Chinese.

An agreement with Russia that reduced, accounted for, and improved security around tactical nuclear arsenals is in the interest of Russia and the United States. Rejection of New START, however, makes it unlikely that a subsequent agreement concerning tactical nuclear weapons will ever be reached. One of the basic points

of the exercise we are now proceeding on, the passage and ratification of a New START treaty, means we have another opportunity to move ahead with the Russians around the negotiating table.

Logically, rejection of the treaty does not offer a promising benefit for at least the short run, and maybe the intermediate run to either country to proceed.

The resolution of ratification encourages the President to engage the Russian Federation on establishing measures to improve mutual confidence regarding the accounting and security of Russian nonstrategic weapons. That has been deliberately put into the text we are discussing today. For this reason, I oppose the amendment because, in fact, it would require renegotiation of the treaty. I have suggested that is unlikely to come about very rapidly and very readily.

One of the amazing things about the current situation was that with the expiration of the START treaty a year ago December, we were able to get together with the Russians, admittedly on a limited agenda. Those who are proponents of the treaty have said from the start that it is a limited agenda, small reductions in strategic arms, an ideal, once again, of verification and the possibilities that having at least reached limited agreements, we might in fact meet again around the negotiating table to think through the tactical weapons situation and other aspects and the very important objective we do have with the Russians of limiting the building of nuclear weapons or an industry that could field those in other countries.

We believe it will be in the interest of the Russians, as well as our own, to have that cooperation on the basis of our knowledge of how the systems work and how that deterrence might be effected.

I appreciate very much the importance of the issue. But for the reasons I have suggested, I believe it would be unwise to adopt the motion of the distinguished Senator. Furthermore, I would not like to see the treaty completely obliterated today by the adoption of this amendment because that, in fact, would be the effect.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent that I be permitted to speak for 15 minutes, to be followed by Senator CORNYN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CASEY. Mr. President, we are grateful to be here on a weekend talking about a critically important treaty for the country. This treaty has been the subject for many months now of review by the Foreign Relations Com-

mittee, as well as other committees. There have been between 900 and 1,000 questions asked of the administration and answered. I think we should start with some basic fundamentals about the context within which this treaty is being debated and, I hope, ratified in the next couple of days.

First, this treaty is entirely consistent with our concern in making sure our nuclear arsenal is safe, secure, effective, and reliable. There is no question about that in terms of our goal. That underpins our national security and is no way reduced or compromised because of this treaty.

I wish to speak to the amendment offered by Senator RISCH. Any amendment to the treaty would require renegotiation with the Russian Federation. That would lead to a prolonged delay for the U.S. nuclear weapons inspectors to return to Russia to get on the ground to inspect and to verify.

As we sit here today on this Sunday, we can say, unfortunately, on this date, Sunday, December 19, we mark day 379 since we have had inspectors on the ground. That is a problem for our security. That is a problem, obviously, for verification. That is one of the reasons—only one, but one—we must ratify this treaty.

Let me get to the amendment offered by Senator RISCH. Senator RISCH and I serve on the Foreign Relations Committee. I am the chairman of the Subcommittee on Near Eastern and South and Central Asian Affairs. Senator RISCH is our ranking member. We work well together. I think we have a basic disagreement about this amendment. This amendment involves what are known as tactical nuclear weapons. I recognize the importance of addressing the basic imbalance that exists with respect to the Russians and the scores of tactical nuclear weapons at their disposal. It is important that upon ratification of the New START accord, we proceed quickly to negotiations with the Russians on tactical nuclear weapons. But as we engage in this debate, it is also important to clearly define what we are talking about for the American people.

The Congressional Research Service says the United States and the Soviet Union—what we used to call the Soviet Union—both deployed thousands of “nonstrategic” nuclear weapons during the Cold War that were intended to be used in support of troops in the field during a conflict. These included nuclear mines, artillery, short, medium, and long-range ballistic missiles, cruise missiles, and gravity bombs.

So we are talking about tactical weapons—in this case, tactical nuclear weapons—which were not included in the New START treaty because this is a strategic weapons treaty. We can all agree future negotiations must take place on tactical nuclear weapons. But the only way to get there, the only

path forward, is by finalizing New START and ratifying this important treaty.

Our allies in Europe are perhaps the most vulnerable to the threat posed by tactical nuclear weapons. Our allies in eastern Europe are especially so. Yet here is what Polish Foreign Minister Radoslaw Sikorski wrote on November 20:

Without a [New START] treaty in place, holes will soon appear in the nuclear umbrella that the US provides to Poland and other allies under article 5 of the Washington Treaty, the collective security guarantee for NATO members. Moreover, New START is a necessary stepping-stone to future negotiations with Russia about reductions in tactical nuclear arsenals and a prerequisite for a successful survival of the Treaty on Conventional Forces in Europe (CFE).

In effect, New START is a sine qua non for effective US leadership on arms-control and non-proliferation issues that matter to Europe—from reviving the CFE treaty to preventing Iran from obtaining nuclear weapons.

The Polish Foreign Minister said this. He represents the very people under direct threat from the Russians and from their tactical nuclear weapons. He believes New START should be done first, followed by negotiations on tactical nuclear weapons.

Secretary General of NATO Rasmussen has said:

The New START treaty would also pave the way for arms control and disarmament initiatives in other areas that are vital to the Euro-Atlantic security. Most important would be transparency and reductions of short-range, tactical nuclear weapons in Europe which allies have called for in our new “Strategic Concept.” This is a key concern for allies—not only those closest to Russia’s borders—in light of the great disparity between levels of Russian tactical nuclear weapons and those of NATO. But we cannot address this disparity until the New START treaty is ratified. Which is another reason why ratification would set the stage for further improvements in European security.

Franklin Miller, the Senior Director for Defense Policy and Arms Control under President George W. Bush said:

If we don’t ratify New START, we’re back to the drawing boards on some sort of approach to strategic arms and the tactical that are still going to get left behind. I do not see a treaty in the future that will lump the large Russian tactical stockpile in with the smaller strategic stockpiles on both sides.

End of quotation from President George W. Bush’s Senior Director for Defense Policy and Arms Control.

Finally, I would note that in April 2009, both President Obama and President Medvedev indicated that arms control would be a step-by-step process, with a replacement for the 1991 START treaty coming first but a more comprehensive treaty that might include deeper cuts in all types of warheads, including nonstrategic weapons, following in the future.

Russian tactical weapons must be decreased, there is no question about

that, and experts across the political and international spectrum agree that completing New START is the essential first step in reducing Russian tactical nuclear weapons.

Even if this amendment to the treaty were to be passed, the treaty itself would still be about strategic arms. Nothing in the amendment would actually change that fact. But it would unnecessarily continue to delay U.S. inspectors returning to Russia to verify nuclear weapons. So if this amendment were to pass, we not only make no progress—no progress—on tactical nuclear arms, but efforts to decrease the weapons actually pointed at the American people—the Russian ICBMs would grind to an immediate halt. This is not acceptable to the American people, I would argue, but certainly not to many of us supporting the ratification of the treaty. As a result, I will be voting no on the Risch amendment.

I would also like to reiterate that the resolution of ratification that came out of the Foreign Relations Committee covers this issue by calling on the President to “pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the Russian Federation and of the United States and would secure and reduce tactical nuclear weapons in a verifiable manner.” So says the resolution of ratification. This bipartisan resolution passed out of the Senate Foreign Relations Committee by a vote of 14 to 4.

So we have spent lots of time on this treaty. We have spent a good deal of time as well on this basic question. But I think we have to do more than talk tough when it comes to this treaty and when it comes to making sure our arsenal is safe, secure, effective, and reliable. Tough talk is not enough. We need tough actions. The ratification of this treaty is one of those tough actions to make sure the American people are more secure.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I rise in support of the Risch amendment and would refer all of us to the constitutional provision under which we are discharging our responsibility. Of course, it is article II, section 2 of the Constitution that says:

[The President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties. . . .

The problem here is that even though Congress has told the administration about our concerns about constraining our missile defense capability and has told the administration about our concerns with regard to the exclusion of tactical weapons that are covered by the Risch amendment, in reality, the administration really does not want

our advice but merely seeks our consent.

I believe this matter is being treated with the kind of gravity and seriousness on a bipartisan basis that it deserves. But there are some very real differences between those of us who think this treaty is as good as we can get and that Congress's role is really to consent to something negotiated without our advice having been taken, and those who believe the Senate should play more than a rubberstamp role when it comes to matters as serious as these. Indeed, in section 1251 of the national defense authorization bill for fiscal year 2010, the Senate did provide advice on these matters. But, as I indicated earlier, most of that advice was ignored in favor of a strategy of seeking our consent after this treaty was basically a fait accompli.

It concerns me that—and I admire our distinguished floor leader, Senator LUGAR, who has a wealth of experience in this area, and I think we all acknowledge that—it worries me that any attempts by the Senate to offer amendments are called treaty killers. I do not really understand what our role is here if it is not to offer amendments to conform the treaty to what we believe is the best national security interests of the American people.

But one of the treaty's problems that I think the Risch amendment reveals is, that by excluding tactical nuclear weapons, we are giving the Russians a huge advantage and increasing rather than decreasing instability. The Congressional Research Service has written a document that illustrates this, a research document dated January 14, 2010, entitled “Nonstrategic Nuclear Weapons,” otherwise called tactical nuclear weapons. On pages 4, 5, and 6, they go through a factual distinction between strategic and nonstrategic nuclear weapons.

Mr. President, I ask unanimous consent that those pages be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CORNYN. I thank the Chair.

Mr. President, the Congressional Research Service points out that the distinction between strategic nuclear weapons that are covered by this treaty and nonstrategic or tactical nuclear weapons that are not covered by this treaty is, frankly, a muddled topic. We do know that some types of weapons, by exclusion, are left out and not included under the treaty. In other words, intercontinental ballistic missiles, sea-launched ballistic missiles, and heavy bombers are included as strategic weapons, and, by definition, everything that is not included would be a nonstrategic or tactical weapon. They also point out in those pages that are being made part of the RECORD that

part of the definition has traditionally been determined by the range of delivery vehicles and the yield of the warheads. But I think it is important to try, as well as we can, to paint a clearer picture of what we are talking about when we say nonstrategic or tactical nuclear weapons.

I have in my hand an unclassified report taken from Jane's Information Group publications called “Strategic Weapon Systems, Fighting Ships, Naval Weapon Systems, and All the World's Aircraft” that covers a so-called nonstrategic Russian weapon known as the SH-11 Gorgon ABM, otherwise called the UR-96.

The reason I raise this example of a type of weapon that the Russians reportedly have, which is not covered by this treaty, is that the yield of this weapon is 1 megaton—1 megaton. If you look at the size of the nuclear weapon that was used on Hiroshima on August 6, 1945, that killed anywhere from 80,000 to 140,000 people—actually, no one knows the exact number because of radiation-induced injuries and the like, but suffice it to say it caused enormous devastation and brought Imperial Japan to its knees in World War II—that was, by contrast, a 10-kiloton nuclear warhead. In other words, this so-called nonstrategic nuclear warhead not covered by this treaty is 100 times more powerful than the nuclear warhead that killed perhaps 100,000 people or more in Hiroshima in 1945.

So I mention this example—and this is, by the way, an unclassified document. We cannot go into, here on the floor, more detail about the distinction or, frankly, really, what we should call a continuum between tactical and strategic nuclear weapons. But we are not talking about firecrackers. We are not talking about bottle rockets. We are talking about weapons that can wreak death and destruction that really, I think, most of us hesitate to even contemplate.

So this is not an inconsequential amendment. This is a very important amendment that the Senator has brought. I listened to him a little earlier. I was in my office in the Hart Office Building, but I listened to Senator RISCH cite some very distinguished authorities on the other side of the aisle, and this comes from the CONGRESSIONAL RECORD in March of 2003, talking about the Moscow Treaty. Senator after Senator—Senator DORGAN, the distinguished Senator from North Dakota; Senator BIDEN, now Vice President BIDEN but then a Senator from Delaware; Senator REED from Rhode Island, a distinguished expert on the Armed Services Committee on national security matters; Senator CONRAD, the other Senator from North Dakota—to a man, they noted and expressed concern about the failure to deal with tactical nuclear weapons in the Moscow Treaty of 2003. The Senator from California,

Mrs. FEINSTEIN, also noted the absence of any dealing with tactical nuclear weapons. I mention this to say, again, no one is talking about divisions among us. We are talking about a unified concern with the threat tactical nuclear weapons poses.

So I think it is simply a mistake—but it is a correctable mistake—that the negotiators of this treaty and the administration have excluded tactical nuclear weapons. As others have stated, the United States has an advantage at this time on strategic nuclear weapons. So basically we are going to have to cut our stockpile, while the Russian Federation, which does not currently have as many weapons as this treaty would allow, would be allowed to build up to that cap. But in the area of tactical nuclear weapons, the Russian Federation has—one classified estimate was around 10 times what the United States has in terms of tactical nuclear weapons.

I was talking in my office with Tom D'Agostino, the head of the National Nuclear Security Administration, someone who has long served in this area and who has confirmed that this tactical nuclear asymmetry is very real. According to him—he said—“the actual numbers are classified”—as I alluded to earlier—but he confirmed that “there’s a ten to one ratio, roughly, give or take. You know, it’s a big difference between the two.”

It seems to me that from a bargaining standpoint, it would have made all of the sense in the world for the Obama administration to have insisted on reductions in the Russian tactical nuclear weapons as part of the New START. If not now, I would say, when. If not in 2003—if all of our colleagues whose names I have mentioned earlier thought it was a good idea to deal with tactical nuclear weapons back in 2003, it strikes me as even more important to do it now rather than kick the can down the road and not take advantage of the leverage we would have due to the Russians’ desire to maintain their current arsenal of tactical nuclear weapons.

But Vice President BIDEN recognized, in 2003, that this omission was potentially dangerous. I will quote him. He said:

Getting a handle on Russian tactical nuclear weapons must be a top arms control and nonproliferation objective of the United States Government.

So one has to question why that top objective remains unmet under New START.

James Schlesinger, former Secretary of Defense and Chairman of the now-defunct U.S. Atomic Energy Commission, has testified that “the significance of tactical nuclear weapons rises steadily as strategic nuclear arms are reduced.” This is a sobering conclusion, and it helps illustrate the importance of this glaring omission in the New START treaty.

Simply put, this treaty in its current form represents a lost opportunity to compel the Russian Federation to downsize their tactical nuclear arsenal. This amendment provides an opportunity to lay the groundwork for that goal to be accomplished in the future.

Following Senate ratification of the START I treaty, President George Herbert Walker Bush committed the United States to unilaterally reducing our tactical nuclear weapons. Not surprisingly, while the Russians made a similar commitment, they failed to follow through and never completed their promised reductions.

Today, Russia’s widespread deployment of tactical nuclear weapons raises concerns with their safety and security. These weapons are often located at remote bases close to potential battlefields, sometimes far from central command authority. Questions have been raised regarding the stability and reliability of those Russian troops charged with monitoring and securing those weapons. In 2008, Secretary Gates said he was worried that the Russians themselves didn’t even know the numbers and locations of old land mines, nuclear artillery shells, and so on, that would be of interest to rogue states and terrorists.

In addition, unlike strategic nuclear weapons, tactical weapons have very little transparency and very little accounting. The treaty should at least take a step in the direction to provide more transparency and an accounting requirement.

Achieving reductions in Russian tactical nuclear weapons would also reduce the supply of those weapons that could be acquired by groups such as al-Qaida. Tactical nuclear weapons are among those that are the most susceptible to theft or illicit transfer because they are relatively small and compact, including so-called suitcase nukes. They are the most susceptible to theft and illicit transfer to terrorists and also rogue states.

During the Cold War, the Soviet Union was known to have produced and deployed smaller tactical weapons, sometimes called suitcase nukes, as I mentioned a moment ago. These nuclear weapons—unlike large strategic weapons that New START would limit—are the terrorist’s dream. They are easily concealed and highly transportable. They could all too easily be moved across our border and positioned in almost any building in the United States.

Additionally, the Strategic Posture Commission, in its 2009 report to Congress, found that Russia’s tactical nuclear weapons advantage opens up new possibilities for Russian efforts to threaten the use of nuclear weapons to influence regional conflicts and threaten our allies. The Commission observed that there is an “evidently rising value in Russian military doctrine and na-

tional security strategy” of tactical nuclear weapons.

These fears are coming to fruition, as U.S. officials say that Russia has moved tactical nuclear weapons to facilities near NATO allies several times in recent years, most recently this past spring. These actions, again, would run counter to pledges made by Moscow that they would pull back tactical nuclear weapons and reduce their numbers.

By ratifying the New START treaty without addressing this asymmetry, the United States would squander valuable leverage to negotiate a future reduction in Russian tactical nuclear weapons. The administration says no matter, we must ratify the New START treaty and we can deal with the tactical nuclear weapons sometime in the future. Well, again, we didn’t do it in 2003 when Vice President BIDEN and others pointed out the omission and the potential danger, and here we are in 2010 being asked in a lameduck session to ratify this treaty and leave tactical nuclear weapons excluded once again. It leads me to wonder whether instead of the doctrine of “trust, but verify,” we are embracing a doctrine of “ignore it and it will simply go away.” We all know it won’t. Russia would have little reason to agree to reduce its arsenal of tactical nuclear weapons in a future treaty without extracting major concessions from the United States. We can fix this issue now if we would simply adopt the Risch amendment.

I join my colleagues in urging the adoption of the Risch amendment.

Mr. DORGAN. Mr. President, would the Senator from Texas yield for a question?

Mr. CORNYN. I am happy to yield for a question.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. The Senator from Texas has mentioned a statement I and some others have made with respect to the Moscow Treaty. I simply wanted to observe that then and now, I wish we had included tactical nuclear weapons, but I then voted for the Moscow Treaty and I will vote for this treaty. The reason for that is making progress on strategic nuclear weapons, reducing the stock of nuclear weapons, and reducing delivery vehicles, it seems to me, is major progress. This administration has indicated it intends to move forward on tactical weapons negotiations with the Russians. I didn’t want it to stand that somehow my concern—back in the discussion about the Moscow Treaty, the concern about not including tactical weapons had me voting against the treaty. I did not. I voted for that, and I will vote for this treaty because I think it advances the ball in a very significant way with respect to arms control.

Mr. CORNYN. Mr. President, I appreciate the Senator from North Dakota

coming out and making that statement. I didn't mean to suggest that he voted against the Moscow Treaty, but I do believe I accurately quoted his concerns, which he has reconfirmed here, in the failure to deal with tactical nuclear weapons.

I would say in response to my colleague that we are making a unilateral reduction in strategic nuclear weapons and the Russians are not going to have to reduce any in their current stockpile because we are presently over the cap set by the treaty and they are under the cap. So it seems to me there is even further evidence we got out-negotiated on this, and particularly when it omits this important part of the nuclear arsenal and a threat to the stability of not only the region but also of the world.

EXHIBIT 1

THE DISTINCTION BETWEEN STRATEGIC AND NONSTRATEGIC NUCLEAR WEAPONS

The distinction between strategic and nonstrategic (also known as tactical) nuclear weapons reflects the military definitions of, on the one hand, a strategic mission and, on the other hand, the tactical use of nuclear weapons. According to the Department of Defense Dictionary of Military Terms, a strategic mission is:

"Directed against one or more of a selected series of enemy targets with the purpose of progressive destruction and disintegration of the enemy's war-making capacity and will to make war. Targets include key manufacturing systems, sources of raw material, critical material, stockpiles, power systems, transportation systems, communication facilities, and other such target systems. As opposed to tactical operations, strategic operations are designed have a long-range rather than immediate effect on the enemy and its military forces."

In contrast, the tactical use of nuclear weapons is defined as "the use of nuclear weapons by land, sea, or air forces against opposing forces, supporting installations or facilities, in support of operations that contribute to the accomplishment of a military mission of limited scope, or in support of the military commander's scheme of maneuver, usually limited to the area of military operations."

DEFINITION BY OBSERVABLE CAPABILITIES

During the Cold War, it was relatively easy to distinguish between strategic and nonstrategic nuclear weapons because each type had different capabilities that were better suited to the different missions.

DEFINITION BY RANGE OF DELIVERY VEHICLES

The long-range missiles and heavy bombers deployed on U.S. territory and missiles deployed in ballistic missile submarines had the range and destructive power to attack and destroy military, industrial, and leadership targets central to the Soviet Union's ability to prosecute the war. At the same time, with their large warheads and relatively limited accuracies (at least during the earlier years of the Cold War), these weapons were not suited for attacks associated with tactical or battlefield operations. Nonstrategic nuclear weapons, in contrast, were not suited for strategic missions because they lacked the range to reach targets inside the Soviet Union (or, for Soviet weapons, targets inside the United States). But, because they were often small enough to be

deployed with troops in the field or at forward bases, the United States and Soviet Union could have used them to attack targets in the theater of the conflict, or on the battlefield itself, to support more limited military missions.

Even during the Cold War, however, the United States and Russia deployed nuclear weapons that defied the standard understanding of the difference between strategic and nonstrategic nuclear weapons. For example, both nations considered weapons based on their own territories that could deliver warheads to the territory of the other nation to be "strategic" because they had the range needed to reach targets inside the other nation's territory. But some early Soviet submarine-launched ballistic missiles had relatively short (i.e., 500 mile) ranges, and the submarines patrolled close to U.S. shores to ensure that the weapons could reach their strategic targets. Conversely, in the 1980s the United States considered sea-launched cruise missiles (SLCMs) deployed on submarines or surface ships to be nonstrategic nuclear weapons. But, if these vessels were deployed close to Soviet borders, these weapons could have destroyed many of the same targets as U.S. strategic nuclear weapons. Similarly, U.S. intermediate-range missiles that were deployed in Europe, which were considered nonstrategic by the United States, could reach central, strategic targets in the Soviet Union.

Furthermore, some weapons that had the range to reach "strategic" targets on the territory of the other nations could also deliver tactical nuclear weapons in support of battlefield or tactical operations. Soviet bombers could be equipped with nuclear-armed anti-ship missiles; U.S. bombers could also carry anti-ship weapons and nuclear mines. Hence, the range of the delivery vehicle does not always correlate with the types of targets or objectives associated with the warhead carried on that system. This relationship between range and mission has become even more clouded since the end of the Cold War because the United States and Russia have retired many of the shorter and medium-range delivery systems considered to be nonstrategic nuclear weapons. Further, both nations may develop the capability to use their longer-range "strategic" systems to deliver warheads to a full range of strategic and tactical targets, even if long-standing traditions and arms control definitions weigh against this change.

DEFINITION BY YIELD OF WARHEADS

During the Cold War, the longer-range strategic delivery vehicles also tended to carry warheads with greater yields, or destructive power, than nonstrategic nuclear weapons. Smaller warheads were better suited to nonstrategic weapons because they sought to achieve more limited, discrete objectives on the battlefield than did the larger, strategic nuclear weapons. But this distinction has also dissolved in more modern systems. Many U.S. and Russian heavy bombers can carry weapons of lower yields, and, as accuracies improved for bombs and missiles, warheads with lower yields could achieve the same expected level of destruction that had required larger warheads in early generations of strategic weapons systems.

DEFINITION BY EXCLUSION

The observable capabilities that allowed analysts to distinguish between strategic and nonstrategic nuclear weapons during the Cold War have not always been precise, and may not prove to be relevant or appropriate

in the future. On the other hand, the "strategic" weapons identified by these capabilities—ICBMs, SLBMs, and heavy bombers—are the only systems covered by the limits in strategic offensive arms control agreements—the SALT agreements signed in the 1970s, the START agreements signed in the 1990s, and the Moscow Treaty signed in 2002. Consequently, an "easy" dividing line is one that would consider all weapons not covered by strategic arms control treaties as nonstrategic nuclear weapons. This report takes this approach when reviewing the history of U.S. and Soviet/Russian nonstrategic nuclear weapons, and in some cases when discussing remaining stocks of nonstrategic nuclear weapons.

This definition will not, however, prove sufficient when discussing current and future issues associated with these weapons. Since the early 1990s, the United States and Russia have withdrawn from deployment most of their nonstrategic nuclear weapons and eliminated many of the shorter and medium-range launchers for these weapons (these changes are discussed in more detail below). Nevertheless, both nations maintain roles for these weapons in their national security strategies. Russia has enunciated a national security strategy that allows for the possible use of nuclear weapons in regional contingencies and conflicts near the periphery of Russia. The Bush Administration also stated that the United States would maintain those capabilities in its nuclear arsenal because it might need to counter the capabilities of potential adversaries. The Bush Administration did not, however, identify whether these capabilities would be resident on strategic or nonstrategic nuclear weapons. That distinction will reflect the nature of the target, not the yield or delivery vehicle of the attacking warhead.

Mr. CORNYN. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Procedurally, so not to come out of either side's time, if I can ask: I understand the Senator from Oklahoma wants to propose an amendment, so I think we would both yield to him for that purpose.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

AMENDMENT NO. 4833

Mr. INHOFE. I thank the Senator from Massachusetts. Following the disposition of the Risch amendment, we will be scheduling my amendment No. 4833 having to do with verification and numbers of inspections. I will be wanting to speak on this. I don't want to take time from the Risch amendment.

I ask unanimous consent to temporarily set aside the Risch amendment for consideration of amendment No. 4833.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 4833.

Mr. INHOFE. I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the number of Type One and Type Two inspections allowed under the Treaty)

In paragraph 2 of section VI of Part V of the Protocol to the New START Treaty, strike "a total of no more than ten Type One inspections" and insert "a total of no more than thirty Type One inspections".

In paragraph 2 of section VII of Part V of the Protocol to the New START Treaty, strike "a total of no more than eight Type Two inspections" and insert "a total of no more than twenty-four Type Two inspections".

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Oklahoma.

I will consume such time as I use for a moment. Let me say, first of all, again, I appreciate this amendment. There is not a lot of contention about the importance of addressing a lot of short-range tactical weapons, as we call them. The administration wants to do this as much as our friends on the other side of the aisle do, and I think the Senator from Idaho knows that.

Let me correct one fact for a minute that both the Senator from Texas and the Senator from Idaho said. They said the Russians will not have to reduce their strategic warheads and that they are already below the number of 1,550. That is not accurate. I won't go into detail here. We can reinforce this tomorrow in a classified session. But the Russians do have to reduce warheads under this requirement—not as much as us. Our defense community has made the judgment that because of our triad, which will remain robust, and for other reasons, we have a very significant advantage. Again, I will discuss that tomorrow in the classified briefing.

What I want to say to my colleague is that, again, I am 100 percent prepared to try to embrace this concept even further in the resolution of ratification. But we cannot do it in a way that requires this treaty to go back and be renegotiated. This is not a complicated amendment. There is a very simple reason why we should oppose this amendment as it is: because of the requirement that we go back. Because if we don't pass the START treaty, if we can't reach a bilateral agreement on the reduction of strategic weapons, there will be no discussion about tactical weapons. That is as plain as day. Every negotiator, everybody who has been part of this process, understands that. If we can't show our good faith to reduce and create a mutual verification system for strategic weapons, how are we going to sit in front of them and say, Oh, by the way, let's get you to reduce what is your advantage—it is an advantage, I acknowledge that—you go ahead and reduce it. They are going to

laugh at us and we will have lost all of the verification we have today.

It is not just me who says that. The fact is Secretary Gates has been very clear about this, and Secretary Clinton likewise. Secretary Gates said this. I know my colleagues all respect him enormously.

We will never get to that step of reductions with the Russians on tactical nukes if this treaty on strategic nuclear weapons is not ratified.

It is a pretty simple equation, folks. This isn't a one-way street where we can stand here and say, You have to do this and you have to do that and, by the way, we don't care what you think about what we are doing, we are going to do what we want. That is not the way it works. There has to be some reciprocity in the process of reduction and verification and inspection, and so forth. They have things they don't want us to see and we have stuff we don't want them to see. There is plenty in this agreement where we protect our facilities from them being able to intrude on them excessively, because our folks don't want them to. That is the nature of a contentious relationship which is the reason you have to argue out, negotiate out a treaty in the first place.

If the Secretary of Defense is telling us—a Secretary of Defense, by the way, whom we all mutually respect enormously, but who was appointed to the job by President Bush—if he is telling us you have to pass this in order to get to the tactical nukes, I think we have to listen to that a little bit.

Let me point out—I want the RECORD to reflect I agree with the Senator from Idaho. They have many more tactical nukes. They have had for a long time. The reason is they have different strategic needs. They are in a different part of the world. For a long time, the Warsaw Pact and NATO were head to head and squared off, and so they saw a world in which they saw the potential of a land invasion. So for a long time they had tanks and mines and other things that were nuclear capable. What happened is we unilaterally, I might add, decided under President Bush, I think it was, President George Herbert Walker Bush, we decided this is dangerous. It doesn't make sense. It doesn't make sense for us. So we unilaterally announced—after the fall of the Soviet Union, President Bush announced we were going to ratchet down our tactical nuclear forces, and everybody agreed with that. It made sense.

So we did that and what happened is after that, President Boris Yeltsin in 1992 pledged that the production of warheads for ground-launched tactical missiles, artillery shells, and mines had stopped. They stopped it because we stopped it. And all of those warheads would be eliminated. He pledged that Russia would dispose of one-half of its tactical airborne and surface-to-

air warheads as well as one-third of its tactical naval warheads. The Russian Defense Ministry said in 2007, the ground force tactical nuclear warheads had been eliminated. Air defense tactical warheads were reduced by 60 percent. Air Force tactical warheads were reduced by 50 percent. Naval tactical warheads were reduced by 30 percent. Guess what. That didn't happen with the treaty. It happened because we had what we call Presidential nuclear initiatives. Our President made the decision, President Bush: We don't need them, dangerous, reduce them, and the Russians followed.

I heard an estimate earlier of 2,000 or something—this is according to the Bulletin of Atomic Scientists. We estimate they have a large inventory of operational nonstrategic warheads—5,390 is the number of tactical warheads, air defense tactical, et cetera. So they do still have more, and it still is a very legitimate concern to us.

That is why, I say to my colleagues, in the resolution of advice and consent we have the following declaration:

(A) The Senate calls upon the President to pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the Russian Federation and of the United States and would secure and reduce tactical nuclear weapons in a verifiable manner.

That is in the resolution. You can vote for that. In addition, we say:

(B) Recognizing the difficulty the United States has faced in ascertaining with confidence the number of tactical nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of (1) establishing cooperative measures to give each Party to the New START Treaty improved confidence regarding the accurate accounting and security of tactical nuclear weapons maintained by the other Party; and (2) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its tactical nuclear weapons.

I am prepared—if that language doesn't satisfy folks, let's go look further. I am happy to do that. But we are not going to do it in a way that precludes us from going to the very negotiations you want to have. It doesn't make sense, not to mention the fact that it puts the entire treaty back into negotiating play. Who knows how long it would be.

The estimates I have from the negotiating team is it could take 2, 3 years. We have been a whole year now without inspections and knowing what they are doing. I will talk, tomorrow in the security briefing, about the impact that has on our intelligence, and the dissatisfaction in the intelligence community with a prolonged and continued delay in getting that.

So I simply say to my colleagues, let's do what is smart. Secretary Clinton said:

The New START Treaty was always intended to replace START. That was the decision made by the Bush administration.

I emphasize again that President Obama was not the person who made the decision not to extend START I. The Russians didn't do it unilaterally. Neither of us wanted to do it, because under this START agreement, we actually put in a better system, and one, let me say, that General Chilton emphasizes reduces the constraints on missile defense.

So here is what Secretary Clinton said: "I would underscore the importance of ratifying the New START Treaty to have any chance of us beginning to have a serious negotiation over tactical nuclear weapons."

Some Senators are saying: Why didn't they address them at the same time and say we have to get this and that done? Well, for a couple reasons. One, Russia's tactical weapons are primarily a threat to our allies in Europe. Knowing the differences of that equation, to have linked our own strategic interests to that negotiation at that time would have left us who knows how long without the capacity to get an agreement, No. 1. No. 2, last year when we began negotiations on New START, NATO was in the midst of working out its new strategic concept. Our allies were in the midst of assessing their security needs. It would have been impossible to have that discussion without them having made that assessment and resolved their own security needs and definitions.

But now NATO has completed that strategic concept. We have heard from a lot of European governments about New START. What do they say and what do our allies say? We are not in this ball game alone. They are united in support for this treaty, in part because they see it as the necessary first step to be able to have the negotiations that bring the reductions in tactical nuclear weapons.

Let me quote Radoslaw Sikorski, Poland's Foreign Minister:

Without a New START Treaty in place, holes will soon appear in the nuclear umbrella that the U.S. provides to Poland and other allies under Article 5 of the Washington Treaty, the collective security guarantee for NATO members. Moreover, New START is a necessary stepping stone to future negotiations with Russia about its tactical nuclear weapons.

So they believe you have to pass START to get to this discussion.

This is the Lithuanian Foreign Minister:

We see this treaty as a prologue, as an entrance to start talks about substrategic weaponry, which is much more endogenous, and it is quite difficult to detect. And we who are living in east Europe especially know this.

The Secretary General of NATO said:

We need transparency and reductions of short-range tactical weapons in Europe. This is a key concern for allies. But we cannot ad-

dress this disparity until the New START Treaty is ratified.

I don't know how many times you have to make this connection. General Chilton, who is in charge of our nuclear forces, said this to the Armed Services Committee:

The most proximate threat to the United States, us, are the ICBM and SLBM weapons because they can and are able to target the U.S. homeland and deliver a devastating effect on this country. So we appropriately focused in those areas in this particular treaty for strategic reasons. Tactical nuclear weapons don't provide the proximate threat that the ICBMs and SLBMs do.

The disparity in U.S. and Russian tactical arsenals, I repeat, we want to address. I am prepared to put something in here—if the Senator from Idaho thinks we can find the language, as we did with Senator DE MINT, who has strong language in here about missile defense, let's put it in here. But it doesn't put us at a strategic disadvantage.

Secretary Gates and Admiral Mullen stated, in response to our questions, for the record:

Because of their limited range and the very different roles played by strategic nuclear forces, the vast majority of Russian tactical nuclear weapons cannot directly influence the strategic nuclear balance between the United States and Russia.

Donald Rumsfeld said this to the Foreign Relations Committee a few years ago:

... I don't know that we would ever want to have symmetry between the United States and Russia [in tactical nuclear weapons]. Their circumstance is different and their geography is different.

General Chilton said:

Under the assumptions of limited range and different roles, Russian tactical nuclear weapons do not directly influence the strategic balance between the U.S. and Russia. Though numerical asymmetry exists in the numbers of tactical nuclear weapons we estimate Russia possesses, when considered within the context of our total capability, and given force levels as structured in New START, this asymmetry is not assessed to substantially affect the strategic stability between the United States and Russia.

There is more here. I will reserve the balance of time because other colleagues want to say something. First, let me say this about the process as we go forward. There is some talk that we are now reaching a point—we are on day five—we had Wednesday afternoon, Thursday, Friday, Saturday, and now Sunday. That is 5 days. START I took 5 days. If we filed a cloture motion at some point in the evening, for instance, we would still have 2 days before we even vote on that. Then, presuming we were to achieve it, we have 30 hours after that, which can amount to almost 2 days in the Senate. That would mean 9 days, if we go that distance on this treaty, which is simpler than START I. We would have more days on this treaty—simpler than START I—than we had on all 3—the Moscow Treaty,

START II, and START I treaties put together.

I hope my colleagues will recognize that the majority leader has given time to this effort. We are giving time to it. We want amendments. No amendment, I think, would be struck. We would have time to vote on each amendment and deliberate each amendment. But I think it is important for us to consider the road ahead.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise in support of the Risch amendment. The distinguished Senator from Massachusetts just helped make the case as to why this amendment is so important. In every hearing we have had in Armed Services and Intelligence, every conversation I have had in person, by telephone, with every administration official and everybody in support of this, I raised the issue of not what is in the treaty as being the most significant issue but what is not in there—the issue of tactical nuclear weapons.

I hear what the Senator is saying. What he has reinforced to me is, we have been talking to the Russians about tactical weapons for over two decades, and we have not yet been able to get them to sit down at the table with us. If we don't get them now, when? I understand what the President said, which is that he will make a real effort to get them to the table. You should get them to the table when you have leverage. The Russians want this treaty bad. We had the opportunity, in my opinion, to discuss tactical weapons with them, to get them to the table for this treaty, but we didn't take the opportunity to do that.

So I rise to talk about the issue of tactical nuclear weapons with respect to New START and the two amendments filed on this issue, the Risch amendment, as well as one filed by Senator LEMIEUX.

We all know tactical nuclear weapons is one of the issues the treaty doesn't address and also an area where there is a huge disparity between the United States and the Russians relative to the numbers of weapons. Perhaps, most important, the intent of arms control treaties is to control and limit arms in order to create predictability and security.

By not addressing tactical nuclear weapons in this treaty, we have left the least predictable and the least secure weapons in our nuclear inventories out of the discussion. Russia has somewhere in the neighborhood of 5,000 weapons. There have been numbers bantered around here. But the estimates of exactly how many vary widely. The point is, we don't know. That is part of the real problem with tactical weapons. Many of these nuclear weapons are near Eastern Europe and in

proximity to U.S. troops as well as to our allies.

These weapons are different, not primarily in terms of how powerful they are, because the warheads are, in some cases, similar in size to strategic nuclear weapons. Instead, they are different primarily in terms of the range of the delivery systems. The Russian advantage in tactical nuclear weapons is at least 5 to 1, but could be as high as 10 to 1. Again, we don't know because they will not tell us.

It is also the case that the United States and Russia both agreed in the 1990s to reduce tactical nukes. The United States has, but we don't know that the Russians have. They said they have. But do we truly trust the Russians? We should not. In fact, they have cited the expansion of NATO as a change in the strategic landscape since the 1990's.

Tactical weapons are the least secure nuclear weapons in our nuclear inventories. They are deliverable by a variety of means, and for these reasons are more of a threat of being stolen, misplaced or mishandled than strategic nukes. It is a mistake and unfortunate that this treaty doesn't address tactical nuclear weapons because an agreement to reduce and control these weapons is exactly where we need to be focusing and, relative to the overall security of the United States and the world, it is, frankly, more important than reducing and controlling strategic nuclear weapons.

On Senator Risch's amendment, it would add a statement to the preamble of the treaty which addresses the interrelationship between nonstrategic and strategic offensive arms; that is, the relationship between strategic and tactical nuclear weapons. Senator Risch's amendment is correct in that "as the number of strategic offensive arms is reduced, this relationship becomes more pronounced and requires an even greater need for transparency and accountability, and that the disparity between the Parties' arsenals could undermine predictability and stability."

We are reducing strategic nuclear weapons under this treaty. By doing so, we are making tactical nuclear weapons much more important and much more relevant and, therefore, we should seek to achieve greater transparency and accountability on both our side as well as on the Russian side.

That brings me to the second amendment, which is not pending but is filed and of which I am a cosponsor; that is, Senator LEMIEUX's amendment. That amendment would require the United States and the Russians to enter into negotiations within 1 year of ratification to address the disparity in tactical nuclear weapons. Both these amendments address what I believe is one of the most crucial issues and one of the issues the treaty should have addressed but didn't. I urge my colleagues to sup-

port both these amendments but particularly today the Risch amendment.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Who yields time?

Mr. RISCH. Mr. President, the proponents of the amendment have how much time remaining?

The PRESIDING OFFICER. There is 25 minutes remaining.

Mr. RISCH. Does that include my 10 minutes of closing?

The PRESIDING OFFICER. It does.

Mr. RISCH. So we have 15 minutes left to yield time.

The PRESIDING OFFICER. That is correct.

Mr. RISCH. Mr. President, Senator SESSIONS was next, so I yield the floor to the Senator from Alabama.

Mr. SESSIONS. Mr. President, I would ask to be advised after 4 minutes have lapsed.

Mr. President, I think Senator Risch is correct and Senator CHAMBLISS is correct to make the point that tactical nuclear weapons are more available for theft and to transship than strategic nuclear weapons, and it is a high priority of the United States to reduce the risk of terrorists obtaining weapons of this kind, and this treaty does nothing about that. It does nothing about tactical nuclear weapons, which the Russians do care about.

It is a big part, apparently, of their defense strategy, and they gave not one whit on it; whereas our President, who says he wants to move toward zero nuclear weapons in the world—a fantastical view, really, and one that endangers our country and would create instability around the world and create more national security risks—did not negotiate this in any effective way. I think that was a failure of the treaty, a failure of negotiations, and another example of the fact that we wanted the treaty too badly for what, I guess, are primarily public relations matters rather than substantive matters. That is just the way I see it.

So the Russians have been steadily reducing their strategic weapons, we are reducing ours, and this strategic relationship has been moving along. There does not have to be a treaty. We would like to have a treaty. I think the Russians would probably like to have a treaty. But it is not essential that we have one if they will not agree to some of the things that are important, such as tactical nuclear weapons. I do think this is a weakness in the treaty, and I am disappointed our negotiators didn't insist on it.

As Mr. Feith said, who negotiated with the Russians, and they made a number of demands on a previous negotiation over the SORT treaty in 2002: You just have to say no, and then you can move forward once the Russians know we are not going to give. But they will push, push, push until they are satisfied you are not going to give on it, and then they will make a ra-

tional decision at that point whether to go forward with the treaty or not go forward with the treaty.

He said no on curtailment of missile defense in 2002. The Russians insisted, insisted, insisted, and he said, finally, no treaty.

We don't have a treaty with China, we don't have one with England, we don't have one with India, and they have nuclear weapons. We don't have to have one. We would like to, but we don't have to. At that point the Russians conceded and agreed. So I don't think we negotiated this well at all. We do not need to continue with this large disparity of tactical weapons between the United States and Russia, and I appreciate Senator Risch's raising it.

I will perhaps talk a little later about the national missile defense question in President Obama's letter, but President Obama's letter—

The PRESIDING OFFICER. The Senator has consumed 4 minutes.

Mr. KERRY. Would the Senator be willing to yield for a question?

Mr. SESSIONS. On my time or yours?

Mr. KERRY. We can share the time. It depends on how long you answer.

Mr. SESSIONS. I am not giving up any of mine. I want to finish this 1 minute on the subject of the President's letter.

What it fails to acknowledge is that we were on the cusp of implanting a GBI in Europe by 2016, and that was completely given up in the course of these negotiations. This is the same missile we have in the ground in Alaska and California. That was given up, and we are now proceeding with a phase four theory that might be completed by 2020, if Congress appropriates the money for the next five Congresses and some President who is then in office—not President Obama 10 years from now—is still supportive and pushes it through and Congress passes it.

So this is a big mistake. We made a major concession on national missile defense and even put words in the treaty that compromise our ability to do the new treaty. The statement from Putin that we will be obliged to take action in response did not say just GBI; it also referred to the capabilities of an SM-3 Block IIB, which would be what the President said is going to be deployed in 2020.

I thank the Chair, I thank Senator Risch, and I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, if you will let me know when I have used 4 of the 5 minutes I am to have.

Mr. President, I rise today to support the amendment by my friend and colleague and next-door neighbor on the Foreign Relations Committee, as well as my next-door neighbor of State, Senator Risch.

I want to discuss the issue of non-strategic nuclear weapons, also known as tactical nuclear weapons. While the United States and Russia have a rough equivalence in their strategic nuclear weapons, there is a significant imbalance in tactical nuclear weapons, and it favors Russia.

Russia currently has a 10-to-1 advantage in tactical nuclear weapons, and it is expected that the number of tactical nuclear weapons in Russia will continue to grow. This imbalance directly impacts our security commitments to NATO and to our other European allies.

Mr. President, I have been to the hearings in the Foreign Relations Committee. As a member of that committee, I have heard statements given by former Secretaries of State of both parties. Henry Kissinger testified before the committee and said:

The large Russian stockpile of tactical nuclear weapons, unmatched by a comparable American deployment, could threaten the ability to undertake extended deterrence.

Former Secretary James Schlesinger called this imbalance of Russia's tactical nuclear weapons "the dog that did not bark." He called it a "frustrating, vexatious, and increasingly worrisome issue."

In the past, many current Members of the Senate have expressed their concerns with Russia's tactical nuclear weapons. Even Vice President BIDEN, when he was a Member of this body and serving on the Foreign Relations Committee, spoke about it, and he said:

We were hoping in START III to control tactical nuclear weapons. They are the weapons that are shorter range and are used at shorter distances, referred to as tactical nuclear weapons.

Well, Mr. President, as I look at this and work through it, it seems that, clearly, this administration did not make tactical weapons a top arms control and nonproliferation objective in the New START treaty. The negotiators of this treaty did not make this issue a priority, and they gave in to pressure from Russia to exclude the mention of tactical nuclear weapons.

I want to point out that while the administration failed to negotiate the reduction of Russian tactical nuclear weapons in the New START treaty, it did allow a legally binding limitation of U.S. missile defense, and that is, I believe, a mistake.

So I disagree with those who argue that ratifying the New START treaty is needed in order to deal with tactical nuclear weapons in the future. I believe the issue of tactical nuclear weapons should have been addressed—together with the reduction of strategic nuclear weapons—in the New START treaty. The administration lost a real opportunity by not negotiating a deal in this treaty. It is unclear what leverage will remain for us to negotiate a reduction in Russian tactical nuclear weapons.

Mr. President, the Risch amendment tries to resolve the complete failure of the administration to address Russia's advantage in tactical nuclear weapons in the New START treaty. The Risch amendment acknowledges the interrelationship between tactical nuclear weapons and strategic-range weapons, which grows as strategic warheads are reduced. The Risch amendment seeks greater transparency.

The PRESIDING OFFICER. The Senator has consumed 4 minutes.

Mr. BARRASSO. I thank the Chair.

The Risch amendment seeks greater transparency, greater accountability of tactical nuclear weapons, and the Risch amendment recognizes that tactical nuclear weapons can undermine stability.

So with that, Mr. President, I support this amendment, and I urge my colleagues to adopt the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Mr. President, I understand we have 4½ minutes remaining, plus my 10 minutes at the very end.

The PRESIDING OFFICER. That is correct.

Mr. RISCH. Mr. President, Senator CORKER has indicated he would like to take those 4½ minutes, so I yield the floor to Senator CORKER.

Mr. CORKER. I thank the Senator, and I appreciate the Chair's courtesy.

I think Senator KERRY was down here earlier today talking a little about procedures, and I want to follow up on that. I know we have a number of people back in the cloakroom wondering about how we go forward with the amendment process. So I just thought I could enter into a conversation with him through the Chair.

Unlike most procedures, this is a situation where you have a 60-vote cloture and your ability or your strength on the issue itself rises because it actually takes 67 votes, or two-thirds, of those voting to actually ratify a treaty. So it is not like on a cloture vote on the floor where you go from a 60-vote threshold to 51, where you are weakened. In this case, you are actually strengthened because it takes more votes after cloture to actually pass this piece of legislation.

So I just wanted to, if I could, verify with Senator KERRY the process of actually offering amendments, not just on the treaty—because I know we are still on the treaty—but also on the resolution of ratification, where I think numbers of amendments might actually be approved and accepted.

Mr. KERRY. Mr. President, if the Senator will yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the Senator is absolutely correct. The key question is, Is there sufficient support to ratify the treaty? Once we get to

that sort of question postcloture, when and if that is invoked, that is what the threshold would be for the passage of this treaty. It is not as if you have cloture and all of a sudden, boom, only 51 votes are necessary to pass it.

Secondly, I would say to my colleague—and I want to emphasize this—if the majority leader were to put the cloture motion in this evening, it doesn't ripen until Tuesday. So we would have the rest of today, all of tomorrow, and Tuesday to have amendments; to continue as we are now. Then, if it did pass, we would have another 30 hours, which, as we all know, takes the better part of 2 days. So we are looking at Thursday under that kind of schedule, and I know a lot of Senators are hoping not to be here on Thursday.

So I think that is quite a lot of time within the context of this. But the Senator is correct. The answer to his question is yes.

Mr. CORKER. If I could ask one other question. If a Senator comes to the floor and wants to offer an amendment, not on the treaty itself—which we realize is more difficult to pass because of what that means as relates to negotiations with Russia—but to offer an amendment on the resolution of ratification, which is something that might likely be successful and accepted, it is my understanding all they have to do is come down and offer that amendment, to ask unanimous consent to call it up; is that correct?

Mr. KERRY. Mr. President, without the help of the Parliamentarian, obviously we are entitled to do a lot by unanimous consent, and that is one of those things. We will not object, obviously. We want to try to help our colleagues be able to put those amendments in, so it would be without objection on our side.

Mr. CORKER. So it is my understanding—to be able to talk with other Senators who have an interest on the treaty itself and would like to do some things to strengthen it, it is my understanding that what I just heard was that the chairman of the Foreign Relations Committee would be more than willing to accommodate a unanimous consent request to actually offer amendments to the resolution itself, and he knows of no one on their side, at present, who would object to that. So if people wanted to go back and forth between the actual treaty and the resolution itself, they now can do that on the floor?

Mr. KERRY. That is correct.

Mr. CORKER. Thank you, Mr. President.

Mr. KERRY. Mr. President, I thank the Senator from Tennessee.

I will yield 5 minutes to the distinguished chairman of the Armed Services Committee, Senator LEVIN, to be followed by 7 minutes to the Senator from Oregon.

I ask the Senator from Oregon, is that enough time? Is 7 minutes enough time?

Thank you.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the Risch amendment states a concern which is a legitimate concern. I think probably everybody would agree to that. This concern was there in the START I treaty and it was there in the Moscow Treaty just a few years ago, that we need to address the imbalance or the—the imbalance, I guess, is a good word—between the number of strategic nuclear weapons that exist on both sides and the nonstrategic weapons. But that was true during START I in 1991 when President Bush negotiated it. There was no effort to, in effect, kill the treaty with an amendment stating that concern, although it was a concern then. During the Moscow Treaty debate here in 2002, I believe Senator BIDEN again raised the same concern about this imbalance. It is a legitimate concern. But you don't kill a treaty because there are some legitimate concerns about issues.

The Russians have a concern about our large number of warehoused warheads. We have a big inventory of warheads compared to them. They have a concern. We could state that as a fact, that the Russians have a concern about the number of warheads we have. But putting that into the treaty kills the treaty.

We could make any statement of legitimate concern. If it is in the treaty text, it will kill the treaty.

Senator BIDEN, in 2002, I believe, or it may have even been in the first START treaty, raised this issue about the imbalance. It was a legitimate issue. But there was no effort to kill that treaty which had been negotiated by President Bush by inserting a legitimate concern into the treaty.

There are a number of legitimate concerns. The Russians have legitimate concerns about our conventional capabilities, about accuracy, about our encryption capabilities. They were not addressed adequately for the Russians in this treaty. But they have a concern. Should we state in the treaty the fact of legitimate concern? Should we by amendment attempt to insert in the treaty that the factual statement of a legitimate concern just kills the treaty?

That is what concerns me as to why it is that there is such a determination to try to kill this treaty by means of an amendment which states a legitimate concern, which was true during the last two treaties negotiated by two President Bushes. That is what troubles me. That was the difference Senator CORKER pointed out between seeking to amend a resolution and seeking to amend the treaty.

To Senator RISCH, through the Chair, I happen to share the same concern the Senator has about this imbalance. As chairman of the Armed Services Committee, this imbalance existed in 2002, it existed in 1991, and we ought to address it, but we don't address it by killing this treaty, and that is what this amendment does.

Despite the absence of this language expressing a legitimate concern, we have support for this treaty by former President George H.W. Bush and Secretaries Brown, Carlucci, Cohen, Perry, and Schlesinger. They support this treaty without this language. It was true that former Secretary Schlesinger said, for instance, that he has a concern about this imbalance. I think we all do. He stated that concern. He still supports the treaty without this language, without this expression of concern.

Former Secretaries of the State Albright, Baker, Christopher, Eagleburger, Kissinger, Powell, Rice, and Shultz support the treaty without this language. They have the same concerns. As a matter of fact, I believe it was Senator SESSIONS—it may have been someone else—who said that former Secretary Kissinger has expressed this concern, in fact quoted, I believe, from former Secretary Kissinger's writing on this issue. He has that same concern which Senator RISCH and all of us have about this imbalance. But without the language, former Secretary Kissinger still supports this treaty.

All I can say is that I think there is a legitimate concern which is expressed in this amendment. It is a concern which has existed and needs to be addressed, as former Senator BIDEN said when he was debating a treaty—but not to kill a treaty by an expression of a legitimate concern.

That is what I think is the issue here—not whether the language in the Risch amendment expresses something which is legitimate but whether the absence of that concern being expressed in the treaty should be enough to vote for this amendment and to kill this treaty as a result and to force it back to an open-ended negotiation, which we have no idea where that would lead.

I hope we defeat the Risch amendment not because we disagree with what the concern is but because, understanding that concern, we do not want to do damage to the treaty and kill a treaty which does so much for the security of this Nation.

I yield the floor, and if I have any time, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I would like to add a few comments to those of the Senator from Michigan.

First, I would like to observe that this treaty encompasses fairly modest reductions in our strategic force. We

are looking at ICBMs reduced from 450 to 420 and in some cases those ICBMs being reduced in terms of the number of warheads they are carrying—modest reductions.

When we look at some relaunch ballistic missiles, we are looking at a fleet of 14 Trident submarines, and we are looking at keeping all 14 of those, reducing the number of silos on each submarine from about 24 to 20—again, a modest reduction. Indeed, two of those subs will be in drydock at any one point in time, and they do not count against the numbers in this treaty.

In bombers, we are looking at 18 Stealth missiles currently—Stealth bombers, and keeping all 18—or B-2s, as they are known. We look at modest reductions in our aging, ancient, antique fleet of B-52s, modest reductions there.

In its entirety, what this represents is modest changes to the existing structure negotiated by a Republican administration and maintenance of verification regimes incredibly important to our national security. In that context, we have to look at various amendments being raised that, if they were sincere about their purpose, would be added to the resolution we are passing. But if their real purpose is to kill the treaty, then of course it comes in the form of an amendment to the treaty, which would effectively, in fact, do that.

So let's look at the structure of the issues that were put forward here.

First, the goal of this START treaty is to address strategic, not short-range tactical nuclear weapons which have never been covered by a treaty, including those negotiated by a Republican administration.

Second, tactical weapons are categorically different from strategic arms because they do not pose an immediate catastrophic threat to the U.S. homeland that strategic weapons do. With shorter range and smaller yield, they are intended for battlefield use.

I would note the quotation of General Chilton, commander of the U.S. Strategic Command, who said:

The most proximate threat to the U.S. are the ICBM and SLBM weapons because they can and are able to target the U.S. homeland and deliver a devastating effect to this country.

So we are appropriately focused in those areas in the particular treaty for strategic reasons. Tactical weapons do not have the proximate threat that ICBMs and SLBMs do.

I also note that if you look at this from the Russian perspective, we have tactical weapons deployed in Europe. Numerous European nations have tactical weapons which can reach the Soviet—reach the Russian Federation, formerly the Soviet Union. Meanwhile, because of our superiority at sea, the Russian tactical weapons do not represent the same kind of threat to the United States.

I then note that we have already addressed this issue in the Senate ratification resolution, which states that "the President should pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the Russian Federation and the United States and would secure and reduce the tactical nuclear weapons in a verifiable manner." So it is already in the resolution of ratification.

Then I would note that Secretary Gates and Secretary Clinton said in a letter:

We agree with the Senate Foreign Relations Committee's call in the resolution of Advice and Consent to ratification of the New START treaty to pursue an agreement with the Russians to address them.

Tactical weapons represents a thorny issue because it involves the European powers and it involves disparities of geography. That it is why it has been so hard to link them in the past to a strategic nuclear treaty and why they have not done so in this case. But it is the commitment by the Secretary of Defense, by the Secretary of State, by the President, and by this Senate through this resolution of ratification to pursue this issue that is important, and that is what is before us now.

In terms of addressing this issue, there are changes that need to be made to the language, to the ratification resolution. That would be appropriate. But this treaty, which greatly enhances the security of the United States of America while providing the appropriate verification protocols, is absolutely essential.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, how much time do we still have?

The PRESIDING OFFICER. The Senator has 16 minutes remaining.

Mr. KERRY. Sixteen? And the Senator from Idaho has—

The PRESIDING OFFICER. Ten minutes.

Mr. KERRY. Ten. So somehow we are going past the hour of 3.

Mr. RISCH. Unless, of course, you want to yield.

Mr. KERRY. Do you want to yield some time back?

Mr. RISCH. No.

Mr. KERRY. Let me use a portion of it, and I will reserve a little bit at the end.

First of all, both Bill Perry, former Defense Secretary Bill Perry, and Jim Schlesinger have been mentioned, as well as the Commission on which they served. Let me make certain that the record is clear about their position with respect to this treaty.

Secretary Perry said the following:

The focus of this treaty is on deployed warheads and it does not attempt to counter or control nondeployed warheads. This continues in the tradition of prior arms control

treaties. I would hope to see nondeployed and tactical systems included in future negotiations, but the absence of these systems should not detract from the merits of this treaty and the further advance in arms control which it represents.

Jim Schlesinger, from the same Commission, said:

The ratification of this treaty is obligatory. I wish more of my colleagues on the other side of the aisle were here to hear Jim Schlesinger's comments, but he said ratification is obligatory and the reason it is obligatory is that you really can't get to the discussion you want to have with the Russians about tactical unless you show the good faith to have the strategic and verification reduction structure in place.

Let me just say, supposing the language of the Senator from Idaho was adopted here, would it mean we are reducing tactical nuclear weapons? No. Would it get you any further down the road to be able to reduce them? The answer is, not only would it not do that, it would set back the effort to try to get those reductions because the Russians will not engage in that discussion if you can't ratify the treaty, and if they pass this amendment, this treaty, as Senator LEVIN said, is dead.

It goes back to the Russian Government with a provision that is now linking those weapons in a way that they have not been willing to talk about, even engage in the discussion at this point in time.

In fact, we would be setting ourselves backwards if that amendment were to be put into effect. What is ironic about it is, he is amending a component of the treaty that has no legal, binding impact whatsoever. So not only would they refuse to negotiate, but there is nothing legally binding in the language he would pass that would force them to negotiate. So it is a double setback, if you will. I would simply say to my friend on the other side—I talked to him privately about this, and I think he is openminded on it—we have language in the resolution right now with respect to nuclear weapons. We are not ignoring the issue. The language says: The Senate calls on the President following consultation with allies to get an agreement with the Russian Federation on tactical nuclear weapons.

I am prepared in the resolution of ratification to entertain language as a declaration that would also make the Senate's statement clear about how we see those nuclear weapons in terms of their threat. I hope that would address the concerns of many of our colleagues on the other side of the aisle.

But the bottom line here is that Senator RISCH's language not only does not make any progress on the topic he is concerned about, it actually sets back the capacity to be able to make the progress he wants to make.

If you want to limit Russia's tactical nuclear weapons, and I do, and he does, and I think all 100 Senators do, then you have to pass the New START. You

have got to approve the New START. If you reject it, you are forcing a renegotiation, which never gets you not only to the tactical nuclear weapons but which leaves you completely questionable as to where you are going to go on the strategic nuclear weapons, which means the world is less safe; we have lost our leverage significantly with respect to Iran, North Korea; we have certainly muddled the relationship significantly with respect to Russia; we have "unpushed" the restart button; and we have opened who knows what kind of can of worms with respect to a whole lot of cooperative efforts that are important to us now, not the least of which, I might add, is the war in Afghanistan, where Russia is currently cooperating with us in providing a secondary supply route and assisting us in other ways with respect to Iran.

So I say, let's not do something that we know unravels all of these particular components. Anytime you change that resolution of ratification, it is like pulling, you know, a piece of string on a sweater or on a yarn roll and everything starts to unravel as a consequence. One piece undoes another piece undoes another piece. That is not where we want to go.

I hope, obviously, we will say no to this amendment and proceed. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RISCH. Mr. President, under the UC, I believe I have the last 10 minutes. Am I correct on that? I think that was the UC.

The PRESIDING OFFICER. The Chair believes that is correct.

Mr. RISCH. So when I finish, at the conclusion of the 10 minutes, we will vote? Is that my understanding?

The PRESIDING OFFICER. The Chair believes that is correct. Correction. The Senator from Massachusetts still has 10 minutes remaining.

Mr. RISCH. My understanding is he can use that at any time and I get the last 10.

Mr. KERRY. Unless the Senator says something completely outrageous, which he has managed not to do in the course of the last 3 hours, I have no intention of using the time. But I reserve it to preserve my rights. I would be happy to yield it back after the Senator speaks, depending on him.

Mr. RISCH. I thank the Senator. I will try not to disappoint in that regard.

Mr. President, fellow Senators, distinguished chairman and ranking member, I think certainly we have had a civil and a good airing of an issue that is of considerable concern to, I think, every Member of this body. I am a little disappointed in that we started out acknowledging it was a very deep and serious concern to every Member of this body, as it was to the commission, in their Report on America's Strategic Posture.

I felt that along the line a little bit the concern was denigrated. I want to back up on that one more time and say that, in my judgment, and in the judgment of members of this commission, the issue of tactical weapons exceeds, in severity, in concern, the issue of strategic weapons.

I understand one might argue that you are arguing about how many angels can dance on the head of a pin as opposed to which is of the most concern. But I come back to the reasons I gave as to why I think the tactical issue is important more than the strategic issue. That is, on the strategic issue, we are in about the same position we were 40 years ago, with the exception, and admittedly an important exception, that the raw numbers are down. When we started this 40 years ago, each party had about 6,000 warheads. As I said, if either party pulled the trigger and launched 6,000 or some significant part of that, obviously that is the deterrence that each party was counting on that neither would do that.

Today we are down to—and with all due respect to my good friend from Massachusetts, the numbers reported in the press are 1,100 and 2,100. I understand there is intelligence information that we cannot go into here. But, in any event, I think most people would agree that we have the advantage in numbers from a strategic standpoint.

Indeed, if the numbers are even close to that, the—whether it is 6,000 warheads or 1,000 warheads, when someone pulls the trigger, the party is over for this world. So focusing on the raw numbers, when we have got a 40-year history that we are not going to do that and they are not going to do that, and most people agree that neither side is inclined to pull the trigger, what are the real concerns?

The real concerns are an accidental launch from them, although remote, possible, but, more importantly, an intentional launch by a rogue nation. Obviously one would look at North Korea or one would look at Iran in that regard.

In my judgment, the two issues that need to be focused on are the defensive missile issue and the tactical nuclear weapons issue.

Let me say I agree with my good friend from Massachusetts and Senator LEVIN, that geography is such that the issue of tactical weapons is substantially more important on a direct basis to the Russians than it is to us. After all, we are insulated by oceans on each side of us to the east and the west, which the Russians do not enjoy, and they have a several hundred-year history of seeing invasions come by land and intermediately, which we do not have.

So in that regard I will concede certainly that the tactical issue is important for them. And the good Senator

from Massachusetts makes a good point in that I think they would like to relocate, if they could, their tactical weapons to be focused more on the Chinese threat and perhaps more on the threat from the south, from other countries. We ought to help them out in that regard by entering into negotiations in that regard on the tactical weapons.

But I come back to the tactical weapons are an important issue. Senator LEVIN says they are a concern. Senator LEVIN says, we should not kill this treaty simply because of a concern, and I agree with Senator LEVIN. I have not, from day one, said we ought to kill this treaty. I have said from day one, everyone has convinced me, and I think virtually everyone else, that we are much better off with a treaty than we are without a treaty.

I think everyone has worked in good faith in that regard. But, on the other hand, having said that, I do not think we should then throw in the towel and say: Well, okay, we will agree to any treaty. That brings me to the point of where we are. We are exercising our constitutional right that every one of us—not only our right but our duty as a Senator, to advise and consent on this treaty and any other treaty that is put in front of us, and that is where I have problems.

The position we have been put in is these negotiations have gone on, the treaty has been negotiated, it has been signed by the President, and it has been put in front of us, and what we are told is, it is a take it or leave it. If you do not vote for this, you are voting to kill the treaty.

I disagree with that. I think simply because we amend the preamble to this treaty is not a killer. Indeed, my good friend from Massachusetts keeps telling us, the preamble does not mean anything, it is a throw-away, the language is a throw-away, it does not mean anything.

Well, it does mean something, particularly when it comes to the context in which you interpret and you react to the treaty. So to everyone here, I say, you have the opportunity to set the restart button with Russia, and we can do it by focusing on what is an extremely important issue, which most everyone here agrees is an extremely important issue, but nobody ever does anything about it.

So let's tell the negotiators: Go back to the table and at least agree that the interrelationship between the strategic and tactical weapons is an important issue, and we are not going to go on as we have over the last 40 years. The times have changed. We trust you are not going to pull the trigger on us, and you trust that we are not going to pull the trigger on you. But this issue of tactical weapons where we enjoy, if you would, a 10-to-1 disadvantage to the Russians, we have tactical weapons

that are out there that can be much more easily gotten ahold of by terrorists than strategic weapons. We have tactical weapons that continue to be designed, continue to be manufactured, and continue to be deployed by the other side, in violation of their admittedly individual Presidential initiatives, which needs to be addressed.

It is so important that people on this commission said that it should be addressed before strategic weapons. You have the opportunity to put that in here. There is no intent to kill this. It is an intent to make it better. We have the right. We have the duty. We must advise and consent. I urge that my colleagues vote in favor of this very good amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Has the time expired?

The PRESIDING OFFICER. The Senator from Idaho has slightly less than a minute left.

Mr. KERRY. Mr. President, let me say, as I yield back—

Mr. RISCH. Mr. President, is the next vote going to be on this amendment or are the judges going to be voted on first?

The PRESIDING OFFICER. That is correct. The next vote is on the Risch amendment.

Mr. KERRY. Mr. President, I will yield back the time momentarily. I want to say one thing. The commission report that the Senator refers to and has held up, the two principal authors are former Secretary of Defense, Bill Perry, who says: The absence of the tactical nuclear should not detract from the merits of this treaty, and he is in favor of our ratifying this treaty, and Jim Schlesinger, who was his co-author, who worked with Republican Presidents as a Secretary of Defense, Secretary of Energy, said, "The ratification of this treaty is obligatory."

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Mr. President, I say to Senator KERRY, I respect that. I would remind everyone that I filed a letter dated December 17 to Senator KERRY and Senator LUGAR from six members of the commission, including James Schlesinger, which says that:

Dealing with this imbalance is urgent—

Referring to the tactical weapons—

Dealing with this imbalance is urgent, and, indeed, some Commissioners would give priority to this over taking further steps to reduce the number of operationally deployed strategic nuclear weapons.

I agree. I thank the good chairman and ranking member for a very good dialogue on this particular issue.

I yield back my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 4839.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from South Carolina (Mr. DEMINT), the Senator from Georgia (Mr. ISAKSON), the Senator from Illinois (Mr. KIRK), and the Senator from Ohio (Mr. VOINOVICH).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted "yea" and the Senator from Kentucky (Mr. BUNNING) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 32, nays 60, as follows:

[Rollcall Vote No. 283 Ex.]

YEAS—32

Barrasso	Ensign	McConnell
Bond	Enzi	Murkowski
Brown (MA)	Graham	Risch
Brownback	Grassley	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Johanns	Thune
Collins	Kyl	Vitter
Cornyn	LeMieux	Wicker
Crapo	McCain	

NAYS—60

Akaka	Feingold	McCaskill
Alexander	Feinstein	Menendez
Baucus	Franken	Merkley
Bayh	Gillibrand	Mikulski
Begich	Gregg	Murray
Bennet	Hagan	Nelson (NE)
Bennett	Harkin	Nelson (FL)
Bingaman	Inouye	Pryor
Boxer	Johnson	Reed
Brown (OH)	Kerry	Reid
Cantwell	Klobuchar	Rockefeller
Cardin	Kohl	Sanders
Carper	Landrieu	Schumer
Casey	Lautenberg	Stabenow
Conrad	Leahy	Tester
Coons	Levin	Udall (CO)
Corker	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	Lugar	Webb
Durbin	Manchin	Whitehouse

NOT VOTING—8

Bunning	Kirk	Voinovich
DeMint	Shaheen	Wyden
Isakson	Specter	

The amendment was rejected.

The PRESIDING OFFICER. The majority leader.

ORDER OF BUSINESS

Mr. REID. Mr. President, we are going to have one more vote today on a circuit judge. It is my understanding the district judge will go by voice.

Mr. President, tomorrow, we are going—first of all, tonight, anyone who wants to work on the START treaty, the managers of the bill, Senator KERRY and Senator LUGAR, have said they are here as long as people want to work on it. We are going to come in at 10 in the morning. We will work from

10 until 2 on the START treaty, and then a number of Senators want to have a closed session. We will do that in the Old Senate Chamber. The Chamber has already been cleared by the security folks, so we will start that at 2 o'clock and go as long as necessary. Then we will come back tomorrow evening and continue working on the START treaty.

We have very few things left to do. The Republican leader and I and our staffs have worked throughout the morning trying to come up with something on the CR. We are very close to being able to get that done, but it is not done. So we have the CR to do. The short-term runs out on Tuesday, so we have to have things done by then. We have this START treaty, and then, of course, we have the 9/11 health bill and the motion to reconsider. Senator LEVIN has been working on some other things, namely defense, on an agreement to get it done.

NOMINATION OF RAYMOND JOSEPH LOHIER, JR., TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Raymond Joseph Lohier, Jr., of New York, to be United States Circuit Judge for the Second Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate prior to the vote, equally divided and controlled between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS, or their designees.

The Senator from Connecticut.

Mr. LEAHY. Mr. President, I yield my time to the senior Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, over the last few days, the Senate has finally begun to vote on judicial nominations that have been waiting on the Executive Calendar for months. There are currently three judicial emergency vacancies on the U.S. Court of Appeals for the Second Circuit and the Judiciary Committee has reported qualified nominees to fill each one.

With the consideration of Ray Lohier's nomination, the Senate will finally fill one of those for the people of Vermont, Connecticut, and New York. For the past 13 years, Mr. Lohier has served as a Federal prosecutor in the U.S. Attorney's Office in the Southern District of New York and is currently special counsel to the U.S. attorney. He previously served as the chief and deputy chief of both the Se-

curities and Commodities Task Force, which investigates and prosecutes offenses on Wall Street, and the narcotics unit.

He has the strong support of Senator GILLIBRAND and myself. The Judiciary Committee unanimously reported his nomination on May 13.

I urge confirmation of the nomination.

Mrs. GILLIBRAND. Mr. President, I am pleased to stand in support of Raymond J. Lohier, Jr., who is President Obama's nominee to serve on the U.S. Circuit Court of Appeals for the Second Circuit. Ray is a highly talented and accomplished New Yorker, and I applaud President Obama for this excellent choice.

Ray Lohier has dedicated his career to public service and protecting the rule of law. For nearly a decade, Ray has served with distinction as an assistant U.S. Attorney for the Southern District of New York, where he has been successfully involved in some of the Nation's most challenging and complex cases. He has led that office's efforts to prosecute securities fraud, commodities fraud, insider trading and Ponzi schemes. Notably, he served on the team that successfully prosecuted Bernard Madoff for a Ponzi scheme that defrauded billions of dollars from New Yorkers and individuals across the country. Prior to his service as an assistant U.S. attorney, Ray worked as a senior trial attorney in the Civil Rights Division of the U.S. Department of Justice.

In addition to his impressive professional career, Ray Lohier is actively involved in his community, serving on Brooklyn Community Board 6, where he is currently the first vice chairman and chairman of the Public Safety Committee. While he worked as an attorney in private practice in New York, Ray was a member of his firm's pro bono committee, while also serving the State of New York on the Gubernatorial Task Force on Judicial Diversity on the Bench and the Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Court, Subcommittee on Court Appointments. He has also been a member of the National Black Prosecutors Association.

Ray is a cum laude graduate of Harvard College and an alumnus of the New York University School of law, where he earned his juris doctorate and was awarded the Vanderbilt Medal. He also has served as editor-in-chief of the Annual Survey of American law.

In addition to all of these outstanding professional and educational accomplishments, he has been married for the past 10 years to his wife Donna, a professor at CUNY Law School and former chair of the New York Asian Women's Center. Together they are raising two children, William who is 8 and John who is 6.

I am confident that given his extraordinary background of professional

accomplishment, Ray Lohier will be an excellent addition to the U.S. Circuit Court for the Second Circuit. He was unanimously supported by the Judiciary Committee on May 13 of this year, and I urge all of my colleagues to support his confirmation.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, we yield back our time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Raymond Joseph Lohier, Jr., of New York, to be United States Circuit Judge for the Second Circuit?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from South Carolina (Mr. DEMINT), the Senator from Georgia (Mr. ISAKSON), the Senator from Illinois (Mr. KIRK), and the Senator from Ohio (Mr. VOINOVICH).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "yea" and the Senator from South Carolina (Mr. DEMINT) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 284 Ex.]

YEAS—92

Akaka	Ensign	McCaskill
Alexander	Enzi	McConnell
Barrasso	Feingold	Menendez
Baucus	Feinstein	Merkley
Bayh	Franken	Mikulski
Begich	Gillibrand	Murkowski
Bennet	Graham	Murray
Bennett	Grassley	Nelson (NE)
Bingaman	Gregg	Nelson (NM)
Bond	Hagan	Pryor
Boxer	Harkin	Reed
Brown (MA)	Hatch	Reid
Brown (OH)	Hutchison	Risch
Brownback	Inhofe	Roberts
Burr	Inouye	Rockefeller
Cantwell	Johanns	Sanders
Cardin	Johnson	Schumer
Carper	Kerry	Sessions
Casey	Klobuchar	Shelby
Chambliss	Kohl	Snowe
Coburn	Kyl	Stabenow
Cochran	Landrieu	Tester
Collins	Lautenberg	Thune
Conrad	Leahy	Udall (CO)
Coons	LeMieux	Udall (NM)
Corker	Levin	Vitter
Cornyn	Lieberman	Warner
Crapo	Lincoln	Webb
Dodd	Lugar	Whitehouse
Dorgan	Manchin	Wicker
Durbin	McCain	

NOT VOTING—8

Bunning	Kirk	Voinovich
DeMint	Shaheen	Wyden
Isakson	Specter	

The nomination was confirmed.

NOMINATION OF CARLTON W. REEVES TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Carlton W. Reeves, of Mississippi, to be United States District Judge for the Southern District of Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to support the President's nomination of Mr. Carlton Reeves to be a U.S. District Court Judge for the Southern District of Mississippi.

Mr. Reeves practices law in Jackson, MI. He received his undergraduate degree from Jackson State University and his law degree from the University of Virginia.

He has served as a clerk and staff attorney for the Mississippi Supreme Court, and as the chief of the Civil Division in the U.S. Attorney's Office for the Southern District of Mississippi.

Mr. Reeves has been actively involved with Mississippi Legal Services and other public interest organizations in our State which will serve him well as he takes on this important new responsibility.

Mr. President, I am pleased to recommend this nominee for confirmation by the Senate.

Mr. LEAHY. Mr. President, the Senate will finally vote on the nomination of Carlton W. Reeves to fill an emergency vacancy on the U.S. District Court for the Southern District of Mississippi. Currently a partner in a Jackson, MI, law firm, Mr. Reeves is a former Federal prosecutor. Both of his Republican home State Senators, Senator COCHRAN and Senator WICKER, introduced Mr. Reeves at his confirmation hearing, and they emphasized his outstanding reputation in the Jackson legal community, as well as the bipartisan nature of the Mississippi delegation's support for this fine nominee. The Judiciary Committee reported his nomination on August 5 with the support of all but 1 of its 19 members. That was more than 4 months ago. Senate consideration and confirmation of his nomination has been delayed for months with for no good reason. When he is finally confirmed, Mr. Reeves will become only the second African-American Federal district judge in Mississippi. He will fulfill the pledge made by President Bush that went unfulfilled.

After the confirmations today, there remain more than two dozen Federal circuit and district court nominations favorably reported by the Judiciary

Committee, most of the unanimously, also ready for consideration and a final vote. The practice used to be for the Senate to confirm and confirm consensus nominees within days of their being favorably considered by the Judiciary Committee, certainly those reported without opposition. No longer. Courtrooms are being kept vacant for months and months while justice is, at best, delayed.

During the first 2 years of the administration of President George W. Bush, a Democratic Senate majority proceeded to vote on 100 of his judicial nominations. That included controversial circuit court nominations reported during the lameduck session in 2002. In contrast, during this first Congress of President Obama's administration, the Senate has been allowed to consider just over 50 of the 80 nominations fully considered and reported favorably by the Judiciary Committee.

I congratulate Mr. Reeves and his family on his confirmation today. This day was a long time coming.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the nomination.

The nomination was confirmed.

The PRESIDING OFFICER (Mr. MERKLEY). A motion to reconsider the vote to the nomination is considered made and laid upon the table. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Senator from Massachusetts is recognized.

UNANIMOUS-CONSENT REQUEST—S. 2919

Mr. KERRY. Mr. President, I want to clarify this for my colleagues. There are a couple of items, and they will be done quickly in legislative session by unanimous consent. Then we will come right back to the procedure we had talked about previously. For the purpose of that consent, in legislative session, I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. UDALL of Colorado. In legislative session, I wish to make a unanimous consent request.

I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 2919, the Small Business Lending Enhancement Act, and the Senate proceed to its immediate consideration; that a Udall of Colorado substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read the third time and passed, and the motions

to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SHELBY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, if I might, for the record, I will talk briefly about the legislation I referred to. This is a bipartisan bill. I filed it—

Mr. INHOFE. Reserving the right to object, Mr. President—

The PRESIDING OFFICER. Objection has already been heard.

Mr. INHOFE. Well, there are two motions. I am objecting to the discussion of the amendment at this time, until we find out how long it will be.

Mr. KERRY. Mr. President, I ask unanimous consent that the Senator from Colorado have 3 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. UDALL of Colorado. Mr. President, the reason I have offered this consent agreement today is that this would help literally hundreds of small businesses to create hundreds of thousands of jobs at no cost to the American taxpayer.

I did want to, in the spirit of bipartisanship, mention the cosponsors of the bill: Majority Leader REID from Nevada, and Senators SNOWE, COLLINS, SCHUMER, BOXER, BROWN, GILLIBRAND, INOUE, LIEBERMAN, NELSON of Florida, BENNET of Colorado, SANDERS, and WYDEN.

The bill addresses a problem that everybody in the Chamber agrees needs to be addressed, and that is the trouble small businesses are having accessing capital so they can grow and create jobs.

We saw that our unemployment rate inched up to 9.8 percent in November. That is indicative of the fact that our economy is having trouble gaining traction. We all know that if small businesses expand and grow, our economy will be getting back on track.

If I might, let me tell you how this bill would help small businesses. Under current law, credit unions are doing what they can to help business interests and meet the demands of particularly family businesses. But they are constrained by an arbitrary cap on the size and amount of the loans they can issue. In every State, there are credit unions that would like to lend more, responsibly. But the Federal Government gets in the way.

This legislation would get the Federal Government out of the way and allow credit unions help jumpstart the economy. Under current statute, credit unions are constrained to dedicating no more than 12.25 percent of their total assets to small business lending. Many credit unions have run up against that cap. What this legislation would do is

take the most experienced and well-run credit unions and allow them to meet the rising demand for small business loans.

The National Credit Union Administration, the Federal regulator, would have the authority to allow the small business lending cap to slowly increase from the current 12.25 percent limit to a maximum of 27.5 percent of total assets.

Let's just think this has been pulled out of thin air, the proposal has the backing of the Banking Committee, the Treasury Department, and National Credit Union Association. It also has the support of the National Small Business Association, the National Association of Realtors, and even the Conservative Americans for Tax Reform thinks this is a good idea.

The Credit Union National Association projects that these reforms are sensible reforms and would increase small business lending by \$10 billion within the first year, with an increase of nearly \$200 million in my State, and I am sure it would be similar in all States. It is expected to also increase 100,000 jobs nationwide.

This is disappointing. It is a shame we can't move this legislation forward. We should be helping our economy, but we are embroiled in other things here. I will continue to fight for this, and I hope other Senators here today will join me in helping unleash the power of credit unions and get Americans back to work.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I will yield for a moment for an announcement from the Senator from Montana.

(The remarks of Mr. TESTER are printed in today's RECORD under "Morning Business.")

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

Mr. KERRY. Mr. President, I ask unanimous consent that we go to executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. We will now consider the START treaty. The Senator from Oklahoma has the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I yield to the Senator from South Dakota, Senator THUNE.

AMENDMENT NO. 4841

Mr. THUNE. Mr. President, I ask that the pending Inhofe amendment be set aside in order to call up my amendment No. 4841.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE] proposes an amendment numbered 4841.

Mr. THUNE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with, and that we resume consideration of the Inhofe amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the deployed delivery vehicle limits of the Treaty)

In section 1(a) of Article II of the Treaty, strike "700, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers" and insert "720, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers".

Mr. INHOFE. Mr. President, I will yield at this moment to the Senator from Wyoming—

Mr. KERRY. Mr. President, I am trying to get a procedure in place. I ask my colleague from Oklahoma if it is possible, with my colleague from South Dakota, to enter into a time agreement. Obviously, we won't ask colleagues to come and vote tonight. Can we get a time agreement and set it aside for a vote at such time that the leadership decides is appropriate?

Mr. INHOFE. Mr. President, I respond by saying that I will object to a time agreement at this time. Several people, including the Senator from Arizona, want to speak on this amendment. That might create a problem because of his activity on this amendment. Let's keep it moving, and I can assure you that I want to get out of here quicker than you do.

Mr. KERRY. If that is true, let's go.

Mr. INHOFE. At this time, I yield to the Senator from Wyoming on a subject of far greater significance than anything we have been talking about. I yield to the Senator from Wyoming to discuss something.

Mr. ENZI. Mr. President, I thank the Senator from Oklahoma. It is a great pleasure for me to be able to make an announcement from the floor of the Senate. I ask unanimous consent to share my joy as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. ENZI and Mr. INHOFE are printed in today's RECORD under "Morning Business.")

AMENDMENT NO. 4833

Mr. INHOFE. Mr. President, we have another amendment that is up that I think is very significant. It is one having to do with verification.

I think if we look at all of the problems we are trying to address with amendments—we have been talking about missile defense, which is the one I have been most passionate about; we have been talking about other areas, too—in the case of verification, it is

very significant to understand that this New START treaty has remarkably less verification than the START I treaty did. There are only 180 inspections over 10 years under New START versus 600 inspections over 15 years in START I. That is a drop of 40 inspections per year to 18 inspections per year.

In a minute, I will tell you why I think it is more precipitous than that because of the significance of the inspections as the arsenals are dropping down in terms of the percentage of inspections versus the arsenals.

The New START treaty inspections to verify the elimination of nuclear weapons delivery systems have been fundamentally changed from those in START I, replaced with a lesser provision of twice a year permitting the other party to view the debris from half of the eliminated first stages.

In a minute I will break these down, but what I am talking about is that we have a treaty now that addresses two things. Type one is the ICBM bases, the submarine bases and the air bases. These are delivery systems. I think this has to be talked about as well as the actual warheads. The type two refers to the formerly declared facilities to confirm that such facilities are not being used for purposes inconsistent with the treaty.

Now, when I say that, we were talking about trying to verify those things that are in existence today but also those that have been eliminated. In the first START I treaty, we were able to actually witness the destruction of these various warheads and of the systems that are under the consideration of this treaty. As it is now under the New START treaty, we cannot witness it. All we can do is look at the debris that remains after something is destroyed.

Now, my concern is this: If you keep the debris around from something you have destroyed, you could use the same debris, as evidenced under the New START treaty, to show you have destroyed something that was destroyed in the past and not addressing those that are still there today. So in that area, I think this is very difficult.

Finally, under the New START treaty, 24 hours of advance notice is required before an inspection, dramatically increased from the 9 hours of advance notice required under old START. Why is this important? This is important because as we get down to fewer and fewer inspections that would be made because we are limiting the arms under the treaty, then you should actually have a longer period of time of advance notice of the inspections.

So I have an amendment that will correct these inadequacies. The amendment triples the number of inspections under New START for the two types of inspections referred to under START I as the type one and type two inspec-

tions. I mentioned the type one and type two, and this would actually triple the number of inspections. Type one would increase from 10 to 30 inspections a year; type two inspections would increase from 8 to 24—the total being 54 inspections.

On July 20, 2010, the Principal Deputy Under Secretary of Defense for Policy, that is James N. Miller, testified before the Senate Armed Services Committee—and I was there—that the Russian cheating or breakout under the treaty would have little effect because of the United States second-strike strategy nuclear capabilities.

I wholeheartedly disagree. The whole idea that we would say the current Under Secretary of Defense in the Obama administration—what he is doing is admitting the Russians cheat, but he is saying it does not matter.

I would say this: The smaller the size of the nuclear arsenal—that is what we have today as in New START—the larger impact cheating has on a strategic nuclear balance. In other words, if you are cheating with a smaller nuclear arsenal, that is much more significant than if it were a large one. It is a percentage of a smaller figure. So if it is 50 percent of a smaller figure, it would have been 10 percent of the larger figure, of the nuclear arsenals that were there under the original START treaty.

Increasing the number of type one and two inspections is critical to New START verification because the total number of inspections has been dramatically reduced in New START from the old START. So as the weapons decreased, inspections should actually increase or be enhanced.

Former Secretary of Defense Harold Brown explained this when he said why this is the case in testimony before the Senate Foreign Relations Committee or the original START treaty, and that was in October of 1991. He said:

Verification will become even more important as the numbers of strategic nuclear weapons on each side decreases because uncertainties of a given size become a larger percentage of the total force as this occurs.

That was way back in 1991. Since then you had former Under Secretary of State for Arms Control and International Security John Bolton who stated this year, on May 3:

While [verification is] important in any arms control treaty, verification becomes even more important at lower warhead levels.

They agree, and we are talking about going all the way back to 1997. In 1997, Brent Scowcroft and Arnold Kantor said, in a joint statement:

Current force levels provide a kind of buffer because they are high enough to be relatively insensitive to imperfect intelligence and modest force changes. . . . As force levels go down, the balance of nuclear power can become increasingly delicate and vulnerable to cheating on arms control limits concerns about “hidden” missiles and the actions of nuclear third parties.

That was 1996. You have 1991, 1997, then present, and, of course, in May of this year in front of the Senate Foreign Relations Committee, former Secretary of State James Baker summarized that the New START verification regime is weaker than its predecessor, testifying to Congress that the New START verification program “does not appear as rigorous or extensive as the one that verified the numerous or diverse treaty obligations under START I. This complex part of the treaty is even more crucial when fewer deployed nuclear warheads are allowed than were allowed in the past.”

They all are consistent, agreeing No. 1: Russians cheat and, No. 2, verification becomes more important as the arsenals decreased in size.

I think we can say Russia has essentially violated every arms control treaty we have had with them in the past. The State Department this year submitted a report on foreign country compliance with their arms control measures. This is a report that came out this year, in 2010. They refer to the last report which was 2005. START:

There is a number of long-standing compliance issues—such as an obstruction to U.S. right to inspect warheads—raised in the START Treaty’s Joint Compliance and Inspection Commission that remained unresolved when the treaty expired in December.

This commission endured the time all the way up to December 2009, in different areas. In the biological weapons convention—there are a lot of different kinds of weapons of mass destruction. They are not all nuclear—biological, chemical, conventional. In the biological weapons convention in 2005, the State Department concluded that “Russia maintains a mature offensive biological weapons program and its nature and status have not changed.”

Then, in 2010, the State Department report said: Russian confidence-building measure declarations since 1992 have not satisfactorily documented whether its biological weapons program was terminated.

What they are saying is even back in 2005 they say it was inadequate because they are still continuing, they are violating the accord. This is back in 2005, on biological weapons. Then that was renewed in 2010, saying they are still not doing it today. That was biological weapons.

On chemical weapons we find the same thing. In 2005 the State Department assessed that “Russia was in violation of its Chemical Weapons Convention obligations because its declaration was incomplete with respect to declaration of production and development facilities.”

In 2010 the State Department again stated that there was an “absence of additional information from Russia, resulting in the United States being unable to ascertain whether Russia has declared all of its chemical weapons

stockpile, all chemical weapons production facilities, and all of its chemical weapons development facilities.”

With biological weapons, they have not complied there; in the chemical weapons, they have not complied there; with conventional weapons in Europe, the United States notes in the 2010 report that “Russia’s actions have resulted in noncompliance with its treaty obligations.”

The Wall Street Journal recently reported, according to U.S. officials, the United States believes Russia has moved short-range tactical nuclear warheads to facilities near NATO allies as recently as this spring.

I think the Senator from Idaho covered this to some degree. We are concerned about those tactical problems. I guess what we can say is, we know one thing and nobody seems to disagree with this: Russia cheats. But there are five things to be considered. One is there are fewer inspections than there were under the old one. Second, instead of actually seeing the destruction of these warheads, we depend on the debris that remains after the destruction has taken place.

I think everyone understands if we are depending on debris, we can be looking at debris from one destruction effort and they can declare that they have done it three or four times since then, using the same debris.

Third is, advance notice is three times longer now. It should be shorter now because of more significance. As we get the smaller stockpile, we should have a greater compliance requirement.

The fourth is weapons decrease—we should be paying more attention to them.

No. 5, Russia does cheat.

I believe of all the amendments, the amendments on the missile defense are significant. It concerns me that we have something, as I said on the floor yesterday, and I quoted, several Russians from the very beginning were saying: We don’t want the United States—and it is the intent of this treaty—to be able to enhance their missile defense treaties.

Right now, I look at this and, as I said several times: This is fine, the treaty, except it is with the wrong people. This treaty is with Russia, not with where the threat is—not with North Korea, not with Iran. That is where the problem is.

I have had very strong feelings. I disagreed with taking down the termination of the ground-based system that was to be in Poland because our intelligence tells us—it is not even classified—that Iran will have the capability of sending a nuclear warhead and having a delivery system reaching as far as the eastern part of the United States by 2015. We, with a ground-based interceptor site in Poland, would have had that opportunity. But now that that

site is down, we would be dependent, as I showed on a chart yesterday, on a 2-B system that we don’t even know—they say maybe it will be done by 2020. We have no assurance it will.

Look at that: We the United States will be naked in this effort for a period of time between 2015 and at least 2020. Maybe even longer than that.

All these things are important. But this one is equally important because it does not do any good to have a verification system that is as flawed as this system.

We will have an opportunity to talk about this in more detail. For that reason it is my understanding, and I assure the Senator from Massachusetts that my being unwilling to agree to a time agreement is not—this is not going to shorten it at all. It is my intention to move on with this as soon as we can get to it. I understand it is pretty well locked in for tomorrow.

With that, I yield the floor.

Mr. KERRY. Mr. President, I thank the Senator from Oklahoma. I know he is not trying to prolong it. I was just trying to see if we can get a time certain now, but I am confident we will.

I do not know if the Senator from South Dakota—

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I apologize. I don’t know if the Senator from South Dakota is planning to be here? I ask if anybody knows whether he is.

Let me speak to the amendment of the Senator from Oklahoma for a few minutes. I thank him for this amendment on verification. It is an amendment that will help us to flesh out this question of verification, which is important to anybody in the Senate. I guess three words that have become famous beyond what people might have thought when they were first uttered is the pronouncement of President Reagan, “trust, but verify,” which at the time was accompanied by his articulation of the Russian words for that.

Obviously, any agreement we would enter into with the Russians, or with anybody, can never rely completely on somebody’s word—either word—because neither side is going to be satisfied with somebody’s word with whom they have the necessity of actually having to reach this kind of an agreement to reduce weapons that are pointed at each other for lots of different reasons over a long period of time.

I assure the Senator from Oklahoma that every Senator on our side—and most importantly the unbelievably experienced negotiators who put this treaty together, who made a lifetime of trying to understand these kinds of relationships and the ways in which to adequately verify—they would not be standing in front of the country and the world and the Congress saying to us this treaty provides better verifica-

tion in many ways than we had previously.

Tomorrow, in the classified session, we will have an opportunity to dig into a little bit of what exactly those ingredients are that fill that out—better. I am not going to go into them all now.

But let me talk specifically about the amendment the Senator has proposed. He proposes an amendment to the treaty itself, which we all understand now after two votes, both of which have been to reject a change to the treaty itself because of the implications of changing it. Those do not change here with this particular amendment. But let me go beyond that so we, hopefully, could enlist the opposition to this amendment of some people who will see why it is unnecessary and, in fact, conceivably even counterproductive.

The Senator wants to increase the number of type one inspections. I might add this concept of a type one inspection and a type two inspection is new to the New START treaty. It is new to the process. What the Senator would like to do is triple the number of inspections currently set forth in the treaty.

The second reason, after the question of why you do not want, for this reason particularly, to amend the treaty, there might be a circumstance where a treaty were so egregious or it presented us with such a challenge that the Senate might decide to advise and consent, and we would all say we ought to send this back. But this does not rise to that level, in my judgment, and I think colleagues will share that opinion.

Let me say why.

We can achieve effective verification with the number of inspections that are set forth in the treaty. Admiral Mullen has said we can, the Strategic Command says we can, the national intelligence community says we can—the people responsible for verification. This treaty would never have been sent to the Senate if this treaty did not have adequate verification measures in it that would allow the intelligence community to sign off and say to Senators: Please vote for this treaty.

But let’s go underneath that and examine it a little bit. That is the judgment of our military, the State Department, our intelligence community. James Clapper, the Director of National Intelligence, told us we should approve this treaty the earlier, the sooner, the better. I think we need to heed his judgment and the judgment of our military.

The Senator expresses the concern that there are fewer inspections here than the original START treaty had. In sort of on-its-face terms, that is a truth. That is a true statement if you simply compared the total number that existed in START I and you compare the number that are set forth in the

New START. But that is not what we are comparing.

The reason for that is, in 1992, when we approved START I, there were four countries that we were approving inspections for—Belarus, Kazakhstan, Ukraine, and Russia—because they all had nuclear facilities. There were about 70 sites that we inspected back then in 1992.

But as we all know, thanks to the extraordinary efforts of cold warriors for years and years from the end of World War II until this historic moment of 1992, the fact is, we were inspecting those 70 sites with a very different relationship and a very different world.

Today, the New START agreement only seeks 35 Russian sites to inspect because Kazakhstan, Belarus, and Ukraine no longer have any nuclear weapons. Those weapons were consolidated in Russia, and the sites in Russia were reduced. So you do not want an apples and oranges comparison here. The comparison of how many fixed number of inspections there were back in 1992 is simply not applicable to what you need in 2010, given the change of locations, the change of relationship, and the numbers of sites where there are nuclear weapons.

The comparison is also problematic beyond that because, in fact, under the New START, the inspections we do have, because of the way they have been set up in the type one, type two and the way they have been laid out, they are actually about two inspections equivalent to one inspection under START I.

Let me explain that. Under the original START treaty, an inspection of a missile to see whether it had too many warheads, that inspection of a missile was counted as a separate inspection from so-called update inspections of the base. In other words, there was an inspection of the base, which might take place because we had been told or learned that there was some change in delivery vehicles or other aspects of the base. So we could go to the base and have an update inspection, and that was counted as a separate inspection from the inspection of a missile that might have been located there.

But under the new START, we are allowed to conduct up to ten type one inspections a year, and each inspection includes both the counting of the warheads mounted on one missile bomber and the conducting of the equivalent of the START I treaty separate update inspection. So you get two for one—two inspections for one.

So you cannot compare these inspections in the way the Senator from Oklahoma has. Ten type one and eight type two inspections per year, under the New START agreement, is at least comparable to the 15 data update inspections and 10 reentry vehicle inspections we had under the old START. The 10 reentry vehicle inspections per year

under New START are the same as under the old START. So the truth is, the inspection numbers under New START are comparable to those under the original START treaty.

That is precisely why our military and intelligence officials told us this number would be sufficient to comply, to provide verification compliance with this treaty. As I said, we can discuss more of this in the closed session tomorrow. I wish to remind my colleagues, tripling the number of inspections per year, as the Senator's amendment would require, is not a freebie. It is not something we can just say to the Russians: we are going to triple your inspections. Guess what. They are going to demand the same number of inspections of us.

Our military bases would have to be prepared to host three times as many inspections per year as they are currently preparing for. Frankly, that could certainly disrupt day-to-day operations of strategic forces. Anytime the Russians select one of our bases for inspections, we would have to lock down the movements of any treaty items at that base for 24 hours before and throughout the inspection, which is at least another day. That means dropping everything, stopping any movements of our delivery vehicles, halting any work on these systems, and you have to get ready to protect any unrelated classified information that you do not want the Russians to see.

So I think it is one thing to ask our strategic nuclear forces to do that 10 times a year or less than once a month. It is another thing for them to be waiting for 30 inspections a year. We have two submarine bases, three bomber bases, and three ICBM bases that are going to be subject to type one inspections. If we follow through with those amendments, frankly, I think our base commanders, not to mention the Pentagon, would be less than satisfied. Right now, they are comfortable with what we have in this treaty. But far more important, they are comfortable we can verify, which is the key to the ratification of any treaty.

Let me also remind my colleagues that the verification provisions in this treaty were developed with the concerns and the perspective of the U.S. Department of Defense totally in that mix. They helped guide what came out here. ADM Mike Mullen agreed. Let me quote him: "The verification regimes that exist in the New START treaty is in ways better than the one that has existed in the past."

Why would we want to challenge that? Why would we want to open now a whole new can of worms of renegotiation when we think what we have is better than what we had previously?

Admiral Mullen also stated he is convinced the verification regime is as stringent as it is transparent and borne of more than 15 years of lessons learned under the original START treaty.

General Chilton has said:

Without New START, we would rapidly lose some of our insight into Russian strategic nuclear force developments and activities, and our force modernization planning and hedging strategy would be more complex and more costly.

Let me also quote a letter Secretary Gates sent me this summer about whether Russia could cheat on this treaty in a manner that would be militarily significant. He said:

The Chairman of the Joint Chiefs of Staff, the Joint Chiefs Commander, the U.S. Strategic Command, and I, assess that Russia will not be able to achieve militarily significant cheating or breakout under New START due to both the New START verification regime, and the inherent survivability and flexibility of the planned U.S. strategic force structure. Our analysis of the NIE and the potential for Russian cheating or breakout confirms that the treaty's verification regime is effective, and that our national security is stronger with this treaty than without it.

I mentioned before that Ronald Reagan was one great advocate for this kind of verification. So I wish to quote what Condoleezza Rice wrote the other week:

The New START treaty helpfully reinstates on-site verification of Russian nuclear forces which lapsed with the expiration of the original START treaty last year. Meaningful verification was a significant achievement of Presidents Reagan and George H. W. Bush, and its reinstatement is crucial.

Finally, I would like to point out that we addressed the importance of this verification question in condition 2 of the resolution of ratification. That condition requires that before New START can enter into force, and every year thereafter, the President has to certify to the Senate that our national technical means, in conjunction with the verification activities provided for in the New START treaty, are sufficient to ensure the effective monitoring of Russian compliance with provisions of the New START treaty and timely warning of any Russian preparation to breakout of the limits. So we are going to remain seized of this issue for every year the treaty is in force.

So not only could we lose the treaty if this amendment were to pass, not only could we impose unwanted and unneeded requirements on our military bases and our military, not only would we not effectively increase the verification because of the advantages that were built into the New START treaty by our negotiators, which have been attested to by the very people who need to enforce it, not only that, but we could be without any verification at all for maybe 1 year, 2 years, longer, who knows whether we get any agreement or not.

Clearly, that exposes our country in ways I do not think we want to, and it certainly is no guarantee of an increase in the inspections themselves.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me make a couple of comments and observations. I know the Senator from Massachusetts started out by saying we have to take someone's word for it. My concern is, and I agree with his statement in reference to quotes that were made by Ronald Reagan, the "trust, but verify."

He also said, and when I look at this, I think this is—I think it is flawed in all the ways we talked about this before. But I remember the statement actually, I was here, when Reagan came back from Iceland. He said what Mr. Gorbachev was demanding at Reykjavik was that the United States agree to a new version of the 14-year-old ABM Treaty that the Soviet Union had already violated. I told him we don't make those kinds of deals in the United States. We prefer no agreement than to bring home a bad agreement to the United States.

I think we are—most of us who have questions that were unanswered and we want amendments—are those who do not believe this is a good treaty.

When the Senator talks about the number of inspections, let's keep in mind when we did the first treaty, we were only inspecting new facilities, existing facilities, facilities that could be used, warheads that could be used, looking at the MIRV situation.

But now, on this one, we also want to inspect to make sure those things they had agreed to destroy they actually have destroyed. That is why I talked about the debris—rather than seeing something destroyed, they look at the debris that is left over.

On the argument, on the fact that you talked about the one time in Kazakhstan and Ukraine. When you look at the vastness of Russia, I remember—and one thing the Senator from Massachusetts and I have in common is we both are aviators. I had occasion—I will share with my friend from Massachusetts—a few years to fly an airplane around the world, replicating the flight of Wiley Post, a very famous Oklahoman.

In doing this, I went all the way from Moscow to Provideniya, all the way across Siberia. I can remember going from time zone after time zone and not seeing anything except vast wilderness and perhaps a few bears now and then.

When I think about the areas they have where things can be hidden, compared to any of these other countries, including our own, it is kind of a scary thing.

I do believe we need to have the opportunity to increase the inspections because there is so much more area to inspect. The idea that it is not a freebie—I know it is not. I know anything in this treaty that I would change, such as the number of inspections, would apply to us as well as them. I understand that. But in that respect, I don't mind doing it because

there is one big difference between the United States and Russia: They cheat and we don't. It is fine with me if we have to subject ourselves to a greater number of inspections so long as we can do the same with them.

I will stand by the statements made and also the statements that were discovered in the 2010 Department report which I quoted from having to do with biological weapons, chemical weapons, and conventional forces in Europe. I am glad to repeat the quotes, but I don't think I have to. In 2010, the State Department said that Russia's confidence-building measure declarations since 1992 have not satisfactorily been documented, whether it is biological weapons or any other program, such as chemical weapons. So with the fact that they have not complied as they stated they would in the past—and we are now dealing with that—I think we have to take more precautions, more inspections, more verifications, because they have demonstrated clearly that they are not telling the truth, and they have not complied with commitments in the past.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I will not engage in a long discussion. I don't know if the Senator from Indiana wants to say something.

First of all, I am envious of that flight. I would love to have made that. Secondly, as the Senator knows—and I think I will reserve most of this for the classified session tomorrow—we have great ability to observe construction in Siberia or any part of Russia and to notice changes of various kinds, notwithstanding the vastness. Yes, there have been occasions when there have been some misunderstandings or differences of opinion about enforcement requirements. We have had some differences on those things. We can again discuss some of those in closed session. But the treaties have worked. The process set up by which we get into dispute resolution and sort of raise these issues has worked. When we notice something they are doing that we think is, in fact, not in compliance or likewise when they have with us, we have gotten together, and, because of the treaty, we have come into a discussion, and we have worked those things through.

I think our intelligence community's conclusion is that they have never exceeded the limits, though there have been some misunderstandings about sort of the process of getting from one place to another with respect to one system or another.

Let's have that discussion in a place where we can do it without a sense of restraint, but I think it is a good one to have. I look forward to continuing that with my colleague.

I don't know if the Senator from Indiana has anything he wants to add.

Mr. President, I understand the Senator from South Dakota will not be here, so unless there is another Senator seeking recognition or looking for an amendment to be acted on at this point, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Let me make one last comment. I think the Senator from Massachusetts is right that we have covered enough of this tonight. There are some things that would be worth going into in a closed session. One thing that doesn't have to be in a closed session is the fact that there is a long record of Russians not complying with the first treaty. I would rather use another word than "cheating," but that is one that everyone understands, and that has characterized Russia's behavior in previous treaties.

The statement we are making right now, everyone is in agreement that the lower the arsenal becomes, the more significant it is for inspections for verification. I think everyone is in agreement with that. That is something that is probably the strongest point of our argument.

The last thing I will say is just to repeat something I said for which I was a little bit overwhelmed when I said it. This is the first in 51 years that we have missed our wedding anniversary. And what I was trying to say before I got choked up is to my wife at home: I love you more today than I did 51 years ago.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BEGICH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate return to legislative session from executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

CELEBRATING ALLISON'S BIRTH

Mr. ENZI. Mr. President, I got an early Christmas present on the day it was expected! On Wednesday, December 15, Allison Quinn McGrady was born to my daughter Emily and husband Mike. I have been able to hold each grandchild on the day they were born. This baby, Allison, was a bit more difficult. I voted in committee and four times on the floor and made a

mad dash for Dulles Airport. I flew to Denver. I rented a car and drove to Cheyenne, WY. I got to the hospital. It was late enough all the desks were shut down. I found my way to the maternity ward and got help to find the right room and once again got to hold another grandchild on the day she was born. There is no greater feeling of wonder and awe and appreciation on this planet than to hold another generation in my hands. To welcome a new life to this Earth is always breathtaking—but the thrill a grampa feels is indescribable—it is a feeling—it is incredible love and is only known to those who are also grandparents.

As I hold her and she tests this new world with eyes that recognize little, but absorb sights by the moment; as mouth and tongue explore a new atmosphere; as a tiny hand with small fingers opens and closes in a new freedom; I watch changing expressions as tiny ears hear sounds that have been muted before. I now have some instant replay memories of that little face and a moving hand and all those blankets and the tiny stocking cap to hold body heat, locked in my mind. She was 6 pounds 12.5 ounces and 19 inches long. Oh, to see such a miniature person and such a huge miracle! The wonder of life!!!

My own first child came into the world almost 3 months early. We didn't get to hold her for over 2 months. We could only watch as she struggled for life. And I am often doing little instant replays in my mind and thanking God for that and the other opportunities he's given me—from finding Diana who became my wife, to learning about prayer with our first child—the daughter who was born premature, who showed us how worthwhile fighting for life is—then the birth of our son, then the birth of our youngest daughter, who just had this baby. And to the birth of my grandson, Trey, and then his sister Lilly—both born to son Brad and his wife, Danielle—followed closely by Mike and Emily's Megan, who just became “the big sister” of Allison.

The call to let me know I was a grampa again came from 3-year-old Megan Riley McGrady, who enthusiastically said, “I'm a big sister.” Gramma wanted the phone to give me some details, but big sister said, “No, I'm talking to grampa.”

About 6 weeks ago Megan started pointing to her mom's tummy and saying, “That's my sister Allison.” They are not sure where Megan came up with the name, but she stuck with the same name all the time—and the new baby looked like an Allison, so Mike and Emily named her Allison and gave her a good Irish middle name of Quinn.

Shortly after our first grandchild was born I found a message on my answerphone from our youngest daughter who simply said, “Remember me? I used to be the baby of the family!” So, now,

Diana's and my youngest child, the “baby of the family” has had another baby! Emily and her husband, Mike McGrady met at the University of Wyoming. Mike fortunately broke his family's Florida University Gator tradition to come to the University of Wyoming, but it was part of God's plan. Emily and Mike fell in love and got married. Emily worked for the university while Mike went to law school. He clerked for Federal Circuit Judge Terry O'Brien and now works in a private practice. Three years ago they called to ask what we were planning for Memorial Day and suggested we might want to be near them for the birth of a grandchild. The Senate was on recess and we were nearby. We were in Wyoming when each of the other two grandchildren were born. This time I wasn't so lucky. I was a nation away, but got back to hold Allison that first day too.

I ask to be called Grampa! That is not Grandfather—that would be too stilted for me. The name is also not Grandpa. That's a great title, but still too elevated. Grampa is spelled with an M and no D—Grampa. My grampa was a most memorable person to me. My Grampa Bradley took me on some wonderful adventures. He taught me a lot—fishing, hunting, and work. He believed in work. When I was 4, he “let” me help him plant and water trees. He showed me how to chop sagebrush and make flagstone walks. He covered up holes he encouraged me to dig—he covered them so people wouldn't drive a car into them. That was when I was 7. Later he taught me how to spade a garden and mow and trim a lawn “properly.” When I was a teenager, he even showed me the point in life when you are supposed to start carrying “the heavy end of the log.” He liked to be called Grampa—and I am now delighted to have the opportunity to earn that name. In my opinion, Grampa is the greatest title anyone can have! And I wish I could adequately share with you the joy in my heart!

Allison, I want to pass on to you your Great Gramma's admonition: “Do what is right. Do your best. Treat others as they want to be treated.” I use that guideline every day and expect everyone on my staff to measure legislation and case work requests by it too. Now, because of you and Trey and Lilly and Megan, I have an additional measure for myself. I don't ever want my grandkids to say, “My Grampa could have fixed that, but he didn't.”

Allison, I hope I am around to see a lot more of you, to listen to you, to watch as you discover, learn, play, and grow—to get to know you—and especially to visit with you, to hear your dreams, your ideas, your puzzlements, to comfort you through difficulties, and to encourage you in whatever you try. But in case I am not around I have a few things to pass on to you that I

hope you will remember and, hopefully, pass on to your children.

Be proud of your reputation. That is really all you have that is really yours—although you borrow part of it from those who went before—and you have a debt to those who follow.

Learn from the mistakes you make, but, more importantly, learn from the mistakes of others. You don't have time to make them all yourself, and it will save you a lot of grief. When you see something wrong say, “I hope I never do that!” and file away a plan to avoid it. And don't do anything you wouldn't want to read about on the front page of the newspaper.

Learn everything you can. Read everything you can. See everything you can. Listen for new ideas. Watch for things you can change. Everything can be improved ideas and thoughts as well as things. So while you are at it, invent something that will improve the world or that will help those around you.

The most important decision you will make in your life is marriage. My hope is that you will find someone who can be your best friend—someone you miss when away and enjoy waking up with every morning, someone different enough to cover your weaknesses and strong enough to rely on you for your strengths, someone who shares your faith and someone mutually faithful.

Finally and most importantly, find faith in God. There will be times that will try you. With faith you can pray for help through the suffering, and with faith, God will always answer that prayer. No matter what you may have done, or what may have happened to you or to someone you love, there is always a way through the crisis. Don't try to live life on your own strength. No one has ever been that strong.

I thank God for helping me through open heart surgery 15 years ago so I might have this chance to hold you in my hands. I think of the Prayer of Jabez in Chronicles where he says, “Lord, please continue to bless me, indeed,” and to that I add my thanks for all the blessings, noticed and unnoticed, but especially for this new life.

Allison Quinn McGrady, Granddaughter, welcome to this world of promise and hope and faith and love! I am excited to have you in our lives!!

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Wyoming for a grounding moment in the Senate. We are enormously appreciative of his words.

I especially know what he was saying because my wife and I had the pleasure of welcoming a young grandchild about a month ago. As the Senator was standing there speaking, I couldn't help but think this is the son of Christopher Heinz, who was Jack Heinz's

youngest, and the child is called Jack—Little Jack.

So I think you gave us a good reminder, and I thank you.

Mr. ENZI. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Before my friend from Wyoming leaves the floor, let me just say I can identify with the things he has said, and to prove it, let me put this up here. These are my 20 kids and grandkids. While maybe he has his name they have given him, my name is PopI. The I is for Inhofe, so it is MomI and PopI. Is that OK? That is what all these kids call me.

As I was listening to the great words my colleague was sharing for his grandchildren and their lives, I would like to ask unanimous consent those same words go to each one of these little grandkids up here. As you mentioned one after another of your experiences, I remember this little girl here, she was one of them for me. She was only 4 pounds and you could hold her with one hand. The same thing was true with this one over here.

So when I look at this, I get very excited. It is what is important. We talk about a lot of things around here, but this is what is important. One of the criticisms I have had in considering this thing is hearing: I want to get back during this Christmas season—and I think most of the others do too—and want to be with them.

This little girl right here, she is my wife. Today is our 51st wedding anniversary. So I just want to say that some things are important, and I want to deliver my message to my wife who is back in Oklahoma—where she should be with all the rest of these kids—but, Kay, I love you as much today as I did 51 years ago.

CARROLL COLLEGE FIGHTING SAINTS

Mr. TESTER. Mr. President, I rise today in honor of the Carroll College Fighting Saints—a tough-as-nails football team from Helena, MT, that won the NAIA championship last night.

It was one of those Saturday night games football fans live for. And before I say more about the Saints, I want to extend my congratulations to the University of Sioux Falls Cougars, which put up a heck of a fight, after a heck of a season.

But with last night's win, Carroll held a perfect season. They were undefeated every step of the way. And every step of the way, Montanans watched with pride as they showed us what it takes to work as a team. And to win.

Carroll's Fighting Saints are no stranger to making football history. This isn't the first year they have returned to Montana with a national trophy.

What does it take?

It takes hard work. Strong leadership—especially under Coach Mike Van Diest—and old-fashioned Montana grit.

Most importantly, it takes teamwork and trust. Place kicker Tom Yarekmo missed two field goals. But Coach Van Diest trusted Yarekmo to try again—and he made the winning field goal.

Mr. President, I ask my colleagues to join me in congratulating the team, the coaches and a whole lot of dedicated fans.

Their hard work and their victory is a warm reminder that hard work pays off.

We're already looking forward to next year.

Mr. President, I yield the floor.

VOTE EXPLANATIONS

VOTE NO. 278

Mr. MANCHIN, Mr. President, had I been present on Saturday, December 18, I would have voted nay on the motion to invoke cloture on the Development, Relief, and Education for Alien Minors DREAM Act:

"While sympathetic to those who passionately support it, I cannot support the DREAM Act; as is, at this time.

"I strongly believe the DREAM Act should require the completion of a degree. As currently written, the legislation does not. Requiring the completion of a degree is exactly what the DREAM Act should be about, as it will help ensure that the young people who qualify have a real chance to fulfill the American dream and become the productive citizens they aspire to be.

"In fact, I have had sincere discussions with my fellow Senators and committee staff as to whether it would be possible to change the legislation to address my concerns. At this time, it is not.

"All that being said, I do believe, as most Americans do, that our immigration system is broken and must be fixed. During the next session of Congress, I sincerely hope to work with my Republican and Democratic colleagues to achieve true comprehensive immigration reform."

VOTE NO. 279

Mr. President, had I been present to vote on Saturday, December 18, I would have voted nay on the repeal of the military's don't ask, don't tell policy:

"Over the past several days, I have spoken with many passionate West Virginians who hold different views on this policy. I greatly appreciate all of the feedback that my office has received.

"As I have said before, my primary concern with repeal of "Don't Ask, Don't Tell," DADT, stems from the Armed Services Committee testimony by two Service Chiefs, Army Chief of Staff General George Casey and Marine Corps Commandant General James

Amos. Their issues are with the timing and the impact of the repeal's implementation on our front line combat troops during a time of war.

"While it may be little solace to those who disagreed with my earlier vote, over the last 9 days, I have had sincere discussions with my fellow Senators and other officials as to whether it would be possible to change the legislation to address my concerns over timing and implementation. With the legislative process nearing an end, it was simply not possible to alter the proposed DADT legislation.

"As such, while I believe the DADT policy will be repealed, and probably should be repealed in the near future, I cannot support a repeal of the policy at this time."

FEDERAL FUNDING

Mr. LEAHY. Mr. President, earlier this week, Republican Members who had pledged to support the fiscal year 2011 Omnibus appropriations bill changed their minds and chose instead to walk in lockstep with the House and Senate Republican leaders who believe that freezing spending at the fiscal year 2010 level is good politics.

On the face of it that approach has an appeal to it—no new spending. What a nice sound bite. It makes everything seem so simple.

But while one Senator of the minority party gleefully remarked on the Senate floor "we won," it is worth taking a minute to consider what a continuing resolution means—not for the Republican Party but for the American people.

That it is a short-sighted abdication of Congress's responsibility over Federal funding almost goes without saying. But in fact it is worse than that.

The Senators who profess to care about the security of this country but refuse to put their money where their mouth is, bear responsibility for the consequences.

Every American family—yours and mine—knows that in a year's time our budget priorities and the necessities of our families change from the year before. So do the budget priorities of a diverse country of more than 300 million people in a rapidly changing and dangerous world.

Those who celebrated after defeating the Omnibus—a bill that is supported by a majority of Senators—are implicitly promoting the myth that priorities and circumstances do not change from one year to the next.

They would substitute the mindlessness of a copy machine for the judgment that the American people pay their representatives to use in making these decisions.

A robo budget is a disservice to the American people, to our national security, and to this Nation's needs and interests here at home. Yet that is the option we are left with.

What is our job here? Is it to rubberstamp what we did last year, despite different circumstances and the passage of a year's time? I won't speak for the chairs of the other Appropriations subcommittees.

They know the consequences of a continuing resolution for the programs in their jurisdictions better than I.

But as chairman of the Department of State and Foreign Operations Subcommittee, I can say unequivocally that freezing spending for global security programs—as we are about to do—will shortchange the American people—this generation and future generations, compromise the security of this country, and cost the lives of countless people in the world's poorest countries.

Contrary to what some of our friends in the minority seem not to fully appreciate, the United States is a global power. We have vital interests around the world, from the Korean Peninsula to Mexico, that are important to the lives and livelihoods of every American.

We are involved in two wars, with over 150,000 troops deployed in harm's way—wars that will not be won by military force alone.

Our economy is tied to the economies of countries far and wide. Our security depends on what happens thousands of miles from our shores, as much as it does at our borders.

Americans are traveling, working, studying and living in every country on Earth. We have diplomats and military personnel stationed on every continent.

Our environment, the health of our citizens, the security of our borders, and relations with our allies as well as our adversaries, are not static. Time does not stand still. It marches on, either with us or without us.

What the other party is saying is that while China and our other competitors aggressively expand their influence, the United States will pull back. While other countries become global markets, we will freeze our export promotion programs.

While international terrorism, transnational crime and corruption threaten American businesses and fragile democracies, including in our own hemisphere, we will retrench.

That is the vision of the minority. It is myopic. It is self-defeating. It pretends to help solve the deficit, when in fact it will have virtually no impact on the deficit. But it will weaken our influence around the world.

In contrast, the Omnibus appropriations bill that was abandoned 3 nights ago would have cut spending below the President's budget request by some \$29 billion, as our Republican friends insisted just a few short months ago. Then they moved the goal posts.

And 3 nights ago they walked off the playing field altogether, when those who said they would support it changed

their minds—or had their minds changed for them.

The Omnibus would have cut the budget for the Department of State and Foreign Operations by \$3.2 billion below the President's request.

The funding for the Department of State and Foreign Operations, which represents 1 percent of the Federal budget—1 percent—is a far cry from what we should be allocating to protect America's interests.

Fifty years from now I suspect our grandchildren or great-grandchildren will look back and wonder why we were so penny wise and pound foolish, when so much was at stake.

But if one asks which would be better for our national security, a continuing resolution or the Omnibus; or which would be better for protecting America's interests in the global economy; or which would be better for strengthening our alliances and improving our image around the world? There is no comparison.

Let me cite a few examples.

The Omnibus would have funded global health programs, including vaccines and nutrition for children, maternal health, and programs to prevent or treat infectious diseases like HIV/AIDS, West Nile, the Asian Flu, and drug-resistant tuberculosis.

These and as yet unknown viruses can become raging pandemics overnight. They can spread across the globe to our shores with the ease of an airplane flight.

The other party may not want to talk about cutting these programs. But when there is an outbreak of a deadly disease like the Asian flu that could endanger the lives of millions of Americans, we can predict they will demand to know what the State Department is doing about it.

It won't matter that they just cut the budget for disease surveillance and prevention.

At a time when there are more than 7,000 new HIV infections each day, a continuing resolution will reduce the U.S. contribution to the Global HIV/AIDS fund by \$75 million. That will almost certainly cause other donors to reduce their contributions too. Millions of people who need drugs to stay alive, won't get them.

The Pakistan Counterinsurgency Capability Fund, which is a cornerstone of our partnership with the Pakistani Armed Forces in fighting al-Qaida, will be cut by \$300 million in a continuing resolution. It makes no sense.

A continuing resolution will cut funding by more than \$700 million for agriculture and food security programs, small business development, clean water, energy, basic education, trade capacity, and other priorities of both Democrats and Republicans, as well as of American businesses, universities, and other organizations that implement these programs.

There are thousands of American diplomats stationed in almost every country of the world, assisting American citizens and businesses, defending our interests and our security. They risk their lives in countries where Americans are targeted, and many have lost their lives in the line of duty.

A continuing resolution will provide half a billion dollars less than the Omnibus would have for the State Department's overseas operations, including for Afghanistan and Pakistan, requiring cuts to personnel, information technology, and public diplomacy programs that counter extremist propaganda and other misinformation about the United States.

How, in the world, does that make sense? Will anyone advocating this recklessness come forward to explain it to the American people? Apparently not. Better to declare "we won," and hope the public never finds out that they lost.

A continuing resolution will cut funding for U.S. Embassy security, construction, and maintenance programs, delaying the completion of new facilities to replace the most vulnerable embassies in some of the most dangerous locations.

Security costs money, but the minority will cut these programs. Any delay in the completion of these facilities will extend the risks to American diplomats, consular officers, and other personnel overseas.

A continuing resolution will cut funding for educational and cultural exchange programs—programs that Republicans have claimed to strongly support. That means thousands fewer participants in exchange programs, including those from Muslim-majority countries and Muslim communities worldwide, and a corresponding retreat for our national security interests.

A continuing resolution will cut hundreds of millions of dollars for clean technology and other programs to reduce global warming. Whatever one may think about climate change, 95 percent of new births are occurring in the world's poorest countries, where the demand for energy is exploding. The environmental consequences of this exponential growth in energy consumption are staggering, and we ignore it at our peril.

There are dozens of other examples, but the point is simple. The other party may think this is good politics at home, but it represents a dereliction of duty.

It will have no appreciable impact on the deficit. In fact, over time, it is just as likely to cost the taxpayers more. But most important, the Omnibus, while billions of dollars below the President's budget request, would have at least enabled us to not lose ground.

We would have at least been able to respond to new threats as they develop.

We would have at least been able to continue the effort started by former

Secretary of State Colin Powell, and strongly supported by Secretary of Defense Gates, to build the diplomatic corps we need.

We would have at least been able to compete in new and emerging export markets. We would have at least been able to maintain programs with Mexico and Pakistan, transfer responsibility in Iraq from the Department of Defense to the Department of State, support public diplomacy and exchange programs with countries where large majorities have hostile and distorted opinions of the United States, and continue initiatives that are strongly supported by both Democrats and Republicans.

That is the choice. It is not theoretical; it has very real consequences. It should not be a political or partisan choice.

Senator GREGG and I worked hand in hand to write our portion of the Omnibus within the allocation we were given, an allocation that was \$3.2 billion below the President's budget request.

I am not among those who believe the Congress should hand over our responsibility for the budget to an unelected, unaccountable bureaucracy, but there were no earmarks in our portion of the Omnibus. That has been the practice of our subcommittee for many years.

The minority has elevated hypocrisy to a new level over the issue of earmarks. There are earmarks I have felt were a waste of money. Many of them were Republican earmarks. Other earmarks, by both parties, have been enormously beneficial to the people of our States.

Less than 1 percent of the Omnibus appropriations bill consisted of earmarks—many of them requested by Republicans. Many of them would have improved the lives of their constituents.

But to score cheap political points those same Republicans who took credit for earmarks, now want the American people to believe that eliminating a few billion dollars in earmarks will fix the deficit.

And so they would hand to the administration total discretion to earmark every dollar of the budget. There will come a time, I predict, when they will regret having done so.

I want to thank the chairman of the Appropriations Committee, Senator INOUE, for the herculean efforts he made this year—first to get 12 individual appropriations bills reported by the Committee, and then to try to get the Omnibus passed.

He did everything humanly possible, right up to the bitter end. But when those who had pledged their support walked away, there was nothing more he could have done. As he has said, this is no way to run a government.

I also want to thank Senator GREGG, who is retiring this year, for the many

years he has served on the Appropriations Committee, and as ranking member of the Department of State and Foreign Operations Subcommittee.

It has been a pleasure working with him. He cares about these programs, he supports the people who serve in our embassies, he understands what is at stake for our country, he asks important questions, and he insists on accountability for the use of funds.

Contrary to what some might think or guess, there were not many times when Senator GREGG, a conservative Republican Senator, and I, a liberal Democratic Senator, disagreed over the need to find the funds to support these programs. We will miss him greatly.

One year ago, 37 Senators—Democrats and Republicans—wrote to the chairman and ranking member of the Appropriations Committee urging full funding of the President's budget request for the Department of State and Foreign Operations. The funding in the Omnibus was \$3.2 billion below that amount.

Rather than voting for a sound bite, Senators should consider the consequences. The consequences are unmistakable.

A continuing resolution says whatever was OK last year is OK this year. I understand that is where we are. Even though a majority of the Senate would support the Omnibus, the minority party has made it impossible to pass anything without 60 votes.

It is no way to govern, and when it involves issues of national security, it is foolhardy.

TRIBUTES TO RETIRING SENATORS

ARLEN SPECTER

Mr. HATCH. Mr. President, I rise to speak today to recognize the departure of my good friend, the senior Senator from Pennsylvania. Senator ARLEN SPECTER has been present here in the Senate through some of its most contentious times. He and I have worked side-by-side—sometimes in agreement, other times in opposition—for many years. His presence will be sorely missed.

ARLEN is the son of immigrant parents. He was born in Wichita, KS, in 1930 to Lillie Shannin and Harry Specter. Harry served in World War I in the U.S. infantry, just a few years after migrating to the U.S. from Russia. While in combat in France, ARLEN's father was seriously wounded. Yet a few years later, the Federal Government, strapped for funds, broke its promise to pay World War I veterans a bonus. This, of course, led to a veterans march on Washington and a tragic encounter between the U.S. Army and the protesting veterans. It also led, indirectly, to Senator SPECTER's career in public service as he has been fond of saying that he came to Washington to get his

father's bonus and that he would run for reelection until he got it.

ARLEN attended college at both the University of Oklahoma and the University of Pennsylvania, graduating from the latter in 1951. He served in the Air Force during the Korean war as an officer in the Office of Special Investigations. In 1953, he married Joan Levy, with whom he has raised two sons and four grandchildren. In 1956, he graduated from Yale law school and entered into private practice.

Senator SPECTER's career in public service began in 1959 when he became an assistant district attorney in Philadelphia. In 1963, he was appointed to serve as assistant counsel on the Warren Commission, investigating the assassination of President John F. Kennedy. Two years later, he was elected to serve as the district attorney for the city of Philadelphia, a position he held for 8 years. After another brief stint in the private sector, ARLEN was elected to the Senate in 1980 and has been the longest serving Senator in Pennsylvania's history.

ARLEN has had his hand in a number of high-profile efforts here in the Senate. However, I will always remember him for his role in some of the most contentious Supreme Court confirmation fights in our Nation's history. He and I both served on the Judiciary Committee during the confirmation hearings for Judge Robert Bork, which were, at the time, the most contentious in our Nation's history. In the end, ARLEN and I reached different conclusions as to whether Judge Bork should have been confirmed. I still think ARLEN was wrong to oppose Judge Bork, but, I have never doubted that his decision to do so was sincere.

ARLEN and I once again found ourselves at the center of a Supreme Court fight during the nomination hearings for Justice Clarence Thomas. During those hearings, Senator SPECTER had the daunting task of questioning Ms. Anita Hill for the Republican side. I was and continue to be impressed with the manner in which he handled that responsibility. Those were difficult, sensitive issues. None of us wanted to disrespect Ms. Hill, but we believed it was important to ensure that the truth be examined and brought to light, and I've always thought that ARLEN handled the matter with the necessary professionalism and respect.

In the years that followed the Thomas hearings, a number of people expressed their displeasure for the way I treated Ms. Hill during those hearings. I was always quick to remind them that it was ARLEN who questioned her, not me. I was the one who questioned Justice Thomas. But, in the end, I think the historical memory of that time has tied the two of us together.

Senator SPECTER has a reputation for being a fighter. And, having been on both sides of the debate with ARLEN, I

have to concur with that assessment. His was among the sharpest minds we have known here in the Senate and I am grateful for the privilege I've had to serve alongside him.

I want to wish ARLEN and his family the best of luck.

SAM BROWNBACK

Mr. President, I rise today to speak in honor of my good friend, the senior Senator from Kansas. Senator SAM BROWNBACK has been a devoted public servant and a friend to all of us here in the Senate. And, at the end of this session, he will be moving on to bigger and better things. I will miss him dearly.

Senator BROWNBACK was born in Parker, KS, in 1956. He was raised on a farm—a farm on which his parents still live to this day. SAM was leader in all aspects of his life before coming to the Senate. In high school, he was the State president of the Future Farmers of America. While attending college at Kansas State University, he was student body president. And, he was president of his class when he attended law school at the University of Kansas.

After law school, SAM went to work as an attorney in Manhattan, KS. In 1986, he was the youngest person ever appointed to serve as the Kansas Secretary of Agriculture. In 1990, he went to work in the White House of President George H.W. Bush as a White House fellow. After another stint as Kansas's Secretary of Agriculture, SAM was elected to the House of Representatives as part of the 1994 Republican revolution. And, in 1996, he was elected to replace the former Senate majority leader, and my good friend, Senator Bob Dole. The people of Kansas have kept him here ever since.

Looking over his career in public service, it is clear that SAM BROWNBACK is Kansas man in every sense. The voters of Kansas have recognized this more than anyone else. That is why they have elected him three times to serve in the Senate. And, of course, that is why he is currently the State's Governor-elect.

Throughout his time in the Senate, SAM has been a tireless advocate for the rights of those who have no voice, whether it is the rights of the unborn, the rights of refugees, or the rights of the victims of human trafficking. I believe this is due, in no small part, to SAM's religious faith. For as long as I have known him, SAM has never been afraid to speak publicly about his religious convictions and his belief that those convictions required action on his part. As a religious man myself, I have always admired that part of Senator BROWNBACK's personality and found his openness refreshing.

Over the years, SAM and I have typically found ourselves in agreement on most issues. We have worked together on numerous occasions. While I regret that we won't be working together any

more after this session, I want to congratulate him once again on his recent victory in the Kansas gubernatorial election. I am confident that he will be an effective and popular governor for the people of the State he loves so much.

KIT BOND

Mr. President, I rise today to speak in honor of my good friend Senator KIT BOND. Senator BOND has represented the people of Missouri in the U.S. Senate for the last 24 years, and, at the end of this session, he will depart for greener pastures. I think I speak for all of my colleagues when I say that his presence will be missed.

KIT was born in St. Louis, MO, in 1939. He is a sixth generation Missourian and, after knowing Senator BOND for many years, I know that the people of Missouri have never been far from his thoughts. As a young man, he left Missouri for a short time to attend college at Princeton University and law school at the University of Virginia, where he graduated first in his class. After law school, he served as a law clerk for the Fifth Circuit Court of appeals before going to Washington, DC, to practice law with the renowned law firm Covington & Burling.

Senator BOND returned home to Missouri in 1967 to begin a long career in public service. After losing a brutally close congressional election in 1968, KIT went to work for the Missouri attorney general's office, serving under the great former Senator John Danforth. In 1970, KIT was elected Missouri State Auditor at the age of 31. Then, 2 years later, when he was only 33 years old, he was elected Governor of Missouri. KIT was the first Republican Governor that State had seen in nearly three decades.

For me—and this may be a little selfish—the most important accomplishment of KIT's first term was rescinding Executive Order No. 44, which had been issued by Missouri Governor Liburn Boggs in 1838 and ordered the expulsion or extermination of all Mormons from the State of Missouri. On June 25, 1976, then-Governor BOND rescinded that order and issued an apology to the Mormons on behalf of all Missourians. I remember that day clearly. And, while I was not yet acquainted with KIT, he earned my gratitude and respect.

As Governor, Senator BOND's star rose dramatically. He was even considered as a potential running mate for President Gerald Ford in 1976. Yet, in a surprising upset, KIT lost his reelection bid for governor that year. But, Missourians soon came to regret this mistake and reelected him to the Governor's office in 1980.

After finishing his second term as Governor—a successful term by almost all accounts—KIT was elected to the Senate in 1986. And, thanks to his good judgment, his commitment to his home State, and to his character, he was reelected in 1992, 1998, and 2004.

For several years, I have had the pleasure of serving with KIT on the Senate Intelligence Committee, where he currently serves as vice chairman. From that position, I have been able to see his wisdom and good judgment firsthand. It can be difficult serving on that committee, working on important issues that, if everything goes right, will never see the light of day. But, I can say this—Senator BOND's commitment to our Nation's security is second to none.

Mr. President, it has been an honor and privilege to serve next to Senator BOND for these many years. I want to wish him, his wife Linda, and their family the best of luck in any future endeavors.

JIM BUNNING

Mr. President, I rise today to speak in honor of my good friend, Senator JIM BUNNING. Senator BUNNING will be departing from the Senate at the end of this session. I wanted to take a few moments to offer some remarks.

Now, JIM is a distinguished two-term Senator whose career in public service has spanned more than three decades. Yet when the history books are written, it is likely that he will be more well known for his first love, the game of baseball.

JIM was born in Southgate, KY, in 1931. He graduated from Xavier University in Cincinnati, OH, with a degree in economics.

Most know that Senator BUNNING was a Major League pitcher for 17 years, mostly with the Detroit Tigers and the Philadelphia Phillies. He was, not to put too fine a point on it, one of the greatest pitchers to ever put on a glove. JIM retired with the second-highest strikeout total in baseball history. He was only the second pitcher in history to record 1,000 strikeouts and 100 victories in both the American and National Leagues. Before JIM, only the legendary Cy Young had accomplished that feat. And, of course, on June 21, 1964, JIM pitched a perfect game against the New York Mets, achieving one of the rarest and most sought-after feats in all of sports. Senator BUNNING was inducted into the Baseball Hall of Fame in 1996, 2 years before he came to the Senate.

After retiring from baseball, JIM chose a life of public service. In 1977, he was elected to the city council of Fort Thomas, KY. Two years later, he was elected to the Kentucky State Senate, where he became the Republican Leader. And, in 1986, he was elected to the first of his six terms in the U.S. House of Representatives. And, in 1998, Senator BUNNING was elected to the Senate and has served here ever since.

Throughout his time in Washington, Senator BUNNING has been an advocate for a number of causes, including the preservation of Social Security for seniors, fiscal and financial reform, and ending America's dependence on foreign energy sources. He's played a key

role on some of this chamber's most influential committees, including the Banking, Energy, Budget, and Finance Committees.

For the last several years, I have had the opportunity to work with Senator BUNNING on the Finance Committee. I have always admired his commitment to his principles and his willingness to speak plainly when it became necessary to do so. His presence on the committee and in this Chamber will certainly be missed.

I want to wish JIM and his family the best of luck going forward.

JUDD GREGG

Mr. President, I rise to speak today to recognize the departure of my good friend Senator JUDD GREGG. Senator GREGG has been a tireless advocate for the people of his State and devoted public servant. He will most certainly be missed.

Senator GREGG is a New Hampshire man through and through. He was born in Nashua, NH, in 1947. His father, Hugh Gregg, served as Governor of New Hampshire when JUDD was just 6 years old. JUDD graduated from Phillips Exeter in 1965 before going on to earn his baccalaureate from Columbia University and his law degree from Boston University School of Law.

After finishing law school 1972, JUDD returned to Nashua to commence his law practice, though it wouldn't be long before he would answer the call into public service. From 1978 to 1980, JUDD served on the New Hampshire Governor's Executive Council. Then, in 1980, he was elected to serve in the U.S. House of Representatives, where he served for four terms. In 1988, he followed in his father's footsteps and was elected Governor of New Hampshire and was reelected in 1990.

In 1992, after two successful terms as Governor, in which he was able to balance the budget and leave the State with a surplus, JUDD was elected to represent New Hampshire here in the U.S. Senate. And, after serving for three terms, he is stepping down at the end of this session.

If one were to describe JUDD's political philosophy, I think they would have to say that he was for fiscal discipline even when fiscal discipline wasn't cool. As chairman and ranking member of the Senate Budget Committee and senior member of the Banking Committee, his has always been a voice of warning and restraint, even when restraint wasn't the status quo around Washington. His knowledge and expertise on these issues made him one of the most respected voices in our debates over health care, economic and fiscal policy, and financial regulatory reform.

While JUDD has always been a conservative, he's never let go of his independence, refusing to put party before his principles. Everyone in Washington claims that they are that way, but

Senator GREGG is one of the few that has walked the walk. That, more than anything, is why he has won the respect and admiration of his colleagues on both sides of the aisle.

The State of New Hampshire has been well-represented here in the Senate and I know the people of his State are grateful for JUDD's service. It has been both an honor and a privilege to have served alongside Senator GREGG. While I am certain that JUDD will be successful in whatever endeavor he chooses next, I am even more certain that the Senate will be a lesser place without him here.

I want to wish JUDD and his wife Kathleen and their family the very best.

GEORGE LEMIEUX

Mr. President, I rise today to pay tribute to the junior Senator from Florida. Though Senator GEORGE LEMIEUX has only been here a short time, he has been an effective advocate for the good people of Florida. I want to wish him the best of luck.

Senator LEMIEUX was born in Homestead, FL. He is the son of a building contractor. He grew up in Coral Springs, FL, and attended college at Emory University, earning a degree in political science. GEORGE then went on to obtain his law degree from Georgetown University.

Senator LEMIEUX's career in public service began in 2003 when he went to work in the Florida attorney general's office. He would eventually be named deputy attorney general, a position he held for 2 years. He would later serve as the Florida Governor's chief of staff, overseeing numerous state agencies.

After his time in the Governor's office, GEORGE returned to the private sector and was headed down what had to be a lucrative career path in the private sector at one of Florida's most prestigious law firms. But, he answered the call to public service once again in 2009 when Senator Mel Martinez announced his retirement and Florida was in need of a Senator.

Since being appointed to the Senate, GEORGE has served on the Armed Services Committee, the Commerce Committee, and the Special Committee on Aging. He has had a reputation for being pro-growth, pro-business, and a deficit hawk. In fact, he has been one of the few people in the Senate who put their money where their mouth is and actually proposed a plan to address our fiscal problems. Frankly, I think we could use more people like that here in the Senate.

It is just a difficult fact that, here in the Senate, some are here only for short periods of time. But, every State deserves to be represented in this Chamber. Senator LEMIEUX answered the call to serve during what has been an extremely difficult time in the Senate. He has done so with dignity and an unwavering commitment to the people of Florida.

Once again, I want to offer my best wishes for George and his family in all their future endeavors.

BYRON DORGAN

Mr. President, I rise today to recognize the departure of junior Senator from North Dakota. Senator BYRON DORGAN, a devoted public servant who has spent most of his life serving of the good people of North Dakota, will be leaving the Senate at the close of this session. He will certainly be missed.

Senator DORGAN was born in Dickinson, ND, in 1942 and was raised in Regent, ND. His family worked in the petroleum and farm equipment business and they also raised horses and cattle. BYRON attended college at the University of North Dakota and graduate school at the University of Denver. He began his career in public service at the young age of 26, when he was appointed to be the North Dakota State Tax Commissioner. He was youngest constitutional officer in the history of North Dakota.

Senator DORGAN came to Washington, DC, in 1980 when he was elected to serve in the House of Representatives. He served six terms in the House before coming to the Senate in 1992. And, for three full terms, he has ably and energetically represented his native State. During his time here, he has been a senior member of the Appropriations Committee, chairman of the Indian Affairs Committee, and, of course, chairman of the Democratic Policy Committee. The people of North Dakota have benefitted from his efforts on those committees and, I think he would be the first to tell you, that his home State has never been far from his thoughts here in the Senate.

While Senator DORGAN and I have, more often than not, disagreed on the issues, he has always been sincere in his belief that what he was doing was in the best interest of our country. Such commitment to principle has to be admired, even if, in the end, you disagree with the conclusion that is reached. And, I should note that there have been times, actually in some high-profile moments, in which BYRON has voted differently than the majority of his party. In the Senate, which, of late, has been highly polarized and extremely partisan, going against the grain takes courage and independence, qualities I have admired in Senator DORGAN.

Senator DORGAN is a good man. I want to wish him, his wife Kim, and their family the very best of luck.

BLANCHE LINCOLN

Mr. President, I rise today to speak in honor of my good friend, the senior Senator from Arkansas. Senator BLANCHE LINCOLN will depart from Senate at the end of this session. She will certainly be missed.

Senator LINCOLN is seventh-generation Arkansan. She was born in Helena, AR, in 1960 to family of wheat, soybean, and cotton farmers. Her first

elected office was president of the student council at Helena Central High School. She got a bachelor's degree from Randolph Macon Women's College in Lynchburg, VA, and then went to work on the congressional staff for Representative Bill Alexander.

She left the Congressman's office after 2 years to pursue private sector work in Washington, DC, but would return home to Arkansas to run against her former boss in 1992. Her campaign for Congress was successful and BLANCHE became the first woman ever to represent the Arkansas First District in the House of Representatives.

All told, Senator LINCOLN served two terms in the House before running for Senate in 1998. That year, at the age of 38, Senator LINCOLN became the youngest woman ever elected to the U.S. Senate and only the second female Senator in the history of Arkansas.

BLANCHE's career in the Congress has been defined by her willingness to reach across the aisle and work with Senators from both parties. She is a proud Democrat but has never been an ideologue. Her devotion has never been to a party line or platform, but to her own convictions and to the people of Arkansas.

I have had the privilege of working close with Senator LINCOLN on a number of occasions. Much of the time, we found ourselves on different sides of the issues. But, there were also a number of times where we were in agreement. In fact, I can think of several occasions where she defied her own party's leadership and was, at the end of the day, a difference-maker on a number of important efforts.

Here in the Senate, things have a tendency to get contentious in a hurry. Far too often, partisanship gets in the way of good policymaking. We should commend those who are willing to see past the politics of the day and focus on the long-term impact of the things we do here in the Senate. Senator BLANCHE LINCOLN is one of those people.

I want to wish Senator LINCOLN and her family the very best of luck going forward.

DREAM ACT

Mr. HATCH. Mr. President, I ask the RECORD reflect that if I would have been present for yesterday's vote on the Development, Relief, and Education for Alien Minors—DREAM—Act of 2010, H.R. 5281, that I would have voted against cloture. My wife and I had a long standing family commitment to attend my grandson's graduation.

The American people sent us a clear message on November 2, 2010, to focus on getting our economy moving again. It bears repeating: our country's unemployment rate is nearly 10 percent. Yet instead of listening to the true needs of

this Nation, the majority in the Senate is moving full speed ahead with legislation in order to curry favor with political constituencies.

Pushing this bill through during a lame duck session of Congress is not how Utahns or Americans want Congress to operate. The bill before us is one of many versions of the DREAM Act introduced in the last 2 months. Though H.R. 5281 would result in a significant change to U.S. immigration law, the bill never received 1 day of a committee markup. An issue as important as this one needs to follow the regular order of the legislative process.

Now more than ever, our Nation's porous border is flowing over with increasingly violent crimes—fueled by drugs, gangs and even human trafficking. Unfortunately, this chaos is spilling into our communities. That is why, when it comes to immigration, my primary focus is on how we can finally secure our borders and how best to fix our broken immigration system.

The fight to control the border is no longer isolated to just the physical boundary between the United States and Mexico. Indeed, it now includes addressing Mexican cartels; prohibiting mass deferral or parole; streamlining the visa process; requiring participation in key law enforcement programs; clamping down on identity theft; tracking the amount of welfare benefits being diverted by illegal immigrant households; ensuring that dollars are being used to cover newly eligible American children in CHIP and Medicaid; and keeping our great national parks and federal lands safe and free from drug traffickers, drug cultivation, and environmental damage. All of these important issues are addressed in my recently introduced bill, the Strengthening Our Commitment to Legal Immigration and America's Security Act, S. 3901.

Mr. President, I remain understanding about individuals who, through no fault of their own, were brought to this country for a better life. However, the urgent challenges facing our country must take priority.

DON'T ASK, DON'T TELL REPEAL ACT

Mr. HATCH. Mr. President, I was regrettably absent for the vote on the cloture motion to H.R. 2965, The Don't Ask, Don't Tell Repeal Act as my wife and I had a long standing family commitment to attend my grandson's graduation. If I had been present, I would have voted against cloture.

I have long stated that our troops should not be held hostage to controversial social policy changes at a time when our Nation is at war. Several top military leaders have concluded that changing military policy could jeopardize our soldiers fighting for our Nation. That is something I cannot support.

These concerns were only reaffirmed a few days ago when the Commandant of the Marine Corps, GEN James Amos was quoted as saying, "I take that very, very seriously . . . I don't want to lose any marines to the distraction [of implementing the repeal of Don't Ask, Don't Tell] . . . I don't want any marines that I'm visiting at Bethesda [National Naval Medical Center military hospital in Maryland] with no legs be the result of any type of distraction."

This opinion was echoed by Air Force Chief of Staff Norton Schwartz, who stated in testimony before the Senate Armed Services Committee that he opposed implementing any reform until 2012 because he did "not agree with the study assessment that the short-term risk to military effectiveness is low."

Moreover, the recent report also showed that the percentage of those servicemembers in combat arms units which predicted a negative or very negative effects on their unit's ability to "work together to get the job done" stood at an alarming 48 percent within Army combat arms units, and 58 percent within Marine combat arms units.

Our military leaders and front-line forces have spoken. They do not believe repealing don't ask, don't tell is appropriate at this crucial time in our Nation's history and neither do I.

NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IMPROVEMENT ACT

Mr. COBURN. Mr. President, the intent of the National Instant Criminal Background Check System, NICS, Improvement Act of 2007 is to increase compliance with existing law in order to prevent guns from getting into the hands of those with mental health concerns who might cause harm to others.

Unfortunately, the initial draft of this legislation would have expanded the existing classes of people forbidden by statute from possessing or purchasing a weapon to include people who simply had trouble managing their finances or other personal affairs. This expansion of existing law would have legitimized overly broad regulations that included people who have never been found to be a danger to themselves or to others.

This is problematic because these overly broad regulations have allowed for the criminalization of veterans who needed help managing the benefits they received for serving our country. These veterans lost their constitutional right to bear arms without committing a crime, without going before a court of law, and without being found to be a possible danger to themselves or anyone else. Furthermore, they lost their rights without their knowledge, and without a way to restore them.

For this reason I did not consent to H.R. 2640 until these concerns were adequately addressed.

Nobody wants firearms in the hands of individuals who are a danger to themselves or to others, but this desire for safety must be adequately balanced with a respect for our Constitution and the right to bear arms. While I favor keeping guns out of the hands of criminals and those who are a danger to themselves or to others, I was concerned that this bill would unnecessarily and unfairly hurt our veterans and other law-abiding Americans.

The initial version of this bill codified overly broad regulations for what it means to be "adjudicated as a mental defective" to include individuals who are in no danger to themselves or to others, but cannot manage their own finances or other personal affairs. These regulations were determined independent of congressional intent and are overly inclusive.

As a result of this definition, Americans who have never committed a crime and are of no danger to themselves or to others have been unfairly included in NICS. Once added to this list, it has been nearly impossible for an individual to remove their name from this list, meaning they are prohibited from owning a firearm for the rest of their life.

Among those unfairly added are up to 140,000 veterans who receive benefits for their service to our country, because they cannot manage their own affairs. This bill would have made this overly inclusive definition law.

Fortunately, Senator SCHUMER and I were able to work together to erase all mention of this definition in the bill. The term "adjudicated as a mental defective" is not defined in law. By not codifying these overly inclusive regulations, Congress and the Bureau of Alcohol, Tobacco, and Firearms Enforcement have a another chance to develop regulations for what "adjudicated as a mental defective" means to more accurately protect the second amendment rights of law-abiding citizens.

Additionally, we made several other changes to improve this bill. The bill now ensures: Veterans are notified when they are added to this list to ensure they do not knowingly violate Federal law and also lets them know when they enter into a determination process that could lead to them being added to this list; those who believe they have been unfairly added to NICS have their applications for removal from this list processed; those who previously were adjudicated as a mental defective but no longer pose a threat to society are cleared from this list; a State program exists that allows those wrongfully included on this list to appeal their inclusion; and that compensation is available for those who prove they were wrongfully included on NICS in court.

These changes strike a much healthier balance between ensuring the second amendment rights of our vet-

erans and other law-abiding citizens and removing guns from those who are a threat to our society.

It is also important for Americans to realize that this bill, if enacted earlier, would not have prevented the tragic Virginia Tech shootings. This bill does not change Federal law regarding who should be added to NICS. States still have to decide to what extent they will report those adjudicated as a mental defective to the national list.

Under existing law, the Virginia Tech gunman already was considered a mentally dangerous person and should not have been allowed to purchase a weapon. At the time of the shootings, he was prohibited from purchasing any guns because two different judges found him to be a danger to himself or others. Additionally, the gunman should have been barred from buying a gun because he had been involuntarily committed for mental treatment.

He should have been reported to NICS because of a law passed last decade that required States to report people like him to the Federal system so that they would be prohibited from purchasing weapons. Unfortunately, because of a communications breakdown among Virginia authorities, this did not occur.

Since the Virginia Tech tragedy, several States have begun submitting these records to NICS and added hundreds of thousands of persons to the database without any additional Federal law being passed. According to the Washington Post, nearly 220,000 names have been added to this FBI list of people prohibited from buying guns because of mental health problems—a more than double increase in only 7 months.

While the intent of this legislation is good, Congress owes it to all Americans to pass legislation that is necessary and does not have unintended consequences that compromise the rights of law abiding citizens.

I am thankful for the opportunity for my concerns to be addressed and believe this bill is much improved.

ADDITIONAL STATEMENTS

REMEMBERING JOY RUSHMORE HILLIARD

• Mr. UDALL of Colorado. Mr. President, I would like to take the time to honor the memory of Ms. Joy Rushmore Hilliard, a supporter of the environment, outdoor enthusiast, and a friend of Colorado. Joy passed away peacefully this past August at the age of 86.

As an avid outdoorswoman, Joy was well known as a great angler and lover of nature. She climbed all 54 of the 14ers in Colorado well before it became a popular pursuit. Barbara Mandrell might even say Joy was a climber, outdoorswoman, and environmentalist

before it became "cool." In fact, when I look back and think of her heart and passion for life, she reminds me of what being an authentic Coloradan is all about.

Joy even reminds me a lot of my own mother. Of the same generation and cut from the same cloth, Joy not only enjoyed hiking, climbing, skiing and fly-fishing, but managed to balance that love with raising a family. She also was a world traveler and was part of the 1963 expedition that trekked from Katmandu to the base camp on Mount Everest. In addition to her love of the outdoors and traveling, Joy was also a passionate philanthropist who donated her entire life to bettering her community and the world around her.

Not only was she actively involved with many environmental organizations, Joy also was the chairwoman of Colorado Outward Bound, a nonprofit organization that teaches hands-on life lessons using the environment. As you may know, I was a former educator and mountain guide for Outward Bound. Its programs have greatly helped struggling teens and groups with health, educational, or social needs to not only experience the outdoors, but to also learn about the potential embodied in themselves. As the chairwoman, Joy led Outward Bound to new heights and was the inspiration for many participants as well as staff.

In addition to her chairmanship of Outward Bound, Joy was also president of the Rocky Mountain Planned Parenthood, and an avid participant in other organizations such as Trout Unlimited, Silver Trout Foundation, and Colorado Open Lands. Her involvement in all of these civic groups reflects not only her respect and love for the environment and Colorado, but also her passion for life.

For her many sacrifices and hard work, Joy received several recognitions, including the Lifetime Achievement Award from the Colorado Environmental Coalition, the George E. Cranmer Award from Colorado Open Lands, and the Margaret Sanger Award from Planned Parenthood. Joy's other philanthropic actions include helping to establish the conservation wing of the Denver Public Library and a 10th Mountain Division Hut in memory of her late husband Ed, who was a partner of the Redfield Gun Sight Company.

Joy's service to her community, to Colorado and to the environment will always live on in our hearts; she was truly an inspiration for all of us.●

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6523. An act to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities

of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1619. A bill to establish the Office of Sustainable Housing and Communities, to establish the Interagency Council on Sustainable Communities, to establish a comprehensive planning grant program, to establish a sustainability challenge grant program, and for other purposes.

ADDITIONAL COSPONSORS

AMENDMENT NO. 4851

At the request of Mr. SESSIONS, the names of the Senator from Florida (Mr. LEMIEUX), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of amendment No. 4851 intended to be proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

AMENDMENT NO. 4853

At the request of Mr. CORNYN, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Louisiana (Mr. VITTER) and the Senator from Florida (Mr. LEMIEUX) were added as cosponsors of amendment No. 4853 intended to be proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4854. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4855. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4856. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4857. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4858. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4859. Mr. KYL submitted an amendment intended to be proposed by him to

Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4860. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4861. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4862. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4863. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4864. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4865. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4866. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4867. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4868. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4869. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4870. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4871. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4872. Mr. CORNYN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4873. Mr. INHOFE submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4874. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4875. Mr. RISCH submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4876. Mr. RISCH submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4877. Mr. RISCH submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4878. Mr. RISCH submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4879. Mr. RISCH submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4880. Mr. ENSIGN submitted an amendment intended to be proposed by him to

Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4881. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4882. Mr. BARRASSO (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4883. Mr. BARRASSO (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4884. Mr. BARRASSO (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4885. Mr. REID proposed an amendment to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

SA 4886. Mr. REID proposed an amendment to amendment SA 4885 proposed by Mr. REID to the bill H.R. 3082, supra.

SA 4887. Mr. REID proposed an amendment to the bill H.R. 3082, supra.

SA 4888. Mr. REID proposed an amendment to amendment SA 4887 proposed by Mr. REID to the bill H.R. 3082, supra.

SA 4889. Mr. REID proposed an amendment to amendment SA 4888 proposed by Mr. REID to the bill H.R. 3082, supra.

SA 4890. Mr. HARKIN (for Mr. REID) proposed an amendment to the bill H.R. 2751, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

SA 4891. Mr. HARKIN (for Mr. REID) proposed an amendment to the bill H.R. 2751, supra.

TEXT OF AMENDMENTS

SA 4854. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In Article II of the New START Treaty, amend paragraph 2 to read as follows:

2.(a) Subject to subparagraph (b), each Party shall have the right to determine for itself the composition and structure of its strategic offensive arms.

(b) Each Party undertakes not to produce, flight-test, or deploy silo-based ICBMs with more than one warhead. This limitation does not apply to existing types of ICBMs as of the date of the signature of this Treaty.

SA 4855. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In Part One of the Protocol to the New START Treaty, in paragraph 45. (35.), strike

"and the self-propelled device on which it is mounted" and insert "and the self-propelled device or railcar or flatcar on which it is mounted".

SA 4856. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In the preamble to the New START Treaty, insert after "reduction in nuclear arsenals at the turn of the 21st century" the following: ", as well as the negative effects on the world situation of the proliferation efforts of rogue regimes such as North Korea, Iran, Syria, Venezuela and others".

SA 4857. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In the preamble to the New START Treaty, strike "Expressing strong support for on-going global efforts in non-proliferation" and insert "Expressing the need for increased support for on-going global efforts in non-proliferation, especially in dealing with North Korea, Iran, Syria, Venezuela, and other rogue regimes".

SA 4858. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In Part One of the Protocol to the New START Treaty, in paragraph 57, (45)(c), insert "or railcar or flatcar" after "self-propelled device".

SA 4859. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (b) of the Resolution of Ratification, add the following:

(4) CONVENTIONAL PROMPT GLOBAL STRIKE SYSTEMS.—It is the understanding of the United States that conventional prompt global strike systems that may be deployed by the United States will not be counted towards the central limits of the New START Treaty pertaining to either delivery vehicles or warheads.

At the end of subsection (c), add the following:

(14) CONVENTIONAL PROMPT GLOBAL STRIKE SYSTEMS.—The Senate declares that the United States will work with the Russian Federation to allay any legitimate concerns the Russian Federation has about verification and notification related to conventional prompt global strike systems.

SA 4860. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) LIMITATION ON NUCLEAR-ARMED SEA-LAUNCHED CRUISE MISSILES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President has negotiated a legally binding side agreement with the Russian Federation that the Russian Federation will not deploy a significant number of nuclear-armed sea-launched cruise missiles during the duration of the New START Treaty.

SA 4861. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (b) of the Treaty of Ratification, add the following:

(4) TREATY EXTENSION.—It is the understanding of the United States that any extension of the New START Treaty under Article XIV may enter into force for the United States only with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

SA 4862. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Treaty of Ratification, add the following:

(11) TELEMETRIC EXCHANGES ON BALLISTIC MISSILES DEPLOYED BY THE RUSSIAN FEDERATION.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the Russian Federation has agreed that it will not deny telemetric exchanges on new ballistic missile systems it deploys during the duration of the New START Treaty.

SA 4863. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and

Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (b) of the Resolution of Ratification, add the following:

(4) CONVENTIONAL GLOBAL STRIKE CAPABILITIES.—In interpreting the authority of the Bilateral Consultative Commission under Part Six of the Protocol, it is the understanding of the United States that it shall not be in the jurisdiction of the Bilateral Consultative Commission to complete any agreement limiting the conventional global strike systems of the United States or otherwise limit the conventional global strike systems of the United States.

SA 4864. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(1) STRATEGIC NUCLEAR DELIVERY VEHICLES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) modernize or replace the triad of strategic nuclear delivery systems: a heavy bomber and air-launched cruise missile, an ICBM, and an SSBN and SLBM; and

(B) maintain the United States rocket motor industrial base.

SA 4865. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (b), add the following:

(4) MISSILE DEFENSE TARGET VEHICLES.—It is the understanding of the United States that missile defense target vehicles do not count against the United States limit on deployed or non-deployed ICBMs or SLBMs.

SA 4866. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (b) of the Resolution of Ratification, add the following:

(4) TELEMETRIC INFORMATION ON MISSILE DEFENSE SYSTEMS.—It is the understanding of the United States that the United States will not provide the Russian Federation any telemetric information on its missile defense systems for the duration of the New START Treaty.

SA 4867. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (b), of the Resolution of Ratification add the following:

(4) BILATERAL CONSULTATIVE COMMISSION.—It is the understanding of the United States that no provision adopted in the Bilateral Consultative Commission can take effect until 30 days after it has been notified to the majority and minority leaders, the Committees on Armed Services and Foreign Relations, and the National Security Working Group of the Senate.

SA 4868. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of condition (6) of subsection (a) of the Resolution of Ratification, add the following new subparagraph:

“(D) Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the Department of Defense will deploy conventional prompt global strike systems during the duration of the New START Treaty.”.

SA 4869. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (c) of the Resolution of Ratification, add the following:

(14) MODERNIZATION OF WARHEADS.—It is the sense of the Senate that modernization of warheads must be undertaken on a case-by-case basis using the full spectrum of life extension options available based on the best technical advice of the United States military and the national nuclear weapons laboratories.

SA 4870. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (b) of the Resolution of Ratification, add the following:

(4) MODERNIZATION.—It is the understanding of the United States that failure to fund the nuclear modernization plan would constitute a basis for United States withdrawal from the New START Treaty.

SA 4871. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (c) of the Resolution of Ratification, add the following:

(14) REDUCTIONS AND LIMITATIONS IN ARMED FORCES OR ARMAMENTS.—The Senate declares that any agreements obligating the United States to reduce or limit the Armed Forces or armaments, including the development and deployment of missile defenses or of any offensive or defensive space capabilities, of the United States in any manner may be made only pursuant to the treaty-making power of the President as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

SA 4872. Mr. CORNYN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In subsection (a) of the Resolution of Ratification, at the end of paragraph (9), add the following:

(C) If the President submits an annual budget request that fails to meet the resource requirements set forth in the President's 10-year plan, that shall constitute an extraordinary event that has jeopardized the supreme interests of the United States under Article XIV, paragraph 3 of the New START Treaty, and the President shall exercise the right to withdraw from the New START Treaty under Article XIV, paragraph 3 of the New START Treaty.

SA 4873. Mr. INHOFE submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) SPACE ARMS.—(A) Prior to entry into force of the New START Treaty, the President shall certify that the United States shall not be bound by any international agreement entered into by the President that would in any way limit the research, development, testing, or deployment of military space systems of the United States or that would limit the options of the United States military in operating such systems unless the agreement is entered pursuant to the treaty making power of the President as set forth in Article II, section 2, clause 2, of the Constitution of the United States.

(B) In this paragraph, the term “military space systems” means—

(i) weapon or non-weapon systems that are located in or transit space in order to perform military missions; and

(ii) systems that are located on or in or transit the land, sea, or air or operate in cyberspace that are used to support and control the systems that are located in or transit space.

SA 4874. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) CONSIDERATION OF TREATY BY DUMA.—The New START Treaty shall not enter into force until 180 days after the President certifies to the Senate that—

(A) the Russian Duma has completed the constitutional process necessary for ratification of the New START Treaty by the Russian Federation; and

(B) the Duma has not adopted, in its ratification of the New START Treaty, any resolution or other legislation containing any provision related to missile defense, prompt global strike capabilities, rail-mobile ICBMs, Treaty verification, or submarine launched cruise missiles that is in conflict or inconsistent with any provision of this resolution.

SA 4875. Mr. RISCH submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In subsection (c) of the Resolution of Ratification, strike paragraph (11) and insert the following:

(11) TACTICAL NUCLEAR WEAPONS.—

(A) DECLARATION.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the declaration that it is the sense of the Senate that—

(i) as the number of strategic nuclear weapons, both operationally deployed and non-deployed, are reduced, the implications of non-strategic nuclear weapons for strategic stability becomes more important, and it is regrettable, therefore, that the imbalance in United States and Russian non-strategic nuclear weapons, substantially in favor of the Russian Federation, was not addressed in the Treaty;

(ii) dealing with the imbalance in United States and Russian non-strategic nuclear weapons is urgent;

(iii) until the Russian Federation substantially reduces its non-strategic nuclear weapons in a transparent manner, the Senate shall not support future negotiations to further reduce the number of strategic nuclear weapons and delivery vehicles; and

(iv) recognizing the difficulty the United States has faced in ascertaining with confidence the number of tactical nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to seek an agreement with the Russian Federation with the objectives of—

(I) establishing cooperative measures to give each Party to the New START Treaty

improved confidence regarding the accurate accounting and security of tactical nuclear weapons maintained by the other Party;

(II) verifying that the Russian Federation has fulfilled the commitments it made under the President's Nuclear Initiatives in 1991 and 1992; and

(III) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its tactical nuclear weapons.

(B) CONDITIONS.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the condition that the President may not permanently remove United States tactical nuclear weapons in Europe until—

(i) tactical nuclear weapons of the Russian Federation are substantially reduced; and

(ii) the members of the North Atlantic Treaty Organization decide by consensus in favor of such removal.

SA 4876. Mr. RISCH submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (b) of the Resolution of Ratification, add the following:

(4) CONVENTIONAL PROMPT STRIKE.—It is the understanding of the United States that any additional New START Treaty limitations on the development or deployment of strategic-range, conventional weapons systems beyond those contained in paragraph 1. of Article II of the New START Treaty, including any limitations agreed under the auspices of the Bilateral Consultative Commission, would require an amendment to the New START Treaty which may enter into force for the United States only with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

SA 4877. Mr. RISCH submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In subsection (c) of the Resolution of Ratification, strike paragraph (13) and insert the following:

(13) MODERNIZATION AND REPLACEMENT OF UNITED STATES STRATEGIC DELIVERY VEHICLES.—

(A) DECLARATION.—In accordance with paragraph 1 of Article V of the New START Treaty, which states that, "Subject to the provisions of this Treaty, modernization and replacement of strategic offensive arms may be carried out," it is the sense of the Senate that—

(i) United States deterrence and flexibility is assured by a robust triad of strategic delivery vehicles; and

(ii) to this end, the United States is committed to accomplishing the modernization and replacement of its strategic nuclear delivery vehicles, and to ensuring the contin-

ued flexibility of United States conventional and nuclear delivery systems.

(B) CONDITION.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the condition that, not later than 60 days after exchanging the instruments of ratification, the President shall certify to the Senate that—

(i) the President has made a commitment to develop and deploy a next generation long-range nuclear-capable bomber, a new nuclear-capable air-launched cruise missile, and a modernized Minuteman III and successor system; and

(ii) the President is taking actions to preserve the rocket and missile industrial base of the United States and will pursue steps to maintain the nuclear weapons in the United States deterrent to the highest possible standards of safety, security, reliability, and credibility.

SA 4878. Mr. RISCH submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) RETURN OF STOLEN UNITED STATES MILITARY EQUIPMENT.—Prior to the entry into force of the New START Treaty, the President shall certify to the Committees on Armed Services and Foreign Relations of the Senate that the Russian Federation has returned to the United States all military equipment owned by the United States that was confiscated during the Russian invasion of the Republic of Georgia in August 2008.

SA 4879. Mr. RISCH submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) WITHDRAWAL OF RUSSIAN MILITARY FORCES FROM GEORGIA.—Prior to the entry into force of the New START Treaty, the President shall certify to the Committee on Foreign Relations of the Senate that the Russian Federation has fully honored its obligations under the ceasefire agreement of September 9, 2008, with the Republic of Georgia and withdrawn its military forces from the Georgian regions of Abkhazia and South Ossetia.

SA 4880. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) RECOVERY OF SA-24 MISSILES DELIVERED TO VENEZUELA.—The New START Treaty shall not enter into force until the President certifies to the Senate that the Russian Federation has recovered all SA-24 missiles delivered to the Government of Venezuela.

SA 4881. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) PROHIBITION ON SALE OF S-300 MISSILE SYSTEM TO VENEZUELA.—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the Russian Federation has no plans to sell the S-300 missile system to the Government of Venezuela and that it has guaranteed the United States that it will not sell the S-300 missile system to the Government of Venezuela.

SA 4882. Mr. BARRASSO (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) MODERNIZING ICBMS.—(A) The United States is committed to maintaining and modernizing a robust land-based strategic nuclear deterrent force. The Intercontinental Ballistic Missiles (ICBM) force of the United States is the most stabilizing leg of the nuclear triad. ICBMs are safe, reliable, available, and cost effective. A total of 450 Deployed and Non-Deployed ICBMs are critical to our national security.

(B) Prior to entry into force of the New START Treaty, the President shall certify to the Senate that—

(i) the Department of Defense will maintain 450 Minuteman ICBMs as part of the 700 Deployed and 800 Deployed and Non-Deployed Strategic Nuclear Delivery Vehicles (SNDVs); and

(ii) the President will modernize command and control infrastructure to support existing ICBM launchers.

SA 4883. Mr. BARRASSO (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) ICBM FOLLOW-ON.—(A) The United States is committed to maintaining and

modernizing a robust land-based strategic nuclear deterrent force. The Intercontinental Ballistic Missiles (ICBM) force of the United States is the most stabilizing leg of the nuclear triad. ICBMs are safe, reliable, available, and cost effective. ICBMs are critical to our national security.

(B) Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the President will review alternatives for an ICBM follow-on system that do not consider continued reductions in our land-based strategic nuclear deterrent.

SA 4884. Mr. BARRASSO (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(1) **PRESERVING ICBMS.**—(A) The United States is committed to maintaining and modernizing a robust land-based strategic nuclear deterrent force. The Intercontinental Ballistic Missiles (ICBM) force of the United States is the most stabilizing leg of the nuclear triad. ICBMs are safe, reliable, available, and cost effective. ICBMs are critical to our national security.

(B) Prior to entry into force of the New START Treaty, the President shall certify to the Senate that—

(i) the President will deploy not fewer than 450 ICBMs; and

(ii) the President has taken action to maintain and modernize 450 ICBMs.

SA 4885. Mr. REID proposed an amendment to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—CONTINUING APPROPRIATIONS AMENDMENTS

SECTION 1. (a) The Continuing Appropriations Act, 2011 (Public Law 111-242) is further amended by—

(1) striking the date specified in section 106(3) and inserting “March 4, 2011”; and

(2) adding the following:

“SEC. 147. (a) For the purposes of this section—

“(1) the term ‘employee’—

“(A) means an employee as defined in section 2105 of title 5, United States Code; and

“(B) includes an individual to whom subsection (b), (c), or (f) of such section 2105 pertains (whether or not such individual satisfies subparagraph (A));

“(2) the term ‘senior executive’ means—

“(A) a member of the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code;

“(B) a member of the FBI-DEA Senior Executive Service under subchapter III of chapter 31 of title 5, United States Code;

“(C) a member of the Senior Foreign Service under chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following); and

“(D) a member of any similar senior executive service in an Executive agency;

“(3) the term ‘senior-level employee’ means an employee who holds a position in an Executive agency and who is covered by section 5376 of title 5, United States Code, or any similar authority; and

“(4) the term ‘Executive agency’ has the meaning given such term by section 105 of title 5, United States Code.

“(b)(1) Notwithstanding any other provision of law, except as provided in subsection (e), no statutory pay adjustment which (but for this subsection) would otherwise take effect during the period beginning on January 1, 2011, and ending on December 31, 2012, shall be made.

“(2) For purposes of this subsection, the term ‘statutory pay adjustment’ means—

“(A) an adjustment required under section 5303, 5304, 5304a, 5318, or 5343(a) of title 5, United States Code; and

“(B) any similar adjustment, required by statute, with respect to employees in an Executive agency.

“(c) Notwithstanding any other provision of law, except as provided in subsection (e), during the period beginning on January 1, 2011, and ending on December 31, 2012, no senior executive or senior-level employee may receive an increase in his or her rate of basic pay absent a change of position that results in a substantial increase in responsibility, or a promotion.

“(d) The President may issue guidance that Executive agencies shall apply in the implementation of this section.

“(e) The Non-Foreign Area Retirement Equity Assurance Act of 2009 (5 U.S.C. 5304 note) shall be applied using the appropriate locality-based comparability payments established by the President as the applicable comparability payments in section 1914(2) and (3) of such Act.

“SEC. 148. Notwithstanding section 101, the level for ‘Department of Commerce, National Telecommunications and Information Administration, Salaries and Expenses’ shall be \$40,649,000.

“SEC. 149. The following authorities shall continue in effect through the earlier of the date specified in section 106(3) of this Act or the date of enactment of the National Defense Authorization Act for Fiscal Year 2011:

“(1) Section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2042), as amended by section 1011 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2441);

“(2) Section 1022 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 10 U.S.C. 371 note), as amended by section 1012 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2441);

“(3) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85), as amended by section 1014 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2442);

“(4) Sections 611, 612, 613, 614, 615, 616, 1106, 1222(e), 1224 and 1234 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84);

“(5) Section 631 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181); and

“(6) Section 931 of the National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364).

“SEC. 150. Subject to the availability of appropriations, the Secretary of the Navy may

award a contract or contracts for up to 20 Littoral Combat Ships (LCS).

“SEC. 151. Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

“(1) in clause (i), by striking ‘October 1, 2010’ and inserting ‘December 31, 2011’; and

“(2) in clause (ii)—

“(A) by striking ‘February 1, 2011’ and inserting ‘February 1, 2012’; and

“(B) by striking ‘October 1, 2010’ and inserting ‘December 31, 2011’.

“SEC. 152. Notwithstanding section 101, the level for ‘Special Inspector General for the Troubled Asset Relief Program, Salaries and Expenses’ shall be \$36,300,000.

“SEC. 153. Public Law 111-240 is amended in section 1114 and section 1704 by striking ‘December 31, 2010’ and inserting ‘March 4, 2011’ each time it appears and in section 1704 by adding at the end the following:

“(c) For purposes of the loans made under this section, the maximum guaranteed amount outstanding to the borrower may not exceed \$4,500,000.”

“SEC. 154. The appropriation to the Securities and Exchange Commission pursuant to this Act shall be deemed a regular appropriation for purposes of section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) and sections 13(e), 14(g), and 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e), 78n(g), and 78ee).

“SEC. 155. Section 302 of the Universal Service Antideficiency Temporary Suspension Act is amended by striking ‘December 31, 2010’ each place it appears and inserting ‘December 31, 2011’.

“SEC. 156. Notwithstanding section 503 of Public Law 111-83, amounts made available in this Act for the Transportation Security Administration shall be available for transfer between and within Transportation Security Administration appropriations to the extent necessary to avoid furloughs or reduction in force, or to provide funding necessary for programs and activities required by law: *Provided*, That such transfers may not result in the termination of programs, projects or activities: *Provided further*, That the House and Senate Appropriations Committees shall be notified within 15 days of such transfers.

“SEC. 157. Up to \$21,880,000 from ‘Coast Guard, Acquisition, Construction, and Improvements’ and ‘Coast Guard, Alteration of Bridges’ may be transferred to ‘Coast Guard, Operating Expenses’: *Provided*, That the Coast Guard may decommission one Medium Endurance Cutter, two High Endurance Cutters, four HU-25 aircraft, the Maritime Intelligence Fusion Center, and one Maritime Safety and Security Team, and make staffing changes at the Coast Guard Investigative Service, as outlined in its budget justification documents for fiscal year 2011 as submitted to the Committees on Appropriations of the Senate and House of Representatives.

“SEC. 158. Notwithstanding section 101, the final proviso under the heading ‘Science and Technology, Research, Development, Acquisition, and Operations’ in Public Law 111-83 (related to the National Bio- and Agro-defense Facility) shall have no effect with respect to all amounts available under this heading.

“SEC. 159. Notwithstanding sections 101 and 128, amounts are provided for ‘Department of the Interior—Minerals Management Service—Royalty and Offshore Minerals Management’ in the manner authorized in Public Law 111-88 for fiscal year 2010, except that for fiscal year 2011 the amounts specified in division A of Public Law 111-88 shall be modified by substituting—

“(1) ‘\$200,110,000’ for ‘\$175,217,000’;

“(2) ‘\$102,231,000’ for ‘\$89,374,000’;
“(3) ‘\$154,890,000’ for ‘\$156,730,000’ each place it appears; and

“(4) ‘fiscal year 2011’ shall be substituted for ‘fiscal year 2010’ each place it appears.

“SEC. 160. The Secretary of the Interior, in order to implement a reorganization of the Bureau of Ocean Energy Management, Regulation, and Enforcement, may establish accounts, transfer funds among and between the offices and bureaus affected by the reorganization, and take any other administrative actions necessary in conformance with the Appropriations Committee reprogramming procedures described in the joint explanatory statement of the managers accompanying Public Law 111-88 (House of Representatives Report 111-316).

“SEC. 161. Notwithstanding section 101, section 423 of Public Law 111-88 (123 Stat. 2961), concerning the distribution of geothermal energy receipts, shall have no force or effect and the provisions of section 3003(a) of Public Law 111-212 (124 Stat. 2338) shall apply for fiscal year 2011.

“SEC. 162. Notwithstanding section 109, of the funds made available by section 101 for payments under subsections (b) and (d) of section 2602 of the Low Income Home Energy Assistance Act of 1981, the Department of Health and Human Services shall obligate the same amount during the period covered by this continuing resolution as was obligated for such purpose during the comparable period during fiscal year 2010.

“SEC. 163. (a) A ‘highly qualified teacher’ includes a teacher who meets the requirements in 34 C.F.R. 200.56(a)(2)(ii), as published in the Federal Register on December 2, 2002.

“(b) This provision is effective on the date of enactment of this provision through the end of the 2012-2013 academic year.

“SEC. 164. (a) Notwithstanding section 101, the level for ‘Department of Education, Student Financial Assistance’ to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be \$23,162,000,000.

“(b) The maximum Pell Grant for which a student shall be eligible during award year 2011-2012 shall be \$4,860.

“SEC. 165. (a) Notwithstanding section 1018(d) of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1907(d)), the use of any funds appropriated to the United States Capitol Police during fiscal year 2003 for transfer relating to the Truck Interdiction Monitoring Program to the working capital fund established under section 328 of title 49, United States Code, is ratified.

“(b) Nothing in subsection (a) may be construed to waive sections 1341, 1342, 1349, 1350, or 1351 of title 31, United States Code, or subchapter II of chapter 15 of such title (commonly known as the ‘Anti-Deficiency Act’).

“(c) Notwithstanding section 106 of this Act, the use of the funds described under subsection (a) of this section shall apply without fiscal year limitation.

“SEC. 166. Notwithstanding section 101, amounts are provided for ‘Department of Veterans Affairs, Departmental Administration, General Operating Expenses’ at a rate for operations of \$2,546,276,000, of which not less than \$2,148,776,000 shall be for the Veterans Benefits Administration.”

(b) This section may be cited as the “Continuing Appropriations Amendments, 2011”.

TITLE II—EXTENSION OF CURRENT SURFACE TRANSPORTATION PROGRAMS

SEC. 2001. SHORT TITLE; RECONCILIATION OF FUNDS.

(a) This title may be cited as the “Surface Transportation Extension Act of 2010, Part II”.

(b) RECONCILIATION OF FUNDS.—The Secretary of Transportation shall reduce the amount apportioned or allocated for a program, project, or activity under this title in fiscal year 2011 by amounts apportioned or allocated pursuant to the Surface Transportation Extension Act of 2010 for the period beginning on October 1, 2010, and ending on December 31, 2010.

Subtitle A—Federal-Aid Highways

SEC. 2101. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.

(a) IN GENERAL.—Section 411 of the Surface Transportation Extension Act of 2010 (Public Law 111-147; 124 Stat. 78) is amended—

(1) by striking “the period beginning on October 1, 2010, and ending on December 31, 2010” each place it appears (except in subsection (c)(2)) and inserting “the period beginning on October 1, 2010, and ending on March 4, 2011”;

(2) in subsection (a) by striking “December 31, 2010” and inserting “March 4, 2011”;

(3) in subsection (b)(2) by striking “¼” and inserting “¹⁵⁵/₃₆₅”;

(4) in subsection (c)—

(A) in paragraph (2)—

(i) by striking “¼” and inserting “¹⁵⁵/₃₆₅”; and

(ii) by striking “the period beginning on October 1, 2010, and ending on December 31, 2010,” and inserting “the period beginning on October 1, 2010, and ending on March 4, 2011”;

(B) in paragraph (4)—

(i) in subparagraph (A)(i) by striking “¼” and inserting “¹⁵⁵/₃₆₅”; and

(ii) in subparagraph (B)(i)(II) by striking “\$159,750,000” and inserting “\$271,356,164”; and

(C) in paragraph (5) by striking “¼” and inserting “¹⁵⁵/₃₆₅”;

(5) in subsection (d)—

(A) by striking “¼” each place it appears and inserting “¹⁵⁵/₃₆₅”; and

(B) in paragraph (2)(A)—

(i) in the matter preceding clause (i) by striking “apportioned under sections 104(b) and 144 of title 23, United States Code,” and inserting “specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),”; and

(ii) in clause (ii) by striking “apportioned under such sections of such Code” and inserting “specified in such section 105(a)(2) (except the high priority projects program),”; and

(6) in subsection (e)(1)(B) by striking “¼” and inserting “¹⁵⁵/₃₆₅”.

(b) ADMINISTRATIVE EXPENSES.—Section 412(a)(2) of the Surface Transportation Extension Act of 2010 (Public Law 111-147; 124 Stat. 83) is amended—

(1) by striking “\$105,606,250” and inserting “\$179,385,959”; and

(2) by striking “the period beginning on October 1, 2010, and ending on December 31, 2010,” and inserting “the period beginning on October 1, 2010, and ending on March 4, 2011”.

Subtitle B—Extension of National Highway Traffic Safety Administration, Federal Motor Carrier Safety Administration, and Additional Programs

SEC. 2201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2001(a)(1) of SAFETEA-LU (119 Stat. 1519) is amended by striking “and \$58,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010,” and inserting “and \$99,795,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.”

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2001(a)(2) of SAFETEA-LU

(119 Stat. 1519) is amended by striking “and \$27,061,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$45,967,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.”

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2001(a)(3) of SAFETEA-LU (119 Stat. 1519) is amended by striking “and \$6,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$10,616,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.”

(d) SAFETY BELT PERFORMANCE GRANTS.—Section 2001(a)(4) of SAFETEA-LU (119 Stat. 1519) is amended by striking “and \$31,125,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$52,870,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.”

(e) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA-LU (119 Stat. 1519) is amended by striking “and \$8,625,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$14,651,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.”

(f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—Section 2001(a)(6) of SAFETEA-LU (119 Stat. 1519) is amended by striking “and \$34,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$59,027,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.”

(g) NATIONAL DRIVER REGISTER.—Section 2001(a)(7) of SAFETEA-LU (119 Stat. 1520) is amended by striking “and \$1,029,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$1,748,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.”

(h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—Section 2001(a)(8) of SAFETEA-LU (119 Stat. 1520) is amended by striking “and \$7,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$12,315,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.”

(i) MOTORCYCLIST SAFETY.—Section 2001(a)(9) of SAFETEA-LU (119 Stat. 1520) is amended by striking “and \$1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$2,973,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.”

(j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—Section 2001(a)(10) of SAFETEA-LU (119 Stat. 1520) is amended by striking “and \$1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$2,973,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.”

(k) ADMINISTRATIVE EXPENSES.—Section 2001(a)(11) of SAFETEA-LU (119 Stat. 1520) is amended by striking “and \$6,332,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$10,756,000 for the period beginning on October 1, 2010, and ending on March 4, 2011.”

SEC. 2202. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.

(a) MOTOR CARRIER SAFETY GRANTS.—Section 31104(a)(7) of title 49, United States

Code, is amended by striking “\$52,679,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “\$88,753,000 for the period beginning October 1, 2010, and ending on March 4, 2011.”.

(b) ADMINISTRATIVE EXPENSES.—Section 31104(i)(1)(G) of title 49, United States Code, is amended by striking “\$61,036,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “\$103,678,000 for the period beginning October 1, 2010, and ending on March 4, 2011.”.

(c) GRANT PROGRAMS.—Section 4101(c) of SAFETEA-LU (119 Stat. 1715) is amended—

(1) in paragraph (1)—

(A) by striking “and” after “2009.”; and

(B) by striking “and \$6,301,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$10,616,000 for the period beginning October 1, 2010, and ending on March 4, 2011.”;

(2) in paragraph (2) by striking “and \$8,066,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$13,589,000 for the period beginning October 1, 2010, and ending on March 4, 2011.”;

(3) in paragraph (3) by striking “and \$1,260,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$2,123,000 for the period beginning October 1, 2010, and ending on March 4, 2011.”;

(4) in paragraph (4) by striking “and \$6,301,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$10,616,000 for the period beginning October 1, 2010, and ending on March 4, 2011.”; and

(5) in paragraph (5) by striking “and \$756,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$1,274,000 for the period beginning October 1, 2010, and ending on March 4, 2011.”.

(d) HIGH-PRIORITY ACTIVITIES.—Section 31104(k)(2) of title 49, United States Code, is amended by striking “2009, \$15,000,000 for fiscal year 2010, and \$3,781,000 for the period beginning on October 1, 2010, and ending on December 31, 2010” and inserting “2010 and \$6,370,000 for the period beginning October 1, 2010, and ending on March 4, 2011”.

(e) NEW ENTRANT AUDITS.—Section 31144(g)(5)(B) of title 49, United States Code, is amended by striking “(and up to \$7,310,000 for the period beginning on October 1, 2010, and ending on December 31, 2010)” and inserting “(and up to \$12,315,000 for the period beginning October 1, 2010, and ending on March 4, 2011)”.

(f) COMMERCIAL DRIVER’S LICENSE INFORMATION SYSTEM MODERNIZATION.—Section 4123(d)(6) of SAFETEA-LU (119 Stat. 1736) is amended by striking “\$2,016,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$3,397,260 for the period beginning October 1, 2010, and ending on March 4, 2011.”.

(g) OUTREACH AND EDUCATION.—Section 4127(e) of SAFETEA-LU (119 Stat. 1741) is amended by striking “and 2010” and all that follows before “to carry out” and inserting “2010, and \$425,545 to the Federal Motor Carrier Safety Administration, and \$1,274,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2010, and ending on March 4, 2011.”.

(h) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134(c) of SAFETEA-LU (119 Stat. 1744) is amended by striking “\$252,000 for the period beginning on October 1, 2010, and ending on December 31, 2010,” and inserting “\$425,545 for the pe-

riod beginning on October 1, 2010, and ending on March 4, 2011.”.

(i) MOTOR CARRIER SAFETY ADVISORY COMMITTEE.—Section 4144(d) of SAFETEA-LU (119 Stat. 1748) is amended by striking “December 31, 2010” and inserting “March 4, 2011”.

(j) WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.—Section 4213(d) of SAFETEA-LU (49 U.S.C. 14710 note; 119 Stat. 1759) is amended by striking “December 31, 2010” and inserting “March 4, 2011”.

SEC. 2203. ADDITIONAL PROGRAMS.

(a) HAZARDOUS MATERIALS RESEARCH PROJECTS.—Section 7131(c) of SAFETEA-LU (119 Stat. 1910) is amended by striking “through 2010” and all that follows before “shall be available” and inserting “through 2010 and \$531,000 for the period beginning on October 1, 2010, and ending on March 4, 2011”.

(b) DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a) by striking “For each of fiscal years 2006” and all that follows before paragraph (1) and inserting the following: “For each of fiscal years 2006 through 2010, and for the period beginning on October 1, 2010, and ending on March 4, 2011 the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:”; and

(2) in subsection (b)(1)(A) by striking the first sentence and inserting the following: “From the annual appropriation made in accordance with section 3, for each of fiscal years 2006 through 2010, and for the period beginning on October 1, 2010, and ending on March 4, 2011, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this Act, in accordance with this section and section 9.”.

(c) SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.—Section 327(i)(1) of title 23, United States Code, is amended by striking “6 years after” and inserting “7 years after”.

(d) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.—Section 510 of title 23, United States Code, is amended by adding at the end the following:

“(h) IMPLEMENTATION.—Notwithstanding any other provision of this section, the Secretary may use funds made available to carry out this section for implementation of research products related to the future strategic highway research program, including development, demonstration, evaluation, and technology transfer activities.”.

Subtitle C—Public Transportation Programs

SEC. 2301. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.

Section 5305(g) of title 49, United States Code, is amended by striking “December 31, 2010” and inserting “March 4, 2011”.

SEC. 2302. SPECIAL RULE FOR URBANIZED FORMULA GRANTS.

Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the paragraph heading, by striking “DECEMBER 31, 2010” and inserting “MARCH 4, 2011”; and

(2) in subparagraph (A) by striking “December 31, 2010” and inserting “March 4, 2011”; and

(3) in subparagraph (E)—

(A) in the paragraph heading, by striking “DECEMBER 31, 2010” and inserting “MARCH 4, 2011”; and

(B) in the matter preceding clause (i) by striking “December 31, 2010” and inserting “March 4, 2011”.

SEC. 2303. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.

Section 5309(m) of such title is amended—

(1) In paragraph (2)—

(A) in the paragraph heading by striking “DECEMBER 31, 2010” and inserting “MARCH 4, 2011”; and

(B) in the matter preceding paragraph (A) by striking “December 31, 2010” and inserting “March 4, 2011”; and

(C) in subparagraph (A)(i), by striking “\$50,000,000 for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$84,931,000 for the period beginning October 1, 2010 and ending March 4, 2011”.

(2) in paragraph (6)—

(A) in subparagraph (B) by striking “\$3,750,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010” and inserting “\$6,369,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011”; and

(B) in subparagraph (C) by striking “\$1,250,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010” and inserting “\$2,123,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011”.

(3) in paragraph (7)—

(A) in clause (ii) of subparagraph (A)—

(i) in the clause heading, by striking “DECEMBER 31, 2010” and inserting “MARCH 4, 2011”; and

(ii) by striking “\$2,500,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010” and inserting “\$4,246,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011”; and

(iii) by striking “25 percent” and inserting “¹⁵⁵/_{665ths}”.

(4) in subparagraph (B), by amending clause (vi) to read, “\$5,732,000 for the period beginning October 1, 2010 and ending March 4, 2011”.

(5) in subparagraph (C) by striking “December 31, 2010” and inserting “March 4, 2011”.

(6) in subparagraph (D) by striking “\$8,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$14,863,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011”; and

(7) in subparagraph (E) by striking “\$750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$1,273,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011”.

SEC. 2304. APPORTIONMENT OF FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

Section 5311(c)(1)(F) of title 49, United States Code, is amended to read as follows:

“(F) \$6,369,000 for the period beginning October 1, 2010 and ending March 4, 2011.”.

SEC. 2305. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.

Section 5337(g) of title 49, United States Code, is amended to read as follows:

“(g) SPECIAL RULE FOR OCTOBER 1, 2010, THROUGH MARCH 4, 2011.—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning October 1, 2010, and ending March 4, 2011, in accordance with subsection (a), except that the Secretary shall apportion ¹⁵⁵/_{665ths} of each dollar amount specified in subsection (a).”.

SEC. 2306. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.

(a) **FORMULA AND BUS GRANTS.**—Section 5338(b) of title 49, United States Code, is amended—

(1) By amending paragraph (1)(F) as follows:

“(F) \$3,550,376,000 for the period beginning October 1, 2010, and ending March 4, 2011.”.

(2) in paragraph (2)—

(A) in subparagraph (A) by striking “\$28,375,000 for the period beginning October 1, 2010, and ending December 31, 2010” and by inserting “\$48,198,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(B) in subparagraph (B) by striking “\$1,040,091,250 for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$1,766,730,000 for the period beginning October 1, 2010, and ending March 4, 2011”;

(C) in subparagraph (C) by striking “\$12,875,000 for the period beginning October 1, 2010, and ending December 31, 2010” and by inserting “\$21,869,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(D) in subparagraph (D) by striking “\$416,625,000 for the period beginning October 1, 2010 and ending December 31, 2010” and by inserting “\$707,691,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(E) in subparagraph (E) by striking “\$246,000,000 for the period beginning October 1, 2010 and ending December 31, 2010” and inserting “\$417,863,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(F) in subparagraph (F) by striking “\$33,375,000 for the period beginning October 1, 2010 and ending December 31, 2010” and inserting “\$56,691,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(G) in subparagraph (G) by striking “\$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010” and inserting “\$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(H) in subparagraph (H) by striking “\$41,125,000 for the period beginning October 1, 2010 and ending December 31, 2010” and inserting “\$69,856,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(I) in subparagraph (I) by striking “\$23,125,000 for the period beginning October 1, 2010 and ending December 31, 2010” and inserting “\$39,280,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(J) in subparagraph (J) by striking “\$6,725,000 for the period beginning October 1, 2010 and ending December 31, 2010” and by inserting “\$11,423,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(K) in subparagraph (K) by striking “\$875,000 for the period beginning October 1, 2010 and ending December 31, 2010” and by inserting “\$1,486,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(L) in subparagraph (L) by striking “\$6,250,000 for the period beginning October 1, 2010 and ending December 31, 2010” and by inserting “\$10,616,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(M) in subparagraph (M) by striking “\$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010” and by inserting “\$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(N) in subparagraph (N) by striking “\$2,200,000 for the period beginning October 1, 2010 and ending December 31, 2010” and by

inserting “\$3,736,000 for the period beginning October 1, 2010 and ending March 4, 2011”.

(b) **CAPITAL INVESTMENT GRANTS.**—Section 5338(c)(6) of title 49 United States Code, is amended to read as follows:

“(6) \$849,315,000 for the period of October 1, 2010 through March 4, 2011.”.

(c) **RESEARCH AND UNIVERSITY RESEARCH CENTERS.**—Section 5338(d) of title 49, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking “\$17,437,500 for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$29,619,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(2) paragraph (3)(A)(ii) is amended to read as follows:

“(ii) **OCTOBER 1, 2010 THROUGH MARCH 4, 2011.**—Of amounts authorized to be appropriated for the period beginning October 1, 2010, through March 4, 2011, under paragraph (1), the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to $\frac{155}{365}$ ths of the amount allocated for fiscal year 2009 under each such subparagraph.”.

(3) Paragraph (3)(B)(ii) is amended to read as follows:

“(ii) **OCTOBER 1, 2010 THROUGH MARCH 4, 2011.**—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for the period beginning October 1, 2010, and ending March 4, 2011, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to $\frac{155}{365}$ ths of the amount allocated for fiscal year 2009 under each such clause.”.

(4) In clause (3)(B)(iii)—

(A) by striking “2010” and inserting “2011”;

and

(B) by striking “2009” and inserting “2010”.

(d) **ADMINISTRATION.**—Section 5338(e)(6) of title 49, United States Code, is amended to read as follows—

“(6) \$42,003,000 for the period of October 1, 2010 through March 4, 2011.”.

SEC. 2307. AMENDMENTS TO SAFETEA-LU.

(a) **CONTRACTED PARATRANSIT PILOT.**—Section 3009(i)(1) of SAFETEA-LU (Public Law 109-59; 119 Stat. 1572) is amended by striking “December 31, 2010” and inserting “March 4, 2011”.

(b) **PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.**—Section 3011 of the SAFETEA-LU (49 U.S.C. 5309 note) is amended—

(1) in subsection (c)(5), by striking “December 31, 2010” and inserting “March 4, 2011”;

(2) in subsection (d), by striking “December 31, 2010” and inserting “March 4, 2011”.

(c) **ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.**—Section 3012(b)(8) of the SAFETEA-LU (49 U.S.C. 5310 note) is amended by striking “December 31, 2010” and inserting “March 4, 2011”.

(d) **OBLIGATION CEILING.**—Section 3040(7) of the SAFETEA-LU (Public Law 109-59; 119 Stat. 1639, is amended to read as follows—

“(7) \$4,462,196,000 for the period beginning October 1, 2010, and ending March 4, 2011, of which not more than \$3,550,376,000 shall be from the Mass Transit Account.”.

(e) **PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.**—Section 3043 of SAFETEA-LU (Public Law 109-59; 119 Stat. 1640) is amended in subsections (b) and (c) by striking “December 31, 2010” and inserting “March 4, 2011”.

(f) **ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.**—Section 3046 of

SAFETEA-LU (49 U.S.C. 5338; 119 Stat. 1706) is amended—

(1) in subsection (c)(2), by striking “December 31, 2010” and inserting “March 4, 2011”, and by striking “25 percent” and inserting “ $\frac{155}{365}$ ths”.

(2) In subsection (d)—

(A) by striking “2010” and inserting “2011”;

and

(B) by striking “2009” and inserting “2010”.

SEC. 2308. LEVEL OF OBLIGATION LIMITATIONS.

(a) **HIGHWAY CATEGORY.**—Section 8003(a) of SAFETEA-LU (2 U.S.C. 901 note; 119 Stat. 1917) is amended—

(1) in paragraph (6) by striking “for the period beginning on October 1, 2009, and ending on September 30, 2010,” and inserting “for fiscal year 2010,”; and

(2) by striking paragraph (7) and inserting the following:

“(7) for the period beginning October 1, 2010, and ending on March 4, 2011, \$18,035,192,815.”.

(b) **MASS TRANSIT CATEGORY.**—Section 8003(b) of SAFETEA-LU (2 U.S.C. 901 note; 119 Stat. 1917) is amended—

(1) in paragraph (6) by striking “for the period beginning on October 1, 2009, and ending on December 31, 2010,” and inserting “for fiscal year 2010,”; and

(2) by striking paragraph (7) and inserting the following:

“(7) for the period beginning October 1, 2010, and ending on March 4, 2011, \$4,390,137,192.”.

Subtitle D—Extension of Expenditure Authority**SEC. 2401. EXTENSION OF EXPENDITURE AUTHORITY.**

(a) **HIGHWAY TRUST FUND.**—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking “December 31, 2010 (January 1, 2011, in the case of expenditures for administrative expenses)” in subsections (b)(6)(B) and (c)(1) and inserting “March 5, 2011”;

(2) by striking “the Surface Transportation Extension Act of 2010” in subsections (c)(1) and (e)(3) and inserting “the Surface Transportation Extension Act of 2010, Part II”; and

(3) by striking “January 1, 2011” in subsection (e)(3) and inserting “March 5, 2011”.

(b) **SPORT FISH RESTORATION AND BOATING TRUST FUND.**—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Surface Transportation Extension Act of 2010” each place it appears in subsection (b)(2) and inserting “Surface Transportation Extension Act of 2010, Part II”; and

(2) by striking “January 1, 2011” in subsection (d)(2) and inserting “March 5, 2011”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on December 31, 2010.

This Act may be cited as the “Continuing Appropriations and Surface Transportation Extensions Act, 2011”.

SA 4886. Mr. REID proposed an amendment to amendment SA 4885 proposed by Mr. REID to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end, insert the following:

“the provisions of this Act shall become effective within 5 days of enactment.

SA 4887. Mr. REID proposed an amendment to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end, insert the following:

The Senate Appropriations Committee is required to study the impact on any delay in extending government funding for all federal agencies, and that the study should be concluded within 10 days of enactment.

SA 4888. Mr. REID proposed an amendment to amendment SA 4887 proposed by Mr. REID to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

In the amendment, strike “10” and insert “6”.

SA 4889. Mr. REID proposed an amendment to amendment SA 4888 proposed by Mr. REID to the amendment SA 4887 proposed by Mr. REID to the bill H.R. 3082, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes; as follows:

In the amendment, strike “6” and insert “4”.

SA 4890. Mr. HARKIN (for Mr. REID) proposed an amendment to the bill H.R. 2751, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “FDA Food Safety Modernization Act”.

(b) **REFERENCES.**—Except as otherwise specified, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—IMPROVING CAPACITY TO PREVENT FOOD SAFETY PROBLEMS

Sec. 101. Inspections of records.
 Sec. 102. Registration of food facilities.
 Sec. 103. Hazard analysis and risk-based preventive controls.
 Sec. 104. Performance standards.
 Sec. 105. Standards for produce safety.
 Sec. 106. Protection against intentional adulteration.
 Sec. 107. Authority to collect fees.
 Sec. 108. National agriculture and food defense strategy.
 Sec. 109. Food and Agriculture Coordinating Councils.
 Sec. 110. Building domestic capacity.
 Sec. 111. Sanitary transportation of food.
 Sec. 112. Food allergy and anaphylaxis management.

Sec. 113. New dietary ingredients.

Sec. 114. Requirement for guidance relating to post harvest processing of raw oysters.

Sec. 115. Port shopping.

Sec. 116. Alcohol-related facilities.

TITLE II—IMPROVING CAPACITY TO DETECT AND RESPOND TO FOOD SAFETY PROBLEMS

Sec. 201. Targeting of inspection resources for domestic facilities, foreign facilities, and ports of entry; annual report.

Sec. 202. Laboratory accreditation for analyses of foods.

Sec. 203. Integrated consortium of laboratory networks.

Sec. 204. Enhancing tracking and tracing of food and recordkeeping.

Sec. 205. Surveillance.

Sec. 206. Mandatory recall authority.

Sec. 207. Administrative detention of food.

Sec. 208. Decontamination and disposal standards and plans.

Sec. 209. Improving the training of State, local, territorial, and tribal food safety officials.

Sec. 210. Enhancing food safety.

Sec. 211. Improving the reportable food registry.

TITLE III—IMPROVING THE SAFETY OF IMPORTED FOOD

Sec. 301. Foreign supplier verification program.

Sec. 302. Voluntary qualified importer program.

Sec. 303. Authority to require import certifications for food.

Sec. 304. Prior notice of imported food shipments.

Sec. 305. Building capacity of foreign governments with respect to food safety.

Sec. 306. Inspection of foreign food facilities.

Sec. 307. Accreditation of third-party auditors.

Sec. 308. Foreign offices of the Food and Drug Administration.

Sec. 309. Smuggled food.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Funding for food safety.

Sec. 402. Employee protections.

Sec. 403. Jurisdiction; authorities.

Sec. 404. Compliance with international agreements.

Sec. 405. Determination of budgetary effects.

TITLE I—IMPROVING CAPACITY TO PREVENT FOOD SAFETY PROBLEMS

SEC. 101. INSPECTIONS OF RECORDS.

(a) **IN GENERAL.**—Section 414(a) (21 U.S.C. 350c(a)) is amended—

(1) by striking the heading and all that follows through “of food is” and inserting the following: “RECORDS INSPECTION.—

“(1) **ADULTERATED FOOD.**—If the Secretary has a reasonable belief that an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, is”;

(2) by inserting “, and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner,” after “relating to such article”;

(3) by striking the last sentence; and

(4) by inserting at the end the following:

“(2) **USE OF OR EXPOSURE TO FOOD OF CONCERN.**—If the Secretary believes that there is a reasonable probability that the use of or exposure to an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar

manner, will cause serious adverse health consequences or death to humans or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, that are needed to assist the Secretary in determining whether there is a reasonable probability that the use of or exposure to the food will cause serious adverse health consequences or death to humans or animals.

“(3) **APPLICATION.**—The requirement under paragraphs (1) and (2) applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.”.

(b) **CONFORMING AMENDMENT.**—Section 704(a)(1)(B) (21 U.S.C. 374(a)(1)(B)) is amended by striking “section 414 when” and all that follows through “subject to” and inserting “section 414, when the standard for records inspection under paragraph (1) or (2) of section 414(a) applies, subject to”.

SEC. 102. REGISTRATION OF FOOD FACILITIES.

(a) **UPDATING OF FOOD CATEGORY REGULATIONS; BIENNIAL REGISTRATION RENEWAL.**—Section 415(a) (21 U.S.C. 350d(a)) is amended—

(1) in paragraph (2), by—

(A) striking “conducts business and” and inserting “conducts business, the e-mail address for the contact person of the facility or, in the case of a foreign facility, the United States agent for the facility, and”; and

(B) inserting “, or any other food categories as determined appropriate by the Secretary, including by guidance” after “Code of Federal Regulations”;

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

“(3) **BIENNIAL REGISTRATION RENEWAL.**—During the period beginning on October 1 and ending on December 31 of each even-numbered year, a registrant that has submitted a registration under paragraph (1) shall submit to the Secretary a renewal registration containing the information described in paragraph (2). The Secretary shall provide for an abbreviated registration renewal process for any registrant that has not had any changes to such information since the registrant submitted the preceding registration or registration renewal for the facility involved.”.

(b) **SUSPENSION OF REGISTRATION.**—

(1) **IN GENERAL.**—Section 415 (21 U.S.C. 350d) is amended—

(A) in subsection (a)(2), by inserting after the first sentence the following: “The registration shall contain an assurance that the Secretary will be permitted to inspect such facility at the times and in the manner permitted by this Act.”;

(B) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(C) by inserting after subsection (a) the following:

“(b) **SUSPENSION OF REGISTRATION.**—

“(1) IN GENERAL.—If the Secretary determines that food manufactured, processed, packed, received, or held by a facility registered under this section has a reasonable probability of causing serious adverse health consequences or death to humans or animals, the Secretary may by order suspend the registration of a facility—

“(A) that created, caused, or was otherwise responsible for such reasonable probability; or

“(B)(i) that knew of, or had reason to know of, such reasonable probability; and

“(ii) packed, received, or held such food.

“(2) HEARING ON SUSPENSION.—The Secretary shall provide the registrant subject to an order under paragraph (1) with an opportunity for an informal hearing, to be held as soon as possible but not later than 2 business days after the issuance of the order or such other time period, as agreed upon by the Secretary and the registrant, on the actions required for reinstatement of registration and why the registration that is subject to suspension should be reinstated. The Secretary shall reinstate a registration if the Secretary determines, based on evidence presented, that adequate grounds do not exist to continue the suspension of the registration.

“(3) POST-HEARING CORRECTIVE ACTION PLAN; VACATING OF ORDER.—

“(A) CORRECTIVE ACTION PLAN.—If, after providing opportunity for an informal hearing under paragraph (2), the Secretary determines that the suspension of registration remains necessary, the Secretary shall require the registrant to submit a corrective action plan to demonstrate how the registrant plans to correct the conditions found by the Secretary. The Secretary shall review such plan not later than 14 days after the submission of the corrective action plan or such other time period as determined by the Secretary.

“(B) VACATING OF ORDER.—Upon a determination by the Secretary that adequate grounds do not exist to continue the suspension actions required by the order, or that such actions should be modified, the Secretary shall promptly vacate the order and reinstate the registration of the facility subject to the order or modify the order, as appropriate.

“(4) EFFECT OF SUSPENSION.—If the registration of a facility is suspended under this subsection, no person shall import or export food into the United States from such facility, offer to import or export food into the United States from such facility, or otherwise introduce food from such facility into interstate or intrastate commerce in the United States.

“(5) REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall promulgate regulations to implement this subsection. The Secretary may promulgate such regulations on an interim final basis.

“(B) REGISTRATION REQUIREMENT.—The Secretary may require that registration under this section be submitted in an electronic format. Such requirement may not take effect before the date that is 5 years after the date of enactment of the FDA Food Safety Modernization Act.

“(6) APPLICATION DATE.—Facilities shall be subject to the requirements of this subsection beginning on the earlier of—

“(A) the date on which the Secretary issues regulations under paragraph (5); or

“(B) 180 days after the date of enactment of the FDA Food Safety Modernization Act.

“(7) NO DELEGATION.—The authority conferred by this subsection to issue an order to suspend a registration or vacate an order of

suspension shall not be delegated to any officer or employee other than the Commissioner.”.

(2) SMALL ENTITY COMPLIANCE POLICY GUIDE.—Not later than 180 days after the issuance of the regulations promulgated under section 415(b)(5) of the Federal Food, Drug, and Cosmetic Act (as added by this section), the Secretary shall issue a small entity compliance policy guide setting forth in plain language the requirements of such regulations to assist small entities in complying with registration requirements and other activities required under such section.

(3) IMPORTED FOOD.—Section 801(l) (21 U.S.C. 381(l)) is amended by inserting “(or for which a registration has been suspended under such section)” after “section 415”.

(c) CLARIFICATION OF INTENT.—

(1) RETAIL FOOD ESTABLISHMENT.—The Secretary shall amend the definition of the term “retail food establishment” in section 1.227(b)(11) of title 21, Code of Federal Regulations to clarify that, in determining the primary function of an establishment or a retail food establishment under such section, the sale of food products directly to consumers by such establishment and the sale of food directly to consumers by such retail food establishment include—

(A) the sale of such food products or food directly to consumers by such establishment at a roadside stand or farmers’ market where such stand or market is located other than where the food was manufactured or processed;

(B) the sale and distribution of such food through a community supported agriculture program; and

(C) the sale and distribution of such food at any other such direct sales platform as determined by the Secretary.

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) the term “community supported agriculture program” has the same meaning given the term “community supported agriculture (CSA) program” in section 249.2 of title 7, Code of Federal Regulations (or any successor regulation); and

(B) the term “consumer” does not include a business.

(d) CONFORMING AMENDMENTS.—

(1) Section 301(d) (21 U.S.C. 331(d)) is amended by inserting “415,” after “404.”

(2) Section 415(d), as redesignated by subsection (b), is amended by adding at the end before the period “for a facility to be registered, except with respect to the reinstatement of a registration that is suspended under subsection (b)”.

SEC. 103. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

“SEC. 418. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

“(a) IN GENERAL.—The owner, operator, or agent in charge of a facility shall, in accordance with this section, evaluate the hazards that could affect food manufactured, processed, packed, or held by such facility, identify and implement preventive controls to significantly minimize or prevent the occurrence of such hazards and provide assurances that such food is not adulterated under section 402 or misbranded under section 403(w), monitor the performance of those controls, and maintain records of this monitoring as a matter of routine practice.

“(b) HAZARD ANALYSIS.—The owner, operator, or agent in charge of a facility shall—

“(1) identify and evaluate known or reasonably foreseeable hazards that may be associated with the facility, including—

“(A) biological, chemical, physical, and radiological hazards, natural toxins, pesticides, drug residues, decomposition, parasites, allergens, and unapproved food and color additives; and

“(B) hazards that occur naturally, or may be unintentionally introduced; and

“(2) identify and evaluate hazards that may be intentionally introduced, including by acts of terrorism; and

“(3) develop a written analysis of the hazards.

“(c) PREVENTIVE CONTROLS.—The owner, operator, or agent in charge of a facility shall identify and implement preventive controls, including at critical control points, if any, to provide assurances that—

“(1) hazards identified in the hazard analysis conducted under subsection (b)(1) will be significantly minimized or prevented;

“(2) any hazards identified in the hazard analysis conducted under subsection (b)(2) will be significantly minimized or prevented and addressed, consistent with section 420, as applicable; and

“(3) the food manufactured, processed, packed, or held by such facility will not be adulterated under section 402 or misbranded under section 403(w).

“(d) MONITORING OF EFFECTIVENESS.—The owner, operator, or agent in charge of a facility shall monitor the effectiveness of the preventive controls implemented under subsection (c) to provide assurances that the outcomes described in subsection (c) shall be achieved.

“(e) CORRECTIVE ACTIONS.—The owner, operator, or agent in charge of a facility shall establish procedures to ensure that, if the preventive controls implemented under subsection (c) are not properly implemented or are found to be ineffective—

“(1) appropriate action is taken to reduce the likelihood of recurrence of the implementation failure;

“(2) all affected food is evaluated for safety; and

“(3) all affected food is prevented from entering into commerce if the owner, operator or agent in charge of such facility cannot ensure that the affected food is not adulterated under section 402 or misbranded under section 403(w).

“(f) VERIFICATION.—The owner, operator, or agent in charge of a facility shall verify that—

“(1) the preventive controls implemented under subsection (c) are adequate to control the hazards identified under subsection (b);

“(2) the owner, operator, or agent is conducting monitoring in accordance with subsection (d);

“(3) the owner, operator, or agent is making appropriate decisions about corrective actions taken under subsection (e);

“(4) the preventive controls implemented under subsection (c) are effectively and significantly minimizing or preventing the occurrence of identified hazards, including through the use of environmental and product testing programs and other appropriate means; and

“(5) there is documented, periodic reanalysis of the plan under subsection (i) to ensure that the plan is still relevant to the raw materials, conditions and processes in the facility, and new and emerging threats.

“(g) RECORDKEEPING.—The owner, operator, or agent in charge of a facility shall maintain, for not less than 2 years, records documenting the monitoring of the preventive

controls implemented under subsection (c), instances of nonconformance material to food safety, the results of testing and other appropriate means of verification under subsection (f)(4), instances when corrective actions were implemented, and the efficacy of preventive controls and corrective actions.

“(h) WRITTEN PLAN AND DOCUMENTATION.—The owner, operator, or agent in charge of a facility shall prepare a written plan that documents and describes the procedures used by the facility to comply with the requirements of this section, including analyzing the hazards under subsection (b) and identifying the preventive controls adopted under subsection (c) to address those hazards. Such written plan, together with the documentation described in subsection (g), shall be made promptly available to a duly authorized representative of the Secretary upon oral or written request.

“(i) REQUIREMENT TO REANALYZE.—The owner, operator, or agent in charge of a facility shall conduct a reanalysis under subsection (b) whenever a significant change is made in the activities conducted at a facility operated by such owner, operator, or agent if the change creates a reasonable potential for a new hazard or a significant increase in a previously identified hazard or not less frequently than once every 3 years, whichever is earlier. Such reanalysis shall be completed and additional preventive controls needed to address the hazard identified, if any, shall be implemented before the change in activities at the facility is operative. Such owner, operator, or agent shall revise the written plan required under subsection (h) if such a significant change is made or document the basis for the conclusion that no additional or revised preventive controls are needed. The Secretary may require a reanalysis under this section to respond to new hazards and developments in scientific understanding, including, as appropriate, results from the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessment.

“(j) EXEMPTION FOR SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES SUBJECT TO HACCP.—

“(1) IN GENERAL.—This section shall not apply to a facility if the owner, operator, or agent in charge of such facility is required to comply with, and is in compliance with, 1 of the following standards and regulations with respect to such facility:

“(A) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(B) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(C) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

“(2) APPLICABILITY.—The exemption under paragraph (1)(C) shall apply only with respect to microbiological hazards that are regulated under the standards for Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers under part 113 of chapter 21, Code of Federal Regulations (or any successor regulations).

“(k) EXCEPTION FOR ACTIVITIES OF FACILITIES SUBJECT TO SECTION 419.—This section shall not apply to activities of a facility that are subject to section 419.

“(l) MODIFIED REQUIREMENTS FOR QUALIFIED FACILITIES.—

“(1) QUALIFIED FACILITIES.—

“(A) IN GENERAL.—A facility is a qualified facility for purposes of this subsection if the

facility meets the conditions under subparagraph (B) or (C).

“(B) VERY SMALL BUSINESS.—A facility is a qualified facility under this subparagraph—

“(i) if the facility, including any subsidiary or affiliate of the facility, is, collectively, a very small business (as defined in the regulations promulgated under subsection (n)); and

“(ii) in the case where the facility is a subsidiary or affiliate of an entity, if such subsidiaries or affiliates, are, collectively, a very small business (as so defined).

“(C) LIMITED ANNUAL MONETARY VALUE OF SALES.—

“(i) IN GENERAL.—A facility is a qualified facility under this subparagraph if clause (ii) applies—

“(I) to the facility, including any subsidiary or affiliate of the facility, collectively; and

“(II) to the subsidiaries or affiliates, collectively, of any entity of which the facility is a subsidiary or affiliate.

“(ii) AVERAGE ANNUAL MONETARY VALUE.—This clause applies if—

“(I) during the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as described in clause (i)) that is sold directly to qualified end-users during such period exceeded the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as so described) sold by such facility (or collectively by any such subsidiary or affiliate) to all other purchasers during such period; and

“(II) the average annual monetary value of all food sold by such facility (or the collective average annual monetary value of such food sold by any subsidiary or affiliate, as described in clause (i)) during such period was less than \$500,000, adjusted for inflation.

“(2) EXEMPTION.—A qualified facility—

“(A) shall not be subject to the requirements under subsections (a) through (i) and subsection (n) in an applicable calendar year; and

“(B) shall submit to the Secretary—

“(i)(I) documentation that demonstrates that the owner, operator, or agent in charge of the facility has identified potential hazards associated with the food being produced, is implementing preventive controls to address the hazards, and is monitoring the preventive controls to ensure that such controls are effective; or

“(II) documentation (which may include licenses, inspection reports, certificates, permits, credentials, certification by an appropriate agency (such as a State department of agriculture), or other evidence of oversight), as specified by the Secretary, that the facility is in compliance with State, local, county, or other applicable non-Federal food safety law; and

“(ii) documentation, as specified by the Secretary in a guidance document issued not later than 1 year after the date of enactment of this section, that the facility is a qualified facility under paragraph (1)(B) or (1)(C).

“(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

“(A) IN GENERAL.—In the event of an active investigation of a foodborne illness outbreak that is directly linked to a qualified facility subject to an exemption under this subsection, or if the Secretary determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions as-

sociated with a qualified facility that are material to the safety of the food manufactured, processed, packed, or held at such facility, the Secretary may withdraw the exemption provided to such facility under this subsection.

“(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to expand or limit the inspection authority of the Secretary.

“(4) DEFINITIONS.—In this subsection:

“(A) AFFILIATE.—The term ‘affiliate’ means any facility that controls, is controlled by, or is under common control with another facility.

“(B) QUALIFIED END-USER.—The term ‘qualified end-user’, with respect to a food, means—

“(i) the consumer of the food; or

“(ii) a restaurant or retail food establishment (as those terms are defined by the Secretary for purposes of section 415) that—

“(I) is located—

“(aa) in the same State as the qualified facility that sold the food to such restaurant or establishment; or

“(bb) not more than 275 miles from such facility; and

“(II) is purchasing the food for sale directly to consumers at such restaurant or retail food establishment.

“(C) CONSUMER.—For purposes of subparagraph (B), the term ‘consumer’ does not include a business.

“(D) SUBSIDIARY.—The term ‘subsidiary’ means any company which is owned or controlled directly or indirectly by another company.

“(5) STUDY.—

“(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a study of the food processing sector regulated by the Secretary to determine—

“(i) the distribution of food production by type and size of operation, including monetary value of food sold;

“(ii) the proportion of food produced by each type and size of operation;

“(iii) the number and types of food facilities co-located on farms, including the number and proportion by commodity and by manufacturing or processing activity;

“(iv) the incidence of foodborne illness originating from each size and type of operation and the type of food facilities for which no reported or known hazard exists; and

“(v) the effect on foodborne illness risk associated with commingling, processing, transporting, and storing food and raw agricultural commodities, including differences in risk based on the scale and duration of such activities.

“(B) SIZE.—The results of the study conducted under subparagraph (A) shall include the information necessary to enable the Secretary to define the terms ‘small business’ and ‘very small business’, for purposes of promulgating the regulation under subsection (n). In defining such terms, the Secretary shall include consideration of harvestable acres, income, the number of employees, and the volume of food harvested.

“(C) SUBMISSION OF REPORT.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall submit to Congress a report that describes the results of the study conducted under subparagraph (A).

“(6) NO PREEMPTION.—Nothing in this subsection preempts State, local, county, or other non-Federal law regarding the safe production of food. Compliance with this subsection shall not relieve any person from

liability at common law or under State statutory law.

“(7) NOTIFICATION TO CONSUMERS.—

“(A) IN GENERAL.—A qualified facility that is exempt from the requirements under subsections (a) through (i) and subsection (n) and does not prepare documentation under paragraph (2)(B)(i)(I) shall—

“(i) with respect to a food for which a food packaging label is required by the Secretary under any other provision of this Act, include prominently and conspicuously on such label the name and business address of the facility where the food was manufactured or processed; or

“(ii) with respect to a food for which a food packaging label is not required by the Secretary under any other provisions of this Act, prominently and conspicuously display, at the point of purchase, the name and business address of the facility where the food was manufactured or processed, on a label, poster, sign, placard, or documents delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

“(B) NO ADDITIONAL LABEL.—Subparagraph (A) does not provide authority to the Secretary to require a label that is in addition to any label required under any other provision of this Act.

“(m) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—The Secretary may, by regulation, exempt or modify the requirements for compliance under this section with respect to facilities that are solely engaged in the production of food for animals other than man, the storage of raw agricultural commodities (other than fruits and vegetables) intended for further distribution or processing, or the storage of packaged foods that are not exposed to the environment.

“(n) REGULATIONS.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations—

“(A) to establish science-based minimum standards for conducting a hazard analysis, documenting hazards, implementing preventive controls, and documenting the implementation of the preventive controls under this section; and

“(B) to define, for purposes of this section, the terms ‘small business’ and ‘very small business’, taking into consideration the study described in subsection (1)(5).

“(2) COORDINATION.—In promulgating the regulations under paragraph (1)(A), with regard to hazards that may be intentionally introduced, including by acts of terrorism, the Secretary shall coordinate with the Secretary of Homeland Security, as appropriate.

“(3) CONTENT.—The regulations promulgated under paragraph (1)(A) shall—

“(A) provide sufficient flexibility to be practicable for all sizes and types of facilities, including small businesses such as a small food processing facility co-located on a farm;

“(B) comply with chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’), with special attention to minimizing the burden (as defined in section 3502(2) of such Act) on the facility, and collection of information (as defined in section 3502(3) of such Act), associated with such regulations;

“(C) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods; and

“(D) not require a facility to hire a consultant or other third party to identify, im-

plement, certify, or audit preventative controls, except in the case of negotiated enforcement resolutions that may require such a consultant or third party.

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to provide the Secretary with the authority to prescribe specific technologies, practices, or critical controls for an individual facility.

“(5) REVIEW.—In promulgating the regulations under paragraph (1)(A), the Secretary shall review regulatory hazard analysis and preventive control programs in existence on the date of enactment of the FDA Food Safety Modernization Act, including the Grade ‘A’ Pasteurized Milk Ordinance to ensure that such regulations are consistent, to the extent practicable, with applicable domestic and internationally-recognized standards in existence on such date.

“(o) DEFINITIONS.—For purposes of this section:

“(1) CRITICAL CONTROL POINT.—The term ‘critical control point’ means a point, step, or procedure in a food process at which control can be applied and is essential to prevent or eliminate a food safety hazard or reduce such hazard to an acceptable level.

“(2) FACILITY.—The term ‘facility’ means a domestic facility or a foreign facility that is required to register under section 415.

“(3) PREVENTIVE CONTROLS.—The term ‘preventive controls’ means those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would employ to significantly minimize or prevent the hazards identified under the hazard analysis conducted under subsection (b) and that are consistent with the current scientific understanding of safe food manufacturing, processing, packing, or holding at the time of the analysis. Those procedures, practices, and processes may include the following:

“(A) Sanitation procedures for food contact surfaces and utensils and food-contact surfaces of equipment.

“(B) Supervisor, manager, and employee hygiene training.

“(C) An environmental monitoring program to verify the effectiveness of pathogen controls in processes where a food is exposed to a potential contaminant in the environment.

“(D) A food allergen control program.

“(E) A recall plan.

“(F) Current Good Manufacturing Practices (cGMPs) under part 110 of title 21, Code of Federal Regulations (or any successor regulations).

“(G) Supplier verification activities that relate to the safety of food.”.

(b) GUIDANCE DOCUMENT.—The Secretary shall issue a guidance document related to the regulations promulgated under subsection (b)(1) with respect to the hazard analysis and preventive controls under section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

(c) RULEMAKING.—

(1) PROPOSED RULEMAKING.—

(A) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall publish a notice of proposed rulemaking in the Federal Register to promulgate regulations with respect to—

(i) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and

Cosmetic Act (21 U.S.C. 350d), as amended by this Act; and

(ii) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415.

(B) CLARIFICATION.—The rulemaking described under subparagraph (A) shall enhance the implementation of such section 415 and clarify the activities that are included as part of the definition of the term “facility” under such section 415. Nothing in this Act authorizes the Secretary to modify the definition of the term “facility” under such section.

(C) SCIENCE-BASED RISK ANALYSIS.—In promulgating regulations under subparagraph (A), the Secretary shall conduct a science-based risk analysis of—

(i) specific types of on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership, as such packing and holding relates to specific foods; and

(ii) specific on-farm manufacturing and processing activities as such activities relate to specific foods that are not consumed on that farm or on another farm under common ownership.

(D) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—

(i) IN GENERAL.—In promulgating the regulations under subparagraph (A), the Secretary shall consider the results of the science-based risk analysis conducted under subparagraph (C), and shall exempt certain facilities from the requirements in section 418 of the Federal Food, Drug, and Cosmetic Act (as added by this section), including hazard analysis and preventive controls, and the mandatory inspection frequency in section 421 of such Act (as added by section 201), or modify the requirements in such sections 418 or 421, as the Secretary determines appropriate, if such facilities are engaged only in specific types of on-farm manufacturing, processing, packing, or holding activities that the Secretary determines to be low risk involving specific foods the Secretary determines to be low risk.

(ii) LIMITATION.—The exemptions or modifications under clause (i) shall not include an exemption from the requirement to register under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act, if applicable, and shall apply only to small businesses and very small businesses, as defined in the regulation promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added under subsection (a)).

(2) FINAL REGULATIONS.—Not later than 9 months after the close of the comment period for the proposed rulemaking under paragraph (1), the Secretary shall adopt final rules with respect to—

(A) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act;

(B) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415; and

(C) the requirements under sections 418 and 421 of the Federal Food, Drug, and Cosmetic Act, as added by this Act, from which the Secretary may issue exemptions or modifications of the requirements for certain types of facilities.

(d) **SMALL ENTITY COMPLIANCE POLICY GUIDE.**—Not later than 180 days after the issuance of the regulations promulgated under subsection (n) of section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary shall issue a small entity compliance policy guide setting forth in plain language the requirements of such section 418 and this section to assist small entities in complying with the hazard analysis and other activities required under such section 418 and this section.

(e) **PROHIBITED ACTS.**—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

“(uu) The operation of a facility that manufactures, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is not in compliance with section 418.”.

(f) **NO EFFECT ON HACCP AUTHORITIES.**—Nothing in the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce Hazard Analysis Critical Control programs and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

(g) **DIETARY SUPPLEMENTS.**—Nothing in the amendments made by this section shall apply to any facility with regard to the manufacturing, processing, packing, or holding of a dietary supplement that is in compliance with the requirements of sections 402(g)(2) and 761 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(g)(2), 379aa-1).

(h) **UPDATING GUIDANCE RELATING TO FISH AND FISHERIES PRODUCTS HAZARDS AND CONTROLS.**—The Secretary shall, not later than 180 days after the date of enactment of this Act, update the Fish and Fisheries Products Hazards and Control Guidance to take into account advances in technology that have occurred since the previous publication of such Guidance by the Secretary.

(i) **EFFECTIVE DATES.**—

(1) **GENERAL RULE.**—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

(2) **FLEXIBILITY FOR SMALL BUSINESSES.**—Notwithstanding paragraph (1)—

(A) the amendments made by this section shall apply to a small business (as defined in the regulations promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added by this section)) beginning on the date that is 6 months after the effective date of such regulations; and

(B) the amendments made by this section shall apply to a very small business (as defined in such regulations) beginning on the date that is 18 months after the effective date of such regulations.

SEC. 104. PERFORMANCE STANDARDS.

(a) **IN GENERAL.**—The Secretary shall, in coordination with the Secretary of Agriculture, not less frequently than every 2 years, review and evaluate relevant health data and other relevant information, including from toxicological and epidemiological studies and analyses, current Good Manufacturing Practices issued by the Secretary relating to food, and relevant recommendations of relevant advisory committees, including the Food Advisory Committee, to determine the most significant foodborne contaminants.

(b) **GUIDANCE DOCUMENTS AND REGULATIONS.**—Based on the review and evaluation conducted under subsection (a), and when appropriate to reduce the risk of serious illness

or death to humans or animals or to prevent adulteration of the food under section 402 of the Federal Food, Drug, or Cosmetic Act (21 U.S.C. 342) or to prevent the spread by food of communicable disease under section 361 of the Public Health Service Act (42 U.S.C. 264), the Secretary shall issue contaminant-specific and science-based guidance documents, including guidance documents regarding action levels, or regulations. Such guidance, including guidance regarding action levels, or regulations—

(1) shall apply to products or product classes;

(2) shall, where appropriate, differentiate between food for human consumption and food intended for consumption by animals other than humans; and

(3) shall not be written to be facility-specific.

(c) **NO DUPLICATION OF EFFORTS.**—The Secretary shall coordinate with the Secretary of Agriculture to avoid issuing duplicative guidance on the same contaminants.

(d) **REVIEW.**—The Secretary shall periodically review and revise, as appropriate, the guidance documents, including guidance documents regarding action levels, or regulations promulgated under this section.

SEC. 105. STANDARDS FOR PRODUCE SAFETY.

(a) **IN GENERAL.**—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 103, is amended by adding at the end the following:

“SEC. 419. STANDARDS FOR PRODUCE SAFETY.

“(a) **PROPOSED RULEMAKING.**—

“(1) **IN GENERAL.**—

“(A) **RULEMAKING.**—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in coordination with the Secretary of Agriculture and representatives of State departments of agriculture (including with regard to the national organic program established under the Organic Foods Production Act of 1990), and in consultation with the Secretary of Homeland Security, shall publish a notice of proposed rulemaking to establish science-based minimum standards for the safe production and harvesting of those types of fruits and vegetables, including specific mixes or categories of fruits and vegetables, that are raw agricultural commodities for which the Secretary has determined that such standards minimize the risk of serious adverse health consequences or death.

“(B) **DETERMINATION BY SECRETARY.**—With respect to small businesses and very small businesses (as such terms are defined in the regulation promulgated under subparagraph (A)) that produce and harvest those types of fruits and vegetables that are raw agricultural commodities that the Secretary has determined are low risk and do not present a risk of serious adverse health consequences or death, the Secretary may determine not to include production and harvesting of such fruits and vegetables in such rulemaking, or may modify the applicable requirements of regulations promulgated pursuant to this section.

“(2) **PUBLIC INPUT.**—During the comment period on the notice of proposed rulemaking under paragraph (1), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

“(3) **CONTENT.**—The proposed rulemaking under paragraph (1) shall—

“(A) provide sufficient flexibility to be applicable to various types of entities engaged in the production and harvesting of fruits and vegetables that are raw agricultural commodities, including small businesses and

entities that sell directly to consumers, and be appropriate to the scale and diversity of the production and harvesting of such commodities;

“(B) include, with respect to growing, harvesting, sorting, packing, and storage operations, science-based minimum standards related to soil amendments, hygiene, packaging, temperature controls, animals in the growing area, and water;

“(C) consider hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism;

“(D) take into consideration, consistent with ensuring enforceable public health protection, conservation and environmental practice standards and policies established by Federal natural resource conservation, wildlife conservation, and environmental agencies;

“(E) in the case of production that is certified organic, not include any requirements that conflict with or duplicate the requirements of the national organic program established under the Organic Foods Production Act of 1990, while providing the same level of public health protection as the requirements under guidance documents, including guidance documents regarding action levels, and regulations under the FDA Food Safety Modernization Act; and

“(F) define, for purposes of this section, the terms ‘small business’ and ‘very small business’.

“(4) **PRIORITIZATION.**—The Secretary shall prioritize the implementation of the regulations under this section for specific fruits and vegetables that are raw agricultural commodities based on known risks which may include a history and severity of foodborne illness outbreaks.

“(b) **FINAL REGULATION.**—

“(1) **IN GENERAL.**—Not later than 1 year after the close of the comment period for the proposed rulemaking under subsection (a), the Secretary shall adopt a final regulation to provide for minimum science-based standards for those types of fruits and vegetables, including specific mixes or categories of fruits or vegetables, that are raw agricultural commodities, based on known safety risks, which may include a history of foodborne illness outbreaks.

“(2) **FINAL REGULATION.**—The final regulation shall—

“(A) provide for coordination of education and enforcement activities by State and local officials, as designated by the Governors of the respective States or the appropriate elected State official as recognized by State statute; and

“(B) include a description of the variance process under subsection (c) and the types of permissible variances the Secretary may grant.

“(3) **FLEXIBILITY FOR SMALL BUSINESSES.**—Notwithstanding paragraph (1)—

“(A) the regulations promulgated under this section shall apply to a small business (as defined in the regulation promulgated under subsection (a)(1)) after the date that is 1 year after the effective date of the final regulation under paragraph (1); and

“(B) the regulations promulgated under this section shall apply to a very small business (as defined in the regulation promulgated under subsection (a)(1)) after the date that is 2 years after the effective date of the final regulation under paragraph (1).

“(c) **CRITERIA.**—

“(1) **IN GENERAL.**—The regulations adopted under subsection (b) shall—

“(A) set forth those procedures, processes, and practices that the Secretary determines

to minimize the risk of serious adverse health consequences or death, including procedures, processes, and practices that the Secretary determines to be reasonably necessary to prevent the introduction of known or reasonably foreseeable biological, chemical, and physical hazards, including hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism, into fruits and vegetables, including specific mixes or categories of fruits and vegetables, that are raw agricultural commodities and to provide reasonable assurances that the produce is not adulterated under section 402;

“(B) provide sufficient flexibility to be practicable for all sizes and types of businesses, including small businesses such as a small food processing facility co-located on a farm;

“(C) comply with chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’), with special attention to minimizing the burden (as defined in section 3502(2) of such Act) on the business, and collection of information (as defined in section 3502(3) of such Act), associated with such regulations;

“(D) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods; and

“(E) not require a business to hire a consultant or other third party to identify, implement, certify, compliance with these procedures, processes, and practices, except in the case of negotiated enforcement resolutions that may require such a consultant or third party; and

“(F) permit States and foreign countries from which food is imported into the United States to request from the Secretary variances from the requirements of the regulations, subject to paragraph (2), where the State or foreign country determines that the variance is necessary in light of local growing conditions and that the procedures, processes, and practices to be followed under the variance are reasonably likely to ensure that the produce is not adulterated under section 402 and to provide the same level of public health protection as the requirements of the regulations adopted under subsection (b).

“(2) VARIANCES.—

“(A) REQUESTS FOR VARIANCES.—A State or foreign country from which food is imported into the United States may in writing request a variance from the Secretary. Such request shall describe the variance requested and present information demonstrating that the variance does not increase the likelihood that the food for which the variance is requested will be adulterated under section 402, and that the variance provides the same level of public health protection as the requirements of the regulations adopted under subsection (b). The Secretary shall review such requests in a reasonable timeframe.

“(B) APPROVAL OF VARIANCES.—The Secretary may approve a variance in whole or in part, as appropriate, and may specify the scope of applicability of a variance to other similarly situated persons.

“(C) DENIAL OF VARIANCES.—The Secretary may deny a variance request if the Secretary determines that such variance is not reasonably likely to ensure that the food is not adulterated under section 402 and is not reasonably likely to provide the same level of public health protection as the requirements of the regulation adopted under subsection (b). The Secretary shall notify the person requesting such variance of the reasons for the denial.

“(D) MODIFICATION OR REVOCATION OF A VARIANCE.—The Secretary, after notice and an opportunity for a hearing, may modify or revoke a variance if the Secretary determines that such variance is not reasonably likely to ensure that the food is not adulterated under section 402 and is not reasonably likely to provide the same level of public health protection as the requirements of the regulations adopted under subsection (b).

“(d) ENFORCEMENT.—The Secretary may coordinate with the Secretary of Agriculture and, as appropriate, shall contract and coordinate with the agency or department designated by the Governor of each State to perform activities to ensure compliance with this section.

“(e) GUIDANCE.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall publish, after consultation with the Secretary of Agriculture, representatives of State departments of agriculture, farmer representatives, and various types of entities engaged in the production and harvesting or importing of fruits and vegetables that are raw agricultural commodities, including small businesses, updated good agricultural practices and guidance for the safe production and harvesting of specific types of fresh produce under this section.

“(2) PUBLIC MEETINGS.—The Secretary shall conduct not fewer than 3 public meetings in diverse geographical areas of the United States as part of an effort to conduct education and outreach regarding the guidance described in paragraph (1) for persons in different regions who are involved in the production and harvesting of fruits and vegetables that are raw agricultural commodities, including persons that sell directly to consumers and farmer representatives, and for importers of fruits and vegetables that are raw agricultural commodities.

“(3) PAPERWORK REDUCTION.—The Secretary shall ensure that any updated guidance under this section will—

“(A) provide sufficient flexibility to be practicable for all sizes and types of facilities, including small businesses such as a small food processing facility co-located on a farm; and

“(B) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods.

“(f) EXEMPTION FOR DIRECT FARM MARKETING.—

“(1) IN GENERAL.—A farm shall be exempt from the requirements under this section in a calendar year if—

“(A) during the previous 3-year period, the average annual monetary value of the food sold by such farm directly to qualified end-users during such period exceeded the average annual monetary value of the food sold by such farm to all other buyers during such period; and

“(B) the average annual monetary value of all food sold during such period was less than \$500,000, adjusted for inflation.

“(2) NOTIFICATION TO CONSUMERS.—

“(A) IN GENERAL.—A farm that is exempt from the requirements under this section shall—

“(i) with respect to a food for which a food packaging label is required by the Secretary under any other provision of this Act, include prominently and conspicuously on such label the name and business address of the farm where the produce was grown; or

“(ii) with respect to a food for which a food packaging label is not required by the Secretary under any other provision of this Act,

prominently and conspicuously display, at the point of purchase, the name and business address of the farm where the produce was grown, on a label, poster, sign, placard, or documents delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

“(B) NO ADDITIONAL LABEL.—Subparagraph (A) does not provide authority to the Secretary to require a label that is in addition to any label required under any other provision of this Act.

“(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

“(A) IN GENERAL.—In the event of an active investigation of a foodborne illness outbreak that is directly linked to a farm subject to an exemption under this subsection, or if the Secretary determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions associated with a farm that are material to the safety of the food produced or harvested at such farm, the Secretary may withdraw the exemption provided to such farm under this subsection.

“(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to expand or limit the inspection authority of the Secretary.

“(4) DEFINITIONS.—

“(A) QUALIFIED END-USER.—In this subsection, the term ‘qualified end-user’, with respect to a food means—

“(i) the consumer of the food; or

“(ii) a restaurant or retail food establishment (as those terms are defined by the Secretary for purposes of section 415) that is located—

“(I) in the same State as the farm that produced the food; or

“(II) not more than 275 miles from such farm.

“(B) CONSUMER.—For purposes of subparagraph (A), the term ‘consumer’ does not include a business.

“(5) NO PREEMPTION.—Nothing in this subsection preempts State, local, county, or other non-Federal law regarding the safe production, harvesting, holding, transportation, and sale of fresh fruits and vegetables. Compliance with this subsection shall not relieve any person from liability at common law or under State statutory law.

“(6) LIMITATION OF EFFECT.—Nothing in this subsection shall prevent the Secretary from exercising any authority granted in the other sections of this Act.

“(g) CLARIFICATION.—This section shall not apply to produce that is produced by an individual for personal consumption.

“(h) EXCEPTION FOR ACTIVITIES OF FACILITIES SUBJECT TO SECTION 418.—This section shall not apply to activities of a facility that are subject to section 418.”

(b) SMALL ENTITY COMPLIANCE POLICY GUIDE.—Not later than 180 days after the issuance of regulations under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary of Health and Human Services shall issue a small entity compliance policy guide setting forth in plain language the requirements of such section 419 and to assist small entities in complying with standards for safe production and harvesting and other activities required under such section.

(c) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331), as amended by section 103, is amended by adding at the end the following:

“(vv) The failure to comply with the requirements under section 419.”

(d) NO EFFECT ON HACCP AUTHORITIES.—Nothing in the amendments made by this

section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce product and category-specific regulations, such as the Seafood Hazard Analysis Critical Controls Points Program, the Juice Hazard Analysis Critical Control Program, and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

SEC. 106. PROTECTION AGAINST INTENTIONAL ADULTERATION.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 105, is amended by adding at the end the following:

“SEC. 420. PROTECTION AGAINST INTENTIONAL ADULTERATION.

“(a) DETERMINATIONS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) conduct a vulnerability assessment of the food system, including by consideration of the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessments;

“(B) consider the best available understanding of uncertainties, risks, costs, and benefits associated with guarding against intentional adulteration of food at vulnerable points; and

“(C) determine the types of science-based mitigation strategies or measures that are necessary to protect against the intentional adulteration of food.

“(2) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary, in consultation with the Secretary of Homeland Security, may determine the time, manner, and form in which determinations made under paragraph (1) are made publicly available.

“(b) REGULATIONS.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in coordination with the Secretary of Homeland Security and in consultation with the Secretary of Agriculture, shall promulgate regulations to protect against the intentional adulteration of food subject to this Act. Such regulations shall—

“(1) specify how a person shall assess whether the person is required to implement mitigation strategies or measures intended to protect against the intentional adulteration of food; and

“(2) specify appropriate science-based mitigation strategies or measures to prepare and protect the food supply chain at specific vulnerable points, as appropriate.

“(c) APPLICABILITY.—Regulations promulgated under subsection (b) shall apply only to food for which there is a high risk of intentional contamination, as determined by the Secretary, in consultation with the Secretary of Homeland Security, under subsection (a), that could cause serious adverse health consequences or death to humans or animals and shall include those foods—

“(1) for which the Secretary has identified clear vulnerabilities (including short shelf-life or susceptibility to intentional contamination at critical control points); and

“(2) in bulk or batch form, prior to being packaged for the final consumer.

“(d) EXCEPTION.—This section shall not apply to farms, except for those that produce milk.

“(e) DEFINITION.—For purposes of this section, the term ‘farm’ has the meaning given that term in section 1.227 of title 21, Code of Federal Regulations (or any successor regulation).”

(b) GUIDANCE DOCUMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Sec-

retary of Health and Human Services, in consultation with the Secretary of Homeland Security and the Secretary of Agriculture, shall issue guidance documents related to protection against the intentional adulteration of food, including mitigation strategies or measures to guard against such adulteration as required under section 420 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a).

(2) CONTENT.—The guidance documents issued under paragraph (1) shall—

(A) include a model assessment for a person to use under subsection (b)(1) of section 420 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a);

(B) include examples of mitigation strategies or measures described in subsection (b)(2) of such section; and

(C) specify situations in which the examples of mitigation strategies or measures described in subsection (b)(2) of such section are appropriate.

(3) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security, may determine the time, manner, and form in which the guidance documents issued under paragraph (1) are made public, including by releasing such documents to targeted audiences.

(c) PERIODIC REVIEW.—The Secretary of Health and Human Services shall periodically review and, as appropriate, update the regulations under section 420(b) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), and the guidance documents under subsection (b).

(d) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331 et seq.), as amended by section 105, is amended by adding at the end the following:

“(ww) The failure to comply with section 420.”

SEC. 107. AUTHORITY TO COLLECT FEES.

(a) FEES FOR REINSPECTION, RECALL, AND IMPORTATION ACTIVITIES.—Subchapter C of chapter VII (21 U.S.C. 379f et seq.) is amended by adding at the end the following:

“PART 6—FEES RELATED TO FOOD

“SEC. 743. AUTHORITY TO COLLECT AND USE FEES.

“(a) IN GENERAL.—

“(1) PURPOSE AND AUTHORITY.—For fiscal year 2010 and each subsequent fiscal year, the Secretary shall, in accordance with this section, assess and collect fees from—

“(A) the responsible party for each domestic facility (as defined in section 415(b)) and the United States agent for each foreign facility subject to a reinspection in such fiscal year, to cover reinspection-related costs for such year;

“(B) the responsible party for a domestic facility (as defined in section 415(b)) and an importer who does not comply with a recall order under section 423 or under section 412(f) in such fiscal year, to cover food recall activities associated with such order performed by the Secretary, including technical assistance, follow-up effectiveness checks, and public notifications, for such year;

“(C) each importer participating in the voluntary qualified importer program under section 806 in such year, to cover the administrative costs of such program for such year; and

“(D) each importer subject to a reinspection in such fiscal year, to cover reinspection-related costs for such year.

“(2) DEFINITIONS.—For purposes of this section—

“(A) the term ‘reinspection’ means—

“(i) with respect to domestic facilities (as defined in section 415(b)), 1 or more inspections conducted under section 704 subsequent to an inspection conducted under such provision which identified noncompliance materially related to a food safety requirement of this Act, specifically to determine whether compliance has been achieved to the Secretary’s satisfaction; and

“(ii) with respect to importers, 1 or more examinations conducted under section 801 subsequent to an examination conducted under such provision which identified noncompliance materially related to a food safety requirement of this Act, specifically to determine whether compliance has been achieved to the Secretary’s satisfaction;

“(B) the term ‘reinspection-related costs’ means all expenses, including administrative expenses, incurred in connection with—

“(i) arranging, conducting, and evaluating the results of reinspections; and

“(ii) assessing and collecting reinspection fees under this section; and

“(C) the term ‘responsible party’ has the meaning given such term in section 417(a)(1).

“(b) ESTABLISHMENT OF FEES.—

“(1) IN GENERAL.—Subject to subsections (c) and (d), the Secretary shall establish the fees to be collected under this section for each fiscal year specified in subsection (a)(1), based on the methodology described under paragraph (2), and shall publish such fees in a Federal Register notice not later than 60 days before the start of each such year.

“(2) FEE METHODOLOGY.—

“(A) FEES.—Fees amounts established for collection—

“(i) under subparagraph (A) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the reinspection-related activities (including by type or level of reinspection activity, as the Secretary determines applicable) described in such subparagraph (A) for such year;

“(ii) under subparagraph (B) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the activities described in such subparagraph (B) for such year;

“(iii) under subparagraph (C) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the activities described in such subparagraph (C) for such year; and

“(iv) under subparagraph (D) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the activities described in such subparagraph (D) for such year.

“(B) OTHER CONSIDERATIONS.—

“(i) VOLUNTARY QUALIFIED IMPORTER PROGRAM.—In establishing the fee amounts under subparagraph (A)(iii) for a fiscal year, the Secretary shall provide for the number of importers who have submitted to the Secretary a notice under section 806(c) informing the Secretary of the intent of such importer to participate in the program under section 806 in such fiscal year.

“(II) RECOUPMENT.—In establishing the fee amounts under subparagraph (A)(iii) for the first 5 fiscal years after the date of enactment of this section, the Secretary shall include in such fee a reasonable surcharge that provides a recoupment of the costs expended by the Secretary to establish and implement the first year of the program under section 806.

“(ii) CREDITING OF FEES.—In establishing the fee amounts under subparagraph (A) for a fiscal year, the Secretary shall provide for the crediting of fees from the previous year

to the next year if the Secretary overestimated the amount of fees needed to carry out such activities, and consider the need to account for any adjustment of fees and such other factors as the Secretary determines appropriate.

“(iii) **PUBLISHED GUIDELINES.**—Not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall publish in the Federal Register a proposed set of guidelines in consideration of the burden of fee amounts on small business. Such consideration may include reduced fee amounts for small businesses. The Secretary shall provide for a period of public comment on such guidelines. The Secretary shall adjust the fee schedule for small businesses subject to such fees only through notice and comment rulemaking.

“(3) **USE OF FEES.**—The Secretary shall make all of the fees collected pursuant to clause (i), (ii), (iii), and (iv) of paragraph (2)(A) available solely to pay for the costs referred to in such clause (i), (ii), (iii), and (iv) of paragraph (2)(A), respectively.

“(C) **LIMITATIONS.**—

“(1) **IN GENERAL.**—Fees under subsection (a) shall be refunded for a fiscal year beginning after fiscal year 2010 unless the amount of the total appropriations for food safety activities at the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) is equal to or greater than the amount of appropriations for food safety activities at the Food and Drug Administration for fiscal year 2009 (excluding the amount of fees appropriated for such fiscal year), multiplied by the adjustment factor under paragraph (3).

“(2) **AUTHORITY.**—If—

“(A) the Secretary does not assess fees under subsection (a) for a portion of a fiscal year because paragraph (1) applies; and

“(B) at a later date in such fiscal year, such paragraph (1) ceases to apply,

the Secretary may assess and collect such fees under subsection (a), without any modification to the rate of such fees, notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

“(3) **ADJUSTMENT FACTOR.**—

“(A) **IN GENERAL.**—The adjustment factor described in paragraph (1) shall be the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending June 30 preceding the fiscal year, but in no case shall such adjustment factor be negative.

“(B) **COMPOUNDED BASIS.**—The adjustment under subparagraph (A) made each fiscal year shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2009.

“(4) **LIMITATION ON AMOUNT OF CERTAIN FEES.**—

“(A) **IN GENERAL.**—Notwithstanding any other provision of this section and subject to subparagraph (B), the Secretary may not collect fees in a fiscal year such that the amount collected—

“(i) under subparagraph (B) of subsection (a)(1) exceeds \$20,000,000; and

“(ii) under subparagraphs (A) and (D) of subsection (a)(1) exceeds \$25,000,000 combined.

“(B) **EXCEPTION.**—If a domestic facility (as defined in section 415(b)) or an importer becomes subject to a fee described in subparagraph (A), (B), or (D) of subsection (a)(1) after the maximum amount of fees has been collected by the Secretary under subparagraph (A), the Secretary may collect a fee from such facility or importer.

“(d) **CREDITING AND AVAILABILITY OF FEES.**—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the purpose of paying the operating expenses of the Food and Drug Administration employees and contractors performing activities associated with these food safety fees.

“(e) **COLLECTION OF FEES.**—

“(1) **IN GENERAL.**—The Secretary shall specify in the Federal Register notice described in subsection (b)(1) the time and manner in which fees assessed under this section shall be collected.

“(2) **COLLECTION OF UNPAID FEES.**—In any case where the Secretary does not receive payment of a fee assessed under this section within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to provisions of subchapter II of chapter 37 of title 31, United States Code.

“(f) **ANNUAL REPORT TO CONGRESS.**—Not later than 120 days after each fiscal year for which fees are assessed under this section, the Secretary shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, to include a description of fees assessed and collected for each such year and a summary description of the entities paying such fees and the types of business in which such entities engage.

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—For fiscal year 2010 and each fiscal year thereafter, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount determined under subsection (b) for the fiscal year, as adjusted or otherwise affected under the other provisions of this section.”

(b) **EXPORT CERTIFICATION FEES FOR FOODS AND ANIMAL FEED.**—

(1) **AUTHORITY FOR EXPORT CERTIFICATIONS FOR FOOD, INCLUDING ANIMAL FEED.**—Section 801(e)(4)(A) (21 U.S.C. 381(e)(4)(A)) is amended—

(A) in the matter preceding clause (i), by striking “a drug” and inserting “a food, drug”;

(B) in clause (i) by striking “exported drug” and inserting “exported food, drug”; and

(C) in clause (ii) by striking “the drug” each place it appears and inserting “the food, drug”.

(2) **CLARIFICATION OF CERTIFICATION.**—Section 801(e)(4) (21 U.S.C. 381(e)(4)) is amended by inserting after subparagraph (B) the following new subparagraph:

“(C) For purposes of this paragraph, a certification by the Secretary shall be made on such basis, and in such form (including a publicly available listing) as the Secretary determines appropriate.”

(3) **LIMITATIONS ON THE USE AND AMOUNT OF FEES.**—Paragraph (4) of section 801(e) (21 U.S.C. 381(e)) is amended by adding at the end the following:

“(D) With regard to fees pursuant to subparagraph (B) in connection with written export certifications for food:

“(i) Such fees shall be collected and available solely for the costs of the Food and

Drug Administration associated with issuing such certifications.

“(ii) Such fees may not be retained in an amount that exceeds such costs [for the respective fiscal year].”

SEC. 108. NATIONAL AGRICULTURE AND FOOD DEFENSE STRATEGY.

(a) **DEVELOPMENT AND SUBMISSION OF STRATEGY.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall prepare and transmit to the relevant committees of Congress, and make publicly available on the Internet Web sites of the Department of Health and Human Services and the Department of Agriculture, the National Agriculture and Food Defense Strategy.

(2) **IMPLEMENTATION PLAN.**—The strategy shall include an implementation plan for use by the Secretaries described under paragraph (1) in carrying out the strategy.

(3) **RESEARCH.**—The strategy shall include a coordinated research agenda for use by the Secretaries described under paragraph (1) in conducting research to support the goals and activities described in paragraphs (1) and (2) of subsection (b).

(4) **REVISIONS.**—Not later than 4 years after the date on which the strategy is submitted to the relevant committees of Congress under paragraph (1), and not less frequently than every 4 years thereafter, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall revise and submit to the relevant committees of Congress the strategy.

(5) **CONSISTENCY WITH EXISTING PLANS.**—The strategy described in paragraph (1) shall be consistent with—

(A) the National Incident Management System;

(B) the National Response Framework;

(C) the National Infrastructure Protection Plan;

(D) the National Preparedness Goals; and

(E) other relevant national strategies.

(b) **COMPONENTS.**—

(1) **IN GENERAL.**—The strategy shall include a description of the process to be used by the Department of Health and Human Services, the Department of Agriculture, and the Department of Homeland Security—

(A) to achieve each goal described in paragraph (2); and

(B) to evaluate the progress made by Federal, State, local, and tribal governments towards the achievement of each goal described in paragraph (2).

(2) **GOALS.**—The strategy shall include a description of the process to be used by the Department of Health and Human Services, the Department of Agriculture, and the Department of Homeland Security to achieve the following goals:

(A) **PREPAREDNESS GOAL.**—Enhance the preparedness of the agriculture and food system by—

(i) conducting vulnerability assessments of the agriculture and food system;

(ii) mitigating vulnerabilities of the system;

(iii) improving communication and training relating to the system;

(iv) developing and conducting exercises to test decontamination and disposal plans;

(v) developing modeling tools to improve event consequence assessment and decision support; and

(vi) preparing risk communication tools and enhancing public awareness through outreach.

(B) DETECTION GOAL.—Improve agriculture and food system detection capabilities by—

(i) identifying contamination in food products at the earliest possible time; and

(ii) conducting surveillance to prevent the spread of diseases.

(C) EMERGENCY RESPONSE GOAL.—Ensure an efficient response to agriculture and food emergencies by—

(i) immediately investigating animal disease outbreaks and suspected food contamination;

(ii) preventing additional human illnesses;

(iii) organizing, training, and equipping animal, plant, and food emergency response teams of—

(I) the Federal Government; and

(II) State, local, and tribal governments;

(iv) designing, developing, and evaluating training and exercises carried out under agriculture and food defense plans; and

(v) ensuring consistent and organized risk communication to the public by—

(I) the Federal Government;

(II) State, local, and tribal governments; and

(III) the private sector.

(D) RECOVERY GOAL.—Secure agriculture and food production after an agriculture or food emergency by—

(i) working with the private sector to develop business recovery plans to rapidly resume agriculture, food production, and international trade;

(ii) conducting exercises of the plans described in subparagraph (C) with the goal of long-term recovery results;

(iii) rapidly removing, and effectively disposing of—

(I) contaminated agriculture and food products; and

(II) infected plants and animals; and

(iv) decontaminating and restoring areas affected by an agriculture or food emergency.

(3) EVALUATION.—The Secretary, in coordination with the Secretary of Agriculture and the Secretary of Homeland Security, shall—

(A) develop metrics to measure progress for the evaluation process described in paragraph (1)(B); and

(B) report on the progress measured in subparagraph (A) as part of the National Agriculture and Food Defense strategy described in subsection (a)(1).

(c) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, may determine the manner and format in which the National Agriculture and Food Defense strategy established under this section is made publicly available on the Internet Web sites of the Department of Health and Human Services, the Department of Homeland Security, and the Department of Agriculture, as described in subsection (a)(1).

SEC. 109. FOOD AND AGRICULTURE COORDINATING COUNCILS.

The Secretary of Homeland Security, in coordination with the Secretary of Health and Human Services and the Secretary of Agriculture, shall within 180 days of enactment of this Act, and annually thereafter, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the activities of the Food and Agriculture Government Coordinating Council and the Food and Agri-

culture Sector Coordinating Council, including the progress of such Councils on—

(1) facilitating partnerships between public and private entities to help coordinate and enhance the protection of the agriculture and food system of the United States;

(2) providing for the regular and timely interchange of information between each council relating to the security of the agriculture and food system (including intelligence information);

(3) identifying best practices and methods for improving the coordination among Federal, State, local, and private sector preparedness and response plans for agriculture and food defense; and

(4) recommending methods by which to protect the economy and the public health of the United States from the effects of—

(A) animal or plant disease outbreaks;

(B) food contamination; and

(C) natural disasters affecting agriculture and food.

SEC. 110. BUILDING DOMESTIC CAPACITY.

(a) IN GENERAL.—

(1) INITIAL REPORT.—The Secretary, in coordination with the Secretary of Agriculture and the Secretary of Homeland Security, shall, not later than 2 years after the date of enactment of this Act, submit to Congress a comprehensive report that identifies programs and practices that are intended to promote the safety and supply chain security of food and to prevent outbreaks of foodborne illness and other food-related hazards that can be addressed through preventive activities. Such report shall include a description of the following:

(A) Analysis of the need for further regulations or guidance to industry.

(B) Outreach to food industry sectors, including through the Food and Agriculture Coordinating Councils referred to in section 109, to identify potential sources of emerging threats to the safety and security of the food supply and preventive strategies to address those threats.

(C) Systems to ensure the prompt distribution to the food industry of information and technical assistance concerning preventive strategies.

(D) Communication systems to ensure that information about specific threats to the safety and security of the food supply are rapidly and effectively disseminated.

(E) Surveillance systems and laboratory networks to rapidly detect and respond to foodborne illness outbreaks and other food-related hazards, including how such systems and networks are integrated.

(F) Outreach, education, and training provided to States and local governments to build State and local food safety and food defense capabilities, including progress implementing strategies developed under sections 108 and 205.

(G) The estimated resources needed to effectively implement the programs and practices identified in the report developed in this section over a 5-year period.

(H) The impact of requirements under this Act (including amendments made by this Act) on certified organic farms and facilities (as defined in section 415 (21 U.S.C. 350d).

(I) Specific efforts taken pursuant to the agreements authorized under section 421(c) of the Federal Food, Drug, and Cosmetic Act (as added by section 201), together with, as necessary, a description of any additional authorities necessary to improve seafood safety.

(2) BIENNIAL REPORTS.—On a biennial basis following the submission of the report under

paragraph (1), the Secretary shall submit to Congress a report that—

(A) reviews previous food safety programs and practices;

(B) outlines the success of those programs and practices;

(C) identifies future programs and practices; and

(D) includes information related to any matter described in subparagraphs (A) through (H) of paragraph (1), as necessary.

(b) RISK-BASED ACTIVITIES.—The report developed under subsection (a)(1) shall describe methods that seek to ensure that resources available to the Secretary for food safety-related activities are directed at those actions most likely to reduce risks from food, including the use of preventive strategies and allocation of inspection resources. The Secretary shall promptly undertake those risk-based actions that are identified during the development of the report as likely to contribute to the safety and security of the food supply.

(c) CAPABILITY FOR LABORATORY ANALYSES; RESEARCH.—The report developed under subsection (a)(1) shall provide a description of methods to increase capacity to undertake analyses of food samples promptly after collection, to identify new and rapid analytical techniques, including commercially-available techniques that can be employed at ports of entry and by Food Emergency Response Network laboratories, and to provide for well-equipped and staffed laboratory facilities and progress toward laboratory accreditation under section 422 of the Federal Food, Drug, and Cosmetic Act (as added by section 202).

(d) INFORMATION TECHNOLOGY.—The report developed under subsection (a)(1) shall include a description of such information technology systems as may be needed to identify risks and receive data from multiple sources, including foreign governments, State, local, and tribal governments, other Federal agencies, the food industry, laboratories, laboratory networks, and consumers. The information technology systems that the Secretary describes shall also provide for the integration of the facility registration system under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), and the prior notice system under section 801(m) of such Act (21 U.S.C. 381(m)) with other information technology systems that are used by the Federal Government for the processing of food offered for import into the United States.

(e) AUTOMATED RISK ASSESSMENT.—The report developed under subsection (a)(1) shall include a description of progress toward developing and improving an automated risk assessment system for food safety surveillance and allocation of resources.

(f) TRACEBACK AND SURVEILLANCE REPORT.—The Secretary shall include in the report developed under subsection (a)(1) an analysis of the Food and Drug Administration's performance in foodborne illness outbreaks during the 5-year period preceding the date of enactment of this Act involving fruits and vegetables that are raw agricultural commodities (as defined in section 201(r) (21 U.S.C. 321(r)) and recommendations for enhanced surveillance, outbreak response, and traceability. Such findings and recommendations shall address communication and coordination with the public, industry, and State and local governments, as such communication and coordination relates to outbreak identification and traceback.

(g) BIENNIAL FOOD SAFETY AND FOOD DEFENSE RESEARCH PLAN.—The Secretary, the

Secretary of Agriculture, and the Secretary of Homeland Security shall, on a biennial basis, submit to Congress a joint food safety and food defense research plan which may include studying the long-term health effects of foodborne illness. Such biennial plan shall include a list and description of projects conducted during the previous 2-year period and the plan for projects to be conducted during the subsequent 2-year period.

(h) **EFFECTIVENESS OF PROGRAMS ADMINISTERED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**—

(1) **IN GENERAL.**—To determine whether existing Federal programs administered by the Department of Health and Human Services are effective in achieving the stated goals of such programs, the Secretary shall, beginning not later than 1 year after the date of enactment of this Act—

(A) conduct an annual evaluation of each program of such Department to determine the effectiveness of each such program in achieving legislated intent, purposes, and objectives; and

(B) submit to Congress a report concerning such evaluation.

(2) **CONTENT.**—The report described under paragraph (1)(B) shall—

(A) include conclusions concerning the reasons that such existing programs have proven successful or not successful and what factors contributed to such conclusions;

(B) include recommendations for consolidation and elimination to reduce duplication and inefficiencies in such programs at such Department as identified during the evaluation conduct under this subsection; and

(C) be made publicly available in a publication entitled “Guide to the U.S. Department of Health and Human Services Programs”.

(i) **UNIQUE IDENTIFICATION NUMBERS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Commissioner of Food and Drugs, shall conduct a study regarding the need for, and challenges associated with, development and implementation of a program that requires a unique identification number for each food facility registered with the Secretary and, as appropriate, each broker that imports food into the United States. Such study shall include an evaluation of the costs associated with development and implementation of such a system, and make recommendations about what new authorities, if any, would be necessary to develop and implement such a system.

(2) **REPORT.**—Not later than 15 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings of the study conducted under paragraph (1) and that includes any recommendations determined appropriate by the Secretary.

SEC. 111. SANITARY TRANSPORTATION OF FOOD.

(a) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate regulations described in section 416(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350e(b)).

(b) **FOOD TRANSPORTATION STUDY.**—The Secretary, acting through the Commissioner of Food and Drugs, shall conduct a study of the transportation of food for consumption in the United States, including transportation by air, that includes an examination of the unique needs of rural and frontier areas with regard to the delivery of safe food.

SEC. 112. FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT.

(a) **DEFINITIONS.**—In this section:

(1) **EARLY CHILDHOOD EDUCATION PROGRAM.**—The term “early childhood education program” means—

(A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.);

(B) a State licensed or regulated child care program or school; or

(C) a State prekindergarten program that serves children from birth through kindergarten.

(2) **ESEA DEFINITIONS.**—The terms “local educational agency”, “secondary school”, “elementary school”, and “parent” have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) **SCHOOL.**—The term “school” includes public—

(A) kindergartens;

(B) elementary schools; and

(C) secondary schools.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(b) **ESTABLISHMENT OF VOLUNTARY FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT GUIDELINES.**—

(1) **ESTABLISHMENT.**—

(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Education, shall—

(i) develop guidelines to be used on a voluntary basis to develop plans for individuals to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs; and

(ii) make such guidelines available to local educational agencies, schools, early childhood education programs, and other interested entities and individuals to be implemented on a voluntary basis only.

(B) **APPLICABILITY OF FERPA.**—Each plan described in subparagraph (A) that is developed for an individual shall be considered an education record for the purpose of section 444 of the General Education Provisions Act (commonly referred to as the “Family Educational Rights and Privacy Act of 1974”) (20 U.S.C. 1232g).

(2) **CONTENTS.**—The voluntary guidelines developed by the Secretary under paragraph (1) shall address each of the following and may be updated as the Secretary determines necessary:

(A) Parental obligation to provide the school or early childhood education program, prior to the start of every school year, with—

(i) documentation from their child’s physician or nurse—

(I) supporting a diagnosis of food allergy, and any risk of anaphylaxis, if applicable;

(II) identifying any food to which the child is allergic;

(III) describing, if appropriate, any prior history of anaphylaxis;

(IV) listing any medication prescribed for the child for the treatment of anaphylaxis;

(V) detailing emergency treatment procedures in the event of a reaction;

(VI) listing the signs and symptoms of a reaction; and

(VII) assessing the child’s readiness for self-administration of prescription medication; and

(ii) a list of substitute meals that may be offered to the child by school or early childhood education program food service personnel.

(B) The creation and maintenance of an individual plan for food allergy management, in consultation with the parent, tailored to

the needs of each child with a documented risk for anaphylaxis, including any procedures for the self-administration of medication by such children in instances where—

(i) the children are capable of self-administering medication; and

(ii) such administration is not prohibited by State law.

(C) **Communication strategies** between individual schools or early childhood education programs and providers of emergency medical services, including appropriate instructions for emergency medical response.

(D) **Strategies to reduce the risk of exposure to anaphylactic causative agents** in classrooms and common school or early childhood education program areas such as cafeterias.

(E) **The dissemination of general information on life-threatening food allergies to school or early childhood education program staff, parents, and children.**

(F) **Food allergy management training of school or early childhood education program personnel who regularly come into contact with children with life-threatening food allergies.**

(G) **The authorization and training of school or early childhood education program personnel to administer epinephrine when the nurse is not immediately available.**

(H) **The timely accessibility of epinephrine by school or early childhood education program personnel when the nurse is not immediately available.**

(I) **The creation of a plan contained in each individual plan for food allergy management that addresses the appropriate response to an incident of anaphylaxis of a child while such child is engaged in extracurricular programs of a school or early childhood education program, such as non-academic outings and field trips, before- and after-school programs or before- and after-early childhood education program programs, and school-sponsored or early childhood education program-sponsored programs held on weekends.**

(J) **Maintenance of information for each administration of epinephrine to a child at risk for anaphylaxis and prompt notification to parents.**

(K) **Other elements the Secretary determines necessary for the management of food allergies and anaphylaxis in schools and early childhood education programs.**

(3) **RELATION TO STATE LAW.**—Nothing in this section or the guidelines developed by the Secretary under paragraph (1) shall be construed to preempt State law, including any State law regarding whether students at risk for anaphylaxis may self-administer medication.

(c) **SCHOOL-BASED FOOD ALLERGY MANAGEMENT GRANTS.**—

(1) **IN GENERAL.**—The Secretary may award grants to local educational agencies to assist such agencies with implementing voluntary food allergy and anaphylaxis management guidelines described in subsection (b).

(2) **APPLICATION.**—

(A) **IN GENERAL.**—To be eligible to receive a grant under this subsection, a local educational agency shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

(B) **CONTENTS.**—Each application submitted under subparagraph (A) shall include—

(i) an assurance that the local educational agency has developed plans in accordance with the food allergy and anaphylaxis management guidelines described in subsection (b);

(ii) a description of the activities to be funded by the grant in carrying out the food allergy and anaphylaxis management guidelines, including—

(I) how the guidelines will be carried out at individual schools served by the local educational agency;

(II) how the local educational agency will inform parents and students of the guidelines in place;

(III) how school nurses, teachers, administrators, and other school-based staff will be made aware of, and given training on, when applicable, the guidelines in place; and

(IV) any other activities that the Secretary determines appropriate;

(iii) an itemization of how grant funds received under this subsection will be expended;

(iv) a description of how adoption of the guidelines and implementation of grant activities will be monitored; and

(v) an agreement by the local educational agency to report information required by the Secretary to conduct evaluations under this subsection.

(3) **USE OF FUNDS.**—Each local educational agency that receives a grant under this subsection may use the grant funds for the following:

(A) Purchase of materials and supplies, including limited medical supplies such as epinephrine and disposable wet wipes, to support carrying out the food allergy and anaphylaxis management guidelines described in subsection (b).

(B) In partnership with local health departments, school nurse, teacher, and personnel training for food allergy management.

(C) Programs that educate students as to the presence of, and policies and procedures in place related to, food allergies and anaphylactic shock.

(D) Outreach to parents.

(E) Any other activities consistent with the guidelines described in subsection (b).

(4) **DURATION OF AWARDS.**—The Secretary may award grants under this subsection for a period of not more than 2 years. In the event the Secretary conducts a program evaluation under this subsection, funding in the second year of the grant, where applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

(5) **LIMITATION ON GRANT FUNDING.**—The Secretary may not provide grant funding to a local educational agency under this subsection after such local educational agency has received 2 years of grant funding under this subsection.

(6) **MAXIMUM AMOUNT OF ANNUAL AWARDS.**—A grant awarded under this subsection may not be made in an amount that is more than \$50,000 annually.

(7) **PRIORITY.**—In awarding grants under this subsection, the Secretary shall give priority to local educational agencies with the highest percentages of children who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)).

(8) **MATCHING FUNDS.**—

(A) **IN GENERAL.**—The Secretary may not award a grant under this subsection unless the local educational agency agrees that, with respect to the costs to be incurred by such local educational agency in carrying out the grant activities, the local educational agency shall make available (directly or through donations from public or private entities) non-Federal funds toward such costs in an amount equal to not less than 25 percent of the amount of the grant.

(B) **DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.**—Non-Federal funds re-

quired under subparagraph (A) may be cash or in kind, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal funds.

(9) **ADMINISTRATIVE FUNDS.**—A local educational agency that receives a grant under this subsection may use not more than 2 percent of the grant amount for administrative costs related to carrying out this subsection.

(10) **PROGRESS AND EVALUATIONS.**—At the completion of the grant period referred to in paragraph (4), a local educational agency shall provide the Secretary with information on how grant funds were spent and the status of implementation of the food allergy and anaphylaxis management guidelines described in subsection (b).

(11) **SUPPLEMENT, NOT SUPPLANT.**—Grant funds received under this subsection shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this subsection.

(12) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this subsection \$30,000,000 for fiscal year 2011 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(d) **VOLUNTARY NATURE OF GUIDELINES.**—

(1) **IN GENERAL.**—The food allergy and anaphylaxis management guidelines developed by the Secretary under subsection (b) are voluntary. Nothing in this section or the guidelines developed by the Secretary under subsection (b) shall be construed to require a local educational agency to implement such guidelines.

(2) **EXCEPTION.**—Notwithstanding paragraph (1), the Secretary may enforce an agreement by a local educational agency to implement food allergy and anaphylaxis management guidelines as a condition of the receipt of a grant under subsection (c).

SEC. 113. NEW DIETARY INGREDIENTS.

(a) **IN GENERAL.**—Section 413 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350b) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) **NOTIFICATION.**—

“(1) **IN GENERAL.**—If the Secretary determines that the information in a new dietary ingredient notification submitted under this section for an article purported to be a new dietary ingredient is inadequate to establish that a dietary supplement containing such article will reasonably be expected to be safe because the article may be, or may contain, an anabolic steroid or an analogue of an anabolic steroid, the Secretary shall notify the Drug Enforcement Administration of such determination. Such notification by the Secretary shall include, at a minimum, the name of the dietary supplement or article, the name of the person or persons who marketed the product or made the submission of information regarding the article to the Secretary under this section, and any contact information for such person or persons that the Secretary has.

“(2) **DEFINITIONS.**—For purposes of this subsection—

“(A) the term ‘anabolic steroid’ has the meaning given such term in section 102(41) of the Controlled Substances Act; and

“(B) the term ‘analogue of an anabolic steroid’ means a substance whose chemical structure is substantially similar to the chemical structure of an anabolic steroid.”.

(b) **GUIDANCE.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish guidance that clarifies when a dietary supplement ingredient is a new dietary ingredient, when the manufacturer or distributor of a dietary ingredient or dietary supplement should provide the Secretary with information as described in section 413(a)(2) of the Federal Food, Drug, and Cosmetic Act, the evidence needed to document the safety of new dietary ingredients, and appropriate methods for establishing the identity of a new dietary ingredient.

SEC. 114. REQUIREMENT FOR GUIDANCE RELATING TO POST HARVEST PROCESSING OF RAW OYSTERS.

(a) **IN GENERAL.**—Not later than 90 days prior to the issuance of any guidance, regulation, or suggested amendment by the Food and Drug Administration to the National Shellfish Sanitation Program’s Model Ordinance, or the issuance of any guidance or regulation by the Food and Drug Administration relating to the Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration (parts 123 and 1240 of title 21, Code of Federal Regulations (or any successor regulations), where such guidance, regulation or suggested amendment relates to post harvest processing for raw oysters, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report which shall include—

(1) an assessment of how post harvest processing or other equivalent controls feasibly may be implemented in the fastest, safest, and most economical manner;

(2) the projected public health benefits of any proposed post harvest processing;

(3) the projected costs of compliance with such post harvest processing measures;

(4) the impact post harvest processing is expected to have on the sales, cost, and availability of raw oysters;

(5) criteria for ensuring post harvest processing standards will be applied equally to shellfish imported from all nations of origin;

(6) an evaluation of alternative measures to prevent, eliminate, or reduce to an acceptable level the occurrence of foodborne illness; and

(7) the extent to which the Food and Drug Administration has consulted with the States and other regulatory agencies, as appropriate, with regard to post harvest processing measures.

(b) **LIMITATION.**—Subsection (a) shall not apply to the guidance described in section 103(h).

(c) **REVIEW AND EVALUATION.**—Not later than 30 days after the Secretary issues a proposed regulation or guidance described in subsection (a), the Comptroller General of the United States shall—

(1) review and evaluate the report described in (a) and report to Congress on the findings of the estimates and analysis in the report;

(2) compare such proposed regulation or guidance to similar regulations or guidance with respect to other regulated foods, including a comparison of risks the Secretary may find associated with seafood and the instances of those risks in such other regulated foods; and

(3) evaluate the impact of post harvest processing on the competitiveness of the domestic oyster industry in the United States and in international markets.

(d) **WAIVER.**—The requirement of preparing a report under subsection (a) shall be waived

if the Secretary issues a guidance that is adopted as a consensus agreement between Federal and State regulators and the oyster industry, acting through the Interstate Shellfish Sanitation Conference.

(e) PUBLIC ACCESS.—Any report prepared under this section shall be made available to the public.

SEC. 115. PORT SHOPPING.

Until the date on which the Secretary promulgates a final rule that implements the amendments made by section 308 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, (Public Law 107-188), the Secretary shall notify the Secretary of Homeland Security of all instances in which the Secretary refuses to admit a food into the United States under section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)) so that the Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, may prevent food refused admittance into the United States by a United States port of entry from being admitted by another United States port of entry, through the notification of other such United States ports of entry.

SEC. 116. ALCOHOL-RELATED FACILITIES.

(a) IN GENERAL.—Except as provided by sections 102, 206, 207, 302, 304, 402, 403, and 404 of this Act, and the amendments made by such sections, nothing in this Act, or the amendments made by this Act, shall be construed to apply to a facility that—

(1) under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) or chapter 51 of subtitle E of the Internal Revenue Code of 1986 (26 U.S.C. 5001 et seq.) is required to obtain a permit or to register with the Secretary of the Treasury as a condition of doing business in the United States; and

(2) under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) is required to register as a facility because such facility is engaged in manufacturing, processing, packing, or holding 1 or more alcoholic beverages, with respect to the activities of such facility that relate to the manufacturing, processing, packing, or holding of alcoholic beverages.

(b) LIMITED RECEIPT AND DISTRIBUTION OF NON-ALCOHOL FOOD.—Subsection (a) shall not apply to a facility engaged in the receipt and distribution of any non-alcohol food, except that such paragraph shall apply to a facility described in such paragraph that receives and distributes non-alcohol food, provided such food is received and distributed—

(1) in a prepackaged form that prevents any direct human contact with such food; and

(2) in amounts that constitute not more than 5 percent of the overall sales of such facility, as determined by the Secretary of the Treasury.

(c) RULE OF CONSTRUCTION.—Except as provided in subsections (a) and (b), this section shall not be construed to exempt any food, other than alcoholic beverages, as defined in section 214 of the Federal Alcohol Administration Act (27 U.S.C. 214), from the requirements of this Act (including the amendments made by this Act).

TITLE II.—IMPROVING CAPACITY TO DETECT AND RESPOND TO FOOD SAFETY PROBLEMS

SEC. 201. TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY; ANNUAL REPORT.

(a) TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY.—Chapter IV (21

U.S.C. 341 et seq.), as amended by section 106, is amended by adding at the end the following:

“SEC. 421. TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY; ANNUAL REPORT.

“(a) IDENTIFICATION AND INSPECTION OF FACILITIES.—

“(1) IDENTIFICATION.—The Secretary shall identify high-risk facilities and shall allocate resources to inspect facilities according to the known safety risks of the facilities, which shall be based on the following factors:

“(A) The known safety risks of the food manufactured, processed, packed, or held at the facility.

“(B) The compliance history of a facility, including with regard to food recalls, outbreaks of foodborne illness, and violations of food safety standards.

“(C) The rigor and effectiveness of the facility’s hazard analysis and risk-based preventive controls.

“(D) Whether the food manufactured, processed, packed, or held at the facility meets the criteria for priority under section 801(h)(1).

“(E) Whether the food or the facility that manufactured, processed, packed, or held such food has received a certification as described in section 801(q) or 806, as appropriate.

“(F) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

“(2) INSPECTIONS.—

“(A) IN GENERAL.—Beginning on the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall increase the frequency of inspection of all facilities.

“(B) DOMESTIC HIGH-RISK FACILITIES.—The Secretary shall increase the frequency of inspection of domestic facilities identified under paragraph (1) as high-risk facilities such that each such facility is inspected—

“(i) not less often than once in the 5-year period following the date of enactment of the FDA Food Safety Modernization Act; and

“(ii) not less often than once every 3 years thereafter.

“(C) DOMESTIC NON-HIGH-RISK FACILITIES.—The Secretary shall ensure that each domestic facility that is not identified under paragraph (1) as a high-risk facility is inspected—

“(i) not less often than once in the 7-year period following the date of enactment of the FDA Food Safety Modernization Act; and

“(ii) not less often than once every 5 years thereafter.

“(D) FOREIGN FACILITIES.—

“(i) YEAR 1.—In the 1-year period following the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall inspect not fewer than 600 foreign facilities.

“(ii) SUBSEQUENT YEARS.—In each of the 5 years following the 1-year period described in clause (i), the Secretary shall inspect not fewer than twice the number of foreign facilities inspected by the Secretary during the previous year.

“(E) RELIANCE ON FEDERAL, STATE, OR LOCAL INSPECTIONS.—In meeting the inspection requirements under this subsection for domestic facilities, the Secretary may rely on inspections conducted by other Federal, State, or local agencies under interagency agreement, contract, memoranda of understanding, or other obligation.

“(b) IDENTIFICATION AND INSPECTION AT PORTS OF ENTRY.—The Secretary, in consultation with the Secretary of Homeland Security, shall allocate resources to inspect any article of food imported into the United

States according to the known safety risks of the article of food, which shall be based on the following factors:

“(1) The known safety risks of the food imported.

“(2) The known safety risks of the countries or regions of origin and countries through which such article of food is transported.

“(3) The compliance history of the importer, including with regard to food recalls, outbreaks of foodborne illness, and violations of food safety standards.

“(4) The rigor and effectiveness of the activities conducted by the importer of such article of food to satisfy the requirements of the foreign supplier verification program under section 805.

“(5) Whether the food importer participates in the voluntary qualified importer program under section 806.

“(6) Whether the food meets the criteria for priority under section 801(h)(1).

“(7) Whether the food or the facility that manufactured, processed, packed, or held such food received a certification as described in section 801(q) or 806.

“(8) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

“(c) INTERAGENCY AGREEMENTS WITH RESPECT TO SEAFOOD.—

“(1) IN GENERAL.—The Secretary of Health and Human Services, the Secretary of Commerce, the Secretary of Homeland Security, the Chairman of the Federal Trade Commission, and the heads of other appropriate agencies may enter into such agreements as may be necessary or appropriate to improve seafood safety.

“(2) SCOPE OF AGREEMENTS.—The agreements under paragraph (1) may include—

“(A) cooperative arrangements for examining and testing seafood imports that leverage the resources, capabilities, and authorities of each party to the agreement;

“(B) coordination of inspections of foreign facilities to increase the percentage of imported seafood and seafood facilities inspected;

“(C) standardization of data on seafood names, inspection records, and laboratory testing to improve interagency coordination;

“(D) coordination to detect and investigate violations under applicable Federal law;

“(E) a process, including the use or modification of existing processes, by which officers and employees of the National Oceanic and Atmospheric Administration may be duly designated by the Secretary to carry out seafood examinations and investigations under section 801 of this Act or section 203 of the Food Allergen Labeling and Consumer Protection Act of 2004;

“(F) the sharing of information concerning observed non-compliance with United States food requirements domestically and in foreign nations and new regulatory decisions and policies that may affect the safety of food imported into the United States;

“(G) conducting joint training on subjects that affect and strengthen seafood inspection effectiveness by Federal authorities; and

“(H) outreach on Federal efforts to enhance seafood safety and compliance with Federal food safety requirements.

“(d) COORDINATION.—The Secretary shall improve coordination and cooperation with the Secretary of Agriculture and the Secretary of Homeland Security to target food inspection resources.

“(e) FACILITY.—For purposes of this section, the term ‘facility’ means a domestic facility or a foreign facility that is required to register under section 415.”.

(b) ANNUAL REPORT.—Section 1003 (21 U.S.C. 393) is amended by adding at the end the following:

“(h) ANNUAL REPORT REGARDING FOOD.—Not later than February 1 of each year, the Secretary shall submit to Congress a report, including efforts to coordinate and cooperate with other Federal agencies with responsibilities for food inspections, regarding—

“(1) information about food facilities including—

“(A) the appropriations used to inspect facilities registered pursuant to section 415 in the previous fiscal year;

“(B) the average cost of both a non-high-risk food facility inspection and a high-risk food facility inspection, if such a difference exists, in the previous fiscal year;

“(C) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that the Secretary inspected in the previous fiscal year;

“(D) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that were scheduled for inspection in the previous fiscal year and which the Secretary did not inspect in such year;

“(E) the number of high-risk facilities identified pursuant to section 421 that the Secretary inspected in the previous fiscal year; and

“(F) the number of high-risk facilities identified pursuant to section 421 that were scheduled for inspection in the previous fiscal year and which the Secretary did not inspect in such year.

“(2) information about food imports including—

“(A) the number of lines of food imported into the United States that the Secretary physically inspected or sampled in the previous fiscal year;

“(B) the number of lines of food imported into the United States that the Secretary did not physically inspect or sample in the previous fiscal year; and

“(C) the average cost of physically inspecting or sampling a line of food subject to this Act that is imported or offered for import into the United States; and

“(3) information on the foreign offices of the Food and Drug Administration including—

“(A) the number of foreign offices established; and

“(B) the number of personnel permanently stationed in each foreign office.

“(i) PUBLIC AVAILABILITY OF ANNUAL FOOD REPORTS.—The Secretary shall make the reports required under subsection (h) available to the public on the Internet Web site of the Food and Drug Administration.”.

(c) ADVISORY COMMITTEE CONSULTATION.—In allocating inspection resources as described in section 421 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary may, as appropriate, consult with any relevant advisory committee within the Department of Health and Human Services.

SEC. 202. LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 201, is amended by adding at the end the following:

“SEC. 422. LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.

“(a) RECOGNITION OF LABORATORY ACCREDITATION.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

“(A) establish a program for the testing of food by accredited laboratories;

“(B) establish a publicly available registry of accreditation bodies recognized by the Secretary and laboratories accredited by a recognized accreditation body, including the name of, contact information for, and other information deemed appropriate by the Secretary about such bodies and laboratories; and

“(C) require, as a condition of recognition or accreditation, as appropriate, that recognized accreditation bodies and accredited laboratories report to the Secretary any changes that would affect the recognition of such accreditation body or the accreditation of such laboratory.

“(2) PROGRAM REQUIREMENTS.—The program established under paragraph (1)(A) shall provide for the recognition of laboratory accreditation bodies that meet criteria established by the Secretary for accreditation of laboratories, including independent private laboratories and laboratories run and operated by a Federal agency (including the Department of Commerce), State, or locality with a demonstrated capability to conduct 1 or more sampling and analytical testing methodologies for food.

“(3) INCREASING THE NUMBER OF QUALIFIED LABORATORIES.—The Secretary shall work with the laboratory accreditation bodies recognized under paragraph (1), as appropriate, to increase the number of qualified laboratories that are eligible to perform testing under subparagraph (b) beyond the number so qualified on the date of enactment of the FDA Food Safety Modernization Act.

“(4) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary, in coordination with the Secretary of Homeland Security, may determine the time, manner, and form in which the registry established under paragraph (1)(B) is made publicly available.

“(5) FOREIGN LABORATORIES.—Accreditation bodies recognized by the Secretary under paragraph (1) may accredit laboratories that operate outside the United States, so long as such laboratories meet the accreditation standards applicable to domestic laboratories accredited under this section.

“(6) MODEL LABORATORY STANDARDS.—The Secretary shall develop model standards that a laboratory shall meet to be accredited by a recognized accreditation body for a specified sampling or analytical testing methodology and included in the registry provided for under paragraph (1). In developing the model standards, the Secretary shall consult existing standards for guidance. The model standards shall include—

“(A) methods to ensure that—

“(i) appropriate sampling, analytical procedures (including rapid analytical procedures), and commercially available techniques are followed and reports of analyses are certified as true and accurate;

“(ii) internal quality systems are established and maintained;

“(iii) procedures exist to evaluate and respond promptly to complaints regarding analyses and other activities for which the laboratory is accredited; and

“(iv) individuals who conduct the sampling and analyses are qualified by training and experience to do so; and

“(B) any other criteria determined appropriate by the Secretary.

“(7) REVIEW OF RECOGNITION.—To ensure compliance with the requirements of this section, the Secretary—

“(A) shall periodically, and in no case less than once every 5 years, reevaluate accredi-

tation bodies recognized under paragraph (1) and may accompany auditors from an accreditation body to assess whether the accreditation body meets the criteria for recognition; and

“(B) shall promptly revoke the recognition of any accreditation body found not to be in compliance with the requirements of this section, specifying, as appropriate, any terms and conditions necessary for laboratories accredited by such body to continue to perform testing as described in this section.

“(b) TESTING PROCEDURES.—

“(1) IN GENERAL.—Not later than 30 months after the date of enactment of the FDA Food Safety Modernization Act, food testing shall be conducted by Federal laboratories or non-Federal laboratories that have been accredited for the appropriate sampling or analytical testing methodology or methodologies by a recognized accreditation body on the registry established by the Secretary under subsection (a)(1)(B) whenever such testing is conducted—

“(A) by or on behalf of an owner or consignee—

“(i) in response to a specific testing requirement under this Act or implementing regulations, when applied to address an identified or suspected food safety problem; and

“(ii) as required by the Secretary, as the Secretary deems appropriate, to address an identified or suspected food safety problem; or

“(B) on behalf of an owner or consignee—

“(i) in support of admission of an article of food under section 801(a); and

“(ii) under an Import Alert that requires successful consecutive tests.

“(2) RESULTS OF TESTING.—The results of any such testing shall be sent directly to the Food and Drug Administration, except the Secretary may by regulation exempt test results from such submission requirement if the Secretary determines that such results do not contribute to the protection of public health. Test results required to be submitted may be submitted to the Food and Drug Administration through electronic means.

“(3) EXCEPTION.—The Secretary may waive requirements under this subsection if—

“(A) a new methodology or methodologies have been developed and validated but a laboratory has not yet been accredited to perform such methodology or methodologies; and

“(B) the use of such methodology or methodologies are necessary to prevent, control, or mitigate a food emergency or foodborne illness outbreak.

“(c) REVIEW BY SECRETARY.—If food sampling and testing performed by a laboratory run and operated by a State or locality that is accredited by a recognized accreditation body on the registry established by the Secretary under subsection (a) result in a State recalling a food, the Secretary shall review the sampling and testing results for the purpose of determining the need for a national recall or other compliance and enforcement activities.

“(d) NO LIMIT ON SECRETARIAL AUTHORITY.—Nothing in this section shall be construed to limit the ability of the Secretary to review and act upon information from food testing, including determining the sufficiency of such information and testing.”.

(b) FOOD EMERGENCY RESPONSE NETWORK.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Homeland Security, and State, local, and tribal governments shall, not later than 180 days after the date of enactment of this Act, and biennially thereafter, submit to the relevant committees of Congress, and make

publicly available on the Internet Web site of the Department of Health and Human Services, a report on the progress in implementing a national food emergency response laboratory network that—

(1) provides ongoing surveillance, rapid detection, and surge capacity for large-scale food-related emergencies, including intentional adulteration of the food supply;

(2) coordinates the food laboratory capacities of State, local, and tribal food laboratories, including the adoption of novel surveillance and identification technologies and the sharing of data between Federal agencies and State laboratories to develop national situational awareness;

(3) provides accessible, timely, accurate, and consistent food laboratory services throughout the United States;

(4) develops and implements a methods repository for use by Federal, State, and local officials;

(5) responds to food-related emergencies; and

(6) is integrated with relevant laboratory networks administered by other Federal agencies.

SEC. 203. INTEGRATED CONSORTIUM OF LABORATORY NETWORKS.

(a) IN GENERAL.—The Secretary of Homeland Security, in coordination with the Secretary of Health and Human Services, the Secretary of Agriculture, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall maintain an agreement through which relevant laboratory network members, as determined by the Secretary of Homeland Security, shall—

(1) agree on common laboratory methods in order to reduce the time required to detect and respond to foodborne illness outbreaks and facilitate the sharing of knowledge and information relating to animal health, agriculture, and human health;

(2) identify means by which laboratory network members could work cooperatively—

(A) to optimize national laboratory preparedness; and

(B) to provide surge capacity during emergencies; and

(3) engage in ongoing dialogue and build relationships that will support a more effective and integrated response during emergencies.

(b) REPORTING REQUIREMENT.—The Secretary of Homeland Security shall, on a biennial basis, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the progress of the integrated consortium of laboratory networks, as established under subsection (a), in carrying out this section.

SEC. 204. ENHANCING TRACKING AND TRACING OF FOOD AND RECORDKEEPING.

(a) PILOT PROJECTS.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”), taking into account recommendations from the Secretary of Agriculture and representatives of State departments of health and agriculture, shall establish pilot projects in coordination with the food industry to explore and evaluate methods to rapidly and effectively identify recipients of food to prevent or mitigate a foodborne illness outbreak and to address credible threats of serious adverse health consequences or death to humans or animals as a result of such food being adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342)

or misbranded under section 403(w) of such Act (21 U.S.C. 343(w)).

(2) CONTENT.—The Secretary shall conduct 1 or more pilot projects under paragraph (1) in coordination with the processed food sector and 1 or more such pilot projects in coordination with processors or distributors of fruits and vegetables that are raw agricultural commodities. The Secretary shall ensure that the pilot projects under paragraph (1) reflect the diversity of the food supply and include at least 3 different types of foods that have been the subject of significant outbreaks during the 5-year period preceding the date of enactment of this Act, and are selected in order to—

(A) develop and demonstrate methods for rapid and effective tracking and tracing of foods in a manner that is practicable for facilities of varying sizes, including small businesses;

(B) develop and demonstrate appropriate technologies, including technologies existing on the date of enactment of this Act, that enhance the tracking and tracing of food; and

(C) inform the promulgation of regulations under subsection (d).

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall report to Congress on the findings of the pilot projects under this subsection together with recommendations for improving the tracking and tracing of food.

(b) ADDITIONAL DATA GATHERING.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture and multiple representatives of State departments of health and agriculture, shall assess—

(A) the costs and benefits associated with the adoption and use of several product tracing technologies, including technologies used in the pilot projects under subsection (a);

(B) the feasibility of such technologies for different sectors of the food industry, including small businesses; and

(C) whether such technologies are compatible with the requirements of this subsection.

(2) REQUIREMENTS.—To the extent practicable, in carrying out paragraph (1), the Secretary shall—

(A) evaluate domestic and international product tracing practices in commercial use;

(B) consider international efforts, including an assessment of whether product tracing requirements developed under this section are compatible with global tracing systems, as appropriate; and

(C) consult with a diverse and broad range of experts and stakeholders, including representatives of the food industry, agricultural producers, and nongovernmental organizations that represent the interests of consumers.

(c) PRODUCT TRACING SYSTEM.—The Secretary, in consultation with the Secretary of Agriculture, shall, as appropriate, establish within the Food and Drug Administration a product tracing system to receive information that improves the capacity of the Secretary to effectively and rapidly track and trace food that is in the United States or offered for import into the United States. Prior to the establishment of such product tracing system, the Secretary shall examine the results of applicable pilot projects and shall ensure that the activities of such system are adequately supported by the results of such pilot projects.

(d) ADDITIONAL RECORDKEEPING REQUIREMENTS FOR HIGH RISK FOODS.—

(1) IN GENERAL.—In order to rapidly and effectively identify recipients of a food to pre-

vent or mitigate a foodborne illness outbreak and to address credible threats of serious adverse health consequences or death to humans or animals as a result of such food being adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act or misbranded under section 403(w) of such Act, not later than 2 years after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to establish recordkeeping requirements, in addition to the requirements under section 414 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c) and subpart J of part 1 of title 21, Code of Federal Regulations (or any successor regulations), for facilities that manufacture, process, pack, or hold foods that the Secretary designates under paragraph (2) as high-risk foods. The Secretary shall set an appropriate effective date of such additional requirements for foods designated as high risk that takes into account the length of time necessary to comply with such requirements. Such requirements shall—

(A) relate only to information that is reasonably available and appropriate;

(B) be science-based;

(C) not prescribe specific technologies for the maintenance of records;

(D) ensure that the public health benefits of imposing additional recordkeeping requirements outweigh the cost of compliance with such requirements;

(E) be scale-appropriate and practicable for facilities of varying sizes and capabilities with respect to costs and recordkeeping burdens, and not require the creation and maintenance of duplicate records where the information is contained in other company records kept in the normal course of business;

(F) minimize the number of different recordkeeping requirements for facilities that handle more than 1 type of food;

(G) to the extent practicable, not require a facility to change business systems to comply with such requirements;

(H) allow any person subject to this subsection to maintain records required under this subsection at a central or reasonably accessible location provided that such records can be made available to the Secretary not later than 24 hours after the Secretary requests such records; and

(I) include a process by which the Secretary may issue a waiver of the requirements under this subsection if the Secretary determines that such requirements would result in an economic hardship for an individual facility or a type of facility;

(J) be commensurate with the known safety risks of the designated food;

(K) take into account international trade obligations;

(L) not require—

(i) a full pedigree, or a record of the complete previous distribution history of the food from the point of origin of such food;

(ii) records of recipients of a food beyond the immediate subsequent recipient of such food; or

(iii) product tracking to the case level by persons subject to such requirements; and

(M) include a process by which the Secretary may remove a high-risk food designation developed under paragraph (2) for a food or type of food.

(2) DESIGNATION OF HIGH-RISK FOODS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and thereafter as the Secretary determines necessary, the Secretary shall designate high-risk foods for which the additional recordkeeping requirements described in paragraph

(1) are appropriate and necessary to protect the public health. Each such designation shall be based on—

(i) the known safety risks of a particular food, including the history and severity of foodborne illness outbreaks attributed to such food, taking into consideration foodborne illness data collected by the Centers for Disease Control and Prevention;

(ii) the likelihood that a particular food has a high potential risk for microbiological or chemical contamination or would support the growth of pathogenic microorganisms due to the nature of the food or the processes used to produce such food;

(iii) the point in the manufacturing process of the food where contamination is most likely to occur;

(iv) the likelihood of contamination and steps taken during the manufacturing process to reduce the possibility of contamination;

(v) the likelihood that consuming a particular food will result in a foodborne illness due to contamination of the food; and

(vi) the likely or known severity, including health and economic impacts, of a foodborne illness attributed to a particular food.

(B) LIST OF HIGH-RISK FOODS.—At the time the Secretary promulgates the final rules under paragraph (1), the Secretary shall publish the list of the foods designated under subparagraph (A) as high-risk foods on the Internet website of the Food and Drug Administration. The Secretary may update the list to designate new high-risk foods and to remove foods that are no longer deemed to be high-risk foods, provided that each such update to the list is consistent with the requirements of this subsection and notice of such update is published in the Federal Register.

(3) PROTECTION OF SENSITIVE INFORMATION.—In promulgating regulations under this subsection, the Secretary shall take appropriate measures to ensure that there are effective procedures to prevent the unauthorized disclosure of any trade secret or confidential information that is obtained by the Secretary pursuant to this section, including periodic risk assessment and planning to prevent unauthorized release and controls to—

(A) prevent unauthorized reproduction of trade secret or confidential information;

(B) prevent unauthorized access to trade secret or confidential information; and

(C) maintain records with respect to access by any person to trade secret or confidential information maintained by the agency.

(4) PUBLIC INPUT.—During the comment period in the notice of proposed rulemaking under paragraph (1), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

(5) RETENTION OF RECORDS.—Except as otherwise provided in this subsection, the Secretary may require that a facility retain records under this subsection for not more than 2 years, taking into consideration the risk of spoilage, loss of value, or loss of palatability of the applicable food when determining the appropriate timeframes.

(6) LIMITATIONS.—

(A) FARM TO SCHOOL PROGRAMS.—In establishing requirements under this subsection, the Secretary shall, in consultation with the Secretary of Agriculture, consider the impact of requirements on farm to school or farm to institution programs of the Department of Agriculture and other farm to school and farm to institution programs outside

such agency, and shall modify the requirements under this subsection, as appropriate, with respect to such programs so that the requirements do not place undue burdens on farm to school or farm to institution programs.

(B) IDENTITY-PRESERVED LABELS WITH RESPECT TO FARM SALES OF FOOD THAT IS PRODUCED AND PACKAGED ON A FARM.—The requirements under this subsection shall not apply to a food that is produced and packaged on a farm if—

(i) the packaging of the food maintains the integrity of the product and prevents subsequent contamination or alteration of the product; and

(ii) the labeling of the food includes the name, complete address (street address, town, State, country, and zip or other postal code), and business phone number of the farm, unless the Secretary waives the requirement to include a business phone number of the farm, as appropriate, in order to accommodate a religious belief of the individual in charge of such farm.

(C) FISHING VESSELS.—The requirements under this subsection with respect to a food that is produced through the use of a fishing vessel (as defined in section 3(18) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(18))) shall be limited to the requirements under subparagraph (F) until such time as the food is sold by the owner, operator, or agent in charge of such fishing vessel.

(D) COMMINGLED RAW AGRICULTURAL COMMODITIES.—

(i) LIMITATION ON EXTENT OF TRACING.—Recordkeeping requirements under this subsection with regard to any commingled raw agricultural commodity shall be limited to the requirements under subparagraph (F).

(ii) DEFINITIONS.—For the purposes of this subparagraph—

(I) the term “commingled raw agricultural commodity” means any commodity that is combined or mixed after harvesting, but before processing;

(II) the term “commingled raw agricultural commodity” shall not include types of fruits and vegetables that are raw agricultural commodities for which the Secretary has determined that standards promulgated under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by section 105) would minimize the risk of serious adverse health consequences or death; and

(III) the term “processing” means operations that alter the general state of the commodity, such as canning, cooking, freezing, dehydration, milling, grinding, pasteurization, or homogenization.

(E) EXEMPTION OF OTHER FOODS.—The Secretary may, by notice in the Federal Register, modify the requirements under this subsection with respect to, or exempt a food or a type of facility from, the requirements of this subsection (other than the requirements under subparagraph (F), if applicable) if the Secretary determines that product tracing requirements for such food (such as bulk or commingled ingredients that are intended to be processed to destroy pathogens) or type of facility is not necessary to protect the public health.

(F) RECORDKEEPING REGARDING PREVIOUS SOURCES AND SUBSEQUENT RECIPIENTS.—In the case of a person or food to which a limitation or exemption under subparagraph (C), (D), or (E) applies, if such person, or a person who manufactures, processes, packs, or holds such food, is required to register with the Secretary under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.

350d) with respect to the manufacturing, processing, packing, or holding of the applicable food, the Secretary shall require such person to maintain records that identify the immediate previous source of such food and the immediate subsequent recipient of such food.

(G) GROCERY STORES.—With respect to a sale of a food described in subparagraph (H) to a grocery store, the Secretary shall not require such grocery store to maintain records under this subsection other than records documenting the farm that was the source of such food. The Secretary shall not require that such records be kept for more than 180 days.

(H) FARM SALES TO CONSUMERS.—The Secretary shall not require a farm to maintain any distribution records under this subsection with respect to a sale of a food described in subparagraph (I) (including a sale of a food that is produced and packaged on such farm), if such sale is made by the farm directly to a consumer.

(I) SALE OF A FOOD.—A sale of a food described in this subparagraph is a sale of a food in which—

(i) the food is produced on a farm; and

(ii) the sale is made by the owner, operator, or agent in charge of such farm directly to a consumer or grocery store.

(7) NO IMPACT ON NON-HIGH-RISK FOODS.—The recordkeeping requirements established under paragraph (1) shall have no effect on foods that are not designated by the Secretary under paragraph (2) as high-risk foods. Foods described in the preceding sentence shall be subject solely to the recordkeeping requirements under section 414 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c) and subpart J of part 1 of title 21, Code of Federal Regulations (or any successor regulations).

(e) EVALUATION AND RECOMMENDATIONS.—

(1) REPORT.—Not later than 1 year after the effective date of the final rule promulgated under subsection (d)(1), the Comptroller General of the United States shall submit to Congress a report, taking into consideration the costs of compliance and other regulatory burdens on small businesses and Federal, State, and local food safety practices and requirements, that evaluates the public health benefits and risks, if any, of limiting—

(A) the product tracing requirements under subsection (d) to foods identified under paragraph (2) of such subsection, including whether such requirements provide adequate assurance of traceability in the event of intentional adulteration, including by acts of terrorism; and

(B) the participation of restaurants in the recordkeeping requirements.

(2) DETERMINATION AND RECOMMENDATIONS.—In conducting the evaluation and report under paragraph (1), if the Comptroller General of the United States determines that the limitations described in such paragraph do not adequately protect the public health, the Comptroller General shall submit to Congress recommendations, if appropriate, regarding recordkeeping requirements for restaurants and additional foods, in order to protect the public health.

(f) FARMS.—

(1) REQUEST FOR INFORMATION.—Notwithstanding subsection (d), during an active investigation of a foodborne illness outbreak, or if the Secretary determines it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak, the Secretary, in consultation and coordination with State and local agencies responsible for

food safety, as appropriate, may request that the owner, operator, or agent of a farm identify potential immediate recipients, other than consumers, of an article of the food that is the subject of such investigation if the Secretary reasonably believes such article of food—

(A) is adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act;

(B) presents a threat of serious adverse health consequences or death to humans or animals; and

(C) was adulterated as described in subparagraph (A) on a particular farm (as defined in section 1.227 of chapter 21, Code of Federal Regulations (or any successor regulation)).

(2) **MANNER OF REQUEST.**—In making a request under paragraph (1), the Secretary, in consultation and coordination with State and local agencies responsible for food safety, as appropriate, shall issue a written notice to the owner, operator, or agent of the farm to which the article of food has been traced. The individual providing such notice shall present to such owner, operator, or agent appropriate credentials and shall deliver such notice at reasonable times and within reasonable limits and in a reasonable manner.

(3) **DELIVERY OF INFORMATION REQUESTED.**—The owner, operator, or agent of a farm shall deliver the information requested under paragraph (1) in a prompt and reasonable manner. Such information may consist of records kept in the normal course of business, and may be in electronic or non-electronic format.

(4) **LIMITATION.**—A request made under paragraph (1) shall not include a request for information relating to the finances, pricing of commodities produced, personnel, research, sales (other than information relating to shipping), or other disclosures that may reveal trade secrets or confidential information from the farm to which the article of food has been traced, other than information necessary to identify potential immediate recipients of such food. Section 301(j) of the Federal Food, Drug, and Cosmetic Act and the Freedom of Information Act shall apply with respect to any confidential commercial information that is disclosed to the Food and Drug Administration in the course of responding to a request under paragraph (1).

(5) **RECORDS.**—Except with respect to identifying potential immediate recipients in response to a request under this subsection, nothing in this subsection shall require the establishment or maintenance by farms of new records.

(g) **NO LIMITATION ON COMMINGLING OF FOOD.**—Nothing in this section shall be construed to authorize the Secretary to impose any limitation on the commingling of food.

(h) **SMALL ENTITY COMPLIANCE GUIDE.**—Not later than 180 days after promulgation of a final rule under subsection (d), the Secretary shall issue a small entity compliance guide setting forth in plain language the requirements of the regulations under such subsection in order to assist small entities, including farms and small businesses, in complying with the recordkeeping requirements under such subsection.

(i) **FLEXIBILITY FOR SMALL BUSINESSES.**—Notwithstanding any other provision of law, the regulations promulgated under subsection (d) shall apply—

(1) to small businesses (as defined by the Secretary in section 103, not later than 90 days after the date of enactment of this Act) beginning on the date that is 1 year after the

effective date of the final regulations promulgated under subsection (d); and

(2) to very small businesses (as defined by the Secretary in section 103, not later than 90 days after the date of enactment of this Act) beginning on the date that is 2 years after the effective date of the final regulations promulgated under subsection (d).

(j) **ENFORCEMENT.**—

(1) **PROHIBITED ACTS.**—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting “; or the violation of any recordkeeping requirement under section 204 of the FDA Food Safety Modernization Act (except when such violation is committed by a farm)” before the period at the end.

(2) **IMPORTS.**—Section 801(a) (21 U.S.C. 381(a)) is amended by inserting “or (4) the recordkeeping requirements under section 204 of the FDA Food Safety Modernization Act (other than the requirements under subsection (f) of such section) have not been complied with regarding such article,” in the third sentence before “then such article shall be refused admission”.

SEC. 205. SURVEILLANCE.

(a) **DEFINITION OF FOODBORNE ILLNESS OUTBREAK.**—In this Act, the term “foodborne illness outbreak” means the occurrence of 2 or more cases of a similar illness resulting from the ingestion of a certain food.

(b) **FOODBORNE ILLNESS SURVEILLANCE SYSTEMS.**—

(1) **IN GENERAL.**—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall enhance foodborne illness surveillance systems to improve the collection, analysis, reporting, and usefulness of data on foodborne illnesses by—

(A) coordinating Federal, State and local foodborne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(B) facilitating sharing of surveillance information on a more timely basis among governmental agencies, including the Food and Drug Administration, the Department of Agriculture, the Department of Homeland Security, and State and local agencies, and with the public;

(C) developing improved epidemiological tools for obtaining quality exposure data and microbiological methods for classifying cases;

(D) augmenting such systems to improve attribution of a foodborne illness outbreak to a specific food;

(E) expanding capacity of such systems, including working toward automatic electronic searches, for implementation of identification practices, including fingerprinting strategies, for foodborne infectious agents, in order to identify new or rarely documented causes of foodborne illness and submit standardized information to a centralized database;

(F) allowing timely public access to aggregated, de-identified surveillance data;

(G) at least annually, publishing current reports on findings from such systems;

(H) establishing a flexible mechanism for rapidly initiating scientific research by academic institutions;

(I) integrating foodborne illness surveillance systems and data with other biosurveillance and public health situational awareness capabilities at the Federal, State, and local levels, including by sharing foodborne illness surveillance data with the National Biosurveillance Integration Center; and

(J) other activities as determined appropriate by the Secretary.

(2) **WORKING GROUP.**—The Secretary shall support and maintain a diverse working group of experts and stakeholders from Federal, State, and local food safety and health agencies, the food and food testing industries, consumer organizations, and academia. Such working group shall provide the Secretary, through at least annual meetings of the working group and an annual public report, advice and recommendations on an ongoing and regular basis regarding the improvement of foodborne illness surveillance and implementation of this section, including advice and recommendations on—

(A) the priority needs of regulatory agencies, the food industry, and consumers for information and analysis on foodborne illness and its causes;

(B) opportunities to improve the effectiveness of initiatives at the Federal, State, and local levels, including coordination and integration of activities among Federal agencies, and between the Federal, State, and local levels of government;

(C) improvement in the timeliness and depth of access by regulatory and health agencies, the food industry, academic researchers, and consumers to foodborne illness aggregated, de-identified surveillance data collected by government agencies at all levels, including data compiled by the Centers for Disease Control and Prevention;

(D) key barriers at Federal, State, and local levels to improving foodborne illness surveillance and the utility of such surveillance for preventing foodborne illness;

(E) the capabilities needed for establishing automatic electronic searches of surveillance data; and

(F) specific actions to reduce barriers to improvement, implement the working group's recommendations, and achieve the purposes of this section, with measurable objectives and timelines, and identification of resource and staffing needs.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out the activities described in paragraph (1), there is authorized to be appropriated \$24,000,000 for each fiscal years 2011 through 2015.

(c) **IMPROVING FOOD SAFETY AND DEFENSE CAPACITY AT THE STATE AND LOCAL LEVEL.**—

(1) **IN GENERAL.**—The Secretary shall develop and implement strategies to leverage and enhance the food safety and defense capacities of State and local agencies in order to achieve the following goals:

(A) Improve foodborne illness outbreak response and containment.

(B) Accelerate foodborne illness surveillance and outbreak investigation, including rapid shipment of clinical isolates from clinical laboratories to appropriate State laboratories, and conducting more standardized illness outbreak interviews.

(C) Strengthen the capacity of State and local agencies to carry out inspections and enforce safety standards.

(D) Improve the effectiveness of Federal, State, and local partnerships to coordinate food safety and defense resources and reduce the incidence of foodborne illness.

(E) Share information on a timely basis among public health and food regulatory agencies, with the food industry, with health care providers, and with the public.

(F) Strengthen the capacity of State and local agencies to achieve the goals described in section 108.

(2) **REVIEW.**—In developing of the strategies required by paragraph (1), the Secretary shall, not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, complete a review of State

and local capacities, and needs for enhancement, which may include a survey with respect to—

(A) staffing levels and expertise available to perform food safety and defense functions;

(B) laboratory capacity to support surveillance, outbreak response, inspection, and enforcement activities;

(C) information systems to support data management and sharing of food safety and defense information among State and local agencies and with counterparts at the Federal level; and

(D) other State and local activities and needs as determined appropriate by the Secretary.

(d) **FOOD SAFETY CAPACITY BUILDING GRANTS.**—Section 317R(b) of the Public Health Service Act (42 U.S.C. 247b–20(b)) is amended—

(1) by striking “2002” and inserting “2010”; and

(2) by striking “2003 through 2006” and inserting “2011 through 2015”.

SEC. 206. MANDATORY RECALL AUTHORITY.

(a) **IN GENERAL.**—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 202, is amended by adding at the end the following:

“SEC. 423. MANDATORY RECALL AUTHORITY.

“(a) **VOLUNTARY PROCEDURES.**—If the Secretary determines, based on information gathered through the reportable food registry under section 417 or through any other means, that there is a reasonable probability that an article of food (other than infant formula) is adulterated under section 402 or misbranded under section 403(w) and the use of or exposure to such article will cause serious adverse health consequences or death to humans or animals, the Secretary shall provide the responsible party (as defined in section 417) with an opportunity to cease distribution and recall such article.

“(b) **PREHEARING ORDER TO CEASE DISTRIBUTION AND GIVE NOTICE.**—

“(1) **IN GENERAL.**—If the responsible party refuses to or does not voluntarily cease distribution or recall such article within the time and in the manner prescribed by the Secretary (if so prescribed), the Secretary may, by order require, as the Secretary deems necessary, such person to—

“(A) immediately cease distribution of such article; and

“(B) as applicable, immediately notify all persons—

“(i) manufacturing, processing, packing, transporting, distributing, receiving, holding, or importing and selling such article; and

“(ii) to which such article has been distributed, transported, or sold, to immediately cease distribution of such article.

“(2) **REQUIRED ADDITIONAL INFORMATION.**—

“(A) **IN GENERAL.**—If an article of food covered by a recall order issued under paragraph (1)(B) has been distributed to a warehouse-based third party logistics provider without providing such provider sufficient information to know or reasonably determine the precise identity of the article of food covered by a recall order that is in its possession, the notice provided by the responsible party subject to the order issued under paragraph (1)(B) shall include such information as is necessary for the warehouse-based third party logistics provider to identify the food.

“(B) **RULES OF CONSTRUCTION.**—Nothing in this paragraph shall be construed—

“(i) to exempt a warehouse-based third party logistics provider from the requirements of this Act, including the requirements in this section and section 414; or

“(ii) to exempt a warehouse-based third party logistics provider from being the subject of a mandatory recall order.

“(3) **DETERMINATION TO LIMIT AREAS AFFECTED.**—If the Secretary requires a responsible party to cease distribution under paragraph (1)(A) of an article of food identified in subsection (a), the Secretary may limit the size of the geographic area and the markets affected by such cessation if such limitation would not compromise the public health.

“(c) **HEARING ON ORDER.**—The Secretary shall provide the responsible party subject to an order under subsection (b) with an opportunity for an informal hearing, to be held as soon as possible, but not later than 2 days after the issuance of the order, on the actions required by the order and on why the article that is the subject of the order should not be recalled.

“(d) **POST-HEARING RECALL ORDER AND MODIFICATION OF ORDER.**—

“(1) **AMENDMENT OF ORDER.**—If, after providing opportunity for an informal hearing under subsection (c), the Secretary determines that removal of the article from commerce is necessary, the Secretary shall, as appropriate—

“(A) amend the order to require recall of such article or other appropriate action;

“(B) specify a timetable in which the recall shall occur;

“(C) require periodic reports to the Secretary describing the progress of the recall; and

“(D) provide notice to consumers to whom such article was, or may have been, distributed.

“(2) **VACATING OF ORDER.**—If, after such hearing, the Secretary determines that adequate grounds do not exist to continue the actions required by the order, or that such actions should be modified, the Secretary shall vacate the order or modify the order.

“(e) **RULE REGARDING ALCOHOLIC BEVERAGES.**—The Secretary shall not initiate a mandatory recall or take any other action under this section with respect to any alcohol beverage until the Secretary has provided the Alcohol and Tobacco Tax and Trade Bureau with a reasonable opportunity to cease distribution and recall such article under the Alcohol and Tobacco Tax and Trade Bureau authority.

“(f) **COOPERATION AND CONSULTATION.**—The Secretary shall work with State and local public health officials in carrying out this section, as appropriate.

“(g) **PUBLIC NOTIFICATION.**—In conducting a recall under this section, the Secretary shall—

“(1) ensure that a press release is published regarding the recall, as well as alerts and public notices, as appropriate, in order to provide notification—

“(A) of the recall to consumers and retailers to whom such article was, or may have been, distributed; and

“(B) that includes, at a minimum—

“(i) the name of the article of food subject to the recall;

“(ii) a description of the risk associated with such article; and

“(iii) to the extent practicable, information for consumers about similar articles of food that are not affected by the recall;

“(2) consult the policies of the Department of Agriculture regarding providing to the public a list of retail consignees receiving products involved in a Class I recall and shall consider providing such a list to the public, as determined appropriate by the Secretary; and

“(3) if available, publish on the Internet Web site of the Food and Drug Administra-

tion an image of the article that is the subject of the press release described in (1).

“(h) **NO DELEGATION.**—The authority conferred by this section to order a recall or vacate a recall order shall not be delegated to any officer or employee other than the Commissioner.

“(i) **EFFECT.**—Nothing in this section shall affect the authority of the Secretary to request or participate in a voluntary recall, or to issue an order to cease distribution or to recall under any other provision of this Act or under the Public Health Service Act.

“(j) **COORDINATED COMMUNICATION.**—

“(1) **IN GENERAL.**—To assist in carrying out the requirements of this subsection, the Secretary shall establish an incident command operation or a similar operation within the Department of Health and Human Services that will operate not later than 24 hours after the initiation of a mandatory recall or the recall of an article of food for which the use of, or exposure to, such article will cause serious adverse health consequences or death to humans or animals.

“(2) **REQUIREMENTS.**—To reduce the potential for miscommunication during recalls or regarding investigations of a food borne illness outbreak associated with a food that is subject to a recall, each incident command operation or similar operation under paragraph (1) shall use regular staff and resources of the Department of Health and Human Services to—

“(A) ensure timely and coordinated communication within the Department, including enhanced communication and coordination between different agencies and organizations within the Department;

“(B) ensure timely and coordinated communication from the Department, including public statements, throughout the duration of the investigation and related foodborne illness outbreak;

“(C) identify a single point of contact within the Department for public inquiries regarding any actions by the Secretary related to a recall;

“(D) coordinate with Federal, State, local, and tribal authorities, as appropriate, that have responsibilities related to the recall of a food or a foodborne illness outbreak associated with a food that is subject to the recall, including notification of the Secretary of Agriculture and the Secretary of Education in the event such recalled food is a commodity intended for use in a child nutrition program (as identified in section 25(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769f(b)); and

“(E) conclude operations at such time as the Secretary determines appropriate.

“(3) **MULTIPLE RECALLS.**—The Secretary may establish multiple or concurrent incident command operations or similar operations in the event of multiple recalls or foodborne illness outbreaks necessitating such action by the Department of Health and Human Services.”

(b) **SEARCH ENGINE.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall modify the Internet Web site of the Food and Drug Administration to include a search engine that—

(1) is consumer-friendly, as determined by the Secretary; and

(2) provides a means by which an individual may locate relevant information regarding each article of food subject to a recall under section 423 of the Federal Food, Drug, and Cosmetic Act and the status of such recall (such as whether a recall is ongoing or has been completed).

(c) **CIVIL PENALTY.**—Section 303(f)(2)(A) (21 U.S.C. 333(f)(2)(A)) is amended by inserting

“or any person who does not comply with a recall order under section 423” after “section 402(a)(2)(B)”.

(d) **PROHIBITED ACTS.**—Section 301 (21 U.S.C. 331 et seq.), as amended by section 106, is amended by adding at the end the following:

“(xx) The refusal or failure to follow an order under section 423.”.

(e) **GAO REVIEW.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that—

(A) identifies State and local agencies with the authority to require the mandatory recall of food, and evaluates use of such authority with regard to frequency, effectiveness, and appropriateness, including consideration of any new or existing mechanisms available to compensate persons for general and specific recall-related costs when a recall is subsequently determined by the relevant authority to have been an error;

(B) identifies Federal agencies, other than the Department of Health and Human Services, with mandatory recall authority and examines use of that authority with regard to frequency, effectiveness, and appropriateness, including any new or existing mechanisms available to compensate persons for general and specific recall-related costs when a recall is subsequently determined by the relevant agency to have been an error;

(C) considers models for farmer restitution implemented in other nations in cases of erroneous recalls; and

(D) makes recommendations to the Secretary regarding use of the authority under section 423 of the Federal Food, Drug, and Cosmetic Act (as added by this section) to protect the public health while seeking to minimize unnecessary economic costs.

(2) **EFFECT OF REVIEW.**—If the Comptroller General of the United States finds, after the review conducted under paragraph (1), that the mechanisms described in such paragraph do not exist or are inadequate, then, not later than 90 days after the conclusion of such review, the Secretary of Agriculture shall conduct a study of the feasibility of implementing a farmer indemnification program to provide restitution to agricultural producers for losses sustained as a result of a mandatory recall of an agricultural commodity by a Federal or State regulatory agency that is subsequently determined to be in error. The Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study, including any recommendations.

(f) **ANNUAL REPORT TO CONGRESS.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives on the use of recall authority under section 423 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)) and any public health advisories issued by the Secretary that advise against the consumption of an article of food on the ground that the article of food is adulterated and poses an imminent danger to health.

(2) **CONTENT.**—The report under paragraph (1) shall include, with respect to the report year—

(A) the identity of each article of food that was the subject of a public health advisory described in paragraph (1), an opportunity to cease distribution and recall under subsection (a) of section 423 of the Federal Food, Drug, and Cosmetic Act, or a mandatory recall order under subsection (b) of such section;

(B) the number of responsible parties, as defined in section 417 of the Federal Food, Drug, and Cosmetic Act, formally given the opportunity to cease distribution of an article of food and recall such article, as described in section 423(a) of such Act;

(C) the number of responsible parties described in subparagraph (B) who did not cease distribution or recall an article of food after given the opportunity to cease distribution or recall under section 423(a) of the Federal Food, Drug, and Cosmetic Act;

(D) the number of recall orders issued under section 423(b) of the Federal Food, Drug, and Cosmetic Act; and

(E) a description of any instances in which there was no testing that confirmed adulteration of an article of food that was the subject of a recall under section 423(b) of the Federal Food, Drug, and Cosmetic Act or a public health advisory described in paragraph (1).

SEC. 207. ADMINISTRATIVE DETENTION OF FOOD.

(a) **IN GENERAL.**—Section 304(h)(1)(A) (21 U.S.C. 334(h)(1)(A)) is amended by—

(1) striking “credible evidence or information indicating” and inserting “reason to believe”; and

(2) striking “presents a threat of serious adverse health consequences or death to humans or animals” and inserting “is adulterated or misbranded”.

(b) **REGULATIONS.**—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart K of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) **EFFECTIVE DATE.**—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 208. DECONTAMINATION AND DISPOSAL STANDARDS AND PLANS.

(a) **IN GENERAL.**—The Administrator of the Environmental Protection Agency (referred to in this section as the “Administrator”), in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, and Secretary of Agriculture, shall provide support for, and technical assistance to, State, local, and tribal governments in preparing for, assessing, decontaminating, and recovering from an agriculture or food emergency.

(b) **DEVELOPMENT OF STANDARDS.**—In carrying out subsection (a), the Administrator, in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, Secretary of Agriculture, and State, local, and tribal governments, shall develop and disseminate specific standards and protocols to undertake clean-up, clearance, and recovery activities following the decontamination and disposal of specific threat agents and foreign animal diseases.

(c) **DEVELOPMENT OF MODEL PLANS.**—In carrying out subsection (a), the Administrator, the Secretary of Health and Human Services, and the Secretary of Agriculture shall jointly develop and disseminate model plans for—

(1) the decontamination of individuals, equipment, and facilities following an intentional contamination of agriculture or food; and

(2) the disposal of large quantities of animals, plants, or food products that have been

infected or contaminated by specific threat agents and foreign animal diseases.

(d) **EXERCISES.**—In carrying out subsection (a), the Administrator, in coordination with the entities described under subsection (b), shall conduct exercises at least annually to evaluate and identify weaknesses in the decontamination and disposal model plans described in subsection (c). Such exercises shall be carried out, to the maximum extent practicable, as part of the national exercise program under section 648(b)(1) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b)(1)).

(e) **MODIFICATIONS.**—Based on the exercises described in subsection (d), the Administrator, in coordination with the entities described in subsection (b), shall review and modify as necessary the plans described in subsection (c) not less frequently than biennially.

(f) **PRIORITIZATION.**—The Administrator, in coordination with the entities described in subsection (b), shall develop standards and plans under subsections (b) and (c) in an identified order of priority that takes into account—

(1) highest-risk biological, chemical, and radiological threat agents;

(2) agents that could cause the greatest economic devastation to the agriculture and food system; and

(3) agents that are most difficult to clean or remediate.

SEC. 209. IMPROVING THE TRAINING OF STATE, LOCAL, TERRITORIAL, AND TRIBAL FOOD SAFETY OFFICIALS.

(a) **IMPROVING TRAINING.**—Chapter X (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

“SEC. 1011. IMPROVING THE TRAINING OF STATE, LOCAL, TERRITORIAL, AND TRIBAL FOOD SAFETY OFFICIALS.

“(a) **TRAINING.**—The Secretary shall set standards and administer training and education programs for the employees of State, local, territorial, and tribal food safety officials relating to the regulatory responsibilities and policies established by this Act, including programs for—

“(1) scientific training;

“(2) training to improve the skill of officers and employees authorized to conduct inspections under sections 702 and 704;

“(3) training to achieve advanced product or process specialization in such inspections;

“(4) training that addresses best practices;

“(5) training in administrative process and procedure and integrity issues;

“(6) training in appropriate sampling and laboratory analysis methodology; and

“(7) training in building enforcement actions following inspections, examinations, testing, and investigations.

“(b) **PARTNERSHIPS WITH STATE AND LOCAL OFFICIALS.**—

“(1) **IN GENERAL.**—The Secretary, pursuant to a contract or memorandum of understanding between the Secretary and the head of a State, local, territorial, or tribal department or agency, is authorized and encouraged to conduct examinations, testing, and investigations for the purposes of determining compliance with the food safety provisions of this Act through the officers and employees of such State, local, territorial, or tribal department or agency.

“(2) **CONTENT.**—A contract or memorandum described under paragraph (1) shall include provisions to ensure adequate training of such officers and employees to conduct such examinations, testing, and investigations. The contract or memorandum shall contain provisions regarding reimbursement. Such

provisions may, at the sole discretion of the head of the other department or agency, require reimbursement, in whole or in part, from the Secretary for the examinations, testing, or investigations performed pursuant to this section by the officers or employees of the State, territorial, or tribal department or agency.

“(3) EFFECT.—Nothing in this subsection shall be construed to limit the authority of the Secretary under section 702.

“(c) EXTENSION SERVICE.—The Secretary shall ensure coordination with the extension activities of the National Institute of Food and Agriculture of the Department of Agriculture in advising producers and small processors transitioning into new practices required as a result of the enactment of the FDA Food Safety Modernization Act and assisting regulated industry with compliance with such Act.

“(d) NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH AND TECHNICAL ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—In order to improve food safety and reduce the incidence of foodborne illness, the Secretary shall, not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, enter into one or more memoranda of understanding, or enter into other cooperative agreements, with the Secretary of Agriculture to establish a competitive grant program within the National Institute for Food and Agriculture to provide food safety training, education, extension, outreach, and technical assistance to—

“(A) owners and operators of farms;

“(B) small food processors; and

“(C) small fruit and vegetable merchant wholesalers.

“(2) IMPLEMENTATION.—The competitive grant program established under paragraph (1) shall be carried out in accordance with section 405 of the Agricultural Research, Extension, and Education Reform Act of 1998.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2011 through 2015.”

(b) NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE PROGRAM.—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 is amended by inserting after section 404 (7 U.S.C. 7624) the following:

“SEC. 405. NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE PROGRAM.

“(a) IN GENERAL.—The Secretary shall award grants under this section to carry out the competitive grant program established under section 1011(d) of the Federal Food, Drug, and Cosmetic Act, pursuant to any memoranda of understanding entered into under such section.

“(b) INTEGRATED APPROACH.—The grant program described under subsection (a) shall be carried out under this section in a manner that facilitates the integration of food safety standards and guidance with the variety of agricultural production systems, encompassing conventional, sustainable, organic, and conservation and environmental practices.

“(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to projects that target small and medium-sized farms, beginning farmers, socially disadvantaged farmers, small processors, or small fresh fruit and vegetable merchant wholesalers.

“(d) PROGRAM COORDINATION.—

“(1) IN GENERAL.—The Secretary shall coordinate implementation of the grant program under this section with the National Integrated Food Safety Initiative.

“(2) INTERACTION.—The Secretary shall—

“(A) in carrying out the grant program under this section, take into consideration applied research, education, and extension results obtained from the National Integrated Food Safety Initiative; and

“(B) in determining the applied research agenda for the National Integrated Food Safety Initiative, take into consideration the needs articulated by participants in projects funded by the program under this section.

“(e) GRANTS.—

“(1) IN GENERAL.—In carrying out this section, the Secretary shall make competitive grants to support training, education, extension, outreach, and technical assistance projects that will help improve public health by increasing the understanding and adoption of established food safety standards, guidance, and protocols.

“(2) ENCOURAGED FEATURES.—The Secretary shall encourage projects carried out using grant funds under this section to include co-management of food safety, conservation systems, and ecological health.

“(3) MAXIMUM TERM AND SIZE OF GRANT.—

“(A) IN GENERAL.—A grant under this section shall have a term that is not more than 3 years.

“(B) LIMITATION ON GRANT FUNDING.—The Secretary may not provide grant funding to an entity under this section after such entity has received 3 years of grant funding under this section.

“(f) GRANT ELIGIBILITY.—

“(1) IN GENERAL.—To be eligible for a grant under this section, an entity shall be—

“(A) a State cooperative extension service;

“(B) a Federal, State, local, or tribal agency, a nonprofit community-based or non-governmental organization, or an organization representing owners and operators of farms, small food processors, or small fruit and vegetable merchant wholesalers that has a commitment to public health and expertise in administering programs that contribute to food safety;

“(C) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) or a foundation maintained by an institution of higher education;

“(D) a collaboration of 2 or more eligible entities described in this subsection; or

“(E) such other appropriate entity, as determined by the Secretary.

“(2) MULTISTATE PARTNERSHIPS.—Grants under this section may be made for projects involving more than 1 State.

“(g) REGIONAL BALANCE.—In making grants under this section, the Secretary shall, to the maximum extent practicable, ensure—

“(1) geographic diversity; and

“(2) diversity of types of agricultural production.

“(h) TECHNICAL ASSISTANCE.—The Secretary may use funds made available under this section to provide technical assistance to grant recipients to further the purposes of this section.

“(i) BEST PRACTICES AND MODEL PROGRAMS.—Based on evaluations of, and responses arising from, projects funded under this section, the Secretary may issue a set of recommended best practices and models for food safety training programs for agricultural producers, small food processors, and small fresh fruit and vegetable merchant wholesalers.

“(j) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of making grants under this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2011 through 2015.”

SEC. 210. ENHANCING FOOD SAFETY.

(a) GRANTS TO ENHANCE FOOD SAFETY.—Section 1009 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 399) is amended to read as follows:

“SEC. 1009. GRANTS TO ENHANCE FOOD SAFETY.

“(a) IN GENERAL.—The Secretary is authorized to make grants to eligible entities to—

“(1) undertake examinations, inspections, and investigations, and related food safety activities under section 702;

“(2) train to the standards of the Secretary for the examination, inspection, and investigation of food manufacturing, processing, packing, holding, distribution, and importation, including as such examination, inspection, and investigation relate to retail food establishments;

“(3) build the food safety capacity of the laboratories of such eligible entity, including the detection of zoonotic diseases;

“(4) build the infrastructure and capacity of the food safety programs of such eligible entity to meet the standards as outlined in the grant application; and

“(5) take appropriate action to protect the public health in response to—

“(A) a notification under section 1008, including planning and otherwise preparing to take such action; or

“(B) a recall of food under this Act.

“(b) ELIGIBLE ENTITIES; APPLICATION.—

“(1) IN GENERAL.—In this section, the term ‘eligible entity’ means an entity—

“(A) that is—

“(i) a State;

“(ii) a locality;

“(iii) a territory;

“(iv) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act); or

“(v) a nonprofit food safety training entity that collaborates with 1 or more institutions of higher education; and

“(B) that submits an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

“(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

“(A) an assurance that the eligible entity has developed plans to engage in the types of activities described in subsection (a);

“(B) a description of the types of activities to be funded by the grant;

“(C) an itemization of how grant funds received under this section will be expended;

“(D) a description of how grant activities will be monitored; and

“(E) an agreement by the eligible entity to report information required by the Secretary to conduct evaluations under this section.

“(c) LIMITATIONS.—The funds provided under subsection (a) shall be available to an eligible entity that receives a grant under this section only to the extent such entity funds the food safety programs of such entity independently of any grant under this section in each year of the grant at a level equal to the level of such funding in the previous year, increased by the Consumer Price Index. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

“(d) ADDITIONAL AUTHORITY.—The Secretary may—

“(1) award a grant under this section in each subsequent fiscal year without re-application for a period of not more than 3 years, provided the requirements of subsection (c) are met for the previous fiscal year; and

“(2) award a grant under this section in a fiscal year for which the requirement of subsection (c) has not been met only if such requirement was not met because such funding was diverted for response to 1 or more natural disasters or in other extenuating circumstances that the Secretary may determine appropriate.

“(e) DURATION OF AWARDS.—The Secretary may award grants to an individual grant recipient under this section for periods of not more than 3 years. In the event the Secretary conducts a program evaluation, funding in the second year or third year of the grant, where applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

“(f) PROGRESS AND EVALUATION.—

“(1) IN GENERAL.—The Secretary shall measure the status and success of each grant program authorized under the FDA Food Safety Modernization Act (and any amendment made by such Act), including the grant program under this section. A recipient of a grant described in the preceding sentence shall, at the end of each grant year, provide the Secretary with information on how grant funds were spent and the status of the efforts by such recipient to enhance food safety. To the extent practicable, the Secretary shall take the performance of such a grant recipient into account when determining whether to continue funding for such recipient.

“(2) NO DUPLICATION.—In carrying out paragraph (1), the Secretary shall not duplicate the efforts of the Secretary under other provisions of this Act or the FDA Food Safety Modernization Act that require measurement and review of the activities of grant recipients under either such Act.

“(g) SUPPLEMENT NOT SUPPLANT.—Grant funds received under this section shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this section.

“(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2011 through 2015.”

(b) CENTERS OF EXCELLENCE.—Part P of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

“SEC. 399V-5. FOOD SAFETY INTEGRATED CENTERS OF EXCELLENCE.

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the working group described in subsection (b)(2), shall designate 5 Integrated Food Safety Centers of Excellence (referred to in this section as the ‘Centers of Excellence’) to serve as resources for Federal, State, and local public health professionals to respond to foodborne illness outbreaks. The Centers of Excellence shall be headquartered at selected State health departments.

“(b) SELECTION OF CENTERS OF EXCELLENCE.—

“(1) ELIGIBLE ENTITIES.—To be eligible to be designated as a Center of Excellence under subsection (a), an entity shall—

“(A) be a State health department;

“(B) partner with 1 or more institutions of higher education that have demonstrated knowledge, expertise, and meaningful experience with regional or national food production, processing, and distribution, as well as leadership in the laboratory, epidemiological, and environmental detection and investigation of foodborne illness; and

“(C) provide to the Secretary such information, at such time, and in such manner, as the Secretary may require.

“(2) WORKING GROUP.—Not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish a diverse working group of experts and stakeholders from Federal, State, and local food safety and health agencies, the food industry, including food retailers and food manufacturers, consumer organizations, and academia to make recommendations to the Secretary regarding designations of the Centers of Excellence.

“(3) ADDITIONAL CENTERS OF EXCELLENCE.—The Secretary may designate eligible entities to be regional Food Safety Centers of Excellence, in addition to the 5 Centers designated under subsection (a).

“(c) ACTIVITIES.—Under the leadership of the Director of the Centers for Disease Control and Prevention, each Center of Excellence shall be based out of a selected State health department, which shall provide assistance to other regional, State, and local departments of health through activities that include—

“(1) providing resources, including timely information concerning symptoms and tests, for frontline health professionals interviewing individuals as part of routine surveillance and outbreak investigations;

“(2) providing analysis of the timeliness and effectiveness of foodborne disease surveillance and outbreak response activities;

“(3) providing training for epidemiological and environmental investigation of foodborne illness, including suggestions for streamlining and standardizing the investigation process;

“(4) establishing fellowships, stipends, and scholarships to train future epidemiological and food-safety leaders and to address critical workforce shortages;

“(5) training and coordinating State and local personnel;

“(6) strengthening capacity to participate in existing or new foodborne illness surveillance and environmental assessment information systems; and

“(7) conducting research and outreach activities focused on increasing prevention, communication, and education regarding food safety.

“(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall submit to Congress a report that—

“(1) describes the effectiveness of the Centers of Excellence; and

“(2) provides legislative recommendations or describes additional resources required by the Centers of Excellence.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

“(f) NO DUPLICATION OF EFFORT.—In carrying out activities of the Centers of Excellence or other programs under this section, the Secretary shall not duplicate other Federal foodborne illness response efforts.”

SEC. 211. IMPROVING THE REPORTABLE FOOD REGISTRY.

(a) IN GENERAL.—Section 417 (21 U.S.C. 350f) is amended—

(1) by redesignating subsections (f) through (k) as subsections (i) through (n), respectively; and

(2) by inserting after subsection (e) the following:

“(f) CRITICAL INFORMATION.—Except with respect to fruits and vegetables that are raw agricultural commodities, not more than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary may require a responsible party to submit to the Secretary consumer-oriented information regarding a reportable food, which shall include—

“(1) a description of the article of food as provided in subsection (e)(3);

“(2) as provided in subsection (e)(7), affected product identification codes, such as UPC, SKU, or lot or batch numbers sufficient for the consumer to identify the article of food;

“(3) contact information for the responsible party as provided in subsection (e)(8); and

“(4) any other information the Secretary determines is necessary to enable a consumer to accurately identify whether such consumer is in possession of the reportable food.

“(g) GROCERY STORE NOTIFICATION.—

“(1) ACTION BY SECRETARY.—The Secretary shall—

“(A) prepare the critical information described under subsection (f) for a reportable food as a standardized one-page summary;

“(B) publish such one-page summary on the Internet website of the Food and Drug Administration in a format that can be easily printed by a grocery store for purposes of consumer notification.

“(2) ACTION BY GROCERY STORE.—A notification described under paragraph (1)(B) shall include the date and time such summary was posted on the Internet website of the Food and Drug Administration.

“(h) CONSUMER NOTIFICATION.—

“(1) IN GENERAL.—If a grocery store sold a reportable food that is the subject of the posting and such establishment is part of chain of establishments with 15 or more physical locations, then such establishment shall, not later than 24 hours after a one page summary described in subsection (g) is published, prominently display such summary or the information from such summary via at least one of the methods identified under paragraph (2) and maintain the display for 14 days.

“(2) LIST OF CONSPICUOUS LOCATIONS.—Not more than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall develop and publish a list of acceptable conspicuous locations and manners, from which grocery stores shall select at least one, for providing the notification required in paragraph (1). Such list shall include—

“(A) posting the notification at or near the register;

“(B) providing the location of the reportable food;

“(C) providing targeted recall information given to customers upon purchase of a food; and

“(D) other such prominent and conspicuous locations and manners utilized by grocery stores as of the date of the enactment of the FDA Food Safety Modernization Act to provide notice of such recalls to consumers as considered appropriate by the Secretary.”

(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331), as amended by section 206, is amended by adding at the end the following:

“(yy) The knowing and willful failure to comply with the notification requirement under section 417(h).”.

(c) CONFORMING AMENDMENT.—Section 301(e) (21 U.S.C. 331(e)) is amended by striking “417(g)” and inserting “417(j)”.

TITLE III—IMPROVING THE SAFETY OF IMPORTED FOOD

SEC. 301. FOREIGN SUPPLIER VERIFICATION PROGRAM.

(a) IN GENERAL.—Chapter VIII (21 U.S.C. 381 et seq.) is amended by adding at the end the following:

“SEC. 805. FOREIGN SUPPLIER VERIFICATION PROGRAM.

“(a) IN GENERAL.—

“(1) VERIFICATION REQUIREMENT.—Except as provided under subsections (e) and (f), each importer shall perform risk-based foreign supplier verification activities for the purpose of verifying that the food imported by the importer or agent of an importer is—

“(A) produced in compliance with the requirements of section 418 or section 419, as appropriate; and

“(B) is not adulterated under section 402 or misbranded under section 403(w).

“(2) IMPORTER DEFINED.—For purposes of this section, the term ‘importer’ means, with respect to an article of food—

“(A) the United States owner or consignee of the article of food at the time of entry of such article into the United States; or

“(B) in the case when there is no United States owner or consignee as described in subparagraph (A), the United States agent or representative of a foreign owner or consignee of the article of food at the time of entry of such article into the United States.

“(b) GUIDANCE.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall issue guidance to assist importers in developing foreign supplier verification programs.

“(c) REGULATIONS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations to provide for the content of the foreign supplier verification program established under subsection (a).

“(2) REQUIREMENTS.—The regulations promulgated under paragraph (1)—

“(A) shall require that the foreign supplier verification program of each importer be adequate to provide assurances that each foreign supplier to the importer produces the imported food in compliance with—

“(i) processes and procedures, including reasonably appropriate risk-based preventive controls, that provide the same level of public health protection as those required under section 418 or section 419 (taking into consideration variances granted under section 419), as appropriate; and

“(ii) section 402 and section 403(w).

“(B) shall include such other requirements as the Secretary deems necessary and appropriate to verify that food imported into the United States is as safe as food produced and sold within the United States.

“(3) CONSIDERATIONS.—In promulgating regulations under this subsection, the Secretary shall, as appropriate, take into account differences among importers and types of imported foods, including based on the level of risk posed by the imported food.

“(4) ACTIVITIES.—Verification activities under a foreign supplier verification program under this section may include monitoring records for shipments, lot-by-lot certification of compliance, annual on-site inspections, checking the hazard analysis and risk-

based preventive control plan of the foreign supplier, and periodically testing and sampling shipments.

“(d) RECORD MAINTENANCE AND ACCESS.—Records of an importer related to a foreign supplier verification program shall be maintained for a period of not less than 2 years and shall be made available promptly to a duly authorized representative of the Secretary upon request.

“(e) EXEMPTION OF SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES IN COMPLIANCE WITH HACCP.—This section shall not apply to a facility if the owner, operator, or agent in charge of such facility is required to comply with, and is in compliance with, 1 of the following standards and regulations with respect to such facility:

“(1) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(2) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(3) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

The exemption under paragraph (3) shall apply only with respect to microbiological hazards that are regulated under the standards for Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers under part 113 of chapter 21, Code of Federal Regulations (or any successor regulations).

“(f) ADDITIONAL EXEMPTIONS.—The Secretary, by notice published in the Federal Register, shall establish an exemption from the requirements of this section for articles of food imported in small quantities for research and evaluation purposes or for personal consumption, provided that such foods are not intended for retail sale and are not sold or distributed to the public.

“(g) PUBLICATION OF LIST OF PARTICIPANTS.—The Secretary shall publish and maintain on the Internet Web site of the Food and Drug Administration a current list that includes the name of, location of, and other information deemed necessary by the Secretary about, importers participating under this section.”.

(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331), as amended by section 211, is amended by adding at the end the following:

“(zz) The importation or offering for importation of a food if the importer (as defined in section 805) does not have in place a foreign supplier verification program in compliance with such section 805.”.

(c) IMPORTS.—Section 801(a) (21 U.S.C. 381(a)) is amended by adding “or the importer (as defined in section 805) is in violation of such section 805” after “or in violation of section 505”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

SEC. 302. VOLUNTARY QUALIFIED IMPORTER PROGRAM.

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 301, is amended by adding at the end the following:

“SEC. 806. VOLUNTARY QUALIFIED IMPORTER PROGRAM.

“(a) IN GENERAL.—Beginning not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

“(1) establish a program, in consultation with the Secretary of Homeland Security—

“(A) to provide for the expedited review and importation of food offered for importa-

tion by importers who have voluntarily agreed to participate in such program; and

“(B) consistent with section 808, establish a process for the issuance of a facility certification to accompany food offered for importation by importers who have voluntarily agreed to participate in such program; and

“(2) issue a guidance document related to participation in, revocation of such participation in, reinstatement in, and compliance with, such program.

“(b) VOLUNTARY PARTICIPATION.—An importer may request the Secretary to provide for the expedited review and importation of designated foods in accordance with the program established by the Secretary under subsection (a).

“(c) NOTICE OF INTENT TO PARTICIPATE.—An importer that intends to participate in the program under this section in a fiscal year shall submit a notice and application to the Secretary of such intent at the time and in a manner established by the Secretary.

“(d) ELIGIBILITY.—Eligibility shall be limited to an importer offering food for importation from a facility that has a certification described in subsection (a). In reviewing the applications and making determinations on such applications, the Secretary shall consider the risk of the food to be imported based on factors, such as the following:

“(1) The known safety risks of the food to be imported.

“(2) The compliance history of foreign suppliers used by the importer, as appropriate.

“(3) The capability of the regulatory system of the country of export to ensure compliance with United States food safety standards for a designated food.

“(4) The compliance of the importer with the requirements of section 805.

“(5) The recordkeeping, testing, inspections and audits of facilities, traceability of articles of food, temperature controls, and sourcing practices of the importer.

“(6) The potential risk for intentional adulteration of the food.

“(7) Any other factor that the Secretary determines appropriate.

“(e) REVIEW AND REVOCATION.—Any importer qualified by the Secretary in accordance with the eligibility criteria set forth in this section shall be reevaluated not less often than once every 3 years and the Secretary shall promptly revoke the qualified importer status of any importer found not to be in compliance with such criteria.

“(f) FALSE STATEMENTS.—Any statement or representation made by an importer to the Secretary shall be subject to section 1001 of title 18, United States Code.

“(g) DEFINITION.—For purposes of this section, the term ‘importer’ means the person that brings food, or causes food to be brought, from a foreign country into the customs territory of the United States.”.

SEC. 303. AUTHORITY TO REQUIRE IMPORT CERTIFICATIONS FOR FOOD.

(a) IN GENERAL.—Section 801(a) (21 U.S.C. 381(a)) is amended by inserting after the third sentence the following: “With respect to an article of food, if importation of such food is subject to, but not compliant with, the requirement under subsection (q) that such food be accompanied by a certification or other assurance that the food meets applicable requirements of this Act, then such article shall be refused admission.”.

(b) ADDITION OF CERTIFICATION REQUIREMENT.—Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

“(q) CERTIFICATIONS CONCERNING IMPORTED FOODS.—

“(1) IN GENERAL.—The Secretary may require, as a condition of granting admission to an article of food imported or offered for import into the United States, that an entity described in paragraph (3) provide a certification, or such other assurances as the Secretary determines appropriate, that the article of food complies with applicable requirements of this Act. Such certification or assurances may be provided in the form of shipment-specific certificates, a listing of certified facilities that manufacture, process, pack, or hold such food, or in such other form as the Secretary may specify.

“(2) FACTORS TO BE CONSIDERED IN REQUIRING CERTIFICATION.—The Secretary shall base the determination that an article of food is required to have a certification described in paragraph (1) on the risk of the food, including—

“(A) known safety risks associated with the food;

“(B) known food safety risks associated with the country, territory, or region of origin of the food;

“(C) a finding by the Secretary, supported by scientific, risk-based evidence, that—

“(i) the food safety programs, systems, and standards in the country, territory, or region of origin of the food are inadequate to ensure that the article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act; and

“(ii) the certification would assist the Secretary in determining whether to refuse or admit the article of food under subsection (a); and

“(D) information submitted to the Secretary in accordance with the process established in paragraph (7).

“(3) CERTIFYING ENTITIES.—For purposes of paragraph (1), entities that shall provide the certification or assurances described in such paragraph are—

“(A) an agency or a representative of the government of the country from which the article of food at issue originated, as designated by the Secretary; or

“(B) such other persons or entities accredited pursuant to section 808 to provide such certification or assurance.

“(4) RENEWAL AND REFUSAL OF CERTIFICATIONS.—The Secretary may—

“(A) require that any certification or other assurance provided by an entity specified in paragraph (2) be renewed by such entity at such times as the Secretary determines appropriate; and

“(B) refuse to accept any certification or assurance if the Secretary determines that such certification or assurance is not valid or reliable.

“(5) ELECTRONIC SUBMISSION.—The Secretary shall provide for the electronic submission of certifications under this subsection.

“(6) FALSE STATEMENTS.—Any statement or representation made by an entity described in paragraph (2) to the Secretary shall be subject to section 1001 of title 18, United States Code.

“(7) ASSESSMENT OF FOOD SAFETY PROGRAMS, SYSTEMS, AND STANDARDS.—If the Secretary determines that the food safety programs, systems, and standards in a foreign region, country, or territory are inadequate to ensure that an article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act, the Secretary shall, to the extent practicable, identify such inad-

equacies and establish a process by which the foreign region, country, or territory may inform the Secretary of improvements made to such food safety program, system, or standard and demonstrate that those controls are adequate to ensure that an article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act.”.

(c) CONFORMING TECHNICAL AMENDMENT.—Section 801(b) (21 U.S.C. 381(b)) is amended in the second sentence by striking “with respect to an article included within the provision of the fourth sentence of subsection (a)” and inserting “with respect to an article described in subsection (a) relating to the requirements of sections 760 or 761.”.

(d) NO LIMIT ON AUTHORITY.—Nothing in the amendments made by this section shall limit the authority of the Secretary to conduct inspections of imported food or to take such other steps as the Secretary deems appropriate to determine the admissibility of imported food.

SEC. 304. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.

(a) IN GENERAL.—Section 801(m)(1) (21 U.S.C. 381(m)(1)) is amended by inserting “any country to which the article has been refused entry;” after “the country from which the article is shipped;”.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart I of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 305. BUILDING CAPACITY OF FOREIGN GOVERNMENTS WITH RESPECT TO FOOD SAFETY.

(a) IN GENERAL.—The Secretary shall, not later than 2 years of the date of enactment of this Act, develop a comprehensive plan to expand the technical, scientific, and regulatory food safety capacity of foreign governments, and their respective food industries, from which foods are exported to the United States.

(b) CONSULTATION.—In developing the plan under subsection (a), the Secretary shall consult with the Secretary of Agriculture, Secretary of State, Secretary of the Treasury, the Secretary of Homeland Security, the United States Trade Representative, and the Secretary of Commerce, representatives of the food industry, appropriate foreign government officials, nongovernmental organizations that represent the interests of consumers, and other stakeholders.

(c) PLAN.—The plan developed under subsection (a) shall include, as appropriate, the following:

(1) Recommendations for bilateral and multilateral arrangements and agreements, including provisions to provide for responsibility of exporting countries to ensure the safety of food.

(2) Provisions for secure electronic data sharing.

(3) Provisions for mutual recognition of inspection reports.

(4) Training of foreign governments and food producers on United States requirements for safe food.

(5) Recommendations on whether and how to harmonize requirements under the Codex Alimentarius.

(6) Provisions for the multilateral acceptance of laboratory methods and testing and detection techniques.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the regulation of dietary supplements under the Dietary Supplement Health and Education Act of 1994 (Public Law 103-417).

SEC. 306. INSPECTION OF FOREIGN FOOD FACILITIES.

(a) IN GENERAL.—Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 302, is amended by inserting at the end the following:

“SEC. 807. INSPECTION OF FOREIGN FOOD FACILITIES.

“(a) INSPECTION.—The Secretary—

“(1) may enter into arrangements and agreements with foreign governments to facilitate the inspection of foreign facilities registered under section 415; and

“(2) shall direct resources to inspections of foreign facilities, suppliers, and food types, especially such facilities, suppliers, and food types that present a high risk (as identified by the Secretary), to help ensure the safety and security of the food supply of the United States.

“(b) EFFECT OF INABILITY TO INSPECT.—Notwithstanding any other provision of law, food shall be refused admission into the United States if it is from a foreign factory, warehouse, or other establishment of which the owner, operator, or agent in charge, or the government of the foreign country, refuses to permit entry of United States inspectors or other individuals duly designated by the Secretary, upon request, to inspect such factory, warehouse, or other establishment. For purposes of this subsection, such an owner, operator, or agent in charge shall be considered to have refused an inspection if such owner, operator, or agent in charge does not permit an inspection of a factory, warehouse, or other establishment during the 24-hour period after such request is submitted, or after such other time period, as agreed upon by the Secretary and the foreign factory, warehouse, or other establishment.”.

(b) INSPECTION BY THE SECRETARY OF COMMERCE.—

(1) IN GENERAL.—The Secretary of Commerce, in coordination with the Secretary of Health and Human Services, may send 1 or more inspectors to a country or facility of an exporter from which seafood imported into the United States originates. The inspectors shall assess practices and processes used in connection with the farming, cultivation, harvesting, preparation for market, or transportation of such seafood and may provide technical assistance related to such activities.

(2) INSPECTION REPORT.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in coordination with the Secretary of Commerce, shall—

(i) prepare an inspection report for each inspection conducted under paragraph (1);

(ii) provide the report to the country or exporter that is the subject of the report; and

(iii) provide a 30-day period during which the country or exporter may provide a rebuttal or other comments on the findings of the report to the Secretary of Health and Human Services.

(B) DISTRIBUTION AND USE OF REPORT.—The Secretary of Health and Human Services shall consider the inspection reports described in subparagraph (A) in distributing inspection resources under section 421 of the Federal Food, Drug, and Cosmetic Act, as added by section 201.

SEC. 307. ACCREDITATION OF THIRD-PARTY AUDITORS.

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 306, is amended by adding at the end the following:

“SEC. 808. ACCREDITATION OF THIRD-PARTY AUDITORS.

“(a) DEFINITIONS.—In this section:

“(1) AUDIT AGENT.—The term ‘audit agent’ means an individual who is an employee or agent of an accredited third-party auditor and, although not individually accredited, is qualified to conduct food safety audits on behalf of an accredited third-party auditor.

“(2) ACCREDITATION BODY.—The term ‘accreditation body’ means an authority that performs accreditation of third-party auditors.

“(3) THIRD-PARTY AUDITOR.—The term ‘third-party auditor’ means a foreign government, agency of a foreign government, foreign cooperative, or any other third party, as the Secretary determines appropriate in accordance with the model standards described in subsection (b)(2), that is eligible to be considered for accreditation to conduct food safety audits to certify that eligible entities meet the applicable requirements of this section. A third-party auditor may be a single individual. A third-party auditor may employ or use audit agents to help conduct consultative and regulatory audits.

“(4) ACCREDITED THIRD-PARTY AUDITOR.—The term ‘accredited third-party auditor’ means a third-party auditor accredited by an accreditation body to conduct audits of eligible entities to certify that such eligible entities meet the applicable requirements of this section. An accredited third-party auditor may be an individual who conducts food safety audits to certify that eligible entities meet the applicable requirements of this section.

“(5) CONSULTATIVE AUDIT.—The term ‘consultative audit’ means an audit of an eligible entity—

“(A) to determine whether such entity is in compliance with the provisions of this Act and with applicable industry standards and practices; and

“(B) the results of which are for internal purposes only.

“(6) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a foreign entity, including a foreign facility registered under section 415, in the food import supply chain that chooses to be audited by an accredited third-party auditor or the audit agent of such accredited third-party auditor.

“(7) REGULATORY AUDIT.—The term ‘regulatory audit’ means an audit of an eligible entity—

“(A) to determine whether such entity is in compliance with the provisions of this Act; and

“(B) the results of which determine—

“(i) whether an article of food manufactured, processed, packed, or held by such entity is eligible to receive a food certification under section 801(q); or

“(ii) whether a facility is eligible to receive a facility certification under section 806(a) for purposes of participating in the program under section 806.

“(b) ACCREDITATION SYSTEM.—

“(1) ACCREDITATION BODIES.—

“(A) RECOGNITION OF ACCREDITATION BODIES.—

“(i) IN GENERAL.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish a system for the recognition of accreditation bodies that accredit third-party auditors to certify that eligible enti-

ties meet the applicable requirements of this section.

“(ii) DIRECT ACCREDITATION.—If, by the date that is 2 years after the date of establishment of the system described in clause (i), the Secretary has not identified and recognized an accreditation body to meet the requirements of this section, the Secretary may directly accredit third-party auditors.

“(B) NOTIFICATION.—Each accreditation body recognized by the Secretary shall submit to the Secretary a list of all accredited third-party auditors accredited by such body and the audit agents of such auditors.

“(C) REVOCATION OF RECOGNITION AS AN ACCREDITATION BODY.—The Secretary shall promptly revoke the recognition of any accreditation body found not to be in compliance with the requirements of this section.

“(D) REINSTATEMENT.—The Secretary shall establish procedures to reinstate recognition of an accreditation body if the Secretary determines, based on evidence presented by such accreditation body, that revocation was inappropriate or that the body meets the requirements for recognition under this section.

“(2) MODEL ACCREDITATION STANDARDS.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall develop model standards, including requirements for regulatory audit reports, and each recognized accreditation body shall ensure that third-party auditors and audit agents of such auditors meet such standards in order to qualify such third-party auditors as accredited third-party auditors under this section. In developing the model standards, the Secretary shall look to standards in place on the date of the enactment of this section for guidance, to avoid unnecessary duplication of efforts and costs.

“(c) THIRD-PARTY AUDITORS.—

“(1) REQUIREMENTS FOR ACCREDITATION AS A THIRD-PARTY AUDITOR.—

“(A) FOREIGN GOVERNMENTS.—Prior to accrediting a foreign government or an agency of a foreign government as an accredited third-party auditor, the accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) shall perform such reviews and audits of food safety programs, systems, and standards of the government or agency of the government as the Secretary deems necessary, including requirements under the model standards developed under subsection (b)(2), to determine that the foreign government or agency of the foreign government is capable of adequately ensuring that eligible entities or foods certified by such government or agency meet the requirements of this Act with respect to food manufactured, processed, packed, or held for import into the United States.

“(B) FOREIGN COOPERATIVES AND OTHER THIRD PARTIES.—Prior to accrediting a foreign cooperative that aggregates the products of growers or processors, or any other third party to be an accredited third-party auditor, the accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) shall perform such reviews and audits of the training and qualifications of audit agents used by that cooperative or party and conduct such reviews of internal systems and such other investigation of the cooperative or party as the Secretary deems necessary, including requirements under the model standards developed under subsection (b)(2), to determine that each eligible entity certified by the cooperative or party has systems and standards in use to ensure that such entity or food meets the requirements of this Act.

“(2) REQUIREMENT TO ISSUE CERTIFICATION OF ELIGIBLE ENTITIES OR FOODS.—

“(A) IN GENERAL.—An accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) may not accredit a third-party auditor unless such third-party auditor agrees to issue a written and, as appropriate, electronic food certification, described in section 801(q), or facility certification under section 806(a), as appropriate, to accompany each food shipment for import into the United States from an eligible entity, subject to requirements set forth by the Secretary. Such written or electronic certification may be included with other documentation regarding such food shipment. The Secretary shall consider certifications under section 801(q) and participation in the voluntary qualified importer program described in section 806 when targeting inspection resources under section 421.

“(B) PURPOSE OF CERTIFICATION.—The Secretary shall use certification provided by accredited third-party auditors to—

“(i) determine, in conjunction with any other assurances the Secretary may require under section 801(q), whether a food satisfies the requirements of such section; and

“(ii) determine whether a facility is eligible to be a facility from which food may be offered for import under the voluntary qualified importer program under section 806.

“(C) REQUIREMENTS FOR ISSUING CERTIFICATION.—

“(i) IN GENERAL.—An accredited third-party auditor shall issue a food certification under section 801(q) or a facility certification described under subparagraph (B) only after conducting a regulatory audit and such other activities that may be necessary to establish compliance with the requirements of such sections.

“(ii) PROVISION OF CERTIFICATION.—Only an accredited third-party auditor or the Secretary may provide a facility certification under section 806(a). Only those parties described in 801(q)(3) or the Secretary may provide a food certification under 301(g).

“(3) AUDIT REPORT SUBMISSION REQUIREMENTS.—

“(A) REQUIREMENTS IN GENERAL.—As a condition of accreditation, not later than 45 days after conducting an audit, an accredited third-party auditor or audit agent of such auditor shall prepare, and, in the case of a regulatory audit, submit, the audit report for each audit conducted, in a form and manner designated by the Secretary, which shall include—

“(i) the identity of the persons at the audited eligible entity responsible for compliance with food safety requirements;

“(ii) the dates of the audit;

“(iii) the scope of the audit; and

“(iv) any other information required by the Secretary that relates to or may influence an assessment of compliance with this Act.

“(B) RECORDS.—Following any accreditation of a third-party auditor, the Secretary may, at any time, require the accredited third-party auditor to submit to the Secretary an onsite audit report and such other reports or documents required as part of the audit process, for any eligible entity certified by the third-party auditor or audit agent of such auditor. Such report may include documentation that the eligible entity is in compliance with any applicable registration requirements.

“(C) LIMITATION.—The requirement under subparagraph (B) shall not include any report or other documents resulting from a

consultative audit by the accredited third-party auditor, except that the Secretary may access the results of a consultative audit in accordance with section 414.

“(4) REQUIREMENTS OF ACCREDITED THIRD-PARTY AUDITORS AND AUDIT AGENTS OF SUCH AUDITORS.—

“(A) RISKS TO PUBLIC HEALTH.—If, at any time during an audit, an accredited third-party auditor or audit agent of such auditor discovers a condition that could cause or contribute to a serious risk to the public health, such auditor shall immediately notify the Secretary of—

“(i) the identification of the eligible entity subject to the audit; and

“(ii) such condition.

“(B) TYPES OF AUDITS.—An accredited third-party auditor or audit agent of such auditor may perform consultative and regulatory audits of eligible entities.

“(C) LIMITATIONS.—

“(i) IN GENERAL.—An accredited third party auditor may not perform a regulatory audit of an eligible entity if such agent has performed a consultative audit or a regulatory audit of such eligible entity during the previous 13-month period.

“(ii) WAIVER.—The Secretary may waive the application of clause (i) if the Secretary determines that there is insufficient access to accredited third-party auditors in a country or region.

“(5) CONFLICTS OF INTEREST.—

“(A) THIRD-PARTY AUDITORS.—An accredited third-party auditor shall—

“(i) not be owned, managed, or controlled by any person that owns or operates an eligible entity to be certified by such auditor;

“(ii) in carrying out audits of eligible entities under this section, have procedures to ensure against the use of any officer or employee of such auditor that has a financial conflict of interest regarding an eligible entity to be certified by such auditor; and

“(iii) annually make available to the Secretary disclosures of the extent to which such auditor and the officers and employees of such auditor have maintained compliance with clauses (i) and (ii) relating to financial conflicts of interest.

“(B) AUDIT AGENTS.—An audit agent shall—

“(i) not own or operate an eligible entity to be audited by such agent;

“(ii) in carrying out audits of eligible entities under this section, have procedures to ensure that such agent does not have a financial conflict of interest regarding an eligible entity to be audited by such agent; and

“(iii) annually make available to the Secretary disclosures of the extent to which such agent has maintained compliance with clauses (i) and (ii) relating to financial conflicts of interest.

“(C) REGULATIONS.—The Secretary shall promulgate regulations not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act to implement this section and to ensure that there are protections against conflicts of interest between an accredited third-party auditor and the eligible entity to be certified by such auditor or audited by such audit agent. Such regulations shall include—

“(i) requiring that audits performed under this section be unannounced;

“(ii) a structure to decrease the potential for conflicts of interest, including timing and public disclosure, for fees paid by eligible entities to accredited third-party auditors; and

“(iii) appropriate limits on financial affiliations between an accredited third-party

auditor or audit agents of such auditor and any person that owns or operates an eligible entity to be certified by such auditor, as described in subparagraphs (A) and (B).

“(6) WITHDRAWAL OF ACCREDITATION.—

“(A) IN GENERAL.—The Secretary shall withdraw accreditation from an accredited third-party auditor—

“(i) if food certified under section 801(q) or from a facility certified under paragraph (2)(B) by such third-party auditor is linked to an outbreak of foodborne illness that has a reasonable probability of causing serious adverse health consequences or death in humans or animals;

“(ii) following an evaluation and finding by the Secretary that the third-party auditor no longer meets the requirements for accreditation; or

“(iii) following a refusal to allow United States officials to conduct such audits and investigations as may be necessary to ensure continued compliance with the requirements set forth in this section.

“(B) ADDITIONAL BASIS FOR WITHDRAWAL OF ACCREDITATION.—The Secretary may withdraw accreditation from an accredited third-party auditor in the case that such third-party auditor is accredited by an accreditation body for which recognition as an accreditation body under subsection (b)(1)(C) is revoked, if the Secretary determines that there is good cause for the withdrawal.

“(C) EXCEPTION.—The Secretary may waive the application of subparagraph (A)(i) if the Secretary—

“(i) conducts an investigation of the material facts related to the outbreak of human or animal illness; and

“(ii) reviews the steps or actions taken by the third party auditor to justify the certification and determines that the accredited third-party auditor satisfied the requirements under section 801(q) of certifying the food, or the requirements under paragraph (2)(B) of certifying the entity.

“(7) REACCREDITATION.—The Secretary shall establish procedures to reinstate the accreditation of a third-party auditor for which accreditation has been withdrawn under paragraph (6)—

“(A) if the Secretary determines, based on evidence presented, that the third-party auditor satisfies the requirements of this section and adequate grounds for revocation no longer exist; and

“(B) in the case of a third-party auditor accredited by an accreditation body for which recognition as an accreditation body under subsection (b)(1)(C) is revoked—

“(i) if the third-party auditor becomes accredited not later than 1 year after revocation of accreditation under paragraph (6)(A), through direct accreditation under subsection (b)(1)(A)(ii) or by an accreditation body in good standing; or

“(ii) under such conditions as the Secretary may require for a third-party auditor under paragraph (6)(B).

“(8) NEUTRALIZING COSTS.—The Secretary shall establish by regulation a reimbursement (user fee) program, similar to the method described in section 203(h) of the Agriculture Marketing Act of 1946, by which the Secretary assesses fees and requires accredited third-party auditors and audit agents to reimburse the Food and Drug Administration for the work performed to establish and administer the accreditation system under this section. The Secretary shall make operating this program revenue-neutral and shall not generate surplus revenue from such a reimbursement mechanism. Fees authorized under this paragraph shall be col-

lected and available for obligation only to the extent and in the amount provided in advance in appropriation Acts. Such fees are authorized to remain available until expended.

“(d) RECERTIFICATION OF ELIGIBLE ENTITIES.—An eligible entity shall apply for annual recertification by an accredited third-party auditor if such entity—

“(1) intends to participate in voluntary qualified importer program under section 806; or

“(2) is required to provide to the Secretary a certification under section 801(q) for any food from such entity.

“(e) FALSE STATEMENTS.—Any statement or representation made—

“(1) by an employee or agent of an eligible entity to an accredited third-party auditor or audit agent; or

“(2) by an accredited third-party auditor to the Secretary, shall be subject to section 1001 of title 18, United States Code.

“(f) MONITORING.—To ensure compliance with the requirements of this section, the Secretary shall—

“(1) periodically, or at least once every 4 years, reevaluate the accreditation bodies described in subsection (b)(1);

“(2) periodically, or at least once every 4 years, evaluate the performance of each accredited third-party auditor, through the review of regulatory audit reports by such auditors, the compliance history as available of eligible entities certified by such auditors, and any other measures deemed necessary by the Secretary;

“(3) at any time, conduct an onsite audit of any eligible entity certified by an accredited third-party auditor, with or without the auditor present; and

“(4) take any other measures deemed necessary by the Secretary.

“(g) PUBLICLY AVAILABLE REGISTRY.—The Secretary shall establish a publicly available registry of accreditation bodies and of accredited third-party auditors, including the name of, contact information for, and other information deemed necessary by the Secretary about such bodies and auditors.

“(h) LIMITATIONS.—

“(1) NO EFFECT ON SECTION 704 INSPECTIONS.—The audits performed under this section shall not be considered inspections under section 704.

“(2) NO EFFECT ON INSPECTION AUTHORITY.—Nothing in this section affects the authority of the Secretary to inspect any eligible entity pursuant to this Act.”

SEC. 308. FOREIGN OFFICES OF THE FOOD AND DRUG ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall establish offices of the Food and Drug Administration in foreign countries selected by the Secretary, to provide assistance to the appropriate governmental entities of such countries with respect to measures to provide for the safety of articles of food and other products regulated by the Food and Drug Administration exported by such country to the United States, including by directly conducting risk-based inspections of such articles and supporting such inspections by such governmental entity.

(b) CONSULTATION.—In establishing the foreign offices described in subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Homeland Security, and the United States Trade Representative.

(c) REPORT.—Not later than October 1, 2011, the Secretary shall submit to Congress a report on the basis for the selection by the Secretary of the foreign countries in which

the Secretary established offices, the progress which such offices have made with respect to assisting the governments of such countries in providing for the safety of articles of food and other products regulated by the Food and Drug Administration exported to the United States, and the plans of the Secretary for establishing additional foreign offices of the Food and Drug Administration, as appropriate.

SEC. 309. SMUGGLED FOOD.

(a) IN GENERAL.—Not later than 180 days after the enactment of this Act, the Secretary shall, in coordination with the Secretary of Homeland Security, develop and implement a strategy to better identify smuggled food and prevent entry of such food into the United States.

(b) NOTIFICATION TO HOMELAND SECURITY.—Not later than 10 days after the Secretary identifies a smuggled food that the Secretary believes would cause serious adverse health consequences or death to humans or animals, the Secretary shall provide to the Secretary of Homeland Security a notification under section 417(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350f(k)) describing the smuggled food and, if available, the names of the individuals or entities that attempted to import such food into the United States.

(c) PUBLIC NOTIFICATION.—If the Secretary—

- (1) identifies a smuggled food;
 - (2) reasonably believes exposure to the food would cause serious adverse health consequences or death to humans or animals; and
 - (3) reasonably believes that the food has entered domestic commerce and is likely to be consumed,
- the Secretary shall promptly issue a press release describing that food and shall use other emergency communication or recall networks, as appropriate, to warn consumers and vendors about the potential threat.

(d) EFFECT OF SECTION.—Nothing in this section shall affect the authority of the Secretary to issue public notifications under other circumstances.

(e) DEFINITION.—In this subsection, the term “smuggled food” means any food that a person introduces into the United States through fraudulent means or with the intent to defraud or mislead.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. FUNDING FOR FOOD SAFETY.

(a) IN GENERAL.—There are authorized to be appropriated to carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities in the Office of Regulatory Affairs of the Food and Drug Administration such sums as may be necessary for fiscal years 2011 through 2015.

(b) INCREASED NUMBER OF FIELD STAFF.—

(1) IN GENERAL.—To carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities of the Office of Regulatory Affairs of the Food and Drug Administration, the Secretary of Health and Human Services shall increase the field staff of such Centers and Office with a goal of not fewer than—

- (A) 4,000 staff members in fiscal year 2011;
- (B) 4,200 staff members in fiscal year 2012;
- (C) 4,600 staff members in fiscal year 2013; and
- (D) 5,000 staff members in fiscal year 2014.

(2) FIELD STAFF FOR FOOD DEFENSE.—The goal under paragraph (1) shall include an increase of 150 employees by fiscal year 2011 to—

(A) provide additional detection of and response to food defense threats; and

(B) detect, track, and remove smuggled food (as defined in section 309) from commerce.

SEC. 402. EMPLOYEE PROTECTIONS.

Chapter X of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.), as amended by section 209, is further amended by adding at the end the following:

“SEC. 1012. EMPLOYEE PROTECTIONS.

“(a) IN GENERAL.—No entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee, whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee)—

“(1) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of this Act or any order, rule, regulation, standard, or ban under this Act, or any order, rule, regulation, standard, or ban under this Act;

“(2) testified or is about to testify in a proceeding concerning such violation;

“(3) assisted or participated or is about to assist or participate in such a proceeding; or

“(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this Act, or any order, rule, regulation, standard, or ban under this Act.

“(b) PROCESS.—

“(1) IN GENERAL.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (referred to in this section as the ‘Secretary’) alleging such discharge or discrimination and identifying the person responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

“(2) INVESTIGATION.—

“(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the complainant and the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

“(B) REASONABLE CAUSE FOUND; PRELIMINARY ORDER.—If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Sec-

retary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

“(C) DISMISSAL OF COMPLAINT.—

“(i) STANDARD FOR COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(ii) STANDARD FOR EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(iii) VIOLATION STANDARD.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(iv) RELIEF STANDARD.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(3) FINAL ORDER.—

“(A) IN GENERAL.—Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

“(B) CONTENT OF ORDER.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

“(i) to take affirmative action to abate the violation;

“(ii) to reinstate the complainant to his or her former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

“(iii) to provide compensatory damages to the complainant.

“(C) PENALTY.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by

the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

“(D) BAD FAITH CLAIM.—If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys’ fee, not exceeding \$1,000, to be paid by the complainant.

“(4) ACTION IN COURT.—

“(A) IN GENERAL.—If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(C).

“(B) RELIEF.—The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

“(i) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

“(ii) the amount of back pay, with interest; and

“(iii) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney’s fees.

“(5) REVIEW.—

“(A) IN GENERAL.—Unless the complainant brings an action under paragraph (4), any person adversely affected or aggrieved by a final order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

“(B) NO JUDICIAL REVIEW.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(6) FAILURE TO COMPLY WITH ORDER.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

“(7) CIVIL ACTION TO REQUIRE COMPLIANCE.—

“(A) IN GENERAL.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount

in controversy or the citizenship of the parties, to enforce such order.

“(B) AWARD.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys’ and expert witness fees) to any party whenever the court determines such award is appropriate.

“(C) EFFECT OF SECTION.—

“(1) OTHER LAWS.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

“(2) RIGHTS OF EMPLOYEES.—Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

“(d) ENFORCEMENT.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

“(e) LIMITATION.—Subsection (a) shall not apply with respect to an employee of an entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food who, acting without direction from such entity (or such entity’s agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, rule, regulation, standard, or ban under this Act.”

SEC. 403. JURISDICTION; AUTHORITIES.

Nothing in this Act, or an amendment made by this Act, shall be construed to—

(1) alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services, under applicable statutes, regulations, or agreements regarding voluntary inspection of non-amenable species under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.);

(2) alter the jurisdiction between the Alcohol and Tobacco Tax and Trade Bureau and the Secretary of Health and Human Services, under applicable statutes and regulations;

(3) limit the authority of the Secretary of Health and Human Services under—

(A) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act; or

(B) the Public Health Service Act (42 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act;

(4) alter or limit the authority of the Secretary of Agriculture under the laws administered by such Secretary, including—

(A) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(B) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(D) the United States Grain Standards Act (7 U.S.C. 71 et seq.);

(E) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(F) the United States Warehouse Act (7 U.S.C. 241 et seq.);

(G) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); and

(H) the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with the amendments made by the Agricultural Marketing Agreement Act of 1937; or

(5) alter, impede, or affect the authority of the Secretary of Homeland Security under

the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) or any other statute, including any authority related to securing the borders of the United States, managing ports of entry, or agricultural import and entry inspection activities.

SEC. 404. COMPLIANCE WITH INTERNATIONAL AGREEMENTS.

Nothing in this Act (or an amendment made by this Act) shall be construed in a manner inconsistent with the agreement establishing the World Trade Organization or any other treaty or international agreement to which the United States is a party.

SEC. 405. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 4891. Mr. HARKIN (for Mr. REID) proposed an amendment to the bill H.R. 2751, to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply, as follows:

Amend the title as to read:

A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

CONSUMER ASSISTANCE TO RECYCLE AND SAVE ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 74, H.R. 2751.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles.

Mr. REID. I ask unanimous consent that the text of S. 510, as passed the Senate and modified with the changes at the desk, be inserted in lieu thereof and agreed to; that the bill, as amended, be read a third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4890), in the nature of a substitute, was agreed to.

(The amendment is printed in today’s RECORD under “Text of Amendments.”)

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. REID. Is there a question on passage of the bill?

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall the bill pass?

The bill, (H.R. 2751), as amended, was passed.

Mr. REID. I move to reconsider and table the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the title amendment, which is at the desk, be considered and agreed to, and the motion to reconsider be laid upon the table, and any statements related to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4891) was agreed to, as follows:

Amend the title as to read:

A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

Mr. REID. Mr. President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 3082.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3082) entitled "An Act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes," with an amendment.

MOTION TO CONCUR WITH AMENDMENT NO. 4885

Mr. REID. I move to concur in the House amendment to the Senate amendment to H.R. 3082, with an amendment, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to concur in the House amendment to the Senate amendment to H.R. 3082 with an amendment No. 4885.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. I also ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk and ask that it be reported.

The PRESIDING OFFICER. The cloture motion having been presented pursuant to rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the

Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 3082, the Full Continuing Appropriations Act, with an amendment.

Joseph I. Lieberman, John D. Rockefeller, IV, Byron L. Dorgan, John F. Kerry, Richard J. Durbin, Mark L. Pryor, Robert Menendez, Amy Klobuchar, Patty Murray, Kay R. Hagan, Christopher J. Dodd, Daniel K. Inouye, Mark Begich, Al Franken, Robert P. Casey, Jr., Tom Carper.

AMENDMENT NO. 4886 TO AMENDMENT NO. 4885

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4886 to amendment No. 4885.

The amendment is as follows:

At the end, insert the following:

The provisions of this Act shall become effective within 5 days of enactment.

MOTION TO REFER WITH AMENDMENT NO. 4887

Mr. REID. Mr. President, I have a motion to refer the House message to the Senate Appropriations Committee, with instructions to report back forthwith with the following amendment, which I ask the clerk to state.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to refer the House message with respect to H.R. 3082 to the Appropriations Committee, with instructions to report back forthwith with an amendment numbered 4887, as follows:

At the end, insert the following:

The Senate Appropriations Committee is requested to study the impact on any delay in extending government funding for all federal agencies, and that the study should be concluded within 10 days of enactment.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4888

Mr. REID. Mr. President, I have an amendment to my instructions, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4888 to the instructions of the motion to refer H.R. 3082.

The amendment is as follows:

In the amendment, strike "10" and insert "6".

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4889 TO AMENDMENT NO. 4888

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4889 to Amendment No. 4888.

The amendment is as follows:

In the amendment, strike "6" and insert "4".

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed now to executive session and resume consideration of the START treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been filed under rule XXII, the clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Treaties Calendar No. 7, Treaty Document No. 111-5, the START treaty.

Harry Reid, Joseph I. Lieberman, John D. Rockefeller, IV, Byron L. Dorgan, John F. Kerry, Sheldon Whitehouse, Mark L. Pryor, Jack Reed, Robert Menendez, Mark Begich, Benjamin L. Cardin, Kent Conrad, Bill Nelson, Amy Klobuchar, Patty Murray, Barbara A. Mikulski, Christopher J. Dodd, Richard G. Lugar.

Mr. REID. Mr. President, I ask that the mandatory quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged of the following nominations: PN2352, Darrell James Bell, U.S. Marshal, Montana; PN2348, Edwin Sloane, U.S. Marshal, District of Columbia; that the Senate then proceed en bloc to the nominations; that the nominations be confirmed en bloc, and the motions to reconsider be laid upon the table; that any statements relating to the nominations be printed in the RECORD as if read; that the President be immediately notified of the

Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc, are as follows:

DEPARTMENT OF JUSTICE

Darrell James Bell, of Montana, to be United States Marshal for the District of Montana for the term of four years.

Edwin Donovan Sloane, of Maryland, to be United States Marshal for the District of Columbia for the term of four years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

ORDER OF BUSINESS

Mr. REID. Mr. President, for the benefit of all Senators, we just sent to the House, again, the food safety legislation—extremely important legislation. I just got something on my desk today about a woman who is going to be—well, she was in the hospital a year and a half and is expected to be there for 2 more years as a result of eating some contaminated food. So it is so important.

I am deeply appreciative of the cooperation from everyone, including my friend, the Republican leader, to help us get this done. It is very important for our country. Perfect legislation? No. But it is a broad step in the right direction. We haven't done anything in this regard for more than 100 years for our country, with all the change there has been in the processing of food. It is so important. I spoke to the Speaker tonight, and this will now pass the House when they come back Monday night or Tuesday. So that is extremely important.

We had to file cloture on the continuing resolution to fund the government for the next couple of months. We hope to complete that on Tuesday. I hope that it won't be necessary to use any of the postcloture time. I rather doubt we will, but I certainly hope not.

We are going to proceed, once cloture is invoked, to the cloture on the START treaty. We have made—from

my observation as sort of an outsider watching all the good work of Senators KERRY and LUGAR—some good progress on this, and I do hope this matter will pass. We will work on that as long as it takes. As I explained to a number of Democratic and Republican Senators today, we will work on it tomorrow. We will have a secret session tomorrow in the Old Senate Chamber at 2 p.m., and then we will come in tomorrow night and continue to work on it. We can work on it, of course, all day Tuesday and for however long it takes. It is extremely important.

As everyone knows, Senator WYDEN is sick. He is going to surgery at 10 o'clock in the morning because of a situation that has been in the press. He has prostate cancer. We wish him and his wonderful wife and his twins the very best. He is very confident he is getting the best care in the world, and I am also certain he is going to be just fine.

ORDERS FOR MONDAY, DECEMBER 20, 2010

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Monday, December 20; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to executive session and resume consideration of the New START treaty; that at 1:30 p.m., the Senate recess until 2 p.m. and then meet in closed session in the Old Senate Chamber; that following the closed session, the Senate return to the Senate Chamber and reconvene in open session.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, tomorrow the Senate, as I indicated, will resume consideration of the START treaty.

Senators are encouraged to come forth to offer and debate their amendments. Rollcall votes are possible before and after the closed session.

As I said, Mr. President—and if I didn't, I want to make it clear again—we must complete the funding resolution on Tuesday because after midnight, the funding runs out for our country. So we will have those cloture votes Tuesday unless we can expedite them with unanimous consent prior to that time.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:12 p.m., adjourned until Monday, December 20, 2010, at 10 a.m.

DISCHARGED NOMINATIONS

The Senate Committee on the Judiciary was discharged from further consideration of the following nominations by unanimous consent and the nominations were confirmed:

EDWIN DONOVAN SLOANE, OF MARYLAND, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF COLUMBIA FOR THE TERM OF FOUR YEARS.

DARRELL JAMES BELL, OF MONTANA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MONTANA FOR THE TERM OF FOUR YEARS.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Sunday, December 19, 2010:

THE JUDICIARY

RAYMOND JOSEPH LOHIER, JR., OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

CARLTON W. REEVES, OF MISSISSIPPI, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

EDWIN DONOVAN SLOANE, OF MARYLAND, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF COLUMBIA FOR THE TERM OF FOUR YEARS.

DARRELL JAMES BELL, OF MONTANA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MONTANA FOR THE TERM OF FOUR YEARS.

SENATE—Monday, December 20, 2010

The Senate met at 10 a.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Merciful God, look on our lawmakers with kindness and teach them to do Your will. Show them how to live for Your honor and to be instruments of Your peace. Rescue them from the traps that keep us from national prosperity for You are our shelter and strength. Keep them from fear, even if the Earth is shaken and mountains fall into the ocean depths. Stay with us, mighty God, ruling our hearts, our Nation, and our world.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 20, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will proceed to executive session and resume

consideration of the New START treaty. We have two amendments now pending to the treaty—the Thune amendment regarding delivery vehicles and the Inhofe amendment regarding inspections. We hope to vote in relation to the Thune amendment between 12 and 1 p.m. today and dispose of the Inhofe amendment later this afternoon.

At 1:30, the Senate will recess and reconvene at 2 p.m. in closed session in the Old Senate Chamber. Following the closed session, the Senate will reconvene in open session in the Senate Chamber. We are going to be out of session for that one-half hour period of time to allow the final sweeps to be completed.

As a reminder, last night cloture was filed on the continuing resolution and the START treaty. The cloture vote on the continuing resolution will occur at a time to be determined tomorrow morning. We need to act as quickly as possible; the current CR expires tomorrow at midnight. The filing deadline for first-degree amendments to the START treaty is 1 p.m. today. Senators will be notified if any votes are scheduled today.

Mr. President, I would also say that, to my friends on the other side of the aisle, we could advance these votes not necessarily on the START treaty, but we certainly could on the CR and get that out of the way later today. We have two issues we are going to have to vote on. One is the START treaty, we have to complete work on that, and we have to complete work on the 9/11 bill for the emergency workers who have been devastated with illnesses as a result of all the toxins they inhaled during the time they were working there. Some are really ill. So I hope we can get that done quickly.

I am working with the Republican leader on nominations. We have made a little progress on that. I hope to do better. I look forward to cooperation to finish this work. Last year, we were here at this time up until Christmas Eve. I hope we don't have to do that this year. It certainly wouldn't be to the liking of everyone here. We don't need to be. I hope everyone will cooperate and let us move forward.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

START TREATY

Mr. MCCONNELL. Mr. President, over the weekend, I indicated that I

would be voting against the START treaty. This morning, I would like to explain my decision in a little more detail. And I will begin with the most obvious objection.

First and foremost, a decision of this magnitude should not be decided under the pressure of a deadline. The American people don't want us to squeeze our most important work into the final days of a session. They want us to take the time we need to make informed, responsible decisions. The Senate can do better than to have the consideration of a treaty interrupted by a series of controversial political items.

So leaving aside for a moment any substantive concerns, and we have many, this is reason enough to delay a vote. No Senator should be forced to make decisions like this so we can tick off another item on someone's political check list before the end of the year.

Yet looking back over the past 2 years, it becomes apparent why the administration would attempt to rush this treaty. And it is in this context that we discover another important reason to oppose it. I am referring, of course, to the administration's pattern of rushing to a policy judgment, and then subsequently studying the problem that the policy decision was intended to address, a pattern that again and again created more problems and complications than we started out with.

First there was the Executive Order to close Guantanamo Bay without any plan for dealing with the detainee population there. As we now know, the administration had no plan for returning terrorists who were held at Guantanamo to Yemen, and it is still grappling with questions of how best to prosecute Khalid Sheikh Mohammed.

Next was the President's rush to remove the intelligence community from interrogating captured terrorists, without any consideration as to how to deal with them, whether they were captured on the battlefield or at an airport in Detroit. This became all the more concerning when the President announced his surge strategy in Afghanistan, which predictably led to more prisoners. And even in announcing the strategy itself, the President decided to set a date for withdrawal without any sense at the time of what the state of the conflict would be in July 2011.

Then there was the administration's approach on don't ask, don't tell. The President announced his determination to repeal this policy during his campaign, before the military had the time to study whether this change in policy was in the best interest of combat

readiness, before senior enlisted staff and noncommissioned officers of the military had testified, and before those who are currently serving had told us whether, in their expert opinion, the policy should be repealed. Moreover, when the Commandant of the Marine Corps suggested the change would harm unit cohesion, he was ignored.

The administration has taken the same cart-before-the-horse approach on the treaty before us. In this case, the President came to office with a long-term plan to reduce the Nation's arsenal of nuclear weapons and their role in our national security policy. The plan envisioned a quick agreement to replace the START treaty that was allowed to expire, with no bridging agreement for arms inspections, followed by efforts to strengthen international commitments to the Non-Proliferation Treaty, reconsideration of the Comprehensive Test Ban Treaty, and further reductions in nuclear arms over time. And he spoke of ultimately reducing nuclear weapons to "global zero."

In other words, the New START treaty was just a first step, and it needed to be done quickly. Leave aside for a moment the fact that the New START treaty does nothing to significantly reduce the Russian Federation's stockpile of strategic arms, ignores the thousands of tactical weapons in the Russian arsenal, and contains an important concession linking missile defense to the strategic arms. We had to rush this treaty, according to the logic of the administration, because it had become an important component in the effort to "reset" the bilateral relationship with the Russian Federation. It was brought up for debate prematurely because it was the first step in a predetermined arms control agenda. The Senate's constitutional role of advice and consent became an inconvenient impediment.

The debate over the McCain amendment to strike the language in the preamble of the treaty was instructive. The language in the preamble concerning missile defense is harmful to our foreign policy because of how it will be viewed not by our President, but how it will be viewed by our allies in Europe and by the Russians. The Russian government opposed the Bush administration plan to place 10 silo-based missiles in Poland and a fixed radar installation in the Czech Republic. Although the Bush administration had reached agreement with the governments of our two allies, and the proposed ballistic missile defense plan posed no threat to Russia's overwhelming ability to strike Europe and the United States, Russia sought to coerce our eastern European allies.

It is worth noting that neither Poland nor the Czech Republic ratified the agreements to go forward with the plan, which the Obama administration

cancelled. The McCain amendment would have removed any strategic ambiguity that the Russian Federation will exploit to intimidate NATO members. Many of our NATO partners have been slow to accept the concept of territorial missile defense, and rest assured that they will be slower to fund the program. It is a certainty that if the language in the preamble survives, and this treaty is ratified, the Russians will mount a campaign to obstruct missile defense in Europe. There is no good argument for having voted against the McCain Amendment, which would have significantly improved this treaty.

The principal argument raised against the McCain amendment was that any amendment to the treaty would result in the State Department having to return to a negotiation with the Russian Federation. That may be true, or the amended treaty could be considered by the Russian Duma. In either case, the argument brings into question the Senate's role in providing advice and consent to ratification. If it is the position of the majority that the treaty cannot be amended, as the Senate was unable to amend so many other matters before us these last weeks of this session, why have any debate at all?

This leads us to the subject of verification—a second matter of serious concern. Although the Senate will meet today in closed session to discuss the flawed nature of the verification procedures envisioned by the New START treaty, the majority has filed cloture and stated that the treaty cannot be amended. The senior Senator from Missouri, the vice chairman of the Intelligence Committee, has provided his views to the Senate on this matter, and I join him in his concerns.

Senator BOND has provided a classified assessment of the details related to verification and chances of Russian breakout of the treaty's warhead limits which is available for all Senators to review. To quote the vice chairman of the Intelligence Committee.

I have reviewed the key intelligence on our ability to monitor this treaty and heard from our intelligence professionals. There is no doubt in my mind that the United States cannot reliably verify the treaty's 1,550 limit on deployed warheads.

I agree with the conclusion that the New START treaty central warhead limit of 1,550 cannot be conclusively verified. The New Start treaty allows the Russians to deploy missiles without a standard or uniform number of warheads. The limited number of warhead inspections provided for under this treaty also limits the access of our inspectors to an upper limit of three percent of the Russian force. It can thus be said that this treaty places higher confidence in trust than on verification.

Compounding these concerns is the history of Russian treaty violations.

As the State Department's recent reports on arms control compliance make clear, the Russians have previously violated provisions of the START treaty, the Chemical Weapons Convention, the Conventional Forces in Europe treaty and the Biological Weapons Convention.

This is not a track record to be rewarded with greater trust. It is a reason to take our verification duties even more seriously.

Despite my opposition to this treaty, I hope the President remains committed to modernizing the nuclear triad. The war on terror has required an expansion of our nation's ground forces, the Marine Corps, the Army, and our Special Operations Forces, and our near-term readiness. As we continue the effort to dismantle, defeat and disrupt al-Qaida, we must also plan for the threats that our country will face in the coming decades.

We must invest not only in the delivery systems and platforms that will preserve our nuclear delivery capability, such as the next generation bomber, nuclear submarines and a new intercontinental ballistic missile, but also in the strike aircraft and naval forces required to control the Pacific rim as economic growth and the military capabilities of China increase.

Although the President has decided there is value in pursuing a disarmament agenda, this country may determine in the coming years to place a greater reliance upon the role of strategic arms, and we must remain committed to defense modernization. Our Nation faces many challenges in the coming decades, some economic, some strategic. It would seem short-sighted to think that as North Korea, Iran and others work to acquire nuclear weapons capabilities we could draw our arsenal down to zero.

So I will oppose this treaty. I thank the chairman and ranking members of the Foreign Relations, Armed Services and Intelligence Committees for the service that they have provided the Senate in reviewing it. It is unfortunate that something as important as the Senate's consideration of a treaty like this one was truncated in order to meet another arbitrary deadline or the wish list of the liberal base. And it is deeply troubling to think that a legislative body charged with the solemn responsibility of advice and consent would be deprived of this role because it would inconvenience our negotiating partners.

As debate over this treaty has intensified over the past few days, these and other concerns have become increasingly apparent to a number of Senators and to the American people. We should wait until every one of them is addressed. Our top concern should be the safety and security of our Nation, not some politician's desire to declare a political victory and host a press conference before the first of the year.

Americans have had more than enough of artificial timelines set by politicians eager for attention. They want us to focus on their concerns, not ours, and never more so than on matters of national security.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following treaty, which the clerk will report.

The bill clerk read as follows:

Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms.

Pending:

Inhofe amendment No. 4833, to increase the number of Type One and Type Two inspections allowed under the Treaty.

Thune amendment No. 4841, to modify the deployed delivery vehicle limits of the Treaty.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I am delighted to be able to say a few words in response to the minority leader. I have great respect for the minority leader. He and I came to the Senate together in the same class, and I appreciate the difficulties of his job and certainly the difficulties of corralling any number of the different personalities. The same is true for the majority leader. These are tough jobs.

But I say to my friend from Kentucky that just because you say something doesn't make it true. Our friends on the other side of the aisle seem to have a habit of repeating things that have been completely refuted by every fact there is. Our old friend Patrick Moynihan used to remind all of us in the Senate and in the country that everybody is entitled to their own opinion, but they are not entitled to their own facts. John Adams made that famous statement that facts are stubborn things. Mr. President, facts are stubborn things.

The facts are that this treaty is not being rushed. This treaty was delayed at the request of Republicans. This treaty was delayed 13 times separately by Senator LUGAR to respect their desire to have more time to deal with the modernization issue, which the admin-

istration has completely, totally, thoroughly dealt with in good faith. I would like to know where the good faith comes from on the other side occasionally. They put extra money in. They sat and negotiated. They sent people to Arizona to brief Senator KYL personally. For weeks, we delayed the procession of moving forward on this treaty in order to accommodate our friends on the other side of the aisle. And now, fully accommodated, with their requests entirely met, they come back and say, oh, it is being rushed.

Well, today marks our sixth day of debate on the New START treaty. That is a fact—6 days of debate on the New START treaty. Now they will come to the floor and say that we had an intervening vote here or there. Sure. That is the way the Senate works. That is the way it worked when they passed the first START treaty in 5 days. We are now spending more time on this treaty than we did on a far more complicated treaty, at a far more complicated time. The fact is that if we go through today, which we will, on this treaty, and depending what happens with cloture and when the other side decides they want to vote, we can be here for 9 days on this treaty, which is more time than we would have spent on the START treaty, START II treaty, and the Moscow Treaty. With the time it took other Senates to deal with three treaties, these folks are complaining about the time to take one treaty, and it will be more time. It is astounding to me.

I hope people in the country will see through this. When the leader comes to the floor and says our national security is being driven by politics, we need to step back and calm down for a moment and think about what is at stake. This treaty is in front of the Senate now not because of some political schedule; it is here because the Republicans asked us to delay it. We wanted to hold this vote before the election. What was the argument then by our friends on the other side of the aisle? "Oh, no, please don't do that; that will politicize the treaty." And so in order to not politicize the treaty, we made a decision on our side to accommodate their interests. Having accommodated their interests, they now turn around and say: You guys are terrible, you are bringing this treaty up at the last minute. Is there no shame ever with respect to the arguments that are made sometimes on the floor of the Senate? Is the idea always, just say it, say it enough, go out there and repeat it, and somewhere it will stick—maybe in the rightwing blogosphere or somewhere—and people will get agitated enough and believe this is being jammed somehow?

This is on the floor for the sixth day. It is a simple add-on treaty to everything that has gone before, over all the years of arms control. It is a simple add-on treaty and extension of the START I treaty.

This is not a new principle; it is not complicated. It is particularly not complicated when the Chairman of the Joint Chiefs of Staff, the Director of National Intelligence, the Secretary of Defense, the Secretary of State, and every prior Republican Secretary of State all say ratify this treaty, ratify it now. We need it now.

Honestly, I scratch my head and am baffled at the place we have seemingly arrived at, where national security interests of our country are going to get wrapped up in ideology, politics, and all of the things that have commanded everybody's attention over the course of the last couple of years.

We did have an election a few weeks ago. It has been much referred to by our colleagues. It did signal the need to do some things differently. One of the things it signaled the need to do differently is something like the START treaty, where the American people expect us to come to the floor and do the Nation's business, particularly the business of keeping America safer.

We have had an excellent debate so far. The two amendments that were proposed were rejected overwhelmingly—60 to 30 was the last one. We had a number of people who were absent. That is a pretty pronounced statement by the Senate. It seems to me the Senator from Kentucky just said the major argument for not approving one of those amendments was that it would require us to go back and renegotiate. No, Mr. Leader, that is not the major argument. That is an argument that underscores the major argument, which is that the language has no meaning. The language doesn't affect missile defense. The major arguments are the facts, the substance of which is that the preamble language has no impact whatsoever on what we are going to do with respect to missile defense, and everybody who has anything to do with missile defense in this administration has said that. That is the major argument. In addition, the major argument is also that Henry Kissinger and Donald Rumsfeld and Secretary Gates have all said that language that has no legal impact and is just an expression of a truism—the reality that offense and defense have a relationship.

Are we not capable in the Senate of overlooking nonbinding, nonlegal, non-impacting language that acknowledges a simple truth about the relationship of offense and defense in the nature of arms control? That is all it does. That is the major argument. It just happens that in addition to having no impact on our defense, and no impact legally, and no impact that is binding—in addition to that, it also requires going back to the Russians and renegotiating the treaty. As we will show in the classified session today, there are a lot of reasons why that doesn't make sense from the security interests of the United States of America. It is not

that we should not do our job of advice and consent, but our job of advice and consent requires us to process the facts, requires us to think seriously about what those facts are and how they impact this treaty.

If the Senate does its job of thinking seriously about this treaty, it will separate out language that has no impact and no meaning whatsoever on our national missile defense plans, or on the treaty itself. I don't know how the President could make it more clear than in the letter he wrote to the leadership, in which he said as clearly as possible:

The United States did not and does not agree with the Russian statement. We believe that continued development and deployment of U.S. missile defense systems, including qualitative and quantitative improvements to such systems, do not and will not threaten the strategic balance with the Russian Federation. Regardless of Russia's actions in this regard, as long as I am President, as long as the Congress provides the necessary funding, the United States will continue to develop and deploy effective missile defenses to protect the United States, our deployed forces, and our allies and our partners.

I don't know how you can make it more clear than that. Those are the facts. It is my understanding that today the Joint Chiefs will all be submitting an additional statement for the record here to make it clear it is their view that this treaty has absolutely no negative impact whatsoever on our missile defense, and they believe it is entirely verifiable, and they want to see it ratified. So the issue of advice and consent here is whether we are going to follow the advice of those whom we look to on military matters, on defense intelligence matters, on security matters—those statespeople who have argued these treaties and negotiated these treaties through the years. The Chairman of the Joint Chiefs of Staff, the Joint Chiefs, the Commander of U.S. Strategic Command—and this is Secretary Gates:

I assess that Russia will not be able to achieve militarily significant cheating or breakout under the New START. Our analysis of the NIE and potential for Russia cheating or breakout confirms the treaty's verification regime is effective.

I hope that facts will control this debate, that the security interests of our country will control this debate, that those who have created this record for the Senate to weigh—we have been on this treaty for a year and a half not just for 6 days. Sixty Members of the Senate—the Armed Services Committee, the Foreign Relations Committee, the National Intelligence Committee, the National Security Working Group, which I cochair with Senator KYL—have all met and considered this treaty. Some people have gone to Geneva and actually met with the negotiators. The negotiators met with us here. Before the treaty was even signed, we were weighing in on this

treaty. We considered it in over 21 hearings and meetings over the course of the last 6 months. This is not 6 days. Let's not kid the American people. This is not 6 days. Three other treaties, one of which had no verification at all—that treaty received a 95-to-0 vote.

The American people voted for us to stop the politics. They voted for us to act like adults and do the business of this country. I believe voting on this treaty in these next hours and days is our opportunity to live up to the hopes of the American people.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, a great deal of our day will be spent on discussing the verification regime of the New START treaty. A part of that will be in closed session. But I want to initiate additional debate this morning on the New START verification regime.

The important point is that today we have zero on the ground verification capability for Russian strategic forces, given that START I expired on December 5, 2009, more than a year ago.

Opponents of New START's verification regime have emphasized a peculiar argument, in my judgment. On the one hand we are told we do not need New START because it is a Cold War relic and that more modern approaches to arms control should be sought. On the other hand, opponents lament the passing of START I's Cold War verification regime.

I ask my colleagues which one should it be. Should we prefer modernized verification for a post-Cold War world that reflects the lack of an arms race and our military's desire for flexible force structures? Or should we resort back to Cold War verification?

The fact is, President Bush's Moscow Treaty, approved by a vote of 95 to 0, as the chairman just mentioned, contained no verification whatsoever. Some would cite this as a modern approach to arms control. They fail to mention that the Moscow Treaty explicitly relied on START I's verification regime. As I noted, START I expired more than a year ago.

I point out parenthetically that at numerous hearings in the Senate Foreign Relations Committee, those who extol the virtues of the Moscow Treaty—which, as I pointed out, was ratified 95 to 0—indicated we were in a new day. When we asked in that particular context how about verification, they said there is already verification under START I. We pointed out even then that it would expire in December of 2009. But it was fully anticipated by those advocating the Moscow Treaty that we would have another START regime by that point or that verification apparently would not be needed at all.

Some Senators say we could have just extended START I and kept the Moscow Treaty in place. This, again,

overlooks the fact that our military, in particular, disliked aspects of START I and advocated for a more flexible approach in START II or the New START.

Under START, the United States conducted inspections of weapons, their facilities, their delivery vehicles, and warheads in Russia, Kazakhstan, Ukraine, and Belarus. These inspections fulfilled a crucial national security interest by greatly reducing the possibility that we would be surprised by future advancements in Russian weapons technology or deployment. Only through ratification of New START will U.S. technicians return to Russia to resume verification.

New START verification should not be evaluated by Cold War standards. During the Cold War, we wanted to constrain the arms race and improve stability by encouraging a shift away from ICBMs with multiple warheads. Neither of these objectives remain today. START was negotiated at a time when the former Soviet Union had more than 10,000 nuclear warheads on more than 6,000 missiles and bombers, most of them targeted against the United States and our allies.

Under New START, the United States and Russia each will deploy no more than 1,550 warheads for strategic deterrence. Seven years from entry into force, the Russian Federation is likely to have only about 350 deployed missiles. This smaller number of strategic nuclear systems will be deployed at fewer bases, as has been pointed out earlier in the debate.

While we inspected 70 facilities under START, many of these have been shut down in recent years. Under New START, we will be inspecting only 35 Russian facilities. It is likely that Russia will close down even more bases over the life of the treaty.

Both sides agreed at the outset that each would be free to structure its forces as it sees fit, a view consistent with that of the Bush administration. As a practical economic matter, conditions in Russia preclude a massive restructuring of its strategic forces.

For the United States, the New START treaty will allow for flexible modernization and operation of U.S. strategic forces while facilitating transparency regarding the development and the deployment of Russian strategic forces.

The treaty, protocol, and annexes contain a detailed set of rules and procedures for verification of the New START treaty, many of them drawn from START I. Negotiators took the experience of onsite inspection that was well honed during START I and tailored it to the new circumstances of today. The inspection regime contained in New START is designed to provide each party confidence that the other is upholding its obligations while also being simpler and safer for the inspectors to implement, less operationally

disruptive for our strategic forces, and less costly than START's regime.

Secretary Gates recently wrote to Congress that "the Chairman of the Joint Chiefs of Staff, the Joint Chiefs, the Commander, U.S. Strategic Command, and I assess that Russia will not be able to achieve militarily significant cheating or breakout under New START due to both the New START verification regime and the inherent survivability and flexibility of the planned U.S. strategic force structure."

That is a very important statement, in my judgment, that Secretary Gates, with affirmation of all of the above officials of our government, says that Russia will not be able to achieve militarily significant cheating or breakout under New START given the verification procedures we have outlined.

Predictably, recent verification and compliance reports covering START have chronicled cases where we disagreed with Russia about START I implementation. Yet despite these issues, neither party violated START I's central limits. We should not expect that New START will eliminate friction, but the treaty will provide a means to deal with such differences constructively, as under START I.

The resolution of ratification approved by the Foreign Relations Committee of the Senate requires further assurances by conditioning ratification on Presidential certification prior to the treaty's entry into force, of our ability to monitor Russian compliance, and on immediate consultations should a Russian breakout from the treaty be detected. For the first time in any strategic arms control treaty, a condition requires a plan for New START monitoring.

Some have asserted there are too few inspections in New START. The treaty does provide for fewer inspections compared to START I. But this is because fewer facilities will require inspection under New START. START I covered 70 facilities in four Soviet successor states, whereas New START only applies to Russia and its 35 facilities. Therefore, we need fewer inspectors to achieve a comparable level of oversight.

New START also maintains the same number of "re-entry vehicle on-site inspections" as START I; namely, 10 per year. Baseline inspections that were phased out in New START are no longer needed because we have 15 years of START I treaty implementation and data on which to rely. Of course, if New START is not ratified for a lengthy period, the efficacy of our baseline data would eventually deteriorate.

New START includes the innovation that unique identifiers, or UIDs, be affixed to all Russian missiles and nuclear-capable heavy bombers. UIDs were applied only to Russian road-mobile missiles in START I. Regular ex-

changes of UID data will provide confidence and transparency regarding the existence and location of 700 deployed missiles, even when they are on non-deployed status—something that START I did not do.

The New START treaty also codifies and continues important verification enhancements related to warhead loading on Russian ICBMs and SLBMs. These enhancements, originally agreed to during START I implementation, allow for greater transparency in confirming the number of warheads on each missile.

Under START I and the INF Treaty, the United States maintained a continuous onsite presence of up to 30 technicians at Votkinsk, Russia, to conduct monitoring of final assembly of Russian strategic systems using solid rocket motors. While this portal monitoring is not continued under New START, the decision to phase out this arrangement was made by the Bush administration in anticipation of START I's expiration. With vastly lower rates of Russian missile production, continuous monitoring is not crucial, as it was during the Cold War.

The Moscow Treaty's verification shortcomings were dismissed during debate in the Senate in 2003 because we were told there would be time to fix them before START I expired—something we failed to achieve.

The only binding treaty of any kind in place is the Moscow Treaty which itself will expire in December of 2012, and the Moscow Treaty contains no counting rules and no verification.

An illustration of the benefits of New START compared to the Moscow Treaty: We will have data on the number, by type, of deployed, fixed land-based ICBMs and SLBMs and their launchers. This is not in the Moscow Treaty.

Secondly, we will have data on the number, by type, if they exist, of deployed and nondeployed road-mobile and rail-mobile ICBMs and their launchers, and the production of mobile ICBMs. This, too, is not in the Moscow Treaty.

We will know, thanks to New START preinspection procedures, the actual number of warheads emplaced on each ICBM or SLBM subject to the inspection. The warhead inspection portion of a New START inspection on a deployed missile is used to confirm the accuracy of the declared data on the actual number of warheads emplaced on a designated, deployed ICBM or SLBM. This is not in the Moscow Treaty.

We will have data and inspections for the number of warheads on ICBMs and SLBMs. This is not in the Moscow Treaty.

For the first time, we will have identification and tracking of all non-deployed Russian missiles—non-deployed Russian missiles—not just road-mobile missiles, a unique verification system under New START.

We will have declarations, notifications, and inspections on the aggregate number of deployed missiles.

We will have data on the technical parameters for ballistic missiles through technical exhibitions/inspections for missiles, and we will have data on the number, by type, of deployed heavy bombers, both those that are equipped for nuclear-capable weapons and those that are not, and the number, by type, of formerly nuclear-capable heavy bombers, training aircraft, and heavy bombers equipped for conventional munitions that no longer carry nuclear munitions. We will have data and inspections on the elimination of strategic nuclear launchers and delivery vehicles. We will have tracking, notification, and inspection of the production of ICBMs for mobile launchers of ICBMs to confirm the number of ICBMs for mobile launchers of ICBMs produced. And we will have data and inspections on the elimination of declared facilities.

The bottom line is that every Senator should ponder today that we have zero on-the-ground verification capability for Russian strategic forces, given the fact that START I expired on December 5, 2009. Those who wish to reject this treaty and rely on the Moscow Treaty enjoy the same result—zero verification, because the Moscow Treaty contains none.

I appreciate that we have had vigorous debate not only on the verification procedures but likewise on missile defense and, for that matter, the entire negotiation of the treaty. In my judgment, it is important, given the outline I have explained this morning, no verification and none anticipated until we pass the New START treaty. Unless there are those—and there have been throughout the history of these debates—who simply do not like treaties with the Russians, who would prefer no treaty, who anticipate that some day perfection may come and some negotiation will take place that is clearly not in sight, if rejection of this treaty were to be recorded. I believe it is imperative for our national defense and national security. That is a personal judgment but it is one I strongly advocate. This is why I believe that progress on the New START treaty is extremely important for the national security of our country.

I yield the floor.

THE PRESIDING OFFICER (Mr. REED). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, procedurally we have two amendments right now that are pending, my amendment No. 4833 and the Thune amendment No. 4841. Mine is concerning verification. His concerns delivery systems. We will have up until 1:30, when we go into closed session, to debate these. It would be my hope that Members who want to debate would confine their debate only to these two amendments.

Because if they don't and we let the time get beyond this, not as many people will be heard on these amendments. I know the Senator from North Dakota wants to speak. I encourage anyone wanting to speak on the treaty other than these two amendments to defer to those who want to speak on these amendments. That is not a unanimous consent request. It is something I think is appropriate to do. These are significant amendments. A good way to do that, if someone wants to talk about the treaty other than these two amendments and there is someone wanting to talk about the amendments, I would hope they would defer to those who want to talk about the amendments.

Let me make a comment about the Senator from Massachusetts. When we talk about the fact that we have been on this thing longer than any other treaty, for years and months and all that, I remind him, I am kind of in a unique situation. I am on both the Armed Services and Foreign Relations Committees. We have had a lot of hearings. That is true. In the Foreign Relations Committee, we had 16 hearings, a total of 30 witnesses. Of the 30 witnesses, 28 were in favor of the treaty, 2 were opposed. What we attempted to do is to get a broader exposure to this very significant treaty on this issue. For that reason, we do need to take more time, because we have only heard one side. Then on the other matter, the idea that this is just an add-on from a previous treaty, let's keep in mind, when the START I treaty came up, that was between two superpowers, everyone understand that, the U.S.S.R. and the United States. That is not the same today.

One of the problems I have with this treaty is that it is a treaty between the United States and Russia. This is not, in my opinion, where the threat is. The threat is with Iran and North Korea. Every time we get an assessment on North Korea, we are wrong. They have more than we believed they have, and then we are put in a position where we know they are trading with countries such as Iran. And Iran right now, according to our intelligence, which is not even classified, would have a delivery system with a nuclear warhead by 2015. So there is where the issue of missile defense comes in.

I know the argument on missile defense. We have the Russian Foreign Minister Lavroc coming out and saying:

We have not yet agreed on this [missile defense] issue and we are trying to clarify how the agreements reached by the two presidents correlates . . . with the actions taken unilaterally by Washington.

And adding:

The Obama administration had not coordinated its missile defense plans with Russia.

Then we have, on the opening day of April 8 in Prague, the Russians saying that the treaty can operate and be via-

ble only if the United States refrains from developing its missile defense capabilities, quantitatively and qualitatively. We can sit around and say this isn't going to affect that, but nonetheless, that is on record. We have some Russians who believe that. That is not on my amendment. I wanted to comment that there is a reason for taking the time. I will not get into the debate as to whether we should have done it before the election or after.

I will say, a lot of the things that have come up in this lameduck session have come up because the chances of getting these things through is greater than they would be after eight or nine new Senators come in. The fact is, these eight or nine new Senators have all joined in a letter asking us, could you refrain from ratifying this very significant treaty until we have a chance to look at it. We are the ones. We are the Senate coming in. I think that is a good argument.

Let me get back to my amendment 4833 and kind of kick it off here. I know we have a lot of people who want to talk about the amendment. Let me share my thoughts first. Right now there are, under the New START treaty, 188 inspections over 10 years. That is 18 a year versus what we had with START I, 600 over 15 years. That is 40. So it is a drop from 40 inspections per year to 18. I believe it would be good to actually have more than we had during START I. Under New START, they inspect to verify the elimination of nuclear weapon delivery systems that have fundamentally changed from those of START I. START I required the elimination of sites. We didn't at that time have to set up a mechanism to look and see if these were actually eliminated because we knew at that time they were. Now we have no way of knowing whether the sites have been reactivated. In fact, the test being used under this New START treaty would be to view the debris that shows that systems were eliminated. It could very well be that they could destroy a system, there would be a lot of debris. There could be three or four systems they don't destroy, but they could spread the debris around. It is not a very good test as to what is actually happening.

The second problem I have is that under New START, 24 hours of advance notice is required before an inspection, which is quite a dramatic increase. Under the old START treaty it was 9 hours advance notice. If you walk into this and assume the Russians are not going to cheat, that is fine. But I am not willing to do that because in a minute I will document the things they said they would do and have not been doing. If anything, we should certainly not have a no-longer warning than under the old START treaty. My amendment seeks to mitigate some of these negotiated disadvantages by in-

creasing the number of inspections per year. The amendment triples the number of inspections under the New START from the two types of inspections specified under the New START treaty, type one and type two inspections. Type one inspections refer to the ICBM bases, submarine bases, and airbases, to confirm accuracy of declared data on the number and types of deployed and nondeployed warheads located on ICBMs, SLBMs, and heavy bombers.

Type two refers to inspections at formerly declared facilities to confirm that those facilities are not being used for purposes inconsistent with the treaty. That would have been inconsistent with START I.

That is what we talked about a minute ago. I don't see any verification in terms that are meaningful to verification on type two. But type one inspections would increase from 10 to 30 inspections a year. Type two would increase from 8 to 24, a total of 54 inspections.

On July 20, 2010, the principal deputy Under Secretary of Defense for policy, James Miller, testified before the Senate Armed Services Committee. I was there. He said that Russian cheating or breakout, as they sometimes say, a kinder phrase, under the treaty would have little effect because of the U.S. second-strike strategic nuclear capability. I disagree with that. If this is something where we have people who agree and disagree, certainly we should fall down on the side of protection for the United States.

As we get to the argument saying we don't need as many inspections because we have a smaller number of facilities to inspect or the smaller size of the nuclear arsenal, as in New START, the larger the impact of cheating has on a strategic nuclear balance, this is kind of a hard thing for people to understand. But increasing the number of type one and two inspections is critical to New START verification because the total number of inspections has been dramatically reduced. Having the facilities reduced is of more concern.

Let me quote a few people who have weighed in on this issue.

Former Secretary of Defense Harold Brown explained, on October 23, 1991, when they were looking into the future and saying this was something they thought was going to happen, in testimony before the Senate Foreign Relations Committee on the original START treaty:

Verification will become even more important as the numbers of strategic nuclear weapons on each side decreases, because uncertainties of a given size become a larger percentage of the total force as this occurs.

Is he the only one who believes this? No. Former Secretary of Arms Control John Bolton stated just this year, on May 3:

While [verification] is important in any arms-control treaty, verification becomes

even more important at lower warhead levels.

That is where we are now, lower warhead levels.

In 1997, Brent Scowcroft said:

Current force levels provide a kind of buffer because they are high enough to be relatively sensitive to imperfect intelligence and modest force changes.

He said:

As force levels go down, the balance of nuclear power can become increasingly delicate and vulnerable to cheating on arms control limits, concerns about "hidden" missiles, and the actions of nuclear third parties.

Yesterday when we were having this debate, I acknowledged that both the Senator from Massachusetts and I have been aviators for a number of years. I recalled going across Siberia in a flight around the world. You go through time zone after time zone of wilderness, and you think of all the places things could be. That is not the way it is in our country. That is what Brent Scowcroft was saying, that:

As the force levels go down, the balance of nuclear power can become increasingly delicate and vulnerable to cheating on arms control limits, concerns about "hidden" missiles, and actions of nuclear third parties.

Then in May of this year in the Senate Foreign Relations Committee, former Secretary James Baker summarized that the New START verification regime is weaker than its predecessor, testifying to Congress that the New START verification program:

... does not appear as rigorous or extensive as the one that verified the numerous and diverse treaty obligations and prohibitions under START 1. This complex part of the treaty is even more crucial when fewer deployed nuclear warheads are allowed than were allowed in the past.

So I think we have this unanimity of people who believe as the level comes down, the inspections become more critical. I think we also have to look at the fact—and I know it is not nice to say, and this offends a lot of people—Russia cheats on every arms control treaty we have had with them. We had a recent thing—I am glad it came out—I think it was in the summer of this year, with the report on foreign country compliance. This is what our report said.

It starts out with the START. It says there are a number of longstanding compliance issues—such as obstruction to U.S. right to inspect warheads—raised in the START Treaty's Joint Compliance and Inspection Commission that remained unresolved when the treaty expired on December 5, 2009.

Then, if you look, they break it down.

The Biological Weapons Convention. In 2005, the State Department concluded that "Russia maintains a mature offensive biological weapons program and that its nature and status have not changed." This was in this report we had. In 2010, the State Department report states this: Russia con-

fidence-building measure declarations since 1992 have not satisfactorily documented whether its biological weapons program was terminated.

They said the same thing 5 years later that they said back in 2005. So we do not know right now. They were supposed to be eliminating that program, as to the Biological Weapons Convention, and they did not do it.

The Chemical Weapons Convention. In 2005, the State Department assessed that "Russia is in violation of its Chemical Weapons Convention obligations because its declaration was incomplete with respect to declaration of production and development facilities." In 2010, the State Department again stated that there was an absence of additional information from Russia, resulting in the United States being unable to ascertain whether Russia has declared all of its chemical weapons stockpile, all chemical weapons production facilities, and all of its chemical weapons development facilities.

So what they are saying now is, 5 years later, after they had been warned in 2005 they had to do this, that they were in noncompliance, they are still in noncompliance. That is as to chemical weapons.

As to conventional forces in Europe, the report says: "The United States notes that Russia's actions have resulted in noncompliance with its Treaty obligations." The Wall Street Journal recently reported that, according to U.S. officials, the United States believes Russia has moved short-range tactical nuclear warheads to facilities near NATO allies as recently as this spring.

So I think if you look at the record of Russia, they don't tell us the truth. They agree to something, and then they do not do it. That is why verification probably—it may be the most significant frailty in this New START treaty that needs to be addressed.

For starters, I want to repeat that we have fewer inspections now under this treaty. The idea that you can determine by the debris that remains after something is supposed to be destroyed is, to me, a nonstarter. The advance notice—the fact that we now give them advance notice three times as long as we did at one time—as weapons decrease, I think everybody agrees we need to have more of the opportunities to inspect. Then lastly is the fact that Russia cheats.

I will yield the floor at this point. I do not see anyone around who wants to talk about these two amendments, so I will yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. INHOFE. Mr. President, will the Senator from North Dakota yield?

Mr. DORGAN. Mr. President, of course I will yield.

Mr. INHOFE. I wish to ask the Senator, there may be some who may wish

to talk on these two amendments. About how long will the Senator speak on the general subject of missile defense or the treaty? About how long will the Senator be talking on something other than specifically these two amendments?

Mr. DORGAN. Mr. President, I would estimate about 15 to 20 minutes would be the maximum.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I spoke yesterday to most of the arguments. I do not think there is a need to go back over them. I appreciate the arguments and concerns of the Senator from Oklahoma. So I think I will let that stand where it was, and we will see if another Senator comes to pick up.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, this is a very significant and important issue. As I have indicated previously, we deal with a lot of issues here in the Senate, some less relevant, some more important. We often treat the serious too lightly, and the light too seriously. In this case, I think everybody understands that negotiating a treaty with the Russians dealing with arms reductions is critically important. And that is what this is.

I do not think, when you talk about nuclear weapons, there are other issues that are similar to it. If, God forbid, before sundown today, we learn that a nuclear weapon has been obtained by a terrorist group or a rogue nation and detonated in the middle of a major city on this planet Earth, and hundreds of thousands of people are killed, life on Earth will change forever.

This is a big issue, a very important issue. I just described the horror of a circumstance where a nuclear weapon was detonated in a major city on this planet. We have 25,000 nuclear weapons that exist on this planet. The question is, are we able to find a way to systematically reduce the number of nuclear weapons and, therefore, reduce the threat of the use of nuclear weapons while, at the same time, trying to keep nuclear weapons out of the hands of terrorists and rogue nations?

These days, it seems to me, the question of the nuclear threat is very different than when previous treaties were negotiated. The reason for that is, we have found a new enemy on this planet. It is called terrorism—terrorists who are very happy to give up their lives as long as they can take the lives of others.

That terrorist threat, and the threat that a terrorist organization might acquire a nuclear weapon, and then very happily detonate that nuclear weapon and kill hundreds of thousands of people—innocent people—that is a very serious problem. That is why there is a

new urgency to not only arms control and arms reduction negotiations, but to the passage of treaties that are, in fact, negotiated.

We have successfully negotiated various arms control treaties. I will not go through the list of successes, as I did previously. But we have been very successful in reducing the number of nuclear weapons and the number of delivery vehicles—bombers and submarines and intercontinental ballistic missiles. We have fields in which sunflowers now grow where missiles were once planted with nuclear warheads aimed at our country.

That is a success, in my judgment. There is no doubt that what we have done over the years has been successful. Yet there remain on this planet some 25,000 nuclear weapons.

I have listened to this debate, and I do not believe there is anyone involved in this debate who represents bad faith. I think there are differences of opinion, and I believe people who come here and offer amendments believe in their heart they are pursuing the right strategy. But in some ways it also seems to me to be kind of the three or four stages of denial; that is, you take a position, and when that is responded to, then you take a second position: I wasn't there. If I was there, I didn't do it. If I did it, I am sorry.

The stages of denial are pretty interesting to me. Let me go through a few of them.

The first was, some were very worried in this Chamber that if we proceeded with START without adequately funding the nuclear weapons complex and funding the necessary investments in our current nuclear weapons stockpile, the investments for modernization, the investments for life extension programs, and so on—if we did that without adequate funding for that, that would be a serious problem.

The fact is, President Obama proposed adequate funding in coordination with those who were raising that question. Particularly Senator KYL was raising that question a great deal. He and I talked about it a substantial amount because I chair the subcommittee that funds the nuclear weapons complex and the life extension programs and the modernization programs.

So while most other areas of the Federal budget were being trimmed or frozen or held static, we increased, at President Obama's request, the nuclear weapons line item in the budget that deals with modernization and life extension programs, and so on. We increased that by nearly 10 percent in FY 2011 budget; and then another 10 percent in the FY 2012 budget President Obama will send Congress in February; and then, on top of a 10-percent increase and a 10-percent increase, another \$4 billion increase over the next five years thrown on top of all of that.

I do not think anyone can credibly suggest there is now a problem with funding. The President kept his promise, and then did more than that—two 10-percent increases, taking us to \$7.6 billion, and then, on top of that, adding another \$4 billion in 5 years. It is hard to find another part of the budget that has been as robustly funded.

Again, as chairman of the subcommittee that funds this, I believe we have done what was necessary, and much more to satisfy the concerns expressed by those who worried that the funding would not be there. This President said it will be there. He made those proposals with two big increases and then an even larger third increase, and that ought to lay to rest that subject for good.

Will our current stockpile be properly maintained with life extension programs and modernization expenditure? The answer is yes. It is clearly yes. The funding has been made available, and there ought not to be debate about that any longer.

Now the question of time. Some have said—and I heard this morning on television one of my colleagues say: Well, this is being rushed through at the end of a session. That is not true. That is an example of what I described previously on the floor of inventing a reality, and then debating off that new invention. It is not true that we are rushing this through. We have had meeting after meeting after meeting. I am on the National Security Working Group, and all through the negotiation with the Russians on this treaty, Republicans and Democrats on that committee were called to secret sessions and briefed all along the way, to say: Here is what is going on. The negotiators would say: Here is where we are. Here is what we are doing. And we were always kept abreast of all of that. So there is nothing at all that is running away quickly at the end of a session to try to get this done.

In fact, this has been delayed much longer than, in my judgment, I would have preferred. But, nonetheless, we are here, and it seems to me this ought not be part of the routine business of the Congress. This is an arms control treaty on nuclear arms reduction. This ought to be one of those areas that rises well above that which is the normal business in a Congress.

But there is no credibility at all to suggest this is being rushed. I can recall day after day sitting in secret sessions with negotiators telling us along the way: Here is what we are doing. They met with Republicans and Democrats. We met altogether in a room in the Capitol Visitor Center and had briefing after briefing after briefing on the National Security Working Group, and it includes most of those in this Chamber who have spoken on this issue.

So it is not the case that there were Members of Congress uninformed about

what was happening. All of us were informed. This administration, I thought, did an exceptional job of coming to us to say: We want to keep you advised and informed of what we are doing. It is not the case at the end of this session it is being rushed through. It should have been done a few months ago. I wish it had been, but it has not been. So, therefore, we find ourselves at this intersection. But it should not let anybody believe this is being pushed and rushed without time to consider. All of us have had ample time over many months, and over a year before that, while the negotiations were taking place to seriously consider and be a part of what this is and what it means for our country.

The other issue that is being raised constantly is, it will limit our capabilities with respect to missile defense. Again, it is not the case. I understand what people have been reading in order to make that case. But every living Secretary of State from the Republican and Democratic administrations have come out in favor of this treaty—every one.

The Chairman of the Joint Chiefs of Staff has made a very assertive, strong statement in support of this treaty. They didn't do that because somehow we are limited on missile defense. In fact, the President has written to us and said: "That is not what exists with respect to us and an agreement with the Russians." It just is not.

Yesterday, the argument was, well, this doesn't include tactical weapons. No, it doesn't. We do need to limit tactical weapons. I wish it had been a part of the Moscow Treaty. I wish it was part of this treaty. It wasn't. But that doesn't mean we should stop progress on the strategic weapons limitations, a reduction of the number of strategic nuclear weapons.

Why would you not take the progress in the area of limiting strategic nuclear weapons and the delivery of vehicles, airplanes, missiles, submarines, and so on, with which those weapons are delivered—why would you not take the progress that exists with respect to limiting strategic weapons? Of course we should do that. Certainly, I don't disagree at all with those who are worried about tactical weapons. So am I. So is this administration. All of us would have loved to have had an agreement on tactical nuclear weapons 5 and 10 years ago, but that was not possible and it was not the case. So now we work on this, and this provides measurable reductions in the number of nuclear warheads and measurable reductions in the delivery vehicles for those warheads—bombers, missiles, submarines, and so on. It would be unthinkable, it seems to me, for our country to decide that, no, this is not the direction in which we want to move.

As I indicated earlier, on every occasion where we have debated the issue of

arms control and arms reduction—understanding it is our responsibility; it falls on the shoulders of this country, the United States, to assume the leadership—on every occasion where we have debated the issue of trying to reduce the number of nuclear weapons on this planet and reduce the number of delivery vehicles and the threat from nuclear weapons, we have done that exclusive of this new threat which now casts a shadow over everything we talk about; that is, the threat of terrorism—a new threat in the last decade—terrorists who are very anxious to take their own lives if they can kill thousands or hundreds of thousands of others. The specter of having a terrorist group acquire a nuclear weapon and detonate that nuclear weapon on this planet will change life on the planet as we know it.

So it is a much more urgent requirement that we finally respond to this by continuing this relentless march to reduce the number of nuclear weapons and try to make certain we keep nuclear weapons out of the hands of terrorists, to reduce the number of rogue nations that would have nuclear weapons. That is our responsibility. It is our leadership responsibility in this country.

The signal we send to the world with respect to this vote and others dealing with arms control and arms reductions is unbelievably important. That is why this vote in this Chamber at this point is so urgent.

I mentioned terrorism, and it is now a few days before Christmas. Last Christmas, we were reminded about terrorism once again. A man got on an airplane with a bomb sewn in his underwear. Before that he was preceded by a man getting on an airplane with a bomb in his shoe. They were perfectly interested in bringing down an entire plane full of people. The terrorists who were interested in killing several thousand Americans on 9/11/2001 are even more interested in acquiring a nuclear weapon and killing hundreds of thousands of people somewhere in a major city on this planet.

That is why this responsibility, the responsibility of continuing to negotiate and negotiate and negotiate treaties that represent our interests—yes, they have to represent our interests, and this one does. Look at the list of people who support this treaty. I have brought out charts before that show all of the Republicans and Democrats, the folks who have worked on these things for so long, Secretaries of State and military leaders and former Presidents.

It is our responsibility to make progress. Frankly, as I said, I don't suggest there is bad faith on the part of anybody who stood up with their opinion. That is not my suggestion. I think people in this Chamber are people of good faith. But it seems to me that some have not yet understood the in-

creasing urgency now to address this issue. This issue is in our national interests. This issue with the Russians—this treaty with the Russians was negotiated very, very carefully, representing our national interests—yes, on verification, representing our national interests. It represents our interests in every other way. Missile defense—we didn't give up anything with respect to missile defense. So as I hear some of my colleagues come to the floor very concerned about these issues, all of them are responded to easily, in my judgment.

Money—we are spending more money than has ever been spent on the nuclear weapons complex to make sure our nuclear weapons work. Linton Brooks, the previous head of NNSA said: I would have killed for a budget like they now have for the life extension programs and the modernization program. I would have killed for that, he said. He was the man who ran the NNSA under the previous President, President George W. Bush. So money is not an issue. Clearly, that is not an issue.

Time? This is not being pressed into a tiny little corner with an urgent time requirement. This has been delayed and should not have been delayed. But it is sufficiently important to stay here and do this and hope the work that has been done on a bipartisan basis can be supported by the entire Senate.

It is easy to compliment people in the Chamber, and you don't compliment those with whom you disagree, I suppose. But let me compliment Senator KERRY and Senator LUGAR because I think the work they have done, which is very strongly bipartisan, to bring this treaty to the floor of the Senate for ratification is a representation of the best of the Senate. It is the way this place really ought to work. Searching out and holding hearings and hearings and hearings, the best thinkers to come and give us advice about all of these issues—they did that. There is nothing this issue is represented by with respect to pushing it into a tight timeframe. They have done this the right way—the right kinds of hearings, the right kind of consultation. Now, they have come to the floor of the Senate saying this is urgent. Let's get this done.

I just wanted to come today—I was driving to work this morning, and I saw the Martin Luther King memorial being built on the Mall. I recalled what he once said. He said, "The means by which we live have outdistanced the ends for which we live." He said, "We have learned the secret of the atom and forgotten the sermon on the mount."

Well, the secret of the atom is something we have indeed learned. In recent years, the specter of having so many nuclear weapons on this planet and the specter of terrorists acquiring one requires us to be ever more vigilant and

to proceed to ratify treaties we negotiate over a long period of time. Again, as I indicated, it is our responsibility.

This responsibility for stopping the arms race rests on our shoulders. Yes, we must do it in our national interests, protecting ourselves as we do. In my judgment, this treaty meets every one of those measures. I am pleased to support it and pleased to be here to say that I hope my colleagues will look at what Senator KERRY and Senator LUGAR have done and come to the floor of the Senate with robust support for what I think is outstanding work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

TRIBUTES TO RETIRING SENATORS

BYRON DORGAN

Mr. KERRY. I know the Senator from South Dakota is here. I know he wishes to speak. I will not be long. I wish to take advantage of this moment with the Senator from North Dakota on the floor to say a couple of things.

First of all, I am very grateful to him personally for the comments he has made about both my efforts and the efforts of Senator LUGAR. I appreciate them enormously. But more importantly, the Senator is going to be leaving the Senate at the end of this session. I wish to say there are few Senators who combine as many qualities of ability as does the Senator from North Dakota. He is one of the most articulate Members of the Senate. He is one of the most diligent Members of the Senate. He is one of the most thoughtful Members of the Senate.

I have had the pleasure of serving with him on the Commerce Committee. I have seen how creative and determined he is with respect to the interests of consumers on Internet issues, on fairness issues, consumer issues in which he has taken an enormous interest. He has been head of the policy committee for I think almost 10 years or so. He has been responsible for making sure the rest of us are informed on issues. He has kept us up to date on the latest thinking. He has put together very provocative weekly meetings with some of the best minds in the country so we think about these things.

So I wanted to say to the Senator from North Dakota personally through the Chair how well served I think the citizens of North Dakota have been, how grateful we are for his service, and how extraordinarily lucky we have been to have someone representing one of the great 50 States as effectively as he has. I think he has been a superb Senator, and he will be much missed here.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I wish to speak to an amendment I have pending at the desk, but before I do that, I wish to make some general observations as well about where we are with regard to

this process because there has been a lot said about Republicans not wanting to vote on this or trying to delay this. But I think one would have to admit that we have now talked about missile defense, which I think is a very valid issue with respect to this treaty. There are very significant areas of disagreement with regard to how it treats missile defense. We have had a discussion about tactical weapons, which, in my judgment, also is a very important issue relative to our national security interests and the interests of our allies around the world. We have had a debate about verification, about which the amendment of Senator INHOFE is currently pending. Those are all very valid and substantive issues to debate and discuss with regard to this treaty.

The amendment I will offer will deal with the issue of delivery vehicles, which is something that is important as well where this treaty is concerned.

So I would simply say that it is consistent with our role in the U.S. Senate to provide advice and consent. If it were just consent, if that is what the Founders intended, we could rubber-stamp this. But we have a role in this process, and that role is to look at these issues in great detail and make sure the national security interests of the United States are well served by a treaty of this importance.

So I think the words of the treaty matter, and I think the words of the preamble matter. I am not going to relitigate the debate we have already had on missile defense, but I believe that if we have language in a preamble to a document such as this, not unlike the preamble we have in our Constitution which is frequently quoted, it has meaning. To suggest that the preamble doesn't mean anything, that it is a throwaway and has throwaway language, to me really misses the point. Obviously, it matters to someone. It matters greatly to the Russians, and I don't think, if it didn't, it would be in there. That is why I believe that having this linkage between offensive strategic arms and defensive strategic arms in the preamble—it is in there for a reason. Somebody wanted it in there, obviously, and I think it certainly has weight and consequence beyond what has been suggested here on the floor of the Senate.

I would also argue as well that the signing statement we have already talked about where the Russians made it very clear in the signing statement, in Prague on April 8 of 2010, that the treaty can operate and be viable only if the United States of America refrains from developing its missile defense capabilities qualitatively or quantitatively—if you tie that back to article XIV of the withdrawal clause of the treaty where it talks about being able to withdraw for exceptional circumstances, you can certainly see the pretext by which the Russians may decide to withdraw from this treaty.

So missile defense is not an inconsequential issue. It is a very important issue with regard to this treaty, and the amendment that was offered on Saturday and voted on attempted to address that. Unfortunately, that failed. I hope we have subsequent opportunities to get at the issue of missile defense because I certainly think it is an unresolved issue in my view and in the view of many of us.

AMENDMENT NO. 4841

The amendment I offer today is very straightforward and modest. It would simply increase the number of deployed delivery vehicles—in other words, bombers, submarines, and land-based missiles—allowed for in the New START treaty from 700 to 720. It simply adds 20 additional vehicles to the number in order to match up with the administration's plan presented to the Senate for fielding 720 delivery vehicles rather than the 700 called for in the text of this treaty.

Before I continue, I ask unanimous consent that Senator SCOTT BROWN of Massachusetts be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. For those watching this debate who may be unfamiliar with some of the terminology used in these arms control treaties such as the term “delivery vehicles,” it is important to understand that delivery vehicles simply means the nuclear triad of systems: bombers, submarines, and land based intercontinental ballistic missiles or ICBMs. This triad of delivery vehicles is very valuable because it is resilient, survivable, and flexible, meaning that if, God forbid, we suffer a nuclear attack, those who attacked us can never be sure that they have knocked out our ability to respond with a nuclear strike. Obviously, without the means to deliver nuclear weapons, an adversary would not take seriously our ability to respond to a nuclear attack. As the numbers of delivery vehicles goes down, it becomes more and more important to make sure they are modernized and that they work as intended. And as numbers get reduced, it begins to have an impact on whether we can effectively retain the triad, making it more likely that our nation would have to eliminate a leg of the triad.

On July 9, 2009, at an Armed Services Committee hearing, I asked GEN James Cartwright, the Vice Chairman of the Joint Chiefs, about the administration's commitment at that time to reduce our strategic delivery vehicles to somewhere in the range of 500 to 1,100 systems, and to specify at what point in this range would he become concerned that delivery vehicle reductions would necessitate making our nuclear triad into a dyad. General Cartwright responded that he “would be very concerned if we got down below those levels about mid point,” meaning

that he would be concerned if the negotiated number fell below 800 delivery vehicles. This treaty caps delivery vehicles at 700, substantially below the number that General Cartwright stated a year and a half ago.

Now, the treaty makes this odd distinction between “deployed” and “non-deployed” delivery vehicles, and the treaty's proponents will point out that the total cap for the treaty is 800 “deployed and non-deployed” systems. And of course, there is a letter from General Cartwright in the committee report accompanying the treaty stating that he is comfortable with the distinction between deployed and non-deployed delivery vehicles, and the overall limits to delivery vehicles. But it is important to understand that the administration has not articulated how it will deploy a nuclear force conforming to the number of 700. Instead, the administration has presented a plan for how it will deploy 720 delivery vehicles. And that is the motivation behind this amendment. I find it very troubling that the administration has yet to articulate how it will deploy a nuclear force conforming to the number of 700. The comprehensive plan for delivery vehicle force structure the administration was required to present to Congress under section 1251 of the fiscal year 2010 Defense authorization bill, known as the 1251 report, provides a very troubling lack of specificity concerning force structure under the New START treaty. Specifically, the administration's fact sheet on the section 1251 report explains that the U.S. nuclear force structure under this treaty could comprise up to 60 bombers, up to 420 ICBMs, and 240 SLBMs. The only number that is a certainty in the 1251 report is the number of SLBMs. I hope the members from states with bomber bases and ICBM bases will pay attention to this important point. Since deployments at the maximum level of all three legs of the triad under the explanation provided by the administration's 1251 report add up to 720 delivery vehicles, it is mathematically impossible for the U.S. to make such a deployment and be in compliance with the treaty's limit of 700 deployed strategic nuclear delivery vehicles. Clearly, additional reduction decisions will be made with respect to U.S. force structure under this treaty, and obviously those reductions will come out of bombers and/or ICBMs.

Secretary Gates and Admiral Mullen acknowledged in a hearing before the Senate Armed Services Committee on June 17, 2010, that further reductions would still be required to meet the treaty's central limits. They went on to argue that because the United States will have 7 years to reduce its forces to these limits, they did not find it necessary to identify a final force structure at this point; meaning the Senate will commit the United States

to a delivery vehicle force of 700 without knowing how that force will be composed.

Compounding this problem of not knowing what the final force structure will look like is the fact that the Obama administration conceded to Russian demands to place limits on conventional prompt global strike systems by counting conventionally armed strategic ballistic missiles against the 700 allowed for delivery vehicles. For those who are unfamiliar with prompt global strike, it is simply a program that would allow the United States to strike targets anywhere on Earth with conventional weapons in as little as an hour. Development of these systems is an important niche capability that would allow us to attack high-value targets or fleeting targets, such as WMD, terrorist, and missile threats. A recent Defense Science Board report states that “the most mature option for prompt, long-range, conventional strike is the ballistic missile” and that “Building on the legacy of these [intercontinental ballistic missile] weapon systems provides a relatively low-risk path to a conventional weapon system with global reach.” Yet this treaty will not permit us to develop this low-risk concept for conventional prompt global strike without it having an impact on the central limits under this treaty of 700 delivery vehicles.

To be very blunt, this treaty was so poorly negotiated that for every ICBM or SLBM deployed with a conventional warhead, one less nuclear delivery vehicle will be available to the United States. This one-for-one reduction in deployed nuclear forces is one we can ill afford at the levels of delivery vehicles allowed under this treaty. When the Commander of U.S. Strategic Command, General Chilton, testified before the Armed Services Committee on April 22, 2010, he specifically said that we could not replace the deterrent effects of nuclear weapons with a conventional capability on a one-for-one basis or “even ten-for-one.”

Treaty proponents will point out that there are other potential new conventional prompt global strike systems on the drawing board that may not fall under the treaty’s limitations, such as a hypersonic glide delivery vehicle. But why are we tying the hands of future administrations that may need to quickly field such systems, especially since converting ICBMs to carry a conventional warhead are the most advanced systems we have right now on conventional prompt global strike?

The Senate should not ratify the treaty without knowing what kind of conventional prompt global strike systems may be counted and how that will affect our triad at the much reduced delivery vehicle limits. According to the DOD, an assessment on treaty implications for conventional prompt

global strike proposals will not be ready until early 2011. If we pass this treaty now, Senators won’t know the details on this important issue until the treaty enters into force, when it is too late. Adopting my amendment would provide a hedge against the issues that are raised by the conventional prompt global strike niche capability and its impact on the treaty’s limit of 700 delivery vehicles. With a 700 delivery vehicle limit, conventional prompt global strike counting against that number, we will have fewer nuclear delivery vehicles, and this limit will be a disincentive to develop and deploy conventional prompt global strike as a result. Moreover, why should we accept these constraints in a treaty that was about strategic nuclear weapons?

While we are required under the treaty to cut the number of delivery vehicles to the bone, Russia will not have to make any similar cut to their delivery vehicles, leaving one to wonder what we received in return for this significant concession. The treaty essentially requires the United States to make unilateral reductions in delivery vehicles, as Russia is already well below the delivery vehicle limits and would have drastically reduced its arsenal with or without this treaty. As CRS writes, “[Russia] currently has only 620 launchers, and this number may decline to around 400 deployed and 444 total launchers. This would likely be true whether or not the treaty enters into force because Russia is eliminating older missiles as they age, and deploying newer missiles at a far slower pace than that needed to retain 700 deployed launchers.”

So I want to put a fine point on that, Mr. President. Essentially what we are doing here is we have about 856 delivery vehicles in our arsenal today. We are reducing that down to 700. So we are taking a significant haircut, a significant cut in the number of delivery vehicles that would be available to us. The Russians, on the other hand, are currently only at 620 launchers, delivery vehicles, which is already well below the 700. On the attrition path they are on, it would very soon be down to about 400 deployed launchers and 444 total launchers. So the United States has made huge concessions regarding delivery vehicles in this treaty, and the Russians have conceded nothing on this point. It seems to me this is another area in which we made significant concessions and received very little in return.

Mr. President, we are binding ourselves to the number of delivery vehicles we negotiate with Russia, even though we have security commitments to extend our nuclear deterrent to more than 30 countries, while Russia has none. Given geographic realities, U.S. strategic nuclear forces are part of how the United States provides this ex-

tended deterrence. As we face an uncertain future, where other nations like China continue to modernize their nuclear forces, we will need to be able to hold more potential targets at risk to deter attacks. That means we need to be very careful about reducing delivery vehicle levels, and this amendment would simply use the administration’s 1251 report force structure plan of 720 delivery vehicles as the ceiling for delivery vehicles under this treaty, rather than the current number of 700 reflected in the treaty.

Some of my colleagues will probably warn that even this modest amendment is a “treaty killer” amendment. But article II, section 2 of the Constitution says that the President “shall have power, by and with the advice and consent of the Senate, to make treaties.” When the other side admonishes us about “treaty killer” amendments, it becomes apparent that we are supposed to be a rubberstamp for this treaty, wanting us to provide our consent but not to provide our advice. It should be made clear what a “treaty killer” amendment is. It is any amendment seeking to remedy an issue with the treaty the Russians steamrolled us on during the negotiation process but which New START proponents do not wish to adopt because protecting American interests will annoy the Russians and perhaps jeopardize entry into force of the treaty.

One thing should be clear: The Senate cannot kill New START in the way some are suggesting. If the Senate gives its consent to New START with amendment to the text, that just means the treaty is sent to Russia for its approval with the amendment. The ball will then be in Russia’s court. As CRS has outlined in its study on the role of the Senate in the treaty process: “Amendments are proposed changes in the actual text of the treaty. . . . [They] amount, therefore, to Senate counter offers that alter the original deal agreed to by the United States and the other country.”

Simply put, an amendment to the treaty text would not kill the treaty, it would merely require Russian consent to the amendment as a matter of international negotiation. If Russia chooses to reject that amendment, it will not be the Senate that kills the treaty, it will be the Russian government.

As a side note, I believe it is important to recall that General Chilton’s support for New START levels was predicated on no Russian cheating. He testified to the Senate Armed Services Committee on April 22, 2010, that one of the assumptions made when the Nuclear Posture Review was completed was “an assumption . . . that the Russians in the post negotiation time period would be compliant with the treaty.” It has been pointed out many times now how Russia is a serial violator of arms control commitments.

In conclusion, reducing U.S. strategic nuclear forces, especially with delivery systems, is a very serious matter that has received insufficient attention. We have little to gain, and much to lose, if we cannot be certain that the numbers in New START are adequate. I think it is worth noting that former Defense Secretary Schlesinger testified to the Senate Foreign Relations Committee on April 29, 2010, that "as to the stated context of strategic nuclear weapons, the numbers specified are adequate though barely so." Again, this is a modest amendment that takes into account the administration's own force structure plan of 720 delivery vehicles. This amendment would simply use the administration's 1251 report force structure plan of 720 delivery vehicles as the ceiling for delivery vehicles under this treaty rather than the current number of 700 reflected in the treaty. In light of all of these issues, I ask my colleagues to carefully consider this amendment, and I respectfully ask for a vote in its favor.

Mr. President, I ask my colleagues to support this amendment. I simply say that with regard to maintaining a triad and a system of bombers, ICBMs, and SLBMs, in order to do that, the 700-number ceiling makes that very complicated.

If you assume 420 ICBMs and 240 SLBMs, that leaves room for some bombers but not a lot of room. Frankly, if you go down from the 720 number to the 700 number, if you assume up to 260 bombers—that is, if you assume the 700 number and take it out of bombers, you would be down to 40 bombers, 96 B-52s and B-1s that are nuclear capable, nuclear weapons we use with nuclear-launch vehicles for extended deterrence around the globe. Going down to 40 would be a two-thirds reduction in the number of bombers we have to provide that type of extended deterrence. It strikes me that we are getting perilously close with this number to moving from a triad to a dyad.

Furthermore, we are tying our hands when it comes to our ability to have the necessary delivery vehicles at our disposal, if and when that time would ever come.

Again, this is a very straightforward amendment. It takes the number from 700 to 720. It is consistent with the 1251 report and what the administration says they can accommodate in terms of launch vehicles. I hope my colleagues will support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, before I say a few words about the amendment, let me see if I can get an agreement from my colleagues. We have a lot of colleagues asking when we are going to vote, and we need to have some votes. We have only had two votes on this treaty after 6 days. Obviously, I can

move to table, but I do not want to do that, at least not yet.

I ask the Senator from South Dakota if we can set up a time to have a vote on his amendment at 12:30.

Mr. THUNE. Mr. President, I say to the Senator from Massachusetts, we are prepared to debate. The Senator from Oklahoma wants to talk at length about the verification issue. I do not think we are prepared at this point to enter into a time agreement for any time certain on votes. Until we can get some indication from our colleagues who would like to speak on this amendment, it would be very difficult to do that.

Mr. KERRY. Mr. President, I say to my colleague, we are getting into the sixth day of debate. Christmas is coming. It is surprising to me that we do not have any indication who would like to speak on this amendment.

Mr. THUNE. Mr. President, I say to the Senator from Massachusetts, we do have others who want to speak, not only on this amendment but also on the amendment of the Senator from Oklahoma. These, as I said, are very significant, substantive amendments that deal fundamentally with the issues that are important to this treaty. I do not think we are prepared at this point to cut off that debate. Until we get some indication from some of our colleagues about who else might want to come down and speak to either of these issues, I object to entering into any kind of time agreement.

Mr. KERRY. Mr. President, I accept that. The point I am trying to make is, we have allowed each of the prior amendments to come to an up-or-down vote. We have not tabled them, which is an often-used practice, as everybody knows. We could have debated all last night; there was nobody here to debate. Now we are here debating. We are happy to leave time for debate. But I ask my colleagues if they could inquire into who might want to come so we could at least, out of courtesy to our colleagues, give them a sense of what the schedule might be, and then we can set a time for that debate allowing everybody adequate time.

I am not suggesting in any way that the topics we are discussing are not important. They are important, and they are worthy of debate and are worthy of discussion. We welcome that discussion.

Mr. INHOFE. Will the Senator yield?

Mr. KERRY. I yield for a question.

Mr. INHOFE. In addition to what Senator THUNE said, there are several people who said they want to go into closed session first and address issues having to do with my amendment and his amendment before a vote.

Mr. KERRY. Mr. President, I respect that. I am perfectly comfortable if we are able to set a time after that closed session. I think everybody would feel good if we can find the time. I under-

stand the need to want to have that session. That is the Senator's right, and we respect that. We certainly can do it. Maybe we can find a time when we come out of that session when we can have a couple of votes back to back. I think that would help a lot of people.

I thank the Senator from South Dakota for his amendment. It is one that is worthy of some discussion. Obviously, some of that discussion is going to have to take place in the context of a classified session.

He said one of the arguments that will be used is that this will result in going back to the Russians and having to renegotiate the treaty. That is not a casual argument. It is not a small thing. But it is not the principal reason—it is one of the reasons, obviously, I think this amendment is ill-advised. But, most importantly, this amendment is unnecessary.

All of us on our side have a very clear understanding of the importance of delivery vehicles with respect to our national defense. But here is what we have to balance the comments of the Senator from South Dakota against: the President of the United States, the Secretary of Defense, the Joint Chiefs of Staff, the commander of the U.S. Strategic Command, and others have all determined that we can safely reduce our deployed ICBMs and our deployed SLBMs and our deployed heavy bombers—the three legs of the triad—that they could be reduced to the 700 number.

That figure was picked, obviously, after an enormous amount of thinking by all of those parties concerned—the Strategic Command, the Air Force folks, the Navy SLBM—and they did so only after seeing the results of force-on-force analyses of exactly where that would leave us in terms of America's response should there—happily in the current atmosphere—be the unlikely event of a nuclear confrontation. Obviously, we need to think about these issues in that larger context of where we are today, what direction we are moving in, and what is the reality.

As the Senator knows, without going into any details, that force-on-force determination was made not just in the likelihood of a Russian-U.S. confrontation but in a multiparty confrontation. Again, we will discuss some of that later.

The gravamen of the Senator's complaint is that he is concerned that the administration has failed to thus far state precisely how it is going to reduce the deployed ICBMs—intercontinental ballistic missiles—and the SLBMs—submarine-launched ballistic missiles—and heavy bombers, how do we meet the treaty's requirement of 700. I want the chairman of the Senate Armed Services Committee to weigh in.

I will say quickly, the administration has made it clear that it intends to

maintain 20 launchers on the 12 ballistic missile submarines that we keep operationally deployed, meaning our submarine force will account for 240 of the 700 limit. We agree on that. That leaves room for 460 deployed delivery vehicles combined from the two other legs of the triad—from the ICBMs and from the heavy bomber forces.

The Senator also said the administration has said in its 1251 report that it has not made a final decision on going all the way up to the 420 ICBMs or all the way up to 60 bombers or somewhere in between. That decision has not been made.

In other words, out of the total deployed delivery vehicle limit of 700, the administration has left itself some room to maneuver, to make a decision on 20 of its ICBMs and bombers.

Under the agreement, we have 7 years of room before we have to meet that limit. When asked about this sort of available time of 7 years, General Chilton, the commander of our Strategic Command, told the Armed Services Committee for the record:

The force structure construct, as reported in the section 1251 report, is sufficient to meet the Nation's strategic deterrence mission. Furthermore, the New START treaty provides flexibility to manage the force drawdown while maintaining an effective and safe strategic deterrent.

As a technical matter, the Senator's amendment would require the President to go back to the Russians, move the limit up from 700 to 720, even though the military is perfectly comfortable with the level we have. That is when we begin to get into the question, if they are telling us that this is good and comfortable and we can do what we need to do in this context, I might add, of a very different Russia, very different United States, very different set of strategic demands at this moment, why would we reopen the treaty for renegotiation?

I have more to say, particularly on the subject of the Prompt Global Strike because the Prompt Global Strike likewise is not impacted negatively by this, and there are a number of reasons we have options as to how we arm certain legs in the triad and what we choose to do.

It is important to point out also—I think this is important—there may be some concern. I understand the geography of the Senator's representation, so there may be some concern from some Senators, and the comments that the Senator made that those of you who have people concerned with the ICBM bases or the SLBM bases or the bomber bases need to be focused on this, let me be clear that the administration has made it clear. None of the three ICBM bases are going to be closed because of the New START treaty. We are maintaining all of them.

What is more, the administration has made it clear that it is committed to

the ICBM force in the years to come. In its updated 1251 report, the Minuteman III will remain in service through 2030 and then be replaced by a follow-on ICBM to be determined.

If people are concerned about cutting bombers, Senators should remember that to meet the New START's limits, we are not going to need to eliminate any bombers. We plan to simply convert some bombers to a conventional role, at which point they will no longer count toward the treaty limits.

With that stated as part of the RECORD, I yield 5 minutes, or such time as the Senator from Michigan would like to consume, to the chairman of the Armed Services Committee.

Mr. INHOFE. Mr. President, it was my understanding that we had an informal arrangement that we would go back and forth. I would like to be recognized.

Mr. KERRY. I completely understand that. We had the two Senators speak. I would like to yield to the chairman of the Armed Services Committee for 5 minutes and then come back.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the amendment of Senator THUNE would amend the treaty by changing one of the elements of the treaty, which is the number of deployed strategic forces that we have. Under the treaty, the limit, of course, is 700. But the critically important part to our military is that each side would have the ability to change the mix to reach 700 as it suits our respective needs.

The amendment of Senator THUNE would alter the limit of 700 to 720 deployed SLBMs, heavy bombers equipped with nuclear arms, and ICBMs. These limits, as the chairman of the Foreign Relations Committee has just said, were agreed upon only after careful analysis by the U.S. military leadership, particularly General Chilton who is the commander of our U.S. Strategic Command and the man responsible for these strategic systems.

Senator KERRY has quoted General Chilton. I want to add one additional quote of his which he testified to before the Armed Services Committee on July 20 of this year. General Chilton stated that the force levels in the treaty meet the current guidance for deterrence for the United States. By the way, that guidance was laid out by President George W. Bush.

The options we provided in this process focused on ensuring America's ability to continue to deter potential adversaries, assure our allies, and sustain strategic stability for as long as nuclear weapons exist. This rigorous approach, rooted in deterrence strategy and assessment of potential adversary capabilities—

Here are the key words—

supports both the agreed-upon limits in the new START and recommendations in the Nuclear Posture Review (NPR).

So General Chilton is on record in a number of places very precisely and

specifically saying that the options which were provided, including the one which was adopted here, rooted in the strategy, rooted in the provisions, the guidance as laid out by President Bush, support the agreed upon limits in the START treaty. I don't know how much more precise and I don't know how much more significant you can get with the words of the commander who is in charge of these weapons.

The 1251 report, the report says up to those numbers. It is not specifically committed to those numbers. The important thing about the report is not just that it says up to in I think at least two of the three cases it also says it is important that we remain flexible as to this number.

So the 700 force structure that is in the treaty would retain the nuclear triad, retains all three delivery legs, bombers, SLBMs, and ICBMs. On that point General Chilton said we are going to retain the vital nuclear delivery systems, and if there is a failure technically in one of the nuclear systems, we can rearrange our deployed force structure and treaty limits to compensate.

Some have said the United States will have to make significant reductions to reach the 700 level and the Russians will have to make none. According to General Chilton, this argument is a distraction. What he said is that the "new START limits"—in his words, the "new START limits the number of Russian ballistic missile warheads that can target the United States, missiles that pose the most prompt threat to our forces and our Nation. Regardless of whether Russia would have kept its missile force levels within those limits without a new START treaty, upon ratification they would now be required to do so." And that certainly is very important to our Strategic Commander, General Chilton, because he said:

The constraints of the treaty actually do constrain Russia with regard to deployed launchers and deployed strategic weapons, and that is an important element as well. Without that they are unconstrained.

He explained that the limits were important because without those limits:

There would be no constraints placed upon the Russian Federation as the number of strategic delivery systems or warheads they could deploy. And I think it is important for the United States—

he concluded:

that there be limits there, limits that we would also be bound by, obviously.

General Chilton is not only comfortable with the limits in this treaty, it was his analysis that formed the underpinning for the 700 limit. He doesn't need the strategic, the additional 20 strategic nuclear delivery systems to maintain our strong deterrence, and other than to kill this treaty there is no reason to add these 20 additional systems. We should respect General

Chilton's judgment that the United States can maintain an effective deterrent and that such a change would kill this treaty.

I yield the floor and I thank the Chair.

Mr. INHOFE. Madam President, I do want to be recognized for the purpose of further explaining my amendment No. 4833 and also to respond to the Senator from Massachusetts. Before doing that I would ask if the Senator from South Dakota has any responses he wishes to make at this time, and then I wish to keep the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from South Dakota.

Mr. THUNE. I thank the Senator for giving me the opportunity to respond, if I might, to some of these issues.

One of the issues General Chilton, the Stratcom commander, I think testified to was an assumption there would be nobody cheating. As I said before, history is replete with examples of the Russians cheating on these agreements. And furthermore, what they agreed to was not—the treaty is 700, but what General Chilton and the nuclear force structure plan would call for is 720. It is 240 submarine-launched ballistic missiles, up to 420 ICBMs, and up to 60 bombers. Again that adds up to 720. All this amendment does is simply make consistent what the nuclear force structure plan as outlined by General Chilton and others would be with what the treaty requirements would be as well.

Again I want to make one point about this. I said this earlier but we have 856 launch vehicles, delivery vehicles in our arsenal today. The treaty calls for 700 so we are making a 156-delivery vehicle reduction to get down to the 700 number. The Russians today at 620 in effect are already below the 700 number and they are headed down even lower to somewhere in the 400 range. So we have made a significant concession with respect for delivery vehicles at no cost whatsoever to the Russians. I would point out also that the concern I have, as I said before, in taking a 720 number and reducing it to 700 assumes again that even if you keep 240 submarine-launched ballistic missile delivery vehicles, assume that, and if you assume 420 ICBMs, you would have to reduce the bomber inventory down to 40 to get under the 700 level.

I think most people understand it is the bombers, the heavy bombers that have given us the extended deterrence. They are visible, they are recallable, they are psychological, they are political. You put them into a theater, they loiter, they persist, and that is a powerful deterrent to those who would like to proliferate nuclear weapons. If we take our bomber fleet and we reduce down to the limits that would be talked about under this treaty, we are putting at great risk the triad. A lot of

these bombers need to be updated and they are getting older. We need a next generation bomber which I think is going to be critical that that also be a nuclear bomber. But I think it is important to point out that this particular treaty relative to where we are today and to what our needs could be in the future, particularly as it pertains to bombers, the need for extended deterrence, we are reducing to a level that I think makes many of us uncomfortable and gets below the number that was prescribed in the nuclear force structure plan as had been outlined. The 720 as opposed to 700—the 700 number is well below where I think we need to be and does put in peril the triad which has served us well for a long period of time. In fact, in the early stage of the Cold War it was the heavy bombers that provided the bulk of the work. When we developed the ICBM, and SLBMs, now some of the bombers have been converted to conventional use and they have been doing a great job in that mission as well. But if we are going to have extended deterrence in the future we are going to have to have a very robust nuclear fleet that is nuclear capable, and a 700 number puts that in great jeopardy.

With that, I yield back to the Senator.

Mr. LEVIN. Will the Senator yield for one question before he yields the floor?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Will the Senator yield for a question?

Is it not true that the 1251 report says that the numbers which they talk about are up-to numbers, in the case of both ICBMs and the nuclear bombers?

Mr. THUNE. Madam President, it is my understanding that is correct; it is up to the 240 SLBMs, up to 420 ICBMs, and up to 60 bombers.

Mr. LEVIN. So the 720 is not proscribed by the 1251 report. Thus the total of the three numbers, two of which are up-to numbers, is that correct?

Mr. THUNE. Madam President, to answer the question of the Senator from Michigan, that I believe to be the case. It is not proscriptive. All I am simply saying is if you make an assumption that you are going to take the additional 20 delivery vehicles out of the bomber fleet, you would take it from 60 down to 40 at a time when we have about almost 120 bombers in our inventory. That is a significant reduction in our ability to provide extended deterrence, and the bombers are the best form of extended deterrence.

Mr. LEVIN. I thank the Senator and I thank the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. It is my intention now—I made my presentation earlier on and a similar presentation yester-

day and the Senator from Massachusetts responded. I wish to respond to his responses to clarify some of the things that might be a little unclear.

First of all, the Senator from Massachusetts said every Senator on our side and, most importantly, the unbelievably experienced negotiators who put this treaty together, have made a lifetime of trying to understand these kinds of relationships and the ways in which you adequately verify, and they wanted to expand, which I appreciated, how qualified these people were, but here is the problem we have and I think it was articulated by the Senator from South Dakota. We have a constitutional responsibility. We take an oath of office to support the Constitution, and one of the things it is up to us—not to anybody but us—to provide for common defense. Article II, section 2 of the Constitution specifically gives us not just the right but the obligation for advice and consent, and quite often we talk about all these smart people who have agreed with this. That leaves one group out. That is us. We happen to be the ones who are accountable to the people through our election.

The Senator from Massachusetts also said that the treaty itself, talking about the amendment, my amendment, he said he opposes an amendment to the treaty itself which we all understand now after two votes that it would kill the treaty, essentially saying that if you amend the treaty it is dead.

I think we need to stop and reevaluate what our obligation is, not just the constitutional obligation, as the CRS has outlined in a study of the role of the Senate in the treaty process. Amendments are proposed changes in the actual text of the treaty. They amount therefore to Senate counteroffers that alter the original deal agreed upon by the United States and the other country.

If the Senate gives its consent to New START with amendments to the text, the treaty is sent to Russia for its approval with the amendments. Both the Russian Duma and the United States Senate have a constitutional right to change portions of this treaty and it is up to them to do. So this reinserts it back into the process. I feel that is exactly what our Founding Fathers wanted us to be doing in these treaties and that is what we are trying to do.

The third thing that was stated by the Senator from Massachusetts is, he was talking about the concept of the type one inspections and the type two inspections as a new one. Well, it is a new process because type two inspections are inspections on formerly declared facilities. Obviously in the START I treaty we didn't have formally declared facilities. They came as a result of the first treaty. Type one refers to inspections of ICBM bases, submarine bases, and air bases to confirm the accuracy of declared data on

the number and types of deployed and nondeployed warheads located on ICBMs, SLBMs, and heavy bombers. So I would say that type two inspections weren't even addressed in the first treaty.

The Senator also said we said we ought to send this back "but it doesn't rise to that level in my judgment." Now he talks about the level of significance. All these amendments are significant. Each one of us who is an author has a little bit of bias because we have studied a little bit more in our particular area. I can't think of anything that is more significant than verification. The interesting thing that was brought out by the Senator from North Dakota was General Chilton's support. I am reading from the report right now. It says General Chilton's support for the New START level was predicated on no Russian cheating or changes in the geopolitical environment.

Well, historically they have been cheating on everything. Let me go ahead and reread what I said before. We had the meeting, the convention in 2005, and then again 5 years later in 2010, came out in May or June of this year, and in that one, talking about the biological weapons convention in 2005, the State Department concluded that Russia maintains a mature offensive biological weapons program and that its nature and status have not changed. That is what they said in 2005. Now 5 years later the new report came out and the State Department report states the Russian confidence-building measures since 1992 have not satisfactorily documented whether its biological program was terminated. Therefore, they are saying the same thing 5 years later, so they lied 5 years ago and it appears that they have not done—or they cheated, I should say.

Chemical weapons the same thing.

In 2005, the State Department assessed that:

Russia is in violation of its Chemical Weapons Convention obligations because its declaration was incomplete with respect to declaration of production and development facilities.

Then, in 2010, 5 years later, the State Department again stated there was an absence of additional information from Russia, resulting in the United States being unable to ascertain whether Russia has declared all of its chemical weapons stockpile and all of its chemical weapons development facilities.

If we are predicating all that on General Chilton, who said cheating has all of a sudden miraculously stopped, this is a great reform measure, and I would like to see the evidence of it before we assume that is the case.

The Senator from Massachusetts also stated people responsible for verification of this treaty would never have been sent to the United States. This treaty would never have been sent to

the United States if the treaty did not have adequate verification measures. So it talks about all these verification measures.

Then he says: It is the judgment of our military, our State Department, and our intelligence community that these measures are adequate.

That may be true with those who are currently answering to our President who strongly support this treaty. But if we look at the State Department and the military and the intelligence of the past, those people who have commented, James Baker, as I recall, Secretary of State, summarized that the New START verification regime is "weaker than its predecessor," testifying to Congress in May of this year. I happen to have been there. He said the New START verification program:

... does not appear as rigorous or extensive as the one that verified the numerous and diverse treaty obligations and prohibitions under START I. This complex part of the treaty is even more crucial when fewer deployed nuclear warheads are allowed than were allowed in the past.

Insofar as the military is concerned, Richard Perle, former Assistant Secretary of Defense in the Reagan administration, stated on December 2, a few days ago, that:

New START has a very weak verification regime, one that establishes a dangerous precedent and lowers our standards for verification.

Here is the military weighing in.

He goes on to say that:

New START's verification provisions would provide little or no help in detecting illegal activity at locations the Russians did not declare, are off limits to U.S. inspectors, or are hidden from U.S. satellites.

James Woolsey—when we talk about intelligence, I have a bias because James Woolsey is from Oklahoma. He was the Director of Central Intelligence from 1993 to 1995. He was adviser to the SALT I negotiations up through 1970, a delegate at large to the START and defense and space negotiations.

He stated, on November 15, that under this treaty, unlike the original START treaty, Russia is free to encrypt telemetry from missile tests, making it harder for us to know what new capabilities it is developing. There is no longer the requirement for permanent onsite monitoring of Russia's primary missile production facility, which under old START helped us keep track of new mobile missiles entering the Soviet force.

He goes on and on. That is agreed with by Paula DeSutter, former Assistant Secretary for Verification, Compliance, and Implementation at the U.S. State Department, who pointed out on July 12 that New START has glaring holes in its verification regime. New START is "much less verifiable than the original START."

I only say this because my friend from Massachusetts talked about the

military, the State Department, and the intelligence community. One thing that is ingrained in our system is that we have a President who is Commander in Chief. He has a lot of influence over the State Department and the military. We have heard some very well respected people along those lines.

One of the arguments or rebuttals the Senator from Massachusetts had against my opening statement yesterday was that we have fewer sites now than during the development of the START I treaty. This is true. We do have fewer sites. An argument can be made—and most people agree with the fact—that if you have fewer sites, you need more inspections.

Former Under Secretary of State for Arms Control and International Security John Bolton stated, on May 3, that "while [verification] is important in any arms-control treaty, verification becomes even more important at lower warhead levels."

Brent Scowcroft and Arnold Kanter weighed in on the same thing in a joint statement:

Current force levels provide a kind of buffer because they are high enough to be relatively insensitive to imperfect intelligence and modest force changes. . . . As force levels go down, the balance of nuclear power can become increasingly delicate and vulnerable to cheating on arms control limits, concerns about "hidden" missiles, and the actions of nuclear third parties.

In May of this year, in front of the Foreign Relations Committee, former Secretary of State James Baker summarized that the New START verification regime is weaker than its predecessor, testifying to Congress that the New START verification program "does not appear as rigorous or extensive as the one that verified the numerous and diverse treaty obligations. . . ."

He goes on to say it is more significant as you reduce your number of inspected facilities.

Further, the Senator from Massachusetts responded to me by saying they are going to demand the same number of inspections of our military bases, and we would have to be prepared to host them three times more in inspections. That is true. This is bilateral. Everything we are asking them to do, we to have to do too. I like that idea. He went on to talk about the inconvenience, but my amendment applies to both the United States and to Russia. My amendment increases inspections for both sides, which will improve confidence, trust, and transparency. More importantly, it improves our ability to catch the Russians cheating and deter Russian cheating. I am fully aware we have to do the same thing the Russians have to do.

Furthermore, it was stated by the Senator from Massachusetts, in his response to my statement:

So I think it's one thing to ask our strategic nuclear forces to do that ten times a

year, or less than once a month. It's another thing for them to be waiting for 30 inspections a year. We have 2 submarine bases, 3 bomber bases, and 3 ICBM bases.

I might add, Russia has 3 submarine bases, 3 bomber bases and 12 ICBM bases. So we are actually not on parity there.

Quoting from a letter Secretary Gates sent this summer about whether the Russians would cheat on this treaty in a manner that would be militarily significant, he said:

The chairman of the Joint Chiefs of Staff, the Joint Chiefs commander, and the U.S. strategic command and I assess that Russia will not be able to achieve militarily significant cheating or breakout.

In other words, they are not going to cheat. This is this conversion I guess they have had.

Mr. KERRY. Madam President, would the Senator yield for a moment?

Mr. INHOFE. Just for a moment, for a question.

Mr. KERRY. I just want to be clear. The Senator read my words accurately, which were the quote of the general who said "militarily significant." I don't think he said that.

Mr. INHOFE. I didn't hear the Senator.

Mr. KERRY. With respect to the issue of cheating, what he said was he didn't think there would be anything militarily significant. Again, this is material we could go into, which we will probably, in the classified session. But I just want that distinction to be clear.

Mr. INHOFE. I thought that is exactly what I said. I apologize for the misunderstanding.

Further, the Senator from Massachusetts made the statement that:

Our analysis of the N.I.E. and the potential for Russian cheating or breakout confirms that the treaty's verification regime is effective.

I have to always be a little suspect of what comes out of the N.I.E. I think all of us are. We don't take it as gospel. This is actually a true story. Back in the Clinton administration, it was August 24, 1998, I asked the question: How long will it be until North Korea has a multistage rocket? The response that came back in August of 1998 was 5 to 10 years. Seven days later, on August 31 of 1998, they fired a three-stage rocket.

I think we need to look at some of the intelligence estimates. They have been wrong in the past. When you are talking about something as significant as the issue we are talking about here, about the threat that is out there, then we have to be right.

Then, the Senator from Massachusetts quoted Condoleezza Rice. I actually agree with her. She said:

The new start treaty helpfully reinstates on-site verification of Russian nuclear forces which lapsed with the expiration of the original start treaty last year. Meaningful verification was a significant achievement of Presidents Reagan and George H.W. Bush and its reinstatement is crucial.

I agree with that. Obviously, she is not saying she supports this. She is saying she supports some kind of a verification. There is none today, so anything is better than nothing. I think that is what she is saying. She also agreed, in her next statement in the Wall Street Journal of December 7:

Still, there are legitimate concerns about New Start that must and can be addressed in the ratification process. . . .

Implying that there is nothing wrong with having amendments.

Lastly, one of the statements the Senator from Massachusetts made in response to my comments was:

Finally, I'd like to point out that we addressed the importance of this verification question in condition of the resolution of ratification. That condition requires that before New START can enter into force and every year thereafter, the President has to certify to the Senate that our national technical means, in conjunction with the verification activities provided for in the New START treaty, are sufficient to ensure the effective monitoring of Russian compliance with the provisions of the New START treaty and timely warning of Russian preparation.

Here is the problem I have with that. The President can only certify what he knows. Our intelligence experts are telling him what they are seeing in Russia. This amendment provides that the President will have more information. I would think, if that is the concern, we would want to give the President more information.

Lastly, I see the Senator from Arizona is here, and I know he wants to be heard. Let me mention one last thing my good friend, the Senator from Massachusetts, stated. He was talking about the fact that these are killer amendments. I think it is worth restating what we said before.

The CRS has outlined in its study on the role of the Senate in the treaty process:

Amendments are proposed changes in the actual text of the treaty. [They] amount, therefore, to Senate counteroffers that alter the original deal agreed to by the United States and the other country.

If the Senate gives its consent to New START with amendments to the text, the treaty is sent to Russia for its approval with an amendment. That means we go back and forth and hopefully come out with a treaty that would be workable.

According to the 2005 and 2010 State Department reports on arms compliance, Russia has a bad habit of cheating on these agreements. In fact, I think we have covered that adequately at this time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I wish to talk about both the Thune amendment and the Inhofe amendment. With respect to the Inhofe amendment on verification, we are going to go into execu-

tive session of the Senate at 2 o'clock this afternoon, where there will be an opportunity for all Senators to examine classified materials that have been presented by our intelligence agencies, some of which relate specifically to the treaty and, in particular, the verification provisions in the treaty. It is too bad it is not possible for us to discuss with very much specificity the nature of the intelligence we will be discussing, but I will say I think it is a good thing we will be voting on the Inhofe amendment following that session, because a lot of the material we are going to be exposed to in executive session relates to the verification provisions of this treaty and past experience with verification.

That is about all I wish to say right now, except that I hope colleagues would attend that session because their vote on the Inhofe amendment would at least be partially predicated on their being briefed in that executive session.

With respect to the Thune amendment, I very much support it as well. The reason is because the whole point of this treaty was to reduce the nuclear warheads and the delivery vehicles of the Russian Federation and the United States. That is the essence of the treaty. There is a lot more to it, but it reduces to 1,550 the actual warheads and reduces to 700 the delivery vehicles. There is a special definition or counting rule of those delivery vehicles that we don't need to get into here, but the reality is, it is 700 deployed delivery vehicles, with another 100 that could theoretically be deployed at a later date.

But 700 is the number. That is important for a couple of reasons. As we have talked about before, the Russians will actually have room to build up. There are a lot of different estimates over the number of delivery vehicles they are planning on having. But because missiles and bombers and submarines are expensive, the Russians could be well below that number in a few years. So that number does not help the United States at all. The Russians are already below it by at least—well, over 100—and they will be going lower than that.

One unfortunate consequence of that is they are MIRVing their ICBM delivery vehicles in a way that, obviously, is going to be much more destabilizing. Throughout the Cold War, both sides developed missiles that allowed them to put more than one warhead on top of a missile. The problem is, that is very destabilizing in a potential nuclear conflict because of the notion that you lose it if you do not use it.

So it was an incentive for either side to launch their missiles before the other side could attack them and destroy them. If you hit one missile silo and that missile in the silo has 8 warheads on it or 10 warheads on it, you have killed 10 warheads, not just one. Those warheads—the way they work is,

when the missile gets up to the top of its apogee, those warheads are splayed out, and each one has a different trajectory down to potentially 8 or 10 different targets. So they are very destabilizing. The incentive is for the person doing the first strike to kill them all so the other side does not have that capability coming back at you.

Well, both the United States and the then-Soviet Union recognized how destabilizing this was and moved toward a single warhead per missile, which is much less destabilizing, obviously. Since one of the benefits of this treaty is allegedly the stability that comes from it, one is very troubled by the idea that, unfortunately, that is not the way it works. The treaty is much more destabilizing, not stabilizing, because of this incentive for the Russians to put more than one warhead on each missile. The United States, by contrast, is limiting our missiles to one warhead apiece. In a way, that puts us at a big disadvantage.

Another way it puts us at a disadvantage is we are above the 700, and we are going to have to retire a lot of our delivery vehicles to get down to 700. So the treaty is not symmetrical in this regard. They could actually build up to 700. We will have to bring down to 700.

It is also not symmetrical because our obligations around the world are much more diverse than are Russia's obligations. Russia will be defending Russia. The United States has an understanding with 31 other countries that our nuclear umbrella is available to them for their nuclear deterrence as well. So this requires a more sophisticated defense plan on our part as to how we would deliver various warheads to what targets, and it essentially expands the number of weapons we need.

So it is a big deal to get down to the number of 700. As Senator THUNE has noted—and I will not repeat this—before the treaty was negotiated, a lot of our military people were testifying to various numbers that, obviously, led to the conclusion that 700 was way too low. Dr. Schlesinger has, for example, said that 700 might be barely enough.

The problem is, that, A, we are even going to go below 700 if we proceed with something the administration wants to do, many of us here want to do; that is, to develop what is called a conventional Prompt Global Strike. A conventional Prompt Global Strike is using an ICBM but with a conventional warhead on it, not a nuclear warhead, to strike at a target of potentially a rogue nation or some terrorist group or someplace where you have actionable intelligence that is of very short life. You want to destroy a target. You obviously do not want to use a nuclear warhead. But you want to get there fast, and it is a long way away. So you might need to use, essentially, the same kind of missile you would use to deliver a nuclear warhead.

Well, the Russians did not like that, so they said: If you do any of those, you are going to have to count them against your nuclear delivery limit. So if we did 25 of those, let's say, then instead of 700 vehicles to deliver nuclear weapons, we would only have 675. That is why the Thune amendment talks about going back up to 730, which, without getting into classified material, I believe represents a number that more closely approximates what people think is going to be necessary for the United States on into the future.

The other thing that is troubling about it is, the administration has yet to commit to a full triad nuclear capable. Even though they have said they are fully committed to the triad, which means bombers, submarines, and ICBMs, they have not been willing to say the new bombers we build will be nuclear capable or will have cruise missiles that can deliver a nuclear warhead.

So while they say "triad," they are not willing to commit to anything but a diad. The problem with that is, there is much less stability and capability if you only have two ways of delivering your nuclear weapons. If there is something wrong with your ICBM force—remember, about 2 months ago, the power went out in several States, and our ICBMs were actually down for—I have forgotten what it was—an hour and a half or something like that because they did not have any electrical power.

Well, obviously, nothing happened during that period of time. But a single point of failure is never desirable in the military context, where if one thing goes wrong, a lot of weapons or capability is taken off the table. The problem is, if you get down to just two ways of delivering these weapons, rather than the three we have today, you are going to be much less capable. Your deterrent is not going to deter as much. That is what Senator THUNE is trying to get at.

Let's at least modestly increase the number of delivery vehicles we have. It is a modest amendment. It is an appropriate amendment. Yet as we have just seen from Reuters today—something we already knew but the latest iteration of it—"Russia warns U.S. not to change nuclear pact." In effect, what they are saying is, the Senate can debate all it wants to, but if it makes one change, changes one comma, one thing is different in the treaty, well, then what? Then, as my colleague, Senator KERRY, said, we would have to see if the Russians were willing to agree to it. Otherwise, they would have to renegotiate at least that part of the treaty.

Well, what is wrong with that? Unless you think the U.S. Constitution was stupid to give the Senate a role in this, it does not seem to me there is anything wrong with the Senate say-

ing: You got about nine-tenths of it just fine, President Obama and President Medvedev, your negotiators. These negotiators are good, smart people and they are dedicated public servants, but they are not necessarily the last word. The Senate is the last word, according to our Constitution. We gave our advice. The administration did not take our advice in two specific ways, but yet they expect us to give them their consent to the treaty.

The reality is, the Senate should not be a rubberstamp. In the first START treaty, we said: You have not dealt with a subject here that needs to be dealt with—the potential for Russian submarine-launched cruise nuclear weapons. We need to have a side agreement on that. It did not blow up START. We did a side agreement. The world did not end when the Senate said no to the Comprehensive Test Ban Treaty. The predictions were that this was going to destroy our relations with Russia forever. It did not. Here we are today now told again: If you change one thing in this treaty, then Russia will not go along with it and our relationship could deteriorate significantly.

Well, if our relationship depends upon ratification of the treaty exactly like it is, then it is a lot weaker than the President and Vice President are making it out to be when they talk about this wonderful new reset relationship. Surely, it could stand the Senate making a modest change to the treaty. If it cannot, then I do not buy the argument that this is a wonderful reset relationship.

So for my colleagues who say: We will not abide by any amendments to the treaty, I say: Well, then, you have just said the Senate is irrelevant in the treaty process. We might as well forget about having the Senate consider these treaties in the first place.

Senator THUNE and Senator INHOFE have good amendments. I am looking forward to supporting both of them when we return from our closed session this afternoon. I urge my colleagues to do the same.

Mr. THUNE. Madam President, will the Senator yield for a question?

Mr. KYL. I would be happy to yield for a question.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. The Senator from Arizona made some good points, I think, about the importance of the triad in maintaining our nuclear capability and deterrence.

I am interested in knowing if the Senator is aware that even if you assume the numbers that are in the 1251 report that would take the number of bombers down to 60—and it is up to 60, but the treaty calls for 700 delivery vehicles, which, if you took that out of bombers, would take you down to 40—that even taking it to 60 would cut in half the number of nuclear bombers.

Is the Senator also aware bombers are the best vehicle to enforce extended deterrence? The ICBMs, the missiles we have, our adversaries sometimes cannot see those. A bomber is visible. A bomber can be sent into theater. It has an impact, a psychological impact, a political impact. It is recallable. It is something that can be out there that makes those who would proliferate nuclear weapons even more concerned about the capability we have to respond.

The importance of maintaining that leg of the triad is, in this Senator's judgment, critical. It sounds like, from what the Senator is saying, he understands that as well.

I want to know if the Senator is aware that the limits that are imposed not only in the 1251 report but, more important, in the treaty would significantly reduce the number of nuclear bombers we have at our disposal today.

Mr. KYL. Madam President, I say to Senator THUNE, I was not aware it would be cut in half. I was aware it would be drastically reduced. That is a huge reduction, especially if the administration is unwilling to commit that we are even going to have a nuclear-capable bomber force in the next generation of our triad. They have been willing to say we have a great triad today. That is true as far as it goes. But part of that triad on the bomber force, for example, are B-52s that were designed—when—back in the 1950s and built in the 1960s and 1970s.

We have to replace all three legs of our triad. The decision has been made on the submarine. That is a good thing. But the decisions have not yet been made on the ICBM or on the bomber force.

One of our concerns about modernization is that modernization of the nuclear warheads is fine—I mean, it is necessary. But if we do not also modernize the method by which we deliver those warheads, then modernizing our warheads is of little significance.

The final point to Senator THUNE's question, of course, is that other countries, including Russia and China, are all modernizing both their warheads and their delivery vehicles. So the United States does not want to get caught in the position where we are down to very few workable weapons, especially the bomber force, which, as the Senator noted, can also be called back, unlike the missiles that are launched either from ground or from submarine. Once they are launched, they are launched. At least a bomber can be called back.

Mr. THUNE. I guess the concern and observation the Senator raised I would make as well. With regard to a follow-on bomber, a next-generation bomber, much of our bomber fleet today—47 percent of it is pre-Cuban missile era. So they are older. They need to be replaced. We need a next-generation

bomber. The question the Senator raised about the ambiguity coming out of whether a next-generation bomber would, in fact, be nuclear is a real concern because that would put at risk the existence of the triad, which I think allows us to maintain the flexibility, the versatility we have today in terms of nuclear deterrence.

So I would echo what the Senator from Arizona has voiced as a concern about this discussion of a next-generation bomber and whether, one, it will be done, and, two, it will be a nuclear bomber.

Mr. KYL. I will conclude by saying, I hope we have at least a short moment or period of debate following the closed session so both Senator THUNE and Senator INHOFE can make a brief closing argument to remind our colleagues about what the debate has been all about. I regret more of our colleagues were not on the floor to hear the debate.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, of course, we will accommodate, hopefully, some brief statements prior to the votes, and I am confident we can agree on some reasonable period, hopefully, not more than 5 minutes or something like that, to summarize.

But let me say to my friend from Arizona, because I heard him saying fairly passionately: What is the point of having the Senate involved if it cannot advise and consent and cannot amend the treaty, none of us on our side are arguing we should not have that right, that we do not have that right, that this is not a worthy debate, and that we should not debate a legitimate attempt to amend the treaty. That is not what we are saying. In fact, if I thought it was a flawed treaty and if I thought there were enormous gaps in it, I would try to amend the treaty, I am sure. I think if that were true, we wouldn't have had a 60-to-30 vote against doing it yesterday. Sixty Senators made the judgment that we don't want to; we don't think it rises to that level.

I would simply say to my colleague, it is not that the amendment—that we shouldn't have the debate and that somehow not doing this now rejects the notion that we are capable of doing it; it is that we don't think it is a good amendment. We don't think the amendment rises to the level where it raises an issue that it merits sending the treaty back to the Russians.

So we will retain that right—and I will protect that as long as I am a Senator—to give that proper advice and consent. But I believe we gave the proper advice and consent and we rejected an amendment, as I hope we will reject these other two amendments, and I will further the arguments with respect to that later.

I think the Senator from Pennsylvania is waiting for time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. KERRY. Madam President, I ask the indulgence of the Senator from Pennsylvania for a moment. Let me also reiterate I don't know where this constant questioning of the triad keeps coming from, because the Secretary of Defense, in testimony as well as in letters, not to mention the Defense Department through the Joint Chiefs and then others, have repeatedly stated their commitment to a viable, forward-going triad. The triad is not in question here. There will be a triad, we are committed to the triad, and I will have something more to say about that later.

I yield the floor, and I thank my colleague.

The PRESIDING OFFICER (Mr. CARDIN). The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent to speak for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASEY. Mr. President, I rise to speak about two or three topics in this debate on the START treaty, but first and foremost, one that speaks directly to the amendment that is pending. That is the question of verification—the ability for the United States to verify by way of inspection and other means what the Russian Federation has in terms of its nuclear weapons.

First of all, I would say as a foundational principle in this debate, nothing in this treaty will in any way compromise the safety, security, effectiveness, and reliability of our nuclear arsenal. That is critical to make that point, and I think the American people understand that. But as the American people are listening to this debate about verification, I think it is important to outline the distinctions between the amendment and I think what is, in fact, the case in the treaty.

The treaty itself allows each party up to 18 short-notice, on-site inspections, and that is each year, with up to 10 so-called type one inspections conducted at operating bases for ICBMs, strategic nuclear-powered ballistic missiles, submarines, and finally nuclear-capable heavy bombers. So that is the type one inspections, up to 18 of those, which are short-notice inspections. Secondly, under the type two inspections, these are conducted in places such as storage sites, test ranges, formerly declared facilities, and conversion or elimination facilities.

Some have asked whether we lose any valuable elements of the original START agreement's inspection regime. The Under Secretary of Defense for Policy James Miller replied to that question, a similar question I posed during the Senate Foreign Relations Committee hearing on the verification

of the New START treaty. It was a hearing I chaired. He said that under New START, we will conduct, as I said a moment ago, 18 inspections per year for 35 sites; so 18 inspections, 35 Russian sites. Under START I, there were 28 inspections for 70 Russian facilities. We are going from a verification regime where there are 28 inspections for 70 sites to one that goes to 18 inspections for 35 sites. The ratio is actually better under this treaty in terms of the numbers of inspections and sites.

Mr. Miller, Under Secretary of Defense Miller, said that the ratio of inspections to facilities "is improved under the New START treaty relative to the original START treaty." That is Under Secretary of State Miller. That is not my words but his.

ADM Mike Mullen, Chairman of our Joint Chiefs of Staff, reiterated this point on March 26 of 2010 when he said that the New START "features a much more effective transparent verification method that demands quicker data exchanges and notifications."

In addition, this does not take into account that some of the inspections under the New START treaty allow us to do two inspections at once, unlike the first START treaty. I would also say the inspection regime we have in place under this treaty has also been changed to reflect the current security environment, an enhanced relationship with the Russian Federation and more than a decade of our experience in conducting inspections. The New START inspection regime is simpler and cheaper than that which was conducted under the original START treaty. We conduct fewer overall inspections under this new treaty because there are, in fact, fewer sites in Russia to inspect, and we have gotten better at inspecting in the years since this has transpired.

I would also say we are standing here today on December 20 of 2010, 380 days without inspectors on the ground in Russia. That is one of the reasons why I say ratification of this New START treaty makes us safer than not ratifying this treaty; in fact, makes us less safer. One of the reasons for that—not the only reason, but one of the reasons—is that 380 days have passed without inspectors on the ground. This is, in a word, unacceptable to our national security. I think the American people believe that as well.

We need to vote on this treaty. While I and many of our colleagues who have worked on this believe there is a sense of urgency, we also believe the views of the other side of the aisle have been engaged in a serious debate. We have had day after day now of debate on the floor. Of course, all of the debate here now and last week—almost a full week now—all of that was preceded by months and months of work on the Foreign Relations Committee, the Intelligence Committee, and other parts of the Senate.

This is not new. The President made an agreement back in the spring of this year. We passed this treaty out of our committee back in the fall. We have had a lot of work. More than 900 questions have been asked of the administration and more than 900 questions have been answered by the administration; something like 20 separate hearings among several committees. We have had a lot of time and a lot of work put into this. The pace of this, in my judgment, has not been too fast, but it has been done with a sense of urgency to finally—after all of these months of work, all of these months of debate, all of these months of hearings, we are at a point now where we can ratify this treaty. I think in the end there is going to be bipartisan and broad support for ratification and we look forward to that vote.

My decision to support the New START treaty came after informed study of this issue as a member of the Foreign Relations Committee, and it is based, in large part, on relying upon and asking questions of folks such as Admiral Mullen, to name one—someone who has spent years in the service of this country, concerned about and doing something about the defense and the security of this country. So often we hear in this Chamber we should respect the opinions of commanders on the ground, and we should. We have heard that in the context of the war in Iraq, and we continue to hear it in the context of the war in Afghanistan. We should respect and take into consideration the determinations and judgments made by commanders on the ground, those who have direct experience with military questions and, in this case, have direct experience with the defense of our country.

I think when it comes to the New START treaty, we should apply the same rule as well when it comes to Admiral Mullen or any other military leader who has an opinion about this treaty. The commanders on the ground as it relates to this treaty have spoken and they have done so without equivocation and, I would argue, unanimously. On this vital treaty and on this national security issue, they have spoken with one voice: We need to take action to secure our country and we need to take action to defend our country. We need to make sure we are taking actions that will result in a nuclear arsenal that will be safe, secure, effective, and reliable, and one of the steps to get there is to make sure we ratify this treaty.

Let me move to one other topic. I know we have colleagues here who wish to speak. Let me ask how much time I have remaining.

THE PRESIDING OFFICER. The Senator has 7½ minutes remaining.

Mr. CASEY. Thank you. I wish to speak about missile defense and I may be able to do it within that time or

less. First of all, I wish to commend the work by this administration for the letter that was sent recently that reiterated once again the commitment of the United States. I would argue that is an unwavering commitment to missile defense, consistent with the goal of having a nuclear arsenal and having defense for this country—but especially as it relates to the nuclear arsenal—that is safe, secure, effective, and reliable. This New START treaty does not place any constraints on our ability to defend ourselves. Over the past few days, this has been made clear by Chairman KERRY on the floor, making these strong arguments, as well as those made repeatedly by our uniformed military leadership.

Let me give some flavor of that by reading the following. This is a quotation from LTG Patrick O'Reilly who thinks the New START treaty could actually provide more flexibility in implementing our missile defense plans. He said:

The New START treaty reduces constraints on the development of the missile defense program in several areas. For example, MDA's intermediate-range LV-2 target booster system, used in key tests to demonstrate homeland defense capabilities and components of the new European Phased Adaptive Approach, was accountable under the previous START treaty, because it employed the first range of the now-retired Trident 1 SLBM. Under New START, this missile is not accountable, thus we will have greater flexibility in conducting testing with regard to launch locations, telemetry collection, and processing, thus allowing more efficient test architectures and operationally realistic intercept geometries.

That is a very technical summation by LTG Patrick O'Reilly. He is the Director of the Missile Defense Agency. He is not just making some casual observation in a think tank or even as a Member of Congress. We listen to a lot of voices here and many of them are respected voices. But I think when we are listening to the Missile Defense Agency Director, who is a lieutenant general, and he talks about this New START treaty providing more flexibility as it relates to missile defense, I think we should listen very carefully.

I know Republicans here in Washington have over many days now directly or indirectly tried to assert that this administration is not committed to missile defense. They are wrong. I think the record is very clear. The President made clear that this administration is inalterably committed—my words—to a missile defense that is effective. I would argue as well to a missile defense that ensures we have a safe, secure, effective, and reliable nuclear arsenal. It is also a missile defense that is capable of growing and adapting to threats posed by countries such as Iran.

I have heard a lot of folks here on both sides of the aisle stand up and make statements about the threat caused by Iran's nuclear program. We

should listen to voices that are concerned about that in the context of making sure that this ratification is consistent with that, which it is. It is consistent with our efforts to ensure that Iran does not have that capability.

So what are these capabilities? Well, here is a quick summation.

We currently have 30 ground based interceptors at Fort Greely, AK, and Vandenberg Air Force Base in California defending the homeland. Defense Under Secretary Flournoy and General Cartwright have asserted that we will continue to improve and further augment these existing ground-based interceptor systems, noting that these "U.S. based defenses will be made more effective by the forward basing of a TPY-2 radar—which we plan by 2011."

In Europe, the United States has worked to defend our allies in NATO. The European Phased Adaptive Approach is a network of increasingly capable sensors and standard missile SM-3 interceptors that will provide a capacity to address near term threats, while also developing new technologies to combat future threats.

The first stage, to be completed in 2011, will deploy Aegis ships with SM-3 interceptors in Northern and Southern Europe to protect our troops and Allies from short-range medium regional ballistic missile threats.

The second phase, estimated to be operational by 2015, it will field upgraded sea- and land-based SM-3s in Southern and Central Europe to expand protection of the continent.

The third phase will introduce a more capable version of the SM-3 that is currently under development, which will provide full protection for our allies in Europe from short, medium, and intermediate range ballistic missiles by 2018.

The final phase, planned for 2020, it will field an even further improved SM-3 missile with anti-ICBM capabilities to augment current defense of the U.S. homeland from Iranian long-range missile threats.

So when you look at it from each of these three points of view—meaning the three phases—we are going to have in place a system that will defend our homeland and will also help our European allies.

Let me conclude with one quotation. I mentioned Admiral Mullen, Chairman of the Joint Chiefs. This is what he said about the so-called phased adaptive approach:

The Joint Chiefs, combatant commanders and I also fully concur with the Phased Adaptive Approach as outlined in the Ballistic Missile Defense Review Report. As with the Nuclear Posture Review, the Joint Chiefs and combatant commanders were deeply involved throughout the review process.

So whether it is the Joint Chiefs, the combatant commanders, or other commentators, we are going to make sure

that in the aftermath of the ratification of this treaty and consistent with and as part of and because of the ratification of this treaty, our missile defense will be as strong as it can be. And we are going to make sure that, without a doubt, we are going to protect the American people and take every step necessary to make sure our nuclear arsenal is safe, secure, effective, and reliable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I ask unanimous consent to speak for up to 10 minutes on the New START Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

AMENDMENT NO. 4847

Mr. LEMIEUX. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside and that amendment No. 4847 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. LEMIEUX), for himself and Mr. CHAMBLISS, proposes an amendment numbered 4847.

Mr. LEMIEUX. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Treaty to require negotiations to address the disparity between tactical nuclear weapon stockpiles)

At the end of Article I of the New START Treaty, add the following:

3. The Parties shall enter into negotiations within one year of ratification of this Treaty to address the disparity between the non-strategic (tactical) nuclear weapons stockpiles of the Parties, in accordance with the September 1991 United States commitments under the Presidential Nuclear Initiatives and Russian Federation commitments made by President Gorbachev in October 1991 and reaffirmed by President Yeltsin in January 1992. The negotiations shall not include discussion of defensive missile systems.

Mr. LEMIEUX. Mr. President, I rise to offer an amendment to the New START Treaty—this important treaty that we are discussing between the United States of America and Russia concerning strategic nuclear weapons.

I have a lot of concerns about this treaty. Many of those concerns have already been expressed by my colleagues. I have concerns about the verification procedures, that they are weakened from the previous START Treaty. I have concerns about the linkage of missile defense systems with strategic offensive weapons. Those concerns have been addressed as well, and I share them.

The biggest concern I have about this treaty is its failure to deal with what

are called tactical nuclear weapons. Now, to those folks at home who may be listening to this, it is probably not readily apparent—it wasn't initially to me—the difference between what a strategic nuclear weapon is and a tactical nuclear weapon. A strategic nuclear weapon is usually considered to be a large vehicle, like an intercontinental ballistic missile, or ICBM. It travels over a very long range. These strategic nuclear weapons can also be delivered by a submarine or a long-range bomber. A tactical nuclear weapon is generally much smaller in size. It has a smaller range and has a delivery vehicle that may be on the back of a truck, for example.

In many ways, in the world we live in today, where we are not in the Cold War atmosphere with the former Soviet Union, the tactical nuclear weapon is of much more concern than the strategic. The great fear we all have is that one of these nuclear weapons would get into the hands of a terrorist. A tactical nuclear weapon, by its very nature, is portable, and it could be something that is even capable of being moved by one person or, as I said before, on the back of a truck.

Why this treaty doesn't deal with tactical nuclear weapons is beyond me. I realize in the past, when we were in the Cold War environment with the Soviet Union, we didn't deal with tactical nuclear weapons because we were concerned about these big missiles that could cross the ocean and strike our country. We were concerned about heavy bombers delivering missiles or bombs that would hit the homeland. That makes sense. But we are in a completely different environment now. While we should still be concerned with those strategic weapons, the tactical weapons are actually much more of a danger to us because they are the very weapons that could get into the hands of a rogue nation. Those are the very weapons that could get into the hands of a terrorist.

This treaty doesn't have anything to do with that. It doesn't address it at all. It would be as if we were going to enter into a treaty about guns, and we had a big negotiation in a treaty where we talked about long arms, shotguns, and rifles, but we failed to talk about pistols. It doesn't make any sense to me. It doesn't make any sense to me because these are the very weapons about which we should be the most concerned. It also doesn't make sense to me because of the disparity between how many tactical nuclear weapons we have versus how many the Russians have. This treaty limits the amount of those weapons to each country to around 1,500. But the Russians have 3,000 tactical nuclear weapons, and we have 300. So the Russians have a 10-to-1 advantage over us in tactical nuclear weapons. If we approve this treaty, the Russians then will approximately have

4,500 nuclear weapons, and we will have 1,800. That doesn't make a lot of sense either. They have a 10-to-1 advantage on these tactical nuclear weapons.

I think it is incumbent upon us to realize that we have to have a treaty on tactical nuclear weapons. It should have been part of this treaty. It wasn't part of these START treaties in the past because the total number of weapons that the United States had and the former Soviet Union had was immense. When we had 20,000 or 30,000 strategic nuclear weapons, the fact that they had 3,000 tacticals didn't matter. It wasn't an important number in the overall scheme.

But now that we are in this new world where we are concerned about nuclear proliferation, and we don't want terrorists to get these weapons, plus the fact that they are going to end up having 4,500 and we are going to end up everything 1,800, it matters a lot.

My amendment says that within a year of the ratification of this treaty, the Russians and the United States must sit down and negotiate a tactical nuclear weapon agreement. It doesn't require that it be resolved within a year. It requires that it be started. That seems to me—I am a little biased, but that seems to me eminently reasonable. I am proud that Senators CHAMBLISS and INHOFE have joined me on this amendment. Who could be against having the Russians and the United States sit down within a year's time of ratification and begin the negotiation on tacticals? Who could be against that?

You will hear from my friends on the other side, who are defending this treaty and voting down all of the amendments being offered on this side of the aisle, that we can't amend the treaty because, if we do, it is a poison pill, and the Russians will not accept it.

If that is true, then we are not really fulfilling much of a function, are we? Under the Constitution, there are some special privileges that are imbued to the Senate.

One of them is the treaty privilege, the treaty power, where all treaties must be confirmed by the Senate on a two-thirds vote. If we can't amend it, and all we are doing is either saying yes or no, to me that limits our ability. If my friends on the other side think this is a poison pill, I ask them to look at the language. I am just putting in the treaty, if they accept this, that within a year's time, we have to sit down at the table and enter into these negotiations on tacticals. It is not a heavy lift, it seems to me.

They will say we can't do this because the Russian Duma will not accept it. What does that say? If the Russian Duma, their legislature, will not accept an amendment—if the treaty is as it is now, as negotiated by the U.S.—and I have said before that I have concerns about what is there for verifica-

tion and about missile defense. Putting that aside, if it goes the way it has been drafted and agreed to between the President and the leaders of Russia, with just this one amendment that says that the two sides will sit down within a year's time, will the Russian Parliament not approve that? And if they don't approve it, if they will not say they will sit down within a year's time and negotiate about the 3,000 tactical nuclear weapons they have, about the security of those weapons, about our ability to verify where they are and about a reduction of them, because of the disparity in the 3,000 they have and the 300 we have, what does that say about the Russians?

What it says to me is that they are not, in good faith, really trying to come to an agreement about nuclear weapons. Would we want this treaty if the Russian Duma said they are not going to agree to sit down within a year's time to talk about tactical nuclear weapons?

I think this is a very important amendment. I have great respect for the people who have stood up and supported this treaty. I think there are problems with it, but I don't see any reason why a fair-minded person could not agree that within a year's time the two parties should sit down and talk about what, to me, is the most dangerous part of our nuclear challenge with Russia, which is tactical nuclear weapons. We don't know where they are, what they are doing, we can't verify them, and there is a 10-to-1 advantage that the Russians have over us.

Mr. President, my amendment is at the desk and has been called up. I hope we will have the opportunity to debate this amendment in the coming hours and days as we wrap up our consideration of this treaty.

With that, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mrs. HAGAN. Mr. President, today I rise in support of Senate ratification of the New Strategic Arms Reduction Treaty. The Secretary of State, Secretary of Defense, Secretary of Energy, and the entire uniformed leadership of our military believe it is in our national interest. Former Secretaries of State from previous administrations of both political parties have also endorsed the New START Treaty.

Relations between the United States and Russia have evolved beyond what they were during the Cold War. Within this context, and in the face of aging nuclear stockpiles, strategic arms reduction is in the best interest of both nations.

New START will strengthen strategic nuclear weapons stability, enable us to modernize our nuclear triad of strategic weapons and delivery systems, and ensure our flexibility to de-

velop and deploy effective missile defenses and conventional global strike capabilities.

It will also promote stability, transparency, and predictability in the U.S.-Russia relationship.

The treaty limits strategic offensive nuclear weapons and delivery vehicles through effective verification and compliance measures. Our negotiators ensured that the United States would be able to protect our ability to field a flexible and effective strategic nuclear triad composed of land-based intercontinental ballistic missiles, submarine-launched ballistic missiles, and nuclear-capable heavy and strategic bombers. Our negotiators also ensured that the United States can enable modernization of our strategic delivery systems and the nuclear weapons they carry.

Simply put, our country is better off with New START as opposed to not having a treaty at all. There has been no formal verification system in place since the last treaty expired a year ago. New START reestablishes a strategic nuclear arms control verification regime that provides access to Russian strategic nuclear capabilities—specifically, nuclear warheads and delivery systems. It ensures a measure of predictability in Russian strategic force deployments over the life of the treaty. Access and predictability allow us to effectively plan and undergo strategic modernization efforts.

Failure to ratify the treaty will prevent us from obtaining information on Russian strategic nuclear weapons capabilities. Without the treaty going into effect, the United States will have no inspectors on the ground and no ability to verify Russian nuclear activities. This will result in our country losing insight into Russian strategic nuclear force deployments. It would also complicate our strategic force strategy and modernization planning efforts, as well as drive up costs in response to the need to conduct increased intelligence and analysis on Russian strategic force capabilities.

Secretary of State Hillary Clinton, Secretary of Defense Robert Gates, Secretary of Energy Steven Chu, and Chairman of the Joint Chiefs of Staff ADM Mike Mullen have expressed their support for Senate ratification of New START. All indicated that ratifying the treaty provides our country with an opportunity to negotiate with Russia on tactical nuclear weapons, of which Russia holds a sizable advantage. Tactical nuclear weapons are the most vulnerable to theft and the most likely to end up in the hands of rogue states and terrorist organizations. It is important to understand that we will not be able to obtain Russian cooperation on tactical nuclear weapons without ratifying New START.

The treaty will not affect our ability to improve our missile defenses either

qualitatively or quantitatively, to defend our homeland against missile attacks, and to protect our deployed forces, allies, and partners from growing regional missile threats. Secretary of State Clinton and Secretary of Defense Gates have testified that our phased adaptive approach to overseas missile defense is not constrained by the treaty.

Senate ratification of New START will demonstrate that the United States is committed to reducing nuclear weapons, which is important as we advance our nonproliferation goals. This will assist us in obtaining international consensus regarding nuclear weapons proliferation challenges from rogue states, such as Iran and North Korea. It will also send a positive message in achieving consensus with other countries on nuclear issues.

It is important to keep in mind that the United States and Russia hold over 95 percent of the world's nuclear weapons. If the two nations that possess the most nuclear weapons agree on verification and compliance and are committed to nonproliferation, it will improve our ability to achieve consensus with other countries.

Failure to ratify the treaty will have a detrimental effect on our ability to influence other nations with regard to nonproliferation of weapons of mass destruction. It will also send conflicting messages about the administration's emphasis and commitment to the nonproliferation treaty.

Additionally, failure to ratify New START would send a negative signal to Russia that may cause them to not support our objectives with respect to dealing with the Iranian nuclear program. As Secretary of Defense Gates has said, without ratification, we put at risk the coalition and momentum we have built to pressure Iran.

The debate over New START has facilitated a consensus to modernize our nuclear deterrent. The Administrator of the National Nuclear Security Administration, Mr. Thomas D'Agostino, indicated that for the first time since the end of the Cold War, there is broad national consensus on the role nuclear weapons play in our defense and the requirements to maintain our nuclear deterrent. The NNSA and the three National Laboratories support Senate ratification of New START and congressional approval of the President's budget to invest in nuclear security and modernization. Our nuclear enterprise and stockpile have been neglected for too long.

Consistent with recommendations in the Nuclear Posture Review, we need to move forward with a number of nuclear enterprise sustainment projects, including strengthening our nuclear command and control structure, continuing development and deployment of our triad of delivery systems, maintaining a safe, secure, and effective

stockpile, and revitalizing our aging infrastructure.

On December 1, the Directors of the three nuclear national laboratories signed a letter to the Senate emphasizing that they were very pleased with the administration's plan to spend \$85 billion over the next decade to upgrade the nuclear weapons complex. They believe the requested amount will further a balanced program that sustains the science, technology, and engineering base. They also believe that the proposed budget will support the ability to sustain the safety, security, reliability, and effectiveness of our nuclear deterrent within the limit of 1,550 deployed strategic warheads established by New START.

The Nuclear Posture Review also recognizes the importance of supporting a highly capable workforce with specialized skills to sustain the nuclear deterrent. It emphasizes three key elements of stockpile stewardship: hands-on work on the stockpile; the science, technology, and engineering base; and the infrastructure at the laboratories and plants.

I share the concerns expressed by Secretary Chu regarding our ability to recruit the best and brightest nuclear scientists and engineers. We need to infuse a sense of importance and financial stability to the stockpile stewardship and life extension programs. Nuclear scientists and engineers need to believe the U.S. Government cares about nuclear life extension. An effective science, technology, and engineering human capital base is needed to conduct effective nuclear weapons system lifetime extension programs, increase nuclear weapons reliability, certify nuclear weapons without the need to undergo nuclear testing, and provide annual stockpile assessments through weapons surveillance.

I hope my colleagues on both sides of the aisle will join me in voting to ratify New START.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, I rise for a few moments to comment on the amendment our colleague from Florida spoke about a few moments ago. Tactical nuclear weapons and how that is addressed was the subject of a long debate yesterday. I wish to reiterate some of those arguments because we had this debate yesterday. It is an important debate.

First of all, if we listen to a couple of folks who have not only experience but have a real interest in our urgent priority of addressing tactical nuclear weapons, it becomes clear that the best way to address that issue is, in fact, to ratify this treaty. By way of example, if you want to highlight a country that has much at stake when the question is raised about Russian tactical nuclear weapons, you can point to few if any

countries that have more at stake than Poland.

The Polish Foreign Minister, Mr. Sikorski, said:

Without a [New START] treaty in place, holes will soon appear in the nuclear umbrella that the United States provides to Poland and other allies under article 5 of the Washington Treaty, the collective security guarantee for NATO members. Moreover, New START is a necessary stepping stone to future negotiations with Russia about reductions in tactical nuclear arsenals and a prerequisite for the successful revival of the Treaty on Conventional Forces in Europe.

That is not a commentator in Washington; that is the Foreign Minister of Poland, whose country has a lot at stake in this debate.

Also, we have had a lot of discussions about the treaty and what is in the treaty or what would come about as a result of the treaty. It is not as if these arguments just landed here when the bill landed on the floor. We had months and months of hearings in the Senate Foreign Relations Committee. Our ranking member, Senator LUGAR, was not just there for those hearings but played a leading role in helping us reach the point where we are now. We have a treaty on the floor because of his good work over many months and, I would argue in his case, many years on this issue. The same is true with the Presiding Officer sitting in on those hearings and asking questions of the relevant parties, many of them military leaders.

I note for the record—and I will close with this—that the vote by the Senate Foreign Relations Committee included a resolution of advice and consent to ratification. Subsection 11 on tactical nuclear weapons says:

The Senate calls upon the President to pursue, following consultation with allies, an agreement with the Russian Federation that would address the disparity between the tactical nuclear weapons stockpiles of the Russian Federation and of the United States and would secure and reduce tactical nuclear weapons in a verifiable manner.

It is right in the resolution, and I argue that addresses squarely this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

FLOOR PRIVILEGES—CLOSED SESSION

Mr. REID. Mr. President, I ask unanimous consent that the following individuals, in addition to those officers and employees referred to in Standing rule XXIX, be granted the privilege of the floor during today's closed session and that the list be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

Randy Devalk, Jessica Lewis, Tommy Ross, David Grannis, Lorenzo Goco, Andrew Grotto, Mike Davidson, Jim Wolfe, Rick DeBobes, Madelyn Creedon, Richard Fieldhouse, Hannah Lloyd, Frank Lowenstein,

Anthony Wier, Ed Levine, Charlie Houy, Gary Reese, Betsy Schmid, Mike DiSilvestro, Pamela Garland, Mark Stuart, Jaqui Russell.

Thomas Hawkins, Louis Tucker, Jack Livingston, Bryan Smith, Tom Corcoran, Jennifer Wagner, Christian Brose, Daniel Lerner, Brian Wilson, Stewart Holmes, Bruce Evans, Carolyn Apostolou, Kenneth Myers, Jr., Thomas Moore, James Smythers, Michael Stransky, Timothy Morrison, Robert Soofer, Joel Breitner, Barry Walker, Deborah Chiarello.

SHARK CONSERVATION ACT OF 2009

Mr. REID. Mr. President, as in legislative session and in morning business, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of H.R. 81 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 81) to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the Kerry-Snowe amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4914) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 81), as amended, was read the third time and passed.

Mr. REID. Mr. President, it is my understanding that, the hour of 1:30 having arrived or shortly will arrive, we will recess pending the call of the Chair, is that right, until the closed session is completed?

The PRESIDING OFFICER. The Senator is correct.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess.

Thereupon, at 1:28 p.m., the Senate recessed subject to the call of the Chair and reassembled at 5 p.m., when called to order by the Presiding Officer (Mr. MANCHIN).

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise in opposition to the New Strategic Arms Reduction Treaty that we call New START. I believe New START is deeply flawed and is a dangerous step toward undermining our national security. I believe it does not strengthen verification or transparency of Russia's nuclear arsenal. We negotiated this treaty with Russia when our time may have been better spent focusing on nuclear threats posed by other nations. I believe the treaty is virtually unverifiable. Simply put, it is the wrong approach to both reducing the arms race and reaching the ideal of living in a nuclear-free world.

Many people have expressed the numerous shortcomings of this treaty. This evening I would like to touch on three.

First, New START restricts the future of our missile defense. President Obama campaigned against missile defense and has systematically cut funding for it. It should not be a surprise to anyone in America that the administration lacks commitment to a robust missile defense system, but that does not mean the Senate needs to support it. New START links offensive reductions with missile defense. I believe these must be decoupled. Why? The treaty limits launch vehicles and restricts the conversion of intercontinental ballistic missiles for missile defense purposes. Converting nuclear intercontinental ballistic missiles to conventional missiles is also restricted in the proposed treaty. Most egregiously, statements made by senior Russian officials insist that the treaty's language prohibits the United States from developing an antiballistic missile defense system without Russian consent. This is completely unacceptable.

Unfortunately, Russia is not the only threat the United States faces in this world. It is inconceivable that the administration would agree to a treaty that imposes such restrictions on our national security.

Secondly, we have reached the point where we cannot make reductions in our nuclear arsenal without viable plans for a strong, long-term strategy for modernization. Again, Russia is not our Nation's only threat. Without modernizing our nuclear arsenal, the cuts necessitated by the New START treaty would likely encourage Iran and other proliferators to build up their own arsenals rather than discouraging them as we would like.

The United States cannot maintain a credible deterrent or reduce the num-

ber of weapons in our nuclear stockpile without ensuring that we have reliable warning, command, and control systems, and that we put an emphasis on the land and sea-based delivery vehicles that give us the confidence we need for protecting ourselves should the worst occur. The reduction of our nuclear-capable bombers and land or submarine-based missiles from 1,600 to 700 gives the Russians an immense advantage. Delivery vehicles are just one aspect of our nuclear triad, but they are a critical component to being able to deter adversaries and should not be restricted under the New START treaty.

By some estimates, Russia maintains thousands more small tactical nuclear warheads that can be delivered by way of artillery shells, cruise missiles, and aircraft. Yet the treaty before us, which freezes missiles at 700 for each side, willfully ignores the massive Russian advantage in tactical weapons.

Finally, the most serious and immediate flaw is weakened verification requirements which are vastly less robust than those we had under START I. It is puzzling why they would do this. Under START I, 600 inspections were conducted. New START requires just 180 inspections over the life of the treaty, hardly enough to ensure Russian compliance. The Russians will be able to encrypt telemetry from missile tests. This makes it harder for us to know for certain what new capabilities the Russians are developing.

One might ask why did we agree to such. Under New START, there will no longer be onsite monitoring of mobile missile final assembly facilities. Before the expiration of START I, the United States used this monitoring or verification because satellites do not provide the exact information on mobile weapons systems. Verification requirements are too weak to reliably verify the treaty's 1,550 limit on deployed warheads. These measures will neither give us confidence in the process nor the assurances we need to assess the integrity of it.

Russia has a long history of nuclear duplicity or cheating. Yet New START has substantially weaker verification mechanisms than START I.

Perhaps the clearest reason to suspect the true motivations behind the treaty is the inexplicable rush to ratify it now. The shortcomings of New START are numerous, substantial, and serious. The Senate should have the time to examine the treaty's compliance provisions and ensure that loopholes are closed and deficiencies amended.

I believe the Senate has a responsibility to the American people to ensure that first and foremost our country's negotiations have not unilaterally hampered in any way our national security. I will not support subordinating

U.S. national security to an untrustworthy partner, and neither should the Senate as a whole.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4833

Mr. INHOFE. Mr. President, it is my understanding in 45 minutes we are going to be having a couple votes, one on amendment No. 4833 and one on the Thune amendment No. 4841, having to do with delivery systems; mine having to do with verification. That would mean we would have 45 minutes to talk about this.

We have already covered it pretty thoroughly. I think we need to have an understanding of what we are talking about in terms of verification.

There are only 180 inspections that are authorized by the New START treaty, and that is over a 10-year period. So we are talking about 18 per year versus the 600 inspections over 15 years in START I. If you do your math, that would be 40 a year in START I, and down to 18 a year in New START.

One of the arguments for that is that we have fewer sites to inspect, and for that reason we do not need to have as many inspections. I would disagree with that pretty strongly. One thing all the experts seem to have in common and agreeing to is that once you get down to fewer sites, the verification becomes more important.

John Bolton, on the 3rd of May, said: "while [verification is] important in any arms-control treaty, verification becomes even more important at lower warhead levels." I think they all agree. Brent Scowcroft said the same thing. He said: "Current force levels provide a kind of buffer because they are high enough to be relatively insensitive to imperfect intelligence and modest force changes. . . . As force levels go down, the balance of nuclear power can become increasingly delicate and vulnerable to cheating"—"to cheating"—"on arms control limits, concerns about 'hidden' missiles, and the actions of nuclear third parties."

So he is saying the same thing. James Baker said the same thing. He said, when testifying recently, that the New START verification program "does not appear as rigorous or extensive as the one that verified the numerous and diverse treaty obligations and prohibitions under START I. This complex part of the treaty is even more crucial when fewer deployed nuclear warheads are allowed than were allowed in the past."

Do your math, and it figures out. If you have 10 warheads that you are

going to be inspecting, and they hide 1, that is just 10 percent of them. If it gets down to 2, and they hide 1, that is 50 percent of them. That is what they are saying, that we need to have more, not less. Of course, this is less. In fact, if you do the math a little bit further, as was said by the Senator from Massachusetts—he said: So I think it is one thing to ask our strategic forces to do that 10 times a year, or less than once a month. It is another thing for them to be waiting for 30 inspections a year. Again quoting him: We have two submarine bases, three bomber bases, and three ICBM bases. On the other hand, Russia has 3, 3, and 12. So they actually have 18, and we would have 8, which means, if you do the math further, they would be able to inspect one site every 2 years, while we would only be able to inspect every 2 years. They would be inspecting it every 1 year.

That is the reason we should be doing this. The other thing is—and people keep forgetting about it because it is not fun to talk about it—but the fact is, they cheat and we do not. Everyone has talked about this. We have something that was set up to try to measure who is cheating, who is not cheating.

We had the START treaty's Joint Compliance and Inspection Commission. That commission reported—they actually had two reports. One report was in 2005; one in 2010. In the report in 2005 that was on the Biological Weapons Convention, the State Department concluded—and I am quoting from the report of 2005—"Russia maintains a mature offensive biological weapons program and that its nature and status have not changed." That was after it had been in force for 5 years. That was in 2005.

In 2010, that same Commission comes back, and the report states: Russia confidence-building measure declarations since 1992 have not satisfactorily documented whether its biological weapons program was terminated.

Again we have the Biological Weapons Convention reports in 2005 and 2010, saying they are not complying. In other words, they are cheating. If you sign an agreement and do not do it, then you are cheating. That makes sense. On the Chemical Weapons Convention, the same thing. In 2005, the State Department assessed that "Russia is in violation of its Chemical Weapons Convention obligations because its declaration was incomplete with respect to declaration of production and development facilities." So that is what they said in 2005, that they are cheating on the Chemical Weapons Convention obligations they made, their treaty obligations.

In 2010, still talking about the Chemical Weapons Convention, the State Department again stated: There was an absence of additional information from Russia, resulting in the United States being unable to ascertain whether Rus-

sia has declared all of its chemical weapons stockpile, all chemical weapons production facilities, and all of its chemical weapons development facilities.

Again, they stated in 2010 that they are still cheating. So it is always difficult, when you look at these. The Senator from Massachusetts said: Well, wait a minute now. We have to do the same thing they have to do, and in your amendment, if we are going to have three times as many inspections, then we have to do three times as many and they have to do three times as many. We have to prepare for them here. I said: Yes, that is my point. We need these inspections to take place. And we want to be sure that the Russians also adhere to their commitment for inspections, which they have never done in the past.

When you look at this, we see there are problems with this. When you talk about using the argument that we cannot change something because you are changing the treaty, I think that is what we are supposed to do. We are supposed to be involved in the treaty. The Senator from Massachusetts was talking about the number of people who were involved in this thing—the military and all these others in putting this thing together. Well, guess who was left out? Us. And that is what the Constitution, under article II, section 2 says, that we in the Senate are supposed to ratify—advice and consent. Well, we have been advised, but we have not consented yet. That is what this is all about. The process works this way.

If we do pass an amendment such as my amendment that will be voted on in a few minutes to triple the number of inspections, that will change the treaty, and I understand that. That means it will have to go back to the Duma in Russia, and they then would have to look at the treaty and decide whether they would agree with it, and, if not, have them make a change, and then it comes back to us. It goes back and forth, and this is what our forefathers had anticipated would happen. Because of all the people who they talk about, the Senator from Massachusetts talks about, who were drafting this, the thing they all have in common is, they are not answerable to the people. We are. I say to the Presiding Officer, we were both elected. I say to the Presiding Officer, he was elected and I was elected; and, therefore, we are the ears and the eyes in the confirmation process for the public, and I think that is our constitutional obligation. It is very clearly stated.

So we do have serious problems. One thing that is kind of in the weeds and is a little bit complicated is, when you talk about that my amendment triples the number of inspections under New START from the types under the

START I treaty, we had two types of inspections. This is critical. Type one refers to inspections of the ICBM bases, submarine bases, air bases—these are the delivery systems—to demonstrate very clearly that we are going to be able to look at those sites and see if they are carrying out those obligations under the treaty.

But type two refers to inspections at formerly declared facilities. They say we have more inspections right now. That is because we did not even have type two facilities in the START I treaty, because when you talk about formerly declared facilities, we are talking about facilities that are closed down. So we want to inspect to make sure they are closed down. So the test they use to see whether they are closed down is—they talk about debris. That is how you satisfy to see whether type two sites have been treated properly. Well, they can have debris left over from closing one site, and then leave five open that are supposed to be closed and scatter the debris around to use it again. There has been testimony that is what they would do.

I would be glad to yield, since we are going to have two votes coming up at 6 o'clock on the Thune amendment as well as my amendment, if the Senator from South Dakota wishes to talk about his amendment, and then I would be glad to resume my discussion.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that the time until 6 p.m. today be for debate with respect to the pending Inhofe amendment No. 4833 and pending Thune amendment No. 4841, with the time divided between the leaders or their designees, with no amendments in order to either amendment; that at 6 p.m., the Senate then proceed to vote in relation to the Inhofe amendment; that upon its disposition, the Senate then proceed to vote in relation to the Thune amendment, with 2 minutes of debate, equally divided as provided above, prior to the second vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I thank the Senator from Oklahoma for yielding some time. We are going to vote on his amendment and on the amendment I have offered. Both address important subjects in the treaty. The Senator from Oklahoma is dealing with the issue of verification and pointing out the shortcomings in the treaty with regard to that very important issue. The amendment I will have voted on deals with the issue of delivery vehicles, which, in my judgment, is a critically important element in this treaty as well.

As I have said earlier today on the floor, what this amendment does—it is

very straightforward and it is very simple—is it just increases the number of deployed delivery vehicles, which are the bombers, the submarines, and the ICBMs allowed for in the treaty from 700 to 720.

In terms of background about why that is important—and I want to inform my colleagues in the Senate about why it is important we get that number up to 720—I asked at an Armed Services Committee hearing at what point between the range of 500 and 1,100 delivery systems that GEN James Cartwright, the Vice Chairman of the Joint Chiefs of Staff, would be comfortable and where we would avoid making our triad into a dyad.

He said: “I would be very concerned if we got down below those levels about midpoint,” meaning that he would be concerned if the negotiated number fell below about 800 delivery vehicles. They have made a distinction—the administration has—between deployed and nondeployed, that there are 800 there. And he has subsequently said he could live with a 700 deployed number. But the fact of the matter is that the concern that was voiced initially about dropping down below that midpoint level suggests that we need to at least increase up to where the administration's I guess you would call it their nuclear force structure plan settled, and that was 720 delivery vehicles.

So the amendment raises from 700 to 720 the number of delivery vehicles. As I said earlier in my remarks, if you look at what the 1251 report says, it says up to 60 nuclear-capable bombers, up to 420 deployed ICBMs, and 240 deployed submarine-launched ballistic missiles on 14 submarines.

If you add up, up to 60 bombers, up to 420 ICBMs and 240 deployed SLBMs, you get a number of 720 delivery vehicles. That is what the nuclear force structure plan calls for. Yet the treaty specifies 700 delivery vehicles. So there is a 20-delivery vehicle cap there, which I think is important.

Frankly, if you ask the question about where would those reductions come from, obviously it would come from either ICBMs or bombers. People have suggested it doesn't have to come out of the bombers, but if you did take it out of the bombers, if you reduce the number of bombers from the 60 that is specified in the nuclear force structure plan to get down under 700, you would have to take the bombers from 60 down to 40.

As I said earlier today, we have about 96 B-52 nuclear bombers, about 20 B-2 nuclear bombers, and those are total deployed and nondeployed, the number we have in our inventory arsenal. We have about 94, I think, that are combat ready. But in any case, we are talking about a significant reduction in the number of bombers we could deploy at any given time under the treaty if you get it down to the 700 number.

The question as to whether that would come out of ICBMs or whether it would come out of bombers to get from 720 down to 700, it could be some combination of both. But the thing that concerns me about this is we have a bomber fleet that is aging. Most of our bombers today are pre-Cuban missile crisis-era vintage bombers—about 47 percent of them are. We need a follow-on, a next-generation bomber that will fill that role, that will be survivable in the types of modern-era defenses we are going to encounter, sophisticated air defense systems that are being employed by some of our potential adversaries around the world. So if you think about what we need in terms of a next-generation bomber, we need a field bomber and we need to do it sooner rather than later and it needs to be nuclear.

But when asked the question about whether the next bomber would be a nuclear bomber, the military and the administration have been very ambiguous on that point. They haven't been able to answer clearly, with any degree of certainty, about whether the next bomber, the follow-on bomber, would, in fact, be a nuclear bomber, which would suggest to me the commitment to the bomber wing of the triad is a lot less than it is to perhaps the other two legs of the triad.

That being said, let's assume for the moment that if we have up to 60 bombers, we have up to 420 ICBMs, and we have 240 submarine launchable ballistic missiles, we are talking about a 720 number, not a 700 number. So that is why I think this debate is important and why we are trying to be insistent in getting those two numbers to match.

The other point I wish to make is with regard to delivery vehicles in the treaty. We start out right now with about 856 delivery vehicles, if you add up ICBMs, submarine launchable ballistic missiles, and heavy bombers. We will end up down at 700. So we are going to take about 156 of our delivery vehicles, reduce that, retire those, and get down to that 700 number. The Russians, on the other hand, start at about 620. So they are already well below the 700 number called for in the treaty. It has been suggested that through attrition they will probably get down to somewhere in the 400s in delivery vehicles. So this particular provision in the treaty costs them nothing. We give up 156 delivery vehicles. They give up nothing. In fact, they can come up to the 700 number. They could increase the number of delivery vehicles they currently have to come up to that 700 number.

So I think it is important to point out the difference that exists today and the disparity that exists between the Russian number of delivery vehicles and the number the United States has at our disposal and the number called

for in the treaty and why that distinction is so important.

Just one final point, if I might, with regard to the nuclear posture of the country. We also have to defend not only the United States but about 30 other countries around the world that fall under the nuclear umbrella, under our deterrence. The Russians have none. So these delivery vehicle numbers become even more important, given the geographic realities the United States has to deal with in terms of our strategic nuclear forces and what they are expected to do in terms of providing extended deterrence not only to the United States but to many of our allies around the world.

So I think it is important in this treaty debate—this particular part of it—that we get a vote on this amendment. It has been suggested that if this amendment gets adopted, we will have to go back to the Russians. That is part of our goal of advice and consent in the Senate. If it were just consent, we would be nothing more than a rubberstamp. I think we have an important role; that is, to look at these critical issues, and where there are areas of disagreement, to provide our advice. I think, in a very straightforward way, we can vote on an amendment that would increase from 700 to 720 the number of delivery vehicles specified in the treaty. It is a very straightforward amendment and one that would then go back, obviously, to the Russians, but it is certainly consistent with the Senate's traditional and historic role of advice and consent.

Former Defense Secretary Schlesinger testified to the Senate Foreign Relations Committee on April 29, 2010, that: "As to the stated context of the strategic nuclear weapons, the numbers specified are adequate, though barely so."

Well, "barely so" does not seem to be good enough for me when we are talking about the important obligations we have in defending America's vital national security interests as well as those of many of our allies around the world. I don't think settling for barely enough or barely so is sufficient.

So I hope my colleagues will support this amendment. I think, as I said earlier, the triad is critical to our nuclear deterrence and maintaining both ICBMs and SLBMs, but then also having a very robust bomber component of that is critical. That is why investing in a next-generation, follow-on bomber that is nuclear is important. I think the ambiguity that surrounds the question, the uncertainty that surrounds the question about whether a follow-on bomber would be nuclear speaks volumes about the commitment to that leg of the triad, but it is also important to remember bombers are the best form of extended deterrence.

If you want to make those who would proliferate nuclear weapons pay atten-

tion, you send a bomber in. A bomber is very visible, it is recallable, it is survivable, and it brings great psychological and political advantage to our country when it comes to trying to discourage proliferation by other countries around the world.

So I hope my colleagues will support this amendment. It is an important amendment. The delivery vehicle issue is, to me, critical to this debate not only in terms of the numbers but also the modernization of those various elements of the triad. The triad, over time, has given us great survivability, great flexibility, and if ever called upon, we want to be as prepared as we possibly can be to encounter any nuclear threat that might exist to the United States. I hope my colleagues will support this amendment.

I will reserve my time and yield back now to the Senator from Oklahoma, who I think probably wants to continue to talk about the verification issues.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, I concur in everything the Senator from South Dakota said, and I join him in encouraging people to vote favorably on his amendment. It seems as though the other side has had the opportunity to do a lot more testing, a lot more modernization than we have, and I am very much concerned about that.

I wish to elaborate on one thing. The fact that there is—that the other side—and I read all the quotes from the previous Commissions that took place in 2005 and 2010 to demonstrate very clearly that the Russians would sign a treaty and then they will cheat. They would not comply with the treaty. We saw it with the chemical weapons treaty and the biological weapons treaty and START I. So there is no reason to believe they are going to do this. So in terms of verification, we have to try to do something where we are convinced, knowing full well in advance that they are going to cheat.

That brings up one issue that I haven't mentioned before in this treaty; that is, the length of time we have between notification and actually causing an inspection. Under the START I treaty it was 9 hours, and it has gone up to 24 hours in this treaty. In other words, if someone is going to cheat, if someone is going to hide something so we would not know where to look and we might not be able to find something, why give them three times as much time as we did under START I, when we know more today about the fact that they cheat than we knew before? The second issue is, it becomes more important—as you get closer to the inspections and as there are fewer facilities to inspect, each one becomes more important, and we have had an opportunity to see that everyone seems to agree with that.

Former Secretary Harold Brown explained this in his testimony before the Senate Foreign Relations Committee. That was way back in 1991. He said:

Verification will become even more important as the numbers of strategic nuclear weapons on each side decreases, because uncertainties of a given size become a larger percentage of the total force as this occurs.

I think I used the example that if you had 10 and you cheat on 1, that is 10 percent, but if you have 2 and you cheat on 1, that is 50 percent.

That statement is agreed with by John Bolton, who said:

While [verification is] important in any arms-control treaty, verification becomes even more important at lower warhead levels.

Again, he agrees.

Scowcroft, the same thing. He said:

... as force levels go down, the balance of nuclear power can become increasingly delicate and vulnerable to cheating on arms control limits, concerns about "hidden" missiles, and the actions of nuclear third parties.

So I think everyone does understand and does agree that as they decrease, then each one becomes more significant in terms of being inspected.

In this amendment, we are changing it from the 180 inspections over a 10-year period to what they would have under New START versus the old one, which was 600 inspections over 15 years. Do the math on that, and you come up with 18 inspections a year as opposed to 40 inspections a year.

They are trying to say there are only 36 sites, which means—if this is true—we would only get to inspect each site in Russia once every 2 years, while the math works out that they would be able to do our side once every year. So that is something that is very concerning to me.

We talked a lot about where we are in this process. We have talked about our constitutional obligations, about what we are supposed to do under the Constitution. We talked about what we are supposed to provide for the common defense in article II, section 2 of the Constitution, which gives the President the prime role, but we have to advise and consent. I saw something recently, just today I think it is, that came out—yes, it was just today. It came out from Foreign Minister Sergey Lavrov in his statement. He said:

"I can only underscore that the Strategic Nuclear Arms Treaty, worked out on the strictest basis of parity, in our view fully answers to the national interests of Russia and the United States." Interfax quoted Lavrov as saying in an interview.

"It cannot be opened up and become the subject of new negotiations," Lavrov said.

Who is this guy telling us what we can do under our Constitution? I find it almost laughable because it is just as if all he has to do is say that and we have to follow the course.

But he said Russian lawmakers would closely examine the U.S. ratification resolution and any declarations

or notes accompanying it to ensure no significant changes were made.

If changes are made, then they have not kept up their responsibility.

I would only remind my colleagues that:

As CRS has outlined in its study—

And this is a study they did not too long ago—

on the role of the Senate in a treaty process: Amendments are proposed changes in the actual text of the treaty . . . [They] amount, therefore, to Senate counter offers that alter the original deal agreed to by the United States and the other country.

If the Senate gives its consent to New START with an amendment to the text, the treaty is sent back over to Russia and the Duma meets and they decide what they are going to do with it. Then, of course, they make changes and then it comes back over here. This is something that has been going on for 200 years.

All of a sudden, why are we in a position where we are not going to do it and we look at our constitutional responsibility as something that is in the past?

So I feel we have this obligation, and I know so far every amendment that would have amended the treaty has been defeated, and it has been defeated on party lines but, by and large, on party lines. This is something very concerning to me.

The other issue is, when we talk about tripling the number of inspections under the New START, we have heard it said several times: Well, there are fewer sites. But I would like to suggest that the type two—keep in mind type one refers to inspections of ICBM bases, air bases, those facilities that are active today.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KERRY. Mr. President, how much time remains?

The PRESIDING OFFICER. We have 14 minutes 45 seconds.

Mr. KERRY. Did my colleague need to finish up a thought? If so, I am happy to yield him a minute.

Mr. INHOFE. No.

Mr. KERRY. Mr. President, I thank the Senator from Oklahoma for the discussion we had yesterday and again today about verification. I know it is an issue he thinks is critical. I think every Senator here is absolutely convinced we need to have the strongest verification regime possible. The fact is that this treaty, the New START treaty, has exactly that. It has an effective verification system. Does it have a perfect system? No treaty that has ever been passed or been negotiated would be that one-sided and be able to achieve that. It is an effective verification system, which is the standard we have used ever since President Reagan negotiated those treaties, and Paul Nitze, one of our great arms control

statesmen, really defined that concept of effective verification.

I wish to quote what Secretary Gates said about this. I don't need to remind colleagues, but I guess people in the public who don't necessarily focus on it might be impacted to know that Secretary Gates was appointed by President George Bush, and he was held over as Secretary of Defense by President Obama. By everybody's judgment here in the Senate, he is a man of great credibility and distinction who has worked through many different layers of American government. He is one of the people for whom we have great respect. In a letter he wrote to Senator ISAKSON this summer, he said:

I believe that the number of inspections provided for by the New START Treaty, along with other verification mechanisms, provides a firm basis for verifying Russia's compliance with its Treaty obligations while also providing important insights into the size and composition of Russian strategic forces.

I know the Senator from Oklahoma is concerned about the number of inspections. He has several times raised the question of cutting the inspections from the original START to the New START. I want to walk through it again so we are absolutely clear.

Comparing the number of inspections under START I to the number of inspections under New START is literally an apples-to-oranges comparison for three reasons—one, today we are only conducting inspections in one country instead of four. Under START I, we had Belarus, Kazakhstan, Ukraine, and Russia.

Mr. INHOFE. Will the Senator yield for a unanimous consent request?

Mr. KERRY. Yes, as long as I don't lose my right to the floor.

Mr. INHOFE. Mr. President, I ask unanimous consent that the time be extended by 10 minutes—5 minutes for the Senator from Massachusetts and 5 additional minutes for the Senator from South Dakota.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Reserving the right to object, I want to make sure because people were planning schedules around it.

We have no objection, Mr. President. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, Secretary Gates said this about the—well, let me finish that thought about the difference. So when we had those 4 countries, we had 70 sites that were subject to inspection. Under this treaty, there were 35 sites subject to inspection, but they are all in one country—Russia—because all of the weapons were moved to Russia after the fall of the Soviet Union.

Secondly, we are inspecting half as many facilities, and when we inspect those facilities, we, thirdly, have a type one inspection and a type two in-

spection, which allows us to be able to go in and look at the missile but to also do an update inspection, which is sort of a general inspection of the up-to-date status of the various things we look at in the course of an inspection, which, in effect, really doubles the amount of inspections we have because under START I, if you went in and did an update inspection, that was it. You didn't get to do the missile inspection or vice versa. We really have a two-for-one here. It is disingenuous to reflect that in the comments about how we count here. We are talking about a completely comparable inspection regime under New START as under START I.

Finally, we addressed this question of verification in condition 2 of the resolution of ratification. That condition requires that before New START can enter into force—and every year thereafter—the President of the United States has to certify to the Senate that our national technical means, in conjunction with New START's verification activities, are sufficient to ensure adequate and effective monitoring of Russian compliance. So we are going to remain right in the center of this issue of verification every year this treaty is in force, and the Senate is going to be part of that process.

Let me briefly turn back to something Senator THUNE said earlier. He said this treaty was negotiated with the assumption that the Russians weren't going to cheat. No, Mr. President, it is not accurate that there was any such assumption whatsoever, and that is precisely why we have a verification structure here. It is why we are taking this discussion so seriously, because we don't take people at their word. We have to verify. That is what the verification regime is for.

Let me also be clear on what Secretary Gates said here. Senator INHOFE quoted the Secretary saying that the Russians would not be able to achieve any militarily significant cheating under this verification regime. That is the judgment of our intelligence community, but it doesn't mean that they think or that we think they might not try to cheat. It means that if they do, it is going—if it is militarily significant, we will see it, we will know it, and we will understand exactly what they are doing. So we can respond, as Secretary Gates has, by increasing the size of our force, by increasing the alert level of SSBNs and bombers, and by uploading warheads on bombers, SSBNs, and on ICBMs. There are all kinds of things we can do to respond the minute we notice that kind of militarily significant event.

It is my judgment that this amendment does not give us anything in the way of additional confidence, but it certainly will give us months of unnecessary and even counterproductive renegotiation of the treaty. That means

that by reaching for three times the number of inspections, we would guarantee that for months and months we will have zero, absolutely none. That is the tradeoff.

I think we need to get our verification team back in place, and I think that is what is most imperative in terms of the national security interests of the country.

I thank Senator THUNE for his amendment. I thank him also for the constructive discussion we have had about these numbers with respect to missiles and bombers in order to maintain our nuclear deterrent.

I think this is another place where it is pretty important for all of us to listen to our military. They have made the judgments here, and they have been very transparent about how they have made those judgments. We have been able to query them in the Armed Services Committee, the Intelligence Committee, the Foreign Relations Committee, and the National Security Working Group. They have arrived at the judgment—not a political judgment but a military judgment—that the treaty's limit of 700 delivery vehicles is perfectly adequate to defend our Nation and our allies at the same time.

As the Vice Chairman of the Joint Chiefs, GEN James Cartwright, who was a former strategic commander, said:

I think we have more than enough capacity and capability for any threat that we see today or that might emerge in the foreseeable future.

This amendment seeks to insert sort of our arbitrary judgment that, oh, we ought to have 20 additional. I remind the Senators what LTG Frank Klotz, the commander of the Air Force Global Strike Command, said. That is the command that oversees ICBMs and bombers. Just last Friday, he said:

I think the START Treaty ought to be ratified, and it ought to be ratified now, this week.

The military came to this conclusion after the Department of Defense conducted a very thorough review of our nuclear posture, including detailed force-on-force analyses. We shared some of that discussion in the classified session earlier. Our nuclear commanders have done the math, run the scenarios, and they have concluded that we only need 700 delivery vehicles.

General Chilton, head of the Strategic Command, said:

The options we provided in this process focused on ensuring America's ability to continue to deter potential adversaries, assure our allies, and sustain strategic stability for as long as nuclear weapons exist. This rigorous approach, rooted in deterrent strategy and assessment of potential adversary capabilities, supports both the agreed-upon limits in New START and recommendations in the Nuclear Posture Review.

I do know the Senator expressed some concern about our ability to field Prompt Global Strike systems. It is

true that conventionally armed ICBMs will count toward the treaty's limits, but again, let's listen to what the military says.

Secretary Gates stated for the record that:

Should we decide to deploy them, counting this small number of conventional strategic systems and their warheads towards the treaty limits will not prevent the United States from maintaining a robust nuclear deterrent.

Admiral Mullen said as far back as March that the treaty protects our ability to develop a conventional global strike capability should that be required.

I also point to our resolution of ratification, condition 6, understanding 3, and declaration 3, all of which go toward preserving our ability to deploy conventional Prompt Global Strike forces.

Finally, the Senator raised the possibility that we are moving from a triad to a dyad. I wish to be especially clear on this point. The administration has stated forcefully and again today reiterated in a letter sent to us by the Chairman of the Joint Chiefs of Staff, Admiral Mullen, in which he reiterates the administration's commitment to the triad. As it said in the "update" section of the 1251 report:

The administration remains committed to the sustainment and modernization of U.S. strategic delivery systems.

Regarding heavy bombers, that same report says:

DOD plans to sustain a heavy bomber leg of the strategic triad for the indefinite future and is committed to the modernization of the heavy bomber force.

To be clear, our existing nuclear bombers will be in operation at least for the next 20 years, and probably at most this treaty could be a 10- to 15-year treaty. Our existing bombers will outlive this treaty.

The administration has also made clear that we are committed to the triad in the resolution of ratification, including our nuclear bombers. I might add that they have also said they are not going to close bases, and they are not going to reduce the total number of bombers.

I believe there should not be concern on these points.

This amendment, once again, is one of those that would force renegotiation of the entire treaty. I might mention for my colleagues that one of the reasons that is so important to all of us—we can all remember negotiating around here many times on different bills and pieces of legislation. We always begin that negotiation—I can remember Senator George Mitchell, when he was majority leader and we did the complicated Clean Air Act reauthorization in 1990, he would begin every session by reminding people that nothing is agreed upon until everything is agreed upon. We negotiate that way here all the time.

So if all of a sudden nothing is agreed upon and that is the way this treaty was negotiated—if nothing is agreed upon until everything is agreed upon, when you take one piece out of there and change it unilaterally, nothing is agreed upon. At that point, you reopen all of the other issues, and some of them are contentious, which are difficult, which people may have a different view on, and which will affect our relationship.

If this weren't so substantive and I thought we were buying a pig in a poke, I would say I understand why we have to do that.

But the military, our national security people, our national intelligence community—there is not anybody who works at this day to day—our Strategic Command, our National Defense Missile Command—all of them say: Ratify this treaty. And that is what I believe we ought to do as soon as possible.

I reserve the remainder of our time.

Mr. KYL. Madam President, I wonder if I might engage in a colloquy briefly with my colleague from Massachusetts and then propound a unanimous consent agreement.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Arizona.

Mr. KYL. Madam President, there are two votes scheduled on the Thune amendment and the Inhofe amendment. Have we locked in the LeMieux amendment yet?

Mr. KERRY. I do not believe so.

The PRESIDING OFFICER. No.

Mr. KYL. Madam President, does my colleague anticipate that it is possible there would be a third vote tonight, depending upon whether Senator LEMIEUX is ready to have that vote?

Mr. KERRY. I suspect the majority leader would be delighted to have another vote if we can. I am speaking without authorization.

Mr. KYL. At some point, just for the benefit of Members, there could theoretically be a third amendment tonight if Senator LEMIEUX is ready to have that vote and if there is no objection by any other Member.

The other point, I inform my colleague, is I have the exact numbers of the five amendments I would like to get pending. Let me make that request at this time. They are amendments Nos. 4900, McCain amendment; 4893, Kyl amendment; 4892, Kyl amendment; 4867, Kyl amendment; and No. 4860, Kyl amendment. These are all proposed amendments to the resolution of ratification.

I ask unanimous consent that it be in order to call up five amendments to the resolution of ratification; provided further that these be the only amendments in order to the resolution of ratification at this time; and I ask unanimous consent that following the disposition of the amendments solicited, the Senate then resume consideration of the treaty.

Before my colleague responds, I will also say this: I believe there are only four other amendments pending, and one of them is mine. I will agree to waive my right to bring that up. I cannot say for the others, and I need to talk with those Members during the vote. I do not know whether they would want votes on their amendments. In any event, there are no more than three of them. So it is a locked-in number.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, reserving the right to object, I want to make clear that as we move to these amendments with respect to the resolution of ratification, we are going to preserve the right, then, to go back only to those three that are pending. And the Senator has agreed to make a good-faith effort to see if that could be reduced to simply one; is that accurate?

Mr. KYL. No. I am saying one is mine, and I would eliminate it now.

Mr. KERRY. I understand that the Senator, in our conversation earlier, was going to try to see if the other two could also make the same decision he has made so we, in effect, have one on the treaty itself.

Mr. KYL. If that was the impression, I do not think I can do that. But in any event, I did not try to do that. There are four all told. I would eliminate my one, and there would be a fixed number—only three possibilities after that.

Mr. KERRY. Could we then say for the record which amendment is being withdrawn at this point?

Mr. KYL. It would be the only Kyl amendment remaining pending to the treaty.

The PRESIDING OFFICER. If the Senator will withhold. There is no Kyl amendment pending.

Mr. KERRY. Madam President, if I may say to my colleague, the majority leader would like to work with us in this process. I think what we should do, if I may ask my colleague to do this, I would like to take a moment, if we can, to work through this with the majority leader. We can do it during the votes, and then at the end of the votes we can hopefully propound something that has his engagement.

Mr. KYL. I can tell my colleague that the amendment I would be agreeing not to bring up is amendment No. 4854. I misspoke when I said it is pending. It is filed to the treaty.

Mr. KERRY. I thank the Senator. That helps us a lot. That clarifies it. What I would like to do is work with the majority leader and the Senator from Arizona, and I am sure we can come together, and at the end of the vote we can propound an appropriate UC.

Mr. KYL. I am not willing to withdraw my request. What I am afraid of, quite frankly, is that we are not going

to be able to get unanimous consent before a cloture vote on the treaty and we are going to be iced out here.

I have propounded a unanimous consent request. I will be happy to read it again. If there is an objection, fine. I want to get agreement on this, if at all possible.

The PRESIDING OFFICER. If the Senator from Arizona could repeat his request, that would be helpful.

Mr. KYL. I would be happy to. Madam President, I ask unanimous consent that it be in order to call up five amendments to the resolution of ratification; provided further that these be the only amendments in order to the resolution of ratification at this time; and I ask unanimous consent that following the disposition of the amendments solicited, the Senate then resume consideration of the treaty.

Mr. KERRY. Reserving the right to object, I personally am supportive of our trying to do that. I have said to the Senator in good faith that we need to have some amendments to the resolution of ratification. We are working on them. I am confident that we will be able to accommodate his request, but I am in a position where I need to have the input of the majority leader to do that. I will personally advocate we do it.

At this moment only, I must object to that request, but I look forward to trying to propound it after the votes.

The PRESIDING OFFICER. Objection is heard.

Mr. KYL. Madam President, I appreciate the explanation. That ordinarily would be information given to the two leaders, and we did not do that in this case. I do appreciate this.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, it is my understanding that I have a minute in which to wrap up debate on this amendment; is that correct?

The PRESIDING OFFICER. All of the time has been used.

Mr. THUNE. I ask unanimous consent to have a couple minutes to summarize a couple points. I had 5 minutes which I think just got burned.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. Madam President, I will make a couple quick points before we vote on the delivery vehicle amendment, and the first one is this because it has been observed that this would impact Prompt Global Strike. The supporters of the treaty have said it will not impact Prompt Global Strike. The fact is that the 700 number of delivery vehicles—if, for example, we were to mount a conventional warhead on an ICBM to strike a target in some geographic area that is hard to hit and we need to get there in short order, the ICBM currently is the best way to do that. If we do that, it reduces the number of nuclear delivery vehicles we

have one for one. If we were to do that on 20 ICBMs, we would mount conventional warheads on those, and it would reduce by 20 the number of nuclear delivery vehicles we would have. That is a fact in the treaty.

The final point I will make about the number 700, because it has been pointed out that military personnel in the country support that number, but I also want to mention that it is important to recall that General Chilton's support for New START levels was predicated on no Russian cheating. He testified before the Senate Armed Services Committee on April 22, 2010, that one of the assumptions made was an assumption that the Russians in the postnegotiation time period would be compliant with the treaty. We all know it has been pointed out many times on the floor how Russia is a serial violator of arms control commitments. I think it is important, as we discuss the 700 number, that people bear in mind that number was agreed upon by our military commanders assuming there would be no cheating by the Russians.

There still is a conflict between the 720 called for in the nuclear force structure plan and the 700 in the treaty. All I am simply saying is, let's make those two numbers consistent. Let's get the 700 number up to 720.

With that, I yield back my time and ask for the yeas and nays.

Mr. KERRY. I yield back the remainder of our time.

The PRESIDING OFFICER. Is there an objection to asking for the yeas and nays? Without objection, it is so ordered.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Inhofe amendment.

Mr. KERRY. Does Senator INHOFE want to ask for the yeas and nays?

Mr. THUNE. I also request the yeas and nays on the Inhofe amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk call the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 64, as follows:

[Rollcall Vote No. 285 Ex.]

YEAS—33

Barrasso	DeMint	LeMieux
Bond	Ensign	McCain
Brown (MA)	Enzi	McConnell
Bunning	Graham	Risch
Burr	Grassley	Roberts
Chambliss	Hatch	Sessions
Coburn	Hutchison	Shelby
Cochran	Inhofe	Snowe
Collins	Johanns	Thune
Cornyn	Kirk	Vitter
Crapo	Kyl	Wicker

NAYS—64

Akaka	Gillibrand	Murkowski
Alexander	Gregg	Murray
Baucus	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Pryor
Bennett	Isakson	Reed
Bingaman	Johnson	Reid
Boxer	Kerry	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Conrad	Levin	Tester
Coons	Lieberman	Udall (CO)
Corker	Lincoln	Udall (NM)
Dodd	Lugar	Voinovich
Dorgan	Manchin	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	
Franken	Mikulski	

NOT VOTING—3

Bayh	Brownback	Wyden
------	-----------	-------

The amendment (No. 4833) was rejected.

The PRESIDING OFFICER. There is now 2 minutes, equally divided—

The majority leader.

Mr. REID. Madam President, first of all, I ask unanimous consent that the vote on the Thune amendment be 10 minutes in duration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. No. 2, Senator LEMIEUX has an amendment that is pending. I ask unanimous consent that vote follow the Thune amendment and that vote also be 10 minutes in duration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that there be no amendments—

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. REID. Let me finish my unanimous consent request, and if someone does not like it, we can worry about that. I ask unanimous consent that—we are going to vote on the Thune amendment; that will be a 10-minute vote; that is amendment No. 4841—following that vote, we consider the LeMieux amendment No. 4847; that prior to the vote, there be 4 minutes of debate, equally divided and controlled in the usual form; that is, of course, with the Thune amendment and the LeMieux amendment; that upon the use or yielding back of the time, the Senate then proceed to vote in relation to the LeMieux amendment, with no amendment in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I would also say, Madam President, that will very likely be the last vote tonight. I have had a conversation with Senator KYL and Senator KERRY. They are going to meet early in the morning to see if there is a way we can work through some of these issues that are still outstanding.

The one message I wish to make sure everyone gets—I know everyone has lots to do this week—but on this most important treaty, no one needs to feel they are being jammed on time, as busy as we all are and as many things as we want to do in the next few days. So if anyone has any issues they still want to deal with, talk to Senator KERRY or Senator KYL or Senator LUGAR, who is the comanager on the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

AMENDMENT NO. 4841

Mr. REID. Madam President, we yield back the 2 minutes on our side.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the Thune amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 64, as follows:

[Rollcall Vote No. 286 Ex.]

YEAS—33

Barrasso	Ensign	LeMieux
Bond	Enzi	McCain
Brown (MA)	Graham	McConnell
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Snowe
Cornyn	Johanns	Thune
Crapo	Kirk	Vitter
DeMint	Kyl	Wicker

NAYS—64

Akaka	Dorgan	Lieberman
Alexander	Durbin	Lincoln
Baucus	Feingold	Lugar
Begich	Feinstein	Manchin
Bennet	Franken	McCaskill
Bennett	Gillibrand	Menendez
Bingaman	Gregg	Merkley
Boxer	Hagan	Mikulski
Brown (OH)	Harkin	Murkowski
Cantwell	Inouye	Murray
Cardin	Johnson	Nelson (NE)
Carper	Kerry	Nelson (FL)
Casey	Klobuchar	Pryor
Collins	Kohl	Reed
Conrad	Landrieu	Reid
Coons	Lautenberg	Rockefeller
Corker	Leahy	Sanders
Dodd	Levin	Schumer

Shaheen	Udall (CO)	Webb
Specter	Udall (NM)	Whitehouse
Stabenow	Voinovich	
Tester	Warner	

NOT VOTING—3

Bayh	Brownback	Wyden
------	-----------	-------

The amendment (No. 4841) was rejected.

AMENDMENT NO. 4847

The PRESIDING OFFICER. There is now 4 minutes equally divided prior to a vote on the LeMieux amendment.

The Senator from Florida.

Mr. LEMIEUX. Madam President, this amendment says simply one thing: that within 1 year's time of the ratification of this treaty, the United States and Russia would sit down and negotiate a tactical nuclear weapons treaty. Why do I bring this forward? Because we know—and we heard a lot about it today in our closed session—that there is a tremendous disparity between the number of tactical nuclear weapons our country has at 300 and the Russians have at 3,000—10 to 1. If this treaty is ratified, the Russians will have 4,500 nuclear weapons. We will have 1,800.

This is not a poison pill. You will hear that; it is not. It does not change a material term of this agreement. It just says within a year's time, we will sit down and enter into these negotiations. We need to put it into the treaty because that is the only way we can make sure it will happen.

If we send this treaty with this amendment back to the Russian Duma and they don't approve it, what does that say? It says they know they have a significant advantage over us. It is the right thing to do. It is something I think all of our colleagues should be able to agree to. It is not a poison pill. Let's approve it. Thank you.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I will be very brief.

I completely agree with the intention of the Senator. I think all of us agree we have to negotiate a tactical nuclear weapons treaty with Russia. Unfortunately, this, according to our NATO allies, according to our national security representatives, will actually prevent us from getting to the place where we negotiate that because the first thing we have to do to get the Russians to the table is pass the START treaty.

If we pass the New START treaty, we can engage in these discussions. If we don't pass it, they have no confidence. We simply go back to ground zero and begin negotiating all the pre-START items again before we can ever get there. We cannot just pass this unilaterally and order them to get there. We have to get them to enter into those negotiations. The way to do that is to preserve the integrity of the START treaty and then get to those agreements. We have that in the resolution of ratification.

There is language that urges the President and embraces this notion of the Senator from Florida. I congratulate him for wanting to target it. It is important to target it, and we will do it in the resolution of ratification.

I yield back any time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4847.

Mr. BOND. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

The PRESIDING OFFICER (Mr. MERKLEY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 62, as follows:

[Rollcall Vote No. 287 Ex.]

YEAS—35

Barrasso	Ensign	McCain
Bond	Enzi	McConnell
Brown (MA)	Graham	Murkowski
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Snowe
Collins	Johanns	Thune
Cornyn	Kirk	Vitter
Crapo	Kyl	Wicker
DeMint	LeMieux	

NAYS—62

Akaka	Franken	Mikulski
Alexander	Gillibrand	Murray
Baucus	Gregg	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bennett	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kerry	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Conrad	Levin	Tester
Coons	Lieberman	Udall (CO)
Corker	Lincoln	Udall (NM)
Dodd	Lugar	Voinovich
Dorgan	Manchin	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	

NOT VOTING—3

Bayh	Brownback	Wyden
------	-----------	-------

The amendment (No. 4847) was rejected.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to reconsider was laid on the table.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for about 7 minutes as in morning business.

The PRESIDING OFFICER (Mr. MERKLEY). Is there objection?

Without objection, it is so ordered.

(The remarks of Mr. GRASSLEY are printed in today's RECORD under "Morning Business.")

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 4904, AS MODIFIED

Mr. CORKER. Mr. President, I ask unanimous consent that amendment No. 4904 to the resolution of ratification be brought up as pending.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Reserving the right to object, I apologize. Did Senator CORKER ask a unanimous consent request?

The PRESIDING OFFICER. Yes, to call up an amendment.

Mr. KYL. But to return to the treaty upon its disposition; is that correct?

Mr. CORKER. That is what I was just getting ready to say.

Mr. KYL. Might I ask the Senator from Tennessee whether he talked with one of the Senators from South Carolina about this?

Mr. CORKER. I have not. I attempted to do so. He was off the floor by the time—

Mr. KYL. I do not have any objections as long as we return to the treaty so those who have amendments to the treaty will at least have their rights protected.

The PRESIDING OFFICER. Is there an objection?

Mr. KYL. I will not object. I simply note that I think we will need an understanding that we will work with our other interested colleagues on a way forward on all of these issues. Having expressed that as a matter of good faith, I suspect we can do that.

Mr. CORKER. Absolutely.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

Mr. CORKER. Mr. President, I also ask unanimous consent to accept the modification. It is modified slightly. I want to make sure that is acceptable.

Mr. KERRY. Mr. President, reserving the right to object.

Mr. CORKER. It was a modification that the staff of the chairman suggested.

Mr. KERRY. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. CORKER] proposes an amendment numbered 4904, as modified.

The amendment is as follows:

(Purpose: To provide a condition and an additional element of the understanding regarding the effectiveness and viability of the New START Treaty and United States missile defenses)

At the end of subsection (a) of the Resolution of Ratification, add the following:

(1) EFFECTIVENESS AND VIABILITY OF NEW START TREATY AND UNITED STATES MISSILE DE-

FENSES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate, and shall communicate to the Russian Federation, that it shall be the policy of the United States that the continued development and deployment of United States missile defense systems, including qualitative and quantitative improvements to such systems, including all phases of the Phased Adaptive Approach to missile defenses in Europe maintaining the option to use Ground-Based Interceptors, do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the United States cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the Treaty, the continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the Treaty.

At the end of subsection (b)(1)(C), strike "United States;" and insert the following: "United States; and

(D) the preamble of the New START Treaty does not impose a legal obligation on the United States.

Mr. CORKER. Mr. President, I also ask unanimous consent that we now return to the treaty.

The PRESIDING OFFICER. The Senate is on the treaty.

Ms. COLLINS. Mr. President, I rise today to discuss the New START treaty. Before I begin, I would like to thank Senator KERRY and Senator LUGAR for their leadership on this important arms control agreement.

When I first began to consider this treaty, I considered the fundamental question of whether we are better off with it or without it since the previous START treaty expired a year ago. By reducing the number of deployed nuclear weapons in a mutual and verifiable way, I believe that this treaty does enhance our security, but it is not without flaws.

Our choice is not, however, between some ideal treaty and the New START treaty. It is between this treaty and having no inspection regime in place at all since the previous START treaty expired in December of 2009.

In evaluating this treaty, I scrutinized several issues including the effect on our Nation's security, the need to modernize our nuclear deterrent, the effectiveness of verification and inspection regimes, and the impact on missile defense.

These and other issues were fully covered in classified briefings as well as in the seven Senate Armed Services Committee hearings that I attended that included testimony from Secretary of Defense Gates, Secretary of State Clinton, Admiral Mullen, the Chairman of the Joint Chiefs of Staff, and General Chilton, the commander of our nuclear forces. We also heard testimony from the three current directors of our national nuclear laboratories and a number of former government officials and national security experts.

I met personally with Rose Gottemoeller, the top U.S. treaty negotiator, and sought counsel from GEN Brent Scowcroft, who has served as an adviser to four Republican Presidents and was the National Security Adviser to President George H. W. Bush.

I also have met with a wide range of Mainers—foreign policy experts, religious leaders, and former members of the military—who expressed their views on the treaty to me.

Clearly, the New START treaty enjoys broad bipartisan support. Secretaries of State for the past five Republican Presidents, including GEN Colin Powell, support its ratification, as does former Maine Senator and former Secretary of Defense Bill Cohen.

No Member of this body should support a treaty simply because it has strong bipartisan support. But neither should we withhold our support for a treaty simply because it was negotiated and signed by a President from a different political party.

The fact is that the New START treaty is a modest arms control agreement. The treaty does not require the destruction of a single nuclear weapon. Under the New START framework, a 30-percent reduction in the number of deployed warheads in the arsenals of the United States and Russia will be required.

As such, the New START treaty places the United States and the Russian Federation on a path to achieve mutual and verifiable reductions over the next 7 years. Failure to ratify a treaty that makes modest reductions in the deployment of nuclear weapons would represent a giant step backwards in the commitment of the United States to arms control. If we cannot reduce the deployed nuclear stockpiles of the two countries that hold 9 of every 10 nuclear weapons in the world, how can we expect other countries not to seek any nuclear weapons?

Yet the New START treaty has significance beyond its function as an arms control agreement. New START is one component of our bilateral relationship with the Russian Federation. In April 2009, I traveled to Moscow with the chairman of the Armed Services Committee, Senator CARL LEVIN. At that time, I indicated that while I supported the President's commitment to reset the U.S.-Russian relationship, it was ultimately up to the Russians to see if they wanted to have a stronger relationship.

Since then, Russia has expanded the use of northern supply routes for our military forces in Afghanistan and has cancelled the sale of advanced surface to air missiles to Iran. These are positive steps.

During that same trip to Moscow, Chairman LEVIN and I sought to encourage Russian officials to cooperate on missile defense in Europe. And this issue of missile defense raises an im-

portant point about the U.S.-Russian relationship. Just because our relationship with the Russians is important does not mean that we must compromise on an issue vital to our national security. One of those issues is missile defense.

I was troubled when I read the unilateral statements made by Russian leaders who sought to make a binding tie between missile defense and the New START agreement.

The Kerry-Lugar resolution of ratification eliminates any doubt that the United States will continue to develop missile defense systems. The proposed resolution of ratification clarifies that the treaty places no limitation on the deployment of U.S. missile defense systems except for those contained in article 5. It further clarifies that the Russian unilateral statement regarding missile defense "does not impose a legal obligation on the United States."

The resolution of ratification goes beyond expressing the position that the United States will deploy an effective national missile defense system. It declares that the United States is committed to improving its strategic defensive capabilities, both quantitatively and qualitatively, during the lifetime of the treaty.

In addition to developing a robust missile defense capability, it is equally imperative that the United States maintain a modernized nuclear weapons program as we consider further reductions in nuclear arms.

In March, I traveled with my good friend from Arizona, Senator KYL, to discuss nuclear modernization with our allies. I learned a great deal from an in-depth briefing with French physicists about our need to modernize our own nuclear arsenal.

As Secretary of Defense Gates has noted, "The United States is the only declared nuclear power that is neither modernizing its nuclear arsenal nor has the capability to produce a new nuclear warhead." The Perry-Schlesinger Strategic Posture Commission noted that the nuclear weapons complex "physical infrastructure is in serious need of transformation."

In response, the administration has made a commitment to invest \$14 billion in new funding over the next 10 years for the nuclear weapons complex. As a result, the safety, stability, and reliability of our nuclear deterrent can be improved. The new investments will double the surveillance within the nuclear stockpile from fiscal year 2009 to fiscal year 2011. Finally, the Administration has proposed nearly \$9 billion for our plutonium and uranium facilities, and it has made a commitment to request additional funding necessary for those facilities once the designs are completed.

While the New START treaty contributes to reducing the threat of nuclear war and strengthens nuclear non-

proliferation efforts, it is disappointing to me that the treaty reflects an outdated view of one of the primary threats to our national security. This treaty does not address the significant disparity between the number of non-strategic nuclear weapons in Russia's stockpile compared to our own.

The Perry-Schlesinger Strategic Posture Commission reported that Russia had an estimated 3,800 tactical nuclear weapons compared to fewer than 500 in our own stockpile. By maintaining a distinction between the threats of nuclear attack that warrant the ratification of a treaty from those nuclear threats that do not simply based upon the distance from which a nuclear weapon is launched or the method by which such a weapon is launched, we preserve a Cold War mentality regarding the nuclear threats facing our country.

The large numerical disparity in the number of warheads each country maintains is not the only reason they warrant a higher priority than they were given by either country in this treaty.

As the ranking member of the Homeland Security and Governmental Affairs Committee, I believe that the characteristics of tactical nuclear weapons, particularly their vulnerability for theft and potential for nuclear terrorism, make reducing their numbers essential to our national security.

President Obama correctly described the greatest threat facing our Nation in the 2010 Nuclear Posture Review when he said that "the threat of global nuclear war has become remote, but the risk of nuclear attack has increased . . . today's most immediate and extreme danger is nuclear terrorism."

Several arms control groups, including the Stimson Center, the Center for Nonproliferation Studies, and the Union of Concerned Scientists, have each stated that the danger of these weapons rests not only in the destructive power of each weapon but also because they are vulnerable to theft by rogue nations and terrorist groups.

Earlier this month, I wrote to Secretary Gates and Secretary Clinton about my concerns regarding this issue and requested a commitment from them to seek reductions in the number of Russian tactical nuclear weapons.

I would like to read a portion of their response for those of my colleagues who share my concern regarding this disparity:

The Administration is committed to seeking improved security of, and reductions in, Russian tactical nuclear weapons. We agree with the Senate Foreign Relations Committee's call, in the resolution of advice and consent to ratification of the New START treaty, to pursue an agreement with the Russians to address them. These negotiations offer our best chance to constrain Russian tactical nuclear weapons, but we believe Russia will be unlikely to begin such negotiations if the New START treaty does not enter into force.

The letter further states that:

With regard to future agreements, we strongly agree with you that the characteristics of tactical nuclear weapons—particularly their vulnerability to theft, misuse, or acquisition by terrorists—make reducing their numbers and enhancing their safety and security extremely important.

I ask unanimous consent that my letter to the Secretaries and their response be printed in the RECORD at the end of my statement.

So where does that leave us? Does the New START treaty lead to mutual and verifiable reductions in nuclear arms? Does the New START treaty renew our Nation's commitment to arms control? Given the commitments by the administration, will it reinvigorate our nuclear nonproliferation efforts?

The answers to these questions were most succinctly addressed in a statement by the leader who negotiated and signed the first START treaty, former President George H.W. Bush. I will conclude by associating myself with his comments on the issue, which I will read in full: "I urge the United States Senate to ratify the [New] START treaty."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, December 3, 2010.

Hon. HILLARY RODHAM CLINTON,
Secretary of State,
Washington, DC.

DEAR SECRETARY CLINTON: I want to thank the Administration for making its experts available to discuss the proposed New START and its associated issues, including the importance of modernizing the nuclear weapons complex in light of proposed reductions in our deployed nuclear forces. I support the recent commitment President Obama made to increase the investments for nuclear modernization by \$4.1 billion and to fully fund the costs associated with new facilities as the design for these facilities are completed. The Administration has also answered many of my concerns about verification and inspections. Although I believe the verification and inspection requirements of the now expired START treaty were preferable, the explanations regarding the new verification methods have helped to assuage my concerns.

There is, however, a remaining issue that must be resolved before I can conclude that the treaty warrants my support. The New START treaty does not address the significant disparity between the number of non-strategic nuclear weapons in the stockpiles of the Russian Federation and the United States. By maintaining a distinction between the threats of nuclear attack that warrant the ratification of a treaty from those nuclear threats that do not simply based upon the distance from which a nuclear weapon is launched or the method by which such a weapon is delivered, we preserve an outdated model regarding the nuclear threats facing our country. Any nuclear attack on our country or one of our allies, not just those that are launched quickly from a great distance, would be devastating.

The characteristics of tactical nuclear weapons, particularly their vulnerability for

theft and misuse for nuclear terrorism, make reducing their numbers important now. Several arms control groups, including the Stimson Center, the Center for Nonproliferation Studies, and the Union of Concerned Scientists, have stated that the danger of tactical nuclear weapons rests not only in the destructive power of each weapon, but also because they are vulnerable to theft by terrorist groups. President Obama's 2010 Nuclear Posture Review echoes the concern of nuclear terrorism: "The threat of global nuclear war has become remote, but the risk of nuclear attack has increased . . . today's most immediate and extreme danger is nuclear terrorism. Al Qaeda and their extremist allies are seeking nuclear weapons."

Non-strategic delivery systems are also as capable as some of the strategic delivery vehicles covered under New START of delivering a swift nuclear attack. For example, the Russian Federation is capable of deploying submarine-launched cruise missiles armed with nuclear warheads. According to press reports, a new type of Russian attack submarine capable of launching nuclear-armed cruise missiles is expected to enter service in late 2010. My understanding is that, unlike submarine launched ballistic missiles, these nuclear-tipped cruise missiles would not be counted under New START. In addition, I was troubled to learn of reports in the New York Times that the Russian Federation moved short-range tactical nuclear weapons closer to the territory of our NATO allies and U.S. deployed forces in Europe earlier this year, apparently in response to the deployment of missile defense capabilities there.

Insufficiently addressing these weapons may make it more difficult to achieve future nuclear arms control agreements. According to the independent Perry-Schlesinger Strategic Posture Commission report, the Russian Federation has about 3,800 tactical nuclear weapons and the United States has less than 500 tactical nuclear weapons. If the New START treaty is ratified, the number of deployed strategic nuclear weapons by both countries will be evenly balanced. Absent a significant unilateral reduction in tactical nuclear warheads by the Russian Federation, any effort to reduce the disparity in these weapons may lead to unacceptable concessions regarding U.S. capabilities that are not tied to the size of the nuclear stockpiles maintained by each country, such as concessions regarding missile defense or conventional prompt global strike.

Including non-strategic weapons in strategic arms negotiations is not unprecedented. On July 31, 1991, the day START I was signed by President George H.W. Bush and Mikhail Gorbachev, the U.S.S.R. publicly committed to providing the United States with annual declarations regarding the deployments of nuclear sea-launched cruise missiles for the duration of START I. In addition, the Soviet Union committed to deploying no more than a single warhead on each cruise missile and to not exceed the deployment of more than 880 nuclear sea-launched cruise missiles in any one year.

On July 27, 2010, Dr. Keith Payne, former Deputy Assistant Secretary of Defense for foreign policy and a member of the Perry-Schlesinger Commission, testified before the Senate Armed Services Committee that the reason he believed tactical nuclear weapons were not included in the New START treaty was because, "the Russians did not want to engage in negotiations on their tactical nuclear weapons." I think they will be very wary about ever engaging in serious negotia-

tions on their tactical nuclear weapons. I also understand, and would expect, that any reductions of non-strategic nuclear weapons in Europe would rest, in part, upon the position of our NATO allies.

Nonetheless, the concerns I have regarding non-strategic weapons remain outstanding as I consider whether or not the New START treaty warrants my support. As such, I request that you provide, in writing, the Administration's plan to address the disparity between the numbers of non-strategic warheads of the Russian Federation compared to the United States, in order that I may consider this information prior to a vote on the ratification of the New START treaty.

Thank you for your attention to this matter, and for your service to our nation.

Sincerely,

SUSAN M. COLLINS,
United States Senator.

Hon. SUSAN M. COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: Thank you for your letter of December 3, 2010, regarding the New START Treaty. We believe ratification of the Treaty is essential to preserving core U.S. national security interests. The Treaty will establish equal limits on U.S. and Russian deployed strategic warheads and strategic delivery systems, and will provide the U.S. with essential visibility into Russian strategic forces through on-site inspections, data exchanges, and other verification provisions.

As you note, the Strategic Posture Commission expressed concern regarding Russian tactical nuclear weapons. At the same time, the Commission recommended moving forward quickly with a new treaty focused on strategic weapons. With the expiration of the START Treaty in early December 2009, for the past year the U.S. has had no inspectors with "boots on the ground" to verify Russian strategic forces.

The Administration is committed to seeking improved security of, and reductions in, Russian tactical (also known as non-strategic) nuclear weapons. We agree with the Senate Foreign Relations Committee's call, in the resolution of advice and consent to ratification of the New START Treaty, to pursue an agreement with the Russians to address them. These negotiations offer our best chance to constrain Russian tactical nuclear weapons, but we believe Russia will likely be unwilling to begin such negotiations if the New START Treaty does not enter into force. We will consult closely with Congress and our Allies in planning and conducting any follow-on negotiations.

At the NATO summit in Lisbon in November 2010, Allied leaders expressed their strong support for ratifying the New START Treaty now, and welcomed the principle of including tactical nuclear weapons in future U.S.-Russian arms control talks. The U.S. remains committed to retaining the capability to forward-deploy tactical nuclear weapons in support of its Alliance commitments. As such, we will replace our nuclear-capable F-16s with the dual-capable F-35 Joint Strike Fighter, and conduct a full scope Life Extension Program for the B-61 nuclear bomb to ensure its functionality with the F-35 and enhance warhead surety.

Your letter notes recent press reports alleging that Russia has moved tactical nuclear warheads and missiles closer to Europe. We note that a short-range ballistic missile unit has long been deployed near Russia's border with Estonia, and earlier this year

the Russians publicly announced that some SS-26 short-range ballistic missiles would be located there. Although this deployment does not alter either the balance in Europe or the U.S.-Russia strategic balance, the U.S. has made clear that we believe Russia should further consolidate its tactical nuclear weapons in a small number of secure facilities deep within Russia.

With regard to future agreements, we strongly agree with you that the characteristics of tactical nuclear weapons—particularly their vulnerability to theft, misuse, or acquisition by terrorists—make reducing their numbers and enhancing their safety and security extremely important. That is why when President Obama signed the New START Treaty in April, he made clear that “going forward, we hope to pursue discussions with Russia on reducing both our strategic and tactical weapons, including non-deployed weapons.”

Thank you for the opportunity to address the important matters you have raised in connection with the new START Treaty. We look forward to continuing to work with you on this and other issues of mutual interest, and urge your support of New START.

Sincerely,

HILLARY RODHAM CLINTON,
Secretary of State.

ROBERT M. GATES,
Secretary of Defense.

ORDER OF PROCEDURE

Mr. KERRY. Mr. President, I ask unanimous consent to proceed as in legislative session and as in morning business in order to process some cleared legislative items.

The PRESIDING OFFICER. Without objection, it is so ordered.

NORTHERN BORDER COUNTER-NARCOTICS STRATEGY ACT OF 2010

Mr. KERRY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 4748 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4748) to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Mr. President, I ask unanimous consent that a Schumer substitute amendment, which is at the desk, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4915) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Northern Border Counternarcotics Strategy Act of 2010”.

SEC. 2. NORTHERN BORDER COUNTER-NARCOTICS STRATEGY.

The Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law 109-469; 120 Stat. 3502) is amended by inserting after section 1110 the following:

“SEC. 1110A. REQUIREMENT FOR NORTHERN BORDER COUNTERNARCOTICS STRATEGY.

“(a) DEFINITIONS.—In this section, the terms ‘appropriate congressional committees’, ‘Director’, and ‘National Drug Control Program agency’ have the meanings given those terms in section 702 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701).”

“(b) STRATEGY.—Not later than 180 days after the date of enactment of this section, and every 2 years thereafter, the Director, in consultation with the head of each relevant National Drug Control Program agency and relevant officials of States, local governments, tribal governments, and the governments of other countries, shall develop a Northern Border Counternarcotics Strategy and submit the strategy to—

“(1) the appropriate congressional committees (including the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives);

“(2) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Indian Affairs of the Senate; and

“(3) the Committee on Armed Services, the Committee on Homeland Security, and the Committee on Natural Resources of the House of Representatives.

“(c) PURPOSES.—The Northern Border Counternarcotics Strategy shall—

“(1) set forth the strategy of the Federal Government for preventing the illegal trafficking of drugs across the international border between the United States and Canada, including through ports of entry and between ports of entry on the border;

“(2) state the specific roles and responsibilities of each relevant National Drug Control Program agency for implementing the strategy;

“(3) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement the strategy; and

“(4) reflect the unique nature of small communities along the international border between the United States and Canada, ongoing cooperation and coordination with Canadian law enforcement authorities, and variations in the volumes of vehicles and pedestrians crossing through ports of entry along the international border between the United States and Canada.

“(d) SPECIFIC CONTENT RELATED TO CROSS-BORDER INDIAN RESERVATIONS.—The Northern Border Counternarcotics Strategy shall include—

“(1) a strategy to end the illegal trafficking of drugs to or through Indian reservations on or near the international border between the United States and Canada; and

“(2) recommendations for additional assistance, if any, needed by tribal law enforcement agencies relating to the strategy, including an evaluation of Federal technical and financial assistance, infrastructure capacity building, and interoperability deficiencies.

“(e) LIMITATION.—

“(1) IN GENERAL.—The Northern Border Counternarcotics Strategy shall not change

the existing agency authorities and this section shall not be construed to amend or modify any law governing interagency relationships.

“(2) LEGITIMATE TRADE AND TRAVEL.—The Northern Border Counternarcotics Strategy shall be designed to promote, and not hinder, legitimate trade and travel.

“(f) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—

“(1) IN GENERAL.—The Northern Border Counternarcotics Strategy shall be submitted in unclassified form and shall be available to the public.

“(2) ANNEX.—The Northern Border Counternarcotics Strategy may include an annex containing any classified information or information the public disclosure of which, as determined by the Director or the head of any relevant National Drug Control Program agency, would be detrimental to the law enforcement or national security activities of any Federal, State, local, or tribal agency.”

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 4748), as amended, was passed.

PRE-DISASTER MITIGATION ACT OF 2009

Mr. KERRY. Mr. President, I ask unanimous consent that the Homeland Security and Governmental Affairs Committee be discharged from further consideration of H.R. 1746 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1746) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Mr. President, I ask unanimous consent that the Lieberman substitute amendment, which is at the desk, be agreed to; the bill, as amended, be read three times and passed; the motions to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4916) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Predisaster Hazard Mitigation Act of 2010”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The predisaster hazard mitigation program has been successful and cost-effective. Funding from the predisaster hazard mitigation program has successfully reduced loss of life, personal injuries, damage to and destruction of property, and disruption of communities from disasters.

(2) The predisaster hazard mitigation program has saved Federal taxpayers from spending significant sums on disaster recovery and relief that would have been otherwise incurred had communities not successfully applied mitigation techniques.

(3) A 2007 Congressional Budget Office report found that the predisaster hazard mitigation program reduced losses by roughly \$3 (measured in 2007 dollars) for each dollar invested in mitigation efforts funded under the predisaster hazard mitigation program. Moreover, the Congressional Budget Office found that projects funded under the predisaster hazard mitigation program could lower the need for post-disaster assistance from the Federal Government so that the predisaster hazard mitigation investment by the Federal Government would actually save taxpayer funds.

(4) A 2005 report by the Multihazard Mitigation Council showed substantial benefits and cost savings from the hazard mitigation programs of the Federal Emergency Management Agency generally. Looking at a range of hazard mitigation programs of the Federal Emergency Management Agency, the study found that, on average, \$1 invested by the Federal Emergency Management Agency in hazard mitigation provided the Nation with roughly \$4 in benefits. Moreover, the report projected that the mitigation grants awarded between 1993 and 2003 would save more than 220 lives and prevent nearly 4,700 injuries over approximately 50 years.

(5) Given the substantial savings generated from the predisaster hazard mitigation program in the years following the provision of assistance under the program, increasing funds appropriated for the program would be a wise investment.

SEC. 3. PREDISASTER HAZARD MITIGATION.

(a) ALLOCATION OF FUNDS.—Section 203(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(f)) is amended to read as follows:

“(f) ALLOCATION OF FUNDS.—

“(1) IN GENERAL.—The President shall award financial assistance under this section on a competitive basis and in accordance with the criteria in subsection (g).

“(2) MINIMUM AND MAXIMUM AMOUNTS.—In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State) for a fiscal year—

“(A) is not less than the lesser of—

“(i) \$575,000; or

“(ii) the amount that is equal to 1 percent of the total funds appropriated to carry out this section for the fiscal year; and

“(B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.”

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended to read as follows:

“(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$180,000,000 for fiscal year 2011;

“(2) \$200,000,000 for fiscal year 2012; and

“(3) \$200,000,000 for fiscal year 2013.”

(c) TECHNICAL CORRECTIONS TO REFERENCES.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) in section 602(a) (42 U.S.C. 5195a(a)), by striking paragraph (7) and inserting the following:

“(7) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.”; and

(2) by striking “Director” each place it appears and inserting “Administrator”, except—

(A) in section 622 (42 U.S.C. 5197a)—

(i) in the second and fourth places it appears in subsection (c); and

(ii) in subsection (d); and

(B) in section 626(b) (42 U.S.C. 5197e(b)).

SEC. 4. PROHIBITION ON EARMARKS.

Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) is amended by adding at the end the following:

“(n) PROHIBITION ON EARMARKS.—

“(1) DEFINITION.—In this subsection, the term ‘congressionally directed spending’ means a statutory provision or report language included primarily at the request of a Senator or a Member, Delegate or Resident Commissioner of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

“(2) PROHIBITION.—None of the funds appropriated or otherwise made available to carry out this section may be used for congressionally directed spending.

“(3) CERTIFICATION TO CONGRESS.—The Administrator of the Federal Emergency Management Agency shall submit to Congress a certification regarding whether all financial assistance under this section was awarded in accordance with this section.”

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 1746), as amended, was passed.

ACCESS TO CRIMINAL HISTORY RECORDS FOR STATE SENTENCING COMMISSIONS ACT OF 2010

Mr. KERRY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 6412 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6412) to amend title 28, United States Code, to require the Attorney General to share criminal records with State sentencing commissions, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, today the Senate will pass a measure to help State sentencing commissions make responsible decisions. The legislation we pass today will give State sentencing commissions, like that in Vermont, access to criminal history

data in the possession of the Attorney General. This will facilitate the study of recidivism rates and other important factors affecting public safety.

We all want to reduce crime and keep our neighborhoods safe, and, in these hard fiscal times, we must do so effectively and efficiently. It is important for State sentencing commissions to have access to data so they can properly study aggravating and mitigating factors in criminal cases and in return, better inform policy makers. This bill will help ensure that sentencing decisions are data-driven, using the best possible universe of information.

Mr. KERRY. Mr. President, I ask unanimous consent that the bill be read a third time and passed; the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6412) was ordered to a third reading, was read the third time, and passed.

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATIONS DISCHARGED

Mr. KERRY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc of the following nominations: PN2353 and PN2349; that the Senate then proceed en bloc to the consideration of the nominations; that the nominations be confirmed en bloc, and the motions to reconsider be laid upon the table; that any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

William Benedict Berger, Sr., of Florida, to be United States Marshal for the Middle District of Florida for the term of four years.

Joseph Campbell Moore, of Wyoming, to be United States Marshal for the District of Wyoming for the term of four years.

NOMINATION OF JOSEPH MOORE

Mr. ENZI. Mr. President, I rise today to speak on the nomination of Joe Moore to serve as the U.S. marshal for the district of Wyoming. I was pleased to see that the Senate has given this nomination full and fair consideration. I support Joe Moore's nomination for

this important position for Wyoming and am confident that he will do a great service in his capacities as U.S. marshal.

Joe Moore is currently the director of the Wyoming Office of Homeland Security—a position he has served in since it was created in 2003. During his time with the Wyoming Office of Homeland Security, he worked closely with State, local, and Federal officials to respond to and coordinate responses to several major natural disasters. Director Moore has also bolstered Wyoming's homeland security efforts and improved State and local law enforcement activities statewide. Director Moore is a graduate of Elizabethtown College in Pennsylvania, and prior to his service with the State of Wyoming, he spent 32 years serving in Federal law enforcement.

I would like to thank my colleagues on the Senate Judiciary Committee for advancing this nomination. The U.S. Marshals Service has a long, distinguished history in our State, and I applaud Director Moore's confirmation to head this agency in Wyoming.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

TRIBUTE TO MARY DAY

Mr. GRASSLEY. Mr. President, today, I rise to thank a longtime member of my staff who is retiring from the Senate. Mary Day began working in my Cedar Rapids office in 1987 as a constituent services specialist, and in 1996 rose to become the regional director based in the same office.

You would be hard pressed to find somebody in the region who doesn't know Mary. It is no wonder. She is a tireless worker for the 14-county area in eastern Iowa, and her infectious sense of humor, genuine demeanor, and kindness was sought by those she came across in her daily travels around the region.

There isn't anybody who knows the pulse of the community like Mary. She has been through the good, the bad, and the ugly. She has seen historic floods and business downturns. Through it all, Mary has remained a good-hearted, conscientious and effective staff member.

We spent many hours over the years traveling from county to county in her region. Mary wasn't always the most spirited or active person in the early hours of the day, but she was forever reliable and dependable no matter what hour of the day.

Not only has Mary been dedicated to the people of Iowa, but she also served as a mentor, confidant, and friend to others on my staff. Her colleagues say that Mary was their "go-to" person. She knew the bureaucracy inside and

out and had sound advice on how to handle just about any situation.

The people of Iowa have been fortunate to have somebody like Mary Day working on their behalf for the last 23 years. I have been privileged to have her represent me in such a well-respected and honest manner.

Thank you, Mary, for everything you have done for me and the people of Iowa.

TRIBUTE TO WYTHE WILLEY

Mr. GRASSLEY. Mr. President, I rise today to pay tribute to a friend and a trusted adviser, Wythe Willey, who lost a 2-year battle with cancer on Saturday. Wythe Willey was a person who left a mark. If you ever met him, you would be hard pressed to forget him. He was an Iowa farm boy through and through. Whether he was living in Des Moines or Cedar Rapids, he valued his friendships and he valued everybody he met along his life's journey.

Wythe had a passion for agriculture, and particularly for the cattle business, but also for politics. He had one of the most astute political minds I have ever come across. To sit and talk politics with Wythe was an invigorating endeavor. His political sense and understanding of the issues at the State and Federal level never failed to bring additional insight to anybody who would listen.

There is a saying among my former and current staff, "once a Grassley staffer, always a Grassley staffer." Wythe was the epitome of that motto. He worked on my Iowa staff from 1981–1987. When he left, he had already left his mark, but he was far from being done helping the people of Iowa. During the time on my staff, and the years since then, Wythe helped me by heading a committee to vet Federal judicial, U.S. attorney, and U.S. marshal nominees.

Even when he was involved in government and politics, Wythe's heart was always with his family farm. No matter where his professional career took him, he continued to run the century-old farm near Maquoketa. Cattlemen across Iowa and the country knew few supporters who fought for their interests more than Wythe. As president of both the Iowa Cattlemen's Association and the National Cattlemen's Beef Association he was, in that position, tireless in his advocacy to give Iowa beef producers an opportunity to benefit from the market.

I have a lot of good memories of Wythe, including how he stole the tax counsel from my Washington office and ended up marrying her. They did not think I knew much about it, but I remember when Susan started spending more and more time in Iowa. Wythe and Susan were one of the first of several Grassley office romances and set a precedent for years to come.

One last memory I will never forget is when I learned he was supporting my candidacy for the U.S. Senate in 1980. At that time, Wythe worked for the Governor who had backed my opponent in the primary. I can never thank him enough for his trust in me, especially when it was not an easy thing to do because of his closeness to the Governor at that time.

Wythe remained a loyal friend and trusted adviser up to his death, and for that I am forever thankful.

TRIBUTES OF RETIRING SENATORS

BOB BENNETT

Mr. BUNNING. Mr. President, today I pay tribute to my distinguished colleague from Utah, Senator ROBERT BENNETT, who will be retiring from the Senate at the end of the 111th Congress.

I have worked with BOB since coming over to the Senate in 1998. I have also had the privilege of serving on the Senate Energy and Banking Committees with BOB. In fact, we sat next to each other for years in the Banking Committee.

He is a man of integrity and devotion. As a young man, he worked as a staffer on Capitol Hill and moved on to become a successful entrepreneur in Washington, DC. In 1992, he followed in his father's footsteps and was elected to the U.S. Senate. Over the course of his three consecutive terms in the Senate, BOB has fought hard for our shared conservative values of fiscal discipline, securing our borders, and energy independence.

BOB has served the people of Utah proudly as their Senator. His leadership on the Banking Committee and in the Senate will be missed.

I am honored to know him and to have worked with him. I would like to thank BOB for his contributions to the Senate and to the country we both love. I wish him and his family the best in all of their future endeavors.

KIT BOND

Mr. President, I wish to join my fellow Senators to honor a colleague and a friend, Senator CHRISTOPHER SAMUEL "KIT" BOND, who, like me, will be retiring from the Senate at the close of this Congress.

I have had the privilege of working with Senator BOND on a variety of issues in the Senate for over a decade. He is an advocate of our Nation's military, infrastructure and energy needs, and intelligence community. The two of us have stood together on numerous issues—most notably advancing coal technology and maintaining a strong national defense.

Representing Missouri, home to major military bases and installations, Senator BOND has been instrumental to ensure that all citizens who are a part

of our armed services—including servicemembers, family members, and survivors of veterans—are provided the world-class care and benefits they have earned. Additionally, whether the items of the day were funding for our Armed Forces and intelligence communities or improving U.S. relations among the international community, Senator BOND brought a voice of wisdom and reason to the Senate and governing bodies worldwide.

The Senate will not be the same without Senator KIT BOND. In a time when America has needed leadership in the Senate to address threats from conventional and unconventional means, Senator KIT BOND has continued to rise to the occasion by giving those who defend us the critical tools needed to prepare and protect our nation. I will miss my friend KIT BOND.

SAM BROWNBACK

Mr. President, I rise today to honor my friend from Kansas, Senator SAM BROWNBACK.

Born in Parker, KS, SAM has dedicated his time to serving the great people of Kansas. Beginning his service as the secretary of agriculture in Kansas, SAM has represented Kansas with dignity and honor.

Following his election in 1994, I have had the opportunity to work with Senator BROWNBACK in both the House of Representatives and the Senate. While in the Senate, SAM and I worked tirelessly on the Senate Committee on Energy and Natural Resources to utilize the energy resources we have in this great country.

SAM has created a long list of accomplishments on a wide range of issues for the people of Kansas and this Nation. I know his family and the people of Kansas are proud to call him one of their own. His leadership in the Senate will be missed, but our loss is a gain for the State of Kansas as SAM prepares for his new role as Governor. It has truly been an honor serving with him during these many years.

I would like to thank SAM for his contributions to the Senate and wish him and his family well as they embark on this new chapter in their lives.

JUDD GREGG

Mr. President, I wish to honor my colleague from New Hampshire, Senator GREGG, who is retiring from the U.S. Senate after serving 18 years in this Chamber and serving 8 years in the U.S. House of Representatives.

Born and bred in New Hampshire, JUDD has dedicated his life to public service. JUDD served on the Executive Council of New Hampshire in 1978 before running for national office. In 1980, he was elected to the U.S. House of Representatives and was elected to three additional terms before returning to New Hampshire. In 1988, JUDD became the Governor of New Hampshire, a seat formerly held by his father Hugh. During his two terms as Gov-

ernor, JUDD managed to balance the State's budget and left Concord with a surplus. Following his tenure as Governor, JUDD returned to Washington in 1993 and has represented New Hampshire in the Senate ever since.

While working in the Senate, I have had the opportunity to serve with JUDD on the Banking Committee and the Budget Committee, where he currently serves as the ranking member. I have respect for the manner in which JUDD has conducted himself in the role of ranking member and the Republican leader on the Budget Committee. I also admire the fact that he always keeps our national deficit in mind when making tough decisions, whether or not these decisions are going to be popular.

JUDD has a long list of accomplishments to show for the people of New Hampshire and the United States. His leadership in the Senate will be missed, and it has truly been an honor serving with him.

I would like to thank JUDD for his contributions to the Senate and wish him well as he closes a chapter in his life and begins another.

GEORGE VOINOVICH

Mr. President, I rise to pay tribute to my friend and colleague, Senator GEORGE VOINOVICH. Over the past 12 years I have had the opportunity to work with Senator VOINOVICH on many issues that impact our adjoining States and this Nation. While working with Senator VOINOVICH, I gained respect for his firm commitment to his principles.

Prior to our time together in the Senate, I only knew of Senator VOINOVICH through his reputation as mayor of Cleveland and Governor of Ohio. In these positions, he cut spending, fought corruption, and created jobs. These experiences taught Senator VOINOVICH how to make tough decisions, and he never lost that quality here in the Senate.

Senator VOINOVICH also never forgot his roots. As a child of Yugoslavian parents, the Senator never lost interest in the Balkans, and through his work on the Senate Foreign Relations Committee, he made sure that this region was not forgotten by the U.S. Government. I also worked closely with him on Department of Energy issues because Ohio and Kentucky have neighboring DOE uranium sites.

Although Senator VOINOVICH accomplished many things in his life, his greatest achievement has been as a father and husband. GEORGE and his wife Janet have been married for over 47 years. I wish him nothing but the best as he embarks on a new chapter in his life.

GEORGE LEMIEUX

Mr. President, today I would like to honor my distinguished colleague from Florida, Senator GEORGE LEMIEUX, who will be retiring from the Senate at the end of the 111th Congress.

GEORGE has humbly served the people of Florida for many years as deputy at-

torney general, chief of staff to the Governor, and most recently as a Member of the U.S. Senate. While his time in the Senate might have been short, his list of accomplishments is not. GEORGE has proven to be a principled leader that is unafraid to tackle the difficult issues facing our Nation. He has offered thoughtful and proactive solutions to problems that many would rather defer to a future Congress and a future generation. The people of Florida should be proud to have been represented by a man of such dedication and character.

I am honored to know GEORGE and to have worked with him. I would like to thank him for his contributions to the Senate and wish him and his family the best in all of their future endeavors.

EVAN BAYH

Mr. HATCH. Mr. President, I rise today to offer some remarks on the departure of my friend, the junior Senator from Indiana. Senator EVAN BAYH has served the good people of his State for two full terms and will be leaving the Senate at the end of this session. He will most certainly be missed.

Senator BAYH was born in Shirkieville, IN, in 1955. He is, of course, the son of the distinguished Senator Birch Bayh, who served in this Chamber for 18 years. EVAN attended college at Indiana University, where he graduated with honors. He received his law degree from the University of Virginia. After graduating from law school and serving a year as a clerk to a Federal judge, EVAN returned to Indiana to go into private law practice.

Senator BAYH's career in public service began in 1986, when he was elected to serve as Indiana's secretary of State. He held that position for 2 years before he was elected Governor of Indiana in 1988.

As Governor, Senator BAYH earned a reputation as a fiscal conservative and a voice of moderation. He was able to work with members of both parties to achieve the best results for the people of Indiana. During his tenure, taxes in Indiana remained low, while the State enjoyed multiple budget surpluses. He also had great successes in areas such as education, crime, and job creation. Indeed, he was a very effective Governor throughout his two terms in office.

Two years after completing his second term, EVAN was elected to serve in the same Senate seat held by his father. And, he brought with him the reputation and skills that had made him such a successful Governor.

As Indiana's Senator, Senator BAYH has demonstrated that one can be a proud member of their party and still find ways to work with the other side. No one can doubt that EVAN is a Democrat. He comes from a family of Democrats and I think his credentials as a supporter of his party's agenda are beyond dispute. However, he has often

been looked to as a deal-maker here in the Senate. Senator BAYH has demonstrated sound judgment and strong leadership throughout his career in public service. That, coupled with his willingness to reach across the aisle and find common ground, has made him one of the most respected voices in the U.S. Senate.

Earlier this year, Senator BAYH announced his retirement. As he explained his decision not to run for reelection, said the following:

For some time, I have had a growing conviction that Congress is not operating as it should. There is too much partisanship and not enough progress—too much narrow ideology and not enough practical problem-solving. Even at a time of enormous challenge, the peoples' business is not being done.

In a lot of ways, I agree with Senator BAYH's assessment of Congress. Too often, the peoples' business gets set aside in favor of politics and partisan agendas. While I think we all hope that things will get better in the future, one thing is certain: we need more people like EVAN BAYH in both parties.

I am certain that Senator BAYH will be successful in whatever endeavor he chooses. But, while I am sure he doesn't need it, I want to wish him and his family the very best of luck.

RUSS FEINGOLD

Mr. President, I rise today to offer some remarks on the departure of my friend, the junior Senator from Wisconsin. Senator RUSS FEINGOLD, the fierce and independent Democrat who has served the good people of his State for 18 years, will be departing at the end of this session. He will certainly be missed.

Senator FEINGOLD was born in 1953 in Janesville, WI. He received his bachelor's degree from the University of Wisconsin and then went to University of Oxford on a Rhodes Scholarship. After returning to the U.S., he attended and graduated from Harvard Law School and then went back to Wisconsin to begin a career as a lawyer in private practice.

While RUSS was a long-time political activist, having volunteered and worked on a number of election campaigns, he began his career in public service in 1982 when he was elected to serve the first of two terms in the Wisconsin State Senate. Ten years later, he was elected to serve in the U.S. Senate, and he has been here ever since.

I don't think it is any secret that RUSS and I tend to disagree on most issues. But, I have always admired his commitment to his principles and his devotion to his beliefs. Now, I may give Democrats a hard time every now and then with my criticism, particularly when I find myself at odds with their agenda. But, I have never been able to fault Senator FEINGOLD personally because I believe he is principled public servant who is simply trying to do

what he believes is best for the country. He has been willing to do so even when it has been unpopular or when the majority of his own party was moving in a different direction.

RUSS has a reputation for being contrarian at times. To be honest, I think he is probably proud of that fact. While he has certainly earned that reputation, I have always believed his actions and his positions—including those I have strongly disagreed with—have been rooted in his sincerely held beliefs.

Throughout his time in the Senate, Senator FEINGOLD has been a fierce, articulate, and effective advocate for his ideals. While he and I have rarely been in agreement, he has always had my respect and admiration. I want to wish him the best of luck in any future endeavors.

CHRISTOPHER DODD

Mr. President, I rise today to offer some remarks on the departure of my good friend, the senior Senator from Connecticut. After five terms and 30 years in the Senate, Senator CHRISTOPHER DODD will be leaving us at the end of this session. He will most certainly be missed.

CHRIS was born in Willimantic, CT, in 1944. He was the fifth of six children born to his parents, Grace Mary Dodd and another Connecticut Senator, Thomas J. Dodd. Senator DODD graduated from Providence College and then spent 2 years in the Peace Corps. When he returned to the U.S., he enlisted in the Army National Guard and later served in the U.S. Army Reserves. After graduating from the University of Louisville School of Law in 1972, CHRIS practiced law in New London. However, just 2 years later, he would answer the call to public service. CHRIS was elected to the House of Representatives in 1974 and has represented the good people of Connecticut in Congress ever since. All told, Senator DODD spent three terms in the House before coming to the Senate in 1980.

Throughout his time in the Senate, CHRIS has been an unwavering presence. He's chaired the Rules Committee and the Banking Committee. He has been among the most prominent members of the HELP and Foreign Relations Committees. Over the years, our paths have crossed numerous times. Of course, most of the time, we have been on opposing sides. But, there have been a few times—some significant times—where we have been able to put our differences aside and work together.

Most recently, I worked with Senator DODD on passing the Edward M. Kennedy Serve America. CHRIS talks often of his service of the Peace Corps and the lessons he learned during that time. As a Senator, has been a tireless advocate for the Peace Corps program and for volunteerism in general. In that regard, he and I have much in

common. As a young man, I served a full-time mission for the Church of Jesus Christ of Latter-day Saints. I too learned much about the benefits of selfless, volunteer service while serving as a missionary and those 2 years were instrumental in my understanding of the world and instilled me with a desire to serve and help others. The Serve America Act was meant to embody these ideals and provide similar opportunities for others. It could have very easily been a purely Democratic endeavor. But, in the end, we were able to work together in drafting and passing this legislation. With CHRIS's help, the Serve America Act became one of very few bills passed during this Congress with a broad, bipartisan majority here in the Senate. It was, in my opinion, a piece of legislation that represents the best of what both parties have to offer. Fittingly, we named the bill after CHRIS and my mutual friend, the late Senator Ted Kennedy.

I want to wish Senator DODD and his wife Jackie the very best of luck going forward.

FOOD SAFETY MODERNIZATION ACT

Ms. KLOBUCHAR. Mr. President, I am here to recognize today's achievement of the passage of the landmark bipartisan Food Safety Modernization Act out of the Senate.

The first responsibility of government is to protect its citizens. Ensuring a rapid response to outbreaks of contaminated food is critical to maintaining public trust in our food supply. This bill will make necessary changes to help keep consumers safe, and I look forward to passage in the House and the bill being signed into law.

This food safety legislation is going to be a tremendous benefit to our Nation, and to protecting our citizens from foodborne illnesses, as well as potential acts of terrorism aimed at our food supply. I urge the Food and Drug Administration, FDA, to work very closely with the business community in the rulemaking process to be sure that we are not adding additional regulations that may already be covered and regulated under other areas, such as the Food and Drug Cosmetic Act and the Bioterrorism Act.

I want to thank my colleagues for their efforts to make this legislation strong, and to protect the American people while balancing the legitimate concerns that businesses have that do not over reach or over legislate in this bill. The rulemaking process must not be duplicative or attempt to regulate areas that already protect public safety in other areas of law, statute and regulation. It is my hope that the FDA will be practical in applying this legislation to manufacturers of ingredients such as food processing aids, and will direct their resources where the real

food safety dangers occur and are occurring. The use of indirect food additives and processing aids have not been determined to be the source of food borne illness outbreaks and I believe it is important that the FDA continue to focus its scarce resources on the key elements that this legislation hopes to address in the Food Safety area.

ELDERLY HOUSING

Mr. KOHL. Mr. President, I rise today to praise the passage of S. 118, the section 202 Supportive Housing for the Elderly Act. Earlier this Congress, Senator SCHUMER and I introduced S. 118 to modernize and improve section 202 housing for seniors across the country. This piece of legislation will help ensure that seniors have accessible, safe and affordable housing so they can live independently and with dignity, while also saving the government money by keeping people out of expensive nursing homes.

HUD's senior housing program, also known as the section 202 program, provides capital grants to enable the development of supportive housing exclusively for the very low-income elderly population. Unfortunately, the 202 program has been unable to address the growing demand. For every available unit, there are ten seniors waiting to move in. Under the current law, the development and preservation of existing 202 communities can be time-consuming, bureaucratic and often require duplicative waivers and special permission from HUD to complete.

Additionally, the program provides rental subsidies and grants to fund supportive services for seniors, such as in-home care and transportation. Over one-third of the section 202 population is considered disabled enough to be at risk for being put in a nursing home. By reducing the need for costly nursing home stays, access to these types of services saves both seniors and the government money.

Modernizing the elderly housing program will promote the preservation and renovation of existing 202 developments. Many properties are in need of both rehabilitation and increased access to services that help seniors to remain in their homes. This legislation will help provide the modernization they desperately need.

I want to thank the American Association of Homes and Services for the Aging as well as the Wisconsin Association of Homes and Services for the Aging for being champions of this legislation and for working with us to develop a comprehensive bill that will help meet the growing need for senior housing in this Nation.

I also want to thank Senator DODD and his staff for all of his efforts to move this legislation. He has always been great to work with and he will be greatly missed next year. And I want

to extend my appreciation to Senator SHELBY and his staff for working with us on this bill.

Senior citizens deserve to have housing that will help them maintain their independence. It is my hope that with the passage of S. 118, many more Americans have a place to call home during their golden years.

TRIBUTE TO DR. JANE GOODALL

Mr. UDALL of New Mexico. Mr. President, in July I introduced S. Res. 581, a resolution honoring the educational and scientific significance of Dr. Jane Goodall on the 50th anniversary of the beginning of her work in what is today Gombe Stream National Park in Tanzania. I would like to urge my colleagues to support this resolution, which also has a companion bill that was passed with unanimous support in the House of Representatives on July 28 of this year; and I would like to have printed in the RECORD the article printed in the October 2010 edition of National Geographic. The article, entitled "Fifty Years at Gombe," describes Dr. Goodall's lifetime of dedication and contribution to our understanding of chimpanzees and the natural world, as well as her unique and heroic personality. As described in the article, Dr. Goodall "made three observations that rattled the comfortable wisdoms of physical anthropology: meat eating by chimps—that had been presumed vegetarian—tool use by chimps—in the form of plant stems probed into termite mounds—and toolmaking—stripping leaves from stems—supposedly a unique trait of human premeditation. Each of those discoveries further narrowed the perceived gap of intelligence and culture between *Homo sapiens* and *Pan troglodytes*."

As a leading researcher, conservationist, and humanitarian, Dr. Goodall has made remarkable contributions to our understanding of the species with whom we live. She has led by example in efforts to ensure that these species continue to thrive and to ensure that surrounding communities are also able to thrive.

Mr. President, I ask unanimous consent to have printed in the RECORD the article to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From National Geographic Magazine, Oct. 2010]

FIFTY YEARS AT GOMBE (By David Quammen)

In 1960 a spirited animal lover with no scientific training set up camp in Tanganyika's Gombe Stream Game Reserve to observe chimpanzees. Today Jane Goodall's name is synonymous with the protection of a beloved species. At Gombe—one of the longest, most detailed studies of any wild animal—revelations about chimps keep coming.

Most of us don't enter upon our life's destiny at any neatly discernible time. Jane Goodall did.

On the morning of July 14, 1960, she stepped onto a pebble beach along a remote stretch of the east shore of Lake Tanganyika. It was her first arrival at what was then called the Gombe Stream Game Reserve, a small protected area that had been established by the British colonial government back in 1943. She had brought a tent, a few tin plates, a cup without a handle, a shoddy pair of binoculars, an African cook named Dominic, and—as a companion, at the insistence of people who feared for her safety in the wilds of pre-independence Tanganyika—her mother. She had come to study chimpanzees. Or anyway, to try. Casual observers expected her to fail. One person, the paleontologist Louis Leakey, who had recruited her to the task up in Nairobi, believed she might succeed.

A group of local men, camped near their fishing nets along the beach, greeted the Goodall party and helped bring up the gear. Jane and her mother spent the afternoon putting their camp in order. Then, around 5 p.m., somebody reported having seen a chimpanzee. "So off we went," Jane wrote later that night in her journal, "and there was the chimp." She had gotten only a distant, indistinct glimpse. "It moved away as we drew level with the crowd of fishermen gazing at it, and, though we climbed the neighbouring slope, we didn't see it again." But she had noticed, and recorded, some bent branches flattened together in a nearby tree: a chimp nest. That datum, that first nest, was the starting point of what has become one of the most significant ongoing sagas in modern field biology: the continuous, minutely detailed, 50-year study, by Jane Goodall and others, of the behavior of the chimps of Gombe.

Science history, with the charm of a fairy-tale legend, records some of the high points and iconic details of that saga. Young Miss Goodall had no scientific credentials when she began, not even an undergraduate degree. She was a bright, motivated secretarial school graduate from England who had always loved animals and dreamed of studying them in Africa. She came from a family of strong women, little money, and absent men. During the early weeks at Gombe she struggled, groping for a methodology, losing time to a fever that was probably malaria, hiking many miles in the forested mountains, and glimpsing few chimpanzees, until an elderly male with grizzled chin whiskers extended to her a tentative, startling gesture of trust. She named the old chimp David Greybeard. Thanks partly to him, she made three observations that rattled the comfortable wisdoms of physical anthropology: meat eating by chimps (who had been presumed vegetarian), tool use by chimps (in the form of plant stems probed into termite mounds), and toolmaking (stripping leaves from stems), supposedly a unique trait of human premeditation. Each of those discoveries further narrowed the perceived gap of intelligence and culture between *Homo sapiens* and *Pan troglodytes*.

The toolmaking observation was the most epochal of the three, causing a furor within anthropological circles because "man the toolmaker" held sway as an almost canonical definition of our species. Louis Leakey, thrilled by Jane's news, wrote to her: "Now we must redefine 'tool,' redefine 'man,' or accept chimpanzees as humans." It was a memorable line, marking a very important new stage in thinking about human essence. Another interesting point to remember is that, paradigm shifting or not, all three of those most celebrated discoveries were made by

Jane (everyone calls her Jane; there is no sensible way not to call her Jane) within her first four months in the field. She got off to a fast start. But the real measure of her work at Gombe can't be taken with such a short ruler.

The great thing about Gombe is not that Jane Goodall "redefined" humankind but that she set a new standard, a very high standard, for behavioral study of apes in the wild, focusing on individual characteristics as well as collective patterns. She created a research program, a set of protocols and ethics, an intellectual momentum—she created, in fact, a relationship between the scientific world and one community of chimpanzees—that has grown far beyond what one woman could do. The Gombe project has enlarged in many dimensions, has endured crises, has evolved to serve purposes that neither she nor Louis Leakey foresaw, and has come to embrace methods (satellite mapping, endocrinology, molecular genetics) and address questions that carry far beyond the field of animal behavior. For instance, techniques of molecular analysis, applied to fecal and urine samples that can be gathered without need for capture and handling, reveal new insights about genetic relationships among the chimps and the presence of disease microbes in some of them. Still, a poignant irony that lies near the heart of this scientific triumph, on its golden anniversary, is that the more we learn about the chimps of Gombe, the more we have cause to worry for their continued survival.

Two revelations in particular have raised concern. One involves geography, the other involves disease. The world's most beloved and well-studied population of chimpanzees is isolated on an island of habitat that's too small for long-term viability. And now some of them seem to be dying from their version of AIDS.

The issue of how to study chimpanzees, and of what can be inferred from behavioral observations, has faced Jane Goodall since early in her career. It began coming into focus after her first field season, when Louis Leakey informed Jane of his next bright idea for shaping her life: He would get her into a Ph.D. program in ethology at Cambridge University.

This doctorate seemed a stretch on two counts. First, her lack of any undergraduate degree whatsoever. Second, she had always aspired to be a naturalist, or maybe a journalist, but the word "scientist" hadn't figured in her dreaming. "I didn't even know what ethology was," she told me recently. "I had to wait quite a while before I realized it simply meant studying behavior." Once enrolled at Cambridge, she found herself crosswise with departmental elders and the prevailing certitudes of the field. "It was a bit shocking to be told I'd done everything wrong. Everything." By then she had 15 months of field data from Gombe, most of it gathered through patient observation of individuals she knew by monikers such as David Greybeard, Mike, Ollie, and Fifi. Such personification didn't play well at Cambridge; to impute individuality and emotion to nonhuman animals was anthropomorphism, not ethology. "Fortunately, I thought back to my first teacher, when I was a child, who taught me that that wasn't true." Her first teacher had been her dog, Rusty. "You cannot share your life in a meaningful way with any kind of animal with a reasonably well-developed brain and not realize that animals have personalities." She pushed back against the prevailing view—one thing about gentle Jane, she al-

ways pushes back—and on February 9, 1966, she became Dr. Jane Goodall.

In 1968 the little game reserve underwent its own graduation, becoming Tanzania's Gombe National Park. By then Jane was receiving research funding from the National Geographic Society. She was married and a mother and famous worldwide, owing in part to her articles for this magazine and her comely, forceful presence in a televised film, *Miss Goodall and the Wild Chimpanzees*. She had institutionalized her field camp, in order to fund and perpetuate it, as the Gombe Stream Research Center (GSRC). In 1971 she published *In the Shadow of Man*, her account of the early Gombe studies and adventures, which became a best seller. Around the same time, she began hosting students and graduate researchers to help with chimp-data collection and other research at Gombe. Her influence on modern primatology, noisily bruited about by Leakey, is more quietly suggested by the long list of Gombe alumni who have gone on to do important scientific work, including Richard Wrangham, Caroline Tutin, Craig Packer, Tim Clutton-Brock, Geza Teleki, William McGrew, Anthony Collins, Shadrack Kamenya, Jim Moore, and Anne Pusey. The last of those, Pusey, now professor and chair of evolutionary anthropology at Duke University, also serves the Jane Goodall Institute (established in 1977) as director of its Center for Primate Studies. Among other duties, she curates the 22 file cabinets full of field data—the notebooks and journal pages and check sheets, some in English, some in Swahili—from 50 years of chimp study at Gombe.

That 50-year run suffered one traumatic interruption. On the night of May 19, 1975, three young Americans and a Dutch woman were kidnapped by rebel soldiers who had come across Lake Tanganyika from Zaire. The four hostages were eventually released, but it no longer seemed prudent for the Gombe Stream Research Center to welcome expatriate researchers and helpers—as Anthony Collins explained to me.

Collins was then a young British biologist with muttonchop sideburns and a strong interest in baboons, the other most conspicuous primate at Gombe. In addition to his baboon research, he has continued to play important administrative roles in the Jane Goodall Institute and at GSRC itself, off and on, for almost 40 years. He recalls May 19, 1975, as "the day the world changed, as far as Gombe was concerned." Collins was absent that night but returned promptly to help cope with the aftermath. "It was not entirely bad," he told me. The bad part was that foreign researchers could no longer work at Gombe; Jane herself couldn't work there, not without a military escort, for some years. "The good thing about it was that the responsibility for data collection went straightaway, the following day, to the Tanzanian field staff." Those Tanzanians had each received at least a year's training in data collection but still functioned partly as trackers, helping locate the chimps, identifying plants, and making sure the *mzungu* (white) researchers got back to camp safely each night before dark. Then came the kidnapping, whereupon the Tanzanians stepped up, and "on that day the baton was passed to them," Collins said. Only one day's worth of data was missed. Today the chief of chimpanzee researchers at Gombe is Gabo Paulo, supervising the field observations and data gathering of Methodi Vyampi, Magombe Yahaya, Amri Yahaya, and 20 other Tanzanians.

Human conflicts overflowing from neighboring countries weren't the only sort of

tribulation that affected Gombe. Chimpanzee politics could also be violent. Beginning in 1974, the Kasekela community (the main focus of Gombe research) conducted a series of bloody raids against a smaller subgroup called Kahama. That period of aggression, known in Gombe annals as the Four Year War, led to the death of some individuals, the annihilation of the Kahama subgroup, and the annexation of its territory by Kasekela. Even within the Kasekela community, struggles among males for the alpha position are highly political and physical, while among females there have been cases of one mother killing a rival mother's infant. "When I first started at Gombe," Jane has written, "I thought the chimps were nicer than we are. But time has revealed that they are not. They can be just as awful."

Gombe was never Eden. Disease intruded too. In 1966 came an outbreak of something virulent (probably polio, contracted from humans nearby), and six chimps died or disappeared. Six others were partially paralyzed. Two years later, David Greybeard and four others vanished while a respiratory bug (influenza? bacterial pneumonia?) swept through. Nine more chimps died in early 1987 from pneumonia. These episodes, reflecting the susceptibility of chimps to human-carried pathogens, help explain why scientists at Gombe are acutely concerned with the subject of infectious disease.

That concern has been heightened by landscape changes outside the park boundaries. Over the decades people in the surrounding villages have struggled to live ordinary lives—cutting firewood from the steep hillsides, planting crops on those slopes, burning the grassy and scrubby areas each dry season for fertilizing ash, having babies, and trying to feed them. By the early 1990s deforestation and erosion had made Gombe National Park an ecological island, surrounded by human impact on three sides and Lake Tanganyika on the fourth. Within that island lived no more than about a hundred chimpanzees. By all the standards of conservation biology, it wasn't enough to constitute a viable population for the long term—not enough to ensure against negative effects of inbreeding, and not enough to stand steady against an epidemic caused by the next nasty bug, which might be more transmissible than polio, more lethal than flu. Something had to be done, Jane realized, besides continued study of a fondly regarded population of apes that might be doomed. Furthermore, something had to be done for the people as well as for the chimps.

In a nearby town she met a German-born agriculturist, George Strunden, and with his help created TACARE (originally the Lake Tanganyika Catchment Reforestation and Education project), whose first effort, in 1995, established tree nurseries in 24 villages. The goals were to reverse the denudation of hillsides, to protect village watersheds, and maybe eventually to reconnect Gombe with outlying patches of forest (some of which also harbor chimpanzees) by helping the villagers plant trees. For instance, there's a small population of chimps in a patch of forest called Kwitanga, about ten miles east of Gombe. To the southeast, about 50 miles, an ecosystem known as Masito-Ugalla supports more than 500 chimps. If either area could be linked to Gombe by reforested corridors, the chimps would benefit from increased gene flow and population size. Then again, they might be hurt by sharing diseases.

By any measure, it's a near-impossible challenge. Proceeding carefully, patiently, Jane and her people have achieved some encouraging gains in the form of community

cooperation, decreased burning, and natural forest regeneration.

On the second morning of my Gombe visit, along a trail not far above the house in which Jane has lived intermittently since the early 1970s, I encountered a group of chimpanzees. They were noodling their way cross slope on a relaxed search for breakfast, moving mostly on the ground, but occasionally up into a *Vitex* tree to eat the small purple-black berries, and were seemingly indifferent to my presence and that of the Tanzanian researchers. They included some individuals whose names, or at least their family histories, were familiar. Here was Gremlin (daughter of Melissa, a young female when Jane first arrived), Gremlin's daughter Gaia (with a clinging infant), Gaia's younger sister Golden, Pax (son of the notoriously cannibalistic Passion), and Fudge (son of Fanni, grandson of Fifi, great-grandson of Flo, the beloved, ugly-nosed matriarch famous from Jane's early books). Here also was Titan, a very large male, 15 years old, and still rising toward his prime. The rules at Gombe National Park say that you must not approach closely to a chimpanzee, but the tricky thing on a given day is to keep the chimps from approaching closely to you. When Titan came striding up the trail, burly and confident, we all squeezed to the edge and let him swagger past, within inches. A lifetime of familiarity with innocuous human researchers, their notebooks, and their check sheets, has left him blasé.

Another reflection of casualness: Gremlin defecated on the trail not far from where we stood, and then Golden too relieved herself. Once they had ambled away, a researcher named Samson Shadrack Pindu pulled on yellow latex gloves and moved in. He crouched over Gremlin's dollop of fibrous olive dung, using a small plastic scoop to transfer a bit into a specimen tube, which he labeled with time, date, location, and Gremlin's name. The tube contained a stabilizing liquid called RNAlater, which preserves any RNA (from, for instance, a retrovirus) for later genetic analysis. That tube and others like it, representing one fecal sample every month from as many chimps as possible, were destined for the laboratory of Beatrice Hahn at the University of Alabama in Birmingham, who for ten years has been studying simian immunodeficiency virus at Gombe.

Simian immunodeficiency virus in chimpanzees, known technically as SIVcpz, is the precursor and origin of HIV-1, the virus that accounts for most cases of AIDS around the world. (There is also an HIV-2.) Notwithstanding the name, SIVcpz had never been found to cause immune system failure in wild chimpanzees—until Hahn's expertise in molecular genetics converged with the long-term observational data available at Gombe. In fact, SIVcpz was thought to be harmless in chimps, an assumption that raised questions about how or why it has visited such a lethal pandemic upon humans. Had a few, fateful mutations changed an innocuous chimp virus into a human killer? That line of thought had to be modified after publication of a 2009 paper in the journal *Nature*, with Brandon F. Keele (then at Hahn's lab) as first author and Beatrice Hahn and Jane Goodall among the co-authors. The Keele paper reported that SIV-positive chimps at Gombe suffered between ten times and 16 times more risk of death at a given age than SIV-negative chimps. And three SIV-positive carcasses have been found, their tissues (based on lab work at the molecular level) showing signs of damage resembling AIDS.

The implications are stark. An AIDS-like illness seems to be killing some of Gombe's chimps.

Of all the bonds, shared features, and similarities that link our species with theirs, this revelation is perhaps the most troubling. "It's very scary, knowing the chimps seem to be dying at a younger age," Jane told me. "I mean, how long has it been there? Where does it come from? How is it affecting other populations?" For the sake of chimpanzee survival throughout Africa, those questions urgently need to be studied.

But this gloomy discovery also carries huge potential significance for AIDS research in humans. Anthony Collins pointed out that although SIV has been found elsewhere in chimp communities, "none of them is a study population habituated to human observers; and certainly none of them is one which has genealogical information going right back in time; and none is so tame that you can take samples from every individual every month." After a moment, he added, "It's very sad that the virus is here, but a lot of knowledge can come out of it. And understanding."

The fancy new methods of molecular genetics bring more than just dire revelations about disease. They also bring the exciting, cheerful capacity to address certain longstanding mysteries about chimpanzee social dynamics and evolution. For instance: Who are the fathers at Gombe? Motherhood is obvious, and the intimate relations between mothers and infants have been well studied by Jane herself, Anne Pusey, and others. But because female chimps tend to mate promiscuously with many males, paternity has been far harder to determine. And the question of paternal identity relates to another question: How does male competition for status within the hierarchy—all that blustering effort expended to achieve and hold the rank of alpha—correlate with reproductive success? A young scientist named Emily Wroblewski, analyzing DNA from fecal samples gathered by the field team, has reached an answer. She found that the higher ranking males do succeed in fathering many chimps—but that some low-ranking males make out pretty well too. The strategy involves investing effort in a consortship—an exclusive period of spending time as a pair, traveling together, and mating—often with younger, less desirable females.

Jane herself had predicted this finding, from observational data, two decades earlier. "The male who successfully initiates and maintains a consortship with a fertile female," she wrote, "probably has a better chance of fathering her child than he would in the group situation, even if he were alpha."

Impelled by broader imperatives, Jane ended her career as a field biologist in 1986, just after publication of her great scientific book, *The Chimpanzees of Gombe*. Since then she has lived as an advocate, a traveling lecturer, a woman driven by a sense of public mission. What's the mission? Her first cause, which arose from her years at Gombe, was improving the grim treatment inflicted on chimpanzees held in many medical research labs. Combining her toughness and moral outrage with her personal charm and willingness to interact graciously, she achieved some negotiated successes. She also founded sanctuaries for chimps who could be freed from captivity, including many orphaned by the bush-meat trade. That work led to her concerns about human conduct toward other species. She established a program called Jane Goodall's Roots & Shoots, encouraging

young people around the world to become active in projects that promote greater concern for animals, the environment, and the human community. During this period she became an explorer-in-residence at the National Geographic Society. She now spends about 300 days a year on the road, giving countless interviews and schoolroom talks, lecturing in big venues, meeting with government officials, raising money to turn the wheels of the Jane Goodall Institute. Occasionally she sneaks away into a forest or onto a prairie, sometimes with a few friends, to watch chimps or sandhill cranes or black-footed ferrets and to restore her energy and sanity.

Fifty years ago Louis Leakey sent her to study chimpanzees because he thought their behavior might cast light on human ancestors, his chosen subject. Jane ignored that part of the mandate and studied chimps for their own sake, their own interest, their own value. While doing that, she created institutions and opportunities that have yielded richly in the work of other scientists, as well as a luminous personal example that has brought many young women and men into science and conservation. It's important to remember that the meaning of Gombe, after half a century, is bigger than Jane Goodall's life and work. But make no mistake: Her life and work have been very, very big.

ADDITIONAL STATEMENTS

PENNSYLVANIA VOLLEYBALL CHAMPIONS

● Mr. CASEY. Mr. President, today I congratulate the Pennsylvania State University's women's volleyball team on their fourth consecutive NCAA championship. With its December 18, 2010, sweep of the University of California, the Nittany Lions became the only team in division I women's volleyball history to win four consecutive national titles. Prior to this streak, no NCAA women's volleyball team had ever won consecutive national championships.

The team was led by Head Coach Russ Rose. Coach Rose has coached the Nittany Lions for the last 32 years. He coached Penn State to an NCAA championship in 1999, and together with the recent four consecutive championships, his five NCAA titles are more than any other coach in division I volleyball history. Coach Rose was aided by assistant coaches Dennis Hohenshelt and Kaleena Davidson, as well as director of Volleyball Operations Adam Hughes.

The team members have also distinguished themselves individually. Freshman Deja McClendon was named by the American Volleyball Coaches Association as the national freshman of the year. Her performance during the championship tournament led to her being named the Most Outstanding Player of the final four. Senior Blair Brown became the sixth straight Nittany Lion to be named the Big Ten Player of the Year. She was also recently named as a finalist for the 2010-11 Honda Sports Award. The award is

given to the top female collegiate athlete in the sport. Brown, along with fellow seniors Arielle Wilson and Alyssa D'Errico were members of each of the four national championship teams, and have won 24 consecutive tournaments together.

Members of the 2010 championship team include: Ariel Scott, Katie Kabbes, Fatima Balza, Jessica Ullrich, Kristin Carpenter, Maddie Martin, Arielle Wilson, Erica Denney, Blair Brown, Darcy Dorton, Alyssa D'Errico, Megan Shifflett, Cathy Quilico, Maggie Harding, Katie Slay, Deja McClendon, Krosby Pabst, Mikinzie Moydell, and Ali Longo.

The hard work and dedication of these young women is exemplary. I congratulate them, their coaches, and the students, faculty, staff and alumni of the Pennsylvania State University on a record-setting season.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-8561. A communication from the Acting Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Gypsy Moth Generally Infested Areas; Illinois, Indiana, Maine, Ohio, and Virginia" (Docket No. APHIS-2008-0083) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8562. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, the 2009 Report on the Department's Operation and Financial Support for Military Museums; to the Committee on Armed Services.

EC-8563. A communication from the Associate General Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Conforming Changes to Applicant Submission Requirements; Implementing Federal Financial Report and Central Contractor Registration Requirements"

(RIN2501-AD50) received in the Office of the President of the Senate on December 13, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8564. A communication from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Energy Conservation Program for Consumer Products: Test Procedures for Refrigerators, Refrigerator-Freezers, and Freezers" (RIN1904-AB92) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Energy and Natural Resources.

EC-8565. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's annual report on the administration of the Surface Transportation Project Delivery Pilot Program; to the Committee on Environment and Public Works.

EC-8566. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "2010 Cumulative List of Changes in Plan Qualification Requirements" (Notice 2010-90) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC-8567. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Definition of Omission from Gross Income" (RIN1545-BI44) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC-8568. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "2011 Section 1274A CPI Adjustments" (Rev. Rul. 2010-30) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC-8569. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Requirement of a Statement Disclosing Uncertain Tax Positions" (RIN1545-BJ54) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC-8570. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Farmer and Fisherman Income Averaging" (RIN1545-BE23) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC-8571. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Standard Mileage Rate Procedures" (Rev. Proc. 2010-51) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC-8572. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "2011 Standard Mileage Rates" (Notice 2010-88) received in the Office of the President of the Senate on De-

cember 20, 2010; to the Committee on Finance.

EC-8573. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice: Tier 2 Tax Rates for 2011" received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC-8574. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Jerome R. Vainisi and Deloris L. Vainisi v. Commissioner, 599 F.3d 567 (7th Cir. 2010), rev'g 132 T.C. No. 1 (2009)" (AOD 2010-52) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC-8575. A communication from the Director of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Amendments to Regulations Regarding Withdrawal of Applications and Voluntary Suspension of Benefits" (RIN0960-AH07) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Finance.

EC-8576. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report relative to the export to the People's Republic of China of items not detrimental to the U.S. space launch industry; to the Committee on Foreign Relations.

EC-8577. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Report to Congress on American Indian and Alaska Native Head Start Facilities"; to the Committee on Health, Education, Labor, and Pensions.

EC-8578. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, a report entitled "The Multiethnic Placement Act: Minorities in Foster Care and Adoption"; to the Committee on Health, Education, Labor, and Pensions.

EC-8579. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a rule entitled "Employee Contribution Elections and Contribution Allocations; Uniformed Services Accounts; Methods of Withdrawing Funds from the Thrift Savings Plan; Death Benefits; Thrift Savings Plan" (5 CFR Parts 1600, 1604, 1650, 1651, and 1690) received in the Office of the President of the Senate on December 16, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-8580. A communication from the Chairman, Merit System Protection Board, transmitting, pursuant to law, a report entitled "Whistleblower Protections for Federal Employees"; to the Committee on Homeland Security and Governmental Affairs.

EC-8581. A communication from the Chief Information Officer, Department of Homeland Security, transmitting, the Department's 2010 Federal Information Security Management Act (FISMA) Report and Privacy Management Report; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DORGAN, from the Committee on Indian Affairs, without amendment:

H.R. 4445. A bill to amend Public Law 95–232 to repeal a restriction on treating as Indian country certain lands held in trust for Indian pueblos in New Mexico (Rept. No. 111–379).

From the Committee on Foreign Relations, with amendments and an amendment to the title and with an amended preamble:

S. Res. 680. A resolution supporting international tiger conservation efforts and the upcoming Global Tiger Summit in St. Petersburg, Russia.

By Mr. DORGAN, from the Committee on Indian Affairs, with an amendment:

S. 3235. A bill to amend the Act titled “An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases”, approved August 9, 1955, to provide for Indian tribes to enter into certain leases without prior express approval from the Secretary of the Interior.

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

S. 3973. A bill to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Army nomination of Brigadier General Robert M. Brown, to be Major General.

Navy nomination of Capt. Thomas E. Beeman, to be Rear Admiral (lower half).

Marine Corps nomination of Brigadier General Kenneth F. McKenzie, Jr., to be Major General.

Army nomination of Col. Benjamin F. Adams III, to be Brigadier General.

Army nominations beginning with Brigadier General Douglas P. Anson and ending with Colonel Ricky L. Waddell, which nominations were received by the Senate and appeared in the Congressional Record on August 3, 2010. (minus 1 nominee: Colonel Jody J. Daniels)

Army nomination of Gen. Carter F. Ham, to be General.

Army nomination of Col. Brian K. Balfe, to be Brigadier General.

Army nominations beginning with Colonel Bradley A. Becker and ending with Colonel Cedric T. Wins, which nominations were received by the Senate and appeared in the Congressional Record on September 20, 2010. (minus 1 nominee: Colonel Dominic J. Caraccilo)

Marine Corps nomination of Lt. Gen. John M. Paxton, Jr., to be Lieutenant General.

Army nomination of Lt. Gen. Michael D. Barbero, to be Lieutenant General.

Army nomination of Maj. Gen. Michael Ferriter, to be Lieutenant General.

Army nomination of Brig. Gen. Manuel Ortiz, Jr., to be Major General.

Army nominations beginning with Brigadier General Robert B. Abrams and ending with Brigadier General Larry D. Wyche, which nominations were received by the Senate and appeared in the Congressional Record on November 15, 2010.

Marine Corps nomination of Maj. Gen. Kenneth J. Glueck, Jr., to be Lieutenant General.

Navy nomination of Rear Adm. Gerald R. Beaman, to be Vice Admiral.

Army nomination of Col. Jeffrey L. Bailey, to be Brigadier General.

Army nomination of Col. Curt A. Rauhut, to be Brigadier General.

Army nomination of Col. Flora D. Darpino, to be Brigadier General, Judge Advocate General's Corps.

Army nominations beginning with Brigadier General Joseph L. Culver and ending with Colonel Kathy J. Wright, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Brigadier General Ricky G. Adams and ending with Colonel James E. Taylor, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010. (minus 1 nominee: Colonel Denise T. Rooney)

Navy nomination of Capt. James W. Crawford III, to be Rear Admiral (lower half).

Army nomination of Maj. Gen. Howard B. Bromberg, to be Lieutenant General.

Army nominations beginning with Brigadier General Gregory W. Batts and ending with Colonel Anthony Woods, which nominations were received by the Senate and appeared in the Congressional Record on December 8, 2010.

Navy nomination of Vice Adm. Richard W. Hunt, to be Vice Admiral.

Air Force nominations beginning with Colonel Donald J. Bacon and ending with Colonel Scott J. Zobrist, which nominations were received by the Senate and appeared in the Congressional Record on December 13, 2010.

Marine Corps nomination of Maj. Gen. Robert E. Milstead, Jr., to be Lieutenant General.

Air Force nominations beginning with Brigadier General Thomas P. Harwood III and ending with Brigadier General John T. Winters, Jr., which nominations were received by the Senate and appeared in the Congressional Record on December 15, 2010.

Air Force nominations beginning with Colonel Randall C. Guthrie and ending with Colonel Sheila Zuehlke, which nominations were received by the Senate and appeared in the Congressional Record on December 15, 2010.

Air Force nominations beginning with Brigadier General Frances M. Auclair and ending with Colonel Daniel J. Zachman, which nominations were received by the Senate and appeared in the Congressional Record on December 15, 2010.

Army nomination of Brig. Gen. Jon J. Miller, to be Major General.

Air Force nomination of Brig. Gen. Otis G. Mannon, to be Major General.

Air Force nomination of Brig. Gen. Richard T. Devereaux, to be Major General.

Air Force nomination of Maj. Gen. Charles R. Davis, to be Lieutenant General.

Air Force nomination of Brig. Gen. Michelle D. Johnson, to be Major General.

Air Force nomination of Brig. Gen. Brett T. Williams, to be Major General.

Air Force nomination of Brig. Gen. James M. Holmes, to be Major General.

Air Force nomination of Col. Wayne E. Lee, to be Brigadier General.

Air Force nomination of Col. Timothy T. Jex, to be Brigadier General.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of

reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with Brian F. Abell and ending with Ray A. Zuniga, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 2010.

Air Force nomination of Joseph T. Fetsch, to be Colonel.

Air Force nomination of Suzanne M. Henderson, to be Lieutenant Colonel.

Air Force nominations beginning with Charles R. Cornelisse and ending with Gerald D. Mcmanus, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Air Force nominations beginning with Eneya H. Mulagha and ending with Claudia P. Zimmermann, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Air Force nominations beginning with Lena R. Haskell and ending with William A. Soble, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Air Force nominations beginning with Randon H. Draper and ending with Andrew S. Williams, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Air Force nominations beginning with Janelle E. Costa and ending with Jerome E. Wizda, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Air Force nominations beginning with William J. Annexstad and ending with Stacey J. Vetter, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Air Force nominations beginning with Ryan J. Albrecht and ending with Gabriel Matthew Young, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Air Force nomination of Paul L. Sherouse, to be Colonel.

Air Force nomination of Gabriel C. Avilla, to be Major.

Air Force nominations beginning with Nathan P. Christensen and ending with Sara A. Whittingham, which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

Air Force nominations beginning with Jessica L. Abbott and ending with Andrew J. Wynn, which nominations were received by the Senate and appeared in the Congressional Record on December 8, 2010.

Air Force nominations beginning with Edward R. Anderson III and ending with David H. Zonies, which nominations were received by the Senate and appeared in the Congressional Record on December 8, 2010.

Air Force nominations beginning with Michael J. Alfaro and ending with Sara M. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on December 8, 2010.

Air Force nominations beginning with Corey R. Anderson and ending with Son X. Vu, which nominations were received by the Senate and appeared in the Congressional Record on December 8, 2010.

Army nomination of Michael P. McGaffigan, to be Major.

Army nominations beginning with Edwin E. Ahl and ending with D002419, which nominations were received by the Senate and appeared in the Congressional Record on September 20, 2010.

Army nominations beginning with Diane J. Boese and ending with Philip N. Wasylyna, which nominations were received by the Senate and appeared in the Congressional Record on September 29, 2010.

Army nomination of Robert C. Dorman, to be Colonel.

Army nomination of David A. Niemiec, to be Major.

Army nomination of William L. Vanasse, to be Major.

Army nomination of George A. Carpenter, to be Major.

Army nomination of Susan A. Castorina, to be Major.

Army nominations beginning with Theresa C. Cowger and ending with Marie N. Wright, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Paula S. Oliver and ending with Gary D. Riggs, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Joseph C. Carver and ending with Gary L. Paulson, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nomination of John E. Johnson II, to be Major.

Army nomination of Andrew S. Dreier, to be Lieutenant Colonel.

Army nominations beginning with Kevin D. Ellson and ending with Steven J. Olson, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Phillip R. Glick and ending with William G. Suver, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Kevin Acosta and ending with Robert K. Yim, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Mary E. Abrams and ending with D002043, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Timothy P. Albers and ending with G001187, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with Ellen J. Abbott and ending with Michael W. Young, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with John C. Allred and ending with D001821, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with John W. Aarsen and ending with Loren T. Zweig, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nominations beginning with John G. Feltz and ending with Louis W. Wilham, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Army nomination of Kathleen M. Flocke, to be Major.

Army nomination of Gary A. Vroegindewey, to be Colonel.

Army nominations beginning with Craig S. Brooks and ending with Bennie W. Swink,

which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

Marine Corps nominations beginning with Brandon M. Bolling and ending with Wyeth M. Towle, which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

Navy nominations beginning with Patrick C. Daniels and ending with Thomas L. Edler, which nominations were received by the Senate and appeared in the Congressional Record on September 29, 2010.

Navy nomination of Matthew R. Fomby, to be Lieutenant Commander.

Navy nomination of Ronny L. Jackson, to be Captain.

Navy nomination of Frederick G. Panico, to be Captain.

Navy nominations beginning with Daniel J. Traub and ending with Wayne M. Burr, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2010.

Navy nominations beginning with Auntowhan M. Andrews and ending with Christopher W. Wolff, which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

Navy nominations beginning with Matthew A. McQueen and ending with Charles E. Varsogea, which nominations were received by the Senate and appeared in the Congressional Record on November 18, 2010.

Navy nomination of Brian L. Beatty, to be Lieutenant Commander.

Navy nomination of Jon C. Cannon, to be Commander.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CARDIN:

S. 4050. A bill to amend the Classified Information Procedures Act to improve the protection of classified information and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 1203

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1203, a bill to amend the Internal Revenue Code of 1986 to extend the research credit through 2010 and to increase and make permanent the alternative simplified research credit, and for other purposes.

S. 3363

At the request of Mr. CARDIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 3363, a bill to amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act.

S. 3467

At the request of Mr. SCHUMER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 3467, a bill to require a Northern Border Counternarcotics Strategy.

S. 3913

At the request of Mr. ROCKEFELLER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 3913, a bill to amend title 10, United States Code, to enhance the roles and responsibilities of the Chief of the National Guard Bureau.

S. 4001

At the request of Mr. WEBB, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 4001, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Centennial of Marine Corps Aviation, and to support construction of the Marine Corps Heritage Center.

S. RES. 694

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. Res. 694, a resolution condemning the Government of Iran for its state-sponsored persecution of religious minorities in Iran and its continued violation of the International Covenant on Human Rights.

AMENDMENT NO. 4841

At the request of Mr. THUNE, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of amendment No. 4841 proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

AMENDMENT NO. 4847

At the request of Mr. BROWN of Massachusetts, his name was added as a cosponsor of amendment No. 4847 proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CARDIN:

S. 4050. A bill to amend the Classified Information Procedures Act to improve the protection of classified information and for other purposes; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, the Classified Information Procedures Act, CIPA, was enacted in 1980 with bipartisan support to address the "disclose or dismiss" dilemma that arose in espionage prosecutions when a defendant would threaten the government with the disclosure of classified information

if the government did not drop the prosecution. Previously, there were no congressionally mandated procedures that required district courts to make discovery and admissibility rulings regarding classified information in advance.

CIPA has worked reasonably well during the last 30 years, but some issues have arisen in a number of notable terrorism, espionage, and narcotics cases that demonstrate that reforms and improvements could be made to ensure that classified sources, methods, and information can be protected and to ensure that a defendant's due process and fair trial rights are not violated. In 2009, when the Congress enacted the Military Commissions Act, MCA, the Congress drew heavily from the manner in which the Federal courts interpreted CIPA when it updated the procedures governing the use of classified information in military commission prosecutions. At that time, however, the Congress did not update CIPA. Indeed, since its enactment in 1980, there have been no changes to the key provisions of CIPA.

As chairman of the Senate Judiciary's Terrorism and Homeland Security Subcommittee, I have chaired a number of hearings during which witnesses have testified about the capacity of our civilian courts to try alleged terrorists and spies. The first subcommittee hearing that I chaired was on July 28, 2009, and was entitled "Prosecuting Terrorists: Civilian and Military Trials for GTMO and Beyond." The second Terrorism and Homeland Security Subcommittee hearing that I chaired was on May 12, 2010, and was entitled "The Espionage Statutes: A Look Back and A Look Forward." The testimony I have heard in regard to terrorism, espionage, and our civilian courts has convinced me that while our courts have the capacity and the procedures in place to try alleged terrorists and spies, reforms and improvements could be made to CIPA to codify and clarify the decisions of the Federal courts.

As a result, today I am introducing the CIPA Reform and Improvement Act, CRIA, of 2010. CRIA contains reforms and improvements to ensure that the statute maintains the proper balance between the protection of classified sources, methods and information, and a defendant's constitutional rights. Among other things, this legislation, which includes the applicable changes that the Congress made when it enacted the Military Commissions Act of 2009, will codify, clarify, and unify Federal case law interpreting CIPA; ensure that all classified information, not just documents, will be governed by CIPA; ensure that prosecutors and defense attorneys will be able to fully inform trial courts about classified information issues; and will clarify that the civil state secrets privilege does not

apply in criminal cases. CRIA will also ensure high-level DOJ approval before the government invokes its classified information privilege in criminal cases and will ensure that the Federal courts will order the disclosure and use of classified information when the disclosure and use meets the applicable legal standards. This legislation will also ensure timely appellate review of lower court CIPA decisions before the commencement of a trial, explicitly permit trial courts to adopt alternative procedures for the admission of classified information in accordance with a defendant's fair trial and due process rights, and make technical fixes to ensure consistent use of terms throughout the statute.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 4050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) **SHORT TITLE.**—This Act may be cited as the "Classified Information Procedures Reform and Improvement Act of 2010".

(b) **IN GENERAL.**—Section 1 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) 'Disclosure', as used in this Act, includes the release, transmittal, or making available of, or providing access to, classified information to any person (including a defendant or counsel for a defendant) during discovery, or to a participant or member of the public at any proceeding."

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 501(3) of the Immigration and Nationality Act (8 U.S.C. 1531(3)) is amended by striking "section 1(b)" and inserting "section 1".

SEC. 2. PRETRIAL CONFERENCE.

Section 2 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by inserting "(a) IN GENERAL.—" before "At any time";

(2) by adding at the end the following:

"(b) **EX PARTE.**—If the United States or the defendant certifies that the presence of both parties at a pretrial conference would harm the national security of the United States or the defendant's ability to make a defense, then upon request by either party, the court shall hold such pretrial conference ex parte, and shall seal and preserve the record of that ex parte conference in the records of the court for use in the event of an appeal."

SEC. 3. PROTECTIVE ORDERS.

Section 3 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Upon motion";

(2) by inserting "use or" before "disclosure";

(3) by inserting ", or access to," after "disclosure of";

(4) by inserting ", or any classified information derived therefrom, that will be" after "classified information";

(5) by inserting "or made available" after "disclosed"; and

(6) by adding at the end the following:

"(b) **NOTICE.**—In the event the defendant is convicted, the United States shall provide the defendant and the appellate court with a written notice setting forth each date that the United States obtained a protective order."

SEC. 4. DISCOVERY OF AND ACCESS TO CLASSIFIED INFORMATION BY DEFENDANTS.

Section 4 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in the section heading, by inserting "AND ACCESS TO" after "DISCOVERY OF";

(2) by inserting "(a) IN GENERAL.—" before "The court, upon";

(3) in the first sentence—

(A) by inserting "to restrict the defendant's access to or" before "to delete";

(B) by striking "from documents";

(C) by striking "classified documents, or" and inserting "classified information,"; and

(D) by striking the period at the end and inserting ", or to provide other relief to the United States.";

(4) in the second sentence, by striking "alone," inserting "alone, and may permit ex parte proceedings with the United States to discuss that request.";

(5) in the third sentence—

(A) by striking "If the court enters an order granting relief following such an ex parte showing, the" and inserting "The"; and

(B) by inserting ", and the transcript of any argument and any summary of the classified information the defendant seeks to obtain discovery of or access to," after "text of the statement of the United States"; and

(6) by adding at the end the following:

"(b) **ACCESS TO OTHER CLASSIFIED INFORMATION.**—If the defendant seeks access to non-documentary information from a potential witness or other person through deposition under the Federal Rules of Criminal Procedure, or otherwise, which the defendant knows or reasonably believes is classified, the defendant shall notify the attorney for the United States and the court in writing. Such notice shall specify with particularity the non-documentary information sought by the defendant and the legal basis for such access.

"(c) **SHOWING BY THE UNITED STATES.**—In any prosecution in which the United States seeks to restrict, delete, withhold, or otherwise obtain relief with respect to the defendant's discovery of or access to any specific classified information, the attorney for the United States shall file with the court a declaration made by the Attorney General invoking the United States classified information privilege, which shall be supported by a declaration made by a knowledgeable United States official possessing the authority to classify information that sets forth the identifiable damage to the national security that the discovery of, or access to, such information reasonably could be expected to cause.

"(d) **STANDARD FOR DISCOVERY OF OR ACCESS TO CLASSIFIED INFORMATION.**—Upon the submission of a declaration of the Attorney General under subsection (c), the court may not authorize the defendant's discovery of, or access to, classified information, or to the substitution submitted by the United States, which the United States seeks to restrict, delete, or withhold, or otherwise obtain relief with respect to, unless the court first determines that such classified information or such substitution would be—

"(1) noncumulative, relevant, and helpful to—

“(A) a legally cognizable defense;
 “(B) rebuttal of the prosecution’s case; or
 “(C) sentencing; or

“(2) noncumulative and essential to a fair determination of a pretrial proceeding.

“(e) SECURITY CLEARANCE.—Whenever a court determines that the standard for discovery of or access to classified information by the defendant has been met under subsection (d), such discovery or access may only take place after the person to whom discovery or access will be granted has received the necessary security clearances to receive the classified information, and if the classified information has been designated as sensitive compartmented information or special access program information, any additional required authorizations to receive the classified information.”.

SEC. 5. NOTICE OF DEFENDANT’S INTENTION TO DISCLOSE CLASSIFIED INFORMATION.

Section 5 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in the section heading, by inserting “USE OR” before “DISCLOSE”;

(2) in subsection (a)—

(A) in the first sentence—

(i) by inserting “use or” before “disclose”; and

(ii) by striking “thirty days prior to trial” and inserting “45 days prior to such proceeding”;

(B) in the second sentence by striking “brief” and inserting “specific”;

(C) in the third sentence—

(i) by inserting “use or” before “disclose”; and

(ii) by striking “brief” and inserting “specific”; and

(D) in the fourth sentence—

(i) by inserting “use or” before “disclose”; and

(ii) by inserting “reasonably” before “believed”; and

(3) in subsection (b), by inserting “the use or” before “disclosure”.

SEC. 6. PROCEDURE FOR CASES INVOLVING CLASSIFIED INFORMATION.

Section 6 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in subsection (a)—

(A) in the second sentence, by striking “such a hearing.” and inserting “a hearing and shall make all such determinations prior to proceeding under any alternative procedure set out in subsection (d).”; and

(B) in the third sentence, by striking “petition” and inserting “request”;

(2) in subsection (b)(2) by striking “trial” and inserting “the trial or pretrial proceeding”;

(3) by redesignating subsections (c), (d), (e), and (f), as subsections (d), (e), (f), and (g), respectively;

(4) by inserting after subsection (b) the following:

“(c) STANDARD FOR ADMISSIBILITY, USE AND DISCLOSURE AT TRIAL.—Classified information which is the subject of a notice by the United States pursuant to subsection (b) is not admissible at trial and subject to the alternative procedures set out in subsection (d), unless a court first determines that such information is noncumulative, relevant, and necessary to an element of the offense or a legally cognizable defense, and is otherwise admissible in evidence. Classified information may not be used or disclosed at trial by the defendant unless a court first determines that exclusion of the classified information from such use or disclosure would deprive the defendant of a fair trial or violate the defendant’s right to due process.”;

(5) in subsection (d), as so redesignated—

(A) in the subsection heading, by inserting “USE OR” before “DISCLOSURE”;

(B) in paragraph (1), by inserting “use or” before “disclosure” both places that term appears;

(C) in the flush paragraph following paragraph (1)(B), by inserting “use or” before “disclosure”; and

(D) in paragraph (2)—

(i) by striking “an affidavit of” and inserting “a declaration by”;

(ii) by striking “such affidavit” and inserting “such declaration”; and

(iii) by inserting “the use or” before “disclosure”;

(6) in subsection (e), as so redesignated, in the first sentence, by striking “disclosed or elicited” and inserting “used or disclosed”; and

(7) in subsection (f), as so redesignated—

(A) in the subsection heading, by inserting “USE OR” before “DISCLOSURE” both places that term appears;

(B) in paragraph (1)—

(i) by striking “(c)” and inserting “(d)”;

(ii) by striking “an affidavit of” and inserting “a declaration by”;

(iii) by inserting “the use or” before “disclosure”; and

(iv) by striking “disclose” and inserting “use, disclose,”; and

(C) in paragraph (2), by striking “disclosing” and inserting “using, disclosing,”; and

(8) in the first sentence of subsection (g), as so redesignated—

(A) by inserting “used or” before “disclosed”; and

(B) by inserting “or disclose” before “to rebut the”.

SEC. 7. INTERLOCUTORY APPEAL.

Section 7(a) of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) by striking “disclosure of” both times that places that term appears and inserting “use, disclosure, discovery of, or access to”; and

(2) by adding at the end the following:

“The right of the United States to appeal pursuant to this Act applies without regard to whether the order or ruling appealed from was entered under this Act, another provision of law, a rule, or otherwise. Any such appeal may embrace any preceding order, ruling, or reasoning constituting the basis of the order or ruling that would authorize such use, disclosure, or access. Whenever practicable, appeals pursuant to this section shall be consolidated to expedite the proceedings.”.

SEC. 8. INTRODUCTION OF CLASSIFIED INFORMATION.

Section 8 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(1) in subsection (b), by adding at the end “The court may fashion alternative procedures in order to prevent such unnecessary disclosure, provided that such alternative procedures do not deprive the defendant of a fair trial or violate the defendant’s due process rights.”; and

(2) by adding at the end the following:

“(d) ADMISSION OF EVIDENCE.—(1) No classified information offered by the United States and admitted into evidence shall be presented to the jury unless such evidence is provided to the defendant.

“(2) Any classified information admitted into evidence shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.”.

SEC. 9. APPLICATION TO PROCEEDINGS.

The amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply to any prosecution pending in any United States district court.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4892. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4893. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4894. Mr. ALEXANDER submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4895. Mr. WICKER (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4896. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4897. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4898. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4899. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4900. Mr. MCCAIN (for himself and Mr. CORKER) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4901. Mr. DEMINT submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4902. Mr. DEMINT submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4903. Mr. DEMINT submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4904. Mr. CORKER submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra.

SA 4905. Mr. CORKER submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4906. Mr. CORKER submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4907. Mr. BARRASSO submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4908. Mr. LEMIEUX submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4909. Mr. THUNE (for himself and Mr. WICKER) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4910. Mr. DEMINT submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4911. Mr. DEMINT submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4912. Mr. KIRK submitted an amendment intended to be proposed to amendment SA 4900 submitted by Mr. MCCAIN (for himself and Mr. CORKER) and intended to be proposed to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4913. Mr. LIEBERMAN (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4914. Mr. REID (for Mr. KERRY (for himself and Ms. SNOWE)) proposed an amendment to the bill H.R. 81, to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

SA 4915. Mr. KERRY (for Mr. SCHUMER (for himself, Ms. COLLINS, Mrs. GILLIBRAND, and Mr. CONRAD)) proposed an amendment to the bill H.R. 4748, to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes.

SA 4916. Mr. LIEBERMAN (for Mr. KERRY (for himself and Ms. COLLINS)) proposed an amendment to the bill H.R. 1746, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

TEXT OF AMENDMENTS

SA 4892. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of condition (9) of subsection (a), of the Resolution of Ratification add the following new subparagraph:

(C) Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that—

(i) the President will submit on an annual basis the report required under section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84);

(ii) each such report will include, in addition to the elements required under subsection (a)(2) of such section—

(I) a detailed description of the plan to modernize and maintain the delivery platforms for nuclear weapons; and

(II) a detailed description of the steps taken to implement the plan submitted in the previous year;

(iii) in preparing each report, the President will consult with the Secretary of Defense and with the Secretary of Energy, who will consult with the directors of the nuclear weapons enterprise facilities and laboratories, including the Pantex Plant, the Nevada National Security Site, the Kansas City Plant, the Savannah River Site, Y-12 National Security Complex, Lawrence Liver-

more National Laboratory, Sandia National Laboratories, and Los Alamos National Laboratory on the implementation of and funding for the plans outlined under subparagraphs (A) and (B) of subsection (a)(2) of such section;

(iv) the written judgments received from the directors of the national nuclear weapons enterprise facilities and laboratories pursuant to clause (iii) will be included, unchanged, together with each report submitted under clause (i).

At the end of subsection (a), add the following:

(11) STRATEGIC NUCLEAR DELIVERY VEHICLES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) modernize or replace the triad of strategic nuclear delivery systems: a heavy bomber and air-launched cruise missile, an ICBM, and an SSBN and SLBM; and

(B) maintain the United States rocket motor industrial base.

(12) DESIGN AND FUNDING OF CERTAIN FACILITIES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) accelerate the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF); and

(B) request full funding for the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility upon completion of the design and engineering phase for such facilities.

At the end of subsection (b), add the following:

(4) MODERNIZATION.—It is the understanding of the United States that failure to fund the nuclear modernization plan would constitute a basis for United States withdrawal from the New START Treaty.

At the end of subsection (c), add the following:

(14) MODERNIZATION OF WARHEADS.—It is the sense of the Senate that modernization of warheads must be undertaken on a case-by-case basis using the full spectrum of life extension options available based on the best technical advice of the United States military and the national nuclear weapons laboratories.

SA 4893. Mr. KYL submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) COVERS.—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the President has reached an agreement with the Government of the Russian Federation on the non-use of covers by the Russian Federation that tend to interfere with Type One inspections and accurate warhead counting.

(12) TELEMETRY.—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the United States has reached a legally-binding agreement with the Russian Federation that each party to the Treaty is obliged to provide the

other full and unimpeded access to its telemetry from all flight-test of strategic missiles limited by the Treaty;

(13) TELEMETRIC EXCHANGES ON BALLISTIC MISSILES DEPLOYED BY THE RUSSIAN FEDERATION.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the Russian Federation has agreed that it will not deny telemetric exchanges on new ballistic missile systems it deploys during the duration of the Treaty.

At the end of subsection (b), add the following:

(4) TYPE ONE INSPECTIONS.—The United States would consider as a violation of the deployed warhead limit in section 1(b) of Article II of the Treaty and as a material breach of the Treaty either of the following actions:

(A) Any Type One inspection that revealed the Russian Federation had deployed a number of warheads on any one missile in excess of the number they declared for that missile.

(B) Any action by the Russian Federation that impedes the ability of the United States to determine the number of warheads deployed on any one missile prior to or during a Type One inspection.

SA 4894. Mr. ALEXANDER submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In subsection (a) of the Resolution of Ratification, add at the end of paragraph (9) the following:

“(C) Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that—

“(i) the President will submit on an annual basis the report required under section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84);

“(ii) each such report will include, in addition to the elements required under subsection (a)(2) of such section—

“(I) a detailed description of the plan to modernize and maintain the delivery platforms for nuclear weapons; and

“(II) a detailed description of the steps taken to implement the plan submitted in the previous year;

“(iii) in preparing each report, the President will consult with the Secretary of Defense and with the Secretary of Energy, who will consult with the directors of the nuclear weapons enterprise facilities and laboratories, including the Pantex Plant, the Nevada National Security Site, the Kansas Plant, the Savannah River Site, Y-12 National Security Laboratory, and the Sandia National Laboratory on the implementation of and funding for the plans outlined under subparagraphs (A) and (B) of subsection (a)(2) of such section; and

“(iv) the written judgments received from the directors of the national nuclear weapons enterprise facilities and laboratories pursuant to clause (iii) will be included, unchanged, together with each report submitted under clause (i).”.

SA 4895. Mr. WICKER (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the

United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (b), of the Resolution of Ratification add the following:

(4) BILATERAL CONSULTATIVE COMMISSION.—It is the understanding of the United States that provisions adopted in the Bilateral Consultative Commission that affect substantive rights or obligations under the Treaty are those that create new rights or obligations for the United States and must therefore be submitted to the Senate for its advice and consent.

SA 4896. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In paragraph 2 of Article XIV of the Treaty, strike “remain in force for 10 years” and insert “remain in force for 5 years”.

SA 4897. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In Article XIII of the New START Treaty, strike the second sentence and insert the following: “The parties shall not transfer strategic offensive arms subject to this Treaty to third parties, components to make these arms, or the knowhow to do such.”.

SA 4898. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In paragraph 2 of Article XIV of the New START Treaty, strike all after the second sentence.

SA 4899. Mr. ENSIGN submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (c) of the Resolution of Ratification, add the following:

(14) ARMS CONTROL TREATY VERIFICATION EXPERIMENTS.—It is the sense of the Senate

that the United States needs to increase its numbers of arms control treaty verification experiments as well as a robust series of scaled experiments to ensure a reliable nuclear deterrent.

SA 4900. Mr. MCCAIN (for himself and Mr. CORKER) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a), of the Resolution of Ratification add the following:

(11) MISSILE DEFENSE.—(A) The United States shall—

(i) fully deploy all four phases of the Phased Adaptive Approach for missile defense in Europe, on schedule, if not earlier, as outlined in the Department of Defense's Ballistic Missile Defense Review Report dated February 2010;

(ii) maintain the option as a technological and strategic hedge to deploy the European Mid Course Radar and two stage ground-based interceptors in a suitable location, consistent with the agreement of United States allies; and

(iii) continue modernization of the United States-based ground-based midcourse defense system.

(B) If the President determines that meeting the schedule described in subparagraph (A)(i) is not feasible, the President shall—

(i) report to the Senate within 30 days as to the reasons for any delay, provide a detailed plan to address any delays, and issue a revised schedule; and

(ii) submit an annual certification to the Senate that the schedule remains valid.

In subsection (b)(1), at the end of subparagraph (B), strike “United States; and” and all that follows through the end of subparagraph (C) and insert the following: “United States;

(C) the April 7, 2010, unilateral statement by the Russian Federation on missile defense does not impose a legal obligation on the United States;

(D) pursuant to the National Missile Defense Act of 1999 (Public Law 106-38), it is the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate), and the United States deployment of ballistic missile defense (BMD) systems, including all phases of the Phased Adaptive Approach to missile defense in Europe and programs to defend United States deployed forces, allies, and partners against regional threats, is consistent with that policy;

(E) the Phased Adaptive Approach to missile defense in Europe, as endorsed by President Barack Obama on September 17, 2009, and outlined in the Department of Defense's Ballistic Missile Defense Review (BMDR) dated February 2010, includes—

(i) Phase 1, in 2011, which will provide defense against the short and medium-range ballistic missile threat, using Aegis BMD-capable ships with SM-3 block IA interceptors and an AN/TPY-2 transportable radar deployed in Southern Europe;

(ii) Phase 2, in 2015, which will provide defense for NATO against short- and medium-

range ballistic missile threats, by deploying at least 24 SM-3 block IB missiles in Romania as well as on Aegis BMD ships;

(iii) Phase 3, in 2018, which will extend defense to all NATO allies in Europe against short-, medium-, and intermediate-range ballistic missile threats by deploying at least 24 SM-3 block IIA missiles on land in Poland and additional missiles at sea on Aegis BMD ships;

(iv) Phase 4, not later than 2020, which will provide defense for Europe and the United States using the SM-3 block IIB interceptor, which will have an early intercept capability against medium- and intermediate-range ballistic missiles as well as potential ICBM threats, which will be deployed at sites in Europe, including Poland; and

(v) the continued improvement and modernization of the United States ground-based midcourse defense system, which includes two-stage interceptors that could be deployed in Europe if the Iranian ICBM threat emerges before Phase 3 and or 4 of the Phased Adaptive Approach is ready, and three stage ground-based interceptors in the United States; and

(F) while the United States cannot circumscribe the right of the Russian Federation to withdraw from the New START Treaty under paragraph 3 of Article XIV if the Russian Federation believes its supreme interests are jeopardized, the continued development and deployment of United States missile defense systems worldwide during the period that the New START Treaty is in effect, including qualitative and quantitative improvements to such systems, will not be an extraordinary event, but rather an anticipated event, fully disclosed to the Russian Federation at the time of entry into force of the New START Treaty.

At the end of subsection (b), add the following:

(4) TELEMETRIC INFORMATION ON MISSILE DEFENSE SYSTEMS.—It is the understanding of the United States that the United States will not provide the Russian Federation any telemetric information on its missile defense systems for the duration of the New START Treaty.

SA 4901. Mr. DEMINT submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In paragraph 1. of Article II of the New START Treaty, strike “700, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers” and all that follows through the period at the end and insert the following: “850, for deployed ICBMs, deployed SLBMs, and deployed heavy bombers;

(b) 1,550, for warheads on deployed ICBMs, warheads on deployed SLBMs, and nuclear warheads counted for deployed heavy bombers;

(c) 1,000, for deployed and non-deployed ICBM launchers, deployed and non-deployed SLBM launchers, and deployed and non-deployed heavy bombers.

SA 4902. Mr. DEMINT submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America

and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In paragraph 3 of Article V of the New START Treaty, strike “For the purposes of counting toward” and all that follows through the period at the end and insert “Each Party shall not convert or use launchers of missile defense interceptors for placement of ICBMs and SLBMs therein.”.

In Part Three of the Protocol, add at the end of Section III the following:

(9) Conversion of an ICBM launcher to a missile defense interceptor launcher shall be carried out using procedures developed by the Party carrying out the conversion. Upon completion of the conversion procedures and provision of notification thereof, the Party receiving such notification shall have the right, within a 30-day period beginning on the date of provision of notification, to conduct an inspection of the converted silo launcher. Upon the expiration of the 60-day period following provision of such notification or upon the completion of the inspection, the silo launcher of ICBMs shall cease to be subject to the Treaty.

SA 4903. Mr. DEMINT submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of Article IV of the New START Treaty, add the following:

12. ICBMs shall not be deployed on bombers.

SA 4904. Mr. CORKER submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) EFFECTIVENESS AND VIABILITY OF NEW START TREATY AND UNITED STATES MISSILE DEFENSES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate, and shall communicate to the Russian Federation, that it shall be the policy of the United States that the continued development and deployment of United States missile defense systems, including qualitative and quantitative improvements to such systems, including all phases of the Phased Adaptive Approach to missile defenses in Europe maintaining the option to use Ground-Based Interceptors, do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the United States cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the Treaty, the continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the Treaty.

At the end of subsection (b)(1)(C), strike “United States.” and insert the following: “United States; and

(D) the eighth preambular clause of the New START Treaty does not impose a legal obligation on the United States.

SA 4905. Mr. CORKER submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (b)(1)(C) of the Resolution of Ratification, strike “United States.” and insert the following: “United States; and

(D) the eighth preambular clause of the New START Treaty does not impose a legal obligation on the United States.

SA 4906. Mr. CORKER submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) EFFECTIVENESS AND VIABILITY OF NEW START TREATY AND UNITED STATES MISSILE DEFENSES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate, and shall communicate to the Russian Federation, that it shall be the policy of the United States that the continued development and deployment of United States missile defense systems, including qualitative and quantitative improvements to such systems, including all phases of the Phased Adaptive Approach to missile defenses in Europe maintaining the option to use Ground-Based Interceptors, do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the United States cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the Treaty, the continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the Treaty.

SA 4907. Mr. BARRASSO submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) COMPLIANCE OF THE RUSSIAN FEDERATION.—The New START Treaty shall not enter into force until the President certifies to the Senate that all outstanding issues on

verification and compliance in the START I Treaty by the Russian Federation prior to the expiration of the START I Treaty on December 5, 2009, have been resolved and submits to Congress a report detailing how each such issue was resolved.

SA 4908. Mr. LEMIEUX submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) TACTICAL NUCLEAR WEAPONS.—The President may not deposit the instrument of ratification until the President certifies to the Senate that—

(A) the United States and the Russian Federation will enter into negotiations within one year of ratification of the New START Treaty to address the disparity between the non-strategic (tactical) nuclear weapons stockpiles of the Russian Federation and of the United States and secure and reduce tactical nuclear weapons in a verifiable manner; and

(B) the negotiations will not include discussion of defensive missile systems.

SA 4909. Mr. THUNE (for himself and Mr. WICKER) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (b) of the Resolution of Ratification, add the following:

(4) TREATY EXTENSION.—It is the understanding of the United States that any extension of the New START Treaty under Article XIV may enter into force for the United States only with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

SA 4910. Mr. DEMINT submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

On page 17 of the Resolution of Ratification, strike line 24 and all that follows through page 21, line 8, and insert the following:

(4) DEFENDING THE UNITED STATES AND ALLIES AGAINST STRATEGIC ATTACK.—It is the understanding of the United States that—

(A) a paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the United States Armed Forces, and United States allies against nuclear attacks to the best of its ability;

(B) policies based on “mutual assured destruction” or intentional vulnerability can be contrary to the safety and security of both countries, and the United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from a strategic relationship based on mutual assured destruction;

(C) in a world where biological, chemical, and nuclear weapons and the means to deliver them are proliferating, strategic stability can be enhanced by strategic defensive measures;

(D) accordingly, the United States is and will remain committed to reducing the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges;

(E) the United States will welcome steps by the Russian Federation also to adopt a fundamentally defensive strategic posture that no longer views robust strategic defensive capabilities as undermining the overall strategic balance, and stands ready to cooperate with the Russian Federation on strategic defensive capabilities, as long as such cooperation is aimed at fostering and in no way constrains the defensive capabilities of both sides; and

(F) the United States is committed to improving United States strategic defensive capabilities both quantitatively and qualitatively during the period that the New START Treaty is in effect, and such improvements are consistent with the Treaty and do not constitute an extraordinary event, as described in paragraph 3 of Article XIV of the Treaty.

(c) **DECLARATIONS.**—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the following declarations, which express the intent of the Senate:

(1) **MISSILE DEFENSE.**—(A) It is the sense of the Senate that—

(i) pursuant to the National Missile Defense Act of 1999 (Public Law 106-38), it is the policy of the United States “to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)”;

(ii) defenses against ballistic missiles are essential for new deterrent strategies and for new strategies should deterrence fail; and

(iii) further limitations on the missile defense capabilities of the United States are not in the national security interest of the United States.

(B) The New START Treaty and the April 7, 2010, unilateral statement of the Russian Federation on missile defense do not limit in any way, and shall not be interpreted as limiting, activities that the United States Government currently plans or that might be required over the duration of the New START Treaty to protect the United States pursuant to the National Missile Defense Act of 1999, or to protect United States Armed Forces and United States allies from limited ballistic missile attack, including further planned enhancements to the Ground-based Midcourse Defense system and all phases of the Phased Adaptive Approach to missile defense in Europe.

(C) Given its concern about missile defense issues, the Senate expects the executive branch to offer regular briefings, not less than twice each year, to the Committees on Foreign Relations and Armed Services of the Senate on all missile defense issues related to the New START Treaty and on the

progress of United States-Russia dialogue and cooperation regarding missile defense.

SA 4911. Mr. DEMINT submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

On page 17 of the resolution of ratification, strike line 24 and all that follows through page 21, line 8, and insert the following:

(4) **DEFENDING THE UNITED STATES AND ALLIES AGAINST STRATEGIC ATTACK.**—It is the understanding of the United States that—

(A) a paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the United States Armed Forces, and United States allies against nuclear attacks to the best of its ability;

(B) policies based on “mutual assured destruction” or intentional vulnerability can be contrary to the safety and security of both countries, and the United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from a strategic relationship based on mutual assured destruction;

(C) in a world where biological, chemical, and nuclear weapons and the means to deliver them are proliferating, strategic stability can be enhanced by strategic defensive measures;

(D) accordingly, the United States is and will remain committed to reducing the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges;

(E) the United States will welcome steps by the Russian Federation also to adopt a fundamentally defensive strategic posture that no longer views robust strategic defensive capabilities as undermining the overall strategic balance, and stands ready to cooperate with the Russian Federation on strategic defensive capabilities, as long as such cooperation is aimed at fostering and in no way constrains the defensive capabilities of both sides; and

(F) the United States is committed to improving United States strategic defensive capabilities both quantitatively and qualitatively during the period that the New START Treaty is in effect, and such improvements are consistent with the Treaty and do not constitute an extraordinary event, as described in paragraph 3 of Article XIV of the Treaty.

(c) **DECLARATIONS.**—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the following declarations, which express the intent of the Senate:

(1) **MISSILE DEFENSE.**—(A) It is the sense of the Senate that—

(i) pursuant to the National Missile Defense Act of 1999 (Public Law 106-38), it is the policy of the United States “to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)”;

(ii) defenses against ballistic missiles are essential for new deterrent strategies and for new strategies should deterrence fail; and

(iii) further limitations on the missile defense capabilities of the United States are

not in the national security interest of the United States.

(B) The New START Treaty and the April 7, 2010, unilateral statement of the Russian Federation on missile defense do not limit in any way, and shall not be interpreted as limiting, activities that the United States Government currently plans or that might be required over the duration of the New START Treaty to protect the United States pursuant to the National Missile Defense Act of 1999, or to protect United States Armed Forces and United States allies from limited ballistic missile attack, including further planned enhancements to the Ground-based Midcourse Defense system and all phases of the Phased Adaptive Approach to missile defense in Europe.

(C) Given its concern about missile defense issues, the Senate expects the executive branch to offer regular briefings, not less than twice each year, to the Committees on Foreign Relations and Armed Services of the Senate on all missile defense issues related to the New START Treaty and on the progress of United States-Russia dialogue and cooperation regarding missile defense.

SA 4912. Mr. KIRK submitted an amendment intended to be proposed to amendment SA 4900 submitted by Mr. MCCAIN (for himself and Mr. CORKER) and intended to be proposed to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

On page 6, strike lines 2 through 7 and insert the following:

(4) **SENSITIVE INFORMATION ON MISSILE DEFENSE SYSTEMS.**—It is the understanding of the United States that the United States will not provide the Russian Federation any access to United States sensitive data, including tracking, targeting, and telemetry data, technology, and common operational pictures, with respect to United States missile defense systems for the duration of the New START Treaty.

SA 4913. Mr. LIEBERMAN (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

In paragraph (1) of subsection (b) of the Resolution of Ratification, beginning in subparagraph (B), strike “United States; and” and all that follows through the period at the end of subparagraph (C) and insert the following: “United States;

(C) the April 7, 2010, unilateral statement by the Russian Federation on missile defense does not impose a legal obligation on the United States;

(D) the eighth clause of the preamble of the New START Treaty, which recognizes “the existence of the interrelationship between strategic offensive arms and strategic defensive arms,” does not impose a legal obligation on the United States, nor does it

limit the development and deployment of United States missile defense systems, including qualitative and quantitative improvements to such systems;

(E) although the United States cannot circumscribe the Russian Federation's sovereign rights under Article XIV(3) of the New START Treaty, it is the understanding of the United States that the development and deployment of United States missile defense systems do not and will not alter the strategic balance with the Russian Federation nor threaten its strategic nuclear force potential, and therefore do not constitute a basis for questioning the effectiveness and viability of the New START Treaty, and would not give rise to circumstances justifying Russia's withdrawal from the Treaty; and

(F) the development and deployment of United States missile defense systems is not dependent on the Russian Federation entering into or remaining a Party to the New START Treaty, as it is the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate), including all phases of the European Phased Adaptive Approach, the continued modernization of the ground-based midcourse defense system, and other programs to defend the United States, its deployed forces, allies, and partners against ballistic missile threats.

SA 4914. Mr. REID (for Mr. KERRY (for himself and Ms. SNOWE)) proposed an amendment to the bill H.R. 81, to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—SHARK CONSERVATION ACT OF 2010

Sec. 101. Short title.

Sec. 102. Amendment of the High Seas Driftnet Fishing Moratorium Protection Act.

Sec. 103. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.

Sec. 104. Offset of implementation cost.

TITLE II—INTERNATIONAL FISHERIES AGREEMENT

Sec. 201. Short title.

Sec. 202. International Fishery Agreement.

Sec. 203. Application with other laws.

Sec. 204. Effective date.

TITLE III—MISCELLANEOUS

Sec. 301. Technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act.

Sec. 302. Pacific Whiting Act of 2006.

Sec. 303. Replacement vessel.

TITLE I—SHARK CONSERVATION ACT OF 2010

SEC. 101. SHORT TITLE.

This title may be cited as the “Shark Conservation Act of 2010”.

SEC. 102. AMENDMENT OF HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.

(a) ACTIONS TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.—Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking “and” at the end;

(B) in subparagraph (E), by inserting “and” after the semicolon; and

(C) by adding at the end the following:

“(F) to adopt shark conservation measures, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea;”;

(2) in paragraph (2), by striking “and” at the end;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

“(3) seeking to enter into international agreements that require measures for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that are comparable to those of the United States, taking into account different conditions; and”.

(b) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.—Subparagraph (A) of section 609(e)(3) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(e)(3)) is amended—

(1) by striking the “and” before “bycatch reduction requirements”; and

(2) by striking the semicolon at the end and inserting “, and shark conservation measures;”.

(c) EQUIVALENT CONSERVATION MEASURES.—

(1) IDENTIFICATION.—Subsection (a) of section 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k) is amended—

(A) in the matter preceding paragraph (1), by striking “607, a nation if—” and inserting “607—”;

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(ii) by moving clauses (i) and (ii) (as so redesignated) 2 ems to the right;

(C) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(D) by moving subparagraphs (A) through (C) (as so redesignated) 2 ems to the right;

(E) by inserting before subparagraph (A) (as so redesignated) the following:

“(1) a nation if—”;

(F) in subparagraph (C) (as so redesignated) by striking the period at the end and inserting “; and”;

(G) by adding at the end the following:

“(2) a nation if—

“(A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

“(B) the nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.”.

(2) INITIAL IDENTIFICATIONS.—The Secretary of Commerce shall begin making identifica-

tions under paragraph (2) of section 610(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)), as added by paragraph (1)(G), not later than 1 year after the date of the enactment of this Act.

SEC. 103. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

(a) IN GENERAL.—Paragraph (1) of section 307 of Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) by amending subparagraph (P) to read as follows:

“(P)(i) to remove any of the fins of a shark (including the tail) at sea;

“(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;

“(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or

“(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;”;

(2) by striking the matter following subparagraph (R) and inserting the following:

“For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph, the term ‘naturally attached’, with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.”.

(b) SAVINGS CLAUSE.—

“(1) IN GENERAL.—The amendments made by subsection (a) do not apply to an individual engaged in commercial fishing for smooth dogfish (*Mustelus canis*) in that area of the waters of the United States located shoreward of a line drawn in such a manner that each point on it is 50 nautical miles from the baseline of a State from which the territorial sea is measured, if the individual holds a valid State commercial fishing license, unless the total weight of smooth dogfish fins landed or found on board a vessel to which this subsection applies exceeds 12 percent of the total weight of smooth dogfish carcasses landed or found on board.

(2) DEFINITIONS.—In this subsection:

(A) COMMERCIAL FISHING.—The term “commercial fishing” has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

(B) STATE.—The term “State” has the meaning given that term in section 803 of Public Law 103–206 (16 U.S.C. 5102).

SEC. 104. OFFSET OF IMPLEMENTATION COST.

Section 308(a) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(a)) is amended by striking “2012.” and inserting “2010, and \$2,500,000 for each of fiscal years 2011 and 2012.”.

TITLE II—INTERNATIONAL FISHERIES AGREEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the “International Fisheries Agreement Clarification Act”.

SEC. 202. INTERNATIONAL FISHERY AGREEMENT.

Consistent with the intent of provisions of the Magnuson-Stevens Fishery and Conservation and Management Act relating to international agreements, the Secretary of Commerce and the New England Fishery Management Council may, for the purpose of rebuilding those portions of fish stocks covered by the United States-Canada Transboundary Resource Sharing Understanding on the date of enactment of this Act—

(1) take into account the Understanding and decisions made under that Understanding in the application of section 304(e)(4)(A)(i) of the Act (16 U.S.C. 1854(e)(4)(A)(i));

(2) consider decisions made under that Understanding as “management measures under an international agreement” that “dictate otherwise” for purposes of section 304(e)(4)(A)(ii) of the Act (16 U.S.C. 1854(e)(4)(A)(ii)); and

(3) establish catch levels for those portions of fish stocks within their respective geographic areas covered by the Understanding on the date of enactment of this Act that exceed the catch levels otherwise required under the Northeast Multispecies Fishery Management Plan if—

(A) overfishing is ended immediately;

(B) the fishing mortality level ensures rebuilding within a time period for rebuilding specified taking into account the Understanding pursuant to paragraphs (1) and (2) of this subsection; and

(C) such catch levels are consistent with that Understanding.

SEC. 203. APPLICATION WITH OTHER LAWS.

Nothing in this title shall be construed to amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) or to limit or otherwise alter the authority of the Secretary of Commerce under that Act concerning other species.

SEC. 204. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), section 202 shall apply with respect to fishing years beginning after April 30, 2010.

(b) SPECIAL RULE.—Section 202(3)(B) shall only apply with respect to fishing years beginning after April 30, 2012.

TITLE III—MISCELLANEOUS

SEC. 301. TECHNICAL CORRECTIONS TO THE WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT.

Section 503 of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6902) is amended—

(1) by striking “Management Council and” in subsection (a) and inserting “Management Council, and one of whom shall be the chairman or a member of”;

(2) by striking subsection (c)(1) and inserting the following:

“(1) EMPLOYMENT STATUS.—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”; and

(3) by striking subsection (d)(2)(B)(ii) and inserting the following:

“(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”.

SEC. 302. PACIFIC WHITING ACT OF 2006.

(a) SCIENTIFIC EXPERTS.—Section 605(a)(1) of the Pacific Whiting Act of 2006 (16 U.S.C. 7004(a)(1)) is amended by striking “at least 6 but not more than 12” inserting “no more than 2”.

(b) EMPLOYMENT STATUS.—Section 609(a) of the Pacific Whiting Act of 2006 (16 U.S.C. 7008(a)) is amended to read as follows:

“(a) EMPLOYMENT STATUS.—Individuals appointed under section 603, 604, 605, or 606 of this title, other than officers or employees of the United States Government, shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”.

SEC. 303. REPLACEMENT VESSEL.

Notwithstanding any other provision of law, the Secretary of Commerce may promulgate regulations that allow for the replacement or rebuilding of a vessel qualified under subsections (a)(7) and (g)(1)(A) of section 219 of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108-447; 188 Stat. 886-891).

SA 4915. Mr. KERRY (for Mr. SCHUMER (for himself, Ms. COLLINS, Mrs. GILLIBRAND, and Mr. CONRAD)) proposed an amendment to the bill H.R. 4748, to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counter-narcotics strategy, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Northern Border Counternarcotics Strategy Act of 2010”.

SEC. 2. NORTHERN BORDER COUNTERNARCOTICS STRATEGY.

The Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law 109-469; 120 Stat. 3502) is amended by inserting after section 1110 the following:

“SEC. 1110A. REQUIREMENT FOR NORTHERN BORDER COUNTERNARCOTICS STRATEGY.

“(a) DEFINITIONS.—In this section, the terms ‘appropriate congressional committees’, ‘Director’, and ‘National Drug Control Program agency’ have the meanings given those terms in section 702 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701).

“(b) STRATEGY.—Not later than 180 days after the date of enactment of this section, and every 2 years thereafter, the Director, in consultation with the head of each relevant National Drug Control Program agency and relevant officials of States, local governments, tribal governments, and the governments of other countries, shall develop a Northern Border Counternarcotics Strategy and submit the strategy to—

“(1) the appropriate congressional committees (including the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives);

“(2) the Committee on Armed Services, the Committee on Homeland Security and Gov-

ernmental Affairs, and the Committee on Indian Affairs of the Senate; and

“(3) the Committee on Armed Services, the Committee on Homeland Security, and the Committee on Natural Resources of the House of Representatives.

“(c) PURPOSES.—The Northern Border Counternarcotics Strategy shall—

“(1) set forth the strategy of the Federal Government for preventing the illegal trafficking of drugs across the international border between the United States and Canada, including through ports of entry and between ports of entry on the border;

“(2) state the specific roles and responsibilities of each relevant National Drug Control Program agency for implementing the strategy;

“(3) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement the strategy; and

“(4) reflect the unique nature of small communities along the international border between the United States and Canada, ongoing cooperation and coordination with Canadian law enforcement authorities, and variations in the volumes of vehicles and pedestrians crossing through ports of entry along the international border between the United States and Canada.

“(d) SPECIFIC CONTENT RELATED TO CROSS-BORDER INDIAN RESERVATIONS.—The Northern Border Counternarcotics Strategy shall include—

“(1) a strategy to end the illegal trafficking of drugs to or through Indian reservations on or near the international border between the United States and Canada; and

“(2) recommendations for additional assistance, if any, needed by tribal law enforcement agencies relating to the strategy, including an evaluation of Federal technical and financial assistance, infrastructure capacity building, and interoperability deficiencies.

“(e) LIMITATION.—

“(1) IN GENERAL.—The Northern Border Counternarcotics Strategy shall not change the existing agency authorities and this section shall not be construed to amend or modify any law governing interagency relationships.

“(2) LEGITIMATE TRADE AND TRAVEL.—The Northern Border Counternarcotics Strategy shall be designed to promote, and not hinder, legitimate trade and travel.

“(f) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—

“(1) IN GENERAL.—The Northern Border Counternarcotics Strategy shall be submitted in unclassified form and shall be available to the public.

“(2) ANNEX.—The Northern Border Counternarcotics Strategy may include an annex containing any classified information or information the public disclosure of which, as determined by the Director or the head of any relevant National Drug Control Program agency, would be detrimental to the law enforcement or national security activities of any Federal, State, local, or tribal agency.”.

SA 4916. Mr. LIEBERMAN (for Mr. KERRY (for himself and Ms. COLLINS)) proposed an amendment to the bill H.R. 1746, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Predisaster Hazard Mitigation Act of 2010”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The predisaster hazard mitigation program has been successful and cost-effective. Funding from the predisaster hazard mitigation program has successfully reduced loss of life, personal injuries, damage to and destruction of property, and disruption of communities from disasters.

(2) The predisaster hazard mitigation program has saved Federal taxpayers from spending significant sums on disaster recovery and relief that would have been otherwise incurred had communities not successfully applied mitigation techniques.

(3) A 2007 Congressional Budget Office report found that the predisaster hazard mitigation program reduced losses by roughly \$3 (measured in 2007 dollars) for each dollar invested in mitigation efforts funded under the predisaster hazard mitigation program. Moreover, the Congressional Budget Office found that projects funded under the predisaster hazard mitigation program could lower the need for post-disaster assistance from the Federal Government so that the predisaster hazard mitigation investment by the Federal Government would actually save taxpayer funds.

(4) A 2005 report by the Multihazard Mitigation Council showed substantial benefits and cost savings from the hazard mitigation programs of the Federal Emergency Management Agency generally. Looking at a range of hazard mitigation programs of the Federal Emergency Management Agency in hazard mitigation provided the Nation with roughly \$4 in benefits. Moreover, the report projected that the mitigation grants awarded between 1993 and 2003 would save more than 220 lives and prevent nearly 4,700 injuries over approximately 50 years.

(5) Given the substantial savings generated from the predisaster hazard mitigation program in the years following the provision of assistance under the program, increasing funds appropriated for the program would be a wise investment.

SEC. 3. PREDISASTER HAZARD MITIGATION.

(a) **ALLOCATION OF FUNDS.**—Section 203(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(f)) is amended to read as follows:

“(f) **ALLOCATION OF FUNDS.**—

“(1) **IN GENERAL.**—The President shall award financial assistance under this section on a competitive basis and in accordance with the criteria in subsection (g).

“(2) **MINIMUM AND MAXIMUM AMOUNTS.**—In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State) for a fiscal year—

“(A) is not less than the lesser of—

“(i) \$575,000; or

“(ii) the amount that is equal to 1 percent of the total funds appropriated to carry out this section for the fiscal year; and

“(B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended to read as follows:

“(m) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

“(1) \$180,000,000 for fiscal year 2011;

“(2) \$200,000,000 for fiscal year 2012; and

“(3) \$200,000,000 for fiscal year 2013.”.

(c) **TECHNICAL CORRECTIONS TO REFERENCES.**—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) in section 602(a) (42 U.S.C. 5195a(a)), by striking paragraph (7) and inserting the following:

“(7) **ADMINISTRATOR.**—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.”; and

(2) by striking “Director” each place it appears and inserting “Administrator”, except—

(A) in section 622 (42 U.S.C. 5197a)—

(i) in the second and fourth places it appears in subsection (c); and

(ii) in subsection (d); and

(B) in section 626(b) (42 U.S.C. 5197e(b)).

SEC. 4. PROHIBITION ON EARMARKS.

Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) is amended by adding at the end the following:

“(n) **PROHIBITION ON EARMARKS.**—

“(1) **DEFINITION.**—In this subsection, the term ‘congressionally directed spending’ means a statutory provision or report language included primarily at the request of a Senator or a Member, Delegate or Resident Commissioner of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

“(2) **PROHIBITION.**—None of the funds appropriated or otherwise made available to carry out this section may be used for congressionally directed spending.

“(3) **CERTIFICATION TO CONGRESS.**—The Administrator of the Federal Emergency Management Agency shall submit to Congress a certification regarding whether all financial assistance under this section was awarded in accordance with this section.”.

CONSUMER ASSISTANCE TO RECYCLE AND SAVE ACT

On Sunday, December 19, 2010, the Senate passed H.R. 2751, as amended, as follows:

H.R. 2751

Resolved, That the bill from the House of Representatives (H.R. 2751) entitled “An Act to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles.”, do pass with the following amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “FDA Food Safety Modernization Act”.

(b) **REFERENCES.**—Except as otherwise specified, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be consid-

ered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—IMPROVING CAPACITY TO PREVENT FOOD SAFETY PROBLEMS

Sec. 101. Inspections of records.

Sec. 102. Registration of food facilities.

Sec. 103. Hazard analysis and risk-based preventive controls.

Sec. 104. Performance standards.

Sec. 105. Standards for produce safety.

Sec. 106. Protection against intentional adulteration.

Sec. 107. Authority to collect fees.

Sec. 108. National agriculture and food defense strategy.

Sec. 109. Food and Agriculture Coordinating Councils.

Sec. 110. Building domestic capacity.

Sec. 111. Sanitary transportation of food.

Sec. 112. Food allergy and anaphylaxis management.

Sec. 113. New dietary ingredients.

Sec. 114. Requirement for guidance relating to post harvest processing of raw oysters.

Sec. 115. Port shopping.

Sec. 116. Alcohol-related facilities.

TITLE II—IMPROVING CAPACITY TO DETECT AND RESPOND TO FOOD SAFETY PROBLEMS

Sec. 201. Targeting of inspection resources for domestic facilities, foreign facilities, and ports of entry; annual report.

Sec. 202. Laboratory accreditation for analyses of foods.

Sec. 203. Integrated consortium of laboratory networks.

Sec. 204. Enhancing tracking and tracing of food and recordkeeping.

Sec. 205. Surveillance.

Sec. 206. Mandatory recall authority.

Sec. 207. Administrative detention of food.

Sec. 208. Decontamination and disposal standards and plans.

Sec. 209. Improving the training of State, local, territorial, and tribal food safety officials.

Sec. 210. Enhancing food safety.

Sec. 211. Improving the reportable food registry.

TITLE III—IMPROVING THE SAFETY OF IMPORTED FOOD

Sec. 301. Foreign supplier verification program.

Sec. 302. Voluntary qualified importer program.

Sec. 303. Authority to require import certifications for food.

Sec. 304. Prior notice of imported food shipments.

Sec. 305. Building capacity of foreign governments with respect to food safety.

Sec. 306. Inspection of foreign food facilities.

Sec. 307. Accreditation of third-party auditors.

Sec. 308. Foreign offices of the Food and Drug Administration.

Sec. 309. Smuggled food.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Funding for food safety.

Sec. 402. Employee protections.

Sec. 403. Jurisdiction; authorities.

Sec. 404. Compliance with international agreements.

Sec. 405. Determination of budgetary effects.

TITLE I—IMPROVING CAPACITY TO PREVENT FOOD SAFETY PROBLEMS

SEC. 101. INSPECTIONS OF RECORDS.

(a) **IN GENERAL.**—Section 414(a) (21 U.S.C. 350c(a)) is amended—

(1) by striking the heading and all that follows through “of food is” and inserting the following: “RECORDS INSPECTION.—

“(1) **ADULTERATED FOOD.**—If the Secretary has a reasonable belief that an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, is”;

(2) by inserting “, and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner,” after “relating to such article”;

(3) by striking the last sentence; and

(4) by inserting at the end the following:

“(2) **USE OF OR EXPOSURE TO FOOD OF CONCERN.**—If the Secretary believes that there is a reasonable probability that the use of or exposure to an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, will cause serious adverse health consequences or death to humans or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, that are needed to assist the Secretary in determining whether there is a reasonable probability that the use of or exposure to the food will cause serious adverse health consequences or death to humans or animals.

“(3) **APPLICATION.**—The requirement under paragraphs (1) and (2) applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.”.

(b) **CONFORMING AMENDMENT.**—Section 704(a)(1)(B) (21 U.S.C. 374(a)(1)(B)) is amended by striking “section 414 when” and all that follows through “subject to” and inserting “section 414, when the standard for records inspection under paragraph (1) or (2) of section 414(a) applies, subject to”.

SEC. 102. REGISTRATION OF FOOD FACILITIES.

(a) **UPDATING OF FOOD CATEGORY REGULATIONS; BIENNIAL REGISTRATION RENEWAL.**—Section 415(a) (21 U.S.C. 350d(a)) is amended—

(1) in paragraph (2), by—

(A) striking “conducts business and” and inserting “conducts business, the e-mail address for the contact person of the facility or, in the case of a foreign facility, the United States agent for the facility, and”; and

(B) inserting “, or any other food categories as determined appropriate by the Secretary, including by guidance” after “Code of Federal Regulations”;

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

“(3) **BIENNIAL REGISTRATION RENEWAL.**—During the period beginning on October 1 and ending on December 31 of each even-numbered year, a registrant that has submitted a registration under paragraph (1) shall submit to the Secretary a renewal registration containing the information described in paragraph (2). The Secretary shall provide for an abbreviated registration renewal process for any registrant that has not had any changes to such information since the registrant submitted the preceding registration or registration renewal for the facility involved.”.

(b) **SUSPENSION OF REGISTRATION.**—

(1) **IN GENERAL.**—Section 415 (21 U.S.C. 350d) is amended—

(A) in subsection (a)(2), by inserting after the first sentence the following: “The registration shall contain an assurance that the Secretary will be permitted to inspect such facility at the times and in the manner permitted by this Act.”;

(B) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(C) by inserting after subsection (a) the following:

“(b) **SUSPENSION OF REGISTRATION.**—

“(1) **IN GENERAL.**—If the Secretary determines that food manufactured, processed, packed, received, or held by a facility registered under this section has a reasonable probability of causing serious adverse health consequences or death to humans or animals, the Secretary may by order suspend the registration of a facility—

“(A) that created, caused, or was otherwise responsible for such reasonable probability; or

“(B)(i) that knew of, or had reason to know of, such reasonable probability; and

“(ii) packed, received, or held such food.

“(2) **HEARING ON SUSPENSION.**—The Secretary shall provide the registrant subject to an order under paragraph (1) with an opportunity for an informal hearing, to be held as soon as possible but not later than 2 business days after the issuance of the order or such other time period, as agreed upon by the Secretary and the registrant, on the actions required for reinstatement of registration and why the registration that is subject to suspension should be reinstated. The Secretary shall reinstate a registration if the Secretary determines, based on evidence presented, that adequate grounds do not exist to continue the suspension of the registration.

“(3) **POST-HEARING CORRECTIVE ACTION PLAN; VACATING OF ORDER.**—

“(A) **CORRECTIVE ACTION PLAN.**—If, after providing opportunity for an informal hearing under paragraph (2), the Secretary determines that the suspension of registration remains necessary, the Secretary shall require the registrant to submit a corrective action plan to demonstrate how the registrant plans to correct the conditions found by the Secretary. The Secretary shall review such plan not later than 14 days after the submission of the corrective action plan or such other time period as determined by the Secretary.

“(B) **VACATING OF ORDER.**—Upon a determination by the Secretary that adequate grounds do not exist to continue the suspension actions required by the order, or that such actions should be modified, the Secretary shall promptly vacate the order and reinstate the registration of the facility subject to the order or modify the order, as appropriate.

“(4) **EFFECT OF SUSPENSION.**—If the registration of a facility is suspended under this subsection, no person shall import or export food into the United States from such facility, offer to import or export food into the United States from such facility, or otherwise introduce food from such facility into interstate or intrastate commerce in the United States.

“(5) **REGULATIONS.**—

“(A) **IN GENERAL.**—The Secretary shall promulgate regulations to implement this subsection. The Secretary may promulgate such regulations on an interim final basis.

“(B) **REGISTRATION REQUIREMENT.**—The Secretary may require that registration under this section be submitted in an electronic format. Such requirement may not take effect before the date that is 5 years after the date of enactment of the FDA Food Safety Modernization Act.

“(6) **APPLICATION DATE.**—Facilities shall be subject to the requirements of this subsection beginning on the earlier of—

“(A) the date on which the Secretary issues regulations under paragraph (5); or

“(B) 180 days after the date of enactment of the FDA Food Safety Modernization Act.

“(7) **NO DELEGATION.**—The authority conferred by this subsection to issue an order to suspend a registration or vacate an order of suspension shall not be delegated to any officer or employee other than the Commissioner.”.

(2) **SMALL ENTITY COMPLIANCE POLICY GUIDE.**—Not later than 180 days after the issuance of the regulations promulgated under section 415(b)(5) of the Federal Food, Drug, and Cosmetic Act (as added by this section), the Secretary shall issue a small entity compliance policy guide setting forth in plain language the requirements of such regulations to assist small entities in complying with registration requirements and other activities required under such section.

(3) **IMPORTED FOOD.**—Section 801(l) (21 U.S.C. 381(l)) is amended by inserting “(or for which a registration has been suspended under such section)” after “section 415”.

(c) **CLARIFICATION OF INTENT.**—

(1) **RETAIL FOOD ESTABLISHMENT.**—The Secretary shall amend the definition of the term “retail food establishment” in section 1.127(b)(11) of title 21, Code of Federal Regulations to clarify that, in determining the primary function of an establishment or a retail food establishment under such section, the sale of food products directly to consumers by such establishment and the sale of food directly to consumers by such retail food establishment include—

(A) the sale of such food products or food directly to consumers by such establishment at a roadside stand or farmers’ market where such stand or market is located other than where the food was manufactured or processed;

(B) the sale and distribution of such food through a community supported agriculture program; and

(C) the sale and distribution of such food at any other such direct sales platform as determined by the Secretary.

(2) **DEFINITIONS.**—For purposes of paragraph (1)—

(A) the term “community supported agriculture program” has the same meaning given the term “community supported agriculture (CSA) program” in section 249.2 of title 7, Code of Federal Regulations (or any successor regulation); and

(B) the term “consumer” does not include a business.

(d) **CONFORMING AMENDMENTS.**—

(1) Section 301(d) (21 U.S.C. 331(d)) is amended by inserting “415,” after “404.”.

(2) Section 415(d), as redesignated by subsection (b), is amended by adding at the end before the period “for a facility to be registered, except with respect to the reinstatement of a registration that is suspended under subsection (b)”.

SEC. 103. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

(a) **IN GENERAL.**—Chapter IV (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

“SEC. 418. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

“(a) **IN GENERAL.**—The owner, operator, or agent in charge of a facility shall, in accordance with this section, evaluate the hazards that could affect food manufactured, processed, packed, or held by such facility, identify and implement preventive controls to significantly minimize or prevent the occurrence of such hazards and provide assurances that such food is not adulterated under section 402 or misbranded under section 403(u), monitor the performance of those controls, and maintain records of this monitoring as a matter of routine practice.

“(b) **HAZARD ANALYSIS.**—The owner, operator, or agent in charge of a facility shall—

“(1) identify and evaluate known or reasonably foreseeable hazards that may be associated with the facility, including—

“(A) biological, chemical, physical, and radiological hazards, natural toxins, pesticides, drug residues, decomposition, parasites, allergens, and unapproved food and color additives; and

“(B) hazards that occur naturally, or may be unintentionally introduced; and

“(2) identify and evaluate hazards that may be intentionally introduced, including by acts of terrorism; and

“(3) develop a written analysis of the hazards.

“(c) PREVENTIVE CONTROLS.—The owner, operator, or agent in charge of a facility shall identify and implement preventive controls, including at critical control points, if any, to provide assurances that—

“(1) hazards identified in the hazard analysis conducted under subsection (b)(1) will be significantly minimized or prevented;

“(2) any hazards identified in the hazard analysis conducted under subsection (b)(2) will be significantly minimized or prevented and addressed, consistent with section 420, as applicable; and

“(3) the food manufactured, processed, packed, or held by such facility will not be adulterated under section 402 or misbranded under section 403(w).

“(d) MONITORING OF EFFECTIVENESS.—The owner, operator, or agent in charge of a facility shall monitor the effectiveness of the preventive controls implemented under subsection (c) to provide assurances that the outcomes described in subsection (c) shall be achieved.

“(e) CORRECTIVE ACTIONS.—The owner, operator, or agent in charge of a facility shall establish procedures to ensure that, if the preventive controls implemented under subsection (c) are not properly implemented or are found to be ineffective—

“(1) appropriate action is taken to reduce the likelihood of recurrence of the implementation failure;

“(2) all affected food is evaluated for safety; and

“(3) all affected food is prevented from entering into commerce if the owner, operator or agent in charge of such facility cannot ensure that the affected food is not adulterated under section 402 or misbranded under section 403(w).

“(f) VERIFICATION.—The owner, operator, or agent in charge of a facility shall verify that—

“(1) the preventive controls implemented under subsection (c) are adequate to control the hazards identified under subsection (b);

“(2) the owner, operator, or agent is conducting monitoring in accordance with subsection (d);

“(3) the owner, operator, or agent is making appropriate decisions about corrective actions taken under subsection (e);

“(4) the preventive controls implemented under subsection (c) are effectively and significantly minimizing or preventing the occurrence of identified hazards, including through the use of environmental and product testing programs and other appropriate means; and

“(5) there is documented, periodic reanalysis of the plan under subsection (i) to ensure that the plan is still relevant to the raw materials, conditions and processes in the facility, and new and emerging threats.

“(g) RECORDKEEPING.—The owner, operator, or agent in charge of a facility shall maintain, for not less than 2 years, records documenting the monitoring of the preventive controls implemented under subsection (c), instances of non-conformance material to food safety, the results of testing and other appropriate means of verification under subsection (f)(4), instances when corrective actions were implemented, and the efficacy of preventive controls and corrective actions.

“(h) WRITTEN PLAN AND DOCUMENTATION.—The owner, operator, or agent in charge of a facility shall prepare a written plan that documents and describes the procedures used by the facility to comply with the requirements of this section, including analyzing the hazards under subsection (b) and identifying the preventive controls adopted under subsection (c) to address those hazards. Such written plan, together with the documentation described in subsection (g), shall be made promptly available to a duly authorized representative of the Secretary upon oral or written request.

“(i) REQUIREMENT TO REANALYZE.—The owner, operator, or agent in charge of a facility shall conduct a reanalysis under subsection (b) whenever a significant change is made in the activities conducted at a facility operated by such owner, operator, or agent if the change creates a reasonable potential for a new hazard or a significant increase in a previously identified hazard or not less frequently than once every 3 years, whichever is earlier. Such reanalysis shall be completed and additional preventive controls needed to address the hazard identified, if any, shall be implemented before the change in activities at the facility is operative. Such owner, operator, or agent shall revise the written plan required under subsection (h) if such a significant change is made or document the basis for the conclusion that no additional or revised preventive controls are needed. The Secretary may require a reanalysis under this section to respond to new hazards and developments in scientific understanding, including, as appropriate, results from the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessment.

“(j) EXEMPTION FOR SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES SUBJECT TO HACCP.—

“(1) IN GENERAL.—This section shall not apply to a facility if the owner, operator, or agent in charge of such facility is required to comply with, and is in compliance with, 1 of the following standards and regulations with respect to such facility:

“(A) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(B) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(C) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

“(2) APPLICABILITY.—The exemption under paragraph (1)(C) shall apply only with respect to microbiological hazards that are regulated under the standards for Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers under part 113 of chapter 21, Code of Federal Regulations (or any successor regulations).

“(k) EXCEPTION FOR ACTIVITIES OF FACILITIES SUBJECT TO SECTION 419.—This section shall not apply to activities of a facility that are subject to section 419.

“(l) MODIFIED REQUIREMENTS FOR QUALIFIED FACILITIES.—

“(1) QUALIFIED FACILITIES.—

“(A) IN GENERAL.—A facility is a qualified facility for purposes of this subsection if the facility meets the conditions under subparagraph (B) or (C).

“(B) VERY SMALL BUSINESS.—A facility is a qualified facility under this subparagraph—

“(i) if the facility, including any subsidiary or affiliate of the facility, is, collectively, a very small business (as defined in the regulations promulgated under subsection (n)); and

“(ii) in the case where the facility is a subsidiary or affiliate of an entity, if such subsidiaries or affiliates, are, collectively, a very small business (as so defined).

“(C) LIMITED ANNUAL MONETARY VALUE OF SALES.—

“(i) IN GENERAL.—A facility is a qualified facility under this subparagraph if clause (ii) applies—

“(I) to the facility, including any subsidiary or affiliate of the facility, collectively; and

“(II) to the subsidiaries or affiliates, collectively, of any entity of which the facility is a subsidiary or affiliate.

“(ii) AVERAGE ANNUAL MONETARY VALUE.—This clause applies if—

“(I) during the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as described in clause (i)) that is sold directly to qualified end-users during such period exceeded the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as so described) sold by such facility (or collectively by any such subsidiary or affiliate) to all other purchasers during such period; and

“(II) the average annual monetary value of all food sold by such facility (or the collective average annual monetary value of such food sold by any subsidiary or affiliate, as described in clause (i)) during such period was less than \$500,000, adjusted for inflation.

“(2) EXEMPTION.—A qualified facility—

“(A) shall not be subject to the requirements under subsections (a) through (i) and subsection (n) in an applicable calendar year; and

“(B) shall submit to the Secretary—

“(i)(I) documentation that demonstrates that the owner, operator, or agent in charge of the facility has identified potential hazards associated with the food being produced, is implementing preventive controls to address the hazards, and is monitoring the preventive controls to ensure that such controls are effective; or

“(II) documentation (which may include licenses, inspection reports, certificates, permits, credentials, certification by an appropriate agency (such as a State department of agriculture), or other evidence of oversight), as specified by the Secretary, that the facility is in compliance with State, local, county, or other applicable non-Federal food safety law; and

“(ii) documentation, as specified by the Secretary in a guidance document issued not later than 1 year after the date of enactment of this section, that the facility is a qualified facility under paragraph (1)(B) or (1)(C).

“(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

“(A) IN GENERAL.—In the event of an active investigation of a foodborne illness outbreak that is directly linked to a qualified facility subject to an exemption under this subsection, or if the Secretary determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions associated with a qualified facility that are material to the safety of the food manufactured, processed, packed, or held at such facility, the Secretary may withdraw the exemption provided to such facility under this subsection.

“(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to expand or limit the inspection authority of the Secretary.

“(4) DEFINITIONS.—In this subsection:

“(A) AFFILIATE.—The term ‘affiliate’ means any facility that controls, is controlled by, or is under common control with another facility.

“(B) QUALIFIED END-USER.—The term ‘qualified end-user’, with respect to a food, means—

“(i) the consumer of the food; or

“(ii) a restaurant or retail food establishment (as those terms are defined by the Secretary for purposes of section 415) that—

“(I) is located—

“(aa) in the same State as the qualified facility that sold the food to such restaurant or establishment; or

“(bb) not more than 275 miles from such facility; and

“(II) is purchasing the food for sale directly to consumers at such restaurant or retail food establishment.

“(C) CONSUMER.—For purposes of subparagraph (B), the term ‘consumer’ does not include a business.

“(D) SUBSIDIARY.—The term ‘subsidiary’ means any company which is owned or controlled directly or indirectly by another company.

“(5) STUDY.—

“(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a study of the food processing sector regulated by the Secretary to determine—

“(i) the distribution of food production by type and size of operation, including monetary value of food sold;

“(ii) the proportion of food produced by each type and size of operation;

“(iii) the number and types of food facilities co-located on farms, including the number and proportion by commodity and by manufacturing or processing activity;

“(iv) the incidence of foodborne illness originating from each size and type of operation and the type of food facilities for which no reported or known hazard exists; and

“(v) the effect on foodborne illness risk associated with commingling, processing, transporting, and storing food and raw agricultural commodities, including differences in risk based on the scale and duration of such activities.

“(B) SIZE.—The results of the study conducted under subparagraph (A) shall include the information necessary to enable the Secretary to define the terms ‘small business’ and ‘very small business’, for purposes of promulgating the regulation under subsection (n). In defining such terms, the Secretary shall include consideration of harvestable acres, income, the number of employees, and the volume of food harvested.

“(C) SUBMISSION OF REPORT.—Not later than 18 months after the date of enactment the FDA Food Safety Modernization Act, the Secretary shall submit to Congress a report that describes the results of the study conducted under subparagraph (A).

“(6) NO PREEMPTION.—Nothing in this subsection preempts State, local, county, or other non-Federal law regarding the safe production of food. Compliance with this subsection shall not relieve any person from liability at common law or under State statutory law.

“(7) NOTIFICATION TO CONSUMERS.—

“(A) IN GENERAL.—A qualified facility that is exempt from the requirements under subsections (a) through (i) and subsection (n) and does not prepare documentation under paragraph (2)(B)(i)(I) shall—

“(i) with respect to a food for which a food packaging label is required by the Secretary under any other provision of this Act, include prominently and conspicuously on such label the name and business address of the facility where the food was manufactured or processed; or

“(ii) with respect to a food for which a food packaging label is not required by the Secretary under any other provisions of this Act, prominently and conspicuously display, at the point of purchase, the name and business address of the facility where the food was manufactured or processed, on a label, poster, sign, placard, or documents delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

“(B) NO ADDITIONAL LABEL.—Subparagraph (A) does not provide authority to the Secretary to require a label that is in addition to any label required under any other provision of this Act.

“(m) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—The Secretary may, by regulation, exempt or modify the requirements for compliance under this section with respect to facilities that are solely engaged in the production of food for animals other than man, the storage of raw agricultural commodities (other than fruits and vegetables) intended for further distribution or processing, or the storage of packaged foods that are not exposed to the environment.

“(n) REGULATIONS.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations—

“(A) to establish science-based minimum standards for conducting a hazard analysis, documenting hazards, implementing preventive controls, and documenting the implementation of the preventive controls under this section; and

“(B) to define, for purposes of this section, the terms ‘small business’ and ‘very small business’, taking into consideration the study described in subsection (l)(5).

“(2) COORDINATION.—In promulgating the regulations under paragraph (1)(A), with regard to hazards that may be intentionally introduced, including by acts of terrorism, the Secretary shall coordinate with the Secretary of Homeland Security, as appropriate.

“(3) CONTENT.—The regulations promulgated under paragraph (1)(A) shall—

“(A) provide sufficient flexibility to be practicable for all sizes and types of facilities, including small businesses such as a small food processing facility co-located on a farm;

“(B) comply with chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’), with special attention to minimizing the burden (as defined in section 3502(2) of such Act) on the facility, and collection of information (as defined in section 3502(3) of such Act), associated with such regulations;

“(C) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods; and

“(D) not require a facility to hire a consultant or other third party to identify, implement, certify, or audit preventative controls, except in the case of negotiated enforcement resolutions that may require such a consultant or third party.

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to provide the Secretary with the authority to prescribe specific technologies, practices, or critical controls for an individual facility.

“(5) REVIEW.—In promulgating the regulations under paragraph (1)(A), the Secretary shall review regulatory hazard analysis and preventive control programs in existence on the date of enactment of the FDA Food Safety Modernization Act, including the Grade ‘A’ Pasteurized Milk Ordinance to ensure that such regulations are consistent, to the extent practicable, with applicable domestic and internationally-recognized standards in existence on such date.

“(o) DEFINITIONS.—For purposes of this section:

“(1) CRITICAL CONTROL POINT.—The term ‘critical control point’ means a point, step, or procedure in a food process at which control can be applied and is essential to prevent or eliminate a food safety hazard or reduce such hazard to an acceptable level.

“(2) FACILITY.—The term ‘facility’ means a domestic facility or a foreign facility that is required to register under section 415.

“(3) PREVENTIVE CONTROLS.—The term ‘preventive controls’ means those risk-based, reason-

ably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would employ to significantly minimize or prevent the hazards identified under the hazard analysis conducted under subsection (b) and that are consistent with the current scientific understanding of safe food manufacturing, processing, packing, or holding at the time of the analysis. Those procedures, practices, and processes may include the following:

“(A) Sanitation procedures for food contact surfaces and utensils and food-contact surfaces of equipment.

“(B) Supervisor, manager, and employee hygiene training.

“(C) An environmental monitoring program to verify the effectiveness of pathogen controls in processes where a food is exposed to a potential contaminant in the environment.

“(D) A food allergen control program.

“(E) A recall plan.

“(F) Current Good Manufacturing Practices (cGMPs) under part 110 of title 21, Code of Federal Regulations (or any successor regulations).

“(G) Supplier verification activities that relate to the safety of food.”

(b) GUIDANCE DOCUMENT.—The Secretary shall issue a guidance document related to the regulations promulgated under subsection (b)(1) with respect to the hazard analysis and preventive controls under section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

(c) RULEMAKING.—

(1) PROPOSED RULEMAKING.—

(A) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall publish a notice of proposed rulemaking in the Federal Register to promulgate regulations with respect to—

(i) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act; and

(ii) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415.

(B) CLARIFICATION.—The rulemaking described under subparagraph (A) shall enhance the implementation of such section 415 and clarify the activities that are included as part of the definition of the term “facility” under such section 415. Nothing in this Act authorizes the Secretary to modify the definition of the term “facility” under such section.

(C) SCIENCE-BASED RISK ANALYSIS.—In promulgating regulations under subparagraph (A), the Secretary shall conduct a science-based risk analysis of—

(i) specific types of on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership, as such packing and holding relates to specific foods; and

(ii) specific on-farm manufacturing and processing activities as such activities relate to specific foods that are not consumed on that farm or on another farm under common ownership.

(D) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—

(i) IN GENERAL.—In promulgating the regulations under subparagraph (A), the Secretary shall consider the results of the science-based risk analysis conducted under subparagraph (C), and shall exempt certain facilities from the requirements in section 418 of the Federal Food, Drug, and Cosmetic Act (as added by this section), including hazard analysis and preventive

controls, and the mandatory inspection frequency in section 421 of such Act (as added by section 201), or modify the requirements in such sections 418 or 421, as the Secretary determines appropriate, if such facilities are engaged only in specific types of on-farm manufacturing, processing, packing, or holding activities that the Secretary determines to be low risk involving specific foods the Secretary determines to be low risk.

(ii) **LIMITATION.**—The exemptions or modifications under clause (i) shall not include an exemption from the requirement to register under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act, if applicable, and shall apply only to small businesses and very small businesses, as defined in the regulation promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added under subsection (a)).

(2) **FINAL REGULATIONS.**—Not later than 9 months after the close of the comment period for the proposed rulemaking under paragraph (1), the Secretary shall adopt final rules with respect to—

(A) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act;

(B) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415; and

(C) the requirements under sections 418 and 421 of the Federal Food, Drug, and Cosmetic Act, as added by this Act, from which the Secretary may issue exemptions or modifications of the requirements for certain types of facilities.

(d) **SMALL ENTITY COMPLIANCE POLICY GUIDE.**—Not later than 180 days after the issuance of the regulations promulgated under subsection (n) of section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary shall issue a small entity compliance policy guide setting forth in plain language the requirements of such section 418 and this section to assist small entities in complying with the hazard analysis and other activities required under such section 418 and this section.

(e) **PROHIBITED ACTS.**—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

“(uu) The operation of a facility that manufactures, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is not in compliance with section 418.”.

(f) **NO EFFECT ON HACCP AUTHORITIES.**—Nothing in the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce Hazard Analysis Critical Control Point programs and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

(g) **DIETARY SUPPLEMENTS.**—Nothing in the amendments made by this section shall apply to any facility with regard to the manufacturing, processing, packing, or holding of a dietary supplement that is in compliance with the requirements of sections 402(g)(2) and 761 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(g)(2), 379aa-1).

(h) **UPDATING GUIDANCE RELATING TO FISH AND FISHERIES PRODUCTS HAZARDS AND CONTROLS.**—The Secretary shall, not later than 180 days after the date of enactment of this Act, update the Fish and Fisheries Products Hazards

and Control Guidance to take into account advances in technology that have occurred since the previous publication of such Guidance by the Secretary.

(i) **EFFECTIVE DATES.**—

(1) **GENERAL RULE.**—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

(2) **FLEXIBILITY FOR SMALL BUSINESSES.**—Notwithstanding paragraph (1)—

(A) the amendments made by this section shall apply to a small business (as defined in the regulations promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added by this section)) beginning on the date that is 6 months after the effective date of such regulations; and

(B) the amendments made by this section shall apply to a very small business (as defined in such regulations) beginning on the date that is 18 months after the effective date of such regulations.

SEC. 104. PERFORMANCE STANDARDS.

(a) **IN GENERAL.**—The Secretary shall, in coordination with the Secretary of Agriculture, not less frequently than every 2 years, review and evaluate relevant health data and other relevant information, including from toxicological and epidemiological studies and analyses, current Good Manufacturing Practices issued by the Secretary relating to food, and relevant recommendations of relevant advisory committees, including the Food Advisory Committee, to determine the most significant foodborne contaminants.

(b) **GUIDANCE DOCUMENTS AND REGULATIONS.**—Based on the review and evaluation conducted under subsection (a), and when appropriate to reduce the risk of serious illness or death to humans or animals or to prevent adulteration of the food under section 402 of the Federal Food, Drug, or Cosmetic Act (21 U.S.C. 342) or to prevent the spread by food of communicable disease under section 361 of the Public Health Service Act (42 U.S.C. 264), the Secretary shall issue contaminant-specific and science-based guidance documents, including guidance documents regarding action levels, or regulations. Such guidance, including guidance regarding action levels, or regulations—

(1) shall apply to products or product classes;

(2) shall, where appropriate, differentiate between food for human consumption and food intended for consumption by animals other than humans; and

(3) shall not be written to be facility-specific.

(c) **NO DUPLICATION OF EFFORTS.**—The Secretary shall coordinate with the Secretary of Agriculture to avoid issuing duplicative guidance on the same contaminants.

(d) **REVIEW.**—The Secretary shall periodically review and revise, as appropriate, the guidance documents, including guidance documents regarding action levels, or regulations promulgated under this section.

SEC. 105. STANDARDS FOR PRODUCE SAFETY.

(a) **IN GENERAL.**—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 103, is amended by adding at the end the following:

“SEC. 419. STANDARDS FOR PRODUCE SAFETY.

“(a) **PROPOSED RULEMAKING.**—

“(1) **IN GENERAL.**—

“(A) **RULEMAKING.**—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in coordination with the Secretary of Agriculture and representatives of State departments of agriculture (including with regard to the national organic program established under the Organic Foods Production Act of 1990), and in consultation with the Secretary of Homeland Security, shall publish a notice of proposed rulemaking to establish science-based minimum standards for the safe production and harvesting of those

types of fruits and vegetables, including specific mixes or categories of fruits and vegetables, that are raw agricultural commodities for which the Secretary has determined that such standards minimize the risk of serious adverse health consequences or death.

“(B) **DETERMINATION BY SECRETARY.**—With respect to small businesses and very small businesses (as such terms are defined in the regulation promulgated under subparagraph (A)) that produce and harvest those types of fruits and vegetables that are raw agricultural commodities that the Secretary has determined are low risk and do not present a risk of serious adverse health consequences or death, the Secretary may determine not to include production and harvesting of such fruits and vegetables in such rulemaking, or may modify the applicable requirements of regulations promulgated pursuant to this section.

“(2) **PUBLIC INPUT.**—During the comment period on the notice of proposed rulemaking under paragraph (1), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

“(3) **CONTENT.**—The proposed rulemaking under paragraph (1) shall—

“(A) provide sufficient flexibility to be applicable to various types of entities engaged in the production and harvesting of fruits and vegetables that are raw agricultural commodities, including small businesses and entities that sell directly to consumers, and be appropriate to the scale and diversity of the production and harvesting of such commodities;

“(B) include, with respect to growing, harvesting, sorting, packing, and storage operations, science-based minimum standards related to soil amendments, hygiene, packaging, temperature controls, animals in the growing area, and water;

“(C) consider hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism;

“(D) take into consideration, consistent with ensuring enforceable public health protection, conservation and environmental practice standards and policies established by Federal natural resource conservation, wildlife conservation, and environmental agencies;

“(E) in the case of production that is certified organic, not include any requirements that conflict with or duplicate the requirements of the national organic program established under the Organic Foods Production Act of 1990, while providing the same level of public health protection as the requirements under guidance documents, including guidance documents regarding action levels, and regulations under the FDA Food Safety Modernization Act; and

“(F) define, for purposes of this section, the terms ‘small business’ and ‘very small business’

“(4) **PRIORITIZATION.**—The Secretary shall prioritize the implementation of the regulations under this section for specific fruits and vegetables that are raw agricultural commodities based on known risks which may include a history and severity of foodborne illness outbreaks.

“(b) **FINAL REGULATION.**—

“(1) **IN GENERAL.**—Not later than 1 year after the close of the comment period for the proposed rulemaking under subsection (a), the Secretary shall adopt a final regulation to provide for minimum science-based standards for those types of fruits and vegetables, including specific mixes or categories of fruits or vegetables, that are raw agricultural commodities, based on known safety risks, which may include a history of foodborne illness outbreaks.

“(2) **FINAL REGULATION.**—The final regulation shall—

“(A) provide for coordination of education and enforcement activities by State and local officials, as designated by the Governors of the respective States or the appropriate elected State official as recognized by State statute; and

“(B) include a description of the variance process under subsection (c) and the types of permissible variances the Secretary may grant.

“(3) FLEXIBILITY FOR SMALL BUSINESSES.—Notwithstanding paragraph (1)—

“(A) the regulations promulgated under this section shall apply to a small business (as defined in the regulation promulgated under subsection (a)(1)) after the date that is 1 year after the effective date of the final regulation under paragraph (1); and

“(B) the regulations promulgated under this section shall apply to a very small business (as defined in the regulation promulgated under subsection (a)(1)) after the date that is 2 years after the effective date of the final regulation under paragraph (1).

“(c) CRITERIA.—

“(1) IN GENERAL.—The regulations adopted under subsection (b) shall—

“(A) set forth those procedures, processes, and practices that the Secretary determines to minimize the risk of serious adverse health consequences or death, including procedures, processes, and practices that the Secretary determines to be reasonably necessary to prevent the introduction of known or reasonably foreseeable biological, chemical, and physical hazards, including hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism, into fruits and vegetables, including specific mixes or categories of fruits and vegetables, that are raw agricultural commodities and to provide reasonable assurances that the produce is not adulterated under section 402;

“(B) provide sufficient flexibility to be practicable for all sizes and types of businesses, including small businesses such as a small food processing facility co-located on a farm;

“(C) comply with chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’), with special attention to minimizing the burden (as defined in section 3502(2) of such Act) on the business, and collection of information (as defined in section 3502(3) of such Act), associated with such regulations;

“(D) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods; and

“(E) not require a business to hire a consultant or other third party to identify, implement, certify, compliance with these procedures, processes, and practices, except in the case of negotiated enforcement resolutions that may require such a consultant or third party; and

“(F) permit States and foreign countries from which food is imported into the United States to request from the Secretary variances from the requirements of the regulations, subject to paragraph (2), where the State or foreign country determines that the variance is necessary in light of local growing conditions and that the procedures, processes, and practices to be followed under the variance are reasonably likely to ensure that the produce is not adulterated under section 402 and to provide the same level of public health protection as the requirements of the regulations adopted under subsection (b).

“(2) VARIANCES.—

“(A) REQUESTS FOR VARIANCES.—A State or foreign country from which food is imported into the United States may in writing request a variance from the Secretary. Such request shall describe the variance requested and present information demonstrating that the variance does not increase the likelihood that the food for which the variance is requested will be adulterated under section 402, and that the variance

provides the same level of public health protection as the requirements of the regulations adopted under subsection (b). The Secretary shall review such requests in a reasonable time-frame.

“(B) APPROVAL OF VARIANCES.—The Secretary may approve a variance in whole or in part, as appropriate, and may specify the scope of applicability of a variance to other similarly situated persons.

“(C) DENIAL OF VARIANCES.—The Secretary may deny a variance request if the Secretary determines that such variance is not reasonably likely to ensure that the food is not adulterated under section 402 and is not reasonably likely to provide the same level of public health protection as the requirements of the regulation adopted under subsection (b). The Secretary shall notify the person requesting such variance of the reasons for the denial.

“(D) MODIFICATION OR REVOCATION OF A VARIANCE.—The Secretary, after notice and an opportunity for a hearing, may modify or revoke a variance if the Secretary determines that such variance is not reasonably likely to ensure that the food is not adulterated under section 402 and is not reasonably likely to provide the same level of public health protection as the requirements of the regulations adopted under subsection (b).

“(d) ENFORCEMENT.—The Secretary may coordinate with the Secretary of Agriculture and, as appropriate, shall contract and coordinate with the agency or department designated by the Governor of each State to perform activities to ensure compliance with this section.

“(e) GUIDANCE.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall publish, after consultation with the Secretary of Agriculture, representatives of State departments of agriculture, farmer representatives, and various types of entities engaged in the production and harvesting or importing of fruits and vegetables that are raw agricultural commodities, including small businesses, updated good agricultural practices and guidance for the safe production and harvesting of specific types of fresh produce under this section.

“(2) PUBLIC MEETINGS.—The Secretary shall conduct not fewer than 3 public meetings in diverse geographical areas of the United States as part of an effort to conduct education and outreach regarding the guidance described in paragraph (1) for persons in different regions who are involved in the production and harvesting of fruits and vegetables that are raw agricultural commodities, including persons that sell directly to consumers and farmer representatives, and for importers of fruits and vegetables that are raw agricultural commodities.

“(3) PAPERWORK REDUCTION.—The Secretary shall ensure that any updated guidance under this section will—

“(A) provide sufficient flexibility to be practicable for all sizes and types of facilities, including small businesses such as a small food processing facility co-located on a farm; and

“(B) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods.

“(f) EXEMPTION FOR DIRECT FARM MARKETING.—

“(1) IN GENERAL.—A farm shall be exempt from the requirements under this section in a calendar year if—

“(A) during the previous 3-year period, the average annual monetary value of the food sold by such farm directly to qualified end-users during such period exceeded the average annual monetary value of the food sold by such farm to all other buyers during such period; and

“(B) the average annual monetary value of all food sold during such period was less than \$500,000, adjusted for inflation.

“(2) NOTIFICATION TO CONSUMERS.—

“(A) IN GENERAL.—A farm that is exempt from the requirements under this section shall—

“(i) with respect to a food for which a food packaging label is required by the Secretary under any other provision of this Act, include prominently and conspicuously on such label the name and business address of the farm where the produce was grown; or

“(ii) with respect to a food for which a food packaging label is not required by the Secretary under any other provision of this Act, prominently and conspicuously display, at the point of purchase, the name and business address of the farm where the produce was grown, on a label, poster, sign, placard, or documents delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

“(B) NO ADDITIONAL LABEL.—Subparagraph (A) does not provide authority to the Secretary to require a label that is in addition to any label required under any other provision of this Act.

“(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

“(A) IN GENERAL.—In the event of an active investigation of a foodborne illness outbreak that is directly linked to a farm subject to an exemption under this subsection, or if the Secretary determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions associated with a farm that are material to the safety of the food produced or harvested at such farm, the Secretary may withdraw the exemption provided to such farm under this subsection.

“(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to expand or limit the inspection authority of the Secretary.

“(4) DEFINITIONS.—

“(A) QUALIFIED END-USER.—In this subsection, the term ‘qualified end-user’, with respect to a food means—

“(i) the consumer of the food; or

“(ii) a restaurant or retail food establishment (as those terms are defined by the Secretary for purposes of section 415) that is located—

“(I) in the same State as the farm that produced the food; or

“(II) not more than 275 miles from such farm.

“(B) CONSUMER.—For purposes of subparagraph (A), the term ‘consumer’ does not include a business.

“(5) NO PREEMPTION.—Nothing in this subsection preempts State, local, county, or other non-Federal law regarding the safe production, harvesting, holding, transportation, and sale of fresh fruits and vegetables. Compliance with this subsection shall not relieve any person from liability at common law or under State statutory law.

“(6) LIMITATION OF EFFECT.—Nothing in this subsection shall prevent the Secretary from exercising any authority granted in the other sections of this Act.

“(g) CLARIFICATION.—This section shall not apply to produce that is produced by an individual for personal consumption.

“(h) EXCEPTION FOR ACTIVITIES OF FACILITIES SUBJECT TO SECTION 418.—This section shall not apply to activities of a facility that are subject to section 418.”.

(b) SMALL ENTITY COMPLIANCE POLICY GUIDE.—Not later than 180 days after the issuance of regulations under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary of Health and Human Services shall issue a small entity compliance policy guide setting forth in plain language the requirements of such section 419 and to assist small entities in complying with standards for safe production and harvesting and other activities required under such section.

(c) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331), as amended by section 103, is amended by adding at the end the following:

“(vv) The failure to comply with the requirements under section 419.”.

(d) **NO EFFECT ON HACCP AUTHORITIES.**—Nothing in the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce product and category-specific regulations, such as the Seafood Hazard Analysis Critical Controls Points Program, the Juice Hazard Analysis Critical Control Program, and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

SEC. 106. PROTECTION AGAINST INTENTIONAL ADULTERATION.

(a) **IN GENERAL.**—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 105, is amended by adding at the end the following:

“SEC. 420. PROTECTION AGAINST INTENTIONAL ADULTERATION.

“(a) **DETERMINATIONS.**—

“(1) **IN GENERAL.**—The Secretary shall—

“(A) conduct a vulnerability assessment of the food system, including by consideration of the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessments;

“(B) consider the best available understanding of uncertainties, risks, costs, and benefits associated with guarding against intentional adulteration of food at vulnerable points; and

“(C) determine the types of science-based mitigation strategies or measures that are necessary to protect against the intentional adulteration of food.

“(2) **LIMITED DISTRIBUTION.**—In the interest of national security, the Secretary, in consultation with the Secretary of Homeland Security, may determine the time, manner, and form in which determinations made under paragraph (1) are made publicly available.

“(b) **REGULATIONS.**—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in coordination with the Secretary of Homeland Security and in consultation with the Secretary of Agriculture, shall promulgate regulations to protect against the intentional adulteration of food subject to this Act. Such regulations shall—

“(1) specify how a person shall assess whether the person is required to implement mitigation strategies or measures intended to protect against the intentional adulteration of food; and

“(2) specify appropriate science-based mitigation strategies or measures to prepare and protect the food supply chain at specific vulnerable points, as appropriate.

“(c) **APPLICABILITY.**—Regulations promulgated under subsection (b) shall apply only to food for which there is a high risk of intentional contamination, as determined by the Secretary, in consultation with the Secretary of Homeland Security, under subsection (a), that could cause serious adverse health consequences or death to humans or animals and shall include those foods—

“(1) for which the Secretary has identified clear vulnerabilities (including short shelf-life or susceptibility to intentional contamination at critical control points); and

“(2) in bulk or batch form, prior to being packaged for the final consumer.

“(d) **EXCEPTION.**—This section shall not apply to farms, except for those that produce milk.

“(e) **DEFINITION.**—For purposes of this section, the term ‘farm’ has the meaning given that term in section 1.227 of title 21, Code of Federal Regulations (or any successor regulation).”.

(b) **GUIDANCE DOCUMENTS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary

of Health and Human Services, in consultation with the Secretary of Homeland Security and the Secretary of Agriculture, shall issue guidance documents related to protection against the intentional adulteration of food, including mitigation strategies or measures to guard against such adulteration as required under section 420 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a).

(2) **CONTENT.**—The guidance documents issued under paragraph (1) shall—

(A) include a model assessment for a person to use under subsection (b)(1) of section 420 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a);

(B) include examples of mitigation strategies or measures described in subsection (b)(2) of such section; and

(C) specify situations in which the examples of mitigation strategies or measures described in subsection (b)(2) of such section are appropriate.

(3) **LIMITED DISTRIBUTION.**—In the interest of national security, the Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security, may determine the time, manner, and form in which the guidance documents issued under paragraph (1) are made public, including by releasing such documents to targeted audiences.

(c) **PERIODIC REVIEW.**—The Secretary of Health and Human Services shall periodically review and, as appropriate, update the regulations under section 420(b) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), and the guidance documents under subsection (b).

(d) **PROHIBITED ACTS.**—Section 301 (21 U.S.C. 331 et seq.), as amended by section 105, is amended by adding at the end the following:

“(uw) The failure to comply with section 420.”.

SEC. 107. AUTHORITY TO COLLECT FEES.

(a) **FEES FOR REINSPECTION, RECALL, AND IMPORTATION ACTIVITIES.**—Subchapter C of chapter VII (21 U.S.C. 379f et seq.) is amended by adding at the end the following:

“PART 6—FEES RELATED TO FOOD

“SEC. 743. AUTHORITY TO COLLECT AND USE FEES.

“(a) **IN GENERAL.**—

“(1) **PURPOSE AND AUTHORITY.**—For fiscal year 2010 and each subsequent fiscal year, the Secretary shall, in accordance with this section, assess and collect fees from—

“(A) the responsible party for each domestic facility (as defined in section 415(b)) and the United States agent for each foreign facility subject to a reinspection in such fiscal year, to cover reinspection-related costs for such year;

“(B) the responsible party for a domestic facility (as defined in section 415(b)) and an importer who does not comply with a recall order under section 423 or under section 412(f) in such fiscal year, to cover food recall activities associated with such order performed by the Secretary, including technical assistance, follow-up effectiveness checks, and public notifications, for such year;

“(C) each importer participating in the voluntary qualified importer program under section 806 in such year, to cover the administrative costs of such program for such year; and

“(D) each importer subject to a reinspection in such fiscal year, to cover reinspection-related costs for such year.

“(2) **DEFINITIONS.**—For purposes of this section—

“(A) the term ‘reinspection’ means—

“(i) with respect to domestic facilities (as defined in section 415(b)), 1 or more inspections conducted under section 704 subsequent to an inspection conducted under such provision which identified noncompliance materially related to a food safety requirement of this Act,

specifically to determine whether compliance has been achieved to the Secretary’s satisfaction; and

“(ii) with respect to importers, 1 or more examinations conducted under section 801 subsequent to an examination conducted under such provision which identified noncompliance materially related to a food safety requirement of this Act, specifically to determine whether compliance has been achieved to the Secretary’s satisfaction;

“(B) the term ‘reinspection-related costs’ means all expenses, including administrative expenses, incurred in connection with—

“(i) arranging, conducting, and evaluating the results of reinspections; and

“(ii) assessing and collecting reinspection fees under this section; and

“(C) the term ‘responsible party’ has the meaning given such term in section 417(a)(1).

“(b) **ESTABLISHMENT OF FEES.**—

“(1) **IN GENERAL.**—Subject to subsections (c) and (d), the Secretary shall establish the fees to be collected under this section for each fiscal year specified in subsection (a)(1), based on the methodology described under paragraph (2), and shall publish such fees in a Federal Register notice not later than 60 days before the start of each such year.

“(2) **FEE METHODOLOGY.**—

“(A) **FEES.**—Fees amounts established for collection—

“(i) under subparagraph (A) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the reinspection-related activities (including by type or level of reinspection activity, as the Secretary determines applicable) described in such subparagraph (A) for such year;

“(ii) under subparagraph (B) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the activities described in such subparagraph (B) for such year;

“(iii) under subparagraph (C) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the activities described in such subparagraph (C) for such year; and

“(iv) under subparagraph (D) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the activities described in such subparagraph (D) for such year.

“(B) **OTHER CONSIDERATIONS.**—

“(i) **VOLUNTARY QUALIFIED IMPORTER PROGRAM.**—In establishing the fee amounts under subparagraph (A)(iii) for a fiscal year, the Secretary shall provide for the number of importers who have submitted to the Secretary a notice under section 806(c) informing the Secretary of the intent of such importer to participate in the program under section 806 in such fiscal year.

“(II) **RECOUPMENT.**—In establishing the fee amounts under subparagraph (A)(iii) for the first 5 fiscal years after the date of enactment of this section, the Secretary shall include in such fee a reasonable surcharge that provides a recoupment of the costs expended by the Secretary to establish and implement the first year of the program under section 806.

“(ii) **CREDITING OF FEES.**—In establishing the fee amounts under subparagraph (A) for a fiscal year, the Secretary shall provide for the crediting of fees from the previous year to the next year if the Secretary overestimated the amount of fees needed to carry out such activities, and consider the need to account for any adjustment of fees and such other factors as the Secretary determines appropriate.

“(iii) **PUBLISHED GUIDELINES.**—Not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall publish in the Federal Register a proposed

set of guidelines in consideration of the burden of fee amounts on small business. Such consideration may include reduced fee amounts for small businesses. The Secretary shall provide for a period of public comment on such guidelines. The Secretary shall adjust the fee schedule for small businesses subject to such fees only through notice and comment rulemaking.

“(3) **USE OF FEES.**—The Secretary shall make all of the fees collected pursuant to clause (i), (ii), (iii), and (iv) of paragraph (2)(A) available solely to pay for the costs referred to in such clause (i), (ii), (iii), and (iv) of paragraph (2)(A), respectively.

“(c) **LIMITATIONS.**—

“(1) **IN GENERAL.**—Fees under subsection (a) shall be refunded for a fiscal year beginning after fiscal year 2010 unless the amount of the total appropriations for food safety activities at the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) is equal to or greater than the amount of appropriations for food safety activities at the Food and Drug Administration for fiscal year 2009 (excluding the amount of fees appropriated for such fiscal year), multiplied by the adjustment factor under paragraph (3).

“(2) **AUTHORITY.**—If—

“(A) the Secretary does not assess fees under subsection (a) for a portion of a fiscal year because paragraph (1) applies; and

“(B) at a later date in such fiscal year, such paragraph (1) ceases to apply, the Secretary may assess and collect such fees under subsection (a), without any modification to the rate of such fees, notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

“(3) **ADJUSTMENT FACTOR.**—

“(A) **IN GENERAL.**—The adjustment factor described in paragraph (1) shall be the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending June 30 preceding the fiscal year, but in no case shall such adjustment factor be negative.

“(B) **COMPOUNDED BASIS.**—The adjustment under subparagraph (A) made each fiscal year shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2009.

“(4) **LIMITATION ON AMOUNT OF CERTAIN FEES.**—

“(A) **IN GENERAL.**—Notwithstanding any other provision of this section and subject to subparagraph (B), the Secretary may not collect fees in a fiscal year such that the amount collected—

“(i) under subparagraph (B) of subsection (a)(1) exceeds \$20,000,000; and

“(ii) under subparagraphs (A) and (D) of subsection (a)(1) exceeds \$25,000,000 combined.

“(B) **EXCEPTION.**—If a domestic facility (as defined in section 415(b)) or an importer becomes subject to a fee described in subparagraph (A), (B), or (D) of subsection (a)(1) after the maximum amount of fees has been collected by the Secretary under subparagraph (A), the Secretary may collect a fee from such facility or importer.

“(d) **CREDITING AND AVAILABILITY OF FEES.**—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the purpose of paying the operating expenses of the

Food and Drug Administration employees and contractors performing activities associated with these food safety fees.

“(e) **COLLECTION OF FEES.**—

“(1) **IN GENERAL.**—The Secretary shall specify in the Federal Register notice described in subsection (b)(1) the time and manner in which fees assessed under this section shall be collected.

“(2) **COLLECTION OF UNPAID FEES.**—In any case where the Secretary does not receive payment of a fee assessed under this section within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to provisions of subchapter II of chapter 37 of title 31, United States Code.

“(f) **ANNUAL REPORT TO CONGRESS.**—Not later than 120 days after each fiscal year for which fees are assessed under this section, the Secretary shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, to include a description of fees assessed and collected for each such year and a summary description of the entities paying such fees and the types of business in which such entities engage.

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—For fiscal year 2010 and each fiscal year thereafter, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount determined under subsection (b) for the fiscal year, as adjusted or otherwise affected under the other provisions of this section.”

(b) **EXPORT CERTIFICATION FEES FOR FOODS AND ANIMAL FEED.**—

(1) **AUTHORITY FOR EXPORT CERTIFICATIONS FOR FOOD, INCLUDING ANIMAL FEED.**—Section 801(e)(4)(A) (21 U.S.C. 381(e)(4)(A)) is amended—

(A) in the matter preceding clause (i), by striking “a drug” and inserting “a food, drug”; (B) in clause (i) by striking “exported drug” and inserting “exported food, drug”; and

(C) in clause (ii) by striking “the drug” each place it appears and inserting “the food, drug”.

(2) **CLARIFICATION OF CERTIFICATION.**—Section 801(e)(4) (21 U.S.C. 381(e)(4)) is amended by inserting after subparagraph (B) the following new subparagraph:

“(C) For purposes of this paragraph, a certification by the Secretary shall be made on such basis, and in such form (including a publicly available listing) as the Secretary determines appropriate.”

(3) **LIMITATIONS ON THE USE AND AMOUNT OF FEES.**—Paragraph (4) of section 801(e) (21 U.S.C. 381(e)) is amended by adding at the end the following:

“(D) With regard to fees pursuant to subparagraph (B) in connection with written export certifications for food:

“(i) Such fees shall be collected and available solely for the costs of the Food and Drug Administration associated with issuing such certifications.

“(ii) Such fees may not be retained in an amount that exceeds such costs for the respective fiscal year.”

SEC. 108. NATIONAL AGRICULTURE AND FOOD DEFENSE STRATEGY.

(a) **DEVELOPMENT AND SUBMISSION OF STRATEGY.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall prepare and transmit to the relevant committees of Congress, and make publicly available on the Internet Web sites of the Department of Health and Human Services and the Department of Agriculture, the National Agriculture and Food Defense Strategy.

(2) **IMPLEMENTATION PLAN.**—The strategy shall include an implementation plan for use by the Secretaries described under paragraph (1) in carrying out the strategy.

(3) **RESEARCH.**—The strategy shall include a coordinated research agenda for use by the Secretaries described under paragraph (1) in conducting research to support the goals and activities described in paragraphs (1) and (2) of subsection (b).

(4) **REVISIONS.**—Not later than 4 years after the date on which the strategy is submitted to the relevant committees of Congress under paragraph (1), and not less frequently than every 4 years thereafter, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall revise and submit to the relevant committees of Congress the strategy.

(5) **CONSISTENCY WITH EXISTING PLANS.**—The strategy described in paragraph (1) shall be consistent with—

(A) the National Incident Management System;

(B) the National Response Framework;

(C) the National Infrastructure Protection Plan;

(D) the National Preparedness Goals; and

(E) other relevant national strategies.

(b) **COMPONENTS.**—

(1) **IN GENERAL.**—The strategy shall include a description of the process to be used by the Department of Health and Human Services, the Department of Agriculture, and the Department of Homeland Security—

(A) to achieve each goal described in paragraph (2); and

(B) to evaluate the progress made by Federal, State, local, and tribal governments towards the achievement of each goal described in paragraph (2).

(2) **GOALS.**—The strategy shall include a description of the process to be used by the Department of Health and Human Services, the Department of Agriculture, and the Department of Homeland Security to achieve the following goals:

(A) **PREPAREDNESS GOAL.**—Enhance the preparedness of the agriculture and food system by—

(i) conducting vulnerability assessments of the agriculture and food system;

(ii) mitigating vulnerabilities of the system;

(iii) improving communication and training relating to the system;

(iv) developing and conducting exercises to test decontamination and disposal plans;

(v) developing modeling tools to improve event consequence assessment and decision support; and

(vi) preparing risk communication tools and enhancing public awareness through outreach.

(B) **DETECTION GOAL.**—Improve agriculture and food system detection capabilities by—

(i) identifying contamination in food products at the earliest possible time; and

(ii) conducting surveillance to prevent the spread of diseases.

(C) **EMERGENCY RESPONSE GOAL.**—Ensure an efficient response to agriculture and food emergencies by—

(i) immediately investigating animal disease outbreaks and suspected food contamination;

(ii) preventing additional human illnesses;

(iii) organizing, training, and equipping animal, plant, and food emergency response teams of—

(I) the Federal Government; and

(II) State, local, and tribal governments;

(iv) designing, developing, and evaluating training and exercises carried out under agriculture and food defense plans; and

(v) ensuring consistent and organized risk communication to the public by—

- (I) the Federal Government;
- (II) State, local, and tribal governments; and
- (III) the private sector.

(D) **RECOVERY GOAL.**—Secure agriculture and food production after an agriculture or food emergency by—

(i) working with the private sector to develop business recovery plans to rapidly resume agriculture, food production, and international trade;

(ii) conducting exercises of the plans described in subparagraph (C) with the goal of long-term recovery results;

(iii) rapidly removing, and effectively disposing of—

(I) contaminated agriculture and food products; and

(II) infected plants and animals; and

(iv) decontaminating and restoring areas affected by an agriculture or food emergency.

(3) **EVALUATION.**—The Secretary, in coordination with the Secretary of Agriculture and the Secretary of Homeland Security, shall—

(A) develop metrics to measure progress for the evaluation process described in paragraph (1)(B); and

(B) report on the progress measured in subparagraph (A) as part of the National Agriculture and Food Defense strategy described in subsection (a)(1).

(c) **LIMITED DISTRIBUTION.**—In the interest of national security, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, may determine the manner and format in which the National Agriculture and Food Defense strategy established under this section is made publicly available on the Internet Web sites of the Department of Health and Human Services, the Department of Homeland Security, and the Department of Agriculture, as described in subsection (a)(1).

SEC. 109. FOOD AND AGRICULTURE COORDINATING COUNCILS.

The Secretary of Homeland Security, in coordination with the Secretary of Health and Human Services and the Secretary of Agriculture, shall within 180 days of enactment of this Act, and annually thereafter, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the activities of the Food and Agriculture Government Coordinating Council and the Food and Agriculture Sector Coordinating Council, including the progress of such Councils on—

(1) facilitating partnerships between public and private entities to help coordinate and enhance the protection of the agriculture and food system of the United States;

(2) providing for the regular and timely interchange of information between each council relating to the security of the agriculture and food system (including intelligence information);

(3) identifying best practices and methods for improving the coordination among Federal, State, local, and private sector preparedness and response plans for agriculture and food defense; and

(4) recommending methods by which to protect the economy and the public health of the United States from the effects of—

- (A) animal or plant disease outbreaks;
- (B) food contamination; and
- (C) natural disasters affecting agriculture and food.

SEC. 110. BUILDING DOMESTIC CAPACITY.

(a) **IN GENERAL.**—

(1) **INITIAL REPORT.**—The Secretary, in coordination with the Secretary of Agriculture and the Secretary of Homeland Security, shall, not later than 2 years after the date of enactment of this Act, submit to Congress a comprehensive report that identifies programs and practices that

are intended to promote the safety and supply chain security of food and to prevent outbreaks of foodborne illness and other food-related hazards that can be addressed through preventive activities. Such report shall include a description of the following:

(A) Analysis of the need for further regulations or guidance to industry.

(B) Outreach to food industry sectors, including through the Food and Agriculture Coordinating Councils referred to in section 109, to identify potential sources of emerging threats to the safety and security of the food supply and preventive strategies to address those threats.

(C) Systems to ensure the prompt distribution to the food industry of information and technical assistance concerning preventive strategies.

(D) Communication systems to ensure that information about specific threats to the safety and security of the food supply are rapidly and effectively disseminated.

(E) Surveillance systems and laboratory networks to rapidly detect and respond to foodborne illness outbreaks and other food-related hazards, including how such systems and networks are integrated.

(F) Outreach, education, and training provided to States and local governments to build State and local food safety and food defense capabilities, including progress implementing strategies developed under sections 108 and 205.

(G) The estimated resources needed to effectively implement the programs and practices identified in the report developed in this section over a 5-year period.

(H) The impact of requirements under this Act (including amendments made by this Act) on certified organic farms and facilities (as defined in section 415 (21 U.S.C. 350d).

(I) Specific efforts taken pursuant to the agreements authorized under section 421(c) of the Federal Food, Drug, and Cosmetic Act (as added by section 201), together with, as necessary, a description of any additional authorities necessary to improve seafood safety.

(2) **BIENNIAL REPORTS.**—On a biennial basis following the submission of the report under paragraph (1), the Secretary shall submit to Congress a report that—

(A) reviews previous food safety programs and practices;

(B) outlines the success of those programs and practices;

(C) identifies future programs and practices; and

(D) includes information related to any matter described in subparagraphs (A) through (H) of paragraph (1), as necessary.

(b) **RISK-BASED ACTIVITIES.**—The report developed under subsection (a)(1) shall describe methods that seek to ensure that resources available to the Secretary for food safety-related activities are directed at those actions most likely to reduce risks from food, including the use of preventive strategies and allocation of inspection resources. The Secretary shall promptly undertake those risk-based actions that are identified during the development of the report as likely to contribute to the safety and security of the food supply.

(c) **CAPABILITY FOR LABORATORY ANALYSES; RESEARCH.**—The report developed under subsection (a)(1) shall provide a description of methods to increase capacity to undertake analyses of food samples promptly after collection, to identify new and rapid analytical techniques, including commercially-available techniques that can be employed at ports of entry and by Food Emergency Response Network laboratories, and to provide for well-equipped and staffed laboratory facilities and progress toward laboratory accreditation under section 422 of the Federal Food, Drug, and Cosmetic Act (as added by section 202).

(d) **INFORMATION TECHNOLOGY.**—The report developed under subsection (a)(1) shall include a description of such information technology systems as may be needed to identify risks and receive data from multiple sources, including foreign governments, State, local, and tribal governments, other Federal agencies, the food industry, laboratories, laboratory networks, and consumers. The information technology systems that the Secretary describes shall also provide for the integration of the facility registration system under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), and the prior notice system under section 801(m) of such Act (21 U.S.C. 381(m)) with other information technology systems that are used by the Federal Government for the processing of food offered for import into the United States.

(e) **AUTOMATED RISK ASSESSMENT.**—The report developed under subsection (a)(1) shall include a description of progress toward developing and improving an automated risk assessment system for food safety surveillance and allocation of resources.

(f) **TRACEBACK AND SURVEILLANCE REPORT.**—The Secretary shall include in the report developed under subsection (a)(1) an analysis of the Food and Drug Administration's performance in foodborne illness outbreaks during the 5-year period preceding the date of enactment of this Act involving fruits and vegetables that are raw agricultural commodities (as defined in section 201(r) (21 U.S.C. 321(r))) and recommendations for enhanced surveillance, outbreak response, and traceability. Such findings and recommendations shall address communication and coordination with the public, industry, and State and local governments, as such communication and coordination relates to outbreak identification and traceback.

(g) **BIENNIAL FOOD SAFETY AND FOOD DEFENSE RESEARCH PLAN.**—The Secretary, the Secretary of Agriculture, and the Secretary of Homeland Security shall, on a biennial basis, submit to Congress a joint food safety and food defense research plan which may include studying the long-term health effects of foodborne illness. Such biennial plan shall include a list and description of projects conducted during the previous 2-year period and the plan for projects to be conducted during the subsequent 2-year period.

(h) **EFFECTIVENESS OF PROGRAMS ADMINISTERED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**—

(1) **IN GENERAL.**—To determine whether existing Federal programs administered by the Department of Health and Human Services are effective in achieving the stated goals of such programs, the Secretary shall, beginning not later than 1 year after the date of enactment of this Act—

(A) conduct an annual evaluation of each program of such Department to determine the effectiveness of each such program in achieving legislated intent, purposes, and objectives; and

(B) submit to Congress a report concerning such evaluation.

(2) **CONTENT.**—The report described under paragraph (1)(B) shall—

(A) include conclusions concerning the reasons that such existing programs have proven successful or not successful and what factors contributed to such conclusions;

(B) include recommendations for consolidation and elimination to reduce duplication and inefficiencies in such programs at such Department as identified during the evaluation conduct under this subsection; and

(C) be made publicly available in a publication entitled "Guide to the U.S. Department of Health and Human Services Programs".

(i) **UNIQUE IDENTIFICATION NUMBERS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary,

acting through the Commissioner of Food and Drugs, shall conduct a study regarding the need for, and challenges associated with, development and implementation of a program that requires a unique identification number for each food facility registered with the Secretary and, as appropriate, each broker that imports food into the United States. Such study shall include an evaluation of the costs associated with development and implementation of such a system, and make recommendations about what new authorities, if any, would be necessary to develop and implement such a system.

(2) **REPORT.**—Not later than 15 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings of the study conducted under paragraph (1) and that includes any recommendations determined appropriate by the Secretary.

SEC. 111. SANITARY TRANSPORTATION OF FOOD.

(a) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate regulations described in section 416(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350e(b)).

(b) **FOOD TRANSPORTATION STUDY.**—The Secretary, acting through the Commissioner of Food and Drugs, shall conduct a study of the transportation of food for consumption in the United States, including transportation by air, that includes an examination of the unique needs of rural and frontier areas with regard to the delivery of safe food.

SEC. 112. FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT.

(a) **DEFINITIONS.**—In this section:

(1) **EARLY CHILDHOOD EDUCATION PROGRAM.**—The term “early childhood education program” means—

(A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.);

(B) a State licensed or regulated child care program or school; or

(C) a State prekindergarten program that serves children from birth through kindergarten.

(2) **ESEA DEFINITIONS.**—The terms “local educational agency”, “secondary school”, “elementary school”, and “parent” have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) **SCHOOL.**—The term “school” includes public—

(A) kindergartens;

(B) elementary schools; and

(C) secondary schools.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(b) **ESTABLISHMENT OF VOLUNTARY FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT GUIDELINES.**—

(1) **ESTABLISHMENT.**—

(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Education, shall—

(i) develop guidelines to be used on a voluntary basis to develop plans for individuals to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs; and

(ii) make such guidelines available to local educational agencies, schools, early childhood education programs, and other interested entities and individuals to be implemented on a voluntary basis only.

(B) **APPLICABILITY OF FERPA.**—Each plan described in subparagraph (A) that is developed for an individual shall be considered an education record for the purpose of section 444 of the General Education Provisions Act (commonly referred to as the “Family Educational Rights and Privacy Act of 1974”) (20 U.S.C. 1232g).

(2) **CONTENTS.**—The voluntary guidelines developed by the Secretary under paragraph (1) shall address each of the following and may be updated as the Secretary determines necessary:

(A) Parental obligation to provide the school or early childhood education program, prior to the start of every school year, with—

(i) documentation from their child’s physician or nurse—

(I) supporting a diagnosis of food allergy, and any risk of anaphylaxis, if applicable;

(II) identifying any food to which the child is allergic;

(III) describing, if appropriate, any prior history of anaphylaxis;

(IV) listing any medication prescribed for the child for the treatment of anaphylaxis;

(V) detailing emergency treatment procedures in the event of a reaction;

(VI) listing the signs and symptoms of a reaction; and

(VII) assessing the child’s readiness for self-administration of prescription medication; and

(ii) a list of substitute meals that may be offered to the child by school or early childhood education program food service personnel.

(B) The creation and maintenance of an individual plan for food allergy management, in consultation with the parent, tailored to the needs of each child with a documented risk for anaphylaxis, including any procedures for the self-administration of medication by such children in instances where—

(i) the children are capable of self-administering medication; and

(ii) such administration is not prohibited by State law.

(C) Communication strategies between individual schools or early childhood education programs and providers of emergency medical services, including appropriate instructions for emergency medical response.

(D) Strategies to reduce the risk of exposure to anaphylactic causative agents in classrooms and common school or early childhood education program areas such as cafeterias.

(E) The dissemination of general information on life-threatening food allergies to school or early childhood education program staff, parents, and children.

(F) Food allergy management training of school or early childhood education program personnel who regularly come into contact with children with life-threatening food allergies.

(G) The authorization and training of school or early childhood education program personnel to administer epinephrine when the nurse is not immediately available.

(H) The timely accessibility of epinephrine by school or early childhood education program personnel when the nurse is not immediately available.

(I) The creation of a plan contained in each individual plan for food allergy management that addresses the appropriate response to an incident of anaphylaxis of a child while such child is engaged in extracurricular programs of a school or early childhood education program, such as non-academic outings and field trips, before- and after-school programs or before- and after-early child education program programs, and school-sponsored or early childhood education program-sponsored programs held on weekends.

(J) Maintenance of information for each administration of epinephrine to a child at risk for anaphylaxis and prompt notification to parents.

(K) Other elements the Secretary determines necessary for the management of food allergies and anaphylaxis in schools and early childhood education programs.

(3) **RELATION TO STATE LAW.**—Nothing in this section or the guidelines developed by the Secretary under paragraph (1) shall be construed to

preempt State law, including any State law regarding whether students at risk for anaphylaxis may self-administer medication.

(c) **SCHOOL-BASED FOOD ALLERGY MANAGEMENT GRANTS.**—

(1) **IN GENERAL.**—The Secretary may award grants to local educational agencies to assist such agencies with implementing voluntary food allergy and anaphylaxis management guidelines described in subsection (b).

(2) **APPLICATION.**—

(A) **IN GENERAL.**—To be eligible to receive a grant under this subsection, a local educational agency shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

(B) **CONTENTS.**—Each application submitted under subparagraph (A) shall include—

(i) an assurance that the local educational agency has developed plans in accordance with the food allergy and anaphylaxis management guidelines described in subsection (b);

(ii) a description of the activities to be funded by the grant in carrying out the food allergy and anaphylaxis management guidelines, including—

(I) how the guidelines will be carried out at individual schools served by the local educational agency;

(II) how the local educational agency will inform parents and students of the guidelines in place;

(III) how school nurses, teachers, administrators, and other school-based staff will be made aware of, and given training on, when applicable, the guidelines in place; and

(IV) any other activities that the Secretary determines appropriate;

(iii) an itemization of how grant funds received under this subsection will be expended;

(iv) a description of how adoption of the guidelines and implementation of grant activities will be monitored; and

(v) an agreement by the local educational agency to report information required by the Secretary to conduct evaluations under this subsection.

(3) **USE OF FUNDS.**—Each local educational agency that receives a grant under this subsection may use the grant funds for the following:

(A) Purchase of materials and supplies, including limited medical supplies such as epinephrine and disposable wet wipes, to support carrying out the food allergy and anaphylaxis management guidelines described in subsection (b).

(B) In partnership with local health departments, school nurse, teacher, and personnel training for food allergy management.

(C) Programs that educate students as to the presence of, and policies and procedures in place related to, food allergies and anaphylactic shock.

(D) Outreach to parents.

(E) Any other activities consistent with the guidelines described in subsection (b).

(4) **DURATION OF AWARDS.**—The Secretary may award grants under this subsection for a period of not more than 2 years. In the event the Secretary conducts a program evaluation under this subsection, funding in the second year of the grant, where applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

(5) **LIMITATION ON GRANT FUNDING.**—The Secretary may not provide grant funding to a local educational agency under this subsection after such local educational agency has received 2 years of grant funding under this subsection.

(6) **MAXIMUM AMOUNT OF ANNUAL AWARDS.**—A grant awarded under this subsection may not be made in an amount that is more than \$50,000 annually.

(7) **PRIORITY.**—In awarding grants under this subsection, the Secretary shall give priority to local educational agencies with the highest percentages of children who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)).

(8) **MATCHING FUNDS.**—

(A) **IN GENERAL.**—The Secretary may not award a grant under this subsection unless the local educational agency agrees that, with respect to the costs to be incurred by such local educational agency in carrying out the grant activities, the local educational agency shall make available (directly or through donations from public or private entities) non-Federal funds toward such costs in an amount equal to not less than 25 percent of the amount of the grant.

(B) **DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.**—Non-Federal funds required under subparagraph (A) may be cash or in kind, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal funds.

(9) **ADMINISTRATIVE FUNDS.**—A local educational agency that receives a grant under this subsection may use not more than 2 percent of the grant amount for administrative costs related to carrying out this subsection.

(10) **PROGRESS AND EVALUATIONS.**—At the completion of the grant period referred to in paragraph (4), a local educational agency shall provide the Secretary with information on how grant funds were spent and the status of implementation of the food allergy and anaphylaxis management guidelines described in subsection (b).

(11) **SUPPLEMENT, NOT SUPPLANT.**—Grant funds received under this subsection shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this subsection.

(12) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this subsection \$30,000,000 for fiscal year 2011 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(d) **VOLUNTARY NATURE OF GUIDELINES.**—

(1) **IN GENERAL.**—The food allergy and anaphylaxis management guidelines developed by the Secretary under subsection (b) are voluntary. Nothing in this section or the guidelines developed by the Secretary under subsection (b) shall be construed to require a local educational agency to implement such guidelines.

(2) **EXCEPTION.**—Notwithstanding paragraph (1), the Secretary may enforce an agreement by a local educational agency to implement food allergy and anaphylaxis management guidelines as a condition of the receipt of a grant under subsection (c).

SEC. 113. NEW DIETARY INGREDIENTS.

(a) **IN GENERAL.**—Section 413 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350b) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) **NOTIFICATION.**—

“(1) **IN GENERAL.**—If the Secretary determines that the information in a new dietary ingredient notification submitted under this section for an article purported to be a new dietary ingredient is inadequate to establish that a dietary supplement containing such article will reasonably be expected to be safe because the article may be, or may contain, an anabolic steroid or an analogue of an anabolic steroid, the Secretary shall notify the Drug Enforcement Administration of

such determination. Such notification by the Secretary shall include, at a minimum, the name of the dietary supplement or article, the name of the person or persons who marketed the product or made the submission of information regarding the article to the Secretary under this section, and any contact information for such person or persons that the Secretary has.

“(2) **DEFINITIONS.**—For purposes of this subsection—

“(A) the term ‘anabolic steroid’ has the meaning given such term in section 102(41) of the Controlled Substances Act; and

“(B) the term ‘analogue of an anabolic steroid’ means a substance whose chemical structure is substantially similar to the chemical structure of an anabolic steroid.”.

(b) **GUIDANCE.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish guidance that clarifies when a dietary supplement ingredient is a new dietary ingredient, when the manufacturer or distributor of a dietary ingredient or dietary supplement should provide the Secretary with information as described in section 413(a)(2) of the Federal Food, Drug, and Cosmetic Act, the evidence needed to document the safety of new dietary ingredients, and appropriate methods for establishing the identity of a new dietary ingredient.

SEC. 114. REQUIREMENT FOR GUIDANCE RELATING TO POST HARVEST PROCESSING OF RAW OYSTERS.

(a) **IN GENERAL.**—Not later than 90 days prior to the issuance of any guidance, regulation, or suggested amendment by the Food and Drug Administration to the National Shellfish Sanitation Program’s Model Ordinance, or the issuance of any guidance or regulation by the Food and Drug Administration relating to the Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration (parts 123 and 1240 of title 21, Code of Federal Regulations (or any successor regulations), where such guidance, regulation or suggested amendment relates to post harvest processing for raw oysters, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report which shall include—

(1) an assessment of how post harvest processing or other equivalent controls feasibly may be implemented in the fastest, safest, and most economical manner;

(2) the projected public health benefits of any proposed post harvest processing;

(3) the projected costs of compliance with such post harvest processing measures;

(4) the impact post harvest processing is expected to have on the sales, cost, and availability of raw oysters;

(5) criteria for ensuring post harvest processing standards will be applied equally to shellfish imported from all nations of origin;

(6) an evaluation of alternative measures to prevent, eliminate, or reduce to an acceptable level the occurrence of foodborne illness; and

(7) the extent to which the Food and Drug Administration has consulted with the States and other regulatory agencies, as appropriate, with regard to post harvest processing measures.

(b) **LIMITATION.**—Subsection (a) shall not apply to the guidance described in section 103(h).

(c) **REVIEW AND EVALUATION.**—Not later than 30 days after the Secretary issues a proposed regulation or guidance described in subsection (a), the Comptroller General of the United States shall—

(1) review and evaluate the report described in (a) and report to Congress on the findings of the estimates and analysis in the report;

(2) compare such proposed regulation or guidance to similar regulations or guidance with re-

spect to other regulated foods, including a comparison of risks the Secretary may find associated with seafood and the instances of those risks in such other regulated foods; and

(3) evaluate the impact of post harvest processing on the competitiveness of the domestic oyster industry in the United States and in international markets.

(d) **WAIVER.**—The requirement of preparing a report under subsection (a) shall be waived if the Secretary issues a guidance that is adopted as a consensus agreement between Federal and State regulators and the oyster industry, acting through the Interstate Shellfish Sanitation Conference.

(e) **PUBLIC ACCESS.**—Any report prepared under this section shall be made available to the public.

SEC. 115. PORT SHOPPING.

Until the date on which the Secretary promulgates a final rule that implements the amendments made by section 308 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, (Public Law 107-188), the Secretary shall notify the Secretary of Homeland Security of all instances in which the Secretary refuses to admit a food into the United States under section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)) so that the Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, may prevent food refused admittance into the United States by a United States port of entry from being admitted by another United States port of entry, through the notification of other such United States ports of entry.

SEC. 116. ALCOHOL-RELATED FACILITIES.

(a) **IN GENERAL.**—Except as provided by sections 102, 206, 207, 302, 304, 402, 403, and 404 of this Act, and the amendments made by such sections, nothing in this Act, or the amendments made by this Act, shall be construed to apply to a facility that—

(1) under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) or chapter 51 of subtitle E of the Internal Revenue Code of 1986 (26 U.S.C. 5001 et seq.) is required to obtain a permit or to register with the Secretary of the Treasury as a condition of doing business in the United States; and

(2) under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) is required to register as a facility because such facility is engaged in manufacturing, processing, packing, or holding 1 or more alcoholic beverages, with respect to the activities of such facility that relate to the manufacturing, processing, packing, or holding of alcoholic beverages.

(b) **LIMITED RECEIPT AND DISTRIBUTION OF NON-ALCOHOL FOOD.**—Subsection (a) shall not apply to a facility engaged in the receipt and distribution of any non-alcohol food, except that such paragraph shall apply to a facility described in such paragraph that receives and distributes non-alcohol food, provided such food is received and distributed—

(1) in a prepackaged form that prevents any direct human contact with such food; and

(2) in amounts that constitute not more than 5 percent of the overall sales of such facility, as determined by the Secretary of the Treasury.

(c) **RULE OF CONSTRUCTION.**—Except as provided in subsections (a) and (b), this section shall not be construed to exempt any food, other than alcoholic beverages, as defined in section 214 of the Federal Alcohol Administration Act (27 U.S.C. 214), from the requirements of this Act (including the amendments made by this Act).

TITLE II—IMPROVING CAPACITY TO DETECT AND RESPOND TO FOOD SAFETY PROBLEMS

SEC. 201. TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY; ANNUAL REPORT.

(a) TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 106, is amended by adding at the end the following:

“SEC. 421. TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY; ANNUAL REPORT.

“(a) IDENTIFICATION AND INSPECTION OF FACILITIES.—

“(1) IDENTIFICATION.—The Secretary shall identify high-risk facilities and shall allocate resources to inspect facilities according to the known safety risks of the facilities, which shall be based on the following factors:

“(A) The known safety risks of the food manufactured, processed, packed, or held at the facility.

“(B) The compliance history of a facility, including with regard to food recalls, outbreaks of foodborne illness, and violations of food safety standards.

“(C) The rigor and effectiveness of the facility’s hazard analysis and risk-based preventive controls.

“(D) Whether the food manufactured, processed, packed, or held at the facility meets the criteria for priority under section 801(h)(1).

“(E) Whether the food or the facility that manufactured, processed, packed, or held such food has received a certification as described in section 801(q) or 806, as appropriate.

“(F) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

“(2) INSPECTIONS.—

“(A) IN GENERAL.—Beginning on the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall increase the frequency of inspection of all facilities.

“(B) DOMESTIC HIGH-RISK FACILITIES.—The Secretary shall increase the frequency of inspection of domestic facilities identified under paragraph (1) as high-risk facilities such that each such facility is inspected—

“(i) not less often than once in the 5-year period following the date of enactment of the FDA Food Safety Modernization Act; and

“(ii) not less often than once every 3 years thereafter.

“(C) DOMESTIC NON-HIGH-RISK FACILITIES.—The Secretary shall ensure that each domestic facility that is not identified under paragraph (1) as a high-risk facility is inspected—

“(i) not less often than once in the 7-year period following the date of enactment of the FDA Food Safety Modernization Act; and

“(ii) not less often than once every 5 years thereafter.

“(D) FOREIGN FACILITIES.—

“(i) YEAR 1.—In the 1-year period following the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall inspect not fewer than 600 foreign facilities.

“(ii) SUBSEQUENT YEARS.—In each of the 5 years following the 1-year period described in clause (i), the Secretary shall inspect not fewer than twice the number of foreign facilities inspected by the Secretary during the previous year.

“(E) RELIANCE ON FEDERAL, STATE, OR LOCAL INSPECTIONS.—In meeting the inspection requirements under this subsection for domestic facilities, the Secretary may rely on inspections conducted by other Federal, State, or local agencies under interagency agreement, contract, memoranda of understanding, or other obligation.

“(b) IDENTIFICATION AND INSPECTION AT PORTS OF ENTRY.—The Secretary, in consultation with the Secretary of Homeland Security, shall allocate resources to inspect any article of food imported into the United States according to the known safety risks of the article of food, which shall be based on the following factors:

“(1) The known safety risks of the food imported.

“(2) The known safety risks of the countries or regions of origin and countries through which such article of food is transported.

“(3) The compliance history of the importer, including with regard to food recalls, outbreaks of foodborne illness, and violations of food safety standards.

“(4) The rigor and effectiveness of the activities conducted by the importer of such article of food to satisfy the requirements of the foreign supplier verification program under section 805.

“(5) Whether the food importer participates in the voluntary qualified importer program under section 806.

“(6) Whether the food meets the criteria for priority under section 801(h)(1).

“(7) Whether the food or the facility that manufactured, processed, packed, or held such food received a certification as described in section 801(q) or 806.

“(8) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

“(c) INTERAGENCY AGREEMENTS WITH RESPECT TO SEAFOOD.—

“(1) IN GENERAL.—The Secretary of Health and Human Services, the Secretary of Commerce, the Secretary of Homeland Security, the Chairman of the Federal Trade Commission, and the heads of other appropriate agencies may enter into such agreements as may be necessary or appropriate to improve seafood safety.

“(2) SCOPE OF AGREEMENTS.—The agreements under paragraph (1) may include—

“(A) cooperative arrangements for examining and testing seafood imports that leverage the resources, capabilities, and authorities of each party to the agreement;

“(B) coordination of inspections of foreign facilities to increase the percentage of imported seafood and seafood facilities inspected;

“(C) standardization of data on seafood names, inspection records, and laboratory testing to improve interagency coordination;

“(D) coordination to detect and investigate violations under applicable Federal law;

“(E) a process, including the use or modification of existing processes, by which officers and employees of the National Oceanic and Atmospheric Administration may be duly designated by the Secretary to carry out seafood examinations and investigations under section 801 of this Act or section 203 of the Food Allergen Labeling and Consumer Protection Act of 2004;

“(F) the sharing of information concerning observed non-compliance with United States food requirements domestically and in foreign nations and new regulatory decisions and policies that may affect the safety of food imported into the United States;

“(G) conducting joint training on subjects that affect and strengthen seafood inspection effectiveness by Federal authorities; and

“(H) outreach on Federal efforts to enhance seafood safety and compliance with Federal food safety requirements.

“(d) COORDINATION.—The Secretary shall improve coordination and cooperation with the Secretary of Agriculture and the Secretary of Homeland Security to target food inspection resources.

“(e) FACILITY.—For purposes of this section, the term ‘facility’ means a domestic facility or a foreign facility that is required to register under section 415.”.

(b) ANNUAL REPORT.—Section 1003 (21 U.S.C. 393) is amended by adding at the end the following:

“(h) ANNUAL REPORT REGARDING FOOD.—Not later than February 1 of each year, the Secretary shall submit to Congress a report, including efforts to coordinate and cooperate with other Federal agencies with responsibilities for food inspections, regarding—

“(1) information about food facilities including—

“(A) the appropriations used to inspect facilities registered pursuant to section 415 in the previous fiscal year;

“(B) the average cost of both a non-high-risk food facility inspection and a high-risk food facility inspection, if such a difference exists, in the previous fiscal year;

“(C) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that the Secretary inspected in the previous fiscal year;

“(D) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that were scheduled for inspection in the previous fiscal year and which the Secretary did not inspect in such year;

“(E) the number of high-risk facilities identified pursuant to section 421 that the Secretary inspected in the previous fiscal year; and

“(F) the number of high-risk facilities identified pursuant to section 421 that were scheduled for inspection in the previous fiscal year and which the Secretary did not inspect in such year.

“(2) information about food imports including—

“(A) the number of lines of food imported into the United States that the Secretary physically inspected or sampled in the previous fiscal year;

“(B) the number of lines of food imported into the United States that the Secretary did not physically inspect or sample in the previous fiscal year; and

“(C) the average cost of physically inspecting or sampling a line of food subject to this Act that is imported or offered for import into the United States; and

“(3) information on the foreign offices of the Food and Drug Administration including—

“(A) the number of foreign offices established; and

“(B) the number of personnel permanently stationed in each foreign office.

“(i) PUBLIC AVAILABILITY OF ANNUAL FOOD REPORTS.—The Secretary shall make the reports required under subsection (h) available to the public on the Internet Web site of the Food and Drug Administration.”.

(c) ADVISORY COMMITTEE CONSULTATION.—In allocating inspection resources as described in section 421 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary may, as appropriate, consult with any relevant advisory committee within the Department of Health and Human Services.

SEC. 202. LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 201, is amended by adding at the end the following:

“SEC. 422. LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.

“(a) RECOGNITION OF LABORATORY ACCREDITATION.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

“(A) establish a program for the testing of food by accredited laboratories;

“(B) establish a publicly available registry of accreditation bodies recognized by the Secretary and laboratories accredited by a recognized accreditation body, including the name of, contact

information for, and other information deemed appropriate by the Secretary about such bodies and laboratories; and

“(C) require, as a condition of recognition or accreditation, as appropriate, that recognized accreditation bodies and accredited laboratories report to the Secretary any changes that would affect the recognition of such accreditation body or the accreditation of such laboratory.

“(2) PROGRAM REQUIREMENTS.—The program established under paragraph (1)(A) shall provide for the recognition of laboratory accreditation bodies that meet criteria established by the Secretary for accreditation of laboratories, including independent private laboratories and laboratories run and operated by a Federal agency (including the Department of Commerce), State, or locality with a demonstrated capability to conduct 1 or more sampling and analytical testing methodologies for food.

“(3) INCREASING THE NUMBER OF QUALIFIED LABORATORIES.—The Secretary shall work with the laboratory accreditation bodies recognized under paragraph (1), as appropriate, to increase the number of qualified laboratories that are eligible to perform testing under subparagraph (b) beyond the number so qualified on the date of enactment of the FDA Food Safety Modernization Act.

“(4) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary, in coordination with the Secretary of Homeland Security, may determine the time, manner, and form in which the registry established under paragraph (1)(B) is made publicly available.

“(5) FOREIGN LABORATORIES.—Accreditation bodies recognized by the Secretary under paragraph (1) may accredit laboratories that operate outside the United States, so long as such laboratories meet the accreditation standards applicable to domestic laboratories accredited under this section.

“(6) MODEL LABORATORY STANDARDS.—The Secretary shall develop model standards that a laboratory shall meet to be accredited by a recognized accreditation body for a specified sampling or analytical testing methodology and included in the registry provided for under paragraph (1). In developing the model standards, the Secretary shall consult existing standards for guidance. The model standards shall include—

“(A) methods to ensure that—

“(i) appropriate sampling, analytical procedures (including rapid analytical procedures), and commercially available techniques are followed and reports of analyses are certified as true and accurate;

“(ii) internal quality systems are established and maintained;

“(iii) procedures exist to evaluate and respond promptly to complaints regarding analyses and other activities for which the laboratory is accredited; and

“(iv) individuals who conduct the sampling and analyses are qualified by training and experience to do so; and

“(B) any other criteria determined appropriate by the Secretary.

“(7) REVIEW OF RECOGNITION.—To ensure compliance with the requirements of this section, the Secretary—

“(A) shall periodically, and in no case less than once every 5 years, reevaluate accreditation bodies recognized under paragraph (1) and may accompany auditors from an accreditation body to assess whether the accreditation body meets the criteria for recognition; and

“(B) shall promptly revoke the recognition of any accreditation body found not to be in compliance with the requirements of this section, specifying, as appropriate, any terms and conditions necessary for laboratories accredited by such body to continue to perform testing as described in this section.

“(b) TESTING PROCEDURES.—

“(1) IN GENERAL.—Not later than 30 months after the date of enactment of the FDA Food Safety Modernization Act, food testing shall be conducted by Federal laboratories or non-Federal laboratories that have been accredited for the appropriate sampling or analytical testing methodology or methodologies by a recognized accreditation body on the registry established by the Secretary under subsection (a)(1)(B) whenever such testing is conducted—

“(A) by or on behalf of an owner or consignee—

“(i) in response to a specific testing requirement under this Act or implementing regulations, when applied to address an identified or suspected food safety problem; and

“(ii) as required by the Secretary, as the Secretary deems appropriate, to address an identified or suspected food safety problem; or

“(B) on behalf of an owner or consignee—

“(i) in support of admission of an article of food under section 801(a); and

“(ii) under an Import Alert that requires successful consecutive tests.

“(2) RESULTS OF TESTING.—The results of any such testing shall be sent directly to the Food and Drug Administration, except the Secretary may by regulation exempt test results from such submission requirement if the Secretary determines that such results do not contribute to the protection of public health. Test results required to be submitted may be submitted to the Food and Drug Administration through electronic means.

“(3) EXCEPTION.—The Secretary may waive requirements under this subsection if—

“(A) a new methodology or methodologies have been developed and validated but a laboratory has not yet been accredited to perform such methodology or methodologies; and

“(B) the use of such methodology or methodologies are necessary to prevent, control, or mitigate a food emergency or foodborne illness outbreak.

“(c) REVIEW BY SECRETARY.—If food sampling and testing performed by a laboratory run and operated by a State or locality that is accredited by a recognized accreditation body on the registry established by the Secretary under subsection (a) result in a State recalling a food, the Secretary shall review the sampling and testing results for the purpose of determining the need for a national recall or other compliance and enforcement activities.

“(d) NO LIMIT ON SECRETARIAL AUTHORITY.—Nothing in this section shall be construed to limit the ability of the Secretary to review and act upon information from food testing, including determining the sufficiency of such information and testing.”

(b) FOOD EMERGENCY RESPONSE NETWORK.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Homeland Security, and State, local, and tribal governments shall, not later than 180 days after the date of enactment of this Act, and biennially thereafter, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Health and Human Services, a report on the progress in implementing a national food emergency response laboratory network that—

(1) provides ongoing surveillance, rapid detection, and surge capacity for large-scale food-related emergencies, including intentional adulteration of the food supply;

(2) coordinates the food laboratory capacities of State, local, and tribal food laboratories, including the adoption of novel surveillance and identification technologies and the sharing of data between Federal agencies and State laboratories to develop national situational awareness;

(3) provides accessible, timely, accurate, and consistent food laboratory services throughout the United States;

(4) develops and implements a methods repository for use by Federal, State, and local officials;

(5) responds to food-related emergencies; and

(6) is integrated with relevant laboratory networks administered by other Federal agencies.

SEC. 203. INTEGRATED CONSORTIUM OF LABORATORY NETWORKS.

(a) IN GENERAL.—The Secretary of Homeland Security, in coordination with the Secretary of Health and Human Services, the Secretary of Agriculture, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall maintain an agreement through which relevant laboratory network members, as determined by the Secretary of Homeland Security, shall—

(1) agree on common laboratory methods in order to reduce the time required to detect and respond to foodborne illness outbreaks and facilitate the sharing of knowledge and information relating to animal health, agriculture, and human health;

(2) identify means by which laboratory network members could work cooperatively—

(A) to optimize national laboratory preparedness; and

(B) to provide surge capacity during emergencies; and

(3) engage in ongoing dialogue and build relationships that will support a more effective and integrated response during emergencies.

(b) REPORTING REQUIREMENT.—The Secretary of Homeland Security shall, on a biennial basis, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the progress of the integrated consortium of laboratory networks, as established under subsection (a), in carrying out this section.

SEC. 204. ENHANCING TRACKING AND TRACING OF FOOD AND RECORDKEEPING.

(a) PILOT PROJECTS.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”), taking into account recommendations from the Secretary of Agriculture and representatives of State departments of health and agriculture, shall establish pilot projects in coordination with the food industry to explore and evaluate methods to rapidly and effectively identify recipients of food to prevent or mitigate a foodborne illness outbreak and to address credible threats of serious adverse health consequences or death to humans or animals as a result of such food being adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) or misbranded under section 403(w) of such Act (21 U.S.C. 343(w)).

(2) CONTENT.—The Secretary shall conduct 1 or more pilot projects under paragraph (1) in coordination with the processed food sector and 1 or more such pilot projects in coordination with processors or distributors of fruits and vegetables that are raw agricultural commodities. The Secretary shall ensure that the pilot projects under paragraph (1) reflect the diversity of the food supply and include at least 3 different types of foods that have been the subject of significant outbreaks during the 5-year period preceding the date of enactment of this Act, and are selected in order to—

(A) develop and demonstrate methods for rapid and effective tracking and tracing of foods in a manner that is practicable for facilities of varying sizes, including small businesses;

(B) develop and demonstrate appropriate technologies, including technologies existing on the date of enactment of this Act, that enhance the tracking and tracing of food; and

(C) inform the promulgation of regulations under subsection (d).

(3) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall report to Congress on the findings of the pilot projects under this subsection together with recommendations for improving the tracking and tracing of food.

(b) **ADDITIONAL DATA GATHERING.**—

(1) **IN GENERAL.**—The Secretary, in coordination with the Secretary of Agriculture and multiple representatives of State departments of health and agriculture, shall assess—

(A) the costs and benefits associated with the adoption and use of several product tracing technologies, including technologies used in the pilot projects under subsection (a);

(B) the feasibility of such technologies for different sectors of the food industry, including small businesses; and

(C) whether such technologies are compatible with the requirements of this subsection.

(2) **REQUIREMENTS.**—To the extent practicable, in carrying out paragraph (1), the Secretary shall—

(A) evaluate domestic and international product tracing practices in commercial use;

(B) consider international efforts, including an assessment of whether product tracing requirements developed under this section are compatible with global tracing systems, as appropriate; and

(C) consult with a diverse and broad range of experts and stakeholders, including representatives of the food industry, agricultural producers, and nongovernmental organizations that represent the interests of consumers.

(c) **PRODUCT TRACING SYSTEM.**—The Secretary, in consultation with the Secretary of Agriculture, shall, as appropriate, establish within the Food and Drug Administration a product tracing system to receive information that improves the capacity of the Secretary to effectively and rapidly track and trace food that is in the United States or offered for import into the United States. Prior to the establishment of such product tracing system, the Secretary shall examine the results of applicable pilot projects and shall ensure that the activities of such system are adequately supported by the results of such pilot projects.

(d) **ADDITIONAL RECORDKEEPING REQUIREMENTS FOR HIGH RISK FOODS.**—

(1) **IN GENERAL.**—In order to rapidly and effectively identify recipients of a food to prevent or mitigate a foodborne illness outbreak and to address credible threats of serious adverse health consequences or death to humans or animals as a result of such food being adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act or misbranded under section 403(w) of such Act, not later than 2 years after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to establish recordkeeping requirements, in addition to the requirements under section 414 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c) and subpart J of part 1 of title 21, Code of Federal Regulations (or any successor regulations), for facilities that manufacture, process, pack, or hold foods that the Secretary designates under paragraph (2) as high-risk foods. The Secretary shall set an appropriate effective date of such additional requirements for foods designated as high risk that takes into account the length of time necessary to comply with such requirements. Such requirements shall—

(A) relate only to information that is reasonably available and appropriate;

(B) be science-based;

(C) not prescribe specific technologies for the maintenance of records;

(D) ensure that the public health benefits of imposing additional recordkeeping requirements outweigh the cost of compliance with such requirements;

(E) be scale-appropriate and practicable for facilities of varying sizes and capabilities with respect to costs and recordkeeping burdens, and not require the creation and maintenance of duplicate records where the information is contained in other company records kept in the normal course of business;

(F) minimize the number of different recordkeeping requirements for facilities that handle more than 1 type of food;

(G) to the extent practicable, not require a facility to change business systems to comply with such requirements;

(H) allow any person subject to this subsection to maintain records required under this subsection at a central or reasonably accessible location provided that such records can be made available to the Secretary not later than 24 hours after the Secretary requests such records; and

(I) include a process by which the Secretary may issue a waiver of the requirements under this subsection if the Secretary determines that such requirements would result in an economic hardship for an individual facility or a type of facility;

(J) be commensurate with the known safety risks of the designated food;

(K) take into account international trade obligations;

(L) not require—

(i) a full pedigree, or a record of the complete previous distribution history of the food from the point of origin of such food;

(ii) records of recipients of a food beyond the immediate subsequent recipient of such food; or

(iii) product tracking to the case level by persons subject to such requirements; and

(M) include a process by which the Secretary may remove a high-risk food designation developed under paragraph (2) for a food or type of food.

(2) **DESIGNATION OF HIGH-RISK FOODS.**—

(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, and thereafter as the Secretary determines necessary, the Secretary shall designate high-risk foods for which the additional recordkeeping requirements described in paragraph (1) are appropriate and necessary to protect the public health. Each such designation shall be based on—

(i) the known safety risks of a particular food, including the history and severity of foodborne illness outbreaks attributed to such food, taking into consideration foodborne illness data collected by the Centers for Disease Control and Prevention;

(ii) the likelihood that a particular food has a high potential risk for microbiological or chemical contamination or would support the growth of pathogenic microorganisms due to the nature of the food or the processes used to produce such food;

(iii) the point in the manufacturing process of the food where contamination is most likely to occur;

(iv) the likelihood of contamination and steps taken during the manufacturing process to reduce the possibility of contamination;

(v) the likelihood that consuming a particular food will result in a foodborne illness due to contamination of the food; and

(vi) the likely or known severity, including health and economic impacts, of a foodborne illness attributed to a particular food.

(B) **LIST OF HIGH-RISK FOODS.**—At the time the Secretary promulgates the final rules under paragraph (1), the Secretary shall publish the list of the foods designated under subparagraph (A) as high-risk foods on the Internet website of the Food and Drug Administration. The Secretary may update the list to designate new high-risk foods and to remove foods that are no longer deemed to be high-risk foods, provided

that each such update to the list is consistent with the requirements of this subsection and notice of such update is published in the Federal Register.

(3) **PROTECTION OF SENSITIVE INFORMATION.**—In promulgating regulations under this subsection, the Secretary shall take appropriate measures to ensure that there are effective procedures to prevent the unauthorized disclosure of any trade secret or confidential information that is obtained by the Secretary pursuant to this section, including periodic risk assessment and planning to prevent unauthorized release and controls to—

(A) prevent unauthorized reproduction of trade secret or confidential information;

(B) prevent unauthorized access to trade secret or confidential information; and

(C) maintain records with respect to access by any person to trade secret or confidential information maintained by the agency.

(4) **PUBLIC INPUT.**—During the comment period in the notice of proposed rulemaking under paragraph (1), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

(5) **RETENTION OF RECORDS.**—Except as otherwise provided in this subsection, the Secretary may require that a facility retain records under this subsection for not more than 2 years, taking into consideration the risk of spoilage, loss of value, or loss of palatability of the applicable food when determining the appropriate timeframes.

(6) **LIMITATIONS.**—

(A) **FARM TO SCHOOL PROGRAMS.**—In establishing requirements under this subsection, the Secretary shall, in consultation with the Secretary of Agriculture, consider the impact of requirements on farm to school or farm to institution programs of the Department of Agriculture and other farm to school and farm to institution programs outside such agency, and shall modify the requirements under this subsection, as appropriate, with respect to such programs so that the requirements do not place undue burdens on farm to school or farm to institution programs.

(B) **IDENTITY-PRESERVED LABELS WITH RESPECT TO FARM SALES OF FOOD THAT IS PRODUCED AND PACKAGED ON A FARM.**—The requirements under this subsection shall not apply to a food that is produced and packaged on a farm if—

(i) the packaging of the food maintains the integrity of the product and prevents subsequent contamination or alteration of the product; and

(ii) the labeling of the food includes the name, complete address (street address, town, State, country, and zip or other postal code), and business phone number of the farm, unless the Secretary waives the requirement to include a business phone number of the farm, as appropriate, in order to accommodate a religious belief of the individual in charge of such farm.

(C) **FISHING VESSELS.**—The requirements under this subsection with respect to a food that is produced through the use of a fishing vessel (as defined in section 3(18) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(18))) shall be limited to the requirements under subparagraph (F) until such time as the food is sold by the owner, operator, or agent in charge of such fishing vessel.

(D) **COMMINGLED RAW AGRICULTURAL COMMODITIES.**—

(i) **LIMITATION ON EXTENT OF TRACING.**—Recordkeeping requirements under this subsection with regard to any commingled raw agricultural commodity shall be limited to the requirements under subparagraph (F).

(ii) **DEFINITIONS.**—For the purposes of this subparagraph—

(I) the term “commingled raw agricultural commodity” means any commodity that is combined or mixed after harvesting, but before processing;

(II) the term “commingled raw agricultural commodity” shall not include types of fruits and vegetables that are raw agricultural commodities for which the Secretary has determined that standards promulgated under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by section 105) would minimize the risk of serious adverse health consequences or death; and

(III) the term “processing” means operations that alter the general state of the commodity, such as canning, cooking, freezing, dehydration, milling, grinding, pasteurization, or homogenization.

(E) EXEMPTION OF OTHER FOODS.—The Secretary may, by notice in the Federal Register, modify the requirements under this subsection with respect to, or exempt a food or a type of facility from, the requirements of this subsection (other than the requirements under subparagraph (F), if applicable) if the Secretary determines that product tracing requirements for such food (such as bulk or commingled ingredients that are intended to be processed to destroy pathogens) or type of facility is not necessary to protect the public health.

(F) RECORDKEEPING REGARDING PREVIOUS SOURCES AND SUBSEQUENT RECIPIENTS.—In the case of a person or food to which a limitation or exemption under subparagraph (C), (D), or (E) applies, if such person, or a person who manufactures, processes, packs, or holds such food, is required to register with the Secretary under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) with respect to the manufacturing, processing, packing, or holding of the applicable food, the Secretary shall require such person to maintain records that identify the immediate previous source of such food and the immediate subsequent recipient of such food.

(G) GROCERY STORES.—With respect to a sale of a food described in subparagraph (H) to a grocery store, the Secretary shall not require such grocery store to maintain records under this subsection other than records documenting the farm that was the source of such food. The Secretary shall not require that such records be kept for more than 180 days.

(H) FARM SALES TO CONSUMERS.—The Secretary shall not require a farm to maintain any distribution records under this subsection with respect to a sale of a food described in subparagraph (I) (including a sale of a food that is produced and packaged on such farm), if such sale is made by the farm directly to a consumer.

(I) SALE OF A FOOD.—A sale of a food described in this subparagraph is a sale of a food in which—

- (i) the food is produced on a farm; and
- (ii) the sale is made by the owner, operator, or agent in charge of such farm directly to a consumer or grocery store.

(7) NO IMPACT ON NON-HIGH-RISK FOODS.—The recordkeeping requirements established under paragraph (1) shall have no effect on foods that are not designated by the Secretary under paragraph (2) as high-risk foods. Foods described in the preceding sentence shall be subject solely to the recordkeeping requirements under section 414 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c) and subpart J of part 1 of title 21, Code of Federal Regulations (or any successor regulations).

(e) EVALUATION AND RECOMMENDATIONS.—

(1) REPORT.—Not later than 1 year after the effective date of the final rule promulgated under subsection (d)(1), the Comptroller General of the United States shall submit to Congress a report, taking into consideration the costs of compliance and other regulatory burdens on

small businesses and Federal, State, and local food safety practices and requirements, that evaluates the public health benefits and risks, if any, of limiting—

(A) the product tracing requirements under subsection (d) to foods identified under paragraph (2) of such subsection, including whether such requirements provide adequate assurance of traceability in the event of intentional adulteration, including by acts of terrorism; and

(B) the participation of restaurants in the recordkeeping requirements.

(2) DETERMINATION AND RECOMMENDATIONS.—In conducting the evaluation and report under paragraph (1), if the Comptroller General of the United States determines that the limitations described in such paragraph do not adequately protect the public health, the Comptroller General shall submit to Congress recommendations, if appropriate, regarding recordkeeping requirements for restaurants and additional foods, in order to protect the public health.

(f) FARMS.—

(1) REQUEST FOR INFORMATION.—Notwithstanding subsection (d), during an active investigation of a foodborne illness outbreak, or if the Secretary determines it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak, the Secretary, in consultation and coordination with State and local agencies responsible for food safety, as appropriate, may request that the owner, operator, or agent of a farm identify potential immediate recipients, other than consumers, of an article of the food that is the subject of such investigation if the Secretary reasonably believes such article of food—

(A) is adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act;

(B) presents a threat of serious adverse health consequences or death to humans or animals; and

(C) was adulterated as described in subparagraph (A) on a particular farm (as defined in section 1.227 of chapter 21, Code of Federal Regulations (or any successor regulation)).

(2) MANNER OF REQUEST.—In making a request under paragraph (1), the Secretary, in consultation and coordination with State and local agencies responsible for food safety, as appropriate, shall issue a written notice to the owner, operator, or agent of the farm to which the article of food has been traced. The individual providing such notice shall present to such owner, operator, or agent appropriate credentials and shall deliver such notice at reasonable times and within reasonable limits and in a reasonable manner.

(3) DELIVERY OF INFORMATION REQUESTED.—The owner, operator, or agent of a farm shall deliver the information requested under paragraph (1) in a prompt and reasonable manner. Such information may consist of records kept in the normal course of business, and may be in electronic or non-electronic format.

(4) LIMITATION.—A request made under paragraph (1) shall not include a request for information relating to the finances, pricing of commodities produced, personnel, research, sales (other than information relating to shipping), or other disclosures that may reveal trade secrets or confidential information from the farm to which the article of food has been traced, other than information necessary to identify potential immediate recipients of such food. Section 301(j) of the Federal Food, Drug, and Cosmetic Act and the Freedom of Information Act shall apply with respect to any confidential commercial information that is disclosed to the Food and Drug Administration in the course of responding to a request under paragraph (1).

(5) RECORDS.—Except with respect to identifying potential immediate recipients in response to a request under this subsection, nothing in

this subsection shall require the establishment or maintenance by farms of new records.

(g) NO LIMITATION ON COMMINGLING OF FOOD.—Nothing in this section shall be construed to authorize the Secretary to impose any limitation on the commingling of food.

(h) SMALL ENTITY COMPLIANCE GUIDE.—Not later than 180 days after promulgation of a final rule under subsection (d), the Secretary shall issue a small entity compliance guide setting forth in plain language the requirements of the regulations under such subsection in order to assist small entities, including farms and small businesses, in complying with the recordkeeping requirements under such subsection.

(i) FLEXIBILITY FOR SMALL BUSINESSES.—Notwithstanding any other provision of law, the regulations promulgated under subsection (d) shall apply—

(1) to small businesses (as defined by the Secretary in section 103, not later than 90 days after the date of enactment of this Act) beginning on the date that is 1 year after the effective date of the final regulations promulgated under subsection (d); and

(2) to very small businesses (as defined by the Secretary in section 103, not later than 90 days after the date of enactment of this Act) beginning on the date that is 2 years after the effective date of the final regulations promulgated under subsection (d).

(j) ENFORCEMENT.—

(1) PROHIBITED ACTS.—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting “; or the violation of any recordkeeping requirement under section 204 of the FDA Food Safety Modernization Act (except when such violation is committed by a farm)” before the period at the end.

(2) IMPORTS.—Section 801(a) (21 U.S.C. 381(a)) is amended by inserting “or (4) the recordkeeping requirements under section 204 of the FDA Food Safety Modernization Act (other than the requirements under subsection (f) of such section) have not been complied with regarding such article,” in the third sentence before “then such article shall be refused admission”.

SEC. 205. SURVEILLANCE.

(a) DEFINITION OF FOODBORNE ILLNESS OUTBREAK.—In this Act, the term “foodborne illness outbreak” means the occurrence of 2 or more cases of a similar illness resulting from the ingestion of a certain food.

(b) FOODBORNE ILLNESS SURVEILLANCE SYSTEMS.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall enhance foodborne illness surveillance systems to improve the collection, analysis, reporting, and usefulness of data on foodborne illnesses by—

(A) coordinating Federal, State and local foodborne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(B) facilitating sharing of surveillance information on a more timely basis among governmental agencies, including the Food and Drug Administration, the Department of Agriculture, the Department of Homeland Security, and State and local agencies, and with the public;

(C) developing improved epidemiological tools for obtaining quality exposure data and microbiological methods for classifying cases;

(D) augmenting such systems to improve attribution of a foodborne illness outbreak to a specific food;

(E) expanding capacity of such systems, including working toward automatic electronic searches, for implementation of identification practices, including fingerprinting strategies, for foodborne infectious agents, in order to identify

new or rarely documented causes of foodborne illness and submit standardized information to a centralized database;

(F) allowing timely public access to aggregated, de-identified surveillance data;

(G) at least annually, publishing current reports on findings from such systems;

(H) establishing a flexible mechanism for rapidly initiating scientific research by academic institutions;

(I) integrating foodborne illness surveillance systems and data with other biosurveillance and public health situational awareness capabilities at the Federal, State, and local levels, including by sharing foodborne illness surveillance data with the National Biosurveillance Integration Center; and

(J) other activities as determined appropriate by the Secretary.

(2) **WORKING GROUP.**—The Secretary shall support and maintain a diverse working group of experts and stakeholders from Federal, State, and local food safety and health agencies, the food and food testing industries, consumer organizations, and academia. Such working group shall provide the Secretary, through at least annual meetings of the working group and an annual public report, advice and recommendations on an ongoing and regular basis regarding the improvement of foodborne illness surveillance and implementation of this section, including advice and recommendations on—

(A) the priority needs of regulatory agencies, the food industry, and consumers for information and analysis on foodborne illness and its causes;

(B) opportunities to improve the effectiveness of initiatives at the Federal, State, and local levels, including coordination and integration of activities among Federal agencies, and between the Federal, State, and local levels of government;

(C) improvement in the timeliness and depth of access by regulatory and health agencies, the food industry, academic researchers, and consumers to foodborne illness aggregated, de-identified surveillance data collected by government agencies at all levels, including data compiled by the Centers for Disease Control and Prevention;

(D) key barriers at Federal, State, and local levels to improving foodborne illness surveillance and the utility of such surveillance for preventing foodborne illness;

(E) the capabilities needed for establishing automatic electronic searches of surveillance data; and

(F) specific actions to reduce barriers to improvement, implement the working group's recommendations, and achieve the purposes of this section, with measurable objectives and timelines, and identification of resource and staffing needs.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out the activities described in paragraph (1), there is authorized to be appropriated \$24,000,000 for each fiscal years 2011 through 2015.

(c) **IMPROVING FOOD SAFETY AND DEFENSE CAPACITY AT THE STATE AND LOCAL LEVEL.**—

(1) **IN GENERAL.**—The Secretary shall develop and implement strategies to leverage and enhance the food safety and defense capacities of State and local agencies in order to achieve the following goals:

(A) Improve foodborne illness outbreak response and containment.

(B) Accelerate foodborne illness surveillance and outbreak investigation, including rapid shipment of clinical isolates from clinical laboratories to appropriate State laboratories, and conducting more standardized illness outbreak interviews.

(C) Strengthen the capacity of State and local agencies to carry out inspections and enforce safety standards.

(D) Improve the effectiveness of Federal, State, and local partnerships to coordinate food safety and defense resources and reduce the incidence of foodborne illness.

(E) Share information on a timely basis among public health and food regulatory agencies, with the food industry, with health care providers, and with the public.

(F) Strengthen the capacity of State and local agencies to achieve the goals described in section 108.

(2) **REVIEW.**—In developing of the strategies required by paragraph (1), the Secretary shall, not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, complete a review of State and local capacities, and needs for enhancement, which may include a survey with respect to—

(A) staffing levels and expertise available to perform food safety and defense functions;

(B) laboratory capacity to support surveillance, outbreak response, inspection, and enforcement activities;

(C) information systems to support data management and sharing of food safety and defense information among State and local agencies and with counterparts at the Federal level; and

(D) other State and local activities and needs as determined appropriate by the Secretary.

(d) **FOOD SAFETY CAPACITY BUILDING GRANTS.**—Section 317(b) of the Public Health Service Act (42 U.S.C. 247b–20(b)) is amended—

(1) by striking “2002” and inserting “2010”; and

(2) by striking “2003 through 2006” and inserting “2011 through 2015”.

SEC. 206. MANDATORY RECALL AUTHORITY.

(a) **IN GENERAL.**—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 202, is amended by adding at the end the following:

“SEC. 423. MANDATORY RECALL AUTHORITY.

“(a) **VOLUNTARY PROCEDURES.**—If the Secretary determines, based on information gathered through the reportable food registry under section 417 or through any other means, that there is a reasonable probability that an article of food (other than infant formula) is adulterated under section 402 or misbranded under section 403(w) and the use of or exposure to such article will cause serious adverse health consequences or death to humans or animals, the Secretary shall provide the responsible party (as defined in section 417) with an opportunity to cease distribution and recall such article.

“(b) **PREHEARING ORDER TO CEASE DISTRIBUTION AND GIVE NOTICE.**—

“(1) **IN GENERAL.**—If the responsible party refuses to or does not voluntarily cease distribution or recall such article within the time and in the manner prescribed by the Secretary (if so prescribed), the Secretary may, by order require, as the Secretary deems necessary, such person to—

“(A) immediately cease distribution of such article; and

“(B) as applicable, immediately notify all persons—

“(i) manufacturing, processing, packing, transporting, distributing, receiving, holding, or importing and selling such article; and

“(ii) to which such article has been distributed, transported, or sold, to immediately cease distribution of such article.

“(2) **REQUIRED ADDITIONAL INFORMATION.**—

“(A) **IN GENERAL.**—If an article of food covered by a recall order issued under paragraph (1)(B) has been distributed to a warehouse-based third party logistics provider without providing such provider sufficient information to know or reasonably determine the precise identity of the article of food covered by a recall order that is in its possession, the notice provided by the responsible party subject to the order issued under paragraph (1)(B) shall in-

clude such information as is necessary for the warehouse-based third party logistics provider to identify the food.

“(B) **RULES OF CONSTRUCTION.**—Nothing in this paragraph shall be construed—

“(i) to exempt a warehouse-based third party logistics provider from the requirements of this Act, including the requirements in this section and section 414; or

“(ii) to exempt a warehouse-based third party logistics provider from being the subject of a mandatory recall order.

“(3) **DETERMINATION TO LIMIT AREAS AFFECTED.**—If the Secretary requires a responsible party to cease distribution under paragraph (1)(A) of an article of food identified in subsection (a), the Secretary may limit the size of the geographic area and the markets affected by such cessation if such limitation would not compromise the public health.

“(c) **HEARING ON ORDER.**—The Secretary shall provide the responsible party subject to an order under subsection (b) with an opportunity for an informal hearing, to be held as soon as possible, but not later than 2 days after the issuance of the order, on the actions required by the order and on why the article that is the subject of the order should not be recalled.

“(d) **POST-HEARING RECALL ORDER AND MODIFICATION OF ORDER.**—

“(1) **AMENDMENT OF ORDER.**—If, after providing opportunity for an informal hearing under subsection (c), the Secretary determines that removal of the article from commerce is necessary, the Secretary shall, as appropriate—

“(A) amend the order to require recall of such article or other appropriate action;

“(B) specify a timetable in which the recall shall occur;

“(C) require periodic reports to the Secretary describing the progress of the recall; and

“(D) provide notice to consumers to whom such article was, or may have been, distributed.

“(2) **VACATING OF ORDER.**—If, after such hearing, the Secretary determines that adequate grounds do not exist to continue the actions required by the order, or that such actions should be modified, the Secretary shall vacate the order or modify the order.

“(e) **RULE REGARDING ALCOHOLIC BEVERAGES.**—The Secretary shall not initiate a mandatory recall or take any other action under this section with respect to any alcohol beverage until the Secretary has provided the Alcohol and Tobacco Tax and Trade Bureau with a reasonable opportunity to cease distribution and recall such article under the Alcohol and Tobacco Tax and Trade Bureau authority.

“(f) **COOPERATION AND CONSULTATION.**—The Secretary shall work with State and local public health officials in carrying out this section, as appropriate.

“(g) **PUBLIC NOTIFICATION.**—In conducting a recall under this section, the Secretary shall—

“(1) ensure that a press release is published regarding the recall, as well as alerts and public notices, as appropriate, in order to provide notification—

“(A) of the recall to consumers and retailers to whom such article was, or may have been, distributed; and

“(B) that includes, at a minimum—

“(i) the name of the article of food subject to the recall;

“(ii) a description of the risk associated with such article; and

“(iii) to the extent practicable, information for consumers about similar articles of food that are not affected by the recall;

“(2) consult the policies of the Department of Agriculture regarding providing to the public a list of retail consignees receiving products involved in a Class I recall and shall consider providing such a list to the public, as determined appropriate by the Secretary; and

“(3) if available, publish on the Internet Web site of the Food and Drug Administration an image of the article that is the subject of the press release described in (1).”

“(h) NO DELEGATION.—The authority conferred by this section to order a recall or vacate a recall order shall not be delegated to any officer or employee other than the Commissioner.”

“(i) EFFECT.—Nothing in this section shall affect the authority of the Secretary to request or participate in a voluntary recall, or to issue an order to cease distribution or to recall under any other provision of this Act or under the Public Health Service Act.

“(j) COORDINATED COMMUNICATION.—

“(1) IN GENERAL.—To assist in carrying out the requirements of this subsection, the Secretary shall establish an incident command operation or a similar operation within the Department of Health and Human Services that will operate not later than 24 hours after the initiation of a mandatory recall or the recall of an article of food for which the use of, or exposure to, such article will cause serious adverse health consequences or death to humans or animals.

“(2) REQUIREMENTS.—To reduce the potential for miscommunication during recalls or regarding investigations of a food borne illness outbreak associated with a food that is subject to a recall, each incident command operation or similar operation under paragraph (1) shall use regular staff and resources of the Department of Health and Human Services to—

“(A) ensure timely and coordinated communication within the Department, including enhanced communication and coordination between different agencies and organizations within the Department;

“(B) ensure timely and coordinated communication from the Department, including public statements, throughout the duration of the investigation and related foodborne illness outbreak;

“(C) identify a single point of contact within the Department for public inquiries regarding any actions by the Secretary related to a recall;

“(D) coordinate with Federal, State, local, and tribal authorities, as appropriate, that have responsibilities related to the recall of a food or a foodborne illness outbreak associated with a food that is subject to the recall, including notification of the Secretary of Agriculture and the Secretary of Education in the event such recalled food is a commodity intended for use in a child nutrition program (as identified in section 25(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769f(b))); and

“(E) conclude operations at such time as the Secretary determines appropriate.

“(3) MULTIPLE RECALLS.—The Secretary may establish multiple or concurrent incident command operations or similar operations in the event of multiple recalls or foodborne illness outbreaks necessitating such action by the Department of Health and Human Services.”

(b) SEARCH ENGINE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall modify the Internet Web site of the Food and Drug Administration to include a search engine that—

(1) is consumer-friendly, as determined by the Secretary; and

(2) provides a means by which an individual may locate relevant information regarding each article of food subject to a recall under section 423 of the Federal Food, Drug, and Cosmetic Act and the status of such recall (such as whether a recall is ongoing or has been completed).

(c) CIVIL PENALTY.—Section 303(f)(2)(A) (21 U.S.C. 333(f)(2)(A)) is amended by inserting “or any person who does not comply with a recall order under section 423” after “section 402(a)(2)(B)”.

(d) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331 et seq.), as amended by section 106, is amended by adding at the end the following:

“(xx) The refusal or failure to follow an order under section 423.”

(e) GAO REVIEW.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that—

(A) identifies State and local agencies with the authority to require the mandatory recall of food, and evaluates use of such authority with regard to frequency, effectiveness, and appropriateness, including consideration of any new or existing mechanisms available to compensate persons for general and specific recall-related costs when a recall is subsequently determined by the relevant authority to have been an error;

(B) identifies Federal agencies, other than the Department of Health and Human Services, with mandatory recall authority and examines use of that authority with regard to frequency, effectiveness, and appropriateness, including any new or existing mechanisms available to compensate persons for general and specific recall-related costs when a recall is subsequently determined by the relevant agency to have been an error;

(C) considers models for farmer restitution implemented in other nations in cases of erroneous recalls; and

(D) makes recommendations to the Secretary regarding use of the authority under section 423 of the Federal Food, Drug, and Cosmetic Act (as added by this section) to protect the public health while seeking to minimize unnecessary economic costs.

(2) EFFECT OF REVIEW.—If the Comptroller General of the United States finds, after the review conducted under paragraph (1), that the mechanisms described in such paragraph do not exist or are inadequate, then, not later than 90 days after the conclusion of such review, the Secretary of Agriculture shall conduct a study of the feasibility of implementing a farmer indemnification program to provide restitution to agricultural producers for losses sustained as a result of a mandatory recall of an agricultural commodity by a Federal or State regulatory agency that is subsequently determined to be in error. The Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study, including any recommendations.

(f) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives on the use of recall authority under section 423 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)) and any public health advisories issued by the Secretary that advise against the consumption of an article of food on the ground that the article of food is adulterated and poses an imminent danger to health.

(2) CONTENT.—The report under paragraph (1) shall include, with respect to the report year—

(A) the identity of each article of food that was the subject of a public health advisory described in paragraph (1), an opportunity to cease distribution and recall under subsection (a) of section 423 of the Federal Food, Drug, and Cosmetic Act, or a mandatory recall order under subsection (b) of such section;

(B) the number of responsible parties, as defined in section 417 of the Federal Food, Drug,

and Cosmetic Act, formally given the opportunity to cease distribution of an article of food and recall such article, as described in section 423(a) of such Act;

(C) the number of responsible parties described in subparagraph (B) who did not cease distribution of or recall an article of food after given the opportunity to cease distribution or recall under section 423(a) of the Federal Food, Drug, and Cosmetic Act;

(D) the number of recall orders issued under section 423(b) of the Federal Food, Drug, and Cosmetic Act; and

(E) a description of any instances in which there was no testing that confirmed adulteration of an article of food that was the subject of a recall under section 423(b) of the Federal Food, Drug, and Cosmetic Act or a public health advisory described in paragraph (1).

SEC. 207. ADMINISTRATIVE DETENTION OF FOOD.

(a) IN GENERAL.—Section 304(h)(1)(A) (21 U.S.C. 334(h)(1)(A)) is amended by—

(1) striking “credible evidence or information indicating” and inserting “reason to believe”; and

(2) striking “presents a threat of serious adverse health consequences or death to humans or animals” and inserting “is adulterated or misbranded”.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart K of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 208. DECONTAMINATION AND DISPOSAL STANDARDS AND PLANS.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this section as the “Administrator”), in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, and Secretary of Agriculture, shall provide support for, and technical assistance to, State, local, and tribal governments in preparing for, assessing, decontaminating, and recovering from an agriculture or food emergency.

(b) DEVELOPMENT OF STANDARDS.—In carrying out subsection (a), the Administrator, in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, Secretary of Agriculture, and State, local, and tribal governments, shall develop and disseminate specific standards and protocols to undertake clean-up, clearance, and recovery activities following the decontamination and disposal of specific threat agents and foreign animal diseases.

(c) DEVELOPMENT OF MODEL PLANS.—In carrying out subsection (a), the Administrator, the Secretary of Health and Human Services, and the Secretary of Agriculture shall jointly develop and disseminate model plans for—

(1) the decontamination of individuals, equipment, and facilities following an intentional contamination of agriculture or food; and

(2) the disposal of large quantities of animals, plants, or food products that have been infected or contaminated by specific threat agents and foreign animal diseases.

(d) EXERCISES.—In carrying out subsection (a), the Administrator, in coordination with the entities described under subsection (b), shall conduct exercises at least annually to evaluate and identify weaknesses in the decontamination and disposal model plans described in subsection (c). Such exercises shall be carried out, to the maximum extent practicable, as part of the national exercise program under section 648(b)(1) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b)(1)).

(e) **MODIFICATIONS.**—Based on the exercises described in subsection (d), the Administrator, in coordination with the entities described in subsection (b), shall review and modify as necessary the plans described in subsection (c) not less frequently than biennially.

(f) **PRIORITIZATION.**—The Administrator, in coordination with the entities described in subsection (b), shall develop standards and plans under subsections (b) and (c) in an identified order of priority that takes into account—

(1) highest-risk biological, chemical, and radiological threat agents;

(2) agents that could cause the greatest economic devastation to the agriculture and food system; and

(3) agents that are most difficult to clean or remediate.

SEC. 209. IMPROVING THE TRAINING OF STATE, LOCAL, TERRITORIAL, AND TRIBAL FOOD SAFETY OFFICIALS.

(a) **IMPROVING TRAINING.**—Chapter X (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

“SEC. 1011. IMPROVING THE TRAINING OF STATE, LOCAL, TERRITORIAL, AND TRIBAL FOOD SAFETY OFFICIALS.

“(a) **TRAINING.**—The Secretary shall set standards and administer training and education programs for the employees of State, local, territorial, and tribal food safety officials relating to the regulatory responsibilities and policies established by this Act, including programs for—

“(1) scientific training;

“(2) training to improve the skill of officers and employees authorized to conduct inspections under sections 702 and 704;

“(3) training to achieve advanced product or process specialization in such inspections;

“(4) training that addresses best practices;

“(5) training in administrative process and procedure and integrity issues;

“(6) training in appropriate sampling and laboratory analysis methodology; and

“(7) training in building enforcement actions following inspections, examinations, testing, and investigations.

“(b) **PARTNERSHIPS WITH STATE AND LOCAL OFFICIALS.**—

“(1) **IN GENERAL.**—The Secretary, pursuant to a contract or memorandum of understanding between the Secretary and the head of a State, local, territorial, or tribal department or agency, is authorized and encouraged to conduct examinations, testing, and investigations for the purposes of determining compliance with the food safety provisions of this Act through the officers and employees of such State, local, territorial, or tribal department or agency.

“(2) **CONTENT.**—A contract or memorandum described under paragraph (1) shall include provisions to ensure adequate training of such officers and employees to conduct such examinations, testing, and investigations. The contract or memorandum shall contain provisions regarding reimbursement. Such provisions may, at the sole discretion of the head of the other department or agency, require reimbursement, in whole or in part, from the Secretary for the examinations, testing, or investigations performed pursuant to this section by the officers or employees of the State, territorial, or tribal department or agency.

“(3) **EFFECT.**—Nothing in this subsection shall be construed to limit the authority of the Secretary under section 702.

“(c) **EXTENSION SERVICE.**—The Secretary shall ensure coordination with the extension activities of the National Institute of Food and Agriculture of the Department of Agriculture in advising producers and small processors transitioning into new practices required as a result of the enactment of the FDA Food Safety

Modernization Act and assisting regulated industry with compliance with such Act.

“(d) **NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH AND TECHNICAL ASSISTANCE PROGRAM.**—

“(1) **IN GENERAL.**—In order to improve food safety and reduce the incidence of foodborne illness, the Secretary shall, not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, enter into one or more memoranda of understanding, or enter into other cooperative agreements, with the Secretary of Agriculture to establish a competitive grant program within the National Institute for Food and Agriculture to provide food safety training, education, extension, outreach, and technical assistance to—

“(A) owners and operators of farms;

“(B) small food processors; and

“(C) small fruit and vegetable merchant wholesalers.

“(2) **IMPLEMENTATION.**—The competitive grant program established under paragraph (1) shall be carried out in accordance with section 405 of the Agricultural Research, Extension, and Education Reform Act of 1998.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2011 through 2015.”

(b) **NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE PROGRAM.**—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 is amended by inserting after section 404 (7 U.S.C. 7624) the following:

“SEC. 405. NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE PROGRAM.

“(a) **IN GENERAL.**—The Secretary shall award grants under this section to carry out the competitive grant program established under section 1011(d) of the Federal Food, Drug, and Cosmetic Act, pursuant to any memoranda of understanding entered into under such section.

“(b) **INTEGRATED APPROACH.**—The grant program described under subsection (a) shall be carried out under this section in a manner that facilitates the integration of food safety standards and guidance with the variety of agricultural production systems, encompassing conventional, sustainable, organic, and conservation and environmental practices.

“(c) **PRIORITY.**—In awarding grants under this section, the Secretary shall give priority to projects that target small and medium-sized farms, beginning farmers, socially disadvantaged farmers, small processors, or small fresh fruit and vegetable merchant wholesalers.

“(d) **PROGRAM COORDINATION.**—

“(1) **IN GENERAL.**—The Secretary shall coordinate implementation of the grant program under this section with the National Integrated Food Safety Initiative.

“(2) **INTERACTION.**—The Secretary shall—

“(A) in carrying out the grant program under this section, take into consideration applied research, education, and extension results obtained from the National Integrated Food Safety Initiative; and

“(B) in determining the applied research agenda for the National Integrated Food Safety Initiative, take into consideration the needs articulated by participants in projects funded by the program under this section.

“(e) **GRANTS.**—

“(1) **IN GENERAL.**—In carrying out this section, the Secretary shall make competitive grants to support training, education, extension, outreach, and technical assistance projects that will help improve public health by increasing the understanding and adoption of established food safety standards, guidance, and protocols.

“(2) **ENCOURAGED FEATURES.**—The Secretary shall encourage projects carried out using grant

funds under this section to include co-management of food safety, conservation systems, and ecological health.

“(3) **MAXIMUM TERM AND SIZE OF GRANT.**—

“(A) **IN GENERAL.**—A grant under this section shall have a term that is not more than 3 years.

“(B) **LIMITATION ON GRANT FUNDING.**—The Secretary may not provide grant funding to an entity under this section after such entity has received 3 years of grant funding under this section.

“(f) **GRANT ELIGIBILITY.**—

“(1) **IN GENERAL.**—To be eligible for a grant under this section, an entity shall be—

“(A) a State cooperative extension service;

“(B) a Federal, State, local, or tribal agency, a nonprofit community-based or non-governmental organization, or an organization representing owners and operators of farms, small food processors, or small fruit and vegetable merchant wholesalers that has a commitment to public health and expertise in administering programs that contribute to food safety;

“(C) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) or a foundation maintained by an institution of higher education;

“(D) a collaboration of 2 or more eligible entities described in this subsection; or

“(E) such other appropriate entity, as determined by the Secretary.

“(2) **MULTISTATE PARTNERSHIPS.**—Grants under this section may be made for projects involving more than 1 State.

“(g) **REGIONAL BALANCE.**—In making grants under this section, the Secretary shall, to the maximum extent practicable, ensure—

“(1) geographic diversity; and

“(2) diversity of types of agricultural production.

“(h) **TECHNICAL ASSISTANCE.**—The Secretary may use funds made available under this section to provide technical assistance to grant recipients to further the purposes of this section.

“(i) **BEST PRACTICES AND MODEL PROGRAMS.**—Based on evaluations of, and responses arising from, projects funded under this section, the Secretary may issue a set of recommended best practices and models for food safety training programs for agricultural producers, small food processors, and small fresh fruit and vegetable merchant wholesalers.

“(j) **AUTHORIZATION OF APPROPRIATIONS.**—For the purposes of making grants under this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2011 through 2015.”

SEC. 210. ENHANCING FOOD SAFETY.

(a) **GRANTS TO ENHANCE FOOD SAFETY.**—Section 1009 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 399) is amended to read as follows:

“SEC. 1009. GRANTS TO ENHANCE FOOD SAFETY.

“(a) **IN GENERAL.**—The Secretary is authorized to make grants to eligible entities to—

“(1) undertake examinations, inspections, and investigations, and related food safety activities under section 702;

“(2) train to the standards of the Secretary for the examination, inspection, and investigation of food manufacturing, processing, packing, holding, distribution, and importation, including as such examination, inspection, and investigation relate to retail food establishments;

“(3) build the food safety capacity of the laboratories of such eligible entity, including the detection of zoonotic diseases;

“(4) build the infrastructure and capacity of the food safety programs of such eligible entity to meet the standards as outlined in the grant application; and

“(5) take appropriate action to protect the public health in response to—

“(A) a notification under section 1008, including planning and otherwise preparing to take such action; or

“(B) a recall of food under this Act.

“(b) ELIGIBLE ENTITIES; APPLICATION.—

“(1) IN GENERAL.—In this section, the term ‘eligible entity’ means an entity—

“(A) that is—

“(i) a State;

“(ii) a locality;

“(iii) a territory;

“(iv) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act); or

“(v) a nonprofit food safety training entity that collaborates with 1 or more institutions of higher education; and

“(B) that submits an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

“(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

“(A) an assurance that the eligible entity has developed plans to engage in the types of activities described in subsection (a);

“(B) a description of the types of activities to be funded by the grant;

“(C) an itemization of how grant funds received under this section will be expended;

“(D) a description of how grant activities will be monitored; and

“(E) an agreement by the eligible entity to report information required by the Secretary to conduct evaluations under this section.

“(c) LIMITATIONS.—The funds provided under subsection (a) shall be available to an eligible entity that receives a grant under this section only to the extent such entity funds the food safety programs of such entity independently of any grant under this section in each year of the grant at a level equal to the level of such funding in the previous year, increased by the Consumer Price Index. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

“(d) ADDITIONAL AUTHORITY.—The Secretary may—

“(1) award a grant under this section in each subsequent fiscal year without reapplication for a period of not more than 3 years, provided the requirements of subsection (c) are met for the previous fiscal year; and

“(2) award a grant under this section in a fiscal year for which the requirement of subsection (c) has not been met only if such requirement was not met because such funding was diverted for response to 1 or more natural disasters or in other extenuating circumstances that the Secretary may determine appropriate.

“(e) DURATION OF AWARDS.—The Secretary may award grants to an individual grant recipient under this section for periods of not more than 3 years. In the event the Secretary conducts a program evaluation, funding in the second year or third year of the grant, where applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

“(f) PROGRESS AND EVALUATION.—

“(1) IN GENERAL.—The Secretary shall measure the status and success of each grant program authorized under the FDA Food Safety Modernization Act (and any amendment made by such Act), including the grant program under this section. A recipient of a grant described in the preceding sentence shall, at the end of each grant year, provide the Secretary with information on how grant funds were spent and the status of the efforts by such recipient to enhance food safety. To the extent practicable, the Secretary shall take the per-

formance of such a grant recipient into account when determining whether to continue funding for such recipient.

“(2) NO DUPLICATION.—In carrying out paragraph (1), the Secretary shall not duplicate the efforts of the Secretary under other provisions of this Act or the FDA Food Safety Modernization Act that require measurement and review of the activities of grant recipients under either such Act.

“(g) SUPPLEMENT NOT SUPPLANT.—Grant funds received under this section shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this section.

“(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2011 through 2015.”

(b) CENTERS OF EXCELLENCE.—Part P of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

“SEC. 399V-5. FOOD SAFETY INTEGRATED CENTERS OF EXCELLENCE.

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the working group described in subsection (b)(2), shall designate 5 Integrated Food Safety Centers of Excellence (referred to in this section as the ‘Centers of Excellence’) to serve as resources for Federal, State, and local public health professionals to respond to foodborne illness outbreaks. The Centers of Excellence shall be headquartered at selected State health departments.

“(b) SELECTION OF CENTERS OF EXCELLENCE.—

“(1) ELIGIBLE ENTITIES.—To be eligible to be designated as a Center of Excellence under subsection (a), an entity shall—

“(A) be a State health department;

“(B) partner with 1 or more institutions of higher education that have demonstrated knowledge, expertise, and meaningful experience with regional or national food production, processing, and distribution, as well as leadership in the laboratory, epidemiological, and environmental detection and investigation of foodborne illness; and

“(C) provide to the Secretary such information, at such time, and in such manner, as the Secretary may require.

“(2) WORKING GROUP.—Not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish a diverse working group of experts and stakeholders from Federal, State, and local food safety and health agencies, the food industry, including food retailers and food manufacturers, consumer organizations, and academia to make recommendations to the Secretary regarding designations of the Centers of Excellence.

“(3) ADDITIONAL CENTERS OF EXCELLENCE.—The Secretary may designate eligible entities to be regional Food Safety Centers of Excellence, in addition to the 5 Centers designated under subsection (a).

“(c) ACTIVITIES.—Under the leadership of the Director of the Centers for Disease Control and Prevention, each Center of Excellence shall be based out of a selected State health department, which shall provide assistance to other regional, State, and local departments of health through activities that include—

“(1) providing resources, including timely information concerning symptoms and tests, for frontline health professionals interviewing individuals as part of routine surveillance and outbreak investigations;

“(2) providing analysis of the timeliness and effectiveness of foodborne disease surveillance and outbreak response activities;

“(3) providing training for epidemiological and environmental investigation of foodborne illness, including suggestions for streamlining and standardizing the investigation process;

“(4) establishing fellowships, stipends, and scholarships to train future epidemiological and food-safety leaders and to address critical workforce shortages;

“(5) training and coordinating State and local personnel;

“(6) strengthening capacity to participate in existing or new foodborne illness surveillance and environmental assessment information systems; and

“(7) conducting research and outreach activities focused on increasing prevention, communication, and education regarding food safety.

“(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall submit to Congress a report that—

“(1) describes the effectiveness of the Centers of Excellence; and

“(2) provides legislative recommendations or describes additional resources required by the Centers of Excellence.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

“(f) NO DUPLICATION OF EFFORT.—In carrying out activities of the Centers of Excellence or other programs under this section, the Secretary shall not duplicate other Federal foodborne illness response efforts.”

SEC. 211. IMPROVING THE REPORTABLE FOOD REGISTRY.

(a) IN GENERAL.—Section 417 (21 U.S.C. 350f) is amended—

(1) by redesignating subsections (f) through (k) as subsections (i) through (n), respectively; and

(2) by inserting after subsection (e) the following:

“(f) CRITICAL INFORMATION.—Except with respect to fruits and vegetables that are raw agricultural commodities, not more than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary may require a responsible party to submit to the Secretary consumer-oriented information regarding a reportable food, which shall include—

“(1) a description of the article of food as provided in subsection (e)(3);

“(2) as provided in subsection (e)(7), affected product identification codes, such as UPC, SKU, or lot or batch numbers sufficient for the consumer to identify the article of food;

“(3) contact information for the responsible party as provided in subsection (e)(8); and

“(4) any other information the Secretary determines is necessary to enable a consumer to accurately identify whether such consumer is in possession of the reportable food.

“(g) GROCERY STORE NOTIFICATION.—

“(1) ACTION BY SECRETARY.—The Secretary shall—

“(A) prepare the critical information described under subsection (f) for a reportable food as a standardized one-page summary;

“(B) publish such one-page summary on the Internet website of the Food and Drug Administration in a format that can be easily printed by a grocery store for purposes of consumer notification.

“(2) ACTION BY GROCERY STORE.—A notification described under paragraph (1)(B) shall include the date and time such summary was posted on the Internet website of the Food and Drug Administration.

“(h) CONSUMER NOTIFICATION.—

“(1) IN GENERAL.—If a grocery store sold a reportable food that is the subject of the posting and such establishment is part of chain of establishments with 15 or more physical locations,

then such establishment shall, not later than 24 hours after a one page summary described in subsection (g) is published, prominently display such summary or the information from such summary via at least one of the methods identified under paragraph (2) and maintain the display for 14 days.

“(2) **LIST OF CONSPICUOUS LOCATIONS.**—Not more than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall develop and publish a list of acceptable conspicuous locations and manners, from which grocery stores shall select at least one, for providing the notification required in paragraph (1). Such list shall include—

“(A) posting the notification at or near the register;

“(B) providing the location of the reportable food;

“(C) providing targeted recall information given to customers upon purchase of a food; and

“(D) other such prominent and conspicuous locations and manners utilized by grocery stores as of the date of the enactment of the FDA Food Safety Modernization Act to provide notice of such recalls to consumers as considered appropriate by the Secretary.”.

(b) **PROHIBITED ACT.**—Section 301 (21 U.S.C. 331), as amended by section 206, is amended by adding at the end the following:

“(yy) The knowing and willful failure to comply with the notification requirement under section 417(h).”.

(c) **CONFORMING AMENDMENT.**—Section 301(e) (21 U.S.C. 331(e)) is amended by striking “417(g)” and inserting “417(j)”.

TITLE III—IMPROVING THE SAFETY OF IMPORTED FOOD

SEC. 301. FOREIGN SUPPLIER VERIFICATION PROGRAM.

(a) **IN GENERAL.**—Chapter VIII (21 U.S.C. 381 et seq.) is amended by adding at the end the following:

“SEC. 805. FOREIGN SUPPLIER VERIFICATION PROGRAM.

“(a) **IN GENERAL.**—

“(1) **VERIFICATION REQUIREMENT.**—Except as provided under subsections (e) and (f), each importer shall perform risk-based foreign supplier verification activities for the purpose of verifying that the food imported by the importer or agent of an importer is—

“(A) produced in compliance with the requirements of section 418 or section 419, as appropriate; and

“(B) is not adulterated under section 402 or misbranded under section 403(w).

“(2) **IMPORTER DEFINED.**—For purposes of this section, the term ‘importer’ means, with respect to an article of food—

“(A) the United States owner or consignee of the article of food at the time of entry of such article into the United States; or

“(B) in the case when there is no United States owner or consignee as described in subparagraph (A), the United States agent or representative of a foreign owner or consignee of the article of food at the time of entry of such article into the United States.

“(b) **GUIDANCE.**—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall issue guidance to assist importers in developing foreign supplier verification programs.

“(c) **REGULATIONS.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations to provide for the content of the foreign supplier verification program established under subsection (a).

“(2) **REQUIREMENTS.**—The regulations promulgated under paragraph (1)—

“(A) shall require that the foreign supplier verification program of each importer be ade-

quate to provide assurances that each foreign supplier to the importer produces the imported food in compliance with—

“(i) processes and procedures, including reasonably appropriate risk-based preventive controls, that provide the same level of public health protection as those required under section 418 or section 419 (taking into consideration variances granted under section 419), as appropriate; and

“(ii) section 402 and section 403(w).

“(B) shall include such other requirements as the Secretary deems necessary and appropriate to verify that food imported into the United States is as safe as food produced and sold within the United States.

“(3) **CONSIDERATIONS.**—In promulgating regulations under this subsection, the Secretary shall, as appropriate, take into account differences among importers and types of imported foods, including based on the level of risk posed by the imported food.

“(4) **ACTIVITIES.**—Verification activities under a foreign supplier verification program under this section may include monitoring records for shipments, lot-by-lot certification of compliance, annual on-site inspections, checking the hazard analysis and risk-based preventive control plan of the foreign supplier, and periodically testing and sampling shipments.

“(d) **RECORD MAINTENANCE AND ACCESS.**—Records of an importer related to a foreign supplier verification program shall be maintained for a period of not less than 2 years and shall be made available promptly to a duly authorized representative of the Secretary upon request.

“(e) **EXEMPTION OF SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES IN COMPLIANCE WITH HACCP.**—This section shall not apply to a facility if the owner, operator, or agent in charge of such facility is required to comply with, and is in compliance with, 1 of the following standards and regulations with respect to such facility:

“(1) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(2) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(3) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

The exemption under paragraph (3) shall apply only with respect to microbiological hazards that are regulated under the standards for Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers under part 113 of chapter 21, Code of Federal Regulations (or any successor regulations).

“(f) **ADDITIONAL EXEMPTIONS.**—The Secretary, by notice published in the Federal Register, shall establish an exemption from the requirements of this section for articles of food imported in small quantities for research and evaluation purposes or for personal consumption, provided that such foods are not intended for retail sale and are not sold or distributed to the public.

“(g) **PUBLICATION OF LIST OF PARTICIPANTS.**—The Secretary shall publish and maintain on the Internet Web site of the Food and Drug Administration a current list that includes the name of, location of, and other information deemed necessary by the Secretary about, importers participating under this section.”.

(b) **PROHIBITED ACT.**—Section 301 (21 U.S.C. 331), as amended by section 211, is amended by adding at the end the following:

“(zz) The importation or offering for importation of a food if the importer (as defined in section 805) does not have in place a foreign supplier verification program in compliance with such section 805.”.

(c) **IMPORTS.**—Section 801(a) (21 U.S.C. 381(a)) is amended by adding “or the importer (as defined in section 805) is in violation of such section 805” after “or in violation of section 505”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

SEC. 302. VOLUNTARY QUALIFIED IMPORTER PROGRAM.

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 301, is amended by adding at the end the following:

“SEC. 806. VOLUNTARY QUALIFIED IMPORTER PROGRAM.

“(a) **IN GENERAL.**—Beginning not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

“(1) establish a program, in consultation with the Secretary of Homeland Security—

“(A) to provide for the expedited review and importation of food offered for importation by importers who have voluntarily agreed to participate in such program; and

“(B) consistent with section 808, establish a process for the issuance of a facility certification to accompany food offered for importation by importers who have voluntarily agreed to participate in such program; and

“(2) issue a guidance document related to participation in, revocation of such participation in, reinstatement in, and compliance with, such program.

“(b) **VOLUNTARY PARTICIPATION.**—An importer may request the Secretary to provide for the expedited review and importation of designated foods in accordance with the program established by the Secretary under subsection (a).

“(c) **NOTICE OF INTENT TO PARTICIPATE.**—An importer that intends to participate in the program under this section in a fiscal year shall submit a notice and application to the Secretary of such intent at the time and in a manner established by the Secretary.

“(d) **ELIGIBILITY.**—Eligibility shall be limited to an importer offering food for importation from a facility that has a certification described in subsection (a). In reviewing the applications and making determinations on such applications, the Secretary shall consider the risk of the food to be imported based on factors, such as the following:

“(1) The known safety risks of the food to be imported.

“(2) The compliance history of foreign suppliers used by the importer, as appropriate.

“(3) The capability of the regulatory system of the country of export to ensure compliance with United States food safety standards for a designated food.

“(4) The compliance of the importer with the requirements of section 805.

“(5) The recordkeeping, testing, inspections and audits of facilities, traceability of articles of food, temperature controls, and sourcing practices of the importer.

“(6) The potential risk for intentional adulteration of the food.

“(7) Any other factor that the Secretary determines appropriate.

“(e) **REVIEW AND REVOCATION.**—Any importer qualified by the Secretary in accordance with the eligibility criteria set forth in this section shall be reevaluated not less often than once every 3 years and the Secretary shall promptly revoke the qualified importer status of any importer found not to be in compliance with such criteria.

“(f) **FALSE STATEMENTS.**—Any statement or representation made by an importer to the Secretary shall be subject to section 1001 of title 18, United States Code.

“(g) **DEFINITION.**—For purposes of this section, the term ‘importer’ means the person that

brings food, or causes food to be brought, from a foreign country into the customs territory of the United States.”.

SEC. 303. AUTHORITY TO REQUIRE IMPORT CERTIFICATIONS FOR FOOD.

(a) *IN GENERAL.*—Section 801(a) (21 U.S.C. 381(a)) is amended by inserting after the third sentence the following: “With respect to an article of food, if importation of such food is subject to, but not compliant with, the requirement under subsection (g) that such food be accompanied by a certification or other assurance that the food meets applicable requirements of this Act, then such article shall be refused admission.”.

(b) *ADDITION OF CERTIFICATION REQUIREMENT.*—Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

“(g) *CERTIFICATIONS CONCERNING IMPORTED FOODS.*—

“(1) *IN GENERAL.*—The Secretary may require, as a condition of granting admission to an article of food imported or offered for import into the United States, that an entity described in paragraph (3) provide a certification, or such other assurances as the Secretary determines appropriate, that the article of food complies with applicable requirements of this Act. Such certification or assurances may be provided in the form of shipment-specific certificates, a listing of certified facilities that manufacture, process, pack, or hold such food, or in such other form as the Secretary may specify.

“(2) *FACTORS TO BE CONSIDERED IN REQUIRING CERTIFICATION.*—The Secretary shall base the determination that an article of food is required to have a certification described in paragraph (1) on the risk of the food, including—

“(A) known safety risks associated with the food;

“(B) known food safety risks associated with the country, territory, or region of origin of the food;

“(C) a finding by the Secretary, supported by scientific, risk-based evidence, that—

“(i) the food safety programs, systems, and standards in the country, territory, or region of origin of the food are inadequate to ensure that the article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act; and

“(ii) the certification would assist the Secretary in determining whether to refuse or admit the article of food under subsection (a); and

“(D) information submitted to the Secretary in accordance with the process established in paragraph (7).

“(3) *CERTIFYING ENTITIES.*—For purposes of paragraph (1), entities that shall provide the certification or assurances described in such paragraph are—

“(A) an agency or a representative of the government of the country from which the article of food at issue originated, as designated by the Secretary; or

“(B) such other persons or entities accredited pursuant to section 808 to provide such certification or assurance.

“(4) *RENEWAL AND REFUSAL OF CERTIFICATIONS.*—The Secretary may—

“(A) require that any certification or other assurance provided by an entity specified in paragraph (2) be renewed by such entity at such times as the Secretary determines appropriate; and

“(B) refuse to accept any certification or assurance if the Secretary determines that such certification or assurance is not valid or reliable.

“(5) *ELECTRONIC SUBMISSION.*—The Secretary shall provide for the electronic submission of certifications under this subsection.

“(6) *FALSE STATEMENTS.*—Any statement or representation made by an entity described in paragraph (2) to the Secretary shall be subject to section 1001 of title 18, United States Code.

“(7) *ASSESSMENT OF FOOD SAFETY PROGRAMS, SYSTEMS, AND STANDARDS.*—If the Secretary determines that the food safety programs, systems, and standards in a foreign region, country, or territory are inadequate to ensure that an article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act, the Secretary shall, to the extent practicable, identify such inadequacies and establish a process by which the foreign region, country, or territory may inform the Secretary of improvements made to such food safety program, system, or standard and demonstrate that those controls are adequate to ensure that an article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act.”.

(c) *CONFORMING TECHNICAL AMENDMENT.*—Section 801(b) (21 U.S.C. 381(b)) is amended in the second sentence by striking “with respect to an article included within the provision of the fourth sentence of subsection (a)” and inserting “with respect to an article described in subsection (a) relating to the requirements of sections 760 or 761.”.

(d) *NO LIMIT ON AUTHORITY.*—Nothing in the amendments made by this section shall limit the authority of the Secretary to conduct inspections of imported food or to take such other steps as the Secretary deems appropriate to determine the admissibility of imported food.

SEC. 304. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.

(a) *IN GENERAL.*—Section 801(m)(1) (21 U.S.C. 381(m)(1)) is amended by inserting “any country to which the article has been refused entry;” after “the country from which the article is shipped;”.

(b) *REGULATIONS.*—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart I of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) *EFFECTIVE DATE.*—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 305. BUILDING CAPACITY OF FOREIGN GOVERNMENTS WITH RESPECT TO FOOD SAFETY.

(a) *IN GENERAL.*—The Secretary shall, not later than 2 years of the date of enactment of this Act, develop a comprehensive plan to expand the technical, scientific, and regulatory food safety capacity of foreign governments, and their respective food industries, from which foods are exported to the United States.

(b) *CONSULTATION.*—In developing the plan under subsection (a), the Secretary shall consult with the Secretary of Agriculture, Secretary of State, Secretary of the Treasury, the Secretary of Homeland Security, the United States Trade Representative, and the Secretary of Commerce, representatives of the food industry, appropriate foreign government officials, nongovernmental organizations that represent the interests of consumers, and other stakeholders.

(c) *PLAN.*—The plan developed under subsection (a) shall include, as appropriate, the following:

(1) Recommendations for bilateral and multilateral arrangements and agreements, including provisions to provide for responsibility of exporting countries to ensure the safety of food.

(2) Provisions for secure electronic data sharing.

(3) Provisions for mutual recognition of inspection reports.

(4) Training of foreign governments and food producers on United States requirements for safe food.

(5) Recommendations on whether and how to harmonize requirements under the Codex Alimentarius.

(6) Provisions for the multilateral acceptance of laboratory methods and testing and detection techniques.

(d) *RULE OF CONSTRUCTION.*—Nothing in this section shall be construed to affect the regulation of dietary supplements under the Dietary Supplement Health and Education Act of 1994 (Public Law 103-417).

SEC. 306. INSPECTION OF FOREIGN FOOD FACILITIES.

(a) *IN GENERAL.*—Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 302, is amended by inserting at the end the following:

“SEC. 807. INSPECTION OF FOREIGN FOOD FACILITIES.

“(a) *INSPECTION.*—The Secretary—

“(1) may enter into arrangements and agreements with foreign governments to facilitate the inspection of foreign facilities registered under section 415; and

“(2) shall direct resources to inspections of foreign facilities, suppliers, and food types, especially such facilities, suppliers, and food types that present a high risk (as identified by the Secretary), to help ensure the safety and security of the food supply of the United States.

“(b) *EFFECT OF INABILITY TO INSPECT.*—Notwithstanding any other provision of law, food shall be refused admission into the United States if it is from a foreign factory, warehouse, or other establishment of which the owner, operator, or agent in charge, or the government of the foreign country, refuses to permit entry of United States inspectors or other individuals duly designated by the Secretary, upon request, to inspect such factory, warehouse, or other establishment. For purposes of this subsection, such an owner, operator, or agent in charge shall be considered to have refused an inspection if such owner, operator, or agent in charge does not permit an inspection of a factory, warehouse, or other establishment during the 24-hour period after such request is submitted, or after such other time period, as agreed upon by the Secretary and the foreign factory, warehouse, or other establishment.”.

(b) *INSPECTION BY THE SECRETARY OF COMMERCE.*—

(1) *IN GENERAL.*—The Secretary of Commerce, in coordination with the Secretary of Health and Human Services, may send 1 or more inspectors to a country or facility of an exporter from which seafood imported into the United States originates. The inspectors shall assess practices and processes used in connection with the farming, cultivation, harvesting, preparation for market, or transportation of such seafood and may provide technical assistance related to such activities.

(2) *INSPECTION REPORT.*—

(A) *IN GENERAL.*—The Secretary of Health and Human Services, in coordination with the Secretary of Commerce, shall—

(i) prepare an inspection report for each inspection conducted under paragraph (1);

(ii) provide the report to the country or exporter that is the subject of the report; and

(iii) provide a 30-day period during which the country or exporter may provide a rebuttal or other comments on the findings of the report to the Secretary of Health and Human Services.

(B) *DISTRIBUTION AND USE OF REPORT.*—The Secretary of Health and Human Services shall consider the inspection reports described in subparagraph (A) in distributing inspection resources under section 421 of the Federal Food, Drug, and Cosmetic Act, as added by section 201.

SEC. 307. ACCREDITATION OF THIRD-PARTY AUDITORS.

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 306, is amended by adding at the end the following:

“SEC. 808. ACCREDITATION OF THIRD-PARTY AUDITORS.

“(a) **DEFINITIONS.**—In this section:

“(1) **AUDIT AGENT.**—The term ‘audit agent’ means an individual who is an employee or agent of an accredited third-party auditor and, although not individually accredited, is qualified to conduct food safety audits on behalf of an accredited third-party auditor.

“(2) **ACCREDITATION BODY.**—The term ‘accreditation body’ means an authority that performs accreditation of third-party auditors.

“(3) **THIRD-PARTY AUDITOR.**—The term ‘third-party auditor’ means a foreign government, agency of a foreign government, foreign cooperative, or any other third party, as the Secretary determines appropriate in accordance with the model standards described in subsection (b)(2), that is eligible to be considered for accreditation to conduct food safety audits to certify that eligible entities meet the applicable requirements of this section. A third-party auditor may be a single individual. A third-party auditor may employ or use audit agents to help conduct consultative and regulatory audits.

“(4) **ACCREDITED THIRD-PARTY AUDITOR.**—The term ‘accredited third-party auditor’ means a third-party auditor accredited by an accreditation body to conduct audits of eligible entities to certify that such eligible entities meet the applicable requirements of this section. An accredited third-party auditor may be an individual who conducts food safety audits to certify that eligible entities meet the applicable requirements of this section.

“(5) **CONSULTATIVE AUDIT.**—The term ‘consultative audit’ means an audit of an eligible entity—

“(A) to determine whether such entity is in compliance with the provisions of this Act and with applicable industry standards and practices; and

“(B) the results of which are for internal purposes only.

“(6) **ELIGIBLE ENTITY.**—The term ‘eligible entity’ means a foreign entity, including a foreign facility registered under section 415, in the food import supply chain that chooses to be audited by an accredited third-party auditor or the audit agent of such accredited third-party auditor.

“(7) **REGULATORY AUDIT.**—The term ‘regulatory audit’ means an audit of an eligible entity—

“(A) to determine whether such entity is in compliance with the provisions of this Act; and

“(B) the results of which determine—

“(i) whether an article of food manufactured, processed, packed, or held by such entity is eligible to receive a food certification under section 801(q); or

“(ii) whether a facility is eligible to receive a facility certification under section 806(a) for purposes of participating in the program under section 806.

“(b) **ACCREDITATION SYSTEM.**—

“(1) **ACCREDITATION BODIES.**—

“(A) **RECOGNITION OF ACCREDITATION BODIES.**—

“(i) **IN GENERAL.**—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish a system for the recognition of accreditation bodies that accredit third-party auditors to certify that eligible entities meet the applicable requirements of this section.

“(ii) **DIRECT ACCREDITATION.**—If, by the date that is 2 years after the date of establishment of the system described in clause (i), the Secretary

has not identified and recognized an accreditation body to meet the requirements of this section, the Secretary may directly accredit third-party auditors.

“(B) **NOTIFICATION.**—Each accreditation body recognized by the Secretary shall submit to the Secretary a list of all accredited third-party auditors accredited by such body and the audit agents of such auditors.

“(C) **REVOCATION OF RECOGNITION AS AN ACCREDITATION BODY.**—The Secretary shall promptly revoke the recognition of any accreditation body found not to be in compliance with the requirements of this section.

“(D) **REINSTATEMENT.**—The Secretary shall establish procedures to reinstate recognition of an accreditation body if the Secretary determines, based on evidence presented by such accreditation body, that revocation was inappropriate or that the body meets the requirements for recognition under this section.

“(2) **MODEL ACCREDITATION STANDARDS.**—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall develop model standards, including requirements for regulatory audit reports, and each recognized accreditation body shall ensure that third-party auditors and audit agents of such auditors meet such standards in order to qualify such third-party auditors as accredited third-party auditors under this section. In developing the model standards, the Secretary shall look to standards in place on the date of the enactment of this section for guidance, to avoid unnecessary duplication of efforts and costs.

“(c) **THIRD-PARTY AUDITORS.**—

“(1) **REQUIREMENTS FOR ACCREDITATION AS A THIRD-PARTY AUDITOR.**—

“(A) **FOREIGN GOVERNMENTS.**—Prior to accrediting a foreign government or an agency of a foreign government as an accredited third-party auditor, the accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) shall perform such reviews and audits of food safety programs, systems, and standards of the government or agency of the government as the Secretary deems necessary, including requirements under the model standards developed under subsection (b)(2), to determine that the foreign government or agency of the foreign government is capable of adequately ensuring that eligible entities or foods certified by such government or agency meet the requirements of this Act with respect to food manufactured, processed, packed, or held for import into the United States.

“(B) **FOREIGN COOPERATIVES AND OTHER THIRD PARTIES.**—Prior to accrediting a foreign cooperative that aggregates the products of growers or processors, or any other third party to be an accredited third-party auditor, the accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) shall perform such reviews and audits of the training and qualifications of audit agents used by that cooperative or party and conduct such reviews of internal systems and such other investigation of the cooperative or party as the Secretary deems necessary, including requirements under the model standards developed under subsection (b)(2), to determine that each eligible entity certified by the cooperative or party has systems and standards in use to ensure that such entity or food meets the requirements of this Act.

“(2) **REQUIREMENT TO ISSUE CERTIFICATION OF ELIGIBLE ENTITIES OR FOODS.**—

“(A) **IN GENERAL.**—An accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) may not accredit a third-party auditor unless such third-party auditor agrees to issue a written and, as appropriate, electronic food certification, de-

scribed in section 801(q), or facility certification under section 806(a), as appropriate, to accompany each food shipment for import into the United States from an eligible entity, subject to requirements set forth by the Secretary. Such written or electronic certification may be included with other documentation regarding such food shipment. The Secretary shall consider certifications under section 801(q) and participation in the voluntary qualified importer program described in section 806 when targeting inspection resources under section 421.

“(B) **PURPOSE OF CERTIFICATION.**—The Secretary shall use certification provided by accredited third-party auditors to—

“(i) determine, in conjunction with any other assurances the Secretary may require under section 801(q), whether a food satisfies the requirements of such section; and

“(ii) determine whether a facility is eligible to be a facility from which food may be offered for import under the voluntary qualified importer program under section 806.

“(C) **REQUIREMENTS FOR ISSUING CERTIFICATION.**—

“(i) **IN GENERAL.**—An accredited third-party auditor shall issue a food certification under section 801(q) or a facility certification described under subparagraph (B) only after conducting a regulatory audit and such other activities that may be necessary to establish compliance with the requirements of such sections.

“(ii) **PROVISION OF CERTIFICATION.**—Only an accredited third-party auditor or the Secretary may provide a facility certification under section 806(a). Only those parties described in 801(q)(3) or the Secretary may provide a food certification under 301(g).

“(3) **AUDIT REPORT SUBMISSION REQUIREMENTS.**—

“(A) **REQUIREMENTS IN GENERAL.**—As a condition of accreditation, not later than 45 days after conducting an audit, an accredited third-party auditor or audit agent of such auditor shall prepare, and, in the case of a regulatory audit, submit, the audit report for each audit conducted, in a form and manner designated by the Secretary, which shall include—

“(i) the identity of the persons at the audited eligible entity responsible for compliance with food safety requirements;

“(ii) the dates of the audit;

“(iii) the scope of the audit; and

“(iv) any other information required by the Secretary that relates to or may influence an assessment of compliance with this Act.

“(B) **RECORDS.**—Following any accreditation of a third-party auditor, the Secretary may, at any time, require the accredited third-party auditor to submit to the Secretary an onsite audit report and such other reports or documents required as part of the audit process, for any eligible entity certified by the third-party auditor or audit agent of such auditor. Such report may include documentation that the eligible entity is in compliance with any applicable registration requirements.

“(C) **LIMITATION.**—The requirement under subparagraph (B) shall not include any report or other documents resulting from a consultative audit by the accredited third-party auditor, except that the Secretary may access the results of a consultative audit in accordance with section 414.

“(4) **REQUIREMENTS OF ACCREDITED THIRD-PARTY AUDITORS AND AUDIT AGENTS OF SUCH AUDITORS.**—

“(A) **RISKS TO PUBLIC HEALTH.**—If, at any time during an audit, an accredited third-party auditor or audit agent of such auditor discovers a condition that could cause or contribute to a serious risk to the public health, such auditor shall immediately notify the Secretary of—

“(i) the identification of the eligible entity subject to the audit; and

“(ii) such condition.

“(B) TYPES OF AUDITS.—An accredited third-party auditor or audit agent of such auditor may perform consultative and regulatory audits of eligible entities.

“(C) LIMITATIONS.—

“(i) IN GENERAL.—An accredited third party auditor may not perform a regulatory audit of an eligible entity if such agent has performed a consultative audit or a regulatory audit of such eligible entity during the previous 13-month period.

“(ii) WAIVER.—The Secretary may waive the application of clause (i) if the Secretary determines that there is insufficient access to accredited third-party auditors in a country or region.

“(5) CONFLICTS OF INTEREST.—

“(A) THIRD-PARTY AUDITORS.—An accredited third-party auditor shall—

“(i) not be owned, managed, or controlled by any person that owns or operates an eligible entity to be certified by such auditor;

“(ii) in carrying out audits of eligible entities under this section, have procedures to ensure against the use of any officer or employee of such auditor that has a financial conflict of interest regarding an eligible entity to be certified by such auditor; and

“(iii) annually make available to the Secretary disclosures of the extent to which such auditor and the officers and employees of such auditor have maintained compliance with clauses (i) and (ii) relating to financial conflicts of interest.

“(B) AUDIT AGENTS.—An audit agent shall—

“(i) not own or operate an eligible entity to be audited by such agent;

“(ii) in carrying out audits of eligible entities under this section, have procedures to ensure that such agent does not have a financial conflict of interest regarding an eligible entity to be audited by such agent; and

“(iii) annually make available to the Secretary disclosures of the extent to which such agent has maintained compliance with clauses (i) and (ii) relating to financial conflicts of interest.

“(C) REGULATIONS.—The Secretary shall promulgate regulations not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act to implement this section and to ensure that there are protections against conflicts of interest between an accredited third-party auditor and the eligible entity to be certified by such auditor or audited by such audit agent. Such regulations shall include—

“(i) requiring that audits performed under this section be unannounced;

“(ii) a structure to decrease the potential for conflicts of interest, including timing and public disclosure, for fees paid by eligible entities to accredited third-party auditors; and

“(iii) appropriate limits on financial affiliations between an accredited third-party auditor or audit agents of such auditor and any person that owns or operates an eligible entity to be certified by such auditor, as described in subparagraphs (A) and (B).

“(6) WITHDRAWAL OF ACCREDITATION.—

“(A) IN GENERAL.—The Secretary shall withdraw accreditation from an accredited third-party auditor—

“(i) if food certified under section 801(q) or from a facility certified under paragraph (2)(B) by such third-party auditor is linked to an outbreak of foodborne illness that has a reasonable probability of causing serious adverse health consequences or death in humans or animals;

“(ii) following an evaluation and finding by the Secretary that the third-party auditor no longer meets the requirements for accreditation; or

“(iii) following a refusal to allow United States officials to conduct such audits and in-

vestigations as may be necessary to ensure continued compliance with the requirements set forth in this section.

“(B) ADDITIONAL BASIS FOR WITHDRAWAL OF ACCREDITATION.—The Secretary may withdraw accreditation from an accredited third-party auditor in the case that such third-party auditor is accredited by an accreditation body for which recognition as an accreditation body under subsection (b)(1)(C) is revoked, if the Secretary determines that there is good cause for the withdrawal.

“(C) EXCEPTION.—The Secretary may waive the application of subparagraph (A)(i) if the Secretary—

“(i) conducts an investigation of the material facts related to the outbreak of human or animal illness; and

“(ii) reviews the steps or actions taken by the third party auditor to justify the certification and determines that the accredited third-party auditor satisfied the requirements under section 801(q) of certifying the food, or the requirements under paragraph (2)(B) of certifying the entity.

“(7) REACCREDITATION.—The Secretary shall establish procedures to reinstate the accreditation of a third-party auditor for which accreditation has been withdrawn under paragraph (6)—

“(A) if the Secretary determines, based on evidence presented, that the third-party auditor satisfies the requirements of this section and adequate grounds for revocation no longer exist; and

“(B) in the case of a third-party auditor accredited by an accreditation body for which recognition as an accreditation body under subsection (b)(1)(C) is revoked—

“(i) if the third-party auditor becomes accredited not later than 1 year after revocation of accreditation under paragraph (6)(A), through direct accreditation under subsection (b)(1)(A)(ii) or by an accreditation body in good standing; or

“(ii) under such conditions as the Secretary may require for a third-party auditor under paragraph (6)(B).

“(8) NEUTRALIZING COSTS.—The Secretary shall establish by regulation a reimbursement (user fee) program, similar to the method described in section 203(h) of the Agriculture Marketing Act of 1946, by which the Secretary assesses fees and requires accredited third-party auditors and audit agents to reimburse the Food and Drug Administration for the work performed to establish and administer the accreditation system under this section. The Secretary shall make operating this program revenue-neutral and shall not generate surplus revenue from such a reimbursement mechanism. Fees authorized under this paragraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriation Acts. Such fees are authorized to remain available until expended.

“(d) RECERTIFICATION OF ELIGIBLE ENTITIES.—An eligible entity shall apply for annual recertification by an accredited third-party auditor if such entity—

“(1) intends to participate in voluntary qualified importer program under section 806; or

“(2) is required to provide to the Secretary a certification under section 801(q) for any food from such entity.

“(e) FALSE STATEMENTS.—Any statement or representation made—

“(1) by an employee or agent of an eligible entity to an accredited third-party auditor or audit agent; or

“(2) by an accredited third-party auditor to the Secretary, shall be subject to section 1001 of title 18, United States Code.

“(f) MONITORING.—To ensure compliance with the requirements of this section, the Secretary shall—

“(1) periodically, or at least once every 4 years, reevaluate the accreditation bodies described in subsection (b)(1);

“(2) periodically, or at least once every 4 years, evaluate the performance of each accredited third-party auditor, through the review of regulatory audit reports by such auditors, the compliance history as available of eligible entities certified by such auditors, and any other measures deemed necessary by the Secretary;

“(3) at any time, conduct an onsite audit of any eligible entity certified by an accredited third-party auditor, with or without the auditor present; and

“(4) take any other measures deemed necessary by the Secretary.

“(g) PUBLICLY AVAILABLE REGISTRY.—The Secretary shall establish a publicly available registry of accreditation bodies and of accredited third-party auditors, including the name of, contact information for, and other information deemed necessary by the Secretary about such bodies and auditors.

“(h) LIMITATIONS.—

“(1) NO EFFECT ON SECTION 704 INSPECTIONS.—The audits performed under this section shall not be considered inspections under section 704.

“(2) NO EFFECT ON INSPECTION AUTHORITY.—Nothing in this section affects the authority of the Secretary to inspect any eligible entity pursuant to this Act.”.

SEC. 308. FOREIGN OFFICES OF THE FOOD AND DRUG ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall establish offices of the Food and Drug Administration in foreign countries selected by the Secretary, to provide assistance to the appropriate governmental entities of such countries with respect to measures to provide for the safety of articles of food and other products regulated by the Food and Drug Administration exported by such country to the United States, including by directly conducting risk-based inspections of such articles and supporting such inspections by such governmental entity.

(b) CONSULTATION.—In establishing the foreign offices described in subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Homeland Security, and the United States Trade Representative.

(c) REPORT.—Not later than October 1, 2011, the Secretary shall submit to Congress a report on the basis for the selection by the Secretary of the foreign countries in which the Secretary established offices, the progress which such offices have made with respect to assisting the governments of such countries in providing for the safety of articles of food and other products regulated by the Food and Drug Administration exported to the United States, and the plans of the Secretary for establishing additional foreign offices of the Food and Drug Administration, as appropriate.

SEC. 309. SMUGGLED FOOD.

(a) IN GENERAL.—Not later than 180 days after the enactment of this Act, the Secretary shall, in coordination with the Secretary of Homeland Security, develop and implement a strategy to better identify smuggled food and prevent entry of such food into the United States.

(b) NOTIFICATION TO HOMELAND SECURITY.—Not later than 10 days after the Secretary identifies a smuggled food that the Secretary believes would cause serious adverse health consequences or death to humans or animals, the Secretary shall provide to the Secretary of Homeland Security a notification under section 417(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350f(k)) describing the smuggled food and, if available, the names of the individuals or entities that attempted to import such food into the United States.

(c) PUBLIC NOTIFICATION.—If the Secretary—

(1) identifies a smuggled food;
 (2) reasonably believes exposure to the food would cause serious adverse health consequences or death to humans or animals; and
 (3) reasonably believes that the food has entered domestic commerce and is likely to be consumed,

the Secretary shall promptly issue a press release describing that food and shall use other emergency communication or recall networks, as appropriate, to warn consumers and vendors about the potential threat.

(d) **EFFECT OF SECTION.**—Nothing in this section shall affect the authority of the Secretary to issue public notifications under other circumstances.

(e) **DEFINITION.**—In this subsection, the term “smuggled food” means any food that a person introduces into the United States through fraudulent means or with the intent to defraud or mislead.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. FUNDING FOR FOOD SAFETY.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities in the Office of Regulatory Affairs of the Food and Drug Administration such sums as may be necessary for fiscal years 2011 through 2015.

(b) **INCREASED NUMBER OF FIELD STAFF.**—

(1) **IN GENERAL.**—To carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities of the Office of Regulatory Affairs of the Food and Drug Administration, the Secretary of Health and Human Services shall increase the field staff of such Centers and Office with a goal of not fewer than—

- (A) 4,000 staff members in fiscal year 2011;
- (B) 4,200 staff members in fiscal year 2012;
- (C) 4,600 staff members in fiscal year 2013; and
- (D) 5,000 staff members in fiscal year 2014.

(2) **FIELD STAFF FOR FOOD DEFENSE.**—The goal under paragraph (1) shall include an increase of 150 employees by fiscal year 2011 to—

- (A) provide additional detection of and response to food defense threats; and
- (B) detect, track, and remove smuggled food (as defined in section 309) from commerce.

SEC. 402. EMPLOYEE PROTECTIONS.

Chapter X of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.), as amended by section 209, is further amended by adding at the end the following:

“SEC. 1012. EMPLOYEE PROTECTIONS.

“(a) **IN GENERAL.**—No entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee, whether at the employee’s initiative or in the ordinary course of the employee’s duties (or any person acting pursuant to a request of the employee)—

“(1) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of this Act or any order, rule, regulation, standard, or ban under this Act, or any order, rule, regulation, standard, or ban under this Act;

“(2) testified or is about to testify in a proceeding concerning such violation;

“(3) assisted or participated or is about to assist or participate in such a proceeding; or

“(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task

that the employee (or other such person) reasonably believed to be in violation of any provision of this Act, or any order, rule, regulation, standard, or ban under this Act.

“(b) **PROCESS.**—

“(1) **IN GENERAL.**—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (referred to in this section as the ‘Secretary’) alleging such discharge or discrimination and identifying the person responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

“(2) **INVESTIGATION.**—

“(A) **IN GENERAL.**—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the complainant and the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary’s findings.

“(B) **REASONABLE CAUSE FOUND; PRELIMINARY ORDER.**—If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary’s findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

“(C) **DISMISSAL OF COMPLAINT.**—

“(i) **STANDARD FOR COMPLAINANT.**—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(ii) **STANDARD FOR EMPLOYER.**—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(iii) **VIOLATION STANDARD.**—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(iv) **RELIEF STANDARD.**—Relief may not be ordered under subparagraph (A) if the employer

demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(3) **FINAL ORDER.**—

“(A) **IN GENERAL.**—Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

“(B) **CONTENT OF ORDER.**—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

“(i) to take affirmative action to abate the violation;

“(ii) to reinstate the complainant to his or her former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

“(iii) to provide compensatory damages to the complainant.

“(C) **PENALTY.**—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys’ and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

“(D) **BAD FAITH CLAIM.**—If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys’ fee, not exceeding \$1,000, to be paid by the complainant.

“(4) **ACTION IN COURT.**—

“(A) **IN GENERAL.**—If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(C).

“(B) **RELIEF.**—The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

“(i) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

“(ii) the amount of back pay, with interest; and

“(iii) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney’s fees.

“(5) **REVIEW.**—

“(A) **IN GENERAL.**—Unless the complainant brings an action under paragraph (4), any person adversely affected or aggrieved by a final order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later

than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

“(B) NO JUDICIAL REVIEW.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(6) FAILURE TO COMPLY WITH ORDER.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

“(7) CIVIL ACTION TO REQUIRE COMPLIANCE.—

“(A) IN GENERAL.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

“(B) AWARD.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

“(c) EFFECT OF SECTION.—

“(1) OTHER LAWS.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

“(2) RIGHTS OF EMPLOYEES.—Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

“(d) ENFORCEMENT.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

“(e) LIMITATION.—Subsection (a) shall not apply with respect to an employee of an entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food who, acting without direction from such entity (or such entity's agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, rule, regulation, standard, or ban under this Act.”

SEC. 403. JURISDICTION; AUTHORITIES.

Nothing in this Act, or an amendment made by this Act, shall be construed to—

(1) alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services, under applicable statutes, regulations, or agreements regarding voluntary inspection of non-amenable species under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.);

(2) alter the jurisdiction between the Alcohol and Tobacco Tax and Trade Bureau and the Secretary of Health and Human Services, under applicable statutes and regulations;

(3) limit the authority of the Secretary of Health and Human Services under—

(A) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act; or

(B) the Public Health Service Act (42 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act;

(4) alter or limit the authority of the Secretary of Agriculture under the laws administered by such Secretary, including—

(A) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(B) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(D) the United States Grain Standards Act (7 U.S.C. 71 et seq.);

(E) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(F) the United States Warehouse Act (7 U.S.C. 241 et seq.);

(G) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); and

(H) the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with the amendments made by the Agricultural Marketing Agreement Act of 1937; or

(5) alter, impede, or affect the authority of the Secretary of Homeland Security under the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) or any other statute, including any authority related to securing the borders of the United States, managing ports of entry, or agricultural import and entry inspection activities.

SEC. 404. COMPLIANCE WITH INTERNATIONAL AGREEMENTS.

Nothing in this Act (or an amendment made by this Act) shall be construed in a manner inconsistent with the agreement establishing the World Trade Organization or any other treaty or international agreement to which the United States is a party.

SEC. 405. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Amend the title so as to read: “An Act to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.”

ORDER OF PROCEDURE

Mr. KERRY. Mr. President, I ask unanimous consent that after any leader time on Tuesday, December 21, Senator ALEXANDER be recognized for up to 10 minutes; that following his remarks, the Senate then resume consideration of the House message with respect to H.R. 3082, and that the time until 10:15 a.m. be divided as follows: 10 minutes under the control of Senator INOUE or his designee and 15 minutes under the control of Senator McCain; that upon the use or yielding back of time, the Senate then proceed to vote on the motion to invoke cloture on the Reid motion to concur in the House amendment to the Senate amendment to H.R. 3082 with amendment No. 4885; further that upon the conclusion of the vote, Senator SPECTER then be recognized for his farewell speech; that any time utilized by Senator SPECTER count postcloture, if applicable.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, DECEMBER 21, 2010

Mr. KERRY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Tuesday, December 21; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that following any leader remarks, Senator ALEXANDER be recognized in morning business for up to 10 minutes; that following his remarks, the Senate resume consideration of the motion to concur with respect to the House message on H.R. 3082 as provided for under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. KERRY. Mr. President, Senators should expect the first vote of the day to begin at approximately 10:15 a.m. tomorrow. That vote will be on the motion to invoke cloture on the motion to concur with respect to H.R. 3082 which is the vehicle for the continuing resolution. Following the vote, Senator SPECTER will deliver his farewell remarks to the Senate.

Upon disposition of the CR, the Senate will vote on the motion to invoke cloture on the New START treaty. We also have an agreement to consider the Pearson and Martinez nominations and we could debate and vote on those tomorrow afternoon.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. KERRY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 8:09 p.m., adjourned until Tuesday, December 21, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF TRANSPORTATION

ANN D. BEGEMAN, OF VIRGINIA, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2015, VICE CHARLES D. NOTTINGHAM, TERM EXPIRING.

DEPARTMENT OF STATE

NILS MAARTEN PARIN DAULAIRE, OF VIRGINIA, TO BE REPRESENTATIVE OF THE UNITED STATES ON THE EXECUTIVE BOARD OF THE WORLD HEALTH ORGANIZATION, VICE JOXEL GARCIA.

OVERSEAS PRIVATE INVESTMENT CORPORATION

TERRY LEWIS, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2011, VICE C. WILLIAM SWANK, TERM EXPIRING.

UNITED STATES INSTITUTE OF PEACE

JUDITH A. ANSLEY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 19, 2011, VICE RON SILVER.

JUDITH A. ANSLEY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

JOHN A. LANCASTER, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 19, 2011, VICE KATHLEEN MARTINEZ.

JOHN A. LANCASTER, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

DISCHARGED NOMINATIONS

The Senate Committee on the Judiciary was discharged from further consideration of the following nominations by unanimous consent and the nominations were confirmed:

JOSEPH CAMPBELL MOORE, OF WYOMING, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF WYOMING FOR THE TERM OF FOUR YEARS.

WILLIAM BENEDICT BERGER, SR., OF FLORIDA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS.

DEPARTMENT OF JUSTICE

JOSEPH CAMPBELL MOORE, OF WYOMING, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF WYOMING FOR THE TERM OF FOUR YEARS.

WILLIAM BENEDICT BERGER, SR., OF FLORIDA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS.

WITHDRAWAL

Executive message transmitted by the President to the Senate on December 20, 2010 withdrawing from further Senate consideration the following nomination:

BEATRICE A. HANSON, OF NEW YORK, TO BE DIRECTOR OF THE OFFICE FOR VICTIMS OF CRIME, VICE JOHN W. GILLIS, WHICH WAS SENT TO THE SENATE ON DECEMBER 23, 2009.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Monday, December 20, 2010:

EXTENSIONS OF REMARKS**SENATE COMMITTEE MEETINGS**

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference.

This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur. As an additional procedure along with the computerization of this information, the

Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week. Meetings scheduled for Tuesday, December 21, 2010 may be found in the Daily Digest of today's RECORD.

● This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—Tuesday, December 21, 2010

The Senate met at 9:30 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God, creator of us all, during this season of goodwill, bring peace to this Chamber. Make strong in the hearts of all our Senators what unites them. Build bridges across all that divides them, so that they will respect their differences while working together to keep our Nation secure. Remove the divisions that drive wedges of rancor between them, and lead them away from the confrontational to a concord that seeks mutual progress. May this unity not be obtained at the price of compromising truth, but by the devotion with which each lawmaker passionately loves this Nation and sincerely seeks to keep it strong and free.

Today, let truth prevail over distortion, wisdom triumph over recklessness, and faith vanquish fear.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The bill clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,

Washington, DC, December 21, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following leader remarks, Senator ALEXANDER will be recognized to speak in morning business for up to 10 minutes. Following his remarks, the Senate will resume consideration of the House message with respect to H.R. 3082, the continuing resolution. There will be 10 minutes of debate for Senator INOUE and 15 minutes for Senator MCCAIN prior to that vote. Therefore, Senators should expect a vote to begin about 10:15 on the motion to invoke cloture on the motion to concur to the House amendment to the Senate amendment to H.R. 3082, with amendment No. 4885, which is the text of the continuing resolution that funds the government through March 4, 2011.

If cloture is invoked, I will work with the Republican leader on a time to complete action on the CR. It is important to send it over to the House very quickly so they have sufficient time to pass it before funding runs out this evening at midnight.

Upon disposition of the CR, the Senate will proceed to vote on the motion to invoke cloture on the New START treaty.

Last week, we were able to lock in a time agreement to consider two district judge nominations. It is my hope we will be able to debate and vote on those judges this afternoon.

Senators will be notified when any votes are scheduled.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee is recognized in morning business for up to 10 minutes.

NEW START TREATY

Mr. ALEXANDER. Madam President, I will vote to ratify the New START treaty between the United States and Russia because it leaves our country with enough nuclear warheads to blow any attacker to kingdom come and because the President has committed to an \$85 billion 10-year plan to make sure those weapons work. I will vote for the treaty because it allows for inspection of Russian warheads and because our military leaders say it does nothing to

interfere with the development of a missile defense system.

I will vote for the treaty because the last six Republican Secretaries of State support its ratification. In short, I am convinced that Americans are safer and more secure with the New START treaty than without it. Last week, I joined Senators INOUE, COCHRAN, and FEINSTEIN in a letter to the President stating that we will vote to ratify the treaty and to appropriate funds to modernize our outdated nuclear weapons facilities and that he, the President, requests those funds in his budget.

Last night, I received a response to the President saying he would do so. I ask unanimous consent to have printed both letters in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, December 16, 2010.

THE WHITE HOUSE,
1600 Pennsylvania Avenue, NW,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our support for ratification of the New START Treaty and full funding for the modernization of our nuclear weapons arsenal, as outlined by your updated report that was mandated by Section 1251 of the Defense Authorization Act for Fiscal Year 2010.

We also ask that, in your future budget requests to Congress, you include the funding identified in that report on nuclear weapons modernization. Should you choose to limit non-defense discretionary spending in any future budget requests to Congress, funding for nuclear modernization in the National Nuclear Security Agency's proposed budgets should be considered defense spending, as it is critical to national security and, therefore, not subject to such limitations. Further, we ask that an updated 1251 report be submitted with your budget request to Congress each year.

We look forward to working with you on the ratification of the New START Treaty and modernization of the National Nuclear Security Agency's nuclear weapons facilities. This represents a long-term commitment by each of us, as modernization of our nuclear arsenal will require a sustained effort.

Sincerely,

DANIEL INOUE.
DIANNE FEINSTEIN.
THAD COCHRAN.
LAMAR ALEXANDER.

THE WHITE HOUSE,

Washington DC, December 20, 2010.

Hon. LAMAR ALEXANDER,
U.S. Senate,
Washington, DC.

DEAR SENATOR ALEXANDER: Thank you for your letter regarding funding for the modernization of the nuclear weapons complex and for your expression of support for ratification of the New START Treaty.

As you know, in the Fiscal Year 2011 budget, I requested a nearly 10 percent increase in

the budget for weapons activities at the National Nuclear Security Administration (NNSA). In May, in the report required by Section 1251 of the National Defense Authorization Act for Fiscal Year 2010, I laid out a 10 year, \$80 billion spending plan for NNSA. The Administration submitted an update to that report last month, and we now project over \$85 billion in spending over the next decade.

I recognize that nuclear modernization requires investment for the long-term, in addition to this one-year budget increase. That is my commitment to the Congress—that my Administration will pursue these programs and capabilities for as long as I am President.

In future years, we will provide annual updates to the 1251 report. If a decision is made to limit non-defense discretionary spending in any future budget requests, funding for nuclear modernization in the NNSA weapons activities account will be considered on the same basis as defense spending.

In closing, I thought it important for you to know that over the last two days, my Administration has worked closely with officials from the Russian Federation to address our concerns regarding North Korea. Because of important cooperation like this, I continue to hope that the Senate will approve the New START Treaty before the 111th Congress ends.

Sincerely,

BARACK OBAMA.

Mr. ALEXANDER. Madam President, why are these two so necessarily linked—the treaty and the plan for nuclear weapons modernization? The answer is, if we are going to reduce our number of warheads, we want to make sure we are not left with what amounts to a collection of wet matches. Defense Secretary Gates said:

There is absolutely no way we can maintain a credible deterrent and reduce the number of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

In a November 24 statement, Senators KYL and CORKER said they “could not support reductions in U.S. nuclear forces unless there is adequate attention to modernizing those forces and the infrastructure that supports them.”

Senators KYL and CORKER deserve credit for untiring efforts to fund properly nuclear modernization. President Obama deserves credit for updating the nuclear modernization plan in such a significant way.

I have reviewed that so-called “1251 plan” completed November 17 of this year, which calls for spending \$85 billion over the next 10 years. I have vis-

ited our outdated nuclear weapons facilities. I am convinced the plan’s implementation will make giant steps toward modernization of those facilities so that we—and our allies and adversaries—can be assured that the weapons will work if needed.

The President’s statement that he will ask for these funds and the support of senior members of the Appropriations Committee means that the plan is more likely to become a reality. The President agrees that in tight budgets these funds should be considered as defense spending.

I ask unanimous consent to have printed in the RECORD a summary of the appropriations recommended by the plan mandated by section 1251 of the 2010 Defense authorization bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

3. Summary of NNSA Stockpile and Infrastructure Costs

A summary of estimated costs specifically related to the Nuclear Weapons Stockpile, the supporting infrastructure, and critical science, technology and engineering is provided in Table 1.

TABLE 1—TEN-YEAR PROJECTIONS FOR WEAPONS STOCKPILE AND INFRASTRUCTURE COSTS

\$ Billions	Fiscal Year										
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Directed Stockpile	1.5	1.9	2.0	2.1	2.3	2.5	2.6	2.6	2.6	2.6	2.6
Science Technology & Engineering Campaigns	1.6	1.7	1.8	1.8	1.8	1.8	1.9	2.0	2.1	2.2	2.3
Readiness in Technical Base and Facilities	1.8	1.8	2.1	2.3	2.5	2.5	2.5	2.7	2.8-2.9	2.9-3.1	2.9-3.3
UPF	0.1	0.1	0.2	0.2	0.4	0.4	0.4	0.4	0.48-0.5	0.48-0.5	0.38-0.5
CMRR	0.1	0.2	0.3	0.3	0.4	0.4	0.4	0.4	0.48-0.5	0.4-0.5	0.3-0.5
Secure Transportation	0.2	0.2	0.3	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Defense Programs Subtotal	5.2	5.7	6.1	6.5	6.9	7.1	7.3	7.5-7.6	7.7-7.9	7.9-8.2	8.0-8.4
Other Weapons	1.2	1.3	1.3	1.3	1.3	1.3	1.4	1.4	1.4	1.4	1.5
Subtotal, Weapons	6.4	7.0	7.4	7.8	8.2	8.5	8.7	8.9-9.0	9.2-9.3	9.4-9.6	9.4-9.8
Contractor Pensions Cost Growth			0.2	0.2	0.2	0.2	0.2	*	*	*	*
Total, Weapons	6.4	7.0	7.6	7.9	8.4	8.7	8.9	8.9-9.0	9.2-9.3	9.4-9.6	9.4-9.8

Numbers may not add due to rounding.

* Anticipated costs for contractor pensions have been calculated only through FY 2016. For FY 2017–2020, uncertainties in market performance, interest rate movement, and portfolio management make prediction of actual additional pension liabilities, assets, and contribution requirements unreliable.

Mr. ALEXANDER. Madam President, I will offer an amendment at the appropriate time to the resolution of ratification to require an annual update of the 1251 report, which the President’s letter says he will do.

Under the terms of the treaty, the United States may have 1,550 deployed strategic nuclear weapons, each one up to 30 times more powerful than the one used at Hiroshima to end World War II.

The United States will also gain valuable data, including through inspection operations that should provide a treasure trove of intelligence about Russian activities that we would not have without the treaty, and that we have not had since the START treaty expired on December 9, 2009.

Over the weekend, the President sent a letter to the Senate reaffirming “the continued development and deployment of U.S. missile defense systems.” There is nothing within the treaty itself—I emphasize “nothing in the treaty”—that would hamper the devel-

opment of missile defense or its deployment. Our military and intelligence leaders all have said that.

Obviously, something could happen down the road involving differences over missile defense systems that could require either country—Russia or the United States—to withdraw from the treaty. That is any sovereign country’s right with any treaty. In 2002, President Bush withdrew from the Anti-Ballistic Missile Treaty because of our desire to pursue missile defenses to protect us from an attack by a rogue state.

Madam President, I ask unanimous consent to have printed in the RECORD the President’s letter on missile defense.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, December 18, 2010.

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: As the Senate considers the New START Treaty, I want to share with you my views on the issue of missile defense, which has been the subject of much debate in the Senate’s review of the Treaty.

Pursuant to the National Missile Defense Act of 1999 (Public Law 106-38), it has long been the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack, whether accidental, unauthorized, or deliberate. Thirty ground-based interceptors based at Fort Greely, Alaska, and Vandenberg Air Force Base, California, are now defending the Nation. All United States missile defense programs—including all phases of the European Phased Adaptive Approach to missile defense (EPAA) and programs to defend United States deployed forces, allies, and partners against regional threats—are consistent with this policy.

The New START Treaty places no limitations on the development or deployment of our missile defense programs. As the NATO Summit meeting in Lisbon last month underscored, we are proceeding apace with a missile defense system in Europe designed to provide full coverage for NATO members on the continent, as well as deployed U.S. forces, against the growing threat posed by the proliferation of ballistic missiles. The final phase of the system will also augment our current defenses against intercontinental ballistic missiles from Iran targeted against the United States.

All NATO allies agreed in Lisbon that the growing threat of missile proliferation, and our Article 5 commitment of collective defense, requires that the Alliance develop a territorial missile defense capability. The Alliance further agreed that the EPAA, which I announced in September 2009, will be a crucial contribution to this capability. Starting in 2011, we will begin deploying the first phase of the EPAA, to protect large parts of southern Europe from short- and medium-range ballistic missile threats. In subsequent phases, we will deploy longer-range and more effective land-based Standard Missile-3 (SM-3) interceptors in Romania and Poland to protect Europe against medium- and intermediate-range ballistic missiles. In the final phase, planned for the end of the decade, further upgrades of the SM-3 interceptor will provide an ascent-phase intercept capability to augment our defense of NATO European territory, as well as that of the United States, against future threats of ICBMs launched from Iran.

The Lisbon decisions represent an historic achievement, making clear that all NATO allies believe we need an effective territorial missile defense to defend against the threats we face now and in the future. The EPAA represents the right response. At Lisbon, the Alliance also invited the Russian Federation to cooperate on missile defense, which could lead to adding Russian capabilities to those deployed by NATO to enhance our common security against common threats. The Lisbon Summit thus demonstrated that the Alliance's missile defenses can be strengthened by improving NATO-Russian relations.

This comes even as we have made clear that the system we intend to pursue with Russia will not be a joint system, and it will not in any way limit United States' or NATO's missile defense capabilities. Effective cooperation with Russia could enhance the overall effectiveness and efficiency of our combined territorial missile defenses, and at the same time provide Russia with greater security. Irrespective of how cooperation with Russia develops, the Alliance alone bears responsibility for defending NATO's members, consistent with our Treaty obligations for collective defense. The EPAA and NATO's territorial missile defense capability will allow us to do that.

In signing the New START Treaty, the Russian Federation issued a statement that expressed its view that the extraordinary events referred to in Article XIV of the Treaty include a "build-up in the missile defense capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear potential of the Russian Federation." Article XIV(3), as you know, gives each Party the right to withdraw from the Treaty if it believes its supreme interests are jeopardized.

The United States did not and does not agree with the Russian statement. We believe that the continued development and deployment of U.S. missile defense systems, in-

cluding qualitative and quantitative improvements to such systems, do not and will not threaten the strategic balance with the Russian Federation, and have provided policy and technical explanations to Russia on why we believe that to be the case. Although the United States cannot circumscribe Russia's sovereign rights under Article XIV(3), we believe that the continued improvement and deployment of U.S. missile defense systems do not constitute a basis for questioning the effectiveness and viability of the New START Treaty, and therefore would not give rise to circumstances justifying Russia's withdrawal from the Treaty.

Regardless of Russia's actions in this regard, as long as I am President, and as long as the Congress provides the necessary funding, the United States will continue to develop and deploy effective missile defenses to protect the United States, our deployed forces, and our allies and partners. My Administration plans to deploy all four phases of the EPAA. While advances of technology or future changes in the threat could modify the details or timing of the later phases of the EPAA—one reason this approach is called "adaptive"—I will take every action available to me to support the deployment of all four phases.

Sincerely,

BARACK OBAMA.

Mr. ALEXANDER. Madam President, ratifying this treaty would extend the policies of President Nixon, President Reagan, President George H.W. Bush, President George W. Bush, as well as Democratic Presidents.

I ask unanimous consent to have printed in the RECORD the statements of the last six Republican Secretaries of State, all of whom support ratification of the treaty.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 2, 2010]

THE REPUBLICAN CASE FOR RATIFYING NEW START

(By Henry A. Kissinger, George P. Shultz, James A. Baker III, Lawrence S. Eagleburger, and Colin L. Powell)

Republican presidents have long led the crucial fight to protect the United States against nuclear dangers. That is why Presidents Richard Nixon, Ronald Reagan and George H.W. Bush negotiated the SALT I, START I and START II agreements. It is why President George W. Bush negotiated the Moscow Treaty. All four recognized that reducing the number of nuclear arms in an open, verifiable manner would reduce the risk of nuclear catastrophe and increase the stability of America's relationship with the Soviet Union and, later, the Russian Federation. The world is safer today because of the decades-long effort to reduce its supply of nuclear weapons.

As a result, we urge the Senate to ratify the New START treaty signed by President Obama and Russian President Dmitry Medvedev. It is a modest and appropriate continuation of the START I treaty that expired almost a year ago. It reduces the number of nuclear weapons that each side deploys while enabling the United States to maintain a strong nuclear deterrent and preserving the flexibility to deploy those forces as we see fit. Along with our obligation to protect the homeland, the United States has responsibilities to allies around the world.

The commander of our nuclear forces has testified that the 1,550 warheads allowed under this treaty are sufficient for all our missions—and seven former nuclear commanders agree. The defense secretary, the chairman of the Joint Chiefs of Staff and the head of the Missile Defense Agency—all originally appointed by a Republican president—argue that New START is essential for our national defense.

We do not make a recommendation about the exact timing of a Senate ratification vote. That is a matter for the administration and Senate leaders. The most important thing is to have bipartisan support for the treaty, as previous nuclear arms treaties did.

Although each of us had initial questions about New START, administration officials have provided reasonable answers. We believe there are compelling reasons Republicans should support ratification.

First, the agreement emphasizes verification, providing a valuable window into Russia's nuclear arsenal. Since the original START expired last December, Russia has not been required to provide notifications about changes in its strategic nuclear arsenal, and the United States has been unable to conduct on-site inspections. Each day, America's understanding of Russia's arsenal has been degraded, and resources have been diverted from national security tasks to try to fill the gaps. Our military planners increasingly lack the best possible insight into Russia's activity with its strategic nuclear arsenal, making it more difficult to carry out their nuclear deterrent mission.

Second, New START preserves our ability to deploy effective missile defenses. The testimonies of our military commanders and civilian leaders make clear that the treaty does not limit U.S. missile defense plans. Although the treaty prohibits the conversion of existing launchers for intercontinental and submarine-based ballistic missiles, our military leaders say they do not want to do that because it is more expensive and less effective than building new ones for defense purposes.

Finally, the Obama administration has agreed to provide for modernization of the infrastructure essential to maintaining our nuclear arsenal. Funding these efforts has become part of the negotiations in the ratification process. The administration has put forth a 10-year plan to spend \$84 billion on the Energy Department's nuclear weapons complex. Much of the credit for getting the administration to add \$14 billion to the originally proposed \$70 billion for modernization goes to Sen. Jon Kyl, the Arizona Republican who has been vigilant in this effort. Implementing this modernization program in a timely fashion would be important in ensuring that our nuclear arsenal is maintained appropriately over the next decade and beyond.

Although the United States needs a strong and reliable nuclear force, the chief nuclear danger today comes not from Russia but from rogue states such as Iran and North Korea and the potential for nuclear material to fall into the hands of terrorists. Given those pressing dangers, some question why an arms control treaty with Russia matters. It matters because it is in both parties' interest that there be transparency and stability in their strategic nuclear relationship. It also matters because Russia's cooperation will be needed if we are to make progress in rolling back the Iranian and North Korean programs. Russian help will be needed to continue our work to secure "loose nukes" in Russia and elsewhere. And Russian assistance is needed to improve the situation in

Afghanistan, a breeding ground for international terrorism.

Obviously, the United States does not sign arms control agreements just to make friends. Any treaty must be considered on its merits. But we have here an agreement that is clearly in our national interest, and we should consider the ramifications of not ratifying it.

Whenever New START is brought up for debate, we encourage all senators to focus on national security. There are plenty of opportunities to battle on domestic political issues linked to the future of the American economy. With our country facing the dual threats of unemployment and a growing federal debt bomb, we anticipate significant conflict between Democrats and Republicans. It is, however, in the national interest to ratify New START.

Mr. ALEXANDER. Madam President, I will vote to ratify this treaty. The vote we are about to have today is about whether to end debate. The majority's decision to jam through other matters during this lameduck session has poisoned the well, driven away Republican votes, and jeopardized ratification of this important treaty.

Nevertheless, this treaty was presented in the Senate on May 13, after 12 hearings in two committees and many briefings. The Foreign Relations Committee reported the treaty to the Senate on September 16 in a bipartisan vote of 14 to 4. For several months, there have been intense negotiations to develop a realistic plan and the funding for nuclear modernization. That updated plan was reported on November 17. The Senate voted to proceed to the treaty last Wednesday. I voted no because I thought there should still be more time allowed for amendment and debate.

Despite the flawed process, I believe the treaty and the nuclear modernization plan make our country safer and more secure. It will allow us to resume inspection and verification of disarmament of nuclear weapons in Russia. The head of our missile defense system says the treaty will not hamper our missile development program—and if it does, we can withdraw from the treaty.

All six former Republican Secretaries of State support ratification of this treaty. Therefore, I will vote to ratify the New START treaty and during the next several years vote to fund the nuclear modernization plan.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of

the House message to accompany H.R. 3082, which the clerk will report.

The bill clerk read as follows:

Motion to concur in the House amendment to the Senate amendment, with an amendment to H.R. 3082, an act making appropriations for military construction, Department of Veteran Affairs and Related Agencies, for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Reid motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Reid amendment No. 4885 (to the House amendment to the Senate amendment), in the nature of a substitute.

Reid amendment No. 4886 (to amendment No. 4885), to change the enactment date.

Reid motion to refer the message of the House on the bill to the Committee on Appropriations, with instructions, Reid amendment No. 4887, to provide for a study.

Reid amendment No. 4888 (to (the instructions) amendment No. 4887), of a perfecting nature.

Reid amendment No. 4889 (to amendment No. 4888) of a perfecting nature.

Mr. ALEXANDER. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

NET NEUTRALITY RULES

Mr. MCCONNELL. Madam President, later today the Federal Communications Commission is expected to approve new rules on how Americans access information on the Internet. There are a lot of people rightly concerned. The Internet has transformed our society, our economy, and the very way we communicate with others. It has served as a remarkable platform for innovation at the end of the 20th century and now at the beginning of the 21st century. All of this has been made possible because people have been free to create and to innovate, to push the limits of invention free from government involvement.

Now that could soon change. Today, the Obama administration, which has already nationalized health care, the auto industry, insurance companies, banks, and student loans, will move forward with what could be a first step in controlling how Americans use the Internet by establishing Federal regulations on its use. This would harm investment, stifle innovation, and lead to job losses. That is why I, along with several of my colleagues, have urged the FCC Chairman to abandon this flawed approach. The Internet is an invaluable resource. It should be left alone.

As Americans become more aware of what is happening here, I suspect many will be as alarmed as I am at the government's intrusion. They will wonder, as many already do, if this is a Trojan horse for further meddling by the government. Fortunately, we will have an opportunity in the new Congress to push back against new rules and regulations.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BROWN of Ohio. I thank the Chair.

Mr. INOUE. Madam President, today the Senate will consider a 73-day continuing resolution, which will fund the government through March 4 of next year. This is a clean CR that is \$1 billion above the spending level for fiscal year 2010. It meets the most basic needs of the Federal Government, and will allow Congress the time necessary to reconsider a funding bill next year. Most importantly, this temporary funding measure will avoid a government shutdown, which would be a terrible thing for the American people. That is the last thing any responsible Member of this body should wish for.

As I have previously stated, it is deeply unfortunate that we were unable to take up and pass the omnibus bill. An omnibus, as opposed to a CR, assumed responsibility for the spending decisions that are the most basic responsibility of Congress. I regret that our colleagues on the other side of the aisle, many of whom helped to craft the omnibus, failed to support it in the end. It was a far superior alternative to this short-term CR. The omnibus better protected our national security and would have brought a responsible conclusion to the fiscal year 2011 appropriations process.

The CR we have before us allows for a limited number of adjustments for programs that would lose either their funding or their authorization between now and March 4. The CR will also prevent the layoff of thousands of Federal workers and contractors during the holiday season.

When the 112th Congress convenes in January, I hope the Senate and the House will find a way to move forward in a responsible manner to conclude work on the fiscal year 2011 appropriations process. To do so, we will require a good-faith effort from Members of both parties to reach reasonable compromises on a range of issues. I hope that despite the current political environment, we can find a way to work together to fund critical priorities that

will strengthen our economy and protect our Nation's security. That is what the American people expect of us, and they deserve no less. But for now, I urge my colleagues to support this 10-week continuing resolution.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 3082, the Full Continuing Appropriations Act, with an amendment.

Joseph I. Lieberman, John D. Rockefeller, IV, Byron L. Dorgan, John F. Kerry, Richard J. Durbin, Mark L. Pryor, Robert Menendez, Amy Klobuchar, Patty Murray, Kay R. Hagan, Christopher J. Dodd, Daniel K. Inouye, Mark Begich, Al Franken, Robert P. Casey, Jr., Tom Carper.

The ACTING PRESIDENT pro tempore. By unanimous consent the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on the motion to concur in the House amendment to the Senate amendment to H.R. 3082, with amendment No. 4885, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. GREGG).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 82, nays 14, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—82

Akaka	Dorgan	Lieberman
Alexander	Durbin	Lincoln
Barrasso	Ensign	Lugar
Baucus	Enzi	Manchin
Begich	Feinstein	McCaskill
Bennet	Franken	McConnell
Bennett	Gillibrand	Menendez
Bingaman	Graham	Merkley
Bond	Grassley	Mikulski
Boxer	Hagan	Murkowski
Brown (MA)	Harkin	Murray
Brown (OH)	Hutchison	Nelson (FL)
Bunning	Inouye	Pryor
Cantwell	Johanns	Reed
Cardin	Johnson	Reid
Carper	Kerry	Roberts
Casey	Kirk	Rockefeller
Cochran	Klobuchar	Sanders
Collins	Kohl	Schumer
Conrad	Kyl	Sessions
Coons	Landrieu	Shaheen
Corker	Lautenberg	Shelby
Cornyn	Leahy	Snowe
Dodd	Levin	Specter

Stabenow
Tester
Thune
Udall (CO)

Udall (NM)
Voinovich
Warner
Webb

Whitehouse
Wicker

NAYS—14

Burr
Chambliss
Coburn
Crapo
DeMint

Feingold
Hatch
Inhofe
Isakson
LeMieux

McCain
Nelson (NE)
Risch
Vitter

NOT VOTING—4

Bayh
Brownback

Gregg
Wyden

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 82, the nays are 14. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Madam President, if I could have the attention of the Senators, I have had a number of conversations with the Republican leader today. The collective goal is to move forward with the schedule as we know what it is. Senator MCCAIN has 15 minutes, Senator INOUE has 10 minutes, and the farewell speech of our friend Senator SPECTER is going to be this morning. We hope to have agreement that at around 2 o'clock today, we will vote on a couple of judges. We will vote on the motion to concur on the continuing resolution and vote on cloture on the treaty. We don't have that down in writing yet, but that is the goal, so everyone understands. We will have four to five votes this afternoon around 2 o'clock. That would point us toward the final surge on this most important treaty. I had conversations with Senator KERRY and Senator KYL this morning. I think there is a way clear to complete this sometime tomorrow.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

FAREWELL TO THE SENATE

CLOSING ARGUMENT

Mr. SPECTER. Madam President, this is not a farewell address but, rather, a closing argument to a jury of my colleagues and the American people outlining my views on how the Senate and, with it, the Federal Government arrived at its current condition of partisan gridlock, and my suggestions on where we go from here on that pressing problem and the key issues of national and international importance.

To make a final floor statement is a challenge. The Washington Post noted the poor attendance at my colleagues' farewell speeches earlier this month. That is really not surprising since

there is hardly anyone ever on the Senate floor. The days of lively debate with many Members on the floor are long gone. Abuse of the Senate rules has pretty much stripped Senators of the right to offer amendments. The modern filibuster requires only a threat and no talking. So the Senate's activity for more than a decade has been the virtual continuous drone of a quorum call. But that is not the way it was when Senator CHRIS DODD and I were privileged to enter the world's greatest deliberative body 30 years ago. Senators on both sides of the aisle engaged in collegial debate and found ways to find common ground on the Nation's pressing problems.

When I attended my first Republican moderates luncheon, I met Mark Hatfield, John Chafee, Ted Stevens, Mac Mathias, Bob Stafford, Bob Packwood, Chuck Percy, Bill Cohen, Warren Rudman, Alan Simpson, Jack Danforth, John Warner, Nancy Kassebaum, Slade Gorton, and I found my colleague John Heinz there. That is a far cry from later years when the moderates could fit into a telephone booth.

On the other side of the aisle, I found many Democratic Senators willing to move to the center to craft legislation—Scoop Jackson, Joe Biden, Dan Inouye, Lloyd Bentsen, Fritz Hollings, Pat Leahy, Dale Bumpers, David Boren, Russell Long, Pat Moynihan, George Mitchell, Sam Nunn, Gary Hart, Bill Bradley, and others. They were carrying on the Senate's glorious tradition.

The Senate's deliberate cerebral procedures have served our country well. The Senate stood tall in 1805 in acquitting Supreme Court Justice Samuel Chase in impeachment proceedings and thus preserved the independence of the Federal judiciary. The Senate stood tall in 1868 to acquit President Andrew Johnson in impeachment proceedings, and that preserved the power of the Presidency. Repeatedly in our 223-year history, the Senate has cooled the passions of the moment to preserve the institutions embodied in our Constitution which have made the United States the envy of the world.

It has been a great privilege to have had a voice for the last 30 years in the great decisions of our day: how we allocate our resources among economic development, national defense, education, environmental protection, and NIH funding; the Senate's role in foreign policy as we exercise it now on the START treaty; the protection of civil rights, as we demonstrated last Saturday, eliminating don't ask, don't tell; balancing crime control and defendants' rights; and how we have maintained the quality of the Federal judiciary, not only the high-profile 14 Supreme Court nominations I have participated in but the 112 Pennsylvanians who have been confirmed during my tenure on the Federal district courts or the Third Circuit.

On the national scene, top issues are the deficit and the national debt. The deficit commission has made a start. When raising the debt limit comes up next year, that will present an occasion to pressure all parties to come to terms on future taxes and expenditures, to realistically deal with these issues.

The next Congress should try to stop the Supreme Court from further eroding the constitutional mandate of separation of powers. The Supreme Court has been eating Congress's lunch by invalidating legislation with judicial activism after nominees commit under oath in confirmation proceedings to respect congressional factfinding and precedents. That is *stare decisis*. The recent decision in *Citizens United* is illustrative. Ignoring a massive congressional record and reversing recent decisions, Chief Justice Roberts and Justice Alito repudiated their confirmation testimony given under oath and provided the key votes to permit corporations and unions to secretly pay for political advertising, thus effectively undermining the basic democratic principle of the power of one person, one vote. Chief Justice Roberts promised to just call balls and strikes. Then he moved the bases.

Congress's response is necessarily limited in recognition of the importance of judicial independence as the foundation of the rule of law, but Congress could at least require televising the Court proceedings to provide some transparency to inform the public about what the Court is doing since it has the final word on the cutting issues of the day. Brandeis was right when he said that sunlight is the best disinfectant.

The Court does follow the election returns, and the Court does judicially notice societal values as expressed by public opinion. Polls show that 85 percent of the American people favor televising the Court when told that a citizen can only attend an oral argument for 3 minutes in a chamber holding only 300 people. Great Britain, Canada, and State supreme courts permit television.

Congress has the authority to legislate on this subject, just as Congress decides other administrative matters such as what cases the Court must hear, time limits for decisions, number of Justices, the day the Court convenes, and the number required for a quorum. While television cannot provide a definitive answer, it could be significant and may be the most that can be done consistent with life tenure and judicial independence.

Additionally, I urge Congress to substantially increase funding for the National Institutes of Health. When NIH funding was increased from \$12 to \$30 billion annually and \$10 billion added to the stimulus package, significant advances were made on medical re-

search. It is scandalous—absolutely scandalous—that a nation with our wealth and research capabilities has not done more. Forty years ago, the President of the United States declared war on cancer. Had that war been pursued with the diligence of other wars, most forms of cancer might have been conquered.

I also urge colleagues to increase their activity on foreign travel. Regrettably, we have earned the title of ugly Americans by not treating other nations with proper respect and dignity.

My experience on congressional delegations to China, Russia, India, NATO, Jerusalem, Damascus, Bagdad, Kabul, and elsewhere provided an opportunity for eyeball-to-eyeball discussions with world leaders about our values, our expectations, and our willingness to engage in constructive dialog. Since 1984, I have visited Syria almost every year, and my extensive conversations with Hafiz al-Assad and Bashar al-Assad have convinced me there is a realistic opportunity for a peace treaty between Israel and Syria, if encouraged by vigorous U.S. diplomacy. Similar meetings I have been privileged to have with Muammar Qadhafi, Yasser Arafat, Fidel Castro, Saddam Hussein, and Hugo Chavez have persuaded me that candid, respectful dialog with our toughest adversaries can do much to improve relations among nations.

Now I will shift gears. In my view, a principal reason for the historic stature of the U.S. Senate has been the ability of any Senator to offer virtually any amendment at any time. This Senate Chamber provides the forum for unlimited debate with a potential to acquaint the people of America and the world with innovative proposals on public policy and then have a vote on the issue. Regrettably, that has changed in recent years because of abuse of the Senate rules by both parties.

The Senate rules allow the majority leader, through the right of his first recognition, to offer a series of amendments to prevent any other Senator from offering an amendment. That had been done infrequently up until about a decade ago and lately has become a common practice, and, again, by both parties.

By precluding other Senators from offering amendments, the majority leader protects his party colleagues from taking tough votes. Never mind that we were sent here and are paid to make tough votes. The inevitable and understandable consequence of that practice has been the filibuster. If a Senator cannot offer an amendment, why vote to cut off debate and go to final passage? Senators were willing—and are willing—to accept the will of the majority in rejecting their amendments but unwilling to accept being railroaded to concluding a bill without

being provided an opportunity to modify it. That practice has led to an indignant, determined minority to filibuster and to deny 60 votes necessary to cut off debate. Two years ago on this Senate floor, I called the practice tyrannical.

The decade from 1995 to 2005 saw the nominees of President Clinton and President Bush stymied by the refusal of the other party to have a hearing or floor vote on many judicial and executive nominees. Then, in 2005, serious consideration was given by the Republican caucus to changing the long-standing Senate rule by invoking the so-called nuclear or constitutional option. The plan called for Vice President Cheney to rule that 51 votes were sufficient to impose cloture for confirmation of a judge or executive nominee. His ruling, then to be challenged by Democrats, would be upheld by the traditional 51 votes to uphold the Chair's ruling.

As I argued on the Senate floor at that time, if Democratic Senators had voted their consciences without regard to party loyalty, most filibusters would have failed. Similarly, I argued that had Republican Senators voted their consciences without regard to party loyalty, there would not have been 51 of the 55 Republican Senators to support the nuclear option.

The majority leader then scheduled the critical vote on May 25, 2005. The outcome of that vote was uncertain, with key Republicans undeclared. The showdown was averted the night before by a compromise by the so-called Gang of 14. Some nominees were approved, some rejected, and a new standard was established to eliminate filibusters unless there were extraordinary circumstances, with each Senator to decide if that standard had been met. Regrettably, again, that standard has not been followed as those filibusters have continued up to today. Again, the fault rests with both parties.

There is a way out of this procedural gridlock by changing the rule on the power of the majority leader to exclude other Senators' amendments. I proposed such a rule change in the 110th and 111th Congresses. I would retain the 60-vote requirement for cloture on legislation, with a condition that Senators would have to have a talking filibuster, not merely presenting a notice of intent to filibuster. By allowing Senators to offer amendments and a requirement for debate, not just notice, I think filibusters could be effectively managed, as they had been in the past, and still retain, where necessary, the opportunity to have adequate debate on controversial issues.

I would change the rule to cut off debate on judicial and executive branch nominees to 51 votes, as I formally proposed in the 109th Congress. Important positions are left open for months, and the Senate agenda today is filled with

unacted-upon judicial and executive nominees, and many of those judicial nominees are in areas where there is an emergency backlog. Since Judge Bork and Justice Thomas did not provoke filibusters, I think the Senate can do without them on judges and executive officeholders. There is a sufficient safeguard of the public interest by requiring a simple majority on an up-down vote. I would also change the rule requiring 30 hours of postcloture debate and the rule allowing the secret hold, which requires cloture to bring the matter to the floor. Requiring a Senator to disclose his or her hold to the light of day would greatly curtail this abuse.

While political gridlock has been facilitated by the Senate rules, I am sorry to say partisanship has been increased greatly by other factors. Senators have gone into other States to campaign against incumbents of the other party. Senators have even opposed their own party colleagues in primary challenges. That conduct was beyond contemplation in the Senate I joined 30 years ago. Collegiality can obviously not be maintained when negotiating with someone simultaneously out to defeat you, especially within your own party.

In some quarters, "compromise" has become a dirty word. Senators insist on ideological purity as a precondition. Senator Margaret Chase Smith of Maine had it right when she said we need to distinguish between the compromise of principle and the principle of compromise. This great body itself was created by the so-called Great Compromise, in which the Framers decreed that States would be represented equally in the Senate and proportionate to their populations in the House. As Senate Historian Richard Baker noted: "Without that compromise, there would likely have been no Constitution, no Senate, and no United States as we know it today."

Politics is no longer the art of the possible when Senators are intransigent in their positions. Polarization of the political parties has followed. President Reagan's "big tent" has frequently been abandoned by the Republican Party. A single vote out of thousands cast can cost an incumbent his seat. Senator BOB BENNETT was rejected by the far right in his Utah primary because of his vote for TARP. It did not matter that Vice President Cheney had pleaded with the Republican caucus to support TARP or President Bush would become a modern Herbert Hoover. It did not matter that 24 other Republican Senators, besides BOB BENNETT, out of the 49 Republican Senators voted for TARP. Senator BENNETT's 93 percent conservative rating was insufficient.

Senator LISA MURKOWSKI lost her primary in Alaska. Congressman MIKE CASTLE was rejected in Delaware's Re-

publican primary in favor of a candidate who thought it necessary to defend herself as not being a witch. Republican Senators contributed to the primary defeats of BENNETT, MURKOWSKI, and CASTLE. Eating or defeating your own is a form of sophisticated cannibalism. Similarly, on the other side of the aisle, Senator JOE LIEBERMAN, a great Senator, could not win his Democratic primary.

The spectacular reelection of Senator LISA MURKOWSKI on a write-in vote in the Alaska general election and the defeat of other Tea Party candidates in the 2010 general elections may show the way to counter right-wing extremists. Arguably, Republicans left three seats on the table in 2010—beyond Delaware, Nevada, and perhaps Colorado—because of unacceptable general election candidates. By bouncing back and winning, Senator MURKOWSKI demonstrated that a moderate centrist can win by informing and arousing the general electorate. Her victory proves that America still wants to be and can be governed by the center.

Repeatedly, senior Republican Senators have recently abandoned long-held positions out of fear of losing their seats over a single vote or because of party discipline. With 59 votes for cloture on this side of the aisle, not a single Republican would provide the 60th vote for many important legislative initiatives, such as identifying campaign contributors to stop secret contributions.

Notwithstanding the perils, it is my hope more Senators will return to independence in voting and crossing party lines evident 30 years ago. President Kennedy's "Profiles in Courage" shows the way. Sometimes a party does ask too much. The model for an elected official's independence in a representative democracy has never been stated more accurately, in my opinion, than it was in 1774 by Edmund Burke, in the British House of Commons, when he said: "... his [the elected representative's] unbiased opinion, his mature judgment, his enlightened conscience ... [including his vote] ought not to be sacrificed to you, to any man or any set of men living."

But, above all, we need civility. Steve and Cokie Roberts, distinguished journalists, put it well in a recent column, saying:

Civility is more than good manners. ... Civility is a state of mind. It reflects respect for your opponents and for the institutions you serve together. ... This polarization will make civility in the next Congress more difficult—and more necessary—than ever.

A closing speech has an inevitable aspect of nostalgia. An extraordinary experience for me is coming to an end. But my dominant feeling is pride in the great privilege to be a part of this very unique body with colleagues who are such outstanding public servants. I have written and will write elsewhere

about my tenure here, so I do not say farewell to my continuing involvement in public policy, which I will pursue in a different venue. Because of the great traditions of this body and because of its historic resilience, I leave with great optimism for the future of our country, a great optimism for the continuing vital role of the Senate in the governance of our democracy.

I thank my colleagues for listening. (Applause. Senators rising.)

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Cloture having been invoked, the motion to refer falls.

Mr. WHITEHOUSE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO RETIRING SENATORS

ARLEN SPECTER

Mr. CASEY. Mr. President, I wish to offer some remarks in furtherance of what Senator SPECTER told us about this great institution. I wanted to spend a moment talking about his service to the Commonwealth of Pennsylvania.

When I came to the Senate in 2007 as a Senator-elect, one of the first things I did was go to see Senator SPECTER. He asked me at that time to go to lunch. From the moment I arrived in the Senate, he made it very clear to me that not only did the people of Pennsylvania expect, but he expected as well, that we work together.

From the beginning of his service in the Senate, way back when he was elected in 1980 all the way up to the present moment, he has been a Senator who was focused on building bipartisan relationships and, of course, focusing on Pennsylvania priorities. I am honored to have worked with him on so many priorities, whether it was veterans or workers, whether it was dairy farmers or the economy of Pennsylvania or whether it was our soldiers or our children or our families. We have worked on so many priorities. He has been a champion for our State and he has shown younger Senators the way to work together in the interests of our State and our country.

That bipartisanship wasn't just a sentiment; it was bipartisanship that led to results. I wish to point to one example of many I could list: the funding for the National Institutes of Health, that great bulwark and generator of discoveries that cures diseases and creates jobs and hope for people often without hope because of a disease or a malady of one kind or another. That bipartisanship Senator SPECTER demonstrated every day in the Senate has

achieved results for Pennsylvania, for sure, in terms of jobs and opportunity and hope but also results for the Nation as well.

I know we are short on time, but I wanted to make one note about the history of his service. No Senator in the history of the Commonwealth—and we have had 55 or so Senators, depending on how you count those who have been elected and served, but of those 55, no Senator has served longer than Senator SPECTER. I recall the line—I think it is attributed to Abraham Lincoln, but it is a great line about what years mean and what service means, and I will apply the analogy to Senate service. The line goes something like this: It is not the years in a life, it is the life in those years. I am paraphrasing that. The same could be said of the life of a Senator. It is not just that he served 30 years. That alone is a singular, unprecedented achievement. In fact, the Senator he outdistanced in a sense in terms of years of service was only elected by the people twice. Senator SPECTER was elected by the people of Pennsylvania five times. But it is the life in those Senate years, the work in those Senate years, the contribution to our Commonwealth and our country in those Senate years that matters and has meaning. His impact will be felt for generations—not just decades but for generations.

Let me close with this. There is a history book of our State that came out in the year 2002, and it has a series of stories and essays and chapters on the history of Pennsylvania. It is a fascinating review of the State's history. The foreword to that publication was written by Brent E. Glass, at the time the executive director of the Pennsylvania Historical and Museum Commission. He wrote this in March of 2002. It is a long foreword which I won't read, but he said in the early part of this foreword the following:

One way to understand the meaning of Pennsylvania's past is to examine certain places around the State that are recognized for their significance to the entire Nation.

Then he lists and describes in detail significant places in Pennsylvania that have a connection to our history, whether it is the Liberty Bell or the battlefield of Gettysburg; whether it is the farms in our Amish communities or whether it is some other place of historic significance. I have no doubt whatsoever that if the same history were recounted about the people who had an impact on our Commonwealth—the people who moved Pennsylvania forward; the people who in addition to moving our State forward had an impact on the Nation—if we make a list of Pennsylvanians who made such contributions, whether it would be William Penn or Benjamin Franklin—and you can fill in the blanks from there—I have no doubt that list would include Senator ARLEN SPECTER. He is a son of

Kansas who made Pennsylvania his home. He is a son of Kansas who fought every day for the people of Pennsylvania.

So it is the work and the achievements and the passion and the results in those years in the Senate that will put him on the very short list of those who contributed so much to our Commonwealth that we love and to our country that we cherish.

For all of that and for so many other reasons, as a citizen of Pennsylvania, a resident of Pennsylvania, a citizen of the United States but as a Senator—I want to express my gratitude to Senator ARLEN SPECTER for his 30 years of service, but especially for what those 30 years meant to the people, sometimes people without a voice, sometimes people without power.

Thank you, Senator SPECTER.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I wish to join my colleagues in noting the farewell address of Senator ARLEN SPECTER is an inspiring moment in the Senate.

It has been my great honor to serve with Senator SPECTER and to be a member of the Senate Judiciary Committee with him as well. I think of his contribution to the Senate at many levels. I certainly appreciate what he did for the Senate and for the Nation when he chaired the Judiciary Committee and served on that committee, particularly when it came to the hearings involving the appointment of new Supreme Court Justices. Without fail, Senator SPECTER at those hearings would always have dazzling insight into the current state of the law and the record of the nominee. I couldn't wait for him each time there was a hearing to see what his tack would be. It always reflected a thoughtful reflection on the historic moment we faced with each nominee. The questions he asked, the positions he took, the statements he made, all made for a better record for the United States as the Senate proceeded to vote on those historic nominations.

But there is one area he touched on ever so slightly that I believe is equal to his mark on the Senate Judiciary Committee. This man, Senator ARLEN SPECTER, with the help in some respects and in some efforts by Senator TOM HARKIN, has done more to advance the cause of medical research in his time than virtually any other Member of the Congress. He had a single-minded determination to advance medical research and to put the investment in the National Institutes of Health. On the House side, Congressman John Porter joined him in that early effort—John Porter of Illinois—but time and again ARLEN SPECTER would have as his last bargaining chip on the table, whenever there was a negotiation, that we needed to put more money in the

National Institutes of Health. I know he was probably inspired to that cause by many things, but certainly by his own life experience where he has successfully battled so many medical demons and is here standing before us as living proof that with his self-determination and the advancement of science, we can overcome even some of the greatest diseases and maladies that come our way.

He was, to me, a role model many times as he struggled through cancer therapy and never missed a bell when it came to presiding over a committee hearing or coming to the floor to vote. There were times when all of us knew he was in pain. Yet he never let on. He did his job and did it with a gritty determination, and I respect him so much for it. That personal life experience, I am sure, played some role in his determination to advance medical research.

So as he brings an end to his Senate career, there are countless thousands who wouldn't know the name ARLEN SPECTER who have been benefited by this man's public service and commitment to medical research. I thank him for that as a person, as does everyone in this Chamber who has benefited from that cause in his life.

I also think, as I look back on his work on the stimulus bill when he was on the other side of the aisle, that it took extraordinary courage and may have cost him a Senate seat to step forward and say, I will join with two other Republicans to pass a bill for this new President Obama to try to stop a recession and to give some new life to this economy. There were very few with the courage to do it. He was one of them. Sitting with him in the meetings where the negotiations were underway, then Republican Senator ARLEN SPECTER drove hard bargains in terms of bringing down the overall cost of the project and dedicating a substantial portion—\$10 billion, if I am not mistaken—to the National Institutes of Health. Again, the final negotiation on the stimulus bill for America included ARLEN SPECTER's demand that the National Institutes of Health have additional research dollars. His commitment to make that happen did make it happen. Those three votes from the Republican side of the aisle made it happen: a stimulus which averted, in my mind, a terrible, much worse recession, maybe even a depression in America. It was the best of the Senate, when a Senator had the courage to stand up, take a position, risk his Senate seat because he believed in it, and do some good for America which would benefit millions, as his vote and his effort did.

When I look at those whom I have served with in the Senate, there are precious few who meet the standards for ARLEN SPECTER. I am going to miss him for so many reasons, but I know his involvement in public life will not quit. That is often a cliché we hear on

the floor after a farewell address. But I know it because he has been hammering away at me every single day about bringing those cameras over to the Supreme Court. So even when he leaves this body, if it is not done then, I am sure I am going to hear from him again on televising the Supreme Court proceedings. I give my word that as long as I am around here, Senator, I will carry that banner for you, and if I have a chance to help you pass that measure at some point in the future I am going to do it because I think it is the right thing to do and I know it has meant so much to you.

The Senate's loss is America's gain as he becomes a public figure in a different life. But during his tenure in the Senate he has graced this institution with an extraordinary intelligence, a determination, and a belief that the national good should rise above any party cause. I am going to miss ARLEN SPECTER and I thank him for being my friend.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I was pleased to have an opportunity to hear most of the remarks made this morning by my friend and colleague from Pennsylvania and others who have spoken on the occasion of his retirement from the Senate.

I couldn't help but remember when he was campaigning in his first race for the Senate and I had been asked to be available to help out in some campaigns that year. I was a brandnew Senator and didn't know a lot of the protocols, but when I heard ARLEN SPECTER wanted me to come up and speak in Pennsylvania somewhere during his campaign, I decided I would accept the invitation, although I was a little apprehensive about it, about how I would be received as a Republican from Mississippi going up and helping this new candidate who was running on the Republican ticket too. His wife Joan was a member of the city council in Philadelphia, as I recall—very well respected. Anyway, I enjoyed getting to know the Senator and his wife better during those early campaign events. Then, after he was elected, he asked me to make one more trip up.

He could not go to Erie, PA, and keep an invitation that he wanted to accept and speak to a retired group of businessmen. These were older gentlemen who had been prominent in Pennsylvania business and political life. I worried about it—that they would not think much about me. But I went up there and nearly froze to death. I thought this is just a payback for the Civil War, I guess, that ARLEN never got to express. He was going to do his part to help educate me and refine me in the ways of modern America. But that led to an entire career here working alongside him on both sides of the aisle, which I have enjoyed very much.

We have all learned from him the commitment that he makes to the job, the seriousness of purpose that he brings to committee work, and he has truly been an outstanding leader in the Senate, through personal performance and his serious and impressive record of leadership.

I am glad to express those thoughts today and wish ARLEN well in the years ahead. We will still have a friendship that will be appreciated. I look forward to continuing that relationship.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Pennsylvania is recognized.

NEW START TREATY

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly about the START Treaty, the consideration of which is now pending before the Senate, and to urge my colleagues to move forward to ratify this important treaty.

I have long been interested in the relationship between the United States and, at that time, the Soviet Union, following the end of World War II, with the emergence of our Nation and the Soviets emerging as the two great world powers.

In college, after the war, I devoted a good bit of study to U.S.-U.S.S.R. relations. I wrote a senior thesis on it as a major in political science and international relations, and I have continued that interest throughout my tenure in the Senate. One of my first initiatives, in 1982, after being elected in 1980, was to propose a resolution calling for a summit meeting between the President of the United States and the head of the Soviet Union.

President Reagan had a practice of making Saturday afternoon speeches—or Saturday morning speeches—on the radio. One day I listened in and heard him talk about the tremendous destructive power which both the U.S. and U.S.S.R. had, and how they had the capacity to destroy each other. Of course, that capacity became the basis of the mutual assured destruction period. But it seemed to me that what ought to be done was there ought to be a dialog and an effort to come to terms with the Soviet Union to reduce the tension and reduce the threat of nuclear war. I, therefore, offered a resolution to propose that.

My resolution was resisted by one of the senior Senators, Senator John Tower of Texas, who was chairman of the Armed Services Committee. When I proposed the resolution, it brought Senator Tower to the floor with a very really heated debate, with Senator Tower challenging my resolution and challenging my knowledge on the subject.

Early on, after being elected and starting to serve in 1981, I had traveled to Grand Forks, ND, to see the Missileman II. I went to Charleston, SC, to see

our nuclear submarine fleet, and I went to Edwards Air Force Base in California to look at the B1-B, the B-1 bomber, at that time. I was prepared to take on these issues.

Senator Tower opposed it, offered a tabling motion, and standing in the well of the Senate, as if it was yesterday, I can remember that Senator Laxalt walked down the aisle from the door entering this Chamber and voted no. He started to walk up the aisle to the Republican cloakroom.

Senator Tower chased him and said: Paul, you don't understand. This is a tabling motion. I am looking for an "aye."

Laxalt turned and said: I understand it is a tabling motion, and I voted the way I wanted to, no. I want the resolution to go forward.

Senator Tower said: Well, ARLEN SPECTER is trying to tell the President what to do.

Senator Laxalt replied: Well, why shouldn't he? Everybody else does, he said jokingly.

That tabling motion was defeated 60 to 38. When a vote came up on the final resolution, it passed with 90 in favor and 8 in opposition. We know what happened. There were negotiations and President Reagan came up with the famous dictum, "trust, but verify."

I was then active in the negotiations, the discussions on the Senate observer group in Geneva around 1987. Then our record is plain that we have approved by decisive numbers three very important treaties. START I was approved by the Senate in 1992, with a vote of 93 to 6. The START II treaty was approved in 1996 by a vote of 87 to 4. The Moscow Treaty of 2003 was approved by a vote of 95 to 0.

We have heard extensive debate on the floor of the Senate. People have questioned the adequacy of the verification. I think those arguments have been answered by Senator JOHN KERRY, chairman of the Foreign Relations Committee, who has done such an excellent job in managing the treaty. Questions have been raised about the missile defense, and I think that, too, has been adequately responded to. This has nothing to do with the issue of missile defense.

For me, a very key voice in this entire issue has been the voice of Senator RICHARD LUGAR, who has pointed out that this treaty does not deal with these collateral issues. This treaty is, directly stated, an extension of the treaty which has been in effect up until the present time and has worked so very well.

Strenuous arguments have been made about modernizing our nuclear forces. Well, that is a subject for another day and another time. But those who have offered that advocacy have found a response from the administration with millions of dollars, from \$85 million. That, as I say, belongs to another day and another analysis. But

those who have advocated for modernization have gained very substantial responses from the administration on that subject. Curious, in that context, that notwithstanding that very substantial funding, it hasn't won them over, hasn't diminished their resistance to the treaty. Also, curious in the context of those expenditures on an issue, which didn't directly involve the necessity for modernization, there is a real question as to whether there has been adequate debate and study on that subject, on the hearings. It isn't part of the START treaty debate and discussion about the expenditure of that kind of money, considering the kind of a deficit we have, and also considering the advocates of those modernization additions with the great expense have been some of the loudest voices objecting to governmental expenditures.

Well, we ought to spend what it takes for defense. That is the fundamental purpose of the Federal Government, to protect its citizens. But real questions arise in my mind as to whether this was the proper place to have that argument, but that has gone by the boards.

I think the letter which Admiral Mullen, Chairman of the Joint Chiefs of Staff, has issued about the conclusion of the military, that this is a good treaty; about Admiral Mullen's statement that he personally was involved in the negotiations; that if the START treaty was not to be ratified there would be U.S. military resources that would have to be devoted to certain other issues which were taken by START so that it leads to an unequivocal recommendation by our No. 1 military expert, the Chairman of the Joint Chiefs of Staff.

One other very important element that has been discussed, but cannot be over emphasized, is the destructive consequence of having this treaty rejected in terms of our relations with Russia.

Russia is vitally important to us as we deal with Iran, vitally important to us as we deal with North Korea, vitally important to us as we deal with a whole range of international problems. For us to come right to the brink and then to say no and reject it and seek to reopen it would have a very serious effect on our relations with Russia, which are so important to our national security. The other nations of the world are watching in the wings what we do here. It would have a domino effect on our relationship with other nations.

It comes in a context where it is subject to being misunderstood as a political matter in the United States. I do not question for a moment the motivation of those who oppose START. Those who have spoken against it have been some of our body's most knowledgeable Members on this important subject. But there is so much publicity

about some questioning whether President Obama can have both the START treaty and repeal of don't ask, don't tell at the same time, there has been so much public comment about not wanting to see President Obama have another victory before the end of the year, so much comment which raises a question as to whether opposition is politically motivated.

If the Russians and the other nations of the world cannot rely upon the Senate to make a judgment on the merits without regard to the politics or the appearance of politics, it has very serious consequences for our standing in the international community of nations.

For those reasons, I do believe we ought to move ahead promptly. We ought to ratify this treaty. We ought to continue our strenuous efforts to rid the world of the threat of nuclear war. This is part of that ongoing process.

I urge my colleagues to ratify this important treaty.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Alabama is recognized.

ARLEN SPECTER

Mr. SESSIONS. Mr. President, I see my other colleagues. I do wish to talk about one or two judicial nominees, but I want to say first how much I appreciate Senator SPECTER.

I have had the honor to serve on the Senate Judiciary Committee with Senator SPECTER the entire time I have been in the Senate—going on 14 years, I guess. No one has a clearer legal mind. The clarity of his thought and expression is always impressive to me. And as someone who practiced law, I see the great lawyer skills he possesses.

Also, I note that he has not just today but throughout his career defended the legitimacy of the powers of the Senate. He was very articulate over the past number of years in criticizing the abuse of filling the tree, where bills can be brought up and amendments are not allowed. He has believed that is an unhealthy trend in the Senate, and he has been one of the most effective advocates in opposition to it.

He sponsored and helped pass the Armed Career Criminal Act. He was one of the leaders in that. Having been a longtime prosecutor in Philadelphia, I like to tease our good friend Senator LEAHY that he was a prosecutor, but it was in Vermont. Senator SPECTER had to deal with a lot of crime in Philadelphia and was consistently reelected there for his effectiveness and is a true source of insight into crime in America and has been an effective advocate for fighting crime.

I note also that he has a good view about a Senator. He respects other Senators. He was talking with me one time or I was sharing with him my concern about a matter, and he used a

phrase I heard him use more than once: Well, you are a U.S. Senator. In other words, if you do not like it, stand up and defend yourself. He respected that, even if he would disagree.

I remember another time Senator SPECTER was on the floor. I had just arrived in the Senate. I wanted him to do something—I have long since forgotten what.

I said: Senator SPECTER, you could vote for this, and back home, you could say thus and so.

He looked right at me, and he said: Senator, I don't need your advice on how to conduct myself back home politically.

I learned a lesson from that. I never told another Senator that, I say to Senator SPECTER. Who am I to tell you how to conduct yourself politically back home in the State of Pennsylvania?

Senator SPECTER chaired the Judiciary Committee during the confirmations of Chief Justice Roberts and Justice Alito. He was the leading Republican chair at that time. He raised questions about the nominees. But as chairman of the committee, with the votes and support of his Republican colleagues, he protected our rights, he protected our interests. He did not back down one time on any action by the other party that would have denied the ability to move that nomination forward to a vote and protect the rights of the parties on our side.

Those are a few things that come to mind when I think about the fantastic service he has given to the Senate. He is one of our most able Members, one of our most effective defenders of senatorial prerogative and independence, one of our crime fighters without par, and one of the best lawyers in the Senate, a person who is courageous and strong. Even when he was conducting those very intense Alito and Roberts hearings—it was just after he had serious cancer treatment, the chemotherapy. I know he didn't feel well, but he was fabulous in conducting himself at that time. Throughout all of that treatment, his work ethic surpassed by far that of most Senators in this body. It has been an honor to serve with him.

I see my other colleagues. I know Senator COBURN wanted to come down. He was told he might be able to speak around noon.

SENATOR SPECTER

Mr. BENNET. Mr. President, first, before I get into my remarks, I wish to say how much I appreciated the remarks of Senator SPECTER today. I, for one, hope Senators on both sides of the aisle, Democrats and Republicans, heed his closing remarks as he described them and also the farewell remarks of so many Senators over the last 2 or 3 weeks. I think there is a lot of wisdom we can apply to our work going forward.

I thank Senator SPECTER very much for his service.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

NEW START TREATY

Mr. BEGICH. Mr. President, I rise in support of the New START treaty. I do so for several reasons.

First, of course, the treaty is essential for national security. It promotes transparency and stability between the two countries that possess the majority of the world's nuclear weapons. It will decrease the likelihood of a nuclear weapon falling into the hands of a rogue nation.

For the residents of my State, the treaty is close to home, literally. Alaska and Russia are less than 3 miles apart at the closest point in the Bering Sea. Commerce, scientific, educational, and cultural exchanges are commonplace between Alaska and our Russian neighbors. So peaceful coexistence with Russia is more than an abstract concept to my constituents; it is a way of life.

The second reason this treaty is personal for Alaskans is because of our close proximity to North Korea. When North Korea's leader exercises his political muscle by firing test missiles or threatening to attack the United States, Alaskans get nervous because we are most directly in the line of fire.

Thankfully, my home State is home to the ground-based missile defense system. Based at Fort Greely, this sophisticated system of more than two dozen ground-based interceptors is maintained and operated by highly trained members of the Alaska National Guard. I was pleased to show Defense Secretary Robert Gates this state-of-the-art system last year. I worked with my colleagues on both sides of the aisle to make sure this system gets the resources and funding it warrants to protect us. I will continue to do that.

I would be troubled if the New START treaty impacted our Nation's missile defense system. I know some of my colleagues on the other side of the aisle would be equally concerned. Fortunately, such concerns are unfounded. I am confident nothing in this treaty will limit our ability to defend ourselves and our allies against a ballistic missile attack from a rogue nation.

The preamble of this treaty simply acknowledges the relationship between offensive and defensive strategic arms and verifies that current defensive strategic arms do not undermine the offensive forces. The preamble is non-binding. There is no action or inaction arising from this statement.

The section of the treaty prohibiting conversion of missile silos or launchers for ballistic missile defense purposes does not impact us. It is not something we are planning to do. In fact, we are in the process of completing a missile field in Alaska to field interceptors. The field will have seven spare silos to

deploy more interceptors if we need them. We are moving forward with the phased adaptive approach to protect our allies, with the two-stage interceptor as a hedge.

The unilateral statement by Russia also is nonbinding and is not even part of the treaty. Our own unilateral statements make it clear that this treaty will not constrain missile defense in any way and that we will continue improving and deploying missile defense systems to protect us and our allies. These types of statements in a treaty are not unprecedented. The right to withdraw has been stated in many previous treaties—the nonproliferation treaty and the START treaty. Those statements did not stop the Senate from ratifying those treaties. The language in the New START treaty should not either. In fact, this treaty actually helps missile defense because it lessens restrictions on test targets that were in the previous treaty. We will have more flexibility in testing.

We have heard from our national security leaders that this treaty does not constrain ballistic missile defense in any way. Secretary of State Hillary Clinton, Secretary of Defense Robert Gates, Chairman of the Joint Chiefs of Staff Mike Mullen, Missile Defense Agency Director LTG Patrick O'Reilly, former Strategic Commander GEN Kevin Chilton, and countless others confirm that this treaty in no way limits our ballistic missile defense plans. We cannot disregard the views of our Nation's most senior military and civilian leaders on this critical issue because of politics.

We have had almost 7 months to consider this treaty. We have had numerous hearings and briefings—more on this treaty than any other single item I have been involved in since I have been here. In that time, I heard no current or former national security leader say this treaty is a detriment to ballistic missile defense. What they say and what we know is that the New START treaty will strengthen national security and will not constrain ballistic missile defense.

For all of these reasons, I urge a prompt approval of this vital treaty for our Nation and our world.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BENNET. Mr. President, I ask unanimous consent that my statement and that of Senator UDALL appear as in executive session and that the time be charged postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF BILL MARTINEZ

Mr. BENNET. Mr. President, I rise today to state my strong support for the nomination of Bill Martinez to serve on the U.S. District Court for the District of Colorado. Having recommended his candidacy to the Presi-

dent, along with my colleague Senator UDALL, I believe he is eminently qualified for the Federal bench.

Bill was nominated to serve on the U.S. District Court for the District of Colorado in February of this year. His nomination cleared the Senate Judiciary Committee in April. Since then, he has been in a state of limbo awaiting a final vote allowing him to serve. That is why I am very grateful for the hard work of the Judiciary Committee, both Democrats and Republicans, who have moved this nomination forward and are trying to finish it before the end of the 111th Congress.

Our State has two vacancies on the district court. Both vacancies are over 2 years old, with one close to 3 years old. Because there are only seven Federal judgeships in our State, the other judges are facing ever-growing caseloads, resulting in significant backlogs for those seeking justice.

In fact, the administrative office of the courts has declared the vacancy situation in Colorado a judicial emergency. It is important that we move these nominations forward to prevent further backlogs and judicial emergencies, and I pledge to work with my colleagues on both sides of the aisle to make sure we can work together to confirm judicial nominees such as Bill Martinez in a timely manner.

I believe, after careful review of Bill Martinez's experience, my colleagues will see this is someone well worth confirming. Bill is currently at a law firm in Denver, where he primarily represents plaintiffs in Federal and State courts and before arbitrators and administrative agencies. He is certified as AAA arbitrator in employment disputes.

Prior to starting his own firm, he was a regional attorney of the U.S. EEOC in its Denver district office. Senator UDALL will be going into more detail regarding this nominee.

There, Bill had responsibility for the Commission's legal operations and Federal court enforcement litigation in the office's six-State jurisdiction.

Before joining the EEOC, Bill worked in private practice on employment, securities and commercial litigation.

I know some want to focus on his pro bono work and try to make political assumptions about him from a small portion of his career. But I know Bill, and he is the sum of a lot of great work in the public and private sectors.

For example, while at the EEOC Bill was in charge of an age discrimination class action suit that resulted in a settlement of nearly \$200 million for 3,200 laid off engineers. This is one of the largest ever age discrimination class actions.

Bill began his career at the Legal Assistance Foundation of Chicago, representing indigent clients and other individuals seeking low- or no-cost counsel. This is a nominee whose breadth of

legal experience has spanned the profession, and I think for that reason alone he should be confirmed.

Over the course of his legal career, Bill has been lead or colead counsel in complex litigation, resulting in 18 published opinions from Federal and State courts in Colorado and Illinois. Bill's time as a litigator and advocate has provided him with the necessary skills and perspective to deal with the diverse docket that comes before U.S. district court judges.

Beyond his distinguished legal skills, Bill's personal story is a tribute to this country and embodies the American dream. He is an immigrant success story. Bill was born in Mexico and immigrated with his family to the United States at a young age. He was the first in his family to attend college and law school. His rise through the legal profession is a great example for bright, young law students, and, indeed, for us all.

I urge my colleagues to vote for Bill's nomination. He is a model nominee for the Federal district court, an expert in labor and employment law who will serve Coloradans well. Bill Martinez has the experience and strong sense of civic responsibility we need on the Federal bench.

I thank the chairman for his guidance of this nomination, and I urge my colleagues to vote to confirm Bill to Colorado's Federal bench.

I also would be remiss, if I didn't thank my senior Senator, MARK UDALL, for his extraordinary efforts to make sure we had a fair, balanced, and thoughtful search process. I think that process for this appointment and for the others whom we have done already are a model for the country, and it is a real testament to Senator UDALL's leadership.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

NEW START TREATY

Mr. CORKER. Mr. President, I know today is a pretty monumental day as it relates to the START treaty we have been discussing for some time, and tomorrow will be a big day in that regard too. I think there is nothing more we care about than our country being secure. I have two daughters who are 21 and 23, a wonderful wife, and extended family, as does every Member in this room, and there is nothing I take more seriously than making sure our country is secure.

So as a member of the Foreign Relations Committee, when we entered into discussions relating to the START treaty, I attended 11 of the 12 hearings. I have been in multiple classified meetings, I have spoken to military leaders across our country, and I have been in so many intelligence briefings that I have begun to speak like an intelligence officer. So I have taken this responsibility very seriously.

I wish to say there are numbers of people who obviously are still making up their mind regarding this treaty, and that is why I came to the floor. One of the things we do when we end up ratifying a treaty is we have something called a resolution of ratification. No doubt this treaty was negotiated by the President and his team—the Secretary of State and others who work with Secretary Clinton—and no doubt that is done by people on the other side of the aisle. But what I would like to bring to the attention of my colleagues is that whenever we ratify a treaty, we do so through something called a resolution of ratification. For those who might not have been involved in the markup, I would like for everyone in this body to know this resolution of ratification, thanks to the good will of the chairman of our committee, was mostly drafted by Republicans. It was drafted, with the approval, certainly, of the chairman, but this was drafted by Senator LUGAR, by myself, Senator KYL had tremendous input into this, and Senator ISAKSON.

So the resolution of ratification we are amending today had tremendous Republican input. As a matter of fact, it was done mostly by Republicans. As a matter of fact, this resolution of ratification is called the Lugar-Corker resolution. This is what came out of committee.

One of the things that has concerned people on both sides of the aisle has been this whole issue of modernization. I have seen something of beauty over the last year. About 1 year ago, I met with Senator KYL in the Senate Dining Room, and we began looking at the modernization of our nuclear arsenal. Many people have focused during this debate on the fact that we have 1,550 warheads as a limitation, if you will, in this treaty. But they fail to realize we have over 5,000 warheads in our nuclear arsenal, all of which need to be modernized, and all of which are getting ready to be obsolete if we don't make the investment.

As a matter of fact, the Presiding Officer and I have visited some of the labs throughout our country. There are seven facilities we have in this country that deal with our nuclear arsenal. Many of those are becoming obsolete and must have needed investment.

I have watched Senator KYL over the last year, in a very methodical way—under his leadership, with me as his wing man, and others—working to make sure the proper modernization of our nuclear arsenal takes place. There is no question in my mind—there is no question in my mind—if it were not for the discussion of this treaty, we would not have the commitments we have today on modernization.

This is the 1251 report that is required by Defense authorization. This has been updated twice due to the efforts of Republicans, led by Senator

KYL, who has done an outstanding job. This has been updated twice. First, we had a 5-year update about 60 days ago, and we had a 10-year update that came thereafter. This is our nuclear modernization plan.

Mr. President, I ask unanimous consent to have printed in the RECORD the nuclear modernization plan as part of this debate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 2010 UPDATE TO THE NATIONAL DEFENSE AUTHORIZATION ACT OF FY2010 SECTION 1251 REPORT

NEW START TREATY FRAMEWORK AND NUCLEAR FORCE STRUCTURE PLANS

Introduction

This paper updates elements of the report that was submitted to Congress on May 13, 2010, pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84) ("1251 Report").

2. National Nuclear Security Administration and modernization of the complex—an overview

From FY 2005 to FY 2010, a downward trend in the budget for Weapons Activities at the National Nuclear Security Administration (NNSA) resulted in a loss of purchasing power of approximately 20 percent. As part of the 2010 Nuclear Posture Review, the Administration made a commitment to modernize America's nuclear arsenal and the complex that sustains it, and to continue to recruit and retain the best men and women to maintain our deterrent for as long as nuclear weapons exist. To begin this effort, the President requested a nearly 10 percent increase for Weapons Activities in the FY 2011 budget, and \$4.4 billion in additional funds for these activities for the FY 2011 Future Years Nuclear Security Plan (FYNSP). These increases were reflected in the 1251 report provided to Congress in May 2010.

The Administration spelled out its vision of modernization through the course of 2010. In February, soon after the release of the President's budget, the Vice President gave a major address at the National Defense University in which he highlighted the need to invest in our nuclear work force and facilities. Several reports to Congress provided the details of this plan, including: NNSA's detailed FY 2011 budget request, submitted in February; the strategy details in the Nuclear Posture Review (NPR) (April); the 1251 report (May); and the multi-volume Stockpile Stewardship and Management Plan (SSMP) (June). Over the last several months, senior Administration officials have testified before multiple congressional committees on the modernization effort.

The projections in the Future Years Nuclear Security Plan (FYNSP) that accompanied the FY 2011 budget submission and the 1251 report by the President are, appropriately called, 'projections.' They are not a 'fixed in stone' judgment of how much a given project or program may cost. They are a snapshot in time of what we expect inflation and other factors to add up to, given a specific set of requirements (that are themselves not fixed) over a period of several years. Budget projections, whether in the FYNSP and other reports, are evaluated each year and adjusted as necessary.

Indeed, planning and design, as well as budget estimates, have evolved since the budget for FY 2011 was developed. Notably,

stockpile requirements to fully implement the NPR and the New START Treaty have been refined, and the NNSA has begun executing its Stockpile Stewardship and Management Plan (SSMP). This update will discuss, in particular, evolving life extension programs (LEP) and progress on the designs of key facilities such as the Uranium Processing Facility (UPF) and the Chemistry and Metallurgy Research Replacement (CMRR).

Based on this additional work, and the development of new information and insights, the President is prepared to seek additional resources for the Weapons Activities account, over and above the FY 2011 FYNSP, for the FY 2012 budget and for the remainder of the FYNSP period (FY 2013 through FY 2016).

Specifically, the President plans to request \$7.6 billion for FY 2012 (an increase of \$0.6 billion over the planned FY 2012 funding level included in the FY 2011 FYNSP). Thus, in two years, the level of funding for this program requested will have increased by \$1.2 billion, in nominal terms, over the \$6.4 billion level appropriated in FY 2010. Altogether, the President plans to request \$41.6 billion for FY 2012–2016 (an increase of \$4.1 billion over the same period from the FY 2011 FYNSP—).

Given the extremely tight budget environment facing the federal government, these requests to the Congress demonstrate the priority the Administration's places on maintaining the safety, security and effectiveness of the deterrent.

3. NNSA—Program Changes and New Requirements since submission of the 1251 Report

A. Update to Stockpile Stewardship and Sustainment

Surveillance—Surveillance activities are essential to enabling continued certification of the reliability of the stockpile without nuclear testing. Surveillance involves withdrawing weapons from deployment and subjecting them to laboratory tests, as well as joint flight tests with the DoD to assess their reliability. These activities allow detection of possible manufacturing and design defects as well as material degradation over time. NNSA has also received recommendations from the National Laboratory directors, the DoD, the STRATCOM Strategic Advisory Group, and the JASON Defense Advisory Panel that the nuclear warhead/bomb surveillance program should be expanded.

In response to this broad-based advice, NNSA has reviewed the stockpile surveillance program and its funding profile. From FY 2005 through FY 2009, funding for surveillance activities, when adjusted for inflation, fell by 27 percent. In recognition of the serious concerns raised by chronic underfunding of these activities, beginning in FY 2010, the surveillance budget has been increased by 50 percent, from \$158 million to \$239 million. In the FY 2012 budget, the President will seek to sustain this increase throughout the FYNSP. This level of funding will assure that the required surveillance activities can be fully sustained over time.

Weapon System Life Extension—The Administration is committed to pursuing a fully funded Life Extension Program for the nuclear weapons stockpile. The FY 2011 budget submission and the NPR outlined initial plans. Since May 2010, additional work has further defined the requirements to extend the life of the following weapon systems:

W76—The Department of Defense has finalized its assessment of the number of W76 warheads recommended to remain in the

stockpile to carry out current guidance. The number of W76-1 life-extended warheads needing completion is larger than NNSA built into its FY 2011 budget plans. NNSA, with the support of the DoD, has adjusted its plan accordingly to ensure the W76-1 build is completed in FY 2018, an adjustment of one year that is endorsed by the Nuclear Weapons Council. This adjustment will not affect the timelines for B61 or W78 life extensions. The LEP will be fully funded for the life of the program at \$255 million annually.

B61—NNSA began the study on the nuclear portion of the B61 life extension in August 2010, six months later than the original planning basis. To overcome this delay, NNSA will accelerate the technology maturation, warhead development, and production engineering that is necessary to retain the schedule for the completion of the first production unit in FY 2017. An additional \$10 million per year has been added to the FY 2012 FYNSP for this purpose.

W88 AF&F—The 1251 Report addressed the intent to study, among other things, a common warhead for the W78 and the W88 as an option for W78 life extension. Early development of a W88 Arming, Fuzing, and Firing system (AF&F) would enhance the evaluation of commonality options and enable more efficient long-term sustainment of the W88. Approximately \$400 million has been added to the FY 2012–16 FYNSP for this purpose.

Stockpile Systems and Services—NNSA is now seeking to execute a larger program of stockpile maintenance than assumed in planning the FY 2011 budget and than projected in the 1251 Report. The additional work includes an increase in the development/production of the limited life components to support the weapons systems. Consequently, the Administration plans to request increased funding of \$40 million in FY 2012 for the production of neutron generators and gas transfer systems. NNSA and DoD are aligned for the delivery of essential hardware to ensure no weapon fails to meet requirements.

New Experiments—NNSA's current science and surveillance activities have been more successful than originally anticipated in ensuring the reliability of our existing stockpile without nuclear testing. As we continue to develop modern life extension programs, however, NNSA and the laboratories are considering even more advanced methods for evaluating the best technical options for life extension programs, including refurbishment, reuse and replacement of nuclear components. One such effort of interest that could aid in our efforts includes expanded subcritical experiments designed to modernize warhead safety and security features without adding new military capabilities or pursuing explosive nuclear weapons testing. This program might include so-called "scaled experiments" that could improve the performance of predictive capability calculations by providing data on plutonium behavior under compression by insensitive high explosives. In order to thoroughly understand this issue, to assess its cost-effectiveness and to ensure that there is a sound technical basis for any such effort, the Administration will conduct a review of these proposed activities and potential alternatives.

B. Updates to Modernization of the Nuclear Weapons Complex

Modernization of the complex includes reducing deferred maintenance, constructing replacement facilities, and disposing of surplus facilities. The Administration is committed to fully fund the construction of the

Uranium Processing Facility (UPF) and the Chemistry and Metallurgy Research Replacement (CMRR), and to doing so in a manner that does not redirect funding from the core mission of managing the stockpile and sustaining the science, technology and engineering foundation. To this end, in addition to increased funding for CMRR and UPF, the FY 2012 budget will increase funding over the FY 2012 number in the 2011 FYNSP for facilities operations and maintenance by approximately \$176 million.

Readiness in Technical Base and Facilities (RTBF): CMRR and UPF Construction—These two nuclear facilities are required to ensure the United States can maintain a safe, secure and effective arsenal over the long-term. The NPR concluded that the United States needed to build these facilities; the Administration remains committed to their construction.

Construction of large, one-of-a-kind facilities such as these presents significant challenges. Several reviews by the Government Accountability Office, as well as a "root-cause" analysis conducted by the Department of Energy in 2008, have found that initiating construction before designs are largely complete contributes to increased costs and schedule delays. In response to these reviews, and in order to assure the best value for the taxpayers, NNSA has concluded that reaching the 90% engineering design stage before establishing a project baseline for these facilities is critical to the successful pursuit of these capabilities.

The ten-year funding plan reported in the 1251 Report reflected cost estimates for these two facilities that were undertaken at a very early stage of design (about 10% complete), were preliminary, and could not therefore provide the basis for valid, longer-range cost estimates. The designs of these two facilities are now about 45% completed; the estimated costs of the facilities have escalated. Responsible stewardship of the taxpayer dollars required to fund these facilities requires close examination of requirements of all types and to understand their associated costs, so that NNSA and DoD can make informed decisions about these facilities. To this end, NNSA, in cooperation with the DoD, is carrying out a comprehensive review of the safety, security, environmental and programmatic requirements that drive the costs of these facilities. In parallel with, and in support of this effort, separate independent reviews are being conducted by the Corps of Engineers and the DOE Chief Financial Officer's Cost Analysis Office. In addition, the Secretary of Energy is convening his own review, with support from an independent group of senior experts, to evaluate facility requirements.

The overriding focus of this work is to ensure that UPF and CMRR are built to achieve needed capabilities without incurring cost overruns or scheduling delays. We expect that construction project cost baselines for each project will be established in FY 2013 after 90% of the design work is completed. At the present time, the range for the Total Project Cost (TPC) for CMRR is \$3.7 billion to \$5.8 billion and the TPC range for UPF is \$4.2 billion to \$6.5 billion. TPC estimates include Project Engineering and Design, Construction, and Other Project Costs from inception through completion. Over the FYNSP period (FY 2012–2016) the Administration will increase funding by \$340 million compared with the amount projected in the FY 2011 FYNSP for the two facilities.

At this early stage in the process of estimating costs, it would not be prudent to assume we know all of the annual funding requirements over the lives of the projects.

Funding requirements will be reconsidered on an ongoing basis as the designs mature and as more information is known about costs. While innovative funding mechanisms, such as forward funding, may be useful in the future for providing funding stability to these projects, at this early design stage, well before we have a more complete understanding of costs, NNSA has determined that it would not yet be appropriate and possibly counterproductive to pursue such mechanisms until we reach the 90% design point. As planning for these projects proceeds, NNSA and OMB will continue to review all appropriate options to achieve savings and efficiencies in the construction of these facilities.

The combined difference between the low and high estimates for the UPF and CMRR facilities (\$4.4 billion) results in a range of costs beyond FY 2016 as shown in Figure 3. Note that for the high estimate, the facilities would reach completion in FY 2023 for CMRR and FY 2024 for UPF. For each facility, functionality would be attainable by FY 2020 even though completion of the total projects would take longer.

Readiness in the Technical Base of Facilities (RTBF)—Operations and Maintenance

In order to implement an increased scope of work for stockpile activities, especially surveillance and the ongoing life extension programs (LEPs), the following will be supported:

NSSS—Full experimental facility availability to support ongoing subcritical and other experiments necessary for certification of life extension technologies.

Pantex—Funds are included in the FY 2012 request to fully cover anticipated needs for flood prevention.

SNL—Replacement of aging and failing equipment at the Tonopah Test Range in Nevada to facilitate the increasing pace of operations support for the B61; and Micro-electronics, engineering test, and surveillance

actions at SNL to support the B61, W76 and W78 that require additional equipment maintenance in facilities and the need to operate engineering test facilities that currently operate in a periodic campaign mode.

LLNL, LANL, and Y-12—Investments in infrastructure and construction, including support for Site 300, PF-4, and Nuclear Facilities Risk Reduction.

Kansas City—Investment sufficient to meet LEP needs for the W76-1, B-6I, and W78/88 while preparing and completing the move to the KCRIMS site at Botts Road.

Savannah River—Sufficient investment to ensure that availability of tritium supplies adequate for stockpile needs is assured.

RTBF: Other Construction—As the CMRR and UPF projects are completed, NNSA will continue to modernize and refurbish the balance of its physical infrastructure over the next ten years. The FY 2012 budget request includes \$67 million for the High Explosive Pressing Facility project that is ongoing at Pantex, \$35 million for the Nuclear Facilities Risk Reduction Project at Y-12, \$25 million for the Test Capabilities Revitalization Project at Sandia, as well as \$9.8 million for the Transuranic Waste Facility and \$20 million for the TA-55 Reinvestment Project at LANL.

RTBF: Construction Management—Because of the unprecedented scale of construction that NNSA is initiating, both in the nuclear weapons complex and in non-proliferation activities, the Administration recognizes that stronger management structures and oversight processes will be needed to prevent cost growth and schedule slippage. NNSA will work with DoD, OMB, and other affected parties to analyze current processes and to consider options for enhancements.

C. Pension Cost Growth and Alternative Mitigation Strategies

NNSA has a large contractor workforce that is covered by defined-benefit pension

plans for which the U.S. Government assumes liability. Portfolio management decisions, market downturns, interest rate decreases, and new statutory requirements have caused large increases in pension costs. The Administration is fully committed to keeping these programs solvent without harming the base programs. The Administration will therefore cover total pension reimbursements of \$875 million for all of NNSA for FY 2012, adding \$300 million more to the NNSA topline than the amount provided in FY 2011. Over the five year period FY 2012 to FY 2016, the Administration will provide a total of \$1.5 billion above the FY 2011 level. About three-quarters of this funding is associated with Weapons Activities and is included in the funding totals for those programs noted above.

The Administration will conduct an independent study of these issues using the appropriate statutory and regulatory framework to inform longer-term decisions on pension reimbursements. The Administration is evaluating multiple approaches to determine the best path to cover pension plan contributions, while minimizing the impact to mission. Contractors are evaluating mitigation strategies, such as analyzing plan changes, identifying alternative funding strategies, and seeking increased participant contributions. Also, contractors have been directed to look into other human resource areas where savings can be achieved, in order to help fund pension plan contributions.

3. Summary of NNSA Stockpile and Infrastructure Costs

A summary of estimated costs specifically related to the Nuclear Weapons Stockpile, the supporting infrastructure, and critical science, technology and engineering is provided in Table 1.

TABLE 1—TEN-YEAR PROJECTIONS FOR WEAPONS STOCKPILE AND INFRASTRUCTURE COSTS

\$ Billions	Fiscal year										
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Directed Stockpile	1.5	1.9	2.0	2.1	2.3	2.5	2.6	2.6	2.6	2.6	2.6
Science Technology & Engineering Campaigns	1.6	1.7	1.8	1.8	1.8	1.8	1.9	2.0	2.1	2.2	2.3
Readiness in Technical Base and Facilities	1.8	1.8	2.1	2.3	2.5	2.5	2.5	2.7	2.8-2.9	2.9-3.1	2.9-3.3
UPF	0.1	0.1	0.2	0.2	0.4	0.4	0.4	0.48-0.5	0.48-0.5	0.48-0.5	0.38-0.5
CMRR	0.1	0.2	0.3	0.3	0.4	0.4	0.4	0.48-0.5	0.4-0.5	0.3-0.5	0.2-0.5
Secure Transportation	0.2	0.2	0.3	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Defense Programs Subtotal	5.2	5.7	6.1	6.5	6.9	7.1	7.3	7.5-7.6	7.7-7.9	7.9-8.2	8.0-8.4
Other Weapons	1.2	1.3	1.3	1.3	1.3	1.3	1.4	1.4	1.4	1.4	1.5
Subtotal, Weapons	6.4	7.0	7.4	7.8	8.2	8.5	8.7	8.9-9.0	9.2-9.3	9.4-9.6	9.4-9.8
Contractor Pensions Cost Growth .....	.....	.....	0.2	0.2	0.2	0.2	0.2	*TBD	*TBD	*TBD	*TBD
Total, Weapons	6.4	7.0	7.6	7.9	8.4	8.7	8.9	8.9-9.0	9.2-9.3	9.4-9.6	9.4-9.8

Numbers may not add due to rounding.
* Anticipated costs for contractor pensions have been calculated only through FY 2016. For FY 2017–2020, uncertainties in market performance, interest rate movement, and portfolio management make prediction of actual additional pension liabilities, assets, and contribution requirements unreliable.

4. Plans for Sustaining and Modernizing U.S. Strategic Delivery Systems

The Administration remains committed to the sustainment and modernization of U.S. strategic delivery systems, to ensure continuing deterrent capabilities in the face of evolving challenges and technological developments. DoD's estimates of costs to sustain and modernize strategic delivery systems will be updated as part of the President's FY 2012 budget request; until this budget request is finalized, figures provided in the May 2010 1251 report remain the best available cost estimates.

The following section of this report provides the latest information on DoD's efforts to modernize the Triad, including expected timelines for key decisions.

Strategic Submarines (SSBNs) and Submarine-Launched Ballistic Missiles (SLBMs)

As the NPR and the 1251 Report note, the United States will maintain continuous at-sea deployments of SSBNs in the Atlantic and Pacific Oceans, as well as the ability to surge additional submarines in crisis. The current Ohio-class SSBNs, have had their service life extended by a decade and will commence retirement in FY 2027. DoD plans a transition between the retiring Ohio-class SSBNs and the Ohio-class replacement that creates no gap in the U.S. sea-based strategic deterrent capability.

Current key milestones for the SSBN replacement program include:

Research, development, test, and evaluation (RDT&E) began in FY 2010 and con-

tinues with the goal of achieving 10 percent greater design maturity prior to starting procurement than the USS VIRGINIA class had before procurement started;

In FY 2015, the Navy will begin the detailed design and advanced procurement of critical components;

In FY 2019, the Navy will begin the seven-year construction period for the new SSBN lead ship;

In FY 2026, the Navy will begin the three-year strategic certification period for the lead ship; and

In FY 2029, the lead ship will commence active strategic at-sea service.

The Analysis of Alternatives (AoA) considered three platforms concepts for the Ohio-class Replacement: VIRGINIA-Insert, OHIO-Like, and a New Design. DoD is currently

evaluating the advantages and disadvantages of each concept, including cost tradeoffs, with the goal of meeting military requirements at an affordable cost. An initial milestone decision is expected by the end of calendar year 2010 to inform the program and budget moving forward.

After the initial milestone design decision is made, DoD will be able to provide any adjustments to the estimated total costs for the Ohio-class replacement program. Thus, today's estimated total costs for FY 2011 through FY 2020 remain the same as reported in the 1251 Report: a total of approximately \$29.4 billion with \$11.6 billion for R&D and \$17.8 billion for design and procurement.

As noted in the 1251 Report, the Navy plans to sustain the Trident II D5 missile, as carried on Ohio-class Fleet SSBNs as well as the next generation SSBN, through a least 2042 with a robust life-extension program.

Intercontinental Ballistic Missiles (ICBMs)

As stated in the Nuclear Posture Review, while a decision on an ICBM follow-on is not needed for several years, preparatory analysis is needed and is in fact now underway. This work will consider a range of deployment options, with the objective of defining a cost-effective approach for an ICBM follow-on that supports continued reductions in U.S. nuclear weapons while promoting stable deterrence. Key milestones include:

The Capabilities-Based Assessment (CBA) for the ICBM follow-on system is underway.

By late 2011, the study plan for the AoA, including the scope of options to be considered, will be completed.

In 2012, the AoA will begin.

In FY 2014, the AoA will be completed, and DoD will recommend a specific way-ahead for an ICBM follow-on to the President.

The Air Force is funding the ongoing CBA effort at approximately \$26 million per year. Given the inherent uncertainties about missile configuration and basing prior to the completion of the AoA, DoD is unable to provide costs for its potential development and procurement at this time. However, DoD expects to be able to include funding for RDT&E for an ICBM follow-on system in the FY 2013 budget request, based on initial results from the AoA.

The Air Force plans to sustain the Minuteman III through 2030. That sustainment includes substantial ongoing life extension programs, cost data for which was provided to Congress in the May 2010 Section 1251 Report.

Heavy Bombers

DoD plans to sustain a heavy bomber leg of the strategic Triad for the indefinite future, and is committed to the modernization of the heavy bomber force. Thus, the question being addressed in DoD's ongoing long-range strike study is not whether to pursue a follow-on heavy bomber, but the appropriate type of bomber and the timelines for development, production, and deployment. The long-range strike study, which is also considering related investments in electronic attack, intelligence, surveillance and reconnaissance, air- and sea-delivered cruise missiles, and prompt global strike, will be completed in time to inform the President's budget submission for FY 2012.

As stated in the May 2010 1251 Report, pending the results of the long-range strike study, estimated costs for a follow-on bomber for FY 2011 through FY 2015 are \$1.7 billion and estimated costs beyond FY 2015 are to-be-determined. DoD intends to provide any necessary updates to cost estimates along with the President's budget submission for FY 2012.

The Air Force plans to retain the B-52 in the inventory through at least 2035 to continue to meet both nuclear and conventional mission requirements. The Air Force will make planned upgrades and life extensions to the fleet. The B-2 fleet is being upgraded through three top priority acquisition programs: the Radar Modernization Program (RMP), Extremely High Frequency (EHF) Satellite Communications and Computers, and Defensive Management System (DMS), as well as multiple smaller sustainment initiatives.

Air Launched Cruise Missile (ALCM)

DoD intends to replace the current ALCM with the advanced long range standoff (LRSO) cruise missile. The CBA for the LRSO is underway. An AoA will be conducted from approximately spring 2011 through fall 2013. The AoA will define the platform requirements, provide cost-sensitive comparisons, validate threats, and establish measures of effectiveness, and assess candidate systems for eventual procurement and production.

The Air Force has programmed approximately \$800 million for RDT&E over the FYDP for the development of LRSO. Based on current analysis of the program, the Air Force expects low rate initial production of LRSO to begin in approximately 2025, while the current ALCM will be sustained through 2030. Until the planned AoA is completed, DoD will not have a basis for accurately estimating subsequent costs.

Mr. CORKER. Mr. President, the reason I want that entered into the RECORD, over the next 10 years, what this calls for is \$86 billion—\$86 billion—worth of investment throughout the seven facilities throughout our country on nuclear armaments and over \$100 billion on the delivery mechanisms to ensure that these warheads are deliverable.

So one might say: Well, that is great, but how are we going to be sure? How are we going to be sure the appropriators actually ask for the money?

Mr. President, I ask unanimous consent to have printed in the RECORD a letter signed on December 16 by Chairman INOUE, Senators DIANNE FEINSTEIN, THAD COCHRAN, and LAMAR ALEXANDER.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, December 16, 2010.

THE WHITE HOUSE,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our support for ratification of the New START Treaty and full funding for the modernization of our nuclear weapons arsenal, as outlined by your updated report that was mandated by Section 1251 of the Defense Authorization Act for Fiscal Year 2010.

We also ask that, in your future budget requests to Congress, you include the funding identified in that report on nuclear weapons modernization. Should you choose to limit non-defense discretionary spending in any future budget requests to Congress, funding for nuclear modernization in the National Nuclear Security Agency's proposed budgets should be considered defense spending, as it is critical to national security and, therefore, not subject to such limitations. Further, we ask that an updated 1251 report be

submitted with your budget request to Congress each year.

We look forward to working with you on the ratification of the New START Treaty and modernization of the National Nuclear Security Agency's nuclear weapons facilities. This represents a long-term commitment by each of us, as modernization of our nuclear arsenal will require a sustained effort.

Sincerely,

DANIEL K. INOUE.
DIANNE FEINSTEIN.
THAD COCHRAN.
LAMAR ALEXANDER.

Mr. CORKER. Mr. President, that letter says to the President that they will ask for the moneys necessary to modernize our nuclear arsenal; that they agree to ask for that money as part of their appropriations bill.

So, then, you might say: Well, what about the President? Will the President actually, in his budget, ask Congress to ask for that money?

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the President of the United States, dated December 20, addressed to the appropriators who just wrote the letter I mentioned, saying that he, in fact, will ask for those funds in the budget he puts forth in the next few months.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,

Washington, December 20, 2010.

Hon. LAMAR ALEXANDER,
U.S. Senate,
Washington, DC.

DEAR SENATOR ALEXANDER: Thank you for your letter regarding funding for the modernization of the nuclear weapons complex and for your expression of support for ratification of the New START Treaty.

As you know, in the Fiscal Year 2011 budget, I requested a nearly 10 percent increase in the budget for weapons activities at the National Nuclear Security Administration (NNSA). In May, in the report required by Section 1251 of the National Defense Authorization Act for Fiscal Year 2010, I laid out a 10 year, \$80 billion spending plan for NNSA. The Administration submitted an update to that report last month, and we now project over \$85 billion in spending over the next decade.

I recognize that nuclear modernization requires investment for the long-term, in addition to this one-year budget increase. That is my commitment to the Congress—that my Administration will pursue these programs and capabilities for as long as I am President.

In future years, we will provide annual updates to the 1251 report. If a decision is made to limit non-defense discretionary spending in any future budget requests, funding for nuclear modernization in the NNSA weapons activities account will be considered on the same basis as defense spending.

In closing, I thought it important for you to know that over the last two days, my Administration has worked closely with officials from the Russian Federation to address our concerns regarding North Korea. Because of important cooperation like this, I continue to hope that the Senate will approve

the New START Treaty before the 111th Congress ends.

Sincerely,

BARACK OBAMA.

Mr. CORKER. Mr. President, there has been a lot of discussion about many things—and I will get to missile defense in just one moment—but I don't think there is anything, as it relates to nuclear issues, that threatens our national security more than our not investing in the arsenal we have. I think what we see is a commitment by appropriators on the Senate side, the President of the United States, those within the NNSA and our military complex who believe modernization has to occur.

Candidly, the only thing today that would keep us from actually doing modernization the way it needs to be done would be Republican appropriators. So I just wish to say to my friends on this side of the aisle, it seems to me, through Senator KYL's efforts and the efforts of people working in a cooperative way, we have been very successful in getting the commitments we need on modernization.

By the way, I would add, I do not think we would be talking about the issue of modernization today—something that hasn't been done for many years to this scale—if it were not for discussions of the START treaty. So I say to the Chair, I think we have enhanced our country's national security just by having this debate, and I would say we have sought and received commitments that otherwise we would not have received if it were not for the discussion of this treaty.

The two are very related. I have heard a lot of people say there is no real relationship between the two. There is a lot of relationship between the two, in that I think Americans want to know if we are going to limit ourselves to 1,550 warheads, that we know they operate, we know they can be delivered, and we know the thousands of warheads we have that are not deployed are warheads that will be kept up.

We have talked a lot about missile defense, and I just wish to say I have been through every word of this treaty, I have been through every word of the annexes, I have been through every word of the protocols and I have been in countless briefings and there is nothing in this treaty that limits our missile defense other than the fact that we cannot convert ICBM launchers that we use on the offense for missile defense—something our military leaders do not want to do. That is the most expensive way of creating a missile defense system. That is something they do not want to do.

So a lot of discussions have been brought up because in the preamble something was stated that was non-binding. How do we clear that up? We clear that up by virtue of a letter the

President has sent to us absolutely committing to the missile defense system that is now being deployed in Europe, absolutely committing to a national defense system. People might say: Well, but that is no commitment.

I have reasonable assurance that by the time this debate ends we will codify, as part of the resolution of ratification, the operative words in the President's language committing to all four phases of our adaptive missile system in Europe, committing to those things we need to do as relates to our national defense system and making that a part of the resolution of ratification.

I would say to you that I doubt very seriously we would have received the types of commitments, the strident commitments from the President as relates to missile defense today, if we were not debating this treaty.

Mr. President, I ask unanimous consent that Senator LAMAR ALEXANDER be added as a cosponsor to my amendment, amendment No. 4904, dealing with ensuring the President's language becomes a part of this resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORKER. Mr. President, let me conclude by saying it is obviously up to us, as Senators. We are the ones who have the right and the responsibility and the privilege to take up the types of matters we are taking up today. It is up to us to do the due diligence, to have the intelligence briefings, to look at our nuclear posture reviews, to look at what this treaty itself says, and to look at what our force structure is. That is our responsibility. It is up to each of us, the 100 of us in this body, to decide whether we ratify this treaty. But I think it is also at least interesting to get input from others.

One of the things our side of the aisle likes to do is we like to listen to military leaders and what they have to say about issues relating to the war—Afghanistan or Iraq—and certainly the issue of how we enter into nuclear treaties with other countries.

I will ask to have printed in the RECORD a letter to Senator KERRY from the Joint Chiefs of Staff talking about their firm commitment for the START treaty on the basis that it increases our national security.

I ask unanimous consent to have printed in the RECORD this letter dated December 20 from ADM Mike Mullen, Chairman of our Joint Chiefs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, December 20, 2010.

Hon. JOHN F. KERRY,
*Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.*

MR. CHAIRMAN, Thank you for your letter of 20 December asking me to reiterate the positions of the Joint Chiefs of Staff on rati-

fication of the New START Treaty and several related questions.

This treaty has the full support of your uniformed military, and we all support ratification. Throughout its negotiation, Secretaries Clinton and Gates ensured that professional military perspectives were thoroughly considered. During the development of the treaty, I was personally involved, to include two face-to-face negotiating sessions and several conversations with my counterpart, the Chief of the Russian General Staff, Gen Makarov, regarding key aspects of the treaty.

The Joint Chiefs and I—as well as the Commander, U.S. Strategic Command—believe the treaty achieves important and necessary balance between four critical aims. It allows us to retain a strong and flexible American nuclear deterrent that will allow us to maintain stability at lower levels of deployed nuclear forces. It helps strengthen openness and transparency in our relationship with Russia. It will strengthen the U.S. leadership role in reducing the proliferation of nuclear weapons. And it demonstrates our national commitment to reducing the worldwide risk of a nuclear incident resulting from proliferation.

More than a year has passed since the last START inspector left Russian soil, and even if the treaty were ratified by the Senate in the next few days, months would pass before inspectors could return. Without the inspections that would resume 60 days after entry into force of the treaty, our understanding of Russia's nuclear posture will continue to erode. An extended delay in ratification may eventually force an inordinate and unwise shift of scarce resources from other high priority requirements to maintain adequate awareness of Russian nuclear forces. Indeed, new features of the treaty's inspection protocol will provide increased transparency for both parties and therefore contribute to greater trust and stability.

The Joint Chiefs and I are confident that the treaty does not in any way constrain our ability to pursue robust missile defenses. We are equally confident that the European Phased Adaptive Approach to missile defense will adequately protect our European allies and deployed forces, offering the best near- and long-term approaches to ballistic missile defense in Europe. We support application of appropriately modified Phased Adaptive Approaches in other key regions, as outlined in the Ballistic Missile Defense Review Report.

I can also assure you that U.S. senior military leaders monitored very closely all provisions related to conventional prompt global strike (CPGS) throughout the negotiation process. During that process, the Russian Federation publicly declared on several occasions that there should be a ban on placement of conventional warheads on strategic delivery systems. In the end, we agreed that any reentry vehicle (nuclear or non-nuclear-armed) contained on an existing type of ICBM or SLBM would be counted under the central limits of the treaty. Importantly, the New START Treaty allows the United States not only to deploy CPGS systems but also to continue any and all research, development, testing, and evaluation of such concepts and systems. It is true that intercontinental ballistic missiles with a traditional trajectory would be accountable under the treaty, but the treaty's limits accommodate any plans the United States might pursue during the life of the treaty to deploy conventional warheads on ballistic missiles.

Further, the United States made clear during the New START negotiations that we

would not consider non-nuclear, long-range systems, which do not otherwise meet the definitions of the New START Treaty (such as boost-glide systems that do not fly a ballistic trajectory), to be accountable under the treaty.

Finally, I am comfortable that the Administration remains committed to sustainment and modernization of the nuclear triad and has outlined its plans to do so in the so-called Section 1251 report to Congress, as well as a recent update to that report and a letter from Secretary of Defense Gates to Senator Lugar dated 10 December. Plans for sustainment and replacement of current ICBMs, ballistic missile submarines, heavy bombers, and air launched cruise missiles are in various stages of development, in a process that will be implemented over the next three decades and across multiple administrations.

The Administration's proposed ten-year, \$85B commitment to the U.S. nuclear enterprise attests to the importance being placed on nuclear deterrence and the investments required to sustain it—especially given the country's present fiscal challenges. The increased funding commitment, if authorized and appropriated, allows the United States to improve the safety, security, and effectiveness of our nuclear weapons and develop the responsive nuclear weapons infrastructure necessary to support our deterrent. I also fully support a balanced Department of Energy program that sustains the science, technology, and engineering base.

In summary, I continue to believe that ratification of the New START Treaty is vital to U.S. national security. Through the trust it engenders, the cuts it requires, and the flexibility it preserves, this treaty enhances our ability to do that which we in the military have been charged to do: protect and defend the citizens of the United States. I am as confident in its success as I am in its safeguards. The sooner it is ratified, the better.

Sincerely,

M.G. MULLEN,
Admiral, U.S. Navy.

Mr. CORKER. Mr. President, I would like to point out, too, just for clarification, if you look at the makeup of our Joint Chiefs—Admiral Mullen, General Cartwright, General Schwartz, General Casey, Admiral Roughead—every single one of these gentlemen was appointed by a Republican President. In addition to them, we have General Amos. My sense is, based on some of the comments he has made over the course of time, he would have Republican leanings. But all of these people have firmly stated their support for this treaty.

In closing, I will also ask unanimous consent that the statement of Robert Gates, again appointed by a Republican President, head of our Defense Department, where yesterday he said:

The treaty will enhance the strategic stability at lower numbers of nuclear weapons, provide a rigorous inspection regime including on-site access to Russian missile silos, strengthen our leadership role in stopping the proliferation of nuclear weapons, and provide the necessary flexibility to structure our strategic nuclear forces to best meet the national security interests.

This treaty stands on its merits and its prompt ratification will strengthen U.S. national security.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the U.S. Department of Defense, News Release, Dec. 21, 2010]

STATEMENT BY SECRETARY ROBERT GATES ON
THE NEW START TREATY

I strongly support the Senate voting to give its advice and consent to ratification of the New START Treaty this week.

The treaty will enhance strategic stability at lower numbers of nuclear weapons, provide a rigorous inspection regime including on-site access to Russian missile silos, strengthen our leadership role in stopping the proliferation of nuclear weapons, and provide the necessary flexibility to structure our strategic nuclear forces to best meet national security interests.

This treaty stands on its merits, and its prompt ratification will strengthen U.S. national security.

Mr. CORKER. There has been a lot of discussion about the role of the Senate in this ratification. There are a lot of things that go into the ratification of a treaty. I have laid out a number of things we have discussed that are relevant to the ratification of this treaty.

As we move through a process such as this, I try to make sure all of the t's are crossed and i's are dotted that can possibly be crossed and dotted to ensure that I, as a U.S. Senator, feel comfortable that the type of agreement we are entering into is one that is in the best interests of our country. I have done that over the last year working on nuclear modernization. Again, my hat is off to Senator KYL and his great leadership in that regard. I have done that over the course of this last year as we have looked at missile defense. We spent incredible amounts of time in our committee making sure people on my side of the aisle had tremendous input into the resolution of ratification. We have worked through to make sure that if we are going to have fewer warheads deployed—again, we have thousands more that are not deployed—that we, in fact, can assure the American people that they will operate, that they are actually there for our national security.

The question for me and for all of us who care so deeply about our country's national security is, Will we say yes to yes? I firmly believe that signing this treaty, that ratifying this treaty, and that all the things we have done over the course of time as a result of this treaty are in our country's national interest, and I am here today to state my full support for this treaty. I look forward to its ratification, and I hope many others will join me in that process.

I yield the floor.

Mr. UDALL of Colorado. Mr. President, before I begin the focus of my remarks and the reason I came to the floor, I wish to commend the Senator from Tennessee for his thoughtful re-

marks and what I think is a thoughtful and important position he is taking on the START treaty. I listened with great interest, and I learned additional information about the importance of putting this treaty in effect. I also acknowledge the Senator's concerns about missile defense, about tactical nuclear weapons, and the other concerns that have been raised in this very important and obviously historic debate on the floor of the Senate. I thank the Senator from Tennessee for his leadership.

TRIBUTES TO RETIRING SENATORS
ARLEN SPECTER

I also wanted to associate myself with the remarks of Senator BENNET, the Senator from Colorado, in regard to Senator SPECTER's farewell address to the Senate. In particular, I think Senator SPECTER laid out a thoughtful and comprehensive way we can change the Senate rules in the upcoming 112th Congress in ways that respect the rights of the minority but also provide the Senate with some additional ways to do the people's business.

I know the Presiding Officer spent significant time on finding a way forward for the Senate. I look forward to the debate that will begin when we convene in just a couple of weeks for the 112th Congress.

NOMINATION OF WILLIAM MARTINEZ

Let me turn to the reason I came to the floor initially, and that is to urge my colleagues to support an outstanding nominee to the Federal bench, Mr. William Martinez. Bill's story is an inspirational one, and I will share that with you in a moment, but I wanted to first talk about why there is such an urgency to confirm this fine nominee.

The situation in our Colorado District Court is dire, and I don't use that word lightly. There are currently five judges on the court and two vacancies, both of which are rated as judicial emergencies by the Administrative Offices of the U.S. Courts. These five judges have been handling the work of seven judges for nearly 2 years. It has been over 3 years since our court had a full roster of judges.

I know the Presiding Officer is familiar with the need for a fully stocked Federal bench as a former attorney general.

There is even more to the story. In 2008, based on the significant caseload in Colorado, the Judicial Conference of the United States recommended the creation of an eighth judgeship on the Colorado District Court.

This is a pressing situation, but I know it is not unique just to Colorado. Of the 100 current judicial vacancies, 46 are considered judicial emergencies—almost half of those vacancies. I understand the Senate has confirmed just 53 Federal circuit and district court nominees since President Obama was elected, including the judges over the last weekend. This is half as many as

were confirmed in the first 2 years of the Bush administration and represents a historic low, which, no matter who is to blame, is very detrimental to our system of justice.

Bill Martinez was nominated in February of this year, had a hearing in March, and was referred favorably by the Judiciary Committee to the full Senate in April. So today his nomination has been sitting on the Senate's Executive Calendar for over 8 months.

I am not going to complain about partisan delays, although I know this continues to plague the Senate. Instead, in hope that we might improve the nomination process, I want my colleagues to hear the real effect of imposing these delays on nominees.

The people of Colorado deserve well-qualified justices, but what the Senate put Bill Martinez through should make each of us question where our priorities are—and I say that because, unlike other judicial nominees before the Senate, Bill Martinez' life has been turned upside down because of this delay in his confirmation. While many other nominees—and I don't begrudge them this—continued their judicial careers because they were sitting on the bench, he has essentially had to dismantle his law practice to avoid Federal conflicts and even limit taking clients to ensure they continue to receive representation once he is confirmed. Both his life and his livelihood have been put on hold just because he was willing to become a dedicated public servant. If we continue this record or this habit of needlessly delaying judicial nominations, we risk chasing off qualified nominees such as Bill Martinez.

His long and winding road began last year when Senator BENNET and I convened a bipartisan advisory committee, chaired by prominent legal experts in Colorado, to help us identify the most qualified candidates for the Federal bench. The committee interviewed many impressive individuals, and then, based on his life experience, his record of legal service, and his impressive abilities, both Republicans and Democrats on this panel together recommended Bill Martinez for a Federal judgeship. The President agreed and then subsequently nominated Bill for the vacant judgeship I mentioned.

There is no doubt that being nominated for a Federal judgeship is a prestigious honor, but since being nominated, Senate delays have not only affected Bill and his family, but those delays have sent a discouraging message to future nominees. Despite these disruptions the process has caused for Bill and the dangerous precedent his delay may have set, I am relieved that the Senate is finally giving this qualified candidate the confirmation vote he deserves today.

I have spoken about his impressive intellect and experience on the floor before, but in advance of my vote, I

would like my colleagues to hear one more time why Bill Martinez was selected by the bipartisan advisory committee for this judgeship.

In addition to being an accomplished attorney and a true role model in our community in Colorado, he has a personal story that captures what is great about America and highlights what can be accomplished with focus, discipline, and extraordinary hard work.

Bill was born in Mexico City, and he immigrated lawfully to the United States as a child. He worked his way through school and college and toward a career in law, becoming the first member of his family to attend college. He received undergraduate degrees in environmental engineering and political science from the University of Illinois and earned his law degree from the University of Chicago.

As a lawyer, Bill has become an expert in employment and civil rights law. He first began his legal career in Illinois, where he practiced with the Legal Assistance Foundation of Chicago, litigating several law reform and class action cases on behalf of indigent and working-class clients. For the last 14 years, he has been in private practice and previously served as a regional attorney for the U.S. Equal Employment Opportunity Commission in Denver.

As you can imagine, over the years Bill has been a very active member of the Denver legal community. During the 1990s, he was an adjunct professor of law at the University of Denver College of Law and has been a mentor to minority law students. He is currently vice chair of the Committee on Conduct for the U.S. District Court for the District of Colorado, and he has been a board member and officer of the faculty of Federal Advocates.

Bill also sits on the board of directors of the Colorado Hispanic Bar Association, where he serves as the chair of the bar association's Ethics Committee. More recently, he was appointed by the Colorado Bar Association to the board of directors of Colorado Legal Services and by the chief justice of the Colorado Supreme Court to the Judicial Ethics Advisory Board.

Like all of us, I believe in a strong, well-balanced court system that serves the needs of our citizens. Bill Martinez will bring that sense of balance because of his broad legal background, professionalism, and his outstanding intellect. I am proud to have recommended Bill, and I am certain that once confirmed he will make an outstanding judge.

Before I conclude, I did want to give special acknowledgment to my general counsel, Alex Harman, who has worked night and day on this nomination. Alex has worked tirelessly to see that Bill Martinez receives the vote he deserves, and I want to acknowledge him here on the floor of the Senate.

I ask my colleagues to give their full support to this extraordinary candidate and vote to confirm his nomination to the Colorado District Court as a new Federal judge.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, I appreciate the words from the senior Senator from Colorado. His comments about the delays in the judicial process here, the selection of Federal judges, the nomination and confirmation, are identical to the situation for so many of the rest of us. Very qualified people are put forward. At times, the White House, perhaps, didn't move as fast as we would like. But the delays on these judges is pretty outrageous.

NOMINATION OF BENITA PEARSON

Judge Pearson, who sits as a U.S. magistrate in the Northern District Court in Ohio, didn't have the same disruption in her life as soon-to-be, I hope, Justice Martinez had, having a law practice to put aside and having to wrap it up and figure out all that, but she has waited since February when Senator LEAHY and his Judiciary Committee voted her out, had a wait of 9 months, almost 10 months, until we are about ready to confirm.

I speak perhaps in criticism of the other party but, more importantly, how do we fix this so people are not dissuaded, discouraged from wanting to fill these very important jobs?

When I interview potential judicial candidates, I always ask them: Are you willing to put your life on hold for at least a year before you can actually be confirmed and sworn in, if it gets to that?

All are surprised, some are shocked, and some walk away and say: Find somebody else. That is going to start happening. So I thank the Senator from Colorado and his comments.

I rise in support of another very strong candidate for a Federal judgeship, the nomination of Magistrate Judge Benita Pearson to become a judge in the U.S. District Court in the Northern District of Ohio.

Magistrate Pearson will make an excellent addition to the bench. That is not just my opinion. She has tremendous support from the judges with whom she serves today and whose ranks she will soon join. She knows them from her work, obviously, as a magistrate. Judge James Carr, the chief U.S. district judge at the time of her nomination, lauded Judge Pearson as "a splendid choice . . . eminently well-qualified by intelligence, experience . . . and judicial temperament." Judge Carr's successor, Solomon Oliver, who now is the chief U.S. district judge, is just as supportive of her nomination.

Support for that nomination extends throughout the State. The other day when I gave a few remarks in the wake

of Senator VOINOVICH's farewell address, I neglected to mention how much I appreciated Senator VOINOVICH's cooperation in the process of selecting candidates for nomination to the Federal bench.

Senator VOINOVICH and I did something, and I do not know if any other Senator in this body does this, any other pair of Senators—I do know nobody in Ohio has done this—I asked Senator VOINOVICH, as the Senator from the President's party—and, generally, by tradition, the Senator who suggests nominees to the President—I asked Senator VOINOVICH to be part of the selection system with me. We chose 17 people. We chose 17 people from northern Ohio to interview Southern District of Ohio potential judges, and 17 people in southern Ohio—central and southern Ohio—to interview prospective judges for the Northern District.

These panels, one of them was a Republican majority, the other was a Democratic majority, I believe, by one vote. These panels met, took this job very seriously. Each of the 17 people was given the name of a candidate, one of the people who was applying to interview, references and all that. Each candidate got an hour in front of the 17-member committee, this Commission we appointed, and were subjected, after filling out a very lengthy questionnaire designed, again, bipartisanly by my predecessor, Republican Senator DeWine, in large part, to, after filling out this questionnaire, testifying, spending an hour in front of this panel of 17 very distinguished judges, some who are lawyers, some, I believe, former judges, all people who were very interested in the Federal judiciary.

Anybody who came out of that had to have a strong supermajority recommendation from the 17. I then interviewed the top three, made the selection, cleared it with Senator VOINOVICH, and brought the name forward.

That produced Judge Timothy Black, who has been confirmed, sits in the Southern District. It also produced Judge Benita Pearson. A similar selection committee, not identical but a similar selection committee, enabled me, helped me come to the conclusion to reappoint a Bush appointee to the U.S. marshal's job in Cleveland, Pete Elliott, to appoint the first—to send to the President, nominate, and confirm the first female U.S. marshal in the Southern District of Ohio, Cathy Jones, and then the first African-American U.S. attorney in Columbus, and a very qualified U.S. attorney in Cleveland.

So that is the process we have in Ohio to make sure we get the best qualified people. As I said, they put in a tremendous amount of time and energy, and I wish to thank those 17 members of each of those Commissions, the 34 people who served again from both parties, prominent jurists and

lawyers and community activists, to come up with Judge Pearson and others.

Judge Pearson currently resides in Akron but was born in Cleveland. I got a chance to meet her mother and many of her family and friends almost 1 year ago when she testified before the Judiciary Committee. They were understandably proud of her, her achievements, and the honor of her nomination, certainly, but I got the sense they were most proud of her as a daughter, as a sister, as a family member. Nobody knows us better than our family.

Judge Pearson earned her J.D. from Cleveland State University, her bachelor's degree from Georgetown. Before law school, she spent several years as a certified public accountant. I asked her how being a CPA would help her in the judiciary as a judge. She said you can tell stories with numbers. She smiled when she said it. She, clearly, had kind of thought through what this means to be a Federal judge and what qualifications she brings. Throughout her career, Judge Pearson has litigated and presided over a range of criminal and civil matters, including housing, public corruption cases. In addition to her work as a magistrate judge since 2008, her legal experience includes serving as an adjunct professor at Cleveland State's law school, 8 years as an assistant U.S. attorney in Cleveland, the Northern District, and several years in private practice.

If confirmed, Judge Pearson will become the first African-American woman to serve as a Federal judge in Ohio. She will also be the only U.S. district judge in the Youngstown courthouse, which, because of delays here, for no apparent reason, has lacked a judge since this past summer.

Last year, at the Akron Bar Association's annual Bench-Bar luncheon, she urged attorneys to improve in two ways: to be better prepared to litigate their cases and to be more civil to one another. Good advice to this body and for all of us, I suppose, in our daily lives.

Judge Pearson's community service includes more than a decade of ongoing work as a board member of Eliza Bryant Village. Eliza Bryant Village is a multifacility campus, providing services for impoverished elderly citizens. It was founded and named after the daughter of a freed slave.

The facility began simply as a nursing facility built to serve Eliza's mother and other African Americans who had been turned away from nursing homes simply because of their race.

Judge Pearson's background as a prosecutor, as a private attorney, as a CPA, and as a Federal magistrate make her uniquely qualified to serve as U.S. district judge. Members of the law enforcement and legal community throughout northern Ohio have attested to Judge Pearson's ability and

impartiality. As a magistrate and prosecutor, she, of course, as I said, is supported by our State's senior Senator, Republican GEORGE VOINOVICH. First assistant U.S. attorney, David Sierlega, for example, called Judge Pearson "an extremely hardworking bright lawyer" with an exemplary track record in handling public corruption cases.

When asked to describe the "most significant legal activities" she has been engaged in, Judge Pearson replied: "My most significant legal activity has been my steadfast commitment to administering equal justice for all . . . the poor and the rich, the likable and unlikable . . . the first-time offender and the repeat offender."

At the end of the day, it is this demonstrated commitment to equal justice, delivered after thorough consideration and fidelity to the law, that distinguishes Judge Pearson as an invaluable asset to Ohio's judicial system.

I urge my colleagues, this afternoon, to quickly confirm her in her new position as U.S. district judge for the Northern District of Ohio.

I would close with thanking two people on my staff who have gone above and beyond the call of duty: Mark Powden, my chief of staff, who has, almost weekly, spoken with Judge Pearson, talking about the delays and what is going to get this back on track and how are we going to get her confirmed. I appreciate the work Mark Powden has done. And Patrick Jackson in her office, who, while all this was going on, was getting married. He got married earlier this month, and he was doing that at the same time as we were doing all this. I am grateful to both of them. I thank my colleagues.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LITTORAL COMBAT SHIP

Mr. SHELBY. Mr. President, I rise today in support of the Navy's acquisition strategy to purchase 20 littoral combat ships, LCS.

The Navy's plan would allow 20 littoral combat ships to be awarded to two shipyards: Austal, which will build 10 ships in Mobile, AL, and Lockheed Martin, which will build 10 ships in Wisconsin.

Under the new procurement strategy, our sailors will receive the ships they need to operate in shallow waters and combat the threats of surface craft, submarines, and mines. These ships will be used for a variety of security issues from sweeping for mines in coastal waters to fighting pirates and

chasing drug smugglers. They are a needed asset for our Navy.

The Navy's dual acquisition plan, included in the continuing resolution, brings significant advantages to the LCS program.

Our Navy will receive this capability faster, bring assets into operational service earlier, and will assist the Navy in reaching a 313-ship Navy sooner.

The LCS strategy will stabilize the program and the industrial base with an initial award of 20 ships. This will sustain competition throughout the life of the program.

It is critical to ensure that the capabilities of our naval fleet are the very best and that our Armed Forces receive the equipment they need in executing future operations.

However, as the foundation of our ability to project force globally for the next half century, we must obtain the best platform for the taxpayer investment.

The LCS dual award does both.

The dual procurement of the LCS will bring tremendous cost savings to the program that would not have been realized had the Navy moved forward with a down select of designs.

According to the Navy, the acquisition savings for a dual award is projected to be \$2.9 billion as measured against the President's fiscal year 2011 request. Of these savings, approximately \$1 billion is directly attributable to the dual award.

Acquisition decisions made in the near term will affect fleet effectiveness and operating costs for decades to come.

This is the best outcome for all involved. The Navy will be able to obtain the best solution for the taxpayer investment.

I urge my colleagues to support the dual acquisition strategy included within the continuing resolution.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, through the Chair to my friend from Alabama, would it be agreeable to the Senator that I do a UC request so we can find out what we are going to do?

Mr. SESSIONS. Mr. President, I would be pleased to yield to the majority leader for that. And if I could ask consent to be recognized afterward. I would note I did have time set aside for these remarks.

Mr. REID. Yes. I understand.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that at 2 p.m. today, all postcloture time be considered expired and that the second-degree amendment be withdrawn; that no further amendments or motions be in order; that the Senate then proceed to vote on the Reid motion to concur in the House amendment to the Senate amendment to H.R. 3082 with amendment No. 4885; that upon disposition of the House message, the Senate proceed to executive session to consider Executive Calendar Nos. 703 and 813; that all time under the order governing consideration of the nominations be yielded back, except for 8 minutes to be divided 4 minutes on each nomination, equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that upon the use or yielding back of all time with respect to the two nominations, the Senate then proceed to vote on confirmation of the nominations in the order listed; that upon disposition of the nominations, the other provisions of the order remain in effect, except that the Senate remain in executive session and there then be 4 minutes of debate, equally divided and controlled between the leaders or their designees, prior to the vote on the motion to invoke cloture on the New START treaty; that upon the use of the time, the Senate then proceed to vote on the motion to invoke cloture on the treaty; that after the first vote in this sequence, the second and third votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Members have until 1:30 p.m. today to file any germane second-degree amendments to the New START treaty.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I further ask unanimous consent that following Senator SESSIONS, Senator HARKIN then be recognized, to be followed by Senator VOINOVICH for up to 20 minutes.

I say to my friend from Iowa, how much time—15 minutes.

Does that give us enough time to do all that? It appears it does. So Senator HARKIN would be recognized for 15 minutes and then Senator VOINOVICH for 20 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I was pleased to yield to the majority leader and just observe that although we do fuss a lot around here, many things are

done by agreement. Senator REID has obviously talked with the Republican leaders and reached this agreement on how we can proceed on some of these matters, and I was pleased to yield to him.

Mr. REID. Mr. President, I would say to my friend from Alabama, my friend from Alabama and I do not always agree on the substantive issues, but there is no one more of a gentleman and easier to work with than the Senator from Alabama, Mr. SESSIONS.

The PRESIDING OFFICER. The Senator from Alabama.

NOMINATION OF WILLIAM MARTINEZ

Mr. SESSIONS. Mr. President, I rise to speak on the President's nomination of Mr. William Martinez to the United States District Court for Colorado. I will oppose the nomination, and I have several reasons for doing so. He has a lot of good friends and people who respect him and like him, but we are trying to make a decision about a lifetime appointment to the federal district court. There are some concerns with this nomination that are serious and, in particular, trends of the President to nominate individuals with judicial philosophies outside the mainstream.

There is one reason in particular that concerns me about Mr. Martinez. It is his longtime affiliation with the American Civil Liberties Union and the questions we asked him about that were answered insufficiently for me. We have had a number of ACLU nominations. I have supported some and opposed others. The ACLU is a very left-wing organization. It seeks openly to defy the will of the American people in many lawsuits while at the same time they endeavor to undermine and oppose traditions and institutions that make up the very fabric of our culture, our national identity, and who we are as a people, assuming those things are insignificant and only pure philosophical approaches, as they have, of an extreme nature should guide our Nation.

Mr. Martinez has been a member of the ACLU in Colorado for nearly a decade, and since 2006 served on its legal panel. In this role he reviews memorandum prepared by ACLU staff and attorneys and decides whether to pursue litigation, a very significant post in that organization. Of course that is not disqualifying. One can be a member of an organization, even though some of us might not like it or agree with the organization. But any nominee from a conservative organization who takes extreme positions would certainly have to answer those positions and justify why they might take them. Likewise it is fair and appropriate to ask questions about this nominee and about this organization and whether the nominee agrees with them or why, if they don't agree, they are a member.

A lot of people say they didn't agree with this position or that position. I was left asking: Why are you a member? It is on their Web site.

When asked about some of the positions on important issues, he failed to clearly respond and repeatedly refused to answer questions in a direct and clear manner. For example, at his hearing I asked whether he agreed with the ACLU's position that the death penalty was unconstitutional in all circumstances. He refused to answer. Instead he noted that the Supreme Court has held the death penalty constitutional, adding:

What my view would be as a sitting Federal district judge is something that would be quite different from my views as a personal citizen or an advocate or a litigant and member of the ACLU.

I asked him whether he personally thinks the death penalty violates the Constitution and whether he had ever expressed that view. He again failed to answer, stating only that he had never expressed any view.

So I put the question to him again, and again he did not answer.

Let me stop and say why I think this is a very important issue. The Constitution was passed as a unified document with 10 amendments. The American people ratified it. Some people, in recent years, have come up with the ingenious idea that they could disqualify and eliminate the death penalty without a vote of the people, without the popular will to change laws that exist all over the country. They decided they could change it by finding something in the Constitution that would say the death penalty is wrong, and they reached out to the provision that says you should not have cruel and unusual punishment. They said the death penalty is cruel and unusual and is unconstitutional, which is not sound. Let me be respectful.

Why is that not a sound policy? There are multiple references in the Constitution to a death penalty. It talks about capital crimes, taking life without due process. It is in the Constitution. How could one say, when there are multiple provisions explicitly providing for the death penalty, how could we reach over here and take a position on cruel and unusual punishment which was designed to prevent people from being hung on racks and tortured and that kind of thing? But that is the ACLU position.

This nominee, who is going to be given a lifetime appointment, the power to interpret the Constitution on this very real issue of national import that good lawyers know about, refused to state that the Constitution is clear, that the death penalty is legal.

In fact, I note parenthetically that every Colony, every State had a death penalty at the time, and so did the United States Government. Surely the people, when they ratified it, had no idea that somebody coming along in 2000 would create the view that the Constitution prohibits the death penalty.

I also asked Mr. Martinez whether he agreed with the President's so-called empathy standard, but rather than state flatly that empathy should play no role in decisionmaking, as did Justice Sotomayor when she came up—she flatly said no, a judge has to be impartial; one should decide it on the facts and the law, not on feelings—he said that empathy “can provide a judge with additional insight and perspective as to the intent and motivations of the parties appearing before the court.” Empathy, to me, is far too much like politics, far too much like something other than law. It is certainly not law.

When a nominee such as Mr. Martinez, who has dedicated so much time and legal expertise to the ACLU, refuses to answer basic questions about these issues, it is fair and appropriate to conclude that perhaps he agrees with the other positions of the ACLU. I have done a little checking on that.

What is this organization of which he is a member? Some people like the position they take on this issue or that issue. But what overall are some of the policy and legal positions taken by the ACLU? Over the last several decades it has taken positions far to the left of mainstream America and the ideals and values the majority of Americans hold dear. Roger Baldwin, the ACLU's founder, was openly vocal about his support and belief in “socialism, disarmament, and ultimately for abolishing the State itself as an instrument of violence and compulsion.”

He was quoted as saying:

I seek social ownership of property, the abolition of the profited class and sole control by those who produce wealth. Communism is the goal.

Mr. Baldwin's influence and impact on the ACLU could not be overstated. As former ACLU counsel Arthur Hays says:

The American Civil Liberties Union is Roger Baldwin.

As I mentioned earlier, the ACLU opposes the death penalty under any circumstances, even for child rapists. They filed a brief recently in *Kennedy v. Louisiana* arguing that a State could not apply the death penalty to a child rapist regardless of the severity of the crime or the criminal history unless the child died from his or her injuries. Here the defendant had raped his own 8-year-old stepdaughter and caused horrific injuries that a medical expert said were the most severe he had ever seen. The defendant had done the same thing to another young girl within the family a few years earlier. Even President Obama, when the case came before the Supreme Court, said he opposed that view. Yet President Obama continues to nominate a host of ACLU lawyers to the Federal bench and presumably has some sort of sympathy with the views they have been taking.

In recent years, the ACLU has litigated on behalf of sex offenders, includ-

ing suing an Indiana city on behalf of a repeat sex offender who was barred from the city's park after he admitted stalking children who played there. Even though the convicted offender had admitted that he thought about sexually abusing the children in the park, the ACLU sued to give him full access to the park and the children. I agree with the mayor of the city who said:

Parents need to be able to send their children to a park and know they are going to be safe, not being window shopped by a predator.

I would hope all nominees would share this view rather than the ACLU's position on the subject. Although many view the ACLU as a neutral defender of the Bill of Rights, the ACLU takes a very selective view of the rights it advocates.

That is just a fact. Otherwise, if they were defending the Constitution and what it says plainly, they would defend the constitutionality of the death penalty. It should not take them 2 seconds to figure that out. They have an agenda.

As it explains on its Web site, the ACLU openly disagreed with the Supreme Court's landmark ruling in the *Heller* case—the right to keep and bear arms—in Washington because the ACLU does not believe the second amendment confers an individual right to keep and bear arms. Well, OK. So the lawyers might disagree on that. But if this institution, this ACLU, is so committed to constitutional rights and opposes the power of the State, why would they not read the plain words of the second amendment: The right to keep and bear arms shall not be infringed. Why wouldn't they defend that individual right of free Americans to be armed and oppose the power of the State to take away what has historically been an American right? I think it represents and reveals a political agenda as part of this organization.

It also has a selective view of what exactly is protected by the first amendment. It has done some good work on the first amendment, the ACLU has, but it has gone to great lengths to limit freedom of religion, as provided for in the first amendment, suing religious organizations and groups such as the Salvation Army and even individuals and supported the removal of “under God” from the Pledge of Allegiance and “in God we trust” from our currency. It sued the Virginia Military Institute to stop the longstanding tradition of mealtime prayer for cadets. You do not have to bow your head if you go to lunch and somebody wants to have a prayer. Nobody makes you pray. But if other people want to take a moment before they partake of their meal and, say, acknowledge a bit of appreciation for the blessings they have received, what is wrong with that? I do not believe it violates the first amendment.

The Constitution says that you cannot establish a religion in America, and we cannot prohibit the free exercise of religion either. The establishment clause and the free exercise clause are both in that amendment. But the ACLU only sees one. They see everything as an establishment of religion.

The ACLU has also argued for the removal of religious symbols and scriptures from national parks and monuments and cemeteries that have stood for years regardless of how innocuous they may be.

I am very surprised we do not have the ACLU filing a lawsuit to deal with those words right over that door: "In God We Trust." It won't be long. They will want to send in gendarmes with chisels to chisel it off the wall. It is an extreme view of the first amendment, and has never been part of what we understood the Constitution to be about. The reference in a public forum to a "higher being" is not prohibited by the Constitution—except in the minds of some extremists.

So the ACLU has argued for the removal of all vestiges of Christmas, going so far as to sue school districts to bar them from having Santa Claus at school events and threatening to sue if Christmas carols are sung anywhere on school grounds. Give me a break.

In addition, the ACLU has sought to limit or remove the rights of children to salute the U.S. flag, recite the Pledge of Allegiance, and openly pray.

It has sued the Boy Scouts—I am honored to have been an Eagle Scout at one time in my life—and government entities that have supported this honorable institution. It has sued them.

It has fought for the rights of child pornographers and against statutes seeking to stop its production and distribution or limit children's exposure to it. The ACLU absolutely not only opposes adult pornography laws, they oppose laws that prohibit child pornography, which is where so much of the problem of pedophilia occurs.

The ACLU has sought to overturn the will of the people by challenging numerous State laws that define marriage as between a man and a woman and has encouraged city mayors across the country to openly defy State law by granting same-sex marriage licenses, even in contradiction to law.

It has vehemently opposed the 1996 Defense of Marriage Act, calling it "a deplorable act of hostility unworthy of the United States Congress." That passed a year before I came here—not too long ago. It just said that if one State allows a marriage to be between members of the same sex, another State would not be forced to acknowledge it and recognize it. That is what the Defense of Marriage Act did, and it passed here not too many years ago.

The ACLU has consistently opposed all restrictions on abortion—all re-

strictions—including partial-birth abortion, the Unborn Victims of Violence Act, and statutes requiring parental notification before a minor child can have an abortion. If they want to defend the innocent against wrongdoing, what about defending a child partially born whose life is taken from them? The ACLU's extreme advocacy on abortion would force even religious health care providers—doctors and nurses—to perform abortions as a condition of Medicare or Medicaid reimbursement eligibility. A doctor could not say: I will treat you, but I don't do abortions. Oh, if you take Medicare or Medicaid money, then under the ACLU's position, you would have to do so.

According to the ACLU:

There is no basis for a hospital to impose its own religious criteria on a patient to deny [her] emergency care.

So this type of religious liberty is not, I think, what the Founders said. I do not think a hospital that is founded on personal values and has certain moral values should be required to give them up as a capitulation to State domination, which is what they were asking for actually, having the State be able to tell a hospital that did not believe in abortion.

What about other issues that may come up, such as end-of-life issues. Hospitals ought to be able to have—and doctors and nurses should be able to have moral views about those matters and not do something they think is wrong and not have to give up their practice or their hospital in order to comply with what this group thinks is the right way to do business.

So those are some of the examples of the ACLU's out-of-the-mainstream point of view. It is no secret that this administration shares this kind of legal reasoning. This is, of course, one of a long line of ACLU nominees whom we have seen, and this kind of reasoning and legal thought is well to the left of and out of touch with the American people and, I think, for the most part, established law. It seeks to impose its liberal progressive agenda any way it can, including by filing lawsuits and having judges—unelected lifetime appointed judges who have been popped through the Senate—ratify what the people who filed the lawsuits want to achieve as a matter of policy, not being neutral umpires who adjudicate disputes and decide them narrowly but to try to use the courts as a vehicle to advance an agenda. That is what has really been at the core of the debate in recent years over judicial nominations.

So it is not surprising that many of the President's judicial and executive branch nominees have been deeply involved in the ACLU—many of them. For example, President Obama's first nominee, Judge David Hamilton, who was confirmed to the Seventh Circuit last year, was a leading member of the

Indiana Civil Liberties Union for 9 years, where he served as a board member and its vice president for litigation. Judge Gerard Lynch, who now sits on the Second Circuit, was a cooperating attorney and member of the ACLU for 25 years. Judge Rogerie Thompson, who was confirmed to the First Circuit earlier this year, had been a member of the ACLU for 10 years. Judge Dolly Gee, who now sits on the District Court for the Central District of California, had been a member of the ACLU for 9 years. Carlton Reeves, who was confirmed two days ago to the Southern District of Mississippi, was a member for 12 years and served as a board member.

Three of President Obama's most controversial judicial nominees have had extensive involvement with the ACLU. Edward Chen, nominated to the Northern District of California, was a staff attorney on staff and member of the ACLU of Northern California for 16 years. Goodwin Liu, a professor, one of the most extreme nominees now pending, was nominated to the Ninth Circuit, already the most activist circuit in America. He was a member of the board of directors of the ACLU of northern California for years. Jack McConnell, nominated to the district of Rhode Island, was a volunteer lawyer for the ACLU as recently as last year.

A number of nominees who were recently considered by the Judiciary Committee also have significant ties to the ACLU. Amy Totenberg, nominated to the Northern District of Georgia, has been a member for 21 years. Robert Wilkins, nominated to the District of DC, was also a member. Michael Simon, nominated to the District of Oregon, has been a member since 1986. He served on the lawyers committee and the board of directors and as its vice president for legislation and vice president for litigation.

That is more than I thought when we started going back and looking at this. I am sure less than 1 percent of the lawyers in America are members of the ACLU, but it seems if you have the ACLU DNA, you get a pretty good leg up on being nominated by this President. It is clear the President, our President, a community activist, a liberal progressive, as his own friends have described him, and former law professor is attempting to pack the courts with people who share his views and who will promote his vision of, as he has said about judges, what America "should be." That was his phrase. He said, We want judges who help advance a vision of what America should be.

But that is not good. We all have visions of what America should be. I wish to see us be a more frugal nation, more local government, more individual responsibility. I do not support cradle-to-grave government. His vision is what? That we want judges on the bench promoting an agenda because they were

picked by a President who shares that agenda? That is not the classical American heritage of what judges should be about. Judges should take the bench and they should attempt, as objectively as they possibly can, having put on that robe and having taken an oath to do equal justice to the poor and the rich, and to be not a respecter of persons, but to analyze that case objectively and decide it based on the law and the facts, not on their empathy and not on what their vision of what America should be because it may not be what the people's vision is.

Democracy is undermined if a judge gets on the bench and feels that they can promote visions. I have to tell my colleagues, they are not appointed to be vision promoters. They are appointed to decide the strict matters of law and fact, to the best of the ability the Lord gives them.

We can't stand idly by and allow that heritage of law that benefits us so greatly, the American rule of law and the greatest strength this Nation has, in my opinion, to be altered by promoting a Federal judiciary that is agenda oriented. Any individual—regardless of the position to which they have been nominated, to what kind of court position they are nominated to—who demonstrates unwillingness to subordinate his or her personal views, religious, political, ideological, social, liberal, or conservative. Conservatives can't promote their views, either—if they can't be faithful to the law and the Constitution, they should not be on the bench.

I am not going to support such nominees and no Senator should support them. I have given it a lot of thought. I know Mr. Martinez has had a long affiliation with the ACLU. He refused to give clear answers to these questions I posed to him. I am not convinced that those views, which I think are outside legitimate constitutional theory, have been objected to and are not by Mr. Martinez—indeed, it appears he supports them because he has not with clarity rejected a single one. He has not made any defense to participating in an organization that openly advocates these kinds of legal views.

We ask a lot of the nominees: Do you believe the Constitution prohibits the death penalty? They said, No. Even though they were part of an organization and some of them—a lot—have been confirmed and I have voted for a number of them, but I am not able to vote for this one.

I have to say this: We are paid to judge and to vote, and when it comes down to some of the positions taken by the ACLU—let's take the one that the Constitution prohibits the death penalty—are so extreme and are so nonlegal that if a person can't understand that, I have serious doubt that they can understand any other significant constitutional principle.

Therefore, I have concluded I would not be able to support the nominee, although I respect my colleagues who think he will do well. I certainly don't think he is a bad person. I think he is an able person who has a wonderful background, but his legal history evidences an approach to law that I think is outside the mainstream and I will oppose the nomination. We are not blocking a vote. We will allow him to have his up-or-down vote and Senators will cast their vote based on how they conclude it should be decided.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Ohio.

NEW START TREATY

Mr. VOINOVICH. Mr. President, I rise today to discuss the Senate's deliberation of the New START treaty and the treaty's implications for our friends and allies in Eastern and Central Europe and, more importantly, the national security of the United States.

On November 17, I came to the Senate floor to discuss my concerns about the treaty and the President's reset policy. Following my remarks, I received a significant amount of feedback—some positive, some critical—and throughout my deliberations on the treaty, my intention was to contribute to advancing this important debate in a meaningful way.

First, I wish to make it clear I remain concerned about the direction of Russia in terms of its commitment to human rights and an effort to reassert its influence over what Russia considers Eastern and Central Europe, their sphere of influence—those countries I often describe as the captive nations. One cannot ignore the statement of Vladimir Putin when he described the collapse of the Soviet Union as the greatest geopolitical catastrophe of the 20th century.

Two years ago, after listening to Russia's Foreign Minister Sergey Lavrov at the German Marshall Fund Forum in Brussels, I concluded that Russia's internal political dynamic suggested that its people were deeply concerned by the growth in U.S. influence through NATO expansion and incursion into their part of the world. The Russian people, it seems, believed there was a post-Cold War promise, once the Iron Curtain came down, to not interfere in the region.

As one of the leaders in helping the captive nations movement and to this day regretting the way our brothers and sisters in these countries were treated during the postwar conferences at Yalta and Tehran—I must say I never thought the wall would come down or their curtain torn, but once it did, I did everything I could to ensure these newly democratized countries were invited to join NATO. In 1998, as chairman of the National Governors Association, I worked to get a resolu-

tion passed encouraging the United States to invite Poland, the Czech Republic, and Hungary to join the alliance.

One of the proudest moments as a Senator was when I joined President Bush, Secretary of State Powell, Secretary of Defense Rumsfeld, and Chairman of the Joint Chiefs of Staff General Myers at the NATO summit in Prague on November 21, 2002. I was in the room when NATO Secretary General Lord Robinson officially announced the decision to invite Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia into NATO. I mention all of this history for a simple reason. I don't think there is a Member of the Senate more wary of the intentions of Russia toward the former captive nations than I.

So it brings me back to the subject of the treaty now pending before the Senate. I take the Senate's constitutional advice and consent duties very seriously. Since the treaty was signed in April, I have attended numerous meetings and classified briefings on the treaty. I suspect I have spent at least 10 to 12 hours on it. Since I last spoke on this floor about the treaty in November, I have held additional consultations with a number of former Cabinet Secretaries, ambassadors, and experts from the intelligence community, including former Secretaries of State Albright, Powell, and Rice, seeking their views about the treaty's effect on our bilateral relationship with Russia, as well as our relationship with our Eastern and Central European allies. While some of those I met with had concerns about specific technical aspects of the treaty, I continually heard that we should ratify the treaty.

I believe it is noteworthy that five former Republican Secretaries of State, including Kissinger, Shultz, Baker, Eagleburger, and Powell, in a December 2, 2010 Washington Post opinion piece urged the Senate:

... to ratify the New START Treaty signed by President Obama and Russian President Dmitry Medvedev. It is a modest and appropriate continuation of the START I treaty that expired almost a year ago.

These former Republican Secretaries of State described some of the outstanding issues with the treaty, but describe convincingly, in my opinion, why ultimately it is in our national interest to ratify the treaty.

Mr. President, I ask unanimous consent that the op-ed piece from the Washington Post be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 2, 2010]

THE REPUBLICAN CASE FOR RATIFYING NEW START

(By Henry A. Kissinger, George P. Shultz, James A. Baker III, Lawrence S. Eagleburger and Colin L. Powell)

Republican presidents have long led the crucial fight to protect the United States

against nuclear dangers. That is why Presidents Richard Nixon, Ronald Reagan and George H.W. Bush negotiated the SALT I, START I and START II agreements. It is why President George W. Bush negotiated the Moscow Treaty. All four recognized that reducing the number of nuclear arms in an open, verifiable manner would reduce the risk of nuclear catastrophe and increase the stability of America's relationship with the Soviet Union and, later, the Russian Federation. The world is safer today because of the decades-long effort to reduce its supply of nuclear weapons.

As a result, we urge the Senate to ratify the New START treaty signed by President Obama and Russian President Dmitry Medvedev. It is a modest and appropriate continuation of the START I treaty that expired almost a year ago. It reduces the number of nuclear weapons that each side deploys while enabling the United States to maintain a strong nuclear deterrent and preserving the flexibility to deploy those forces as we see fit. Along with our obligation to protect the homeland, the United States has responsibilities to allies around the world. The commander of our nuclear forces has testified that the 1,550 warheads allowed under this treaty are sufficient for all our missions—and seven former nuclear commanders agree. The defense secretary, the chairman of the Joint Chiefs of Staff and the head of the Missile Defense Agency—all originally appointed by a Republican president—argue that New START is essential for our national defense.

We do not make a recommendation about the exact timing of a Senate ratification vote. That is a matter for the administration and Senate leaders. The most important thing is to have bipartisan support for the treaty, as previous nuclear arms treaties did.

Although each of us had initial questions about New START, administration officials have provided reasonable answers. We believe there are compelling reasons Republicans should support ratification.

First, the agreement emphasizes verification, providing a valuable window into Russia's nuclear arsenal. Since the original START expired last December, Russia has not been required to provide notifications about changes in its strategic nuclear arsenal, and the United States has been unable to conduct on-site inspections. Each day, America's understanding of Russia's arsenal has been degraded, and resources have been diverted from national security tasks to try to fill the gaps. Our military planners increasingly lack the best possible insight into Russia's activity with its strategic nuclear arsenal, making it more difficult to carry out their nuclear deterrent mission.

Second, New START preserves our ability to deploy effective missile defenses. The testimonies of our military commanders and civilian leaders make clear that the treaty does not limit U.S. missile defense plans. Although the treaty prohibits the conversion of existing launchers for intercontinental and submarine-based ballistic missiles, our military leaders say they do not want to do that because it is more expensive and less effective than building new ones for defense purposes.

Finally, the Obama administration has agreed to provide for modernization of the infrastructure essential to maintaining our nuclear arsenal. Funding these efforts has become part of the negotiations in the ratification process. The administration has put forth a 10-year plan to spend \$84 billion on the Energy Department's nuclear weapons

complex. Much of the credit for getting the administration to add \$14 billion to the originally proposed \$70 billion for modernization goes to Sen. Jon Kyl, the Arizona Republican who has been vigilant in this effort. Implementing this modernization program in a timely fashion would be important in ensuring that our nuclear arsenal is maintained appropriately over the next decade and beyond.

Although the United States needs a strong and reliable nuclear force, the chief nuclear danger today comes not from Russia but from rogue states such as Iran and North Korea and the potential for nuclear material to fall into the hands of terrorists. Given those pressing dangers, some question why an arms control treaty with Russia matters. It matters because it is in both parties' interest that there be transparency and stability in their strategic nuclear relationship. It also matters because Russia's cooperation will be needed if we are to make progress in rolling back the Iranian and North Korean programs. Russian help will be needed to continue our work to secure "loose nukes" in Russia and elsewhere. And Russian assistance is needed to improve the situation in Afghanistan, a breeding ground for international terrorism.

Obviously, the United States does not sign arms control agreements just to make friends. Any treaty must be considered on its merits. But we have here an agreement that is clearly in our national interest, and we should consider the ramifications of not ratifying it.

Whenever New START is brought up for debate, we encourage all senators to focus on national security. There are plenty of opportunities to battle on domestic political issues linked to the future of the American economy. With our country facing the dual threats of unemployment and a growing federal debt bomb, we anticipate significant conflict between Democrats and Republicans. It is, however, in the national interest to ratify New START.

Mr. VOINOVICH. Mr. President, I believe many of these experts remain concerned, as do I, that a failure to ratify the treaty would be exploited by those factions in Russia who wish to revert back to our Cold War posture. Such a failure could easily be used by those factions to play on Russian nationalism, which I fear, from what I have heard from some people, is bordering on paranoia. Since I last spoke about the treaty, a number of our new NATO allies have come out and supported the treaty because they believe the treaty's approval should help advance other issues related to Russia, including the lack of compliance with the Conventional Forces in Europe Treaty, tactical nuclear weapons, and cooperation on missile defense.

For example, during his recent visit to Washington, Polish President Bronislaw Komorowski has stated he supports the treaty's ratification. And at a press conference at the conclusion of the NATO Lisbon Summit, Hungarian Foreign Minister Janos Martonyi stated:

My country has a very special experience with Russia, and also a special geographic location . . . We advocate ratification of START. It is in the interest of my nation, of

Europe and most importantly for the transatlantic alliance.

During this press conference, Lithuania's Foreign Minister pointed out that he saw the treaty as a prologue to additional discussions with Russia about other forms of nuclear arms in the region such as tactical nuclear weapons. About three weeks ago, I received a call from President Zatlars, the President of Latvia, urging me: Mr. Senator, please ratify the START treaty.

Still, as history has taught us, the United States must make clear in regard to our relationship with Russia that it will not be at the expense of our NATO allies. Thus, I was pleased to see President Obama provided the leaders of our Central and European allies public reassurance regarding the U.S. commitment to article V of the North Atlantic Treaty during the recent NATO summit in Lisbon which, by the way, was one of the best NATO summits I think that has been held in the last dozen years. The President reaffirmed this commitment in his December 18, 2010 letter to the majority and minority leaders, and I hope that letter from the President has been circulated among my colleagues. It is very clear on where the President stands.

This NATO Summit meeting in Lisbon last month underscore, we are proceeding with a missile defense system in Europe designed to provide full coverage for NATO members on the continent, as well as deployed U.S. forces, against the growing threat posed by the proliferation of ballistic missiles.

I know that some of my colleagues are concerned with issues related to the treaty, including the modernization of our nuclear infrastructure, missile defense, and verification, and I will discuss each of these issues to explain why I believe they have been adequately addressed.

First of all, as others have pointed out—and I reiterate—Senator KYL has made a valiant effort to ensure we modernize the U.S. nuclear infrastructure. I have worked with Senator KYL on reviewing the treaty. I believe his hard work has led to nuclear modernization receiving the attention it deserves. It is long overdue. I remember Pete Domenici talking about the fact that we needed to do something about it and, frankly, we ignored Senator Domenici.

In a December 1, 2010, letter to Senators KERRY and LUGAR, the National Lab Directors from Lawrence Livermore, Los Alamos, and Sandia stated:

We are very pleased by the update to the Section 1251 report, as it would enable the laboratories to execute our requirements for ensuring a safe, secure, reliable, and effective stockpile under the Stockpile Stewardship and Management Plan.

I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 1, 2010.

Hon. JOHN KERRY,
Hon. RICHARD LUGAR,
*Senate Committee on Foreign Relations, U.S.
Senate, Washington, DC.*

DEAR CHAIRMAN KERRY AND RANKING MEMBER LUGAR: This letter is a joint response to the letters received November 30, 2010, by each of us in our current roles as directors of the three Department of Energy/National Nuclear Security Administration (NNSA) laboratories—Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Sandia National Laboratories.

We are very pleased by the update to the Section 1251 Report, as it would enable the laboratories to execute our requirements for ensuring a safe, secure, reliable and effective stockpile under the Stockpile Stewardship and Management Plan. In particular, we are pleased because it clearly responds to many of the concerns that we and others have voiced in the past about potential future-year funding shortfalls, and it substantially reduces risks to the overall program. We believe that, if enacted, the added funding outlined in the Section 1251 Report update—for enhanced surveillance, pensions, facility construction, and Readiness in Technical Base and Facilities (RTBF) among other programs—would establish a workable funding level for a balanced program that sustains the science, technology and engineering base. In summary, we believe that the proposed budgets provide adequate support to sustain the safety, security, reliability and effectiveness of America's nuclear deterrent within the limit of 1550 deployed strategic warheads established by the New START Treaty with adequate confidence and acceptable risk.

As we emphasized in our testimonies, implementation of the future vision of the nuclear deterrent described by the bipartisan Strategic Posture Commission and the Nuclear Posture Review will require sustained attention and continued refinement as requirements are defined and baselines for these major projects are established. We appreciate the fact that this 1251 update calls out the importance of being flexible and the need to revisit these budgets every year as additional detail becomes available.

We look forward to working with you and the Administration to execute this program to ensure the viability of the U.S. nuclear deterrent.

Sincerely,

DR. GEORGE MILLER,
*Lawrence Livermore
National Laboratory,*

DR. MICHAEL ANASTASIO,
*Los Alamos National
Laboratory,*

DR. PAUL HOMMERT,
Sandia National Laboratories.

Mr. VOINOVICH. Mr. President, a number of experts I have consulted with have pointed out—and I have agreed with—the need for the President to provide public assurances regarding the U.S. commitment to a robust missile defense system. So I was pleased with the President's letter to our leadership reiterating such support. Here I quote directly from the President's letter:

Pursuant to the National Missile Defense Act of 1999, it has long been the policy of the United States to deploy as soon as is technologically possible an effective National Mis-

sile Defense system capable of defending the territory of the United States against limited ballistic missile attack, whether accidental, unauthorized, or deliberate.

With regard to the Russian assertion—and we have heard this—that the treaty's preamble prohibits the buildup in missile defense capabilities, the President has stated in very clear language that the “United States did not and does not agree with the Russian statement. We believe the continued development and deployment of U.S. missile defense systems, including qualitative and quantitative improvements to such systems, do not and will not threaten the strategic balance with the Russian Federation. . . . we believe the continued improvement and deployment of U.S. missile defense systems do not constitute a basis for questioning the effectiveness and the viability of the New START Treaty, and therefore would not give rise to circumstances justifying Russia's withdrawal from the Treaty.”

Mr. President, as I have discussed, I know many of my colleagues have concerns about the treaty. But after my own research and consultations with current and former Secretaries of State and numerous foreign policy experts, including many conservative experts, as well as yesterday's 3-hour closed session in the Old Senate Chamber, I support this treaty and do not believe the concerns that we have heard from some of our colleagues rise to the level at which the Senate should reject the treaty.

The President signed the treaty in April. It is now December, and we are coming up on 1 full year without any verification regime in place. I believe we should work to get this treaty done because these verification procedures are needed now. I am not the only one who believes this. I recently received a letter from Bulgaria's Ambassador to the United States, Elena Poptodorova. I have known her a long time and worked with her to get Bulgaria into NATO. She wrote:

A failure to swiftly ratify the treaty would mean discontinuation of the verification regime that could result in negative consequences in the nuclear disarmament, especially taking into consideration the significant strategic nuclear advantage of Russia.

In my view, it will also put at risk the future cooperation with Russia and will impede the negotiations on priorities, such as conventional forces and tactical nuclear weapons in Europe. It is of utmost importance that Russia be kept at the negotiating table beyond the scope of the New START Treaty, in particular on issues like Iran, Afghanistan and other global security challenges.

I ask unanimous consent that her letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EMBASSY OF THE
REPUBLIC OF BULGARIA,
Washington DC, December 6, 2010.

DEAR SENATOR VOINOVICH: I am writing to you on an urgent note regarding the pending ratification of the New START.

Firstly, I would like to reiterate the strong support of the Bulgarian government for the treaty. As you may know, already on the margins of the NATO Summit, the Bulgarian Foreign Minister Nikolay Mladenov, together with his colleagues from Denmark, Latvia, Lithuania, Hungary and Norway, explicitly pointed out that the treaty is in the interest of European and global security. I firmly believe that it is indeed key to the national security interest of each country as well as to the stability of the transatlantic alliance.

Secondly, Bulgaria shares the assessment that the treaty allows the United States to maintain an effective and robust nuclear deterrent and to keep modernizing its nuclear weapons complex. It is crucial that it does not put any constraints on the US missile defense programs and allows for the deployment of effective missile systems.

Furthermore, a failure to swiftly ratify the treaty would mean discontinuation of the verification regime that could result in negative consequences in the nuclear disarmament especially taking into consideration the significant strategic nuclear advantage of Russia. In my view, it will also put at risk the future cooperation with Russia and will impede the negotiations on priorities such as conventional forces and tactical nuclear weapons in Europe. It is of utmost importance that Russia be kept at the negotiating table beyond the scope of the New START, in particular on issues like Iran, Afghanistan and other global security challenges.

I strongly urge you, dear Senator, to consider the arguments above and act in favor of a swift ratification of the New START. The new treaty is yet another step toward guaranteeing our common security and the United States leadership is absolutely essential in this respect.

I trust I will be taken in good faith.

Sincerely,

ELENA POPTODOROVA,
Ambassador.

Mr. VOINOVICH. Mr. President, I also bring to my colleagues' attention a July 14, 2010, letter to Senators LEVIN, KERRY, MCCAIN, and LUGAR, from former commanders of the Strategic Air Command and U.S. Strategic Command. Again, I hope my colleagues will read that letter. They list three reasons for support of the treaty. I quote from their second and third reasons:

The New START Treaty contains verification and transparency measures—such as data exchanges, periodic dated updates, notification, unique identifiers on strategic systems, some access to telemetry and onsite inspections—that will give us important insights into Russian strategic nuclear forces and how they operate those forces.

We will understand Russian strategic nuclear forces much better with the treaty that would be the case without it.

These former military commanders go on to state that the U.S. nuclear armaments—again, I think this is for all of us as American people to realize—“will continue to be a formidable force that will ensure deterrence and give the President, should it be necessary, a broad range of military options.”

I ask unanimous consent that letter sent to the Foreign Relations Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

July 14, 2010.

Senator CARL LEVIN,
Chairman,
Senate Armed Services Committee.
Senator JOHN F. KERRY,
Chairman,
Senate Foreign Relations Committee.
Senator JOHN MCCAIN,
Ranking Member,
Senate Armed Services Committee.
Senator RICHARD G. LUGAR,
Ranking Member,
Senate Foreign Relations Committee.

GENTLEMEN: As former commanders of Strategic Air Command and U.S. Strategic Command, we collectively spent many years providing oversight, direction and maintenance of U.S. strategic nuclear forces and advising presidents from Ronald Reagan to George W. Bush on strategic nuclear policy. We are writing to express our support for ratification of the New START Treaty. The treaty will enhance American national security in several important ways.

First, while it was not possible at this time to address the important issues of non-strategic weapons and total strategic nuclear stockpiles, the New START Treaty sustains limits on deployed Russian strategic nuclear weapons that will allow the United States to continue to reduce its own deployed strategic nuclear weapons. Given the end of the Cold War, there is little concern today about the probability of a Russian nuclear attack. But continuing the formal strategic arms reduction process will contribute to a more productive and safer relationship with Russia.

Second, the New START Treaty contains verification and transparency measures—such as data exchanges, periodic data updates, notifications, unique identifiers on strategic systems, some access to telemetry and on-site inspections—that will give us important insights into Russian strategic nuclear forces and how they operate those forces. We will understand Russian strategic forces much better with the treaty than would be the case without it. For example, the treaty permits on-site inspections that will allow us to observe and confirm the number of warheads on individual Russian missiles; we cannot do that with just national technical means of verification. That kind of transparency will contribute to a more stable relationship between our two countries. It will also give us greater predictability about Russian strategic forces, so that we can make better-informed decisions about how we shape and operate our own forces.

Third, although the New START Treaty will require U.S. reductions, we believe that the post-treaty force will represent a survivable, robust and effective deterrent, one fully capable of deterring attack on both the United States and America's allies and partners. The Department of Defense has said that it will, under the treaty, maintain 14 Trident ballistic missile submarines, each equipped to carry 20 Trident D-5 submarine-launched ballistic missiles (SLBMs). As two of the 14 submarines are normally in long-term maintenance without missiles on board, the U.S. Navy will deploy 240 Trident SLBMs. Under the treaty's terms, the United States will also be able to deploy up to 420

Minuteman III intercontinental ballistic missiles (ICBMs) and up to 60 heavy bombers equipped for nuclear armaments. That will continue to be a formidable force that will ensure deterrence and give the President, should it be necessary, a broad range of military options.

We understand that one major concern about the treaty is whether or not it will affect U.S. missile defense plans. The treaty preamble notes the interrelationship between offense and defense; this is a simple and long-accepted reality. The size of one side's missile defenses can affect the strategic offensive forces of the other. But the treaty provides no meaningful constraint on U.S. missile defense plans. The prohibition on placing missile defense interceptors in ICBM or SLBM launchers does not constrain us from planned deployments.

The New START Treaty will contribute to a more stable U.S.-Russian relationship. We strongly endorse its early ratification and entry into force.

Sincerely,

GENERAL LARRY WELCH,
USAF, Ret.

GENERAL JOHN CHAIN,
USAF, Ret.

GENERAL LEE BUTLER,
USAF, Ret.

ADMIRAL HENRY CHILES,
USN, Ret.

GENERAL EUGENE HABIGER,
USAF, Ret.

ADMIRAL JAMES ELLIS,
USN, Ret.

GENERAL BENNIE DAVIS,
USAF, Ret.

Mr. VOINOVICH. Mr. President, I also ask unanimous consent to have printed in the RECORD a September 7, 2010, opinion piece from the Wall Street Journal by former Secretary of State George Shultz, who served under President Reagan. I think all of us who are familiar with George Shultz's record have high respect and regard for him.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 7, 2010]

LEARNING FROM EXPERIENCE ON ARMS CONTROL

(By George P. Shultz)

The New Start treaty provides an instructive example of how, when everyone works at it, an important element of arms control treaties can be improved by building on past treaties and their execution.

I remember well the treaty on Intermediate-Range Nuclear Forces (INF), as I had a hand in negotiating the treaty and in getting implementation started. Our mantra was stated almost endlessly by President Ronald Reagan, to the point that Soviet leader Mikhail Gorbachev would join in: "Trust but verify."

Reagan insisted on, and we obtained, on-site inspection of the critical elements in the treaty: the destruction of all missiles and a method of ensuring that new ones were not produced. This critical element in the treaty built on an earlier one. The Stockholm Agreement of 1986 was the first U.S.-Soviet agreement to call for on-site observation of military maneuvers. Although not as intrusive as a close look at nuclear facilities, it was, nevertheless an important conceptual breakthrough. The idea of on-site inspection had been accepted and put in practice.

When the Strategic Arms Reduction Treaty (Start) was negotiated and finally signed in 1991, a different problem presented itself. On-site inspection of missile destruction is one thing; on-site inspection of an active inventory is something else again. You are looking at an ongoing operation. Nevertheless, the challenge was met in part by counting delivery vehicles, clearly building on the successful experience of both sides with the INF treaty.

However, the political relations between the United States and the then Soviet Union had not yet reached the level of cooperation required to count the number of actual warheads directly without concern about compromising secret design information. The result was a process of attribution derived from access to telemetry—that is, the data transmitted from flight tests of missiles. This allowed for a cap on the maximum number of warheads that could be delivered, which was the number attributed in Start.

Periodic on-site inspections of the missile sites were provided for under Start, but the experience of both sides was that this process, conducted in a fragmented way, disrupted normal operations and so was unnecessarily burdensome to both sides.

The Strategic Offensive Reduction Treaty (SORT), negotiated in 2002 under the George W. Bush administration, simply relied on the Start verification regime. In a joint declaration, President Bush and President Vladimir Putin agreed on the desirability of greater transparency, but they left it at that.

Along came the New Start treaty, signed by President Barack Obama and Russian President Dmitry Medvedev on April 8, 2010. People responsible for monitoring the original Start treaty were included in the negotiations, so operating experience was present at the table. The result was a further advance, building on the transparency measures already in place under the Start treaty. On-site inspection now allows the total number of warheads on deployed missiles literally to be counted directly.

Thus, up-close observation is substituted for the telemetry that was essential in the original Start treaty. But some cooperation in sharing telemetry information was included in the New Start treaty. This provides some additional transparency and can serve, over time, as a confidence-building measure. It is well that some telemetry cooperation will occur so that the principle is retained.

The New Start treaty, like others before it, was built on previous experience. And, like earlier treaties, it provides a building block for the future. As lower levels of warheads are negotiated, the importance of accurate verification increases and the precedent and experience derived from New Start will ensure that a literal counting process will be available. The New Start treaty also sets a precedent for the future in its provision for on-site observation of nondeployed nuclear systems—important since limits on non-deployed warheads will be a likely next step.

The problem of interruptions in operations posed by the original Start treaty and identified by the executors of the treaty on both sides is addressed in the New Start treaty in a way that gives more information but is less disruptive. First of all, a running account in the form of regular data exchanges is provided every six months on a wide range of information about their strategic forces, and numerous inspection procedures have been consolidated.

The United States will have the right to select, for purposes of inspection, from all of

Russia's treaty-limited deployed and non-deployed delivery vehicles and launchers at the rate of 18 inspections per year over the life of New Start. It is also important that each deployed and nondeployed intercontinental ballistic missile (ICBM) or submarine-launched ballistic missile (SLBM) or heavy bomber will have assigned to it a unique code identifier that will be included in notifications any time the ICBM or SLBM or heavy bomber is moved or changes status. The treaty establishes procedures to allow inspectors to confirm the unique identifier during the inspection process.

The notification of changes in weapon systems—for example, movement in and out of deployed status—will provide more information on the status of Russian strategic forces under this treaty than was available under Start. Information provided in notifications will complement and be checked by on-site inspection as well as by imagery from satellites and other assets which collectively make up each side's national technical means of verification.

Having been involved in the Stockholm Treaty when a breakthrough in on-site inspection was made and when intrusive on-site inspection of key events was a main element of the INF Treaty, I am pleased to see that the building process is continuing, especially since the New Start treaty includes some improved formulations that bode well for the future. Seeing is not quite believing, but it helps. Learning is not limited to what you get from experience, but it helps.

The original Start treaty expired last December. The time has come to start seeing again, with penetrating eyes, and to start learning from the new experience.

Mr. VOINOVICH. In his piece, the Secretary discusses the importance of verification and closes with this thought:

The original START Treaty expired last December. The time has come to start seeing again, with penetrating eyes, and to start learning from the new experience.

In other words, the provisions in terms of verification are new compared to the old START treaty.

Finally, I ask my colleagues to take note of Secretary Rice's statement that "the treaty helpfully reinstates onsite verification of Russian nuclear forces, which lapsed with the expiration of the original START treaty last year. Meaningful verification was a significant achievement of Presidents Reagan and George H.W. Bush, and its reinstatement is crucial."

I ask unanimous consent that her article in the Wall Street Journal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 7, 2010]

NEW START: RATIFY, WITH CAVEATS

(By Condoleezza Rice)

When U.S. President Bush and Russian President Putin signed the Moscow Treaty in 2002, they addressed the nuclear threat by reducing offensive weapons, as their predecessors had. But the Moscow Treaty was different. It came in the wake of America's 2001 withdrawal from the Anti-Ballistic Missile Treaty of 1972, and for the first time the United States and Russia reduced their offensive nuclear weapons with no agreement in place that constrained missile defenses.

Breaking the link between offensive force reductions and limits on defense marked a key moment in the establishment of a new nuclear agenda no longer focused on the Cold War face-off between the Warsaw Pact and NATO. The real threat was that the world's most dangerous weapons could end up in the hands of the world's most dangerous regimes—or of terrorists who would launch attacks more devastating than 9/11. And since those very rogue states also pursued ballistic missiles, defenses would (alongside offensive weapons) be integral to the security of the United States and our allies.

It is in this context that we should consider the potential contribution of the New Start treaty to U.S. national security. The treaty is modest, reducing offensive nuclear weapons to 1,550 on each side—more than enough for deterrence. While the treaty puts limits on launchers, U.S. military commanders have testified that we will be able to maintain a triad of bombers, submarine-based delivery vehicles and land-based delivery vehicles. Moreover, the treaty helpfully reinstates on-site verification of Russian nuclear forces, which lapsed with the expiration of the original Start treaty last year. Meaningful verification was a significant achievement of Presidents Reagan and George H.W. Bush, and its reinstatement is crucial.

Still, there are legitimate concerns about New Start that must and can be addressed in the ratification process and, if the treaty is ratified, in future monitoring of the Obama administration's commitments.

First, smaller forces make the modernization of our nuclear infrastructure even more urgent. Sen. Jon Kyl of Arizona has led a valiant effort in this regard. Thanks to his efforts, roughly \$84 billion is being allocated to the Department of Energy's nuclear weapons complex. Ratifying the treaty will help cement these commitments, and Congress should fully fund the president's program. Congress should also support the Defense Department in modernizing our launchers as suggested in the recent defense strategy study coauthored by former Secretary of Defense Bill Perry and former National Security Adviser Stephen Hadley.

Second, the Senate must make absolutely clear that in ratifying this treaty, the U.S. is not re-establishing the Cold War link between offensive forces and missile defenses. New Start's preamble is worrying in this regard, as it recognizes the "interrelationship" of the two. Administration officials have testified that there is no link, and that the treaty will not limit U.S. missile defenses. But Congress should ensure that future Defense Department budgets reflect this.

Moscow contends that only current U.S. missile-defense plans are acceptable under the treaty. But the U.S. must remain fully free to explore and then deploy the best defenses—not just those imagined today. That includes pursuing both potential qualitative breakthroughs and quantitative increases.

I have personally witnessed Moscow's tendency to interpret every utterance as a binding commitment. The Russians need to understand that the U.S. will use the full-range of American technology and talent to improve our ability to intercept and destroy the ballistic missiles of hostile countries.

Russia should be reassured by the fact that its nuclear arsenal is far too sophisticated and large to be degraded by our missile defenses. In addition, the welcome agreements on missile-defense cooperation reached in Lisbon recently between NATO and Russia can improve transparency and allow Moscow

and Washington to work together in this field. After all, a North Korean or Iranian missile is not a threat only to the United States, but to international stability broadly.

Ratification of the treaty also should not be sold as a way to buy Moscow's cooperation on other issues. The men in the Kremlin know that loose nukes in the hands of terrorists—some who operate in Russia's unstable south—are dangerous. That alone should give our governments a reason to work together beyond New Start and address the threat from tactical nuclear weapons, which are smaller and more dispersed, and therefore harder to monitor and control. Russia knows too that a nuclear Iran in the volatile Middle East or the further development of North Korea's arsenal is not in its interest. Russia lives in those neighborhoods. That helps explain Moscow's toughening stance toward Tehran and its longstanding concern about Pyongyang.

The issue before the Senate is the place of New Start in America's future security. Nuclear weapons will be with us for a long time. After this treaty, our focus must be on stopping dangerous proliferators—not on further reductions in the U.S. and Russian strategic arsenals, which are really no threat to each other or to international stability.

A modern but smaller nuclear arsenal and increasingly sophisticated defenses are the right bases for U.S. nuclear security (and that of our allies) going forward. With the right commitments and understandings, ratification of the New Start treaty can contribute to this goal. If the Senate enters those commitments and understandings into the record of ratification, New Start deserves bipartisan support, whether in the lame-duck session or next year.

Mr. VOINOVICH. Mr. President, in my opinion, the jury has returned its verdict, and the overwhelming evidence is that the Senate should ratify the treaty. Support for the treaty should not be viewed through the lens of being liberal or conservative, Republican or Democrat, but rather what is in the best interest of our national security, the best interest of the United States of America, the best interest of our relationships with those countries who share our values and understand that nuclear proliferation is the greatest international threat to our children and grandchildren.

Mr. President, I urge my colleagues to support this treaty. I am prayerful that we have a good vote for it to demonstrate that we have come together on a bipartisan basis to do something that needs to be done, and something that liberals, conservatives, Republicans and Democrats, can come together on to make a difference for the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, very shortly, the Senate will be voting on the continuing resolution that will fund the operations of our Federal Government through March—I think, if I am not mistaken, through March 4. I want to take this time to take a look at what happened recently with our appropriations bill, the so-called omnibus

bill, that was defeated by our colleagues on the other side of the aisle.

Again, without getting into who caused what and did what to whom first, which is a game we play a lot around here, the fact remains that none of our appropriations bills were passed this year, even though our subcommittees on appropriations passed out all of our bills. We passed them through the Appropriations Committee and brought them to the Senate for consideration, but they were not taken up on the floor. Again, we can go into all the reasons why yes, why no. But that is water over the dam. The fact is, they weren't; therefore, they weren't passed.

At the end of the year, a week ago, Leader REID wanted to put together all the bills that had been passed out of committee with both Republican and Democratic support. Of the 13 bills—and I could be a little mistaken—only 1 or 2 had any minor changes or votes against them in committee. They were almost all unanimous by Republicans and Democrats.

So to keep the government going, we had this omnibus—in other words, putting all the bills together in one package and passing that. My friends objected to that. Because that was objected to, we now face having a continuing resolution to continue the funding from last year on into fiscal year 2011 until March.

When the Republicans killed this Omnibus appropriations bill last week, certain things happened. For example, they chose to close Head Start classrooms that serve 65,000 low-income children. By killing the omnibus, my friends on the other side of the aisle decided to cut childcare subsidies for 100,000 low-income working families. They rejected the opportunity to provide lifesaving drugs to people living with AIDS, who are on waiting lists for lifesaving medication. They passed on the chance to provide 4½ million more meals to seniors in need.

All of these programs would have received badly needed increases in the appropriations bill, but my friends on the other side of the aisle said no. They insisted on just keeping the present funding until March.

Here is another result of killing the omnibus: Millions of American students who receive Pell grants—low-income students—to go to college no longer know if they will be able to afford college next year.

We cannot let that happen. The continuing resolution we will vote for in a few minutes includes a provision that would close the so-called Pell grant shortfall and ensure there is no cut to the Pell grants to our poor students.

The Pell Grant Program is the backbone of our Nation's financial aid system. More than 9 million low-income students and middle-income students use these grants toward a postsec-

ondary education or vocational training.

People might say: Why has the Pell grant grown so much over the last few months? When the economy is bad, more people tend to go to college and more people in lower income brackets tend to go to college and try to better themselves. That means the cost of providing Pell grants goes up, even when the maximum Pell grant award a person can receive stays the same.

Right now, the maximum Pell grant award is \$5,550 a year. Nearly 90 percent of the students who receive that level come from families whose annual income is less than \$40,000 for a family of four. Without Pell, most of them would have no chance of receiving a postsecondary education. This is truly a program for low-income students and families seeking to better themselves.

The omnibus bill that was killed last week would have provided the additional funding to close that shortfall, to keep the maximum grant at \$5,550. That was \$5.7 billion. Again, that money did not just fall from the sky. Other programs across the Federal Government were cut to offset that spending. We appropriators decided that maintaining Pell was so important that it was worth reducing or eliminating other programs, which we did.

When my friends on the other side killed the omnibus, they put the Pell Grant Program in jeopardy and endangered the future of millions of disadvantaged students. According to the recent estimates from OMB, if we do not close the Pell shortfall before February, the maximum award will drop by \$1,840, and the Pell grants of all those students with a family income of less than \$40,000 will fall by 33 percent—from \$5,550 to \$3,710 next school year. An estimated 435,000 students who currently receive Pell grants would get nothing, zero. Their entire grant would be cut off. Why do I say that? Because if the award drops by \$1,840, if your Pell grant was \$1,800, you get nothing. So 435,000 students will get no Pell grants whatsoever. That is the situation facing students all over the country today.

We are 4 days away from Christmas. More than 9 million students who depend on Pell grants do not know if their financial aid will be drastically cut or if they will get any financial aid at all. Hopefully, in about 10 minutes, we are going to change that because I am hopeful we will all join together today in supporting this continuing resolution because as a part of the continuing resolution, we close that Pell grant shortfall so we can undo or redo what was undone by not taking up the omnibus bill.

We can keep the government running, but we can also make this fix. It is so important to do that now because of certain rules and regulations that go

into effect after the first of the year that will drastically impinge on the Pell Grant Program unless we take this action today.

I hope all Republicans and Democrats will join in supporting the continuing resolution and so do more than 9 million American students who depend on Pell grants for their college education.

Again, I point out that other appropriations will not be settled even if we pass the continuing resolution today. Those decisions are kicked down the street until March 4 when the continuing resolution expires.

We are going to face a tough situation on March 4. My friends on the other side of the aisle have said that their plan is to cut nonsecurity-related appropriations, to cut everything except defense, homeland security, military construction, and VA by \$100 billion. When you exclude all that and you want to cut \$100 billion, that is a 21-percent cut from everything else.

Do Republicans really want to cut 21 percent from childcare subsidies for working families in this economy—a 21-percent cut? Do you really want to cut 21 percent from job training programs in this economy? Do you really want to cut 21 percent from programs that educate disadvantaged children, title I programs, in this economy? Do our friends on the other side of the aisle want to cut 21 percent from the AIDS drug assistance program? Do you want to cut 21 percent from senior meals programs? Do we want to cut 21 percent from the Social Security Administration in this economy?

That is what is coming down the pike on March 4. We kick the ball down the field a little bit, but on March 4, the battle will be joined again.

If my friends on the other side of the aisle try to decimate these programs that are so critical to the well-being of so many families in this country—children, working parents who need childcare, the elderly who rely on a lot of these meals—I had it happen in my own family. Meals on Wheels keeps people from going to the hospital, lets them stay at home and get a decent diet, senior meals programs; job training programs so people can train for new jobs—all part of getting our country back up again. If they are going to cut 21 percent from all this, I want to say there is going to be a battle. We are not going to sit back and let these programs be decimated, these programs that mean so much to so many families.

In the meantime, we have to keep the government running, and that is what the continuing resolution is all about. As I said, what is so important is to make sure the Pell grant shortfall is closed, which it is on this continuing resolution.

I urge all my colleagues to support the continuing resolution and hopefully when March 4 comes, again we

can agree on a bipartisan basis not to decimate so many programs that help so many people in our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

NOMINATION OF BENITA Y. PEARSON

Mr. COBURN. Mr. President, I ask unanimous consent to have printed in the RECORD two letters that have been received by the Senate in regard to the nomination of Judge Benita Pearson—one from the National Cattlemen's Beef Association; the other from the Farm Animal Welfare Coalition.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CATTLEMEN'S
BEEF ASSOCIATION,
Washington, DC, December 21, 2010.

Hon. HARRY REID,
Senate Majority Leader, Capitol Building,
Washington, DC.

Hon. MITCH MCCONNELL,
Senate Republican Leader, Capitol Building,
Washington, DC.

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: The National Cattlemen's Beef Association (NCBA) opposes the nomination of Judge Benita Pearson to the United States District Court for the Northern District of Ohio. After reviewing answers she gave to the Senate Judiciary Committee earlier this year, we believe that Judge Pearson's connections to the Animal Legal Defense Fund (ALDF) would make it hard for her to be an impartial judge in cases regarding actions by animal activists. ALDF is an activist organization involved in numerous federal lawsuits and advocates giving animals the same legal rights as humans.

NCBA expects the Senate to confirm judges who can hear cases and make decisions based on facts and law, rather than judges with strong biases that could lead to legislating from the bench. While we continue to discover more about Judge Pearson's animal activist work, we think her connection to ALDF alone is enough to block her nomination in order for Senators to do more research into her background and character.

NCBA is the nation's oldest and largest national trade association representing U.S. cattle producers with more than 140,000 direct and affiliated members. On behalf of our producers, we urge you to oppose the nomination of Judge Benita Y. Pearson to the United States District Court for the Northern District of Ohio.

Sincerely,

STEVE FOGLESONG,
President.

DECEMBER 20, 2010.

Re Nomination of Benita Y. Pearson to the U.S. District Court for the Northern District of Ohio.

To: The U.S. Senate.

From: The Farm Animal Welfare Coalition: American Farm Bureau Federation, American Feed Industry Association, American Sheep Industry Association, Biotechnology Industry Organization, Farm Credit System, Livestock Marketing Association, National Milk Producers Federation, National Pork Producers Council, National Renderers Association, United Egg Producers.

The Farm Animal Welfare Coalition (FAWC), an ad hoc coalition of America's

largest farm/ranch, input and related organizations seeks to ensure all federal policy decisions regarding the welfare of food animals are based upon sound science, producer expertise and the rule of law. We write to express our concerns related to the nomination of Benita Y. Pearson to be a judge on the U.S. District Court for the Northern District of Ohio.

Our concerns stem from Ms. Pearson's membership and participation in the Animal Legal Defense Fund (ALDF), an animal rights organization which uses the courts to impose upon farmers, ranchers, biomedical researchers, animal breeders and other legitimate users of animals its parochial view of animal welfare. ALDF also provides legal support for political organizations dedicated to furthering animal rights in the U.S. ALDF's website is rife with references to "factory farming," and other pejorative descriptions of U.S. farm animal husbandry, as well as touting its current and past lawsuits brought against agriculture interests. Its political positions affecting contemporary American agriculture are well known to us.

ALDF works to secure "standing" for animals in the courts, a legal evolution with multiple potential negative consequences for food production and the survivability of farmers and ranchers in the U.S. Consider the following from ALDF's Executive Director Steven Wells:

"One day, hopefully, animals will have more opportunities to be represented in courts so that we can more effectively fight the many injustices they face—perhaps as another kind of recognized 'legal person.' In the meantime we must be resourceful and creative in bringing lawsuits to win justice for animals."

Ms. Pearson's membership in ALDF demonstrates the willingness of a prospective jurist to go beyond the academic or philosophical contemplation of the legal and political issues of animal rights. Her membership in ALDF translates her personal philosophy into implicit action in support of the goals of the animal rights movement.

We are encouraged by Ms. Pearson's written statement it is never appropriate for judges to "indulge their own values in determining the meaning of statutes and the U.S. Constitution;" however, her responses remain exceedingly vague when it comes to animal rights issues.

Given one of the ALDF's long-standing priorities is the legal adoption of its so-called "animal bill of rights"—which calls for the undefined "right of farm animals to an environment that satisfies their basic and psychological needs"—it seems disingenuous of Ms. Pearson to say she is unaware of this priority or even the existence of the "bill of rights" given she is a self-described member of the ALDF. She also teaches animal law courses at Ohio's Cleveland-Marshall College of Law—including a section on constitutional standing—which, we assume, must touch at some point on the ALDF's 30-year-old political philosophy and history of legal actions.

Ms. Pearson stated she does not use the term "animal rights" and is "not an advocate for animal rights" but "an advocate for doing what is in the best interest of animals." However, she does not explain on what sources of information she relies when determining what is "the best interest of animals," but simply her belief the law "is intended to do what is in the best interest of animals and humans."

While it is not a judge's role to legislate from the bench—and we are gratified Ms.

Pearson appears to concur—judicial decisions set precedent and can precipitate legislation and regulations. It is unsettling that in Ms. Pearson's written responses to direct questions posed by Senate Judiciary Committee members Sens. Charles Grassley, Jeff Sessions and Tom Coburn, she simply restates existing law as relates to animal rights, animal standing, etc. Hence, we do not get a clear picture of her views regarding animal rights and legal standing.

We would welcome a meeting with Ms. Pearson to discuss these concerns.

Thank you for consideration of our views. Please feel free to contact any of the organizations listed on this letter or FAWC's coordinator, Steve Kopperud, at 202-776-0071 or skopperud@poldir.com.

Mr. COBURN. Mr. President, I wish to spend a short time addressing the remarks of my friend from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, the situation we find ourselves in is that no appropriations bills came to the floor. We did not control that. If that had been under our control, I assure you they would have come to the floor—and they should. No matter who is in charge, they should come. I think he agrees with that. But I will address the greater issue we have in front of us.

Our Nation has a very short time with which to reassess and reprioritize what is important in our fiscal matters. That period of time, I believe, is shorter than many of my colleagues believe. But I have not been wrong in the past 6 years as to where we are coming. I have been saying it for 6 years. We are now there.

The fact is everything is going to have to be looked at—everything—every project, for every Senator, every position, every program—if we are to solve the major problems that are facing this country.

We all want to help everybody we can, but the one thing that has to be borne in mind as we try to help within the framework of our supposed limited powers is there has to be a future for the country. The things that are coming upon us in the very near future will limit our ability to act if we do not act first.

I take to heart my colleague's very real concern for those who are disadvantaged in our country. It is genuine. It is real. We are going to have a choice to help them or we are going to have a choice to make a whole lot more people disadvantaged. What we have to do is try to figure out how compassionately we can do the most we can do and still have a country left. That is the question that is going to come before us.

I have no doubt we will have great discussions over the next few years on what those priorities are. But we cannot wait to make those priorities. We are going to have to squeeze wasteful spending from the Pentagon. We have no choice. We have no choice with which to make the hard choices in

front of us. And it does not matter what happened in the past. What is going to matter is what happens in the future and whether we have the courage to meet the test that is getting ready to face this country.

There is a lot of bipartisan work going on right now behind the scenes in the Senate planning for next year to address those issues.

I say to my colleague from Iowa, the way to have the greatest impact on that issue is to join with us to, No. 1, agree with the severity of the problem and the urgency of the problem, and then let's build a framework on how we solve it, knowing nobody is going to get what they want.

TRIBUTES TO RETIRING SENATORS

RUSS FEINGOLD

Mr. President, I wish to take 2 more minutes to pay a compliment to one of my colleagues.

When I came to the Senate, I visited almost every Member of the Senate on the other side of the aisle. I had a wonderful visit with the Senator from Wisconsin. We actually—although we are totally opposite in our philosophical leanings—had a wonderful time visiting together.

Senator FEINGOLD is my idea of a great Senator. I want to tell you why.

I left that meeting, and about a week later, I got a note from him first of all thanking me for taking the initiative to come and meet with him, but also a commitment that he would always be straight with me, that when he gave me his word and handshake, it would always be that way, and that I could count on him standing for what he believed in but knowing he would do the things we needed to do to get things done.

My observation in the last 6 years in this Chamber is I have watched one man of great integrity keep his word and hold to his values through every crisis and every vote. And every time it was taken where we had to come together to do something, this gentleman kept his character. He kept his word. He fulfilled the best aspects of the tradition of the Senate.

Although I often—most of the time—am on the opposite side of issues from Senator RUSS FEINGOLD, I want to tell you, he has my utmost admiration and my hope that more would follow his principled stand and his wonderful comity as he deals with those on the other side of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I understand the UC has us voting at 2 o'clock; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. Mr. President, I support the continuing resolution. One of the many reasons is that the Navy's urgent request for authority for the littoral

combat ship, (LCS),—program is included.

The original LCS acquisition plan in 2005 would have had the Navy buying both types of LCS vessels for some time while the Navy evaluated the capabilities of each vessel. At some time in the future, the Navy would have had the option to down select to building one type of vessel. But in any case, the Navy would have been operating some number of each type of LCS vessel in the fleet, which means that the Navy would have been dealing with two shipyards, two supply chains, two training pipelines, etc. Last year, after the bids came in too high, the Navy decided upon a winner-take-all acquisition strategy to procure the fiscal year 2010 vessels under a fixed-price contract, with fixed-price options for two ships per year for the next 4 years. This revised strategy included obtaining the data rights for the winning ship design and competing for a second source for the winning design starting in fiscal year 2012. Again, the Navy made this course correction because the Navy leadership determined that the original acquisition strategy was unaffordable.

Earlier this year, the Navy released the solicitation under that revised strategy and has been in discussion with the two contractor teams and evaluating those proposals since that time. The bids came in, the competition worked, and the prices were lower than the Navy had expected. Both teams have made offers that are much more attractive than had been expected, and both are priced well below the original, noncompetitive offers.

The Navy has now requested that we approve a different LCS acquisition strategy, taking advantage of the low bids and keeping the industrial base strong. The Armed Services Committee held a hearing on the subject of the change in the Navy's acquisition strategy. We heard testimony from the Navy that, after having reviewed the bids from the two contractor teams, they should change their LCS acquisition strategy.

The Navy testified that continuing the winner-take-all down select would save roughly \$1.9 billion, compared with what had been budgeted for the LCS program in the Future-Years Defense Program, or FYDP.

The Navy further testified that revising the acquisition strategy to accept the offers from both LCS contractor teams, rather than down selecting to one design and starting a second source building the winning design, would save \$2.9 billion, or \$1 billion more than the program of record, and would allow the Navy to purchase an additional LCS vessel during the same period of the FYDP—20 ships rather than 19 ships.

The Navy also testified that additional operation and support costs for maintaining two separate designs in

the fleet for their service life over 40 to 50 years, using net present value calculations, would be much less than the additional saving that could be achieved through buying both the ships during the FYDP period—approximately \$250 million of additional operating and support costs vs. approximately \$900 million in savings.

Those are the facts of the case as we heard from the Navy. Let me relay a few quotes from the Navy witnesses at the hearing to amplify on these points.

Secretary of the Navy Raymond E. Mabus, Jr., referring the authority to revise the acquisition strategy, said the following:

This authority, which I emphasize, requires no additional funding, will enable us to purchase more high-quality ships for less money and get them into service in less time. It will help preserve jobs in our industrial shipbuilding base and will create new employment opportunities in an economic sector that is critical to our Nation's military and economic security.

ADM Gary Roughead, the Chief of Naval Operations, said:

The dual award also allows us to reduce costs by further locking in a price for 20 ships, enabling us to acquire LCS at a significant savings to American taxpayers and permitting the use of shipbuilding funds for other shipbuilding programs.

From a broad policy perspective, I believe that the Navy approach of a competitive, dual source alternative could help ensure maximum competition throughout the lifecycle of the program, meeting the spirit and intent of the Weapon Systems Acquisition Reform Act of 2009, MSARA. Specifically, it calls for two shipbuilders in continuous competition to build the ships for the life of the program. The Navy plans to build a total of 55 of these ships, so that could take a number of years.

Some have raised concerns because the Navy has been unable to reveal the specific bid information from the two contractors. Unfortunately, the Navy has been prevented from sharing specific bid information because that would violate the competitive source selection process by revealing proprietary information about the two contractors' bids. Because of these constraints, I do not know what is in the bids. But I take comfort from knowing that these bids are for fixed-price contracts and not for cost-type contracts where a contractor has little to lose from underbidding a contract.

As far as the capability of the two vessels, we heard from Admiral Roughead at the hearing that each of the two vessels would meet his requirements for the LCS program. I asked Admiral Roughead: "Do both of these vessels in their current configuration meet the Navy's requirements?" Admiral Roughead replied: "Yes, Senator, they do. Both ships do."

Some have raised the possibility that development of the mission packages

could cause problems in the shipbuilding program and lead to unexpected cost growth, and thereby fail to achieve the extra savings the Navy is projecting. In some other shipbuilding programs that might be a concern, but I believe that the Navy's fundamental architecture of the LCS program divorces changes in the mission package from changes that perturb the ship design and ship construction. In the past, when there were problems with developing the right combat capability on a ship, this almost inevitably caused problems in the construction program. In the case of the LCS, the combat capability largely resides in the mission packages that connect to either LCS vessel through defined interfaces. What that means is that changes inside the mission packages should not translate into changes during the ship construction schedule—i.e., they are interchangeable. And whatever is happening in the mission package development program would apply equally to either the down select strategy or the dual source strategy.

In terms of the proposal's effects on the industrial base and on competition, I believe that there would be a net positive. The Navy would have the opportunity to compete throughout the life of the program, and any erosion in contractor performance could be corrected by competitive pressures. For the industrial base, there would be more stability in the shipbuilding program. Countless Navy witnesses have testified to the Armed Services Committee and the other defense committees that achieving stability in our shipbuilding programs is one of the best things we in the government can do to help the Navy support the shipbuilding industry.

The Navy's proposal to change to a dual source selection strategy would promote that goal of stability, while effectively continuing competition throughout the program, and at the same time reducing acquisition costs and buying an additional ship over the FYDP.

Why don't we just wait until sometime after the new Congress convenes to deliberate this changed acquisition strategy? Senator JACK REED asked the Navy about this very issue at the hearing. He asked, "What is lost or what do you gain or lose by waiting?" Assistant Navy Secretary Sean Stackley answered that question as follows: "Workforce is leaving, hiring freezes are in effect, vendors are stressed in terms of their ability to keep faith with the proposals, the fixed price proposals that they have put in place. They will need to have to then go back with any further delay and reprice their proposals."

What that means is, if we were to let the bids expire at the end of December, we would lose the full benefits of the competition and our savings will likely be reduced.

Mr. President, I support including the authority for the Navy to make this change in the continuing resolution before us.

Mr. MCCAIN. Mr. President, I rise to oppose the littoral combat ships, LCS, provision in the continuing resolution, CR. That provision—which, according to the Congressional Budget Office, CBO, and the Congressional Research Service, CRS, could cost taxpayers as much as \$2.9 billion more than the current acquisition strategy—simply does not belong in the CR. But once again we are looking at a cloture vote on a piece of "must-pass" legislation where the majority leader has filled the amendment tree and no amendments will be allowed.

The LCS program has a long, documented history of cost overruns and production slippages and yet we now find ourselves inserting an authorization provision at the 11th hour to yet again change the acquisition strategy of a program that has been plagued by instability since its inception.

Let's look at its track record over the past 5 years:

1st LCS funded in 2005—LCS 1 Commissioned in Nov 2008 at cost of \$637 million;

2nd LCS funded in 2006—LCS 2 Commissioned in Jan 2010 at cost of \$704 million;

3rd LCS funded in 2006—Canceled by Navy in April 2007, because of cost, and schedule growth;

4th LCS funded in 2006—Canceled by Navy in Nov 2007, because of cost and schedule growth;

5th LCS funded in 2007—Canceled by Navy in Mar 2007, because of cost and schedule growth;

6th LCS funded in 2007—Canceled by Navy in Mar 2007, because projected costs too high;

7th LCS funded in 2008—Canceled by Navy in Sep 2008, because projected costs too high;

8th LCS funded in 2009—Christened in Dec 2010 is about 80 percent complete; "New LCS 3";

9th LCS funded in 2009—Under construction is about 40 percent complete; "New LCS 4."

When the Navy first made its proposal to Congress just over 6 weeks ago, it failed to provide Congress with basic information we need to decide whether it should approve the Navy's request—including the actual bid prices, which would tell us how realistic and sustainable they are, and specific information about how capable each of the yards are of delivering the ships as needed, on time and on budget. Why don't we have that information? Because it's sensitive to the on-going competition.

Last week, in testimony before the Senate Armed Services Committee, the General Accountability Office, GAO, the Congressional Research Service, CRS, and the Congressional Budget Office, CBO, raised important questions that Congress should have answers to before it considers approving the proposal.

Those questions included not only "how much more (or less) would it cost

for the Navy to buy LCS ships under its proposal" but also "how much would the cost be to operate and maintain two versions of LCS, under the proposal". They also asked "how confident can we be that the Navy will be able to stay within budgeted limits and deliver promised capability on schedule—given that all of the deficiencies affecting LCS' lead ships have not been identified and fully resolved" and "has the combined capability of the LCS seaframes with their mission modules been sufficiently demonstrated so that increasing the Navy's commitment to seaframes at this time would be appropriate?"

Those questions, and others, that GAO, CRS and CBO raised last week, are salient and should be answered definitively before we approve of the Navy's proposal. Every one of those witnesses conceded that more time would help Congress get those answers. And, considering this provision in connection with a Continuing Resolution, brought up at the 11th hour; during a lame-duck session; outside of the congressional budget-review period; and without specific information or the opportunity for full and open debate by all interested Members, does not give us that time. Buying into this process would be an abrogation of our constitutional oversight responsibility.

From 2005 to date, we have sunk \$8 billion into the LCS program. And, what do we have to show for it? Only two boats commissioned and one boat christened—none of which have been shown to be operationally effective or reliable—and a trail of blown cost-caps and schedule slips. I suggest that, having made key decisions on the program hastily and ill-informed, we in Congress are partly to blame for that record. But, with the cost of the program from 2010 to 2015 projected to be about \$11 billion, we can start to fix that—by not including this ill-advised provision in the CR.

I ask unanimous consent that my December 10, 2010, letter to the chairman and ranking member of the Appropriations Committee, asking them not to include the LCS provision in any funding measure, a letter from the Project on Government Oversight to Senator LEVIN and me, and the exchange of letters between me and the Chief of Naval Operations, CNO, be printed in today's RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHIEF OF NAVAL OPERATIONS,

NAVY PENTAGON,

Washington, DC, November 22, 2010.

Hon. JOHN S. MCCAIN,
Ranking Member, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Thank you for affording me the opportunity to discuss the Littoral Combat Ship (LCS) program. This program is vital to the future force structure

of the United States Navy, and I am committed to its success. The Navy tackled aggressively and overcame the program's past cost and schedule challenges, ensuring affordability of this new critical warfighting capability.

The Department has taken action on all four of the recommendations of the August 2010 General Accountability Office (GAO) LCS report.

The Navy has been operating both LCS designs and collecting design performance data. There are mechanisms in place to ensure design corrections identified in building and testing the first four ships are incorporated in the operating ships, ships under construction, and ships yet to be awarded.

The Navy will update the Test and Evaluation Master Plan (TEMP) for the LCS, to reflect the Program of Record following the Milestone B (MS B) decision.

The Navy will update test and evaluation and production of LCS seaframes and mission modules following the MS B decision.

The Navy has completed a robust independent cost analysis of the LCS lifecycle using estimating best practices and submitted this estimate to the Office of the Secretary of Defense (OSD) for comparison with the Cost Assessment and Program Evaluation (CAPE) group independent estimate.

These recommendations and the Department's responses apply for either the down-select or the dual block-buy approach and the Department's concurrence and related actions with the recommendations (included in Appendix III of the August GAO report) will not change in either case.

As you know, Navy has taken delivery of the first two ships and the third and fourth ships are under construction. The performance of the USS FREEDOM (LCS 1) and USS INDEPENDENCE (LCS 2) and their crews are extraordinary and affirm the value and urgent need for these ships. For the Fiscal Years (FYs) 2010-2014 ships, Navy has been pursuing the congressionally authorized down-select to a ten ship block-buy. Competition for the down-select has succeeded in achieving very affordable prices for each of the ten ship bids which reflect mature designs, investments made to improve performance, stable production, and continuous labor learning at their respective shipyards.

The result of this competition affords the Navy an opportunity to award a dual block-buy award (for up to 20 ships between FYs 2010-2015) with fixed-price type contracts, which achieves significant savings for the taxpayer, while getting more ships to the Fleet sooner and providing greater operational flexibility. The dual block-buy provides much needed stability to the shipbuilding industrial base; from vendors, to systems providers to the shipyards. This will pay important dividends to the Department, and to potential Foreign Military Sales customers, in way of current and future program affordability. The fixed-price type contract limits the government's liability and incentivizes both the government and the shipbuilder to aggressively pursue further efficiencies and tightly suppress any appetite for change. Navy will routinely report on the program's progress and Congress retains control over future ship awards through the annual budget process.

The agility, innovation and willingness to seize opportunities displayed in this LCS competition reflect exactly the improvements to the way we do business that the Department requires in order to deliver better value to the taxpayer and greater capability to the warfighter.

I greatly appreciate your support for the LCS Program. As always, if I can be of further assistance, please let me know.

Sincerely,

G. ROUGHEAD,
Admiral, U.S. Navy.

PROJECT ON GOVERNMENT OVERSIGHT,
Washington, DC, December 9, 2010.
Senate Armed Services Committee,
Senate Russell Office Building,
Washington, DC.

DEAR CHAIRMAN LEVIN AND RANKING MEMBER MCCAIN, The Project On Government Oversight (POGO) is a nonpartisan independent watchdog that champions good government reforms. POGO's investigations into corruption, misconduct, and conflicts of interest achieve a more effective, accountable, open, and ethical federal government. We are troubled by a rushed proposal to change the Navy Littoral Combat Ship (LCS) sea frame acquisition strategy.

The Navy notified Congress of its proposal to change its acquisition strategy for LCS on November 3, 2010. The proposed strategy, under which the Navy intends to buy up to 20 sea frames from two separate shipyards, is a substantial change from the current strategy. Currently, the Navy's strategy is to "down select" (i.e. choose a winner) to one yard and (with the winning design in hand) hold another competition later to build a total of 19 ships—only 10 of which are now authorized under law. To implement the new strategy, the Navy needs Congress to sign off on it and wants Congress to do so by mid-December.

Congress should require that the Navy give it more time to get answers to the serious questions raised by, among others, the Congressional Research Service (CRS) in its November 29, 2010, report (attached) and the Government Accountability Office (GAO) in reports issued in August and December 2010. As CRS asked:

"Does the timing of the Navy's proposal provide Congress with enough time to adequately assess the relative merits of the down select strategy and the dual-award strategy? . . . Should the Navy ask the contractors to extend their bid prices for another, say, 30 or 60 or 90 days beyond December 14, so as to provide more time for congressional review of the Navy's proposal?"

Congress needs time to consider whether the Navy's new plan is fiscally responsible or whether it increases risks that already exist in the program. Congress should require that the Navy to ask the two contractor teams to extend their bid prices up to 90 days beyond December 14. The two contractor teams are led by, respectively, Lockheed Martin and Austal USA.

The Navy's justification for its new strategy is the purportedly low prices that both bidders have submitted in the current competition. But it is not clear if these low bids are reasonable. The use of fixed-price contracts won't necessarily prevent an underperforming shipyard from simply rolling its losses into its prices for follow-on ships.

There can be no doubt that the LCS program has already had significant problems. For example, the sea frames were originally intended to cost about \$220 million each. But the ones built and under construction have ballooned up to over \$600 million each. Yet without any real data indicating that the program is likely to perform adequately in the future (the Navy has failed to meaningfully implement many of GAO's recommendations in its August report), the Navy wants Congress's help to lock the program into 20 ships over the next five years.

The Navy has not demonstrated the combined capabilities of the LCS sea frame(s) with its mission packages. It's important to bear in mind that the LCS sea frame is effectively a "truck." The LCS's combat effectiveness derives from its modular "plug-and-play" mission packages (e.g., anti-submarine, mine-countermeasures, and surface warfare). The LCS program has been struggling with developmental challenges with these mission packages that have led to postponed testing. As the GAO states, "Until mission packages are proven, the Navy risks investing in a fleet of ships that does not deliver promised capability." Without effective mission capabilities, the LCS will be "largely constrained to self-defense as opposed to mission-related tasks."

Furthermore, it is likely that other shipyards that may be just as capable of building LCS sea frames as the two that would be awarded contracts under the dual-award strategy. Some, including CRS, have asked whether other shipyards will be frozen out of the LCS program—even after the first 20 ships have been built. For that reason, we believe that, before approving the Navy's proposal, Congress should carefully evaluate whether it may in fact stifle, rather than encourage, competition throughout the program's lifecycle, as is required under the recently enacted weapon systems acquisition reform law.

This is not the first time the Navy has given Congress insufficient time to evaluate its LCS acquisition strategy. The last time the Navy asked Congress to approve its LCS acquisition strategy—just last year—there was short notice. In 2002, the Navy gave "little or no opportunity for formal congressional review and consideration" of the Navy's proposed LCS acquisition strategy, according to CRS. This is *deja vu* all over again. The taxpayers deserve the careful consideration of Congress.

In sum, Congress should not approve the Navy's acquisition strategy without a clear picture of the likely costs and risks. Furthermore, Congress should not allow the Navy to continue to skirt oversight. We appreciate your review of this letter and your time, and look forward to working with you on the Littoral Combat Ship Program. If you have any questions, please do not hesitate to contact Nick Schwellenbach.

Sincerely,

DANIELLE BRIAN,
Executive Director.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 10, 2010.

Hon. DANIEL INOUE,
Chairman, Senate Committee on Appropriations,
Washington, DC.

Hon. THAD COCHRAN,
Vice Chairman, Senate Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN INOUE AND VICE CHAIRMAN COCHRAN: The House-passed Full-Year Continuing Appropriations Act, 2011 (H.R. 3082) contains a provision that would authorize the Department of the Navy to acquire 20 Littoral Combat Ships (LCS) in lieu of the 10 that were authorized under the National Defense Authorization Act, 2010. As you finalize your Omnibus Appropriations Bill, I wanted to express my opposition to including this provision in the Omnibus Appropriations Bill or any other stop-gap funding measure that you may be considering.

As you know, the Navy first conveyed to the Senate its proposal that gave rise to this provision just a few weeks ago, and the competition for the LCS ship construction contract is still open. As such, not only has the

Senate been given an unusually short time to review such an important proposal but it also has been unable to obtain basic information (on cost and capability, for example) it needs to consider the proposal carefully because they remain source-selection sensitive.

Moreover, recent reviews of the proposal released by the General Accountability Office (GAO) and the Congressional Research Service (CRS) just yesterday raise a number of salient concerns about it. In the aggregate, those concerns indicate the proposal needs more careful and open deliberation than would be afforded by including it in a late cycle Omnibus or continuing resolution.

In particular, the GAO identified a full range of uncertainties (relating to, for example, design changes, operations and support costs, mission-package development) that would determine whether the proposal will realize estimated savings—savings that, in its own report release just today, the Congressional Budget Office (CBO) suggests that the Navy may have overstated. GAO also negatively assessed the Navy’s implementation of some of the recommendations it made in its August 2010 report—recommendations with which the Department of Defense concurred. Against that backdrop, GAO observed that “decisionmakers do not have a clear picture of the various options available to them related to choosing between the down-select and dual award strategies”.

Similarly posing a number of important questions (on, for example, the potential relative costs and risks of the two strategies, the proposal’s impact on the industrial base, and its effect on competition) in its recent review of the proposal, CRS too noted that this is the third time that the Navy has presented Congress with a difficult choice about how to buy LCS ships late in Congress’ budget-review cycle—after budget hearings and often after defense bills have been written.

Given the foregoing, without the basic information and the time necessary for the Senate to discharge its oversight responsibilities with respect to the Navy’s proposal responsibly and transparently, I oppose including this provision in the any funding measure now under consideration. With the LCS’ program’s troubled history, I suggest that such measures would serve as inappropriate vehicles to make dramatic changes to the program.

Thank you for your consideration.
Sincerely,

JOHN MCCAIN,
Ranking Member.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 8, 2010.

Admiral GARY ROUGHEAD, USN,
Chief of Naval Operations,
Navy Pentagon, Washington, DC.

DEAR ADMIRAL ROUGHEAD: About a month ago, the Navy first proposed that Congress let it fundamentally change how it buys seaframes under the Littoral Combat Ships (LCS) program—a program that has had serious difficulty on cost, schedule and performance.

However, in August 2010 and again just today, the General Accountability Office (GAO) issued a report raising serious concerns about the program. In today’s report, it also conveyed criticism about the Navy’s implementation of its recommendations.

When you and I met, on November 18, 2010, I asked that you describe how the Navy has implemented GAO’s recommendations. In that regard, your letter of November 22, 2010, was unhelpful. Not only did it cite what the Navy will do to implement GAO’s recommendations as examples of action it had already taken, most of the action items it described didn’t even correspond to GAO’s actual recommendations. Indeed, the whole thrust of the Navy’s proposal appears basically inconsistent with the recommendation that the Navy not buy excess quantities of ships and mission packages before their combined capabilities have been sufficiently demonstrated.

Until deficiencies affecting the lead ships have been fully identified and resolved, I simply cannot share your optimism that the LCS program will stay within budgeted limits and deliver required capability on time—an assumption that underpins the Navy’s proposal. And, without basic information needed to consider the proposal responsibly (because, with the competition still open, they remain sensitive), I cannot support it at this time.

Finally, I would like to comment on how undesirable the process by which the Navy has made this proposal has been—outside of “regular order”; during an open competition; in a way that precludes full and open debate by all interested Members; and without full

information. I respectfully suggest that neither this program nor the Navy’s shipbuilding enterprise have been served well by Congress’ making decisions in this way in the past. I, therefore, respectfully ask that this process not be repeated.

Thank you for your visit. I look forward to continuing to work with you in support of our sailors.

Sincerely,

JOHN MCCAIN,
Ranking Member.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 10, 2010.

Hon. JOHN MCCAIN,
Ranking Member, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR SENATOR: As you know, the Navy is planning to acquire a fleet of 55 littoral combat ships (LCSs), which are designed to counter submarines, mines, and small surface craft in the world’s coastal regions. Two of those ships have already been built, one each of two types: a semiplaning steel monohull built jointly by Lockheed Martin and Marinette Marine in Wisconsin and an all-aluminum trimaran built by Austal in Alabama. The Navy also has two more ships (one of each type) under construction. The remaining 51 ships would be purchased from 2010 through 2031. In response to your request, the Congressional Budget Office (CBO) analyzed the cost implications of the Navy’s existing plan for acquiring new LCSs and a new plan that it is currently proposing:

Existing “Down-Select” Plan: In September 2009, the Navy asked the two builders to submit fixed-price-plus-incentive bids to build 10 ships, 2 per year from 2010 to 2014, beginning with funds appropriated for 2010. The Navy planned to select one of the two versions of the LCS, awarding a contract for those 10 ships to the winning bidder, and then, through another competition, to introduce a second yard to build 5 more ships of that same design from 2012 to 2014. In 2015, the Navy would purchase 4 more ships; the acquisition strategy for those vessels has not been specified. A total of 19 ships of one design would be purchased by 2015 (see Table 1). Any shipyard could bid in that second competition except the winner of the contract for the first 10 ships.

TABLE 1—LCS PROCUREMENT UNDER DIFFERENT ACQUISITION PLANS, 2010 TO 2015
(Number of ships procured)

	2010	2011	2012	2013	2014	2015	Total
Existing Down-Select Plan							
Winner	2	2	2	2	2	4	19
Second Builder			1	2	2		
Proposed Dual-Award Plan							
Lockheed Martin/Marinette Marine	1	1	2	2	2	2	20
Austal	1	1	2	2	2	2	

Source: Congressional Budget Office based on data from the Navy.
Note: The Navy also purchased two ships from each builder between 2005 and 2009. Under the down-select plan, the Navy proposes to procure four ships in 2015. How the Navy would purchase those ships has not been determined.

Proposed “Dual-Award” Plan: In November of this year, the Navy proposed to accept the fixed-price-plus-incentive bids from both teams, purchasing 10 of each type of LCS (a total of 20 ships) by 2015, beginning with funds appropriated for fiscal year 2010.

According to the Navy, the bid prices received under the existing down-select plan were lower than expected, which would allow the service, under the dual-award plan, to purchase 20 ships from 2010 through 2015 for less than it had expected to pay for 19. (The

total number of LCSs ultimately purchased would be the same under both plans.)

CBO has estimated the cost for the LCS program between 2010 and 2015 under both plans, using its standard cost-estimating model. By CBO’s estimates, either plan would cost substantially more than the Navy’s current estimates—but CBO did not have enough information to incorporate in its estimates the bids from both contractors for the 10-ship contract.

CBO’s analysis suggests the following conclusions:

Whether one considers the Navy’s estimates or CBO’s, under either plan, costs for the first 19 ships are likely to be less than the amounts included in the Navy’s 2011 budget proposal and the Future Years Defense Program (FYDP).

CBO’s estimates show per-ship construction costs that are about the same for the two plans, but those estimates do not take into account the actual bids that have been received.

Adopting the dual-award plan might yield savings in construction costs, both from

avoiding the need for a new contractor to develop the infrastructure and expertise to build a new kind of ship and from the possibility that bids now are lower than they would be in a subsequent competition, when the economic environment would probably be different.

Operating and maintaining two types of ships would probably be more expensive, however. The Navy has stated that the differences in costs are small (and more than offset by procurement savings), but there is considerable uncertainty about how to estimate those differences because the Navy does not yet have much experience in operating such ships. In addition, if the Navy later decided to use a common combat system for all LCSs (rather than the different ones that would initially be installed on the two different types of vessels), the costs for developing, procuring, and installing that system could be significant.

THE NAVY'S ESTIMATES OF COSTS BETWEEN 2010 AND 2015

In the fiscal year 2011 FYDP, the Navy proposed spending almost \$12 billion in current dollars to procure 19 littoral combat ships between 2010 and 2015 under the down-select plan. (The Navy's budget estimate was submitted in February 2010, well before it received the two contractors' bids in the summer of 2010.) The Navy now estimates the cost under that plan to be \$10.4 billion, about \$1.5 billion (or 13 percent) less than its previous estimate.

Now that the Navy has the two bids in hand, it has formulated a new plan for purchasing LCSs. It estimates that it could purchase 20 ships—10 from each contractor—for about \$9.8 billion through 2015, or \$0.6 billion less than it currently estimates for the down-select plan and \$2.1 billion less than the cost it had estimated for 19 ships in its 2011 FYDP. The Navy's projected cost per ship under this plan is 21 percent less than its estimate in the 2011 FYDP.

The Navy's block-buy contracts under either plan would be structured as fixed price plus incentive. Under the terms of the two contractors' bids, the ceiling price is 125 percent of the target cost, and that price represents the maximum liability to the government. The Navy and the contractor would share costs equally over the target price up to the ceiling price. If costs rose to the ceiling price, the result would be a 12.5 percent increase in price to the government com-

pared with the target price at the time the contract was awarded. The Navy has stated that its budget estimates include additional funding above the target price to address some, but not all, of the potential cost increases during contract execution. There is also the potential for cost growth in other parts of the program, such as in the government's purchasing of equipment that it provides to the shipyard, that are not part of the shipyard contract. But the cost of government-furnished equipment is small; it is less than 5 percent of the total cost in the case of the third and fourth ships currently under construction.

The Navy indicates that its estimates reflect the experience the shipyards gained from building two previous ships and the benefits of competition. Under the down-select plan, the second shipyard that would begin building LCSs in 2012 would be inexperienced with whichever ship design was awarded, and the investments required in infrastructure and expertise would make the first ships it produced more expensive than those from a shipyard with an existing contract for LCS construction. Conversely, under the dual-award plan, each shipyard would benefit from its experience with building two of the first four LCSs. CBO cannot quantify the benefits of competition, although they undoubtedly exist. In light of the results of the competition for the 10-ship block, it is possible that the competition the Navy would hold in 2012 for the second source in the down-select plan might also yield costs that are below those the Navy (or CBO) estimates, in which case the current estimate of the costs for that plan would be overstated.

The Navy briefed CBO on some aspects of those estimates but did not provide CBO with the detailed contractor data or with the Navy's detailed analysis of those data. If the contractors' proposals for the 10-ship award are robust and do not change, the Navy's estimates would be plausible although not guaranteed. CBO has no independent data or means to verify the Navy's savings estimate, and costs could grow by several hundred million dollars if the shipbuilders or developers of the combat systems carried by those ships experience cost overruns.

COMPARISON OF CBO'S AND THE NAVY'S ESTIMATES

CBO's estimates of costs are higher and indicate little difference in the per-ship costs

of the two plans. They reflect information about the ships currently being built, but they do not incorporate information about the contractors' bids because CBO does not have access to that information. Thus, CBO's estimates do not incorporate any benefits of competition that may have arisen as a result of the Navy's existing down-select acquisition strategy—benefits the Navy argues would be locked in by the fixed-price-plus-incentive contracts.

CBO estimates that the down-select plan would cost the Navy about \$583 million per ship—compared with an estimated cost of \$591 million per ship under the dual-award plan (see table 2). Contributing to that difference is the loss of efficiency that would result from having two yards produce one ship per year in 2010 and 2011, rather than having one yard produce two ships per year. Given the uncertainties that surround such estimates, that difference, of less than 2 percent, is not significant.

CBO's estimates of the cost for the down-select and dual-award strategies are higher than the Navy's, by \$680 million and \$2.0 billion, respectively, because the contractors' prices are apparently much lower than the amounts CBO's cost-estimating model would have predicted and even lower than the Navy predicted in its 2011 budget. (CBO's model is based on well-established cost-estimating relationships, and it incorporates the Navy's experience with the first four LCSs.) For example, the Navy's estimate of the average cost for one ship in each of the two yards in 2010 and 2011 is lower than CBO's estimate of what the average cost would be to build (presumably, more efficiently) two ships in one yard. And those lower costs carry through to the years when each yard would be building two ships per year. In addition, again according to the Navy, the contractors were willing to accept a change in the number of ships purchased per year in 2010 and 2011 without increasing the total cost of the ships. The Navy stated that the contractors achieved a substantial savings in the cost of materials because, under the block buy, the Navy would be committing to purchase 10 ships from one or both shipyards. With the dual-award strategy, the Navy is attempting to capture the lower prices offered by both builders for 20 ships, rather than just for 10 ships under the down-select strategy.

TABLE 2—CBO'S AND THE NAVY'S ESTIMATES OF THE COSTS OF THE LCS PROGRAM UNDER DIFFERENT ACQUISITION PLANS, 2010 TO 2015

(Millions of current dollars)

	2010 ^a	2011	2012	2013	2014	2015	Total	Average ship cost
CBO's Estimates								
19-Ship Down-Select Plan	1,080	1,150 ^b	1,790	2,330	2,350	2,380	11,080	583
20-Ship Dual-Award Plan	1,080	1,450 ^b	2,290	2,300	2,330	2,370	11,820	591
Navy's Estimates								
19-Ship Down-Select Plan	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	10,400	547
20-Ship Dual-Award Plan	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	9,800	490
Memorandum:								
2011 President's Budget and FYDP (19-ship plan)	1,080	1,509	1,808	2,334	2,417	2,748	11,893	626

Source: Congressional Budget Office.

Note: n.a. = not available; FYDP = Future Years Defense Program.

a. The amount for 2010 is the funding level provided in the Defense Appropriations Act, 2010.

b. The amounts for 2011 include additional funds CBO estimates would be needed to complete the 2010 ships.

With the Navy in possession of contract bids, it is not clear that CBO's cost-estimating model is a better predictor of LCS costs through 2015 than the Navy's estimates. Still, the savings compared with the 2011 FYDP might not be realized if the Navy changes the number of ships that are purchased after the contract has been let or makes design changes to address technical

problems, regardless of which acquisition strategy the Navy pursues. Inflation or other escalation clauses in the contract also could add to costs.

Although CBO estimates that the dual-award plan would be slightly more costly, that approach might also provide some benefits. In materials delivered to the Congress about that strategy, the Navy stated, "There

are numerous benefits to this approach including stabilizing the LCS program and the industrial base with award of 20 ships; increasing ship procurement rate to support operational requirements; sustaining competition through the program; and enhancing Foreign Military Sales opportunities." CBO did not evaluate those potential benefits.

IMPLICATIONS OF THE TWO ACQUISITION PLANS
FOR COSTS BEYOND 2015

A Navy decision to buy both types of ships through 2015 would have cost implications after 2015. But whether those long-term costs will be higher or lower would depend on at least three aspects of the Navy's decision:

Which of the two ship designs the Navy would have selected if it had kept to its original down-select plan;

Whether the Navy will buy one or both types of ships after 2015; and

Whether the Navy decides eventually to develop a common combat system for both types of ships or to keep the two combat systems (one for each type of ship) that it would purchase under the dual-award approach.

CBO cannot estimate those costs beyond 2015 because it does not know what the Navy is likely to decide in any of those areas. For example, if the Navy pursued its original down-select strategy and chose the ship with lower total ownership costs (the costs of purchasing and operating the ships), switching to the dual-award strategy would increase the overall cost of the program because the Navy would then be buying at least 10 more ships that have higher total ownership costs. Conversely, if the Navy were to choose the ship with higher total ownership costs under the down-select strategy, the dual-award strategy might produce an overall savings. However, some of those savings would be offset by the extra overhead costs of employing a second shipyard and by other types of additional costs described below. Added costs would also arise if the Navy selected the dual-award strategy through 2015 and then decided to build both types of ships after 2015 to complete the 55-ship fleet rather than selecting only one type, in keeping with its current plans.

The dual-award strategy might entail higher costs to support two full training and maintenance programs for the two ship designs. Under the down-select strategy, the Navy would need training, maintenance, and support facilities to sustain a fleet of 53 LCSs of the winning design. Facilities would be required for both the Pacific Fleet and the Atlantic Fleet—essentially one on each coast of the continental United States. A more modest set of facilities would be required to support the two ships of the losing LCS design, which the Navy could presumably concentrate at a single location. Under a dual-award strategy, the Navy would buy at least 12 ships of each type, with an additional 31 ships of either or both designs purchased after 2015. Thus, a more robust training, maintenance, and support program would be required for the version of the LCS that would have lost under the down-select strategy. The Navy has said that those costs are relatively small and more than offset by the savings generated by the shipyards' bids, but CBO did not have the data to independently estimate those additional costs.

Finally, another, potentially large, cost would hinge on whether the Navy decides in 2016 or later to select a common combat system for all LCSs. Currently, the two versions of the ship use different combat systems. If the Navy decided to have both versions of the LCS operate with the same combat system, it would incur research, development, and procurement costs, as well as costs to install the new system on 12 of the LCSs already equipped with an incompatible system. Combat systems for the LCS today cost about \$70 million each, not including the cost to remove the old system and install the new one. At a minimum, the Navy would lose some efficiency in the production of the

combat system under the dual-award plan because neither producer of the combat system would have provided more than 12 systems for installation on LCSs by 2015; under the down-select strategy, by contrast, one producer would have provided 19 systems by that year. Thus, the production costs of the combat system are likely to be higher for ships purchased after 2016 under the dual-award strategy than under the existing down-select approach because the manufacturers of those later ships would have had less experience building ships of the same type and thus fewer opportunities to identify cost-saving practices. Furthermore, the costs to operate two combat systems (or to switch to a single combat system later) would probably exceed the cost to operate a single system from the outset.

I hope you find this information helpful. If you have any more questions, please contact me or CBO staff. The CBO staff contact is Eric Labs.

Sincerely,

DOUGLAS W. ELMENDORF,

Director.

Mr. LEAHY. Mr. President, I strongly support the alternate engine for the F-35 Joint Strike Fighter. The evidence and the logic for an alternate engine easily overwhelm the flawed arguments that have been used to attack it. Investments in fighter engine competition will reduce costs over the life of the F-35 program. Not only will competition cost less than a single engine monopoly; competition also forces contractors to be more responsive and reliable. And the F-35 will comprise a vast percentage of the U.S. strike aircraft fleet. With just one engine, our national security would rest on a single point of failure. Sole-sourcing the F-35 Joint Strike Fighter engine is simply the wrong decision for our country, and I am glad that the continuing resolution will preserve funding for this program through March.

Though misinformation has been spread about the costs of the alternate engine, multiple nonpartisan reports suggest that it is highly likely to save taxpayer dollars. According to Government Accountability Office testimony, the Congress can reasonably expect to recoup investment costs over the life of the program. If the so-called "Great Engine War" of the F-16 program is any example, the F-35 alternate engine might even yield 30 percent cumulative savings for acquisition, 16 percent savings in operations and support, and 21 percent savings over the life cycle of the aircraft. Not only would we sacrifice these potential savings by killing the F-35 alternate engine program, but that decision would waste the investment we have already made in a competitive second engine. Ending fighter engine competition for the F-35 is pound foolish without even being penny wise.

GAO also points to several possible nonfinancial benefits of engine competition, including better system performance, increased reliability and improved contractor responsiveness. News reports about the broader F-35 program

reveal what happens when we sole-source crucial large, multiyear defense programs. The F-35 faces a range of unanticipated problems, delays and cost overruns. Even the independent panel on the 2010 Quadrennial Defense Review—led by President Clinton's Defense Secretary, William Perry, and President Bush's National Security Adviser, Stephen Hadley—strongly advocated dual-source competition in major defense programs. Without competition, the American people will keep paying more and more to buy less and less.

Without competition, our country's strike aircraft would be one engine problem away from fleet-wide grounding. Putting all of our eggs in the single engine basket would elevate risks to our troops and their missions. Imagine our soldiers in Afghanistan stranded without air support simply because we were not wise enough to diversify the program to avoid engine-based groundings. With their lives on the line, we cannot afford to be irresponsible with this program.

The continuing resolution appropriately maintains funding for the alternate engine program. It does not allow for so-called new starts, but neither does it bring programs to a premature end without the debate and full consideration here in the Congress that they deserve. The alternate engine program will rightly continue, and I expect that when programs receive scrutiny during budget consideration next spring, the same will also be the case.

Ensuring engine competition is the right thing to do because it is the smart thing to do. Although some have stressed the up-front costs, taxpayers stand to save more money over the life of the F-35 program by maintaining competitive alternatives. Most importantly, we will purchase a better and more reliable product for the people who risk their lives to defend our country. I will continue to support engine competition that ensures the best product for the troops at the best price for the taxpayer.

Ms. MIKULSKI. Mr. President, I rise to speak about the appropriations process and the need to return it to regular order. I come to the floor very bitter that we have to pass this continuing resolution, CR. The power of the purse is our constitutional prerogative. I am for regular order. Regular order is the most important reform to avoid continuing resolutions and omnibus bills.

Regular order starts with the Appropriations subcommittees and then full committee marking up 12 individual bills. Chairman INOUE has led these bills out of Committee for the last 2 years, as Chairman Byrd did before him. Then the full Senate considers 12 bills on the floor and all Senators have a chance to amend and vote on the bills. This, however, has not happened since the 2006 spending bills. Lack of

regular order means trillion dollar omnibuses or continuing resolutions. If a bill costs a trillion dollars, then opponents ask why can't we cut it by 20 percent—what will it matter? But we are dealing with actual money; it is not authorizing, which is advisory. There are real consequences. If we are really going to tackle the debt, the Appropriations Committee must be at the table. Tackling the debt can't be done just through Budget and Finance Committees alone.

What are the real life consequences of this CR? Well, this CR means that it will be harder to keep America safe. Under this CR the FBI cannot hire 126 new agents and 32 intelligence analysts it needs to strengthen national security and counter terrorist threats. The FBI's cyber security efforts will also be stalled, even while our Nation faces a growing and pervasive threat overseas from hackers, cyber spies and cyber terrorists. Cyber security is a critical component to our Nation's infrastructure, but this CR doesn't allow the FBI to hire 63 new agents, 46 new intelligence analysts and 54 new professional staff to fight cyber crime. The DEA, ATF and FBI cannot hire 57 new agents and 64 new prosecutors to reduce the flow of drugs and fight violence and strengthen immigration enforcement along the Southwest border. Under this CR, we leave immigration courts struggling to keep pace with over 400,000 immigration court cases expected in 2011 because they cannot add Immigration Judge Teams who decide deportation and asylum cases. We cannot hire 143 new FBI agents and 157 new prosecutors for U.S. attorneys to target mortgage and financial fraud scammers and schemers who prey on America's hard working, middle class families and destroy our communities and economy. We miss the chance to add at least 75 new U.S. deputy marshals to track down and arrest the roughly 135,000 fugitive, unregistered child sexual predators hiding from the law and targeting children.

This CR stifles innovation and workforce development. In September, Norm Augustine and the National Academy of Sciences updated the 2005 "Rising Above the Gathering Storm" report, sounding the alarm that the U.S. is still losing ground in science that fuels innovations, and brings us new products and new companies. Everyone says they are for science, but it appears that no one wants to pay for it. So, under this CR, our science agencies, like the National Institute of Standards and Technology, NIST, and the National Science Foundation, NSF, will be flat funded. For NSF, this would mean 800 fewer research grants, and 7,000 fewer scientists and technicians working in labs across the country on promising research in emerging fields like cyber security and nanotechnology. Under a CR, we will let the

world catch up by not making new investments in science education. We won't just lose the Ph.D.s who open avenues of discovery and win the Nobel Prize. We will also lose the technicians who are going from making steel and building ships to the new, innovation-based manufacturing economy, creating the next high tech product. We will also lose the chance to build up technical education in key fields like cyber security. Under this CR, we cannot expand the supply of cyber security specialists who are responsible for protecting U.S. Government computers and information. We miss the opportunity to triple funding for the NSF program to train cyber professionals for Federal careers, which has brought us more than 1,100 cyber warriors since 2002 and of whom more than 90 percent take jobs with Federal agencies.

I am also disappointed we will be passing this CR because I believe in the separation of powers established by the Constitution. Congress should not cede power to the Executive Branch, regardless of which party is in the White House. The Constitution gives the power of the purse to Congress. I will not cede the power to meet compelling human or community needs or create jobs for America and for Maryland. I don't want to leave all funding decisions to bureaucracy.

On the Appropriations Committee, we did our work by reporting 12 separate bills to the full Senate, but none came to the Senate floor. My Commerce, Justice, Science—or CJS—Subcommittee held 6 hearings with 14 witnesses to examine agencies' budget requests and policies. We heard from 4 inspectors general, IGs, from our major departments and agencies: Todd Zinser at Commerce, Glenn Fine at Justice, Paul Martin at NASA and Allison Lerner at NSF. We listened to agencies' officials, representatives of organizations from sheriffs to scientists and interested Senators. My CJS Subcommittee worked in a bipartisan way to craft a bill that makes America safer, invests in the American workforce of the future and is frugal and gets value for taxpayer dollars. Under this CR, all of that work is wasted. Instead of fulfilling our constitutional duty of the power of the purse, we are leaving it to the Executive Branch to make key funding decisions with minimal direction from Congress.

As I travel around Maryland, people tell me that they are mad at Washington. Families are stretched and stressed. They want a government that's on their side, working for a strong economy and a safer country. They want a government that is as frugal and thrifty as they are. They want to return to a more constitutionally based government. This CR is not the solution.

Some Members might say that a CR is OK, it will save money, it doesn't

matter. Well, even though the CR provides less funding for CJS, it doesn't do it smarter because the CR is essentially a blank check for the executive branch. Regular order provides direction, telling the government to be smarter and more frugal, making thoughtful and targeted cuts and modest increases where justified—not government on autopilot.

For example, my CJS appropriations bill tells agencies to cut reception and representation funds by 25 percent; eliminate excessive banquets and conferences; cut overhead by at least 10 percent—by reducing non-essential travel, supply, rent and utility costs; increase funding to IGs, the taxpayers' watchdogs at the agencies, and have those IGs do random audits of grant funding to find and stop waste and fraud; and notify the committee when project costs grow by more than 10 percent so that we have an early warning system on cost overruns. These reforms are lost in any CR.

We should refocus on the Appropriations Committee. Many Senators have only been elected for the first time in the last 6 years, so most have never seen regular order and don't know what Appropriations Committee is supposed to be. The Appropriations Committee is "the guardian of the purse," which puts real funds in the Federal checkbook for the day-to-day operations of Federal agencies in Washington, and around the Nation and the world. It performs oversight of spending by Federal agencies. And it serves as Congress's main tool to influence how agencies spend money on a daily basis. Why does this matter? It matters because the Appropriations Committee is the tool for aggressive oversight and meeting the needs of our constituents. Agencies must respond to Appropriations—their budgets depend on it.

We must preserve the separation of powers, oversight of Federal agencies and advocacy for our States and our constituents. I urge my colleagues to return to the regular order, and look forward to consideration of all 12 appropriations bills on the floor next year.

Mr. LAUTENBERG. Mr. President, when our colleagues from across the aisle blocked the Omnibus appropriations bill they decided to leave our Nation less safe and less prepared to thwart the next terrorist attack. They chose to put our homeland security on autopilot for the next few months—and that is just too risky.

We had before us an Omnibus bill that addressed the evolving threats to our homeland security. As chairman of the Homeland Security Appropriations Subcommittee, I can attest to the diligent, bipartisan work that went into crafting this legislation, which met our security challenges in a fiscally responsible manner. But our colleagues across the aisle chose instead to fund

our homeland security at the status quo levels under a continuing resolution. The terrorists aren't operating under the status quo and neither should we.

The terrorists are constantly searching for new ways to threaten our way of life. We are approaching the 1-year anniversary of the Christmas Day bombing attempt, when a terrorist boarded a flight to Detroit with explosives sewn into his underwear. And just in October, printer cartridges being shipped from Yemen were found to contain explosives that were meant to blow up on cargo planes flying over the east coast of the U.S.

Homegrown terrorism is also a growing threat, as evidenced by the Fort Hood shooting, the Times Square bombing attempt and the New York City subway plot. Earlier this month, the FBI arrested a suspect who was planning to blow up a military recruitment center in Baltimore. And last month, the FBI stopped a U.S. citizen who planned a terrorist bombing at a Christmas tree-lighting ceremony in Portland, OR.

Because of the opposition to the Omnibus, our Department of Homeland Security and first responders across the country will not have the resources they need to anticipate, thwart, and respond to these threats: The Transportation Security Administration will not be able to purchase new explosive-tracing equipment or hire more intelligence officers and canine teams. We won't be able to hire more Federal air marshals, who have been stretched thin since the Christmas Day bomb plot was foiled. Our airports and seaports won't get new equipment to detect radiation and nuclear material. We will have fewer resources to secure air cargo and eliminate threats like the package bombs from Yemen. We will have less funding to secure our rail and transit systems, which are prime targets for terrorists—as we've seen everywhere from Madrid and Russia to DC and New York City. The Coast Guard won't be able to hire 100 new maritime inspectors or improve their capacity to respond to an oil spill. Immigration and Customs Enforcement may have to cut back investigations into human trafficking, drug smuggling and identity theft. There will be fewer Customs officers on duty to keep dangerous cargo and terrorists out of our country. Our ability to prepare for natural disasters and other emergencies will suffer. Fewer local fire departments will receive needed assistance to pay for equipment and training.

In short, the Republicans' decision to kill the Omnibus will shortchange our safety and take chances with our security—and that is wrong for our country.

Beyond homeland security, the Republicans' actions will leave our troops worse prepared and our children without the education they deserve.

The Omnibus crafted by Senator INOUE, on the other hand, responsibly met all of these needs. And it did so at the exact same funding level proposed by the Republican leader in the Appropriations Committee earlier this year. In June, 40 Republicans voted to support funding the government at this level. Moreover, the Omnibus was crafted on a bipartisan basis—and included earmarks and other spending requested by Republicans.

So it is the height of hypocrisy and cynicism for our Republican colleagues to attack this bill as wasteful or bloated. Adding to the hypocrisy, just two days after killing the Omnibus, which included a quarter billion dollars more for border security than the CR, Republicans killed the DREAM Act—on the alleged basis that we should secure the border first. They are clearly more concerned with handing a defeat to our President and to congressional Democrats than with governing in a responsible way. Republicans have put politics first and it is our troops, our security and our children that will pay the price.

In the aftermath of the wreckage caused by the Republicans' opposition to the Omnibus, Senator INOUE was faced with the challenge of drafting a slimmed-down continuing resolution that would not leave the country vulnerable. This was an extremely difficult task, but Senator INOUE was able to craft a bill that provides the most vital resources our government needs to function over the next few months. This was no small feat and I commend the chairman for his tireless work on this bill and throughout this year's appropriations process.

The PRESIDING OFFICER. The Senator from Colorado.

NOMINATION OF BILL MARTINEZ

Mr. UDALL of Colorado. Mr. President, I rise in response to Senator SESSIONS' comments about a nominee we are going to consider shortly, Bill Martinez.

Senator SESSIONS just spoke about the ACLU for 30 minutes, trying to define Bill Martinez—a district court nominee, not the appeals court as SESSIONS noted—as an ACLU-like nominee and then criticizing his hearing responses on the death penalty and the empathy standard. I wanted to clarify for the record three points of misinformation.

Bill Martinez did not work for the ACLU. He served on an advisory board regarding cases in Denver. Several Bush nominees were members of the Federalist Society and contributors to other conservative litigation centers and were confirmed just a few years ago. Bill Martinez is not the ACLU, and we ought to be careful to avoid setting false standards.

From the Martinez Hearing:

Senator Sessions: Have you ever acted as counsel in a matter on behalf of the ACLU?

If so, please provide the Committee with a citation for each case, a description of the matter, and a description of your participation in that matter.

Martinez Response: No.

Senator SESSIONS claimed he was dissatisfied with Bill Martinez's response regarding the death penalty, stating that he was not clear in his beliefs. This is misleading and the record states otherwise.

From the Martinez Hearing:

Senator Sessions: Please answer whether you personally believe that the death penalty violates the Constitution.

Martinez Response: It is clear under current Supreme Court jurisprudence that, with very limited exceptions, the death penalty does not violate the Eighth Amendment to the U.S. Constitution. *Gregg v. Georgia*, 428 U.S. 153 (1976); *Roper v. Simmons*, 543 U.S. 551 (2005); *Kennedy v. Louisiana*, 129 S.Ct. 1 (2008). Consistent with this precedent, I do not believe the death penalty is unconstitutional.

Senator SESSIONS also claimed that Bill Martinez stated empathy can be taken into consideration with legal decisions. This is misleading and the record states otherwise.

From the Martinez Hearing:

Senator Sessions: Do you think that it's ever proper for judges to indulge their own subjective sense of empathy in determining what the law means?

Martinez Response: No.

Let me end on this note. Bill Martinez is a man of high character, he is a good man, and he will make an excellent Federal judge. Let us vote to confirm Bill Martinez to the Colorado U.S. District Court.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). Under the previous order, the second-degree amendment is withdrawn. The question is on agreeing to the motion to concur.

Mr. UDALL of Colorado. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Missouri (Mr. BOND).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—79

Akaka	Boxer	Cochran
Alexander	Brown (MA)	Collins
Barrasso	Brown (OH)	Conrad
Baucus	Bunning	Coons
Begich	Cantwell	Corker
Bennet	Cardin	Dodd
Bennett	Carper	Dorgan
Bingaman	Casey	Durbin

Ensign	Leahy	Sanders
Enzi	Levin	Schumer
Feinstein	Lieberman	Sessions
Franken	Lincoln	Shaheen
Gillibrand	Lugar	Shelby
Grassley	Manchin	Snowe
Hagan	McCaskill	Specter
Harkin	McConnell	Stabenow
Hutchison	Menendez	Tester
Inouye	Merkley	Thune
Johanns	Mikulski	Udall (CO)
Johnson	Murkowski	Udall (NM)
Kerry	Murray	Voinovich
Kirk	Nelson (FL)	Warner
Klobuchar	Pryor	Webb
Kohl	Reed	Whitehouse
Kyl	Reid	Wicker
Landrieu	Roberts	
Lautenberg	Rockefeller	

NAYS—16

Burr	Feingold	McCain
Chambliss	Graham	Nelson (NE)
COBURN	Hatch	Risch
Cornyn	Inhofe	Vitter
Crapo	Isakson	
DeMint	LeMieux	

NOT VOTING—5

Bayh	Brownback	Wyden
Bond	Gregg	

The motion was agreed to.

EXECUTIVE SESSION

NOMINATION OF BENITA Y. PEARSON TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO

NOMINATION OF WILLIAM JOSEPH MARTINEZ TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session to consider the following two nominations, which the clerk will report.

The legislative clerk read the nomination of Benita Y. Pearson, of Ohio, to be United States District Judge for the Northern District of Ohio.

The legislative clerk read the nomination of William Joseph Martinez, of Colorado, to be United States District Judge for the District of Colorado.

Who yields time? The Senator from Alabama.

Mr. SESSIONS. Mr. President, is there an agreement as to the time?

The PRESIDING OFFICER. There is 8 minutes total, 4 minutes on each side on both nominations in combination.

Mr. SESSIONS. Mr. President, I would assume the chairman, who will be speaking in favor, would want to go first, and I yield to Senator LEAHY.

Mr. LEAHY. No, go ahead.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, the two nominees today are nominees who came out of the Judiciary Committee with substantial negative votes. Mr. Martinez is a long-time member of the American Civil Liberties Union. He has refused, when asked at the hearing, by

myself and in written questions, to state whether he believes the Constitution of the United States prohibits the death penalty—not whether he believed in it. That is his prerogative. He hid behind the answer that the Supreme Court says it is. But the ACLU holds to the view that the cruel and unusual punishment provision of the Constitution prohibits the imposition of the death penalty and, therefore, it is unconstitutional.

He refused to answer that question, and I believe that is an untenable view. There are four references, at least, in the Constitution to the death penalty, and I do not know how somebody could take the cruel and unusual clause to override specific references to the death penalty which was provided for in every Colony and the Federal Government when the Constitution passed.

With regard to the other nominee, Mrs. Benita Pearson, she has some very extreme views on animal rights. When asked by Senator COBURN whether it would be in the best interests of a steer to be slaughtered—she was asked that in the committee—she said probably not in the best interests of the steer, sir. But then you have to look beyond that. I mean, the steer is going to lose its life. It is a painful situation. And steers, evidence has shown, may have some idea or apprehension about the slaughter that is impending. But the next step is, is it necessary to slaughter the steer in order to provide food for those who might otherwise go hungry or perhaps be malnourished without the sustenance that this steer's flesh and hide could provide in terms of clothing and matters necessary for the well-being of animals.

Basically, what I understand this to be is that she is suggesting a court should enter into some sort of balancing test on whether it is legitimate to slaughter a steer, and also she is a member of the ALDF, the defense of animals group, that is very extreme in its views.

For that reason, the National Cattleman's Beef Association and the Farm Animal Welfare Coalition strongly oppose the nomination. I think her views on this issue are out of the mainstream.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, President Obama nominated William J. Martinez to fill a judicial emergency vacancy on the District of Colorado last February. Mr. Martinez is a well-respected legal practitioner in Denver who has the strong support of both of his home State Senators. The statements earlier today from Senator UDALL and Senator BENNET were compelling. They have been steadfast, forthright and exceedingly patient. I wholeheartedly agree with them that Bill Martinez should

now, at long last, be confirmed. When he is, he will become only the second Hispanic to serve Colorado as a district court judge.

The Judiciary Committee favorably reported his nomination over 8 months ago, on April 15. It has been delayed ever since. In May we received a letter from the chief judge of the District of Colorado, Judge Wiley Y. Daniel, urging us to confirm Mr. Martinez because without additional judges “it is impossible for the court to possess the judicial resources that are necessary to effectively discharge the business of the court.” Despite that plea from the chief judge of the district, the Senate has not been allowed to consider this nomination until today.

This is another example of the unnecessary delays that have led to a judicial vacancies crisis throughout the country. Judicial vacancies have skyrocketed to over 100 while nominations are forced to languish without final Senate action. In fact, President Obama's nominees have been forced to wait on average six times longer to be considered than President Bush's judicial nominees reported by the Judiciary Committee during the first 2 years of his Presidency.

I still do not understand why this nomination was subjected to a party-line vote before the Judiciary Committee. I recall all the Bush nominees who were members of the Federalist Society and other conservative litigation centers who were confirmed just a few years ago. Can it be that some are seeking to apply a conservative activist ideological litmus test and discount Mr. Martinez' qualifications and work experience?

Our ranking Republican Senator, Senator SESSIONS, reflected on the confirmation process last year, saying:

What I found was that charges come flying in from right and left that are unsupported and false. It's very, very difficult for a nominee to push back. So I think we have a high responsibility to base any criticisms that we have on a fair and honest statement of the facts and that nominees should not be subjected to distortions of their record.

I listened closely to the Senator's statement against Mr. Martinez but heard nothing about anything Mr. Martinez had done or even any position taken by the Colorado ACLU in which Mr. Martinez was involved. There was nothing on which to base opposition to this qualified nominee. Certainly not the “gotcha” questions he was asked months ago.

More than two dozen Federal circuit and district court nominations favorably reported by the Judiciary Committee still await a final Senate vote. These include 17 nominations reported unanimously and another 2 reported with strong bipartisan support and only a small number of no votes. These nominations should have been confirmed within days of being reported. In addition, 15 nominations ready for

final action are to fill judicial emergency vacancies. With judicial vacancies at historic highs, we should act on these nominations. During President Bush's first 2 years in office, the Senate proceeded to votes on all 100 judicial nominations favorably reported by the Judiciary Committee. That included controversial circuit court nominations reported during the lame-duck session after the election in 2002. In contrast, during the first 2 years of President Obama's administration, the Senate has considered just 55 of the 80 judicial nominations reported by the Judiciary Committee.

Adding to the letters we have received recently urging us to take action to fill vacancies is one sent this week to the Senate leaders by the National Association of Assistant United States Attorneys, a group of career prosecutors. John E. Nordin, vice president for membership and operations, writes:

Judicial vacancies in our federal courts are reaching historic highs. Our members—career federal prosecutors who appear daily in federal courts across the nation—are concerned by the increasing number of vacancies on the federal bench. These vacancies increasingly are contributing to greater caseloads and workload burdens upon the remaining federal judges. Our federal courts cannot function effectively when judicial vacancies restrain the ability to render swift and sure justice.

I ask unanimous consent that this letter be printed in the RECORD. It concludes, "[w]e believe that all judicial nominees approved by the Senate Judiciary Committee are deserving of a prompt up-or-down floor vote." I agree with these career Federal prosecutors who understand the vital importance of functioning courts and rely on them every day. It is time for the Senate to act on the dozens of judicial nominees that have been stalled from final consideration before we adjourn.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
ASSISTANT UNITED STATES ATTORNEYS,
Lake Ridge, VA, December 17, 2010.

Hon. HARRY REID,
*Majority Leader, U.S. Senate, The Capitol,
Washington, DC.*

Hon. MITCH MCCONNELL,
*Minority Leader, U.S. Senate, The Capitol,
Washington, DC.*

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: Judicial vacancies in our federal courts are reaching historic highs. Our members—career federal prosecutors who daily appear in federal courts across the nation—are concerned by the increasing numbers of vacancies on the federal bench. These vacancies increasingly are contributing to greater caseloads and workload burdens upon the remaining federal judges. Our federal courts cannot function effectively when judicial vacancies restrain the ability to render swift and sure justice.

As you know, thirty-eight judicial candidates have been approved by the Senate Judiciary Committee and await a Senate floor vote. A large number of these can-

didates have been approved without controversy by unanimous consent. Some candidates have been named to judgeships whose vacancies have been designated as "judicial emergencies" by the Judicial Conference, because of their high caseloads and the significant periods of time that these judgeships have remained unfilled.

We believe that all judicial nominees approved by the Senate Judiciary Committee are deserving of a prompt up-or-down floor vote. Thank you for taking the time to consider our views on this issue and for your leadership.

Sincerely,

JOHN E. NORDIN, II,
*Vice President for Membership,
and Operations.*

Mr. LEAHY. Mr. President, today, the Senate is finally considering a judicial nomination that has been stalled since February on the Executive Calendar. The nomination of Benita Y. Pearson to serve on the Northern District of Ohio was reported favorably by the Judiciary Committee more than 10 months ago. Judge Pearson is currently a Federal magistrate judge on the court to which she is nominated. When confirmed, she will become the first African-American woman to serve as a Federal judge in Ohio.

I have reviewed the record and considered the character, background and qualifications of the nominee and join with the Senators from Ohio, one a Democrat and the other a Republican, in supporting this nominee. Frankly, the opposition is a dramatic departure from the traditional practice of considering district court nominations with deference to the home State Senators that know the nominees and their districts best. I commend Senator BROWN on his statement in support of the nomination today. As he noted, he worked closely with Senator VOINOVICH, the Republican Senator from his State and a judicial screening commission in making this recommendation to the President.

The obstruction of these district court nominations is unprecedented, a sign that a different standard is being applied to President Obama's nominees that has never before been applied to the nominees of any President, Democratic or Republican. Out of the 2,100 district court nominees reported by the Judiciary Committee since 1945, only five have been reported by party-line votes. Four of these party-line votes have been in this Congress, including the two of the nominations we consider today. In fact only 19 of those 2,100 nominees were reported by any type of split rollcall vote at all, but five of them—more than 25 percent of the total—have been this Congress.

The party-line vote against this nomination in the Judiciary Committee was without explanation. Judge Pearson has been a Federal judge magistrate for 8 years and a prosecutor before that. Nothing in her professional background justifies the delay or opposition to this nomination.

At her hearing, there were some who tried to make a mountain out of a mole hill with respect to a statement she made about animals. I just worked with Senator KYL and Senator MERKLEY on a constitutional, legal prohibition against vicious videos that show animals being crushed. That bill passed unanimously. No Senators thought twice about approving that important legislation. I remember a couple of years ago when a famous professional football player went to prison for his participation in a dog fighting ring. Many Americans were outraged by those activities and no Senator questioned the State and Federal laws against such activities. Are those who oppose this nomination also now opposed to the Humane Society of the United States and to the legislative actions we took since they involved animals?

I join the Senators from Ohio in urging the Senate to confirm Judge Pearson without further delay.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, there has been concern, as the chairman pointed out and the ranking member pointed out, on Benita Pearson's views on animal law. With all due respect to my colleague, you know it is a red herring. If you look at the record of Ohio's Northern District, which goes back to 1839, there has been exactly one case on animal welfare. Some 20 years ago, the Cleveland Zoo was sued to stop the transfer of Timmy the gorilla to the Bronx Zoo—I am not making this up—from transferring Timmy the Gorilla to the Bronx Zoo for mating purposes. The case was dismissed. One case in 170 years.

Judge Pearson is qualified, say the two former presiding judges, Chief Judges Carr and White, and the sitting presiding judge, Judge Oliver from the Northern District—a combined 50 years' experience on the district court.

Judge James Carr, the Chief U.S. District Judge at the time of her nomination, lauded Judge Pearson as "a splendid choice . . . eminently well-qualified by intelligence, experience . . . and judicial temperament." His successor, Chief Judge Solomon Oliver, is just as supportive of her nomination.

So is former Chief Judge George White, who wrote that:

Magistrate Judge Pearson's record as a Judicial Officer and her litigation and business experience do more than idly suggest her readiness to assume the position of District Court Judge. Taken all together, you will be hard-pressed to find a more suitable candidate.

Mr. BROWN of Ohio. These judges have made glowing reports on Judge Benita Pearson, who has been a magistrate, a CPA, practiced privately, worked for the U.S. Attorney's Office. She will be the first African-American woman to sit on the Federal bench in

Ohio. She has been supported by Senator VOINOVICH and a bipartisan commission of 17 lawyers who picked her. She is a great choice. I ask the concurrence of my colleagues. I yield to Senator UDALL.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. I rise to support the nomination of Bill Martinez. Senator LEAHY made the case for his nomination and for him to be confirmed. I have great affection for my friend from Alabama, but I want to set the record clear that Bill Martinez did not work for the ACLU, he advised the ACLU. If we are going to raise that standard and change the rules, then we ought to remember that the Bush nominations often included Federalist Society members and contributors.

We ought to be careful about setting false standards. Bill Martinez was recommended by a bipartisan nominating commission that Senator BENNET and I created. He is a good man. His story is a quintessential American story. He will be an excellent judge. I urge us all to vote for his confirmation today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. How much time is remaining on this side?

The PRESIDING OFFICER. The Senator has 1 minute 5 seconds.

Mr. SESSIONS. Mr. President, Mr. Martinez, I know, has a lot of good supporters and friends, as I have noted. But he did refuse to answer a simple question of whether the U.S. Constitution prohibits the death penalty, which I believe the ACLU, of which he was a member and a member of the legal panel, definitely favored.

I do believe Judge Pearson's view that somehow there should be a balancing test about whether we should actually slaughter a steer based on the need for food or hide is an extreme view also.

We have had about 15 members of the ACLU confirmed by this administration. But we expect this President to submit mainstream judges. The ACLU is not mainstream in its positions. I do believe the administration needs to understand that this is going to be a more contentious matter if we keep seeing the ACLU chromosome as part of this process.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I would like nothing better than to vote on the judges. We have a number of them who came out unanimously from the Senate Judiciary Committee. My friends from the other side are not even allowing votes on them.

We did not do that to President Bush in his first 2 years.

The PRESIDING OFFICER. The Senator's time has expired.

The question is, Will the Senate advise and consent to the nomination of Benita Y. Pearson, of Ohio, to be United States District Judge for the Northern District of Ohio?

Mr. SESSIONS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator for Indiana (Mr. BAYH), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Missouri (Mr. BOND).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 39, as follows:

[Rollcall Vote No. 290 Ex.]

YEAS—56

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kerry	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Conrad	Levin	Tester
Coons	Lieberman	Udall (CO)
Dodd	Lincoln	Udall (NM)
Dorgan	Manchin	Voinovich
Durbin	McCaskill	Warner
Feingold	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	

NAYS—39

Alexander	DeMint	Lugar
Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Brown (MA)	Graham	Murkowski
Bunning	Grassley	Nelson (NE)
Burr	Hatch	Risch
Chambliss	Hutchison	Roberts
Coburn	Inhofe	Sessions
Cochran	Isakson	Shelby
Collins	Johanns	Snowe
Corker	Kirk	Thune
Cornyn	Kyl	Vitter
Crapo	LeMieux	Wicker

NOT VOTING—5

Bayh	Browback	Wyden
Bond	Gregg	

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William Joseph Martinez, of Colorado, to be U.S. District Judge for the District of Colorado?

Mr. VOINOVICH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Missouri (Mr. BOND).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 37, as follows:

[Rollcall Vote No. 291 Ex.]

YEAS—58

Akaka	Franken	Murray
Baucus	Gillibrand	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Brown (MA)	Kerry	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Collins	Levin	Tester
Conrad	Lieberman	Udall (CO)
Coons	Lincoln	Udall (NM)
Dodd	Manchin	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	
Feinstein	Mikulski	

NAYS—37

Alexander	Enzi	McConnell
Barrasso	Graham	Murkowski
Bennett	Grassley	Risch
Bunning	Hatch	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Corker	Kirk	Vitter
Cornyn	Kyl	Voinovich
Crapo	LeMieux	Wicker
DeMint	Lugar	
Ensign	McCain	

NOT VOTING—5

Bayh	Browback	Wyden
Bond	Gregg	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Resumed

The PRESIDING OFFICER. The clerk will report the treaty.

The assistant legislative clerk read as follows:

Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms.

Pending:

Corker modified amendment No. 4904, to provide a condition and an additional element of the understanding regarding the effectiveness and viability of the New START Treaty and United States missile defenses.

The PRESIDING OFFICER. There will now be 4 minutes of debate equally

divided and controlled between the two leaders or their designees.

Who yields time?

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I believe the Senator from Arizona is prepared to yield back time, and I will also yield back time.

CLOTURE MOTION

The PRESIDING OFFICER. Having all time yielded back, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Treaties Calendar No. 7, Treaty Document No. 111-5, the START treaty.

Harry Reid, Joseph I. Lieberman, John D. Rockefeller, IV, Byron L. Dorgan, John F. Kerry, Sheldon Whitehouse, Mark L. Pryor, Jack Reed, Robert Menendez, Mark Begich, Benjamin L. Cardin, Kent Conrad, Bill Nelson, Amy Klobuchar, Patty Murray, Barbara A. Mikulski, Christopher J. Dodd, Richard G. Lugar.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on Treaty Document No. 111-5, the New START treaty, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), and the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER (Mrs. GILLIBRAND). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 67, nays 28, as follows:

[Rollcall Vote No. 292 Ex.]

YEAS—67

Akaka	Dorgan	Lugar
Alexander	Durbin	Manchin
Baucus	Feingold	McCaskill
Begich	Feinstein	Menendez
Bennet	Franken	Merkley
Bennett	Gillibrand	Mikulski
Bingaman	Hagan	Murkowski
Boxer	Harkin	Murray
Brown (MA)	Inouye	Nelson (NE)
Brown (OH)	Isakson	Nelson (FL)
Cantwell	Johnson	Pryor
Cardin	Kerry	Reed
Carper	Klobuchar	Reid
Casey	Kohl	Rockefeller
Cochran	Landrieu	Sanders
Collins	Lautenberg	Schumer
Conrad	Leahy	Shaheen
Coons	Levin	Snowe
Corker	Lieberman	Specter
Dodd	Lincoln	Stabenow

Tester
Udall (CO)
Udall (NM)

Voinovich
Warner
Webb

Whitehouse

NAYS—28

Barrasso
Bunning
Burr
Chambliss
Coburn
Cornyn
Crapo
DeMint
Ensign
Enzi

Graham
Grassley
Hatch
Hutchison
Inhofe
Johanns
Kirk
Kyl
LeMieux
McCain

McConnell
Risch
Roberts
Sessions
Shelby
Thune
Vitter
Wicker

NOT VOTING—5

Bayh
Bond

Brownback
Gregg

Wyden

The PRESIDING OFFICER. On this vote, the yeas are 67, the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Who yields time?

The Senator from Idaho.

PREDATOR WOLVES

Mr. CRAPO. Madam President, I wish to rise to speak about an issue that has been at the center of debate in the northern Rockies for quite some time; that is, the issue of the wolf. The wolf was introduced into the northern Rockies in the 1990s and has flourished. Wolves are now abundant in the region, but, unfortunately, we have not been able to return the management of the wolves to the State, mostly due to litigation and to the inflexibility of the Endangered Species Act. In the meantime, wolf populations are growing at a rate of about 20 percent a year, resulting in substantial harm to our big game herds and domestic livestock.

Whenever I am back in Idaho, I hear from hunters who are angry their favorite hunting spots are no longer rich with elk and deer or from sheep and cattle ranchers who have lost many a head of cattle or sheep due to the wolf predation.

The State of Idaho has done everything it has been asked to do in order to manage wolves, and we continue to be denied that much needed opportunity. As such, it is time for Congress to act.

I intend to make a unanimous consent request in a few moments. First, I yield a few moments to my colleague from Idaho, Senator RISCH.

Mr. RISCH. Madam President, I join my colleague from Idaho in underscoring the difficulty we have on this issue. Most people on this floor don't have a full appreciation of what those of us in the West have to deal with. Two out of every three acres in Idaho are owned by the Federal Government. The Federal Government came in, in the mid-1990s, and forced the wolf upon the State. The Governor didn't want it, the legislature didn't want it, and the congressional delegation didn't want it. Nonetheless, the Federal Government brought us 34 wolves. Now they have turned into well over 1,000, and nobody knows exactly how many breeding pairs there are. The result is

that there has been tremendous havoc wreaked on our preferred species in Idaho, the elk. We have done an outstanding job of managing elk, the preferred species, but they are also the preferred species for the wolf to eat. They are not vegetarians.

As a result, we have had a tremendous problem with wolves in Idaho, and we have brought a bill to the Senate to turn the management of wolves over to the State. All the other animals are managed by the State. We have done a great job for well over 100 years of managing two other difficult predators, the bear and various cats. We have done it responsibly, on a sustained basis, and we want to do the same thing with wolves.

The Federal Government has to let go of this. We have tried. We have the Federal courts that have stepped in. I don't quite understand how the Federal court can claim the wolf is still an endangered species, when they can turn 34 wolves into over 1,000 and the population has exploded. Nonetheless, they have. It is time for Congress to act.

I yield back to Senator CRAPO.

Mr. CRAPO. Madam President, I will make this request on behalf of myself, Senator RISCH, and the Senators from Utah, Mr. HATCH and Mr. BENNETT, and the Senators from Wyoming, Mr. ENZI and Mr. BARRASSO.

I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of S. 3919, and that the Senate proceed to its immediate consideration; that the bill be read the third time and passed; that the motions to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD, as if read.

The PRESIDING OFFICER. Is there objection?

Mr. CARDIN. Madam President, reserving the right to object, and I do intend to object, first, let me point out to Senator CRAPO, he and I have worked together on the Water and Wildlife Committee and the Environment and Public Works Committee. I think we have had a fine relationship over the past couple years, and we have worked together on a series of bills that I think will improve water and wildlife in this Nation. This legislation has not had a hearing and has not been approved by the Environment and Public Works Committee. It deals with undermining one of the most important laws in our country, the Endangered Species Act. That is one of our most important environmental laws and has protected iconic species such as the bald eagle. The act has long enjoyed bipartisan support. President Nixon signed the ESA into law on December 28, 1973.

This bill attempts to solve politically what should be done by good science. Despite many disagreements in the

more than three decades of the ESA, there has never been a removal of a species by Congress. Also, there have been efforts made to work out a reasonable compromise as it relates to the wolf. It is my understanding that it has been blocked on the Republican side in trying to get that compromise brought forward.

I will make one more suggestion to my friend, Senator CRAPO. As you know, the work product of our subcommittee, along with other bills in the Environment and Public Works Committee, and some lands bills have been combined into one bill, Calendar No. 30, S. 3003. I encourage the Senator to look at that package. If we can get consent to include a compromise on the gray wolf, we would be willing to try to get it done in the remaining hours of this session. I offer that to my friend.

Madam President, in its current form, I do object.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. CRAPO. Madam President, I appreciate the comments of my colleague from Maryland and I appreciate working with him on the committee and I intend to continue working with him. This is an issue of utmost importance in those States in this region of the United States. The longer we wait to resolve this issue, the more difficult it will be. Cooperation is the key in order for us to get this resolution accomplished.

I thank the Chair. I yield the floor.

Mr. BAUCUS. Madam President, I say to all my friends, it is imperative we work together to find a compromise. As both Senators from Idaho know, you and other Senators have been working on a compromise. Under that compromise, Idaho could have a wolf hunt, as they should. The State of Montana could have a wolf hunt, as Montana should. Northern Utah could. All wolves in Utah would be off the endangered species list. I and others have suggested that wolves in northern Utah be totally off the endangered species list. This proposal we have been working on—you, myself, and others, including Secretary Salazar and the Assistant Secretary of the Interior, Fish and Wildlife Services, a short time ago, all agreed we should allow wolf hunts in all the States I mentioned. Yet I have to be honest, your side of the aisle has objected to that. You are not coming up with a total abolition, taking the wolf out of the Endangered Species Act. That is a solution that will not pass. We need a compromise.

I end where I began. I strongly urge Senators, next year, to keep working on a compromise. This is not going to work when the House passes a bill that totally takes the wolf off the Endangered Species list, which I know is the game plan. If that happens, we are back into the soup again. Let's find a

solution and compromise that achieves the results we all want. It is within our reach. It is right there. Because of this interchange, we will not get it done this year. Our States desperately need a solution. That proposal was the solution. It was a compromise that achieved the results intended. I very much hope we can find a compromise to resolve this.

Mr. CRAPO. Madam President, the compromise the Senator from Montana refers to—and he is correct, we have been intensely working on this issue to find a compromise with the administration and the affected States. The compromise he refers to would have required a change in the management of the wolf in Idaho that was unacceptable to the Governor in Idaho and others, including myself and Senator RISCH. Although there was a proposal made, it is not correct that it was approved by everybody. I believe, though, we are making progress.

I am willing to work with the Senator from Montana and the Senator from Maryland and others to try not only to find further progress at this late date in this session or next year, if necessary, to try to find our way to that solution. I appreciate the willingness of both Senators to work with us in trying to find that compromise that will work.

The PRESIDING OFFICER. The Senator from Texas is recognized.

FCC VOTE ON INTERNET REGULATION

Mrs. HUTCHISON. Madam President, I know the subject we are on now is the New START Treaty. It is a very important subject. I appreciate so much all the debate we have had. I hope we will be able to go forward and allow people to have amendments within this time because it is a huge issue for our country.

I wish to speak on a different subject right now because it is so timely. Today, the Federal Communications Commission voted 3 to 2 to impose new regulations on the Internet. This is an unprecedented power grab by the unelected members of the Federal Communications Commission, spearheaded by its chairman.

The FCC is attempting to push excessive government regulation of the Internet through without congressional authority. These actions threaten the very future of this incredible technology. The FCC pursuit of Net neutrality regulations involves claiming authority under the Communications Act that they do not have. Congress did not provide the FCC authority to regulate how Internet service providers manage their network, not anywhere in the Communications Act nor any other statute administered by the Commission.

Adopting and imposing Net neutrality regulations is, in effect, legislating. It takes away the appropriate role of Congress in determining the

proper regulatory framework for the fastest growing sector of our economy. The real-world impact of the FCC's action today is that it will be litigated. It will take 18 months to 2 years to sort through the briefings and the court decisions, and it will probably go to the Supreme Court of the United States. In the meantime, capital investment will slow in core communications networks, and I cannot think of a worse possible time for that, as we attempt to create jobs and fuel a recovery from the most significant recession in years.

Elected representatives should determine if regulation is necessary in this area. Hearings would bring opposing parties to the table, and the process would be open. Instead, an unelected and unaccountable group of regulators are creating new authority to intervene in an area that represents one-sixth of the Nation's economy.

I wish to go through a few of the specific provisions in this FCC order. The first one is an order to require broadband providers, such as Comcast and AT&T, to allow subscribers to send and receive any lawful Internet traffic, to go where they want, say what they want, to use any nonharmful online devices or applications they want to use.

These principles are widely supported. I don't object and neither would probably anyone. However, these principles are already in use. We don't need a big regulatory intervention to accomplish these principles. It is the rest of the order that is diametrically opposed to this statement of openness and freedom. It installs a government arbiter to force their idea of freedom on the users of the Internet and on the companies that are trying to make the Internet the economic engine of America.

The first provision that deals with this is that networks must be transparent. It says networks must be transparent about how they manage their networks, i.e., decisions about engineering, traffic routing, and quality of service. Transparency requirements usually translate to reporting and consumer disclosure requirements that are heavily prescribed and expensive to comply with, and the possible disclosure of proprietary information could affect competition. The real-world impact of this is higher costs to consumers. The Commission will increase regulatory reporting and consumer disclosure requirements as a result of this provision, and the cost will be passed along to, of course, the consumers in the form of more expensive services.

The second provision is that you may not unreasonably discriminate. The FCC's order states that providers may not unreasonably discriminate against lawful Internet traffic. That sounds fine. But the devil is in the details. The term is vaguely defined in the order, and how the FCC interprets and enforces what is unreasonable will determine how limiting this restriction is.

For instance, if a provider notices that a small number of users are sharing huge files that are leading to congestion on the network and determines that slowing down those connections would relieve the congestion for the majority of other users, the FCC would have the right, under this order, to determine that such an action is unreasonable.

The real-world impact is that this would diminish the company's flexibility in managing their own services. The unreasonable discrimination provision could undermine the providers' ability to manage their network and guarantee all the users a high quality of service. Companies that build and maintain the networks that make up the Internet need the flexibility to manage the exploding demand for services on their network.

Regrettably, the FCC's order curtails that by establishing that the FCC would be an approval portal that companies would have to pass through to manage their day-to-day operations. Surely, there is a better way.

The next provision requires that broadband providers must justify new specialized services. Under the FCC orders, providers would now have to come to the FCC in order to offer consumers a new service, something that would be creative and innovative. Instead of offering it to the marketplace and having the competitive advantage from something new, they have to now expose it to all of their competitors by going through a regulatory adjudication at the FCC.

Let me give an example of what could happen.

A hospital might want to work with a provider, such as Verizon, to offer a new telemedicine service for Verizon subscribers that allows patients at home to interact with their doctors via high-definition video and uninterrupted remote medical monitoring.

In order to do this, Verizon might have to prioritize that telemedicine traffic ahead of regular Internet traffic to ensure the appropriate quality of service, particularly if there is a life-threatening situation.

The FCC order allows the Commission to determine on a case-by-case basis whether such prioritization is actually unreasonable discrimination because presumably the hospital that is offering the service would be giving better treatment for that telemedicine traffic than the user's regular traffic.

Going through a whole regulatory process in order to offer that service is a burden we do not need and that will stifle the innovation that has been a hallmark of the Internet, which led to the explosion of opportunities there.

The Commission says it wants innovation to occur, but the language of the order clearly discourages innovation by forcing companies to pass through a government regulatory turn-

stile to determine whether a particular service, an innovative service, something new that might be a competitive advantage, something new for quality of life, should be allowed. This puts the FCC in the position of picking winners and losers among the new innovative services, and it certainly slows down the opportunity to have new things coming on the market in what is usually a fast-paced economic environment.

In some cases, this may be enough to discourage providers from even entering into the special arrangements necessary to offer such services. It is a cumbersome process and, furthermore, it is unnecessary.

In another provision, the FCC order will treat wireless broadband services more lightly than wireline broadband services, at least for now. The FCC reserves rights in this order, which are taken without congressional authority, in my opinion—and certainly the courts will litigate that and make its decisions—the FCC reserves the right to regulate wireless just as harshly in the future as they are now attempting to regulate wireline. For now, wireless providers will have more leeway to innovate and to manage their networks. But how much investment are they going to make for the long term if they do not know what the FCC might foresee in the future that needs fixing, even if it is not apparently broken.

The real world impact is that wireless is the fastest growing area of communications markets. The threat that the Commission might later apply the wireline prohibitions it has ordered today to this wireless marketplace is a major concern.

I commend the two members of the Commission who dissented in the vote today—Rob McDowell and Meredith Atwell Baker. They each did op-eds, one in the Wall Street Journal and one in the Washington Post. I would say the common theme is that this is a solution where there is no problem. We have an open Internet. We have an Internet that is working. It does not need the heavy hand of government. It does not need a government prism through which to determine if the Internet providers are doing an allowable service. We have a marketplace, and the marketplace is working.

This is a time for Congress to take a stand. These regulations will raise uncertainty about the methods and practices communications companies may use to manage their networks. Heavy-handed regulation threatens investment and innovation in broadband services, placing valuable American jobs at risk.

Why would this be happening in a recession where we are trying to increase jobs, where we are trying to stop the trajectory of unemployment in our country?

We need to lay off, and it is time for Congress to take a stand. Individuals

and businesses alike are rightfully concerned about government attempts to seize control of the Internet. Senator ENSIGN, who is the ranking member of a Commerce subcommittee—I am the ranking member on the full Commerce Committee—together we are going to submit a resolution of disapproval under the Congressional Review Act in an effort to overturn this troubling regulatory overreach by the FCC. It is time for Congress to say we have not delegated this authority to the FCC. The FCC tried to do this once before using another part of the Communications Act. They were struck down by the courts. Now they have gone to a different interpretation in a different section of the act to try to gain the capability to obstruct freedom on the Internet.

It is a huge and serious issue on which I hope Congress will take the reins and say to the FCC: If we need regulation in this area, Congress will do it.

We are elected. We are accountable. People can vote what they believe is the right approach by what we do. The FCC is not accountable to the people of our country. Yes, they are accountable to the President and the votes for today's order were from Presidential appointees of this administration. It is another big government intervention where we do not need to suppress innovation.

What we need is to embrace innovation so we can create jobs in this country with the freedom that has marked the economic vitality of America for over 200 years.

We will have a resolution of disapproval at the appropriate time in the next session of Congress. I look forward to working with other Members of Congress to take the reins on this issue. It is a congressional responsibility.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, I understand Senator SESSIONS is on the floor and wishes to speak. I ask unanimous consent that the Chair recognize Senator SESSIONS, and after Senator SESSIONS, recognize myself and then Senator SHAHEEN, so we stay in order, if that is agreeable.

Mr. SESSIONS. It is agreeable to me.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Madam President, I wish to take a brief moment to express my pleasure in the fact that the continuing resolution that passed and will now be going to the House had within it a provision to allow the Navy to award the littoral combat ship competition to two of the bidders. It took a bit of a modification of the procedure to allow them to do that. It is a product of good news.

At one point in the late nineties, I chaired the Seapower Subcommittee of

the Armed Services Committee. I have been a member of it. I have seen the development of the littoral combat ship concept. ADM Vern Clark determined it was the future of the Navy. We expect to have 55 of them in the fleet. They would be manned by only 40 sailors. They would be high speed, able to travel in shallow waters, and be effective for pirates or be effective for mine sweeping and other activities of that nature.

The House put in this language. We had a hearing in the committee a few days ago with Admiral Roughead and Navy officials, Secretary of the Navy Mabus, and representatives from the CRS, GAO and CBO—those ABC agencies that evaluate these kinds of proposals—and it has moved forward.

I thank Senator LEVIN for his leadership. I thank Senator INOUE and Senator COCHRAN on our side and the House leaders also who saw fit to support the Navy's idea. It is not a plan I suggested, but it is one I believe is good.

The good news is this was enabled by the fact that as a surprise, the bids on the ships were very much below what was anticipated. The legislation required that the bids come in under \$480 million per ship, and it looks as if these bids are going to be at \$450 million. By having both shipyards go forward, the Navy gets a fixed price today. In other words, if aluminum goes up or electricity goes up, the shipyards are going to eat it. We will bring on both ships at the same time.

Not only that, but we would get 20 ships total in this first tranche of ships rather than 19. In addition to that, the Navy scores that it will save \$1 billion, and that \$1 billion they hope to apply to other ships the Navy needs in their 313-ship Navy of the future.

Ashton Carter, the DOD's acquisition executive, said:

The U.S. Navy's recent decision to buy both classes of Littoral Combat Ship due to lower than expected bid prices is an example of what good competition can do.

It was a competitive bid. I think the Navy may have made a mistake in not allowing more benefit to the bidders based on how valuable the ship was, the total value, but they made it a rigorous cost competition and apparently got very good bids. The average bids were, as I said, \$450 million.

The Chief of Naval Operations, ADM Gary Roughead, on December 14—a few days ago—testified before the Armed Services Committee. He said:

I think the two different types [of ships] give us a certain amount of flexibility, versatility that one would not, and as I talked earlier about this ability to mix the capabilities of a force that we put in there.

This may have been when I asked a question about it at that same hearing. He said:

I . . . believe that the designs of the ships and the flexibility of the ships . . . and also

the cost of these ships open up potential of foreign military sales that would otherwise not be there.

In other words, not only could we create jobs, perhaps 3,000 to 4,000 jobs immediately, but many of our allies, with the approval of the Defense Department, might want to buy these ships for their fleets, and we would have the ability to export these products abroad.

Having been involved in seeing the vision of the Navy over a decade plus and to see that finally come to fruition is good. One Navy official was quoted in one of the major publications as saying the nature of these competitions is such there be a 100-percent chance of a protest, whichever one won the bid, and one reason is because the bid was so close. We will avoid a protest and will be able to move forward, get the ships faster, lock in the lowest possible cost, clearly lower than what would be otherwise, and maybe even be able to save enough money to build an even larger ship with it.

I thank my colleagues who worked on this issue. I believe it will be a good thing. One of the ships will be built in my hometown of Mobile, AL. I know how excited the workers at the shipyards will be to hear they will have jobs in the future producing one of the finest, most modern warships in the history of the Navy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, we are now only hours away from when we will have a chance to vote on the ratification of the New START treaty. The Senate has invoked cloture, so we are in that 30-hour postcloture period. We are now in a period where we need to consider some additional amendments, and then we will be able to vote on the ratification. I think that is good news for the United States, for national security.

I think each Member of the Senate wants to do what is right for our national security. And I wish to emphasize the point that whenever I look at a national security issue, I want to get the best advice I can from the experts—from our military experts, from our experts who are charged with making sure we have the best intelligence to protect the security of America, from our diplomatic experts, who understand the ramifications of what we do here and around the world in other areas of concern for national security. I would say it is unanimous that the experts are telling us it is in the security interests of the United States to ratify the New START treaty.

Mr. SESSIONS. Madam President, would the Senator yield for a moment?

Mr. CARDIN. I will be glad to yield.

Mr. SESSIONS. Madam President, I want to make a 1-minute comment about a Navy fellow who has been in

my office. I am reluctant to interrupt, but the Senator is so eloquent, I know he can handle the interruption almost better than anybody else.

CDR Brent Breining has been assigned to my office for the year by the Navy. I hope it has been beneficial to him. I think it has been. It has certainly been beneficial to us on a host of matters. He is a man of ability, of integrity and hard work, and he symbolizes the kind of bright young men and women we have so many of in our military. I wanted to take this moment to express my appreciation for his fabulous service.

I thank the Chair, I yield the floor, and I thank my colleague for letting me interrupt him.

Mr. CARDIN. I am glad I yielded to Senator SESSIONS for that point because I do believe the fellows from the military assigned to our offices are extremely valuable in our work. I was fortunate to have CDR Andre Coleman in my office from the Navy, and I can tell you that what I learned from his presence in my office was important to me, and I think it really made me much more informed when it came to decisions I have had to make in the Senate. So this program is a very valuable program.

I was pleased to yield to the Senator so he could recognize the person in his office. He is from the Navy? He is a Navy officer?

Mr. SESSIONS. A Navy officer, yes.

Mr. CARDIN. Navy officers are always the best, and coming from Maryland, where we have the Naval Academy, we were pleased to provide some help to the Senator from Alabama.

If I can continue on the New START treaty, the real test here is the national security of our Nation. When you listen to the advice given to us by our military experts, they tell us the ratification of New START will enhance our national security. When you talk to the people who are responsible for collecting intelligence information and analyzing that information, they tell us it is in our national security interest to ratify the New START treaty. When you talk to the political experts, those who are charged with managing our foreign policy considerations around the world, they tell us the ratification of New START will help protect our national security interest.

The reason is that when you look at this treaty and find out what is in this treaty that restricts what the United States can do and you look at the number of deployed warheads and the number of delivery vehicles we are permitted to have, our experts say those numbers are clearly achievable for us without compromising whatsoever all of our national security interests. That is what they tell us. And these numbers were not developed by the political system; they were developed by the military experts as to what is reasonable as

far as limitations on deployed warheads.

When you look at the other restrictions—and we have heard a lot of debate that we are restricted on other defense issues. There is nothing in this agreement that limits missile defense issues. That is going to be a matter for our national debate. It will be a matter, in working with our allies, of analyzing where our current risks come from. But we can make independent judgments, and we are not restricted at all by the New START treaty as to how we make those judgments.

What is in this treaty is our ability to verify what the Russians are doing with their nuclear stockpile and what they are doing with their warheads and with their delivery systems. It allows us to have inspectors on the ground. Since the end of last year, we have not had inspectors on the ground. That is intelligence information that is extremely valuable for us to have. You can't substitute for that. Yes, we can get certain intelligence information from the assets we have, but having boots on the ground is critically important to our national security. So without the ratification of New START, we do not have the inspectors on the ground telling us, in fact, what Russia is doing, inspecting the warheads, and inspecting their delivery systems.

There is a third reason in addition to it being important from the point of view of what our experts are saying and in addition to the fact that it gives us verification. It also is a very important part of our national security system in working with other countries. We want to make sure we know what Russia is doing, yes. We understand Russia is a country of interest to the United States. But when you look at countries that are developing nuclear weapons, we need Russia's help and the international community working with us to make sure we prevent countries such as Iran from becoming nuclear weapon states. The ratification of this treaty will help us in those political efforts.

When you put all this together, it gives us what we need for verification. The restrictions in this treaty were worked out by our military as being what they believed was right, and it gives us the ability to continue to lead internationally not just on strategic arms reduction but on nonproliferation issues. So for all those reasons, I would urge my colleagues to vote for ratification.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Massachusetts.

Mr. KERRY. I wish to thank the Senator from Maryland for being a terrific member of the Foreign Relations Committee, and I thank both him and the Senator from New Hampshire for their help here on the floor this afternoon as we try to proceed on amendments as rapidly as possible for our colleagues

and also try to negotiate a few of these amendments at the same time as the Senator from Arizona.

Having discussed with the Senator from Arizona the path forward, I assure colleagues that both of us hear the pleas of our colleagues, and we are anxious to try to move as rapidly as possible. But in fairness to my colleague from Arizona, I also want to make certain that he has an opportunity to have his amendments and that the other amendments are properly heard.

To that end, I ask unanimous consent that the following amendments be deemed as pending from those amendments filed at the desk. These would be the amendments eligible for consideration. I am not calling them up yet; I just want this to be a narrow list.

I apologize, Mr. President. I ask unanimous consent that these amendments be in order: Kyl No. 4864; Kyl No. 4892, as modified; Risch No. 4878; Risch No. 4879; Ensign re rail-mobile; Wicker No. 4895; Kyl No. 4860, as modified; Kyl No. 4893; and McCain No. 4900.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

The Senator from Arizona.

Mr. KYL. Mr. President, I wish to make a comment. For the benefit of Members, what we are trying to do is to identify those matters we need to try to deal with in the 30 hours postclosure on the START treaty. If Members have amendments they need to deal with, I would appreciate it if they would either communicate with me or with Senator LUGAR's staff or Senator KERRY's staff so that we can determine whether to get them on the list and where to plug them in. I would also suggest to Members that there isn't a lot of time left, and if they have comments they would like to make, now is the time to come to the Senate floor. There shouldn't be a minute of quorum call time here. There is a lot to do and not a lot of time to do it. So if Members have something, bring it to us. If they want to speak, they should come to the floor now or as soon as they can get here.

My goal is to get as many of the amendments as possible dealt with, if not with a vote then worked out by unanimous consent. What I have tried to do is to take a universe of about 70 amendments and to consolidate them into a much smaller group. So there are some specific subject areas that are not specifically dealt with. In some cases, the consolidations may not be technically related. For example, Senator LEMIEUX would like to add to one of the amendments his language dealing with tactical weapons taken from his treaty amendment but to conform it to a resolution of ratification amendment. So we may be even combining some subjects that don't necessarily relate.

The object here is to cover as much ground as possible within a limited pe-

riod of time, and in order to do that we will need everybody's cooperation. Senator KERRY and I will then—and Senator LUGAR, of course—primarily try to make sure everybody gets heard who wants to be heard.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I am very grateful to the Senator from Arizona for his willingness to try to do exactly what we have just done, and I pledge to him that I will work as hard as possible on our side to rapidly move on these amendments and to give them time.

I would ask for the cooperation of colleagues who want to speak on the treaty as a whole, that they not do so at the expense of being able to move an amendment. So if colleagues would cooperate with us, we will certainly, in between any activity on amendments, try to accommodate anyone who wants to talk on the treaty.

We are currently working staff to staff and negotiating out these amendments, and on some it may be possible to accept them. We will certainly try to avoid any rollcall votes, if possible. I know a number of colleagues have asked for some rollcalls on some amendments which may not be acceptable. So with that understanding—

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. If I can add, I understand Senator SHAHEEN is in order to speak next, and then Senator RISCH is available to begin; am I not correct?

Mr. KERRY. No, Senator SHAHEEN is here managing together with the Senator from Maryland while we are negotiating. So Senator RISCH would be in order to move on an amendment immediately.

Mr. KYL. OK. His numbers are 4878 and 4879, so we can begin with one of those, if it is agreeable.

Mr. KERRY. That is correct.

Mr. President, we would welcome that, and I yield the floor.

Mr. KYL. So, Mr. President, it would be in order to call up for consideration—I believe the first is amendment No. 4878, Risch amendment No. 4878.

Well, Mr. President, I said there shouldn't be any quorum call, but we are going to be a couple of minutes here. So I suggest the absence of a quorum until we are ready to go.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Mr. President, about an hour or so ago, our colleagues voted on whether we should proceed to final debate and eventually to an up-or-down vote on whether to ratify the New START treaty. I think it is safe to say

most Democrats, most Republicans—even those two Independents who hang out with us—have pretty much decided on what they want to do on that final vote. I think there is a handful of Senators, maybe a half dozen or so, who are still undecided and trying to make up their minds. I just want to say I respect that. It is a serious matter, very serious matter, and there are strong arguments to be made on either side of this issue.

For those who have already made up their minds, they are probably not all that interested in what I have to say. But for the handful of our colleagues who have not decided how they believe we should proceed, how they ultimately want to vote, I want to take a few minutes and talk to them.

I want to boil this down into four questions that I have focused on as I have looked at this issue, looked at the treaty, looked at its ramifications. I want to start out by mentioning what I think the four maybe critical questions are that we should be asking ourselves.

The first question is, does this treaty make us safer? I believe it does. I think absolutely it makes us safer.

The second question is, can we afford not to ratify this treaty? I believe the answer is no; we cannot afford not to ratify this treaty. We need to.

The third question is, Can we go on to build a robust missile defense system, should we need to, if we ratify this treaty? I believe the answer is yes; we can do that if we need to.

The fourth and final question I want us to ponder is, Is ratification of the New START treaty the last word on this issue? Quite frankly, the answer is no, not at all. In fact, ratification of this treaty would just be another step, an important step, in what has been a decades-long journey. What I would like to do, if I could, is to take these questions just one question at a time.

The first question is, Does this treaty make us safer?

One of the greatest threats, and some would say the greatest threat, to our country and to its people today is the chance that terrorists might somehow acquire a nuclear weapon and detonate it inside this country. I ask my colleagues, are we doing all that we need to do to stop this from happening?

Sure, we can try to hunt down all the terrorists before they strike. In fact, we are doing that now. But we will never know where every terrorist is hiding, and I doubt we will ever have the manpower necessary to hunt them down if we did know where they were and try to stop them.

Here is what we do know, however. We know where most of the nuclear weapons on this planet are today. The majority of them are either in Russia or they are in the United States. I would like to think we do a good job of securing our nuclear weapons facilities

in the United States. But Russia, as most of us know, is another story. There is a reason terrorists target Russian nuclear facilities.

While Russian security has improved recently, there are still holes, some would say gaping holes, in the physical facilities of some Russian facilities, holes that leave openings for terrorists to gain access to these weapons. That is one of the reasons we need to ratify this treaty. It limits the number of warheads that Russia can hold. Fewer Russian warheads translate into fewer chances that those weapons, those warheads, will fall into the wrong hands.

Here is another reason to ratify this treaty: Since the original START treaty expired at the end of 2009, the United States has been denied the ability to track and to verify the status of Russian nuclear weapons. The U.S. and Russian cooperation on verifying and monitoring warheads under the original START treaty helped lay the groundwork under the Nunn-Lugar cooperative threat reduction program in the 1990s. This program worked and still works to secure and dismantle Russian nuclear weapons, to keep them from falling into the hands of terrorists or rogue regimes.

New START will restore our verification and tracking capabilities that we lost last year with the expiration of the original START treaty. This, in turn, will encourage Russia to continue and to participate in the Nunn-Lugar program. In short, Americans will be safer if the treaty before us is ratified.

That leads me to the second question, Can we afford not to ratify this treaty? I believe the answer is no; no, we cannot. Let me say why.

My colleagues opposing this treaty have pointed out what they believe to be flaws in it. Some of them say the United States should have held out for a better deal. Others say the United States should have increased the number of allowed inspections or increased the number of delivery systems allowed under the treaty. They say the job of the Senate is not to simply ratify treaties but to debate and to amend them.

Let me just say, if this were a seriously flawed treaty, I would agree or if this were a flawed treaty I would agree. But it is not. The fact that so far all the amendments offered to this treaty have failed, mostly by large majorities, bears witness to that fact. Sure, we could amend the treaty language to maximize the U.S. position. We could send our diplomats back to the negotiating table with the Russians with a whole new set of terms the Russians will find unacceptable and ultimately nonnegotiable. When the Russians then walk away from the talks and the prospects of securing a new treaty die, we will ask ourselves, was it worth it to oppose ratification? Was it worth it?

When a Russian nuclear weapon goes missing and we are left in the dark be-

cause U.S.-Russian cooperation on tracking and dismantling warheads died with the treaty, we will ask ourselves, was it worth it to oppose ratification?

I believe the answer is no. Every living former Secretary of State from Kissinger to Baker to Rice shares that opinion.

Several former Secretaries of Defense, including Secretaries Schlesinger, Carlucci, Perry, and Cohen, all believe we ought to ratify this treaty in order to make our country—our country—safer. I might add, our top intelligence people agree with them.

This unlikely bipartisan coalition has come to this conclusion because they are certain that failure to ratify New START leaves our country less safe and more at risk to terror. We ignore the collective wisdom and advice of these leaders, past and present, at our peril. They have no axe to grind. They are calling it like they see it. I hope we will search our hearts—every one of us—and our minds this week and come to the same conclusion they have.

Question No. 3 was: Can we build a robust missile defense system if we ratify this treaty? That is an important question. The answer is too. And the answer is, yes, we absolutely can. There is simply nothing in this treaty that limits the United States from building the kind of missile defense system we might want and that we might need.

You do not have to take my word for it. Last month the Chairman of the Joint Chiefs of Staff, ADM Mike Mullen, bluntly stated, “There is nothing in the treaty that prohibits us from developing any kind of missile defense.”

Let me say his words again. “There is nothing in the treaty that prohibits us from developing any kind of missile defense.” Those are not my words. Those are his words. Nothing, nothing in the treaty prohibits us from doing that.

Just last week Secretary Gates said that the treaty “in no way limits anything we want or have in mind on missile defense.” Let me repeat that as well. He said, “The treaty in no way limits anything we want or have in mind on missile defense.” In no way.

Simply put, this treaty gives us both what we want and what we need. It reduces the number of nuclear warheads Russia can possess, and it does so without constraining U.S. missile defense and deployment.

Some of our colleagues on the other side of the aisle, who have made up their minds that they will oppose ratification, dispute the statements of both Secretary Gates and Admiral Mullen. Clearly, that is their right to do so. These opponents to the treaty argue that this treaty would, in fact, create limitations on our ability to

build and deploy a missile defense system. With all due respect to them, I do not believe that is true. And, more importantly, neither do our top military and intelligence leaders, upon whom our Nation depends. They do not believe it is true either. In supporting this argument, some of the treaty's critics point to a provision which states we cannot convert nuclear missile launchers into missile defense launchers. We have all heard Senators KERRY and LUGAR respond to this assertion. We do not want to make these conversions. We do not want to make these conversions. Why? Because it is not cost effective. It is cheaper to build new silos rather than convert the old launchers. This is not a limitation on missile defense. It is common sense. It is cost effective. And it is certainly not a reason to vote against this important treaty.

Question No. 4 again. Question No. 4 was: Is ratification of New START the last word on this issue? And the answer is, not at all. This is not the last word. In fact, ratification is another step, albeit an important one, in a decades-long journey. Ratification reflects a vision shared by Presidents Nixon, Carter, Reagan, Clinton, George Herbert Walker Bush, and George W. Bush, as well as the people of our country, and the people of the Russian Federation.

Realizing that vision is vitally important both to Russians and to Americans, our two nations must join to lead the global community on the issue of nuclear disarmament. If we do not, no one else will.

The next step in realizing that vision requires us to ratify this New START treaty that is before us this week. Once we have done so, we should turn to redoubling our efforts to work with Russia, with China, and our allies to pressure Iran and North Korea to give up not their nuclear energy programs but their nuclear weapons programs. And as we do that, we should continue working toward future agreements with the Russian Federation on reducing tactical nuclear weapons.

Fortunately, in the resolution of ratification that contains the New START treaty language, there are instructions added by the Senate Foreign Relations Committee that order—that order—the Obama administration to pursue agreements on the limits of tactical nuclear weapons with Russia as well. Two weeks ago, Secretaries Clinton and Gates said they would pursue such an agreement with the Russian Federation in the coming years. However, we cannot continue down that path without first ratifying New START. And we must.

Let me conclude today by asking my undecided colleagues, however many there are out there, one final question. Here it is: How often do we see in this body nearly every major national security official from just about every

Presidential administration of the last four decades come together to support one initiative like this? How often? The answer is, not very often, at least not on my watch.

As a captain in the Navy, as my State's Congressman, and Senator, as Governor of Delaware, and commander in chief for a while of our State's National Guard, I learned a long time ago that the best way to make tough decisions, to make the right decision, is to gather together the best and brightest minds that we can, people with different perspectives, urge them to try to find common ground, and then provide their recommendations to me.

In the case of this treaty, many of the best and brightest national security minds our Nation has ever seen, names such as Kissinger, Powell, Schlesinger, Baker, Hadley, Scowcroft, Shultz, Rice, Nunn, Warner, LUGAR, KERRY, Clinton, Bush, and Gates, agree that we should ratify New START and ratify it now.

I urge my colleagues who are still undecided on this critical issue to join me, to join us, in moving our Nation forward by voting to ratify this treaty.

Before I yield the floor, I want to take a moment to salute Senator LUGAR. I thank you and thank your staff for the terrific leadership you have provided for years on these issues, along with Sam Nunn, all of those years ago, and with JOHN KERRY and others today.

I am going to thank Senator KERRY for the terrific leadership and the great support he has gotten from his committee, from the staff, to get us to this point today.

I am encouraged that we may have the votes to finish our business and to conclude by ratifying this treaty tomorrow. I hope that handful of our colleagues who are out there who are still trying to figure out what is the right thing to do will maybe find some words in the wisdom I share today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 4855

Mr. ENSIGN. Mr. President, I ask unanimous consent that we set aside the pending amendment and call up amendment No. 4855.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 4855.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 4855

(Purpose: To amend the Treaty to provide for a clear definition of rail-mobile missiles)

In Part One of the Protocol to the New START Treaty, in paragraph 45. (35.), strike

“and the self-propelled device on which it is mounted” and insert “and the self-propelled device or railcar or flatcar on which it is mounted”.

Mr. ENSIGN. Mr. President, I rise today to speak on behalf of this amendment, which would clear up any ambiguity by adding the rail mobile definition of START I to the New START treaty.

Specifically, my amendment would amend the protocol annex, part one, in terms and definitions protocol. Specifically under START I the definition of rail mobile launchers of ICBMs means an erector launching mechanism for launching ICBMs, and the rail car or flat car on which it is mounted.

Unfortunately, there is no such definition in New START. According to Konstantin Kosachev, the head of the Duma International Affairs Committee, Senator KERRY's counterpart in the Duma, the understanding on rail mobile ICBMs presumes that: “The Americans are trying to apply the New START treaty to rail mobile ICBMs in case they are built.”

So their definition, their understanding, the Russians' understanding, is that rail mobile is not included in this treaty. That is according to Mr. Kosachev's statement in the Duma. By making this statement, we can infer that it is absolutely Russia's position that rail mobile ICBMs are not captured by this treaty or subject to the treaty's limitations. So this is an issue we must address and we must clarify.

The administration, in a State Department fact sheet, asserts that rail mobiles are covered under the 700 ceiling of deployed delivery vehicles in article II. However, Mr. Kosachev's statements imply to the contrary. Further, if rail mobiles were to fall under that cap, it would be in the definitions. There is zero mention of rail mobiles in New START.

My amendment simply clarifies this ambiguity. In the absence of New START limitations on rail mobile ICBMs and launchers, an unlimited number of these could be deployed. It may even be possible to take a road mobile SS-27 ICBM, including multiple warhead versions, and put it on a railcar. This would not in any way violate the conditions of the New START limits, because the earlier START I limits on rail mobile launchers and non-deployed mobile ICBMs do not appear in this New START.

Another way to clarify that ambiguity would be if the administration gave us full access to the negotiating records. Since they have not, however, we must amend the treaty to amend the definition back to as it was in START I.

What happens if the Russian Duma, in its ratification process, adds language in its version of their ORR, that excludes rail mobile launchers? What do we do at that time? If they do this,

I would think we would have no choice but to simply take it.

Mitt Romney highlighted eloquently in an op-ed that:

The absence of any mention of rail based launchers should be remedied. U.S. advocates of the treaty say that if Russia again inaugurates a rail program, as some articles in the Russian press have suggested it might, rail mobile ICBMs would count toward the treaty limits. Opponents say that no treaty language supports such an interpretation. Russian commentators have said that rail-based systems would be discussed by the Bilateral Consultative Commission. Such ambiguity should be resolved before the treaty is approved, not after.

I will yield to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the amendment speaks to concerns about rail mobile missiles. First, I would emphasize it is important to note that neither side currently deploys rail mobile systems.

The Nunn-Lugar program destroyed the last SS-24 rail mobile system in 2008. They are all gone. Destroyed. The New START treaty is specifically drafted so that if Russia were to revive its rail mobile program, it would count under New START's central limits. This is underscored in our resolution of ratification through an understanding that if such systems are ever deployed by Russia, they will count as deployed ICBMs under New START, and that such railcars on BMs.

I submit that the amendment is unneeded. But more seriously, if in fact it were to be adopted, it would require renegotiation of the treaty. For that reason, as well as others I have stated as succinctly as possible, I oppose the amendment.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Nevada.

Mr. ENSIGN. Just to address the one point on the clarification in the resolution of ratification, it has been said that our resolution of ratification clarifies and we should not need this language in the definition. Here is the problem I have.

Several years ago when we were debating the Chemical Weapons Convention and riot control agents, there it is right there in the resolution of ratification that these riot control agents can be used in operations to protect civilian life. Yet to this day, our State Department lawyers continue to argue they cannot, even though in the resolution of ratification we clearly stated that these riot control agents, tear gas basically, could be used to protect civilian life. Yet our State Department continues to argue against that. That is why putting it in the definitions within the treaty, we believe, is important to clarify the difference we seem to have with the Russians based on statements they have made to the press.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, this won't take too long. Let me say, first of all, I thank the Senator for bringing this up. Let me underscore: This is one of the sort of let's see if we can find a problem, and if we can find a problem, make it into a bigger problem, and then amend the treaty because amending the treaty itself—this amendment seeks to amend the treaty, so here we go right back down the road of the old "let's open up the negotiations again" argument. We have been through it so many times here. It has appropriately been rejected by colleagues.

I think the last vote was something like 66 to 30 on whether we will amend the treaty. That doesn't mean he doesn't have a right to raise it, but let me speak to the substance.

Going back in history on the START treaty, which is why this is a complete red herring—if you go back in the history of the START treaty, you will recall that the Soviet Union deployed 10 warheads, 10 MIRV warheads on an SS-24 intercontinental ballistic missile, and Russia deployed some 36 of those SS-24 rail-based launchers the Senator is referring to at the height of their deployment. But to comply with START I and with START II, which interestingly, we worked together on in terms of START II even though the Russians never ratified it—and the reason they didn't ratify it is because we took unilateral action and withdrew from the ABM treaty, and they were mad about it. That is why what we do matters in this relationship. We ratified the START II treaty; they didn't. So the things we choose to do have an effect.

The fact is, thanks to our colleague to my right, the distinguished Senator from Indiana, Mr. LUGAR, and Senator Nunn, who had the vision to put together the threat reduction program, that program set out to destroy Russia's SS-24 ICBMs and rail-based launchers.

This is important for all those people who have come to the floor and argued repeatedly that Russia has acted in bad faith in all of these efforts. Take note that Russia continued those cooperative efforts and continued to destroy those rail-based launchers even though they had not signed on to START II. Guess what. The last Russian SS-24 launcher was eliminated in 2007.

Now START I had a specific sublimit on mobile missiles and on rail mobile missiles. So the START treaty's definition, as a result of those two sublimits, the START treaty's definition needed to cover both the rail mobile and the road mobile launchers that were deployed at the time of the treaty. They were both put under the same roof, and that roof was the START treaty's definition. Just like the Moscow Treaty, the New START treaty contains just a plane limit, an overall limit on ICBMs

and ICBM launchers, SLBMs and SLBM launchers. We have the two categories and heavy bombers with no sublimits.

That means the characteristics of strategic offensive arms limited by the treaty, in particular the deployed and the nondeployed launchers of ICBMs and the deployed ICBMs and their warheads, those characteristics do not hinge on the treaty's definition of mobile launchers of ICBMs. We don't want them to because we want this big umbrella that covers all of it, which we have the ability to verify.

If we look at exactly what the treaty says, it says the following—and I don't know which lawyers are arguing about this, but the lawyers involved between the Russians and the United States and the lawyers involved on the negotiating team and the lawyers at the State Department are not arguing about this. They understand exactly what the treaty says.

Here is what it says. Article II, 1(a) of the treaty sets the limit of 700 deployed ICBMs, deployed submarine-launched ballistic missiles and deployed heavy bombers. That is really simple. It is very straightforward—700 ICBMs, SLBMs, bombers. We have the flexibility to decide how many of each of those we want to have. We had a debate previously with our colleagues about how many we would have. But that is pretty straightforward. There is no ambiguity in that. Where is the ambiguity—700, all three, and we believe we can count all three. Paragraph 12 of part 1 of the protocol defines deployed ICBM as an ICBM that is contained in or on a deployed launcher of ICBMs. That is pretty obvious. A launcher is a launcher is a launcher.

Paragraph 13 of part 1 of the protocol defines deployed launcher of ICBMs as an ICBM launcher that contains an ICBM and is not an ICBM test launcher, an ICBM training launcher or an ICBM launcher located at a space launch facility. Those are the only three exceptions. That is it. There is no ambiguity.

It seems to me pretty darn straightforward that a rail mobile ICBM, if either side decided to deploy it, obviously falls under the 700. It is so obvious that we should not have to risk renegotiating the entire treaty over something as obvious as that.

I might add, a nondeployed launcher of a rail mobile would fall under the 700 limit in terms of the launchers. I just ask my colleagues to look carefully at this. It would be highly improbable.

The Senator from Tennessee earlier today gave a terrific speech, Mr. ALEXANDER. He said: What is all this fuss about? In the end, we are going to have thousands of these things that can destroy the whole planet anyway.

That came from a person who is pretty thoughtful on these issues, who understands that you have to put this in a context. We are not talking about the

Cold War right now. We are not talking about the Soviet Union right now. We are talking about a country with which we have a very different relationship and where we have a whole set of combined interests, and you have to put this treaty into that context. It is highly unlikely that during the duration of this treaty with the Russian Federation, after years of working with the United States to destroy the weapons and work cooperatively under Senator LUGAR and Senator Nunn's program, it is unbelievably hard to believe they are going to divert what we know to be their very limited resources and infrastructure from their planned deployment in order to do new mobile—we have a planned deployment of new mobile-based ICBM forces, and suddenly to have them go out and build and deploy rail mobile launchers, which we would observe unbelievably quickly under our national technical means.

The simple answer is that we know what they are going to do. We have a strong capacity to track what they are doing. We have every reason to believe the Russians agree with what I just said about the allocation of resources. The fact is, the resolution the Senate will vote on, in order to guarantee that we are certain about this, requires the President to communicate to the Russians in the formal instrument that ratifies the agreement, when we ratify it, assuming we do it, will ratify the understanding of the United States that the treaty would cover rail mobile launched ICBMs and their launchers, if Russia or the United States were crazy enough to try to build them. So for the life of me, I don't know what you can do more than that. But we certainly are not going to reopen the treaty for the basis of a nonambiguity like that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I wish to add parenthetically a footnote to the chairman's presentation.

As has been mentioned frequently during this debate, for a variety of reasons, the Russians reduced the number of ICBMs below the totals that were required by the former treaty. Some Senators, in fact, have said the New START treaty, by imposing these limits of 1,550 warheads and 700 launchers, inhibits only the United States because, according to those who have argued this, Russia has already fallen below these limits.

Let me add, as a point of personal recollection, one of the reasons the Russians are below some of the standards that have been suggested is, as they thought more and more about the rail mobile situation, they decided this was either useless, expensive, or so vulnerable to potential attack that it was not worth maintaining.

As a result, as has been suggested, as it turned out, using the Cooperative

Threat Reduction Program, the United States and Russia, quite outside of the last treaty, decided we would proceed under the Cooperative Threat Reduction Program to simply destroy all the rest of the rail, which we did.

Just for the sake of exhibit, I have a piece of one of the last rails to be destroyed. It was presented to us by the Russians with a proper inscription on the back of it, recognizing their appreciation to the United States for this destruction. Therefore, logically, to argue that we are back into a predicament of the Russians wanting to build rails again and launch missiles and what have you from them negates the history of cooperation, conversations that may have occurred well beyond the treaty but that have come from the fact that there were Americans working with Russians who were not involved necessarily in specifics of the treaty but, in fact, were able to effect results that were well beyond what the treaty mandated.

I mention this, again, to indicate that I believe the amendment is unnecessary. But worse still, adoption of it would, in fact, eliminate our consideration today. We would go home. It is finished.

I certainly encourage Senators, recognizing that the Russians don't want the rails, have actually worked in the Cooperative Threat Reduction Program with Americans to get rid of all of it, plus everything associated with them, that as a commonsense situation that seems to be fairly well under control. Even then, the statements we have adopted as a part of the treaty take care at least of the counting situation if, for any reason, such an emergence should occur again on the rails.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, in response to the last argument that the Russians don't have any incentive to and we don't believe they are going to build the rail mobile system again, I ask, then: What is the big deal about ensuring in the treaty that if they do, they would be counted under the 700? What is the problem? The problem appears to be that the Russians don't have the same view of this as do my colleagues or the United States Government.

My colleague from Nevada quoted earlier from the Interfax report of October 29, 2010, where the chairman of the Russian Duma—parliament—committee responsible for treaties, Konstantin Kosachyov, stated—in response to the argument we have just made, that the Senator from Nevada just made, that the treaty should include rail-mobile as part of the 700 limit—he stated, in response to that claim, and in response to the resolution of ratification of the Foreign Relations Committee, that U.S. claim compelled the Duma to stop action on the treaty. He said—and I am quoting:

The Americans are trying to apply the New START Treaty to rail-mobile ICBMs in case they are built.

That, obviously, means if he is saying: We would have to stop the Duma action on this if that is what the U.S. Government is going to claim, they are pushing back on this pretty hard. The question is, why? I do not know whether they intend to build the rail-mobile system. I do not much care whether they build it. All we care about is, if they do, it has to be included within the 700 limit.

Now, the report language of the Senate Foreign Relations Committee confirms the fact that they are not included. Here is what the report language says—and this is in direct contradiction to what was said just a moment ago—this is from page 17 of the report—

Nevertheless, while a new rail-mobile system would clearly be captured under the Article II limits despite the exclusion of rail-mobile launchers from the definition of mobile launchers of ICBMs, those provisions that actually use the defined term "mobile launcher of ICBMs" would not cover rail-mobile systems if Russia were to reintroduce them.

"Would not cover."

It goes on to say:

"Appropriate detailed arrangements for incorporating rail-mobile ICBM launchers and their ICBMs into the treaty's verification and monitoring regime would be worked out in the Bilateral Consultative Commission." Under Article XV . . . the Parties may make changes to the Protocol or Annexes. . . .

We have discussed this in the past. If there is a dispute about what the treaty means, then you go to this dispute resolution group of Russians and Americans, and they try to talk it out and work it out. But there is nothing to say they will, and if the Russian chairman of the committee is already saying we are trying to insert something into the agreement that isn't there, I wonder how successful we would be in working it out.

The report concludes:

If Russia were again to produce rail-mobile ICBM launchers, the Parties would work within the BCC to find a way to ensure that the treaty's notification, inspection, and monitoring regime would adequately cover them.

So it is clear that it does not. It is clear from the report that the language would not cover rail-mobile systems if Russia were to reintroduce them. It is clear we would have to rely upon the Russians' good offices, good intentions, to reach some kind of an agreement with us in the Bilateral Consultative Commission. There are no assurances that will be done.

Why are we willing to proceed with an agreement that has such built in ambiguity? Why say: Well, we will let that be worked out by the BCC when we could work it out right now? It is the same answer we get with respect to every one of these proposals: Well, the

Russians would then demand to renegotiate the treaty.

I ask again: Is the Senate just to be a rubber stamp? We cannot do anything to change the treaty or the protocol, or just the resolution of ratification, which is what we are trying to do because the Russians would say no, and, therefore, we cannot do it?

I thought we were the Senate. We are one-half of the U.S. Government that deals with it. The other is the Executive. The Executive negotiated the treaty. Now, why didn't they include this language? We do not know because we do not have the record of the negotiations. What I am told is that it is because the Russians said they would not include it because the rail-mobile system would be unique to Russia, and we do not have such a thing. Therefore, there would be a lack of parity. You could not have such a unilateral provision. So if that is the case, either the Russians do intend to develop these systems, and they do not want them counted, or there should be no problem with the Ensign amendment, which would ensure that they would be counted.

So you cannot read the report language and agree with what has been said—that the treaty covers these weapons—you cannot read it and believe they would clearly be covered by the inspection and notification and monitoring regime. In fact, it clearly shows that is not the case. What you have to believe is that this built-in dispute in the treaty may well arise if the Russians decide to proceed to develop such a system, and we would then—or would arise if they decide to do that, and we would be required to go to the BCC to try to work it out with them. That, obviously, builds in a conflict that is not good.

As I said before, when you have a contract between two parties, the first thing the lawyers try to do is ensure there are no ambiguities that could cause one side or the other to later come forward and say: I did not mean that. Then you have a legal dispute. But it is one thing to have a legal dispute about buying a car or a house. It is quite another to have a dispute like this between two sovereign nations.

I would note when the United States had a system we might develop, such as the rail-mobile—but we have not made a decision to do it; we certainly do not have it—the Russians knew we wanted to at least study the possibility of developing a conventional Prompt Global Strike capability—that is to say, an ICBM that could carry a conventional warhead rather than a nuclear warhead—and they specifically insisted that we include that in the treaty.

Now, you might say: Well, wait a minute. The Russians apparently argued that they did not want to include anything on rail-mobile because the United States did not have anything on

rail-mobile, and that would be a lack of parity—it would be a unilateral restriction—but the same thing is true with conventional Prompt Global Strike. The Russians have no intension of doing that, apparently. We might, just like for the rail-mobile, the Russians might. Yet they insisted a limitation be put on our conventional Prompt Global Strike—by what?—by counting them against the 700 launcher limit—exactly the same thing that should be done with regard to rail-mobile.

So, apparently, if we might do something in the future the Russians do not like, we have to count it. But if the Russians might do something in the future we do not like, we cannot count it. Our only relief then is to go to this BCC and hope the Russians would agree to something in the future that they have not been willing to agree to today.

So all the Ensign amendment does is to clear up an ambiguity and avoid a future dispute between the parties. It is clear from the report that it is not covered now. Again, the language, “those provisions that actually use the defined term ‘mobile launchers of ICBMs’ would not cover rail-mobile systems if Russia were to re-introduce them.”

The report acknowledges that, therefore, in order to apply the inspection and notification and monitoring regimes, you would have to get the Russians to agree in the BCC. Why not solve that problem right now?

Again, we meet with the same argument we are always met with: Well, we do not dare change anything in here because the Russians would disagree.

I just ask my colleagues, again, is there any purpose for us being here? If every argument is, well, we do not dare change it because the Russians would disagree, so we would have to renegotiate it, maybe that suggests that there was not such a hot job of negotiating this treaty in the first place. If the Senate cannot find errors or mistakes or shortcomings and try to correct them without violating some superprinciple that is above the U.S. Constitution, which says that the Senate has that right, then, again, I do not know what we are doing here.

So I urge my colleagues to support the Ensign amendment, as with some other things we have raised, to try to avoid a conflict. Resolve the situation now while we still have time to do it rather than after the treaty is ratified when it is too late.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Maryland.

Mr. CARDIN. Madam President, I appreciate the concerns my colleague from Arizona is raising in regards to mobile launchers, particularly as it relates to rail-mobile launchers. But I am reading the same language the Senator has put on the floor, and it says very clearly that it is subject to the 700

limit. I think what my colleague is referring to is the fact that Russia today does not have rail-mobile launchers. So, therefore, there are other protocols in the treaty in regard to inspection, et cetera, that are not provided for in this treaty because it is not relevant since Russia today does not have rail-mobile launchers. But if they were to develop rail-mobile launchers, they would be subject to the 700 limitation of launchers, if it was being deployed. The consultation process will work out the procedures for adequate inspection.

So I think it is already covered under the treaty. In the language of the treaty Senator KERRY mentioned it is clear to me it is covered. But in the report language I think it is stating the obvious.

One last point, and that is, again, you do not dispute the fact that if we were to adopt this amendment, it would be the effect of denying the ratification of the treaty until it was modified in Russia, which is the same as saying we are not going to get a ratified treaty on this issue.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, might I pose a question to my colleague because I understand exactly the point he makes. He makes it accurately. I quoted the language that says that it would clearly be captured under article II limits. That is the committee's understanding, which is the point my colleague is making. But I go on to note that the exclusion of rail-mobile launchers from the definition means that it would not cover rail-mobile systems if Russia were to reintroduce them and, therefore, there would have to be work by the BCC to figure out how to deal with those under the inspection, monitoring, and notification regimes.

I understand that our committee says they believe they are captured. I see that in the report. What I am saying is, there is a dispute because the Russians do not appear to agree with that. I would just ask my colleague, how do you square, then, the Russian response? The chairman of their committee—you have dueling committees—in the Duma said:

The Americans are trying to apply the New START Treaty to rail-mobile ICBMs in case they are built.

It appears to me what he is saying is, but they should not be doing that. In fact, his recommendation, I believe, was the Duma not take action on the treaty if that was our intent.

Mr. CARDIN. Madam President, will the Senator yield?

Mr. KYL. Yes, of course.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. To me, it is the language of the treaty itself. The language of the treaty itself is pretty clear as to what the definition of a launcher is,

with three exclusions. Just look at the language of the treaty that any type of launcher would be covered.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, if I could just close, and I actually had, I think, yielded the floor. So I appreciate the chance to make this final point.

All the Ensign amendment tries to do is clear up the ambiguity. My colleague says it is absolutely clear to him that they are included. I know the committee says they think it is clear. I do not think the Russians think it is clear, and I think there is a basis for an argument that it is not clear. Why not clear it up?

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, the answer to the question—why not clear it up—is because if you clear it up the way the Senator is trying to, you kill the treaty. Pretty simple.

The Senator keeps asking the question. Why can't we do this? We can't do it because it kills the treaty. It is pretty simple. And the Senator knows it kills the treaty.

Now, going beyond that, come back again just for an instant to the substance. First of all, the Russian general staff—I have been known, as chairman of the Foreign Relations Committee, to make some comments which occasionally the Joint Chiefs of Staff do not agree with. My comments are not going to drive them to do what they do not agree with. Likewise, the chairman of their foreign relations committee whom he quotes was tweaking us in his comment. But the fact is, the general staff of Russia has made it abundantly clear they do not want to build these rail-based mobile. They have no intention of doing this. They have just been destroying them. They have been taking them down and destroying them in a completely verifiable manner, and the Senator from Arizona cannot contest that. He knows that is absolutely true.

So this is a completely artificial moment designed, as others have been, to try to derail—no pun intended—the treaty.

That said, let me also point out that if you want to try to rein in this issue of rail-based, this amendment is not the way to do it because there are a whole series of protocols set up in the treaty for how you deal with road-based launchers, and you would need to begin to put in place a whole different set of protocols in order to deal with rail-based. So if, indeed, the Russians are, as I said, crazy enough, as they think it would be crazy—that is the way they define it now and we do too—to go back to something we have spent the last 15 years destroying, if that happens, we will know it. Moreover, if it happens, it is counted, as the Senator has agreed, under the article II

limits for launchers. So this is a nonissue, with all due respect.

I know the Senator from Nevada wants to take 2 minutes to make a comment, and then I wish to make a unanimous consent request, if I could, after that.

Mr. ENSIGN. Madam President, I think the Senator from Arizona wishes to make a statement.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Before my colleague from Nevada closes, I know this whole argument is based on the proposition that the Russians wouldn't be crazy enough to think about doing a rail system again so we don't need to worry about it. What is all the fuss, is what my colleague said.

Well, here is a December 10—how many days ago is that now? I have forgotten. We are about to Christmas, but I have forgotten the date of today. It is from Moscow ITAR-TASS, English version. Headline: "Russia Completes Design Work For Use Of RS-24 Missiles On Rail-based Systems."

I want my colleague from Massachusetts to hear this. The Russians aren't crazy enough to think they could do a rail system. Here is the headline, December 10: "Russia Completes Design Work For Use of RS-24 Missiles On Rail-based Systems."

Just to quote a couple lines from the story:

Russia has completed design work for the use of RS-24 missiles railway-based combat systems, but implementation of the project has been considered inexpedient, Moscow Heat Engineering Institute Director Yuri Solomonov said. His institute is the main designer of these missiles. Asked whether the RS-24 missiles could be used in railway-based systems, he said, "This is possible. The relevant design work was done . . ." and so on.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RUSSIA COMPLETES DESIGN WORK FOR USE OF RS-24 MISSILES ON RAIL-BASED SYSTEMS

Moscow, December 20 (Itar-Tass)—Russia has completed design work for the use of RS-24 missiles railway-based combat systems, but implementation of this project has been considered inexpedient, Moscow Heat Engineering Institute Director Yuri Solomonov said.

His institute is the main designer of these missiles.

Asked whether the RS-24 missiles could be used on railway-based systems, Solomonov said, "This is possible. The relevant design work was done, but their development was deemed inexpedient. I agree with this because the survivability of this system is not better than that of the ground-based one, but it costs more."

The RS-24 Yars missile system was put on combat duty in Russia this summer.

Earlier, the chief designer of the Moscow Heat Engineering Institute, which created the system, said that one of the RS-24 systems had already been delivered to the Strategic Rocket Forces at the end of last year.

Solomonov said, "All journalists are writing about Bulava, but are saying little about the new mobile missile system RS-24 Yars with multiple warheads that we created at the same time."

The Strategic Rocket Forces intended to deploy the missile system RS-24 with multiple warheads in December 2009, Commander of the Strategic Rocket Forces Lieutenant-General Andrei Shvaichenko said in October 2009.

"The intercontinental ballistic missile RS-24 put into service will reinforce combat capabilities of the attack group of the Strategic Rocket Forces. Along with the single-warhead silo-based and mobile missile RS-12M2 Topol-M already made operational the mobile missile system RS-24 will make up the backbone of the attack group of the Strategic Rocket Forces," the general said.

Silo-based and mobile missile systems Topol-M, as well as RS-24 mobile missile systems were designed by the Moscow Heat Engineering Institute.

The warheads of Russia's newest Topol-M and RS-24 intercontinental ballistic missiles can pierce any of the existing of future missile defences, Strategic Rocket Forces Commander, Lieutenant-General Sergei Karakayev said earlier.

"The combat capability of silo-based and mobile Topol-M ICBMs is several times higher than that of Topol missiles. They can pierce any of the existing and future missile defence systems. RS-24 missiles have even better performance," Karakayev said.

The Strategic Rocket Forces have six regiments armed with silo-based Topol-M missiles and two regiments armed with mobile Topol-M missiles. Each missile carries a single warhead. This year, Russia began deploying RS-24 ICBMs with MIRVs. There is currently one regiment armed with RS-24 missiles.

Speaking of other ICBMs, Karakayev said that RS-20V Voevoda (Satan by Western classification) would remain in service until 2026. "Their service life has been extended to 33 years," he said.

On July 30, 1988, the first regiment armed with RS-20B Voevoda missiles was placed on combat duty in the Dombrovka missile formation in the Orenburg region.

"This is the most powerful intercontinental ballistic missile in the world at the moment," the press service of the Strategic Rocket Forces told Itar-Tass.

With a takeoff weight of over 210 tonnes, the missile's maximum range is 11,000 kilometres and can carry a payload of 8,800 kilograms. The 8.8-tonne warhead includes ten independently targetable re-entry vehicles whose total power is equal to 1,200 Hiroshima nuclear bombs. A single missile can totally eliminate 500 square kilometres of enemy defences.

By 1990, Voevoda missiles had been placed on combat duty in divisions stationed outside of Uzhur, Krasnoyarsk Territory, and Derzhavinsk, Kazakhstan. Eighty-eight Voevoda launch sites had been deployed by 1992.

Mr. KYL. Madam President, I am not arguing that this issue has been resolved within Russia as to whether to go forward. I am not arguing whether it is a good thing or a bad thing. I simply submit it in response to the argument that the Russians would be crazy to think about doing this. Either they are crazy or—well, in any event, I would never attribute that motivation to anybody, even somebody from another country. The fact is, they have

begun design work on exactly such a project.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. It is my understanding that the Russian referred to in that article is saying how difficult it is to do the rail-based. But here is the simple reality. If they build it, it will count, end of issue. That is why this is unnecessary.

I yield to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, to wrap up this debate, let me address, first of all, the whole idea that changing this treaty in any way kills the treaty. Under the Constitution, certainly it is the President's role, the administration's role, to negotiate the treaties. We all recognize that. But under the Constitution, the Senate is tasked with advice and consent. That means we are to look at the treaties, and if we think they should be changed—and we have changed treaties over the years—then we are free to change the treaties. That is why there is a process set up, such as this amendment process, to change the treaties. So if we have fundamental objections to the treaty, I think we can have a debate on whether we should, on a particular amendment, change the treaty on the merits of the amendment, but we shouldn't just say we can't change any part of a treaty because it kills the treaty, because we have a constitutional role in advice and consent on whether we approve treaties.

Just a couple points to make.

First of all, this is from the State Department's Bureau of Verification, Compliance, and Implementation. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Bureau of Verification, Compliance, and Implementation, Aug. 2, 2010]

RAIL-MOBILE LAUNCHERS OF ICBMS AND THEIR MISSILES

Key Point: Neither the United States nor Russia currently deploys rail-mobile ICBM launchers. If a Party develops and deploys rail-mobile ICBMs, such missiles, their warheads, and their launchers would be subject to the Treaty.

Definitions: The New START Treaty defines an ICBM launcher as a "device intended or used to contain, prepare for launch, and launch an ICBM." This is a broad definition intended to cover all ICBM launchers, including rail-mobile launchers if they were to be deployed again in the future. There is no specific mention of rail-mobile launchers of ICBMs in the New START Treaty because neither Party currently deploys ICBMs in that mode. Russia eliminated its rail-mobile SS-24 ICBM system under the START Treaty. Nevertheless, the New START Treaty's terms and definitions cover all ICBMs and ICBM launchers, including a rail-mobile system should either Party decide to develop and deploy such a system.

A rail-mobile launcher of ICBMs would meet the Treaty's definition for an ICBM launcher. Such a rail-mobile launcher would therefore be accountable under the Treaty's limits.

Because neither Party has rail-mobile ICBM launchers, the previous definition of a rail-mobile launcher of ICBMs in the START Treaty ("an erector-launcher mechanism for launching ICBMs and the railcar or flatcar on which it is mounted") was not carried forward into the New START Treaty.

If Russia chose to develop and deploy rail-mobile ICBMs, such missiles and their launchers would be subject to the Treaty and its limitations. Specific details about the application of verification provisions would be worked out in the Bilateral Consultative Commission. Necessary adjustments to the definition of "mobile launchers of ICBMs"—to address the use of the term "self-propelled chassis on which it is mounted" in that definition—would also be worked out in the BCC.

Accountability: A rail-mobile launcher containing an ICBM would meet the definition of a "deployed launcher of ICBMs," which is "an ICBM launcher that contains an ICBM."

Deployed and non-deployed (i.e., both those containing and not containing an ICBM) rail-mobile launchers of ICBMs would fall within the limit of 800 for deployed and non-deployed launchers of ICBMs and SLBMs and deployed and non-deployed heavy bombers.

The ICBMs contained in rail-mobile launchers would count as deployed and therefore would fall within the 700 ceiling for deployed ICBMs, SLBMs, and heavy bombers.

Warheads on deployed ICBMs contained in rail-mobile launchers therefore would fall within the limit of 1,550 accountable deployed warheads.

Applicable Provisions: Separate from the status of the rail-mobile ICBM launcher, all ICBMs associated with the rail-mobile system would be Treaty-accountable, whether they were existing or new types of ICBMs, and therefore would, as appropriate, be subject to initial technical characteristics exhibitions, data exchanges, notifications, Type One and Type Two inspections, and the application of unique identifiers on such ICBMs and, if applicable, on their launch canisters.

Mr. ENSIGN. Madam President, let me just read one paragraph from this:

If Russia chose to develop and deploy rail-mobile ICBMs, such missiles and their launchers would be subject to the Treaty and its limitations.

That is according to our State Department.

Specific details about the application of verification provisions would be worked out in the Bilateral Consultative Commission.

So, in other words, if Russia decides to build these things, then the verification has to be worked out by the Bilateral Consultative Commission. It isn't that it is set in there exactly what would happen, but the verification certainly would have to be worked out.

The bottom line is, we believe there is ambiguity because of the statements made by the Russians themselves. That is the problem. If the Russians, in their statements in the Duma, if they have been saying: Yes, we agree with exactly the interpretation the Americans have been making, it would be a different story and we probably wouldn't need this amendment. But because their

statements—Senator KERRY's counterpart in the Russian Duma has said the Americans are trying to bring into this New START treaty mobile launchers, and the Russians don't think they should be in there. So we think we should clarify that language in a very unambiguous way, based on my amendment, to make sure there is no question on each side.

I appreciate what the Senator from Massachusetts is saying, that they have destroyed their—it would be crazy for them to build them again. But as the Senator from Arizona just talked about, they are at least designing. Maybe they have a better system to use for rail-mobile launchers. We don't know that. But what we do know is, they don't think this language applies, the language in the treaty applies to the mobile launchers. So they could get around this treaty and the number of warheads they could have, based on the language that is currently in the treaty.

I just ask our colleagues to seriously consider removing the ambiguity and voting for the Ensign amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I don't think we need to repeat. I appreciate the Senator from Nevada and I understand what he is saying. I completely agree with him about the advice and consent role of the Senate, but part of that role is to make a judgment about whether the consequences of some particular concern merit taking down the whole treaty and putting it back in the renegotiation process. It is not that we can't or shouldn't under the right circumstances; it is a question of balancing what are the right circumstances. We are arguing, I think appropriately, because the report of our committee says clearly that rail-mobile will be covered under article II and this is unnecessary. So weighing it that way, it doesn't make sense to do it.

Let me say to my colleagues that I think we want to move to the Risch amendment, and I think it is the hope of the majority leader to try to have two votes around the hour of 6 o'clock, if that is possible, and then to proceed to the Wicker amendment.

I yield the floor to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 4878

Mr. RISCH. Madam President, I wish to call up amendment No. 4878.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. RISCH] proposes an amendment numbered 4878.

Mr. RISCH. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide a condition regarding the return of stolen United States military equipment)

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) RETURN OF STOLEN UNITED STATES MILITARY EQUIPMENT.—Prior to the entry into force of the New START Treaty, the President shall certify to the Committees on Armed Services and Foreign Relations of the Senate that the Russian Federation has returned to the United States all military equipment owned by the United States that was confiscated during the Russian invasion of the Republic of Georgia in August 2008.

Mr. RISCH. Madam President and fellow Senators, I bring you what I believe to be the first amendment to the resolution of ratification. We have had a number of amendments that have been to the actual treaty itself. We have listened to objection after objection that: Oh, my gosh, we can't possibly amend the treaty because if we do, we are going to have to sit down and talk to the Russians again.

We don't have to worry about that with this amendment. This is an amendment to the resolution of ratification. It will not require that we sit down with the Russians and negotiate. Frankly, I don't know what is wrong with that. Frankly, I think it is a good idea after all the problems that have been raised with the treaty. But, nonetheless, if that is an overriding concern, you can set that aside and listen to the merits of the amendment.

I have to tell my colleagues that part of this I bring as a matter of frustration. I have been involved with this for months, and I am so tired of hearing about accommodation after accommodation after accommodation to the Russians. It appears, before we even started with this, the Russians said: Well, we are going to have to have in the preamble language that says missile defense is related to this, and we said no. We have to have the ability to protect our country and build missile defense. The Russians said it has to be in there. It is in there. The next thing we said: You know, for 40 years we have been doing this, and you guys have a 10-to-1 advantage over us on tactical weapons; that is, short-range weapons. We ought to talk about that because you want to talk about parity on strategic weapons. No, it can't be in there. We accommodated the Russians again. Every time we turn around and put out a problem here—just as we heard on this rail thing—every time we turn around and put out a problem that ought to be addressed, the people who are promoting this stand and apologize, they accommodate, they say it is OK, they overlook it, and we go on and on and on.

I am sitting here listening to this on the rails, and the one side says: Well, don't worry about it; they are never going to build this anyway. We pull up an article that says they are in the process of doing this. Well, yes, but don't worry about it because it is going to be counted anyway.

So I have something here that, hopefully, we are not going to apologize to the Russians for. We are not going to accommodate them. We are going to tell them that if you want a relationship with us, you have to be honest with us.

We all know, and it has been widely reported, that they cheat. They are serial cheaters. They cheated in virtually every agreement we have had with them. If we are going to have a relationship with them and press the restart button—and I think we should. We should press the reset button. We should have a decent relationship with them. But let's wipe the slate clean and let's start with the military equipment they have stolen from us. That is all this is about.

On August 8 of 2008, as we all know, the Russians invaded Georgia, and when they invaded Georgia, it was pretty much of a mismatch. They ran over the top of them, did a lot of bad things, and eventually there was a peace accord that was brokered by President Sarkozy, and the next amendment I have deals more in-depth with that.

But when they ran over the Georgians, the American military had just been there doing exercises with the Georgians because the Georgians were kind enough to engage with us and help us in Afghanistan. They were preparing to send troops to Afghanistan to help us. So we Americans went over there and we said: OK. We need to do some military exercises, engage in some joint training, so we can get you ready to go into Afghanistan. We are now preparing to leave. We have completed the exercises. We are preparing to leave. We obviously took a lot of our equipment over there, not the least of which were four American humvees. The four American humvees were shipped to a port in Georgia and were in the process of being shipped back to the United States. There is no argument that the title to these four humvees is with the people of the United States of America. They belong to me. They belong to you. They belong to the U.S. military. They belong to all of us.

The Russians, when they overran the Georgians and got to the seaport, found our humvees, and what did they do? Did they say: Well, yes, they belong to the Americans; we will put them on the boat that is supposed to go back to the United States? No. They said: We are going to take them, and they stole them. Today, they still have them.

The United States has asked for the four humvees back. But let me tell my

colleagues where the four humvees are. If you want to see a picture of them, you can go to msn.com and search Georgia and humvees and you can see a picture of our humvees. Where are they? They are in the Russian Central Armed Forces Museum in Moscow, Russia. That is where our four humvees are. What are they doing there? They are on display as a war trophy, taken by the Russians as a war trophy. Well, we weren't engaged in that war.

So if we are going to have a good relationship with them, is it too much to ask to give us back the property they stole from us a little over 24 months ago?

So this is an easy one to vote for. I have had discussions with my good friend from Massachusetts. He said this isn't related. This is absolutely related. We are entering into a marriage on a very important issue.

Shouldn't we ask that they give us our stolen property back? And shouldn't they say: Yes, we want to set the reset button too. We want to hold hands and sing "Kumbaya." We want to be friends.

Well, that is fine, but give us back our stolen military equipment.

That is all this asks for. It doesn't jeopardize the treaty; it just says it goes into force as soon as they give us our four humvees back.

I yield the floor.

Mr. CARDIN. Madam President, let me first tell my colleague that I support the treaty because it is in the best interest of the United States. It is in our national security interest. It is not an accommodation to Russia. This treaty helps us on national security. That is what our military experts tell us. That is what our intelligence experts tell us. That is what our diplomats tell us. On all fronts, the ratification of this treaty makes us a safer nation. So it is not an accommodation to Russia.

On the issue the Senator is concerned about, both the Obama administration and this body have repeatedly reaffirmed our commitment to Georgia's territorial sovereignty and integrity. We very much want Russia to withdraw. We are very sympathetic to the issue the Senator brings to our attention. We have taken action in this body to support Georgia's territorial integrity. The START treaty and its ratification is important in reestablishing confidence on verification as it relates to our relationship with Russia on strategic arms, but it is also important for the engagement of Russia on other issues. We can do more than one thing at a time.

President Saakashvili of the Republic of Georgia said:

We all want—I personally want—Russia as a partner and not as an enemy. Nobody has a greater stake than us in seeing Russia turn into a country that truly operates within the concert of nations, respects international

law, and—this is often connected—upholds basic human rights. This is why I wholeheartedly support the efforts of European and American leaders to strengthen their relationship with Russia.

The leader of Georgia understands that a better relationship between Russia and the United States will help Georgia and its territorial integrity. This treaty and its ratification will help not only build confidence between Russia and the United States but will help the other countries of Europe, particularly a country such as Georgia.

So the chairman of the committee is absolutely correct—and I think we can verify that with the Parliamentarian—that this is not relevant on the issue we have before us. It is not part of the treaty we have negotiated. It is not part of the ratification process. It is not the appropriate forum for this type of amendment to be considered. It should be rejected on that basis.

The important thing in moving forward with U.S. influence on Russia as it relates to its neighbors, such as Georgia, is to move forward with ratification of this treaty.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I will be very quick. I don't think we need to spend a lot of time on this. First of all, we agree with the Senator from Idaho that under normal circumstances the equipment they have would be best returned to the United States, and there are many good-faith ways in which they might do that. But the fact is that the way this is phrased, it has just two enormous problems. First, it says prior to the entry into force of the treaty. So we are linking this ancillary issue to this entire treaty, which bears on a whole set of other national security considerations.

I want the four humvees back, and whatever the small arms are, which raises another issue, but I am not willing to see this entire treaty get caught up in that particular fracas. We have an unbelievable number of diplomatic channels and other ways of prosecuting that concept, and I pledge to the Senator that I am prepared, in the Foreign Relations Committee, to make certain we attempt to do that, as well as deal with the question of Russia's compliance with the peace agreement with respect to the cease-fire in Georgia and so forth. These are essential ingredients, and we will talk about that in a moment.

It also says they have to return all military equipment. It doesn't specify. This could become one of those things where we are saying, you have this, and they say, no, we don't. Are we talking about small arms? What about expended ammunition? Who knows what the circumstances are?

This is not the place or the time for us to get caught up in linking this treaty to this particular outcome. I really think that stands on its own.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Madam President, obviously one of the purposes of these two amendments is to respond to one of the arguments that has been raised in support of this treaty. We have this wonderful new reset relationship with Russia, and were we to not ratify the treaty, that relationship would be frayed, and who knows how much Russia might react to it? It would be harder to get their cooperation on things. Those are all arguments that have been made.

I think one of the points of these two amendments is to show that the reset relationship between Russia and the United States has not produced all that much good behavior or cooperation on the part of the Russians. I earlier detailed all of the ways—at least a few—in which Russia had been very unhelpful to the United States with regard to Iran. I noted I think 2 days ago or maybe yesterday that in the U.N., they were trying to water down a resolution dealing with North Korea that we are working hard to try to obtain. They have been very difficult to deal with with regard to North Korea and Iran. At the end of the day, I think they only do what is in their best interest, in any event—not basing their decisions of what is in their best interests on some concept of a new friendliness with the United States.

I think part of the reason my colleague from Idaho offered these two amendments is to simply demonstrate that this new relationship isn't all that its cracked up to be if they won't even give us some equipment they confiscated when they invaded Georgia. That is not a major point in international diplomacy, and it certainly isn't a major point with respect to U.S. military capability. It is illustrative of something.

The point of the amendment is to say that you have quite a bit of time before this treaty enters into force. A lot has to happen. It is sent to Russia, the Duma has to deal with it, and so on.

Just return the stuff. Maybe that little gesture of good will would help to reestablish this so-called reset relationship in ways they have not been able to accomplish by getting Russian support with the U.N. resolutions and other actions with regard to sanctions on Iran and diplomacy with North Korea.

One can say it is not a big deal, this military equipment, but on the other hand, they say it will destroy the treaty if we have this particular amendment. The reality is that we are simply trying to make a point that the Russians have not acted well in a variety of situations. I cannot think of a better example than the invasion of Georgia, the continued violation of the cease-fire agreement they signed there, and the violation of the U.N. resolution.

I would reiterate, at the summit declaration—this is where the NATO members, meeting in Lisbon last month, joined together to call for a resolution to the problem, saying, "We reiterate our continued support for the territorial integrity and sovereignty of Georgia within its internationally recognized borders." And then they urge all to play a constructive role and to work with the U.N. to pursue a peaceful resolution of the internationally recognized territory of Georgia. And then the final sentence:

We continue to call on Russia to reverse its recognition of the South Ossetia and Abkhazia regions of Georgia as independent States.

That is the kind of cooperation we are getting from the Russian Federation these days. I appreciate the amendments brought forth by my colleague to highlight that fact.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I agree with Senator KYL and support the Risch amendment. I remember at a NATO conference not too many years ago President Bush was advocating for Georgia being a member of NATO, to show you how serious these matters are. So had we voted to bring Georgia into NATO—and they were on the short list—we would be in a situation in which the Russians would be invading a NATO country. The act of Russia invading Georgia was a dramatic event.

The proponents of the treaty portrayed this matter as advancing our relationship with Russia. I think Senator KERRY has been not so aggressive—that hasn't been one of his themes. But a lot of people have, and I think he was wise not to go down that road.

A lot of people have tried to say we are going to get along with Russia better by signing this treaty with them. That is not a sound basis to sign a treaty. We all need a better relationship with Russia. That I certainly acknowledge. Georgia would certainly benefit from it, and hopefully the world will have a better relationship with Russia.

But I am unable to fathom a lot of the Russian activities, frankly. It is just difficult for me. Why have they negotiated so hardheadedly on this treaty to actually reduce the number of inspections over what we had in the previous treaty? Why? I thought Russia was about wanting to move forward into the world and be a good citizen in the world community. I haven't seen it. I am worried about it.

So the question is, if we abandon or concede too much, are we helping develop a positive relationship? I think Senator RISCH is saying: Look, we have a serious problem. They are holding our military equipment. Are we not even going to discuss that?

How do we get to a more positive relationship with our Russian friends? I think the people of Russia are our

friends. How do we get there? Is it through strength, constancy, consistency, principle, and position, or is it through weakness, placating, concession, and appeasing? Is that the way to gain respect and move us into a healthier relationship? I don't think so.

I think we have only one charge, and that is to defend our legitimate interests. I believe this administration has been too fixed on a treaty, and, as one observer and former treaty negotiator has said: If you want it bad, you will get it bad. In other words, if you want the treaty too badly, you won't be an effective negotiator. I remember during this process, on more than one occasion, warning and expressing concern to our negotiators that we appeared to be too anxious to obtain this treaty and, if so, the Russians would play us like a fiddle. I am afraid that is what has happened.

I think this Congress would do the President, the world, Russia, and our country a service if we said what Senator RISCH says: OK, guys, how about letting our equipment be sent back. If you are not willing to do that, then we have a serious problem.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. RISCH. Madam President, first of all, to my good friend from Maryland, I agree with much of what he said about our relationship and the relationship between Georgia and Russia. I will speak about that in the next amendment I am going to offer, which is No. 4879, right after this one. I know the Senator didn't talk about our stolen military equipment by the Russians.

To my friend from Massachusetts, who responded to what I said, I say: Here we go again. This is exactly why I brought this amendment. We are again accommodating the Russians. Why can't we just once ask them to behave themselves and say: Look, this is not a big matter, but you are acting like a thief.

Do you want to see what they did? I made reference for you to go on the Internet to see the pictures, but here they are. If you are a good American, you can go there and you can watch your property right here being towed away by the Russians, back to Moscow, to put on display as a trophy. Here is another picture of it right here. This is even better. This is one of our humvees being towed by the Russians. This humvee is headed back to Moscow, where it is now displayed as a trophy.

Is it too much to ask, where we are going to enter into this agreement and supposedly befriend and supposedly reset the button on our relationship, is it too much to say: Look, you stole from us. You are acting like a thief. Give us back the property we own.

Is that asking too much of the Russians? Can we not just once, instead of

accommodating them, instead of apologizing for them, instead of saying we should not tie this to that or we will not get it, can we not just once say: Give us our stolen property back.

That is all we are asking here. It is not a big thing, but it does give us a clear indication of what they are thinking, of what their relationship is with us, of what they want their relationship to be with us.

This is not asking too much. This does not blow up the treaty. It simply says they pack up the four humvees and, and as soon as they do, the treaty goes into effect. That is not too much to ask.

I yield to my good friend from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, this has been cleared on both sides.

I ask unanimous consent that at 6 p.m., the Senate proceed to votes in relation to the following amendments to the START treaty and the resolution of ratification: Ensign amendment No. 4855 and Risch amendment No. 4878; further, that prior to the votes, there be no second-degree amendments in order to the amendment, and that the time before the votes be divided equally between the sponsors and myself or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Madam President, I will share one thought I remember so vividly before Russia invaded Georgia. We were at a NATO conference. There was a discussion outside the normal meeting. One weak-kneed, I suppose, European explained to the Georgians why it was difficult for the other nations to support Georgia in their idea to be in NATO and suggested it was difficult because Russia was a big and powerful country.

The Georgian replied—and I have never forgotten it—saying: Well, sir, we think it is a question of values. Mr. Putin said last year the greatest disaster of the 20th century was the collapse of the Soviet Union. We in Georgia believe it was the best thing that happened in the 20th century. It is a question of values. We share your values. We want to be with you.

I have to say it is deeply troubling to me that our Russian friends are being so recalcitrant and so aggressive and so hostile to sovereign states such as Georgia, the Ukraine, the Baltics, and Poland. They used to be a part of the Soviet empire. They are now sovereign nations, independent in every way.

Conceding, as part of these negotiations, the deployment of a ground-based interceptor missile defense system in Poland to comply with Russian demands during this treaty process was a terrible thing, especially when we did not even tell our friends in the sov-

ereign nation of Poland we intended to do it before we announced it with the Russians.

The Senator is just raising a reality. I say to Senator RISCH, we have some problems here, and we might as well put it out on the table, be realistic about it, and take off the rose-colored glasses. This amendment is one way to say let's get serious and talk with our Russian friends about some serious difficulties we have.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Madam President, I call up Risch amendment No. 4879.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Madam President, at this time there is, until we have an opportunity—we were going to work this out with Senator KYL after the vote. So I object to it at this moment.

The PRESIDING OFFICER. Objection is heard.

Mr. KERRY. I believe Senator KYL had two amendments he wanted to get up at this point in time.

Mr. KYL. What was the unanimous consent request?

Mr. KERRY. The Senator from Idaho requested to go to his next amendment, which is No. 4879. That was the one the Senator from Arizona and I were talking about with respect to an issue we wanted to work out with the Parliamentarian before we go to it. I think the Senator and I had agreed he would like to go to two other amendments next in line. We will come back to this issue.

Mr. KYL. Madam President, that understanding is fine. There are two Members who I think will be ready to go forward with their amendments immediately following the two votes at 6 o'clock.

Again, for benefit of the Members, it is my hope that we can continue to work through as many amendments as possible this evening, maybe have debate a couple at a time and vote, whatever the body desires. But perhaps we could continue at least to work through a few more amendments yet this evening.

Mr. KERRY. I agree with that completely. We have a fairly limited list, and I think it is possible to move through them rapidly. I appreciate the efforts of the Senator from Arizona to do so.

Madam President, how much time do we have on our side?

The PRESIDING OFFICER. Six minutes.

Mr. KERRY. I yield 4 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I thank my colleague from Massachusetts, Senator KERRY. I wish to respond to Senator RISCH's amendment because

I am very sympathetic to the concerns he is raising.

All who watched Russia's invasion of Georgia had to be outraged about what happened. In fact, I have a resolution I have submitted with Senators GRAHAM and LIEBERMAN. I hope, perhaps, the Senator from Idaho might be willing to take a look at this resolution and work with us on it next year because one of the things it does is it calls upon the Government of Russia to take steps to fulfill all the terms and conditions of the 2008 cease-fire agreement, including returning military forces to prewar positions and ensuring access to international humanitarian aid to all those affected by the conflict.

It also deals with a number of other provisions in that resolution with respect to Georgia.

I also point out, as I am sure my friend from Idaho knows, that Georgia has recognized it is in their interest to have relations with Russia that can address their border concerns in a way that is positive, to have Russia working with the international community as opposed to working as a pariah. They may represent what we have heard from all our NATO allies with respect to the START treaty; that it is in the best interest of our NATO allies. We have heard from those countries that border Russia—Latvia, Poland, and a number of other countries—that they would like to see the United States ratify the New START treaty.

I am in agreement with the concerns Senator RISCH raised. I have questions about whether this is the best way to do it, given the confines of the New START treaty and our efforts to get this into effect as soon as possible so we do not continue to have a situation where we do not have inspectors on the ground in Russia who can help gather intelligence, who can see what is going on with their nuclear arms in a way that would also benefit Georgia.

I understand the concerns. I agree with those. But I cannot support this amendment because of the negative impact it might have on ratifying the treaty.

Mr. RISCH. Madam President, may I respond.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Madam President, somehow the debate about the relationship between Russia and Georgia and our relationship as far as Georgia is concerned has crept into this debate. This amendment has nothing to do with Georgia, other than the fact that is where the theft took place. The international criminal offense of theft of our military property took place in Georgia. That is the only thing Georgia has to do with this. This has nothing to do with the relationship. Amendment No. 4879 has a lot to do with it. When we get there, we will talk about that.

I regret my good friend from New Hampshire cannot support this amend-

ment, because although I suspect I will support the resolution, we do a lot of these resolutions. We do the resolution and send it off to the Russians. They are going to be laughing up their sleeve at us, whilst they are fondling our equipment that they have possession of.

There are no teeth in these resolutions. We actually have the opportunity to do something to get our military equipment back. If they are acting in good faith, if they are people of good will, if they want a relationship with us, then they are going to have to make a choice: Do we keep four humvees or do we give them back so this treaty can go into effect? That is the choice they are going to have to make.

That is not too tough a choice to put on them. Do you want to continue to be thieves or do you want to be honest about this and deliver the goods you have stolen? There is nothing wrong about that. This gives us the opportunity, I say to the good Senator, to do what you exactly do on the resolution, but it is going to give it some teeth.

I yield the floor.

Mr. KERRY. Madam President, how much time remains?

The PRESIDING OFFICER. Three minutes.

Mr. KERRY. On both sides? How much remains on the proponents' side?

The PRESIDING OFFICER. The minority has 19 seconds; the majority has 3 minutes.

Mr. KERRY. I suggest the absence of a quorum. I withhold that request.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, I, first, thank the Senator from Idaho for bringing up this issue. I might tell him, I have a laundry list of issues with which I would like to deal with Russia.

I have the honor of chairing the Helsinki Commission. We have a lot of human rights issues with Russia, and we raise them all the time as aggressively as we can. I am proud the Obama administration has raised these issues at the highest level with the Russian Federation. We are very sympathetic to the issue the Senator has brought up. It is the wrong vehicle to deal with this issue. It is the wrong vehicle. This treaty is important for U.S. national security. That is why I support the ratification. That is why I urge my colleagues to support the ratification.

Yes, it is appropriate in our advise-and-consent role for us to take up issues that are relevant to the subject matter of the treaty. The problem is, the issues the Senator from Idaho is bringing up are not relevant to the subject matter of the treaty. Therefore, it is the wrong vehicle to take up this issue.

I do not want the Senator from Idaho to interpret my opposition to his amendment as opposing what he is try-

ing to do. I agree with what he is trying to do. It is the wrong vehicle on which to put it. I urge the Senator to work with Senator SHAHEEN, work with the Helsinki Commission on other issues.

The issue the Senator is bringing up about the return of property is very important to America. We believe in many cases the Russian Federation is not living up to their international commitments under international agreements. We will bring those up, and we will fight in those forums. But this treaty is in our interest. This treaty and our actions should deal with the four corners of the agreement.

In that respect, I very much oppose the Senator's amendment.

Mr. RISCH. Madam President, may I claim my 19 seconds.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Madam President, with all due respect to my good friend from Maryland, this is exactly the right vehicle to bring this up. This is a vehicle of trust, and it is a vehicle that puts some teeth in an otherwise toothless thing.

As far as human rights versus this stolen property, this is very objective, it is hard, you can see it. The human rights violations I think are entirely different. They certainly are important. They certainly rise to as high a level, but this is objective.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KERRY. Madam President, I believe all time has expired; is that correct?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. KERRY. I yield back my time.

The PRESIDING OFFICER. Time is yielded back. All time is expired.

VOTE ON AMENDMENT NO. 4855

The question is on agreeing to the Ensign amendment No. 4855.

Mr. KERRY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), and the Senator from New Hampshire (Mr. GREGG).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 32, nays 63, as follows:

[Rollcall Vote No. 293 Ex.]

YEAS—32

Barrasso	Enzi	McCain
Brown (MA)	Graham	McConnell
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Snowe
Cornyn	Johanns	Thune
Crapo	Kirk	Vitter
DeMint	Kyl	Wicker
Ensign	LeMieux	

NAYS—63

Akaka	Feinstein	Mikulski
Alexander	Franken	Murkowski
Baucus	Gillibrand	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bennett	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kerry	Reid
Brown (OH)	Klobuchar	Rockefeller
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Shaheen
Casey	Leahy	Specter
Collins	Levin	Stabenow
Conrad	Lieberman	Tester
Coons	Lincoln	Udall (CO)
Corker	Lugar	Udall (NM)
Dodd	Manchin	Voinovich
Dorgan	McCaskill	Warner
Durbin	Menendez	Webb
Feingold	Merkley	Whitehouse

NOT VOTING—5

Bayh	Brownback	Wyden
Bond	Gregg	

The amendment (No. 4855) was rejected.

VOTE ON AMENDMENT NO. 4878

The PRESIDING OFFICER (Mr. UDALL of Colorado). Under the previous order, the question is on agreeing to the Risch amendment No. 4878.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I move to table the Risch amendment. I ask for the yeas and nays, and I ask unanimous consent this be a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from New York (Mrs. GILLIBRAND), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mrs. GILLIBRAND) would vote "yea."

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Oklahoma (Mr. COBURN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 32, as follows:

[Rollcall Vote No. 294 Ex.]

YEAS—61

Akaka	Feinstein	Murkowski
Alexander	Franken	Murray
Baucus	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Pryor
Bennett	Johnson	Reed
Bingaman	Kerry	Reid
Boxer	Kirk	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Collins	Levin	Tester
Conrad	Lincoln	Udall (CO)
Coons	Lugar	Udall (NM)
Corker	Manchin	Warner
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	
Feingold	Mikulski	

NAYS—32

Barrasso	Graham	McConnell
Brown (MA)	Grassley	Risch
Bunning	Hatch	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Cochran	Isakson	Snowe
Cornyn	Johanns	Thune
Crapo	Kyl	Vitter
DeMint	LeMieux	Voinovich
Ensign	Lieberman	Wicker
Enzi	McCain	

NOT VOTING—7

Bayh	Coburn	Wyden
Bond	Gillibrand	
Brownback	Gregg	

The motion was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. CORKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, we are in a position now—we don't have the consent agreement completely fixed, but we know what we are going to do. We are going to have three votes, three different amendments. There would be a half hour debate on each amendment. So we likely will have a series of votes at 8:15 or thereabouts tonight. Senator KERRY will offer a consent agreement to this effect very shortly. In the meantime, we can start debating one of the amendments.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I understand there will be three amendments we will proceed with. Two will be offered by Senator KYL and one by Senator WICKER. Senator WICKER is prepared to call up his amendment.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 4895

Mr. WICKER. I ask unanimous consent to call up amendment No. 4895 by Wicker and Kyl.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. WICKER], for himself and Mr. KYL, proposes an amendment numbered 4895.

Mr. WICKER. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide an understanding that provisions adopted in the Bilateral Consultative Commission that affect substantive rights or obligations under the Treaty are those that create new rights or obligations for the United States and must therefore be submitted to the Senate for its advice and consent)

At the end of subsection (b) of the Resolution of Ratification, add the following:

(4) BILATERAL CONSULTATIVE COMMISSION.—It is the understanding of the United States that provisions adopted in the Bilateral Consultative Commission that affect substantive rights or obligations under the Treaty are those that create new rights or obligations for the United States and must therefore be submitted to the Senate for its advice and consent.

Mr. WICKER. Mr. President, I rise this evening to offer another amendment to the resolution of ratification. This amendment rises out of concerns over the Bilateral Consultative Commission known as the BCC. The BCC has been referred to numerous times in debate today. Article XII of the treaty establishes the BCC as a forum for the parties to resolve issues concerning implementation of the treaty. Part six of the protocol says the BCC has the authority to resolve questions relating to compliance, agree to additional measures to improve the viability and effectiveness of the treaty, and discuss other issues raised by either party. This clearly is very broad authority given to the BCC. In effect, the subject matter jurisdiction of the BCC seems limitless, based on the clear language of article XII.

Former National Security Adviser under President George W. Bush, Stephen Hadley, appeared before the Foreign Relations Committee and expressed concerns over this treaty. He stated, with regard to the Bilateral Consultative Commission:

The Bilateral Consultative Commission seems to have been given authority to adopt, without Senate review, measures to improve the viability and effectiveness of the treaty which could include restrictions on missile defense.

It is that element of Senate review that this amendment would inject back into the process.

Others have voiced concern that the mandate of the BCC is overly broad. This should trouble Senators. It is why I offer this amendment to place proper limits on the power of the BCC.

I hold in my hand a fax sheet written by the Department of State Bureau of Verification, Compliance, and Implementation, dated August 11, 2010. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[FROM THE BUREAU OF VERIFICATION, COMPLIANCE, AND IMPLEMENTATION, AUG. 11, 2010]

BILATERAL CONSULTATIVE COMMISSION (BCC)

Key Point: The New START Treaty establishes the BCC to work questions related to Treaty implementation. The use of treaty-based commissions to agree on limited technical changes to improve or clarify implementation of treaty provisions is a well-established practice in arms control treaties.

Background: The New START Treaty authorizes the Parties to use the Bilateral Consultative Commission (BCC) to reach agreement on changes in the Protocol to the Treaty, including its Annexes, that do not affect substantive rights or obligations. The START Treaty's Joint Compliance and Inspection Commission and the Intermediate and Shorter Range Nuclear Forces Treaty's Special Verification Commission were assigned similar responsibilities by those treaties.

The Chemical Weapons Convention, the Open Skies Treaty, and the Conventional Forces in Europe Treaty provide similar authority to effect technical changes that are deemed necessary by the Parties during the implementation of the respective treaty.

Authority of the BCC: In addition to making technical changes to the Protocol, including its Annexes, that do not affect substantive rights or obligations, the BCC may: resolve questions relating to compliance with the obligations assumed by the Parties; agree upon such additional measures as may be necessary to improve the viability and effectiveness of the Treaty; discuss the unique features of missiles and their launchers, other than ICBMs and ICBM launchers, or SLBMs and SLBM launchers, referred to in paragraph 3 of Article V of the Treaty, that distinguish such missiles and their launchers from ICBMs and ICBM launchers, or SLBMs and SLBM launchers; discuss on an annual basis the exchange of telemetric information under the Treaty; resolve questions related to the applicability of provisions of the Treaty to a new kind of strategic offensive arm; and discuss other issues raised by either Party.

If amendments to the Treaty are necessary, the Parties may use the BCC as a framework within which to negotiate such amendments. However, once negotiated, such amendments may enter into force only in accordance with procedures governing entry into force of the Treaty. This means that they would be subject to the advice and consent of the United States Senate.

This provision ensures that the Senate's Constitutional role in providing advice and consent to the ratification of treaties is not undermined.

RULES GOVERNING THE WORK OF THE BCC

The BCC is required to meet at least twice each year in Geneva, Switzerland, unless the Parties agree otherwise.

The work of the BCC is confidential, except if the Parties agree in the BCC to release the details of the work.

BCC agreements reached or results of its work recorded in writing are not confidential, except as otherwise agreed by the BCC.

Mr. WICKER. The fax sheet mentions on more than one occasion that changes adopted by the BCC cannot affect substantive rights or obligations. It says under background: "The New START treaty authorizes the parties to use the Bilateral Consultative Commission, BCC, to reach agreement on changes in the protocol to the treaty,

including its annexes, that do not affect substantive rights or obligations."

Further down under authority of the BCC, the State Department fax sheet says: "In addition to making technical changes to the protocol, including its annexes that do not affect substantive rights or obligations, the BCC may," and then it lists the six bullets. First, resolve questions relating to compliance with the obligations assumed by the parties. Secondly, agree upon such additional measures as may be necessary to improve the viability and effectiveness of the treaty. Next, discuss the unique features of missiles and their launchers other than ICBM and ICBM launchers or SLBM and SLBM launchers referred to in paragraph 3 of article V of the treaty that distinguish such missiles and their launchers from ICBM and ICBM launchers and SLBM and SLBM launchers. Next, discuss on an annual basis the exchange of telemetric information under the treaty. Fifth, resolve questions related to the applicability of provisions of the treaty to a new kind of strategic offensive arm. And finally, discuss other issues raised by either party. But the changes may not affect substantive rights or obligations of the parties.

"Rules governing the work of the BCC: The BCC is required to meet at least twice a year in Geneva unless the parties agree otherwise. The work of the BCC is confidential, except if the parties agree in the BCC to release details of the work," and "BCC agreements reached or result of its work recorded in writing are not confidential . . ." The BCC can agree to amendments in the treaty, but they must be submitted back to the Senate for advice and consent. It is a very powerful commission, no doubt. And it is reassuring to have this fax sheet saying that substantive changes cannot be made by the BCC.

It would be more reassuring if we put this in writing, and that is what the Wicker-Kyl amendment 4895 does. It is very simple and it uses the State Department language, stating that provisions adopted by the BCC that affect substantive rights—and these are the words used by the State Department in the fax sheet—are those that create new rights or obligations for the United States and must therefore be submitted to the Senate for its advice and consent.

The bottom line is this: If it is determined that a substantive change has been made by a decision of the BCC, then that change should be subject to the advice and consent of the Senate.

I urge a "yes" vote to this very simple but straightforward amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the amendment offered by Senator WICKER is an amendment that is looking for an issue. There is no issue that is joined

here with respect to the bilateral commission or what it might do with respect to the creation of rights. But if this amendment were to pass, there would be an issue, not only an issue with respect to Russian participation but actually an issue that could be harmful to the United States. This is a little bit technical and it is a tricky thing to follow in some ways, but let me lay this out.

Under the START treaty, the prior treaty under which we have lived since 1992, and now under the proposed New START treaty, the consultative commission that we create in the treaty will get together in order to work out the problems that may or may not arise and is allowed to agree upon "such additional measures as may be necessary to improve the viability and the effectiveness of the treaty." If those additional measures they might approve at some point in time are changes to the protocol or to its annexes and if the changes don't affect substantive rights or obligations under the treaty, then it is entirely allowable for those changes to be adopted without referring them back to the Senate for any advice or ratification. The Senators' proposed amendment would make it U.S. policy all of a sudden that the phrase "do not affect substantive rights or obligations" means "doesn't create new rights or obligations." So there is a distinction between affecting substantive rights and then having the operative language that kicks it into gear become the creation of rights or obligations. This proposal is unnecessary.

Why? We have operated without it for 15 years under the START treaty without a single problem. The New START treaty uses the exact same approach that has worked for 15 years. We have a lot of experience in determining what constitutes substantive rights or obligations.

More importantly, I mentioned a moment ago that this could be harmful to American interests. Here is how. It would actually require that agreements we want to move on and that act in our national security interest would be delayed and referred to the Senate, and we all know how long that could take, even if the new rights or obligations that they created were absolutely technical in nature. No matter how technical or trivial, they have to come to the Senate to become hostage to one Senator or another Senator's other agenda in terms of our ability to move, at least as structured here.

Under START, the compliance commission adopted provisions on how inspectors would use radiation detection equipment to determine that the objects on a missile that Russia declared not to be warheads were, in fact, non-nuclear and, therefore, not warheads. There was absolutely no need for the Senate to hold hearings, write reports,

or have a floor debate on that provision, even though it created a new right for the inspecting side and a new obligation for the hosting side in an inspection. We don't want to take away our ability to be able to do that. This amendment would do that.

Similarly, the commission under START reached agreement from time to time on changes in the types of inspection and equipment that a country could use. Equipment changes over time, as we know. Technology advances, so the equipment changes. Giving U.S. inspectors the new right to use that equipment or the new obligation to let Russian inspectors use it hardly warrants referral to the Senate for its advice and consent.

In summary, this amendment is unneeded. We have done well without it. Not well—we have done spectacularly without it for 15 years. No problems whatsoever. On the other side, it is a dangerous amendment because it forces us to delay for months the implementation of technical agreements that our inspectors ought to be allowed to implement without delay.

I reserve the remainder of my time and ask unanimous consent that upon the use or yielding back of time specified below, the Senate proceed to votes in relation to the following amendments to the resolution of ratification: Wicker 4895, Kyl 4860, and Kyl 4893; further, that prior to the votes there be no second-degree amendment in order to any of the amendments and that there be 30 minutes of debate on each amendment equally divided between the sponsors of the amendment and myself and/or my designee or the designee of the sponsors; further, I ask unanimous consent that the time already consumed by Senator WICKER and myself be counted toward this agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining on the Wicker amendment.

Mr. KERRY. I yield 3 minutes to the Senator from Maryland.

Mr. CARDIN. Let me thank Senator WICKER for bringing forward this amendment. I know it is an amendment he feels very strongly about. I compliment him because I believe a good part of what he was concerned about is already in the resolution of advice and consent on ratification.

As the Senator pointed out, there is a consultation process before the Bilateral Consultative Commission to meet on any changes that would modify the treaty itself. There has to be consultation with Congress on those issues, as the Senator pointed out in his comments. So I think we have already taken care of the major concern the Senator has that it would be a substantive decision made by the Bilateral Consultative Commission.

Secondly, let me point out that whatever the Bilateral Consultative Commission does, it is limited by the treaty itself, which, hopefully, will have been ratified by both the United States and Russia. So there will be a limit on the ratification already in the process.

As Senator KERRY pointed out, we certainly do not want to hold up Senate ratification for minor administrative issues, knowing how long Senate ratification of anything related to a treaty could take.

The last point I want to bring out is, the Senator mentioned missile defense, and I know this has been brought up over and over and over. But in our advice and consent to the ratification of the treaty, we have already put in that:

... the New START Treaty does not impose any limitations on the deployment of missile defenses other than the requirements of paragraph 3 of Article V of the New START Treaty, which states, "Each Party shall not convert and shall not use ICBM launchers or SLBM launchers for placement of missile defense interceptors therein."

So we already put in the resolution the concern that the Senator has voiced as the major reason he wanted to expand the consultative process, which is also already included in the resolution.

I think the point Senator KERRY has raised is that this would make it technically unworkable for the Bilateral Consultative Commission to do its work if we required Senate consultation or ratification every time the Commission wanted to meet.

For all those reasons, I urge my colleagues to reject the amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Mississippi.

Mr. WICKER. Mr. President, if no one else seeks time on this amendment, I would be prepared to close.

It may be that my friend from Maryland is satisfied that there are no restrictions on missile defense in this aspect of the treaty. But it did not satisfy Stephen Hadley, the National Security Adviser to former President George W. Bush, who came before our committee with concerns.

It seems to me we have a very simple way to address those concerns. Let me reiterate to my colleagues the quote of Mr. Hadley:

The Bilateral Consultative Commission seems to have been given authority to adopt without Senate review measures to improve the viability and effectiveness of the Treaty which could include restrictions on missile defense.

I would also agree with my colleague from Maryland that, indeed, the BCC has the authority to negotiate amendments to the treaty. That is acknowledged in the factsheet by the State Department.

The simple step beyond that I am trying to do with my amendment is to make it clear, using the terms supplied

to us by the State Department that say: The BCC cannot make changes that affect the substantive rights or obligations of the United States. I am trying to make that part of the resolution of ratification, and that is all it does. It says if the BCC adopts provisions that affect substantive rights or obligations under the treaty that create new rights or obligations, that those changes must come back to the Senate. It is in addition to the requirement that amendments to the treaty come back to the Senate for ratification, and it is a protection of the rights of this body to continue to have a role in substantive modifications that might come out of the BCC.

I urge the adoption of this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Maryland.

Mr. CARDIN. Mr. President, I will say, I think we just have a disagreement. I think where Senate confirmation would be at issue is where there is an amendment to the treaty, and that is exactly what is included in our resolution.

I think it is unworkable to try to get the Senate involved in all the changes in trying to say what is substantive and what is not. I think you would be interfering with the administration of the verification systems, et cetera. So I would just urge our colleagues to reject the amendment.

I say to Senator WICKER, I think on our side we are prepared to yield back. So if the Senator would like to—

Mr. WICKER. Mr. President, I yield back.

Mr. CARDIN. Mr. President, we yield back the time on this amendment.

As I understand the unanimous consent agreement, it is 30 minutes per amendment. Then I think we are prepared to go to Senator KYL for his amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, a point of inquiry before I begin. Is there a reason I should speak to either amendment No. 4860 or amendment No. 4893 first?

The PRESIDING OFFICER. The Senator can speak in whatever order he wishes, but neither amendment has been offered.

Mr. KYL. Thank you, Mr. President.

AMENDMENT NO. 4860

Then, Mr. President, with that, I would like to offer amendment No. 4860, SLCM side agreement, which I believe is pending at the desk. I would ask for its consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 4860.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a certification that the President has negotiated a legally binding side agreement with the Russian Federation that the Russian Federation will not deploy a significant number of nuclear-armed sea-launched cruise missiles during the duration of the New START Treaty)

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) LIMITATION ON NUCLEAR-ARMED SEA-LAUNCHED CRUISE MISSILES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President has negotiated a legally binding side agreement with the Russian Federation that the Russian Federation will not deploy a significant number of nuclear-armed sea-launched cruise missiles during the duration of the New START Treaty.

Mr. KYL. Mr. President, this is actually a very straightforward amendment. It simply seeks to repeat in this New START treaty the same thing the then-Soviet Union and United States did in the previous START I treaty with respect to a particular kind of weapon—a Russian weapon called the SLCM or sea-launched cruise missile.

As part of START I, we reached a binding side agreement—a side agreement—because the Senate had said we needed to include these weapons in the treaty. So a side agreement was reached that they would limit a deployment of sea-launched cruise missiles or the SLCMs due to their impact on strategic stability, the point being that whether these sea-launched cruise missiles are deemed tactical or strategic, they actually have a strategic component, especially if they are sitting right off your coast and they are launched and they can hit your country. So that agreement was put into a side agreement between the then-Soviet Union and the United States.

But when this New START treaty was negotiated, there was no similar side agreement. So there were no restrictions on SLCM deployments. The side agreement in the START treaty limited both nations to fewer than 800 SLCMs with a range greater than 600 kilometers. In the 2010 Nuclear Posture Review, the administration committed to unilaterally eliminating our SLCM capability.

The United States will retire the nuclear-equipped sea-launched cruise missile (TLAM-N).

Under Secretary Miller said:

The timeline for its retirement will be over the next two or three years.

Now Russia is developing a new version of its SLCM, with a range of up to, approximately, 5,000 kilometers, which is a longer range than some of the ballistic missiles that are covered by the New START treaty.

So that is why we believe there should be a side agreement, just like

there was in START I, that deals with these SLCMs. We are not going to have them, Russia is. Yet there is nothing in the treaty that would count their SLCMs against the total limit of warheads or delivery vehicles that are allowed under the treaty or in any other way deal with them.

The administration assures us we should not be concerned about a lack of a formal agreement. Secretary Clinton noted that the START I treaty did have a limitation on sea-launched cruise missiles and said that both parties “voluntarily agreed to cease deploying any nuclear SLCMs on surface ships or multipurpose submarines.”

But today it is obvious, with the information about Russian plans, that there is going to be a great disparity between the United States and Russia. As I said, it is not obvious that saying one is tactical, as opposed to the strategic weapons that are otherwise limited by this treaty, is a very important distinction. I think it is really a distinction without a difference.

Steve Hadley, the former head of the NSC, said:

And if you're living in eastern or central Europe, a so-called tactical nuclear weapon, if you're within range, looks pretty strategic to you. So what are we going to do about those?

As I said, he was the National Security Adviser.

Ambassador Bob Joseph, in testimony before the Foreign Relations Committee, said:

Every time I hear the term “nonstrategic nuclear weapons,” I recall that no nuclear weapon is nonstrategic.

If you stop and think about it, that is certainly true.

So these weapons, which are very powerful, and can have a range of up to 5,000 kilometers, clearly need to be dealt with.

Now, we did not want to insist that they go back and renegotiate the treaty because we heard that argument before, so what we are suggesting by this amendment is simply to do the same thing we did in START I—just have it be a side agreement where the two parties would agree to limit the number. Our administration would limit the Russians so they would not have a significant number of these particular weapons.

Just a point, by the way: In the event there are folks who do not believe the Russians intend to rely on their weapons such as the SLCMs, Under Secretary of Defense Flournoy said: The Russians are “actually increasing their reliance on nuclear weapons and the role of nuclear weapons in their strategy.”

Secretary Gates has made the same point. He said:

Ironically, that is the case with Russia today, which has neither the money nor the population to sustain its Cold War conventional force levels. Instead, we have seen an

increased reliance on its nuclear force with new ICBM and sea-based missiles, as well as a fully functional infrastructure that can manufacture a significant number of warheads each year.

And the Strategic Posture Commission noted:

This imbalance in non-strategic nuclear weapons, which greatly favors Russia, is of rising concern and an illustration of the new challenges of strategic stability as reductions in strategic weapons proceed.

The point has been made by many others as well.

So I think this is fairly straightforward. It would require the United States to negotiate a side agreement with Russia, very similar to the side agreement we had under START I, to deal with a weapon that we are no longer going to have, but the Russians are apparently developing a new version of, that has a pretty substantial range—5,000 kilometers. Clearly, it is very difficult to distinguish the difference between a weapon like that and the strategic offensive weapons that are otherwise dealt with in the treaty.

I hope my colleagues will recognize this is not a treaty killer, and it is something that needs to be addressed.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, I yield 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. First, let me thank Senator KYL for bringing this issue to our attention. I think this is a very important issue. We have a lot of security issues as they relate to Russia, as they relate to Europe, and as they relate to the sea-launch cruise missiles. I couldn't agree with the Senator more. But this falls under the same category of the discussion we had earlier about a side agreement on tactical weapons.

These are all beneficial issues, but it is not the key issue that is before us today. If we were to adopt this amendment, I think we all would agree it would cause a considerable delay in the implementation of the START treaty.

Let me remind my colleagues that the START treaty, according to our military experts, is needed now. We have been a year without having inspection regimes in Russia so we can get the intelligence information we need by people on the ground. That expired in December of last year. So we have already been delayed through this year, and the longer we delay, the less reliable the information we have for our own national security.

Although it would be nice to have all of these side agreements with Russia on a lot of other issues, every time we ask our negotiators to do that, it takes time. It takes a lot of time to negotiate. It is not all one-sided when you negotiate. My colleagues know that. We know that here as we negotiate issues.

This is an important issue, but it shouldn't delay the ratification and implementation of the New START treaty so that we can get our inspectors on the ground, giving us the information we need for our own national security as it relates to the strategic capacity of Russia.

For all of those reasons, I urge my colleagues to reject the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the Senator from Maryland is absolutely correct, and I appreciate him pointing that out. I think I have said many times in the course of this debate that it is imperative for us to deal with the issue of tactical nuclear weapons. In fact, the resolution of ratification has a section in it which specifically addresses this and urges the President to move to that.

I might add that the Senator from Florida, Mr. LEMIEUX—we are just finishing up an agreement on an amendment which will, in fact, add an additional component. It is an amendment we intend to accept, and it will add an additional emphasis on this question of tactical weapons.

But not only is there no benefit to delaying this treaty from going into effect—I mean, that is what the amendment of the Senator from Arizona will do. Until this new verification and limitation mechanism is put into effect—the fact is that most of our experts, from Secretary Gates through Admiral Mullen and others, have all said to us: If we don't get this treaty, we are not going to get to the tactical nuclear discussion with the Russians.

If we were the Russians and the U.S. Senate said: We are not going to do this until this, we would be looking at a long road where we have reopened all of the different relationships and we have discarded this one component of our nuclear deterrent that we find so critical, which is the submarine-launched missiles, the intercontinental ballistic missiles, and the heavy bombers. That is the heart of our nuclear deterrence. We want to know what they are doing and they want to know what we are doing, and that is how you provide the greatest stability.

In addition to that, Secretary Gates and Secretary Clinton have both reinforced that many times, but here is the important thing to think about as we think about what the impact on this treaty would be. Nuclear-armed sea-launched cruise missiles—or SLCMs, as we call them in the crazy vernacular of this place—these are tactical weapons, and although this amendment seems to suggest that Russian SLCMs could upset the strategic balance between the United States and Russia, the truth is, they cannot. They don't do what this amendment seems to suggest.

For many years, going back at least to the Reagan administration, we have

considered these kinds of weapons to be nonstrategic weapons, tactical weapons. Even if they are long range, we consider them that. Secretary Gates and Admiral Mullen explained why in their answer to a specific question from the Senate. They said:

Russian nuclear-armed sea-launched cruise missiles . . . could not threaten deployed submarine-launched ballistic missiles (which will comprise a significant fraction of U.S. strategic force under New START), and would pose a very limited threat to the hundreds of silo-based ICBMs that the United States will retain under New START.

In other words, Russian nuclear SLCMs can't take out our nuclear deterrent in a first strike. That means if Russia were to use nuclear SLCMs against us, we could still use most of our strategic nuclear weapons and deliver an absolutely devastating blow in return. No logic in the sort of give-and-take of war planning, as horrible and as incomprehensible as it is to most people with respect to nuclear weapons, but it has all been done, appropriately, because they do exist, and it is important to our security. But no warfighting under those situations is going to reduce our ability to not just defend ourselves but to annihilate anyone who would propose or think about doing that.

Ironically, it was the Soviets who once wanted to do what Senator KYL is actually seeking to do. They wanted to categorize SLCMs as strategic weapons because we used to deploy a nuclear version of the Tomahawk on our attack submarines, and the Soviets worked very hard to get the original START treaty to cover SLCMs. Guess what. We didn't bite. We didn't do that. The first Bush administration explicitly rejected those Soviet efforts to add legally binding limits on sea-launched cruise missiles. They considered SLCMs tactical weapons, and they also thought that limits on nuclear sea-launched cruise missiles are inherently unverifiable. That is, in part, because we didn't want to give the Soviets that much access to our submarines in return for access to theirs, and we don't want to do it now with the Russians. Now, maybe people were wrong about that, but I just don't see the wisdom in putting the treaty we have agreed on on the shelf while we go out and try to experiment with a new approach that nobody has argued is imperative for the security of our country.

Back then, we did agree in politically binding declarations to a limit of 880 deployed long-range nuclear SLCMs and to declare at the beginning of the year how many SLCMs we intended to deploy for that year. Those political declarations stayed operative for many years, and, in fact, Secretary Gates stated for the record that as recently as December of 2008, Russia has declared that it planned to deploy zero nuclear SLCMs.

Shortly after START was signed in 1991, the United States and Russia each

pledged as part of the Presidential nuclear initiative to cease deploying any nuclear SLCMs on surface ships or attack submarines. So while we have four former ballistic missile submarines converted to cruise missile submarines, we are no longer deploying our nuclear Tomahawk missiles on any U.S. submarines. The Presidential nuclear initiatives are still operative for us and for the Russians, and we think we are more secure that way.

So I see nothing to be gained from negotiating a new binding agreement in the context of holding up this treaty, of putting it on the shelf, and of going back in an effort to do that.

This amendment would delay the New START for months or years, throw an entire curveball back into what I talked about yesterday, which is that theory of negotiation that nothing is agreed upon until everything is agreed upon. And in this case, if we say: Oh, no, ain't agreed upon, sorry, we are coming back to say you have to agree with us on tacticals before any of this becomes law, we have opened the entire negotiation again. How reliable and what kind of partnership is that? I don't think that makes sense. I fail to see any point in going down that road.

I urge my colleagues to defeat this amendment, and I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Arizona has just under 8 minutes.

Mr. KYL. Mr. President, I am a little bit flummoxed here because I thought in a conversation I had a couple of days ago with Senator KERRY that side agreements might be all right; that we didn't want to amend the preamble or didn't want to amend the treaty but that we could perhaps do some side agreements. So we structured this as a side agreement just exactly as was done in START I.

Mr. KERRY. Will the Senator yield?

Mr. KYL. On the Senator's time, I would be happy to.

Mr. KERRY. I would be happy to urge, if he wants to change the amendment or if he wants to submit—it is too late now, but we could perhaps do a modification by unanimous consent to urge the President to enter into an agreement but not shelve the whole treaty until that happens. That is the difference. So I am not going back on the notion. It would be great to get a side agreement, but don't hold this agreement up in the effort to do it.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, there was no delay in the implementation of the START I agreement because of a requirement that a side agreement be entered into between the then-Soviet Union and the United States on SLCMs. So I don't buy the notion that this necessarily would delay anything.

Secondly, we are not talking about tactical missile limitations generally.

All we are doing is talking about the same kinds of missiles that were the subject of the side agreement under START I. I suspect that part of the reason was because it is pretty difficult to distinguish as to whether these weapons are being used for a strategic or a tactical purpose. Senator KERRY has said they cannot upset the strategic balance. I simply totally disagree with that proposition. They absolutely can upset the strategic balance, depending upon where they are located or how they intend to be used. That is one of the reasons I suspect they were limited under the START I treaty.

My colleague said they can't threaten our submarine fleet at sea and they pose only a limited threat to ICBM sites. Well, that may be the opinion of our experts. They could sure threaten our submarine bases in Washington State at King's Bay. They could take out bases or other assets we have.

In fact, let me quote from a Russian article, the RIA Novosti Report of April 14, 2010, on the Graney class nuclear submarines:

Graney class nuclear submarines are designed to launch a variety of long-range cruise missiles up to 3,100 miles or 500 kilometers with nuclear warheads and effectively engage submarines, surface warships, and land-based targets.

Obviously, at 5,000 kilometers, as I said, that is a range longer than some of the ballistic missiles that are covered by the New START treaty. So these weapons—it is a little hard to characterize them as either tactical or strategic. I think it depends upon how they are used.

But the point is, if my colleague believes they can't threaten anything, then what is the problem with trying to set a limit on them? Well, obviously—or at least I assume obviously—the Russians don't want to do that. I assume we raised this, though we don't have the negotiation record, so I don't know whether it was raised. If it wasn't, why wasn't it? And if it was because we didn't think there was any threat to the United States, then I think it would be very important to ask some of our military folks why they think that is the case given the kinds of targets that could be held at risk here and given the fact that we apparently reached a different conclusion during the START I treaty implementation phase when the side agreement was negotiated with the then-Soviet Union.

So I don't think it would delay anything. We do posit it as a side agreement rather than an amendment. We just say that the administration should negotiate so that there wouldn't be a significant number of SLCM deployments by the Russians given the fact that we are not doing any.

I do have to say that I fundamentally disagree with the assertion of my colleague that this kind of weapon can't

upset the strategic balance. If you have a weapon that can fly over 3,000 miles with a nuclear warhead, which could be just as big of a nuclear warhead as on a bomber or an intercontinental ballistic missile, with all of the targets on our eastern seaboard or western seaboard that would be held at risk for such a weapon—in fact, 3,000 miles—you won't have to be far off either of our two U.S. coasts to hit most targets within the continental United States.

This is a weapon that it seems to me we should be concerned about. Therefore, I urge my colleagues to support calling for a side agreement that would deal with the SLCMs just as we did under the START I treaty.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I say to Senator KYL, these missiles are not strategic. Do they affect our strategic balance? I say that everything in our defense toolbox can affect our strategic balance. That was taken into consideration in the negotiations. I thank him for bringing this issue to our attention, but for the reasons we have stated, we urge our colleagues to reject the amendment.

We are prepared to go to the Senator's next amendment if he is prepared to go forward.

Mr. KYL. Mr. President, I will respond with about 30 seconds. Then I will be prepared to go to my next amendment. Perhaps I can reserve whatever time I have left on there to make a closing argument.

I really do sincerely appreciate the characterization of these issues we have raised as serious and important. I do appreciate that. I do think, though, that it would be appropriate to have a better response than just that this will upset the Russians, they won't want to do it, so we will have to renegotiate the treaty, and that it will delay things and that will create problems.

The purpose is not to delay, as I said. I don't think the START I treaty was delayed when we reached a side agreement.

I think, in any event, the question is this: Should the United States delay, if that is what is called for, in order to improve the treaty in important respects? If it is conceded that this is an important aspect, then it seems to me that it is worth taking time to do it right.

Most of the arguments that have been made in response to the amendments we have raised boil down to: The Russians won't want to do what you say, and therefore we need to reject your amendment because it would require some renegotiation. I get back to the point I have made over and over: Then what is the Senate doing here? Why would the Founders have sug-

gested we should have a role in relation to treaties if every time we try to change something, the argument is that you cannot change a comma because the other side wouldn't like that and that would require renegotiation?

There is nothing that serious about this treaty that it has to go into effect tomorrow. The Washington Post had an editorial, and they said that no great calamity will befall the United States if this treaty is not concluded before the end of the year. I think that is almost a direct quotation. There is no immediate national security reason to do so. I know the administration would like to get on with it, but no great harm will befall us if we take time to do it right. If we are not willing to do that, the Senate might as well rubberstamp what the President sends up because the argument will be that if we try to suggest changes, the other side will reject them and we could not possibly abide that.

I will reserve the remainder of time on this amendment.

AMENDMENT NO. 4893

Mr. President, I call up amendment No. 4893, which I believe is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 4893.

Mr. KYL. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide that the advice and consent of the Senate to ratification of the New START Treaty is subject to an understanding regarding the non-use of covers by the Russian Federation that tend to interfere with Type One inspections and accurate warhead counting, is subject to the United States and the Russian Federation reaching an agreement regarding access and monitoring, and is subject to a certification that the Russian Federation has agreed that it will not deny telemetric exchanges on new ballistic missile systems it deploys during the duration of the Treaty)

At the end of subsection (a) of the Resolution of Ratification, add the following:

(11) COVERS.—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the President has reached an agreement with the Government of the Russian Federation on the non-use of covers by the Russian Federation that tend to interfere with Type One inspections and accurate warhead counting.

(12) TELEMETRY.—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the United States has reached a legally-binding agreement with the Russian Federation that each party to the Treaty is obliged to provide the other full and unimpeded access to its telemetry from all flight-test of strategic missiles limited by the Treaty.

(13) **TELEMETRIC EXCHANGES ON BALLISTIC MISSILES DEPLOYED BY THE RUSSIAN FEDERATION.**—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the Russian Federation has agreed that it will not deny telemetric exchanges on new ballistic missile systems it deploys during the duration of the Treaty.

At the end of subsection (b), add the following:

(4) **TYPE ONE INSPECTIONS.**—The United States would consider as a violation of the deployed warhead limit in section 1(b) of Article II of the Treaty and as a material breach of the Treaty either of the following actions:

(A) Any Type One inspection that revealed the Russian Federation had deployed a number of warheads on any one missile in excess of the number they declared for that missile.

(B) Any action by the Russian Federation that impedes the ability of the United States to determine the number of warheads deployed on any one missile prior to or during a Type One inspection.

Mr. KYL. Mr. President, I would have preferred to deal with each of the subjects in this amendment individually because each one is very important. To accommodate the other side's desire to try to get as much done as quickly as possible, we consolidated some amendments, and there is a lot in this. I regret that we don't have time to get into detail about each one of them.

This amendment amounts to an effort to try to improve the verification of the treaty to deal with a variety of issues which have been raised in the past and which we believe are inadequately dealt with by the treaty. One of them involves covers, the kinds of things the then-Soviet Union and now Russians consistently put over the warheads so that it is impossible for our inspectors to see what is under them, to see how many warheads are under them. That has been a problem in the past.

On telemetry, we say the President should certify to the Senate that he has reached a legally binding agreement with the Russian Federation so that each party is obliged to provide full and unimpeded access to its telemetry from all flight tests of strategic missiles limited by the treaty. That is important because while we are not developing a new generation of missiles, the Russians are. We will be denied the telemetry of those missile tests if the Russians decide to deny it. Our intelligence community has told us that this is of great value to us in assessing the capabilities of Russian missiles. Under the treaty, they don't have to provide anything. They could provide telemetry on old missiles they are testing, and they don't have to provide any on any of the new missiles they are testing. We believe that should be done. The same thing with respect to any ballistic missiles deployed during the duration of the treaty.

Then we turn to the subject of inspections. There are different kinds of inspections, but we are talking here

about type one inspections in which we say that the United States would consider it a violation of the deployed warhead limit and a material breach of the treaty if the Russians do one of two things: No. 1, any type one inspection that revealed that the Russian Federation had deployed a number of warheads on any one missile in excess of the number they declared for that missile; No. 2, any action by the Russian Federation that impedes the ability of the United States to determine the number of warheads deployed on any one missile prior to or during a type one inspection.

That gets to the issue of covers again. Why is this important? Because we are supposedly counting weapons in this treaty, warheads. There is a limit of 1,550 warheads. How can we possibly verify compliance if, when we seek to count the number of warheads on top of missiles we have designated and have a right to inspect, we can't count the warheads? You tell me how we are supposed to assume how many warheads there are on the top of that particular missile or why we should not deem it a material breach if they declared a certain number of warheads and it turns out there are more.

I think these are commonsense changes that would strengthen the verification provisions of the treaty.

It is too bad Senator BOND is not here tonight. He is the ranking Republican member of the Intelligence Committee. In the classified session we had yesterday, he talked about the deficiencies in verification under this treaty. This subject doesn't permit us to get into a lot of detail in open session.

We have heard a lot about past cheating by the Russians and the kinds of things that were done. What we are trying to do with these basic components is to make it less likely that the Russians would cheat, and if they do, it would less likely have an impact on the key element of the treaty, which is the limitation on warheads of 1,550.

I will note a couple of things here that put this into context.

There have been allegations that there is better verification than ever before under this treaty. That is just not true. The verification provisions of this treaty are not as strong as under the START I treaty. There is an argument that they don't need to be for various reasons or the Russians weren't willing to allow them to be for various reasons. I don't think you can say the verification is better.

Former Secretary of State James Baker, who testified, said:

The verification mechanism in the New START Treaty does not appear as rigorous or extensive as the one that verified the numerous and diverse treaty obligations and prohibitions under START I. This complex part of the treaty is even more crucial when fewer deployed nuclear warheads are allowed than were allowed in the past.

That is obvious. The more you get down to a smaller number, the more

important cheating is, the more dramatic the effect can be, and the better verification you need.

Senator MCCAIN said this:

The New START Treaty's permissive approach to verification will result in less transparency and create additional challenges for our ability to monitor Russia's current and future capabilities.

Former CIA Director James Woolsey said:

New START's verification provisions will provide little or no help in detecting illegal activity at locations the Russians fail to declare, are off-limits to U.S. inspectors, or are underground or otherwise hidden from our satellites.

Senator BOND made a comment that I have quoted before, which is this:

New START suffers from fundamental verification flaws that no amount of tinkering around the edges can fix. . . . The Select Committee on Intelligence has been looking at this issue closely over the past several months. . . . There is no doubt in my mind that the United States cannot reliably verify the treaty's 1,550 limit on deployed warheads.

To conclude, the amendment would require the President to certify that he has reached an agreement with Russia on the nonuse of covers that interfere with type one inspections and accurate warhead counting during those inspections. It doesn't solve the problem of determining the total number of warheads Russia deploys, but it would reduce a method of deception Russia has used in the past.

On telemetry, the amendment would require the President to certify that he has reached a legally binding agreement with Russia that each party is obliged to provide the other full and unimpeded access to its telemetry from all flight tests of strategic missiles, including on new ballistic missile systems deployed by the Russians. They are free now to encrypt those tests. That makes it much harder to get information we have found to be very valuable.

Finally, with regard to the material breach, the amendment contains an understanding that the United States would consider a violation of the deployed warhead limits to be a material breach of the treaty. This would include any type one inspection that revealed the Russians had deployed a number of warheads on any one missile in excess of the number they declared for that missile or that they continued to use covers that deny us the ability to see exactly how many warheads they have on their missiles.

Mr. President, I hope my colleagues would recognize that verification is a problem under the treaty. This is a modest way to try to deal with specific aspects of that verification. I hope my colleagues would be willing to support the amendment.

I reserve the remainder of my time.

Mr. KERRY. Mr. President, I ask unanimous consent that when the Senate votes on the three amendments, as

provided under the previous order, those votes occur in the order listed in that agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Might we also add that the second two votes would be 10-minute votes?

Mr. KERRY. That is a good suggestion. I ask unanimous consent that the second two votes be 10 minutes in length.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, let me first compliment my colleague from Arizona, who has been dogged, if nothing else, in his advocacy with respect to his points of view regarding this treaty. And while I and other Senators may disagree with a specific amendment he proposes because of its impact as well as, in some cases, because of something else, that doesn't mean the Senator isn't raising valid questions for future discussions and things on which we ought to be focused. I know he spends a lot of time with this. I think all of us have a lot of respect for the ways in which he has already impacted this treaty. I give him credit for that.

This particular amendment is a combination of about four different amendments that have come together. I understand why that happened. I am not complaining about that at all. It is just that there is a lot in it, and therefore there are different reasons one ought to oppose this amendment.

Let me say that, first of all, the New START, I think in most people's judgment, addresses the concerns that have been raised by the Senator from Arizona.

The purpose of warhead inspections is to count the number of warheads on the missile. Neither side is comfortable with the other actually seeing the warheads, looking into it and seeing it. We are not comfortable with them doing that to us, and they are not comfortable with us doing that to them. That is not so much about the counting of the warhead as it is often the issue of failsafe devices or counter-shoot-down devices and other kinds of things that might be in there that we don't necessarily have a right to see and they don't want us to see. So neither side is sort of looking at the actual warhead. The START treaty—the original START treaty, therefore, to deal with that issue, lets the inspected party cover the warheads on the front of the inspected missile, but it allows us to inspect any cover before it is used so that we know what it can and can't conceal. We know what that cover is permitting us to see.

What is more, paragraph 11 of section (2) in the treaty's annex on inspections says explicitly—this is in New START:

The covers shall not hamper inspectors.

We did not have that previously. That is new to this treaty.

As a result of what we have learned in START, we have learned how to look and how to ask for things more appropriately, and our negotiators worked that into this treaty so as to protect our interests.

In fact, the covers are not allowed to hamper the inspectors in ascertaining that the front section contains a number of reentry vehicles equal to the number of reentry vehicles that were declared for that deployed ICBM or deployed SLBM.

The virtue of the New START treaty is that these declarations and the specific alphanumeric numbers that are going to be attached to the launchers and these warheads allow us enormous certainty in the randomness of our choices of where we go. If the Russians are cheating or somebody is over for one reason or another, we have great capacity to decide where that might be, where we think the best target of opportunity is, and to lock that place down and go in and check it. There are enormous risks of being discovered as a consequence of the way we have set that up.

The treaty already forbids Russia from using covers that interfere with warhead counting. It would create a very dangerous precedent, in my judgment, to require that we negotiate now, before we put the treaty into effect, a side agreement on the very same thing. That might suggest that other New START provisions do not need to be obeyed because there is no side deal reinforcing them. What is the impact of the side deal? Does the side agreement, incidentally, have to be ratified by the Senate before it goes into effect? There are a lot of imponderables here.

With respect to the agreement on telemetry, the requirement for a legally binding agreement with Russia that both parties have to provide telemetry on all flight tests of ICBMs and SLBMs, which is what the Senator is seeking, would also delay the START treaty into force by the same months or years about which we talked.

That argument has been hammered around here the last 7 days adequately. This delays the treaty. It does not act to increase the security of our country, and it already is in the resolution of ratification in the treaty.

Given what we already understand, we know that the Russians do not like trading in telemetry. I find it hard to believe, therefore, that if we make this treaty condition precedent on the agreement of a side agreement, which we know the Russians hate to do, that is a way of buying into gridlock, dead-lock, nothing.

I do not think anybody would suggest—we have already been through this a little bit, incidentally. I and others strongly urged the President and his negotiators to seek as significant telemetry as possible. For a lot of rea-

sons, it did not turn out that it was achievable from their side, but it also did not turn out it was desirable on our side altogether.

Russia is testing new systems such as the Belava SLBM, and the United States may test only existing types of missiles during the next decade. That is a reason why the Russians obviously resist this very significantly.

A lot of people have suggested that our military does not want to share the telemetry on all our flight tests of ICBMs and SLBMs. They are pretty happy the way the treaty is structured now, including the provisions for telemetry which allow us five telemetry exchanges. We have to agree on them, but they are allowed under the treaty. If that were not true, there is no way the Chairman of the Joint Chiefs of Staff Admiral Mullen would have sent the letter he sent to the entire Senate where he stated he wants this treaty ratified now, he wants it implemented now, and he believes, consistent with everything people said within our national security network, that this treaty is both verifiable and enhances our capacity to be able to count and know what the Russians are doing.

The requirement for Russian agreement not to deny telemetry on the new ballistic missile systems it develops during the duration of the treaty is redundant with the previous part about which we just talked.

Again, the amendment requires a side agreement with the Russians. It is the absolute equivalent of amending the treaty itself and, therefore, I would oppose that.

The New START's telemetry exchange regime involves negotiating the beginning of next year, assuming this goes into effect, which missile tests from the past year we are willing to share.

May I ask how much time I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes.

Mr. KERRY. Mr. President, I want to reserve time for the Senator from New Hampshire.

The New START regime requires us to negotiate at the beginning of next year what we are going to share. If we do not offer anything interesting, Russia is not going to offer anything. That is the nature of a negotiation. You have to give to get. This amendment would change that basic principle from a negotiated exchange to a literally "give me something for next to nothing." It does not work. The Russians would have to give us the good stuff while we would give them telemetry from launches that were no different from 30 other tests over the last 20 years.

I have to tell you, that sort of agreement is not going to happen. It is in a fantasy land, and the President would never get that side deal with Russia.

The New START treaty would never come into force.

I yield the remainder of my time to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I will speak only for about 1 minute and then give the rest of my time to Senator FEINSTEIN who wishes to speak to the question of the covers.

I do not want to speak to the technicalities that have been raised, but I want to make two points in response to Senator KYL's concern about verification.

We should all be concerned about the fact that right now we have no inspectors on the ground. We have no way to verify what is going on in Russia. Anything that delays our ability to get that intelligence back on the ground in Russia adds to the urgency of the situation. That is a very important point.

The other issue he raised was relative to why do we need to do this now. The fact is, as Senator KERRY pointed out, we received a letter from ADM Mike Mullen, the Chairman of the Joint Chiefs, yesterday that said the sooner we ratify the treaty, the better. James Clapper, Director of National Intelligence, said about New START the earlier, the sooner, the better we get this done. There is a lot of reason to believe we need to act on this treaty and need to do it now.

I yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from New Hampshire.

Senator KYL is a very smart man. This is a major amendment. In my view, it is a deal breaker. It is a poison pill for the entire treaty. It essentially provides real changes in the treaty.

It says the President, prior to the treaty going into effect, must certify that he has achieved certain side agreements, and those side agreements strike directly at some of the heart of the treaty. Therefore, it will effectively, in my view, be unacceptable to the Russians and will destroy the treaty.

The treaty now says you cannot block an inspector's ability to ascertain warheads on a reentry vehicle. That covers the cover issue. This again says that telemetry by a prior agreement—that there be a side agreement on full access to telemetry for all missiles, and then on new missiles, is one-sided. Clearly, this is not going to be acceptable. Then it goes into the type one inspections.

If you are for the treaty, there is only one vote, and it is to vote no. I very much regret this because I respect the Senator. As I see it—and there are things I cannot go into here that I tried to go into yesterday—this is a poison pill amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona.

Mr. KYL. Might I inquire how much time remains on this side?

The PRESIDING OFFICER. There is 7 minutes remaining.

Mr. KYL. Mr. President, let me take 3, 4, 5 of those minutes. I appreciate my colleagues' compliments about important issues being brought up, and I also appreciate their concern that amendments of this significance would cause heartburn for the Russians and might well require them to want to renegotiate aspects of the treaty. I am trying to address that through the mechanism of the side agreement rather than amendment to the treaty or some kind of other more restrictive method. I thought that would be the preferable way to do it.

It is not my intention, as with the previous amendment, to delay things. I do not think it necessarily would. But I do appreciate that on a couple of these items the Russians would not likely want to renegotiate.

I am not so sure that would be the case with regard to the covers, this question of the kind of shroud or cover you put over the missile bus, the top of the missile that has the warheads since the treaty does deal with it, as my colleagues have pointed out, but I do not think it does so in a conclusive way.

The 2005 compliance report issued by the State Department to discuss compliance of the Russian Government with respect to the START I treaty had a couple of longstanding issues. The issue of shrouds was one that they characterized as of long standing. They had a very hard time getting that resolved with the Russians. In the end, there was a particular accommodation reached, but it took forever. And during that time, we did not have the kind of satisfaction we wanted.

We asked how disputes would be dealt with, and we get the same basic answer. That would go to the Bilateral Consultative Commission, the group of Russian and U.S. negotiators who are supposed to work these things out.

What I can see is a kind of repeat of what we had before. They like to cover these things up and that does not seem to me the way to enter into a treaty where we are supposed to be in agreement with our counterparts and yet we have unresolved issues we have to leave to another day to be resolved through a long and probably difficult negotiation process.

Also, my colleague from Massachusetts—these were his words; he was not quoting anyone—thought we had enormous certainty about this. I suggest I do not think the intelligence community would use a phrase such as “enormous certainty.” We cannot get into here the degree of percentage they attach to being able to know certain things under this treaty.

Suffice it to say that we are not absolutely sure we can do what needs to be done here, and I do not think characterizing it as “enormous certainty” would be an accurate way to do it.

Let me mention with regard to telemetry—first of all, let me correct one thing that is a little bit of misdirection and then agree with my colleagues on something else.

There is a suggestion that we can get telemetry on five missiles, and that is true if the Russians agree. In other words, they have to volunteer to do it. The five missiles they tell us about can be old missiles. They do not have to be new missiles. It is a fact there is nothing in this treaty that requires the Russians or the United States to exchange telemetry on new missile tests; that is to say, tests of missiles currently being developed. There are at least two the Russians are developing right now.

That leads to the second point. I think it is probably true the reason they did not want to agree to this is it would require them to give us very valuable information. Right now, they would not be getting any information from the United States because we are not testing missiles. But I ask, is that an asymmetry that is justified or that justifies a provision that says if you are not modernizing your forces and we are modernizing our forces, it is not fair to have us tell you what our missiles are like?

Under the previous treaty, both sides had to do that, and it gave both sides more confidence. The Russians are developing new missiles. Should we not have some understanding of the capability of those missiles? We are not developing any. It is almost as if the United States would have to be modernizing its forces too in order to be able to justify a provision that said we had to exchange telemetry.

Maybe the United States ought to get on with the modernization of our missile force so we can then go back to the Russians and say: You are modernizing, we are modernizing, now how about the exchange. To me that is not an argument to require the Russians not to provide us information. And in fact, when the shoe is on the other foot, that argument falls by the wayside, and we end up putting limitations in the treaty.

Here is an example. The Russians are not developing and do not seem to have any intention of developing something called conventional Prompt Global Strike, which is a fancy way of saying: Put a conventional warhead on top of an ICBM so you do not have to send a nuclear warhead halfway around the world to destroy a target.

We can see in today's conflict that we are not going to be engaging in a multiple nuclear exchange with another country but might well have a need based upon intelligence that does

not have a very long shelf life that we want to send a conventional warhead to a specific target and that is something we would like to develop but the Russians are not interested in doing that. So did we say to the Russians: So because you are not doing it and we are, therefore, we are not going to have any limitation on this? No. We agreed, in fact, to a very important limitation. Any missiles we use in that regard have to be counted as if there were a nuclear warhead on top of it. So there is a 700-vehicle limit. That is all the number of missiles we can have. And yet any missiles that we put a conventional warhead on that have this ICBM range have to be counted against that limit.

Well, the Russians aren't doing it, so why did we have to agree to something they are not doing? That is asymmetrical. That is not parity.

So it is okay for the Russians to say: Hey, if we are doing something you are not doing, we are not going to be bound by anything in the treaty on it. But by the way, if you are doing something we are not doing, we are going to hold you accountable and bind you with a very important limitation in the treaty.

You see, the argument doesn't hold water. Russia and the United States are not acting exactly the same with regard to our weapons. So to argue that anything we are doing differently from the other shouldn't count in the treaty is suspicious. And, in any event, it turns out we don't make that argument.

The PRESIDING OFFICER. The Senator's time on this amendment has expired. The Senator has time remaining on the previous amendment.

Mr. KYL. Let me finish my sentence on this.

In any event, what is good for the goose is good for the gander. If we put a limitation on the United States on something they are not developing, then it is only fair to put a limitation on them with regard to something we are not developing.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, do we have any time remaining?

The PRESIDING OFFICER. There is 1 minute 40 seconds remaining.

Mr. KERRY. I yield all that time to the Senator from Michigan, the chairman of the Armed Services Committee.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my good friend from Massachusetts.

There has been reference made to a side agreement which was entered into at the time of START I. There is a major difference between what happened then and what is being proposed by Senator KYL now.

That side agreement, first of all, was in front of the Senate but there was no effort at that time to do what Senator

KYL's amendment does, which is to say prior to the entry into force of that treaty the President shall certify to the Senate that there was a legally binding side agreement. That was not part of START I, and it would seem to me would absolutely derail this New START agreement.

Second, that was a political agreement, that side agreement that was entered into, which would last as long as the Presidents of both countries were in office but would not necessarily last beyond that because it was not a legally binding agreement in that sense.

So there are two major differences between what happened at the time of START I and what is being proposed here by Senator KYL. I hope we could defeat the Kyl amendment No. 4860.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, if any time remains, we yield it back.

The PRESIDING OFFICER. Time is yielded back.

Mr. KERRY. What is the parliamentary situation, Mr. President?

The PRESIDING OFFICER. There is still time remaining on the Wicker amendment, and Kyl 4860.

Mr. KYL. Mr. President, I wish to speak briefly to that now, in direct response to my colleague from Michigan.

Mr. KERRY. Mr. President, before he does that, do we have time remaining on either of those amendments?

The PRESIDING OFFICER. The Senator from Massachusetts has time remaining on both amendments.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, let me quote from the START I treaty, Text of Resolution of Advice and Consent to Ratification as Approved by the Senate:

The Senate's advice and consent to the ratification of the START Treaty is subject to the following conditions, which shall be binding upon the President: Legal and Political Obligations of U.S.S.R.: That the legal and political obligations of the Union of Soviet Socialist Republics reflected in the four related separate agreements, seven legally binding letters, four areas of correspondence, two politically binding declarations, thirteen joint statements . . .

And so on. The two politically binding declarations are precisely the reference to the limitation of the SLCM numbers for both countries. I mean there is a dispute about whether it is legally binding in the same sense that the treaty itself is, but the heading of this is Legal and Political Obligations of the U.S.S.R., and it goes on to talk about . . .

The United States shall regard actions inconsistent with these legal obligations as equivalent under international law to actions inconsistent with the START Treaty.

And so on and so on. We believe these were binding and should be. It is no argument, however, to say that if somebody else didn't see it that way, there-

fore, what we are asking for here is not a binding agreement. Whether you call it binding legally or binding politically, in any event, I wish to see it done, because there is no limitation on the SLCMs the Russians are planning to develop, and the submarine that is under development to carry them, and they could have a strategic value as well as a tactical value. They were a subject of the previous START I agreement and I think they should be a subject of this agreement as well.

Let me summarize. The first amendment our colleagues will be voting on is, I believe, the Wicker amendment, and then the second amendment is the amendment which would provide a side agreement for a limitation on the number of Russian SLCMs—the submarine launch cruise missiles—and the third vote will be on the Kyl amendment relative to verification relating to covers on the ICBMs and telemetry on ICBM tests.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Massachusetts.

Mr. KERRY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes on the Kyl amendment and 5 minutes on the Wicker amendment.

Mr. KERRY. Mr. President, is Senator WICKER here?

I wonder, Senator KYL, if we can yield back time. I know colleagues are waiting to vote.

Mr. President, by unanimous consent we yield back all time on both sides and go to regular order.

The PRESIDING OFFICER. If all time is yielded back, under the previous order, the question is on agreeing to amendment No. 4895 offered by the Senator from Mississippi, Mr. WICKER.

Mr. KERRY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. BEGICH), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Alabama (Mr. SHELBY).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 59, as follows:

[Rollcall Vote No. 295 Ex.]

YEAS—34

Alexander	Ensign	McCain
Barrasso	Enzi	McConnell
Brown (MA)	Graham	Murkowski
Bunning	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Cornyn	Kirk	Wicker
Crapo	Kyl	
DeMint	LeMieux	

NAYS—59

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bennett	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kerry	Reid
Brown (OH)	Klobuchar	Rockefeller
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Shaheen
Casey	Leahy	Specter
Conrad	Levin	Stabenow
Coons	Lieberman	Tester
Corker	Lincoln	Udall (CO)
Dodd	Lugar	Udall (NM)
Dorgan	Manchin	Udall (NM)
Durbin	McCaskill	Voinovich
Feingold	Menendez	Warner
Feinstein	Merkley	Webb
Franken	Mikulski	Whitehouse

NOT VOTING—7

Bayh	Brownback	Wyden
Begich	Gregg	
Bond	Shelby	

The amendment (No. 4895) was rejected.

VOTE ON AMENDMENT NO. 4860

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 4860 offered by the Senator from Arizona.

Mr. INOUE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. BEGICH), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Alabama (Mr. SHELBY).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 31, nays 62, as follows:

[Rollcall Vote No. 296 Ex.]

YEAS—31

Barrasso	Cornyn	Hutchison
Brown (MA)	Crapo	Inhofe
Bunning	DeMint	Johanns
Burr	Ensign	Kirk
Chambliss	Enzi	Kyl
Coburn	Graham	LeMieux
Cochran	Grassley	McCain
Collins	Hatch	McConnell

Risch
Roberts
Sessions

Snowe
Thune
Vitter

Wicker

NAYS—62

Akaka	Gillibrand	Murkowski
Alexander	Hagan	Murray
Baucus	Harkin	Nelson (NE)
Bennet	Inouye	Nelson (FL)
Bennett	Isakson	Pryor
Bingaman	Johnson	Reed
Boxer	Kerry	Reid
Brown (OH)	Klobuchar	Rockefeller
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Shaheen
Casey	Leahy	Specter
Conrad	Levin	Stabenow
Coons	Lieberman	Tester
Corker	Lincoln	Udall (CO)
Dodd	Lugar	Udall (NM)
Dorgan	Manchin	Voinovich
Durbin	McCaskill	Warner
Feingold	Menendez	Webb
Feinstein	Merkley	Whitehouse
Franken	Mikulski	

NOT VOTING—7

Bayh	Brownback	Wyden
Begich	Gregg	
Bond	Shelby	

The amendment (No. 4860) was rejected.

Mr. KERRY. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, we are going to have one more vote tonight. Senators KERRY, LUGAR, KYL, and others are working on how we are going to work tomorrow morning. They will work this evening. Hopefully, we can come in at 9 in the morning with, hopefully, an hour of debate on an amendment, and then we will find out where we are after that. The reason I asked for the attention of the Senate was to announce that.

However, I ask unanimous consent that Senator LEVIN, chairman of the Armed Services Committee, and the ranking member, Senator MCCAIN, each be recognized for 2 minutes to explain something they are working on on the Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I think all of us have an interest in the Defense authorization bill. Senator MCCAIN and I have been working on this bill with members of the committee for about a year. This is a bill that has a lot of provisions critically important to our troops.

To give a few examples, it authorizes health care coverage for military children, impact aid to local civilian schools, so-called CERP authority, which is the commander's emergency response program, and transfer of defense articles to the Afghan Army. It is about 800 pages. We have removed from this bill what we thought were the controversial items so that we could get it passed. We don't have the time to go

through them, but that was our intent. We missed one controversial item which came over from the House having to do with Guam funding. We have now reached an agreement that we would remove that provision from the bill. That is a removal. But we can't add any controversial items to this bill; it will be objected to.

The only way we can do this for the troops, as we have done for 45 years, is if we proceed with a unanimous consent agreement tonight. We haven't yet gotten there. I plead with our colleagues to let us get to this unanimous consent agreement tonight. It is the only time we can do it. The House will be in tomorrow. They could take it up tomorrow, if we pass it tonight. That is the status.

Senator MCCAIN, I know, will speak on his support. But this is a plea from the two of us who have worked so hard with Members and our staffs on a critically important bill.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. The only thing I would add to the comments of Senator LEVIN is that there are policy provisions regarding training and equipment and readiness that cannot be just done by money. These are important policy decisions, important authorizations, including a pay raise—not for us. I urge my colleagues not to object to this Defense Authorization Act. I argue it is critical to sustaining this Nation's security.

Mr. LEVIN. Mr. President, we will offer this later tonight. We are not offering it at this time.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 4893 offered by the Senator from Arizona, Mr. KYL.

Mr. KERRY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. BEGICH), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri, (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. GREGG), and the Senator from Alabama (Mr. SHELBY).

The PRESIDING OFFICER (Mr. MERKLEY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 63, as follows:

(Rollcall Vote No. 297 Ex.)

YEAS—30

Barrasso	Ensign	LeMieux
Brown (MA)	Enzi	McCain
Bunning	Graham	McConnell
Burr	Grassley	Risch
Chambliss	Hatch	Roberts
Coburn	Hutchison	Sessions
Cochran	Inhofe	Snowe
Cornyn	Johanns	Thune
Crapo	Kirk	Vitter
DeMint	Kyl	Wicker

NAYS—63

Akaka	Franken	Mikulski
Alexander	Gillibrand	Murkowski
Baucus	Hagan	Murray
Bennet	Harkin	Nelson (NE)
Bennett	Inouye	Nelson (FL)
Bingaman	Isakson	Pryor
Boxer	Johnson	Reed
Brown (OH)	Kerry	Reid
Cantwell	Klobuchar	Rockefeller
Cardin	Kohl	Sanders
Carper	Landrieu	Schumer
Casey	Lautenberg	Shaheen
Collins	Leahy	Specter
Conrad	Levin	Stabenow
Coons	Lieberman	Tester
Corker	Lincoln	Udall (CO)
Dodd	Lugar	Udall (NM)
Dorgan	Manchin	Voinovich
Durbin	McCaskey	Warner
Feingold	Menendez	Webb
Feinstein	Merkley	Whitehouse

NOT VOTING—7

Bayh	Brownback	Wyden
Begich	Gregg	
Bond	Shelby	

The amendment (No. 4893) was rejected.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me say to colleagues how we are going to proceed. With the consent of the Senator from Arizona and Senator LUGAR, we are going to accept two amendments, I believe. One of them we are checking with the White House and making certain we are all in sync on it. But assuming we are, we will be able to have Senator LEMIEUX of Florida speak for a few minutes on his amendment. In addition, there is Senator KYL's amendment, which we will accept.

Subsequent to that, I believe Senator THUNE wants to raise an issue regarding an amendment. We will do that. Then I think we will probably be at a point where we will have an opportunity if people want to talk on the treaty, or conceivably even on something else, I imagine there may be a moment there, but I do not want to speak for the leadership on that yet until we have cleared it.

Mr. President, I ask unanimous consent—the Senator from Ohio has been trying to get the floor for most of the day, and because he wanted to give us the opportunity to move on the amendments, he has been very patient. I ask unanimous consent that he be granted 5 minutes to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I ask the Senator, will you go ahead and handle the unanimous consent agreement on the two amendments. I do not have to be here for that.

Mr. KERRY. Mr. President, I will do that and guarantee the Senator that his amendment will be adopted. And I thank him. I want to thank Senator KYL. He has actually—I know we have all been struggling here, but the Senator has been extremely helpful in processing a lot of amendments this evening, and I want to thank him for his good-faith efforts in doing that.

Mr. President, I yield to the Senator from Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

Mr. BROWN of Ohio. Thank you, Mr. President.

I appreciate the generosity of the senior Senator from Massachusetts and especially his leadership on one of the most important debates in the 4 years I have been in the Senate. I thank Senator KERRY for that.

OMNIBUS TRADE ACT/TAA AND HCTC

Mr. President, I hold in my hand 500 pieces of paper, 500 testimonials from retirees who lost their pensions and health care during the GM bankruptcy. These are some of the 50,000 Americans who will be hurt if we do not pass an extension of the health coverage tax credit this week before the year is out.

This stack of paper here does not represent Delta retirees and it does not represent other retirees—thousands of others—who are in the same boat as the Delphi/GM retirees.

Their pensions have been cut. Their employee-sponsored health care has been eliminated. If we do not pass the omnibus trade bill—which includes GSP, trade adjustment, the Andean trade agreement, and the health care tax credit, and some miscellaneous tariffs—if we do not pass this, H.R. 6517, they will take in another economic blow. The blood from this one will be on our hands.

We must pass the omnibus trade bill before this Congress ends. I want to share a handful of letters. I know the Senator from Massachusetts yielded for 5 minutes, so I will do this quickly.

Mary Ann from Warren, OH, writes that she lost 40 percent of her pension, all her health care, and all her life insurance earned from GM/Delphi. Here is what she said:

My husband is self employed and he is on my healthcare. He suffers terribly with chronic pain due to degenerative disc disease. He forces himself to work at least part time but it's a struggle. . . . I have a cerebral condition recently diagnosed. I spent a

week in the hospital early this year and am still paying on that too. A 75 percent hike in our healthcare premiums—

And that is what will happen if we do not renew this, which will help these 500 and another 50,000—

while we try to pay these medical balances on a reduced pension would force us and many others into a downward spiral of existence. Those who we entrust to represent us must realize that our story could be theirs if life situations were different. When do we start treating others how we ourselves want to be treated?

Here are others.

Dan from Columbus, IN, writes:

Dear Senator Brown—I am a retired Delta Air Line pilot. During my retirement, Delta took my retirement money that I had spent a career of time accumulating and left me out in the cold. The health care tax credit stepped in and helped by giving our family some insurance premium help. Now this is being destroyed too.

David from Atlanta, GA:

It is very important that the health care tax credit . . . be continued. After losing the pension income and insurance benefits I was promised when I retired from Delta Airlines, I have made significant adjustments to try to compensate for the losses.

Still, after cutting back, the cost of living, skyrocketing insurance premiums, and 2 years of trying to sell my house at a substantial reduction of price while competing with foreclosures, the finances of my friends and me continued to erode.

Gary from Arrowhead, CA: Since Delta Airlines eliminated my pension and health coverage, I looked forward to a Kaiser Permanente HCTC qualified health insurance policy starting January 1. Without this HCTC passage, my premiums will be \$2,600 a month.

These go on and on. The omnibus trade bill has received unanimous approval from every Democratic Member of this body. It is supported by the U.S. Chamber of Commerce, the National Retail Federation, the AFL-CIO. It is my understanding most Republicans here support it. There are just a few blocking the passage of it.

On Friday, Senator SESSIONS objected to a request Senator CASEY and I made to pass the trade act. I understand his objection. I believe it can be worked through. Senator SESSIONS said he supports the rest of the package. I hope this obstruction doesn't interfere with the need to move on this omnibus trade package. These 500 letters, if each of my colleagues would read two or three of them, I think they would see how important it is we pass the Omnibus Trade Act. It is about the trade adjustment assistance language. It is about 50,000 people who will not be able to afford their health insurance come January 1. Happy New Year to them. It also will help us with Colombia and other countries around the world in our trade policies. This makes so much sense.

Tomorrow, Senator CASEY and I and perhaps some others will ask for a UC. I hope my colleagues can see fit to

move forward on this. It is supported by business groups, by labor groups, by the majority of people in this body. I am hopeful we can bring in the few people who still disagree and make this work for our country.

I yield the floor. I thank Senator KERRY for his indulgence.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, I have had the opportunity to work out with the Senator from Massachusetts an amendment to the resolution, which I will be offering in a second.

To my colleagues, what this does—we had this discussion the other day on the treaty. This is an amendment to the resolution that would require, within a year's time of ratification, that the President of the United States certify to the Senate that the United States will seek to initiate with the Russian Federation negotiations on the disparity between nonstrategic or tactical nuclear weapons and to make sure we secure those weapons and reduce the number of tactical nuclear weapons in a verifiable manner.

Remember, the Russians have a 10-to-1 ratio of tactical nuclear weapons over us—3,000 to 300—not talked about in this treaty, an important issue. This requires that the President will certify within a year's time that the parties are going to sit down and have a negotiation about the disparity, about verification, and about securing these weapons. It has been agreed to by all parties.

With that, amendment No. 4908 has been cleared on both sides. I now ask that the amendment, as modified by the changes at the desk, be offered and agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Mr. President, reserving the right to object, we just have to jump through a few hoops over here. We will not object ultimately, but if I could ask the Senator if we could just wait a little longer, I would object at this time but not ultimately. We need to get this cleared and put all the next steps together into one effort, if we can. It doesn't mean we can't talk about some of the other issues, if you want to, while we are waiting for that to be ready. It might be better to just wait until we have the agreement.

So, in the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. LEMIEUX. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I know the Senator from Florida wants to speak on this amendment. I ask unanimous consent that the following two amendments be considered and agreed to: Senator KYL No. 4864 and LEMIEUX No. 4908, as modified.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (Nos. 4864 and 4908, as modified), were agreed to, as follows:

AMENDMENT NO. 4864

(Purpose: To require a certification that the President intends to modernize the triad of strategic nuclear delivery vehicles)

At the end of subsection (a) of the Resolution of Ratification, add the following:

(1) STRATEGIC NUCLEAR DELIVERY VEHICLES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) modernize or replace the triad of strategic nuclear delivery systems: a heavy bomber and air-launched cruise missile, an ICBM, and an SSBN and SLBM; and
(B) maintain the United States rocket motor industrial base.

AMENDMENT NO. 4908, AS MODIFIED

(Purpose: To require negotiations to address the disparity between tactical nuclear weapons stockpiles)

At the end of subsection (a) of the resolution of advice and consent to the New START Treaty, add the following:

(1) TACTICAL NUCLEAR WEAPONS.—(A) Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that—

(i) the United States will seek to initiate, following consultation with NATO allies but not later than one year after the entry into force of the New START Treaty, negotiations with the Russian Federation on an agreement to address the disparity between the non-strategic (tactical) nuclear weapons stockpiles of the Russian Federation and of the United States and to secure and reduce tactical nuclear weapons in a verifiable manner; and

(ii) it is the policy of the United States that such negotiations shall not include defensive missile systems.

(B) Not later than one year after the entry into force of the New START Treaty, and annually thereafter for the duration of the New START Treaty or until the conclusion of an agreement pursuant to subparagraph (A), the President shall submit to the Committees on Foreign Relations and Armed Services of the Senate a report—

(i) detailing the steps taken to conclude the agreement cited in subparagraph (A); and

(ii) analyzing the reasons why such an agreement has not yet been concluded.

(C) Recognizing the difficulty the United States has faced in ascertaining with confidence the number of tactical nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of—

(i) establishing cooperative measures to give each Party to the New START Treaty improved confidence regarding the accurate accounting and security of tactical nuclear weapons maintained by the other Party; and

(ii) providing United States or other international assistance to help the Russian Fed-

eration ensure the accurate accounting and security of its tactical nuclear weapons.

Strike paragraph (11) of subsection (c) of the resolution of advice and consent to the New START Treaty.

Mr. KERRY. Mr. President, does the Senator wish to speak?

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I thank the Senator from Massachusetts for working on this with us. I think this is an important improvement that will require that the United States seek to initiate negotiations with the Russian Federation within a year's period of time. I thank my colleague from Massachusetts, as well as other colleagues who were willing to make this happen as part of the ratification.

I yield the floor.

Mr. KERRY. Mr. President, I thank the Senator. This is a constructive amendment. We all agree that we need to reduce tactical nuclear weapons. Everybody who testified to us reiterated the importance of that being the next step in terms of our relationship and increased stability. NATO allies also said it was essential to proceed to that. The Senator's amendment helps us to make it clear that is the direction in which we need to go. I thank him for his efforts.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I ask unanimous consent that amended No. 4920 be made pending.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Mr. President, I do object. I want to say to the Senator that I am delighted to have a discussion with him about this particular issue. But I think given the efforts we have made thus far to deal with a fixed set of amendments has been affected somewhat by some of those amendments that were filed late, and also not germane, requiring colleagues at the last minute to consider a lot of issues on the floor that are not pertaining directly to the treaty itself.

The subject the Senator wants to bring up and talk about, which is Russian cooperation on Iran, is absolutely essential to us as a matter of foreign policy. I want to join with the Senator in emphasizing that. I look forward to hearing his comments about it. I think we can have an important colloquy that could add to the record of our discussions with respect to this treaty without negatively impacting the direction we are moving in at this point.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, if I might, given that, speak to the amendment. I regret that the amendment can't be voted on. The process has been fairly open. A number of amendments have been considered. This amendment was filed sometime this afternoon. It

deals with an important subject, which is germane to the debate that we are having with regard to the New START treaty.

One of the predicates for improving the START treaty is the so-called reset of our relationship with Russia. Of course, the President, as recently as November 18, 2010, made a statement, which is in this amendment:

"The New START Treaty is also a cornerstone of our relations with Russia" for the reason that "Russia has been fundamental to our efforts to put strong sanctions in place to put pressure on Iran to deal with its nuclear program." Accordingly, the advice and consent of the Senate to ratification of the New START Treaty is conditioned on the expectation that the Russian Federation will cooperate fully with United States and international efforts to prevent the Government of Iran from developing a nuclear weapons capability.

What this amendment does is to provide some assurance that all those intentions and statements actually come to pass. It would require the President to certify to the Senate the following:

Prior to entry into force of the New START Treaty, 1, the President shall certify to the Senate that (i) the Russian Federation is in full compliance with all United Nations Security Council Resolutions relating to Iran; (ii) the Government of the Russian Federation has assured the United States that neither it nor any entity subject to its jurisdiction and control will (I) transfer to Iran the S-300 air defense system or other advanced weapons systems or any parts thereof; or (II) transfer such items to a third party which will in turn transfer such items to Iran; (iii) the Government of the Russian Federation has assured the United States that neither it nor any entity subject to its jurisdiction and control will transfer to Iran goods, services, or technology that contribute to the advancement of the nuclear or missile programs of the Government of Iran; and (iv) the Government of the Russian Federation has assured the United States that it will support efforts at the United Nations Security Council and elsewhere to increase political and economic pressure on the Government of Iran to abandon its nuclear weapons program.

That would be a commitment, a certification, that would be issued prior to the entry in force of the treaty by the President each year, and on December 31 of each subsequent year a similar certification would be issued by the President. In fact, if the President fails to certify, then it would require that he consult with the Senate and submit a report on whether adherence to the New START treaty remains in the U.S. national security interest.

I say this because I think there is a direct connection and correlation between this treaty and the efforts of the Russians that we assume the Russians are going to commit to in terms of putting pressure on Iran regarding its nuclear program and not doing things that would put in jeopardy the security of the region.

I have to say, obviously, this has a big impact on our great ally, Israel, as well as the whole region. It would be

very destabilizing if the Iranians have a nuclear weapon. So I think the effort made by the administration to "reset relations with Russia," bears directly on this treaty. As I said, it was stated clearly by the President as recently as November 18, where he recognized that important relationship. I simply say this amendment, I don't think, is anything that anybody would not agree with. All it does is require not just a statement that this is going to be part of our ongoing relationship with Russia, but it provides an assurance, a certification that the administration would make to the Senate before the treaty would enter into force and each year subsequent to that with those basic issues.

The issues are fairly straightforward. It simply requires a condition that the Russian Federation is in full compliance with all U.N. Security Council resolutions relating to Iran and the government of the Russian Federation assures the United States that neither it nor any entity subject to its jurisdiction and control will transfer to Iran the S-300 air defense system or other advanced weapons systems or any parts thereof or transfer such items to a third party, which will in turn transfer such items to Iran.

While the S-300—for the time being, Russia has refrained from doing that. There are concerns and reports that Russia has recently provided Tehran with a new radar system allegedly through third party mediators from Venezuela and Belarus. So the concern about that coming into Iran through some third party is also something that I think is of great concern to America's national security interests as well as those of our allies.

Mr. President, the amendment, again, is very straightforward. It requires a certification before the entry into force of the treaty, and then each year thereafter about those basic conditions that the Russians be in compliance with U.N. Security Council resolutions, that they would not try to get the S-300 to the Iranians, directly or indirectly, and they would continue putting pressure on the Iranians with respect to their nuclear program.

We know too that the nuclear reactor in Bashir is now producing plutonium. Russia has fueled a nuclear reactor there that is now producing plutonium in Iran. That ought to be of great concern to everybody here as we pass judgment on this treaty, which is obviously important to our relationship with Russia, but also bears on the relationship we have with other countries around the world.

I think anybody in the foreign policy community that you talk to today, when you ask what is the most dangerous threats the United States and its allies face around the world today, Iran and nuclear weapons in the hands of Iran top that list.

So the efforts that we make to persuade the Russians to put pressure on the Iranians and make sure there isn't anything going on there that would destabilize or put in peril America's national security interest is certainly an objective we have.

This would require the President certify that those things are taking place rather than relying on the statements and good intentions of the Russians. I wish, again, that I could get this amendment pending and get it voted on. I think it is important to have the Senate on record with regard to this issue. I regret that the amendment has been objected to.

I appreciate the opportunity to at least raise the issue, and I certainly hope it is something that the administration and our leaders in the Senate and the entire military establishment of this country pays close attention to in the days ahead. This issue will not go away. I think it bears definitely on the treaty.

With that, I will conclude my remarks and say I wish we had an opportunity to get a vote on it.

I yield the floor.

Mr. KERRY. Mr. President, in, I think, 7 days, I have not made an objection to an amendment that we tried to take up. I am sensitive to that because we, obviously, want to provide as much opportunity to go into these issues as is possible. I say to my friend from South Dakota that I am happy to stay here with him and do as much as we could do to impress on anybody the importance of the issue he is raising. But if we stayed here and went through the process of a vote, which would conceivably take us a lot longer in terms of the other amendments we have to finish tomorrow morning, as well as keep the Senate in even later, only the votes—I think we had only one motion to table. Almost every vote has been straight up or down. The votes have been 60 to 30, or 60-something to 28, or something like that. I think the reason is that there is a fundamental flaw in the approach of this particular amendment and the others we have had because they seek to prevent the treaty from going into force.

The language says "prior to the entry into force of the New START Treaty," the President has to do a series of things. Some of those may read in a fairly straightforward and literal way, but they are not necessarily what can be done immediately or are even subject to our control, in which case we wind up with a treaty that we have actually partially ratified because it cannot go into force, and it may never go into force, depending on what happens with some of those things that are out of our control.

There are a lot of reports requested on one thing or another. I think there is a more effective way to go at this, personally, that doesn't wind up with a

negative impact on the treaty, where we are veering from our military and national intelligence leaders who would like to see this put into effect as rapidly as possible. The effect of this is not to let that happen as rapidly as possible.

The Senator is 100 percent correct about our concern about Iran. We need Russian cooperation in order to ever have a chance of enforcing the sanctions that have been put in place, as well as finding the other tiers of cooperation that are going to be critical as we go forward, absent Iranian shifts in policy. The fact is, what has happened through Russian cooperation right now is that the most significant sanctions we have been able to put in place to date have been put in place. They were largely achieved because of the relationship President Obama has achieved with President Medvedev and the reset button and the sense that we are coming together, not going apart.

It is easy for us in the Senate to stand here and say we have to require this, we have to require that. A lot of these things I have found increasingly—particularly in this time I have been chairman of this committee—a lot of the things we sometimes do with good intention in the Senate actually very significantly complicate the life and work of our diplomats who spend as much time trying to meet some kind of certification as they do doing the diplomacy they are meant to do.

I am happy to work with the Senator as chairman of this committee. We will have hearings early next year on this topic of Iran and where we stand with respect to that nuclear program. We will look at this issue of Russian cooperation, and we will look at it hopefully within the context of a START treaty that is going to be ratified by the Duma and implemented and that can only strengthen the resolve of both our countries to focus on the challenges of Iran.

I thank my colleague. I have been in that position before when we have not been able to get an amendment in.

I might add, the amendment was filed a day and a half after cloture was filed. I said to JON KYL very clearly that we were going to try to be as flexible as we could. That flexibility needed to be mostly focused on those amendments that directly affect the treaty or are to the treaty in its most direct sense. If we raised a point of order, this would be an amendment that would be found to be not germane because it is outside those direct treaty issues. With that in mind, I have taken the position I have taken. But I look forward to working with my colleague, if we can, as we go forward from here.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I say to my friend from Massachusetts that if he would allow me to vote on the

amendment, I would try to break that 35-vote threshold that we have seen, to blow through that cap.

I appreciate the fact that the Senator shares the concerns I have about Iran. All I would say is I think what this provides is an additional safeguard as we move into this process and we have this treaty and a clearly established connection between what is a great threat, a regional threat and, I would argue, a threat beyond the region, certainly to our national security as well, the Iranian threat, and the relationship we have with Russia and this treaty and the good-faith effort that we are making through this treaty with the Russians to reset, that this would provide an additional level of assurance that they are, in fact, cooperating and that they are following through on the commitments they are making to the administration and to us as we debate this treaty.

Again, I will not belabor the point. The point has been made. I do think this is a germane amendment. I take issue with the chairman's contention that it is not. But at this particular late hour and with his objection to this, I know I am probably not going to have an opportunity to have this amendment voted on, but I hope the issue continues to stay front and center, in front of this body and before the Foreign Relations Committee and the Armed Services Committee on which I serve.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I say to the Senator, let's commit to work to make sure that happens. I certainly will do that on my part. I look forward to those hearings next year. Perhaps the Senator would even want to find a way to take part in them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, Senator REID asked me a few minutes ago if I would communicate where we are with respect to the START treaty, and I will do so.

As it stands now, we have two amendments that remain. One is an amendment by Senator KYL on modernization, which I believe is the intention, though not yet locked in, of the majority leader to try to take up around 9 o'clock in the morning. We expect to spend somewhere in the vicinity of an hour on it, maybe a little bit longer than that, to accommodate the speakers for Senator KYL. Then there will be one other amendment after that on missile defense, I believe

an amendment that will be offered by Senator CORKER and Senator LIEBERMAN together. That amendment will be the last barrier remaining before we can get to the final vote on the treaty itself.

It would be my hope, depending on the negotiations going on and discussions with respect to the 9/11 first responders—those are discussions taking place now—depending on that, we will have a better sense of when that final vote will be able to take place. I know a lot of colleagues are trying to figure that out in the context of flights, family, and other things. Our hope is that will become clearer in the next minutes, hours, moments of the Senate.

That is the lay of the land. I know the chairman of the Armed Services Committee and the ranking member have made their request to the Senate regarding the Defense authorization bill.

Our hope is that tomorrow morning we can move rapidly through the remaining two amendments. It may even be possible for us to accept the amendment on the missile defense. We are working on that language now. If that happens, obviously it will clear the possibilities of a final vote to an earlier hour, again dependent on this discussion regarding the 9/11 first responders.

That is the state of play.

Mr. COCHRAN. Mr. President, I am pleased to support the approval by the Senate of the New START treaty.

On December 16, I joined Senators INOUE, FEINSTEIN and ALEXANDER in a letter to President Obama to express my support for ratification of the treaty and funding for the modernization of our nuclear weapons arsenal. At the time, I was concerned that this might not be taken seriously as a long-term commitment. The President has responded to our request and assured me that nuclear modernization is a priority for his administration and that he will request funding for these programs and capabilities as long as he is in office. I appreciate his commitment to this long-term investment.

The treaty before us is not perfect. Many of our colleagues have brought forth ideas and offered amendments that will help address concerns about the treaty. I share concerns about missile defense, tactical nuclear weapons, and limits on delivery vehicles, but I cannot deny the potential national security consequences of not ratifying the New START treaty.

After listening carefully to national security experts and the debate on the Senate floor, I have been convinced that failure to ratify this treaty would diminish cooperation between our two countries on several fronts, including nuclear proliferation, and limit our understanding of Russian capabilities. Furthermore, failure to ratify this treaty would cause further delays in

getting our inspectors back to Russia after a 1-year absence.

While I am dissatisfied with the way this treaty has been considered by the Senate in a lameduck session, I take our responsibility to provide advice and consent to international treaties very seriously; and I do not think that the politics of the moment should trump our national security priorities. I am cognizant of the fact that the New START treaty has received unanimous endorsement by both our country's diplomatic and military leadership, and it would be an unusual response for the Senate not to respect and consider their views on how best to support our national security interests.

I agree with them on the merits of this treaty, and I will support ratification.

Mr. AKAKA. Mr. President, I rise today and proudly stand among the long, bipartisan list of Senators, statesmen, and military leaders in support of the New Strategic Arms Reduction Treaty. The New START treaty is critical to our Nation's security because it places limits on U.S. and Russian nuclear arsenals, supports an improving bilateral relationship with Russia, and advances international nuclear nonproliferation efforts.

Over the last three decades, both the United States and Russia have benefited greatly from the bilateral reduction of nuclear weapons. Through the efforts of Presidents Ronald Reagan and George H.W. Bush, the two superpowers embarked on gradual nuclear disarmament, agreeing to reduce the number of their strategic warheads and deployed delivery vehicles through the negotiation and signing of the first START treaty. Under President Obama's leadership, we are now considering the New START treaty, which, when ratified, will reduce these numbers even more in both countries.

The ratification of the New START treaty is vital to our national security.

First, this treaty helps to decrease the threat of nuclear destruction and strategic miscalculation by requiring the reduction of strategic offensive arms such as warheads and launchers in Russia and the U.S. Supporting this effort is a strong verification regime that includes on-site inspections. Without this treaty, our inspectors do not have the ability to monitor Russian activities. We have not had access to the Russian nuclear stockpile for over a year. Our ability to "trust, but verify" must be restored.

Second, this treaty reinforces our important relationship with Russia. It advances our Nation's capacity to build durable, multilateral cooperation to confront international security risks from countries like Iran and North Korea. In addition, a strong relationship with Russia helps to keep available the supply chains that deliver equipment to the brave Americans serving in Afghanistan.

Finally, this treaty strengthens our nonproliferation efforts around the world. By ratifying the New START treaty and taking the focus off of strategic weapons, the United States and Russia can increase their efforts on tactical nuclear weapons and proliferation. The risks associated with nuclear proliferation are particularly serious and include acts of nuclear terrorism against the United States and its allies and the destabilizing effects of new nuclear arms races.

For many years I have been concerned about these risks. During the 111th Congress, I have introduced bills that would decrease the spread of potentially dangerous nuclear technologies around the world and implement key nuclear nonproliferation recommendations offered by the Commission on the Prevention of the Proliferation of Weapons of Mass Destruction and Terrorism. I have also called for more oversight of the International Atomic Energy Agency's Technical Cooperation Program and its proliferation vulnerabilities. Ratifying the New START treaty will reinforce these and many other nuclear nonproliferation efforts.

I urge my colleagues to strengthen national security by ratifying the New START treaty.

Mr. UDALL of New Mexico. Mr. President, I rise today to echo the call of the Senators and Presidents who have furthered the cause of peace. I rise to continue this body's longstanding work to reduce the threat that nuclear weapons still pose to our Nation and world.

Much has changed since the groundbreaking arms treaties of the 1990s. The cold war has ended, and with its end the balance of power changed greatly. But the threat of nuclear war has not entirely gone away.

Over the last decade, we have seen the U.S. attacked on 9-11. And we learned about al-Qaida's ambition to acquire a weapon of mass destruction.

One mishap or one intentional attack is all that is needed to throw our entire global society into a tailspin.

Thanks to the work done through Nunn-Lugar, the U.S. has been involved in efforts since the end of the cold war to prevent nuclear materials from falling into the wrong hands.

But today, with our resources spread thin due to two wars overseas and the threat from failed states and unstable regimes in possession of nuclear weapons the risk of nuclear proliferation has steadily increased.

That is why the goal articulated by President Kennedy, built upon by President Reagan, and further advanced by President Obama is more important than ever. Moving toward a world with zero nuclear weapons is a move toward a safer and more peaceful future.

Through committed negotiations on the New START treaty, the U.S. and

Russia have renewed their commitments to this important goal. Passing New START would be another momentous step toward that more peaceful world.

But, as we have all seen in recent days, and over the course of the year since the U.S. and Russia reached this historic agreement, some in this Chamber are playing partisan politics with an issue that has the potential to impact every person in America and across the world.

This political posturing is shortsighted at best. And it is dangerous at worst. The threat of nuclear weapons is not a partisan issue. It is an American issue. And, more importantly, a human issue.

When START One was ratified in 1991, it was ratified not with just a simple majority but with 93 Members of the Senate voting in favor of the legislation.

Similarly, START Two, ratified in 1993, had the support of 87 Members of the Senate.

The New START treaty deserves similar support from this body. Obstruction of this treaty does not strengthen our country. It reduces our security. And arguments to the contrary go against decades of bipartisan work to reduce the threat of nuclear annihilation.

Those opposed to ratification say this treaty will diminish our national security. They argue that we cannot rely on a smaller nuclear arsenal to effectively deter an opponent.

These concerns have been overhyped and hyperpoliticized. And they fall flat in light of the scientific evidence provided by our scientists and engineers at the National Labs.

Along with Senator BINGAMAN, I helped lead a visit to New Mexico's National Labs while the Senate Foreign Relations Committee was debating ratification. The scientists and engineers at the Labs briefed the delegation, which also included Senators KYL, CORKER, RISCH, and THUNE, on issues pertinent to this debate.

After participating in these briefings, I am confident of two things. One, that the United States can assure our allies that our nuclear arsenal remains an effective deterrent. And two, that our scientists and engineers will be able to verify that Russia is abiding by its end of the bargain.

New Mexico will be at the forefront of verification measures because the Los Alamos and Sandia National Labs have the requisite professional expertise to aid the monitoring of Russian forces.

I have been continually amazed by the work of our National Labs in New Mexico. The Los Alamos and Sandia National Labs, and the hardworking men and women who serve there, are truly a treasure of the Nation.

Unfortunately, some on the other side of the aisle have derided the labs

as “decrepit and dangerous.” This poorly imagined and strikingly inaccurate description couldn’t be further from the truth.

Los Alamos National Labs Director Michael Anastasio, Sandia National Labs Director Paul Hommert, and Lawrence Livermore Director George Miller, have been unequivocal in their testimony to the Senate Armed Services Committee and the Senate Foreign Relations Committee.

They all agree that our labs are prepared to maintain our nuclear stockpile, and they are ready to lend their scientific expertise to the overall mission of verification and reduction.

To quote Director Anastasio’s Senate testimony:

I do not see New START fundamentally changing the role of the Laboratory. What New START does do, however, is emphasize the importance of the Laboratories’ mission and the need for a healthy and vibrant science, technology and engineering base to be able to continue to assure the stockpile into the future:

Sandia National Labs also plays a major role in stockpile stewardship, life extension, and stockpile surveillance.

Director Hommert’s testimony makes clear that Sandia understands the challenges involved under New START but that it is ready to undertake those challenges. He said:

As a whole package, the documents describing the future of U.S. nuclear policy represent a well founded, achievable path forward.

I believe that it is no small coincidence that the progression toward a world without nuclear weapons will require the continued, diligent work of those who first created and then secured our arsenals.

The safety, security, and reliability of our available nuclear weapons will become increasingly important to our country as we reduce our stockpile.

For New Mexico, President Obama’s strategy will mean an expanded role for our National Labs in managing our Nation’s nuclear deterrent.

For our country, President Obama’s strategy means that we are one step closer to closing the curtain of the cold war’s legacy of nuclear arms races.

For the world, it means we will be taking a step forward toward greater cooperation and peace, and one step back from catastrophe.

Fewer weapons mean fewer opportunities for mistakes or losses of warheads. Fewer weapons also mean fewer opportunities for unstable regimes such as North Korea, Iran, or Myanmar, or individuals with malicious intentions to acquire or build a nuclear weapon.

The two nations with the largest stockpile of nuclear weapons have a duty to remain vigilant in protecting the rest of the world from the unthinkable. By ratifying this treaty, the Senate is upholding its duty to protect our

Nation and to protect our shared planet.

President Kennedy said the following during his 1962 State of the Union Address:

World order will be secured only when the whole world has laid down these weapons which seem to offer us present security but threaten the future survival of the human race.

By ratifying this treaty, we move a step closer toward realizing this legacy and continuing a longstanding policy goal of our country—the goal of creating a more peaceful and secure world.

Let us continue our work together by ratifying this treaty and sending a message to the world that the United States of America will continue making significant steps towards peace.

• Mr. BOND. Mr. President, New START is a bad deal for the United States. It requires us to reduce our deployed strategic forces while the Russians can add to theirs. This amounts to unilateral reductions.

The treaty gives Russia political leverage, which they will use, to try to prevent us from expanding our missile defenses to protect us against North Korea and Iran. This is unacceptable.

The treaty fails to deal with Russia’s reported ten to one advantage in tactical nuclear weapons or their nuclear, sea-launched cruise missiles. However, the Treaty will limit our nonnuclear ballistic missiles.

Compounding these deficiencies, the treaty’s verification is weak and the Russians have a poor compliance record.

As vice chairman of the Senate Select Committee on Intelligence, I have reviewed all the relevant classified intelligence concerning this treaty. I come away convinced that the United States has no reliable means to verify the treaty’s central 1,550 warhead limit.

It is also inexcusable that the United States has forfeited in this treaty the rights it enjoyed under START to full and open access to Russian telemetry. This amounts to giving up the “keys to the kingdom,” as it will harm our ability to understand new Russian missile developments.

The administration has attempted to justify giving up Russian telemetry on the basis that it is not needed to verify the New START treaty. This is only true if you believe that the treaty’s ten or fewer yearly inspections of Russian missiles will provide adequate verification. They do not. In fact, these inspections have three strikes against them.

Strike One: The 10 annual warhead inspections allowed under New START only permit us to sample 2 to 3 percent of the Russian force.

Strike Two: The inspections cannot provide conclusive evidence of whether Russia is complying with the 1,550 warhead limit. If we found a missile loaded with more warheads than Russia de-

clared, it would be a faulty and suspicious declaration. However, we could not infer that Russia had thereby violated the overall 1,550 limit. The Russians could just make some excuse for the faulty declaration, as they have in the past.

Strike Three: New START relies on a type of on-site inspections that Russia illegally obstructed on certain missile types for almost the entire 15 year history of START. Russia’s use of illegal, oversized covers were a clear violation of our on-site inspection rights under that treaty. As the old adage goes, “fool me once, shame on you, fool me twice, shame on me.”

Common sense tells us that the worse a treaty partner’s compliance history, the stronger verification should be. However, according to official State Department reports by this administration and the previous one, Russia has violated, or is still violating, important provisions of most key arms control treaties to which they have been a party. In addition to START, this includes the Chemical Weapons Convention, the Biological Weapons Convention, the Conventional Forces in Europe Treaty, and Open Skies.

We also know that the lower the limits on our weapons, the stronger the verification should be. But with these lower New START limits, our verification of warhead limits is much worse than under the previous START treaty, with its higher limits.

With all these arguments against the treaty, proponents can only point to one tangible benefit—that we will know more about Russian forces with the treaty than without it. This is hardly a ringing endorsement.

Learning more will hardly compensate the United States for the major concessions included in this Treaty. What are these concessions? Unilateral limits, unlimited Russian nuclear systems, limited U.S. non-nuclear systems, unreliable verification, the forfeiture of our telemetry rights, and perhaps most importantly, handing Russia a vote on our missile defense decisions.

In many cases, concerns about particular treaties can be solved during the ratification process. My colleagues have my respect for their attempts to do so. Unfortunately, New START suffers from fundamental flaws that no amount of tinkering around the edges can fix.

For these and other reasons, I cannot in good conscience vote to ratify the New START treaty. •

Mr. MERKLEY. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

INTEREST ON LEGAL TRUST ACCOUNTS

Mr. MERKLEY. Madam President, I rise this evening to talk about a program that is of great importance to our

citizens across America who are struggling to access legal services. There is a program that is called the Interest on Lawyer Trust Accounts or IOLTA. This is a very interesting arrangement that I was not familiar with until I came to the Senate.

Essentially, IOLTA is interest on lawyer trust accounts, and it works like this. When lawyers need to put money into a trust account, they are putting it in that account on behalf of a client or on behalf of an estate. It is not allowed under the law for the client to earn interest. However, there is an arrangement that has been made over the years in which banks agree to pay interest on those accounts, since they are accessing those deposits—those funds—but the interest gets donated to legal services for poor Americans across the United States of America. So it is a win-win. The client isn't allowed to get the interest, but the banks pay the interest to benefit low-income Americans across our Nation.

That is the structure of the IOLTA accounts. All 50 States have these programs. Forty-two States require lawyers to deposit client funds that do not earn net interest for the client into these IOLTA accounts so they will earn interest to pay for civil legal services for the poor.

During the financial crisis, the FDIC created a program to guarantee that the business and trust checking accounts that do not pay interest are insured—they are guaranteed—and IOLTA was included in this because they do not pay interest to the client. The Dodd-Frank reform bill we had, which extended these arrangements for 2 years for accounts that do not pay interest to the clients, forgot to include the IOLTA accounts that do not pay interest to the clients but do pay interest that goes to fund civil legal services for poor Americans in all 50 States.

So we are seeking to fix this glitch. I wish to note that hundreds of thousands of Americans who don't otherwise have access to legal services are in a position to benefit when they need such services across our Nation.

In Oregon, we have the Oregon Law Foundation, the nonprofit, nonpartisan organization that administers legal aid for the poor. They benefited to the tune of over \$1 million in revenue in 2009. When interest was a little better, they had more revenue in 2008—\$2.2 million. That was a decrease from 2007 of \$3.6 million. So as interest rates have declined, the amount of funds that have gone to fund legal services for the poor have declined, but still, a few million dollars is better than none in terms of providing assistance.

In a case such as this—the Oregon Law Foundation—IOLTA funding makes up 95 percent of their total revenue. So if the guarantee is not extended for 2 more years, we have a real problem, and it goes like this. A lawyer

has a fiduciary responsibility to a client to put the funds into an account that protects the client. They would not be able to put the funds into an IOLTA account if it is not guaranteed, if they have the option of putting it into a noninterest-bearing fund that is guaranteed and, thus, the bank's willingness to pay interest. So the funding that goes for legal services across our Nation will disappear.

I rise to talk about this because the deadline for this is December 31. We have a bill to fix this before the Senate. But for those who are familiar, in the Senate, any Senator has the ability to put a hold on legislation, and we have a situation where a Senator has put a hold on this. I think, in general, this hasn't gotten much attention, the fact that this assistance that goes to low-income Americans across this country will be deeply damaged, even if 99 Senators support this, because we don't have 100 Senators. So I am rising to basically make an appeal to my colleagues to take a look at the legal programs in your States that are funded by this.

There are legal education programs that are funded. I hope my colleagues will recognize that what we have is a lose-lose situation if we don't change this law, and that lose-lose is legal education and legal services. The banks will actually make more money because they will not have to pay interest. So you have a lose-lose and a win—a loss for the poor, a loss for the students wanting legal education, and a win for banks receiving greater profits.

In this situation, the banks have been absolutely stellar citizens of our communities. In Oregon, we have a host of banks that not only pay interest on these lawyer trust funds, but they have agreed to maintain a floor of 1 percent interest. I would like to mention these banks recognized by the Oregon Law Foundation as leadership banks. I believe this list is as of the end of the year 2009. By mentioning these banks, I am basically saying thank you to these banks for being involved in this program. They include: the Albina Community Bank, the Bank of Eastern Oregon, the Bank of the Cascades, the Bank of the West, Capital Pacific Bank, Century Bank, Columbia River Bank, Key Bank, Northwest Bank, Peoples Bank of Commerce, the Pioneer Trust Bank, Premier West Bank, Siuslaw Bank, South Valley Bank and Trust, the Bank of Oswego, the Commerce Bank of Oregon, Umpqua Bank—a bank that originated in southern Oregon, in timber country, Douglas County, where I come from—U.S. Bank, Washington Trust Bank, and Wells Fargo.

So all these banks have been willing to pay interest on these lawyer trust accounts, knowing they are doing good work in the community by assisting legal programs.

I mentioned one of those programs in Oregon. Let me mention a couple more. The Juvenile Rights Project provides legal services to children and families who do not otherwise have the means to retain counsel through individual representation in juvenile court and school proceedings and through classwide advocacy in the courts, the legislature, and public agencies. It has the only help line offering legal advice for children and teenagers in Oregon. So that is the Juvenile Rights Project.

Disability Rights Oregon. The Oregon Advocacy Center provides statewide legal services to Oregonians with disabilities who are victims of abuse or neglect or have problems obtaining health care, special education, housing, employment, public benefits, and access to public and private services. Oregonians with disabilities look to OAC—that is the Oregon Advocacy Center or Disability Rights Oregon—to protect and advocate for their rights in courts, with public agencies and with the State legislature.

The Classroom Law Project promotes understanding of the law and legal process for 15,000 elementary and secondary school students in the State of Oregon by incorporating the lessons and principles of democracy into school curriculum. Their programs include the High School Mock Trial Competition. That is an extraordinary competition. It is wonderful to see how a high school student can blossom when preparing to argue before his or her peers the facts of a case and the legal principles of a case. It is an enormous education.

The Classroom Law Project also includes the Summer Institute training for teachers. This program enables those teachers to better address the issues of law and legal process in their classrooms.

Also included is the We the People program on the Constitution and Bill of Rights. A lot of us often carry the Constitution. We understand it is the foundation for our government of, by, and for the people, and we want our children to get an education in the Constitution. This is funded in this fashion.

We also have help for citizens who are trying to get into a home mortgage modification, such as HAMP—the Housing Affordable Modification Program—and also families who are working through issues of domestic violence.

So here is the situation. Families addressing domestic violence issues, families addressing wrongful home foreclosures, children—juveniles—seeking legal assistance, the disabled seeking resolution of issues regarding access to health care, special education, housing or employment are being helped. The Classroom Law Project is helping educate our children about the Constitution, about the Bill of Rights, funding

mock trial competitions, and funding the Summer Institute training for teachers. These are the types of tremendous programs that are funded through the interest on lawyer trust accounts. That line of funding, due to a technical oversight, ends on December 31.

So I am rising to ask my colleagues, if you are the Senator who is holding this up, I encourage you to get the facts from your State because all 50 States participate, and then let this funding, provided through a wonderful arrangement between the banks and our lawyers and these trust accounts, go forward. Who knows how many thousands, the multiple of thousands who will be assisted in challenging situations if we fix this before we adjourn.

I yield the floor.

REGISTRATION OF MUNICIPAL ADVISERS

Mr. DODD. Madam President, on the occasion of the Municipal Securities Rulemaking Board's, MSRB, implementation of congressionally mandated registration of municipal advisers, I would like to briefly speak on this important development. Congress in the Dodd-Frank Act of 2010 sought to enhance the regulation of the \$3 trillion municipal securities market. The law expanded the authority of the MSRB in recognition of the MSRB's deep and specialized expertise, and the law expanded the mission of the MSRB to protect issuers and other municipal entities. It directed the MSRB to write rules regulating municipal advisers—persons and firms that advise municipalities and public pension funds or solicit their business on behalf of others, which includes “financial advisers, placement agents, swap advisers” and others. The law also reaffirmed the MSRB's authority to regulate the conduct of municipal securities dealers. At the same time, Congress required municipal advisers to exercise a higher, fiduciary standard of care to those municipal entities that seek their advice about municipal securities and other related financial matters.

During the Senate-House Conference for the Dodd-Frank Act, the conferees carefully considered and debated alternative approaches for overseeing municipal advisers and strengthening municipal securities market regulation. We recognized that the MSRB has written a comprehensive set of rules on key issues and said that the MSRB is well-equipped and experienced to write rules regulating participants in the municipal markets. Over the past decades, the MSRB has accumulated knowledge and hired specialized expertise to write rules regulating the complex and varied municipal securities market. In addition, the Banking Committee in its report, S. Report No. 111-176 accompanying S. 3217, said that the MSRB is

in the best position to assure that rules are consistent with other rules governing the municipal markets.

Under the new law, the MSRB is expected to develop a robust system of regulation for intermediaries, including swap advisers, as it has for dealers. Swap advisers were specifically identified in the statute and made subject to MSRB rulemaking. The financial press has reported about State and local governments that received bad advice from advisers and entered into swaps and other derivatives that they did not fully understand, that are not performing as promised, and that are now costing them tremendous amounts to unwind. Those swaps are often tied to municipal securities issued by those same State and local governments and Congress recognized the experience of the MSRB in the regulation of the municipal markets.

The act, which authorizes MSRB regulation over municipal advisers, has limited exceptions, including an exception for commodity trading advisers registered under the Commodity Exchange Act or their associated persons who provide advice related to swaps. This exception covers swap dealers and major swap participants regulated by the CFTC. It does not extend to independent swap advisers or other types of municipal advisers not explicitly exempted, which are meant to be subject to the MSRB rules. I expect that the regulators of municipal swaps advisers would adopt rules governing advisory practices that are consistent with each other as well as relevant and appropriate for the municipal markets. Thus, municipal swaps advisers would be subject to practice rules embodying common principles, since they have the same types of clients.

NOMINATION OF ROBERT N. CHATIGNY

Mr. DODD. Madam President, I rise today to express my strong support for the nomination of Judge Robert Chatigny to serve on the U.S. Court of Appeals for the Second Circuit. I would like to thank my dear friend and colleague, Chairman LEAHY, for his efforts on this nomination. Chairman LEAHY, and his staff, does an outstanding job in seeking to ensure that the Federal courts function as our Constitution prescribes. I applaud him for his work and his commitment to the rule of law.

Judge Chatigny was first nominated to the Second Circuit last year, but after a sustained and, in my view, totally unwarranted attack on him by some, my colleagues on the other side refused to grant consent to allow his nomination to remain pending in the Senate. As a result, under rule 31, his nomination, along with 12 others, including 4 other judicial nominees, was returned to the President on August 5, prior to the August recess.

While I was extremely disappointed by this development, I am pleased that President Obama decided to renominate Judge Chatigny to this position. Judge Chatigny is an individual of outstanding character, keen intellect, and extensive judicial experience. I can think of few jurists more qualified to serve on the Second Circuit than he, and I congratulate President Obama on making such an excellent selection to fill this vacancy.

For 16 years, Robert Chatigny has been a Federal judge in Connecticut, serving as chief judge of the District of Connecticut from 2003 to 2009. In addition to ruling on a wide variety of cases, Judge Chatigny has earned a reputation for integrity, intelligence, and strict adherence to the rule of law.

I am pleased that Judge Chatigny has received the support of numerous former Federal prosecutors in Connecticut who understand the importance of upholding the rule of law and vouch for his character and his qualifications. Let me quote from a letter to the Judiciary Committee from three former U.S. Attorneys, each appointed by a Republican President:

We believe that he is a fair minded and impartial judge, who has the appropriate fitness and temperament for the appellate court.

In addition, the Judiciary Committee has also received a letter signed by 17 former assistant U.S. attorneys currently practicing law in Connecticut, in which they express their confidence that he will be “unbiased, compassionate, and temperate.”

This support demonstrates the high regard in which Judge Chatigny is held by the members of the legal community in Connecticut that know him best. In addition to the praise from the Connecticut Bar, Judge Chatigny has been unanimously rated “well qualified” by the American Bar Association.

Judge Chatigny's legal experience prior to his appointment reveals a rich understanding of—and deep commitment to—the American legal system. After graduating from Brown University and the Georgetown University Law Center, he served as a clerk to three Federal judges, including judges Jon Newman and Jose Cabranes. Prior to his service on the court, he built an excellent reputation in private practice, first as an associate here in Washington, before returning to private practice in Hartford for nearly a decade.

In addition, Judge Chatigny has devoted substantial time and effort to improving the legal profession. When the Governor of Connecticut sought experienced and knowledgeable public servants to help make better public policy, Judge Chatigny was an easy choice, serving on both the State Judicial Selection Commission and the State Commission on Prison and Jail Overcrowding. In addition, he has

served in various roles with the Connecticut Bar Association, as well as being an advisor to the congressionally created Federal Courts Study Committee.

Unfortunately, Judge Chatigny has become the target of totally unjust attacks that threaten not only to defeat his nomination but also send a chilling message that will endanger the independence of all Federal judges.

One may wonder why the nomination of a judge so well qualified and so highly regarded as Judge Chatigny has drawn any opposition at all from my colleagues on the other side of the aisle. The answer lies primarily in Judge Chatigny's role in the appeal of the first death penalty case in Connecticut in 40 years. Here are the facts.

Michael Ross raped and murdered eight women. His crimes were heinous and inhuman. He was convicted in the State courts of Connecticut and sentenced to death. His defense of insanity, although seriously contested at trial on the basis of conflicting psychiatric testimony, was rejected.

On January 21, 2005, 5 days before the scheduled execution, a public defender filed a petition for a writ of habeas corpus in the Connecticut Federal district court that came before Judge Chatigny. The petition presented substantial evidence challenging Ross's competency, alleging that under the U.S. Supreme Court's 1996 decision in *Rees v. Payton*, Ross was not competent to waive legal challenges to his death sentence, and that his execution would violate the 5th, 6th, 8th, and 14th amendments.

Three days later, on January 24, Judge Chatigny conducted a hearing in the habeas case and heard testimony from a psychiatrist supporting the claim of incompetency. The judge issued a stay of execution. The next day, January 25, the Second Circuit Court of Appeals unanimously denied the State's motion to vacate Judge Chatigny's stay and dismissed the State's appeal from the stay order. Two days later, on January 27, the U.S. Supreme Court, by a vote of 5 to 4, vacated the stay of execution.

Later that same day, Judge Chatigny received new evidence bearing on Ross's competency, and, mindful that he had been instructed not to enter any order delaying the execution, nevertheless felt it his duty to alert all counsel to the new evidence. He therefore faxed it to all counsel, and convened a telephone conference to discuss the evidence.

The next day, January 28, Judge Chatigny convened another telephone conference with all counsel and learned of the existence of additional new evidence bearing on the defendant's mental competency.

Shortly after midnight, the State agreed to postpone the execution until Monday, January 31, at 9 p.m. Later

that morning, on January 29, defense counsel received information that the psychiatrist who had testified for the State might now have a different opinion on the issue of mental competency based on the new evidence.

Two days later, on January 31, defense counsel filed a motion in State court to stay the execution. The State did not oppose the motion, the motion was granted, and the death warrant expired.

On February 10, the State trial judge ordered a new competency hearing, which was conducted in the State court for 6 days in early April. On April 22, the State trial judge issued a decision finding that Ross was competent, and on May 10, the Connecticut Supreme Court affirmed. Three days after this final ruling was handed down, Michael Ross was executed.

Thereafter, a State prosecutor filed a complaint against Judge Chatigny alleging that his actions in the Ross case constituted judicial misconduct. The chief judge of the Second Circuit convened a special three-judge panel to investigate the allegations. The panel included former U.S. Attorney General Michael Mukasey, who was then chief judge of the U.S. District Court in Manhattan. The panel unanimously concluded that no judicial misconduct had occurred, and that ruling was unanimously adopted by the Judicial Council of the Second Circuit.

Despite the unanimous conclusion of these distinguished jurists that Judge Chatigny did nothing improper in his handling of the Ross case, it has become a focal point for objections to his confirmation. Some have argued that the judge should not have intervened, even briefly, to delay the execution of such an evil person as Michael Ross, an admitted killer of 8 young women.

I would, however, invite my colleagues to consider carefully the implications of that criticism. Here was a district judge confronted with a substantial claim, in a properly presented petition for a writ of habeas corpus, that new evidence put in doubt the competency of a defendant about to be executed.

The judge had two choices: he could turn his back on the matter and let the execution proceed without any examination of the new evidence, or he could insist that constitutional standards be followed and the new evidence be considered so that the execution, if and when it occurred, would be carried out in accordance with constitutional requirements.

Turning his back on the case would have been the easier course. Accepting the challenge to consider the habeas corpus petition, I believe, took considerable courage. The judge acted in conformity with his oath of office, which obliges him to uphold the Constitution of the United States. And for that, he is being savagely attacked.

Some critics of Judge Chatigny's nomination point out that the stay of execution issued by the judge was later vacated by the U.S. Supreme Court by a vote of 5 to 4. And, of course, that 5 to 4 majority ultimately prevailed.

But it must be noted, in assessing Judge Chatigny's decision to issue the stay, that of the 13 judges that reviewed the matter—1 district judge, 3 Circuit Judges, and 9 Supreme Court Justices—only 5 thought the stay should not have been issued, and 8 thought it was proper.

Even more significant is the fact that once the new evidence was brought to the attention of the counsel for the State, the State elected not to oppose a new court hearing so that the new evidence could be fairly considered. The new evidence was of sufficient value to require 6 days of hearings in the State court.

Ultimately, the new evidence did not change the outcome of the case, and Ross was executed. But if Judge Chatigny had not intervened, an execution would have occurred without the 6-day hearing that the State court found necessary to determine the defendant's competency, and the assurance of compliance with constitutional requirements would have been lost.

After a call for an investigation by some legislators in Connecticut was made, the Bar Association's president publicly stated that "no one should want decisions of life or death made without consideration of all relevant facts and circumstances," and that the attacks on the judge threatened to "undermine" the independence of the judiciary. Judge Chatigny's handling of the Ross case was praised by both the *Hartford Courant* and the *Connecticut Law Tribune*.

If Judge Chatigny is to be attacked for performing his constitutional function as he saw it, what message does that send to other judges when confronted with constitutional claims in cases that understandably arouse public passions?

Let me respond to one other criticism that has been made concerning the Ross case. The critics have quoted Judge Chatigny as saying that Ross should never have been convicted. Their quotation is a serious distortion of what the judge said.

Speaking with reference to the evidence of Ross's insanity defense, the judge said, expressing the traditional standard courts use in determining whether there is sufficient evidence to present an issue to the jury, that "looking at the record in a light most favorable to Mr. Ross, he never should have been convicted." Unfortunately, the critics have left out the important first half of that statement.

Let me also briefly mention the concerns raised by some about Judge Chatigny's treatment of Michael Ross's attorney in regards to his law license.

I think this criticism does not stand up to close scrutiny.

It is, of course, true that Judge Chatigny had a heated discussion with the Ross's lawyer regarding his client's competence. Judge Chatigny believed strongly that a state court in Connecticut should be given the opportunity to consider new evidence of Ross's competence and tried to convince the attorney of this.

There is no doubt that the exchange between Judge Chatigny and the defense lawyer was intense. However, as the Judicial Council of the Second Circuit found, there was no misconduct in this episode. In fact, the special committee's report stated:

The judge was clearly concerned that [the defense lawyer's] reluctance to engage the court in the question of Ross's competence . . . might cause an unconstitutional execution. It is clear the judge's concern was to repair what he perceived as a breakdown in the adversarial process, resulting from an attorney's insistence on adhering to his client's expressed desire to waive judicial review and consent to his execution, in spite of indications that the client might be without competence to make such a waiver. The judge's perception of the need for remedial action in his communications with the attorney was reasonable. While his words were strong, when properly understood they were not unreasonable.

Further, who among us in public life during debates on contentious issues has never said anything that we would perhaps not repeat? The next business day after this episode, Judge Chatigny sought out the defense lawyer and apologized for his actions. He recognized that his words were "excessive" and at the first chance available sought to apologize for them. I think this shows exactly the sort of humble and self-examining personality that we need more of on the court.

But perhaps most importantly, Mr. President, one verbal exchange between a judge and counsel, in the middle of a highly contentious and emotional court case does not shed light on the entire arc of a judge's career. As demonstrated from the record and the support he has received in Connecticut, this episode is an aberration and one not likely to be repeated. We should not unduly punish someone with an outstanding record such as Judge Chatigny because of one heated exchange. What type of judicial standard would we be asking of those who aspire to the bench?

The critics have also said that the complete exoneration of Judge Chatigny on the misconduct complaint has little, if any, bearing on whether he should be confirmed for the court of appeals. Yet they persist in claiming that the Judge did something improper when the claim of improper conduct was totally rejected.

On this last point, I believe it is also worth reiterating that one of the judges who served on that panel, Michael Mukasey, also served as U.S. at-

torney general during the waning years of the Bush administration.

But Michael Mukasey has done more than simply reject a misconduct complaint. Once the nomination of Judge Chatigny was made, Michael Mukasey let it be known that he supported the confirmation of Judge Chatigny for a seat on the court of appeals. Can anyone seriously believe that a former U.S. attorney general would support a nominee to the Federal bench who was not unquestionably deserving of confirmation?

And Michael Mukasey's support of Judge Chatigny's nomination does not stand alone. As I mentioned earlier, three former U.S. attorneys appointed by Republican Presidents, the prosecutors most familiar with Judge Chatigny's record, have publicly informed the Senate Judiciary Committee that they strongly support his confirmation for the court of appeals, as have 17 former assistant U.S. attorneys.

One other criticism of Judge Chatigny also must be addressed. Individuals have attacked Judge Chatigny because in some instances, he imposed a sentence below the sentencing guidelines in certain cases.

What his detractors ignore is that Judge Chatigny has also imposed sentences at or above the top of the guidelines' range and that, according to Sentencing Commission statistics, Judge Chatigny's sentences are well within the mainstream of sentences of all the judges in his district.

Indeed, the best commentary on Judge Chatigny's sentences in criminal cases is the fact that in the 16 years he has been a district judge, Federal prosecutors have not sought to appeal even one of these decisions. Let me repeat that: in 16 years as a Federal judge, prosecutors have never appealed one of Judge Chatigny's sentences.

I have served in this body for nearly 30 years. I am extremely proud of this institution and believe that it plays a critical role in our republic. One of the most important functions we have is to vote on nominees to the executive and judicial branches of our government.

It saddens me to note that this body has let partisan politics and delaying tactics interfere with our constitutional responsibility to provide advice and consent on the President's nominees. Unfortunately, Judge Chatigny is not the only eminently qualified judicial nominee to face this challenge.

As of November 29, the Senate had only confirmed 41 of President Obama's Federal circuit and district court nominees so far this Congress. By contrast, during the first Congress of the George W. Bush administration, the Senate, which at that time was controlled by Democrats, confirmed 100 of that President Bush's nominees to the Federal bench.

In addition, there have been repeated roadblocks to the consideration of nu-

merous well-qualified nominees to critically important posts within the executive branch. The Federal Government has an immense amount of work to do, and obstructionist tactics have only made that harder.

I am convinced that this Judge deserves to be confirmed. He has outstanding qualifications and an outstanding record. No one, even his critics, doubts either his qualifications or his record. I believe he is being opposed because he acted with great courage to live up to his oath of office and uphold constitutional standards in one widely publicized case involving a despicable murderer.

Would that all judges display that kind of courage when put to a similar test.

Let me conclude with one further point. I recognize that some of my colleagues believe that Judge Chatigny's handling of the Ross case merits criticism. I believe, on the contrary, that his handling of the case was a courageous defense of constitutional requirements, as do many others, including experienced Federal prosecutors from both political parties.

But let us assume, for a moment, that the criticism is valid. What I would then ask this body to consider is this: is the criticism of the handling of one case out of the thousands over which Judge Chatigny has presided in 16 years as an outstanding U.S. district judge a sufficient reason to oppose his confirmation for the court of appeals?

Have we, as Senators, permitted the President's selection of a well qualified judge with 16 years of outstanding judicial service to be thwarted because in the hours before a scheduled execution, the first in Connecticut in 40 years, this judge thought it was his duty to make sure that constitutional standards, as he understood them, required him to act, not to overturn a conviction, not to overturn a death sentence, but simply to make sure that new evidence bearing on the defendant's mental competence was fairly considered?

It goes without saying that I am very disappointed the Senate will not be voting on this nomination before the end of the 111th Congress. Judge Chatigny is superbly qualified for a seat on the Second Circuit, and I believe the Senate has made a serious mistake by not confirming him.

FLOODING IN COLOMBIA

Mr. LEAHY. Madam President, I want to take a minute to call attention to a humanitarian disaster that has received only passing mention in the international press and which many Senators may be unaware of.

On December 7, Colombia's President Juan Manuel Santos declared a state of "economic, social and ecologic emergency" as a result of massive flooding which he called a "public calamity."

Heavy rains over a period of months have caused landslides that have swept away homes and rivers to overflow their banks, and now large areas of the country are inundated with water. According to a December 17 report by the U.N. Office for the Coordination of Humanitarian Affairs which is assisting the Colombian government, so far 2.1 million people have been affected by the flooding, 270 have died, 62 are missing, and more than 300,000 houses have been damaged or destroyed. Thousands of miles of roads have been obstructed, damaged or destroyed.

Twenty-eight of the country's 32 departments, which comprise 61 percent of the country, have been affected. President Santos said the number of homeless from the flooding could reach 2 million, and that "the tragedy the country is going through has no precedents in our history." What's worse, the rains are expected to continue through next June.

I do not have to remind anyone here of our close relationship with Colombia. I also know Colombia has emergency response capabilities which may not exist in remote areas of other countries similarly affected by severe flooding or other natural disasters, such as Pakistan. I was pleased to learn that the U.S. Army Corps of Engineers has people in Colombia because the devastation is on a scale more massive than any developing country could deal with alone. There may also be other ways we can provide assistance.

I also use this opportunity to note what appears to be the growing number and intensity of natural disasters around the world that are straining the international community's emergency response capabilities. While no single weather event can be definitively attributed to climate change, scientists have long predicted an increase in the frequency and severity of extreme weather events as a result of global warming. They also predict that as many as 200 million people could be displaced by natural disasters and climate change by 2050. That would cause incalculable havoc for many countries.

President Santos, who to his credit has been out in the countryside with people who have lost family members, homes and, in many cases, everything they own, said he canceled his trip to the U.N. Climate Change Conference in Cancun so he could deal with the devastation that climate change is causing in his own country. Pakistani government officials likewise blamed climate change for the massive floods there that have affected more than 20 million people over the past several months.

Whatever the cause, and there isn't time today to discuss my views about the role that deforestation and the burning of fossil fuels play in global warming, the world's climate is unquestionably changing. And a disproportionate number of recent cli-

mate related disasters has occurred in the world's poorest countries where most people's lives depend on agriculture. They have seen their homes destroyed, crops drowned in water and buried in mud, and what few possessions they have swept away. Other countries have suffered years of drought, and water sources that have sustained life for centuries have dried up. In as little as 25 years, glaciers that millions of people and their livestock depend on for drinking water have shrunk to a fraction of their size.

These issues are going to occupy our time and severely tax our resources for the foreseeable future, and we and other countries urgently need to develop plans to try to prevent and adapt to climate change and to respond when disaster strikes.

I am encouraged that there is a new field of research specifically focused on better understanding, preventing and responding to large scale displacement of people as a result of climate change and natural disasters. Nongovernmental and international organizations are working to develop strategies to protect the world's most vulnerable people from this growing threat. We need to support this and work together.

I commend President Santos who has not only helped to alert the world to a catastrophe that had previously gone largely unnoticed outside his country, but who has taken other important steps in his first months of office that have won the respect and support of the Colombian people. His efforts to diffuse tensions with Colombia's neighbors, to begin tackling head on the daunting economic, social and judicial challenges facing Colombia, and to appoint several top officials who have the necessary qualifications and integrity, are admirable.

After a decade of Plan Colombia, U.S.-Colombia relations are entering a new phase. While there will likely continue to be issues about which we disagree, I look forward to working with President Santos and his government on a wide range of issues of mutual interest and concern.

TRIBUTE TO LULU DAVIS

Mr. LEAHY. Madam President, as we approach the end of this Congress we are saying goodbye to people with whom we have been privileged to serve over the past years. We often talk about Senators who have completed their terms. In that regard, a number of my friends will be leaving the Senate and I am making statements about them.

Today, I want to talk about a woman who has served the Senate and the American people for three decades, and whose career sets a high standard of professionalism and public service that inspires countless others. She was not elected to serve as a Senator, but she

has been essential to the work of the Senate for a number of years.

Lula Johnson Davis began her Senate career as a legislative correspondent for Senator Russell Long of Louisiana. She later worked for the Democratic Policy Committee. In 1993, she became a key member of our Democratic floor staff. The floor staff is critical to the proper functioning of the Senate.

They advise Senators on floor procedure and help keep the Senate operating within the formal Senate Rules and the informal Senate practices that honor our traditions of courtesy and civility. When Senators are not bollixing up the proceedings, the floor staff facilitates the business of the Senate.

They are the unseen and unrecognized teachers for new Senators. They help guide all of us through Senate consideration and voting on every measure that comes before this body.

She leaves the Senate having started as a legislative correspondent and having risen to become the Secretary of the Majority of the U.S. Senate.

Through the decade of the 1990s and this first decade of the new century, as the assistant secretary and now secretary, it has been this woman from Louisiana who has helped guide the Senate. We each, Senators on both sides of the aisle, owe her our gratitude. She is a professional who helps set the right tone for all of us—Senators, staff, and pages.

The young people, high school students from around the country, who continue their studies while serving as Senate pages for a semester or a summer are another group of beneficiaries of Lula's tutelage. She is a tough but fair taskmaster. Democratic pages learn that every job, no matter how small, needs to be done right.

They learn lessons that will serve them throughout their lives. She has been a mentor, friend and role model to hundreds of youngsters from around the country over the years. At the end of their tour of duty, they appreciate what she has given them and, I hope, share her respect for the Senate.

She has never failed to fulfill her duties as she has steadfastly served with a succession of Democratic leaders. In truth, she has served not just the Democratic Senate caucus but the Senate and the country.

I will miss Lula Davis and wanted to say how much I appreciate all she has done for each of us.

AMERICA COMPETES REAUTHORIZATION ACT

Mr. BINGAMAN. Madam President, last Friday the Senate in an act of bipartisanship reauthorized the America COMPETES Act, which was first signed into law August 9, 2007. It did so this time under unanimous consent; the last time it took 3 days of debate. I would like to note that this reauthorization continues the strong tradition

of bipartisanship which augurs well for the ability of our Nation to conduct cutting edge research while innovating and competing in our global economy. In a time of concern about our budget deficit, the passing of this act by unanimous consent is an acknowledgment by the Senate as a whole that tax dollars spent on these topics is money well spent.

But behind that simple act of unanimous consent laid almost 2 years of hard work at the staff and Member level in the Senate.

First and foremost, I would like to acknowledge the leadership of Senator LAMAR ALEXANDER. Senator ALEXANDER worked with members of his Republican caucus to ensure their views were incorporated into this bill. He has kept his unwavering belief that the strength of our Nation, its ability to proposer and create good paying jobs, rests on the investment we make in educating our children in science and education, conducting research at universities and laboratories and using a well educated workforce to promote innovation in our global economy.

The America COMPETES Act involved the work of three Senate committees: the Senate Commerce, Science and Transportation Committee; the Senate Committee on Health Education, Labor and Pensions, HELP; and the Senate Energy and Natural Resources Committee. As before, Matt Sonnesyn, who participated in the last America COMPETES effort provided a stable and steady push to keep the bill on track. In the Commerce Committee, Ann Zulkosky on Senator ROCKEFELLER's staff worked long hours through a markup and subsequent staff drafts of the bill while at the same time managing to reauthorize NASA. Maryam Khan and Hugh Derr on Senator Hutchinson's staff worked with Ann throughout this time; Robin Juliano on Senator HARKIN's staff on the HELP committee worked with Christopher Eyler on Senator ENZI's HELP staff to ensure education programs were updated where appropriate; Jonathan Epstein on my Energy Committee staff worked tirelessly, as he did on the original bill, and along with Isaac Edwards on Senator MURKOWSKI's Energy Committee staff worked through energy programs and updated them to account for changes since the last COMPETES Act.

There are other important staff I would like to acknowledge who made this effort in the Senate a success: David Cleary on the HELP Committee, Adam Rondinone and Neena Imam in Senator ALEXANDER's personal office, Ann Begeman, Senator Hutchinson's Commerce Committee Staff Director, Ellen Doneski, staff director for the majority and Chris Martin, Andrew Ruffin, Bruce Andrews, and Brian Hendricks of the Commerce Committee; Trudy Vincent, my legislative director

and Peter Zamora, my education counsel; Robyn Hiestand on the Budget Committee, Rachel Sotsky in Senator LIEBERMAN's personal office, Lula Davis, the secretary for the majority, Tim Mitchell on Senator REID's floor staff, Laura Dove the assistant secretary for the minority and Bob Simon, my Energy Committee staff director. Finally, I need to give a special thanks to the legislative counsels who worked with staff to accurately draft the bill—Lloyd Ator on the Commerce Committee, Amy Gaynor who drafted the HELP Committee text and Gary Endicott who drafted the Energy Committee text.

As you can see, the America COMPETES Act involved a large number of bipartisan staff, all working together for the common goal of promoting the ability of our nation to compete in a global economy. I am grateful to all of the them for their hard work.

I am also delighted that today, December 21, the House of Representatives passed this bill as well.

CONFIRMATION OF ALBERT DIAZ

Mr. CARDIN. Madam President, I am pleased the Senate has confirmed the nomination of Albert Diaz of North Carolina to be a U.S. circuit judge for the Fourth Circuit.

Judge Diaz is strongly supported by his home State Senators, Senators HAGAN and BURR, and he received the highest possible rating of "well qualified" from the American Bar Association's rating committee. The process Senators HAGAN and BURR used to recommend these nominations to the President—working in a bipartisan fashion with each other and the White House—is a model for how we can improve the judicial selection and confirmation process going forward.

I chaired the confirmation hearing for Judge Diaz in December 2009, and in January 2010 the Judiciary Committee unanimously approved his nomination by a 19-0 vote.

I am disappointed that it has taken the Senate almost a full year to take final action on this nomination.

I take a special interest in the Fourth Circuit, as it includes my home State of Maryland. When President Bush was in office, in May 2008 I chaired the confirmation hearing for Justice Steven Agee, who served on the Virginia Supreme Court and was confirmed to be a U.S. circuit judge for the Fourth Circuit. Since President Obama has taken office, in April 2009 I chaired the confirmation hearing for Judge Andre Davis of Maryland, a Federal district judge in Baltimore, who was confirmed last year to be a judge on the Fourth Circuit. In October 2009, I chaired the confirmation hearing of Justice Barbara Keenan of Virginia, who had served on the Virginia Supreme Court and was confirmed in

March of this year by the Senate. Finally, in December 2009, I chaired the confirmation hearing of James Wynn of North Carolina, who had served as an associate judge of the North Carolina Court of Appeals, and was confirmed by the Senate in August 2010.

I mention these nominations by way of background for my colleagues, because the Fourth Circuit has had one of the highest vacancy rates in the country. When I came to the Senate in 2007, out of the 15 seats authorized by Congress, 5 of the seats of the Fourth Circuit were vacant. That means that one-third of the court's seats were vacant. Our circuit courts of appeals are the final word for most of our civil and criminal litigants, as the Supreme Court only accepts a handful of cases.

We should also be working to increase the diversity of the judges of the Fourth Circuit. The Fourth Circuit is one of the most diverse circuits in the Nation, according to the most recent Census estimates. In terms of the Fourth Circuit—which consists of Maryland, Virginia, West Virginia, North Carolina and South Carolina—22 percent of the residents are African American. In my home State of Maryland, African Americans constitute 30 percent of the population. By way of comparison, the U.S. population is 12 percent African American.

Ironically, the judges on the Fourth Circuit have not historically been known for their diversity. The first woman to sit on the Fourth Circuit was not appointed until 1992. The first African American to sit on the Fourth Circuit was not appointed until 2001.

In recent years I am pleased that the Fourth Circuit has indeed become more diverse and representative of the population it oversees. The Senate took another important step forward to increase diversity on the Fourth Circuit with the confirmation of Judge James Wynn before our August recess. I am pleased that 4 out of the 15 judges on the Fourth Circuit—about one-quarter of the court—are now African American. And I am also pleased that in 2007, for the first time in history, a woman served as chief judge of the Fourth Circuit. Until a vacancy occurred last year, women made up 3 out of the 15 judges on the Fourth Circuit, or one-fifth of the court. I look forward to further increasing the diversity of the Fourth Circuit in the future.

With the nomination of Judge Diaz, the Senate has another opportunity to increase diversity on the Fourth Circuit. Judge Diaz is the first Latino judge to ever sit on the Fourth Circuit in its history.

Judge Albert Diaz also comes to the Senate with a broad range of both judicial and legal experience in both the civilian and military court systems.

Judge Diaz currently serves as a special superior court judge for complex business cases, one of only three in North Carolina.

Judge Diaz began his legal career in the U.S. Marine Corps legal services support section, where he served as a prosecutor, defense counsel, and ultimately chief review officer. He then moved to the Navy's Office of the Judge Advocate General, JAG, where he served for 4 years as appellate government counsel handling criminal appeals. Upon entering private practice, Judge Diaz remained in the Marine Corps Reserves, serving over the years as a defense lawyer, trial judge, and appellate judge.

Judge Diaz was the first Latino appointed to the North Carolina Superior Court when he was named as a resident superior court judge in 2001.

I therefore pleased that the Senate has confirmed Judge Diaz, an outstanding nominee who enjoys bipartisan support from his home State Senators and a unanimous endorsement from the Judiciary Committee. By confirming Judge Diaz, the Senate takes an important step in bringing the vacancy rate down on the Fourth Circuit, and for the first time in many years the confirmed judges on the Fourth Circuit will be almost up to full strength. Finally, we will have a more diverse bench that better represents the population of this circuit.

DIPLOMACY

Mr. INHOFE. Madam President, today I wish to talk about public diplomacy. I have spent a lot of time in Africa and have built close relationships with many African leaders. As you know, our country's official diplomacy is conducted by the State Department. However, public diplomacy involving people-to-people interaction is equally important for promoting a positive image of America to the world. The United States is admired as a beacon of freedom for oppressed people everywhere. The attacks on the U.S. of 9/11 demonstrate the new challenge we face by the forces of ignorance and intolerance that seek the destruction of our country.

Today I include in the record an insightful essay that I will share with the members of the Senate Foreign Relations Committee about the critical role of public diplomacy in building bridges of good will for the United States. The author is Richard Soudriette, the president of the Center for Diplomacy and Democracy in Colorado Springs, CO. Mr. Soudriette is the founding president of the International Foundation for Electoral Systems, IFES, which has promoted free and fair elections in over 120 countries.

I have a long and personal history with Richard as he was my chief of staff in my office as mayor of Tulsa. Since then, he went on to be the founding president of the International Foundation for Electoral System, IFES, which has promoted free and fair

elections in over 120 countries. Richard and I share the same heart for Africa and the same vision for developing countries around the world; that they continue to move towards self-sufficiency and become thriving economic nations.

His essay discusses public diplomacy at the local level and mentions my home town of Tulsa, OK, as an example of a community that has developed innovative international visitor programs. Public diplomacy is vital to keeping our country safe. The best way to defeat the forces of extremism is to educate people around the globe about America and our values, culture, and people.

I strongly support Richard's work around the world and I ask unanimous consent that the statement by Richard Soudriette be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PUBLIC DIPLOMACY: BUILDING BRIDGES OF UNDERSTANDING

[By Richard W. Soudriette, Center for Diplomacy and Democracy, December 8, 2010]

Ever since the proclamation of the Declaration of Independence in Philadelphia over 200 years ago, America has championed the power of the human spirit. Across the globe, America is a beacon of freedom that gives hope to people living under oppression.

Our country faces many challenges never envisioned by the Founding Fathers in 1776. The deadly attacks on America that occurred on September 11, 2001 revealed that extremist elements seek to destroy America and all that it symbolizes. Al-Qaeda and their cohorts are dedicated to the eradication of human rights and democracy. Islamic extremists do a great injustice to Muslims who reject the extremist philosophy of hatred, ignorance, and intolerance.

Defeating the forces of extremism will require more than military power. It also will require tenacious public diplomacy to educate people from Muslim countries, as well as elsewhere, about America.

Public diplomacy is a term that was coined by respected career U.S. diplomat, Edmund Gullion, who also served as dean of the Fletcher School at Tufts University. Ambassador Gullion described public diplomacy as the way sovereign nations openly and transparently communicate their ideas, culture, and values to people of other countries.

Public diplomacy has become an essential component of U.S. foreign policy. The Obama Administration has sought increases in public diplomacy funding. The current Under Secretary of State for Public Diplomacy and Public Affairs, Judith McHale, recently unveiled "The Strategic Plan for Public Diplomacy for America in the 21st Century."

Despite bipartisan support for public diplomacy, the image of the U.S. continues to lose ground in many parts of the globe. Our image problem in many countries is documented by the work of the Pew Charitable Trusts Global Image Project. Some respected organizations such as the Council on Foreign Relations have focused on the failings of our public diplomacy apparatus. The morphing of the United States Information Agency into the State Department during the Clinton Administration is identified as a major cause for deficiencies in our public diplomacy efforts. The Council on Foreign Rela-

tions has offered recommendations to the State Department to fix our public diplomacy, but these will require time and funding to implement.

The State Department already has the means to improve our public diplomacy outreach to the world. For example, the State Department should make certain that ambassadors and foreign service officers are fully briefed on the State Department's public diplomacy strategic plan before they are posted abroad. Also, it should be made clear that a major part of their duties will be to assist the Secretary of State in implementing the plan.

Foreign service officers provide an immediate opportunity for the U.S. to engage in effective public diplomacy. In 2008, the United States Advisory Commission on Public Diplomacy issued a report entitled "Getting the People Part Right: A Report on the Human Resources Dimension of Public Diplomacy." This report highlights the public diplomacy void that has existed since 1999 when the United States Information Agency was eliminated and its functions were merged into the State Department. The report states that most foreign service officers fail to grasp the importance of public diplomacy, and at best, they merely pay lip service to it. The report also discusses the lack of recruitment of U.S. diplomats with the appropriate people skills for public diplomacy. The report cites the need for more training for our diplomats so that they might have the knowledge and the skills to effectively interact with people from other countries.

Newly hired foreign service officers frequently work at U.S. Consulates processing visa applications for persons wishing to travel to the U.S. This is a high stress job and it demands that they possess strong interpersonal skills. While serving as the director of the Peace Corps program in the Dominican Republic, I frequently heard anecdotes from Dominicans who had received rude treatment when seeking visas at the U.S. Consulate. While the visa application process requires extensive screening, all visa applicants should receive prompt and courteous service. U.S. diplomats who engage in arrogant behavior towards visa applicants create ill will and plant seeds of hatred towards America.

Another aspect of public diplomacy that needs attention is the manner in which officers of the Bureau of Customs and Border Protection receive and process arriving international visitors. Since the events of 2001, the work of Customs and Border Protection officers has become more stressful and challenging. While most officers perform well, there are some who do not receive international visitors with courtesy. Customs and Border Protection officers play a huge public diplomacy role. When officers are surly, they offend international visitors to the United States.

The Bureau of Customs and Border Protection should incorporate customer service training into its curriculum for all personnel. When developing this training, it would be wise to tap the experience of companies like the Disney Corporation which has a track record of receiving throngs of people with respect and courtesy. Courteous treatment upon arrival in our Nation can pay dividends by promoting a positive image of the United States.

The State Department and the U.S. Agency for International Development (USAID) can achieve immediate impact in public diplomacy by requiring all contractors and grantees to incorporate public diplomacy aspects into their work. USAID utilizes many

for-profit and not-for-profit organizations to provide services in areas such as democracy, economic development, governance, health, public works, and rule of law. All organizations that undertake work abroad on behalf of USAID have an important public diplomacy responsibility.

USAID should require grantees and contractors, whenever feasible, to hire project managers who speak the language of the country where they are working. Personnel working abroad on USAID funded projects should undergo orientation training about local culture and customs.

International visitor programs play a key role in successful public diplomacy. For nearly sixty years, the State Department has funded visits by thousands of international visitors to acquaint them with our country. Often, these visitors eventually become leaders in their countries. The President of France, Nicolas Sarkozy, traveled to the U.S. in 1985 on a State Department sponsored trip. Today he is regarded as one of the most pro-U.S. leaders in France.

The State Department's Bureau of Educational and Cultural Affairs funds most of the government sponsored international visitor and scholarship programs. The bureau has rules in place stipulating that prime contractors and grantees for State Department funds must be in existence for a minimum of four years. These rules stifle innovative programming by new organizations and inhibit the ability of community based groups beyond the Capital Beltway to access funding.

For most international visitor programs, the State Department contracts with the same large East Coast organizations. These organizations rely on a patchwork of community based groups across the U.S. to organize meaningful professional, educational, and cultural programs for international visitors. Unfortunately, these East Coast organizations pass on very little, if any, funding to communities that have agreed to receive international visitors. Hosting of international visitors relies on local volunteers and in-kind support. The lack of financial resources at the local level results in a huge disparity in the quality of programming that international visitors receive.

Some communities like Tulsa, Oklahoma do a superb job in organizing and managing international visitor programs. Since 1995, the Tulsa Global Alliance has provided excellent programs in this area. Tulsa has developed an organizational model that relies on a mix of professional and volunteer support. The Tulsa program has been successful in developing a broad funding base that provides more than \$400,000 per year for international visitor activities. Funding comes from corporations, individual donors, foundations, program fees, and limited grants from the State Department.

It is recommended that the State Department modify its rules for funding international visitor programs. Contracts for large organizations should require that they provide grants of at least 25 percent of their total project budgets to be passed on to international visitor committees at the local level. This funding will help provide needed resources to ensure that high quality programs are offered to international visitors. The public diplomacy implications of these international visitor programs are too important not to have sufficient funding.

The Bureau of Educational and Cultural Affairs of the State Department should give priority to funding small and newly established organizations engaged in international visitor programs. The Bureau

should be encouraged to make available up to 25 percent of its budget for international visitor programs to small and newly established organizations. This new approach would open the door for communities across America to develop their own capacity to implement high quality international visitor programs. The end goal would be that each international visitor would have a fulfilling experience in the U.S.

The security of America and the future of our democracy demand more commitment to public diplomacy. To keep America safe and to protect our values, ideals, and principles, we must build bridges of understanding with people across the globe.

ADDITIONAL STATEMENTS

MISSOURI 2009 MALCOLM BALDRIGE AWARD RECIPIENTS

• Mrs. McCASKILL. Madam President, I think that every Senator is understandably proud of their own State, but today I have special reason to be proud of Missouri. Just last week, Vice President BIDEN awarded the 2009 Malcolm Baldrige National Quality Awards to five different companies and three of those five companies hailed from the great State of Missouri. The Baldrige Award recognizes only the highest performing companies in the U.S. in terms of quality and performance, and the fact that three out of the five awards went to Missouri companies is a testament to the spirit and work ethics of Missourians.

Heartland Health is a health system based in St. Joseph, MO, that has an extraordinary commitment to improving their patients' health rather than just treating patients' sicknesses, as is all too often seen in the healthcare community. The staff at Heartland Health recognizes that while providing world-class treatment for acute illnesses is vital, it is equally important to understand why individuals become ill, and they do everything possible to prevent those patients from ever needing hospital care in the first place. Their mission is: "To improve the health of individuals and communities located in the Heartland Health region and provide the right care, at the right time, in the right place, at the right cost with outcomes second to none." This is not just a catchy slogan, but instead it is a commitment that has yielded results. Heartland Health is among the top 15 percent of all U.S. hospitals in patient safety; they have achieved 90 percent patient satisfaction, and they have done all this while at the same time saving millions of dollars by realizing efficiencies. As our entire country struggles with providing quality healthcare at affordable prices, I invite anyone to visit the "Show Me" State, where Heartland Health stands as an example for how a commitment to quality can yield the best care available affordably. They have been appropriately recognized with the Malcolm

Baldrige National Quality Award, joining a select group of companies that are the best of the best, and I applaud Heartland Health and all of the great men and women who make up its team for their achievement and their work.

Honeywell Federal Manufacturing & Technologies in Kansas City, MO, plays an integral role in the underappreciated work of keeping our Nation's nuclear arsenal in working order. The Kansas City Plant works to provide the National Nuclear Security Administration with electrical, mechanical and material components manufactured to exacting quality specifications to help meet key national security objectives. Honeywell Federal Manufacturing & Technologies uses a Six Sigma Plus Continuous Improvement Model and it has resulted in an unmatched level of customer satisfaction. Honeywell has also been a key partner in the transition to the new state-of-the-art Kansas City Responsive Infrastructure, Manufacturing and Sourcing, KCRIMS, facility, which officially broke ground in September. They have been a steward in ensuring safety, quality and efficiency in all areas of their work, especially with respect to the production of the nonnuclear components for the Nation's nuclear weapons with NNSA. Honeywell's outstanding work has also provided an essential foundation for a continued partnership at the new KCRIMS facility and the company's ongoing role as a strong member of the local Kansas City community. I am deeply proud of the work the men and women on the Honeywell team carry out at the Kansas City Plant and of its central importance to our Nation's national security and I could not be more pleased to see them recognized for their work with this preeminent award.

MidwayUSA is a family-owned business located in Columbia, MO, that has been providing shooting, hunting and reloading supplies for over 30 years. The company, started by Larry Potterfield and his wife Brenda, exemplifies the "Made in America" motto by employing hundreds of Missourians who are themselves passionate about hunting and shooting, two activities that are centerpieces of Missouri's rich sportsman culture. The passion of Larry and Brenda shows in the quality of the work of their entire team. MidwayUSA has earned 98 percent customer retention, and a 93 percent customer satisfaction rating, both remarkable achievements. While MidwayUSA has progressed over time from taking orders by mail, then phone, and now via the internet, one thing that has not changed is its mission, "To be the best-run business in America, for the benefit of our Customers." They are doing a great job accomplishing just this. In pursuit of that goal they have become ISO 9000 certified, won the Missouri Quality Award for Performance Excellence, and

now they have been recognized with the 2009 Malcolm Baldrige National Quality Award. In growing from nothing more than a simple idea to one of the leading shooting supply retailers, MidwayUSA has shown what dedication to quality and performance, coupled with building an exceptionally committed, dedicated and skilled workforce, can produce in a business. I would like to congratulate the entire MidwayUSA team on their success.

These three companies, which are not just among Missouri's finest, but, as we now know, among our Nation's very best, have so much to be proud of. They embody the "Show Me" spirit when it comes to showing how a business should operate. Congratulations Heartland Health, Honeywell Federal Manufacturing & Technologies in Kansas City and MidwayUSA on winning the 2009 Malcolm Baldrige National Quality Award. I look forward to seeing what these companies and their employees accomplish next. I know it will be something great.●

TRIBUTE TO DR. ANTHONY CERNERA

● Mr. LIEBERMAN. Madam President, today I recognize the tremendous work of Dr. Anthony Cernera, a good friend and the very accomplished president of Sacred Heart University in Fairfield, CT. After 22 years of distinguished service to the Sacred Heart community, Tony is moving on to pursue new and different opportunities in Catholic education and beyond.

Since 1988, Dr. Cernera has led Sacred Heart with purpose and grace as he helped to fulfill the college's mission of preparing its students to be contributing members of the global community. He expanded this noble mission by increasing the school's reach and the opportunities it offers, all while preserving the rich Catholic intellectual tradition that forms its identity. He helped transform Sacred Heart from a small commuter school serving Fairfield and the neighboring community into a vibrant residential university, introducing new and innovative degree programs and course offerings to keep pace with an ever-changing world. The progress he achieved helped advance a value-driven education that will enrich the lives of all who receive it.

Dr. Cernera embodies the many deeply held values that Sacred Heart espouses. He does not see the world around him for what it is, but instead for what it can be. Where he sees promise, he leads through action. With the creation in 1992 of the Center for Christian-Jewish Understanding of Sacred Heart University, Dr. Cernera has striven for a world of greater interreligious dialogue, understanding and respect. As President of the International Federation of Catholic Universities, a federation of over 200

Catholic educational institutions around the world, Dr. Cernera has led at a global level, spreading the faith and values that define his life's work. In a world too rife with conflict and distrust, he has been a model member of the global community.

Dr. Cernera leaves behind a lasting legacy at Sacred Heart University, with an impact that reaches far beyond the halls on campus and that will touch many lives for a long time to come. I wish him and his wife Ruth my very best as they embark on the next great chapter of their lives.●

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:23 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 3874. An act to amend the Safe Drinking Water Act to reduce lead in drinking water.

H.R. 628. An act to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

H.R. 4973. An act to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

ENROLLED BILLS SIGNED

At 12:27 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1107. An act to enact certain laws relating to public contracts as title 41, United States Code, "Public Contracts".

H.R. 6473. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes.

H.R. 6510. An act to direct the Administrator of General Services to convey a parcel of real property in Houston, Texas, to the Military Museum of Texas, and for other purposes.

H.R. 6533. An act to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

At 12:47 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 118. An act to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 1481. An act to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

ENROLLED BILL SIGNED

At 3:10 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2965. An act to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. INOUE).

At 5:15 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6540. An act to require the Secretary of Defense, in awarding a contract for the KC-X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 5809) to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

At 6:00 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 81) to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

The message also announced that the House agrees to the amendment of the

Senate to the bill (H.R. 1746) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4748) to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes.

The message also announced that pursuant to section 5605 of the Patient Protection and Affordable Care Act (Public Law 111-148), and the order of the House of January 6, 2009, the Speaker appoints the following members on the part of the House of Representatives to the Commission on Key National Indicators: Dr. Stephen Heintz of New York, New York, and Dr. Marta Tienda of Princeton, New Jersey.

The message further announced that pursuant to section 306(k) of the Health Service Act (42 U.S.C. 242k), and the order of the House of January 6, 2009, the Speaker appoints the following member on the part of the House of Representatives to the National Committee on Vital and Health Statistics for a term of 4 years: Dr. Vickie M. Mays of Los Angeles, California.

At 7:09 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 3243. An act to require U.S. Customs and Border Patrol to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to initiate all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

S. 3592. An act to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building".

The message also announced that the House has passed the following bill, with an amendment:

S. 2925. An act to establish a grant program to benefit victims of sex trafficking, and for other purposes.

ENROLLED BILLS SIGNED

At 7:20 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1746. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

H.R. 4748. An act to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border

counternarcotics strategy, and for other purposes.

H.R. 6412. An act to amend title 28, United States Code, to require the Attorney General to share criminal records with State sentencing commissions, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. INOUE).

At 7:49 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

ENROLLED BILLS SIGNED

At 9:05 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 118. An act to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 1481. An act to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

H.R. 81. An act to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation:

Report to accompany S. 2889, a bill to reauthorize the Surface Transportation Board, and for other purposes (Rept. No. 111-380).

Report to accompany S. 3302, a bill to amend title 49, United States Code, to establish new automobile safety standards, make better motor vehicle safety information available to the National Highway Traffic Safety Administration and the public, and for other purposes (Rept. No. 111-381).

Report to accompany S. 3566, a bill to authorize certain maritime programs of the Department of Transportation, and for other purposes (Rept. No. 111-382).

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 1633. A bill to require the Secretary of Homeland Security, in consultation with the Secretary of State, to establish a program to

issue Asia-Pacific Economic Cooperation Business Travel Cards, and for other purposes.

S. 2982. A bill to combat international violence against women and girls.

S. 3798. A bill to authorize appropriations of United States assistance to help eliminate conditions in foreign prisons and other detention facilities that do not meet minimum human standards of health, sanitation, and safety, and for other purposes.

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amendment to the title and with an amended preamble:

S.J. Res. 37. A joint resolution calling upon the President to issue a proclamation recognizing the 35th anniversary of the Helsinki Final Act.

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and with an amended preamble:

S. Con. Res. 71. A concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CARDIN:

S. 4051. A bill to improve, modernize, and clarify the espionage statutes contained in chapter 37 of title 18, United States Code, to promote Federal whistleblower protection statutes and regulations, to deter unauthorized disclosures of classified information, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 619, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S. 3424

At the request of Mr. DURBIN, the names of the Senator from California (Mrs. BOXER) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 3424, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 3914

At the request of Mrs. MURRAY, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 3914, a bill to amend title VIII of the Elementary and Secondary Education Act of 1965 to require the Secretary of Education to complete payments under such title to local educational agencies eligible for such payments within 3 fiscal years.

S.J. RES. 37

At the request of Mr. CARDIN, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S.J. Res. 37, a joint resolution calling upon the President to issue a proclamation recognizing the 35th anniversary of the Helsinki Final Act.

S. CON. RES. 71

At the request of Mr. FEINGOLD, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

S. RES. 680

At the request of Mr. KERRY, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. Res. 680, a resolution supporting international tiger conservation efforts and the upcoming Global Tiger Summit in St. Petersburg, Russia.

AMENDMENT NO. 4851

At the request of Mr. SESSIONS, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 4851 intended to be proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

AMENDMENT NO. 4904

At the request of Mr. CORKER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 4904 proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

AMENDMENT NO. 4913

At the request of Mr. LIEBERMAN, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of amendment No. 4913 intended to be proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CARDIN:

S. 4051. A bill to improve, modernize, and clarify the espionage statutes contained in chapter 37 of title 18, United States Code, to promote Federal whis-

tleblower protection statutes and regulations, to deter unauthorized disclosures of classified information, and for other purposes; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, the current framework concerning the espionage statutes was designed to address classic spy cases involving persons who intended to aid foreign governments and harm the United States. The current framework traces its roots to the Espionage Act of 1917, which made it a crime to disclose defense information during wartime. The basic idea behind the legislation, which was upheld by the U.S. Supreme Court as constitutional in 1919, was to stop citizens from spying or interfering with military actions during World War I. The current framework was formed at a time when intelligence and national security information existed primarily in some tangible form, such as blueprints, photographs, maps, and other documents.

Our Nation, however, has witnessed dramatic changes to nearly every facet of our lives over the last 100 years, including technological advances which have revolutionized our information gathering abilities as well as the mediums utilized to communicate such information. Yet, the basic terms and structure of the espionage statutes have remained relatively unchanged since their inception. Moreover, issues have arisen in the prosecution and defense of criminal cases when the statutes have been applied to persons who may be disclosing classified information for purposes other than to aid a foreign government or to harm the United States. In addition, the statutes contain some terms which are outdated and do not reflect how information is classified by the Executive branch today.

Legal scholars and commentators have criticized the current framework, and over the years, some federal courts have as well. In 2006, after reviewing the many developments in the law and changes in society that had taken place since the enactment of the espionage statutes, one district court judge stated that “the time is ripe for Congress” to reexamine them. *United States v. Rosen*, 445 F. Supp. 2d 602, 646 E.D. Va. 2006, Ellis, J. Nearly 20 years earlier in the *Morison* case, one federal appellate judge stated that “[i]f one thing is clear, it is that the Espionage Act statutes as now broadly drawn are unwieldy and imprecise instruments for prosecuting government ‘leakers’ to the press as opposed to government ‘moles’ in the service of other countries.” That judge also stated that “carefully drawn legislation” was a “better long-term resolution” than judicial intervention. See *United States v. Morison*, 844 F.2d 1057, 1086, 4th Cir. 1988.

As Chairman of the Senate Judiciary’s Terrorism and Homeland Secu-

rity Subcommittee, I chaired a Subcommittee hearing on May 12, 2010, entitled “The Espionage Statutes: A Look Back and A Look Forward.” At that Subcommittee hearing, I questioned a number of witnesses, which included witnesses from academia as well as former officials from the intelligence and law enforcement communities, about how well the espionage statutes have been working. Since that hearing, I have been closely and carefully reviewing these statutes, particularly in the context of recent events. I am now convinced that changes in technology and society, combined with statutory and judicial changes to the law, have rendered some aspects of our espionage laws less effective than they need to be to protect the national security. I also believe that we need to enhance our ability to prosecute spies as well as those who make unauthorized disclosures of classified information if we add to the existing statutes. We don’t need an Official State Secrets Act, and we must be careful not to chill protected First Amendment activities. We do, however, need to do a better job of preventing unauthorized disclosures of classified information that can harm the United States, and at the same time we need to ensure that public debates continue to take place on important national security and foreign policy issues.

As a result, I am introducing the Espionage Statutes Modernization Act, ESMA, of 2010. This legislation makes important improvements to the espionage statutes to make them more effective and relevant in the 21st century. This legislation is narrowly-tailored and balanced, and will enable the government to use a separate criminal statute to prosecute government employees who make unauthorized disclosures of classified information in violation of the nondisclosure agreements they have entered, irrespective of whether they intend to aid a foreign government or harm the United States.

This legislation is not designed to make it easier for the government to prosecute the press, to chill First Amendment freedoms, or to make it more difficult to expose government wrongdoing. In fact, the proposed legislation promotes the use of Federal whistleblower statutes and regulations to report unlawful and other improper conduct. Unauthorized leaks of classified information, however, are harmful to the national security and could endanger lives. Thus, in addition to proposing important refinements to the espionage statutes, this legislation will deter unauthorized leaks of classified information by government employees who knowingly and intentionally violate classified information nondisclosure agreements.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 4051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “The Espionage Statutes Modernization Act of 2010”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) As of 2010, the statutory framework with respect to the espionage statutes is a compilation of statutes that began with Act of June 15, 1917 (40 Stat. 217, chapter 30) (commonly known as the “Espionage Act of 1917”), which targeted classic espionage cases involving persons working on behalf of foreign nations.

(2) The statutory framework was formed at a time when intelligence and national security information existed primarily in a tangible form, such as blueprints, photographs, maps, and other documents.

(3) Since 1917, the United States has witnessed dramatic changes in intelligence and national security information, including technological advances that have revolutionized information gathering abilities as well as the mediums used to communicate such information.

(4) Some of the terms used in the espionage statutes are obsolete and the statutes do not fully take into account the classification levels that apply to national security information in the 21st century.

(5) In addition, the statutory framework was originally designed to address classic espionage cases involving persons working on behalf of foreign nations. However, the national security of the United States could be harmed, and lives may be put at risk, when a Government officer, employee, contractor, or consultant with access to classified information makes an unauthorized disclosure of the classified information, irrespective of whether the Government officer, employee, contractor, or consultant intended to aid a foreign nation or harm the United States.

(6) Federal whistleblower protection statutes and regulations that enable Government officers, employees, contractors, and consultants to report unlawful and improper conduct are appropriate mechanisms for reporting such conduct.

(7) Congress can deter unauthorized disclosures of classified information and thereby protect the national security by—

(A) enacting laws that improve, modernize, and clarify the espionage statutes and make the espionage statutes more relevant and effective in the 21st century in the prosecution of persons working on behalf of foreign powers;

(B) promoting Federal whistleblower protection statutes and regulations to enable Government officers, employees, contractors, or consultants to report unlawful and improper conduct; and

(C) enacting laws that separately punish the unauthorized disclosure of classified information by Government officers, employees, contractors, or consultants who knowingly and intentionally violate a classified information nondisclosure agreement, irrespective of whether the officers, employees, contractors, or consultants intend to aid a foreign power or harm the United States.

SEC. 3. CRIMES.

(a) IN GENERAL.—Chapter 37 of title 18, United States Code, is amended—

(1) in section 793—

(A) in the section heading, by striking “**OR LOSING DEFENSE INFORMATION**” and inserting “**OR, LOSING NATIONAL SECURITY INFORMATION**”;

(B) by striking “the national defense” each place it appears and inserting “national security”;

(C) by striking “foreign nation” each place it appears and inserting “foreign power”;

(D) in subsection (b), by inserting “classified information, or other” before “sketch”;

(E) in subsection (c), by inserting “classified information, or other” before “document”;

(F) in subsection (d), by inserting “classified information, or other” before “document”;

(G) in subsection (e), by inserting “classified information, or other” before “document”;

(H) in subsection (f), by inserting “classified information,” before “document”; and

(I) in subsection (h)(1), by striking “foreign government” and inserting “foreign power”;

(2) in section 794—

(A) in the section heading, by striking “**GATHERING**” and all that follows and inserting “**GATHERING OR DELIVERING NATIONAL SECURITY INFORMATION TO AID FOREIGN POWERS**”; and

(B) in subsection (a)—

(i) by striking “foreign nation” and inserting “foreign power”;

(ii) by striking “foreign government” and inserting “foreign power”;

(iii) by inserting “classified information,” before “document”;

(iv) by striking “the national defense” and inserting “national security”; and

(v) by striking “(as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978)”;

(3) in section 795(a), by striking “national defense” and inserting “national security”;

(4) in section 798—

(A) in subsection (a), by striking “foreign government” each place it appears and inserting “foreign power”; and

(B) in subsection (b)—

(i) by striking the first undesignated paragraph (relating to the term “classified information”); and

(ii) by striking the third undesignated paragraph (relating to the term “foreign government”); and

(5) by adding at the end the following:

“§ 800. Definitions

“In this chapter—

“(1) the term ‘classified information’ has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.);

“(2) the term ‘foreign power’ has the meaning given the term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

“(3) the term ‘national security’ has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of section for chapter 37 of title 18, United States Code, is amended—

(1) by striking the item relating to section 793 and inserting the following:

“793. Gathering, transmitting, or losing national security information.”;

(2) by striking the item relating to section 794 and inserting the following:

“794. Gathering or delivering national security information to aid foreign powers.”;

and

(3) by adding at the end the following:

“800. Definitions.”.

SEC. 4. VIOLATION OF CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT.

(a) IN GENERAL.—Chapter 93 of title 18, United States Code, is amended by adding at the end the following:

“§ 1925. Violation of classified information nondisclosure agreement

“(a) DEFINITIONS.—In this section—

“(1) the term ‘classified information’ has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.); and

“(2) the term ‘covered individual’ means an officer, employee, contractor, or consultant of an agency of the Federal Government who, by virtue of the office, employment, position, or contract held by the individual, knowingly and intentionally agrees to be legally bound by the terms of a classified information nondisclosure agreement.

“(b) OFFENSE.—

“(1) IN GENERAL.—Except as otherwise provided in this section, it shall be unlawful for a covered individual to intentionally disclose, deliver, communicate, or transmit classified information, without the authorization of the head of the Federal agency, or an authorized designee, knowing or having reason to know that the disclosure, delivery, communication, or transmission of the classified information is a violation of the terms of the classified information nondisclosure agreement entered by the covered individual.

“(2) PENALTY.—A covered individual who violates paragraph (1) shall be fined under this title, imprisoned for not more than 5 years, or both.

“(c) WHISTLEBLOWER PROTECTION.—The disclosure, delivery, communication, or transmission of classified information by a covered individual in accordance with a Federal whistleblower protection statute or regulation applicable to the Federal agency of which the covered individual is an officer, employee, contractor, or consultant shall not be a violation of subsection (b)(1).

“(d) REBUTTABLE PRESUMPTION.—For purposes of this section, there shall be a rebuttable presumption that information has been properly classified if the information has been marked as classified information in accordance with Executive Order 12958 (60 Fed. Reg. 19825) or a successor or predecessor to the order.

“(e) DEFENSE OF IMPROPER CLASSIFICATION.—The disclosure, delivery, communication, or transmission of classified information by a covered individual shall not violate subsection (b)(1) if the covered individual proves by clear and convincing evidence that at the time the information was originally classified, no reasonable person with original classification authority under Executive Order 13292 (68 Fed. Reg. 15315), or any successor order, could have identified or described any damage to national security that reasonably could be expected to be caused by the unauthorized disclosure of the information.

“(f) EXTRATERRITORIAL JURISDICTION.—There is jurisdiction over an offense under this section if—

“(1) the offense occurs in whole or in part within the United States;

“(2) regardless of where the offense is committed, the alleged offender is—

“(A) a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)));

“(B) an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))); or

“(C) a stateless person whose habitual residence is in the United States;

“(3) after the offense occurs, the offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States; or

“(4) an offender aids or abets or conspires with any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (b)(1).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 93 of title 18, United States Code, is amended by adding at the end the following:

“1925. Violation of classified information nondisclosure agreement.”.

SEC. 5. DIRECTIVE TO SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission, shall review and, if appropriate, amend the Federal Sentencing Guidelines and policy statements applicable to a person convicted of an offense under section 1925 of title 18, United States Code, as added by this Act.

(b) CONSIDERATIONS.—In carrying out this section, the Sentencing Commission shall ensure that the sentencing guidelines account for all relevant conduct, including—

(1) multiple instances of unauthorized disclosure, delivery, communication, or transmission of the classified information;

(2) the volume of the classified information that was disclosed, delivered, communicated, or transmitted;

(3) the classification level of the classified information;

(4) the harm to the national security of the United States that reasonably could be expected to be caused by the disclosure, delivery, communication, or transmission of the classified information; and

(5) the nature and manner in which the classified information was disclosed, delivered, communicated, or transmitted.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4917. Mr. HARKIN (for Mr. CARDIN (for himself, Mr. VOINOVICH, Ms. CANTWELL, Mrs. MURRAY, and Mr. INHOFE)) proposed an amendment to the bill S. 3481, to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

SA 4918. Mr. CORNYN (for himself and Mr. RISCH) submitted an amendment intended to be proposed to amendment SA 4904 submitted by Mr. CORKER to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table.

SA 4919. Mr. CONRAD (for himself, Mr. BAUCUS, and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 4884 submitted by Mr. BARRASSO (for himself and Mr. ENZI) and intended to be proposed to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

SA 4920. Mr. THUNE (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4917. Mr. HARKIN (for Mr. CARDIN (for himself, Mr. VOINOVICH, Ms. CANT-

WELL, Mrs. MURRAY, and Mr. INHOFE)) proposed an amendment to the bill S. 3481, to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FEDERAL RESPONSIBILITY TO PAY FOR STORMWATER PROGRAMS.

Section 313 of the Federal Water Pollution Control Act (33 U.S.C. 1323) is amended by adding at the end the following:

“(c) REASONABLE SERVICE CHARGES.—

“(1) IN GENERAL.—For the purposes of this Act, reasonable service charges described in subsection (a) include any reasonable nondiscriminatory fee, charge, or assessment that is—

“(A) based on some fair approximation of the proportionate contribution of the property or facility to stormwater pollution (in terms of quantities of pollutants, or volume or rate of stormwater discharge or runoff from the property or facility); and

“(B) used to pay or reimburse the costs associated with any stormwater management program (whether associated with a separate storm sewer system or a sewer system that manages a combination of stormwater and sanitary waste), including the full range of programmatic and structural costs attributable to collecting stormwater, reducing pollutants in stormwater, and reducing the volume and rate of stormwater discharge, regardless of whether that reasonable fee, charge, or assessment is denominated a tax.

“(2) LIMITATION ON ACCOUNTS.—

“(A) LIMITATION.—The payment or reimbursement of any fee, charge, or assessment described in paragraph (1) shall not be made using funds from any permanent authorization account in the Treasury.

“(B) REIMBURSEMENT OR PAYMENT OBLIGATION OF FEDERAL GOVERNMENT.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, as described in subsection (a), shall not be obligated to pay or reimburse any fee, charge, or assessment described in paragraph (1), except to the extent and in an amount provided in advance by any appropriations Act to pay or reimburse the fee, charge, or assessment.”.

SA 4918. Mr. CORNYN (for himself and Mr. RISCH) submitted an amendment intended to be proposed to amendment SA 4904 submitted by Mr. CORKER to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

On page ___ of the amendment, between lines ___ and ___, insert the following:

() PRESIDENTIAL CERTIFICATION REJECTING INTERRELATIONSHIP BETWEEN STRATEGIC OFFENSIVE AND STRATEGIC DEFENSIVE ARMS.—The New START Treaty shall not enter into force until the President certifies to the Senate and notifies the President of the Russian Federation in writing that the President rejects the following recognition stated in the preamble to the New START Treaty: “Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as

strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties”.

() PRESIDENTIAL CERTIFICATION REGARDING ADDITIONAL GROUND-BASED INTERCEPTORS.—The New START Treaty shall not enter into force until the President certifies to the Senate and notifies the President of the Russian Federation in writing that the President intends to continue to improve and modernize the United States ground-based midcourse defense system, including—

(A) two-stage interceptors that could be deployed in Europe if the Iranian ICBM threat emerges before Phases 3 and 4 of the Phased Adaptive Approach are ready; and

(B) three stage ground-based interceptors in the United States, including additional missiles for testing and emergency deployment, as necessary.

SA 4919. Mr. CONRAD (for himself, Mr. BAUCUS, and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 4884 submitted by Mr. BARRASSO (for himself and Mr. ENZI) and intended to be proposed to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation of Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

On page 2 of the amendment, beginning on line 3, strike “that—” and all that follows through line 7 and insert “that the Department of Defense will maintain not fewer than 450 deployed and non-deployed ICBM launchers silos for the duration of the treaty.”

SA 4920. Mr. THUNE (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to Treaty Doc. 111-5, Treaty between the United States of America and the Russian Federation of Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; which was ordered to lie on the table; as follows:

At the end of subsection (a) of the resolution of ratification, add the following:

(1) RUSSIAN COOPERATION ON IRAN.—(A) In giving its advice and consent to ratification of the New START Treaty, the Senate has accepted and relied upon the representation of President Barack Obama, including the statement on November 18, 2010, that “[t]he New START treaty is also a cornerstone of our relations with Russia” for the reason that “Russia has been fundamental to our efforts to put strong sanctions in place to put pressure on Iran to deal with its nuclear program”. Accordingly, the advice and consent of the Senate to ratification of the New START Treaty is conditioned on the expectation that the Russian Federation will cooperate fully with United States and international efforts to prevent the Government of Iran from developing a nuclear weapons capability.

(B) Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that—

(i) the Russian Federation is in full compliance with all United Nations Security Council Resolutions relating to Iran;

(ii) the Government of the Russian Federation has assured the United States that neither it nor any entity subject to its jurisdiction and control will—

(I) transfer to Iran the S-300 air defense system or other advanced weapons systems or any parts thereof; or

(II) transfer such items to a third party which will in turn transfer such items to Iran;

(iii) the Government of the Russian Federation has assured the United States that neither it nor any entity subject to its jurisdiction and control will transfer to Iran goods, services, or technology that contribute to the advancement of the nuclear or missile programs of the Government of Iran; and

(iv) the Government of the Russian Federation has assured the United States that it will support efforts at the United Nations Security Council and elsewhere to increase political and economic pressure on the Government of Iran to abandon its nuclear weapons program.

(C) Each annual report submitted pursuant to paragraph (10) shall include a certification by the President that between the date the New START Treaty entered into force and December 31, 2011, or, in subsequent reports, during the previous year—

(i) the Russian Federation was in full compliance with all United Nations Security Council Resolutions relating to Iran;

(ii) neither the Government of the Russian Federation nor any entity subject to its jurisdiction and control has, with the knowledge of the Government of the Russian Federation, transferred to Iran the S-300 air defense system or other advanced weapons systems;

(iii) neither the Government of the Russian Federation nor any entity subject to its jurisdiction and control has, with the knowledge of the Government of the Russian Federation, transferred to Iran goods, services, or technology that contribute to the advancement of the nuclear weapons or missile programs of Iran; and

(iv) the Russian Federation has supported efforts at the United Nations Security Council and elsewhere to increase political and economic pressure on the Government of Iran to abandon its nuclear weapons program, and has not sought to weaken initiatives aimed at increasing such pressure.

(D) If in any annual report submitted pursuant to paragraph (10) the President fails to make the certification described in subparagraph (C), then the President shall—

(i) consult with the Senate regarding the implications of the Russian Federation's actions for the national security interests of the United States;

(ii) seek on an urgent basis a meeting with the Russian Federation at the highest diplomatic level with the objective of persuading the Russian Federation to fully support United States and international efforts to prevent the Government of Iran from developing a nuclear weapons capability; and

(iii) submit a report to the Senate promptly thereafter, detailing—

(I) whether adherence to the New START Treaty remains in the national security interests of the United States; and

(II) how the United States will redress the impact of the actions of the Russian Federation on the national security interests of the United States.

At the end of subsection(c), add the following:

(14) RUSSIAN COOPERATION ON IRAN.—It is the sense of the Senate that failure by the

Russian Federation to cooperate with United States and international efforts to prevent Iran from developing a nuclear weapons capability would lead to an increased threat to the United States and its allies, undermining the long-term foundation of the New START Treaty.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. CASEY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 21, 2010 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. KERRY. Madam President, I ask unanimous consent to proceed as in legislative session and as in morning business to process some cleared legislative items.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL WATER POLLUTION CONTROL ACT

Mr. HARKIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 715, S. 3481.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3481) to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Madam President, I ask unanimous consent that a Cardin amendment, which is at the desk, be agreed to, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD, as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4917) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. FEDERAL RESPONSIBILITY TO PAY FOR STORMWATER PROGRAMS.

Section 313 of the Federal Water Pollution Control Act (33 U.S.C. 1323) is amended by adding at the end the following:

“(C) REASONABLE SERVICE CHARGES.—

“(1) IN GENERAL.—For the purposes of this Act, reasonable service charges described in subsection (a) include any reasonable non-discriminatory fee, charge, or assessment that is—

“(A) based on some fair approximation of the proportionate contribution of the property or facility to stormwater pollution (in terms of quantities of pollutants, or volume

or rate of stormwater discharge or runoff from the property or facility); and

“(B) used to pay or reimburse the costs associated with any stormwater management program (whether associated with a separate storm sewer system or a sewer system that manages a combination of stormwater and sanitary waste), including the full range of programmatic and structural costs attributable to collecting stormwater, reducing pollutants in stormwater, and reducing the volume and rate of stormwater discharge, regardless of whether that reasonable fee, charge, or assessment is denominated a tax.

“(2) LIMITATION ON ACCOUNTS.—

“(A) LIMITATION.—The payment or reimbursement of any fee, charge, or assessment described in paragraph (1) shall not be made using funds from any permanent authorization account in the Treasury.

“(B) REIMBURSEMENT OR PAYMENT OBLIGATION OF FEDERAL GOVERNMENT.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, as described in subsection (a), shall not be obligated to pay or reimburse any fee, charge, or assessment described in paragraph (1), except to the extent and in an amount provided in advance by any appropriations Act to pay or reimburse the fee, charge, or assessment.”.

The bill (S. 3481), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

APPLICATION OF CERTAIN ENERGY EFFICIENCY STANDARDS UNDER THE ENERGY POLICY AND CONSERVATION ACT

Mr. KERRY. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5470, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5470) to exclude an external power supply for certain security or life safety alarms and surveillance system components from the application of certain energy efficiency standards under the Energy Policy and Conservation Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Madam President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5470) was ordered to a third reading, was read the third time, and passed.

INDIAN PUEBLO CULTURAL CENTER CLARIFICATION ACT

Mr. KERRY. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 720, H.R. 4445.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4445) to amend Public Law 95-232 to repeal a restriction on treating as Indian country certain lands held in trust for Indian pueblos in New Mexico.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Madam President, I further ask that the bill be read three times and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4445) was ordered to a third reading, was read the third time, and passed.

AUTHORIZING LEASES OF UP TO 99 YEARS FOR LANDS HELD IN TRUST FOR OHKAY OWINGEH PUEBLO

Mr. KERRY. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 701, S. 3903.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3903) to authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 3903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OHKAY OWINGEH PUEBLO LEASING AUTHORITY.

[(a) AUTHORIZATION FOR 99-YEAR LEASES.—] Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence by inserting “and lands held in trust for Ohkay Owingeh Pueblo” after “of land on the Devils Lake Sioux Reservation.”.

[(b) APPLICATION.—] The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this Act.]

Mr. KERRY. Madam President, I further ask that the committee-reported amendments be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 3903), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OHKAY OWINGEH PUEBLO LEASING AUTHORITY.

Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence by inserting “and lands held in trust for Ohkay Owingeh Pueblo” after “of land on the Devils Lake Sioux Reservation.”.

SIGNING AUTHORITY

Mr. KERRY. Madam President, I ask unanimous consent that Senator WEBB be authorized to sign any duly enrolled bills or joint resolutions beginning December 27 through 11:59 a.m., Monday, January 3, 2011.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, DECEMBER 22, 2010

Mr. LEVIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m., on Wednesday, December 22; that following the prayer

and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to executive session and resume consideration of the New START treaty; and finally, I ask that the time during adjournment or period of morning business count postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LEVIN. Madam President, cloture was invoked on the New START treaty today. We hope we will be able to reach an agreement to yield back some of the postcloture debate time. We will also continue to work on an agreement to consider the 9/11 health legislation and a number of other executive nominations.

We also would hope that we can complete work on the Defense authorization bill tomorrow morning as well, early in the day, hopefully, right around 9 o'clock.

Senators will be notified when any votes are scheduled.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. LEVIN. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 11:05 p.m., adjourned until Wednesday, December 22, 2010, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Tuesday, December 21, 2010:

THE JUDICIARY

BENITA Y. PEARSON, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.
WILLIAM JOSEPH MARTINEZ, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, December 21, 2010*

The House met at 10 a.m. and was called to order by the Speaker.

PRAYER

Monsignor Stephen J. Rossetti, Catholic University of America, Washington, DC, offered the following prayer:

Good and gracious God, as we enter upon this joyous season, we are aware of so much hurt and pain, conflict and violence around the world and even in our own land.

We know that as long as we live in this world, such signs of our fallen humanity will always be with us. We do not pray that it will all magically disappear. However, in this season of grace, we pray that You might be with us in an especially poignant way. May each of us come to know You more deeply, You who are our peace.

May each of us feel and treasure our common human bond with all our sisters and brothers. May we truly know peace on this Earth, and may we offer good will to all.

We make this prayer in Your holy name.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REFLECTING ON THE 111TH CONGRESS

(Mr. MAFFEI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAFFEI. Madam Speaker, I wanted to take a moment to reflect on this 111th Congress and to say how proud I am to have been a part of it. Some may look at the recent election

and say we were off track. But while those showing up to vote may have changed from 2008 to 2010, I and so many of my colleagues stayed true to the people who elected us to change the direction of this country, and we did just that.

From health care to financial reform, the Fair Pay Act to the repeal of Don't Ask, Don't Tell, I do not apologize for our accomplishments. I embrace them.

On a personal note, I have worked on Capitol Hill nearly 12 years, starting as a junior staffer for a Senator and eventually becoming an elected Member of this House. Despite the cynicism about Congress, I have been privileged to work alongside staff and Members dedicated to the public good and furthering this great Republic, often at great personal expense. I thank them, and I will forever be grateful that a shy public school student of modest means from Syracuse, New York, could come here as a Member of this great Congress in this great country.

CONGRATULATING PEPPER PENNINGTON

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, today I would like to extend my sincere appreciation to a dedicated staffer in the office of the Second Congressional District of South Carolina. Pepper Pennington will be leaving the office to become chief of staff for Congressman-elect Daniel Webster of Florida's Eighth Congressional District.

Pepper has done a wonderful job serving the people of South Carolina's Second District since November 2009. As communications director, she has been the main contact between the office and members of the media. Pepper has been dedicated, hardworking, and is a valuable asset to the people of South Carolina. Pepper began her career on Capitol Hill in the Office of Congressman Tom Feeney of Florida and served as communications director for Congressman PAUL BROWN of Georgia.

Pepper is the daughter of Cass and Cindy Pennington. She is a graduate of the University of Florida, and she is a diehard Gator fan. Pepper is engaged to marry Dave Natonski. She is a credit to the people of South Carolina and Florida. I wish her Godspeed. While I am sad to see her leave, I am even more proud to see her achieve such suc-

cess. She will be truly missed in the office, and I wish her all the success in her new position.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

CONGRATULATING THE UCONN WOMEN'S BASKETBALL TEAM

(Mr. COURTNEY asked and was given permission to address the House for 1 minute.)

Mr. COURTNEY. Madam Speaker, on April 6, 2008, something happened that has not happened since—the UConn women's basketball team lost a game. That was almost 1,000 days ago; and since that day, the UConn Women Huskies have been on a streak that may not end for a long time.

UConn's victory this past Sunday was their 88th consecutive win, tying the Division I record set by the UCLA men's team in 1974. Since the streak began, UConn has racked up two national titles for a total of seven. Since the streak began, UConn Coach Geno Auriemma was chosen to lead the 2012 Olympic team. Since the streak began, UConn has had five first team all-Americans and back-to-back Player of the Year winners, Maya Moore and Tina Charles. Maya carries now a 4.0 average and is also the Big East Scholar Athlete of the Year. Since the streak began, UConn has maintained its 100 percent graduation rate for players, demonstrating that athletic achievement and academic excellence are not mutually exclusive.

Tonight the Huskies will play Florida State for a chance to surpass UCLA's record. Good luck to them and congratulations for their amazing success and sterling example for student athletes, both men and women.

THE PARTY'S OVER

(Mr. MCCLINTOCK asked and was given permission to address the House for 1 minute.)

Mr. MCCLINTOCK. Madam Speaker, on November 2, the American people spoke loudly and clearly: stop the spending. Instead of graciously bowing to the public will, the left has embarked upon a frantic lame duck spending spree with a majority that has already been turned out of office by the voters.

First, they exacted another \$136 billion in spending as the price to prevent a devastating tax increase on New Year's Day. They tried—unsuccessfully—to cram through a \$1.1 trillion

omnibus spending bill packed with more than 6,000 earmarks. They are now pressing to continue spending at a rate that exceeds even that of 2010.

Now you could say they're partying like irresponsible teenagers; but even irresponsible teenagers have enough sense to stop trashing the house after the parents have phoned to say they're on their way home. Madam Speaker, the parents are going to be here in 15 days, and I have news for you: The party's over. Go home.

POST-9/11 GI BILL BENEFITS FOR NATIONAL GUARDSMEN

(Mr. ALTMIRE asked and was given permission to address the House for 1 minute.)

Mr. ALTMIRE. Madam Speaker, I rise to congratulate National Guardsmen all across America on the passage of the Post-9/11 Veterans Educational Assistance Improvements Act, which the President will sign into law later this week. Legislation that I introduced in the House last year to allow National Guardsmen to use their title 32 service—which includes homeland security troop support and disaster relief—to qualify for post-9/11 GI Bill benefits is included in the bill we sent to the President last week. Under this bill, 130,000 National Guardsmen who have helped to protect our citizens here at home will now be able to qualify for the GI Bill's many education benefits.

The heroes in America's National Guard, including the 20,000 soldiers and airmen in the Pennsylvania National Guard, provide invaluable service to our country during times of crisis; and thanks to this bill, they too will benefit from the landmark legislation signed into law in 2008.

I stand today to thank America's National Guard for their service and let them know our work is not done in honoring their commitment to our safety and security.

□ 1010

IT'S TIME TO CUT FEDERAL SPENDING

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Madam Speaker, the American people sent a crystal clear message to Washington in November that they are tired of this town's job-killing spending spree. But it appears that our colleagues in the current majority didn't get the message.

As a result, the government funding bill we're going to debate this week continues the record-setting rate of spending passed by the Democrat majority last year. This includes the higher spending for programs that have been bolstered by unnecessary and ineffective stimulus dollars.

Republicans have pledged real spending cuts to get our Nation back to a responsible budget and help create jobs. In fact, we've proposed to cut spending to pre-bailout and pre-stimulus 2008 levels, which would save taxpayers \$100 billion a year.

Madam Speaker, let's listen to the American people and get Federal spending under control.

HONORING JAMES DAVIS FOR HIS GENEROUS CONTRIBUTIONS TO THE COMMUNITY

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Madam Speaker, I rise today in gratitude of the lifetime of generous contributions to Arkansas and its citizens by Jim Davis.

Service was an integral part of Jim's life, serving in the U.S. Army in the Western Pacific and Korea. He continued his passion for his community throughout his life as a gracious contributor who served on several boards and commissions and actively volunteered and devoted his time to create a better life for all in Arkansas.

Jim served as the chairman of the Leadership Council and the Arkansas Chapter of the National Federation of Independent Business. Former Governor Mike Huckabee appointed him to the Arkansas State Health Board, the Beverage Control Board, and the Arkansas State Police Commission. He was currently serving as a member of the Arkansas Commission for Veterans Affairs, and he was a proud Shriner and Mason.

After a long, fulfilling life, Jim passed away on December 18, and he will certainly be missed. However, his legacy will live for generations to come because of his generosity.

I ask my colleagues to keep Jim's family and friends in their thoughts and prayers during these difficult times.

THE VOTERS ALWAYS HAVE THE FINAL SAY

(Mr. DJOU asked and was given permission to address the House for 1 minute.)

Mr. DJOU. Madam Speaker, I rise to address this House for what will likely be my last formal address from this floor.

While my term has been short, it has been an honor and privilege representing the people of Hawaii. It is testimony to the greatness of our Nation that a child of immigrants from China and Thailand can call himself a maker of laws in the United States.

I want to first thank the voters of Hawaii for giving me this opportunity to serve them, but I also want to thank all the volunteers who worked so hard

to get me here. But most of all, I want to thank my family for giving me everything that I have.

I believe that a limited government is better at establishing prosperity than an expansive government. I believe that a vibrant two-party democracy is better at preserving liberty than one-party monolithic rule. And I believe that open and responsive public officials are better at ensuring an accountable government than an old boy network.

But I also believe one of the beauties of our Nation is that the voters always have the final say. And while I may be disappointed in my results, I recognize that my views are in the minority in my congressional district. Yielding to the final word of the voters is something that I always will respect.

May God bless this House and may God bless the United States of America.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 6412. An act to amend title 28, United States Code, to require the Attorney General to share criminal records with State sentencing commissions, and for other purposes.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 81. An act to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

H.R. 1746. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

H.R. 4748. An act to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Ms. BALDWIN) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 17, 2010.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC

DEAR MADAM SPEAKER: Pursuant to the permission granted in clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 17, 2010 at 8:40 p.m.:

That the Senate passed H.J. Res. 105.

With best wishes, I am
Sincerely,

LORRAINE C. MILLER.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 18, 2010.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 18, 2010 at 3:54 p.m.:

That the Senate concur in House amendment to Senate amendment H.R. 2965.

With best wishes, I am
Sincerely,

LORRAINE C. MILLER.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 20, 2010.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 20, 2010 at 9:49 a.m.:

That the Senate S. 118.

That the Senate passed with amendments H.R. 4915.

That the Senate passed without amendment H.R. 6510.

That the Senate passed without amendment H.R. 6473.

That the Senate passed without amendment H.R. 6533.

That the Senate passed without amendment H. Con. Res. 335.

With best wishes, I am
Sincerely,

LORRAINE C. MILLER.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 20, 2010.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following mes-

sage from the Secretary of the Senate on December 20, 2010 at 3 p.m.:

That the Senate passed with amendments H.R. 2751.

With best wishes, I am
Sincerely,

LORRAINE C. MILLER.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the following joint resolution was signed by the Speaker on Friday, December 17, 2010:

H.J. Res. 105, making further continuing appropriations for fiscal year 2011, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

SHARK CONSERVATION ACT OF 2010

Ms. BORDALLO. Madam Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 81) to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—SHARK CONSERVATION ACT OF 2010

Sec. 101. Short title.

Sec. 102. Amendment of the High Seas Driftnet Fishing Moratorium Protection Act.

Sec. 103. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.

Sec. 104. Offset of implementation cost.

TITLE II—INTERNATIONAL FISHERIES AGREEMENT

Sec. 201. Short title.

Sec. 202. International Fishery Agreement.

Sec. 203. Application with other laws.

Sec. 204. Effective date.

TITLE III—MISCELLANEOUS

Sec. 301. Technical corrections to the Western and Central Pacific Fisheries Convention Implementation Act.

Sec. 302. Pacific Whiting Act of 2006.

Sec. 303. Replacement vessel.

TITLE I—SHARK CONSERVATION ACT OF 2010

SEC. 101. SHORT TITLE.

This title may be cited as the “Shark Conservation Act of 2010”.

SEC. 102. AMENDMENT OF HIGH SEAS DRIFTNET FISHING MORATORIUM PROTECTION ACT.

(a) ACTIONS TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.—Section 608 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking “and” at the end;

(B) in subparagraph (E), by inserting “and” after the semicolon; and

(C) by adding at the end the following:

“(F) to adopt shark conservation measures, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea;”;

(2) in paragraph (2), by striking “and” at the end;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

“(3) seeking to enter into international agreements that require measures for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that are comparable to those of the United States, taking into account different conditions; and”.

(b) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.—Subparagraph (A) of section 609(e)(3) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j(e)(3)) is amended—

(1) by striking the “and” before “bycatch reduction requirements”; and

(2) by striking the semicolon at the end and inserting “, and shark conservation measures;”.

(c) EQUIVALENT CONSERVATION MEASURES.—

(1) IDENTIFICATION.—Subsection (a) of section 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k) is amended—

(A) in the matter preceding paragraph (1), by striking “607, a nation if—” and inserting “607—”;

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(ii) by moving clauses (i) and (ii) (as so redesignated) 2 ems to the right;

(C) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(D) by moving subparagraphs (A) through (C) (as so redesignated) 2 ems to the right;

(E) by inserting before subparagraph (A) (as so redesignated) the following:

“(1) a nation if—”;

(F) in subparagraph (C) (as so redesignated) by striking the period at the end and inserting “; and”;

(G) by adding at the end the following:

“(2) a nation if—

“(A) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

“(B) the nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions.”.

(2) **INITIAL IDENTIFICATIONS.**—The Secretary of Commerce shall begin making identifications under paragraph (2) of section 610(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k(a)), as added by paragraph (1)(G), not later than 1 year after the date of the enactment of this Act.

SEC. 103. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

(a) **IN GENERAL.**—Paragraph (1) of section 307 of Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) by amending subparagraph (P) to read as follows:

“(P)(i) to remove any of the fins of a shark (including the tail) at sea;

“(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;

“(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or

“(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;”;

(2) by striking the matter following subparagraph (R) and inserting the following:

“For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph, the term ‘naturally attached’, with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.”.

(b) **SAVINGS CLAUSE.**—

“(1) **IN GENERAL.**—The amendments made by subsection (a) do not apply to an individual engaged in commercial fishing for smooth dogfish (*Mustelus canis*) in that area of the waters of the United States located shoreward of a line drawn in such a manner that each point on it is 50 nautical miles from the baseline of a State from which the territorial sea is measured, if the individual holds a valid State commercial fishing license, unless the total weight of smooth dogfish fins landed or found on board a vessel to which this subsection applies exceeds 12 percent of the total weight of smooth dogfish carcasses landed or found on board.

(2) **DEFINITIONS.**—In this subsection:

(A) **COMMERCIAL FISHING.**—The term “commercial fishing” has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

(B) **STATE.**—The term “State” has the meaning given that term in section 803 of Public Law 103-206 (16 U.S.C. 5102).

SEC. 104. OFFSET OF IMPLEMENTATION COST.

Section 308(a) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(a)) is amended by striking “2012.” and inserting “2010, and \$2,500,000 for each of fiscal years 2011 and 2012.”.

TITLE II—INTERNATIONAL FISHERIES AGREEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the “International Fisheries Agreement Clarification Act”.

SEC. 202. INTERNATIONAL FISHERY AGREEMENT.

Consistent with the intent of provisions of the Magnuson-Stevens Fishery and Conservation

and Management Act relating to international agreements, the Secretary of Commerce and the New England Fishery Management Council may, for the purpose of rebuilding those portions of fish stocks covered by the United States-Canada Transboundary Resource Sharing Understanding on the date of enactment of this Act—

(1) take into account the Understanding and decisions made under that Understanding in the application of section 304(e)(4)(A)(i) of the Act (16 U.S.C. 1854(e)(4)(A)(i));

(2) consider decisions made under that Understanding as “management measures under an international agreement” that “dictate otherwise” for purposes of section 304(e)(4)(A)(ii) of the Act (16 U.S.C. 1854(e)(4)(A)(ii)); and

(3) establish catch levels for those portions of fish stocks within their respective geographic areas covered by the Understanding on the date of enactment of this Act that exceed the catch levels otherwise required under the Northeast Multispecies Fishery Management Plan if—

(A) overfishing is ended immediately;

(B) the fishing mortality level ensures rebuilding within a time period for rebuilding specified taking into account the Understanding pursuant to paragraphs (1) and (2) of this subsection; and

(C) such catch levels are consistent with that Understanding.

SEC. 203. APPLICATION WITH OTHER LAWS.

Nothing in this title shall be construed to amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) or to limit or otherwise alter the authority of the Secretary of Commerce under that Act concerning other species.

SEC. 204. EFFECTIVE DATE.

(a) **IN GENERAL.**—Except as provided in subsection (b), section 202 shall apply with respect to fishing years beginning after April 30, 2010.

(b) **SPECIAL RULE.**—Section 202(3)(B) shall only apply with respect to fishing years beginning after April 30, 2012.

TITLE III—MISCELLANEOUS

SEC. 301. TECHNICAL CORRECTIONS TO THE WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT.

Section 503 of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6902) is amended—

(1) by striking “Management Council and” in subsection (a) and inserting “Management Council, and one of whom shall be the chairman or a member of”;

(2) by striking subsection (c)(1) and inserting the following:

“(1) **EMPLOYMENT STATUS.**—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”; and

(3) by striking subsection (d)(2)(B)(ii) and inserting the following:

“(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”.

SEC. 302. PACIFIC WHITING ACT OF 2006.

(a) **SCIENTIFIC EXPERTS.**—Section 605(a)(1) of the Pacific Whiting Act of 2006 (16 U.S.C. 7004(a)(1)) is amended by striking “at least 6 but not more than 12” inserting “no more than 2”.

(b) **EMPLOYMENT STATUS.**—Section 609(a) of the Pacific Whiting Act of 2006 (16 U.S.C. 7008(a)) is amended to read as follows:

“(a) **EMPLOYMENT STATUS.**—Individuals appointed under section 603, 604, 605, or 606 of this

title, other than officers or employees of the United States Government, shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.”.

SEC. 303. REPLACEMENT VESSEL.

Notwithstanding any other provision of law, the Secretary of Commerce may promulgate regulations that allow for the replacement or rebuilding of a vessel qualified under subsections (a)(7) and (g)(1)(A) of section 219 of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108-447; 188 Stat. 886-891).

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Guam (Ms. BORDALLO) and the gentleman from Washington (Mr. HASTINGS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Guam.

GENERAL LEAVE

Ms. BORDALLO. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Guam?

There was no objection.

□ 1020

Ms. BORDALLO. Madam Speaker, I rise today in strong support of H.R. 81, the Shark Conservation Act of 2009. This bill, which I first introduced more than 3 years ago, reconfirms the original intent of Congress to prevent shark finning by prohibiting the removal of fins at sea, and the possession, transference, or landing of fins which are not naturally attached to the corresponding carcass. This critical conservation measure and enforcement mechanism will help to end the wasteful and abusive practice of shark finning and make us a world leader in shark conservation.

Yesterday, the Senate amended my bill to clarify that certain fish stocks in New England are considered to be managed under an international agreement for purposes of the Magnuson-Stevens Fishery Conservation and Management Act. The bill was also amended to make technical corrections to two international fishery implementation acts to allow proper participation by stakeholders on the respective advisory bodies. Amendments were also made to clarify that the Secretary of Commerce can issue regulations to allow for the replacement of corroding vessels in the non-pollock groundfish fishery.

In addition, the Senate inserted language to exempt one particular fishery from the new requirement to land sharks with their fins naturally attached. While I am not supportive of this particular exemption, I do think it

is important to note that this fishery represents less than 1 percent of all the shark fishing in the United States, and that the restrictions on shark finning currently in the law will still apply to them.

Putting an end to shark finning is imperative to the conservation of these important and iconic species. With that, I ask Members on both sides to support its passage.

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, this legislation takes H.R. 81, the Shark Conservation Act of 2010, which passed this House in March of last year, and adds several other fisheries provisions, all of which I support. My colleague has adequately explained and described what is in this small fisheries package, and I do not object to this legislation. Action by this House will clear these measures for the President. I urge adoption.

Mr. FALEOMAVAEGA. Madam Speaker, I rise in support of H.R. 81, the Shark Conservation Act of 2009. First, I want to commend the chief sponsor, the Chairwoman of the Natural Resources Subcommittee on Insular Affairs, Oceans and Wildlife, and my good friend, Ms. MADELEINE BORDALLO of Guam, for her leadership on this important issue. I also want to commend Chairman NICK RAHALL and members of the Committee on Natural Resources for their strong support of this bipartisan legislation.

This piece of legislation underscores the need for the U.S. to maintain its leadership role in conserving sharks and the marine ecosystems of which they are an important part. The increasing amount of shark finning has taken an adverse impact on our efforts and warrants continued efforts from Congress to reverse these unwanted trends. Economic profits have fueled high demands for shark fins and have led to the exploitation of our marine ecosystem. Exploiters remove only shark fins and dump carcasses at sea. It is Congress' responsibility to maintain prohibition of shark finning in order to preserve the conservation of sharks and their corresponding ecosystems.

Congress enacted the Shark Finning Prohibition of 2000, to prohibit fishermen from removing the fins of sharks and discarding the carcasses at sea, and prevent the transportation of shark fins without the corresponding carcasses. Effective enforcement of these prohibitions are found wanting.

In 2008, the 9th Circuit US Court of Appeals held that the shark finning prohibitions and related implementing regulations promulgated by the National Marine Fisheries Service (NMFS) do not apply to certain vessels even though they are performing fishing-related activities. According to the court ruling, the statutory definition of "fishing vessel" did not offer fair notice to the fishermen engaging in the at-sea purchase and transfer of shark fins that would render the fishermen subject to the shark finning laws. In effect, the court ruled that the application of the prohibition laws under the

Shark Finning Prohibition of 2008 Act violates due process.

The bill before us today, H.R. 81, remedies the problem presented by the 2008 court ruling. The proposed language clarifies that all vessels, not just fishing vessels, are prohibited from having custody, control, or possession of shark fins without the corresponding carcass, thereby eliminating the unexpected loophole related to the transport of shark fins. In addition, the proposed bill would strengthen the capacity of our Federal Government to better monitor and enforce existing laws.

Madam Speaker, it is necessary that we pass this legislation immediately given the devastation confronting our national marine ecosystems. Sharks play an integral role in our ecosystem and it is our responsibility to ensure that they are protected. The future of our ecosystem is in our hands and we need to do all that we can for the sake of our natural resources and for our future generations.

I urge my colleagues to pass H.R. 81.

Mrs. CAPPs. Madam Speaker, I rise today to express my support for H.R. 81, the Shark Conservation Act.

I want to thank Congresswoman BORDALLO for introducing this legislation of which I am a cosponsor.

Shark populations in our world's oceans are dying.

We need to act, and we need to act now.

Sharks are at the top of the global marine food chain. Sharks have roamed our oceans since before the time of dinosaurs, but now their populations are being threatened by overfishing around the globe.

Shark-finning takes a tremendous toll on shark populations.

An estimated 73 million sharks are killed every year to support the global shark fin trade.

We must act decisively today to help protect these magnificent creatures.

The Shark Conservation Act would end the practice of shark finning in U.S. waters.

However, domestic protections alone will not save sharks.

We need further safeguards to keep marine ecosystems and top predator populations healthy. The Shark Conservation Act will bolster the U.S.'s position when negotiating for increased international fishery protections.

Healthy shark populations in our waters can help drive our economy and make our seas thrive.

This bill is not just about preserving a species, but about preserving an ecosystem, an economy, and a sustainable future.

I urge all of my colleagues to vote in support of H.R. 81.

Mr. FARR. Madam Speaker, I rise today in support of the Senate Amendment to H.R. 81, The Shark Conservation Act of 2010. I am pleased that the Senate has taken up and passed this bill with so little time left in the 111th Congress, and I urge my colleagues to follow suit and vote "yes" to the Senate Amendment to H.R. 81 so that we can send this important piece of legislation to the President's desk.

This bill seeks to adopt important and necessary conservation measures for sharks. Specifically, and perhaps most importantly, the bill amends the High Seas Driftnet Fishing

Moratorium Protection Act to prohibit shark-finning. Shark-finning is the removal of any fins of a shark (including the tail), and discarding the carcass of the shark at sea. The practice has egregious effects on shark populations worldwide and the fins remain in high demand for use in "shark fin soup"—an Asian delicacy. It is estimated that 73 million sharks are killed each year as a result of shark-finning. In short, this practice takes a tremendous toll on shark populations.

In addition, many shark species are threatened or endangered, making the conservation measures set forth by this bill timely and necessary. Sharks are one of the top predators in our oceans, and a loss in their population would lead to permanent and detrimental effects on the entire marine environment. The loss of top predators in the marine environment upsets the balance of our oceans, causing severe and sometimes irreversible consequences.

We take so much from our ocean, and yet give nothing back. Protecting and conserving its depleting resources should be a top priority because before long there will be nothing left to take.

For these reasons I urge my colleagues to vote "yes" on the Senate Amendment to H.R. 81.

Mr. HASTINGS of Washington. I yield back the balance of my time.

Ms. BORDALLO. Madam Speaker, in closing, I urge all Members to support this bill.

In our last business before the House for the Natural Resources Committee this year, I would like to thank the gentleman from Washington for his cooperation in this bill, and for all of the opportunities that we have had to work together in this Congress. Moreover, I wish him good luck as the new chairman of the committee next year, and look forward to working with him in the next capacity.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Guam (Ms. BORDALLO) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 81.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

DIESEL EMISSIONS REDUCTION ACT OF 2010

Mr. WAXMAN. Madam Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 5809) to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Diesel Emissions Reduction Act of 2010”.

SEC. 2. DIESEL EMISSIONS REDUCTION PROGRAM.

(a) **DEFINITIONS.**—Section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(C) any private individual or entity that—

“(i) is the owner of record of a diesel vehicle or fleet operated pursuant to a contract, license, or lease with a Federal department or agency or an entity described in subparagraph (A); and

“(ii) meets such timely and appropriate requirements as the Administrator may establish for vehicle use and for notice to and approval by the Federal department or agency or entity described in subparagraph (A) with respect to which the owner has entered into a contract, license, or lease as described in clause (i).”;

(2) in paragraph (4), by inserting “currently, or has not been previously,” after “that is not”;

(3) by striking paragraph (9);

(4) by redesignating paragraph (8) as paragraph (9);

(5) in paragraph (9) (as so redesignated), in the matter preceding subparagraph (A), by striking “, advanced truckstop electrification system,”; and

(6) by inserting after paragraph (7) the following:

“(8) **STATE.**—The term ‘State’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.”.

(b) **NATIONAL GRANT, REBATE, AND LOAN PROGRAMS.**—Section 792 of the Energy Policy Act of 2005 (42 U.S.C. 16132) is amended—

(1) in the section heading, by inserting “, **REBATE**,” after “**GRANT**”;

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities” and inserting “to provide grants, rebates, or low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities, including through contracts entered into under subsection (e) of this section,”; and

(B) in paragraph (1), by striking “tons of”;

(3) in subsection (b)—

(A) by striking paragraph (2);

(B) by redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as so redesignated)—

(i) in subparagraph (A), in the matter preceding clause (i), by striking “90” and inserting “95”;

(ii) in subparagraph (B)(i), by striking “10 percent” and inserting “5 percent”; and

(iii) in subparagraph (B)(ii), by striking “the application under subsection (c)” and inserting “a verification application”;

(4) in subsection (c)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking paragraph (1) and inserting the following:

“(1) **EXPEDITED PROCESS.**—

“(A) **IN GENERAL.**—The Administrator shall develop a simplified application process for all applicants under this section to expedite the provision of funds.

“(B) **REQUIREMENTS.**—In developing the expedited process under subparagraph (A), the Administrator—

“(i) shall take into consideration the special circumstances affecting small fleet owners; and

“(ii) to avoid duplicative procedures, may require applicants to include in an application under this section the results of a competitive bidding process for equipment and installation.

“(2) **ELIGIBILITY.**—

“(A) **GRANTS.**—To be eligible to receive a grant under this section, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

“(B) **REBATES AND LOW-COST LOANS.**—To be eligible to receive a rebate or a low-cost loan under this section, an eligible entity shall submit an application in accordance with such guidance as the Administrator may establish—

“(i) to the Administrator; or

“(ii) to an entity that has entered into a contract under subsection (e).”;

(C) in paragraph (3)(G) (as redesignated by subparagraph (A)), by inserting “in the case of an application relating to nonroad engines or vehicles,” before “a description of the diesel”; and

(D) in paragraph (4) (as redesignated by subparagraph (A))—

(i) in the matter preceding subparagraph (A)—

(I) by inserting “, rebate,” after “grant”; and

(II) by inserting “highest” after “shall give”;

(ii) in subparagraph (C)(ii)—

(I) by striking “a diesel fleets” and inserting “diesel fleets”; and

(II) by inserting “construction sites, schools,” after “terminals.”;

(iii) in subparagraph (E), by adding “and” at the end;

(iv) in subparagraph (F), by striking “; and” and inserting a period; and

(v) by striking subparagraph (G);

(5) in subsection (d)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting “, rebate,” after “grant”; and

(B) in paragraph (2)(A)—

(i) by striking “grant or loan provided” and inserting “grant, rebate, or loan provided, or contract entered into,”; and

(ii) by striking “Federal, State or local law” and inserting “any Federal law, except that this subparagraph shall not apply to a mandate in a State implementation plan approved by the Administrator under the Clean Air Act”; and

(6) by adding at the end the following:

“(e) **CONTRACT PROGRAMS.**—

“(1) **AUTHORITY.**—In addition to the use of contracting authority otherwise available to the Administrator, the Administrator may enter into contracts with eligible contractors described in paragraph (2) for the administration of programs for providing rebates or loans, subject to the requirements of this subtitle.

“(2) **ELIGIBLE CONTRACTORS.**—The Administrator may enter into a contract under this subsection with a for-profit or nonprofit entity that has the capacity—

“(A) to sell diesel vehicles or equipment to, or to arrange financing for, individuals or entities that own a diesel vehicle or fleet; or

“(B) to upgrade diesel vehicles or equipment with verified or Environmental Protection Agency-certified engines or technologies, or to arrange financing for such upgrades.

“(f) **PUBLIC NOTIFICATION.**—Not later than 60 days after the date of the award of a grant, rebate, or loan, the Administrator shall publish on the website of the Environmental Protection Agency—

“(1) for rebates and loans provided to the owner of a diesel vehicle or fleet, the total num-

ber and dollar amount of rebates or loans provided, as well as a breakdown of the technologies funded through the rebates or loans; and

“(2) for other rebates and loans, and for grants, a description of each application for which the grant, rebate, or loan is provided.”.

(c) **STATE GRANT, REBATE, AND LOAN PROGRAMS.**—Section 793 of the Energy Policy Act of 2005 (42 U.S.C. 16133) is amended—

(1) in the section heading, by inserting “, **REBATE**,” after “**GRANT**”;

(2) in subsection (a), by inserting “, rebate,” after “grant”;

(3) in subsection (b)(1), by inserting “, rebate,” after “grant”;

(4) by amending subsection (c)(2) to read as follows:

“(2) **ALLOCATION.**—

“(A) **IN GENERAL.**—Except as provided in subparagraphs (B) and (C), using not more than 20 percent of the funds made available to carry out this subtitle for a fiscal year, the Administrator shall provide to each State qualified for an allocation for the fiscal year an allocation equal to $\frac{1}{53}$ of the funds made available for that fiscal year for distribution to States under this paragraph.

“(B) **CERTAIN TERRITORIES.**—

“(i) **IN GENERAL.**—Except as provided in clause (ii), Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall collectively receive an allocation equal to $\frac{1}{53}$ of the funds made available for that fiscal year for distribution to States under this subsection, divided equally among those 4 States.

“(ii) **EXCEPTION.**—If any State described in clause (i) does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under clause (i) shall be reallocated pursuant to subparagraph (C).

“(C) **REALLOCATION.**—If any State does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under this paragraph shall be reallocated to each remaining qualified State in an amount equal to the product obtained by multiplying—

“(i) the proportion that the population of the State bears to the population of all States described in paragraph (1); by

“(ii) the amount otherwise allocatable to the nonqualifying State under this paragraph.”;

(5) in subsection (d)—

(A) in paragraph (1), by inserting “, rebate,” after “grant”;

(B) in paragraph (2), by inserting “, rebates,” after “grants”;

(C) in paragraph (3), in the matter preceding subparagraph (A), by striking “grant or loan provided under this section may be used” and inserting “grant, rebate, or loan provided under this section shall be used”; and

(D) by adding at the end the following:

“(4) **PRIORITY.**—In providing grants, rebates, and loans under this section, a State shall use the priorities in section 792(c)(4).

“(5) **PUBLIC NOTIFICATION.**—Not later than 60 days after the date of the award of a grant, rebate, or loan by a State, the State shall publish on the Web site of the State—

“(A) for rebates, grants, and loans provided to the owner of a diesel vehicle or fleet, the total number and dollar amount of rebates, grants, or loans provided, as well as a breakdown of the technologies funded through the rebates, grants, or loans; and

“(B) for other rebates, grants, and loans, a description of each application for which the grant, rebate, or loan is provided.”.

(d) **EVALUATION AND REPORT.**—Section 794(b) of the Energy Policy Act of 2005 (42 U.S.C. 16134(b)) is amended—

(1) in each of paragraphs (2) through (5) by inserting “, rebate,” after “grant” each place it appears;

(2) in paragraph (5), by striking “and” at the end;

(3) in paragraph (6), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following new paragraph:

“(7) in the last report sent to Congress before January 1, 2016, an analysis of the need to continue the program, including an assessment of the size of the vehicle and engine fleet that could provide benefits from being retrofit under this program and a description of the number and types of applications that were not granted in the preceding year.”.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—Section 797 of the Energy Policy Act of 2005 (42 U.S.C. 16137) is amended to read as follows:

“SEC. 797. AUTHORIZATION OF APPROPRIATIONS.

“(a) **IN GENERAL.**—There is authorized to be appropriated to carry out this subtitle \$100,000,000 for each of fiscal years 2012 through 2016, to remain available until expended.

“(b) **MANAGEMENT AND OVERSIGHT.**—The Administrator may use not more than 1 percent of the amounts made available under subsection (a) for each fiscal year for management and oversight purposes.”.

SEC. 3. AUDIT.

(a) **IN GENERAL.**—Not later than 360 days after the date of enactment of this Act, the Comptroller General of the United States shall carry out an audit to identify—

(1) all Federal mobile source clean air grant, rebate, or low cost revolving loan programs under the authority of the Administrator of the Environmental Protection Agency, the Secretary of Transportation, or other relevant Federal agency heads that are designed to address diesel emissions from, or reduce diesel fuel usage by, diesel engines and vehicles; and

(2) whether, and to what extent, duplication or overlap among, or gaps between, these Federal mobile source clean air programs exists.

(b) **REPORT.**—The Comptroller General of the United States shall—

(1) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a copy of the audit under subsection (a); and

(2) make a copy of the audit under subsection (a) available on a publicly accessible Internet site.

(c) **OFFSET.**—All unobligated amounts provided to carry out the pilot program under title I of division G of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 814) under the heading “MISCELLANEOUS ITEMS” are rescinded.

SEC. 4. EFFECTIVE DATE.

(a) **GENERAL RULE.**—Except as provided in subsection (b), the amendments made by section 2 shall take effect on October 1, 2011.

(b) **EXCEPTION.**—The amendments made by subsections (a)(4) and (6) and (c)(4) of section 2 shall take effect on the date of enactment of this Act.

Amend the title so as to read: “An Act to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. WAXMAN) and the gentleman from Texas (Mr. BURGESS) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. WAXMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Madam Speaker, I yield myself such time as I may consume.

I urge my colleagues to vote in favor of H.R. 5809, an act to reauthorize the Diesel Emissions Reduction Act, or DERA. Since its enactment in 2005, DERA has provided significant public health benefits, improved our national energy security, and helped create jobs. Today’s bill will authorize the continuation of this successful program for 2012 through 2016. It also slightly modifies the program to improve its effectiveness and administration.

Diesel engines are the workhorses of the economy. They are used to take students to school, to build roads and buildings, and to transport goods over roads, rails, and waterways. Diesel engines have long had a reputation for being dirty, but that reputation is changing. New diesel engines and vehicles must meet tough standards set by the Environmental Protection Agency. However, there are millions of older diesel engines now in use that have very high emissions, causing a number of public health and environmental problems, including premature death. These engines have long useful lives, up to 25 years, so absent incentives to clean them up, we will be suffering from their pollution for a long time.

DERA is designed to use voluntary partnership approaches to reduce pollution from these existing engines and vehicles. DERA authorizes EPA and the States to use loans and grants to help clean up existing dirty diesel engines and vehicles. Today’s bill would also permit EPA to run rebate programs for clean diesel technology.

All 50 States and D.C. have established DERA programs. Today’s bill would allow Puerto Rico, the Virgin Islands, American Samoa, and the Northern Mariana Islands to do the same. DERA projects have included retrofitting schoolbuses to reduce children’s exposure to harmful air pollution, repowering locomotives used at sea-ports to save fuel and reduce emissions in the surrounding neighborhoods, and replacing high-emitting construction equipment. Clean diesel funding has also been used to help small- and medium-sized trucking companies afford clean technologies.

I was pleased to see EPA’s recent action stating a preference for programs for truckers that couple fuel conservation technology with emissions reduction technologies, including anti-idling

technologies, over programs that only have fuel conservation provisions. This approach is consistent with the DERA program as amended by this bill.

DERA is delivering numerous benefits. EPA estimates that every \$1 spent on clean diesel projects generates up to \$13 of public health benefits. DERA also helps reduce our dependence on foreign oil. From projects funded in just the first year of the program, EPA estimates that the country will save more than 3.2 million gallons of fuel annually. This means that truckers and other diesel operators will spend \$8 million less on fuel, and reduce their CO₂ emissions by 35,600 tons per year.

DERA also helps create jobs in the U.S. For every \$500 million spent on diesel retrofit technology, DERA saves or creates on average almost 10,000 jobs. It also has facilitated the development of emerging cleaner technologies.

Given these benefits, it is not surprising that on November 9 a coalition of 538 companies and organizations representing manufacturing and business interests, environmental and health-based organizations, faith and labor groups, and State and local agencies wrote to House members to urge reauthorization of the Diesel Emissions Reduction Act, DERA. This reauthorization of DERA has strong bipartisan support, which has been a hallmark during its enactment and annually during the appropriations process.

Despite the significant benefits from DERA, today’s bill sets the authorization level for 2012 through 2016 at half the level of that for 2007 through 2011. The authorizing level is being reduced so that it is more in line with the levels that are normally appropriated for this program.

□ 1030

It is not an indication that this Congress believes that the need for the program has decreased nor is it an indication that appropriated levels should be decreased. The Diesel Emissions Reduction Act has been a successful program that has widespread support and has produced significant benefits. I hope you will join me today in voting to reauthorize it.

I reserve the balance of my time.

Mr. BURGESS. I yield myself such time as I may consume.

Madam Speaker, it is somewhat ironic that here we are, almost poetic, like a line from a Robert Frost poem: on the shortest evening of the year, here we stand in the darkened wood, two roads diverge in front of us.

This Congress should be over. This Congress should have been over a month ago. But here we still are, continuing to pass legislation that is going to affect the lives of Americans well into this decade. And you have to ask yourself: Why is it that we are here doing this at this time?

Now, the bill before us is not necessarily bad policy. In fact, it was part

of the Energy Policy Act of 2005. I voted in favor of that bill in 2005, and this reauthorizes a segment of it to deal with diesel emission reductions. And, all in all, it has been a good program.

The chairman is right; the amount of appropriations that are being authorized has been reduced from what was originally prescribed under the Energy Policy Act of 2005, and, all in all, that is a good thing. It is attributable to the fact that this has been a successful program and that its need going forward is less than what it was in 2005.

The chairman is also quite correct; diesel engines have a long life. They are a marvel of engineering. I have businesses in my district. Floyd McNeely, in my district in Fort Worth, runs a diesel refurbishing plant where he takes old run-out diesel engines and puts new life into them. Because of Environmental Protection Agency constraints, he can't sell them in this country but actually is able to sell them to countries in Central and South America, and they continue to perform good works, both in trucks and boats and other mechanical applications. Because of the long life of diesel engines, this program is indeed a reasonable one because it does reduce the diesel emissions from those engines that have been in use and provided gainful employment for a long period of time.

I am pleased the authorization was reduced. I am pleased that section 3 of this legislation before us authorizes a General Accounting Office study as to whether or not the authorization is even necessary going forward into the next period of authorization. It is important to make certain that this legislation stays on the right track.

Of course, as with many things in Washington, this legislation is supported by a broad coalition of environmental, science-based, public health, industry, and State and local government groups, all of which stand to benefit from this legislation. The American people, indeed, stand to benefit from this legislation because of the reduced amount of particulate emissions in older diesel engines.

But it still negates the fact that we shouldn't even be here in the first place. This Congress should have died a merciful death after being repudiated by the American people in the last election, and yet here we are, late into December, continuing to enact policies that are going to affect American lives well into this decade and probably decades beyond.

The American people spoke loudly with one voice and with extreme clarity on November 2 of this year. They said: Congress, stop. You've done enough damage. Go home and let us send new people to do the job.

Well, the new people are waiting in the wings, 80 freshmen on my side, ready to take the reins of power. Yet

here we are at the 11th hour continuing to push policy across the floor. Whether it be good or bad policy at this point is not the point. The point is this Congress should have long ago gone home and wrapped up its business.

I reserve the balance of my time.

Mr. WAXMAN. Madam Speaker, we are paid until the end of the year. We are here to do our job. The American people said to work things out on a bipartisan basis. That is what we have done with this legislation.

I am pleased to yield 5 minutes to my good friend from southern California (Ms. RICHARDSON).

Ms. RICHARDSON. Madam Speaker, I rise today in support of the Senate amendments to H.R. 5809, the Senate version of the Diesel Emissions Reduction Act of 2010. As author of H.R. 6482, the House companion to the Senate bill, S. 3973, I urge my colleagues to join me in supporting this legislation.

I would argue that this legislation was not just brought up in the lame duck session. In fact, I have staff members here who worked a great deal of time with the Energy and Commerce Committee to bring forward this very thoughtful legislation. What this legislation will do is create jobs, save lives, and significantly improve the Nation's air quality system.

I wish to thank Chairman WAXMAN and Chairman MARKEY and their staffs for their support and everything they have done to make it possible to bring this bill to the floor. It is important. People's health is important, even today in a lame duck session. I also appreciate the efforts of Senator VOINOVICH and Senator CARPER in shepherding this bill through the Senate.

This legislation reauthorizes and extends DERA for an additional 5 years and includes several important modifications to expand the program and increase eligibility. DERA has proven to be successful, and this is why we are bringing this bill forward today, in reducing diesel emissions by upgrading and modernizing older diesel engines and equipment.

You might ask: Why is this important to me in my particular district and in California and in the Nation? Well, I'll tell you why. Our district is home to the two busiest container ports in the United States: the Port of Los Angeles and the Port of Long Beach. On average, 35,000 trucks commute to and from the ports daily, and by the year 2030 this number is expected to triple.

Those living along freight corridors in my district are already suffering from asthma and cancer rates far above the national average. Air quality improvement and reductions in emissions are vital to the quality of life and health for those who live along the goods movement corridors.

The immediate and long-term benefits of passing the DERA 2010 Act are

substantial, both in my district and in the Nation. Additionally, the Diesel Emissions Reduction Act of 2010 provides economic incentives that all of our State and local governments need right now, with their private fleets that contract with State and local governments, to decrease emissions still while maintaining and expanding their levels of service.

Since DERA was funded back in 2007, more than 3,000 projects nationwide have benefited from this very program. The EPA has estimated that the program averages more than \$13 in savings, yes, savings, in health and economic benefits for every \$1 in funding, and this reauthorization even further emphasizes cost-effective programs. Moreover, projections estimate that nearly 2,000 lives will be saved by 2017 in direct relation to DERA's impact on air quality.

This legislation has been endorsed by leading environmental, health, and transportation organizations who have argued that DERA is an effective program that protects and creates American jobs.

I would like to include in the RECORD a letter supporting this legislation signed by over 500 leading environmental, health, and transportation organizations and companies.

Members in both Chambers and on both sides of the aisle have embraced this legislation. I urge my colleagues to support it again today.

November 9, 2010.

Hon. LAURA RICHARDSON,
House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN RICHARDSON: As a uniquely broad coalition of environmental, science-based, public health, industry, labor and state and local government groups, we are writing in support of efforts to reauthorize the Diesel Emission Reduction Act (DERA), scheduled to expire at the end of fiscal year 2011. The program has been extremely successful in providing cost-effective public health and environmental benefits.

Diesel-powered vehicles and equipment play an important role in the nation's economy and are getting cleaner every day. DERA, originally enacted in 2005 with overwhelming bipartisan support, was designed to reduce emissions from the 20 million existing diesel engines in use today by as much as 90 percent.

Since enactment, DERA has been successful from an economic, environmental and public health perspective, yielding one of the greatest cost-benefit ratios of any federal program, according to the Office of Management and Budget calculations. In a recent Report to Congress on the first year of the DERA program, the Environmental Protection Agency (EPA) estimates that for every dollar spent on the DERA program, an average of more than \$20 in health benefits are generated. Every state in the nation now has a diesel retrofit program and benefits from DERA funding.

As a result of the program's success, DERA benefits from extensive broad-based support. Over 350 diverse companies and organizations from across the country have signed letters in support of DERA. In addition, the U.S.

Conference of Mayors, the National Association of Counties and the National Conference of State Legislatures all adopted policies at their annual meetings this summer calling on Congress to reauthorize the Diesel Emissions Reduction Act. We encourage you to prioritize passage of this successful bipartisan program the next time Congress is in session to ensure continued benefits for all.

We strongly support efforts to reauthorize the program for an additional five years at the current authorized level of funding along with a few modest changes. Changes proposed in draft legislation will make the program more effective by streamlining the grant process, improving EPA's administration, removing outdated language, and ensuring full consideration of the congressional policies and priorities established in the law.

We urge you to support efforts to reauthorize the Diesel Emission Reduction Act (DERA), by cosponsoring legislation once introduced, to ensure the continuation of this widely successful, cost effective program.

Sincerely,

Action for Regional Equity; Action United; AGC of Minnesota; AJC-Palm Beach County Regional Office; Alabama State Port Authority; Alban Tractor Company, Inc.; Albany Port District Commission, Alivio Medical Center; Allied Grape Growers; Almond Hullers & Processors Association; Alternatives for Community and Environment (ACE); Amalgamated Transit Union Local 241; American Association of Port Authorities (AAPA); American Lung Association; American Lung Association in Alabama; American Lung Association in Alaska; American Lung Association in Arizona; American Lung Association in Arkansas; American Lung Association in California; American Lung Association in Colorado.

American Lung Association in Connecticut; American Lung Association in DC; American Lung Association in Delaware; American Lung Association in Florida; American Lung Association in Georgia; American Lung Association in Hawaii; American Lung Association in Idaho; American Lung Association in Illinois; American Lung Association in Indiana; American Lung Association in Iowa; American Lung Association in Kansas; American Lung Association in Kentucky; American Lung Association in Louisiana; American Lung Association in Maine; American Lung Association in Maryland; American Lung Association in Massachusetts; American Lung Association in Michigan; American Lung Association in Minnesota; American Lung Association in Mississippi; American Lung Association in Missouri.

American Lung Association in Montana; American Lung Association in Nebraska; American Lung Association in Nevada; American Lung Association in New Hampshire; American Lung Association in New Jersey; American Lung Association in New Mexico; American Lung Association in New York; American Lung Association in North Carolina; American Lung Association in North Dakota; American Lung Association in Ohio; American Lung Association in Oklahoma; American Lung Association in Oregon; American Lung Association in Pennsylvania; American Lung Association in Rhode Island; American Lung Association in South Carolina; American Lung Association in South Dakota; American Lung Association in Tennessee; American Lung Association in Texas; American Lung Association in Utah; American Lung Association in Vermont; American Lung Association in Virginia.

American Lung Association in Washington; American Lung Association in West Virginia; American Lung Association in Wisconsin; American Lung Association in Wyoming; American Road & Transportation Builders Association; Appalachian Voices; Artic Breeze/Hammond Air Conditioning Limited; Associated California Loggers; Associated Equipment Distributors; Associated General Contractors of America (AGC); Associated General Contractors of Greater Milwaukee; Association of American Railroads; Association of Equipment Manufacturers; Asthma Regional Council; Atlanta Bicycle Coalition; Autotherm Division Enthel Systems Inc.; B.R. Williams, Inc.; Baltimore Nonviolence Center; BASF Catalyst LLC; Baumot North America, LLC.

Bay Area Air Quality Management District; Beaverton Schools Transportation; Beck Bus Transportation; Bell Associates International LLC; Beverly Unitarian Church; Bike Pittsburgh; Bikes Not Bombs; Blue Diamond Growers; Boston Climate Action Network (BostonCAN); Boston Healthy Homes and Schools Collaborative; Brattain International Trucks, Inc.; Breast Cancer Action Coalition; Breathe Clean Air Action Team (BCAAT, Inc.); Brett Hulsey, Dane County; Supervisor, District 4; California Association of Wheat Growers; California Cattleman's Association; California Citrus Mutual; California Cotton Ginners Association; California Cotton Growers Association; California Dairy Campaign; California Farm Bureau Federation; California Grape & Tree Fruit League; California Partnership for the San Joaquin Valley, Air Quality Work Group; California Rice Commission.

California School Transportation Association; California Women for Agriculture; Campbell Maritime, Inc.; Canary Coalition; Capitol Underground, Inc.; Carolina Green Food Service Supply; Cascade Sierra Solutions—Coburg, OR Branch; Cascade Sierra Solutions—Fontana, CA Branch; Cascade Sierra Solutions—National; Cascade Sierra Solutions—Portland, OR Branch; Cascade Sierra Solutions—Sacramento, CA Branch; Cascade Sierra Solutions—Seattle, WA Branch; Catalytic Solutions, Inc.; Caterpillar Inc.; Center for Biological Diversity; Center for the Celebration of Creation (Philadelphia, PA); Central Valley Air Quality Coalition (CVAQ); Charlotte Area Bicycle Alliance.

Charlotte Energy Solutions; Chelsea Board of Health; Chelsea Collaborative, Inc.; Chelsea Creek Action Group; Chelsea Green Space and Recreation Committee; Chesapeake Climate Action Network; Chestnut Ridge Transportation, Inc.; Chicago Area Clean Cities; Childhood Lead Action Project; Citizen Action/Illinois; Citizen Power; Citizens Against Ruining the Environment; Citizens Environmental Coalition; Citizens for Pennsylvania's Future (PennFuture); City of Pittsburgh; City of Westland, Michigan; Claire Advanced Emissions Controls; Clean Air Board of Central Pennsylvania; Clean Air Carolina; Clean Air Council.

Clean Air Partnership; Clean Air Task Force (CATF); Clean Air Watch; Clean Energy Coalition (MI); Clean Fuels Ohio; Clean New York; Clean Water Action—California; Clean Water Action—Chesapeake Region; Clean Water Action—Colorado; Clean Water Action—Connecticut; Clean Water Action—Florida; Clean Water Action—Michigan; Clean Water Action—National; Clean Water Action—Pennsylvania; Clean Water Action—Rhode Island; Clean Water Action—Texas; Clean Water Action Alliance of Massachusetts; Cleveland County Asthma Coalition

(NC); Coalition for Responsible Transportation (CRT); Coalition of Labor, Agriculture and Business—Imperial.

Commuter Challenge; Connecticut Citizen Action Group; Constructors Association of Western Pennsylvania; Consulting for Health, Air, Nature, and a Greener Environment (CHANGE); Consumer Health Coalition; Corning Incorporated; Craufurd Manufacturing, LLC; Cummins Atlantic, LLC; Cummins Bridgeway LLC; Cummins Cal Pacific, LLC; Cummins Crosspoint, LLC; Cummins Inc.; Cummins Mid-South, LLC; Cummins Northeast, LLC; Cummins Northwest, LLC; Cummins NPower LLC; Cummins Power South, LLC; Cummins Power Systems, LLC; Cummins Rocky Mountain, LLC; Cummins Southern Plains, LLC.

Cummins West, Inc.; DC Environmental Network; Dean Transportation; Deere & Company; Dell Transportation; Developing Communities Project; Diesel Technology Forum (DTF); Donaldson Company; Dorchester Environmental Health Coalition (DEHC); Dousman Transport Company, Inc.; Duluth Seaway Port Authority; Durham School Services LLC; E Global Solutions, Inc. (EGS); Earth Day Coalition; Earth Force, Inc.; Earthjustice; East Michigan Environmental Action Council; Eaton Corporation; ECO-Action; Ecology Center.

Ecumenical Ministry of Oregon; Educational Bus Transportation, Inc.; Emissions Control Technology Association (ECTA); Emisstar LLC; EnergyCel; EnergyXtreme; Engine Control Systems Limited; Engine Manufacturers Association (EMA); Environment Maryland; Environment North Carolina; Environment Northeast; Environment Ohio; Environment Oregon; Environment Rhode Island; Environmental Advocates of New York; Environmental Defense Fund; Environmental Health Fund; Environmental Health Watch (OH); Environmental Justice League of Rhode Island; Environmental Justice Partnership.

Environmental Law and Policy Center; Espar Heater Systems; Evangelical Diocese of the Northwest; Farmworker Association of Florida; First Student; FitzGerald Corp.; Foss Maritime Company; Fowler Bus Company, Inc.; Freight Wing Inc.; Fresno County Farm Bureau; Friends of the Earth; Friends of the Moshassuck (RI); GA Women's Actions for New Directions; Georgia Mining Association; Georgia Women's Action for New Directions (GA WAND); Gladstein, Neandross & Associates; Gordon Trucking, Inc.; Great Land Conservation Trust; Greater Four Corners Action Coalition (GFCAC); Greater Lansing Area Clean Cities; Green Communities Coalition.

Green Cycle Group—Northeastern Illinois University; Green Decade Cambridge; Green Medford (Medford, MA); Green Sanctuary Group; GreenLaw; Greenpeace; Groundwork Lawrence; Groundwork Somerville; Group Against Smog and Pollution (Pittsburgh); Growth Through Energy + Community Health (GTECH); Health Resources in Action, Inc.; Healthy Chicago Lawn Coalition; Healthy Schools Campaign; Hendrickson Bus Corporation; Hill District Consensus Group; Howard Brown Health Center; Huntington Breast Cancer Action Coalition; Huntington Coach Corporation; Idle Free Systems Inc.; Illinois Association of School Nurses.

Illinois Environmental Council; Illinois Maternal and Child Health Coalition; Illinois Public Health Association; Illinois Public Interest Research Group (PIRG); Illinois School Transportation Association; Imperial Valley Vegetable Growers Association; Inland Power Group (Butler, WI); Institute for

Local Self-Reliance; InterMotive, Inc.; Inter-religious Eco-Justice Network (Connecticut's Interfaith Power and Light); Jaco Transportation, Inc.; James Ginda, MA, RRT, AE-C, CHES; John Engen, Mayor—Missoula, Montana; Johnson Matthay, Inc.; Kern County Farm Bureau; Kings County Farm Bureau; Kobussen Buses Ltd.; Krapf Bus Companies; KyotoUSA; Lawrence Mayor's Health Task Force; Leadership Council of the Congregation of the Sisters, Servants of the Immaculate Heart of Mary; Leonardo Academy Inc.; Liqtech NA; LivableStreets Alliance.

M & M Bus Service, Inc.; M.A.Turbo/Engine Ltd.; MA Republicans for Environmental Protection; Madeline Island Ferry Line; Madera County Farm Bureau; Makah Tribe; Mankato Area Environmentalists; MANN+HUMMEL; Manufacturers of Emission Controls Association (MECA); Maryland Port Administration—Port of Baltimore; Maryland Public Interest Research Group (PIRG); Massachusetts Climate Action Network; Massachusetts Port Authority; Mattabesek Audubon Society; McHenry Pressure Cleaning Systems; McLean Contracting Company; Mecklenburg County, NC, Board of County Commissioners; Merced County Farm Bureau; Metrolina Biofuels; Metropolitan Mayors Caucus Clean Air Counts Campaign.

Michigan Citizen Action; Michigan Environmental Council; Michigan Infrastructure & Transportation Association; Michigan Interfaith Power and Light; Michigan League of Conservation Voters; Middlesex Clean Air Association; Mid-Ohio Regional Planning Commission (MORPC); Minnesota Center for Environmental Advocacy; Minnesota Clean Water Action Alliance; Minnesota School Bus Operators Association; MIRATECH Corporation; Mississippi State Port Authority; Mobile Bay Audubon Society; Montana Association of Churches; Montana Public Health Association; Mothers & Others for Clean Air (GA); MTU Detroit Diesel Inc.; MV Student Transportation; National Association for Pupil; Transportation (NAPT); National Association of Clean Air Agencies (NACAA); National Association of Counties; National Association of Manufacturers.

National Association of State Directors of Pupil Transportation Services; National Association of Waterfront Employers (NAWE); National Ground Water Association; National School Transportation Association; Natural Resources Council of Maine; Natural Resources Defense Council (NRDC); Navistar, Inc.; NC Conservation Network; NC Pediatric Society; NC WARN; Near Northwest Neighborhood Network; Neighborhood of Affordable Housing (NOAH); Neighborhood Planning Unit H Health Committee; New Jersey Clean Cities Coalition; New Jersey Environmental Federation (State Chapter of Clean Water Action); New York Association for Pupil Transportation; New York Public Interest Research Group (NYPIRG); NGK Automotive Ceramics USA, Inc.; Nine Mile Run Watershed Association; Nisei Farmers League.

North Carolina State Ports Authority; Northeast Ohio Clean Fuels Program; Northeast States for Coordinated Air Use Management (NESCAUM); Northwest Environmental Defense Center; Nose Cone Mfg. Co.; Nuestras Raices; NxtGen Emission Controls USA Inc.; NY Student Xpress; Ocean State Action (RI); Ohio Contractors Association; Ohio Environmental Council; Ohio League of Conservation Voters; Ohio Network for the Chemically Injured; One Less Car; Oregon

Department of Environmental Quality; Oregon Environmental Council; Oregon Interfaith Power and Light; Oregon Physicians for Social Responsibility; Oregon Toxics Alliance; Oregon Trucking Associations; Pace Energy and Climate Center; Pacific Merchant Shipping Association; Pacific Northwest Waterways Association (PNWA); Parallel Housing, Inc.

Pennsylvania Council of Churches; Petermann LTD; Physicians for Social Responsibility—Sacramento; Physicians for Social Responsibility—Tampa Bay; Pierce Coach Line, Inc.; Pilsen Environmental Rights & Reform Organization; Pioneer Valley AFL-CIO; Pioneer Valley Asthma Coalition; Pitt County Memorial Hospital—Pediatric Asthma Program; Pittsburgh Interfaith Impact Network; Pittsburgh Region Clean Cities; Pittsburgh UNITED; Port Authority of New York & New Jersey; Port Everglades; Port of Corpus Christi Authority; Port of Everett; Port of Houston Authority; Port of Long Beach; Port of Los Angeles; Port of Oakland; Port of Pittsburgh Commission.

Port of Portland (OR); Port of San Francisco; Port of Seattle; Port of Tacoma; Portland, CT Clean Energy Task Force; Portland-River Valley Garden Club; Prevention is the Cure, Inc. (Huntington, NY); Progress Michigan; R.I.C.H.T.E.R. Foundation; Rachel Carson Institute; Rachel's Friends Breast Cancer Coalition; Regional Air Pollution Control Agency; Regional Environmental Council of Central Mass; Renewable Energy Long Island (RELI); Republicans for Environmental Protection; Respiratory Health Association of Metropolitan Chicago; Retail Industry Leaders Association; Rhode Island Chapter—Interfaith Power and Light; Rhode Island Chapter of the Sierra Club; Rhode Island Committee on Occupational Safety and Health (RICOSH); Rhode Island Nurses Association; Rhode Island Society for Respiratory Care.

Riteway Bus Service, Inc.; RJ Corman Railroad Group; Robert Bosch LLC; Rolling V Bus Corp.; Rush Truck Center—Abilene (TX); Rush Truck Center—Albuquerque (NM); Rush Truck Center—Alice (TX); Rush Truck Center—Ardmore (OK); Rush Truck Center—Atlanta (GA); Rush Truck Center—Austin (TX); Rush Truck Center—Chandler (AZ); Rush Truck Center—Dallas (TX); Rush Truck Center—Denver (CO); Rush Truck Center—El Centro (CA); Rush Truck Center—El Paso (TX); Rush Truck Center—Escondido (CA); Rush Truck Center—Flagstaff (AZ); Rush Truck Center—Pontana (CA); Rush Truck Center—Fort Worth (TX); Rush Truck Center—Greeley (CO).

Rush Truck Center—Haines City (FL); Rush Truck Center—Houston (TX); Rush Truck Center—Jacksonville (FL); Rush Truck Center—Laredo (TX); Rush Truck Center—Las Cruces (NM); Rush Truck Center—Lufkin (TX); Rush Truck Center—Mobile (AL); Rush Truck Center—Nashville (TN); Rush Truck Center—Oklahoma City (OK); Rush Truck Center—Orlando (FL); Rush Truck Center—Pharr (TX); Rush Truck Center—Phoenix (AZ); Rush Truck Center—Pico Rivera (CA); Rush Truck Center—San Antonio (TX); Rush Truck Center—San Diego (CA); Rush Truck Center—Sealy (TX); Rush Truck Center—Sylmar (CA); Rush Truck Center—Tampa (FL); Rush Truck Center—Texarkana (TX); Rush Truck Center—Tucson (AZ); Rush Truck Center—Tulsa (OK); Rush Truck Center—Tyler (TX); Rush Truck Center—Waco (TX); Rush Truck Center—Winter Garden (FL); Rypos, Inc.

Sacramento Metropolitan Air Quality Management District; San Joaquin Farm Bu-

reau Federation; San Joaquin Valley Air Pollution Control District; San Luis Obispo County Air Pollution Control District; Santa Barbara County Air Pollution Control District; School Bus, Inc.; Science and Environmental Health Network; SD Johnston Engineering Consultants; Service Employees International Union Local 23 BJ; Pittsburgh; Shadowood Technology Inc; Shorepower Technologies; Sierra Club—Allegheny Group; Sierra Club, Atlantic Chapter; Somerville Climate Action; South Carolina Coastal Conservation League; South Carolina State Ports Authority; South Coast Air Quality Management District; South Shore Clean Cities, Inc. (Northern Indiana); Southern Alliance for Clean Energy; Southern Environmental Law Center.

Southwest Detroit—South Dearborn Environmental; Collaborative; Southwest Detroit Clean Diesel Collaborative; Southwest Detroit Community Benefits Coalition; Southwest Detroit Environmental Vision; Spokane Regional Clean Air Agency; Stanislaus County Farm Bureau; Starcrest Consulting Group, LLC; State of Wisconsin Office of Energy Independence; Sunrise Bus Company; Sunrise Southwest, LLC; Sunrise Transportation; Sustainable Conservation; Sustainable Energy Alliance of Long Island; Sustainable Englewood Initiatives; Sustainable Pittsburgh; Tacoma Rail; Tampa Port Authority; Tenneco, Inc.; Tennessee Citizens for Wilderness Planning.

Tennessee Environmental Council; Tennessee Interfaith Power and Light; The Construction Institute; The TransGroup, LLC; Thomas Built Buses, Inc.; Toxics Information Project; Triangle Clean Cities Coalition; Truck Manufacturers Association; Tulare County Farm Bureau; Umicore Autocat USA Inc.; Union County Environmental Health (NC); Union of Concerned Scientists; United Food and Commercial Workers Union Local 23; United Motorcoach Association; United States Chamber of Commerce; University of Maryland for Clean Energy; Utah Clean Cities Coalition; Village of Oak Park, Illinois; Virginia Port Authority; Vision Transportation Services, Inc.; Voices for Earth Justice; Volvo Group North America.

Wake County Asthma Coalition; Washington State Department of Ecology; Western MA Jobs with Justice; Western Massachusetts Coalition for Occupational Safety and Health; Western N.C. Physicians for Social Responsibility; Western States Petroleum Association; Western United Dairymen; WI. Engine Manufacturers & Distributors Alliance; WIH Resource Group; Wisconsin Clean Cities—Southeast Area, Inc.; Women for a Healthy Environment; Women's Voices for the Earth; Yakima Regional Clean Air Agency; Yancey Power Systems; Zeeland Public Schools.

Mr. BURGESS. I yield myself such time as I may consume.

Madam Speaker, I would only point out, certainly I have no objection to working. In fact, in my prior life as a physician I worked many Christmases, many New Years, many Fourth of Julys, Mothers Days, and Veterans Days. But the fact is here we are at the 11th hour, probably on the next to the last day before this Congress dies a merciful death, and here we are passing legislation that, in fact, we have not had a hearing on in our committee. We have not had a markup on this legislation in our committee.

Several of us in the room right now are members of the Energy and Commerce Committee. I argue passionately during our committee hearings and markups that it is probably the committee with the most expertise in the whole United States Congress, and yet we didn't have a hearing to ask the simple question: Okay. We passed this legislation as part of the Energy and Policy Act in August of 2005 when it was signed into law by then President Bush. How has it done? How has it worked out? Has it performed as requested?

I can't argue the fact that this isn't a good proposal. I voted for it in 2005. I suspect it is a good proposal. But wouldn't it have been great to have a hearing, to have a markup? But, instead, we bring this bill to the floor at the 11th hour right before this Congress is to adjourn, thankfully, for the last time, and Members are expected to vote on it up or down. It is a travesty to do things in this way, and I hope things will change for the better in the next Congress.

Ms. MATSUI. Madam Speaker, I rise today in support of legislation that I introduced, along with Congresswoman RICHARDSON, which would reauthorize the Diesel Emissions Reduction Act, DERA, to fund the modernization of diesel engines through retrofits.

Countless studies have shown that diesel emissions are one of the most significant health risks to Americans. More specifically, the Environmental Protection Agency, EPA, has linked these emissions to premature death, aggravation of symptoms associated with asthma, and numerous other health impacts every year.

To address this problem, in 2005, Congress enacted the Diesel Emissions Reduction Act, which established a five-year voluntary national and state-level grant and loan program to reduce diesel emissions, protect public health, and help states meet air quality standards of the Clean Air Act.

Retrofitting diesel engines provides enormous environmental benefits, yet before this program was implemented, there were few direct economic incentives for vehicle and equipment owners to do so. The financial incentives provided by DERA support voluntary rather than regulatory efforts to assist states meet current air quality standards. Reauthorization of this critical program, which cleans up more than 14,000 diesel-powered vehicles and equipment annually, would strengthen our ongoing efforts to reduce pollution, create additional demand for clean diesel technology, and employ thousands of workers who manufacture, sell or repair diesel vehicles and their components.

It is for these reasons that the DERA program, which averages more than \$13 in health and economic benefits for every \$1 invested according to the EPA, needs to be reauthorized.

I would be remiss if I did not recognize Senators VOINOVICH and CARPER for authoring the DERA reauthorization program in the Senate, and to commend them for their outstanding leadership on this important issue. Their legis-

lation served as the counterpart to the measure we introduced in the House of Representatives.

H.R. 5089, which was unanimously approved by the other chamber, has garnered the support of a broad coalition of more than 530 environmental, public health, industry and labor stakeholders.

In closing, I urge my colleagues to join me in improving America's air quality by upgrading and modernizing older diesel engines by voting in favor of H.R. 5089.

Mrs. CHRISTENSEN. Madam Speaker, I rise in support of S. 3973, the reauthorization of the Diesel Emissions Reduction Act, a successful program that I strongly believe will make a major difference in lowering energy costs for consumers in all territories.

I am pleased that the program includes entities in the smaller territories, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and the U.S. Virgin Islands for the first time.

While we are not at the level that we need, we pledge to fight for better inclusion in the future and do recognize that this is an important first step for the territories, which rely considerably on fossil fuels, including diesel.

As the country transitions to a clean energy economy, I am sure that we all can agree that it is only fitting that all jurisdictions under the U.S. flag are able to take part in national and state diesel emissions reduction grant and loan programs. Though the Energy Policy Act of 2005 has achieved much in ensuring that states qualify for grant and loan programs, geared towards reducing diesel emissions—today's reauthorization of the DERA will go a long way to ensure that all U.S. citizens are able to tap into the resources necessary to relieve the burdens associated with the combustion of dirty fossil fuels.

Reducing emissions from diesel engines is one of the most important air quality challenges facing the U.S. and its territories. Though it is undeniable that diesel engines have proven to be an invaluable resource over the years, it is high time that we reevaluate our over dependence on this fuel source—and look towards more sustainable alternatives.

As we are all aware, these engines emit large amounts of nitrogen oxides, particulate matter and air toxins, resulting in serious public health concerns.

Much of our heavy machinery and school buses are operated by diesel engines that do not meet EPA's clean diesel standards. Extension of the diesel emission reduction provisions will not only help to further current commitments to reduce air pollution but will make great strides in protecting our communities' health and that of future generations. Inclusion of all the territories in the DERA reauthorization would provide our jurisdictions with the opportunity to access currently unavailable resources necessary to retrofit existing equipment and implement new emissions control technologies.

At this time I would applaud the authors of this bill and thank Chairman WAXMAN and Energy and Commerce Committee staff for their leadership in ensuring that the territories are included in this important bill. I would also like to recognize the CNMI, Guam, American Samoa and Puerto Rico delegations for their tireless efforts on this issue as well.

Mr. MARKEY of Massachusetts. Madam Speaker, I rise in support of the Diesel Emission Reduction Act of 2010. This bill would reauthorize the extremely successful Diesel Emission Reduction Act, known as "DERA", enacted as part of the Energy Policy Act of 2005 and administered by the Environmental Protection Agency. Since its creation the DERA program has provided Federal grants and loans to support more than 3,000 projects to retrofit diesel engines to reduce pollution. The emissions reductions achieved by DERA have resulted in over \$600 million in public health benefits so far. The program has provided over \$13 in health and economic benefits for every \$1 spent on retrofits, and has created or sustained nearly 9,000 jobs since Fiscal Year 2008.

The legislation now before us would reauthorize the DERA program through Fiscal Year 2016 and would make a number of important improvements. Notably it would allow EPA to establish a rebate program, alongside the existing grant and loan program. It would also allow private entities under contract with a non-profit or government to apply directly for funding, instead of limiting the program to government entities. These improvements will help this program to continue to clean our air and protect public health from diesel pollution.

This is a bipartisan bill championed by Senators CARPER and VOINOVICH and deserves our support. I urge a "yes" vote.

Mr. JOHNSON of Georgia. Madam Speaker, I rise in support of 5809, the Diesel Emissions Reduction Act. This legislation will reauthorize an important program that establishes a voluntary national and state-level grant and loan program to reduce emissions from existing diesel engines through clean diesel retrofits.

This reauthorization is particularly important for the citizens of my home State of Georgia who face the 15th highest risk of premature death due to diesel soot, when compared to the lower 48 states. According to the Clean Air Task Force, diesel soot in Atlanta leads to 335 premature deaths, over 14 thousand asthma attacks, and over 250 cases of chronic bronchitis. The cancer risk of breathing diesel soot in Atlanta is 442 times the EPA's acceptable cancer level of 1 in a million. These figures are appalling and unacceptable.

The Diesel Emissions Reduction Act has supported the cleanup of diesel engines throughout Georgia and every state in the union. Passage of this bill will improve health outcomes and save on health care costs across the country and that is why I urge my colleagues to vote yes.

□ 1040

Mr. BURGESS. As the gentleman knows, I can talk on this until my time has expired, but in the interest of comity and the spirit of the season and peace on Earth, good will toward men, I will yield back the balance of my time.

Mr. WAXMAN. Notwithstanding the fact the gentleman yielded back his time, I want to now use the remainder of mine, but I won't, even though I could, but in the interest of comity and good will, I won't complain, I won't go on, I will simply yield back my time

and urge Members to support this worthwhile piece of legislation, which is now being, hopefully, passed for the second time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 5809.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

DEFENSE LEVEL PLAYING FIELD ACT

Mr. INSLEE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6540) to require the Secretary of Defense, in awarding a contract for the KC-X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Level Playing Field Act".

SEC. 2. CONSIDERATION OF UNFAIR COMPETITIVE ADVANTAGE IN EVALUATION OF OFFERS FOR KC-X AERIAL REFUELING AIRCRAFT PROGRAM.

(a) REQUIREMENT TO CONSIDER UNFAIR COMPETITIVE ADVANTAGE.—In awarding a contract for the KC-X aerial refueling aircraft program (or any successor to that program), the Secretary of Defense shall, in evaluating any offers submitted to the Department of Defense in response to a solicitation for offers for such program, consider any unfair competitive advantage that an offeror may possess.

(b) REPORT.—Not later than 60 days after submission of offers in response to any such solicitation, the Secretary of Defense shall submit to the congressional defense committees a report on any unfair competitive advantage that any offeror may possess.

(c) REQUIREMENT TO TAKE FINDINGS INTO ACCOUNT IN AWARD OF CONTRACT.—In awarding a contract for the KC-X aerial refueling aircraft program (or any successor to that program), the Secretary of Defense shall take into account the findings of the report submitted under subsection (b).

(d) UNFAIR COMPETITIVE ADVANTAGE.—In this section, the term "unfair competitive advantage", with respect to an offer for a contract, means a situation in which the cost of development, production, or manufacturing is not fully borne by the offeror for such contract.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington (Mr. INSLEE) and the gentleman from Kansas (Mr. MORAN) each will control 20 minutes.

The Chair recognizes the gentleman from Washington.

GENERAL LEAVE

Mr. INSLEE. Madam Speaker, I ask unanimous consent that all Members

have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. INSLEE. Madam Speaker, I yield myself such time as I may consume.

We have another great bipartisan success today, at the closing day of our Congress, and I want to thank Representatives LARSEN, BLUNT, TIAHRT, MORAN, and MCDERMOTT for bringing this bipartisan bill to the floor. This bill is the Defense Level Playing Field Act, which will incorporate in standalone legislation an amendment we adopted with huge bipartisan support previously by a vote of 410-8 on the defense authorization bill.

This bill is very important to bring a level of fairness and competitiveness from a job creation perspective to the tanker contract, which is now one of the largest procurement contracts in American history, a \$35 billion contract providing for 179, and ultimately 400, aerial refueling planes, which will replace the Eisenhower-era tankers, which is so critical to our Nation's skeleton and backbone of our Nation's defense.

I note the basic thrust of this bill is to make sure that in our procurement process that we have fairness—fairness both to the law and fairness to the American workers, who are so successful. And one of the bidders we hope to be so successful with is the Boeing 767 platform, which will be fully capable of continuing the tradition of American provision of the very backbone of our American fleet and providing our tankers.

I want to make four points about what this bill will do. Basically, what this bill will do is require the Defense Department to take into consideration any unfair competitive advantage of any of the bidders in this contract. What basically this bill will do is require that the Pentagon take into consideration any unfair competitive advantage enjoyed by either of the bidders, Boeing or the Airbus consortium, and that is defined as costs of development, production, or manufacturing that are not fully borne by the offeror of any such contract.

Obviously, what gave rise to this amendment was the fact that we have found that there were over \$5 billion of illegal, unfair competitive advantage that has been enjoyed by one of the contractors, the Airbus consortium.

But I want to make four points about what our bill does. Number one, our bill basically says that we need a fair competition. We are happy to compete as Americans. We love competition. We're happy to compete, but we need to do it on a level playing field. And this bill is very fair because it says that any unfair competitive advantage

of either of the bidders needs to be taken into consideration in this bill. We love competition, but it needs to be fair.

Second, this bill is fair to both sides, Boeing and Airbus, America and Europe, because it requires an unfair competitive advantage from either bidder to be taken into consideration. And it is WTO-compliant. We were careful to draft the bill with that in mind.

Third, this is an enormous contract, and there have been enormous unfair competitive advantages bestowed on one of the bidders—frankly, Airbus. The \$5 billion of illegal subsidies that we have found come out to somewhere between 27 and \$5 million an airplane. This is an extraordinarily unfair advantage that one of the bidders has been given, and we need to take that into consideration.

Fourth, the job importance of this issue cannot be overstated. It is estimated that 62,000 jobs could hang in the balance if we allow these illegal subsidies not to be remedied in this procurement contract. American workers have built the best airplanes. They're ready to do it. And we're not going to allow tens of thousands of jobs to be lost based on illegal subsidization by our friends in Europe.

Now we have standalone legislation. We look forward to giving the Senate every opportunity to act on this.

With that, I reserve the balance of my time.

Mr. MORAN of Kansas. Madam Speaker, I yield myself such time as I may consume.

I rise to support the legislation introduced by the gentleman from Washington, and I appreciate his explanation for what this legislation does. I am here to encourage my colleagues both in the House and the Senate to support this legislation to level the playing field in the Air Force tanker competition. This is an unending story, presumably. It has gone on for a long time. But at this stage in the process, we need to make certain that there is fairness. We need fairness for our workers, fairness for American companies, and fairness for the American taxpayer.

Earlier this year, the World Trade Organization found that European governments are guilty of providing nearly \$6 billion in illegal subsidies to Airbus to develop aircraft. These subsidies can put our American workers at a disadvantage in the world marketplace. Tens of thousands of U.S. aerospace jobs have already been lost overseas; the Department of Defense, we risk job loss in the \$35 billion tanker competition with these subsidies. In Wichita, Kansas, alone, where the finishing center for the new Boeing tanker will take place, the tanker contract could mean 7,500 jobs.

Common sense today tells us that when we are so desperate for employment in the United States, we need to

make certain that the competition we are engaged in is based upon fairness. But even with the WTO decision, the Department of Defense has ignored the facts. The Pentagon must not be working against millions of Americans who are looking for work, nor should our own government ask American taxpayers to foot the bill for a European economic stimulus.

The Defense Level Playing Field Act tells the Pentagon it can no longer close its eyes to the unfair European subsidies. This bill says that the tanker bidding process must be conducted fairly. Its intent is to require the DOD to take into account the price impact of illegal European subsidies. It makes sure that there is a level playing field so that no bidder, whether it's foreign or domestic, has an unfair competitive advantage.

American aerospace workers are ready to support our men and women in uniform with the best tanker, and they must be given a fair opportunity to do so. Please join me in standing up for the American worker and for the U.S. taxpayer by voting favorably for the Defense Level Playing Field Act.

I reserve the balance of my time.

Mr. INSLEE. Madam Speaker, I yield 2 minutes to my friend and colleague, the gentleman from Connecticut (Mr. COURTNEY).

Mr. COURTNEY. I want to congratulate Mr. INSLEE and his leadership on this measure.

Madam Speaker, in a few short weeks, according to the latest news from the Pentagon, this tanker contract is expected to be awarded. Again, I don't think anyone can understate the impact over the decades that final outcome will have on the U.S. economy, particularly our aerospace industrial base.

□ 1050

As has been mentioned by prior speakers, the first tranche of contracts will be about \$35 billion. In total, it is estimated to be about \$100 billion just in manufacturing. Given the age of the existing tanker planes, the maintenance and repair work is probably another \$100 billion if you look over the lifetime of this plane's existence.

So, for the American industrial base, the decision which the Pentagon is on the verge of announcing will have an impact decades hence, and it is extremely important for the American taxpayers that they be given total assurance that this decision is going to be made fairly and with the best interests of our country at heart.

If you would just step back and look at other weapons procurement programs, whether it is nuclear submarines, aircraft carriers, the Joint Strike Fighter, the notion that those contracts, that those weapons platforms would be awarded to foreign manufacturers that receive subsidies

from their governments would be just laughable; but for some reason, in this instance, the Department of Defense has just turned a blind eye to the obvious unfairness which this bid process has produced.

So, again, what this very simple measure seeks to do is to put a big red warning flag up to the Pentagon to say, when this decision is made, for the sake of the American taxpayers, subsidies that have been found to be illegal will be taken into account in the final decision.

I urge strong support for this measure.

Mr. MORAN of Kansas. I continue to reserve the balance of my time.

Mr. INSLEE. Madam Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. I thank the gentleman from Washington.

I rise in support of this bipartisan legislation that will protect American jobs and ensure competitive fairness in the contract bid for the next aerial refueling tanker.

Madam Speaker, in May, the House voted overwhelmingly, 410-8, on a similar amendment to the defense authorization bill to require the Pentagon to take into account the illegal subsidies that have distorted this competition from day one.

The choice for the next-generation tanker contract is clear. We can give the contract to an American company, Boeing, and support an estimated 50,000-plus good, high-skilled jobs across this country, or we can give the contract to a European company, Airbus, thus creating tens of thousands of jobs in Europe. With unemployment where it is today, this should be a no-brainer.

In fact, since the last time this issue was brought to the floor, the WTO made a final ruling in the trade case brought by our government against the European Union. It ruled that billions of dollars in illegal European Government "launch aid" subsidies have been used by Airbus to develop every aircraft it has built. More than \$5 billion of these subsidies made it possible for Airbus to launch the A330 it is offering for the tanker.

We need to ensure a fair, open, and transparent tanker competition. Our companies and our workers can compete against any in the world when there is a level playing field. I urge my colleagues to support this legislation ensuring that the Pentagon takes into account these illegal Airbus subsidies. We need to provide the best tanker for the Air Force, and we must not send these critical defense manufacturing jobs overseas.

Mr. MORAN of Kansas. Madam Speaker, once again, I reserve the balance of my time.

Mr. INSLEE. I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. I thank the distinguished gentleman.

Madam Speaker, I join my colleagues by admitting that competition is good, and I rise in support of competition.

Yet I also recognize as a member of the Manufacturing Caucus that Americans are ready and clamoring to build, and they want to produce and create. As they do that with their sophisticated technology, they create jobs. So I believe it is unfair that when there is a competition that our companies, in fact in our own country at the Pentagon, are competing against those companies that are subsidized.

So I rise in support of this legislation, H.R. 6540, which does not in any way hamper the ability of the Pentagon to do its work, but indicates that we can build the KC-X Aerial Refueling Aircraft Program by a company that we have, in this instance Boeing, of which I am very familiar, having worked extensively with it in the NASA Human Space Exploration Program.

Let us build again. Let us manufacture again. Yes, we will create jobs, but we will create and reinforce the genius of our young people who are being trained and of those scientists who have created topnotch technology.

To be on the front lines, men and women who are in the United States military need the best equipment to be able to create jobs and bring manufacturing back in this country. We need to have the competitiveness and an even playing field. No subsidies. Boeing can do it. We need to have the Pentagon recognize that America is back in the saddle again. We are building quality products, and we need to be able to build the KC-X Aerial Refueling Aircraft.

Mr. MORAN of Kansas. I continue to reserve the balance of my time, Madam Speaker.

Mr. INSLEE. Madam Speaker, I want to put in a good word for my comrade in arms, TODD TIAHRT. He isn't with us right at the moment, but he did great work on this—he has had a great career—as well as Mr. LARSEN.

A couple of closing comments.

I come from a Boeing family. My uncle's cousins have worked with Boeing products from the 707, to the 737, to the 727, to the 747. Now they hope to work on the 767 tanker product. So this is a hometown team issue for me, but it is an international issue as to whether or not we are going to have rules when we compete with our friends across the pond, and we are happy to compete no matter what team we are on. This simply insists that America will follow the rules in a fair competition. It is the right thing to do.

So, in that regard, Madam Speaker, I will note that sometimes Congress reserves the best in its legislation and the best in its speakers pro tem for the last, and I think that this is the best in both ways.

I continue to reserve the balance of my time.

Mr. MORAN of Kansas. Madam Speaker, I appreciate very much the comments that have been made today on the House floor.

Economically, there is no more important issue in the State of Kansas than the success or at least the opportunity to have success in this contract bidding process. It has been a long time that we have been waiting, and I hope the gentleman who spoke earlier who indicated that we are on the verge of a decision is accurate. This would be a great development, not only for the people of our State but for the people of our country if we learn that there are jobs to be created and that there is a manufacturing base to be further developed in the United States.

I very much appreciate the gentleman from Washington's indication that this bill is about a level playing field. It is not about awarding the contract. It is about giving fairness to the bidding process.

I hope that we have the opportunity, if the Senate will also pass this legislation again on the verge of a decision, to once again remind the Department of Defense of their responsibility to the will, not only of Congress for a level playing, but to the rightness of this cause, to the sense of fairness, for the right of justice, and for building the opportunity of job creation in this country, not only today but tomorrow as well.

With that, Madam Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. I thank the gentleman for yielding.

Madam Speaker, I apologize to the House for being out of breath, but apparently this bill was brought up on the floor at the last minute and without anybody's knowledge. I don't know if it has been discussed, but I sit on the Armed Services Committee, and I would like to ask my friend from Kansas, if I may, Madam Speaker, Has the professional staff on the Armed Services Committee at all given their thoughts on the implication of this bill?

I can answer the question. I shouldn't have thrown it to you. The answer is "no."

The answer is "no" because it hasn't gone through regular order. This bill is not going through regular order. It is amazing to me that we are bringing something forward today, as you have been saying already, that has great implications to the national security of this country. The Armed Services Committee and the requisite subcommittees have not had an opportunity to talk about this particular piece of legislation.

□ 1100

We heard that this may come up last week. It didn't come up last week. Un-

fortunately, some of the Members who are very involved in this contracting issue had no idea this was coming to the floor today. I speak on their behalf. Some of those very Members are on airplanes flying to Washington, trying to come up here to be able to debate this particular piece of legislation.

But, again, it's business as usual for this House and in the waning days of the 111th Congress that we would bring pieces of legislation forward that impact Members all across this country, yet not give them the opportunity to come to the floor in a timely fashion and express their views.

I would urge my colleagues to vote against this particular piece of legislation.

Madam Speaker, it is now four days before Christmas, and the United States Air Force is nearing completion of its evaluation of multiple offers for replacement tanker aircraft. We are now in the ninth year of effort to award a contract for the replacement of tanker aircraft that have an average age of 50 years in service. I would like to remind my colleagues that the men and women of our Air Force are risking their lives every day to perform the refueling mission across the globe in aircraft that were built and delivered when Ike Eisenhower was President of the United States!

How dare we take action, in the waning days of this Congress, without proper committee review, that will delay replacement of these aircraft? The men and women serving in uniform, flying 50-year old aircraft, deserve better than to have this House—acting on behalf of one company, during the last stages of this competition—undertake an action, which will further delay this contract from moving forward.

I would ask my colleagues—has anyone asked the Secretary of Defense if this legislation is needed? Has anyone asked Secretary Gates or General Schwartz how long it would further delay this contract award in the event it becomes law? Are we, by considering adoption of this bill, creating a precedent for Congressional interference in an ongoing competition? It is absurd bringing this bill to the House floor while the impact of this legislation has yet to be reviewed and weighed.

This House should not be here today, considering legislation of this kind without proper review and without full knowledge of its impact. We certainly should not do so simply because one company—based in Washington State—thinks that they need to change the evaluation metrics at the last minute. If they have no airplane flying that can compete fairly, they should conduct their business better—and this House should refrain from interfering in an ongoing competition. I urge my colleagues to vote "no" on this amendment.

Mr. MORAN of Kansas. I thank the gentleman for his comments.

I would point out to the House that an amendment to the defense authorization bill of a similar nature passed the House of Representatives by a vote of 410-8.

I would let the gentleman from Washington know that I have no other speakers and am prepared to close.

I reserve the balance of my time.

Mr. INSLEE. I just wanted to address Mr. MILLER's concern, wanted to advise him that we have been in discussions for the last several days with the current minority staff on the committee, who have all been well-advised about our intention to bring this in one way or another, either by UC or suspension, to the floor, and we've appreciated their cooperation in doing that.

I also want to advise Mr. MILLER that this is exactly the same language we did vote for, including the gentleman from Florida, in its previous incarnation in the Defense authorization bill. I hope that I can say this is a fairly non-controversial issue in the House, and we hope that when the light of public interest is shone on the Senate that they will act on this as well on behalf of America.

Madam Speaker, I would reserve my time unless the gentleman has no further speakers.

Mr. MORAN of Kansas. I thank the gentleman from Washington for his comments today and look forward to this bill's passage. I encourage my colleagues to vote for it.

I, too, would like to recognize the work of my colleague from Kansas (Mr. TIAHRT) in his efforts on this topic over a long period of time and appreciate his leadership on behalf of the people of Kansas on this and many other issues.

Mr. HARPER. Madam Speaker, I was unable to participate during floor debate regarding H.R. 6540, The Defense Level Playing Field Act of 2010. I would like to place my statement into the RECORD:

It is now four days before Christmas and the Air Force is nearing completion of its evaluation of multiple offers to replace our aging tanker aircraft. We are in the ninth year of this effort to award a contract to replace the Air Force's existing tanker aircraft that have an average age of 50 years in service. I would remind my colleagues that we have airmen and airwomen of our Air Force risking their lives every day to perform the refueling mission across the globe in aircraft that were built and delivered when Dwight Eisenhower was President of the United States.

Why are we considering this legislation at this time? Do we dare take action on legislation, four days before Christmas, without proper Committee review, that will delay replacement of these aircraft? Are we being responsible to the men and women in uniform by bypassing completely the House Armed Services Committee? Are we, by considering adoption of this bill, creating a precedent for Congressional interference in an ongoing competition?

I would ask my colleagues—has anyone asked the Secretary of Defense if this legislation is needed? Has anyone asked Secretary Gates or the Chief of Staff of the Air Force how long it would further delay this contract award in the event it became law?

This House should not be here today, considering legislation of this kind without proper review and without full knowledge of its impact. The men and women serving in uniform, flying 50-year old aircraft, deserve better than

to have this House—at the last stages of this competition—undertake an action which will further delay this contract moving forward.

Mr. MORAN of Kansas. I yield back the balance of my time.

Mr. INSLEE. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. INSLEE) that the House suspend the rules and pass the bill, H.R. 6540.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. MILLER of Florida. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROTECTING STUDENTS FROM SEXUAL AND VIOLENT PREDATORS ACT

Mr. GEORGE MILLER of California. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6547) to amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protecting Students from Sexual and Violent Predators Act".

SEC. 2. BACKGROUND CHECKS.

Subpart 2 of part E of title IX of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7901 et seq.) is amended by adding at the end the following:

"SEC. 9537. BACKGROUND CHECKS.

"(a) BACKGROUND CHECKS.—Each State that receives funds under this Act shall have in effect policies and procedures that—

"(1) require that criminal background checks be conducted for school employees that include—

"(A) a search of the State criminal registry or repository in the State in which the school employee resides and each State in which such school employee previously resided;

"(B) a search of State-based child abuse and neglect registries and databases in the State in which the school employee resides and each State in which such school employee previously resided;

"(C) a search of the National Crime Information Center of the Department of Justice;

"(D) a Federal Bureau of Investigation fingerprint check using the Integrated Automated Fingerprint Identification System; and

"(E) a search of the National Sex Offender Registry established under section 19 of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16919);

"(2) prohibit the employment of school employees for a position as a school employee if such individual—

"(A) refuses to consent to the criminal background check described in paragraph (1);

"(B) makes a false statement in connection with such criminal background check;

"(C) has been convicted of a felony consisting of—

"(i) homicide;

"(ii) child abuse or neglect;

"(iii) a crime against children, including child pornography;

"(iv) spousal abuse;

"(v) a crime involving rape or sexual assault;

"(vi) kidnapping;

"(vii) arson; or

"(viii) physical assault, battery, or a drug-related offense, committed within the past 5 years; or

"(D) has been convicted of any other crime that is a violent or sexual crime against a minor;

"(3) require that a local educational agency or State educational agency that receives information from a criminal background check conducted under this section that an individual who has applied for employment with such agency as a school employee is a sexual predator report to local law enforcement that such individual has so applied;

"(4) require that the criminal background checks described in paragraph (1) be periodically repeated; and

"(5) provide for a timely process by which a school employee may appeal the results of a criminal background check conducted under this section to challenge the accuracy or completeness of the information produced by such background check and seek appropriate relief for any final employment decision based on materially inaccurate or incomplete information produced by such background check, but that does not permit the school employee to be employed as a school employee during such process.

"(b) DEFINITIONS.—In this section:

"(1) SCHOOL EMPLOYEE.—The term 'school employee' means—

"(A) an employee of, or a person seeking employment with, a local educational agency or State educational agency, and who has a job duty that results in exposure to students; or

"(B) an employee of, or a person seeking employment with, a for-profit or nonprofit entity, or local public agency, that has a contract or agreement to provide services with a school, local educational agency, or State educational agency, and whose job duty—

"(i) is to provide such services; and

"(ii) results in exposure to students.

"(2) SEXUAL PREDATOR.—The term 'sexual predator' means a person 18 years of age or older who has been convicted of, or pled guilty to, a sexual offense against a minor."

SEC. 3. CONFORMING AMENDMENT.

Section 2 of the Elementary and Secondary Education Act of 1965 is amended by adding after the item relating to section 9536 the following:

"Sec. 9537. Background checks."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GEORGE MILLER) and the gentlewoman from Illinois (Mrs. BIGGERT) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. GEORGE MILLER of California. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on H.R. 6547 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GEORGE MILLER of California. I yield myself such time as I may consume.

Madam Speaker, I rise today on behalf of all children in our country. I rise for all parents who send their children to school with the understanding that their children will be safe.

Last week, the Committee on Education and Labor released a disturbing, outrageous report from the Government Accountability Office highlighting cases where convicted sexual offenders were working at schools. In 11 of the 15 cases, sexual offenders who were hired or retained by schools had previously targeted children, and in six of those cases, the sex offenders used their job to target and abuse more children, and this is unacceptable.

This report is frightening insight into what happens when rules aren't followed or simply aren't in place. It showed that in many cases comprehensive background checks could have easily prevented these crimes from occurring. It also showed that some school districts knowingly passed on a potential predator to another school district, allowing the offender to resign instead of reporting him or her. It is outrageous that a sexual or violent predator of children can be passed from school to school.

The Government Accountability Office found that school systems either did not have complete information or, perhaps worse, chose to ignore the problem or to make it worse by providing positive recommendations about the employee, knowing that they had abused children in their care. In many places, the current system of ensuring our students' safety is broken. It has huge gaps that are allowing our children to be vulnerable to sexual predators.

Madam Speaker, this Congress can do more to protect our children. The Protecting Students from Sexual and Violent Predators Act will help keep our children safe in school by requiring States to take commonsense steps. First, schools will be required to comprehensively conduct background checks for any employees using State criminal and child abuse registries and the FBI's fingerprint database.

Second, schools will be prohibited from hiring or retaining anyone who has been convicted of certain violent crimes, including crimes against children, crimes involving rape or sexual assault, and child pornography.

This bill will prevent more children from being put in unsafe environments

because the adults who are responsible for their well-being failed to do their jobs.

A 2004 Department of Education report estimated that millions of students are subjected to sexual misconduct by school employees at some time between kindergarten and the 12th grade. Coupled with the findings of last week's GAO report, it is very clear that this legislation is absolutely critical. Parents have a right to believe that their children are safe in schools, and schools have an obligation to fulfill that promise.

This bill is only part of the solution, but it is an important step forward. The GAO report sent shock waves through households across the country. We owe it to parents and to the children and to the honorable school officials who follow the rules to pass this legislation. We also owe it to them to send a strong message that people who abuse children or do not do their jobs to keep children safe will face serious consequences.

I hope that the next Congress will be able to take an even more comprehensive approach to protect children in our schools, and I urge all of my colleagues to support this legislation.

I reserve the balance of my time.

Mrs. BIGGERT. Madam Speaker, I yield myself such time as I may consume.

I rise today to support H.R. 6547, a bill to require background checks for all public school employees. H.R. 6547 is designed to ensure States using Federal taxpayer resources to fund education are taking the necessary steps to ensure individuals with a history of criminal behavior are not able to slip through the cracks and be placed in positions of trust within our schools.

The bill requires States to have policies in place to conduct a check of the State criminal registry, a State-based registry of child abuse and neglect, the National Crime Information Center, an FBI fingerprint check, and a search of the National Sex Offender Registry on all public school employees in order to receive Federal funds under the Elementary and Secondary Education Act. The State-based checks must also be run for all States where an employee or prospective employee had previously resided.

Every Member of this Chamber wants to protect students from harm, and there is no excuse for schools not doing everything they can to ensure the safety of children in their care.

□ 1110

In fact, Congress has already acted on this issue by ensuring schools have access to national background checks in the Safe Schools Act, which was signed into law as part of the Adam Walsh Child Protection and Safety Act of 2006. This was a bill that was worked on in a bipartisan manner and passed by voice vote in both Chambers.

Unfortunately, the majority has chosen a different approach with the bill before us today. Instead of holding hearings or scheduling a markup to thoroughly discuss and vet this issue, they are rushing this bill to the floor for quick consideration at the end of Congress. This is not the best way to craft thoughtful legislation. But, despite our concerns about legislative process, we all agree that our students must be protected from sexual predators in their schools. And, therefore, I urge my colleagues to support this bill.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEORGE MILLER of California. Madam Speaker, I would quickly say that I would like to thank the gentlelady from Illinois for her cooperation on this. I know this isn't the best process, but at the end of the session, having the Government Accountability Office report land on our desk on our watch, I felt it was important that we pass this legislation today to clearly send a very strong message to school districts across the country that they have to meet their responsibility to keep our children safe during school hours. I urge my colleagues to support this legislation.

Ms. JACKSON LEE of Texas. Madam Speaker, I rise today in strong support of the H.R. 6547, "Protecting Students from Sexual and Violent Predators Act." The Protecting Students from Sexual and Violent Predators Act amends the Elementary and Secondary Education Act of 1965 to require each state receiving funds under that Act to have in effect policies and procedures that: (1) require criminal background checks for school employees, including searches of state criminal registries or repositories, state-based child abuse and neglect registries and databases, the National Crime Information Center of the Department of Justice, the National Sex Offender Registry, and the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation (FBI); and (2) prohibit the employment of school employees who refuse to consent to a criminal background check, make false statements in connection with one, or have been convicted of one of a list of felonies.

H.R. 6547 requires local educational agencies (LEAs) or state educational agencies (SEAs) to report to local law enforcement any applicants for school employment who are discovered to be sexual predators. This legislation requires periodic repetitions of such criminal background checks. It further requires such states to provide for a timely process under which school employees may: (1) appeal the results of a criminal background check to challenge the accuracy or completeness of the information produced; and (2) seek appropriate relief for any final employment decision based on materially inaccurate or incomplete information produced. H.R. 6547 requires this appeals process, however, to deny the individual employment as a school employee during the process.

What makes our Nation great is the belief that every child has the right to a quality ele-

mentary and secondary education. Children truly represent the future of our country. They are our living national treasures. Yet they are one of our populations that are least capable of protecting themselves. So, it is our duty to do all we can to provide them with a safe learning environment, free from the menacing threat of sexual and violent predators. This legislation takes a positive step toward making safer school environments a reality by requiring background checks for school employees and prohibiting employment of persons who refuse to submit to a criminal background check.

I have always been a strong advocate of protecting our children from sexual predators. I introduced similar legislation in H.R. 288, the "Save Our Children: Stop the Predators Against Children DNA Act of 2009." I believe H.R. 6547, which we are privileged to consider now will provide an important measure of protection for our children from the horrors of sexual and violent predators that we hear about all too frequently in the news. Parents should be able to send their children to school in the morning and know that they will be safe. Children should be able to enjoy their time of innocence and the wonderment of learning without worrying that undue harm to come to them or their classmates. So, I ask my colleagues to stand with me today and vote in favor of the H.R. 6547, "Protecting Students from Sexual and Violent Predators Act."

Mr. GEORGE MILLER of California. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER) that the House suspend the rules and pass the bill, H.R. 6547.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. GEORGE MILLER of California. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY ACT OF 2010

Mr. LYNCH. Madam Speaker, I move to suspend the rules and pass the bill (S. 118) to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Section 202 Supportive Housing for the Elderly Act of 2010".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—NEW CONSTRUCTION REFORMS

Sec. 101. Selection criteria.

Sec. 102. Development cost limitations.

Sec. 103. Owner deposits.

Sec. 104. Definition of private nonprofit organization.

Sec. 105. Nonmetropolitan allocation.

TITLE II—REFINANCING

Sec. 201. Approval of prepayment of debt.

Sec. 202. Use of unexpended amounts.

Sec. 203. Use of project residual receipts.

Sec. 204. Additional provisions.

TITLE III—ASSISTED LIVING FACILITIES AND SERVICE-ENRICHED HOUSING

Sec. 301. Amendments to the grants for conversion of elderly housing to assisted living facilities.

Sec. 302. Monthly assistance payment under rental assistance.

TITLE IV—COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010

Sec. 401. Budgetary effects.

TITLE I—NEW CONSTRUCTION REFORMS

SEC. 101. SELECTION CRITERIA.

Section 202(f)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(f)(1)) is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) the following new subparagraph:

“(F) the extent to which the applicant has ensured that a service coordinator will be employed or otherwise retained for the housing, who has the managerial capacity and responsibility for carrying out the actions described in subparagraphs (A) and (B) of subsection (g)(2);”.

SEC. 102. DEVELOPMENT COST LIMITATIONS.

Section 202(h)(1) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(1)) is amended, in the matter preceding subparagraph (A), by inserting “reasonable” before “development cost limitations”.

SEC. 103. OWNER DEPOSITS.

Section 202(j)(3)(A) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(3)(A)) is amended by inserting after the period at the end the following: “Such amount shall be used only to cover operating deficits during the first 3 years of operations and shall not be used to cover construction shortfalls or inadequate initial project rental assistance amounts.”.

SEC. 104. DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.

Section 202(k)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(k)(4)) is amended to read as follows:

“(4) The term ‘private nonprofit organization’ means—

“(A) any incorporated private institution or foundation—

“(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

“(ii) which has a governing board—

“(I) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located; and

“(II) which is responsible for the operation of the housing assisted under this section, except that, in the case of a nonprofit organization that is the sponsoring organization of multiple housing projects assisted under this section, the Secretary may determine the criteria or conditions under which financial, compliance and other administrative

responsibilities exercised by a single-entity private nonprofit organization that is the owner corporation responsible for the operation of an individual housing project may be shared or transferred to the governing board of such sponsoring organization; and

“(iii) which is approved by the Secretary as to financial responsibility; and

“(B) a for-profit limited partnership the sole general partner of which is—

“(i) an organization meeting the requirements under subparagraph (A);

“(ii) a for-profit corporation wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A); or

“(iii) a limited liability company wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A).”.

SEC. 105. NONMETROPOLITAN ALLOCATION.

Paragraph (3) of section 202(l) of the Housing Act of 1959 (12 U.S.C. 1701q(l)(3)) is amended by inserting after the period at the end the following: “In complying with this paragraph, the Secretary shall either operate a national competition for the nonmetropolitan funds or make allocations to regional offices of the Department of Housing and Urban Development.”.

TITLE II—REFINANCING

SEC. 201. APPROVAL OF PREPAYMENT OF DEBT.

Subsection (a) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) in the matter preceding paragraph (1), by inserting “, for which the Secretary’s consent to prepayment is required,” after “Affordable Housing Act”);

(2) in paragraph (1)—

(A) by inserting “at least 20 years following” before “the maturity date”; and

(B) by inserting “project-based” before “rental assistance payments contract”; and

(C) by inserting “project-based” before “rental housing assistance programs”; and

(D) by inserting “, or any successor project-based rental assistance program,” after “1701s)”; and

(3) by amending paragraph (2) to read as follows:

“(2) the prepayment may involve refinancing of the loan if such refinancing results in—

“(A) a lower interest rate on the principal of the loan for the project and in reductions in debt service related to such loan; or

“(B) a transaction in which the project owner will address the physical needs of the project, but only if, as a result of the refinancing—

“(i) the rent charges for unassisted families residing in the project do not increase or such families are provided rental assistance under a senior preservation rental assistance contract for the project pursuant to subsection (e); and

“(ii) the overall cost for providing rental assistance under section 8 for the project (if any) is not increased, except, upon approval by the Secretary to—

“(I) mark-up-to-market contracts pursuant to section 524(a)(3) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by nonprofit organizations; or

“(II) mark-up-to-budget contracts pursuant to section 524(a)(4) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by eligible owners (as such term is de-

fined in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)); and”; and

(4) by adding at the end the following:

“(3) notwithstanding paragraph (2)(A), the prepayment and refinancing authorized pursuant to paragraph (2)(B) involves an increase in debt service only in the case of a refinancing of a project assisted with a loan under such section 202 carrying an interest rate of 6 percent or lower.”.

SEC. 202. USE OF UNEXPENDED AMOUNTS.

Subsection (c) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by striking “USE OF UNEXPENDED AMOUNTS.—” and inserting “USE OF PROCEEDS.—”; and

(2) by amending the matter preceding paragraph (1) to read as follows: “Upon execution of the refinancing for a project pursuant to this section, the Secretary shall ensure that proceeds are used in a manner advantageous to tenants of the project, or are used in the provision of affordable rental housing and related social services for elderly persons that are tenants of the project or are tenants of other HUD-assisted senior housing by the private nonprofit organization project owner, private nonprofit organization project sponsor, or private nonprofit organization project developer, including—”;

(3) by amending paragraph (1) to read as follows:

“(1) not more than 15 percent of the cost of increasing the availability or provision of supportive services, which may include the financing of service coordinators and congregate services, except that upon the request of the non-profit owner, sponsor, or organization and determination of the Secretary, such 15 percent limitation may be waived to ensure that the use of unexpended amounts better enables seniors to age in place;”;

(4) in paragraph (2), by inserting before the semicolon the following: “, including reducing the number of units by reconfiguring units that are functionally obsolete, unmarketable, or not economically viable”; and

(5) in paragraph (3), by striking “or” at the end;

(6) in paragraph (4), by striking “according to a pro rata allocation of shared savings resulting from the refinancing.” and inserting a semicolon; and

(7) by adding at the end the following new paragraphs:

“(5) rehabilitation of the project to ensure long-term viability; and

“(6) the payment to the project owner, sponsor, or third party developer of a developer’s fee in an amount not to exceed or duplicate—

“(A) in the case of a project refinanced through a State low income housing tax credit program, the fee permitted by the low income housing tax credit program as calculated by the State program as a percentage of acceptable development cost as defined by that State program; or

“(B) in the case of a project refinanced through any other source of refinancing, 15 percent of the acceptable development cost. For purposes of paragraph (6)(B), the term ‘acceptable development cost’ shall include, as applicable, the cost of acquisition, rehabilitation, loan prepayment, initial reserve deposits, and transaction costs.”.

SEC. 203. USE OF PROJECT RESIDUAL RECEIPTS.

Paragraph (1) of section 811(d) of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) by striking “not more than 15 percent off”; and

(2) by inserting before the period at the end the following: “or other purposes approved by the Secretary”.

SEC. 204. ADDITIONAL PROVISIONS.

Section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended by adding at the end the following new subsections:

“(e) SENIOR PRESERVATION RENTAL ASSISTANCE CONTRACTS.—Notwithstanding any other provision of law, in connection with a prepayment plan for a project approved under subsection (a) by the Secretary or as otherwise approved by the Secretary to prevent displacement of elderly residents of the project in the case of refinancing or recapitalization and to further preservation and affordability of such project, the Secretary shall provide project-based rental assistance for the project under a senior preservation rental assistance contract, as follows:

“(1) Assistance under the contract shall be made available to the private nonprofit organization owner—

“(A) for a term of at least 20 years, subject to annual appropriations; and

“(B) under the same rules governing project-based rental assistance made available under section 8 of the Housing Act of 1937 or under the rules of such assistance as may be made available for the project.

“(2) Any projects for which a senior preservation rental assistance contract is provided shall be subject to a use agreement to ensure continued project affordability having a term of the longer of (A) the term of the senior preservation rental assistance contract, or (B) such term as is required by the new financing.

“(f) SUBORDINATION OR ASSUMPTION OF EXISTING DEBT.—In lieu of prepayment under this section of the indebtedness with respect to a project, the Secretary may approve—

“(1) in connection with new financing for the project, the subordination of the loan for the project under section 202 of the Housing Act of 1959 (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act) and the continued subordination of any other existing subordinate debt previously approved by the Secretary to facilitate preservation of the project as affordable housing; or

“(2) the assumption (which may include the subordination described in paragraph (1)) of the loan for the project under such section 202 in connection with the transfer of the project with such a loan to a private nonprofit organization.

“(g) FLEXIBLE SUBSIDY DEBT.—The Secretary shall waive the requirement that debt for a project pursuant to the flexible subsidy program under section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a) be prepaid in connection with a prepayment, refinancing, or transfer under this section of a project if the financial transaction or refinancing cannot be completed without the waiver.

“(h) TENANT INVOLVEMENT IN PREPAYMENT AND REFINANCING.—The Secretary shall not accept an offer to prepay the loan for any project under section 202 of the Housing Act of 1959 unless the Secretary—

“(1) has determined that the owner of the project has notified the tenants of the owner's request for approval of a prepayment; and

“(2) has determined that the owner of the project has provided the tenants with an opportunity to comment on the owner's request for approval of a prepayment, includ-

ing on the description of any anticipated rehabilitation or other use of the proceeds from the transaction, and its impacts on project rents, tenant contributions, or the affordability restrictions for the project, and that the owner has responded to such comments in writing.

“(i) DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.—For purposes of this section, the term ‘private nonprofit organization’ has the meaning given such term in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)).”

TITLE III—ASSISTED LIVING FACILITIES AND SERVICE-ENRICHED HOUSING

SEC. 301. AMENDMENTS TO THE GRANTS FOR CONVERSION OF ELDERLY HOUSING TO ASSISTED LIVING FACILITIES.

(a) TECHNICAL AMENDMENT.—The section heading for section 202b of the Housing Act of 1959 (12 U.S.C. 1701q–2) is amended by inserting “and other purposes” after “assisted living facilities”.

(b) EXTENSION OF GRANT AUTHORITY.—Section 202b(a)(2) of the Housing Act of 1959 (12 U.S.C. 1701q–2(a)(2)) is amended—

(1) by striking “(2) CONVERSION.—Activities” and inserting the following:

“(2) CONVERSION.—

“(A) ASSISTED LIVING FACILITIES.—Activities”; and

(2) by adding at the end the following:

“(B) SERVICE-ENRICHED HOUSING.—Activities designed to convert dwelling units in the eligible project to service-enriched housing for elderly persons.”

(c) AMENDMENT TO APPLICATION PROCESS.—Section 202b(c)(1) of the Housing Act of 1959 (12 U.S.C. 1701q–2(c)(1)) is amended by inserting “for either an assisted living facility or service-enriched housing” after “activities”.

(d) REQUIREMENTS FOR SERVICES.—Section 202b(d) of the Housing Act of 1959 (12 U.S.C. 1701q–2(d)) is amended to read as follows:

“(d) REQUIREMENTS FOR SERVICES.—

“(1) SUFFICIENT EVIDENCE OF FIRM FUNDING COMMITMENTS.—The Secretary may not make a grant under this section for conversion activities unless an application for a grant submitted pursuant to subsection (c) contains sufficient evidence, in the determination of the Secretary, of firm commitments for the funding of services to be provided in the assisted living facility or service-enriched housing, which may be provided by third parties.

“(2) REQUIRED EVIDENCE.—The Secretary shall require evidence that each recipient of a grant for service-enriched housing under this section provides relevant and timely disclosure of information to residents or potential residents of such housing relating to—

“(A) the services that will be available at the property to each resident, including—

“(i) the right to accept, decline, or choose such services and to have the choice of provider;

“(ii) the services made available by or contracted through the grantee;

“(iii) the identity of, and relevant information for, all agencies or organizations providing any services to residents, which agencies or organizations shall provide information regarding all procedures and requirements to obtain services, any charges or rates for the services, and the rights and responsibilities of the residents related to those services;

“(B) the availability, identity, contact information, and role of the service coordinator; and

“(C) such other information as the Secretary determines to be appropriate to en-

sure that residents are adequately informed of the services options available to promote resident independence and quality of life.”

(e) AMENDMENTS TO SELECTION CRITERIA.—Section 202b(e) of the Housing Act of 1959 (12 U.S.C. 1701q–2(e)) is amended—

(1) in paragraph (2)—

(A) by inserting “or service-enriched housing” after “facilities”; and

(B) by inserting “service-enriched housing” after “facility”;

(2) in paragraph (5), by inserting “or service-enriched housing” after “facility”; and

(3) in paragraph (6), by inserting “or service-enriched housing” after “facility”.

(f) AMENDMENTS TO SECTION 8 PROJECT-BASED ASSISTANCE.—Section 202b(f) of the Housing Act of 1959 (12 U.S.C. 1701q–2(f)) is amended—

(1) in paragraph (1), by inserting “or service-enriched housing” after “facilities” each time that term appears; and

(2) in paragraph (2), by inserting “or service-enriched housing” after “facility”.

(g) AMENDMENTS TO DEFINITIONS.—Section 202b(g) of the Housing Act of 1959 (12 U.S.C. 1701q–2(g)) is amended to read as follows:

“(g) DEFINITIONS.—For purposes of this section—

“(1) the term ‘assisted living facility’ has the meaning given such term in section 232(b) of the National Housing Act (1715w(b));

“(2) the term ‘service-enriched housing’ means housing that—

“(A) makes available through licensed or certified third party service providers supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy;

“(B) includes the position of service coordinator, which may be funded as an operating expense of the property;

“(C) provides separate dwelling units for residents, each of which contains a full kitchen and bathroom and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the housing; and

“(D) provides residents with control over health care and supportive services decisions, including the right to accept, decline, or choose such services, and to have the choice of provider; and

“(3) the definitions in section 1701(q)(k) of this title shall apply.”

SEC. 302. MONTHLY ASSISTANCE PAYMENT UNDER RENTAL ASSISTANCE.

Clause (iii) of section 8(o)(18)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(18)(B)(iii)) is amended by inserting before the period at the end the following: “, except that a family may be required at the time the family initially receives such assistance to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such an amount or percentage that is reasonable given the services and amenities provided and as the Secretary deems appropriate.”

TITLE IV—COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010

SEC. 401. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement

titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentlewoman from West Virginia (Mrs. CAPITO) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. LYNCH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and add extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of the Section 202 Supportive Housing for the Elderly Act of 2010. I would like to start by thanking Chairman FRANK and Senator HERB KOHL for their efforts on this bill and their dedication to America's seniors. This legislation simply brings HUD's section 202 program, part of our Nation's safety net for the low-income elderly for nearly 50 years, into the 21st century.

Supportive housing of the type funded by section 202 is an effective and cost-efficient program for low-income elderly. Section 202 grants combine high-quality, affordable housing with service coordinators who connect tenants with health, income support, and other community-based services. This produces positive outcomes for the health and quality of life of elderly tenants.

Section 202's housing plus services model extends how long seniors can live independently. This turns out to be cost effective as well, given the alternatives of nursing home care coupled with frequent hospitalizations. However, it is clear that HUD needs to streamline administration of this program to reflect a new financing reality.

The section 202 program was originally designed to be a one-stop shop for nonprofits to cover their entire project costs—that is capital, operating, and supportive services. Due to funding constraints, HUD's 202 grants no longer do so, especially in high-cost areas like my home State of Massachusetts. This requires nonprofit sponsors to access other sources of financing such as low-income housing tax credits.

The bill before us today addresses these concerns while taking into account HUD's legitimate interest in maintaining oversight of its substantial investment in section 202 projects. Senate 118 requires HUD to take advantage of State and local housing finance agencies' better positioning to process

mixed finance applications. It also enables nonprofit sponsors to share more fully in the proceeds of refinancing opportunities that are now available in the private sector that some older 202 projects have, so those sponsors can make needed improvements to existing projects and develop desperately needed additional senior housing.

For all of these reasons, I urge my colleagues to vote "yes" on S. 118.

I reserve the balance of my time.

Mrs. CAPITO. Madam Speaker, I yield myself such time as I may consume.

I rise in support of S. 118, the Section 202 Supportive Housing for the Elderly Act of 2009. As my colleague has said, the bill reforms the section 202 elderly housing program making it more efficient and more effective and better able to meet the housing needs of our elderly. S. 118 is similar to H.R. 2930 that passed the House in the 110th Congress by voice vote.

Affordable housing with supportive services is a key component for seniors who want to stay in their own home and age in place. The section 202 Housing for the Elderly program is the primary HUD program that provides housing exclusively for low-income elderly households. The section 202 program has been a very important tool in addressing these housing needs by providing capital advance grants to nonprofit housing sponsors to build new elderly housing facilities and project rental assistance contracts to subsidize very low-income elderly citizens of these facilities.

Many nonprofit sponsors are faith-based organizations with an exclusive mission to serve the elderly. As a condition of receiving a capital advance, which does not have to be repaid, a nonprofit sponsor must make housing available for a period no less than 40 years. As a result of these efforts, the section 202 program currently supplies 320,000 units of housing for our very low-income elderly citizens.

I am very pleased to see that the language that I worked on in the 110th Congress remains in the bill. My provision would help resolve a problem that nonmetro States, like my home State of West Virginia, have experienced when attempting to qualify for funds through the section 202 program. It is important to recognize, of course, that the need for housing for the very low-income elderly extends to nonmetro areas. The very low-income elderly of rural West Virginia deserve the same resources that are available to the elderly living in larger cities.

Participants and developers of the section 202 program maintain that the current regulation and HUD administration of the program can be time-consuming and bureaucratic. S. 118 will improve the section 202 elderly housing program by streamlining and simplifying the development and preserva-

tion of HUD's section 202 properties, and by increasing participation by not-for-profit developers, private lenders, investors, and State and local funding agencies.

Madam Speaker, the need for affordable rental housing in America has an effect on renters of all ages, especially our seniors, and this bill will help ease some of the affordability problems for our senior population. I urge my colleagues to support this bill.

I reserve the balance of my time.

Mr. LYNCH. Madam Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. Madam Speaker, I want to thank my good friend from Massachusetts for his leadership and his co-manager on the floor for her insightfulness on this legislation and, as well, to Senator KOHL.

I rise in support of S. 118 because so many of us have these very questions being raised in our district, particularly with populations of seniors increasing. My district happens to have one of the highest percentages of senior constituents, and all of them seem to be looking for housing.

□ 1120

I support the underlying initiative, section 202 housing. I have a number of those units in my congressional district. But one of the points that I wanted to highlight is the fact that many of these facilities are falling in disrepair. Even though there are some new facilities—and by my rising to the floor of the House, I would like to encourage my constituents and all those who are listening about how important it is to institute section 202 proposals or projects. They are enormously important, and I think it is important that the provision that encourages the utilization of State and local housing financing agencies is an asset.

One of the most important parts of this legislation is for the nonprofits who engage in 202 to be engaged or share more in the refinancing of these projects. The Heights House in my district, for example, is one that has a very vibrant population of residents who are there, but I know that all who are involved would like to see that property improved and those resources used to ensure that upkeep is continued. In many instances, the owners or nonprofits will say that the return on the property is not enough to keep it at its highest level.

Although we appreciate these properties and we appreciate the idea of these seniors having a place to live, I think that this particular legislation will reinforce section 202 and add to the 320,000 units already there. Our senior population is growing. Many of them have resources, but many do not. And I think the 202 project under HUD is an important concept to provide more housing for our seniors. They deserve,

after working and contributing to this great country, the opportunity to live a very good quality of life.

With that, I ask my colleagues to support this legislation, and I thank the gentleman for yielding.

Mrs. CAPITO. Madam Speaker, I yield such time as she may consume to the gentlewoman from Illinois (Mrs. BIGGERT), a housing advocate and the upcoming chair of the new subcommittee.

Mrs. BIGGERT. I thank the gentlelady for yielding.

Madam Speaker, I rise today as the Republican cosponsor of the House version of this legislation, H.R. 2930, which was first introduced during the 110th Congress, and I urge my colleagues to support today's bill, Senate 118, the Section 202 Supportive Housing for the Elderly Act. I would also like to thank Chairman FRANK and Ranking Members BACHUS and CAPITO for their work on this legislation. I would also like to thank our Senate counterpart, Senator KOHL of Wisconsin.

Madam Speaker, the section 202 program is the only Federal housing program that directs housing assistance to low-income seniors. And it has already been stressed, but it can't be stressed enough, that it has not been reformed in over a decade and a half. The reforms offered in today's bill will help increase the number of units available to our seniors, a population that is increasing greatly in numbers as the baby boomer generation retires.

In short, the bill will allow a variety of funding sources to be pooled together with section 202 funding to fund housing for seniors. By increasing program efficiencies, the bill will make it easier for section 202 projects to be refinanced and rehabilitated. It will also make it easier for owners to convert properties into those that provide both housing and services for the low-income seniors.

Again, I would like to thank my colleagues for their work on this legislation. And I would also like especially to thank my constituent Mike Frigo, the vice president of Mayslake, which is located in my district, who testified in support of section 202 reform legislation in September 2007. In December 2007, by voice vote, the House passed H.R. 2930, which is similar to the bill under consideration today. So I would urge my colleagues to support the bill.

Mr. LYNCH. Madam Speaker, I have no further requests for time on this side on this issue, but I do want to take an opportunity to thank Mrs. BIGGERT, the gentlelady from Illinois, and Mrs. CAPITO, the gentlelady from West Virginia, for their great work on this bill.

I have—and I'm sure we all have—a number of section 202 developments in our districts. I have plenty, and they serve our low-income seniors extremely well and it really is a program that does improve the quality of life

for a lot of our seniors. So I thank the gentleladies for their cooperation.

I reserve the balance of my time.

Mrs. CAPITO. Madam Speaker, I have no further requests for time. I want to thank the gentleman from Massachusetts for his good hard work, and I encourage my colleagues to support the bill.

I yield back the balance of my time.

Mr. LYNCH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, S. 118.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FRANK MELVILLE SUPPORTIVE HOUSING INVESTMENT ACT OF 2010

Mr. MURPHY of Connecticut. Madam Speaker, I move to suspend the rules and pass the bill (S. 1481) to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the “Frank Melville Supportive Housing Investment Act of 2010”.

(b) REFERENCES.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, section 811 or any other provision of section 811, the reference shall be considered to be made to section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

SEC. 2. TENANT-BASED RENTAL ASSISTANCE.

(a) RENEWAL THROUGH SECTION 8.—Section 811(d)(4) is amended to read as follows:

“(4) TENANT-BASED RENTAL ASSISTANCE.—

“(A) IN GENERAL.—Tenant-based rental assistance provided under subsection (b)(1) shall be provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

“(B) CONVERSION OF EXISTING ASSISTANCE.—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities an amount not less than the amount necessary to convert the number of authorized vouchers and funding under an annual contributions contract in effect on the date of enactment of the Frank Melville Supportive Housing Investment Act of 2010. Such converted vouchers may be administered by the entity administering the vouchers prior to conversion. For purposes of administering such converted vouchers, such entities shall be considered a ‘public housing agency’ au-

thorized to engage in the operation of tenant-based assistance under section 8 of the United States Housing Act of 1937.

“(C) REQUIREMENTS UPON TURNOVER.—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.”.

(b) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary is authorized to the extent amounts are made available in future appropriations Acts, to provide technical assistance to public housing agencies and other administering entities to facilitate using vouchers to provide permanent supportive housing for persons with disabilities, help States reduce reliance on segregated restrictive settings for people with disabilities to meet community care requirements, and chronic homelessness, as “chronically homeless” is defined in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361), and for other related purposes.

SEC. 3. MODERNIZED CAPITAL ADVANCE PROGRAM.

(a) PROJECT RENTAL ASSISTANCE CONTRACTS.—Section 811 is amended—

(1) in subsection (d)(2)—

(A) by inserting “(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.—” after “PROJECT RENTAL ASSISTANCE.—”;

(B) in the first sentence, by inserting after “shall” the following: “comply with subsection (e)(2) and shall”;

(C) by striking “annual contract amount” each place such term appears and inserting “amount provided under the contract for each year covered by the contract”; and

(D) by adding at the end the following new subparagraph:

“(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—

“(i) EXPIRATION OF CONTRACT TERM.—Upon the expiration of each contract term, subject to the availability of amounts made available in appropriation Acts, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, including adequate reserves and service coordinators as appropriate, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

“(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.”.

(2) in subsection (e)(2)—

(A) in the first sentence, by inserting before the period at the end the following: “, except that, in the case of the sponsor of a project assisted with any low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 or with any tax-exempt housing bonds, the contract shall have an initial term of not less than 360 months and shall provide funding for a term of 60 months”; and

(B) by striking “extend any expiring contract” and insert “upon expiration of a contract (or any renewed contract), renew such contract”.

(b) PROGRAM REQUIREMENTS.—Section 811 is amended—

(1) in subsection (e)—

(A) by striking the subsection heading and inserting the following: “PROGRAM REQUIREMENTS”;

(B) by striking paragraph (1) and inserting the following new paragraph:

“(1) USE RESTRICTIONS.—

“(A) TERM.—Any project for which a capital advance is provided under subsection (d)(1) shall be operated for not less than 40 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary and shall, during such period, be made available for occupancy only by very low-income persons with disabilities.

“(B) CONVERSION.—If the owner of a project requests the use of the project for the direct benefit of very low-income persons with disabilities and, pursuant to such request the Secretary determines that a project is no longer needed for use as supportive housing for persons with disabilities, the Secretary may approve the request and authorize the owner to convert the project to such use.”; and

(C) by adding at the end the following new paragraphs:

“(3) LIMITATION ON USE OF FUNDS.—No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist persons with disabilities.

“(4) MULTIFAMILY PROJECTS.—

“(A) LIMITATION.—Except as provided in subparagraph (B), of the total number of dwelling units in any multifamily housing project (including any condominium or cooperative housing project) containing any unit for which assistance is provided from a capital grant under subsection (d)(1) made after the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2010, the aggregate number that are used for persons with disabilities, including supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

“(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of any project that is a group home or independent living facility.”; and

(2) in subsection (1), by striking paragraph (4).

(c) DELEGATED PROCESSING.—Subsection (g) of section 811 (42 U.S.C. 8013(g)) is amended—

(1) by striking “SELECTION CRITERIA.” and inserting “SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—”;

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (G), and (H), respectively; and

(3) by adding at the end the following new paragraph:

“(2) DELEGATED PROCESSING.—

“(A) In issuing a capital advance under subsection (d)(1) for any multifamily project (but not including any project that is a group home or independent living facility) for which financing for the purposes described in the last sentence of subsection (b) is provided by a combination of the capital advance and sources other than this section, within 30 days of award of the capital advance, the Secretary shall delegate review

and processing of such projects to a State or local housing agency that—

“(i) is in geographic proximity to the property;

“(ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;

“(iii) may or may not be providing low-income housing tax credits in combination with the capital advance under this section; and

“(iv) agrees to issue a firm commitment within 12 months of delegation.

“(B) The Secretary shall retain the authority to process capital advances in cases in which no State or local housing agency is sufficiently qualified to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

“(C) The Secretary shall—

“(i) develop criteria and a timeline to periodically assess the performance of State and local housing agencies in carrying out the duties delegated to such agencies pursuant to subparagraph (A); and

“(ii) retain the authority to review and process projects financed by a capital advance in the event that, after a review and assessment, a State or local housing agency is determined to have failed to satisfy the criteria established pursuant to clause (i).

“(D) An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary. The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

“(E) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute a capital advance within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in capital advance amounts or project rental assistance and such reductions shall be subject to appeal.”.

(d) LEVERAGING OTHER RESOURCES.—Paragraph (1) of section 811(g) (as so designated by subsection (c)(1) of this section) is amended by inserting after subparagraph (E) (as so redesignated by subsection (c)(2) of this section) the following new subparagraph:

“(F) the extent to which the per-unit cost of units to be assisted under this section will be supplemented with resources from other public and private sources.”.

(e) TENANT PROTECTIONS AND ELIGIBILITY FOR OCCUPANCY.—Section 811 is amended by striking subsection (i) and inserting the following new subsection:

“(i) ADMISSION AND OCCUPANCY.—

“(1) TENANT SELECTION.—

“(A) PROCEDURES.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in

writing any rejected applicant of the grounds for any rejection.

“(B) REQUIREMENT FOR OCCUPANCY.—Occupancy in dwelling units provided assistance under this section shall be available only to persons with disabilities and households that include at least one person with a disability.

“(C) AVAILABILITY.—Except only as provided in subparagraph (D), occupancy in dwelling units in housing provided with assistance under this section shall be available to all persons with disabilities eligible for such occupancy without regard to the particular disability involved.

“(D) LIMITATION ON OCCUPANCY.—Notwithstanding any other provision of law, the owner of housing developed under this section may, with the approval of the Secretary, limit occupancy within the housing to persons with disabilities who can benefit from the supportive services offered in connection with the housing.

“(2) TENANT PROTECTIONS.—

“(A) LEASE.—The lease between a tenant and an owner of housing assisted under this section shall be for not less than one year, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

“(B) TERMINATION OF TENANCY.—An owner may not terminate the tenancy or refuse to renew the lease of a tenant of a rental dwelling unit assisted under this section except—

“(i) for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause; and

“(ii) by providing the tenant, not less than 30 days before such termination or refusal to renew, with written notice specifying the grounds for such action.

“(C) VOLUNTARY PARTICIPATION IN SERVICES.—A supportive service plan for housing assisted under this section shall permit each resident to take responsibility for choosing and acquiring their own services, to receive any supportive services made available directly or indirectly by the owner of such housing, or to not receive any supportive services.”.

(f) DEVELOPMENT COST LIMITATIONS.—Subsection (h) of section 811 is amended—

(1) in paragraph (1)—

(A) by striking the paragraph heading and inserting “GROUP HOMES”;

(B) in the first sentence, by striking “various types and sizes” and inserting “group homes”;

(C) by striking subparagraph (E); and

(D) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(2) in paragraph (3), by inserting “established pursuant to paragraph (1)” after “cost limitation”; and

(3) by adding at the end the following new paragraph:

“(6) APPLICABILITY OF HOME PROGRAM COST LIMITATIONS.—

“(A) IN GENERAL.—The provisions of section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(e)) and the cost limits established by the Secretary pursuant to such section with respect to the amount of funds under subtitle A of title II of such Act that may be invested on a per unit basis, shall apply to supportive housing assisted with a capital advance under subsection (d)(1) and the amount of funds under such subsection that may be invested on a per unit basis.

“(B) WAIVERS.—The Secretary may provide for waiver of the cost limits applicable pursuant to subparagraph (A)—

“(i) in the cases in which the cost limits established pursuant to section 212(e) of the Cranston-Gonzalez National Affordable Housing Act may be waived; and

“(ii) to provide for—

“(I) the cost of special design features to make the housing accessible to persons with disabilities;

“(II) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities; and

“(III) the cost of providing the housing in a location that is accessible to public transportation and community organizations that provide supportive services to persons with disabilities.”

(g) CONGRESSIONAL NOTIFICATION OF WAIVER.—Section 811(k) is amended—

(1) in paragraph (1), by adding the following after the second sentence: “Not later than the date of the exercise of any waiver permitted under the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the waiver or the intention to exercise the waiver, together with a detailed explanation of the reason for the waiver.”; and

(2) in paragraph (4)—

(A) by striking “prescribe, subject to the limitation under subsection (h)(6) of this section” and inserting “prescribe”; and

(B) by adding the following after the first sentence: “Not later than the date that the Secretary prescribes a limit exceeding the 24 person limit in the previous sentence, the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the limit or the intention to prescribe a limit in excess of 24 persons, together with a detailed explanation of the reason for the new limit.”

(h) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.—Paragraph (1) of section 811(l) is amended to read as follows:

“(1) MINIMUM ALLOCATION FOR MULTIFAMILY PROJECTS.—The Secretary shall establish a minimum percentage of the amount made available for each fiscal year for capital advances under subsection (d)(1) that shall be used for multifamily projects subject to subsection (e)(4).”

SEC. 4. PROJECT RENTAL ASSISTANCE.

Section 811(b) is amended—

(1) in the matter preceding paragraph (1), by striking “is authorized—” and inserting “is authorized to take the following actions:”;

(2) in paragraph (1)—

(A) by striking “(1) to provide tenant-based” and inserting “(1) TENANT-BASED ASSISTANCE.—To provide tenant-based”; and

(B) by striking “; and” and inserting a period;

(3) in paragraph (2), by striking “(2) to provide assistance” and inserting “(2) CAPITAL ADVANCES.—To provide assistance”; and

(4) by adding at the end the following:

“(3) PROJECT RENTAL ASSISTANCE.—

“(A) IN GENERAL.—To offer additional methods of financing supportive housing for non-elderly adults with disabilities, the Secretary shall make funds available for project rental assistance pursuant to subparagraph (B) for eligible projects under subparagraph (C). The Secretary shall provide for State housing finance agencies and other appropriate entities to apply to the Secretary for such project rental assistance funds, which shall be made available by such agencies and

entities for dwelling units in eligible projects based upon criteria established by the Secretary. The Secretary may not require any State housing finance agency or other entity applying for such project rental assistance funds to identify in such application the eligible projects for which such funds will be used, and shall allow such agencies and applicants to subsequently identify such eligible projects pursuant to the making of commitments described in subparagraph (C)(ii).

“(B) CONTRACT TERMS.—

“(i) CONTRACT TERMS.—Project rental assistance under this paragraph shall be provided—

“(I) in accordance with subsection (d)(2); and

“(II) under a contract having an initial term of not less than 180 months that provides funding for a term 60 months, which funding shall be renewed upon expiration, subject to the availability of sufficient amounts in appropriation Acts.

“(ii) LIMITATION ON UNITS ASSISTED.—Of the total number of dwelling units in any multifamily housing project containing any unit for which project rental assistance under this paragraph is provided, the aggregate number that are provided such project rental assistance, that are used for supportive housing for persons with disabilities, or to which any occupancy preference for persons with disabilities applies, may not exceed 25 percent of such total.

“(iii) PROHIBITION OF CAPITAL ADVANCES.—The Secretary may not provide a capital advance under subsection (d)(1) for any project for which assistance is provided under this paragraph.

“(iv) ELIGIBLE POPULATION.—Project rental assistance under this paragraph may be provided only for dwelling units for extremely low-income persons with disabilities and extremely low-income households that include at least one person with a disability.

“(C) ELIGIBLE PROJECTS.—An eligible project under this subparagraph is a new or existing multifamily housing project for which—

“(i) the development costs are paid with resources from other public or private sources; and

“(ii) a commitment has been made—

“(I) by the applicable State agency responsible for allocation of low-income housing tax credits under section 42 of the Internal Revenue Code of 1986, for an allocation of such credits;

“(II) by the applicable participating jurisdiction that receives assistance under the HOME Investment Partnership Act, for assistance from such jurisdiction; or

“(III) by any Federal agency or any State or local government, for funding for the project from funds from any other sources.

“(D) STATE AGENCY INVOLVEMENT.—Assistance under this paragraph may be provided only for projects for which the applicable State agency responsible for health and human services programs, and the applicable State agency designated to administer or supervise the administration of the State plan for medical assistance under title XIX of the Social Security Act, have entered into such agreements as the Secretary considers appropriate—

“(i) to identify the target populations to be served by the project;

“(ii) to set forth methods for outreach and referral; and

“(iii) to make available appropriate services for tenants of the project.

“(E) USE REQUIREMENTS.—In the case of any project for which project rental assist-

ance is provided under this paragraph, the dwelling units assisted pursuant to subparagraph (B) shall be operated for not less than 30 years as supportive housing for persons with disabilities, in accordance with the application for the project approved by the Secretary, and such dwelling units shall, during such period, be made available for occupancy only by persons and households described in subparagraph (B)(iv).

“(F) REPORT.—Not later than 3 years after the date of the enactment of this paragraph, and again 2 years thereafter, the Secretary shall submit to Congress a report—

“(i) describing the assistance provided under this paragraph;

“(ii) analyzing the effectiveness of such assistance, including the effectiveness of such assistance compared to the assistance program for capital advances set forth under subsection (d)(1) (as in effect pursuant to the amendments made by such Act); and

“(iii) making recommendations regarding future models for assistance under this section.”

SEC. 5. TECHNICAL CORRECTIONS.

Section 811 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2)—

(i) by striking “provides” and inserting “makes available”; and

(ii) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(3) promotes and facilitates community integration for people with significant and long-term disabilities.”;

(2) in subsection (c)—

(A) in paragraph (1), by striking “special” and inserting “housing and community-based services”; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

“(A) make available voluntary supportive services that address the individual needs of persons with disabilities occupying such housing;”; and

(ii) in subparagraph (B), by striking the comma and inserting a semicolon;

(3) in subsection (d)(1), by striking “provided under” and all that follows through “shall bear” and inserting “provided pursuant to subsection (b)(1) shall bear”;;

(4) in subsection (f)—

(A) in paragraph (3)—

(i) in subparagraph (B), by striking “receive” and inserting “be offered”;;

(ii) by striking subparagraph (C) and inserting the following:

“(C) evidence of the applicant’s experience in—

“(i) providing such supportive services; or

“(ii) creating and managing structured partnerships with service providers for the delivery of appropriate community-based services;”;

(iii) in subparagraph (D), by striking “such persons” and all that follows through “provision of such services” and inserting “tenants”; and

(iv) in subparagraph (E), by inserting “other Federal, and” before “State”; and

(B) in paragraph (4), by striking “special” and inserting “housing and community-based services”;;

(5) in subsection (g), in paragraph (1) (as so redesignated by section 3(c)(1) of this Act)—

(A) in subparagraph (D) (as so redesignated by section 3(c)(2) of this Act), by striking “the necessary supportive services will be

provided" and inserting "appropriate supportive services will be made available"; and

(B) by striking subparagraph (E) (as so redesignated by section 3(c)(2) of this Act) and inserting the following:

"(E) the extent to which the location and design of the proposed project will facilitate the provision of community-based supportive services and address other basic needs of persons with disabilities, including access to appropriate and accessible transportation, access to community services agencies, public facilities, and shopping;"

(6) in subsection (j)—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively;

(7) in subsection (k)—

(A) in paragraph (1), by inserting before the period at the end of the first sentence the following: ", which provides a separate bedroom for each tenant of the residence";

(B) in paragraph (2), by striking the first sentence, and inserting the following: "The term 'person with disabilities' means a household composed of one or more persons who is 18 years of age or older and less than 62 years of age, and who has a disability.";

(C) by striking paragraph (3) and inserting the following new paragraph:

"(3) The term 'supportive housing for persons with disabilities' means dwelling units that—

"(A) are designed to meet the permanent housing needs of very low-income persons with disabilities; and

"(B) are located in housing that make available supportive services that address the individual health, mental health, or other needs of such persons.";

(D) in paragraph (5), by striking "a project for"; and

(E) in paragraph (6)—

(i) by inserting after and below subparagraph (D) the matter to be inserted by the amendment made by section 841 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569; 114 Stat. 3022); and

(ii) in the matter inserted by the amendment made by subparagraph (A) of this paragraph, by striking "wholly owned and"; and

(8) in subsection (1)—

(A) in paragraph (2), by striking "subsection (c)(1)" and inserting "subsection (d)(1)"; and

(B) in paragraph (3), by striking "subsection (c)(2)" and inserting "subsection (d)(2)".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Subsection (m) of section 811 is amended to read as follows:

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for providing assistance pursuant to this section \$300,000,000 for each of fiscal years 2011 through 2015."

SEC. 7. GAO STUDY.

The Comptroller General of the United States shall conduct a study of the supportive housing for persons with disabilities program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) to determine the adequacy and effectiveness of such program in assisting households of persons with disabilities. Such study shall determine—

(1) the total number of households assisted under such program;

(2) the extent to which households assisted under other programs of the Department of Housing and Urban Development that provide rental assistance or rental housing

would be eligible to receive assistance under such section 811 program; and

(3) the extent to which households described in paragraph (2) who are eligible for, but not receiving, assistance under such section 811 program are receiving supportive services from, or assisted by, the Department of Housing and Urban Development other than through the section 811 program (including under the Resident Opportunity and Self-Sufficiency program) or from other sources.

Upon the completion of the study required under this section, the Comptroller General shall submit a report to the Congress setting forth the findings and conclusions of the study.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. MURPHY) and the gentlewoman from West Virginia (Mrs. CAPITO) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut.

GENERAL LEAVE

Mr. MURPHY of Connecticut. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. MURPHY of Connecticut. I yield myself such time as I may consume.

Madam Speaker, I am proud to stand here today with my colleagues in support of S. 1481, the Frank Melville Supportive Housing Investment Act of 2009. This is a reauthorization and improvement upon the existing section 811 supportive housing program. Passing this bill today would send the legislation to the President's desk. I think this is the third time we've had this bill before the House over the last 4 years. It would pave the way to provide thousands more affordable housing units each year across this country to low-income persons with physical and mental disabilities. Importantly, the bill before us today costs the same amount as the existing 811 program. It just makes some very important improvements to efficiently expand the use of these important dollars.

That is why I want to first just thank all the people who have brought this bill before us today, Senators MENENDEZ and JOHANNIS in the Senate as well as the ranking member of the full committee in the Senate, Senator DODD; here in the House, the chairman of the full committee, Representative FRANK and Representatives CAPITO and BIGGERT for their tireless advocacy on the issue of supportive housing, as well as really hundreds of staff both on the inside of this building and those advocates who have worked on this issue for a number of years.

And lastly to the Melville family, this bill is titled the Frank Melville Supportive Housing Investment Act.

Frank Melville, who unfortunately passed away a few years ago, and his surviving wife, Allen, created something called the Melville Charitable Trust; and that trust today is one of the primary funders of supportive housing advocacy around the Northeast and around the Nation. And I think this legislation, should it find its way into passage, will be a fitting testament to Frank Melville's legacy.

Madam Speaker, the 811 program is the primary program for the development of supportive housing around the country. The Department of Housing and Urban Development estimates that around this Nation, there are about 1.3 million individuals, nonelderly disabled, people with physical disabilities or sometimes very severe mental illness, who are living in substandard housing. Supportive housing is a cost-effective means to provide those individuals with an ability to thrive independently. They are housing units, sometimes built together, sometimes done on a scattered-site basis, that are partnered with a modicum of support services, sometimes transportation help, sometimes medication adherence, that allows them to live independently.

It's the right thing to do for them, and it's the right thing to do for the government. It saves us billions of dollars. Because often, especially with respect to the individuals who have severe mental illness, the alternative is for those people to live in institutional settings, whether it be in hospitals or in jails. For those with physical disabilities, it is often a very, very difficult life to live in nonsupportive housing units.

□ 1130

The problem is we are not building enough of these units. Over the last few years we've built less than 1,000 across the country with 811 dollars. And it's sometimes taking up to 6 years from the point of application to the point of completion when you're dealing with an 811 project.

This bill, by reordering the way in which we run the program, would triple the number of housing units that we can build through the 811 program across country. It does this by providing better accountability and cost efficiency to the program, by transferring 811 vouchers to the larger section 8 program. And this frees up funds to support efforts to leverage 811 capital dollars with low-income tax credits, private dollars, and State partnerships. That's what this is really all about, trying to take our Federal dollars and leverage them with other sources of funding, whether it be through State and municipal funds or whether it be through private dollars, which I think is really the future of supportive housing development.

It also makes a number of other important efficiencies by allowing States

and State housing agencies to do much of the bureaucratic paperwork that sometimes bogs down these applications.

Years ago, Madam Speaker, when this country and States across the Nation made the decision to close down our institutions that housed individuals with mental and physical disabilities, we made a promise to them. We told them that we'd find them new housing out in the communities, better opportunities for those individuals to live on their own. We haven't lived up to that promise over the years.

And in Connecticut, those of us who have worked on this issue for years, we often wear a badge when we're working on this issue in the State Capitol that says, Keep the Promise. This legislation, I believe, thanks to the great work of my Republican colleagues and Senators who worked so hard on it, is a step towards doing just that.

Again, I'd like to thank all of the people who have made this prospective final passage possible.

I reserve the balance of my time.

Mrs. CAPITO. Madam Speaker, I would like to thank my colleague from Connecticut for his dedication to this very important piece of legislation. And I would particularly like to thank Ms. BIGGERT from Illinois for her passion and her advocacy on behalf of the disabled Americans and their housing needs.

I rise in support of S. 1481, the Frank Melville Supportive Housing Investment Act of 2010.

There are nearly 4 million non-elderly disabled adults in the United States that are in need of housing assistance. The section 811 program is the only Federal program that allows persons with disabilities to live independently in the community by increasing the supply of affordable rental housing with the availability of supportive services.

S. 1481 closely resembles H.R. 1675, which passed the House by over 375 votes last year. The bill before us today restructures the section 811 program in a way that provides for a continued creation of supportive housing and provides rental assistance that would make housing affordable for very low-income people with disabilities.

This bill will improve the section 811 disabled housing program by streamlining and simplifying development of HUD section 811 properties, and makes changes to the program to encourage integration and mixed-use developments such as low-income housing tax credits and HOME program funds.

I would additionally like to thank the very dedicated and hearty group of advocates from my State of West Virginia who traveled here last year to talk about this extremely important issue and the difficulties that they find every day, not only securing housing, but finding more housing for their as-

sociates who may suffer disabilities and are unable to find safe, affordable housing. And so I want to thank them for their passion and also for their strength that they exhibit every day in dealing with their disabilities.

I urge my colleagues to support this legislation.

I reserve the balance of my time.

Mr. MURPHY of Connecticut. Madam Speaker, I yield as much time as he may consume to the chairman of the full committee and a primary proponent of this legislation and the legislation that previously passed respective to the 202 program, Representative BARNEY FRANK.

Mr. FRANK of Massachusetts. Madam Speaker, I support this legislation substantively. I'm also glad we're bringing it up because it helps dispel a couple of unduly negative views about us. We've just seen a great example of bipartisan cooperation. Yes, things have gotten very partisan. Some things should be partisan. More have become that way than should be.

But the public has an excessive view of the extent to which partisanship dominates, because when we have cooperation between the parties and agreement it's not news. And while we have some differences, the gentlewoman from West Virginia as the ranking member of the Housing Subcommittee and the gentlewoman from California (Ms. WATERS) as the chair did a lot of constructive work together, brought forward a number of pieces of legislation. Not all of them survived the last minute rush. I am hopeful under the leadership of the gentlewoman from Illinois those areas where we had some agreement, there were some that remain, that we will be able to move them. So it does show that people believe that there is more partisanship than there is, or that there are no examples of cooperation between the parties, as there are in this case.

There is a view that politics is a hard and nasty business and that people are vindictive, and this is proof that that's not true.

Now, the gentleman from Connecticut abandoned our committee, left for greener committee pastures. But that did not prevent us from enthusiastically helping him to pass this bill, and he deserves a great deal of credit for it. It is an idea, I believe, that came to him from constituents, and that's another good thing to know; that there were people in his district who were interested in this. And he brought it forward and worked very hard and made the necessary adjustments, as you always do in the process.

So this speaks very well of the gentleman from Connecticut and of the process, that people in the country who have some good ideas can bring them to us and they can be shaped, and this is done.

Finally, I am very pleased that this will lead to, I hope, more construction of rental units. A common problem that we've had for many years in our housing area was to overstress home ownership for people who needed government assistance, and underperformed with regard to building rental units. No one thing solved it all, but this is a step forward towards the construction of rental units in a way that will increase the stock of housing.

And we ought to remember when we talk about providing homes for people who need assistance, ownership and having a home are not the same word. Home ownership is a part of home, in general. Rental housing is also an important part.

I thank the gentleman from Connecticut and the gentlewoman from West Virginia and others for letting us take that step forward together.

Mrs. CAPITO. Madam Speaker, I yield such time as she may consume to a wonderful advocate for supportive housing and housing in general, the gentlewoman from Illinois, JUDY BIGGERT.

Ms. BIGGERT. Madam Speaker, today I rise as a Republican cosponsor of the House version of this legislation, and I urge my colleagues to support the bill.

I would like to thank my colleague, Congressman MURPHY of Connecticut, for all his hard work, and Ranking Member CAPITO of West Virginia for all that she has done on this bill.

Also our Senate counterparts, Senator MENENDEZ of New Jersey and Senator MIKE JOHANNIS of Nebraska, for their hard work on this legislation.

Section 811 is the only Federal housing program that serves non-elderly, low-income people with disabilities. It is the only Federal program that funds housing and vouchers for people with disabilities who seek to live as independent members of the community.

Unfortunately, the program hasn't been reformed for over 15 years and, due to inefficiencies, has not served as many people who are disabled as it could. That's why, for the past 4 years, Congressman MURPHY and I have worked to reform the section 811 program. The House passed our bill, H.R. 5772, by voice vote in September 2008, and in July 2009, the House passed H.R. 1675 with overwhelming bipartisan support by a recorded vote of 376-51.

The bill under consideration today closely mirrors both House-passed bills. S. 1481 is critical to the goal of increasing the number of affordable units for people with disabilities. By better aligning this section 811 program with other Federal, State, and local funding resources, it allows nonprofit sponsors to more easily leverage additional financing, thereby maximizing Federal dollars.

□ 1140

It streamlines the application process and permits nonprofit and for-profit

entities to partner on Section 811 projects. The bill also limits appropriations to the Federal fiscal year 2010 level and does not create any new Federal programs.

I would like to once again thank my colleague from Connecticut, Congressman MURPHY, and thank Chairman FRANK and Ranking Member BACHUS, Chairwoman WATERS and Ranking Member CAPITO, as well as their staffs, for helping us with this legislation.

Of course, I cannot forget to thank one of my constituents from Tinley Park, Illinois, Tony Paulauski, the executive director of Arc of Illinois, who testified in 2008 before our committee about the needs for these reforms. On a similar note, I would also like to thank the wonderful people in Illinois that work for Trinity Services and Cornerstone Services, as well as all those volunteers, parents, and other members of the community who have reached out to express their support of this legislation.

Madam Speaker, this is a common-sense bill that modernizes an important Federal housing program that hasn't been updated, and I would urge my colleagues to support it.

Mrs. CAPITO. Madam Speaker, I would urge my colleagues to vote in support of this very important bill.

I have no further requests for time, and I yield back the balance of my time.

Mr. MURPHY of Connecticut. Madam Speaker, I would like to thank, again, Representative FRANK for his generosity, despite my leaving the committee. And again, to Representative BIGGERT in particular, for her advocacy on this issue over the years.

For people that are born with physical and mental disabilities, what I think we strive to do as a society is give them a chance at independent life, give them a chance to succeed just like everyone else. And there is nothing more fundamental to that success than a roof over your head, than a place to live and a place that has some appropriate supports, recognizing the challenges that you face. This bill, where we can potentially triple the number of supportive housing units that we build across the country without spending an additional dime, is both, I think, a compassionate response to those people and a responsible way to run this program.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. MURPHY) that the House suspend the rules and pass the bill, S. 1481.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ANTI-BORDER CORRUPTION ACT OF 2010

Ms. JACKSON LEE of Texas. Madam Speaker, I move to suspend the rules and pass the bill (S. 3243) to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Border Corruption Act of 2010".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the Office of the Inspector General of the Department of Homeland Security, since 2003, 129 U.S. Customs and Border Protection officials have been arrested on corruption charges and, during 2009, 576 investigations were opened on allegations of improper conduct by U.S. Customs and Border Protection officials.

(2) To foster integrity in the workplace, established policy of U.S. Customs and Border Protection calls for—

(A) all job applicants for law enforcement positions at U.S. Customs and Border Protection to receive a polygraph examination and a background investigation before being offered employment; and

(B) relevant employees to receive a periodic background reinvestigation every 5 years.

(3) According to the Office of Internal Affairs of U.S. Customs and Border Protection—

(A) in 2009, less than 15 percent of applicants for jobs with U.S. Customs and Border Protection received polygraph examinations;

(B) as of March 2010, U.S. Customs and Border Protection had a backlog of approximately 10,000 periodic background reinvestigations of existing employees; and

(C) without additional resources, by the end of fiscal year 2010, the backlog of periodic background reinvestigations will increase to approximately 19,000.

SEC. 3. REQUIREMENTS WITH RESPECT TO ADMINISTERING POLYGRAPH EXAMINATIONS TO LAW ENFORCEMENT PERSONNEL OF U.S. CUSTOMS AND BORDER PROTECTION.

The Secretary of Homeland Security shall ensure that—

(1) by not later than 2 years after the date of the enactment of this Act, all applicants for law enforcement positions with U.S. Customs and Border Protection receive polygraph examinations before being hired for such a position; and

(2) by not later than 180 days after the date of the enactment of this Act, U.S. Customs and Border Protection initiates all periodic background reinvestigations for all law enforcement personnel of U.S. Customs and Border Protection that should receive periodic background reinvestigations pursuant to relevant policies of U.S. Customs and Border Protection in effect on the day before the date of the enactment of this Act.

SEC. 4. PROGRESS REPORT.

Not later than 180 days after the date of the enactment of this Act, and every 180 days

thereafter through the date that is 2 years after such date of enactment, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the progress made by U.S. Customs and Border Protection toward complying with section 3.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Texas (Ms. JACKSON LEE) and the gentlewoman from Michigan (Mrs. MILLER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Texas.

GENERAL LEAVE

Ms. JACKSON LEE of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON LEE of Texas. Madam Speaker, I rise in support of S. 3243, the Anti-Border Corruption Act of 2010, and yield myself such time as I may consume.

Madam Speaker, we all have a stake in ensuring that the agency in charge of securing our border is strong and effective. Accordingly, I believe that corruption anywhere in the ranks of Customs and Border Protection, or CBP, must be dealt with swiftly and effectively. Now, having gone to our border, both northern and southern border, I am well aware that there is a lot of hard work, sacrifice, and professionalism that goes on among our CBP personnel. In fact, I have engaged with them over the years.

S. 3243, however, will foster greater integrity throughout the CBP by requiring polygraph tests for all its law enforcement applicants and directing CBP leadership to conduct periodic reinvestigations on current personnel to root out any corruption—very important in light of the extreme conditions, particularly on the southern border, and the fight that we have against drug cartels and violence.

The men and women of Customs and Border Protection, CBP, serve on the front line in extreme heat, terrible cold, and other difficult circumstances to protect the Nation against homeland security and criminal threats, and we are enormously grateful to them.

I am proud of the strides that Congress has made over the years to bolster the efforts of these fine men and women by, among other things, doubling the size of the Border Patrol from about 10,000 agents in FY 2002 to more than 20,000 in FY 2009. I am very pleased that having served on that committee since its origin, and having served under Chairman THOMPSON, that was one of our number one priorities.

In fact, legislation that I introduced became, ultimately, part of a Senate bill that helped increase the number of Border Patrol agents at the border, the southern border in particular.

Traditional smuggling routes and networks have been disrupted because of our Federal efforts to secure the border. But in response, smugglers and other criminal organizations are actively seeking out other ways to conduct their illegal activity. They have, in some cases, resorted to infiltrating and weakening CBP from within its ranks.

While the majority of CBP employees are not corrupt and are putting their lives on the line every day to keep America secure, there are some who are undermining their efforts. Let me remind my colleagues: The majority of CBP employees are not corrupt, and we thank them for their sacrifice. However, enactment of this bill will strengthen personnel integrity, result in greater hiring efficiency, and protect those who are doing their job every single day.

According to CBP, approximately 15 percent of applicants received a polygraph examination last year. Of those, about 60 percent were found unsuitable for service. CBP has also found that less than 1 percent of applicants cleared by polygraph testing failed the required background investigation. It shows that this process will work. In contrast, roughly 22 percent of applicants who do not undergo this testing fail their background investigations.

Maintaining workforce integrity is a continuous process that does not end with preemployment screening. With the aggressive growth in CBP, the agency has struggled to keep up with its periodic reinvestigations of certain personnel. S. 3243 would require CBP to initiate reinvestigation within 6 months of enactment and report to Congress on its progress, all toward the idea of ensuring the integrity of law enforcement at a very crucial time in America's history.

I urge my colleagues to join me in supporting the passage of S. 3243, because this legislation will help bolster CBP's ability to ensure integrity throughout the ranks of this critical Homeland Security agency. And, frankly, I believe the men and women who are doing their job every day will welcome this kind of process in order to be able to stand alongside of those men and women just like them.

I urge support.

I reserve the balance of my time.

Mrs. MILLER of Michigan. I yield myself as much time as I may consume.

Madam Speaker, I rise today to speak about S. 3243, which will require Customs and Border Protection, the CBP, to begin polygraph testing for all new applicants for law enforcement positions before being hired and to ini-

tiate periodic background reinvestigations for all of its law enforcement personnel.

First, I would like to sincerely commend the work that the Border Patrol agents and the CBP officers across the Nation do each and every single day. These brave men and women stand on the front lines. They endure hardships. They face dangerous and heavily armed drug cartels along the southern border. And agents like Brian Terry, who lost his life, actually, last week and is an agent from Michigan who, I believe, is being laid out at a funeral parlor in the city of Detroit as we speak, lay down their lives to protect our border and our Nation. And, of course, the challenges faced by CBP agents, as well, along the northern border are also being met.

The important work being done by our Border Patrol and CBP officers to control the legal flow of both people and goods while deterring smuggling has made them a target of these drug cartels and other criminal organizations who want to recruit them to help smuggle drugs and money across our borders.

Corruption amongst border agents, unfortunately, is not a new problem. But as our enforcement efforts along the border have grown, so have the number of corruption cases. Since 2003, 129 CBP officers have been arrested on corruption charges. Last year alone, there were 576 allegations of corruption.

□ 1150

CBP's internal affairs office has stated that less than 15 percent of applicants receive a polygraph test, despite agency policy that requires that all applicants are supposed to take this test. CBP procedure also requires periodic background reinvestigations for employees to occur at least every 5 years. However, Madam Speaker, there is currently a backlog of over 10,000 cases, which could increase to 19,000 by the end of this fiscal year. This bill will make it mandatory for all CBP applicants to be prescreened with a polygraph examination and will require CBP to clear the backlog of reinvestigations within 6 months.

This bill will go a long, long way to preventing people like Margarita Crispin from becoming a CBP agent. Ms. Crispin, as an example, was hired by CBP in 2003, at which time she had already been recruited by the Juarez cartel. Almost immediately after completing her training, she began helping drug traffickers smuggle narcotics into the U.S.; and by the time she was arrested in 2007, she had allowed more than 2,200 pounds of marijuana to cross over our border.

Ms. Crispin was, unfortunately, not unique among CBP officers. In recent years, we have seen the Vilareal brothers, who helped smuggle an untold

number of Mexicans and Brazilians across the border before quitting CBP and then fleeing into Mexico.

Perhaps most disturbing, however, as an example, was the case of Michael Gilliland, who was a highly respected 16-year veteran of CBP who was arrested on corruption charges in 2007. Mr. Gilliland became involved with a woman who belonged to a smuggling organization and before long began taking bribes to help smuggle people and narcotics into the United States.

Madam Speaker, this illustrates how important it is that CBP not only give polygraph exams to new applicants, but to also clear their backlog and reinvestigate their employees every few years.

Our efforts to secure the border since 9/11 have made it more difficult for criminal organizations to smuggle people and narcotics into our country, but this has only made them more desperate. It is important to ensure that the outstanding work being done by our Border Patrol agents isn't tarnished by a few corrupt individuals who could be screened out before they have the opportunity to do harm.

With the passage of this legislation, we can close this loophole and ensure that only the most trustworthy agents are employed by CBP.

Madam Speaker, I yield back the balance of my time.

Ms. JACKSON LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

I want to join the gentlelady from Michigan to offer my deepest sympathy for the fallen Customs and Border Patrol agent who lost his life in the line of duty, in the line of battle, if you will, and to express this country's gratefulness again for his service.

So in tribute to those who we recognize every day put their lives on the front line, we want to ensure that we have the kind of force of men and women that will uphold the highest standards of integrity that even under pressure in this very hostile climate of drug cartels, human trafficking and smuggling and massiveness of criminal activity and intent to do harm to the United States, that we provide the atmosphere for these men and women to do their job.

Madam Speaker, as you have heard, the enactment of S. 3243 will force a greater integrity through CBP. Passage of S. 3243 by the House of Representatives today will allow this important measure to be presented to the President for his signature in recognition of the sacrifice of all of these men and women at our borders.

I encourage my colleagues to join me in supporting S. 3243 and, as we do this, look forward to comprehensively addressing this immigration concern in this Nation and really move this Nation forward in a nonpartisan and bipartisan manner.

Mr. THOMPSON of Mississippi. Madam Speaker, I rise in support of S. 3243, the Anti-Border Corruption Act.

The men and women of Customs and Border Protection (CBP) are the guardians of our Nation's borders.

They protect our ports of entry and areas in between against homeland security threats, including illicit trafficking and other criminal activity, while facilitating legitimate trade and travel.

The vast majority of CBP personnel are committed to the border security mission.

However, there have been instances in recent years of individuals seeking and securing employment with CBP for the express purpose of engaging in smuggling and other criminal activities.

For example, last December, Border Patrol Agent Raquel Esquivel was sentenced to 15 years in prison for informing smugglers on the location of patrols.

She reportedly joined the Border Patrol based on the recommendation of a high school friend and drug smuggler who convinced her it was a "good career move" for both of them.

More recently, just last week, a Customs Officer based at Atlanta's Hartsfield-Jackson Airport was arrested in one of the largest ecstasy pill seizures in the country.

The officer was charged with conspiring to launder drug money, bulk cash smuggling and attempting to bring weapons onto an aircraft. He allegedly used his badge to bypass security and avoid screening.

H.R. 3243 would strengthen CBP by enhancing the agency's personnel integrity policies.

Specifically, the bill would require CBP to:

(1) require all applicants for CBP law enforcement positions to undergo polygraph examinations; and

(2) commence background re-investigations of certain employees within six months of enactment.

CBP deploys more than 57,000 employees each day.

On a typical day, they process about one million passengers and pedestrians; execute more than two thousand apprehensions between ports and over one hundred criminal arrests at ports of entry.

Given this high-threat environment, it is not surprising that drug trafficking organizations have turned their attention to infiltrating and compromising CBP.

The dramatic increases in staffing have also contributed to personnel vulnerabilities.

The Border Patrol has seen its agents double from approximately 10,000 agents in FY 2002 to more than 20,000 in FY 2009.

This rate of growth has made it difficult for CBP to pace with periodic personnel re-investigations.

I urge passage of S. 3243 which takes some important steps to help prevent the hiring of those who seek to infiltrate CBP for terrorist or criminal purposes and ensure that re-investigations are conducted on a regular basis to weed out any potential corruption.

Ms. JACKSON LEE of Texas. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by

the gentlewoman from Texas (Ms. JACKSON LEE) that the House suspend the rules and pass the bill, S. 3243.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. JACKSON LEE of Texas. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

NORTHERN BORDER COUNTER-NARCOTICS STRATEGY ACT OF 2010

Mr. SCOTT of Virginia. Madam Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4748) to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Border Counternarcotics Strategy Act of 2010".

SEC. 2. NORTHERN BORDER COUNTERNARCOTICS STRATEGY.

The Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law 109-469; 120 Stat. 3502) is amended by inserting after section 1110 the following:

"SEC. 1110A. REQUIREMENT FOR NORTHERN BORDER COUNTERNARCOTICS STRATEGY.

"(a) DEFINITIONS.—In this section, the terms 'appropriate congressional committees', 'Director', and 'National Drug Control Program agency' have the meanings given those terms in section 702 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701).

"(b) STRATEGY.—Not later than 180 days after the date of enactment of this section, and every 2 years thereafter, the Director, in consultation with the head of each relevant National Drug Control Program agency and relevant officials of States, local governments, tribal governments, and the governments of other countries, shall develop a Northern Border Counternarcotics Strategy and submit the strategy to—

"(1) the appropriate congressional committees (including the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives);

"(2) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Indian Affairs of the Senate; and

"(3) the Committee on Armed Services, the Committee on Homeland Security, and the Committee on Natural Resources of the House of Representatives.

"(c) PURPOSES.—The Northern Border Counternarcotics Strategy shall—

"(1) set forth the strategy of the Federal Government for preventing the illegal trafficking of drugs across the international border between the United States and Canada, including through ports of entry and between ports of entry on the border;

"(2) state the specific roles and responsibilities of each relevant National Drug Control Program agency for implementing the strategy;

"(3) identify the specific resources required to enable the relevant National Drug Control Program agencies to implement the strategy; and

"(4) reflect the unique nature of small communities along the international border between the United States and Canada, ongoing cooperation and coordination with Canadian law enforcement authorities, and variations in the volumes of vehicles and pedestrians crossing through ports of entry along the international border between the United States and Canada.

"(d) SPECIFIC CONTENT RELATED TO CROSS-BORDER INDIAN RESERVATIONS.—The Northern Border Counternarcotics Strategy shall include—

"(1) a strategy to end the illegal trafficking of drugs to or through Indian reservations on or near the international border between the United States and Canada; and

"(2) recommendations for additional assistance, if any, needed by tribal law enforcement agencies relating to the strategy, including an evaluation of Federal technical and financial assistance, infrastructure capacity building, and interoperability deficiencies.

"(e) LIMITATION.—

"(1) IN GENERAL.—The Northern Border Counternarcotics Strategy shall not change the existing agency authorities and this section shall not be construed to amend or modify any law governing interagency relationships.

"(2) LEGITIMATE TRADE AND TRAVEL.—The Northern Border Counternarcotics Strategy shall be designed to promote, and not hinder, legitimate trade and travel.

"(f) TREATMENT OF CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—

"(1) IN GENERAL.—The Northern Border Counternarcotics Strategy shall be submitted in unclassified form and shall be available to the public.

"(2) ANNEX.—The Northern Border Counternarcotics Strategy may include an annex containing any classified information or information the public disclosure of which, as determined by the Director or the head of any relevant National Drug Control Program agency, would be detrimental to the law enforcement or national security activities of any Federal, State, local, or tribal agency."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. SCOTT of Virginia. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. I yield myself such time as I may consume.

Madam Speaker, H.R. 4748 amends the Office of National Drug Control

Policy Reauthorization Act of 2006 to require the Director of the National Drug Control Policy to submit to Congress a northern border counternarcotics strategy.

The United States' northern border with Canada is the longest open border in the world, spanning 12 States and over 4,000 miles. The House initially passed this bill 5 months ago, recognizing the increased amount of drug trafficking and related criminal activity occurring near the Canadian border, including on Indian reservations in that area.

To combat this development, H.R. 4748 requires the creation of a northern border counternarcotics strategy similar to what has been in place for our southwest border for several years. This will promote more effective consultation and coordination between Federal law enforcement agencies so that we can bring new force to our efforts to curb the flow of illegal drugs across the northern border and the crime it brings in its wake. In addition, H.R. 4748 gives Indian tribes with reservations on or near the Canadian border a consulting role in implementing the strategy on their reservations.

This bill is the result of efforts by our colleague, the gentleman from New York (Mr. OWENS), whose district spans 250 miles of the border on land along the St. Lawrence River and on Lake Erie. The Homeland Security chairman, the gentleman from Mississippi (Mr. THOMPSON), helped to shape the bill and bring it to the floor last summer. The Senate has now returned the bill with some modest, but helpful, refinements; and I urge my colleagues to support this revised version so that we can send it to the President.

I reserve the balance of my time.

Mr. SMITH of Texas. I yield myself such time as I may consume.

Madam Speaker, H.R. 4748, the Northern Border Counternarcotics Strategy Act, requires the Director of the Office of National Drug Control Policy, ONDCP, to develop a counternarcotics strategy for the U.S. Canadian border. The House passed this legislation last July. The Senate made several technical and conforming changes to the language and sent it back to the House for final consideration.

Significant attention has been paid to drug trafficking along our southern border with Mexico, but the northern border with Canada is also a major transit point for high-potency marijuana, Ecstasy, and other illegal drugs. According to the 2010 National Drug Threat Assessment, Asian drug trafficking organizations produce the drug Ecstasy in Canada and then smuggle it across the northern border into the U.S. America's northern border is remote, heavily wooded and sparsely populated, ideal for smugglers seeking to move their product into the U.S. undetected.

In 2006, Congress directed the ONDCP to prepare a counternarcotics strategy for our southwestern border. H.R. 4748 mirrors this strategy, but for our northern border.

While we continue to address drug trafficking across our southern border, we must not lose sight of the ease with which our northern border can be exploited by dangerous drug smugglers. I urge my colleagues to support this legislation.

Madam Speaker, I yield back the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I yield the balance of my time to the gentleman from New York (Mr. OWENS), who has been working hard on this particular bill.

□ 1200

Mr. OWENS. Madam Speaker, I want to thank Chairman CONYERS and Chairman THOMPSON for their leadership and for bringing H.R. 4748 to the floor with the Senate amendment.

Our northern border with Canada spans over 4,000 miles, the longest open border in the world. I am intimately familiar with the unique status of our shared border. My congressional district in Upstate New York includes 13 ports of entry and border crossings, and nearly 2,000 jobs depend on a stable trading relationship with our northern neighbor.

We currently lack a unified approach to stopping the flow of drugs from the northern border. As the southern border has witnessed the spread of violence that has accompanied the increased drug trade, we must be proactive and vigilant in ensuring that our northern border remains safe and open for business. Organized criminal elements are increasingly exploiting the northern border to traffic narcotics, illicit cigarettes, firearms, and people. According to the 2010 National Drug Threat Assessment, the amount of ecstasy seized at or between northern border points of entry increased 594 percent from 2004 to 2009. In 2009, there were 1,100 drug-related arrests in New York's North Country. Just last week, the Franklin County Border Narcotics Task Force caught a Malone man believed to be headed downstate with 119 pounds of marijuana. The Narcotics Task Force, consisting of law enforcement officials from the Federal, State, and local level, stand to benefit greatly from this legislation. They will have the added advantage of increased cooperation and information sharing with their counterparts across the northern border.

By enacting this important legislation into law, the Federal agency that is responsible for stopping illegal drugs from entering the U.S. will, for the first time, be mandated by Congress to create a comprehensive strategy to stop the flow of drugs across the northern border. By coordinating the efforts

of Federal, State, and local officials responsible for the safety of our communities, the Northern Border Counternarcotics Strategy Act will help ensure that law enforcement has the tools and information they need to keep the drug trade out of the northern border communities.

This legislation also recognizes the important balance between allowing the flow of legitimate trade and travel across the border with Canada and stopping the flow of illegal narcotics. This new strategy will reflect the unique nature of the small communities that dot the northern border and recognize the need for continued cooperation and coordination with our counterparts in Canadian law enforcement. This legislation will ultimately make these communities safer, attracting new businesses and providing the long-term assurances of protection they need to grow and prosper.

Upstate New York has benefited for decades from a robust business relationship with our Canadian neighbors, and any illegal activity that takes place over our borders threatens that relationship. The Northern Border Counternarcotics Strategy Act starts the process of developing a new approach to combating the international drug trade along our shared border with Canada. It is a vital component to the economic development and safety of our communities along that border. I ask my colleagues for their support.

Mr. THOMPSON of Mississippi. Madam Speaker, as an original cosponsor of H.R. 4748, I urge passage of this important homeland security bill so that it can be sent to the President for signature.

H.R. 4748, as amended by the Senate, would require the Director of National Drug Control Policy, ONDCP, to work with Federal, state, local, and international law enforcement to develop a comprehensive plan to prevent drug trafficking across the Northern Border. The bill requires the strategy to include clear recommendations for better coordination and assistance for tribal law enforcement agencies.

More often than not, when I hear someone lament about our "broken borders," they are talking about the Southern Border. While certainly the high-profile drug cartel violence and human smuggling activities warrant significant attention, we must not overlook the fact that there are significant border security challenges to the north, as well. In recent years, a diverse array of traffickers ranging from outlaw motorcycle gangs to Canadian drug rings have exploited the long, sparsely populated and very wooded border to traffic in large quantities of marijuana, ecstasy, and methamphetamines. Surveillance of the border is particularly challenging since smugglers have a wide range of delivery options—from helicopter and other small craft to boat and float plane to cattle trucks and even snowmobiles.

Representative OWENS, with his firsthand perspective of conditions on the Northern Border, is to be commended for authoring this bill to ensure that the Federal government has a

unified approach to preventing the flow of drugs into the United States through this critical border—which spans about 4,000 miles.

The bill is not only integral to border security, but is vital for economic development in New York's North Country and other communities in the 13 states along our border with Canada. Thousands of jobs in these areas depend on the swift movement of lawful commerce across the Northern Border; illicit activity along the border risks undermining this critical trading relationship.

I congratulate Representative OWENS, a valuable member on the Homeland Security Community, for his work on Northern Border security issues and—especially—his efforts in introducing a strategic approach to stemming the flow of illicit drugs across the U.S.-Canadian border. I urge passage of H.R. 4748.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4748.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PREDISASTER HAZARD MITIGATION ACT OF 2010

Ms. NORTON. Madam Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1746) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program of the Federal Emergency Management Agency.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Predisaster Hazard Mitigation Act of 2010”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The predisaster hazard mitigation program has been successful and cost-effective. Funding from the predisaster hazard mitigation program has successfully reduced loss of life, personal injuries, damage to and destruction of property, and disruption of communities from disasters.

(2) The predisaster hazard mitigation program has saved Federal taxpayers from spending significant sums on disaster recovery and relief that would have been otherwise incurred had communities not successfully applied mitigation techniques.

(3) A 2007 Congressional Budget Office report found that the predisaster hazard mitigation program reduced losses by roughly \$3 (measured in 2007 dollars) for each dollar invested in mitigation efforts funded under the predisaster hazard mitigation program. Moreover, the Congressional Budget Office found that projects funded under the predisaster hazard mitigation program could lower the need for post-disaster assistance from the Federal Government so that the predisaster hazard mitigation investment by

the Federal Government would actually save taxpayer funds.

(4) A 2005 report by the Multihazard Mitigation Council showed substantial benefits and cost savings from the hazard mitigation programs of the Federal Emergency Management Agency generally. Looking at a range of hazard mitigation programs of the Federal Emergency Management Agency, the study found that, on average, \$1 invested by the Federal Emergency Management Agency in hazard mitigation provided the Nation with roughly \$4 in benefits. Moreover, the report projected that the mitigation grants awarded between 1993 and 2003 would save more than 220 lives and prevent nearly 4,700 injuries over approximately 50 years.

(5) Given the substantial savings generated from the predisaster hazard mitigation program in the years following the provision of assistance under the program, increasing funds appropriated for the program would be a wise investment.

SEC. 3. PREDISASTER HAZARD MITIGATION.

(a) ALLOCATION OF FUNDS.—Section 203(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(f)) is amended to read as follows:

“(f) ALLOCATION OF FUNDS.—

“(1) IN GENERAL.—The President shall award financial assistance under this section on a competitive basis and in accordance with the criteria in subsection (g).

“(2) MINIMUM AND MAXIMUM AMOUNTS.—In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State) for a fiscal year—

“(A) is not less than the lesser of—

“(i) \$575,000; or

“(ii) the amount that is equal to 1 percent of the total funds appropriated to carry out this section for the fiscal year; and

“(B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended to read as follows:

“(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$180,000,000 for fiscal year 2011;

“(2) \$200,000,000 for fiscal year 2012; and

“(3) \$200,000,000 for fiscal year 2013.”.

(c) TECHNICAL CORRECTIONS TO REFERENCES.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) in section 602(a) (42 U.S.C. 5195a(a)), by striking paragraph (7) and inserting the following:

“(7) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.”; and

(2) by striking “Director” each place it appears and inserting “Administrator”, except—

(A) in section 622 (42 U.S.C. 5197a)—

(i) in the second and fourth places it appears in subsection (c); and

(ii) in subsection (d); and

(B) in section 626(b) (42 U.S.C. 5197e(b)).

SEC. 4. PROHIBITION ON EARMARKS.

Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133) is amended by adding at the end the following:

“(n) PROHIBITION ON EARMARKS.—

“(1) DEFINITION.—In this subsection, the term ‘congressionally directed spending’ means a statutory provision or report language included primarily at the request of a Senator or a Mem-

ber, Delegate or Resident Commissioner of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

“(2) PROHIBITION.—None of the funds appropriated or otherwise made available to carry out this section may be used for congressionally directed spending.

“(3) CERTIFICATION TO CONGRESS.—The Administrator of the Federal Emergency Management Agency shall submit to Congress a certification regarding whether all financial assistance under this section was awarded in accordance with this section.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the District of Columbia (Ms. NORTON) and the gentleman from Florida (Mr. MARIO DIAZ-BALART) each will control 20 minutes.

The Chair recognizes the gentlewoman from the District of Columbia.

GENERAL LEAVE

Ms. NORTON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous materials in the RECORD on the Senate amendment to H.R. 1746.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

Ms. NORTON. Madam Speaker, I yield myself such time as I may consume.

I rise today to support H.R. 1746, as amended, a bill to reauthorize the predisaster mitigation program. This program's authorization expires with the current continuing resolution.

The predisaster mitigation program is authorized by section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or the Stafford Act, and was first authorized by this committee in the Disaster Mitigation Act of 2000. My subcommittee held a hearing in which we received testimony on empirical evidence that show that this predisaster mitigation program manages to get a substantial return on this investment, with some estimations as high as a 4-to-1 return to the national government.

Examples of mitigation activities highlighted at the hearing include the seismic strengthening of buildings and infrastructure, acquiring repetitively flooded homes, installing shelters and shatter-resistant windows in hurricane-prone areas, and the building of “safe rooms” in houses and other buildings to protect from high winds. The subcommittee came to the conclusion that predisaster mitigation is effective in accomplishing the goal of reducing the risk of future damage, hardship, and loss from all hazards, including loss of life.

H.R. 1746 would reauthorize the program for 3 years, make the minimum \$575,000 or 1 percent of the total funds appropriated to carry out this section for the fiscal year, and codify the competitive aspects of the program. Senate changes to the bill include an explicit ban on earmarks or any congressionally directed spending, along with reducing authorization levels of \$250 million annually to \$180 million for fiscal year 2011, and \$200 million for fiscal year 2012 and 2013.

This legislation has been endorsed by the National Association of Counties, International Association of Emergency Managers, the Association of State Floodplain Managers, the National Emergency Management Association, the National Association of Flood and Stormwater Management Agencies, and the American Public Works Association. In addition, the Federal Emergency Management Agency has requested a reauthorization of the predisaster mitigation program.

This program has consistently shown to provide an excellent return on investment, and I ask Members of the House to support the bill that protects both lives and property.

Madam Speaker, I reserve the balance of my time.

Mr. MARIO DIAZ-BALART of Florida. Madam Speaker, I yield myself such time as I may consume.

This bill reauthorizes the predisaster mitigation program for the next 3 years, as the gentlewoman from Washington, D.C., has just stated. I'm pleased to be a co-sponsor of this legislation, along with Chairman OBERSTAR, Ranking Member MICA, and Chairwoman NORTON, who is on the committee that I am the ranking member of.

The predisaster mitigation program was created by the Disaster Mitigation Act of 2000 as a pilot program to study the effects and the effectiveness of mitigation for those grants given to communities before a disaster may strike. Prior to creation of the predisaster mitigation program, hazard mitigation primarily occurred after disaster through FEMA'S Hazard Mitigation Grant Program.

We know that every disaster costs us a lot of money—and, obviously, more than money. In many times, even human life. It damages homes, businesses, and infrastructure. And, again, potentially loss of life.

Mitigation measures have been shown, Madam Speaker, to be very effective in mitigating the damage that occurs during a storm, and frankly, also in saving lives, which is, we would all agree, even more important. In fact, the investments that we make in mitigation actually saves taxpayer dollars. I think that deserves being repeated: It actually saves the taxpayer money.

Both the CBO, the Congressional Budget Office, and the National Insti-

tute of Building Sciences have determined that for every dollar invested in mitigation, \$3 are actually saved in actual future losses. In addition, H.R. 1746, as amended, includes a clear prohibition on earmarks.

Now, the bottom line is, mitigation works. It's been proven to work. It saves lives, it limits future damages, and reduces Federal disaster costs. In other words, it saves the taxpayer money.

□ 1210

The predisaster mitigation program is an effective program that advances these goals that I just mentioned. So I support the passage of this legislation, and I urge my colleagues to do the same.

Madam Speaker, I would at this time, since I don't believe there are any further speakers, just mention two things.

First, I want to once again thank Chairwoman NORTON. It has been a privilege, an honor and a pleasure to be her ranking member. She has really, really been a great champion on issues of disaster mitigation. While she represents Washington, DC, except for that big snowstorm, it is an area you would hope would have no hurricanes or earthquakes. She has been a huge champion. She has visited areas. She has gone down to south Florida and has visited the hurricane center and has held hearings down there. So she has been a great champion.

I would just tell you, on a personal note, that she has been wonderful to work with. I didn't know we were going to be on the floor together again, Madam Speaker, but as I said the last time, I will no longer be on the T&I Committee. I will now go to the Appropriations Committee. I would be remiss if I didn't mention, though, what a privilege it has been to work with my chairwoman.

Also, one of the true gentlemen in this process and one of the people I have grown to respect and admire is the chairman of the full committee, Mr. OBERSTAR, a person who has served this country with dignity, with honor and with great integrity, and who has been exceedingly fair. I can tell you that there have been not a couple of occasions, but many occasions, that I've gone to him because I've seen things that, well, frankly, I didn't like, most of which were driven by just passions.

I would go to him and say, Mr. Chairman, this is what's going on.

Frankly, you could see it in his face. He just did not tolerate anything that he believed was not fair on his committee.

Again, he is a public servant, one who has served this country and who has shown all of us, whether we agree with him or disagree with him—and I've had multiple disagreements with him—what public service is all about.

So I just wanted to make sure that I put that in the record.

Madam Speaker, I yield back the balance of my time.

Ms. NORTON. I yield myself such time as I may consume.

First, I want to thank the gentleman from Florida. His kind and gentle words are typical of the way he has operated on the committee—always in the most collegial fashion when he talks about the District of Columbia and its not experiencing what, for example, his own district does in Florida.

I can only say we empathize with you in Florida and all over the country. We are all Americans; and every time that we sat together in hearings, we were, of course, cognizant of the fact that we were dealing with issues that affected the entire country.

It has been a great pleasure to work with the ranking member. We worked together on each and every bill. I cannot think of a single bill on which we found a disagreement, where we had something that we wanted to change and where we didn't discuss it or staff didn't discuss it.

I know Mr. OBERSTAR would very much appreciate your remarks as well. He is a one-of-a-kind chairman who had been here as a staff member with enormous influence, and then he became a chairman with outsized influence as well.

I understand that my good friend Mr. DIAZ-BALART thinks he has found sunnier shores on another committee, but I want him to know that I don't think he will ever have a better relationship with another Member on this side of the aisle. In the relationship that he and I have formed, it has come to be, indeed, a friendship.

So I say to him, Until we meet again, Mr. DIAZ-BALART.

I want to simply emphasize, in closing, the little bit of money for which there is a great return for 3 years. The Federal Government spent a token amount, \$500 million; but according to the CBO, the reduction in future losses associated with that small \$500 million is \$1.6 billion in present value. No wonder this bill passed in the other body.

I urge my colleagues to approve this bill as well.

Mr. OBERSTAR. Madam Speaker, I rise today in strong support of the Senate amendment to H.R. 1746, the "Predisaster Hazard Mitigation Act of 2010". H.R. 1746, as amended, reauthorizes the Federal Emergency Management Agency's (FEMA) Pre-Disaster Mitigation (PDM) program and helps communities across the Nation protect against natural disasters and other hazards. I thank the gentleman from Florida (Mr. MICA), Ranking Member of the Committee, and the gentlewoman from the District of Columbia (Ms. NORTON), and the gentleman from Florida (Mr. DIAZ-BALART), the Chair and Ranking Member of the Subcommittee on Economic Development, Public Buildings, and Emergency Management, respectively, for their bipartisan efforts on this bill.

The PDM program provides technical and financial assistance to State and local governments to reduce injuries, loss of life, and damage to property caused by natural disasters. Examples of mitigation activities include: seismic retrofitting of buildings to strengthen the buildings in case of an earthquake; acquiring repetitively flooded homes; installing shutters and shatter-resistant windows in hurricane-prone areas; and building "safe rooms" in houses and buildings to protect people from high winds.

Consideration of this bill today is crucial, as the PDM program is set to sunset with the expiration of the current continuing resolution. Therefore, Congress must take quick action to continue this vital program.

H.R. 1746, as amended, reauthorizes the PDM program for three years, at a level of \$180 million for fiscal year 2011, and \$200 million for each of fiscal years 2012 and 2013. The bill increases the minimum amount that each state receives under the program from \$500,000 to \$575,000, and codifies the competitive selection process of the program, as currently administered by FEMA.

In 1988, the Committee on Transportation and Infrastructure authorized FEMA's Hazard Mitigation Grant Program. This effective program provides grants to communities to mitigate hazards, but only provides grants to "build better" after a disaster. At the time, no program existed to help communities mitigate risks from all hazards before disaster strikes.

In the 1990s, under the leadership of FEMA Administrator James Lee Witt, FEMA developed a PDM pilot program known as "Project Impact", which was a predecessor program to the current PDM program. Congress appropriated funds for Project Impact in each of fiscal years 1997 through 2001.

The PDM program reduces the risk of natural hazards, which is where the preponderance of risk is in our country. While it is prudent to prepare for the possibility of terrorist attacks, the occurrence of natural disasters of all types and sizes is a known certainty. The flooding that is currently occurring in California, and the tornadoes that struck in my home state of Minnesota this summer, particularly in Wadena in my district, are examples of the tragic, real impact of natural disasters that occur in our nation every year.

Mitigation saves money. Studies by the Congressional Budget Office (CBO) and National Institute of Building Sciences show that for every dollar invested in PDM projects, future losses are reduced by three to four dollars. In 2005, the Multihazard Mitigation Council, an advisory body of the National Institute of Building Sciences, found "that a dollar spent on mitigation saves society an average of \$4." Further, the Multihazard Mitigation Council found that flood mitigation measures yield even greater savings. According to a September 2007 CBO report on the reduction in Federal disaster assistance that is likely to result from the PDM program, "on average, future losses are reduced by about \$3 (measured in discounted present value) for each \$1 spent on those projects, including both federal and nonfederal spending."

While empirical data is critical, perhaps more telling are real-life mitigation "success stories". For instance, Seattle, Washington

used Project Impact PDM grants to fortify buildings. Immediately after the Nisqually Earthquake struck Seattle on February 28, 2001, Seattle Mayor Paul Schell and other public officials cited those PDM grants as one of the primary reasons that lives and property were saved during the earthquake. Ironically, the Mayor's statements came on the same day that the President George W. Bush Administration claimed that the Project Impact PDM pilot program should be defunded because it was not effective.

Another example of the effectiveness of mitigation comes from my district. On July 4, 1999, a derecho, also known as a blow down, struck the Boundary Waters Canoe Area Wilderness and downed millions of trees. This created a huge fire hazard. As a result, FEMA mitigation funds were given to residents to install outdoor sprinkler systems to protect against wild fire. Unfortunately, in 2007, the Ham Lake Fire struck the area. Those structures that had sprinkler systems were protected from the fire. Since that time, communities in that area have sought and have been awarded more than \$3 million of PDM funds to help protect other structures from this continuing risk of fire.

Mitigation is an investment. It is an investment that not only benefits the Federal Government, but State and local governments as well. Projects funded by the PDM program reduce the damage that would be paid for by the Federal Government for a major disaster under the Stafford Act. However, mitigation also reduces the risks from smaller, more frequent events that State and local governments face every day.

The PDM program takes citizens out of harm's way, by elevating a house or making sure a hospital can survive a hurricane or earthquake. In doing so, it allows first responders to focus on what is unpredictable in a disaster rather than on what is foreseeable and predictable.

H.R. 1746, as amended, eliminates the existing sunset in the program. As the evidence clearly shows, this program works well and is cost effective. It should no longer be treated as a pilot program with a sunset. Rather, State and local governments should have the certainty of knowing this program will be available in the future to enable them to focus their efforts on critical, long-term mitigation planning.

The Obama administration has specifically requested that Congress reauthorize the PDM program and this legislation has been endorsed by the National Association of Counties, International Association of Emergency Managers, the Association of State Floodplain Managers, the National Emergency Management Association, the National Association of Flood and Stormwater Management Agencies, and the American Public Works Association.

This bill passed the House more than a year and a half ago with overwhelming bipartisan support. The legislation passed the other body last night by unanimous consent. I would like to thank Senator JOSEPH LIEBERMAN and Senator SUSAN M. COLLINS for their persistent efforts to clear this legislation through the other body.

I urge my colleagues to join me in supporting H.R. 1746, as amended, the "Predisaster Hazard Mitigation Act of 2010".

Ms. NORTON. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the District of Columbia (Ms. NORTON) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1746.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 5116, AMERICA COMPETES REAUTHORIZATION ACT OF 2010; PROVIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 2751, FDA FOOD SAFETY MODERNIZATION ACT; AND PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2142, GPRA MODERNIZATION ACT OF 2010

Mr. MCGOVERN, from the Committee on Rules, submitted a privileged report (Rept. No. 111-692) on the resolution (H. Res. 1781) providing for consideration of the Senate amendment to the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes; providing for consideration of the Senate amendments to the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles; and providing for consideration of the Senate amendment to the bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council, which was referred to the House Calendar and ordered to be printed.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS, AND PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. MCGOVERN. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1771 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1771

Waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain

resolutions reported from the Committee on Rules, and providing for consideration of motions to suspend the rules.

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported through the legislative day of December 24, 2010.

SEC. 2. It shall be in order at any time through the legislative day of December 24, 2010, for the Speaker to entertain motions that the House suspend the rules. The Speaker or her designee shall consult with the Minority Leader or his designee on the designation of any matter for consideration pursuant to this section.

The SPEAKER pro tempore. The gentleman from Massachusetts is recognized for 1 hour.

Mr. MCGOVERN. For the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS). All time yielded during consideration of the rule is for debate only. I yield myself such time as I may consume.

GENERAL LEAVE

Mr. MCGOVERN. I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 1771.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MCGOVERN. Madam Speaker, House Resolution 1771 waives the requirement of clause 6(a) of rule XIII, requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee. This would allow for the same-day consideration of any resolution reported through the legislative day of December 24, 2010.

The resolution allows the Speaker to entertain motions to suspend the rules through the legislative day of December 24, 2010. The Speaker or her designee shall consult with the minority leader or his designee on the designation of any matter for consideration pursuant to section 2 of the rule.

Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Good morning, Madam Speaker. Welcome to this week of Christmas.

I yield myself such time as I may consume.

I want to thank the gentleman from Massachusetts, my friend Mr. McGovern, the vice chairman of the Rules Committee, for bringing this martial law rule to the floor of the House of Representatives today.

□ 1220

Madam Speaker, the 111th Congress is in its final days, or so the body hopes. The rule before us today provides for an expedited same-day consideration of all legislation brought forward until Christmas Eve and extends suspension authority for that same pe-

riod. This martial law rule consists of the ability of the Democrats to bring 4 more days of expedited consideration on top of the 11 days my colleagues gave themselves on the 8th of December.

This Congress has seen a record number of restrictive rules over the past 2 years. In fact, we have not debated one open rule in this Congress. I don't believe that closing debate, limiting amendments, and shutting down Democrats and Republicans out of their thoughtful solutions on the House floor is what we were promised by Speaker PELOSI. Speaker PELOSI openly told the American people that she would run the most open, honest, and ethical Congress. Madam Speaker, I would say to you that as we started, so are we ending, in chaos.

It seems like every time I come to the House floor I point out that my Democrat colleagues are using an unprecedented, restrictive, and closed process. This is not what the American people wanted, and I believe the American people truly do want their Member of Congress to be able to come to Washington, DC, to fully participate in the process. And unfortunately, we find ourselves here again today with Members simply sitting back in their offices, wondering and waiting what is next, what are we even debating, what are we doing, rather than being actively involved in this democratic process. Madam Speaker, that's why people came to Congress.

This Congress has managed to rack up a record \$1.4 trillion deficit in 2009, more than three times the size of the deficit in 2008, and it hit a \$1.3 trillion deficit this year. Additionally, we have seen unemployment at or above 9.5 percent across this country for over 18 consecutive months and a national debt that has now ballooned to \$13.4 trillion, and yet we see no end to the spending, which is evident by the rule that we are here discussing today. No discipline; no feedback from Members, Members of this body coming faithfully to do their job, not even knowing what is happening and what is next, purely speculation. No sharing of information; no plan that can be executed based upon the Members of this body understanding what we're doing, where we're going, and what is next.

Madam Speaker, if there ever was a time when the American people need to know what the plan is and Members of Congress need to know what the plan is it would be now. It would be now for us to determine not only how to have fiscal restraint, but also, a majority who offered leadership, leadership on a budget process, leadership on a transparency process, leadership on the ability for Members of Congress to come and effectively represent their district and, perhaps more importantly, not just a budget that was never produced, how about an appropriations bill that was properly done.

Every single business that I know of—State and local government, families, schools—everybody has a budget. Even nonprofits who try and work in the best interest of a smaller group of people recognize you've got to have a plan. That's an exception for this Federal Government. It's an exception by this Congress, and that is not leadership.

As the chairman of the Budget Committee once said, If you can't budget, you cannot govern. I think he's right. That's exactly the truth of what Chairman JOHN SPRATT said. And if the shoe fits, we're wearing it right now. Unfortunately, we've come to expect this behavior from this majority, but, once again, there is always tomorrow. Republicans have made a pledge to America, and we intend to keep it.

I am happy to report that very soon, on or about January 5, 2011, there will be a significant course correction in this House of Representatives. Members will be expected to, and allowed to, read legislation before they cast their votes, take part in the activities of not only their committees, but also come to the Rules Committee with their ideas to take part in the process that they want to do.

I think open rules will make a triumphant return to the House floor, and elected Representatives, Members of Congress, will have a chance to fully contribute in this legislative process. It does not make me happy when I recognize that there is no Member, freshman Member of this body, who has not, for the last 2 years, seen this body work the way it was designed—a legislative process that would be open, a legislative process that would be ethical, and a legislative process that would be transparent for people.

So here we are, once again, the week before Christmas. I can handle that. I'm here ready to work but, like the rest of my colleagues, waiting for a small cadre of people to let us in on the plan.

I urge my colleagues to vote "no" on this rule. We've got to return to a process which is prepared for the future and prepared for Members to fully participate.

I yield back the balance of my time.

Mr. MCGOVERN. Madam Speaker, I regret that the gentleman from Texas will not support this rule so that we can move our legislative business forward, but I'm not surprised because, quite frankly, his party, the Republican Party, has had one goal since President Obama became President of the United States, and that is to obstruct and delay everything, and that's what they've tried to do.

The gentleman talks about democracy. Well, I think the American people are scratching their head as they see what's happening over in the Senate where a minority, not a majority, but a

minority determines the agenda. A minority can hold legislation from coming to the floor. That's not the democracy that most people believe our government is about.

I'd also say to the gentleman that we look forward to the next legislative year, and we look forward to the gentleman and his party becoming the leaders of this House. And as someone who has been on the Rules Committee, both in the majority and minority, I don't recall a single instance when the gentleman, when his party was in power, ever voted against a closed rule proposed by the Republican then-majority, but we will see what happens.

And I will also say, Madam Speaker, that one of the things I think that the American people are now beginning to realize is that the Republicans are not at all serious about fiscal discipline. You know, I remind everybody that when Bill Clinton was President, we had record job creation and we had historical fiscal restraint. We actually eliminated the deficit and started paying down the debt.

When George Bush and the Republicans then took over, what ended up happening is they took this record surplus and turned it into historic debt. And how did they do it? Well, they did it through a number of things. Unpaid-for wars is one of them. The other is a Medicare prescription drug bill that, by the way, nobody here had a chance to read, that was voted on in the middle of the night. They kept the vote open 3 hours so that people's arms could be twisted, but it cost twice as much as anybody thought it was going to cost, not paid for.

But the thing that really broke the bank was their unprecedented tax cuts and giveaways to the wealthiest individuals in this country, not paid for, not paid for. And sadly, Madam Speaker, the Republicans in the Senate held unemployment compensation, benefits to the millions of people in this country who are unemployed through no fault of their own, held that hostage so they could get their tax cuts for the rich. And those tax cuts for the rich, by the way, Madam Speaker, are not paid for, not a single offset to pay for those tax cuts for the rich.

□ 1230

Donald Trump gets another tax cut, unpaid for; and guess what, that debt gets piled on the backs of my kids and the kids of every American in this country. It is just not right.

I think the American people are beginning to realize that their real goal is to go after domestic spending in an unprecedented way—Social Security, Medicare, programs that benefit the most vulnerable in our country. They will launch an unprecedented war against the poor in this country. We are going to see early on what their real agenda is. And I bet, Madam

Speaker, as polls will reveal, it is not what the American people had in mind. So, again, I regret that the Republicans continue to want to do the same old, same old which is to delay and obstruct and put off and put off. But I think we need to pass this rule.

I urge a "yes" vote on the previous question and on the rule.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SESSIONS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on House Resolution 1771 will be followed by a 5-minute vote on suspending the rules with regard to H.R. 6540.

The vote was taken by electronic device, and there were—yeas 199, nays 151, not voting 83, as follows:

[Roll No. 657]

YEAS—199

Ackerman
Altmire
Andrews
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Boccheri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Clarke
Clay
Cleaver
Cohen
Conyers
Cooper
Costa
Courtney
Critz
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (TN)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Driehaus
Edwards (MD)
Edwards (TX)
Engel

Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gonzalez
Gordon (TN)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Holden
Holt
Hoyer
Inlee
Israel
Jackson (IL)
Jackson Lee
(TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kildee
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)

Loeb sack
Lowey
Lujan
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Nadler (NY)
Napolitano
Nye
Oberstar
Obey
Olver
Owens
Pallone
Pascarell
Payne
Perlmutter
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)

Sanchez, Linda
T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Sherman
Skelton

Slaughter
Snyder
Space
Speier
Spratt
Stupak
Sutton
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns

Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Watson
Watt
Waxman
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—151

Aderholt
Akin
Alexander
Austria
Bachus
Bartlett
Biggert
Blibray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Cantor
Capito
Carter
Cassidy
Castle
Chaffetz
Childers
Coffman (CO)
Cole
Conaway
Davis (KY)
Dent
Diaz-Balart, M.
Djout
Dreier
Duncan
Ehlers
Emerson
Flake
Fleming
Forbes
Fortenberry
Foxy
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach

Gingrey (GA)
Gohmert
Goodlatte
Graves (GA)
Graves (MO)
Guthrie
Hall (TX)
Harper
Hastings (WA)
Hensarling
Herger
Hoekstra
Hunter
Issa
Jenkins
Johnson (IL)
Jordan (OH)
King (IA)
Kingston
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel
E.
Mack
Manzullo
McCaul
McClintock
McCotter
McHenry
McKeon
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Olson
Paul
Pence

Perriello
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Reed
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Stutzman
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf

NOT VOTING—83

Adler (NJ)
Arcuri
Baca
Bachmann
Baird
Barrett (SC)
Barton (TX)
Berry
Blumenauer
Bright
Brown-Waite,
Ginny
Buyer
Calvert
Camp
Campbell
Cao
Chu
Clyburn
Coble
Connolly (VA)
Costello
Crenshaw
Culberson
Davis (AL)
Davis (IL)

Delahunt
Deutch
Diaz-Balart, L.
Doyle
Ellison
Ellsworth
Fallin
Granger
Grayson
Griffith
Heller
Herseth Sandlin
Hodes
Honda
Ingilis
Johnson, Sam
Jones
Kennedy
Kilpatrick (MI)
King (NY)
Lee (CA)
Linder
Lipinski
Lofgren, Zoe
Marchant
McCarthy (CA)

McCarthy (NY)
McMahon
McMorris
Rodgers
Meek (FL)
Melancon
Miller, Gary
Minnick
Mitchell
Murphy (NY)
Neal (MA)
Nunes
Ortiz
Pastor (AZ)
Paulsen
Radanovich
Reyes
Rush
Salazar
Sanchez, Loretta
Schock
Shea-Porter
Sires
Smith (WA)
Stark
Stearns

Tanner
Wasserman
Schultz

Waters
Weiner
Welch

Young (AK)
Young (FL)

Hirono
Hoekstra
Holden

McIntyre
McKeon
McNerney

Sarbanes
Schakowsky
Schauer

Kennedy
Kilpatrick (MI)
King (NY)

Melancon
Miller, Gary
Minnick

Sanchez, Loretta
Schock
Sires

□ 1300

Messrs. DENT, TERRY, DANIEL E. LUNGREN of California, KING of Iowa, and McCAUL changed their vote from “yea” to “nay.”

Mrs. MALONEY changed her vote from “nay” to “yea.”

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DEFENSE LEVEL PLAYING FIELD ACT

The SPEAKER pro tempore (Mr. HOLDEN). The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 6540) to require the Secretary of Defense, in awarding a contract for the KC-X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. INSLEE) that the House suspend the rules and pass the bill.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 325, nays 23, not voting 85, as follows:

[Roll No. 658]

YEAS—325

Ackerman	Castle	Eshoo
Akin	Castor (FL)	Etheridge
Altmire	Chaffetz	Farr
Andrews	Chandler	Fattah
Austria	Childers	Filner
Baldwin	Clarke	Forbes
Barrow	Clay	Fortenberry
Bartlett	Cleaver	Foster
Bean	Coffman (CO)	Fox
Becerra	Cohen	Frank (MA)
Berkley	Cole	Franks (AZ)
Biggert	Conaway	Frelinghuysen
Bilbray	Connolly (VA)	Fudge
Bilirakis	Conyers	Gallely
Bishop (GA)	Cooper	Garamendi
Bishop (NY)	Costa	Gerlach
Blunt	Courtney	Giffords
Bocieri	Critz	Gingrey (GA)
Bono Mack	Cuellar	Gohmert
Boozman	Cummings	Gonzalez
Boren	Dahlkemper	Goodlatte
Boswell	Davis (CA)	Gordon (TN)
Boucher	Davis (KY)	Graves (GA)
Boyd	Davis (TN)	Graves (MO)
Brady (PA)	DeFazio	Green, Al
Braley (IA)	DeGette	Green, Gene
Broun (GA)	DeLauro	Grijalva
Brown (SC)	Dent	Guthrie
Brown, Corrine	Diaz-Balart, M.	Gutierrez
Buchanan	Dicks	Hall (NY)
Burgess	Dingell	Hall (TX)
Burton (IN)	Djou	Halvorson
Butterfield	Doggett	Hare
Cantor	Donnelly (IN)	Harman
Capito	Dreier	Hastings (FL)
Capps	Driehaus	Hastings (WA)
Capuano	Duncan	Heinrich
Cardoza	Edwards (MD)	Higgins
Carnahan	Edwards (TX)	Hill
Carney	Ehlers	Himes
Carson (IN)	Emerson	Hinche
Carter	Engel	Hinojosa

Jackson (IL)
Jackson Lee (TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kildee
Kilroy
Kind
King (IA)
Kingston
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Loebach
Lowey
Lucas
Luetkemeyer
Lujan
Lummis
Lungren, Daniel E.

Lynch
Mack
Maffei
Maloney
Manzullo
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCaul
McCollum
McCotter
McDermott
McGovern
McHenry

Aderholt
Alexander
Bachus
Bachmann
Baird
Barrett (SC)
Barton (TX)
Berman
Berry
Bishop (UT)
Blumenauer
Boehner
Bright
Brown-Waite,
Cassidy

Adler (NJ)
Arcuri
Baca
Bachmann
Baird
Barrett (SC)
Barton (TX)
Berman
Berry
Bishop (UT)
Blumenauer
Boehner
Bright
Brown-Waite,
Ginny

Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neugebauer
Nye
Oberstar
Obey
Olson
Oliver
Owens
Pallone
Pascarelli
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Rahall
Rangel
Reed
Rehberg
Reichert
Richardson
Rodriguez
Roe (TN)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Ryan (WI)
Sanchez, Linda T.

Shimkus
Shuler
Shuster
Simpson
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Snyder
Space
Speier
Spratt
Stupak
Sullivan
Sutton
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth

NAYS—23

Davis (AL)
Flake
Fleming
Garrett (NJ)
Harper
Hensarling
Herger
McClintock

NOT VOTING—85

Buyer
Calvert
Camp
Campbell
Cao
Chu
Clyburn
Coble
Costello
Crenshaw
Crowley
Culberson
Davis (IL)
Delahunt
Deutch
Diaz-Balart, L.
Doyle
Ellison
Ellsworth
Fallin
Granger
Grayson
Griffith
Heller
Herseth Sandlin
Hodes
Honda
Inglis
Johnson, Sam
Jones

Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Snyder
Space
Speier
Spratt
Stupak
Sullivan
Sutton
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wamp
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth

Kucinich
Lee (CA)
Linder
Lipinski
Lofgren, Zoe
Marchant
McCarthy (CA)
McCarthy (NY)
McMahon
McMorris
Rodgers
Meek (FL)

Mitchell
Murphy (NY)
Neal (MA)
Nunes
Ortiz
Pastor (AZ)
Paulsen
Radanovich
Reyes
Rogers (KY)
Rush
Salazar

Stark
Stearns
Tanner
Wasserman
Schultz
Waters
Young (AK)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1306

Messrs. WESTMORELAND and KING of Iowa changed their vote from “nay” to “yea.”

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. McMORRIS RODGERS. Mr. Speaker, on rollcall No. 657 on H. Res. 1771, On Agreeing to the Resolution, Waiving a requirement of clause 6(a) of Rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, and providing for consideration of motions to suspend the rules, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted “nay.”

Mr. Speaker, on rollcall No. 658 on H.R. 6540, On Motion to Suspend the Rules and Pass, Defense Level Playing Field Act, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted “yea.”

PERSONAL EXPLANATION

Mr. STEARNS. Mr. Speaker, I was unavoidably detained and missed rollcall votes 657 and 658. If I had been present, I would have voted “no” on rollcall 657 and “yes” on rollcall 658.

PERSONAL EXPLANATION

Mr. ELLISON. Mr. Speaker, on December 21, 2010, due to travel delays, I inadvertently missed rollcall Nos. 657 and 658. Had I been present I would have voted “yes” on both rollcalls.

PERSONAL EXPLANATION

Mr. GRAYSON. Mr. Speaker, on rollcall Nos. 657 and 658, I was absent because my flight from Orlando had an equipment failure in mid-flight and had to return to Orlando, resulting in a lengthy delay. Had I been present, I would have voted “aye.”

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 5116, AMERICA COMPETES REAUTHORIZATION ACT OF 2010; PROVIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 2751, FDA FOOD SAFETY MODERNIZATION ACT; AND PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2142, GPRA MODERNIZATION ACT OF 2010

Mr. MCGOVERN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1781 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1781

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Science and Technology or his designee that the House concur in the Senate amendment. The Senate amendment shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on Science and Technology. The previous question shall be considered as ordered on the motion to its adoption without intervening motion.

SEC. 2. Upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles, with the Senate amendments thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a single motion offered by the chair of the Committee on Energy and Commerce or his designee that the House concur in the Senate amendments. The Senate amendments shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The previous question shall be considered as ordered on the motion to its adoption without intervening motion or demand for division of the question.

SEC. 3. Upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Oversight and Government Reform or his designee that the House concur in the Senate amendment. The Senate amendment shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by

the chair and ranking minority member of the Committee on Oversight and Government Reform. The previous question shall be considered as ordered on the motion to its adoption without intervening motion.

□ 1310

The SPEAKER pro tempore. The gentleman from Massachusetts is recognized for 1 hour.

Mr. MCGOVERN. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from North Carolina, Dr. FOXX. All time yielded during consideration of the rule is for debate only. I yield myself such time as I may consume.

GENERAL LEAVE

Mr. MCGOVERN. I also ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on H. Res. 1781.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MCGOVERN. Mr. Speaker, House Resolution 1781 provides for the consideration of the Senate amendment to H.R. 5116, the America COMPETES Reauthorization Act of 2010. The rule makes in order a motion offered by the chair of the Committee on Science and Technology or his designee that the House concur in the Senate amendment to H.R. 5116. The rule provides 1 hour of debate on the motion, equally divided and controlled by the chair and ranking minority member of the Committee on Science and Technology. The rule waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI. The rule provides that the Senate amendment shall be considered as read.

The rule also provides for consideration of the Senate amendments to H.R. 2751, the FDA Food Safety Modernization Act. The rule makes in order a motion offered by the chair of the Committee on Energy and Commerce or his designee that the House concur in the Senate amendments to H.R. 2751. The rule provides 1 hour of debate on the motion, equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The rule waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI. The rule provides the Senate amendments shall be considered as read.

The rule also provides for the consideration of the Senate amendment to H.R. 2142, the GPRA Modernization Act of 2010. The rule makes in order a motion offered by the chair of the Committee on Oversight and Government Reform or his designee that the House concur in the Senate amendment to H.R. 2142. The rule provides 1 hour of debate on the motion, equally divided and controlled by the chair and ranking minority member of the Committee

on Oversight and Government Reform. The rule waives all points of order against consideration of the motion, except those arising under clause 10 of rule XXI. Finally, the rule provides that the Senate amendment be considered as read.

Mr. Speaker, all three pieces of legislation deserve to be approved by this House.

Mr. Speaker, today we will take up a rule that helps this Congress complete the work the American people sent us here to do.

It has been far too long since this Congress has addressed the issue of food safety. Each year, 76 million Americans are sickened from consuming contaminated food, more than 300,000 people are hospitalized, and 5,000 die. In just the last few years, there has been a string of food-borne illness outbreaks in foods consumed by millions of Americans each day—from contaminated spinach to peanut butter to cookie dough.

This bill puts a new focus on preventing food contamination before it occurs—putting new responsibilities on food producers and requiring them to develop a food safety plan and ensure the plan is working.

By requiring importers to verify the safety of foreign suppliers and imported food, the American people can rest assured that the food they are eating is safe. And this bill allows the FDA to initiate a mandatory recall of a food product when a company fails to voluntarily recall the contaminated product upon FDA's request.

Mr. Speaker, the American people have asked Congress to help keep them safe. The text of this food safety legislation in H.R. 2751 is nearly identical to language passed by the House in the continuing resolution on December 8, 2010, and passed the Senate on November 30, 2010, by a bipartisan vote of 73–25.

H.R. 2751, this stand-alone food safety legislation, passed the Senate by voice vote on December 19, 2010.

Mr. Speaker, this rule also provides for the consideration of H.R. 5116, the America COMPETES Reauthorization Act of 2010. This bill invests in innovation through research and development, to improve the competitiveness of the United States.

Mr. Speaker, the jobs of the future will not just be found in the industries of the past. They will be found in green technologies, biotechnology and advances in medical devices. This bill makes vital investments to keep America competitive in the global economy.

By making investments in the National Science Foundation, the National Institute of Science and Technology and the Department of Energy's Office of Science, America can be put on a path to double our research and development capabilities in 10 years.

This funding will support programs to assist American manufacturers and create a loan guarantee program to support innovation in manufacturing. It will also support research and internship opportunities for high school and undergraduate students, increase graduate fellowships supported by NSF and DOE, and encourage students studying in Science, Technology, Engineering and Math areas to pursue teaching credentials, increasing the

pool of qualified teachers for the next generation of young innovators. It will also promote productivity and economic growth by forming an Office of Innovation and Entrepreneurship to foster innovation and the commercialization of new technologies, products, processes, and services.

The Senate took up H.R. 5116, the America COMPETES Reauthorization on December 17, 2010, and passed it with an amendment by unanimous consent.

Mr. Speaker, I believe that we can all get behind a bill that helps keep America driving the pace of technology.

I also believe that we can all get behind the final piece of this rule that allows for consideration of H.R. 2142, the Government Efficiency, Effectiveness, and Performance Improvement Act of 2010.

This bill requires each federal agency to draft plans that identify areas where the agency could improve its performance. At a time of year when many of us are making resolutions to better ourselves and to rid ourselves of our bad habits, I think it's fitting that Congress and our Federal government takes a look at itself to see where we can improve.

Mr. Speaker, we were not sent here to be lame ducks. And this Congress has proven to be anything but, despite attempts to slow or cut off the process. This Congress has been one of the most productive in history—at a time when we need to be doing a little less nation-building around the world and more nation-building here at home. These important pieces of legislation will continue that productive work.

I reserve the balance of my time.

Ms. FOXX. I want to thank the gentleman from Massachusetts for yielding time, and I yield myself such time as I may consume.

Mr. Speaker, I rise today very disturbed by the lack of respect the ruling Democrat elites have shown for the will of the American people since election day. Having lost 63 seats in the House and six seats in the Senate, one would think the liberal Democrat regime would think twice about continuing their reckless pattern of spending that has been so overwhelmingly rejected by the American voting public. However, these Washington elites have spent their last days grasping frantically to their waning power and continuing to spend, spend, spend, even in the final hours before Christmas.

This rule is a slap in the face to the institutional integrity of Congress and the way this body is intended to operate.

Mr. Speaker, I have an article that I would like to insert in the RECORD from The Wall Street Journal of November 30. This article talks about what has been happening since we have come back into session, and I think it is something that we need to be talking about.

Also, I want to say that rather than having conference committees meet to work out the differences between the House and Senate versions of bills, Democratic leaders have waited until

the last minute and the House will now concur with the Senate-passed measures, sending them to the President.

Thus far in the 111th Congress, only 11 conference reports were considered in the House and 25 amendments between the House and the Senate, which denies the minority a motion to recommit. In the 109th Congress, 25 conference reports were considered and only one amendment between the Houses, on which the Rules Committee made a motion to recommit in order. The 109th was when the Republicans were last in control.

In PELOSI's New Direction for America, page 24, it states, "Bills should generally come to the floor under a procedure that allows open, full, and fair debate consisting of a full amendment process that grants the minority the right to offer its alternatives, including a substitute."

It is clear that the House Democrats on the Rules Committee have not lived up to this promise. Instead of allowing sufficient time for debate on these separate measures which collectively authorize billions upon billions in new spending and grant Federal regulators even more overreaching power, the Democrat elites are arbitrarily presenting us with one overarching closed rule for three separate and enormous pieces of legislation.

For those reasons, Mr. Speaker, I will urge my colleagues to vote "no" on the rule and "no" on the underlying bills. [From the Wall Street Journal, Nov. 30, 2010]

FEDERAL FREEZE PLAY

American Federation of Public Employees President John Gage yesterday derided President Obama's federal pay freeze as a "slap at working people." It might better be described as a small but symbolic first step toward reining in a ballooning federal payroll that is a slap at the non-government workers who pay the bills.

Mr. Obama proposed a two-year pay freeze for all civilian federal employees, a move that will save taxpayers \$2 billion in fiscal 2011 and \$28 billion over five years. (Congress must approve it.) As cost-cutting goes, this is modest: The freeze doesn't extend to new hiring, bonuses or step increases. It doesn't even match the three-year freeze recommended by the President's deficit commission. But it is more than this Administration has ever been willing to consider, and it suggests that Mr. Obama, post-midterm-shellacking, realizes he must show some willingness to restrain the growth of government.

It certainly needs restraint. As the nearby table shows (see accompanying table—WSJ November 30, 2010), federal employment has grown by a remarkable 17% since 2007 to an estimated 2.1 million nonmilitary full-time workers (excluding 600,000 postal workers). This is the largest federal work force since 1992, when civilian employment at the Pentagon began to shrink rapidly after the Cold War.

These federal employees operate in a pay-and-benefit universe that no longer exists in the private economy. According to recent analyses by USA Today, total compensation for federal workers has risen 37% over 10 years—after inflation—compared to 8.8% for

private workers. Federal workers earned average compensation of \$123,000 in 2009, double the private average of \$61,000. Unions like to argue that federal jobs are unique, yet in occupations that exist both in government and the private economy—nurses, surveyors, janitors, cooks—the federal government pays 20% more than private firms.

Voters have swept GOP reformers like New Jersey's Chris Christie and Wisconsin's Scott Walker into gubernatorial office precisely to rein in bloated public-employee pensions and salaries. If Mr. Obama is serious about cutting spending, his pay freeze needs to be an opening bid for a leaner, more modestly compensated, federal work force.

With that, Mr. Speaker, I yield 5 minutes to my distinguished colleague from Oklahoma (Mr. LUCAS).

Mr. LUCAS. Mr. Speaker, once again I must rise in opposition to this rule to reconsider the Senate language from S. 510, the Food Safety Modernization Act—now contained in H.R. 2751, a bill related to the Cash for Clunkers program.

As I have stated before, I believe our Nation has the safest food supply in the world. I also believe that we must continually examine our food production and regulatory system and move forward with changes that improve food safety.

I am very disappointed in the process by which this legislation is being considered. What we have here is another expansion of Federal power without benefit of thorough consideration. This is the stimulus bill, cap-and-trade, and the health care bill all over again.

The House version of this legislation was rolled out in draft form and marked up in the Energy and Commerce Committee over a couple of weeks during the summer of 2009. During all that time, members of the House Agriculture Committee stood ready and willing to work on this legislation. It is unfortunate that, despite a clear jurisdictional claim, the House Agriculture Committee did not demand that the bill be referred, conduct hearings on its provisions, and work our will to make improvements.

During the committee hearing in the summer of 2009 on the general topic of food safety, not a single producer witness would support the bill. It was a stunning failure to fulfill our legislative responsibilities. Despite this, the House Democratic leadership chose to attempt to pass this legislation under a suspension of the rules. Because of the flawed legislative process and lingering concerns about the contents of the bill, it was defeated. Failing to learn the lesson of that vote, within days, the leadership subsequently secured a closed rule denying Members the opportunity to participate in the legislative process and rammed it through the House in the summer of 2009.

□ 1320

They sent the legislation to the Senate, where it languished for over a year.

In the closing days of Congress, the Senate sent us its version of food safety legislation with an unconstitutional revenue measure, which effectively killed the bill. Then the House leadership won another closed rule, which prohibited any reasonable debate on the provisions of the legislation and sent it back to the Senate in a mammoth, irresponsible, long-term continuing resolution, which failed in the Senate.

So now the Senate sent its bill back to us as a free-standing measure. This time, it's stuffed into a Cash for Clunkers bill in order to once again bypass any reasonable debate. And here we are again with the same legislation negotiated outside of regular order. The Senate was originally unwilling to conduct a conference with the House, claiming there wasn't enough time. The Senate continues to offer its bill to us on a take-it-or-leave-it basis.

Mr. Speaker, we've had nearly a month in which this side of the aisle was ready, willing, and able to sit down and resolve our issues and to move forward. Unfortunately, the majority leadership in this season of giving has chosen to once again bypass the normal legislative process, exclude nearly every Member of this body, other than a select few in the Speaker's inner circle, and ram this legislation that, for all intents and purposes, could have been a bipartisan victory. Instead, what we're left with is another example of the sort of nonsense that the voters of America rejected just a few weeks ago. This is no way to do business, and our constituents were not subtle when they spoke last November.

Mr. Speaker, let me return to where I started. We have the safest food supply in the world. Anyone who follows current events knows that our food-producing system faces ongoing safety challenges. Unfortunately, neither this legislation nor the process by which it is being considered will address those challenges. Our Nation's farmers, ranchers, packers, processors, retailers and, most importantly, consumers deserve better.

I urge all of my colleagues to vote "no" on this rule.

Mr. McGOVERN. Mr. Speaker, I don't want to prolong this debate, but if I could just make a couple of observations in the aftermath of the gentleman's speech. I should remind my colleagues that each year, 76 million Americans are sickened by contaminated food that they consumed. More than 300,000 of them are hospitalized and more than 5,000 each year die. We've heard about tainted eggs, tainted spinach, tainted peanut butter, tainted cookie dough. We haven't updated our food safety laws in decades.

So here's the deal. If you want to do a better job of protecting the American consumer, you will have an opportunity, if you vote for this rule, to vote

for the food safety bill. If you don't, then vote down the rule and vote against the bill when it comes up.

I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Mr. LUCAS has spoken very eloquently about one piece of the legislation rolled into this rule. I would like to speak about all three of them, briefly. One piece is H.R. 5116, the COMPETES Act, a behemoth, authorizing nearly \$86 billion, which is \$22 billion above the fiscal 2010 base amount and \$8 billion above the original 10-year "doubling path." This is in addition to the nearly \$5 billion in additional funding that was provided in the so-called "stimulus" bill.

When H.R. 5116 was authorized in 2007, it enacted approximately 40 new programs. The new spending under H.R. 5116 would create at least seven new government programs, many that are not associated with research and development, and others that are duplicative and unnecessary. This is plain wrong, Mr. Speaker.

It's worth recalling that when H.R. 5116 was originally considered by Congress earlier this year, Republicans attempted to make several constructive changes which were systematically blocked by the ruling liberal majority. One of these changes would have saved billions of taxpayer dollars by reducing the authorization levels to FY 2010 levels and freezing them for 3 years. However, in an effort to obstruct Republicans, the liberal Democrat elites did the American people disservice by using a series of parliamentary tricks to shove their bill through without allowing any Republican input.

Mr. Speaker, in these difficult economic times, American families across the country are tightening their belts and cutting their spending. Why then are the Democratic elites increasing spending by \$22 billion with this legislation and creating new duplicative government programs? The American taxpayers cannot afford this bill.

The second bill encompassed by this closed rule which the Democrat elites have brought before us today is H.R. 2751, the FDA Food Safety Modernization Act, again, which my colleague from Oklahoma (Mr. LUCAS) has spoken on so eloquently. This bill increases spending by \$1.4 billion, subsequently increasing the price of food and increasing the size of government without actually improving food safety.

This hastily considered closed rule provides for consideration of yet another bill, H.R. 2142, the Government Efficiency, Effectiveness, and Performance Act of 2010, which is so riddled with problems that last week it failed to garner the votes necessary to pass under a suspension of the rules. Instead of taking this as an opportunity to fix the flaws and address the other concerns prompting the bill's failure, the

ruling liberal Democrats predictably chose to ram it through by any means necessary. And since they've wasted so much time tilting at windmills, they find themselves here in the waning days of this lame duck Congress scrambling to address issues that should've been dealt with through a responsible legislative process.

As they wait for the Senate to act, they're refusing to yield any free moment to pursue one of their last opportunities to slam through another so-called rule—unworthy even to be called a rule—providing for consideration of flawed legislation, such as H.R. 2142.

This bill would amend the Government Performance and Results Act of 1993, GPRA, a law which currently requires agencies to develop 5-year strategic plans, annual performance plans, and actual program performance reports. Unfortunately, under the rules of debate provided for by this rule, the ruling Democrat majority refuses to allow Members to offer these types of real reform ideas or any other amendments, leaving this legislation unlikely to do anything to change the incentives facing decision-makers and will not end the perpetual funding of failing Federal programs.

As has been made perfectly clear to the ruling liberal Democrat leadership, many are concerned that although there's no cost estimate available for this version of the bill, it authorizes \$75 million over 5 years to establish agency performance officers and inter-agency councils, but does not contain an effective means to consolidate or eliminate ineffective programs at each agency. If you add the 17,800 employees that the food safety bill is contemplating and then the new employees that will be required under the GPRA bill, we are adding to the number of Federal employees. But we should be decreasing the number of Federal employees.

I want to talk a minute about what has happened in terms of Federal employees since the Democrats took over the Congress. In 2007, there were a total of 1,832,000 executive branch employees and in the civilian agencies there were 1,173,000. In 2010, it goes to 2,148,000 and 1,428,000. Federal employment has grown by a remarkable 17 percent since 2007, to an estimated 2.1 million non-military full-time workers. This is the largest workforce since 1992.

Also, Mr. Speaker, according to a recent analysis by USA Today, total compensation for Federal workers has risen 37 percent over 10 years, after inflation, compared to 8.8 percent for private workers. Federal workers earned an average compensation of \$123,000 in 2009—double the private average of \$61,000.

□ 1330

Mr. Speaker, our country cannot afford this expansion of the Federal Government. We need to be reducing the Federal Government, not expanding it.

I would like to say further this version of the bill does not contain an amendment considered in committee markup by Republican Representative SCHOCK and supported by Democrat Congressmen COOPER and QUIGLEY that would have established a more thorough process for evaluating agency performance and eliminating programs that failed performance standards, were found to be duplicative or determined to be unnecessary.

H.R. 2142 mandates the creation of several new government-wide and agency-specific management plans. However, it does not—does not—increase executive accountability for failing programs.

Mr. Speaker, again, this bill is going in the wrong direction. What it does is it allows agencies to design their performance plans and then to measure their own results, using their own performance indicators. Rather than requiring agencies to focus on achieving measurable outcomes, the bill makes the creation of outcome-oriented performance measures optional. This would be like, Mr. Speaker, letting students set the criteria for getting their own grades, and we all know that doesn't work very well.

Strangely enough, also in the process, the bill directs agencies to "identify low-priority program activities," which is ridiculous because, even if agencies had an incentive to label their own programs as "low priority," they do not. This begs the question of why such programs are funded at all.

Mr. Speaker, the evidence is in. The liberal Democrat agenda has failed. They need to go back to the drawing board and come back to the American people with real solutions to their real problems. This isn't the time to dither and blame the Republican minority for the disappointing collapse of governance we have seen since the liberal majority seized control of Congress in 2007.

I urge my colleagues to take this opportunity to force the ruling liberal Democrats to rethink their misguided proposals by rejecting this rule and the underlying legislation and by protesting the liberal agenda that continues to distract from private-sector job creation and from getting the economy back on its feet.

I yield back the balance of my time.
Mr. MCGOVERN. I yield myself the balance of my time.

Mr. Speaker, oh, my goodness. There are a lot of things that come before the Members of this body that, I think, are worth getting all worked up about and that, I think, sometimes understandably lead to partisan bickering; but as to what we are talking about here today, to me and to, I think, most people who are watching, this should be fairly noncontroversial.

What we are talking about is a rule that will allow us to consider three

bills. One is called the America COMPETES Reauthorization Act of 2010.

What does this radical bill do? It authorizes funding increases for the National Science Foundation, the National Institutes for Science and Technology, and the Department of Energy's Office of Science for fiscal years 2010-2013, on a path toward increasing substantially our investment in research and development over the next 10 years. It is not even an appropriation. It is an authorization.

So the Appropriations Committee next year can work their will and decide whether to invest more in science so that we can compete in this global economy, or will we not invest in science and actually do what some of my friends on the other side of the aisle will tell you about taking a meat ax to these programs, you know, and putting ourselves at a competitive disadvantage?

This is a bill about supporting and expanding American energy technology so we are not so reliant on foreign oil and so we don't go to war over oil. It is a national security issue, but this somehow is a controversial bill. This should pass easily.

The other bill that is so radical, according to my colleague on the Republican side of the aisle, is called the Government Efficiency, Effectiveness, and Performance Improvement Act.

What does this bill do?

It basically says to agencies and departments, look, you need to work to come up with a plan to prevent unnecessary and wasteful spending and to help eliminate Federal Government waste by working with us to help us find where those wasteful areas are.

Now, this is what is causing such consternation on the other side of the aisle? I mean, rather than just taking a meat ax and saying an arbitrary percentage cut across the board, what this bill says is let's think about what we're doing. Maybe we can cut 5 percent; maybe we can cut 10 percent; maybe we can cut even more.

Well, let's do this in a sensible way where we don't adversely impact services that directly impact the American people for the good. Let's have a plan. Let's just not do this senselessly. Let's do this sensibly. Somehow, this radical, awful bill has caused all this noise by my colleague on the other side of the aisle.

The final bill is the Food Safety Modernization Act. Mr. Speaker, as I said earlier—and it's worth repeating—in this country, literally 76 million Americans on a yearly basis are sickened by contaminated food that they digest—76 million Americans a year. More than 300,000 of them end up going to hospitals on a yearly basis, and 5,000 die.

So what is this Congress trying to do?

We are trying to find a way to protect consumers, and my colleague on

the other side of the aisle is all upset about it. Oh, boy. What a terrible, awful idea to protect the health and well-being of the citizens of this country by updating our food safety rules and regulations, which haven't been updated in almost 30 years.

Come on. I mean let's move forward with this rule. Let's consider these bills. I am sure they all will pass.

With that, Mr. Speaker, I urge a "yes" vote on the previous question and on the rule.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AMERICA COMPETES REAUTHORIZATION ACT OF 2010

Mr. GORDON of Tennessee. Mr. Speaker, pursuant to House Resolution 1781, I call up the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes, with the Senate amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment:

The text of the Senate amendment is as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—this Act may be cited as the "America COMPETES Reauthorization Act of 2010" or the "America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Budgetary impact statement.

TITLE I—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Sec. 101. Coordination of Federal STEM education.

Sec. 102. Coordination of advanced manufacturing research and development.

Sec. 103. Interagency public access committee.

Sec. 104. Federal scientific collections.

Sec. 105. Prize competitions.

TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Sec. 201. NASA's contribution to innovation and competitiveness.

Sec. 202. NASA's contribution to education.

Sec. 203. Assessment of impediments to space science and engineering workforce development for minority and under-represented groups at NASA.

Sec. 204. International Space Station's contribution to national competitiveness enhancement.

Sec. 205. Study of potential commercial orbital platform program impact on Science, Technology, Engineering, and Mathematics.

Sec. 206. Definitions.

**TITLE III—NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION**

- Sec. 301. Oceanic and atmospheric research and development program.
Sec. 302. Oceanic and atmospheric science education programs.
Sec. 303. Workforce study.

**TITLE IV—NATIONAL INSTITUTE OF
STANDARDS AND TECHNOLOGY**

- Sec. 401. Short title.
Sec. 402. Authorization of appropriations.
Sec. 403. Under Secretary of Commerce for Standards and Technology.
Sec. 404. Manufacturing Extension Partnership.
Sec. 405. Emergency communication and tracking technologies research initiative.
Sec. 406. Broadening participation.
Sec. 407. NIST Fellowships.
Sec. 408. Green manufacturing and construction.
Sec. 409. Definitions.

**TITLE V—SCIENCE, TECHNOLOGY, ENGI-
NEERING, AND MATHEMATICS SUPPORT
PROGRAMS**

**SUBTITLE A—NATIONAL SCIENCE
FOUNDATION**

- Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Authorization of appropriations.
Sec. 504. National Science Board administrative amendments.
Sec. 505. National Center for Science and Engineering statistics.
Sec. 506. National Science Foundation manufacturing research and education.
Sec. 507. National Science Board report on mid-scale instrumentation.
Sec. 508. Partnerships for innovation.
Sec. 509. Sustainable chemistry basic research.
Sec. 510. Graduate student support.
Sec. 511. Robert Noyce teacher scholarship program.
Sec. 512. Undergraduate broadening participation program.
Sec. 513. Research experiences for high school students.
Sec. 514. Research experiences for undergraduates.
Sec. 515. STEM industry internship programs.
Sec. 516. Cyber-enabled learning for national challenges.
Sec. 517. Experimental Program to Stimulate Competitive Research.
Sec. 518. Sense of the Congress regarding the science, technology, engineering, and mathematics talent expansion program.
Sec. 519. Sense of the Congress regarding the National Science Foundation's contributions to basic research and education.
Sec. 520. Academic technology transfer and commercialization of university research.
Sec. 521. Study to develop improved impact-on-society metrics.
Sec. 522. NSF grants in support of sponsored post-doctoral fellowship programs.
Sec. 523. Collaboration in planning for stewardship of large-scale facilities.
Sec. 524. Cloud computing research enhancement.
Sec. 525. Tribal colleges and universities program.
Sec. 526. Broader impacts review criterion.
Sec. 527. Twenty-first century graduate education.

**SUBTITLE B—STEM-TRAINING GRANT
PROGRAM**

- Sec. 551. Purpose.

- Sec. 552. Program requirements.
Sec. 553. Grant program.
Sec. 554. Grant oversight and administration.
Sec. 555. Definitions.
Sec. 556. Authorization of appropriations.

TITLE VI—INNOVATION

- Sec. 601. Office of innovation and entrepreneurship.
Sec. 602. Federal loan guarantees for innovative technologies in manufacturing.
Sec. 603. Regional innovation program.
Sec. 604. Study on economic competitiveness and innovative capacity of United States and development of national economic competitiveness strategy.
Sec. 605. Promoting use of high-end computing simulation and modeling by small- and medium-sized manufacturers.

TITLE VII—NIST GREEN JOBS

- Sec. 701. Short title.
Sec. 702. Findings.
Sec. 703. National Institute of Standards and Technology competitive grant program.

TITLE VIII—GENERAL PROVISIONS

- Sec. 801. Government Accountability Office review.
Sec. 802. Salary restrictions.
Sec. 803. Additional research authorities of the FCC.

TITLE IX—DEPARTMENT OF ENERGY

- Sec. 901. Science, engineering, and mathematics education programs.
Sec. 902. Energy research programs.
Sec. 903. Basic research.
Sec. 904. Advanced Research Project Agency—Energy.

TITLE X—EDUCATION

- Sec. 1001. References.
Sec. 1002. Repeals and conforming amendments.
Sec. 1003. Authorizations of appropriations and matching requirement.

SEC. 2. DEFINITIONS.

In this Act:

(1) **DIRECTOR**.—In title I, the term “Director” means the Director of the Office of Science and Technology Policy.

(2) **STEM**.—The term “STEM” means the academic and professional disciplines of science, technology, engineering, and mathematics.

SEC. 3. BUDGETARY IMPACT STATEMENT.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

**TITLE I—OFFICE OF SCIENCE AND
TECHNOLOGY POLICY**

**SEC. 101. COORDINATION OF FEDERAL STEM
EDUCATION.**

(a) **ESTABLISHMENT**.—The Director shall establish a committee under the National Science and Technology Council, including the Office of Management and Budget, with the responsibility to coordinate Federal programs and activities in support of STEM education, including at the National Science Foundation, the Department of Energy, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the Department of Education, and all other Federal agencies that have programs and activities in support of STEM education.

(b) **RESPONSIBILITIES**.—The committee established under subsection (a) shall—

(1) coordinate the STEM education activities and programs of the Federal agencies;

(2) coordinate STEM education activities and programs with the Office of Management and Budget;

(3) encourage the teaching of innovation and entrepreneurship as part of STEM education activities;

(4) review STEM education activities and programs to ensure they are not duplicative of similar efforts within the Federal government;

(5) develop, implement through the participating agencies, and update once every 5 years a 5-year STEM education strategic plan, which shall—

(A) specify and prioritize annual and long-term objectives;

(B) specify the common metrics that will be used to assess progress toward achieving the objectives;

(C) describe the approaches that will be taken by each participating agency to assess the effectiveness of its STEM education programs and activities; and

(D) with respect to subparagraph (A), describe the role of each agency in supporting programs and activities designed to achieve the objectives; and

(6) establish, periodically update, and maintain an inventory of federally sponsored STEM education programs and activities, including documentation of assessments of the effectiveness of such programs and activities and rates of participation by women, underrepresented minorities, and persons in rural areas in such programs and activities.

(b) **RESPONSIBILITIES OF OSTP**.—The Director shall encourage and monitor the efforts of the participating agencies to ensure that the strategic plan under subsection (b)(5) is developed and executed effectively and that the objectives of the strategic plan are met.

(c) **REPORT**.—The Director shall transmit a report annually to Congress at the time of the President's budget request describing the plan required under subsection (b)(5). The annual report shall include—

(1) a description of the STEM education programs and activities for the previous and current fiscal years, and the proposed programs and activities under the President's budget request, of each participating Federal agency;

(2) the levels of funding for each participating Federal agency for the programs and activities described under paragraph (1) for the previous fiscal year and under the President's budget request;

(3) an evaluation of the levels of duplication and fragmentation of the programs and activities described under paragraph (1);

(4) except for the initial annual report, a description of the progress made in carrying out the implementation plan, including a description of the outcome of any program assessments completed in the previous year, and any changes made to that plan since the previous annual report; and

(5) a description of how the participating Federal agencies will disseminate information about federally supported resources for STEM education practitioners, including teacher professional development programs, to States and to STEM education practitioners, including to teachers and administrators in schools that meet the criteria described in subsection (c)(1)(A) and (B) of section 3175 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381j(c)(1)(A) and (B)).

**SEC. 102. COORDINATION OF ADVANCED MANU-
FACTURING RESEARCH AND DEVELOP-
MENT.**

(a) **INTERAGENCY COMMITTEE**.—The Director shall establish or designate a Committee on Technology under the National Science and

Technology Council. The Committee shall be responsible for planning and coordinating Federal programs and activities in advanced manufacturing research and development.

(b) **RESPONSIBILITIES OF COMMITTEE.**—The Committee shall—

(1) coordinate the advanced manufacturing research and development programs and activities of the Federal agencies;

(2) establish goals and priorities for advanced manufacturing research and development that will strengthen United States manufacturing;

(3) work with industry organizations, Federal agencies, and Federally Funded Research and Development Centers not represented on the Committee, to identify and reduce regulatory, logistical, and fiscal barriers within the Federal government and State governments that inhibit United States manufacturing;

(4) facilitate the transfer of intellectual property and technology based on federally supported university research into commercialization and manufacturing;

(5) identify technological, market, or business challenges that may best be addressed by public-private partnerships, and are likely to attract both participation and primary funding from industry;

(6) encourage the formation of public-private partnerships to respond to those challenges for transition to United States manufacturing; and

(7) develop, and update every 5 years, a strategic plan to guide Federal programs and activities in support of advanced manufacturing research and development, which shall—

(A) specify and prioritize near-term and long-term research and development objectives, the anticipated time frame for achieving the objectives, and the metrics for use in assessing progress toward the objectives;

(B) specify the role of each Federal agency in carrying out or sponsoring research and development to meet the objectives of the strategic plan;

(C) describe how the Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will foster the transfer of research and development results into new manufacturing technologies and United States based manufacturing of new products and processes for the benefit of society to ensure national, energy, and economic security;

(D) describe how Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will strengthen all levels of manufacturing education and training programs to ensure an adequate, well-trained workforce;

(E) describe how the Federal agencies and Federally Funded Research and Development Centers supporting advanced manufacturing research and development will assist small- and medium-sized manufacturers in developing and implementing new products and processes; and

(F) take into consideration the recommendations of a wide range of stakeholders, including representatives from diverse manufacturing companies, academia, and other relevant organizations and institutions.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Director shall transmit the strategic plan developed under subsection (b)(7) to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science and Technology, and shall transmit subsequent updates to those committees as appropriate.

SEC. 103. INTERAGENCY PUBLIC ACCESS COMMITTEE.

(a) **ESTABLISHMENT.**—The Director shall establish a working group under the National Science and Technology Council with the responsibility to coordinate Federal science agen-

cy research and policies related to the dissemination and long-term stewardship of the results of unclassified research, including digital data and peer-reviewed scholarly publications, supported wholly, or in part, by funding from the Federal science agencies.

(b) **RESPONSIBILITIES.**—The working group shall—

(1) identify the specific objectives and public interests that need to be addressed by any policies coordinated under (a);

(2) take into account inherent variability among Federal science agencies and scientific disciplines in the nature of research, types of data, and dissemination models;

(3) coordinate the development or designation of standards for research data, the structure of full text and metadata, navigation tools, and other applications to maximize interoperability across Federal science agencies, across science and engineering disciplines, and between research data and scholarly publications, taking into account existing consensus standards, including international standards;

(4) coordinate Federal science agency programs and activities that support research and education on tools and systems required to ensure preservation and stewardship of all forms of digital research data, including scholarly publications;

(5) work with international science and technology counterparts to maximize interoperability between United States based unclassified research databases and international databases and repositories;

(6) solicit input and recommendations from, and collaborate with, non-Federal stakeholders, including the public, universities, nonprofit and for-profit publishers, libraries, federally funded and non federally funded research scientists, and other organizations and institutions with a stake in long term preservation and access to the results of federally funded research;

(7) establish priorities for coordinating the development of any Federal science agency policies related to public access to the results of federally funded research to maximize the benefits of such policies with respect to their potential economic or other impact on the science and engineering enterprise and the stakeholders thereof;

(8) take into consideration the distinction between scholarly publications and digital data;

(9) take into consideration the role that scientific publishers play in the peer review process in ensuring the integrity of the record of scientific research, including the investments and added value that they make; and

(10) examine Federal agency practices and procedures for providing research reports to the agencies charged with locating and preserving unclassified research.

(c) **PATENT OR COPYRIGHT LAW.**—Nothing in this section shall be construed to undermine any right under the provisions of title 17 or 35, United States Code.

(d) **APPLICATION WITH EXISTING LAW.**—Nothing defined in section (b) shall be construed to affect existing law with respect to Federal science agencies' policies related to public access.

(e) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Director shall transmit a report to Congress describing—

(1) the specific objectives and public interest identified under (b)(1);

(2) any priorities established under subsection (b)(7);

(3) the impact the policies described under (a) have had on the science and engineering enterprise and the stakeholders, including the financial impact on research budgets;

(4) the status of any Federal science agency policies related to public access to the results of federally funded research; and

(5) how any policies developed or being developed by Federal science agencies, as described in subsection (a), incorporate input from the non-Federal stakeholders described in subsection (b)(6).

(f) **FEDERAL SCIENCE AGENCY DEFINED.**—For the purposes of this section, the term “Federal science agency” means any Federal agency with an annual extramural research expenditure of over \$100,000,000.

SEC. 104. FEDERAL SCIENTIFIC COLLECTIONS.

(a) **MANAGEMENT OF SCIENTIFIC COLLECTIONS.**—The Office of Science and Technology Policy shall develop policies for the management and use of Federal scientific collections to improve the quality, organization, access, including online access, and long-term preservation of such collections for the benefit of the scientific enterprise. In developing those policies the Office of Science and Technology Policy shall consult, as appropriate, with—

(1) Federal agencies with such collections; and

(2) representatives of other organizations, institutions, and other entities not a part of the Federal Government that have a stake in the preservation, maintenance, and accessibility of such collections, including State and local government agencies, institutions of higher education, museums, and other entities engaged in the acquisition, holding, management, or use of scientific collections.

(b) **CLEARINGHOUSE.**—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall ensure the development of an online clearinghouse for information on the contents of and access to Federal scientific collections.

(c) **DISPOSAL OF COLLECTIONS.**—The policies developed under subsection (a) shall—

(1) require that, before disposing of a scientific collection, a Federal agency shall—

(A) conduct a review of the research value of the collection; and

(B) consult with researchers who have used the collection, and other potentially interested parties, concerning—

(i) the collection's value for research purposes; and

(ii) possible additional educational uses for the collection; and

(2) include procedures for Federal agencies to transfer scientific collections they no longer need to researchers at institutions or other entities qualified to manage the collections.

(d) **COST PROJECTIONS.**—The Office of Science and Technology Policy, in consultation with relevant Federal agencies, shall develop a common set of methodologies to be used by Federal agencies for the assessment and projection of costs associated with the management and preservation of their scientific collections.

(e) **SCIENTIFIC COLLECTION DEFINED.**—In this section, the term “scientific collection” means a set of physical specimens, living or inanimate, created for the purpose of supporting science and serving as a long-term research asset, rather than for their market value as collectibles or their historical, artistic, or cultural significance, and, as appropriate and feasible, the associated specimen data and materials.

SEC. 105. PRIZE COMPETITIONS.

(a) **IN GENERAL.**—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following:

“SEC. 24. PRIZE COMPETITIONS.

“(a) **DEFINITIONS.**—In this section:

“(1) **AGENCY.**—The term ‘agency’ means a Federal agency.

“(2) **DIRECTOR.**—The term ‘Director’ means the Director of the Office of Science and Technology Policy.

“(3) **FEDERAL AGENCY.**—The term ‘Federal agency’ has the meaning given under section 4,

except that term shall not include any agency of the legislative branch of the Federal Government.

“(4) **HEAD OF AN AGENCY.**—The term ‘head of an agency’ means the head of a Federal agency.

“(b) **IN GENERAL.**—Each head of an agency, or the heads of multiple agencies in cooperation, may carry out a program to award prizes competitively to stimulate innovation that has the potential to advance the mission of the respective agency.

“(c) **PRIZES.**—For purposes of this section, a prize may be one or more of the following:

“(1) A point solution prize that rewards and spurs the development of solutions for a particular, well-defined problem.

“(2) An exposition prize that helps identify and promote a broad range of ideas and practices that may not otherwise attract attention, facilitating further development of the idea or practice by third parties.

“(3) Participation prizes that create value during and after the competition by encouraging contestants to change their behavior or develop new skills that may have beneficial effects during and after the competition.

“(4) Such other types of prizes as each head of an agency considers appropriate to stimulate innovation that has the potential to advance the mission of the respective agency.

“(d) **TOPICS.**—In selecting topics for prize competitions, the head of an agency shall consult widely both within and outside the Federal Government, and may empanel advisory committees.

“(e) **ADVERTISING.**—The head of an agency shall widely advertise each prize competition to encourage broad participation.

“(f) **REQUIREMENTS AND REGISTRATION.**—For each prize competition, the head of an agency shall publish a notice in the Federal Register announcing—

“(1) the subject of the competition;

“(2) the rules for being eligible to participate in the competition;

“(3) the process for participants to register for the competition;

“(4) the amount of the prize; and

“(5) the basis on which a winner will be selected.

“(g) **ELIGIBILITY.**—To be eligible to win a prize under this section, an individual or entity—

“(1) shall have registered to participate in the competition under any rules promulgated by the head of an agency under subsection (f);

“(2) shall have complied with all the requirements under this section;

“(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

“(4) may not be a Federal entity or Federal employee acting within the scope of their employment.

“(h) **CONSULTATION WITH FEDERAL EMPLOYEES.**—An individual or entity shall not be deemed ineligible under subsection (g) because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

“(i) **LIABILITY.**—

“(1) **IN GENERAL.**—

“(A) **DEFINITION.**—In this paragraph, the term ‘related entity’ means a contractor or subcontractor at any tier, and a supplier, user, customer, cooperating party, grantee, investigator, or detailee.

“(B) **LIABILITY.**—Registered participants shall be required to agree to assume any and all risks

and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

“(2) **INSURANCE.**—Participants shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the head of an agency, for claims by—

“(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant’s insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

“(B) the Federal Government for damage or loss to Government property resulting from such an activity.

“(3) **EXCEPTION.**—The head of an agency may not require a participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the agency of the intellectual property, trade secrets, or confidential business information of the participant.

“(j) **INTELLECTUAL PROPERTY.**—

“(1) **PROHIBITION ON THE GOVERNMENT ACQUIRING INTELLECTUAL PROPERTY RIGHTS.**—The Federal Government may not gain an interest in intellectual property developed by a participant in a competition without the written consent of the participant.

“(2) **LICENSES.**—The Federal Government may negotiate a license for the use of intellectual property developed by a participant for a competition.

“(k) **JUDGES.**—

“(1) **IN GENERAL.**—For each competition, the head of an agency, either directly or through an agreement under subsection (l), shall appoint one or more qualified judges to select the winner or winners of the prize competition on the basis described under subsection (f). Judges for each competition may include individuals from outside the agency, including from the private sector.

“(2) **RESTRICTIONS.**—A judge may not—

“(A) have personal or financial interests in, or be an employee, officer, director, or agent of any entity that is a registered participant in a competition; or

“(B) have a familial or financial relationship with an individual who is a registered participant.

“(3) **GUIDELINES.**—The heads of agencies who carry out competitions under this section shall develop guidelines to ensure that the judges appointed for such competitions are fairly balanced and operate in a transparent manner.

“(4) **EXEMPTION FROM FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any committee, board, commission, panel, task force, or similar entity, created solely for the purpose of judging prize competitions under this section.

“(l) **ADMINISTERING THE COMPETITION.**—The head of an agency may enter into an agreement with a private, nonprofit entity to administer a prize competition, subject to the provisions of this section.

“(m) **FUNDING.**—

“(1) **IN GENERAL.**—Support for a prize competition under this section, including financial support for the design and administration of a prize or funds for a monetary prize purse, may consist of Federal appropriated funds and funds

provided by the private sector for such cash prizes. The head of an agency may accept funds from other Federal agencies to support such competitions. The head of an agency may not give any special consideration to any private sector entity in return for a donation.

“(2) **AVAILABILITY OF FUNDS.**—Notwithstanding any other provision of law, funds appropriated for prize awards under this section shall remain available until expended. No provision in this section permits obligation or payment of funds in violation of section 1341 of title 31, United States Code.

“(3) **AMOUNT OF PRIZE.**—

“(A) **ANNOUNCEMENT.**—No prize may be announced under subsection (f) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source.

“(B) **INCREASE IN AMOUNT.**—The head of an agency may increase the amount of a prize after an initial announcement is made under subsection (f) only if—

“(i) notice of the increase is provided in the same manner as the initial notice of the prize; and

“(ii) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

“(4) **LIMITATION ON AMOUNT.**—

“(A) **NOTICE TO CONGRESS.**—No prize competition under this section may offer a prize in an amount greater than \$50,000,000 unless 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives.

“(B) **APPROVAL OF HEAD OF AGENCY.**—No prize competition under this section may result in the award of more than \$1,000,000 in cash prizes without the approval of the head of an agency.

“(n) **GENERAL SERVICE ADMINISTRATION ASSISTANCE.**—Not later than 180 days after the date of the enactment of the America COMPETES Reauthorization Act of 2010, the General Services Administration shall provide government wide services to share best practices and assist agencies in developing guidelines for issuing prize competitions. The General Services Administration shall develop a contract vehicle to provide agencies access to relevant products and services, including technical assistance in structuring and conducting prize competitions to take maximum benefit of the marketplace as they identify and pursue prize competitions to further the policy objectives of the Federal Government.

“(o) **COMPLIANCE WITH EXISTING LAW.**—

“(1) **IN GENERAL.**—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and nonproliferation laws, and related regulations.

“(2) **OTHER PRIZE AUTHORITY.**—Nothing in this section affects the prize authority authorized by any other provision of law.

“(p) **ANNUAL REPORT.**—

“(1) **IN GENERAL.**—Not later than March 1 of each year, the Director shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on the activities carried out during the preceding fiscal year under the authority in subsection (b).

“(2) **INFORMATION INCLUDED.**—The report for a fiscal year under this subsection shall include, for each prize competition under subsection (b), the following:

“(A) PROPOSED GOALS.—A description of the proposed goals of each prize competition.

“(B) PREFERABLE METHOD.—An analysis of why the utilization of the authority in subsection (b) was the preferable method of achieving the goals described in subparagraph (A) as opposed to other authorities available to the agency, such as contracts, grants, and cooperative agreements.

“(C) AMOUNT OF CASH PRIZES.—The total amount of cash prizes awarded for each prize competition, including a description of amount of private funds contributed to the program, the sources of such funds, and the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the agency for recording as obligations and expenditures.

“(D) SOLICITATIONS AND EVALUATION OF SUBMISSIONS.—The methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions.

“(E) RESOURCES.—A description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures.

“(F) RESULTS.—A description of how each prize competition advanced the mission of the agency concerned.”.

(b) REPEAL OF SPACE ACT LIMITATION.—Section 314(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2459f-1) is amended by striking “The Administration may carry out a program to award prizes only in conformity with this section.”.

TITLE II—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 201. NASA'S CONTRIBUTION TO INNOVATION AND COMPETITIVENESS.

It is the sense of Congress that a renewed emphasis on technology development would enhance current mission capabilities and enable future missions, while encouraging NASA, private industry, and academia to spur innovation. NASA's Innovative Partnership Program is a valuable mechanism to accelerate technology maturation and encourage the transfer of technology into the private sector.

SEC. 202. NASA'S CONTRIBUTION TO EDUCATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that NASA is uniquely positioned to interest students in science, technology, engineering, and mathematics, not only by the example it sets, but through its education programs.

(b) EDUCATIONAL PROGRAM GOALS.—NASA shall develop and maintain educational programs—

(1) to carry out and support research based programs and activities designed to increase student interest and participation in STEM, including students from minority and underrepresented groups;

(2) to improve public literacy in STEM;

(3) that employ proven strategies and methods for improving student learning and teaching in STEM;

(4) to provide curriculum support materials and other resources that—

(A) are designed to be integrated with comprehensive STEM education;

(B) are aligned with national science education standards;

(C) promote the adoption and implementation of high-quality education practices that build toward college and career-readiness; and

(5) to create and support opportunities for enhanced and ongoing professional development

for teachers using best practices that improve the STEM content and knowledge of the teachers, including through programs linking STEM teachers with STEM educators at the higher education level.

SEC. 203. ASSESSMENT OF IMPEDIMENTS TO SPACE SCIENCE AND ENGINEERING WORKFORCE DEVELOPMENT FOR MINORITY AND UNDERREPRESENTED GROUPS AT NASA.

(a) ASSESSMENT.—The Administrator shall enter into an arrangement for an independent assessment of any impediments to space science and engineering workforce development for minority and underrepresented groups at NASA, including recommendations on—

(1) measures to address such impediments;

(2) opportunities for augmenting the impact of space science and engineering workforce development activities and for expanding proven, effective programs; and

(3) best practices and lessons learned, as identified through the assessment, to help maximize the effectiveness of existing and future programs to increase the participation of minority and underrepresented groups in the space science and engineering workforce at NASA.

(b) REPORT.—A report on the assessment carried out under subsection (a) shall be transmitted to the House of Representatives Committee on Science and Technology and the Senate Committee on Commerce, Science, and Transportation not later than 15 months after the date of enactment of this Act.

(c) IMPLEMENTATION.—To the extent practicable, the Administrator shall take all necessary steps to address any impediments identified in the assessment.

SEC. 204. INTERNATIONAL SPACE STATION'S CONTRIBUTION TO NATIONAL COMPETITIVENESS ENHANCEMENT.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the International Space Station represents a valuable and unique national asset which can be utilized to increase educational opportunities and scientific and technological innovation which will enhance the Nation's economic security and competitiveness in the global technology fields of endeavor. If the period for active utilization of the International Space Station is extended to at least the year 2020, the potential for such opportunities and innovation would be increased. Efforts should be made to fully realize that potential.

(b) EVALUATION AND ASSESSMENT OF NASA'S INTERAGENCY CONTRIBUTION.—Pursuant to the authority provided in title II of the America COMPETES Act (Public Law 110-69), the Administrator shall evaluate and, where possible, expand efforts to maximize NASA's contribution to interagency efforts to enhance science, technology, engineering, and mathematics education capabilities, and to enhance the Nation's technological excellence and global competitiveness. The Administrator shall identify these enhancements in the annual reports required by section 2001(e) of that Act (42 U.S.C. 16611a(e)).

(c) REPORT TO THE CONGRESS.—Within 120 days after the date of enactment of this Act, the Administrator shall provide to the House of Representatives Committee on Science and Technology and the Senate Committee on Commerce, Science, and Transportation a report on the assessment made pursuant to subsection (a). The report shall include—

(1) a description of current and potential activities associated with utilization of the International Space Station which are supportive of the goals of educational excellence and innovation and competitive enhancement established or reaffirmed by this Act, including a summary of the goals supported, the number of individuals or organizations participating in or benefiting from such activities, and a summary of how such activities might be expanded or improved upon;

(2) a description of government and private partnerships which are, or may be, established to effectively utilize the capabilities represented by the International Space Station to enhance United States competitiveness, innovation and science, technology, engineering, and mathematics education; and

(3) a summary of proposed actions or activities to be undertaken to ensure the maximum utilization of the International Space Station to contribute to fulfillment of the goals and objectives of this Act, and the identification of any additional authority, assets, or funding that would be required to support such activities.

SEC. 205. STUDY OF POTENTIAL COMMERCIAL ORBITAL PLATFORM PROGRAM IMPACT ON SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS.

(a) IN GENERAL.—Section 1003 of the National Aeronautics and Space Administration Authorization Act of 2010 (42 U.S.C. 18421) is amended to read as follows:

“SEC. 1003. STUDY OF POTENTIAL COMMERCIAL ORBITAL PLATFORM PROGRAM IMPACT ON SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS.

“A fundamental and unique capability of NASA is in stimulating science, technology, engineering, and mathematics education in the United States. In ensuring maximum use of that capability, the Administrator shall carry out a study to—

“(1) identify the benefits of and lessons learned from ongoing and previous NASA orbital student programs including, at a minimum, the Get Away Special (GAS) and Earth Knowledge Acquired by Middle School Students (EarthKAM) programs, on science, technology, engineering, and mathematics education;

“(2) assess the potential impacts on science, technology, engineering, and mathematics education of a program that would facilitate the development of scientific and educational payloads involving United States students and educators and the flights of those payloads on commercially available orbital platforms, when available and operational, with the goal of providing frequent and regular payload launches;

“(3) identify NASA expertise, such as NASA science, engineering, payload development, and payload operations, that could be made available to facilitate a science, technology, engineering, and mathematics program using commercial orbital platforms; and

“(4) identify the issues that would need to be addressed before NASA could properly assess the merits and feasibility of the program described in paragraph (2).”.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 12, 2010.

SEC. 206. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of NASA.

(2) NASA.—The term “NASA” means the National Aeronautics and Space Administration.

TITLE III—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 301. OCEANIC AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM.

Section 4001 of the America COMPETES Act (33 U.S.C. 893) is amended—

(1) by inserting “(a) IN GENERAL.—” before “The Administrator”; and

(2) by adding at the end the following:

“(b) OCEANIC AND ATMOSPHERIC RESEARCH AND DEVELOPMENT PROGRAM.—The Administrator shall implement programs and activities—

“(1) to identify emerging and innovative research and development priorities to enhance United States competitiveness, support development of new economic opportunities based on

NOAA research, observations, monitoring modeling, and predictions that sustain ecosystem services;

“(2) to promote United States leadership in oceanic and atmospheric science and competitiveness in the applied uses of such knowledge, including for the development and expansion of economic opportunities; and

“(3) to advance ocean, coastal, Great Lakes, and atmospheric research and development, including potentially transformational research, in collaboration with other relevant Federal agencies, academic institutions, the private sector, and nongovernmental programs, consistent with NOAA’s mission to understand, observe, and model the Earth’s atmosphere and biosphere, including the oceans, in an integrated manner.

“(c) **REPORT.**—No later than 12 months after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Administrator, in consultation with the National Science Foundation or other such agencies with mature transformational research portfolios, shall develop and submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology that describes NOAA’s strategy for enhancing transformational research in its research and development portfolio to increase United States competitiveness in oceanic and atmospheric science and technology. The report shall—

“(1) define ‘transformational research’;

“(2) identify emerging and innovative areas of research and development where transformational research has the potential to make significant and revolutionary advancements in both understanding and U.S. science leadership;

“(3) describe how transformational research priorities are identified and appropriately balanced in the context of NOAA’s broader research portfolio;

“(4) describe NOAA’s plan for developing a competitive peer review and priority-setting process, funding mechanisms, performance and evaluation measures, and transition-to-operation guidelines for transformational research; and

“(5) describe partnerships with other agencies involved in transformational research.”.

SEC. 302. OCEANIC AND ATMOSPHERIC SCIENCE EDUCATION PROGRAMS.

Section 4002 of the America COMPETES Act (33 U.S.C. 893a) is amended—

(1) by striking “the agency.” in subsection (a) and inserting “agency, with consideration given to the goal of promoting the participation of individuals from underrepresented groups in STEM fields and in promoting the acquisition and retention of highly qualified and motivated young scientists to complement and supplement workforce needs.”;

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following:

“(b) **EDUCATIONAL PROGRAM GOALS.**—The education programs developed by NOAA shall, to the extent applicable—

“(1) carry out and support research based programs and activities designed to increase student interest and participation in STEM;

“(2) improve public literacy in STEM;

“(3) employ proven strategies and methods for improving student learning and teaching in STEM;

“(4) provide curriculum support materials and other resources that—

“(A) are designed to be integrated with comprehensive STEM education;

“(B) are aligned with national science education standards; and

“(C) promote the adoption and implementation of high-quality education practices that build toward college and career-readiness; and

“(5) create and support opportunities for enhanced and ongoing professional development for teachers using best practices that improves the STEM content and knowledge of the teachers, including through programs linking STEM teachers with STEM educators at the higher education level.”;

(4) by striking “develop” in subsection (c), as redesignated, and inserting “maintain”; and

(5) by adding at the end thereof the following:

“(e) **STEM DEFINED.**—In this section, the term ‘STEM’ means the academic and professional disciplines of science, technology, engineering, and mathematics.”.

SEC. 303. WORKFORCE STUDY.

(a) **IN GENERAL.**—The Secretary of Commerce, in cooperation with the Secretary of Education, shall request the National Academy of Sciences to conduct a study on the scientific workforce in the areas of oceanic and atmospheric research and development. The study shall investigate—

(1) whether there is a shortage in the number of individuals with advanced degrees in oceanic and atmospheric sciences who have the ability to conduct high quality scientific research in physical and chemical oceanography, meteorology, and atmospheric modeling, and related fields, for government, nonprofit, and private sector entities;

(2) what Federal programs are available to help facilitate the education of students hoping to pursue these degrees;

(3) barriers to transitioning highly qualified oceanic and atmospheric scientists into Federal civil service scientist career tracks;

(4) what institutions of higher education, the private sector, and the Congress could do to increase the number of individuals with such post baccalaureate degrees;

(5) the impact of an aging Federal scientist workforce on the ability of Federal agencies to conduct high quality scientific research; and

(6) what actions the Federal government can take to assist the transition of highly qualified scientists into Federal career scientist positions and ensure that the experiences of retiring Federal scientists are adequately documented and transferred prior to retirement from Federal service.

(b) **COORDINATION.**—The Secretary of Commerce and the Secretary of Education shall consult with the heads of other Federal agencies and departments with oceanic and atmospheric expertise or authority in preparing the specifications for the study.

(c) **REPORT.**—No later than 18 months after the date of enactment of this Act, the Secretary of Commerce and the Secretary of Education shall transmit a joint report to each committee of Congress with jurisdiction over the programs described in 4002(b) of the America COMPETES Act (33 U.S.C. 893a(b)), as amended by section 302 of this Act, detailing the findings and recommendations of the study and setting forth a prioritized plan to implement the recommendations.

(d) **PROGRAM AND PLAN.**—The Administrator of the National Oceanic and Atmospheric Administration shall evaluate the National Academy of Sciences study and develop a workforce program and plan to institutionalize the Administration’s Federal science career pathways and address aging workforce issues. The program and plan shall be developed in consultation with the Administration’s cooperative institutes and other academic partners to identify and implement programs and mechanisms to ensure that—

(1) sufficient highly qualified scientists are able to transition into Federal career scientist positions in the Administration’s laboratories and programs; and

(2) the technical and management experiences of senior employees are documented and transferred before leaving Federal service.

TITLE IV—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SEC. 401. SHORT TITLE.

This title may be cited as the “National Institute of Standards and Technology Authorization Act of 2010”.

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

(a) **FISCAL YEAR 2011.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce \$918,900,000 for the National Institute of Standards and Technology for fiscal year 2011.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized by paragraph (1)—

(A) \$584,500,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$124,800,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$209,600,000 shall be authorized for industrial technology services activities, of which—

(i) \$141,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than \$5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) \$10,000,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(b) **FISCAL YEAR 2012.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce \$970,800,000 for the National Institute of Standards and Technology for fiscal year 2012.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized by paragraph (1)—

(A) \$661,100,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$84,900,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$224,800,000 shall be authorized for industrial technology services activities, of which—

(i) \$155,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than \$5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) \$10,300,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

(c) **FISCAL YEAR 2013.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Commerce \$1,039,709,000 for the National Institute of Standards and Technology for fiscal year 2013.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized by paragraph (1)—

(A) \$676,700,000 shall be authorized for scientific and technical research and services laboratory activities;

(B) \$121,300,000 shall be authorized for the construction and maintenance of facilities; and

(C) \$241,709,000 shall be authorized for industrial technology services activities, of which—

(i) \$165,100,000 shall be authorized for the Manufacturing Extension Partnership program under sections 25 and 26 of such Act (15 U.S.C. 278k and 278l), of which not more than \$5,000,000 shall be for the competitive grant program under section 25(f) of such Act; and

(ii) \$10,609,000 shall be authorized for the Malcolm Baldrige National Quality Award program under section 17 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a).

SEC. 403. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.

(a) **ESTABLISHMENT.**—The National Institute of Standards and Technology Act is amended by inserting after section 3 the following:

“SEC. 4. UNDER SECRETARY OF COMMERCE FOR STANDARDS AND TECHNOLOGY.

“(a) **ESTABLISHMENT.**—There shall be in the Department of Commerce an Under Secretary of Commerce for Standards and Technology (in this section referred to as the ‘Under Secretary’).”

“(b) **APPOINTMENT.**—The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate.

“(c) **COMPENSATION.**—The Under Secretary shall be compensated at the rate in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(d) **DUTIES.**—The Under Secretary shall serve as the Director of the Institute and shall perform such duties as required of the Director by the Secretary under this Act or by law.

“(e) **APPLICABILITY.**—The individual serving as the Director of the Institute on the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010 shall also serve as the Under Secretary until such time as a successor is appointed under subsection (b).”

(b) **CONFORMING AMENDMENTS.**—

(1) **TITLE 5, UNITED STATES CODE.**—

(A) **LEVEL III.**—Section 5314 of title 5, United States Code, is amended by inserting before the item “Associate Attorney General” the following:

“Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.”

(B) **LEVEL IV.**—Section 5315 of title 5, United States Code, is amended by striking “Director, National Institute of Standards and Technology, Department of Commerce.”

(2) **NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.**—Section 5 of the National Institute of Standards and Technology Act (15 U.S.C. 274) is amended by striking the first, fifth, and sixth sentences.

SEC. 404. MANUFACTURING EXTENSION PARTNERSHIP.

(a) **COMMUNITY COLLEGE SUPPORT.**—Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended—

(1) by striking “and” after the semicolon in paragraph (4);

(2) by striking “Institute.” in paragraph (5) and inserting “Institute; and”; and

(3) by adding at the end the following:

“(6) providing to community colleges information about the job skills needed in small- and medium-sized manufacturing businesses in the regions they serve.”

(b) **INNOVATIVE SERVICES INITIATIVE.**—Section 25 of such Act (15 U.S.C. 278k) is amended by adding at the end the following:

“(g) **INNOVATIVE SERVICES INITIATIVE.**—

“(1) **ESTABLISHMENT.**—The Director shall establish, within the Centers program under this section, an innovative services initiative to assist small- and medium-sized manufacturers in—

“(A) reducing their energy usage, greenhouse gas emissions, and environmental waste to improve profitability;

“(B) accelerating the domestic commercialization of new product technologies, including components for renewable energy and energy efficiency systems; and

“(C) identification of and diversification to new markets, including support for transitioning to the production of components for renewable energy and energy efficiency systems.

“(2) **MARKET DEMAND.**—The Director may not undertake any activity to accelerate the domes-

tic commercialization of a new product technology under this subsection unless an analysis of market demand for the new product technology has been conducted.”

(c) **REPORTS.**—Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (b), is further amended by adding at the end the following:

“(h) **REPORTS.**—

“(1) **IN GENERAL.**—In submitting the 3-year programmatic planning document and annual updates under section 23, the Director shall include an assessment of the Director’s governance of the program established under this section.

“(2) **CRITERIA.**—In conducting the assessment, the Director shall use the criteria established pursuant to the Malcolm Baldrige National Quality Award under section 17(d)(1)(C) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3711a(d)(1)(C)).”

(d) **HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM COST-SHARING.**—Section 25(c) of such Act (15 U.S.C. 278k(c)) is amended by adding at the end the following:

“(7) Not later than 90 days after the date of enactment of the National Institute of Standards and Technology Authorization Act of 2010, the Comptroller General shall submit to Congress a report on the cost share requirements under the program. The report shall—

“(A) discuss various cost share structures, including the cost share structure in place prior to such date of enactment, and the effect of such cost share structures on individual Centers and the overall program; and

“(B) include recommendations for how best to structure the cost share requirement to provide for the long-term sustainability of the program.”

“(8) If consistent with the recommendations in the report transmitted to Congress under paragraph (7), the Secretary shall alter the cost structure requirements specified under paragraph (3)(B) and (5) provided that the modification does not increase the cost share structure in place before the date of enactment of the America COMPETES Reauthorization Act of 2010, or allow the Secretary to provide a Center more than 50 percent of the costs incurred by that Center.”

(e) **ADVISORY BOARD.**—Section 25(e)(4) of such Act (15 U.S.C. 278k(e)(4)) is amended to read as follows:

“(4) **FEDERAL ADVISORY COMMITTEE ACT APPLICABILITY.**—

“(A) **IN GENERAL.**—In discharging its duties under this subsection, the MEP Advisory Board shall function solely in an advisory capacity, in accordance with the Federal Advisory Committee Act.

“(B) **EXCEPTION.**—Section 14 of the Federal Advisory Committee Act shall not apply to the MEP Advisory Board.”

(f) **DESIGNATION OF PROGRAM.**—

(1) **IN GENERAL.**—Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k), as amended by subsection (c), is further amended by adding at the end the following:

“(i) **DESIGNATION.**—

“(1) **HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP.**—The program under this section shall be known as the ‘Hollings Manufacturing Extension Partnership’.

“(2) **HOLLINGS MANUFACTURING EXTENSION CENTERS.**—The Regional Centers for the Transfer of Manufacturing Technology created and supported under subsection (a) shall be known as the ‘Hollings Manufacturing Extension Centers’ (in this Act referred to as the ‘Centers’).”

(2) **CONFORMING AMENDMENT TO CONSOLIDATED APPROPRIATIONS ACT, 2005.**—Division B of title II of the Consolidated Appropriations

Act, 2005 (Public Law 108–447; 118 Stat. 2879; 15 U.S.C. 278k note) is amended under the heading “INDUSTRIAL TECHNOLOGY SERVICES” by striking “2007: Provided further, That” and all that follows through “Extension Centers.” and inserting “2007.”

(3) **TECHNICAL AMENDMENTS.**—

(A) Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended in the matter preceding paragraph (1) by striking “Regional Centers for the Transfer of Manufacturing Technology” and inserting “regional centers for the transfer of manufacturing technology”.

(B) Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (f), is further amended by adding at the end the following:

“(j) **COMMUNITY COLLEGE DEFINED.**—In this section, the term ‘community college’ means an institution of higher education (as defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) at which the highest degree that is predominately awarded to students is an associate’s degree.”

(h) **EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.**—Section 25 of such Act (15 U.S.C. 278k), as amended by subsection (g), is further amended by adding at the end the following:

“(k) **EVALUATION OF OBSTACLES UNIQUE TO SMALL MANUFACTURERS.**—The Director shall—

“(1) evaluate obstacles that are unique to small manufacturers that prevent such manufacturers from effectively competing in the global market;

“(2) implement a comprehensive plan to train the Centers to address such obstacles; and

“(3) facilitate improved communication between the Centers to assist such manufacturers in implementing appropriate, targeted solutions to such obstacles.”

(i) **NIST ACT AMENDMENT.**—Section 25(f)(3) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(3)) is amended by striking “Director of the Centers program,” and inserting “Director of the Hollings MEP program.”

SEC. 405. EMERGENCY COMMUNICATION AND TRACKING TECHNOLOGIES RESEARCH INITIATIVE.

(a) **ESTABLISHMENT.**—The Director shall establish a research initiative to support the development of emergency communication and tracking technologies for use in locating trapped individuals in confined spaces, such as underground mines, and other shielded environments, such as high-rise buildings or collapsed structures, where conventional radio communication is limited.

(b) **ACTIVITIES.**—In order to carry out this section, the Director shall work with the private sector and appropriate Federal agencies to—

(1) perform a needs assessment to identify and evaluate the measurement, technical standards, and conformity assessment needs required to improve the operation and reliability of such emergency communication and tracking technologies;

(2) support the development of technical standards and conformance architecture to improve the operation and reliability of such emergency communication and tracking technologies; and

(3) incorporate and build upon existing reports and studies on improving emergency communications.

(c) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Director shall submit to Congress and make publicly available a report describing the assessment performed under subsection (b)(1) and making recommendations about research priorities to address gaps in the measurement, technical standards, and conformity assessment needs identified by the assessment.

SEC. 406. BROADENING PARTICIPATION.

(a) **RESEARCH FELLOWSHIPS.**—Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-1) is amended by adding at the end the following:

“(c) **UNDERREPRESENTED MINORITIES.**—In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.”.

(b) **POSTDOCTORAL FELLOWSHIP PROGRAM.**—Section 19 of such Act (15 U.S.C. 278g-2) is amended by adding at the end the following: “In evaluating applications for fellowships under this section, the Director shall give consideration to the goal of promoting the participation of underrepresented minorities in research areas supported by the Institute.”.

(c) **TEACHER DEVELOPMENT.**—Section 19A(c) of such Act (15 U.S.C. 278g-2a(c)) is amended by adding at the end the following: “The Director shall give special consideration to an application from a teacher from a high-need school, as defined in section 200 of the Higher Education Act of 1965 (20 U.S.C. 1021).”.

SEC. 407. NIST FELLOWSHIPS.

(a) **POST-DOCTORAL FELLOWSHIP PROGRAM.**—Section 19 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-2) is amended by striking “, in conjunction with the National Academy of Sciences,”.

(b) **RESEARCH FELLOWSHIPS.**—Section 18(a) of that Act (15 USC 278g-1(a)) is amended by striking “up to 1.5 percent of the”.

(c) **COMMERCE, SCIENCE, AND TECHNOLOGY FELLOWSHIP PROGRAM.**—Section 5163(d) of the Omnibus Trade and Competition Act of 1988 (15 U.S.C. 1533) is repealed.

SEC. 408. GREEN MANUFACTURING AND CONSTRUCTION.

The Director shall carry out a green manufacturing and construction initiative—

(1) to develop accurate sustainability metrics and practices for use in manufacturing;

(2) to advance the development of standards, including high performance green building standards, and the creation of an information infrastructure to communicate sustainability information about suppliers; and

(3) to move buildings toward becoming high performance green buildings, including improving energy performance, service life, and indoor air quality of new and retrofitted buildings through validated measurement data.

SEC. 409. DEFINITIONS.

In this title:

(1) **DIRECTOR.**—The term “Director” means the Director of the National Institute of Standards and Technology.

(2) **FEDERAL AGENCY.**—The term “Federal agency” has the meaning given such term in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703).

(3) **HIGH PERFORMANCE GREEN BUILDING.**—The term “high performance green building” has the meaning given that term by section 401(13) of the Energy Independence and Security Act of 2009 (42 U.S.C. 17061(13)).

TITLE V—SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS SUPPORT PROGRAMS**SUBTITLE A—NATIONAL SCIENCE FOUNDATION****SEC. 501. SHORT TITLE.**

This subtitle may be cited as the “National Science Foundation Authorization Act of 2010”.

SEC. 502. DEFINITIONS.

In this subtitle:

(1) **DIRECTOR.**—The term “Director” means the Director of the National Science Foundation.

(2) **EPSCoR.**—The term “EPSCoR” means the Experimental Program to Stimulate Competitive Research.

(3) **FOUNDATION.**—The term “Foundation” means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(4) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) **STATE.**—The term “State” means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(6) **UNITED STATES.**—The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

(a) **FISCAL YEAR 2011.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Foundation \$7,424,400,000 for fiscal year 2011.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized by paragraph (1)—

(A) \$5,974,782,000 shall be made available to carry research and related activities;

(B) \$937,850,000 shall be made available for education and human resources;

(C) \$164,744,000 shall be made available for major research equipment and facilities construction;

(D) \$327,503,000 shall be made available for agency operations and award management;

(E) \$4,803,000 shall be made available for the Office of the National Science Board; and

(F) \$14,718,000 shall be made available for the Office of Inspector General.

(b) **FISCAL YEAR 2012.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Foundation \$7,800,000,000 for fiscal year 2012.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized by paragraph (1)—

(A) \$6,234,281,000 shall be made available to carry research and related activities;

(B) \$978,959,000 shall be made available for education and human resources;

(C) \$225,544,000 shall be made available for major research equipment and facilities construction;

(D) \$341,676,000 shall be made available for agency operations and award management;

(E) \$4,808,000 shall be made available for the Office of the National Science Board; and

(F) \$14,732,000 shall be made available for the Office of Inspector General.

(c) **FISCAL YEAR 2013.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Foundation \$8,300,000,000 for fiscal year 2013.

(2) **SPECIFIC ALLOCATIONS.**—Of the amount authorized by paragraph (1)—

(A) \$6,637,849,000 shall be made available to carry research and related activities;

(B) \$1,041,762,000 shall be made available for education and human resources;

(C) \$236,764,000 shall be made available for major research equipment and facilities construction;

(D) \$363,670,000 shall be made available for agency operations and award management;

(E) \$4,906,000 shall be made available for the Office of the National Science Board; and

(F) \$15,049,000 shall be made available for the Office of Inspector General.

SEC. 504. NATIONAL SCIENCE BOARD ADMINISTRATIVE AMENDMENTS.

(a) **STAFFING AT THE NATIONAL SCIENCE BOARD.**—Section 4(g) of the National Science

Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking “not more than 5”.

(b) **NATIONAL SCIENCE BOARD REPORTS.**—Section 4(j)(2) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(2)) is amended by inserting “within the authority of the Foundation (or otherwise as requested by the Congress or the President)” after “individual policy matters”.

(c) **BOARD ADHERENCE TO SUNSHINE ACT.**—Section 15(a)(2) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-5(a)(2)) is amended—

(1) by striking “The Board” and inserting “To ensure transparency of the Board’s entire decision-making process, including deliberations on Board business occurring within its various subdivisions, the Board”; and

(2) by adding at the end the following: “The preceding requirement will apply to meetings of the full Board, whenever a quorum is present; and to meetings of its subdivisions, whenever a quorum of the subdivision is present.”.

SEC. 505. NATIONAL CENTER FOR SCIENCE AND ENGINEERING STATISTICS.

(a) **ESTABLISHMENT.**—There is established within the Foundation a National Center for Science and Engineering Statistics that shall serve as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development.

(b) **DUTIES.**—In carrying out subsection (a) of this section, the Director, acting through the Center shall—

(1) collect, acquire, analyze, report, and disseminate statistical data related to the science and engineering enterprise in the United States and other nations that is relevant and useful to practitioners, researchers, policymakers, and the public, including statistical data on—

(A) research and development trends;

(B) the science and engineering workforce;

(C) United States competitiveness in science, engineering, technology, and research and development; and

(D) the condition and progress of United States STEM education;

(2) support research using the data it collects, and on methodologies in areas related to the work of the Center; and

(3) support the education and training of researchers in the use of large-scale, nationally representative data sets.

(c) **STATISTICAL REPORTS.**—The Director or the National Science Board, acting through the Center, shall issue regular, and as necessary, special statistical reports on topics related to the national and international science and engineering enterprise such as the biennial report required by section 4(j)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1)) on indicators of the state of science and engineering in the United States.

SEC. 506. NATIONAL SCIENCE FOUNDATION MANUFACTURING RESEARCH AND EDUCATION.

(a) **MANUFACTURING RESEARCH.**—The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to support fundamental research leading to transformative advances in manufacturing technologies, processes, and enterprises that will support United States manufacturing through improved performance, productivity, sustainability, and competitiveness. Research areas may include—

(1) nanomanufacturing;

(2) manufacturing and construction machines and equipment, including robotics, automation, and other intelligent systems;

(3) manufacturing enterprise systems;

(4) advanced sensing and control techniques;

(5) materials processing; and

(6) information technologies for manufacturing, including predictive and real-time models and simulations, and virtual manufacturing.

(b) **MANUFACTURING EDUCATION.**—In order to help ensure a well-trained manufacturing workforce, the Director shall award grants to strengthen and expand scientific and technical education and training in advanced manufacturing, including through the Foundation's Advanced Technological Education program.

SEC. 507. NATIONAL SCIENCE BOARD REPORT ON MID-SCALE INSTRUMENTATION.

(a) **MID-SCALE RESEARCH INSTRUMENTATION NEEDS.**—The National Science Board shall evaluate the needs, across all disciplines supported by the Foundation, for mid-scale research instrumentation that falls between the instruments funded by the Major Research Instrumentation program and the very large projects funded by the Major Research Equipment and Facilities Construction program.

(b) **REPORT ON MID-SCALE RESEARCH INSTRUMENTATION PROGRAM.**—Not later than 1 year after the date of enactment of this Act, the National Science Board shall submit to Congress a report on mid-scale research instrumentation at the Foundation. At a minimum, this report shall include—

(1) the findings from the Board's evaluation of instrumentation needs required under subsection (a), including a description of differences across disciplines and Foundation research directorates;

(2) a recommendation or recommendations regarding how the Foundation should set priorities for mid-scale instrumentation across disciplines and Foundation research directorates;

(3) a recommendation or recommendations regarding the appropriateness of expanding existing programs, including the Major Research Instrumentation program or the Major Research Equipment and Facilities Construction program, to support more instrumentation at the mid-scale;

(4) a recommendation or recommendations regarding the need for and appropriateness of a new, Foundation-wide program or initiative in support of mid-scale instrumentation, including any recommendations regarding the administration of and budget for such a program or initiative and the appropriate scope of instruments to be funded under such a program or initiative; and

(5) any recommendation or recommendations regarding other options for supporting mid-scale research instrumentation at the Foundation.

SEC. 508. PARTNERSHIPS FOR INNOVATION.

(a) **IN GENERAL.**—The Director shall carry out a program to award merit-reviewed, competitive grants to institutions of higher education to establish and to expand partnerships that promote innovation and increase the impact of research by developing tools and resources to connect new scientific discoveries to practical uses.

(b) **PARTNERSHIPS.**—

(1) **IN GENERAL.**—To be eligible for funding under this section, an institution of higher education must propose establishment of a partnership that—

(A) includes at least one private sector entity; and

(B) may include other institutions of higher education, public sector institutions, private sector entities, and nonprofit organizations.

(2) **PRIORITY.**—In selecting grant recipients under this section, the Director shall give priority to partnerships that include one or more institutions of higher education and at least one of the following:

(A) A minority serving institution.

(B) A primarily undergraduate institution.

(C) A 2-year institution of higher education.

(c) **PROGRAM.**—Proposals funded under this section shall seek—

(1) to increase the impact of the most promising research at the institution or institutions of higher education that are members of the partnership through knowledge transfer or commercialization;

(2) to increase the engagement of faculty and students across multiple disciplines and departments, including faculty and students in schools of business and other appropriate non-STEM fields and disciplines in knowledge transfer activities;

(3) to enhance education and mentoring of students and faculty in innovation and entrepreneurship through networks, courses, and development of best practices and curricula;

(4) to strengthen the culture of the institution or institutions of higher education to undertake and participate in activities related to innovation and leading to economic or social impact;

(5) to broaden the participation of all types of institutions of higher education in activities to meet STEM workforce needs and promote innovation and knowledge transfer; and

(6) to build lasting partnerships with local and regional businesses, local and State governments, and other relevant entities.

(d) **ADDITIONAL CRITERIA.**—In selecting grant recipients under this section, the Director shall also consider the extent to which the applicants are able to demonstrate evidence of institutional support for, and commitment to—

(1) achieving the goals of the program as described in subsection (c);

(2) expansion to an institution-wide program if the initial proposal is not for an institution-wide program; and

(3) sustaining any new innovation tools and resources generated from funding under this program.

(e) **LIMITATION.**—No funds provided under this section may be used to construct or renovate a building or structure.

SEC. 509. SUSTAINABLE CHEMISTRY BASIC RESEARCH.

The Director shall establish a Green Chemistry Basic Research program to award competitive, merit-based grants to support research into green and sustainable chemistry which will lead to clean, safe, and economical alternatives to traditional chemical products and practices. The research program shall provide sustained support for green chemistry research, education, and technology transfer through—

(1) merit-reviewed competitive grants to individual investigators and teams of investigators, including, to the extent practicable, young investigators, for research;

(2) grants to fund collaborative research partnerships among universities, industry, and nonprofit organizations;

(3) symposia, forums, and conferences to increase outreach, collaboration, and dissemination of green chemistry advances and practices; and

(4) education, training, and retraining of undergraduate and graduate students and professional chemists and chemical engineers, including through partnerships with industry, in green chemistry science and engineering.

SEC. 510. GRADUATE STUDENT SUPPORT.

(a) **FINDING.**—The Congress finds that—

(1) the Integrative Graduate Education and Research Traineeship program is an important program for training the next generation of scientists and engineers in team-based interdisciplinary research and problem solving, and for providing them with the many additional skills, such as communication skills, needed to thrive in diverse STEM careers; and

(2) the Integrative Graduate Education and Research Traineeship program is no less valuable to the preparation and support of graduate students than the Foundation's Graduate Research Fellowship program.

(b) **EQUAL TREATMENT OF IGERT AND GRF.**—Beginning in fiscal year 2011, the Director shall increase or, if necessary, decrease funding for the Foundation's Integrative Graduate Education and Research Traineeship program (or any program by which it is replaced) at least at the same rate as it increases or decreases funding for the Graduate Research Fellowship program.

(c) **SUPPORT FOR GRADUATE STUDENT RESEARCH FROM THE RESEARCH ACCOUNT.**—For each of the fiscal years 2011 through 2013, at least 50 percent of the total Foundation funds allocated to the Integrative Graduate Education and Research Traineeship program and the Graduate Research Fellowship program shall come from funds appropriated for Research and Related Activities.

(d) **COST OF EDUCATION ALLOWANCE FOR GRF PROGRAM.**—Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “The Foundation is authorized”; and

(2) by adding at the end the following:

“(b) **AMOUNT.**—The Director shall establish for each year the amount to be awarded for scholarships and fellowships under this section for that year. Each such scholarship and fellowship shall include a cost of education allowance of \$12,000, subject to any restrictions on the use of cost of education allowance as determined by the Director.”.

SEC. 511. ROBERT NOYCE TEACHER SCHOLARSHIP PROGRAM.

(a) **MATCHING REQUIREMENT.**—Section 10A(h)(1) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1a(h)(1)) is amended to read as follows:

“(1) **IN GENERAL.**—An eligible entity receiving a grant under this section shall provide, from non-Federal sources, to carry out the activities supported by the grant—

“(A) in the case of grants in an amount of less than \$1,500,000, an amount equal to at least 30 percent of the amount of the grant, at least one half of which shall be in cash; and

“(B) in the case of grants in an amount of \$1,500,000 or more, an amount equal to at least 50 percent of the amount of the grant, at least one half of which shall be in cash.”.

(b) **RETIRING STEM PROFESSIONALS.**—Section 10A(a)(2)(A) of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1a(a)(2)(A)) is amended by inserting “including retiring professionals in those fields,” after “mathematics professionals,”.

SEC. 512. UNDERGRADUATE BROADENING PARTICIPATION PROGRAM.

The Foundation shall continue to support the Historically Black Colleges and Universities Undergraduate Program, the Louis Stokes Alliances for Minority Participation program, the Tribal Colleges and Universities Program, and Hispanic-serving institutions as separate programs.

SEC. 513. RESEARCH EXPERIENCES FOR HIGH SCHOOL STUDENTS.

The Director shall permit specialized STEM high schools conducting research to participate in major data collection initiatives from universities, corporations, or government labs under a research grant from the Foundation, as part of the research proposal.

SEC. 514. RESEARCH EXPERIENCES FOR UNDERGRADUATES.

(a) **RESEARCH SITES.**—The Director shall award grants, on a merit-reviewed, competitive basis, to institutions of higher education, nonprofit organizations, or consortia of such institutions and organizations, for sites designated by the Director to provide research experiences for 6 or more undergraduate STEM students for sites designated at primarily undergraduate institutions of higher education and 10 or more

undergraduate STEM students for all other sites, with consideration given to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b). The Director shall ensure that—

(1) at least half of the students participating in a program funded by a grant under this subsection at each site shall be recruited from institutions of higher education where research opportunities in STEM are limited, including 2-year institutions;

(2) the awards provide undergraduate research experiences in a wide range of STEM disciplines;

(3) the awards support a variety of projects, including independent investigator-led projects, interdisciplinary projects, and multi-institutional projects (including virtual projects);

(4) students participating in each program funded have mentors, including during the academic year to the extent practicable, to help connect the students' research experiences to the overall academic course of study and to help students achieve success in courses of study leading to a baccalaureate degree in a STEM field;

(5) mentors and students are supported with appropriate salary or stipends; and

(6) student participants are tracked, for employment and continued matriculation in STEM fields, through receipt of the undergraduate degree and for at least 3 years thereafter.

(b) **INCLUSION OF UNDERGRADUATES IN STANDARD RESEARCH GRANTS.**—The Director shall require that every recipient of a research grant from the Foundation proposing to include 1 or more students enrolled in certificate, associate, or baccalaureate degree programs in carrying out the research under the grant shall request support, including stipend support, for such undergraduate students as part of the research proposal itself rather than as a supplement to the research proposal, unless such undergraduate participation was not foreseeable at the time of the original proposal.

SEC. 515. STEM INDUSTRY INTERNSHIP PROGRAMS.

(a) **IN GENERAL.**—The Director may award grants, on a competitive, merit-reviewed basis, to institutions of higher education, or consortia thereof, to establish or expand partnerships with local or regional private sector entities, for the purpose of providing undergraduate students with integrated internship experiences that connect private sector internship experiences with the students' STEM coursework. The partnerships may also include industry or professional associations.

(b) **INTERNSHIP PROGRAM.**—The grants awarded under section (a) may include internship programs in the manufacturing sector.

(c) **USE OF GRANT FUNDS.**—Grants under this section may be used—

(1) to develop and implement hands-on learning opportunities;

(2) to develop curricula and instructional materials related to industry, including the manufacturing sector;

(3) to perform outreach to secondary schools;

(4) to develop mentorship programs for students with partner organizations; and

(5) to conduct activities to support awareness of career opportunities and skill requirements.

(d) **PRIORITY.**—In awarding grants under this section, the Director shall give priority to institutions of higher education or consortia thereof that demonstrate significant outreach to and coordination with local or regional private sector entities and Regional Centers for the Transfer of Manufacturing Technology established by section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) in developing academic courses designed to provide stu-

dents with the skills or certifications necessary for employment in local or regional companies.

(c) **OUTREACH TO RURAL COMMUNITIES.**—The Foundation shall conduct outreach to institutions of higher education and private sector entities in rural areas to encourage those entities to participate in partnerships under this section.

(d) **COST-SHARE.**—The Director shall require a 50 percent non-Federal cost-share from partnerships established or expanded under this section.

(e) **RESTRICTION.**—No Federal funds provided under this section may be used—

(1) for the purpose of providing stipends or compensation to students for private sector internships unless private sector entities match 75 percent of such funding; or

(2) as payment or reimbursement to private sector entities, except for institutions of higher education.

(f) **REPORT.**—Not less than 3 years after the date of enactment of this Act, the Director shall submit a report to Congress on the number and total value of awards made under this section, the number of students affected by those awards, any evidence of the effect of those awards on workforce preparation and jobs placement for participating students, and an economic and ethnic breakdown of the participating students.

SEC. 516. CYBER-ENABLED LEARNING FOR NATIONAL CHALLENGES.

The Director shall, in consultation with appropriate Federal agencies, identify ways to use cyber-enabled learning to create an innovative STEM workforce and to help retrain and retain our existing STEM workforce to address national challenges, including national security and competitiveness, and use technology to enhance or supplement laboratory based learning.

SEC. 517. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) **FINDINGS.**—The Congress finds that—

(1) The National Science Foundation Act of 1950 stated, "it shall be an objective of the Foundation to strengthen research and education in the sciences and engineering, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education,";

(2) National Science Foundation funding remains highly concentrated, with 27 States and 2 jurisdictions, taken together, receiving only about 10 percent of all NSF research funding; each of these States received only a fraction of one percent of Foundation's research dollars each year;

(3) the Nation requires the talent, expertise, and research capabilities of all States in order to prepare sufficient numbers of scientists and engineers, remain globally competitive and support economic development.

(b) **CONTINUATION OF PROGRAM.**—The Director shall continue to carry out EPSCoR, with the objective of helping the eligible States to develop the research infrastructure that will make them more competitive for Foundation and other Federal research funding. The program shall continue to increase as the National Science Foundation funding increases.

(c) **CONGRESSIONAL REPORTS.**—The Director shall report to the appropriate committees of Congress on an annual basis, using the most recent available data—

(1) the total amount made available, by State, under EPSCoR;

(2) the amount of co-funding made available to EPSCoR States;

(3) the total amount of National Science Foundation funding made available to all institutions and entities within EPSCoR States; and

(4) efforts and accomplishments to more fully integrate the 29 EPSCoR jurisdictions in major activities and initiatives of the Foundation.

(d) **COORDINATION OF EPSCoR AND SIMILAR FEDERAL PROGRAMS.**—

(1) **ANOTHER FINDING.**—The Congress finds that a number of Federal agencies have programs, such as Experimental Programs to Stimulate Competitive Research and the National Institutes of Health Institutional Development Award program, designed to increase the capacity for and quality of science and technology research and training at academic institutions in States that historically have received relatively little Federal research and development funding.

(2) **COORDINATION REQUIRED.**—The EPSCoR Interagency Coordinating Committee, chaired by the National Science Foundation, shall—

(A) coordinate EPSCoR and Federal EPSCoR-like programs to maximize the impact of Federal support for building competitive research infrastructure, and in order to achieve an integrated Federal effort;

(B) coordinate agency objectives with State and institutional goals, to obtain continued non-Federal support of science and technology research and training;

(C) develop metrics to assess gains in academic research quality and competitiveness, and in science and technology human resource development;

(D) conduct a cross-agency evaluation of EPSCoR and other Federal EPSCoR-like programs and accomplishments, including management, investment, and metric-measuring strategies implemented by the different agencies aimed to increase the number of new investigators receiving peer-reviewed funding, broaden participation, and empower knowledge generation, dissemination, application, and national research and development competitiveness;

(E) coordinate the development and implementation of new, novel workshops, outreach activities, and follow-up mentoring activities among EPSCoR or EPSCoR-like programs for colleges and universities in EPSCoR States and territories in order to increase the number of proposals submitted and successfully funded and to enhance statewide coordination of EPSCoR and Federal EPSCoR-like programs;

(F) coordinate the development of new, innovative solicitations and programs to facilitate collaborations, partnerships, and mentoring activities among faculty at all levels in non-EPSCoR and EPSCoR States and jurisdictions;

(G) conduct an evaluation of the roles, responsibilities and degree of autonomy that program officers or managers (or the equivalent position) have in executing EPSCoR programs at the different Federal agencies and the impacts these differences have on the number of EPSCoR State and jurisdiction faculty participating in the peer review process and the percentage of successful awards by individual EPSCoR State jurisdiction and individual researcher; and

(H) conduct a survey of colleges and university faculty at all levels regarding their knowledge and understanding of EPSCoR, and their level of interaction with and knowledge about their respective State or Jurisdictional EPSCoR Committee.

(3) **MEETINGS AND REPORTS.**—The Committee shall meet at least twice each fiscal year and shall submit an annual report to the appropriate committees of Congress describing progress made in carrying out paragraph (2).

(e) **FEDERAL AGENCY REPORTS.**—Each Federal agency that administers an EPSCoR or Federal EPSCoR-like program shall submit to the OSTP as part of its Federal budget submission—

(1) a description of the program strategy and objectives;

(2) a description of the awards made in the previous year, including—

(A) the percentage of reviewers and number of new reviewers from EPSCoR States;

(B) the percentage of new investigators from EPSCoR States;

(C) the number of programs or large collaborator awards involving a partnership of organizations and institutions from EPSCoR and non-EPSCoR States; and

(3) an analysis of the gains in academic research quality and competitiveness, and in science and technology human resource development, achieved by the program in the last year.

(f) NATIONAL ACADEMY OF SCIENCES STUDY.—

(1) IN GENERAL.—The Director shall contract with the National Academy of Sciences to conduct a study on all Federal agencies that administer an Experimental Program to Stimulate Competitive Research or a program similar to the Experimental Program to Stimulate Competitive Research.

(2) MATTERS TO BE ADDRESSED.—The study conducted under paragraph (1) shall include the following:

(A) A delineation of the policies of each Federal agency with respect to the awarding of grants to EPSCoR States.

(B) The effectiveness of each program.

(C) Recommendations for improvements for each agency to achieve EPSCoR goals.

(D) An assessment of the effectiveness of EPSCoR States in using awards to develop science and engineering research and education, and science and engineering infrastructure within their States.

(E) Such other issues that address the effectiveness of EPSCoR as the National Academy of Sciences considers appropriate.

SEC. 518. SENSE OF THE CONGRESS REGARDING THE SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS TALENT EXPANSION PROGRAM.

It is the sense of the Congress that—

(1) the Science, Technology, Engineering, and Mathematics Talent Expansion Program established by the National Science Foundation Authorization Act of 2002 continues to be an effective program to increase the number of students, who are citizens or permanent residents of the United States, receiving associate or baccalaureate degrees in established or emerging fields within science, technology, engineering, and mathematics, and its authorization continues;

(2) the strategies employed continue to strengthen mentoring and tutoring between faculty and students and provide students with information and exposure to potential career pathways in science, technology, engineering, and mathematics areas;

(3) this highly competitive program awarded 145 Program implementation awards and 12 research projects in the first 6 years of operations; and

(4) the Science, Technology, Engineering, and Mathematics Talent Expansion Program should continue to be supported by the National Science Foundation.

SEC. 519. SENSE OF THE CONGRESS REGARDING THE NATIONAL SCIENCE FOUNDATION'S CONTRIBUTIONS TO BASIC RESEARCH AND EDUCATION.

(a) FINDINGS.—The Congress finds that—

(1) the National Science Foundation is an independent Federal agency created by Congress in 1950 to, among other things, promote the progress of science, to advance the national health, prosperity, and welfare, and to secure the national defense;

(2) the Foundation is the funding source for approximately 20 percent of all federally supported basic research conducted by America's colleges and universities, and is the major source of Federal backing for mathematics, computer science and other sciences;

(3) the America COMPETES Act of 2007 helped rejuvenate our focus on increasing basic research investment in the physical sciences,

strengthening educational opportunities in the science, technology, engineering, and mathematics fields and developing a robust innovation infrastructure; and

(4) reauthorization of the America COMPETES Act should continue a robust investment in basic research and education and preserve the essence of the original Act by increasing the investment focus on science, technology, engineering, and mathematics basic research and education as a national priority.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the National Science Foundation is the finest scientific foundation in the world, and is a vital agency that must support basic research needed to advance the United States into the 21st century;

(2) the National Science Foundation should focus Federal research and development resources primarily in the areas of science, technology, engineering, and mathematics basic research and education; and

(3) the National Science Foundation should strive to ensure that federally-supported research is of the finest quality, is ground breaking, and answers questions or solves problems that are of utmost importance to society at large.

SEC. 520. ACADEMIC TECHNOLOGY TRANSFER AND COMMERCIALIZATION OF UNIVERSITY RESEARCH.

(a) IN GENERAL.—Any institution of higher education (as such term is defined in section 101(A) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) that receives National Science Foundation research support and has received at least \$25,000,000 in total Federal research grants in the most recent fiscal year shall keep, maintain, and report annually to the National Science Foundation the universal record locator for a public website that contains information concerning its general approach to and mechanisms for transfer of technology and the commercialization of research results, including—

(1) contact information for individuals and university offices responsible for technology transfer and commercialization;

(2) information for both university researchers and industry on the institution's technology licensing and commercialization strategies;

(3) success stories, statistics, and examples of how the university supports commercialization of research results;

(4) technologies available for licensing by the university where appropriate; and

(5) any other information deemed by the institution to be helpful to companies with the potential to commercialize university inventions.

(b) NSF WEBSITE.—The National Science Foundation shall create and maintain a website accessible to the public that links to each website mentioned under (a).

(c) TRADE SECRET INFORMATION.—Notwithstanding subsection (a), an institution shall not be required to reveal confidential, trade secret, or proprietary information on its website.

SEC. 521. STUDY TO DEVELOP IMPROVED IMPACT-ON-SOCIETY METRICS.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Director of the National Science Foundation shall contract with the National Academy of Sciences to initiate a study to evaluate, develop, or improve metrics for measuring the potential impact-on-society, including—

(1) the potential for commercial applications of research studies funded in whole or in part by grants of financial assistance from the Foundation or other Federal agencies;

(2) the manner in which research conducted at, and individuals graduating from, an institution of higher education contribute to the development of new intellectual property and the success of commercial activities;

(3) the quality of relevant scientific and international publications; and

(4) the ability of such institutions to attract external research funding.

(b) REPORT.—Within 1 year after initiating the study required by subsection (a), the Director shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology setting forth the Director's findings, conclusions, and recommendations.

SEC. 522. NSF GRANTS IN SUPPORT OF SPONSORED POST-DOCTORAL FELLOWSHIP PROGRAMS.

The Director of the National Science Foundation may utilize funds appropriated to carry out grants to institutions of higher education (as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) to provide financial support for postgraduate research in fields with potential commercial applications to match, in whole or in part, any private sector grant of financial assistance to any post-doctoral program in such a field of study.

SEC. 523. COLLABORATION IN PLANNING FOR STEWARDSHIP OF LARGE-SCALE FACILITIES.

It is the sense of Congress that—

(1) the Foundation should, in its planning for construction and stewardship of large facilities, coordinate and collaborate with other Federal agencies, including the Department of Energy's Office of Science, to ensure that joint investments may be made when practicable;

(2) in particular, the Foundation should ensure that it responds to recommendations by the National Academy of Sciences and working groups convened by the National Science and Technology Council regarding such facilities and opportunities for partnership with other agencies in the design and construction of such facilities; and

(3) for facilities in which research in multiple disciplines will be possible, the Director should include multiple units within the Foundation during the planning process.

SEC. 524. CLOUD COMPUTING RESEARCH ENHANCEMENT.

(a) RESEARCH FOCUS AREA.—The Director may support a national research agenda in key areas affected by the increased use of public and private cloud computing, including—

(1) new approaches, techniques, technologies, and tools for—

(A) optimizing the effectiveness and efficiency of cloud computing environments; and

(B) mitigating security, identity, privacy, reliability, and manageability risks in cloud-based environments, including as they differ from traditional data centers;

(2) new algorithms and technologies to define, assess, and establish large-scale, trustworthy, cloud-based infrastructures;

(3) models and advanced technologies to measure, assess, report, and understand the performance, reliability, energy consumption, and other characteristics of complex cloud environments; and

(4) advanced security technologies to protect sensitive or proprietary information in global-scale cloud environments.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Director shall initiate a review and assessment of cloud computing research opportunities and challenges, including research areas listed in subsection (a), as well as related issues such as—

(A) the management and assurance of data that are the subject of Federal laws and regulations in cloud computing environments, which laws and regulations exist on the date of enactment of this Act;

(B) misappropriation of cloud services, piracy through cloud technologies, and other threats to the integrity of cloud services;

(C) areas of advanced technology needed to enable trusted communications, processing, and storage; and

(D) other areas of focus determined appropriate by the Director.

(2) **UNSOLICITED PROPOSALS.**—The Director may accept unsolicited proposals that review and assess the issues described in paragraph (1). The proposals may be judged according to existing criteria of the National Science Foundation.

(c) **REPORT.**—The Director shall provide an annual report for not less than 5 consecutive years to Congress on the outcomes of National Science Foundation investments in cloud computing research, recommendations for research focus and program improvements, or other related recommendations. The reports, including any interim findings or recommendations, shall be made publicly available on the website of the National Science Foundation.

(d) **NIST SUPPORT.**—The Director of the National Institute of Standards and Technology shall—

(1) collaborate with industry in the development of standards supporting trusted cloud computing infrastructures, metrics, interoperability, and assurance; and

(2) support standards development with the intent of supporting common goals.

SEC. 525. TRIBAL COLLEGES AND UNIVERSITIES PROGRAM.

(a) **IN GENERAL.**—The Director shall continue to support a program to award grants on a competitive, merit-reviewed basis to tribal colleges and universities (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c), including institutions described in section 317 of such Act (20 U.S.C. 1059d), to enhance the quality of undergraduate STEM education at such institutions and to increase the retention and graduation rates of Native American students pursuing associate's or baccalaureate degrees in STEM.

(b) **PROGRAM COMPONENTS.**—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in STEM;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) **INSTRUMENTATION.**—Funding provided under this section may be used for laboratory equipment and materials.

SEC. 526. BROADER IMPACTS REVIEW CRITERION.

(a) **GOALS.**—The Foundation shall apply a Broader Impacts Review Criterion to achieve the following goals:

(1) Increased economic competitiveness of the United States.

(2) Development of a globally competitive STEM workforce.

(3) Increased participation of women and underrepresented minorities in STEM.

(4) Increased partnerships between academia and industry.

(5) Improved pre-K–12 STEM education and teacher development.

(6) Improved undergraduate STEM education.

(7) Increased public scientific literacy.

(8) Increased national security.

(b) **POLICY.**—Not later than 6 months after the date of enactment of this Act, the Director shall develop and implement a policy for the Broader Impacts Review Criterion that—

(1) provides for educating professional staff at the Foundation, merit review panels, and applicants for Foundation research grants on the policy developed under this subsection;

(2) clarifies that the activities of grant recipients undertaken to satisfy the Broader Impacts Review Criterion shall—

(A) to the extent practicable employ proven strategies and models and draw on existing programs and activities; and

(B) when novel approaches are justified, build on the most current research results;

(3) allows for some portion of funds allocated to broader impacts under a research grant to be used for assessment and evaluation of the broader impacts activity;

(4) encourages institutions of higher education and other nonprofit education or research organizations to develop and provide, either as individual institutions or in partnerships thereof, appropriate training and programs to assist Foundation-funded principal investigators at their institutions in achieving the goals of the Broader Impacts Review Criterion as described in subsection (a); and

(5) requires principal investigators applying for Foundation research grants to provide evidence of institutional support for the portion of the investigator's proposal designed to satisfy the Broader Impacts Review Criterion, including evidence of relevant training, programs, and other institutional resources available to the investigator from either their home institution or organization or another institution or organization with relevant expertise.

SEC. 527. TWENTY-FIRST CENTURY GRADUATE EDUCATION.

(a) **IN GENERAL.**—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to implement or expand research-based reforms in master's and doctoral level STEM education that emphasize preparation for diverse careers utilizing STEM degrees, including at diverse types of institutions of higher education, in industry, and at government agencies and research laboratories.

(b) **USES OF FUNDS.**—Activities supported by grants under this section may include—

(1) creation of multidisciplinary or interdisciplinary courses or programs for the purpose of improved student instruction and research in STEM;

(2) expansion of graduate STEM research opportunities to include interdisciplinary research opportunities and research opportunities in industry, at Federal laboratories, and at international research institutions or research sites;

(3) development and implementation of future faculty training programs focused on improved instruction, mentoring, assessment of student learning, and support of undergraduate STEM students;

(4) support and training for graduate students to participate in instructional activities beyond the traditional teaching assistantship, and especially as part of ongoing educational reform efforts, including at pre-K–12 schools, and primarily undergraduate institutions;

(5) creation, improvement, or expansion of innovative graduate programs such as science master's degree programs;

(6) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to engage in innovation, technology transfer, and entrepreneurship;

(7) development and implementation of seminars, workshops, and other professional development activities that increase the ability of graduate students to effectively communicate their research findings to technical audiences outside of their own discipline and to nontechnical audiences;

(8) expansion of successful STEM reform efforts beyond a single academic unit to other STEM academic units within an institution or to comparable academic units at other institutions; and

(9) research on teaching and learning of STEM at the graduate level related to the pro-

posed reform effort, including assessment and evaluation of the proposed reform activities and research on scalability and sustainability of approaches to reform.

(c) **PARTNERSHIP.**—An institution of higher education may partner with one or more other nonprofit education or research organizations, including scientific and engineering societies, for the purposes of carrying out the activities authorized under this section.

(d) **SELECTION PROCESS.**—

(1) **APPLICATIONS.**—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) in the case of applications that propose an expansion of a previously implemented reform effort at the applicant's institution or at other institutions, a description of the previously implemented reform effort;

(C) evidence of institutional support for, and commitment to, the proposed reform effort, including long-term commitment to implement successful strategies from the current reform effort beyond the academic unit or units included in the grant proposal or to disseminate successful strategies to other institutions; and

(D) a description of the plans for assessment and evaluation of the grant proposed reform activities.

(2) **REVIEW OF APPLICATIONS.**—In selecting grant recipients under this section, the Director shall consider at a minimum—

(A) the likelihood of success in undertaking the proposed effort at the institution submitting the application, including the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit or units;

(B) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on preparing graduate students for diverse careers utilizing STEM degrees;

(C) the likelihood that the institution will sustain or expand the reform beyond the period of the grant; and

(D) the degree to which scholarly assessment and evaluation plans are included in the design of the reform effort.

SUBTITLE B—STEM-TRAINING GRANT PROGRAM

SEC. 551. PURPOSE.

The purpose of this subtitle is to replicate and implement programs at institutions of higher education that provide integrated courses of study in science, technology, engineering, or mathematics, and teacher education, that lead to a baccalaureate degree in science, technology, engineering, or mathematics with concurrent teacher certification.

SEC. 552. PROGRAM REQUIREMENTS.

The Director shall replicate and implement undergraduate degree programs under this subtitle that—

(1) are designed to recruit and prepare students who pursue a baccalaureate degree in science, technology, engineering, or mathematics to become certified as elementary and secondary teachers;

(2) require the education department (or its equivalent) and the departments or division responsible for preparation of science, technology, engineering, and mathematics majors at an institution of higher education to collaborate in establishing and implementing the program at that institution;

(3) require students participating in the program to enter the program through a field-based

course and to continue to complete field-based courses supervised by master teachers throughout the program;

(4) hire sufficient teachers so that the ratio of students to master teachers in the program does not exceed 100 to 1;

(5) include instruction in the use of scientifically-based instructional materials and methods, assessments, pedagogical content knowledge (including the interaction between mathematics and science), the use of instructional technology, and how to incorporate State and local standards into the classroom curriculum;

(6) restrict to students participating in the program those courses that are specifically designed for the needs of teachers of science, technology, engineering, and mathematics; and

(7) require students participating in the program to successfully complete a final evaluation of their teaching proficiency, based on their classroom teaching performance, conducted by multiple trained observers, and a portfolio of their accomplishments.

SEC. 553. GRANT PROGRAM.

(a) **IN GENERAL.**—The Director shall establish a grant program to support programs at institutions of higher education to carry out the purpose of this subtitle.

(b) **GEOGRAPHICAL CONSIDERATIONS.**—In the administration of this subtitle, the Director shall take such steps as may be necessary to ensure that grants are equitably distributed across all regions of the United States, taking into account population density and other geographic and demographic considerations.

(c) **AMOUNT OF GRANT.**—Subject to the requirements of subsection (d), the Director may award grants annually on a competitive basis to institutions of higher education in the amount of \$2,000,000, per institution of which—

(1) \$1,500,000 shall be used—

(A) to design, implement, and evaluate a program that meets the requirements of section 552;

(B) to employ master teachers at the institution to oversee field experiences;

(C) to provide a stipend to mentor teachers participating in the program; and

(D) to support curriculum development and implementation strategies for science, technology, engineering, and mathematics content courses taught through the program; and

(2) up to \$500,000 shall be set aside by the grantee for technical support and evaluation services from the institution whose programs will be replicated.

(d) **ELIGIBILITY.**—To be eligible to apply for a grant under this section, an institution of higher education shall—

(1) include former secondary school science, technology, engineering, or mathematics master teachers as faculty in its science department for this program;

(2) grant terminal degrees in science, technology, engineering, and mathematics; and

(3) have a process to be used in establishing partnerships with local educational agencies for placement of participating students in their field experiences, including a process for identifying mentor teachers working in local schools to supervise classroom field experiences in cooperation with university-based master teachers;

(4) maintain policies allowing flexible entry to the program throughout the undergraduate coursework;

(5) require that master teachers employed by the institution will supervise field experiences of students in the program;

(6) require that the program complies with State certification or licensing requirements and the requirements under section 9101(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)) for highly qualified teachers;

(7) develop during the course of the grant a plan for long-term support and assessment of its graduates, which shall include—

(A) induction support for graduates in their first one to two years of teaching;

(B) systems to determine the teaching status of graduates and thereby determine retention rates; and

(C) methods to analyze the achievement of students taught by graduates, and methods to analyze classroom practices of graduates; and

(8) be able upon completion of the grant at the end of 5 years to fund essential program costs, including salaries of master teachers and other necessary personnel, from recurring university budgets.

(e) **APPLICATION REQUIREMENTS.**—An institution of higher education seeking a grant under the program shall submit an application to the Director in such form, at such time, and containing such information and assurances as the Director may require, including—

(1) a description of the current rate at which individuals majoring in science, technology, engineering, and mathematics become certified as elementary and secondary teachers;

(2) a description for the institution's plan for increasing the numbers of students enrolled in and graduating from the program supported under this subtitle;

(3) a description of the institution's capacity to develop a program in which individuals majoring in science, technology, engineering, and mathematics can become certified as elementary and secondary teachers;

(4) identification of the organizational unit within the department or division of arts and sciences or the science department at the institution that will adopt teacher certification for elementary and secondary teachers as its primary mission;

(5) identification of core faculty within the department or division of arts and sciences or the science department at the institution to champion teacher preparation in their departments by teaching courses dedicated to preparing future elementary and secondary school teachers, helping create new degree plans, advising prospective students within their major, and assisting as needed with program administration;

(6) identification of core faculty in the education department or its equivalent at the institution to champion teacher preparation by creating and teaching courses specific to the preparation of science, technology, engineering, and mathematics and working closely with colleagues in the department or division of arts and sciences or the science department; and

(7) a description of involving practical, field-based experience in teaching and degree plans enabling students to graduate in 4 years with a major in science, technology, engineering, or mathematics and elementary or secondary school teacher certification.

(f) **MATCHING REQUIREMENT.**—An institution of higher education may not receive a grant under this section unless it provides, from non-federal sources, to carry out the activities supported by the grant, an amount that is not less than—

(1) 35 percent of the amount of the grant for the first fiscal year of the grant;

(2) 55 percent of the amount of the grant for the second and third fiscal years of the grant; and

(3) 75 percent of the amount of the grant for the fourth and fifth fiscal years of the grant.

(g) **GUIDANCE.**—Within 90 days after the date of enactment of this Act, the Director shall initiate a proceeding to promulgate guidance for the administration of the grant program established under subsection (a).

SEC. 554. GRANT OVERSIGHT AND ADMINISTRATION.

(a) **IN GENERAL.**—The Director may execute a contract for program oversight and fiscal man-

agement with an organization at an institution of higher education, a non-profit organization, or other entity that demonstrates capacity for and experience in—

(1) replicating 1 or more similar programs at regional or national levels;

(2) providing programmatic and technical implementation assistance for the program;

(3) performing data collection and analysis to ensure proper implementation and continuous program improvement; and

(4) providing accountability for results by measuring and monitoring achievement of programmatic milestones.

(b) **OVERSIGHT RESPONSIBILITIES.**—

(1) **MANDATORY DUTIES.**—If the Director executes a contract under subsection (a) with an organization for program oversight and fiscal management, the organization shall—

(A) ensure that a grant recipient faithfully replicates and implements the program or programs for which the grant is awarded;

(B) ensure that grant funds are used for the purposes authorized and that a grant recipient has a system in place to track and account for all Federal grant funds provided;

(C) provide technical assistance to grant recipients;

(D) collect and analyze data and report to the Director annually on the effects of the program on—

(i) the progress of participating students in achieving teaching competence and teaching certification;

(ii) the participation of students in the program by major, compared with local and State needs on secondary teachers by discipline; and

(iii) the participation of students in the program by demographic subgroup;

(E) collect and analyze data and report to the Director annually on the effects of the program on the academic achievement of elementary and secondary school students taught by graduates of programs funded by grants under this subtitle; and

(F) submit an annual report to the Director demonstrating compliance with the requirements of subparagraphs (A) through (E).

(2) **DISCRETIONARY DUTIES.**—At the request of the Director, the organization under contract under subsection (a) may assist the Director in evaluating grant applications.

(c) **REPORTS TO CONGRESS.**—The Director shall submit a copy of the annual report required by subsection (b)(1)(F) to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Health, Education, Labor, and Pensions, the House of Representatives Committee on Science and Technology, and the House of Representatives Committee on Education and Labor.

SEC. 555. DEFINITIONS.

In this subtitle:

(1) **FIELD-BASED COURSE.**—The term “field-based course” means a course of instruction offered by an institution of higher education that includes a requirement that students teach a minimum of 3 lessons or sequences of lessons to elementary or secondary students.

(2) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given that term by section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) **MASTER TEACHER.**—The term “master teacher” means an individual—

(A) who has been awarded a master's or doctoral degree by an institution of higher education;

(B) whose graduate coursework included courses in mathematics, science, computer science, or engineering;

(C) who has at least 3 years teaching experience in K-12 settings; and

(D) whose teaching has been recognized for exceptional accomplishments in educating students, or is demonstrated to have resulted in improved student achievement.

(4) **MENTOR TEACHER.**—The term “mentor teacher” means an elementary or secondary school classroom teacher who assists with the training of students participating in a field-based course.

(5) **DIRECTOR.**—The term “Director” means the Director of the National Science Foundation.

SEC. 556. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out this subtitle \$10,000,000 for each of fiscal years 2011 through 2013.

TITLE VI—INNOVATION

SEC. 601. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

The Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 106 of this Act, is amended by adding at the end the following:

“SEC. 25. OFFICE OF INNOVATION AND ENTREPRENEURSHIP.

“(a) **IN GENERAL.**—The Secretary shall establish an Office of Innovation and Entrepreneurship to foster innovation and the commercialization of new technologies, products, processes, and services with the goal of promoting productivity and economic growth in the United States.

“(b) **DUTIES.**—The Office of Innovation and Entrepreneurship shall be responsible for—

“(1) developing policies to accelerate innovation and advance the commercialization of research and development, including federally funded research and development;

“(2) identifying existing barriers to innovation and commercialization, including access to capital and other resources, and ways to overcome those barriers, particularly in States participating in the Experimental Program to Stimulate Competitive Research;

“(3) providing access to relevant data, research, and technical assistance on innovation and commercialization;

“(4) strengthening collaboration on and coordination of policies relating to innovation and commercialization, including those focused on the needs of small businesses and rural communities, within the Department of Commerce, between the Department of Commerce and other Federal agencies, and between the Department of Commerce and appropriate State government agencies and institutions, as appropriate; and

“(5) any other duties as determined by the Secretary.

“(c) **ADVISORY COMMITTEE.**—The Secretary shall establish an Advisory Council on Innovation and Entrepreneurship to provide advice to the Secretary on carrying out subsection (b).”.

SEC. 602. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

The Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 601, is further amended by adding at the end the following:

“SEC. 26. FEDERAL LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGIES IN MANUFACTURING.

“(a) **ESTABLISHMENT.**—The Secretary shall establish a program to provide loan guarantees for obligations to small- or medium-sized manufacturers for the use or production of innovative technologies.

“(b) **ELIGIBLE PROJECTS.**—A loan guarantee may be made under the program only for a project that re-equips, expands, or establishes a manufacturing facility in the United States—

“(1) to use an innovative technology or an innovative process in manufacturing;

“(2) to manufacture an innovative technology product or an integral component of such a product; or

“(3) to commercialize an innovative product, process, or idea that was developed by research funded in whole or in part by a grant from the Federal government.

“(c) **ELIGIBLE BORROWER.**—A loan guarantee may be made under the program only for a borrower who is a small- or medium-sized manufacturer, as determined by the Secretary under the criteria established pursuant to subsection (1).

“(d) **LIMITATION ON AMOUNT.**—A loan guarantee shall not exceed an amount equal to 80 percent of the obligation, as estimated at the time at which the loan guarantee is issued.

“(e) **LIMITATIONS ON LOAN GUARANTEE.**—No loan guarantee shall be made unless the Secretary determines that—

“(1) there is a reasonable prospect of repayment of the principal and interest on the obligation by the borrower;

“(2) the amount of the obligation (when combined with amounts available to the borrower from other sources) is sufficient to carry out the project;

“(3) the obligation is not subordinate to other financing;

“(4) the obligation bears interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks; and

“(5) the term of an obligation requires full repayment over a period not to exceed the lesser of—

“(A) 30 years; or

“(B) 90 percent of the projected useful life, as determined by the Secretary, of the physical asset to be financed by the obligation.

“(f) **DEFAULTS.**—

“(1) **PAYMENT BY SECRETARY.**—

“(A) **IN GENERAL.**—If a borrower defaults (as defined in regulations promulgated by the Secretary and specified in the loan guarantee) on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

“(B) **PAYMENT REQUIRED.**—Within such period as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

“(C) **FORBEARANCE.**—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

“(2) **SUBROGATION.**—

“(A) **IN GENERAL.**—If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights, as specified in the loan guarantee, of the recipient of the payment or related agreements including, if appropriate, the authority (notwithstanding any other provision of law)—

“(i) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such loan guarantee or related agreement; or

“(ii) to permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines that such an agreement is in the public interest.

“(B) **SUPERIORITY OF RIGHTS.**—The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

“(3) **NOTIFICATION.**—If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

“(g) **TERMS AND CONDITIONS.**—A loan guarantee under this section shall include such detailed terms and conditions as the Secretary determines appropriate—

“(1) to protect the interests of the United States in the case of default; and

“(2) to have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

“(h) **CONSULTATION.**—In establishing the terms and conditions of a loan guarantee under this section, the Secretary shall consult with the Secretary of the Treasury.

“(i) **FEES.**—

“(1) **IN GENERAL.**—The Secretary shall charge and collect fees for loan guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

“(2) **AVAILABILITY.**—Fees collected under this subsection shall—

“(A) be deposited by the Secretary into the Treasury of the United States; and

“(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

“(3) **LIMITATION.**—In charging and collecting fees under paragraph (1), the Secretary shall take into consideration the amount of the obligation.

“(j) **RECORDS.**—

“(1) **IN GENERAL.**—With respect to a loan guarantee under this section, the borrower, the lender, and any other appropriate party shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

“(2) **ACCESS.**—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access to records and other pertinent documents for the purpose of conducting an audit.

“(k) **FULL FAITH AND CREDIT.**—The full faith and credit of the United States is pledged to the payment of all loan guarantees issued under this section with respect to principal and interest.

“(l) **REGULATIONS.**—The Secretary shall issue final regulations before making any loan guarantees under the program. The regulations shall include—

“(1) criteria that the Secretary shall use to determine eligibility for loan guarantees under this section, including—

“(A) whether a borrower is a small- or medium-sized manufacturer; and

“(B) whether a borrower demonstrates that a market exists for the innovative technology product, or the integral component of such a product, to be manufactured, as evidenced by written statements of interest from potential purchasers;

“(2) criteria that the Secretary shall use to determine the amount of any fees charged under subsection (i), including criteria related to the amount of the obligation;

“(3) policies and procedures for selecting and monitoring lenders and loan performance; and

“(4) any other policies, procedures, or information necessary to implement this section.

“(m) **AUDIT.**—

“(1) **ANNUAL INDEPENDENT AUDITS.**—The Secretary shall enter into an arrangement with an independent auditor for annual evaluations of the program under this section.

“(2) **COMPTROLLER GENERAL REVIEW.**—The Comptroller General of the United States shall conduct a biennial review of the Secretary's execution of the program under this section.

“(3) **REPORT.**—The results of the independent audit under paragraph (1) and the Comptroller General's review under paragraph (2) shall be provided directly to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(n) **REPORT TO CONGRESS.**—Concurrent with the submission to Congress of the President's

annual budget request in each year after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Secretary shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing a summary of all activities carried out under this section.

“(o) COORDINATION AND NONDUPLICATION.—To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other loan guarantee programs within the Federal Government.

“(p) MEP CENTERS.—The Secretary may use centers established under section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) to provide information about the program established under this section and to conduct outreach to potential borrowers, as appropriate.

“(q) MINIMIZING RISK.—The Secretary shall promulgate regulations and policies to carry out this section in accordance with Office of Management and Budget Circular No. A-129, entitled ‘Policies for Federal Credit Programs and Non-Tax Receivables’, as in effect on the date of enactment of the America COMPETES Reauthorization Act of 2010.

“(r) SENSE OF CONGRESS.—It is the sense of Congress that no loan guarantee shall be made under this section unless the borrower agrees to use a federally-approved electronic employment eligibility verification system to verify the employment eligibility of—

“(1) all persons hired during the contract term by the borrower to perform employment duties within the United States; and

“(2) all persons assigned by the borrower to perform work within the United States on the project.

“(s) DEFINITIONS.—In this section:

“(1) COST.—The term ‘cost’ has the meaning given such term under section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

“(2) INNOVATIVE PROCESS.—The term ‘innovative process’ means a process that is significantly improved as compared to the process in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

“(3) INNOVATIVE TECHNOLOGY.—The term ‘innovative technology’ means a technology that is significantly improved as compared to the technology in general use in the commercial marketplace in the United States at the time the loan guarantee is issued.

“(4) LOAN GUARANTEE.—The term ‘loan guarantee’ has the meaning given such term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a). The term includes a loan guarantee commitment (as defined in section 502 of such Act (2 U.S.C. 661a)).

“(5) OBLIGATION.—The term ‘obligation’ means the loan or other debt obligation that is guaranteed under this section.

“(6) PROGRAM.—The term ‘program’ means the loan guarantee program established in subsection (a).

“(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$20,000,000 for each of fiscal years 2011 through 2013 to provide the cost of loan guarantees under this section.”.

SEC. 603. REGIONAL INNOVATION PROGRAM.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), as amended by section 602, is further amended by adding at the end thereof the following:

“SEC. 27. REGIONAL INNOVATION PROGRAM.

“(a) ESTABLISHMENT.—The Secretary shall establish a regional innovation program to encourage and support the development of re-

gional innovation strategies, including regional innovation clusters and science and research parks.

“(b) CLUSTER GRANTS.—

“(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary may award grants on a competitive basis to eligible recipients for activities relating to the formation and development of regional innovation clusters.

“(2) PERMISSIBLE ACTIVITIES.—Grants awarded under this subsection may be used for activities determined appropriate by the Secretary, including the following:

“(A) Feasibility studies.

“(B) Planning activities.

“(C) Technical assistance.

“(D) Developing or strengthening communication and collaboration between and among participants of a regional innovation cluster.

“(E) Attracting additional participants to a regional innovation cluster.

“(F) Facilitating market development of products and services developed by a regional innovation cluster, including through demonstration, deployment, technology transfer, and commercialization activities.

“(G) Developing relationships between a regional innovation cluster and entities or clusters in other regions.

“(H) Interacting with the public and State and local governments to meet the goals of the cluster.

“(3) ELIGIBLE RECIPIENT DEFINED.—In this subsection, the term ‘eligible recipient’ means—

“(A) a State;

“(B) an Indian tribe;

“(C) a city or other political subdivision of a State;

“(D) an entity that—

“(i) is a nonprofit organization, an institution of higher education, a public-private partnership, a science or research park, a Federal laboratory, or an economic development organization or similar entity; and

“(ii) has an application that is supported by a State or a political subdivision of a State; or

“(E) a consortium of any of the entities described in subparagraphs (A) through (D).

“(4) APPLICATION.—

“(A) IN GENERAL.—An eligible recipient shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

“(B) COMPONENTS.—The application shall include, at a minimum, a description of the regional innovation cluster supported by the proposed activity, including a description of—

“(i) whether the regional innovation cluster is supported by the private sector, State and local governments, and other relevant stakeholders;

“(ii) how the existing participants in the regional innovation cluster will encourage and solicit participation by all types of entities that might benefit from participation, including newly formed entities and those rival existing participants;

“(iii) the extent to which the regional innovation cluster is likely to stimulate innovation and have a positive impact on regional economic growth and development;

“(iv) whether the participants in the regional innovation cluster have access to, or contribute to, a well-trained workforce;

“(v) whether the participants in the regional innovation cluster are capable of attracting additional funds from non-Federal sources; and

“(vi) the likelihood that the participants in the regional innovation cluster will be able to sustain activities once grant funds under this subsection have been expended.

“(C) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications

from regions that contain communities negatively impacted by trade.

“(5) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to an eligible recipient who agrees to collaborate with local workforce investment area boards.

“(6) COST SHARE.—The Secretary may not provide more than 50 percent of the total cost of any activity funded under this subsection.

“(7) USE AND APPLICATION OF RESEARCH AND INFORMATION PROGRAM.—To the maximum extent practicable, the Secretary shall ensure that activities funded under this subsection use and apply any relevant research, best practices, and metrics developed under the program established in subsection (c).

“(c) SCIENCE AND RESEARCH PARK DEVELOPMENT GRANTS.—

“(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary may award grants for the development of feasibility studies and plans for the construction of new science parks or the renovation or expansion of existing science parks.

“(2) LIMITATION ON AMOUNT OF GRANTS.—The amount of a grant awarded under this subsection may not exceed \$750,000.

“(3) AWARD.—

“(A) COMPETITION REQUIRED.—The Secretary shall award grants under this subsection pursuant to a full and open competition.

“(B) GEOGRAPHIC DISPERSION.—In conducting a competitive process, the Secretary shall consider the need to avoid undue geographic concentration among any one category of States based on their predominant rural or urban character as indicated by population density.

“(C) SELECTION CRITERIA.—The Secretary shall publish the criteria to be utilized in any competition for the selection of recipients of grants under this subsection, which shall include requirements relating to the—

“(i) effect the science park will have on regional economic growth and development;

“(ii) number of jobs to be created at the science park and the surrounding regional community each year during its first 3 years;

“(iii) funding to be required to construct, renovate or expand the science park during its first 3 years;

“(iv) amount and type of financing and access to capital available to the applicant;

“(v) types of businesses and research entities expected in the science park and surrounding regional community;

“(vi) letters of intent by businesses and research entities to locate in the science park;

“(vii) capability to attract a well trained workforce to the science park;

“(viii) the management of the science park during its first 5 years;

“(ix) expected financial risks in the construction and operation of the science park and the risk mitigation strategy;

“(x) physical infrastructure available to the science park, including roads, utilities, and telecommunications;

“(xi) utilization of energy-efficient building technology including nationally recognized green building design practices, renewable energy, cogeneration, and other methods that increase energy efficiency and conservation;

“(xii) consideration to the transformation of military bases affected by the base realignment and closure process or the redevelopment of existing buildings, structures, or brownfield sites that are abandoned, idled, or underused into single or multiple building facilities for science and technology companies and institutions;

“(xiii) ability to collaborate with other science parks throughout the world;

“(xiv) consideration of sustainable development practices and the quality of life at the science park; and

“(xv) other such criteria as the Secretary shall prescribe.

“(4) **ALLOCATION CONSTRAINTS.**—The Secretary may not allocate less than one-third of the total grant funding allocated under this section for any fiscal year to grants under subsection (b) or this subsection without written notification to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committees on Science and Technology and on Energy and Commerce.

“(d) **LOAN GUARANTEES FOR SCIENCE PARK INFRASTRUCTURE.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary may guarantee up to 80 percent of the loan amount for projects for the construction or expansion, including renovation and modernization, of science park infrastructure.

“(2) **LIMITATIONS ON GUARANTEE AMOUNTS.**—The maximum amount of loan principal guaranteed under this subsection may not exceed—

“(A) \$50,000,000 with respect to any single project; and

“(B) \$300,000,000 with respect to all projects.

“(3) **SELECTION OF GUARANTEE RECIPIENTS.**—The Secretary shall select recipients of loan guarantees under this subsection based upon the ability of the recipient to collateralize the loan amount through bonds, equity, property, and such other things of values as the Secretary shall deem necessary. Recipients of grants under subsection (c) are not eligible for a loan guarantee during the period of the grant. To the extent that the Secretary determines it to be feasible, the Secretary may select recipients of guarantee assistance in accord with a competitive process that takes into account the factors set out in subsection (c)(3)(C) of this section.

“(4) **TERMS AND CONDITIONS FOR LOAN GUARANTEES.**—The loans guaranteed under this subsection shall be subject to such terms and conditions as the Secretary may prescribe, except that—

“(A) the final maturity of such loans made or guaranteed may not exceed the lesser of—

“(i) 30 years; or

“(ii) 90 percent of the useful life of any physical asset to be financed by the loan;

“(B) a loan guaranteed under this subsection may not be subordinated to another debt contracted by the borrower or to any other claims against the borrowers in the case of default;

“(C) a loan may not be guaranteed under this subsection unless the Secretary determines that the lender is responsible and that provision is made for servicing the loan on reasonable terms and in a manner that adequately protects the financial interest of the United States;

“(D) a loan may not be guaranteed under this subsection if—

“(i) the income from the loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1986; or

“(ii) the guarantee provides significant collateral or security, as determined by the Secretary in coordination with the Secretary of the Treasury, for other obligations the income from which is so excluded;

“(E) any guarantee provided under this subsection shall be conclusive evidence that—

“(i) the guarantee has been properly obtained;

“(ii) the underlying loan qualified for the guarantee; and

“(iii) absent fraud or material misrepresentation by the holder, the guarantee is presumed to be valid, legal, and enforceable;

“(F) the Secretary may not extend credit assistance unless the Secretary has determined that there is a reasonable assurance of repayment; and

“(G) new loan guarantees may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required under section 504 of the

Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

“(5) **PAYMENT OF LOSSES.**—

“(A) **IN GENERAL.**—If, as a result of a default by a borrower under a loan guaranteed under this subsection, after the holder has made such further collection efforts and instituted such enforcement proceedings as the Secretary may require, the Secretary determines that the holder has suffered a loss, the Secretary shall pay to the holder the percentage of the loss specified in the guarantee contract. Upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient of the payment. The Secretary shall be entitled to recover from the borrower the amount of any payments made pursuant to any guarantee entered into under this section.

“(B) **ENFORCEMENT OF RIGHTS.**—The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section.

“(C) **FORBEARANCE.**—Nothing in this section may be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the guaranteed loan and approved by the Secretary, if budget authority for any resulting subsidy costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990) is available.

“(6) **EVALUATION OF CREDIT RISK.**—

“(A) The Secretary shall periodically assess the credit risk of new and existing direct loans or guaranteed loans.

“(B) Not later than 2 years after the date of the enactment of the America COMPETES Reauthorization Act of 2010, the Comptroller General of the United States shall—

“(i) conduct a review of the subsidy estimates for the loan guarantees under this section; and

“(ii) submit to Congress a report on the review conducted under this paragraph.

“(7) **TERMINATION.**—A loan may not be guaranteed under this section after September 30, 2013.

“(8) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$7,000,000 for each of fiscal years 2011 through 2013 for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of guaranteeing \$300,000,000 in loans under this section, such sums to remain available until expended.

“(e) **REGIONAL INNOVATION RESEARCH AND INFORMATION PROGRAM.**—

“(1) **IN GENERAL.**—As part of the program established under subsection (a), the Secretary shall establish a regional innovation research and information program—

“(A) to gather, analyze, and disseminate information on best practices for regional innovation strategies (including regional innovation clusters), including information relating to how innovation, productivity, and economic development can be maximized through such strategies;

“(B) to provide technical assistance, including through the development of technical assistance guides, for the development and implementation of regional innovation strategies (including regional innovation clusters);

“(C) to support the development of relevant metrics and measurement standards to evaluate regional innovation strategies (including regional innovation clusters), including the extent to which such strategies stimulate innovation, productivity, and economic development; and

“(D) to collect and make available data on regional innovation cluster activity in the United States, including data on—

“(i) the size, specialization, and competitiveness of regional innovation clusters;

“(ii) the regional domestic product contribution, total jobs and earnings by key occupations, establishment size, nature of specializa-

tion, patents, Federal research and development spending, and other relevant information for regional innovation clusters; and

“(iii) supply chain product and service flows within and between regional innovation clusters.

“(2) **RESEARCH GRANTS.**—The Secretary may award research grants on a competitive basis to support and further the goals of the program established under this subsection.

“(3) **DISSEMINATION OF INFORMATION.**—Data and analysis compiled by the Secretary under the program established in this subsection shall be made available to other Federal agencies, State and local governments, and nonprofit and for-profit entities.

“(4) **REGIONAL INNOVATION GRANT PROGRAM.**—The Secretary shall incorporate data and analysis relating to any grant under subsection (b) or (c) and any loan guarantee under subsection (d) into the program established under this subsection.

“(f) **INTERAGENCY COORDINATION.**—

“(1) **IN GENERAL.**—To the maximum extent practicable, the Secretary shall ensure that the activities carried out under this section are coordinated with, and do not duplicate the efforts of, other programs at the Department of Commerce or other Federal agencies.

“(2) **COLLABORATION.**—

“(A) **IN GENERAL.**—The Secretary shall explore and pursue collaboration with other Federal agencies, including through multiagency funding opportunities, on regional innovation strategies.

“(B) **SMALL BUSINESSES.**—The Secretary shall ensure that such collaboration with Federal agencies prioritizes the needs and challenges of small businesses.

“(g) **EVALUATION.**—

“(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of the America COMPETES Reauthorization Act of 2010, the Secretary shall enter into a contract with an independent entity, such as the National Academy of Sciences, to conduct an evaluation of the program established under subsection (a).

“(2) **REQUIREMENTS.**—The evaluation shall include—

“(A) whether the program is achieving its goals;

“(B) any recommendations for how the program may be improved; and

“(C) a recommendation as to whether the program should be continued or terminated.

“(h) **DEFINITIONS.**—In this section:

“(1) **REGIONAL INNOVATION CLUSTER.**—The term ‘regional innovation cluster’ means a geographically bounded network of similar, synergistic, or complementary entities that—

“(A) are engaged in or with a particular industry sector;

“(B) have active channels for business transactions and communication;

“(C) share specialized infrastructure, labor markets, and services; and

“(D) leverage the region’s unique competitive strengths to stimulate innovation and create jobs.

“(2) **SCIENCE PARK.**—The term ‘Science park’ means a property-based venture, which has—

“(A) master-planned property and buildings designed primarily for private-public research and development activities, high technology and science-based companies, and research and development support services;

“(B) a contractual or operational relationship with one or more science- or research-related institution of higher education or governmental or non-profit research laboratories;

“(C) a primary mission to promote research and development through industry partnerships, assisting in the growth of new ventures and promoting innovation-driven economic development;

“(D) a role in facilitating the transfer of technology and business skills between researchers and industry teams; and

“(E) a role in promoting technology-led economic development for the community or region in which the science park is located. A science park may be owned by a governmental or not-for-profit entity, but it may enter into partnerships or joint ventures with for-profit entities for development or management of specific components of the park.

“(3) STATE.—The term ‘State’ means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

“(i) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in subsection (d)(8), there are authorized to be appropriated \$100,000,000 for each of fiscal years 2011 through 2013 to carry out this section (other than for loan guarantees under subsection (d)).”

SEC. 604. STUDY ON ECONOMIC COMPETITIVENESS AND INNOVATIVE CAPACITY OF UNITED STATES AND DEVELOPMENT OF NATIONAL ECONOMIC COMPETITIVENESS STRATEGY.

(a) STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall complete a comprehensive study of the economic competitiveness and innovative capacity of the United States.

(2) MATTERS COVERED.—The study required by paragraph (1) shall include the following:

(A) An analysis of the United States economy and innovation infrastructure.

(B) An assessment of the following:

(i) The current competitive and innovation performance of the United States economy relative to other countries that compete economically with the United States.

(ii) Economic competitiveness and domestic innovation in the current business climate, including tax and Federal regulatory policy.

(iii) The business climate of the United States and those of other countries that compete economically with the United States.

(iv) Regional issues that influence the economic competitiveness and innovation capacity of the United States, including—

(I) the roles of State and local governments and institutions of higher education; and

(II) regional factors that contribute positively to innovation.

(v) The effectiveness of the Federal Government in supporting and promoting economic competitiveness and innovation, including any duplicative efforts of, or gaps in coverage between, Federal agencies and departments.

(vi) Barriers to competitiveness in newly emerging business or technology sectors, factors influencing underperforming economic sectors, unique issues facing small and medium enterprises, and barriers to the development and evolution of start-ups, firms, and industries.

(vii) The effects of domestic and international trade policy on the competitiveness of the United States and the United States economy.

(viii) United States export promotion and export finance programs relative to export promotion and export finance programs of other countries that compete economically with the United States, including Canada, France, Germany, Italy, Japan, Korea, and the United Kingdom, with noting of export promotion and export finance programs carried out by such countries that are not analogous to any programs carried out by the United States.

(ix) The effectiveness of current policies and programs affecting exports, including an assessment of Federal trade restrictions and State and Federal export promotion activities.

(x) The effectiveness of the Federal Government and Federally funded research and development centers in supporting and promoting technology commercialization and technology transfer.

(xi) Domestic and international intellectual property policies and practices.

(xii) Manufacturing capacity, logistics, and supply chain dynamics of major export sectors, including access to a skilled workforce, physical infrastructure, and broadband network infrastructure.

(xiii) Federal and State policies relating to science, technology, and education and other relevant Federal and State policies designed to promote commercial innovation, including immigration policies.

(C) Development of recommendations on the following:

(i) How the United States should invest in human capital.

(ii) How the United States should facilitate entrepreneurship and innovation.

(iii) How best to develop opportunities for locally and regionally driven innovation by providing Federal support.

(iv) How best to strengthen the economic infrastructure and industrial base of the United States.

(v) How to improve the international competitiveness of the United States.

(3) CONSULTATION.—

(A) IN GENERAL.—The study required by paragraph (1) shall be conducted in consultation with the National Economic Council of the Office of Policy Development, such Federal agencies as the Secretary considers appropriate, and the Innovation Advisory Board established under subparagraph (B). The Secretary shall also establish a process for obtaining comments from the public.

(B) INNOVATION ADVISORY BOARD.—

(i) IN GENERAL.—The Secretary shall establish an Innovation Advisory Board for purposes of obtaining advice with respect to the conduct of the study required by paragraph (1).

(ii) COMPOSITION.—The Advisory Board established under clause (i) shall be comprised of 15 members, appointed by the Secretary—

(I) who shall represent all major industry sectors;

(II) a majority of whom should be from private industry, including large and small firms, representing advanced technology sectors and more traditional sectors that use technology; and

(III) who may include economic or innovation policy experts, State and local government officials active in technology-based economic development, and representatives from higher education.

(iii) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board established under clause (i).

(b) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the completion of the study required by subsection (a), the Secretary shall develop, based on the study required by subsection (a)(1), a national 10-year strategy to strengthen the innovative and competitive capacity of the Federal Government, State and local governments, United States institutions of higher education, and the private sector of the United States.

(2) ELEMENTS.—The strategy required by paragraph (1) shall include the following:

(A) Actions to be taken by individual Federal agencies and departments to improve competitiveness.

(B) Proposed legislative actions for consideration by Congress.

(C) Annual goals and milestones for the 10-year period of the strategy.

(D) A plan for monitoring the progress of the Federal Government with respect to improving

conditions for innovation and the competitiveness of the United States.

(c) REPORT.—

(1) IN GENERAL.—Upon the completion of the strategy required by subsection (b), the Secretary of Commerce shall submit to Congress and the President a report on the study conducted under subsection (a) and the strategy developed under subsection (b).

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The findings of the Secretary with respect to the study conducted under subsection (a).

(B) The strategy required by subsection (b).

SEC. 605. PROMOTING USE OF HIGH-END COMPUTING SIMULATION AND MODELING BY SMALL- AND MEDIUM-SIZED MANUFACTURERS.

(a) FINDINGS.—Congress finds that—

(1) the utilization of high-end computing simulation and modeling by large-scale government contractors and Federal research entities has resulted in substantial improvements in the development of advanced manufacturing technologies; and

(2) such simulation and modeling would also benefit small- and medium-sized manufacturers in the United States if such manufacturers were to deploy such simulation and modeling throughout their manufacturing chains.

(b) POLICY.—It is the policy of the United States to take all effective measures practicable to ensure that Federal programs and policies encourage and contribute to the use of high-end computing simulation and modeling in the United States manufacturing sector.

(c) STUDY.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, shall carry out, through an interagency consulting process, a study of the barriers to the use of high-end computing simulation and modeling by small- and medium-sized manufacturers in the United States.

(2) FACTORS.—In carrying out the study required by paragraph (1), the Secretary of Commerce, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, shall consider the following:

(A) The access of small- and medium-sized manufacturers in the United States to high-performance computing facilities and resources.

(B) The availability of software and other applications tailored to meet the needs of such manufacturers.

(C) Whether such manufacturers employ or have access to individuals with appropriate expertise for the use of such facilities and resources.

(D) Whether such manufacturers have access to training to develop such expertise.

(E) The availability of tools and other methods to such manufacturers to understand and manage the costs and risks associated with transitioning to the use of such facilities and resources.

(3) REPORT.—Not later than 270 days after the commencement of the study required by paragraph (1), the Secretary of Commerce shall, in consultation with the Secretary of Energy and the Director of the Office of Science and Technology Policy, submit to Congress a report on such study. Such report shall include such recommendations for such legislative or administrative action as the Secretary of Commerce considers appropriate in light of the study to increase the utilization of high-end computing simulation and modeling by small- and medium-sized manufacturers in the United States.

(d) AUTHORIZATION OF DEMONSTRATION AND PILOT PROGRAMS.—As part of the study required by subsection (c)(1), the Secretary of

Commerce, the Secretary of Energy, and the Director of the Office of Science and Technology Policy may carry out such demonstration or pilot programs as either Secretary or the Director considers appropriate to gather experiential data to evaluate the feasibility and advisability of a specific program or policy initiative to reduce barriers to the utilization of high-end computer modeling and simulation by small- and medium-sized manufacturers in the United States.

TITLE VII—NIST GREEN JOBS

SEC. 701. SHORT TITLE.

This title may be cited as the “NIST Grants for Energy Efficiency, New Job Opportunities, and Business Solutions Act of 2010” or the “NIST GREEN JOBS Act of 2010”.

SEC. 702. FINDINGS.

Congress finds the following:

(1) Over its 20-year existence, the Hollings Manufacturing Extension Partnership has proven its value to manufacturers as demonstrated by the resulting impact on jobs and the economies of all 50 States and the Nation as a whole.

(2) The Hollings Manufacturing Extension Partnership has helped thousands of companies reinvest in themselves through process improvement and business growth initiatives leading to more sales, new markets, and the adoption of technology to deliver new products and services.

(3) Manufacturing is an increasingly important part of the construction sector as the industry moves to the use of more components and factory built sub-assemblies.

(4) Construction practices must become more efficient and precise if the United States is to construct and renovate its building stock to reduce related carbon emissions to levels that are consistent with combating global warming.

(5) Many companies involved in construction are small, without access to innovative manufacturing techniques, and could benefit from the type of training and business analysis activities that the Hollings Manufacturing Extension Partnership routinely provides to the Nation's manufacturers and their supply chains.

(6) Broadening the competitiveness grant program under section 25(f) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)) could help develop and diffuse knowledge necessary to capture a large portion of the estimated \$100 billion or more in energy savings if buildings in the United States met the level and quality of energy efficiency now found in buildings in certain other countries.

(7) It is therefore in the national interest to expand the capabilities of the Hollings Manufacturing Extension Partnership to be supportive of the construction and green energy industries.

SEC. 703. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY COMPETITIVE GRANT PROGRAM.

(a) IN GENERAL.—Section 25(f)(3) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(3)) is amended—

(1) by striking “to develop” in the first sentence and inserting “to add capabilities to the MEP program, including the development of”; and

(2) by striking the last sentence and inserting “Centers may be reimbursed for costs incurred under the program. These themes—

“(A) shall be related to projects designed to increase the viability both of traditional manufacturing sectors and other sectors, such as construction, that increasingly rely on manufacturing through the use of manufactured components and manufacturing techniques, including supply chain integration and quality management;

“(B) shall be related to projects related to the transfer of technology based on the technological needs of manufacturers and available

technologies from institutions of higher education, laboratories, and other technology producing entities; and

“(C) may extend beyond these traditional areas to include projects related to construction industry modernization.”.

(b) SELECTION.—Section 25(f)(5) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)(5)) is amended to read as follows:

“(5) SELECTION.—

“(A) IN GENERAL.—Awards under this section shall be peer reviewed and competitively awarded. The Director shall endeavor to select at least one proposal in each of the 9 statistical divisions of the United States (as designated by the Bureau of the Census). The Director shall select proposals to receive awards that will—

“(i) create jobs or train newly hired employees;

“(ii) promote technology transfer and commercialization of environmentally focused materials, products, and processes;

“(iii) increase energy efficiency; and

“(iv) improve the competitiveness of industries in the region in which the Center or Centers are located.

“(B) ADDITIONAL SELECTION CRITERIA.—The Director may select proposals to receive awards that will—

“(i) encourage greater cooperation and foster partnerships in the region with similar Federal, State, and locally funded programs to encourage energy efficiency and building technology; and

“(ii) collect data and analyze the increasing connection between manufactured products and manufacturing techniques, the future of construction practices, and the emerging application of products from the green energy industries.”.

(c) OTHER MODIFICATIONS.—Section 25(f) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)) is amended—

(1) by adding at the end the following:

“(7) DURATION.—Awards under this section shall last no longer than 3 years.

“(8) ELIGIBLE PARTICIPANTS.—In addition to manufacturing firms eligible to participate in the Centers program, awards under this subsection may be used by the Centers to assist small- or medium-sized construction firms. Centers may be reimbursed under the program for working with such eligible participants.

“(9) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts otherwise authorized or appropriated to carry out this section, there are authorized to be appropriated to the Secretary of Commerce \$7,000,000 for each of the fiscal years 2011 through 2013 to carry out this subsection.”.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.

Not later than May 31, 2013, the Comptroller General of the United States shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology that evaluates the status of the programs authorized in this Act, including the extent to which such programs have been funded, implemented, and are contributing to achieving the goals of the Act.

SEC. 802. SALARY RESTRICTIONS.

(a) OBSCENE MATTER ON FEDERAL PROPERTY.—None of the funds authorized under this Act may be used to pay the salary of any individual who is convicted of violating section 1460 of title 18, United States Code.

(b) USE OF FEDERAL COMPUTERS FOR CHILD PORNOGRAPHY OR EXPLOITATION OF MINORS.—None of the funds authorized under this Act may be used to pay the salary of any individual who is convicted of a violation of section 2252 of title 18, United States Code.

SEC. 803. ADDITIONAL RESEARCH AUTHORITIES OF THE FCC.

Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following:

“SEC. 12. ADDITIONAL RESEARCH AUTHORITIES OF THE FCC.

“In order to carry out the purposes of this Act, the Commission may—

“(1) undertake research and development work in connection with any matter in relation to which the Commission has jurisdiction; and

“(2) promote the carrying out of such research and development by others, or otherwise to arrange for such research and development to be carried out by others.”.

TITLE IX—DEPARTMENT OF ENERGY

SEC. 901. SCIENCE, ENGINEERING, AND MATHEMATICS EDUCATION PROGRAMS.

(a) IN GENERAL.—Sections 3171, 3175, and 3191 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381h, 7381j, 7381p) are repealed.

(b) AUTHORIZATION OF APPROPRIATIONS FOR SUMMER INSTITUTES.—Section 3185(f) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381n(f)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(4) \$25,000,000 for each of fiscal years 2011 through 2013.”.

(c) CONFORMING AMENDMENTS.—

(1) Subpart B of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381g et seq.) is amended by striking chapters 1, 2, and 5 (42 U.S.C. 7381h, 7381j, 7381p).

(2) Section 3195 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381r) is amended by striking “chapters 1, 3, and 4” each place it appears and inserting “chapters 3 and 4”.

SEC. 902. ENERGY RESEARCH PROGRAMS.

(a) NUCLEAR SCIENCE TALENT PROGRAM.—Section 5004(f) of the America COMPETES Act (42 U.S.C. 16532(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(D) \$9,800,000 for fiscal year 2011;

“(E) \$10,100,000 for fiscal year 2012; and

“(F) \$10,400,000 for fiscal year 2013.”; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(D) \$8,240,000 for fiscal year 2011;

“(E) \$8,500,000 for fiscal year 2012; and

“(F) \$8,750,000 for fiscal year 2013.”.

(b) HYDROCARBON SYSTEMS SCIENCE TALENT PROGRAM.—Section 5005 of the America COMPETES Act (42 U.S.C. 16533) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (H), by striking “and” at the end;

(B) in subparagraph (I), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(J) hydrocarbon spill response and remediation.”; and

(2) in subsection (f)(1)—

(A) in subparagraph (B), by striking “and”; and

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(D) \$9,800,000 for fiscal year 2011;

“(E) \$10,000,000 for fiscal year 2012; and

“(F) \$10,400,000 for fiscal year 2013.”.

(c) **EARLY CAREER AWARDS.**—Section 5006(h) of the America COMPETES Act (42 U.S.C. 16534(h)) is amended by striking “2010” and inserting “2013”.

(d) **PROTECTING AMERICA’S COMPETITIVE EDGE (PACE) GRADUATE FELLOWSHIP PROGRAM.**—Section 5009(f) of the America COMPETES Act (42 U.S.C. 16536(f)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(4) \$20,600,000 for fiscal year 2011;

“(5) \$21,200,000 for fiscal year 2012; and

“(6) \$21,900,000 for fiscal year 2013.”.

(e) **DISTINGUISHED SCIENTIST PROGRAM.**—Section 5011(j) of the America COMPETES Act (42 U.S.C. 16537(j)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(4) \$31,000,000 for fiscal year 2011;

“(5) \$32,000,000 for fiscal year 2012; and

“(6) \$33,000,000 for fiscal year 2013.”.

SEC. 903. BASIC RESEARCH.

Section 971(b) of the Energy Policy Act of 2005 (42 U.S.C. 16311(b)) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(5) \$5,247,000,000 for fiscal year 2011;

“(6) \$5,614,000,000 for fiscal year 2012; and

“(7) \$6,007,000,000 for fiscal year 2013.”.

SEC. 904. ADVANCED RESEARCH PROJECTS AGENCY-ENERGY.

Section 5012 of the America COMPETES Act (42 U.S.C. 16538) is amended—

(1) in subsection (a)(3), by striking “subsection (m)(1)” and inserting “subsection (n)(1)”;

(2) in subsection (c)(2)(A), by inserting “and applied” after “advances in fundamental”;

(3) in subsection (e)—

(A) in paragraph (3)—

(i) by striking subparagraph (C) and inserting the following:

“(C) research and development of advanced manufacturing process and technologies for the domestic manufacturing of novel energy technologies; and”;

(ii) in subparagraph (D), by striking “and” after the semicolon at the end;

(B) in paragraph (4), by striking the period at the end and inserting “; and”;

(C) by adding at the end the following:

“(5) pursuant to subsection (c)(2)(C)—

“(A) ensuring that applications for funding disclose the extent of current and prior efforts, including monetary investments as appropriate, in pursuit of the technology area for which funding is being requested;

“(B) adopting measures to ensure that, in making awards, program managers adhere to the purposes of subsection (c)(2)(C); and

“(C) providing as part of the annual report required by subsection (h)(1) a summary of the instances of and reasons for ARPA-E funding projects in technology areas already being undertaken by industry.”;

(4) by redesignating subsections (f) through (m) as subsections (g) through (n), respectively;

(5) by inserting after subsection (e) the following:

“(f) **AWARDS.**—In carrying out this section, the Director may provide awards in the form of grants, contracts, cooperative agreements, cash prizes, and other transactions.”;

(6) in subsection (g) (as redesignated by paragraph (4))—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

“(1) **IN GENERAL.**—The Director shall establish and maintain within ARPA-E a staff with sufficient qualifications and expertise to enable ARPA-E to carry out the responsibilities of ARPA-E under this section in conjunction with other operations of the Department.”;

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) in the paragraph heading, by striking “PROGRAM MANAGERS” and inserting “PROGRAM DIRECTORS”;

(ii) in subparagraph (A), by striking “program managers for each of” and inserting “program directors for”;

(iii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking “program manager” and inserting “program director”;

(II) in clause (iv), by striking “, with advice under subsection (j) as appropriate,”;

(III) by redesignating clauses (v) and (vi) as clauses (vi) and (viii), respectively;

(IV) by inserting after clause (iv) the following:

“(v) identifying innovative cost-sharing arrangements for ARPA-E projects, including through use of the authority provided under section 988(b)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16352(b)(3));”;

(V) in clause (vi) (as redesignated by subclause (III)), by striking “; and” and inserting a semicolon; and

(VI) by inserting after clause (vi) (as redesignated by subclause (III)) the following:

“(vii) identifying mechanisms for commercial application of successful energy technology development projects, including through establishment of partnerships between awardees and commercial entities; and”;

(iv) in subparagraph (C), by inserting “not more than” after “shall be”; and

(D) in paragraph (3) (as redesignated by subparagraph (A))—

(i) in subparagraph (A)—

(I) in clause (i), by striking “and” after the semicolon at the end; and

(II) by striking clause (ii) and inserting the following:

“(ii) fix the basic pay of such personnel at a rate to be determined by the Director at rates not in excess of Level II of the Executive Schedule (EX-II) without regard to the civil service laws; and

“(iii) pay any employee appointed under this subpart payments in addition to basic pay, except that the total amount of additional payments paid to an employee under this subpart for any 12-month period shall not exceed the least of the following amounts:

“(I) \$25,000.

“(II) The amount equal to 25 percent of the annual rate of basic pay of the employee.

“(III) The amount of the limitation that is applicable for a calendar year under section 5307(a)(1) of title 5, United States Code.”;

(ii) in subparagraph (B), by striking “not less than 70, and not more than 120,” and inserting “not more than 120”;

(7) in subsection (h)(2) (as redesignated by paragraph (4))—

(A) by striking “2008” and inserting “2010”;

and

(B) by striking “2011” and inserting “2013”;

(8) by striking subsection (j) (as redesignated by paragraph (4)) and inserting the following:

“(j) **FEDERAL DEMONSTRATION OF TECHNOLOGIES.**—The Director shall seek opportunities to partner with purchasing and procurement programs of Federal agencies to demonstrate energy technologies resulting from activities funded through ARPA-E.”;

(9) in subsection (l) (as redesignated by paragraph (4))—

(A) in paragraph (1), by striking “4 years” and inserting “6 years”; and

(B) in paragraph (2)(B), by inserting “, and the manner in which those lessons may apply to the operation of other programs of the Department” after “ARPA-E”; and

(10) in subsection (n) (as redesignated by paragraph (4))—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “and” after the semicolon at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

“(C) \$300,000,000 for fiscal year 2011;

“(D) \$306,000,000 for fiscal year 2012; and

“(E) \$312,000,000 for fiscal year 2013.”;

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4); and

(D) in paragraph (4)(B) (as redesignated by subparagraph (C))—

(i) by striking “2.5 percent” and inserting “5 percent”;

(ii) by inserting “, consistent with the goal described in subsection (c)(2)(D) and within the responsibilities of program directors described in subsection (g)(2)(B)(vii)” after “outreach activities”.

TITLE X—EDUCATION

SEC. 1001. REFERENCES.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the America COMPETES Act (Public Law 110-69).

SEC. 1002. REPEALS AND CONFORMING AMENDMENTS.

(a) **REPEALS.**—The following provisions of the Act are repealed:

(1) Section 6001 (20 U.S.C. 9801).

(2) Part III of subtitle A of title VI (20 U.S.C. 9841).

(3) Subtitle B of title VI (20 U.S.C. 9851 et seq.).

(4) Subtitle C of title VI (20 U.S.C. 9861 et seq.).

(5) Subtitle E of title VI (20 U.S.C. 9881 et seq.).

(b) **CONFORMING AMENDMENTS.**—The Act is amended—

(1) by redesignating section 6002 (20 U.S.C. 9802) as section 6001;

(2) by redesignating subtitle D of title VI (20 U.S.C. 9871) as subtitle B of title VI; and

(3) by redesignating section 6401 (20 U.S.C. 9871) as section 6201.

SEC. 1003. AUTHORIZATIONS OF APPROPRIATIONS AND MATCHING REQUIREMENT.

(a) **TEACHERS FOR A COMPETITIVE TOMORROW.**—Section 6116 (20 U.S.C. 9816) is amended to read as follows:

“**SEC. 6116. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this part \$4,000,000 for each of fiscal years 2011 through 2013, of which—

“(1) \$2,000,000 shall be available to carry out section 6113 for each of fiscal years 2011 through 2013; and

“(2) \$2,000,000 shall be available to carry out section 6114 for each of fiscal years 2011 through 2013.”.

(b) **ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS AND MATCHING REQUIREMENT.**—Section 6123 (20 U.S.C. 9833) is amended—

(1) in subsection (h)(1)—

(A) by striking “100” and inserting “50”; and

(B) by striking "200" and inserting "100"; and (2) by striking subsection (l) and inserting the following:

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$75,000,000 for each of fiscal years 2011 through 2013."

(c) ALIGNMENT OF EDUCATION PROGRAMS.—Section 6201(j), as redesignated by section 1002(b)(3), is amended to read as follows:

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$120,000,000 for each of fiscal years 2011 and 2012."

MOTION TO CONCUR

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. GORDON of Tennessee moves that the House concur in the Senate amendment to H.R. 5116.

The SPEAKER pro tempore. Pursuant to House Resolution 1781, the motion shall be debatable for 1 hour, equally divided and controlled by the chair and ranking minority member of the Committee on Science and Technology.

The gentleman from Tennessee (Mr. GORDON) and the gentleman from Texas (Mr. HALL) each will control 30 minutes.

The Chair recognizes the gentleman from Tennessee.

□ 1340

GENERAL LEAVE

Mr. GORDON of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 5116.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. GORDON of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

On October 12, 2005, in response to a bipartisan request by the Science and Technology Committee and some of our colleagues in the Senate, LAMAR ALEXANDER and JEFF BINGAMAN, the National Academies released their report, "Rising Above the Gathering Storm." The distinguished panel painted a very scary picture. The report made it clear that, without action, the future was bleak for our children and grandchildren. This report was, without question, a call to arms.

September of this year, Norm Augustine released, "Rising Above the Gathering Storm, Revisited: Rapidly Approaching Category 5." The updated report highlights progress that has been made in the past 5 years, including enactment of the original America COMPETES Act, but he underscores that America's competitive position in the world now faces greater challenges and that research investments are even more critical today.

The message from the report is clear: We need to double-down on our invest-

ments in science and technology. The worst thing we could do would be to downshift while the rest of the world kicks it into high gear.

As chairman of the Gathering Storm Committee and former chairman and CEO of Lockheed Martin, Norm Augustine said, in all the years he was an aircraft engineer and dealing with the common dilemma of trying to make an overweight aircraft fly, the solution was never to lop off an engine. Science funding is the engine of a knowledge-based economy. If we remove it, our economy will crash and burn.

More than half of our economic growth since World War II can be attributed to development and adoption of new technologies. These investments are the path towards sustained economic recovery and growth and the path toward prosperity for the next 50 years. There is an undeniable relationship between investment in R&D and the creation of jobs, the creation of companies, and economic growth.

The Science Coalition, a nonprofit, nonpartisan organization of the Nation's leading research universities, released a report entitled, "Sparkling Economic Growth: How Federally Funded University Research Creates Innovation, New Companies and Jobs." This report tells the stories of 100 companies, including Google, Cisco, SAS, Genentech, Orbital Sciences, Sun Power, Medtronic, Hewlett Packard, and many others, that were all created based on research funded with Federal dollars.

The U.S. Chamber of Commerce, the Business Roundtable, the National Association of Manufacturers, the Council on Competitiveness, and the Task Force on American Innovation all understand the benefits to U.S. companies of making a sustained commitment to research and STEM education. We have a huge opportunity before us to make progress toward that goal.

While there have been concessions made in light of the economic environment, this bill preserves the intent of the "Rising Above the Gathering Storm" report and the original COMPETES. It keeps our basic research agencies on a doubling path. It continues to invest in high-risk, high-reward energy technology development. It will help improve STEM education, and it will help unleash the American spirit of innovation. COMPETES is, and will continue to be, a bipartisan, bicameral effort about which every Member can feel proud.

I applaud all of the people who have worked on this bill, including all the members of the Science and Technology Committee and my dear friend, RALPH HALL. This has been a team effort, across the aisle and across the Capitol.

I also want to take a moment to extend a sincere and heartfelt thank you to the staff of the Committee on

Science and Technology, both minority and majority. Their tireless efforts in crafting the House version of this legislation, working through the tough spots, and shepherding it to final passage today deserves special acknowledgment. Without them, this reauthorization of COMPETES would not have been possible.

We are all familiar with the legions of smart, talented professionals who grace the corridors of this institution, and I am sure each of us is impressed on a regular basis with the knowledge and expertise of the staff we work with most closely. However, I am always amazed by the wealth of knowledge lodged with the staff of the Science and Technology Committee. I simply can't say enough about the staff's talent, insight, and institutional knowledge. Their hard work has made the Science Committee more productive, and it has made me a better chairman.

Mr. Speaker, I am proud that, in the two terms that I have had the privilege to lead the Science and Technology Committee, the committee has had 151 bills and resolutions pass the House, all with bipartisan support. But there is nothing that I am more proud of than the America COMPETES Act. There is nothing that we have done that will have deeper, longer lasting, and more positive impacts on our Nation than this bill.

I cannot think of anything I would rather be doing, on what is likely my final act on this House floor after 26 years of service, than sending this bill to the President's desk. It's important to me personally because I have a 9-year-old daughter, and if we do not want our children and grandchildren to inherit a national standard of living less than their parents, a reversal of the American Dream, we need to support research, foster innovation, and improve education.

The business community has urged us to pass this bill to support research, foster innovation, and improve education. The academic community has urged us to pass this bill to support research, foster innovation, and improve education. The scientific community has urged us to pass this bill to support research, foster innovation, and improve education. And every one of our colleagues in the Senate has agreed that this bill needs to be sent to the President's desk so the U.S. can support research, foster innovation, and improve education and create 21st century jobs.

I urge my colleagues to stand with the business community, the academic community, the scientific community, and to send a strong message that the U.S. must maintain its scientific and economic leadership.

With that, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I rise today in support of a very robust

basic research and yield myself as much time as I may consume.

This COMPETES Act is back again. It's been here before, and it's living proof that Billy Graham was right when he said you can hate the sin but love the sinner. I'm fond of BART GORDON, have worked with him. We're going to miss him when he leaves here. But I've never really liked to have a great bill like COMPETES with so much piled on it, so many hundreds of thousands and millions of dollars piled on it that has never really been debated on either floor.

I've stated on this floor a lot of times this year, I remain committed to the goals of the original America COMPETES. Unfortunately, the Senate omnibus language before us today includes a hodgepodge of so many extraneous measures that it is indeed most surprising that we are considering this 5 days before Christmas. Like the House-passed version, it continues to take us off track from what he set out to do, in a bipartisan fashion, more than 5 years ago.

In 2007, Congress responded to the recommendations of many experts that the Federal Government must increase its investment in basic research and in science and math education by developing the America COMPETES Act. The principles behind the legislation were sound, bipartisan, and well-understood.

When COMPETES first passed, our budget deficit was projected at \$160 billion, and the national debt was \$8 trillion. Sadly, today, just 3 years later, the deficit's projected not \$160 billion but \$1.5 trillion, and the national debt is over \$13 trillion, a 60 percent increase in less than 3 years. This dramatic collapse in our fiscal condition demands that we get spending under control and work harder than ever to patronize taxpayer dollars.

Before I delve into the depths of the bill, let me discuss the process that brought us to this point.

The Senate negotiated amongst themselves and hotlined a bill, then passed it via unanimous consent, that is much different than the bill reported out of even the Senate conference committee back in July. The report on that bill was not filed until December 10, and we didn't see the actual text of the amendment before us until last Friday, this past Friday. We still don't have a complete CBO cost estimate.

□ 1350

Now as we are under a closed rule, we are considering a measure that the Senate has spoken on; but the House as a body, both Democrats and Republicans alike, are having to either accept or reject the Senate's desire in whole, with no opportunity to offer amendments. This is not the way the American people want us to do their business.

They told us in November that they want us to do things differently, and this lame duck Congress is going against those wishes and denying us opportunity to carefully review the items in this \$46 billion amendment.

Men who are much smarter than me and whom I greatly respect, like Norm Augustine and Peter O'Donnell, Jr., have encouraged me to support this bill. But, Mr. Speaker, it is hard for me to say that I just can't support this version of COMPETES. If this Senate COMPETES amendment is defeated today, I pledge as the incoming chairman of the Science and Technology Committee to reintroduce the good, fiscally responsible pieces of this comprehensive legislation agency by agency and issue by issue, giving each individual piece the opportunity to be reviewed and voted on by every Member.

Science and technology are the fundamental movers of our economy, and if we want to remain globally competitive, this bill should be considered in smaller pieces and not on the last day of a lame duck congressional session.

Yes, our friends in the Senate have made it a 3-year reauthorization bill, and, yes, they have nearly cut the cost in half; but this \$46 billion bill still contains \$7.4 billion in new spending.

My good friend and chairman of the committee will tell you that the Senate stripped a number of provisions from the version previously passed and trimmed the bill considerably. I, too, think the Senate missed an opportunity to retain some of the House-passed language, particularly language to assist institutions serving our Nation's veterans and those with disabilities, and language to eliminate pay for Federal employees officially disciplined for viewing, downloading, or exchanging pornography on their work computers.

Unfortunately, it also does not include two bipartisan interagency bills that passed the House as standalone legislation, bills that would reauthorize our Nation's nanotechnology program and our networking information technology R&D program, NITRD.

On the other hand, I am heartened to see that the Senate removed a number of expensive and in many cases duplicative initiatives added by the House both in committee and on the floor: among them energy hubs, a clean energy consortium, never-before-funded STEM programs at the Department of Education, a laboratory science program, and a decades-old infrastructure construction program at the National Science Foundation.

Alas, it is the items that they did not remove or have not removed on their own, without our input, that cause me the most heartburn. I still have great concern that we are authorizing ARPA-E to the tune of \$900 million. This program was never voted on by the House or Senate outside of a conference re-

port, nor has it ever received appropriate funding outside of the stimulus bill. Yet we are going to authorize \$900 million to a program that focuses on late-stage technology development and commercialization activities often already supported by the private sector. The amendment before us also keeps and expands a loan guarantee program to build or renovate science parks and develop "regional innovation clusters," alters the MEP program for NIST to make grants to construction and green energy companies, and puts NSF in the business of replicating university programming for future STEM teachers.

Mr. Speaker, correct me if I'm wrong, but America COMPETES is about making this Nation more competitive and ensuring that our basic research agencies have the funding they need to pursue the unknown and scientific and engineering breakthroughs that propel us into the future. It is not about turning these agencies into infrastructure contractors and leaders or oracles, for that matter, who pick winners and losers.

As much as I want to support COMPETES and see NSF, NIST, and the DOE Office of Science reauthorized, I simply can't support this version.

Just like I stated when the House took up the measure on all three previous occasions, this measure continues to be far too expensive, particularly in light of the new and duplicative programs it creates. Further, we have not had the opportunity to give proper oversight to the programs we put in motion in the first COMPETES before authorizing new, additional programs. And, unfortunately, this bill still goes way beyond the goals and direction of the original America COMPETES, taking us from good, solid fundamental research and much too far into the world of commercialization, which many of us on this side of the aisle do not believe is the proper role of the Federal Government.

I want to again thank BART GORDON for the good services he's rendered and for the good service he'll render as a civilian over in the great State of Tennessee.

I reserve the balance of my time.

Mr. GORDON of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. LIPINSKI), the chairman of the Subcommittee on Research and Science Education.

Mr. LIPINSKI. Mr. Speaker, as unemployment remains painfully high, and we see our students falling behind in math and science, Americans are asking: What can be done to make our future better?

Although today's bill won't gain big headlines, it is a critical step forward. This approach to research, education, and innovation will lead to a better prepared and better educated domestic workforce and an economy built for long-term success.

I am particularly grateful for the leadership of Chairman BART GORDON,

the driving force behind the original COMPETES bill and this reauthorization. He has accomplished much in his 26 years in Congress and has fought tirelessly to make Congress and all Americans realize that science and engineering advancements mean economic growth.

As a former college professor, an engineer, and an advocate for American manufacturing, I firmly believe that this bill will help create jobs and ensure a higher standard of living for future generations.

Much of the National Science Foundation title of this bill comes from my bill in the Research and Science Education Subcommittee. Although not as much as I would like to see, this compromise authorizes a steady, responsible increase in research and STEM education funding and properly emphasizes commercialization. The bill also includes language based on the GENIUS Act I introduced with FRANK WOLF to authorize offering cash prizes for solutions to our most difficult scientific problems.

Perhaps most important are the provisions that will help reinvigorate American manufacturing, including the newly created NSF manufacturing research program, and an initiative to help smaller manufacturers reduce costs and increase quality through high-performance computing.

The bill calls for a national competitiveness strategy that includes some elements from my National Manufacturing Strategy Act that the House passed this past summer.

I urge my colleagues to join me not only in voting for this today, but also fighting to fully fund it. If we want to maintain our economic strength, we cannot shortchange critical investments made in this bill for our people or for our research infrastructure. I urge passage of this bill, and I want to especially thank Chairman BART GORDON for all of his work in Congress and all that he has accomplished. This bill is a great testament to his leadership.

Mr. HALL of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding. I did not expect to speak, and I do not have any prepared comments or notes; but I am going to speak on issues of science which I feel qualified to speak on because I am a scientist, specifically a nuclear physicist. I also want to make it clear I have never received any grant money from the NSF. When I did research, I was supported by the Federal Government directly through the Department of Energy or by the U.S. Navy.

The Federal Government plays an important role in guiding the economy of our Nation. Much of that role is carried forth by the National Science Foundation and some of the other funding agencies.

Let me just give one specific example which I am very familiar with because it is related to my area of research. My good friend, Charlie Townes, who won a Nobel Prize for developing the laser, discovered some years ago that he could make a maser—microwave amplification by stimulated emission of radiation. He decided he could do it with microwaves, and he could do it with light.

So he developed a laser and won the Nobel Prize. How much money did he get from the Federal Government for his research, I don't really know, but I would guess probably not more than \$50,000. How much has that contributed to the economy of this Nation? Billions and billions of dollars. Just look at the laser industry and the use of lasers today in so many ways—a huge payoff on government investment in research.

□ 1400

Also, we tend to fund the National Institutes of Health with a healthy amount every year because we are very interested in improving health. How many in this body know that some of the greatest discoveries in health were done by physicists, many of whom were supported by the National Science Foundation? X rays, how would we get along without x rays? Discovered by a physicist, a gentleman by the name of Rontgen in Germany. What about the MRI? The basic concepts developed by physicists. The same for the CAT scan. The basic idea was developed by physicists—not by doctors, not by M.D.'s, but physicists doing basic research. And that's what the National Science Foundation is all about, and that's what keeps our economy stimulated in this Nation.

We have a great deal to fear from the nation of China. China is investing huge amounts of money and is training more engineers and scientists far more than we are producing. They are spending a lot of money on research. And if we wonder why they are doing better than we are in the Nation's economy, it is largely because they are supporting the people who contribute to the development of technology, science, et cetera.

Now, I worked on this issue several years ago. I do not claim credit for the COMPETES Act. But I did work with Sherry Boehlert, a Congressman who was chairing the Science Committee; FRANK WOLF, who was the chair of the Appropriations Committee dealing with science, and at the suggestion of FRANK WOLF, I arranged for a meeting with the White House. I tried to meet with President Bush. Instead, I met with the Director of the Office of Management and Budget. And over breakfast, I explained, in far more detail than I can do here, precisely what this country needed if we are going to compete in the international marketplace. And the Director of Management and

Budget said afterwards, You sold me, but where are we going to get the money? I said, I have ideas for that, too, and presented my ideas.

Out of that, in the next State of the Union speech, President George W. Bush developed the idea of the COMPETES Act. And it was a delight to work with the White House, with the President and with the Office of Management and Budget in developing the COMPETES Act.

Now, I know some of you are concerned about some aspects of the COMPETES Act as it is before us today. I share some of those concerns but certainly not all of them. But the basic point here is that, if we do not act, we are letting down the manufacturers of America.

I was here for the debate on the rule, and I noticed a gentleman from Oklahoma commenting against this act, we should not be supporting this sort of thing. That is very easy to say if you are representing a State where you simply drill holes in the ground and pull out money in the form of oil. Michigan does not have that. Michigan has to work very, very hard to manufacture cars that will sell to the public and get its money, and we all know what has happened there over the last few years.

I think it's very important that we recognize we are not going to compete successfully in the international marketplace unless we invest more money in research, research which is then used by manufacturers to develop new products and to make money and provide jobs.

I strongly urge us to pass this bill. I know it has shortcomings. There are a lot of things I am not happy with either. But the Republicans are taking over next year, and we can then proceed to write the bill precisely the way we want it. But I urge that we do not kill this bill at this time but, rather, that we pass it.

Mr. GORDON of Tennessee. Mr. Speaker, let me first congratulate Dr. EHLERS on a stellar congressional career. His contribution to the Science Committee was enormous, and he will be missed. And having spent as much time as I have on the Science Committee, you develop affection for the committee, for the people, for the Members, and for the staff.

So it is with, really, gratitude that I know that the gentlelady from Texas (Ms. EDDIE BERNICE JOHNSON) is going to be the ranking member in the coming 112th Congress, and I yield to her 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I do rise in support of H.R. 5116, the America COMPETES Reauthorization Act. And I am proud to say that I have worked with Dr. EHLERS, with our incoming chairman, Mr. HALL, as well as our outgoing chairman.

We all know that the reauthorization of America COMPETES is to ensure that our future is more prosperous than our past. It is about ensuring America's memories are honored by investing in dreams that are even higher. The legislation before the U.S. Congress today is a message, a message that makes America understand that we are not here just to compete but to lead the 21st century.

As a member of the House Science and Technology Committee for over 18 years, I am proud to be an author of this bipartisan legislation. As it returns from the Senate, it is not the same bill that we sent over. But nothing is perfect around here, and we are not headed in the future to be perfect. But we must stand up and make sure that our responsibilities to our country and to our future will be intact. Therefore, I will support this legislation and hope that we can improve it at another time.

I am eager to serve with Mr. HALL, as ranking member on the committee, and I hope that we can continue to look at what this country needs to do to educate its young people so that we can be in the future. We are losing ground, and I hope that we will find ways to regain it. I have in mind to try to bring with the chairman a group of CEOs, superintendents, teachers together around the table so we can all understand what we must do to educate our young people for the future if we want to be anywhere near competing with the rest of the world.

I am pleased that this bill reauthorized the Noyce Teacher Scholarship Program, a program which I helped to shape. This program helps to prepare thousands of qualified new teachers and provides current teachers with academic and development courses. Every bit of our research shows that that's one of our major problems. We have teachers teaching courses where they have never majored. Seventy percent of them, as a matter of fact, in this country are teaching courses where they never majored.

It is never going to be what we want as long as we have teachers teaching math, science, engineering that have never majored in it in college. We have to have teachers who are more prepared. And as women and minorities continue to be underrepresented in the sciences, it is unfortunate that the Senate chose to cut out the Fulfilling the Potential of Women in Academic Science and Engineering Act. I have sponsored that for two sessions. I will again. I do not believe that we, as a Nation, can compete ever with ignoring the fact that 50 percent of its brainpower is left behind. I am pleased that this bill does prohibit the consolidation of programs that serve minority institutions and students in the National Science Foundation.

We must be proactive. We have more work to ensure that all Americans are

afforded the same chance to compete in the 21st century. It is not an in-your-face. It is not a civil rights act. It is to make sure that the majority of the students in this Nation become prepared to save this Nation.

We cannot sit around and think that it is going to happen without effort. We need to help our schools around the Nation to elevate their math and science programs so that they can achieve the standard exemplified by the School of Science and Engineering at Townview, a high school in my district, in Dallas, Texas, which is rated one of the best public schools in the Nation. But that's only 20 percent of the students in the District. We must make sure that that quality of education is offered to all of our students.

I want to commend Chairman GORDON and Ranking Member, soon-to-be chairman, Mr. HALL for their hard work on the legislation. And I believe that if nothing else gets us as a committee, looking out for our young people and the future of our Nation will become a real goal to achieve because it represents what is bipartisan; it represents a concerted effort to create a more competitive science and engineering workforce.

I support this bill, Mr. Speaker. It is not perfect. But we have got to move on and look to the future.

□ 1410

Mr. HALL of Texas. Mr. Speaker, I say to my colleague who will be working side by side with me for the next 2 years, my neighbor from Dallas and Rockwall County, that I appreciate her, look forward to working with her. She was the very first person, when I switched parties, to call me and say it didn't matter one iota to her. I've always appreciated her for that, and I still do and I will.

And thank you, Dr. EHLERS, a man who's always educated for us. That's his thrust, and he's done a good job. But for him, we'd have gone the wrong way a lot of times.

I now yield 5 minutes to the gentleman from Georgia (Mr. BROUN).

Mr. BROUN of Georgia. Mr. Speaker, I rise today in opposition to the Senate amendment to H.R. 5116, the American COMPETES Reauthorization Act of 2010.

But before sharing my views on this COMPETES reauthorization, I want to take this opportunity to share my frustration and express the frustration of my constituents. I know that I'm not alone in the view that working on consequential pieces of legislation in a lame duck session, outside of the proper legislative process, is simply wrong. In fact, it could be argued that it's unconstitutional.

The 20th amendment of the Constitution moved the start date of new Congresses from March to January to stop exactly what we're doing here today,

passing important legislation in a lame duck session. In 1932, Democratic Representative Wilburn Cartwright of Oklahoma stated, "This amendment will free Congress of the dead hand of the so-called lame duck." Sadly, he could not have been more wrong.

The Democrats are using this lame duck session to continue pursuing their rejected agenda. This is no different than a CEO being fired and continuing to make major decisions for the company that he was just fired from for another 2 months. We must stop this end-run around the electoral process and the U.S. Constitution by prohibiting further lame duck legislation.

Now, this COMPETES reauthorization is the perfect example of why we need to end lame duck legislation. It contains reckless spending and misguided policy initiatives. The closed-door process through which it was developed is irresponsible at a time when the Federal deficit has ballooned to \$1.5 trillion, and our national debt will soon eclipse \$14 trillion. These unprecedented figures are not deterring our Democratic colleagues from authorizing over \$45 billion of spending, \$7 billion of which is new spending in this bill.

Beyond the out-of-control spending, a clear shift in policy priorities away from those envisioned in the original COMPETES process now exists in this bill.

When the National Academy of Sciences unveiled the "Gathering Storm" report in 2005, it identified funding for long-term basic research as the top priority for science and technology. Today's reauthorization emphasizes late-stage technology commercialization activities and beyond to manufacturing and construction activities, priorities that should not be the responsibility of the Federal Government.

For example, title VI of this bill creates a loan guarantee program to stabilize innovative manufacturing, a loan guarantee program to subsidize construction and renovation of research parks, and a vaguely defined regional innovation program to support grants to create innovation clusters as well as construct and renovate research parks.

Finally, I want to note my disappointment associated with the process on this bill. Many Republican amendments that were incorporated in the House-passed bill were changed or deleted without any Member consultation. This was the case with an amendment I offered prohibiting any lobbying effort associated with the activities authorized in the bill.

This bill spends money that we don't have on things we don't need and, in some cases, on things the government simply should not be involved in. It is the product of backroom dealings that excluded House Republicans, and it simply should not pass at this late stage of 111th Congress.

I urge opposition to this bill. I urge a "no" vote.

Mr. GORDON of Tennessee. Mr. Speaker, for the purposes of a unanimous consent request, I yield to a very important contributor to this bill, the gentleman from California (Mr. MILLER), chairman of the Education and Labor Committee.

Mr. GEORGE MILLER of California. I thank the chairman for yielding, and I thank him for all of his work on this legislation.

Mr. Speaker, I rise today in strong support of the America COMPETES Reauthorization Act.

This legislation makes strategic and smart investments in students pursuing degrees in the science, technology, engineering or math fields.

It continues the Noyce Teacher Scholarship Program, which encourages students studying in STEM fields to earn a teaching credential and enter the classroom.

It makes changes to encourage more colleges and universities to participate in these programs.

This will ensure we have prepared teachers in our nation's science and mathematics classrooms to educate and inspire the next generation of engineers and entrepreneurs.

The COMPETES Act also continues funding for the Advanced Placement and International Baccalaureate programs—programs that set high standards and give students the advanced skills they need for the workforce of tomorrow.

This legislation couldn't come at a more important time. It invests in our future competitiveness at a time when our global reputation is not where it should be.

Over just the past few years we have begun to reinvigorate and awaken the American drive to innovate, but we have much further to go.

Earlier this month, the results of the 2009 Program for International Student Assessment showed that the United States ranks average, or 17th out of the 33 other industrialized nations.

The difference between the countries at the top of these rankings and the U.S. is that the countries that are outperforming us have made developing the best education system in the world a national goal.

They've recognized that the strength of their economy will be inextricably tied to the strength of their education system in the 21st century.

It is time we decide as a nation that we can no longer afford to stay just average.

By passing this legislation, we will continue our efforts to strengthen the STEM fields. We will improve our global competitiveness and our economic stability.

I urge all my colleagues to support this bill.

Mr. GORDON of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WU), the subcommittee chairman on Technology and Innovation, someone who made a great contribution to this bill.

Mr. WU. Mr. Speaker, I rise in strong support of this reauthorization bill, and I want to just point out to my friend from Georgia that not every-

thing that one is opposed to is unconstitutional. And I share the gentleman's concern about this lame duck session. And if the gentleman wanted to propose a constitutional amendment to move our swearing-in date to the first Tuesday in November, perhaps his concerns would be addressed. But pending that, we have a lot of legitimate activity for very, very important legislation. And I can think of no greater tribute to the outgoing chairman, Mr. GORDON, and Mr. HALL, who has worked with the chairman for a long time on this legislation, than the passage of this bill.

I'm particularly proud of the contribution that my subcommittee, the Technology and Innovation Subcommittee, has made to this legislation, because long-term investment in innovation is absolutely crucial to our Nation's global competitiveness, and we have a responsibility to support the kind of economic environment that empowers our Nation's private sector to innovate and create high-wage, private-sector jobs.

The bipartisan legislation that we are considering today will strengthen our Nation's economic competitiveness by helping to create an environment that encourages innovation and which facilitates growth.

As the chairman rightfully pointed out, innovation accounted for greater than 50 percent of U.S. GDP growth from World War II to the year 2000, and innovation can help America grow our way out of our current anemic economic state.

Among other things, the bill makes crucial investments in the Manufacturing Extension Partnership, which will help us better address the needs of our Nation's small and medium-sized manufacturers.

The bill will also help ensure that students and trainees will have what is necessary to secure a good-paying job in their own community by requiring MEP centers to work with community colleges to train for the skills needed by local manufacturers.

The SPEAKER pro tempore (Mrs. HALVORSON). The time of the gentleman has expired.

Mr. GORDON of Tennessee. I yield the gentleman an additional 30 seconds.

Mr. WU. This is great legislation. The chairman has done a great job, and I urge passage.

Mr. HALL of Texas. Madam Speaker, I reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 2 minutes to our resident authority on nuclear energy, the gentleman from California (Mr. GARAMENDI).

Mr. GARAMENDI. I want to commend you, Mr. Chairman, for an extraordinary piece of work, and Ranking Member HALL and the other members of the committee. I came to this com-

mittee halfway through the year, and I was absolutely amazed and delighted to see the intensity of discussions—35 separate hearings.

And my colleague from Georgia who thinks we ought to put this off, I cannot imagine leaving a job half done—not half done, but 99 percent done, and then let it go after all the work that's been put together here.

This is a good bill. I don't ever like what the other House does to my legislation, and I'm sure all of us feel the same way. But what I'd like to point out here in this bill is that there are basically five things that this Nation needs to do if we're going to succeed economically: best education, best research, make the things that come from that research, have the infrastructure, and then be international.

□ 1420

This is about three of those things, three very important things. The education, the STEM education is in this legislation. Without it, we will never be able to compete. And we ought not wait until next year to get that going.

Secondly, with regard to the research, it is fundamental. I come from California, the great Silicon Valley and all of those new technologies come from the research at the universities in the surrounding area. This legislation promotes that research agenda across the Nation, not just in California, but at every other research institution throughout the United States.

And finally, there is a major piece of this legislation that talks about making it in America. If we are going to have a strong middle class, a strong economy, we must once again make it in America. This legislation provides some fundamental elements necessary for us to do that. For example, the loan guarantee that was degraded just a few moments ago is exceedingly important because that's the valley of death. How does an entrepreneur, how does a new business get through the valley of death? That's what this is about.

This legislation also provides a way in which we can coordinate our manufacturing expertise. With that, we ought to pass this bill and acknowledge the enormous amount of work that was done over the last Congress.

Mr. HALL of Texas. I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, may I inquire as to the amount of time that is remaining.

The SPEAKER pro tempore. The gentleman from Tennessee has 12½ minutes remaining and the gentleman from Texas has 13 minutes remaining.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1 minute to the gentlelady from Maryland (Ms. EDWARDS), who has been a very active and articulate member of our committee.

Ms. EDWARDS of Maryland. Thank you to the chairman for your leadership and your vision. I rise today in

strong support of the work that you have put in on America COMPETES. It's legislation that's going to usher in a new era of scientific and economic leadership and prosperity for the country.

In particular, I want to highlight an amendment I authored that will give special consideration to high-needs schools and underrepresented teachers and minorities when determining STEM fellowship grants. My colleagues, we often come together to discuss the importance of education, laying the groundwork for economic prosperity. And here, America COMPETES is an important step forward to laying that foundation, to ensuring that opportunities provided in this legislation will be available to all of our young people, regardless of race or economic circumstance.

This is a game changer; not a Hail Mary pass but a playoff strategy for the future and for the long term success of our children. And we need all of these players on the field. So today let's put our shared sentiments into action, send America COMPETES to the President's desk so we can continue to generate economic competitiveness, creating high-wage jobs, and educating and preparing all our young people for the future.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1 minute to another active member of our committee from Michigan (Mr. PETERS), who has been very active particularly in advanced vehicle technology.

Mr. PETERS. Madam Speaker, the America COMPETES Act supports American manufacturing, innovation, and global competitiveness. COMPETES recognizes the challenges facing America's 21st century manufacturers, as well as the importance of a healthy manufacturing base. The bill includes new manufacturing loan guarantees, improved research and development, and strengthens the Manufacturing Extension Partnership program. The bill also places a much-needed emphasis on science education, from grade schools to the university level. We need a highly educated workforce to create the next advanced vehicle technology or innovative product that will produce more high-quality jobs in America.

COMPETES also supports innovation clusters around the country and creates a focus on innovation within our Federal programs and agencies. America simply cannot afford to sacrifice its innovative edge to growing economies like China and India. The investments made by COMPETES are critical to America's long-term economic health, and I hope my colleagues will join me in supporting this bipartisan legislation.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1 minute to the gentleman from New York (Mr. TONKO), who has brought his energy expertise to our committee.

Mr. TONKO. I rise today in support of the America COMPETES Act, a debate that has continued for many months, and negotiations have followed, and we are finally one step away from this bipartisan victory. This legislation will create prosperity through science and innovation, reassert our economic and technological leadership throughout the world, and give future generations greater opportunity to achieve the American dream for decades to come.

I have seen firsthand the impact science and innovation can have on our communities. Recently, the Albany, New York, area in my district was named the third fastest high-tech job market in the country. This growth, coupled with today's legislation, is vital if the capital region of New York and the rest of our Nation are to continue on a path toward an innovation economy that, quote, "Makes It In America."

We must also educate the next generation of mathematicians and scientists. This bill does that by providing opportunities for STEM students to participate in hands-on scientific research.

Finally, I would like to thank Chairman GORDON for his leadership on this issue. Without his tireless work and that of the committee staff, along with Ranking Member HALL, we would not be here today.

Mr. Chair, you and your leadership will be sorely missed, and I wish you all the best.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 2 minutes to an alumnus of our committee, the gentlelady from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. Madam Speaker, let me personally thank you for your leadership and continued focus on important issues here in this Congress.

I rise today to celebrate and to thank the chairman of the Science Committee, Chairman GORDON, for his years of commitment and intensity as it relates to the importance of this work. I also add my appreciation to Chairman-elect HALL, whom I have worked with, as I did Congressman GORDON, for some 12 years on the Science Committee. And once on the Science Committee, one can never leave its values and its importance.

As I sat on the Science Committee in the end of the 20th century, I always said that science was the work of the 21st century. And although bills are

not perfect, and this bill that has come over from the other body is not, it is where we need to go. And I would simply remind my colleagues of the history of the Model T. When Henry Ford developed the Model T, that technology generated into an enormous industry in the United States that created new technology and millions of jobs, I might say.

And so here we are today with a great need to reignite, restart our manufacturing journey. And I am delighted that this bill has seen the vision of getting elementary, middle school, high school students involved in the sciences. That's where our Achilles' heels are. That's where the vision comes to invent things, to make things to develop the next generation of jobs. And so it establishes an interagency with a STEM education coordination committee. It provides an interagency committee for coordination of manufacturing R&D.

And to listen to my colleagues talk about subsidies—do they realize that every country around the world is subsidizing their manufacturing to make them more competitive, to have a greater competitive edge? There is nothing wrong with creating jobs for America.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. HALL of Texas. Madam Speaker, I yield the lady 2 more minutes.

Ms. JACKSON LEE of Texas. There is nothing wrong with us subsidizing good work, good science, the opportunity for jobs. I don't know what the structure was. Maybe I will go and research what happened with Henry Ford. I saw in those days he put together his family pennies, he made the Model T, and here we are today. But we live in a different economy. We live in a changing time of the dollar. And we live in a time when other countries have no shame in subsidizing business.

□ 1430

We were on the floor earlier today where Germany is subsidizing Airbus. That is their right. But the question is, What are we doing to promote manufacturing?

This reauthorizes the National Science Foundation. It authorizes grants and manufacturing, research and education. That is a good thing. It authorizes program grants for 21st-century graduate education, as well as authorizing a program dealing with research for undergraduates. That is exciting. Innovation is part of what happens here. Then, of course, it authorizes research experiences for high school students as part of the research grants.

So, overall, I guess my bottom line is I am ready to go. I am excited about the opportunities in the 21st century. I want us making things again, whether it is submarines, whether it is airplanes, whether it is new technology

for our military personnel, whether or not it is a new space shuttle, a CEV. I want us to make things again. That is how you put people back to work. That is how you keep people's minds churning: What is the next invention we can get? There is no shame to subsidizing this work. And I am delighted that not only are we doing that, but we are expanding the manufacturing loan guarantee program to permit loan guarantees to small and medium-sized manufacturers.

I tell you, my colleagues, these companies are out here waiting. They want to get going. There is limited opportunity for access to credit; and I can tell you, they are excited about this opportunity. Government not involved in helping a country go forward in manufacturing? Whoever heard of that. That is what everybody is doing. It is time for us to stand up as well.

So let me thank you, Chairman GORDON, for your service. I know you are going on to great things. Thank you for allowing me to share some time with you on the Science Committee, and the same to Chairman HALL. Again, vote for this.

I rise in support of H.R. 5116 to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

This legislation is crucial to our efforts to keep America number one by investing in modernizing our Nation's manufacturing, spurring American innovation through basic Research and Development, R&D, and high-risk, high-reward clean energy research, and strengthening math and science education to prepare students for the good jobs of the 21st century.

Today, we consider the Senate amendment to the America COMPETES Reauthorization Act, H.R. 5116, which passed the Senate by unanimous consent on Friday.

The Senate Amendment:

Keeps our Nation on a path to double funding for basic scientific research, which is crucial to some of our most innovative breakthroughs;

Creates jobs with innovative technology loan guarantees for small and mid-sized manufacturers and Regional Innovation Clusters to expand scientific and economic collaboration;

Promotes high-risk high-reward research to pioneer cutting edge discoveries through ARPA-E and promotes job creation in clean energy; and

Creates the next generation of scientists and entrepreneurs by improving science, math, technology, and engineering education at all levels

This bill:

Is a fiscally responsible compromise that reduces the authorization from 5 to 3 years, reducing the cost, and repeals the original COMPETES programs that have not been funded. The Bowles-Simpson deficit commission singled out basic scientific research as a long-term gain for the budget, as it is vital to our Nation's scientific and economic leadership. The bill also bans the use of funds to pay the salary of Federal employees convicted of looking at pornography on Federal property.

The bill is supported by the Chamber of Commerce, National Association of Manufacturers, Business Roundtable, TechAmerica, TechNet, American Association for the Advancement of Science, National Venture Capital Association, Information Technology Industry Council, Association of Public and Land-grant Universities, and Association of American Universities.

It is imperative for us to demonstrate our firm commitment to creating economic prosperity and maintaining the status of the United States as a worldwide leader in science and technology throughout the decades to come, and to give future generations a greater opportunity to achieve the American Dream. Therefore, I urge my colleagues to join me in supporting the passage of this important legislation.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1½ minutes to our example of the benefits of STEM education, the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. I thank the chairman.

Madam Speaker, for decades, it's been clear that our investments in scientific research and education underwrite our national prosperity, yet we've continued to underinvest in these economic drivers. The National Academy issued a call for action 5 years ago with "Rising Above the Gathering Storm," and Congress responded by holding a number of national town meetings arranged by then-Minority Leader Pelosi and then passing the America COMPETES Act under the chairmanship of Chairman GORDON. That legislation is now set to expire, and the National Academies has issued an update on our progress. It is an ominous warning. It says bluntly: "Our Nation's outlook has worsened."

Now, as a Member who has conducted NSF-funded research and who continually argues that our economic health depends on investment and research, I would have preferred the more robust funding authorization levels passed by this House earlier this year. However, this legislation does maintain a 10-year doubling path for funding for our basic research agencies.

I am especially pleased that the bill requires the development of a comprehensive national competitiveness and innovation strategy, a provision I wrote. The nations that are outcompeting us already have national innovation strategies in place. We should too. To guarantee a secure economic future for our children and in our Nation, we must not fail to provide robust funding for the programs in this legislation.

I want to commend Chairman GORDON for writing and taking action on this legislation. It is another part of a good legacy of his distinguished career.

Madam Speaker, I rise today in support of the America COMPETES Reauthorization Act of 2010 (H.R. 5116). Our investments in scientific research and education underwrite our national prosperity and success. Economists

attribute over half of the growth in our gross domestic product (GDP) since World War II to progress in science and technology. Yet for decades, we have underinvested in our nation's tools for advancing innovation and competitiveness. In 2005, the National Academies issued a call for action in the Rising Above the Gathering Storm report. Two years later, following a series of national town halls arranged by the then Majority Leader PELOSI, Congress responded by implementing many of the report's recommendations in the America COMPETES Act.

Yet now we are faced with the impending expiration of the COMPETES Act, and the National Academies has released an update on our progress since the original Rising Above the Gathering Storm report. It tells us that we have not done enough. It says bluntly, "Our nation's outlook has worsened." Other countries are implementing many of the changes suggested five years ago while we continue to hold back on the necessary investments to rebuild, restructure, and renew our national innovation infrastructure. The reauthorization of the America COMPETES Act is essential if we are to maintain our competitive edge in the global economy.

Basic research is a powerful source of new and unexpected discoveries that can transform our economy. While I would have preferred the more robust funding authorization levels passed by the House earlier this year, this legislation maintains a 10-year doubling path for funding at our nation's basic research agencies—the National Science Foundation (NSF), the National Institutes of Standards and Technology (NIST), and the Department of Energy's Office of Science. These funds support fundamental research in every discipline, maintain our national laboratories, and provide vital training for the next generation of scientists and engineers. The dividends from our investments in research and development are the breakthroughs that yield new industries, drive job growth, and sustain our future economic and technological competitiveness.

The America COMPETES Reauthorization Act includes a number of new programs and initiatives to foster innovation. The Regional Innovation Program will help create and expand science parks and Regional Innovation Clusters to leverage collaboration between businesses, academic institutions, and other participants to facilitate the transfer of technologies from the laboratory to the commercial sector. The Office of Innovation and Entrepreneurship at the Department of Commerce will accelerate the commercialization of research and development by identifying ways to overcome existing barriers and providing access to relevant data and technical assistance. The legislation authorizes the Partnerships for Innovation program to help move research out of the lab and into the marketplace by strengthening ties between institutions of higher education and private sector entities.

Additional assistance for manufacturers and other businesses would promote the adoption of new technologies and improve productivity. The legislation requires NSF to support research in transformative advances in manufacturing, and it ensures that the Manufacturing Extension Partnership (MEP) program will inform regional community colleges of the skill

sets needed by local manufacturers. A newly established Innovative Services Initiative will assist small- and medium-sized manufacturers in implementing energy and waste reduction technologies, including renewable energy systems. A loan guarantee program will allow manufacturers to access capital for the installation of innovative technologies and processes that will help increase their efficiency and maintain their competitiveness. A new interagency committee under the National Science and Technology Council will establish goals and coordinate federal programs in advanced manufacturing research and development.

To preserve our leadership in scientific and technical fields and strengthen our competitiveness in the twenty-first century economy, the U.S. must continue to produce the world's best scientists, and we must ensure that every student is exposed to the fundamentals of science, technology, engineering, and math, STEM. The America COMPETES Reauthorization Act will establish an interagency committee to coordinate federal STEM education programs and report to Congress annually on implementation of the STEM education strategic plan. Updates to the NSF's Robert Noyce Scholarship program will allow more schools to participate and more qualified STEM educators to reach high-need schools. Undergraduates will have more opportunities to participate in research, and support for graduate students will be strengthened. Women and minorities remain underrepresented in STEM fields, and this legislation continues programs to help expand the STEM talent pool and increase the diversity of our nation's future scientists.

In the energy field, this legislation reauthorizes programs at the Department of Energy's Office of Science, which is the nation's largest supporter of physical sciences research. In addition, the reauthorization of the Advanced Research Projects agency for Energy, ARPA-E, which is modeled on the successful Defense Advanced Research Projects Agency, DARPA, will help us pursue high-risk, high-reward energy technology develop that might not receive support otherwise.

Finally, I am pleased that this legislation incorporates two provisions that I offered and the House passed when it considered a previous version of this bill. The first requires the working group responsible for coordinating policies related to the dissemination and long-term stewardship of unclassified federally funded research to take into consideration the importance of peer-review and the role of scientific publishers in the peer-review process.

The second requires the Secretary of Commerce to prepare a comprehensive national competitiveness and innovation strategy. For decades, U.S. leadership in science, technology, engineering, and innovation was unquestionable. But we cannot pretend this is a given. In 2009, the Information Technology and Innovation Foundation found that among 40 major nations or regions, the U.S. ranks sixth in overall innovation and competitiveness. More importantly, over the last decade, every one of our competitors has improved their innovation capacity faster than us. Each of the five nations ranked by ITIF as "out-competing" the U.S. already has a national com-

petitiveness or innovation strategy in place. All together, at least thirty other countries have implemented plans to boost their economic competitiveness through innovation and technological development. The United States has yet to put forward a similarly comprehensive roadmap for success. Our competitors are making plans to grow their economies by competing in the global marketplace. We should be too.

The America COMPETES Reauthorization Act makes long overdue investments in the foundations of our national innovation system. It will create jobs in both the short- and long-term, support manufacturers and businesses in commercializing new technologies, help us pursue a clean energy economy, improve STEM education, and strengthen our international competitiveness. Yet authorizing the programs in this legislation is only the first step in keeping the United States competitive. To guarantee a secure economic future for our children and for our nation, we must not fail to provide robust funding for these programs. Even as we face budgetary challenges and political pressure, we must ensure that our scientists, engineers, innovators, and entrepreneurs have the tools and resources they need to renew our economy and help us truly rise above the gathering storm. I commend the United States Senate for taking action on this bill, and I urge my colleagues to support this important piece of legislation.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1 minute to our great majority leader and my great friend, Steny Hoyer.

The SPEAKER pro tempore. The gentleman from Maryland is recognized.

Mr. HOYER. Thank you very much, Speaker HALVORSON. I appreciate your presiding over this historic piece of legislation.

I want to thank my friend BART GORDON. Chairman GORDON has been an extraordinary leader of this committee, an extraordinary member of the Energy and Commerce Committee; and in both of those venues he has focused on making sure that America could in fact compete and compete successfully and be the great Nation it has been, is now, and will continue to be as long as we keep investing in that which grows an economy—education, science, mathematics and engineering.

I know that he has worked with some of the great industrial leaders of our Nation on this legislation. Mr. Augustine comes to mind. We're very proud of him in Maryland.

But I want you to know how proud I am of BART GORDON. He said that I was one of his close friends. I think BART GORDON is one of my closest friends, not just in Congress, but in life. He and I have been here for a long time together.

The good news is the ranking—used to be Democrat, now Republican—RALPH HALL, is also a very close and dear friend of mine whom I have known

all of my service here. He and I came together in the same class. He is a very good friend of Bob Slagle, who is a good friend of mine as well, and I want to thank him for his service to our country.

The America COMPETES Act expands support for research and development, helping the United States to remain the world's innovation leader. It creates jobs for the short-term and lays a foundation for long-term prosperity. That is its key, of course. And it is an important part of the Make It In America agenda, a series of important bills designed to help America regain its manufacturing strength.

Let me say just a word about Make It In America. We heard a lot about made in America, things that were made yesterday in America, things that we did in the past. Make It In America is about what we are going to do in the future.

Make It In America is a non-ideological, non-party, nonpartisan premise; and that premise is shared widely by the American public: that if we are going to be successful in the future and continue to grow our economy, it is going to be in part because we make it in America; we make things in America, we manufacture things in America, we grow it in America, and we sell it abroad. Our products, whether they be hard products or soft products, we sell them throughout the world.

America is the innovative center of the world, one of the enterprising nations of the world. We invent things, innovate and bring to scale. Strike that. We don't bring them to scale often enough.

Andy Grove, who was one of the co-founders of Intel, wrote an excellent article in the New Yorker. I tell my friends on the Republican side and on the Democratic side, this is an issue that can bring us together to make America better, to grow America, to provide the kinds of jobs that Americans need.

Make It In America not only means manufacturing in America, but that we make it, that we succeed, that people believe and have the confidence that there will be an American economy which will provide them with jobs and they will be able to provide for themselves and their families. This is a significant step in making sure that America makes it in America.

One of the things that Andy Grove said in his article in the New Yorker was that the problem we have is innovation, invention, enterprise exists here more than any other place in the world; but what we are doing is we are inventing, innovating and enterprising, and then we are taking it overseas to take it to scale, to manufacture it.

The Kindle, I bought a Kindle for my grandson last Christmas, about \$185. About 40 to 45 of those dollars are U.S. The rest is overseas. Andy Grove's

premise is if we do that, what is essentially going to happen over the years is the innovators and the “enterprisers” and the inventors are going to follow where we’re making it, whether it’s in China or any other place. America, we cannot let that happen. This bill is a critical step in ensuring America’s prosperity and job creating capacity in the long term.

BART GORDON, congratulations to you. You will leave here in a few days. You will not be a Member of the Congress of the United States. You will never leave here in the sense you will always be in our hearts, and you are going to be on this floor, and we’re going to see you regularly. But you will leave an extraordinary legacy for your country for decades and a century to come in this bill.

The bill establishes innovative technology and Federal loan guarantees for small and medium-sized manufacturers. Make It In America. Those loans will help American businesses respond to the needs of a changing economy, increase productivity, and keep pace with overseas competition.

Further, the COMPETES Act makes important investments in science, technology, engineering and math, as I said earlier, because helping our children excel in these fields is absolutely crucial to our economic competitiveness.

□ 1440

Finally, the bill strengthens the crucial national Science Foundation, which funds cutting-edge research in fields from computer science and mathematics to genomics. That’s our future. America does it well. Let’s do it here. Let’s make sure that we’re investing so that that will be the future as well as the present.

Federal support for research and innovation is one of the best investments we can make. Federal support helped create GPS, the computer mouse, computer-aided design, and the Internet; and there’s no telling the ways in which it might shape our lives in the years to come. But, surely, there is no doubt that shape it, it will. And that’s why we must invest. I urge my colleagues to boost American innovation by supporting this bill.

I end again as I started, by congratulating BART GORDON, my good friend, an individual who’s given so much to his country for so long, an individual that makes us proud to be his colleague and who has given added luster to service in this House by his own service.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, we sometimes throw the term “friend” around here a lot. I do thank very much the majority leader for his friendship.

I yield 1½ minutes to the cochair of the New Dems, who are our leaders in innovation policy, the gentleman from Wisconsin, Mr. RON KIND.

Mr. KIND. Madam Speaker, as one of the co-chairs of the New Democratic Coalition, I rise in strong support of the reauthorization of the America COMPETES Act and commend the chairman of the Science Committee, our good friend and colleague, Mr. GORDON, for his tenacious focus on making sure that America COMPETES gets reauthorized in this session of Congress and working with the Senate in the waning days of this session to get it done. And we’re sorely going to miss his leadership on this subject, as well as the leadership of our colleague from the State of Michigan (Mr. EHLERS), who has given tremendous guidance on what it means for the United States to remain the most innovative and creative Nation in the world.

And that’s what America COMPETES is all about. It’s answering the question of whether or not we will remain the most innovative and on the cutting edge of scientific, medical, technological, and manufacturing discoveries and breakthroughs or whether we will continue our slide in second-rate status compared to other nations in the investments that we are seeing taking place overseas.

It builds on seminal studies by the National Academy of Sciences’ “Rising Above the Gathering Storm,” and even before that, the John Glenn Commission, “Before it’s Too Late,” warning us of the peril of losing our innovation and competitiveness if we continue to underinvest in those crucial STEM studies of science, technology, engineering, and math, or the investments we have to make in basic and applied research, which we accomplish in this bill through the National Science Foundation; National Institute of Science and Technology; the ARPA-E program at the Department of Energy; new programs now at NOAA and NASA; and now directing the Department of Commerce to come up after 1 year with an actionable plan of how all this comes together.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HALL of Texas. I yield the gentleman 2 minutes.

Mr. KIND. I thank my colleague for yielding me the time.

It really speaks to the question many Americans have on their minds as we continue our slow emergence of the worse economic recession since the Great Depression, and that is where are we going as a Nation economically and how are we going to get there. America COMPETES Act is a part of that equation that we need in this country, but helping to make sure that we make those products in this country, along with the good-paying jobs that come from it.

Will this be the end of the innovation agenda? I think not. But it’s an important step forward—one that received huge bipartisan support in the previous Congress with 357 of our colleagues supporting the original authorization of America COMPETES.

I commend former President Bush and current President Obama for recognizing the need for this type of legislation and all of the members on the Science and Education Committee that had a tremendous say in the product that’s before us today. It’s worthy of our support; but, more importantly, it’s worthy of a great Nation and a great economy that we can build upon.

I encourage my colleagues to support the America COMPETES reauthorization and the work that we have before us.

Mr. GORDON of Tennessee. Madam Speaker, may I inquire how much time I have remaining.

The SPEAKER pro tempore. The gentleman from Tennessee has 3½ minutes remaining.

Mr. GORDON of Tennessee. Madam Speaker, on many occasions I have heard speaker NANCY PELOSI talk about the future of our Nation. And when she talks about the future of our Nation, she says there’s three things we need to do: science, science, science. She believes it. She has led us in that direction.

I yield 1 minute to the Speaker of the House of Representatives, NANCY PELOSI.

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding and for his kind words. More especially, I thank him for his great leadership. Few people who have served in this Congress and outside the Congress have done more to promote that “science, science, science” agenda than BART GORDON.

Sadly, for Mr. GORDON, this will be the last bill that he will bring to the floor. I want to take the occasion to thank him for his tremendous leadership as chair of the Science and Technology Committee and for being a leader on these issues. When the report came out about the gathering storm, he was the first to say we need to not only respond to it, but he had already taken initiatives, recognizing what would be in that report, seeing what was happening to science, technology, engineering, math, and all the rest of it in our country. His departure from the Congress is a loss for us, but I know he takes with him this passion that he has for science. It is something that has served our country well in the Congress, and I know he will continue to do so outside the Congress.

So, Mr. GORDON, thank you for your tremendous leadership. I know I speak for everyone here when I say it is an honor to call you colleague, and that today would be a day, toward the end of the session, that we would be taking

up your bill—this is your bill, Mr. Chairman.

On these occasions I am reminded, Madam Speaker, that nearly 50 years ago, in launching the initiative to send a man to the Moon and back safely within 10 years, President Kennedy summed up America's common commitment to innovation and competitiveness when he said, "The vows of this Nation can be fulfilled only if we are first, and therefore we intend to be first. Our leadership in science and in industry, our hopes for peace and security, our obligations to ourselves, as well as others, all require us to make this effort."

Since then, Americans have lived up to those words. Science and technological innovation have formed the backbone of our progress as a people and our prosperity as a Nation. And today we have the opportunity to play one more part in that same tradition to support the COMPETES Act, to reaffirm our leadership in science and technology, to keep America first.

Again, few have done more for this Congress than Chairman BART GORDON, who recognized the urgency of this challenge early on and has never stopped fighting to keep science and technology at the top of our agenda. And to the distinguished ranking member, one of the beauties of this agenda, this innovation agenda, is there's really nothing partisan about it. It isn't ideological. It's scientific. It is about keeping America number one and using the best resources technologically in our country to have us be competitive in the world economy.

In acting to update and extend the COMPETES Act, we will spur innovation, invest in cutting-edge research, modernize manufacturing, and increase opportunity. You know the provisions. Others have spoken to them. The gentleman from Wisconsin (Mr. KIND) has talked about the importance of the STEM—education, science, technology, engineering and math—and how important that is not only to the fulfillment of our students but to competitiveness internationally and the success of our economy.

With this bill, we will lay the foundation for new industries that provide good jobs for our workers; that open new markets for our American products; that offer more students, more young people, and entrepreneurs a better chance to live out the American Dream.

□ 1450

Simply put, we will continue to "rise above the gathering storm" and keep America number one.

The COMPETES Act is a central component of our innovation agenda, rolled out by Democrats 5 years ago to ensure our Nation's economic competitiveness around the globe and double basic research funding.

Yes, as has been mentioned, the COMPETES Act was signed by President Bush and now will be signed by President Obama; but I wish to acknowledge that it was only when we got into the Recovery Act that we were able to get the substantial funding to move forward with these initiatives. We had a little downpayment before that, but we got serious about our commitment in the Recovery Act.

As part of that effort, again, we passed the Recovery Act, investing \$17 billion for basic research and \$19 billion to promote the adoption of health IT. We dedicated \$11 billion to improve our smart grid capabilities and provided more than \$7 billion to expand broadband access nationwide. It is very important for us to do so in rural areas. Through a series of actions, the Democrat-led Congress has extended broadband to rural and underserved areas, invested in clean energy jobs and energy independence, and helped spur the development of new technologies.

The America COMPETES Act builds on that record of achievement. This bill is about good-paying jobs for American workers, strong American leadership in the global economy, an investment in America's students, and long-term prosperity for America's families and businesses.

As I have said, as was mentioned by Mr. KIND, this bill passed the first time with overwhelming bipartisan support. I think the majority of Republicans voted for the bill the first time it was put forth, and now we are reauthorizing it.

What we are doing today is about echoing President Kennedy's call once more to fulfill the vows of our Nation, to make the effort to strengthen America's future, to be first. In voting "aye" today, we can come together for innovation, for competitiveness, and for our prosperity. I urge all of my colleagues to support the reauthorization of the America COMPETES Act.

As I close, I once again want to salute Chairman BART GORDON for his tremendous, tremendous leadership. He has a wealth of knowledge, a depth of understanding, a boundless commitment to the future.

Thank you, Mr. Chairman.

Mr. HALL of Texas. Madam Speaker, I continue to reserve the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Madam Speaker, I rise today to urge my colleagues to support the Senate amendment to H.R. 5116, the America COMPETES Act.

Chairman BART GORDON and Congressman RALPH HALL, I commend you for bringing this legislation to the floor.

More than ever, our Nation must invest in the scientific and technological building blocks that bolster American

competitiveness in a 21st century global economy. The America COMPETES Reauthorization Act of 2010 achieves this and more by fostering innovation, supporting manufacturers and industry, preparing a STEM workforce, and creating jobs. This bill takes bold steps in broadening the participation of underrepresented minorities and women in the STEM fields.

I want to recognize Representatives EDDIE BERNICE JOHNSON, BEN RAY LUJÁN, SILVESTRE REYES, the Diversity and Innovation Caucus, and other members of the Tri-Caucus for their outstanding leadership in championing diversity issues in the reauthorization of this act.

As Subcommittee chairman for Higher Education, Lifelong Learning, and Competitiveness, I am pleased that America COMPETES will more fully integrate our Nation's minority-serving institutions into research partnerships and Federal programs and promote the inclusion and success of minorities in the STEM fields. Establishing strong regional university and industry partnerships in research and innovation at the National Science Foundation will spur economic growth and connect students to high-tech jobs.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HALL of Texas. Madam Speaker, I yield 2 minutes to the gentleman from Texas.

Mr. HINOJOSA. This bill will expand undergraduate research opportunities for women, minorities, and persons with disabilities at the National Science Foundation. Hands-on learning experiences are key to improving the recruitment and retention of underrepresented students in the STEM fields and in preparing a new generation of scientists who will contribute to our Nation's technological innovation and competitiveness.

This bill complements our work on the Student Aid and Fiscal Responsibility Act, known as SAFRA, enacted as part of the Health Care and Education Reconciliation Act of 2010, and our efforts to improve science and math literacy in our Nation's public schools.

I strongly urge my colleagues to support the Senate amendment to H.R. 5116.

Again, I compliment our chairman, BART GORDON, for his tremendous leadership.

Mr. HALL of Texas. I yield myself the balance of my time.

Madam Speaker, I reiterate that I remain committed to the underlying goals of the America COMPETES Act, and believe that we ought to continue to prioritize investments in basic science, technology, engineering, and mathematics—STEM research and development.

These long-term investments, coupled with policies that reduce tax burdens, streamline Federal regulations,

and balance the Federal budget are necessary steps for our Nation to remain competitive in the global marketplace. I hope my colleagues will join with me in seeking to do just that when the 112th Congress convenes.

In the meantime, I thank everybody involved; but for the reasons I have previously outlined, I must regretfully oppose this amendment.

I yield back the balance of my time.

Mr. GORDON of Tennessee. Madam Speaker, in closing, let me just once again thank the members and staff on a bicameral, bipartisan basis who have done so much to bring this excellent piece of legislation to the floor.

I doubt there has ever been a piece of legislation that has had as much outward support for the business community, the academic community, the scientific community. It is a good bill. It is going to help move our country forward.

Mr. GARAMENDI. Madam Speaker, I spoke on the House floor in strong support of the COMPETES Reauthorization. I wish to reinforce these comments. America is in a Global Race to innovate. COMPETES propels us forward, helping us win this race through smart investments. Improvements in science, technology, engineering, and mathematics education will result in an educated workforce, who will develop the technology of the future. A strengthening of our research capacity is inherently valuable and will pay huge dividends when this knowledge is leveraged towards technological development. COMPETES helps turn these lab bench discoveries into products that we can buy and sell on the market. By strengthening American manufacturing, COMPETES helps us to make it in America again. Improvements in R&D will grow America's economy and increase our ability to export our products around the world.

I express strong support for the COMPETES Reauthorization Act of 2010, H.R. 5116.

Mr. DINGELL. Madam Speaker, as a cosponsor of the America COMPETES Reauthorization Act, I rise today in strong support of this legislation, and I commend the United States Senate for passing this legislation before the end of 111th Congress. Today's consideration shows Congress's commitment to ensuring our children and grandchildren receive the education they need to compete in a global marketplace in the 21st Century.

While our country and our children have not lost the spirit of innovation and creativity, we have in recent years watched as our country has fallen woefully behind in educating our children. Passage of the America COMPETES Reauthorization Act will help to reverse this trend by making the strong investments necessary in research, education and manufacturing.

This bipartisan legislation reauthorizes our basic research programs, making needed increased investments in the National Science Foundation, the Department of Energy Office of Science, and the National Institute of Standards and Technology and laying the groundwork for doubling the authorized funding levels for these programs. Funding through these

programs has been critical to hundreds of the faculty, staff, scientists and investigators in my district who rely on opportunities from these agencies to support their research. America COMPETES also reauthorizes the Advanced Research Projects Agency for Energy, which has made great efforts at developing the energy technology of the future.

The America COMPETES Reauthorization Act investment in research cannot be fulfilled without a renewed focus in our education system on STEM education. H.R. 5116 will coordinate STEM education across the federal government to increase and bolster effective programs, increase graduate fellowships at NSF and DOE, support research and internship opportunities for high school and undergraduate students in STEM fields, and encourage students to enter into the education system as teachers to continue to build the next generation of scientists, educators, and researchers.

And of particular importance to my district, the America COMPETES legislation will provide critically needed help to our small- and medium-sized manufacturers who have been hard hit by the financial downturn. In order to improve competitiveness and access to capital, America COMPETES will create a new program that will provide Innovative Technology Federal Loan Guarantees for these manufacturers. To help manufacturers modernize and green their manufacturing practices, this legislation directs NIST to develop sustainability metrics and practices for manufacturers. To ensure manufacturers have a well-trained workforce, this legislation directs NSF to award competitive grants to strengthen and expand scientific and technical education and training in advanced manufacturing practices. To continue the success of the Manufacturing Extension Partnership program centers, this legislation will also reduce the cost share contribution, ensuring access to invaluable assistance that increases technological capabilities, institutes green or lean manufacturing techniques, and promotes increased sales.

Madam Speaker, I believe strongly that it is our moral duty to prepare our children and grandchildren with the education and training necessary to be successful in a highly competitive, and increasingly globalized marketplace. By allowing our education system to fall behind our peers, we have slipped in this duty. The America COMPETES legislation will once again put us on the path towards a strengthened education system, and a talented and competitive workforce that will continue the high-risk, high-reward research, innovations and technology development that this country is renowned for. The America COMPETES Reauthorization Act will allow the United States to truly compete with our neighbors abroad, which is why I urge my colleagues to vote "yes".

Mr. COSTELLO. Madam Speaker, I rise today in support of H.R. 5116, the America COMPETES Reauthorization Act of 2010.

I commend Chairman GORDON for his leadership in developing this important legislation, passing it through the House, and working with our colleagues in the Senate to move the measure forward.

In 2005, the National Academy of Sciences (NAS) released its landmark report, *Rising*

Above the Gathering Storm, which recommended Congress and the administration more heavily invest in science education, research, and technology to preserve the U.S. role as the world leader in innovation.

In response to this report, Congress passed the America COMPETES Act with bipartisan support in 2007.

In the three years since COMPETES was signed into law, we have made great strides in innovation, education, and technology.

However, a 2010 follow-up report, *Rising Above the Gathering Storm, Revisited*, clearly indicates the U.S. remains at risk of falling behind in developing and patenting new technology; publishing cutting edge research; training the next generation of scientists and engineers; and maintaining the most competitive workforce in the world.

H.R. 5116 builds upon the accomplishments of the 2007 America COMPETES in a fiscally responsible manner.

The bill reauthorizes ongoing federal research and development programs for three years at a lower authorization level than what the House passed in May, creates opportunities for innovation in the private sector through programs like ARPA-E, and trains the most innovative, competitive workforce in the world.

In addition, I am pleased the bill contains important investments in two STEM education programs.

First, the bill invests in community colleges and other two-year institutions of higher education by building connections between community colleges and Manufacturing Extension Partnerships, other institutions of higher education, research institutions, and regional innovation hubs. These investments will ensure that students have the job training necessary to secure good-paying jobs in their communities and manufacturers have a workforce with the right skill set to promote innovation.

Second, the bill ensures the U.S. Department of Energy (DOE) STEM education programs mirror the important research being conducted by the agency on carbon capture and sequestration (CCS) technology, the future of coal-powered energy; which is the nation's most abundant and affordable energy source and a vital part of Illinois' economy. Including CCS in DOE's STEM education programming will ensure that we continue to expand deployment of this important technology and train a new generation of CCS scientists.

I urge my colleagues to support the Senate Amendment to H.R. 5116.

Mr. HONDA. Madam Speaker, I regret that illness prevents me from casting my vote in favor of H.R. 5116 today, but I would like to express my strong support for H.R. 5116, America COMPETES Reauthorization Act of 2010, for the record.

I commend Chairman BART GORDON and the other members of the Science and Technology Committee, on which I am proud to have once served, for the hard work and thoughtful consideration that went into this bill.

The America COMPETES Act of 2007 significantly bolstered American innovation, the most fundamental hope for sustainable economic growth and competitiveness in the United States and a critical driver of the economy in my Silicon Valley district. It helped drive new research and its commercialization,

encouraged the creation of a more dynamic business environment, and made improvements to science, technology, engineering and math (STEM) education that are important for our nation's long term economic health.

It is critical that we sustain proper support for scientific research and STEM education, or our ability to compete in the global economy will be put in jeopardy. As the Business Roundtable noted in its Roadmap for Growth, a new report released last week, investing in scientific research and math and science education will create sustained, long-term economic competitiveness and growth. That is why I am proud to support H.R. 5116, which authorizes those much needed investments.

Although the Senate's amendment to H.R. 5116 is a significantly trimmed down version of the House bill, it maintains the key principles of investment and innovation, ensuring America remains competitive in the 21st century global economy.

I am pleased that the bill includes provisions to ensure coordination of federal STEM education activities by elevating an existing committee under the National Science and Technology (NSTC). Providing this coordinating mechanism for the federal STEM education programs is long overdue.

According to the Academic Competitiveness Council's (ACC) report, in 2006 the U.S. sponsored 105 STEM education programs at more than a dozen different federal agencies. These programs devoted approximately \$3.12 billion to STEM education activities spanning pre-kindergarten through postgraduate education and outreach. The report notes that many of these agencies do not share information or work collaboratively on similar programs, demonstrating a need for better coordination.

The STEM education coordination provisions of this bill are similar to those included in my own bill, the Enhancing Science, Technology, Engineering, and Mathematics Education (E-STEM) Act, H.R. 2710. Both bills seek to ensure that the various agencies involved in STEM education efforts are aware of what is being done and what has already been done elsewhere so agencies can strategically invest in programs and activities.

Again, I congratulate the Science and Technology Committee and Chairman GORDON for their work on this bill. I urge my colleagues to support this important legislation to ensure that our nation leads the world in innovation and science and technology.

Mr. VAN HOLLEN. Madam Speaker, I rise to support the America COMPETES Reauthorization Act.

As the United States faces increasing competition in the global economy, we will only maintain our advantage by fostering our ability to innovate. America COMPETES makes the investments necessary to ensure that we remain at the cutting edge of research and development.

The America COMPETES Reauthorization Act is a comprehensive approach to invest in education, research, and small business to grow America's innovation economy. By providing resources for basic research, facilitating the use of new technologies by American manufacturers, and training a new generation of science, technology, math, and engineering (STEM) workers, we can create good, sustain-

able jobs at home and ensure that the United States remains competitive.

The America COMPETES Reauthorization Act creates a path to double basic research funding at NSF, NIST, and DOE's Office of Science over the next ten years. It supports important programs to expand American energy technology and fosters regional innovation clusters and research parks for economic development across the country. And it coordinates STEM education activities across the Federal Government so we can focus resources on our most effective programs.

Madam Speaker, every dollar that we invest in science and technology pays dividends in economic growth and ensures that the United States remains at the forefront of discovery. I thank Chairman GORDON for his work on this issue and urge my colleagues to vote to pass this bill.

Mr. DAVIS of Illinois. Madam Speaker, I rise in support of H.R. 5116, the America COMPETES Act. To maintain economic growth and a high standard of living, our nation must remain competitive in a global economy. To be competitive, U.S. companies must engage in trade, preserve market shares, and provide sustainable products, processes, and services. Scientific and technological advances serve as critical components of economic growth because they contribute to the creation of new goods, services, jobs, and increased productivity. Our country is in need of innovative concepts and ideas to strengthen our economy both domestically and internationally. The America COMPETES Act will increase the nation's investment in science, technology, engineering, and mathematics, STEM. Further, COMPETES provides critical federal investment in science through research and education. I am pleased that the 111th Congress will reauthorize this law, and I am pleased that it contains some important elements to broaden the participation of groups of Americans who are underrepresented in STEM fields, such as women and racial or ethnic minorities.

According to the Census Bureau, 39 percent of the population under the age of 18 is a racial or ethnic minority. Yet, in 2003, only 4.4 percent of U.S. science and engineering jobs were held by African Americans and only 3.4 percent by Hispanics. In 2008, the American Community Survey reported that 10.3 percent of the total U.S. population were in the Professional, Scientific, Management and Administrative Services industry; however, only 7.7 percent of Cambodians, 6.8 percent of Hmong, and 5.2 percent of Laotians actually held these types of jobs. Further, women represent only a little more than one quarter of our science and technology workforce. Many experts maintain that the ability of the U.S. to produce enough scientists will fall far short unless we take strong action to develop the potential of women and minorities. Thus, broadening participation efforts are critical to meeting the growing demand for U.S. workers with STEM skills and to improving American competitiveness globally.

Although minorities have increased their share of degrees awarded in the sciences, poor preparation in science and mathematics is a major factor limiting the access of these citizens to careers in the STEM fields. H.R. 5116 helps improve secondary STEM edu-

cation by requiring federal agencies to report how they are disseminating federally funded STEM education resources to practitioners, including to teachers and administrators at high-needs schools. Further, it requires the establishment of an inventory of federally sponsored STEM education programs that must include an assessment of the effectiveness of the programs and the rates of participation of underrepresented minorities in such programs. An increased investment in STEM-based programs will offer more high-level science and mathematics courses in high school, enhance undergraduate and graduate degrees in science and engineering, and solidify employment in science and engineering positions in this global economy. The National Science Foundation will receive substantial funds to develop and implement a policy for the broader impacts review criterion that will result in improving the effectiveness and impact of activities to broaden participation within STEM. Such a policy is long overdue. We spend billions of federal dollars for science advancements but have limited requirements for the institutions receiving these dollars to give back to the nation in terms of helping institutions or students beyond their walls improve their access to quality science.

I support the bill because it advances our nation in the STEM areas; however, I am disappointed that many of the provisions to broaden participation that were included in the House-passed version were absent from the final version. I promise to continue to work to ensure that all Americans have access to high quality STEM education and careers. I support H.R. 5116, the America COMPETES Act of 2010; this bill will enhance our present practices in science and our economic strength in the global marketplace.

Mr. GORDON of Tennessee. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1781, the previous question is ordered.

Pursuant to clause 1(c) of rule XIX, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested.

S. 3481. An act to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

APPOINTMENT—NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

The SPEAKER pro tempore (Ms. BALDWIN). Pursuant to section 306(k) of the Public Health Service Act (42 U.S.C. 242k), and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following member to the National Committee on Vital and Health Statistics for a term of 4 years:

Dr. Vickie M. Mays, Los Angeles, California.

APPOINTMENTS—COMMISSION ON KEY NATIONAL INDICATORS

The SPEAKER pro tempore. Pursuant to section 5605 of the Patient Protection and Affordable Care Act (P.L. 111-148), and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following members to the Commission on Key National Indicators:

Dr. Stephen Heintz, New York, New York,
and in addition,
Dr. Marta Tienda, Princeton, New Jersey.

□ 1500

PERMISSION TO POSTPONE FURTHER PROCEEDINGS ON CERTAIN MEASURES

Mr. CUELLAR. Madam Speaker, I ask unanimous consent that the Speaker may postpone further proceedings on the following measures as though under clause 8(a)(1)(A) of rule XX: motion to concur in Senate amendment to H.R. 2142, and motion to concur in Senate amendments to H.R. 2751.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GPRA MODERNIZATION ACT OF 2010

Mr. CUELLAR. Madam Speaker, pursuant to House Resolution 1781, I call up the bill (H.R. 2142) to require the review of Government programs at least once every 5 years for purposes of assessing their performance and improving their operations, and to establish the Performance Improvement Council, with the Senate amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “GPRA Modernization Act of 2010”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Strategic planning amendments.
- Sec. 3. Performance planning amendments.
- Sec. 4. Performance reporting amendments.
- Sec. 5. Federal Government and agency priority goals.
- Sec. 6. Quarterly priority progress reviews and use of performance information.
- Sec. 7. Transparency of Federal Government programs, priority goals, and results.

Sec. 8. Agency Chief Operating Officers.

Sec. 9. Agency Performance Improvement Officers and the Performance Improvement Council.

Sec. 10. Format of performance plans and reports.

Sec. 11. Reducing duplicative and outdated agency reporting.

Sec. 12. Performance management skills and competencies.

Sec. 13. Technical and conforming amendments.

Sec. 14. Implementation of this Act.

Sec. 15. Congressional oversight and legislation.

SEC. 2. STRATEGIC PLANNING AMENDMENTS.

Chapter 3 of title 5, United States Code, is amended by striking section 306 and inserting the following:

“§ 306. Agency strategic plans

“(a) Not later than the first Monday in February of any year following the year in which the term of the President commences under section 101 of title 3, the head of each agency shall make available on the public website of the agency a strategic plan and notify the President and Congress of its availability. Such plan shall contain—

“(1) a comprehensive mission statement covering the major functions and operations of the agency;

“(2) general goals and objectives, including outcome-oriented goals, for the major functions and operations of the agency;

“(3) a description of how any goals and objectives contribute to the Federal Government priority goals required by section 1120(a) of title 31;

“(4) a description of how the goals and objectives are to be achieved, including—

“(A) a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to achieve those goals and objectives; and

“(B) a description of how the agency is working with other agencies to achieve its goals and objectives as well as relevant Federal Government priority goals;

“(5) a description of how the goals and objectives incorporate views and suggestions obtained through congressional consultations required under subsection (d);

“(6) a description of how the performance goals provided in the plan required by section 1115(a) of title 31, including the agency priority goals required by section 1120(b) of title 31, if applicable, contribute to the general goals and objectives in the strategic plan;

“(7) an identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the general goals and objectives; and

“(8) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations to be conducted.

“(b) The strategic plan shall cover a period of not less than 4 years following the fiscal year in which the plan is submitted. As needed, the head of the agency may make adjustments to the strategic plan to reflect significant changes in the environment in which the agency is operating, with appropriate notification of Congress.

“(c) The performance plan required by section 1115(b) of title 31 shall be consistent with the agency's strategic plan. A performance plan may not be submitted for a fiscal year not covered by a current strategic plan under this section.

“(d) When developing or making adjustments to a strategic plan, the agency shall consult periodically with the Congress, including majority and minority views from the appropriate authorizing, appropriations, and oversight committees, and shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan. The agen-

cy shall consult with the appropriate committees of Congress at least once every 2 years.

“(e) The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of strategic plans under this section shall be performed only by Federal employees.

“(f) For purposes of this section the term ‘agency’ means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the Government Accountability Office, the United States Postal Service, and the Postal Regulatory Commission.”

SEC. 3. PERFORMANCE PLANNING AMENDMENTS.

Chapter 11 of title 31, United States Code, is amended by striking section 1115 and inserting the following:

“§ 1115. Federal Government and agency performance plans

“(a) **FEDERAL GOVERNMENT PERFORMANCE PLANS.**—In carrying out the provisions of section 1105(a)(28), the Director of the Office of Management and Budget shall coordinate with agencies to develop the Federal Government performance plan. In addition to the submission of such plan with each budget of the United States Government, the Director of the Office of Management and Budget shall ensure that all information required by this subsection is concurrently made available on the website provided under section 1122 and updated periodically, but no less than annually. The Federal Government performance plan shall—

“(1) establish Federal Government performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year for each of the Federal Government priority goals required under section 1120(a) of this title;

“(2) identify the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities contributing to each Federal Government performance goal during the current fiscal year;

“(3) for each Federal Government performance goal, identify a lead Government official who shall be responsible for coordinating the efforts to achieve the goal;

“(4) establish common Federal Government performance indicators with quarterly targets to be used in measuring or assessing—

“(A) overall progress toward each Federal Government performance goal; and

“(B) the individual contribution of each agency, organization, program activity, regulation, tax expenditure, policy, and other activity identified under paragraph (2);

“(5) establish clearly defined quarterly milestones; and

“(6) identify major management challenges that are Governmentwide or crosscutting in nature and describe plans to address such challenges, including relevant performance goals, performance indicators, and milestones.

“(b) **AGENCY PERFORMANCE PLANS.**—Not later than the first Monday in February of each year, the head of each agency shall make available on a public website of the agency, and notify the President and the Congress of its availability, a performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

“(1) establish performance goals to define the level of performance to be achieved during the year in which the plan is submitted and the next fiscal year;

“(2) express such goals in an objective, quantifiable, and measurable form unless authorized to be in an alternative form under subsection (c);

“(3) describe how the performance goals contribute to—

“(A) the general goals and objectives established in the agency’s strategic plan required by section 306(a)(2) of title 5; and

“(B) any of the Federal Government performance goals established in the Federal Government performance plan required by subsection (a)(1);

“(4) identify among the performance goals those which are designated as agency priority goals as required by section 1120(b) of this title, if applicable;

“(5) provide a description of how the performance goals are to be achieved, including—

“(A) the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals;

“(B) clearly defined milestones;

“(C) an identification of the organizations, program activities, regulations, policies, and other activities that contribute to each performance goal, both within and external to the agency;

“(D) a description of how the agency is working with other agencies to achieve its performance goals as well as relevant Federal Government performance goals; and

“(E) an identification of the agency officials responsible for the achievement of each performance goal, who shall be known as goal leaders;

“(6) establish a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal, including, as appropriate, customer service, efficiency, output, and outcome indicators;

“(7) provide a basis for comparing actual program results with the established performance goals;

“(8) a description of how the agency will ensure the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—

“(A) the means to be used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency will compensate for such limitations if needed to reach the required level of accuracy;

“(9) describe major management challenges the agency faces and identify—

“(A) planned actions to address such challenges;

“(B) performance goals, performance indicators, and milestones to measure progress toward resolving such challenges; and

“(C) the agency official responsible for resolving such challenges; and

“(10) identify low-priority program activities based on an analysis of their contribution to the mission and goals of the agency and include an evidence-based justification for designating a program activity as low priority.

“(c) **ALTERNATIVE FORM.**—If an agency, in consultation with the Director of the Office of Management and Budget, determines that it is not feasible to express the performance goals for a particular program activity in an objective, quantifiable, and measurable form, the Director of the Office of Management and Budget may authorize an alternative form. Such alternative form shall—

“(1) include separate descriptive statements of—

“(A)(i) a minimally effective program; and

“(ii) a successful program; or

“(B) such alternative as authorized by the Director of the Office of Management and Budget, with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity’s performance meets the criteria of the description; or

“(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

“(d) **TREATMENT OF PROGRAM ACTIVITIES.**—For the purpose of complying with this section, an agency may aggregate, disaggregate, or consolidate program activities, except that any aggregation or consolidation may not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

“(e) **APPENDIX.**—An agency may submit with an annual performance plan an appendix covering any portion of the plan that—

“(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy; and

“(2) is properly classified pursuant to such Executive order.

“(f) **INHERENTLY GOVERNMENTAL FUNCTIONS.**—The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of performance plans under this section shall be performed only by Federal employees.

“(g) **CHIEF HUMAN CAPITAL OFFICERS.**—With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (b)(5)(A).

“(h) **DEFINITIONS.**—For purposes of this section and sections 1116 through 1125, and sections 9703 and 9704, the term—

“(1) ‘agency’ has the same meaning as such term is defined under section 306(f) of title 5;

“(2) ‘crosscutting’ means across organizational (such as agency) boundaries;

“(3) ‘customer service measure’ means an assessment of service delivery to a customer, client, citizen, or other recipient, which can include an assessment of quality, timeliness, and satisfaction among other factors;

“(4) ‘efficiency measure’ means a ratio of a program activity’s inputs (such as costs or hours worked by employees) to its outputs (amount of products or services delivered) or outcomes (the desired results of a program);

“(5) ‘major management challenge’ means programs or management functions, within or across agencies, that have greater vulnerability to waste, fraud, abuse, and mismanagement (such as issues identified by the Government Accountability Office as high risk or issues identified by an Inspector General) where a failure to perform well could seriously affect the ability of an agency or the Government to achieve its mission or goals;

“(6) ‘milestone’ means a scheduled event signifying the completion of a major deliverable or a set of related deliverables or a phase of work;

“(7) ‘outcome measure’ means an assessment of the results of a program activity compared to its intended purpose;

“(8) ‘output measure’ means the tabulation, calculation, or recording of activity or effort that can be expressed in a quantitative or qualitative manner;

“(9) ‘performance goal’ means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate;

“(10) ‘performance indicator’ means a particular value or characteristic used to measure output or outcome;

“(11) ‘program activity’ means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

“(12) ‘program evaluation’ means an assessment, through objective measurement and systematic analysis, of the manner and extent to

which Federal programs achieve intended objectives.”.

SEC. 4. PERFORMANCE REPORTING AMENDMENTS.

Chapter 11 of title 31, United States Code, is amended by striking section 1116 and inserting the following:

“§ 1116. Agency performance reporting

“(a) The head of each agency shall make available on a public website of the agency and to the Office of Management and Budget an update on agency performance.

“(b)(1) Each update shall compare actual performance achieved with the performance goals established in the agency performance plan under section 1115(b) and shall occur no less than 150 days after the end of each fiscal year, with more frequent updates of actual performance on indicators that provide data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden.

“(2) If performance goals are specified in an alternative form under section 1115(c), the results shall be described in relation to such specifications, including whether the performance failed to meet the criteria of a minimally effective or successful program.

“(c) Each update shall—

“(1) review the success of achieving the performance goals and include actual results for the 5 preceding fiscal years;

“(2) evaluate the performance plan for the current fiscal year relative to the performance achieved toward the performance goals during the period covered by the update;

“(3) explain and describe where a performance goal has not been met (including when a program activity’s performance is determined not to have met the criteria of a successful program activity under section 1115(c)(1)(A)(ii) or a corresponding level of achievement if another alternative form is used)—

“(A) why the goal was not met;

“(B) those plans and schedules for achieving the established performance goal; and

“(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

“(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 of this title;

“(5) include a review of the performance goals and evaluation of the performance plan relative to the agency’s strategic human capital management;

“(6) describe how the agency ensures the accuracy and reliability of the data used to measure progress towards its performance goals, including an identification of—

“(A) the means used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency has compensated for such limitations if needed to reach the required level of accuracy; and

“(7) include the summary findings of those program evaluations completed during the period covered by the update.

“(d) If an agency performance update includes any program activity or information that is specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive Order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

“(e) The functions and activities of this section shall be considered to be inherently governmental functions. The drafting of agency performance updates under this section shall be performed only by Federal employees.

“(f) Each fiscal year, the Office of Management and Budget shall determine whether the agency programs or activities meet performance goals and objectives outlined in the agency performance plans and submit a report on unmet goals to—

“(1) the head of the agency;

“(2) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(3) the Committee on Oversight and Governmental Reform of the House of Representatives; and

“(4) the Government Accountability Office.

“(g) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 1 fiscal year, the head of the agency shall submit a performance improvement plan to the Office of Management and Budget to increase program effectiveness for each unmet goal with measurable milestones. The agency shall designate a senior official who shall oversee the performance improvement strategies for each unmet goal.

“(h)(1) If the Office of Management and Budget determines that agency programs or activities have unmet performance goals for 2 consecutive fiscal years, the head of the agency shall—

“(A) submit to Congress a description of the actions the Administration will take to improve performance, including proposed statutory changes or planned executive actions; and

“(B) describe any additional funding the agency will obligate to achieve the goal, if such an action is determined appropriate in consultation with the Director of the Office of Management and Budget, for an amount determined appropriate by the Director.

“(2) In providing additional funding described under paragraph (1)(B), the head of the agency shall use any reprogramming or transfer authority available to the agency. If after exercising such authority additional funding is necessary to achieve the level determined appropriate by the Director of the Office of Management and Budget, the head of the agency shall submit a request to Congress for additional reprogramming or transfer authority.

“(i) If an agency's programs or activities have not met performance goals as determined by the Office of Management and Budget for 3 consecutive fiscal years, the Director of the Office of Management and Budget shall submit recommendations to Congress on actions to improve performance not later than 60 days after that determination, including—

“(1) reauthorization proposals for each program or activity that has not met performance goals;

“(2) proposed statutory changes necessary for the program activities to achieve the proposed level of performance on each performance goal; and

“(3) planned executive actions or identification of the program for termination or reduction in the President's budget.”.

SEC. 5. FEDERAL GOVERNMENT AND AGENCY PRIORITY GOALS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1119 the following:

“§ 1120. Federal Government and agency priority goals

“(a) FEDERAL GOVERNMENT PRIORITY GOALS.—

“(1) The Director of the Office of Management and Budget shall coordinate with agencies to develop priority goals to improve the perform-

ance and management of the Federal Government. Such Federal Government priority goals shall include—

“(A) outcome-oriented goals covering a limited number of crosscutting policy areas; and

“(B) goals for management improvements needed across the Federal Government, including—

“(i) financial management;

“(ii) human capital management;

“(iii) information technology management;

“(iv) procurement and acquisition management; and

“(v) real property management;

“(2) The Federal Government priority goals shall be long-term in nature. At a minimum, the Federal Government priority goals shall be updated or revised every 4 years and made publicly available concurrently with the submission of the budget of the United States Government made in the first full fiscal year following any year in which the term of the President commences under section 101 of title 3. As needed, the Director of the Office of Management and Budget may make adjustments to the Federal Government priority goals to reflect significant changes in the environment in which the Federal Government is operating, with appropriate notification of Congress.

“(3) When developing or making adjustments to Federal Government priority goals, the Director of the Office of Management and Budget shall consult periodically with the Congress, including obtaining majority and minority views from—

“(A) the Committees on Appropriations of the Senate and the House of Representatives;

“(B) the Committees on the Budget of the Senate and the House of Representatives;

“(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(D) the Committee on Oversight and Governmental Reform of the House of Representatives;

“(E) the Committee on Finance of the Senate;

“(F) the Committee on Ways and Means of the House of Representatives; and

“(G) any other committees as determined appropriate;

“(4) The Director of the Office of Management and Budget shall consult with the appropriate committees of Congress at least once every 2 years.

“(5) The Director of the Office of Management and Budget shall make information about the Federal Government priority goals available on the website described under section 1122 of this title.

“(6) The Federal Government performance plan required under section 1115(a) of this title shall be consistent with the Federal Government priority goals.

“(b) AGENCY PRIORITY GOALS.—

“(1) Every 2 years, the head of each agency listed in section 901(b) of this title, or as otherwise determined by the Director of the Office of Management and Budget, shall identify agency priority goals from among the performance goals of the agency. The Director of the Office of Management and Budget shall determine the total number of agency priority goals across the Government, and the number to be developed by each agency. The agency priority goals shall—

“(A) reflect the highest priorities of the agency, as determined by the head of the agency and informed by the Federal Government priority goals provided under subsection (a) and the consultations with Congress and other interested parties required by section 306(d) of title 5;

“(B) have ambitious targets that can be achieved within a 2-year period;

“(C) have a clearly identified agency official, known as a goal leader, who is responsible for the achievement of each agency priority goal;

“(D) have interim quarterly targets for performance indicators if more frequent updates of

actual performance provides data of significant value to the Government, Congress, or program partners at a reasonable level of administrative burden; and

“(E) have clearly defined quarterly milestones.

“(2) If an agency priority goal includes any program activity or information that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and is properly classified pursuant to such Executive order, the head of the agency shall make such information available in the classified appendix provided under section 1115(e).

“(c) The functions and activities of this section shall be considered to be inherently governmental functions. The development of Federal Government and agency priority goals shall be performed only by Federal employees.”.

SEC. 6. QUARTERLY PRIORITY PROGRESS REVIEWS AND USE OF PERFORMANCE INFORMATION.

Chapter 11 of title 31, United States Code, is amended by adding after section 1120 (as added by section 5 of this Act) the following:

“§ 1121. Quarterly priority progress reviews and use of performance information

“(a) USE OF PERFORMANCE INFORMATION TO ACHIEVE FEDERAL GOVERNMENT PRIORITY GOALS.—Not less than quarterly, the Director of the Office of Management and Budget, with the support of the Performance Improvement Council, shall—

“(1) for each Federal Government priority goal required by section 1120(a) of this title, review with the appropriate lead Government official the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

“(2) include in such reviews officials from the agencies, organizations, and program activities that contribute to the accomplishment of each Federal Government priority goal;

“(3) assess whether agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned to each Federal Government priority goal;

“(4) categorize the Federal Government priority goals by risk of not achieving the planned level of performance; and

“(5) for the Federal Government priority goals at greatest risk of not meeting the planned level of performance, identify prospects and strategies for performance improvement, including any needed changes to agencies, organizations, program activities, regulations, tax expenditures, policies or other activities.

“(b) AGENCY USE OF PERFORMANCE INFORMATION TO ACHIEVE AGENCY PRIORITY GOALS.—Not less than quarterly, at each agency required to develop agency priority goals required by section 1120(b) of this title, the head of the agency and Chief Operating Officer, with the support of the agency Performance Improvement Officer, shall—

“(1) for each agency priority goal, review with the appropriate goal leader the progress achieved during the most recent quarter, overall trend data, and the likelihood of meeting the planned level of performance;

“(2) coordinate with relevant personnel within and outside the agency who contribute to the accomplishment of each agency priority goal;

“(3) assess whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned to the agency priority goals;

“(4) categorize agency priority goals by risk of not achieving the planned level of performance; and

“(5) for agency priority goals at greatest risk of not meeting the planned level of performance,

identify prospects and strategies for performance improvement, including any needed changes to agency program activities, regulations, policies, or other activities.”.

SEC. 7. TRANSPARENCY OF FEDERAL GOVERNMENT PROGRAMS, PRIORITY GOALS, AND RESULTS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1121 (as added by section 6 of this Act) the following:

“§ 1122. Transparency of programs, priority goals, and results

“(a) TRANSPARENCY OF AGENCY PROGRAMS.—

“(1) IN GENERAL.—Not later than October 1, 2012, the Office of Management and Budget shall—

“(A) ensure the effective operation of a single website;

“(B) at a minimum, update the website on a quarterly basis; and

“(C) include on the website information about each program identified by the agencies.

“(2) INFORMATION.—Information for each program described under paragraph (1) shall include—

“(A) an identification of how the agency defines the term ‘program’, consistent with guidance provided by the Director of the Office of Management and Budget, including the program activities that are aggregated, disaggregated, or consolidated to be considered a program by the agency;

“(B) a description of the purposes of the program and the contribution of the program to the mission and goals of the agency; and

“(C) an identification of funding for the current fiscal year and previous 2 fiscal years.

“(b) TRANSPARENCY OF AGENCY PRIORITY GOALS AND RESULTS.—The head of each agency required to develop agency priority goals shall make information about each agency priority goal available to the Office of Management and Budget for publication on the website, with the exception of any information covered by section 1120(b)(2) of this title. In addition to an identification of each agency priority goal, the website shall also consolidate information about each agency priority goal, including—

“(1) a description of how the agency incorporated any views and suggestions obtained through congressional consultations about the agency priority goal;

“(2) an identification of key factors external to the agency and beyond its control that could significantly affect the achievement of the agency priority goal;

“(3) a description of how each agency priority goal will be achieved, including—

“(A) the strategies and resources required to meet the priority goal;

“(B) clearly defined milestones;

“(C) the organizations, program activities, regulations, policies, and other activities that contribute to each goal, both within and external to the agency;

“(D) how the agency is working with other agencies to achieve the goal; and

“(E) an identification of the agency official responsible for achieving the priority goal;

“(4) the performance indicators to be used in measuring or assessing progress;

“(5) a description of how the agency ensures the accuracy and reliability of the data used to measure progress towards the priority goal, including an identification of—

“(A) the means used to verify and validate measured values;

“(B) the sources for the data;

“(C) the level of accuracy required for the intended use of the data;

“(D) any limitations to the data at the required level of accuracy; and

“(E) how the agency has compensated for such limitations if needed to reach the required level of accuracy;

“(6) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

“(7) an assessment of whether relevant organizations, program activities, regulations, policies, and other activities are contributing as planned;

“(8) an identification of the agency priority goals at risk of not achieving the planned level of performance; and

“(9) any prospects or strategies for performance improvement.

“(c) TRANSPARENCY OF FEDERAL GOVERNMENT PRIORITY GOALS AND RESULTS.—The Director of the Office of Management and Budget shall also make available on the website—

“(1) a brief description of each of the Federal Government priority goals required by section 1120(a) of this title;

“(2) a description of how the Federal Government priority goals incorporate views and suggestions obtained through congressional consultations;

“(3) the Federal Government performance goals and performance indicators associated with each Federal Government priority goal as required by section 1115(a) of this title;

“(4) an identification of the lead Government official for each Federal Government performance goal;

“(5) the results achieved during the most recent quarter and overall trend data compared to the planned level of performance;

“(6) an identification of the agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities that contribute to each Federal Government priority goal;

“(7) an assessment of whether relevant agencies, organizations, program activities, regulations, tax expenditures, policies, and other activities are contributing as planned;

“(8) an identification of the Federal Government priority goals at risk of not achieving the planned level of performance; and

“(9) any prospects or strategies for performance improvement.

“(d) INFORMATION ON WEBSITE.—The information made available on the website under this section shall be readily accessible and easily found on the Internet by the public and members and committees of Congress. Such information shall also be presented in a searchable, machine-readable format. The Director of the Office of Management and Budget shall issue guidance to ensure that such information is provided in a way that presents a coherent picture of all Federal programs, and the performance of the Federal Government as well as individual agencies.”.

SEC. 8. AGENCY CHIEF OPERATING OFFICERS.

Chapter 11 of title 31, United States Code, is amended by adding after section 1122 (as added by section 7 of this Act) the following:

“§ 1123. Chief Operating Officers

“(a) ESTABLISHMENT.—At each agency, the deputy head of agency, or equivalent, shall be the Chief Operating Officer of the agency.

“(b) FUNCTION.—Each Chief Operating Officer shall be responsible for improving the management and performance of the agency, and shall—

“(1) provide overall organization management to improve agency performance and achieve the mission and goals of the agency through the use of strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

“(2) advise and assist the head of agency in carrying out the requirements of sections 1115 through 1122 of this title and section 306 of title 5;

“(3) oversee agency-specific efforts to improve management functions within the agency and across Government; and

“(4) coordinate and collaborate with relevant personnel within and external to the agency who have a significant role in contributing to and achieving the mission and goals of the agency, such as the Chief Financial Officer, Chief Human Capital Officer, Chief Acquisition Officer/Senior Procurement Executive, Chief Information Officer, and other line of business chiefs at the agency.”.

SEC. 9. AGENCY PERFORMANCE IMPROVEMENT OFFICERS AND THE PERFORMANCE IMPROVEMENT COUNCIL.

Chapter 11 of title 31, United States Code, is amended by adding after section 1123 (as added by section 8 of this Act) the following:

“§ 1124. Performance Improvement Officers and the Performance Improvement Council

“(a) PERFORMANCE IMPROVEMENT OFFICERS.—

“(1) ESTABLISHMENT.—At each agency, the head of the agency, in consultation with the agency Chief Operating Officer, shall designate a senior executive of the agency as the agency Performance Improvement Officer.

“(2) FUNCTION.—Each Performance Improvement Officer shall report directly to the Chief Operating Officer. Subject to the direction of the Chief Operating Officer, each Performance Improvement Officer shall—

“(A) advise and assist the head of the agency and the Chief Operating Officer to ensure that the mission and goals of the agency are achieved through strategic and performance planning, measurement, analysis, regular assessment of progress, and use of performance information to improve the results achieved;

“(B) advise the head of the agency and the Chief Operating Officer on the selection of agency goals, including opportunities to collaborate with other agencies on common goals;

“(C) assist the head of the agency and the Chief Operating Officer in overseeing the implementation of the agency strategic planning, performance planning, and reporting requirements provided under sections 1115 through 1122 of this title and sections 306 of title 5, including the contributions of the agency to the Federal Government priority goals;

“(D) support the head of agency and the Chief Operating Officer in the conduct of regular reviews of agency performance, including at least quarterly reviews of progress achieved toward agency priority goals, if applicable;

“(E) assist the head of the agency and the Chief Operating Officer in the development and use within the agency of performance measures in personnel performance appraisals, and, as appropriate, other agency personnel and planning processes and assessments; and

“(F) ensure that agency progress toward the achievement of all goals is communicated to leaders, managers, and employees in the agency and Congress, and made available on a public website of the agency.

“(b) PERFORMANCE IMPROVEMENT COUNCIL.—

“(1) ESTABLISHMENT.—There is established a Performance Improvement Council, consisting of—

“(A) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council;

“(B) the Performance Improvement Officer from each agency defined in section 901(b) of this title;

“(C) other Performance Improvement Officers as determined appropriate by the chairperson; and

“(D) other individuals as determined appropriate by the chairperson.

“(2) FUNCTION.—The Performance Improvement Council shall—

“(A) be convened by the chairperson or the designee of the chairperson, who shall preside at the meetings of the Performance Improvement Council, determine its agenda, direct its work,

and establish and direct subgroups of the Performance Improvement Council, as appropriate, to deal with particular subject matters;

“(B) assist the Director of the Office of Management and Budget to improve the performance of the Federal Government and achieve the Federal Government priority goals;

“(C) assist the Director of the Office of Management and Budget in implementing the planning, reporting, and use of performance information requirements related to the Federal Government priority goals provided under sections 1115, 1120, 1121, and 1122 of this title;

“(D) work to resolve specific Governmentwide or crosscutting performance issues, as necessary;

“(E) facilitate the exchange among agencies of practices that have led to performance improvements within specific programs, agencies, or across agencies;

“(F) coordinate with other interagency management councils;

“(G) seek advice and information as appropriate from nonmember agencies, particularly smaller agencies;

“(H) consider the performance improvement experiences of corporations, nonprofit organizations, foreign, State, and local governments, Government employees, public sector unions, and customers of Government services;

“(I) receive such assistance, information and advice from agencies as the Council may request, which agencies shall provide to the extent permitted by law; and

“(J) develop and submit to the Director of the Office of Management and Budget, or when appropriate to the President through the Director of the Office of Management and Budget, at times and in such formats as the chairperson may specify, recommendations to streamline and improve performance management policies and requirements.

“(3) SUPPORT.—

“(A) IN GENERAL.—The Administrator of General Services shall provide administrative and other support for the Council to implement this section.

“(B) PERSONNEL.—The heads of agencies with Performance Improvement Officers serving on the Council shall, as appropriate and to the extent permitted by law, provide at the request of the chairperson of the Performance Improvement Council up to 2 personnel authorizations to serve at the direction of the chairperson.”.

SEC. 10. FORMAT OF PERFORMANCE PLANS AND REPORTS.

(a) **SEARCHABLE, MACHINE-READABLE PLANS AND REPORTS.**—For fiscal year 2012 and each fiscal year thereafter, each agency required to produce strategic plans, performance plans, and performance updates in accordance with the amendments made by this Act shall—

(1) not incur expenses for the printing of strategic plans, performance plans, and performance reports for release external to the agency, except when providing such documents to the Congress;

(2) produce such plans and reports in searchable, machine-readable formats; and

(3) make such plans and reports available on the website described under section 1122 of title 31, United States Code.

(b) **WEB-BASED PERFORMANCE PLANNING AND REPORTING.**—

(1) **IN GENERAL.**—Not later than June 1, 2012, the Director of the Office of Management and Budget shall issue guidance to agencies to provide concise and timely performance information for publication on the website described under section 1122 of title 31, United States Code, including, at a minimum, all requirements of sections 1115 and 1116 of title 31, United States Code, except for section 1115(e).

(2) **HIGH-PRIORITY GOALS.**—For agencies required to develop agency priority goals under

section 1120(b) of title 31, United States Code, the performance information required under this section shall be merged with the existing information required under section 1122 of title 31, United States Code.

(3) **CONSIDERATIONS.**—In developing guidance under this subsection, the Director of the Office of Management and Budget shall take into consideration the experiences of agencies in making consolidated performance planning and reporting information available on the website as required under section 1122 of title 31, United States Code.

SEC. 11. REDUCING DUPLICATIVE AND OUTDATED AGENCY REPORTING.

(a) **BUDGET CONTENTS.**—Section 1105(a) of title 31, United States Code, is amended—

(1) by redesignating second paragraph (33) as paragraph (35); and

(2) by adding at the end the following:

“(37) the list of plans and reports, as provided for under section 1125, that agencies identified for elimination or consolidation because the plans and reports are determined outdated or duplicative of other required plans and reports.”.

(b) **ELIMINATION OF UNNECESSARY AGENCY REPORTING.**—Chapter 11 of title 31, United States Code, is further amended by adding after section 1124 (as added by section 9 of this Act) the following:

“§ 1125. Elimination of unnecessary agency reporting

“(a) **AGENCY IDENTIFICATION OF UNNECESSARY REPORTS.**—Annually, based on guidance provided by the Director of the Office of Management and Budget, the Chief Operating Officer at each agency shall—

“(1) compile a list that identifies all plans and reports the agency produces for Congress, in accordance with statutory requirements or as directed in congressional reports;

“(2) analyze the list compiled under paragraph (1), identify which plans and reports are outdated or duplicative of other required plans and reports, and refine the list to include only the plans and reports identified to be outdated or duplicative;

“(3) consult with the congressional committees that receive the plans and reports identified under paragraph (2) to determine whether those plans and reports are no longer useful to the committees and could be eliminated or consolidated with other plans and reports; and

“(4) provide a total count of plans and reports compiled under paragraph (1) and the list of outdated and duplicative reports identified under paragraph (2) to the Director of the Office of Management and Budget.

“(b) **PLANS AND REPORTS.**—

“(1) **FIRST YEAR.**—During the first year of implementation of this section, the list of plans and reports identified by each agency as outdated or duplicative shall be not less than 10 percent of all plans and reports identified under subsection (a)(1).

“(2) **SUBSEQUENT YEARS.**—In each year following the first year described under paragraph (1), the Director of the Office of Management and Budget shall determine the minimum percent of plans and reports to be identified as outdated or duplicative on each list of plans and reports.

“(c) **REQUEST FOR ELIMINATION OF UNNECESSARY REPORTS.**—In addition to including the list of plans and reports determined to be outdated or duplicative by each agency in the budget of the United States Government, as provided by section 1105(a)(37), the Director of the Office of Management and Budget may concurrently submit to Congress legislation to eliminate or consolidate such plans and reports.”.

SEC. 12. PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.

(a) **PERFORMANCE MANAGEMENT SKILLS AND COMPETENCIES.**—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Personnel Management, in consultation with the Performance Improvement Council, shall identify the key skills and competencies needed by Federal Government personnel for developing goals, evaluating programs, and analyzing and using performance information for the purpose of improving Government efficiency and effectiveness.

(b) **POSITION CLASSIFICATIONS.**—Not later than 2 years after the date of enactment of this Act, based on the identifications under subsection (a), the Director of the Office of Personnel Management shall incorporate, as appropriate, such key skills and competencies into relevant position classifications.

(c) **INCORPORATION INTO EXISTING AGENCY TRAINING.**—Not later than 2 years after the enactment of this Act, the Director of the Office of Personnel Management shall work with each agency, as defined under section 306(f) of title 5, United States Code, to incorporate the key skills identified under subsection (a) into training for relevant employees at each agency.

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The table of contents for chapter 3 of title 5, United States Code, is amended by striking the item relating to section 306 and inserting the following:

“306. Agency strategic plans.”.

(b) The table of contents for chapter 11 of title 31, United States Code, is amended by striking the items relating to section 1115 and 1116 and inserting the following:

“1115. Federal Government and agency performance plans.

“1116. Agency performance reporting.”.

(c) The table of contents for chapter 11 of title 31, United States Code, is amended by adding at the end the following:

“1120. Federal Government and agency priority goals.

“1121. Quarterly priority progress reviews and use of performance information.

“1122. Transparency of programs, priority goals, and results.

“1123. Chief Operating Officers.

“1124. Performance Improvement Officers and the Performance Improvement Council.

“1125. Elimination of unnecessary agency reporting.”.

SEC. 14. IMPLEMENTATION OF THIS ACT.

(a) **INTERIM PLANNING AND REPORTING.**—

(1) **IN GENERAL.**—The Director of the Office of Management and Budget shall coordinate with agencies to develop interim Federal Government priority goals and submit interim Federal Government performance plans consistent with the requirements of this Act beginning with the submission of the fiscal year 2013 Budget of the United States Government.

(2) **REQUIREMENTS.**—Each agency shall—

(A) not later than February 6, 2012, make adjustments to its strategic plan to make the plan consistent with the requirements of this Act;

(B) prepare and submit performance plans consistent with the requirements of this Act, including the identification of agency priority goals, beginning with the performance plan for fiscal year 2013; and

(C) make performance reporting updates consistent with the requirements of this Act beginning in fiscal year 2012.

(3) **QUARTERLY REVIEWS.**—The quarterly priority progress reviews required under this Act shall begin—

(A) with the first full quarter beginning on or after the date of enactment of this Act for agencies based on the agency priority goals contained in the Analytical Perspectives volume of the Fiscal Year 2011 Budget of the United States Government; and

(B) with the quarter ending June 30, 2012 for the interim Federal Government priority goals.

(b) GUIDANCE.—The Director of the Office of Management and Budget shall prepare guidance for agencies in carrying out the interim planning and reporting activities required under subsection (a), in addition to other guidance as required for implementation of this Act.

SEC. 15. CONGRESSIONAL OVERSIGHT AND LEGISLATION.

(a) IN GENERAL.—Nothing in this Act shall be construed as limiting the ability of Congress to establish, amend, suspend, or annul a goal of the Federal Government or an agency.

(b) GAO REVIEWS.—

(1) INTERIM PLANNING AND REPORTING EVALUATION.—Not later than June 30, 2013, the Comptroller General shall submit a report to Congress that includes—

(A) an evaluation of the implementation of the interim planning and reporting activities conducted under section 14 of this Act; and

(B) any recommendations for improving implementation of this Act as determined appropriate.

(2) IMPLEMENTATION EVALUATIONS.—

(A) IN GENERAL.—The Comptroller General shall evaluate the implementation of this Act subsequent to the interim planning and reporting activities evaluated in the report submitted to Congress under paragraph (1).

(B) AGENCY IMPLEMENTATION.—

(i) EVALUATIONS.—The Comptroller General shall evaluate how implementation of this Act is affecting performance management at the agencies described in section 901(b) of title 31, United States Code, including whether performance management is being used by those agencies to improve the efficiency and effectiveness of agency programs.

(ii) REPORTS.—The Comptroller General shall submit to Congress—

(I) an initial report on the evaluation under clause (i), not later than September 30, 2015; and

(II) a subsequent report on the evaluation under clause (i), not later than September 30, 2017.

(C) FEDERAL GOVERNMENT PLANNING AND REPORTING IMPLEMENTATION.—

(i) EVALUATIONS.—The Comptroller General shall evaluate the implementation of the Federal Government priority goals, Federal Government performance plans and related reporting required by this Act.

(ii) REPORTS.—The Comptroller General shall submit to Congress—

(I) an initial report on the evaluation under clause (i), not later than September 30, 2015; and

(II) subsequent reports on the evaluation under clause (i), not later than September 30, 2017 and every 4 years thereafter.

(D) RECOMMENDATIONS.—The Comptroller General shall include in the reports required by subparagraphs (B) and (C) any recommendations for improving implementation of this Act and for streamlining the planning and reporting requirements of the Government Performance and Results Act of 1993.

MOTION TO CONCUR

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. CUELLAR moves that the House concur in the Senate amendment.

The SPEAKER pro tempore. Pursuant to House Resolution 1781, the motion shall be debatable for 1 hour equally divided and controlled by the

chair and ranking minority member of the Committee on Oversight and Government Reform.

The gentleman from Texas (Mr. CUELLAR) and the gentleman from California (Mr. ISSA) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. CUELLAR. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CUELLAR. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 2142, the Government Efficiency, Effectiveness, and Performance Improvement Act, will do just what the title of the bill says. This bill will make the Federal Government more effective, more efficient, and improve the performance of Federal agencies.

This bill is a sweeping move to increase transparency and accountability by requiring Federal agencies to establish performance goals that can be measured and reported to Congress and to taxpayers. No one can afford to waste money, especially not the government and especially not now. It's time that we put a new system in place to review the results of each Federal program and evaluate its effectiveness. The message is simple: Better information yields better decisions. This legislation will help Congress invest in what works, fix what doesn't, and eliminate wasteful overlap. This will make our Federal Government more results-oriented.

This is a commonsense bill that received wide bipartisan support. The Committee on Oversight and Government Reform approved H.R. 2142 by voice vote on May 20, 2010. The House passed the bill by voice vote on June 16, 2010, and the Senate amended the bill and passed it by unanimous consent on December 16, 2010.

H.R. 2142 modernizes the Government Performance and Results Act of 1993. We have learned a lot in the past 17 years. It is time to apply these lessons so that agencies and Congress have the information needed to make good decisions. H.R. 2142 improves the 1993 law by requiring agencies to identify ambitious goals and to perform frequent performance reviews. With this bill, we can hold agencies more accountable by requiring them to consider input from Congress and members of the public when developing program goals. The public can now have input for the first time. Just imagine that. The general public will have a say-so in developing Federal agency goals.

Some changes were made to the bill during consideration by the Senate, and I support those changes, which I believe will enhance and strengthen the bill. Under the Senate amendment, OMB is required to develop a Federal Government performance plan that addresses program efforts across agencies. OMB is also required to work with agencies to develop Federal program priority goals that cut across different agencies and measure progress toward meeting those goals. This will help agencies avoid duplicating efforts and become more efficient. Duplication and overlap at a time when so many Americans are struggling to make ends meet isn't just a waste of resources; it's shameful. The Senate amendment also establishes the position of chief operating officer in the 24 biggest agencies.

Key provisions for the bill approved in the House are still intact, such as the establishment of performance improvement officers at each agency and the establishment of the performance improvement council. These provisions codify an Executive order issued by President George W. Bush.

Also, as in the House-passed bill, OMB and agencies are required to improve the transparency of performance reviews by making the results available online.

Senator COBURN added an amendment making changes to the bill that requires for increasingly stringent requirements for agencies that do not meet performance goals, which can ultimately end up, for a nonperforming agency or program, with budget reduction or even elimination.

The Congressional Budget Office estimates that implementation of the bill, as amended by the Senate, will cost about \$15 million a year. This bill does not have any mandatory spending requirements, and it does not violate PAYGO. Also, CBO, as you know, does not estimate the cost savings that would have been generated by this bill. Agencies will save money by identifying wasteful practices. Consolidating and eliminating unnecessary reporting will also save taxpayers' dollars.

H.R. 2142 will make the government more cost effective because it would require agencies to evaluate their performance. This will allow agencies to identify waste and inefficiencies and change what isn't working. This is what successful corporations in the private sector do regularly, and this is what the government should do also.

President Bush's top performance management official wrote in a letter supporting this legislation in a bipartisan way, "I led performance improvement efforts during my tenure in the George W. Bush administration. Additionally, while a Republican staff member in the legislative branch, I oversaw agency efforts to measure and

improve their performance. The provisions of this bill would have greatly enhanced these efforts had they been in place at the time."

This is a timely, commonsense bill, and I urge all Members to join me in a bipartisan way in supporting this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. ISSA. Madam Speaker, I would ask the majority if they would provide us with that letter so we could review when it was written and be more educated.

Mr. CUELLAR. If the gentleman would yield, I would be happy to do that.

Mr. ISSA. I thank you.

Madam Speaker, Feliz Navidad, Merry Christmas, but today is Ground Hog Day. I know it is because we're getting the same bill we got last week. It looks the same. Matter of fact, it's so much the same that I recognized it from an earlier document, the President's budget. In his package on performance and management, the President had already determined to do pretty much what we're putting here.

Matter of fact, we're codifying in statute, plus throwing in \$75 million of additional cost, what the President already was doing. We're not giving him anything that he doesn't already have authority for and is doing. Really what we're doing is simply allowing the President to say it's okay for me to spend \$75 million more on what I already wanted to do; it's okay because I'm under this mandate of Congress. It's okay for this Congress to go sine die really talking about things they were accomplishing when this doesn't accomplish anything.

I will be voting against this because I don't want to spend \$75 million doing what the President already put in his own document.

Madam Speaker, I would ask that this excerpt from the President's performance and management review to be placed in the RECORD.

7. DELIVERING HIGH-PERFORMANCE GOVERNMENT

For too long, Washington has not responsibly managed the tax dollars entrusted it by the American people. Decision-makers opened their doors and ears to those able to afford lobbyists while it became harder and harder for everyone else to learn what Government was doing, what it was accomplishing, and for whom. Programs and practices were allowed to persist out of inertia and not because they were delivering the results expected of them, while others that seemed to work were rarely assessed to confirm their impact and find ways to enhance their value. Over the last two decades, as the private sector was utilizing new management techniques and information technologies to boost productivity, cut costs, and deliver previously unheard of levels of customer service, the public sector lagged conspicuously behind.

The American people deserve better. They deserve a Federal Government that respects

their tax dollars, and uses them effectively and efficiently. They deserve a Federal Government that is transparent, fair, and responsive. And they deserve a Government that is constantly looking to streamline what works and to eliminate what does not. The Administration is committed to revolutionizing how the Federal Government runs on behalf of the American people. The President appointed the Nation's first Chief Performance Officer, and the Administration has taken steps to bring more transparency to, for instance, how Federal information technology (IT) dollars are spent to improve customer service for those using citizenship services. At the same time, the Administration has combed the Budget to find programs that are duplicative, outdated, or just not working.

To improve the performance of the Federal Government in the coming fiscal year and in years to come, the Administration will pursue three mutually reinforcing performance management strategies:

1. Use Performance Information to Lead, Learn, and Improve Outcomes. Agency leaders set a few high-priority goals and use constructive data-based reviews to keep their organizations on track to deliver on these objectives.

2. Communicate Performance Coherently and Concisely for Better Results and Transparency. The Federal Government will candidly communicate to the public the priorities, problems, and progress of Government programs, explaining the reasons behind past trends, the impact of past actions, and future plans. In addition, agencies will strengthen their capacity to learn from experience and experiments.

3. Strengthen Problem-Solving Networks. The Federal Government will tap into and encourage practitioner communities, inside and outside Government, to work together to improve outcomes and performance management practices.

USE PERFORMANCE INFORMATION TO LEAD, LEARN, AND IMPROVE OUTCOMES

Government operates more effectively when it focuses on outcomes, when leaders set clear and measurable goals, and when agencies use measurement to reinforce priorities, motivate action, and illuminate a path to improvement. This outcome-focused performance management approach has proved a powerful way to achieve large performance gains in other countries, several States, an increasing number of local governments, and a growing number of Federal programs. For instance, the State of Washington pushed down the re-victimization rate of children harmed in their homes from 13.3 percent to 6.5 percent over the last seven years by monitoring how changes in agency action affected children previously harmed and by adjusting policies accordingly to make improvements for the children.

New York City and, subsequently, the City of Los Angeles saw crime rates plummet after each adopted CompStat meetings. These are frequently scheduled, goal-focused, data-driven meetings at which precinct captains are expected to discuss statistics about outcomes (e.g., crime), cost drivers (e.g., overtime), unwanted side effects (e.g., police abuse complaints), patterns of problems in the precinct, probable causes, and future actions planned. Similarly, the U.S. Coast Guard's Marine and Marine Environmental Protection programs work to reduce maritime deaths and injuries, large oil spills, and chemical discharge incidents by regularly analyzing their data to identify contributory

causes and by testing different prevention options to identify and then implement those that work best.

Outcome-focused performance management can transform the way government works, but its success is by no means assured. The ultimate test of an effective performance management system is whether it is used, not the number of goals and measures produced. Federal performance management efforts have not fared well on this test. The Government Performance and Results Act of 1993 (GPRA) and the Performance Assessment Rating Tool (PART) reviews increased the production of measurements in many agencies, resulting in the availability of better measures than previously existed; however, these initial successes have not lead to increased use. With a few exceptions, Congress does not use the performance goals and measures agencies produce to conduct oversight, agencies do not use them to evaluate effectiveness or drive improvements, and they have not provided meaningful information for the public.

Studies of past Federal performance management efforts have identified several problematic practices. For example, senior leaders at Federal agencies have historically focused far more attention on new policy development than on managing to improve outcomes. Mechanisms used to motivate change created serious unwanted side effects or linked to the wrong objectives. Central office reviews mandated measurements inappropriate to the situation, and performance reports seldom answered the questions of key audiences. Moreover, the annual reporting requirement of GPRA and the five-year program PART review cycle did not provide agencies the fast feedback needed to assess if delivery efforts were on track or to diagnose why they were or were not. Neither GPRA nor PART precluded more frequent measurement to inform agency action, but only a few agencies opted to supplement their annual measurement cycle with the kinds of data and analysis that fueled the private sector performance revolution.

The Administration is initiating several new performance management actions and is tasking a new generation of performance leaders to implement successful performance management practices.

To encourage senior leaders to deliver results against the most important priorities, the Administration launched the High-Priority Performance Goal initiative in June 2009, asking agency heads to identify and commit to a limited number of priority goals, generally three to eight, with high value to the public. The goals must have ambitious, but realistic, targets to achieve within 18 to 24 months without need for new resources or legislation, and well-defined, outcomes-based measures of progress. These goals are included in this Budget. Some notable examples are:

- Assist 3 million homeowners who are at risk of losing their homes due to foreclosure (Secretaries Donovan and Geithner);

- Reduce the population of homeless veterans to 59,000 in June, 2012 (Secretaries Donovan and Shinseki); and

- Double renewable energy generating capacity (excluding conventional hydropower) by 2012 (Secretary Chu).

In the coming year, the Administration will ask agency leaders to carry out a similar priority-setting exercise with top managers of their bureaus to set bureau-level goals and align those goals, as appropriate, with agency-wide priority goals. These efforts are not distinct from the goal-setting

and measurement expectations set forth in the GPRA, but rather reflect an intention to translate GPRA from a reporting exercise to a performance-improving practice across the Federal Government. By making agencies' top leaders responsible for specific goals that they themselves have named as most important, the Administration is dramatically improving accountability and the chances that Government will deliver results on what matters most.

Agency leaders will put in place rigorous, constructive quarterly feedback and review sessions to help agencies reach their targets, building on lessons from successful public sector performance management models in other governments and in some Federal agencies. In addition, the Office of Management and Budget (OMB) will initiate quarterly performance updates to help senior Federal Government leaders stay focused on driving to results.

OMB will support the agencies with tools and assistance to help them succeed. In addition, OMB will help coordinate inter-agency efforts in select situations where collaboration is critical to success.

COMMUNICATE PERFORMANCE COHERENTLY AND CONCISELY FOR BETTER RESULTS AND TRANSPARENCY

Transparent, coherent performance information contributes to more effective, efficient, fair, and responsive government. Transparency not only promotes public understanding about the actions that government is working to accomplish, but also supports learning across government agencies, stimulates idea flow, enlists assistance, and motivates performance gain. In addition, transparency can strengthen public confidence in government, especially when government does more than simply herald its successes but also provides candid assessments of problems encountered, their likely causes, and actions being taken to address problems.

The Administration is initiating several new performance communication actions. First, the Administration will identify and eliminate performance measurements and documents that are not useful. Second, what remains will be used. Goals contained in plans and budgets will communicate concisely and coherently what government is trying to accomplish. Agency, cross-agency, and program measures, including those developed under GPRA and PART that proved useful to agencies, the public, and OMB, will candidly convey how well the Government is accomplishing the goals. Combined performance plans and reports will explain why goals were chosen, the size and characteristics of problems Government is tackling, factors affecting outcomes that Government hopes to influence, lessons learned from experience, and future actions planned.

Going forward, agencies will take greater ownership in communicating performance plans and results to key audiences to inform their decisions. Making performance data useful to all audiences—congressional, public, and agency leaders—improves both program performance and reporting accuracy.

To that end, the Administration will redesign public access to Federal performance information.

The Administration will create a Federal performance portal that provides a clear, concise picture of Federal goals and measures by theme, by agency, by program, and by program type. It will be designed to increase transparency and coherence for the public, motivate improvements, support collaboration, and enhance the ability of the

Federal Government and its service delivery partners to learn from others' experiences and from research experiments. The performance portal will also provide easy links to mission-support management dashboards, such as the IT dashboard (<http://it.usaspending.gov/>) launched in the summer of 2009, and similar dashboards planned for other common Government functions including procurement, improper payments, and hiring.

While performance information is critical to improving Government effectiveness and efficiency, it can answer only so many questions. More sophisticated evaluation methods are required to answer fundamental questions about the social, economic, or environmental impact of programs and practices, isolating the effect of Government action from other possible influencing factors. OMB recently launched an Evaluation Initiative to promote rigorous impact evaluations, build agency evaluation capacity, and improve transparency of evaluation findings. These evaluations are a powerful complement to agency performance improvement efforts and often benefit from the availability of performance data. OMB will make information about all Federal evaluations focused on the impacts of programs and program practices available online through the performance portal. The Evaluation Initiative is explained in more detail in Chapter 8, "Program Evaluation," in this volume.

STRENGTHEN PROBLEM-SOLVING NETWORKS

The third strategy the Administration will pursue to improve performance management involves the extensive use of existing and new practitioner networks. Federal agencies do not work in isolation to improve outcomes. Every Federal agency and employee depends on and is supported by others—other Federal offices, other levels of government, for-profit and not-for-profit organizations, and individuals with expertise or a passion about specific problems. New information technologies are transforming our ability to tap vast reservoirs of capacity beyond the office. At the same time, low-technology networks such as professional associations and communities of practice are also able to solve problems, spur innovation, and diffuse knowledge. The Administration will create cross-agency teams to tackle shared problems and reach out to existing networks, both inside and outside Government, to find and develop smarter performance management methods and to assist others in their application. It will tap their intelligence, ingenuity, and commitment, as well as their dissemination and delivery capacity.

The Performance Improvement Council (PIC), made up of Performance Improvement Officers from every Federal agency, will function as the hub of the performance management network. OMB will work with the PIC to create and advance a new set of Federal performance management principles, refine a Government-wide performance management implementation plan, and identify and tackle specific problems as they arise. The PIC will also serve as a home for Federal communities of practice, some new and some old. Some communities of practice will be organized by problems, some by program type such as regulatory programs, and some by methods such as quality management. These communities will develop tools and provide expert advice and assistance to their Federal colleagues. In addition, the PIC will address the governance challenge of advancing progress on high-priority problems that require action by multiple agencies. The Administration will also turn to existing exter-

nal networks—including State and local government associations, schools of public policy and management, think tanks, and professional associations—to enlist their assistance on specific problems and in spreading effective performance management practices.

Mr. CUELLAR did a good job last week in the first of these two appearances on the same bill. He said it was something he really wanted to pass. He said it was his bill. I don't think the fact that it is amended would make it less his bill, but it isn't his bill really. It's written by the administration, codified by the Senate, and sent over to us in the 11th hour when, in fact, it could, in the next Congress, actually go through a review process to see if we could actually mandate something more than what the President's doing, if we should mandate what the President is already doing, or, quite frankly, if we should tie the hands of the next President by simply codifying the elective actions of this President.

□ 1510

Now, there was a letter that came purportedly, and I am sure it did, from somebody in the Bush administration. And I will be interested to see when it was written because this President has systematically chosen to make changes in how the last President did performance. I am not going to say that President Bush was the best or that what President Obama is doing is different; but there are differences, and these differences are the elective right of the President to try to do these.

So with all due respect, Madam Speaker, I will still be voting "no" on this second Groundhog Day on this bill. I will still believe that if we had had a chance in the next Congress we could have done better and would have done better.

With that, I reserve the balance of my time.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has agreed to the House amendment to the Senate amendment with an amendment:

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

GPRA MODERNIZATION ACT OF 2010—Continued

The SPEAKER pro tempore. The gentleman from Texas is recognized.

Mr. CUELLAR. Madam Speaker, again, I want to thank the ranking member. The letter was written by Robert Shea who worked with President Bush. It was written in June of this year. Mr. Shea still supports the

bill as it has been passed by the Senate.

Again, when the bill first passed here, this was a bill that did get some changes. I believe the major change that the gentleman is referring to is a provision that he authored that would have required agencies to evaluate performance goals twice a year. Those provisions added significantly to the cost of the bill. And when this bill first passed the House, it had a \$150 million cost. By taking those provisions, it was reduced down to \$75 million, which is \$15 million a year.

This is a bipartisan bill that updates the 1993 legislation. The original cosponsors include myself, several other Members, including Congressman PLATTS and Congressman McCAUL. And in the Senate, Senate supporters that we have are VOINOVICH; COLLINS; WARNER, who took the lead on this, AKAKA, Senator LIEBERMAN, and basically Senator COBURN who had an amendment. So this is a bipartisan bill. It will not add a single penny to the deficit. In fact, it will save taxpayers' dollars. I urge support of it.

I reserve the balance of my time.

Mr. ISSA. Madam Speaker, I ask unanimous consent that we now suspend these and go to the bill that has been received from the Senate. Obviously, the American people are desperately waiting to see us fund a government that is going without money as of midnight tonight and respectfully say that it is appropriate to take up the business of the funding of this government at this time.

The SPEAKER pro tempore. The Chair would entertain such a request only if the gentleman from Texas yields for that purpose.

Mr. ISSA. Will the gentleman from Texas yield for the important work of the American people?

Mr. CUELLAR. I certainly yield.

Mr. ISSA. I hereby make the motion that we do suspend the proceedings and go to—

Mr. CUELLAR. But I do object.

The SPEAKER pro tempore. The gentleman will suspend.

The Chair did not hear the response of the gentleman from Texas.

Mr. CUELLAR. The gentleman objects.

The SPEAKER pro tempore. Objection is heard.

The Chair recognizes the gentleman from California to reclaim his time.

Mr. ISSA. Madam Speaker, point of order.

The SPEAKER pro tempore. The gentleman will state his point his order.

Mr. ISSA. I believe that the gentleman from Texas yielded time upon your request that you would only consider my request to move to the business of appropriating for this current fiscal year. That motion is still there. He yielded. I would like that motion to be heard that we suspend this and

move to the business of appropriations for this fiscal year.

The SPEAKER pro tempore. The Chair heard objection to the unanimous consent request from the gentleman from Texas.

Mr. ISSA. I hereby move—not unanimous consent—that we do so. I make a motion that we suspend and that we move to the business of the American people's funding for this fiscal year.

The SPEAKER pro tempore. The Chair advises the gentleman that such a motion is not admissible.

The Chair continues to recognizes the gentleman from California for purposes of debate on the pending motion to concur.

Mr. ISSA. I thank the Speaker.

Madam Speaker, when Robert Johnson Shea recommended this bill before us, it wasn't this bill before us. This is a completely different bill, dramatically changed. So I believe that when people who will come and vote on this consider this, they should discount completely a recommendation from a Bush administration official that speaks to a bill that Mr. CUELLAR authored which bears very little resemblance to this one.

As I said earlier, this bill today simply puts into statute what the President is already on an elective basis doing, ties the hands of a future President without providing any new authority for the President to do a better job.

With that, I reserve the balance of my time.

Mr. CUELLAR. Madam Speaker, Mr. Shea, a Bush appointee, supports this bill even as it has passed the Senate. Again, this is a bipartisan bill supported by both Democrats and Republicans. I ask support of this bill.

I reserve the balance of my time.

Mr. ISSA. Madam Speaker, I think all was said that needed to be said in the 15 minutes a side last week. The only thing that can yet be said in my closing is we are better than this, Madam Speaker. We should not accept something on a closed rule without any possibility of amendment when in fact the Senate took what we had passed, completely amended it, and sent it back completely different.

Madam Speaker, I know that process is not something that is often talked about on this floor as though it is important. But, Madam Speaker, in the next Congress it is clear that process is important, that debate and deliberation is important, that we not simply take what the Senate takes, allow them to change it completely, send it back to us bearing no resemblance, and not have a conference.

If this bill is so important, as Mr. CUELLAR says, that it be passed in a lame duck session, then Madam Speaker, isn't it so important that it should have gone through a conference process or at least that the Senate or House

leaders would have come to the committee of jurisdiction and at least asked us what needed to be changed in order to get our support? They didn't have that support.

Like any bill, you will pick off a few Texans for a Texan's bill, or you will pick off a few Members, that doesn't make it bipartisan. It certainly wasn't bicameral when, in fact, Mr. CUELLAR's bill was rewritten in the Senate; written by the White House, as far as I can tell, to look more like his budget process procedures that he printed back in February; sent back to us so that we could make in statute what the President chooses to do.

Madam Speaker, we are better than that. In the next Congress, I certainly believe that if the House and the Senate have differences of opinions, it is appropriate that it be worked out through a process of conference and not simply take what the Senate sends in a closed rule without anything but meaningless debate. And, Madam Speaker, debate without the opportunity to change one line is simply talking about a foregone conclusion that last Friday the votes were counted.

With that, Madam Speaker, I yield back the balance of my time hopefully for this lame duck session.

Mr. CUELLAR. Madam Speaker, I thank the gentleman for being brief. I appreciate his consideration.

I wrote my dissertation on performance-based budgets in a comparative study of 50 States. I added about 99 percent of all the performance-based budgeting in Texas right before President Bush was the Governor there.

I know this legislation, and this legislation is probably the largest change we have had since 1993. Members, this is a bipartisan bill supported by both Democrats and Republicans in the House and the Senate. So, Madam Speaker, again, I urge all Members to support H.R. 2142.

Mr. PLATTS. Madam Speaker, I rise in support of this Senate-House compromise legislation, which takes important steps to eliminate Federal Government waste. For 4 years I served as the Chairman of the Oversight and Government Reform Subcommittee on Government Management, Finance, and Accountability, where I focused my efforts on making the Federal Government more accountable. My Subcommittee held numerous hearings in which, all too often, accounting errors such as overpayment for services or redundant payments were discovered or where programs were not effectively fulfilling their intended mission.

At a time when the national debt is nearly \$14 trillion, it has never been more apparent that the Federal Government must spend taxpayer dollars wisely. Federal programs must be monitored to ensure that our investments are presenting clear results and those programs that are not performing effectively must be reformed or eliminated. One of the reasons that we find ourselves in such substantial debt

today is that Federal programs never end. Both high-performing and low-performing programs continue on, year after year, often with increasing funds. The Federal Government needs a clear evaluation process for each program, the results of which would be used to provide legislators with the information they need to determine which programs should continue on and which should not.

The legislation we are considering today, similar to legislation that I introduced in the 108th Congress, H.R. 3826, and the 109th Congress, H.R. 185, would require that all Federal agencies work with the Office of Management and Budget, OMB, to clearly identify outcome-based goals and then submit an action plan to achieve these goals. Agencies would be required to conduct quarterly performance assessments outlining how effectively they are working to meet the stated goals, and all information would be made available to Congress and the American people.

In addition, the Government Accountability Office, GAO, would be tasked with performing frequent and detailed evaluations outlining how effective the agency has been in achieving their stated goals. This impartial review of Federal programs will assure that agencies are being good stewards of our Federal taxpayer dollars.

I commend Representative CUELLAR for introducing this bill to ensure that Federal resources are spent efficiently and waste is minimized. Now more than ever, while American families are cutting extraneous expenses from their budgets, the Federal Government must do the same. I hope that all of my colleagues will join with me in supporting this important effort.

Mr. TOWNS. Madam Speaker, I rise in support of H.R. 2142, the Government Efficiency, Effectiveness, and Performance Improvement Act. I applaud Representative CUELLAR for his Herculean efforts in getting this bill through the process.

This is a common sense bill that will improve the performance of the Federal Government. This bill was approved by the Committee on Oversight and Government Reform by voice vote on May 20, 2010. The House passed the bill by voice vote on June 16, 2010. The Senate amended the bill and passed it by unanimous consent on December 16, 2010.

H.R. 2142 modernizes and strengthens the Government Performance and Results Act of 1993. This bill requires the Office of Management and Budget to develop governmentwide priority goals that cut across agency programs. This will help agencies work together to reduce duplication and improve efficiencies.

This bill requires each agency to identify performance goals and to perform frequent performance reviews. This will provide agencies and Congress with the information needed to make responsible decisions regarding priorities and resources. The Senate amendments to the bill will improve the transparency of the performance management process by establishing a single website that will allow Congress and members of the public to access the results of performance assessments.

This legislation provides greater accountability by requiring agencies to consider input

from Congress and members of the public when developing priorities and by requiring the Government Accountability Office to report to Congress on agency implementation of this legislation.

The Senate amendments retain important provisions from the House-passed bill establishing performance improvement officers at each agency and establishing a performance improvement council. These are not new ideas as they were required by an Executive Order issued by President George W. Bush. Putting these provisions, as well as the rest of this bill in statute will provide a certain framework for both the current and future administrations.

A vote in favor of this bill is a vote in favor of an efficient, effective government. I urge my colleagues to support this legislation.

□ 1520

Mr. CUELLAR. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1781, the previous question is ordered.

The question is on the motion by the gentleman from Texas (Mr. CUELLAR).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ISSA. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the order of the House of today, further proceedings on this question will be postponed.

FDA FOOD SAFETY MODERNIZATION ACT

Mr. DINGELL. Mr. Speaker, pursuant to House Resolution 1781, I call up the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles, with the Senate amendments thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. CUELLAR). The Clerk will designate the Senate amendments.

The text of the Senate amendments is as follows:

Senate amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “FDA Food Safety Modernization Act”.

(b) *REFERENCES.*—Except as otherwise specified, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—IMPROVING CAPACITY TO PREVENT FOOD SAFETY PROBLEMS

Sec. 101. Inspections of records.

Sec. 102. Registration of food facilities.

Sec. 103. Hazard analysis and risk-based preventive controls.

Sec. 104. Performance standards.

Sec. 105. Standards for produce safety.

Sec. 106. Protection against intentional adulteration.

Sec. 107. Authority to collect fees.

Sec. 108. National agriculture and food defense strategy.

Sec. 109. Food and Agriculture Coordinating Councils.

Sec. 110. Building domestic capacity.

Sec. 111. Sanitary transportation of food.

Sec. 112. Food allergy and anaphylaxis management.

Sec. 113. New dietary ingredients.

Sec. 114. Requirement for guidance relating to post harvest processing of raw oysters.

Sec. 115. Port shopping.

Sec. 116. Alcohol-related facilities.

TITLE II—IMPROVING CAPACITY TO DE- TECT AND RESPOND TO FOOD SAFETY PROBLEMS

Sec. 201. Targeting of inspection resources for domestic facilities, foreign facilities, and ports of entry; annual report.

Sec. 202. Laboratory accreditation for analyses of foods.

Sec. 203. Integrated consortium of laboratory networks.

Sec. 204. Enhancing tracking and tracing of food and recordkeeping.

Sec. 205. Surveillance.

Sec. 206. Mandatory recall authority.

Sec. 207. Administrative detention of food.

Sec. 208. Decontamination and disposal standards and plans.

Sec. 209. Improving the training of State, local, territorial, and tribal food safety officials.

Sec. 210. Enhancing food safety.

Sec. 211. Improving the reportable food registry.

TITLE III—IMPROVING THE SAFETY OF IMPORTED FOOD

Sec. 301. Foreign supplier verification program.

Sec. 302. Voluntary qualified importer program.

Sec. 303. Authority to require import certifications for food.

Sec. 304. Prior notice of imported food shipments.

Sec. 305. Building capacity of foreign governments with respect to food safety.

Sec. 306. Inspection of foreign food facilities.

Sec. 307. Accreditation of third-party auditors.

Sec. 308. Foreign offices of the Food and Drug Administration.

Sec. 309. Smuggled food.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Funding for food safety.

Sec. 402. Employee protections.

Sec. 403. Jurisdiction; authorities.

Sec. 404. Compliance with international agreements.

Sec. 405. Determination of budgetary effects.

TITLE I—IMPROVING CAPACITY TO PREVENT FOOD SAFETY PROBLEMS

SEC. 101. INSPECTIONS OF RECORDS.

(a) *IN GENERAL.*—Section 414(a) (21 U.S.C. 350c(a)) is amended—

(1) by striking the heading and all that follows through “of food is” and inserting the following: “RECORDS INSPECTION.—

“(1) *ADULTERATED FOOD.*—If the Secretary has a reasonable belief that an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, is”;

(2) by inserting “, and to any other article of food that the Secretary reasonably believes is

likely to be affected in a similar manner," after "relating to such article";

(3) by striking the last sentence; and

(4) by inserting at the end the following:

"(2) **USE OF OR EXPOSURE TO FOOD OF CONCERN.**—If the Secretary believes that there is a reasonable probability that the use of or exposure to an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, will cause serious adverse health consequences or death to humans or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, that are needed to assist the Secretary in determining whether there is a reasonable probability that the use of or exposure to the food will cause serious adverse health consequences or death to humans or animals.

"(3) **APPLICATION.**—The requirement under paragraphs (1) and (2) applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location."

(b) **CONFORMING AMENDMENT.**—Section 704(a)(1)(B) (21 U.S.C. 374(a)(1)(B)) is amended by striking "section 414 when" and all that follows through "subject to" and inserting "section 414, when the standard for records inspection under paragraph (1) or (2) of section 414(a) applies, subject to".

SEC. 102. REGISTRATION OF FOOD FACILITIES.

(a) **UPDATING OF FOOD CATEGORY REGULATIONS; BIENNIAL REGISTRATION RENEWAL.**—Section 415(a) (21 U.S.C. 350d(a)) is amended—

(1) in paragraph (2), by—

(A) striking "conducts business and" and inserting "conducts business, the e-mail address for the contact person of the facility or, in the case of a foreign facility, the United States agent for the facility, and"; and

(B) inserting " , or any other food categories as determined appropriate by the Secretary, including by guidance" after "Code of Federal Regulations";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) **BIENNIAL REGISTRATION RENEWAL.**—During the period beginning on October 1 and ending on December 31 of each even-numbered year, a registrant that has submitted a registration under paragraph (1) shall submit to the Secretary a renewal registration containing the information described in paragraph (2). The Secretary shall provide for an abbreviated registration renewal process for any registrant that has not had any changes to such information since the registrant submitted the preceding registration or registration renewal for the facility involved."

(b) **SUSPENSION OF REGISTRATION.**—

(1) **IN GENERAL.**—Section 415 (21 U.S.C. 350d) is amended—

(A) in subsection (a)(2), by inserting after the first sentence the following: "The registration shall contain an assurance that the Secretary will be permitted to inspect such facility at the times and in the manner permitted by this Act.";

(B) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(C) by inserting after subsection (a) the following:

"(b) **SUSPENSION OF REGISTRATION.**—

"(1) **IN GENERAL.**—If the Secretary determines that food manufactured, processed, packed, received, or held by a facility registered under this section has a reasonable probability of causing serious adverse health consequences or death to humans or animals, the Secretary may by order suspend the registration of a facility—

"(A) that created, caused, or was otherwise responsible for such reasonable probability; or

"(B)(i) that knew of, or had reason to know of, such reasonable probability; and

"(ii) packed, received, or held such food.

"(2) **HEARING ON SUSPENSION.**—The Secretary shall provide the registrant subject to an order under paragraph (1) with an opportunity for an informal hearing, to be held as soon as possible but not later than 2 business days after the issuance of the order or such other time period, as agreed upon by the Secretary and the registrant, on the actions required for reinstatement of registration and why the registration that is subject to suspension should be reinstated. The Secretary shall reinstate a registration if the Secretary determines, based on evidence presented, that adequate grounds do not exist to continue the suspension of the registration.

"(3) **POST-HEARING CORRECTIVE ACTION PLAN; VACATING OF ORDER.**—

"(A) **CORRECTIVE ACTION PLAN.**—If, after providing opportunity for an informal hearing under paragraph (2), the Secretary determines that the suspension of registration remains necessary, the Secretary shall require the registrant to submit a corrective action plan to demonstrate how the registrant plans to correct the conditions found by the Secretary. The Secretary shall review such plan not later than 14 days after the submission of the corrective action plan or such other time period as determined by the Secretary.

"(B) **VACATING OF ORDER.**—Upon a determination by the Secretary that adequate grounds do not exist to continue the suspension actions required by the order, or that such actions should be modified, the Secretary shall promptly vacate the order and reinstate the registration of the facility subject to the order or modify the order, as appropriate.

"(4) **EFFECT OF SUSPENSION.**—If the registration of a facility is suspended under this subsection, no person shall import or export food into the United States from such facility, offer to import or export food into the United States from such facility, or otherwise introduce food from such facility into interstate or intrastate commerce in the United States.

"(5) **REGULATIONS.**—

"(A) **IN GENERAL.**—The Secretary shall promulgate regulations to implement this subsection. The Secretary may promulgate such regulations on an interim final basis.

"(B) **REGISTRATION REQUIREMENT.**—The Secretary may require that registration under this section be submitted in an electronic format. Such requirement may not take effect before the date that is 5 years after the date of enactment of the FDA Food Safety Modernization Act.

"(6) **APPLICATION DATE.**—Facilities shall be subject to the requirements of this subsection beginning on the earlier of—

"(A) the date on which the Secretary issues regulations under paragraph (5); or

"(B) 180 days after the date of enactment of the FDA Food Safety Modernization Act.

"(7) **NO DELEGATION.**—The authority conferred by this subsection to issue an order to suspend a registration or vacate an order of suspension shall not be delegated to any officer or employee other than the Commissioner."

(2) **SMALL ENTITY COMPLIANCE POLICY GUIDE.**—Not later than 180 days after the

issuance of the regulations promulgated under section 415(b)(5) of the Federal Food, Drug, and Cosmetic Act (as added by this section), the Secretary shall issue a small entity compliance policy guide setting forth in plain language the requirements of such regulations to assist small entities in complying with registration requirements and other activities required under such section.

(3) **IMPORTED FOOD.**—Section 801(l) (21 U.S.C. 381(l)) is amended by inserting "(or for which a registration has been suspended under such section)" after "section 415".

(c) **CLARIFICATION OF INTENT.**—

(1) **RETAIL FOOD ESTABLISHMENT.**—The Secretary shall amend the definition of the term "retail food establishment" in section 1.227(b)(11) of title 21, Code of Federal Regulations to clarify that, in determining the primary function of an establishment or a retail food establishment under such section, the sale of food products directly to consumers by such establishment and the sale of food directly to consumers by such retail food establishment include—

(A) the sale of such food products or food directly to consumers by such establishment at a roadside stand or farmers' market where such stand or market is located other than where the food was manufactured or processed;

(B) the sale and distribution of such food through a community supported agriculture program; and

(C) the sale and distribution of such food at any other such direct sales platform as determined by the Secretary.

(2) **DEFINITIONS.**—For purposes of paragraph (1)—

(A) the term "community supported agriculture program" has the same meaning given the term "community supported agriculture (CSA) program" in section 249.2 of title 7, Code of Federal Regulations (or any successor regulation); and

(B) the term "consumer" does not include a business.

(d) **CONFORMING AMENDMENTS.**—

(1) Section 301(d) (21 U.S.C. 331(d)) is amended by inserting "415," after "404,".

(2) Section 415(d), as redesignated by subsection (b), is amended by adding at the end before the period "for a facility to be registered, except with respect to the reinstatement of a registration that is suspended under subsection (b)".

SEC. 103. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

(a) **IN GENERAL.**—Chapter IV (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

"SEC. 418. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

"(a) **IN GENERAL.**—The owner, operator, or agent in charge of a facility shall, in accordance with this section, evaluate the hazards that could affect food manufactured, processed, packed, or held by such facility, identify and implement preventive controls to significantly minimize or prevent the occurrence of such hazards and provide assurances that such food is not adulterated under section 402 or misbranded under section 403(u), monitor the performance of those controls, and maintain records of this monitoring as a matter of routine practice.

"(b) **HAZARD ANALYSIS.**—The owner, operator, or agent in charge of a facility shall—

"(1) identify and evaluate known or reasonably foreseeable hazards that may be associated with the facility, including—

"(A) biological, chemical, physical, and radiological hazards, natural toxins, pesticides, drug residues, decomposition, parasites, allergens, and unapproved food and color additives; and

"(B) hazards that occur naturally, or may be unintentionally introduced; and

“(2) identify and evaluate hazards that may be intentionally introduced, including by acts of terrorism; and

“(3) develop a written analysis of the hazards.

“(c) PREVENTIVE CONTROLS.—The owner, operator, or agent in charge of a facility shall identify and implement preventive controls, including at critical control points, if any, to provide assurances that—

“(1) hazards identified in the hazard analysis conducted under subsection (b)(1) will be significantly minimized or prevented;

“(2) any hazards identified in the hazard analysis conducted under subsection (b)(2) will be significantly minimized or prevented and addressed, consistent with section 420, as applicable; and

“(3) the food manufactured, processed, packed, or held by such facility will not be adulterated under section 402 or misbranded under section 403(w).

“(d) MONITORING OF EFFECTIVENESS.—The owner, operator, or agent in charge of a facility shall monitor the effectiveness of the preventive controls implemented under subsection (c) to provide assurances that the outcomes described in subsection (c) shall be achieved.

“(e) CORRECTIVE ACTIONS.—The owner, operator, or agent in charge of a facility shall establish procedures to ensure that, if the preventive controls implemented under subsection (c) are not properly implemented or are found to be ineffective—

“(1) appropriate action is taken to reduce the likelihood of recurrence of the implementation failure;

“(2) all affected food is evaluated for safety; and

“(3) all affected food is prevented from entering into commerce if the owner, operator or agent in charge of such facility cannot ensure that the affected food is not adulterated under section 402 or misbranded under section 403(w).

“(f) VERIFICATION.—The owner, operator, or agent in charge of a facility shall verify that—

“(1) the preventive controls implemented under subsection (c) are adequate to control the hazards identified under subsection (b);

“(2) the owner, operator, or agent is conducting monitoring in accordance with subsection (d);

“(3) the owner, operator, or agent is making appropriate decisions about corrective actions taken under subsection (e);

“(4) the preventive controls implemented under subsection (c) are effectively and significantly minimizing or preventing the occurrence of identified hazards, including through the use of environmental and product testing programs and other appropriate means; and

“(5) there is documented, periodic reanalysis of the plan under subsection (i) to ensure that the plan is still relevant to the raw materials, conditions and processes in the facility, and new and emerging threats.

“(g) RECORDKEEPING.—The owner, operator, or agent in charge of a facility shall maintain, for not less than 2 years, records documenting the monitoring of the preventive controls implemented under subsection (c), instances of non-conformance material to food safety, the results of testing and other appropriate means of verification under subsection (f)(4), instances when corrective actions were implemented, and the efficacy of preventive controls and corrective actions.

“(h) WRITTEN PLAN AND DOCUMENTATION.—The owner, operator, or agent in charge of a facility shall prepare a written plan that documents and describes the procedures used by the facility to comply with the requirements of this section, including analyzing the hazards under subsection (b) and identifying the preventive controls adopted under subsection (c) to address

those hazards. Such written plan, together with the documentation described in subsection (g), shall be made promptly available to a duly authorized representative of the Secretary upon oral or written request.

“(i) REQUIREMENT TO REANALYZE.—The owner, operator, or agent in charge of a facility shall conduct a reanalysis under subsection (b) whenever a significant change is made in the activities conducted at a facility operated by such owner, operator, or agent if the change creates a reasonable potential for a new hazard or a significant increase in a previously identified hazard or not less frequently than once every 3 years, whichever is earlier. Such reanalysis shall be completed and additional preventive controls needed to address the hazard identified, if any, shall be implemented before the change in activities at the facility is operative. Such owner, operator, or agent shall revise the written plan required under subsection (h) if such a significant change is made or document the basis for the conclusion that no additional or revised preventive controls are needed. The Secretary may require a reanalysis under this section to respond to new hazards and developments in scientific understanding, including, as appropriate, results from the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessment.

“(j) EXEMPTION FOR SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES SUBJECT TO HACCP.—

“(1) IN GENERAL.—This section shall not apply to a facility if the owner, operator, or agent in charge of such facility is required to comply with, and is in compliance with, 1 of the following standards and regulations with respect to such facility:

“(A) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(B) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(C) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

“(2) APPLICABILITY.—The exemption under paragraph (1)(C) shall apply only with respect to microbiological hazards that are regulated under the standards for Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers under part 113 of chapter 21, Code of Federal Regulations (or any successor regulations).

“(k) EXCEPTION FOR ACTIVITIES OF FACILITIES SUBJECT TO SECTION 419.—This section shall not apply to activities of a facility that are subject to section 419.

“(l) MODIFIED REQUIREMENTS FOR QUALIFIED FACILITIES.—

“(1) QUALIFIED FACILITIES.—

“(A) IN GENERAL.—A facility is a qualified facility for purposes of this subsection if the facility meets the conditions under subparagraph (B) or (C).

“(B) VERY SMALL BUSINESS.—A facility is a qualified facility under this subparagraph—

“(i) if the facility, including any subsidiary or affiliate of the facility, is, collectively, a very small business (as defined in the regulations promulgated under subsection (n)); and

“(ii) in the case where the facility is a subsidiary or affiliate of an entity, if such subsidiaries or affiliates, are, collectively, a very small business (as so defined).

“(C) LIMITED ANNUAL MONETARY VALUE OF SALES.—

“(i) IN GENERAL.—A facility is a qualified facility under this subparagraph if clause (ii) applies—

“(I) to the facility, including any subsidiary or affiliate of the facility, collectively; and

“(II) to the subsidiaries or affiliates, collectively, of any entity of which the facility is a subsidiary or affiliate.

“(ii) AVERAGE ANNUAL MONETARY VALUE.—This clause applies if—

“(I) during the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as described in clause (i)) that is sold directly to qualified end-users during such period exceeded the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as so described) sold by such facility (or collectively by any such subsidiary or affiliate) to all other purchasers during such period; and

“(II) the average annual monetary value of all food sold by such facility (or the collective average annual monetary value of such food sold by any subsidiary or affiliate, as described in clause (i)) during such period was less than \$500,000, adjusted for inflation.

“(2) EXEMPTION.—A qualified facility—

“(A) shall not be subject to the requirements under subsections (a) through (i) and subsection (n) in an applicable calendar year; and

“(B) shall submit to the Secretary—

“(i)(I) documentation that demonstrates that the owner, operator, or agent in charge of the facility has identified potential hazards associated with the food being produced, is implementing preventive controls to address the hazards, and is monitoring the preventive controls to ensure that such controls are effective; or

“(II) documentation (which may include licenses, inspection reports, certificates, permits, credentials, certification by an appropriate agency (such as a State department of agriculture), or other evidence of oversight), as specified by the Secretary, that the facility is in compliance with State, local, county, or other applicable non-Federal food safety law; and

“(ii) documentation, as specified by the Secretary in a guidance document issued not later than 1 year after the date of enactment of this section, that the facility is a qualified facility under paragraph (1)(B) or (1)(C).

“(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

“(A) IN GENERAL.—In the event of an active investigation of a foodborne illness outbreak that is directly linked to a qualified facility subject to an exemption under this subsection, or if the Secretary determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions associated with a qualified facility that are material to the safety of the food manufactured, processed, packed, or held at such facility, the Secretary may withdraw the exemption provided to such facility under this subsection.

“(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to expand or limit the inspection authority of the Secretary.

“(4) DEFINITIONS.—In this subsection:

“(A) AFFILIATE.—The term ‘affiliate’ means any facility that controls, is controlled by, or is under common control with another facility.

“(B) QUALIFIED END-USER.—The term ‘qualified end-user’, with respect to a food, means—

“(i) the consumer of the food; or

“(ii) a restaurant or retail food establishment (as those terms are defined by the Secretary for purposes of section 415) that—

“(I) is located—

“(aa) in the same State as the qualified facility that sold the food to such restaurant or establishment; or

“(bb) not more than 275 miles from such facility; and

“(II) is purchasing the food for sale directly to consumers at such restaurant or retail food establishment.

“(C) CONSUMER.—For purposes of subparagraph (B), the term ‘consumer’ does not include a business.

“(D) SUBSIDIARY.—The term ‘subsidiary’ means any company which is owned or controlled directly or indirectly by another company.

“(5) STUDY.—

“(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a study of the food processing sector regulated by the Secretary to determine—

“(i) the distribution of food production by type and size of operation, including monetary value of food sold;

“(ii) the proportion of food produced by each type and size of operation;

“(iii) the number and types of food facilities co-located on farms, including the number and proportion by commodity and by manufacturing or processing activity;

“(iv) the incidence of foodborne illness originating from each size and type of operation and the type of food facilities for which no reported or known hazard exists; and

“(v) the effect on foodborne illness risk associated with commingling, processing, transporting, and storing food and raw agricultural commodities, including differences in risk based on the scale and duration of such activities.

“(B) SIZE.—The results of the study conducted under subparagraph (A) shall include the information necessary to enable the Secretary to define the terms ‘small business’ and ‘very small business’, for purposes of promulgating the regulation under subsection (n). In defining such terms, the Secretary shall include consideration of harvestable acres, income, the number of employees, and the volume of food harvested.

“(C) SUBMISSION OF REPORT.—Not later than 18 months after the date of enactment the FDA Food Safety Modernization Act, the Secretary shall submit to Congress a report that describes the results of the study conducted under subparagraph (A).

“(6) NO PREEMPTION.—Nothing in this subsection preempts State, local, county, or other non-Federal law regarding the safe production of food. Compliance with this subsection shall not relieve any person from liability at common law or under State statutory law.

“(7) NOTIFICATION TO CONSUMERS.—

“(A) IN GENERAL.—A qualified facility that is exempt from the requirements under subsections (a) through (i) and subsection (n) and does not prepare documentation under paragraph (2)(B)(i)(I) shall—

“(i) with respect to a food for which a food packaging label is required by the Secretary under any other provision of this Act, include prominently and conspicuously on such label the name and business address of the facility where the food was manufactured or processed; or

“(ii) with respect to a food for which a food packaging label is not required by the Secretary under any other provisions of this Act, prominently and conspicuously display, at the point of purchase, the name and business address of the facility where the food was manufactured or processed, on a label, poster, sign, placard, or documents delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

“(B) NO ADDITIONAL LABEL.—Subparagraph (A) does not provide authority to the Secretary to require a label that is in addition to any label required under any other provision of this Act.

“(m) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—The Secretary may, by regulation,

exempt or modify the requirements for compliance under this section with respect to facilities that are solely engaged in the production of food for animals other than man, the storage of raw agricultural commodities (other than fruits and vegetables) intended for further distribution or processing, or the storage of packaged foods that are not exposed to the environment.

“(n) REGULATIONS.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations—

“(A) to establish science-based minimum standards for conducting a hazard analysis, documenting hazards, implementing preventive controls, and documenting the implementation of the preventive controls under this section; and

“(B) to define, for purposes of this section, the terms ‘small business’ and ‘very small business’, taking into consideration the study described in subsection (l)(5).

“(2) COORDINATION.—In promulgating the regulations under paragraph (1)(A), with regard to hazards that may be intentionally introduced, including by acts of terrorism, the Secretary shall coordinate with the Secretary of Homeland Security, as appropriate.

“(3) CONTENT.—The regulations promulgated under paragraph (1)(A) shall—

“(A) provide sufficient flexibility to be practicable for all sizes and types of facilities, including small businesses such as a small food processing facility co-located on a farm;

“(B) comply with chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’), with special attention to minimizing the burden (as defined in section 3502(2) of such Act) on the facility, and collection of information (as defined in section 3502(3) of such Act), associated with such regulations;

“(C) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods; and

“(D) not require a facility to hire a consultant or other third party to identify, implement, certify, or audit preventative controls, except in the case of negotiated enforcement resolutions that may require such a consultant or third party.

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to provide the Secretary with the authority to prescribe specific technologies, practices, or critical controls for an individual facility.

“(5) REVIEW.—In promulgating the regulations under paragraph (1)(A), the Secretary shall review regulatory hazard analysis and preventive control programs in existence on the date of enactment of the FDA Food Safety Modernization Act, including the Grade ‘A’ Pasteurized Milk Ordinance to ensure that such regulations are consistent, to the extent practicable, with applicable domestic and internationally-recognized standards in existence on such date.

“(o) DEFINITIONS.—For purposes of this section:

“(1) CRITICAL CONTROL POINT.—The term ‘critical control point’ means a point, step, or procedure in a food process at which control can be applied and is essential to prevent or eliminate a food safety hazard or reduce such hazard to an acceptable level.

“(2) FACILITY.—The term ‘facility’ means a domestic facility or a foreign facility that is required to register under section 415.

“(3) PREVENTIVE CONTROLS.—The term ‘preventive controls’ means those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would employ to significantly minimize or prevent the hazards identified under the hazard analysis conducted under sub-

section (b) and that are consistent with the current scientific understanding of safe food manufacturing, processing, packing, or holding at the time of the analysis. Those procedures, practices, and processes may include the following:

“(A) Sanitation procedures for food contact surfaces and utensils and food-contact surfaces of equipment.

“(B) Supervisor, manager, and employee hygiene training.

“(C) An environmental monitoring program to verify the effectiveness of pathogen controls in processes where a food is exposed to a potential contaminant in the environment.

“(D) A food allergen control program.

“(E) A recall plan.

“(F) Current Good Manufacturing Practices (cGMPs) under part 110 of title 21, Code of Federal Regulations (or any successor regulations).

“(G) Supplier verification activities that relate to the safety of food.”.

(b) GUIDANCE DOCUMENT.—The Secretary shall issue a guidance document related to the regulations promulgated under subsection (b)(1) with respect to the hazard analysis and preventive controls under section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

(c) RULEMAKING.—

(1) PROPOSED RULEMAKING.—

(A) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall publish a notice of proposed rulemaking in the Federal Register to promulgate regulations with respect to—

(i) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act; and

(ii) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415.

(B) CLARIFICATION.—The rulemaking described under subparagraph (A) shall enhance the implementation of such section 415 and clarify the activities that are included as part of the definition of the term “facility” under such section 415. Nothing in this Act authorizes the Secretary to modify the definition of the term “facility” under such section.

(C) SCIENCE-BASED RISK ANALYSIS.—In promulgating regulations under subparagraph (A), the Secretary shall conduct a science-based risk analysis of—

(i) specific types of on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership, as such packing and holding relates to specific foods; and

(ii) specific on-farm manufacturing and processing activities as such activities relate to specific foods that are not consumed on that farm or on another farm under common ownership.

(D) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—

(i) IN GENERAL.—In promulgating the regulations under subparagraph (A), the Secretary shall consider the results of the science-based risk analysis conducted under subparagraph (C), and shall exempt certain facilities from the requirements in section 418 of the Federal Food, Drug, and Cosmetic Act (as added by this section), including hazard analysis and preventive controls, and the mandatory inspection frequency in section 421 of such Act (as added by section 201), or modify the requirements in such sections 418 or 421, as the Secretary determines appropriate, if such facilities are engaged only

in specific types of on-farm manufacturing, processing, packing, or holding activities that the Secretary determines to be low risk involving specific foods the Secretary determines to be low risk.

(ii) **LIMITATION.**—The exemptions or modifications under clause (i) shall not include an exemption from the requirement to register under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act, if applicable, and shall apply only to small businesses and very small businesses, as defined in the regulation promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added under subsection (a)).

(2) **FINAL REGULATIONS.**—Not later than 9 months after the close of the comment period for the proposed rulemaking under paragraph (1), the Secretary shall adopt final rules with respect to—

(A) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act;

(B) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415; and

(C) the requirements under sections 418 and 421 of the Federal Food, Drug, and Cosmetic Act, as added by this Act, from which the Secretary may issue exemptions or modifications of the requirements for certain types of facilities.

(d) **SMALL ENTITY COMPLIANCE POLICY GUIDE.**—Not later than 180 days after the issuance of the regulations promulgated under subsection (n) of section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary shall issue a small entity compliance policy guide setting forth in plain language the requirements of such section 418 and this section to assist small entities in complying with the hazard analysis and other activities required under such section 418 and this section.

(e) **PROHIBITED ACTS.**—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

“(uu) The operation of a facility that manufactures, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is not in compliance with section 418.”

(f) **NO EFFECT ON HACCP AUTHORITIES.**—Nothing in the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce Hazard Analysis Critical Control programs and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

(g) **DIETARY SUPPLEMENTS.**—Nothing in the amendments made by this section shall apply to any facility with regard to the manufacturing, processing, packing, or holding of a dietary supplement that is in compliance with the requirements of sections 402(g)(2) and 761 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(g)(2), 379aa–1).

(h) **UPDATING GUIDANCE RELATING TO FISH AND FISHERIES PRODUCTS HAZARDS AND CONTROLS.**—The Secretary shall, not later than 180 days after the date of enactment of this Act, update the Fish and Fisheries Products Hazards and Control Guidance to take into account advances in technology that have occurred since the previous publication of such Guidance by the Secretary.

(i) **EFFECTIVE DATES.**—

(1) **GENERAL RULE.**—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

(2) **FLEXIBILITY FOR SMALL BUSINESSES.**—Notwithstanding paragraph (1)—

(A) the amendments made by this section shall apply to a small business (as defined in the regulations promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added by this section)) beginning on the date that is 6 months after the effective date of such regulations; and

(B) the amendments made by this section shall apply to a very small business (as defined in such regulations) beginning on the date that is 18 months after the effective date of such regulations.

SEC. 104. PERFORMANCE STANDARDS.

(a) **IN GENERAL.**—The Secretary shall, in coordination with the Secretary of Agriculture, not less frequently than every 2 years, review and evaluate relevant health data and other relevant information, including from toxicological and epidemiological studies and analyses, current Good Manufacturing Practices issued by the Secretary relating to food, and relevant recommendations of relevant advisory committees, including the Food Advisory Committee, to determine the most significant foodborne contaminants.

(b) **GUIDANCE DOCUMENTS AND REGULATIONS.**—Based on the review and evaluation conducted under subsection (a), and when appropriate to reduce the risk of serious illness or death to humans or animals or to prevent adulteration of the food under section 402 of the Federal Food, Drug, or Cosmetic Act (21 U.S.C. 342) or to prevent the spread by food of communicable disease under section 361 of the Public Health Service Act (42 U.S.C. 264), the Secretary shall issue contaminant-specific and science-based guidance documents, including guidance documents regarding action levels, or regulations. Such guidance, including guidance regarding action levels, or regulations—

(1) shall apply to products or product classes;

(2) shall, where appropriate, differentiate between food for human consumption and food intended for consumption by animals other than humans; and

(3) shall not be written to be facility-specific.

(c) **NO DUPLICATION OF EFFORTS.**—The Secretary shall coordinate with the Secretary of Agriculture to avoid issuing duplicative guidance on the same contaminants.

(d) **REVIEW.**—The Secretary shall periodically review and revise, as appropriate, the guidance documents, including guidance documents regarding action levels, or regulations promulgated under this section.

SEC. 105. STANDARDS FOR PRODUCE SAFETY.

(a) **IN GENERAL.**—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 103, is amended by adding at the end the following:

“SEC. 419. STANDARDS FOR PRODUCE SAFETY.

“(a) **PROPOSED RULEMAKING.**—

“(1) **IN GENERAL.**—

“(A) **RULEMAKING.**—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in coordination with the Secretary of Agriculture and representatives of State departments of agriculture (including with regard to the national organic program established under the Organic Foods Production Act of 1990), and in consultation with the Secretary of Homeland Security, shall publish a notice of proposed rulemaking to establish science-based minimum standards for the safe production and harvesting of those types of fruits and vegetables, including specific mixes or categories of fruits and vegetables, that are raw agricultural commodities for which the Secretary has determined that such standards minimize the risk of serious adverse health consequences or death.

“(B) **DETERMINATION BY SECRETARY.**—With respect to small businesses and very small businesses (as such terms are defined in the regulation promulgated under subparagraph (A)) that produce and harvest those types of fruits and vegetables that are raw agricultural commodities that the Secretary has determined are low risk and do not present a risk of serious adverse health consequences or death, the Secretary may determine not to include production and harvesting of such fruits and vegetables in such rulemaking, or may modify the applicable requirements of regulations promulgated pursuant to this section.

“(2) **PUBLIC INPUT.**—During the comment period on the notice of proposed rulemaking under paragraph (1), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

“(3) **CONTENT.**—The proposed rulemaking under paragraph (1) shall—

“(A) provide sufficient flexibility to be applicable to various types of entities engaged in the production and harvesting of fruits and vegetables that are raw agricultural commodities, including small businesses and entities that sell directly to consumers, and be appropriate to the scale and diversity of the production and harvesting of such commodities;

“(B) include, with respect to growing, harvesting, sorting, packing, and storage operations, science-based minimum standards related to soil amendments, hygiene, packaging, temperature controls, animals in the growing area, and water;

“(C) consider hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism;

“(D) take into consideration, consistent with ensuring enforceable public health protection, conservation and environmental practice standards and policies established by Federal natural resource conservation, wildlife conservation, and environmental agencies;

“(E) in the case of production that is certified organic, not include any requirements that conflict with or duplicate the requirements of the national organic program established under the Organic Foods Production Act of 1990, while providing the same level of public health protection as the requirements under guidance documents, including guidance documents regarding action levels, and regulations under the FDA Food Safety Modernization Act; and

“(F) define, for purposes of this section, the terms ‘small business’ and ‘very small business’.

“(4) **PRIORITIZATION.**—The Secretary shall prioritize the implementation of the regulations under this section for specific fruits and vegetables that are raw agricultural commodities based on known risks which may include a history and severity of foodborne illness outbreaks.

“(b) **FINAL REGULATION.**—

“(1) **IN GENERAL.**—Not later than 1 year after the close of the comment period for the proposed rulemaking under subsection (a), the Secretary shall adopt a final regulation to provide for minimum science-based standards for those types of fruits and vegetables, including specific mixes or categories of fruits or vegetables, that are raw agricultural commodities, based on known safety risks, which may include a history of foodborne illness outbreaks.

“(2) **FINAL REGULATION.**—The final regulation shall—

“(A) provide for coordination of education and enforcement activities by State and local officials, as designated by the Governors of the respective States or the appropriate elected State official as recognized by State statute; and

“(B) include a description of the variance process under subsection (c) and the types of permissible variances the Secretary may grant.

“(3) FLEXIBILITY FOR SMALL BUSINESSES.—Notwithstanding paragraph (1)—

“(A) the regulations promulgated under this section shall apply to a small business (as defined in the regulation promulgated under subsection (a)(1)) after the date that is 1 year after the effective date of the final regulation under paragraph (1); and

“(B) the regulations promulgated under this section shall apply to a very small business (as defined in the regulation promulgated under subsection (a)(1)) after the date that is 2 years after the effective date of the final regulation under paragraph (1).

“(c) CRITERIA.—

“(1) IN GENERAL.—The regulations adopted under subsection (b) shall—

“(A) set forth those procedures, processes, and practices that the Secretary determines to minimize the risk of serious adverse health consequences or death, including procedures, processes, and practices that the Secretary determines to be reasonably necessary to prevent the introduction of known or reasonably foreseeable biological, chemical, and physical hazards, including hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism, into fruits and vegetables, including specific mixes or categories of fruits and vegetables, that are raw agricultural commodities and to provide reasonable assurances that the produce is not adulterated under section 402;

“(B) provide sufficient flexibility to be practicable for all sizes and types of businesses, including small businesses such as a small food processing facility co-located on a farm;

“(C) comply with chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’), with special attention to minimizing the burden (as defined in section 3502(2) of such Act) on the business, and collection of information (as defined in section 3502(3) of such Act), associated with such regulations;

“(D) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods; and

“(E) not require a business to hire a consultant or other third party to identify, implement, certify, compliance with these procedures, processes, and practices, except in the case of negotiated enforcement resolutions that may require such a consultant or third party; and

“(F) permit States and foreign countries from which food is imported into the United States to request from the Secretary variances from the requirements of the regulations, subject to paragraph (2), where the State or foreign country determines that the variance is necessary in light of local growing conditions and that the procedures, processes, and practices to be followed under the variance are reasonably likely to ensure that the produce is not adulterated under section 402 and to provide the same level of public health protection as the requirements of the regulations adopted under subsection (b).

“(2) VARIANCES.—

“(A) REQUESTS FOR VARIANCES.—A State or foreign country from which food is imported into the United States may in writing request a variance from the Secretary. Such request shall describe the variance requested and present information demonstrating that the variance does not increase the likelihood that the food for which the variance is requested will be adulterated under section 402, and that the variance provides the same level of public health protection as the requirements of the regulations adopted under subsection (b). The Secretary shall review such requests in a reasonable timeframe.

“(B) APPROVAL OF VARIANCES.—The Secretary may approve a variance in whole or in part, as appropriate, and may specify the scope of appli-

cability of a variance to other similarly situated persons.

“(C) DENIAL OF VARIANCES.—The Secretary may deny a variance request if the Secretary determines that such variance is not reasonably likely to ensure that the food is not adulterated under section 402 and is not reasonably likely to provide the same level of public health protection as the requirements of the regulation adopted under subsection (b). The Secretary shall notify the person requesting such variance of the reasons for the denial.

“(D) MODIFICATION OR REVOCATION OF A VARIANCE.—The Secretary, after notice and an opportunity for a hearing, may modify or revoke a variance if the Secretary determines that such variance is not reasonably likely to ensure that the food is not adulterated under section 402 and is not reasonably likely to provide the same level of public health protection as the requirements of the regulations adopted under subsection (b).

“(d) ENFORCEMENT.—The Secretary may coordinate with the Secretary of Agriculture and, as appropriate, shall contract and coordinate with the agency or department designated by the Governor of each State to perform activities to ensure compliance with this section.

“(e) GUIDANCE.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall publish, after consultation with the Secretary of Agriculture, representatives of State departments of agriculture, farmer representatives, and various types of entities engaged in the production and harvesting or importing of fruits and vegetables that are raw agricultural commodities, including small businesses, updated good agricultural practices and guidance for the safe production and harvesting of specific types of fresh produce under this section.

“(2) PUBLIC MEETINGS.—The Secretary shall conduct not fewer than 3 public meetings in diverse geographical areas of the United States as part of an effort to conduct education and outreach regarding the guidance described in paragraph (1) for persons in different regions who are involved in the production and harvesting of fruits and vegetables that are raw agricultural commodities, including persons that sell directly to consumers and farmer representatives, and for importers of fruits and vegetables that are raw agricultural commodities.

“(3) PAPERWORK REDUCTION.—The Secretary shall ensure that any updated guidance under this section will—

“(A) provide sufficient flexibility to be practicable for all sizes and types of facilities, including small businesses such as a small food processing facility co-located on a farm; and

“(B) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods.

“(f) EXEMPTION FOR DIRECT FARM MARKETING.—

“(1) IN GENERAL.—A farm shall be exempt from the requirements under this section in a calendar year if—

“(A) during the previous 3-year period, the average annual monetary value of the food sold by such farm directly to qualified end-users during such period exceeded the average annual monetary value of the food sold by such farm to all other buyers during such period; and

“(B) the average annual monetary value of all food sold during such period was less than \$500,000, adjusted for inflation.

“(2) NOTIFICATION TO CONSUMERS.—

“(A) IN GENERAL.—A farm that is exempt from the requirements under this section shall—

“(i) with respect to a food for which a food packaging label is required by the Secretary under any other provision of this Act, include

prominently and conspicuously on such label the name and business address of the farm where the produce was grown; or

“(ii) with respect to a food for which a food packaging label is not required by the Secretary under any other provision of this Act, prominently and conspicuously display, at the point of purchase, the name and business address of the farm where the produce was grown, on a label, poster, sign, placard, or documents delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

“(B) NO ADDITIONAL LABEL.—Subparagraph (A) does not provide authority to the Secretary to require a label that is in addition to any label required under any other provision of this Act.

“(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

“(A) IN GENERAL.—In the event of an active investigation of a foodborne illness outbreak that is directly linked to a farm subject to an exemption under this subsection, or if the Secretary determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions associated with a farm that are material to the safety of the food produced or harvested at such farm, the Secretary may withdraw the exemption provided to such farm under this subsection.

“(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to expand or limit the inspection authority of the Secretary.

“(4) DEFINITIONS.—

“(A) QUALIFIED END-USER.—In this subsection, the term ‘qualified end-user’, with respect to a food means—

“(i) the consumer of the food; or

“(ii) a restaurant or retail food establishment (as those terms are defined by the Secretary for purposes of section 415) that is located—

“(I) in the same State as the farm that produced the food; or

“(II) not more than 275 miles from such farm.

“(B) CONSUMER.—For purposes of subparagraph (A), the term ‘consumer’ does not include a business.

“(5) NO PREEMPTION.—Nothing in this subsection preempts State, local, county, or other non-Federal law regarding the safe production, harvesting, holding, transportation, and sale of fresh fruits and vegetables. Compliance with this subsection shall not relieve any person from liability at common law or under State statutory law.

“(6) LIMITATION OF EFFECT.—Nothing in this subsection shall prevent the Secretary from exercising any authority granted in the other sections of this Act.

“(g) CLARIFICATION.—This section shall not apply to produce that is produced by an individual for personal consumption.

“(h) EXCEPTION FOR ACTIVITIES OF FACILITIES SUBJECT TO SECTION 418.—This section shall not apply to activities of a facility that are subject to section 418.”.

(b) SMALL ENTITY COMPLIANCE POLICY GUIDE.—Not later than 180 days after the issuance of regulations under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary of Health and Human Services shall issue a small entity compliance policy guide setting forth in plain language the requirements of such section 419 and to assist small entities in complying with standards for safe production and harvesting and other activities required under such section.

(c) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331), as amended by section 103, is amended by adding at the end the following:

“(vv) The failure to comply with the requirements under section 419.”.

(d) NO EFFECT ON HACCP AUTHORITIES.—Nothing in the amendments made by this section

limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce product and category-specific regulations, such as the Seafood Hazard Analysis Critical Controls Points Program, the Juice Hazard Analysis Critical Control Program, and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

SEC. 106. PROTECTION AGAINST INTENTIONAL ADULTERATION.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 105, is amended by adding at the end the following:

“SEC. 420. PROTECTION AGAINST INTENTIONAL ADULTERATION.

“(a) DETERMINATIONS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) conduct a vulnerability assessment of the food system, including by consideration of the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessments;

“(B) consider the best available understanding of uncertainties, risks, costs, and benefits associated with guarding against intentional adulteration of food at vulnerable points; and

“(C) determine the types of science-based mitigation strategies or measures that are necessary to protect against the intentional adulteration of food.

“(2) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary, in consultation with the Secretary of Homeland Security, may determine the time, manner, and form in which determinations made under paragraph (1) are made publicly available.

“(b) REGULATIONS.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in coordination with the Secretary of Homeland Security and in consultation with the Secretary of Agriculture, shall promulgate regulations to protect against the intentional adulteration of food subject to this Act. Such regulations shall—

“(1) specify how a person shall assess whether the person is required to implement mitigation strategies or measures intended to protect against the intentional adulteration of food; and

“(2) specify appropriate science-based mitigation strategies or measures to prepare and protect the food supply chain at specific vulnerable points, as appropriate.

“(c) APPLICABILITY.—Regulations promulgated under subsection (b) shall apply only to food for which there is a high risk of intentional contamination, as determined by the Secretary, in consultation with the Secretary of Homeland Security, under subsection (a), that could cause serious adverse health consequences or death to humans or animals and shall include those foods—

“(1) for which the Secretary has identified clear vulnerabilities (including short shelf-life or susceptibility to intentional contamination at critical control points); and

“(2) in bulk or batch form, prior to being packaged for the final consumer.

“(d) EXCEPTION.—This section shall not apply to farms, except for those that produce milk.

“(e) DEFINITION.—For purposes of this section, the term ‘farm’ has the meaning given that term in section 1.227 of title 21, Code of Federal Regulations (or any successor regulation).”.

(b) GUIDANCE DOCUMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security and the Secretary of Agriculture, shall issue guid-

ance documents related to protection against the intentional adulteration of food, including mitigation strategies or measures to guard against such adulteration as required under section 420 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a).

(2) CONTENT.—The guidance documents issued under paragraph (1) shall—

(A) include a model assessment for a person to use under subsection (b)(1) of section 420 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a);

(B) include examples of mitigation strategies or measures described in subsection (b)(2) of such section; and

(C) specify situations in which the examples of mitigation strategies or measures described in subsection (b)(2) of such section are appropriate.

(3) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security, may determine the time, manner, and form in which the guidance documents issued under paragraph (1) are made public, including by releasing such documents to targeted audiences.

(c) PERIODIC REVIEW.—The Secretary of Health and Human Services shall periodically review and, as appropriate, update the regulations under section 420(b) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), and the guidance documents under subsection (b).

(d) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331 et seq.), as amended by section 105, is amended by adding at the end the following:

“(uw) The failure to comply with section 420.”.

SEC. 107. AUTHORITY TO COLLECT FEES.

(a) FEES FOR REINSPECTION, RECALL, AND IMPORTATION ACTIVITIES.—Subchapter C of chapter VII (21 U.S.C. 379f et seq.) is amended by adding at the end the following:

“PART 6—FEES RELATED TO FOOD

“SEC. 743. AUTHORITY TO COLLECT AND USE FEES.

“(a) IN GENERAL.—

“(1) PURPOSE AND AUTHORITY.—For fiscal year 2010 and each subsequent fiscal year, the Secretary shall, in accordance with this section, assess and collect fees from—

“(A) the responsible party for each domestic facility (as defined in section 415(b)) and the United States agent for each foreign facility subject to a reinspection in such fiscal year, to cover reinspection-related costs for such year;

“(B) the responsible party for a domestic facility (as defined in section 415(b)) and an importer who does not comply with a recall order under section 423 or under section 412(f) in such fiscal year, to cover food recall activities associated with such order performed by the Secretary, including technical assistance, follow-up effectiveness checks, and public notifications, for such year;

“(C) each importer participating in the voluntary qualified importer program under section 806 in such year, to cover the administrative costs of such program for such year; and

“(D) each importer subject to a reinspection in such fiscal year, to cover reinspection-related costs for such year.

“(2) DEFINITIONS.—For purposes of this section—

“(A) the term ‘reinspection’ means—

“(i) with respect to domestic facilities (as defined in section 415(b)), 1 or more inspections conducted under section 704 subsequent to an inspection conducted under such provision which identified noncompliance materially related to a food safety requirement of this Act, specifically to determine whether compliance has been achieved to the Secretary’s satisfaction; and

“(ii) with respect to importers, 1 or more examinations conducted under section 801 subsequent to an examination conducted under such provision which identified noncompliance materially related to a food safety requirement of this Act, specifically to determine whether compliance has been achieved to the Secretary’s satisfaction;

“(B) the term ‘reinspection-related costs’ means all expenses, including administrative expenses, incurred in connection with—

“(i) arranging, conducting, and evaluating the results of reinspections; and

“(ii) assessing and collecting reinspection fees under this section; and

“(C) the term ‘responsible party’ has the meaning given such term in section 417(a)(1).

“(b) ESTABLISHMENT OF FEES.—

“(1) IN GENERAL.—Subject to subsections (c) and (d), the Secretary shall establish the fees to be collected under this section for each fiscal year specified in subsection (a)(1), based on the methodology described under paragraph (2), and shall publish such fees in a Federal Register notice not later than 60 days before the start of each such year.

“(2) FEE METHODOLOGY.—

“(A) FEES.—Fees amounts established for collection—

“(i) under subparagraph (A) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the reinspection-related activities (including by type or level of reinspection activity, as the Secretary determines applicable) described in such subparagraph (A) for such year;

“(ii) under subparagraph (B) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the activities described in such subparagraph (B) for such year;

“(iii) under subparagraph (C) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the activities described in such subparagraph (C) for such year; and

“(iv) under subparagraph (D) of subsection (a)(1) for a fiscal year shall be based on the Secretary’s estimate of 100 percent of the costs of the activities described in such subparagraph (D) for such year.

“(B) OTHER CONSIDERATIONS.—

“(i) VOLUNTARY QUALIFIED IMPORTER PROGRAM.—In establishing the fee amounts under subparagraph (A)(iii) for a fiscal year, the Secretary shall provide for the number of importers who have submitted to the Secretary a notice under section 806(c) informing the Secretary of the intent of such importer to participate in the program under section 806 in such fiscal year.

“(II) RECOUPMENT.—In establishing the fee amounts under subparagraph (A)(iii) for the first 5 fiscal years after the date of enactment of this section, the Secretary shall include in such fee a reasonable surcharge that provides a recoupment of the costs expended by the Secretary to establish and implement the first year of the program under section 806.

“(ii) CREDITING OF FEES.—In establishing the fee amounts under subparagraph (A) for a fiscal year, the Secretary shall provide for the crediting of fees from the previous year to the next year if the Secretary overestimated the amount of fees needed to carry out such activities, and consider the need to account for any adjustment of fees and such other factors as the Secretary determines appropriate.

“(iii) PUBLISHED GUIDELINES.—Not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall publish in the Federal Register a proposed set of guidelines in consideration of the burden of fee amounts on small business. Such consideration may include reduced fee amounts for small

businesses. The Secretary shall provide for a period of public comment on such guidelines. The Secretary shall adjust the fee schedule for small businesses subject to such fees only through notice and comment rulemaking.

“(3) **USE OF FEES.**—The Secretary shall make all of the fees collected pursuant to clause (i), (ii), (iii), and (iv) of paragraph (2)(A) available solely to pay for the costs referred to in such clause (i), (ii), (iii), and (iv) of paragraph (2)(A), respectively.

“(c) **LIMITATIONS.**—

“(1) **IN GENERAL.**—Fees under subsection (a) shall be refunded for a fiscal year beginning after fiscal year 2010 unless the amount of the total appropriations for food safety activities at the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) is equal to or greater than the amount of appropriations for food safety activities at the Food and Drug Administration for fiscal year 2009 (excluding the amount of fees appropriated for such fiscal year), multiplied by the adjustment factor under paragraph (3).

“(2) **AUTHORITY.**—If—

“(A) the Secretary does not assess fees under subsection (a) for a portion of a fiscal year because paragraph (1) applies; and

“(B) at a later date in such fiscal year, such paragraph (1) ceases to apply,

the Secretary may assess and collect such fees under subsection (a), without any modification to the rate of such fees, notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

“(3) **ADJUSTMENT FACTOR.**—

“(A) **IN GENERAL.**—The adjustment factor described in paragraph (1) shall be the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending June 30 preceding the fiscal year, but in no case shall such adjustment factor be negative.

“(B) **COMPOUNDED BASIS.**—The adjustment under subparagraph (A) made each fiscal year shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2009.

“(4) **LIMITATION ON AMOUNT OF CERTAIN FEES.**—

“(A) **IN GENERAL.**—Notwithstanding any other provision of this section and subject to subparagraph (B), the Secretary may not collect fees in a fiscal year such that the amount collected—

“(i) under subparagraph (B) of subsection (a)(1) exceeds \$20,000,000; and

“(ii) under subparagraphs (A) and (D) of subsection (a)(1) exceeds \$25,000,000 combined.

“(B) **EXCEPTION.**—If a domestic facility (as defined in section 415(b)) or an importer becomes subject to a fee described in subparagraph (A), (B), or (D) of subsection (a)(1) after the maximum amount of fees has been collected by the Secretary under subparagraph (A), the Secretary may collect a fee from such facility or importer.

“(d) **CREDITING AND AVAILABILITY OF FEES.**—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the purpose of paying the operating expenses of the Food and Drug Administration employees and contractors performing activities associated with these food safety fees.

“(e) **COLLECTION OF FEES.**—

“(1) **IN GENERAL.**—The Secretary shall specify in the Federal Register notice described in subsection (b)(1) the time and manner in which fees assessed under this section shall be collected.

“(2) **COLLECTION OF UNPAID FEES.**—In any case where the Secretary does not receive payment of a fee assessed under this section within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to provisions of subchapter II of chapter 37 of title 31, United States Code.

“(f) **ANNUAL REPORT TO CONGRESS.**—Not later than 120 days after each fiscal year for which fees are assessed under this section, the Secretary shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, to include a description of fees assessed and collected for each such year and a summary description of the entities paying such fees and the types of business in which such entities engage.

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—For fiscal year 2010 and each fiscal year thereafter, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount determined under subsection (b) for the fiscal year, as adjusted or otherwise affected under the other provisions of this section.”

(b) **EXPORT CERTIFICATION FEES FOR FOODS AND ANIMAL FEED.**—

(1) **AUTHORITY FOR EXPORT CERTIFICATIONS FOR FOOD, INCLUDING ANIMAL FEED.**—Section 801(e)(4)(A) (21 U.S.C. 381(e)(4)(A)) is amended—

(A) in the matter preceding clause (i), by striking “a drug” and inserting “a food, drug”;

(B) in clause (i) by striking “exported drug” and inserting “exported food, drug”; and

(C) in clause (ii) by striking “the drug” each place it appears and inserting “the food, drug”.

(2) **CLARIFICATION OF CERTIFICATION.**—Section 801(e)(4) (21 U.S.C. 381(e)(4)) is amended by inserting after subparagraph (B) the following new subparagraph:

“(C) For purposes of this paragraph, a certification by the Secretary shall be made on such basis, and in such form (including a publicly available listing) as the Secretary determines appropriate.”

(3) **LIMITATIONS ON THE USE AND AMOUNT OF FEES.**—Paragraph (4) of section 801(e) (21 U.S.C. 381(e)) is amended by adding at the end the following:

“(D) With regard to fees pursuant to subparagraph (B) in connection with written export certifications for food:

“(i) Such fees shall be collected and available solely for the costs of the Food and Drug Administration associated with issuing such certifications.

“(ii) Such fees may not be retained in an amount that exceeds such costs for the respective fiscal year.”

SEC. 108. NATIONAL AGRICULTURE AND FOOD DEFENSE STRATEGY.

(a) **DEVELOPMENT AND SUBMISSION OF STRATEGY.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall prepare and transmit to the relevant committees of Congress, and make publicly available on the Internet Web sites of the Department of Health and Human Services and the Department of Agriculture, the National Agriculture and Food Defense Strategy.

(2) **IMPLEMENTATION PLAN.**—The strategy shall include an implementation plan for use by the Secretaries described under paragraph (1) in carrying out the strategy.

(3) **RESEARCH.**—The strategy shall include a coordinated research agenda for use by the Secretaries described under paragraph (1) in conducting research to support the goals and activities described in paragraphs (1) and (2) of subsection (b).

(4) **REVISIONS.**—Not later than 4 years after the date on which the strategy is submitted to the relevant committees of Congress under paragraph (1), and not less frequently than every 4 years thereafter, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall revise and submit to the relevant committees of Congress the strategy.

(5) **CONSISTENCY WITH EXISTING PLANS.**—The strategy described in paragraph (1) shall be consistent with—

(A) the National Incident Management System;

(B) the National Response Framework;

(C) the National Infrastructure Protection Plan;

(D) the National Preparedness Goals; and

(E) other relevant national strategies.

(b) **COMPONENTS.**—

(1) **IN GENERAL.**—The strategy shall include a description of the process to be used by the Department of Health and Human Services, the Department of Agriculture, and the Department of Homeland Security—

(A) to achieve each goal described in paragraph (2); and

(B) to evaluate the progress made by Federal, State, local, and tribal governments towards the achievement of each goal described in paragraph (2).

(2) **GOALS.**—The strategy shall include a description of the process to be used by the Department of Health and Human Services, the Department of Agriculture, and the Department of Homeland Security to achieve the following goals:

(A) **PREPAREDNESS GOAL.**—Enhance the preparedness of the agriculture and food system by—

(i) conducting vulnerability assessments of the agriculture and food system;

(ii) mitigating vulnerabilities of the system;

(iii) improving communication and training relating to the system;

(iv) developing and conducting exercises to test decontamination and disposal plans;

(v) developing modeling tools to improve event consequence assessment and decision support; and

(vi) preparing risk communication tools and enhancing public awareness through outreach.

(B) **DETECTION GOAL.**—Improve agriculture and food system detection capabilities by—

(i) identifying contamination in food products at the earliest possible time; and

(ii) conducting surveillance to prevent the spread of diseases.

(C) **EMERGENCY RESPONSE GOAL.**—Ensure an efficient response to agriculture and food emergencies by—

(i) immediately investigating animal disease outbreaks and suspected food contamination;

(ii) preventing additional human illnesses;

(iii) organizing, training, and equipping animal, plant, and food emergency response teams of—

(I) the Federal Government; and

(II) State, local, and tribal governments;

(iv) designing, developing, and evaluating training and exercises carried out under agriculture and food defense plans; and

(v) ensuring consistent and organized risk communication to the public by—

(I) the Federal Government;

(II) State, local, and tribal governments; and

(III) the private sector.

(D) **RECOVERY GOAL.**—Secure agriculture and food production after an agriculture or food emergency by—

(i) working with the private sector to develop business recovery plans to rapidly resume agriculture, food production, and international trade;

(ii) conducting exercises of the plans described in subparagraph (C) with the goal of long-term recovery results;

(iii) rapidly removing, and effectively disposing of—

(I) contaminated agriculture and food products; and

(II) infected plants and animals; and

(iv) decontaminating and restoring areas affected by an agriculture or food emergency.

(3) **EVALUATION.**—The Secretary, in coordination with the Secretary of Agriculture and the Secretary of Homeland Security, shall—

(A) develop metrics to measure progress for the evaluation process described in paragraph (1)(B); and

(B) report on the progress measured in subparagraph (A) as part of the National Agriculture and Food Defense strategy described in subsection (a)(1).

(c) **LIMITED DISTRIBUTION.**—In the interest of national security, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, may determine the manner and format in which the National Agriculture and Food Defense strategy established under this section is made publicly available on the Internet Web sites of the Department of Health and Human Services, the Department of Homeland Security, and the Department of Agriculture, as described in subsection (a)(1).

SEC. 109. FOOD AND AGRICULTURE COORDINATING COUNCILS.

The Secretary of Homeland Security, in coordination with the Secretary of Health and Human Services and the Secretary of Agriculture, shall within 180 days of enactment of this Act, and annually thereafter, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the activities of the Food and Agriculture Government Coordinating Council and the Food and Agriculture Sector Coordinating Council, including the progress of such Councils on—

(1) facilitating partnerships between public and private entities to help coordinate and enhance the protection of the agriculture and food system of the United States;

(2) providing for the regular and timely interchange of information between each council relating to the security of the agriculture and food system (including intelligence information);

(3) identifying best practices and methods for improving the coordination among Federal, State, local, and private sector preparedness and response plans for agriculture and food defense; and

(4) recommending methods by which to protect the economy and the public health of the United States from the effects of—

(A) animal or plant disease outbreaks;

(B) food contamination; and

(C) natural disasters affecting agriculture and food.

SEC. 110. BUILDING DOMESTIC CAPACITY.

(a) **IN GENERAL.**—

(1) **INITIAL REPORT.**—The Secretary, in coordination with the Secretary of Agriculture and the Secretary of Homeland Security, shall, not later than 2 years after the date of enactment of this Act, submit to Congress a comprehensive report that identifies programs and practices that are intended to promote the safety and supply chain security of food and to prevent outbreaks of foodborne illness and other food-related haz-

ards that can be addressed through preventive activities. Such report shall include a description of the following:

(A) Analysis of the need for further regulations or guidance to industry.

(B) Outreach to food industry sectors, including through the Food and Agriculture Coordinating Councils referred to in section 109, to identify potential sources of emerging threats to the safety and security of the food supply and preventive strategies to address those threats.

(C) Systems to ensure the prompt distribution to the food industry of information and technical assistance concerning preventive strategies.

(D) Communication systems to ensure that information about specific threats to the safety and security of the food supply are rapidly and effectively disseminated.

(E) Surveillance systems and laboratory networks to rapidly detect and respond to foodborne illness outbreaks and other food-related hazards, including how such systems and networks are integrated.

(F) Outreach, education, and training provided to States and local governments to build State and local food safety and food defense capabilities, including progress implementing strategies developed under sections 108 and 205.

(G) The estimated resources needed to effectively implement the programs and practices identified in the report developed in this section over a 5-year period.

(H) The impact of requirements under this Act (including amendments made by this Act) on certified organic farms and facilities (as defined in section 415 (21 U.S.C. 350d).

(I) Specific efforts taken pursuant to the agreements authorized under section 421(c) of the Federal Food, Drug, and Cosmetic Act (as added by section 201), together with, as necessary, a description of any additional authorities necessary to improve seafood safety.

(2) **BIENNIAL REPORTS.**—On a biennial basis following the submission of the report under paragraph (1), the Secretary shall submit to Congress a report that—

(A) reviews previous food safety programs and practices;

(B) outlines the success of those programs and practices;

(C) identifies future programs and practices; and

(D) includes information related to any matter described in subparagraphs (A) through (H) of paragraph (1), as necessary.

(b) **RISK-BASED ACTIVITIES.**—The report developed under subsection (a)(1) shall describe methods that seek to ensure that resources available to the Secretary for food safety-related activities are directed at those actions most likely to reduce risks from food, including the use of preventive strategies and allocation of inspection resources. The Secretary shall promptly undertake those risk-based actions that are identified during the development of the report as likely to contribute to the safety and security of the food supply.

(c) **CAPABILITY FOR LABORATORY ANALYSES; RESEARCH.**—The report developed under subsection (a)(1) shall provide a description of methods to increase capacity to undertake analyses of food samples promptly after collection, to identify new and rapid analytical techniques, including commercially-available techniques that can be employed at ports of entry and by Food Emergency Response Network laboratories, and to provide for well-equipped and staffed laboratory facilities and progress toward laboratory accreditation under section 422 of the Federal Food, Drug, and Cosmetic Act (as added by section 202).

(d) **INFORMATION TECHNOLOGY.**—The report developed under subsection (a)(1) shall include

a description of such information technology systems as may be needed to identify risks and receive data from multiple sources, including foreign governments, State, local, and tribal governments, other Federal agencies, the food industry, laboratories, laboratory networks, and consumers. The information technology systems that the Secretary describes shall also provide for the integration of the facility registration system under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), and the prior notice system under section 801(m) of such Act (21 U.S.C. 381(m)) with other information technology systems that are used by the Federal Government for the processing of food offered for import into the United States.

(e) **AUTOMATED RISK ASSESSMENT.**—The report developed under subsection (a)(1) shall include a description of progress toward developing and improving an automated risk assessment system for food safety surveillance and allocation of resources.

(f) **TRACEBACK AND SURVEILLANCE REPORT.**—The Secretary shall include in the report developed under subsection (a)(1) an analysis of the Food and Drug Administration's performance in foodborne illness outbreaks during the 5-year period preceding the date of enactment of this Act involving fruits and vegetables that are raw agricultural commodities (as defined in section 201(r) (21 U.S.C. 321(r))) and recommendations for enhanced surveillance, outbreak response, and traceability. Such findings and recommendations shall address communication and coordination with the public, industry, and State and local governments, as such communication and coordination relates to outbreak identification and traceback.

(g) **BIENNIAL FOOD SAFETY AND FOOD DEFENSE RESEARCH PLAN.**—The Secretary, the Secretary of Agriculture, and the Secretary of Homeland Security shall, on a biennial basis, submit to Congress a joint food safety and food defense research plan which may include studying the long-term health effects of foodborne illness. Such biennial plan shall include a list and description of projects conducted during the previous 2-year period and the plan for projects to be conducted during the subsequent 2-year period.

(h) **EFFECTIVENESS OF PROGRAMS ADMINISTERED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**—

(1) **IN GENERAL.**—To determine whether existing Federal programs administered by the Department of Health and Human Services are effective in achieving the stated goals of such programs, the Secretary shall, beginning not later than 1 year after the date of enactment of this Act—

(A) conduct an annual evaluation of each program of such Department to determine the effectiveness of each such program in achieving legislated intent, purposes, and objectives; and

(B) submit to Congress a report concerning such evaluation.

(2) **CONTENT.**—The report described under paragraph (1)(B) shall—

(A) include conclusions concerning the reasons that such existing programs have proven successful or not successful and what factors contributed to such conclusions;

(B) include recommendations for consolidation and elimination to reduce duplication and inefficiencies in such programs at such Department as identified during the evaluation conduct under this subsection; and

(C) be made publicly available in a publication entitled "Guide to the U.S. Department of Health and Human Services Programs".

(i) **UNIQUE IDENTIFICATION NUMBERS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Commissioner of Food and

Drugs, shall conduct a study regarding the need for, and challenges associated with, development and implementation of a program that requires a unique identification number for each food facility registered with the Secretary and, as appropriate, each broker that imports food into the United States. Such study shall include an evaluation of the costs associated with development and implementation of such a system, and make recommendations about what new authorities, if any, would be necessary to develop and implement such a system.

(2) **REPORT.**—Not later than 15 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings of the study conducted under paragraph (1) and that includes any recommendations determined appropriate by the Secretary.

SEC. 111. SANITARY TRANSPORTATION OF FOOD.

(a) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate regulations described in section 416(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350e(b)).

(b) **FOOD TRANSPORTATION STUDY.**—The Secretary, acting through the Commissioner of Food and Drugs, shall conduct a study of the transportation of food for consumption in the United States, including transportation by air, that includes an examination of the unique needs of rural and frontier areas with regard to the delivery of safe food.

SEC. 112. FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT.

(a) **DEFINITIONS.**—In this section:

(1) **EARLY CHILDHOOD EDUCATION PROGRAM.**—The term “early childhood education program” means—

(A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.);

(B) a State licensed or regulated child care program or school; or

(C) a State prekindergarten program that serves children from birth through kindergarten.

(2) **ESEA DEFINITIONS.**—The terms “local educational agency”, “secondary school”, “elementary school”, and “parent” have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) **SCHOOL.**—The term “school” includes public—

(A) kindergartens;

(B) elementary schools; and

(C) secondary schools.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(b) **ESTABLISHMENT OF VOLUNTARY FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT GUIDELINES.**—

(1) **ESTABLISHMENT.**—

(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Education, shall—

(i) develop guidelines to be used on a voluntary basis to develop plans for individuals to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs; and

(ii) make such guidelines available to local educational agencies, schools, early childhood education programs, and other interested entities and individuals to be implemented on a voluntary basis only.

(B) **APPLICABILITY OF FERPA.**—Each plan described in subparagraph (A) that is developed for an individual shall be considered an education record for the purpose of section 444 of the General Education Provisions Act (commonly referred to as the “Family Educational Rights and Privacy Act of 1974”) (20 U.S.C. 1232g).

(2) **CONTENTS.**—The voluntary guidelines developed by the Secretary under paragraph (1) shall address each of the following and may be updated as the Secretary determines necessary:

(A) Parental obligation to provide the school or early childhood education program, prior to the start of every school year, with—

(i) documentation from their child’s physician or nurse—

(I) supporting a diagnosis of food allergy, and any risk of anaphylaxis, if applicable;

(II) identifying any food to which the child is allergic;

(III) describing, if appropriate, any prior history of anaphylaxis;

(IV) listing any medication prescribed for the child for the treatment of anaphylaxis;

(V) detailing emergency treatment procedures in the event of a reaction;

(VI) listing the signs and symptoms of a reaction; and

(VII) assessing the child’s readiness for self-administration of prescription medication; and

(ii) a list of substitute meals that may be offered to the child by school or early childhood education program food service personnel.

(B) The creation and maintenance of an individual plan for food allergy management, in consultation with the parent, tailored to the needs of each child with a documented risk for anaphylaxis, including any procedures for the self-administration of medication by such children in instances where—

(i) the children are capable of self-administering medication; and

(ii) such administration is not prohibited by State law.

(C) Communication strategies between individual schools or early childhood education programs and providers of emergency medical services, including appropriate instructions for emergency medical response.

(D) Strategies to reduce the risk of exposure to anaphylactic causative agents in classrooms and common school or early childhood education program areas such as cafeterias.

(E) The dissemination of general information on life-threatening food allergies to school or early childhood education program staff, parents, and children.

(F) Food allergy management training of school or early childhood education program personnel who regularly come into contact with children with life-threatening food allergies.

(G) The authorization and training of school or early childhood education program personnel to administer epinephrine when the nurse is not immediately available.

(H) The timely accessibility of epinephrine by school or early childhood education program personnel when the nurse is not immediately available.

(I) The creation of a plan contained in each individual plan for food allergy management that addresses the appropriate response to an incident of anaphylaxis of a child while such child is engaged in extracurricular programs of a school or early childhood education program, such as non-academic outings and field trips, before- and after-school programs or before- and after-early child education program programs, and school-sponsored or early childhood education program-sponsored programs held on weekends.

(J) Maintenance of information for each administration of epinephrine to a child at risk for anaphylaxis and prompt notification to parents.

(K) Other elements the Secretary determines necessary for the management of food allergies and anaphylaxis in schools and early childhood education programs.

(3) **RELATION TO STATE LAW.**—Nothing in this section or the guidelines developed by the Secretary under paragraph (1) shall be construed to

preempt State law, including any State law regarding whether students at risk for anaphylaxis may self-administer medication.

(c) **SCHOOL-BASED FOOD ALLERGY MANAGEMENT GRANTS.**—

(1) **IN GENERAL.**—The Secretary may award grants to local educational agencies to assist such agencies with implementing voluntary food allergy and anaphylaxis management guidelines described in subsection (b).

(2) **APPLICATION.**—

(A) **IN GENERAL.**—To be eligible to receive a grant under this subsection, a local educational agency shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

(B) **CONTENTS.**—Each application submitted under subparagraph (A) shall include—

(i) an assurance that the local educational agency has developed plans in accordance with the food allergy and anaphylaxis management guidelines described in subsection (b);

(ii) a description of the activities to be funded by the grant in carrying out the food allergy and anaphylaxis management guidelines, including—

(I) how the guidelines will be carried out at individual schools served by the local educational agency;

(II) how the local educational agency will inform parents and students of the guidelines in place;

(III) how school nurses, teachers, administrators, and other school-based staff will be made aware of, and given training on, when applicable, the guidelines in place; and

(IV) any other activities that the Secretary determines appropriate;

(iii) an itemization of how grant funds received under this subsection will be expended;

(iv) a description of how adoption of the guidelines and implementation of grant activities will be monitored; and

(v) an agreement by the local educational agency to report information required by the Secretary to conduct evaluations under this subsection.

(3) **USE OF FUNDS.**—Each local educational agency that receives a grant under this subsection may use the grant funds for the following:

(A) Purchase of materials and supplies, including limited medical supplies such as epinephrine and disposable wet wipes, to support carrying out the food allergy and anaphylaxis management guidelines described in subsection (b).

(B) In partnership with local health departments, school nurse, teacher, and personnel training for food allergy management.

(C) Programs that educate students as to the presence of, and policies and procedures in place related to, food allergies and anaphylactic shock.

(D) Outreach to parents.

(E) Any other activities consistent with the guidelines described in subsection (b).

(4) **DURATION OF AWARDS.**—The Secretary may award grants under this subsection for a period of not more than 2 years. In the event the Secretary conducts a program evaluation under this subsection, funding in the second year of the grant, where applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

(5) **LIMITATION ON GRANT FUNDING.**—The Secretary may not provide grant funding to a local educational agency under this subsection after such local educational agency has received 2 years of grant funding under this subsection.

(6) **MAXIMUM AMOUNT OF ANNUAL AWARDS.**—A grant awarded under this subsection may not be made in an amount that is more than \$50,000 annually.

(7) **PRIORITY.**—In awarding grants under this subsection, the Secretary shall give priority to local educational agencies with the highest percentages of children who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)).

(8) **MATCHING FUNDS.**—

(A) **IN GENERAL.**—The Secretary may not award a grant under this subsection unless the local educational agency agrees that, with respect to the costs to be incurred by such local educational agency in carrying out the grant activities, the local educational agency shall make available (directly or through donations from public or private entities) non-Federal funds toward such costs in an amount equal to not less than 25 percent of the amount of the grant.

(B) **DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.**—Non-Federal funds required under subparagraph (A) may be cash or in kind, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal funds.

(9) **ADMINISTRATIVE FUNDS.**—A local educational agency that receives a grant under this subsection may use not more than 2 percent of the grant amount for administrative costs related to carrying out this subsection.

(10) **PROGRESS AND EVALUATIONS.**—At the completion of the grant period referred to in paragraph (4), a local educational agency shall provide the Secretary with information on how grant funds were spent and the status of implementation of the food allergy and anaphylaxis management guidelines described in subsection (b).

(11) **SUPPLEMENT, NOT SUPPLANT.**—Grant funds received under this subsection shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this subsection.

(12) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this subsection \$30,000,000 for fiscal year 2011 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(d) **VOLUNTARY NATURE OF GUIDELINES.**—

(1) **IN GENERAL.**—The food allergy and anaphylaxis management guidelines developed by the Secretary under subsection (b) are voluntary. Nothing in this section or the guidelines developed by the Secretary under subsection (b) shall be construed to require a local educational agency to implement such guidelines.

(2) **EXCEPTION.**—Notwithstanding paragraph (1), the Secretary may enforce an agreement by a local educational agency to implement food allergy and anaphylaxis management guidelines as a condition of the receipt of a grant under subsection (c).

SEC. 113. NEW DIETARY INGREDIENTS.

(a) **IN GENERAL.**—Section 413 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350b) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) **NOTIFICATION.**—

“(1) **IN GENERAL.**—If the Secretary determines that the information in a new dietary ingredient notification submitted under this section for an article purported to be a new dietary ingredient is inadequate to establish that a dietary supplement containing such article will reasonably be expected to be safe because the article may be, or may contain, an anabolic steroid or an analogue of an anabolic steroid, the Secretary shall notify the Drug Enforcement Administration of

such determination. Such notification by the Secretary shall include, at a minimum, the name of the dietary supplement or article, the name of the person or persons who marketed the product or made the submission of information regarding the article to the Secretary under this section, and any contact information for such person or persons that the Secretary has.

“(2) **DEFINITIONS.**—For purposes of this subsection—

“(A) the term ‘anabolic steroid’ has the meaning given such term in section 102(41) of the Controlled Substances Act; and

“(B) the term ‘analogue of an anabolic steroid’ means a substance whose chemical structure is substantially similar to the chemical structure of an anabolic steroid.”.

(b) **GUIDANCE.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish guidance that clarifies when a dietary supplement ingredient is a new dietary ingredient, when the manufacturer or distributor of a dietary ingredient or dietary supplement should provide the Secretary with information as described in section 413(a)(2) of the Federal Food, Drug, and Cosmetic Act, the evidence needed to document the safety of new dietary ingredients, and appropriate methods for establishing the identity of a new dietary ingredient.

SEC. 114. REQUIREMENT FOR GUIDANCE RELATING TO POST HARVEST PROCESSING OF RAW OYSTERS.

(a) **IN GENERAL.**—Not later than 90 days prior to the issuance of any guidance, regulation, or suggested amendment by the Food and Drug Administration to the National Shellfish Sanitation Program’s Model Ordinance, or the issuance of any guidance or regulation by the Food and Drug Administration relating to the Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration (parts 123 and 1240 of title 21, Code of Federal Regulations (or any successor regulations), where such guidance, regulation or suggested amendment relates to post harvest processing for raw oysters, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report which shall include—

(1) an assessment of how post harvest processing or other equivalent controls feasibly may be implemented in the fastest, safest, and most economical manner;

(2) the projected public health benefits of any proposed post harvest processing;

(3) the projected costs of compliance with such post harvest processing measures;

(4) the impact post harvest processing is expected to have on the sales, cost, and availability of raw oysters;

(5) criteria for ensuring post harvest processing standards will be applied equally to shellfish imported from all nations of origin;

(6) an evaluation of alternative measures to prevent, eliminate, or reduce to an acceptable level the occurrence of foodborne illness; and

(7) the extent to which the Food and Drug Administration has consulted with the States and other regulatory agencies, as appropriate, with regard to post harvest processing measures.

(b) **LIMITATION.**—Subsection (a) shall not apply to the guidance described in section 103(h).

(c) **REVIEW AND EVALUATION.**—Not later than 30 days after the Secretary issues a proposed regulation or guidance described in subsection (a), the Comptroller General of the United States shall—

(1) review and evaluate the report described in (a) and report to Congress on the findings of the estimates and analysis in the report;

(2) compare such proposed regulation or guidance to similar regulations or guidance with re-

spect to other regulated foods, including a comparison of risks the Secretary may find associated with seafood and the instances of those risks in such other regulated foods; and

(3) evaluate the impact of post harvest processing on the competitiveness of the domestic oyster industry in the United States and in international markets.

(d) **WAIVER.**—The requirement of preparing a report under subsection (a) shall be waived if the Secretary issues a guidance that is adopted as a consensus agreement between Federal and State regulators and the oyster industry, acting through the Interstate Shellfish Sanitation Conference.

(e) **PUBLIC ACCESS.**—Any report prepared under this section shall be made available to the public.

SEC. 115. PORT SHOPPING.

Until the date on which the Secretary promulgates a final rule that implements the amendments made by section 308 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, (Public Law 107-188), the Secretary shall notify the Secretary of Homeland Security of all instances in which the Secretary refuses to admit a food into the United States under section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)) so that the Secretary of Homeland Security, acting through the Commissioner of Customs and Border Protection, may prevent food refused admittance into the United States by a United States port of entry from being admitted by another United States port of entry, through the notification of other such United States ports of entry.

SEC. 116. ALCOHOL-RELATED FACILITIES.

(a) **IN GENERAL.**—Except as provided by sections 102, 206, 207, 302, 304, 402, 403, and 404 of this Act, and the amendments made by such sections, nothing in this Act, or the amendments made by this Act, shall be construed to apply to a facility that—

(1) under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) or chapter 51 of subtitle E of the Internal Revenue Code of 1986 (26 U.S.C. 5001 et seq.) is required to obtain a permit or to register with the Secretary of the Treasury as a condition of doing business in the United States; and

(2) under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) is required to register as a facility because such facility is engaged in manufacturing, processing, packing, or holding 1 or more alcoholic beverages, with respect to the activities of such facility that relate to the manufacturing, processing, packing, or holding of alcoholic beverages.

(b) **LIMITED RECEIPT AND DISTRIBUTION OF NON-ALCOHOL FOOD.**—Subsection (a) shall not apply to a facility engaged in the receipt and distribution of any non-alcohol food, except that such paragraph shall apply to a facility described in such paragraph that receives and distributes non-alcohol food, provided such food is received and distributed—

(1) in a prepackaged form that prevents any direct human contact with such food; and

(2) in amounts that constitute not more than 5 percent of the overall sales of such facility, as determined by the Secretary of the Treasury.

(c) **RULE OF CONSTRUCTION.**—Except as provided in subsections (a) and (b), this section shall not be construed to exempt any food, other than alcoholic beverages, as defined in section 214 of the Federal Alcohol Administration Act (27 U.S.C. 214), from the requirements of this Act (including the amendments made by this Act).

TITLE II—IMPROVING CAPACITY TO DETECT AND RESPOND TO FOOD SAFETY PROBLEMS

SEC. 201. TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY; ANNUAL REPORT.

(a) TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 106, is amended by adding at the end the following:

“SEC. 421. TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY; ANNUAL REPORT.

“(a) IDENTIFICATION AND INSPECTION OF FACILITIES.—

“(1) IDENTIFICATION.—The Secretary shall identify high-risk facilities and shall allocate resources to inspect facilities according to the known safety risks of the facilities, which shall be based on the following factors:

“(A) The known safety risks of the food manufactured, processed, packed, or held at the facility.

“(B) The compliance history of a facility, including with regard to food recalls, outbreaks of foodborne illness, and violations of food safety standards.

“(C) The rigor and effectiveness of the facility’s hazard analysis and risk-based preventive controls.

“(D) Whether the food manufactured, processed, packed, or held at the facility meets the criteria for priority under section 801(h)(1).

“(E) Whether the food or the facility that manufactured, processed, packed, or held such food has received a certification as described in section 801(q) or 806, as appropriate.

“(F) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

“(2) INSPECTIONS.—

“(A) IN GENERAL.—Beginning on the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall increase the frequency of inspection of all facilities.

“(B) DOMESTIC HIGH-RISK FACILITIES.—The Secretary shall increase the frequency of inspection of domestic facilities identified under paragraph (1) as high-risk facilities such that each such facility is inspected—

“(i) not less often than once in the 5-year period following the date of enactment of the FDA Food Safety Modernization Act; and

“(ii) not less often than once every 3 years thereafter.

“(C) DOMESTIC NON-HIGH-RISK FACILITIES.—The Secretary shall ensure that each domestic facility that is not identified under paragraph (1) as a high-risk facility is inspected—

“(i) not less often than once in the 7-year period following the date of enactment of the FDA Food Safety Modernization Act; and

“(ii) not less often than once every 5 years thereafter.

“(D) FOREIGN FACILITIES.—

“(i) YEAR 1.—In the 1-year period following the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall inspect not fewer than 600 foreign facilities.

“(ii) SUBSEQUENT YEARS.—In each of the 5 years following the 1-year period described in clause (i), the Secretary shall inspect not fewer than twice the number of foreign facilities inspected by the Secretary during the previous year.

“(E) RELIANCE ON FEDERAL, STATE, OR LOCAL INSPECTIONS.—In meeting the inspection requirements under this subsection for domestic facilities, the Secretary may rely on inspections conducted by other Federal, State, or local agencies under interagency agreement, contract, memoranda of understanding, or other obligation.

“(b) IDENTIFICATION AND INSPECTION AT PORTS OF ENTRY.—The Secretary, in consultation with the Secretary of Homeland Security, shall allocate resources to inspect any article of food imported into the United States according to the known safety risks of the article of food, which shall be based on the following factors:

“(1) The known safety risks of the food imported.

“(2) The known safety risks of the countries or regions of origin and countries through which such article of food is transported.

“(3) The compliance history of the importer, including with regard to food recalls, outbreaks of foodborne illness, and violations of food safety standards.

“(4) The rigor and effectiveness of the activities conducted by the importer of such article of food to satisfy the requirements of the foreign supplier verification program under section 805.

“(5) Whether the food importer participates in the voluntary qualified importer program under section 806.

“(6) Whether the food meets the criteria for priority under section 801(h)(1).

“(7) Whether the food or the facility that manufactured, processed, packed, or held such food received a certification as described in section 801(q) or 806.

“(8) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

“(c) INTERAGENCY AGREEMENTS WITH RESPECT TO SEAFOOD.—

“(1) IN GENERAL.—The Secretary of Health and Human Services, the Secretary of Commerce, the Secretary of Homeland Security, the Chairman of the Federal Trade Commission, and the heads of other appropriate agencies may enter into such agreements as may be necessary or appropriate to improve seafood safety.

“(2) SCOPE OF AGREEMENTS.—The agreements under paragraph (1) may include—

“(A) cooperative arrangements for examining and testing seafood imports that leverage the resources, capabilities, and authorities of each party to the agreement;

“(B) coordination of inspections of foreign facilities to increase the percentage of imported seafood and seafood facilities inspected;

“(C) standardization of data on seafood names, inspection records, and laboratory testing to improve interagency coordination;

“(D) coordination to detect and investigate violations under applicable Federal law;

“(E) a process, including the use or modification of existing processes, by which officers and employees of the National Oceanic and Atmospheric Administration may be duly designated by the Secretary to carry out seafood examinations and investigations under section 801 of this Act or section 203 of the Food Allergen Labeling and Consumer Protection Act of 2004;

“(F) the sharing of information concerning observed non-compliance with United States food requirements domestically and in foreign nations and new regulatory decisions and policies that may affect the safety of food imported into the United States;

“(G) conducting joint training on subjects that affect and strengthen seafood inspection effectiveness by Federal authorities; and

“(H) outreach on Federal efforts to enhance seafood safety and compliance with Federal food safety requirements.

“(d) COORDINATION.—The Secretary shall improve coordination and cooperation with the Secretary of Agriculture and the Secretary of Homeland Security to target food inspection resources.

“(e) FACILITY.—For purposes of this section, the term ‘facility’ means a domestic facility or a foreign facility that is required to register under section 415.”.

(b) ANNUAL REPORT.—Section 1003 (21 U.S.C. 393) is amended by adding at the end the following:

“(h) ANNUAL REPORT REGARDING FOOD.—Not later than February 1 of each year, the Secretary shall submit to Congress a report, including efforts to coordinate and cooperate with other Federal agencies with responsibilities for food inspections, regarding—

“(1) information about food facilities including—

“(A) the appropriations used to inspect facilities registered pursuant to section 415 in the previous fiscal year;

“(B) the average cost of both a non-high-risk food facility inspection and a high-risk food facility inspection, if such a difference exists, in the previous fiscal year;

“(C) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that the Secretary inspected in the previous fiscal year;

“(D) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that were scheduled for inspection in the previous fiscal year and which the Secretary did not inspect in such year;

“(E) the number of high-risk facilities identified pursuant to section 421 that the Secretary inspected in the previous fiscal year; and

“(F) the number of high-risk facilities identified pursuant to section 421 that were scheduled for inspection in the previous fiscal year and which the Secretary did not inspect in such year.

“(2) information about food imports including—

“(A) the number of lines of food imported into the United States that the Secretary physically inspected or sampled in the previous fiscal year;

“(B) the number of lines of food imported into the United States that the Secretary did not physically inspect or sample in the previous fiscal year; and

“(C) the average cost of physically inspecting or sampling a line of food subject to this Act that is imported or offered for import into the United States; and

“(3) information on the foreign offices of the Food and Drug Administration including—

“(A) the number of foreign offices established; and

“(B) the number of personnel permanently stationed in each foreign office.

“(i) PUBLIC AVAILABILITY OF ANNUAL FOOD REPORTS.—The Secretary shall make the reports required under subsection (h) available to the public on the Internet Web site of the Food and Drug Administration.”.

(c) ADVISORY COMMITTEE CONSULTATION.—In allocating inspection resources as described in section 421 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary may, as appropriate, consult with any relevant advisory committee within the Department of Health and Human Services.

SEC. 202. LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 201, is amended by adding at the end the following:

“SEC. 422. LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.

“(a) RECOGNITION OF LABORATORY ACCREDITATION.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

“(A) establish a program for the testing of food by accredited laboratories;

“(B) establish a publicly available registry of accreditation bodies recognized by the Secretary and laboratories accredited by a recognized accreditation body, including the name of, contact

information for, and other information deemed appropriate by the Secretary about such bodies and laboratories; and

“(C) require, as a condition of recognition or accreditation, as appropriate, that recognized accreditation bodies and accredited laboratories report to the Secretary any changes that would affect the recognition of such accreditation body or the accreditation of such laboratory.

“(2) PROGRAM REQUIREMENTS.—The program established under paragraph (1)(A) shall provide for the recognition of laboratory accreditation bodies that meet criteria established by the Secretary for accreditation of laboratories, including independent private laboratories and laboratories run and operated by a Federal agency (including the Department of Commerce), State, or locality with a demonstrated capability to conduct 1 or more sampling and analytical testing methodologies for food.

“(3) INCREASING THE NUMBER OF QUALIFIED LABORATORIES.—The Secretary shall work with the laboratory accreditation bodies recognized under paragraph (1), as appropriate, to increase the number of qualified laboratories that are eligible to perform testing under subparagraph (b) beyond the number so qualified on the date of enactment of the FDA Food Safety Modernization Act.

“(4) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary, in coordination with the Secretary of Homeland Security, may determine the time, manner, and form in which the registry established under paragraph (1)(B) is made publicly available.

“(5) FOREIGN LABORATORIES.—Accreditation bodies recognized by the Secretary under paragraph (1) may accredit laboratories that operate outside the United States, so long as such laboratories meet the accreditation standards applicable to domestic laboratories accredited under this section.

“(6) MODEL LABORATORY STANDARDS.—The Secretary shall develop model standards that a laboratory shall meet to be accredited by a recognized accreditation body for a specified sampling or analytical testing methodology and included in the registry provided for under paragraph (1). In developing the model standards, the Secretary shall consult existing standards for guidance. The model standards shall include—

“(A) methods to ensure that—

“(i) appropriate sampling, analytical procedures (including rapid analytical procedures), and commercially available techniques are followed and reports of analyses are certified as true and accurate;

“(ii) internal quality systems are established and maintained;

“(iii) procedures exist to evaluate and respond promptly to complaints regarding analyses and other activities for which the laboratory is accredited; and

“(iv) individuals who conduct the sampling and analyses are qualified by training and experience to do so; and

“(B) any other criteria determined appropriate by the Secretary.

“(7) REVIEW OF RECOGNITION.—To ensure compliance with the requirements of this section, the Secretary—

“(A) shall periodically, and in no case less than once every 5 years, reevaluate accreditation bodies recognized under paragraph (1) and may accompany auditors from an accreditation body to assess whether the accreditation body meets the criteria for recognition; and

“(B) shall promptly revoke the recognition of any accreditation body found not to be in compliance with the requirements of this section, specifying, as appropriate, any terms and conditions necessary for laboratories accredited by such body to continue to perform testing as described in this section.

“(b) TESTING PROCEDURES.—

“(1) IN GENERAL.—Not later than 30 months after the date of enactment of the FDA Food Safety Modernization Act, food testing shall be conducted by Federal laboratories or non-Federal laboratories that have been accredited for the appropriate sampling or analytical testing methodology or methodologies by a recognized accreditation body on the registry established by the Secretary under subsection (a)(1)(B) whenever such testing is conducted—

“(A) by or on behalf of an owner or consignee—

“(i) in response to a specific testing requirement under this Act or implementing regulations, when applied to address an identified or suspected food safety problem; and

“(ii) as required by the Secretary, as the Secretary deems appropriate, to address an identified or suspected food safety problem; or

“(B) on behalf of an owner or consignee—

“(i) in support of admission of an article of food under section 801(a); and

“(ii) under an Import Alert that requires successful consecutive tests.

“(2) RESULTS OF TESTING.—The results of any such testing shall be sent directly to the Food and Drug Administration, except the Secretary may by regulation exempt test results from such submission requirement if the Secretary determines that such results do not contribute to the protection of public health. Test results required to be submitted may be submitted to the Food and Drug Administration through electronic means.

“(3) EXCEPTION.—The Secretary may waive requirements under this subsection if—

“(A) a new methodology or methodologies have been developed and validated but a laboratory has not yet been accredited to perform such methodology or methodologies; and

“(B) the use of such methodology or methodologies are necessary to prevent, control, or mitigate a food emergency or foodborne illness outbreak.

“(c) REVIEW BY SECRETARY.—If food sampling and testing performed by a laboratory run and operated by a State or locality that is accredited by a recognized accreditation body on the registry established by the Secretary under subsection (a) result in a State recalling a food, the Secretary shall review the sampling and testing results for the purpose of determining the need for a national recall or other compliance and enforcement activities.

“(d) NO LIMIT ON SECRETARIAL AUTHORITY.—Nothing in this section shall be construed to limit the ability of the Secretary to review and act upon information from food testing, including determining the sufficiency of such information and testing.”

(b) FOOD EMERGENCY RESPONSE NETWORK.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Homeland Security, and State, local, and tribal governments shall, not later than 180 days after the date of enactment of this Act, and biennially thereafter, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Health and Human Services, a report on the progress in implementing a national food emergency response laboratory network that—

(1) provides ongoing surveillance, rapid detection, and surge capacity for large-scale food-related emergencies, including intentional adulteration of the food supply;

(2) coordinates the food laboratory capacities of State, local, and tribal food laboratories, including the adoption of novel surveillance and identification technologies and the sharing of data between Federal agencies and State laboratories to develop national situational awareness;

(3) provides accessible, timely, accurate, and consistent food laboratory services throughout the United States;

(4) develops and implements a methods repository for use by Federal, State, and local officials;

(5) responds to food-related emergencies; and

(6) is integrated with relevant laboratory networks administered by other Federal agencies.

SEC. 203. INTEGRATED CONSORTIUM OF LABORATORY NETWORKS.

(a) IN GENERAL.—The Secretary of Homeland Security, in coordination with the Secretary of Health and Human Services, the Secretary of Agriculture, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall maintain an agreement through which relevant laboratory network members, as determined by the Secretary of Homeland Security, shall—

(1) agree on common laboratory methods in order to reduce the time required to detect and respond to foodborne illness outbreaks and facilitate the sharing of knowledge and information relating to animal health, agriculture, and human health;

(2) identify means by which laboratory network members could work cooperatively—

(A) to optimize national laboratory preparedness; and

(B) to provide surge capacity during emergencies; and

(3) engage in ongoing dialogue and build relationships that will support a more effective and integrated response during emergencies.

(b) REPORTING REQUIREMENT.—The Secretary of Homeland Security shall, on a biennial basis, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the progress of the integrated consortium of laboratory networks, as established under subsection (a), in carrying out this section.

SEC. 204. ENHANCING TRACKING AND TRACING OF FOOD AND RECORDKEEPING.

(a) PILOT PROJECTS.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”), taking into account recommendations from the Secretary of Agriculture and representatives of State departments of health and agriculture, shall establish pilot projects in coordination with the food industry to explore and evaluate methods to rapidly and effectively identify recipients of food to prevent or mitigate a foodborne illness outbreak and to address credible threats of serious adverse health consequences or death to humans or animals as a result of such food being adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) or misbranded under section 403(w) of such Act (21 U.S.C. 343(w)).

(2) CONTENT.—The Secretary shall conduct 1 or more pilot projects under paragraph (1) in coordination with the processed food sector and 1 or more such pilot projects in coordination with processors or distributors of fruits and vegetables that are raw agricultural commodities. The Secretary shall ensure that the pilot projects under paragraph (1) reflect the diversity of the food supply and include at least 3 different types of foods that have been the subject of significant outbreaks during the 5-year period preceding the date of enactment of this Act, and are selected in order to—

(A) develop and demonstrate methods for rapid and effective tracking and tracing of foods in a manner that is practicable for facilities of varying sizes, including small businesses;

(B) develop and demonstrate appropriate technologies, including technologies existing on the date of enactment of this Act, that enhance the tracking and tracing of food; and

(C) inform the promulgation of regulations under subsection (d).

(3) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall report to Congress on the findings of the pilot projects under this subsection together with recommendations for improving the tracking and tracing of food.

(b) **ADDITIONAL DATA GATHERING.**—

(1) **IN GENERAL.**—The Secretary, in coordination with the Secretary of Agriculture and multiple representatives of State departments of health and agriculture, shall assess—

(A) the costs and benefits associated with the adoption and use of several product tracing technologies, including technologies used in the pilot projects under subsection (a);

(B) the feasibility of such technologies for different sectors of the food industry, including small businesses; and

(C) whether such technologies are compatible with the requirements of this subsection.

(2) **REQUIREMENTS.**—To the extent practicable, in carrying out paragraph (1), the Secretary shall—

(A) evaluate domestic and international product tracing practices in commercial use;

(B) consider international efforts, including an assessment of whether product tracing requirements developed under this section are compatible with global tracing systems, as appropriate; and

(C) consult with a diverse and broad range of experts and stakeholders, including representatives of the food industry, agricultural producers, and nongovernmental organizations that represent the interests of consumers.

(c) **PRODUCT TRACING SYSTEM.**—The Secretary, in consultation with the Secretary of Agriculture, shall, as appropriate, establish within the Food and Drug Administration a product tracing system to receive information that improves the capacity of the Secretary to effectively and rapidly track and trace food that is in the United States or offered for import into the United States. Prior to the establishment of such product tracing system, the Secretary shall examine the results of applicable pilot projects and shall ensure that the activities of such system are adequately supported by the results of such pilot projects.

(d) **ADDITIONAL RECORDKEEPING REQUIREMENTS FOR HIGH RISK FOODS.**—

(1) **IN GENERAL.**—In order to rapidly and effectively identify recipients of a food to prevent or mitigate a foodborne illness outbreak and to address credible threats of serious adverse health consequences or death to humans or animals as a result of such food being adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act or misbranded under section 403(w) of such Act, not later than 2 years after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to establish recordkeeping requirements, in addition to the requirements under section 414 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c) and subpart J of part 1 of title 21, Code of Federal Regulations (or any successor regulations), for facilities that manufacture, process, pack, or hold foods that the Secretary designates under paragraph (2) as high-risk foods. The Secretary shall set an appropriate effective date of such additional requirements for foods designated as high risk that takes into account the length of time necessary to comply with such requirements. Such requirements shall—

(A) relate only to information that is reasonably available and appropriate;

(B) be science-based;

(C) not prescribe specific technologies for the maintenance of records;

(D) ensure that the public health benefits of imposing additional recordkeeping requirements outweigh the cost of compliance with such requirements;

(E) be scale-appropriate and practicable for facilities of varying sizes and capabilities with respect to costs and recordkeeping burdens, and not require the creation and maintenance of duplicate records where the information is contained in other company records kept in the normal course of business;

(F) minimize the number of different recordkeeping requirements for facilities that handle more than 1 type of food;

(G) to the extent practicable, not require a facility to change business systems to comply with such requirements;

(H) allow any person subject to this subsection to maintain records required under this subsection at a central or reasonably accessible location provided that such records can be made available to the Secretary not later than 24 hours after the Secretary requests such records; and

(I) include a process by which the Secretary may issue a waiver of the requirements under this subsection if the Secretary determines that such requirements would result in an economic hardship for an individual facility or a type of facility;

(J) be commensurate with the known safety risks of the designated food;

(K) take into account international trade obligations;

(L) not require—

(i) a full pedigree, or a record of the complete previous distribution history of the food from the point of origin of such food;

(ii) records of recipients of a food beyond the immediate subsequent recipient of such food; or

(iii) product tracking to the case level by persons subject to such requirements; and

(M) include a process by which the Secretary may remove a high-risk food designation developed under paragraph (2) for a food or type of food.

(2) **DESIGNATION OF HIGH-RISK FOODS.**—

(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, and thereafter as the Secretary determines necessary, the Secretary shall designate high-risk foods for which the additional recordkeeping requirements described in paragraph (1) are appropriate and necessary to protect the public health. Each such designation shall be based on—

(i) the known safety risks of a particular food, including the history and severity of foodborne illness outbreaks attributed to such food, taking into consideration foodborne illness data collected by the Centers for Disease Control and Prevention;

(ii) the likelihood that a particular food has a high potential risk for microbiological or chemical contamination or would support the growth of pathogenic microorganisms due to the nature of the food or the processes used to produce such food;

(iii) the point in the manufacturing process of the food where contamination is most likely to occur;

(iv) the likelihood of contamination and steps taken during the manufacturing process to reduce the possibility of contamination;

(v) the likelihood that consuming a particular food will result in a foodborne illness due to contamination of the food; and

(vi) the likely or known severity, including health and economic impacts, of a foodborne illness attributed to a particular food.

(B) **LIST OF HIGH-RISK FOODS.**—At the time the Secretary promulgates the final rules under paragraph (1), the Secretary shall publish the list of the foods designated under subparagraph (A) as high-risk foods on the Internet website of the Food and Drug Administration. The Secretary may update the list to designate new high-risk foods and to remove foods that are no longer deemed to be high-risk foods, provided

that each such update to the list is consistent with the requirements of this subsection and notice of such update is published in the Federal Register.

(3) **PROTECTION OF SENSITIVE INFORMATION.**—In promulgating regulations under this subsection, the Secretary shall take appropriate measures to ensure that there are effective procedures to prevent the unauthorized disclosure of any trade secret or confidential information that is obtained by the Secretary pursuant to this section, including periodic risk assessment and planning to prevent unauthorized release and controls to—

(A) prevent unauthorized reproduction of trade secret or confidential information;

(B) prevent unauthorized access to trade secret or confidential information; and

(C) maintain records with respect to access by any person to trade secret or confidential information maintained by the agency.

(4) **PUBLIC INPUT.**—During the comment period in the notice of proposed rulemaking under paragraph (1), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

(5) **RETENTION OF RECORDS.**—Except as otherwise provided in this subsection, the Secretary may require that a facility retain records under this subsection for not more than 2 years, taking into consideration the risk of spoilage, loss of value, or loss of palatability of the applicable food when determining the appropriate timeframes.

(6) **LIMITATIONS.**—

(A) **FARM TO SCHOOL PROGRAMS.**—In establishing requirements under this subsection, the Secretary shall, in consultation with the Secretary of Agriculture, consider the impact of requirements on farm to school or farm to institution programs of the Department of Agriculture and other farm to school and farm to institution programs outside such agency, and shall modify the requirements under this subsection, as appropriate, with respect to such programs so that the requirements do not place undue burdens on farm to school or farm to institution programs.

(B) **IDENTITY-PRESERVED LABELS WITH RESPECT TO FARM SALES OF FOOD THAT IS PRODUCED AND PACKAGED ON A FARM.**—The requirements under this subsection shall not apply to a food that is produced and packaged on a farm if—

(i) the packaging of the food maintains the integrity of the product and prevents subsequent contamination or alteration of the product; and

(ii) the labeling of the food includes the name, complete address (street address, town, State, country, and zip or other postal code), and business phone number of the farm, unless the Secretary waives the requirement to include a business phone number of the farm, as appropriate, in order to accommodate a religious belief of the individual in charge of such farm.

(C) **FISHING VESSELS.**—The requirements under this subsection with respect to a food that is produced through the use of a fishing vessel (as defined in section 3(18) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(18))) shall be limited to the requirements under subparagraph (F) until such time as the food is sold by the owner, operator, or agent in charge of such fishing vessel.

(D) **COMMINGLED RAW AGRICULTURAL COMMODITIES.**—

(i) **LIMITATION ON EXTENT OF TRACING.**—Recordkeeping requirements under this subsection with regard to any commingled raw agricultural commodity shall be limited to the requirements under subparagraph (F).

(ii) **DEFINITIONS.**—For the purposes of this subsection—

(I) the term “commingled raw agricultural commodity” means any commodity that is combined or mixed after harvesting, but before processing;

(II) the term “commingled raw agricultural commodity” shall not include types of fruits and vegetables that are raw agricultural commodities for which the Secretary has determined that standards promulgated under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by section 105) would minimize the risk of serious adverse health consequences or death; and

(III) the term “processing” means operations that alter the general state of the commodity, such as canning, cooking, freezing, dehydration, milling, grinding, pasteurization, or homogenization.

(E) EXEMPTION OF OTHER FOODS.—The Secretary may, by notice in the Federal Register, modify the requirements under this subsection with respect to, or exempt a food or a type of facility from, the requirements of this subsection (other than the requirements under subparagraph (F), if applicable) if the Secretary determines that product tracing requirements for such food (such as bulk or commingled ingredients that are intended to be processed to destroy pathogens) or type of facility is not necessary to protect the public health.

(F) RECORDKEEPING REGARDING PREVIOUS SOURCES AND SUBSEQUENT RECIPIENTS.—In the case of a person or food to which a limitation or exemption under subparagraph (C), (D), or (E) applies, if such person, or a person who manufactures, processes, packs, or holds such food, is required to register with the Secretary under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) with respect to the manufacturing, processing, packing, or holding of the applicable food, the Secretary shall require such person to maintain records that identify the immediate previous source of such food and the immediate subsequent recipient of such food.

(G) GROCERY STORES.—With respect to a sale of a food described in subparagraph (H) to a grocery store, the Secretary shall not require such grocery store to maintain records under this subsection other than records documenting the farm that was the source of such food. The Secretary shall not require that such records be kept for more than 180 days.

(H) FARM SALES TO CONSUMERS.—The Secretary shall not require a farm to maintain any distribution records under this subsection with respect to a sale of a food described in subparagraph (I) (including a sale of a food that is produced and packaged on such farm), if such sale is made by the farm directly to a consumer.

(I) SALE OF A FOOD.—A sale of a food described in this subparagraph is a sale of a food in which—

- (i) the food is produced on a farm; and
- (ii) the sale is made by the owner, operator, or agent in charge of such farm directly to a consumer or grocery store.

(7) NO IMPACT ON NON-HIGH-RISK FOODS.—The recordkeeping requirements established under paragraph (1) shall have no effect on foods that are not designated by the Secretary under paragraph (2) as high-risk foods. Foods described in the preceding sentence shall be subject solely to the recordkeeping requirements under section 414 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c) and subpart J of part 1 of title 21, Code of Federal Regulations (or any successor regulations).

(e) EVALUATION AND RECOMMENDATIONS.—

(1) REPORT.—Not later than 1 year after the effective date of the final rule promulgated under subsection (d)(1), the Comptroller General of the United States shall submit to Congress a report, taking into consideration the costs of compliance and other regulatory burdens on

small businesses and Federal, State, and local food safety practices and requirements, that evaluates the public health benefits and risks, if any, of limiting—

(A) the product tracing requirements under subsection (d) to foods identified under paragraph (2) of such subsection, including whether such requirements provide adequate assurance of traceability in the event of intentional adulteration, including by acts of terrorism; and

(B) the participation of restaurants in the recordkeeping requirements.

(2) DETERMINATION AND RECOMMENDATIONS.—In conducting the evaluation and report under paragraph (1), if the Comptroller General of the United States determines that the limitations described in such paragraph do not adequately protect the public health, the Comptroller General shall submit to Congress recommendations, if appropriate, regarding recordkeeping requirements for restaurants and additional foods, in order to protect the public health.

(f) FARMS.—

(1) REQUEST FOR INFORMATION.—Notwithstanding subsection (d), during an active investigation of a foodborne illness outbreak, or if the Secretary determines it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak, the Secretary, in consultation and coordination with State and local agencies responsible for food safety, as appropriate, may request that the owner, operator, or agent of a farm identify potential immediate recipients, other than consumers, of an article of the food that is the subject of such investigation if the Secretary reasonably believes such article of food—

(A) is adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act;

(B) presents a threat of serious adverse health consequences or death to humans or animals; and

(C) was adulterated as described in subparagraph (A) on a particular farm (as defined in section 1.227 of chapter 21, Code of Federal Regulations (or any successor regulation)).

(2) MANNER OF REQUEST.—In making a request under paragraph (1), the Secretary, in consultation and coordination with State and local agencies responsible for food safety, as appropriate, shall issue a written notice to the owner, operator, or agent of the farm to which the article of food has been traced. The individual providing such notice shall present to such owner, operator, or agent appropriate credentials and shall deliver such notice at reasonable times and within reasonable limits and in a reasonable manner.

(3) DELIVERY OF INFORMATION REQUESTED.—The owner, operator, or agent of a farm shall deliver the information requested under paragraph (1) in a prompt and reasonable manner. Such information may consist of records kept in the normal course of business, and may be in electronic or non-electronic format.

(4) LIMITATION.—A request made under paragraph (1) shall not include a request for information relating to the finances, pricing of commodities produced, personnel, research, sales (other than information relating to shipping), or other disclosures that may reveal trade secrets or confidential information from the farm to which the article of food has been traced, other than information necessary to identify potential immediate recipients of such food. Section 301(j) of the Federal Food, Drug, and Cosmetic Act and the Freedom of Information Act shall apply with respect to any confidential commercial information that is disclosed to the Food and Drug Administration in the course of responding to a request under paragraph (1).

(5) RECORDS.—Except with respect to identifying potential immediate recipients in response to a request under this subsection, nothing in

this subsection shall require the establishment or maintenance by farms of new records.

(g) NO LIMITATION ON COMMINGLING OF FOOD.—Nothing in this section shall be construed to authorize the Secretary to impose any limitation on the commingling of food.

(h) SMALL ENTITY COMPLIANCE GUIDE.—Not later than 180 days after promulgation of a final rule under subsection (d), the Secretary shall issue a small entity compliance guide setting forth in plain language the requirements of the regulations under such subsection in order to assist small entities, including farms and small businesses, in complying with the recordkeeping requirements under such subsection.

(i) FLEXIBILITY FOR SMALL BUSINESSES.—Notwithstanding any other provision of law, the regulations promulgated under subsection (d) shall apply—

(1) to small businesses (as defined by the Secretary in section 103, not later than 90 days after the date of enactment of this Act) beginning on the date that is 1 year after the effective date of the final regulations promulgated under subsection (d); and

(2) to very small businesses (as defined by the Secretary in section 103, not later than 90 days after the date of enactment of this Act) beginning on the date that is 2 years after the effective date of the final regulations promulgated under subsection (d).

(j) ENFORCEMENT.—

(1) PROHIBITED ACTS.—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting “; or the violation of any recordkeeping requirement under section 204 of the FDA Food Safety Modernization Act (except when such violation is committed by a farm)” before the period at the end.

(2) IMPORTS.—Section 801(a) (21 U.S.C. 381(a)) is amended by inserting “or (4) the recordkeeping requirements under section 204 of the FDA Food Safety Modernization Act (other than the requirements under subsection (f) of such section) have not been complied with regarding such article,” in the third sentence before “then such article shall be refused admission”.

SEC. 205. SURVEILLANCE.

(a) DEFINITION OF FOODBORNE ILLNESS OUTBREAK.—In this Act, the term “foodborne illness outbreak” means the occurrence of 2 or more cases of a similar illness resulting from the ingestion of a certain food.

(b) FOODBORNE ILLNESS SURVEILLANCE SYSTEMS.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall enhance foodborne illness surveillance systems to improve the collection, analysis, reporting, and usefulness of data on foodborne illnesses by—

(A) coordinating Federal, State and local foodborne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(B) facilitating sharing of surveillance information on a more timely basis among governmental agencies, including the Food and Drug Administration, the Department of Agriculture, the Department of Homeland Security, and State and local agencies, and with the public;

(C) developing improved epidemiological tools for obtaining quality exposure data and microbiological methods for classifying cases;

(D) augmenting such systems to improve attribution of a foodborne illness outbreak to a specific food;

(E) expanding capacity of such systems, including working toward automatic electronic searches, for implementation of identification practices, including fingerprinting strategies, for foodborne infectious agents, in order to identify

new or rarely documented causes of foodborne illness and submit standardized information to a centralized database;

(F) allowing timely public access to aggregated, de-identified surveillance data;

(G) at least annually, publishing current reports on findings from such systems;

(H) establishing a flexible mechanism for rapidly initiating scientific research by academic institutions;

(I) integrating foodborne illness surveillance systems and data with other biosurveillance and public health situational awareness capabilities at the Federal, State, and local levels, including by sharing foodborne illness surveillance data with the National Biosurveillance Integration Center; and

(J) other activities as determined appropriate by the Secretary.

(2) **WORKING GROUP.**—The Secretary shall support and maintain a diverse working group of experts and stakeholders from Federal, State, and local food safety and health agencies, the food and food testing industries, consumer organizations, and academia. Such working group shall provide the Secretary, through at least annual meetings of the working group and an annual public report, advice and recommendations on an ongoing and regular basis regarding the improvement of foodborne illness surveillance and implementation of this section, including advice and recommendations on—

(A) the priority needs of regulatory agencies, the food industry, and consumers for information and analysis on foodborne illness and its causes;

(B) opportunities to improve the effectiveness of initiatives at the Federal, State, and local levels, including coordination and integration of activities among Federal agencies, and between the Federal, State, and local levels of government;

(C) improvement in the timeliness and depth of access by regulatory and health agencies, the food industry, academic researchers, and consumers to foodborne illness aggregated, de-identified surveillance data collected by government agencies at all levels, including data compiled by the Centers for Disease Control and Prevention;

(D) key barriers at Federal, State, and local levels to improving foodborne illness surveillance and the utility of such surveillance for preventing foodborne illness;

(E) the capabilities needed for establishing automatic electronic searches of surveillance data; and

(F) specific actions to reduce barriers to improvement, implement the working group's recommendations, and achieve the purposes of this section, with measurable objectives and timelines, and identification of resource and staffing needs.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out the activities described in paragraph (1), there is authorized to be appropriated \$24,000,000 for each fiscal years 2011 through 2015.

(c) **IMPROVING FOOD SAFETY AND DEFENSE CAPACITY AT THE STATE AND LOCAL LEVEL.**—

(1) **IN GENERAL.**—The Secretary shall develop and implement strategies to leverage and enhance the food safety and defense capacities of State and local agencies in order to achieve the following goals:

(A) Improve foodborne illness outbreak response and containment.

(B) Accelerate foodborne illness surveillance and outbreak investigation, including rapid shipment of clinical isolates from clinical laboratories to appropriate State laboratories, and conducting more standardized illness outbreak interviews.

(C) Strengthen the capacity of State and local agencies to carry out inspections and enforce safety standards.

(D) Improve the effectiveness of Federal, State, and local partnerships to coordinate food safety and defense resources and reduce the incidence of foodborne illness.

(E) Share information on a timely basis among public health and food regulatory agencies, with the food industry, with health care providers, and with the public.

(F) Strengthen the capacity of State and local agencies to achieve the goals described in section 108.

(2) **REVIEW.**—In developing of the strategies required by paragraph (1), the Secretary shall, not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, complete a review of State and local capacities, and needs for enhancement, which may include a survey with respect to—

(A) staffing levels and expertise available to perform food safety and defense functions;

(B) laboratory capacity to support surveillance, outbreak response, inspection, and enforcement activities;

(C) information systems to support data management and sharing of food safety and defense information among State and local agencies and with counterparts at the Federal level; and

(D) other State and local activities and needs as determined appropriate by the Secretary.

(d) **FOOD SAFETY CAPACITY BUILDING GRANTS.**—Section 317(b) of the Public Health Service Act (42 U.S.C. 247b–20(b)) is amended—

(1) by striking “2002” and inserting “2010”; and

(2) by striking “2003 through 2006” and inserting “2011 through 2015”.

SEC. 206. MANDATORY RECALL AUTHORITY.

(a) **IN GENERAL.**—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 202, is amended by adding at the end the following:

“SEC. 423. MANDATORY RECALL AUTHORITY.

“(a) **VOLUNTARY PROCEDURES.**—If the Secretary determines, based on information gathered through the reportable food registry under section 417 or through any other means, that there is a reasonable probability that an article of food (other than infant formula) is adulterated under section 402 or misbranded under section 403(w) and the use of or exposure to such article will cause serious adverse health consequences or death to humans or animals, the Secretary shall provide the responsible party (as defined in section 417) with an opportunity to cease distribution and recall such article.

“(b) **PREHEARING ORDER TO CEASE DISTRIBUTION AND GIVE NOTICE.**—

“(1) **IN GENERAL.**—If the responsible party refuses to or does not voluntarily cease distribution or recall such article within the time and in the manner prescribed by the Secretary (if so prescribed), the Secretary may, by order require, as the Secretary deems necessary, such person to—

“(A) immediately cease distribution of such article; and

“(B) as applicable, immediately notify all persons—

“(i) manufacturing, processing, packing, transporting, distributing, receiving, holding, or importing and selling such article; and

“(ii) to which such article has been distributed, transported, or sold, to immediately cease distribution of such article.

“(2) **REQUIRED ADDITIONAL INFORMATION.**—

“(A) **IN GENERAL.**—If an article of food covered by a recall order issued under paragraph (1)(B) has been distributed to a warehouse-based third party logistics provider without providing such provider sufficient information to know or reasonably determine the precise identity of the article of food covered by a recall order that is in its possession, the notice provided by the responsible party subject to the order issued under paragraph (1)(B) shall in-

clude such information as is necessary for the warehouse-based third party logistics provider to identify the food.

“(B) **RULES OF CONSTRUCTION.**—Nothing in this paragraph shall be construed—

“(i) to exempt a warehouse-based third party logistics provider from the requirements of this Act, including the requirements in this section and section 414; or

“(ii) to exempt a warehouse-based third party logistics provider from being the subject of a mandatory recall order.

“(3) **DETERMINATION TO LIMIT AREAS AFFECTED.**—If the Secretary requires a responsible party to cease distribution under paragraph (1)(A) of an article of food identified in subsection (a), the Secretary may limit the size of the geographic area and the markets affected by such cessation if such limitation would not compromise the public health.

“(c) **HEARING ON ORDER.**—The Secretary shall provide the responsible party subject to an order under subsection (b) with an opportunity for an informal hearing, to be held as soon as possible, but not later than 2 days after the issuance of the order, on the actions required by the order and on why the article that is the subject of the order should not be recalled.

“(d) **POST-HEARING RECALL ORDER AND MODIFICATION OF ORDER.**—

“(1) **AMENDMENT OF ORDER.**—If, after providing opportunity for an informal hearing under subsection (c), the Secretary determines that removal of the article from commerce is necessary, the Secretary shall, as appropriate—

“(A) amend the order to require recall of such article or other appropriate action;

“(B) specify a timetable in which the recall shall occur;

“(C) require periodic reports to the Secretary describing the progress of the recall; and

“(D) provide notice to consumers to whom such article was, or may have been, distributed.

“(2) **VACATING OF ORDER.**—If, after such hearing, the Secretary determines that adequate grounds do not exist to continue the actions required by the order, or that such actions should be modified, the Secretary shall vacate the order or modify the order.

“(e) **RULE REGARDING ALCOHOLIC BEVERAGES.**—The Secretary shall not initiate a mandatory recall or take any other action under this section with respect to any alcohol beverage until the Secretary has provided the Alcohol and Tobacco Tax and Trade Bureau with a reasonable opportunity to cease distribution and recall such article under the Alcohol and Tobacco Tax and Trade Bureau authority.

“(f) **COOPERATION AND CONSULTATION.**—The Secretary shall work with State and local public health officials in carrying out this section, as appropriate.

“(g) **PUBLIC NOTIFICATION.**—In conducting a recall under this section, the Secretary shall—

“(1) ensure that a press release is published regarding the recall, as well as alerts and public notices, as appropriate, in order to provide notification—

“(A) of the recall to consumers and retailers to whom such article was, or may have been, distributed; and

“(B) that includes, at a minimum—

“(i) the name of the article of food subject to the recall;

“(ii) a description of the risk associated with such article; and

“(iii) to the extent practicable, information for consumers about similar articles of food that are not affected by the recall;

“(2) consult the policies of the Department of Agriculture regarding providing to the public a list of retail consignees receiving products involved in a Class I recall and shall consider providing such a list to the public, as determined appropriate by the Secretary; and

“(3) if available, publish on the Internet Web site of the Food and Drug Administration an image of the article that is the subject of the press release described in (1).”

“(h) NO DELEGATION.—The authority conferred by this section to order a recall or vacate a recall order shall not be delegated to any officer or employee other than the Commissioner.”

“(i) EFFECT.—Nothing in this section shall affect the authority of the Secretary to request or participate in a voluntary recall, or to issue an order to cease distribution or to recall under any other provision of this Act or under the Public Health Service Act.

“(j) COORDINATED COMMUNICATION.—

“(1) IN GENERAL.—To assist in carrying out the requirements of this subsection, the Secretary shall establish an incident command operation or a similar operation within the Department of Health and Human Services that will operate not later than 24 hours after the initiation of a mandatory recall or the recall of an article of food for which the use of, or exposure to, such article will cause serious adverse health consequences or death to humans or animals.

“(2) REQUIREMENTS.—To reduce the potential for miscommunication during recalls or regarding investigations of a food borne illness outbreak associated with a food that is subject to a recall, each incident command operation or similar operation under paragraph (1) shall use regular staff and resources of the Department of Health and Human Services to—

“(A) ensure timely and coordinated communication within the Department, including enhanced communication and coordination between different agencies and organizations within the Department;

“(B) ensure timely and coordinated communication from the Department, including public statements, throughout the duration of the investigation and related foodborne illness outbreak;

“(C) identify a single point of contact within the Department for public inquiries regarding any actions by the Secretary related to a recall;

“(D) coordinate with Federal, State, local, and tribal authorities, as appropriate, that have responsibilities related to the recall of a food or a foodborne illness outbreak associated with a food that is subject to the recall, including notification of the Secretary of Agriculture and the Secretary of Education in the event such recalled food is a commodity intended for use in a child nutrition program (as identified in section 25(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769f(b))); and

“(E) conclude operations at such time as the Secretary determines appropriate.

“(3) MULTIPLE RECALLS.—The Secretary may establish multiple or concurrent incident command operations or similar operations in the event of multiple recalls or foodborne illness outbreaks necessitating such action by the Department of Health and Human Services.”

(b) SEARCH ENGINE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall modify the Internet Web site of the Food and Drug Administration to include a search engine that—

(1) is consumer-friendly, as determined by the Secretary; and

(2) provides a means by which an individual may locate relevant information regarding each article of food subject to a recall under section 423 of the Federal Food, Drug, and Cosmetic Act and the status of such recall (such as whether a recall is ongoing or has been completed).

(c) CIVIL PENALTY.—Section 303(f)(2)(A) (21 U.S.C. 333(f)(2)(A)) is amended by inserting “or any person who does not comply with a recall order under section 423” after “section 402(a)(2)(B)”.

(d) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331 et seq.), as amended by section 106, is amended by adding at the end the following:

“(xx) The refusal or failure to follow an order under section 423.”

(e) GAO REVIEW.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that—

(A) identifies State and local agencies with the authority to require the mandatory recall of food, and evaluates use of such authority with regard to frequency, effectiveness, and appropriateness, including consideration of any new or existing mechanisms available to compensate persons for general and specific recall-related costs when a recall is subsequently determined by the relevant authority to have been an error;

(B) identifies Federal agencies, other than the Department of Health and Human Services, with mandatory recall authority and examines use of that authority with regard to frequency, effectiveness, and appropriateness, including any new or existing mechanisms available to compensate persons for general and specific recall-related costs when a recall is subsequently determined by the relevant agency to have been an error;

(C) considers models for farmer restitution implemented in other nations in cases of erroneous recalls; and

(D) makes recommendations to the Secretary regarding use of the authority under section 423 of the Federal Food, Drug, and Cosmetic Act (as added by this section) to protect the public health while seeking to minimize unnecessary economic costs.

(2) EFFECT OF REVIEW.—If the Comptroller General of the United States finds, after the review conducted under paragraph (1), that the mechanisms described in such paragraph do not exist or are inadequate, then, not later than 90 days after the conclusion of such review, the Secretary of Agriculture shall conduct a study of the feasibility of implementing a farmer indemnification program to provide restitution to agricultural producers for losses sustained as a result of a mandatory recall of an agricultural commodity by a Federal or State regulatory agency that is subsequently determined to be in error. The Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study, including any recommendations.

(f) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives on the use of recall authority under section 423 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)) and any public health advisories issued by the Secretary that advise against the consumption of an article of food on the ground that the article of food is adulterated and poses an imminent danger to health.

(2) CONTENT.—The report under paragraph (1) shall include, with respect to the report year—

(A) the identity of each article of food that was the subject of a public health advisory described in paragraph (1), an opportunity to cease distribution and recall under subsection (a) of section 423 of the Federal Food, Drug, and Cosmetic Act, or a mandatory recall order under subsection (b) of such section;

(B) the number of responsible parties, as defined in section 417 of the Federal Food, Drug,

and Cosmetic Act, formally given the opportunity to cease distribution of an article of food and recall such article, as described in section 423(a) of such Act;

(C) the number of responsible parties described in subparagraph (B) who did not cease distribution of or recall an article of food after given the opportunity to cease distribution or recall under section 423(a) of the Federal Food, Drug, and Cosmetic Act;

(D) the number of recall orders issued under section 423(b) of the Federal Food, Drug, and Cosmetic Act; and

(E) a description of any instances in which there was no testing that confirmed adulteration of an article of food that was the subject of a recall under section 423(b) of the Federal Food, Drug, and Cosmetic Act or a public health advisory described in paragraph (1).

SEC. 207. ADMINISTRATIVE DETENTION OF FOOD.

(a) IN GENERAL.—Section 304(h)(1)(A) (21 U.S.C. 334(h)(1)(A)) is amended by—

(1) striking “credible evidence or information indicating” and inserting “reason to believe”; and

(2) striking “presents a threat of serious adverse health consequences or death to humans or animals” and inserting “is adulterated or misbranded”.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart K of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 208. DECONTAMINATION AND DISPOSAL STANDARDS AND PLANS.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this section as the “Administrator”), in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, and Secretary of Agriculture, shall provide support for, and technical assistance to, State, local, and tribal governments in preparing for, assessing, decontaminating, and recovering from an agriculture or food emergency.

(b) DEVELOPMENT OF STANDARDS.—In carrying out subsection (a), the Administrator, in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, Secretary of Agriculture, and State, local, and tribal governments, shall develop and disseminate specific standards and protocols to undertake clean-up, clearance, and recovery activities following the decontamination and disposal of specific threat agents and foreign animal diseases.

(c) DEVELOPMENT OF MODEL PLANS.—In carrying out subsection (a), the Administrator, the Secretary of Health and Human Services, and the Secretary of Agriculture shall jointly develop and disseminate model plans for—

(1) the decontamination of individuals, equipment, and facilities following an intentional contamination of agriculture or food; and

(2) the disposal of large quantities of animals, plants, or food products that have been infected or contaminated by specific threat agents and foreign animal diseases.

(d) EXERCISES.—In carrying out subsection (a), the Administrator, in coordination with the entities described under subsection (b), shall conduct exercises at least annually to evaluate and identify weaknesses in the decontamination and disposal model plans described in subsection (c). Such exercises shall be carried out, to the maximum extent practicable, as part of the national exercise program under section 648(b)(1) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b)(1)).

(e) **MODIFICATIONS.**—Based on the exercises described in subsection (d), the Administrator, in coordination with the entities described in subsection (b), shall review and modify as necessary the plans described in subsection (c) not less frequently than biennially.

(f) **PRIORITIZATION.**—The Administrator, in coordination with the entities described in subsection (b), shall develop standards and plans under subsections (b) and (c) in an identified order of priority that takes into account—

(1) highest-risk biological, chemical, and radiological threat agents;

(2) agents that could cause the greatest economic devastation to the agriculture and food system; and

(3) agents that are most difficult to clean or remediate.

SEC. 209. IMPROVING THE TRAINING OF STATE, LOCAL, TERRITORIAL, AND TRIBAL FOOD SAFETY OFFICIALS.

(a) **IMPROVING TRAINING.**—Chapter X (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

“SEC. 1011. IMPROVING THE TRAINING OF STATE, LOCAL, TERRITORIAL, AND TRIBAL FOOD SAFETY OFFICIALS.

“(a) **TRAINING.**—The Secretary shall set standards and administer training and education programs for the employees of State, local, territorial, and tribal food safety officials relating to the regulatory responsibilities and policies established by this Act, including programs for—

“(1) scientific training;

“(2) training to improve the skill of officers and employees authorized to conduct inspections under sections 702 and 704;

“(3) training to achieve advanced product or process specialization in such inspections;

“(4) training that addresses best practices;

“(5) training in administrative process and procedure and integrity issues;

“(6) training in appropriate sampling and laboratory analysis methodology; and

“(7) training in building enforcement actions following inspections, examinations, testing, and investigations.

“(b) **PARTNERSHIPS WITH STATE AND LOCAL OFFICIALS.**—

“(1) **IN GENERAL.**—The Secretary, pursuant to a contract or memorandum of understanding between the Secretary and the head of a State, local, territorial, or tribal department or agency, is authorized and encouraged to conduct examinations, testing, and investigations for the purposes of determining compliance with the food safety provisions of this Act through the officers and employees of such State, local, territorial, or tribal department or agency.

“(2) **CONTENT.**—A contract or memorandum described under paragraph (1) shall include provisions to ensure adequate training of such officers and employees to conduct such examinations, testing, and investigations. The contract or memorandum shall contain provisions regarding reimbursement. Such provisions may, at the sole discretion of the head of the other department or agency, require reimbursement, in whole or in part, from the Secretary for the examinations, testing, or investigations performed pursuant to this section by the officers or employees of the State, territorial, or tribal department or agency.

“(3) **EFFECT.**—Nothing in this subsection shall be construed to limit the authority of the Secretary under section 702.

“(c) **EXTENSION SERVICE.**—The Secretary shall ensure coordination with the extension activities of the National Institute of Food and Agriculture of the Department of Agriculture in advising producers and small processors transitioning into new practices required as a result of the enactment of the FDA Food Safety

Modernization Act and assisting regulated industry with compliance with such Act.

“(d) **NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH AND TECHNICAL ASSISTANCE PROGRAM.**—

“(1) **IN GENERAL.**—In order to improve food safety and reduce the incidence of foodborne illness, the Secretary shall, not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, enter into one or more memoranda of understanding, or enter into other cooperative agreements, with the Secretary of Agriculture to establish a competitive grant program within the National Institute for Food and Agriculture to provide food safety training, education, extension, outreach, and technical assistance to—

“(A) owners and operators of farms;

“(B) small food processors; and

“(C) small fruit and vegetable merchant wholesalers.

“(2) **IMPLEMENTATION.**—The competitive grant program established under paragraph (1) shall be carried out in accordance with section 405 of the Agricultural Research, Extension, and Education Reform Act of 1998.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2011 through 2015.”

(b) **NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE PROGRAM.**—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 is amended by inserting after section 404 (7 U.S.C. 7624) the following:

“SEC. 405. NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE PROGRAM.

“(a) **IN GENERAL.**—The Secretary shall award grants under this section to carry out the competitive grant program established under section 1011(d) of the Federal Food, Drug, and Cosmetic Act, pursuant to any memoranda of understanding entered into under such section.

“(b) **INTEGRATED APPROACH.**—The grant program described under subsection (a) shall be carried out under this section in a manner that facilitates the integration of food safety standards and guidance with the variety of agricultural production systems, encompassing conventional, sustainable, organic, and conservation and environmental practices.

“(c) **PRIORITY.**—In awarding grants under this section, the Secretary shall give priority to projects that target small and medium-sized farms, beginning farmers, socially disadvantaged farmers, small processors, or small fresh fruit and vegetable merchant wholesalers.

“(d) **PROGRAM COORDINATION.**—

“(1) **IN GENERAL.**—The Secretary shall coordinate implementation of the grant program under this section with the National Integrated Food Safety Initiative.

“(2) **INTERACTION.**—The Secretary shall—

“(A) in carrying out the grant program under this section, take into consideration applied research, education, and extension results obtained from the National Integrated Food Safety Initiative; and

“(B) in determining the applied research agenda for the National Integrated Food Safety Initiative, take into consideration the needs articulated by participants in projects funded by the program under this section.

“(e) **GRANTS.**—

“(1) **IN GENERAL.**—In carrying out this section, the Secretary shall make competitive grants to support training, education, extension, outreach, and technical assistance projects that will help improve public health by increasing the understanding and adoption of established food safety standards, guidance, and protocols.

“(2) **ENCOURAGED FEATURES.**—The Secretary shall encourage projects carried out using grant

funds under this section to include co-management of food safety, conservation systems, and ecological health.

“(3) **MAXIMUM TERM AND SIZE OF GRANT.**—

“(A) **IN GENERAL.**—A grant under this section shall have a term that is not more than 3 years.

“(B) **LIMITATION ON GRANT FUNDING.**—The Secretary may not provide grant funding to an entity under this section after such entity has received 3 years of grant funding under this section.

“(f) **GRANT ELIGIBILITY.**—

“(1) **IN GENERAL.**—To be eligible for a grant under this section, an entity shall be—

“(A) a State cooperative extension service;

“(B) a Federal, State, local, or tribal agency, a nonprofit community-based or non-governmental organization, or an organization representing owners and operators of farms, small food processors, or small fruit and vegetable merchant wholesalers that has a commitment to public health and expertise in administering programs that contribute to food safety;

“(C) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) or a foundation maintained by an institution of higher education;

“(D) a collaboration of 2 or more eligible entities described in this subsection; or

“(E) such other appropriate entity, as determined by the Secretary.

“(2) **MULTISTATE PARTNERSHIPS.**—Grants under this section may be made for projects involving more than 1 State.

“(g) **REGIONAL BALANCE.**—In making grants under this section, the Secretary shall, to the maximum extent practicable, ensure—

“(1) geographic diversity; and

“(2) diversity of types of agricultural production.

“(h) **TECHNICAL ASSISTANCE.**—The Secretary may use funds made available under this section to provide technical assistance to grant recipients to further the purposes of this section.

“(i) **BEST PRACTICES AND MODEL PROGRAMS.**—Based on evaluations of, and responses arising from, projects funded under this section, the Secretary may issue a set of recommended best practices and models for food safety training programs for agricultural producers, small food processors, and small fresh fruit and vegetable merchant wholesalers.

“(j) **AUTHORIZATION OF APPROPRIATIONS.**—For the purposes of making grants under this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2011 through 2015.”

SEC. 210. ENHANCING FOOD SAFETY.

(a) **GRANTS TO ENHANCE FOOD SAFETY.**—Section 1009 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 399) is amended to read as follows:

“SEC. 1009. GRANTS TO ENHANCE FOOD SAFETY.

“(a) **IN GENERAL.**—The Secretary is authorized to make grants to eligible entities to—

“(1) undertake examinations, inspections, and investigations, and related food safety activities under section 702;

“(2) train to the standards of the Secretary for the examination, inspection, and investigation of food manufacturing, processing, packing, holding, distribution, and importation, including as such examination, inspection, and investigation relate to retail food establishments;

“(3) build the food safety capacity of the laboratories of such eligible entity, including the detection of zoonotic diseases;

“(4) build the infrastructure and capacity of the food safety programs of such eligible entity to meet the standards as outlined in the grant application; and

“(5) take appropriate action to protect the public health in response to—

“(A) a notification under section 1008, including planning and otherwise preparing to take such action; or

“(B) a recall of food under this Act.

“(b) ELIGIBLE ENTITIES; APPLICATION.—

“(1) IN GENERAL.—In this section, the term ‘eligible entity’ means an entity—

“(A) that is—

“(i) a State;

“(ii) a locality;

“(iii) a territory;

“(iv) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act); or

“(v) a nonprofit food safety training entity that collaborates with 1 or more institutions of higher education; and

“(B) that submits an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

“(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

“(A) an assurance that the eligible entity has developed plans to engage in the types of activities described in subsection (a);

“(B) a description of the types of activities to be funded by the grant;

“(C) an itemization of how grant funds received under this section will be expended;

“(D) a description of how grant activities will be monitored; and

“(E) an agreement by the eligible entity to report information required by the Secretary to conduct evaluations under this section.

“(c) LIMITATIONS.—The funds provided under subsection (a) shall be available to an eligible entity that receives a grant under this section only to the extent such entity funds the food safety programs of such entity independently of any grant under this section in each year of the grant at a level equal to the level of such funding in the previous year, increased by the Consumer Price Index. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

“(d) ADDITIONAL AUTHORITY.—The Secretary may—

“(1) award a grant under this section in each subsequent fiscal year without reapplication for a period of not more than 3 years, provided the requirements of subsection (c) are met for the previous fiscal year; and

“(2) award a grant under this section in a fiscal year for which the requirement of subsection (c) has not been met only if such requirement was not met because such funding was diverted for response to 1 or more natural disasters or in other extenuating circumstances that the Secretary may determine appropriate.

“(e) DURATION OF AWARDS.—The Secretary may award grants to an individual grant recipient under this section for periods of not more than 3 years. In the event the Secretary conducts a program evaluation, funding in the second year or third year of the grant, where applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

“(f) PROGRESS AND EVALUATION.—

“(1) IN GENERAL.—The Secretary shall measure the status and success of each grant program authorized under the FDA Food Safety Modernization Act (and any amendment made by such Act), including the grant program under this section. A recipient of a grant described in the preceding sentence shall, at the end of each grant year, provide the Secretary with information on how grant funds were spent and the status of the efforts by such recipient to enhance food safety. To the extent practicable, the Secretary shall take the per-

formance of such a grant recipient into account when determining whether to continue funding for such recipient.

“(2) NO DUPLICATION.—In carrying out paragraph (1), the Secretary shall not duplicate the efforts of the Secretary under other provisions of this Act or the FDA Food Safety Modernization Act that require measurement and review of the activities of grant recipients under either such Act.

“(g) SUPPLEMENT NOT SUPPLANT.—Grant funds received under this section shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this section.

“(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2011 through 2015.”

(b) CENTERS OF EXCELLENCE.—Part P of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

“SEC. 399V-5. FOOD SAFETY INTEGRATED CENTERS OF EXCELLENCE.

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the working group described in subsection (b)(2), shall designate 5 Integrated Food Safety Centers of Excellence (referred to in this section as the ‘Centers of Excellence’) to serve as resources for Federal, State, and local public health professionals to respond to foodborne illness outbreaks. The Centers of Excellence shall be headquartered at selected State health departments.

“(b) SELECTION OF CENTERS OF EXCELLENCE.—

“(1) ELIGIBLE ENTITIES.—To be eligible to be designated as a Center of Excellence under subsection (a), an entity shall—

“(A) be a State health department;

“(B) partner with 1 or more institutions of higher education that have demonstrated knowledge, expertise, and meaningful experience with regional or national food production, processing, and distribution, as well as leadership in the laboratory, epidemiological, and environmental detection and investigation of foodborne illness; and

“(C) provide to the Secretary such information, at such time, and in such manner, as the Secretary may require.

“(2) WORKING GROUP.—Not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish a diverse working group of experts and stakeholders from Federal, State, and local food safety and health agencies, the food industry, including food retailers and food manufacturers, consumer organizations, and academia to make recommendations to the Secretary regarding designations of the Centers of Excellence.

“(3) ADDITIONAL CENTERS OF EXCELLENCE.—The Secretary may designate eligible entities to be regional Food Safety Centers of Excellence, in addition to the 5 Centers designated under subsection (a).

“(c) ACTIVITIES.—Under the leadership of the Director of the Centers for Disease Control and Prevention, each Center of Excellence shall be based out of a selected State health department, which shall provide assistance to other regional, State, and local departments of health through activities that include—

“(1) providing resources, including timely information concerning symptoms and tests, for frontline health professionals interviewing individuals as part of routine surveillance and outbreak investigations;

“(2) providing analysis of the timeliness and effectiveness of foodborne disease surveillance and outbreak response activities;

“(3) providing training for epidemiological and environmental investigation of foodborne illness, including suggestions for streamlining and standardizing the investigation process;

“(4) establishing fellowships, stipends, and scholarships to train future epidemiological and food-safety leaders and to address critical workforce shortages;

“(5) training and coordinating State and local personnel;

“(6) strengthening capacity to participate in existing or new foodborne illness surveillance and environmental assessment information systems; and

“(7) conducting research and outreach activities focused on increasing prevention, communication, and education regarding food safety.

“(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall submit to Congress a report that—

“(1) describes the effectiveness of the Centers of Excellence; and

“(2) provides legislative recommendations or describes additional resources required by the Centers of Excellence.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

“(f) NO DUPLICATION OF EFFORT.—In carrying out activities of the Centers of Excellence or other programs under this section, the Secretary shall not duplicate other Federal foodborne illness response efforts.”

SEC. 211. IMPROVING THE REPORTABLE FOOD REGISTRY.

(a) IN GENERAL.—Section 417 (21 U.S.C. 350f) is amended—

(1) by redesignating subsections (f) through (k) as subsections (i) through (n), respectively; and

(2) by inserting after subsection (e) the following:

“(f) CRITICAL INFORMATION.—Except with respect to fruits and vegetables that are raw agricultural commodities, not more than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary may require a responsible party to submit to the Secretary consumer-oriented information regarding a reportable food, which shall include—

“(1) a description of the article of food as provided in subsection (e)(3);

“(2) as provided in subsection (e)(7), affected product identification codes, such as UPC, SKU, or lot or batch numbers sufficient for the consumer to identify the article of food;

“(3) contact information for the responsible party as provided in subsection (e)(8); and

“(4) any other information the Secretary determines is necessary to enable a consumer to accurately identify whether such consumer is in possession of the reportable food.

“(g) GROCERY STORE NOTIFICATION.—

“(1) ACTION BY SECRETARY.—The Secretary shall—

“(A) prepare the critical information described under subsection (f) for a reportable food as a standardized one-page summary;

“(B) publish such one-page summary on the Internet website of the Food and Drug Administration in a format that can be easily printed by a grocery store for purposes of consumer notification.

“(2) ACTION BY GROCERY STORE.—A notification described under paragraph (1)(B) shall include the date and time such summary was posted on the Internet website of the Food and Drug Administration.

“(h) CONSUMER NOTIFICATION.—

“(1) IN GENERAL.—If a grocery store sold a reportable food that is the subject of the posting and such establishment is part of chain of establishments with 15 or more physical locations,

then such establishment shall, not later than 24 hours after a one page summary described in subsection (g) is published, prominently display such summary or the information from such summary via at least one of the methods identified under paragraph (2) and maintain the display for 14 days.

“(2) **LIST OF CONSPICUOUS LOCATIONS.**—Not more than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall develop and publish a list of acceptable conspicuous locations and manners, from which grocery stores shall select at least one, for providing the notification required in paragraph (1). Such list shall include—

“(A) posting the notification at or near the register;

“(B) providing the location of the reportable food;

“(C) providing targeted recall information given to customers upon purchase of a food; and

“(D) other such prominent and conspicuous locations and manners utilized by grocery stores as of the date of the enactment of the FDA Food Safety Modernization Act to provide notice of such recalls to consumers as considered appropriate by the Secretary.”.

(b) **PROHIBITED ACT.**—Section 301 (21 U.S.C. 331), as amended by section 206, is amended by adding at the end the following:

“(yy) The knowing and willful failure to comply with the notification requirement under section 417(h).”.

(c) **CONFORMING AMENDMENT.**—Section 301(e) (21 U.S.C. 331(e)) is amended by striking “417(g)” and inserting “417(j)”.

TITLE III—IMPROVING THE SAFETY OF IMPORTED FOOD

SEC. 301. FOREIGN SUPPLIER VERIFICATION PROGRAM.

(a) **IN GENERAL.**—Chapter VIII (21 U.S.C. 381 et seq.) is amended by adding at the end the following:

“SEC. 805. FOREIGN SUPPLIER VERIFICATION PROGRAM.

“(a) **IN GENERAL.**—

“(1) **VERIFICATION REQUIREMENT.**—Except as provided under subsections (e) and (f), each importer shall perform risk-based foreign supplier verification activities for the purpose of verifying that the food imported by the importer or agent of an importer is—

“(A) produced in compliance with the requirements of section 418 or section 419, as appropriate; and

“(B) is not adulterated under section 402 or misbranded under section 403(w).

“(2) **IMPORTER DEFINED.**—For purposes of this section, the term ‘importer’ means, with respect to an article of food—

“(A) the United States owner or consignee of the article of food at the time of entry of such article into the United States; or

“(B) in the case when there is no United States owner or consignee as described in subparagraph (A), the United States agent or representative of a foreign owner or consignee of the article of food at the time of entry of such article into the United States.

“(b) **GUIDANCE.**—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall issue guidance to assist importers in developing foreign supplier verification programs.

“(c) **REGULATIONS.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations to provide for the content of the foreign supplier verification program established under subsection (a).

“(2) **REQUIREMENTS.**—The regulations promulgated under paragraph (1)—

“(A) shall require that the foreign supplier verification program of each importer be ade-

quate to provide assurances that each foreign supplier to the importer produces the imported food in compliance with—

“(i) processes and procedures, including reasonably appropriate risk-based preventive controls, that provide the same level of public health protection as those required under section 418 or section 419 (taking into consideration variances granted under section 419), as appropriate; and

“(ii) section 402 and section 403(w).

“(B) shall include such other requirements as the Secretary deems necessary and appropriate to verify that food imported into the United States is as safe as food produced and sold within the United States.

“(3) **CONSIDERATIONS.**—In promulgating regulations under this subsection, the Secretary shall, as appropriate, take into account differences among importers and types of imported foods, including based on the level of risk posed by the imported food.

“(4) **ACTIVITIES.**—Verification activities under a foreign supplier verification program under this section may include monitoring records for shipments, lot-by-lot certification of compliance, annual on-site inspections, checking the hazard analysis and risk-based preventive control plan of the foreign supplier, and periodically testing and sampling shipments.

“(d) **RECORD MAINTENANCE AND ACCESS.**—Records of an importer related to a foreign supplier verification program shall be maintained for a period of not less than 2 years and shall be made available promptly to a duly authorized representative of the Secretary upon request.

“(e) **EXEMPTION OF SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES IN COMPLIANCE WITH HACCP.**—This section shall not apply to a facility if the owner, operator, or agent in charge of such facility is required to comply with, and is in compliance with, 1 of the following standards and regulations with respect to such facility:

“(1) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(2) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(3) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

The exemption under paragraph (3) shall apply only with respect to microbiological hazards that are regulated under the standards for Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers under part 113 of chapter 21, Code of Federal Regulations (or any successor regulations).

“(f) **ADDITIONAL EXEMPTIONS.**—The Secretary, by notice published in the Federal Register, shall establish an exemption from the requirements of this section for articles of food imported in small quantities for research and evaluation purposes or for personal consumption, provided that such foods are not intended for retail sale and are not sold or distributed to the public.

“(g) **PUBLICATION OF LIST OF PARTICIPANTS.**—The Secretary shall publish and maintain on the Internet Web site of the Food and Drug Administration a current list that includes the name of, location of, and other information deemed necessary by the Secretary about, importers participating under this section.”.

(b) **PROHIBITED ACT.**—Section 301 (21 U.S.C. 331), as amended by section 211, is amended by adding at the end the following:

“(zz) The importation or offering for importation of a food if the importer (as defined in section 805) does not have in place a foreign supplier verification program in compliance with such section 805.”.

(c) **IMPORTS.**—Section 801(a) (21 U.S.C. 381(a)) is amended by adding “or the importer (as defined in section 805) is in violation of such section 805” after “or in violation of section 505”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

SEC. 302. VOLUNTARY QUALIFIED IMPORTER PROGRAM.

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 301, is amended by adding at the end the following:

“SEC. 806. VOLUNTARY QUALIFIED IMPORTER PROGRAM.

“(a) **IN GENERAL.**—Beginning not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

“(1) establish a program, in consultation with the Secretary of Homeland Security—

“(A) to provide for the expedited review and importation of food offered for importation by importers who have voluntarily agreed to participate in such program; and

“(B) consistent with section 808, establish a process for the issuance of a facility certification to accompany food offered for importation by importers who have voluntarily agreed to participate in such program; and

“(2) issue a guidance document related to participation in, revocation of such participation in, reinstatement in, and compliance with, such program.

“(b) **VOLUNTARY PARTICIPATION.**—An importer may request the Secretary to provide for the expedited review and importation of designated foods in accordance with the program established by the Secretary under subsection (a).

“(c) **NOTICE OF INTENT TO PARTICIPATE.**—An importer that intends to participate in the program under this section in a fiscal year shall submit a notice and application to the Secretary of such intent at the time and in a manner established by the Secretary.

“(d) **ELIGIBILITY.**—Eligibility shall be limited to an importer offering food for importation from a facility that has a certification described in subsection (a). In reviewing the applications and making determinations on such applications, the Secretary shall consider the risk of the food to be imported based on factors, such as the following:

“(1) The known safety risks of the food to be imported.

“(2) The compliance history of foreign suppliers used by the importer, as appropriate.

“(3) The capability of the regulatory system of the country of export to ensure compliance with United States food safety standards for a designated food.

“(4) The compliance of the importer with the requirements of section 805.

“(5) The recordkeeping, testing, inspections and audits of facilities, traceability of articles of food, temperature controls, and sourcing practices of the importer.

“(6) The potential risk for intentional adulteration of the food.

“(7) Any other factor that the Secretary determines appropriate.

“(e) **REVIEW AND REVOCATION.**—Any importer qualified by the Secretary in accordance with the eligibility criteria set forth in this section shall be reevaluated not less often than once every 3 years and the Secretary shall promptly revoke the qualified importer status of any importer found not to be in compliance with such criteria.

“(f) **FALSE STATEMENTS.**—Any statement or representation made by an importer to the Secretary shall be subject to section 1001 of title 18, United States Code.

“(g) **DEFINITION.**—For purposes of this section, the term ‘importer’ means the person that

brings food, or causes food to be brought, from a foreign country into the customs territory of the United States.”.

SEC. 303. AUTHORITY TO REQUIRE IMPORT CERTIFICATIONS FOR FOOD.

(a) *IN GENERAL.*—Section 801(a) (21 U.S.C. 381(a)) is amended by inserting after the third sentence the following: “With respect to an article of food, if importation of such food is subject to, but not compliant with, the requirement under subsection (g) that such food be accompanied by a certification or other assurance that the food meets applicable requirements of this Act, then such article shall be refused admission.”.

(b) *ADDITION OF CERTIFICATION REQUIREMENT.*—Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

“(g) *CERTIFICATIONS CONCERNING IMPORTED FOODS.*—

“(1) *IN GENERAL.*—The Secretary may require, as a condition of granting admission to an article of food imported or offered for import into the United States, that an entity described in paragraph (3) provide a certification, or such other assurances as the Secretary determines appropriate, that the article of food complies with applicable requirements of this Act. Such certification or assurances may be provided in the form of shipment-specific certificates, a listing of certified facilities that manufacture, process, pack, or hold such food, or in such other form as the Secretary may specify.

“(2) *FACTORS TO BE CONSIDERED IN REQUIRING CERTIFICATION.*—The Secretary shall base the determination that an article of food is required to have a certification described in paragraph (1) on the risk of the food, including—

“(A) known safety risks associated with the food;

“(B) known food safety risks associated with the country, territory, or region of origin of the food;

“(C) a finding by the Secretary, supported by scientific, risk-based evidence, that—

“(i) the food safety programs, systems, and standards in the country, territory, or region of origin of the food are inadequate to ensure that the article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act; and

“(ii) the certification would assist the Secretary in determining whether to refuse or admit the article of food under subsection (a); and

“(D) information submitted to the Secretary in accordance with the process established in paragraph (7).

“(3) *CERTIFYING ENTITIES.*—For purposes of paragraph (1), entities that shall provide the certification or assurances described in such paragraph are—

“(A) an agency or a representative of the government of the country from which the article of food at issue originated, as designated by the Secretary; or

“(B) such other persons or entities accredited pursuant to section 808 to provide such certification or assurance.

“(4) *RENEWAL AND REFUSAL OF CERTIFICATIONS.*—The Secretary may—

“(A) require that any certification or other assurance provided by an entity specified in paragraph (2) be renewed by such entity at such times as the Secretary determines appropriate; and

“(B) refuse to accept any certification or assurance if the Secretary determines that such certification or assurance is not valid or reliable.

“(5) *ELECTRONIC SUBMISSION.*—The Secretary shall provide for the electronic submission of certifications under this subsection.

“(6) *FALSE STATEMENTS.*—Any statement or representation made by an entity described in paragraph (2) to the Secretary shall be subject to section 1001 of title 18, United States Code.

“(7) *ASSESSMENT OF FOOD SAFETY PROGRAMS, SYSTEMS, AND STANDARDS.*—If the Secretary determines that the food safety programs, systems, and standards in a foreign region, country, or territory are inadequate to ensure that an article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act, the Secretary shall, to the extent practicable, identify such inadequacies and establish a process by which the foreign region, country, or territory may inform the Secretary of improvements made to such food safety program, system, or standard and demonstrate that those controls are adequate to ensure that an article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act.”.

(c) *CONFORMING TECHNICAL AMENDMENT.*—Section 801(b) (21 U.S.C. 381(b)) is amended in the second sentence by striking “with respect to an article included within the provision of the fourth sentence of subsection (a)” and inserting “with respect to an article described in subsection (a) relating to the requirements of sections 760 or 761.”.

(d) *NO LIMIT ON AUTHORITY.*—Nothing in the amendments made by this section shall limit the authority of the Secretary to conduct inspections of imported food or to take such other steps as the Secretary deems appropriate to determine the admissibility of imported food.

SEC. 304. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.

(a) *IN GENERAL.*—Section 801(m)(1) (21 U.S.C. 381(m)(1)) is amended by inserting “any country to which the article has been refused entry;” after “the country from which the article is shipped;”.

(b) *REGULATIONS.*—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart I of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) *EFFECTIVE DATE.*—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 305. BUILDING CAPACITY OF FOREIGN GOVERNMENTS WITH RESPECT TO FOOD SAFETY.

(a) *IN GENERAL.*—The Secretary shall, not later than 2 years of the date of enactment of this Act, develop a comprehensive plan to expand the technical, scientific, and regulatory food safety capacity of foreign governments, and their respective food industries, from which foods are exported to the United States.

(b) *CONSULTATION.*—In developing the plan under subsection (a), the Secretary shall consult with the Secretary of Agriculture, Secretary of State, Secretary of the Treasury, the Secretary of Homeland Security, the United States Trade Representative, and the Secretary of Commerce, representatives of the food industry, appropriate foreign government officials, nongovernmental organizations that represent the interests of consumers, and other stakeholders.

(c) *PLAN.*—The plan developed under subsection (a) shall include, as appropriate, the following:

(1) Recommendations for bilateral and multilateral arrangements and agreements, including provisions to provide for responsibility of exporting countries to ensure the safety of food.

(2) Provisions for secure electronic data sharing.

(3) Provisions for mutual recognition of inspection reports.

(4) Training of foreign governments and food producers on United States requirements for safe food.

(5) Recommendations on whether and how to harmonize requirements under the Codex Alimentarius.

(6) Provisions for the multilateral acceptance of laboratory methods and testing and detection techniques.

(d) *RULE OF CONSTRUCTION.*—Nothing in this section shall be construed to affect the regulation of dietary supplements under the Dietary Supplement Health and Education Act of 1994 (Public Law 103-417).

SEC. 306. INSPECTION OF FOREIGN FOOD FACILITIES.

(a) *IN GENERAL.*—Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 302, is amended by inserting at the end the following:

“SEC. 807. INSPECTION OF FOREIGN FOOD FACILITIES.

“(a) *INSPECTION.*—The Secretary—

“(1) may enter into arrangements and agreements with foreign governments to facilitate the inspection of foreign facilities registered under section 415; and

“(2) shall direct resources to inspections of foreign facilities, suppliers, and food types, especially such facilities, suppliers, and food types that present a high risk (as identified by the Secretary), to help ensure the safety and security of the food supply of the United States.

“(b) *EFFECT OF INABILITY TO INSPECT.*—Notwithstanding any other provision of law, food shall be refused admission into the United States if it is from a foreign factory, warehouse, or other establishment of which the owner, operator, or agent in charge, or the government of the foreign country, refuses to permit entry of United States inspectors or other individuals duly designated by the Secretary, upon request, to inspect such factory, warehouse, or other establishment. For purposes of this subsection, such an owner, operator, or agent in charge shall be considered to have refused an inspection if such owner, operator, or agent in charge does not permit an inspection of a factory, warehouse, or other establishment during the 24-hour period after such request is submitted, or after such other time period, as agreed upon by the Secretary and the foreign factory, warehouse, or other establishment.”.

(b) *INSPECTION BY THE SECRETARY OF COMMERCE.*—

(1) *IN GENERAL.*—The Secretary of Commerce, in coordination with the Secretary of Health and Human Services, may send 1 or more inspectors to a country or facility of an exporter from which seafood imported into the United States originates. The inspectors shall assess practices and processes used in connection with the farming, cultivation, harvesting, preparation for market, or transportation of such seafood and may provide technical assistance related to such activities.

(2) *INSPECTION REPORT.*—

(A) *IN GENERAL.*—The Secretary of Health and Human Services, in coordination with the Secretary of Commerce, shall—

(i) prepare an inspection report for each inspection conducted under paragraph (1);

(ii) provide the report to the country or exporter that is the subject of the report; and

(iii) provide a 30-day period during which the country or exporter may provide a rebuttal or other comments on the findings of the report to the Secretary of Health and Human Services.

(B) *DISTRIBUTION AND USE OF REPORT.*—The Secretary of Health and Human Services shall consider the inspection reports described in subparagraph (A) in distributing inspection resources under section 421 of the Federal Food, Drug, and Cosmetic Act, as added by section 201.

SEC. 307. ACCREDITATION OF THIRD-PARTY AUDITORS.

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 306, is amended by adding at the end the following:

“SEC. 808. ACCREDITATION OF THIRD-PARTY AUDITORS.

“(a) **DEFINITIONS.**—In this section:

“(1) **AUDIT AGENT.**—The term ‘audit agent’ means an individual who is an employee or agent of an accredited third-party auditor and, although not individually accredited, is qualified to conduct food safety audits on behalf of an accredited third-party auditor.

“(2) **ACCREDITATION BODY.**—The term ‘accreditation body’ means an authority that performs accreditation of third-party auditors.

“(3) **THIRD-PARTY AUDITOR.**—The term ‘third-party auditor’ means a foreign government, agency of a foreign government, foreign cooperative, or any other third party, as the Secretary determines appropriate in accordance with the model standards described in subsection (b)(2), that is eligible to be considered for accreditation to conduct food safety audits to certify that eligible entities meet the applicable requirements of this section. A third-party auditor may be a single individual. A third-party auditor may employ or use audit agents to help conduct consultative and regulatory audits.

“(4) **ACCREDITED THIRD-PARTY AUDITOR.**—The term ‘accredited third-party auditor’ means a third-party auditor accredited by an accreditation body to conduct audits of eligible entities to certify that such eligible entities meet the applicable requirements of this section. An accredited third-party auditor may be an individual who conducts food safety audits to certify that eligible entities meet the applicable requirements of this section.

“(5) **CONSULTATIVE AUDIT.**—The term ‘consultative audit’ means an audit of an eligible entity—

“(A) to determine whether such entity is in compliance with the provisions of this Act and with applicable industry standards and practices; and

“(B) the results of which are for internal purposes only.

“(6) **ELIGIBLE ENTITY.**—The term ‘eligible entity’ means a foreign entity, including a foreign facility registered under section 415, in the food import supply chain that chooses to be audited by an accredited third-party auditor or the audit agent of such accredited third-party auditor.

“(7) **REGULATORY AUDIT.**—The term ‘regulatory audit’ means an audit of an eligible entity—

“(A) to determine whether such entity is in compliance with the provisions of this Act; and

“(B) the results of which determine—

“(i) whether an article of food manufactured, processed, packed, or held by such entity is eligible to receive a food certification under section 801(q); or

“(ii) whether a facility is eligible to receive a facility certification under section 806(a) for purposes of participating in the program under section 806.

“(b) **ACCREDITATION SYSTEM.**—

“(1) **ACCREDITATION BODIES.**—

“(A) **RECOGNITION OF ACCREDITATION BODIES.**—

“(i) **IN GENERAL.**—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish a system for the recognition of accreditation bodies that accredit third-party auditors to certify that eligible entities meet the applicable requirements of this section.

“(ii) **DIRECT ACCREDITATION.**—If, by the date that is 2 years after the date of establishment of the system described in clause (i), the Secretary

has not identified and recognized an accreditation body to meet the requirements of this section, the Secretary may directly accredit third-party auditors.

“(B) **NOTIFICATION.**—Each accreditation body recognized by the Secretary shall submit to the Secretary a list of all accredited third-party auditors accredited by such body and the audit agents of such auditors.

“(C) **REVOCATION OF RECOGNITION AS AN ACCREDITATION BODY.**—The Secretary shall promptly revoke the recognition of any accreditation body found not to be in compliance with the requirements of this section.

“(D) **REINSTATEMENT.**—The Secretary shall establish procedures to reinstate recognition of an accreditation body if the Secretary determines, based on evidence presented by such accreditation body, that revocation was inappropriate or that the body meets the requirements for recognition under this section.

“(2) **MODEL ACCREDITATION STANDARDS.**—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall develop model standards, including requirements for regulatory audit reports, and each recognized accreditation body shall ensure that third-party auditors and audit agents of such auditors meet such standards in order to qualify such third-party auditors as accredited third-party auditors under this section. In developing the model standards, the Secretary shall look to standards in place on the date of the enactment of this section for guidance, to avoid unnecessary duplication of efforts and costs.

“(c) **THIRD-PARTY AUDITORS.**—

“(1) **REQUIREMENTS FOR ACCREDITATION AS A THIRD-PARTY AUDITOR.**—

“(A) **FOREIGN GOVERNMENTS.**—Prior to accrediting a foreign government or an agency of a foreign government as an accredited third-party auditor, the accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) shall perform such reviews and audits of food safety programs, systems, and standards of the government or agency of the government as the Secretary deems necessary, including requirements under the model standards developed under subsection (b)(2), to determine that the foreign government or agency of the foreign government is capable of adequately ensuring that eligible entities or foods certified by such government or agency meet the requirements of this Act with respect to food manufactured, processed, packed, or held for import into the United States.

“(B) **FOREIGN COOPERATIVES AND OTHER THIRD PARTIES.**—Prior to accrediting a foreign cooperative that aggregates the products of growers or processors, or any other third party to be an accredited third-party auditor, the accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) shall perform such reviews and audits of the training and qualifications of audit agents used by that cooperative or party and conduct such reviews of internal systems and such other investigation of the cooperative or party as the Secretary deems necessary, including requirements under the model standards developed under subsection (b)(2), to determine that each eligible entity certified by the cooperative or party has systems and standards in use to ensure that such entity or food meets the requirements of this Act.

“(2) **REQUIREMENT TO ISSUE CERTIFICATION OF ELIGIBLE ENTITIES OR FOODS.**—

“(A) **IN GENERAL.**—An accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) may not accredit a third-party auditor unless such third-party auditor agrees to issue a written and, as appropriate, electronic food certification, de-

scribed in section 801(q), or facility certification under section 806(a), as appropriate, to accompany each food shipment for import into the United States from an eligible entity, subject to requirements set forth by the Secretary. Such written or electronic certification may be included with other documentation regarding such food shipment. The Secretary shall consider certifications under section 801(q) and participation in the voluntary qualified importer program described in section 806 when targeting inspection resources under section 421.

“(B) **PURPOSE OF CERTIFICATION.**—The Secretary shall use certification provided by accredited third-party auditors to—

“(i) determine, in conjunction with any other assurances the Secretary may require under section 801(q), whether a food satisfies the requirements of such section; and

“(ii) determine whether a facility is eligible to be a facility from which food may be offered for import under the voluntary qualified importer program under section 806.

“(C) **REQUIREMENTS FOR ISSUING CERTIFICATION.**—

“(i) **IN GENERAL.**—An accredited third-party auditor shall issue a food certification under section 801(q) or a facility certification described under subparagraph (B) only after conducting a regulatory audit and such other activities that may be necessary to establish compliance with the requirements of such sections.

“(ii) **PROVISION OF CERTIFICATION.**—Only an accredited third-party auditor or the Secretary may provide a facility certification under section 806(a). Only those parties described in 801(q)(3) or the Secretary may provide a food certification under 301(g).

“(3) **AUDIT REPORT SUBMISSION REQUIREMENTS.**—

“(A) **REQUIREMENTS IN GENERAL.**—As a condition of accreditation, not later than 45 days after conducting an audit, an accredited third-party auditor or audit agent of such auditor shall prepare, and, in the case of a regulatory audit, submit, the audit report for each audit conducted, in a form and manner designated by the Secretary, which shall include—

“(i) the identity of the persons at the audited eligible entity responsible for compliance with food safety requirements;

“(ii) the dates of the audit;

“(iii) the scope of the audit; and

“(iv) any other information required by the Secretary that relates to or may influence an assessment of compliance with this Act.

“(B) **RECORDS.**—Following any accreditation of a third-party auditor, the Secretary may, at any time, require the accredited third-party auditor to submit to the Secretary an onsite audit report and such other reports or documents required as part of the audit process, for any eligible entity certified by the third-party auditor or audit agent of such auditor. Such report may include documentation that the eligible entity is in compliance with any applicable registration requirements.

“(C) **LIMITATION.**—The requirement under subparagraph (B) shall not include any report or other documents resulting from a consultative audit by the accredited third-party auditor, except that the Secretary may access the results of a consultative audit in accordance with section 414.

“(4) **REQUIREMENTS OF ACCREDITED THIRD-PARTY AUDITORS AND AUDIT AGENTS OF SUCH AUDITORS.**—

“(A) **RISKS TO PUBLIC HEALTH.**—If, at any time during an audit, an accredited third-party auditor or audit agent of such auditor discovers a condition that could cause or contribute to a serious risk to the public health, such auditor shall immediately notify the Secretary of—

“(i) the identification of the eligible entity subject to the audit; and

“(ii) such condition.

“(B) TYPES OF AUDITS.—An accredited third-party auditor or audit agent of such auditor may perform consultative and regulatory audits of eligible entities.

“(C) LIMITATIONS.—

“(i) IN GENERAL.—An accredited third party auditor may not perform a regulatory audit of an eligible entity if such agent has performed a consultative audit or a regulatory audit of such eligible entity during the previous 13-month period.

“(ii) WAIVER.—The Secretary may waive the application of clause (i) if the Secretary determines that there is insufficient access to accredited third-party auditors in a country or region.

“(5) CONFLICTS OF INTEREST.—

“(A) THIRD-PARTY AUDITORS.—An accredited third-party auditor shall—

“(i) not be owned, managed, or controlled by any person that owns or operates an eligible entity to be certified by such auditor;

“(ii) in carrying out audits of eligible entities under this section, have procedures to ensure against the use of any officer or employee of such auditor that has a financial conflict of interest regarding an eligible entity to be certified by such auditor; and

“(iii) annually make available to the Secretary disclosures of the extent to which such auditor and the officers and employees of such auditor have maintained compliance with clauses (i) and (ii) relating to financial conflicts of interest.

“(B) AUDIT AGENTS.—An audit agent shall—

“(i) not own or operate an eligible entity to be audited by such agent;

“(ii) in carrying out audits of eligible entities under this section, have procedures to ensure that such agent does not have a financial conflict of interest regarding an eligible entity to be audited by such agent; and

“(iii) annually make available to the Secretary disclosures of the extent to which such agent has maintained compliance with clauses (i) and (ii) relating to financial conflicts of interest.

“(C) REGULATIONS.—The Secretary shall promulgate regulations not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act to implement this section and to ensure that there are protections against conflicts of interest between an accredited third-party auditor and the eligible entity to be certified by such auditor or audited by such audit agent. Such regulations shall include—

“(i) requiring that audits performed under this section be unannounced;

“(ii) a structure to decrease the potential for conflicts of interest, including timing and public disclosure, for fees paid by eligible entities to accredited third-party auditors; and

“(iii) appropriate limits on financial affiliations between an accredited third-party auditor or audit agents of such auditor and any person that owns or operates an eligible entity to be certified by such auditor, as described in subparagraphs (A) and (B).

“(6) WITHDRAWAL OF ACCREDITATION.—

“(A) IN GENERAL.—The Secretary shall withdraw accreditation from an accredited third-party auditor—

“(i) if food certified under section 801(q) or from a facility certified under paragraph (2)(B) by such third-party auditor is linked to an outbreak of foodborne illness that has a reasonable probability of causing serious adverse health consequences or death in humans or animals;

“(ii) following an evaluation and finding by the Secretary that the third-party auditor no longer meets the requirements for accreditation; or

“(iii) following a refusal to allow United States officials to conduct such audits and in-

vestigations as may be necessary to ensure continued compliance with the requirements set forth in this section.

“(B) ADDITIONAL BASIS FOR WITHDRAWAL OF ACCREDITATION.—The Secretary may withdraw accreditation from an accredited third-party auditor in the case that such third-party auditor is accredited by an accreditation body for which recognition as an accreditation body under subsection (b)(1)(C) is revoked, if the Secretary determines that there is good cause for the withdrawal.

“(C) EXCEPTION.—The Secretary may waive the application of subparagraph (A)(i) if the Secretary—

“(i) conducts an investigation of the material facts related to the outbreak of human or animal illness; and

“(ii) reviews the steps or actions taken by the third party auditor to justify the certification and determines that the accredited third-party auditor satisfied the requirements under section 801(q) of certifying the food, or the requirements under paragraph (2)(B) of certifying the entity.

“(7) REACCREDITATION.—The Secretary shall establish procedures to reinstate the accreditation of a third-party auditor for which accreditation has been withdrawn under paragraph (6)—

“(A) if the Secretary determines, based on evidence presented, that the third-party auditor satisfies the requirements of this section and adequate grounds for revocation no longer exist; and

“(B) in the case of a third-party auditor accredited by an accreditation body for which recognition as an accreditation body under subsection (b)(1)(C) is revoked—

“(i) if the third-party auditor becomes accredited not later than 1 year after revocation of accreditation under paragraph (6)(A), through direct accreditation under subsection (b)(1)(A)(ii) or by an accreditation body in good standing; or

“(ii) under such conditions as the Secretary may require for a third-party auditor under paragraph (6)(B).

“(8) NEUTRALIZING COSTS.—The Secretary shall establish by regulation a reimbursement (user fee) program, similar to the method described in section 203(h) of the Agriculture Marketing Act of 1946, by which the Secretary assesses fees and requires accredited third-party auditors and audit agents to reimburse the Food and Drug Administration for the work performed to establish and administer the accreditation system under this section. The Secretary shall make operating this program revenue-neutral and shall not generate surplus revenue from such a reimbursement mechanism. Fees authorized under this paragraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriation Acts. Such fees are authorized to remain available until expended.

“(d) RECERTIFICATION OF ELIGIBLE ENTITIES.—An eligible entity shall apply for annual recertification by an accredited third-party auditor if such entity—

“(1) intends to participate in voluntary qualified importer program under section 806; or

“(2) is required to provide to the Secretary a certification under section 801(q) for any food from such entity.

“(e) FALSE STATEMENTS.—Any statement or representation made—

“(1) by an employee or agent of an eligible entity to an accredited third-party auditor or audit agent; or

“(2) by an accredited third-party auditor to the Secretary,

shall be subject to section 1001 of title 18, United States Code.

“(f) MONITORING.—To ensure compliance with the requirements of this section, the Secretary shall—

“(1) periodically, or at least once every 4 years, reevaluate the accreditation bodies described in subsection (b)(1);

“(2) periodically, or at least once every 4 years, evaluate the performance of each accredited third-party auditor, through the review of regulatory audit reports by such auditors, the compliance history as available of eligible entities certified by such auditors, and any other measures deemed necessary by the Secretary;

“(3) at any time, conduct an onsite audit of any eligible entity certified by an accredited third-party auditor, with or without the auditor present; and

“(4) take any other measures deemed necessary by the Secretary.

“(g) PUBLICLY AVAILABLE REGISTRY.—The Secretary shall establish a publicly available registry of accreditation bodies and of accredited third-party auditors, including the name of, contact information for, and other information deemed necessary by the Secretary about such bodies and auditors.

“(h) LIMITATIONS.—

“(1) NO EFFECT ON SECTION 704 INSPECTIONS.—The audits performed under this section shall not be considered inspections under section 704.

“(2) NO EFFECT ON INSPECTION AUTHORITY.—Nothing in this section affects the authority of the Secretary to inspect any eligible entity pursuant to this Act.”.

SEC. 308. FOREIGN OFFICES OF THE FOOD AND DRUG ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall establish offices of the Food and Drug Administration in foreign countries selected by the Secretary, to provide assistance to the appropriate governmental entities of such countries with respect to measures to provide for the safety of articles of food and other products regulated by the Food and Drug Administration exported by such country to the United States, including by directly conducting risk-based inspections of such articles and supporting such inspections by such governmental entity.

(b) CONSULTATION.—In establishing the foreign offices described in subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Homeland Security, and the United States Trade Representative.

(c) REPORT.—Not later than October 1, 2011, the Secretary shall submit to Congress a report on the basis for the selection by the Secretary of the foreign countries in which the Secretary established offices, the progress which such offices have made with respect to assisting the governments of such countries in providing for the safety of articles of food and other products regulated by the Food and Drug Administration exported to the United States, and the plans of the Secretary for establishing additional foreign offices of the Food and Drug Administration, as appropriate.

SEC. 309. SMUGGLED FOOD.

(a) IN GENERAL.—Not later than 180 days after the enactment of this Act, the Secretary shall, in coordination with the Secretary of Homeland Security, develop and implement a strategy to better identify smuggled food and prevent entry of such food into the United States.

(b) NOTIFICATION TO HOMELAND SECURITY.—Not later than 10 days after the Secretary identifies a smuggled food that the Secretary believes would cause serious adverse health consequences or death to humans or animals, the Secretary shall provide to the Secretary of Homeland Security a notification under section 417(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350f(k)) describing the smuggled food and, if available, the names of the individuals or entities that attempted to import such food into the United States.

(c) PUBLIC NOTIFICATION.—If the Secretary—

(1) identifies a smuggled food;
 (2) reasonably believes exposure to the food would cause serious adverse health consequences or death to humans or animals; and
 (3) reasonably believes that the food has entered domestic commerce and is likely to be consumed,

the Secretary shall promptly issue a press release describing that food and shall use other emergency communication or recall networks, as appropriate, to warn consumers and vendors about the potential threat.

(d) **EFFECT OF SECTION.**—Nothing in this section shall affect the authority of the Secretary to issue public notifications under other circumstances.

(e) **DEFINITION.**—In this subsection, the term “smuggled food” means any food that a person introduces into the United States through fraudulent means or with the intent to defraud or mislead.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. FUNDING FOR FOOD SAFETY.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities in the Office of Regulatory Affairs of the Food and Drug Administration such sums as may be necessary for fiscal years 2011 through 2015.

(b) INCREASED NUMBER OF FIELD STAFF.—

(1) **IN GENERAL.**—To carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities of the Office of Regulatory Affairs of the Food and Drug Administration, the Secretary of Health and Human Services shall increase the field staff of such Centers and Office with a goal of not fewer than—

- (A) 4,000 staff members in fiscal year 2011;
- (B) 4,200 staff members in fiscal year 2012;
- (C) 4,600 staff members in fiscal year 2013; and
- (D) 5,000 staff members in fiscal year 2014.

(2) **FIELD STAFF FOR FOOD DEFENSE.**—The goal under paragraph (1) shall include an increase of 150 employees by fiscal year 2011 to—

- (A) provide additional detection of and response to food defense threats; and
- (B) detect, track, and remove smuggled food (as defined in section 309) from commerce.

SEC. 402. EMPLOYEE PROTECTIONS.

Chapter X of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.), as amended by section 209, is further amended by adding at the end the following:

“SEC. 1012. EMPLOYEE PROTECTIONS.

“(a) **IN GENERAL.**—No entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee, whether at the employee’s initiative or in the ordinary course of the employee’s duties (or any person acting pursuant to a request of the employee)—

“(1) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of this Act or any order, rule, regulation, standard, or ban under this Act, or any order, rule, regulation, standard, or ban under this Act;

“(2) testified or is about to testify in a proceeding concerning such violation;

“(3) assisted or participated or is about to assist or participate in such a proceeding; or

“(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task

that the employee (or other such person) reasonably believed to be in violation of any provision of this Act, or any order, rule, regulation, standard, or ban under this Act.

“(b) PROCESS.—

“(1) **IN GENERAL.**—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (referred to in this section as the ‘Secretary’) alleging such discharge or discrimination and identifying the person responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

“(2) INVESTIGATION.—

“(A) **IN GENERAL.**—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the complainant and the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary’s findings.

“(B) **REASONABLE CAUSE FOUND; PRELIMINARY ORDER.**—If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary’s findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

“(C) DISMISSAL OF COMPLAINT.—

“(i) **STANDARD FOR COMPLAINANT.**—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(ii) **STANDARD FOR EMPLOYER.**—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(iii) **VIOLATION STANDARD.**—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(iv) **RELIEF STANDARD.**—Relief may not be ordered under subparagraph (A) if the employer

demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(3) FINAL ORDER.—

“(A) **IN GENERAL.**—Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

“(B) **CONTENT OF ORDER.**—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

“(i) to take affirmative action to abate the violation;

“(ii) to reinstate the complainant to his or her former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

“(iii) to provide compensatory damages to the complainant.

“(C) **PENALTY.**—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys’ and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

“(D) **BAD FAITH CLAIM.**—If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys’ fee, not exceeding \$1,000, to be paid by the complainant.

“(4) ACTION IN COURT.—

“(A) **IN GENERAL.**—If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(C).

“(B) **RELIEF.**—The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

“(i) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

“(ii) the amount of back pay, with interest; and

“(iii) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney’s fees.

“(5) REVIEW.—

“(A) **IN GENERAL.**—Unless the complainant brings an action under paragraph (4), any person adversely affected or aggrieved by a final order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later

than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

“(B) NO JUDICIAL REVIEW.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(6) FAILURE TO COMPLY WITH ORDER.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

“(7) CIVIL ACTION TO REQUIRE COMPLIANCE.—

“(A) IN GENERAL.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

“(B) AWARD.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

“(c) EFFECT OF SECTION.—

“(1) OTHER LAWS.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

“(2) RIGHTS OF EMPLOYEES.—Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

“(d) ENFORCEMENT.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

“(e) LIMITATION.—Subsection (a) shall not apply with respect to an employee of an entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food who, acting without direction from such entity (or such entity's agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, rule, regulation, standard, or ban under this Act.”

SEC. 403. JURISDICTION; AUTHORITIES.

Nothing in this Act, or an amendment made by this Act, shall be construed to—

(1) alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services, under applicable statutes, regulations, or agreements regarding voluntary inspection of non-amenable species under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.);

(2) alter the jurisdiction between the Alcohol and Tobacco Tax and Trade Bureau and the Secretary of Health and Human Services, under applicable statutes and regulations;

(3) limit the authority of the Secretary of Health and Human Services under—

(A) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act; or

(B) the Public Health Service Act (42 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act;

(4) alter or limit the authority of the Secretary of Agriculture under the laws administered by such Secretary, including—

(A) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(B) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(D) the United States Grain Standards Act (7 U.S.C. 71 et seq.);

(E) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(F) the United States Warehouse Act (7 U.S.C. 241 et seq.);

(G) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); and

(H) the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with the amendments made by the Agricultural Marketing Agreement Act of 1937; or

(5) alter, impede, or affect the authority of the Secretary of Homeland Security under the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) or any other statute, including any authority related to securing the borders of the United States, managing ports of entry, or agricultural import and entry inspection activities.

SEC. 404. COMPLIANCE WITH INTERNATIONAL AGREEMENTS.

Nothing in this Act (or an amendment made by this Act) shall be construed in a manner inconsistent with the agreement establishing the World Trade Organization or any other treaty or international agreement to which the United States is a party.

SEC. 405. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Amend the title so as to read: “An Act to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.”

MOTION TO CONCUR

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. DINGELL moves that the House concur in the Senate amendments to H.R. 2751.

The SPEAKER pro tempore. Pursuant to House Resolution 1781, the motion shall be debatable for 1 hour equally divided and controlled by the chair and the ranking minority member of the Committee on Energy and Commerce.

The gentleman from Michigan (Mr. DINGELL) and the gentleman from Pennsylvania (Mr. PITTS) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to insert extraneous matter into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I now yield 4 minutes to the gentleman from California (Mr. WAXMAN), the distinguished chairman of the Committee on Energy and Commerce.

Mr. WAXMAN. Mr. Speaker, I appreciate the gentleman from Michigan (Mr. DINGELL) yielding to me. And I want to commend you, Representative DELAUNO, Congressmen PALLONE and STUPAK, Mr. BARTON and Mr. SHIMKUS, and former Representative Deal for the work on this legislation.

For a third time, today the House considers legislation that will dramatically improve the safety of our Nation's food supply. The House first passed its bill in July 2009 on a strong bipartisan vote with 283 supporters. On November 30 of this year, the Senate passed the FDA Food Safety Modernization Act on a strong bipartisan basis, by a vote of 73-25. That bill contained some constitutional defects that needed to be fixed. So on Sunday night, the Senate again passed a corrected version of the bill by voice vote.

Congress has demonstrated that food safety is a bipartisan issue. Food-borne illness outbreaks can strike each and every one of us. In recent years, foods we never would have imagined to be unsafe, everything from spinach to peanut butter, have sickened an untold number of Americans. It is time, once and for all, to enact this legislation. There is no time for any further delay.

FDA needs a modern set of authorities to deal with the effects of our increasingly globalized food supply. This legislation will give FDA the tools and resources it needs to better police the safety of the foods we eat every day. The bill makes significant improvements throughout the food chain, from the farm to the dinner table. The bill will require farmers to comply with science-based standards for safe production and harvesting. Companies that process or package foods will be required to implement preventive systems to stop outbreaks before they occur. Importers will have to demonstrate that the food they bring into the country is safe. And the bill strengthens FDA enforcement authorities, giving FDA the ability to order a food recall when companies refuse to voluntarily do so.

Many of us in the House would agree that our bill was stronger. We also would likely agree that it is regrettable that there was not time for a conference to allow us to make some improvements in the Senate bill. But this is an opportunity that will not come again for a long time. There is no question that this is a good bill and that it will provide FDA with some critical new authorities. It will fundamentally shift our food safety oversight system

to one that is preventive in nature as opposed to reactive. We simply must take this chance to make our food supply safer. I urge my colleagues to vote "yes" on H.R. 2751.

Mr. PITTS. Mr. Speaker, I yield myself such time as I may consume.

At the Energy and Commerce Committee, food safety has been a bipartisan priority. We have held numerous hearings during the last two Congresses, examining food safety problems involving peppers and peanut butter and what we can do to solve those problems. During those hearings, we have heard about how much work our Nation's farmers, manufacturers, and distributors do to put low-cost, high-quality food on the tables of more than 300 million people every day. We also have heard about how much our Nation's children and our Nation's farmers and small businesses can be hurt when one irresponsible actor sells adulterated, contaminated food.

Thanks to helpful testimony from hearing witnesses and hard work by our committee members, we were able to come up with some good ideas to help solve those food safety problems. Those ideas were found in the Food Safety Enhancement Act, which passed the House in July of 2009 and represented the bipartisan work of Chairman WAXMAN, Chairman Emeritus DINGELL, Chairman PALLONE, Chairman STUPAK, Governor-Elect Deal, and Ranking Member SHIMKUS.

The Food Safety Enhancement Act passed more than 16 months ago. The Senate finally passed its food safety bill, the Food Safety Modernization Act, Senate 510, during the lame duck session. The provisions of Senate 510 are contained in the bill that we are considering today with no substantive changes from what passed the Senate 3 weeks ago.

I intend to vote against this bill because it represents such a gross departure from reasonable legislating. When the Senate passed its food safety bill 3 weeks ago, we asked our majority to take the bill to conference. Instead, we were forced to vote on the Senate bill with no substantive changes as part of the continuing resolution 2 weeks ago.

During the 111th Congress, we have learned a great deal about how not to do things, and this bill presents us with another example. Instead of just taking up the Senate bill, we should have held a conference. We've been told we couldn't do that because there wasn't enough time. Well, instead of naming post offices, we should have rolled up our sleeves and gotten to work on negotiating. And now, 3 weeks and many post offices later, the majority says we have to take it or leave it.

□ 1530

One provision that raises questions is the so-called Tester amendment that was added to the Senate food safety

bill. This provision will provide exemptions from food safety requirements based on a facility's or a farm's size. While we do not want to overly burden small facilities and small farms, we've learned in our committee hearings that food-borne pathogens don't care if you're a big facility or a small facility, a big farm or a small farm. They affect everyone.

A food safety issue in one facility or one farm can cause hundreds of illnesses and hundreds of millions of dollars in economic losses for farmers and small businesses. By allowing facilities exemptions from food safety requirements, we're setting our Nation up for the potential of future outbreaks. Our system is only as strong as its weakest link, and the Tester amendment will set up a system full of weak links.

This is just one example of the potential problems with this bill. These are problems we could have addressed through a conference, but, instead, we wasted 3 weeks and are being told, take it or leave it.

I urge my colleagues to vote "no" on this legislation so we can do it the right way in the next Congress.

I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Chairman Dingell, I want to thank you for all the hard work you have put in on this bill, and also Chairman WAXMAN. We worked on a bipartisan basis.

I rise today in strong support of the Food Safety Modernization Act. After 2 years of hard work, we're finally on the cusp of enacting landmark comprehensive food safety legislation.

The modernization of our food safety system is desperately needed. The current food regulatory regime was established in 1938 and hasn't been overhauled in 70 years. Since this time, the U.S. food supply has evolved into a global network made up of foreign products, processors, and growers over whom the U.S. has little or no control. Think about what a different world it was in 1938. That alone should be reason enough to update our food safety laws today.

Every time we have a food safety crisis, be it eggs or spinach or peppers or peanuts, we shake our heads at the vulnerability of our food supply and bemoan the fact that we don't have the tools to protect it. And these aren't isolated instances. Each year, 48 million Americans are sickened from consuming contaminated food, and as many as 3,000 to 5,000 of these people die.

The Food Safety Modernization Act will give the FDA the ability, the authority, and the resources to protect American consumers from contaminated food domestically and abroad. FDA will now better ensure food safety

through more frequent inspections of food processing facilities, the development of a food trace-back system to pinpoint the source of food-borne illnesses, and enhanced powers to ensure that imported foods are safe. Perhaps most notably, the bill emphasizes prevention and safety that helps ensure that food is safe before it's distributed, before it reaches store shelves, before it reaches the kitchens of American families.

We have the most productive and most efficient food distribution system in the world, but we need to make sure that we have the safest food supply. American families need to know the food they select from grocery stores and the meals they put on their kitchen tables are safe.

Now, I'll say the bill before us isn't perfect, but it is a good bill, and it's backed by a diverse coalition that includes food producers, grocery manufacturers, and consumers. It has strong bipartisan support. Last year, the House passed its version by a vote of 283-142. The Senate passed a bill nearly identical to the one before us today by a vote of 73-25. And this is an overwhelming show of support for legislation which will significantly protect the public health.

I'm proud we're passing this bill one more time. Today, of course, it will go to the President for his signature. He has said he would sign it. And I urge my colleagues to support this landmark legislation.

Mr. PITTS. Mr. Speaker, I yield 4 minutes to the ranking member on Agriculture, Representative LUCAS from Oklahoma.

Mr. LUCAS. Mr. Speaker, I rise again in opposition to H.R. 2751, originally dealing with the Cash for Clunkers and now containing the Senate language S. 510, the Food Safety and Modernization Act.

As I've stated repeatedly, I believe our Nation has the safest food supply in the world. I also believe that we must continually examine our food production and regulatory system and move forward with changes that will improve food safety.

This legislation is the product of a flawed process. It will lead to huge regulatory burdens on our Nation's farmers and ranchers. It will raise the cost of food for our consumers, and it contains very little that will actually contribute to the goal of food safety. It gives the Food and Drug Administration lots of additional authorities with no accountability. In fact, with the inclusion of the so-called Tester amendment, some argue that it is a step backwards.

Now, my concerns about the legislation are not limited to the unforgivable process. There are serious public policy concerns as well. The Tester amendment is an illustrative example. Intended to shield small and local producers from the burdens of the new

food safety law, it is opposed by virtually all of the major organizations representing farmers and ranchers. Normally, these groups would be expected to support a provision that sought to protect their farmers and ranchers. But they oppose the Tester amendment and any legislation that contains it because it adds to the layers of food safety regulation by creating yet another tier of regulatory standards that will only confuse our consumers.

Further, by exempting small domestic companies from Federal standards, I fear, and this is a legitimate fear, that we will be required to exempt similarly sized companies in developing countries from our standards. This approach does not make food safer. It eliminates important consumer protection and puts our citizens at increased risk.

With respect to the Tester amendment, I question the value of any law that is so onerous to an industry that Senators believe segments of that industry should be excluded from it. It would be wise to reconsider the entire legislative approach.

Now, there are other problems as well in the bill. New regulation authority for food processing facilities will create what amounts to a Federal license to be in the food business. Registration of food processing facilities was originally envisioned as a commonsense way to help FDA identify facilities under the Bioterrorism Act of 2002. This bill turns it into a license to operate, making it unlawful to sell food without a registration license, and allowing FDA to suspend the company's registration. This is the type of government intrusion into commerce that Americans rejected in early November of this year.

Another provision of particular concern would mandate the Food and Drug Administration to set on-farm production performance standards. For the first time, we'd have the Federal Government prescribing how our farmers grow crops. Farming, the growing of crops and the raising of livestock, is the first organized activity pursued by man. We've been doing it for a long time, and we've been doing it without the FDA on the farm.

The vast majority of these provisions, along with the recordkeeping requirements, traceability, mandatory recall authority, will do absolutely nothing to prevent food-borne disease outbreaks from occurring but will do plenty, do plenty, to keep Federal bureaucrats busy. And these are all the sorts of things that could be worked out through the normal legislative process, but only if there's a process.

Mr. Speaker, let me return to where I started. We have the safest food supply in the world. Anyone who follows current events knows that our food production system faces ongoing food

safety challenges, and I stand ready to work with my colleagues, all of my colleagues, to address those challenges.

Our Nation's farmers, ranchers, packers, processors, retailers, and consumers deserve better.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. STUPAK), who has been the chairman of our Oversight and Investigation Subcommittee, who's done the wonderful investigative work that has brought us to where we are in exposing the dangers to our food supply by imports and other things, with my commendations and good wishes.

□ 1540

Mr. STUPAK. I thank the gentleman for yielding and for the kind words. As I wrap up my 18 years in the U.S. House of Representatives, this is a good bill in which to wrap up a career. I first introduced food safety legislation along with Mr. DINGELL and Mr. PALLONE and now-Senator BROWNBACK in 1997. For 14 years we have been fighting to try to update our Nation's food safety laws.

And then as chair of Oversight and Investigations, we have held over 13 hearings on food-borne illnesses from spinach, peanut butter, jalapenos, and most recently tainted eggs. Why was all this necessary? As has been noted, our food laws have not been updated since 1938. And we know more and more of our foods are coming from different sources and different countries. But this year and each year approximately 77 million Americans become ill because of food-borne illnesses, 325,000 are hospitalized, and up to 5,000 Americans will die, some of our most vulnerable Americans, such as children and senior citizens, those whose immune systems have been weakened or are not fully developed.

But if you are a young child and you do survive, what kind of life do you have after you have spent time in a hospital getting a new kidney? You face a lifetime of medication and bankruptcy of your family. We must act now to pass this food safety bill. This bill contains many good provisions, including the trace-back provision, which is designed to make it easier to prevent and respond to outbreaks in food-borne illnesses.

This also has mandatory recall. Most Americans are shocked to know that the FDA does not have the right to recall food or unsafe drugs in this country. They do not have the right to have that recall, especially on food. So this will now make it mandatory. The FDA can remove tainted food as soon as possible. Still, despite all these improvements, more has to be done to protect Americans.

The FDA needs subpoena power. It is probably one of the few regulatory agencies that doesn't have subpoena power. We lost that when it went to the

Senate. But if you are going to trace back, if you are going to get the records, if you are going to find where the food comes from, let's give the regulatory agency the power they need. Because corporate America unfortunately too often hides their records from us.

We need an adequate funding source. For this legislation to be successful, we have to have an adequate funding source, as we had in the House but was removed in the Senate. And country of origin label. More and more of our food, especially this time of the year in the winter months, comes from other countries. We need to know exactly where those sources of food come from. So I urge the next Congress to make these improvements.

And a word of caution. Without this bill and greater improvements to this bill, we cannot fully protect Americans from food-borne illnesses, either accidentally or those intentionally put forth by America's enemies. And make no mistake about it, our enemies will exploit our weak regulatory system when they know they can harm so many Americans through food-borne illnesses.

So I hope my colleagues today will join me in supporting this legislation. It's a great piece of legislation. I would like to thank my colleagues who have worked so hard on this over the years with me, including Ms. DELAURO of Connecticut, but especially the members of the Energy and Commerce Committee who have worked with us, especially Chairman DINGELL, Chairman WAXMAN, Mr. PALLONE, Mr. UPTON, and Mr. BARTON.

Mr. PITTS. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Connecticut (Ms. DELAURO), the chairman of the Agriculture Appropriations Subcommittee, and very much interested in the matter before us. She has worked on it a long time.

Ms. DELAURO. Mr. Speaker, I rise today in support of this bill as a good and a necessary first step in reforming our food safety system and better protecting our families from food-borne illness. And I want to congratulate some of the longtime champions of food safety in this institution, such as Chairman HENRY WAXMAN, Chairman JOHN DINGELL, Subcommittee Chairman FRANK Pallone, Mr. BART STUPAK. And I say congratulations to them for successfully bringing this legislation through the House. I also want to acknowledge Senator HARKIN and Senator DURBIN for their work in facilitating passage of this bill in the Senate.

Among the critical reforms in this bill are increased inspection of high-risk facilities, expanded authority to inspect recall records, the formation of

a more accurate food facility registry, improved traceability in the event of an illness outbreak, and improved surveillance of food-borne illness. The bill also requires certification of certain foreign food imports as meeting U.S. food safety requirements.

All of these tools will help improve the FDA's ability to respond to food-borne illness outbreaks and to hold industrial food production facilities to higher standards. For too long the cornerstone of our food safety system, the FDA, has had only ancient tools and an outdated mandate at its disposal. This bill will go a long way towards stemming the potential of a full-blown food-borne epidemic in the future. Recently, the CDC released an updated estimate on food-borne illness figures, and it remains a major public interest health threat. With nearly 50 million illnesses, 100,000 hospitalizations, and over 3,000 deaths each year, these estimates show that there is much work to be done in identifying and combating the pathogens that cause food-borne illness.

Just to tell you the importance of this bill, let me share with you the story of Haylee Bernstein, a 17-year old girl who lives in Wilton, Connecticut. When Haylee was 3 years old, she ate unwashed lettuce that was contaminated with *E. coli*. She soon became extremely ill with what doctors called hemolytic uretic syndrome. The health effects of an *E. coli* illness are very painful. Haylee experienced traumatic damage to her kidneys and pancreas. She suffered severe bleeding in her brain. And that blood in her brain caused her to be temporarily blind. The doctors at Yale-New Haven Children's Hospital fought for 14 weeks to save her life. And to this day, Haylee still suffers from health problems such as diabetes, all because of food contaminated with *E. coli*. This should not happen to anyone. And as we know in this body, it can be prevented.

With all of this in mind, our food safety efforts should not, and will not, end today. Because this piece of legislation is not about roads and bridges and parks and other things that we do in this institution. This legislation is about life and death. While the FDA is charged with protecting a large majority of our food supply, the Food Safety and Inspection Service, FSIS at USDA, is responsible for ensuring the safety of meat and poultry products. After passing this bill today, we must begin to lay the foundation for science-based reform at FSIS as well. That is why I worked on language that would create a science-based panel, supported by a wide range of stakeholders, to analyze the food safety system at FSIS and develop the concept of what a modernized system would look like there.

This collaborative proposal is supported by the pertinent industries, consumer groups, and unions. I should emphasize that this plan would not inter-

fere with the good work currently being done by Under Secretary Elisabeth Hagen at FSIS. And I look forward to working with all of my colleagues in the next Congress to move this proposal forward.

Ultimately, I believe, as do leaders across the aisle, that we must establish a single food safety agency. Currently, food safety responsibilities are fragmented across 15 Federal agencies and are governed by 71 interagency agreements. Food safety and public health experts, as well as the Government Accountability Office, have concluded that this fragmentation has created redundancies that have weakened our food safety response. We need to consolidate all of these food safety functions under one roof. This will provide an updated regulatory structure and strengthen oversight and surveillance activities to better protect our food supply.

I will continue to fight for this single agency. I believe it is needed to ensure that the food in our fridges and on our kitchen tables is safe. Nonetheless, the legislation we must pass today is a strong first step toward a safer food supply and reducing the number of preventable food-borne illnesses and deaths. I urge my colleagues to face this public health threat and to pass food safety legislation. Every parent who goes in to buy food needs to know that they are taking it home and it's safe for their children.

Mr. PITTS. I continue to reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes again to my good friend, the chairman of the Committee on Energy and Commerce, Mr. WAXMAN, for purposes of correcting the record on certain erroneous statements made.

Mr. WAXMAN. Mr. Speaker and my colleagues, the Senate only passed this bill a couple of nights ago. And so we have now the opportunity to vote to take it or reject it. Some on the other side of the aisle, Republicans, are saying we should reject the whole bill because of the Tester amendment, which exempts small farmer-producers and facilities. We didn't have that in our bill, and I would have preferred that the Senate had not adopted that provision. But I don't think it is a reason to vote against this whole bill.

This bill is a good bill. It is supported by the Consumer Federation of America, the Consumers Union, the National Consumers League, the Trust for America's Health, the American Public Health Association. And it's supported by major industry groups, the Food Marketing Institute, the Grocery Manufacturers Association, and the U.S. Chamber of Commerce.

Now, I would assume that some big operations don't like the fact that small ones are going to be exempt. They are only exempt from a couple of the provisions which Senator TESTER

and the Senate Members thought were too burdensome. And some of these small operations are limited in their income, and therefore it might be too burdensome for them.

□ 1550

Republicans have suggested we should have gone to conference. If we had gone to conference, only one Senator could object and no conferees would be appointed by the Senate. So that burden we are being asked to have achieved is something we could not achieve in the short time available to us.

Let us not let this opportunity go by. We must adopt this legislation. If there are efforts to change it later on, fine. But this is an important bill that has been worked on for years. It had strong bipartisan support in the House. It had overwhelming bipartisan support in the Senate. And I want to clarify the record to point out that almost all the groups, the consumer groups and the industry groups, are urging an "aye" vote.

Mr. PITTS. I continue to reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I have only one further speaker on this side, so I suggest to my good friend from Pennsylvania, if he desires to speak, he should speak forthwith.

Mr. PITTS. I have no further requests for time, and I yield back the balance of my time.

Mr. DINGELL. The gentleman is a complete gentleman. I don't want to deny him any opportunity to be heard. I want to thank the gentleman. He is always courteous. I express my gratitude to him for the way he behaves.

I yield myself 5 minutes, Mr. Speaker.

Mr. Speaker, this is not the first time we have seen this bill. It came out of the Committee on Energy and Commerce unanimously. It was informally referred to the Committee on Agriculture, where they had a chance to take a look at it. It passed the House overwhelmingly on two occasions in a slightly different form. It then came back here and it was passed yet another time with the changes virtually to make it identical to that form in which it is. Those changes have been removed in some regards because they were mostly simply technical changes. So it has passed this body three times before this. This is the fourth time we have considered it. The Senate has passed it twice. On Sunday night, they passed it under a unanimous consent procedure.

The bill has enormous support, and all of the consumer organizations support it. Almost every business group in the field of food manufacturing and processing supports it: The Grocery Manufacturers Association, the National Association of Manufacturers, the Chamber of Commerce, the Consumer Federation of America, the

American Public Health Association, the Bakers Association, the Beverage Association, the American Public Health Association, Pew Charitable Trust, the U.S. PIRG, and also the Food Marketing Institute as well as the Center for Science in the Public Interest. There is literally little, if any, opposition to the consideration of this legislation.

The Senate took from last summer when the House passed the bill until just a few weeks ago to pass the bill over there. It only passed for the final time on Sunday night. I want to agree with my good friend from Pennsylvania; the House's skill as a legislative body is far superior to that of the other body, and if they would leave the legislation alone, I think I could assure the House that we would pass better legislation than they do over there.

But having said these things, we are about now to be forced at the last minutes of this session to choose between not passing a superb bill and passing no bill at all because we want to achieve a greater level of perfection.

This is the first significant change in food and drug law with regard to foods since 1938. At that time, you could test foods down to a few parts per thousand. Today, you can do it down to parts per billion and parts per trillion, and food is being affected by huge numbers of new, incredibly complex known and unknown molecules that are inserted.

The bill before us serves a basic and necessary and admirable purpose. It is going to have the purpose of seeing to it that the American consumer can again have confidence in the safety of their food supply.

Our manufacturers, our growers, and our processors do the best job in the world. The problem is we now import something like about one-quarter to one-third of our food supplies, and those food supplies are coming from places like China. And we have had some scandals of the most appalling character with regard to both domestic and imported food, but mostly with regard to imported food: bad seafood and shellfish from China, unsafe leafy vegetables like spinach and celery from China, bad berries and fruit from Chile and other places like that, peppers from Mexico that got mixed in with salsa and caused the collapse of the American tomato industry.

These are things that will be corrected by us having people available in Food and Drug to properly investigate, to properly correct and properly see to it that these unsafe foods don't get into our food chain, with the consequences not only that they poison Americans, but, worse, that they destroy American industry and cost us the faith of the American consuming public for some of the best manufacturers and processors in the world. The Chinese put melamine in milk. They sent us all manner of dangerous and unsafe food.

Now we are giving the agency, Food and Drug, the authority it needs. This does not invade the jurisdiction of the Agriculture Committee. It was very carefully kept to see to it that it stayed within the jurisdiction of the Commerce Committee.

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired.

Mr. DINGELL. I yield myself 2 additional minutes.

It creates a new focus on prevention, and it shares responsibility between FDA and the food manufacturers so that they can cooperatively work to keep the food supply safe, working together.

It also is going to require manufacturers to implement preventive systems to stop outbreaks before they occur, and it is going to allow our Food and Drug Administration, for the first time in history, to police and to protect the entry into this country of foods coming from abroad, where most of the peril to our American consumers lie.

It also is going to allow our investigators and Food and Drug people to see to it, and this is a word of art, that the American law with regard to good manufacturing practices is carried forward in those other lands so that bad food cannot originate elsewhere and then come in to the United States because of shoddy manufacturing practices.

It gives Food and Drug power to ensure that foreign importers meet U.S. standards, and it will assure that foreign growers and producers will be treated with the same care and attention that American growers and producers are so our growers and producers can know that they are facing an even and level playing field. It gives FDA new enforcement tools, mandatory recall authority, authority to detain tainted products, and protections for employees who serve as whistleblowers.

This legislation is long overdue. It will address a situation which is shameful.

Today, according to the latest statistics, 48 million Americans are sickened by bad food, some 128,000 are hospitalized, and 3,000 are killed yearly. We can dawdle around and let the House and the Senate wait until next year to perhaps pass a different bill. Whether it will be better or not is open to question.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. DINGELL. I yield myself 1 additional minute.

Whether it will be better is open to question. But I will tell my colleagues, during that time there are going to be Americans sickened, there are going to be Americans killed, and there are going to be Americans hospitalized.

American manufacturers and processors and growers are going to have the quality of their food products impinged, not by their carelessness or bad behavior but, rather, by the misbehavior of foreign producers, foreign manufacturers, and others who are sending things in here like milk products with melamine. Melamine is a constituent, believe it or not, of Formula.

□ 1600

It kills people. It kills babies. And China sells these products to their own people. If they will kill their own people with that kind of trash, imagine the glee with which they will sell that kind of trash over here to threaten the well-being and the safety and the trust of American consumers, businessmen, manufacturers, producers, and growers.

I beg you, the safety of your constituents, of our people, is at stake. And I hope you will work with me to pass this legislation so that we can make our consumers not only trust the system but also to know that it is going to work to protect them.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. DINGELL. I yield myself 1 additional minute.

I hope if there's enthusiasm for doing further work on this, that my colleagues will join me next year in doing the same thing with regard to pharmaceuticals. And I remind you that the committee has worked not in opposition to American industry, but rather the committee has worked with American industry, which supports the legislation.

Would it be better if we were passing the House bill? Absolutely. Is it worse and weaker because we're passing the Senate bill? Of course. But having said that, you're making Americans safe in spite of the fact that the U.S. Senate has to take a ride with this legislation to, quite frankly, the weakening of this legislation.

I want to commend my colleagues who have participated: Mr. WAXMAN, Mr. PALLONE, Mr. STUPAK, Ms. DEGETTE, and Ms. DELAURO. And I want to commend the staff: Katie Campbell, whose last day this is; Virgil Miller; Rachael Sher; Eric Flamm; and Emily Gibbons, who have made this possible. Our legislative counsel has labored vitally on it, and we owe real thanks to Warren Burke and Megan Renfrew.

I want to commend my Republican colleagues. I know that they're not supporting this legislation, and I grieve about that. But the harsh fact of the matter is they were very helpful in doing this in times past. And I want to pay particular tribute to Mr. SHIMKUS, Mr. Deal, and Mr. BARTON, but I do want it known that were it not for the labor of three great men in the other

body, we would not be where we are. Senator HARKIN, Senator DURBIN, and Senator REID have contributed vitally to the success which we've had in making the American consuming public safe. And I hope that the people will understand we have served them well.

I urge my colleagues to vote for this bill, secure in the knowledge that you're protecting Americans and you're saving the lives and the health and the well-being of the American people by passing H.R. 2751.

I rise today in strong support of the FDA Food Safety Modernization Act and I urge my colleagues to vote in favor of this legislation with deliberate speed.

Mr. Speaker, consideration of this bill today is what I hope will be the final step of a long legislative journey. My colleagues in this body passed similar legislation last July. Some 17 months later, we are working on the same issue.

The legislative fits and starts is in no way a reflection of the policy, however, the legislation has been the hostage of political games and procedural missteps. The FDA Food Safety Modernization Act serves a necessary and admirable purpose—it will go a long way in boosting American consumer confidence in the safety of the nation's food supply. The many recalls that have confronted American consumers over the years—peanuts, melamine in milk, eggs, bad seafood and shellfish, unsafe leafy vegetables like spinach, bad berries and peppers—has called into question the ability of the government to adequately protect American consumers. The FDA Food Safety Modernization Act addresses this concern head on and grants the Food and Drug Administration—the Agency with oversight of 80 percent of the nation's food supply—the authorities and resources it needs to effectively do its job.

Among other things, the legislation will:

Create a new focus on prevention, and a shared responsibility between FDA and food manufacturers to keep the food supply safe. It will require manufacturers to implement preventive systems to stop outbreaks before they occur;

Require FDA to inspect food facilities—foreign and domestic—more frequently;

Grant FDA new authority to ensure that imported foods meet U.S. safety standards and will assure foreign growers and producers must be treated with the same care that American growers and producers are; and

Grant FDA new enforcement tools, including mandatory recall authority, authority to detain tainted products, and protection for employees who uncover food safety violations.

Mr. Speaker, enactment of this legislation is long overdue and necessary—necessary for the millions of Americans who suffer from foodborne illness each year, and the thousands who die from it each year.

We will bring to a halt a shameful situation where 48 million Americans are sickened by bad food, 128,000—yes 128,000 Americans—hospitalized and 3,000 people killed by bad food.

I strongly support the legislation before us today and urge my colleagues to cast an aye vote.

S. 510 SUPPORTERS

OBAMA ADMINISTRATION—FDA

American Bakers Association; American Beverage Association; American Public Health Association; Center for Foodborne Illness, Research & Prevention; Center for the Science In The Public Interest; Consumer Federation of America; Consumers Union; Flavor and Extract Manufacturers Association; Food Marketing Institute; Grocery Manufacturers Association; Institute of Shortening & Edible Oils Inc.; International Dairy Foods Association; International Bottled Water Association; National Association of Manufacturers; National Coffee Association of U.S.A., Inc.; National Confectioners Association; National Consumers League; National Restaurant Association; The Pew Charitable Trusts; Snack Food Association; STOP—Safe Tables Our Priority; Trust For America's Health; U.S. Chamber of Commerce; and U.S. PIRG: Federation of State PIRGs.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today in strong support of the FDA Food Safety Modernization Act.

H.R. 2751, the FDA Food Safety Modernization Act would help expand the FDA authority to inspect records relating to food while increasing inspections on high-risk on food facilities. Through passage of this bill, a more accurate registry of all food facilities serving American consumers would exist. It is important to provide safe and clean food for the American people, who deserve nothing but the best.

The safety and sanitation of food produced and distributed throughout the United States is of utmost importance. The health and well being of every person in this country hinges on the quality and effectiveness of the food inspection process. Without proper inspection, there is a possibility of contamination of foods and the spread of disease.

In the spring of 2008, a case of salmonella spread throughout the country as a result of a single tainted pepper from a South Texas produce warehouse. This strain of salmonella sickened 1,251 people, led to the hospitalization of 229 people, and sadly, two deaths. Once the origin of the salmonella outbreak was determined, the FDA and other federal agencies took action and required the responsible parties to recall all produce that they thought may have been tainted.

In the United States in 2010, at a time when we have the newest and greatest technologies at our disposal, outbreaks like the one mentioned should not take place. With improved and modernized safety inspections, such outbreaks can be avoided and prevented.

It is because of stories like this that I am ever so moved to ensure that H.R. 2751, the FDA Food Safety Modernization Act is passed in the House of Representatives and that it eventually becomes law.

Passage of the FDA Food Safety Modernization Act will prevent such salmonella scares from happening again in the future—in Texas or in any state in the country—for that matter.

This bill would also allow for improved traceability of the history of food in the event of a food borne illness outbreak. Often time, when our country has been faced by serious food poisoning that have affected thousands of American people, we do not know where

the food was produced or cultivated. This bill would bring an end to that. It is important for us to be ever cautious that could affect the well being and health of our children, elderly and family members.

In addition to what I have mentioned, this bill would also make available a certificate of certain food imports—requiring all foods imported into the United States to meet all U.S. food safety requirements. The certificate would ensure that we are only allowing the safest and most healthy food into our country for consumption by the American people.

Another important component of this legislation would ensure protection of whistleblowers that bring attention to important safety information pertaining to the food regulation and food safety. It is most vital that we afford those people who may know information about certain food the opportunity to inform authorities about any concerns they may have with their consumption.

The bill contains important provisions that address the industry concerns, which include the elimination of the registration fee imposed on facilities participating in the food system. In addition, this legislation provides for a limited exemption for small food producers and processors that sell the majority of their food directly to consumers or to grocers within a circumscribed area and whose food sales are less than \$500,000 per year.

The legislation before the House of Representatives is supported by a range of consumer and industry groups, including the American Public Health Association, the Center for Foodborne Illness Research and Prevention, the Center for Public Interest, the Consumer Federation of America, the Grocery Manufacturers Association, and the U.S. Chamber of Commerce.

It is time that we stand with this broad-based coalitions as we work to improve the food we eat and consume and know where exactly it's coming from. These actions will only help our country, families and our American people from having safety and consumer-friendly produce, meats and dairy.

Mr. FARR. Mr. Speaker, I would first like to thank Chairman WAXMAN and Chairman DINGELL for drafting a very strong food safety bill and leading a comprehensive debate by the House. Their legislation included three vital components that are all founded on a strong scientific base. I also want to commend them for including the teeth we need to implement mandatory recalls, as well as a commodity-specific approach to produce safety. Also important, the bill incorporated the flexibility we need to cover our growers, handlers, and processors.

Yet the Senate bill we will be voting on today, The FDA Food Safety Modernization Act, fails to meet that high bar set by the original House bill. Because the version that is now before us has abandoned its original scientific base, I must sadly oppose this legislation.

Let me be clear: I understand the need for food safety reform all too well. The safety of America's supply of fresh fruits, vegetables and nuts will always be my highest priority. I know firsthand the impact an outbreak can have on an industry, and for that reason, understand the strong need for far reaching regulations based on the best science available.

The Center for Disease Control estimates, released December 15th, state that 48 million people in America—that's 1 in every 6—get sick every year from contaminated food. Furthermore, 128,000 are hospitalized and 3,000 die being exposed to this contaminated food. These are staggering numbers considering the United States still has the safest food supply in the world.

I also know each time any fruit or vegetable is implicated in an outbreak of food borne illness, the industry as a whole suffers from devastating losses in consumer confidence. In the long run, this is simply not sustainable, and it's certainly not acceptable for growers or consumers.

At the very least, our nation needs a minimum food safety standard that applies to every producer. And we need to help all growers small or large, comply with the regulations that will be promulgated from this legislation. Anything less falls short of true food safety reform, and could be a dangerous disservice to the American public.

The region I represent, California's Central Coast, is the top producing specialty crop region in the world. As such, I am proud to say that food safety is our region's industry's top priority. The men and women who grow, pack, and market fresh produce are committed to providing consumers with safe and wholesome foods from field to fork. Our local industry is constantly working to enhance and improve their performance in growing crops, harvesting and handling for distribution, packaging and processing into convenient ready-to-eat products. In addition to following all protocols to maintain the safest possible delivery chain—all the way to the consumer's table.

Mr. Speaker, Food Safety knows no price point—Salmonella, e. Coli and Listeria don't care if the food is grown conventionally or organically—or if the produce is grown on a large ranch or small farm. That's why provisions in this bill that exempt small producers from oversight are simply unacceptable and dangerous. We need policy based on sound science, and exempting certain sectors of the industry is not sound policy. Instead, we should be providing those small producers with the tools and incentives they need to meet the food safety standards we are voting on today.

Food producers are dedicated to continuously improving on-farm food safety practices—inclusion of exemptions from food safety laws is a huge step backward, and will send the wrong message to the food industry. Even worse, it will send the wrong message to the American consumer.

Congress needs to understand—just as my growers understand—that any fruit or vegetable implicated in an outbreak taints the entire agricultural industry. And those isolated instances are cumulative. If we allow small producers to avoid oversight, the outbreaks that are likely to occur will result in the harm of all growers, handlers, processors, and shippers.

I'm committed to ensuring that when food safety regulation does come to fruition, it is developed and implemented with industry input. And that it provides pragmatic food safety guidelines that are both feasible and effective for growers, processors, handlers, and consumers.

Mr. Speaker, this legislation does offer a step forward, but be certain that today we could have taken a leap forward.

I look forward to working with my colleagues, constituents and the agencies to developing meaningful scientifically based food safety standards. But unfortunately, I can not support this bill as it is presented to us from the Senate.

Mr. VAN HOLLEN. Mr. Speaker, I rise in support of this legislation that will provide the Food and Drug Administration, FDA, much-needed enhanced authorities to protect the American public from unsafe foods.

Serious gaps have been exposed in the FDA's ability to protect the American public from outbreaks of food-borne diseases. These outbreaks have shaken consumer confidence in the industry that produces one of our most basic and important commodities that Americans depend on daily—the food we eat.

While I prefer the stronger food safety bill that the House passed last year, the Senate-passed FDA Food Safety Modernization Act will make substantial improvements to our food safety system. It includes critical reforms that will improve the FDA's ability to better prevent outbreaks and protect the safety of our food supply and it will allow the FDA to conduct increased inspections, enhance surveillance and traceability of food products, and give the FDA the authority to issue mandatory recalls.

Mr. Speaker, we must ensure that the FDA has the necessary tools and resources to fulfill its vital mission of helping protect the American public from unsafe products. This food safety bill is an important part of that effort. I urge my colleagues to support this legislation.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of H.R. 2751, the FDA Food Safety Modernization Act of 2010, a bill that would overhaul our Nation's food safety system by fundamentally changing the way we protect the safety of our food supply. The focus of this legislative measure is to prevent contamination of food before it occurs, which is a departure from the current system today that responds after a food-borne illness outbreak. Specifically, it requires food producers to come up with strategies to prevent contamination and then continually test to make sure these strategies are working. In addition, H.R. 2751 would allow the FDA to increase the number of inspections to conduct, and requires foreign importers to ensure their food products meet U.S. safety standards.

Mr. Speaker, I applaud the leadership of the House and the Senate for this bipartisan legislation to provide a framework for developing preventive control standards from farm to table to protect the public from food contamination.

Mr. DINGELL. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 1781, the previous question is ordered.

The question is on the motion by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PITTS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the order of the House of today, further proceedings on this question will be postponed.

AMERICA COMPETES REAUTHORIZATION ACT OF 2010

The SPEAKER pro tempore. Pursuant to clause 1(c) of rule XIX, proceedings will now resume on the motion to concur in the Senate amendment to the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion by the gentleman from Tennessee (Mr. GORDON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROUN of Georgia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the motion to concur in the Senate amendment to H.R. 5116 will be followed by 5-minute votes on motions to concur with respect to H.R. 2142 and H.R. 2751 and the motion to suspend on S. 3243, if ordered.

The vote was taken by electronic device, and there were—yeas 228, nays 130, not voting 75, as follows:

[Roll No. 659]

YEAS—228

Ackerman	Conyers	Hall (NY)
Altmire	Cooper	Halvorson
Andrews	Costa	Hare
Arcuri	Courtney	Harman
Baldwin	Critz	Hastings (FL)
Barrow	Crowley	Heinrich
Bartlett	Cuellar	Higgins
Bean	Cummings	Hill
Becerra	Dahlkemper	Himes
Berkley	Davis (CA)	Hinchee
Berman	Davis (TN)	Hinojosa
Biggert	DeFazio	Hirono
Bilbray	DeGette	Holden
Bishop (GA)	DeLauro	Holt
Bishop (NY)	Dent	Inslee
Boccieri	Dicks	Israel
Boren	Dingell	Jackson (IL)
Boswell	Doggett	Jackson Lee
Boucher	Donnelly (IN)	(TX)
Boyd	Drieheaus	Johnson (GA)
Brady (PA)	Edwards (MD)	Johnson (IL)
Braley (IA)	Edwards (TX)	Johnson, E. B.
Brown, Corrine	Ehlers	Kagen
Butterfield	Ellison	Kanjorski
Capito	Ellsworth	Kaptur
Capps	Engel	Kildee
Capuano	Eshoo	Killroy
Cardoza	Etheridge	Kind
Carnahan	Farr	Kirkpatrick (AZ)
Carney	Fattah	Kissell
Carson (IN)	Filner	Klein (FL)
Cassidy	Foster	Kosmas
Castle	Frank (MA)	Kratovil
Castor (FL)	Fudge	Kucinich
Chandler	Gerlach	Langevin
Childers	Giffords	Larsen (WA)
Clarke	Gonzalez	Larson (CT)
Clay	Gordon (TN)	Lee (NY)
Cleaver	Grayson	Levin
Clyburn	Green, Al	Lewis (GA)
Cohen	Green, Gene	Lipinski
Connolly (VA)	Grijalva	Loeb sack

Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCaul
McCollum
McDermott
McGovern
McIntyre
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Minnick
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Nye
Oberstar
Obey
Oliver

Owens
Pallone
Pascarell
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reed
Reichert
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Sanchez, Linda
T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano

Sestak
Shea-Porter
Sherman
Shuler
Skelton
Slaughter
Smith (NJ)
Snyder
Space
Speier
Spratt
Stupak
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Waters
Watt
Waxman
Weiner
Welch
Wilson (OH)
Wolf
Woolsey
Wu
Yarmuth

Honda
Hoyer
Ingalls
Johnson, Sam
Jones
Kennedy
Kilpatrick (MI)
King (NY)
Lee (CA)
Linder
Lofgren, Zoe
Marchant
McCarthy (CA)
McCarthy (NY)

McMahon
McMorris
Rodgers
Melancon
Miller, Gary
Mitchell
Neal (MA)
Nunes
Ortiz
Pastor (AZ)
Radanovich
Reyes
Rush
Salazar

Sanchez, Loretta
Schock
Sires
Smith (WA)
Stark
Sutton
Tanner
Tonko
Wamp
Wasserman
Schultz
Watson
Young (AK)
Young (FL)

Driehaus
Edwards (MD)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gonzalez
Grayson
Green, Al
Green, Gene
Grijalva
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Higgins
Hill
Himes
Hinchey
Hirono
Holden
Holt
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee
(TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kildee
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich

Langevin
Larsen (WA)
Levin
Lewis (GA)
Lipinski
Loebsock
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCaul
McCollum
McDermott
McGovern
McIntyre
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller, George
Minnick
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Nye
Oberstar
Obey
Oliver

Rodriguez
Rogers (AL)
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Sanchez, Linda
T.
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Skelton
Slaughter
Smith (TX)
Snyder
Space
Speier
Spratt
Stupak
Sutton
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Waters
Watt
Waxman
Weiner
Welch
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—130

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Bilirakis
Bishop (UT)
Blackburn
Blunt
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Cantor
Carter
Chaffetz
Coffman (CO)
Cole
Conaway
Davis (KY)
Diaz-Balart, M.
Djou
Dreier
Duncan
Emerson
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gingrey (GA)
Gohmert
Goodlatte
Graves (GA)

Graves (MO)
Guthrie
Hall (TX)
Harper
Hastings (WA)
Hensarling
Herger
Hoekstra
Hunter
Issa
Jenkins
Jordan (OH)
King (IA)
Kingston
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel
E.
Mack
Manzullo
McClintock
McCotter
McHenry
McKeon
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Olson
Paul
Paulsen
Pence

Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Rehberg
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Stearns
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Westmoreland
Whitfield
Wilson (SC)
Wittman

Mr. TERRY changed his vote from “yea” to “nay.”
Messrs. CHANDLER and BARTLETT changed their vote from “nay” to “yea.”
So the motion was agreed to.
The result of the vote was announced as above recorded.
A motion to reconsider was laid on the table.
Stated for:
Mr. TONKO. Mr. Speaker, on rollcall No. 659, had I been present, I would have voted “yea.”
Mr. GARAMENDI. I voice my strong support for the America COMPETES Reauthorization Act of 2010, H.R. 5116. Unfortunately during a busy legislative day, I missed the rollcall for this important bill, which passed the House of Representatives today. Had I been present on the House Floor, I would have cast an “aye” vote in favor of H.R. 5116.

GPRA MODERNIZATION ACT OF 2010

The SPEAKER pro tempore (Mr. OBEY). The unfinished business is the vote on adoption of the motion to concur in the Senate amendment to the bill (H.R. 2142) to require the review of Government programs at least once every 5 years for purposes of assessing their performance and improving their operations, and to establish the Performance Improvement Council, on which the yeas and nays were ordered.
The Clerk read the title of the bill.
The SPEAKER pro tempore. The question is on the motion.
This will be a 5-minute vote.
The vote was taken by electronic device, and there were—yeas 216, nays 139, not voting 78, as follows:

[Roll No. 660]

YEAS—216

Ackerman
Altmire
Andrews
Arcuri
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Boccieri
Boren
Boswell
Boucher
Boyd
Braley (IA)
Brown, Corrine

Butterfield
Capps
Capuano
Cardoza
Carnahan
Clarke
Clay
Cleave
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper

Costa
Courtney
Critz
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (TN)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)

Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Graves (GA)
Graves (MO)
Guthrie
Hall (TX)
Harper
Hastings (WA)
Hensarling
Herger
Hoekstra
Hunter
Issa
Jenkins
Jordan (OH)
King (IA)
Kingston
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel
E.

NAYS—139

Mack
Manzullo
McClintock
McCotter
McHenry
McKeon
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Olson
Owens
Paul
Paulsen
Pence
Petri
Pitts
Poe (TX)
Posey
Price (GA)
Putnam
Reed
Rehberg
Reichert
Roe (TN)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Sensenbrenner

NOT VOTING—75

Adler (NJ)
Baca
Baird
Barrett (SC)
Barton (TX)
Berry
Blumenauer
Boehner
Bright
Brown-Waite,
Ginny
Burton (IN)

Buyer
Calvert
Camp
Campbell
Cao
Chu
Coble
Costello
Crenshaw
Culbertson
Davis (AL)
Davis (IL)

Delahunt
Deutch
Diaz-Balart, L.
Doyle
Fallin
Garamendi
Granger
Griffith
Gutierrez
Heller
Herseth Sandlin
Hodes

Sessions	Stutzman	Upton	Castor (FL)	Israel	Polis (CO)	McHenry	Price (GA)	Shuster
Shadegg	Sullivan	Walden	Chandler	Jackson (IL)	Pomeroy	McKeon	Putnam	Simpson
Shimkus	Terry	Westmoreland	Clarke	Jackson Lee	Price (NC)	Mica	Reed	Smith (NE)
Shuster	Thompson (PA)	Whitfield	Clay	(TX)	Quigley	Miller (FL)	Rehberg	Smith (NJ)
Simpson	Thornberry	Wilson (SC)	Cleaver	Johnson (GA)	Rahall	Miller (MI)	Reichert	Stearns
Smith (NE)	Tiahrt	Wittman	Clyburn	Johnson, E. B.	Rangel	Moran (KS)	Roe (TN)	Stutzman
Smith (NJ)	Tiberi	Wolf	Cohen	Kanjorski	Richardson	Murphy, Tim	Rogers (AL)	Sullivan
Stearns	Turner		Connolly (VA)	Kaptur	Rodriguez	Myrick	Rogers (KY)	Thompson (PA)
			Conyers	Kildee	Roskam	Neugebauer	Rogers (MI)	Thornberry
			Cooper	Kind	Ross	Olson	Rohrabacher	Tiahrt
			Courtney	Kirkpatrick (AZ)	Rothman (NJ)	Paul	Rooney	Tiberi
Adler (NJ)	Edwards (TX)	Miller (NC)	Critz	Kissell	Roybal-Allard	Paulsen	Ros-Lehtinen	Turner
Baca	Fallin	Miller, Gary	Crowley	Klein (FL)	Ruppersberger	Pence	Royce	Upton
Baird	Gordon (TN)	Mitchell	Cuellar	Kosmas	Ryan (OH)	Perriello	Ryan (WI)	Walden
Barrett (SC)	Granger	Napolitano	Cummings	Kratovil	Sánchez, Linda	Peterson	Scalise	Westmoreland
Barton (TX)	Griffith	Neal (MA)	Dahlkemper	Kucinich	T.	Petri	Schmidt	Whitfield
Berry	Gutierrez	Nunes	Davis (AL)	Langevin	Sarbanes	Pitts	Sensenbrenner	Wilson (SC)
Bilirakis	Heller	Ortiz	Davis (CA)	Larsen (WA)	Schakowsky	Platts	Sessions	Wittman
Blumenauer	Herseth Sandlin	Pastor (AZ)	Davis (TN)	Larson (CT)	Schauer	Poe (TX)	Shadegg	
Brady (PA)	Hinojosa	Peterson	DeFazio	Lee (NY)	Schiff	Posey	Shimkus	
Bright	Hodes	Radanovich	DeGette	Levin	Schrader			
Brown-Waite,	Honda	Reyes	DeLauro	Lewis (GA)	Schwartz			
Ginny	Inglis	Rush	Dent	Lipinski	Scott (GA)	Adler (NJ)	Fallin	McMorris
Burton (IN)	Johnson, Sam	Salazar	Dicks	Loeb sack	Scott (VA)	Baca	Gordon (TN)	Rodgers
Buyer	Jones	Sanchez, Loretta	Dingell	Lowey	Serrano	Baird	Granger	Melancon
Calvert	Kennedy	Schock	Djou	Lujan	Sestak	Barrett (SC)	Griffith	Miller, Gary
Camp	Kilpatrick (MI)	Sires	Doggett	Lynch	Shea-Porter	Barton (TX)	Gutierrez	Mitchell
Campbell	King (NY)	Smith (WA)	Donnelly (IN)	Maffei	Sherman	Berry	Heller	Neal (MA)
Cao	Larson (CT)	Stark	Driehaus	Maloney	Shuler	Blumenauer	Herseth Sandlin	Nunes
Chu	Lee (CA)	Tanner	Edwards (MD)	Markey (CO)	Skelton	Bonner	Hirono	Ortiz
Coble	Linder	Wamp	Edwards (TX)	Markey (MA)	Slaughter	Bright	Hodes	Pastor (AZ)
Costello	Lofgren, Zoe	Wasserman	Ehlers	Matsui	Snyder	Brown-Waite,	Honda	Radanovich
Crenshaw	Marchant	Schultz	Ellison	McCollum	Space	Ginny	Inglis	Reyes
Culberson	McCarthy (CA)	Watson	Ellsworth	McDermott	Speier	Buyer	Johnson, Sam	Rush
Davis (IL)	McCarthy (NY)	Young (AK)	Engel	McGovern	Spratt	Calvert	Jones	Salazar
Delahunt	McMahon	Young (FL)	Eshoo	McIntyre	Stupak	Camp	Kagen	Sanchez, Loretta
Deutch	McMorris		Etheridge	McNerney	Sutton	Campbell	Kennedy	Schock
Diaz-Balart, L.	Rodgers		Fattah	Meek (FL)	Taylor	Cao	Kilpatrick (MI)	Sires
Doyle	Melancon		Filner	Meeks (NY)	Teague	Chu	Kilroy	Smith (TX)
			Fortenberry	Michaud	Terry	Coble	King (NY)	Smith (WA)
			Foster	Miller (NC)	Thompson (CA)	Costello	Lee (CA)	Stark
			Frank (MA)	Miller, George	Thompson (MS)	Crenshaw	Linder	Tanner
			Fudge	Minnick		Culberson	Lofgren, Zoe	Wamp
			Garamendi	Mollohan		Davis (IL)	Marchant	Wasserman
			Giffords	Moore (KS)		Delahunt	McCarthy (CA)	Schultz
			Gonzalez	Moore (WI)		Deutch	McCarthy (NY)	Young (AK)
			Grayson	Moran (VA)		Diaz-Balart, L.	McMahon	Young (FL)
			Green, Al	Murphy (CT)		Doyle		
			Green, Gene	Murphy (NY)				
			Grijalva	Murphy, Patrick				
			Hall (NY)	Nadler (NY)				
			Halvorson	Napolitano				
			Hare	Oberstar				
			Harman	Oby				
			Hastings (FL)	Olver				
			Heinrich	Owens				
			Higgins	Pallone				
			Hill	Pascrell				
			Himes	Payne				
			Hinchev	Perlmutter				
			Holden	Peters				
			Holt	Pingree (ME)				
			Hoyer					
			Inslee					

NOT VOTING—78

NOT VOTING—74

□ 1642

Mr. OWENS changed his vote from “yea” to “nay.”

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. NAPOLITANO. Mr. Speaker, on rollcall No. 660, had I been present, I would have voted “yea.”

FDA FOOD SAFETY MODERNIZATION ACT

The SPEAKER pro tempore. The unfinished business is the vote on the adoption of the motion to concur in the Senate amendments to the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 215, nays 144, not voting 74, as follows:

[Roll No. 661]

YEAS—215

Ackerman	Berman	Braley (IA)
Altman	Biggart	Brown, Corrine
Andrews	Bishop (GA)	Butterfield
Arcuri	Bishop (NY)	Capps
Baldwin	Bocchieri	Capuano
Barrow	Boswell	Carnahan
Bean	Boucher	Carney
Becerra	Boyd	Carson (IN)
Berkley	Brady (PA)	Castle

Aderholt	Childers	Hensarling
Akin	Coffman (CO)	Heger
Alexander	Cole	Hoekstra
Austria	Conaway	Hunter
Bachmann	Costa	Issa
Bachus	Davis (KY)	Jenkins
Bartlett	Diaz-Balart, M.	Johnson (IL)
Bilbray	Dreier	Jordan (OH)
Bilirakis	Duncan	King (IA)
Bishop (UT)	Emerson	Kingston
Blackburn	Farr	Kline (MN)
Blunt	Flake	Lamborn
Boehner	Fleming	Lance
Bono Mack	Forbes	Latham
Boozman	Fox	LaTourette
Boren	Franks (AZ)	Latta
Boustany	Frelinghuysen	Lewis (CA)
Brady (TX)	Gallegly	LoBiondo
Brown (GA)	Garrett (NJ)	Lucas
Brown (SC)	Gerlach	Luetkemeyer
Buchanan	Gingrey (GA)	Lummis
Burgess	Gohmert	Lungren, Daniel
Burton (IN)	Goodlatte	E.
Cantor	Graves (GA)	Mack
Capito	Graves (MO)	Manzullo
Cardoza	Guthrie	Marshall
Carter	Hall (TX)	McCauley
Cassidy	Harper	McClintock
Chaffetz	Hastings (WA)	McCotter

NAYS—144

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1649

PERSONAL EXPLANATION

Mr. KAGEN. Mr. Speaker, on rollcall No. 661, I was present, placed my card into the voting device and did not look at the Board. I voted “yes.”

PERSONAL EXPLANATION

Mr. BACA. Mr. Speaker, please excuse me from session Tuesday, December 21, 2010. I have legislative business in the district. Had I been here, I would have voted in support of H. R. 5116—The America COMPETES Reauthorization Act of 2010, H. R. 2142—The GPRA (Government Performance and Results Act) Modernization Act of 2010 and H. R. 2751—The FDA Food Safety Modernization Act. In addition, I support funding our Federal Government by passage of a continuing resolution by year's end.

PERSONAL EXPLANATION

Mr. BLUMENAUER. Madam Speaker, due to an illness, I was unable to be in Washington, DC for votes today. Had I been present for the votes, I would have voted as follows:

Rollcall vote 658: I would have voted in favor of H.R. 6540, the Defense Level Playing Field Act.

Rollcall vote 659: I would have voted in favor of the motion to concur in the Senate amendment to H.R. 5116, the America COMPETES Reauthorization Act of 2010.

Rollcall vote 660: I would have voted in favor of the motion to concur in the Senate amendment to H.R. 2142, the Government Efficiency, Effectiveness, and Performance Improvement Act of 2010.

Rollcall vote 661: I would have voted in favor of the motion to concur in the Senate amendment to H.R. 5116, the FDA Food Safety Modernization Act. This long-overdue legislation will help ensure a safe food supply while taking into the realities and needs of America's farmers. I especially appreciate changes made by the Senate to meet the needs of very small farms and processors.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Madam Speaker, I was unavoidably absent for votes in the House Chamber today. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes 659, 660, and 661.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Ladies and gentlemen, I know the consternation that exists with respect to our schedule and when we are going to leave. I want to announce what I believe to be the balance of the schedule tonight. I would hope that it would include, but cannot assert at this point in time because I don't know—and I don't believe it's the case—that 9/11 will be ready for us. They are still talking about it in the Senate. I just talked to Senator REID.

We will go to a suspension bill, the child sex trafficking bill. We will then go to the rule for the continuing resolution. We will then do the continuing resolution. That would, unless we get 9/11, conclude the business for today.

It is, as Senator REID indicates to me, a high likelihood that they will complete 9/11 sometime tomorrow. Now "sometime tomorrow" is, he says, no later than 4, as early as 2.

Ladies and gentlemen, I know we would all like to say that, well, let's go home. As you know, the 9/11 bill does, in fact, impact literally tens of thousands of people who participated subsequent to 9/11 in going into that building and initially looking for those who might still be surviving, and to look for those who did not survive and bring them out. So this is not a matter that does not have serious consequences for people who volunteered and, as a result of the atmosphere which confronted them as they went in, they became ill.

So I think all of us understand the seriousness of this bill and the con-

sequences of not doing it. So I would ask you to bear with us. We will have these votes, and we will be in constant touch with Senator REID, the majority leader.

But my expectation is that there is a high likelihood of a vote on 9/11 sometime tomorrow. As a result, I would be asking all of you to stay tonight and be here tomorrow so that we can convene and do this very, very important business, which is not just important to the New Yorkers; this is important to our country. At any time we may have a catastrophe in which people would volunteer and show heroic effort to save lives and to rescue people.

That is the schedule for the balance of the day. If 9/11 moves over here at any point and, frankly, what is happening now, I tell my friends, is that they're seeing whether or not, during the course of the START debate, which is going on now, whether they can get a time agreement and bring START to a close and a vote. If they can do that and then go to 9/11 and have a debate which is relatively brief, they've obviously had a long-term debate on that, and bring this bill to us tonight, I know that all of you would want and I would want and we will do it tonight. But I cannot assert that I think the Senate is going to move it in that time frame.

That is our schedule. And, hopefully, our business will be concluded tomorrow on the passage of 9/11.

ANTI-BORDER CORRUPTION ACT OF 2010

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill (S. 3243) to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. JACKSON LEE) that the House suspend the rules and pass the bill.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FIRST LIEUTENANT ROBERT WILSON COLLINS POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the

bill (S. 3592) to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building".

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. CUELLAR) that the House suspend the rules and pass the bill.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 1762

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that Representative FRANK Wolf be removed as a cosponsor of House Resolution 1762.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 3082, CONTINUING APPROPRIATIONS AND SURFACE TRANSPORTATION EXTENSIONS ACT, 2011

Mr. POLIS, from the Committee on Rules, submitted a privileged report (Rept. No. 111-694) on the resolution (H. Res. 1782) providing for consideration of the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. BALDWIN). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

□ 1700

DOMESTIC MINOR SEX TRAFFICKING DETERRENCE AND VICTIMS SUPPORT ACT OF 2010

Mr. SCOTT of Virginia. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2925) to establish a grant program to benefit victims of sex trafficking, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the amendment is as follows:

Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2010”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Human trafficking is modern-day slavery. It is one of the fastest-growing, and the second largest, criminal enterprise in the world. Human trafficking generates an estimated profit of \$32,000,000,000 per year, world wide.

(2) In the United States, human trafficking is an increasing problem. This criminal enterprise victimizes individuals in the United States, many of them children, who are forced into prostitution, and foreigners brought into the country, often under false pretenses, who are coerced into forced labor or commercial sexual exploitation.

(3) Sex trafficking is one of the most lucrative areas of human trafficking. Criminal gang members in the United States are increasingly involved in recruiting young women and girls into sex trafficking. Interviews with gang members indicate that the gang members regard working as an individual who solicits customers for a prostitute (commonly known as a “pimp”) to being as lucrative as trafficking in drugs, but with a much lower chance of being criminally convicted.

(4) National Incidence Studies of Missing, Abducted, Runaway and Throwaway Children, the definitive study of episodes of missing children, found that of the children who are victims of non-family abduction, runaway or throwaway children, the police are alerted by family or guardians in only 21 percent of the cases. In 79 percent of cases there is no report and no police involvement, and therefore no official attempt to find the child.

(5) In 2007, the Administration of Children and Families, Department of Health and Human Services, reported to the Federal Government 265,000 cases of serious physical, sexual, or psychological abuse of children.

(6) Experts estimate that each year at least 100,000 children in the United States are exploited through prostitution.

(7) Children who have run away from home are at a high risk of becoming exploited through sex trafficking. Children who have run away multiple times are at much higher risk of not returning home and of engaging in prostitution.

(8) The vast majority of children involved in sex trafficking have suffered previous sexual or physical abuse, live in poverty, or have no stable home or family life. These children require a comprehensive framework of specialized treatment and mental health counseling that addresses post-traumatic stress, depression, and sexual exploitation.

(9) The average age of first exploitation through prostitution is 13. Seventy-five percent of minors exploited through prostitution have a pimp. A pimp can earn \$200,000 per year prostituting 1 sex trafficking victim.

(10) Sex trafficking of minors is a complex and varied criminal problem that requires a multi-disciplinary, cooperative solution. Reducing trafficking will require the Government to address victims, pimps, and johns, and to provide training specific to sex trafficking for law enforcement officers and prosecutors, and child welfare, public health, and other social service providers.

(11) Human trafficking is a criminal enterprise that imposes significant costs on the economy of the United States. Government and non-profit resources used to address trafficking include those of law enforcement, the judicial and penal systems, and social service providers. Without a range of appropriate treatments to help trafficking victims overcome the trauma they have experienced, victims will continue to be exploited by criminals and unable to support themselves, and will continue to require Government resources, rather than being productive contributors to the legitimate economy.

(12) Human trafficking victims are often either not identified as trafficking victims or are mischaracterized as criminal offenders. Both private and public sector personnel play a significant role in identifying trafficking victims and potential victims, such as runaways. Examples of such personnel include hotel staff, flight attendants, health care providers, educators, and parks and recreation personnel. Efforts to train these individuals can bolster law enforcement efforts to reduce human trafficking.

(13) Minor sex trafficking victims are under the age of 18. Because minors do not have the capacity to consent to their own commercial sexual exploitation, minor sex trafficking victims should not be charged as criminal defendants. Instead, minor victims of sex trafficking should have access to treatment and services to help them recover from their sexual exploitation, and should also be provided access to appropriate compensation for harm they have suffered.

(14) Several States have recently passed or are considering legislation that establishes a presumption that a minor charged with a prostitution offense is a severely trafficked person and should instead be cared for through the child protection system. Some such legislation also provides support and services to minor sex trafficking victims who are under the age of 18 years old. These services include safe houses, crisis intervention programs, community-based programs, and law-enforcement training to help officers identify minor sex trafficking victims.

(15) Sex trafficking of minors is not a problem that occurs only in urban settings. This crime also exists in rural areas and on Indian reservations. Efforts to address sex trafficking of minors should include partnerships with organizations that seek to address the needs of such underserved communities.

SEC. 3. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the Attorney General should implement changes to the National Crime Information Center database to ensure that—

(A) a child entered into the database will be automatically designated as an endangered juvenile if the child has been reported missing not less than 3 times in a 1-year period;

(B) the database is programmed to cross-reference newly entered reports with historical records already in the database; and

(C) the database is programmed to include a visual cue on the record of a child designated as an endangered juvenile to assist law enforcement officers in recognizing the child and providing the child with appropriate care and services;

(2) funds awarded under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) (commonly known as Byrne Grants) should be used to provide education, training, deterrence, and prevention programs relating to sex trafficking of minors;

(3) States should—

(A) treat minor victims of sex trafficking as crime victims rather than as criminal defendants or juvenile delinquents;

(B) adopt laws that—

(i) establish the presumption that a child under the age of 18 who is charged with a prostitution offense is a minor victim of sex trafficking;

(ii) avoid the criminal charge of prostitution for such a child, and instead consider such a child a victim of crime and provide the child with appropriate services and treatment; and

(iii) strengthen criminal provisions prohibiting the purchasing of commercial sex acts, especially with minors;

(C) amend State statutes and regulations—

(i) relating to crime victim compensation to make eligible for such compensation any individual who is a victim of sex trafficking as defined in section 1591(a) of title 18, United States Code, or a comparable State law against commercial sexual exploitation of children, and who would otherwise be ineligible for such compensation due to participation in prostitution activities because the individual is determined to have contributed to, consented to, benefited from, or otherwise participated as a party to the crime for which the individual is claiming injury; and

(ii) relating to law enforcement reporting requirements to provide for exceptions to such requirements for victims of sex trafficking in the same manner as exceptions are provided to victims of domestic violence or related crimes; and

(4) demand for commercial sex with sex trafficking victims must be deterred through consistent enforcement of criminal laws against purchasing commercial sex.

SEC. 4. SEX TRAFFICKING BLOCK GRANTS.

(a) IN GENERAL.—Section 204 of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044c) is amended to read as follows:

“SEC. 204. ENHANCING STATE AND LOCAL EFFORTS TO COMBAT TRAFFICKING IN PERSONS.

“(a) SEX TRAFFICKING BLOCK GRANTS.—

“(1) DEFINITIONS.—In this section—

“(A) the term ‘Assistant Attorney General’ means the Assistant Attorney General for the Office of Justice Programs of the Department of Justice;

“(B) the term ‘eligible entity’ means a State or unit of local government that—

“(i) has significant criminal activity involving sex trafficking of minors;

“(ii) has demonstrated cooperation between State, local, and, where applicable, tribal law enforcement agencies, prosecutors, and social service providers in addressing sex trafficking of minors;

“(iii) has developed a workable, multi-disciplinary plan to combat sex trafficking of minors, including—

“(I) the establishment of a shelter for minor victims of sex trafficking, through existing or new facilities;

“(II) the provision of rehabilitative care to minor victims of sex trafficking;

“(III) the provision of specialized training for law enforcement officers and social service providers for all forms of sex trafficking, with a focus on sex trafficking of minors;

“(IV) prevention, deterrence, and prosecution of offenses involving sex trafficking of minors;

“(V) cooperation or referral agreements with organizations providing outreach or other related services to runaway and homeless youth; and

“(VI) law enforcement protocols or procedures to screen all individuals arrested for prostitution, whether adult or minor, for victimization by sex trafficking and by other crimes, such as sexual assault and domestic violence; and

“(iv) provides an assurance that, under the plan under clause (iii), a minor victim of sex trafficking shall not be required to collaborate with law enforcement to have access to any shelter or services provided with a grant under this section;

“(C) the term ‘minor victim of sex trafficking’ means an individual who is—

“(i) under the age of 18 years old, and is a victim of an offense described in section 1591(a) of title 18, United States Code, or a comparable State law; or

“(ii) at least 18 years old but not more than 20 years old, and who, on the day before the individual attained 18 years of age, was described in clause (i) and was receiving shelter or services as a minor victim of sex trafficking;

“(D) the term ‘qualified non-governmental organization’ means an organization that—

“(i) is not a State or unit of local government, or an agency of a State or unit of local government;

“(ii) has demonstrated experience providing services to victims of sex trafficking or related populations (such as runaway and homeless youth), or employs staff specialized in the treatment of sex trafficking victims; and

“(iii) demonstrates a plan to sustain the provision of services beyond the period of a grant awarded under this section; and

“(E) the term ‘sex trafficking of a minor’ means an offense described in subsection (a) of section 1591 of title 18, United States Code, the victim of which is a minor.

“(2) GRANTS AUTHORIZED.—

“(A) IN GENERAL.—The Assistant Attorney General, in consultation with the Assistant Secretary for Children and Families of the Department of Health and Human Services, is authorized to award block grants to 6 eligible entities in different regions of the United States to combat sex trafficking, and not fewer than 1 of the block grants shall be awarded to an eligible entity with a State population of less than 5,000,000. Each eligible entity awarded a block grant under this subparagraph shall certify that Federal funds received under the block grant will be used to combat only interstate sex trafficking.

“(B) GRANT AMOUNT.—Subject to the availability of appropriations under subsection (g) to carry out this section, each grant awarded under this section shall be for an amount not less than \$2,000,000 and not greater than \$2,500,000.

“(C) DURATION.—

“(i) IN GENERAL.—A grant awarded under this section shall be for a period of 1 year.

“(ii) RENEWAL.—

“(I) IN GENERAL.—The Assistant Attorney General may renew a grant under this section for two 1-year periods.

“(II) PRIORITY.—In awarding grants in any fiscal year after the first fiscal year in which grants are awarded under this section, the Assistant Attorney General shall give priority to applicants that received a grant in the preceding fiscal year and are eligible for renewal under this subparagraph, taking into account any evaluation of such applicant conducted pursuant to paragraph (5), if available.

“(D) CONSULTATION.—In carrying out this section, consultation by the Assistant Attorney General with the Assistant Secretary for Children and Families of the Department of Health and Human Services shall include consultation with respect to grantee evaluations, the avoidance of unintentional duplication of grants, and any other areas of shared concern.

“(3) USE OF FUNDS.—

“(A) ALLOCATION.—For each grant awarded under paragraph (2)—

“(i) not less than 67 percent of the funds shall be used by the eligible entity to provide shelter and services (as described in clauses (i) through (iv) of subparagraph (B)) to minor victims of sex trafficking through qualified nongovernmental organizations; and

“(ii) not less than 10 percent of the funds shall be awarded by the eligible entity to one or more qualified nongovernmental organizations with annual revenues of less than \$750,000, to provide services to minor victims of sex trafficking or training for service providers related to sex trafficking of minors.

“(B) AUTHORIZED ACTIVITIES.—Grants awarded pursuant to paragraph (2) may be used for—

“(i) providing shelter to minor victims of trafficking, including temporary or long-term placement as appropriate;

“(ii) providing 24-hour emergency social services response for minor victims of sex trafficking;

“(iii) providing minor victims of sex trafficking with clothing and other daily necessities needed to keep such victims from returning to living on the street;

“(iv) case management services for minor victims of sex trafficking;

“(v) mental health counseling for minor victims of sex trafficking, including specialized counseling and substance abuse treatment;

“(vi) legal services for minor victims of sex trafficking;

“(vii) specialized training for law enforcement personnel, social service providers, and public and private sector personnel likely to encounter sex trafficking victims on issues related to the sex trafficking of minors;

“(viii) funding salaries, in whole or in part, for law enforcement officers, including patrol officers, detectives, and investigators, except that the percentage of the salary of the law enforcement officer paid for by funds from a grant awarded under paragraph (2) shall not be more than the percentage of the officer's time on duty that is dedicated to working on cases involving sex trafficking of minors;

“(ix) funding salaries for State and local prosecutors, including assisting in paying trial expenses for prosecution of sex trafficking offenders;

“(x) investigation expenses for cases involving sex trafficking of minors, including—

“(I) wire taps;

“(II) consultants with expertise specific to cases involving sex trafficking of minors;

“(III) travel; and

“(IV) any other technical assistance expenditures;

“(xi) outreach and education programs to provide information about deterrence and prevention of sex trafficking of minors; and

“(xii) programs to provide treatment to individuals charged or cited with purchasing or attempting to purchase sex acts in cases where—

“(I) a treatment program can be mandated as a condition of a sentence, fine, suspended sentence, or probation, or is an appropriate alternative to criminal prosecution; and

“(II) the individual was not charged with purchasing or attempting to purchase sex acts with a minor.

“(C) PROHIBITED ACTIVITIES.—Grants awarded pursuant to paragraph (2) shall not be used for medical care (as defined in section 2791(a)(2) of the Public Health Service Act (42 U.S.C. 300gg-91)), except that grants may be used for mental health counseling as authorized under subparagraph (B)(v).

“(4) APPLICATION.—

“(A) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Assistant Attorney General at such time, in such manner, and accompanied by such information as the Assistant Attorney General may reasonably require.

“(B) CONTENTS.—Each application submitted pursuant to subparagraph (A) shall—

“(i) describe the activities for which assistance under this section is sought; and

“(ii) provide such additional assurances as the Assistant Attorney General determines to be essential to ensure compliance with the requirements of this section.

“(5) EVALUATION.—The Assistant Attorney General shall enter into a contract with an academic or non-profit organization that has experience in issues related to sex trafficking of minors and evaluation of grant programs to conduct an annual evaluation of grants made under this section to determine the impact and effectiveness of programs funded with grants awarded under paragraph (2).

“(b) MANDATORY EXCLUSION.—Any grantee awarded funds under this section that is found to have utilized grant funds for any unauthorized expenditure or otherwise unallowable cost shall not be eligible for any grant funds awarded under the block grant for 2 fiscal years following the year in which the unauthorized expenditure or unallowable cost is reported.

“(c) COMPLIANCE REQUIREMENT.—A grantee shall not be eligible to receive a grant under this section if within the last 5 fiscal years, the grantee has been found to have violated the terms or conditions of a Government grant program by utilizing grant funds for unauthorized expenditures or otherwise unallowable costs.

“(d) ADMINISTRATIVE CAP.—The cost of administering the grants authorized by this section shall not exceed 3 percent of the total amount appropriated to carry out this section.

“(e) AUDIT REQUIREMENT.—For fiscal years 2012 and 2013, the Inspector General of the Department of Justice shall conduct an audit of all 6 grantees awarded block grants under this section.

“(f) MATCH REQUIREMENT.—A grantee of a grant under this section shall match at least 25 percent of a grant in the first year, 40 percent in the second year, and 50 percent in the third year.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Attorney General to carry out this section \$15,000,000 for each of the fiscal years 2012 through 2014.”.

(b) **SUNSET PROVISION.**—Effective 3 years after the date of enactment of this Act, section 204 of the Trafficking Victims Protection Reauthorization Act of 2005 (42 U.S.C. 14044c) is amended to read as it read on the day before the date of enactment of this Act.

(c) **GAO EVALUATION.**—Not later than 30 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of and submit to Congress a report evaluating the impact of this Act and the amendments made by this Act in aiding minor victims of sex trafficking in the United States and increasing the ability of law enforcement agencies to prosecute sex trafficking offenders, which shall include recommendations, if any, regarding any legislative or administrative action the Comptroller General determines appropriate.

SEC. 5. REPORTING REQUIREMENTS.

(a) **REPORTING REQUIREMENT FOR STATE CHILD WELFARE AGENCIES.**—

(1) **REQUIREMENT FOR STATE CHILD WELFARE AGENCIES TO REPORT CHILDREN MISSING OR ABDUCTED.**—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(A) in paragraph (32), by striking “and” after the semicolon;

(B) in paragraph (33), by striking the period and inserting “; and”; and

(C) by inserting after paragraph (33) the following:

“(34) provides that the State has in effect procedures that require the State agency to promptly report information on missing or abducted children to the law enforcement authorities for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation, established pursuant to section 534 of title 28, United States Code.”.

(2) **REGULATIONS.**—The Secretary of Health and Human Services shall promulgate regulations implementing the amendments made by paragraph (1). The regulations promulgated under this subsection shall include provisions to withhold Federal funds from any State that fails to substantially comply with the requirement imposed under the amendments made by paragraph (1).

(3) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall take effect on the date that is 6 months after the date of the enactment of this Act, without regard to whether final regulations required under paragraph (2) have been promulgated.

(b) **ANNUAL STATISTICAL SUMMARY.**—Section 3701(c) of the Crime Control Act of 1990 (42 U.S.C. 5779(c)) is amended by inserting “, which shall include the total number of reports received and the total number of entries made to the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation, established pursuant to section 534 of title 28, United States Code,” after “this title”.

(c) **STATE REPORTING.**—Section 3702 of the Crime Control Act of 1990 (42 U.S.C. 5780) is amended in paragraph (4)—

(1) by striking “(2)” and inserting “(3)”;

(2) in subparagraph (A), by inserting “, and a photograph taken within the previous 180 days” after “dental records”;

(3) in subparagraph (B), by striking “and” after the semicolon;

(4) by redesignating subparagraph (C) as subparagraph (D); and

(5) by inserting after subparagraph (B) the following:

“(C) notify the National Center for Missing and Exploited Children of each report re-

ceived relating to a child reported missing from a foster care family home or childcare institution; and”.

SEC. 6. PROTECTION FOR CHILD TRAFFICKING VICTIMS AND SURVIVORS.

Section 225(b) of the Trafficking Victims Reauthorization Act of 2008 (22 U.S.C. 7101 note) is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) protects children exploited through prostitution by including safe harbor provisions that—

“(A) treat an individual under 18 years of age who has been arrested for offering to engage in or engaging in a sexual act with another person in exchange for monetary compensation as a victim of a severe form of trafficking in persons;

“(B) prohibit the charging or prosecution of an individual described in subparagraph (A) for a prostitution offense;

“(C) require the referral of an individual described in subparagraph (A) to comprehensive service or community-based programs that provide assistance to child victims of commercial sexual exploitation, to the extent that comprehensive service or community-based programs exist; and

“(D) provide that an individual described in subparagraph (A) shall not be required to prove fraud, force, or coercion in order to receive the protections described under this paragraph; and”.

SEC. 7. PROTECTION OF CHILD WITNESSES.

Section 1514 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting “or its own motion,” after “attorney for the Government”; and

(ii) by inserting “or investigation” after “Federal criminal case” each place it appears;

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(C) by inserting after paragraph (1) the following:

“(2) In the case of a minor witness or victim, the court shall issue a protective order prohibiting harassment or intimidation of the minor victim or witness if the court finds evidence that the conduct at issue is reasonably likely to adversely affect the willingness of the minor witness or victim to testify or otherwise participate in the Federal criminal case or investigation. Any hearing regarding a protective order under this paragraph shall be conducted in accordance with paragraphs (1) and (3), except that the court may issue an ex parte emergency protective order in advance of a hearing if exigent circumstances are present. If such an ex parte order is applied for or issued, the court shall hold a hearing not later than 14 days after the date such order was applied for or is issued.”;

(D) in paragraph (4), as so redesignated, by striking “(and not by reference to the complaint or other document)”; and

(E) in paragraph (5), as so redesignated, in the second sentence, by inserting before the period at the end the following: “, except that in the case of a minor victim or witness, the court may order that such protective order expires on the later of 3 years after the date of issuance or the date of the eighteenth birthday of that minor victim or witness”; and

(2) by striking subsection (c) and inserting the following:

“(c) Whoever knowingly and intentionally violates or attempts to violate an order issued under this section shall be fined under this title, imprisoned not more than 5 years, or both.

“(d)(1) As used in this section—

“(A) the term ‘course of conduct’ means a series of acts over a period of time, however short, indicating a continuity of purpose;

“(B) the term ‘harassment’ means a serious act or course of conduct directed at a specific person that—

“(i) causes substantial emotional distress in such person; and

“(ii) serves no legitimate purpose;

“(C) the term ‘immediate family member’ has the meaning given that term in section 115 and includes grandchildren;

“(D) the term ‘intimidation’ means a serious act or course of conduct directed at a specific person that—

“(i) causes fear or apprehension in such person; and

“(ii) serves no legitimate purpose;

“(E) the term ‘restricted personal information’ has the meaning give that term in section 119;

“(F) the term ‘serious act’ means a single act of threatening, retaliatory, harassing, or violent conduct that is reasonably likely to influence the willingness of a victim or witness to testify or participate in a Federal criminal case or investigation; and

“(G) the term ‘specific person’ means a victim or witness in a Federal criminal case or investigation, and includes an immediate family member of such a victim or witness.

“(2) For purposes of subparagraphs (B)(ii) and (D)(ii) of paragraph (1), a court shall presume, subject to rebuttal by the person, that the distribution or publication using the Internet of a photograph of, or restricted personal information regarding, a specific person serves no legitimate purpose, unless that use is authorized by that specific person, is for news reporting purposes, is designed to locate that specific person (who has been reported to law enforcement as a missing person), or is part of a government-authorized effort to locate a fugitive or person of interest in a criminal, antiterrorism, or national security investigation.”.

SEC. 8. SENTENCING GUIDELINES.

Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and policy statements to ensure—

(1) that the guidelines provide an additional penalty increase, if appropriate, above the sentence otherwise applicable in Part J of Chapter 2 of the Guidelines Manual if the defendant was convicted of a violation of section 1591 of title 18, United States Code, or chapters 109A, 109B, 110 or 117 of title 18, United States Code; and

(2) if the offense described in paragraph (1) involved causing or threatening to cause physical injury to a person under 18 years of age, in order to obstruct the administration of justice, an additional penalty increase, if appropriate, above the sentence otherwise applicable in Part J of Chapter 2 of the Guidelines Manual.

SEC. 9. PENALTIES FOR POSSESSION OF CHILD PORNOGRAPHY.

(a) **CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.**—Section 2252(b)(2) of title 18, United States Code, is amended by inserting after “but if” the following: “any visual depiction

involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this title and imprisoned for not more than 20 years, or if”.

(b) CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(b)(2) of title 18, United States Code, is amended by inserting after “but, if” the following: “any image of child pornography involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this title and imprisoned for not more than 20 years, or if”.

SEC. 10. REDUCING UNNECESSARY PRINTING AND PUBLISHING COSTS OF GOVERNMENT DOCUMENTS.

Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall coordinate with the heads of Federal departments and independent agencies to—

(1) determine which Government publications could be available on Government websites and no longer printed and to devise a strategy to reduce overall Government printing costs beginning with fiscal year 2012, except that the Director shall ensure that essential printed documents prepared for Social Security recipients, Medicare beneficiaries, and other populations in areas with limited internet access or use continue to remain available;

(2) establish government-wide Federal guidelines on employee printing;

(3) issue on the Office of Management and Budget's public website the results of a cost-benefit analysis on implementing a digital signature system and on establishing employee printing identification systems, such as the use of individual employee cards or codes, to monitor the amount of printing done by Federal employees, except that the Director of the Office of Management and Budget shall ensure that Federal employee printing costs unrelated to national defense, homeland security, border security, national disasters, and other emergencies do not exceed \$860,000,000 annually for fiscal years 2012 through 2014; and

(4) issue guidelines requiring every department, agency, commission or office to list at a prominent place near the beginning of each publication distributed to the public and issued or paid for by the Federal Government the following:

(A) The name of the issuing agency, department, commission or office.

(B) The total number of copies of the document printed.

(C) The collective cost of producing and printing all of the copies of the document.

(D) The name of the firm publishing the document.

SEC. 11. ADMINISTRATIVE SUBPOENAS.

Section 3486(a)(1)(D) of title 18, United States Code, is amended by inserting “2250,” after “2243,”.

SEC. 12. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gen-

tleman from Texas (Mr. POE) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. SCOTT of Virginia. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. I yield myself such time as I may consume.

Madam Speaker, the primary purpose of this bill is to provide, for the first time, specific programs to assist children who are victims of the brutal and devastating scourge of domestic child sex trafficking in this country.

S. 2925 authorizes grants to appropriate victims services entities to create comprehensive victim-centered approaches to address the sex trafficking of minors. In particular, this legislation allows funds under the Byrne and JAG Grant Programs to be used to provide education, training, deterrence, and prevention programs related to sex trafficking of minors. It also provides funding to implement the improvements in the National Crime Information Center. In addition, this legislation strengthens laws aimed at apprehending and punishing domestic traffickers, while also improving the ability of law enforcement and other entities to find, rescue, and assist child victims.

Importantly, S. 2925 also encourages States to treat minor victims of sex trafficking as crime victims rather than as criminal defendants or juvenile delinquents. We have made steady progress in recent years in addressing international sex trafficking of minors, as well as adults, under the Trafficking Victims Protection Act, which passed Congress in 2000 on a strong bipartisan basis. It was most recently reauthorized by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, which I was pleased to help develop and shepherd through the House.

We have worked for some time through legislation and other efforts, such as the Congressional Caucus on Sex Trafficking, which I cochair with the gentlelady from New York (Mrs. MALONEY), the gentleman from New Jersey (Mr. SMITH), and the gentlelady from Texas (Ms. GRANGER), to bring more attention to the need to better address the issue of domestic sex trafficking, particularly trafficking of minors. Unfortunately, we have encountered barriers to having it recognized that these children are victims in the domestic sex trade and not criminals.

Now, under the leadership of the Senator from Oregon, Senator WYDEN, and

House Members of the Congressional Caucus on Sex Trafficking, this is finally changing. We finally have legislation before us that not only recognizes that children caught up in domestic sex trafficking are victims, but also addresses the unique needs of these child victims in being rescued and helping them pursuing a productive life.

We are amending the Senate bill to remove certain nonessential elements of the bill, and I urge my colleagues to support the bill.

I reserve the balance of my time.

Mr. POE of Texas. Madam Speaker, I yield myself as much time as I may consume.

Today the House considers this important bill, S. 2925, the Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2010. The bill was introduced by Senator RON WYDEN of Oregon and was recently amended and passed in the Senate by unanimous consent. We had a similar bill introduced in the House this year by my friends Mr. SMITH from New Jersey and Mrs. MALONEY from New York. I would like to thank them both for their leadership on this important issue.

Domestic minor sex trafficking is modern-day slavery and a scourge on our society. According to Shared Hope International, at least 100,000 minor children are used in prostitution every year in just the United States. Some sources estimate the number of minors may be as high as 300,000, though the actual number is difficult to really track. Girls as young as 11 years of age are sold on Internet Web sites, exploited by men for their youth and by gangs for their quote, “reusable qualities.” These traffickers and the customers who buy them are the filth of humanity.

In my other life, I was a judge in Texas, and a former Texas Ranger told me, “Judge, when you find one of these traffickers in court, just get a rope.” Not that we’d do that, but this is how bad this crime is affecting our communities.

In my hometown of Houston, Texas, we have a Human Trafficking Rescue Alliance. It’s one of 42 in the Nation. Texas is a tier 1 trafficking State, and Houston, unfortunately, is a hub for human trafficking. This means that the Rescue Alliance is on the front lines of the war against trafficking. They are doing all they can to combat trafficking in Texas and other States. But I hear from them over and over again they just need more resources to care for the victims of domestic minor sex trafficking.

Too often in our system, crime victims, those women, those young girls who are sold into slavery, are treated like criminals. They are not criminals. They are victims of crime. And it’s time we, as a community, treat them as victims, not criminals.

Senator WYDEN’s bill, S. 2925, addresses the problem by authorizing the

Department of Justice, in working with the Department of Health and Human Services, to award grants to organizations in six regionally diverse locations that provide services for child sex trafficking victims. Such services may include temporary and long-term placement of victims, as well as 24-hour emergency services. The funding may also be used to provide mental health counseling. Most importantly, funding may be used for specialized training for law enforcement officials and social service providers to properly identify and care for minor trafficking victims.

When this legislation passed the Senate, important amendments were added to strengthen the ability of law enforcement officials to further prevent the sexual exploitation of children. Unfortunately, a number of these amendments were stripped before the bill was brought to the House floor. I disagree with that approach. We need tougher laws, not weaker laws, to apprehend, convict, and incarcerate traffickers and those who buy young girls for sex.

This bill is a good first start toward building our capacity to care for the victims of domestic minor sex trafficking. Not one more American child, not one more kid should be allowed to wander our streets with their innocence for sale.

I reserve the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I yield 4 minutes to the gentlelady from New York (Mrs. MALONEY), who has been working hard on this bill and has been a leader in making sure this bill continues and has been very instrumental in making sure it saw the floor today.

Mrs. MALONEY. I thank the gentleman for his kind statement and yielding to me.

Madam Speaker, I rise in strong support of S. 2925, the Senate companion to my bill in the House, H.R. 5575, the Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2010, a bipartisan bill I introduced with Representative CHRIS SMITH and have worked on with JACKIE SPEIER and Chairman BOBBY SCOTT and others.

□ 1710

I am grateful to Senator WYDEN for his leadership on this extremely important and devastating issue that is found right here in our own backyards, and to Chairman BOBBY SCOTT for his strong support and a record of action on this issue. I thank him for holding a hearing on this bill, having numerous meetings, and for his vital input into the bill.

What we do today will impact the thousands of girls who have been duped, kidnapped, drugged, and forced into selling their young bodies for sex. It is truly a national tragedy. Too many people believe that child sex trafficking is a problem that exists

only in foreign countries, but experts estimate that a minimum of 100,000 children in the United States, most of whom are American citizens, are exploited through commercial sex trafficking every year. The National Center For Missing and Exploited Children estimates that there are as many as 300,000 to 400,000 missing children and that most of them are in this terrible sex trade.

Although it is hard to believe, the average age of first exploitation is 12 to 13 years old. In the years I have worked on this issue, the age keeps getting younger and younger and younger for these children. These are our daughters, their schoolmates, and their friends.

As founder and cochair of the Human Trafficking Caucus, I have been working for years to end the slavery of the 21st century, the trade in human lives for sex. Human trafficking is a \$10 billion industry worldwide. It is the third-largest organized crime ring in history, preceded only by drugs and guns. But unlike drugs and guns, which can be sold only once, the human body can be sold over and over again, and, sadly, a young girl of 12 or 13 is at even greater risk of being sold for a much longer period of time, usually until they die.

Despite the need, a Congressional Research Service report that I requested found that funding for specialized services and support for these young girls, these victims of domestic minor sex trafficking, are very, very limited or nonexistent. Throughout the country, organizations helping them collectively have fewer than 100 beds to address the needs of an estimated 100,000 young children each year. This is simply unacceptable. This bill responds to the problem and gives law enforcement the tools to investigate and prosecute sex traffickers who exploit underage girls and force them into the sex trade.

A pimp selling just four children can earn over \$600,000 a year. The risks are low and the gain is high. We live in a country where a person is more likely to serve time for selling marijuana than selling a 14-year-old girl. This bill will change that and treat these young women as crime victims, not as criminals. It will create a six-State pilot program to help law enforcement crack down on pimps and traffickers, create shelters, and provide treatment, counseling, and legal aid for the underage girls that are forced into sexual slavery.

Importantly, the legislation will strengthen deterrence and prevention programs aimed at potential buyers.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. SCOTT of Virginia. I yield an additional minute.

Mrs. MALONEY of New York. This bill cracks down on sex trafficking by focusing on the demand side, the users. The bill will be considered a model to

help rescue the hundreds of thousands of under-aged girls believed to be forced into the sex trade in America.

With this bill, we renew our promise of the 13th Amendment to the Constitution and redouble our efforts in the fight against human trafficking, the 21st century form of slavery. We set up a new standard to combat the sex trafficking of children in the U.S., and we accept our moral obligation to help the neglected victims of this horrible crime and crack down on their abusers.

We must not let our children suffer any more. I urge my colleagues to vote unanimously for this bill.

Mr. POE of Texas. Madam Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH), who has been instrumental in this legislation.

Mr. SMITH of New Jersey. I thank my good friend Judge POE for yielding, and I rise in very strong support of the legislation. I want to thank Chairman SCOTT and CAROLYN MALONEY, with whom I have worked very closely on the House companion bill.

I will say at the outset, Madam Speaker, as the prime sponsor of the historic law to combat human trafficking known as the Trafficking Victims Protection Act of 2000, and as a Member of Congress who has devoted more than 15 years seeking to prevent trafficking, protect victims from exploitation and abuse, and prosecute those who enslave with up to life imprisonment, I am happy to say that in many of our States, laws have been passed that closely mirror the TVPA so that they too now have powerful weapons and tools to use against those who would so cruelly mistreat others through trafficking.

Just by way of definition, you are considered a trafficking victim if you have not yet attained the age of 18 and have been sold for commercial sexual exploitation or for labor trafficking, or if you are 18 or over and there is an element of force, fraud, or coercion. So I do rise in strong support of this bill which takes us even further, S. 2925.

Madam Speaker, human trafficking, or modern day slavery, is the third most lucrative criminal activity in the world. The ILO estimates illicit profits gleaned each and every year as something on the order of \$31 billion. Under both Presidents Bush and Obama, domestic task forces to combat human trafficking have been established in over 40 cities, almost 900 American children have been rescued, and much thanks is owed to the FBI, State police, and local law enforcement.

Still, Madam Speaker, much more needs to be done. The National Center For Missing and Exploited Children believes that at least 100,000 American children, perhaps tens of thousands more, some estimates put it as high as 300,000, mostly runaway girls, average age 13, are exploited in the commercial sex industry each year.

S. 2925 seeks to address the lack of shelter, the lack of a safe place to go for domestic trafficking victims. As CAROLYN MALONEY said a moment ago, estimates may be as few as 100 beds—some put it at 50—and that is unconscionable.

As highly vulnerable victims, juvenile detention or some type of incarceration just doesn't meet the need. These girls require a place, a safe haven, a place where they can go where they will be helped to deal with the huge trauma that they have experienced.

The legislation authorizes six pilot grants of between \$2.2 million to \$2.5 million each in order to provide safe havens and psychological care to address trauma. The legislation also provides law enforcement training and beefs up reporting requirements so that missing children are immediately entered into the national missing children's database, the latter so that law enforcement finds a missing girl before the pimps do.

Madam Speaker, this is a good bill, it is a bipartisan bill, and will very tangibly assist our young runaways who sadly are so cruelly exploited by human traffickers.

As prime sponsor of the historic law to combat human trafficking—the Trafficking Victims Protection Act of 2000—and as a Member of Congress who has devoted more than 15 years seeking to prevent trafficking, protect victims from exploitation and abuse and prosecute those who enslave up to life imprisonment, I rise in strong support of S. 2925.

Human Trafficking—modern day slavery—is the third most lucrative criminal activity in the world. The ILO estimates illicit profits of over \$31 billion a year.

Under both presidents Bush and Obama, domestic task forces to combat human trafficking have been established in over 40 cities. Almost 900 American children have been rescued and much thanks is owed to the FBI, state police, and local law enforcement.

Still, much more needs to be done. The National Center for Missing and Exploited Children and Shared Hope International believe that at least 100,000 American children, perhaps tens of thousands more, mostly runaway girls of the average age of 13 years old, are exploited in the commercial sex industry each year.

S. 2925 seeks to address the lack of shelter—the lack of safe place to go—for domestic trafficking victims. One estimate is that there are between 50 and 100 beds for victims of domestic trafficking.

As highly vulnerable victims, private detention or some other type of incarceration fails to recognize these young girls as cruelly exploited victims desperately in need of help.

The legislation authorizes 6 pilot grants of \$2–2.5 million in order to provide safe havens and psychological care to address trauma.

The legislation also provides for law enforcement training and keys up reporting requirements so that missing children are immediately entered into the national missing children database—the latter so that law enforcement finds a missing girl before the pimps do.

Madam Speaker, my distinguished colleague CAROLYN MALONEY and I crafted the House version of the pending bill in a way that absolutely precluded the use of funds authorized by the bill from being used to subsidize the killing of the child in the womb by abortion. S. 2925 as amended includes the identical language.

The Gentlelady from New York and I have deep differences on abortion, but worked in a spirit of cooperation and resolve in order to tangibly assist domestic victims of trafficking.

Mr. SCOTT of Virginia. Madam Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN), a very strong supporter of the legislation and one who represents a shelter in his district that he is a strong supporter of.

Mr. MORAN of Virginia. Madam Speaker, I thank my very good friend and extraordinary leader on the Judiciary Committee, Congressman BOBBY SCOTT. I appreciate your principle, Congressman SCOTT, and I am not surprised of your strong backing, nor am I of the fact that CAROLYN MALONEY and CHRIS SMITH authored this.

This bill is clearly bipartisan. There is really no reason to oppose this and every reason for this entire Congress to get behind it.

You know, the horrible situation we're addressing could happen to anyone, really, anyone that has a family. We are talking about adolescent girls, girls who are growing up. Sometimes they have a challenging family environment, but oftentimes it is simply the challenge of being an adolescent, lots of emotional issues and all. So sometimes they will run away, trying to prove something to their parents or whatever.

Oftentimes they go to a shopping mall. The mall closes down. They are afraid to go back right away to their parents. A predator starts circling the mall, an older guy, somebody that suggests they will get them food or whatever, find them a place to stay, and they trust them.

□ 1720

Oftentimes that little girl is raped, given drugs, and then she's threatened that what has happened to her is going to be exposed to her parents or to her peers. She's scared to death, and so she's afraid to break away.

In every one of these sex trafficking cases, this is about a form of slavery where the victim wants to escape and has nowhere to go. Unfortunately, as much as the need is enormous, as Mrs. MALONEY and Mr. SMITH said, 100,000—maybe it's 300,000—of these young girls, we have only a hundred shelter beds. Far too few of them. Most municipalities, particularly today, don't have the money. But there's also a whole lot of zoning issues and political reaction, NIMBYism. A neighborhood will say, Well, this is very important, just not in my neighborhood. But there's another neighborhood, for sure.

But a hundred beds is all we've got. We're not going to get more unless the Federal Government takes the initiative, provides the funding. And this is tough. Initially, they have to put up a quarter of the cost. Then it's 40 percent. By the third year, they have to find 50 percent of the funding. And by the fourth year, when these girls are dependent upon the shelter, they have to find all other funding. So this is no handout. This is just a kick-start to get communities to do something that's terribly important.

I know Mr. SMITH particularly knows all the sex trafficking that goes on around the world. We're appalled at Cambodia and Thailand and Russia and say, Well, how can this happen? And yet it's pervasive within our own society. We would rather look the other way, not knowing about it; but it's there. And we've got to do something about it.

This bill does something about it. It establishes a foundation. It will create model programs. And then what will happen is other communities realize the need. Some parents will start to speak up. And, most importantly, the victims will be empowered and secure enough to speak up themselves. They are leading this effort.

We have a shelter called Courtney's House. A young adolescent victim of sex trafficking, she named it after her daughter. It's her life's work now. We've got to do this. It's the right thing. No good reason to oppose it. And I appreciate the fact that it's bipartisan. This should be one of the last bills this Congress passes because, hopefully, it will be something we can all be very proud of.

Mr. POE of Texas. Madam Speaker, I yield 4 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN), the former Attorney General of California.

Mr. DANIEL E. LUNGREN of California. We rarely speak on this floor of evil. Most of the issues we talk about are areas of controversy where you can have men and women of good will with areas of disagreement. And in our society we shun the idea of talking about evil because it sounds judgmental.

This is one example where evil reigns. This is an example of one of the worst kinds of evil in our society today because this affects the most vulnerable among us, and it is a population that is largely hidden from view, in some cases because we avert our eyes. In other cases because we just don't spend the time to know.

The problem of domestic sex trafficking of minors is one that plagues virtually every community in America. That's the surprise for many people. They say, Not here, somewhere else. New York City. The big cities. But it's a problem that knows no jurisdictional boundaries, as traffickers and pimps seem to cross national and international borders with impunity. It is a

problem which exploits the young and vulnerable and robs them of their innocence, and it is a problem that we can do something about.

Believe it or not, many of my constituents, many in the general Sacramento region, would be surprised to know that we hold the unfortunate distinction of having one of the highest incidences of domestic minor sex trafficking in the Nation, at least according to the FBI when they did their stings just a year or so ago. One of the reasons could be that we're at the intersection of major thoroughfares that go north and south and come east and west. That might be a comforting thought to others to think it's coming from somewhere else, but we find that most of the people come from our own region and most of them are victims.

We have a courageous police chief just outside my district in the community of Truckee, right near Lake Tahoe, Police Chief Nick Sensley. He's one of the experts in the world on this. And one of the things he always stresses in the programs he's established is this: these young women, these girls are victims. They get caught up in arrests for prostitution and the system looks at them as criminals. Yet you look at almost every single one of them and they are victims. And we don't do much about it.

Oftentimes, when these young girls are able to escape from their imprisonment because law enforcement intervenes, they're let out on the streets shortly thereafter with nowhere to go. And what happens? The pimps start coming around again. And guess what? They're the only one that gives them some perverted idea of love, affection, and commitment. This evil allows the perversion such that these young girls have no other place to look.

We have got to do something about this. We're beginning to do something in California and in Sacramento. We're beginning to do it in other areas of the country. We have to do it as a Nation even more than we have done it before because, as I say, these pimps don't recognize boundaries. They certainly don't recognize laws. They recognize one thing and that is the vulnerability of these young girls.

We have got to do something; and in this Christmas season, we can do nothing better than to give this great gift of a start towards helping communities understand the nature of the problem, begin to allow us to refuse to avert our eyes to what's happening in our own areas, and allow us to support this legislation which will help move us in the right direction.

Mr. SCOTT of Virginia. Madam Speaker, I yield 3 minutes to the young lady who has worked hard on this legislation, along with many others, the gentlewoman from California (Ms. SPEIER).

Ms. SPEIER. Thank you, Mr. Chairman, for calling me young and for your able leadership on this issue.

A special recognition must be offered to Congresswoman MALONEY for her effort in bringing this to our attention. And I'm very proud to be associated with my colleagues on both sides of the aisle who have come together in a true bipartisan effort here, because I think we recognize that this is a travesty.

To speak about 300,000 youngsters in this country, girls and boys—mostly girls, but girls and boys—who are caught up in sex slavery is an abomination. And while this is a great first step—and I applaud it and embrace it and support it—it is a mere \$45 million and six projects throughout the country. And we've all admitted that we're talking about hundreds of thousands of young people impacted.

So I hope as part of this effort today we are going to redouble our efforts and expand this program. Because I, like so many of you, have spoken to local DAs, have spoken to local U.S. Attorneys, have spoken to the FBI, have gone on ride-alongs in Oakland, and have witnessed firsthand what is going on. I've gone to Courtney's House. I've gone to many of the shelters and I've talked to the victims.

And I want to share just one story about one victim here in Washington, D.C., age of 16, who got caught up in this sex trafficking because she wanted to leave home and saw this as a way to make a new life because this young man took her to McDonald's and bought her lunch and then wanted to be her boyfriend. And then they needed money so, of course, she needed to sell herself. And I asked her, How many times a day were you forced to have sex? And she said between 10 and 15 times a day before she finally was able to run away.

This is horrific. And it's time for us to do much more than fund six projects across this country for \$45 million. A good step—and I embrace it. But, Members, we have to do much more.

□ 1730

Mr. POE of Texas. I reserve the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. Let me thank the gentleman on the Crime Subcommittee. I think it is appropriate at this time to thank him for his leadership as chairman, as I have had the privilege of serving with him. I think we have had and accepted some of the most provocative and innovative bills that really changed the lives of human beings, and I thank him very much for his service.

Let me applaud as well Congresswoman MALONEY, Congressman SMITH, and my colleague from Texas.

Madam Speaker, slavery is alive, and I rise to support the underlying bill dealing with domestic trafficking and to thank the Senate for getting this over in the hours within which we have to function to make sure that we move this legislation forward.

Houston is particularly an epicenter, if you will, for this kind of activity. Being not so far away from the border, we have seen the increase of human trafficking and smuggling grow exponentially, and certainly, we all are familiar with the tragedy that happened in Victoria just a few years ago where we saw the loss of human lives that were being trafficked. So we know there is a constant, steady flow of individuals who are coming, but this is the most dastardly and heinous aspect of it. I am glad my colleagues have already indicated that this is a domestic problem, that even though we can go to Bangladesh and we can go to parts of Africa and other parts of South Asia, we find human trafficking right here in our backyard.

I remember our former colleague Hilda Solis, now the Secretary of Labor, mentioning the loss of lives of women on the Mexican-U.S. border who would just simply disappear. Some of them were prostitutes; some of them young girls; and to this day, lives and/or those girls are still missing. So the stories go on and on and on. Frankly, I think there could be no better initiative to come in these last hours than this legislation.

I want to pay tribute to some of the individuals who are on the ground, if you will, who we don't hear of quite frequently.

The sheriff in Harris County, Adrian Garcia, recognizes the devastation of human trafficking, has set up a task force, which we are working with, and has attempted to make sure that he has the funding to stop the tide of those who call themselves "pimps" but who project themselves as boyfriends and friends and counselors and nurturers, who take these young girls in—some girls that you never ever find again.

I want to pay tribute as well to the Children at Risk, another Houston-based organization that acknowledged and wrote a report on human trafficking that occurs in our locale. It is important to know that these various organizations really had to be self-starters because, as they began to talk about human trafficking, no one else was, and you were in a city by yourself.

Why are you talking about human trafficking? Isn't that global or international or something far away from here?

I want to pay tribute to Kathryn Griffin, who has an organization that might have a provocative name—We've Been There Done That. She is dealing with not only this broad question of human trafficking but of prostitutes

who come in all ages who are attempting to rehabilitate themselves. She has established a home, and she is trying to counter the ridiculousness of 100 beds existing for these young girls who find themselves in these conditions.

So, Madam Speaker, I started out by saying that slavery does exist. I, frankly, believe that one of the aspects of this bill is to be able to go after the service builders, if you will—the pimps, the users—and to be able to ensure that there is a place for someone to go.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. SCOTT of Virginia. Madam Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Virginia has 1½ minutes remaining.

Mr. SCOTT of Virginia. I yield 1 minute to the gentlewoman from Texas.

Ms. JACKSON LEE of Texas. This is to proclaim that we will not suffer this and tolerate this.

As my colleague from Texas indicated, we may want to be tier 1 in education, but we are not trying to be tier 1 in modern slavery, human suffering, and human smuggling. Therefore, enough is enough.

I look forward to this bill being signed by the President. I look forward to our bringing relief and acknowledging that slavery is here but that we are ready to stamp it out to save the lives of these young girls.

Madam Speaker, I rise today in strong support of S. 2925, the "Domestic Minor Sex Trafficking and Deterrence and Victims Support Act of 2010." This bill calls for funds awarded under the Edward Byrne Memorial Justice Assistance Grant Program to be used to provide education, training, deterrence, and prevention programs relating to sex trafficking of minors. It also calls for states to treat minor victims of sex trafficking as crime victims rather than as criminal defendants or juvenile delinquents. States should adopt and amend laws that protect minors who are victims of sex trafficking, and make such minors eligible for compensation. Furthermore, S. 2925 calls for consistent law enforcement to be used to deter demands for commercial sex with sex trafficking victims.

The issues associated with the exploitation of children here in the U.S., and all over, are ones that I am very passionate about. The fact that children are recruited, harbored, transported, provided, or obtained for the purpose of a commercial sex act is appalling and I believe we should thrust our efforts behind meaningful policies and laws, such as the Domestic Minor Sex Trafficking Deterrence and Victims Support Act, that will put an end to such acts.

During the Congressional Black Caucus' Annual Legislative Conference, which took place this past September at the Washington Convention Center, I held an issue forum to bring attention to issues plaguing our Nation's children—missing children who are exploited in the commercial sex trade. In this forum, we brought together a number of professionals

and experts to bring light to this issue and, more importantly, determine best practices for deterring such behavior in order to put an end to these horrid practices. Many of the methods and practices highlighted in that forum are present in S. 2925; yet another reason why I so fervently support this bill.

Hearing the statistics about the exploitation of children will make you cringe, as they are especially disturbing. Nationally, 450,000 children run away from home each year. One out of every three teens on the street will be lured toward prostitution within 48 hours of leaving home. Statistically, this means at least 150,000 children are lured into prostitution each year. The National Center for Missing and Exploited Children (NCMEC) data shows 100,000 to 293,000 children have become sexual commodities. Twelve is the average age of entry into pornography and prostitution in the U.S. This is a universal problem—these children can come from any race, ethnic group, or religious background, and all socioeconomic classes.

The common denominator amongst these children is their vulnerability. Many of these children have been emotionally bruised as a result of abuse—sexual assault and/or familial molestation. Many children vulnerable to domestic minor sex trafficking are homeless, runaways, throwaways, and youth who have ended up in the foster care system and child protective services.

Of the 2.8 million children living on the streets, which alone is an appalling statistic, over a third of them are lured into prostitution as a way to support themselves financially. Others are recruited through forced abduction or deceptive agreements between parents and traffickers. These children are often shipped off to different locations and isolated from family and peers, left to rely on a system of pimp-controlled sexual exploitation—escort and massage services, private dancing, pornographic clubs, just to name a few.

The fact that we live in a virtual world now has had a major impact on how domestic minor commercial sex trafficking takes place. The Internet has completely changed the dynamics of prostitution and trafficking, making it easier for prostitutes and traffickers to connect with clients without too many layers of intermediaries. As a result, the Internet has become an intermediary, often without the knowledge of those Internet service providers (ISPs) who are the conduits. Increasingly, certain Web sites and online marketplaces have been bearing the brunt of much criticism for providing a medium for online minor sex trafficking.

The Domestic Minor Sex Trafficking Deterrence and Victims Support Act allows us to take the necessary actions to combat this new tech-savvy generation of prostitution and minor sex trafficking. As a senior member of the House Judiciary Committee, I have had the opportunity to examine how children are trafficked in the U.S., including the role that the Internet plays, and the challenges that these cases pose to law enforcement. It is my hope that the passage of S. 2925 will make way for implementation of prevention methods that will help law enforcement place an effective road block on this horrendous practice.

Furthermore, the Domestic Minor Sex Trafficking Deterrence and Victims Support Act

addresses the unique needs of those who have been victimized by sex trafficking. As mentioned before, many of the children who end up as victims of this practice enter into the world of minor sex trafficking with scars, and leave with even more. They come from broken homes, are victims of abuse, assault, and may suffer from emotional problems. Passage of S. 2925 will provide support for victims of minor sex trafficking and help to rehabilitate survivors so that they may re-enter society successfully.

Again, I would like to reiterate, my strong support for S. 2925, the Domestic Minor Sex Trafficking Deterrence and Victims Support Act, for it is an important first step in addressing a problem that plagues our nation and the world.

Mr. POE of Texas. I yield myself such time as I may consume.

I do want to thank the gentlelady from New York (Mrs. MALONEY) and the gentleman from New Jersey (Mr. SMITH), who are both sitting here together to show their support for this bipartisan legislation.

I believe that important, good legislation passes this House when it is bipartisan, and nothing could be more important than trying to protect the greatest resource we have in our community, which is those young children who live among us. This legislation is important for a whole lot of reasons.

It is ironic, Madam Speaker, that in international sex trafficking, if we have that situation in the United States where, say, a young girl is trafficked into the United States from Honduras, and she is rescued by law enforcement, she is treated like a victim of crime because she is an international individual. If the same situation occurs where an American citizen, a young girl, is trafficked from Sacramento to Houston and she is rescued in Houston, she is not treated as a victim of crime; she is generally treated as a criminal. That especially is true in places like Texas, where domestic trafficking victims are treated as criminals.

Not to blame law enforcement, but they don't know what to do with these young girls. There is no place to put them. There is no place to take them. So they file charges on them for prostitution, minors committing prostitution, so they can protect them by locking them up. That is why many times they file charges. However, though, they are not criminals. They are victims of criminal conduct. Once she has that label of prostitute, even though she is a minor, we all know because of public records nowadays that that sticks with that young girl forever no matter how it turns out in that criminal case.

So we have to change the mindset in this country to make sure that we understand when a victim—a young girl—is put in that situation because of her environment or whatever and is forced into modern day slavery, that we treat

her as a victim of crime, and when she is rescued by law enforcement, that she is rescued and not put into the criminal justice system. This bill moves us in that direction, and it is important that we continue to understand that.

This is a hard situation. For the young girls who find themselves in that position—who go into prostitution because of being forced to do so—once they are rescued, they are difficult to deal with. They have a hard time coming back into a normal society because they are beat down emotionally and they are beat down physically. So it is difficult to deal with them, and it is not easy to bring them back. But just because it is hard, it is no reason we shouldn't be involved in helping the youth of our community and in making sure that we rescue them one at a time. It is no reason we shouldn't take whatever funds are necessary to make sure that we treat them with the dignity that they deserve.

Then, on the other end, when we capture that trafficker, that individual who makes money—that filthy lucre—from transporting a child from one part of the United States to another, we treat him as he deserves, and he gets justice at the courthouse.

Then the customers who buy those children for sexual favors, we treat those people with justice. They get justice whether they want it or not, and we hold them accountable for the ways they have treated the youth of this Nation.

□ 1740

So we have a long way to go; but this is a start, recognizing that those young girls, mainly young girls, are victims of crime.

I want to thank the sponsors of this legislation. I, too, want to compliment those in the Houston area and the Rescue Alliance, the Children At Risk, a nongovernment agency that's doing everything they can to rescue those children; Sheriff Adrian Garcia, Constable Ron Hickman, all working together to stop this epidemic that is consistently growing in this country.

And I can agree that there's no more important legislation that we could pass than legislation this time of year to take care of our greatest natural resource: young children.

I yield back the balance of my time.

Mr. SCOTT of Virginia. Madam Speaker, I want to thank the gentleman from Texas for his statement; again, thank the gentleman from New Jersey and the gentlelady from New York for their hard work on this bill. Many children in the future will benefit from the work of these two individuals and the House of Representatives and U.S. Senate.

With that, Madam Speaker, I urge my colleagues to support the bill.

Ms. ROYBAL-ALLARD. Madam Speaker, I rise today in strong support of S. 2925, the

Domestic Minor Sex Trafficking Deterrence and Victims Support Act.

It is fitting that as one of the last acts of this Congress which has done so much to aid the most vulnerable in our society, we are considering legislation that would protect children from sex traffickers.

Tragically, this heinous crime is becoming more common with as many as 100,000 young people trafficked every year within our borders.

To address this heartbreaking trend, the legislation before us authorizes a comprehensive grant program to identify and assist victims and strengthens the National Crime Information Center, NCIC, database that enables law enforcement officials to track missing and exploited children.

These commonsense steps will make a real difference in the lives of thousands of kids who have experienced unimaginable ordeals.

S. 2925 mirrors House legislation authored by my colleagues Congresswoman CAROLYN MALONEY and Congressman CHRIS SMITH. I applaud their hard work on behalf of these forgotten young people and commend them for their leadership in devising smart solutions to fight the scourge of child prostitution in America.

The Domestic Minor Sex Trafficking Deterrence and Victims Support Act will significantly augment our efforts to help children traumatized by the worst kind of criminal act and I urge its swift passage.

In an era characterized by bitter partisanship, it is exceedingly gratifying for me that members of this body can still reach across the aisle and stand together in defense of children caught in perilous circumstances.

It is my sincere hope that next year we can come together in the same spirit of bipartisanship to help young people apprehended along our southern border.

Mr. SCOTT of Virginia. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. SCOTT) that the House suspend the rules and pass the bill, S. 2925, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONTINUING APPROPRIATIONS AND SURFACE TRANSPORTATION EXTENSIONS ACT, 2011

Mr. POLIS. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1782 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1782

Resolved, That upon adoption of this resolution, it shall be in order to take from the Speaker's table the bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending Sep-

tember 30, 2010, and for other purposes, with the Senate amendment to the House amendment to the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Appropriations or his designee that the House concur in the Senate amendment to the House amendment to the Senate amendment. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 1 hour.

Mr. POLIS. Madam Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. SESSIONS), my colleague on the Rules Committee. All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. POLIS. I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 1782.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. I yield myself such time as I might consume.

Madam Speaker, House Resolution 1782 provides for consideration of the Senate amendment to the House amendment to the Senate amendment to H.R. 3082.

The rule makes in order a motion offered by the chair of the Committee on Appropriations, or his designee, for the House to concur in the Senate amendment to the House amendment to the Senate amendment to H.R. 3082.

The rule provides 1 hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations.

The rule waives all points of order against consideration of the motion, except those arising under clause 10 of rule XXI.

The rule provides that the Senate amendment shall be considered as read.

Madam Speaker, I rise today in support of approving a continuing resolution to maintain a level and consistent funding stream for our government. It's one of our primary constitutional responsibilities as Members of Congress to keep the Federal Government running through the passage of appropriations legislation. All money spent by the Federal Government needs to be approved by this body, Madam Speaker, right here in this Congress.

This continuing resolution will ensure that all necessary and vital functions of government will continue uninterrupted until March 4, 2011, instead

of grinding to a halt at midnight tonight. If we do not act now, the Federal Government will shut down tonight at midnight, something that I hope no one in our body desires.

The CR will fund the Federal Government at levels already approved by the House in the FY 2010 appropriations bills, aside from a small number of programs that both parties in the Senate have agreed on that would otherwise expire or be severely disrupted. It is a very straightforward measure, Madam Speaker, to keep the government running and get us through the next few months and into the next Congress. These are funding levels that we have voted on multiple times. This language is the result of bipartisan negotiations in the Senate, and it's my hope that my colleagues on the other side of the aisle will work with us now to move this important measure forward to passage and avoid a government shutdown.

We have 4 days until the Christmas holiday, and we are just weeks away from the end of the year. I can't think of anything that we would do to undermine the work that this Congress has done these last 2 years through a shutdown of the Federal Government. The uncertainty that a failure to pass this rule would lead to is the last thing our Nation's retailers or economy need, let alone the millions of Americans who depend on critical services of our Federal Government.

Let me give an example, Madam Speaker. The next few days are amongst the busiest travel times of the year. Is it wise to cut off at midnight tonight funding for our Federal air marshals? This CR would allow the Federal air marshals to maintain the existing 2010 fourth-quarter coverage levels for international and domestic flights. This funding allows for continued air marshal training, including investigative techniques, criminal terrorist behavior recognition, firearms proficiency. This funding allows the Federal air marshals to fulfill their mission of protecting air passengers and crews.

This funding is critical especially during this peak holiday travel time. What a Christmas gift it would be, Madam Speaker, to all of the families across our country traveling to visit their loved ones if the airports are closed, their flights indefinitely delayed, Grandma's visit over Christmas is canceled because Congress chose to be a grinch. Madam Speaker, it's for families across our country that we must ensure that our airports and travel remain open through this busy holiday season to allow people to visit loved ones across this country.

This CR would also allow the commissioner of U.S. Customs and Border Protection to maintain the levels of Customs and Border Protection personnel in place in the final quarter of

2010. This would provide proper funding to keep terrorists and their weapons out of the U.S., secure and facilitate trade and travel, and enforce hundreds of U.S. trade regulations, including immigration and drug laws. U.S. Customs and Border Protection law enforcement serve as America's front line on our Nation's borders and ports of entry. It's important we maintain a consistent level of personnel at our Nation's borders.

If we fail to pass this CR, Madam Speaker, it would be a Christmas gift—it would be a Christmas gift to terrorists and criminal cartels, because we would let down our watch on our borders during this holiday season by interrupting these funds, we would be jeopardizing the U.S. Customs and Border Patrol's ability to do their job and protect America. This funding will enable these officers to inspect our borders, process trade, combat terrorism, and combat smuggling.

In addition to extending the existing authority for the Department of Homeland Security to regulate chemical facilities that are high levels of risk for terrorist attacks, this CR also maintains the additional \$23 million in funding for the Department of the Interior's new Bureau of Ocean Energy Management. Madam Speaker, this is the program that monitors offshore oil rigs. In light of the disaster we all witnessed unfold this summer in the Gulf of Mexico, can we all imagine what would happen if we let down our watch now?

These funds are critical to ensure that tragedies like the Deepwater Horizon spill are not repeated. These funds allow existing rigs to continue operating in a manner that's safe to workers on the rigs and the environment. Interrupting these funds would be putting offshore oil rig workers' lives in danger, the environment in danger, and our economy in danger with potentially devastating impact in Florida and Texas and the other gulf States.

This continuing resolution also provides continued funding for important allies such as Israel, Egypt, and Jordan at fiscal year 2009 supplemental levels. By providing assistance and aid to our allies in the Middle East, we strengthen our position and make a vital investment in national security.

It also continues the rate of operations for the Pakistan Counterinsurgency Capability Fund at \$700 million. This section also continues the terms and conditions included in the 2009 and 2010 supplemental which helped build and maintain the counterinsurgency capability of Pakistan under the same terms and conditions.

□ 1750

Madam Speaker, this Christmas season is not a time to let down our global watch on the war on terror. We must redouble our efforts, particularly with

regard to assisting Pakistan with regard to their counterinsurgency efforts to root out al Qaeda operatives within their borders.

This CR would also support vital programs that are important to the American people. These programs include Federal funding to levels 2007 before the crisis for our national domestic priorities. These funding levels would provide low-income home energy assistance, Pell Grant assistance, and assisting the processing of veterans' benefits and supporting over \$4.3 billion in reduced fee loans for small businesses.

It is critical that we make sure that families across America are able to enjoy their holidays free of airport closures and free of flight cancellations. So, too, must this body ensure that we don't give a Christmas gift to the wrong people—the drug cartels and criminal terrorists that threaten our Nation's security.

I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, it is my understanding from prior conversations with the gentleman from Colorado (Mr. POLIS) that it would be his idea we would take the minimum amount of time, and I appreciate him yielding the customary 30 minutes to me and trying to work through the loads so we are able to get home.

I would like to inquire of the gentleman if he has any further speakers that he would anticipate at this time on his side.

Mr. POLIS. I have one speaker.

Mr. SESSIONS. I reserve the balance of my time.

Mr. POLIS. I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. Madam Speaker, I thank the gentleman for his leadership, and I want to take this opportunity to express on the floor of the House my appreciation to Chairman OBEY for his years of service. We have had opportunities to thank him personally, but I wanted the RECORD to reflect that this may be his last CR, and I don't want to misspeak because I know that he finds ways to do good so we may see him again, but I do want to express my appreciation. And I also want to recognize his partner, the ranking member, Mr. LEWIS, as well.

I want to acknowledge that this is something we have to do to keep the government open, so I wanted to express my appreciation and my concern. First of all, let me go to the Transportation Security Administration. I am the subcommittee chair on the Transportation Security and Infrastructure Protection Subcommittee. It is interesting as we near the holiday, Christmas coming on Saturday, we are reminded certainly of the Christmas Day bomber of 2009. So as millions of Americans are now traveling and will continue to travel through this holiday

season to gather with friends and family, domestically and internationally, we recognize the importance of providing transfer authority for TSA to allow for efforts against terrorist attacks such as what occurred in the Northwest Flight 253 and the recent attempts against all cargo.

In addition, we recognize the importance of increased staff. This is the holiday time. There will be overtime, and we want to make sure that all of the levels of intensity, of ramping up are provided for, and I am very grateful that this CR chose to do that.

Additionally, many of us have heard from our small businesses, and this will prevent the elimination of funding of reduced loans for small businesses.

I want to raise something very quickly. I am a supporter of providing qualified teachers for our inner city schools, and even had a daughter work for a group called Teach for America. These are outstanding and well-informed individuals. I raise a question, because my district is dominated by inner city schools, of the change of definition of "highly qualified teacher" that would include those in the Teach for America, that a recent graduate, does that in fact eliminate our experienced teachers, that is, take away from the training of those experienced teachers? I would raise that concern.

Finally, I close by simply saying I view this as an important step, but I am disappointed we had to go this route and we could not look to a rational response to the work that so many of us have done. Some may call them earmarks. I call them designations of funding in cooperation, collaboration with our executive.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. POLIS. I yield an additional 30 seconds.

Ms. JACKSON LEE of Texas. It is a tragedy that, for example, a group that houses victims of human trafficking will not be able to be responded to, or a group that deals with those who are trying to rebuild their lives as ex-offenders will not get funding and that infrastructure projects will not get funding. Let me remind my colleagues, you don't save money; you just hand it over to the executive and it finds its way in some other direction.

I am delighted we stand here today, continue to have the government work, and I appreciate the great work that was done for the CR.

Mr. SESSIONS. I yield myself the balance of my time.

Madam Speaker, today is a historic day, also, as two of the stalwarts of this House of Representatives perhaps are here tonight to argue as chairman and ranking member of the Appropriations Committee on behalf of not only themselves, their committee, but also the teams they represent. The gentleman from Wisconsin (Mr. OBEY) per-

haps will be on the floor tomorrow, I don't know, but tonight I will be here, and I would like to recognize the service that Mr. OBEY has given the United States Congress. I have been with Mr. OBEY over a number of times in the last 14 years up in the Rules Committee. I have seen him very early in the morning and very late in the day. Mr. OBEY has presented himself not only in a professional manner, but represented his party and its thoughts very well. It would be my hope I would be able to offer a warm hand and extension to him to say: Job well done, sir.

Also, on my side, the gentleman from California (Mr. LEWIS) will be on the floor in just a few moments as they present this final spending package, the CR. Mr. LEWIS has been a very dear friend of mine over the years. He has been very gracious about hearing the activities I believe are important, including those of the gentlewoman from Wisconsin who sits in the chair tonight as the Speaker pro tempore, for issues related to sight, retinal issues, and the ability we have to create a better life for those who have lost their sight. Mr. LEWIS has been very responsive to not only this Member but also to others in this body in dealing with health issues, understanding that research and development is a key part of technology in medical breakthroughs for people who count on us making wise choices with how we spend people's money.

So I would want to extend to both of these gentlemen thanks for a job well done, knowing that tonight they will be ready to go home for Christmas and the holidays.

Madam Speaker, the Republican Party finds itself in the position where we are here on the floor just a few days before Christmas. The gentleman from Colorado (Mr. POLIS) has outlined the exact need of not only this administration but, I believe, forthrightly, the American people and certainly this Congress, the ability to make sure that we act responsibly, that we provide the funding that is necessary. The President of the United States has asked for this. The President of the United States has a constitutional authority to move forward, and I believe that that is a rational argument.

The Republican Party finds itself in a circumstance where we have attempted, for quite some time, to bring to the attention of the majority what we believe is an overriding need to cut the amount of spending that is taking place by the United States Congress. I believe it has created excessive not only spending, a bloated government, and an inadequate ability by the free enterprise system to get out of the way of government; that a government that is empowered to roll over the free enterprise system and individuals who are in the marketplace perhaps, also. In the scheme of things, the Republican Party is worried about the future

of this country and what our children and our grandchildren will have to pay with a monster debt that looms over us.

I recognize, I think the entire country recognizes, that this debt, the doubling and tripling of debt that is underway, came as a result of a political opportunity with the Democratic Party by the President, the House, and the Senate to collectively determine that they were going to go and increase spending in a dramatic basis.

□ 1800

The Republican Party, through myself as the Rules Committee person, recognizes that we, once again, are here on the floor of the House of Representatives at the late hour, even though I believe what is inevitable is here with this continuing resolution to say, We believe there should have been a better effort on behalf of this majority to substantially review not only the excessive spending but to put into place those stopgap measures which would prove to the American people that Washington, D.C., does get it.

What we need to get is this: as we loom and roll forward in the future, another debt limit opportunity vote that means that we will have to take the tough votes here on this floor and raise that debt limit so that we are as responsible as we are tonight, what has been described by Mr. POLIS, about making sure the government funds itself.

The Republican Party believes we should have immediately last year when we recognized not only continued unemployment, massive debt, have done something about stopping the spending. We spend about \$4.5 billion too much every day, more than what comes in. And that \$4.5 billion is important. When you add it all up, it amounts to about 40 percent of all of the spending going to debt.

So we don't have to yell and scream. We have to succinctly come to the floor. We have to protect the turf that we believe is best for the American people, and that is, I will tell you, on January 5 when we elect a new Speaker and the Republican Party becomes the majority, we pledge ourselves to having not only the ideas about how to turn this country around, but I believe we will have the guts to make tough votes. And we will ask the American people to listen and look at every single vote we make.

Today, we are kicking the can down the road. Today, I guess we are ready to go home. The Republican Party is here to say, We disagree. We think every dollar and every penny that is being spent to the detriment of the future of this country is a problem. So that's what we are doing here today.

I appreciate the gentlewoman not only for her efforts of tireless sitting in the chair today, but I also recognize

our leaders, the gentleman from Wisconsin (Mr. OBEY), the gentleman from California (Mr. LEWIS). I thank the gentleman from Colorado (Mr. POLIS) and wish him the very best of holiday seasons.

Madam Speaker, just this morning, I stood right here to do a rule and pointed out that my Democrat colleagues continue to use an unprecedented, restrictive, and closed process on the House floor, and here I am again to tell the same story. In fact, this is the third Continuing Resolution rule I have done this month.

Week after week my friends on the other side of the aisle continue to bull-dose their massive spending agenda through the floor of the House with no Republican input, and no regular order.

What was promised to be the most "open, honest and ethical" Congress by Speaker PELOSI when she took the gavel, has been the most closed, and one-sided Congress in history. The American people asked for changes in 2008 and they got something far worse. They received a Democrat Congress that doesn't listen to the American people, and a Congress that acts on their own interest and not the interest of the American taxpayer.

Madam Speaker, in two weeks that will change. But until then, I am here to discuss another closed rule for another Continuing Resolution. The legislation before us continues to overspend—a common theme over the last two Congresses.

The underlying legislation is a CR to keep the government running for 2 months. The Democrats provided no budget for this year and the President has not signed one appropriations bill into law—so this legislation and rule is just another tactic to keep the government running until the Majority can kick the responsibility to the Republicans next Congress.

Over the past three years, non-defense, non-homeland security, and non-veterans affairs discretionary spending has increased by a staggering 88 percent. In the meantime, the Nation's debt has risen to \$13.5 trillion, there have been yearly record deficits since the Democrats took the Majority, and the unemployment rate has been at or above 9.5 percent for 18 consecutive months.

This CR does almost nothing to reverse this trend and instead continues the unsustainable, high rate of spending passed the Democrat Majority this year. This includes more spending for many federal agencies that received massive increases with the Democrat Stimulus bill in 2009. My Republican colleagues and I have pledged to cut non-security spending back the fiscal year 2008 levels which would save American taxpayers nearly \$100 billion in the first year.

The American people are fed-up with the tax, borrow and spend policies of the past 4 years, which has brought nothing but unemployment, debt and deficit. Americans have called for an end to reckless spending and a new era of fiscal discipline, yet it continues to fall on deaf ears here today. This country needs leaders that are willing to make the tough fiscal decisions that will provide economic stability and job growth, not just more of the same.

In true fashion, my democrat colleagues continue to push their own agenda on the

American people. They have shut out Republicans over the past 4 years, and they continue to shut out the American people. Continuing on the path of reckless government spending, will only put the U.S. further in debt burdening future generations. Congress must do better for the American people. I oppose this rule.

Madam Speaker, you have heard me say it over and over, but the American people we promised an "open, honest and ethical" Congress, and that is not what they have received. Congress only received the text of this legislation a few hours ago. American's have called for transparency and bipartisanship and have only seen a secretive dictatorship.

I ask my colleagues to vote "no" on the rule. Vote no to stop the reckless fiscal policies that Speaker PELOSI and the Democrats have pursued over the last 4 years. It is time to end the idea of big government and big spending.

I yield back the balance of my time.

Mr. PIERLUISI. Madam Speaker, I rise to express my strong support for the inclusion of increased funding for the Federal Pell Grant Program in the Continuing Resolution. Pell Grants are instrumental in helping students obtain college degrees and further prepare themselves to join the modern workplace. In Puerto Rico, over 280,000 students benefit from this funding each year.

Last year, I was proud to join my colleagues on the House Education Committee in voting to increase the maximum Pell Grant award to \$5,550 for the current academic year and to tie future awards to inflation. However, this increased funding will be put in jeopardy if Congress does not act today. Largely as a result of the economic downturn, Pell Grant applications have increased by 20 percent during the past year. Without an additional investment in the Pell Grant Program, the maximum award could be cut by more than 15 percent, putting college out of reach for many students.

I urge my colleagues to support the Continuing Resolution to ensure that college remains affordable for our Nation's students.

Ms. MCCOLLUM. Madam Speaker, I rise today in opposition to H.R. 3082, a continuing resolution that would fund federal government operations on a temporary basis through March 4, 2011. Regrettably, one of the last votes of the 111th Congress has become the first vote of the Republican-controlled House of Representatives.

As a member of the House Appropriations Committee, I take seriously my annual responsibility to assess funding priorities, perform oversight, and allocate federal dollars where they are most needed and will make the greatest impact. Unfortunately, my Republican colleagues in the House and Senate are choosing to abandon this important work. They are blocking action on a fiscal year 2011 funding package that would respond to the current needs of the American people and make critical investments in our communities.

Due to Republican obstruction, the House is forced to consider this appropriations measure, which places the Federal Government on auto-pilot for two months. All difficult decisions are being delayed until another day. Critical federal agencies including the Federal Aviation Administration and Department of Defense are

being subjected to enormous—and avoidable—uncertainty. And the uncertainty created by this short-term continuing resolution goes far beyond Washington. Every state and community across the country will be debating whether they are able to move forward with critical investments, such as the Central Corridor Light Rail in Minnesota.

This temporary appropriations measure underfunds critical priorities in every area of American life from education and agriculture, to transportation and energy. It is inexcusable to withhold necessary investments in the American economy while adding to the deficit with tax cuts for the wealthiest in our society. But that is exactly what Congress is doing this month as a result of the reckless game of brinkmanship my Republican colleagues are playing with the American people.

Mr. POLIS. Madam Speaker, I want to further describe something that the gentlelady from Texas mentioned in her remarks, that this continuing resolution would expand the Federal definition of "highly qualified teacher" to include a wider range of teachers, including those who are alternatively certified. This is particularly important for programs where the data shows they are effective, like Teach For America that help improve student outcomes, particularly among our most at-risk students. This definition would support greater local district control and flexibility to help ensure that good teachers are in public school classrooms.

This was, from a policy perspective, largely agreed upon by Democrats and Republicans in policy circles around the definition of highly qualified. But a court recently said that previous language was unable to be interpreted in this way. So, Madam Speaker, we are using this continuing resolution to ensure that these good teachers can stay in the classrooms and that programs like Teach For America can confidently move forward instead of losing their ability to teach midway through the school year.

Madam Speaker, tonight we are on the brink of a government shutdown if we fail to pass this CR, and we shouldn't let our partisan bickering between 99 cents or \$1 or \$1.01 grind the entire economy of this Nation to a halt, allowing drug cartels carte blanche on the border, and making sure that grandma can't visit the kids in Topeka.

The House has done its part to keep the government funded. We passed a full year-long continuing resolution 2 weeks ago. We acted quickly to maintain government operations, and the Senate failed to overcome obstructionism. Today our situation is that we have what some on both sides, I am sure, would agree is an imperfect continuing resolution that will fund the Federal Government in the new year, which is clearly preferable to a government shutdown in the holiday season.

Madam Speaker, I urge my colleagues to join me in support of this

rule. I thank Chairman OBEY for his leadership not only on this bill and on this continuing resolution but for his hard work and his staff's hard work.

Madam Speaker, the House did pass two appropriation bills this year, the Transportation-HUD appropriation and Military Construction/Veterans Affairs appropriation, and the Senate hasn't passed a single one. So rather than continuing on with futile work, I think it is important that we get about our business of funding government to ensure that we can move forward with the spirit of Chairman OBEY guiding us in the 112th Congress to continue our work in the appropriations process. I praise Chairman OBEY and the staff for their hard work on this bill.

I urge a "yes" vote on the previous question and on the rule.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. OBEY. Madam Speaker, pursuant to House Resolution 1782, I call up the bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes, with the Senate amendment to the House amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment to the House amendment to the Senate amendment.

The text of the Senate amendment to the House amendment to the Senate amendment is as follows:

Senate amendment to House amendment to Senate amendment:

In lieu of the matter proposed to be inserted, insert the following:

TITLE I—CONTINUING APPROPRIATIONS AMENDMENTS

SECTION 1. (a) *The Continuing Appropriations Act, 2011 (Public Law 111-242) is further amended by—*

(1) striking the date specified in section 106(3) and inserting "March 4, 2011"; and

(2) adding the following:

"SEC. 147. (a) For the purposes of this section—

"(1) the term 'employee'—

"(A) means an employee as defined in section 2105 of title 5, United States Code; and

"(B) includes an individual to whom subsection (b), (c), or (f) of such section 2105 pertains (whether or not such individual satisfies subparagraph (A));

"(2) the term 'senior executive' means—

"(A) a member of the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code;

"(B) a member of the FBI-DEA Senior Executive Service under subchapter III of chapter 31 of title 5, United States Code;

"(C) a member of the Senior Foreign Service under chapter 4 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following); and

"(D) a member of any similar senior executive service in an Executive agency;

"(3) the term 'senior-level employee' means an employee who holds a position in an Executive agency and who is covered by section 5376 of title 5, United States Code, or any similar authority; and

"(4) the term 'Executive agency' has the meaning given such term by section 105 of title 5, United States Code.

"(b)(1) Notwithstanding any other provision of law, except as provided in subsection (e), no statutory pay adjustment which (but for this subsection) would otherwise take effect during the period beginning on January 1, 2011, and ending on December 31, 2012, shall be made.

"(2) For purposes of this subsection, the term 'statutory pay adjustment' means—

"(A) an adjustment required under section 5303, 5304, 5304a, 5318, or 5343(a) of title 5, United States Code; and

"(B) any similar adjustment, required by statute, with respect to employees in an Executive agency.

"(c) Notwithstanding any other provision of law, except as provided in subsection (e), during the period beginning on January 1, 2011, and ending on December 31, 2012, no senior executive or senior-level employee may receive an increase in his or her rate of basic pay absent a change of position that results in a substantial increase in responsibility, or a promotion.

"(d) The President may issue guidance that Executive agencies shall apply in the implementation of this section.

"(e) The Non-Foreign Area Retirement Equity Assurance Act of 2009 (5 U.S.C. 5304 note) shall be applied using the appropriate locality-based comparability payments established by the President as the applicable comparability payments in section 1914(2) and (3) of such Act.

"SEC. 148. Notwithstanding section 101, the level for 'Department of Commerce, National Telecommunications and Information Administration, Salaries and Expenses' shall be \$40,649,000.

"SEC. 149. The following authorities shall continue in effect through the earlier of the date specified in section 106(3) of this Act or the date of enactment of the National Defense Authorization Act for Fiscal Year 2011:

"(1) Section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2042), as amended by section 1011 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2441);

"(2) Section 1022 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 10 U.S.C. 371 note), as amended by section 1012 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2441);

"(3) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85), as amended by section 1014 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2442);

"(4) Sections 611, 612, 613, 614, 615, 616, 1106, 1222(e), 1224 and 1234 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84);

"(5) Section 631 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181); and

"(6) Section 931 of the National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364).

"SEC. 150. Subject to the availability of appropriations, the Secretary of the Navy may award a contract or contracts for up to 20 Littoral Combat Ships (LCS).

"SEC. 151. Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

"(1) in clause (i), by striking 'October 1, 2010' and inserting 'December 31, 2011'; and

"(2) in clause (ii)—

"(A) by striking 'February 1, 2011' and inserting 'February 1, 2012'; and

"(B) by striking 'October 1, 2010' and inserting 'December 31, 2011'.

"SEC. 152. Notwithstanding section 101, the level for 'Special Inspector General for the Troubled Asset Relief Program, Salaries and Expenses' shall be \$36,300,000.

"SEC. 153. Public Law 111-240 is amended in section 1114 and section 1704 by striking 'December 31, 2010' and inserting 'March 4, 2011' each time it appears and in section 1704 by adding at the end the following:

"(c) For purposes of the loans made under this section, the maximum guaranteed amount outstanding to the borrower may not exceed \$4,500,000."

"SEC. 154. The appropriation to the Securities and Exchange Commission pursuant to this Act shall be deemed a regular appropriation for purposes of section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) and sections 13(e), 14(g), and 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e), 78n(g), and 78ee).

"SEC. 155. Section 302 of the Universal Service Antideficiency Temporary Suspension Act is amended by striking 'December 31, 2010' each place it appears and inserting 'December 31, 2011'.

"SEC. 156. Notwithstanding section 503 of Public Law 111-83, amounts made available in this Act for the Transportation Security Administration shall be available for transfer between and within Transportation Security Administration appropriations to the extent necessary to avoid furloughs or reduction in force, or to provide funding necessary for programs and activities required by law: Provided, That such transfers may not result in the termination of programs, projects or activities: Provided further, That the House and Senate Appropriations Committees shall be notified within 15 days of such transfers.

"SEC. 157. Up to \$21,880,000 from 'Coast Guard, Acquisition, Construction, and Improvements' and 'Coast Guard, Alteration of Bridges' may be transferred to 'Coast Guard, Operating Expenses': Provided, That the Coast Guard may decommission one Medium Endurance Cutter, two High Endurance Cutters, four HU-25 aircraft, the Maritime Intelligence Fusion Center, and one Maritime Safety and Security Team, and make staffing changes at the Coast Guard Investigative Service, as outlined in its budget justification documents for fiscal year 2011 as submitted to the Committees on Appropriations of the Senate and House of Representatives.

"SEC. 158. Notwithstanding section 101, the final proviso under the heading 'Science and Technology, Research, Development, Acquisition, and Operations' in Public Law 111-83 (related to the National Bio- and Agro-defense Facility) shall have no effect with respect to all amounts available under this heading.

"SEC. 159. Notwithstanding sections 101 and 128, amounts are provided for 'Department of the Interior—Minerals Management Service—Royalty and Offshore Minerals Management' in the manner authorized in Public Law 111-88 for fiscal year 2010, except that for fiscal year 2011 the amounts specified in division A of Public Law 111-88 shall be modified by substituting—

"(1) '\$200,110,000' for '\$175,217,000';

"(2) '\$102,231,000' for '\$89,374,000';

"(3) '\$154,890,000' for '\$156,730,000' each place it appears; and

"(4) 'fiscal year 2011' shall be substituted for 'fiscal year 2010' each place it appears.

"SEC. 160. The Secretary of the Interior, in order to implement a reorganization of the Bureau of Ocean Energy Management, Regulation,

and Enforcement, may establish accounts, transfer funds among and between the offices and bureaus affected by the reorganization, and take any other administrative actions necessary in conformance with the Appropriations Committee reprogramming procedures described in the joint explanatory statement of the managers accompanying Public Law 111-88 (House of Representatives Report 111-316).

"SEC. 161. Notwithstanding section 101, section 423 of Public Law 111-88 (123 Stat. 2961), concerning the distribution of geothermal energy receipts, shall have no force or effect and the provisions of section 3003(a) of Public Law 111-212 (124 Stat. 2338) shall apply for fiscal year 2011.

"SEC. 162. Notwithstanding section 109, of the funds made available by section 101 for payments under subsections (b) and (d) of section 2602 of the Low Income Home Energy Assistance Act of 1981, the Department of Health and Human Services shall obligate the same amount during the period covered by this continuing resolution as was obligated for such purpose during the comparable period during fiscal year 2010.

"SEC. 163. (a) A 'highly qualified teacher' includes a teacher who meets the requirements in 34 C.F.R. 200.56(a)(2)(ii), as published in the Federal Register on December 2, 2002.

"(b) This provision is effective on the date of enactment of this provision through the end of the 2012-2013 academic year.

"SEC. 164. (a) Notwithstanding section 101, the level for 'Department of Education, Student Financial Assistance' to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be \$23,162,000,000.

"(b) The maximum Pell Grant for which a student shall be eligible during award year 2011-2012 shall be \$4,860.

"SEC. 165. (a) Notwithstanding section 1018(d) of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1907(d)), the use of any funds appropriated to the United States Capitol Police during fiscal year 2003 for transfer relating to the Truck Interdiction Monitoring Program to the working capital fund established under section 328 of title 49, United States Code, is ratified.

"(b) Nothing in subsection (a) may be construed to waive sections 1341, 1342, 1349, 1350, or 1351 of title 31, United States Code, or subchapter II of chapter 15 of such title (commonly known as the 'Anti-Deficiency Act').

"(c) Notwithstanding section 106 of this Act, the use of the funds described under subsection (a) of this section shall apply without fiscal year limitation.

"SEC. 166. Notwithstanding section 101, amounts are provided for 'Department of Veterans Affairs, Departmental Administration, General Operating Expenses' at a rate for operations of \$2,546,276,000, of which not less than \$2,148,776,000 shall be for the Veterans Benefits Administration."

(b) This section may be cited as the "Continuing Appropriations Amendments, 2011".

TITLE II—EXTENSION OF CURRENT SURFACE TRANSPORTATION PROGRAMS

SEC. 2001. SHORT TITLE; RECONCILIATION OF FUNDS.

(a) This title may be cited as the "Surface Transportation Extension Act of 2010, Part II".

(b) RECONCILIATION OF FUNDS.—The Secretary of Transportation shall reduce the amount apportioned or allocated for a program, project, or activity under this title in fiscal year 2011 by amounts apportioned or allocated pursuant to the Surface Transportation Extension Act of 2010 for the period beginning on October 1, 2010, and ending on December 31, 2010.

Subtitle A—Federal-Aid Highways

SEC. 2101. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.

(a) IN GENERAL.—Section 411 of the Surface Transportation Extension Act of 2010 (Public Law 111-147; 124 Stat. 78) is amended—

(1) by striking "the period beginning on October 1, 2010, and ending on December 31, 2010" each place it appears (except in subsection (c)(2)) and inserting "the period beginning on October 1, 2010, and ending on March 4, 2011";

(2) in subsection (a) by striking "December 31, 2010" and inserting "March 4, 2011";

(3) in subsection (b)(2) by striking "1/4" and inserting "155/365";

(4) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "1/4" and inserting "155/365"; and

(ii) by striking "the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "the period beginning on October 1, 2010, and ending on March 4, 2011";

(B) in paragraph (4)—

(i) in subparagraph (A)(ii) by striking "1/4" and inserting "155/365"; and

(ii) in subparagraph (B)(ii)(II) by striking "\$159,750,000" and inserting "\$271,356,164"; and

(C) in paragraph (5) by striking "1/4" and inserting "155/365";

(5) in subsection (d)—

(A) by striking "1/4" each place it appears and inserting "155/365"; and

(B) in paragraph (2)(A)—

(i) in the matter preceding clause (i) by striking "apportioned under sections 104(b) and 144 of title 23, United States Code," and inserting "specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program)"; and

(ii) in clause (ii) by striking "apportioned under such sections of such Code" and inserting "specified in such section 105(a)(2) (except the high priority projects program)"; and

(6) in subsection (e)(1)(B) by striking "1/4" and inserting "155/365".

(b) ADMINISTRATIVE EXPENSES.—Section 412(a)(2) of the Surface Transportation Extension Act of 2010 (Public Law 111-147; 124 Stat. 83) is amended—

(1) by striking "\$105,606,250" and inserting "\$179,385,959"; and

(2) by striking "the period beginning on October 1, 2010, and ending on December 31, 2010" and inserting "the period beginning on October 1, 2010, and ending on March 4, 2011".

Subtitle B—Extension of National Highway Traffic Safety Administration, Federal Motor Carrier Safety Administration, and Additional Programs

SEC. 2201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2001(a)(1) of SAFETEA-LU (119 Stat. 1519) is amended by striking "and \$58,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$99,795,000 for the period beginning on October 1, 2010, and ending on March 4, 2011".

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2001(a)(2) of SAFETEA-LU (119 Stat. 1519) is amended by striking "and \$27,061,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$45,967,000 for the period beginning on October 1, 2010, and ending on March 4, 2011".

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2001(a)(3) of SAFETEA-LU (119 Stat. 1519) is amended by striking "and \$6,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$10,616,000 for the period beginning on October 1, 2010, and ending on March 4, 2011".

(d) SAFETY BELT PERFORMANCE GRANTS.—Section 2001(a)(4) of SAFETEA-LU (119 Stat. 1519) is amended by striking "and \$31,125,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$52,870,000 for the period beginning on October 1, 2010, and ending on March 4, 2011".

(e) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA-LU (119 Stat. 1519) is amended by striking "and \$8,625,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$14,651,000 for the period beginning on October 1, 2010, and ending on March 4, 2011".

(f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—Section 2001(a)(6) of SAFETEA-LU (119 Stat. 1519) is amended by striking "and \$34,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$59,027,000 for the period beginning on October 1, 2010, and ending on March 4, 2011".

(g) NATIONAL DRIVER REGISTER.—Section 2001(a)(7) of SAFETEA-LU (119 Stat. 1520) is amended by striking "and \$1,029,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$1,748,000 for the period beginning on October 1, 2010, and ending on March 4, 2011".

(h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—Section 2001(a)(8) of SAFETEA-LU (119 Stat. 1520) is amended by striking "and \$7,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$12,315,000 for the period beginning on October 1, 2010, and ending on March 4, 2011".

(i) MOTORCYCLIST SAFETY.—Section 2001(a)(9) of SAFETEA-LU (119 Stat. 1520) is amended by striking "and \$1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$2,973,000 for the period beginning on October 1, 2010, and ending on March 4, 2011".

(j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—Section 2001(a)(10) of SAFETEA-LU (119 Stat. 1520) is amended by striking "and \$1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$2,973,000 for the period beginning on October 1, 2010, and ending on March 4, 2011".

(k) ADMINISTRATIVE EXPENSES.—Section 2001(a)(11) of SAFETEA-LU (119 Stat. 1520) is amended by striking "and \$6,332,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$10,756,000 for the period beginning on October 1, 2010, and ending on March 4, 2011".

SEC. 2202. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.

(a) MOTOR CARRIER SAFETY GRANTS.—Section 31104(a)(7) of title 49, United States Code, is amended by striking "\$52,679,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "\$88,753,000 for the period beginning October 1, 2010, and ending on March 4, 2011".

(b) ADMINISTRATIVE EXPENSES.—Section 31104(i)(1)(G) of title 49, United States Code, is amended by striking "\$61,036,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "\$103,678,000 for the period beginning October 1, 2010, and ending on March 4, 2011".

(c) GRANT PROGRAMS.—Section 4101(c) of SAFETEA-LU (119 Stat. 1715) is amended—

(1) in paragraph (1)—

(A) by striking "and" after "2009,"; and

(B) by striking "and \$6,301,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "and \$10,616,000

for the period beginning October 1, 2010, and ending on March 4, 2011.”;

(2) in paragraph (2) by striking “and \$8,066,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$13,589,000 for the period beginning October 1, 2010, and ending on March 4, 2011.”;

(3) in paragraph (3) by striking “and \$1,260,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$2,123,000 for the period beginning October 1, 2010, and ending on March 4, 2011.”;

(4) in paragraph (4) by striking “and \$6,301,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$10,616,000 for the period beginning October 1, 2010, and ending on March 4, 2011.”; and

(5) in paragraph (5) by striking “and \$756,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$1,274,000 for the period beginning October 1, 2010, and ending on March 4, 2011.”.

(d) **HIGH-PRIORITY ACTIVITIES.**—Section 31104(k)(2) of title 49, United States Code, is amended by striking “2009, \$15,000,000 for fiscal year 2010, and \$3,781,000 for the period beginning on October 1, 2010, and ending on December 31, 2010” and inserting “2010 and \$6,370,000 for the period beginning October 1, 2010, and ending on March 4, 2011”.

(e) **NEW ENTRANT AUDITS.**—Section 31144(g)(5)(B) of title 49, United States Code, is amended by striking “(and up to \$7,310,000 for the period beginning on October 1, 2010, and ending on December 31, 2010)” and inserting “(and up to \$12,315,000 for the period beginning October 1, 2010, and ending on March 4, 2011)”.

(f) **COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION.**—Section 4123(d)(6) of SAFETEA-LU (119 Stat. 1736) is amended by striking “\$2,016,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.” and inserting “and \$3,397,260 for the period beginning October 1, 2010, and ending on March 4, 2011”.

(g) **OUTREACH AND EDUCATION.**—Section 4127(e) of SAFETEA-LU (119 Stat. 1741) is amended by striking “and 2010” and all that follows before “to carry out” and inserting “2010, and \$425,545 to the Federal Motor Carrier Safety Administration, and \$1,274,000 to the National Highway Traffic Safety Administration, for the period beginning on October 1, 2010, and ending on March 4, 2011”.

(h) **GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.**—Section 4134(c) of SAFETEA-LU (119 Stat. 1744) is amended by striking “\$252,000 for the period beginning on October 1, 2010, and ending on December 31, 2010,” and inserting “\$425,545 for the period beginning on October 1, 2010, and ending on March 4, 2011”.

(i) **MOTOR CARRIER SAFETY ADVISORY COMMITTEE.**—Section 4144(d) of SAFETEA-LU (119 Stat. 1748) is amended by striking “December 31, 2010” and inserting “March 4, 2011”.

(j) **WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.**—Section 4213(d) of SAFETEA-LU (49 U.S.C. 14710 note; 119 Stat. 1759) is amended by striking “December 31, 2010” and inserting “March 4, 2011”.

SEC. 2203. ADDITIONAL PROGRAMS.

(a) **HAZARDOUS MATERIALS RESEARCH PROJECTS.**—Section 7131(c) of SAFETEA-LU (119 Stat. 1910) is amended by striking “through 2010” and all that follows before “shall be available” and inserting “through 2010 and \$531,000 for the period beginning on October 1, 2010, and ending on March 4, 2011”.

(b) **DINGELL-JOHNSON SPORT FISH RESTORATION ACT.**—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a) by striking “For each of fiscal years 2006” and all that follows before paragraph (1) and inserting the following: “For each of fiscal years 2006 through 2010, and for the period beginning on October 1, 2010, and ending on March 4, 2011 the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:” and

(2) in subsection (b)(1)(A) by striking the first sentence and inserting the following: “From the annual appropriation made in accordance with section 3, for each of fiscal years 2006 through 2010, and for the period beginning on October 1, 2010, and ending on March 4, 2011, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this Act, in accordance with this section and section 9.”.

(c) **SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.**—Section 327(i)(1) of title 23, United States Code, is amended by striking “6 years after” and inserting “7 years after”.

(d) **IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.**—Section 510 of title 23, United States Code, is amended by adding at the end the following:

“(h) **IMPLEMENTATION.**—Notwithstanding any other provision of this section, the Secretary may use funds made available to carry out this section for implementation of research products related to the future strategic highway research program, including development, demonstration, evaluation, and technology transfer activities.”.

Subtitle C—Public Transportation Programs

SEC. 2301. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.

Section 5305(g) of title 49, United States Code, is amended by striking “December 31, 2010” and inserting “March 4, 2011”.

SEC. 2302. SPECIAL RULE FOR URBANIZED FORMULA GRANTS.

Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the paragraph heading, by striking “DECEMBER 31, 2010” and inserting “MARCH 4, 2011”;

(2) in subparagraph (A) by striking “December 31, 2010” and inserting “March 4, 2011”; and

(3) in subparagraph (E)—

(A) in the paragraph heading, by striking “DECEMBER 31, 2010” and inserting “MARCH 4, 2011”; and

(B) in the matter preceding clause (i) by striking “December 31, 2010” and inserting “March 4, 2011”.

SEC. 2303. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.

Section 5309(m) of such title is amended—

(1) In paragraph (2)—

(A) in the paragraph heading by striking “DECEMBER 31, 2010” and inserting “MARCH 4, 2011”;

(B) in the matter preceding paragraph (A) by striking “December 31, 2010” and inserting “March 4, 2011”; and

(C) in subparagraph (A)(i), by striking “\$50,000,000 for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$84,931,000 for the period beginning October 1, 2010 and ending March 4, 2011”.

(2) in paragraph (6)—

(A) in subparagraph (B) by striking “\$3,750,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010” and inserting “\$6,369,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011”; and

(B) in subparagraph (C) by striking “\$1,250,000 shall be available for the period be-

ginning October 1, 2010 and ending December 31, 2010” and inserting “\$2,123,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011”.

(3) in paragraph (7)—

(A) in clause (ii) of subparagraph (A)—

(i) in the clause heading, by striking “DECEMBER 31, 2010” and inserting “MARCH 4, 2011”;

(ii) by striking “\$2,500,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010” and inserting “\$4,246,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011”;

(iii) by striking “25 percent” and inserting “155/365ths”.

(4) in subparagraph (B), by amending clause (vi) to read, “\$5,732,000 for the period beginning October 1, 2010 and ending March 4, 2011”.

(5) in subparagraph (C) by striking “December 31, 2010” and inserting “March 4, 2011”.

(6) in subparagraph (D) by striking “\$8,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$14,863,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011”;

(7) in subparagraph (E) by striking “\$750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$1,273,000 shall be available for the period beginning October 1, 2010 and ending March 4, 2011”.

SEC. 2304. APPORTIONMENT OF FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

Section 5311(c)(1)(F) of title 49, United States Code, is amended to read as follows:

“(F) \$6,369,000 for the period beginning October 1, 2010 and ending March 4, 2011.”.

SEC. 2305. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.

Section 5337(g) of title 49, United States Code, is amended to read as follows:

“(g) **SPECIAL RULE FOR OCTOBER 1, 2010, THROUGH MARCH 4, 2011.**—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning October 1, 2010, and ending March 4, 2011, in accordance with subsection (a), except that the Secretary shall apportion 155/365ths of each dollar amount specified in subsection (a).”.

SEC. 2306. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.

(a) **FORMULA AND BUS GRANTS.**—Section 5338(b) of title 49, United States Code, is amended—

(1) By amending paragraph (1)(F) as follows: “(F) \$3,550,376,000 for the period beginning October 1, 2010, and ending March 4, 2011.”.

(2) in paragraph (2)—

(A) in subparagraph (A) by striking “\$28,375,000 for the period beginning October 1, 2010, and ending December 31, 2010” and by inserting “\$48,198,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(B) in subparagraph (B) by striking “\$1,040,091,250 for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$1,766,730,000 for the period beginning October 1, 2010, and ending March 4, 2011”;

(C) in subparagraph (C) by striking “\$12,875,000 for the period beginning October 1, 2010, and ending December 31, 2010” and by inserting “\$21,869,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(D) in subparagraph (D) by striking “\$416,625,000 for the period beginning October 1, 2010 and ending December 31, 2010” and by inserting “\$707,691,000 for the period beginning October 1, 2010 and ending March 4, 2011”;

(E) in subparagraph (E) by striking “\$246,000,000 for the period beginning October 1,

2010 and ending December 31, 2010" and inserting "\$417,863,000 for the period beginning October 1, 2010 and ending March 4, 2011";

(F) in subparagraph (F) by striking "\$33,375,000 for the period beginning October 1, 2010 and ending December 31, 2010" and inserting "\$56,691,000 for the period beginning October 1, 2010 and ending March 4, 2011";

(G) in subparagraph (G) by striking "\$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010" and inserting "\$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011";

(H) in subparagraph (H) by striking "\$41,125,000 for the period beginning October 1, 2010 and ending December 31, 2010" and inserting "\$69,856,000 for the period beginning October 1, 2010 and ending March 4, 2011";

(I) in subparagraph (I) by striking "\$23,125,000 for the period beginning October 1, 2010 and ending December 31, 2010" and inserting "\$39,280,000 for the period beginning October 1, 2010 and ending March 4, 2011";

(J) in subparagraph (J) by striking "\$6,725,000 for the period beginning October 1, 2010 and ending December 31, 2010" and by inserting "\$11,423,000 for the period beginning October 1, 2010 and ending March 4, 2011";

(K) in subparagraph (K) by striking "\$875,000 for the period beginning October 1, 2010 and ending December 31, 2010" and by inserting "\$1,486,000 for the period beginning October 1, 2010 and ending March 4, 2011";

(L) in subparagraph (L) by striking "\$6,250,000 for the period beginning October 1, 2010 and ending December 31, 2010" and by inserting "\$10,616,000 for the period beginning October 1, 2010 and ending March 4, 2011";

(M) in subparagraph (M) by striking "\$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010" and by inserting "\$197,465,000 for the period beginning October 1, 2010 and ending March 4, 2011";

(N) in subparagraph (N) by striking "\$2,200,000 for the period beginning October 1, 2010 and ending December 31, 2010" and by inserting "\$3,736,000 for the period beginning October 1, 2010 and ending March 4, 2011".

(b) CAPITAL INVESTMENT GRANTS.—Section 5338(c)(6) of title 49 United States Code, is amended to read as follows:

"(6) \$849,315,000 for the period of October 1, 2010 through March 4, 2011."

(c) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—Section 5338(d) of title 49, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "\$17,437,500 for the period beginning October 1, 2010, and ending December 31, 2010" and inserting "\$29,619,000 for the period beginning October 1, 2010 and ending March 4, 2011";

(2) paragraph (3)(A)(ii) is amended to read as follows:

"(ii) OCTOBER 1, 2010 THROUGH MARCH 4, 2011.—Of amounts authorized to be appropriated for the period beginning October 1, 2010, through March 4, 2011, under paragraph (1), the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to ¹⁵⁵/₃₆₅ths of the amount allocated for fiscal year 2009 under each such subparagraph."

(3) Paragraph (3)(B)(ii) is amended to read as follows:

"(ii) OCTOBER 1, 2010 THROUGH MARCH 4, 2011.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for the period beginning October 1, 2010, and ending March 4, 2011, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to ¹⁵⁵/₃₆₅ths of the amount allocated for fiscal year 2009 under each such clause."

(4) In clause (3)(B)(iii)—

(A) by striking "2010" and inserting "2011"; and

(B) by striking "2009" and inserting "2010".

(d) ADMINISTRATION.—Section 5338(e)(6) of title 49, United States Code, is amended to read as follows—

"(6) \$42,003,000 for the period of October 1, 2010 through March 4, 2011."

SEC. 2307. AMENDMENTS TO SAFETEA-LU.

(a) CONTRACTED PARATRANSIT PILOT.—Section 3009(i)(1) of SAFETEA-LU (Public Law 109–59; 119 Stat. 1572) is amended by striking "December 31, 2010" and inserting "March 4, 2011".

(b) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—Section 3011 of the SAFETEA-LU (49 U.S.C. 5309 note) is amended—

(1) in subsection (c)(5), by striking "December 31, 2010" and inserting "March 4, 2011"; and

(2) in subsection (d), by striking "December 31, 2010" and inserting "March 4, 2011".

(c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of the SAFETEA-LU (49 U.S.C. 5310 note) is amended by striking "December 31, 2010" and inserting "March 4, 2011".

(d) OBLIGATION CEILING.—Section 3040(7) of the SAFETEA-LU (Public Law 109–59; 119 Stat. 1639, is amended to read as follows—

"(7) \$4,462,196,000 for the period beginning October 1, 2010, and ending March 4, 2011, of which not more than \$3,550,376,000 shall be from the Mass Transit Account."

(e) PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.—Section 3043 of SAFETEA-LU (Public Law 109–59; 119 Stat. 1640) is amended in subsections (b) and (c) by striking "December 31, 2010" and inserting "March 4, 2011".

(f) ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA-LU (49 U.S.C. 5338; 119 Stat. 1706) is amended—

(1) in subsection (c)(2), by striking "December 31, 2010" and inserting "March 4, 2011", and by striking "25 percent" and inserting "¹⁵⁵/₃₆₅ths".

(2) In subsection (d)—
(A) by striking "2010" and inserting "2011"; and

(B) by striking "2009" and inserting "2010".

SEC. 2308. LEVEL OF OBLIGATION LIMITATIONS.

(a) HIGHWAY CATEGORY.—Section 8003(a) of SAFETEA-LU (2 U.S.C. 901 note; 119 Stat. 1917) is amended—

(1) in paragraph (6) by striking "for the period beginning on October 1, 2009, and ending on September 30, 2010," and inserting "for fiscal year 2010,"; and

(2) by striking paragraph (7) and inserting the following:

"(7) for the period beginning October 1, 2010, and ending on March 4, 2011, \$18,035,192,815."

(b) MASS TRANSIT CATEGORY.—Section 8003(b) of SAFETEA-LU (2 U.S.C. 901 note; 119 Stat. 1917) is amended—

(1) in paragraph (6) by striking "for the period beginning on October 1, 2009, and ending on December 31, 2010," and inserting "for fiscal year 2010,"; and

(2) by striking paragraph (7) and inserting the following:

"(7) for the period beginning October 1, 2010, and ending on March 4, 2011, \$4,390,137,192."

Subtitle D—Extension of Expenditure Authority

SEC. 2401. EXTENSION OF EXPENDITURE AUTHORITY.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking "December 31, 2010 (January 1, 2011, in the case of expenditures for administrative expenses)" in subsections (b)(6)(B) and (c)(1) and inserting "March 5, 2011";

(2) by striking "the Surface Transportation Extension Act of 2010" in subsections (c)(1) and (e)(3) and inserting "the Surface Transportation Extension Act of 2010, Part II"; and

(3) by striking "January 1, 2011" in subsection (e)(3) and inserting "March 5, 2011".

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking "Surface Transportation Extension Act of 2010" each place it appears in subsection (b)(2) and inserting "Surface Transportation Extension Act of 2010, Part II"; and

(2) by striking "January 1, 2011" in subsection (d)(2) and inserting "March 5, 2011".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 2010.

This Act may be cited as the "Continuing Appropriations and Surface Transportation Extensions Act, 2011".

MOTION TO CONCUR

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves that the House concur in the Senate amendment to the House amendment to the Senate amendment to H.R. 3082.

The SPEAKER pro tempore. Pursuant to House Resolution 1782, the motion shall be debatable for 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations.

The gentleman from Wisconsin (Mr. OBEY) and the gentleman from California (Mr. LEWIS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. OBEY. Madam Speaker, I have only one speaker on this side.

I reserve the balance of my time.

Mr. LEWIS of California. I, too, will be brief.

Madam Speaker, Christmas is almost here, and we are no closer to having a budget for this fiscal year—that began in October—we are no closer than we were last Christmas regarding that work. As Mr. OBEY would say, I have minimum high regard for the process that has led us to this moment.

The House managed to pass just two appropriations bills this year. I understand the Senate passed none, I heard earlier. The remaining 10 bills never even received full committee consideration. The House has dithered away the year on insignificant suspension bills. We have named hundreds of post offices and praised every sports team in America. But the House has failed in completing its essential work, the work we were elected to do, that is, passing a budget for the new fiscal year.

This isn't exactly how any of us envisioned we would be wrapping up our legislative business this year; but with the hour growing late, it appears that we are limping into the new year with another short-term CR. And that is the best that we can do under these circumstances.

I do want to commend our colleagues in the Senate for making the right decision and resisting the temptation to

vote for a legislative Christmas tree, widely known as the 12-bill omnibus. This holiday turkey which had grown to nearly 2,000 pages, with a price tag of \$1.1 trillion, simply collapsed under its own weight. The last thing the American people wanted for Christmas was yet another trillion dollars of government spending. So today we are passing a CR that allows the essential operations of government to continue into the new year when the real work of writing fiscally prudent spending bills can begin.

That work will be guided by our new committee chairman, the gentleman from Kentucky, HAL ROGERS, who will be my only speaker this evening, besides myself, and HAL's full committee ranking member, the gentleman from Washington, NORMAN DICKS. I want to wish them both well as they take on their new responsibilities.

While DAVID OBEY and I have not agreed on very much this year, let me also pause for a second to express my appreciation to DAVID and wish him and his wife, Joan, good health and happiness as they pursue new opportunities outside of the Congress.

□ 1810

And in the most direct and sincere way, let me say that DAVID OBEY is passionate about the things that he's passionate about. I don't agree with him on many policy issues, but I do want you to know this, DAVID, the country and both of our great parties need an awful lot more people with the kind of passion display. And if we had that we'd get our work done in an entirely different fashion.

Before closing, let me make two other brief comments. As frustrating as this year has been for me, I know it's been an even more frustrating year for the highly professional House Appropriations Committee. Our committee is blessed with hardworking, dedicated people who receive very little credit for the fine work they do. They are asked to sacrifice time away from family and friends, and do so willingly, working day and night and weekends and even holidays. For that, and for so much more, I want to express my personal thanks to both the majority and the minority staff of our committee. They are deserving of the appreciation of the entire House. And I wish the entire House was here to express that to them by way of their applause.

But let me also take just a moment to thank my own staff director sitting beside me, Jeff Shockey, who will be leaving the committee to pursue other opportunities after assisting Chairman ROGERS and his staff with transition. Jeff is well known and highly respected by every member of the Appropriations Committee, our leadership, and the Members of the House. The committee's loss is indeed a loss for the entire

House. Jeff is one of the finest individuals with whom I've worked for over 15 years, and I ask the House to join me in wishing him well. Many don't realize that some 15 years ago Jeff actually began with us as an intern and has worked his way pretty close to the top, and he hasn't broken too many bones on the way.

Madam Speaker, let me close by wishing our colleagues and staff on both sides of the aisle a Merry Christmas and a Happy New Year.

I reserve the balance of my time.

Mr. OBEY. Madam Speaker, I was in error. We have two speakers on this side.

I now yield 1 minute to the distinguished Speaker of the House.

Ms. PELOSI. Madam Speaker, I rise, not to talk about the continuing resolution that is before us, but in praise of the gentleman from Wisconsin (Mr. OBEY), the chair of the Appropriations Committee. And this, hopefully, will be the last piece of legislation, not that hopefully it's your last, but hopefully it's the last that this body will hear from the Appropriations Committee. And I want to take the time on this bill to express the gratitude of our colleagues in the House, to the people of our country who care about America's working families, and to all who care about a world at peace, to thank Mr. OBEY for his tremendous leadership. I rise to celebrate his career and the contributions. I think he is one of the greatest appropriators and one of Congress' greatest legislative minds.

For more than four decades he has fought in favor on this floor for the people of the Wisconsin seventh district and for America's middle class. He is a visionary for a better life for the American people and a legislative genius. He has an ability to see around corners, anticipate challenges and opportunities, and sustain a fight on behalf of what is right.

I had the privilege of serving on the Appropriations Committee under the leadership of DAVE OBEY. He was my chairman on the full committee and on Labor, Health and Human Services, and he was chair for a long time of the Foreign Operations Subcommittee of Appropriations, which appropriated our foreign aid. To that committee, the Foreign Ops Committee, he brought the values of middle America to our foreign policy. Values-based, people-oriented, again, in the interest of our national security, the strength of our country and recognizing that that strength was also about our values.

He then chaired the Health and Human Services Subcommittee, where he measured the strength of our country in another way, in the health, the education, the economic well-being of America's working families. To see him operate on that committee was to see a master at work. We use that phrase from time to time. In the case

of DAVE OBEY, it is an understatement. I sometimes think, when he's working, of the phrase, you'll understand when you understand, because when DAVID sees so far down the road from the rest of us, sometimes we're not quite up there with him, and then he is always right. I don't know whether he's a self-fulfilling prophecy or he's just always right from the start.

For nearly half a century, from demanding open committee hearings, more transparency in our caucus, ethics reform, he has been an unyielding and unflinching reformer.

Mr. OBEY, again, as I've said, was my chairman and, as a chairman, he had no parallel. He refused to allow measures designed to harm our air, water, and environment into the Federal budget. And after 9/11, he reached across the aisle to secure funding for first responders and the recovery effort and to extend our investment in homeland security.

Of course he championed Federal investments in education, and devoted his energy to making health insurance a right, not a privilege for all. And it was a special privilege for all of us here to see DAVE OBEY gavel down the health care reform bill. It is a well-deserved privilege for him, a recognition by his colleagues in the House that he was the one who should do that.

In every hearing in his committee, and with every vote, Chairman OBEY sought to strengthen the middle class, and he acted on the belief that how we invest the public's money reflects our values as a people and will determine the future of our country.

The reach of Mr. OBEY's achievements has extended nationwide. But his first priorities have always been for the families, the workers, the businesses, and the communities of his beloved district.

LIHEAP, for one. We always knew how important low-income—LIHEAP is a term of art here, and DAVE OBEY has been a great champion for it, as he has been for Pell Grants and other initiatives that affect America's working families. But the aspirations of his constituents, their hopes, their challenges, that was his call to action.

Chairman OBEY's official biography opens with these words: "Every American who works hard should be able to fully share in the bounty of America, and so should their families." This has been DAVE OBEY's mission statement. He has been a transformational figure in Congress. His leadership on behalf of the American people, as I said, is unsurpassed.

He has been blessed by a wonderful family. And we all are grateful to his wife, Joan, and his sons for sharing DAVID with us. We also want to salute his staff person, his staff director, Beverly Pheto, for her leadership and her excellent work, and some might say, her patience with this great mind.

I just have to tell one story on DAVE OBEY because I just love it so much. DAVE OBEY, as I mentioned, was the Chair of the Foreign Ops Subcommittee. Some years later, after CHARLIE WILSON was chair in that, I had the privilege of becoming the ranking member on that committee, no longer in the majority. So when we went to the floor for the first bill that we were managing, that I was managing on the minority side, I was very prepared and ready and wanted to please DAVID.

So I made my case, we won our amendments. I see Congresswoman LOWEY is here who now chairs the Foreign Ops Committee. And after we won our amendments, it was very bipartisan then. It wasn't that confrontational.

But, in any event, after it was finished, and the job was done, I looked to DAVID for some sign of something, at least that it was over. And DAVID said to me, You did all right, but I think you could have been more diplomatic.

□ 1820

Now, hearing DAVE OBEY tell me I should be more diplomatic, well, DAVID, of all the things he is known for, diplomacy is not among them. And that happened to be on the heels of running into BARNEY FRANK on my way to the rostrum to manage the bill. He said to me, That suit you have on, give it away. It looks terrible on you.

And I thought, In 1 day, I have gotten fashion advice from BARNEY FRANK and diplomacy advice from DAVID OBEY. Maybe I will go home and start all over again, with all due respect to their various strengths.

Reformer, visionary, public servant, DAVID OBEY has our gratitude and our appreciation. We will miss him enormously. He cannot be replaced. His legacy will live long in this body and in this country. We will long benefit from his leadership, his commitment, his values, his impatience, his eloquence, his Archy. His Archy, whose words of wisdom have guided us on occasions where other eloquence may have fallen short.

The Congress he loves so much will miss DAVE OBEY. And I hope that he leaves here knowing the high regard that his colleagues hold him in, the deep respect we have for his intellect, his boundless energy, and from time to time, yes, his humor, and occasionally his diplomacy.

So, Mr. Chairman, thank you. It has been an honor to serve with you. I know, again, that I speak for all of our colleagues when I say it is an honor to call you "colleague." Thank you, Mr. OBEY, for what you have done for our country.

Mr. LEWIS of California. Madam Speaker, I have only one speaker, but I am very happy to yield all the time he might consume to HAL ROGERS, the

chairman-elect of the Appropriations Committee.

Mr. ROGERS of Kentucky. Thank you, Mr. LEWIS, for yielding time.

It's been a real pleasure, and I mean that very sincerely, working under the leadership of JERRY LEWIS on our side of the aisle, both as chairman and as ranking member of this committee for these last 6 years. He has been gracious in every way. He has lent his talent and his wisdom to us as we prepare to do business. And not the least, he has volunteered his terrific staff, led by Jeff Shockey, to help us in the transition. And I can't say enough to thank JERRY LEWIS and all of the staff for all the great work that you have done for the country and continue to do. And we have got some heavy work cut out for you as well, and for the staff.

Madam Speaker, in my vocabulary, one of the most complimentary things I could say is a person is a difference maker. A difference maker sees circumstances that are not correct and applies wisdom and intelligence and perseverance and talent to change. And I can't think of a bigger difference maker—sometimes I thought in the wrong direction, but a difference maker—than DAVID OBEY. During my tenure here, coinciding with his, we have watched him over the years with that tenacity and innovation, sometimes blustery, sometimes entertaining, but always very efficient. And we will miss DAVID OBEY in this body.

This is the last chance that we will have, perhaps, to say good-bye and best wishes. But I think I speak for the entire body when we say to DAVID OBEY, Thank you for your service to America. Thank you for your leadership and your talent on this committee. And we wish you the very best in your future endeavors, especially during the next week as we all celebrate the birth of the Christ child.

And to Beverly and to Jeff and all of the staff on both sides of the aisle, the long hours that these people put in so that the rest of us can look good perhaps is not appreciated fully, and we need to continuously do that.

So to DAVID OBEY, bon voyage, best of luck to you. And thank you, JERRY, for the great service you are rendering your country.

Mr. OBEY. Madam Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mrs. LOWEY).

Mrs. LOWEY. I thank the chair for yielding to me because it's been such an honor for me to serve with DAVID OBEY, one of the most effective legislators this body has known. And we are so sad to see your service in Congress coming to an end.

People have described DAVID many ways: direct, gruff, cantankerous, and maybe even some words not suitable for the CONGRESSIONAL RECORD. But for me, it has been such a great honor to serve with somebody who exemplifies

exactly what a Representative should be. He is one of the most principled legislators this body has ever known.

DAVID's critical role in bringing to an end the Vietnam War, a sad chapter in American history, is well known. He understands and takes seriously the congressional role in authorizing war and peace, and he has never taken lightly our solemn obligation to the American people in this regard.

He has served this institution with great honesty. Regardless of your request, idea, opinion, or question, you never have to wonder about where DAVID OBEY stands. He is always going to tell it to you straight. And even in holding one of the most powerful positions in Congress, he never lost sight of who exactly sent him here—the people of Wisconsin's Seventh District.

To this day, more than 40 years after he was elected to Congress, he still maintains the fierce, dogged determination on behalf of the health, education, safety, and economic opportunity of the people of Wisconsin. The United States Congress is a better institution, the people of Wisconsin are better off today as a result of your service. And even though some may describe you in colorful ways, I will always be proud to call you a colleague and a dear friend.

Mr. OBEY. I yield 1 minute to the distinguished majority leader, the gentleman from Maryland.

Mr. HOYER. I thank the gentleman for yielding.

I hesitate to speak of course, lest we get off message, but I am going to take that chance in any event.

I have had the opportunity of serving for a long period of time with Mr. LEWIS, Mr. ROGERS, Mrs. LOWEY, Ms. DELAUNO, Mr. DICKS on the Appropriations Committee. I am not sure I see anybody else who served on that Appropriations Committee with us. And I served on the Labor, Health, Human Services, and Education Subcommittee of the Appropriations Committee. And I went on in January of 1983. I won't go all through every year from 1983 to today. That would take too long and would bore you stiff.

But I had the great privilege of sitting just a couple of chairs from the gentleman from Wisconsin, who had been in the Congress some 12 years before I came, having been elected in 1969. Served over four decades in this body. I will adopt all the words that were ascribed to him by the gentleman from New York, but three words that I would use are "tough," "courageous," and "effective."

□ 1830

I think the gentleman from Kentucky caught it as well. He is a difference maker. I think, Congressman ROGERS, your words were very appropriate, not because you agreed or others agreed necessarily with the difference he wanted to make, but you

knew if DAVID OBEY was engaged in an issue, he would make a difference on that issue.

From my perspective, the good news is DAVID OBEY was almost invariably engaged on the issues he thought affected average people, who were not so average at all. Whether it was their education, their health, their housing, making sure the NIH was trying to find cures for diseases that afflicted them, whether he was standing up to make sure that people in the cold of winter had heat or in the scorching heat of summer had air conditioning to keep them healthy, DAVID OBEY could always be counted on as a strong, unwavering, uncowering voice on behalf of people who needed a voice. They had a special interest, but they did not have money to hire voices. They needed voices in this body that we know as the people's House.

The people on some 20 occasions returned DAVID OBEY to the Congress of the United States. Maybe it was one more than that, 21 occasions. They returned DAVID OBEY to the Congress of the United States because they saw in DAVID OBEY that voice that they needed and wanted and respected.

DAVID OBEY, in addition to the three attributes I ascribed to him, is honest. One of the things I most admire in DAVID OBEY and one of the things I most cherished was his slaying of the dragon of hypocrisy. I don't think anything angered DAVID OBEY more than seeing hypocrisy. There is too much hypocrisy, where we say, Oh, we are for this, and then we vote for that, or vice versa. We could always count on DAVID saying, Hey, you want to be honest? Stop posing for holy pictures.

I am sure that has been mentioned during the course of this, because there is a famous phrase that we all remember by DAVID OBEY. By that, he meant, of course, be real. Don't try to flim-flam the public. Stand up for what you believe in, not what you think people want to hear. And we had no better example and no more faithful example of that performance than DAVID OBEY.

I want to thank DAVID OBEY. I want to thank him for being my friend. I want to thank him for being an example of what Members of Congress ought to be. I want to thank him for being a steadfast, faithful voice for the people who needed a voice, a leader on behalf of the principles that I think this country was speaking about when it said that we establish a government to protect the general welfare. DAVID OBEY believed that to his very core, and every day of his service his belief was manifest in his actions.

I also want to thank my friend JERRY LEWIS. Every day that I served on the Appropriations Committee, I served with JERRY LEWIS, and almost every day with HAL ROGERS. HAL came a little after JERRY and I came to the committee.

One of the things that I recall to people about this committee is that for most of my service, not all of my service, unfortunately, but for most of my service it was arguably the most bipartisan committee in the Congress of the United States, where we worked together, made determinations together. And, yes, there were differences, but we did so in a civil, collegiate way that the American public I think would have appreciated.

JERRY LEWIS has been someone who has focused on our institution. For many of the years that I served, JERRY LEWIS and Vic Fazio from California were chairs of the Legislative appropriations committee, and they worked together as a team to make this institution more effective, better serving its Members and better enabling its Members to serve the Nation.

JERRY, I want to thank you for your service as chairman of the committee, but as a member of the committee and certainly as chair of the committee that didn't get much publicity and sometimes was a thankless job, but was a job that you and Vic did in the best traditions of what the American public says it wants—bipartisan cooperation, positive partnership—and I thank you for that.

HAL, I wish you the best of luck as you undertake these responsibilities. We are losing a giant as DAVID OBEY retires. DAVID OBEY chose to retire. There is no doubt in my mind if he had chosen to run again, his people would have sent him back.

So, DAVID OBEY, you have been a great Member of this Congress. You have served your country, your State, and our people well. We are, all of us, in your debt. Godspeed.

Mr. OBEY. I yield 2 minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. I met DAVID OBEY 20 years ago. I was elected to this body, never having run for office before. I came to the freshman orientation. I sat at the end of a long table and I listened to people come in and tell us what we needed to know about this institution. And I listened to one DAVID OBEY at the far end of the table, from Wisconsin, and he spoke about appropriations and he spoke about the budget process and the Budget Committee, et cetera. And I said to myself, My god, what have I done? I am in so far over my head, I am never going to make it.

Over 20 years, DAVID OBEY has become one of my dearest friends, my mentor, and, yes, we do conspire to try to do good things. He has shown me the power of this great institution and how it can change people's lives, to make opportunity real for people, for ordinary people. He is a smart, he is a savvy legislator. No one knows more about the issues, about the politics, and about the process and about getting it done.

He is incorruptible, and, as many know, he does not suffer fools. And he is a real flesh-and-blood human being. He has passion on the issues that we deal with, and they are based on a wellspring of values. Born and raised in a working class family in Wisconsin, he knows what the struggle is about. He has walked in the shoes of the people of this country, and he knows that it is this great institution that can turn it around.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. OBEY. I yield the gentlewoman 1 additional minute.

Ms. DELAURO. He tells the truth fearlessly, and he is a patriot in every sense of the word.

I will miss DAVID's commitment, his dedication, and his integrity. And though soon no longer to be a colleague, he will always be my friend, and I think I know that whenever I am in trouble, I can pick up the phone and say, DAVID, what should I do?

I will miss you deeply, my friend. I will miss you deeply.

Mr. OBEY. I yield 2 minutes to the distinguished gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS of Texas. Madam Speaker, DAVID OBEY would be the first to say our democracy is bigger than any one of us, but I come here tonight to say that in the history of Congress, he is truly one of its giants. It is hard to imagine Congress without him. He has been a giant of courage, a giant of ethics, a giant of insight and wisdom as an institutionalist who believes in this House with all of his heart and soul, and a giant in the fight for everyday citizens who often don't have a voice speaking for them.

□ 1840

I want to pay special tribute to Chairman OBEY for what he has done so quietly behind the scenes for America's veterans. He has been their unsung hero. In the 4 years that he has chaired the Appropriations Committee—these past 4 years—we have ended up, under his leadership and in partnership with Speaker PELOSI, with 3,000 new VA doctors, 13,000 new VA nurses, and 145 new VA community clinics. All of that means better care, more timely care, more quality care for America's heroes and their families. It means respect to those who serve—respect with our deeds and not just with words.

The greatest tribute I can pay as a father to DAVE OBEY is he has truly made a difference for my family and for the American family. Perhaps the greatest tribute he could hear, though, is that, I would say if Archy the Cockroach and Richard Bolling were here today on the floor of this House, they would say, Mr. Chairman, job well done.

It has been a privilege to work with you and to learn from you. You will

have left this country a better place. For that, we all thank you and salute you.

Mr. OBEY. I yield 2 minutes to the distinguished gentleman from Washington (Mr. DICKS).

Mr. DICKS. First of all, I want to thank DAVID OBEY for all the help that he has given me over my entire career. I can remember the first weekend I was going to be on the committee, I called him at home and I said, Do you think I can offer this amendment to change the size and ratio of subcommittees? And he says, They'll never let you do it, but I'll vote for it because it's the right thing to do. That's how I first met DAVID OBEY.

After 30 years, when I became chairman of the Interior Appropriations Subcommittee, I relied on him greatly for a good 302(b) allocation. Because of that, good 302(b) allocation we were able to do some incredible things. We had been working together on the national parks. We had worked on the fish and wildlife refuges. We had worked on improving the arts and humanities. And the Interior appropriations bill I know was one that DAVID enjoyed immensely because he always was asking me, How's this going? How's that going?

And I just want to thank him for everything that he's done in the last few days and over the years. He has been a tremendous leader. He has done great things for this country. Our natural resources are stronger because of DAVID OBEY. And I have enjoyed being with he and Joan at Zion and out at Olympic National Park this year. We've had some wonderful experiences.

I want to say to my friend, JERRY LEWIS, who's done a great job, JERRY and I have been friends. We traveled together. When I became chairman of the Defense Subcommittee after the loss of our great friend, Jack Murtha, JERRY and JEFF went with me on almost every single trip to help me, to be there, and to show support. It made a great difference. I want to say, JERRY, I will always remember it.

HAL, I look forward to next year. We'll work together. I hope that we can have a successful year; that we can get these bills passed. You will have my cooperation.

Again, Bev and all the staff, those are the people—Paul Juola is here from the Defense Subcommittee. I've never seen people work as hard as the staff of the House Appropriations Committee. They're there every day, night, weekends. It's amazing to me the work that they put in. I just appreciate so much, having been a former staffer myself, how much more professionalism and how much more capability this staff has. DAVID, you and Bev built a great staff, and we hope to keep that staff.

Thank you for your help and thank you for your friendship.

Mr. OBEY. I yield 2 minutes to the distinguished gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Madam Speaker, when I realized this tribute was underway, this spontaneous tribute on the floor of the House, I rushed over here because I very much want to add my word of respect and commendation and friendship as we recognize DAVE OBEY's years of service in this body and his retirement.

I have been drawn to DAVE and his knowledge of this institution, to his mentorship and leadership, ever since my earliest days here. I came here from a background as a student of the Congress; here was actually an architect of the modern Congress, generous with stories and accounts of his early days here with the Democratic Study Group and the reforms that transformed this place in the 1970s.

He has carried that spirit of reform forward, and is still a reformer at heart. So I have been intrigued with that, as have many colleagues, and have learned a great deal from DAVE OBEY about that history, but also from our day-to-day association. He has an incomparable knowledge of the history of this place, a mastery of the House and a great loyalty to the institution, and a desire to make it work better. We all know that and admire him for it.

In more recent years, DAVE has been best known as the distinguished ranking member and then chairman of the Appropriations Committee. He has exemplified what those of us on the Committee like to think of as the spirit of appropriations—the work ethic and mastery of the bills; the careful drafting, line by line; the holding of the administration accountable, no matter which party is in charge in the White House; and the sense that appropriations—the power of the purse—is really at the heart of this institution's constitutional role. We need to do appropriations well, we need to do it cooperatively, and we need to assert ourselves as an institution, calling the executive agencies to account.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. OBEY. I yield the gentleman 30 additional seconds.

Mr. PRICE of North Carolina. DAVID OBEY has been a master of procedure and strategy, a masterful chairman of appropriations.

Finally, let me say this: Sometimes it's thought around here that in order to be effective, in order to be well liked, in order to do the job, you've got to be a go-along, get-along kind of guy. Well, that is not DAVE OBEY. In fact, it's precisely because of his forcefulness, precisely because of his passion for justice, his unyielding determination to fight for what he believes in, that he has our respect and affection and the effectiveness in this institution

that he has. In that respect, as in so many others, he's been a role model for us all, and I'm proud to join in this salute here tonight.

Mr. OBEY. I yield 2 minutes to the distinguished gentleman from West Virginia (Mr. MOLLOHAN).

Mr. MOLLOHAN. Madam Speaker, I'm pleased to stand up and have the opportunity and honor to say a few words about the distinguished chairman of the Appropriations Committee, my chairman, DAVID OBEY. We all operate on teams here in the Congress. I'm especially proud to be on DAVID OBEY's team, serving as one of the chairmen of one of the subcommittees under DAVID's jurisdiction.

DAVID has long distinguished himself in public service. He started in the Wisconsin Assembly in 1963, and served until 1969. At the beginning of his career he may have stumbled into the wrong political party. But seeing the Joe McCarthy experience, he soon learned and developed an aversion for duplicity and felt that the Democratic Party was the home for him. I think they best reflect his Midwestern values and his progressive attitudes. I associate myself with those values and those attitudes, which makes it especially pleasurable to be a part of his team.

I'm sure it's been mentioned here before that DAVID served in Congress for a long time and that he came to the Congress as the youngest Member when he came, at 30 years old, and he's served 42 years. So, do the math. And now he's voluntarily retiring from this institution, having left a very distinguished record from the beginning. Arriving with new ideas about how the Congress ought to operate and how it ought to be more open and how it ought to be more embracing of new Members, he was extremely effective in implementing those ideas, moving on through his career to higher responsibilities and becoming, ultimately, chairman of, as we refer to it, the powerful Appropriations Committee.

□ 1850

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. OBEY. I yield the gentleman 1 additional minute.

Mr. MOLLOHAN. His values that he came here with he continued to want to express. It was very important for him to continue his service as chairman of the Labor, HHS, Education Subcommittee where he could really affect all of those constituencies, which really allowed him to do those things that were important to him and to express that progressive attitude.

Madam Speaker, DAVID OBEY has been a real contribution to the United States Congress. During his career—and it will be lasting after his career—his mark has been indelible in the reforms that are reflected in how we do

business here. I don't know of a person in the institution who could have assimilated within the appropriations process—the rules and changes in procedures in the way we did business in response to legitimate concerns about the appropriations process—better than DAVID OBEY. It was his ability to separate the chaff from the grain, to understand what were legitimate expressions of concern about the appropriations process, his ability to deal with them, and his embracing the prerogatives of the appropriations process. At the same time, we recognize the process of the legislative branch reflects that which will really be his legacy.

Madam Speaker, thank you for allowing me to say a few words. I want to personally thank DAVID OBEY for his personal considerations.

Mr. LEWIS of California. Madam Speaker, I had indicated I had no additional speakers, but with this display of love and affection this evening, my colleague, TOM COLE from Oklahoma, just had to come down for a couple of minutes.

I yield 2 minutes to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE. I thank the gentleman for allowing me to have time.

Madam Speaker, I must admit I was in my office, signing letters, with the television off—muted—when I noticed a succession of Democratic speakers, which, as a former NRCC chairman, was a horror to just watch one after the other. I thought we must be getting beaten to death down there. What's going on?

So I flipped on the sound, actually, just in time to see Mr. ROGERS from Kentucky come on, and I thought this is actually some sort of bipartisan lovefest going on. We don't have a lot of that around here, and I wanted to get down and participate.

You know, this is not, frankly, a very good time to be a Member of Congress. None of us are held in high esteem by the American public. I think it is an even more difficult time, quite frankly, to be a member of the Appropriations Committee because there are times when I think we're not held in much esteem by our own colleagues. I have heard so many things from some of our good friends on the authorizing committees that I think they forget the very simple fact that they always authorize more money than we spend on the Appropriations Committee and that we are usually left with the tough job of reconciling differences that have been unresolved on the authorizing committees. It is something that needs to be experienced by every Member of Congress before they appreciate the magnitude and the quality of the work that goes on on this particular committee.

I had the opportunity to know my good friend Chairman LEWIS many,

many years ago. In 1991, I arrived in Washington, D.C., to be the executive director of the National Republican Congressional Committee. I had been here a few weeks when, all of a sudden, I got a message that I needed to go over and see my friend, who was the conference chairman. I thought I've only been in town a month, and I've already managed to offend one of the most powerful Republicans in Congress. I actually brought a staff member with me so that, if I were in real trouble, the staff guy and the additional staff guy could handle the problems.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LEWIS of California. I yield the gentleman 1 additional minute.

Mr. COLE. We chatted for a minute, and the gentleman immediately said, Well, actually, I just wanted to get to know you because I'd heard a couple of nice things about you.

Since that time, he has been nothing but kind and generous to me. Frankly, I've watched him define what a Member and an appropriator ought to be year in and year out in the minority and in the majority. He has just absolutely served this body with incredible class and incredible character and incredible professionalism every single day he has been here.

I would be remiss not to talk about my friend Chairman OBEY as well. Frankly, I'd heard about Chairman OBEY—again, before I'd ever arrived—from my old boss, Mickey Edwards. Mickey Edwards told me he was often wrong but always honest, and you could deal with him. Indeed, I found that to be the case on the last two points, not necessarily on the first. He has been a wonderful chairman, a wonderful colleague, somebody who is a credit to this institution and a credit to his district. I think he defines, as my friend Mr. LEWIS does, who and what a chairman ought to be and how a Member of this body ought to act.

If everybody in America knew these two gentlemen, the opinion of this institution would be enormously higher.

Mr. OBEY. Madam Speaker, we really do need to bring this to a conclusion, so I yield 1 minute to the last speaker, the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. Thank you.

You know, the challenge, I think, every person who is elected to Congress faces is: How do you challenge the institution but respect it? How do you stretch the limits but abide by tradition and see its importance?

DAVID OBEY has managed, over the course of a long career, to do it.

He came here as a young man, aged 30. When he came here and saw what was here, he didn't like everything he saw, and he did challenge it. He moved up in the hierarchy here, out of turn, faster than many people thought he

should because he did challenge the institution, but he did it in a way that he respected what the Congress had to do as an institution.

You know, people talk about his irascible temper, or his irascibility, but he leaves with the same passion to challenge the institution—to challenge its limits but to respect fundamentally that this institution has traditions that we all are custodians of. When we are at our best, we manage to do both.

DAVID OBEY, over a long career, you have done that. Thank you very much.

Mr. OBEY. I yield 1 minute to the distinguished gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. I thank the gentleman for yielding.

Madam Speaker, it is very hard to find an honest man in life, and I would like to place on the record that DAVID OBEY is an honest man and that he served the people of his district admirably all these years. Some have wondered about his contentious nature on occasion, but you'd really have to understand what a “Badger” is to know where that all comes from.

He has been a phenomenal husband, as I know his wife agrees, and has been a very, very good father. He has been a friend to all the Members who have served. He has treated us fairly, and his brilliance reflected in his books and in the laws and in the efforts that he has made here over decades and decades simply cannot be replaced. We from the Midwest know what we are losing as he chooses to leave this institution.

I want to thank him for all he has done for the Great Lakes Region, for the people of Ohio, for our country, and for setting a standard, for those who follow, that will be very, very hard to meet and that will probably never be fully met.

I want to thank this great Badger for his years of service to America and helping move liberty forward.

God bless you and your family, DAVE.

Mr. LEWIS of California. Madam Speaker, I am more than happy to express my deep appreciation for the service of DAVID OBEY.

I yield back the balance of my time.

GENERAL LEAVE

Mr. OBEY. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to include extraneous material on the pending legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. OBEY. Madam Speaker, I appreciate all of the kind words that have been said about me tonight. I must confess that I sometimes am more at ease when I am being pummeled than when I am being praised, but maybe that's just my quirky character.

□ 1900

Let me simply say that this is the last time that I will be making any comments on this floor. I want to thank the Members on both sides of the aisle for their courtesies over the past 42 years, and I want to say that it has been a privilege for each and every one of us, whether we have served here one term or 21 or even more, it is a privilege for all of us to have been sent to this place, to the people's House. I can think of no greater privilege and you cannot. This is the only place in the government that you have to be elected in order to occupy our jobs. In the Senate you don't have to be elected. Even in the Presidency, you don't have to be elected under quirky circumstances, and I think all of us can be proud of that distinction.

Let me also say, Madam Speaker, that I do think I need to say at least a word or two about the subject at hand, this piece of legislation. John Wesley said that his rule for living was this: do all the good you can, by all the means you can, in all the ways you can, in all the places you can, at all the times you can, to all the people you can, as long as ever you can.

I wish I could say that this legislation lived up to that lofty goal. It does not. It has many, many shortcomings.

The only reason for supporting this legislation today—and it is an overriding one—is to keep the government operating. If I were to vote my preferences, I would vote “no” because I believe we should have before us today a continuing resolution for the rest of the fiscal year. The only reason we do not is because only in the United States Senate can you get a majority of votes for any proposition and still lose because of their peculiar rules.

I think the difference between the way our two respective parties have handled similar situations is interesting.

Four years ago, when our party took control after 12 years of rule by our friends on the other side of the aisle, the outgoing Republican majority chose to simply dump most of the work for that fiscal year onto the incoming Democratic majority by passing a short-term CR. That meant that we had to spend the first 2 months dealing with the previous year's business rather than being able to start with a clean slate in dealing with new problems.

In contrast, today's outgoing Democratic majority has tried mightily to clear the deck for the incoming Republican majority by producing a full-year CR, which attempts to compromise by producing funding levels that were \$46 billion below the President's budget and which amounted to a freeze at the previous year's level. Passage of that legislation would have meant that the incoming Republican majority would be able to start with a clean slate in working with the President on a whole host of major problems.

But, instead, we are here today confronted with this legislation, which expires on March 4 and which will require the incoming Republican majority to spend the first 2 months of its stewardship dealing with last year's business. I think that's unfortunate. Through the use of the Senate filibuster, it has been assured that we could not complete a full-year CR. That action simply mirrors the procedural resistance with which we have been faced all year long with the Senate minority engaging in more than 87 filibuster actions in order to grind matters to a halt and frustrate the Congress' ability to do anything on the budget front by majority vote.

That is unfortunate; but at this late date, there is no point in arguing. The die is cast, obviously. The only responsible choice at this point is to recognize reality, even though that means that the early days of the next Congress will be unnecessarily confrontational and partisan. It means that, on budget issues, most of next year will simply be about demonstrating political leverage rather than working through honest, substantive differences to reasonable conclusions. Because of that, I most reluctantly, but firmly, suggest an “aye” vote.

I want to take an additional minute to thank two people in this Chamber who the public will never know, but there are many, many of them over Capitol Hill who work day in and day out to produce a better country, and the public never knows their names. One of them with us tonight is Jeff Shockey, who has done an admirable job as minority staff director on the committee for years. Sometimes I wish he hadn't been so good, but I do appreciate the work that he has done.

And, lastly, I do not know what I would have done without Beverly Pheto as the chairman of the Appropriations Committee. She is an absolute true professional. She has imagination, she has courage, she has stamina, and most of all, she has an amazing ability to put up with me, and that alone ought to get her the Congressional Medal of Honor.

So, with that, I would simply say good-bye to you-all, and I would hope that we would cast a responsible vote so that we can get about the country's business next year, even though many of us will not be here to participate.

Ms. JACKSON LEE of Texas. Madam Speaker, I rise in support of making further continuing appropriations for fiscal year 2011. This measure will continue to assure funding for all Federal Government agencies and allow the Government to continue its day to day operations through March 4, 2011, provided under Public Law 111–242, the first fiscal year 2011 Continuing Resolution (CR).

This Continuing Resolution will basically fund the Government at levels previously approved by the House for fiscal year 2010. It is of great importance that this Congress continues to decide how best to finalize fiscal year

2011 spending and explore ways to equitably decrease the national deficit.

As a Member of Congress, it is a critical constitutional responsibility to assure continued funding streams for the Federal Government. This Continuing Resolution will ensure that all necessary and key functions of Government will continue unimpeded until Congress finalizes our work with the passage of final appropriations legislation. There have been a few exceptions, but at least one Continuing Resolution has been enacted for each fiscal year since 1955.

As we rapidly approach the holiday season, and the end of the year is only 10 days away, there is no greater business before this chamber than keeping our Federal Government up and running. Especially during this crucial time of transition, the citizens of the United States are depending upon us to keep the Federal Government fully operational. We must provide a sense of certainty and stability as our country continues to recover from recession and remains engaged in two wars abroad.

I must say that I am very disturbed that we cannot get our colleagues to cooperate in a bipartisan manner to pass essential appropriations bills and must instead resort to short-term continuing resolutions. However, with the funding for all Federal agencies and programs set to expire at midnight tonight, it is imperative that we pass this Continuing Resolution. It is crucial that we continue to fund Government agencies and programs without interruption. We must keep this Nation moving forward toward progress.

In recent days and months, unnecessary partisan battles in both chambers have been waged over expenditures included in appropriations measures. Partisan finger-pointing and squabbling have hindered the passage of appropriations bills and had a negative impact on our economic recovery. This Continuing Resolution has suffered the same fate. I would like to remind all of my colleagues that appropriations are built-in by law to permit Members of Congress to identify and provide funding for useful and necessary projects in their districts. Specifically, in my home district of Houston, I fought hard to include in the Continuing Resolution, a total of \$175,595,558 in appropriations funding for fiscal year 2011.

These projects create jobs, rebuild our infrastructure and benefit our districts, our States and our country, as well. Though I recommended funding for critical transportation and infrastructure projects in Houston, Texas, unfortunately this funding was excluded from the Continuing Resolution. Though an opportunity to improve our national economy was lost, I will continue to fight for the funding of such useful, necessary and economically productive projects in Houston and support the funding of these types of projects nationwide.

Overall, the Continuing Resolution will generally benefit the citizens of Houston and the entire country by continuing to fund important government programs without interruption. As we move forward, it is my hope that both chambers in the House and Senate will take a bipartisan approach to moving vitally important appropriations legislation which includes useful, necessary, job creating and economy-building projects from our districts. This is the fiscally responsible course and grows and strengthens our economy in the long run.

In summation, I urge my colleagues to vote in favor of this Continuing Resolution as we continue the work of the Federal Government.

Mr. VAN HOLLEN. Madam Speaker, I rise in support of this Continuing Resolution, which will fund government operations at FY 2010 levels through March 4, 2011.

Madam Speaker, this bill is not my first choice, or even my second choice. And I don't think anyone believes our country is well-served by having its government run on a series of short-term funding measures. But since the Senate was apparently unable to act on either the House-passed year-long Continuing Resolution, or an Omnibus spending package, we are left with today's resolution.

When the 112th Congress convenes, I sincerely hope we will be able to return to regular order and enact annual, fully vetted, fiscally responsible spending bills that reflect the priorities and values of our nation.

Mr. OBEY. I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to House Resolution 1782, the previous question is ordered.

The question is on the motion by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LEWIS of California. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the motion to concur will be followed by a 5-minute vote on suspending the rules with regard to H.R. 6547.

The vote was taken by electronic device, and there were—yeas 193, nays 165, not voting 75, as follows:

[Roll No. 662]

YEAS—193

Ackerman	Critz	Harman
Altmire	Crowley	Hastings (FL)
Andrews	Cuellar	Heinrich
Arcuri	Cummings	Higgins
Baldwin	Dahlkemper	Himes
Barrow	Davis (AL)	Hinchee
Bean	Davis (CA)	Hirono
Becerra	Davis (TN)	Holden
Berkley	DeGette	Holt
Berman	DeLauro	Hoyer
Bishop (GA)	Dicks	Inslee
Bishop (NY)	Dingell	Israel
Bonner	Donnelly (IN)	Jackson (IL)
Boren	Driehaus	Jackson Lee
Boswell	Edwards (MD)	(TX)
Boucher	Edwards (TX)	Johnson (GA)
Brady (PA)	Ellison	Johnson, E. B.
Braley (IA)	Ellsworth	Kagen
Brown, Corrine	Engel	Kaptur
Butterfield	Eshoo	Kildee
Capps	Etheridge	Kilroy
Capuano	Farr	Kind
Cardoza	Fattah	Kirkpatrick (AZ)
Carnahan	Filner	Kissell
Carney	Foster	Klein (FL)
Carson (IN)	Frank (MA)	Kosmas
Castor (FL)	Fudge	Langevin
Chandler	Garamendi	Larsen (WA)
Clarke	Gonzalez	Larson (CT)
Cleaver	Gordon (TN)	Levin
Clyburn	Grayson	Lewis (GA)
Cohen	Green, Al	Lipinski
Conyers	Grijalva	Loeb sack
Cooper	Hall (NY)	Lowey
Costa	Halvorson	Lujan
Courtney	Hare	Lynch

Maloney	Peters	Shuler
Markey (CO)	Peterson	Skelton
Markey (MA)	Pingree (ME)	Slaughter
Marshall	Polis (CO)	Snyder
Matsui	Pomeroy	Space
McDermott	Price (NC)	Speier
McGovern	Quigley	Spratt
McNerney	Rahall	Stupak
Meek (FL)	Rangel	Sutton
Meeks (NY)	Richardson	Teague
Miller (NC)	Ross	Thompson (CA)
Miller, George	Rothman (NJ)	Thompson (MS)
Minnick	Roybal-Allard	Tierney
Mollohan	Ruppersberger	Titus
Moore (WI)	Ryan (OH)	Tonko
Moran (VA)	Sánchez, Linda	Towns
Murphy (CT)	T.	Tsongas
Murphy (NY)	Sarbanes	Van Hollen
Murphy, Patrick	Schakowsky	Velázquez
Nadler (NY)	Schauer	Walz
Napolitano	Schiff	Waters
Oberstar	Schrader	Watson
Obey	Schwartz	Watt
Oliver	Scott (GA)	Waxman
Owens	Scott (VA)	Weiner
Pallone	Serrano	Welch
Pascarell	Sestak	Wilson (OH)
Payne	Shea-Porter	Woolsey
Perlmutter	Sherman	Yarmuth

NAYS—165

Aderholt	Gohmert	Paulsen
Akin	Goodlatte	Pence
Alexander	Graves (GA)	Perriello
Austria	Graves (MO)	Petri
Bachmann	Guthrie	Pitts
Bachus	Hall (TX)	Platts
Bartlett	Harper	Poe (TX)
Biggert	Hastings (WA)	Posey
Bilbray	Hensarling	Price (GA)
Bilirakis	Herger	Putnam
Bishop (UT)	Hoekstra	Reed
Blackburn	Hunter	Rehberg
Blunt	Inglis	Reichert
Bocciari	Issa	Rodriguez
Boehner	Jenkins	Roe (TN)
Bono Mack	Johnson (IL)	Rogers (AL)
Boozman	Jordan (OH)	Rogers (KY)
Boustany	King (IA)	Rogers (MI)
Brady (TX)	Kingston	Rohrabacher
Broun (GA)	Kline (MN)	Rooney
Buchanan	Kratovil	Ros-Lehtinen
Burgess	Kucinich	Roskam
Burton (IN)	Lamborn	Royce
Cantor	Lance	Ryan (WI)
Capito	Latham	Scalise
Carter	LaTourette	Schmidt
Cassidy	Latta	Sensenbrenner
Castle	Lee (NY)	Sessions
Chaffetz	Lewis (CA)	Shadeegg
Childers	LoBiondo	Shimkus
Coffman (CO)	Lucas	Shuster
Cole	Luetkemeyer	Simpson
Conaway	Lummis	Smith (NE)
Connolly (VA)	Lungren, Daniel	Smith (NJ)
Connelly (KY)	E.	Smith (TX)
DeFazio	Mack	Stearns
Dent	Maffei	Stutzman
Diaz-Balart, M.	Manzullo	Sullivan
Djou	Matheson	Taylor
Doggett	McCaul	Terry
Dreier	McClintock	Thompson (PA)
Duncan	McCollum	Thornberry
Ehlers	McCotter	Tiahrt
Emerson	McHenry	Tiberi
Flake	McIntyre	Turner
Fleming	McKeon	Upton
Forbes	Mica	Visclosky
Fortenberry	Michaud	Walden
Fox	Miller (FL)	Westmoreland
Franks (AZ)	Miller (MI)	Whitfield
Frelinghuysen	Murphy, Tim	Wilson (SC)
Galleghy	Myrick	Wittman
Garrett (NJ)	Neugebauer	Wolf
Gerlach	Nye	Wu
Giffords	Olson	
Gingrey (GA)	Paul	

NOT VOTING—75

Blumenauer	Buyer
Boyd	Calvert
Bright	Camp
Brown (SC)	Campbell
Brown-Waite,	Cao
Ginny	Chu

Clay	Honda	Moran (KS)
Coble	Johnson, Sam	Neal (MA)
Costello	Jones	Nunes
Crenshaw	Kanjorski	Ortiz
Culberson	Kennedy	Pastor (AZ)
Davis (IL)	Kilpatrick (MI)	Radanovich
Delahunt	King (NY)	Reyes
Deutch	Lee (CA)	Rush
Diaz-Balart, L.	Linder	Salazar
Doyle	Lofgren, Zoe	Sanchez, Loretta
Fallin	Marchant	Schock
Granger	McCarthy (CA)	Sires
Green, Gene	McCarthy (NY)	Smith (WA)
Griffith	McMahon	Stark
Gutierrez	McMorris	Tanner
Heller	Rodgers	Wamp
Herseth Sandlin	Melancon	Wasserman
Hill	Miller, Gary	Schultz
Hinojosa	Mitchell	Young (AK)
Hodes	Moore (KS)	Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 2 minutes remaining in this vote.

□ 1935

Mr. WU changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROTECTING STUDENTS FROM SEXUAL AND VIOLENT PREDATORS ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 6547) to amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER) that the House suspend the rules and pass the bill.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 314, nays 20, not voting 99, as follows:

[Roll No. 663]

YEAS—314

Ackerman	Bono Mack	Chandler
Aderholt	Boozman	Childers
Akin	Boren	Clarke
Alexander	Boswell	Cleaver
Altmire	Boustany	Clyburn
Andrews	Brady (PA)	Coffman (CO)
Arcuri	Brady (TX)	Cohen
Austria	Braley (IA)	Cole
Bachmann	Brown, Corrine	Connolly (VA)
Bachus	Buchanan	Conyers
Baldwin	Burgess	Costa
Barrow	Burton (IN)	Courtney
Bartlett	Butterfield	Critz
Bean	Cantor	Crowley
Becerra	Capito	Cuellar
Berkley	Capps	Cummings
Berman	Capuano	Dahlkemper
Biggert	Carnahan	Davis (CA)
Bilbray	Carney	Davis (KY)
Bilirakis	Carson (IN)	Davis (TN)
Bishop (GA)	Carter	DeFazio
Bishop (NY)	Cassidy	DeGette
Bishop (UT)	Castle	DeLauro
Blunt	Castor (FL)	Dent
Bonner	Chaffetz	Diaz-Balart, M.

Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Dreier
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Fleming
Forbes
Fortenberry
Foster
Foxy
Franks (AZ)
Frelinghuysen
Fudge
Garamendi
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Graves (MO)
Grayson
Green, Al
Grijalva
Guthrie
Hall (NY)
Hall (TX)
Halvorson
Hare
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Herger
Higgins
Himes
Hinchey
Hirono
Holden
Holt
Hunter
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee
(TX)
Jenkins
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kildee
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
Latta

Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Loebach
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel
E.
Lynch
Mack
Maffei
Maloney
Manzullo
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCaul
McClintock
McCollum
McCotter
McDermott
McHenry
McIntyre
McKeon
McNerney
Meek (FL)
Meeks (NY)
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Minnick
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Nye
Oberstar
Obey
Olson
Olver
Owens
Pallone
Pascarell
Paulsen
Payne
Pence
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Pollis (CO)
Pomeroy
Posey
Price (NC)
Putnam
Quigley
Rahall
Rangel
Reed
Rehberg
Reichert
Richardson
Rodriguez

NAYS—20

Broun (GA)
Conaway
Ehlers
Flake
Garrett (NJ)
Graves (GA)
Hensarling

Hoekstra
Inglis
Jordan (OH)
King (IA)
Kingston
Miller (FL)
Neugebauer

NOT VOTING—99

Adler (NJ)
Baca
Baird

Barrett (SC)
Barton (TX)
Berry

Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Sánchez, Linda
T.
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schradler
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Snyder
Space
Speier
Spratt
Stearns
Stupak
Sullivan
Sutton
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Tiahrt
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Peters
Velázquez
Visclosky
Walden
Walz
Waters
Watson
Watt
Waxman
Weiner
Welch
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth

Paul
Poe (TX)
Shadegg
Stutzman
Thornberry
Westmoreland

Boehner
Boucher
Boyd
Bright
Brown (SC)
Brown-Waite,
Ginny
Buyer
Calvert
Camp
Campbell
Cao
Cardoza
Chu
Clay
Coble
Cooper
Costello
Crenshaw
Culberson
Davis (AL)
Davis (IL)
Delahunt
Deutch
Diaz-Balart, L.
Doyle
Duncan
Emerson
Fallin
Frank (MA)
Gallegly
Gordon (TN)
Granger
Green, Gene
Griffith
Gutierrez
Harman
Heller
Herseth Sandlin
Hill
Hinojosa
Hodes
Honda
Hoyer
Johnson (IL)
Johnson, Sam
Jones
Kennedy
Kilpatrick (MI)
King (NY)
Salazar
Lamborn
LaTourette
Lee (CA)
Lee (NY)
Linder
Lipinski
Lofgren, Zoe
Marchant
McCarthy (CA)
McCarthy (NY)
McGovern
McMahon

McMorris
Rodgers
Melancon
Miller, Gary
Mitchell
Moran (KS)
Neal (MA)
Nunes
Ortiz
Pastor (AZ)
Perlmutter
Price (GA)
Radanovich
Reyes
Ros-Lehtinen
Roskam
Rush
Ryan (WI)
Salazar
Sanchez, Loretta
Schock
Sires
Smith (WA)
Stark
Tanner
Tiberi
Wamp
Wasserman
Schultz
Young (AK)
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members have 1 minute remaining in this vote.

□ 1944

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BOCCIERI. Madam Speaker, on rollcall No. 663 To Amend The Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees, had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Madam Speaker, on rollcall Nos. 662 and 663, had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Ms. CHU. Madam Speaker, I was absent on December 21, 2010. Had I been present, I would have voted "yes" on the following:

H. Res. 1771—Same Day Consideration Rule; H.R. 6540—To require the Secretary of Defense, in awarding a contract for the KC-X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess (Rep. INSLEE—Armed Services) Suspension bill; Motion to Concur in the Senate Amendment to H.R. 5116—America COMPETES Reauthorization Act of 2010 (Rep. GORDON—Science and Technology); Motion to Concur in the Senate Amendment to H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act (Rep. CUELLAR—Oversight and Government Reform); Motion to Concur in the Senate Amendment to H.R. 2751—FDA Food Safety Modernization Act (Reps. WAXMAN/DINGELL—Energy and Commerce); S. 3243—Anti-Border Corruption Act of 2010 (Sen. PRYOR/Rep.

SHULER—Homeland Security) Suspension bill; Motion to Concur in the Senate Amendment to H.R. 3082—Making Further Continuing Appropriations for Fiscal Year 2011 (Rep. OBEY—Appropriations); H.R. 6547—To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees (Rep. GEORGE MILLER—Education and Labor) Suspension bill.

PERSONAL EXPLANATION

Ms. HERSETH SANDLIN. Madam Speaker, I regret that I was unable to participate in eight votes on the floor of the House of Representatives today.

The first vote was H.Res. 1771—Same Day Consideration Rule. Had I been present, I would have voted "nay" on that question.

The second vote was H.R. 6540—To require the Secretary of Defense, in awarding a contract for the KC-X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess. Had I been present, I would have voted "yea" on that question.

The third vote was Motion to Concur in the Senate Amendment to H.R. 5116—America COMPETES Reauthorization Act of 2010. Had I been present, I would have voted "yea" on that question.

The fourth vote was Motion to Concur in the Senate Amendment to H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act. Had I been present, I would have voted "yea" on that question.

The fifth vote was Motion to Concur in the Senate Amendment to H.R. 2751—FDA Food Safety Modernization Act. Had I been present, I would have voted "yea" on that question.

The sixth vote was S. 3243—Anti-Border Corruption Act of 2010. Had I been present, I would have voted "yea" on that question.

The seventh vote was Motion to Concur in the Senate Amendment to H.R. 3082—Making Further Continuing Appropriations for Fiscal Year 2011. Had I been present, I would have voted "yea" on that question.

The eighth vote was H.R. 6547—To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees. Had I been present, I would have voted "yea" on that question.

HOUR OF MEETING ON TOMORROW

Mr. MCGOVERN. Madam Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m. tomorrow.

The SPEAKER pro tempore (Mrs. HALVORSON). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

APPOINTMENT OF HON. DONNA F. EDWARDS TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH REMAINDER OF SECOND SESSION OF 111TH CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

DECEMBER 21, 2010.

I hereby appoint the Honorable DONNA F. EDWARDS or, if she is not available to perform this duty, the Honorable GERALD E. CONNOLLY to act as Speaker pro tempore to sign enrolled bills and joint resolutions through the remainder of the second session of the One Hundred Eleventh Congress.

NANCY PELOSI,
*Speaker of the
House of Representatives.*

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 21, 2010.

Hon. NANCY PELOSI,
*Speaker, U.S. Capitol,
Washington, DC.*

DEAR SPEAKER PELOSI: Pursuant to Sec. 5605 of the Patient Protection and Affordable Care Act (P.L. 111-148), I am pleased to appoint Mr. Marcus Peacock of Washington, DC and Mr. Tomas J. Philipson of Chicago, IL to the Commission on Key National Indicators.

Both Mr. Peacock and Mr. Philipson have expressed interest in serving in this capacity and I am pleased to fulfill their requests.

Sincerely,

JOHN A. BOEHNER,
Republican Leader.

COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
December 21, 2010.

Hon. NANCY PELOSI,
*Speaker, U.S. Capitol,
Washington, DC.*

DEAR SPEAKER PELOSI: Pursuant to Section 235 of the Tribal Law and Order Act (P.L. 111-211), I am pleased to appoint Mr. Thomas Gede of San Francisco, California to the Indian Law and Order Commission.

Mr. Gede has expressed interest in serving in this capacity and I am pleased to fulfill his request.

Sincerely,

JOHN A. BOEHNER,
Republican Leader.

COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
December 21, 2010.

Hon. NANCY PELOSI,
Speaker, U.S. Capitol, Washington, DC.

DEAR SPEAKER PELOSI: Pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, (22 U.S.C. 7002) as amended, I am pleased to re-appoint Mr. Larry Wortzel to the United States-China Economic and Security Review Commission, effective January 1, 2011.

Mr. Wortzel has expressed interest in serving in this capacity and I am pleased to fulfill his request.

Sincerely,

JOHN A. BOEHNER,
Republican Leader.

HONORING DOROTHY HARRY

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Madam Speaker, I rise today to recognize an incredible public servant who is retiring from my district congressional office in a few short weeks.

Mrs. Dorothy Harry has served the citizens of the Pennsylvania Fifth Congressional District for 14 years. Dorothy has been in the Titusville district office for more than a decade. The constituent calls have been greeted by her with a professional, courteous, and caring attitude.

Dorothy has never been late by even a minute, is thorough in her service, and leaves nothing undone. She joined the congressional staff with a lifetime of experience working in her family's insurance agency. Constituents of my congressional district that contact our office with insurance-related issues have had her voice of experience to guide them through many concerns.

Dorothy is the mother of two daughters, whom she is very proud of. Dorothy has always been quick to share that one of her daughters created a Christmas ornament that hung on the White House Christmas tree.

On December 31, Dorothy Harry will retire from public service as a member of the Pennsylvania Fifth Congressional District congressional staff at the age of a young 81 years old. The citizens have been well served by her and, I am sure, join me in saying, "Job well done and thank you, Dorothy. You will be missed."

□ 1950

CONGRATULATING THE PEARLAND OILERS FOR WINNING THE CLASS 5A DIVISION ONE FOOT- BALL CHAMPIONSHIP

(Mr. OLSON asked and was given permission to address the House for 1 minute.)

Mr. OLSON. Madam Speaker, I rise today to congratulate the Pearland

Oilers for winning the Texas Class 5A Division One Football Championship last weekend. In front of 43,321 fans, the third largest in Texas history, the Oilers achieved a heart-stopping 28-24 victory, defeating the number one ranked team in the entire Nation, Eulless Trinity.

The Oilers were referred to as the underdog, but an underdog doesn't use a play called "the dead man" to score a 54-yard touchdown. They demonstrated their tenacity in the final seconds, when Dustin Garrison, who scored three touchdowns, broke up a fourth quarter pass, sealing the win for the Oilers.

Pearland has lived by a "plus one" outlook, always striving to make one more play and give one more degree of effort for the benefit of the team.

The Oilers finished the season with a perfect 16-0 record and brought home to the "rig" Pearland's first 5A championship. I congratulate them on their historic victory and well-deserved honor.

PASSING THE DOMESTIC TRAFFICKING VICTIMS ACT

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Madam Speaker, when a young girl is kidnapped in a foreign country and brought into the United States and used as a sex slave and law enforcement gets involved, she is treated as a victim of crime.

If a young girl who is an American citizen is forced into sex slavery as an 11- or 12-year-old and she is trafficked across the United States and law enforcement gets involved, unfortunately that girl is not treated as a victim, but a criminal, and criminal charges are filed on her for prostitution and she goes through the system. Many times, law enforcement does that just to protect that young child.

We need to change that, and today this House of Representatives passed legislation, the Domestic Trafficking Victims Act, which will treat those victims as victims and give resources to put them in places throughout the United States where we can protect them, rescue them, prosecute the trafficker, and prosecute the customer who buys that sex from that poor girl for money.

We need to treat these victims with the dignity that they deserve. This legislation is important. I am glad it passed the House.

And that's just the way it is.

HONORING THE HONORABLE JOHN B. SHADEGG

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Madam Speaker, I rise today to honor a valued member of the Arizona delegation, JOHN SHADEGG.

JOHN SHADEGG is ending his service to this institution after 16 years. JOHN came here in 1994 and has served the State of Arizona extremely well during that time. He has promoted the principles of limited government, economic freedom and individual responsibility, and has stayed true to his principles and been a valued member of the Arizona delegation.

Arizona has a habit of producing great legislators, including Barry Goldwater, Mo Udall, Carl Hayden, and others; and JOHN now adds his name to that list of great Arizona legislators.

I just want to pay tribute to him and tell him how much the Arizona delegation and all of us will miss his steady, constant, principled leadership here in the House of Representatives.

Well done, JOHN. Well done, JOHN SHADEGG.

TRIBUTE TO THE LATE REPRESENTATIVE STEPHEN SOLARZ

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Madam Speaker, I rise today to speak in honor of my friend and colleague, Stephen Solarz, who passed away last month.

When I first came to Congress in 1989, Congressman Solarz was already a respected Member of this body. He was a senior member of the Foreign Affairs Committee and an inspiration to me as I joined that committee. I enjoyed his advice and counsel. I remember he sat on the top rung of the committee, and that is where I am sitting today.

His speeches on the floor were the kind that made his colleagues stop what they were doing and listen. He was a foreign affairs guru to many of us, and the world will miss his knowledge and expertise.

I remember the dinners he and his wife, Nina, hosted at their home. Among the luminaries I met at these dinners was Abba Eban, the former foreign minister and U.N. ambassador of Israel.

Together, we shared the determination to protect America's relationship with Israel. We both understood that the U.S. must continue to engage on issues of importance around the world.

Like me, Congressman Solarz was a product of New York City's public schools. He emerged from humble beginnings to earn his law degree from Columbia, and later became one of the most influential Members of Congress. We each shared the passion for public service, and I know that I will truly miss his advice and his friendship. I consider myself lucky to have known him all these years.

My heart goes out to his wife, Nina, their children Randy and Lisa, and his mother, Ruth. The rest of the country, and certainly the U.S. House of Representatives, mourns with them.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

FLAWED ELECTIONS AND POLITICAL IMPRISONMENT IN BELARUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. SHIMKUS) is recognized for 5 minutes.

Mr. SHIMKUS. Madam Speaker, I come down tonight to put into the RECORD the names of some freedom fighters who have been jailed, not only politicians, but also members of the news media, after the stolen elections in Minsk, Belarus, of two nights ago.

The opponents of Dictator Lukashenko were as follows. Their locations are unknown. Some have been jailed: Andrey Sannikaw, Yaroslav Ramanchuk, Ryhor Kastusyow, Uladzimir Nyaklyayew, Ales Mikhalevich, Vital Rymashevski, Viktar Tsyareshchanka, Mikalay Statkevich and Dzmitry Uss.

Tens of thousands of Belarusians converged on Independence Square in the capital, heeding opposition leaders who called Sunday's election a farce and accused Lukashenko of keeping the post-Soviet country locked in a dictatorship. They gathered on the evening of the 19th and the morning of the 20th.

Also arrested were prominent journalists and civil society activists, folks who are friends of individuals I know: Anatol Lyabednska, leader of the United Civic Party; Mr. Sannikaw's wife, Iryna Khalip; Dzmitry Bandarenka, coordinator of an opposition group called Khartyya97; and Natallya Radzina, the editor of www.charter97.org.

The Organization For Security and Cooperation in Europe called the election "flawed," and the United States of America and the European Union condemned the crackdown.

With me I have some photos of the evening of December 19 showing protestors. Of course, we see members of the Belarusian security forces, and in this photo here you actually see them wielding their clubs and beating one of the opposition members of the party. This is what we have in Europe. The last dictatorship in Europe is in a country called Belarus.

□ 2000

The United States has already—and I would lend to the demand of the release of all political prisoners, presidential candidates, and their official representatives who are being held in KGB detention centers in Minsk. Yes, in Belarus, they still call the secret police the KGB. The United States and this Member stand in solidarity with all opposition activists with those cur-

rently being held and those who are still in hospitals and those already who are in jail.

The new media ability of democratic movements in this country are great at especially being able to use the Twitter accounts, using Facebook, using photos. A lot of these were conducted through new media. It underscores the brutality of the Belarusian leadership and the dictator, Lukashenko. I would hope that the international community, especially the European Union and the United States, would place the Belarusian Government on record that they should not hope to be able to join in the opportunities afforded to free and democratic countries when they treat their citizens who are only asking for the right to have their voice heard and the right to choose the representatives of the people.

END HUNGER NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized for 5 minutes.

Mr. MCGOVERN. Madam Speaker, as we near the end of 2010 and the 111th Congress, I want to take a few minutes to talk about an issue that is critically important to the health and the well-being of our country. It's also an issue that I care deeply about and it's an issue that's rarely discussed. And that issue, Madam Speaker, is hunger. I've said it over and over again, but it bears repeating. Hunger is a political condition. We know how to end hunger in America. We have the resources to do it. What we need is the political will to make it happen.

We've made some important progress over the last few years. We enacted historic improvements in the food stamp program, now called SNAP. WIC, the program that ensures that pregnant mothers and their newborns and infant children have access to nutritious food, has been fully funded. Food banks received the assistance they need to fill their shelves as they worked to put food in the hands of hungry families. We passed the Hunger-Free Communities Act, a law that provides localized grants to combat hunger around the country. The farm bill included historic improvements to antihunger programs—most importantly, indexing SNAP to inflation. The Recovery Act did even more by increasing emergency funds to SNAP beneficiaries, allowing them to buy more food at a time when their incomes were falling because of the economy. Finally, on December 13, President Obama signed the Healthy, Hunger-Free Kids Act into law. This will improve the quality of food served at schools to our Nation's children.

Madam Speaker, I have been honored to serve as the cochair of the House Hunger Caucus, and I want to thank

my colleagues on that caucus, Democrat and Republican, for their commitment to this critical issue. I especially want to thank JO ANN EMERSON for her incredible work. But we have much more to do.

The USDA recently released their annual food insecurity, or hunger, statistics. The simple and unfortunate fact is this: Because of the economy, hunger is getting worse in America, not better. In 2009, the number of hungry Americans increased by 1 million over the previous year. According to the latest data, over 50 million Americans, including 17.2 million children, went hungry at some point in 2009. Madam Speaker, these are the highest numbers ever collected by USDA. And if that weren't bad enough, future SNAP funds—money provided under the Recovery Act—have been raided for other critical programs.

Madam Speaker, I love this institution and I am honored to serve as a Member of Congress, but it is a peculiar place. None of my colleagues, Democrats or Republicans, will tell you that they are pro-hunger. You'll never see a Member of Congress take a bottle out of the mouth of a hungry baby or swipe a can of beans that has been donated to a local food bank, but that's precisely what we will be doing if we choose to balance the budget on the backs of the poor and the hungry in this country.

I want to tackle our deficit as badly as anyone else. And in order to dig ourselves out of this fiscal hole, then all of us will need to sacrifice—not just the poor and not just the middle class. It is simply unacceptable to provide billions in tax relief for millionaires and billionaires while at the same time cutting programs that literally put food in the mouths of hungry people.

Ending hunger is not just the right thing to do—it's also in the best interest of our Nation's future. It's a national security issue. It's an education issue. It's a jobs issue. It's a health care issue. It's a productivity issue. It's a fiscal health issue.

We have a lot of work to do, Madam Speaker. The President said he's committed to ending childhood hunger by 2015, but we're not doing enough to reach that goal. Budgets will be tight for the foreseeable future, and it's going to be difficult to fund these vital programs. I've repeatedly called on the White House to convene a conference on hunger and nutrition. Let's develop a comprehensive plan to tackle this terrible problem.

But, Madam Speaker, this issue is not going away. We must not ignore the needs of the hungry in America. We must continue to work with antihunger groups, nutrition groups, religious groups, and the administration and others to finally end hunger in America.

We can do this. We can end hunger in America if we have the political will to

do it. I urge my colleagues in the 112th Congress to join in this effort.

START TREATY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes as the designee of the minority leader.

Mr. GOHMERT. Well, down the hall we have the Senate as they have been taking up the START Treaty to help limit our defense of ourselves with a country that is not the country we're most concerned about. We seem to keep ignoring the fact that Iran continues to move forward developing nuclear weapons, and once they have them, then that is the game changer. Of course, we know that even in this hemisphere that there's the potential for rockets that could reach the United States. It's nothing to fear if we act appropriately and don't stick our head in the sand, as the START Treaty apparently attempts to do.

For example, we've got people in the Senate that do not understand that the President has the power to negotiate treaties. The Senate's role is in advising and consenting, but they don't have the power to amend the treaty. That has to be done between the other country and our President. So they can make suggestions, but that language is not binding unless the other country agrees to it.

So all this frivolous stuff, all this discussion, it is meaningless unless Russia were to adopt it. And when you look at the preamble to this START Treaty, despite what the President says and despite what people in the Senate are saying about it not affecting missile defense, the preamble says: Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the parties.

Now, maybe from the legal training and the judicial training it helps to read and understand that better, but the Russians make pretty clear they intend for this treaty to restrict a defense system. How do people down the hall not get that? It seems pretty clear. We have an obligation to support and defend this Constitution. We took an oath to do that.

□ 2010

We have never ratified a treaty in a lame duck session. Yet that is exactly what is being attempted down the hall right now. People who have been voted out of office because the majority in their States did not want them rep-

resenting them anymore are down there cutting a deal with the Russians.

The election should have consequences, and people should have the decency to note that the majority of the people in their States have spoken, to go home and to not set a precedent of being the first lame duck session that people didn't want consenting to treaties providing consent to the treaty. It is so inappropriate what is going on down there, and then they stand there and tell us, Oh, no. This will have nothing to do with our missile defense shield.

We had a President back in the 1980s who, despite all the jokes, despite all the insults hurled at him, insisted that the thing that was maddest of all was the concept of mutually assured destruction, that insane was the idea of two countries saying, We'll both develop so much in the way of nuclear offensive capability that one won't attack the other because they will know the other will attack them, and they will both be wiped out.

So along came President Reagan, and he would not leave it alone.

We are going to defend ourselves. We took an oath to do as much, and if Russian, Iranian, Venezuelan, Cuban missiles—any kind of missiles—pose a threat to the United States, we have an obligation to defend ourselves.

But not according to this President.

According to this President, we are basically going to unilaterally mutually disarm, which is what happened with the Polish missile defense site. I understand it has now been revealed that the Russians had hopes, according to their early documentation, that eventually in the final document they would get the United States to agree to abandon their plans to put a missile defense shield in Poland. However, they didn't realize that they were negotiating with a new President of the United States, who promised hope and change and that the hope and change that he was bringing was a change unlike any negotiation in our past. We were going to unilaterally lay down our best leverage, not ask for anything in return and think we'd somehow be better off.

Well, that's not the way negotiations work in the world among individuals. Especially for those of us who are Christian, you treat individuals with respect. You follow the admonitions and the teachings of Jesus. Yet, as the national leader, we have a different obligation—not to go into people's bank accounts, into their homes, to take their money against their will, and give it to our favorite charities. We were told they were supposed to do it with their own money. We were not to abuse the process of this body to go legalize stealing people's money to give to our favorite charities. Let the people do that. It is one of the things that made us great. The charitable, big-

hearted people in America have helped make America great.

But as people who are elected to come to Washington help lead this country, we have a different obligation. We are supposed to defend this Nation. We are supposed to provide for the common defense so that people who live in America can have a Merry Christmas, can have a Happy Hanukkah, can have the enjoyment and the freedom of religion. Operating under a Judeo-Christian system, as this was formed, all people could worship as they chose, and people could be defended as they did so; but to do that, you cannot unilaterally lay down the arms of this Nation.

We—I say “we” cumulatively. This President just gave away, early on last year, our best card. That’s not really looking out for the American people. It’s looking out for the Iranians; it’s looking out for the Russians; it’s looking out for the North Koreans, the Venezuelans, the Cubans, and those who might at some point like to see us gone and who have said as much, but it’s not looking out for America.

Now, this administration has never been a fan of missile defense just as many Democrats were not of the plan President Reagan proposed; but because the Russians—the Soviets at that time—couldn’t keep up and were already spending too much money, the Soviet Union fell. Clearly, this treaty links offensive reductions with missile defense.

So these guys down the hall may think they’re doing a wonderful thing for America, but they’re not. They may think, Gee, the President has said this about the treaty, so maybe it’s true.

My friend Andy McCarthy, Andrew C. McCarthy, had a posting today, on December 21, with National Review Online, and it bears particularly on this point, so I will read from Andy McCarthy’s article because it is so well written. These are Andrew McCarthy’s words.

“Patting himself and his fellow Senate Republicans on the back for selling out on President Obama’s new START Treaty, BOB CORKER absurdly claims that all is well because, despite treaty terms that patently disserve our national security, Senators have held debates, and because he and Senator RICHARD LUGAR have drafted a swell ‘resolution of ratification’ that purportedly addresses New START’s serial flaws. Meantime, an unidentified JOHN MCCAIN admirer tells Rich the crafty ‘ol Maverick deserves kudos for pressuring Obama into writing a letter talking up missile defense.”

Mr. McCarthy goes on.

“Whoopie! Don’t you feel better about the GOP now? This is the most craven sort of nonsense.”

Mr. McCarthy goes on.

He writes, “These Senators are trying to rationalize their inexcusable ap-

proval of a bad treaty they lack the backbone to vote down. Holding debates? It’s commonplace to mock the U.N. General Assembly as a ‘debating society’ because the term connotes how inconsequential its exertions are.

“As for the vaunted resolution of ratification, I defer to John Bolton and John Yoo. Writing in The New York Times last month, they explained that the Obama administration hoped to sell its ‘dangerous’ bargain by diverting attention from the treaty, itself. Attention would instead be focused on the ratification resolution, which they predicted would be loaded with ‘a package of paper promises’—variously called ‘conditions,’ ‘understandings’ and ‘declarations’—that would purport to address concerns about missile defense, the condition of our nuclear arsenal, treaty limitations on conventional weapons, et cetera. Ambassador Bolton and Professor Yoo continued:

“Senators cannot take these warranties seriously—they are not a part of the text of the treaty, itself.”

□ 2020

“As Eugene Rostow, a former Under Secretary of State, put it, such reservations and understandings ‘have the same legal effect as a letter from my mother.’ They are mere policy statements that attempt to influence future treaty interpretation. They do not have the force of law; they do not bind the President or future Congresses. The Constitution’s supremacy clause makes the treaty’s text the ‘law of the land.’”

“Instead, Bolton and Yoo asserted, ‘To prevent New START from gravely impairing America’s nuclear capacity, the Senate must ignore the resolution of ratification and demand changes to the treaty itself.’ This is exactly the duty from which Senate Republicans are abdicating. The ratification resolution is nothing. The Presidential letter Senator McCain is said to have extracted is less than nothing: it lacks even the patina of a legislative act and is about as enforceable as a Presidential commitment to close Gitmo or televise the government’s health care deliberations on C-SPAN.

“The administration is wrong on national security policy and politically weakened by the midterm thrashing. The treaty is awful, which is why there are so many things to address in resolutions and letters. If you can’t get Republican Senators to do the right thing under these conditions, then when?”

“One more related point.” Mr. McCarthy says, “Based on my argument in yesterday’s column that the Senate may not unilaterally rewrite treaties or enact amendments that alter treaty terms, a friend suggests there is daylight between my position and that of Bolton and Yoo. There is none. Yes, Bolton and Yoo recount Senate action that has resulted in trea-

ties being altered, but here’s what they say:

“‘When it approved the Jay Treaty in the 1790s, which resolved outstanding differences with Britain, the Senate consented only on condition that President George Washington delete a specific provision on trade. Washington and Britain agreed to the amendment, and the treaty entered into force. In 1978, the Senate demanded changes to the text of the Panama Canal treaty as the price of its consent.’”

McCarthy goes on and says, “This is no different from what I am saying. The Senate in these cases did not claim the power to change treaty terms or enact resolutions that pretended to fix deep problems without altering treaty terms. To the contrary, Senators told Presidents Washington and Carter that there would be no consent unless they went back to the countries in question and got the problematic terms changed.

“The Senate can pass amendments that amplify American understandings about a treaty; the Senate cannot unilaterally alter the core understandings in an agreement—that latter would render it no longer an agreement, and hence not a treaty. Thus, did Messrs. Bolton and Yoo conclude: ‘While the Constitution gives the President the prime role in the treaty process, the Senate has the final say. If 34 Senators reject a treaty, no President can override them.’

“Voting to reject is the Senate’s duty when confronted with a treaty that disserves the national interests. It is the current Senate’s dereliction on New START—a fact no resolution or Presidential letter can paper over.”

It does no good to pass resolutions saying we think it means this or that when the words clearly enunciate the fact that missile defense is tied and part of this. It is affected.

If the Senate were to come back and say, all right, as they did in the 1790s, we will only consent if the President and Great Britain change these terms—in this case, if the President and Russia agree to change these terms—then we give our consent, have a condition precedent. But that’s not what’s going on here. We’re writing letters. We are putting resolutions, this is what we think. That doesn’t make any difference at all. People need to understand the role that they play in this government under our Constitution because, otherwise, they’re doing a great deal of damage.

Now, it’s just staggering. We have no business entering a treaty when we’re still just leaving Iran hanging out there, trying to get the centrifuges going, developing nuclear weapons, cutting deals with other countries who also hate us. And we in America, what are we doing? We’re paying billions of dollars to countries that would like to see us fall.

We're supporting a U.N. that thinks it's fine to treat women and children like property and allows the worst kinds of abuses to go on and, not only that, puts countries who have massive civil rights abuses in charge of their civil rights, the human rights. It's just incredible what's going on.

So I will continue in the next Congress to push my U.N. voting accountability bill. We mean no ill will to countries that hate our guts, but we don't have to pay them to hate us. So it just says any country that votes against our position in the U.N. more than half the time in 1 year will not get a dime of financial assistance of any kind from us the next year.

Those are the kinds of things you do when you're representing a country and your oath and your obligation require that you protect that country, not lay down your arms, not lay down your defenses and think that the wonderful good will of others will see how wonderful you are in unilaterally dropping your weapons. You don't do that. There are consequences.

Even going back to ancient Israel—and I realize there are people like Helen Thomas who don't realize there was an ancient Israel, but there was. And in fact, hundreds of years before there was Mohamed, there was an ancient Israel. But if you go to the days of Hezekiah, when the Babylonian leaders came over, and of course, we had the account in the Old Testament of Isaiah coming to Hezekiah. He knew what he had done. He said, What did you do? Oh, these wonderful leaders—this is, of course, Texas paraphrase—these wonderful leaders from Babylon came over. So we showed them all our treasure, and we showed them all of our defenses. In essence, Isaiah pointed out, you fool. Because you've done this, you will lose your country. You don't show your enemies your defenses without a severe cost. In the case of Israel, it cost them everything. You don't do that.

Individually, you can love and care and nurture. As a national part of a government, we have an oath and obligation to the people that live here to provide for the common defense, and that means you don't give away the defenses. You don't lay down your arms. You do what you can to protect America. In fact, I pointed out before, but I heard friends say today that, you know, people who consider themselves Christian, especially this time of year, should be in favor of all kinds of bills of Federal money being given to wonderful charitable causes. Well, individually, that's correct.

But as a Nation, we get a good indication from the story of Zacchaeus, because after Zacchaeus met Jesus, he was so overwhelmed with guilt for how he had abused his taxing authority, that he gave back the money, in fact, gave a four to one rebate to those from whom he took too much money.

□ 2030

Now that would be an interesting thing to see. And I had advocated for a payroll tax holiday 2 years ago. According to Moody's, it would have increased the 1-year GDP more than any other proposal, including our official Republican proposal. I'm not for it now. We've squandered way too much money. And we're running up debt like nobody would have ever dreamed, \$3 trillion in 2 years? My word, my first year in 2005, I was hearing people across the aisle beating up on us because we had at one point \$160 billion deficit, and that was outrageous. And my Democratic friends were right, we shouldn't have been running \$100 billion, \$200 billion deficit. Who would have ever dreamed that 5 short years later, they would have run up a \$3 trillion deficit in 2 years, 10 times the deficit they were complaining about just 5 short years ago.

Well, those are some things that are great cause for concern. Did Republicans not learn anything from the election? Did people think that once the election was behind us, it was business as usual? Do Democratic and Republican Senators who are up for election in 2 years think that people across America are not watching? They're watching more today than they've ever watched in this Nation's history. They're paying attention. Who's doing what? And for those who are found to have had one big last zesty giveaway program after another, there will be a price to pay. And for those who rushed in and cut a deal with the Russians that the Russians didn't agree with; therefore, it is not binding. The only thing that's binding is what they consent to that the President has already agreed with Russia on, that will be the treaty, and it limits our missile defense. And it will be no consolation to anyone someday that—whoops, incoming—and we agree not to develop our missile defense with the Russians. Sorry, these missiles aren't coming from Russia, but the Russians got us to agree not to develop missile defense; therefore, we have no defense to what these enemies of America are sending. That's irresponsible. We should not be doing that. And I had hoped to end on a more positive note tonight.

Madam Speaker, if I could inquire how much time I have left.

The SPEAKER pro tempore. You have 34 minutes.

Mr. GOHMERT. I thank the Speaker.

I would like to finish by going through some of the Christmas proclamations by U.S. Presidents. I touched on some of these last week but was wanting to read some different messages this week because I think they're very helpful to Americans who believe, unfortunately, as the President does, that we have never been a Christian Nation. I won't debate whether we are or not now because we may very well

not be now. But fortunately, this country was established under Christian notions that allowed people the freedom to worship as they choose. Because heaven help us if we had a Constitution based on sharia law, then obviously there wouldn't be a Don't Ask, Don't Tell because that's a capital offense, to commit a homosexual offense under sharia law. So no need for Don't Ask, Don't Tell. No need for appeal under sharia law. Apparently it is a capital offense if you commit a homosexual act.

But also under sharia law, there's no room for Christians to worship any way they choose. The only way you can have all religions worship as they choose is to have a country based on Christian tenets. And that's what we started with. And we seem to be trying to get away from that, and it seems to be eroding people's freedoms of religion, particularly Christians.

So how ironic that we seem to be coming full circle, 360 degrees, so that we can eliminate the freedom to worship publicly in the public square, which are the very Christian tenets that allowed us to have and become the greatest country on Earth in Earth's history.

So these are words from Franklin Roosevelt in 1933. This was his first year as President. Franklin D. Roosevelt, December 24, Christmas Eve 1933, provided us these words. Roosevelt said, "This year marks a greater national understanding of the significance in our modern lives of the teaching of Him whose birth we celebrate. To more and more of us, the words, 'Thou shalt love thy neighbor as thyself,' have taken on a meaning that is showing itself and proving itself in our purposes and daily lives. May the practice of that high ideal grow in us all in the year to come." Roosevelt finished by saying, "I give you and send you one and all, old and young, a merry Christmas and a truly happy new year. And so for now and for always, God bless us, everyone."

Moving to 1947, another one of the Christmas messages I did not mention last week. This is Harry Truman, December 24, 1947. And I won't read the entire message. But these are Harry Truman's words. He said, "There can be little happiness for those who will keep another Christmas in poverty and exile, separation from their loved ones. As we prepare to celebrate our Christmas this year in a land of plenty, we would be heartless indeed if we were indifferent to the plight of less fortunate peoples overseas. We must not forget that our revolutionary fathers also knew a Christmas of suffering and desolation. Washington wrote from Valley Forge 2 days before Christmas in 1777, 'We have this day no less than 2,873 men in camp unfit for duty because they are barefooted and otherwise naked.'"

Truman goes on, "We can be thankful that our people have risen today, as did our forefathers in Washington's time, to our obligation and our opportunity. At this point in the world's history, the words of St. Paul have greater significance than ever before. He said, 'And now abideth faith, hope, charity, these three. But the greatest of these three is charity.'" Truman said, "We believe this. We accept it as a basic principle of our lives. The great heart of the American people has been moved to compassion by the needs of those in other lands who are cold and hungry. We have supplied a part of their needs, and we shall do more. In this, we are maintaining the American tradition. In extending aid to our less fortunate brothers, we are developing in their hearts the return of hope."

Because of our forts, the people of other lands see the advent of a new day in which they can lead lives free from the harrowing fear of starvation and want. With a return of hope to these peoples will come renewed faith, faith in the dignity of the individual and the brotherhood of man. The world grows old, but the spirit of Christmas is ever young. Happily for all mankind, the spirit of Christmas survives travail and suffering because it fills us with hope of better things to come.

Let us then put our trust in the unerring star which guided the wise men to the manger of Bethlehem. Let us hearken again to the angel choir, saying, 'Glory to God in the highest, and on Earth, peace, goodwill toward men.' With hope for the future and with faith in God, I wish all my countrymen a very merry Christmas."

□ 2040

Christmas Eve, 1949, President Harry Truman gave us these words: the first Christmas had its beginning in the coming of a little child. It remains a child's day, a day of childhood love and of childhood memories. That feeling of love has clung to this day down all the centuries from the first Christmas. There is clustered around Christmas Day the feeling of warmth, of kindness, of innocence, of love, the love of little children, the love for them, the love that was in the heart of the little child whose birthday it is.

Through that child love there came to all mankind the love of a divine father and a blessed mother so that the love of the holy family could be shared by the whole human family. These are some of the thoughts that came to mind as I gave the signal to light our national Christmas tree in the south grounds of the White House.

President Truman goes on and says, sitting here in my own home, so like other homes all over America, I've been thinking about some families in other once-happy lands. We must not forget that there are thousands and thousands of families homeless, hope-

less, destitute, and torn with the despair on this Christmas Eve. For them, as for the holy family, on the first Christmas, there's no room in the inn. We shall not solve a moral question by dodging it. We can scarcely hope to have a full Christmas if we turn a deaf ear to the suffering of even the least of Christ's little ones.

Since returning home, I've been reading again in our family Bible some of the passages which foretold this night. It was that grand old seer, Isaiah, who prophesied in the Old Testament the sublime event which found fulfillment almost 2,000 years ago.

Just as Isaiah foresaw the coming of Christ, so another battler for the Lord, St. Paul, summed up the law and the prophets in a glorification of love which he exalts even above both faith and hope.

Truman says, we miss the spirit of Christmas if we consider the incarnation as an indistinct and doubtful, far-off event unrelated to our present problems. We miss the purport of Christ's birth if we do not accept it as a living link which joins us together in spirit as children of the ever-living and true God. In love alone, the love of God and the love of man, will be found the solution of all the ills which afflict the world today.

Slowly, sometimes painfully, but always with increasing purpose, emerges the great message of Christianity. Only with wisdom comes joy, and with greatness comes love. In the spirit of the Christ child, as little children with joy in our hearts and peace in our souls, let us as a Nation, dedicate ourselves anew to the love of our fellow men. In such a dedication, we shall find the message of the child of Bethlehem the real meaning of Christmas. That's Harry Truman.

And I'll skip forward several years. Let me read this from 1976, from Gerald Ford: the message of Christmas has not changed over the course of 20 centuries. Peace on Earth, goodwill towards men, that message is as inspiring today as it was when it was first proclaimed to the shepherds near Bethlehem. It was first proclaimed, as we all know, then.

In 1976 America has been blessed with peace and significant restoration of domestic harmony. But true peace is more than an absence of battle. It is also the absence of prejudice and the triumph of understanding. Brotherhood among all peoples must be the solid cornerstone of lasting peace. It has been a sustaining force for our Nation, and it remains a guiding light for our future.

The celebration of the birth of Jesus is observed on every continent. The customs and traditions are not always the same, but feelings that are generated between friends and family members are equally strong and equally warm.

God bless you.

This is from President George H.W. Bush's message December 8, 1992: during the Christmas season, millions of people around the world gather with family and friends to recall the events that took place in Bethlehem almost 2000 years ago. As we celebrate the birth of Jesus Christ, whose life offers us a model of dignity, compassion and justice, we renew our commitment to peace and understanding throughout the world. Through his words and example, Christ made clear the redemptive value of giving of one's self for others. And his life proved that love and sacrifice can make a profound difference in the world.

Over the years, many Americans have made sacrifices in order to promote freedom and human rights. Around the globe the heroic actions of our veterans, the lifesaving work of scientists and physicians and generosity of countless individuals who voluntarily give of their time, talents and energy to help others all have enriched humankind and confirmed the importance of our Judeo-Christian heritage in shaping our government and values.

Moving on to 2002, December, George W. Bush's message. He said, throughout the Christmas season, we recall that God's love is found in humble places, and God's peace is offered to us all. For nearly 80 years, in times of calm and in times of challenge, Americans have gathered for this ceremony.

The simple story we remember during this season speaks to every generation. It is the story of a quiet birth in a little town on the margins of an indifferent empire. Yet that single event set the direction of history and still changes millions of lives.

For over two millennia, Christmas has carried the message that God is with us; and because He's with us, we can always live in hope.

Our entire Nation is always thinking, at this time of the year, of the men and women in the military, many of whom will spend this Christmas at posts far from home. They stand between Americans and grave danger. They serve in the cause of peace and freedom. They wear the uniform proudly, and we are proud of them.

That's George W. Bush, December 2002, Presidential Christmas message.

And I might interject at this point, we know from our Declaration of Independence, we are endowed by our Creator with certain unalienable rights, and among them is the right to life, liberty and the pursuit of happiness. Then why, some would ask, if we're endowed, if these are given as an inheritance, why then do people all over the world not have life and liberty and the opportunity to pursue happiness like we do in this country?

It is an endowment. The Founders had that right. But as with any inheritance that's left to heirs, if the heirs are

not willing to protect their inheritance, if they're not willing to fight the forces of evil, forces of greed, forces of lust and power lust, they will lose their inheritance to other evil people who will be glad to take it from them.

□ 2050

Thus it comes to us, the sacred, really sacred obligation that we owe this Nation to ensure our common defense so that the inheritance of all those alive today will be passed on to future generations. We don't have these freedoms because we earned them. We were not born to freedom because we deserved it. We were born to freedom, others came to this Nation, to freedom, because of the sacrifice of others who went before us. And so we enjoy the freedoms and inheritance, the endowment we have today.

We can fritter away this endowment or we can protect it. We can avoid unilaterally disarming and protect the American people in this blessed country so that future generations can enjoy that same inheritance.

Another message, Christmas message from George W. Bush was this: "During Christmas, we gather with family and friends to celebrate the birth of our Savior, Jesus Christ. As God's only Son, Jesus came to Earth and gave His life so that we may live. His actions and His words remind us that service to others is central to our lives and that sacrifice and unconditional love must guide us and inspire us to lead lives of compassion, mercy, and justice. The true spirit of Christmas reflects a dedication to helping those in need, to giving hope to those in despair, and to spreading peace and understanding throughout the Earth."

"As we share love and enjoy the traditions of this holiday, we are also grateful for the men and women of our Armed Forces, who are working to defend freedom, secure our homeland, and advance peace and safety around the world. This Christmas, may we give thanks for the blessings God has granted to our Nation."

We took an oath to provide the protection for this Constitution, in essence this country, against all enemies, foreign and domestic. We did not take an oath to legalize theft from people who earn money to give to our favorite and many extremely deserving charitable causes. That's not what we were supposed to do. We need to defend this Nation so that others can be as philanthropic, as charitable as only Americans seem to reach the full height of doing.

In this Christmas season, we want all people of all religions to be able to worship as they choose freely so long as they do not threaten the freedoms of this country. We have an obligation, we took an oath, an oath before God below those words, "In God We Trust." Well, the people have trusted us not to

shirk our duties to defend this Nation. And so that means individually we should be charitable, individually we should serve and help others, but as a Congress and as a Nation we should provide incentives for people to reach their God-given potential.

We shouldn't be paying people for every child they can possibly have out of wedlock so that we encourage nearly 45 years of people having babies out of wedlock. No one cares for deadbeat dads. It's despicable to have fathered a child and to not help in any way with the upbringing and the sustenance of the child that a father helped bring in the world. And yet the answer lies not in providing a financial incentive to lure young single women into a rut from which they cannot extricate themselves. It's immoral to lure young women into ruts with no hope of getting out.

And as a judge, I was prompted to leave the bench when I first started about thinking about running for Congress as I saw these young women who came before me for welfare fraud or for selling drugs, and their stories seemed so hopeless. But they were told if you just have a child, forget high school, you can start getting a check. And there are young women around the country who are going into this Christmas week feeling they have no hope. I saw them in my courtroom. And this Congress is to blame, the ones that preceded us are to blame. You meant well. Congress meant well. But instead of helping, we hurt future generations. Not just one, future generations.

It's time we undid that. It's time that in a spirit of Christmas we don't legalize taking somebody's money that doesn't want us to have it and giving to our favorite charity. What we legalize is incentives for people to reach their full, God-given potential, regardless of their race, creed, color, national origin, gender. We make sure that they have that opportunity. That's our obligation.

And as we go and approach Christmas, I close with the words of Benjamin Franklin in 1787. Suffering from gout, 80 years old, the Constitutional Convention was falling apart. There seemed no hope. Eighty-year-old Franklin, brilliant as ever, witty and clever as ever, but who had to have help getting into Independence Hall, was recognized by the president of the Constitutional Convention, President George Washington.

And he pointed out we have been going for nearly 5 weeks, we have more noes than ayes on virtually every vote. Franklin said, "How does it happen, sir, that we have not thought of once applying to the father of lights to illuminate our understanding? In the beginning contests with Great Britain, when we were sensible of danger, we had daily prayer in this room. Our prayers, sir, were heard, and they were

graciously answered." That's not a deist, by the way.

He went on and eventually said, "If a sparrow cannot fall to the ground without His notice, is it possible that an empire could rise without His aid? We have been assured, sir, in the sacred writing that unless the Lord build the house, they labor in vain that build it." Franklin went on and said, "Firmly believe this." He said, "I also firmly believe without His concurring aid, we shall succeed in our little political building no better than the builders of Babel. We will be confounded by local partial interests, and we ourselves shall become a byword down through the ages."

He eventually moved that henceforth we begin each day with prayer in Congress. It was seconded by Mr. Sherman, unanimously adopted. And then Mr. Randolph added not only that, since this was the end of June, he added a provision that everyone in Congress be required to go hear a Christian evangelist on July 4th before they return and begin again in the constitutional making.

And one of the diaries reported that after that, and after they heard that Christian message, after entering into joint prayer as a Congress, led by a local minister, there was a new atmosphere, there was a new spirit, and as a result we got the Constitution that is the greatest founding document of any nation in the history of the world. Now, that is something that we have to thank God for.

So at this time of blessings, and thanks giving, and this Christmas season, Madam Speaker, I yield back.

□ 2100

PERSONAL OBSERVATIONS ABOUT OUR DEMOCRACY AND OUR COUNTRY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. EDWARDS) is recognized for 30 minutes as the designee of the majority leader.

Mr. EDWARDS of Texas. Madam Speaker, as I leave Congress after 20 years, I would just like to share a few personal observations about our democracy and our country.

First and foremost, I believe we still live in the greatest country in the world. We are a blessed Nation, and we have more freedoms and opportunities than most citizens of the world could ever imagine. The proof that all is not wrong in our country today is that our immigration challenge is not that people are trying to leave our country; it is that millions of people from all parts of the globe would do almost anything, including risking their lives, to come here.

Several years ago, I learned a lot about our country from a D.C. taxicab

driver. In hearing his accented English late one night when I arrived at National Airport, I asked him when he first came to our country. He answered 20 years earlier. Then I asked him if he had a family, and he answered, yes, a wife, two sons and a daughter. I asked if they had come with him when he came here 20 years ago, and he said, no, they came 3 years earlier. He went on to explain. Imagine this:

For 17 years he came to our country for 10 months out of every year, working two jobs at a time, washing dishes and any other minimum-wage job he could find here. He said he would save a little bit every year for his family nest egg and enough to return to his home to be with his family for 2 months each year.

As the father of two young sons, I was floored, and said he could put millions of dollars in the back seat of that taxicab that night for me if I only would agree to be away from my wife and sons as much as he had been from his family, and it would not even be a temptation.

I asked him why he did it, and I will never forget his answer. He said, I had a hope and a dream that some day I might be able to raise my three children in a country where they could have just two things—religious freedom and the opportunity to be whatever they wanted to be.

Now, he said, my family is together here. I am a U.S. citizen. My sons are studying to become engineers and my daughter will be a doctor.

This hardworking immigrant taught me a lot that night in his taxicab about the American Dream and what is so special about our country.

I realize our democracy is not perfect, and I am well aware of the imperfections of those of us who serve in it. But sometimes in the midst of our daily lives, we Americans need to stop and think about our many blessings as citizens of this great country. In a time of widespread cynicism toward government, I believe it is also worthwhile to ask ourselves what is the role of our Federal Government. There can be no better foundation for that answer than the Preamble to our Constitution:

“We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and to our posterity, do ordain and establish this Constitution for the United States of America.”

As with any statement of principle, our Founding Fathers left honest room for disagreement on the specifics of interpretation, but I would like to make several personal observations.

The preamble first begins with the words “We the people.” Those words make it clear that the cornerstone of our democracy is the people—not poli-

ticians, not Presidents, not any institution or special interest.

I believe one of the frustrations toward government today is that “we the people” don’t feel government is listening to or working for us. There is a sense that the voice of the special interest is too often drowning out the voice of everyday citizens.

There is much truth in that observation, and I have concerns that the recent Supreme Court decision to let corporations and unions spend unlimited, unaccountable, untraceable amounts of money in campaigns will make the voice of everyday citizens even less audible. If outright bans don’t meet the limits of a flawed judicial decision, that at the very least transparency must be required. “We the people” have a fundamental right to know who is spending millions of dollars to influence who is elected to our Congress.

“In order to form a more perfect union.” I believe the greatness and goodness of our country is that ours is a history of each generation trying to reach ever-closer toward the ideals of liberty and justice for all. Rights that were once just the domain of white male landowners have slowly but surely been expanded to more and more Americans. The barriers of race, religion, gender and sexual preferences have with great pain and sacrifice slowly been knocked down. This road of progress has been paved with detours and roadblocks along the way, but it has inevitably been a road of progress toward a more perfect Union.

I am proud that in 2008 our Nation broke the racial barrier for the highest office in our land. But I temper that pride in 2010 with the disappointment that the issue of race is still an issue for anyone over a century-and-a-half after the signing of the Emancipation Proclamation. Let us not, however, let the imperfections of our Union blind us from seeing our blessings and our progress toward becoming a more perfect Union.

“Establish justice.” In a society that is often critical of our legal system, I am grateful that we live in a country that presumes innocence until guilt is proven and that offers the fundamental right to a jury trial. While frivolous lawsuits do occur and should be stopped whenever possible, reason should dictate that we not limit the constitutional right of the citizen to a jury trial and that that right should not be based on one’s wealth. It is not fair to begin the work of Congress in this House on this floor with the words of our Pledge, “with liberty and justice for all,” and then proceed on the House floor moments later to cut legal aid for low-income citizens.

“Insure domestic tranquility and provide for the common defense.” In a world where evil and greed will always exist, defending our citizens’ lives and property must always be a top respon-

sibility of government. That is why I am so grateful for the noble calling of those who choose to serve our Nation in law enforcement and in military uniform. Those who defend us from criminals here at home or from threats from abroad have chosen a noble calling in life and should always be treated with our words and our deeds as the true heroes they are.

The record will show that in the past 4 years under the Democratic leadership of Speaker PELOSI and with the leadership of Chairman OBEY and Chairman FILNER and others, this Congress has made unprecedented strides in our investments in better health care and benefits for our veterans. We did so while recognizing that we can never fully repay our debt of gratitude that we owe those who have served our Nation in uniform and their families.

“Promote the general welfare.” On this principle there can be much honest disagreement, and I respect that fact. Perhaps what is most important in this idea to me is that it underscores that we Americans are not just individuals separate from one another, but that our Founding Fathers recognized the welfare of one is not distinct from the welfare of all of us. “We the people” truly have common bonds as American citizens.

My personal view is that government cannot ensure success for individuals. That requires hard work and solid values, and those come from our families and our faith, not from the government. Yet I do believe that the general welfare of “we the people” is enhanced if government and private enterprise work together to give those willing to work hard and play by the rules a fair opportunity for just a few things in life for themselves and their families.

□ 2110

A good job, a decent home and a safe neighborhood, affordable health care, a quality education for their children, and retirement security. Government cannot guarantee these outcomes, but it should work to provide a fair opportunity to all willing and able to work hard for them. Government should provide a helping hand to those who are willing to help themselves.

The general welfare, to me, really means opportunity. And it is my belief that the ultimate goal of government should be to provide every child in America—every child—a fair opportunity to reach his or her highest God-given potential. That is what Head Start, public school funding, college student financial aid, and many other Federal programs are all about. These programs are helping hands, not hand-outs. They’re investments in opportunity for our citizens and our country’s future.

For those who cannot help themselves because of their physical or mental health care problems, we the

people are a compassionate people, and the general welfare, along with our basic sense of decency and faith, dictate that we help those who cannot help themselves. That is a proper role of the Federal Government.

For those who believe there's virtually no role for the Federal Government much beyond national defense, I would point out that our Founding Fathers realized over two centuries ago that the failure of the Articles of Confederation was that they committed ourselves to being a country of separate States, more than one union. That's why our Founding Fathers committed to adopting a new Constitution with stronger powers vested in a Federal Government. Our Founding Fathers so long ago understood that the general welfare of our citizens could not be effectively served by simply that loose association of States. There are some today who envision turning the clock back to a system that didn't work over two centuries ago and certainly would not work today in today's more complex society and economy.

Despite its imperfections, I believe the Federal Government plays a vital role in providing for the general welfare of we the people. At the same time, I would say that the general welfare of our children and grandchildren demands that the Federal Government do a better job of living within its means.

While deficits are to be expected in times of war and recession, long-term deficits must be brought down. This should be one of the highest national priorities in the years to come. After having turned serious deficits from the early 1990s into the surpluses of the late 1990s, Congress, in my opinion, made an enormous mistake in letting expire the pay-as-you-go rules, passing massive unpaid-for tax cuts in 2001 and 2003, and in expanding Medicare prescription drug programs in 2003, with none of these being paid for. This is not rocket science. It is simple math. Massive tax cuts passed in 1981, in the face of a major defense buildup, led to historic, unprecedented deficits. Two decades later, the same mistake was repeated when Congress passed massive tax cuts, the first ever of their kind during a time of war. Those of us who opposed those tax cuts predicted they would lead to deficits. Those who supported the tax cuts, if you'll check the record, said they would not lead to deficits. We were right, unfortunately, and they were wrong.

It is my hope that the free lunch philosophy of no-pain balanced budgets has been discredited enough by now so the next Congress can realistically make the tough choices needed to get our fiscal house back in order. Republicans in Congress need to stop peddling the disproven that tax cuts pay for themselves. They do not. Democrats in Congress need to understand

that spending must be cut, that no cuts will be done without pain, but that ultimately uncontrolled deficits will harm low- and middle-income families even more through slower economic growth and the crowding out of education and health programs by increasing interest payments on the national debt.

Most importantly, the partisan finger-pointing should stop and the bipartisan work should begin. It should begin to ensure the general welfare of we the people is served by a physically sustainable Federal debt level. The choices will be difficult, but if they are made on a bipartisan basis, the people of the country will understand the necessity of those tough choices, just as they did in 1983 when President Reagan and Speaker Tip O'Neill worked together to save Social Security.

"Secure the blessings of liberty to ourselves and our posterity." Our forefathers understood that freedom is God-given and should be protected as the divine gift it truly is. Our troops have, for over two centuries, protected our freedoms from threats from abroad. Here at home we must continue to be faithful stewards of the freedoms of religion, speech, press, and association.

It is no coincidence that the first words of the Bill of Rights are dedicated to the principle of religious liberty built upon the foundation of what Thomas Jefferson called the sacred wall of separation between church and State. Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. Religious freedom is the first freedom. It is the freedom upon which all other freedoms are built. Mr. Madison and Mr. Jefferson understood that religion should be based on a pedestal high above the reach of politicians.

I believe America's model of religious liberty is perhaps the greatest contribution to the world from our experiment in democracy. It has been built upon the bedrock of church-State separation. And for those who misunderstand that principle, church-State separation does not mean keeping people of faith out of government. It does mean keeping government out of our faith. All of human history has proven that if politicians are allowed to regulate and get involved in religion, they cannot withstand the siren songs of using religion as a means to their own political ends and of stepping on the rights of religious minorities by trying to ingratiate themselves with the religious majority.

If I could offer only one piece of advice to the press, the public, and to future Members who will serve in Congress, it would be to be aware of those who, whether motivated by good faith or by political gain, would try to help religion by chiseling away at the wall of separation between church and State. God doesn't need their help or

government's help. If He chose to give each of us the right to believe or not to believe, it would be sacrilegious for politicians to limit that divine right.

Government can make a lot of mistakes that can be corrected, but if the Pandora's box of intermingling government and religion is ever open, it will unleash divisions among us that we cannot even imagine. Human history has proven that lesson over and over again. Mr. Madison and Mr. Jefferson got it right in the first 16 words of the Bill of Rights, and it would be wrong to undo those words or the principle they represent.

In the short run, I have some serious concerns about our democracy. Partisanship is too prevalent, especially since solving the major challenges facing our country—the deficit, health care, energy, immigration reform, and competing in the world economy—will require bipartisanship to not only pass effective legislation but to secure public support for those laws after their passage.

Sound-bite politics of television and radio interviews and talk shows and campaign ads make it difficult to develop responsible solutions to complex problems. Thirty-second campaign TV ads are seldom a template for responsible problem-solving. The stovepiping of news sources, where citizens are hearing the news they want to hear, reinforcing their already held views, is digging deeper the lines of political division in our country. The demonizing of those who think differently is creating coarseness in our political discourse that neither serves our democracy nor sets a positive example for our children. If adults don't treat each other with respect, can we expect any different from our children?

□ 2120

The loss of centrists—Republicans and Democrats alike—in Congress will make it more difficult in the years ahead to find the common ground of compromise. A parliamentary government can work with one party on one end of the political spectrum and another on the other end with few in between, because the party in the majority in that type of government has the power to implement its programs. However, in our American democracy, built upon the principle of checks and balances, bipartisanship is needed to pass laws on major issues and then to earn acceptance of those laws from the public.

The financial problems of major regional newspapers have reduced the impact of one of the key checks and balances of our democracy—a vigorous and free press.

The financial power of corporations, unions and special interests, especially under the Citizens United Supreme Court case, to spend unlimited, non-transparent millions in congressional

races without any accountability to the public who funds those races could seriously undermine the integrity of not just campaigns but of voting decisions made by Members of Congress.

Despite all of these challenges in the short term, I am confident of America's long-term future. Our people and our democracy are resilient. When Americans face hardship, we find a way to endure and overcome those hardships. They always have. We always have and always will as a people. When our democracy gets off center, we the people find a way to bring it back in line.

In every generation, including that of our Founding Fathers, there have been predictors of doom. In every generation, they have been wrong. Americans have faced a revolutionary war, a civil war, two world wars, and a great depression. In each case, we the people found a way to meet those challenges and overcome them.

While I have met some famous people over the past 20 years of my public service, I have seen the soul and spirit of America through the lives of everyday citizens. It is they who give me faith in our future. It is the teacher who volunteers to help students after school; the military widow who asks how she can help other grieving widows; the soldier who misses the births of his two children while he is serving his country overseas; the veteran who continues giving back to country long after his or her service is completed; and the hardworking small business people—farmers and workers—who work hard every day just to provide a better life and hope for their families.

I will never ever forget Erin Buenger—a beautiful, little, red-headed girl from Bryan, Texas—in my district—who came to Washington to lobby me for better health care research for rare children's diseases. For 7 years, Erin fought bravely against a rare cancer, neuroblastoma. Yet you would never have known she had had a bad day in her life because she was so full of life. Erin won my heart. She won my heart before she died at the age of 12, but her spirit will always live on to inspire me and those blessed to know her—to inspire us to do better, to be better. As long as we have Americans with the courage, values, and heart of Erin Buenger, who personified the American spirit, our Nation's future will be bright.

I would save the last words I will speak from this House Chamber for my family. Throughout my years in Congress, it was my wife, Lea Ann, and our two sons, J.T. and Garrison, who always kept me grounded. Every day of public service has truly been an honor, and I am grateful to the people of Central Texas for that privilege, but throughout the years, it was the love from my family and my love for my family that always meant the most to

me. It was their love that reminded me what life and public service should be about.

I can never say enough about the personal sacrifices and responsibilities that Lea Ann took on to make my work possible. She has been my personal hero throughout these years, and I love her with all my heart for who she is and what she has done as a wife, as a mother, as a USO cochair, and as a Boy Scout leader.

To our sons J.T. and Garrison, it is my hope that somehow I have shown them that trying to make a positive difference for others is part of our mission here on Earth, and that that mission begins with loving our families.

Serving the American family has been the privilege of my life, but the joy of my life has always been my family.

We the people are fortunate to live in the greatest Nation in the world. God has truly blessed us, and now it is up to us to be good stewards of those blessings.

Thank you.

THE DREAM ACT AND ITS WAY FORWARD

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Colorado (Mr. POLIS) is recognized for 30 minutes as the designee of the majority leader.

Mr. POLIS. Madam Speaker, I rise today to talk about the young people whose futures are impacted by our Congress' failure to find a path forward with regard to the DREAM Act or to find some way of determining what they should do, what they should be—these Stateless individuals, these young people, these children of our Nation.

The DREAM Act is truly one of the most, if not the most, important pieces of legislation that we have discussed on the floor of the House. Certainly, for the individuals involved, it means everything—everything—to hundreds of thousands of de facto Americans. To them and to all of us, it is extremely important. We have a choice between forcing a brain drain from our country or retaining the best and brightest to contribute to our economy and make our economy stronger and our Nation more prosperous.

I will discuss the moral, economic, educational, and security reasons why we should pass the DREAM Act. As this Congress failed to act on the DREAM Act, it remains an issue that we simply must address with regard to these young people, and it cannot be ignored. I also want to pose two questions.

One is: What would we ask of these young people? What do we want them to do? The second: What action would they undertake that is best for us and

our country? What should we be asking them to do for us?

First of all, what we are talking about here are young people who grew up in this country, who were brought here when they were 2 years old, when they were 6 years old by parents who were illegal immigrants but who made no choice to ever violate our laws and grew up in this country as any other American does. The young people we are talking about are the children that any parent would be proud of—our sons and daughters, our classmates in our schools, our brothers and sisters of native-born Americans, kids who stayed in school and graduated, who work hard, who stay out of trouble, who serve in our military. They are the children of our great Nation.

We in our country should be proud—not proud of the broken and dysfunctional immigration system and lack of enforcement that put them in this situation; not proud of their parents' violations of our immigration laws, no matter how out of touch with reality those laws may be; certainly not proud of the indignities, discrimination, and fear that these young Americans have faced at every turn—but proud, proud of how these young Americans have overcome adversity and have demonstrated American exceptionalism, their pluck, their ingenuity, their ambition, their drive, and their creativity in pursuit of, as our Declaration of Independence puts it, life, liberty and the pursuit of happiness. These young people embody the very best of our American values, and we should be proud to call them our countrymen.

I was touched, Madam Speaker, by the great risks that many of these young people took in putting themselves out there—allowing their names to appear in newspapers and their faces to appear on television—in putting their futures at risk simply to tell us the story that they know we would understand: that they are here and that they are American.

This is a great Nation, and we will be stronger still, greater still with the full participation of these young de facto Americans, each with the opportunity to go as far in life as their ambitions and abilities will take them. I want to talk about a few of these young people today.

Prior to our successful passage of the DREAM Act out of the House—unfortunately, it later died in the Senate—I talked on the phone to several of the young people in my district, my constituents, who would be directly impacted.

□ 2130

This debate is really about young women like Zandy. Zandy was brought to the United States when she was 4 years old from Zacatecas, Mexico. Zandy grew up in the United States and didn't even know that her parents

had taken her illegally until she was 9 years old when one of her friends was flying to Montana and their family invited her but her parents told her she couldn't go because she didn't have papers. Zandy went to prom senior year like other high schoolers. It was really cool, she said. Finally, my mom let me and I wanted to look pretty for prom. I didn't have a date so me and my friends went together.

Now, Zandy has a passion for law enforcement. As she puts it, quote, I want to help stop the drug cartels. Zandy, who is currently enrolled at the Community College of Denver, wants to be a DEA agent. Our decision in Congress will determine if she engages in law enforcement to protect our laws or is pursued by law enforcement in violation of our laws. We will create either an agent of public safety, or we will criminalize a young woman because of actions that were not her own.

The question that will face us and the next Congress: Will we allow Zandy to become someone who protects us or someone who we must spend money criminalizing and hunting? Which benefits America more? Zandy said, I want to be in law enforcement in doing what I want to do in my life. Madam Speaker, we want Zandy as an American.

This debate is about Claudia. Claudia's 21 years old and is a third-year college student at the University of New Mexico. She attends college in New Mexico because, unfortunately and shamefully, my own State of Colorado doesn't offer in-State tuition to residents who have lived there 10 years, 15 years. Claudia was brought to the United States when she was 7 years old. In high school, she was vice president of the Latino Youth Leadership Club and engaged in hundreds of hours of community service tutoring younger kids. Claudia enjoyed tutoring younger children and wants to be an early childhood education teacher, teaching preschool and kindergarten.

She has no immediate family in Guadalajara, Mexico, where her family took her from. She was brought up here and she doesn't have any memories of her old country. She's a role model for her 11-year-old sister. She said, It's sad that we're looked upon differently than other people, even though we've been here long enough to know everything. This law would help me be near my family. Claudia, when this Congress manages to pass the DREAM Act and immigration reform, would likely transfer to the University of Colorado closer to her family. It poses a question for us. Put yourself in that situation: What would we do? What's the right thing to do? Madam Speaker, we want Claudia as an American.

This debate is about Luis. Luis was brought to the United States by his parents when he was 10 years old in 2001. I talked to him on the phone last

week. He grew up as American as anybody else. He was active in the French club and was on the soccer team at Skyline High School. He was accepted into the University of Northern Colorado but couldn't attend because of his lack of status. He wants to be a psychiatrist, but he's not in school because of immigration status. He was accepted to the University of Colorado, assigned to a dorm, went to classes for the first day, went up there and registered, but wasn't able to attend because of out-of-state tuition. Luis said, There's never a difference between me and my peers.

Luis also seems to have a potential career ahead of him perhaps as a pundit or in public service or even perhaps as a, God forbid, lobbyist because the way he put it to me is in language that would translate to Members of this Chamber. Luis said, with understanding far beyond the average for his age of 19, Many of the Republicans are looking into the money side of things. What I would tell them is that they should look at us not as a burden but as someone who would brighten their future. We are here and we're not going to go anywhere, and we're going to make this country better, create jobs, and make the economy better.

And I would ask any of my colleagues, particularly those in this Chamber or the other Chamber that have not yet been supporters of the DREAM Act, why are they against making our country better, creating jobs, and making the economy better? Or is there somehow a disconnect and they don't believe that Luis as a psychologist versus Luis as a worker in the underground economy would make our economy better, create jobs and prosperity for America? Luis said, America is the place where you can make things happen. Madam Speaker, we want Luis in America.

This debate is about Angel. Angel is a senior in high school, currently in my district in Colorado. His parents brought him from Zacatecas, Mexico, when he was 6 years old. In high school, he's very active and serves on the student council and the theater club. He won an essay contest a couple of years ago and got a trip to New York City where he told me how excited he was to meet members of the cast of "Wicked." The 4 days he spent in New York City helped show Angel a key interest in the arts, and he wants to go to college for the performing arts. He just turned 19 years old and serves as a role model for his brother, who is in the same situation and is 14 years old and was brought here when he was 1 year old. Angel has no memories of any other countries, and he's never been to Mexico. Madam Speaker, we want Angel as an American.

This debate is about Michelle, a constituent from my district. I talked to her on the phone last week. Michelle

was brought to the United States when she was 7 years old. Her little sister had a skin disease caused by pollution in Mexico City. She had a good life in Mexico City. Her dad was a lawyer. Her mom stayed at home. Now, both her parents clean homes in the United States.

Michelle is now in her first semester at Community College of Denver. She went to Fairview High School and was on the girls soccer team as a forward. She also won an award from the Boulder Youth Advisory Board, or YOAB, for greatest helper in the Boulder community because of her community service. She credited one of her teachers, Mrs. Carpenter, for helping to get her involved with community service, including the Rotary Club. Michelle has never been back to Mexico City. She's now 18 years old. She found out she was undocumented in 8th grade when she wanted to go on a school trip to Washington, D.C., our Nation's capital.

Michelle wants to transfer to study marine biology. She said, I would love to study marine biology, but I'm not sure they will let me because of my situation. She continued on the phone with me last week, My life is here now. It's not our decision to come here, but we came and we're studying and we're trying to make our life better than our parents and to make a good life for ourselves. They are stopping the dreams for students who don't have papers. I don't know if they want us to work in McDonald's or Wendy's. I don't know what they want us to do. They aren't letting us reach our goals or our dreams.

Madam Speaker, I ask all of us, What do we want Michelle to do? I believe, Madam Speaker, that we want Michelle as an American.

Constituent service is one of the most fulfilling components of our job on both sides of the aisle. An elected office, it's fundamentally a helping occupation. We enjoy helping people. We might have different ideas about how to do it, but that's why we're here. There is little satisfaction as good as helping a veteran who served our country get the benefits that he's entitled to but had been wrongfully turned down by a faceless bureaucracy. We're fundamentally in this business to help people. When a constituent can stay in their home because of our work and finding an alternative to foreclosure, what thrill can top that for a Member of this body?

And then, Madam Speaker, there's times when we're not able to help. Chih Tsung Kao is 24 years old. His story started when he was 4. He entered the States with his mother with a visitor's visa, which was later changed to a student visa. I talked to him on the phone last week. He said, I was basically dropped off at my grandmother's in Boulder, Colorado, as my mother left back for Taiwan.

During his stay with his paternal grandparents, his student visa expired due to their negligence. They forgot to renew it. Chih was 17 years old before he learned that his visa had expired. Since then he's looked for different legal routes to obtain some sort of legal status, all leading to that end. I was impotent in my office, as were our Senators, to help young Chih find any route that would allow him to contribute to this country. Chih is a college graduate with a civil engineering degree from the Colorado School of Mines, our premier engineering university in Golden, Colorado.

And now, Madam Speaker, Chih is serving in the Taiwanese military due to their conscription policy, and he's trying to readjust to his life there. This is how he describes his life. He said, I'm illiterate in Chinese which makes simple, everyday tasks here in the military difficult. I'm trying to learn basic spoken Chinese, but I can't even understand their basic commands. I try to move when others move. I will see how they will utilize me after my basic training ends and I'm assigned to a new post, but many superiors have told me they're not sure what they're going to do with me.

□ 2140

Now, you know, Chih contacted my office for help, but I wasn't able to intervene. And America lost this great mind, this great contributor, this great engineer.

He wrote to me an email. He said he hopes that his story helps paint a small piece of a larger picture for those who don't understand the situation and the feeling of helplessness that many students and young people have. He said, It's a hard thing, feeling like the country you consider home doesn't want you in the country at all.

Visualize this image, Madam Speaker, of a young man with an engineering degree from Colorado's premier engineering school, forced to serve in the military of a foreign country where he knows no one, trying to obey orders in a language he doesn't understand. It's farcical. This is a waste of human capital, a waste of our taxpayer money to spend hundreds of thousands of dollars educating Chih, only to force him to serve in the military of a country where he doesn't even speak the language and has no loyalty. It's absurd. And it happens every day.

The DREAM Act, which our House passed and the Senate failed to act on, will solve it; and it will be the challenge for all of us in this body in the next Congress to answer how we can help Chih and others like him. We hold their futures in our hands, Madam Speaker. And while this Congress failed to act, the question doesn't go away. It puts all of us in a position of having to go back to these young people—Claudia, Zandy, Chih—and say, Not yet, when we all know it's inevitable.

This debate is about how to make our country stronger, more secure, more prosperous. This debate is about our values. This debate is about Zandy and Luis. This debate is about our country and our future.

We've invested over \$70,000 of taxpayer money in Michelle's education. Now it's our choice: Do we want her to be a respected marine biologist or an illegal immigrant cleaning buildings for \$6 an hour? It's up to us. Which is better for us? Which is better for our Nation? In our shoes, what do we want them to do, these young people, to better us and to better our Nation? Is somehow consigning a future scientist who might discover the cure to cancer to clean offices at 2 in the morning at minimum wage or below wise?

Michael Crow, president of Arizona State University said, "There is a million-dollar difference, over a lifetime, between the earning capacity of a high school graduate and a college graduate." Drew Faust, president of Harvard said, "The DREAM Act would throw a lifeline to these students who are already working hard in our middle and high schools and living in our communities by granting them the temporary legal status that would allow them to pursue postsecondary education."

By fixing this, Madam Speaker, we will not only help these young people, but we will help eliminate the achievement gap in our schools and inspire other students to achieve, by upping the ante of performance in our public schools.

In the words of Secretary Arne Duncan of Education, he said, "Passing the DREAM Act will unleash the full potential of young people who live out values that all Americans cherish—a strong work ethic, service to others, and a deep loyalty to our country."

If not the DREAM Act, then what? What do we tell these young people? What do I tell Michelle? What do I tell Zandy? How do any of us answer these constituents of ours who are stateless individuals?

The theme of my service in Congress is human capital issues: improving our schools, our education, increasing access to higher education, taking on entrenched interests where necessary to improve our human capital. But the flip side of the education aspect of developing human capital is immigration. Not only do we want to grow the next generation of global leaders here at home, but we want to import the best and brightest from around the world, and we keep shooting ourselves in our own foot in this regard.

We lost Chih not because of him but because of us. We turned a highly trained taxpayer-financed engineer into an incompetent enlistee in a foreign military. It doesn't sound very smart to me. We should want to provide students with powerful incentives

to stay in school, do well, and graduate.

A 2010 study by the UCLA North American Integration and Development Center estimated that the earnings from the beneficiaries of the DREAM Act over the course of their working lives would be between \$1.4 trillion and \$3.6 trillion for America. We want them working in America. We are causing a brain drain of our own making, a drain in which the very best of a generation, the college-bound, the graduate school-bound, the doctors, the servicemen, the scientists and poets are given a terrible choice: go to a distant land where you have no connections, may not even speak the language, or stay here and work in an underground, unskilled labor market.

Fixing immigration and the DREAM Act would also improve our national security. Leaders from the armed services have been nearly unanimous in their support of the bill because they recognize it would help our military shape and maintain a mission-ready, all-volunteer force. Former Secretary of State General Colin Powell and military leaders from both parties have spoken in support of the DREAM Act, as has Defense Secretary Robert Gates.

You know, I don't frequently make moral arguments in this Chamber. I heard one of the earlier speeches by Mr. GOHMERT. And our theology doesn't have a lot in common, Madam Speaker, but we try to find common ground. I think the Members of this Chamber, whether they come from the faith traditions of Christianity or Judaism, Islam or Buddhism, agnosticism or atheism, various strings of orthodoxy within their traditions, we like to consider ourselves moral people.

Let me quote from Deuteronomy 24:16: "Fathers shall not be put to death for their sons, nor shall sons be put to death for their fathers." There is not a moral code prevalent in Judeo-Christian thought that suggests that it's moral for humanity to visit the sins of the father upon the son.

These commonsense values are reflected in our legal code. When someone dies, their debts aren't passed to the son or daughter. When an adult is pulled over for a speeding ticket, no ticket is given to the 2-year-old riding in the child's seat in back. But that's exactly what, in this debate, some people are advocating: Ticket the 2-year-old who was along for the ride, they say. What that 2-year-old was doing was illegal. They were speeding too. The child was speeding.

But regardless of one's faith, punishing the wrong person for a crime because of a blood relation, because of happenstance defies our ethical sense. Some have said, This is some kind of amnesty. One can't grant amnesty to people who haven't committed any wrong, who have not violated any law.

It makes no sense to talk of amnesty for a 2-year-old who is brought along

on a ride that they didn't choose. Ticketing the 2-year-old makes no more sense than penalizing a child for passively being brought here by their parents. A 2-year-old, a 5-year-old, an 11-year-old not only is incompetent to make a choice to violate the law; but even if you assume that they were, and a 6-year-old was competent for their decisions to violate our immigration laws, they are, in practice, unable to economically or socially separate from the family unit that provides for their sustenance. No one with any degree of common sense can say a 6-year-old should leave their parents if their parents are violating some law. A child has to go with their parents. There is nothing else a child can do.

With our proposals, we were willing to even say we don't even go up to the age of 18. To eliminate any question, we said, If you are 17, if you are 16, then you are going to somehow be responsible. You should know better. You should leave your parents and home and support structure. And that's a painful concession to make because I think many of us know in our hearts that 16-year-olds, 17-year-olds that we know, are they really mature and capable enough to leave their parents and survive completely on their own? Some might be, but many are not.

So we set the maximum age of 15 in the DREAM Act. That's a concession we made, we thought, to make this bill low-hanging fruit to get it passed because no one can argue that an 8-year-old or a 12-year-old is capable of what we expect a 17- or 18-year-old to have done under this bill. The lack of having some mechanism of adjusting the status of these stateless individuals, these de facto Americans is immoral for our Nation and forces underage children to bear the heavy costs of their parents' decision to violate our laws.

You know, I wish that we had passed comprehensive immigration reform and replaced our broken immigration system with one that worked, and I am proud to say I am a cosponsor of the House bill to have done that. We should reduce the number of illegal immigrants from about 15 million to about close to zero. And we know how, and we can. But we did not, so we are where we are.

We're talking about, with regard to these young people, one of the politically easiest, bipartisan, most economically important, most morally pressing elements of immigration reform, recognizing the hundreds of thousands of de facto Americans who were brought here as minors without their knowledge or consent and that our taxpayer dollars have educated and will be living their lives in our Nation as legal entities with potential to eventually obtain the full rights and responsibilities of citizenship.

You know, passing the DREAM Act would reduce the number of illegal im-

migrants in our country by 500,000 people. Those who oppose the DREAM Act support the ongoing presence of over 500,000 more illegal aliens within our borders. Opponents of the DREAM Act make a travesty of the rule of law and facilitate the ongoing presence of undocumented foreign nationals inside our country which hurts the budgets of counties, cities, and frustrates States, with good reason. Opponents of the DREAM Act would make a criminal, rather than a police officer, out of Zendy.

□ 2150

States like Arizona have taken actions against illegal immigration precisely because of the size of this issue and Congress' complete failure to do anything about it.

With the DREAM Act, we had a chance to cut illegal immigration instantly by 5 percent. That's substantial. I'd rather cut it by 100 percent, but 5 percent is something we can be proud of, a first step to show the American people we're serious about solving the immigration issue.

At the same time, it strengthens our economy, improves our schools, makes money for taxpayers, \$1.7 billion, and restores the rule of law to our Nation.

The CBO said that it will reduce the deficit by \$1.7 billion. That doesn't even include the future income streams we talked about earlier. I certainly expect that all Members who are serious about reducing the deficit will enthusiastically support deploying the talent that these young people have to bear in our country.

In my home State of Colorado, roughly 46,000 people would have been eligible under the DREAM Act. Madam Speaker, I have to go back to them and tell them, Not yet. Be patient. Keep playing by the rules. Study hard. Work hard. Our country will get it right. I hope it's next year. I hope it's the year after. But not yet.

Our decision before us was clear. We had the choice of making a marine scientist out of Claudia or an illegal immigrant. Last week, I'm sad to say, Madam Speaker, that while our House would have made a marine scientist out of Claudia, the failure of action in the Senate has made Claudia an illegal immigrant. Our Nation deserves more scientists and engineers, not more illegal immigrants.

I want to pose two questions. One is: What would we ask of them? What do we want these young people to do? That's what they ask me. What would you have us do?

And the second: What is best for us and our country?

Claudia posed it well. What do they want us to do? she said.

Instead of going to college and serving in the military, are we telling Claudia to clean buildings at night? Are we telling her to become a nanny or a con-

struction worker? Are we telling her to go to a country where she doesn't know anyone, barely speaks the language, and hasn't even been to in her memory?

I want Claudia to be the best darn marine scientist in the United States and to make great scientific discoveries that benefit humanity and improve our knowledge of the ocean.

For those who oppose the DREAM Act, I ask them: What do you want Claudia to do?

These stateless young people will be a credit to any nation. Let's make it our Nation.

Madam Speaker, this debate is about Ray. Ray was brought here when she was 2 years old. Her parents told her that she was born in the United States so she wouldn't feel the stigma of being foreign born. So Ray grew up not knowing she was foreign born until she was a teenager. Ray wanted to be involved with fashion. Her tough, can-do attitude led her to start her own lace business. Now, unfortunately Ray is no longer with us. She passed away. But don't fret. This immigrant story ends happily. Ray Keller, my great grandmother, passed away at the age of 98 in 1989. Without friendly immigration laws that allowed people to naturalize, I wouldn't be standing here before you today as a Member of Congress.

So too, Madam Speaker, there are future generations of Americans including, I'm sure, future Members of this body who are relying on Congress to act to recognize their forebears as the excellent Americans they already are.

Madam Speaker, Ray Keller was a proud American. This speech tonight is not a eulogy for a lost opportunity to pass the DREAM Act and replace our broken immigration system; rather, this speech is a challenge, a challenge to the next Congress to give all of us an answer, an answer for what Claudia should do, an answer for what these young people, these children of our country should do with their lives, should do with their lives to pursue their own dreams and should do with their lives to contribute to the only country they know—the United States of America.

LAME DUCK CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Madam Speaker, it's always a privilege and an honor to address here on the floor of the House. And we're in the waning days, waning hours perhaps, of this 111th Congress as many are prepared to go home for Christmas, and by the count of the votes on the board tonight, some have gone home for Christmas.

And I listened to the remarks of the gentleman from Colorado who spoke

ahead of me, and I'm not of the spirit to directly rebut each of the points that he's made. I want to stay within the Christmas spirit here tonight, Madam Speaker, and simply address that there is another viewpoint, and that other viewpoint was heard.

We have, over the last 4 years in this Congress, seen significant majorities for Democrats, and there were opportunities for Democrats to seek to pass their immigration legislation which they constantly refer to as comprehensive immigration reform. And that has become what the American people understand; comprehensive immigration reform is a euphemism for amnesty. And even though there were opportunities along the way over the last 4 years under the Pelosi speakership, there hasn't been a significant piece of their version of immigration reform that's passed. And, of course, neither has there been a significant piece of immigration enforcement that has passed, especially over the last 2 years with President Obama in the White House, having made those promises that he would be supporting and working towards the passage of some type of comprehensive immigration reform.

And as we saw the majority shift here in the House of Representatives dramatically, where we have 96 new freshmen coming in, 87 of them are Republicans. And I don't think there's anyone out there that looks at the results of the election and believes that this House of Representatives is going to be persuaded by emotional arguments. The incoming House of Representatives, with the 87 Republican freshmen that are coming in and swearing in here on January 5, I believe, will be a Congress that sets the rule of law in very high respect and is not as swayed by individual anecdotes and more concerned about the empirical data and what really happens to a country over the long term that doesn't enforce its laws. That's what I think we can expect to come.

I am the ranking member of the immigration subcommittee, and on that committee, over the last 2 years, with Chair LOFGREN chairing that subcommittee, there have only been eight hearings in 2 years on immigration. That's fine with me because the agenda that they would have driven would have been, I think, an agenda that I would have opposed.

But nonetheless, those eight hearings that have been held, only eight in 2 years, four hearings a year, that's all the activity that's really measurable in the immigration subcommittee.

And so I think when the gentleman from Colorado makes his case, I think it's heartfelt, and I think he is deeply convinced that it's the right policy and agenda for America. As we move close to Christmastime, knowledge that he has is a viewpoint, and I think he'd acknowledge that I have mine. I will

stand up, Madam Speaker, for the rule of law.

And the implications of what goes along with the very well named but not very good policy DREAM Act, I think, became more and more aware to the American people. And as they spoke and weighed in and made their calls in the Senate, then this project, this vote that was held in the Senate failed. And when it did, that's the end of it for the 111th Congress. And it's pretty unlikely that it will be the beginning of it in the 112th Congress as the Congress is configured. And so, from my standpoint, I'm looking forward to the work that we must do and the work that we must do to address the immigration issue coming forward.

There is something that I think is a bipartisan interest to us though, Madam Speaker, and that is, I hear on both sides of the aisle, and I began to hear this about 6 years ago, the concern about how employers were victimizing employees who were unlawfully here in the United States, working unlawfully in the United States.

□ 2200

So I began to look at how can we address this in a bipartisan way. And even though it seems as though the Obama administration and Janet Napolitano included are unwilling to enforce immigration law against employees, they are willing to enforce it against employers. Note some of the enforcement action that has gone in and just gathered the information from the illegal employees, but not brought charges against them, nor started deportation, but brought just the charges against the employer instead.

So I looked at this situation a few years ago and put together a proposal, and this proposal takes into account the Democrat viewpoint, the Republican viewpoint. Both of us are opposed, I believe, in principle, to employers victimizing employees, of them flouting the law and capitalizing on the cheaper labor that they are able to hire and compete against their competitors who would be complying with the law. And also it recognizes that this Federal Government has found itself sometimes where the right hand doesn't know what the left hand is doing. And sometimes the agencies within the government are working at cross-purposes to each other.

One of those examples would be a Social Security Administration that deals with millions and millions of no-match Social Security numbers or Social Security reports that are duplicated multiple times, the same Social Security number used multiple times, maybe all across the country where we know it's impossible to be in two jobs at the same place at the same time.

The Social Security Administration seems to turn a blind eye towards the implications of the illegal employment

and the fraudulent documents that are used for people to work unlawfully in the United States because often those claims on the Social Security trust fund aren't ever filed. People are walking away from it.

If they are working illegally in the United States, often those illegal workers will claim the maximum number of dependents so their withholding on their State and Federal income tax is zero. But they pay the payroll tax, the Social Security, the Medicare, and the Medicaid because they really have no choice with that. But then they aren't going to be in a position to tap into that as an illegal worker in America.

So the duplications that go on and the money that flows into the Social Security trust fund, a significant amount of that is rooted in illegal labor. Social Security trust fund, happy enough getting those extra revenues coming in, and the Department of Homeland Security seems to want to secure some of the areas that are their due, but not reach out and actually put together a network that would address this thing in a broader holistic way.

So I was looking at that thinking, which agency actually does an effective job of enforcing the laws that they have and which one is most respected by the American people? And as I cast my mind across these agencies, it came to the IRS. The IRS has the respect of every taxpayer in America. They don't want to be audited. They fear an audit. Was it 58 percent of the people would rather have a root canal than an IRS audit? Root canals may or may not be all that painful, but that's one of the measures that came out in one of the pollster's numbers, 58 percent would rather have a root canal than be audited by the IRS. I would be among them. I would rather have the tooth pulled myself.

But the IRS does an effective job of enforcing the law, and they do an effective job of going down through a person's books and accounting and coming up with flaws that are there. So I put together a proposal, and it's called the New IDEA Act. The New IDEA. New IDEA stands for the New, and the acronym IDEA is Illegal Deduction Elimination Act. What it does is it clarifies that wages and benefits are not tax-deductible for Federal income tax purposes if they are going to an illegal employee. And it gives the employer safe harbor if that employer uses E-Verify.

So if the employer in their hiring of employees runs the Social Security numbers, the identification information that's on the I-9 form into E-Verify, and it comes back and they only hire those employees that clear through E-Verify, then we give them safe harbor. But if they have employees that are on the list, the Social Security numbers will be on the tax form when the IRS comes in to do a normal audit. We don't accelerate the audits,

just a normal audit. The IRS would then punch the Social Security numbers of those employees that are on the tax form into E-Verify; and if it comes back they are all lawful to work in the United States, no problem. If it bounces back that some of them cannot be confirmed to work lawfully in the United States, we give the employer time to cure, the employee time to cure. And if the employer uses E-Verify, again they have safe harbor.

But the IRS then can conclude that the wages and benefits have been paid to illegals, and therefore those wages and benefits are not tax deductible. What that does then is it kicks that business discount, the schedule C business expense, over onto the profit column. When it does that, it makes that income, and the income then is taxable for interest and penalty.

And so the net result will be roughly this: if an employer is hiring illegals roughly at say \$10 an hour, and I can do the math on this, Madam Speaker, and the IRS comes in and does the audit and concludes that an employee is illegal at \$10 an hour, by time the tax that's applied to that as a business income as opposed to an expense, and the interest and the penalty is applied, the \$10 an hour illegal employee becomes about a \$16 an hour illegal employee, causing the employer to make the rational decision with their capital, and that is clean up their workforce before the IRS shows up.

There is a 6-year statute of limitations. It's cumulative. The clock would start to tick on that when the bill would become law. And then over a course of 6 years, there would be a cumulative 6-year statute of limitations. That means that employers the first year would see 1 year of exposure, second year 2, obviously, on up until 6 years. And the greater the exposure, the greater the risk and the liability and the greater the incentive to clean up their workforce as they move forward.

But it doesn't pull the plug on anyone. It's not a dramatic change. It is a business incentive plan that I think will move thousands of employers into the legal employment business.

And today it's New IDEA Act, it's H.R. 3580. And I believe it will become, in the upcoming Congress, the most useful and effective piece of immigration legislation that this Congress may consider. And it's likely to be referred to the Ways and Means Committee because there are tax components to it. And I look forward to working with people to get the cosponsorships on the bill and work it through the process and earn a hearing and perhaps earn a markup, and one day see it go over to the Senate, where I would be glad if they would take it up and onto the President's desk. It's something that should have bipartisan support again, Madam Speaker. H.R. 3580 the New IDEA Act, the IRS coming in.

By the way, the bill also requires the Internal Revenue Service and the Social Security Administration and the Department of Homeland Security to put together a cooperative team so that they are sharing information so that when the right hand doesn't know what the left hand is doing, we put them together and require that they cooperate with each other so that the right hand and the left hand and the middle hand of the IRS, Social Security Administration, and Department of Homeland Security all know what each other is doing, all are cooperating towards a common goal of cleaning up the illegal workforce in America through the New IDEA Act.

And I think that that has some promise and an opportunity to one day become law in this Congress. And I intend to work it pretty hard. That's something that I think can be proactive.

Now, I wanted to speak, though, as I came here tonight, Madam Speaker, I wanted to address the situation of a lame duck session. A lame duck session, this lame duck session has been full of all kinds of issues that I think didn't have any business being in the lame duck session. A lame duck session is, of course, for those listening in, it's the session of Congress that takes place after the election.

So the election took place November 2, and there was a dramatic shift in seats here in this Congress. And as in a shift in power, all the gavels are changing hands going over from Democrats to Republicans, including the Speaker's gavel. And this will happen on January 5 of this upcoming year, not very far from now. And as that happens and this dramatic shift is taking place, it's because the people in America have spoken. The people in America have spoken up, and they have said, we want to change course.

They watched President Obama digging this hole economically, socially, I think a radical social agenda, I think a radical economic agenda, foreign policy agenda that I don't quite have a theme figured out for. But the President's agenda, the agenda of Speaker PELOSI, the agenda of HARRY REID, the American people said, Stop, you have been digging a hole. Been digging a deep hole with roughly \$3 trillion in spending that's over and above what would be normal spending here in this Congress. And the American people went to the polls November 2, and they took the shovel out of the hands of President Obama by means of shifting the majority here in the House of Representatives and changing the gavels from the hands of Democrats into the hands of Republicans.

When the people of America say stop, it's enough, the people that are serving in this Congress in this lame duck session, this session between November 2, the election, and January 5, which is

the swearing-in of the new Congress, the people serving in this Congress need to understand when the American people said enough, that's too much, stop, this Congress needed to respect the will of the American people and stop.

□ 2210

Stop digging, stop moving the radical social agenda. In fact, stop moving the radical socialist agenda. HARRY REID should stop, Speaker PELOSI should stop, Barack Obama should stop, and this Congress should have only dealt with those issues that were necessary to keep this government functioning in its proper fashion between November 2nd and January 5th.

This Congress could have passed a simple continuing resolution like this House did today that would have bridged the gap through November, December, maybe even January and February, but have gotten a smooth transition over into the next Congress, a respect for the voice and the will of the American people, as Republicans essentially did in the year 2006, respected the will of the American people.

This has not been to be. One radical thing after another. Don't Ask, Don't Tell comes through here on the floor. That is a piece of policy that had all the last 2 years to be brought forward, if that was the will of the majority. But the majority was afraid of the wrath of the American voters.

They were afraid of the wrath of the American voters, so they didn't bring a budget. It is required by statute. Since 1974, the first time this Congress hasn't passed a budget, the House of Representatives since 1974. It didn't happen this year.

The process was shut down, Madam Speaker, so that first the thing that went away was the open rule that allowed any Member to offer an amendment on an appropriations bill that could cut spending down or plus spending up and make some reasonable changes within the germaneness rules of the policy of the appropriations rules. But that was shut down in the second year of the Pelosi speakership.

And then there were the appropriations bills themselves shut down, and they began to run this government on continuing resolutions, omnibus spending bills. The omnibus spending bill that was brought up in the United States Senate, \$1.72 trillion, full of pork, chuck full of earmarks, 6,600 earmarks, pork that just dripped with fat in the United States Senate. And the American people finally rose up and they let the Senators know it is no longer going to be business as usual.

The American people have risen. They have packed this Capitol with tens of thousands of people, and they come with their American flags, their yellow Gadsden flags, the Don't Tread on Me flags, Constitutions in their

pockets, patriotism on their heart, tears in their eyes at what they see is happening in this country. The American people have done everything that you could ask them to do in a constitutional fashion. The American people have peacefully petitioned the government for redress of grievances. It is constitutional.

And, Madam Speaker, this Congress' heart was hardened. They refused to listen to the American people. They rammed through out of this House the cap-and-tax bill, cap-and-trade some call it, a debilitating bill that punishes American industry and American investment and American entrepreneurs and rewards other countries, puts us at a disadvantage with emerging economies such as India and China. It passed the House and not the Senate, thankfully.

I am thankful for the filibuster that exists in the United States Senate. There is a complaint that it has been used too much and that something needs to be done to put an end to the filibuster or to alter it. Well, I would submit, Madam Speaker, that the reason the filibuster has been used this much is because of the radical agenda that has been driven through the Senate, promoted by the President, promoted by the Speaker of the House and driven and managed by HARRY REID, the majority leader in the United States Senate, who looks like he will stay as majority leader in the United States Senate.

Cap-and-tax out of this House floor. ObamaCare. We watched the President come in and nationalize the banks, the insurance companies, the car companies, Fannie and Freddie, the student loans. All of that swallowed up, 33 percent of the formerly private sector economy swallowed up by the Federal Government. And then ObamaCare, the nationalization of our skin and everything inside of it.

The American people came and surrounded this Capitol. Not one deep with arms stretched out as far as they could go, six and eight deep all the way around the Capitol. We don't have a picture of that because of air security, or there would have been news helicopters up above taking shots of the human ring, six and eight deep all the way around the Capitol that was formed to tell this Congress stop. Stop. You are spending too much. You are taking away our liberty. You are passing legislation that is unconstitutional, or at a minimum constitutionally suspect. All of that taking place before the election.

And then at the election, the American people poured forth and filled up the voting booth and put their mark down on their ballots, no, no, no, no, to the radical social leftist agenda that has been driven through this Congress, and that message should have been heard loud and clear before the stroke of midnight on the 2nd of November.

And the new day comes forward, the new day came forward and we see nothing but dig in, drive that agenda and drive that agenda. I, Madam Speaker, am here to speak up against it, and I am hopeful that in any succeeding lame duck session that we have, whether it would be Republicans in the majority or Democrats in the majority, that we respect the will of the American people and stand down and bridge the gap between the election in November and the new Congress in the early part of January with just the minimum amount of legislation necessary to make that transition.

If the majority holds the same and there is work that needs to be done and not very many seats have changed dramatically, then in that case it is a little bit different question. But when the majority changes and the majority changes dramatically, as it did this time in a way more dramatic than 1994 even and as dramatic as going back to 1948 and another previous election, then no.

There have only been three or four times in American history that this Congress turned around the way it turned around this time, and at no time to my knowledge has there been such an aggressive agenda driven in a lame duck session, including the idea of taking up a treaty in the United States Senate. I don't believe that has ever been done.

So, Madam Speaker, we have had the food safety bill today, the food safety bill that is a \$1.3 billion bill or \$1.4 billion bill that is another big reach in government that brings in about 17,000 new government employees and inspectors.

We have the safest food in the world, and we need an army of 17,000 additional inspectors so that we can satisfy the urge to expand the nanny-state? It is the only reason I can think of that we would have a policy like that. The safest food in the world and the largest army to inspect the food, and now out of the House goes the food safety bill, another irresponsible safety and growth in government and unnecessary solution in search of a problem, Madam Speaker.

Don't Ask, Don't Tell. Don't Ask, Don't Tell. The repeal of Don't Ask, Don't Tell, one of the few policies that Bill Clinton endorsed that I thought was a good policy that actually was working. Another solution in search of a problem. It is a political agenda. It is a social experiment in our military.

Our military needs to be able to fight. We need to listen to them. And when we hear the modified positions of our top military officers, one can only suspect that it is a possibility they are taking orders from the commander-in-chief. How about that. What would that mean, if a multiple-star general was taking orders from the commander-in-chief and decided that he would have a

position on Don't Ask, Don't Tell that was less clear than it might have been 2 or 4 years ago?

The passage of ObamaCare, as I mentioned, is another piece that came along in this past year, although not in a lame duck session. I look forward, Madam Speaker, to the repeal of ObamaCare as it passed here in late March of this year, late into the night. I was the last one to leave the Capitol here at night, which isn't new, but it happened that night, I am confident.

As I walked home, I told myself, I am going to lay down and rest. I am exhausted. I spent weeks fighting this with everything that I have. And the rest didn't last very long. After about 2½ hours I was up thinking about what can we do?

It is extraordinarily unusual to have a piece of legislation, especially a high-profile, hard-fought piece of legislation like ObamaCare, extraordinarily unusual to ever see anyone introduce legislation to repeal the legislation that has just passed. But I got up and I drafted a bill draft request to do just that, to repeal ObamaCare. And, curiously, without coordination, the same thing was going on in the office of MICHELE BACHMANN, and our bill drafts came down within 3 minutes of each other.

□ 2220

Identically, the same 40 words that conclude with words pretty close to this: Repeal ObamaCare—a little more language—as if it had never been enacted. That's the quote, "as if it had never been enacted." That's a pretty complete way of talking about repealing a piece of legislation.

There were those that thought that it was just an act of protest, an act of frustration. They maybe thought that neither one of us were enough of a statesman that we could accept losing on a vote like that and walk away and fight on another issue another day. But, truthfully, it was simultaneously coming to the same conclusion, the same conclusion that America cannot reach the next level of its destiny if ObamaCare is going to be a component of that destiny because it ties us down, because it anchors us, because it takes away and diminishes our options as individuals, because it mandates that we buy insurance. There are, I think, four constitutional violations in ObamaCare itself, and some of that is in the middle of being litigated right now.

The commerce clause is the clearest and easiest one, and I am happy to see the decision by Judge Hudson in upholding the suit that was brought by Ken Cuccinelli in Virginia, and others. And I look forward to the decisions that will unfold from the Florida suit. And it looks like about 25 States have joined in this litigation in one form or another. And I'm hopeful that when

our new Governor in Iowa is sworn in, that one of the first acts in office he will have is that Governor Branstad will join in the litigation against ObamaCare in whatever capacity he is able to do that.

There are three ways to undo ObamaCare, Madam Speaker, and one of them is through the courts and every means of litigation at our disposal, and that path is following pretty well. But we learned—we knew this actually going in, but it was very clear—McCain-Feingold was one of those examples, a piece of legislation that perhaps was signed by the President in anticipation that the courts would overturn it. I don't know that. I just say perhaps. But anybody that believed that the court was going to save us was disappointed in the short term and mildly pleased in the longer term. But one should never vote for and never sign a piece of legislation that they believe will be unconstitutional because that leaves it up to the courts to do the job that we need to be doing as a legislature.

However, I believe the litigation needs to go forward on ObamaCare and that if the courts finally find all components of it unconstitutional, we can at that point perhaps wash our hands of it and we should pass, then, a repeal to get it out of the books so it's not sitting there waiting to be litigated again.

But I'm looking at the courts for relief—short-term relief, injunctive relief—and I'm hopeful that all of ObamaCare will be ripped out by the court. I believe that it has enough unconstitutional components and no severability clause, so that would tell me there's a possibility that it all could be removed by its violations of our Constitution. That's one of the ways to address the repeal of ObamaCare.

Another way is for our States, our Governors, to refuse to implement ObamaCare and to refuse to invest those State tax dollars in the high cost of increasing Medicaid that it imposes on the State and essentially throw a wrench in the works and resist the administration's determination to implement ObamaCare, and do that from all of our Governors' offices across the country where we have people that oppose it. That's another component of this opposition that can be effective.

The third one, and the one that's the most essential and the one that, if it's completed, is the most certain is a statutory legislative repeal of ObamaCare. Since the tax bracket bill came through last week that extended the 2001 and 2003 tax brackets for 2 years that provided for a \$5 million exemption for the estate tax and a 35 percent rate, fixed a few other things and caused a lot of other problems, but since that tax bill went through and there's an agreement that's made on it for 2 years, then I'll submit, Madam

Speaker, that the most important piece of legislation that the new Congress can take up, and I'm hopeful that incoming Speaker BOEHNER will elect to make H.R. 1 the first piece of legislation here in the House of Representatives, H.R. 1, the standalone repeal of ObamaCare, a 100 percent repeal of ObamaCare; legislation that would stand on its own, that would be very clear, that would put up a vote in this House that would allow for a full repeal of ObamaCare in H.R. 1.

Just to put a marker down and declare the approach that I support, since I have taken this issue on in a personal way and filed a discharge petition where I have 173 signatures on that discharge petition, I thought it was important that I articulate the legislation that I would like to see come forward in the 112th Congress. And in my consultation with Congressman HERGER of California, I looked into the language that he put together after I had introduced the repeal language, and he did so after the reconciliation package that came from the Senate.

There were two pieces of legislation that came together to make up ObamaCare. One was the bill itself, and the other one was a reconciliation package that passed several weeks later. That reconciliation package needed to be included. So I added the component of the Herger legislation repeal to the repeal language that I've introduced and the same repeal language that I added that MICHELLE BACHMANN introduced. And she and I filed that bill last Friday, just to add some clarity and unity to the language we support for the repeal of ObamaCare, with the complete agreement of Congressman HERGER from California, who agrees with the language and encouraged me to file the bill.

So that's there as a marker, so anyone that wants to take a look at it and see what it is that we want to repeal, it's ObamaCare; it's the reconciliation package that came from the Senate. They did that in order to circumvent the filibuster. I thought that it was legislative sleight-of-hand myself. And that's what we got.

I'm committed to the full, 100 percent repeal of ObamaCare. I believe that our leadership is committed to the full, 100 percent repeal of ObamaCare. And yes, there will be a lot of different ways to look at this strategically. But to march down through this beyond the repeal piece of legislation, which I anticipate will be very early in the new Congress, my proposal is that we shut off spending in every appropriations bill; that we put language in every appropriations bill that no funds and no funds heretofore appropriated shall be used to implement or enforce ObamaCare. If we do that with all the appropriations bills going through the 2011 calendar year, the 2012 calendar

year, by the time we arrive at the Presidential election in November of 2012, it will be pretty clear that ObamaCare has not been implemented, it has not been enforced, none of the dollars would be allowed to be used for that.

And I'm hopeful that we will elect a President who runs on the ticket and calls for the mandate from the American people that the first order of business for the next President of the United States who would be inaugurated on January 20, 2013, would be to have Congress put on his desk the repeal of ObamaCare and sign that as a first order of business as the next President of the United States. That's the goal. It can be done. It isn't a futile effort.

I've had some people say, Well, why do you think you can repeal ObamaCare? The President would veto it as soon as you pass the legislation. In the first place, if the House passes the repeal of ObamaCare, there's no agreement the Senate would take it up. But surely, they're not going to take it up unless we send it over there. So we need to pass the repeal, send it to the Senate, build the pressure so that they can perhaps find a way to take it up in the Senate. If they do so and the repeal of ObamaCare gets passed by both Chambers in the same form and it goes to the President, yes, I, like every other thinking American, would expect President Obama to veto such legislation, but we would have people on record. We would have an agenda that would be laid out. And that lays the foundation to unfund ObamaCare, and it lays the foundation then to take us to the point where we can elect a President who will sign the repeal. That's the strategy. It needs to be done.

If the American people are going to reach the next level of our destiny, we cannot have ObamaCare as an anchor that's tied around our leg that continuously sinks the entrepreneurs, sinks the small businesses, grows the taxes, creates lines, rations care, prohibits us from buying the insurance policies of our choice. The list goes on.

□ 2230

Mr. Speaker, I am well aware of the time of the season that we have here, and I am thinking about the families of all of those who are on their way home tonight and of those who will be on their way home tomorrow and perhaps the next day.

All the staff that works here in this Congress and the people who are here as this team is tonight, recording every word that comes from any Member of Congress and who are in the middle of this debate constantly, making sure that everything is precisely, accurately quoted and coordinated in this CONGRESSIONAL RECORD, are top-notch and the envy of the world. Of the team that is here, many of them I have worked with for years, and I don't know if

they're Democrats or Republicans. I know that they respect the institution and the people who serve here. I appreciate them, and wish all of them a very Merry Christmas and a happy new year.

While I look around at my colleagues, both Democrats and Republicans, and know some of their families and our staff from our offices, who toil sometimes in oblivion, I think of all of that contribution that's there, and I am grateful for them all.

I also cast my mind's eye overseas to some of the places that I have gone to visit our troops and our personnel. It just so happens that, a little over a year ago, I missed a family event that was of high importance to us because of duty here, and even though there were quite a number of calls expressing sympathy for that, a month later, I found myself in Afghanistan. As I was seated in a late-night briefing, one of the generals—and I probably asked one too many questions, and got a little bit close to the personal side. He will know who he is, but I won't utter his name into this RECORD, although I have great respect for him as a patriot, as a warrior and as a servant for America.

He said, though, in that night conversation in Afghanistan, I was deployed when they served divorce papers on me from my first wife, and I started a new family. I have a girl and a boy. My little boy is 5 years old, and I have been deployed for three of his first five Christmases.

I sat there and listened to that, and it had been about a month since I had missed a very, very important family event in my own family. I listened to that officer tell me of being deployed when he received divorce papers, of being deployed for three of his son's first five Christmases. I think he is deployed right now.

I think about the men and women who put on the uniform and who are deployed in harm's way around the world in Iraq, Afghanistan and in other places around the world.

I was watching as the USS Harry Truman docked here in the last day or so. The sailors who got off of that ship were seeing babies born, their children born—babies they had never seen since they were born. Little babies were put in their arms. They'd kiss their wives quickly and pick up and marvel at a little miracle that would be 2 or 3 or 6 months old who they had never seen. Their own child. They weren't home for the birth of the child. They missed weddings. They missed funerals. They got back when they could, but they were deployed; they were at sea. They were serving America.

That's true on the USS Harry Truman. That's true in places like Afghanistan and Iraq and other places around the world where we have our men and women in uniform—our soldiers, sailors, airmen, and marines—in harm's

way every day, at risk of death, at risk of sacrifice, some losing their lives. While all of this is going on, sometimes we get wrapped up here, and we think ours is a sacrifice.

Well, Mr. Speaker, I would submit that ours is a duty and a service and a privilege and an honor, and sometimes it is a sacrifice; but when we think about our sacrifice here, I ask all to think about the sacrifice over there, which is far greater—far more family time lost and missed, moments that will never be recaptured again, limbs lost, and lives lost . . . never to come back again.

So, with all of that in mind and with the Christmas season upon us, I would like to close with a poem that was written by the greatest respecter of our warriors in this Capitol building—Albert Caswell—who can be seen around this Capitol, giving tours to the wounded on a daily basis with eagerness and enthusiasm and a profound respect for those who have served us so well and especially for those who have been wounded and for those who have been lost. Sometimes he sits up in the middle of the night and will write a poem. I think he gets started, and he can't stop until he finishes it and brings it to a conclusion. This is a poem that he wrote just a few days ago. It's called "This Christmas."

"This Christmas . . .

"As the snow falls to the ground . . .

"And all the children dance, with songs of joy so
all around . . .

"With stockings hung by the chimneys with care . . .

"With hopes and dreams, of Santa there . . .

"With Christmas dinners and fires all aglow, as

before this family a feast lies so . . .

"O Holy Night! A Child was born, for all to know!"

"Joy to the world, let Heaven and nature sing, but

remember . . . remember . . . remember all of them, and
all of those . . .

"Those families! Those patriots of peace!

"The ones, who'll this Christmas . . . will not so
together be!!

"Who upon battlefields of honor fight!

"So far away from our country tis of thee, this
night . . .

"Men and women of such honor bright, who for all of
us so carry that fight . . .

"Why there can be peace on Earth, because of their
light!

"Who now so live with such heartache and death . . .

"Who upon each new day, their honor our lives so
bless!

"As they so bless us one and all, with all of their

gifts of most selfless sacrifice . . .

"And all of those lost loved ones, who lie in soft,

quiet, cold graves . . .

"Teaching us all the true cost, the price of freedom paid!

"Precious daughters and sons, husbands and wives . . .

"Fathers and mothers, sisters and brothers who gave
their lives . . .

"That last full measure . . . as for them we cry!

"Whose loved ones' pain, will never die . . .

"Who on this Christmas morning, sit with but tears

in eyes . . .

"As they listen to their children cry, 'Mommy,

Daddy . . . I wish you were by my side.'

"With one less place at the dinner table this

year . . . they all so begin to cry . . .

"And all of those who have come home, without arms

and legs, who did not die!

"Without eyes and faces, with burned in all

places . . . in hospital beds they try!!

"Blessing us all with their fine gifts they gave!

"Making us all so see, just how magnificent and

inspiring a heart can be!

"And remember all of those, whose loved ones lie far

across the shores . . .

"As with each new day, brings such great worry . . . so

for sure!

"But, waiting . . . but waiting for, that knock on the

door . . .

"That phone call, that they now so pray not for . . .

"Quiet heroes, one and all!

"Watching them from Heaven, the angel's teardrops

fall . . .

"Lord God, Lord God . . . bless them . . . bless them all!

"For these are the families, who have paid the cost!

"Bore the burden, carry that cross, that cross of
war!

"This Christmas, as you hold your families tight . . .

"And all seems so fine, and all seems so very
right . . .

"And you see all of those smiles upon your

children's faces, so bright . . .

"Give thanks! Give praise! As upon your knees as

you begin to pray . . .

"For all of those families, who have so

sacrificed . . .

"And remember their blessings, their gifts of

freedom . . . this night!
 "This Christmas . . ."

Mr. Speaker, I wish all of us a Merry Christmas and a happy new year. May we reconvene in the 112th Congress with a new spirit—a spirit that keeps in mind the price and the sacrifice paid by our veterans and our families that support them, the legacy that they have left for us, the duty that we have to honor their sacrifice. May we come back and join together in that task in January of 2011.

May we go home and give great thanks for their sacrifice and the blessing of Our Lord and Savior, Jesus Christ.

With that, I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CULBERSON (at the request of Mr. BOEHNER) for today and the balance of the week on account of knee surgery.

Mr. DOYLE (at the request of Mr. HOYER) for today.

Mrs. McMORRIS RODGERS (at the request of Mr. BOEHNER) for today and the balance of the week on account of the birth of her daughter.

Mr. PASTOR of Arizona (at the request of Mr. HOYER) for today.

Mr. YOUNG of Florida (at the request of Mr. BOEHNER) for today on account of family illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCGOVERN) to revise and extend their remarks and include extraneous material:)

Mr. MCGOVERN, for 5 minutes, today.

Mr. RANGEL, for 5 minutes, today.

Mr. JACKSON of Illinois, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

(The following Members (at the request of Mr. SHIMKUS) to revise and extend their remarks and include extraneous material:)

Mr. SHIMKUS, for 5 minutes, today.

ENROLLED BILLS AND A JOINT RESOLUTION SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills and a Joint Resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 81. An act to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

H.R. 628. An act to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

H.R. 1107. An act to enact certain laws relating to public contracts as title 41, United States Code, "Public Contracts".

H.R. 1746. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

H.R. 2965. An act to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

H.R. 4748. An act to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes.

H.R. 4973. An act to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

H.R. 6412. An act to amend title 28, United States Code, to require the Attorney General to share criminal records with State sentencing commissions, and for other purposes.

H.R. 6473. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes.

H.R. 6510. An act to direct the Administrator of General Services to convey a parcel of real property in Houston, Texas, to the Military Museum of Texas, and for other purposes.

H.R. 6533. An act to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, and for other purposes.

H.J. Res. 105. Joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The Speaker announced her signature to enrolled bills of the Senate of the following titles:

S. 118. An act to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 1481. An act to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

S. 3874. An act to amend the Safe Drinking Water Act to reduce lead in drinking water.

BILLS PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House, reports that on December 17, 2010, she presented to the President of the United States, for his approval, the following bills.

H.J. Res. 105. Making further continuing appropriations for fiscal year 2011, and for other purposes.

H.R. 2941. To reauthorize and enhance Johanna's Law to increase public awareness and knowledge with respect to gynecologic cancers.

H.R. 6198. To amend title 11 of the United States Code to make technical corrections; and for related purposes.

H.R. 6516. To make technical corrections to provisions of law enacted by the Coast Guard Authorization Act of 2010.

H.R. 4337. To amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

H.R. 1061. To transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, and for other purposes.

H.R. 6278. To amend the National Children's Island Act of 1995 to expand allowable uses for Kingman and Heritage Islands by the District of Columbia, and for other purposes.

H.R. 5591. To designate the airport traffic control tower located at Spokane International Airport in Spokane, Washington, as the "Ray Daves Airport Traffic Control Tower."

H.R. 4853. To amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, December 22, 2010, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

11023. A letter from the Director, Policy Issuances Division, Department of Agriculture, transmitting the Department's final rule — Permission To Use Air Inflation of Meat Carcasses and Parts [Docket No.: FSIS-2007-0039] (RIN: 0583-AD33) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11024. A letter from the Director, Policy Issuances Division, Department of Agriculture, transmitting the Department's final rule — Uniform Compliance Date for Food Labeling Regulations [Docket No.: FSIS-2010-0031] (RIN: 0583-AD) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11025. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Pesticide Tolerance Crop Grouping Program II; Revisions to General Tolerance Regulations [EPA-HQ-OPP-2006-0766; FRL-8853-8] (RIN: 2070-AJ28) received December 3, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11026. A letter from the Director, Regulatory Management Division, Environmental

Protection Agency, transmitting the Agency's final rule — Metrafenone; Pesticide Tolerances [EPA-HQ-OPP-2008-0732; FRL-8854-6A] received December 3, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11027. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Extension of Tolerances for Emergency Exemptions (Multiple Chemicals) [EPA-HQ-OPP-2009-0981; FRL-8857-5] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11028. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Flutolanil; Pesticide Tolerances [EPA-HQ-OPP-2009-0775; FRL-8855-7] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11029. A letter from the Under Secretary, Department of Defense, transmitting a report of a violation of the Antideficiency Act, Air Force Case Number 08-03, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

11030. A letter from the Under Secretary, Department of Defense, transmitting a report of a violation of the Antideficiency Act, Air Force Case Number 08-02, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

11031. A letter from the Director, Office of Science and Technology, Executive Office of the President, transmitting a letter to report violations of the Antideficiency Act; to the Committee on Appropriations.

11032. A letter from the Deputy Secretary, Department of Defense, transmitting the Department's second quarter report for calendar year 2010 as required by the Joint Improvised Explosive Device Defeat Fund; to the Committee on Armed Services.

11033. A letter from the Under Secretary, Department of Defense, transmitting the final letter regarding the effect of extended and frequent mobilization of Reservists for active duty service on reservists income; to the Committee on Armed Services.

11034. A letter from the OSD Federal Register Liaison Officer, Department of Defense, transmitting the Department's final rule — Homeowners Assistance Program — Application Processing [DOD-2009-OS-0090] (RIN: 0790-AI58) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

11035. A letter from the Chairman, Congressional Oversight Panel, transmitting the Panel's monthly report pursuant to Section 125(b)(1) of the Emergency Economic Stabilization Act of 2008, Pub. L. 110-343; to the Committee on Financial Services.

11036. A letter from the Regulatory Specialist, LRAD, Department of the Treasury, transmitting the Department's final rule — Confidentiality of Suspicious Activity Reports [Docket ID: OCC-2010-0019] (RIN: 1557-AD17) received December 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11037. A letter from the Regulatory Specialist, LRAD, Department of the Treasury, transmitting the Department's final rule — Standards Governing the Release of a Suspicious Activity Report [Docket ID: OCC-2010-0018] (RIN: 1557-AD16) received December 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11038. A letter from the Chairman and President, Export-Import Bank, transmit-

ting a report on transactions involving U.S. exports to Turkey pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

11039. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to India pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

11040. A letter from the General Counsel, Federal Housing Finance Agency, transmitting the Agency's final rule — Use of Community Development Loans by Community Financial Institutions to Secure Advances; Secured Lending by Federal Home Loan Banks to Members and their Affiliates; Transfer of Advances and New Business Activity Regulations (RIN: 2590-AA24) received December 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11041. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Administrative Wage Garnishment received December 16, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11042. A letter from the Assistant General Counsel for Regulatory Services, Department of Education, transmitting the Department's final rule — Supplemental Priorities for Discretionary Grant Programs [Docket ID: ED-OS-2010-0011] (RIN: 1894-AA00) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

11043. A letter from the Deputy Director for Operations, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

11044. A letter from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting the Department's final rule — Energy Conservation Program for Consumer Products: Test Procedures for Refrigerators, Refrigerator-Freezers, and Freezers [Docket No.: EERE-2009-BT-TP-0003] (RIN: 1904-AB92) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11045. A letter from the Department Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices; General and Plastic Surgery Devices; Classifications of Non-Powered Suction Apparatus Device Intended for Negative Pressure Wound Therapy [Docket No.: FDA-2010-N-0513] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11046. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; North Carolina: Greensboro-Winston-Salem-High Point; Determination of Attaining Data for the 1997 Fine Particulate Matter Standard; Correction [EPA-R04-OAR-2009-0561-201053(c); FRL-9235-4] received December 1, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11047. A letter from the Director, Regulatory Management Division, Environmental

Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; North Carolina: Hickory-Morganton-Lenoir; Determination of Attaining Data for the 1997 Fine Particulate Matter Standard; Correction [EPA-R04-OAR-2009-0751-201054(c); FRL-9235-5] received December 1, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11048. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Action to Ensure Authority to Issue Permits under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call [EPA-HQ-OAR-2010-0107; FRL-9236-3] (RIN: 2060-AQ08) received December 3, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11049. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Methods for Measurement of Filterable PM10 and PM2.5 and Measurement of Condensable PM Emissions from Stationary Sources [EPA-HQ-OAR-2008-0348; FRL-9236-2] (RIN: 2060-AO58) received December 3, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11050. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Oregon; Correction of Federal Authorization of the State's Hazardous Waste Management Program [EPA-R10-RCRA-2010-0947; FRL-9236-8] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11051. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Delaware; Limiting Emissions of Volatile Organic Compounds from Portable Fuel Containers [EPA-R03-OAR-2010-0435; FRL-9237-9] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11052. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Determination of Nonattainment and Reclassification of the Dallas/Fort Worth 1997 8-hour Ozone Nonattainment Area; Texas [EPA-R06-OAR-2010-0412; FRL-9240-8] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11053. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Technical Corrections to the Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities [EPA-HQ-RCRA-2003-0012; FRL-9240-5] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11054. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Mississippi; Prevention of Significant Deterioration Rules: Nitrogen Oxides as a Precursor to Ozone

[EPA-R04-OAR-2009-0041-201058; FRL-9241-1] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11055. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program [EPA EPA-HQ-OAR-2005-0161; FRL-9241-4] (RIN: 2060-AQ31) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11056. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents, Hazardous Wastes, and Hazardous Substances [EPA-HQ-RCRA-2009-0310; FRL-9239-8] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11057. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; New Jersey; 8-hour Ozone Control Measures [EPA-R02-OAR-2010-0310; FRL-9214-4] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11058. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans For Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions from Existing Hospital/Medical/Infections Waste Incinerator (HMIWI) Units, Negative Declaration and Withdrawal of EPA Plan Approval [EPA-R03-OAR-2010-0859; FRL-9240-2] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11059. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to Lead Ambient Air Monitoring Requirements [EPA-HQ-OAR-2006-0735; FRL-9241-8] (RIN: 2060-AP77) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11060. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Environmental Protection Agency Implementation of OMB Guidance on Drug-Free Workplace Requirements [Docket No.: EPA-HQ-OARM-2010-0922] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11061. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Minnesota [EPA-R05-OAR-2010-0449; FRL-9239-2] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11062. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Wisconsin, The Milwaukee-Racine and Sheboygan Areas; Determination of Attainment

of the 1997 8-hour Ozone Standard [EPA-R05-OAR-2010-0850; FRL-9238-9] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11063. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the Arizona State Implementation Plan, Maricopa County [EPA-R09-OAR-2010-0521; FRL-9233-3] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11064. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources [EPA-HQ-OAR-2008-0334; FRL-9238-5] received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11065. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Peach Springs, Arizona) [MB Docket No.: 09-204] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11066. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Fairbanks, Alaska) [MB Docket No. 10-81] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11067. A letter from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Implementation of Section 203 of the Satellite Television Extension and Localism Act of 2010 (STELA), Amendments to Section 340 of the Communications Act, Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA), Implementation of Section 340 of the Communications Act [MB Docket No.: 10-148, MB Docket No. 05-49] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11068. A letter from the Attorney, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — System Personnel Training Reliability Standards [Docket No.: RM09-25-000; Order No. 742] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11069. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Regulatory Guide 5.80: Pressure-Sensitive and Tamper-Indicating Device Seals for Material Control and Accounting of Special Nuclear Material received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11070. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Regulatory Guide 3.12: General Design Guide for Ventilation Systems of Plutonium Processing and Fuel Fabrication Plants received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11071. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Consideration of Environmental

Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation [NRC-2008-0404] (RIN: 3150-A147) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11072. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Notice of Availability of the Models for Plant-Specific Adoption of Technical Specifications Task Force Traveler TSTF-514, Revision 3, "Revise BWR Operability Requirements and Actions for RCS Leakage Instrumentation" [NRC-2010-0150] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11073. A letter from the Secretary, Department of Commerce, transmitting a certification of export to China; to the Committee on Foreign Affairs.

11074. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Updated Statements of Legal Authority to Reflect Continuation of Emergency Declared in Executive Order 12938 [Docket No.: 101118556-0556-02] (RIN: 0694-AF05) received December 15, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

11075. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Implementation of Additional Changes from the 2009 Annual Review of the Entity List [Docket No.: 101102553-0553-01] (RIN: 0694-AF01) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

11076. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), a six-month periodic report on the national emergency with respect to Belarus that was declared in Executive Order 13405 of June 16, 2006; to the Committee on Foreign Affairs.

11077. A letter from the Secretary, Department of Agriculture, transmitting the Inspector General's semiannual report to Congress for the reporting period ending September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

11078. A letter from the Secretary, Department of Health and Human Services, transmitting the semiannual report from the Department of Health and Human Services Office of Inspector General for the period ending September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

11079. A letter from the Secretary, Department of Transportation, transmitting the Semiannual Report of the Office of Inspector General for the period ending September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

11080. A letter from the Auditor, Office of the District of Columbia Auditor, transmitting copy of the report entitled "Comparative Analysis of Actual Cash Collections to the Revised Revenue Estimate Through the 3rd Quarter of Fiscal Year 2010", pursuant to D.C. Code section 47-117(d); to the Committee on Oversight and Government Reform.

11081. A letter from the Secretary, Department of Agriculture, transmitting the Department's Performance and Accountability

report for fiscal year 2010; to the Committee on Oversight and Government Reform.

11082. A letter from the Secretary, Department of Education, transmitting the forty-third Semiannual Report to Congress on Audit Follow-Up, covering the six month period ending September 30, 2010 in compliance with the Inspector General Act Amendments of 1988; to the Committee on Oversight and Government Reform.

11083. A letter from the Chief Information Officer, Department of Homeland Security, transmitting the Department's 2010 FISMA Report and Privacy Management Report; to the Committee on Oversight and Government Reform.

11084. A letter from the Assistant Secretary for Congressional Legislative Affairs, Department of Veterans Affairs, transmitting the Department's Performance and Accountability Report for Fiscal Year 2010; to the Committee on Oversight and Government Reform.

11085. A letter from the Secretary, Department of Veterans Affairs, transmitting that the Department's Performance and Accountability Report for Fiscal Year 2010 is available online; to the Committee on Oversight and Government Reform.

11086. A letter from the Secretary, Department of the Treasury, transmitting the Department's semiannual reports from the Office of the Treasury Inspector General and the Treasury Inspector General for Tax Administration, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

11087. A letter from the Chair, Equal Employment Opportunity Commission, transmitting the Inspector General's semiannual report to Congress for the period ending September 30, 2010; to the Committee on Oversight and Government Reform.

11088. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the semiannual report on the activities of the Office of Inspector General of the Farm Credit Administration for the period April 1, 2010 through September 30, 2010; and the semiannual Management Report on the Status of Audits for the same period; to the Committee on Oversight and Government Reform.

11089. A letter from the Chief Financial Officer, Farm Credit Insurance Corporation, transmitting the Corporation's consolidated report addressing the Federal Managers' Financial Integrity Act and the Inspector General Act Amendments of 1978, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

11090. A letter from the Chairman, Federal Maritime Commission, transmitting the Commission's semiannual report from the office of the Inspector General for the period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Oversight and Government Reform.

11091. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule — Employee Contribution Elections and Contribution Allocations; Uniformed Services Accounts; Methods of Withdrawing Funds from the Thrift Savings Plan; Death Benefits; Thrift Savings Plan [Billing Code: 6760-01-P] received December 15, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11092. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's

final rule — Federal Acquisition Regulation; Small Disadvantaged Business Self-Certification [FAC 2005-47; FAR Case 2009-019; Item IV; Docket 2010-0108, Sequence 1] (RIN: 9000-AL77) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11093. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Preventing Abuse of Interagency Contracts [FAC 2005-47; FAR Case 2008-032; Item III; Docket 2010-0107, Sequence 1] (RIN: 9000-AL69) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11094. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; HUBZone Program Revisions [FAC 2005-47; FAR Case 2006-005; Item II; Docket 2009-0014, Sequence 2] (RIN: 9000-AL18) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11095. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Notification of Employee Rights under the National Labor Relations Act [FAC 2005-47; FAR Case 2010-006; Item I; Docket 2010-0106, Sequence 1] (RIN: 9000-AL76) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11096. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Federal Acquisition Circular 2005-47; Introduction [Docket FAR 2010-0076; Sequence 9] received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11097. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Uniform Suspension and Debarment Requirement [FAC 2005-47; FAR Case 2009-036; Item V; Docket 2010-0109, Sequence 1] (RIN: 9000-AL75) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11098. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Limitation on Pass-Through Charges [FAC 2005-47; FAR Case 2008-031; Item VI; Docket 2009-0034, Sequence 2] (RIN: 9000-AL27) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11099. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Technical Amendments [FAC 2005-47; Item VII; Docket 2010-0110, Sequence 1] received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11100. A letter from the Senior Procurement Executive, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Federal Acquisition Circular 2005-47; Small Entity Compliance Guide [Docket FAR: 2010-0077, Sequence 9] received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Com-

mittee on Oversight and Government Reform.

11101. A letter from the Chairman, National Endowment for the Arts, transmitting the Semiannual Report of the Inspector General and the Semiannual Report on Final Action Resulting from Audit Reports, Inspection Reports, and Evaluation Reports for the period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

11102. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Absence and Leave; Sick Leave (RIN: 3206-AL91) received December 16, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11103. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule — Prevailing Rate Systems; Redefinition of the Chicago, IL; Fort Wayne-Marion, IN; Indianapolis, IN; Cleveland, OH; and Pittsburgh, PA, Appropriated Fund Federal Wage System Wage Areas (RIN: 3206-AM21) received December 16, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

11104. A letter from the President and Chief Executive Officer, Overseas Private Investment Corporation, transmitting the Corporation's annual financial audit for FY 2009; to the Committee on Oversight and Government Reform.

11105. A letter from the Director, Securities and Exchange Commission, transmitting the Commission's fiscal year 2010 Performance and Accountability Report; to the Committee on Oversight and Government Reform.

11106. A letter from the Administrator, Small Business Administration, transmitting the Administration's semiannual report from the office of the Inspector General for the period April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Oversight and Government Reform.

11107. A letter from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting the 2009 annual report on reasonably identifiable expenditures for the conservation of endangered or threatened species by Federal and State agencies, pursuant to 16 U.S.C. 1544; to the Committee on Natural Resources.

11108. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Renewable Energy Alternate Uses of Existing Facilities on the Outer Continental Shelf-Acquire a Lease Noncompetitively [Docket ID: BOEM-2010-0045] (RIN: 1010-AD71) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11109. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — North Dakota Regulatory Program [SATS No. ND-051-FOR; Docket ID No. OSM-2009-0013] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11110. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Texas Regulatory Program [SATS No. TX-059-FOR; Docket No. OSM-2010-0001] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11111. A letter from the Director, Office of Surface Mining, Department of the Interior,

transmitting the Department's final rule — Montana Regulatory Program [SATS No. MT-029-FOR; Docket ID No. OSM-2008-0022] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11112. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XA034) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11113. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XA038) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11114. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Endangered and Threatened Wildlife and Plants; Threatened Status for the Southern Distinct Population Segment of the Spotted Seal [Docket No.: 0909171277-0491-02] (RIN: 0648-XR74) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11115. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Western Regulatory Area of the Gulf of Alaska [Docket No.: 0910131362-0087-02] (RIN: 0648-XZ67) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11116. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species; Inseason Action To Close the Commercial Blacknose Shark and Non-Blacknose Small Coastal Shark Fisheries (RIN: 0648-XZ95) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11117. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries in the Western Pacific; Community Development Program Process [Docket No.: 0907211157-0522-04] (RIN: 0648-AX76) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11118. A letter from the Director Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 60 Feet (18.3 Meters) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02]

(RIN: 0648-XA048) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11119. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Amendments 20 and 21; Trawl Rationalization Program; Correction [Docket No.: 100212086-0354-04] (RIN: 0648-AY68) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11120. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch by Vessels in the Amendment 80 Limited Access Fishery in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XA031) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11121. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-02] (RIN: 0648-XZ88) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11122. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Atlantic Herring Fishery; Temporary Removal of 2,000-lb (907.2 kg) Herring Trip Limit in Atlantic Herring Management Area 1A [Docket No.: 0907301205-0289-02] (RIN: 0648-XA039) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11123. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Observer Program [Docket No.: 080228322-91377-02] (RIN: 0648-AW24) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11124. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area [Docket No.: 0910131363-0087-01] (RIN: 0648-XZ85) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11125. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Suspension of Minimum Atlantic Surfclam Size Limit for Fishing Year 2011 [Docket No.: 900124-0127] (RIN: 0648-XZ16) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11126. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Western Regulatory Area of the Gulf of Alaska [Docket No.: 0910131362-0087-02] (RIN: 0648-XA051) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11127. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Implementation of Regional Fishery Management Organizations' Measures Pertaining to Vessels That Engaged in Illegal, Unreported, or Unregulated Fishing Activities [Docket No.: 080228336-0435-02] (RIN: 0648-AW09) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11128. A letter from the Director of Legislative Affairs, Natural Resource Conservation Service, transmitting the Service's final rule — Grassland Reserve Program (RIN: 0578-AA53) received December 14, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

11129. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the Alaska Advisory Committee; to the Committee on the Judiciary.

11130. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the Idaho Advisory Committee; to the Committee on the Judiciary.

11131. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the North Carolina Advisory Committee; to the Committee on the Judiciary.

11132. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the Wisconsin Advisory Committee; to the Committee on the Judiciary.

11133. A letter from the Staff Director, Commission on Civil Rights, transmitting notification that the Commission recently appointed members to the Vermont Advisory Committee; to the Committee on the Judiciary.

11134. A letter from the Senior Counsel, Department of Justice, transmitting the Department's final rule — Office of the Attorney General; Certification Process for State Capital Counsel Systems; Removal of Final Rule [Docket No.: OJP 1464; AG Order No.] (RIN: 1121-AA76) received December 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

11135. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Great Mississippi Balloon Race and Fireworks Safety Zone; Lower Mississippi River, Mile Marker 365.5 to Mile Marker 363, Natchez, MS [Docket No.: USCG-2010-0873] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11136. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zones; Sabine Bank Channel, Sabine Pass Channel and Sabine-Neches Waterway, TX

[Docket No.: USCG-2009-0316] (RIN: 1625-AA87) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11137. A letter from the Acting Chief, Office of Regulations and Administrative Law, Department of Homeland Security, transmitting the Department's final rule — Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments, Sector Puget Sound, WA; Correction [Docket No.: USCG-2010-0351] (RIN: 1625-ZA25) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11138. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ledge Removal Project, Bass Harbor, Maine [Docket No.: USCG-2010-0806] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11139. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Vessel Traffic Service Lower Mississippi River [Docket No.: USCG-1998-4399] received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11140. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Epic Roasthouse Private Party Firework Display, San Francisco, CA [Docket No.: USCG-2010-0901] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11141. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Natchez Fireworks Safety Zone; Lower Mississippi River, Mile Marker 365.5 to Mile Marker 363, Natchez, MS [Docket No.: USCG-2010-0872] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11142. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Wrightsville Channel, Wrightsville Beach, NC [Docket No.: USCG-2010-0813] (RIN: 1625-AA08) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11143. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Arkansas Waterway, Pine Bluff, AR [Docket No.: USCG-2010-0441] (RIN: 1625-AA09) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11144. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zones; Temporary Change of Date for Recurring Fireworks Display within the Fifth Coast Guard District; Wrightsville Beach, NC [Docket No.: USCG-2010-0927] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11145. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Security Zone, in the vicinity of the Michoud Slip Position 30 degrees 0'34.2" N, 89 degrees 55'40.7" W to Position 30 degrees 0'29.5" N, 89 degrees

55'52.6" W [Docket No.: USCG-2010-0846] (RIN: 1625-AA87) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11146. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Area; Green Bridge Demolition, Lower Mississippi River Mile 531.3, AR, MS [USCG-2010-0693] (RIN: 1625-AA11) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11147. A letter from the Attorney-Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Monte Foundation Firework Display, Monterey, CA [Docket No.: USCG-2010-0620] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11148. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Shipping; Technical, Organizational, and Conforming Amendments [Docket No.: USCG-2010-0759] (RIN: 1625-ZA27) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11149. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; CLS Fall Championship Hydroplane Race, Lake Sammamish, WA [Docket No.: USCG-2010-0842] (RIN: 1625-AA00) received December 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11150. A letter from the Secretary, Department of Transportation, transmitting the Department's annual report on the administration of the Surface Transportation Project Delivery Pilot Program, pursuant to Public Law 109-59, section 6005(h); to the Committee on Transportation and Infrastructure.

11151. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France (Eurocopter) Model SA-365N, SA-365N1, AS-365N2, and AS 365 N3 Helicopters [Docket No.: FAA-2010-1082; Directorate Identifier 2009-SW-041-AD; Amendment 39-16491; AD 2010-23-02] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11152. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Austro Engine GmbH Model E4 Diesel Piston Engines [Docket No.: FAA-2010-1055; Directorate Identifier 2010-NE-35-AD; Amendment 39-16498; AD 2010-23-09] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11153. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE) CT7-9C and -9C3 Turboprop Engines [Docket No.: FAA-2010-0732; Directorate Identifier 2010-NE-04-AD; Amendment 39-16509; AD 2010-23-20] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11154. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Viking Air Limited (Type Certifi-

cate Previously Held by Bombardier, Inc.) Model DHC-7 Airplanes [Docket No.: FAA-2010-0699; Directorate Identifier 2009-NM-236-AD; Amendment 39-16510; AD 2010-23-21] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11155. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MD Helicopters, Inc. Model MD900 Helicopters [Docket No.: FAA-2010-1126; Directorate Identifier 2010-SW-078-AD; Amendment 39-16515; AD 2010-18-52] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11156. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky) Model S-70A and S-70C Helicopters [Docket No.: FAA-2010-0490; Directorate Identifier 2010-SW-037-AD; Amendment 39-16514; AD 2010-23-24] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11157. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France (Eurocopter) Model AS332L2 Helicopters [Docket No.: FAA-2010-1125; Directorate Identifier 2008-SW-40-AD; Amendment 39-16512; AD 2010-23-22] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11158. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Model 206L, 206L-1, and 206L-3 Helicopters [Docket No.: FAA-2010-1242; Directorate Identifier 96-SW-13-AD; Amendment 39-16511; AD 96-18-05 R1] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11159. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Boeing Company Model 777-200, -200LR, -300, and -300ER Series Airplanes [Docket No.: FAA-2010-0376; Directorate Identifier 2009-NM-267-AD; Amendment 39-16504; AD 2010-23-15] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11160. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier, Inc. Model CL-600-2B19 (Regional Jet Series 100 & 440), CL-600-2C10 (Regional Jet Series 700, 701 & 702), CL-600-2D15 (Regional Jet Series 705), and CL-600-2D24 (Regional Jet Series 900) Airplanes [Docket No.: FAA-2010-0223; Directorate Identifier 2009-NM-105-AD; Amendment 39-16503; AD 2010-23-14] (RIN: 2120-AA64) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11161. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Standards; Accommodation and Food Services Industries (RIN: 3245-AF71) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

11162. A letter from the Deputy General Counsel, Small Business Administration,

transmitting the Administration's final rule — Immediate Disaster Assistance Program [SBA-2010-0010] (RIN: 3245-AG00) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

11163. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Standards; Other Services (RIN: 3245-AF70) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

11164. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Standards: Retail Trade (RIN: 3245-AF69) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

11165. A letter from the Director, Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs, transmitting the Department's final rule — Payment for Inpatient and Outpatient Health Care Professional Services at Non-Departmental Facilities and Other Medical Charges Associated with Non-VA Outpatient Care (RIN: 2900-AN37) received December 15, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

11166. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates [Notice 2010-93] received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11167. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Application for Approval of Extension of Amortization Period (Rev. Proc. 2010-52) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11168. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — 2010 Base Period T-Bill Rate (Rev. Rul. 2010-28) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11169. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Source of Income from Qualified Fails Charges [TD: 9508] (RIN: 1545-BJ85) received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11170. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Tier II Issue — Industry Director Directive #2 on the Proper Treatment of Upfront Fees, Milestone Payments, Royalties and Deferred Income upon entering into a Collaboration Agreement in the Biotech and Pharmaceutical Industries [LB&I Control No.: 4-1110-031] received December 10, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11171. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Rules for Group Trusts (Rev. Rul. 2011-1) received December 20, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11172. A letter from the Chief, Publications and Regulations Branch, Internal Revenue

Service, transmitting the Service's final rule — Publication of the Tier 2 Tax Rates [4830-01-p] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11173. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — 2011 Standard Mileage Rates [Notice 2010-88] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11174. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Standard Mileage Rate Procedures (Rev. Proc. 2010-51) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11175. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Requirement of a Statement Disclosing Uncertain Tax Positions [TD 9510] (RIN: 1545-BJ54) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11176. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Farmer and Fisherman Income Averaging [TD 9509] (RIN: 1545-BE23) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11177. A letter from the Branch Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — 2011 Section 1274A CPI Adjustments (Rev. Rul. 2010-30) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11178. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Jerome R. Vainisi and Deloris L. Vainisi v. Commissioner, 599 F.3d 567 (7th Cir. 2010, rev'g 132 T.C. No. 1 (2009) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11179. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Definition of Omission from Gross Income [TD 9511] (RIN: 1545-BI44) received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11180. A letter from the Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — 2010 Cumulative List of Changes in Plan Qualification Requirements [Notice 2010-90] received December 17, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11181. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Applicable Federal Rates — January 2011 (Rev. Rul. 2011-2) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11182. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Funding Relief for Single-Employer Pension Plans under PRA 2010 [Notice 2011-3] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11183. A letter from the Principal Deputy Under Secretary, Department of Defense, transmitting a letter of notification from the Government of Spain requesting that the United States Government contribute to a

cleanup of plutonium contamination in Spain; jointly to the Committees on Foreign Affairs and the Judiciary.

11184. A letter from the Director, Office of Insular Affairs, Department of the Interior, transmitting the Department's report to Congress '2010 Analysis of Compact Impacts'; jointly to the Committees on Natural Resources and Foreign Affairs.

11185. A letter from the Director, Office of Regulations, Social Security Administration, transmitting the Administration's final rule — Regulations Regarding Income-Related Monthly Adjustment Amounts to Medicare Beneficiaries' Prescription Drug Coverage Premiums [Docket No.: SSA-2010-0029] (RIN: 0960-AH22) received December 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADY of Pennsylvania: Committee on House Administration. H.R. 6116. A bill to reform the financing of House elections, and for other purposes (Rept. 111-691, Pt. 1). Ordered to be printed.

Mr. MCGOVERN: Committee on Rules. House Resolution 1781. Resolution providing for consideration of the Senate amendment to the bill (H.R. 5116) to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes; providing for consideration of the Senate amendments to the bill (H.R. 2751) to accelerate motor fuel savings nationwide and provide incentives to registered owners of high polluting automobiles to replace such automobiles with new fuel efficient and less polluting automobiles; and providing for consideration of the Senate amendment to the bill (H.R. 2142) to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council (Rept. 111-692). Referred to the House Calendar.

Mr. CONYERS: Committee on the Judiciary. H.R. 2811. A bill to amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal; with an amendment (Rept. 111-693). Referred to the Committee of the Whole House on the State of the Union.

Mr. POLIS: Committee on Rules. House Resolution 1782. Resolution providing for consideration of the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 3082) making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes (Rept. 111-694). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILLS

Pursuant to clause 2 of rule XII the following actions were taken by the Speaker:

H.R. 1064. Referral to the Committees on Education and Labor, Energy and Commerce, and Financial Services extended for a period ending not later than December 22, 2010.

H.R. 1174. Referral to the Committee on Homeland Security extended for a period ending not later than December 22, 2010.

H.R. 1425. Referral to the Committee on Appropriations extended for a period ending not later than December 22, 2010.

H.R. 3376. Referral to the Committees on the Judiciary and Homeland Security extended for a period ending not later than December 22, 2010.

H.R. 4678. Referral to the Committees on Ways and Means and Agriculture extended for a period ending not later than December 22, 2010.

H.R. 5105. Referral to the Committee on Agriculture extended for a period ending not later than December 22, 2010.

H.R. 5498. Referral to the Committee on Energy and Commerce extended for a period ending not later than December 22, 2010.

H.R. 6116. Referral to the Committee on Energy and Commerce extended for a period ending not later than December 22, 2010.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. JOHNSON of Georgia:

H.R. 6560. A bill to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. RICHARDSON:

H.R. 6561. A bill to establish the History is Learned from the Living grant program to enable communities to learn about historical events in the United States in the past century through the oral histories of community members who participated in those events, and for other purposes; to the Committee on Natural Resources.

By Ms. CORRINE BROWN of Florida:

H.R. 6562. A bill to revitalize home ownership by establishing a shared equity appreciation homeownership pilot program; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT:

H.R. 6563. A bill to establish a national leadership initiative to promote and coordi-

nate knowledge utilization in education to increase student achievement consistent with the objectives of the Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Education and Labor.

By Mr. INSLEE (for himself and Mr. CASTLE):

H.R. 6564. A bill to promote the oil independence of the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Transportation and Infrastructure, the Budget, Science and Technology, Oversight and Government Reform, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. JACKSON LEE of Texas (for herself, Mr. CONYERS, Mr. PAYNE, Mr. MCGOVERN, and Mr. CLEAVER):

H.R. 6565. A bill to improve efforts of the United States Government to ensure that developing countries have affordable and equitable access to safe water and sanitation, and for other purposes; to the Committee on Foreign Affairs.

By Mr. KING of New York (for himself and Mrs. LOWEY):

H.R. 6566. A bill to protect children from registered sex offenders, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY:

H.R. 6567. A bill to amend title 38, United States Code, to improve and make permanent the Department of Veterans Affairs loan guarantee for the purchase of residential cooperative housing units, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MARKEY of Massachusetts (for himself and Ms. CASTOR of Florida):

H.R. 6568. A bill to amend the Oil Pollution Act of 1990 to facilitate the ability of persons affected by oil spills to seek judicial redress; to the Committee on Transportation and Infrastructure.

By Ms. LINDA T. SÁNCHEZ of California:

H.R. 6569. A bill to amend title II of the Social Security Act to provide for treatment of permanent partnerships between individuals of the same gender as marriage for purposes of determining entitlement to benefits under such title; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 221: Mr. MANZULLO, Mr. HUNTER, Mr. LAMBORN, Mr. BUCHANAN, Mr. PITTS, and Mrs. BACHMANN.

H.R. 503: Mr. CALVERT.

H.R. 891: Ms. RICHARDSON.

H.R. 1237: Mrs. NAPOLITANO.

H.R. 1549: Mr. LIPINSKI.

H.R. 1844: Mr. PRICE of North Carolina.

H.R. 1966: Ms. NORTON.

H.R. 2030: Mr. DEFazio and Mr. SHERMAN.

H.R. 3586: Ms. MOORE of Wisconsin.

H.R. 4278: Mr. FATTAH.

H.R. 4808: Mr. PRICE of North Carolina.

H.R. 5117: Mrs. DAVIS of California.

H.R. 5434: Mr. JOHNSON of Georgia and Mr. BRALEY of Iowa.

H.R. 5510: Mr. LEWIS of Georgia and Mr. JOHNSON of Georgia.

H.R. 6073: Mr. PAYNE and Mr. TIM MURPHY of Pennsylvania.

H.R. 6123: Mrs. MALONEY.

H.R. 6240: Mr. CAMPBELL.

H.R. 6334: Ms. WOOLSEY, Mr. KUCINICH, and Mr. RUSH.

H.R. 6355: Mr. PRICE of North Carolina.

H.R. 6511: Mr. PAUL.

H.R. 6547: Mr. HOLT.

H.R. 6548: Mr. HASTINGS of Florida.

H.R. 6556: Mr. CONYERS, Mr. LOEBSACK, and Mr. HASTINGS of Florida.

H.J. Res. 96: Mr. LUETKEMEYER.

H.J. Res. 102: Mr. BROUN of Georgia.

H. Res. 762: Mr. CONNOLLY of Virginia, Mr. DELAHUNT, and Mr. POLIS.

H. Res. 1722: Mrs. MALONEY.

H. Res. 1768: Ms. DELAORO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H. Res. 1762: Mr. WOLF.

PETITIONS, ETC.

Under clause 3 of rule XII, 180. The SPEAKER presented a petition of Mr. Gregory D. Watson, a Citizen of Austin, Texas, relative to a petition urging Congress to enact statutory legislation which would clarify the procedures for proposing an amendment to the United States Constitution; which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

TRIBUTE TO IRVIN B. NATHAN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. PELOSI. Madam Speaker, I rise today to express the appreciation of the entire House of Representatives to Irvin Nathan for his service and commitment as our General Counsel.

Since beginning his tenure more than three years ago—taking his place as the sixth individual to serve as House General Counsel—Mr. Nathan helped assemble and supervise a highly competent and professional staff. He successfully and actively maintained the General Counsel's Office as a trusted, non-partisan resource. Through their hard work and achievements, he and his office have earned the respect of Members on both sides of the aisle.

Under Mr. Nathan's leadership, the General Counsel's Office provided invaluable assistance and advice to the House and its Members, Officers and Committees in connection with a broad range of legal matters. He defended Members and other House employees and entities in judicial proceedings at the trial and appellate levels; responded to deposition, trial, grand jury and administrative subpoenas; and advised Members and Committees in connection with their interactions with both private and other governmental entities.

Many House Committees and Subcommittees, in particular, have come to rely on Mr. Nathan's expertise and guidance in connection with their investigative and oversight activities.

During the past three years, Mr. Nathan has also played a significant role in safeguarding the legal and institutional interests of the House, and in addressing specific challenges to the House's interests and prerogatives. In particular, his work vindicated the House's congressional subpoena authority in the landmark case of *Committee on the Judiciary v. Miers*.

All Members of the House know that Irvin Nathan will continue his stellar work as Attorney General for the District of Columbia. We know that the District will benefit from his counsel, wisdom, and guidance.

On behalf of the House of Representatives, I express my deepest gratitude and thanks to Irvin Nathan for his dedication to the House, and extend our very best wishes to him in the future.

RECOGNITION OF MIRIAM AND BERNIE YENKIN FOR AWARD OF DISTINGUISHED SERVICE

HON. MARY JO KILROY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. KILROY. Madam Speaker, I rise today to recognize Miriam and Bernie Yenkin who have tirelessly devoted their lives to supporting education, culture, history and opportunity within the Jewish community of central Ohio.

Miriam and Bernie are the 2010 recipients of the Columbus Jewish Federation Ben M. Mandelkorn Award of Distinguished Service in honor of their 50 years of leadership and dedication to the Columbus Jewish community.

The Yenkens' have received numerous awards and recognitions over the years for their service to the Jewish community here and around the world.

As officers and board members of several local organizations, they are involved in all facets of promoting and preserving Jewish culture and history in central Ohio. In addition to serving as President of the Federation, they have been involved with the Columbus Jewish Day School, Columbus Torah Academy, Agudas Achim, the Jewish Community Center, The Ohio State University Hillel, Soviet Jewry, the Jewish Education Service of North America, the Interdisciplinary Center in Herzilya, United Jewish Communities and the Columbus Jewish Historical Society.

Members of the Columbus Jewish community often credit their own volunteer involvement to Miriam and Bernie's guidance and encouragement.

I ask my colleagues in the House of Representatives to join me in honoring Miriam and Bernie Yenkin for their extraordinary service to the Jewish community of Columbus.

HONORING NORTH ALLEGHENY HIGH SCHOOL AS PENNSYLVANIA STATE FOOTBALL CHAMPIONS

HON. JASON ALTMIRE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. ALTMIRE. Madam Speaker, it is my privilege to recognize and congratulate North Allegheny High School on winning the Pennsylvania Interscholastic Athletic Association's (PIAA) Class AAAA title. On December 18, 2010, the North Allegheny Tigers defeated the defending state champions, the LaSalle College Explorers, to earn the 2010 championship title.

LaSalle College of Philadelphia was powerless against the Tigers' outstanding running

game, despite the fact that an injury kept star running back, Alex Papson, on the sideline for North Allegheny's win. Before being sidelined by a dislocated collarbone in the Western Pennsylvania Interscholastic Athletic League (WPIAL) Championship, Papson rushed for more than 2,000 yards this season. He is one of only six running backs to ever run for over 4,000 career yards in WPIAL history.

During the game, running back Matt Steinbeck led North Allegheny with 120 rushing yards on 20 carries, including a 27-yard touchdown run in the second quarter. In total, North Allegheny rushed for 220 yards on 44 carries, including a rushing touchdown in each of the first three quarters. With La Salle unable to score, the title game at Hershey Park Stadium ended with a score of 21-0.

It was a remarkable victory for North Allegheny, as they became only the second team to win the Class AAAA title with a shutout. To complete the 2010 season, the Tigers finish up with a 15-1 record, adding a WPIAL and PIAA championship in Class AAAA to the North Allegheny trophy case.

I would also like to pay tribute to Coach Art Walker, Jr. for leading his team to victory during the 20th anniversary of North Allegheny's first PIAA title. Mr. Walker has been at North Allegheny for six seasons. Before that, he spent seven seasons at Central Catholic, where he also won a PIAA Class AAAA title.

It is with great pride that I recognize the school district where I live and where my daughters go to school for its tremendous accomplishment. On behalf of my family and the Fourth District of Pennsylvania, I extend our congratulations to the North Allegheny Tigers for earning the title of State Champions.

RECOGNITION OF CHARLES FEESER FOR HIS EXCELLENCE IN TEACHING AWARD

HON. MARY JO KILROY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. KILROY. Madam Speaker, I rise today to honor Charles Feeser for being selected as a winner of the first annual Excellence in Teaching Award. I applaud his extraordinary service to Benjamin Baneker High School, the District of Columbia, and to each and every student that has passed through his classroom.

Praise and accolades fall short when describing the difference an inspiring teacher makes in a young person's life. Mr. Feeser's effectiveness comes from his earnest love of education. His lessons radiate beyond the classroom, teaching students to aspire to and achieve at high levels throughout their high school and college coursework.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Feeser has his students use nametags that refer to themselves as "Mr." and "Ms." instead of their first names. The practice teaches students that there are rituals that transcend the classroom. That awareness gives students the tools they can use in the larger public sphere. Mr. Feeser creates a community within the classroom. He lectures less, opting to facilitate discussion among students instead. More than a teacher, he is a mentor and partner in the learning process. He takes his craft seriously, and expects the same from those who share the classroom with him. It comes as no surprise that his students consistently win awards, scholarships, and develop a lifelong appreciation for the arts of theater, painting, poetry and prose.

At Benjamin Banneker High School, where he teaches English, art history, and serves as the English Department Chair, Mr. Feeser has dedicated his time beyond normal school hours. He is involved in afterschool activities, serving as the drama club sponsor and organizing an annual Poetry Out Loud competition that routinely sends students to prestigious national competitions. These connections enliven the school and Mr. Feeser's commitment to Banneker extends to all students, not just those enrolled in his classes.

Before coming to the District of Columbia Public Schools, Mr. Feeser taught humanities and history at Columbus Alternative High School in central Ohio. Teaching in two urban public schools, his ability to identify, develop, and encourage talent in his students has shattered the stereotypes about public education. Even though he has spent the last 10 years teaching in the District of Columbia, Mr. Feeser is still well remembered in my district by parents and students who took his courses at Columbus Alternative High School. It is with great pride that I rise to honor Charles Feeser for his excellence as an educator. I look forward to his continued success with the District of Columbia Schools.

**INTRODUCTION OF H. RES. 1777, A
RESOLUTION RAISING AWARE-
NESS OF SCHOOL PUSHOUT AND
PROMOTING DIGNITY IN
SCHOOLS**

HON. CHRISTOPHER S. MURPHY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MURPHY of Connecticut. Madam Speaker, I rise today in proud support of H. Res. 1777, a resolution raising awareness of school pushout and promoting dignity in schools.

I want to start by thanking my colleagues Representatives BOBBY SCOTT and DANNY DAVIS for partnering with me on this effort and for their long and esteemed records of standing up for children and civil rights.

I also want to thank the parents, teachers, students, school administrators, advocates and academics from across Connecticut whose expertise and input were essential in drafting this resolution.

We are introducing this resolution for the millions of students who are pushed out of

school each year at the hands of harsh and exclusionary zero-tolerance school discipline policies.

We are introducing it for the 14-year boy with Aspergers syndrome from Richardson, Texas who was given a \$364 police citation for swearing in class.

We are introducing it for the six-year-old student of Newark, Delaware who was so excited about joining the Cub Scouts that he brought his camping utensil to school. Because it had a small knife, he was suspended and referred to an alternative school for 5 days.

And we are introducing the resolution for the 16-year-old of New York City who broke school policy by using a cell phone. He was subsequently detained and beaten by school police officers, rushed to the emergency room, and, outrageously, charged with disorderly conduct. Fortunately for the boy and his family, those charges were later dropped.

Madam Speaker, unfortunately, those stories are not random acts of irresponsible school administration. They are representative of a growing trend.

Now, before I go any further, it is important to recognize that there are many cases where the removal of a student from school is absolutely necessary. When a student poses a real safety threat to teachers or his or her fellow students, suspension or expulsion is warranted.

Yet too often, kids in this country are being excluded from school at a growing rate for unjustifiable reasons.

According to the Department of Education, over 3 million students are suspended and over 100,000 are expelled from school each year often, for minor offenses. Hundreds of others are arrested or sent to alternative schools for incidents historically dealt with within school walls.

Disturbingly, African American, Hispanic and disabled students are disproportionately impacted.

As you can imagine, kicking youth out of the classroom without addressing underlying issues for their behavior doesn't help that child, and usually doesn't improve the learning climate of the school.

In fact, the American Psychological Association has found that suspension and expulsion negatively impact school-wide achievement and increase the risk that excluded students fall behind academically, become alienated from school, drop out, and become involved with the juvenile and adult criminal justice systems.

In other words, these harsh practices are pushing kids out of the classroom and creating what has been widely dubbed as a "school-to-prison pipeline."

In 2007 in my own home state of Connecticut, 89% of the 16 and 17-year olds involved with the criminal justice system had been suspended or expelled from school. While this may be attributable to many factors, common sense will tell you that when a kid is expelled from school, home alone without supervision, he's likely to keep getting into trouble.

Fortunately, there is also great work being done in Connecticut and across the country to address school pushout and our resolution commends those efforts.

Counterproductive zero-tolerance policies are being replaced with evidenced-based behavior management and discipline practices. Schools are partnering with community leaders and services to better support at-risk students. Parent engagement is being prioritized and states are passing laws limiting the use of exclusionary discipline practices.

These efforts are producing real results in decreasing behavioral incidents and improving school climate and student achievement.

Yet what I've heard time and time again is that in order to be successful, Congress needs to support and help expand these efforts.

We need to help teachers and administrators who aren't receiving the training they want and need to effectively manage a classroom.

And we must support efforts to adopt evidenced based practices to improve student engagement and school safety by providing both effective technical assistance and flexibility for our schools.

Most importantly, we have to acknowledge this rising problem in our nation's schools and commit to working together to stop it.

I urge my colleagues to join me in supporting the resolution.

**RECOGNIZING WILLIAM D. JAMES,
MD, FAAD, OUTGOING PRESI-
DENT OF THE AMERICAN ACAD-
EMY OF DERMATOLOGY**

HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. FATTAH. Madam Speaker, I rise today to congratulate Dr. William James, a University of Pennsylvania dermatologist who will conclude his term as President of the American Academy of Dermatology in February. He will have held office for one year and also held the same position for the American Academy of Dermatology Association.

After beginning his academic career at the U.S. Military Academy at West Point, Dr. James earned his medical degree from Indiana University School of Medicine. He completed a medical internship at Walter Reed Army Medical Center, in Washington, DC, and his residency in dermatology at the former Letterman Army Medical Center in San Francisco. He is the Paul R. Gross professor and vice chair of the department of dermatology at the University of Pennsylvania in Philadelphia. He also serves as the residency and fellowship program director.

An active member of the American Academy of Dermatology, Dr. James has served as a member of the board of directors, the council on member services, and numerous task forces and committees. He is the past chief of dermatology service at Walter Reed Army Medical Center. He has authored more than 310 publications, including co-authorship of the last three editions of Andrews' Diseases of the Skin. Additionally he served as founding editor-in-chief of the dermatology section of Emedicine.com, a clinical reference developed by WebMD. He lives in Bryn Mawr, Pennsylvania, with his wife, Ann. They have two children and are expecting a grandchild in early 2011.

RITA PETERSON

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Rita Peterson for her outstanding service to our community.

Rita Peterson has been co-owner and Vice president of her family owned appraisal business since 1977. The business has grown from one appraiser and a part time secretary to six full time appraisers and three administrative staff. They began primarily appraising operating farms and ranches throughout the state, and now deal with more complex issues involving eminent domain, conservation easement valuations and federal land exchanges.

While running and expanding her business, Rita still found time to become involved in the community. Most notable has been her involvement with the Senior Resource Center since 1982. Her vision has been the key to the \$8.7 million dollar expansion and renovation project which includes a new 17,000 square foot Adult Day building.

I extend my deepest congratulations to Rita Peterson for being honored by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

HONORING BYRON LEYDECKER**HON. MIKE THOMPSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. THOMPSON of California. Madam Speaker, I rise with my colleague Congressman GEORGE MILLER today to recognize the great accomplishments of our friend Byron Leydecker, who recently announced that he will conclude operation of Friends of the Trinity River, the organization he founded 18 years ago and has led ever since.

The Trinity River flows through mountains in coastal northern California and is the largest tributary of the Klamath River. These rivers supported huge bountiful populations of both Chinook and Coho salmon, steelhead and other fish that sustained Native Americans for millennia and visitors from other continents for the past two centuries. The impacts of ill-advised and poorly managed development had devastated both the Trinity and the Klamath. Thanks in large part to Byron, the Trinity is on its way to recovery.

He pushed the Department of the Interior to develop and then implement the historic 2000 Trinity Record of Decision, he has worked tirelessly ever since to ensure that the Trinity restoration program goes forward as intended, and he has pushed the agencies to follow the science.

Byron has led an active and vigorous organization over the years, devoting his time, energy, and financial resources to make a real difference in the direction of the Trinity River restoration program, which is today one of the leading efforts of its kind.

Byron and FOTR have worked with the usual alphabet soup of government agencies, as well as tribes, fishermen, and water and power interests, to develop and implement the restoration plan. Byron has always been consistent and persistent, cooperative when possible and tough when needed.

Thanks to Byron and the work of FOTR, the Trinity River is now in better shape than at any time since the 1960s—we have seen increased flows, a healthier fishery, and a stronger scientific foundation for its management.

While there will always be snags and eddies in these undertakings, the successful restoration of the Trinity River will serve as a national model of a restored river below a Federal dam. The Trinity River could have no better friend than Byron Leydecker. We are grateful to Byron for his leadership, and thank him for all his work on behalf of healthy rivers and sustainable fisheries.

AN EXTRAORDINARY SPEECH**HON. JOE WILSON**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. WILSON of South Carolina. Madam Speaker, I submit the following for the RECORD:

What follows is an abridged transcript from *The American Thinker* by Alan Fraser of an extraordinary speech given by Lieutenant General John F. Kelly USMC on November 13, 2010. What renders it so is that General Kelly's son, First Lieutenant Robert Michael Kelly, was killed in action in Sangin, Afghanistan only four days before Lt. Gen. Kelly gave this speech. Lt. Gen. Kelly's eldest child is also a U.S. Marine.

The American Thinker wrote earlier about this incident to which the general refers in his speech of Corporal Jonathan Yale and Lance Corporal Jordan Haerter. Recall that it occurred at a time when it appeared that our troop surge in Iraq had perhaps stabilized what had been for several years a horrific situation. Now think about how that troop surge—in fact, the entire war—would have been viewed had fifty of our Marines been massacred in their sleep on that April night in 2008. And finally, as we are in the season, it's good to remind ourselves that it is only because of men like Yale, Haerter, Gen. Kelly, and his brave sons that we are able to celebrate our holidays and not those of our enemies.

[SEMPER FI SOCIETY OF ST. LOUIS SPEECH]

(By LTG Kelly on Nov. 13, 2010)

Nine years ago two of the four commercial aircraft took off from Boston, Newark, and Washington. Took off fully loaded with men, women and children—all innocent, and all soon to die. These aircraft were targeted at the World Trade Towers in New York, the Pentagon, and likely the Capitol in Washington, D.C. . . . Three found their mark. No American alive old enough to remember will ever forget exactly where they were, exactly what they were doing, and exactly who they were with at the moment they watched the aircraft dive into the World Trade Towers on what was, until then, a beautiful morning in New York City. Within the hour 3,000 blameless human beings would be vaporized, incin-

erated, or crushed in the most agonizing ways imaginable. The most wretched among them—over 200—driven mad by heat, hopelessness, and utter desperation leapt to their deaths from 1,000 feet above Lower Manhattan. We soon learned hundreds more were murdered at the Pentagon, and in a Pennsylvania farmer's field.

Once the buildings had collapsed and the immensity of the attack began to register most of us had no idea of what to do, or where to turn. As a nation, we were scared like we had not been scared for generations. Parents hugged their children to gain as much as to give comfort. Strangers embraced in the streets stunned and crying on one another's shoulders seeking solace, as much as to give it. Instantaneously, American patriotism soared not "as the last refuge" as our national-cynical class would say, but in the darkest times Americans seek refuge in family, and in country, remembering that strong men and women have always stepped forward to protect the nation when the need was dire—and it was so God awful dire that day—and remains so today.

There was, however, a small segment of America that made very different choices that day . . . actions the rest of America stood in awe of on 9/11 and every day since. The first were our firefighters and police, their ranks decimated that day as they ran towards—not away from—danger and certain death. They were doing what they'd sworn to do—"protect and serve"—and went to their graves having fulfilled their sacred oath. Then there was your Armed Forces, and I know I am a little biased in my opinion here, but the best of them are Marines. Most wearing the Eagle, Globe and Anchor today joined the unbroken ranks of American heroes after that fateful day not for money, or promises of bonuses or travel to exotic liberty ports, but for one reason and one reason alone; because of the terrible assault on our way of life by men they knew must be killed and an extremist ideology that must be destroyed. A plastic flag in their car window was not their response to the murderous assault on our country. No, their response was a commitment to protect the nation swearing an oath to their God to do so, to their deaths. When future generations ask why America is still free and the heyday of Al Qaeda and their terrorist allies was counted in days rather than in centuries as the extremists themselves predicted, our hometown heroes—soldiers, sailors, airmen, Coast Guardsmen, and Marines—can say, "because of me and people like me who risked all to protect millions who will never know my name."

As we sit here right now, we should not lose sight of the fact that America is at risk in a way it has never been before. Our enemy fights for an ideology based on an irrational hatred of who we are. Make no mistake about that no matter what certain elements of the "chattering class" relentlessly churn out. We did not start this fight, and it will not end until the extremists understand that we as a people will never lose our faith or our courage. If they persist, these terrorists and extremists and the nations that provide them sanctuary, they must know they will continue to be tracked down and captured or killed. America's civilian and military protectors both here at home and overseas have for nearly nine years fought this enemy to a standstill and have never for a second "wondered why." They know, and are not afraid. Their struggle is your struggle. They hold in disdain those who claim to support them but not the cause that takes their innocence,

their limbs, and even their lives. As a democracy—"We the People"—and that by definition is every one of us—sent them away from home and hearth to fight our enemies. We are all responsible. I know it doesn't apply to those of us here tonight but if anyone thinks you can somehow thank them for their service, and not support the cause for which they fight—America's survival—then they are lying to themselves and rationalizing away something in their lives, but, more importantly, they are slighting our warriors and mocking their commitment to the nation.

Since this generation's "day of infamy" the American military has handed our ruthless enemy defeat-after-defeat but it will go on for years, if not decades, before this curse has been eradicated. We have done this by unceasing pursuit day and night into whatever miserable lair Al Qaeda, the Taliban, and their allies, might slither into to lay in wait for future opportunities to strike a blow at freedom. America's warriors have never lost faith in their mission, or doubted the correctness of their cause. They face dangers every day that their countrymen safe and comfortable this night cannot imagine. But this has always been the case in all the wars our military have been sent to fight. Not to build empires, or enslave peoples, but to free those held in the grip of tyrants while at the same time protecting our nation, its citizens, and our shared values. And, ladies and gentlemen, think about this, the only territory we as a people have ever asked for from any nation we have fought alongside, or against, since our founding, the entire extent of our overseas empire, as a few hundred acres of land for the 24 American cemeteries scattered around the globe. It is in these cemeteries where 220,000 of our sons and daughters rest in glory for eternity, or are memorialized forever because their earthly remains are lost forever in the deepest depths of the oceans, or never recovered from far flung and nameless battlefields. As a people, we can be proud because billions across the planet today live free, and billions yet unborn will also enjoy the same freedom and a chance at prosperity because America sent its sons and daughters out to fight and die for them, as much as for us.

The comforting news for every American is that our men and women in uniform, and every Marine, is as good today as any in our history. As good as what their heroic, underappreciated, and largely abandoned fathers and uncles were in Vietnam, and their grandfathers were in Korea and World War II. They have the same steel in their backs and have made their own mark etching forever places like Ramadi, Fallujah, and Baghdad, Iraq, and Helmand and Sagin, Afghanistan, that are now part of the legend and stand just as proudly alongside Belleau Wood, Iwo Jima, Inchon, Hue City, Khe Sanh, and Ashau Valley, Vietnam. None of them have ever asked what their country could do for them, but always and with their lives asked what they could do for America. While some might think we have produced yet another generation of materialistic, consumeristic and self-absorbed young people, those who serve today have broken the mold and stepped out as real men, and real women, who are already making their own way in life while protecting ours. They know the real strength of a platoon, a battalion, or a country that is not worshipping at the altar of diversity, but in a melting pot that stitches and strengthens by a sense of shared history, values, customs, hopes and dreams all of which unifies a people making them stronger, as opposed to an unruly gaggle of

"hyphenated" or "multi-cultural individuals."

I will leave you with a story about the kind of people they are . . . about the quality of the steel in their backs . . . about the kind of dedication they bring to our country while they serve in uniform and forever after as veterans. Two years ago when I was the Commander of all U.S. and Iraqi forces, in fact, the 22nd of April 2008, two Marine infantry battalions, 1/9 "The Walking Dead," and 2/8 were switching out in Ramadi. One battalion in the closing days of their deployment going home very soon, the other just starting its seven-month combat tour. Two Marines, Corporal Jonathan Yale and Lance Corporal Jordan Haerter, 22 and 20 years old respectively, one from each battalion, were assuming the watch together at the entrance gate of an outpost that contained a make-shift barracks housing 50 Marines. The same broken down ramshackle building was also home to 100 Iraqi police, also my men and our allies in the fight against the terrorists in Ramadi, a city until recently the most dangerous city on earth and owned by Al Qaeda. Yale was a dirt poor mixed-race kid from Virginia with a wife and daughter, and a mother and sister who lived with him and he supported as well. He did this on a yearly salary of less than \$23,000. Haerter, on the other hand, was a middle class white kid from Long Island. They were from two completely different worlds. Had they not joined the Marines they would never have met each other, or understood that multiple America's exist simultaneously depending on one's race, education level, economic status, and where you might have been born. But they were Marines, combat Marines, forged in the same crucible of Marine training, and because of this bond they were brothers as close, or closer, than if they were born of the same woman.

The mission orders they received from the sergeant squad leader I am sure went something like: "Okay you two clowns, stand this post and let no unauthorized personnel or vehicles pass." "You clear?" I am also sure Yale and Haerter then rolled their eyes and said in unison something like: "Yes Sergeant," with just enough attitude that made the point without saying the words, "No kidding sweetheart, we know what we're doing." They then relieved two other Marines on watch and took up their post at the entry control point of Joint Security Station Nasser, in the Sophia section of Ramadi, al Anbar, Iraq.

A few minutes later a large blue truck turned down the alley way—perhaps 60–70 yards in length—and sped its way through the serpentine of concrete jersey walls. The truck stopped just short of where the two were posted and detonated, killing them both catastrophically. Twenty-four brick masonry houses were damaged or destroyed. A mosque 100 yards away collapsed. The truck's engine came to rest two hundred yards away knocking most of a house down before it stopped. Our explosive experts reckoned the blast was made of 2,000 pounds of explosives. Two died, and because these two young infantrymen didn't have it in their DNA to run from danger, they saved 150 of their Iraqi and American brothers-in-arms.

When I read the situation report about the incident a few hours after it happened I called the regimental commander for details as something about this struck me as different. Marines dying or being seriously wounded is commonplace in combat. We expect Marines regardless of rank or MOS to stand their ground and do their duty, and

even die in the process, if that is what the mission takes. But this just seemed different. The regimental commander had just returned from the site and he agreed, but reported that there were no American witnesses to the event—just Iraqi police. I figured if there was any chance of finding out what actually happened and then to decorate the two Marines to acknowledge their bravery, I'd have to do it as a combat award that requires two eye-witnesses and we figured the bureaucrats back in Washington would never buy Iraqi statements. If it had any chance at all, it had to come under the signature of a general officer.

I traveled to Ramadi the next day and spoke individually to a half-dozen Iraqi police all of whom told the same story. The blue truck turned down into the alley and immediately sped up as it made its way through the serpentine. They all said, "We knew immediately what was going on as soon as the two Marines began firing." The Iraqi police then related that some of them also fired, and then to a man, ran for safety just prior to the explosion. All survived. Many were injured . . . some seriously. One of the Iraqis elaborated and with tears welling up said, "They'd run like any normal man would to save his life." "What he didn't know until then," he said, "and what he learned that very instant, was that Marines are not normal." Choking past the emotion he said, "Sir, in the name of God no sane man would have stood there and done what they did." "No sane man." "They saved us all."

What we didn't know at the time, and only learned a couple of days later after I wrote a summary and submitted both Yale and Haerter for posthumous Navy Crosses, was that one of our security cameras, damaged initially in the blast, recorded some of the suicide attack. It happened exactly as the Iraqis had described it. It took exactly six seconds from when the truck entered the alley until it detonated.

You can watch the last six seconds of their young lives. Putting myself in their heads I supposed it took about a second for the two Marines to separately come to the same conclusion about what was going on once the truck came into their view at the far end of the alley. Exactly no time to talk it over, or call the sergeant to ask what they should do. Only enough time to take half an instant and think about what the sergeant told them to do only a few minutes before: ". . . let no unauthorized personnel or vehicles pass." The two Marines had about five seconds left to live.

It took maybe another two seconds for them to present their weapons, take aim, and open up. By this time the truck was half-way through the barriers and gaining speed the whole time. Here, the recording shows a number of Iraqi police, some of whom had fired their AKs, now scattering like the normal and rational men they were—some running right past the Marines. They had three seconds left to live.

For about two seconds more, the recording shows the Marines' weapons firing nonstop . . . the truck's windshield exploding into shards of glass as their rounds take it apart and tore in to the body of the son-of-a-bitch who is trying to get past them to kill their brothers—American and Iraqi—bedded down in the barracks totally unaware of the fact that their lives at that moment depended entirely on two Marines standing their ground. If they had been aware, they would have known they were safe . . . because two Marines stood between them and a crazed suicide bomber. The recording shows the truck

careening to a stop immediately in front of the two Marines. In all of the instantaneous violence Yale and Haerter never hesitated. By all reports and by the recording, they never stepped back. They never even started to step aside. They never even shifted their weight. With their feet spread should width apart, they leaned into the danger, firing as fast as they could work their weapons. They had only one second left to live.

The truck explodes. The camera goes blank. Two young men go to their God. Six seconds. Not enough time to think about their families, their country, their flag, or about their lives or their deaths, but more than enough time for two very brave young men to do their duty . . . into eternity. That is the kind of people who are on watch all over the world tonight—for you.

We Marines believe that God gave America the greatest gift he could bestow to man while he lived on this earth—freedom. We also believe he gave us another gift nearly as precious—our soldiers, sailors, airmen, Coast Guardsmen, and Marines—to safeguard that gift and guarantee no force on this earth can every steal it away. It has been my distinct honor to have been with you here today. Rest assured our America, this experiment in democracy started over two centuries ago, will forever remain the “land of the free and home of the brave” so long as we never run out of tough young Americans who are willing to look beyond their own self-interest and comfortable lives, and go into the darkest and most dangerous places on earth to hunt down, and kill, those who would do us harm. God Bless America, and . . . SEMPER FIDELIS!

LISA STEVEN & AMIE WALTON

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Lisa Steven and Amie Walton for their outstanding service to our community.

Lisa and Amie are founders of Hope House. A place that provides a stable, loving home, as well as programs to give young mothers the tools and skills they need to become self sufficient. After working with teen moms they soon found that many lived in fear, some were homeless, others hungry and many abused. They searched for resources for these young women and found none. There began the vision for Hope House.

Hope House is now a place where young mothers and their children play and laugh, heal wounds and learn skills for success in the future. Staff work to help mothers obtain their GED, master life skills and learn effective parenting skills.

Lisa and Amie say that “We wanted each young mom and child to know that there is no mistake too big, no past too heavy that would make God give up on them”.

I extend my deepest congratulations to Lisa Steven and Amie Walton for their well deserved recognition by the West Chamber serving Jefferson County. I have no doubt they will exhibit the same dedication and character in all their future accomplishments.

PERSONAL EXPLANATION

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, on Tuesday, December 14, I requested and received a leave of absence for December 16 and December 17, 2010.

For the information of our colleagues and my constituents, below is how I would have voted on the following votes I missed during this time period.

On rollcall 640, On Motion to Suspend the rules and pass S. 841, I would have voted “yes.”

On rollcall 641, On Motion to Suspend the rules and pass S. 3860, I would have voted “yes.”

On rollcall 642, On Motion to Suspend the rules and pass S. 3447, I would have voted “yes.”

On rollcall 643, Providing for consideration of the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 4853) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, H. Res. 1766, I would have voted “yes.”

On rollcall 644, On Agreeing to the Resolution, H. Res. 1766, I would have voted “yes.”

On rollcall 645, On Motion to Suspend the rules and pass S. 987, To protect girls in developing countries through the prevention of child marriage, and for other purposes, I would have voted “yes.”

On rollcall 646, On Agreeing to the Levin Agreement, H.R. 4863, I would have voted “yes.”

On rollcall 647, On Motion to Concur in the Senate Amdt to the House to the Senate Amendment H.R. 4853, I would have voted “no.”

On rollcall 648, Honoring the accomplishments of Norman Yoshino Mineta, H. Res. 1377, I would have voted “yes.”

On rollcall 649, An act to enact certain laws relating to public contracts as title 41, United States Code, “Public Contracts”, H.R. 1107, I would have voted “yes.”

On rollcall 650, Ike Skelton National Defense Authorization Act for Fiscal Year 2011, H.R. 6523, I would have voted “yes.”

On rollcall 651, An act to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges, H.R. 628, I would have voted “no.”

On rollcall 652, Providing for the sine die adjournment of the second session of the One Hundred Eleventh Congress, H. Con. Res. 336, I would have voted “yes.”

On rollcall 653, Providing for consideration of the joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011, H. Res. 1776, I would have voted “yes.”

On rollcall 654, GPRA Modernization Act of 2010, H.R. 2142, I would have voted “yes.”

On rollcall 655, Aiding Those Facing Foreclosure Act of 2010, H.R. 5510, I would have voted “yes.”

On rollcall 656, Reduction of Lead in Drinking Water Act, S. 3874, I would have voted “yes.”

HONORING ORLANDO SANTOS

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. CHRISTENSEN. Madam Speaker, I rise with pride to offer my congratulations to Orlando Santos, son of Diane Tutein and Enrique Santos, who was featured on the Food Network on Sunday, December 19th as one of the competitors on the Food Network Challenge Sugar Destinations.

Orlando, the executive pastry chef at the Duquesne Club in Pittsburgh, hails from the island of St. Croix and truly represented his artistic and culinary talent with the sugar piece he produced.

Although he did not win, he has made a name for himself and remains a favorite of the judges for his unselfish desire to take his mother to Denmark to connect with her Danish ancestry.

Orlando is a product of the public school system in the Virgin Islands and was raised in a environment of strong, determined women to include his mother Diane, his maternal grandmother Mercedes and his maternal great-grandmother Mariel. He began his training in the culinary arts at St. Croix Vocational Complex. He graduated from Johnson & Wales University in North Miami, Florida and attended the French Pastry School in Chicago. Orlando won his first professional competition in Atlanta with our very own local sweetbread, a pastry that is typical in the Virgin Islands around the Christmas season. In 2004, he won first place in the wedding cake category at the Southern Pastry Classic.

During the challenge on Sunday, Orlando displayed his signature technique; local Virgin Islands flowers, which represent his culture and traditions.

So, on behalf of myself, my staff and our Virgin Islands community all over the world, we are very proud of Orlando as he continues to make a name for himself and the U.S. Virgin Islands in the very competitive culinary world.

CONGRATULATING KAPPA ALPHA PSI FRATERNITY, INCORPORATED ON ITS CENTENNIAL ANNIVERSARY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. HASTINGS of Florida. Madam Speaker, I rise to congratulate Kappa Alpha Psi Fraternity, Incorporated on the historic milestone of 100 years of serving local and international communities. On January 5, 1911, Kappa Alpha Psi Fraternity, Incorporated (KAPSI) was founded by ten distinguished, God-fearing, high achieving, young African-American gentlemen who had the vision to foster leadership through fraternal brotherhood and Christian ideals on the campus of Indiana University in Bloomington, Indiana. These men had the determination to defy customs in pursuit of a college education and professional careers during an oppressive time in American history for

African-Americans. Kappa Alpha Psi currently yields a membership of over 150,000 college trained men on more than 360 university campuses, with alumni chapters located in 347 cities, and has representation in five foreign nations.

Since its inception, the brothers of Kappa Alpha Psi have fostered relentless support to our country. Through programs such as Kappa League and National Guide Right, the fraternity has provided thousands of at-risk youth in communities throughout the Nation with role models, mentors, and scholarships for higher education, which in return encourages our youth to make positive contributions to society through leadership and service. Kappa Alpha Psi holds an annual Holiday Food Drive to provide citizens of underserved communities with food, clothing, and toys throughout the United States. The men of Kappa Alpha Psi also volunteer through hands-on partnerships with organizations such as Habitat for Humanity, St. Jude Children's Research Hospital (Memphis), and many more.

On any given day you can see the notable accomplishments from the Kappa Alpha Psi brotherhood in Congress. Each day, as members, we strive to ensure that our brotherhood continues to exemplify achievement in every field of human endeavor. Kappa Alpha Psi sponsors events such as "Kappas on Capitol Hill" to increase member awareness about the political process as well as an undergraduate leadership institute to enhance the skills and abilities for the fraternity's top student leaders.

Madam Speaker, in 1954, I made one of the best decisions of my life, I joined the noble clan of Kappa Alpha Psi, crossing the sands with Laurel Wreath holder Dr. W.H. Greene. Since that wondrous time, I have enjoyed 56 years of involvement with our Bond. I am awed and indebted to all of our Brothers. For us to celebrate 100 years is a crowning achievement. I am extremely proud to be a part of such a distinguished brotherhood that continuously contributes to the improvement of society. Again, I say congratulations to my brothers of Kappa Alpha Psi for 100 steadfast years of serving local communities and elevating the lives of collegiate men throughout our great Nation.

HONORING DENNIS R. FERGUSON

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, I rise today to honor Dennis R. Ferguson, and to ask my colleagues who are not supporters of unemployment benefits to listen to his story and learn about the real value of this program.

Dennis Ferguson lost his job with Douglas Aircraft in Los Angeles in 1964. He was 26 years old, living in a motel, and had reached a crossroads that would determine how the rest of his life would play out. He took advantage of California's unemployment benefits program for 4 months that year and used that money to go back to school and become a computer programmer. Mr. Ferguson thrived in

his new field and eventually settled in South Carolina.

Last month, Dennis wrote a check for \$10,000 to the State of California to repay the state for the assistance it had given him 40 years earlier. Today, I applaud Dennis Ferguson for this act of generosity, but I also share his story to remind the members of this body about the real world impact unemployment benefits have.

Unemployment in California has been at more than 12 percent for the past 2 years. There are those in this body who have opposed extending unemployment at every turn. I have heard some say that unemployment benefits make people lazy. I have heard others say that if we just cut them off, people will go out and get a job. Such statements show a misunderstanding of what unemployment benefits are for and how they can help those—who through no fault of their own—lost their jobs and need a bridge to get back on their feet.

The most recent unemployment benefit extension ensured that 450,000 people in my home state would not lose their benefits at Christmastime. They now have the chance to get back on their feet just like Dennis Ferguson did. These men and women don't want a safety net, they want to work. They want to be the ones responsible for putting food on the table, and a roof over their family's heads.

Sometimes circumstances arise beyond our control and we need temporary assistance while getting back on our feet. That is what the unemployment program does. I think if you ask Dennis Ferguson's neighbors whether unemployment benefits have a positive impact on a community, they will answer with a resounding yes.

I hope my colleagues who are critics of the unemployment program will re-assess their thinking and stand up for their constituents the next time this body considers legislation impacting the unemployment benefits program.

CELEBRATING THE 175TH ANNIVERSARY OF VERNON AND CAROL SLOAN'S FARMING IN WILLIAMS COUNTY, OHIO

HON. ROBERT E. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. LATTA. Madam Speaker, I rise today to honor and congratulate one of Ohio's longest and continuous farming operations. The year 2010 marks the 175th anniversary of Lewis Clark homesteading and clearing the land south of present day Stryker, in Williams County, Ohio. The deed for the conveyance of one hundred sixty acres of land is dated October 7, 1835 and is granted under the signature of President Andrew Jackson. Vernon and Carol Sloan have carried on the stewardship of the land begun by Vernon's ancestor Lewis Clark and have helped to feed not only Ohioans, but Americans and people from around the world. American farmers are some of our hardest working and best producing citizens who continue to find innovative ways to produce crops and raise livestock. Today less

than two percent of Americans earn their livelihood on the land while that number is even smaller in Ohio at less than one percent. These numbers are contrasted to the forty percent of Americans who were engaged in agriculture in 1900.

Vernon and Carol Sloan have ingrained their love of the land in their children and their children's children. The Sloans look forward to passing on their farming heritage and tradition to their family's future generations to till the land and harvest the bounties of the earth.

Madam Speaker, I salute Vernon and Carol Sloan on their faithfulness to the land and their family's wonderful achievement on the 175th anniversary of farming in Williams County, Ohio.

MICHAEL ROBERT KINDIG

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and honor Michael Robert Kindig for the years of service to his brothers and sisters. Michael passed away on August 9, 2010, after a battle with pancreatic cancer.

Michael Kindig's achievements are many, particularly his leadership. As a member of the board of the Denver local of the American Federation of Television and Radio Artists, The International Brotherhood of Teamsters, as a member of the National Board of Directors and President of the Colorado Branch of the Screen Actors Guild, Organizer for the Colorado Chapter of the National Alliance for Retired Americans and Editor of the Colorado Labor Advocate for nearly twenty years, Mike worked diligently to advance the labor community in Colorado.

Michael was an alternate delegate to the National Democratic Convention held in Chicago in 1968, and spent the rest of his life dedicated to his political beliefs. He served in the U. S. Marine Reserves for six years. Mike Kindig was a patriotic American.

Michael's father was declared missing in action in Papua New Guinea in 1944, when Michael was three years old. He met his future wife Patricia Gaffney when a search she had initiated for her father, also declared missing in action in Papua New Guinea, yielded the remains of both men. After 55 and 56 years respectively, Major Earl R. Kindig and 2LT George P. Gaffney, Jr., were buried with full military honors in Arlington National Cemetery in Washington DC.

Michael Kindig had a very large group of friends from many walks of life which is a testament to the values he possessed. He will be remembered as a dedicated husband, father and friend committed to making his community a better place for all of us.

RETIREMENT OF GENEVA YOUNG
FROM THE SOCIAL SECURITY
ADMINISTRATION

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CROWLEY. Madam Speaker, I rise today to pay tribute to an accomplished woman and a longtime leader in the Social Security Administration, Geneva Young. Ms. Young is retiring as the Civil Rights and Equal Opportunity Manager for the Social Security Administration in the New York Region, after being employed with Social Security for nearly 40 years.

Over the years, Geneva has proven herself as a dedicated and committed employee to the Social Security Administration and to the American people. Starting her career with the Social Security Administration as a Claims Representative in the Charlotte, North Carolina field office, Geneva moved up the ranks of the Social Security Administration. After only 3 months on the job, Geneva moved to New York to work for the Social Security Administration in the New Rochelle Field Office. By 1980, Geneva became an Operations Analyst for the Social Security Administration and only 6 months later was promoted to Operations Supervisor. Geneva remained in the New Rochelle Field Office until January 1995, when she began working in the Office of the Regional Commissioner as an Equal Employment Specialist. By 2007, she was promoted to the position of Civil Rights and Equal Opportunity Manager for the Social Security Administration in the New York Region. It is in this role that she is retiring today from the Social Security Administration.

As Civil Rights and Equal Opportunity Manager for the New York Region, Geneva managed the equal opportunity program for the region. As the regional authority on equal opportunity, she has developed, administered and evaluated all Equal Employment Opportunity programs. She also has participated in the agency's policy-development process to create national policies and guidelines for Social Security on Equal Employment Opportunity matters and served as advisor to regional management on the development and interpretation of policies and guidelines.

Throughout her years of serving the people of the New York Region, Geneva has touched many lives with her commitment to public service. She and her staff have worked tirelessly to recommend strategies to resolve controversial issues and plans. She also has organized, directed, staffed, carried out, and reviewed a positive management-oriented Equal Employment Opportunity program. Her services will be greatly missed by her colleagues and friends.

I know what great change and improvement Geneva has provided. I wish her good luck in her retirement, something she deserves after her years of work and service to the Bronx community.

PERSONAL EXPLANATION

HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. MCCARTHY of New York. Madam Speaker, I was unavoidably absent on December 17, 2010. If I were present, I would have voted on the following:

H. Res. 1377, Honoring the accomplishments of Norman Yoshio Mineta—rollcall #648: "yea."

Senate Amdt to H.R. 1107, To enact certain laws relating to public contracts as title 41, United States Code, "Public Contracts"—rollcall #649: "yea."

H.R. 6523, Ike Skelton National Defense Authorization Act for Fiscal Year 2011—rollcall #650: "yea."

Senate Amdt to H.R. 628, To establish a pilot program in certain U.S. district courts to encourage enhancement of expertise in patent cases among district judges—rollcall #651: "yea."

H. Con. Res. 336, Providing for the sine die adjournment of the second session of the One Hundred Eleventh Congress—rollcall #652: "yea."

H. Res. 1776, Providing for consideration of the joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011 and for other purposes—rollcall #653: "yea."

H.R. 2142, GPRA Modernization Act of 2010—rollcall #654: "yea."

H.R. 5510, Aiding Those Facing Foreclosure Act of 2010—rollcall #655: "yea."

PERSONAL EXPLANATION

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. ROSS. Madam Speaker, on Friday, December 17, 2010, I was not present for votes as I was attending the White House signing ceremony for H.R. 4853, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

Had I been present for rollcall No. 652, H. Con. Res. 336—Sine Die Adjournment, I would have voted "aye."

Had I been present for rollcall No. 653, H. Res. 1776—Rule providing for consideration of H.J. Res. 105—Making further continuing appropriations for fiscal year 2011, I would have voted "aye."

Had I been present for rollcall No. 654, H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act of 2009, I would have voted "aye."

REMEMBERING AND HONORING
THE LIFE OF ANDREW BARYLSKI

HON. JOE COURTNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. COURTNEY. Madam Speaker, I rise today to honor Andrew Barylski Sr., who

passed away on December 8, 2010. Barylski fought for his country and survived the 1941 attack on Pearl Harbor. I am honored to stand in tribute to him.

Barylski Sr., a Putnam, Connecticut native, was born in 1916 and enlisted in the U.S. Army in 1938. He was stationed in an observation tower high on Oahu at Pearl Harbor on the morning of December 7, 1941 when a surprise Japanese attack left 2,402 Americans dead and 1,202 wounded.

After the attack, Barylski Sr. stayed in Hawaii and helped rebuild the island until he was honorably discharged in 1945. Barylski often spoke of his experiences in the war, but always remained modest about his accomplishments. He was a lifelong member of the Putnam American Legion Post 13 and Veterans of Foreign Wars No. 1523.

My thoughts and prayers are with the Barylski family. Andrew Barylski Sr. served his country and led a remarkable life. I hope that is a small comfort for his son Andrew Barylski Jr., his daughters Linda March and Gloria Ghirarduzzi and six grandchildren and seven great grandchildren as they cope with the loss of their father and grandfather.

True American heroes deserve recognition for their accomplishments. Andrew Barylski witnessed a turning point in American history and helped rebuild a devastated island in the wake of the Pearl Harbor attack. I ask my colleagues to rise with me so that we may honor Andrew Barylski Sr. and celebrate the life of a true American hero.

NICHOL WOOD

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Nichol Wood for her outstanding service to our community.

Nichol has always set the bar high for herself. While working full time, raising two young sons, earning a college degree and doing it with Cum Laude Honors many would find that impossible.

Nichol excels not only in her personal goals, but in her professional life as well. As the Branch manager of the Bank of the West she exceeded all of her goals in a regional competition among branches earning first place in customer service and loan production.

In addition to focusing on her children and achieving at work, Nichol takes time to give back to the community. She is involved in numerous charitable events, including the March of Dimes Walk for Babies, Kids Against Hunger Food Drive, Operation Hope, Junior Achievement and Habitat for Humanity to name a few.

I extend my deepest congratulations to Nichol Wood for her well deserved recognition by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

MEMORIAM FOR ANNA SUGI, COMMUNITY LEADER AND HEALTH CARE VISIONARY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. LEWIS of California. Madam Speaker, I would like to join today with my friend and colleague Congressman BUCK MCKEON in a memorial to Anna Sugi, a community leader and pioneering advocate for women's health issues in her hometown of Apple Valley, California. Ms. Sugi passed away Dec. 16, but will be long-remembered by her friends and supporters.

A native of Brindisi, Italy, Anna Sugi came to Apple Valley in 1982, when her husband Ron Sugi was stationed at the former George Air Force Base in California's High Desert region.

After an education in health care, Anna Sugi took a job as an office clerk in a local medical office. Over 20 years, she worked her way up to become the chief administrative officer of Choice Medical Group, a High Desert medical provider that has specialized in women's health. Under her leadership, the group established a Health and Wellness Center in 2008, focusing on helping women through the process of aging.

Working to expand health outreach efforts to the all members of the community, Anna Sugi in 2000 founded the Today's Woman Expo. The first events drew a few hundred people for information on preventive health care and providing tools to help women improve their lives and physical well-being.

The event has grown tremendously, serving more than 2,000 women annually in the past few years. They are provided free breast exams, career counseling and an expanding range of services. Today's Woman is now a non-profit foundation that provides health screenings throughout the year and raises funds for scholarships and grants to High Desert women.

Beyond her pioneering work with the Expo, Anna Sugi has served on the Chamber of Commerce Legislative Committee and is a 13-year member of Rotary International Victorville Chapter. She has worked with High Desert Resources Network on programs to fight childhood obesity. She was honored in 2009 by the Victorville Daily Press as one of the area's Most Inspiring Women.

Even as she became a leader in bringing women's health care to the entire community, Anna Sugi waged her own quiet battle against breast cancer. Yet she continued working hard on expanding women's health services until dying peacefully at age 50. In addition to her legacy of service, Ms. Sugi leaves a personal legacy in her children, Mark and Michelle, who will both graduate from UCLA Medical School in June and plan to continue her work in community health.

Madam Speaker, Anna Sugi was respected and loved throughout the High Desert region. A group of physicians have already raised \$35,000 for the Anna Sugi Endowment Fund to provide scholarships for needy students. I ask my colleagues to join Congressman

MCKEON and me in offering condolences to her family, and in praising the life and legacy of this community leader.

PERSONAL EXPLANATION

HON. CATHY McMORRIS RODGERS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. McMORRIS RODGERS. Madam Speaker, on rollcall No. 652 on, H. Con. Res. 336, on Agreeing to the Resolution, Providing for the sine die adjournment of the second session of the One Hundred Eleventh Congress, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay."

Madam Speaker, on rollcall No. 653 on, H. Res. 1776, on Agreeing to the Resolution, Providing for consideration of the joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay."

Madam Speaker, on rollcall No. 654 on, H.R. 2142, on Motion to Suspend the Rules and Concur in the Senate Amendment, GPRA Modernization Act of 2010, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay."

Madam Speaker, on rollcall No. 655 on, H.R. 5510, on Motion to Suspend the Rules and Pass, as Amended, Aiding Those Facing Foreclosure Act of 2010, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay."

Madam Speaker, on rollcall No. 656 on, S. 3874, on Motion to Suspend the Rules and Pass, Reduction of Lead in Drinking Water Act, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay."

HONORING FERNANDO JOSE MOLLEDA RAMIREZ

HON. THOMAS S.P. PERRIELLO

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERRIELLO. Madam Speaker, I rise today in honor of Fernando Jose Molleda Ramirez, who was with us from December 21, 1976 through August 22, 2008.

Beloved son of Oscar and Elia Molleda; loving brother to Diego and Diana. You are dearly missed by your family and friends for the profound way you touched our lives and always sought to bring out the best in us. Your efforts will be long remembered and will continue to drive us in the future to exceed our expectations of what we are capable of accomplishing.

I have only slipped away into the next room. Whatsoever we were to each other, that we are still. Call me by my old familiar name,

speak to me in the easy way which you always used to. Laugh as we always laughed at the little jokes we enjoyed together. Play, smile, think of me, pray for me. Let my name be the household word that it always was. Let it be spoken without effort. Life means all that it has ever meant. It is the same as it ever was, there is absolutely unbroken continuity. Why should I be out of your mind because I am out of your sight? I am but waiting for you, for an interval, somewhere very near, just around the corner. All is well. Nothing is past, nothing is lost. One brief moment and all will be as it was before, only better, infinitely happier and forever—we will be one with God.

JEANETTE TRUJILLO-LUCERO

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Jeanette Trujillo-Lucero for her outstanding service to our community.

Jeanette has been committed to the preservation of the cultural traditions of the Mexican and Spanish dance and music arts for its community. She has strived to create an understanding and appreciation of the Latino culture through educational programs and professional performance.

Jeanette founded the Colorado Fiesta Dance Company in 1972. Her Lakewood based studio impacts over sixty thousand people through educational outreach and performances. Jeanette's outreach programs include a full array of offerings tailor made for grades K-12 where students discover the Hispanic arts and come to understand the roots of the culture and its traditions.

I extend my deepest congratulations to Jeanette Trujillo-Lucero for her well deserved recognition by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

IN HONOR OF F. MIKE MILES

HON. DOUG LAMBORN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. LAMBORN. Madam Speaker, I rise today to honor Mr. F. Mike Miles—the Superintendent of Harrison School District Two in Colorado Springs, Colorado. Mike is an innovative educator who has brought sweeping changes to the students and teachers in his district. Our local newspaper, the Colorado Springs Gazette notes, "local and state educators are watching because Miles is in the vanguard of educators nationwide who are using controversial techniques in an attempt to turn around failing schools." Most recently, Miles implemented the most rigorous and innovative pay-for-performance plan in the Nation.

Mike, who was born in the Panama Canal Zone, was one of eight children born to retired

Army Sergeant Major Floyd Miles and his wife, Chiyo. Mike and his siblings worked hard in school and promised their father when he deployed to Vietnam that they would all graduate from college. All of them did.

After graduating as valedictorian from Fountain-Fort Carson High School, he earned a degree in engineering from West Point, where he was eighth in his class. He then joined the ranks of the officer corps at Fort Lewis, Washington, where he served in the Army's elite Ranger Battalion and commanded an Infantry Rifle Company.

During a night training exercise at Fort Lewis, Mike was nearly killed in a C-130 crash. The fuselage of the plane split open as the plane skidded 200 yards and embedded in the desert floor. Mike recalls, "I felt my hand break, in three places, and smelled dirt and was knocked unconscious." He was buried under the dirt with only his arm showing. Two fellow rangers dug him out and helped him crawl from the wreckage as the plane exploded into flames.

After the Army, Mike studied Slavic languages at the University of California at Berkeley and the University of Leningrad in Russia. Mike then pursued advanced study of Soviet affairs and public policy at Columbia University after being selected as a Mellon Fellow in the Humanities and winning a National Science Foundation Graduate Scholarship.

Mike graduated from Columbia University in 1989 and joined the U.S. State Department as a Presidential Management Intern. He handled a portfolio usually reserved for more senior officials at the Soviet Desk, making policy recommendations and writing talking points for the Secretary of State regarding German reunification, chemical weapons, NATO, and other issues. While at the State Department, Mike became a Foreign Service Officer.

As a diplomat in Warsaw, Poland, Mike tracked Poland's evolving relations with Russia and the countries of Eastern Europe. He analyzed the strength of the post-Communist Party, correctly predicting its return to political power in 1993. A tour in Moscow followed. As special assistant to the U.S. Ambassador to Russia, Mike helped coordinate the Embassy's response to critical events during a time when Russia's relationship to the U.S. in a post-Cold War world was as yet undefined. He received the State Department's Meritorious Service Medal in 1994.

The Cold War largely won, Mike and his family decided to return home. He honored his commitment to continue to serve the public interest and entered the field of education. Mike has assumed leadership roles to raise academic standards in his school district and the State of Colorado. Mike also serves as an educational consultant and motivational speaker for school districts and other public organizations around the State. He is recognized as an accomplished practitioner of curriculum alignment, organizational effectiveness, and systems thinking.

Over the past 5 years Mike and the Harrison School District Two School Board have been on a quest to turn around the chronically underperforming Harrison School District Two. More than 70 percent of the 11,300 students are living below the poverty line and many are at risk of dropping out.

Their systemic reforms of the school district include: Developing and implementing a rigorous pay-for-performance evaluation system; Changing the recruitment paradigm by identifying teacher candidates early and investing in their training and preparation in return for a commitment to teach in the school district; Piloting a Year 2020 curriculum in a middle school and high school in which students learn critical thinking, information literacy, economics and globalization, math and science reasoning, Chinese, and the arts; Developing principals and instructional leaders who are held accountable for improving the quality of instruction and raising student achievement; and Creating a culture of instructional feedback in which classroom instruction is observed and effective feedback is given regularly and consistently.

The district cites these other achievements during Mike's time as superintendent: District removed from state academic probation; Significantly improved test scores; Decreased the minority achievement gap; Improved teacher effectiveness, including removing ineffective, tenured teachers from the district; and Created the only public year-round school in the area.

Despite enormous resistance from the teacher's association in the district, Mike and the school board have not backed down from putting children first. I admire his focus and fortitude in fighting for the school children of Colorado Springs. I commend him for his success and urge professional educators across the country to study his record of success as they look for ways to better educate our young people.

Mike is married to Karen Miles, and they have three children: Nicholas, Madeleine, and Anthony.

Madam Speaker, I thank you for allowing me this opportunity to pay tribute to Mike Miles for his success in improving the lives of our children.

IN HONOR OF THE WORK OF
THORAYA AHMED OBAID, EXECUTIVE
DIRECTOR OF THE UNFPA

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. MALONEY. Madam Speaker, I rise today to celebrate the extraordinary leadership and work of Thoraya Ahmed Obaid, Executive Director of the UNFPA, United Nations Population Fund.

Thoraya Ahmed Obaid will retire as Executive Director of the UNFPA, United Nations Population Fund, at the end of this year. For over a decade, Thoraya has been an exceptional and dynamic leader of this important U.N. agency and key partner to the United States.

Thoraya has had a remarkable life and career where she was often the "first" trailblazing a path for others. Born in Saudi Arabia, her father made sure that she received the same educational opportunities as her brothers—sending her at age 7 to a Christian boarding school in Cairo, Egypt. She excelled in her studies and became the "first" Saudi

girl to receive a government scholarship to attend Mills College in California, where she graduated with distinction.

Thoraya became the "first" Saudi Arabian let alone Saudi woman to head a U.N. agency. At UNFPA, Thoraya has effectively implemented and advocated for UNFPA's global mandate to ensure that every pregnancy is wanted, every birth is safe, every young person is free of HIV and AIDS, every girl, woman and young person is treated with dignity and respect, and that policies for poverty eradication are based on sound data.

Thoraya has played a pivotal role in promoting understanding of the close linkages between the implementation of the agenda of the International Conference on Population and Development and the achievement of the Millennium Development Goals, particularly the importance of respect for the human rights of women and greater investments in education and health for the eradication of extreme poverty and hunger. Moreover, she has a deep and abiding commitment to supporting and advocating gender equality and the empowerment of women, and giving voice to countless women, men and youth around the world to participate in enhancing their reproductive health and well-being.

Under Thoraya's leadership, UNFPA has been a model within the U.N. system on working in collaboration with civil society partners around the world to ensure that culture and rights are central to all development efforts. For example, under Thoraya's watch, UNFPA's Campaign to End Fistula is now working in over 47 countries with doctors, midwives, advocates, community leaders and policymakers to make obstetric fistula as rare in the developing world as it is in the United States.

Thoraya has accomplished much for the world's women and their families with grace, humility, compassion and professionalism. In retirement, she will be returning to the region of her birth to continue to be a vocal and passionate advocate for the most vulnerable and marginalized.

This remarkable and much admired leader will be greatly missed in the United Nations but I am confident we will continue to hear her strong and clear voice for women's well being for many years to come.

I personally thank Thoraya for her vast and tremendous contributions to the world's women.

KITTY PRING

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Kitty Pring for her service to our community.

Kitty balances her involvement in the community, her profession and her passions with skill and perfection. Professionally, she is a mediator and facilitator and is a Principal of ReSolutions Resources, which is an alternative dispute resolution practice. Kitty has been the recipient of many awards including

Small Claims Mediator of the Year, Victim Offender Mediator of the Year and the Jefferson County Mediation Service Award.

Her dedication to the environment is evident through her work locally and globally. She co-authored the University of Denver Study Book, "Greening Justice: Creating and Improving Environmental Courts and Tribunals" which is a step by step guide provided at no cost.

I extend my deepest congratulations to Kitty Pring for being honored by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

REFLECTIONS ON REPRESENTING THE 27TH CONGRESSIONAL DISTRICT OF TEXAS

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. ORTIZ. Madam Speaker, I rise today to express my deepest and most sincere appreciation to my colleagues of this Congress, and the constituents of South Texas, which has been part of my life while representing the 27th Congressional District of Texas for close to 28 years. I have had the distinct honor to serve as an elected official for the past 46 years, beginning at the ripe age of 27 as a County Constable, County Commissioner, County Sheriff, and finally as a Member of Congress.

I leave many great memories of my time in the Halls of Congress and in the U.S. House of Representatives. Those vivid memories of my arrival that cold winter day in Washington, shortly after the victorious election of 1982, will live on forever. I remember driving around the Capitol and through Washington, DC; the opportunity was great; the moment was there; I had been granted the chance to represent hundreds of thousands of constituents from Deep South Texas.

Today, as I retire from the distinguished House of Representatives, I reflect on the past with satisfaction as I look forward to the future with enthusiasm for the next chapter of what life has to offer. I will be spending well deserved time with my beautiful children—Solomon Jr. and Yvette—as well as my grandson, Oscar, and the rest of my family. I look forward to a much less hectic life. I must admit, I will miss my colleagues—both Democrats and Republicans—and will miss representing some of the most loving, caring, amazing and interesting people of Texas—the constituents of the 27th Congressional District of Texas.

To my friends, supporters and those who have been with me since I was first elected to office in 1964 at the age of 27, from the very bottom of my heart, I thank you for standing by me and with me through it all. Words cannot tell how much I appreciate the love and support you have shown me and my family over the years. Thank you for the good memories and endless accomplishments; thank you for your vote of confidence and for believing in me; thank you for your love and words of encouragement as I worked to be the voice for

all the people of South Texas, including minorities, the middle class, poor, vulnerable, and less fortunate.

As I deliver these last few words in the House of Representatives, I am at ease and peace with myself, my family, my colleagues in Congress, my constituents, life and most importantly, I am at ease with God. I truly believe that through our work and significant contributions during my years of service in Congress, we leave South Texas better than before. A more vibrant, economic-friendly and socially developed South Texas. Through the work of local, county, state and federal officials we were able to accomplish great deeds.

Thousands of memories from experiences in my service remain part of the tapestry of my life and always will. I remember the votes on war . . . on economic justice. The battles for bases and 21st Century transportation in South Texas . . . fights and alliances with White House occupants . . . all I remember and savor—whether my side prevailed or not.

This is a great place—despite the shortcomings . . . despite the pettiness of our members from time to time, and despite the dangerous political climate created by those who turned cable news shows into political juggernauts. Democracy is by no means perfect . . . but it still beats all the alternatives.

I leave the national stage, certain of having done the right thing for those I represented. In the thousands of votes I cast in Congress for the 27th Congressional District of Texas, time and time again, I voted to make South Texas and this nation a better and stronger place.

I end my public service with an appropriate verse from Robert Frost's "The Road Not Taken."

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less traveled by,
And that has made all the difference.

It certainly has made all the difference.
I yield back my time, for the last time.

RECOGNIZING THE CONTRIBUTIONS OF LOUIS FINKEL TO THE HOUSE COMMITTEE ON SCIENCE AND TECHNOLOGY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize the service of a valued staff member of the Committee on Science and Technology, my Chief of Staff, Louis Finkel. While Louis still has decisions to make about his future, I've already made my choice. He may remain with the Committee or with the House, but after next week, I no longer will and I wanted to take this opportunity to thank him for his service.

Louis worked for me in my personal office from 1996 to 2001 in several positions, including Legislative Director. He also worked in the office of former Representative Peter Deutsch (D-FL) and in the private sector, representing the interests of educational institutions, nonprofits, and technology and energy companies.

Louis was one of the first hires I made when we took over the majority. I have always said I wanted this to be the Committee of "good ideas and consensus;" and Louis was key to implementing that pledge, with his balance of Hill and private sector experience. He was responsible for steering our committee agenda and organizing our efforts to reach out to folks interested in the business of the committee. He performed that exceedingly well, and when my long-time Chief of Staff retired, there was no one but Louis I could think of to fill the role. He was able to provide a seamless transition and we didn't miss a beat. It helped that he came into the Chief of Staff role with a deep knowledge of the Committee's work, as well as the respect of Members, staff, and the outside community.

The Chief of Staff is a challenging job: you need to not only be able to see the big picture, but also the details. Louis has the ability to row but also to steer. He has mastered the policy, politics and management aspects of the job.

Louis has said that there may be people that are smarter than his is, but there are few that are willing to work harder than he is. That drive and preparation has paid off, and I have been the beneficiary.

When he's not overachieving at work, he may be doing it in the kitchen, where he loves to impress family and friends with his command of the culinary arts.

Louis, I thank you for all your counsel and tireless efforts, and I thank Stacey, Max, and Caleb for their support. I will certainly miss working with you day to day.

PERSONAL EXPLANATION

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. CAPPS. Madam Speaker, I was not able to be present for the following rollcall vote on December 17, 2010, and would like the record to reflect that I would have voted as follows: rollcall No. 656: "yes."

MICAH SPRINGER

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Micah Springer for her outstanding service to our community.

For Micah, Yoga is the means to express passion, joy, sorrow and all aspects of vitality. Her studio began in 1999 in the basement of her home and has grown to a three facility business.

In her Golden studio, Micah is collaborating with the Colorado School of Mines. She learned of the high suicide rate among college students, and saw an opportunity to provide a meditative, non-competitive activity. She has created a Yoga program that counts for school

credit and introduces young people to the benefits of Yoga.

I extend my deepest congratulations to Micah Springer for being honored by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

**HONORING THE UNIVERSITY OF
WISCONSIN-WHITEWATER FOOT-
BALL TEAM FOR WINNING THE
NCAA DIVISION III NATIONAL
CHAMPIONSHIP**

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. BALDWIN. Madam Speaker, I rise today to honor the University of Wisconsin-Whitewater football team for completing an undefeated season and winning the NCAA Division III National Championship. The victory marks the Warhawks' third national title in the last four years.

UW-Whitewater has achieved tremendous success on the football field—winning six straight Wisconsin Intercollegiate Athletic Conference (WIAC) championships and earning six consecutive NCAA Division III playoff berths. During a remarkable run under Coach Lance Leipold, the team has amassed a record of 57 and 3 and won 30 consecutive games. On December 18, 2010, the Warhawks defeated the University of Mount Union Purple Raiders in the 2010 Amos Alonzo Stagg Bowl to win their second consecutive national title.

UW-Whitewater Chancellor Richard Telfer and Athletic Director Paul Plinske have fostered a culture of excellence that extends into the classroom. Over the years, 80 Warhawk student-athletes have been named WIAC Scholar Athlete of the Year for their sport. In addition, UW-Whitewater student-athletes have achieved a higher grade point average than the student body at large.

The Warhawks could not have reached the zenith of Division III college football without a steadfast fan base. Students, alumni, faculty, staff, and local supporters flood Perkins Stadium wearing the purple and white to cheer on their team. Many loyal fans even traveled to Salem, Virginia to watch the Warhawks win the 2010 Stagg Bowl.

I join others in south central Wisconsin in recognizing the achievements of the players, coaches, students, alumni, and staff who were vital in helping the UW-Whitewater Warhawks win another national football championship.

**H.R. 5281, DEVELOPMENT, RELIEF,
AND EDUCATION FOR ALIEN MI-
NORS**

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. GEORGE MILLER of California. Madam Speaker, I rise today in support of the DREAM

This is common sense, bipartisan legislation that is a win for our economy.

First, in this economy, we need the best, the brightest, the most capable and the most qualified to be a part of the American workforce.

This legislation will allow a limited group of very capable, high achieving young people to help contribute to the economic well-being of this country.

These are young people who didn't come to this country through their own free choice.

But, they are young people who have worked hard to graduate high school or obtain a GED.

These are young people who have contributed to their communities and to this country.

If we turn our backs on these students, then we're turning our backs on a qualified and competitive workforce.

Second, Madam Speaker, simply put, this legislation is the right thing to do.

Critics who argue that the DREAM Act would diminish opportunities for students in this country with full citizenship must not know anything about our colleges and universities.

Our Nation's higher education institutions have the capacity to welcome these students, as many already do, without closing the door for other students.

This Congress has passed historic legislation to increase college access and opportunity for all students.

The bill before us today continues to provide that access to a higher education not only by providing these students a path to citizenship, but allowing them access to critical student aid through loans and work-study.

The financial cost of a higher education is too often a barrier to attending higher education.

It is critical that this bill ensures access to student aid, and gives students a chance at affording a higher education.

It is important to note that this bill allows students to enter into a conditional non-immigrant status for an initial period of 5 years, which shall be extended for an additional five years as long as they have fulfilled all requirements for extension.

After 10 years in this conditional status, eligible students may apply for lawful permanent residence. Once applicants receive conditional non-immigrant status, DREAM Act participants, like lawful permanent residents and unlike many nonimmigrants, are considered to be residing in the United States lawfully without being required to maintain a residence outside the U.S. or have an intent to leave the U.S. As such, conditional nonimmigrants under the DREAM Act should be considered as residents of the states that they reside in when considering tuition rates at public institutions of higher education, as long as they meet all other residency requirements for in-state tuition.

By passing this legislation, we can reward smart, civic-minded, goal-oriented students and provide access to the American dream.

Let's not punish students and the future of this country.

I urge all of my colleagues to support this bill.

**HONORING STEPHAN
PASSALACQUA**

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. THOMPSON of California. Madam Speaker, I rise today with my colleague, Congresswoman LYNN WOOLSEY, to recognize and honor Sonoma County District Attorney Stephan Passalacqua, who is retiring after a 22-year career as a County Prosecutor. For the past eight years, Mr. Passalacqua served as Sonoma County's elected District Attorney.

As District Attorney, Mr. Passalacqua was instrumental in obtaining \$1.4 million in grant funding and private donations to create the Family Justice Center of Sonoma County, which will be a lasting testament to his service to his community.

He also hosted the first statewide Gang Summit and launched an educational gang prevention program in partnership with Boys and Girls Clubs. This was the first program in the nation to be taught by prosecutors.

His other innovations included co-hosting a Sonoma County Environmental Awareness Forum, hosting multiple Elder Protection Summits, and partnering with community groups to host forums on Internet Safety, Identity Theft and Mortgage Fraud.

He also initiated the first organized activities acknowledging National Crime Victims Rights Week in Sonoma County, which has now become an annual event. The hallmark of his tenure as District Attorney has been his insistence that victims are treated with respect and dignity. He continually worked to raise awareness of victims' rights, to help victims become survivors and to reduce and prevent victimization at the onset.

He has served on several professional boards, including the Institute for the Advancement of Criminal Justice, the Board of Directors of the Sonoma County Bar Association, the Santa Rosa Mayor's Gang Prevention Task Force, and as a Professor of Elder Protection Law at Empire College School of Law.

Mr. Passalacqua was born and raised in Sonoma County and he is firmly rooted in his community. In addition to his professional duties, Mr. Passalacqua has served on the Board of Directors of the Valley of the Moon Children's Foundation, the Rotary Club of Santa Rosa, the Advisory Board of Kidstreet Learning Center, the Board of Directors of the Community Support Network of Santa Rosa and as a mentor with Social Advocates for Youth.

Madam Speaker, after 22 years of public service to the people of Sonoma County, Stephan Passalacqua deserves to enjoy the riches of this new phase of his life as a water and transportation consultant. We wish him well.

INTRODUCTION OF THE "OIL
SPILL VICTIMS REDRESS ACT"**HON. EDWARD J. MARKEY**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MARKEY of Massachusetts. Madam Speaker, the Oil Spill Victims Redress Act that I am introducing today with the gentlewoman from Florida, Ms. CASTOR, would help protect those Gulf Coast residents who have seen their livelihoods destroyed by the BP Deepwater Horizon oil spill.

This legislation would clarify that people who have suffered economic harm as a result of the BP spill can seek to pursue claims from all of the companies involved in the disaster in state court. The companies involved in the spill, including Halliburton and Cameron, have argued that the Oil Pollution Act preempts state law and, as a result, that all state law claims brought by the victims of the spill should be dismissed or removed to federal court. Some of these companies, such as Halliburton and Cameron, have even argued that they should be exempt from all suits because they are not responsible parties as defined under the OPA.

To be clear, the underlying statute, the Oil Pollution Act, already clearly provides for claims brought in state court and was not intended to preempt state law. The Act clearly states that "nothing in this Act . . . shall affect, or be construed or interpreted to affect or modify in any way the obligations or liabilities of any person under . . . State law, including common law."

However, in light of the legal arguments proffered by the companies involved in this disaster, the legislation that we are introducing today would further clarify the ability of people to seek compensation in state court. We must ensure that we do not forget about the people of the Gulf who have had their lives destroyed by this disaster. We must ensure that all of the companies responsible for the worst oil spill in our nation's history are held accountable. And we must ensure that everyone who has suffered economic damages as a result of the BP oil spill is made whole.

HAZEL HARTBARGAR**HON. ED PERLMUTTER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Hazel Hartbargar for her outstanding service to our community.

As the Director of the Arvada Economic Development Association, Hazel Hartbargar is an advocate for all business in the community and has been recognized regionally and nationally for her work. She has been called the "heart and soul" of ADEA. Her ability to help people work together and the compassion she shows is exceptional.

Hazel has been instrumental in implementing many community programs including PropertyLink which is a website local commer-

cial business can use to search for land, as well as retail and industrial space within the city. She also helped to implement JobLink which enables businesses within the city to post open positions.

When Hazel received the Pioneer Award, she was described as a true modern day pioneer; a visionary who ventures into the unknown, creating new opportunities for herself and others and encouraging others to explore new areas of thought.

I extend my deepest congratulations to Hazel Hartbargar for her well deserved recognition by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

HONORING PAUL ZALESKI

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. KAPTUR. Madam Speaker, I would like to bring to the attention of my colleagues a tribute to Mr. Paul Zaleski who passed from this life on November 24 at the age of 95. This tribute was written by noted author and historian, Allen Paul, whose books include "Katyn: Stalin's Massacre and the Triumph of Truth." As Mr. Paul points out, Mr. Zaleski epitomized the courage of his generation of extraordinary Poles who came to the U.S. after the terror and broken dreams unleashed by World War II. I, too, had the privilege of meeting him on May 5 of this year at a 70th anniversary observance of the Katyn Forest Massacre, at the Library of Congress. Paul Zaleski may well have been the last link here in the U.S. to the Polish Government in Exile. May his family and friends be comforted in the knowledge he lived to see the fall of the Berlin Wall, Solidarity whose 30th anniversary we commemorate this year, and Poland admitted to NATO.

A TRIBUTE TO PAUL ZALESKI

Paul Zaleski led the most interesting life of anyone I have ever known. Such a quiet unassuming man, imbued with old world grace and dignity, never bitter despite the slings and arrows of outrageous fortune—who could have guessed his escape in a hail of bullets, how he and others returned that fire by pinging the American conscience, how we eventually came to see that Poland, the land he loved and lost, must be reborn independent and free. He laid no claim to great deeds, but the memorable title of Dean Acheson's autobiography—"Present at the Creation"—almost perfectly fits his life.

Paul and I were close friends for twenty years. His death on November 24 leaves a notable void: a direct link is lost—perhaps the last—to the Poles' ill-fated Government in Exile and to the heroic gamble after the end of the war to save Poland from Stalin. Paul was longtime secretary to Stanislaw Mikolajczyk, prime minister of the Government in Exile in London. In 1945 Mikolajczyk decided to go back to Poland to join a communist-controlled coalition government and Paul went with him. Both men were gambling with their lives but took the chance to achieve two main objectives: first, to keep the communists from stealing the "free and unfettered" elections promised at Yalta; and

second, to prevent Stalin from liquidating and/or deporting nearly 400,000 partisans who were still in the forests of Poland waiting to fight. The elections were stolen through blatant fraud; but aim two was achieved: Mikolajczyk "bought" safe passage for the partisans and averted a bloodbath.

Along the way thugs from the infamous UB (security service) made two attempts on Paul's life; and soon it became clear that Mikolajczyk, himself, would be tried as a traitor or liquidated. Both men escaped in 1947 and returned to the west where they launched a high-profile campaign to warn the west about the fate of Poland. Archbishop Francis Spellman arranged for rooms at the Waldorf Astoria where Mikolajczyk wrote his bestseller—"The Rape of Poland." The famous sports writer, Bob Considine, helped as did Paul. The book and the heavy speaking schedule Mikolajczyk kept up were influential in getting Congress to investigate the Katyn Forest Massacre in 1951-52. That probe established a record and body of evidence that stands even today. It concluded that the Russians had brutally murdered thousands of Polish officers in the spring of 1940.

Paul's symbiotic relationship with Mikolajczyk heavily influenced his life. Not long before the war Paul earned a law degree from Jan Kazimierz University in Lwow and became an organizer with the Peasant Party (Stronnictwo Ludowe) then headed by Mikolajczyk. After his escape from Poland, Paul went to France where Mikolajczyk was serving in the leadership of the Government in Exile. He sent Paul as an emissary to Bucharest and later to Istanbul. When the Germans invaded Russia in 1941, the Poles and Russians reestablished diplomatic relations; and Paul was sent to help open the new embassy in Kuybyshev. Two years later the relationship fell apart over the Katyn crisis and Paul helped get the embassy staff out of the U.S.S.R. They took the southern route which meant the convoy had to cross "The Roof of the World"—the Pamir Mountains—to get to Persia. Paul then crossed the Middle East and rejoined Mikolajczyk where the Government in Exile moved after Dunkirk. He was at Mikolajczyk's side—often when he met Churchill and other world leaders—and remained there until Mikolajczyk died in 1966.

His exploits notwithstanding, Paul still had to earn a living after immigrating to the United States. His Polish law degree gave him no standing here, so he went to law school for the second time at George Washington University and later became an attorney with the U.S. Maritime Commission. After he retired he practiced law on his own specializing in estate work. He was executor for many members of the expatriate community and seldom if ever charged for his services.

I saw in Paul many qualities that epitomized the Poles who got stranded in the west when Stalin swallowed their country whole. They found the courage to rebuild shattered lives, became intensely proud and loyal Americans and remained unwavering in their commitment to Polish freedom and independence. I talked to Paul often and we spoke only a few days before he died. I know it gave him great satisfaction—much comfort in fact—that the torch was passed, that the ideals of his generation survived the long dark years of communism, that they are strongly embraced today by a new generation of leaders who have guided Poland to a remarkable position in which it has one of the strongest economies and most stable democracies in all of Europe.

From their near-miraculous escape in 1947 to their messianic campaign to win the minds and hearts of Americans, Paul and his mentor, Stanislaw Mikolajczyk, came to represent one of the aspects of Polish character I admire most: the concept of "Victory in Defeat." The very idea may strike most Americans as peculiar, but from 1795 to 1989—when Poles were ruled from abroad except for the brief interwar period—it meant that honor came first, that the Poles would never give up, that they would persevere without fail to win back their independence. When I think of Paul I think of this first; and it gives me great satisfaction to know that he lived to see freedom restored and a vibrant Poland reborn.

When I last talked to Paul he told me, as he often did, that: "I am so thankful that I am able to live in my own home." His courage could be measured in matters great and small. Despite crippling conditions he managed to take care of himself until the last four days of his life. To say that he will be missed feels like a gross understatement to me. He was the product of an unusual place and time; he never shrank from the difficulties that came his way. And he would certainly chide me for praising him even to this extent.

HONORING JAMES DiPACE

HON. CHRISTOPHER S. MURPHY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MURPHY of Connecticut. Madam Speaker, I rise today to honor a great man and constituent, James DiPace. Mr. DiPace has devoted 37 years of service to the Avon Volunteer Fire Department, and has served as Fire Chief there for the last 15 years.

The community of Avon is lucky to be home to a man like James DiPace. His selfless dedication to the town and his devotion is remarkable, and he deserves to be recognized by the House of Representatives as he retires as fire chief.

Incorporated in 1943, the Avon Volunteer Fire Department proudly protects more than 16,500 people. During his tenure as Fire Chief, Chief DiPace oversaw several incidents in town, but perhaps none more powerful than the July 29, 2005 crash at the base of Avon Mountain. That morning, a dump truck lost its brakes and careened into a line of stopped vehicles at a traffic light. The accident involved 19 vehicles and a CT Transit bus. Four people died that morning. On that sad day, Chief DiPace acted as incident commander at the scene from 7:30 am until after midnight. Two years later, another truck lost its brakes and caused an accident at the same intersection. Again, Chief DiPace was the incident commander at the scene. During these times of tragedy, it was always comforting to know that James DiPace, a man of keen interagency relations and cool temperament, was commanding the scene.

Throughout his service, James DiPace has been an active member of Connecticut's community of emergency responders. While Fire Chief, he served as Fire Marshall and Emergency Management Director for the town of Avon. Additionally, Chief DiPace has served

as president of the Connecticut Fire Chiefs Association and the Capitol Region Fire Marshalls Association.

James DiPace's service to the community does not stop at the firehouse doors. Outside of his commitment to the Avon Volunteer Fire Department, Mr. DiPace has been part of many civic organizations in town, including the Chamber of Commerce and the Lions Club. With his family, Fire Chief DiPace has also opened his home to several Fidelco Guide puppies and dogs, preparing them for their jobs as Seeing Eye companions.

James DiPace has given so much of himself to the town of Avon without wanting anything in return. His presence will surely be missed in the Avon Volunteer Fire Department. Today, I rise to thank Fire Chief DiPace for his remarkable service and wish him the best in retirement.

COMMEMORATING THE LIFE OF MARVIN ZANDERS

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. CORRINE BROWN of Florida. Madam Speaker, I rise today to honor the memory of my dear friend and constituent Marvin Clyde Zanders of South Apopka, Florida. Mr. Zanders operated one of the premier funeral homes in the United States. But he was much more than a successful and popular mortician to the people of Central Florida. According to his son, "his personality made him a 'life-giver'" and he gave so much of his own life to the community.

Mr. Zanders served the families of Central Florida for over fifty years in ways too many to list. He provided scholarships, sponsored sports teams and gave continuous support to various organizations throughout Central Florida. He was known as "The People's Choice" and even Apopka's mayor often called him "The Mayor of Apopka."

The community formally recognized Mr. Zanders' humanitarian efforts by renaming Lake Avenue in Apopka to Marvin C. Zanders Avenue and dedicating the Marvin C. Zanders Park in Winter Garden. Ten years ago, the South Apopka Ministerial Alliance established the "Marvin C. Zanders" humanitarian banquet to honor the accomplishments of community leaders like him.

Mr. Zanders also served individual families in their time of grief with extraordinary compassion. Whenever one of my constituents could not afford a proper service in honor of a loved one, I knew that Marvin would take care of them. Through his selflessness, Marvin Zanders showed people that when we give back, we all become better and stronger. As he often said, "God gave me a chance; let me give my fellow man a chance."

My thoughts and prayers are with his children and many grandchildren. God has blessed us by allowing us to have Marvin Zanders in our lives.

HONORING DAVID CAVICKE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MARKEY of Massachusetts. Madam Speaker, my friend and fellow member of Red Sox nation, David Cavicke, the Chief of Staff for the Republicans on the Energy and Commerce Committee, is leaving the Committee in January after nearly 16 years on the Hill at the Committee. Mr. Cavicke is an institutionalist—he has sought to work quietly on a bipartisan basis to advance the good of the country across the array of issues within the jurisdiction of the Committee.

Over the years, Mr. Cavicke has ably served the Republican Members of the Energy and Commerce Committee. But he has also helped facilitate bipartisan compromise on many vital issues. In 1995, he staffed then-Subcommittee Chairman Jack Fields when our Committee enacted the National Securities Markets Improvement Act, which rationalized various aspects of federal securities laws. Two years later, under then-Subcommittee Chairman Oxley, he worked with my office to bring the New York Stock Exchange and NASDAQ Stock Market out of the 18th century and into the 21st by ending government mandated pricing in fractions and moving to decimal pricing. The Common Cents Stock Pricing Act of 1997 provided the impetus to end fractionalized trading which cost investors \$3 billion a year. Each year American investors, rather than professional floor traders and NASDAQ market makers, will put that \$3 billion to more productive uses, such as saving for retirement and children's education.

Following the transfer of the Committee's securities jurisdiction over to the Financial Services Committee, Mr. Cavicke moved into a management role on the Republican staff. In that capacity, he has been relentlessly fair and has always sought to work to provide procedural due process to all members of the Committee regardless of the issue of the moment. I join in expressing the thanks of the Members of the Committee for his service, and our best wishes.

EREKA O'HARA

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Erika O'Hara for her outstanding service to our community.

Erika O'Hara became a realtor in 1982 and as a working mother she still found time to be involved in the community. Erika served on the board of the Jefferson County Association of Realtors early in her career, and later sat on the board of the Arvada Jefferson Kiwanis, Children's Charity and the Arvada Chamber of Commerce.

When the entire board of the Children's Charity resigned, their annual Charity Ball was in jeopardy. Erika stepped in and hit the challenge head on. She gathered a new board,

rallied the troops and ran the Charity Ball for three years. She raised over \$100,000 for the Arvada Center Accessibility Program and the Arvada Child Advocacy Center.

I extend my deepest congratulations to Erika O'Hara for her well deserved recognition by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

INTRODUCING OIL INDEPENDENCE
FOR A STRONGER AMERICA ACT
OF 2010

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. INSLEE. Madam Speaker, I rise today to introduce Oil Independence for a Stronger America Act of 2010, a bipartisan bill to help transition our transportation sector from an oil-based system to one based on electricity and natural gas. This legislation is a significant investment in our shared goals to reduce our dependence on foreign oil, and ramp up production of homegrown biofuels in states like Washington that can spur our economy and create American jobs. As many of you know, the U.S. has only two percent of the world's oil reserves while we consume 23 percent of the world's oil. The status quo is not in our national security interests, or economic interests. Of all the oil that is used in the United States each day, 57 percent is imported, and 70 percent of that imported oil comes from countries that do not enjoy many of the same basic freedoms as U.S. citizens. Further, this addiction costs the U.S. economy close to \$1 billion per day. This imbalance of supply and demand means that the U.S. will be dependent on foreign sources of oil unless we create smart and thoughtful policies to invest in America's clean energy technologies and infrastructure.

This bill provides the necessary framework for the United States change invigorate new American industries and kick our oil habit. To put this in perspective everyone should know that approximately one-third of the total amount of energy consumed in the United States is to fuel the 249 million vehicles that are burning gas on our highways.

The Oil Independence for a Stronger America Act of 2010 contains language that has the goal of reducing our dependence on oil by approximately 3 billion barrels per year, a number that represents nearly all of our oil imports. This bill would:

1. Establish the National Energy Security Program to coordinate oil reduction efforts across all of government

2. Help deploy electric and natural gas vehicles though tax credits and deployment demonstration projects

3. Amend current federal transportation planning rules to include planning for oil savings in transportation infrastructure plans developed by states and authorize funding for projects to implement the plans

4. Help the U.S. advanced biofuels industry scale up to commercial levels

5. Support research and development in battery technologies

In addition to strengthening America by reigning in our oil consumption the legislation also has very positive environmental benefits. Almost 1/3 of all the Green House Gas, GHG, emissions in the U.S. come from the transportation sector. Switching over 60 percent of our transportation sector to electric vehicles would cut emissions by 33 percent. This is the equivalent of taking 82 million gas burning cars off the road.

In the great state of Washington, interests from the private and public sectors are already working to bring electric vehicles and the associated infrastructure to the 1-5 corridor. Their efforts can be greatly enhanced by this legislation. Realizing the goals of this legislation will ensure that the U.S. secures its competitive edge in this field.

This legislation is a win-win-win for the future of the United States. We can help secure our nation's energy resources, reduce our nations greenhouse gas emissions significantly which will help mitigate issues of global climate change, and ensure that innovative transportation technologies like advanced batteries and advanced biofuels are made here in the United States. In closing, I urge my colleagues to cosponsor this bill, and hope that we can work together to move it toward passage as soon as possible.

ARTUR DAVIS

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. LEE of California. Madam Speaker, on behalf of the Congressional Black Caucus, I rise today to honor Congressman ARTUR DAVIS. During the past eight years, Congressman DAVIS has represented Alabama's seventh congressional district with earnest dedication.

An Alabama native, Congressman DAVIS was raised by his mother and grandmother. Despite his family's modest means, he excelled in school and graduated with honors from both Harvard University and Harvard Law School. As a law student, he worked for the Southern Poverty Law Center and for U.S. Senator Howell Heflin. From 1994 to 1998, he served as a Federal prosecutor in Montgomery and earned an almost perfect trial conviction record. He spent the following four years as a litigator in private practice until he was elected to the House of Representatives in 2002.

During his eight years in office, Congressman DAVIS has become well known for his political acumen and public speaking ability. He gained national recognition when he garnered significant bipartisan support to pass the HOPE VI program to improve public housing. Significantly, Congressman DAVIS was also a major player responsible for the reopening of the Pigford black farmer's lawsuit. Among his national honors, Esquire Magazine selected him as one of the top ten best Congressmen in America.

Congressman DAVIS has served admirably as a member of the Ways and Means Com-

mittee, the Judiciary Committee, and the House Administration Committee. He made an impressive contribution to the Democratic Party during the 2008 election cycle as the Recruitment Chair for the Democratic Congressional Campaign Committee.

Congressman DAVIS is a passionate and pragmatic legislator, who has fought to improve the lives of the people in his district and throughout the country. On behalf of the Congressional Black Caucus, I honor Congressman ARTUR DAVIS.

IN NATE A TRIBUTE TO AN AMERICAN HERO
CPL. NATHAN
"NATE" SCHAMING 82ND AIRBORNE
1/504 PIR CO. THE UNITED STATES ARMY

HON. JOHN A. BOCCIERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. BOCCIERI. Madam Speaker, Corporal Nate Schaming of Ohio, and The United States Army . . . 82nd Airborne Division 1/504 PIR C Co., lost both his legs in an IED explosion in Iraq on 12/01/07. Like many of our heroes who come home from war, he must begin a new battle and a new fight. As we watch him in awe, as he rebuilds his life, with but only his faith and great courage to sustain him . . . Another key part of his recovery, can also be directly attributed to his wonderful mother Pamela who has been there day and night. Any doctor or nurse will tell you that the family members are the true Unsung Heroes in recovery . . . and they are key to it. I ask that this poem penned by Albert Caswell be placed in the RECORD.

In . . . Nate . . .
Born with it, something so very great!
Inherent, the nature or something . . . belonging to . . . In Nate, that's what you do!
An Army Man, Who So Can! One of Ohio's, who's who!
A future Hero seen, who from deep down within him . . . such his greatness would convene!
When courage crests . . . Like John Glenn, Oh Those Most Heroic Ohio Men . . . But, The Best!
Who lock and load . . .
The ones, who live by the greatest of all honor codes . . .
Who but for us, them and their families . . . bare the load . . .
Who all in times of war, who with such hearts of courage sure . . .
Ensure our victory, all out upon death's road!
To lose your once strong two fine young legs! As upon, them . . . such speed they gave! While then somehow to rebuild . . . while so close to the grave!
With but with only lies within a heart, so brave . . .
Surely, but coming from down within . . . coming from Nate!
A man from that Buckeye State . . . Who has taken all of this pain and heartache . . .
For him, Heaven would have to wait . . . As with a mother's help so great . . . his new life he creates!
For God is Good, and God is Great!

All in such men and women of honor, he so creates . . .
 All within hearts which will not hesitate,
 from somewhere deep down within . . .
 inside so states!
 So states, all about Courage and Faith . . .
 Whose fine hearts, are so full of
 character . . . as so In Nate . . .
 Who Teach Us All, Who Reach Us All . . .
 Who So Beseech Us and Do So State!
 Of what we are born with . . .
 And the kind of courage, we are warmed
 with . . . that which so ever lives on
 which states!
 For as we stand here this day and see, what
 is good . . . what is great . . .
 What is so . . . In Nate!
 As now we understand, The Greatest Of All
 Things . . .
 That which our Lord so creates, are but
 found deep down within someone like
 Nate!
 And if ever I have a son, I but hope and
 pray . . . he could but be like you this
 one!
 In Nate!

PASSING OF REVEREND S.L.
 ROBERSON

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. DINGELL. Madam Speaker, a distinguished churchman, much loved in southeast Michigan who led the House of Representatives in prayer on September 5, 2007, has been called by the God he served so faithfully.

Reverend S.L. Roberson, pastor of Metropolitan Memorial Baptist Church in Ypsilanti, Michigan, passed away on November 11, 2010. His long and faithful service to his God and fellow man has endeared him to the people of the Ypsilanti and Ann Arbor region of Southeast Michigan in a very special way.

Reverend Roberson was a Marine and he served this country at Okinawa and Iwo Jima in World War II. When he came home he never stopped serving.

Reverend Roberson led the congregation at Metropolitan Memorial Baptist Church from 1954. He was a leader to that church and he was leader to the Ypsilanti community. He was a gifted communicator and he put that gift to work for his community, his congregation, and his nation.

Reverend Roberson leaves behind a grieving family and thousands of grieving friends and admirers.

He was commemorated in a celebration of his life at Metropolitan Memorial Baptist Church on December 18, 2010.

On behalf of the House of Representatives, which he led in prayer, I extend our condolences to his much loved widow, Mrs. Hollie Roberson, and his family.

A TRIBUTE TO AN AMERICAN
 HERO: SERGEANT MAJOR RAY-
 MOND MACKKEY, 3RD BATTALION
 10TH MARINES

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. HUNTER. Madam Speaker, I rise today to pay tribute to an American Hero, Sergeant Major Raymond Mackey of Sierra Vista, Arizona and the 3rd Battalion 10th Marines. This Marine has served our Nation for 28 years; leading and inspiring our Nation's Marines.

On December 23, 2009, while on patrol, he noticed a marker left by the enemy indicating an improvised explosive device, IED, up ahead. As he pushed a fellow Marine out of the way of the IED, it exploded and Sergeant Major Mackey lost his legs and almost his life. With the help of his wife, Vicki, he recovered and is doing well today.

I ask that the following poem by Albert Caswell penned in honor of Major Mackey and his family be placed in the RECORD:

ARIZONA'S BRIGHT SON

Arizona's son . . .
 Shining, but so very brightly . . . as but
 does, so this one!
 Ah yes Raymond, you are one of her bright-
 est of all ones!
 As thy will be done!
 A United States Marine, oh yes, you are on
 one of the finest of all things!
 That, this our Country . . . has . . . ever so
 seen . . .
 As a leader of women and men, as upon bat-
 tlefields of honor you would descend
 . . .
 A Sergeant Major, whose entire life will be
 . . . and has always been . . .
 One of strength in honor, time and time
 again!
 As so boldly forth, Mac you have worn that
 fine shade of green!
 As a magnificent brave heart, who would go
 off to war to lead . . .
 Leaving behind, all that you so loved . . .
 and adored!
 All for God and Country, all for our most
 precious freedom to ensure!
 As into such fine heroes, molding and lead-
 ing our men and women so for sure!
 As when, all in that moment's of truth . . .
 Saving your brother in arm's life, giving up
 your own two strong legs . . . as lies
 the proof!
 As when, you looked down . . . and so saw
 what you had found . . .
 As the tears upon his most heroic face, came
 streaming down!
 But, Marines don't quit! They lead!
 As now Sergeant Major Mackey, you have a
 new battle to win . . . a new war to
 succeed!
 For some heroes, are but put upon this earth!
 To teach us, to reach us . . . to all of our
 hearts so beseech us . . . all in their
 worth!
 For all in our Lord God's heart, they do so
 surely come first!
 As does, this bright son now shine! As over
 the skies of Arizona, you so rise!
 With but your faith and courage, but bring-
 ing tears to all of our eyes!
 The kind of son, I wished was mine!
 Who will one day, Heaven . . . for his faith
 and courage, wings will so find!

Oh Mac, how you do shine! All in your life,
 all in your time!
 And all of those lives that you have saved
 . . .
 And all of those magnificent heroes you have
 so trained and trained!
 And all for your most heroic brothers in
 arms, who no so lie in soft quiet graves
 . . .
 Have so marched forth all in those magnifi-
 cent shades of green!
 As you will rise up with your heart of cour-
 age full, as once again to lead the way!
 As your most courageous life, so brightens
 all of our days!
 Marine! "Oh Mackey, how you do shine!"
 There's an even brighter son, now shining
 this day all in Arizona's skies!
 It's you, Sergeant Major Raymond Mackey,
 whose heart to new heights as does so
 rise!

HONORING BILL COGBILL

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. THOMPSON of California. Madam Speaker, I rise today with my colleague, Congresswoman LYNN WOOLSEY, to recognize and honor Sonoma County Sheriff Bill Cogbill, who is retiring after a 36-year career in law enforcement.

Sheriff Cogbill began his career in 1975 with the Petaluma Police Department in Sonoma County. Three years later, he joined the Sonoma County Sheriff's Office as a patrol officer assigned to various beats throughout this large, rural county.

He was promoted to Detective in 1987 and specialized in narcotics enforcement. He was promoted to Sergeant the following year and was assigned to Patrol and Personnel Services.

In 1995 he was promoted to Lieutenant and was assigned to the Town of Windsor as that community's Chief of Police. He served in this capacity for three years when he became Captain of the Sheriff's Field Services, a position he held until 2003 when he was elected Sheriff.

He had many specialty assignments during his tenure with the Sheriff's Office, including service with the Hazardous Incident Team, Street Crimes Unit, Field Training Officer Program and Instructor and Coordinator of Defensive Tactics.

Sheriff Cogbill has received numerous awards and citations during his long career, including the Sheriff's Distinguished Service Award, the Santa Rosa Chamber of Commerce Leadership Award, and the Bob Tucks Peace Award. He is also a graduate of the FBI's National Academy in Quantico, Virginia.

Sheriff Cogbill has served on numerous local and state committees working to improve public safety, law enforcement and detention services, including the Board of Directors of the California State Sheriff's Association Board of Directors. He has continuously encouraged his Command Staff to participate fully in professional organizations and within the community.

Madam Speaker, Sheriff Bill Cogbill has served the people of Sonoma County well during his distinguished career. It is appropriate

that we commend him for his many years of public service and wish him well on his retirement.

RECOGNIZING THE CONTRIBUTIONS OF LEIGH ANN BROWN TO THE HOUSE COMMITTEE ON SCIENCE AND TECHNOLOGY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. GORDON of Tennessee. Madam Speaker, I rise today to recognize the service of a valued staff member of the Committee on Science and Technology, Leigh Ann Brown. She can best be described as my 'right hand' and she has been with me almost as long.

Leigh Ann has literally worked with me from the beginning of my political career. We share the same hometown of Murfreesboro, Tennessee. Her work with me actually started as the fortunate result of my mother telling me that "My good friend's daughter is interested in politics." So in 1984, as a high school senior, she worked on my first campaign; and every summer of college she either worked on my campaign or as an intern in my office.

After graduating from Vanderbilt University, she immediately joined my Washington, DC staff. And following a period where she lived in Missouri, she returned to DC to work on the staff of the Committee on Science and Technology.

I have long been proud of the bipartisan nature of this Committee. Leigh Ann exemplifies this even in her home as she is happily married to John Cuaderes, the Republican Deputy Staff Director for the Committee on Oversight and Government Reform. Outside of work, Leigh Ann is a dog-lover, a DC restaurant connoisseur, and she enjoys traveling.

Leigh Ann is known among staff as the person who gets things done. Throughout her career, staff have consistently relied on her sound judgment and thoughtful consideration on a countless number of projects. Beginning in 2007, the offices of the Committee on Science and Technology were renovated as the first House office space in the "Green the Capitol Initiative." Leigh Ann managed and oversaw this vast project. She also coordinated the transition of our committee to the Majority in 2006.

Leigh Ann has long been a dedicated, loyal, and hard working member of my staff. I want to thank her from the bottom of my heart for everything from volunteering as a teenager on my first campaign to her expertise in managing the office for the Committee on Science and Technology.

Leigh Ann, I cannot imagine my time in Congress without your steadfast service. I know that all the staff of the Committee on Science and Technology wish you well in the next phase of your life. We will miss you and cannot replace you.

INTRODUCTION OF THE VETERANS HOUSING FAIRNESS ACT OF 2010

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. MALONEY. Madam Speaker, today I introduce a bill to ensure that veterans have access to a diverse range of housing options.

In 2006, Congress passed legislation allowing veterans to use their VA loans to purchase cooperative housing. The VA loan program allows veterans to buy homes with no down payment and limited closing costs; additionally, the program offers negotiable interest rates and flexible repayment plans. With over one million housing cooperatives nationwide, extending these generous loan benefits can make affordable homeownership a reality for veterans in our districts all across the country.

This bill makes permanent the Department of Veterans Affairs loan guarantee for the purchase of residential cooperative housing units and gives veterans the freedom to choose where they live by allowing veterans to use their veterans' loans to purchase co-ops. In my district, co-ops are often the lowest cost housing. It makes no sense to deny veterans the ability to use their veterans' benefits to purchase these units. My bill will allow veterans to explore all housing options and choose the one that suits their needs.

With this legislation we can honor the service and sacrifice of our nation's veterans by giving them the tools and resources they need to pursue their dreams.

EQUITY IN SOCIAL SECURITY ACT OF 2010 INTRODUCTION STATEMENT

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, I rise today to introduce the "Equity in Social Security Act of 2010." This bill is designed to eliminate the discriminatory policy of the Social Security Administration that prevents same-sex couples from receiving the same benefits as their heterosexual counterparts.

Social Security provides spousal, survivor, and death benefits to married heterosexual couples in their later years. Same sex couples are not eligible to receive these benefits because the federal government does not recognize their marriages or civil unions.

These same-sex couples pay into Social Security while working just the same as every other American, but in their time of need, the government treats them differently. Gay couples receive 18 percent less in Social Security benefits than heterosexual couples while lesbian couples receive 31 percent less than heterosexuals. It is no wonder that these groups are also more likely to live in poverty in their old age than heterosexuals.

All Americans should receive a Social Security benefit based on their contribution to the

program, not their sexual orientation. That is why my legislation would allow couples in relationships that have been recognized by their state of residence, whether a domestic partnership, civil union or marriage itself, to receive the same benefits from Social Security as heterosexual married couples.

Let me be clear about this effort today. This is meant in no way to distract from the effort to repeal the Defense of Marriage Act. That is the ultimate goal in the movement for marriage equality. My bill is not about marriage—it is about economic fairness. This legislation is meant to provide assistance to elderly individuals who have not been treated fairly by their government.

I urge my colleagues to support this important legislation.

DENISE WADDELL

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. PERLMUTTER. —Madam Speaker, I rise today to recognize and applaud Denise Waddell for her outstanding service to our community.

As the President of First Bank of Wheat Ridge, Denise has developed an exceptional team, built and maintained business relationships and worked tirelessly to promote a positive economic environment in the community.

Denise Waddell supports many programs that promote small business including the Wheat Ridge community as a whole. As the Board President for Wheat Ridge 2020 she actively advocates at City Council meetings, speaks out on the opportunities for investment and constantly champions collaborative efforts.

I extend my deepest congratulations to Denise Waddell for being honored by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

HONORING ELIZABETH HIGH SCHOOL CARDINAL FOOTBALL

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. COFFMAN of Colorado. Madam Speaker, I rise today to congratulate the coaches, athletes, and fans of Elizabeth High School for their outstanding performance during the 2010 football season. The grit, determination, and perseverance showed by these young individuals culminated with a 3A State Championship on December 4, 2010. Playing under intense pressure in front of a packed house at Legacy Stadium in Aurora the Cardinals exceeded expectations and fought through all odds to obtain a 29 to 6 victory over an extremely talented Glenwood Springs football team.

Such exemplary work could not have been achieved without the unwavering and visionary tutelage of head coach Chris Cline and his

staff of Mike Zoesch, Ty Barrett, Craig Blackman, Brian Martinez, Eric Jibblits, Kirt Woodman, and Steve Mann. Their energy, expertise, and passion for the game was contagious and helped ignite a truly outstanding season. Recognition must also be given to the unsung heroes of the team. Managers Kayla Allred, and Briana Cisneros tirelessly worked to take care of logistical aspects of the game, ensuring the coaches and players could focus their energy on the gridiron.

I would like to congratulate these young men individually for their accomplishment; they will forever be remembered for bringing their first state title to the proud town of Elizabeth. They are: Josh Weber, Dakota McCune, Zach Shepherd, Marty Sullivan, Dalton Taylor, Scott Carter, Jordan Bucknam, Brad Goldsberry, Blake Arellano, Colton Dillavou, Nate Nicholas, Zach Butler, Bobby Wintersteen, Joe Finken, Dylan Burgett, Spencer Fulbright, Sean Dorrance, Eli McKinney, Chase Nicholas, Trayco Ross, Jake Soule, Landon Willson, Austin Peterson, Peyton Hopkins, Gabe Mortensen, Matt Hrabik, Steve Biery, Cody Slade, Kellen Gomon, Brandon Strannigan, Micha Lockerby, Salvador Robles, Cole Hoffman, Cody Miller, Dakota Boss, Dallas Reins, Seth TenEyck, Trevor Gill, Chantz Walpole, Travis Cayou, Carter Solomon, Brian Shomshor, John Weber, Garrett Sweigert, Sean Taylor, Matt Doura, Devon Campbell, Robert Wagner, Tim Reeder, Jaxon Graber, and Trayco Ross.

Chase Cline and Matt Biery deserve special acclamation for their selection to participate in the Colorado All State football game in June. The superior talent and dedication of these scholar athletes is archetypical of the entire team apparatus that helped lift the Cardinals to an undefeated season.

Fans, family, and school officials who braved the elements to motivate their team from the bleachers are to be commended as well. I know the deafening roar of the crowd on key plays throughout the season helped propel the team to unmatched heights. I join them, and the rest of the sixth district of Colorado in proclaiming my congratulations to a highly deserving school and town.

RECOGNIZING DR. DAT QUANG LE AS A RECIPIENT OF THE PRESIDENTIAL AWARD FOR EXCELLENCE IN MATHEMATICS AND SCIENCE TEACHING

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to honor Dr. Dat Quang Le of Springfield, Virginia as a recipient of the Presidential Award for Excellence in Mathematics and Science Teaching (PAEMST). Administered by the National Science Foundation in coordination with the White House Office of Science and Technology Policy, the PAEMST program recognizes outstanding teachers for their commitment to the teaching and learning of mathematics and science. Dr. Le, along with only 102 other mathematics and science

teachers throughout the nation will receive a \$10,000 award from the National Science Foundation.

Dr. Le has been a teacher for 15 years, the last 13 years of which he spent teaching science at H.B. Woodlawn Secondary School in Arlington, Virginia. Recently, Dr. Le moved within the Arlington Public School system. He now works as a science specialist, helping develop the county's science curriculum and providing general support for teachers throughout the county.

Madam Speaker, I ask my colleagues to join me in recognizing Dr. Dat Quang Le as a recipient of the Presidential Award for Excellence in Mathematics and Science Teaching for his dedication to the students of the Arlington Public School system and to the teaching and learning of mathematics and science.

OUR UNCONSCIONABLE NATIONAL DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is \$13,868,461,288,845.81.

On January 6th, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$3,230,035,542,552.01 so far this Congress.

This debt and its interest payments we are passing to our children and all future Americans.

FINAL STAFF REPORT OF THE SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MARKEY of Massachusetts. Madam Speaker, I hereby submit to the CONGRESSIONAL RECORD the executive summary of the Final Staff Report from the Select Committee on Energy Independence and Global Warming on the committee's activities in the 110th Congress. A full copy of the Select Committee's Final Staff Report for the 110th Congress can be found at globalwarming.house.gov.

FINAL STAFF REPORT FOR THE 111TH CONGRESS SUMMARY

We are at a watershed moment in the history of energy production—and the choices we make at this juncture will determine the fate of our planet and the national security and economic future of the United States. Between now and 2030, roughly \$26 trillion will be invested in energy infrastructure worldwide. Clean energy will likely make up an increasing share of this investment with every passing year. The International Energy Agency (IEA) estimates that \$5.7 tril-

lion will be invested in renewable electricity generation alone between 2010 and 2035. This new infrastructure is long-lived and costly, and the decisions made in the next decade will set the course of the global and U.S. energy system—and of the global climate—for the next century and beyond. This transition also presents an unprecedented opportunity for economic growth and job creation in the clean energy technology sector. Other countries are taking the lead in clean energy and the United States must act now if it is to remain competitive in this rapidly developing global market.

Global climate change presents one of the gravest threats to our planet's health, and to America's economy, its national security, and its public health. Scientists warn that we may be approaching a tipping point, after which it will become increasingly difficult, or perhaps impossible, to halt global warming and its catastrophic effects. The United States confronts this issue at the same time it faces a deepening energy crisis—characterized by skyrocketing prices, high dependence on foreign oil, and continued—reliance on high-carbon fuels that worsen the climate crisis.

The Select Committee on Energy Independence and Global Warming was created by Speaker of the House Nancy Pelosi in 2007 to examine and make recommendations on the interrelated issues of energy independence, national security, America's economic future and global warming.

During its four years, the Select Committee held 80 hearings and briefings, conducted investigations, led fact finding trips with Congressional members, and contributed to the most active four years in energy and climate policy development and debate in the United States Congress.

As a result of the Select Committee's work in raising the profile of energy and climate issues, and spurring increased debate, the House of Representatives passed several pieces of legislation that will reduce our nation's consumption of foreign oil, increase energy efficiency, and create new jobs in the clean energy sector.

In 2007, the first year of the Select Committee, the House passed the Energy Independence and Security Act, which included fuel economy provisions co-authored by Rep. Edward J. Markey, Chairman of the Select Committee. The bill also increased America's use of advanced biofuels, and updated energy efficiency standards for appliances and lighting systems.

The Select Committee also was instrumental in pushing for increased investment in clean energy technologies. The American Recovery and Reinvestment Act of 2009 invested \$90 billion in clean energy, which jump-started new domestic industries like advanced electric batteries, boosted household energy efficiency, and helped key renewable energy sectors like wind and solar avoid collapse during the recession.

In June of 2009, the House passed the Waxman-Markey American Clean Energy and Security Act, the first passage of a comprehensive energy and climate bill in the history of the U.S. Congress. The bill set ambitious carbon reduction targets, which were used by U.S. negotiators to craft the Copenhagen Accord. It also created a roadmap to create clean energy jobs and the next generation of clean energy technologies.

These legislative achievements happened as historic events indicated that swift action was needed to address a strained energy system and a dangerously destabilized climate. The years 2007–2010 are all in the top ten

warmest years on record, according to NASA. Oil and gasoline prices peaked to record levels in 2007 and are on the rise again as the country emerges from the recession.

As the Select Committee ends its tenure of progress, it is clear that there is much left to be done to stabilize our global climate, and spur the development of clean energy technology and jobs here in America.

This report summarizes the results and findings of the Select Committee's hearings and investigations, highlights legislative accomplishments that flow from the information it has developed and makes recommendations for steps moving forward. We begin with a discussion of the key issue of energy independence.

RECOGNIZING MS. KIMBERLY MORROW LEONG AS A RECIPIENT OF THE PRESIDENTIAL AWARD FOR EXCELLENCE IN MATHEMATICS AND SCIENCE TEACHING

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to honor Ms. Kimberly Morrow Leong of Gainesville, Virginia as a recipient of the Presidential Award for Excellence in Mathematics and Science Teaching (PAEMST). Administered by the National Science Foundation in coordination with the White House Office of Science and Technology Policy, the PAEMST program recognizes outstanding teachers for their commitment to the teaching and learning of mathematics and science. Ms. Leong, along with only 102 other mathematics and science teachers throughout the nation will receive a \$10,000 award from the National Science Foundation.

Ms. Leong joined the Loudoun County Public School system in 2009 as a mathematics facilitator. Prior to that, Ms. Leong taught at Marsteller Middle School in Prince William County and All-Saints Catholic School. As a mathematics facilitator, Ms. Leong works with 70 teachers on a daily basis while also supporting approximately 250 teachers from 10 different middle schools who serve 9,800 students throughout the county. Ms. Leong has helped Loudoun County teachers meet the Virginia Standards of Learning objectives by introducing new tools and resources to improve students' mathematic and critical thinking skills.

Madam Speaker, I ask my colleagues to join me in recognizing Ms. Kimberly Morrow Leong as a recipient of the Presidential Award for Excellence in Mathematics and Science Teaching for her dedication to the students of the Loudoun County Public School system and to the teaching and learning of mathematics and science.

PERSONAL EXPLANATION

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. TIM MURPHY of Pennsylvania. Madam Speaker, on rollcall No. 652 H. Con. Res. 336,

Providing for the sine die adjournment of the second session of the One Hundred Eleventh Congress.

Had I been present, I would have voted "no."

HONORING BARBARA HEISER O'NEIL ON THE OCCASION OF HER RETIREMENT

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. ROTHMAN of New Jersey. Madam Speaker, I rise today to recognize Mrs. Barbara Heiser O'Neil, a resident of Hawthorne Township, New Jersey, for her 35 years of devoted service to the citizens of New Jersey as a Constituent Affairs Manager at Public Service Electric and Gas.

Barbara O'Neil grew up in Paterson, New Jersey and studied at Montclair State University and Yale. She held various roles as an employee at Public Service Electric and Gas (PSEG), eventually becoming a Constituent Affairs Manager. Mrs. O'Neil is well known to every Congressional District Office in New Jersey. Congressional members and staff know that when a constituent need arises, Mrs. O'Neil will always help in a manner that is both timely and caring.

Mrs. O'Neil has had a significant impact on my constituents throughout her career at PSEG, yet her contributions to the people of New Jersey extend beyond her role as a Constituent Affairs Manager. She is devoted to giving back to her community as a volunteer, currently serving as a member of the Board of Bergen Community College and Gilda's Club of Northern New Jersey. She has also served on the Board of the American Cancer Society. Mrs. O'Neil's commitment to improving the lives of her fellow New Jerseyans shines through in all that she does.

Madam Speaker, today I would like to recognize Barbara Heiser O'Neil's dedication to the State of New Jersey and congratulate her on her outstanding career. I send her my best wishes for a happy and healthy retirement.

HONORING THOSE WHO SERVED ON THE USS "FRANKLIN" DURING WORLD WAR II

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. LARSON of Connecticut. Madam Speaker, I rise today to pay homage to my father and the men and women who he served with on the USS *Franklin*. The ship that wouldn't die, also known as "Big Ben," is one of the most decorated ships in naval history. I often think of how my dad, then just 19 years of age, 45 miles off the coast of Japan, dealt with the series of events that unfolded on the Essex-class carrier *Franklin*. Like so many of his generation, he said little about the battle and the loss of life that took place during the

crew's effort to keep the *Franklin* afloat. Al Amos, one of my dad's friends from Connecticut, was also a survivor and recently his daughter sent me a book, "Inferno: The Epic Life and Death Struggle of the USS *Franklin* in World War II," which chronicled the heroic efforts on board the *Franklin* on March 19, 1945. In memory of that event, I flew a flag over the United States Capitol to honor Al, my dad, all the surviving crew members, and those who have since passed. History will forever record these deeds and the valor displayed. As the son of Raymond E. Larson, I wanted to pay this small tribute in recognition of the heroic efforts that defined the men and women who have served our country and make us uniquely American. The following is a brief summary.

On March 19, 1945, the Essex-class battle carrier, the USS *Franklin*, had maneuvered less than 50 miles from the coast of Japan. It was closer than any American ship had been to Japan during the war. The crew had been battle-tested since the summer of 1944 and launched numerous attacks on the enemy in the Pacific from Iwo Jima to the Bonin Islands. It had survived multiple attacks by the enemy from bombers, torpedo assaults, and kamikaze missions. A direct hit from a bomber on October 3rd killed 3 sailors and wounded 22 and a suicide bomber struck the *Franklin* on October 30th, killing 56 and wounding 60 on board. Following a grueling tour of duty the previous year, the *Franklin* had been repaired and was stationed near the Japanese mainland in 1945 where it was launching attacks on the mainland island of Honshu and the Kobe Harbor.

On March 19, a Japanese bomber dropped from the clouds and struck the *Franklin* with two armor-piercing bombs in a devastating hit that penetrated the deck, destroyed the ship's communication system, and caused it to become engulfed in flames. Just off the Japanese coast, the *Franklin* was dead in the water. There were countless stories of heroics among the 704 survivors who saved the lives of many more who would have otherwise perished. Of the many heroes that day, the ship's chaplain, LCDR Joseph T. O'Callahan, led rescue efforts through twisted metal, burning debris, and suffocating smoke while administering last rites and comforting the wounded.

LT Donald Gray discovered 300 men trapped in a mess compartment and led repeated efforts to evacuate them and rescue them from certain peril. Both men received the Medal of Honor for their bravery. In total, 724 sailors were killed in the attack and 265 were wounded. Through the blistering assault from the enemy, the USS *Franklin* was the most heavily damaged ship to survive the war and managed to make it back to port.

Many of the survivors went on to lead remarkable lives. Spencer Le Van Kimball went on to become a Rhodes Scholar and the youngest Dean of the University of Utah Law School at the age of 35. Alphonse Goodberlet was a pilot who was wounded while serving on the USS *Franklin* and went on to have a distinguished career in the Navy, rising to the rank of Commander after 22 years of service. Alvin Gallen, who served as a gunner on the *Franklin*, was drafted to play baseball for the Cleveland Indians and played in their farm system before leaving the game to have a

long career in commercial building. These brave young men from various walks of life came together to patriotically serve their country and hundreds paid the ultimate sacrifice. Sixty-five years later, the ordeal that these sailors went through is a reminder that America has faced enormous challenges before and has been able to overcome them. Although it is hard to imagine a more difficult situation than the assault the USS *Franklin* faced, that battered ship made it back to port and the survivors went on to be part of the greatest generation. We owe them a tremendous debt of gratitude and will never forget the sacrifice they made for this country.

RECOGNIZING THE GIVING CIRCLE OF HERITAGE HUNT

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the Giving Circle of Heritage Hunt in Gainesville, Virginia.

The Giving Circle was established by members of the Heritage Hunt community to assist local non-profit organizations with financial donations. Members of the Giving Circle save one dollar each day for this effort. At the end of the year, the organization's membership considers applications from non-profits and votes on the recipients of the annual donations.

It is my honor to enter into the CONGRESSIONAL RECORD the recipients of the Giving Circle's 2010 donations:

BEACON for Adult Literacy provides tutoring to adults in English for Speakers of Other Languages (ESOL), the GED or high school equivalency test, and basic reading, writing, and math skills. BEACON also provides life-skills workshops on topics such as health and safety, nutrition, financial literacy, parenting skills and community resources.

Brethren Housing Corporation is in its 22nd year of providing sustainable, permanent affordable housing and transitional housing to low- and middle-income families in the Greater Manassas and Prince William County area.

Court Appointed Special Advocates of Greater Prince William County trains volunteers to protect abandoned, abused or neglected children. The Advocates help the children receive the assistance they need to overcome their trauma and find a permanent home. The organization currently serves 400 children with the help of more than 100 volunteers.

The Prince William Area Free Clinic is a public-private partnership between Prince William and Sentara Potomac Hospital, the Prince William Medical Society, and the Prince William Health Department. It is staffed by volunteer professionals and support staff to help meet the needs of the low-income and uninsured population.

Project Mend-a-House uses the skills of volunteer carpenters, plumbers, electricians, painters, gardeners, and others, matching them with people in need of minor home repairs and safety modifications.

Transitional Housing Barn provides housing, supportive services, life management skills and financial education for homeless women and their dependent children.

Madam Speaker, I ask that my colleagues join me in commending the Giving Circle of Heritage Hunt for helping these worthy organizations further their missions to assist our less fortunate neighbors. I extend my personal appreciation to the Giving Circle for promoting the spirit of charity and generosity in our community.

LORD NICHOLAS WINDSOR URGES NEW ABOLITIONISM

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. SMITH of New Jersey. Madam Speaker, I rise tonight as former and incoming Chairman of the Foreign Affairs Human Rights Committee to ask my distinguished colleagues of the House to take a few moments to read a brilliant, incisive, extraordinarily well written defense of the child in the womb by Lord Nicholas Windsor of the UK, great grandson of King George V.

Calling the abortion of unborn children "the single most grievous moral deficit in contemporary life," he appeals to conscience and admonishes us to the "greatest solidarity and duty of care because they are the weakest and most dependent of our fellow humans."

Lord Nicholas notes that "permissive abortion is a fact of life so deeply embedded and thoroughly normalized in our culture that—and this is the most insidious factor in that normalization—it has been rendered invisible to politics in Europe. Even mentioning it has become the first taboo of the culture."

And how can that be?

Lord Nicholas faults "determined campaigns of propaganda at the outset to harden consciences, and gradually to enforce a conformism that fears to question what is said to be a settled issue."

Settled? Not here in the U.S., Madam Speaker, and hopefully not for long in Europe either.

On what he calls a "moral world turned upside down," Lord Nicholas says, "the greatest irony may be that a broad consensus exists, in a highly rights-aware political establishment, in favor of one of the gravest and most egregious abuses of human rights that human society has ever tolerated. Didn't Europeans think they could never and must never kill again on an industrial scale? What a cruel deceit, then, that has led us to this mass killing of children . . ."

"This is the question of questions for Europe," he writes, "the practice of abortion is a mortal wound in Europe's heart."

And he goes on to persuasively advocate for a new "abolitionism" for Europe akin to the movement to abolish slavery. But the notes are ever mindful of the need to meet the needs of women: "The task for us is not merely to abolish. We must also creatively envisage new and compelling answers to the problems that give rise to this practice . . ."

A brilliant essay. A must read for those who treasure and promote human rights. And equally applicable to us—in the United States—which mourns, or will mourn someday, killing over 53 million children by abortion since 1973.

LORD NICHOLAS WINDSOR WARNS EUROPEANS
NOT TO FORGET THEIR MOST PRESSING
MORAL ISSUE: ABORTION

[From First Things, Dec. 1, 2010]

(By Lord Nicholas Windsor)

At the close of the last century, as the reckoning was drawn up in Europe for the actions and reactions of the twentieth century, could we not have been forgiven for tending a little toward the view that we had, after everything, acquitted ourselves rather well? Hadn't we a long list of accomplishments to admire in the years after 1945? We had expunged Fascism, at immeasurable human cost, and we had made profound reparation for its effects. We had washed our hands of colonialism and vastly improved the material lot of the poor in our own countries. We had built robust democracies and welfare states and novel institutions in Europe to defuse nationalisms and guarantee peace among former belligerents. We had advanced the rights of women—indeed, the whole spectrum of rights. We had won the Cold War.

Much more could be added, I think. Poised just then before the new millennium, seeing what vast work had been done in our societies, mightn't it have seemed quite possible that the greatest moral cancers in our civilization had been at least contained and possibly eradicated? Hadn't history, at least this moral cycle of history, really reached an end?

In the decade since the turn of the millennium, the cultural mood has been less happy, for a variety of reasons. Even at its most confident, however, the West generally recognized that some work remained to be done. So, for example, the position of the poorest in the world, it is held, will gradually and continually improve if enough effort is made, not least by the developed world. For the mitigation of global warming and climate change, political determination will suffice to alter the carbon-hungry lifestyles that cause the problem.

The point here is that moderate political activity is believed to be the sort of thing required to address these problems, and there is a reasonable degree of optimism that such political activity will be usefully brought to bear, without the need to resort to force.

A remaining category of problems still to be dealt with could be bundled together as "Rogue Regimes, the Taliban, and al-Qaeda." This category rightly causes public alarm and engenders calls for robust and, where necessary, lethal response. But these are not threats that appear existential and have not as yet provoked a real sense of public crisis. Neither have they brought about mass political action in the West. They are still, I believe, seen as problems that will ultimately be solved, or at least kept at bay, without huge social upheaval on our home soil and certainly with nothing like the warfare resorted to by previous generations.

Is it still possible then that we can point to anything of any real significance that had been overlooked, anything dangerous smuggled into this new phase of history that has caught us unawares? I would say that this is indeed the case, and I would like to focus especially on a matter and a practice that constitutes the single most grievous moral deficit in contemporary life: the abortion of our unborn children.

This is a historically unprecedented cascade of destruction wrought on individuals: on sons, daughters, sisters, brothers, future spouses and friends, mothers and fathers—destroyed in the form of those to whom we owe, quite simply and certainly, the greatest solidarity and duty of care because they are the weakest and most dependent of our fellow humans. All else that we concern ourselves with in the lives of human beings derives from the inescapable fact that first we must have human lives with which to concern ourselves. By disregarding this self-evident fact of the debt owed immediately to the unborn—which is to be allowed to be born (and let us not forget that all of us might have suffered just the same fate before our birth)—humanity's deepest instincts are trampled and shattered.

This was only an implausible glimmer in the eyes of the most radically progressive thinkers and activists a century ago. Today legal, permissive abortion is a fact of life so deeply embedded and thoroughly normalized in our culture that—and this is the most insidious factor in that normalization—it has been rendered invisible to politics in Europe. Even mentioning it has become the first taboo of the culture.

There are consciences in Europe, it must be stressed, that glow white-hot for justice and strive continuously for this darkest fact of our public life to appear in public debate as clearly as it does across the Atlantic in the United States. For most of our contemporaries, however, this is a matter that impinges little. The effectiveness of determined campaigns of propaganda at the outset to harden consciences, and gradually to enforce a conformism that fears to question what is said to be a settled issue, has worked wonderfully well.

And this enforcement of a new status quo succeeds so well due, surely, to benefits enjoyed as a result—benefits of an order that make acceptable even the killing of innocents, by their protectors, on a scale that freezes the imagination. How much then must depend on its remaining so, remaining beyond question? This is the nub of that ideological word choice. So much else can be chosen in a given life if the option to dispose of unwanted children is dependably available. So many intoxicating freedoms are newly established, if only abortion is never again denied to women and to men.

But what of the cost? As with the cost of previous great willful destructions of human life, of whole classes of human life, the fact that it must and will be borne is a certainty, whatever the nature and scale of it. Of course, in the first order of consequences, the price paid by the victims is not obscure: We must never forget that the heaviest price is paid by those whose lives are not to be lived.

In the second order of consequences, however, we must look closely at the hidden burden faced by those, especially mothers, who participate in these acts and the losses affecting present and future society. How will a society regard itself, or value its own distinctive culture, when it has placed this fearful act at its center—consciously approving, even celebrating, its own most egregious moral failing? Will it have the confidence simply to regenerate itself? To survive by producing the next generation of children in sufficient numbers?

I would like to emphasize that we must never mistake the secondary effects of this moral enormity for the primary, as this would surely be to instrumentalize the victims and fail again in our duty of respect to

ward them. It would be an absurdity such as if the real tragedy of the Shoah were felt first of all to lie in the social consequences. No, what we must first lament is the mass destruction of human beings who had first been deemed worthless. The fact in itself is what we must keep before our eyes, before and apart from our regard to anything that may derive from it.

We live in what is truly a moral world turned upside down, and the greatest irony may be that a broad consensus exists, in a highly rights-aware political establishment, in favor of one of the gravest and most egregious abuses of human rights that human society has ever tolerated. Didn't Europeans think they could never and must never kill again on an industrial scale? What a cruel deceit, then, that has led us to this mass killing of children, for a theoretical greater good, which in this case is simply the wish not to be bound by a pregnancy unless it is fully and freely chosen and which, outside of that parameter, is declared, by fiat, to be null and void.

The sophistry is overwhelming: If I choose and desire my child, then ipso facto I have granted it the right to live, and it will live. But the inverse is equally the case, by means of nothing more or less than my choice: Caesar's thumb is up, or Caesar's thumb is down. And when it comes to exporting this idea, we do it with zeal and determination through such institutions as the United Nations and the European Union.

The granting to ourselves of the right wantonly to kill, each year, millions of our offspring at the beginning of their lives: This is the question of questions for Europe. The practice of abortion is a mortal wound in Europe's heart, in the center of Hellenic and Judeo-Christian culture.

Having so recklessly carried this poison out of the twentieth—the ugliest of all centuries—let us, for the sake of all that has been good and beautiful and true about the culture of the West, be clear that there is an urgent moral priority here. Call it a "New Abolitionism for Europe"—the word abolitionism emphasizing the continuity between the challenge faced now with the generational campaigns waged so clear-sightedly in late-nineteenth-century America to rid itself of the injustice of slavery. The abolitionists, I believe, exemplify the courage and imagination required, even if they do not provide perfect templates for what we face now.

This is a task that calls for a broader approach to the safeguarding of life, as taught to us by those earlier struggles to apportion value where it previously had not been deemed to exist. We must re-enliven the valuing of life, and this cannot restrict itself to the question of abortion, despite its moral centrality. It must have regard to every threat to the integrity of human beings, at all stages of their being and in all circumstances.

The task for us is not merely to abolish. We must also creatively envisage new and compelling answers to the problems that give rise to this practice, when the easiest solutions may be destructive or distorting ones. And the goal is that human life, without any exception, may be as treasured and respected as the highest moral thought has perennially called for it to be, and as our consciences surely sound the echo.

Author affiliation:

Lord Nicholas Windsor studied theology at Oxford University and is patron of the Right to Life Charitable Trust and the Catholic National Library. Great-grandson of King

George V of the United Kingdom, Windsor is the first blood member of the British royal family to be received into the Catholic Church since King Charles II on his deathbed in 1685.

HONORING LIEUTENANT COMMANDER MICHAEL "RAY" CAIN'S DISTINGUISHED CAREER

HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. WU. Madam Speaker, I rise today to pay tribute to Lieutenant Commander Michael "Ray" Cain, U.S. Coast Guard. Lieutenant Commander Cain retired in September 2010 after 27 years of faithful and diligent service to the U.S. Coast Guard and his Nation.

Lieutenant Commander Cain enlisted in the U.S. Coast Guard in September 1983 and quickly rose through the ranks to Senior Chief Petty Officer. He then earned a commission as a Chief Warrant Officer in 1999 prior to being selected for promotion to Lieutenant and subsequently Lieutenant Commander in 2009. LCDR Cain has diligently served the Coast Guard both afloat and ashore as a subject matter expert in electrical systems and marine inspections.

Lieutenant Commander Cain completed a seven-year tour in Astoria, Oregon, as the sole senior marine inspector responsible for ensuring the safety of more than 75 passenger vessels that carry thousands of passengers each year into the oftentimes hazardous waters off the Oregon and Washington coasts.

Former Oregon Governor Tom McCall once said, "Heroes are not giant statues framed against a red sky. They are people who say, 'This is my community, and it is my responsibility to make it better.'" Lieutenant Commander Michael "Ray" Cain truly is an American hero, for he has devoted much of his life to making his country and community better.

It is an honor for me to recognize Lieutenant Commander Cain for his service and for providing a heroic example to us all.

IN RECOGNITION OF THE SIKH FOUNDATION OF VIRGINIA'S 2010 ANNUAL CULTURAL PROGRAM

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize the Sikh Foundation of Virginia's 2010 Annual Cultural Program.

The Sikh Foundation of Virginia (SFV) was established in 1987 to serve the religious and spiritual needs of the Northern Virginia Sikh community. The SFV promotes religious, educational, social and cultural aspects of Sikhism and collaborates with other religious organizations to host inter-faith events. The SFV is a welcome participant in an ethnically diverse Northern Virginia community.

The Annual Cultural Program brings the vibrant heritage of Sikhism and the Indian state of Punjab to Sikh American youth in Northern Virginia through songs, dances, poems, and literature readings. The event encourages Sikh Americans, especially children, teens and young adults, to preserve the culture and traditions of their Sikh ancestors as they grow to be contributing members of American society.

Madam Speaker, I ask that my colleagues join me in celebrating the Sikh Foundation of Virginia's 2010 Annual Cultural Program. I would like to extend my personal appreciation to the SFV for its unique contribution to the ethnic fabric of the Northern Virginia community.

HONORING THE LIFE OF DR.
HYLAN BENTON LYON, JR.

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. HALL of Texas. Madam Speaker, I rise today to honor the memory of a dedicated veteran and scientist, Dr. Hylan Benton Lyon, Jr., of Heath, Texas, who died at the age of 74 on July 20, 2010.

Born July 20, 1936 in New London, Connecticut, Dr. Lyon was the son of World War II Veteran Rear Admiral Hylan Benton Lyon, Sr. and Wilma Lyon. In 1958, Hylan graduated from the United States Naval Academy and proudly served his Nation as a naval reconnaissance pilot during the Vietnam War from 1958 to 1969. In addition during his naval career, he attended the University of California, Berkley where he earned a PhD in physical chemistry.

Dr. Lyon enjoyed a very successful career, serving under President Richard M. Nixon and President Gerald Ford on the President's Science Advisor staff, which included working on the Advanced Aircraft Instrumentation program of the U.S. Office of Naval Research. In addition, he worked as a Science Policy Analyst with the State Department. He was a senior consultant to the White House Office of Science and Technology Policy on International Science and Technology under President Jimmy Carter.

As a civilian, Dr. Lyon was a deputy director of the Science, Technology and Industry Directorate in the Organization of Economic Co-operation and Development in Paris, France and then spent ten years with Texas Instruments. While at Texas Instruments, Dr. Lyon used his vast experience in risk management and water resources serving as a member for President Carter's National Agenda for the Eighties Commission and as a chairman of the National Defense University Distinguished Fellows with oversight of the Mobilization of Concepts Development Center. Following his time at Texas Instruments, Dr. Lyon was the chief technology officer for Marlow Industries for fifteen years and then worked for Dumas Capitol Partners LLC.

Dr. Lyon was the president and COO of Polytronix Inc. and was the co-founder of the Texas Institute of Science. He was a member of the Organization of Economic and Co-Oper-

ation of Development. In addition he was a member of the Cosmos Club in Washington, DC, Park City Rotary, Rockwall Republican Men's Club and the Rockwall Power Team. He was an avid biker and fisher and had a love for sailing. He also was active in community service.

Hylan is survived by his wife, Sandra Starr Lyon, son Matthew Lyon and wife Jasmine Andrew Lyon, son Jonathan Lyon, son Christopher Starr and wife Rebecca, and son Kenneth Starr and wife Jennifer, daughter Karen Rogers, several grandchildren, his sister Sharon Gugat and her husband Kevin, and several nieces, nephews, and cousins. He is also missed by those in the community and his classmates from the Naval Academy.

Madam Speaker, I am privileged to have known such a wonderful citizen of Heath, Texas, who leaves a legacy in public service and in science that will be long remembered.

IN APPRECIATION OF MARY
COLLEEN MCCARTY

HON. ALAN B. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. MOLLOHAN. Madam Speaker, on January 2, 1974, a gallon of gas cost about 53 cents, the Dow Jones Industrial Average closed at 855, and the top-selling 45 on Billboard's chart was Jim Croce's "Time in a Bottle." That was also the day a recent college graduate, Mary Colleen McCarty, began her professional career, reporting to work in the personal office of Representative Robert H. Mollohan of West Virginia's first congressional district.

On January 2, 2011, Colleen will bring that remarkable career to a close, retiring from my office as Chief of Staff. For the 37 years between those two January days—9 years spent working for my father and 28 in my office—Colleen built a record of service and accomplishment that few congressional staffers can match.

All of us understand how important staff is to our work. It's been one of my privileges to work with many terrific staffers throughout my 28 years in Congress, men and women who have contributed to the first district in a wide variety of ways and whom I am proud to call friends today. But Colleen has always been the one constant. Few staffers survive, let alone thrive, for 37 years in what can be a stressful and demanding work environment. But what's behind that longevity? In Colleen's case, several things.

First is a real commitment to public service. Colleen never lost sight of our purpose here. She came to work every day determined to help the residents of the first district. She began her career as a caseworker, helping somebody get the VA benefits he'd earned or qualify for black lung benefits after a career in the mines, or maybe making sure someone else was getting the right social security check or helping an American stranded overseas with a visa problem. There's nothing abstract about that work; you see the results immediately and tangibly, and that was a lesson

that Colleen applied to all of her work in my office—what we do up here matters to people and for that reason alone all of us need to do our best.

Another thing that Colleen brought to work every day was her honesty and the courage of that honesty. I learned early on not to ask Colleen's advice unless I were willing to hear something completely opposite of what I believed or hoped to hear. Colleen never hesitated to speak her mind to me, and, fortunately, she didn't always wait to be asked. I have always understood how important that quality is.

Honesty is only one measure of Colleen's personal integrity. She also has strength and compassion in equal measures. That is true in her personal life as well as her professional one. I know, for example, how deeply her parents came to rely on Colleen as they negotiated the not uncommon challenges of aging. They knew, as I do, that you can always rely on Colleen.

A Congressman's Chief of Staff generally has two major responsibilities. The first is to serve as principal adviser. I just touched on how important Colleen's counsel has been. The other role, of course, is building and managing a good staff, something at which Colleen has always excelled. She cares about people, supports them, and helps them grow, both professionally and personally.

The culture of my office has always been a positive one, and that is thanks in large part to Colleen's leadership. I speak for myself as well as scores of staffers over the years in thanking Colleen for a thousand kindnesses, large and small, visible and hidden. In a very real way, Colleen retires with two bodies of work. The first is her sizable contributions to the congressional work of my father and me. And the second is the large network of staffers who have benefited from her support and mentoring over the years. In both bodies of work, Colleen enters retirement knowing that she made a difference in people's lives, that she left things better than she found them. And what more satisfaction could one ask of any career?

I always dreaded the prospect of having to replace Colleen. She actually tried to retire once or twice but always made the mistake of asking me rather than telling me. My response never varied—"No, Colleen, I just don't think it's the right time." And it never was the right time, for me anyway. I simply relied on her too much.

Well, Madam Speaker, now it is, finally, the right time. As I prepare to leave office, I take with me many wonderful things. But few mean as much to me as the support and the friendship of Mary Colleen McCarty. My wife, Barbara, and I offer Colleen our warmest wishes for a wonderful retirement.

TO CELEBRATE THE 25TH ANNIVERSARY OF THOMAS JEFFERSON HIGH SCHOOL OF SCIENCE AND TECHNOLOGY

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to congratulate Thomas Jefferson High School for Science and Technology, TJHSST, on the occasion of its 25th Anniversary. Established in 1985, Thomas Jefferson High School for Science and Technology is the result of collaboration among the local and State leaders, Fairfax County Public Schools and the business community to improve education in science, mathematics, and technology.

Located in the heart of the 11th Congressional District of Virginia, TJHSST is the premier high school in the United States, and its success continues to make Fairfax County one of the most sought out communities in which to live and do business. It is one of 18 Governor's Schools in the Commonwealth of Virginia and is a founding member of the National Consortium of Specialized Secondary Schools of Mathematics, Science, and Technology.

In 2007, 2008, 2009, and 2010, TJHSST was ranked the best public school in the Nation by U.S. News & World Report and has fielded more National Merit Semifinalists than any other high school for most the 1990s and 2000s. Between 2000 and 2005, more TJHSST students qualified for the United States of America Mathematical Olympiad than from any other high school and the school has a distinguished history of U.S. Physics Olympiad Team participation and medal winners. In 2007, 2009, and 2010, TJHSST held the record for the highest number of Intel Science Talent Search Semifinalists. Seven Rhodes Scholars have graduated from TJHSST, more than the number of Rhodes Scholars at most colleges in the entire country.

Each year, more than 25 percent of the graduating class accepts admission to the University of Virginia. Other prominent colleges popular among the graduates include the College of William and Mary, Duke University, and Princeton University. A number of graduates also have accepted appointments to West Point or the U.S. Naval Academy, becoming officers in our Armed Forces.

The incredible success of TJHSST would not be possible without the commitment of an exceptional educational staff, the dedication of parents and families, and the determination and drive of the students. All work together to support the efforts of every student and help ensure that each will succeed in college and during their professional lives.

Madam Speaker, I ask that my colleagues join me in congratulating Thomas Jefferson High School for Science and Technology on its 25th Anniversary and in commending the community and the school for providing the very best education possible for our next great generation.

COMMEMORATING THE 96TH NATIONAL CONVENTION OF THE CHURCH OF GOD BY FAITH

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. CORRINE BROWN of Florida. Madam Speaker, I rise today to commemorate the 96th National Convention of The Church of God By Faith. The Church Of God By Faith was founded in 1914 for the expressed purpose of glorifying God in the beauty of "Holiness". The Founders, Crawford Bright, Elder John Bright, Aaron Matthews, Sr., and Nathaniel Sciplo had a desire to seek the quality of life and character which is set before Christians as an ideal guide and moral obligation. This bonding or coming together and consequent formation of the Church of God By Faith was to serve as a basis whereby believers could be encouraged, educated in the Word of God, strengthened, sustained, spiritually grow, and be united in an environment where the Spirit of Christ is truly active. The Church was materialized from the perceptual thought of foresighted, spiritually led and blessed individuals.

This enlightened tradition and founding principle is emboldened by its current spiritual leader, Bishop James E. McKnight, a man of great vision and purpose, whose leadership has spanned generations well into the present millennium and well poised for the future. We are indeed indebted to Bishop McKnight, all the Presiding Elders, Pastors, Officers and Members who, by faith and by practice, adhere to the founders' dreams and goals by maintaining the vibrancy and relevance of the Church of God By Faith for all its parishioners and the communities they serve.

Congratulations on the observance of this Ninety-Sixth National Convention on December 16-19, 2010, in Atlanta, Georgia.

COMMENDING DAVID L. CAVICKE

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. BARTON of Texas. Madam Speaker, my Chief of Staff on the Energy and Commerce Committee, David L. Cavicke, will be leaving the Committee in January after nearly 16 years of service on the Committee. Staff work quietly out of the spotlight, and I want to take this occasion to commend David for the many issues on which he provided counsel to the Members of the Committee and for his leadership of the Committee staff as Chief of Staff.

David joined the Committee staff in 1995, early in the tenure of Chairman Tom Bliley and Speaker Newt Gingrich. He came to Washington in his '84 Chevy Caprice with six suits and a 486 computer, knowing no one and hoping to contribute to the public policy changes following the historic 1994 election. Tom Bliley hired David as the Committee finance counsel based on a keen intellect, a

creative gift for policy ideas that manifested itself in some of the most important changes made to financial regulation in the 1990s, a sense of due process and willingness to listen to all sides of an issue, as well as a very good sense of humor.

David helped Tom Bliley and Newt Gingrich develop and pass milestone legislation that included the Private Securities Litigation Reform Act, the only public law to be enacted over President Clinton's veto.

He worked with Jack Fields and ED MARKEY to pass The National Securities Markets Improvement Act of 1996, which preempted state regulatory authority over national securities offerings; required consideration of efficiency, competition and capital formation in addition to investor protection as elements of SEC rulemakings; and also included the Bliley SEC Fee reduction agreement, which saved one billion dollars worth of fees over 10 years.

David was also the lead staffer on the Committee's efforts to pass the Gramm-Leach-Bliley Act that removed the Depression era's barriers between banking, investment and insurance. He worked closely with Republican Committee members and Democratic Committee members like JOHN DINGELL and ED MARKEY to see that investors' interests would be protected and that the sovereign credit of the United States would not be extended to guarantee underwriting activities by banks. Had the Congress accepted the Committee's work product rather than watering down these protections in Conference, we might have avoided some of the financial problems we experienced at the end of 2008. Other products of his work for the Committee were the Securities Litigation Reform Uniform Standards legislation, which first asserted federal jurisdiction over class action lawsuits in securities matters, as well as E-SIGN, which made digital signatures enforceable in electronic commerce, facilitating legal certainty for internet commerce.

In Billy Tauzin's chairmanship, David worked on investigations into financial fraud at Enron and Arthur Andersen. His expertise in financial markets and training as a Wall Street lawyer proved vital to the work we did to expose wrongdoing at those firms. This expertise made him the natural choice to depose the key executives at those firms. He subsequently worked on accounting standards, anti-spam legislation, anti-spyware initiatives and legislation to protect consumers' personal data, as well as leading staff investigations into accounting fraud at Fannie Mae and Freddie Mac.

When I became Chairman, I promoted David twice, first to be Committee General Counsel where he was a tireless advocate for the Committee's jurisdiction on behalf of Members of both parties. David made the arguments that finally caused the parliamentarians to recognize the Committee on Energy and Commerce's exclusive jurisdiction over telecommunications issues as a result of the passage of the Telecommunications Act of 1996.

I then promoted David to be Committee Chief of Staff in 2007. He was the first person on the Republican side to have been promoted to Chief of Staff directly from the staff since the beginning of the Gingrich era.

In his role as chief staff strategist for the loyal opposition on the Committee to the

Obama Administration, David's command of details and marshalling of resources made possible a legendary 17-day stand by a handful of Republican Members (me, Nathan Deal, JOHN SHADEGG and the rest of the gang of 23) against passage of the wide-ranging health reform law. Similarly, his careful planning helped the emboldened Republican minority resist the Administration's global warming bill until it was shelved. He has been a vigorous advocate for transparency—be it in government, or health care pricing.

Since becoming Chief of Staff, David has become the second best Texas Hold 'em player on the Committee. He beat Howard Lederer, a world champion poker player, in heads up play in a charity tournament this year. As Chief of Staff, he always defended the prerogatives of the Committee and its Members, for which we are very grateful. My colleagues and I on the Committee will certainly miss his good counsel, his great admiration for the institutional importance of the Committee, and his good cheer.

PERSONAL EXPLANATION

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. TIM MURPHY of Pennsylvania. Madam Speaker, on rollcall No. 653, H.J. Res. 1776, Providing for consideration of the joint resolution (H.J. Res. 105) making further continuing appropriations for fiscal year 2011, and for other purposes, had I been present, I would have voted "no."

TRIBUTE TO CHAIRMAN BART GORDON

HON. JOHN GARAMENDI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. GARAMENDI. Madam Speaker, I rise today to honor House Science and Technology Chairman BART GORDON.

Chairman GORDON understands that America is in a race—a race against other nations to invent the most advanced technologies in the world. And the stakes of this competition could not be higher. Only with the most advanced technological innovation can this Nation achieve economic growth, energy independence, and strengthen our national security.

For two decades, Chairman GORDON has risen to the challenge of catalyzing American ingenuity by spearheading leading science and technology policies. He requested a complete report on America's global competitiveness, *Rising Above the Gathering Storm*, and has steadfastly charged up this mountain of challenges. Chairman GORDON authored two landmark bills to enhance our competitiveness, the America COMPETES Act, which became law in 2007, and its reauthorization, which will be signed into law in these last days of 2010. Through these bills, the Chairman is

dramatically improving STEM education, strengthening research and development, and restoring America's scientific edge. The Chairman has also lead initiatives to reuse electronic waste and to harness Nanotechnology, which could transform everything from cancer treatment to computers. In an increasingly partisan atmosphere, Chairman GORDON has kept alive the bi-partisan spirit of the Science committee.

I thank Chairman GORDON for his profound service to our Nation, and I urge Congress to carry on his legacy of boldly investing in America's future—science and technology.

THANK YOU TO THE PEOPLE OF THE 11TH CONGRESSIONAL DISTRICT OF PENNSYLVANIA

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. KANJORSKI. Madam Speaker, over the last 26 years it has been an enormous honor and privilege to represent the people of the 11th congressional district of Pennsylvania as a member of this body, and I rise today to express my eternal appreciation to the people who gave me the extraordinary opportunity to serve them.

The youngest son of a lawyer and homemaker who was also a teacher, I was blessed to grow up in a loving, supportive family who encouraged me to pursue even the most ambitious goals. Of all the values my parents imparted to their children, none was more important than education. My father, A. Peter Kanjorski, Jr., graduated from the Wharton School class of 1919 before completing law school at the University of Pennsylvania in 1922, while my mother Wanda Nedbalski Kanjorski graduated from Wyoming Seminary before obtaining her degree from Bloomsburg College. All four of my siblings also completed college; Wendy from Marywood College, Aloise from the Connecticut College for Women, A. Peter III from the Wharton School as well as the University of Pennsylvania law school, and Charie from the University of Florida. This tradition has continued to my parents' grandchildren, as all 13 have earned their college degrees and some have pursued graduate degrees. My daughter, Nancy, for example, has earned her doctorate in geophysics.

In light of the importance my parents placed on education, therefore, it was extremely distressing for them to realize that at the age of 10 I was still having great difficulty learning how to read, because of what I now realize was most probably an undiagnosed case of dyslexia. My mother and older sisters, most especially my sister Allie, became my personal tutors. Under their guidance, I became a voracious reader and eagerly consumed historical biographies. From reading about Arthur Vandenberg and Daniel Webster, I learned about congressional pages and convinced Congressman Ed Bonin, the representative for the 11th district of Pennsylvania, to appoint me in 1953. I met my lifelong best friend Bill Emerson when we started as pages together, and we were unfortunate witnesses to the first

terrorist attack on the U.S. Capitol when Puer Rican nationalists opened fire on the floor of the House on March 1, 1954.

Bill returned to Congress in 1981 as a Republican representative from Missouri, and I followed him 4 years later as a Democratic representative from Pennsylvania. Our political views were starkly different, but we respected one another's views and disagreed agreeably.

Those of us lucky enough to be citizens of the United States are privileged to be experiencing the noblest experiment the world has ever known: democratic self-governance. As representatives of the people, we in Congress must be the guardians of that experiment, and in the words of Abraham Lincoln, ensure that it does not perish from this earth. Our constituents have entrusted us to do our very best to make the United States a better place, the reason every one of us sought to serve in Congress. It is a sacred trust, and one I hope that no Member of Congress ever forgets.

The people of the 11th congressional district of Pennsylvania gave me a gift for which I will be forever grateful, and to them I would like to say thank you.

DAVID CAVICKE

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. STEARNS. Madam Speaker, my friend, David Cavicke, Chief of Staff for the Republicans on the Committee on Energy and Commerce, is leaving the Committee in January after nearly 16 years of service. I and other Members of the Committee have benefited from David's sound counsel, tireless advocacy, policy entrepreneurship and relentless optimism. Like Ronald Reagan, Cavicke believes that you can accomplish anything if you don't worry about who gets the credit.

David was invaluable to the Committee during our investigations of financial fraud at Fannie Mae and Freddie Mac. He was early to identify that fraudulent accounting masked balance sheets with such volumes of toxic assets that the firms were likely to be insolvent. As a result of this work, David led the development of ideas to improve accounting and auditing standards in the Committee.

David also worked extensively on privacy and telecommunications issues during my tenure as Chairman of the Commerce, Trade, and Consumer Protection subcommittee and my term as Ranking Member on the Telecommunications subcommittee. He is a principled conservative. He also believes that facts and data should drive policy. He has worked with Democrats and Republicans at the FCC to promote the growth of broadband, more extensive deployment of spectrum and greater efficiencies in the universal service program. He has been an advocate for protecting consumers' privacy in the online world. He has been sensitive to the enormous technical difficulties of using statutes to micro-manage internet commerce.

He is a gentlemen, a wise lawyer, an expert in the formal and informal procedures of Congress and scrupulously fair to persons of both

parties. He has been a Chief of Staff in the best tradition of the Energy and Commerce Committee.

RECOGNIZING PRINCE WILLIAM COUNTY BEING NAMED ONE OF THE NATION'S "100 BEST COMMUNITIES FOR YOUNG PEOPLE"

HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to recognize Prince William County, Virginia on being named one of the nation's "100 Best Communities for Young People" by America's Promise Alliance and ING.

The annual "100 Best Communities for Young People" competition began in 2005 and was established to honor communities that work to improve young people's chances of earning a high school diploma, finding employment in a competitive 21st century workforce, and contributing to a robust American economy. America's Promise Alliance advocates for providing youth with the resources they require to graduate from high school prepared for college, work and life. The global financial institution, ING, sponsors the awards.

This is the first year the "100 Best" list includes Prince William County. The county received the distinction for its efforts to offer students leadership opportunities and reach out to at-risk youth. Students in Prince William County who participate in the student committee, Learning Essential Assets of Development (LEAD), organize service projects to gain experience in practical planning, communication and decision-making. The county also partnered with private businesses to fund the construction and staffing of a community center and daycare facility in an at-risk neighborhood. Prince William County boasts an on time graduation rate of 88 percent, almost 20 percent higher than the national average.

Madam Speaker, I ask that my colleagues join me in congratulating Prince William County on being recognized as one of the nation's "100 Best Communities for Young People." This is a well-deserved recognition for a county dedicated to providing a high quality of life for its residents and a world class education for its children.

RECOGNIZING THE CONTRIBUTIONS OF HARRIET JAN HILLMAN

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. BURGESS. Madam Speaker, I rise today in recognition of Harriet Jan Hillman. After 23 years, Jan, as she is known by friends and coworkers, is retiring from her post as Executive Director of Planning and Assessment for Student Affairs at the University of North Texas in Denton, Texas.

In addition to her current position, since beginning her career at UNT in 1987 Ms. Hillman has served the Denton campus as Panhellenic Advisor, Director of Student Activities and Assistant Dean of Students. She has been an advocate for the Greek system and has continued to serve this student population over the last ten years even when outside of her assigned job responsibilities.

Ms. Hillman received her B.A. in Pre-Social Work at what was then known as Northeast Louisiana University. She then continued her education by earning both her M.Ed. and Ed.D. from the University of North Texas.

Ms. Hillman's devotion to the profession of student affairs has been evident through her membership in the Texas Association of College and University Student Personnel Administrators (TACUSPA), an organization she served as President from 1997–1998.

Additionally, Ms. Hillman has been active within the community through her active membership in Kiwanis, the Denton Chamber of Commerce and Leadership Denton. And, in 2006 she was selected as a member of the 2006 class of Leadership Texas.

It is with great honor that I rise today to recognize Jan Hillman for her years of dedication and service to the University of North Texas. I am proud to represent her and UNT in the United States Congress.

STATEMENT ON H.R. 3082, MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2011

HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mrs. MCCARTHY of New York. Madam Speaker, the Continuing Resolution that passed in the House of Representatives today will keep the government funded at the current level through March, 2011, allowing operations to continue for programs that would otherwise have expired. Nationwide, we are continuing to recover from difficult economic times. It is more important than ever that the federal agencies and the programs they administer, which so many states and individuals depend on, receive the federal funding they need to operate without interruption.

During House floor consideration and passage of this legislation, I was unavoidably absent from Washington due to a family health emergency. However, I am pleased that my colleagues passed, this important legislation, which I strongly support.

PERSONAL EXPLANATION

HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. TIM MURPHY of Pennsylvania. Madam Speaker, on rollcall No. 654, on motion to suspend the Rules and concur in the Senate Amendment to H.R. 2142, GPRA Moderniza-

tion Act of 2010; had I been present, I would have voted "no."

RECOGNIZING COACH GENE STALLINGS FOR SELECTION TO COLLEGE FOOTBALL HALL OF FAME

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. HALL of Texas. Madam Speaker, it is a great privilege to rise today in honor of a friend and celebrated native of Paris, Texas—legendary coach Gene "Bebes" Stallings who recently was inducted into the College Football Hall of Fame.

Coach Stallings embodies the best qualities of a coach, teaching his players not only how to play the game but always to give their best, win or lose. His journey began as a stand-out player at Paris High School and continued at Texas A&M University as a member of Paul "Bear" Bryant's famous Junction Boys. During his career at A&M, Gene was part of the team that finished 9–0–1, winning a Southwest Conference Championship in 1956. He graduated from Texas A&M University with a bachelor of science in 1957 and later earned an honorary degree from Harding University. After his playing days, Gene arrived at Alabama to be an assistant coach under Head Coach Paul "Bear" Bryant. He returned to Texas A&M University as head coach in 1965, coaching there until 1971. One of the most thrilling moments of his tenure as head coach at A&M was leading his alma mater to victory against his former coach at the 1968 Cotton Bowl.

For the next 18 years, Gene was a successful coach in the National Football League. For 14 years he served as an assistant coach for the Dallas Cowboys. He was a part of Tom Landry's very successful staff which led the Cowboys to victory in Super Bowl XII. Gene then became the head coach of the St. Louis Cardinals for two years, followed by two more years as head coach for the Phoenix Cardinals.

After a very successful tenure as a coach in the National Football League, Gene returned to college football and Alabama in 1990. His first year at Alabama started with a 0–3 record; however, because of his great leadership, his team improved, finishing the season with a 7–5 record. In 1992, Alabama's dominance began as they finished the season with a 13–0 record, becoming Southeastern Conference champions and winning the national championship against Miami. In 1993, the Crimson Tide won their second straight Southeastern Conference western division title and finished with a record of 9–3–1. In 1994, his team had an 11–0 regular season record. The Crimson Tide lost in the Southeastern Conference title game but defeated Ohio State in the Citrus Bowl. Gene's last year at Alabama was 1996, and his team won 10 games and earned a berth in the Southeastern Conference championship game against Florida. In 1996, Gene announced his retirement from football and completed his career at Alabama with a 70–16–1 record.

This astonishing record of achievement led to numerous awards and recognitions. Gene is

a member of the Alabama Sports Hall of Fame, the Texas Sports Hall of Fame, the Texas A&M University Hall of Fame, the Gator Bowl Hall of Fame, and the Cotton Bowl Hall of Fame. He was named National Coach of the Year, American Football Coaches' Coach of the Year, Walter Camp Coach of the Year and received the Paul "Bear" Bryant Lifetime Achievement Award. In addition, he won the Southeastern Conference Coach of the year twice.

Gene not only deserves to be inducted into the College Football Hall of Fame but to be in another Hall of Fame—one that honors great fathers. His son, John Mark, was born with Down syndrome and a severe heart defect and lived to an age, 46, that many doctors felt was impossible. Gene and Ruth Ann, his wife, provided their child with the most love, care and attention ever given to a child. John Mark was born during an era where a child with such a disability was often institutionalized. The Stallings included John Mark in every decision—family-wise or career-wise, and John Mark was a fixture at every game and practice of all his father's teams. One of Gene's greatest legacies will be the contributions that he and his family made to families with special needs' children.

In recognition of his humanitarian efforts, Gene received the Dallas Father of the Year Award, the National Boys Club Alumni of the Year Award, Arthritis Humanitarian Award of Alabama, Humanitarian Award of the Lion's Club of Alabama, and the Paris Boys Club Wall of Honor. The Stallings family was honored by the Tuscaloosa Association of Retarded Citizens as the Family of the Year. Their efforts and generosity toward the Rise program, a program which aids developmentally disabled toddlers for entry into public school and interaction with non-disabled students, were again acknowledged with the naming of the Stallings Building on the Alabama campus. In addition, Gene wrote a book about his son, John Mark.

Gene has also served as a valued and esteemed member of President George W. Bush's Commission on Intellectual Disability, the Board of Abilene Christian University, the Tandy Brand Corporation, People's National Bank of Paris, Paris Regional Medical Center, Disability Resources, the Texas Rangers Law Enforcement Association, the Great Southern Wood Corporation, and the Boys and Girls Club of Paris, Texas. In 2005, Governor Rick Perry appointed him to the Texas A&M Board of Regents, where he served as a member of the Committee on Finance, the Committee on Buildings and Physical Plant, and the Committee on Campus Art and Aesthetic. An additional responsibility as a member of the Board of Regents is his place as the special athletic liaison to the A&M Systems Members.

As the 111th Congress adjourns this week, I am honored to recognize the contributions of this great football coach and great American—Gene Stallings.

RECOGNIZING THE CONTRIBUTIONS OF JAMES MELTON STEELE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. BURGESS. Madam Speaker, I rise today in recognition of James Melton Steele. Mr. Steele, known affectionately as "Jim" to his friends, family and members of the North Texas community was passionate for the Northwest Independent School District and its students. His memory and commitment to NWISD are appropriately commemorated with the Dedication of the James M. Steele Accelerated High School, the only school of its type in Texas, designed to provide students an alternative venue to complete high school at an accelerated pace.

Mr. Steele's early life allowed him to know both north Texas and west Texas as home. His family followed his father's railroad employment with positions in both the Fort Worth area and Baird, Texas where he attended school until 8th grade. His family returned to north Texas where he attended the Birdville School District and met Johnnie, who was the love of his life and eventually became his wife and mother to their two sons, Bruce and Brian.

James attended Arlington State College where he majored in business administration and developed a desire through his early work experiences to own his own business. He built and operated a concrete plant in Haltom City and later bought a small country store in Roanoke which eventually became Steele's Affiliated Country Market.

The Steele's raised their family in Roanoke and were active community members as he helped with sports activities and Johnnie volunteered to help the teachers at Roanoke Elementary. Mrs. Steele eventually made a career of education in NWISD and taught for 24 years before retiring from Gene Pike Middle School. As members of Roanoke Church of Christ, Byron Nelson encouraged Mr. Steele to become an Elder.

Mr. Steele's leadership and commitment led to encouragement from parents within the Northwest ISD to run for the school board. He became a member of the NWISD Board in 1975, serving as a Trustee for nine years, including his term as board president.

The Steeles' commitment to NWISD is a family legacy as both of their sons and their grandchildren, Chris and Tara, graduated from Northwest High School. Bryson James Steele, one of three great-grandchildren, currently attends Kay Granger Elementary. The Steeles' other two great-grandchildren, Caroline Doshier and Brayden Steele, will eventually attend school at NWISD.

It is with great honor that I rise today to recognize James M. Steele and his commitment to Northwest Independent School District. I am honored to represent Northwest ISD, the town of Roanoke and the Steele family in the United States Congress.

A TRIBUTE IN HONOR OF THE LIFE OF GOODWIN STEINBERG

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Ms. ESHOO. Madam Speaker, I rise to honor the life of Goodwin Steinberg, a renowned architect and an active and affectionate community builder, who died on December 14, 2010. For half a century, Goody Steinberg designed and developed spaces for professional, civic and sacred uses. He was a giant who will be missed by his family, his friends, and everyone who was touched by his wise, wonderful and gentle ways.

As his grandchildren remembered their grandfather at his memorial service at Temple Beth Am—the magnificent structure he designed which is now home to some 1,600 families—their heartfelt words, and the very woodwork, paid eloquent tribute to this extraordinarily talented, creative, and caring community member. One after another, they spoke of how valued he made them feel, and how they knew that they were cherished. This love for family was the essence of Goody Steinberg, and we all benefited from it.

The projects that Goody designed are now iconic symbols of Silicon Valley and its development from the fruit-growing Valley of the Hearts Delight into the equally fruitful birthplace of ideas and innovation that it is today. Beth Am, designed so that his daughter could attend a religious school to learn Jewish traditions, is a much loved "house of the people," the Hebrew translation of its name. Indeed, everywhere people gathered, Goody transformed into a house of the people. In his nearly half-century career as an architect, he designed the restoration of the Santa Clara County Courthouse, the Tech Museum of Innovation and the Del Monte Hotel in Monterey. The campus of Stanford University and the entire San Francisco Peninsula bear the indelible mark of his warm and welcoming designs, infused with light, love and laughter.

Goody served his community well, and glowed with justifiable pride in the community involvement and contributions of his family, proud of their generosity and accomplishments. His wife Geraldine served with distinction on the Santa Clara County Board of Supervisors in the 1970s, and nothing made Goody happier than the day his son Robert joined the family business, Steinberg Architects, now an international architectural firm with offices as far afield as Shanghai.

Madam Speaker, I ask my colleagues to join me in honoring Goodwin Steinberg's exemplary life and his multitude of accomplishments. I ask also that the entire House of Representatives extend its most sincere condolences to his wife of 66 years, Geraldine; his children Robert (and Alice Erber) of Palo Alto, Thomas (and Shaindel) of New York and Jerusalem, and Joan Laurence of Tsfat, Israel; his 11 grandchildren, and his late grandson Jacob Erber Steinberg; three great grandchildren; and sisters, Sylvia and Darlene.

On entering a synagogue, Jews begin the Ma Tovu, a prayer of awe and reverence for their sacred spaces, with the words, "How

goodly are your tents, O Jacob, your dwelling places, O Israel!" As Beth Am congregants enter the sanctuary he designed, they will forever be reminded of Goody Steinberg and the goodly tents he established everywhere he went. He built this city on rock and soul, from the ground up, and his family and his designs stand as magnificent memorials to Goody Steinberg's extraordinary creativity and humanity. America has been bettered in so many ways because of him.

**'O WHAT A GAL IN HONOR OF
OPRAH WINFREY**

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 21, 2010

Mr. EDWARDS of Texas. Madam Speaker, on behalf of a friend who works every day to bring wounded warriors and Make a Wish youth to our Capitol, I would like to include the following in the CONGRESSIONAL RECORD at his request.

Dedicated to Oprah Winfrey, the Promise of American . . . and what dreams, courage and faith are made of. Your life and your example, are one more watershed moment in time . . .

in the healing and the growth of America! May God Bless you always, as you have blessed so many others with your kind heart. I ask that this poem penned in honor of Oprah Winfrey by Albert Caswell be placed in the RECORD.

'O WHAT A GAL!

'O . . . What a Gal!

'O what a Woman, 'O what a Lady . . . who so stands before us now!

'O . . . what A Great American Tale. . . .

And 'O, what a journey, through life in her profiles in courage, so now . . .

'O, The American Dream . . .

'O, The Promise of what all of this so means . . . to be American and so very proud!

'O, from the bottom to the top . . .

'O, as against all odds . . . even with all that discrimination and hatred, she would not be stopped!

From fields of slavery of yesteryears,

'O . . . as her loved ones in heaven, now watch over her with tears!

Oprah!

Teaching us all, with your lessons of life . . . of answering its quest and its call!

To be a champion of what is right!

With your heart of kindness, all in your search of the truth as you went out into that night . . .

All in your warmth and love, as you fought that fight!

Teaching us all . . . that, 'O . . . Black is Beautiful!

All on her pilgrimage of truth and caring, sharing, loving and teaching . . . she brought her light.

'O, the proof of what one life can mean!

An American Heroine, as now almost like an American Queen . . .

'O, in this our world . . . and in our lives!

Will we so find the courage? . . . The Sacrifice? . . . To Fight, To Fight The Good Fight?

To make a difference, with these our so short lives!

'O, an American hero . . . touching our hearts, bringing your light!

Oprah Winfrey, is a Winner . . . A Light . . . A Great Beacon of Hope . . . of which shines this night!

The power of hope and courage . . . All determination, and faith can so nourish what is right!

'O, Win your Heart is open!

Win you believe! Win . . . your heart is Free! There's nothing you can not so be!

Win . . . you stop to believe!

Win . . . you take from pain and heartache, and rebuild . . . we all can be Free!

Children, Win . . . your . . . Free!

There's nothing, that you can not so do! There's nothing, that you can not so be!

Listen my children, as your future dreams you are building . . . remember, Oprah Winfrey!

SENATE—Wednesday, December 22, 2010

The Senate met at 9 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

You have kept Your promises to us, Almighty God, and our hearts sing praises to You. You continue to supply our needs, to keep us from falling, and to work everything for our good. You prevent the weapons that are formed against us from prospering, surrounding us with the shield of Your favor.

Lord, give wisdom and knowledge to our lawmakers today. Show them Your ways and guide them by Your spirit. Lead them in the path of Your truth so that they will abide in the shadow of Your providence and permit Your constant love to sustain them.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 22, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

SCHEDULE

Mr. LEVIN. Mr. President, on behalf of the leader, today the Senate will re-

sume consideration of the New START treaty. Yesterday, cloture was invoked on the treaty, which limits debate to 30 hours. He hopes some of the postcloture debate time can be yielded back so we can complete action on it early this afternoon.

In addition to the treaty, the majority leader would like the Senate to consider the Department of Defense authorization bill, the 9/11 health legislation for first responders, and a number of executive nominations, including that of James Cole to be Deputy Attorney General, before we leave for the holidays. Senators will be notified when any votes are scheduled.

IKE SKELTON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011

Mr. LEVIN. Mr. President, in legislative session and in morning business, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 717, H.R. 6523, the Department of Defense authorization bill, that a Levin-McCain amendment that is at the desk be agreed to, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCAIN. Reserving the right to object, and I will not object, a lot of people may not understand that unanimous consent request that was just made by the chairman of the Armed Services Committee.

Am I correct, I ask my friend from Michigan, that this is in order to pass the National Defense Authorization Act? We have gone, I believe, 48 years and passed one, and there are vital programs, policies, and pay raises for the men and women in the military and other policy matters that are vital to successfully carrying out the two wars we are in and providing the men and women who are serving with the best possible equipment and capabilities to win those conflicts. Am I correct in assuming that is what this agreement is about?

Mr. LEVIN. The Senator from Arizona is correct. It is the bill—slightly reduced to eliminate some of the controversial provisions, which would have prevented us from getting to this point, but this is the Defense authorization bill, and 90 to 95 percent of the bill is the bill we worked so hard on in committee on a bipartisan basis. I am

very certain that our men and women in uniform, as this Christmas season comes upon us, will be very grateful indeed that we did this in the 49th year—and if the House will move swiftly today and pass this bill, as we have done in the previous 48 years—passed an authorization bill—which is so essential to their success.

Mr. MCCAIN. I will not object.

Finally, I thank the chairman of the Senate Armed Services Committee. I assure my colleagues that the controversial aspects of this legislation have been removed, and only the essential parts remain. I thank the Senator from Michigan. I hope we will move forward and get this done today so that we can again provide our men and women who are serving with the best capability to defend this Nation.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The amendment (No. 4921) was agreed to, as follows:

(Purpose: To strike title XVII)

Strike title XVII and the corresponding table of contents on page 18.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 6523), as amended, was passed.

KC-X TANKER COMPETITION

Ms. CANTWELL. Mr. President, I rise to enter into a colloquy with the esteemed chairman of the Senate Armed Services Committee, Senator LEVIN.

Mr. President, I recognize that there are objections to bringing up a bill dealing with the Air Force KC-X tanker competition requiring the Secretary of Defense to take into account any unfair competitive advantages given to any of the competitors for the contract. This provision has passed twice on the House side now by overwhelming majorities and I am shocked that the same language cannot be included in the Defense authorization bill or passed as a stand-alone bill. These are legitimate concerns being brushed under the rug rather than dealt with head on. I recognize that with such a short amount of time left in this Congress we will have trouble convincing our colleagues that we are allowing a terrible precedent to be set and an expensive injustice is being done to American workers and taxpayers. In the last competition, GAO found multiple instances of uneven treatment that when compiled showed a pervasive bias in support of EADS/Airbus. Unfortunately, we now are seeing a similar pattern of behavior emerging and I

have concerns about the conduct of the competition by the Pentagon for this U.S. taxpayer-funded \$35 billion contract. At every turn, it seems the Pentagon has gone out of its way to advantage EADS/Airbus for example, the Pentagon has structured the competition in ways that minimize the cost advantages of an American-made tanker; extended deadlines to accommodate EADS/Airbus; adjusted analytical models in the competition in ways that favor only the EADS/Airbus tanker; and, most recently decided to continue using the so-called IFARA war scenario model in the competition despite having inadvertently released proprietary information that disclosed Boeing's scores to EADS/Airbus. In recent press stories EADS/Airbus officials claimed they did not look at Boeing's proprietary information but it has now come out that in fact EADS/Airbus did look at it. This type of behavior is unacceptable.

In light of the serious national security and economic implications of the KC-X Tanker competition, I am respectfully requesting that the chairman of the Armed Services Committee initiate an investigation into these issues—in particular the inadvertent release of proprietary data—to determine whether or not laws and fair competition regulations have been appropriately followed. Further, I am seeking the chairman's assurance today that he intends to call departmental witnesses before the Armed Services Committee to ensure that the committee is fully informed on the progress, status, and conclusions regarding the aforementioned investigation and any other DOD investigations into this and related matters.

Mr. LEVIN. I am prepared to direct staff immediately to initiate an investigation into the release of proprietary data to determine if laws and fair competition regulations have been appropriately followed. I also intend to hold one or more hearings by February 1 to consider these issues and to review the propriety of the procurement process of the KC-X tanker competition as it relates to this issue.

PAY FOR NONREGULAR SERVICE

Mr. CHAMBLISS. Mr. President, I rise to comment on a provision in the fiscal year 2011 NDAA which the Senate passed today.

Section 635 of H.R. 6523, The Ike Skelton National Defense Authorization Act for fiscal year 2011, contains a sense of Congress concerning age and service requirements for retired pay for nonregular service. The sense of Congress serves to clarify a provision which I authored and which is contained in section 647 of the fiscal year 2008 National Defense Authorization Act. I appreciate the committee's desire to clarify the intent of that provision and ensure proper credit is given to members of the Reserve.

As can be inferred from the title of the provision in the fiscal year 2008 NDAA, the intent of the provision is to provide earlier retired pay to members of the Ready Reserve who serve in active Federal status or perform active duty for significant periods. The sense of Congress in the fiscal year 2011 NDAA notes that the intent of the original provision was for reservists to begin receiving retired pay according to time spent deployed, by 3 months for every 90-day period spent on active duty over the course of a career, rather than limiting qualifying time to such periods wholly served within the same fiscal year. I agree with this sense of the Congress to the extent that reservists should receive credit for each 90-day period of continuous duty even though that duty may span 2 different fiscal years.

However, the original intent of the provision, as I authored it, was not to give credit for any 90 days of duty served anytime in one's career, regardless of whether or not that duty was served consecutively. This would not be "active Federal status or active duty for significant periods," it would just be the normal accumulation of days served over the course of a reservist's career.

My intent in the original provision was to reward reservists who were deploying or serving an active duty tour for a significant period of time. It was not to allow for early receipt of retired pay simply because, over the course of a reservist's career, the number of days served added up to 90.

I would like to yield to the honorable ranking member of the committee, the Senator from Arizona, and solicit his perspective on this matter.

Mr. MCCAIN. I thank the Senator from Georgia and appreciate his desire to clarify this provision.

I agree, as the title of the provision in the fiscal year 2008 NDAA makes clear, that the intent of the change to the law was to expand eligibility for earlier retired pay to members of the Ready Reserve who deploy on active duty in support of contingency operations for significant periods. It is unfortunate that some reservists who perform 90 days of deployed, consecutive duty or more that has spanned two fiscal years have not received credit under this provision. The sense of the Congress in section 635 of the fiscal year 2011 NDAA seeks to clarify this, and I agree with the Senator from Georgia that the duty needs to be "for significant periods"—it should not simply be the accumulation of 90 days of duty over the course of a reservist's career.

Mr. CHAMBLISS. I thank the ranking member for his comments and I appreciate his willingness to clarify this issue.

LAND TRANSFER

Mr. PRYOR. Mr. President, I rise today to speak about an issue related

to the fiscal year 2011 National Defense Authorization Act. Chairman LEVIN has worked incredibly hard to get this bill passed by unanimous consent, and I appreciate his efforts, the efforts of Senator MCCAIN and the efforts of rest of the Armed Services Committee members.

In the fiscal year 2010 National Defense Authorization Act, the chairman helped me to include language that would allow for a land exchange between Camp Joseph T. Robinson, which is an Army National Guard facility, and their neighbor, the city of North Little Rock, AR. This land conveyance is in the best interest of the military for a couple of reasons. First, the land that the Arkansas National Guard is giving up is so steep that it cannot be used for mounted or dismounted training. Second, the land cannot be totally secured due to extremely rugged terrain. Lastly, due to the lack of complete security, there is a possibility that a civilian could enter the property and be seriously injured. The land that would be gained by the Arkansas National Guard is well suited for mounted and dismounted training and able to be secured.

As all entities were working in good faith toward executing this land exchange, it was brought to my attention that we need one minor adjustment to this language. This adjustment would be a technical correction that would specify that the land exchange is to occur between the city of North Little Rock, AR, and the Military Department of Arkansas, rather than between the city of North Little Rock, AR, and the United States of America. This clarification is necessary since Camp Joseph T. Robinson is an entity of the State of Arkansas rather than an entity of the United States of America.

I understand that there was a timing issue this year and a need to pass the bill by unanimous consent in the Senate so we did not have a formal amendment process during consideration of the bill. However, this technical correction is important to Arkansas. I would ask for the chairman's assistance in addressing this issue at the first opportunity next year.

Mr. LEVIN. I appreciate the Senator from Arkansas bringing this issue to my attention, and I will work with him next year to find a resolution.

Mr. PRYOR. I appreciate the remarks of the chairman and thank him for his help on this matter. His leadership on military issues is invaluable in the U.S. Senate.

Mr. LEAHY. Mr. President, I am deeply disappointed that H.R. 6523, the National Defense Authorization Act for Fiscal Year 2011, includes a section to prohibit the transfer of terrorism suspects at Guantanamo Bay to the United States to face prosecution. This section takes away one of the greatest tools we have to protect our national

security—our ability to prosecute terrorism defendants in Federal courts. The result is to make it more likely that terrorists will not be brought to justice.

Current law allows for the transfer of these terrorist suspects for prosecution in the Federal courts. This is a policy that I strongly support. I want to see those who have committed acts of terrorism convicted in our justice system and sentenced to long terms in prison.

Our Federal judges and Federal prosecutors have extraordinary experience dealing with complex terrorism and conspiracy cases. The record speaks for itself. Since September 11, 2001, over 425 persons have been convicted on terrorism related charges in the Federal courts—including more than 70 defendants since President Obama took office in January 2009.

And yet, despite this strong record, Congress continues to try to tie the hands of law enforcement and other security agencies. The prohibition contained in section 1032 of H.R. 6523 is a complete bar on transfers of terrorism suspects at Guantanamo Bay to the United States. There are no exceptions to this prohibition for Federal prosecutions. Rather than addressing the question of how to close the prison facility at Guantanamo Bay once and for all, Congress is obstructing efforts to bring these criminals to justice.

In a letter to the Senate leadership dated December 9, 2010, Attorney General Eric Holder warned that this provision would “set a dangerous precedent with serious implications for the impartial administration of justice.” The Attorney General further stated that, by restricting the discretion of the executive branch to prosecute terrorists in Article III courts, Congress would “tie the hands of the President and his national security advisers” and would be “taking away one of our most potent weapons in the fight against terrorism.” Accordingly, this provision is short-sighted and unwise.

This prohibition language also sets a dangerous political precedent. Once the Senate votes in favor of a total bar to transfers, even for criminal trial, we will see it offered again and again. This is a door that, once opened, will not easily be closed.

I can think of only two possible motivations for including this ban of all transfers to the United States. One is to ensure that the detainees being held at Guantanamo Bay, some for years without charge, can only be tried by military commissions. The other is to ensure that these suspects are simply held in military detention at Guantanamo Bay indefinitely. The very strict restrictions on transfers of suspects from Guantanamo Bay to other nations in section 1033 of H.R. 6523 suggests that indefinite detention is, in fact, the goal of these provisions.

For those who wish to see terrorism suspects tried only in military com-

missions, I urge them to study the record. The military commissions devised by the prior administration were plagued with problems and repeatedly overturned by the U.S. Supreme Court. The Obama administration has worked hard to revise the military commissions to make sure they meet constitutional standards. However, the new system is still largely untested, and the rules for these commissions were only just released earlier this year.

Military commissions have achieved only five convictions since the September 11, 2001, attacks. Four of the five resulted from pleas. The sentences handed down in these five cases have been much shorter than those meted out in Federal court convictions. In contrast, our Federal courts have a long and distinguished history of successfully prosecuting even the most atrocious violent acts, and our judicial system is respected throughout the world.

The vital role of the rule of law and our judicial system in the fight against terrorism is also strongly supported by leaders of our military who served honorably to protect our nation and uphold the Constitution. On December 10, 2010, a group of retired generals and admirals voiced their opposition against restricting law enforcement's ability to try terrorists in Federal criminal courts, and wrote that, “By trying terrorist suspects in civilian courts we deprive them of the warrior status they crave and treat them as the criminals and thugs they are. As long as Guantanamo is open it offers America's enemies a propaganda tool that is being used effectively to recruit others to their cause and undermines U.S. efforts to win support in the communities where our troops most need local cooperation to succeed.”

I believe strongly, as all Americans do, that we must do everything we can to prevent terrorism, and we must ensure severe punishment is imposed upon those who do us harm. As a former prosecutor, I have made certain that perpetrators of violent crimes receive serious punishment. I also believe strongly that we can ensure our safety and security, and bring terrorists to justice, in ways that are consistent with our laws and values. Congress should not limit law enforcement's ability to do just that.

Mr. LEVIN. Mr. President, the proud tradition our committee has maintained every year since 1961 continues with the Senate's passage of this, the 49th consecutive national defense authorization bill. We always have to work long and hard to pass this bill, but it is worth every bit of the effort we put into it because it is for our troops and their families as well as, obviously, our Nation. I thank all Senators for their roles in keeping this tradition going.

Our bipartisanship on this committee makes this moment, as late as it is,

possible. I am proud to serve with Senator McCain and am grateful for his partnership.

I thank all our committee staff members. With their extraordinary drive and many personal sacrifices to get this bill done—and we had to get it done twice because we had to modify the bill that was originally presented to the Senate, as everybody here knows. Our staff has given another meaning to this season of giving. Led by Rick DeBobs, our committee's staff director, and Joe Bowab, our Republican staff director, they have given everything imaginable, and some things unimaginable, to get this bill passed. So we thank all of them.

I ask that, as a tribute to the professionalism of our staff, and our gratitude, their names be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Richard D. DeBobs, Staff Director; Joseph W. Bowab, Republican Staff Director; Adam J. Barker, Professional Staff Member; June M. Borawski, Printing and Documents Clerk; Leah C. Brewer, Nominations and Hearings Clerk; Christian D. Brose, Professional Staff Member; Joseph M. Bryan, Professional Staff Member; Pablo E. Carrillo, Minority Investigative Counsel; Jonathan D. Clark, Counsel; Ilona R. Cohen, Counsel; Christine E. Cowart, Chief Clerk; Madelyn R. Crendon, Counsel; Gabriella E. Fahrer, Counsel; Richard W. Fieldhouse, Professional Staff Member; Creighton Greene, Professional Staff Member; John W. Heath, Jr., Minority Investigative Counsel; Gary J. Howard, Systems Administrator; Paul C. Hutton IV, Professional Staff Member; Jessica L. Kingston, Research Assistant; Jennifer R. Knowles, Staff Assistant.

Michael V. Kostiw, Professional Staff Member; Michael J. Kuiken, Professional Staff Member; Kathleen A. Kulenkampff, Staff Assistant; Mary J. Kyle, Legislative Clerk; Christine G. Lang, Staff Assistant; Gerald J. Leeling, Counsel; Daniel A. Lerner, Professional Staff Member; Peter K. Levine, General Counsel; Gregory R. Lilly, Executive Assistant for the Minority; Hannah I. Lloyd, Staff Assistant; Jason W. Maroney, Counsel; Thomas K. McConnell, Professional Staff Member; William G.P. Monahan, Counsel; Davis M. Morriss, Minority Counsel; Lucian L. Niemeyer, Professional Staff Member; Michael J. Noblet, Professional Staff Member; Christopher J. Paul, Professional Staff Member; Cindy Pearson, Assistant Chief Clerk and Security Manager; Roy F. Phillips, Professional Staff Member; John H. Quirk V, Professional Staff Member.

Robie I. Samanta Roy, Professional Staff Member; Brian F. Sebold, Staff Assistant; Russell L. Shaffer, Counsel; Travis E. Smith, Special Assistant; Jennifer L. Stoker, Security Clerk; William K. Sutey, Professional Staff Member; Diana G. Tabler, Professional Staff Member; Mary Louise Wagner, Professional Staff Member; Richard F. Walsh, Minority Counsel; Breon N. Wells, Staff Assistant; Dana W. White, Professional Staff Member.

Mr. LEVIN. I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following treaty, which the clerk will report.

The assistant legislative clerk read as follows:

Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms.

Pending:

Corker modified amendment No. 4904, to provide a condition and an additional element of the understanding regarding the effectiveness and viability of the New START Treaty and United States missile defense.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, we currently have two amendments, one of which I believe we will be able to accept and one of which we are working on with the Senator from Arizona to determine whether it would need a vote. We should know shortly. We will begin debate on an amendment of the Senator from Arizona. Subsequently, the Senator from Connecticut, Mr. LIEBERMAN, and the Senator from Tennessee, Mr. CORKER, have an amendment they want to proceed on with respect to missile defense. Those are the only two at this time. We hope to be able to get to final passage on this treaty without delay. The Senator from Arizona assured me they are trying to work through what that means. So I think we will proceed without any attempt to pin that down with a unanimous consent agreement at this point. Obviously, for all Senators, we want to try to do this as soon as is practical.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, would it be in order for me to call up an amendment at this time?

The ACTING PRESIDENT pro tempore. The Senator is recognized for that purpose.

AMENDMENT NO. 4892, AS MODIFIED

Mr. KYL. I call up amendment No. 4892, as modified. The modification is at the desk.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

Mr. KERRY. Mr. President, if we could begin the consideration, as I mentioned, we are working on that language. I do not want to agree to the modification yet until we have had a chance to talk with the Senator about it. I am not saying we will not agree to it. I want to see if we can get that done. If we can begin on the amendment as originally filed, we can interrupt to do it with the modification. I want a chance to clear it.

Mr. KYL. I am not asking at this time there be an agreement. I am simply saying that the amendment I want to bring up is the amendment I filed.

Mr. KERRY. I have no objection to the as modified to consider it.

Mr. KYL. I will describe the modifications. They were made in an effort to get agreement. If we cannot, that is fine, but I do think it makes it more palatable to Members.

May we have the amendment read.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 4892, as modified.

Mr. KYL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a certification regarding the design and funding of certain facilities)

At the end of subsection (a), add the following:

(1) DESIGN AND FUNDING OF CERTAIN FACILITIES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) accelerate the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF); and

(B) request advanced funding, including on a multi-year basis, for the Chemistry and metallurgy Research Replacement building and the Uranium Processing Facility upon completion of the design and engineering phase for such facilities.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, this amendment has to do with the modernization of our nuclear weapons enterprise. It is a subject with which we began this debate. As we get toward the end of the debate, it remains a piece of unfinished business with which I think we need to deal. Remember, the nuclear enterprise we are talking about consists primarily of the facilities that are used to work

on our nuclear weapons, as well as the weapons and importantly the scientists who work in those facilities. They represent our National Laboratories, as well as other production facilities and related facilities.

The point I think is important for people to remember is that unlike all of the other nuclear powers in the world today, the United States does not have an active modernization program for our nuclear deterrent, a program which enables us, for example, to remanufacture a component of a weapon and replace an existing weapon with that.

The need for this has been made very clear by all of the people in the administration who have considered this, including Secretary of Defense Gates. The Secretary, remember, is, in effect, the customer for the Department of Energy, which is the Department responsible for producing these weapons. The budget we talk about is a Department of Energy budget, but it is really to produce weapons for use by the Secretary of Defense.

Here is what he said about the need to modernize the production complex, which is what we call that group of facilities, as well as the stockpile:

To be blunt, there is absolutely no way we can maintain a credible deterrent and reduce the number of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

Each year, our Laboratory Directors and the Secretary of Energy are required to provide a certification to the President that certifies the status of the weapons in the stockpile and makes determinations as to whether those weapons are safe, secure, and reliable without the need for testing.

Each year, as we discussed in our closed session, there are reports about the status of these weapons. I will talk in a moment about the material we discussed in the closed session. But suffice it to say here that there is a great need for us to move with alacrity to bring up to date the weapons that are in our stockpile and that requires modernization of the facilities and related equipment to accomplish that task.

This will require a substantial investment over the next decade. Unfortunately, over the years, these facilities have been allowed to deteriorate, our capacity to atrophy, and our scientists to retire without doing what is necessary to bring these weapons up to date.

The current budget projection, as expressed in the 1251 report update, which was dated November 17, 2010, initiates that modernization but clearly cannot accurately predict future requirements. This is the problem we have dealt with here.

The report acknowledges that we have a problem and can estimate today what we think we can spend over the next few years—say, 5 years—but it is

hard to estimate beyond that as to what the exact cost of this is going to be. I try to deal with that in this particular amendment.

The Laboratory Directors responsible for certifying our nuclear weapons recently wrote in a letter:

As we emphasized in our testimonies, implementation of the future vision of the nuclear deterrent . . . will require sustained attention and continued refinement.

In other words, each year they can get their estimates more accurate, as one might expect, and define more specifically what the exact requirements are. In this case, that generally means an increase in costs in one area or another. In fact, Vice President BIDEN, speaking to this precise problem, said:

[W]e expect that funding requirements will increase in future budget years.

We know that is going to happen. The question is, can we be any more particular in the funding that we require. My amendment seeks to be a little bit more precise or a little bit more specific than the current language.

At the crux of this modernization program is a need for a firm commitment for the construction of two critical manufacturing facilities. They are called the Chemistry and Metallurgy Research Replacement, or CMRR, plutonium facility—that is at Los Alamos Laboratory—and the Uranium Processing Facility, or UPF at the so-called Y-12 facility at Oak Ridge, TN. Without these, the capacity to perform stockpile maintenance will be lost by 2020 and there will be no capability to modernize our aging stockpile.

For Members to recall briefly, these are, in many cases, facilities that go all the way back to the Manhattan Project, the project that created the atomic weapons that enabled us to conclude World War II. Some of these buildings were built as early as 1942, and they are not in good shape. In fact, when I was with one of my colleagues from Tennessee visiting the Y-12 facility, I asked one of the people responsible for a particular part of the facility what his biggest concern was. He said: My biggest concern is keeping this thing going for another 10 or 12 years. When you see the facility, you can see that. And that is no way to deal with the most sophisticated weapons that mankind has ever invented.

As I said, the current plan is a big improvement over what we had just a year or so ago. We got together with the administration and asked them to relook at the plan they had submitted and identify areas where there were deficiencies in funding or planning. They came back with an updated report that revealed funding requirements that had previously not been dealt with. There was a little over \$4 billion in funding added to the first 5 years of the 10-year program we are looking at as a result.

But even there, there was an argument that there were uncertainties,

they were only at a certain point in the planning of these two large facilities, and that those funds would be inadequate.

To note something for our colleagues and of which the Presiding Officer is very well aware, being one of the two Senators responsible for the Los Alamos facilities, he will recall both he and his colleague and others of us, in visiting Los Alamos, were told about the problems of building a facility there where there theoretically could be an earthquake in the near vicinity and the costs of construction have increased dramatically because of the physical needs to protect that facility against any conceivable kind of physical problem. That has increased the cost of the facilities, and they are trying to get a handle on how much they will actually be. They are pretty clear about a ball-park estimate, but a ball-park estimate is not quite good enough for these purposes, as we know.

I will conclude by saying I am a little distressed by the news stories. We cannot expect the news media to have gotten into the detail required to actually make policy. They put it in a political context that the administration put another \$4 billion into the pot and why shouldn't that satisfy people like me.

Of course, that is totally beside the point. We are simply trying to get a better handle on how much money will be needed and to be able to plan for that funding in a way that gets it to the facilities in the most expeditious way possible so that, A, we can complete the work that has to be done in time and, B, that will save a lot of money, about \$200 million a year.

There is every reason to want to understand how much it will cost and get it done quickly. It is not about adding \$4 billion. That does not begin to cover the cost of these items.

It is not a matter of some kind of negotiation that additional money was thrown in the pot and is that not good enough. It is a matter of continuing to focus as the cost of these facilities evolves and as the requirements evolve, so that Congress, with the administration's request in its budgets, can provide the funding that is necessary when it is necessary to get these facilities completed as quickly as possible in order to achieve our modernization goals.

There is no dispute about the fact that there will be additional money required. It is just a question of what to do about it.

The updated budget, while committing additional funds to repairing these facilities, will not be able to eliminate even over 10 years, for example, the more than \$2 billion of documented maintenance issues. There are some things that are simply outside the budget and need to be dealt with.

My biggest concern in the updated modernization plan is actually that it

added to the delays. What we should be doing is trying to telescope these projects as much as possible so we can meet the deadlines for the refurbishing of our weapons—or maintenance of our weapons, I should say—rather than extending the time for the completion of the facilities. But unfortunately, that is what the latest report did. Instead of accelerating construction of these two most critical facilities, the CMRR and the UPF, the updated plan now delays completion to 2023 and 2024, respectively, rather than 2020.

As we recall from the executive session we had a couple of days ago, there was information presented as to why these facilities absolutely needed to be completed by 2020 in order to accomplish the life extension projects for some of our weapons.

Delay in these facilities will hamper efforts to perform these critical life extensions of our warheads and not inconsequentially add significant costs, again, primarily to keep these aging facilities operational.

As an example, we have to put a brandnew roof on the facility at Los Alamos even though the facility in 10 or 12 years is no longer going to be used because it will be replaced. But the roof is so bad that the work we have to do in there is affected by the weather, and so we have to build a roof. That is an expenditure one hates to make because in 10 or 12 years that building is not going to be used anymore. But that is the state of repair we are in.

Each year of delay adds to those kinds of maintenance costs. Senator CORKER and I and Senator ALEXANDER were told at the Y-12 facility that it is about a \$200-million-a-year cost to keep these aging facilities going that we can eliminate if we can complete the construction of these two large facilities.

One-fourth of the newest increase of this \$4.1 billion, of which I spoke, for the next 4 years does not even go to the buildings or the facility. It simply meets an obligation for unfunded pensions that have been allowed to accumulate over the years. The only good news about that is, I guess, they would probably have stolen the money from one of the accounts that directly deals with the modernization of our weapons in order to meet those unfunded pension obligations. So I am glad we were able to put the billion dollars in there. But when they talk about \$4 billion more for science work on these weapons, that is not true. Fully one-fourth of it goes to meet these unfunded pension obligations.

There is a need for things outside the science, but clearly the science requirements are the key ones we are trying to get money to as much as we can.

The key point also is that the modernization is independent of the ratification of the treaty. It is true that as

we reduce the number of warheads, there is even more of a requirement that we know the warheads we have will do their job because we do not have a backup warhead sitting in a storeroom, basically in the event something does not work if that is deployed right now. It is true that as we reduce the number, we have to pay even more attention to whether they are all safe, secure, and reliable. But it is also a fact that the modernization is independent of the ratification of the treaty.

During the hearings that were conducted on this treaty, all 16 experts who provided testimony spoke of the requirement for modernization. Many indicated it is a requirement irrespective of START. That is a point that has been made by others as well.

For example, former Energy Secretary Spencer Abraham in an op-ed recently said:

The Obama administration's decision to support increased investment in the maintenance of our nuclear weapons lab and stockpile is correct and long overdue . . . But the fact that the administration has revised its policy for the better is in itself no reason for any Senator to endorse START . . . The START treaty and beefed up funding for our nuclear enterprise are two separate issues that should remain distinct.

The point was also made by the person responsible for this modernization program—Deputy NNSA Administrator Tom D'Agostino. He said: "Our plans for investment in and modernization of the modern security enterprise are essential, irrespective of whether or not the START treaty is ratified."

So this has to be done whether the treaty is ratified or not, and I think everybody acknowledges that fact.

So we believe the resolution of ratification needs to address these issues by providing a couple conditions, and we have modified the original language in order to try to get an agreement. If we can't, we will vote on it and see what happens, but I am hoping my colleagues will agree.

The first is something I know has been agreed to; that is, a condition the President will provide an annual update of the section 1251 report.

The administration is agreeable to this, and it is the way for Congress to be annually advised of the status of this construction, the status of the facilities, and what more may need to be done on that. Presumably, that will be provided at or about the time the budget is sent to Congress from the administration.

Secondly, a condition the President will certify, prior to entry into force of the treaty, that the President intends—so this is not a requirement that he has achieved a particular result, but he intends to accelerate the design and engineering phase, to the extent possible, of the CMRR and UPF.

In other words, we are not asking the impossible be done, just that to the ex-

tent we can possibly do it, we accelerate the design and engineering of these two facilities so they can get done on time, rather than with the delays.

Third, that the administration—or the President—request advance funding, including on a multiyear basis, for these two facilities—the CMRR and the UPF—upon completion of the design and engineering phase of the planning.

What that means is, we are not asking them to provide advance funding for the entire projects, as is done, for example, when we construct an aircraft carrier. We are not asking it be done now, when there are still some uncertainties about exactly what these facilities need and how much they will cost. Los Alamos is still being tweaked, among other things, as I said, because of the need to make it earthquake-proof. What we are saying is, upon completion of the design and engineering phase of planning, then the administration requests advance funding and on a multiyear basis.

What that means is—and this is frequently done with large Defense Department contracts, in order to get them done as quickly as possible and as inexpensively as possible—there are multiyear advances of funding so the money can be spent, let us just say hypothetically, within a 5-year period by the Defense Department for an aircraft carrier, for example. Instead of having the Appropriations committees each year appropriate a particular amount of money, and the work that is done can only be done within the constraints of that particular amount of money appropriated in that particular year, what they say is—and I am just speaking hypothetically—the cost is, let's say, \$4 billion, and we know it is going to take about 4 years to do this. Instead of saying: Well, we are going to do \$1 billion of appropriations each year, what they say is: All right. You have \$4 billion, and if you can get it done more quickly by spending this money more quickly, fine. That will save us money and it will get the project done quicker. If you can't, then you can't. But that money is set aside in an account for that purpose.

That is all we are asking be done here too. These two facilities are both, in terms of order of magnitude, about \$5 billion facilities. They might be a little less. They are likely to be a little more—potentially, in the neighborhood of \$6 billion or so. Originally, when the administration presented its first 1251 report, the entire 10-year program was set at \$10 billion. We knew that wasn't adequate. We went to the administration, they recalculated everything, brought their estimates up to date, and said: That is right, \$10 billion is not going to be enough. We will add another \$4 billion to \$6 billion over the first 4 to 6 years.

Undoubtedly, the cost will increase above that, as has been testified to. My

guess is, just in terms of order of magnitude, you are looking at roughly \$20 billion over 10 to 12 years. We will know more each year this goes forward. But to construct these two facilities, if we could advance fund at least some money—let's say, 3 years' worth of the money—then it will be possible for the people who are responsible for the construction of those facilities, if they can get 15 months of work out of the first 12 months and spend more than 12 months' worth of money to get that done, that is great. They will have been able to accomplish their job more quickly. Each month that goes by adds costs to the program. So if we can provide them advance funding of some amount—we are not specifying it in here—they can probably get the project done more quickly and less expensively, and that should be a good thing. I think everybody agrees this would be the way to do it.

There have been two objections posited, to my knowledge. First, the Department of Energy has never done it this way. That, of course, is not the way for us to set policy. I saw my colleague on television this morning saying what we need is a plan. We are too focused always on what is right in front of our face. A lot of times, if we have a basic plan everybody knows we are trying to work toward, it is amazing how much you can accomplish in terms of the details. Well, this is the basic plan.

The Department of Defense does this every year because they have large-cost construction projects. The Department of Energy has never done it that way—except I am not sure that is true. Before there was a Department of Energy, the Manhattan Project was being built, and GEN Leslie Groves, who is sort of the father of the Manhattan Project, didn't have any problem at all about advance funding. He went to the President and the Congress and said: I need this money. They said: What do you need it for? He said: Don't ask questions, it is secret, and he got the money. That is an oversimplification, but he got that project done in less time than anybody could have possibly imagined because he had the resources provided to him to get it done.

So when they say it has never been done before, well, actually, it has been done before on this exact—on this exact—national defense item; namely, our nuclear enterprise. It is just that it was back in the early 1940s when people were not so, I guess, concerned about each year's budget and the appropriations that would accompany those budgets.

Secondly, the argument is made that—and this one may surprise folks—well, if we have, let's say, 3 years' worth of funding out there and that money is provided to the Department of Energy, the Members of Congress who are on the Appropriations Committee will grab that money—or parts

of it that are unspent—and apply it to other things.

Think about that for a minute. The very people responsible for funding these projects in the Congress, who know they have to be done and who have agreed to the advanced funding in the first place, I think are highly unlikely, after that money has been provided, to say: Well, we need money for some water projects or something so we will go grab some of that money that isn't spent. The whole reason it isn't spent is because you have provided multiyear funding for the project for efficiency purposes. So I don't think that is a reason for us to not advance funds.

I would like to call to my colleagues' attention—and I will let my colleague, Senator CORKER, put this in the RECORD because I think either he or Senator ALEXANDER might talk about it—a letter signed by Senators INOUE, FEINSTEIN, COCHRAN, and ALEXANDER, who presumably, in the next Congress, will be the chairmen and ranking members of the full committee and subcommittees responsible for this funding. This letter makes it clear they are committed to the full funding of the modernization of our nuclear weapons arsenal and that they are asking the President to submit budgets which will provide for the necessary funding for this and they commit themselves to support that funding.

That is important, and I don't think we can attribute a motive to Senators like this, who we all know are entirely trustworthy, that somehow after this money is advance funded, that Congress or appropriators are going to reach back and grab money they have already provided because they think there is another purpose they want to spend it for right now. So those are the reasons why I don't think that is a principled argument for why we shouldn't do this. Having this advance funding could complete these facilities on time, rather than with a 2- or 3-year delay, and we could save literally hundreds of millions of dollars.

Mr. President, I ask unanimous consent to have printed in the RECORD some additional quotations on the need for modernization from former laboratory Directors, an Under Secretary of Defense, the current Secretary of Defense, the former Secretary of State, Henry Kissinger, and there are many more we could produce.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL QUOTES ON MODERNIZATION

Former laboratory directors: "However, we believe there are serious shortfalls in stockpile surveillance activities, personnel, infrastructure, and the basic sciences necessary to recover from the successive budget reductions of the last five years."⁷

Secretary Kissinger: "As part of a number of recommendations, my colleagues, Bill Perry, George Shultz, Sam Nunn, and I have

called for significant investments in a repaired and modernized nuclear weapons infrastructure and added resources for the three national laboratories."⁸

Under Secretary Joseph: "New START must be assessed in the context of a robust commitment to maintain the necessary nuclear offensive capabilities required to meet today's threats and those that may emerge. . . . This is a long-term commitment, not a one-year budget bump-up."⁹

Secretary Gates: "This calls for a reinvigoration of our nuclear weapons complex that is our infrastructure and our science technology and engineering base. And I might just add, I've been up here for the last four springs trying to get money for this and this is the first time I think I've got a fair shot of actually getting money for our nuclear arsenal."¹⁰

ENDNOTES

⁷Harold Agnew et al., Letter from 10 Former National Laboratory Directors to Secretary of Defense Robert Gates and Secretary of Energy Steven Chu. May 19, 2010.

⁸Secretary Henry Kissinger, Testimony to the Senate Foreign Relations Committee. May 25, 2010.

⁹Under Secretary Robert Joseph, Testimony to the Senate Foreign Relations Committee. June 24, 2010.

¹⁰Secretary Robert Gates, Testimony to the Senate Armed Services Committee. June 17, 2010.

Mr. KYL. I thank the Chair, and I will have more to say, but I will let other Senators speak.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, as I did yesterday on the floor, I wish to say I cannot thank, and I hope the Senate will feel the same way—I think our country will when they understand what Senator KYL has done—I cannot thank him enough for his thoughtful, dogged, persistent efforts as it relates to modernizing our nuclear arsenal. As a matter of fact, the Presiding Officer and I accompanied Senator KYL on a bipartisan trip to Sandia and Los Alamos to look at some of the many needs we have throughout our complex in our country, which resides at seven facilities across the country. It is that foresight that Senator KYL has displayed, beginning years ago but especially focused over this last year, that I think has led to incredible results.

While the Senator and I are obviously going to end up in different places, it appears, on this treaty—and there is no question the treaty and modernization are two very different things—there is no question in my mind that we would not have the modernization commitments we have in hand today if it were not for the treaty. So, for me, it is this whole body of work that works together, and in my opinion makes this decision one that is very easy to make because of the entire body of work.

I wish to say that Senator KYL, through his efforts, has caused there to be two updates to what is called the Defense authorization 1251. That is something that is required by our De-

fense authorization bill. It focuses on expenditures to our nuclear arsenal.

I think people will realize, over the next decade, as a result of Senator KYL's efforts—and Senator KERRY's cooperation and the appropriators and the President and others—that \$86 billion will be invested in modernizing our nuclear arsenal, and \$100 billion will be invested in those delivery vehicles that relate to our warheads. I think people realize that while we are talking about 1,550 warheads being our deployed limit, we have 3,500 other warheads that are stockpiled all across our country and those also need to be modernized. We need to know they are available.

I think the Presiding Officer and I were able to see where neutron generators were going to expire, where the guidance system that guides many of our missiles is far less sophisticated than the cell phones we have today. In some cases, they still had tubes, such as we had in our old black-and-white televisions.

So I wish to thank the Senator from Arizona for everything he has done to cause there to be focus on this and for the fact he has caused it to be dovetailed; the fact we have an updated 1251 that reflects the needs of our country; the fact that we have four appropriators who now have committed to the President they will support this effort; the fact the President has said to them—and all this has been entered into the Record—that he will ask for these moneys to modernize our nuclear arsenal.

So, again, Senator KYL has done incredible work in this regard. I think he has informed this body, and I think it is due to his efforts and those of us who have supported his efforts that have helped to find gaps in our modernization program. We have been able to talk to the head of the NNSA and the Lab Directors to focus on those gaps.

The senior Senator from Tennessee has helped tremendously in that regard. He and Senator KYL and Senator LUGAR have actually gone through other sites—sites I did not go through with Senator KYL myself. So this has been a collective effort led by Senator KYL.

Again, I know we will end up in a different place on the treaty as a whole, but it is my hope that the administration and Senator KERRY will accept the changes Senator KYL has put forth in his amendment. It is my hope that by unanimous consent we can add this to the treaty. Even if that does not occur, there is no question that the contributions of Senator KYL to the commitments that are so important to ensuring our country is safe and secure by virtue of having a reliable, safe, dependable, nuclear arsenal not only will be evident today, but they will be evident for generations to come. For that, I thank him deeply.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I came to the floor to express my admiration for the Senator from Arizona. I was listening to his address and I heard my colleague from Tennessee.

Senator KYL's work on nuclear modernization is no surprise to any of us who know him very well because his approach to issues is a principled one, and once he determines the principle, he is dogged. He is a determined person. He basically took this issue of nuclear modernization, which is not on the lips of very many people in the United States—the question of whether our nuclear weapons are safe and reliable, whether they will work—he pulled it out of a trash bin and put it on the front page of a national debate.

He did it in connection with the START treaty, but as he said in his own remarks, this should be done whether you are for the START treaty or against the START treaty. It is completely independent, in that sense.

In my view, under no circumstances should the START treaty be ratified without doing this. That would be like reducing our weapons and leaving us with a collection of wet matches. We need to make sure what we have left works. But this is sort of the showhorse/workhorse Senator distinction. This is an issue on the back burner. It is an unpleasant issue. No one likes to talk about making nuclear weapons, each one of which could be 30 times as powerful as the bomb that was dropped on Hiroshima and ended the war, but it is a part of the reality in the United States and in the world today.

As Senator CORKER was saying and as Senator KYL said when each of us visited in different times, different places—Senator KYL came to Tennessee. I was with him there. He has talked to many more people than I have on this subject—these weapons are being modernized in facilities that are completely outdated. It would be as if we were making Corvettes in a Model T factory.

Worse than that, it is not just an inconvenience to the workers there, it is a threat to their safety, and it is a waste of taxpayers' money. As the Senator from Arizona said, after a certain number of years—I am not sure of the exact number anymore, maybe 15 years, some number of years—this pays for itself. The modernization of these facilities, the bringing them up to date, means the taxpayers will pay just as much to operate these old facilities as they would to spend \$5 billion or \$6 billion or whatever it is to improve these two big new facilities and the other infrastructure and the other things we need to do.

It ought to be said as well that not one of these facilities is in Arizona.

This is not home cooking by JON KYL. This is a man who, for a couple decades, has made our nuclear posture his business and has made sure he knows as much about it as anyone and has made sure the rest of us paid attention to it when we might be more interested in the issue of the moment. So it is an example of a Senator doing his job very well. I am deeply grateful for that and I am proud to serve in the Senate with such a person.

I would like to mention the letters I had printed in the RECORD yesterday. They are such an integral part of the remarks of Senator KYL and Senator CORKER—the letter to the President of December 16, from Senators INOUE and COCHRAN, the ranking members of the Appropriations Committee on both sides of the aisle, and Senator FEINSTEIN and I, who are both members of the appropriate subcommittee for dealing with this, as well as the President's response of December 20.

In concluding my remarks, I would like to also congratulate Senator KYL for his comments about advanced funding. We want to do things in an orderly way in government, but it makes no sense for us to build buildings in the most expensive way, particularly when there is an urgent deadline that is in the national interest. So if indeed by building these buildings more rapidly and saving the annual maintenance costs we could save the taxpayers hundreds of millions of dollars at a time when we are borrowing 42 cents out of every \$1 and every one of us is going to be looking for ways to save money, Senator KYL's suggestion about advanced funding, which may not be the way the Department of Energy has done it before, ought to be the way we do it now. We didn't used to have a big dip like we do now. Let's look for ways to save hundreds of millions of dollars. We know we are going to have to modernize these weapons, START treaty or no START treaty, as the Senator said. We know we are going to have to save money. Let's accept the Senator's suggestion about advanced funding of these large facilities. As one member of the appropriations committee, I am going to do my best to follow his suggestion.

I am here to congratulate him for a superior, statesmanlike piece of work, both on the treaty which he has worked to improve but also on the nuclear modernization issue which he single-handedly has put upfront before those of us in the Senate and the American people and it makes our country safer and more secure.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I wish to thank both my colleagues from Tennessee for their very kind remarks. Actually, the place we have gotten, what we have achieved, is due to the efforts of a lot of people. It starts with Sec-

retary Gates in the Department of Defense; Secretary Chu; Tom D'Agostino; his Deputy Director of NNSA, Don Cook; the Lab Directors who are incredible public servants. We visited with them. These are some of the brightest people in the country and the folks who work with them, many of whom, almost all of whom are about ready to retire, those people who actually designed and developed the weapons we now have. There are a lot of people who devoted their lives to what very few people know or understand. They are now being asked to do a very difficult and complicated job in very difficult surroundings.

Part of what we are asking for—it is not just a matter of convenience, as Senator ALEXANDER said, it is a matter of absolute necessity that these facilities be capable of dealing with these complex weapons. That is why they are expensive, but they are absolutely needed. I thank both my colleagues for having devoted a lot of their own time and attention to this issue and in supporting the efforts of modernization so we can get this job done properly. I appreciate their remarks.

I also would like to proffer a unanimous consent request. I ask unanimous consent to yield 1 hour of the time allocated to the Republican leader postclosure to Senator KYL.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. KYL. I thank my colleagues.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I do want to rise in support of the Kyl amendment No. 4892 and echo the sentiments expressed by my colleague from Tennessee about the good work of the Senator from Arizona. He has been a tireless advocate for modernization. It is something that needed to happen, irrespective of whether there was a treaty, but it certainly became a condition in order to have a treaty. If you are talking about reducing the number of your nuclear weapons, you certainly want to improve the quality of the ones you have.

Unlike other nuclear powers, the United States has not had an active modernization program for our nuclear deterrent.

We have heard from people who recognize the importance of modernizing our nuclear deterrent. I will not reiterate all of those, but I wish to point out, Secretary Gates said recently—he couldn't be any more clear that nuclear modernization is a prerequisite to nuclear reductions when he said:

To be blunt, there is absolutely no way we can maintain a credible deterrent and reduce the numbers of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

Similarly, Thomas D'Agostino, the head of the National Security Administration or NNSA said nuclear modernization is a prerequisite to nuclear reductions, stating: "... as our stockpile gets smaller, it becomes increasingly important that our remaining forces are safe, secure and effective."

In the same speech I just quoted from by Secretary Gates, he pointed out: "Currently, the United States is the only declared nuclear power that is neither modernizing its nuclear arsenal nor has the capability to produce a new nuclear warhead."

It is difficult to overstate the dire condition of the U.S. nuclear weapons complex. Its physical infrastructure is crumbling and its intellectual edifice is aging. The Strategic Posture Commission, chaired by William Perry and James Schlesinger, found that certain facilities of the nuclear weapons complex are "genuinely decrepit" and the complex's "intellectual infrastructure ... is in serious trouble."

I met with experts throughout the Senate's consideration of New START, and they confirm for me the accuracy of these descriptions. I might say to the Presiding Officer, whose State is home to Los Alamos and Sandia National Laboratories, we were able to visit those along with Senator KYL, the Senator from Tennessee and others, and had an opportunity to observe some of the facilities and buildings which are referenced in this amendment. It is absolutely clear, beyond the shadow of a doubt, that we have to make the necessary upgrades and improvements if we intend to keep our nuclear arsenal modern and prepared to deal with the threats we might face in the future.

The idea that the modernization of the U.S. nuclear complex and delivery force is an absolute prerequisite for nuclear reductions envisioned in New START has been clear to the Obama administration throughout the New START process. In fact, in December of 2009, 41 Senators wrote to the President and said in that letter:

Funding for such a modernization program beginning in earnest in your 2011 budget is needed as the United States considers the further nuclear weapons reductions proposed in the START follow-on negotiations.

Just to be clear, what is modernization? This includes improvements to the physical elements of the nuclear weapons complex. It involves the warheads and delivery vehicles themselves as well as facility infrastructure. Modernization also requires maintenance of the intellectual capacity and capabilities underlying that complex; namely, the designer and technical workforce.

The amendment, as proposed by Senator KYL, makes clear in the resolution of ratification how critical modernization is to the United States while it is reducing its nuclear arsenal. First, the amendment places a condition in the

resolution of ratification requiring the President to submit an annual update to the section 1251 report. The 1251 report is something annually that comes up here that gives us an update on the nuclear weapons arsenal. Now we will have, thanks to the amendment adopted earlier, a certification with regard to the necessary investment in delivery vehicle modernization, which is an issue I addressed in an amendment earlier in this debate and a critically important one. The Senator has already addressed that in a previous amendment that was accepted by the proponents of the treaty. That was an important step forward.

This particular amendment deals with the facilities and is also critically important. What it will do is require, in the 1251 report, that the President, when he submits his 10-year plan with budget estimates for modernization of the U.S. nuclear complex, that he also presents an accelerated design and engineering plan for the nuclear facilities and a commitment to funding those.

So this amendment, such as the one that would call for modernization of the delivery vehicles, is a critical part of the nuclear complex we have, of making sure it is reliable, that it works, and that it is ready and prepared for whatever challenge may face us in the future. As I said earlier, there are many of the experts, and you talk to the Lab Directors themselves, who recognize the importance of making the investments that need to be made in this if we are going to keep that nuclear arsenal ready.

I wish to read one other quote again. Deputy Administrator D'Agostino said:

Our plans for investment in and modernization of the modern security enterprise are essential, irrespective of whether or not the START treaty is ratified.

I suspect before all is said and done, the START treaty will be ratified. But in any event, this process needed to be undertaken irrespective of whether there is a treaty because it is that important to the future of our country and our national security.

Again, if I might point out, very briefly, what this amendment does, the resolution of ratification must clearly call for a condition that the President will provide an annual update to the section 1251 report in that as a condition the President will certify prior to entry into force of the treaty that he intends to accelerate the design and engineering phase of the chemical facility and the uranium processing facility, request full funding for both of those facilities upon completion of the design and engineering phase of the plan, and an understanding that failure to fund the modernization plan would constitute a basis for withdrawal from the START treaty.

This is, again, a fairly straightforward amendment. The Senator from Arizona has done, as has already been

noted, a superb job of putting on the radar screen of all Members of the Senate the essential and critical nature of getting this issue of modernization addressed. He deserves great credit for doing that. I appreciate the work of the Senator from Massachusetts in cooperating with him in this treaty process to have these amendments and this language accepted because it is essential.

I think it will make not only this treaty stronger, but it will also make the nuclear complex that much stronger. And that, of course, is absolutely essential when it comes to America's national security interests.

So I support the amendment of the Senator from Arizona. I hope it will be accepted and adopted in the resolution of ratification, and that before this treaty is adopted this essential issue will be not only addressed, as it is in the underlying treaty, but addressed—that language even strengthened and made more durable by these amendments.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY.) The Senator from New Mexico. Mr. UDALL of New Mexico. Mr. President, I yield my hour of postcloture time to Senator KERRY.

The PRESIDING OFFICER. The Senator has that right. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from New Mexico very much. I do not intend to use that much time, but we will see what develops here.

Let me speak quickly to this amendment. I want to begin by saying everyone in this Senate is respectful of how hard the Senator from Arizona has worked to bring attention, appropriate attention, to the effort to keep up our nuclear deterrent. He has pushed to correct what this administration saw as too many years of neglect for the work of the nuclear weapons complex. I am glad to say this administration has not only heard him, but many other Members of the Senate, from both sides of the aisle, have joined in this effort to call attention to the modernization needs of our nuclear deterrent.

The administration has appropriately pushed hard for an unprecedented level of funding for this work. In these difficult budgetary times, I do not think anybody here would argue that moving a 10-year budget from \$70 billion to over \$85 billion, which they have done, what President Obama has done, shows an extraordinary commitment to this enterprise by this administration.

That is why the three directors of the nuclear laboratories told Senator LUGAR and me, "The proposed budgets provide adequate support to sustain the safety, security, reliability and effectiveness of America's nuclear deterrent within the limit of 1,550 deployed strategic warheads established by the

New START treaty, with adequate confidence and acceptable risk.”

That is also why Tom D’Agostino, the head of the National Nuclear Security Administration, could say a few days ago, “Having been appointed to my position by President George W. Bush, and reappointed by President Barack Obama, I can say with certainty that our nuclear infrastructure has never received the level of support that we have today.”

Given all that has happened in the past year, all that has been certified and pledged, and all that we know the administration absolutely plans to do, it is hard to understand why anyone has a question about the nuclear stockpile provision at this point in time.

This particular amendment, unnecessary therefore in the light of what I have just said, does not present fundamental problems in terms of the words “to the extent possible we should accelerate.” That is exactly what they are doing. They are accelerating, to the extent possible.

But paragraph B presents a number of different issues. Most importantly, the amendment itself requires that the treaty not go into force until all of the these additional certifications are made. The administration has made it crystal clear that it is committed to funding these facilities. If you read the update section of the 1251 report that the administration provided, at Senator KYL’s request, and they provided that in November, here is what they say: The administration is committed to fully fund the construction of the uranium processing facility and the chemistry-metallurgy research replacement, and is doing so in a manner that does not redirect funding from the core mission of managing the stockpile and sustaining the science, technology, and engineering foundation.

So before we come to this moment, Senators were concerned about whether the administration was committed to the facilities. Then the administration made it very clear they are committed. The President made that commitment as clear as could be in 1251. Now the concern is, they are not building the facilities fast enough.

Well, that runs completely contrary to what the people designing it think is happening and want to do. And, incidentally, if you put additional funding into hiring additional people, by the time you find them and get them, and they are qualified and they come, they are going to be finished with the job of the additional design and early construction planning.

If this were a post office we were trying to think about building, maybe you could be a little more sanguine about saying, go ahead and accelerate it. But we are talking about multibillion-dollar, complicated facilities that require very significant, sensitive, difficult substances management. They are

going to take a certain number of years to build. That is a reality. That is how complex and challenging the task is.

The early cost and design estimates are that the uranium facility is going to cost somewhere between \$4 billion and \$6 billion, and the plutonium facility is going to cost about the same. So we all remember the old saying around here, we have got a lot of Senators who are talking about waste in the process of governance. The last thing we want to do in this budget, in my judgment, is create an environment of haste that does not measure properly what we are doing. We ought to listen to the experts on this a little bit, the people who are doing the design and the engineering, who tell us it is no simple matter in the world of nuclear weapons production. It involves hundreds of scientists and engineers working on every single aspect of the plant, in order to make sure it is going to work, that it is going to be secure, and it is going to be as safe as humanly possible.

You cannot just throw money at an ongoing design and engineering effort and then automatically expect it can accelerate beyond an already significant increase. We have gone up \$15 billion. If you hire a whole bunch of engineers who are new to the project, they do not know what they are doing yet. That is a recipe for both inefficiency and possibly even the increase of design risks or other kinds of issues.

The truth is, if you cram all of these billions into a very short fiscal period, in addition to that, as this amendment seeks to try to force, you could unnecessarily create competition within other nuclear weapons activities, such as the ongoing warhead life extension programs, and our critical warhead surveillance efforts.

The bottom line here is there is a place and a way to do this. We have an authorizing committee. The Armed Services Committee is the committee that ought to be doing this, not some amendment that comes in attached to the treaty, and linking the treaty going into force to all of these other things being certified.

I think the Appropriations Committee, as well as the Armed Services Committee, would powerfully endorse that notion here on the floor at this point in time. We can compel the President to ask for upfront funding. But that does not guarantee that the President is necessarily going to receive it. And this links it to the notion he can certify that he has.

So I agree with my colleague, the last administration took way too long to focus on this issue, and Senator KYL has done an important service to the Senate, to the country, and to this process, to help to focus on it. But it makes no sense to use a resolution on a treaty to lock the President into doing something he cannot necessarily

do because of the Congress and other things that are tied to it.

I reserve the balance of my time.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. ALEXANDER. I ask unanimous consent to have 4 or 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALEXANDER. I listened to Senator KERRY’s remarks just now. This is an excellent discussion. Not only do I applaud Senator KYL for resurrecting the whole focus on nuclear modernization, I applaud the President for the updated report that was received on November 17. A lot of work was done. This is a lot of money to say we want to make sure these nuclear weapons work and we are going to spend \$85 billion over 10 years.

The intent of Senator KYL’s amendment, though, is not to tie the President’s hands, it is to give him more options. I think it is to encourage this big, slow-moving government not to waste the money but to save money. The language says: The President shall certify to the Senate the President intends to accelerate, to the extent possible, the design and engineering phase.

At the Oak Ridge facilities, which Senator KYL visited, he was told that the savings annually to taxpayers of having the new facility versus the old facility are in excess of \$200 million. So every year we do it, every year this is completed, the taxpayers save \$200 million. So if the President and the Appropriations Committee should decide that a 2-year or 3-year advanced funding will save \$200 million a year at a time when we are all dedicated to trying to save money, we should do that.

You might say, well, why do we need to say this in the Senate? The answer is, we have never done it before. And the U.S. Government, if you have never done it before, takes a little nudge to pay attention to it.

So Senator KYL has made an amendment, and if I understand it correctly, Senator KERRY amended the amendment a little bit to make it softer, to say, the President intends to accelerate, to the extent possible. So this is suggesting to the Department of Energy, which has never done it this way before, that we think it is a good idea, if it is practical, and if it saves money.

There is also the matter of getting it done on time. Senator KYL talked about that, the dates we talked about in the executive session. So I would argue to my colleagues that the KYL amendment is respectful of the President’s prerogatives, which he ought to have. He is the manager of the government. He is the Commander in Chief. But it says: If we can think of a way to do this in a way that saves \$200 million a year, year after year after year, why should we not do it?

I will bet during the next session of Congress, if we do our job properly in this body, we are going to be competing with each other to find ways to save \$10 million a year, \$20 million a year, \$100 million a year, because of the incredible deficit. We have got bipartisan concern about that deficit. We had two Democratic Senators and three Republican Senators support the debt commission.

I would suggest to my friend from Massachusetts it is not possible that you have modified the Kyl amendment to the extent it ought to be accepted, so that the President can get a signal from the Senate that if he thinks he can do this, to the extent possible, that accelerating the building of these big facilities by 2 or 3 years, if it would save \$400, \$500, \$600 million, that we want to encourage him to do that. That is my only thought.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator very much for his participation and contribution to this effort. I am trying to work to see if—as I have said, there are certain components of this that make it difficult to accept, that multiyear piece and so forth.

But the notion of reaffirming the commitment the President has made is not difficult to make. From our judgment, the President has really addressed this as significantly as one can by putting the \$85 billion there, by making it clear they are moving forward, they are going to fully fund it, and by helping the Appropriations Committee members to provide the letter which speaks to their good faith going forward. All of those steps have taken place.

We just don't want to get into a situation where we are creating another hurdle to get over before the treaty goes into effect. If we could find a way as a declaration or some way to reframe this condition—I am working with the administration to see if we can do that—we would be happy to try to restate it.

Mr. ALEXANDER. I thank the Senator. No one is doubting the President's commitment. He has made an extraordinary commitment. I congratulate him for that. It is just the suggestion of doing it a little differently, if the President thinks it is practical, because it might save \$200 million a year, year after year after year. A suggestion from us like that could make the difference in those savings. I thank the Senator for working in that spirit.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. CASEY. I ask unanimous consent to speak for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CASEY. Mr. President, as we continue to work through the amendments, I rise to outline what is at stake in the debate and describe what the world would be like without the New START treaty accord.

Every Senator here took an oath to support and defend the Constitution against all enemies foreign and domestic. We have an obligation to support a strong national defense.

First, a world without New START is one in which more nuclear missiles are pointed at Americans. This treaty reduces that number.

A world without a New START accord is one in which we have no nuclear inspectors on the ground in Russia. These inspectors have more than a decade of experience inspecting Russian nuclear sites. They were involved in the negotiation process to ensure that there are strong inspection provisions in the treaty. But without New START, these inspectors would not be able to return to work. Furthermore, without onsite inspections, our intelligence services will still be required to collect information on Russia's nuclear weapons infrastructure.

On December 20 of this year, ADM Mike Mullen, Chairman of the Joint Chiefs of Staff, wrote to the Senate:

An extended delay in ratification may eventually force an inordinate and unwise shift in scarce resources from other high priority requirements to maintain adequate awareness of Russian nuclear forces.

In a world without New START, our intelligence capabilities will be stretched, which could give the enemies of our troops on the ground an advantage. We cannot allow that to happen.

These are just some of the direct effects. What about some of the indirect effects of a world without New START? The cascade effect on U.S. national security interests without New START is substantial.

A world without New START is one in which the Russians are less likely to provide land and air access to supply U.S. troops in Afghanistan. The Northern Distribution Network is a crucial supply route for our troops in Afghanistan. This means that just as we have reached full troop strength in Afghanistan, supply lines would become increasingly strained. Today, supply routes through Pakistan are increasingly dangerous. Just the other day, two fuel tankers meant to supply our troops were attacked and the drivers were killed in Pakistan. This is one of the reasons the leadership of our uniformed military want New START ratified.

A world without New START is one in which there is more Russian fissile material in existence, material which could be stolen for use in a terrorist attack.

There are many reasons top U.S. counterterrorism officials in the Inter-

national Atomic Energy Agency want New START ratified.

A world without New START is one in which Russia's Government is perhaps less likely to help stop Iran's nuclear weapons program. A world without New START is one in which Iran perhaps is given access to Russian S-300 missiles, a weapon capable of reaching the State of Israel. This is one reason the Anti-Defamation League, B'nai B'rith, the American Jewish Committee, and other prominent pro-Israel groups want New START ratified.

In a world without New START, there is no way the Russians will agree to decrease their tactical nuclear weapons. Our friends in Eastern Europe and those across the continent will be less secure in the knowledge that threats to their security are not diminishing but could, in fact, be growing. That is the reason 25 European Foreign Ministers want this treaty ratified.

A world without New START is one in which the 1970 Nuclear Non-Proliferation Treaty, the so-called NPT, the cornerstone of preventing nuclear weapons states, is severely threatened. What does this mean in practical terms? The New START accord is a clear demonstration that the United States is upholding our obligations under the NPT, which in turn can help secure support from other countries for a strong arms control regime and assistance on other nonproliferation issues. Many countries see nuclear terrorism as a problem for the United States and for the West. In a world without New START, these countries would seriously question our commitment to the NPT. These countries would question that right away.

Without New START, government officials around the world will question the U.S. commitment to nonproliferation itself. They will ask: If the United States is not seriously committed to arms control and nonproliferation, why should we be?

A world without New START contains many hard realities for the United States. Ratification of this treaty is not a political victory for one party or another; it is a national security victory for our great Nation, for our nuclear security—from nuclear security, to the security of our troops in Afghanistan, to the security of our ally Israel.

A world without New START is one in which the enemies of America will breathe a little easier. Strained U.S. supply lines make life easier for the Taliban. Fewer available intelligence capabilities would make life easier for al-Qaida terrorists in Pakistan tribal areas. A strained U.S.-Russian relationship makes life easier for the government of the regime in Iran.

A world without New START makes life easier for terrorists trafficking in fissile material to travel across borders.

A world without New START means no negotiations with the Russians to decrease their tactical nuclear weapons.

The world I just described isn't a world we have to settle for. A world without New START is not a world we have to accept. We must give the American people some peace of mind as to our national security. That is a world with a New START treaty. We must ratify this treaty and diminish the number of nuclear weapons pointed at the United States today. We must deploy nuclear inspectors to Russia, thus returning stability and transparency to our nuclear relationship, and take the burden off of our intelligence agencies.

A world with New START means a more constructive relationship with Russia, which is good for our troops in Afghanistan and bad for the regime in Iran.

A world with New START means the beginning of a conversation with the Russians on tactical nuclear weapons.

A world with New START is one in which there is less fissile material for terrorists to steal or buy on the black market.

A world with New START means increased cooperation with countries combating nuclear terrorism. The most serious threat to U.S. national security is the threat of nuclear weapons in the hands of terrorists. In 1961, at the United Nations, President John F. Kennedy said:

Every man, woman and child lives under a nuclear sword of Damocles, hanging by the slenderest of threads, capable of being cut at any moment by accident or miscalculation or by madness.

Some have observed that in this post-9/11 era of increased terrorism, we may be more vulnerable to a nuclear attack than we were during the Cold War. Today, the sword of Damocles still hangs by the slenderest of threads, but we have the ability to prevent this threat by minimizing access terrorists would have to nuclear material.

President Obama's nuclear security summit earlier this year was a historic event. It helped create a foundation upon which other countries will take up the challenge of nuclear security and cooperate with the United States to accomplish the President's goal of securing all fissile material in 4 years. We cannot do this alone. In order to confront this most serious threat to U.S. national security, we need to build stronger ties with our allies around the world, and part of building that trust is rebuilding our own credibility on nonproliferation issues. This New START agreement is a very positive step in that direction. It is an essential predicate for fulfilling our commitments under the nonproliferation treaty—a key marker for many potential allies on a range of nuclear security issues. Upon ratification of New START, we

must make progress on securing fissile material around the world.

This is a strong resolution of ratification. It passed out of the Foreign Relations Committee by a bipartisan vote of 14 to 4. It includes strong language on missile defense, verification, and tactical nuclear weapons.

Finally, the American people are watching. According to a November 2010 CNN poll, 73 percent of Americans support ratification of this treaty. They understand the implications of a world without the New START agreement.

In a hurricane of partisan rancor and political battles, the national security consensus is as strong as an oak tree in support of the New START agreement—all six living former Secretaries of State, five former Secretaries of Defense, three former National Security Advisers, seven former commanders of the U.S. Strategic Command, the entire Joint Chiefs of Staff, our intelligence services, the President, and three former Presidents.

The American people have a right to expect ratification of New START. They want New START and will hold us accountable if we do not ratify it. Let's vote for New START's resolution of ratification and cast a strong bipartisan vote in favor of our national security.

I close with commendations for both our chairman, Senator KERRY, and Ranking Member LUGAR and so many others who have worked so hard to make sure we can ratify this treaty.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, may I inquire, is there any time limitation on Senators at this point?

The ACTING PRESIDENT pro tempore. The Senate is operating postclosure, and each Senator has up to 1 hour.

Mr. CORNYN. I thank the Chair. I assure my colleagues, I will not use the full hour, which I am sure is good news.

Mr. President, I oppose the ratification of the New START treaty for the reasons many of my colleagues have articulated and to which I have previously spoken. The treaty requires unilateral reductions of the United States on strategic nuclear weapons. It fails to address tactical nuclear weapons—an area in which the Russian Federation has a 10-to-1 advantage. This is not an idle or incidental matter.

GEN Nikolai Patrushev, Secretary of the Russian National Security Council, a body in charge of military doctrine, has declared that Russia may not only use nuclear weapons preemptively in local conflicts such as Georgia or Chechnya but may deliver a nuclear blow against the aggressor in a critical situation, based on intelligence evaluations of his intentions.

I submit also that the verification provisions of this treaty are weak, allowing only 18 inspections a year for an arsenal of more than 1,500 weapons. Obviously, the ability to get more than a sampling of Russian Federation compliance would be impossible given the relatively few number of inspections permitted under the treaty.

As we have discussed off and on over the last few days, the preamble of the treaty itself is ambiguous and has been construed by the Russians themselves as limiting the ability of the United States to expand its own missile defense system.

I realize the President of the United States has submitted a letter stating his unilateral opinion of what that treaty obligation means, but, of course, treaty obligations are not unilateral declarations, they are bilateral agreements. Of course, the consequence of a misunderstanding over this important issue of missile defense could allow either side to withdraw from the treaty and, indeed, the threat of withdrawal from the treaty because of this misunderstanding is something that could be avoided in the first instance if, in fact, some of the amendments addressing missile defense were allowed and the treaty modified to that extent. At that time, the Russians could then be asked: Will you agree with this modification, and we would know upfront, not on the back end, their sincere intentions.

But I would say that the New START treaty has flaws when you look at it, not only in its various provisions; that is, when you reason from the whole to its parts, but I would suggest the treaty also fails when you look at it the other way around, when you reason from the parts to the whole, when you see this treaty is another example, another symptom, of a foreign policy that sends a message of timidity, even ambivalence, not only about our own security but about America's leadership role in a very dangerous world.

This larger strategic context is what we need to keep in mind. We all know that President Obama has set incredibly high expectations for his Presidency in terms of how he would conduct American foreign policy. In an early Presidential debate, for example, he promised to meet with the leaders of five rogue nations—Iran, Syria, Venezuela, Cuba, and North Korea—"without precondition during the first year of [his] administration." Well, we now know that never happened.

After he won the nomination, you will recall, in his famous speech he gave in the city of Berlin, while still a candidate for the Presidency, he declared he was a "citizen of the world." Also, he said: "This is the moment when we must come together to save this planet."

President Obama was not the only one promoting a grandiose vision of his

Presidency. Remember the Nobel Prize Committee received his nomination for the Peace Prize less than 6 weeks after President Obama took office. In the citation for the award last year, they said:

[President] Obama has as President created a new climate in international politics.

Only very rarely has a person to the same extent as Obama captured the world's attention and given its people hope for a better future.

You might ask, What relevance does this have to our consideration of the START treaty? The relevance is that a big part of this utopian dream of a "new climate in international politics" has been the elimination of all nuclear weapons.

In that Berlin speech, then-Senator Obama said that one of his priorities was to "renew the goal of a world without nuclear weapons."

The citation for the Nobel Peace Prize included this observation:

The Committee has attached special importance to Obama's vision of and work for a world without nuclear weapons.

The vision of a world free from nuclear arms has powerfully stimulated disarmament and arms control negotiations.

Indeed, in an op-ed piece, authored by the Secretary of State Hillary Clinton, dated April 7, 2010, in the *Guardian*, she argues that the START treaty is an important step toward a nuclear-free world.

So you might ask, what is wrong with a vision of the world without nuclear weapons? Can't we hope and dream? Of course, even without nuclear weapons, we know that in World War I and World War II tens of millions of people lost their lives in armed conflict. So it is not as if a world without nuclear weapons is a world without war and a world without danger for peace-loving nations such as ours and our allies.

We also know that any number of foreign policy experts have expressed serious reservations about indulging in this fantasy of a world without nuclear weapons.

George Kennan has said:

The evil of these utopian enthusiasms was not only or even primarily the wasted time, the misplaced emphasis, the encouragement of false hopes. The evil lay primarily in the fact that those enthusiasms distracted our gaze for the real things that were happening. . . . The cultivation of these utopian schemes, flattering to our own image of ourselves, took place at the expense of our feeling for reality.

The President of the United States has not only mused about fantastic notions that have no basis in the real world, he has criticized his own country on foreign soil so often that some called that particular trip "the world apology tour."

So what should our competitors and would-be adversaries make of these statements of a fantasy world that is

nuclear free and a President who travels abroad and apologizes for America's strength? Regretfully, I can only conclude it sends an impression of weakness and a lack of determination to maintain America's leadership in the world. We know there are dangerous consequences associated with an interpretation by others that America has lost its resolve to lead the world or to maintain its own security and to protect its allies.

President Reagan said famously:

We maintain the peace through our strength; weakness only invites aggression.

Experience has proven the truth of those words.

We should recall that the President of the United States conducted YouTube diplomacy by recording a video for Iran's leaders—but then withheld comment when those same leaders were brutally crushing a pro-democracy movement and their own people's hopes for freedom.

The President has treated several of our allies without the respect they deserve. Some have been, like Britain, slighted; others, like Israel, have been lectured; and other of our allies have been thrown under the bus on missile defense, like Poland and the Czech Republic.

He has been so idealistic and naive, you might say, about the subject of nuclear weapons that President Sarkozy of France remarked about it publicly at a meeting of the United Nations Security Council. He said:

We live in the real world, not in a virtual one. . . .

President Obama himself has said that he dreams of a world without nuclear weapons.

Before our very eyes, two countries are doing exactly the opposite at this very moment.

President Sarkozy said:

Since 2005, Iran has violated five Security Council Resolutions. . . .

He said:

I support America's "extended hand." But what have these proposals for dialogue produced for the international community?

Nothing but more enriched uranium and more centrifuges.

And last but not least, it has resulted in a statement by Iranian leaders calling for wiping off the map a Member of the United Nations.

I fear the New START treaty will serve as another data point in the narrative of weakness, pursuing diplomacy for its own sake—or indulging in a utopian dream of a world without nuclear weapons, divorced from hard reality.

Last week, I mentioned that Doug Feith, formerly of the Defense Department, helped negotiate the Strategic Offensive Reductions Treaty, known as the SORT treaty. Mr. Feith said that during the negotiations of the SORT treaty, the Russians were constantly trying to get the United States to negotiate away our right to defend ourselves from missile attacks through a robust missile defense program.

The Bush administration rightly rejected those Russian demands and—you know what—we got a good treaty anyway. The Obama administration, on the other hand, gave Russia what it wanted—or what it says it wanted—among other concessions. But that is not the only concession that was given under the New START treaty.

I would ask my colleagues, Where are the concessions that Russia made to us in this treaty? Where are the concessions that Russia made to us? And what in the treaty is a good deal for the United States?

But my colleagues may reply, So what. So what if the Obama administration's world view is a little bit naive. So what if the Russians negotiated a much better deal for themselves than the Obama administration got for the United States. Shouldn't we go ahead and approve the treaty anyway? What harm could it do? Couldn't it help build a better relationship with the Russian Federation and help transform America's reputation in the world?

Those are actually good questions. But the answers are sobering. The administration has long argued that its approach to diplomacy was not only good for its own sake, but it would strengthen relationships with nations all around the world. I would ask you, how has that worked out?

Charles Krauthammer reviewed the global response to President Obama's diplomatic overtures in this way. He said:

Unilateral American concessions and offers of unconditional engagement have moved neither Iran nor Russia nor North Korea to accommodate us.

Nor have the Arab states—or even the powerless Palestinian Authority—offered so much as a gesture of accommodation in response to heavy and gratuitous American pressure on Israel.

Nor have even our Europe allies responded: They have anted up essentially nothing in response to our pleas for more assistance in Afghanistan.

And, of course, we could look at the results of the New START treaty itself. Russian leaders have responded to American concessions with contempt. Russian Foreign Minister Sergey Lavrov has said that the treaty "cannot be opened up and become the subject of new negotiations." Prime Minister Putin has threatened a new arms race if Russia does not get its way with this version of the treaty. Russian leaders have the temerity to lecture and attempt to intimidate the Senate from discharging our constitutional responsibilities. We should not succumb.

In deciding whether to vote for the treaty, I would respectfully ask whether some Senators have been asking themselves the wrong question. Instead of asking ourselves the question, Why not ratify? What is the harm? I would suggest that the better question is, Why should we? I would urge my colleagues to vote against this treaty not

because I do not care about the message it will send to Russia and other nations but because I do care about that message, and it is time we stop sending a message of weakness that only encourages our adversaries.

I urge my colleagues to vote no on this treaty, to require the administration to go back to the negotiating table with the Russians, to get a better deal for the United States, and to make clear that the era of unilateral American concessions is over.

Mr. President, I yield the floor.

Mr. VITTER addressed the Chair.

Mr. KERRY. Mr. President, I would simply ask to get a sense of how long the Senator thinks he might speak. We might line up the next speaker.

Mr. VITTER. Five minutes.

Mr. KERRY. Mr. President, I ask unanimous consent that when the Senator from Louisiana is finished, the Senator from Florida, Mr. NELSON, be recognized for 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. I thank my colleague.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I too am opposing the ratification of this New START treaty because I think it makes us less secure, not more secure, as a nation. Of course, that has to be the ultimate test.

A toughly negotiated, balanced treaty with Russia which allowed for adequate and reliable inspections and data exchange could make us more secure. But this is not such a treaty. It is clear to me that President Obama went into negotiations willing to give up almost anything for a treaty, and that basic posture produced what it always will—a bad deal for us.

The proponents of the treaty suggest as much when they lay out as their top arguments for ratification: a better relationship with Russia, the help from Russia on other issues that ratification could engender, and progress with world opinion.

I think it is dangerous to count on any of that or to look at all beyond the four corners of the treaty—the pros and cons of the details and the substance of the treaty itself.

When I look within the four corners of the treaty, I am particularly concerned about four cons of the treaty.

First, serious roadblocks to missile defense: I think it is a fundamental mistake and a dangerous precedent for any treaty on offensive arms to even mention missile defense, and Russia has made it clear that any major progress on U.S. missile defense will cause them to leave the treaty. Particularly with President Obama in office, this creates real political obstacles to the full missile defense I support and the American people support

in great numbers. Indeed, President Obama has already abandoned our missile defense sites in Eastern Europe to help produce an agreement on this treaty by the Russians.

Second, fundamentally imbalanced arms reductions: In this treaty, we reduce our nuclear arms significantly; Russia stays where they already are. Meanwhile, we still aren't getting to the issue of tactical weapons, a category where Russia has a huge 10-to-1 advantage. We have talked about that for decades, and we still aren't getting there. Clearly, when the United States has leverage to commit Russia to reduce their tactical nuclear weapons as we do right now before this treaty, and those nuclear weapons are the most vulnerable to end up in terrorists' hands, we must use that leverage and not throw it away for U.S. and global security. Instead, proponents of this treaty argue that a further treaty addressing tactical nuclear weapons in the future will materialize, but the leverage we have to get there is being given up, essentially, with this treaty.

Third, inability to verify: This treaty does not give us the inspections and data we need to verify Russian compliance, and we know Russia has cheated on every previous arms control treaty with us. Verification is clearly less under New START than in START I, but it now needs to be greater because the nuclear deterrent under this treaty would be much smaller and thus produce much less room for error.

Fourth and finally, major but ultimately inadequate progress on nuclear modernization: Now, major progress has been made during the ratification debate on the administration's commitment and concrete plans for nuclear modernization. I thank everyone who has helped produce that, particularly the leader in that effort, Senator JON KYL, for his work which, again, did produce real progress. But, ultimately, neither the specificity of the administration's commitment, including on the nuclear triad issue, nor the proposed schedule is adequate to our security needs, so I will certainly continue fighting to get where we need to be.

So, in closing, I urge my colleagues to look hard at this treaty and to ask the only ultimate question: Does it make us less secure or more secure? I think clearly for the four major reasons I have outlined, and others, it makes us less secure, and we need to do far better.

Thank you, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I rise in support of the New START treaty. I wish to make a comment. I was raised in a time that when the President of the United States went abroad, he spoke for our country

and there was no partisanship when that occurred.

It is troubling to this Senator to hear comments about our President when he goes abroad in an apology tour. I would beg to differ, and I think we ought to rise above that partisanship when issues of national security are at stake.

Now to the treaty. This agreement with Russia is going to strengthen our national security. Look at all the people in the Pentagon who have embraced it—the former Secretaries of State, the former Secretaries of Defense, from both sides of the political aisle, and it deserves our support too. I expect today we are going to get an overwhelming bipartisan vote in favor of this treaty.

I wish to specifically address the question that has been raised about modernization of our nuclear stockpile—an issue I had the privilege, as chairman of the Strategic Subcommittee of the Armed Services Committee, to be engaged in over a 4-year period. Arguments have been made that somehow this treaty is going to interfere with the modernization of our nuclear weapons infrastructure. Well, it is exactly the opposite. Ratification of this treaty is so important to give security and stability to the question of the use of those nuclear weapons that it will allow us to spend the needed resources on the modernization of our nuclear complex, which is an equally important matter.

As part of this year's Nuclear Posture Review, the administration has made a commitment to modernize our nuclear weapons arsenal and the complex. We must do so to maintain a credible nuclear deterrent because as these weapons in stockpile age, we have to update them and we have to modernize them so they are effective, secure, but also safe. We need to be sure our nuclear weapons are going to work as designed and that they will remain stable and secure.

In the past, when we maintained a larger and more expensive nuclear stockpile, our weapons were developed and tested frequently. That is very expensive. By the mid-1990s, we had developed sophisticated computer models that can identify and resolve the problems without the nuclear testing. Unfortunately, because of lessened funding back in the era of about 2006 that research diminished, resulting in the layoffs of a lot of the people in our National Labs. I have had the privilege of visiting those three National Labs. There is an incredible array of talent, but that is what happened back in 2006.

I think we have, especially in this administration, a new resolve to turning the situation around and to modernizing the nuclear complex. So what does this modernization entail? The comprehensive plan includes an \$85 billion investment over the next decade and a \$4 billion increase over the next

5 years, and that investment is going to accomplish several things. It is going to fund the construction of the 21st century uranium and plutonium processing facilities, it is going to spur a reinvestment in the scientists and engineers who perform the mission, and it is going to enhance the lifetime extension program for our nuclear weapons. By the way, it is not only just extending the life of those weapons, it is also making them safer.

Some Senators have expressed concerns about the level of funding for this modernization. I believe our President and this administration have adequately addressed those concerns, and I would note that the Directors of the three labs—Los Alamos, Lawrence Livermore, and Sandia—all believe the administration's current plan will allow them to execute their requirements for ensuring a safe, secure, reliable, and effective stockpile.

While we move forward with that modernization program, we should also move forward—it is a separate issue—with the treaty. Passing this treaty is going to safeguard our national security while demonstrating to the men and women of our nuclear complex that we have reached a national consensus on nuclear sustainability.

Mr. NELSON of Florida. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, I ask unanimous consent that cosponsors be added to Corker amendment No. 4904, as modified, as follows: Senator LIEBERMAN, Senator BROWN of Massachusetts, and Senator MURKOWSKI.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, we are awaiting the Senator from Arizona who, I know, is working on a couple of things right now. We need to clear a couple of things with the Senator, and we are working on the possibility of accepting his amendment. We just need to tie up those loose ends.

So I think the Senator from Wyoming may have had a request he wanted to make. We can do that now, and then we will see where we are.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I rise today to speak on the importance of Minutemen III intercontinental ballistic missiles, known as ICBMs, and an amendment I intend to offer. The ICBM is just one leg of our nuclear triad. The nuclear triad spans sea, air, and land. It relies on mobile bombers, hard-to-detect ballistic missile submarines, and ICBMs. They all work together to complicate and deter any attempt at a successful first strike on our country. Like a stool, if you shorten just one leg

too much, the stool will become unstable.

Our nuclear triad is not just a weapons system, it is a deterrent. The further we weaken our nuclear forces, the less of a deterrent our triad will become.

Those folks who believe in nuclear zero and arms control seek a world without nuclear weapons at any expense—in my opinion, never at the expense of our national security. The fact is, for over 50 years our ICBM force has deterred a nuclear attack against the United States and our allies.

Some arms control supporters claim our ICBMs are on “hair-trigger alert.” They believe an ICBM can be launched by simply pushing a button. This misleading claim that an unauthorized launch can destroy the world in a matter of minutes could not be further from the truth.

GEN Kevin Chilton, the outgoing commander of STRATCOM, once described our nuclear posture as:

The weapon is in the holster . . . the holster has two combination locks on it, it takes two people to open those locks, and they can't do it without authenticated orders from the President of the United States.

The Minuteman III ICBM force is the most stabilizing leg of the nuclear triad.

ICBMs are strategically located and broadly dispersed in order to prevent them from successfully being attacked. The ICBMs protect the survivability of other legs of the triad as a deterrent. They offer an umbrella of protection to our most-valued allies. ICBMs also represent the most cost-effective delivery systems the United States possesses. Unlike a bomber, ICBMs ensure a second attack capability.

As required by section 1251 of the 2010 National Defense Authorization Act, earlier this year, the administration submitted its force structure plan. The President's 1251 force structure plan provides up to 420 ICBMs, 14 submarines carrying up to 240 submarine-launched ballistic missiles or SLBMs, and up to 60 nuclear-capable heavy bombers.

We are being asked to ratify this treaty without knowing what our force structure will actually be. We are being told: Pass the treaty, and then we will tell you what the force structure will actually look like.

The 2001 Nuclear Posture Review laid out our force structure in plain view, while the 2010 Nuclear Posture Review is silent on the force structure.

This report also laid out the administration's plan to modernize and maintain our nuclear delivery vehicles.

With respect to the next generation of ICBMs, the update states:

While a decision on an ICBM follow-on is not needed for several years, preparatory analysis is needed and is in fact now underway. This work will consider a range of deployment options, with the objective of defining a cost-effective approach for an ICBM

follow-on that supports continued reductions in U.S. nuclear weapons while promoting stable deterrence.

The amendment I plan to offer has no impact on the treaty. It simply requires the President to certify that further reductions in our land-based strategic nuclear deterrent will not be considered when reviewing the options for a follow-on ICBM. This is something I have worked on with Senator CONRAD. He has a second-degree amendment to mine, and it is something we both support.

LTG Frank Klotz, the new commander of Global Strike Command, was quoted last year at the Air Force Air and Space Conference and Technology Exposition here in Washington, DC, as saying:

Continuously on alert and deployed in 450 widely dispersed locations, the size and characteristics of the overall Minuteman III force presents any potential adversary with an almost insurmountable challenge should he contemplate attacking the United States. Because he cannot disarm the ICBM force without nearly exhausting his own forces in the process, and at the same time, leaving himself vulnerable to our sea-launched ballistic missiles and bombers, he has no incentive to strike in the first place. In this case, numbers do matter . . . and the ICBM thus contributes immeasurably to both deterrence and stability in a crisis.

The force structure of our nuclear triad is critical to maintaining an effective deterrent.

In 2008, Secretary Gates coauthored a white paper titled “National Security and Nuclear Weapons in the 21st Century.” This paper argued for a strong nuclear deterrent. The forward stated:

We believe the logic presented here provides a sound basis on which this and future administrations can consider further adjustments to U.S. nuclear weapons policy, strategy, and force structure.

The white paper by Secretary Gates recommended a U.S. strategic nuclear force baseline that includes 450 Minuteman III ICBMs, 14 Ohio class submarines, and 76 bombers, 20 B-2 and 26 B-52 bombers, for a total of 862. The administration cannot explain how the threat environment has changed since the 2008 recommendation to maintain 862 delivery vehicles. They cannot explain what has changed to allow our nuclear deterrent to be reduced to 700 delivery vehicles.

It sounds to me as if this administration has been a little too eager in negotiating the treaty.

James Woolsey, in a recent Wall Street Journal article, described his experiences negotiating with the Russians. He said:

The Soviets taught me that, when dealing with Russian counterparts, don't appear eager—friendly, yes, eager, never.

I think Mr. Woolsey would know; he was involved in the SALT I treaty in 1970 and many more arms control agreements with the Russians before he took over as the Director of Central Intelligence.

I ask unanimous consent to call up amendment No. 4880, a Barrasso-Enzi amendment, and then a second-degree by Senator CONRAD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. KERRY. Mr. President, as the Senator knows, we had a discussion about this, and I am constrained to object. I think he understands why. I welcome further debate if he would like, but I must object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. BARRASSO. Thank you, Mr. President.

I yield the floor.

Mr. KERRY. Mr. President, I thank the Senator for the issue, as it is important. I understand its importance to the part of the country where those particular weapons are housed today. I am confident—and I know this—that the administration, because we have talked about it, has a plan that I think will meet with the consent and approval of the Senators' concern, but they need to go through the further evaluation and analysis of all of these decisions. Decisions have not yet been made, and it would be inappropriate at this time to constrain the latitude they need in order to be able to make those judgments. It is an important issue, but I think it is inappropriate for us to constrain them and particularly to do so in the context of the treaty itself.

Mr. President, we are working with our friends on the other side of the aisle to really try to get the final agreement as to how we are going to proceed. I believe it is going to be possible for us to work out the issues with Senator KYL and his amendment. So I hope we will not need any other votes other than the final vote on the treaty. That is our hope at this point. We will try to work through that over the course of the next few minutes.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, knowing that we are getting to that moment at which point we are going to have an understanding of how we are proceeding forward and knowing that because of the 30-hour limitation, no matter what, we are getting toward the end, rather than chew up time for Senators later on, I thought I would take a moment now to say thank you to a few folks involved in this process. Before I do that, I also will reserve some time, as I will for Senator KYL and Senator LUGAR—and this, I assume,

will be part of the agreement we are going to reach—to speak to the substance of the treaty at the appropriate time before we vote.

It has been an incredible team effort by an awful lot of people over the course of a lot of months. I wish to thank all of them for their involvement.

Senator LUGAR has been an unbelievable partner and a visionary with respect to these issues but, importantly, just a very steady, wise, and thoughtful collaborator in the effort to get the treaty to where we are today. It hasn't always been easy for him because there were times when he was a lonely voice with respect to those who were prepared to support this treaty. I wish to pay tribute to his statesmanship and his personal courage in steadily hanging in there with us.

I thank President Obama for his determination to make certain that this was the priority that he felt it was and that I think it is. He and so many folks in the administration have been helpful in this effort.

I will reserve some comments later more specifically, but I think the Vice President has been, at the President's request, an invaluable collaborator in this effort. He has talked to any number of colleagues, made any number of phone calls, been involved in any number of strategic choices here, and I am deeply grateful to him for taking his prior stewardship of this committee and being as thoughtful as he has been in the way he has approached this particular treaty.

Secretary Clinton likewise has dedicated herself and her staff to the effort to work through unbelievable numbers of questions, to make themselves available and to make herself available to talk with colleagues.

This has been a tremendous team effort with Secretary Gates, Secretary Chu, Admiral Mullen, General Chilton, LTG O'Reilly, and others. None of these things can happen if there isn't a team pulling together to answer questions and deal with the issues colleagues have.

At the State Department, Assistant Secretary Rose Gottemoeller has been unbelievably available, patient, thoughtful, and very detailed in her efforts to answer the questions of Senators and be precise about this negotiation. She led a tremendous team and worked very closely with Assistant Secretary of State for Legislative Affairs Rich Verma, who likewise helped coordinate and pull people together to deal with the issues we faced. Dave Turk, Terri Lodge, Paul Dean, and Marcie Ries have all been key members of that team, and we thank them for their amazing commitment of hours and the dedication they have shown to the effort to try to get us to where we are today, to this final vote.

Likewise, at the Pentagon, Deputy Under Secretary of Defense Jim Miller;

the chief Defense Department representative on the negotiating team, Ted Warner; Marcell Lettre; Eric Pierce; Michael Elliott; and Chris Comeau—all of them, together with the State Department, provided the kind of linkage we needed and the consistent effort to answer questions and deal with their principals in order to get the information necessary for Senators to be able to make good judgments.

At the Energy Department, Tom D'Agostino and Kurt Siemon were also constantly available.

At the White House, I thank Pete Rouse, chief of staff, and Tom Donilon, the National Security Adviser, and I especially thank Brian McKeon, Vice President BIDEN's National Security Deputy, who has just done an extraordinary job of helping to provide the bridge between various agencies, as well as strategy, and has been consistently available to us. Louisa Terrell and Jon Wolfsthal have been part of that team. We are very grateful to all of them.

On the Foreign Relations Committee, it has been a great team effort with Senator LUGAR. The chief of staff of the Foreign Relations Committee, Frank Lowenstein, has worked countless hours on this treaty, together with Doug Frantz, Ed Levine, and Anthony Wier. These two gentlemen, Ed Levine and Anthony Wier, are unbelievable veterans of this kind of effort. They worked with Senator BIDEN for years. I am delighted they were willing to stay over and continue with the committee.

In the case of Ed Levine, he lost his dad during the course of this debate a few days ago and, nevertheless, hung in there with us and stayed right at it. The wisdom and experience he has brought to this task is invaluable, together with his collaborator Anthony Wier. Peter Scoblic, Andrew Keller, Jason Bruder, and Jen Berlin have been enormous contributors to this effort. I am grateful to all of them.

On the Republican side, Ken Myers—Ken brings so much experience and wisdom to this task. He has been with Senator LUGAR for a long time. What he has done to help us bridge the divide is immeasurable. Tom Moore and Mike Mattler worked with him.

Our staff in S-116, which has sort of been headquarters for us, Meg Murphy and Matt Dixon have put up with strange hours and interruptions. We are eternally grateful to them.

Obviously, nothing happens in the Senate without the floor staff, the folks who put in these long hours. Jessica Lewis and Tommy Ross on Senator REID's staff have been invaluable to us. Lula Davis, Tim Mitchell, and Stacy Rich are invaluable on every issue here. The Senate would not work without them. We are deeply grateful to all these people.

I am glad the schedule allows us a moment where we can actually thank

them all publicly. They do a service for our country that many people in the country never have a sense of. They do not see it. Government gets a lot of criticism, but let me tell you, these folks work as hard as any people I know anywhere, and a lot of things could not happen without them.

As I said, I wish to speak to the substance of the treaty before we vote, but for the moment I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, I wish to seize the moment, along with my distinguished chairman, because we are indebted to all the great people he has enumerated, to embellish his congratulations by mentioning that we are grateful, first of all, that the President invited Senator KERRY and me to be part of conversations on two occasions during the negotiation of the treaty. That, we thought, was very valuable and gave us some insight as to where the negotiators were headed and to offer what counsel we could about those issues we felt were important and those issues we were certain all Senators would feel were important as we sought ratification of the New START treaty.

Likewise, those conversations were carried on rigorously by the Vice President, our former chairman of the Senate Foreign Relations Committee, JOE BIDEN, who has worked with Senator KERRY and with me over the course of three decades or so of active participation and several arms control treaties. Vice President BIDEN has a very good idea of how the ratification process works and what counsel he can give, not only to us but to all Members and colleagues with whom he has worked so well in the past.

I am especially pleased, likewise, that Rose Gottemoeller, who headed the negotiation team, has been very available to Senators throughout the time of the negotiation abroad and during her trips to Washington and certainly throughout the hearings the Foreign Relations Committee held.

We are indebted, in fact, to all the witnesses who came before our committee in the 16 hearings that have often been enumerated in conversation on the floor. The witnesses were generous with their time, very forthcoming with their testimony and followup questions the Senators had. Because of that testimony, there is a very solid block of support for the treaty based upon these distinguished Americans who have had enormous experience, not only with arms control treaties but the actual implementation of these with the former Soviet Union—and now with Russia—in the past.

I am indebted, as JOHN KERRY is, to Ken Myers, Tom Moore and Mike Mattler of our staff and to Marik String and Corey Gill. I cite these five members of a very devoted staff who

have devoted extraordinary talents and time and devotion to the treaty formulation and to the counsel they have given me, for which I am very much indebted.

Finally, I thank all the members of the Senate Foreign Relations Committee for their diligence and attendance at hearings and their questioning of each other, as well as the witnesses and the discussions we have had both in informal and formal sessions. We have had a difference of opinions. Our views were not unanimous in the 14-to-4 vote by which the Senate Foreign Relations Committee sent this New START treaty to the floor. But I respect deeply each of those views, and I respect the ways in which members of the committee have participated during this very important debate.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I say Merry Christmas to all my colleagues. We never expected to find ourselves here this time of year, but obviously there are very important issues to discuss.

On November 2, Americans made a pretty historic statement. After 2 years of many things being crammed down their throat that they did not like, they made historic changes in the House and the Senate. I think all expectations were that the new Congress would come in and begin to change things. Very few Americans—and I think very few of us in the Senate—actually thought we would use the time between that election and the swearing in of the new Members of Congress to continue to cram through more things America does not want.

Most businesses have learned that if they ever have to make the difficult decision of firing someone, it is very important that person be sent home right away because getting fired usually makes people angry and less loyal to the company that fired them. Instead of dealing with all the mischief that might occur, the fired employee is sent home right away.

We are a fired Congress in a lot of ways. America has sent us home. Many people who set the policies for the last 2 years have been unelected. Some have retired. But the decisions that are being made now in this Congress are decisions being made by people who have either retired or who have been turned out of office. So much is being pushed through because of the fear that if we actually let the newly elected Congressmen and Senators be sworn in before we take up these important issues that they will actually reflect the opinions of the American people and stop what we are doing.

We have decided to use this lame-duck session to push many items through. It is a very unaccountable

Congress. We tried to push through a huge omnibus spending bill with thousands of earmarks, exactly the thing about which Americans have said no more. Thankfully, Republicans stood together to stop that bill.

We needed to extend our current tax rates, but even in order to get a temporary extension, we in the minority had to agree to more deficit spending. In this lame-duck session, we have pushed our political correctness on to our military by repealing don't ask, don't tell without the proper studies, without the proper phase-in time, and no rational approach to this. It was just check the box of another political paycheck.

In another check the box of amnesty, the DREAM Act, which was brought up and fortunately Republicans stood against something that again avoided the big issue of border security. This Congress has continuously rejected the idea of carrying through on our own law to complete the double-layer fencing we put into law to protect the southern border. Thousands of people are being killed on the border because we refuse to take action. Yet we are continuing to try to expand the problem with more amnesty and citizenship and public benefits to those who came here illegally.

The threat is now to keep us here until Christmas or beyond to pass what we are calling a 9/11 bill. Every Member of this Chamber—Republicans and Democrats—wants to do what is right for the first responders who may have been injured after 9/11. But we owe it to the American people to be accountable to how we spend money. To put a bill on the floor, in an unaccountable lame-duck Congress, that has not been through hearings, when we do not know how the millions of dollars have been used that we have already given to the same cause certainly is worth a few weeks of committee hearings and understanding exactly how to spend taxpayer money effectively in a way we know will help the people who have been injured.

But, no, we have to push that through in a fired, unaccountable Congress. Of course, now the big issue of the day is somehow, in a time of economic recession and so many people being out of work, that we want to use this lame-duck, unaccountable Congress to push through a major arms control treaty with Russia. Somehow that ended up on the top of our priority list, using Christmas as a backstop to try to force us to pass this bill.

It is pretty interesting how this has progressed. The treaty had no chance of ratification until the President agreed to billions of dollars in modernization of our nuclear weapons.

We have to stop and ask ourselves: Why should we have to have backroom trading going on to modernize our nuclear weapons? That should be something the President is committed to,

that we are committed to. We should not have to trade for modernization. But now we appear to have enough Republicans who have decided this is a good treaty to ratify a few days before Christmas in a fired, unaccountable Congress, with the need to push it through before America's representatives actually get here the first of January. The sense here is if we let the people America just elected come, that maybe the treaty will need some modifications.

There have been many questions expressed about the treaty. I think some of them are very legitimate. Clearly, missile defense is a problem. The Russians have expressed that Americans cannot develop any kind of comprehensive missile defense system under this treaty. We say: No, no. We can develop a limited missile defense system. We are going through all kinds of convoluted language to put things in non-binding areas of this agreement, to say we are committed or we are going to communicate to the Russians that we are committed, but we even were unwilling to put it in the preamble that there is no linkage between the development of our missile defense system and this treaty agreement. Clearly, there is a linkage. The Russians believe there is a linkage.

All the correspondence from the President says "limited missile defense system." We obviously have agreed to it. We never could get the negotiating records to confirm that, but everything suggests there is an implicit and explicit agreement that America will not attempt to develop a missile defense system capable of defending against Russian missiles. Perhaps capable of defending against a rogue missile launch or an accidental missile launch, but the language in this treaty, communications from the White House, the hearings all say we will only have a limited missile defense system.

There should be no mistake, there should be no confusion, the agreement to this treaty is an agreement for America not to develop a comprehensive missile defense system. If that is satisfactory, then let's ratify. Clearly, there are holes in the verification process of this treaty. The growing and biggest threat is tactical nuclear weapons. Shorter range missiles, ground-based, sub-based are not even included in this agreement. The Russians are fine with this. They were going down to the same long-range missile count we require in this treaty anyway. They give up nothing. We don't restrict any of their tactical developments. The verification is less stringent than in START I, with fewer inspections, and the ability to actually look at things such as telemetry are obviously omitted here.

We can't ratify this treaty with any pretense that America is going to be any safer. In fact, I think the biggest problem with this treaty is the whole

presumption it is built on—that America should be at parity with Russia. We have talked about it here in this Chamber, that we do not have the same role as Russia in this world. Russia is a protector of none and a threat to many. America is the protector of many and a threat to none. Over 30 countries live in peace under our nuclear umbrella, but we are saying we are going to reduce it, with a lot of questions as to whether we are going to modernize it, and we are telling our allies that tactical nuclear weapons are not going to be restricted in any way, which is probably their biggest concern because of their contiguous location to Russia.

Mr. INHOFE. Will the Senator yield for a question?

Mr. DEMINT. Yes.

Mr. INHOFE. When you talk about the missile defense aspect of this, I wonder if it has occurred to a lot of people that maybe this treaty is with the wrong people. We know right now that Iran is going to have the capability—and this is not even classified—of a nuclear weapon, a delivery system, by 2015. I think one of the worst things for America—and this President did it—was to take down the sites we were planning in Poland that would give us this protection.

My point I want to make, and then to ask the Senator about, is that in the event this is ratified and we are restricted in any way from developing further our missile defense system, doesn't that put us directly in an impaired position in terms of North Korea, maybe Syria, but definitely Iran, that has already indicated and already has the capability of reaching us by that time?

It is interesting that the site would have been in effect to knock down a missile coming from Iran by 2015, the same year our intelligence community tells us they will have that capability. Isn't that the threat we are concerned about, more than Russia?

Mr. DEMINT. I want to thank the Senator from Oklahoma for bringing out another very important point. We are laser focused on this treaty with Russia, which obviously restricts our ability to develop missile defense. Yet we all seem to acknowledge the greatest growing threat in this world is from Iran and North Korea and other rogue nations that can develop nuclear technology.

It is almost like watching a magician at play here, of getting us to look at one hand while other things are going on. We are not paying attention to the Nation's business here, and I am afraid this is just another "check the box"—a foreign policy victory for the administration. If it did not have so many questions related to it, that would be fine, but not to jam this through with a fired, unaccountable Congress, and rushing it through before the representatives America just elected have

been sworn in, and doing it as part of a list of legislation—a long list over the last 2 years—that America does not want.

I want good relations with Russia and countries all over the world, but I am afraid this is part of a continued effort of accommodation and appeasement; that if we show weakness, other countries will accommodate us. We need Russia to cooperate—with Russia and North Korea. Folks, I don't think this is the way to get it, and I don't think we are going to gain respect for our process of trying to do this under the cover of a distraction of a major holiday with a lameduck, unaccountable Congress.

In the way this is being presented, it is a mockery of the debate process here in the Senate. We are not amending a treaty. We were told at the outset it is "take it or leave it." The Russians are negotiating, clearly, from a position of strength, because they said, here is the treaty, take it or leave it; any changes and the treaty is dead. Is that the way America needs to deal with other countries? Is that the way the Senate should debate a major arms control agreement, where the majority party is saying, you can go talk about it if you want, but we are going to kill every amendment, even though we say we agree with a lot of them. There will be no changes in this.

We are trying to stick some things in here in the areas of the treaty that have no binding aspect and say we have covered it, but we are making a mockery of the whole debate and ratification processes with an unaccountable, fired Congress, under the cover of Christmas, and a debate where we have been told "take it or leave it." This is not what the Senate is about, this is not what Congress is supposed to be about, and certainly we should not be passing major legislation at this time of year with this Congress.

Mr. President, I appreciate the opportunity to speak. I still hope my colleagues will come to their senses and show the American people that we are going to act in a responsible way that respects what they told us on November 2; that this Congress needs to go, a new one needs to come in, and we need to stop cramming things down their throats they do not want.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BENNET of Colorado). The Senator from Massachusetts.

Mr. KERRY. Mr. President, we are now in the final throes of getting together a unanimous consent request. The leadership has asked us to proceed forward on the amendment. Senator KYL has asked me—I think he wanted to be here when we do his amendment on modernization, which we are now prepared to accept, with further modification. So I will wait for Senator KYL in order to do that.

In the meantime, I understand we also have an agreement on the missile defense amendment, and that amendment is now going to be cosponsored by Senator LIEBERMAN and Senator MCCAIN. So if the Senator from Tennessee wants to talk about that amendment, we are prepared to accept it. I think we should have the discussion of that amendment at this point in time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I wish to at this moment ask unanimous consent to change the name of the amendment to MCCAIN-LIEBERMAN-CORKER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORKER. I would also ask unanimous consent to add Senators JOHANNIS, LEVIN, and BAYH as cosponsors.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4904, AS FURTHER MODIFIED

Mr. CORKER. Mr. President, I would send to the desk the amendment, as modified, and as I understand it, this has been accepted by both sides.

The PRESIDING OFFICER. Is there objection to the modification?

Hearing no objection, the amendment is modified.

The amendment, as further modified, is as follows:

At the end of subsection (a) of the Resolution of Ratification, add the following:

(1) EFFECTIVENESS AND VIABILITY OF NEW START TREATY AND UNITED STATES MISSILE DEFENSES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate, and at the time of the exchange of instruments of ratification shall communicate to the Russian Federation, that it is the policy of the United States to continue development and deployment of United States missile defense systems to defend against missile threats from nations such as North Korea and Iran, including qualitative and quantitative improvements to such systems. Such systems include all phases of the Phased Adaptive Approach to missile defenses in Europe, the modernization of the Ground-based Midcourse Defense System, and the continued development of the Two-stage Ground-based Interceptor as a technological and strategic hedge. The United States believes that these systems do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the United States cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the Treaty, the United States believes continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the Treaty.

At the end of subsection (b)(1)(C), strike “United States.” and insert the following: “United States; and

(D) the preamble of the New START Treaty does not impose a legal obligation on the parties.

Mr. KERRY. Mr. President, I would ask, before we proceed on that—because Senator KYL is now here, so we could quickly accept his amendment and dispose of that—I ask unanimous consent that we call up Kyl amendment No. 4892, as modified—as additionally modified.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KERRY. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4892, AS FURTHER MODIFIED

Mr. KERRY. Mr. President, I believe at the desk now is the Kyl amendment, as modified.

I am sorry about the confusion. Mr. President, I ask unanimous consent that we be able to immediately proceed to the Kyl amendment. We will come right back to the Corker amendment, but I ask unanimous consent to proceed to the Kyl amendment, as modified, with the modification that has been submitted at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4892), as further modified, is as follows:

At the end of subsection (a), add the following:

(1) DESIGN AND FUNDING OF CERTAIN FACILITIES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) accelerate to the extent possible the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF); and

(B) request full funding, including on a multi-year basis as appropriate, for the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility upon completion of the design and engineering phase for such facilities.

Mr. KERRY. Mr. President, I believe Senator KYL wishes to say something.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will comment more when I make my concluding comments, but what we have just done is to agree to provide a mechanism for the President to certify a way forward to fund the two large facilities that are part of the nuclear weapons complex in a way that we hope will provide for the most efficient way to build these facili-

ties and to get them constructed as rapidly as possible.

The result of this is that, potentially, we could save hundreds of millions of dollars and construct the facilities at an earlier date than was originally intended. But to be clear, nothing in this amendment reduces the President's decisionmaking or flexibility. It remains his decision as to how the funding is requested and when it is requested.

Mr. KERRY. Mr. President, I agree with the comments of the Senator. It does leave the President that important ability, but it also puts the question of whether this is a way that is more efficient. It is something we should be looking at, and the President intends to look at it. We will accept this amendment.

Mr. President, I don't think there is further debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4892), as further modified, was agreed to.

AMENDMENT NO. 4904

Mr. KERRY. Mr. President, I thank Senator KYL and the Chair, and now, Mr. President, I believe the Corker amendment is the pending business.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Tennessee.

Mr. CORKER. Mr. President, I wish to again say that we have asked by unanimous consent to change this to be the MCCAIN-LIEBERMAN-CORKER amendment, and we have also added Senators ALEXANDER, BROWN of Massachusetts, MURKOWSKI, JOHANNIS, LEVIN, and BAYH as cosponsors.

As a matter of tremendous respect and courtesy, I think it would be best for Senator MCCAIN to be the first speaker on this amendment that he was very involved in developing.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, on behalf of myself, Senators LIEBERMAN, and Senator CORKER, I have an amendment at the desk and ask for its immediate consideration.

Mr. KERRY. Mr. President, reserving—I believe the Senator is referring to the amendment that is pending?

Mr. CORKER. That is correct.

Mr. KERRY. It is the pending amendment.

Mr. MCCAIN. First of all, it is probably not too relevant, but I would like to say that this should have been the Lieberman-Corker-McCain or Corker-Lieberman-McCain amendment because of the distribution of effort that has been made on this amendment. Be that as it may, I think this amendment makes some improvement that will be very helpful.

It has two parts. The first requires the President to certify that we do not recognize Russia's argument that the treaty can only be effective and viable

only in conditions where the United States is not building up its missile defenses. The statement would also be transmitted to the Russians when the instruments of ratification are exchanged. Second, the amendment would include in the instrument an understanding that the preamble is not legally binding.

I think this is a helpful amendment, and I appreciate that it could be included by the Senator from Massachusetts, but ultimately it does not address my concerns that the Russians believe the treaty could be used to limit our missile defense. We should have removed this clause from the preamble.

The message sent by the first part of this amendment is positive, but it is not conveyed to the Duma. When we look at the fact—I understand why the proponents of this treaty would not want to transmit this aspect of the treaty to the Duma for fear of some backlash and perhaps problems in the Russian Duma, although it is not a body that is renowned for its independence, to say the least. The fact is, it will not be transmitted to the Duma. The fact is, if the Russians and the United States agreed to a treaty and a part of that treaty was not transmitted to the Senate, I think that would be something to which most of us would take strong exception.

I thank Senator CORKER. He has worked extremely hard on this issue. JOE LIEBERMAN has worked extremely hard, trying to reach a point, obviously, that they could agree to support this treaty. Whether they eventually do or not is something that I neither know nor would predict, but I do think it shows some improvement. I still have various concerns, as I have had from the beginning, on the issue of defensive missile systems, how it would play, whether it is actually part of the treaty and, if so, how enforceable.

What complicates this more than anything else is the continued statements, public statements on American television a short time ago—Vladimir Putin saying that if we move forward with improving our missile defenses, they would take “appropriate actions.” Their Foreign Minister has made repeated statements—not last year but last month—saying one thing and publicly declaring it while on the other hand we are assuming this will prevent them from doing what they say they will do. That is a contradiction.

I understand how solemn treaties are, and I understand how binding treaties are. I also understand that when the leader of a nation says on “Larry King Live”—God bless you, Larry, for everything you did for us—that they will have to take “appropriate actions” if we improve quantitatively or qualitatively our strategic missile defense systems, then obviously you have to give some credence to that, when pub-

lic statements are made. Obviously, in the view of Senator KERRY, who has done a masterful job in shepherding this treaty through the Senate in the last several days, that is not that meaningful. So we just have a fundamental disagreement of opinion. But I can say this: If we negotiated a treaty and made certain agreements and the President of the United States made public statements on national or international television contradicting that, then I think it would give the party we are in negotiations with significant pause.

Not one statement that I have been able to find has a Russian leader—either Foreign Minister, Defense Minister, or Prime Minister or President—saying they will adhere to the provisions that are in this amendment. That is a fundamental contradiction that I am sorry cannot be resolved.

I know what the votes are going to be on this treaty. Again, I congratulate Senator KERRY for the incredible job he has done and, frankly, his great willingness to talk with me and negotiate with me and have dialog and work toward a common goal. He has done that in good faith, and I am grateful for the opportunity he has given me to play a role, including agreeing to this amendment which I think will improve the treaty.

I wish to say that I know how difficult this has been for Senator CORKER and other Members on this side.

I thank Senator LIEBERMAN for the continued hard work he does on this issue.

I urge my colleagues to support this amendment. I think it is very helpful.

With that, I yield to my colleagues, cosponsors of the amendment, if that is agreeable to Senator KERRY.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, Senator CORKER and I had a vote—actually, Senator CORKER, Senator MCCAIN, and I had a vote on whose name should be first on this, and Senator CORKER and I won, 2 to 1. Senator MCCAIN's name is first because this is an amendment that attempts to deal in a unifying way with our concern that the Russians misunderstand the impact of this treaty or the impact of our development of missile defenses on this treaty and that it is important for us to speak out in unity, in a unified and clear voice, to the Russians, and no one has made that point more clearly as the treaty has been considered than Senator MCCAIN. In fact, he offered an amendment earlier in our deliberations on the treaty which I supported, which did not pass, which would have removed the section of the preamble that has obviously been put in by the Russians in the negotiations which is confusing at best and downright mischievous at worst.

This is the section that says:

Recognizing the existence of the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

That is the end of the quote from the preamble. It strikes me as I read it that it will be a topic of consideration in law schools and classes on international law. The first question is, What did it mean? But I think the Russians had a particular intent in putting it in there, and they know what they wanted it to mean.

What is troubling is that when the treaty was signed earlier in the year in Prague, the Russian Federation issued a statement that basically made these same points—that the treaty will be effective and viable only in conditions where there is no qualitative or quantitative buildup in the missile defense system capabilities of the United States of America.

But these are two separate categories. This treaty, the START treaty, is all about reducing the offensive capabilities, nuclear and delivery capabilities of both great powers. We are building a missile defense system. It started out as a very controversial matter. It started out a long time ago—President Reagan, really, initially, and then serious consideration in the 1990s when a lot of people argued against it and said it was a waste of money and it would never work technologically, that you couldn't create a bullet that would hit a bullet. Yet that is exactly what we have done. Thank God that we invested the money and that our scientists and military leaders have brought it as far it is because one of the great threats that will face the people of the United States, our national security, will come from missiles carrying weapons of mass destruction fired particularly by rogue nations such as Iran and North Korea. It would be irresponsible of us not to have developed a capacity to defend against those kinds of missile attacks. We have done that.

The Russians keep wanting to link that to this treaty. It is not linked to the treaty. Therefore, I regretted that section was in the preamble I read. The United States responded through the State Department to that statement by the Russian Government when they signed the treaty. But it is really important for us, at the same time the instruments of ratification are conveyed to the Russian Government, to make a clear and direct statement of our understanding of the total nonrelationship between the development of our missile defense capability and the START treaty.

That is what this amendment does. I am privileged to cosponsor it with Senator MCCAIN, Senator CORKER, and a

number of other Members of both parties. Basically, it says that before the New START treaty could enter into force, the President shall certify to the Senate—basically, this is certifying what the President said in a letter sent to Senator REID a few days ago—and at the time of the exchange of instruments of ratification shall communicate directly to the Russian Federation that, No. 1, we are going to continue development and deployment of a missile defense system to defend against missile threats from nations such as—and I would add “not limited to”—North Korea and Iran.

No. 2, what do we mean by qualitative and quantitative improvement of such systems that we are going to be continuing? This is very important. We define that here to include all phases of the phased adaptive approach to missile defenses in Europe embraced now by our NATO allies; second, the modernization of the ground-based mid-course defense system; and third, the continued development of the two-stage ground-based interceptor as a technological and strategic hedge.

We are being as direct as we can be here to the Russians. Some of my colleagues have said—and the record, unfortunately, shows it—that their record for complying with treaties is not a good one. We don't want to enter into this one with any misunderstandings or covering up the truth. We are saying here loudly and clearly that the United States is going to continue to develop all of these different forms of missile defense to protect our security and that has nothing to do with this START treaty.

I think the third section here is very important. We say:

The U.S. believes that these systems [missile defense systems] do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the U.S. cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the [START] Treaty—

Which is the section that gives nations the right to withdraw under extraordinary circumstances—nonetheless, if we adopt this, when we adopt it, this amendment, we are saying here:

The United States believes continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the treaty.

We are trying to manage our relationship with the Russian Federation in a way that is conducive to the security of our country and the security of the world.

We disagree with the Russians on an awful lot of things, including human rights and values and freedom of the press—which the current government in Russia has so aggressively sup-

pressed. So we want to be honest with them and direct with them and not enter into this important treaty with any illusions. I believe we have said that clearly. If it passes, it will be presented to the Russian Government directly.

I am very pleased we have a broad, bipartisan group supporting this. It is a unified way to conclude our deliberations here before we go to vote on ratification, and I urge my colleagues to support the amendment.

I thank the Chair and yield the floor to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I ask unanimous consent to add Senator BEGICH as a cosponsor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CORKER. Mr. President, I am thrilled to join with Senator MCCAIN and Senator LIEBERMAN in an amendment dealing with missile defense. This is a subject that has been discussed ever since this treaty was first presented.

I cannot think of a better way to end this debate. I thank Senator KERRY for having the patience of Job, having worked through this. Somebody mentioned deals and where they have been taking place. They have been taking place on the Senate floor. We have been working on this for a long time. We have gone through intelligence briefings. We have gone through incredible numbers of hearings. I think this has been done exactly in the right way.

I thank the Senator for his leadership. I thank Senator LUGAR for his leadership on nuclear armaments in general. The Senator has been pursuing that for years.

So we have before us an amendment on missile defense. Again, it has been discussed in great detail. This says three things. Senator LIEBERMAN certainly talked about much of the detail, but the President the other day sent us a letter declaring, in very strident ways, his commitment to both the phased-adaptive approach to missile defense, which will take place in Europe, and our ground-based interceptors. He has said that absolutely in strident terms.

What this amendment does is certifies to Congress—he certifies to Congress—that he is going to continue those efforts. He will continue those efforts on phased-adaptive approach and ground-based interceptors.

Second, we have been concerned about what Russia thinks as it relates to this treaty. When we exchange the instruments of ratification, when we exchange the documents when ratifying this treaty, they are going to be told that we, in fact, are continuing to pursue our missile defenses in every way possible, and that in no way af-

fects our relationship from that standpoint as it relates to this treaty. I think that is incredibly strong.

Then, third, we have talked about this preamble, and every one of us knows the preamble is nonbinding. But as an understanding of this treaty going forward, we are telling the Russians that the preamble absolutely is not binding and that we are pursuing these missile defense applications that have been discussed. I am proud to join with Senator MCCAIN, with Senator LIEBERMAN, two people who care as deeply about our national security as anybody in the United States, certainly in this Senate. I am proud to have the other Members of the Senate who have joined in.

Let me just say in closing, I think it is absolutely appropriate that the last two amendments we address are the Kyl amendment which deals with modernization—the President has made incredible investments in modernization that have come about through this entire process, a commitment to ensure that the nuclear arsenal we have is one that operates, that is reliable, that is safe.

I think people know we have 1,550 deployed warheads—after this treaty goes into effect, over a long period of time, we reduce to that number, but that we have roughly 3,500 other warheads that, again, will continue to be modernized and made available, if necessary.

So I want to say that in accepting the Kyl amendment and all of the things that have come with it—the letter from the appropriators and accepting this missile defense amendment—if that ends up being the case, and I hope it will be by unanimous consent shortly, I think what we have done throughout this entire process has strengthened our country's national security.

I can say: Look, this is called the New START, but I could call this the Missile Defense and Nuclear Modernization Act of 2010 because all of these things have come into play to make our country safer. I want to thank the chairman. I want to thank the administration for walking through, over the last 6 months, and helping us cross t's and dot i's. I think this treaty is good for our country. I think this treaty enhances our national security. I thank the chairman for the way he has worked with us to get it into that position, certainly Senators MCCAIN and LIEBERMAN for helping take the lead on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 4922 TO AMENDMENT NO. 4904

Mr. KIRK. Mr. President, I have a second-degree amendment at the desk, No. 4922.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. KIRK] proposes an amendment numbered 4922 to Amendment No. 4904.

Mr. KIRK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide an additional understanding regarding the December 18, 2010, letter from President Obama to the Senate regarding missile defense)

On page 2, after line 19, add the following:

(2) MISSILE DEFENSE.—It is the understanding of the United States that the advice and consent of the Senate to the New START Treaty is subject to the understanding, which shall be transmitted to the Russian Federation at the time of the exchange of instruments of ratification, stated in the letter transmitted by President Barack Obama to the Majority Leader of the United States Senate on December 18, 2010, the text of which is as follows:

THE WHITE HOUSE,
Washington, December 18, 2010.

Hon. HARRY M. REID,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR REID: As the Senate considers the New START Treaty, I want to share with you my views on the issue of missile defense, which has been the subject of much debate in the Senate's review of the Treaty.

Pursuant to the National Missile Defense Act of 1999 (Public Law 106-38), it has long been the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack, whether accidental, unauthorized, or deliberate. Thirty ground-based interceptors based at Fort Greely, Alaska, and Vandenberg Air Force Base, California, are now defending the nation. All United States missile defense programs—including all phases of the European Phased Adaptive Approach to missile defense (EPAA) and programs to defend United States deployed forces, allies, and partners against regional threats—are consistent with this policy.

The New START Treaty places no limitations on the development or deployment of our missile defense programs. As the NATO Summit meeting in Lisbon last month underscored, we are proceeding apace with a missile defense system in Europe designed to provide full coverage for NATO members on the continent, as well as deployed U.S. forces, against the growing threat posed by the proliferation of ballistic missiles. The final phase of the system will also augment our current defenses against intercontinental ballistic missiles from Iran targeted against the United States.

All NATO allies agreed in Lisbon that the growing threat of missile proliferation, and our Article 5 commitment of collective defense, requires that the Alliance develop a territorial missile defense capability. The Alliance further agreed that the EPAA, which I announced in September 2009, will be a crucial contribution to this capability. Starting in 2011, we will begin deploying the first phase of the EPAA, to protect large parts of southern Europe from short- and medium-range ballistic missile threats. In subsequent phases, we will deploy longer-range and more effective land-based Standard Missile-3 (SM-3) interceptors in Romania

and Poland to protect Europe against medium- and intermediate-range ballistic missiles. In the final phase, planned for the end of the decade, further upgrades of the SM-3 interceptor will provide an ascent-phase intercept capability to augment our defense of NATO European territory, as well as that of the United States, against future threats of ICBMs launched from Iran.

The Lisbon decisions represent an historic achievement, making clear that all NATO allies believe we need an effective territorial missile defense to defend against the threats we face now and in the future. The EPAA represents the right response. At Lisbon, the Alliance also invited the Russian Federation to cooperate on missile defense, which could lead to adding Russian capabilities to those deployed by NATO to enhance our common security against common threats. The Lisbon Summit thus demonstrated that the Alliance's missile defenses can be strengthened by improving NATO-Russian relations.

This comes even as we have made clear that the system we intend to pursue with Russia will not be a joint system, and it will not in any way limit United States' or NATO's missile defense capabilities. Effective cooperation with Russia could enhance the overall effectiveness and efficiency of our combined territorial missile defenses, and at the same time provide Russia with greater security. Irrespective of how cooperation with Russia develops, the Alliance alone bears responsibility for defending NATO's members, consistent with our Treaty obligations for collective defense. The EPAA and NATO's territorial missile defense capability will allow us to do that.

In signing the New START Treaty, the Russian Federation issued a statement that expressed its view that the extraordinary events referred to in Article XIV of the Treaty include a "build-up in the missile defense capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear potential of the Russian Federation." Article XIV(3), as you know, gives each Party the right to withdraw from the Treaty if it believes its supreme interests are jeopardized.

The United States did not and does not agree with the Russian statement. We believe that the continued development and deployment of U.S. missile defense systems, including qualitative and quantitative improvements to such systems, do not and will not threaten the strategic balance with the Russian Federation, and have provided policy and technical explanations to Russia on why we believe that to be the case. Although the United States cannot circumscribe Russia's sovereign rights under Article XIV(3), we believe that the continued improvement and deployment of U.S. missile defense systems do not constitute a basis for questioning the effectiveness and viability of the New START Treaty, and therefore would not give rise to circumstances justifying Russia's withdrawal from the Treaty.

Regardless of Russia's actions in this regard, as long as I am President, and as long as the Congress provides the necessary funding, the United States will continue to develop and deploy effective missile defenses to protect the United States, our deployed forces, and our allies and partners. My Administration plans to deploy all four phases of the EPAA. While advances of technology or future changes in the threat could modify the details or timing of the later phases of the EPAA—one reason this approach is called "adaptive"—I will take every action

available to me to support the deployment of all four phases.

Sincerely,

BARACK OBAMA.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, on the basis of rule XXII and the question of timely filing, I would object to this amendment being considered.

The PRESIDING OFFICER. The point of order is well taken. The amendment falls.

Mr. KIRK. Mr. President, am I allowed to be heard on the point of order?

The PRESIDING OFFICER. There is no debate on a point of order.

Mr. KIRK. Roger that.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I do not want the Senator to not have an opportunity to be able to speak to this. I think he should be able to. He certainly has that right in the context of his time. I will not speak very long at all.

I want to thank the Senator from Arizona, my long-time friend, for his very generous comments. I appreciate them personally. But also I thank him for his willingness, under some circumstances that I know were tough for him, in terms of how a lot of this played out. He nevertheless sat with me, worked through these issues, and obviously I wish we had been able to reach an agreement sometime earlier, but I am glad he is there now on this amendment. I am glad we are able to accept it.

I thank Senator CORKER who has been a straight dealer throughout all of this—no histrionics, no politics. I think he has really seen his responsibilities on the Foreign Relations Committee in the best way and has studied and thought and worked at and tried to find a way to solve a problem, not create a problem. So I thank him for that approach to this treaty.

I think this amendment, if I can say—I mean, I was here in the Senate. I remember debating the first proposal of President Reagan with respect to missile defense, which then was called the SDI, the Strategic Defense Initiative, and became what we called Star Wars back then. We have traveled a long distance since then. The world also has changed significantly since then.

We no longer live in that sort of bipolar East-West, Soviet-U.S.-dominated world. We are living in a multipolar, extraordinarily complicated and significantly changed world in the context of the threats we face. The threats we now face, particularly of a rogue state, or of the possibility of a terrorist group stealing or putting their hands on some loosely guarded materials and/or weapons, those are possibilities that are real. We need to deal with this different kind of threat.

I believe the President of the United States has been pursuing a plan, building on what previous administrations have done; that is, pursuing the right kind of approach to try to figure out: How do we make all of us safer? Our hope is that the Russians will understand this is not directed at them. This is directed at how we together can build a structure in which all of us can share in a way that forces the Iranians and North Koreans and others to understand the futility, indeed the counter-productivity of the direction in which they are moving.

So I think this is a good amendment to embrace within the instrument of ratification what the President is doing anyway, what the administration has been committed to doing anyway. I personally do not think it was necessary—in order to achieve an appropriate understanding of where the administration is going—but to whatever degree it gives Senators the ability in the advice and consent process to believe that we are appropriately putting Russians on notice as to this course we are on, I think it reinforces what the President has already done and said. I do not think they should view it as something new or as an aberration from any course that we have been on. I certainly do not view it that way.

I am confident they will see that we can build on this treaty in a way that we share in the future strategies, analyses, perhaps even technologies in the long run that will make all of us safer and ultimately provide all of us with the ability to deal with the realities of a nuclear world. Our goal is to make us safer, and we believe this helps us do that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I join with the sentiments just expressed by the chairman. I very much appreciate the statements made by Senator MCCAIN, Senator LIEBERMAN, and my colleague on the Foreign Relations Committee, Senator CORKER, who has worked diligently throughout the hearings, the markup, and this debate.

I ask unanimous consent to be added as a cosponsor to the amendment that they have offered, 4904, as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Just briefly on the remarks about the missile defense, I have served as chairman of the Strategic Forces Subcommittee and ranking member and have been involved in it for quite a few years. I think the language affirms the continued development of the two-stage, ground-based interceptor. Then, I guess, I accept the language that says “as a technological and strategic hedge.”

But I would just say to my colleagues, the reason we are at this point is because, during the negotiations

with the Russians concerning the New START treaty, the administration, responding to Russian objections about missile defense—which were so unfounded and I could never fathom—the administration agreed, in September of last year, unilaterally, and to the utter surprise of Poland and the Czech Republic, to cancel the planned two-stage GBI that was to be deployed in 2016 in Poland.

It was a great embarrassment to our allies. They had been negotiating with us for many years on this project. They had stood firm for it, and the administration then promised this phase four SM-3 Block 2B. But it was not on the drawing board, not under development, and cannot be completed until 2020 if we as a Congress fund it over that decade. The President certainly will not be in office at that time. So I am uneasy about this whole matter of missile defense.

I think the administration made a colossal error in giving up on the planned two-stage strategic policy. But this language is better than no language. I thank my colleagues for moving forward with it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I know the Senator from North Dakota wants to speak on this a little bit. I thought we might, if he was willing—we could accept the amendment and then the Senator would have an opportunity to speak.

Mr. President, we are prepared to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4904), as further modified, was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, we have an understanding—while it is not a unanimous consent request yet, we have an understanding with Senator KYL that is the last amendment. We are waiting for the agreed-upon language from both leaderships in order to arrive at a time for the vote. It is our understanding that other issues that were part of the equation of when that vote might take place have been resolved. So, as a result, I think Senators can anticipate that, hopefully, sometime soon that unanimous consent request will be propounded.

Until then, Senators are free to talk on the treaty and I look forward to their comments.

Can I say one word, Mr. President? I apologize.

Earlier when I was thanking folks, I meant to, and I neglected to because I jumped over to thank Under Secretary of State Ellen Tauscher.

As we all know, she was a Member of the House, spent a lot of time on separate issues. In fact, she chaired one of

the subcommittees of the Armed Services Committee. She logged a lot of miles and worked her heart out to assist in the evolution of this treaty. She has, as we all know, been fighting cancer. She just recently had cancer surgery. We wish her well in her recovery and express our gratitude to her for her work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I thank the Senator from Massachusetts and Senators MCCAIN and LIEBERMAN.

There are probably still some folks making up their minds on this treaty. I think most people have debated this at length and discussed it at length off the floor.

Our side has raised a number of questions. We have tried to cross every t and dot every i. This has been done in a very methodical way. I thank the chairman for the way he has worked with us. I thank Senator LUGAR for his longstanding leadership in this regard. I thank the administration officials who have absolutely bent over backward to try to solve every problem that has come up. The administration has not only solved problems for people who might vote for the treaty, they have tried to solve problems for people who they know will not vote for the treaty. We have some Members on our side who I know are still making up their minds. I have been involved in this for a long time. I enjoyed this. I think this is an incredibly serious matter.

I have two daughters and a wife I love. National security is something that is important to all of us. None of us wants anything bad to happen to this country. But to my friends on this side of the aisle who still may have some questions, there is no way in the world we would have the commitments we have on nuclear modernization if it were not for the process of this treaty. Now with Senator KYL's amendment being accepted, we are even fast-tracking that. There is no way in the world the unilateral statements that are going to be presented to Russia are going to be made regarding missile defense would be occurring without this treaty being in place. I don't think there is a person in the world who has debated seriously whether 1,550 warheads being deployed in any way affects this country's national security.

To those of you who may still be wavering, I believe every issue that has been raised has been answered strongly and legitimately. We have put forth what our posture is on nuclear armaments more clearly than we have done in recent times. I hope people will come to the same conclusion, that this is good for the country.

I thank all those who have allowed me to be involved the way that I have.

I urge support, whenever the vote occurs, for a treaty that I believe absolutely makes our country safer. With all these accommodations, at some point, it seems that the right thing to do is to say yes to yes.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, there has been a great deal of discussion about modernization this morning. I have listened to much of it and was not going to come to the floor, but I do want the record to show clearly what the numbers are on modernization. It is important to the future for us to understand what has been done and what is being done and what will be done.

I chair the Appropriations Subcommittee that funds nuclear weapons activities. I have spoken about this previously. It is very important going forward that we all understand what not only this administration but the previous administration has proposed with respect to modernization. I agree with my colleague from Kentucky. It is encouraging, at the end of this debate, that two bipartisan amendments represent the conclusion of this very important debate. We often debate things that are of lesser importance or of greater importance and sometimes don't always see the difference between the two. But this is one of those cases where if we ratify the START agreement today, when all is said and done, more will have been done than said. That is very unusual in a political body.

When I say "more will have been done than said," it is so unbelievably important to try to reduce the number of nuclear weapons and to stop the spread of nuclear weapons. But there is a subtext to all the other things we have discussed, which is why I want to put in the record the funding for the nuclear weapons issues. That subtext is money, money related to national security. We are a country with a \$13 trillion debt. Modernization is expensive. Yet it relates to our national security. National missile defense, which we have heard a lot about, is very expensive. I understand that also relates to national security. But this issue of getting our debt under control and our fiscal policy under control is just as much a part of the national security interests of this country.

The subtext to these discussions—modernization, missile defense—is about funding as well and getting this country's economic house in order.

Let me mention the issue of nuclear weapons modernization. In fiscal year 2010, we were spending \$6.3 billion on the modernization program on nuclear weapons activities. In fiscal year 2011, it went to \$7 billion, up 10 percent—so a 10-percent increase for the nuclear weapons activities in President Obama's budget request. That 10-per-

cent increase was unusual because most accounts were flat or some had cuts. But nuclear weapons got a 10-percent increase. The proposal for 2011, a \$600 million increase but \$7 billion total, was actually short-circuited and put in the continuing resolution. All the other funding in the CR is flat funding from the previous year. But the funding for the nuclear weapons programs at 10 percent higher was put into the CR. Those programs and those programs alone get the higher funding. That \$7 billion was not all that was to be spent. Another \$4 billion emerged. I heard about that on the radio while driving in North Dakota, that another \$4 billion had been put into this pot for modernization. The additional funding from the 1251 report, which was produced in the fall, means 2012 funding would go from \$6.3 billion in 2010, \$7 billion in 2011, to \$7.6 billion in 2012. That is a \$1.2 billion increase in 2 years.

Linton Brooks, the fellow who ran the National Nuclear Security Administration and who did a good job in that role, said:

I would've killed for this kind of budget.

He is referring to \$1.12 billion increase and two 10 percent increases, while much of the other budget was flat. We are talking about \$85 billion for the next decade on these weapons activities, an increase of \$8.5 billion in the next 5 years over what was portrayed in the 2010 budget. We are talking about a lot of additional money that has been committed. It shows a commitment to build two nuclear facilities that were discussed earlier. I want to mention them because it is important to understand what we are doing, the uranium processing facility at the Y-12 production complex and the chemistry and metallurgy research replacement facility at Los Alamos. There were moneys in the 2012 budget in construction funds for these two facilities, not as much as some would want in the Senate. But the fact is, the design of these two facilities is only 45 percent complete. We don't fund things that are 45 percent designed. To come out here and say we ought to be providing robust funding for buildings that are not even designed just makes no sense. Why, NNSA can't have confidence in its funding needs until it reaches about a 90-percent design point and that will be in 2013.

I listened this morning to this discussion and I think what the chairman has done and what Senator KYL has done in reaching an agreement is fine. But I want the record to show that this administration has proposed robust increases in 2010, 2011, 2012, and for a 5-year period in these modernization accounts, life extension programs—robust increases. Even that is not enough for some. They want to put money into buildings that are not yet designed. That doesn't make much sense to me.

My point is, when we add up all of this, the subtext is how are we going to pay for it. Because it is easy to talk about authorizing, to talk about appropriating. The question is, Where does the money come from at a time when we are borrowing 40 cents of everything we spend in this government? The subtext of money and debt is also a significant part of this country's national security. If we don't get our fiscal house in order, all these debates will pale by comparison. We can't lose our economy and have a future collapse of the economy because the rest of the world has very little confidence in our ability to make smart decisions. We can't risk all that and believe we are going to be a world economic power moving forward. If we are going to remain a world economic power—and we can, and I believe we will—it will be because we start making some smart, tough, courageous decisions. That is more than just calling for more money, more spending, which was most of this morning's discussion.

I don't object to the amendment. My colleagues have raised important issues. But it is important to understand we have made great progress on the modernization funding programs in the past months, and this administration has moved very aggressively to meet those needs and meet those concerns. That is important with respect to the public record.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I have given a lot of thought to the treaty, and having been involved in missile defense and nuclear issues serving on the Strategic Forces Subcommittee of Armed Services, as ranking member and chairman, many of the provisions in the treaty are acceptable and should pose no threat to our national security. But considered as part of the administration's stated foreign policy and strategic policy and in relation to the reality of the world situation today, I do not believe the treaty will make us safer. I think that is a good test.

I disagree with my colleagues who are overly confident that this is going to make the world safer. I believe the treaty, for that reason, should be rejected.

Some say a defeat for the treaty would harm the United States. I think the entire world would see the Senate action as a resurgence of America's historical policy of peace through strength and a rejection of a leftist vision of a world without nuclear weapons. The negotiating posture statements and actions of Russia indicate it is regressing sadly into an old Soviet mindset as it views the outside world. This is disappointing and indicative of anything but the positive reset we hope to achieve with them. It is extremely important for Russian and U.S. security and world security, that Russia

sees its role as a positive force for peace and security. These negotiations, however, show the face of the old Soviet Union. They have been so relentless in the way they have negotiated.

Negotiations with any mature power, especially Russia, are difficult and serious. This administration began with a naive expectation that a treaty could be quickly achieved that would show their leadership towards peace and a nuclear-free world. The Obama administration wanted to set an example for other nations to reduce their nuclear weapons towards a world without any nuclear weapons. We have heard this leadership and this setting of an example theme repeatedly from the President and the administration. But Russia has not the slightest interest in such vague concepts, nor in eliminating all nuclear weapons. They have no idea or intention ever of relinquishing nuclear weapons. They are focused on their own national interest, on coming out ahead in the negotiations for military, political, psychological, and hegemonic reasons.

It seems clear to me that Russia got what it wanted and President Obama got a treaty paper which strategically means very little but can be touted as a victory for peace.

So this is what I have concluded during this debate—and the debate has been helpful—the debate has caused me to think through a good bit of this. A longer debate at a different time of the year, I think, could have helped all of our colleagues. I do not believe the success in negotiation of the treaty will in any way make the Russians more cooperative, as the administration has repeatedly suggested.

Russia has been inconsistent at best in helping the United States with the danger of nuclear Iran and North Korea—the gravest threats to peace in the world, with military action being undertaken against our ally, South Korea, in recent weeks, and with the real possibility of an attack on Iran's nuclear weapons that, hopefully, can be avoided.

Why has Russia not been more cooperative? They blocked a resolution condemning North Korea Sunday in the U.N. Russia attacked Georgia, a sovereign nation, and continues to occupy Georgian territory. This shocking act of aggression condemned by independent bodies goes without any real U.S. response. Georgia is a pro-American, free market, independent nation whose attack was calculated and deliberate.

Russia continues to work to undermine the pro-Western democracy movement in the Ukraine. They continue a host of actions that evidence a long-term plan to effect a real or de facto reabsorption of these three nations into what was the old Soviet Union.

So these ominous trends, it seems to me, have not been seriously considered

throughout this quest for the treaty. The events do not give me confidence that the treaty, therefore, is a positive step for the United States, the world, or for peace.

Secondly, as I noted, and I will not go into detail now, the administration conceded the two-staged, ground-based interceptor site that would have been established in Poland, that would provide redundant protection to the United States from an Iranian missile and protected virtually all of Europe from an Iranian missile. That was given away unilaterally by the administration without prior warning to our allies in Poland and the Czech Republic. They heard about it in the paper. They realized the United States had gone behind them, our allies, and made a deal with the Russians. It was a very unfortunate event, indeed.

The plan that has been talked about—the fourth phase of the SM-3 Phased Adaptive Approach—is not even on the drawing board and is unlikely to actually survive. It would be difficult to see it surviving in five different budget cycles over the next 10 years it would take to develop that system. We walked away from one that could be deployed soon.

I offered a sense-of-the-Senate resolution to make clear the Senate does not concur in an ill-conceived vision of the administration that would move us to a world without nuclear weapons. I thank Senators KYL, LEMIEUX, CORNYN, CHAMBLISS, and INHOFE for cosponsoring the amendment. While I will not insist on a vote at this hour, this matter will be a significant subject for the future.

Thirdly, I would suggest the treaty is promoted as a step towards a world free of nuclear weapons. This is a fantastical idea that goes beyond insignificance, it is dangerous. Basing any policy, especially a nuclear policy, on an idea as cockamamie as zero nuclear weapons in the world can only lead to confusion and uncertainty. Confusion and uncertainty are the polar opposites of the necessary attributes of security and stability. These are the essentials of good strategic policy: security and stability.

Thus, the Obama policy creates a more dangerous world. Some say the President's zero nukes policy is just a distant vision, some vague wish, so don't worry. The situation would be much better if that were so, but it is not. President Obama has made zero nuclear weapons a cornerstone of our defense policy. It has, amazingly, already been made a centerpiece of our military policy, being advanced by concrete steps today. Presidents, Commanders-in-Chief, have the power to make such monumental changes in policy, and this President is certainly doing so.

The change is seen most seriously in the critically important Nuclear Pos-

ture Review produced in April 2010 by the Defense Department. This document is a formal document produced by the new administration's Defense Department. The determination to pursue the zero nuclear weapons vision is seen throughout this review. Amazingly, there are 30 references in that document to a world without nuclear weapons.

The NPR begins with an introductory letter from Secretary of Defense Gates, the second sentence of which says this:

As the President said in Prague last year, a world without nuclear weapons will not be achieved quickly, but we must begin to take concrete steps today.

The Executive Summary further drives the issue home. The first sentence in the Executive Summary recalls that President Obama, in Prague, highlighted nuclear dangers and said:

The United States will seek the peace and security of a world without nuclear weapons.

The first sentence in the second paragraph of the NPR is particularly ominous and even chilling to me. Posture Reviews are defense reviews, and by their nature are bottom-up reports, driven by threat assessments and the requirements necessary to defend America. These reviews historically are objective analyses from experts, not political reports. The troubling line reads:

The 2010 Nuclear Posture Review (NPR) outlines the Administration's approach to promoting the President's agenda for reducing nuclear dangers and pursuing the goal of a world without nuclear weapons.

This statement reveals the whole truth. The NPR is the President's policy, sent from the top down, not the bottom up. Stunningly, the report lacks a clear focus on the only objective that counts: Securing a nuclear arsenal second to none that can, under any circumstances, deter attacks on and defend the United States and its allies.

Fourthly, the Obama vision of a world without nuclear weapons has not been well received. Indeed, the breadth of the criticism from experts and world leaders is noteworthy.

Two years ago, Congress adopted an amendment I proposed that called for a commission to review the strategic posture of the United States. It was bipartisan and chaired by former Secretaries of Defense Dr. William Perry and Dr. James Schlesinger. The commission powerfully dismissed the idea of a world without nuclear weapons. In somewhat diplomatic but clear and strong language, they said this:

The conditions that might make possible the global elimination of nuclear weapons are not present today and their creation would require a fundamental transformation of the world political order.

They went on to say this:

All of the commission members believe that reaching the ultimate goal of global nuclear elimination would require a fundamental change in geopolitics.

Maybe the Second Coming.

Others have dismissed this concept as a wild chimera. French President Sarkozy, from one of our European allies, France, said this:

It [our nuclear deterrent] is neither a matter of prestige nor a question of rank, it is quite simply the Nation's life insurance policy.

He made clear they had no intention of giving that up.

Secretary James Schlesinger, back when President Reagan was meeting in Reykjavik over nuclear issues, made this wise comment:

Nuclear arsenals are going to be with us as long as there are sovereign states with conflicting ideologies. Unlike Aladdin with his lamp, we have no way to force the nuclear genie back into the bottle. A world without nuclear weapons is a utopian dream.

Keith Payne, who served on this nuclear commission, writing recently in the *National Review*, said:

The presumption that United States movement toward nuclear disarmament will deliver nonproliferation success is a fantasy. On the contrary, the United States nuclear arsenal has itself been the single most important tool for nonproliferation in history, and dismantling it would be a huge setback.

Remember the commission.

Jonathan Tepperman, in *Newsweek*, said:

And even if Russia and China (and France, Britain, Israel, India, and Pakistan) could be coaxed to abandon their weapons, we'd still live with the fear that any of them could quickly and secretly rearm.

Gideon Rachman, in *Financial Times*, said:

The idea of a world free of nuclear weapons is not so much an impossible dream as an impossible nightmare.

William Kristol, writing in the *Washington Post*, in October, said:

Yet to justify a world without nuclear weapons, what Obama would really have to envision is a world without war, or without threats of war. . . . The danger is that the allure of a world without nuclear weapons can be a distraction—even an excuse for not acting against real nuclear threats. . . . So while Obama talks of a future without nuclear weapons, the trajectory we are on today is toward a nuclear—and missile-capable North Korea and Iran—and a far more dangerous world.

Others have also written about this.

David Von Drehle, writing in *Time Magazine*, said:

A world with nuclear weapons in it is a scary, scary place to think about. The industrialized world without nuclear weapons was a scary, scary place for real. But there is no way to un-ring the nuclear bell. The science and technology of nuclear weapons is widespread, and if nukes are outlawed someday, only outlaws will have nukes.

Kenneth Waltz, leading arms controller and professor emeritus of political science at UC Berkeley, said:

We now have 64 years of experience since Hiroshima. It's striking and against all historical precedent that for that substantial period, there has not been any war among nuclear states.

Importantly, the administration's planned further diminishment of our nuclear stockpile—further diminishing it from these numbers—and President Obama's hostility to the utility of nuclear weapons generally has caused a great deal of unease among our non-nuclear allies. These nations are not so open about their concerns, but the problem is a very real one.

The American nuclear umbrella, our extended deterrence, has allowed our allies, free democratic nations, to remain nuclear free, without having nuclear weapons. But if the Obama policy continues, the Perry-Schlesinger report concludes real dangers may await:

If we are unsuccessful in dealing with current challenges, we may find ourselves at a tipping point, where many additional states conclude that they require nuclear deterrents of their own. If this tipping point is itself mishandled, we may well find ourselves faced with a cascade of proliferation.

The nuclear commission—President Obama appointed a number of the Members on the Democratic side—said that if our allies who feel they have been protected by our nuclear umbrella become uncertain, we could be faced with a cascade of proliferation. Is that what we want? I know the President wants nonproliferation. I know that is what he wants. I am not attacking his goal. Throughout my remarks, I am raising the question of whether these goals will be furthered by the actions of this treaty and these policies or whether they will not.

One final concern. The administration has made it clear that this treaty's nuclear reductions are just the first step in a long march to a nuclear-free world. Assistant Secretary Rose Gottemoeller, who negotiated the treaty, said in April:

We will also seek to include non-strategic, non-deployed weapons in future reductions.

Assistant Secretary of Defense for International Security Affairs and former Ambassador Alexander Vershbow a few weeks ago said that the administration, in follow-on talks, will seek further reductions in strategic, nondeployed, and nonstrategic weapons. And the President has said that repeatedly.

We Senators, in the end, only have our judgment. My best judgment tells me that if our weapons fall too low in numbers, such an event could inspire rogue and dangerous lesser nuclear powers to seek to become peer nuclear competitors to the United States—a dangerous event for the entire world. Thus, I must conclude that the Obama plan is to diminish the power and leadership of the United States. Carefully read, this is what the goal does. I think this conclusion cannot be disputed. The leader of the one nation that has been the greatest force for freedom and stability in the world, with our large nuclear arsenal, is displaying a naivete beyond imagining.

Since this treaty is a calculated step in the President's plan to achieve dangerous and unacceptable policies, this treaty must not be ratified. The treaty and the policy behind it must be rejected.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. We are shortly going to propound a unanimous consent request. I have been saying that a couple of times now, but we really are shortly going to do it. There are several Senators who wish to speak. I would like to see if we could set up an order for them.

I ask unanimous consent that the Senator from Washington proceed for 10 minutes, then the Senator from Texas for up to 10 minutes, then the Senator from North Dakota for 5 minutes. I ask unanimous consent also that each of those Senators would allow the interruption for the propounding of the unanimous consent request if it comes during the time they are speaking.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington.

DEFENSE LEVEL PLAYING FIELD ACT

Mrs. MURRAY. Madam President, I rise this afternoon to call on the Senate to move and pass H.R. 6540, which is the Defense Level Playing Field Act, a bill which was passed overwhelmingly by the House of Representatives yesterday.

This is a bill that is identical to a bipartisan provision I have introduced here in the Senate with Senators BROWNBACK, CANTWELL, and others from States that know the value of American aerospace. It is a bill that will require the Pentagon to take into account illegal subsidies to foreign companies in our country, and that will finally deliver an even playing field in our procurement process.

But above all, this is a jobs bill. It is about protecting skilled, family-wage jobs, manufacturing jobs, and engineering jobs—jobs with technical skills and expertise that are passed down from one generation to the next; jobs that not only support our families during a very difficult economic time but are also helping to keep our communities above water. These are jobs in communities in Kansas, in Connecticut, in California, and in my home State of Washington. They are jobs that support small businesses, they pay people's mortgages, and they create economic opportunity. These jobs right now are at risk. Why? Because of illegal subsidies that undercut our workers and create an uneven playing field for America's aerospace workers.

This is a commonsense, straightforward way to protect American aerospace jobs from unfairly subsidized European competition. It is a bill that specifically targets a major job-creating project—the Air Force's aerial refueling tanker contract—as a place where we can begin to restore fairness for our aerospace workers. This bill says that in awarding that critical tanker contract, the Pentagon must consider any unfair competitive advantage aerospace companies have, and there is no bigger unfair advantage right now in the world of international aerospace than launch aid.

As my colleagues may know, launch aid is direct funding that has been provided to the European aerospace company Airbus from the treasuries of European governments. It is what supports their factories and their workers and their airplanes. It is what allows them to price their airplanes far below those that are made here in the United States and still turn a profit. It is what allows them to literally role the dice and lose on a product and what separates them from American aerospace companies, such as Boeing, that bet the company on each new airplane line they produce. In short, it is what allows them to stack the decks against American workers.

In July of this year, the World Trade Organization handed down a ruling in a case that the United States brought against the European Union that finally called launch aid what it really is: a trade-distorting, job-killing, unfair advantage. That is what the WTO said. It is one of our Nation's most important trade cases to date. The WTO ruled very clearly that launch aid is illegal, it creates an uneven playing field, it has harmed American workers and companies, and it needs to end.

Specifically, the WTO found that European governments have provided Airbus with more than 15 billion Euros in launch aid, subsidizing every model of aircraft ever produced by Airbus in the last 40 years, including, by the way, the A330—the very model they are now putting forward in the tanker competition. The WTO ruled that France and Germany and Spain provided more than 1 billion Euros in infrastructure and infrastructure-related grants between 1989 and 2001, as well as another billion in share transfers and equity infusions into Airbus. They ruled that European governments provided over 1 billion in Euros in funding between 1986 and 2005 for research and development directed specifically to the development of Airbus aircraft. In fact, the Lexington Institute states that launch aid represents over \$200 billion in today's dollars in total subsidies to Airbus.

Launch aid has very real consequences. It has created an uphill battle for our American workers and American aerospace as a whole. Be-

cause of launch aid, our workers are now not only competing against rival companies, they are competing against the treasuries of European governments. At the end of the day, that has meant lost jobs at our American aerospace companies and suppliers and the communities that support them.

I have been speaking out against Europe's market-distorting actions for many years because I understand that these subsidies are not only illegal, they are deeply unfair and anti-competitive.

My home State of Washington is, of course, home to much of our country's aerospace industry, and I know our workers are the best in the world. On a level playing field, they can compete and win against absolutely anybody. But, unfortunately, Airbus and the European Union have refused to allow fair competition. Instead, they use their aerospace industry as a government-funded jobs program, and they use billions in illegal launch aid to fund it.

So let me be clear about one thing. The objective of this bill that was passed overwhelmingly by the House of Representatives yesterday is not to limit competition; it is to make sure everyone can compete on a level playing field. Airbus has made it clear they will go to any lengths to hurt our country's aerospace industry. We need to make it clear we will take every action to stop them because this is not only about the future of aerospace; it is about jobs right now that will help our economy recover. In fact, as we look at ways to stimulate job growth and keep American companies innovating and growing, we shouldn't look any further than this bill.

This bill is a commonsense policy. It makes sure U.S. Government policy translates to Pentagon policy because the fact is that the U.S. Government, through our Trade Representative, has taken the position that Airbus subsidies are illegal and unfair. Yet, on the other hand, the U.S. Department of Defense is ignoring that position as we look to purchase a new tanker fleet, and that does not make any sense—not for our country, not for our military, and certainly not for our workers. The WTO made a fair decision. Airbus subsidies are illegal and anticompetitive. Now the Department of Defense needs to take that ruling into account.

When I go home and talk to our aerospace workers in Washington State, I want to be able to tell them we have evened the stakes. I want them to know their government is not looking the other way as policies continue to undercut their jobs and their opportunities. I want them to know that while they are working to secure our country by producing the best airplane in the world, their government is doing everything it can to make sure fair opportunities are there that will keep them on the job.

It is time to take these job-killing subsidies into account. It is the right thing to do for our workers, for our economy, and the future of our aerospace industry.

UNANIMOUS CONSENT REQUEST—H.R. 6540

So I ask, as if in legislative session and as if in morning business, unanimous consent that the Senate proceed to the immediate consideration of H.R. 6540, which was received from the House and is at the desk; that the bill be read three times and passed; the motion to reconsider be laid upon the table with no intervening action or debate; and any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alabama.

Mr. SESSIONS. Madam President, I appreciate the loyalty of my colleague from Washington for the Boeing facility that is there. I just want to say that other workers are involved, including 48,000 new jobs that would be created if the plant in Alabama were to be the one selected in this competition.

As a member of the Armed Services Committee, I would note that we voted a number of years ago unanimously to have a competition. There are only two companies in the world that can make this kind of aircraft. It is a commercial aircraft, not a highly sophisticated defense system such as a fighter. The EADS team committed to build that in America—bringing jobs not just to Alabama but jobs all over the Nation, far more around the Nation than just in Alabama—and to create a third major world aircraft facility. Congress asked that the bids be competitively let and that these two competitors be given a chance to submit the best proposal.

I am highly convinced that the EADS aircraft is superior—is larger, it is newer—and more effective in the role it is asked to fulfill.

Mrs. MURRAY. Madam President, I would just ask what the order is at this point.

The PRESIDING OFFICER. The Senator sought recognition after he objected.

Mrs. MURRAY. The unanimous consent agreement was that the Senator from Texas would proceed after I had yielded the floor, which I had not yielded.

The PRESIDING OFFICER. At this time, the Senator from Alabama was the only person who sought recognition.

Mrs. MURRAY. Madam President, I believe there was an agreement that the Senator from Texas follow my remarks.

The PRESIDING OFFICER. There was an order, but there was no objection. There was no one who sought recognition.

Mr. SESSIONS. I will wrap up, briefly, if I could.

Mrs. HUTCHISON addressed the chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. If the Senator from Alabama wants to finish his objection—

Mrs. BOXER. Mr. President, parliamentary inquiry: My understanding is that the Senator from Washington had 10 minutes. My understanding is she had completed that 10 minutes; am I incorrect on that?

The PRESIDING OFFICER. Her time has expired.

Mrs. BOXER. I didn't hear the Chair say that. I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I ask the Senator from Alabama, I thought he was objecting on Senator MURRAY's time, and I was next in the unanimous consent. My question is, is he finished with his objection?

Mr. SESSIONS. I wish 1 additional minute to wrap up, if I could, and then I will yield the floor.

Mrs. MURRAY. Madam President, then I ask unanimous consent for an additional minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SESSIONS. Madam President, I have the floor, I believe.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, after this competition has been going on for quite a number of years, and both parties have been very seriously competing for this contract, it is expected to be awarded in March of next year. The Defense Department has considered every one of these issues, including the WTO issue. The lawyers talked about it and we have talked about it in the Senate and the House.

At this very last minute, on the eve of awarding the competition, a House bill was passed without any debate. We have not discussed it or had a hearing on it. It should not be approved. I object.

I yield the floor.

The PRESIDING OFFICER. Objection is heard.

Mrs. MURRAY. Madam President, we are asking for a level playing field with a bill that passed the House. This is a discussion we have had many times. It says that illegal subsidies from any company should be taken into account on a deal in front of the Pentagon.

I will stand anytime and fight for fairness and competition. I am sorry this has been objected to, because it meant our country would have a fair competition.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I rise to speak on the START treaty. I spoke on the floor Saturday stating my concerns about this treaty and the need to address a number of very important issues. I had hoped that amendments that had been offered would be able to clarify the position—the United States position—on this treaty.

I have listened to the debate. I have watched many amendments go down. The treaty supporters have said that these amendments are deal killers, treaty killers. I disagree. I believe everybody has been sincere, but I am not persuaded that the Senate's role to advise and consent to treaties has successfully finetuned the understanding on our part, if we accept this treaty, nor the Russian positions—have they been clarified with our objections or disagreements with the Russian position.

I understand it would have made it hard for the administration to amend the text. But even amendments that would try to amend the preamble, or even the ratification resolution that would clarify the United States position, have caused me great pause. For instance, when we are talking about missile defense, former Secretary of State Condoleezza Rice, in a Wall Street Journal op-ed, said:

Russians tend to interpret every utterance as binding commitment.

She went on to write:

The Russians need to understand that the U.S. will use the full range of American technology and talent to improve our ability to intercept and destroy the ballistic missiles of hostile countries.

I am concerned that this treaty still has a lot of misunderstanding about the United States missile defense capability. I am concerned that our capability, with the understanding of Russians, would be restricted. Russia and the United States each have issued unilateral statements when they signed the New START that clarified their position on the relationship between START and missile defense. Russia stated:

The treaty can operate and be viable only if the United States refrains from developing its missile defense capabilities quantitatively or qualitatively.

I think we should state clearly in the resolution to ratify that it is not the position of the United States to place any limitations on missile defense. The President wrote a letter saying he disagreed with the Russian position and, yet, Senator MCCAIN offered an amendment that would have stricken language in the preamble of the treaty that would have made it clear what the United States position was, and that amendment was not adopted by this body.

As we speak, I don't believe Russia is our enemy. This is a 10-year treaty. We don't know 10 years down the road how

relationships might change. I believe our relationship with Russia is important, but there are rogue nations in the world that are hostile to the United States, which are working in earnest to get nuclear capability and possibly already have it, plus warheads to put those nuclear weapons on.

With the threat of a nuclear-armed Iran or North Korea, or Pakistan, which is our ally, which has a fragile government, or even Venezuela, which is working with Iran and is certainly within our hemisphere, it would be unthinkable to have any kind of miscommunication about the United States capability to control its own defense capabilities. That is exactly what the Russian statement said we could not do.

U.S. planning and force requirements may have to change in the next 10 years and, frankly, I think they ought to be going forward right now to ensure that we can withstand any kind of warhead, nuclear or otherwise, that would come in from rogue nations.

That in itself is enough for me to say we have not fulfilled our responsibility under the Constitution for advice to the President on treaties. That is our solemn responsibility, and I do not think we have been successfully able to do that because we have been blocked on every amendment, calling them deal killers.

I think a strong New START is in our best interest. But I believe that this treaty does not address other areas of concern I have voiced as well. I believe this treaty could further be improved by increasing the number of type one and type two inspections, as was attempted by the Inhofe amendment that was defeated yesterday.

For instance, we know there are loose nukes that have come from Russian arsenals in the past, because the Russians have not had a clear control, or list of, or don't seem to be totally firm about where all of their arsenal is, and they don't seem to have the accountability. So the loose nukes, it has been reported, have shown up in other places, such as, for instance, North Korea. So I think verification becomes more important, to get a true idea of exactly what the Russians have, so there can be an accountability going forward to assure that whatever number are in whatever place would always stay the same, unless they are part of the drawdown.

I think the verification amendment Senator INHOFE had that was defeated would have improved our capability to understand exactly what was out there that might loosely go to Iran or North Korea, with whom the Russians have relationships, though we do not.

Former Secretary of State James Baker described the treaty's verification regime as weaker than its predecessor. I agree with his comment, and I hope we can improve the situation. To

be fair, Secretary Baker supports the treaty. But he did recognize its shortcomings, and I think that should have been addressed by the Senate, without fear of what the Russians might say about our capability to defend against threats, not from Russia necessarily, other than the haplessness of not knowing for sure where your nuclear weapons are—I don't think Russia is our enemy. I want a relationship with Russia.

The missile defense we were not able to even clarify in the resolution of ratification causes me great concern. The verification not being as adequate as I think we need, and then the modernization, which we also address in other amendments, I think, are also problematic. I believe we must know our nuclear warheads could be used in the worst-case circumstance, because I think that is a deterrent.

Because of these things, I am going to vote no today on the ratification of the treaty. I think the Senate could have improved the understanding of this treaty. I think we could have strengthened it with real amendments that would have strengthened even what the President said in his letter to the Senate, saying that he disagreed with the Russian interpretation. But then when we tried to put that in writing, that didn't pass. So I believe we should not pass this treaty today. I think we can fulfill our responsibility for advice and consent and have a more bipartisan passing of the resolution. I think we need a good relationship with Russia. I think we need to protect, at all costs, the United States unilateral capability for missile defense for our country against other nations. I don't think Russia is a threat, but I do think rogue nations that have nuclear capabilities are. I think the symbiotic relationship between Venezuela and Iran is a very real threat to the United States. I think we need to start preparing more carefully about that.

I know my time is up. I appreciate the time to state my reasons for voting against this and hope that when it passes—which I think it will—we will be more firm in clarifying with the Russians our view of our national security interests.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. KERRY. Madam President, first, if I can interrupt for a moment before the Senator from North Dakota speaks, according to the prior order. I want to inform Senators that it is now 1:15. We are awaiting language which is forthcoming relatively soon on the 9/11 issue. I think it is the intention of the majority leader to vote very quickly after that unanimous consent agreement comes together. That means we could have a vote, conceivably, on the final passage of the resolution of ratification on the treaty somewhere—this

is a guess—within the vicinity of 1:45 to 2 o'clock. That is a guess. Senator KYL I know wanted to speak prior to that taking place. We are trying to preserve that within the order. That said, I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, we expect to have the necessary papers to complete the consent agreement within the next 15 minutes. It is 1:15 now, so we hope by 1:30. Sometimes Senate time is not exactly right, but we are getting very close to being able to do this consent agreement. It has been typed. We are waiting for the papers to come from the Hart Building.

We want everyone to be patient. We know how anxious everyone is to complete the business of this Congress. Just everyone understand it should be not much longer.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I was not going to speak again, but I was prompted to by my colleague from Alabama, a friend and someone for whom I have great respect. The presentation by my colleague from Alabama suggested that President Obama is moving in the direction of disarming us, the implication is that of injuring our national security by proposing that we have fewer nuclear weapons. Let me make a point that I think is so important for the record.

I hope it is not now or ever considered a source of weakness for this country to aspire to have a planet with fewer nuclear weapons. It ought to be a source of strength that we understand it becomes our burden as a world leader—an economic leader and nuclear power—to try to reduce the number of nuclear weapons on this Earth.

This President has not proposed anything that would injure our national security. He is not proposing anything that is unilateral. He has negotiated and his team has negotiated a very strong arms reduction treaty with the Russians.

I know there has been great discussion about modernization, whether there is enough money, about why tactical nuclear weapons were not included, the issue of whether it limits us with respect to missile defense. All of those issues have been answered. All have been responded to.

The question, it seems to me, for us now and for all Americans, and particularly those who serve in Congress in the future, is will we be a world leader in pushing for a reduction in the number of nuclear weapons on this planet?

There are some 25,000 nuclear weapons on this planet. The loss of just one of those weapons, into the hands of a terrorist or rogue nation who might then explode it in a major city on Earth would change everything.

My colleagues are probably tired of hearing me say it, but in my desk I have kept a piece of a Soviet Union bomber, a very small piece of a wing strut from a Soviet Union bomber. We did not shoot it down. We negotiated that bomber down by paying money to saw the wings off.

Nuclear arms reduction treaties work. We know they work. There are Russian submarines that were not destroyed in battle. We ground them up and took them apart. The wings were sawed off bombers, and they were sold for scrap. Nuclear missiles in silos with nuclear warheads aimed at American cities are gone.

I will give an example. One was in Ukraine. Now sunflower seeds adorn that pasture where there was a missile with a nuclear weapon aimed at America.

We know these arms reduction treaties work because we have seen them work. Fewer nuclear weapons, fewer delivery vehicles, bombers, submarines, missiles—we know this works.

My colleague seemed to suggest that it would be a horrible thing if the entire world were rid of nuclear weapons. I hope that every Senator would aspire to have that be the case, a world in which there was not one weapon left, for almost surely every offensive weapon on this planet has always been used. We need to be very concerned about the number of nuclear weapons, the spread of nuclear weapons, the need, the desire for terrorists to acquire nuclear weapons. That is why these treaties and these negotiations on arms reduction are so unbelievably important.

Never has it been more important because now there is a new threat. They do not wear uniforms. They do not belong to one country. It is the terrorist threat. And they strive mightily to acquire nuclear weapons.

This treaty negotiated at the start by the previous President and concluded by this President, in my judgment, strengthens this country, represents our best national security interests.

I ask the question of anyone who believes that it is a threat for us to begin reducing nuclear weapons through arms negotiations with others who have nuclear weapons: Who, if not us, will lead the way to do that? If not us, who? Is there another country they think will aspire to provide leadership to reduce the number of nuclear weapons? If there is, tell us the name because we all know better than that.

This responsibility falls on our shoulders. We are the leading nuclear power on this Earth. It is our responsibility, it is this country's responsibility to lead. I don't ever want anybody to suggest it is some sort of weakness for this President or any President to engage in arms reduction negotiations. That is a source of strength.

This treaty was negotiated carefully. I was on the national security working

group. We had briefing after briefing in top-secret venues. This treaty was carefully negotiated. It represents our best interests. It represents a reduction of nuclear weapons, a reduction of delivery vehicles and represents, in my judgment, another step in reducing the nuclear threat. It is not even a giant step, but it certainly is a step in the right direction.

This represents our best national security interests, and this President has demonstrated, yes, he wants a world with fewer nuclear weapons. He wants a world, as would I, with no nuclear weapons at some point. But this President would never allow negotiations or never allow circumstances in which this country is unarmed or unprepared or unable to meet its national security needs. He has not done that, not in this treaty, and will not do it in the future.

I did want to stand up and say that because of the comments earlier by the Senator who suggested there is some sort of weakness for a country that aspires to have a reduction of nuclear weapons on this planet.

Let me finally say, I have spoken at length on this floor about the severity of losing even just one nuclear weapon. I have told the story about a CIA agent code-named Dragonfire who reported 1 month after 9/11 that a 10-kiloton nuclear weapon had been stolen from Russia and that nuclear weapon had been smuggled into New York City and was to be detonated. There was an apoplectic seizure in this town about it because no one knew what to do about it. They did not even notify the mayor of New York.

They discovered a month later that was probably not a credible piece of information. But as they did the diagnosis of it, they discovered it is plausible someone could have acquired a 10-kiloton nuclear weapon from Russia, it was plausible; if they had done that, they could have smuggled it into an American city and if terrorists did that they could have detonated it. Then we are not talking about 3,000 deaths, we are talking about 100,000, 200,000 deaths.

The work we have done in so many areas, the work in this administration, let me say, to secure loose nuclear materials, circumstances where plutonium or highly enriched uranium in the size of a liter or, in one case, in the size of a small can of soda, enough to kill tens and tens of thousands of people with a nuclear weapon—this is serious business. At a time when we debate a lot of issues—serious and not so serious—this is serious business.

I think the work that has been done by the chairman and ranking member in recent days—I watched a lot of this and watched it over this year—is extraordinary work. But so too is the work by this President, by the negotiators. My colleague described the folks at the State Department who had a significant role as well.

Let us not ever think it is a source of weakness to be negotiating verifiable reductions in nuclear weapons among those who possess them. That is a source of strength, and it is important for our kids and grandchildren who can succeed by continuing to do that with treaties that make the best sense for this country's national security interests.

I see the Senator from Massachusetts does not yet have a unanimous consent request, but I know all my colleagues are anxious to see one.

I yield the floor, and I expect, as the majority leader indicated, within the next half hour or so we will be voting, and I think that is good news. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MERKLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTEREST ON LAWYER TRUST ACCOUNTS

Mr. MERKLEY. Madam President, I rise to discuss and ask unanimous consent for consideration of H.R. 6398. I will get to the unanimous consent language in a moment, but right now I want to describe what this is about. Then I wish to yield to my colleague from Georgia to add a little bit of the impact of this issue.

The issue is this: In all 50 States in America, lawyers have to put clients' funds into trust accounts. Under the law, they are not allowed to earn interest on these accounts. Over time, an arrangement has been worked out whereby the banks pay interest, but it does not go to the clients; it goes to fund civil legal services for those who cannot afford those services.

This arrangement is in great jeopardy if we do not pass this bill today. I will expand on that jeopardy in a moment, but at this point I simply am going to yield to my colleague from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Madam President, I thank the Senator from Oregon. This is very important work, and we are in our late hour. Sometimes we do our best in the late hour.

The unintended consequence of the Dodd-Frank legislation with regard to IOLTA is it not being extended and we are going to literally have thousands of escrow accounts held by law firms and attorneys, real estate transactions, dispute resolution transactions, and beneficial programs that will have to be spread among many more banks because the insurance level, which is now limited, drops to \$250,000. It would force the transfer of escrow account money out of any number of banks. At

a time when capital is critical in small community banks, the unintended consequence might have been to take them below tier one capital requirements and put them in a stress situation.

I commend the distinguished Senator from Oregon for his work on this legislation. I thank the Senator from Louisiana, Mr. VITTER, for his consent for us to bring this forward. I give wholehearted support to the unanimous consent request.

I yield back to the Senator.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, I appreciate so much the partnership of my colleague from Georgia. He has laid out clearly the impact of a failure to fix this legislation on our community banks where lawyers, exercising their fiduciary responsibilities, would have to move their trust accounts out of these special accounts where the interest goes to legal services and legal education and into no-interest-bearing accounts so that no one gains from that movement. In the course of it, they would be moving funds often from community banks to other institutions, imperiling these community banks.

I wish to address the other side of this issue, which is the important work these funds do in all 50 States. I will speak specifically to the State of Oregon, but there are parallels because all 50 States participate with these accounts.

In Oregon, we have, first, the association of Oregon Legal Services Program, its primary source of civil legal assistance available to low-income Oregonians. To give a sense, if a woman is having a big challenge with domestic violence, she can get legal aid through this type of assistance. If a family is trying to struggle with a mistake on a foreclosure process so they can save their home, they can get assistance through this program. They have 20 offices throughout the State of Oregon to serve Oregonians living in poverty.

Second is the Juvenile Rights Project. This provides legal services to children and families through individual representation in juvenile court and school proceedings to help children who are in extraordinarily difficult circumstances.

A third is Disability Rights Oregon, the Oregon Advocacy Center, which assists those who are disabled, who are victims of abuse or neglect, or have difficulty acquiring health care or need to exercise their rights in regard to special education. They can turn to the Oregon Advocacy Center-Disability Rights of Oregon for help.

In addition, these funds pay for legal-oriented education for our K-12 students. Let me give an example of three programs in Oregon. These programs assist 15,000 students in our State.

One is the High School Mock Trial Competition. This type of mock trial

competition is an enormous learning exercise for our students in how our courts function and how the facts of a case are presented and how the principles of law are applied.

Then we have the summer institute training for teachers so that social studies teachers can learn more about the role of law and be more effective in conveying that vision to our students.

Then I also want to mention the We The People Program on the Constitution and Bill of Rights. Here in this Chamber, we discuss the Constitution and the Bill of Rights virtually on a daily basis. Virtually every day on this floor, we discuss how these founding documents affect how our laws are applied and how freedoms are protected in the United States of America. This program helps our children learn those fundamental principles. Sort of the heart and spirit of the American democratic world are conveyed through this We The People Program.

I also wish to commend a whole host of banks in Oregon that have agreed not only to pay interest on these lawyer trust accounts—and IOLTA stands for interest on lawyer trust accounts—but to pay 1 percent, which is above the going rate on most types of transaction accounts. They do that because they benefit from the deposits, and they know their communities benefit from these services and these programs.

This legislation will resolve a problem in which lawyers, applying their fiduciary responsibilities, would have had to withdraw their funds from these accounts and put them in other non-interest-bearing accounts, to no benefit to anyone and to a great deal of harm to so many.

INTEREST ON LAWYERS TRUST ACCOUNTS

Mr. MERKLEY. Madam President, I ask unanimous consent, as if in legislative session and as if in morning business, that the Senate proceed to the immediate consideration of H.R. 6398, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6398) to require the Federal Deposit Insurance Corporation to fully insure Interest on Lawyers Trust Accounts.

There being no objection, the Senate proceeded to consider the bill.

Mr. MERKLEY. Madam President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6398) was ordered to a third reading, was read the third time, and passed.

Mr. MERKLEY. Madam President, I wish to thank the Chair and my colleague from Georgia who understood and presented so effectively the impact on our community banks that are working hard to get funds out to our Main Street businesses so we can create jobs and put our economy back on track.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Madam President, I commend the Senator from Oregon and thank him for his help on this important issue for people all over the United States, not just in Oregon and Georgia but around the country. This is a great effort, and I commend him on it.

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

Mr. ISAKSON. Madam President, I wish to take an additional minute, if I might—the chairman of the Foreign Relations Committee is on the floor—to say, in addition to my statement I made 2 days ago in a speech on the floor with regard to the START treaty, that I wish to thank the chairman and the ranking member of the Foreign Relations Committee for the accommodating process from day one in April until today, where the treaty will ultimately pass on the floor of the Senate.

Legislation is about improving ideas and making sure the interest of the American people and the United States of America is protected. Through the work of Senators LUGAR and KERRY, we have been able to craft amendments to the resolution of ratification on the START treaty that ensure missile defense and modernization—the two contentious points on this legislation which came from the committee—are not only taken care of, but they are buttoned down and they are clear. And I thank the chairman and the ranking member for their willingness to do so.

I want to let everyone who is listening and those who will read the reports of this debate know that this has been a 7-month process, not a 9-day process, and it has been a detailed process. It has been the work of the will of the people of the United States of America, and the U.S. Senate has worked its will. When it is ratified today, it will be a step forward in the future for my children and grandchildren.

During my campaign when I ran for reelection this year, I made the following statement: The rest of my life is about doing everything I can do to see to it that the lives of my children and grandchildren are safer, more secure, and as affluent as my life has been because of my parents and grandparents. Today, in this ratification, we are ensuring that we will be strong in our strength, we will trust but we will

verify. We will make sure we can fight, if necessary, but we will also make sure we are accountable. And most important of all, with regard to the biggest threats we face—terrorism and loose nuclear materials falling into the hands of a rogue nation—we will be a safer country because of this, and I thank the chairman and ranking member because of it.

I thank the chairman for his time, and I yield back.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Madam President, I rise to oppose the START treaty because it recognizes limits on U.S. missile defenses in return for marginal reductions in the Russian arsenal. At the moment when the U.S. and allies must build missile defenses to protect against Iran, this treaty generates Russian pressure for America to go slow or risk Russia's departure from the agreement.

If you take the President's Senate missile defense letter at face value, then America would deploy defenses that will trigger a Russian treaty exit. I am concerned that to prevent a Russian treaty withdrawal, the United States will move slower on building defenses against Iran just when we need to move faster.

The most important duty of the Federal Government is to defend Americans against foreign attack, and the most important mission under that duty is to protect American families from the most dangerous nations that could carry out such an attack.

In the mid-20th century, we agreed that the Soviet Union represented a clear and present danger to America. Our Cold War Presidents—Truman through Clinton, Republicans and Democrats—backed policies of a strong defense, with alliances with our friends and diplomacy with the Soviets. But much has changed since the 20th century ended over a decade ago. While the Russians still have an impressive arsenal, they are shadows of their former shadow, dropping from 290 million people to 140 million people and from a gross domestic product of \$2.6 trillion in 1990 to \$2.1 trillion in 2010. The nuclear national security threat for the new 21st century moved beyond Russia to include Iran and North Korea, soon to be armed with nuclear weapons and missiles to deliver them.

While the Russians are heavily armed, they present a relatively stable face to the outside world. They have the capability to attack, but they currently lack the intent. On any given year, their leaders appear adverse to risk and unready to commit national suicide. The same cannot be said for Iran, North Korea, and other nations that present a far less rational face to the international community. Looking at such potentially irresponsible leaders, it is incumbent on us to go beyond

idealistic diplomacy and mount a defense against an attack which may be leveled against our people or our allies. The lives of millions and the cause of freedom depend on our assessment of this threat and how we respond.

Recall that nuclear technology represents the science of the 1930s, missile technology from the 1960s. Since the laws of physics cannot be classified, countries bad and good will all one day have the means to develop powerful arsenals based on the last century's science. It is the sacred mission of the democracies to understand this change, to measure its danger, and to eliminate an attack should one of these smaller, less rational countries attack.

In such an environment, an agreement to limit the nuclear arms of the United States and Russia is helpful but does not concern the new danger emerging against the people of the West. If we can lower nuclear arms to levels where we still maintain a devastating counterpunch against a rational opponent who is uninterested in national suicide, then a nuclear war with that country remains unlikely and the cost of our armaments is reduced. If that agreement also causes us not to build defenses against an irrational opponent who may attack anyway, then we have committed a grievous national error.

I initially favored the goals of the START treaty. The treaty is an echo from the 20th century and had a marginal utility in improving the defense of the United States. Unfortunately, the negotiations to produce this treaty took a turn that was not well perceived by the press or public. The Russians used these negotiations intended to improve the defense of the United States as a means to preserve their ability to attack.

Surprisingly, American negotiators formalized a link in the protocol between limiting defenses against missile attack and maintaining forces to carry out such a strike. Perversely, this agreement now stands for two principles: No. 1, the United States and Russia should reduce their nuclear arms, on which we all agree, and No. 2, the United States should recognize policies to maintain the viability of a Russian attack. This second principle turns the purpose of the treaty on its head. It weakens the future defense of our Nation. The treaty would support a policy that we must not improve our defenses to such a degree as to defeat a Russian attack.

Much of this has had little impact on actual defense plans regarding Russia. Russia presents a relatively stable, status quo face to the international community. It also maintains a nuclear force which would quickly overwhelm any planned system of defense. But a policy of limiting missile defense has a tremendous impact on our ability to thwart an attack from less responsible

powers, such as Iran or North Korea. Given the actions of Iranian and North Korean leaders, I would argue these countries represent the more important danger to the future of the United States and our allies in this new century.

In the 20th century, the argument about the defense of the Nation against an attack by missiles took on a divided and partisan tone. President Reagan proposed "missile defense," while congressional Democrats opposed "Star Wars."

Much of the disagreement ended in the late 1980s and 1990s when Iraq attacked Iran and then Israel with missiles.

Over time, careful observers noted that missile defense was important not just to the health of Israel but to its survival.

When Russia attacked Georgia, it used a great number of missiles to deliver blows against that little country. As this century winds on, more countries will see these realities of the 21st century, eventually including the United States.

The administration's unsteady missile defense plans also concern me. I am concerned about the missile defense actions taken by the current administration. When it took office, it cancelled plans to enhance the missile defenses of the United States itself that were based in Alaska and California. To the great embarrassment of our allies in the Czech Republic and Poland, it cancelled plans to deploy radars and two-stage ground-based interceptors (GBIs). I would note that history has been unkind to Western leaders that abandon Poland.

The administration also began an effort to cancel funding for the "Arrow III" interceptor being jointly developed with Israel. Thanks to the late Chairman of the House Defense Appropriations Committee, Jack Murtha, the effort to kill Arrow III was reversed and full-funding came to the Arrow III program despite the President's early wishes.

Once the negative reaction of our hurt Polish allies was known, the administration responded with a four-part plan to calm Europe using systems inferior to the GBI anti-missiles originally proposed by the last administration and current Secretary of defense. The inartfully coined European "Phased-Adaptive" approach involved anti-aircraft systems patched together in a rather ad hoc fashion. We now plan to begin by sailing U.S. Navy Aegis cruisers near European coasts followed by a decade and the possible deployment of a to-be-built Navy missile interceptor that does not yet exist, called the "Standard Missile 3, block IIA".

I contacted our Missile Defense Agency and asked if the originally planned GBIs for Poland could have stopped an

attack by Iran against the United States. They answered yes.

We checked if any one of the new "Phased-Adaptive" stages could stop a similar intercontinental attack by Iran against the U.S. They answered Phase I could not, Phase II could not, and Phase III could not.

In fact the only phase that could engage a missile launched by Iran against the U.S. was not until Phase IV by the IIB missile that did not yet exist that would be deployed far later than the original GBIs proposed.

The problem goes deeper. I asked the MDA to compare the capabilities of the originally proposed two-stage GBIs to hit an Iranian missile against the future final Phase IV SM-3 JIB. The MDA replied with this graph. It shows that the original, longer range GBIs would have a full 4-minute window to hit and destroy an incoming Iranian missile bound for New York City. The SM-3 IIB, which has a shorter range, would have only 3 minutes. In short, the administration's new proposed missile has 25 percent less time to defeat an incoming Iranian attack than the originally proposed missile. No wonder our Polish allies supported the original plan.

I worry that some of these changes were made to curry favor with the Russians. I am concerned that the preamble to the START treaty would be used to reduce or block the efforts of the Congress to upgrade the defenses of the United States. In short, I am worried that while this treaty reduces the smaller threat of attack by Russia, it creates a Russian block for plans to eliminate the larger threat from Iran. The Russians clearly stated that if we mount defenses that could defeat their attack, they would pull out of the treaty. The problem is that to eliminate the threat from Iran and North Korea, we will have to do so. In this case, what is the value of the treaty? It clearly helps the Russians but if it blocks or delays our effort to protect against Iran, does it help us? I am also concerned with other aspects of this treaty, like an end to full-time compliance monitoring inside Russia.

There are also details of the treaty itself that concern me. Under previous treaties, the United States had a full-time monitoring presence in Votkinsk. This was eliminated. We will no longer have full-time monitors in Russia.

Also, an end to telemetry from new Russian missiles. Under previous treaties, the United States and Russia shared all the information transmitted by their test missiles in flight, called telemetry. While our spy satellites, planes and ships can gather some of this information, there is nothing like getting it straight from the missile's mouth. Telemetry is key to understanding the capability of a new missile, especially its maneuvers to drop off one or more nuclear warheads.

Under this new treaty, this data was lost. The Russians will not provide telemetry from their new missiles under this treaty. Their only obligation is to share telemetry from five missile flights a year and they will likely pick old missiles to do this.

We are told we lost the capability to collect the telemetry of new Russian missiles because while the Russians are developing many new models, we are not. Given that telemetry would report mainly on new Russian developments and not American, our negotiators gave up.

They should not have given up. The collection of telemetry from new Russian missiles had long been enshrined in arms control treaties. This precedent was well established and should have been continued.

There are inspections, but only 18 per year. We are told that the new treaty will offer the unprecedented inspection of actual missile warheads. This is true. Under the old treaties, we simply counted the number of missiles the Russians had using our spy satellites and assumed each missile was packed with as many warheads as the missile's flight tests and telemetry showed.

Now we will get to inspect actual missiles—but only 18 per year. The Russians have hundreds. At the rate the treaty allows, the full inspection of the Russian arsenal of 800 launchers would take over 40 years.

I asked administration officials how many hours notice the Russians would have before Americans conducted an actual warhead inspection. In all cases, they would have 24 hours or more notice that the Americans were coming. After extensive briefings on Russian cheating against previous arms control treaties—most flagrantly the treaty banning biological weapons—it should give you pause that the United States gave up collecting telemetry on the flight of every Russian missile in return for the inspection of 10 missiles per year and that only after a full day's notice.

We are also told that this treaty is needed to improve Russian international behavior. In my view, a treaty should only be signed to reward good behavior, not to encourage it later.

I was most inclined to support the intent of this treaty to improve relations between the United States and Russia on the subject of collapsing the Iranian regime and its nuclear weapons program. Undoubtedly, the administration earned good marks in getting the Russians to cancel the delivery of one key piece of air defense equipment—an anti-aircraft missile battery called the S-300—to Iran. This was an unqualified success.

Unfortunately, there are many more failures where the press paid little note. We believe the Russians are still delivering other pieces of air defense equipment to the Iranians. That is why

the Russians insisted on exempting such deliveries from the new U.N. sanctions against Iran. Russian equipment will likely be used to defend Iran's nuclear sites, the very programs we are most worried about that violate Iran's commitment to the U.N. Nuclear Non-Proliferation Treaty.

What is most surprising is the actions of the Russians since the negotiation of this treaty. They know we, the Europeans and Israelis are most worried about the nuclear program of Iran. Despite these well-publicized concerns and numerous U.N. resolutions against the Iranian nuclear program, the Russians chose this year and this country to provide nuclear fuel to the Iranian reactor at Bushehr. As that Russian reactor begins operation, plutonium production will begin inside Iran. While the Russians promise that the Iranians will not be able to use this plutonium in Iranian bombs, can we be assured that these promises will be honored? Would not it have been better to never begin plutonium production in Iran at all?

I am also concerned about new ideas coming from the administration on missile defense and the Russians. Long ago, President Clinton proposed U.S.-Russian cooperation in space. That cooperation led to a dependence so that soon, the U.S. will lack any way to launch astronauts. We cannot send our own astronauts to our own space station without the permission of the Russians.

In discussions regarding this treaty, I learned that the administration is now planning to bring the Russians inside the missile defenses of NATO. Russia is the very nation that used missiles to attack Georgia—a country applying for membership in NATO. I am sure the Georgians would be uncomfortable at best seeing Russians manage the missile defense of their little nation.

The U.S. offer to bring the Russians into NATO's missile defenses was embodied in an offer at the recent NATO conference in Lisbon. Nearly all Americans are fully aware of Russian spying against the United States military for the last 70 years. We know that Russia has one of the most active cyber-attack networks on the planet operating against U.S. networks. It would seem that a proposal to bring the Russians into the missile defense system of NATO would introduce powerful new opportunities for espionage against us, as well as a greater understanding of our defense capabilities and weaknesses.

Imagine a Russian officer in a NATO missile defense center. He will soon learn when our system is alerted, how it processes information, what our response times are and the estimated accuracy of our interceptors. These are the things he would learn during his first week inside our operations center. We can only imagine what else he would learn over the coming years.

Remember that the warning information from NATO is critical to the defense of the United States. If the Russians managed to spoof or block critical NATO missile warning data, then U.S. commanders defending our homeland would become weaker, not stronger due to Russian presence in NATO missile defense centers.

Recall that missile combat is the ultimate "come as you are" affair. In a struggle between continents, the battle will be joined within 30 minutes. When submarine or medium-range missiles are employed, battle can start in as little as 10 minutes. If we have Russians in the system who found American weaknesses or deployed problems, U.S. commanders will have only minutes to diagnose and fix those problems before the gravest consequences befall our people and allies.

The next Congress will favor missile defense programs to a far greater degree than this one. I plan to encourage this body and especially the House with legislation to deny funding for any effort to bring Russians into the missile defenses of NATO or the United States.

I respect the opinions of Senators on both sides of this question. It is my judgment that safety of the American people is better off if we work to eliminate the new dangers of the 21st century rather than focus on the old agreements of the 20th century. In my view, the growing dangers of Iran and North Korea threaten the American people most. Therefore, the missile defense programs of the United States and our allies take precedence over an agreement whose protocol limits our defenses by acknowledging the need to preserve the ability of Russia to attack the United States.

While most of us were born in the 20th century and we loved black and white TV, the "Ed Sullivan Show" and the "Honeymooners," we recognize that time has passed and we must adapt to the new world of the Internet, Ipad and Ichat. The 20th century doctrine of nuclear Mutually Assured Destruction against the Soviet Union is part of our past and not part of a future involving Taepo Dong II missiles from North Korea and Shahab III missiles from Iran.

I would urge the administration to devote the time and attention of our able diplomats to ending the Iranian nuclear program rather than this agreement that, while laudable in its very modest goals, went awry at the negotiating table.

Mr. President, I yield the floor.

Mr. LEVIN. Madam President, on April 8, 2009, President Obama and President Medvedev concluded negotiations, which had begun under President Bush, and signed the New START treaty. This new treaty is a key part of the reset of the U.S.-Russian relationship. Even though the Cold War ended 20

years ago, this relationship has been unclear; Russia is not an adversary but neither is it an ally. There have been divides and disagreements even though we share many common goals and interests. President Obama is rightly intent on moving the relationship in a more positive direction. Ratification of the New START treaty is an important part of this process.

On May 13 of this year, President Obama submitted the New START treaty to the Senate. In carrying out its responsibility the Senate Foreign Relations Committee, the Senate Armed Service Committee and the Senate Select Committee on Intelligence held a total of 20 hearings and 4 briefings. Seven hearings and three briefings were held by the Armed Services Committee. Even before the new treaty was submitted to the Senate, the Department of State provided the Senate National Security Working Group multiple briefings on the status of and issues discussed during negotiations.

It is now time for the Senate to provide its consent to ratification. As Admiral Mullen, the Chairman of the Joint Chiefs of Staff, said about the START treaty on December 12, "this is a national security issue of great significance and the sooner we get it done the better." The Director of National Intelligence is also eager to get this treaty finished and restore the insight into Russian nuclear forces that this treaty will provide and that is so important for the intelligence community. Director Clapper said, "the sooner, the better. From an intelligence perspective, we are better off with the Treaty than without it." Retired General Brent Scowcroft, the National Security Adviser for both Presidents Gerald Ford and George H.W. Bush, and a supporter of the Treaty, said, "to play politics with what is the fundamental national interest is pretty scary stuff."

Some have suggested that this new treaty should not be taken up in this lameduck session of the 111th Congress. I couldn't disagree more. Almost as soon as this session of Congress began, the President announced his intent to complete negotiations on the new strategic arms agreement to replace the START I treaty. Various Senate committees of this Congress and the Senate National Security Working Group of this Congress were briefed on numerous occasions by the negotiating team on the new treaty. This Congress got the updates on the progress and the issues and this Congress provided guidance along the way. The committees of this Congress held 20 hearings and briefings on this new treaty. This Congress hosted several all-Member briefings including one such session with the Director of National Intelligence, James Clapper, to get his views on the importance of the treaty. The next Congress will not have the benefit of all that work and insight. It is in fact

the obligation and the duty of this Congress to take up this treaty.

When President Obama submitted the START treaty to the Senate for consideration he made six key points.

The treaty will enhance the national security of the United States.

The treaty mandates mutual reductions and limitations on the world's two largest nuclear arsenals.

The treaty will promote transparency and predictability in the future strategic relationships of Russia and the United States.

The treaty will enable each party to the treaty to verify that the other party is complying with its obligations through a regime of onsite inspections, notifications, comprehensive and continuing data exchanges, and provisions for unimpeded use of national technical means.

The treaty includes detailed procedures for elimination or conversion of treaty accountable items, and

The treaty provides for the exchange of certain telemetric information on ballistic missile launches.

Equally important to this discussion is what the START treaty does not cover.

It does not limit U.S. missile defense plans and programs.

It does not limit U.S. conventional prompt global strike programs.

It does not provide authority within the treaty to modify the terms and conditions of the treaty without the advice and consent of the Senate.

It does not constrain in any way the ability of the United States to modernize the nuclear weapons complex, modernize, maintain, or replace strategic delivery systems, or the ability to ensure that the stockpile of U.S. nuclear weapons remains safe, secure, and reliable.

It also does not cover nonstrategic nuclear weapons—often referred to as tactical nuclear weapons. The START treaty covers, as have all previous nuclear arms reduction treaties, strategic offensive nuclear arms. Dealing with tactical nuclear weapons is certainly an area of arms control that needs to be addressed but has proved elusive to previous administrations, Democratic and Republican. It remains to be addressed.

The START III treaty was to have covered these weapons but when the START II treaty, which was signed by President George H.W. Bush and Russian President Boris Yeltsin in 1993, was not ratified, any hope of addressing tactical nuclear weapons in a START III treaty died along with the START II treaty. 17 years later President Obama is trying to get nuclear arms reductions back on track, by resuming discussions with Russia and signing the START treaty. Hopefully, entry into force of this START treaty will allow the United States and Russia to discuss an agreement on tactical nu-

clear weapons. While getting an agreement to limit tactical nuclear weapons will be very difficult, without ratification of the New START treaty, it will be impossible.

Because this treaty does not require any significant reductions in either U.S. nuclear weapons or delivery systems, it is a fairly modest treaty.

The so-called Moscow Treaty, which was signed in 2002 by President George W. Bush and Russian President Boris Yeltsin, limited both Russia and the United States to a range of operationally deployed nuclear warheads by the year 2012. Under the Moscow Treaty, each side could have between 1700 and 2200 total operationally deployed nuclear weapons. Russia has already met this goal and the United States is very close. Under the START treaty, each side will have no more than 1550 deployed nuclear weapons, a reduction of just 150 weapons below the Moscow Treaty. The START treaty does not limit the number of nondeployed nuclear weapons, an issue of importance to the Commander of the U.S. Strategic Command, GEN. Kevin Chilton.

The limits in this treaty were agreed to after careful analysis by U.S. military leadership, particularly GEN Kevin Chilton, the Commander of the U.S. Strategic Command and the man responsible for these strategic systems.

At a hearing before the Armed Services Committee on July 20, 2010, GEN Chilton stated that the force levels in the treaty meet the current guidance for deterrence for the United States. That guidance was laid out by President George W. Bush

The options we provided in this process focused on ensuring America's ability to continue to deter potential adversaries, assure our allies, and sustain strategic stability for as long as nuclear weapons exist. This rigorous approach, rooted in deterrence strategy and assessment of potential adversary capabilities, supports both the agreed-upon limits in New START and recommendations in the Nuclear Posture Review (NPR).

The strategic deployed forces allowed under the treaty will ensure the retention of the nuclear triad—all three delivery legs of the triad, bombers, SLBMs, and ICBMs. On that point GEN Chilton was very clear, saying "We will retain a triad of strategic nuclear delivery systems."

Secretary of Defense Gates has also been very clear that the nuclear triad will be maintained. In an op-ed in May in the Wall Street Journal, Secretary Gates said the New START treaty "preserves the U.S. nuclear arsenal as a vital pillar of our nation's and our allies' security posture. Under this treaty the U.S. will maintain our powerful nuclear triad . . . and we retain the ability to change our force mix as we see fit."

Some have said that the United States will have to make significant reductions to reach the force levels under the treaty and that the Russians

will have to make no reductions. According to GEN Chilton this argument is a distraction. At an Armed Services Committee hearing GEN Chilton commented on the lower level of Russian forces and said:

New START limits the number of Russian ballistic missile warheads that can target the United States, missiles that pose the most prompt threat to our forces and our nation. Regardless of whether Russia would have kept its missile force levels within those limits without a New START Treaty, upon ratification they would now be required to do so.

While the START treaty will also not require significant reductions in the number of U.S. strategic delivery systems, there will be some reductions but not for 7 years. More importantly the START treaty will provide certainty for both Russia and the United States as to the size of the deployed nuclear force of the other. This is particularly important to the United States because Russia is now below the proposed delivery system limits of the START treaty, but has plans to build the number of strategic delivery systems. It is very much in the interest of the United States to have a cap on that build-up. An unrestrained build up would quickly bring back the ghosts and burdensome costs of the Cold War.

Under this new treaty, Russia and the United States will each have a total of 800 deployed and nondeployed ICBM launchers, SLBM launchers, and heavy bombers equipped for nuclear armaments, and 700 deployed ICBMs, deployed SLBMs and deployed heavy bombers equipped for nuclear armaments. The treaty does not limit nondeployed nuclear warheads, nondeployed ICBMs, nondeployed SLBMs, or heavy bombers that are not equipped for nuclear armaments. This is particularly important for the B-1B bomber fleet, as those airframes have not been in nuclear service for many years and will not be counted under the START treaty when simple modifications are completed.

This START treaty brings a practical approach to strategic systems and counts real delivery systems and real warheads. Over the years, the old START I treaty had resulted in exaggerated nuclear force numbers. For instance, under the old START I treaty, the four *Ohio* class submarines that have been converted to conventional use, were still counted as 96 deployed SLBMs and 768 deployed nuclear warheads. These exaggerated force structure levels have led to uncertainties for military planners and increased costs for the United States. Under this treaty they will not be counted.

One of the additional benefits of this START treaty is that the treaty provides a clear mechanism to remove systems from being counted under the treaty. The ability to clearly and easily remove systems, such as heavy bombers from under the treaty, is also

of great importance to General Chilton, the Commander of the U.S. Strategic Command.

For example the United States currently has 76 B-52 bombers and 18 B-2 bombers, a total of 94 nuclear capable bombers. Under the current plan for implementing the treaty there will be up to 60 nuclear capable bombers. The remaining 34 can be converted to conventional only capability and will no longer count under the treaty. They do not have to be destroyed. I think this fact is often misunderstood and there may be an impression that the 34 bombers will have to be destroyed under the treaty. That is not the case.

This past May, Secretary of Defense Gates wrote an op-ed in the Wall Street Journal. Drawing on his long history and involvement with strategic arms control agreements, which dates back to 1970, Secretary Gates said that the question is always the same for each treaty: "Is the United States better off with an agreement or without it?" With respect to the START Treaty Secretary Gates' answer to the question is unequivocal: "The United States is far better off with this Treaty than without it."

That is also the issue now before the Senate. Is the United States better off with this START treaty? The 20 hearings and 4 briefings have clearly demonstrated that it is.

In that same op-ed, Secretary Gates emphasized the current state of affairs that has existed since the end of December 2009 when the START I treaty expired. Since that time, there has been no verification and inspection regime, no visibility into the Russian strategic programs, and no limits on delivery vehicles. As the Secretary said:

Since the expiration of the old START Treaty in December 2009, the U.S. has had none of these safeguards. The new treaty will put them back in place, strengthen many of them, and create a verification regime that will provide for greater transparency and predictability between our two countries, to include substantial visibility into the development of Russian nuclear forces.

This rigorous inspection and verification regime, which when coupled with our national technical means, will allow this treaty to be monitored and verified. Nevertheless there has been an argument made that Russia cheated on the START I treaty and therefore we shouldn't ratify the new treaty. According to the State Department that is simply not the case.

In testimony before the Armed Services Committee in July, Assistant Secretary of State Rose Gottemoeller said, regarding the State Department's 2010 Treaty Compliance Report:

I want to point out that Russia was in compliance with START's central limits during the Treaty's life span. Moreover, the majority of compliance issues raised under START were satisfactorily resolved. Most reflected differing interpretations on how to

implement START's complex inspection and verification regime.

The old START I treaty was a complicated and complex treaty, many of the lessons learned from the inspections during the course of that treaty have been incorporated into the new treaty. There were issues on both sides. According to the 2010 Treaty Compliance Report:

The United States stated on several occasions to our Treaty partners that the United States was compliant with the Treaty; however as might be expected under a verification regime as complex as START, the United States and Russia developed a difference of views with regard to how the sides implemented certain Treaty requirements.

This is not the same as cheating.

Our senior military leaders believe the new treaty can be monitored and verified and that if Russia did cheat there is high confidence that any cheating could be detected before such cheating rose to a level of military significance. General Chilton said during testimony before the Armed Services Committee, "New START will reestablish a strategic nuclear arms control verification regime that provides access to Russian nuclear forces and a measure of predictability in Russian force deployments over the life of the treaty."

In a discussion on the ability to detect cheating I asked General Chilton, "In other words, the verification provisions give you confidence that Russia cannot achieve a militarily significant advantage undetected?" General Chilton said: "Yes, that's correct."

Assistant Secretary of State Rose Gottemoeller, in her July testimony before the Armed Services Committee, made it clear that any cheating could be detected before it became militarily significant. She also believes that the United States is well positioned to deter cheating as well. In that regard she said:

Deterrence of cheating is a key part of the assessment of verifiability, and is strongest when the probability of detecting significant violations is high, the benefits to cheating are low, and the potential costs are high. We assess that this is the case for Russia cheating under the New START Treaty.

One of the areas on which we have had substantial discussion is missile defense. The U.S. missile defense program isn't covered or limited by the New START treaty. It—the missile defense program—has nevertheless become a major focus of the debate on the treaty. Our missile defense programs and policies are based on developing and fielding the missile defense capabilities we need to meet the missile threats we face, not on any of these treaty matters. The New START treaty does not limit the missile defense capabilities we need.

Secretary of Defense Gates, in testimony before the Armed Services Committee on June 17, said:

The Treaty will not constrain the United States from deploying the most effective

missile defenses possible, nor impose additional costs or barriers on those defenses. I remain confident in the U.S. missile defense program, which has made considerable advancements, including the testing and development of the SM-3 missile, which we will deploy in Europe.

Secretary of State Clinton, in testimony before the Armed Services Committee on June 17 said:

This Treaty does not constrain our missile defense efforts. I want to underscore this because I know there have been a lot of concerns about it and I anticipate a lot of questions.

During that same hearing Secretary Clinton went on to say:

The Treaty's preamble does include language acknowledging the relationship between strategic offensive and defensive forces, but that's simply a statement of fact. It too does not in any way constrain our missile defense programs.

In a July 20 hearing before the Armed Services Committee, GEN Kevin Chilton, the Commander of the U.S. Strategic Command said:

As the combatant command(er) also responsible for synchronizing global missile defense plans, operations, and advocacy, I can say with confidence that this treaty does not constrain any current or future missile defense plans.

Assistant Secretary of State, Rose Gottemoeller, the lead negotiator of the Treaty, in testimony before the Senate Foreign Relations hearing on June 10, said:

The Treaty does not constrain our current or planned missile defense and, in fact, contains no meaningful restrictions on missile defenses of any kind.

Later, on July 29, in testimony before the Armed Services Committee, Assistant Secretary Gottemoeller said:

There were no—and I repeat—no secret deals made in connection with the New START Treaty, not on missile defense nor on any other issue.

As the Ballistic Missile Defense Review report made clear, the administration is pursuing a variety of systems and capabilities to defend the homeland and different regions of the world against missile threats from nations such as North Korea and Iran. A good example of that is the phased adaptive approach to missile defense in Europe. The Secretary of Defense and the Joint Chiefs of Staff recommended it unanimously. It is strongly supported by our NATO allies. The November 20, NATO Lisbon Summit Declaration says that “the United States European Phased Adaptive Approach is welcomed as a valuable national contribution to the NATO missile defense architecture.”

During the NATO Lisbon Summit NATO announced its own decision to build a missile defense system to protect European populations and territory against missile attack, consistent with the phased adaptive approach. The phased adaptive approach is designed to provide effective missile de-

fense capabilities in a timely manner against existing or emerging Iranian missile threats. Those are the missile threats faced by our military personnel, allies, and partners in Europe.

As the Secretary of Defense and numerous other officials have made clear, the treaty does not limit our missile defense plans or programs. The Armed Services Committee also knows that, and our authorization bill stated that fact. Section 221(b)(8) of the Ike Skelton national Defense authorization bill for fiscal year 2011 that we passed this morning in the Senate states, “there are no constraints contained in the New START Treaty on the development or deployment of effective missile defenses, including all phases of the Phased Adaptive Approach to missile defense in Europe and further enhancements to the Ground-based Mid-course Defense system, as well as future missile defenses.”

To be very clear there is one provision in the treaty that prohibits each side from using ICBM silos or SLBM launchers for missile defense interceptors, and vice versa. But using these silos and launchers are not in our missile defense plan and should not be in our plan because it would be very much against our interest to use strategic missile interceptor silos for ballistic defense purposes. It would be more expensive than building new silos, the strategic missile silos aren't in the right locations to defend against missiles from North Korea, and most importantly, it would be destabilizing to launch ballistic missile interceptors from ICBM silos or SLBM launchers.

Lieutenant General O'Reilly, the Director of the Missile Defense Agency, has made clear, we don't want, need, or plan to use such silos for missile defense purposes. In a June 16 hearing before the Senate Foreign Relations Committee, Lieutenant General O'Reilly made it very clear saying “replacing ICBMs with ground-based interceptors or adapting the submarine-launched ballistic missiles to be an interceptor would actually be a setback—a major setback—to the development of our missile defenses.”

That one limitation has no impact on our plans for missile defense, plans that are more effective and less expensive than converting ICBM or SLBM silos to missile defense use.

There is one other area of the many that have been discussed in connection with the START treaty that I would like to raise, and that is modernization of the nuclear weapons complex and maintaining the ability to certify annually that our stockpile remains safe, secure and reliable.

Shortly before Congress instituted a moratorium on nuclear weapons testing in the early 1990s, the United States established a stockpile stewardship program to design and build advanced scientific, experimental, and

computational capabilities to enable the annual certification process for the nuclear weapons. This program has been very successful. Beginning in 2005, however, support for the program started to wane and the budgets for nuclear activities started to go down. Without enough money the weapons complex was forced to have layoffs at the nuclear weapons laboratories and the production facilities, to defer maintenance on many important buildings and facilities, to delay key acquisitions, and to delay design and construction of the last two major new production facilities. President Obama, in his fiscal year 2011 budget request and in the plans for the future years, has turned this situation around by providing \$4.1 billion more over the next five years than previously planned. This level of funding is unprecedented since the end of the Cold War.

President Obama laid out his funding plan for the nuclear enterprise in the November Section 1251 report, a report that would provide an additional \$1.2 billion over 2 years, a 15 percent increase and a total of \$41.6 billion for fiscal years 2012–2016 for the National Nuclear Security Administration.

With these amounts has the administration committed enough to modernization and sustainment of the complex and the life extension programs for the nuclear stockpile? The directors of three nuclear weapons laboratories all say yes. In a joint December 1, 2010, letter to Senators KERRY and LUGAR, the three Directors of the nuclear weapons laboratories said that the finding level proposed in the section 1251 report “would enable the laboratories to execute our requirements for ensuring a safe, secure, reliable, and effective stockpile under the Stockpile Stewardship and Management Plan.”

The Administrator of the National Nuclear Security Administration, under both President George W. Bush and President Obama, Tom D'Agostino, said, in testimony before the Armed Services Committee in July:

Our plans for investment in and modernization of the Nuclear Security Enterprise—the collection of NNSA laboratories, production sites, and experimental facilities that support our stockpile stewardship program, our nuclear nonproliferation agenda, our Naval nuclear propulsion programs, and a host of other nuclear security missions—are essential irrespective of whether or not New START is ratified.

The Senate Foreign Relations Committee took the right approach on this issue in its resolution of ratification by not making entry into force contingent on a certain funding level, but by including a sense of the Senate that the United States is committed to a robust stockpile stewardship program.

The list of both Republican and Democratic supporters of this Treaty is broad and strongly bipartisan, including eight former Secretaries of State—

Madeleine Albright, Warren Christopher, Colin Powell, Condoleezza Rice, James Baker, Lawrence Eagleburger, George Schultz, Henry Kissinger—four former Secretaries of Defense—Harold Brown, Frank Carlucci, Bill Cohen, Bill Perry, and Jim Schlesinger—seven former commanders of the U.S. Strategic Command, President George H.W. Bush, President Clinton and a long list of national security experts.

Our NATO allies support this treaty and have urged us to ratify it without delay. NATO Secretary General Anders Fogh Rasmussen said at the NATO summit in Lisbon in November:

A ratification of the START Treaty will contribute strongly to an improvement of the overall security environment in the Euro-Atlantic area, and all members of the NATO-Russia Council share the view that an early ratification of the START Treaty would be to the benefit of security in the Euro-Atlantic area. I'd also have to say that it is a matter of concern that a delayed ratification of the START Treaty will be damaging to the overall security environment in Europe. So we strongly urge both parties to ratify the START Treaty as early as possible.

I believe that the Senate should consent to ratification of the New START treaty and that ratification of this treaty is in the national security interest of the United States. Ratification of the New START treaty will provide predictability, confidence, transparency and stability in the United States-Russian relationship. The New START treaty will make us safer today, and leave a safer world for our children and grandchildren. The Senate should ratify the New START treaty now.

Mrs. FEINSTEIN. Madam President, I am very pleased that the Senate is about to ratify the New START treaty—I hope and believe with a very solid bipartisan vote.

This really is a historic moment. This is the biggest arms control treaty in 20 years, and the most important foreign policy action the Senate will take this Congress.

This is absolutely the right thing to do. It is important to our national security and it is critical to uphold America's place in the world community.

As I have said many times, the arms reductions in this treaty are modest. New START requires a 30 percent reduction in warheads from the limits set out in the Moscow Treaty in 2002 to 1,550 on each side, but both the United States and Russia have been reducing their strategic stockpiles since then.

The real importance of this treaty comes from the monitoring provisions, confidence-building measures, and the strengthened relationship between two of the world's major powers.

We have not had inspectors at Russian nuclear facilities for 13 months. We have not had data exchanges on the size and deployment of Russian forces.

Russia has had the freedom to block our national technical means to monitor their forces. Apart from our national technical means, we are now blind.

With this treaty, we will benefit from these measures and others. The Senate has discussed the monitoring and verification provisions at length during this debate—in open and closed session—and it has been made very clear that this treaty greatly strengthens our intelligence community's ability to monitor and assess Russian strategic forces.

As Director of National Intelligence Clapper has said, the sooner we ratify this treaty, the better. I am very pleased that the Senate is acting now, before the end of the year and the congressional session, to give the executive branch these tools.

With the ratification of this treaty, the Senate also makes clear that the United States is willing and able to make good on its foreign policy promises and to act in the best interests of our country and of the world.

Following ratification in the Russian Duma, the United States and Russia will begin the next round of arms control and transparency.

I hope and I believe many Senators have expressed their desire, that this will lead to further arms control negotiations to reduce further the level of strategic arms and to address tactical nuclear weapons and other delivery mechanisms.

The ratification also maintains, and hopefully will build on, the improving relationship between our two countries and our two young Presidents.

We have enjoyed strong cooperation this year, over Afghanistan, over Iran, and—according to a letter I received from President Obama on Monday—over the tense situation on the Korean Peninsula.

In a world of asymmetric threats, we need friends and allies more than ever. This treaty moves us in this direction—with Russia and with the Eastern European nations that are strongly in support of the treaty.

Before closing, I want to congratulate and thank my good friend from Massachusetts. He has spent an incredible amount of time considering this treaty in the Foreign Relations Committee, preparing the resolution of ratification and in managing this floor debate.

He has done a fabulous job, and I really want to thank him for all his effort and his cooperation with me through this entire process.

I would also like to thank the many administration officials for their assistance in my consideration of this treaty, all of whom have spent time in my office over the past year. They include:

Assistant Secretary Rose Gottemoeller, our lead negotiator; Admiral Mike Mullen,

Chairman of the Joint Chiefs of Staff; General James Cartwright, Vice Chairman of the Joint Chiefs; Tom D'Agostino, Administrator of the National Nuclear Security Administration; and Director of National Intelligence Jim Clapper.

Mrs. SHAHEEN. Madam President, today, the Senate has a historic opportunity to follow in a long history of strong, bipartisan support for reducing the threat posed by nuclear weapons around the globe. We have a chance to strengthen American national security and restore American leadership on the nuclear agenda. I am hopeful that the Senate will choose the right path and vote in favor of ratification of the New START treaty.

I want to thank Senators KERRY and LUGAR for their tireless, impressive work on the New START treaty. Former Secretary of State Dr. Henry Kissinger, in explaining his support for the New START Treaty, told our committee earlier this year that the Senate's decision on New START "will affect the prospects for peace for a decade or more. It is, by definition, not a bipartisan, but a nonpartisan, challenge." Senators KERRY and LUGAR have done everything in their power to make this a nonpartisan effort, and I commend them and their staff for their excellent work.

I want to also take a moment to thank the negotiators, Rose Gottemoeller, Ted Warner, their colleagues at the White House, and all the civil servants responsible for negotiating this agreement. Each of them has a lifetime of experience and impressive expertise on nuclear issues, and they all worked hard to navigate this difficult treaty process. America was well-served by your efforts, and we thank you for your leadership.

At the very beginning of this long process, Secretary of Defense Robert Gates asked the Senate a very important question: Is the United States better off with an agreement or without it? Today, the Senate has to answer this specific question.

We have had a very long, thorough, and vigorous debate, and some Senators may not agree with everything in the treaty text before us, and some may have problems with the process by which we are here today, but let's be clear. The vote today is not about what each of us might have done differently. The vote today is not about abstract numbers or theoretical point scoring. The historic vote today is simple: Do you believe the United States and the world are better off with an agreement or without one?

The Senate—led in a bipartisan fashion by Senators KERRY and LUGAR has done an impressive job of meeting its constitutional responsibilities, and I am proud of the work we have done in giving our advice and consent to the New START treaty. The involvement of the Senate over the last year and a

half and the debate we have undertaken have been worthy of the world's greatest deliberative body.

I have heard from many of my colleagues that the Senate should not be a rubber stamp in ratifying the New START Treaty—as if to suggest we have not taken our constitutional responsibilities seriously during this process. This could not be further from the truth.

First, the Senate's influence can be seen throughout the treaty document. A number of Senators met with negotiators numerous times prior to the treaty's completion, and some even traveled to Geneva during the negotiations. In many respects, from the very beginning, our negotiators were operating within a framework and boundaries as set by Senators involved in the process. The treaty itself is really a product of collective input from both the executive and congressional branches. The unique insight and input this Congress has provided throughout the negotiation process could not be replicated in any future consideration.

In addition, since we received the treaty, the Senate has done its job and has thoroughly considered this agreement. The Senate Foreign Relations Committee held 12 hearings and heard testimony from 21 expert witnesses. The administration has answered over 900 questions for the record. We have also had more floor time for amendments and consideration than any other treaty of its kind. Our vigorous debate on the floor has added nuance and depth to this already thorough body of work.

It is also important to note that the Senate, in providing its advice and consent, actually writes and approves the resolution of ratification to go along with the treaty. This is not an insignificant document. This is the Senate's opportunity to influence the treaty's future interpretation and implementation and our chance to provide the declarations, understandings, and conditions to the treaty. The resolution succinctly and explicitly expresses the Senate's views on New START, and our resolution actually provides some strong statements with respect to many of the concerns raised by critics of the treaty.

For example, on missile defense, the resolution reads very clearly that the United States remains committed to missile defense, and the New START treaty does not constrain that commitment:

The New START Treaty and the . . . unilateral statement of the Russian Federation on missile defense do not limit in any way, and shall not be interpreted as limiting, activities that the U.S. currently plans or that might be required . . . to protect U.S. Armed Forces and U.S. allies from limited ballistic missile attack.

In addition, the DeMint amendment on missile defense in the resolution reads:

The United States is and will remain free to reduce the vulnerability to attack by constructing a layered missile defense capable of countering missiles of all ranges. The United States is committed to improving U.S. strategic defensive capabilities both quantitatively . . . and qualitatively and such improvements are consistent with the Treaty.

On tactical nuclear weapons, the resolution reads:

The Senate calls upon the President to pursue . . . an agreement with Russia that would address the disparity between tactical nuclear weapons stockpiles . . . and would secure and reduce tactical nuclear weapons in a verifiable manner.

Finally, on strategic-range, non-nuclear weapon systems:

Nothing in the New START Treaty restricts U.S. research, development, testing, and evaluation of strategic-range, non-nuclear weapons . . . [or] prohibits deployments of strategic-range, non-nuclear weapon systems.

The fact is that the Senate has done its constitutional duty and has thoroughly debated and considered this important agreement.

Adding to our extensive internal debate, countless outside experts and former officials have also weighed in on this treaty. New START has the unanimous backing of our Nation's military and its leadership, including Secretary Gates, the Chairman of the Joint Chiefs, the commander of America's Strategic Command, and the Director of the Missile Defense Agency. America's military establishment is joined by the support of every living Secretary of State—from Secretary Jim Baker to Secretary Condoleezza Rice—as well as five former Secretaries of Defense, nine former national security advisors, and former Presidents Clinton and George H.W. Bush. The overwhelming consensus from these foreign policy and national security heavyweights has been clear: New START is in America's national security interests.

I think it is important to take a step back and remember the broader picture of the decision before us today. We are no longer talking about abstract numbers, intangible ideas or questions of process. We are talking about real nuclear weapons. We are talking about thousands of the most dangerous weapons in the history of mankind—weapons actually aimed directly at American cities.

Our arsenals are composed primarily of nuclear weapons each yielding between 100 and 1,200 kilotons of power. To give you a sense of the power of these weapons, the nuclear weapon dropped on Hiroshima yielded around 13 kilotons of power. After New START, the United States and Russia will still be allowed an arsenal of 1,550 warheads capable of leveling cities more than five times the size of New Hampshire's largest city of Manchester.

Now, I am under no illusions that the ratification of the New START treaty will somehow by itself meet the threats posed by nuclear weapons around the globe. President Kennedy told us that attainable peace will be “based not on a sudden revolution in human nature but on a gradual evolution in human institutions” and “peace must be the product of many nations, the sum of many acts.” He said:

No treaty, however much it may be to the advantage of . . . all can provide absolute security . . . But it can . . . offer far more security and far fewer risks than an unabated, uncontrolled, unpredictable arms race.

New START is a step away from this “unabated, uncontrolled, unpredictable” environment.

As the first Nation to invent and then use nuclear weapons, the United States has spent the majority of the last half century trying to reduce the risk they pose. Over five decades ago, President Eisenhower committed the United States to meeting its special responsibilities on the nuclear threat. He said:

The United States pledges before you—and therefore before the world—its determination to help solve the fearful atomic dilemma—to devote its entire heart and mind to find the way by which the miraculous inventiveness of man shall not be dedicated to his death, but consecrated to his life.

Eisenhower's early commitment and America's special responsibility have led to unbroken U.S. leadership in the world on the nuclear agenda. The Nuclear Non-Proliferation Treaty—the cornerstone of global nonproliferation efforts—was born out of President Eisenhower's “Atoms for Peace” vision. The original START treaty was a culmination of President Reagan's entreaty to “trust, but verify” Russia and its actions. The U.S. Cooperative Threat Reduction Program, which has led to the deactivation of over 7,500 Russian nuclear warheads, was the result of two visionary and farsighted Senators named Nunn and LUGAR.

American leadership on the nuclear agenda makes the world safer. Period.

As Secretaries Kissinger, Schultz, Perry, and Senator Nunn told us in their seminal 2007 opinion piece:

The world is now on the precipice of a new and dangerous nuclear era . . . Nuclear weapons today present tremendous dangers but also a historic opportunity. U.S. leadership will be required to take the world to the next stage—to a solid consensus for reversing reliance on nuclear weapons globally as a vital contribution to preventing their proliferation into potentially dangerous hands.

The New START treaty should be the next step on the path of American leadership on the nuclear agenda. If we turn our back on this treaty at this time, we are turning our back on a generation of bipartisan, American leadership in this field, and we cede the field to a more dangerous and more uncertain world.

The debate over New START is now over, and the only choice left before us is this treaty or nothing. Each of us today will decide—yes or no—whether we think we are better off with a treaty or without one.

I hope we will vote on the side of the overwhelming majority of foreign policy and national security experts who have called on us to support this treaty. I hope we will vote on the side of our unanimous military and intelligence communities. I hope we will vote on the side of a legacy of American leadership on the nuclear agenda.

I am hopeful we will follow in the footsteps of the Senate's strong bipartisan history and ratify the New START treaty today.

Mr. KOHL. Madam President, I rise today to support ratification of the New Strategic Arms Reduction Treaty, or New START. This treaty continues the bipartisan arms control framework first proposed by President Ronald Reagan and implemented by President George H.W. Bush with the START I and START II treaties. President George W. Bush continued this work with the Moscow Treaty. Now President Obama has taken another important step to address the dangers of nuclear weapons with the New START treaty.

Stopping the spread of nuclear weapons and reducing existing nuclear stockpiles is critical to our national security. New START helps accomplish this goal by placing responsible limits on nuclear warheads and delivery vehicles, while still enabling the United States to maintain a credible nuclear deterrent.

New START also reestablishes regular onsite inspections of Russian nuclear facilities, which ended more than a year ago when the previous START treaty expired. The potential lack of safety, security, and controls of Russian nuclear weapons is a grave security risk, and there is no substitute for onsite inspections to address this threat.

I carefully considered the views of our military and diplomatic leaders in evaluating New START, and I am impressed by the breadth of bipartisan support for this treaty. The Secretaries of State, Defense, and Energy support New START. Our senior uniformed military leaders support New START, including the head of the Missile Defense Agency. Every living former Secretary of State, Republican or Democrat, supports New START.

I commend my colleagues on the Senate Foreign Relations Committee for the extensive work they have done to consider the New START treaty. They have produced a thorough record on the merits of this treaty, which enables every Senator to cast an informed vote. After reviewing this record, I am proud to cast my vote in favor of ratifying New START.

Mr. GRASSLEY. Madam President, before I begin my remarks on the New START treaty, I would like to point out to my colleagues that in 2002, I voted in favor of the Moscow Treaty. I was also one of 93 Senators who voted in favor of START I in 1992.

I recognize the importance of maintaining a positive and cooperative relationship with Russia. The proponents of the New START treaty argue that this treaty is necessary to continue the goodwill between our countries and the much-touted "reset" in our relations. More importantly to me, however, are the merits of the treaty itself. The Senate should not simply ratify this treaty to appease Russia or as a signal of cooperation with them. The treaty should be considered based on its impact on our national security and the security of our allies.

A nuclear arms control treaty can be evaluated based on the level of parity it brings to the two parties. In this regard, I believe this treaty falls short. The fact is, while this treaty places new limits on warheads, as well as deployed and nondeployed delivery vehicles, Russia is already below the limit on delivery vehicles. The treaty primarily imposes new limits on the U.S., while requiring modest, if any, reductions on the Russian side. Also alarming is that this treaty is silent on the matter of tactical nuclear weapons. It is believed that Russia has a 10-to-1 advantage over the U.S. in terms of tactical nuclear weapons.

The administration has argued that this treaty is necessary to provide strategic stability. However, if we are reducing our strategic weapons without regard to Russia's overwhelming advantage on tactical nuclear weapons, I question whether this reduction isn't weakening strategic stability. It should also be mentioned that some proponents of the New START treaty were critical of the 2002 Moscow Treaty for failing to reduce Russian tactical nuclear weapons. I believe our leverage with the Russians to begin placing meaningful limits on tactical nuclear weapons existed with this treaty. Now, I see no clear path to negotiating reductions in tactical nuclear weapons.

Like many of my colleagues, I have serious concerns about the inclusion of references to and limitations on U.S. plans for missile defense. I don't believe there should be a connection between strategic nuclear weapons reductions and our plans for missile defense. I am equally troubled that Russia issued a unilateral statement at the treaty's signing stating that the treaty "may be effective and viable only in conditions where there is no qualitative or quantitative build-up in the missile defense system capabilities of the United States of America."

It is positive that the Resolution of Ratification makes a strong statement that the treaty does not limit the de-

ployment of U.S. missile defense systems, other than those contained in article V. It also says that the Russian statement on missile defense does not impose a legal obligation on the United States. While I would have preferred that this treaty not contain any language on missile defense, I appreciate the work of the Foreign Relations chairman and ranking member to include this language in the ratification resolution. But the fact remains, this language is simply our opinion and is nonbinding.

This treaty reverses the gains made in the Moscow Treaty which de-linked offensive and defensive capabilities. Although a modified amendment on missile defense to the resolution of ratification was agreed to today, I am disappointed that the Senate could not agree to the amendment offered by Senator MCCAIN which would have stricken the language in the treaty's preamble that arguably gives Russia a say on our future missile defense plans.

Finally, I also share the serious concerns related to the issue of verification. It has been the subject of much debate, and deservedly so. I agree with the sentiment that as our deployed strategic nuclear weapons are reduced, it becomes more and more critical that the remaining weapons can be relied upon. As the number of weapons is reduced, it becomes more important that we know that the Russians are abiding by the limits of the treaty.

After reviewing the classified material presented by Senator BOND, ranking member of the Senate Intelligence Committee, I have serious reservations about the new verification regime contained in the treaty. Although former Secretary of State James Baker supports ratification of the treaty, he stated that the verification mechanism in the New START treaty "does not appear as rigorous or extensive as the one that verified the numerous and diverse treaty obligations and prohibitions under START I."

I do regret that without a treaty in place that there is no verification regime, and no U.S. inspectors monitoring Russia's nuclear arms activities. It's important to point out, however, that the Obama administration had the ability to extend the verification regime for 5 years, as provided for in START I. But the Obama administration failed to act. The administration also insisted there would be a "bridging agreement" to continue verification until the entry into force of a successor agreement. This agreement was never completed either.

I am deeply disappointed that in these areas of concern, the Senate is simply being asked to be a "rubberstamp" rather than fulfill our constitutional obligation to provide our advice on these important matters. Had the advice of the Senate on these important issues been incorporated

into the treaty, I believe it would have gained overwhelming bipartisan support. Without addressing these areas in a meaningful way, I am reluctantly unable to support it.

Mr. COONS. Madam President, I am pleased to join my colleagues in voicing my strong and unequivocal support for New START. I want to thank Senators KERRY and LUGAR for their leadership on this issue, and join them in urging the Senate to support ratification. New START will make America stronger and more secure by building on 30 years of U.S. global leadership on nuclear arms control and reduction. This is why it has been endorsed by national security leaders on both sides of the aisle, including every living Republican Secretary of State, 5 former Secretaries of Defense, 7 former commanders of the U.S. Strategic Command, the entire Joint Chiefs of Staff, 3 former Presidents, and all 27 of our NATO allies.

We simply cannot afford to postpone the vote until the 112th Congress and delay ratification any further. Military planners have confirmed that ratification is essential to U.S. security in an increasingly dangerous environment, and 73 percent of Americans support ratification according to one recent poll.

As the newest member of the Foreign Relations and Armed Services Committees, I did not have the luxury of receiving the wealth of information and perspective offered in the 18 public hearings and Senate deliberations on this issue. I have, however, received enough information from classified briefings to know this is a pressing national security matter of the highest order. As we approach a vote, I plan on following the strong advice of our military and national security leadership, as well as the will of the American people, in supporting New START.

New START will enhance U.S. intelligence gathering and restore inspections needed to monitor the Russian nuclear force. For more than a year, we have been deprived of such inspections due the expiration of the original treaty. While opponents of New START have highlighted the reduction in the total number of inspections, those which remain comprise the most robust strategic arms inspections regime in history. By increasing transparency between the United States and Russia, New START will enhance our mutual nuclear deterrent. This is just one example of why ratification is in America's best security interest.

In addition to reducing the total number of both American and Russian deployed strategic nuclear weapons to 1550, New START will limit the number of deployed delivery vehicles for nuclear warheads to 700. As we consider investing more than \$85 billion over the next decade into modernizing our current nuclear arsenal, we must also

consider the practical benefit of maintaining a smaller number of strategic nuclear weapons. These limits have been endorsed by our military planners because they are commensurate with our current and future defense needs. Moreover, reducing the number of deployed strategic warheads and delivery vehicles better positions us to invest the savings in nuclear modernization.

The United States and Russia share common threats and common interests, and, in the words of Vice President BIDEN, New START is a "cornerstone of our efforts to reset relations with Russia." Over the past 2 years, cooperation between the United States and Russia has grown in areas such as supporting sanctions to thwart Iran's nuclear development and transferring essential supplies into Afghanistan. At this juncture, the Senate's failure to ratify New START could have far-reaching implications on such progress, including jeopardizing future cooperation in these critical areas.

As some of my colleagues propose altering the treaty, I want to voice my strong opposition to all amendments, as they would effectively kill the agreement by requiring renegotiation with Russia. In the future, we can address some of the issues raised during the amendment process—including Russia's extensive stockpile of tactical nuclear weapons—but these matters exceed the breadth of the treaty before us today. I also believe that we can achieve a missile defense cooperation agreement with Russia, but reaching an understanding on missile defense will be easier once we have established an agreed-upon limit to the number of deployed strategic nuclear weapons.

America must maintain its global leadership on nuclear arms control and nonproliferation, and it is our obligation as Senators to act now. It is time to look beyond politics and vote on principle, and I urge all Senators to join me in supporting ratification of New START because it is a domestic and global security imperative.

Ms. SNOWE. Madam President, I rise today to express my support for the New Strategic Arms Reduction Treaty, known as New START, which was signed by the United States and Russia on April 8 and transmitted for the advice and consent of the Senate on May 13. Since then, Chairman KERRY, with the unwavering support of Ranking Member LUGAR, has navigated the treaty through 18 hearings before the Senate Foreign Relations, Armed Services, and Intelligence Committees—and I commend the chairman for his determination to see this paramount accomplishment through to the finish.

Without equivocation, since his election to the U.S. Senate in 1976, Ranking Member LUGAR has been an overriding force of nature in reducing the threat of nuclear, chemical, and biological weapons—and his work with

then-Senate Armed Services Chairman Sam Nunn to lay the groundwork for the deactivation of more than 7,500 of these dangerous weapons in the former Soviet Union is legendary. Throughout the negotiations and consideration of New START, Ranking Member LUGAR has once again demonstrated his incredible depth of knowledge and expertise on these issues, which has been of the utmost benefit to the Senate.

President George H.W. Bush and Soviet leader Mikhail Gorbachev signed the original START Treaty on July 31, 1991—5 months before the collapse of the Soviet Union. The agreement represented the culmination of more than 20 years of bilateral arms control agreements between our two nations.

Much has changed over what is almost two decades since the original START agreement was signed in Moscow. The world has witnessed the disintegration of the Soviet Union, the rise of terrorist organizations with nuclear weapons ambitions, and growing threats from hostile regimes in such locations as Tehran and Pyongyang. As a result, when START expired 1 year ago this month, we found ourselves at a crossroads—without the ability to inspect Russian missile silos, which, frankly, is unfortunate given that last year Senator LUGAR suggested that the administration obtain a short-term "bridging agreement" with the Russians to ensure there was not a verification gap between the expiration of START and approval of New START.

Yet despite this missed opportunity to secure a short-term bridging agreement, I believe the debate we have had in this body over the last 12 months has made clear that it is in our vital national interests to, first and foremost, maintain strategic stability between the United States and Russia—the two countries that hold more than 90 percent of the world's nuclear weapons—and furthermore to upgrade the original START agreement to reflect the new realities of the post-Cold War era.

On the first point, I have supported New START's goal of reinstating a more stable, transparent, and legally binding mechanism based on proven methods for monitoring compliance with treaty provisions and deterring potential violations. For example, New START requires essential data exchanges detailing the numbers, types, and locations of affected weapons, mandates up to 18 short-notice on-site inspections each year to try and confirm information shared during such exchanges, and it calls for the parties to notify each other and to update the database whenever they move such forces between facilities.

Since the early years of nuclear weapons agreements between the United States and the Soviet Union, beginning with Strategic Arms Limitation Talks, known as SALT, in May

1972; to the Intermediate-Range Nuclear Forces, or INF Treaty, in December 1987 and the original START agreement in July 1991; our nations have gained from the structure and degree of transparency that these agreements provide. As former National Security Advisor and Secretary of State Henry Kissinger said in May, New START is “an evolution of treaties that have been negotiated in previous administrations of both parties” and “its principal provisions are an elaboration” of existing agreements. Secretary Kissinger went on to note that the continued absence of this vital agreement would undoubtedly “create an element of uncertainty in the calculations of both adversaries and allies” and have an “unsettling impact on the international environment.”

In other words, without the comprehensive and overlapping system of inspections, notifications, and data exchanges that both the original START and New START provide, our strategic commanders and civilian leaders may be forced to position their assets in a way that anticipates the worst case scenario, which as we witnessed during many overwrought days of the Cold War is an incredibly precarious—and often more costly—approach in terms of the prioritization of our intelligence and defense resources. Therefore, I believe firmly that, when combined with our Nation’s overhead intelligence assets, remote sensing equipment, and other classified methods, the New START agreement will provide our government better insight into the accuracy of Russia’s declarations on the numbers and types of deployed and nondeployed strategic offensive arms subject to the treaty, thereby engendering greater confidence in our comprehension of the state of affairs, enhancing global stability and our security here at home.

Still, in addition to maintaining the framework of our nuclear arms reduction program with Russia, it is crucial that this treaty be thoroughly vetted to reflect the reality of the threats we face in the 21st century. Article II, section 2 of the Constitution states that the President “shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur”—and as such we must make absolutely certain that questions regarding our ability to verify Russian compliance with New START’s limits, to develop and deploy effective missile defenses, and to modernize our nuclear weapons complex, have been satisfactorily resolved. Senator KYL, in particular, has brought great value to this process—and I extol all of my colleagues for their dedication to meeting our constitutional responsibilities.

Among the most significant questions that have been raised are those that deal with our ability to monitor

Russian compliance with the treaty’s limits. As part of its overlapping monitoring and verification regimes, New START permits up to 18 short-notice on-site inspections at ICBM bases, submarine bases, and air bases each year. U.S. inspectors will use these inspections to help verify data on the number of warheads located on deployed ICBMs and deployed submarine launched ballistic missiles and the number of armaments located on deployed heavy bombers.

Over the course of this debate, some of my colleagues have questioned the utility and effectiveness of New START’s on-site inspections. As a member of the Senate Select Committee on Intelligence, I have worked with my colleagues to scrutinize this proposed agreement and have closely reviewed the National Intelligence Estimate pertaining to this subject as well as a number of other classified reports. It is important to understand that we do not depend only on the treaty’s monitoring and verification provisions to ensure the Russians are complying with the warhead limit and other clauses. To the contrary, the treaty is but one critical instrument which, as with the 1991 START agreement, is intended to augment information collected through our overhead assets, and via other technical tools that leverage the larger U.S. Intelligence system—known as our National Technical Means.

Since the treaty was transmitted to the Senate in May, the Intelligence Committee has conducted a comprehensive review, and my staff and I have questioned key officials, including the Director of National Intelligence Jim Clapper, former Secretary of Defense Bill Cohen, and Secretary Gates’ Representative to Post-START Negotiations Dr. Ted Warner. Additionally, my staff has held classified discussions with former START inspection team members and delegates to the START Joint Compliance and Inspection Commission.

Consequently, I would underscore two significant areas of advancement where New START’s verification and monitoring provisions will be distinctly different from its predecessor. First, under the original START agreement, the treaty database listed the number of warheads attributed to a type of ballistic missile, and each missile of that type counted as the same number of warheads. Notably, New START advances this standard by enabling our inspectors to in fact count the actual number of reentry vehicles deployed on the missile to confirm that it equals the number designated by the Russians for that particular weapon.

Secondly, New START includes the innovation that unique identifiers—which mean numeric codes—be affixed to all Russian missiles and nuclear-capable heavy bombers. Under the origi-

nal START agreement, unique identifiers were applied only to Russian road-mobile missiles. As Ranking Member LUGAR has noted, while this does not insure a “foolproof” verification system, it will provide enhanced confidence and transparency under the Treaty structure.

Taken as a whole, I believe the treaty’s notification requirements, the use of unique identifiers on each ICBM, submarine launched ballistic missile, and heavy bomber, and the 18 annual short-notice on-site inspections, combined with our National Technical Means, will further our critical national security objectives by helping us observe and evaluate Russian activities—an objective that is fundamental to our strategic stability.

Additionally, when it comes to our ballistic missile defense capabilities, former Secretary of State Condoleezza Rice wrote on December 7 that “The Russians need to understand that the U.S. will use the full-range of American technology and talent to improve our ability to intercept and destroy the ballistic missiles of hostile countries.” In an effort to make certain that our intentions are unambiguous, the U.S. issued a unilateral statement at the signing of New START, which affirms that our government “intends to continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions.”

Furthermore, Ranking Member LUGAR also worked to ensure that the Resolution of Advice and Consent to Ratification that was approved by the Senate Foreign Relations Committee on September 16 addresses this question by declaring that “it is the policy of the United States to deploy as soon as technically possible an effective National Missile Defense system” and that nothing in the Treaty limits “further planned enhancements” to missile defense programs. President Obama, Secretary Clinton, and Secretary Gates have reaffirmed this commitment and the Administration’s Ballistic Missile Defense Review, released in February, outlines a detailed plan to continue to expand international missile defense efforts to defend the United States, our deployed forces, and our allies and partners around the world.

It is also important for the record to reflect that Russia issued a similar statement when the original START was signed in 1991, saying that the treaty would be viable only under conditions of compliance with the Anti-Ballistic Missile Treaty, which at the time restricted ballistic missile defenses. History clearly shows that following ratification of START the United States did not restrain its missile defense programs or reduce its expenditures on ballistic missile defenses

in an effort to ensure that Russia remained committed to the original START Treaty. To the contrary, U.S. spending on ballistic missile defense programs increased dramatically following the signing of the original START agreement—from less than \$4 billion for Department of Defense-wide ballistic missile defense funding support in 1991 to nearly \$10 billion this year. Moreover, in spite of this threat in 1991, Russia remained a party to START and continued to negotiate further reductions on strategic offensive weapons after the U.S. withdrew from the ABM Treaty in 2002.

Still, despite this precedent and Ranking Member LUGAR's considerable efforts to make certain that the resolution addresses the issue of missile defense, questions have been raised about potential restrictions on our ability to deploy effective missile defenses, and some of my colleagues have rightly criticized the preamble's recognition of an "interrelationship between strategic offensive arms and strategic defensive arms." It has been argued—and I agree—that this language, when combined with Russia's unilateral statement asserting its concern about a United States "build-up" in missile defense system capabilities, needlessly gives Russia a leverage point with which to attempt to compel our government to pull back from our missile defense objectives by threatening to withdraw from the Treaty if we seek to increase our capabilities. As a result, I supported Senator MCCAIN's effort to amend the Treaty to strike any reference to the "interrelationship between strategic offensive arms and strategic defensive arms."

Finally, when it comes to the modernization of our nuclear forces, meaningful concerns have been raised about the deplorable state of our deteriorating Manhattan Project-era nuclear laboratories and weapons stockpiles. Senators KYL and CORKER should be commended for their diligence in shedding light on the undeniable truth that these facilities are sorely out-dated, and continue to erode as safety and security costs have grown exponentially, maintenance is deferred, and layoffs and hiring freezes deprive our government of highly skilled scientists and technicians needed to maintain our nuclear deterrent.

Credible modernization plans and long-term funding for the U.S. nuclear weapons stockpile and the infrastructure that supports it are central to the effectiveness of our nuclear deterrent, and we have posed serious questions about the veracity of the administration's modernization report that was submitted to Congress with the New START agreement on May 13th, pursuant to section 1251 of the fiscal year 2010 Defense Authorization Act. Specifically, we have sought greater detail and assurances regarding the adminis-

tration's plans to retool and sustain our national weapons labs—including construction of the vitally important plutonium processing facility, known as the Chemistry and Metallurgy Research Replacement nuclear facility, in Los Alamos, NM, and the Uranium Processing Facility at Oak Ridge, TN. These two projects are essential for meeting our life extension program requirements for existing warheads and certifying the safety and readiness of the current stockpile.

On November 17, due in large part to the unyielding persistence of Senators KYL and CORKER, the administration released an updated 1251 modernization report that directly answered many of our concerns and elaborated on our modernization objectives by providing more detailed 10-year timelines and specific budget projections to sustain funding for stockpile surveillance at over \$200 million over the next 10 years, and cost estimates for the plutonium and uranium processing facilities at upwards of \$5.8 billion and \$6.5 billion respectively. In total, the administration has now committed more than \$85 billion to modernize our nuclear weapons complex over the next 10 years—\$15 billion more than initially proposed by the administration—and I am confident this undertaking will ensure continued support for these indispensable activities.

It is now the responsibility of President Obama and his administration to, in the months ahead, communicate even more specific details regarding any lingering concerns about our Nation's long-term modernization programs. The Resolution of Advice and Consent, which is currently before the Senate, includes strong language requiring direct notification to Congress if at any moment more resources are required—or if appropriations are enacted that fail to meet our modernization needs—and we as a body must hold this government true to these commitments.

In summary, the original START agreement was signed over 19 years ago, at a time when we still lived in a decidedly bipolar, and some might argue less complicated world. But with the fall of the Soviet Union and the end of the Cold War, we are now facing new threats from volatile governments intent on the proliferation of dangerous weapons, and decentralized terrorist groups focused on launching attacks more devastating even than 9/11.

Confronted with these daunting challenges, America must be prepared to defend our homeland, our forces in theatre, and our allies—and I believe this treaty allows future administrations to meet this responsibility, to maintain a safe and effective deterrent, and at the same time to continue to reduce the number of deployed and ready to launch long-range nuclear weapons. And as former Secretary of State

James Baker noted in May, a more stable and cooperative relationship between Washington and Moscow "will be vital if the two countries are to cooperate in order to stem nuclear proliferation in countries like Iran and North Korea." Simply put, the ratification of New START, and the cooperation and transparency it requires, has the potential to set the stage for expanded NATO and Russian collaboration when it comes to confronting terrorists and other dangerous proliferators—so together we may face those who threaten stability in the post-Cold War world.

Mr. President, the New START treaty has the unanimous support of our Nation's military and diplomatic leadership, Director of National Intelligence Jim Clapper, and the endorsement of President George H.W. Bush and prominent former national security officials such as Secretary of Defense Bill Cohen, and every living Secretary of State—including Colin Powell and Condoleezza Rice. As a member of the Senate Intelligence Committee, I am convinced that this agreement, when combined with our intelligence assets, will enhance global stability, and most importantly, our national security. I urge my colleagues to join me in supporting the Resolution of Advice and Consent to Ratification.

Mr. REID. Madam President, we cannot end this historic session of Congress without taking one more important step to protect the national security of the United States. It is time for the Senate to ratify the New START treaty.

This treaty will secure nuclear stockpiles. It will take nearly 1,500 American and Russian nuclear weapons out of commission. These are weapons that, as we speak, are trained on cities like Washington and Moscow, St. Louis and St. Petersburg.

More than a year has passed since American inspectors were on the ground monitoring the Russian nuclear weapons arsenal. The sooner we ratify this treaty, the sooner we can re-open the window into exactly what the Russians are, or are not, doing.

START will also preserve a strong American nuclear arsenal. Our military leaders have analyzed the treaty and determined the number of nuclear weapons we need to retain in order to keep us safe here at home. The director of the Missile Defense Agency has said the treaty will not restrain or limit our missile-defense capacity.

America and Russia control more than 90 percent of the world's nuclear weapons. The transparency this treaty will provide is critical not just to our two countries but the entire planet.

By ratifying the START treaty, we will also increase our ability to work with other countries to reduce nuclear weapons around the world, and to make sure that those weapons are kept safe and secure. We need to work together with Russia to stop the most

dangerous nuclear threats, including those from Iran and North Korea.

One of the greatest and gravest threats we face is the specter of a terrorist getting his hands on a nuclear weapon. We have faced nuclear threats before—but such a threat from a superpower is much different than one from a terrorist.

A nuclear-armed terrorist would not be constrained by doctrines of deterrence or mutually assured destruction. Instead, rogue groups could attack and destroy one of our cities—and millions of our people—without warning. By ratifying the New START treaty, we can help make sure this kind of unprecedented tragedy never happens.

We have had a positive, bipartisan process up to this point. That should continue today.

The Senate Foreign Relations Committee overwhelmingly approved the treaty with a bipartisan vote of 14-4.

Our Nation's military leadership unanimously supports it. Secretary of Defense Robert Gates and Chairman of the Joint Chiefs of Staff ADM Michael Mullen testified before the Senate and urged us to ratify it.

Secretaries of State from the last five Republican Presidents support the treaty because they know—in their words—“The world is safer today because of the decades-long effort to reduce its supply of nuclear weapons.”

And an all-star team of Republican and Democratic national security leaders support the treaty, including former President George H.W. Bush, Colin Powell, Madeleine Albright, Brent Scowcroft, James Schlesinger, Stephen Hadley, Senator Sam Nunn, and Senator John Warner.

Republicans have been included and instrumental from the beginning. At Senator KERRY's urging, the resolution was crafted by Senator LUGAR to reflect the views of our Republican colleagues. The Foreign Relations Committee then adopted additional Republican amendments in its mark-up. And we have adopted four additional amendments on the floor.

Senator KYL raised legitimate concerns about the state of our nuclear weapons complex, and the White House responded with an \$85 billion commitment to upgrade it over the next 10 years.

We have spent 8 days debating this treaty on the floor—that is longer than we spent on the original START—in a bipartisan and productive debate. I want to thank Chairman KERRY and Senator LUGAR for their tireless leadership on this treaty and thank Senators on both sides of the aisle who have worked hard to get this treaty completed.

For many Nevadans, the sights and sounds of a nuclear attack are familiar. Deep in our desert sits the Nevada National Security Site, which until this summer was called the Nevada Test Site.

Today the site is the center of our fight against terrorism and nuclear smuggling. It is on the front lines of our intelligence, arms control and non-proliferation efforts.

But the site was once a critical battlefield of the Cold War, and for decades it served as our Nation's nuclear proving ground. A lot of Nevadans grew up with mushroom clouds in our backyard. We want to make sure the tests that took place in the Nevada desert are the closest we come to a nuclear explosion.

Today we can do that. We can continue our institution's long history of bipartisan support for arms control. We can take 1,500 nuclear weapons off their launch pads. And we can make the future far safer for America and the world.

This is not just a narrow Senate debate. It isn't just a local issue. And it isn't something that can wait another day. The whole world is watching and waiting for us to act.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, let me thank my colleagues for working hard to get this treaty passed and for being able to achieve that as well, people within the administration. I appreciate the cooperation some of us have had with the chairman of the Foreign Relations Committee, the ranking member and others who have worked hard to try to complete, in a very short period of time, what probably should have taken a lot longer period of time. But I appreciate their efforts to work with us in that regard.

I would like to, briefly, speak to three things: the process, the problems, and some positive results of the consideration of this treaty.

For those who are watching, I can tell you right now there is only one thing on the mind of everybody in this Chamber: How quickly are we going to get out of here. One colleague said: I have a plane to catch. How long are you going to talk? Will I be able to catch it?

That is understandable because every one of us wants to get home to our families. I know there were some snide comments expressed about my concern a week or so ago about the fact we were going to be into Christmas week. But now the reality is everybody wants to get out of here immediately so cut short your comments, put them in the RECORD, and so on.

When I predicted a couple weeks ago that I didn't think we had time to do everything the majority leader wanted to do and do it well, I had no idea how many things would be added to the agenda and how difficult that would be. Unfortunately, I think my prediction turned out to be correct.

I remember just 1 year ago when we were on the Senate floor doing the health care bill, one of the primary

criticisms of it was the way it was done. I must tell you, with regard to the process of this bill, I am concerned about the precedent we are setting in the Senate, taking a lameduck session to jam so many things through, frequently without an opportunity to provide amendments or, when there are amendments, to simply have them all shot down without, I believe, adequate consideration.

We have done the tax legislation, the continuing resolution to fund the Government, the DOD authorization bill, the DREAM Act, don't ask, don't tell, the 9/11 bill is on the way, some judges, we passed a food safety bill almost in the middle of the night by unanimous consent without Members being adequately notified, and now the START treaty. In many of those situations, there was not adequate time—as I said, no amendments even allowed.

When cloture was filed, I expressed concern we had only dealt with, I believe at that time, four amendments to the treaty itself. But we were told: Don't worry. We will still give you consent to do resolution-of-ratification amendments.

Unfortunately, not all of them were permitted by the majority and, in order to get as many as possible together, we had to consolidate 70 or so amendments down to a very few.

The other side announced at the beginning of the debate there would be no amendments on the treaty itself or the preamble. It turned out the amendments that were offered were all defeated, but we did have some amendments on the resolution of ratification. They, too, would have all been defeated or were defeated, except for the fact that we were willing to water them down and, therefore, had them accepted by the majority.

Now we have very little time to make closing statements because we are going to adjourn sine die, meaning this is the end of the Congress. We will not have time to actually prepare written statements for the RECORD. This is a very brief statement to discuss primarily some positive things because there is not time to lay out all the problems that I think those of us who oppose the treaty still believe are present in the treaty.

I agree with the comments the newest Member of the Senate, MARK KIRK, made just a moment ago. He is very well schooled in these issues, though a new Member of the Senate. I associate myself with a lot of the remarks he made. I think later, when we come back next year, we can chronicle the things that were said in the debates and have a pretty good record of how it all ended. But I fear more for the process because of the precedent set that serious matters, such as the ones we have debated and dealt with, including the treaty, were done in, to some extent, a slipshod way, to some extent in

which there was not adequate time to do what the Senate should have done.

I also fear for the precedent set with respect to treaty ratification. Essentially, on many of the issues that were raised—and I appreciate, I must say, colleagues have been kind to me in their compliments. I appreciate that very much. They were complimentary to me and my colleagues in saying we were raising important issues that needed to be vetted, but in each case this was not the time to do it, this was not the place to do it because if we dare change one comma in this treaty, it would require that it be renegotiated. There were some unspecified horrible results of the fact that we would have to renegotiate the treaty because the Russians wouldn't like what we did.

The precedent we are establishing is that the Senate is a rubberstamp. Whatever a President negotiates with the Russians or somebody else, we dare not change because otherwise it will have to be renegotiated, to some great detriment to humanity, and I don't think that is appropriate. I think our Founders, when they wrote into the Constitution an equal role for the Senate and the President, they meant it. That role is advice and consent. We gave some advice in the last Defense authorization bill. We said, for example, don't negotiate conventional Prompt Global Strike limitations and don't allow limitations on missile defense. Both those things were done against our advice. But we are being asked to consent notwithstanding.

It seems to me, if the Senate is to have a role in the future on these kinds of treaties, we better come to an understanding if we are going to be able to make some changes. I don't think anybody ever said the administration ever got anything 100 percent right. We ought to be able to make some changes or else we might as well avoid the process altogether because it is just a big waste of time. Eleven years ago when we considered the Comprehensive Test Ban Treaty and rejected that treaty, a lot of commentators said the Senate had finally put its mark on the process by conclusively demonstrating it would not be a rubberstamp and that would be a new era for the administration in the future, having to pay some attention to what the Senate said. I hope this new START treaty is an aberration, rather than the beginning of a new precedent.

I will just tell you this. If the Comprehensive Test Ban Treaty is brought forward again, there will be a different process. Rather than the situation which obtained here, in which I did not urge a single colleague to oppose this treaty until the time that cloture was filed on it, I will urge every one of my colleagues to oppose reconsideration of the CTB.

So the process is not good. I have to hope that the result of the way we han-

dled it this year will not establish a new precedent. The problems of the treaty I wish to discuss in detail, but because my colleagues want to catch airplanes, I will not.

Let me focus then on the third and last element here, which is, some new things we learned from this treaty, and, frankly, some achievements that were obtained as a result of a lot of attention to it—being paid to it by our colleagues, a lot of great debate, particularly with respect to missile defense, modernization, and future arms control agenda.

One of the things I think we have made some progress on is that this may be the last arms control agreement for a while. Maybe we can get back to focusing on the real issues, issues of proliferation, of terrorism dealing with threats from countries such as North Korea and Iran.

It is fine to have yet another Cold War era type agreement with Russia. But the real issue is not between Russia and the United States, it is dealing with these other threats. So I suggest we move away from the distraction of agreements such as this, and on to what is a more contemporary challenge. I think as a result of the debate, that will be possible to do.

I would quote one of our colleagues, Condoleezza Rice, who served with great distinction as Secretary of State, and before that as National Security Adviser, wrote recently in the *Wall Street Journal* and she said:

After this treaty, our focus must be on stopping dangerous proliferators, not on further reductions of the U.S. and Russian strategic arsenals, which are really no threats to each other or to international stability.

Presidential Adviser Gary Samore agreed, saying:

If Iran succeeds in developing a nuclear capability, that would do more damage to the effort of the President to achieve a nuclear free world than anything.

That is the real test of where we are headed. So I would hope the focus in the future will be on the illicit programs of Iran, of Korea, countries such as Syria, and potentially focusing on some of the supporters of these countries such as the country of China. These are the real challenges. I believe there would be bipartisan support in this body to address those challenges next.

But, secondly, I think as a result of focusing on our nuclear arsenal, which we had to do by looking at this treaty, we have also learned that we have a very big challenge in this country. And, fortunately and parallel with the treaty, we worked on this challenge, the issue of how we can modernize our nuclear facilities and nuclear force and the delivery vehicles of the triad that would deliver those vehicles.

I think we have all agreed we made significant improvement in that regard. The administration, I believe, has

made a significant commitment to the modernization of our nuclear facilities. And the Senate, in various ways in dealing with this treaty, has done likewise, as well as through an exchange of letters that have been entered into by members of the Appropriations Committee, and we hope to work with our colleagues in the House of Representatives with whom we have not had enough contact on this issue. But hopefully, as a result of everything we have done, we will have an opportunity to fund the modernization, as it becomes clear more precisely what has to be done, to ensure that all of that is accomplished within the appropriate timeframe.

When we started out, we had a pretty woeful amount of money dedicated to the modernization of our nuclear facilities. Now we have a request from the administration of a total of about \$85 billion over a decade to operate our facilities. That includes about \$15 billion in new modernization spending.

With the 1251 report coming from the administration each year, we anticipate there will be further updates which will demonstrate additional progress we can make in the modernization. In addition, I mentioned the letter from the four key members of the Appropriations Committee in this body. We hope to work with Members in the House of Representatives likewise.

Finally on this matter, one of the last amendments that was adopted is a certification requirement, which is a change to the resolution of ratification that, to the extent possible, the administration will accelerate the planning and design of the two major facilities here and, where appropriate, request multiyear funding, of which my two colleagues from Tennessee who are, as usual, seated right here together, made a very strong point—that we could not only save a lot of money every year but also accelerate the construction of these facilities so we could complete the life extension programs for our nuclear weapons that are so critical.

A third thing I think we did, which is a very positive result, is to focus a little bit also on the other aspect of modernization; that is to say, the triad, our nuclear triad of bombers, submarines, and ICBMs.

The Secretary of Defense had made a decision at the outset of the Obama administration that we would cancel the decision on the next generation of bomber. It was very unclear whether it was the intention of our government to have a nuclear-capable bomber part of the nuclear triad.

Quoting General Chilton, who is the general responsible at Strategic Command on this, "We need service programs that sustain the long-term viability of our land-based, airborne, and sea-based delivery platforms."

One of the amendments that was adopted, amendment No. 4864, does require the President to certify that he intends to modernize or replace the triad, a heavy bomber and air-launched cruise missile, nuclear capable, an ICBM, and an SSBN and SLBM—in other words, the submarine leg, which I believe the administration has already begun to move forward on.

Also it would maintain the rocket motor industrial base necessary to support continued production of ballistic missiles. This is very important, because even if you modernize the warheads, if you do not have modern delivery vehicles to deliver them, obviously you do not have a capable deterrent. And, of course, the Russians, who have the most capable system other than ours, are modernizing their delivery vehicles, especially their ICBMs and, as a result, I think we need to do that as well.

I am very pleased we have been able to resolve this question about a nuclear-capable triad. I look forward to clear and unambiguous statements from the administration in the future about this, and eventually getting a replacement for all three legs of the triad that need to be modernized.

Fourth, there was a lot of discussion here about missile defense. I think without the treaty having come up, we probably would not have spent the time and raised the issues with regard to missile defense that were raised. We had a disagreement here about whether—or the extent to which the preamble to the treaty and article V of the treaty and the signing statements created a problem with respect to further development of our missile defenses.

But through this debate, I believe, through commitments of the President in a letter that he wrote, through an amendment to the resolution of ratification and a lot of statements for the record during this debate, we are much further down the road in predicting that we will be able to deploy the kind of missile defense that is necessary to protect not just our allies in Europe, for example, but also the continental United States and the American people.

To conclude this point, any attempt by the Russian Federation now to reestablish a link between missile defense and strategic arms control will not succeed; that any argument that there is a legal right to withdraw from the treaty if we proceed with our deployment plans, as they will be communicated to the Russians, will not stand. So our friends in Russia do need to understand what we have done here. And we are making clear, as President Reagan once did, that U.S. missile defenses are simply not open to a discussion. They will not be part of future negotiations as well.

Finally, with regard to the Conventional Prompt Global Strike, I think

we made some progress there. Very few people had ever heard the phrase, knew what it was. The Senate did give its advice in last year's Defense bill not to limit it. But, nevertheless, it was limited in the treaty. I think our debate about it here has helped to educate Members as to the need for this, something both the administration and many of us here in the Senate support. It is simply the capability to deliver not a nuclear warhead but a conventional warhead by an ICBM at a very long distance in a very relatively short period of time, to meet some of the new threats we are going to be facing in the future.

Unfortunately, Prompt Global Strike is limited in the treaty. Notwithstanding that unfortunate linkage, as I said, I think we have had an opportunity to obtain a more secure commitment from the administration on the deployment of the Global Strike capability, because the resolution of ratification now calls for a detailed report on our CPGS objectives prior to entry into the force of the treaty.

It will require the administration to consider treaty limitations, methods of distinguishing nuclear, nonnuclear systems, which are possible and should relieve any concern that the Russians have about the potential for a Prompt Global Strike weapon being confused with a nuclear weapon.

Apart from all of the things I just talked about there are other things in the resolution of ratification that will add some strength to the position that those of us who oppose the treaty have taken, including working through the Bilateral Consultative Commission, not being undercut by that commission, requiring an annual report certifying Russian compliance with the terms of the New START treaty, things of that sort.

I conclude that one of the things we will have to do proactively from here on out, in order to achieve some of the objectives that we have talked about here, is to work with our House colleagues who have not been a part of this process, to share with them the reasons we have concluded these things are important, to work together, the administration, my colleagues on the Democratic side and our side, to convince them each year of the necessary appropriations that will be required, among other things, for modernization of both the triad and—I know my colleagues are anxious to leave. As a result, I will cut my comments short to make this point.

I again close, as I opened, by thanking colleagues for working under what are, frankly, very difficult circumstances, to try to compress everything into a very short period of time, to be on a START treaty at the same time we are parachuting in all manner of other issues and trying to get those resolved. This has not been easy.

For those colleagues who were patient and expressed desire to do things on the floor that we did not have time for, I appreciate their indulgences and appreciate the courtesies that everyone has extended. This has been very contentious, and yet the disagreements between us have never risen to any level beyond that which is totally appropriate for a serious debate in the Senate, proving again that while we can disagree or will disagree, we can certainly do so agreeably. I thank my colleagues for their willingness to do that.

Mr. KERRY. Madam President, I thank the Senator. I know he has curtailed his remarks. I have cut mine. But I do want to say a couple of things as we try to wind down here. I want to thank the Senator from Arizona for helping to get us to a point where we can vote now. I want to thank Senator WYDEN who, 48 hours after surgery, has made himself available to come here and to be able to vote. We are appreciative of that.

As we end our debate on the New START treaty, I believe we can say the Senate has done its duty, and done it with diligence, serious purpose, and honor. And I am confident that our Nation's security—and that of the world—will be enhanced by ratifying this treaty.

When we began this debate 8 days ago, I quoted CHRIS DODD's farewell address, in which he reminded us that the Founding Fathers had designed the Senate with these moments in mind. I think over the past week we have lived up to our moment. Senators have had opportunity to speak and debate. The fact is, we have considered this treaty—a less complicated or far-reaching treaty than START I—for longer than we considered START I and START II combined.

Admiral Mullen summed up our interests in this treaty in a compelling way. He said:

I continue to believe that ratification of the New START Treaty is vital to U.S. national security. Through the trust it engenders, the cuts it requires, and the flexibility it preserves, this treaty enhances our ability to do that which we in the military have been charged to do: protect and defend the citizens of the United States. I am as confident in its success as I am in its safeguards. The sooner it is ratified, the better.

I think that is exactly right, and it is important to keep our fundamental charge to protect America foremost in our minds.

But I think there is something more to think about now. In the back and forth of debates like this, as we dispute details and draw dividing lines, it is easy to lose sight of the magnitude of the decision we are making.

Because sometimes, when we repeat and repeat and repeat certain words and phrases they become routine and ritual, and their true meaning fades away. When we argue about the difference between 700 delivery vehicles

and 720, we may forget that in the final analysis, regardless of where we stand on the START treaty, this is one of those rare times in the U.S. Senate, one of the only times in all our service here, when we have it in our power to safeguard or endanger human life on this planet. More than any other, this issue should transcend politics. More than any other, this issue should summon our best instincts and our highest sense of responsibility. More than at almost any other time, the people of the world are watching us because they rely on our leadership and because this issue involves not simply our lives and the lives of our children but their lives and the lives of their children as well.

So it is altogether fitting that we have debated and now we decide not in a campaign season, but in a season that celebrates and summons us to the ideal of peace on Earth. Yes, we have contended about schedules. Yes, the constant chatter on cable speculates about whether we would approve the treaty in time to get out of here for Christmas. But the question is not whether we get out of here for a holiday; the question is whether we move the world a little more out of the dark shadow of nuclear nightmare. For whatever our faith, the right place for us at this time of year, no matter how long it may take, is here in the Senate where we now have a unique capacity to give a priceless gift not just to our friends and family, but to our fellow men and women everywhere. When Robert Oppenheimer left Los Alamos after the atomic bomb was dropped, he said, "The peoples of this world must unite or they will perish. This war, that has ravaged so much of the earth, has written these words. The atomic bomb has spelled them out for all men to understand. . . . By our works we are committed, committed to a world united, before this common peril, in law and in humanity." That is what brings us to this moment.

Last night, a friend called my attention to the meditation of Pope John Paul II when he visited Hiroshima. He said that from the memory of those awesome mushroom clouds over Hiroshima and Nagasaki we must draw the "conviction that man who wages war can also successfully make peace." This month in homes across this land, Americans are honoring moments in the history of faith that enshrine the values that guide us all regardless of faith. We in the Senate, only 100 of us in a world of billions, should be humbled and proud that in this month we have the privilege of reducing the risks of war and advancing the cause of peace.

So think of what is at stake here and of the role we now have to play, not only in the governing of our country but literally in the life of the world. Here more than ever our power to advise and consent is more than some ar-

cane procedural matter. The Framers of the Constitution created the Senate with a vision of statesmanship, that here narrow interests would yield to the national interest, that petty quarrels would be set aside in pursuit of great and common endeavor. The best of our history has proven the wisdom of that vision. There was that defining moment when Senator Daniel Webster stood at his desk in this Chamber to address the fundamental moral issue of slavery. The words with which he started were stark and simple, and they should guide us today and every day. He said: "I speak not as a Massachusetts man, nor a northern man, but as an American." This is the very definition of what it means to be a Senator. To speak not for one State but for one America. To remember that the whole world is watching. So it is now, and so it has been across the decades during which so many Presidents and Senators of both parties, citizens in every part of the country, have struggled and at critical turning points succeeded in pushing back the dark frontier of nuclear conflict. The efforts have not always been perfect; nothing in life or policy ever is. But as we end this debate now, let us take our own step forward for America and for the world. As stewards of enormous destructive power, we too can become the stewards of peace.

The VICE PRESIDENT. The Senator from Indiana.

Mr. LUGAR. Mr. President, as the Senate approaches a point of decision on the New START treaty, I would like to offer a few concluding thoughts.

My attitudes towards the enterprise of arms control have been affected by the time I have spent during the last two decades visiting remote areas of Russia in an effort to bolster Nunn-Lugar dismantlement operations. When one sees Russian SS-18 ballistic missiles being cut up at Surovatikha, or when one witnesses the dismantlement of a Typhoon ballistic missile submarine at the SevMash facility on the approaches to the Barents Sea, one gets a clear picture of the enormity of the problem that confronted us during the Cold War.

With all the destructive power that was created during that era amidst intense suspicion and enmity between the United States and the former Soviet Union, we were extraordinarily fortunate to have avoided a mishap that could have destroyed American civilization. During the last two decades, we have circumscribed the nuclear problem, but we have not eliminated it. Our cities remain vulnerable to accident, miscalculation, and proliferation stemming from the Russian nuclear arsenal. And we still must pay very close attention to the disposition of Russian nuclear forces.

Visiting dismantlement operations in Russia also underscores that arms con-

trol is a technically challenging endeavor. In these debates we generally focus on the balance of nuclear forces, deterrence theories, diplomatic maneuvers, and other aspects of high statecraft. But arms control is also a "nuts and bolts" enterprise involving thousands of American and Russian technicians, officials, and military personnel. Verification and dismantlement activities require tremendous cooperation on mundane engineering challenges, equipment and supply logistics, and legal frameworks that allow these activities to proceed.

Ironically the exacting nature of arms verification and elimination may be a blessing. The challenges of this work and the amount of information that both sides are required to exchange have improved transparency and forced our countries to build productive partnerships over time.

The Foreign Relations Committee held a hearing on June 24 in which Defense Department officials in charge of verification and dismantlement activities in the former Soviet Union testified. These officials oversee dismantlement work in Russia that occurs every day. Their agencies oversaw verification under START I before the treaty expired on December 5, 2009. They would oversee the verification work required under the New START treaty.

They described in detail how verification operations are conducted and gave Senators a picture of how the United States and Russia cooperate on technically challenging nonproliferation goals. Only five members of the committee attended that hearing. I wish that every Senator could have attended, because the presentation underscored how much the START process links our two defense establishments and how critical the START framework is to nonproliferation activities.

Mr. President, there is a maxim that has been popularized in American cinema, variants of which have sometimes been attributed to early political philosophers such as Sun Tsu or Machiavelli. It is "Keep your friends close, but your enemies closer." I am not suggesting that Russia is an enemy. Our relationship with that country is far more complex. It is a relationship that is both wary and hopeful. We admire the Russian people and their cultural and scientific achievements, while lamenting continuing restrictions on their civil and political liberties. We recognize the potential for U.S.-Russian cooperation based on deep commonalities in our history and geography, even as we are frustrated that Cold War sensibilities are difficult to dislodge.

Although we can and must make situational judgments to engage Russia, such engagement is no guarantee that we will experience a convergence of

perceived interests or the elimination of friction.

But one does not have to abandon one's skepticism of the Russian Government or dismiss contentious foreign policy disagreements with Moscow to invest in the practical enterprise of nuclear verification and transparency. In fact, it is precisely the friction in our broader relationship that makes this treaty so important.

It would be an incredible strategic blunder to sever our START relationship with Russia when that country still possesses thousands of nuclear weapons. We would be distancing ourselves from a historic rival in the area where our national security is most affected and where cooperation already has delivered successes. When it comes to our nuclear arsenals we want to keep Russia close. There are enough centripetal forces at work without abandoning a START process that has prevented surprises and miscalculations for 15 years.

The New START agreement came about because the United States and Russia, despite differences on many geopolitical issues, do have coincident interests on specific matters of nuclear security. We share an interest in limiting competition on expensive weapons systems that do little to enhance the productivity of our respective societies. We share an interest in achieving predictability with regard to each other's nuclear forces so we are not left guessing about equal potential vulnerabilities. We share an interest in cooperating broadly on keeping weapons of mass destruction out of the hands of terrorists. And we share an interest in maintaining lines of communication between our political and military establishments that are based on the original START agreement.

Over the last 7 months the Senate has performed due diligence on the New START treaty. Most importantly, we have gathered and probed military opinion about what the treaty would mean for our national defense. We have heard from the top military leadership, as well as the commanders who oversee our nuclear weapons and our missile defense. We have heard from former Secretaries of Defense and STRATCOM commanders who have confirmed the judgment of current military leaders. Their answers have demonstrated a

carefully-reasoned military consensus in favor of ratifying the treaty. Rejection of such a consensus on a treaty that affects fundamental questions of nuclear deterrence would be an extraordinary action for the Senate to take.

Moreover, the treaty review process has produced a much stronger American political consensus in favor of modernization of our nuclear forces and implementation of our missile defense plans. This includes explicit commitments by the President and congressional appropriators. In the absence of the New START treaty, I believe this consensus would be more difficult to maintain. We have the chance today not only to approve the New START treaty, but also to solidify our domestic determination to achieve these national security goals.

I began the Senate debate on this treaty last week by citing a long list of the national security threats that currently occupy our nation and our military. Our troops are heavily engaged in Afghanistan and Iraq. We are fighting a global terrorist threat. And we are seeking to resolve the dangerous circumstances surrounding nuclear weapons programs in Iran and North Korea. We are attempting to address these and many other national security questions at a time of growing resource constraints reflected in a \$14 trillion debt.

In this context the U.S. Senate has a chance today to constrain expensive arms competition with Russia. We have chance to guarantee transparency and confidence-building procedures that contribute to our fundamental national security. We have a chance to frustrate rogue nations who would prefer as much distance as possible between the United States and Russia on nuclear questions. And we have a chance to strike a blow against nuclear proliferation that deeply threatens American citizens and our interests in the world.

I am hopeful that the Senate will embrace this opportunity to bolster U.S. national security by voting to approve the New START treaty.

I thank the Chair.

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

The majority leader is recognized.

JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2010

Mr. REID. Mr. President, as in legislative session, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 641, H.R. 847, the James Zadroga 9/11 Health and Compensation Act of 2010; further, that the Gillibrand-Schumer substitute amendment, which is at the desk, be agreed to, the Senate proceed to a vote on the bill immediately, as amended, with no intervening action or debate, further, that if the bill is passed, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

The VICE PRESIDENT. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 847) to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

The VICE PRESIDENT. Under the previous order, the substitute amendment is agreed to.

The amendment (No. 4923) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. CONRAD. Mr. President, this is the Statement of Budgetary Effects of PAYGO Legislation for H.R. 847, as amended.

Total Budgetary Effects of H.R. 847 for the 5-year Statutory PAYGO Scorecard: net decrease in the deficit of \$101 million.

Total Budgetary Effects of H.R. 847 for the 10-year Statutory PAYGO Scorecard: net decrease in the deficit of \$443 million.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act, as follows:

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 847, THE JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2010 (VERSION BAI10697), AS ADOPTED BY THE SENATE ON DECEMBER 22, 2010

[By fiscal year, in millions of dollars]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011-2015	2011-2020
Net Increase or Decrease (–) in the Deficit												
Statutory Pay-As-You-Go Impact	–242	106	170	56	–191	1,398	–346	–466	–461	–457	–101	–433

Note: Components may not sum to totals because of rounding.

The amendment would establish a program for health care benefits for eligible emergency personnel who responded to the September 11, 2001, terrorist attacks and eligible residents and others present in the area of New York City near the World Trade Center. The legislation also would provide compensation payments to certain individuals for death and physical injury claims resulting from the attacks. The amendment would extend for one year certain fees on L and H-1B nonimmigrants that currently expire after fiscal year, 2014, and would impose a 2 percent excise tax on payments made to certain foreign persons by federal agencies to obtain certain goods or services.

Source: Congressional Budget Office and the staff of the Joint Committee on Taxation.

Mr. LEAHY. Mr. President, I have heard complaints over the past few days about why we in the Senate are still working so close to the Christmas holiday. All of us would rather be home with our families, but of course we were sent here to serve the American people. We were sent here to the Senate to do the work of the American people, and we have been trying to complete our work for the past several weeks. One remaining issue demands our attention: taking care of the Americans who responded to the terrorist attacks on September 11th. We cannot turn our backs on these injured and ailing first responders. This is a defining issue of our American values—how we serve those who have sacrificed for our Nation.

Almost a decade ago, in the aftermath of attack, I visited the Fresh Kills Landfill on Staten Island, NY. There, I witnessed detectives and medical professionals conduct the heart-breaking work to sort debris from the World Trade Center Towers in order to recover the remains and personal effects of those killed in the 9/11 attacks. It is difficult to describe how moving and powerful this was. It affirmed my faith in the goodness of America and its citizens.

These Americans were doing everything they could to bring what little comfort and closure they could to the survivors of those killed. They were acting not for themselves but for their fellow citizens. These men and women were driven by the same sense of patriotism and compassion that drove so many brave Americans to rush from across the United States to respond at Ground Zero. Their acts of heroism, selflessness, and patriotism were emblematic of how Americans came together for one another.

The legislation we consider today is the least we can do for these men and women who answered the call of their Nation in our moment of crisis. It is for the 30 New York City police officers who have died since September 11, 2001, as the result of illnesses brought on by exposure to the toxic dust and debris. It is for the 13,000 first responders who are sick as a result of their brave actions at Ground Zero. It is for the thousands of men and women who came from across the United States to help the people of New York and our country. And it is for the thousands more who will need medical care in the future. They deserve the continuing support and assistance of their government, on behalf of all Americans.

It is deeply disappointing that passing this legislation has been so difficult. It should not be. If there is one thing on which we should find unanimity, it is fulfilling our obligation to the men and women who gave so much to help others on 9/11. These men and women asked nothing before they acted. They did what they thought was

right. It is long past time for the Senate to do what is right by them.

I applaud the Senators from New York. They have worked tirelessly and in the end agreed to compromise with a few of Senators on the other side of the aisle who were blocking action on this bill to help these first responders. The legislation we will pass today does not go as far as many of us hoped and believe appropriate, but it will go a long way to help the dedicated police officers, firefighters, construction workers, and medical personnel who were injured because of their service at a time of great national need. I cannot think of a better measure to end our work on in this Chamber than the message that we honor their service by taking care of the injuries they sustained while serving.

Mr. BROWN of Massachusetts. Mr. President, I come to the floor today to congratulate my colleagues on their leadership and their willingness to come to the table to find a workable solution to ensure that we do not forget those who risked their lives on September 11, 2001.

Today, the Senate reached an agreement to move forward on legislation that would create a program dedicated exclusively to provide screening and treatment to the first responders and other men and women who participated in rescue efforts at the World Trade Center.

As I have said repeatedly, the work of my colleagues, Ms. GILLIBRAND and Mr. SCHUMER, are honorable and good. As I have said in every meeting that I have held—whether meeting with firefighters and police officers in Massachusetts, whether it be with Mayor Bloomberg of New York City or New York City Police Commissioner Kelly—I support their efforts and their good work and dedication to make sure that none of the heroes from September 11, 2001 are left behind or forgotten.

I support this agreement because it represents what the Senate should be about: coming together, working together, and finding common ground and workable solutions. Today, in the final hours of the 111th Congress, we did just that by providing benefits to the first responders in a realistic and pragmatic way.

But, Mr. President, I continue to have reservations regarding the offsets that are used to provide these benefits. As I have said to my colleagues, I am concerned because I am not 100 percent confident that the suggested offsets will materialize because of potential legal challenges or questionable trade implications.

We should not forget the lives that were lost on September 11, 2001. The lives that were risked that day. And those who continue to live with scars from that day. And I can assure you, we won't.

I am supporting this legislation because it provides access to the health

care and treatment that our heroes deserve. And I greatly appreciate the input and patience of so many firefighters and first responders from my own state of Massachusetts, for whom I have tremendous respect and gratitude for all that they do.

Thank you, Mr. President. And I yield the floor.

Mr. REID. Mr. President, the horror of September 11 was unforgettable, and so much about that day was unimaginable.

But imagine you had the courage to run into the disaster everyone else was running away from. And because of the toxic fumes and smoke you breathed in while you were working there, you got terribly sick.

And almost a decade later, you are still suffering. You have trouble breathing, or maybe a tumor, or some other lung or heart disease. You knew you would be risking your life, but you probably didn't know it would—like this.

Now imagine the help you need—the health care and compensation you deserve—is within reach. But your Senator is keeping it from you.

That is exactly what is happening right now. The courageous first responders and rescue workers who were the first on the scene at Ground Zero need our help.

It is all so hard to imagine. It is hard to imagine we would have the courage to do what they did that day—and that is why we revere these first responders. And it is hard to imagine their leaders would abandon them like this.

We should all be embarrassed we are still here, at this late date, talking about this bill. This is not controversial—it is common sense. We should never, ever waste a minute before rushing to help the heroes of 9/11. We should never, ever waste a minute before rushing to help the victims of that day. These first responders are both—and this delay is simply inexcusable.

This new program will make sure we do our jobs just as they did theirs. It sets up a program that will monitor the health and treatment of the thousands of rescue workers and survivors of 9/11 and makes sure they get the care they need.

The authors of this bill have written protections into it to ensure the quality of the medical treatment it delivers and to protect it from fraud.

As far as legislation and leadership go, this one is a no-brainer. But opponents have tried every excuse to stand in the way. On each count, they're wrong.

It's not a new entitlement—in fact, it's fiscally responsible and its funding is capped. Checks and balances are in place to make sure all claims are legitimate. And when this program is established, it will be used only as a last resort—only if it's needed after private health insurance and workers' compensation aren't sufficient or fast enough.

None of these men and women thought twice before trying to save the lives of their fellow Americans. Neither should we.

We all know the Capitol might not be standing without the courage of men and women who became heroes that day. How can we stand in this building and vote against helping their fellow heroes—people who were the first to respond when the unimaginable happened?

The VICE PRESIDENT. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The bill (H.R. 847), as amended, was passed.

Mr. REID. I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TREATY WITH RUSSIA ON MEASURES FOR FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—Continued

The VICE PRESIDENT. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that there be no other amendments, motions, or points of order in order in relation to the treaty or the resolution of ratification; that the Senate immediately proceed with no intervening action or debate to a vote on the Resolution of Advise and Consent to Ratification, as amended, to the New START Treaty, Treaty Document No. 111-5; that if the resolution is adopted, the motion to reconsider be laid upon the table and the President of the United States be immediately notified of the Senate's action; that upon disposition of the New START treaty, the Senate proceed to a vote on confirmation of the nomination of Calendar No. 1089, Mary Helen Murguia, of Arizona, to be a U.S. circuit judge for the Ninth Circuit; that if the nomination is confirmed, the motion to reconsider be laid upon the table and the President be immediately notified of the Senate's action; that following the vote on the Murguia nomination, the Senate immediately proceed to a vote on Calendar No. 934, Scott M. Matheson, Jr., of Utah, to be a U.S. circuit judge for the Tenth Circuit; that if the nomination is confirmed, the motion to reconsider be laid upon the table and the President be immediately notified of the Senate's action; further, that upon disposition of the Matheson nomination, I ask unanimous consent that

the Senate proceed to the consideration of the following judicial nominations en bloc: Calendar Nos. 1119, 1120, and 1139, that is, Kathleen M. O'Malley, Beryl Alaine Howell, and Robert Leon Wilkins; that the nominations be confirmed en bloc, the motion to reconsider be considered made and laid upon the table en bloc, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The VICE PRESIDENT. Is there objection?

Without objection, it is so ordered.

The question is on the adoption of the resolution of ratification, as amended, to the treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

Mr. KERRY. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. BROWNBACK), and the Senator from Kentucky (Mr. BUNNING).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "nay."

The yeas and nays resulted—yeas 71, nays 26, as follows:

[Rollcall Vote No. 298 Ex.]

YEAS—71

Akaka	Feinstein	Mikulski
Alexander	Franken	Murkowski
Baucus	Gillibrand	Murray
Bayh	Gregg	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bennett	Inouye	Reed
Bingaman	Isakson	Reid
Boxer	Johanns	Rockefeller
Brown (MA)	Johnson	Sanders
Brown (OH)	Kerry	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Snowe
Carper	Landrieu	Specter
Casey	Lautenberg	Stabenow
Cochran	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Coons	Lincoln	Voinovich
Corker	Lugar	Warner
Dodd	Manchin	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Feingold	Merkley	

NAYS—26

Barrasso	Graham	McConnell
Burr	Grassley	Risch
Chambliss	Hatch	Roberts
Coburn	Hutchison	Sessions
Cornyn	Inhofe	Shelby
Crapo	Kirk	Thune
DeMint	Kyl	Vitter
Ensign	LeMieux	Wicker
Enzi	McCain	

NOT VOTING—3

Bond	Brownback	Bunning
------	-----------	---------

The VICE PRESIDENT. On this vote, the yeas are 71, the nays are 26. Two-

thirds of the Senators present, having voted in the affirmative, the resolution of ratification, as amended, is agreed to.

The resolution of ratification, as amended, agreed to is as follows:

TREATY APPROVED

Treaty with Russia on Measures for Further Reduction and Limitation of Strategic Offensive Arms (Treaty Doc. 111-5).

Resolution of ratification as amended:

Resolved, (two-thirds of the Senators present concurring therein),

That the Senate advises and consents to the ratification of the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol, including Annex on Inspection Activities to the Protocol, Annex on Notifications to the Protocol, and Annex on Telemetric Information to the Protocol, all such documents being integral parts of and collectively referred to in this resolution as the "New START Treaty" (Treaty Document 111-5), subject to the conditions of subsection (a), the understandings of subsection (b), and the declarations of subsection (c).

(a) CONDITIONS.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the following conditions, which shall be binding upon the President:

(1) GENERAL COMPLIANCE.—If the President determines that the Russian Federation is acting or has acted in a manner that is inconsistent with the object and purpose of the New START Treaty, or is in violation of the New START Treaty, so as to threaten the national security interests of the United States, then the President shall—

(A) consult with the Senate regarding the implications of such actions for the viability of the New START Treaty and for the national security interests of the United States;

(B) seek on an urgent basis a meeting with the Russian Federation at the highest diplomatic level with the objective of bringing the Russian Federation into full compliance with its obligations under the New START Treaty; and

(C) submit a report to the Senate promptly thereafter, detailing—

(i) whether adherence to the New START Treaty remains in the national security interests of the United States; and

(ii) how the United States will redress the impact of Russian actions on the national security interests of the United States.

(2) PRESIDENTIAL CERTIFICATIONS AND REPORTS ON NATIONAL TECHNICAL MEANS.—(A) Prior to the entry into force of the New START Treaty, and annually thereafter, the President shall certify to the Senate that United States National Technical Means, in conjunction with the verification activities provided for in the New START Treaty, are sufficient to ensure effective monitoring of Russian compliance with the provisions of the New START Treaty and timely warning of any Russian preparation to break out of the limits in Article II of the New START Treaty. Following submission of the first such certification, each subsequent certification shall be accompanied by a report to the Senate indicating how United States National Technical Means, including collection, processing, and analytic resources, will be utilized to ensure effective monitoring. The first such report shall include a long-term plan for the maintenance of New START

Treaty monitoring. Each subsequent report shall include an update of the long-term plan. Each such report may be submitted in either classified or unclassified form.

(B) It is the sense of the Senate that monitoring Russian Federation compliance with the New START Treaty is a high priority and that the inability to do so would constitute a threat to United States national security interests.

(3) Reductions.—(A) The New START Treaty shall not enter into force until instruments of ratification have been exchanged in accordance with Article XIV of the New START Treaty.

(B) If, prior to the entry into force of the New START Treaty, the President plans to implement reductions of United States strategic nuclear forces below those currently planned and consistent with the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, signed at Moscow on May 24, 2002 (commonly referred to as “the Moscow Treaty”), then the President shall—

(i) consult with the Senate regarding the effect of such reductions on the national security of the United States; and

(ii) take no such reductions until the President submits to the Senate the President's determination that such reductions are in the national security interest of the United States.

(4) TIMELY WARNING OF BREAKOUT.—If the President determines, after consultation with the Director of National Intelligence, that the Russian Federation intends to break out of the limits in Article II of the New START Treaty, the President shall immediately inform the Committees on Foreign Relations and Armed Services of the Senate, with a view to determining whether circumstances exist that jeopardize the supreme interests of the United States, such that withdrawal from the New START Treaty may be warranted pursuant to paragraph 3 of Article XIV of the New START Treaty.

(5) UNITED STATES MISSILE DEFENSE TEST TELEMETRY.—Prior to entry into force of the New START Treaty, the President shall certify to the Senate that the New START Treaty does not require, at any point during which it will be in force, the United States to provide to the Russian Federation telemetric information under Article IX of the New START Treaty, Part Seven of the Protocol, and the Annex on Telemetric Information to the Protocol for the launch of—

(A) any missile defense interceptor, as defined in paragraph 44 of Part One of the Protocol to the New START Treaty;

(B) any satellite launches, missile defense sensor targets, and missile defense intercept targets, the launch of which uses the first stage of an existing type of United States ICBM or SLBM listed in paragraph 8 of Article III of the New START Treaty; or

(C) any missile described in clause (a) of paragraph 7 of Article III of the New START Treaty.

(6) CONVENTIONAL PROMPT GLOBAL STRIKE.—(A) The Senate calls on the executive branch to clarify its planning and intent in developing future conventionally armed, strategic-range weapon systems. To this end, prior to the entry into force of the New START Treaty, the President shall provide a report to the Committees on Armed Services and Foreign Relations of the Senate containing the following:

(i) A list of all conventionally armed, strategic-range weapon systems that are currently under development.

(ii) An analysis of the expected capabilities of each system listed under clause (i).

(iii) A statement with respect to each system listed under clause (i) as to whether any of the limits in Article II of the New START Treaty apply to such system.

(iv) An assessment of the costs, risks, and benefits of each system.

(v) A discussion of alternative deployment options and scenarios for each system.

(vi) A summary of the measures that could help to distinguish each system listed under clause (i) from nuclear systems and reduce the risks of misinterpretation and of a resulting claim that such systems might alter strategic stability.

(B) The report under subparagraph (A) may be supplemented by a classified annex.

(C) If, at any time after the New START Treaty enters into force, the President determines that deployment of conventional warheads on ICBMs or SLBMs is required at levels that cannot be accommodated within the limits in Article II of the New START Treaty while sustaining a robust United States nuclear triad, then the President shall immediately consult with the Senate regarding the reasons for such determination.

(7) UNITED STATES TELEMETRIC INFORMATION.—In implementing Article IX of the New START Treaty, Part Seven of the Protocol, and the Annex on Telemetric Information to the Protocol, prior to agreeing to provide to the Russian Federation any amount of telemetric information on a United States test launch of a conventionally armed prompt global strike system, the President shall certify to the Committees on Foreign Relations and Armed Services of the Senate that—

(A) the provision of United States telemetric information—

(i) consists of data that demonstrate that such system is not subject to the limits in Article II of the New START Treaty; or

(ii) would be provided in exchange for significant telemetric information regarding a weapon system not listed in paragraph 8 of Article III of the New START Treaty, or a system not deployed by the Russian Federation prior to December 5, 2009;

(B) it is in the national security interest of the United States to provide such telemetric information; and

(C) provision of such telemetric information will not undermine the effectiveness of such system.

(8) BILATERAL CONSULTATIVE COMMISSION.—Not later than 15 days before any meeting of the Bilateral Consultative Commission to consider a proposal for additional measures to improve the viability or effectiveness of the New START Treaty or to resolve a question related to the applicability of provisions of the New START Treaty to a new kind of strategic offensive arm, the President shall consult with the Chairman and ranking minority member of the Committee on Foreign Relations of the Senate with regard to whether the proposal, if adopted, would constitute an amendment to the New START Treaty requiring the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(9) UNITED STATES COMMITMENTS ENSURING THE SAFETY, RELIABILITY, AND PERFORMANCE OF ITS NUCLEAR FORCES.—(A) The United States is committed to ensuring the safety, reliability, and performance of its nuclear forces. It is the sense of the Senate that—

(i) the United States is committed to proceeding with a robust stockpile stewardship program, and to maintaining and modernizing the nuclear weapons production capabilities and capacities, that will ensure the

safety, reliability, and performance of the United States nuclear arsenal at the New START Treaty levels and meet requirements for hedging against possible international developments or technical problems, in conformance with United States policies and to underpin deterrence;

(ii) to that end, the United States is committed to maintaining United States nuclear weapons laboratories and preserving the core nuclear weapons competencies therein; and

(iii) the United States is committed to providing the resources needed to achieve these objectives, at a minimum at the levels set forth in the President's 10-year plan provided to the Congress pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84).

(B) If appropriations are enacted that fail to meet the resource requirements set forth in the President's 10-year plan, or if at any time more resources are required than estimated in the President's 10-year plan, the President shall submit to Congress, within 60 days of such enactment or the identification of the requirement for such additional resources, as appropriate, a report detailing—

(i) how the President proposes to remedy the resource shortfall;

(ii) if additional resources are required, the proposed level of funding required and an identification of the stockpile work, campaign, facility, site, asset, program, operation, activity, construction, or project for which additional funds are required;

(iii) the impact of the resource shortfall on the safety, reliability, and performance of United States nuclear forces; and

(iv) whether and why, in the changed circumstances brought about by the resource shortfall, it remains in the national interest of the United States to remain a Party to the New START Treaty.

(10) ANNUAL REPORT.—As full and faithful implementation is key to realizing the benefits of the New START Treaty, the President shall submit a report to the Committees on Foreign Relations and Armed Services of the Senate not later than January 31 of each year beginning with January 31, 2012, which will provide—

(A) details on each Party's reductions in strategic offensive arms between the date the New START Treaty entered into force and December 31, 2011, or, in subsequent reports, during the previous year;

(B) a certification that the Russian Federation is in compliance with the terms of the New START Treaty, or a detailed discussion of any noncompliance by the Russian Federation;

(C) a certification that any conversion and elimination procedures adopted pursuant to Article VI of the New START Treaty and Part Three of the Protocol have not resulted in ambiguities that could defeat the object and purpose of the New START Treaty, or—

(i) a list of any cases in which a conversion or elimination procedure that has been demonstrated by Russia within the framework of the Bilateral Consultative Commission remains ambiguous or does not achieve the goals set forth in paragraph 2 or 3 of Section I of Part Three of the Protocol; and

(ii) a comprehensive explanation of steps the United States has taken with respect to each such case;

(D) an assessment of the operation of the New START Treaty's transparency mechanisms, including—

(i) the extent to which either Party encrypted or otherwise impeded the collection of telemetric information; and

(ii) the extent and usefulness of exchanges of telemetric information; and

(E) an assessment of whether a strategic imbalance exists that endangers the national security interests of the United States.

(11) STRATEGIC NUCLEAR DELIVERY VEHICLES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) modernize or replace the triad of strategic nuclear delivery systems: a heavy bomber and air-launched cruise missile, an ICBM, and an SSBN and SLBM; and

(B) maintain the United States rocket motor industrial base.

(12) TACTICAL NUCLEAR WEAPONS.—(A) Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that—

(i) the United States will seek to initiate, following consultation with NATO allies but not later than one year after the entry into force of the New START Treaty, negotiations with the Russian Federation on an agreement to address the disparity between the non-strategic (tactical) nuclear weapons stockpiles of the Russian Federation and of the United States and to secure and reduce tactical nuclear weapons in a verifiable manner; and

(ii) it is the policy of the United States that such negotiations shall not include defensive missile systems.

(B) Not later than one year after the entry into force of the New START Treaty, and annually thereafter for the duration of the New START Treaty or until the conclusion of an agreement pursuant to subparagraph (A), the President shall submit to the Committees on Foreign Relations and Armed Services of the Senate a report—

(i) detailing the steps taken to conclude the agreement cited in subparagraph (A); and

(ii) analyzing the reasons why such an agreement has not yet been concluded.

(C) Recognizing the difficulty the United States has faced in ascertaining with confidence the number of tactical nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of—

(i) establishing cooperative measures to give each Party to the New START Treaty improved confidence regarding the accurate accounting and security of tactical nuclear weapons maintained by the other Party; and

(ii) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its tactical nuclear weapons.

(13) DESIGN AND FUNDING OF CERTAIN FACILITIES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate that the President intends to—

(A) accelerate to the extent possible the design and engineering phase of the Chemistry and Metallurgy Research Replacement (CMRR) building and the Uranium Processing Facility (UPF); and

(B) request full funding, including on a multi-year basis as appropriate, for the Chemistry and Metallurgy Research Replacement building and the Uranium Processing Facility upon completion of the design and engineering phase for such facilities.

(14) EFFECTIVENESS AND VIABILITY OF NEW START TREATY AND UNITED STATES MISSILE DEFENSES.—Prior to the entry into force of the New START Treaty, the President shall certify to the Senate, and at the time of the exchange of instruments of ratification shall communicate to the Russian Federation,

that it is the policy of the United States to continue development and deployment of United States missile defense systems to defend against missile threats from nations such as North Korea and Iran, including qualitative and quantitative improvements to such systems. Such systems include all phases of the Phased Adaptive Approach to missile defenses in Europe, the modernization of the Ground-based Midcourse Defense system, and the continued development of the two-stage Ground-Based Interceptor as a technological and strategic hedge. The United States believes that these systems do not and will not threaten the strategic balance with the Russian Federation. Consequently, while the United States cannot circumscribe the sovereign rights of the Russian Federation under paragraph 3 of Article XIV of the Treaty, the United States believes continued improvement and deployment of United States missile defense systems do not constitute a basis for questioning the effectiveness and viability of the Treaty, and therefore would not give rise to circumstances justifying the withdrawal of the Russian Federation from the Treaty.

(b) UNDERSTANDINGS.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the following understandings, which shall be included in the instrument of ratification:

(1) MISSILE DEFENSE.—It is the understanding of the United States that—

(A) the New START Treaty does not impose any limitations on the deployment of missile defenses other than the requirements of paragraph 3 of Article V of the New START Treaty, which states, “Each Party shall not convert and shall not use ICBM launchers and SLBM launchers for placement of missile defense interceptors therein. Each Party further shall not convert and shall not use launchers of missile defense interceptors for placement of ICBMs and SLBMs therein. This provision shall not apply to ICBM launchers that were converted prior to signature of this Treaty for placement of missile defense interceptors therein.”;

(B) any additional New START Treaty limitations on the deployment of missile defenses beyond those contained in paragraph 3 of Article V, including any limitations agreed under the auspices of the Bilateral Consultative Commission, would require an amendment to the New START Treaty which may enter into force for the United States only with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States;

(C) the April 7, 2010, unilateral statement by the Russian Federation on missile defense does not impose a legal obligation on the United States; and

(D) the preamble of the New START Treaty does not impose a legal obligation on the Parties.

(2) RAIL-MOBILE ICBMS.—It is the understanding of the United States that—

(A) any rail-mobile-launched ballistic missile with a range in excess of 5,500 kilometers would be an ICBM, as the term is defined in paragraph 37 of Part One of the Protocol (in the English-language numbering), for the purposes of the New START Treaty, specifically including the limits in Article II of the New START Treaty;

(B) an erector-launcher mechanism for launching an ICBM and the railcar or flatcar on which it is mounted would be an ICBM launcher, as the term is defined in paragraph 28 of Part One of the Protocol (in the

English-language numbering), for the purposes of the New START Treaty, specifically including the limits in Article II of the New START Treaty;

(C) if either Party should produce a rail-mobile ICBM system, the Bilateral Consultative Commission would address the application of other parts of the New START Treaty to that system, including Articles III, IV, VI, VII, and XI of the New START Treaty and relevant portions of the Protocol and the Annexes to the Protocol; and

(D) an agreement reached pursuant to subparagraph (C) is subject to the requirements of Article XV of the New START Treaty and, specifically, if an agreement pursuant to subparagraph (C) creates substantive rights or obligations that differ significantly from those in the New START Treaty regarding a “mobile launcher of ICBMs” as defined in Part One of the Protocol to the New START Treaty, such agreement will be considered an amendment to the New START Treaty pursuant to Paragraph 1 of Article XV of the New START Treaty and will be submitted to the Senate for its advice and consent to ratification.

(3) STRATEGIC-RANGE, NON-NUCLEAR WEAPON SYSTEMS.—It is the understanding of the United States that—

(A) future, strategic-range non-nuclear weapon systems that do not otherwise meet the definitions of the New START Treaty will not be “new kinds of strategic offensive arms” subject to the New START Treaty;

(B) nothing in the New START Treaty restricts United States research, development, testing, and evaluation of strategic-range, non-nuclear weapons, including any weapon that is capable of boosted aerodynamic flight;

(C) nothing in the New START Treaty prohibits deployments of strategic-range non-nuclear weapon systems; and

(D) the addition to the New START Treaty of—

(i) any limitations on United States research, development, testing, and evaluation of strategic-range, non-nuclear weapon systems, including any weapon that is capable of boosted aerodynamic flight; or

(ii) any prohibition on the deployment of such systems, including any such limitations or prohibitions agreed under the auspices of the Bilateral Consultative Commission, would require an amendment to the New START Treaty which may enter into force for the United States only with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(c) DECLARATIONS.—The advice and consent of the Senate to the ratification of the New START Treaty is subject to the following declarations, which express the intent of the Senate:

(1) MISSILE DEFENSE.—(A) It is the sense of the Senate that—

(i) pursuant to the National Missile Defense Act of 1999 (Public Law 106-38), it is the policy of the United States “to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)”;

(ii) defenses against ballistic missiles are essential for new deterrent strategies and for new strategies should deterrence fail; and

(iii) further limitations on the missile defense capabilities of the United States are not in the national security interest of the United States.

(B) The New START Treaty and the April 7, 2010, unilateral statement of the Russian Federation on missile defense do not limit in any way, and shall not be interpreted as limiting, activities that the United States Government currently plans or that might be required over the duration of the New START Treaty to protect the United States pursuant to the National Missile Defense Act of 1999, or to protect United States Armed Forces and United States allies from limited ballistic missile attack, including further planned enhancements to the Ground-based Midcourse Defense system and all phases of the Phased Adaptive Approach to missile defense in Europe.

(C) Given its concern about missile defense issues, the Senate expects the executive branch to offer regular briefings, not less than twice each year, to the Committees on Foreign Relations and Armed Services of the Senate on all missile defense issues related to the New START Treaty and on the progress of United States-Russia dialogue and cooperation regarding missile defense.

(2) DEFENDING THE UNITED STATES AND ALLIES AGAINST STRATEGIC ATTACK.—It is the sense of the Senate that—

(A) a paramount obligation of the United States Government is to provide for the defense of the American people, deployed members of the United States Armed Forces, and United States allies against nuclear attacks to the best of its ability;

(B) policies based on “mutual assured destruction” or intentional vulnerability can be contrary to the safety and security of both countries, and the United States and the Russian Federation share a common interest in moving cooperatively as soon as possible away from a strategic relationship based on mutual assured destruction;

(C) in a world where biological, chemical, and nuclear weapons and the means to deliver them are proliferating, strategic stability can be enhanced by strategic defensive measures;

(D) accordingly, the United States is and will remain free to reduce the vulnerability to attack by constructing a layered missile defense system capable of countering missiles of all ranges;

(E) the United States will welcome steps by the Russian Federation also to adopt a fundamentally defensive strategic posture that no longer views robust strategic defensive capabilities as undermining the overall strategic balance, and stands ready to cooperate with the Russian Federation on strategic defensive capabilities, as long as such cooperation is aimed at fostering and in no way constrains the defensive capabilities of both sides; and

(F) the United States is committed to improving United States strategic defensive capabilities both quantitatively and qualitatively during the period that the New START Treaty is in effect, and such improvements are consistent with the Treaty.

(3) CONVENTIONALLY ARMED, STRATEGIC-RANGE WEAPON SYSTEMS.—Consistent with statements made by the United States that such systems are not intended to affect strategic stability with respect to the Russian Federation, the Senate finds that conventionally armed, strategic-range weapon systems not co-located with nuclear-armed systems do not affect strategic stability between the United States and the Russian Federation.

(4) NUNN-LUGAR COOPERATIVE THREAT REDUCTION.—It is the sense of the Senate that the Nunn-Lugar Cooperative Threat Reduction (CTR) Program has made an invaluable

contribution to the security and elimination of weapons of mass destruction, including nuclear weapons and materials in Russia and elsewhere, and that the President should continue the global CTR Program and CTR assistance to Russia, including for the purpose of facilitating implementation of the New START Treaty.

(5) ASYMMETRY IN REDUCTIONS.—It is the sense of the Senate that, in conducting the reductions mandated by the New START Treaty, the President should regulate reductions in United States strategic offensive arms so that the number of accountable strategic offensive arms under the New START Treaty possessed by the Russian Federation in no case exceeds the comparable number of accountable strategic offensive arms possessed by the United States to such an extent that a strategic imbalance endangers the national security interests of the United States.

(6) COMPLIANCE.—(A) The New START Treaty will remain in the interests of the United States only to the extent that the Russian Federation is in strict compliance with its obligations under the New START Treaty.

(B) Given its concern about compliance issues, the Senate expects the executive branch to offer regular briefings, not less than four times each year, to the Committees on Foreign Relations and Armed Services of the Senate on compliance issues related to the New START Treaty. Such briefings shall include a description of all United States efforts in United States-Russian diplomatic channels and bilateral fora to resolve any compliance issues and shall include, but would not necessarily be limited to, a description of—

(i) any compliance issues the United States plans to raise with the Russian Federation at the Bilateral Consultative Commission, in advance of such meetings; and

(ii) any compliance issues raised at the Bilateral Consultative Commission, within thirty days of such meetings.

(7) EXPANSION OF STRATEGIC ARSENALS IN COUNTRIES OTHER THAN RUSSIA.—It is the sense of the Senate that if, during the time the New START Treaty remains in force, the President determines that there has been an expansion of the strategic arsenal of any country not party to the New START Treaty so as to jeopardize the supreme interests of the United States, then the President should consult on an urgent basis with the Senate to determine whether adherence to the New START Treaty remains in the national interest of the United States.

(8) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in condition (1) of the resolution of advice and consent to the ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols (commonly referred to as the “INF Treaty”), approved by the Senate on May 27, 1988, and condition (8) of the resolution of advice and consent to the ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (commonly referred to as the “CFE Flank Document”), approved by the Senate on May 14, 1997.

(9) TREATY MODIFICATION OR REINTERPRETATION.—The Senate declares that any agree-

ment or understanding which in any material way modifies, amends, or reinterprets United States or Russian obligations under the New START Treaty, including the time frame for implementation of the New START Treaty, should be submitted to the Senate for its advice and consent to ratification.

(10) CONSULTATIONS.—Given the continuing interest of the Senate in the New START Treaty and in strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States, the Senate expects the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 of Article XIV of the New START Treaty.

(11) FURTHER STRATEGIC ARMS REDUCTIONS.—

(A) Recognizing the obligation under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968, “to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control,” and in anticipation of the ratification and entry into force of the New START Treaty, the Senate calls upon the other nuclear weapon states to give careful and early consideration to corresponding reductions of their own nuclear arsenals.

(B) The Senate declares that further arms reduction agreements obligating the United States to reduce or limit the Armed Forces or armaments of the United States in any militarily significant manner may be made only pursuant to the treaty-making power of the President as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(12) MODERNIZATION AND REPLACEMENT OF UNITED STATES STRATEGIC DELIVERY VEHICLES.—In accordance with paragraph 1 of Article V of the New START Treaty, which states that, “Subject to the provisions of this Treaty, modernization and replacement of strategic offensive arms may be carried out,” it is the sense of the Senate that United States deterrence and flexibility is assured by a robust triad of strategic delivery vehicles. To this end, the United States is committed to accomplishing the modernization and replacement of its strategic nuclear delivery vehicles, and to ensuring the continued flexibility of United States conventional and nuclear delivery systems.

The VICE PRESIDENT. Under the previous order, the President will be immediately notified of the Senate’s consent to the resolution of ratification.

Mr. ENZI. Mr. President, I rise today to explain why I voted against the New START treaty. The U.S. Senate is the deliberative body of Congress. Our forefathers created the Senate so issues of this magnitude are thoroughly considered with all of the facts and with a careful eye on all possible future consequences. With previous treaties of this magnitude, the full Senate has been allowed over a full year to consider what the treaty would require of not only Russia but also the United States. That hasn’t happened here, and it is a disconcerting trend.

The executive branches of both the Russian and the U.S. governments

stated they will not take actions during the negotiations of this treaty that would be contrary to the spirit of the treaty. Both the Russian and U.S. governments recognize the treaty's implementation will take time. The need to get this treaty right is paramount.

I am concerned that I haven't had all of my specific questions answered about the treaty. Although members of the Foreign Relations Committee have had the opportunity to consider this treaty and ask many questions, the full Senate has not had the chance to have all of their questions answered. Forcing through a treaty without detailed scrutiny by the full Senate is not how our government should work.

Even with post-Cold War threats and adversaries, the nuclear balance between the United States and Russia remains a cornerstone to global non-proliferation. That's why each member of the Senate must determine if he or she believes this treaty will make our Nation safer. We can only do so if we have all the information about the treaty, and we can only make it better if we have the opportunity to fully amend the treaty.

During debate, we were repeatedly told that amending the treaty would kill it. That's just not true. Going back and forth on treaties is not new. As with the original START, which was signed in 1991, the U.S. Senate did not accept the first version and required that a better treaty be created.

We offered amendments that would have simply required that Russia be more involved in the changes this treaty will require, stressing the importance to the Russian government to create a safe global atmosphere similar to the United States. Those amendments were rejected. Only two amendments, one about modernization of the nuclear weapons complex and one stating that missile defense will proceed, were accepted by unanimous consent. The other amendments were either not considered or failed. It is now up to the Russian Duma to consider the suggested changes by the Senate's amendments and approve them or not. Both countries should be willing to work hard on this front and the best treaties, just like legislative bills, are those that are thoroughly considered by all involved with a willingness to comprehensively address all concerns and needs.

Beyond the issues of Senate processes, I have concerns about certain provisions in this treaty. It is impossible to fully consider this treaty without being able to review the full negotiating record, which has not been provided to all senators. Summaries have been provided, but summaries do not include the specific information on how the full implementation of this treaty will be done.

As a founding member of the Senate ICBM Coalition, I strongly believe that

all three legs of the nuclear triad—missiles, submarines, and bombers—must be maintained in order to retain a highly reliable and credible deterrent nuclear force. This need is even greater as we potentially draw down some of our nuclear forces through the New START treaty. I have worked with other members in the ICBM Coalition and with the administration to encourage them to ensure the treaty does not harm the triad. I appreciated the information provided by the administration on the treaty and the opportunity to meet on this issue during the floor debate. However, I remain deeply concerned about the implications the treaty will have on our country's national security, particularly its potential effects on the current missile force structure. Without the specific information on how the administration is going to implement the treaty and concrete assurances that the current missile force structure of 450 deployed and non-deployed silos be maintained, I remain skeptical of this agreement.

F.E. Warren Air Force Base in Cheyenne, WY, helps the United States maintain one leg of the triad by operating part of the ICBM force. It is my obligation as a Senator from Wyoming to know what effects this treaty will have on the missile defense missions in my home state. I also respect and watch out for the servicemembers in the 90th Space Command and 20th Missile Command who work hard to ensure our country has a strong missile defense. I have not yet been able to get a firm commitment from my Senate colleagues and the administration on a concrete number of missiles that will be maintained under this treaty.

Furthermore, the treaty will require unilateral reductions from the United States with no similar requirements for Russia. Instead, the Russian government is actually given room to build up its nuclear forces with more modern capabilities.

Regardless of this agreement, the United States has not thoroughly addressed the modernization of our country's nuclear capabilities. I have spoken with those involved in the treaty negotiations regarding U.S. modernization. I was told that the modernization efforts are in the works and the funding for these activities is planned. I support this more focused modernization approach. Part of the need for U.S. modernization is to address our Nation's tactical weapons capabilities. As currently written, the treaty will leave Russia in a 10-1 advantage in tactical nuclear weapons. This is disconcerting and modernization must be a priority.

I have concerns about verifiability as well. Former Secretary of State James Baker has described the treaty's verification regime as weaker than its predecessor. If the United States is going to make reductions to our capabilities under this treaty, we should ensure

that Russia is doing the same and following the treaty as closely as our country will. We should not settle for some verification—we must require full verification. Second best will do the United States no good in terms of intelligence and response capabilities.

Back in 2002, I traveled to Russia with the University of Georgia to talk about nonproliferation. At that time, I expressed serious concerns not only about Russia's capabilities to secure their nuclear complex, but also to ensure that their nuclear scientists and their knowledge did not become available to bad actors like al-Qaida. Ensuring that Russia continues to keep their capabilities and know-how secure is imperative and cannot be left to second best.

Our two nations may approach nuclear agreements with different goals, but the fact that the United States and Russian governments maintain a dialogue is a highly positive fact. We need and want the cooperation of our counterparts in Russia in both bilateral and multilateral efforts. This is highlighted in the United Nations Security Council discussions on nuclear weapons development in Iran, North Korea, and other actors.

We want and need to create a safer world while maintaining our defensive capabilities for ourselves and our allies. By forcing debate on this treaty during the lame duck session, I do not believe we were able to fully address all concerns in the detail that was warranted. We needed to be sure the treaty does what we expect it to do without any surprises. I am not convinced we will not see any surprises in the future. Thus, I voted against the New START treaty.

NOMINATION OF MARY HELEN MURGUIA TO BE A U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The VICE PRESIDENT. Under the previous order, the question occurs on the following nomination, which the clerk will report.

The assistant legislative clerk reported the nomination of Mary Helen Murguia, of Arizona, to be a U.S. Circuit Judge for the Ninth Circuit.

The VICE PRESIDENT. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I support the nomination of Judge Mary Murguia to the Ninth Circuit Court of Appeals.

Judge Murguia has served on the Federal district court in Arizona for a decade and has a distinguished record that has earned the respect of the legal community in Arizona.

Perhaps most telling is the high regard in which Judge Murguia is held by her colleagues on the district court; they come from different backgrounds and were appointed by presidents of both parties, but they all speak very highly of her.

Judge Murguia was approved by the Judiciary Committee by a vote of 19 to 0. That unanimous vote is an indication of the strength of her record.

Finally, as I mentioned at Judge Murguia's hearing, Judge Murguia's brother Carlos is the first Latino to serve as Federal district court judge in Kansas. Judge Murguia was the first Latina to be appointed to the Federal district court in Arizona and she and Carlos are the only brother and sister sitting as Federal judges in the United States.

I am confident that Judge Murguia is a person of integrity who will do her best to be a fair and objective judge.

Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, today, the Senate is finally being allowed to consider a judicial nomination that has been stalled since August—the nomination of Judge Mary Murguia of Arizona to serve on the United States Court of Appeals for the Ninth Circuit. I would understand the resistance to considering the nomination if President Obama had selected someone opposed by her home state Senators. But both Republican home state Senators support this nomination. Unlike his predecessor, President Obama has worked with home state Senators, including Republican Senators. Despite all his efforts, this consensus nominee has been stalled for months and months while awaiting final Senate action.

When the nomination was considered by the Judiciary Committee before the August recess, it was reported unanimously. Every Republican and every Democrat, all 19 members of the Judiciary Committee, voted in favor of her nomination. Still, she has been stalled for months and months. This is part of the dangerous pattern perpetrated the past two years as President Obama's highly-qualified judicial nominees have been stalled from final Senate action for extended periods. This is another example of the unnecessary delays that have led to a judicial vacancies crisis throughout the country. Judicial vacancies have skyrocketed to over 100 while nominations are forced to languish without final Senate action. In fact, President Obama's nominees have been forced to wait on average six times longer to be considered than President Bush's judicial nominees reported by the Judiciary Committee during the first 2 years of his Presidency.

When the Senate is finally allowed to take action, most of his nominations are confirmed by overwhelming bipartisan majorities or unanimously. Final Senate action on dozens of President Obama's judicial nominations has been

delayed without explanation or good reason and then confirmed unanimously. The most outrageous examples are Judge Barbara Keenan of Virginia, who was confirmed unanimously to the Fourth Circuit, and Judge Denny Chin of New York, who was confirmed unanimously to the Second Circuit. Both required cloture petitions to end the filibusters against their confirmations and then they were each confirmed unanimously.

Others confirmed unanimously after months of delay are Judge James A. Wynn, Jr. of North Carolina, who was finally confirmed to the Fourth Circuit after almost 6 months of delay; Judge Albert Diaz of North Carolina, who was finally confirmed to the Fourth Circuit after almost 11 month's delay; Judge Ray Lohier of New York, who was finally confirmed to the Second Circuit after almost 8 months of delay; Judge Beverly Martin of Tennessee, who was finally confirmed to the Eleventh Circuit after more than 4 months of delay; and James Greenaway of New Jersey, who was finally confirmed to the Third Circuit after almost 4 months of delay. I expect Scott Matheson of Utah to be confirmed unanimously to the Tenth Circuit, but not until there have been 6 months of unnecessary delay. I will not be surprised if Judge Murguia is confirmed unanimously, or nearly unanimously, after 4 unnecessary months of delay.

Examples of district court nominees who have been delayed for between 3 and 7 months before being confirmed unanimously are: Judge Kimberly J. Mueller of the Eastern District of California, Judge Catherine Eagles of the Middle District of North Carolina, Judge John A. Gibney, Jr. of the Eastern District of Virginia, Judge Ellen Hollander of the District of Maryland, Judge Susan R. Nelson of the District of Minnesota, Judge James Bedard of the District of Maryland, Judge Carlton Reeves of the Southern District of Mississippi, Judge Edmond Chang of the Northern District of Illinois, Judge Leslie E. Kobayashi of the District of Hawaii, and Judge Denise Casper of the District of Massachusetts.

Ten years ago, Mary Murguia became the first Latina to serve as a Federal Judge in Arizona when she was nominated by President Clinton to serve on the U.S. District Court for the District of Arizona. She will now become the first Hispanic—and only the second woman—from Arizona to serve on the Ninth Circuit. I congratulate Judge Murguia and her family on her confirmation by the Senate today.

The VICE PRESIDENT. The yeas and nays have been ordered.

The question is, shall the Senate advise and consent to the nomination of Mary Helen Murguia, of Arizona, to be a U.S. Circuit Judge for the 9th Circuit.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Iowa (Mr. HARKIN), the Senator from Missouri (Mrs. McCASKILL), the Senator from Michigan (Ms. STABENOW), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from Kansas (Mr. BROWNBACK), the Senator from Missouri (Mr. BOND), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "yea" and the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

The PRESIDING OFFICER (Mr. MERKLEY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 299 Ex.]

YEAS—89

Akaka	Enzi	McConnell
Barrasso	Feinstein	Menendez
Baucus	Franken	Merkley
Bayh	Gillibrand	Mikulski
Begich	Graham	Murkowski
Bennet	Grassley	Murray
Bennett	Gregg	Nelson (NE)
Bingaman	Hagan	Nelson (FL)
Boxer	Hatch	Pryor
Brown (MA)	Hutchison	Reed
Brown (OH)	Inhofe	Reid
Burr	Inouye	Risch
Cantwell	Isakson	Rockefeller
Cardin	Johanns	Sanders
Carper	Johnson	Schumer
Casey	Kerry	Sessions
Chambliss	Kirk	Shaheen
Coburn	Klobuchar	Shelby
Cochran	Kohl	Snowe
Collins	Kyl	Specter
Conrad	Landrieu	Tester
Coons	Lautenberg	Thune
Corker	Leahy	Udall (CO)
Cornyn	LeMieux	Udall (NM)
Crapo	Levin	Voinovich
DeMint	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	Lugar	Whitehouse
Durbin	Manchin	Wicker
Ensign	McCain	

NOT VOTING—11

Alexander	Feingold	Stabenow
Bond	Harkin	Vitter
Brownback	McCaskill	Wyden
Bunning	Roberts	

The nomination was confirmed.

NOMINATION OF SCOTT M. MATHE- SON, JR., TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the question occurs on the following nomination, which the clerk will report.

The legislative clerk read the nomination of Scott M. Matheson, Jr., of Utah, to be United States Circuit Judge for the Tenth Circuit.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Scott M. Matheson, Jr., of Utah, to be United States Circuit Judge for the Tenth Circuit.

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President shall be immediately notified of the Senate's action.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the following nominations are considered and confirmed en bloc: Calendar No. 1119, No. 1120, and No. 1139. The motions to reconsider are considered made and laid upon the table en bloc, and the President shall be immediately notified of the Senate's action.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Kathleen M. O'Malley, of Ohio, to be United States Circuit Judge for the Federal Circuit.

Beryl Elaine Howell, of the District of Columbia, to be United States District Judge for the District of Columbia.

Robert Leon Wilkins, of the District of Columbia, to be United States District Judge for the District of Columbia.

Mr. BROWN of Ohio. Mr. President, I am very pleased that the Senate has voted to confirm Judge Kathleen McDonald O'Malley to the U.S. court of appeals for the Federal circuit.

The Nation's gain is Ohio's loss. But it is also a proud day for us.

As a child Kate was blessed with wisdom beyond her years. At the age of 12 she was asked what she wanted to be when she grew up. She replied that she wanted to become a Federal judge.

And she excelled in school—high school, college, and law school. She graduated Phi Beta Kappa from Kenyon College in 1979 and first in her class at Case Western Reserve Law School in 1982.

After law school she clerked for the Sixth Circuit Court of Appeals for the distinguished Judge Nathaniel R. Jones, who is one of her major influences and who considers Kate to be like family.

After her clerkship with Judge Jones, Judge O'Malley spent several years in private practice, where she gained invaluable experience representing numerous large corporations in addition to medium-sized and small businesses.

She became an expert in complex corporate litigation, patent and intellectual property cases—experience that will serve her well as a Circuit Judge in the Federal circuit.

She translated her private sector experience into a distinguished career in public service as chief counsel and

chief of staff for then-Ohio attorney general Lee Fisher.

Recognizing her talents, Ohio Senators Howard Metzenbaum and John Glenn recommended her to President Clinton for a place on the Federal bench.

On September 20, 1994, President Clinton nominated her to serve on the Federal bench as a U.S. district judge for the Northern District of Ohio.

When she began her service in the Northern District of Ohio, Judge O'Malley was among the youngest judges serving on the Federal bench.

Since then, she has served the Northern District of Ohio with distinction.

In addition to having a great legal mind, she is an innovator. She has spearheaded national efforts to integrate cutting edge technologies into courtrooms—ensuring that the administration of justice is equal, fair, and open for all who seek it.

Judge O'Malley will make an outstanding judge on the U.S. court of appeals for the Federal circuit, and I congratulate her on her confirmation.

Mr. LEAHY. Mr. President, at long last, the Senate is being allowed to consider long-pending, consensus judicial nominations. This action has been long overdue. President Obama has reached out and worked with Senators from both sides of the aisle in selecting well-qualified judicial nominees. As chairman of the Judiciary Committee, I have bent over backwards to be fair to all sides. There has been consultation and a thorough and fair process for evaluating nominations.

Scott M. Matheson is finally being confirmed to become a Federal circuit judge for the U.S. Court of Appeals for the Tenth Circuit. In his 30-year legal career, he has been both a State and a Federal prosecutor, worked in private practice, and served on the faculty of the S.J. Quinney College of Law at the University of Utah, including 8 years as the school's dean. The Judiciary Committee unanimously reported his nomination on June 10, more than 6 months ago. We did so unanimously. The Republican Senators from Utah supported this nomination. It has still taken more than 6 months to get a Senate vote.

Ten years ago, Mary Murguia became the first Latina to serve as a Federal judge in Arizona when she was nominated by President Clinton to serve on the U.S. District Court for the District of Arizona. She will now become the first Hispanic—and only the second woman—from Arizona to serve on the Ninth Circuit. The Judiciary Committee unanimously voted to report her nomination favorably more than 4 months ago. Judge Murguia's nomination was supported by her home State Senators, both Republicans. It has still taken more than 4 months to get a Senate vote.

Kathleen M. O'Malley has for the last 16 years served as a Federal judge in

the Northern District of Ohio. When Judge O'Malley, a breast cancer survivor, was appointed to that court in 1994, she was one of the two youngest women on the Federal bench. She has been nominated to serve on the U.S. Court of Appeals for the Federal Circuit. The Judiciary Committee unanimously reported her nomination to the Federal Circuit in September, 3 months ago. The Committee received a letter of support from Senator VOINOVICH, who urged an expeditious confirmation process. It has still taken 3 months to get a Senate vote.

The Senate is finally being allowed to fill some of the vacancies on the hard-pressed U.S. District Court for the District of Columbia. The Judiciary Committee unanimously reported the nominations of Beryl Howell and Robert Wilkins back in September. It has taken 3 months to get Senate votes. The chief judge of the District Court for the District of Columbia wrote the Senate some time ago urging prompt action to fill the four vacancies that exist on that Court.

There was a time when having served for 10 years as a respected member of the Judiciary Committee staff would lead to expeditious consideration of a nomination. For example, when Kristi Lee Dubose of Alabama, who had served on Senator Sessions' Judiciary Committee staff, was nominated, her hearing was expedited despite the lack of an ABA peer review, her nomination was reported by the committee within 2 days of her hearing and that nomination was then confirmed promptly. Indeed, the time Judge Dubose's questionnaire was received by the committee to the date of her confirmation was 61 days, which includes a 3-week recess period.

By contrast, Ms. Howell's nomination was delayed after her hearing for 57 days before the committee was allowed to vote and has been stalled for 89 days on the Senate Executive Calendar. Since her questionnaire was received by the committee, it has been 160 days. This is no reflection on Ms. Howell, whose credentials, work experience, temperament, and qualifications are beyond reproach.

There are more than a dozen additional consensus judicial nominations that have been through the entire process but are being denied a final vote. I know of no precedent for this. Indeed, in the lameduck session at the end of President Bush's second year in office, we proceeded to report and confirm controversial circuit court nominees. That the Senate is not being allowed to consider these consensus nominees is a shame and an unnecessary burden on them and their families and for the courts and people they would serve. It is a travesty that all of the well-qualified nominees favorably reported by the Judiciary Committee could not be confirmed before this Congress adjourns. That is what we did when we

confirmed 100 judicial nominees of President Bush in 2001 and 2002. All 100 of the nominees reported favorably by the Judiciary Committee received Senate votes and were confirmed—all 100. They include 20 during the lameduck session that year and circuit court nominees reported after the election.

This year, consensus nominees are not being allowed to be considered. These nominees include one unanimously reported circuit court nominee and another circuit court nominee supported by 17 of the 19 Senators on the Judiciary Committee.

President Obama has nominated James E. Graves to fill one of two emergency vacancies on the Fifth Circuit. Currently, Justice Graves is the only African American on the Mississippi Supreme Court. If confirmed, he would be the second African American to sit on the Fifth Circuit, the first from Mississippi. His nomination has the strong support of both of his Republican home State Senators. The ABA Standing Committee on the Federal Judiciary unanimously rated him "well qualified", its highest possible rating. The Judiciary Committee reported him unanimously. Yet he is not being allowed a vote.

Susan Carney is nominated to fill one of 3 emergency vacancies on the Second Circuit. After working for 17 years in private practice, she served as associate general counsel of the Peace Corps, and she is currently the deputy general counsel of Yale University. Ms. Carney's nomination has the strong support of both of her home State Senators. Her nomination was reported with the support of five of the seven Republicans serving on the Judiciary Committee and by a vote of 17 to 2. She is not being allowed a vote.

There are 13 more district court nominees who were reported unanimously by the Judiciary Committee that the Senate is not being allowed to consider.

President Obama nominated Amy Totenberg to fill an emergency vacancy on the U.S. District Court for the Northern District of Georgia in March. Ms. Totenberg's nomination has the support of her two Republican home state Senators. Currently a lawyer in private practice in Atlanta, she also serves as a special master for the U.S. District Court for the District of Maryland and as a court-appointed mediator for the U.S. District Court for the District of Columbia. Previously, she was general counsel to the Atlanta Board of Education and a part-time municipal court judge. She earned the highest possible rating, unanimously "well qualified," from the ABA Standing Committee on the Federal Judiciary. Her nomination was reported unanimously by the Judiciary Committee.

James E. Boasberg was nominated to fill another of the vacancies on the

U.S. District Court for the District of Columbia. Since 2002, Judge Boasberg has served as a judge on the Superior Court of the District of Columbia, a position to which he was appointed by President George W. Bush. Previously, Judge Boasberg was a Federal prosecutor and an attorney in private practice. The ABA Standing Committee on the Federal Judiciary rated him unanimously "well qualified," its highest possible rating, to become a Federal judge. His nomination was reported unanimously by the Judiciary Committee.

Amy Berman Jackson was nominated to fill the other current vacancy on the U.S. District Court for the District of Columbia. Ms. Jackson is currently a partner at the Washington, D.C., law firm Trout Cacheris. Previously, she was a partner in Venable's Washington, D.C., office, and she also served as a Federal prosecutor in the District of Columbia. Ms. Jackson earned the highest possible rating, unanimously "well qualified," from the ABA Standing Committee on the Federal Judiciary. Her nomination was reported unanimously by the Judiciary Committee.

President Obama nominated James E. Shadid to fill an emergency vacancy on the U.S. District Court for the Central District of Illinois, a court that currently has only one active judge. Judge Shadid is currently a judge on the Tenth Judicial Circuit in Peoria County, IL. Previously, he was a sole practitioner in Peoria, a part-time commissioner on the Illinois Court of Claims, and a part-time assistant public defender in the Peoria County Public Defender's Office. When he was appointed to serve as a State judge, Judge Shadid became the first Arab-American judge in Illinois. He will become the only Federal Arab-American judge in the State and one of only approximately four Arab-American Federal judges in the country. His nomination was reported unanimously by the Judiciary Committee.

Sue E. Myerscough was also nominated to fill an emergency vacancy on the U.S. District Court for the Central District of Illinois. She is currently the presiding justice on the Fourth District Appellate Court of Illinois, and she previously sat on the Seventh Judicial Circuit of Illinois, first as associate judge and then as circuit judge. In all, Justice Myerscough has more than 23 years of judicial experience. She also serves as an adjunct associate professor in the Department of Medical Humanities at the Southern Illinois University School of Medicine. Justice Myerscough was first nominated to serve as a Federal judge in 1995, but her nomination was returned to the President after the Senate failed to act on it. Her nomination was reported unanimously by the Judiciary Committee.

President Obama nominated Paul K. Holmes, III, to fill an emergency va-

cancy on the U.S. District Court for the Western District of Arkansas. Mr. Holmes is currently of counsel at the Fort Smith, AR, law firm where he formerly worked for more than two decades as an associate and a partner. Previously, he was the U.S. attorney for the Western District of Arkansas. As U.S. attorney, Holmes served for 2 years on the Attorney General's Advisory Committee. Mr. Holmes earned the highest possible rating—unanimously "well qualified"—from the ABA Standing Committee on the Federal Judiciary, and he has the strong support of his two home State Senators. His nomination was reported unanimously by the Judiciary Committee.

Anthony J. Battaglia was nominated to become a Federal judge on the U.S. District Court for the Southern District of California, the court he has served as a magistrate Judge for 17 years. He is a former president of the Federal Magistrate Judges Association and of the San Diego County Bar Association. Prior to taking the bench, Judge Battaglia worked for nearly two decades as a civil litigator in private practice. He has the strong support of both of his home State Senators, and the ABA Standing Committee on the Federal Judiciary gave him its highest possible rating, unanimously "well qualified." His nomination was reported unanimously by the Judiciary Committee.

Judge Edward J. Davila was nominated to fill an emergency vacancy on the U.S. District Court for the Northern District of California. Currently a judge on the Superior Court of California, Judge Davila previously spent 20 years as a trial lawyer, first as a deputy public defender in the Santa Clara County Public Defender's Office and then as a lawyer in private practice. He also has taught trial advocacy course sessions at Stanford Law School, Santa Clara University School of Law, and the University of San Francisco School of Law. If confirmed, Judge Davila will become the first Latino to take the Federal bench in the Bay area in more than 15 years. He has the strong support of his two home State Senators. His nomination was reported unanimously by the Judiciary Committee.

President Obama nominated Diana Saldana to fill an emergency vacancy in the Southern District of Texas, the district she has served as a magistrate judge since 2006. Before taking the bench, Judge Saldana served the Southern District for 5 years as a Federal prosecutor, and she previously was a lawyer in private practice and a trial attorney in the Civil Rights Division of the U.S. Department of Justice. The child of migrant farm workers, Judge Saldana began working alongside her family in the sugar beet fields at age 10, and she continued to do so for more

than a decade. After graduating from law school, she served as a law clerk to then-Chief Judge George P. Kazen. If confirmed, Judge Saldana will fill the vacancy created by Judge Kazen's retirement. Judge Saldana earned the highest possible rating—unanimously “well qualified”—from the ABA Standing Committee on the Federal Judiciary. She has the strong support of her two Republican home State Senators. Senator CORNYN called her “one of the toughest law enforcers in South Texas,” and Senator HUTCHISON added that Judge Saldana “has some of the finest qualities we expect in our judges.” Her nomination was reported unanimously by the Judiciary Committee.

Max O. Cogburn was nominated to sit on the U.S. District Court for the Western District of North Carolina, the district that he previously served for 9 years as a magistrate judge and for 12 years as an assistant U.S. attorney. Mr. Cogburn is currently a partner in the Asheville, NC, law firm, Cogburn and Brazil, and he also serves as an appointed member of the North Carolina Education Lottery Commission. In addition to practicing law, Mr. Cogburn owns and maintains with his siblings the Pisgah View Ranch, a dude ranch that has been in his family for generations. Mr. Cogburn has the strong, bipartisan support of his two home State Senators, a Republican and a Democrat. His nomination was reported unanimously by the Judiciary Committee.

Marco A. Hernandez was nominated to fill an emergency vacancy on the U.S. District Court for the District of Oregon. He has served as a judge in Oregon's 20th Judicial District for the last 15 years, first on the district court and now as a circuit court judge. Previously, Judge Hernandez was a deputy district attorney in Washington County, OR, and a lawyer for Oregon Legal Services. Judge Hernandez has the strong support of his two home State Senators, and he has now been nominated to this position by Presidents of both parties. If confirmed, he will become the first Latino to serve as a Federal Judge in Oregon. His nomination was reported unanimously by the Judiciary Committee. I also note that Senator SESSIONS made quite a fuss that he was not confirmed at the end of the Bush administration while Senator SESSIONS proceeded to delay Committee consideration of his nomination and while Republicans still refuse to allow it to be considered before adjournment.

President Obama nominated Steve Jones to fill an emergency vacancy on the U.S. District Court for the Northern District of Georgia. For the last 15 years, Judge Jones has been a superior court judge in the Tenth Superior Court District of Georgia, and he currently serves that district as the pre-

siding judge on the Felony Drug Court as well. Previously, he was a judge on the Athens-Clarke County Municipal Court and an assistant district attorney for the Western Judicial Circuit. Judge Jones was the first African American to serve the Western Judicial Circuit as a superior court judge. He will be the only active African-American judge on the Northern District of Georgia and one of only two active African-American judges in the State. Judge Jones earned the highest possible rating—unanimously “well qualified”—from the ABA Standing Committee on the Federal Judiciary, and he has the strong support of his two Republican home State Senators. His nomination was reported unanimously by the Judiciary Committee.

Michael Simon was nominated to the U.S. District Court for the District of Oregon. He is currently a partner at the law firm of Perkins Coie LLP, where he serves as head of the litigation practice at the Portland office. In that capacity, Mr. Simon has handled several high-profile first amendment cases on a pro-bono basis. Before joining that firm, Mr. Simon was a trial attorney in the Antitrust Division of the U.S. Department of Justice. Mr. Simon has the strong support of his two home State Senators. His nomination was reported by the Committee with strong bipartisan support.

These consensus nominees are in addition to the other highly qualified nominations on which the Senate has not been allowed to vote for many months.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.
The Senator from Illinois.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate move to morning business with Senators allowed to speak for up to 10 minutes each.

Mr. MCCAIN. Mr. President, reserving the right to object, if I could.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I would say to the Senator from Illinois that I have an agreement with everybody on a 6-week extension of the Trade Adjustment Assistance and the Trade Preference Act, and on both sides everybody has agreed.

I know I can't do that in morning business, so I ask unanimous consent, as soon as it is written up, that I be permitted to propose that legislation.

Mr. DURBIN. I have no objection to your bringing it up whenever it is prepared, and we will of course consider it at that time.

I thank the Senator for his work on this effort.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Republican leader.

FIRST RESPONDERS BILL

Mr. MCCONNELL. Mr. President, I am delighted the Senate was able to reach an agreement to provide health care for the men and women who helped in the rescue, recovery, and cleanup efforts after the 9/11 attacks.

In the years since then, as we all know, a number of these brave Americans have become ill. Today represents an important step in making sure they receive the care they need as a result of their extraordinary service. No one has ever questioned whether to provide the care they need. The only question was how to do so.

Like many of my colleagues, I have been concerned that attempts to rush this legislation at the end of the session would prevent us from ensuring the bill was written in a responsible fashion. I still believe this cause and this legislation would have benefited from a bipartisan committee process. But thanks to the hard work of a number of Senators—most notably Senators COBURN and ENZI and their staffs—we have come a long way in improving this bill.

We have made sure that more compensation will go to victims than trial lawyers. It has got improved oversight, so money isn't siphoned away from the people who need it. We put time limits on the legislation so Congress can come back and review what has worked and where improvements can be made. So this is a much better product.

Some have tried to portray this debate as a debate between those who support 9/11 workers and those who don't. This is a gross distortion of the facts. There was never any doubt about supporting the first responders. It was about doing it right.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding the Senator from Hawaii has to make a quick departure, so I ask he be recognized after this quick request.

HELPING HEROES KEEP THEIR HOMES ACT OF 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 4058 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 4058) to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosure.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 4058) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 4058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Helping Heroes Keep Their Homes Act of 2010".

SEC. 2. EXTENSION OF ENHANCED PROTECTIONS FOR SERVICEMEMBERS RELATING TO MORTGAGES AND MORTGAGE FORECLOSURE UNDER SERVICEMEMBERS CIVIL RELIEF ACT.

Paragraph (2) of section 2203(c) of the Housing and Economic Recovery Act of 2008 (Public Law 110-289) is amended—

(1) by striking "December 31, 2010" and inserting "December 31, 2012"; and

(2) by striking "January 1, 2011" and inserting "January 1, 2013".

Mr. AKAKA. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I rise today to reaffirm my strong commitment to have the Native Hawaiian Government Reorganization Act enacted into law. This bill is of great importance to all of the people of Hawaii. The bill would simply put the State of Hawaii on equal footing with the rest of the country in the treatment of its indigenous people. It provides a process for the reorganization of a Native Hawaiian governing entity. However, since I first introduced this common-sense bill 10 years ago, it has been the subject of misleading attacks and procedural hurdles, and has never had the opportunity for an up-or-down vote here on the Senate floor.

Earlier this month, a handful of my colleagues who oppose this measure put out a press release, fueling speculation that I was seeking to attach this bill to must-pass, end-of-session legislation. One of these colleagues said that this measure—and I quote, "should be brought up separately and debated openly on the Senate floor with the opportunity for amendment."

I could not agree more.

A structured debate followed by an up-or-down vote on this legislation is long overdue. The people of Hawaii have waited for far too long.

This Congress, the bill was favorably reported by the Senate Committee on Indian Affairs, and it was passed by the House of Representatives. Despite this, it was not given an opportunity to be

debated and voted on, here on the Senate floor.

I am deeply disappointed that we did not have the opportunity to consider this bill during the 111th Congress. This historic Congress saw a great many accomplishments on behalf of the American people, but tragically, it also saw unprecedented obstruction.

I remain committed to passing this bill. I am hopeful that, when we convene next year in the new Congress, I can count on every one of my colleagues to be supportive of my efforts to bring this bill to the Senate floor.

The Native Hawaiian Government Reorganization Act is a Hawaii-specific measure. In the long traditions of the U.S. Senate, it was considered a courtesy to stand with your colleagues on matters specifically addressing the needs of their home State. This civility seems to have vanished from this Chamber.

It is frustrating to me that some of my colleagues have worked aggressively to block this bill. For some reason, they have made it a priority to prevent the people of my State from moving forward to resolve issues caused by the illegal overthrow of the Native Hawaiian government in 1893.

This bill has widespread support among elected leaders and the citizens of Hawaii. Both chambers of the Hawaii State Legislature have voiced their support of the measure, and our new Governor, Neil Abercrombie, was the chief sponsor of the bill in the U.S. House of Representatives. This legislation is also supported by community and civic organizations, including the Association of Hawaiian Civic Clubs and the Council for Native Hawaiian Advancement, and the Office of Hawaiian Affairs, a State agency.

The bill also has broad support outside of Hawaii. Indigenous leaders and community organizations across the United States support the bill, such as the Alaska Federation of Natives and the National Congress of American Indians.

The American Bar Association sent a letter this year to Members of the Senate reaffirming its support and outlining the sound Constitutional basis for the legislation. The ABA wrote, "The right of Native Hawaiians to use the property held in trust for them and the right to govern those assets are not in conflict with the Equal Protection Clause since they rest on independent constitutional authority regarding the rights of native nations contained in Articles I and II of the Constitution." Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. AKAKA. The bill also has the support of the Obama Administration. When the measure passed the House in

February of this year, the White House Press Secretary issued a statement noting that President Obama, "looks forward to signing the bill into law and establishing a government-to-government relationship with Native Hawaiians." And earlier this month, Attorney General Eric Holder and Secretary of the Interior Ken Salazar wrote to the Senate Leaders to reiterate the administration's support for the Native—Hawaiian Government Reorganization Act, and to make note of the urgent need for this bill. The letter reads, "Of the Nation's three major indigenous groups, Native Hawaiians—unlike American Indians and Alaska Natives—are the only one that currently lacks a government-to-government relationship with the United States." I ask unanimous consent to have a copy of this letter printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. AKAKA. Opponents have spread misinformation about the bill. Let me set the record straight. This bill does not allow Hawaii to secede from the United States. It does not allow private lands to be taken. It does not authorize gaming in Hawaii.

Opponents of the bill also distort the history of the Native Hawaiian people. I welcome the chance to speak with any of my colleagues about the history of my great State and of its indigenous people. I want to help you understand why this bill is necessary for Hawaii to move forward, and how it is consistent with the United States' existing policies of Federal recognition for Alaska Natives and American Indians.

Opponents also point to a vocal minority in Hawaii who oppose this bill. The reality is that this legislation is strongly supported by the people of Hawaii. A poll conducted by the Honolulu Advertiser in May of this year found that 66 percent of people in Hawaii support Federal recognition for Native Hawaiians. Of the poll participants, 82 percent identifying themselves as Native Hawaiians said they support Federal recognition. Mr. President, I ask unanimous consent to have this article printed in the RECORD.

(See exhibit 3.)

Mr. AKAKA. This year marked the commemoration of the 200th anniversary of the unification of the Hawaiian Islands into one kingdom, under King Kamehameha. This year also marked 51 years of statehood and more than 100 years since Hawaii became a United States territory. And yet the people of Hawaii have still not been given the chance to participate in a government-to-government relationship similar to those already extended to this Nation's other indigenous people.

I have worked tirelessly to educate my colleagues on the importance of this bill. I hope that you will continue to welcome my efforts to speak with

you. I extend my heartfelt aloha and mahalo, thank you, to the many, many supporters who have worked to advocate for this legislation. Your support makes a difference and is greatly appreciated. I thank my colleague, Chairman DORGAN, who has been a great friend of mine and to the people of Hawaii. His leadership on this issue will be missed.

My work to enact this bill is not over. I look forward to having the opportunity to debate this bill on its merits. I will not give up until the Native Hawaiian people have the same rights to self-governance already afforded to the rest of the Nation's indigenous people.

Mr. President, mahalo—thank you—to all of my colleagues for listening to this matter of great importance to me and my State. I yield back the remainder of my time.

EXHIBIT 1

SEPTEMBER 28, 2010.

U.S. Senate,
Washington, DC

DEAR SENATOR: On behalf of the American Bar Association, which has nearly 400,000 members nationwide, I urge your support for H.R. 2134, the Native Hawaiian Government Reorganization Act of 2010. The legislation, as amended, passed the House of Representatives with bipartisan support early in the session and was placed on the Senate calendar where it is still awaiting Senate floor action. As amended, H.R. 2134 is supported by the White House, the Department of Justice, Hawaii's Congressional Delegation and the Governor of Hawaii.

The ABA has a long-standing interest in the legal issues concerning America's native and indigenous peoples. Over the past twenty years, our House of Delegates has adopted numerous policies supporting self-determination and self-governance for American Indians and Alaska Natives. In 2006, the ABA adopted policy specifically supporting the right of Native Hawaiians to seek federal recognition of a native governing entity within the United States similar to that which American Indians and Alaska Natives possess under the U.S. Constitution.

H.R. 2134 would establish a process that would lead eventually to the formation of a native governing entity that would have a government-to-government relationship with the United States. Developed by Native Hawaiians, this federally recognized entity would serve, maintain and support their unique cultural and civic needs and advocate on their behalf at the federal and state levels. Prior to the overthrow of the Hawaiian monarchy in 1893 by U.S. agents acting without official sanction, Native Hawaiians lived under an organized political framework governed by the rule of law. This Kingdom had a written constitution and was recognized by the U.S. government as a sovereign nation. Congress ratified treaty agreements with it and recognized its representatives.

In addition to establishing a lasting trust relationship with the Native Hawaiian people after the coup, Congress acknowledged the illegal overthrow of the Kingdom of Hawaii, issued a formal apology to the Native Hawaiian people in 1993, and has consistently supported reconciliation efforts. Congressional support for legislation that would lead to a process for federal recognition for Native Hawaiians is the next logical step.

Opponents of this legislation claim that allowing Native Hawaiians the right to self-governance would imperil the constitutional rights of non-Native Hawaiians to equal protection under the law. They point to the former Kingdom's wealth and claim that self-determination will create a system of benefits disadvantaging those who are not of Native Hawaiian heritage. However, Native Hawaiians, in seeking rights and privileges that other indigenous people of the United States enjoy under our system of law, are not compromising the rights of others but exercising their own rights to property, to self-determination, and to be recognized as an indigenous people by Congress.

The right of Native Hawaiians to use of the property held in trust for them and the right to govern those assets are not in conflict with the Equal Protection Clause since they rest on independent constitutional authority regarding the rights of native nations contained in Articles I and II of the Constitution. The constitutional framers recognized the existence of native nations within the United States that predated our own democracy and created a system for federal recognition of indigenous nations within our then expanding borders.

The framers empowered Congress through the Indian Commerce Clause and the Treaty Clause to maintain relations between the U.S. federal government and the governments of these native nations. Our courts have upheld Congress' power to recognize indigenous nations and have specifically recognized that this power includes the power to re-recognize nations whose recognition has been terminated in the past. Thus, the Native Hawaiians have the right to be recognized by the Congress, this right is not in conflict with the rights of others, and this recognition may be renewed despite historical lapses.

The American Bar Association urges you to support the rights of Native Hawaiians to self-determination by voting for H.R. 2134.

Sincerely,

THOMAS M. SUSMAN.

EXHIBIT 2

DECEMBER 9, 2010.

Hon. HARRY REID.
Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: We write to express the Administration's strong support for the Native Hawaiian Government Reorganization Act of 2010 (S. 3945).

This legislation establishes a process for Native Hawaiians to organize a government roughly akin to the government of an American Indian tribe. Once the Native Hawaiian government is created and its leaders elected, the United States would officially recognize the new governing entity and work with it on a government-to-government basis, just as the United States works with federally recognized Indian tribes in other States.

Senator Akaka first introduced a version of this legislation more than a decade ago. Since 1999, Senator Akaka, Senator Inouye, and other members of Hawaii's congressional delegation have worked tirelessly with the last three Administrations—and especially with our Departments—to greatly improve the bill, which has now received bipartisan support from the House of Representatives, the Senate Committee on Indian Affairs, and Hawaii's Governor and Attorney General.

Of the Nation's three major indigenous groups, Native Hawaiians—unlike American Indians and Alaska Natives—are the only one that currently lacks a government-to-

government relationship with the United States. This bill provides Native Hawaiians a means by which to exercise the inherent rights to local self-government, self-determination, and economic self-sufficiency that other Native Americans enjoy.

For these reasons, we urge the Senate to pass the Native Hawaiian Government Reorganization Act of 2010 and send it to the President for his signature.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the Administration's program.

Sincerely,

ERIC H. HOLDER, JR.,
Attorney General.
KEN SALAZAR,
Secretary of the Interior.

EXHIBIT 3

[From the Honolulu Advertiser, May 3, 2010]
66% OF HAWAII RESIDENTS FAVOR RECOGNITION FOR NATIVE HAWAIIANS—POLL SHOWS SLIGHT UPTICK FROM 2006, WHEN 63% APPROVED

(By Gordon Y.K. Pang)

Hawaii residents still favor federal recognition of Native Hawaiians by a 2-to-1 margin, the latest Advertiser Hawaii Poll numbers show.

Polling conducted last week found that 66 percent of the participants support Native Hawaiians being "recognized by Congress and the federal government as a distinct group, similar to the special recognition given to American Indians and Alaskan Natives."

Such recognition could come about under a process created by the Akaka bill, formally known as the Native Hawaiian Government Reorganization Act of 2009. The bill passed the U.S. House in February and is awaiting a vote in the Senate.

The Hawaii Poll appears to indicate that, in recent years, a large segment of Hawaii residents have settled into how they think about federal recognition and the Akaka bill. In 2000, the Advertiser Hawaii Poll showed 73 percent in favor of federal recognition. That support appeared to dip in the latter part of the decade, when in 2006 the poll showed 63 percent of respondents in favor of recognition.

The poll was conducted by locally based Ward Research Inc. with a sampling size of 604 respondents.

Over the course of the last decade, during the administrations of President George W. Bush and President Obama, language in the Akaka bill has been widely debated and amended in the effort to get it passed.

Gov. Linda Lingle and her administration oppose the current version of the bill. Lingle had been a strong and influential supporter of the bill, but now believes this version grants too much authority to the Native Hawaiian entity at the onset of negotiations that would take place among the entity and the state and the federal governments.

For instance, it would grant "sovereign immunity" to the entity and its employees from the state's criminal, public health, child safety and environmental laws.

Clyde Nāmu'o, administrator of the Office of Hawaiian Affairs, said he is "not surprised and actually pleased" by the latest poll numbers, especially given the new opposition by Lingle and others.

"It's fairly consistent with the polls that we did," Nāmu'o said. "Obviously, there's still a majority of the people who still support" federal recognition.

Two of three major candidates in the 1st Congressional District special election, Democrat Ed Case and Republican Charles Djou, have said they do not support the current language of the bill that passed the House, leaving Democrat Colleen Hanabusa as the sole staunch supporter.

'NOBODY KNOWS'

Longtime opponents of the Akaka bill and/or federal recognition said the Hawai'i Poll numbers show only that a majority of Hawai'i residents don't know what federal recognition means.

"I think the big problem is nobody knows what's inside the bill," said Thurston Twigg-Smith, former Honolulu Advertiser owner. "They keep changing it, people don't have a chance to read it."

Congress should hold hearings on the measure in Hawai'i so the public can get a better understanding of the language, he said.

Hawaiian rights activist Dennis Pu'uhonua "Bumpy" Kanahele said the poll "only tells me that people aren't even aware of what the Akaka bill is all about."

The state's politicians and "mainstream Hawaiian organizations" support the bill and not other models of self-determination, such as complete independence from the U.S. government, he said.

Kanahele said that's why he's been pushing for a constitutional convention, so Hawaiians can look at the different models and determine what's best.

Among the 115 poll respondents who identified themselves as Native Hawaiians, 82 percent said they support federal recognition. Among other ethnic groups, 66 percent of those describing themselves as Japanese support it, while 61 percent of Filipinos and Caucasians indicated support.

Only 58 percent of those who identified themselves as 55 and older support federal recognition, while 72 percent of those ages 35 to 54 support it, and 79 percent of those under 35 do.

TRIBUTE TO RETIRING SENATORS

BYRON DORGAN

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise today to pay tribute to my colleague, Senator BYRON DORGAN. This is his last day voting in the Senate. He is retiring after serving the people of North Dakota in the Congress, the House, and Senate, for 30 years. But BYRON's record in North Dakota goes even beyond that—another 12 years in State office, so a total of 42 years of serving the people of North Dakota.

I want to first say I am not objective when it comes to BYRON DORGAN because he is my best friend. We have been friends and allies for all of those 42 years. In 1968 I was running a campaign to lower the voting age in North Dakota and first met BYRON DORGAN, a young tax commissioner—very young, in his twenties, appointed after the previous tax commissioner took his life. BYRON had extraordinary responsibility thrust on him at a very young age, the youngest statewide official in our State's history. BYRON disposed of those responsibilities with real distinction, becoming recognized as the most

influential State leader, even more influential than the Governor of the State, by a major publication in North Dakota.

I met BYRON DORGAN in that year and was so struck by his ability, his charisma, and his vision for our State and our Nation that I thought: This is somebody I want to work with in my career.

We started a friendship that has lasted to this day. In 1970 I was helping run the reelection campaign of Senator Quentin Burdick, who served in this Chamber for more than 30 years. I got to know BYRON even better then. In fact, my wife and I spent time with him and his wife. In the years that followed we became very close friends. In 1974, when I got back from business school, BYRON called me and asked me to come to his office. I did the day after I returned home. We took a walk around the Capitol Grounds of the State of North Dakota and he talked to me about what he saw as the future—the future of our State, things that were happening in the country that needed to be addressed, and how the two of us might, working together, change that future and make a difference.

I agreed that day to be his campaign manager for the House of Representatives. In that campaign, EARL POMEROY, now North Dakota's lone Congressman, was the driver. I was the campaign manager. BYRON is always quick to point out it was the only election he ever lost. He always said it was the fault of the campaign manager. I always said it was the fault of the driver. And EARL always believed we would have won if only he had been the candidate.

Those were incredible days. I remember so well that campaign, the three of us—we bonded in a way that I think is very rare in politics and served together in a way that is unusual. There was never the kind of competition that often exists between Members. But there was always a keen friendship and a real partnership. We were allies, fighting for North Dakota, fighting to change the country, deeply committed to each other and to our State.

After that campaign BYRON asked me to be his assistant. Weeks later he hired Lucy Calautti. Lucy, years later, became my wife, so I have always credited BYRON with bringing us together. We were also joined by my college roommate who became another assistant to then tax commissioner BYRON DORGAN, a young man named Jim Lang, a very dear friend of mine, an absolute genius, and the four of us worked to build the Democratic Party in North Dakota and to change the political landscape.

Those were incredible times. We fought great battles for a coal severance tax in North Dakota, for an oil severance tax, things that helped build the financial base for our State.

In 1980, BYRON announced that he would seek North Dakota's lone seat in the House of Representatives. I ran to succeed him as tax commissioner. Lucy, who by then was somebody for whom I had great respect, was his campaign manager in that race for the House of Representatives. BYRON was successful, and I was successful in a year in which no other Democrats were successful in our State.

We then had a period of time, 6 years, before the Senate race in which BYRON was in Washington, I was in North Dakota, and we campaigned together day after day, weekend after weekend, month after month, all across North Dakota, building a movement, a movement that resulted in my running for the Senate in 1986.

It was really BYRON's turn. He could have chosen to run, but he decided not to, and so I did, in a race that many thought was impossible for me to win. I started out more than 30 points behind the incumbent. He had over \$1 million in the bank. When I got into the race, I think I had \$126. But BYRON DORGAN was my ally in that race every step of the way. I think very few others would have done what he did for me. I think very few other Members of the House of Representatives, having someone else leapfrog them to come to the Senate, would have put themselves on the line as much as BYRON DORGAN did for me in that Senate race in 1986. But he was with me in every corner of the State fighting tooth and nail, an uphill battle in which, as I said, I started out 38 points behind.

But on election day, I won a very narrow victory, winning by about 2,000 votes over an incumbent who had won his previous race with over 70 percent of the vote and a man who really looked like a U.S. Senator, Mark Andrews—6 feet 5 inches, booming voice, white mane of hair, very powerful speaker. Yet I was able to win that race in a squeaker, and I never could have without BYRON's extraordinary assistance and support.

For a period of time that I was in the Senate, he was in the House, and then in 1992 I announced I would not seek reelection to my seat because I made a pledge in that 1986 campaign, and the pledge I made was that I would not run for reelection unless the deficit was dramatically reduced. If you have reviewed 1992, you know the deficit was at a record level. After the first Bush administration, deficits were at record levels. So I announced I would not seek reelection, in keeping with my pledge. BYRON DORGAN announced for my seat, and there was Lucy helping to run BYRON's campaign for what was my seat in the Senate—a remarkable time in our lives.

Then later that year, Senator Burdick, the other Senator from North Dakota, died. The Governor called me and said: KENT, you have to run to fill out

the 2 years of his term; otherwise, North Dakota is going to lose all its seniority in one fell swoop, lose all of Senator Burdick's more than 30 years of seniority. We are going to lose BYRON's 12 years of seniority in the House because he is running for your seat in the Senate, and we will lose your 6 years of seniority if you do not run to fill the term of Senator Burdick.

I have always remembered that the media in North Dakota took a poll on whether I should run to fill the 2 years of Senator Burdick's term, and even an overwhelming majority of Republicans thought I should run. So the Governor told me there would be a special election after the regular elections in November. He said: Look, you have kept your pledge. You did not run for reelection to your seat. BYRON is running for election to your seat. You would be in a special election in December.

So I agreed to run, and BYRON and I were running simultaneous campaigns for the Senate in 1992, he for my seat in the regular election, and I was running for the special election in December. Once again, we crisscrossed North Dakota campaigning together, making our case, and both of us won very big victories in 1992.

From that time period forward until today, BYRON and I have served together representing the State of North Dakota—best friends. What a remarkable story.

I can still remember one of the publications here on the Hill—I can't remember if it was *The Hill* or *Roll Call*—when the two Senators from Mississippi were fighting for the majority leader position, ran a cartoon that said: Why can't the two Senators from Mississippi be more like the Senators from North Dakota—friends forever. And BYRON and I have been friends forever and will be friends forever.

After the 1992 race, we both served North Dakota, and, unlike so many delegations, we did everything we could to support each other. I can't think of a time when there were ever angry words exchanged between BYRON DORGAN and EARL POMEROY and myself. It was what many people back home called Team North Dakota. And we have been a team, as close as you could be.

During BYRON's time in the Senate, he has been a fierce fighter for policies that benefit average people and also somebody very suspicious of corporate power. He passionately opposed what he thought were misguided trade policies that contributed to jobs moving overseas. He was one of a handful of Senators who warned against consolidation and the excessive risk that would result from repealing the barriers between commercial and investment banking. He warned at the time, in what has become a famous speech, that if we passed that legislation, we would face a financial crisis in the

years ahead. That prediction looks prescient today in light of the financial collapse of 2008. He was a leader in fighting for farm policies to benefit family farmers and ranch families rather than corporate agriculture. In the midst of it all, he wrote two books: take this job and shove it—or "Take This Job and Ship It" and "Reckless! How Debt, Deregulation, and Dark Money Nearly Bankrupted America."

Most importantly, BYRON DORGAN had a vision, an energy, and a persistence that has played a huge role in building the prosperity of our State.

Robert Kennedy once said: "There are those that look at things the way they are, and ask why? I dream of things that never were, and ask why not?" That is really the way BYRON approached service to North Dakota. He did not see limits; he saw opportunity.

He looked at our university system and technology industries and saw no reason they could not be built into the Red River Valley Research Corridor that could power the economy of eastern North Dakota. And he set about making it happen, and he has succeeded.

He looked at our energy industry and saw no reason North Dakota could not be the energy powerhouse for the Nation. Through his position on the Energy Committee and the Energy and Water Subcommittee of Appropriations, he helped build North Dakota into one of the leading energy-producing States in the Nation.

He looked at the growth of the knowledge industries and the Internet and saw no reason North Dakota could not be wired with the same 21st-century telecommunications infrastructure as the rest of the country. He used his position on the Commerce Committee to get that done as well.

The results of his work can be seen in every corner of our State. Modern highways and air terminals, new and improved water infrastructure, a booming energy and agricultural economy, high-tech companies springing up everywhere across our State, the strongest economic growth in the Nation, the lowest unemployment rate in the Nation—by any measure, North Dakota is doing very well. Most of that, BYRON will tell you, is because of the hard work and good judgment of the people of North Dakota. But among them, no one has worked harder or smarter on behalf of North Dakota than Senator BYRON DORGAN.

Let me close by saying that I do not know of a harder working or more productive person than BYRON DORGAN. He produces extraordinary amounts of high-quality work. He is type A squared, but he never forgot his roots.

BYRON DORGAN grew up in Regent, ND, a town of 300. He often reminds us that he graduated in a class of nine and he was in the top five. He is proud of that background, he is proud of that

heritage, he is proud of our State, he is proud of our Nation, and we are proud of him.

I will miss BYRON DORGAN's partnership here every day, but I know he will be with us because BYRON DORGAN will never be far from the fray. BYRON DORGAN has served this body well, served the Nation well, and served our State extraordinarily well.

I yield the floor.
The PRESIDING OFFICER (Mr. FRANKEN.) The Senator from Colorado.

UNANIMOUS-CONSENT REQUEST— H.R. 2476

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 636, H.R. 2476; that the Udall of Colorado substitute amendment which is at the desk be agreed to; the bill, as amended, be read a third time and passed; the Udall of Colorado title amendment which is at the desk be agreed to; the motions to reconsider be laid upon the table, with no intervening action or debate; and any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, on behalf of Senator KYL and Senator MCCAIN, I respectfully object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, if I might, I know Senator DURBIN has a pressing unanimous consent request. I ask unanimous consent that when he has concluded his request, Senator BARRASSO and I could engage in a colloquy on the very bill that has been objected to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

UNANIMOUS-CONSENT REQUEST— EXECUTIVE CALENDAR

Mr. DURBIN. Mr. President, the Executive Calendar of the Senate notes, on page 5, Calendar No. 1002, James Michael Cole, of the District of Columbia, nominated by the President of the United States to be Deputy Attorney General. That was reported by the Senate Judiciary Committee, his nomination, on July 20 of this year. We are now into December, and this year is coming to an end. This has taken long enough.

I ask that the No. 2 spot in the Department of Justice be filled, that we not continue to have this vacancy and imperil the important mission of that Department.

I ask unanimous consent that the Senate proceed to executive session and to the immediate consideration of Calendar No. 1002, James Michael Cole, of the District of Columbia, to be Deputy Attorney General; that the nomination be confirmed and the motion to

reconsider be laid upon the table, with no interviewing action or debate; that any statements be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, the Department of Justice is well aware of some issues that have been raised by the intelligence community, particularly the Senate Intelligence Committee, with respect to this nominee; therefore, I must object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, if I might, I would like to yield to Senator BARRASSO from Wyoming to discuss the important bill that was just objected to.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. It was a privilege for me to cosponsor this piece of legislation with the distinguished Senator from Colorado. My colleague Senator ENZI and I have long been advocates of allowing an additional opportunity for jobs and for economic development into the wonderful ski areas around Rocky Mountain West, which is the intent of this bill. It really is aimed at increasing summer activities so that a number of these locations, if you will, on Forest Service land can use that land for an extended season, which would then work toward full-time, year-round employment for the folks in those areas, putting in things such as zip lines and opportunities for recreational advancements to increase the amount of tourism, the amount of visitors to these wonderful places people like to enjoy. We think additional opportunities and enhancements would allow for additional employment. That is why Senator ENZI and I joined with Senator UDALL in support of his efforts on this important piece of legislation.

Mr. UDALL of Colorado. Mr. President, I thank both Senators from Wyoming for their support. I know we will go back to work in the next Congress because, as the Senator pointed out, this bipartisan bill would provide clear authority for the Forest Service to allow additional summertime use of ski areas which would help create jobs and grow sustainable economies in ski country. It is no cost. It is common sense, as the Senator pointed out. That is why it not only has support from the two Wyoming Senators but also Senators RISCH, ENSIGN, BENNETT, and GREGG. It was favorably reported out of the Energy and Natural Resources Committee in September. The CBO projects it will actually generate rev-

enue for the Federal budget and will help improve the economy in a lot of hard-hit mountain communities.

Mr. President, we passed a number of other bills out of the Energy and Natural Resources Committee that, unfortunately, will not receive votes in this Congress. I want to touch on a couple of them.

I begin with the National Forest Insect Disease Emergency Act. I have been working on this concern for the entire time I have served in the Congress, whether in the Senate or the House. We have an enormous bark beetle epidemic in our Western forests. Those who study our forests say that because of climate change and drought and human activity, these epidemics will become more and more common. What the bill would have done is provide the tools and resources to the Forest Service to help address this serious natural disaster. It is slow moving but nonetheless a natural disaster. That disaster is the deaths of millions and millions of acres of trees due to insect infestations.

Senators CRAPO and RISCH were cosponsors. It is a very significant disappointment that we didn't move to consider this bill. I know it would have passed the Senate.

Another bill is the Leadville Mine Drainage Tunnel Act, commonsense legislation that would directly benefit a community in Colorado and, indeed, the entire Arkansas River Valley, one of the significant watersheds in the State of Colorado. This mine drainage tunnel near Leadville, in 2008, was backed up with a large volume of contaminated water which then created a safety hazard to the community, but it was unclear whether the Bureau of Reclamation or the Environmental Protection Agency was responsible for addressing it.

My bill would clarify that the Bureau of Reclamation has the authority to treat this backed-up water and is responsible for maintaining the tunnel so that in the future these kinds of threats will not arise and, if they do, it is clear who is responsible to mitigate them. It is a straightforward bill. It doesn't cost anything. It would give the people of Leadville the certainty they have needed for years.

Finally, I wish to mention the Sugar Loaf Fire Protection District Land Exchange Act. This would help protect public safety. It facilitates a fair exchange of lands on the Arapaho-Roosevelt National Forest near Boulder between the Forest Service and the Sugar Loaf Fire District. The fire district is seeking this exchange so they can upgrade and maintain fire stations which serve this community which has been subjected to wildland/urban fires. We want to protect the homes and the built structures and people who live in those areas. The exchange would reduce costs related to forest boundary

maintenance as well as provide better service to the residents of the fire district, neighbors of the district, and individuals who travel through.

I appreciate the patience of my colleagues. The point I wish to make is, we had tens and tens of bills in the Energy and Natural Resources Committee that this body should have considered. It would have been important to give these commonsense bills an up-or-down vote. Almost all of them were bipartisan in nature. It is a disappointment to me that we have not done the will of the people in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

THANKING SENATE PAGES

Mr. DURBIN. Mr. President, I am sorry they are not on the floor at this moment, but I rise to give special recognition to two Senate pages who have stayed here while all the others have gone home for Christmas. These two pages have been working hard today to keep up with the Senate's very busy schedule:

Rachel Bailey, 16 years old, from Glendale, MD. Mom and dad are Susan and Karl. She is working late today as a Senate page. We thank Rachel so much.

Jarrold Nagurka, 16 years old, from Arlington, VA. His mom and dad are Pamela and Stuart.

Even though they aren't on the floor and they are running around here busy, they can look in the CONGRESSIONAL RECORD and realize that Senators of both political parties appreciate their dedication to this institution during this holiday season.

IN SUPPORT OF THE 9/11 HEALTH AND COMPENSATION ACT

Mr. DURBIN. Mr. President, 100 years ago today, there was a horrible fire in the stockyards of Chicago. Most of us have our vision of that era and the stockyards from Upton Sinclair's book "The Jungle," which told of the life of a Lithuanian immigrant family working in the stockyards. It was one of the busiest commercial ventures in the United States, and it literally fed the Nation. But it also engaged in practices acceptable at that time which would be unacceptable by today's standards of health and safety.

That day of December 20, 1910, there was a fire. As a result of that fire, 100 years ago today, 21 firefighters lost their lives at the union stockyards in Chicago. Until the collapse of the World Trade Center towers on 9/11, no single disaster in the history of the United States had claimed the lives of more firefighters.

Sadly, today, in a cruel irony of history, there has been another fire in Chicago. This morning we lost two firefighters who went out in the bitter cold

and did their best to fight a fire. A wall collapsed on them, as it did 100 years ago. Two lost their lives, and 14 were seriously injured. It is a sad reminder to all of us who drive by firehouses and fire stations all the time and see the men and women who work there, that when they are called to duty, they can give their lives at a moment's notice. It happened this morning in Chicago. It happened 100 years ago in the same city. It can happen again.

I am glad that earlier today we finally worked out an agreement on the so-called 9/11 Health Compensation Act, the James Zadroga 9/11 Health Compensation Act. The extraordinary efforts for passing that have to be recognized. I will, of course, acknowledge the two Senators from New York, KIRSTEN GILLIBRAND and CHARLES SCHUMER, who worked tirelessly to get it passed. They would acknowledge the contribution of our majority leader, HARRY REID, who stepped in and made this process work when it looked like it had failed several times. MIKE ENZI, on the Republican side, TOM COBURN from Oklahoma, all worked together and came up with a good bill. The 9/11 Health Compensation Act is going to help many around the United States. I just learned this week it can help one person in Chicago.

Arthur Noonan is 1 of the 188 responders and 86 survivors living in Illinois and enrolled in the World Trade Center health registry. I wish to thank the Chicago Sun Times for telling his story. He is a 30-year veteran of the Chicago Fire Department, spent hundreds of hours volunteering at Ground Zero in those critical days and weeks after the terrorist attack. Mr. Noonan, a firefighter from Chicago, worked in a line passing buckets of debris from Ground Zero, searching for human remains and clothing. He remembers the thick dust that coated everything and the sickly sweet smell. Noonan and other volunteers were given respirators, but the filters clogged up after a few minutes. They worked without masks after that. A few years after the cleanup, Mr. Noonan contracted leukemia. He applied for health benefits through the victims compensation fund and submitted medical documents to substantiate his claim, but his claim was filed 2 weeks too late.

Mr. Noonan said at first he was hesitant to file a claim because he "never got anything for nothing." He says he has always worked two or three jobs. I talked to him on the phone just a couple days ago. What a classic Chicago story. Here is a man, a proud firefighter, now in retirement, battling leukemia successfully, who still says: I don't want anything for nothing.

I said: So what are you worried about?

Well, I am worried because I have a cap on my health insurance of 1 million bucks, and I have already spent \$750,000

on my leukemia. I am worried I will just run out of health insurance.

That is a concern, a concern that can be addressed by this bill. If his leukemia can be tracked to his experience at Ground Zero, we certainly want to make certain he receives the medical care he needs.

Stanley Silata is another Chicago firefighter who applied for health assistance but was told his application was too late. He participated in search-and-rescue missions at Ground Zero and put out fires. Similar to so many other firefighters who were on the lines those days, Mr. Silata developed serious respiratory problems. He has had to have medical treatment since 2004. Mr. Silata's claim for assistance was submitted, unfortunately, 2 weeks after the deadline. We are hoping this bill will provide him some protection as well. The stories go on and on. But as we are reminded from the deaths in Chicago today, the firefighters who responded to this fire, the men and women who responded at Ground Zero, carried a servant's heart into one of the most dangerous places on Earth. They literally risked their lives in the hopes that they could save others or at least bring some compensation and some consolation to the families who had suffered these losses.

They deserve nothing less than our gratitude and our help, our help in enacting this 9/11 health compensation bill. I believe the House of Representatives will be considering this today. I hope it is signed very quickly by the President.

INTERCHANGE FEES

Mr. DURBIN. Mr. President, I wish to speak briefly about interchange fee reform, an issue I have worked on for many years and an issue which was taken up just recently last Thursday when the Federal Reserve considered legislation we passed in the Senate and House of Representatives and sent to them to establish regulations. It was an effort to bring reasonable regulation to a \$20 billion annual debit card interchange fee system industry.

The Federal Reserve released draft regulations that will implement the new law Congress enacted. Back in May, when the Senate was debating the Wall Street reform bill, I offered an amendment. I am honored that 64 Senators voted for it, including 17 Republicans. It was a bipartisan success. It is now the law of the land. The Federal Reserve is moving forward to make sure our law is implemented in a fair way.

The Fed announced, according to their investigation, it costs the banks between 7 and 12 cents to process a debit card transaction. But the Fed reported that big banks and card networks charge merchants, retailers, charities, universities, and others an

average debit interchange fee—not 7 to 12 cents—of 44 cents. The Fed has confirmed what consumers and retailers long suspected. They are being overcharged and gouged for each purchase made with a debit card. Merchants and their customers are being charged more than three times what the transactions cost.

In the old days, if you paid by check before debit cards, the fee for processing the check was pennies, regardless of the face amount of the check. Now the debit card fee is 44 cents—three, four, five, six times more than the cost actually incurred by the banks because of the transaction.

The draft regulations released propose to cap the interchange fees at the largest banks at 12 cents per transaction, give or take some conditions such as the prevention of fraud, which we built into the law. With the 12-cent cap, we could save businesses and consumers across the United States about \$10 billion in the first year. Imagine what \$10 billion will mean to a restaurant, a shop. Think of what it means to universities and other charities that collect through the use of debit cards—more money for them to use, more profitability, and that could lead to more employment and better business outlooks.

At this point, I am hunkered down and ready for the fight that is coming. The biggest banks and credit card companies are going to do their best to influence the Federal Reserve to raise this interchange fee as high as possible, but we know what the reasonable costs are. We know these credit card companies and the big banks have been overcharging for years. Every time a credit or debit card sale is made, Visa and MasterCard take a cut of the transaction. Some of this cut they keep, but most of it is routed along to the bank that issued the card. This fee that goes to the card-issuing bank is the interchange fee, also known as a swipe fee. It skims an average of 1 to 3 percent off the top of every transaction. An estimated \$48 billion in credit and debit card interchange fees were collected in 2008, around \$20 billion from debit cards.

These fees come out of the pockets of everyone who accepts cards—merchants, small businesses, charities, and government agencies—and the costs are passed on to consumers.

Every bank says they need to charge fees to help pay for the cost of processing card transactions and fighting fraud. That is fair enough. But the banks do not set their own interchange fees. There is no competition here.

Some of my Republican colleagues, who supported my efforts said we did not want to go this far to give the Federal Reserve this authority. But there is literally no competition when it comes to credit and debit cards. That is why the government has to step in.

That is why we think the Federal Reserve is moving in the right direction.

Go look at any bank's Web site and look to see how much that bank charges in interchange fees. You won't find anything.

Why? Because for years, the banks have enjoyed a cozy scheme where they let Visa and MasterCard fix the interchange fee rates that each bank receives.

This means banks do not have to compete with one another. They all receive the same fees no matter how much a particular bank actually spends to process transactions or to prevent fraud.

The current interchange system is a price-fixing scheme. Visa and MasterCard set the fee rates that thousands of banks receive. Efficient banks and inefficient banks receive exactly the same fees.

And Visa and MasterCard have so much market power over 75 percent of the market—that they can raise rates whenever they want to and tell merchants to take it or leave it.

Merchants have no choice but to take it, because now over half of all retail transactions take place with cards. They can't say no.

It is easy to see that the banks and card companies set up this interchange scheme. It benefits the banks that receive high fees and don't need to compete with each other or negotiate with merchants. And it benefits Visa and MasterCard, because they get their own network fee each time a card is swiped, and high interchange fees mean more banks will issue more cards.

But the system is unfair to merchants and to consumers in the United States. They have to pay billions per year in these fees with no negotiation and no competition.

The interchange amendment that I offered—and that is now law reins in these abusive fees.

My amendment did several things.

First, it said that if the big banks are going to let Visa and MasterCard fix fees on their behalf, the Federal Reserve should regulate those fees.

The amendment said that any debit interchange fee that is set by a card network and passed along to a big bank must be regulated by the Fed to ensure that the fee is reasonable and proportional to the actual cost of processing the transaction.

If a bank wants to charge its own fees to reflect the costs it bears, so be it. My amendment does not regulate that, and as long as those fees are transparent and competitive, I am fine with it.

But if the banks all get together and decide to let Visa and MasterCard fix fees for them, that is where my amendment steps in.

We know that banks today receive far more in interchange than it costs them to do debit transactions. They

use their excess interchange subsidy to pay for things like ads, rewards programs, and CEO bonuses.

The result of my amendment is that we will squeeze the fat out of the interchange system. Banks will still be able to use interchange to pay for necessary processing costs, but they won't be able to use this interchange scheme to take excessive fees out of the pockets of merchants and their customers.

Second, my amendment said that if a bank takes steps to effectively reduce fraud in debit transactions, that bank can get an increase in their interchange rate.

So instead of the current system, where Visa and MasterCard give banks the same interchange rate no matter how much fraud the bank allows, my amendment will actually incentivize banks to reduce the amount of fraud that takes place. The rules that the Fed institutes on this will mark a major step forward.

Third, my amendment said that card networks cannot require that their debit cards all use exclusively one debit network.

The story here is that there are a number of debit networks that merchants can use to conduct transactions. Until recently, most cards could be used on multiple networks. You used to see a number of debit network logos on each debit card.

In recent years, however, the biggest networks like Visa have begun requiring banks to sign exclusive agreements under which they become the sole network on the banks' cards. This diminishes competition between networks and leads to higher prices. My amendment will restore this competition.

Finally, my amendment said that card networks can no longer penalize merchants who try to offer certain discounts to consumers, like discounts for using debit instead of credit. This was a clear pro-consumer provision.

I know that my amendment has been criticized by the banks and by some of their allies in Congress. Those criticisms have generally fallen along several lines.

Some have argued that my amendment is a problem because it involves price fixing.

I agree that price fixing is a problem, but it is the current interchange fee system that represents price fixing.

Don't take it from me even Visa admits that they fix prices for all their member banks under the current system. They sent a letter to the Fed on November 8 saying, quote, "issuers do not in practice set interchange transaction fees; rather, these fees are set by networks,"

My amendment tries to correct price fixing, not create it.

Second, my amendment has been criticized because some think that it will not benefit consumers.

I absolutely agree that interchange reform should protect consumer inter-

ests. And I would note that my amendment was supported by a broad range of consumer groups and by millions of consumers who signed petitions in support of swipe fee reform.

Also, I note that the Fed met on October 13 with a number of consumer groups to discuss how to implement interchange reform.

The Fed has posted online summaries of all its interchange meetings, and according to that summary, the consumer groups said they preferred that debit interchange fees be either de minimis or zero.

Consumers support interchange reform because, as a November 2009 GAO study points out, it is under the current interchange system that "merchants pass on their increasing card acceptance costs to their customers."

The National Retail Federation estimates that each American family pays an extra \$427 per year as a result of inflated prices due to interchange fees.

Reining in soaring interchange fees reduces costs for merchants and consumers alike.

Now make no mistake—I expect the banks and card companies will try to get around debit interchange regulations by creating new hidden consumer fees and by steering consumers toward less-regulated products like prepaid cards. We saw the banks do this after the credit card reform bill was enacted last year.

But I want the banks and card companies to know that I will be watching, and I will make sure both the Congress and regulators step in as needed to prevent consumers from being fleeced.

Finally, my amendment has been criticized because some say it will hurt small banks and credit unions.

I have pointed out repeatedly that my amendment bends over backward to protect these small institutions. I don't want to drive them out of the debit card market, and my amendment won't do that.

Nothing in the amendment enables merchants to discriminate against cards issued by small banks and credit unions. Merchants are still required by Visa and MasterCard contracts to accept all cards regardless of the issuer.

And the amendment exempts banks with less than \$10 billion in assets from interchange fee regulation. All but around 90 banks and 3 credit unions are exempt.

These small banks can continue to receive the same high interchange fees that they do today and they will actually receive higher fee rates than their big bank competitors.

If Visa and MasterCard are so protective of their big bank members that they decide to voluntarily cut the interchange rates that small banks receive, they will be doing so against their own profit motive—and they may be doing so in violation of the antitrust laws.

My amendment does not harm small banks and credit unions, and I will be watching to make sure Visa, MasterCard and the big banks do not harm them either.

Finally, I will point out that the United States is actually late to the party when it comes to interchange regulation.

According to an April 2008 report by the Federal Reserve Bank of Kansas City, banks have reached agreement with foreign governments to reduce interchange fees in countries such as Israel, Mexico, and Switzerland.

Just this week, the European Union reached an agreement with Visa Europe to limit debit interchange fees to 0.2 percent in nine countries and for cross-border EU transactions.

These countries are doing fine without excessive interchange fees. And the United States will do fine as well.

In conclusion, the Fed's release of proposed interchange rules is an important step toward bringing relief to our nation's merchants and consumers.

Now the Fed will commence a formal comment period on the draft rules, and I and many others will likely submit comments suggesting how the draft can be further improved.

I look forward to this process.

I again want to thank my 63 colleagues who stood up back in May and voted for my amendment to rein in the unfair debit interchange system. I look forward to continuing to work with them on this issue in the future.

I know this fight will be engaged again next year. I am looking forward to defending what we have done and to move with Senator MENENDEZ of New Jersey and others to deal with other abuses in the credit card industry, such as the prepaid debit card where there are vast overcharges of fees. We have to stand in this body for the consumers of America. They cannot afford the well-paid lobbyists in the hallways. We have to stand for them because those people are the backbone of our economy, and without our support, have limited voice in the decisionmaking that takes place in this Chamber.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to speak for up to 20 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY REFORM

Mr. WHITEHOUSE. Mr. President, we come to the end of this Congress having once again failed to harness the economic potential achievable through reform of our Nation's energy portfolio or to heed the dire warnings put forth by our planet about the effects of our relentless carbon pollution.

The results of our failure are many and are significant.

With our economy now at the forefront of our minds, you would think we would have paid more attention to the economic imperative of energy reform. As the global economic race to clean energy rushes by around us, you would think we would have exhibited more concern at the prospect of being left behind.

Instead, we remain engaged as a nation in a de facto policy of unilateral economic disarmament in the battle for command of tomorrow's energy economy. We are surrendering to China, to the European Union, to competitors around the world.

The United States invented the first solar cell, but we now rank fifth among countries that manufacture solar components. Other countries see the demand for clean energy, and they are moving their companies ahead of ours in the race to meet that demand. The United States is now home to only 1 of the top 10 companies manufacturing solar energy components and to only 1 of the top 10 companies manufacturing wind turbines.

Half of America's existing wind turbines were manufactured overseas. In Portsmouth, RI, we have installed two wind turbines. One was manufactured by a Danish company. The other was manufactured by an Austrian company, its components delivered to Rhode Island by a Canadian distributor.

Even in coal sequestration, in a country where half our power still comes from coal, we are not leading. Only one plant is under construction now with the capability to capture any significant portion of its carbon emissions.

The new energy economy that beckons us has been described in congressional testimony as bigger by far than the tech revolution that brought us our laptops and our iPads and our Black-Berries and the Internet services that are now so important a part of our daily lives. The tech economy is \$1 trillion; the energy economy is \$6 trillion.

In the race for commanding position in this new energy economy, America designed much of the underlying energy technology that the world is using, but other countries have put the propulsive effect of their government behind their industries, and they are pulling ahead of us in bringing those new technologies—our new technologies—to market. Our competitors are moving to seize an irretrievable advantage in the development and distribution of new energy technologies, and we are letting them.

Our children, I fear, will judge us sternly for failing to protect America's economic self-interest at this pivotal time. But they will judge us for that less sternly than they will judge us for our failure to protect their lands and waters, the air and climate they will inherit. For this, their verdict will be harsh.

Nature's warnings abound. Nature is giving us every signal of distress a prudent person could want or need to begin to take prudent precautions. Nature's voice is clear.

According to NASA, 2010 was the hottest climate year on record, surpassing 2005 as the previous record year.

The acidification of our oceans has reached levels not seen in 8,000 centuries—that is quite a bandwidth to fall out of.

September 2010 saw the lowest recorded Arctic ice volume, at 78 percent below the 1979 level. Researchers warn that the Arctic Sea could be ice free by 2030 and Glacier National Park without glaciers.

Western forests, as Senator UDALL just described, are falling by the mile to the ravages of spruce and mountain beetles, as warmer winters fail to kill off these pests.

A warming climate adds energy to our weather systems, loading the meteorological dice for worse and more frequent storms, and we are seeing worse and more frequent storms.

I am particularly alert to our Earth's alarm signals since I represent Rhode Island, the Ocean State. Rhode Island and other coastal States face a triple whammy.

First, we get the same terrestrial effects from climate change as all States: warming climates, changing habitats, and harsher and more frequent storms. Second, we will also suffer from changes affecting our ocean economies: species shifts as bays and oceans warm, lost fisheries, and the pervasive danger of ocean acidification. Rhode Island's productive winter flounder fishery, for instance, is already virtually gone. Third, we coastal States face the local consequences of rising sea levels: protecting coastal infrastructure, rezoning to compensate for new storm surge velocity zones, perhaps even diking and damming to protect low-lying areas from inundation.

We can foresee these consequences, and we can foresee the devastation they will bring.

Beyond our economic self-interest and beyond our responsibility as caretakers of the planet is the fact that climate change presents a threat to our national security.

Leaders of our defense and intelligence communities from both Republican and Democratic administrations and from the career military, outside of politics, have come forward to express their concern.

Respected leaders such as GEN Wesley Clark and former CIA Director James Woolsey have called for us to aggressively reduce our reliance on fossil fuels. In 2007, the nonprofit CNA Military Advisory Board gathered a dozen of the Nation's most respected retired admirals and generals, including former Chief of Staff of the Army GEN Gordon Sullivan and former commander-in-chief of U.S. Central Command GEN Anthony Zinni, to produce a

report called "National Security and the Threat of Climate Change."

Its principal conclusion is that climate change poses a serious threat to national security by acting as a "threat multiplier" for instability in some of the world's most volatile regions and presents significant national security challenges for the United States.

As former ADM T. Joseph Lopez states in the report:

More poverty, more forced migrations, higher unemployment. Those conditions are ripe for extremists and terrorists.

The official position of the U.S. Government is the same—not just at EPA, the Environmental Protection Agency, not just in the political elements of the administration. In 2008, the intelligence organizations within our national security structure prepared a national intelligence assessment on the national security implications of climate change.

Testifying before Congress on the report, chairman of the National Intelligence Council, Dr. Thomas Finger, said the impacts of climate change:

... will worsen existing problems—such as poverty, social tensions, environmental degradation, ineffectual leadership, and weak political institutions. Climate change could threaten domestic stability in some states, potentially contributing to intra- or, less likely, interstate conflict, particularly over access to increasingly scarce water resources.

The Department of Defense Quadrennial Defense Review for 2010 concurred, declaring that climate change will play a "significant role in shaping the future security environment."

The review stated:

While climate change alone does not cause conflict, it may act as an accelerant of instability or conflict, placing a burden to respond on civilian institutions and militaries around the world.

So here we have it, an enormous missed opportunity economically in a time of economic hardship, an unthinkable failure to safeguard the world our children will inherit, an accelerant of instability and conflict at a time when our security is threatened by both and still no action. How could we have ended up here again?

We have ended up here again because of a very unfortunate situation in our country right now.

I will confess, I am an American exceptionalist. Over and over, I have spoken on the floor about this country as a city on a hill, as a beacon in the darkness, as mankind's last, best hope, as leading the world by our example. These are trite comments perhaps, but I say them unashamedly. Our balanced system of government, our founding principles of ordered liberty, our embrace of our diversity, our willingness to fight and die for freedom in foreign lands and then come home, without conquest, with other nations' freedom our only prize, these are exceptional

American virtues, and they have changed the course of humanity.

But our exceptional place in the human story does not give us an excuse. It does not give us a pass. It gives us, as Americans, a responsibility. Our American exceptionalism confers on Americans a responsibility. To ignore, as we have, the calm and constant counsels of science is not consistent with that responsibility. To ignore facts that are so plain as to be defacing our planet—her great glaciers and seas, her lands and species—is not consistent with that responsibility. To turn away from leadership at a time when other nations are turning to us for leadership is not consistent with that responsibility. It is not American exceptionalism to be exceptionally wrong or exceptionally blind or exceptionally timid.

James Fallows wrote in a recent Atlantic article about clean coal technology that:

... the Chinese government can decide to transform the country's energy system in 10 years, and no one doubts that it will. An incoming U.S. Administration can promise to create a clean-energy revolution, but only naifs believe that it will.

Is this what the United States has come to, a country so mired in its internal quarrels and bickering, so slave to special interests that we cannot dream big, cannot do what others say is impossible?

An eminent historian once counseled his students about the harsh judgments which it is history's power to inflict on the wrong. We are, by our inaction, by our folly, by our unwillingness to face facts, by our refusal to pick up the mantle of leadership, earning such a harsh judgment. We have chosen to ignore the plain and indisputable signals of our planet, signals that should warn us about the dangers of the path on which we are embarked. We have chosen to ignore both the clear and present dangers apparent around us now and those looming dangers our God-given intelligence gives us the ability to foresee. We have instead chosen to listen to a siren song: the siren song of propaganda, marketed by special interests, indeed, by the very polluters whose carbon pollution is wreaking this damage. That is our choice, and it is a choice for which history's judgment will be justifiably harsh.

The judgment will be harsh because the answer to that choice is wrong—because the perils are real, because the Earth acts by the laws of physics and chemistry and biology. Atmospheric carbon levels cannot be talked down by propaganda; our warming bays and seas cannot be cooled down by corporate spin; our petty politics simply are not part of the equation when these great forces of nature are set in motion. Similar to King Canute, we cannot change this tide by proclamation, let alone by propaganda.

I see the majority leader on the floor. I wish to inquire if he would like me to yield for a moment to him as a courtesy.

Mr. REID. Has my friend completed his statement?

Mr. WHITEHOUSE. I have not.

Mr. REID. I say to the Senator, please complete your statement.

Mr. WHITEHOUSE. Thank you, Leader.

Some say we do not have to worry about the consequences that will come from what we see happening around us, that we do not have to attend to nature's warnings about the effects of what we are doing because God will get us out of the mess we are making. Perhaps, but history shows how often God's work is done through the work of human hands, through the gifts of the human mind, through the responsibility of the human conscience. In this, as in so many other things, God's work must be our own. The task for our hands is to address the facts science has long told us will bear on the problem: First and foremost, the rise in carbon pollution. We are now dumping 37 billion tons, or 37 gigatons, of CO₂ a year into our atmosphere. Twenty years ago, that number was less than 25 gigatons. Twenty years from now it might be over 50 gigatons.

We know what that means. Carbon dioxide persists in the environment for decades. We know that. So as we pile on the gigatons every year, it piles up in our atmosphere. We know that. The concentration of carbon dioxide in the atmosphere has fluctuated in a range between 180 and 280 parts per million over most of the last million years. In 1900, the CO₂ concentration had popped out of that range up to 300 parts per million, and today the concentration exceeds 390 parts per million and is climbing at about 2 parts per million every year. We know what that means too.

We have known since the Irish scientist, John Tyndall, figured it out in 1859—the year Oregon was admitted as the 33rd State, when James Buchanan was President, and when, ironically, the first U.S. oil well was drilled—that carbon dioxide traps heat in our atmosphere. It is basic textbook science.

Unfortunately, basic textbook science has encountered basic textbook politics and lost.

The oil-and-gas sector spent \$250 million in lobbying expenses while we were working on a climate change bill between January 2009 and June 2010. The electric utilities kicked in another \$264 million in lobbying expenditures. The mining industry topped it off with \$29 million, for a grand total industry lobbying expense during this period of more than \$½ billion—\$543 million, to be exact.

So the judgment of history will be harsh not just because we were wrong, nor just because we were wrong in ways

that we were able to understand were wrong. It will be harsh because we in this generation were entrusted with America's great democracy, as other generations before us have been entrusted with America's great democracy, and we will have failed that trust by failing in this challenge to meet the standards of a great democracy.

We fail that trust because this is no innocent mistake. This is not getting it wrong even though we tried our best. This is not even getting it wrong because we were lazy and not paying attention. This is no innocent mistake. This is the power of money in politics. This is the power of propaganda over truth. This is the deliberate poisoning of the public square with defective information, with manufactured doubt, with false choices, with a campaign of calculated deception. In the same "Atlantic" article I quoted earlier, James Fallows observed:

Heads of the major coal-mining and electric-power utilities in United States and China accept as settled fact that greenhouse gas emissions are an emergency they must confront because of the likely disruptive effect on the world climate.

Even they get it but not us. We, the generation that lives today, the Congress that serves today, the public servants in office today can begin to turn the tide, and we must if we are to live up to our legacy as Americans and face up to the judgment of history. We can fight the propaganda. We can be servants of the truth. We can prevent manufactured doubt from ruling the day. But we haven't.

Losing another year in which we could have taken the action demanded of us by our economy, by our national security, by our planet was a mistake. Losing this great democracy to the inertia and cynicism of these political times would be a disaster.

But beyond the four walls of this Chamber, I believe there is reason to hope. Each day Americans are waking up to this challenge. Each day young people are joining together in their neighborhoods attempting small but significant local solutions to this large and imposing global problem. Each day our entrepreneurs seek new rays of opportunity in the clouds of dismay, finding ways to serve both their business instincts and their duty as citizens of the planet. Each day business leaders are looking at our inaction with growing regret and worry. And each day ordinary citizens from every walk of life are more and more, with clear eyes, seeing what we must face in the years ahead.

Many things influence our political institutions. Yes, money does; yes, partisanship does. But more than anything else, we are all servants. Each of us, given loud enough calls from our country, from our States, from our communities, will have no choice but to listen.

So even as I communicate to my colleagues my disappointment at this year's failure, I wish to challenge Americans to take into their own hands the job of creating next year's success. Call us. Write to us. Make us do this. You know we will be a stronger America if we do. You know we will be a safer America if we do. You know we will be a more respected America if we do. Make us do this.

Every American generation is given its chance to meet with honor, energy, and wisdom the great challenges of its day. Every American generation can rise to meet those challenges in a way that burnishes the gleam of our city on a hill, in a way that brightens the lamp America holds out in the darkness. That moment is upon us in this time and place, and we must rise to it.

I yield the floor, and I thank the majority leader for his courtesy.

The PRESIDING OFFICER. The majority leader.

PROVIDING FOR THE SINE DIE ADJOURNMENT OF THE SECOND SESSION OF THE ONE HUNDRED ELEVENTH CONGRESS

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to H. Con. Res. 336, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 336) providing for the sine die adjournment of the second session of the 111th Congress.

The PRESIDING OFFICER. The message is privileged.

Without objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask for a vote on this at this time.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 336) was agreed to, as follows:

H. CON. RES. 336

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Friday, December 17, 2010, through Friday, December 24, 2010, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns on any day from Sunday, December 19, 2010, through 11:59 a.m. on Monday, January 3, 2011, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House

and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

THANKING OUR SENATE PAGES

Mr. REID. I have a few brief words, so I would appreciate everyone's patience.

Through early mornings and late nights, weekdays and weekends, dedicated Senate pages often work as hard as do Senators and staffs. Their job is fast-paced. We ask a lot of these young men and women. They have significant responsibilities and much is expected of them. Sometimes, like this past week, those responsibilities and expectations are tremendous.

This past week has been one of those times. Thirty pages began working in September for this semester, and by now most of them have gone home to their families all across America—all but two of them, Rachel Bailey and Jarrod Nagurka. Rachel is from Maryland and Jarrod is from Virginia.

This past week has been very hectic. Through last weekend and during this week, historic legislation has been debated and passed right here on the Senate floor. The Senate floor cloakrooms have been extremely busy. Many amendments have been filed and called up. There has been an unusual situation where we have been in executive session with one of the rare treaties that are debated in this body. Senators have been heavily engaged trying to finish the work of the 111th Congress.

Without a single complaint, Rachel and Jarrod, these two pages, have been carrying the load of all 30 Democratic and Republican pages. These two fine young pages have worked both cloakrooms. They haven't had any days off and have regularly worked up to 13 to 14 hours each day. That is a lot for anyone, and it is certainly a lot for a 16-year-old who is a student besides.

The Senate greatly appreciates Rachel and Jarrod's commitment and calmness while the Senate's work has been so hectic. They have made our work much easier. They have been exceedingly professional, and I thank them.

I want every one of their family members to know that in the minds of the Senate, these are two legislative heroes.

SBIR/STTR REAUTHORIZATION ACT OF 2010

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 4053, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 4053) to reauthorize and improve the SBIR and STTR programs, and for other purposes.

The ACTING PRESIDENT pro tempore. There being no objection, the Senate proceeded to consider the bill.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 4053) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 4053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “SBIR/STTR Reauthorization Act of 2010”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

- Sec. 101. Extension of termination dates.
- Sec. 102. Status of the Office of Technology.
- Sec. 103. SBIR allocation increase.
- Sec. 104. STTR allocation increase.
- Sec. 105. SBIR and STTR award levels.
- Sec. 106. Agency and program flexibility.
- Sec. 107. Elimination of Phase II invitations.
- Sec. 108. Participation by firms with substantial investment from multiple venture capital operating companies in a portion of the SBIR program.
- Sec. 109. SBIR and STTR special acquisition preference.
- Sec. 110. Collaborating with Federal laboratories and research and development centers.
- Sec. 111. Notice requirement.
- Sec. 112. Express authority for an agency to award sequential Phase II awards for SBIR or STTR funded projects.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

- Sec. 201. Rural and State outreach.
- Sec. 202. SBIR-STEM Workforce Development Grant Pilot Program.
- Sec. 203. Technical assistance for awardees.
- Sec. 204. Commercialization Readiness Program at Department of Defense.
- Sec. 205. Commercialization Readiness Pilot Program for civilian agencies.
- Sec. 206. Accelerating cures.
- Sec. 207. Federal agency engagement with SBIR and STTR awardees that have been awarded multiple Phase I awards but have not been awarded Phase II awards.
- Sec. 208. Clarifying the definition of “Phase III”.
- Sec. 209. Shortened period for final decisions on proposals and applications.

TITLE III—OVERSIGHT AND EVALUATION

- Sec. 301. Streamlining annual evaluation requirements.
- Sec. 302. Data collection from agencies for SBIR.
- Sec. 303. Data collection from agencies for STTR.
- Sec. 304. Public database.

- Sec. 305. Government database.
 - Sec. 306. Accuracy in funding base calculations.
 - Sec. 307. Continued evaluation by the National Academy of Sciences.
 - Sec. 308. Technology insertion reporting requirements.
 - Sec. 309. Intellectual property protections.
 - Sec. 310. Obtaining consent from SBIR and STTR applicants to release contact information to economic development organizations.
 - Sec. 311. Pilot to allow funding for administrative, oversight, and contract processing costs.
 - Sec. 312. GAO study with respect to venture capital operating company involvement.
 - Sec. 313. Reducing vulnerability of SBIR and STTR programs to fraud, waste, and abuse.
 - Sec. 314. Interagency policy committee.
- #### TITLE IV—POLICY DIRECTIVES
- Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives.

TITLE V—OTHER PROVISIONS

- Sec. 501. Research topics and program diversification.
- Sec. 502. Report on SBIR and STTR program goals.
- Sec. 503. Competitive selection procedures for SBIR and STTR programs.

SEC. 3. DEFINITIONS.

In this Act—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms “extramural budget”, “Federal agency”, “Small Business Innovation Research Program”, “SBIR”, “Small Business Technology Transfer Program”, and “STTR” have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

(3) the term “small business concern” has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

SEC. 101. EXTENSION OF TERMINATION DATES.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended—

(1) by striking “TERMINATION.—” and all that follows through “the authorization” and inserting “TERMINATION.—The authorization”;

(2) by striking “2008” and inserting “2018”; and

(3) by striking paragraph (2).

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended—

(1) by striking “IN GENERAL.—” and all that follows through “with respect” and inserting “IN GENERAL.—With respect”;

(2) by striking “2009” and inserting “2018”; and

(3) by striking clause (ii).

SEC. 102. STATUS OF THE OFFICE OF TECHNOLOGY.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (7), by striking “and” at the end;

(2) in paragraph (8), by striking the period at the end and inserting “; and”;

(3) by redesignating paragraph (8) as paragraph (9); and

(4) by adding at the end the following:

“(10) to maintain an Office of Technology to carry out the responsibilities of the Ad-

ministration under this section, which shall be—

“(A) headed by the Assistant Administrator for Technology, who shall report directly to the Administrator; and

“(B) independent from the Office of Government Contracting of the Administration and sufficiently staffed and funded to comply with the oversight, reporting, and public database responsibilities assigned to the Office of Technology by the Administrator.”.

SEC. 103. SBIR ALLOCATION INCREASE.

Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “Each” and inserting “Except as provided in paragraph (2)(B), each”; and

(B) in subparagraph (B), by striking “and” at the end; and

(C) by striking subparagraph (C) and inserting the following:

“(C) not less than 2.5 percent of such budget in fiscal year 2011;

“(D) not less than 2.6 percent of such budget in fiscal year 2012;

“(E) not less than 2.7 percent of such budget in fiscal year 2013;

“(F) not less than 2.8 percent of such budget in fiscal year 2014;

“(G) not less than 2.9 percent of such budget in fiscal year 2015;

“(H) not less than 3.0 percent of such budget in fiscal year 2016;

“(I) not less than 3.1 percent of such budget in fiscal year 2017;

“(J) not less than 3.2 percent of such budget in fiscal year 2018;

“(K) not less than 3.3 percent of such budget in fiscal year 2019;

“(L) not less than 3.4 percent of such budget in fiscal year 2020; and

“(M) not less than 3.5 percent of such budget in fiscal year 2021 and each fiscal year thereafter.”; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the margins accordingly;

(B) by striking “A Federal agency” and inserting the following:

“(A) IN GENERAL.—A Federal agency”; and

(C) by adding at the end the following:

“(B) DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY.—For the Department of Defense and the Department of Energy, to the greatest extent practicable, the percentage of the extramural budget in excess of 2.5 percent required to be expended with small business concerns under subparagraphs (D) through (M) of paragraph (1)—

“(i) may not be used for new Phase I or Phase II awards; and

“(ii) shall be used for activities that further the readiness levels of technologies developed under Phase II awards, including conducting testing and evaluation to promote the transition of such technologies into commercial or defense products, or systems furthering the mission needs of the Department of Defense or the Department of Energy, as the case may be.”.

SEC. 104. STTR ALLOCATION INCREASE.

Section 9(n)(1)(B) of the Small Business Act (15 U.S.C. 638(n)(1)(B)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking “thereafter.” and inserting “through fiscal year 2011.”; and

(3) by adding at the end the following:

“(iii) 0.4 percent for fiscal years 2012 and 2013;

“(iv) 0.5 percent for fiscal years 2014 and 2015; and

“(v) 0.6 percent for fiscal year 2016 and each fiscal year thereafter.”.

SEC. 105. SBIR AND STTR AWARD LEVELS.

(a) SBIR ADJUSTMENTS.—Section 9(j)(2)(D) of the Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended—

(1) by striking “\$100,000” and inserting “\$150,000”; and

(2) by striking “\$750,000” and inserting “\$1,000,000”.

(b) STTR ADJUSTMENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

(1) by striking “\$100,000” and inserting “\$150,000”; and

(2) by striking “\$750,000” and inserting “\$1,000,000”.

(c) ANNUAL ADJUSTMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (j)(2)(D), by striking “once every 5 years to reflect economic adjustments and programmatic considerations” and inserting “every year for inflation”; and

(2) in subsection (p)(2)(B)(ix) by inserting “(each of which the Administrator shall adjust for inflation annually)” after “\$750,000”.

(d) LIMITATION ON SIZE OF AWARDS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

“(aa) LIMITATION ON SIZE OF AWARDS.—

“(1) LIMITATION.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent.

“(2) MAINTENANCE OF INFORMATION.—Participating agencies shall maintain information on awards exceeding the guidelines established under this section, including—

“(A) the amount of each award;

“(B) a justification for exceeding the award amount;

“(C) the identity and location of each award recipient; and

“(D) whether an award recipient has received any venture capital investment and, if so, whether the recipient is majority-owned and controlled by multiple venture capital operating companies.

“(3) REPORTS.—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.”.

SEC. 106. AGENCY AND PROGRAM FLEXIBILITY.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(bb) SUBSEQUENT PHASE II AWARDS.—

“(1) AGENCY FLEXIBILITY.—A small business concern that received an award from a Federal agency under this section shall be eligible to receive a subsequent Phase II award from another Federal agency, if the head of each relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for inclusion in the public database under subsection (k).

“(2) SBIR AND STTR PROGRAM FLEXIBILITY.—A small business concern that received an award under this section under the

SBIR program or the STTR program may receive a subsequent Phase II award in either the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administrator for inclusion in the public database under subsection (k).

“(3) PREVENTING DUPLICATIVE AWARDS.—Before making an award under paragraph (1) or (2), the head of a Federal agency shall verify that the project to be performed with the award has not been funded under the SBIR program or STTR program of another Federal agency.”.

SEC. 107. ELIMINATION OF PHASE II INVITATIONS.

(a) IN GENERAL.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4)(B), by striking “to further” and inserting: “which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further”; and

(2) in paragraph (6)(B), by striking “to further develop proposed ideas to” and inserting “which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further develop proposals that”.

SEC. 108. PARTICIPATION BY FIRMS WITH SUBSTANTIAL INVESTMENT FROM MULTIPLE VENTURE CAPITAL OPERATING COMPANIES IN A PORTION OF THE SBIR PROGRAM.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(cc) PARTICIPATION OF SMALL BUSINESS CONCERNS MAJORITY-OWNED BY VENTURE CAPITAL OPERATING COMPANIES IN THE SBIR PROGRAM.—

“(1) AUTHORITY.—Upon a written determination described in paragraph (2) provided to the Administrator and to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives not later than 30 days before the date on which an award is made—

“(A) the Director of the National Institutes of Health, the Secretary of Energy, and the Director of the National Science Foundation may award not more than 25 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies through competitive, merit-based procedures that are open to all eligible small business concerns; and

“(B) the head of a Federal agency other than a Federal agency described in subparagraph (A) that participates in the SBIR program may award not more than 15 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies through competitive, merit-based procedures that are open to all eligible small business concerns.

“(2) DETERMINATION.—A written determination described in this paragraph is a written determination by the head of a Federal agency that explains how the use of the authority under paragraph (1) will—

“(A) induce additional venture capital funding of small business innovations;

“(B) substantially contribute to the mission of the Federal agency;

“(C) demonstrate a need for public research; and

“(D) otherwise fulfill the capital needs of small business concerns for additional financing for the SBIR project.

“(3) REGISTRATION.—A small business concern that is majority-owned by multiple venture capital operating companies and qualified for participation in the program authorized under paragraph (1) shall—

“(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

“(B) indicate in any SBIR proposal that the small business concern is registered under subparagraph (A) as majority-owned by multiple venture capital operating companies.

“(4) COMPLIANCE.—

“(A) IN GENERAL.—The head of a Federal agency that makes an award under this subsection during a fiscal year shall collect and submit to the Administrator data relating to the number and dollar amount of Phase I awards, Phase II awards, and any other category of awards by the Federal agency under the SBIR program during that fiscal year.

“(B) ANNUAL REPORTING.—The Administrator shall include as part of each annual report by the Administration under subsection (b)(7) any data submitted under subparagraph (A) and a discussion of the compliance of each Federal agency that makes an award under this subsection during the fiscal year with the maximum percentages under paragraph (1).

“(5) ENFORCEMENT.—If a Federal agency awards more than the percent of the funds allocated for the SBIR program of the Federal agency authorized under paragraph (1) for a purpose described in paragraph (1), the head of the Federal agency shall transfer an amount equal to the amount awarded in excess of the amount authorized under paragraph (1) to the funds for general SBIR programs from the non-SBIR and non-STTR research and development funds of the Federal agency not later than 180 days after the date on which the Federal agency made the award that caused the total awarded under paragraph (1) to be more than the amount authorized under paragraph (1) for a purpose described in paragraph (1).

“(6) EVALUATION CRITERIA.—A Federal agency may not use investment of venture capital as a criterion for the award of contracts under the SBIR program or STTR program.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

“(aa) VENTURE CAPITAL OPERATING COMPANY.—In this Act, the term ‘venture capital operating company’ means an entity described in clause (i), (v), or (vi) of section 121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).”.

(c) RULEMAKING TO ENSURE THAT FIRMS THAT ARE MAJORITY-OWNED BY MULTIPLE VENTURE CAPITAL OPERATING COMPANIES ARE ABLE TO PARTICIPATE IN A PORTION OF THE SBIR PROGRAM.—

(1) STATEMENT OF CONGRESSIONAL INTENT.—It is the stated intent of Congress that the Administrator should promulgate regulations to carry out the authority under section 9(cc) of the Small Business Act, as added by this section, that—

(A) permit small business concerns that are majority-owned by multiple venture capital operating companies to participate in the SBIR program in accordance with section 9(cc) of the Small Business Act;

(B) provide specific guidance for small business concerns that are majority-owned

by multiple venture capital operating companies with regard to eligibility, participation, and affiliation rules; and

(C) preserve and maintain the integrity of the SBIR program as a program for small business concerns in the United States, prohibiting large businesses or large entities or foreign-owned businesses or entities from participation in the program established under section 9 of the Small Business Act.

(2) RULEMAKING REQUIRED.—

(A) **PROPOSED REGULATIONS.**—Not later than April 30, 2011, the Administrator shall issue proposed regulations to amend section 121.103 (relating to determinations of affiliation applicable to the SBIR program) and section 121.702 (relating to ownership and control standards and size standards applicable to the SBIR program) of title 13, Code of Federal Regulations, for firms that are majority-owned by multiple venture capital operating companies and participating in the SBIR program solely under the authority under section 9(cc) of the Small Business Act, as added by this section.

(B) **FINAL REGULATIONS.**—Not later than December 31, 2011, and after providing notice of and opportunity for comment on the proposed regulations issued under subparagraph (A), the Administrator shall issue final or interim final regulations under this subsection.

(3) CONTENTS.—

(A) **IN GENERAL.**—The regulations issued under this subsection shall permit the participation of applicants majority-owned by multiple venture capital operating companies in the SBIR program in accordance with section 9(cc) of the Small Business Act, as added by this section, unless the Administrator determines—

(i) in accordance with the size standards established under subparagraph (B), that the applicant is—

(I) a large business or large entity; or

(II) majority-owned or controlled by a large business or large entity; or

(ii) in accordance with the criteria established under subparagraph (C), that the applicant—

(I) is a foreign business or a foreign entity or is not a citizen of the United States or alien lawfully admitted for permanent residence; or

(II) is majority-owned or controlled by a foreign business, foreign entity, or person who is not a citizen of the United States or alien lawfully admitted for permanent residence.

(B) **SIZE STANDARDS.**—Under the authority to establish size standards under paragraphs (2) and (3) of section 3(a) of the Small Business Act (15 U.S.C. 632(a)), the Administrator shall, in accordance with paragraph (1) of this subsection, establish size standards for applicants seeking to participate in the SBIR program solely under the authority under section 9(cc) of the Small Business Act, as added by this section.

(C) **CRITERIA FOR DETERMINING FOREIGN OWNERSHIP.**—The Administrator shall establish criteria for determining whether an applicant meets the requirements under subparagraph (A)(ii), and, in establishing the criteria, shall consider whether the criteria should include—

(i) whether the applicant is at least 51 percent owned or controlled by citizens of the United States or domestic venture capital operating companies;

(ii) whether the applicant is domiciled in the United States; and

(iii) whether the applicant is a direct or indirect subsidiary of a foreign-owned firm, in-

cluding whether the criteria should include that an applicant is a direct or indirect subsidiary of a foreign-owned entity if—

(I) any venture capital operating company that owns more than 20 percent of the applicant is a direct or indirect subsidiary of a foreign-owned entity; or

(II) in the aggregate, entities that are direct or indirect subsidiaries of foreign-owned entities own more than 49 percent of the applicant.

(D) **CRITERIA FOR DETERMINING AFFILIATION.**—The Administrator shall establish criteria, in accordance with paragraph (1), for determining whether an applicant is affiliated with a venture capital operating company or any other business that the venture capital operating company has financed and, in establishing the criteria, shall specify that—

(i) if a venture capital operating company that is determined to be affiliated with an applicant is a minority investor in the applicant, the portfolio companies of the venture capital operating company shall not be determined to be affiliated with the applicant, unless—

(I) the venture capital operating company owns a majority of the portfolio company; or

(II) the venture capital operating company holds a majority of the seats on the board of directors of the portfolio company;

(ii) subject to clause (i), the Administrator retains the authority to determine whether a venture capital operating company is affiliated with an applicant, including establishing other criteria;

(iii) the Administrator may not determine that a portfolio company of a venture capital operating company is affiliated with an applicant based solely on one or more shared investors; and

(iv) subject to clauses (i), (ii), and (iii), the Administrator retains the authority to determine whether a portfolio company of a venture capital operating company is affiliated with an applicant based on factors independent of whether there is a shared investor, such as whether there are contractual obligations between the portfolio company and the applicant.

(4) **ENFORCEMENT.**—If the Administrator does not issue final or interim final regulations under this subsection on or before December 31, 2011, the Administrator may not carry out any activities under section 4(h) of the Small Business Act (15 U.S.C. 633(h)) (as continued in effect pursuant to the Act entitled “An Act to extend temporarily certain authorities of the Small Business Administration”, approved October 10, 2006 (Public Law 109-316; 120 Stat. 1742)) during the period beginning on the day after December 31, 2011, and ending on the date on which the final or interim final regulations are issued.

(5) **DEFINITION.**—In this subsection, the term “venture capital operating company” has the same meaning as in section 3(aa) of the Small Business Act, as added by this section.

(6) **ASSISTANCE FOR DETERMINING AFFILIATION.**—

(1) **CLEAR EXPLANATION REQUIRED.**—Not later than 30 days after the date of enactment of this Act, the Administrator shall post on the website of the Administration (with a direct link displayed on the homepage of the website of the Administration or the SBIR and STTR websites of the Administration)—

(A) a clear explanation of the SBIR and STTR affiliation rules under part 121 of title 13, Code of Federal Regulations; and

(B) contact information for officers or employees of the Administration who—

(i) upon request, shall review an issue relating to the rules described in subparagraph (A); and

(ii) shall respond to a request under clause (i) not later than 20 business days after the date on which the request is received.

(2) **INCLUSION OF AFFILIATION RULES FOR CERTAIN SMALL BUSINESS CONCERNS.**—On and after the date on which the final regulations under subsection (c) are issued, the Administrator shall post on the website of the Administration information relating to the regulations, in accordance with paragraph (1).

SEC. 109. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.

Section 9(r) of the Small Business Act (15 U.S.C. 638(r)) is amended by adding at the end the following:

“(4) **PHASE III AWARDS.**—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.”.

SEC. 110. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(dd) **COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.**—

“(1) **AUTHORIZATION.**—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

“(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

“(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

“(2) **PROHIBITION.**—No Federal agency shall—

“(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

“(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

“(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

“(3) **IMPLEMENTATION.**—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

“(A) have the flexibility to use the resources of the Federal laboratories and federally funded research and development centers; and

“(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.”.

SEC. 111. NOTICE REQUIREMENT.

(a) SBIR PROGRAM.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) in paragraph (10), by striking “and” at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(12) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program of the Federal agency; and”.

(b) STTR PROGRAM.—Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended—

(1) by striking paragraph (15);

(2) in paragraph (16), by striking the period at the end and inserting “; and”;

(3) by redesignating paragraph (16) as paragraph (15); and

(4) by adding at the end the following:

“(16) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the STTR program of the Federal agency.”.

SEC. 112. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD SEQUENTIAL PHASE II AWARDS FOR SBIR OR STTR FUNDED PROJECTS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ee) ADDITIONAL PHASE II SBIR AND STTR AWARDS.—A small business concern that receives a Phase II SBIR award or a Phase II STTR award for a project remains eligible to receive an additional Phase II SBIR award or Phase II STTR award for that project.”.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

SEC. 201. RURAL AND STATE OUTREACH.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (r) the following:

“(s) FEDERAL AND STATE TECHNOLOGY PARTNERSHIP PROGRAM.—

“(1) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) APPLICANT.—The term ‘applicant’ means an entity, organization, or individual that submits a proposal for an award or a cooperative agreement under this subsection.

“(B) FAST PROGRAM.—The term ‘FAST program’ means the Federal and State Technology Partnership Program established under this subsection.

“(C) RECIPIENT.—The term ‘recipient’ means a person that receives an award or becomes party to a cooperative agreement under this subsection.

“(D) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

“(E) DEFINITIONS RELATING TO MENTORING NETWORKS.—The terms ‘business advice and counseling’, ‘mentor’, and ‘mentoring network’ have the meanings given those terms in section 34(e).

“(2) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to be known as the Federal and State Technology Partnership Program, the purpose of which shall be to strengthen the technological competitiveness of small business concerns in the States.

“(3) GRANTS AND COOPERATIVE AGREEMENTS.—

“(A) JOINT REVIEW.—In carrying out the FAST program, the Administrator and the program managers for the SBIR program and

STTR program at the National Science Foundation, the Department of Defense, and any other Federal agency determined appropriate by the Administrator shall jointly review proposals submitted by applicants and may make awards or enter into cooperative agreements under this subsection based on the factors for consideration set forth in subparagraph (B), in order to enhance or develop in a State—

“(i) technology research and development by small business concerns;

“(ii) technology transfer from university research to technology-based small business concerns;

“(iii) technology deployment and diffusion benefitting small business concerns;

“(iv) the technological capabilities of small business concerns through the establishment or operation of consortia comprised of entities, organizations, or individuals, including—

“(I) State and local development agencies and entities;

“(II) representatives of technology-based small business concerns;

“(III) industries and emerging companies;

“(IV) universities; and

“(V) small business development centers; and

“(v) outreach, financial support, and technical assistance to technology-based small business concerns participating in or interested in participating in an SBIR program or STTR program, including initiatives—

“(I) to make grants or loans to companies to pay a portion or all of the cost of developing SBIR or STTR proposals;

“(II) to establish or operate a Mentoring Network within the FAST program to provide business advice and counseling that will assist small business concerns that have been identified by FAST program participants, program managers of participating SBIR agencies, the Administration, or other entities that are knowledgeable about the SBIR and STTR programs as good candidates for the SBIR and STTR programs, and that would benefit from mentoring, in accordance with section 34;

“(III) to create or participate in a training program for individuals providing SBIR or STTR outreach and assistance at the State and local levels; and

“(IV) to encourage the commercialization of technology developed through funding under the SBIR program or the STTR program.

“(B) SELECTION CONSIDERATIONS.—In making awards or entering into cooperative agreements under this subsection, the Administrator and the program managers referred to in subparagraph (A)—

“(i) may only consider proposals by applicants that intend to use a portion of the Federal assistance provided under this subsection to provide outreach, financial support, or technical assistance to technology-based small business concerns participating in or interested in participating in the SBIR program or STTR program; and

“(ii) shall consider, at a minimum—

“(I) whether the applicant has demonstrated that the assistance to be provided would address unmet needs of small business concerns in the community, and whether it is important to use Federal funding for the proposed activities;

“(II) whether the applicant has demonstrated that a need exists to increase the number or success of small high-technology businesses in the State or an area of the State, as measured by the number of Phase I and Phase II SBIR awards that have his-

torically been received by small business concerns in the State or area of the State;

“(III) whether the projected costs of the proposed activities are reasonable;

“(IV) whether the proposal integrates and coordinates the proposed activities with other State and local programs assisting small high-technology firms in the State;

“(V) the manner in which the applicant will measure the results of the activities to be conducted; and

“(VI) whether the proposal addresses the needs of small business concerns—

“(aa) owned and controlled by women;

“(bb) that are socially and economically disadvantaged small business concerns (as defined in section 8(a)(4)(A));

“(cc) that are HUBZone small business concerns;

“(dd) located in areas that have historically not participated in the SBIR and STTR programs;

“(ee) owned and controlled by service-disabled veterans;

“(ff) owned and controlled by Native Americans; and

“(gg) located in geographic areas with an unemployment rate that exceeds the national unemployment rate, based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor.

“(C) PROPOSAL LIMIT.—Not more than 1 proposal may be submitted for inclusion in the FAST program under this subsection to provide services in any one State in any 1 fiscal year.

“(D) PROCESS.—Proposals and applications for assistance under this subsection shall be in such form and subject to such procedures as the Administrator shall establish. The Administrator shall promulgate regulations establishing standards for the consideration of proposals under subparagraph (B), including standards regarding each of the considerations identified in subparagraph (B)(ii).

“(4) COOPERATION AND COORDINATION.—In carrying out the FAST program, the Administrator shall cooperate and coordinate with—

“(A) Federal agencies required by this section to have an SBIR program; and

“(B) entities, organizations, and individuals actively engaged in enhancing or developing the technological capabilities of small business concerns, including—

“(i) State and local development agencies and entities;

“(ii) State committees established under the Experimental Program to Stimulate Competitive Research of the National Science Foundation (as established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g));

“(iii) State science and technology councils; and

“(iv) representatives of technology-based small business concerns.

“(5) ADMINISTRATIVE REQUIREMENTS.—

“(A) COMPETITIVE BASIS.—Awards and cooperative agreements under this subsection shall be made or entered into, as applicable, on a competitive basis.

“(B) MATCHING REQUIREMENTS.—

“(i) IN GENERAL.—The non-Federal share of the cost of an activity (other than a planning activity) carried out using an award or under a cooperative agreement under this subsection shall be—

“(I) except as provided in clause (iii), 35 cents for each Federal dollar, in the case of a recipient that will serve small business concerns located in 1 of the 18 States receiving the fewest Phase I SBIR awards;

“(II) except as provided in clause (ii) or (iii), 1 dollar for each Federal dollar, in the case of a recipient that will serve small business concerns located in 1 of the 16 States receiving the greatest number of Phase I SBIR awards; and

“(III) except as provided in clause (ii) or (iii), 50 cents for each Federal dollar, in the case of a recipient that will serve small business concerns located in a State that is not described in subclause (I) or (II) that is receiving Phase I SBIR awards.

“(ii) LOW-INCOME AREAS.—The non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this subsection shall be 35 cents for each Federal dollar that will be directly allocated by a recipient described in clause (i) to serve small business concerns located in a qualified census tract, as that term is defined in section 42(d)(5)(B)(ii)(I) of the Internal Revenue Code of 1986. Federal dollars not so allocated by that recipient shall be subject to the matching requirements of clause (i).

“(iii) RURAL AREAS.—

“(I) IN GENERAL.—Except as provided in subclause (II), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this subsection shall be 35 cents for each Federal dollar that will be directly allocated by a recipient described in clause (i) to serve small business concerns located in a rural area.

“(II) ENHANCED RURAL AWARDS.—For a recipient located in a rural area that is located in a State described in clause (i)(I), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this subsection shall be 15 cents for each Federal dollar that will be directly allocated by a recipient described in clause (i) to serve small business concerns located in the rural area.

“(III) DEFINITION OF RURAL AREA.—In this clause, the term ‘rural area’ has the meaning given that term in section 1393(a)(2) of the Internal Revenue Code of 1986.

“(iv) TYPES OF FUNDING.—The non-Federal share of the cost of an activity carried out by a recipient shall be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions, except that no such costs or contributions may be derived from funds from any other Federal program.

“(v) RANKINGS.—For the first full fiscal year after the date of enactment of the SBIR/STTR Reauthorization Act of 2010, and each fiscal year thereafter, based on the statistics for the most recent full fiscal year for which the Administrator has compiled statistics, the Administrator shall reevaluate the ranking of each State for purposes of clause (i).

“(C) DURATION.—Awards may be made or cooperative agreements entered into under this subsection for multiple years, not to exceed 5 years in total.

“(6) ANNUAL REPORTS.—The Administrator shall submit an annual report to the Committee on Small Business of the Senate and the Committee on Science and the Committee on Small Business of the House of Representatives regarding—

“(A) the number and amount of awards provided and cooperative agreements entered into under the FAST program during the preceding year;

“(B) a list of recipients under this subsection, including their location and the activities being performed with the awards made or under the cooperative agreements entered into; and

“(C) the Mentoring Networks and the mentoring database, as provided for under section 34, including—

“(i) the status of the inclusion of mentoring information in the database required by subsection (k); and

“(ii) the status of the implementation and description of the usage of the Mentoring Networks.

“(7) PROGRAM LEVELS.—

“(A) IN GENERAL.—There is authorized to be appropriated to carry out the FAST program, including Mentoring Networks, under this subsection and section 34, \$15,000,000 for each of fiscal years 2010 through 2014.

“(B) MENTORING DATABASE.—Of the total amount made available under subparagraph (A) for fiscal years 2010 through 2014, a reasonable amount, not to exceed a total of \$500,000, may be used by the Administration to carry out section 34(d).

“(8) TERMINATION.—The authority to carry out the FAST program under this subsection shall terminate on September 30, 2014.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by striking section 34 (15 U.S.C. 657d);

(2) by redesignating sections 35 through 43 as sections 34 through 42, respectively;

(3) in section 9(k)(1)(D) (15 U.S.C. 638(k)(1)(D)), by striking “section 35(d)” and inserting “section 34(d)”;

(4) in section 34 (15 U.S.C. 657e), as so redesignated—

(A) in subsection (c)(1), by striking “section 34(c)(1)(E)(ii)” and inserting “section 9(s)(3)(A)(v)(II)”;

(B) by striking “section 34” each place it appears and inserting “section 9(s)”;

(C) by adding at the end the following:

“(e) DEFINITIONS.—In this section, the following definitions apply:

“(1) BUSINESS ADVICE AND COUNSELING.—The term ‘business advice and counseling’ means providing advice and assistance on matters described in subsection (c)(2)(B) to small business concerns to guide them through the SBIR and STTR program process, from application to award and successful completion of each phase of the program.

“(2) FAST PROGRAM.—The term ‘FAST program’ means the Federal and State Technology Partnership Program established under section 9(s).

“(3) MENTOR.—The term ‘mentor’ means an individual described in subsection (c)(2).

“(4) MENTORING NETWORK.—The term ‘Mentoring Network’ means an association, organization, coalition, or other entity (including an individual) that meets the requirements of subsection (c).

“(5) RECIPIENT.—The term ‘recipient’ means a person that receives an award or becomes party to a cooperative agreement under this section.

“(6) SBIR PROGRAM.—The term ‘SBIR program’ has the same meaning as in section 9(e)(4).

“(7) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

“(8) STTR PROGRAM.—The term ‘STTR program’ has the same meaning as in section 9(e)(6).”;

(5) in section 36(d) (15 U.S.C. 657i(d)), as so redesignated, by striking “section 43” and inserting “section 42”;

(6) in section 39(d) (15 U.S.C. 657l(d)), as so redesignated, by striking “section 43” and inserting “section 42”;

(7) in section 40(b) (15 U.S.C. 657m(b)), as so redesignated, by striking “section 43” and inserting “section 42”.

SEC. 202. SBIR-STEM WORKFORCE DEVELOPMENT GRANT PILOT PROGRAM.

(a) PILOT PROGRAM ESTABLISHED.—From amounts made available to carry out this section, the Administrator shall establish a SBIR-STEM Workforce Development Grant Pilot Program to encourage the business community to provide workforce development opportunities for college students, in the fields of science, technology, engineering, and math (in this section referred to as “STEM college students”), particularly those that are socially and economically disadvantaged individuals, from rural areas, or from areas with high unemployment, as determined by the Administrator, by providing a SBIR bonus grant.

(b) ELIGIBLE ENTITIES DEFINED.—In this section the term “eligible entity” means a grantee receiving a grant under the SBIR Program on the date of the bonus grant under subsection (a) that provides an internship program for STEM college students.

(c) AWARDS.—An eligible entity shall receive a bonus grant equal to 10 percent of either a Phase I or Phase II grant, as applicable, with a total award maximum of not more than \$10,000 per year.

(d) EVALUATION.—Following the fourth year of funding under this section, the Administrator shall submit to Congress as part of the report under section 9(b)(7) of the Small Business Act (15 U.S.C. 638(b)(7)) the results of the SBIR-STEM Workforce Development Grant Pilot Program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

- (1) \$1,000,000 for fiscal year 2011;
- (2) \$1,000,000 for fiscal year 2012;
- (3) \$1,000,000 for fiscal year 2013;
- (4) \$1,000,000 for fiscal year 2014; and
- (5) \$1,000,000 for fiscal year 2015.

SEC. 203. TECHNICAL ASSISTANCE FOR AWARD EES.

Section 9(q) of the Small Business Act (15 U.S.C. 638(q)) is amended—

(1) in paragraph (1)—

(A) by inserting “or STTR program” after “SBIR program”; and

(B) by striking “SBIR projects” and inserting “SBIR or STTR projects”;

(2) in paragraph (2), by striking “3 years” and inserting “5 years”; and

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) by inserting “or STTR” after “SBIR”; and

(ii) by striking “\$4,000” and inserting “\$5,000”;

(B) by striking subparagraph (B) and inserting the following:

“(B) PHASE II.—A Federal agency described in paragraph (1) may—

“(i) provide to the recipient of a Phase II SBIR or STTR award, through a vendor selected under paragraph (2), the services described in paragraph (1), in an amount equal to not more than \$5,000 per year; or

“(ii) authorize the recipient of a Phase II SBIR or STTR award to purchase the services described in paragraph (1), in an amount equal to not more than \$5,000 per year, which shall be in addition to the amount of the recipient’s award.”; and

(C) by adding at the end the following:

“(C) FLEXIBILITY.—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

“(D) LIMITATION.—A Federal agency may not—

“(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

“(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.”.

SEC. 204. COMMERCIALIZATION READINESS PROGRAM AT DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in the subsection heading, by striking “PILOT” and inserting “READINESS”;

(2) by striking “Pilot” each place that term appears and inserting “Readiness”;

(3) in paragraph (1)—

(A) by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”; and

(B) by adding at the end the following: “The authority to create and administer a Commercialization Readiness Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3136).”;

(4) in paragraph (2), by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”;

(5) by striking paragraphs (5) and (6); and

(6) by inserting after paragraph (4) the following:

“(5) INSERTION INCENTIVES.—For any contract with a value of not less than \$100,000,000, the Secretary of Defense is authorized to—

“(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

“(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

“(6) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

“(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

“(B) use incentives in effect on the date of enactment of the SBIR/STTR Reauthorization Act of 2010, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

“(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, and information on the ongoing status of projects funded through the Commercialization Readiness Program and efforts to transition these technologies into programs of record or fielded systems.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 9(i)(1) of the Small Business Act (15 U.S.C. 638(i)(1)) is amended by inserting “(including awards under subsection (y))” after “the number of awards”.

SEC. 205. COMMERCIALIZATION READINESS PILOT PROGRAM FOR CIVILIAN AGENCIES.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ff) PILOT PROGRAM.—

“(1) AUTHORIZATION.—The head of each covered Federal agency may allocate not more than 10 percent of the funds allocated to the SBIR program and the STTR program of the covered Federal agency—

“(A) for awards for technology development, testing, and evaluation of SBIR and STTR Phase II technologies; or

“(B) to support the progress of research or research and development conducted under the SBIR or STTR programs to Phase III.

“(2) APPLICATION BY FEDERAL AGENCY.—

“(A) IN GENERAL.—A covered Federal agency may not establish a pilot program unless the covered Federal agency makes a written application to the Administrator, not later than 90 days before to the first day of the fiscal year in which the pilot program is to be established, that describes a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

“(B) DETERMINATION.—The Administrator shall—

“(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

“(ii) publish the determination in the Federal Register; and

“(iii) make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

“(3) MAXIMUM AMOUNT OF AWARD.—The head of a covered Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

“(4) REGISTRATION.—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

“(5) REPORT.—The head of each covered Federal agency shall include in the annual report of the covered Federal agency to the Administrator an analysis of the various activities considered for inclusion in the pilot program of the covered Federal agency and a statement of the reasons why each activity considered was included or not included, as the case may be.

“(6) TERMINATION.—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.

“(7) DEFINITIONS.—In this subsection—

“(A) the term ‘covered Federal agency’—

“(i) means a Federal agency participating in the SBIR program or the STTR program; and

“(ii) does not include the Department of Defense; and

“(B) the term ‘pilot program’ means the program established under paragraph (1).”.

SEC. 206. ACCELERATING CURES.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting

after section 42, as redesignated by section 201 of this Act, the following:

“SEC. 43. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

“(a) NIH CURES PILOT.—

“(1) ESTABLISHMENT.—An independent advisory board shall be established at the National Academy of Sciences (in this section referred to as the ‘advisory board’) to conduct periodic evaluations of the SBIR program (as that term is defined in section 9) of each of the National Institutes of Health (referred to in this section as the ‘NIH’) institutes and centers for the purpose of improving the management of the SBIR program through data-driven assessment.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—The advisory board shall consist of—

“(i) the Director of the NIH;

“(ii) the Director of the SBIR program of the NIH;

“(iii) senior NIH agency managers, selected by the Director of NIH;

“(iv) industry experts, selected by the Council of the National Academy of Sciences in consultation with the Associate Administrator for Technology of the Administration and the Director of the Office of Science and Technology Policy; and

“(v) owners or operators of small business concerns that have received an award under the SBIR program of the NIH, selected by the Associate Administrator for Technology of the Administration.

“(B) NUMBER OF MEMBERS.—The total number of members selected under clauses (iii), (iv), and (v) of subparagraph (A) shall not exceed 10.

“(C) EQUAL REPRESENTATION.—The total number of members of the advisory board selected under clauses (i), (ii), (iii), and (iv) of subparagraph (A) shall be equal to the number of members of the advisory board selected under subparagraph (A)(v).

“(b) ADDRESSING DATA GAPS.—In order to enhance the evidence-base guiding SBIR program decisions and changes, the Director of the SBIR program of the NIH shall address the gaps and deficiencies in the data collection concerns identified in the 2007 report of the National Academies of Science entitled ‘An Assessment of the Small Business Innovation Research Program at the NIH’.

“(c) PILOT PROGRAM.—

“(1) IN GENERAL.—The Director of the SBIR program of the NIH may initiate a pilot program, under a formal mechanism for designing, implementing, and evaluating pilot programs, to spur innovation and to test new strategies that may enhance the development of cures and therapies.

“(2) CONSIDERATIONS.—The Director of the SBIR program of the NIH may consider conducting a pilot program to include individuals with successful SBIR program experience in study sections, hiring individuals with small business development experience for staff positions, separating the commercial and scientific review processes, and examining the impact of the trend toward larger awards on the overall program.

“(d) REPORT TO CONGRESS.—The Director of the NIH shall submit an annual report to Congress and the advisory board on the activities of the SBIR program of the NIH under this section.

“(e) SBIR GRANTS AND CONTRACTS.—

“(1) IN GENERAL.—In awarding grants and contracts under the SBIR program of the NIH each SBIR program manager shall emphasize applications that identify products, processes, technologies, and services that may enhance the development of cures and therapies.

“(2) EXAMINATION OF COMMERCIALIZATION AND OTHER METRICS.—The advisory board shall evaluate the implementation of the requirement under paragraph (1) by examining increased commercialization and other metrics, to be determined and collected by the SBIR program of the NIH.

“(3) PHASE I AND II.—To the greatest extent practicable, the Director of the SBIR program of the NIH shall reduce the time period between Phase I and Phase II funding of grants and contracts under the SBIR program of the NIH to 90 days.

“(f) LIMIT.—Not more than a total of 1 percent of the extramural budget (as defined in section 9 of the Small Business Act (15 U.S.C. 638)) of the NIH for research or research and development may be used for the pilot program under subsection (c) and to carry out subsection (e).”.

(b) PROSPECTIVE REPEAL.—Effective 5 years after the date of enactment of this Act, the Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by striking section 43, as added by subsection (a); and

(2) by redesignating sections 44 and 45 as sections 43 and 44, respectively.

SEC. 207. FEDERAL AGENCY ENGAGEMENT WITH SBIR AND STTR Awardees THAT HAVE BEEN AWARDED MULTIPLE PHASE I AWARDS BUT HAVE NOT BEEN AWARDED PHASE II AWARDS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(gg) REQUIREMENTS RELATING TO FEDERAL AGENCY ENGAGEMENT WITH CERTAIN PHASE I SBIR AND STTR Awardees.—

“(1) DEFINITION.—In this subsection, the term ‘covered awardee’ means a small business concern that—

“(A) has received multiple Phase I awards over multiple years, as determined by the head of a Federal agency, under the SBIR program or the STTR program of the Federal agency; and

“(B) has not received a Phase II award—

“(i) under the SBIR program or STTR program, as the case may be, of the Federal agency described in subparagraph (A); or

“(ii) relating to a Phase I award described in subparagraph (A) under the SBIR program or the STTR program of another Federal agency.

“(2) PERFORMANCE MEASURES.—The head of each Federal agency that participates in the SBIR program or the STTR program shall develop performance measures for any covered awardee relating to commercializing research or research and development activities under the SBIR program or the STTR program of the Federal agency.”.

SEC. 208. CLARIFYING THE DEFINITION OF “PHASE III”.

(a) PHASE III AWARDS.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4)(C), in the matter preceding clause (i), by inserting “for work that derives from, extends, or completes efforts made under prior funding agreements under the SBIR program” after “phase”; and

(2) in paragraph (6)(C), in the matter preceding clause (i), by inserting “for work that derives from, extends, or completes efforts made under prior funding agreements under the STTR program” after “phase”; and

(3) in paragraph (8), by striking “and” at the end;

(4) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

“(10) the term ‘commercialization’ means—

“(A) the process of developing products, processes, technologies, or services; and

“(B) the production and delivery of products, processes, technologies, or services for sale (whether by the originating party or by others) to or use by the Federal Government or commercial markets;”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 9 (15 U.S.C. 638)—

(A) in subsection (e)—

(i) in paragraph (4)(C)(ii), by striking “scientific review criteria” and inserting “merit-based selection procedures”; and

(ii) in paragraph (9), by striking “the second or the third phase” and inserting “Phase II or Phase III”; and

(iii) by adding at the end the following:

“(11) the term ‘Phase I’ means—

“(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and

“(B) with respect to the STTR program, the first phase described in paragraph (6)(A);

“(12) the term ‘Phase II’ means—

“(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and

“(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and

“(13) the term ‘Phase III’ means—

“(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and

“(B) with respect to the STTR program, the third phase described in paragraph (6)(C).”;

(B) in subsection (j)—

(i) in paragraph (1)(B), by striking “phase two” and inserting “Phase II”; and

(ii) in paragraph (2)—

(I) in subparagraph (B)—

(aa) by striking “the third phase” each place it appears and inserting “Phase III”; and

(bb) by striking “the second phase” and inserting “Phase II”; and

(II) in subparagraph (D)—

(aa) by striking “the first phase” and inserting “Phase I”; and

(bb) by striking “the second phase” and inserting “Phase II”; and

(III) in subparagraph (F), by striking “the third phase” and inserting “Phase III”; and

(IV) in subparagraph (G)—

(aa) by striking “the first phase” and inserting “Phase I”; and

(bb) by striking “the second phase” and inserting “Phase II”; and

(V) in subparagraph (H)—

(aa) by striking “the first phase” and inserting “Phase I”; and

(bb) by striking “the second phase” each place it appears and inserting “Phase II”; and

(cc) by striking “third phase” and inserting “Phase III”; and

(iii) in paragraph (3)—

(I) in subparagraph (A)—

(aa) by striking “the first phase (as described in subsection (e)(4)(A))” and inserting “Phase I”; and

(bb) by striking “the second phase (as described in subsection (e)(4)(B))” and inserting “Phase II”; and

(cc) by striking “the third phase (as described in subsection (e)(4)(C))” and inserting “Phase III”; and

(II) in subparagraph (B), by striking “second phase” and inserting “Phase II”; and

(C) in subsection (k)—

(i) by striking “first phase” each place it appears and inserting “Phase I”; and

(ii) by striking “second phase” each place it appears and inserting “Phase II”; and

(D) in subsection (l)(2)—

(i) by striking “the first phase” and inserting “Phase I”; and

(ii) by striking “the second phase” and inserting “Phase II”; and

(E) in subsection (o)(13)—

(i) in subparagraph (B), by striking “second phase” and inserting “Phase II”; and

(ii) in subparagraph (C), by striking “third phase” and inserting “Phase III”; and

(F) in subsection (p)—

(i) in paragraph (2)(B)—

(I) in clause (vi)—

(aa) by striking “the second phase” and inserting “Phase II”; and

(bb) by striking “the third phase” and inserting “Phase III”; and

(II) in clause (ix)—

(aa) by striking “the first phase” and inserting “Phase I”; and

(bb) by striking “the second phase” and inserting “Phase II”; and

(ii) in paragraph (3)—

(I) by striking “the first phase (as described in subsection (e)(6)(A))” and inserting “Phase I”; and

(II) by striking “the second phase (as described in subsection (e)(6)(B))” and inserting “Phase II”; and

(III) by striking “the third phase (as described in subsection (e)(6)(A))” and inserting “Phase III”; and

(G) in subsection (q)(3)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking “FIRST PHASE” and inserting “PHASE I”; and

(II) by striking “first phase” and inserting “Phase I”; and

(ii) in subparagraph (B)—

(I) in the subparagraph heading, by striking “SECOND PHASE” and inserting “PHASE II”; and

(II) by striking “second phase” and inserting “Phase II”; and

(H) in subsection (r)—

(i) in the subsection heading, by striking “THIRD PHASE” and inserting “PHASE III”; and

(ii) in paragraph (1)—

(I) in the first sentence—

(aa) by striking “for the second phase” and inserting “for Phase II”; and

(bb) by striking “third phase” and inserting “Phase III”; and

(cc) by striking “second phase period” and inserting “Phase II period”; and

(II) in the second sentence—

(aa) by striking “second phase” and inserting “Phase II”; and

(bb) by striking “third phase” and inserting “Phase III”; and

(iii) in paragraph (2), by striking “third phase” and inserting “Phase III”; and

(I) in subsection (u)(2)(B), by striking “the first phase” and inserting “Phase I”; and

(2) in section 34(c)(2)(B)(vii) (15 U.S.C. 657e(c)(2)(B)(vii)), as redesignated by section 201 of this Act, by striking “third phase” and inserting “Phase III”.

SEC. 209. SHORTENED PERIOD FOR FINAL DECISIONS ON PROPOSALS AND APPLICATIONS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (g)(4)—

(A) by inserting “(A)” after “(4)”; and

(B) by adding “and” after the semicolon at the end; and

(C) by adding at the end the following:

“(B) make a final decision on each proposal submitted under the SBIR program—

“(i) not later than 90 days after the date on which the solicitation closes; or

“(ii) if the Administrator authorizes an extension for a solicitation, not later than 180

days after the date on which the solicitation closes;"; and

(2) in subsection (o)(4)—

(A) by inserting "(A)" after "(4)";

(B) by adding "and" after the semicolon at the end; and

(C) by adding at the end the following:

"(B) make a final decision on each proposal submitted under the STTR program—

"(i) not later than 90 days after the date on which the solicitation closes; or

"(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;";

(b) NIH PEER REVIEW PROCESS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

"(hh) NIH PEER REVIEW PROCESS.—The Director of the National Institutes of Health may make an award under the SBIR program or the STTR program of the National Institutes of Health if the application for the award has undergone technical and scientific peer review under section 492 of the Public Health Service Act (42 U.S.C. 289a).";

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 105 of the National Institutes of Health Reform Act of 2006 (42 U.S.C. 284n) is amended—

(A) in subsection (a)(3)—

(i) by striking "A grant" and inserting "Except as provided in section 9(hh) of the Small Business Act (15 U.S.C. 638(hh)), a grant"; and

(ii) by striking "section 402(k)" and all that follows through "Act)" and inserting "section 402(l) of such Act"; and

(B) in subsection (b)(5)—

(i) by striking "A grant" and inserting "Except as provided in section 9(hh) of the Small Business Act (15 U.S.C. 638(hh)), a grant"; and

(ii) by striking "section 402(k)" and all that follows through "Act)" and inserting "section 402(l) of such Act".

TITLE III—OVERSIGHT AND EVALUATION

SEC. 301. STREAMLINING ANNUAL EVALUATION REQUIREMENTS.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)), as amended by section 102 of this Act, is amended—

(1) in paragraph (7)—

(A) by striking "STTR programs, including the data" and inserting the following: "STTR programs, including—

"(A) the data";

(B) by striking "(g)(10), (o)(9), and (o)(15), the number" and all that follows through "under each of the SBIR and STTR programs, and a description" and inserting the following: "(g)(8) and (o)(9); and

"(B) the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns and firms with venture capital investment (including those majority-owned and controlled by multiple venture capital operating companies) under each of the SBIR and STTR programs;

"(C) a description of the extent to which each Federal agency is increasing outreach and awards to firms owned and controlled by women and social or economically disadvantaged individuals under each of the SBIR and STTR programs;

"(D) general information about the implementation of, and compliance with the allocation of funds required under, subsection (cc) for firms owned in majority part by venture capital operating companies and participating in the SBIR program;

"(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR Policy Directive and the STTR Policy Directive filed by the Administrator with Federal agencies; and

"(F) a description"; and

(2) by inserting after paragraph (7) the following:

"(8) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data;";

SEC. 302. DATA COLLECTION FROM AGENCIES FOR SBIR.

Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by striking paragraph (10);

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(3) by inserting after paragraph (7) the following:

"(8) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

"(A) whether an awardee—

"(i) has venture capital or is majority-owned and controlled by multiple venture capital operating companies, and, if so—

"(I) the amount of venture capital that the awardee has received as of the date of the award; and

"(II) the amount of additional capital that the awardee has invested in the SBIR technology;

"(ii) has an investor that—

"(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

"(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

"(iii) is owned by a woman or has a woman as a principal investigator;

"(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

"(v) received assistance under the FAST program under section 34, as in effect on the day before the date of enactment of the SBIR/STTR Reauthorization Act of 2010, or the outreach program under subsection (s);

"(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

"(vii) is located in a State described in subsection (u)(3); and

"(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;";

SEC. 303. DATA COLLECTION FROM AGENCIES FOR STTR.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended by striking paragraph (9) and inserting the following:

"(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

"(A) whether an applicant or awardee—

"(i) has venture capital or is majority-owned and controlled by multiple venture capital operating companies, and, if so—

"(I) the amount of venture capital that the applicant or awardee has received as of the date of the application or award, as applicable; and

"(II) the amount of additional capital that the applicant or awardee has invested in the SBIR technology;

"(ii) has an investor that—

"(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

"(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

"(iii) is owned by a woman or has a woman as a principal investigator;

"(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

"(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s);

"(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

"(vii) is located in a State in which the total value of contracts awarded to small business concerns under all STTR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator; and

"(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount;";

SEC. 304. PUBLIC DATABASE.

Section 9(k)(1) of the Small Business Act (15 U.S.C. 638(k)(1)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR award from a Federal agency, whether the small business concern—

"(i) has venture capital and, if so, whether the small business concern is registered as majority-owned and controlled by multiple venture capital operating companies as required under subsection (cc)(4);

"(ii) is owned by a woman or has a woman as a principal investigator;

"(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

"(iv) received assistance under the FAST program under section 34, as in effect on the day before the date of enactment of the SBIR/STTR Reauthorization Act of 2010, or the outreach program under subsection (s); or

"(v) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).";

SEC. 305. GOVERNMENT DATABASE.

Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended—

(1) in paragraph (2)—

(A) by striking “Not later” and all that follows through “Act of 2000” and inserting “Not later than 90 days after the date of enactment of the SBIR/STTR Reauthorization Act of 2010”;

(B) by striking subparagraph (C);

(C) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(D) by inserting before subparagraph (B), as so redesignated, the following:

“(A) contains, for each small business concern that applies for, submits a proposal for, or receives an award under Phase I or Phase II of the SBIR program or the STTR program—

“(i) the name, size, and location, and an identifying number assigned by the Administration of the small business concern;

“(ii) an abstract of the project;

“(iii) the specific aims of the project;

“(iv) the number of employees of the small business concern;

“(v) the names of key individuals that will carry out the project;

“(vi) the percentage of effort each individual described in clause (iv) will contribute to the project;

“(vii) whether the small business concern is majority-owned and controlled by multiple venture capital operating companies; and

“(viii) the Federal agency to which the application is made, and contact information for the person or office within the Federal agency that is responsible for reviewing applications and making awards under the SBIR program or the STTR program.”;

(E) by redesignating subparagraphs (D), and (E) as subparagraphs (E) and (F), respectively;

(F) by inserting after subparagraph (C), as so redesignated, the following:

“(D) includes, for each awardee—

“(i) the name, size, location, and any identifying number assigned to the awardee by the Administrator;

“(ii) whether the awardee has venture capital, and, if so—

“(I) the amount of venture capital as of the date of the award;

“(II) the percentage of ownership of the awardee held by a venture capital operating company, including whether the awardee is majority-owned and controlled by multiple venture capital operating companies; and

“(III) the amount of additional capital that the awardee has invested in the SBIR technology, which information shall be collected on an annual basis;

“(iii) the names and locations of any affiliates of the awardee;

“(iv) the number of employees of the awardee;

“(v) the number of employees of the affiliates of the awardee; and

“(vi) the names of, and the percentage of ownership of the awardee held by—

“(I) any individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

“(II) any person that is not an individual and is not organized under the laws of a State or the United States.”;

(G) in subparagraph (E), as so redesignated, by striking “and” at the end;

(H) in subparagraph (F), as so redesignated, by striking the period at the end and inserting “; and”;

(I) by adding at the end the following:

“(G) includes a timely and accurate list of any individual or small business concern that has participated in the SBIR program or STTR program that has committed fraud, waste, or abuse relating to the SBIR program or STTR program.”; and

(2) in paragraph (3), by adding at the end the following:

“(C) GOVERNMENT DATABASE.—Not later than 60 days after the date established by a Federal agency for submitting applications or proposals for a Phase I or Phase II award under the SBIR program or STTR program, the head of the Federal agency shall submit to the Administrator the data required under paragraph (2) with respect to each small business concern that applies or submits a proposal for the Phase I or Phase II award.”.

SEC. 306. ACCURACY IN FUNDING BASE CALCULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every year thereafter until the date that is 4 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—

(A) determine whether Federal agencies comply with the expenditure amount requirements under subsections (f)(1) and (n)(1) of section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act;

(B) assess the extent of compliance with the requirements of section 9(i)(2) of the Small Business Act (15 U.S.C. 638(i)(2)) by Federal agencies participating in the SBIR program or the STTR program and the Administration;

(C) assess whether it would be more consistent and effective to base the amount of the allocations under the SBIR program and the STTR program on a percentage of the research and development budget of a Federal agency, rather than the extramural budget of the Federal agency; and

(D) determine the portion of the extramural research or research and development budget of a Federal agency that each Federal agency spends for administrative purposes relating to the SBIR program or STTR program, and for what specific purposes, including the portion, if any, of such budget the Federal agency spends for salaries and expenses, travel to visit applicants, outreach events, marketing, and technical assistance; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the audit conducted under paragraph (1), including the assessments required under subparagraphs (B) and (C), and the determination made under subparagraph (D) of paragraph (1).

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term “applicable period” means—

(1) for the first report submitted under this section, the period beginning on October 1, 2004, and ending on September 30 of the last full fiscal year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

SEC. 307. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.

Section 108 of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note) is amended by adding at the end the following:

“(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of the SBIR/STTR Reauthorization Act of 2010, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to, not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2010, and every 4 years thereafter—

“(A) continue the most recent study under this section relating to—

“(i) the issues described in subparagraphs (A), (B), (C), and (E) of subsection (a)(1); and

“(ii) the effectiveness of the government and public databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k)) in reducing vulnerabilities of the SBIR program and the STTR program to fraud, waste, and abuse, particularly with respect to Federal agencies funding duplicative proposals and business concerns falsifying information in proposals;

“(B) make recommendations with respect to the issues described in subparagraph (A)(ii) and subparagraphs (A), (D), and (E) of subsection (a)(2).

“(2) CONSULTATION.—An agreement under paragraph (1) shall require the National Research Council to ensure there is participation by and consultation with the small business community, the Administration, and other interested parties as described in subsection (b).

“(3) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2010, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1).”.

SEC. 308. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ii) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award made by the Federal agency—

“(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

“(2) the name of the small business concern or individual receiving the Phase III award; and

“(3) the dollar amount of the Phase III award.”.

SEC. 309. INTELLECTUAL PROPERTY PROTECTIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the SBIR program to assess whether—

(1) Federal agencies comply with the data rights protections for SBIR awardees and the

technologies of SBIR awardees under section 9 of the Small Business Act (15 U.S.C. 638);

(2) the laws and policy directives intended to clarify the scope of data rights, including in prototypes and mentor-protégé relationships and agreements with Federal laboratories, are sufficient to protect SBIR awardees; and

(3) there is an effective grievance tracking process for SBIR awardees who have grievances against a Federal agency regarding data rights and a process for resolving those grievances.

(b) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the study conducted under subsection (a).

SEC. 310. OBTAINING CONSENT FROM SBIR AND STTR APPLICANTS TO RELEASE CONTACT INFORMATION TO ECONOMIC DEVELOPMENT ORGANIZATIONS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(jj) **CONSENT TO RELEASE CONTACT INFORMATION TO ORGANIZATIONS.**—

“(1) **ENABLING CONCERN TO GIVE CONSENT.**—Each Federal agency required by this section to conduct an SBIR program or an STTR program shall enable a small business concern that is an SBIR applicant or an STTR applicant to indicate to the Federal agency whether the Federal agency has the consent of the concern to—

“(A) identify the concern to appropriate local and State-level economic development organizations as an SBIR applicant or an STTR applicant; and

“(B) release the contact information of the concern to such organizations.

“(2) **RULES.**—The Administrator shall establish rules to implement this subsection. The rules shall include a requirement that a Federal agency include in the SBIR and STTR application a provision through which the applicant can indicate consent for purposes of paragraph (1).”

SEC. 311. PILOT TO ALLOW FUNDING FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.

(a) **IN GENERAL.**—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(kk) **ASSISTANCE FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.**—

“(1) **IN GENERAL.**—Subject to paragraph (3), the Administrator shall allow each Federal agency required to conduct an SBIR program to use not more than 3 percent of the funds allocated to the SBIR program of the Federal agency—

“(A) for the first fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter through fiscal year 2018, for costs relating to administrative, oversight, and contract processing activities for the SBIR program that the Federal agency was not carrying out during the last full fiscal year before the date of enactment of this subsection, including activities described in paragraph (2); and

“(B) for the first 3 fiscal years beginning after the date of enactment of this subsection, for—

“(i) administration of the SBIR program or the STTR program;

“(ii) implementation of commercialization and outreach initiatives that were not in ef-

fect on the date of enactment of this subsection;

“(iii) carrying out the program under subsection (y);

“(iv) activities relating to oversight and congressional reporting, including the waste, fraud, and abuse prevention activities described in section 313(a)(1)(B)(ii) of the SBIR/STTR Reauthorization Act of 2010;

“(v) carrying out subsection (cc);

“(vi) carrying out subsection (ff);

“(vii) contract processing costs relating to the SBIR program; and

“(viii) funding for additional personnel and assistance with application reviews.

“(2) **ACTIVITIES.**—The activities described in this paragraph include—

“(A) the administration of the SBIR program or the STTR program of a Federal agency;

“(B) the provision of outreach and technical assistance relating to the SBIR program of a Federal agency, including technical assistance site visits and personnel interviews;

“(C) contract processing;

“(D) the implementation of oversight and quality control measures, including verification of reports and invoices and cost reviews; and

“(E) targeted reviews of recipients of awards under the SBIR program that the head of a Federal agency determines are at high risk for fraud, waste, or abuse, to ensure compliance with requirements of the SBIR program.

“(3) **PERFORMANCE CRITERIA.**—A Federal agency may not use funds as authorized under paragraph (1) until after the effective date of performance criteria, which the Administrator shall establish, to measure any benefits of using funds as authorized under paragraph (1) and to assess continuation of the authority under paragraph (1).

“(4) **RULES.**—Not later than 180 days after the date of enactment of this subsection, the Administrator shall issue rules to carry out this subsection.”

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(1) **IN GENERAL.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(A) in subsection (f)(2)(A), as so designated by section 103(2) of this Act, by striking “shall not” and all that follows through “make available for the purpose” and inserting “shall not make available for the purpose”; and

(B) in subsection (y), as amended by section 204—

(i) by striking paragraph (4);

(ii) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(2) **TRANSITIONAL RULE.**—Notwithstanding the amendments made by paragraph (1), subsection (f)(2)(A) and (y)(4) of section 9 of the Small Business Act (15 U.S.C. 638), as in effect on the day before the date of enactment of this Act, shall continue to apply to each Federal agency until the effective date of the performance criteria established by the Administrator under subsection (kk)(3) of section 9 of the Small Business Act, as added by subsection (a).

SEC. 312. GAO STUDY WITH RESPECT TO VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT.

Not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study of the impact of requirements relating to venture capital operating company involvement under section

9(cc) of the Small Business Act, as added by section 108 of this Act; and

(2) submit to Congress a report regarding the study conducted under paragraph (1).

SEC. 313. REDUCING VULNERABILITY OF SBIR AND STTR PROGRAMS TO FRAUD, WASTE, AND ABUSE.

(a) **FRAUD, WASTE, AND ABUSE PREVENTION.**—

(1) **GUIDELINES FOR FRAUD, WASTE, AND ABUSE PREVENTION.**—

(A) **AMENDMENTS REQUIRED.**—Not later than 90 days after the date of enactment of this Act, the Administrator shall amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud, waste, and abuse in the SBIR program and the STTR program.

(B) **CONTENT OF AMENDMENTS.**—The amendments required under subparagraph (A) shall include—

(i) definitions or descriptions of fraud, waste, and abuse;

(ii) a requirement that the Inspectors General of each Federal agency that participates in the SBIR program or the STTR program cooperate to—

(I) establish fraud detection indicators;

(II) review regulations and operating procedures of the Federal agencies;

(III) coordinate information sharing between the Federal agencies; and

(IV) improve the education and training of, and outreach to—

(aa) administrators of the SBIR program and the STTR program of each Federal agency;

(bb) applicants to the SBIR program or the STTR program; and

(cc) recipients of awards under the SBIR program or the STTR program;

(iii) guidelines for the monitoring and oversight of applicants to and recipients of awards under the SBIR program or the STTR program; and

(iv) a requirement that each Federal agency that participates in the SBIR program or STTR program include the telephone number of the hotline established under paragraph (2)—

(I) on the website of the Federal agency; and

(II) in any solicitation or notice of funding opportunity issued by the Federal agency for the SBIR program or the STTR program.

(2) **FRAUD, WASTE, AND ABUSE PREVENTION HOTLINE.**—

(A) **HOTLINE ESTABLISHED.**—The Administrator shall establish a telephone hotline that allows individuals to report fraud, waste, and abuse in the SBIR program or STTR program.

(B) **PUBLICATION.**—The Administrator shall include the telephone number for the hotline established under subparagraph (A) on the website of the Administration.

(b) **STUDY AND REPORT.**—

(1) **STUDY.**—Not later than 1 year after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(A) conduct a study that evaluates—

(i) the implementation by each Federal agency that participates in the SBIR program or the STTR program of the amendments to the SBIR Policy Directive and the STTR Policy Directive made pursuant to subsection (a);

(ii) the effectiveness of the management information system of each Federal agency that participates in the SBIR program or STTR program in identifying duplicative SBIR and STTR projects;

(iii) the effectiveness of the risk management strategies of each Federal agency that

participates in the SBIR program or STTR program in identifying areas of the SBIR program or the STTR program that are at high risk for fraud;

(iv) technological tools that may be used to detect patterns of behavior that may indicate fraud by applicants to the SBIR program or the STTR program;

(v) the success of each Federal agency that participates in the SBIR program or STTR program in reducing fraud, waste, and abuse in the SBIR program or the STTR program of the Federal agency; and

(vi) the extent to which the Inspector General of each Federal agency that participates in the SBIR program or STTR program effectively conducts investigations of individuals alleged to have submitted false claims or violated Federal law relating to fraud, conflicts of interest, bribery, gratuity, or other misconduct; and

(B) submit to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and the head of each Federal agency that participates in the SBIR program or STTR program a report on the results of the study conducted under subparagraph (A).

SEC. 314. INTERAGENCY POLICY COMMITTEE.

(a) **ESTABLISHMENT.**—The Director of the Office of Science and Technology Policy (in this section referred to as the “Director”), in conjunction with the Administrator, shall establish an Interagency SBIR/STTR Policy Committee (in this section referred to as the “Committee”) comprised of 1 representative from each Federal agency with an SBIR program or an STTR program and 1 representative of the Office of Management and Budget.

(b) **COCHAIRPERSONS.**—The Director and the Administrator shall serve as cochairpersons of the Committee.

(c) **DUTIES.**—The Committee shall review, and make policy recommendations on ways to improve the effectiveness and efficiency of, the SBIR program and the STTR program, including—

(1) reviewing the effectiveness of the public and government databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k));

(2) identifying—

(A) best practices for commercialization assistance by Federal agencies that have significant potential to be employed by other Federal agencies; and

(B) proposals by Federal agencies for initiatives to address challenges for small business concerns in obtaining funding after a Phase II award ends and before commercialization; and

(3) developing and incorporating a standard evaluation framework to enable systematic assessment of the SBIR program and STTR program, including through improved tracking of awards and outcomes and development of performance measures for the SBIR program and STTR program of each Federal agency.

(d) **REPORTS.**—The Committee shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Science and Technology and the Committee on Small Business of the House of Representatives—

(1) a report on the review by and recommendations of the Committee under subsection (c)(1) not later than 1 year after the date of enactment of this Act;

(2) a report on the review by and recommendations of the Committee under subsection (c)(2) not later than 18 months after the date of enactment of this Act; and

(3) a report on the review by and recommendations of the Committee under subsection (c)(3) not later than 2 years after the date of enactment of this Act.

TITLE IV—POLICY DIRECTIVES

SEC. 401. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive to conform such directives to this Act and the amendments made by this Act.

(b) **PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

TITLE V—OTHER PROVISIONS

SEC. 501. RESEARCH TOPICS AND PROGRAM DIVERSIFICATION.

(a) **SBIR PROGRAM.**—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking “broad research topics and to topics that further 1 or more critical technologies” and inserting “applications to the Federal agency for support of projects relating to nanotechnology, security, energy, rare diseases, transportation, or improving the security and quality of the water supply of the United States, and the efficiency of water delivery systems and usage patterns in the United States (including the territories of the United States) through the use of technology (to the extent that the projects relate to the mission of the Federal agency), broad research topics, and topics that further 1 or more critical technologies or research priorities”;

(B) in subparagraph (A), by striking “or” at the end; and

(C) by adding at the end the following:

“(C) the National Academy of Sciences, in the final report issued by the ‘America’s Energy Future: Technology Opportunities, Risks, and Tradeoffs’ project, and in any subsequent report by the National Academy of Sciences on sustainability, energy, or alternative fuels;

“(D) the National Institutes of Health, in the annual report on the rare diseases research activities of the National Institutes of Health for fiscal year 2005, and in any subsequent report by the National Institutes of Health on rare diseases research activities;

“(E) the National Academy of Sciences, in the final report issued by the ‘Transit Research and Development: Federal Role in the National Program’ project and the report entitled ‘Transportation Research, Development and Technology Strategic Plan (2006-2010)’ issued by the Research and Innovative Technology Administration of the Department of Transportation, and in any subsequent report issued by the National Academy of Sciences or the Department of Transportation on transportation and infrastructure; or

“(F) the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in any report issued by the National Science and Technology Council Committee on Technology that focuses on areas of nanotechnology identified in such plan;”;

(2) by adding after paragraph (12), as added by section 111(a) of this Act, the following:

“(13) encourage applications under the SBIR program (to the extent that the projects relate to the mission of the Federal agency)—

“(A) from small business concerns in geographic areas underrepresented in the SBIR program or located in rural areas (as defined in section 1393(a)(2) of the Internal Revenue Code of 1986);

“(B) small business concerns owned and controlled by women;

“(C) small business concerns owned and controlled by veterans;

“(D) small business concerns owned and controlled by Native Americans; and

“(E) small business concerns located in a geographic area with an unemployment rates that exceed the national unemployment rate, based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor.”.

(b) **STTR PROGRAM.**—Section 9(o) of the Small Business Act (15 U.S.C. 638(o)), as amended by section 111(b) of this Act, is amended—

(1) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking “broad research topics and to topics that further 1 or more critical technologies” and inserting “applications to the Federal agency for support of projects relating to nanotechnology, security, energy, rare diseases, transportation, or improving the security and quality of the water supply of the United States (to the extent that the projects relate to the mission of the Federal agency), broad research topics, and topics that further 1 or more critical technologies or research priorities”;

(B) in subparagraph (A), by striking “or” at the end; and

(C) by adding at the end the following:

“(C) the National Academy of Sciences, in the final report issued by the ‘America’s Energy Future: Technology Opportunities, Risks, and Tradeoffs’ project, and in any subsequent report by the National Academy of Sciences on sustainability, energy, or alternative fuels;

“(D) the National Institutes of Health, in the annual report on the rare diseases research activities of the National Institutes of Health for fiscal year 2005, and in any subsequent report by the National Institutes of Health on rare diseases research activities;

“(E) the National Academy of Sciences, in the final report issued by the ‘Transit Research and Development: Federal Role in the National Program’ project and the report entitled ‘Transportation Research, Development and Technology Strategic Plan (2006-2010)’ issued by the Research and Innovative Technology Administration of the Department of Transportation, and in any subsequent report issued by the National Academy of Sciences or the Department of Transportation on transportation and infrastructure; or

“(F) the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in any report issued by the National Science and Technology Council Committee on Technology that focuses on areas of nanotechnology identified in such plan;”;

(2) in paragraph (15), by striking “and” at the end;

(3) in paragraph (16), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(17) encourage applications under the STTR program (to the extent that the

projects relate to the mission of the Federal agency—

“(A) from small business concerns in geographic areas underrepresented in the STTR program or located in rural areas (as defined in section 1393(a)(2) of the Internal Revenue Code of 1986);

“(B) small business concerns owned and controlled by women;

“(C) small business concerns owned and controlled by veterans;

“(D) small business concerns owned and controlled by Native Americans; and

“(E) small business concerns located in a geographic area with an unemployment rates that exceed the national unemployment rate, based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor.”.

(c) RESEARCH AND DEVELOPMENT FOCUS.—Section 9(x) of the Small Business Act (15 U.S.C. 638(x)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 502. REPORT ON SBIR AND STTR PROGRAM GOALS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(1) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

“(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness, and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

“(A) are science-based and statistically driven;

“(B) reflect the mission of the Federal agency; and

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR THE SENATE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 6517, THE OMNIBUS TRADE ACT OF 2010, AS TRANSMITTED TO CBO ON DECEMBER 22, 2010

(Millions of dollars, by fiscal year)

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
	Net Increase or Decrease (–) in the Deficit											
Statutory Pay-As-You-Go Impact	122	115	25	5	–2,475	2,475	0	0	0	–717	–2208	–450

Note: Components may not sum to totals because of rounding.
Source: Congressional Budget Office and staff of the Joint Committee on Taxation.

Mr. BROWN of OHIO. Mr. President, I ask unanimous consent that the Brown amendment, which is at the desk, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid on the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4924) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment was ordered to be engrossed and the bill to be read a third time. The bill (H.R. 6517), as amended, was read the third time, and passed.

Mr. BROWN of Ohio. Mr. President, in light of the generosity of the Republican leader and the assistant majority leader, 30 seconds.

“(C) include factors relating to the economic impact of the programs.

“(2) EVALUATION.—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

“(A) the SBIR program and the STTR program of the Federal agency; and

“(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

“(3) REPORT.—

“(A) IN GENERAL.—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

“(B) PUBLIC AVAILABILITY OF REPORT.—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

“(C) DEFINITION.—In this paragraph, the term ‘appropriate committees of Congress’ means—

“(i) the Committee on Small Business and Entrepreneurship of the Senate; and

“(ii) the Committee on Small Business and the Committee on Science and Technology of the House of Representatives.”.

SEC. 503. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(mm) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.”.

This agreement among Senator CASEY, Senator KYL, Senator MCCAIN, and me will make a difference in restoring TAA, trade adjustment, and the health care tax credit, in addition to the Andean trade references and some other things that will make a difference.

It will make a difference. It will mean that 50,000 people don't lose their health insurance the first of the year. I am appreciative of all who have been part of this.

I will yield to Senator CASEY for a moment. I thank the leaders for their generosity.

Mr. CASEY. Mr. President, I thank Senator BROWN, as well as Senators MCCAIN and KYL, for entering into this agreement. It extends this for a short period of time. It is important as it relates to manufacturing jobs in a State such as ours, where we have lost over 200,000 in less than a decade. I am sure that number corresponds to other

OMNIBUS TRADE ACT OF 2010

Mr. BROWN of Ohio. Mr. President, I thank the Republican leader for his willingness to let us move on this UC.

I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 6517, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 6517) to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. CONRAD. This is the Statement of Budgetary Effects of PAYGO Legislation for H.R. 6517, as amended.

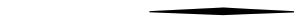
Total Budgetary Effects of H.R. 6517 for the 5-year Statutory PAYGO Scorecard: net decrease in the deficit of \$2.208 billion.

Total Budgetary Effects of H.R. 6517 for the 10-year Statutory PAYGO Scorecard: net decrease in the deficit of \$450 billion.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this act, as follows:

States' losses. We are grateful for this extension. We have more work to do.

The PRESIDING OFFICER. The Republican leader is recognized.



TRIBUTE TO BILLY PIPER

Mr. MCCONNELL. Mr. President, over the course of the last two decades I have had the honor of watching a very smart, but very green young man from Louisville grow into one of the finest people you could ever work with or call a friend.

There is almost no hat that Billy Piper has not worn in the 19 years he has worked in my office—from driver, to mailroom staffer, to legislative aide, to campaign worker, all the way up to chief of staff.

He's done it all. And in the course of doing it all, he became indispensable to me. And that's why it is so hard to say goodbye. But Billy has simply given

too much of himself to leave without a proper send-off.

One of Billy's defining traits is that he deflects praise. This morning I would like to deny him the chance.

A native of Louisville, Billy attended the Kentucky Country Day school and then moved to Virginia to attend the University of Richmond. He spent a semester here in Washington studying public policy and politics and did an internship with Senator LUGAR's office, which he liked so much he decided to look for a permanent job on the Hill. And I would like to thank Senator LUGAR today for inspiring Billy to public service.

Billy was so eager to take a job in my office, in fact, that he agreed to be a driver even after he learned I had a stick shift—which he didn't know how to drive. His knowledge of Washington, D.C., streets wasn't that much better. But he decided the best way to learn both was by driving around a U.S. Senator. Our first day on the road was a little rough. But ever since he mastered the clutch, Billy hasn't made a misstep since. When he wasn't driving, Billy sorted the mail that came into the office. And it didn't take long for me to see this young man had a lot of potential, so I gave him more and more responsibility.

He became a legislative correspondent, handling military and foreign affairs. And in 1996 I asked him to be the finance director for my reelection campaign. Without hesitation, Billy left a secure position and his home for an extremely hard campaign job on the road. It wasn't an easy job. And in any campaign, there's no guarantee of victory. But Billy excelled at it, as usual, and at every task I've given him since.

Ask other members of my staff to describe Billy and they will tell you he's not only a friend, but a teacher and a mentor.

Lots of people come to Capitol Hill with good intentions and wanting to do the right thing—but not all of them learn how to get things done. In my office, the road to mastery of any job usually ran through Billy Piper. First of all, Billy puts everyone at ease, from the college student applying for an internship to heads of state. He treats everyone the same, regardless of their station. He also refuses to take praise, and even if he does, he's usually eager to deflect it onto the rest of the team. He's also got a wicked sense of humor. It's a regular part of the day to hear laughter pealing from Billy's office.

Billy became the chief of staff in my personal office toward the end of 2002. And for the last 8 years, he has shown first-class leadership as the steady hand at the wheel. He has shown extraordinarily sound judgment. He's always been ready to do whatever he was asked, whatever it took. Most of all, Billy knew who we all worked for: 4

million Kentuckians. For 8 years, Billy has been my right-hand man.

Two years ago, Billy was invaluable to me in my reelection campaign. Once again, he proved himself equal to any challenge. He was the one man who knew everything that was going on and what everyone else was doing. He was and is unflappable, steady, and always confident.

He gave it everything he had—and always with a smile on his face. And it wasn't easy for him, I know. With a young family at home, he sacrificed much. He's very fortunate that Holly's an understanding wife.

More than anyone else, Billy is responsible for fostering the feeling of family in my office. It's one of the things we'll miss most about him. He always made staff feel like they're more than just a group of people in an office. He's grown close to a lot of them over the years, and they all love him and admire him.

But as tough as this change is for me, I know it's as tough for Billy too. Here's a guy who went to the same school from kindergarten through the 12th grade, lived in the same house his whole childhood, and has had the same work e-mail address since we started using e-mail around here. But he is making this change for the right reason. When he announced his decision, Billy said, "I love this office, I love the Senate, and I love Kentucky . . . but I love my family more." And no one can begrudge him that.

So while this is a loss for me, my staff, my colleagues in the Senate, and the many people he's helped in Kentucky over the years, it is a gain for Billy's wife Holly, and their two little boys Billy and Tucker. And I wish the Piper family great happiness. I can hardly believe the man I am saying goodbye to is the same young man who stood for a high-school photo with me back in 1986.

Sadly, Billy's parents aren't here to share in Billy's sendoff from the Senate. But if you knew Bill and Ann Piper, you would not be surprised by the kind of person Billy is or the success he has become. And I know they would be bursting with pride if they were here today to see what their son's accomplished. It was the love of a strong family that started Billy off on the right track, and it is because of his love for his family today that we bid him farewell. You can't say Billy Piper's priorities aren't in the right place.

Before I finish, I would just like to read from an e-mail Billy sent to the entire staff on his last day—an e-mail that sums up the kind of guy Billy is. Here's what he wrote: "The great honor of my professional life has been being able to call myself a McTeamer for nearly 20 years. This is an experience I will treasure all the more because of the wonderful friends I have made along the way. I am better for having

known and worked with each of you. Thank you for all you have done and continue to do. I am in your debt."

Billy, as usual, you are generous with praise for everyone but yourself. But we're the ones who are thankful. We are the ones who are better for having known you. And the honor was all ours. Most of all, though, the honor was mine to stand alongside you through the years, as your mentor and your friend. I watched as you inspired others. You've inspired me. Thank you for your service and your friendship.

Mr. President, I yield the floor.

SENATE ACCOMPLISHMENTS

Mr. DURBIN. Mr. President, just as the majority leader started to leave the floor, I said to him, what an amazing 2 years. I just left an interview upstairs where a major network asked me: What do you think you have accomplished over the last 2 years?

I said to him: I can't speak for what happened 30 or 40 years ago in the Senate; I wasn't around. But I can tell you that in the 28 years I have been in the House and Senate, I have never seen a more amazing, productive session of Congress.

In the Senate, you had to put it into perspective. At the same time we were accomplishing these things, we were facing record numbers of filibusters—more obstacles than ever in history. Yet, when you look at the record that was written over the last 2 years in this Chamber and in the House of Representatives, working with the President, it is nothing short of amazing.

Allow me to go through my checklist here. I am sure others will question some things I put on the list and add some of their own particularly the Senator from Iowa, Senator HARKIN, who certainly is an inspiring leader on so many of these important issues.

First and foremost, the American Recovery and Reinvestment Act. That is what the President came to Washington to initiate to stop this recession and slow down the growth in unemployment. None of us is happy with the state of the economy, but it would have been dramatically worse had we not done that.

Two, Wall Street reform. We looked at the root causes of the recession and said we are going to change the law and add oversight and investigators to stop Wall Street from bringing us another recession some day in the future.

No. 3, the HIRE Act, a jobs package to encourage businesses to hire unemployed workers. We have been focusing on jobs since we got here, and we need to continue that focus.

No. 4 was a measure we passed in this lameduck session, the middle-class tax package, extending middle-class tax breaks for working families and lower income families, I might add, as well as others in the year to come so we can

keep this economic growth moving in the right direction.

No. 5, credit card company regulations, long overdue. People complained about abuses by credit card companies, and we passed major regulatory reform.

No. 6, small business lending fund. The Small Business Credit and Jobs Act could provide up to \$300 billion in loans to small businesses across America that were having trouble finding money in the private sector. That could, I think, dramatically increase jobs from small businesses.

No. 7 occurred as part of our agenda in the lameduck session, the extension of unemployment insurance. Time and again we did it and then in the tax package we extended it for 13 months so that millions of Americans would have a basic check to buy with each week.

First-time home buyers tax credit is No. 8, which encourages more people to buy homes for the first time and it gave them a tax incentive to achieve that.

The next item I will mention is health care reform. Some would put it as No. 1. I certainly would put it as No. 1 or No. 2. This is the first President in almost 90 years to successfully tackle the challenge of the rising cost of health care and the need for basic reform. Sure, it is controversial, but as the provisions of this health care reform bill unfold and are implemented, they can bring us to a point where the cost of health care will come down and there will be more available to people who currently are not protected.

No. 10, the Children's Health Insurance Program. We reauthorized and expanded it. After two vetoes by the former President, this bill expanded health insurance coverage for over 4 million previously uninsured children.

No. 11—my hats off to the Senator from Iowa—food safety. There were times in the last week or two that it was a dead duck in the lameduck. Somehow or another, it found its wings and started to fly and was passed by both the House and the Senate.

I worked on this measure for 16 years. The Senator from Iowa brought it across the finish line with the kind of skills he has developed as a leader in the Senate. It is great to team up with him. People's lives will be saved and people spared serious illness because of this bill.

No. 12, child nutrition, a favorite of the First Lady. I thank Senator BLANCHE LINCOLN, who is leaving us, for her leadership on this issue. We are providing nutritious meals to hungry children and increasing the Federal reimbursement rate for school meals so local governments do not have to absorb the increased cost.

No. 13—here is an issue front and center in my career in the House and Senate—tobacco regulation. The bill we

passed calls on the Food and Drug Administration to regulate the manufacture, sale, and promotion of tobacco products. The things we did in this bill, I say to Senator HARKIN, would have been unthinkable 10 years ago. But we did them to try to keep these tobacco products out of the hands of kids.

No. 14 on my list is something that passed a few hours ago, ratifying the New START treaty. This is what the President needed. This is what America needed. We only have one President. We want to give him the authority to keep America safe. We want his word to be good. We want him to engage former adversaries as future allies with the passage of the New START treaty.

No. 15 is one near and dear to my heart. It was originally introduced by Hillary Clinton, and when she left to join the President's Cabinet, I asked if I could take up the cause of passing the veterans caregiver assistance bill. In a word, it means those disabled veterans who return home, who are fortunate to have a spouse, a parent, or a member of their family who will sacrifice their own lives to make sure they are comfortable in their homes will receive some help from the government. These are people who get to stay home as disabled veterans and, because someone in the family will stay with them where they want to be, at considerably less expense to our government but in the right, positive environment for our disabled veterans. This bill gives those veteran caregivers a little additional assistance, some respite time, and a modest stipend each month so they can continue to do this invaluable work on behalf of the men and women who sacrifice so much for our country.

No. 16 we passed today as well, the 9/11 Health and Compensation Act. We said so much in tribute to first responders—police, firefighters and others—who came to Ground Zero when they were called. Today we said we were going to stand by them with any illness that came about as a result of that experience.

No. 17, repeal of don't ask, don't tell. I went to that ceremony today, and I have to tell you, I thought it was one of the most profound experiences I had. To see an auditorium filled with people who cared so much for this issue, many of whom have seen their lives wrecked because of discrimination based on their sexual orientation. The Pledge of Allegiance was given by retired Air Force COL Margarethe Cammermeyer. I know her story well because I told it so many times. She was an Air Force nurse who risked her life to save the lives of servicemen in Vietnam who rose through the ranks until one day she announced, when asked, that she was a lesbian. She was discharged, retired from the service. Never in the course of her military career had anything about her sexual preference had any impact on her service to the Na-

tion, but she was discriminated against because of who she was.

She gave the Pledge of Allegiance today with tears in her eyes and joined all of us applauding President Obama as he finally signed this bill repealing don't ask, don't tell.

No. 18 is a bill I worked on, and the most unlikely political odd couple on Capitol Hill, JEFF SESSIONS. It is the Fair Sentencing Act which reduced the unfair disparity in sentencing between crack and powder cocaine. There are literally thousands of men and women serving time in prison because of this disparity in sentencing. Senator SESSIONS and I reached an accommodation, an agreement, a compromise on sentencing which brings us closer to the reality of the danger of the narcotics involved. I thank him for his bipartisan cooperation.

No. 19 is the first bill signed by President Obama as President of the United States, the Lilly Ledbetter Fair Pay Act, to try to once and for all end discrimination of women in the workplace.

No. 20, the hate crimes prevention bill. That is one I think is absolutely essential to renew the promise in America that we will never discriminate against people based on sexual orientation, race, gender, creed, or national origin. That bill was long overdue. The Matthew Shepard family, who helped us pass that bill, was instrumental in moving America forward in the field of human rights.

I am sure Senator HARKIN can add three or four of his own to that list.

When I look back and reflect on 2 years of hard work, it is worth the effort. All the long nights, all the time away from family, some of the frustration, all of the anger, all of it was worth it when we look back in time and say in our time here, many of us believe we have helped to move America forward with the work we have done in the Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I listened very carefully to my friend from Illinois as he went down his list. I admit it is a pretty thorough list. I may have missed one. I was conversing with another Senator briefly. Did I miss the higher education bill? The list covered everything else, I say to my friend. The Higher Education Act, which historically, I say to Senator DURBIN, in 1992, Senator Kennedy, then the chair of the committee which I now chair, had done a study to see whether direct loans would be better than the indirect loans that go through banks for students going to college.

We had this study done, this pilot program. In 1993 and 1994, the pilot program ran. By 1994, the data was in. The Direct Loan Program worked well. It saved tons of money, and the schools

liked it, students liked it. Our goal was that in 1995, we were going to then expand it nationwide. Of course, we know what happened in 1995. We lost the Congress. It went to the Republican side.

The Republicans did not want to expand the Direct Loan Program. They wanted to keep it going through the banks. Banks loved it. Who does not like free money? From 1995 on, we never had the opportunity to ever expand the Direct Loan Program and save all this money, until finally when Barack Obama became President and Democrats took over the House and the Senate, we were able to pass it and, as the Senator knows, we signed that into law, I think if I am not mistaken, in February of this year right after we passed the health care bill, and it was part of the health care bill.

In passing that bill, we went from indirect loans to Direct Loan Program and save \$60 billion in 10 years. We took that money and put it in better Pell grants for students.

I say to my friend to illustrate, sometimes it takes a long time around here to get things done. If you persevere and the stars align right, you can get it done. It is also a way of saying to my friend from Illinois, thank you for what you did for food safety. I get a lot of accolades. I just happened to be here as chairman of the committee at the right time to get it through. Anyone who knows anything about this issue knows Senator DURBIN was the Senator who got this going. I always wondered how many years ago. He said 16 years ago.

Again, there is perseverance, stick to it. When you know what is right and good for this country, do not give up and hang in there. Senator DURBIN hung in there for 16 long years. We finally got the bill done and passed. I think the President will be signing it into law some time before January 5.

A lot fewer people will get sick, a lot more families will be healthy, and our food will be safer because of the efforts of Senator DURBIN. I publicly thank him for all of his work on this bill.

TRIBUTE TO RETIRING SENATORS

EVAN BAYH

Mr. HARKIN. Mr. President, time and time I have come to the floor to give a few remarks about Senators who are retiring and leaving the Senate. They all contributed in their unique way one way or the other to the Senate. Now I find myself with two left about whom I want to comment on their way out of the Senate.

In the closing days of the 111th Congress, we are saying goodbye to a number of colleagues, including a veteran Member, much respected on both sides of the aisle. I speak of the Senator from Indiana, Mr. BAYH.

I listened with great interest to Senator BAYH's eloquent farewell remarks

earlier this month. The Senator was also kind enough to have them typed up and sent to our offices.

Looking back on his 12 years in this body, he spoke about times of national crisis, including after the 9/11 attacks and during the financial meltdown of 2008. He talked of a time when Senators acted not as Democrats and Republicans but as patriots concerned of doing one thing: doing what is right for the American people. He said that these times of bipartisan action were with the Senate at its very best.

For more than two decades, Senator BAYH has embodied everything that is good about this body: a passion for public service, a sincere desire to reach out across the aisle, a great talent for forging coalitions and bringing people together, and a willingness to work long hours to accomplish important things.

As we all know, EVAN is what we might call a "son of the Senate." He is enormously proud to have been elected to the same seat his father Senator Birch Bayh held for two terms and who remains a great friend of mine after all these years. He has followed in his father's footsteps in fighting for quality public schools, student loans, retirement security, and giving every American access to quality, affordable health care.

In addition, he has been a leader in strengthening our Armed Forces and national security. I know that Senator BAYH takes special pride in leading the charge to provide our troops in Iraq and Afghanistan with much improved mine-resistant armored vehicles.

As he leaves this body, Senator BAYH is still a young man with many chapters yet to be written in his life and career. For more than a quarter century, he has devoted himself to public service, first as Indiana's secretary of state, then as an enormously successful two-term Governor of Indiana, and, of course, since 1999 as a Senator.

I have always been a big admirer of one of his signature accomplishments as Governor, which was passing legislation creating the 21st Century Scholars Program. It is a wonderful program. Thanks to his initiative, every child in Indiana who is eligible for the free lunch program in public schools, who graduates from high school, and signs a pledge not to experiment with illegal drugs is entitled—get this—is entitled to a full tuition scholarship at the Indiana public university of his or her choice.

Over the years, many thousands of Hoosiers of modest means have been able to attend college thanks to this remarkable law. That is what I call a great—I hope my friend does not mind me saying this—populist, progressive accomplishment. It speaks volumes about EVAN BAYH's priorities and values throughout his 24 years in public service.

During his two terms in this body, Senator BAYH has always faithfully served the people of Indiana and the people of the United States. I hope and expect he will pursue new avenues of public service after he leaves the Senate because our country sorely needs public servants of his caliber, intelligence, and accomplishments.

I will miss the day-to-day friendships, the counsels, the interchanges we have had together in the Senate. I wish EVAN and his wonderful wife Susan and their twin sons, Beau and Nick, the very best in the years ahead.

ARLEN SPECTER

Mr. President, I also wish to pay a farewell to another long-time legislative partner, and that is Senator ARLEN SPECTER of Pennsylvania.

I listened with great interest to Senator SPECTER's farewell remarks yesterday. He decried the decline of bipartisan cooperation in this body. As he put it:

In some quarters, compromising has become a dirty word. Politics is no longer the art of the possible when senators are intransigent in their positions.

During his remarkable 30 years in the Senate—he is the longest serving U.S. Senator in Pennsylvania's history—ARLEN SPECTER has been admired for his fierce independence and for his willingness to cross party lines in order to accomplish big and important things for this country.

Nowhere has this been more vividly on display than in the Labor, Health and Human Services Subcommittee of the Committee on Appropriations, on which Senator SPECTER and I are senior members. Before last year, when he returned to his roots as a Democrat, ARLEN was the senior Republican and I was the senior Democrat on that subcommittee. Since 1989, as the majority in the Senate has gone back and forth between the two parties, we alternated as either chair or ranking member. But the transitions were seamless as we passed the gavel back and forth because ARLEN and I forged an unshakable partnership.

That partnership has been grounded in our shared commitment to finding cures for diseases ranging from cancer to heart disease to Alzheimer's and in our determination to maintain the National Institutes of Health as the jewel in the crown of international biomedical research. Our proudest accomplishment was our collaboration in doubling funding for the National Institutes of Health over a 5-year period, between 1998 and 2003. Last year, we again collaborated in securing \$10 billion for the National Institutes of Health in the Recovery Act, although I must be honest and give the senior Senator from Pennsylvania the lion's share of credit for that accomplishment.

I say without fear of contradiction that there has been no Member of Congress in the Senate or the House who

has championed NIH as passionately and relentlessly and successfully as Senator ARLEN SPECTER. Indeed, at times, in my role when I was chair of the Appropriations Labor, Health and Human Services Subcommittee, I have had to remind ARLEN that there were other programs besides the NIH in our appropriations bill. In fairness, Senator SPECTER has also fought passionately to increase funding for public schools and to increase access to higher education, but there is no question that his great passion, his living legacy has been the National Institutes of Health and biomedical research. Today, the prowess and excellence of the National Institutes of Health is truly a living legacy to Senator SPECTER, and we have countless new medical cures and therapies because of Senator SPECTER's long and determined advocacy.

Mr. President, I will miss my good friend and colleague from Pennsylvania, who has been a tremendous ally for many years. As he departs the Senate, he can take enormous pride in 30 years of truly distinguished service to the people of Pennsylvania and the United States. I wish ARLEN and his wonderful wife Joan the very best in the years ahead.

With that, Mr. President, I yield the floor and wish the occupant of the chair the best of the holiday season and a happy New Year. We will see you when we come back to the next Congress.

I yield the floor.

RUSS FEINGOLD

Mrs. BOXER. Mr. President, I rise today to pay tribute to my colleague and friend, Senator RUSS FEINGOLD.

I have had the privilege of serving with Senator FEINGOLD since he and I were both elected to the U.S. Senate in 1992. Over the past 18 years, Senator FEINGOLD has been an independent, passionate advocate for his State and his Nation. He was consistently a voice of conscience in the Senate, never afraid to ask the tough questions or to speak out against policies he believed were flawed.

Over the years, Senator FEINGOLD has distinguished himself as a leading expert on foreign and domestic policy who is willing to work across party lines to get the job done, whether it was reforming our Nation's campaign finance laws or working to end the atrocities committed by Ugandan rebels in the Lord's Resistance Army.

I have had the privilege of sitting next to Senator FEINGOLD in the Senate Foreign Relations Committee. I have been proud to witness how, as the chair of the Subcommittee on African Affairs, he has led the Senate in recognizing and addressing many of Africa's unique issues and challenges. He was one of the first to speak out about the genocide in the Darfur region of Sudan. He has advocated for an end to the illicit mining of conflict minerals that

support armed conflict in the Democratic Republic of Congo. And he has placed a spotlight on drug trafficking in West Africa, the threat of terrorism in Somalia, and the affects of global diseases such as malaria on African populations.

Senator FEINGOLD is a great reformer, taking the lead on campaign finance reform and on the Army Corps of Engineers.

Senator FEINGOLD has been such an incredible champion for human rights, and I am personally grateful for his work on women's rights, particularly his commitment to combating violence against women and girls worldwide.

His passion, expertise, and dedication to these issues are unmatched and will be greatly missed.

BYRON DORGAN

Mr. President, I rise today to pay tribute to my colleague and friend, Senator BYRON DORGAN.

It has been an honor to serve with Senator DORGAN since he and I were both elected to the U.S. Senate in 1992.

Nobody can get to the heart of a matter like BYRON DORGAN. He has an unbelievable ability to lay out both challenges and solutions with clarity. He is a populist in the best sense of the word, and our country is better for his service in this Chamber.

Senator DORGAN has always been a champion for the people of North Dakota, for our workers, and for rural Americans. For the last 18 years, he has devoted himself to supporting family farms and promoting economic development across our country.

Senator DORGAN has been a leader in the Senate in fighting to preserve jobs here in America and end tax breaks for companies that ship jobs overseas. No one has fought harder for the middle class.

He used his position as chairman of the Senate Energy and Water Appropriations Subcommittee to advance important projects and create jobs, and I will always be thankful for his support in our efforts to protect California communities from flooding.

As chairman of the Senate Committee on Indian Affairs, Senator DORGAN has worked tirelessly to improve health care and economic opportunities for Indians. He has helped streamline the bureaucracy of the Bureau of Indian Affairs. He developed the landmark Tribal Law and Order Act, which helped give tribal justice officials the tools they need to protect their communities. I was so proud to cosponsor that bill and so pleased that President Obama signed it into law this year.

He leaves a distinguished legacy and will be greatly missed by all of us.

ARLEN SPECTER

Mr. President, I rise to pay tribute to our friend and colleague, Senator ARLEN SPECTER.

Senator SPECTER has spent five terms serving the people of Pennsylvania

here in Congress—longer than any other Pennsylvania Senator. All of us can take a lesson from his dedication and passion for fighting for the people of his State.

A member of the Judiciary Committee since he joined Congress, Senator SPECTER built on his background as an attorney and eventually assumed the chairmanship of the committee. His expertise on constitutional issues has long been admired by his colleagues.

Senator SPECTER was always a leader on issues relating to our National Institutes of Health, championing investment in scientific research to find life-saving treatments and cures for a range of diseases. He understood firsthand how crucial such funding could be, having fought his own battle with cancer. When we passed the Recovery Act, it was Senator SPECTER who ensured that it would include significant investments in NIH. His efforts to help double NIH's budget have contributed to advances in treatments for Parkinson's, cancer, heart disease and Alzheimer's.

I am pleased to have had the opportunity to work closely with Senator SPECTER on the Senate Environment and Public Works Committee. He has been a thoughtful and constructive member committed to addressing climate change and fighting for clean energy jobs.

Senator SPECTER loves this institution, and he will be missed. He has left his mark, and I thank him for his decades of dedicated public service.

CHRIS DODD

Mr. President, I would like to ask my colleagues to join me today in recognize the extraordinary leadership and service of our friend, Senator CHRIS DODD.

Senator DODD has served the Senate with grace, intelligence, and compassion for three decades. The son of a U.S. Senator, he loves this institution and has done everything he could to preserve its best traditions. Senator DODD has always encouraged all of us to keep our disputes and differences from becoming personal.

He leaves behind an incredible legacy of accomplishments that have touched the lives of virtually all Americans.

I will never forget the leadership role he played in helping to pass health care reform last spring—a fitting tribute to his close friend Ted Kennedy, whose vision finally became a reality.

As chairman of the Committee on Banking, Housing, and Urban Affairs, Senator DODD led the effort to pass Wall Street reform legislation. He was a forceful advocate for holding banks accountable for their actions, and we could not have enacted this landmark accomplishment without his leadership.

Senator DODD has devoted his career in public service to making life better

for our families and our children. I saw this firsthand as we worked together to ensure that our children have safe places to go after school. As chairman of the Senate Afterschool Caucus and the founder of the Senate's first Children's Caucus, Senator DODD worked hard to expand the Head Start program, to reform the No Child Left Behind Act, and to make college more affordable for students and their families.

In the face of Presidential vetoes, Senator DODD dedicated 8 years to enacting the Family and Medical Leave Act, which has helped ensure that 50 million Americans can care for their loved ones during difficult times without fearing for their jobs.

Senator DODD is a fluent Spanish speaker and has been the Senate's leading expert on Latin America. I have been proud to work closely with him to reform our Nation's drug certification laws.

His own years of service in the U.S. Peace Corps inspired Senator DODD to support and promote President Kennedy's call to service in this Chamber. In the Senate, he has helped expand and modernize the Peace Corps and worked to provide loan forgiveness to Peace Corps volunteers, teachers, and others who devote themselves to public service.

All of us in the Senate will greatly miss Senator DODD.

BLANCHE LINCOLN

Mr. President, I rise today to pay tribute to my colleague and friend, Senator BLANCHE LINCOLN.

Senator LINCOLN has spent her entire career serving the people of Arkansas, and she has been a passionate and effective leader for her State.

She has been an inspiration to so many women. Senator LINCOLN made history as the first woman to chair the Senate Agriculture, Nutrition, and Forestry Committee, and I will never forget how Senator LINCOLN led by example, showing us you could be a young mom in the Senate, dedicated to your children, while also being a strong advocate for your State.

She has been a leader in the Senate on child nutrition and has worked tirelessly to pass important legislation, including the Healthy, Hunger-Free Kids Act that was just signed into law by President Obama. The measure will help combat the nationwide epidemic of obesity by making sure our schoolchildren have access to healthy, nutritious meals.

As a cofounder of the Senate Hunger Caucus, Senator LINCOLN has played a crucial role in shedding light on a problem that affects so many, both at home and abroad.

Senator LINCOLN was never afraid to stand up for what she believed in. She showed her tenacity in fighting for greater transparency and accountability in derivatives markets during the debate over Wall Street reform.

She has been a fighter for her State and her legislative accomplishments will have a profound impact on the lives of so many children and communities across our country.

I want to thank her for her years of friendship and for her dedicated service here in the Senate. We will all miss her.

CHRISTOPHER DODD

Ms. SNOWE. Mr. President, I rise today to join my colleagues in paying tribute to Senator CHRISTOPHER DODD, a longtime public servant and fellow New Englander whose dedication to advancing the common good with common sense, independence, and a genuine desire to solve problems has served both his constituents of Connecticut as well as his country for 36 years. With trust, comity, and a love for the institution of the Senate, Senator DODD has for more than three decades contributed to creating a legislative environment where at crucial moments in the life of the greatest deliberative body in human history, the upper Chamber was able to work its will to the lasting benefit of the American people, and we could not be more grateful.

Indisputably, and as countless colleagues have noted, public service has always been at the center of Senator DODD's life—literally, as he is the first son of Connecticut to follow his father into the U.S. Senate, and remarkably, for the past 30 years, Senator DODD has had the privilege of sitting at the same desk used by his father, Senator THOMAS DODD, during his 12 years in the Senate. CHRIS DODD's longstanding devotion to the public arena has spanned from his three terms in the U.S. House—the last of which I was privileged to serve with him—to his five terms in the U.S. Senate. And Senator DODD earned the lasting gratitude of his constituents and admiration of his colleagues with his stalwart leadership in foreign policy, his vigorous and unwavering battle to enact the Family and Medical Leave Act, and his longstanding stewardship of our Nation's most precious resource—our children.

And on this last point, like many in this Chamber, I cannot begin to justly measure the depth and breadth of the legacy Senator DODD has forged in safeguarding the most vulnerable in our society. Consider for example the issue of child care. Time and again, Senator DODD has battled to ensure both the quality of child care in America as well as the funding for it, and as he keenly and presciently understood, in this matter, our Nation could not have one without the other.

An undeniable focus of Senator DODD's, child care has unquestionably become one of his crowning achievements and legislative hallmarks—and nowhere was his imprint on the issue greater than during the landmark welfare reform debate in 1995 and 1996. I

well recall working with Senator DODD as we made the case that there was indeed a pivotal link between viable welfare reform and child care—that for families struggling to reduce their dependency on welfare—especially single parents—unaffordable, unavailable, or unreliable childcare was the chief barrier to steady employment, and one that could and should be lessened, if not eliminated.

That is why I was pleased to join with Senator DODD on our amendment to add \$6 billion in child care funding to welfare reform legislation, especially at a time when that funding was very much imperiled. Arriving at a consensus required leaders from both parties to jettison their competing and hardened ideologies in favor not just of making dependable childcare more accessible, but in support of welfare reform that would effectively move more Americans from welfare to work. Senator DODD, as colleague after colleague can attest, heeded his own beliefs that “you don't begin the debate with bipartisanship—you arrive there. And you can do so only when determined partisans create consensus.” Because he never lost sight of the primacy of working across the aisle, we were victorious in including the funding we sought in the Senate-passed bill.

That bipartisan effort to garner concrete results designed to make a difference in the daily lives of the American people was not an isolated instance. Senator DODD and I collaborated on legislation to support campus-based child care for low income mothers trying to further their education, and we authored legislation to help states improve training in early childhood development to make improved child care more available to more people. With innate New England pragmatism and a desire for solutions, Senator DODD saw impediments to success that were impinging upon a segment of our society that if only reduced or removed would aid not only families striving to improve their lives, but a Nation seeking to help stem the tide of dependency.

Ultimately, what occupied Senator DODD's agenda was the active pursuit of an even better America. We didn't always agree on what that path should be, but where we did find common ground, as in child care, we cultivated it. That dynamic was at work recently as Senator DODD and I, as the former chair and current ranking member of the Senate Committee on Small Business and Entrepreneurship, collaborated to help the economic engines and catalysts of our economy—America's small businesses, the very enterprises that will lead us out of recession and into recovery.

During the consideration of what would become The Dodd-Frank Wall Street Reform and Consumer Protection Act, I truly appreciated Senator

DODD's perseverance in including a provision I authored allowing small businesses to raise concerns over burdensome regulations through small business review panels within the Consumer Financial Protection Bureau. Senator DODD and I also worked to reduce the regulatory compliance burden for small banks by striking a provision of the bill which would have required these lending institutions to report their transactions to the Federal Government down to each individual ATM.

This kind of rapport was emblematic of how Senator DODD viewed good governance. In his valedictory address on the floor of the Senate, he observed that "in my three decades here, I cannot recall a single Senate colleague with whom I could not work." Indeed, Senator DODD always saw adversaries as potential allies—and foes as unwon friends.

From the days of his youth, Senator DODD grew up steeped in the tradition of and respect for the Senate—and an abiding admiration for this venerable institution that runs at its own pace and by its own rules. Instead of exhibiting rancor and a burning desire to win at all costs, Senator DODD sought instead to build relationships and by doing so, strengthened his capacity for legislating and contributed mightily to the advancement of this esteemed Chamber. Legendary American poet and son of Maine, Henry Wadsworth Longfellow, once wrote that "if you would hit the mark, you must aim a little above it." CHRIS DODD has always aimed high—and met his target—leaving a legacy of enormous accomplishment to his constituents in Connecticut and to the American people.

In closing, let me just extend my personal appreciation to his wife Jackie and their daughters Grace and Christina for sharing CHRISTOPHER DODD with us

JUDD GREGG

Mr. President, I rise today to join my colleagues in paying a well-earned tribute to Senator JUDD GREGG, a fellow New Englander and one of New Hampshire's much-admired icons of public service over the last three decades.

Senator GREGG has been immersed in public service his entire life, beginning with his father's election as Governor of New Hampshire in 1952 when JUDD was only 5 years old. And through the years, he has amassed a record of leadership at every level of government that is truly remarkable. It comes as no surprise that JUDD is the first public servant from the Granite State ever to realize the political trifecta of being elected to the three offices of Congressman, Governor, and Senator. Serving others goes to the very core of JUDD GREGG's persona and DNA. It always has and always will.

And let me just say, at every step along the way, it has been a privilege for me to witness Senator GREGG's im-

pressive trajectory in public life firsthand. In fact, it was during JUDD's years in the U.S. House of Representatives, where my husband, Jock McKernan, and I first got to know him as well as his wonderful wife Kathy. And that friendship grew further during JUDD's time as Governor as both he and Jock were chief executives of their respective States during the same period.

And having served with JUDD for nearly his entire tenure in the Senate, I have been proud to work side by side with an individual whose organizing principle behind public service has always been driven by common sense, pragmatism, and the imperative to forge solutions across the aisle. Time and again, JUDD has sought to bridge the political divide to garner results, whether by tackling our Nation's fiscal challenges, promoting land conservation, or most notably, co-authoring the No Child Left Behind Act of 2001 with the late Senator Edward Kennedy.

Indeed, Senator GREGG's rigorous intellect, financial acumen, and budgetary expertise have earned him the respect and admiration of his Senate colleagues from both parties and made him one of the Nation's most well-regarded, leading champions of fiscal discipline and accountability, and one of the most knowledgeable voices and authorities in addressing our Nation's deficits and debt.

In fact, the bipartisan National Commission on Fiscal Responsibility and Reform, created by President Obama, is modeled after legislation first introduced by Senator GREGG, the former chair and current ranking member of the Senate Budget Committee, and the current Chair, Senator KENT CONRAD of North Dakota—both of whom are commissioners. What a fitting coda for one of this generation's stalwart guardians of our Nation's budget.

And Senator GREGG's service could not be more emblematic of his overall approach to public service which has always hewed to principle with a genuine desire to forge solutions across the aisle. No wonder that earlier this month, Washington Post columnist Ruth Marcus wrote that in "both parties, there are too few GREGGs, and too many of them . . . are leaving public office." I couldn't agree more!

Just as Senator GREGG has rightly earned national acclaim as a fiscal steward and sentinel on behalf of the American taxpayer, the heart of his leadership has always remained with his beloved Granite State as well as our region of New England. I well recall the ironclad solidarity our two delegations have shared, particularly in defending against efforts to close the Portsmouth Naval Shipyard. Through each of the five Base Realignment and Closure, BRAC, rounds from 1988 through 2005, we have left no stone unturned to champion the cause of the U.S. Navy's oldest and best shipyard—

and to ensure that the BRAC Commission recognized the legendary work ethic and world-class craftsmanship of a workforce that is second to none.

Former Senate majority and minority leader, Senator Robert Dole, with whom Senator GREGG and I both served, once observed "as long as there are only 3 to 4 people on the floor, the country is in good hands. It's only when you have 50 to 60 in the Senate that you want to be concerned." When JUDD GREGG was on the floor the people of New Hampshire and, indeed, the Nation knew that our country was in tremendously capable and conscientious hands, and we could not be more grateful!

In thanking Senator GREGG for his immeasurable contributions to this storied chamber, I know I join all of my colleagues in wishing him and his beloved wife Kathy, Godspeed, as they embark on the well-earned, next chapter of their lives.

GEORGE VOINOVICH

Mr. President, I rise today to join in paying tribute to my longtime good friend and colleague, Senator GEORGE VOINOVICH of Ohio. In the U.S. Constitution, our Founding Fathers made it clear that there is no one clear path, background, or station in life that leads to serving in the U.S. Senate. There is an age requirement and a residency stipulation and no more. That said, if ever there were a job description for being a Senator, it occurs to me that a model example we should consider is that of Senator GEORGE VOINOVICH.

Senator VOINOVICH's depth and breadth of wisdom, knowledge, and experience about making government work at all levels which he has harnessed throughout his sterling, four decade trajectory in public life recall what James Madison wrote in *The Federalist*, No. 62 in advocating for a higher age requirement for Senators than members of the House. Madison postulated that the deliberative disposition of the Senate required a "greater extent of information and stability of character." I don't think it's too far of a stretch to say that James Madison must have had a Senator like GEORGE VOINOVICH in mind when making this case.

Before Senator VOINOVICH even stepped onto the floor of the U.S. Senate he had already been Governor of Ohio, mayor of Cleveland, Lieutenant Governor of Ohio, county commissioner, auditor, and a member of the Ohio House of Representatives. With a wealth of insights to draw upon through many years of public service, GEORGE has always been a force with whom to be reckoned, someone whose viewpoint and counsel are sought, and whose example is worthy of being emulated many, many times over.

My husband Jock, former Governor of Maine, and I first got to know Senator VOINOVICH and his wonderful wife

of nearly 50 years, Janet, in the 1990s when Jock and GEORGE were both serving as Governor of their respective States and active in the National Governors Association. In Ohio's State capital of Columbus, GEORGE was building on his enormous success as Mayor of Cleveland where he inherited a stagnant economy, rejuvenated it through fiscal discipline and acumen and public-private partnerships, and forged a three-time All-America City winner in the 1980s.

GEORGE made similar, remarkable strides as Governor, where, under his watch, unemployment hit a 25-year low and 600,000 new jobs were created. Many accolades were bestowed upon GEORGE for his accomplishments at the State level, and they were all well-earned to say the least. In fact, he is still the only individual to serve as both chairman of the National Governors Association and president of the National League of Cities.

There are many laudatory characterizations of Senator VOINOVICH that have already been expressed by my colleagues, and there are certainly some that come to mind, especially as a highly regarded U.S. Senator—thoughtful, independent, principled, rigorous, courageous, and pragmatic. With GEORGE, you always knew where he stood on an issue and frankly where you stood with him. In an institution whose very foundation is built upon trust and forging relationships, GEORGE was someone you could count on time and time again.

And to say that Senator VOINOVICH was a workhorse in this Chamber from day one is an understatement to be sure. His word is as good as gold—and as they say, you can take it to the bank. If he shook your hand on a deal, that was all that was required. The fact is, they don't make enough legislators or public servants like Senator VOINOVICH anymore. Like the Ohio State flag, the only one in the U.S. not shaped like a rectangle, GEORGE has been and will always be . . . one of a kind.

I can tell this Chamber from firsthand experience, there was no one you would rather be in the trenches with in the Senate, especially when the stakes were high, than GEORGE. I will never forget—and I know GEORGE won't either—how we stood side by side as stewards of fiscal accountability during the tax cut debate in 2003. We were certain that reducing taxes and hewing to our budget concerns did not have to be mutually exclusive—that we could champion billions in tax cuts without jeopardizing our Nation's fiscal future by proposing offsets.

The fact is, once Senator VOINOVICH determined to chart a particular course, he was not easily dissuaded—and rightfully earned a reputation for being tireless and relentless in his pursuits. His moral fiber, character, and

integrity can be traced back to being the grandson of Serbian and Slovenian immigrants who crossed the Atlantic from Croatia at the turn of the century. As a proud Greek-American whose parents emigrated from Greece, I see in GEORGE the same stalwart work ethic so prevalent in my own roots and culture growing up in Maine.

Senator VOINOVICH once said that “doing a good job at running your government is the best politics,” and that “people just want you to get the job done.” But for him, these weren't platitudes worthy of a government class, they have been truly organizing tenets that have shaped a distinguished 40-year tenure of serving the common good for Ohioans and the Nation.

In the Senate, when others refused to reach across the aisle, Senator VOINOVICH understood that doing so made the system work, especially for those who elected us in the first place—the American people. When political scorekeeping and posturing have ruled the day, Senator VOINOVICH has managed to transcend the short-term efforts to jockey for position in favor of immersing himself in the substance of the policy with the intention of championing it or opposing it based on the facts, not political sway or the temper of the times. The legacy of GEORGE's clear voice of reason and brave vision in this body will extend into the next Congress and for Congresses to come. My only regret is that the Senate could use more GEORGE VOINOVICHs, not fewer.

For all of his dedicated public service to his Buckeye State and this great land, undoubtedly, GEORGE will tell you that his greatest achievement is his marriage of 39 years to his beloved wife Janet, their three children, and eight grandchildren. I wish them all the best.

BLANCHE LINCOLN

Mr. President, I rise today to join my colleagues in paying tribute to Senator BLANCHE LINCOLN, one of the finest public servants I have had the pleasure not only to know, but to work with during our one term in the U.S. House together and her distinguished 11-year tenure in the Senate.

A seventh-generation Arkansan, Senator LINCOLN has always been firmly rooted in the values and the people of her great State. Their concerns have been her battles—their hopes have been her cause. Her State's bedrock values of family and faith have always been at the center of BLANCHE's life as a daughter, wife, mother, church member, and Congresswoman. She has always been as authentic as they come, warm as she is determined, gracious as she is resolute, and Arkansans wouldn't have it any other way.

BLANCHE understood the inherent human element and dimensions of public service as well as anyone—that you pursued elective office not for personal

gain, but in order to make a difference on behalf of others, especially for rural America. For Senator LINCOLN, the phrase “The People Rule” was more than her great State's cherished motto, it was an organizing principle and a clarion call which inspired her to serve.

The youngest woman ever elected to the Senate and the first woman to serve as chairman of the Senate Agriculture, Nutrition, and Forestry Committee in its 184 years of existence, Senator LINCOLN was making her mark from the first time she entered the august Chamber of the U.S. Senate. From the beginning, she stood upon the mightiest of shoulders, Arkansas's legendary Hattie Caraway, the first woman to win a statewide U.S. Senate race in Arkansas and the first woman to chair a U.S. Senate committee. How fitting it is that Senator LINCOLN paid homage to her predecessor by using the same desk on the Senate floor that Senator Caraway used 60 years ago.

I was privileged to work with Senator LINCOLN for her entire time and mine as well on the venerable Senate Finance Committee where we were kindred spirits and compatriots from day one. In fact, our very first year on the committee we forged an historic, bipartisan alliance to make the childcare tax credit refundable for the first time ever, and the bond we formed during that undertaking only increased as we shepherded other dependent care issues through the years to help give families the resources to be stronger and find empowerment through work.

Senator LINCOLN and I, as the former chair and current ranking member of the Senate Committee on Small Business and Entrepreneurship, also joined forces on the Small Business Health Options Program, or the so-called SHOP Act, to increase the number of insurers available to small businesses, so that these engines of our economy could benefit from greater competition. On issue after issue, I valued our collaborations, our mutual respect, and our common desire to achieve results and jettison the partisan bickering that impedes not only progress, but our obligation to do the will of the American people.

Central to that collegiality has been our great tradition as women in the Senate of getting together once a month for dinner, and there is no question that Senator LINCOLN's absence will be keenly felt. Appropriately, we described one of our dinners in the prologue to the book we labored on together in the 1990s, entitled “Nine and Counting,” to demonstrate the progress women had made in the upper Chamber. In it, BLANCHE is described as “ebullient, energetic, and unpretentious—she is the picture of representative government.” That is the BLANCHE LINCOLN I know and the BLANCHE LINCOLN I will miss.

Like all of the women I have had the honor of serving with on both sides of

the aisle, BLANCHE has been a bulwark against the all-too-prevalent dynamic confronting the American political system—the ongoing erosion of bipartisanship, cooperation, and civility. She has helped bridge the partisan divide as much as anyone, and has acted time and again as a catalyst for cultivating common ground in order to advance the common good.

The Arkansas State flag contains diamond shapes in its center as Arkansas is the only State where diamonds have been discovered. It has been the pinnacle of generosity for Arkansans to share one of their gems here in our Nation's Capital in the form of Senator BLANCHE LINCOLN. We also thank her husband Dr. Steve Lincoln and their twin boys, Reece and Bennett, for doing the same.

EVAN BAYH

Mr. President, today I wish to join in paying a well-deserved tribute to my good friend and colleague, Senator EVAN BAYH of Indiana. When it comes to reflecting on his tremendous experience and influence in this esteemed Chamber for the past 12 years, the simple truth is that our Nation and our government would be exponentially improved by having more like EVAN BAYH serving in the United States Senate.

A proud native of the Hoosier State—as well as a son of the legendary former Senator Birch Bayh—Senator EVAN BAYH is a man of unwavering principle and conviction, who has been a stalwart legislator and unparalleled guardian of the first branch of government over his two terms serving the people of Indiana. Born in Shirkieville, educated at Indiana University, and a graduate of the University of Virginia Law School, Senator BAYH went on to clerk for a Federal court judge, eventually being elected as Indiana's secretary of state in 1986.

Yet even before Senator BAYH stepped onto the floor of the United States Senate he had already served two terms as Governor of Indiana, beginning in 1988. In fact, that is where I first got to know him as both he and my husband, John McKernan, were chief executives of their respective States during much of that same period. The depth and breadth of EVAN's insight and experience that was forged during his years as Governor would become truly indispensable as a United States Senator.

Having served side-by-side with EVAN for his entire tenure—including this Congress as fellow members of the Senate Select Committee on Intelligence and the Senate Committee on Small Business and Entrepreneurship, where I serve as ranking member—I can attest firsthand to his intellect, independence, and integrity that will truly leave an indelible mark on this institution and this Nation. EVAN has also been a next-door neighbor in my hall-

way in the Russell Senate Building. So I will profoundly miss seeing him not only in the Senate, but also simply walking down the hall outside my office.

Throughout his storied career, Senator BAYH has reached across the aisle to find consensus on legislation to advance both Indiana and the Nation. From focusing on job growth and fighting for America's small businesses to national security and trade, EVAN has been a leader whose achievements truly leave an indelible mark.

Indeed, I was pleased to work with Senator BAYH on legislation in 2007 that linked the troop surge in Iraq to meaningful consequences and telegraphed to the Iraqi Government that they had to meet the benchmarks they themselves had set. And just this year, Senator BAYH and I worked with a number of our colleagues in the Senate to crack down on unfair currency manipulations in China—ensuring our government is equipped with the tools to adequately address inequities and provide consequences for countries that violate our global trade rules by holding down the value of their currency.

Earlier, in 2001, Senator BAYH and I introduced a bipartisan resolution in the Senate, as well as a subsequent amendment on the Senate floor, to ensure that decisions on the use of the budget surpluses that were projected at the time—whether for tax cuts or for spending—should be linked to the surpluses actually realized. Simply put, the idea, based on a proposal first outlined by then-Federal Reserve Chairman Alan Greenspan, was that long-term tax and spending plans should include a kind of “trigger” mechanism that limits the surplus-reducing impact of those proposals if budget targets weren't achieved, such as specific levels of debt reduction.

We believed such a trigger would provide a strong incentive for Congress to act responsibly in the future allocation of any surpluses, while also serving as a “backstop” should estimates prove too optimistic. As I said at the time, we should have been utilizing those surpluses as a window of opportunity to address our most pressing domestic issues, such as strengthening Social Security and Medicare. And frankly, how prescient that trigger mechanism proved to be—just imagine where we might be today if it had passed nearly 10 years ago.

In multiple facets, Senator BAYH has been an esteemed colleague and friend in our mutual cause to revitalize and advance the political center—in our concerted effort to answer the challenges facing our Nation by producing results, not rancor, and accord instead of acrimony. His departure not only diminishes the Senate, but is also a loss for the country—because we require more voices seeking to craft com-

promise and consensus to forge solutions, not fewer.

I have long argued that the legislative stalemate and political quagmire that has gripped much of this Congress has been to the detriment of our country—especially at a time when our Nation faces a number of challenges, not the least of which is a struggling economy that has caused far too many Americans to lose their jobs and their paychecks. In February, Senator BAYH wrote an op-ed for the New York Times in which he said, “The most ideologically devoted elements in both parties must accept that not every compromise is a sign of betrayal or an indication of moral lassitude. When too many of our citizens take an all-or-nothing approach, we should not be surprised when nothing is the result.” I could not agree more—and Senator BAYH's advocacy of moderation and reason in this body will truly be missed.

President Theodore Roosevelt once said that “far and away the best prize that life has to offer is the chance to work hard at work worth doing.” Well, if ever there were a Senator who epitomizes that sentiment, it is Senator BAYH as he has given his very best to make an already great Nation greater still. I wish EVAN, his wife, Susan, and their two sons, Beau and Nick, all the best for the future.

JUDD GREGG

Mr. COCHRAN. Mr. President, it has been a great pleasure and honor to serve in this body with JUDD GREGG. He and his wife Kathy have enriched our lives with their friendship and their contributions to the work and responsibilities of the U.S. Senate.

JUDD's leadership on the Budget and Appropriations Committees have been especially important and worthy of high praise.

His sense of humor has helped make our service in the Senate an enjoyable experience.

I wish for him and his family all the best in the years ahead.

SAM BROWNBACK

Mr. ROBERTS. Mr. President, I rise today to honor the service of my friend and colleague SAM BROWNBACK. SAM was elected to the House of Representatives in 1994 during the Republican Revolution and was subsequently elected to the Senate 2 years later when former majority leader Bob Dole made his bid for the White House.

It has been both a privilege and a pleasure serving alongside SAM during these past 16 years. All of us who seek public service want to make a difference, and most certainly, SAM BROWNBACK has done that. In these endeavors I have enjoyed working with SAM in achieving some note worthy accomplishments for our State of Kansas. As I reflect upon our mutual efforts, it is hard to figure out who was driving the stage and who was riding shotgun.

Simply put, it has been a team effort, and I have been both humbled and proud to work with my colleague who has provided unique and respected leadership. SAM's record speaks for itself: bringing the Big Red One back home to Fort Riley, KS, where it started and now belongs; bringing the National Bio- and Agro-Defense Facility, NBAF, to Manhattan, KS; ensuring fair treatment of the general aviation industry in FAA bills; and working together to rebuild Greensburg, KS, after 95 percent of the community was literally blown away by an EF5 tornado.

But beyond our work together on State specific issues, it is SAM's Federal legislative initiatives that I think will have the longest impact on the Senate and the lives of so many people, not only within Kansas and our Nation but, indeed, around the world.

Since the late 1970s, the term "compassionate conservative" has been tossed around quite a bit to describe a philosophy—a philosophy that states by applying conservative ideals, our government can best improve the welfare of our society. I think many of my colleagues would agree that if anyone in public service over the past 30 years embodies this philosophy, it would be SAM BROWNBACK.

What is unique about SAM and his approach to politics these past 16 years is that his ideas went beyond words and rhetoric. The SAM BROWNBACK approach was simple but effective. He applied his beliefs to action, reflected by the many legislative accomplishments he championed during his tenure in the Senate.

SAM is a big believer in forgiveness and second chances. How to put that belief into action? SAM introduced a bill that really shows his heart for those in society who many times are not given an opportunity to make amends: the Second Chance Act.

Signed into law during the Bush administration, this act created a grant program for State and local governments to fund job training and family mentoring programs to help reintegrate past offenders as they are granted release back into society.

But SAM's legislative victories did not focus solely on domestic issues. SAM has a great love for the continent of Africa.

Serving on the Senate Foreign Relations Committee, he traveled to Africa on multiple occasions to gain a better understanding of how he could help provide relief to those most vulnerable. His experiences led him to champion the Darfur Peace and Accountability Act of 2006. Enacted that same year, this law created sanctions against individuals and groups responsible for the terrible crime of genocide in Darfur, while establishing measures to protect civilians and humanitarian efforts within the borders of Sudan.

The more SAM did, the more he felt called to do, and no one did more for

the protection of victims of human trafficking than SAM. In 2000, he helped enact the Trafficking Victims Protection Act. This law created criminal punishments for individuals caught in the United States operating as traffickers. It established an annual reporting mechanism to help track individuals engaged in sex trafficking and created a new immigration status for victims of sex trafficking.

Lastly, I believe SAM's prominence during his time in the Senate had a great deal to do with his willingness to work across party lines on issues where he could seek and find common passion and ground.

The legislative item I think will leave the largest impact on many of us in the Senate is the bill upon which he worked tirelessly with the late Senator Ted Kennedy.

Signed into law by President Bush, the Prenatally and Postnatally Diagnosed Conditions Act provides those families with children diagnosed with Down Syndrome the support services and networks they need to help them deal with the unique challenges they face. Put another way, what better legislation to help protect the lives of those in our Nation uniquely challenged but who deserve every right to the same opportunities we all enjoy every day.

I could easily and proudly recount many more of SAM's achievements during his time in the Senate, but I would do so in danger of SAM saying "enough" and giving me "the hook." I have often said that the high road of humility is not often bothered by heavy traffic in Washington, but in SAM BROWNBACK, we have indeed enjoyed the friendship of a humble man.

In closing, I leave my colleagues with one of Senator BROWNBACK's favorite quotes that I think sums up the man that SAM is and the love he has for all people, regardless of their nationality or place in society.

SAM likes to say: "I am pro-life and whole-life. Applying this belief to the child in the womb and to the child in Darfur. It includes the man in prison and the woman in poverty. It does not fail to cherish the child with Down syndrome or stand for the inherent dignity of the immigrant."

SAM, I remember the first campaign rally we attended together. The featured guest speaker, Senator Phil Gramm of Texas, introduced me as one who made significant changes in the House of Representatives and then introduced SAM as: "One who not only wants to change things, but to make the right changes."

SAM, you have done just that and it has been an honor to serve with you over these past 16 years. I thank you for your courtesy, cooperation, leadership, example and your friendship and support. As you head west, my friend, to lead our beloved State of Kansas, I

look forward to continued cooperation and success. The people of Kansas are in good hands. God bless.

ARLEN SPECTER

Mr. CASEY. Mr. President, when I came to the Senate in 2007 as a Senator-elect, one of the first things I did was to go see Senator SPECTER. He asked me at the time to go to lunch, and from the moment that I arrived in the Senate, he made it very clear to me, not only did the people of Pennsylvania expect, but he expected as well that we work together. From the beginning of his service here in the United States Senate, way back when he was elected in 1980, all the way up to the present moment, he has been a Senator who has focused on building bipartisan relationships and, of course, focusing on Pennsylvania priorities.

I have been honored to have worked with him on so many Pennsylvania priorities, whether it was veterans or workers, whether it was dairy farmers or the economy of Pennsylvania, or whether it was our soldiers, or our children, or our families. He has been a champion for our state, and he has shown younger Senators the way to work together in the interest of our state and our country. That bipartisanship wasn't just a sentiment. He is a legislator who sought compromise that led to results in a Senate often divided by partisanship.

His record is long, so I will only highlight a few areas.

He helped to lead the effort to dramatically increase funding for the National Institutes of Health, that great generator of discoveries that cure diseases and create jobs and hope for people often without hope because of a disease or a malady of one kind or another.

His experience working on a farm as a boy, Kansas not in Pennsylvania, helped him to understand and work on problems affecting Pennsylvania agriculture and farm families.

He stood up for Pennsylvania industry and workers against subsidized or dumped products that hurt Pennsylvania's steel industry.

He fought to bring Federal funding back to Pennsylvania to create jobs, build infrastructure and invest in local communities.

No Senator in the history of the Commonwealth has served longer than Senator SPECTER. In fact, the Senator that he outdistanced in a sense, in terms of service, was only elected by the people twice after several terms elected by the state legislature. Senator SPECTER was elected by the people of Pennsylvania five times, but it is the life in those Senate years, the contribution to our Commonwealth and our country in those 30 years that really matter. His impact will be felt for generations, not just decades, but for generations.

There was a history book of our State that came out in the year 2002. It

was a series of stories, essays and chapters on the history of Pennsylvania, and it is a fascinating review of the State's history. The foreword of that publication, that book, was written by Brent D. Glass, at the time the executive director of the Pennsylvania Historical Museum Commission. He wrote this in March 2002. It is a long foreword which I won't read, but he wrote in the early part of this foreword the following, "One way to understand the meaning of Pennsylvania's past is to examine certain places around the state that are recognized for their significance to the entire nation." Then he lists and describes in detail significant places in Pennsylvania that have a connection to our history, whether it's the Liberty Bell or the battlefield at Gettysburg, whether it's the farms in our Amish communities or whether it's some other place of historic significance.

I have no doubt whatsoever that if the same history were recounted about the people of Pennsylvania, the people who moved Pennsylvania forward, the people who in addition to moving our State forward had an impact on the Nation; if we had to make a list of Pennsylvanians who made such contributions; whether it would be William Penn, Benjamin Franklin, you can fill in the blanks from there, I have no doubt that that list would include Senator ARLEN SPECTER, a son of Kansas who made Pennsylvania his home, a son of Kansas who fought every day for the people of Pennsylvania.

So it is the work and the achievements and the passion and the results in those years in the Senate that will put him on a very short list of those who contributed so much to our Commonwealth that we love and to our country that we cherish.

So for all that and for so many other reasons, I, as a resident of Pennsylvania and a citizen of the United States, but as a Senator, want to express my gratitude to Senator ARLEN SPECTER for his 30 years of service, but especially for what those 30 years meant to the people of Pennsylvania. Thank you, Senator SPECTER.

Mrs. HUTCHISON. Mr. President, I would like to take a few minutes to pay tribute to the 16 Senators who will be departing this body at the end of the year.

I am grateful for the opportunity I have had to serve alongside each of these Senators as colleagues and as friends. All served their States with distinction and gave their constituents strong voices in the world's greatest deliberative body. Senators EVAN BAYH, ROBERT BENNETT, KIT BOND, SAM BROWNBACK, JIM BUNNING, Roland Burris, CHRIS DODD, BYRON DORGAN, RUSS FEINGOLD, Carte Goodwin, JUDD GREGG, TED KAUFMAN, GEORGE LEMIEUX, BLANCHE LINCOLN, ARLEN SPECTER, and GEORGE VOINOVICH each

left an indelible mark on the Senate, and I wish them well as they take on new challenges and opportunities into the future.

I would like to speak briefly about a few of the Senators I knew best and served with in committees to recognize their contributions and accomplishments and share my fond memories of them and the legacies they will leave behind.

BOB BENNETT

For nearly two decades, Senator BOB BENNETT has honorably served the people of Utah.

His career in the U.S. Senate has been marked by his commonsense solutions to many of the most pressing issues facing our country.

Before serving in the Senate, BOB was a successful entrepreneur as the CEO of Franklin International Institute. Under BENNETT's leadership, the business grew from 4 employees to more than 1,000 and was listed on the New York Stock Exchange.

BOB brought his past experiences running a successful company with him to the Senate. His business sense was certainly an asset that informed his decisions as a U.S. Senator and made him an effective advocate for businesses, large and small, who keep our economy strong. Being a former businessowner myself, I valued his pragmatic perspective and ability to get things done.

As a senior member of the Senate Banking Committee and a member of the distinguished Joint Economic Committee, BOB has been a leader in many national economic policy decisions.

In addition, while serving as the ranking republican on the Senate Appropriations Subcommittee on Energy and Water, he has worked to address the critical funding needs our country faces on a wide range of energy and water related issues.

I am proud to have served with BOB for so many years, and his leadership and kind manner will be sorely missed in the Senate.

JIM BUNNING

I wish Senator JIM BUNNING well as he departs the Senate. Much of his legacy can be defined by his competitive spirit and strong work ethic. These attributes have been evident throughout his many successes in life, first in his career as a Hall of Fame baseball player and then later as a public servant, representing the people of Kentucky. Being an avid sports fan myself, I hold deep admiration for those who can play at the highest levels of competitive sports and later bring that drive to the Senate!

Following his highly successful professional baseball career for 17 years, JIM decided he wanted to give back to his community. In 1977, he ran for city council and then later ran for the Kentucky State Senate eventually becoming the Republican leader.

In 1986, JIM was elected to the U.S. House of Representatives for the 4th

District of Kentucky, where he served for 12 years before being elected to the U.S. Senate in 1998.

During JIM's tenure in Congress, he has established himself as an expert and defender of social security, fighting hard to protect social security for current and future generations.

His hard work and devotion will be missed by the people of Kentucky, whom I know are grateful for his many years of service.

KIT BOND

KIT BOND has a long and distinguished history of service to the people of Missouri. As one of the longest serving Members in the U.S. Senate and a former two-term Governor, his life's work has been dedicated to the State of Missouri.

In the Senate, KIT has been a respected leader on many issues, such as national security, transportation, and global economic competitiveness. While serving as the vice chairman on the Senate Select Intelligence Committee, he has worked hard to strengthen national security through supporting the U.S. military and reforming the Nation's intelligence community. And as the leader of the Senate National Guard Caucus, no one has done more to support the role of the National Guard in our defense.

KIT and I have worked on many issues together during our time in the Senate. In particular, last year when Democratic lawmakers tried to push cap-and-trade bills through Congress, KIT and I released the report, "Climate Change Legislation: A \$3.6 Trillion Gas Tax."

Our joint report revealed how climate legislation would result in a massive new national gas tax on American families, farmers, workers and truckers—by increasing the price of gasoline, diesel, and jet fuel.

It has been my pleasure to serve with Senator BOND. His office has been next to mine for 12 years and it will not be the same without that familiar cigar aroma lingering in the second floor halls of Russell. Without a doubt, he will be missed by his colleagues in the Senate and his constituents in Missouri.

SAM BROWNBACK

While Senator SAM BROWNBACK will certainly be missed by the Senate, the people of Kansas will continue to benefit from his leadership, as he serves as their newly-elected Governor.

Prior to being elected to public office, SAM's professional experiences include working as a radio broadcaster, attorney, teacher, and administrator.

From these varied professional experiences he brought with him a unique and dynamic perspective to the U.S. Senate.

Through his leadership as the ranking member on the Joint Economic Committee, ranking member of the Appropriations Subcommittee on Agriculture, and ranking member of the

Energy and Natural Resource Subcommittee on Water and Power, SAM established himself as a leader on a wide range of issues.

During his tenure in the Senate, he has supported aviation research and expanded global aviation markets. Through these efforts, he has effectively spurred economic growth and strengthened the U.S. military.

Some of SAM's most distinguishing characteristics are his personal integrity and his commitment to his Catholic faith. These principles came through in much of what he did in the Senate. I will always appreciate his passion and his work to translate his beliefs into his actions as a U.S. Senator.

I am confident Senator BROWNBACK will continue to serve the people of Kansas with the same character and dedication in his new role as governor.

CHRIS DODD

Senator CHRIS DODD departs the Senate after nearly three decades faithfully representing the people of Connecticut.

From his service in the Peace Corps, the U.S. Army National Guard and Reserves as well as his many years in the U.S. Senate, Senator DODD's commitment to public service and love for his country have been evident throughout his life.

CHRIS was a leader in the Senate, serving as the chairman of the Banking, Housing and Urban Affairs Committee, chairman of the Foreign Relations Subcommittee on Western Hemisphere, Peace Corps, and Narcotics, and chairman of its Children and Families Subcommittee.

Although we had our differences on various policy issues, I always appreciated his willingness to put partisanship aside to reach consensus when possible in order to improve legislation. For instance, earlier this year when working on the financial reform bill, despite my public opposition to the legislation, CHRIS worked with me to incorporate my amendments in the final version of the bill. I ultimately voted against the bill, but I am grateful for the efforts he made to include my amendments.

Today we bid him farewell after 29 years of tireless service in the U.S. Senate.

BYRON DORGAN

Today we say goodbye to Senator BYRON DORGAN after 18 years in the Senate, serving the State of North Dakota.

First elected to Congress in 1980, DORGAN has devoted his career to serving North Dakota and fighting for the interests of rural America.

After serving six terms in the U.S. House of Representatives, BYRON was elected to the U.S. Senate in 1992.

I have had the pleasure to serve with Senator DORGAN on the Senate Commerce Committee. Last summer, we

joined together with several of our colleagues in the Senate to introduce bipartisan legislation that reauthorized the Federal Aviation Administration, FAA.

The legislation accelerated the modernization of the Nation's air traffic control, ATC system, addressed critical safety concerns in the national airspace system, NAS, and improved rural community access to air service.

I appreciated BYRON's willingness to champion good ideas put forward by members from either side of the aisle. By focusing on issues where consensus could be achieved, he helped to move the debate forward on important issues and solve problems.

Senator DORGAN leaves the Senate with my best wishes and respect.

JUDD GREGG

As a leading voice for fiscal responsibility, Senator JUDD GREGG will be deeply missed in the Senate.

Throughout his long and distinguished career, with unparalleled commitment to fiscal discipline, Senator GREGG worked to address many pressing issues.

Senator GREGG is a well known budget expert and national leader on the most critical issues facing our country in recent years, notably health care, economic issues, and financial regulation.

His efforts to address the looming entitlement crisis, the rising cost of health care, and the inefficient and complex tax system are commendable and serve as an example to all elected officials.

In the Senate, Senator GREGG has also focused his efforts on helping the U.S. maintain its position as the leading destination for capital and investment in the world.

I appreciate the job Senator GREGG has done in his position as the former chairman and current ranking member of the Budget Committee.

In 2006, JUDD sponsored an amendment that strengthened border security by providing resources to integrate biometric databases as well as construction of new stations and check points and tactical infrastructure for immigration and customs enforcement.

Unlike other similar proposals at the time, his amendment was offset and did not add to the deficit.

I will miss working with him in this Chamber, and I will miss his friendship and support on the issues that matter most to America.

In conclusion, the departing Senators' contributions, their dedicated service, and the issues they championed will be remembered long after their final days in the Senate.

I believe I can speak for my fellow Senators when I say that we will all miss our departing friends.

Ms. MURKOWSKI. Mr. President, when the 111th Congress draws to a close, we will bid farewell to 16 col-

leagues who have collectively given more than 200 years of service to our Nation through their service in the Senate. These include seven of the Senate's most experienced Members. People like CHRIS DODD and ARLEN SPECTER who have each served five terms in the Senate. KIT BOND who has served four terms and BOB BENNETT, BYRON DORGAN, RUSS FEINGOLD, and JUDD GREGG, who have each served three terms in this Chamber.

When the 112th Congress convenes in January, the ranks of women Senators will be reduced by one. In fact, the 112th Congress will be the first Congress in recent memory in which the total number of women Senators will actually decline. And with the departure of our colleague, Roland Burris, there will not be a single African-American Senator when the new Congress convenes.

In January we will feel the loss of the great pitching ace, JIM BUNNING, and EVAN BAYH, both respected colleagues on the Energy and Natural Resources Committee. They are among six of my Energy Committee colleagues who are leaving the Senate this year.

JUDD GREGG, one of our Nation's foremost experts on the Federal budget leaves us at the end of the year. As this Senate comes to grips with the challenges of a rising deficit and economic stagnation we will miss his firm hand and thoughtful guidance. My neighbor in the Hart Senate Office Building, ARLEN SPECTER, is one of the Senate's most independent voices and perhaps the best friend that the National Institutes of Health, and every American who benefits from its cutting edge research, has ever had on Capitol Hill. BOB BENNETT, one of the most thoughtful among us, who draws wisdom from experience as an entrepreneur as well as in public service, will not be among us. I learned much from Senator BENNETT during the period that he served as counselor to the Republican leader and I served as vice chair of the Senate Republican Conference.

I would also like to acknowledge contributions of KIT BOND, one of the foremost experts on our Nation's transportation and infrastructure needs. I appreciate Senator BOND's interest in understanding the unique transportation and infrastructure challenges that we in Alaska, the largest State in our Union in terms of land mass and one of the youngest must contend with. Senator BOND, like all of us, wears many hats in this institution. He has also earned the undying respect of our Nation's citizen soldiers through his leadership of the Senate National Guard Caucus.

One of CHRIS DODD's legacies to the Nation is legislation to ensure that the unique needs of children are addressed in our Nation's response to catastrophic disasters. I was honored to partner with Senator DODD in helping to pass this legislation.

RUSS FEINGOLD may have earned his place in history for his work on campaign finance reform but I will also appreciate him for his efforts to ensure that members of the National Guard and Reserve do not fall through the cracks when they return home with battlefield injuries. Senator FEINGOLD and I teamed on the Wounded Warrior Transition Act, a portion of which was included in the National Defense Authorization Act for Fiscal Year 2010. I will continue to pursue the remaining provisions in the new Congress.

SAM BROWNBACK has forever earned a place in the heart of our first Americans for his work on the adoption of a joint resolution apologizing to American Indians and Alaska Natives for centuries of ill conceived policies carried out by our Federal Government. He is known around the world as a champion of religious freedom as well.

GEORGE VOINOVICH came to the Senate after a distinguished career that included service as Governor of the State of Ohio and mayor of the city of Cleveland. He has made a substantial contribution to the efficient operation of our federal government as a leader of the Homeland Security and Governmental Affairs Committee. I appreciate his support of the effort that Senator AKAKA and I advanced, along with others, to make locality pay available to Federal employees in Alaska and Hawaii through the Non-Foreign Act of 2009.

I would like to say a few words about my friend BYRON DORGAN. In 2007, following the sudden and unexpected death of our friend and colleague Craig Thomas, I was elevated to vice chair of the Senate Committee on Indian Affairs. Senator DORGAN was the chairman of that committee. Last week both of us had the honor of addressing the National Congress of American Indians at one of the meetings that preceded President Obama's tribal summit. Each of us reflected on that fact that the committee has highly productive during the period we shared the gavel. During our time together the committee laid the groundwork for reauthorization of the Indian Health Care Improvement Act, more than a decade in the making. We reauthorized the Native American Housing Assistance and Self Determination Act, we pursued a settlement of the Cobell litigation, and we crafted and introduced the Tribal Law and Order Act, which President Obama signed into law earlier this year. Senator DORGAN has consistently championed adequate funding for the Indian Health Service and he has come to the floor on many occasions to speak to the unacceptable rates of suicide among Native youth. I am pleased to know that he will continue this work after he leaves the Senate. It comes from the heart.

As I noted at the outset, 2011 will be the first year in recent memory that

the number of women serving in the Senate has actually declined. All of the women of the Senate will miss our dear friend and highly respected colleague BLANCHE LINCOLN. BLANCHE LINCOLN made history in her own right when she became the youngest woman ever elected to the Senate at the age of 38. Senator LINCOLN represented the people of Arkansas with distinction for two terms, juggling a demanding career in public service while raising two wonderful twin boys Reece and Bennett. She is truly a wonderful colleague to work with. A centrist who comfortably works across the aisle and votes her convictions. One of the kindest people in the Senate. I expect great things of BLANCHE LINCOLN in the future and I have every confidence she will deliver on that prediction.

It has been an honor and a pleasure to serve with each of the people who will leave this Chamber when we adjourn sine die. Each has made substantial contributions to their States, to the Nation and to the Senate during their time here.

DIESEL EMISSIONS REDUCTION ACT

Mr. CARPER. Mr. President, I am joined by my colleague, Senator VOINOVICH, in support of the passage of the Diesel Emissions Reduction Act of 2010, DERA. The folks of Ohio and Delaware sent us to Washington to find ideas that will work, ideas we can all agree on to make our country even better. An idea that works is the Diesel Emissions Reduction Act or DERA.

The DERA program is one of the best actions our government has taken to improve air quality and help States and localities meet air quality standards. First authorized in the Energy Policy Act of 2005, DERA has provided funding for the modernization of our Nation's old diesel fleet in the United States through voluntary national and State-level grant and loan programs. Since its enactment in 2005, DERA has provided significant public health benefits, improved our national energy security, and helped create jobs. Currently, DERA helps clean up more than 14,000 diesel-powered vehicles and equipment across the country, which has reduced emissions while employing thousands of workers who manufacture, sell or repair diesel vehicles and their components in each State.

The Environmental Protection Agency has estimated that there are still millions of older diesel engines now in use and need to be replaced or retrofitted. To meet this need, the Diesel Emissions Reduction Act of 2010 authorizes the continuation of this successful program for 2012 through 2016. It also slightly modifies the program to improve its effectiveness and administration. Despite the significant benefits and need for DERA, the legislation

set the authorization levels for 2012 through 2016 at half the levels of that for 2007 through 2011. The authorizing levels were reduced to be more in line with what has been normally appropriated for the program. The cut in authorization levels in no way reflects the need for the program and in no way should be interpreted as an indication that funding levels should be decreased.

Senator VOINOVICH and I would like to thank the President and our colleagues for their support of DERA. We are proud that this commonsense approach to creating jobs and cleaning up our Nation's air will become law.

CONTINUING RESOLUTION

Mr. REED. Mr. President, I want to make a few observations about the continuing resolution and the appropriations process this year.

First, I want to commend Chairman INOUE for his leadership and efforts to accommodate the views and input of all senators in crafting the omnibus appropriations bill. He went a long way to meet the demands of the minority leader and other senators to include a \$29 billion cut from the budget level requested by the President. Indeed, I was deeply disappointed that the proposed omnibus would have eliminated the Leveraging Educational Assistance Program, LEAP. For more than a decade, I worked with states, educators, and others to reauthorize and fund this program, which uses Federal resources to leverage additional state aid to help low income students attend college. As much as I was dissatisfied by this outcome, I was prepared to vote for this bill because it is far superior to the inefficiencies and consequences of a continuing resolution. I am disappointed that such a significant compromise was blocked by the other side of the aisle.

Instead, we are being forced to adopt a short-term continuing resolution, CR, through March 4, 2011. With few exceptions, the CR provides no direction from Congress on how funds can be used, while at the same time failing to make critical adjustments and investments for certain programs and agencies. Critics of the omnibus appropriations bill should understand that unlike the thoughtful, lengthy, and open appropriations process that produced the omnibus, this CR was put together quickly without the input of most senators. As a result, it is hardly a thoughtful instrument for funding the government.

I am particularly concerned about the impact the CR will have on the capabilities of the Securities and Exchange Commission to provide robust oversight of financial markets.

Fair and orderly markets are critical to restoring confidence in the American economy. Despite considerable increases in the number of firms it is required to oversee and tremendous

growth in the size and complexity of the securities markets and products it regulates, the SEC's workforce and technology investments are only now returning to the levels of five years ago.

Under the CR, the SEC will be funded at the fiscal year 2010 rate, which is nearly \$200 million less than what was included during bipartisan negotiations on the omnibus. Without the omnibus's funding level, the SEC will have to halt several technology projects and forgo replacement of departing staff. Short-changing the SEC will also make it extraordinarily difficult to fulfill new statutory requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act. The SEC has been tasked with helping establish an effective regulatory system for the previously unseen and largely unregulated over-the-counter derivatives market and the hedge fund markets. It has new responsibilities over credit rating agencies, including annual exams.

We should not make the past mistake of underfunding the SEC. This agency is critical to restoring the confidence of retirees and investors in the United States capital markets, so that they will again invest in American companies, helping inject new life into our economy. We should not be penny-wise and pound-foolish. Continuing to starve the SEC of the funds it needs to police markets will ultimately make it more likely to see a major fraud. Any incremental savings will be cold comfort for the losses incurred by taxpayers and investors.

Likewise, I believe we need to fully fund the Commodity Futures Trading Commission. At a hearing that Senator LEVIN and I held on December 8, 2010, Chairman Gensler informed us that his agency is going to be woefully short of resources. The continuing resolution for the CFTC will leave them about \$116 million short of the funding level included in the omnibus.

I hope that we will have chance to address these critical shortfalls in the next funding vehicle to come before the Senate.

While it is true that overall the 36-page CR did not provide sufficient direction and oversight, it is important to acknowledge that the CR does make a few adjustments—some that are essential and others which I believe deserved greater consideration.

I want to applaud the addition of language in the CR that requires the Department of Health and Human Services to obligate the same amount of funding for the Low Income Home Energy Assistance Program as it did during the same period last year. This will make a total of \$3.95 billion available to low-income families and individuals during the cold winter months. I hope that in the final appropriations bill we will meet the bipartisan request of 44 Senators to fully fund this program at

the \$5.1 billion level for the entirety of fiscal year 2011.

I am also pleased that the CR addresses funding for the Pell grant. According to recent estimates from the Office of Management and Budget, students would have faced a reduction of as much as \$1,840 from the maximum grant. The CR will address the shortfall and ensure that we can maintain the Pell grant maximum at \$5,550. Despite the economic hardships families are facing, they continue to prioritize education. They know that it is the foundation for our economic recovery and future prosperity. We must keep our end of the bargain by maintaining our commitment to the Pell grant.

I am, however, concerned that the CR includes a provision to codify a misguided Bush-era regulation that undermines our central goal of ensuring that students in high poverty schools are taught by highly qualified teachers and that parents know the qualifications of their children's teachers. Under the No Child Left Behind Act, enacted in 2002, a highly qualified teacher must have obtained full state certification, which may include certification obtained through alternative routes. The Bush administration published regulations allowing that a teacher who is merely enrolled in or making progress toward state certification to be deemed highly qualified. Parents in California have challenged the regulation in the courts and have won a favorable decision on appeal. Quite simply, they want to know whether their children's teachers are fully certified or just in the process of becoming certified. This provision prevents them from knowing that.

I am also deeply disappointed that this CR does not contain important language that would have allowed the Department of Defense to reprogram funds for new starts, increases in production, or other realignments. This provision would have given the Department further flexibility to ensure critical defense programs stay on schedule and on cost. This is especially important for the Navy's ship construction programs—programs that the Navy supports, were authorized by the Defense Authorization Act, and employ thousands of Rhode Islanders.

Without this provision, the Navy, and all of the services, will be further limited and constrained to execute programs within the funding levels set last year.

I have described some of the pitfalls with this CR. It is a crude instrument that has many shortcomings. Regrettably, the decision by our colleagues on the other side of the aisle to walk away from the omnibus placed the continued operation of government agencies from the Pentagon to the FBI to the FDA to the Treasury at risk. Adopting the CR, notwithstanding its significant flaws, is the only responsible option available. In the coming months, it is my

hope that we can craft a full year funding measure that corrects the serious issues the CR has created and failed to address.

STORMWATER POLLUTION

Mr. CARDIN. Mr. President, today the Congress stands ready to approve S. 3481, a bill to clarify Federal responsibility to pay for stormwater pollution. This legislation, which will soon become law, requires the Federal government to pay localities for reasonable costs associated with the control and abatement of pollution that is originating on its properties. At stake is a fundamental issue of equity: polluters should be financially responsible for the pollution that they cause. That includes the Federal Government.

Annually hundreds of thousands of pounds of pollutants wash off the hardened surfaces in urban areas and into local rivers and streams, threatening the health of our citizens and causing significant environmental degradation. A one-acre parking lot produces about 16 times the volume of runoff that comes from a one-acre meadow. These pollutants include heavy metals, nitrogen and phosphorous, oil and grease, pesticides, bacteria (including deadly *e. coli*), sediment, toxic chemicals, and debris. Indeed, stormwater runoff is the largest source sector for many imperiled bodies of water across the country. According to the Environmental Protection Agency, stormwater pollution affects all types of water bodies including in order of severity; ocean shoreline, estuaries such as the Chesapeake Bay, Great Lakes shorelines, lakes and rivers. Degraded aquatic habitats are found everywhere that stormwater enters local waterways.

We added a provision to the bill in order to rectify a specific problem in the District of Columbia, where the Department of Treasury has been paying some stormwater fees. The provision simply says that agencies and departments should use their annual appropriated funds to pay for stormwater fees. This is exactly what they all do today in paying for their drinking water and wastewater bills or any other utility bill, for that matter. This new language requires that Congress make available, in appropriations acts, the funds that could be used for this purpose. It does not mean that the appropriations act would need to state specifically or expressly that the funds could be used to pay these charges. The legislative language doesn't say that, and I want to be perfectly clear that such a restrictive reading is not our intent.

I believe that this administration recognizes its responsibility to manage the stormwater pollution that comes off Federal properties. But that responsibility needs to translate into payments to the local governments that

are forced to deal with this pollution. Adopting this legislation today removes all ambiguity about the responsibility of the Federal Government to pay these normal and customary stormwater fees.

This is a matter of basic equity.

ACCOMPLISHMENTS OF THE 111TH CONGRESS

Mrs. BOXER. Mr. President, as we end this year, I wanted to look back at what we have been able to accomplish—and look ahead at some of the important priorities we must tackle next year.

The 111th Congress has been one of the most productive in our Nation's history.

Congressional scholar Norman Ornstein has said the legislative achievements of this session are “at least on par with the 89th Congress” of 1965–1966, under President Johnson, which produced landmark civil rights legislation as well as Medicaid and Medicare.

We should take a moment to reflect on some of those accomplishments.

After years of unsupervised gambling on Wall Street fueled an unsustainable housing bubble, we inherited the worst economic crisis since the Great Depression. We helped bring our economy back from the brink by taking bold action.

We passed the Economic Recovery Act, which has created or saved more than 350,000 jobs in my home State of California alone.

We approved the bipartisan HIRE Act—a jobs package that cut taxes for companies that hire unemployed workers and extended the highway trust fund. As chairman of the Senate Environment and Public Works Committee, I was pleased to help advance this critical measure to protect more than 1 million jobs nationwide building our roads, bridges and transit systems.

We helped small businesses—which are the true engines of our economic growth—by passing the Small Business Jobs and Credit Act. I was proud to join with Senator JEFF MERKLEY to create the new \$30 billion small business lending fund, which will help community banks give small businesses the credit they need to create hundreds of thousands of new jobs.

We approved legislation to help save up to 16,500 teacher jobs in California—and nearly 160,000 teachers' jobs nationwide—and paid for it by closing tax loopholes for companies that ship jobs overseas.

We worked across the aisle to give much-needed tax relief to millions of middle-class families and extend unemployment insurance for 2 million out-of-work Americans and 400,000 Californians who would otherwise have lost their benefits this month. And I was proud to work with Senator FEINSTEIN

and others to make sure this tax-relief package invests in clean energy, which will create tens of thousands of jobs in California and across the country.

And to ensure that we never again face a similar financial crisis, we passed landmark legislation to crack down on the reckless gambling on Wall Street, enacting tough reforms that will curb abuses, shine a light on dark markets and put a new cop on the beat to protect consumers. I was proud to offer the first amendment, which will ensure that taxpayers are never again on the hook to bail out Wall Street.

The 111th Congress was a landmark Congress for advancing civil rights for all Americans.

We approved the Lilly Ledbetter Fair Pay Act, to help ensure equal pay for equal work—regardless of age, race, gender, religion or national origin. It was the first bill signed into law by President Obama last year.

We passed the Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act to strengthen the ability of law enforcement to investigate and prosecute hate crimes. The law adds gender, sexual orientation, disability and gender identity as protected categories under Federal hate crimes law.

Last week, in a historic step, we repealed the discriminatory don't ask, don't tell policy that has banned gays and lesbians from serving openly in the U.S. military. Back in 1993, I offered an amendment on the Senate floor to keep this unjust policy from being codified into law. Now, 17 years later, I am so proud to witness this incredible victory for civil rights, equality and a stronger nation.

I was also proud to join in confirming two new Supreme Court Justices—Sonia Sotomayor, the first Latina to serve on the high court, and Elena Kagan. When Kagan was sworn in this fall, it marked the first time our country has had three women serving together on the Supreme Court.

We also confirmed some highly qualified and historic judicial nominees from California this Congress—including Judge Lucy Koh for the Northern District of California, Judge Jacqueline Nguyen for the Central District of California, Judge Dolly Gee for the Central District of California, and Judge Kimberly Mueller for the Eastern District of California.

The 111th Congress also took momentous steps forward in protecting consumers, children and all our families.

We passed a landmark health care reform bill that will extend coverage to 7 million uninsured Californians, help seniors pay for prescription drugs, provide tax credits to help small business owners afford coverage, and ensure that insurance companies can no longer deny coverage because of pre-existing conditions.

We approved legislation to allow the Food and Drug Administration to regu-

late tobacco and crack down on cigarette marketing and sales to kids.

We approved major reforms to the student loan system—ending subsidies to big banks, saving taxpayers money and providing Pell grants to 63,000 more students in California over the next decade.

We passed credit card reform legislation to protect consumers from excessive fees and deceptive practices.

And this month, we enacted a food safety bill that will help consumers and California's agriculture industry by protecting our Nation's food supply from outbreaks of foodborne illnesses.

I am also pleased that the Airline Passenger Bill of Rights that I have championed with Senator OLYMPIA SNOWE is now being implemented by the Department of Transportation. As a result, we are already seeing fewer long tarmac delays for airline passengers.

The 111th Congress has also taken great strides to protect public health and our environment.

We passed legislation protecting more than 2 million acres of wilderness and creating a national system to conserve land held by the Bureau of Land Management. The legislation included three bills I sponsored designating 700,000 additional acres of wilderness in California, from the Eastern Sierra Nevada to the San Jacinto Mountains in Riverside County.

I have been honored to serve as chairman of the Environment and Public Works Committee during a period of extraordinary accomplishments. In the 111th Congress, the EPW Committee held more than 80 hearings and approved more than 70 pieces of legislation. More than 20 EPW bills have gone to President Obama for his signature, including legislation to create jobs and accelerate economic recovery, to protect children and families from dangerous chemicals in the environment, and to address the dangers of unchecked climate change.

The committee has played a critical oversight role. While the oil was still gushing into the Gulf of Mexico, we held hearings to demand answers from oil company executives and Administration officials on the causes and impacts of the BP Deepwater Horizon oil-spill disaster. As a result, BP provided the committee with previously unavailable video records gathered since the incident. EPW then provided scientists, the public and the media with access to this important underwater video.

One of our most basic responsibilities is to protect children and families from dangerous toxins in the air they breathe and the water they drink.

Parents have a right to expect that their children are safe from environmental hazards when they are at school. But following reports that found toxic air pollution levels at

schools across the country, our oversight efforts led to additional EPA monitoring of air pollution at schools in California and in other States.

Emissions from ships' engines are a major cause of persistent air-quality problems at California's ports, including the Ports of Long Beach and Los Angeles, and at other ports around the Nation. EPW oversight helped shine a light on the importance of setting strong safeguards to reduce air pollution from marine vessels, and earlier this year international authorities officially designated waters off North American coasts as subject to strong international emission standards for ships.

I was also pleased when the Senate passed a bipartisan bill I sponsored with my ranking member, Senator JAMES INHOFE, to protect people from toxic lead in drinking water pipes, pipe fittings and plumbing fixtures. The bill is now on its way to the President's desk.

I was also pleased to work with Senators GEORGE VOINOVICH, TOM CARPER and INHOFE to pass bipartisan legislation to strengthen efforts to reduce pollution from diesel engines. Diesel exhaust contributes to pollution that threatens the health of millions of people in California and contributes to asthma, heart disease, cancer and other illnesses.

We also enacted legislation to study the impact of black carbon pollution, and bipartisan legislation to enforce more protective standards on cancer-causing formaldehyde in wood products.

After the Tennessee Valley Authority, TVA, coal ash disaster 2 years ago released more than 1 billion gallons of toxic material, EPW held hearings into the incident and we initiated an investigation of the dangers of coal combustion waste. We succeeded in ensuring that the Obama administration publicly released the list of other high-hazard ash sites because families have a right to know about dangers to their communities.

Making the transition to the clean energy economy is one of the best ways to create millions of jobs and protect our children from dangerous pollution, and it will help break our dangerous dependence on foreign oil, which costs us a billion dollars a day and threatens our national security.

Thanks in large part to the groundwork laid by the EPW Committee's vigilant oversight during the 110th Congress, the EPA finally in 2009 granted California's request for a waiver to tackle tailpipe emissions of global warming pollution and incorporated the waiver into a landmark agreement that will boost fuel efficiency, save consumers money, cut carbon pollution, and save billions of barrels of oil.

As chairman, I am committed to continuing to work on legislation that re-

duces pollution, promotes energy efficiency and creates incentives to speed the transition to clean, renewable sources of energy.

President Obama has already signed EPW legislation to train building operators and contractors to improve the energy efficiency of federal facilities, and our committee passed bills to make schools and other public buildings more energy efficient, and to provide incentives for clean energy development on abandoned or formerly contaminated sites. In the new Congress, I plan to continue to work to ensure that the U.S. Government facilities are models of clean-energy technology and energy efficiency.

This Congress has also taken action to protect our national security and support our troops and our veterans.

We just came together in a bipartisan fashion to ratify the New START treaty, which will help protect the national security of the United States by ensuring there are mutual reductions in nuclear weapons and delivery systems, and ensuring that our nuclear inspectors are on the ground in Russia.

We enacted tough new sanctions against Iran—another bipartisan vote that sends a clear and resounding message to Iran that it will pay a heavy price for its reckless pursuit of nuclear weapons.

We also passed legislation to improve the way the VA is funded, helping veterans get timely access to services and care. And we passed important legislation to compensate the family caregivers of our severely wounded service men and women. No one should have to face financial hardship for choosing to care for a loved one who was wounded in war.

As chair of the Senate Military Family Caucus, I was pleased to see the Senate approve my legislation to help reimburse military families for the cost of traveling off base to obtain needed specialty medical care.

Senators KIT BOND, JOE LIEBERMAN and I also worked to expand the use of veterans centers to active, Guard and Reserve U.S. military personnel.

As a member of the Senate Foreign Relations Committee, I was proud to help secure \$30 million to help women-led nongovernmental organizations in Afghanistan provide direct services such as adult literacy programs, vocational training and health services.

And I was proud to join Senator BOND to help secure funding for an additional eight C-17 aircraft, which are built in Long Beach and are critical to our national defense.

While we have made significant progress, there is still more to be done to create jobs, get our economy back on track, protect consumers and the environment, and make life better for all Californians and all Americans.

We must ensure that California and other states can continue to lead the

way toward a clean energy future, which is already creating hundreds of thousands of jobs.

We must continue to put Californians and Americans back to work by rebuilding our road, bridges and transit systems.

As we look to the 112th Congress, the Environment and Public Works Committee will continue to focus on creating jobs and turning our economy around through the next surface transportation authorization and through a new Water Resources Development Act.

And we will continue to shine a spotlight on the need to ensure the air our families breathe and the water our children drink is clean and safe. After the recent reports that found toxic chromium-6 contamination in drinking water in California and across the Nation, we have planned hearings on chromium-6 for early 2012. Senator FEINSTEIN and I sent a letter urging the EPA to act, and the agency has already begun to respond by offering assistance to affected communities.

We will also work to ensure communities that suspect they have a cluster of environmentally caused illness have access to the federal experts and other resources that can help them get the answers they deserve.

We must provide incentives for U.S.-based companies to bring home billions of dollars sitting offshore from foreign sales. Bringing those funds home could be major boost to our economic recovery from the private sector.

While I was disappointed that our efforts to pass the DREAM Act were blocked, we must continue to work to pass comprehensive immigration reform. Our broken immigration system tears families apart and hurts our economic competitiveness, and we must work together to fix it. I will keep fighting for these young people who are raised in America and I will continue to work to pass AgJobs.

And we cannot rest until other important judicial nominees are confirmed, including professor Goodwin Liu for the Ninth Circuit Court of Appeals, Judge Edward Chen for the Northern District of California, Judge Edward Davila for the Northern District of California, and Judge Anthony Battaglia for the Southern District of California.

While we passed legislation to help the 9/11 first responders, now we must finish the work of making sure our firefighters and public safety workers have fair working conditions.

I will also keep working to pass important bills that we approved in committee this year to protect our public lands, waterways and ocean resources, including legislation to help restore the Chesapeake Bay, the Great Lakes, Lake Tahoe, and the San Francisco Bay.

I am grateful to the people of the California for the opportunity to represent them in the United States Senate. I look forward to hearing their ideas as we continue our work in the 112th Congress next year.

HONORING OUR ARMED FORCES

Mr. NELSON of Florida. Mr. President, I pay tribute during this holiday season to the men and women serving our Nation so nobly across the globe. As we mark the 10th year our Nation has been engaged in combat, we should all be reminded of the extraordinary sacrifice of our soldiers, sailors, airmen, marines, and coast guardsmen.

As we gather with our loved ones, we must not forget those servicemembers who cannot be with their families and friends this holiday season. We honor these men and women risk their lives to protect our freedom and way of life. The one constant in this uncertain time is the heroism of people who so willingly fight for freedom. The strength of our Nation is built on their devotion and sacrifice.

SPECIALIST KELLY J. MIXON

I rise today to honor the fallen, like Army SPC Kelly J. Mixon of Yulee, FL, who was killed by an improvised explosive device in Afghanistan on December 8. Specialist Mixon would be 24 years old on Christmas Eve. Sadly, he will be buried in Arlington National Cemetery on December 29.

To the many men and women who have given the last measure of freedom, our country will remember your bravery and patriotism. To the families of these fallen servicemembers, we can never express enough gratitude for the sacrifice you must bear. On behalf of the people of Florida and our Nation, our prayers are with you.

COMPREHENSIVE DATA PRIVACY

Mr. LEAHY. Mr. President, as we approach the end of another year—and the end of the 111th Congress—millions of Americans continue to face growing threats to their privacy and security because of data security breaches involving their most sensitive personal information. Last year, I reintroduced the Personal Data Privacy and Security Act—a bipartisan and comprehensive bill that will better protect Americans from the growing threats of data breaches and identity theft. I am disappointed that the Senate will adjourn for the year without considering this important privacy legislation.

This long overdue privacy bill would establish a national standard for breach notification and requirements for securing Americans' most sensitive personal data. The bill—as improved by my manager's amendment—strikes the right balance to protect privacy, promote commerce, and successfully com-

bat identity theft. I urged the Senate to consider and pass this important privacy legislation before we adjourn for the year. Despite its bipartisan approval by the Judiciary Committee, the ranking Republican is objecting and refusing to allow the Senate to proceed.

When I first introduced this bill 6 years ago, I had high hopes of bringing urgently needed data privacy reforms to the American people. I have worked closely with both Republican and Democratic Senators since to enact this important privacy legislation. Although the Judiciary Committee favorably reported this bill three times—in 2005, 2007, and yet again in 2009—it remains stalled on the Senate Calendar. While the Senate has waited to act, the dangers to our privacy, economic prosperity, and national security posed by data breaches have not gone away.

The recently reported cyber attacks in response to the WikiLeaks disclosures are fresh reminders of the urgent need to have national standards to protect the privacy of America's digital information. In June, the insurance company WellPoint, Inc., announced that 470,000 individuals who used the company's Web site to apply for insurance may have unwittingly exposed their Social Security numbers and other sensitive data to the public. Just last month, the University of Hawaii suffered a major data breach involving sensitive student data, including Social Security numbers, dates of birth, names, and grades. And a recent data breach at the Department of Veterans Affairs resulted in the unauthorized release of the Social Security numbers and other personal information of at least 180 of our veterans. These troubling data breaches are painful reminders of the need to enact comprehensive Federal data privacy legislation this year.

This bill offers meaningful solutions to the vexing problem of data security breaches. It requires that data brokers let consumers know what sensitive personal information they have about them and to allow individuals to correct inaccurate information. The bill also requires that companies that have databases with sensitive personal information on Americans establish and implement data privacy and security programs.

In addition, the bill requires notice when sensitive personal information has been compromised. The bill provides for tough criminal penalties for anyone who would intentionally and willfully conceal the fact that a data breach has occurred when the breach causes economic damage to consumers. Finally, the bill addresses the important issue of the government's use of personal data.

I am pleased that the Obama administration has recently issued two privacy reports that make recommenda-

tions to improve data privacy that are consistent with the approach adopted in my bill.

I drafted this bill after long and thoughtful consultation with many of the stakeholders on this issue, including the privacy, consumer protection, and business communities. I have also worked closely with other Senators, including Senators FEINSTEIN, HATCH, FEINGOLD, SPECTER, and SCHUMER.

This is a comprehensive bill that not only deals with the need to provide Americans with notice when they have been victims of a data breach but that also deals with the underlying problem of lax security to help prevent data breaches from occurring in the first place. The House of Representatives has passed comprehensive data privacy legislation. The Senate should also pass comprehensive data privacy legislation and should have done so this Congress.

There has been ample time to resolve any concerns, but still there are those who are refusing to allow the Senate to act. We cannot afford to continue to wait to address this important privacy issue. The American people are suffering the consequences of that inaction.

CONTROLLED SUBSTANCES ACT

Mr. KOHL. Mr. President, the basic outline of legislative changes to the Controlled Substances Act that we expect to receive from the Department of Justice are as follows:

The legislation will deem certain nurses or other licensed health care professionals, who are designated by the nursing home as agents of DEA-licensed practitioners (practitioners being the resident's attending physician or specialist), as authorized to transmit the practitioner's order for a controlled substance, specifically Schedule II drugs, to DEA-licensed pharmacies, either orally or by fax. The nursing home, while not licensed by DEA, will be responsible for designating those who are authorized to transmit a practitioner's order, and for making a list of such authorized agents available to the pharmacy.

Whenever oral or faxed orders for controlled substances come in from authorized agents, pharmacies will be required to verify, based on the nursing home's list, that the nurse is authorized to call or fax in the practitioner's order. This chain-of-accountability process will allow the practitioner to give oral instructions for ordering a controlled substance to the resident's nurse over the phone. In addition, practitioners will be permitted to opt out with certain employees, should a practitioner have a problem with a particular nurse or designee.

Both practitioners and the nursing home will be required to keep written logs, or records, of such oral (or faxed) orders that are submitted by nurses. The nursing home will be further required to keep the list of authorized nurses current and to immediately notify the pharmacy of any changes in this list. Nurses or other licensed health care professionals who are authorized as agents by the nursing home will be required to formally acknowledge their responsibility for ordering and administering controlled

substances by accepting liability in terms of certain penalties that would apply under the Controlled Substances Act if they engage in diversion or other unacceptable practices.

Pharmacies will also be required to maintain logs, or records, of the orders that are placed by authorized nurse agents. Pharmacies will be further required to make telephone (or fax) contact with the resident's practitioner, under whose authority the controlled substances were ordered, within 48 hours of the time that the authorized agent transmits the order. The pharmacy will then be required to verify, and record, that the practitioner ordered a controlled substance. The practitioner will also be required to provide a written prescription to the pharmacy for the controlled substance within 10 days of the time that the authorized nurse agent transmits the order. Additional reasonable safeguards may be included.

TRIBUTE TO AMBASSADOR BATU KUTELIA

Mr. KERRY. Mr. President, I rise today to mention a distinguished Ambassador who is leaving Washington after a regrettably short tenure. Batu Kutelia, Ambassador of Georgia to the United States, is returning to his country to assume an important post in his government as Deputy National Security Adviser.

Although Ambassador Kutelia was only in Washington as Ambassador for less than 2 years, he and his wife Sofia and their young family will be missed by the many friends they leave behind. He will also be remembered for reinforcing and advancing his country's relations with the United States.

Ambassador Kutelia represented Georgia in Washington in challenging times. Following the 2008 war with Russia, in which he served as First Deputy Minister of Defense, the Ambassador helped facilitate the economic and political assistance necessary to rebuild and continue Georgia's economic development. He also ensured that Georgia's agenda within the U.S.-Georgia Charter on Strategic Partnership was ambitious and serious. Ambassador Kutelia's work with our government on the training of Georgian forces participating in the NATO International Security Assistance Force mission expedited their successful deployment to Afghanistan.

Ambassador Kutelia possesses a sophisticated understanding of Congress and its responsibilities within our democratic system. He was extremely accessible, maintaining strong working relationships and friendships with many Members and staffers. During the Ambassador's tenure, it is a fact that Georgia had a persuasive and effective representative whose passion for his nation never flagged and whose engagement with Congress far exceeded that of bigger countries with much larger embassies. Rarely did a Georgian official pass through Washington without at least one interaction with Congress, an admirable record which did a great

deal to stimulate interest and engagement between the United States and the country of Georgia.

Many of us on Capitol Hill have come to know and respect Georgia and its people. Georgia's future will be written by young leaders such as Batu Kutelia. I cannot help but believe that the country's future will be bright if it continues to produce leaders of his caliber. I wish him the best at his coming service in Tbilisi.

DON'T ASK, DON'T TELL

Mr. FEINGOLD. Mr. President, the repeal of the discriminatory don't ask, don't tell law will mean a stronger and more secure America. Discrimination has no place in American society, especially when it undermines our national security by hampering military readiness. While the repeal of this law is long overdue, ending this harmful policy does mark an important moment in the fight for equal rights for all Americans. I applaud all those who worked to overturn this policy, the many Americans who advocated for its repeal, and the patriotic men and women who will now be able to openly serve their country.

ALASKA CONSERVATION PARITY ACT

Mr. BEGICH. Mr. President, I want to take this opportunity to discuss an issue of importance to Alaska Native communities. The legislation currently under consideration would extend through 2011 the enhanced tax incentive for donations of qualified conservation easements. Unfortunately, Alaskan Native communities are ineligible under this provision and, as a result, do not have access to the tools they need to permanently protect historical or critical habitat.

For thousands of years, Alaska has been home to Native communities, whose rich heritages, languages, and traditions have thrived in the region's unique landscape. These communities continue to engage in a traditional subsistence lifestyle and harvest their food from the land. Nearly 70 percent of Native communities' food comes from the land and, for many communities, subsistence is an economic necessity considering the cost and difficulty involved in purchasing food.

I, along with my colleague, Ms. MURKOWSKI, have proposed legislation, S. 1673, which would provide parity. Our proposal is imperative to the long-term survival of Alaska-Native communities and Alaska's nature resources, which makes this critical legislation timely. Development pressures are increasingly significantly in many parts of Alaska. This legislation will allow private land owned by Alaska Native communities to be protected, while facilitating development that will spur

needed economic activity and job growth.

We have worked with the Senate Finance Committee over the past 2 years to ensure that this provision is ready for enactment. It is widely supported by the conservation community. I was hopeful it would be included in the end-of-the-year tax package the Senate is currently considering. Since the Senate was unable to address Alaska Native conservation parity before the end of the 111th Congress, I would be interested in learning, from the chairman of the Finance Committee, what his plans are for advancing the proposal in the 112th Congress.

Mr. BAUCUS. I am happy to respond to Mr. BEGICH from Alaska. I support the conservation easement deduction and sympathize with the Senator's efforts. I will work with Mr. BEGICH and Ms. MURKOWSKI to address conservation issues in the new Congress.

Mr. BEGICH. I thank you, Mr. BAUCUS. I appreciate the Senator's support on this issue, and look forward to working with him and my other Senate colleagues to pass this much needed piece of legislation as soon as an opportunity presents itself in the new Congress.

MAIL ORDER PHARMACY RATINGS

Mr. AKAKA. Mr. President, I commend the Department of Veterans Affairs on a very impressive recent achievement. The Department's mail-order pharmacy program was recently rated as top in the Nation among mail-order pharmacies by J.D. Power and Associates in their 2010 U.S. National Pharmacy Study.

VA received a score of 888 points out of a maximum possible score of 1,000. The Department did not receive an award for this achievement because their pharmacy service is only open to veterans and their families, but they did outscore the award recipient by a full 34 points, and the mail-order pharmacy average by 70 points. VA's program received the highest scores in the J.D. Power categories of overall experience, prescription ordering, prescription delivery, and cost competitiveness.

This is an extraordinary achievement, not only to be rated first in the Nation, but to so highly exceed the private sector. I congratulate VA, and especially commend Secretary Shinseki and Mr. Michael Valentino, Chief Consultant, Pharmacy Benefits Management Services, for their exceptional leadership success in implementing the mail-order pharmacy program.

AFGHANISTAN

Mr. DORGAN. Mr. President, as Congress begins next year to consider a range of policy choices in both domestic and foreign policy areas, I hope that

at long last, we will decide that the war in Afghanistan must end.

That war has lasted 9 years and we are now engaged in nation building in a country with a government that I believe is both incompetent and corrupt.

We began the actions in Afghanistan to capture or kill the terrorist groups that had launched the 9/11 attack on our country.

Now, many years later, we are bogged down in a war in Afghanistan where our intelligence officials tell us there is only a minimal presence of the terrorist group al-Qaida. Some estimates put the number of al-Qaida operatives in Afghanistan at fewer than one hundred.

We are now engaged in fighting the Taliban in Afghanistan and, frankly, there are a number of foreign armies that have tried and failed in Afghanistan over many centuries.

I don't believe there is any chance of our ever controlling the tribal regions of Afghanistan.

Furthermore, we ought to be fighting terrorism where terrorists, are rather than where terrorists were. We know that al-Qaida has reconstituted training camps in Northern Pakistan, and we suspect that is where their leadership is. We know al-Qaida is in Somalia and Yemen and other places. But, we are bogged down fighting the Taliban in Afghanistan. And frankly, that is not where the terrorists are.

It is time for our country to understand that this is an effort that will continue to drain our treasury and will result in the deaths of more American troops, but will not result in our controlling the territory of Afghanistan. We will be stuck for a long period of time with a permanent military presence at great cost and we will be paying for Afghanistan's defense even while failing to control the tribal regions of Afghanistan.

Recognition of those facts ought to persuade us to begin withdrawing from Afghanistan as soon as possible and begin pursuing terrorists where terrorists are now, not where they were then.

TRIBUTE TO GARY DIONNE

Mrs. FEINSTEIN. Mr. President, next month marks the retirement of Mr. Gary Dionne after 34 years in government service. Throughout this time, Gary has been both the consummate professional and a friendly presence in the halls here on Capitol Hill.

Mr. Dionne currently is the deputy director of the Office of Legislative Affairs for the Office of the Director of National Intelligence, and will be retiring from Federal service after fulfilling a career of dedicated support to the U.S. intelligence community and the National Security mission. A senior intelligence officer, Mr. Dionne has had a varied and distinguished career, having worked in different positions and ca-

pacities for the Department of Navy, the Central Intelligence Agency, and the Office of the Director of National Intelligence. For most of that time, Gary worked in the intelligence field where efforts and successes are not always rewarded publicly. I am glad we can do so here today.

Mr. Dionne, the son of Roland and Eva Dionne, a draftsman and consumer sales representative respectively, was raised in the small suburban town of Leominster, MA, a town known best as a hub for plastic factories but gained world-renowned fame as the originator of the plastic pink flamingo!

Following graduation from Leominster High School in 1975, Mr. Dionne enlisted in the U.S. Navy as a cryptologic technician radioman. Trained in Morse code and high frequency direction finding, Petty Officer Dionne supported U.S. Naval Intelligence while stationed in Augsburg, Germany, followed by a fleet assignment to the Command for Middle East Forces. As a member of the admiral's staff, Mr. Dionne provided intelligence support aboard the U.S.S. La Salle, U.S.S. Vreeland, U.S.S. Elmer Montgomery, U.S.S. Blandy, and the U.S.S. Aylwin.

Completing an enlistment with the U.S. Navy, Mr. Dionne subsequently joined the Central Intelligence Agency in 1981. Following training as a communications officer within the Office of Communications, Mr. Dionne supported intelligence activities in Central America and on back-to-back assignments to West Africa where he was promoted to Officer in Charge of the Telecommunications Unit. In this position he was responsible for the daily supervision of personnel and technical resources to maintain a multimillion-dollar communications facility.

After returning to CIA Headquarters, Mr. Dionne was assigned as deputy chief, headquarters operations branch, where he was responsible for VIP communications in domestic and foreign activities. This included communications support for the Director of Central Intelligence as well as support for Presidential and Cabinet members travel. Building on his technical background, he attended classes at George Mason University working toward a bachelor's degree in network management.

In 1994, Mr. Dionne assumed the responsibility of associate director, of the Agency Network Management Center where he had oversight responsibility for the daily health and welfare of the domestic telecommunications network. Mr. Dionne was then selected as chief of the resource management staff, operations group, where he managed the tactical and strategic direction for a multimillion-dollar telecommunications operational budget. This was an extremely rewarding assignment for Mr. Dionne where his ef-

forts directly supported for the agency's world-wide activities.

Mr. Dionne was selected to participate as a congressional fellow through the Government Affairs Institute at Georgetown University where he acquired a certificate in legislative studies. Mr. Dionne accepted a position on the U.S. House of Representatives Committee on Energy and Commerce staff and provided technical support to the Subcommittee on Communications, Technology and the Internet, as well as to the Subcommittee on Oversight and Investigations. Mr. Dionne viewed his experience in Congress as an awe-inspiring, humbling experience where he witnessed truly remarkable people working the most difficult challenges on behalf of America.

In 2002, following his fellowship in Congress, Mr. Dionne returned to the CIA in the Office of Congressional Affairs where as a liaison officer, he managed congressional activities for the community management account and the directorate of operations. Following the tragedy of September 11, 2001, Mr. Dionne was identified as the responsible congressional liaison officer for all intelligence community engagements with the Congressional Joint Intelligence Committee as Congress conducted their review of the intelligence failures leading up to September 11. From there Mr. Dionne served as the congressional liaison to the National Counter Terrorism Center and to its predecessor, the Terrorist Threat Integration Center. In 2007, Mr. Dionne was selected in to his current assignment as the deputy director of the Office of Legislative Affairs, for the Office of the Director of National Intelligence.

Throughout his career and travels around the world, Mr. Dionne is most grateful to have had the loving support of his wife Catherine who grew up in the same little factory town and whom he has known since they were in middle school together. He is so proud of his two daughters, Danielle, for serving as a 1st grade school teacher in Loudoun County, VA, and his daughter Antonia, for her ability to master Mandarin and who is presently working at the U.S.-China Policy Foundation in Washington, DC.

Mr. Dionne, thank you for your service to our country and good luck in all your future endeavors.

YOUTH DRUG USE

Mr. GRASSLEY. Mr. President, it is with great sadness and concern that I report that more and more kids are turning to drugs. Recently released annual studies that track drug use trends among youth and adults are indicating rapid increases in drug use among all age groups. The most recent National Survey on Drug Use and Health indicates drug use among people aged 12

and older increased by 9 percent since 2008. According to this survey, over 7 million people in the past year are estimated to have used drugs. Among these numbers, it is estimated that over 4 million people have abused marijuana, which is well over half of all drug abusers in this survey.

Even more disturbing are the rapid increases in drug use among America's youth. New figures from the Monitoring the Future Study, which is conducted by the University of Michigan and surveys school age kids' drug use from 8th grade to 12th grade, have shot up significantly. The rapid increases are due to higher use rates of marijuana among all age groups. Among the youngest surveyed, marijuana use jumped to 16 percent from 14.5 percent in the past year. Marijuana use has increased so much among high school seniors that more are now smoking marijuana than tobacco in the past 30 days. According to this survey, more than one in three high school seniors have smoked marijuana in the past year. Also troubling are the increases in the use of ecstasy, heroin, and the ongoing high abuse rates of prescription and over-the-counter medicines. On top of all this, the survey also determined that accompanying the increased drug use was a decreased perception that drugs are harmful.

In my home State of Iowa, the Governor's Office of Drug Control Policy reports in their 2011 Drug Control Strategy that marijuana continues to be the most abused illegal drug in Iowa. According to this report, nearly two-thirds of all children in substance abuse treatment are there for marijuana use. It is reported that these are the highest rates of marijuana-using treatment clients in recent Iowa history. The 2008 Iowa youth survey also shows that over one in four Iowa 11th graders have used marijuana in the past year.

It is easy to read these numbers but not fully grasp the magnitude of what is happening in this country. Dr. Nora Volkow, the director of the National Institute on Drug Abuse, states that the earlier teenagers start using marijuana the greater the risk they will have down the road. Dr. Volkow states, "Not only does marijuana affect learning, judgment, and motor skills, but research tells us that about 1 in 6 people who start using it as adolescents become addicted." The more we have young people turning to drugs the more they are putting their health and futures on the line. Not only do these numbers suggest more young people are putting themselves at risk, but they also show that the future of the country is at risk. These numbers are completely unacceptable and they illustrate that we are failing our kids.

How did we get to this point? The National Survey on Drug Use and Health stated that while their findings are dis-

appointing, they were not unexpected. The survey reported that data from the past two years have shown that young people's attitudes about drugs and their risks have been "softening." This means that kids are more and more coming to the conclusion that drug use really isn't as bad as it is made out to be. The Monitoring the Future Survey also indicates that young people's perceptions on drug use, especially the harms associated with marijuana use, are rapidly moving in a negative direction. The survey states, "Increases in youth drug use . . . are disappointing, and mixed messages about drug legalization—particularly of marijuana—may be contributing to the trend. Such messages only hinder the efforts of parents who are trying to prevent their kids from using drugs." Dr. Volkow also agrees that the debate over legalizing marijuana is contributing to the rising youth drug abuse rates. Dr. Volkow states, "We should examine the extent to which the debate over medical marijuana and marijuana legalization for adults is affecting teens' perceptions of risk."

The Obama administration also appears to agree with the above conclusions. The national drug czar, Gil Kerlikowski, who is Director of the Office of National Drug Control Policy states, "The increases in youth drug use . . . are disappointing. And mixed messages about drug legalization, particularly marijuana legalization, may be to blame. Such messages certainly don't help parents who are trying to prevent young people from using drugs." I could not agree more with this statement. However, I can't help but feel that this administration is contributing to the problem and not the solution.

In October 2009, the Department of Justice issued a memorandum to all U.S. attorneys regarding the prosecution of individuals who use or sell marijuana for medical purposes in states that allow it. This new policy states that U.S. attorneys should not expend resources to prosecute individuals who are complying with State laws regarding selling, possession, and use of marijuana for medical purposes. These State laws are in direct conflict with long existing Federal laws. The memorandum also states that this new policy will not alter the Department's authority to enforce Federal law.

This confusing policy attempts to have it both ways. The DOJ is telling U.S. attorneys that they should not prosecute people in States that allow medical marijuana, but the policy does not prevent them from doing so. This policy is a departure from the long-standing DOJ position to prosecute individuals who violate Federal law notwithstanding State law. This policy is ill advised, misguided, and internally inconsistent. It also sends the wrong message that this administration is de-

ciding which laws it would prefer to enforce rather than upholding and aggressively enforcing all existing laws.

Unfortunately, the mixed messages don't stop there. Just a few weeks ago, the Judiciary Committee took up the nomination of Michelle Leonhart to be Administrator of the Drug Enforcement Administration. Following her hearing, I asked a pretty straight forward question, did she support efforts to decriminalize or legalize the use, production, or distribution of marijuana, for medical purposes or otherwise. I was disappointed when I received her response that simply stated, "I support the Administration in its clear and steadfast opposition to the legalization of marijuana." While I agree that the administration should be "clear and steadfast" in opposing the legalization of marijuana, her answers did not address the issue of decriminalization. In fact, it took a follow-up letter from me to Ms. Leonhart to clarify this response where she finally stated she was "concerned with any actions that would lead to increased use of abuse and therefore, do[es] not support decriminalizing the cultivation, distribution, and use of marijuana for any purpose other than legitimate research." While I appreciate this more detailed response, it raises questions as to why this more comprehensive answer wasn't part of her initial response to my question. It is this sort of inconsistent response to simple questions on drug use that is sending mixed messages to minors across the country regarding the legalization and decriminalization of marijuana.

We should not be getting mixed messages on marijuana use. The Obama administration should send a strong, unequivocal message to kids that marijuana use is harmful, rather than issuing inconsistent statements and new policies that endorse State efforts to legalize marijuana use in certain instances.

I have long supported a unified, and consistent antidrug message combined with grassroots community efforts to combat drug abuse in all forms. Kids need to constantly hear the message that drug use is harmful and not safe. They need to hear it from all sectors of the community whether it comes from home, school, or anywhere else. That is why I continually support local community antidrug coalitions. These coalitions are on the front lines in communities and are probably our best weapon in the fight against drug abuse. The people who comprise these coalitions care deeply about their communities and they should be supported in their efforts.

If the Obama administration truly believes that the rise in youth drug use is blamed in part on sending mixed messages about marijuana then they need to reconsider their own actions.

We need to recognize the importance of sending strong and united messages about marijuana and drug use at large. We can start by being consistent with our own words and actions. Perhaps then we may be able to start to reverse the rising trends in youth drug use that have occurred since President Obama took office.

TROOP THANKSGIVING RECOGNITION

Mr. ENZI. Mr. President, I want to share with you a story of Thanksgiving that touched my heart. I am doing it just before Christmas to have you think about the effect of holidays on people away from home and especially troops stationed away from home and something you might do on a very small scale.

Two years ago, a barber in Cheyenne, WY, was cutting the hair of a young man from F. E. Warren Air Force Base and asked him what he was going to do for Thanksgiving. The airman guessed he would be spending it on the base. The barber, Glen Chavez said, Why don't you have Thanksgiving with my wife and I? Then Glen decided he better tell his wife. When he did she said, "Glen, I know you. It won't be just one and it won't be limited to a dozen. I'll help, but we need to find someplace bigger than our home." So Glen asked the Masonic Lodge if he could use their building. They said yes and Glen with the help of some friends fed 300 people from the base. Yes, the base serves a Thanksgiving dinner, but it is not the same if you eat it in the same mess hall you eat in every day. Chavez said he started the event to combat the loneliness that many members of the military feel when they are away from their families during the holidays.

The dinner was such a success that Glen decided to invite even more for the next year and to have more of the community involved. I am sure there is not a base and city anywhere that has the degree of cooperation and concern as Cheyenne and Warren Air Force Base. For example, people from the base help construct Habitat for Humanity homes. The school district built a new school on the base that also has kids attend who do not live on the base and have no military connection. The mix benefits everyone. Glen spent the year getting ready for this event speaking and enlisting the Chamber of Commerce and speaking at Lions, Rotary, and Kiwanis, to name a few.

So this year was the Second Annual Salute to our Troops. Steve Sears of Cheyenne Stitch donated T-shirts for the volunteers. The fire department cooked turkeys. They deep fried seven an hour for the 24 hours before the meal. A service club cooked 750 pounds of potatoes and mashed them. People from all over the community baked pies and cakes. Dozens of other volun-

teers helped out. Businesses donated door prizes. One prize was a 40-inch HD TV. This Thanksgiving they served over 500 people.

This year there was publicity to be sure all were invited. Posters went up all over the base and town. Some of that publicity made it to the blogosphere nationally. Glen got calls from 14 States commenting on the good idea and checking to see if they could duplicate it. Many who called told of personal difficulties, some with tragic endings, that this kind of an event can perhaps prevent.

Mr. President, I ask unanimous consent for an article about the event from the Wyoming Tribune Eagle to be printed in the RECORD. I want to thank Glen Chavez, the barber, for his idea and his ability to turn a dream into reality. Thanks also to all who made the dinner and appreciation of our troops possible.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wyoming Tribune-Eagle, Nov. 13, 2010]

TROOPS GET A BIG THANK-YOU

(By Josh Mitchell)

CHEYENNE—Daniel Fletcher with the Army National Guard has two families, and he felt fortunate to be with one of them on Thanksgiving.

The family he was with consisted of fellow soldiers and was some 500 members strong.

His other family is spread across the United States.

As Fletcher sat at a table surrounded by other soldiers at the Masonic Lodge, he reflected on the importance of being with loved ones on Thanksgiving.

"It means quite a bit," he said.

But Fletcher, 28, would have been alone on Thanksgiving had it not been for the outpouring of support from about 150 volunteers.

"I was going to sit at home and eat a TV dinner," Fletcher said.

The Second Annual Military Appreciation Free Thanksgiving Dinner hosted by Glen's Barber Shop of Cheyenne is an effort to show the gratitude owed to members of the armed services, organizer Glen Chavez said.

As Chavez looked across the dining room at families gathered around tables, he noted, "This is going to change Thanksgiving forever. Look at how awesome this is."

Chavez said he started the event to combat the loneliness that many members of the military feel when they are away from their families during the holidays.

The military serves the United States all year, and Chavez said it feels good to serve the soldiers for one day.

The support that Cheyenne shows for the military surprised Fletcher, who is from Poison, Mont. He said when he returned from Iraq he didn't think he would be greeted with much respect, but now he sees that that there is a lot of support for the soldiers.

Sue Mattingly is not a member of the military, but she still feels a camaraderie with the local soldiers. Mattingly broke down into tears as she talked about losing her dad this year.

After her loss, local soldiers were there for Mattingly, who is a cook at the bowling alley, where many of the soldiers spend time.

"They're like a family to me," Mattingly said. "Even though I'm a civilian, I feel like I've known them all my life."

Being away from family while serving overseas is just part of being a soldier, Greg Wheeler with the Wyoming Air National Guard said.

"It is what it is," Wheeler said. "You don't join the military and expect to be home every holiday."

But Wheeler was fortunate to be sitting at a table with his wife, children, mom and dad this Thanksgiving.

Marvin Wolf of Cheyenne remembers spending a Thanksgiving in South Korea during the Korean War.

"We had turkey, shrimp and all the trimmings," Wolf said. Wolf agreed that spending Thanksgiving with fellow soldiers is like being with a big family.

This Thanksgiving, Wolf said he is thankful for being an American citizen and for all the opportunities that the United States has offered his family.

Life is all about love and family, Wolf said. "That's what brings us together," he said.

Jennifer Roberts, whose husband is in the Air Force, was enjoying the Thanksgiving meal with her three children. Her husband couldn't attend the dinner because he was scheduled to work on the base in Cheyenne.

But having him at the base here was better than a couple of years ago when he was in Iraq over the holidays.

Her daughter, Brooke Roberts, 12, said, she is grateful to have her dad home this year.

Jennifer Roberts said tears came to her eyes when she arrived at the military Thanksgiving dinner Thursday.

"It makes you feel at home," said Roberts, who is from North Carolina.

There were over 50 sponsors for the event. U.S. Sen. Mike Enzi, R-Wyo., also made an appearance.

Chavez said he wants Enzi to take the idea of the military Thanksgiving dinner back to Washington to make it a national event.

Volunteer Terri Clark said, "It's an honor to serve them. They serve us. So it's the least we can do."

ADDITIONAL STATEMENTS

CARROLL COLLEGE FIGHTING SAINTS

● Mr. BAUCUS. Madam President, today I wish to recognize an outstanding championship college football team from my home State.

This past Saturday in Rome, GA the Carroll College Fighting Saints claimed another National Association of Intercollegiate Athletics national title with a hard fought 10 to 7 win over rival and fellow NAIA powerhouse the University of Sioux Falls Cougars. The win gives the Fighting Saints an unprecedented sixth national title in the past nine seasons. Coming into the game, Sioux Falls had won 42 games in a row. In fact, their last loss was to Carroll in the 2007 title game.

Carroll College is a private, Catholic college in my hometown of Helena, MT. Carroll boasts an enrollment of about 1,500 students and is known around the country for its award-winning academic and preprofessional programs. The school is particularly strong in

premedical, engineering, and nursing programs.

The game Saturday was a hard-fought victory marked by key big plays on offense led by Saints quarterback Gary Wagner and a tough defense that shut down the Cougars high-powered offense. Wagner, a native of Havre, MT, was named the offensive player of the game and scored the Saints' only touchdown on an amazing 83-yard run. The winning points were provided by place kicker Tom Yaremko on a clutch 22 yard field goal in the fourth quarter.

I would like to congratulate head coach Mike Van Diest and his coaching staff, along with Athletic Director Bruce Parker and Doctor Tom Trebon, the president of Carroll College, for their hard work and dedication in coaching and teaching these fine student athletes. The motto of Carroll College is "Not for School, but for life." Certainly the members of Carroll's football team have learned many life lessons. Coach Van Diest preaches the importance of getting a quality education, the value of teamwork, and the need to give back to the community. Last year 32 Fighting Saints were named to the Frontier Conference All-Academic team.

The Fighting Saints have a dedicated following throughout Montana. Thousands of fans dressed in purple and gold pack into Nelson Stadium on the Carroll campus for each home game. I always look forward to joining them whenever I can. And numerous fans made the long trip to Georgia to cheer on the Fighting Saints in the national title game.

Now another reason that I am so excited about the Saints winning another title is because of a bet I made with my good friend Senator TIM JOHNSON. I put a case of Montana microbrew beer on the line with confidence knowing the Saints would pull out the win, and Senator JOHNSON put up some buffalo steaks with faith that his Cougars would prevail. I am looking forward to enjoying those steaks, and I thank Senator JOHNSON for being such a good sport. I would also like to commend the University of Sioux Falls on a fine football season.

My congratulations and admiration goes out to all the Carroll coaches and players for their success and being great ambassadors for the State of Montana. Their hard work, dedication, and grit truly represent the best that Big Sky country has to offer. I look forward to cheering them on again next season as they go for title No. 7.●

SAN FRANCISCO MUSEUM OF MODERN ART

● Mrs. BOXER. Mr. President, I take this time to recognize the 75th anniversary of the San Francisco Museum of Modern Art, SFMOMA. For 75 years, SFMOMA has engaged and inspired

Bay Area residents and visitors alike through first-rate exhibitions, public programs, and special events that enrich and educate the community.

SFMOMA was founded in 1935 by Dr. Grace Louise McVann Morley. At the time of its founding, SFMOMA was the first and only museum on the west coast dedicated solely to modern and contemporary art. Dr. Morley, a visionary and committed leader, went on to serve as the museum's director for 23 years. Under her guidance, SFMOMA showcased innovative and challenging art by both new and established artists, helping to cement San Francisco's position as a leader in the world of modern art.

SFMOMA's leadership has never been limited to art alone but also extends to influencing public policy, establishing avenues to success for local and regional artists and exhibiting work that addresses current political and social movements.

To accommodate the expansion of the museum over the years, artwork was divided into four different departments: architectural and design, media arts, painting and sculpture, and photography. In addition to traditional exhibitions, SFMOMA now offers film festivals, live art performances, and educational programs for children and teens. The museum has also recently developed a new Web site and blog incorporating podcasts, an online tool for browsing the collection, and additional interactive features that make the museum more accessible than ever before.

Last year, SFMOMA entered into an exciting partnership with Doris and Donald Fisher, founders of the Gap, enabling the museum to exhibit the Fishers' personal art collection, known internationally to be one of the most comprehensive and extraordinary collections of modern art in the world. The collection is comprised of more than 1,100 works by 185 20th and 21st century American and European artists.

Today, SFMOMA retains more than 26,000 pieces of art in its permanent collection, including photographs, design objects, sculptures, and other artworks. The museum is currently planning a major expansion to support its ongoing growth and to showcase the Doris and Donald Fisher Collection. The additional space will allow SFMOMA to continue evolving and offering additional programs for the community to learn, engage, and interact with each other and with some of the greatest works of modern art.

Earlier this year, SFMOMA marked its 75th anniversary by offering 3 free days of special programs entitled "75 Years of Looking Forward." As a result, thousands visited the museum, eager to take advantage of the opportunity to honor and celebrate this cherished institution. SFMOMA hosts 800,000 visitors annually and boasts the

largest member base of any modern or contemporary art museum in the United States. I commend SFMOMA for serving the community superbly for the past 75 years. Audiences have been captivated and inspired by SFMOMA's collections and special exhibitions, and I wish this venerable cultural institution much success in the decades to come.●

REMEMBERING DR. HELEN MAYNOR SCHEIRBECK

● Mrs. HAGAN. Mr. President, last weekend the Nation lost Dr. Helen Maynor Scheirbeck—a great civil rights leader and a passionate advocate for American Indian rights.

Born in Lumberton, NC, as a proud member of the Lumbee Tribe, Dr. Scheirbeck's passing is a true loss for the Lumbee and the greater American Indian community. A champion for American Indian sovereignty, Dr. Scheirbeck worked constantly throughout her incredibly prolific career to enable future generations of Indian leaders to build healthier and better-educated communities.

In her early work on Capitol Hill, Dr. Scheirbeck served on the staff of North Carolina Senator Sam Ervin, then chair of Senate Subcommittee on Constitutional Rights. This work helped lay the foundation for the historic 1968 Indian Bill of Rights that extended constitutional rights and protections to American Indians nationwide. Similarly, Dr. Scheirbeck's efforts to organize the 1962 Capitol Conference on Poverty helped to ensure that Indian communities were a focus of the nationwide war on poverty.

Her commitment to self-determination and individual responsibility is further exemplified by Dr. Scheirbeck's work to empower tribal leaders to govern and educate their communities. Working on behalf of the Carter administration, Dr. Scheirbeck's leadership was instrumental in realigning Federal policies to support Indian sovereignty. Most notably, her efforts helped to ensure the passage of the Indian Education Act of 1975 and the Tribally Controlled Community College Assistance Act of 1978, which have enabled Indian leaders to provide better educational opportunities for current and future generations.

Working throughout her life to provide a forum for Indian leaders in our Nation's Capital, Dr. Scheirbeck was instrumental in establishing the National Museum of the American Indian. As Assistant Director in the early years of the museum, Dr. Scheirbeck guided the Office of Education and its program in cultural arts. In so doing, she sought to bring the experience of the American Indian to the National Mall and to demonstrate the applicability of Indian education models to educators throughout the world.

Finally, much of Dr. Scheirbeck's life was devoted to the cause of recognition for the Lumbee Tribe of North Carolina. Her life's work helped reverse the Federal Government's efforts to terminate relationships with American Indian tribes. Sadly, though, Dr. Scheirbeck's own Lumbee Tribe still bears the burden of this unfortunate policy, and she fought throughout her life to provide the Lumbee with the full recognition that they so deserve. While Dr. Scheirbeck did not live to see this dream become a reality, her life and work have helped to sustain the drive for Lumbee recognition for decades.

Dr. Helen Maynor Scheirbeck's presence and contributions throughout Indian Country are irreplaceable, and her tireless efforts on behalf of American Indians throughout the country will continue to inspire future Indian leaders for generations to come.●

POEM FOR SENATOR ROBERT BYRD

● Mr. LIEBERMAN. Madam President, I ask to have printed in the RECORD the following poem written in the memory of the late Senator Robert C. Byrd by Albert Carey Caswell.

The poem follows:

FROM SO LITTLE

From so little . . .
Can come so much!
From so humble beginnings . . .
Can, come as such . . .
Greatness, that only a heart can bring . . .
As from life's mistakes . . .
But, comes life's lessons . . . time and time
again such blessings!
For only in open hearts, will so ring!
In the kind, that dares great men to dream
great dreams!
Who come from almost nothing!
To grow and involve, all into a many splen-
did thing!
As from such humble beginnings, as but
comes such things!
From a coal miners father, and his dreams
. . .
A child, who would bless this our Nation all
in his being!
A giant, who upon the Senate floor . . . his
thundering voice would so ring!
Who fell in love, with one of our Forefathers
greatest dreams!
The Great American Experiment, called De-
mocracy of all things!
Democracy, and The United States Senate
. . . all in this wing!
And, that from so little . . . What time and
faith and courage, can so bring!
A man who so honored tradition, in all his
fiber and all his being . . .
All in his great intuition, knowing that
these were but time tested things . . .
But, so sacred and so essential . . . but to
our Nation's very being!
Like, a mother cub . . . Protecting her
young!
With all of his heart and soul, he would not
let this great body be undone!
And that some things you must not, and
should not change!
Time Tested, that for this our Nation to
thrive must so remain!
For he was a visionary, a scholar, and a stu-
dent of the past, and legislation his-
tory to last!

And with his very heart and soul, he so pro-
tected our forefathers great dream of
gold!

For he so wisely knew, that some things no
greater can be!

Never mess with perfection you see!

So with each new and succeeding year, a
champion for The Senate grew up so
here!

As this was but, his second greatest love so
clear!

His first, his beloved Erma, a marriage of
seventy years . . .

As This Master of Senate, so soon appeared
. . . the kind even Webster would re-
vere!

And now, into the next world Robert you
have gone, but ever your memory will
live on!

As but a lesson to us all . . .

As from what so little, can grow so tall!

A Champion of The United States Senate,
Robert Byrd . . .

As now up in Heaven, your voice is heard!●

TRIBUTE TO WILLIAMS S. GREENBERG

● Mr. MENENDEZ. Mr. President, I would like to recognize Brigadier General (Retired) William S. Greenberg, one of my constituents, who was honored on October 14, 2010, with the Rutgers Law School Alumni Association Public Service Award. Bill Greenberg has a long association with Rutgers, the State University of New Jersey. He is a member of the Newark law class of 1967. In 1966, as president of the Student Bar Association, he gave a memorable speech accepting the new law school building on behalf of the student body. He was joined in that ceremony by then-Chief Justice of the United States Earl Warren.

Following his graduation from Rutgers, he enlisted in the 5th Squadron of the 117th Cavalry of the 50th Armored Division, the Jersey Blues, and was selected as the outstanding enlisted cavalry trooper of the training cycle while at Fort Knox. Returning to New Jersey, he served as law secretary to Judge Robert A. Matthews, a Rutgers Law School alumnus, then sitting as a judge of the New Jersey Superior Court, Chancery Division, in Hudson County, and later as presiding judge of the Superior Court, Appellate Division.

Bill Greenberg began a long and distinguished career as a lawyer, bar leader, and soldier, author, public servant, and benefactor with McCarter & English, New Jersey's oldest and largest law firm and one of the region's most respected, where Bill is a senior partner today.

Throughout his career, his connection to Rutgers has remained strong, as exemplified by his support of the Justice Morris Pashman Scholarship Fund. He was chosen one of four commissioners of the New Jersey State Commission of Investigation by his Rutgers Law classmate, the late Alan J. Karcher, then-speaker of the New Jersey General Assembly. During a public-service leave from McCarter &

English, he served as assistant counsel to Gov. Richard J. Hughes, himself a graduate of Rutgers Law School. He represented the Governor in an important case involving senatorial courtesy before the New Jersey Supreme Court. This was the first of many important cases Bill Greenberg has argued. He has more than 100 published opinions to his credit. During his more than 40 years of private practice, he has founded his own law firm, served in many public positions, has been a noted litigator and bar association leader, as well as an author and benefactor of many educational and charitable institutions.

He served as prosecutor of Princeton. He was a commissioner of the New Jersey State Scholarship Commission. He was appointed by the Supreme Court of New Jersey to the Mercer County Ethics Committee and the Civil Practice Committee. He also served as a member of the New Jersey Supreme Court Committee on the admission of foreign attorneys, a groundbreaking effort by the New Jersey Supreme Court to permit Cuban lawyers who had emigrated to New Jersey to be permitted to take the bar examinations.

He was a trustee of both the New Jersey State Bar Association and the New Jersey State Bar Foundation. He served as chair of the Military Law Section of the New Jersey State Bar Association. In addition to holding many offices in the Association of Trial Lawyers of America, New Jersey—the New Jersey Association for Justice—he served as its president. He is an author and frequent lecturer on many litigation matters, and for over 20 years he has been the author and editor of the Civil Trial Handbook, Volume 47 of the New Jersey Practice Series, now in its fifth edition.

Civic minded and charitable, Bill Greenberg serves as a vice president of the Thanks To Scandinavia Educational and Charitable Trust of New York, which gives educational scholarships to recognize the efforts made by the Scandinavian countries to save Jews during World War II. He is chairman of the Mary Sachs Charitable Trust in Harrisburg, PA, established by his great aunt, which has over the past 50 years distributed millions of dollars in scholarships and other aid to educational and charitable organizations in central Pennsylvania. He and his wife, the former Betty Kaufmann Wolf of Pittsburgh, have established the Dr. Peter Scardino Trust at the Memorial Sloan Kettering Cancer Center to aid needy cancer patients. In addition, he and his wife have established endowed scholarships at Johns Hopkins and Brown Universities for needy students and have contributed substantially to the Institute for Advanced Study in Princeton.

He recently received the Distinguished Alumnus Award from Johns Hopkins and serves on its undergraduate advisory board. In December

2009, he was selected Lawyer of the Year by the New Jersey Law Journal, the leading law publication of record in our State. This year, he received the Major General Howard Louderback Award for lifetime service from the New Jersey Committee of the Department of Defense Committee for Employer Support of the Guard and Reserve.

I was pleased to recommend Bill Greenberg to the White House to be Chairman of the Reserve Forces Policy Board. He was selected by Secretary Gates for that important position in August 2009 and reappointed in August 2010. This board, created by Congress in 1952, is the principal policy adviser to the Secretary of Defense for Reserve component matters. I was pleased to make this recommendation because of General Greenberg's background of 27 years of military service in the Reserve components as an enlisted cavalry trooper, a member of the Judge Advocate General's Corps, and as a flag officer. More importantly, he established the Military Legal Assistance Program of the New Jersey State Bar Association for wounded or injured reservists called to duty after September 11, 2001. He personally and with members of his law firm, McCarter & English, has represented over 50 individual soldiers at Walter Reed in obtaining adequate military and veterans compensation. He is widely recognized as an expert in the field as well as a selfless advocate for individual soldiers and veterans in their legal struggles.

To those of us who are privileged to know Bill Greenberg personally, he brings passion, energy, hard work, patriotism, and dedication to all that he undertakes. These qualities have been recognized by his colleagues in the legal profession and in the Pentagon, where he has served with distinction and has consistently put foremost the interests of the individual reservist and the veteran. The American soldier has no greater friend than Bill Greenberg.●

RECOGNIZING AGREN APPLIANCE

● Ms. SNOWE. Mr. President, small businesses are the engine of our economy. There are literally millions of unique stories about how these companies had developed since they opened their doors. Some of the most impressive businesses are family-owned entities that start with a handful of workers and a commitment to filling a niche in their city or town. Today I recognize Agren Appliance, a company that started with the basics and has blossomed into a familiar name to residents of Lewiston-Auburn, ME, for over 40 years.

The Agren family began serving the community in 1969, when they operated two repair trucks to fix appliances for families and individuals throughout the greater Lewiston-Auburn area.

Their only technology was a rotary telephone to receive calls from those requiring assistance. Over time, the family developed a reputation for its reliability, gaining regular customers and parlaying that recognition into future success.

As a result of its strong and growing standing, Agren opened its first brick-and-mortar store in Auburn in 1978, carrying the Whirlpool brand of products. Over time, the company further expanded its reach, opening branches in the coastal town of Brunswick in 1983, as well as south Paris, in western Maine, in 1986. Later, Agren Appliance opened stores in south Portland and midcoast Maine, covering a large swath of the State's population. And on Monday, Agren Appliance moved from its former south Paris location to a newer, larger, 25,000-square-foot space in the neighboring town of Norway. The company has been recognized as one of the Nation's top 100 appliance retailers, an impressive feat in such a competitive market.

Agren now offers its customers a variety of products and brands—including televisions, beds, mattresses, and dining room sets. Nonetheless, each store is still a one-stop shop for all appliance needs, from dishwashers and refrigerators, to laundry machines and dryers. And the business stays true to its roots, boasting Maine's largest independent appliance repair team, as well as a fleet of repair trucks.

Furthermore, Agren Appliance is still family-owned and remains an integral part of the communities which it serves. The company frequently makes donations to organizations across the State, often providing gift certificates or various small appliances for silent auctions to benefit those in need. Additionally, at certain locations, Agren posts messages on their large electronic outdoor signs, advertising upcoming events and fundraising efforts from various members of the community—a generous act that helps promote worthwhile occasions and causes.

With five stores spread across the southern part of the State, Agren has developed from a small-town appliance repair business into a trusted name for appliance and furniture needs. I am always impressed by the ingenuity of small businesses like Agren, which has witnessed marked growth because of a strong work ethic and dedication to knowing and serving the community. I thank all of the company's employees for their hard work, and wish them much success in the years to come.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Health, Education, Labor, and Pensions.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

The PRESIDENT pro tempore (Mr. INOUE) reported that on December 21, 2010, he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. INOUE) reported that he had signed the following enrolled bills, which were previously signed by the Speaker of the House:

S. 118. An act to amend section 202 of the Housing Act of 1959, to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 1481. An act to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

H.R. 81. An act to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

At 1:37 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6547. An act to amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 6523) to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The message further announced that pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (22 U.S.C. 7002) as amended, the Minority Leader reappoints the following member on the part of the House of Representatives to the United States-China Economic and Security Review Commission: Mr. Larry Wortzel, effective January 1, 2011.

The message also announced that pursuant to section 235 of the Tribal Law and Order Act (Public Law 111-211), the Minority Leader appoints the following member on the part of the House of Representatives to the Indian Law and Order Commission: Mr. Thomas Gede of San Francisco, California.

The message further announced that pursuant to section 5605 of the Patient Protection and Affordable Care Act (Public Law 111-148), the Minority Leader appoints the following members on the part of the House of Representatives to the Commission on Key National Indicators: Mr. Marcus Peacock of Washington, D.C., and Mr. Tomas J. Philipson of Chicago, Illinois.

ENROLLED BILLS SIGNED

At 4:01 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 3243. An act to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to initiate all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

S. 3592. An act to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building".

H.R. 4445. An act to amend Public Law 95-232 to repeal a restriction on treating as Indian country certain lands held in trust for Indian pueblos in New Mexico.

H.R. 5470. An act to exclude an external power supply for certain security or life safety alarms and surveillance system components from the application of certain energy efficiency standards under the Energy Policy and Conservation Act.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. BAYH).

ENROLLED BILLS SIGNED

At 4:27 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 5116. An act to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

H.R. 6398. An act to require the Federal Deposit Insurance Corporation to fully insure Interest on Lawyers Trust Accounts.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. BAYH).

At 6:44 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6560. An act to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 3481. An act to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

S. 3903. An act to authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo.

S. 4036. An act to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury.

S. 4058. An act to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosures.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 372. An act to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 67. Concurrent resolution celebrating 130 years of United States-Romanian diplomatic relations, congratulating the Romanian people on their achievements as a great nation, and reaffirming the deep bonds of trust and values between the United States and Romania, a trusted and most valued ally.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 847) to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 5901) to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investment in United States real property interest, and for other purposes.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 6517) to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5367. An act to amend title 11, District of Columbia Official Code, to revise certain

administrative authorities of the District of Columbia courts, to authorize the District of Columbia Public Defender Service to provide professional liability insurance for officers and employees of the Service for claims relating to services furnished within the scope of employment with the Service, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5446. An act to designate the facility of the United States Postal Service located at 600 Florida Avenue in Cocoa, Florida, as the "Harry T. and Harriette Moore Post Office"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5493. An act to provide for the furnishing of statues by the District of Columbia and territories and possessions of the United States for display in Statuary Hall in the United States Capitol; to the Committee on Rules and Administration.

H.R. 5702. An act to amend the District of Columbia Home Rule Act to reduce the waiting period for holding special elections to fill vacancies in local offices in the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6205. An act to designate the facility of the United States Postal Service located at 1449 West Avenue in Bronx, New York, as the "Private Isaac T. Cortes Post Office"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6397. An act to amend section 101(a)(35) of the Immigration and Nationality Act to provide for a marriage for which the parties are not physically in the presence of each other due to service abroad in the Armed Forces of the United States; to the Committee on the Judiciary.

H.R. 6494. An act to amend the National Defense Authorization Act for Fiscal Year 2010 to improve the Littoral Combat Ship program of the Navy; to the Committee on Armed Services.

H.R. 6540. An act to require the Secretary of Defense, in awarding a contract for the KC-X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess; to the Committee on Armed Services.

H.R. 6547. An act to amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees; to the Committee on Health, Education, Labor, and Pensions.

H.R. 6560. An act to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-8582. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Extension of Tolerances for Emergency Exemptions (Multiple Chemicals)" (FRL No. 8857-5) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8583. A communication from the Director of the Regulatory Management Division,

Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Flutolanil; Pesticide Tolerances" (FRL No. 8855-7) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8584. A joint communication from the Under Secretary of Defense (Personnel and Readiness) and the Under Secretary of Defense (Policy), transmitting, pursuant to law, a report entitled "The Power of the People: Building an Integrated National Security Professional System for the 21st Century"; to the Committee on Armed Services.

EC-8585. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to India; to the Committee on Banking, Housing, and Urban Affairs.

EC-8586. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Turkey; to the Committee on Banking, Housing, and Urban Affairs.

EC-8587. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Determination of Nonattainment and Reclassification of the Dallas/Fort Worth 1997 8-hour Ozone Nonattainment Area; Texas" (FRL No. 9240-8) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC-8588. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Mississippi; Prevention of Significant Deterioration Rules; Nitrogen Oxides as a Precursor to Ozone" (FRL No. 9241-1) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC-8589. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program" (FRL No. 9241-4) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC-8590. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; New Jersey; 8-hour Ozone Control Measures" (FRL No. 9214-4) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC-8591. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to Lead Ambient Air Monitoring Requirements" (FRL No. 9241-8) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC-8592. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Environmental Protection Agency Implementation of OMB Guidance on Drug-Free Workplace Requirements" (FRL No. 9242-2) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Environment and Public Works.

EC-8593. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Emissions Banking and Trading of Allowances Program" (FRL No. 9243-1) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC-8594. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Sulfur Dioxide SIP Revision for Marathon Petroleum St. Paul Park" (FRL No. 9243-3) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC-8595. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to Ambient Air Quality Standards for Particulate Matter" (FRL No. 9243-5) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC-8596. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County's Adoption of Control Techniques Guidelines for Large Appliance and Metal Furniture; Flat Wood Paneling; Paper, Film, and Foil Surface Coating Processes; and Revisions to Definitions and an Existing Regulation" (FRL No. 9243-6) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC-8597. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Regulation Deferring the Reporting Date for Certain Data Elements Required Under the Mandatory Reporting of Greenhouse Gases Rule" (FRL No. 9242-7) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC-8598. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; West Vir-

ginia; Update to Materials Incorporated by Reference" (FRL No. 9240-1) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC-8599. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category; and Addition to Source Category List for Standards" (FRL No. 9242-3) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC-8600. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation" (RIN3150-A147) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC-8601. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "General Design Guide for Ventilation Systems of Plutonium Processing and Fuel Fabrication Plants" (Regulatory Guide 3.12, Revision 1) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC-8602. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Pressure-Sensitive and Tamper-Indicating Device Seals for Material Control and Accounting of Special Nuclear Material" (Regulatory Guide 5.80) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC-8603. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Notice of Availability of Model Application and Safety Evaluation for Plant-Specific Adoption of TSTF-514, Revision 3 'Revise BWR Operability Requirements and Actions for RCS Leaking Instrumentation'" (NUREG-1433 and NUREG-1434) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Environment and Public Works.

EC-8604. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imazosulfuron; Pesticide Tolerances" (FRL No. 8857-4) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8605. A communication from the Director of the Legislative Affairs Division, Natural Resources Conservation Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Grassland Reserve Program, Final Rule" (RIN0578-AA53) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8606. A communication from the Administrator, Rural Housing Service, Department of Agriculture, transmitting, pursuant

to law, the report of a rule entitled "Continuous Construction—Permanent Loan Guarantees Under the Section 538 Guaranteed Rural Rental Housing Program" ((7 CFR Part 3565)(RIN0575-AC80)) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8607. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Department of the Air Force and was assigned case number 08-02; to the Committee on Appropriations.

EC-8608. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Department of the Air Force and was assigned case number 08-03; to the Committee on Appropriations.

EC-8609. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the Program Acquisition Unit Cost for the Chemical Demilitarization-Assembled Chemical Weapons Alternative (ACWA) Program exceeding the Acquisition Program Baseline values by more than 25 percent; to the Committee on Armed Services.

EC-8610. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General Frank G. Klotz, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-8611. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General James H. Pillsbury, United States Air Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-8612. A communication from the Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Extension of Filing Accommodation for Static Pool Information in Filings with Respect to Asset-Backed Securities" (RIN3235-AK70) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-8613. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 13405 with respect to Belarus; to the Committee on Banking, Housing, and Urban Affairs.

EC-8614. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Montana Regulatory Program" (Docket No. MT-029-FOR) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Energy and Natural Resources.

EC-8615. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "North Dakota Regulatory Program" (Docket No. ND-051-FOR) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Energy and Natural Resources.

EC-8616. A communication from the Director, Office of Surface Mining, Department of

the Interior, transmitting, pursuant to law, the report of a rule entitled "Texas Regulatory Program" (Docket No. TX-059-FOR) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Energy and Natural Resources.

EC-8617. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Special Rules Relating to Funding Relief for Single-Employer Pension Plans under PRA 2010" (Notice 2011-3) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Finance.

EC-8618. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—January 2011" (Rev. Rul. 2011-2) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Finance.

EC-8619. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rules for Group Trusts" (Rev. Rul. 2011-1) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Finance.

EC-8620. A communication from the Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Federal Government Participation in the Automated Clearing House" (RIN1510-AB24) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC-8621. A communication from the Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Management of Federal Agency Disbursements" (RIN1510-AB26) received in the Office of the President of the Senate on December 20, 2010; to the Committee on Finance.

EC-8622. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2010-0176—2010-0189); to the Committee on Foreign Relations.

EC-8623. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services for the manufacture in Saudi Arabia of RR-170 Chaff Cartridges, RR-180 Chaff Cartridges, MJU-7A/B Flare Cartridges, MJU-10/B Flare Cartridges and M206 Flare Cartridges in the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC-8624. A communication from the Assistant General Counsel for Regulatory Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Supplemental Priorities for Discretionary Grant Programs" (RIN1894-AA00) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-8625. A communication from the Management and Program Analyst, Citizenship

and Immigration Services, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "E-2 Nonimmigrant Status for Aliens in the Commonwealth of the Northern Mariana Islands with Long-Term Investor Status" (RIN1615-AB75) received in the Office of the President of the Senate on December 22, 2010; to the Committee on the Judiciary.

EC-8626. A communication from the Secretary General of the Inter-Parliamentary Union, transmitting, a report relative to the Chiapas Declaration; to the Committee on Foreign Relations.

EC-8627. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the South Atlantic States; Emergency Rule to Delay Effectiveness of the Snapper-Grouper Area Closure" (RIN0648-BA47) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8628. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Herring Fishery; Temporary Removal of 2,000-lb (907.2-kg) Herring Trip Limit in Atlantic Herring Management Area 1A" (RIN0648-XA053) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8629. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Herring Fishery; Temporary Removal of 2,000-lb (907.2-kg) Herring Trip Limit in Atlantic Herring Management Area 1A" (RIN0648-XA039) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8630. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Inseason Action to Close the Commercial Non-Sandbar Large Coastal Shark Fishery in the Atlantic Region" (RIN0648-XA052) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8631. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions No. 12 and No. 13" (RIN0648-XY31) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8632. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled

“Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Feet (18.3 m) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area” (RIN0648-XA058) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8633. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Emergency Fisheries Closure in the Gulf of Mexico Due to the Deepwater Horizon MC252 Oil Spill; Amendment 4” (RIN0648-AY90) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8634. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Emergency Fisheries Closure in the Gulf of Mexico Due to the Deepwater Horizon MC252 Oil Spill; Amendment 3” (RIN0648-AY90) received in the Office of the President of the Senate on December 22, 2010; to the Committee on Commerce, Science, and Transportation.

EC-8635. A communication from the Chief Judge, Court of Appeals of Maryland, transmitting, a report relative to Interest on Attorneys Trust Accounts; to the Committee on Banking, Housing, and Urban Affairs.

EC-8636. A communication from the Deputy Assistant Secretary for Import Administration, Foreign-Trade Zones Board, Department of Commerce, transmitting, pursuant to law, an annual report on the Activities of the Foreign-Trade Zones Board, for fiscal year 2009; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, without amendment:

S. 3688. A bill to establish an international professional exchange program, and for other purposes (Rept. No. 111-383).

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation:

Report to accompany S. 773, a bill to ensure the continued free flow of commerce within the United States and with its global trading partners through secure cyber communications, to provide for the continued development and exploitation of the Internet and intranet communications for such purposes, to provide for the development of a cadre of information technology specialists to improve and maintain effective cybersecurity defenses against disruption, and for other purposes (Rept. No. 111-384).

Report to accompany S. 2764, a bill to reauthorize the Satellite Home Viewer Extension and Reauthorization Act of 2004, and for other purposes (Rept. No. 111-385).

Report to accompany S. 3304, a bill to increase the access of persons with disabilities to modern communications, and for other purposes (Rept. No. 111-386).

Report to accompany S. 1274, a bill to amend title 46, United States Code, to ensure that the prohibition on disclosure of mari-

time transportation security information is not used inappropriately to shield certain other information from public disclosure, and for other purposes (Rept. No. 111-387).

Report to accompany S. 2870, a bill to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes, and for other purposes (Rept. No. 111-388).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted on December 22, 2010:

By Mr. KERRY, from the Committee on Foreign Relations:

[Treaty Doc. 110-23 Investment Treaty with Rwanda with one declaration (Ex. Rept. 111-8)]

The text of the committee-recommended resolution of advice and consent to ratification is as follows:

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to a declaration.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of the Republic of Rwanda Concerning the Encouragement and Reciprocal Protection of Investment, signed at Kigali on February 19, 2008 (Treaty Doc. 110-23), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

Articles 3 through 10 and other provisions that qualify or create exceptions to these Articles are self-executing. With the exception of these Articles, the Treaty is not self-executing. None of the provisions in this Treaty confers a private right of action.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MERKLEY (for himself, Mr. JOHNSON, Mr. CORKER, and Mr. ENZI):

S. 4052. A bill to require the Federal Deposit Insurance Corporation to fully insure Interest on Lawyers Trust Accounts; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. LANDRIEU (for herself and Ms. SNOWE):

S. 4053. A bill to reauthorize and improve the SBIR and STTR programs, and for other purposes; considered and passed.

By Mr. SPECTER:

S. 4054. A bill to restore the law governing pleading and pleading motions that existed before the decisions of the Supreme Court of the United States in *Bell Atlantic v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009); to the Committee on the Judiciary.

By Mr. BROWN of Ohio (for himself, Mr. CASEY, Mr. BINGAMAN, Mrs. HAGAN, and Ms. STABENOW):

S. 4055. A bill to extend trade adjustment assistance, and for other purposes; to the Committee on Finance.

By Mr. CASEY:

S. 4056. A bill to amend the Internal Revenue Code of 1986 to permit the disclosure of certain tax return information for the purposes of missing or exploited children investigations; to the Committee on Finance.

By Mr. SANDERS (for himself and Mr. LEAHY):

S. 4057. A bill to provide for an earlier start for State health care coverage innovation waivers under the Patient Protection and Affordable Care Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY:

S. 4058. A bill to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosure; considered and passed.

By Mr. MENENDEZ:

S. 4059. A bill to authorize the Department of House and Urban Development to transform neighborhoods of extreme poverty into sustainable, mixed-income neighborhoods with access to economic opportunities, by revitalizing severely distressed housing, and investing and leveraging investments in well-functioning services, educational opportunities, public assets, public transportation, and improved access to jobs; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER (for himself and Mr. BENNETT):

S. Res. 705. A resolution providing for a technical correction to S. Res. 700; considered and agreed to.

By Mr. REID (for himself, Mr. MCCONNELL, Mr. KERRY, and Mr. KYL):

S. Res. 706. A resolution extending the authority for the Senate National Security Working Group; considered and agreed to.

By Mr. REID:

S. Res. 707. A resolution honoring Lula Davis; considered and agreed to.

ADDITIONAL COSPONSORS

S. 3424

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 3424, a bill to amend the Animal Welfare Act to provide further protection for puppies.

AMENDMENT NO. 4892

At the request of Mr. JOHANNES, his name was added as a cosponsor of amendment No. 4892 proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

AMENDMENT NO. 4904

At the request of Mr. CORKER, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Massachusetts (Mr. BROWN), the Senator from Alaska (Ms. MURKOWSKI), the

Senator from Arizona (Mr. McCAIN), the Senator from Nebraska (Mr. JOHANNES), the Senator from Michigan (Mr. LEVIN), the Senator from Arizona (Mr. KYL), the Senator from Indiana (Mr. BAYH), and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of amendment No. 4904 proposed to Treaty Doc. 111-5, treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

At the request of Mr. LUGAR, his name was added as a cosponsor of amendment No. 4904 proposed to Treaty Doc. 111-5, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 4054. A bill to restore the law governing pleading and pleading motions that existed before the decisions of the Supreme Court of the United States in *Bell Atlantic v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009); to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, last year I introduced the Notice Pleading Restoration Act of 2009, H.R. 1504. As I explained in my accompanying floor statement, my objective was to restore the pleading standard that had governed federal civil practice if not since the Federal Rules of Procedure originally took effect in 1938, then at very least since the Supreme Court decided *Conley v. Gibson* in 1957. Several months earlier the Supreme Court had issued the second of two controversial decisions—*Bell Atlantic Corp. v. Twombly*, 2007, and *Iqbal v. Ashcroft*, 2009—in which it had replaced that standard with a heightened pleading standard that, not least among its several flaws, was plainly inconsistent with the original meaning of the Federal Rules. My concern was not only that the Court had closed the courthouse doors to plaintiffs with meritorious claims and limited the private enforcement of public law, but also that, in yet another of its recent incursions on Congress's lawmaking powers, it had end-run the process for amending the Rules established by the Rules Enabling Act of 1934. That process includes, as its last step, Congressional approval of any amendment.

While there was widespread agreement among the country's leading academic proceduralists on the need for legislation overruling the Court's decisions, there was much less agreement among them as to what, exactly, the legislation should say. I chose in S. 1504 to incorporate the pleading standard set forth in *Conley*. A companion House bill introduced after S. 1504, H.R. 4115, took a somewhat different approach. Various commentators proposed yet other approaches.

After a hearing on the legislation before the Judiciary Committee, I consulted through my general counsel, Matthew L. Wiener, with leading academic proceduralists and several distinguished practicing lawyers with an eye toward offering a possible substitute amendment. The conclusion I soon drew was that Congress must indeed overrule *Twombly* and *Iqbal* but without (as the Court had done) prescribing a pleading standard outside the rulemaking process established by the Enabling Act. The best way to do so, I concluded, was simply to draft legislation requiring adherence to the Supreme Court's pre-*Twombly* decisions interpreting the applicable federal rules unless and until they are amended in accordance with the Enabling Act. The bill I have introduced today, the Notice Pleading Restoration Act of 2010, takes just that approach. I urge the next Congress to take up this bill when it convenes in January.

For their wise counsel in helping me work through the issues presented by the legislation, I would like to acknowledge and thank the following lawyers, most of them professors of civil procedure: Allen D. Black, a partner at Fine, Kaplan & Black, R.P.C.; John S. Beckerman, Professor of Law, Rutgers University School of Law-Camden; Stephen B. Burbank, the David Berger Professor for the Administration of Justice at the University of Pennsylvania Law School; Sean Carter, a shareholder of Cozen O'Connor; Jonathan W. Cuneo, a partner at Cuneo Gilbert & LaDuca LLP and a former counsel to the House Judiciary Committee; Michael C. Dorf, the Robert S. Stevens Professor of Law at Cornell University School of Law; William N. Eskridge, Jr., the John A. Garver Professor of Jurisprudence at Yale Law School; Suzette M. Malveaux, Associate Professor of Law, Columbus School of Law, Catholic University of America; Arthur R. Miller, University Professor at the New York University School of Law; John Payton, President and Director-Counsel, NAACP Legal Defense Fund; Alexander Reinert, an Associate Professor of Law at the Benjamin Cardozo School of Law; David L. Shapiro, the William Nelson Cromwell Professor of Law, Emeritus, at Harvard Law School; Stephen N. Subrin, Professor of Law, Northeastern University School of Law; and Tobias Barrington Wolff, a Professor of Law at the University of Pennsylvania Law School.

Professor Burbank deserves special acknowledgment for first suggesting and explaining the general approach underlying my bill during his testimony before the Senate Judiciary Committee on December 2, 2009, and special thanks for lending my staff so much of his valuable time during the last year-and-a-half. I commend his unimpeachable testimony to my colleagues and their staffs.

Not all of these lawyers, I must emphasize in closing, endorse my legislation, and none of them of course is responsible for its particulars. Most of them submitted prepared statements for the record of the December 2 hearing, and their individual views can be found there.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 705—PROVIDING FOR A TECHNICAL CORRECTION TO S. RES. 700

Mr. SCHUMER (for himself and Mr. BENNETT) submitted the following resolution; which was considered and agreed to:

S. RES. 705

Resolved,

SECTION 1. TECHNICAL CORRECTION.

Senate Resolution 700, 111th Congress, agreed to December 10, 2010, is amended in section 3(b)—

- (1) by striking paragraph (1); and
- (2) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

SENATE RESOLUTION 706—EXTENDING THE AUTHORITY FOR THE SENATE NATIONAL SECURITY WORKING GROUP

Mr. REID (for himself, Mr. McCONNELL, Mr. KERRY, and Mr. KYL) submitted the following resolution; which was considered and agreed to:

S. RES. 706

Resolved, That Senate Resolution 105 of the One Hundred First Congress, 1st session (agreed to on April 13, 1989), as amended by Senate Resolution 149 of the One Hundred Third Congress, 1st session (agreed to on October 5, 1993), as further amended by Senate Resolution 75 of the One Hundred Sixth Congress, 1st session (agreed to on March 25, 1999), as further amended by Senate Resolution 383 of the One Hundred Sixth Congress, 2d session (agreed to on October 27, 2000), as further amended by Senate Resolution 355 of the One Hundred Seventh Congress, 2d session (agreed to on November 13, 2002), as further amended by Senate Resolution 480 of the One Hundred Eighth Congress, 2d session (agreed to on November 20, 2004), as further amended by Senate Resolution 625 of the One Hundred Ninth Congress, 2d Session (agreed to on December 6, 2006), and as further amended by Senate Resolution 715 of the One Hundred Tenth Congress, 2d session (agreed to on November 20, 2008), is further amended in section 4 by striking "2010" and inserting "2012".

SENATE RESOLUTION 707—HONORING LULA DAVIS

Mr. REID submitted the following resolution; which was considered and agreed to:

S. RES. 707

Whereas Lula Davis, the Secretary for the Majority, will be retiring at the end of the 111th Congress, after a long and distinguished career;

Whereas Lula Davis was first elected as Assistant Democratic Secretary in 1997, and she was the first woman ever to hold that position;

Whereas Lula Davis was elected to be the Secretary for the Majority at the beginning of the 111th Congress, the first African American to serve in this position, and during the 111th Congress she has expertly tackled one of the toughest jobs in politics;

Whereas throughout her time in the Senate, Lula Davis has played a major role in managing the debate and passage of many significant pieces of legislation;

Whereas many legislative accomplishments over the years would not have happened without the leadership of Lula Davis;

Whereas Lula Davis lived in rural Louisiana, and worked as a teacher and guidance counselor;

Whereas Lula Davis remains committed to children in our community, founding and continuing to run a nonprofit mentoring and charitable organization called "Leadership Cares," which provides holiday meals to more than 650 families annually;

Whereas Lula Davis has encouraged many of her fellow Senate staff to volunteer alongside her family and friends to make a difference for those in need;

Whereas Lula Davis started her Senate career as a legislative aide to her home-state Senator, Russell Long, and went on to serve in almost every position on the floor staff, including office assistant, floor assistant, chief floor assistant, Assistant Secretary, and Secretary;

Whereas Lula Davis is a master of the complex formal and informal rules under which the Senate operates;

Whereas Lula Davis has consistently provided thoughtful and reliable advice to both Democratic and Republican leadership and all members of the Senate;

Whereas Lula Davis is loyal to the Senate and to Senators, and respects the traditions that make this body great;

Whereas the Senate has tremendous respect for Lula Davis and her hard work, and deeply appreciates her enormous contributions to the Senate and to the United States: Now, therefore, be it

Resolved, That the Senate expresses its deepest thanks to Lula Davis for her many years of outstanding service to the United States Senate and to the United States of America.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4921. Mr. LEVIN (for himself and Mr. McCAIN) proposed an amendment to the bill H.R. 6523, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

SA 4922. Mr. KIRK submitted an amendment intended to be proposed to amendment SA 4904 proposed by Mr. CORKER to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol.

SA 4923. Mr. REID (for Mrs. GILLIBRAND (for herself and Mr. SCHUMER)) proposed an amendment to the bill H.R. 847, to amend the Public Health Service Act to extend and improve protections and services to individuals

directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

SA 4924. Mr. BROWN of Ohio (for himself, Mr. CASEY, Mr. BAUCUS, Mr. MCCAIN, and Mr. KYL) proposed an amendment to the bill H.R. 6517, to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

TEXT OF AMENDMENTS

SA 4921. Mr. LEVIN (for himself and Mr. McCAIN) proposed an amendment to the bill H.R. 6523, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

Strike title XVII and the corresponding table of contents on page 18.

SA 4922. Mr. KIRK submitted an amendment intended to be proposed to amendment SA 4904 proposed by Mr. CORKER to Treaty Doc. 111–5, Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol; as follows:

On page 2, after line 19, add the following:

(2) MISSILE DEFENSE.—It is the understanding of the United States that the advice and consent of the Senate to the New START Treaty is subject to the understanding, which shall be transmitted to the Russian Federation at the time of the exchange of instruments of ratification, stated in the letter transmitted by President Barack Obama to the Majority Leader of the United States Senate on December 18, 2010, the text of which is as follows:

THE WHITE HOUSE,
Washington, December 18, 2010.

Hon. HARRY M. REID,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR REID: As the Senate considers the New START Treaty, I want to share with you my views on the issue of missile defense, which has been the subject of much debate in the Senate's review of the Treaty.

Pursuant to the National Missile Defense Act of 1999 (Public Law 106–38), it has long been the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack, whether accidental, unauthorized, or deliberate. Thirty ground-based interceptors based at Fort Greely, Alaska, and Vandenberg Air Force Base, California, are now defending the nation. All United States missile defense programs—including all phases of the European Phased Adaptive Approach to missile defense (EPAA) and programs to defend United States deployed forces, allies, and partners against regional threats—are consistent with this policy.

The New START Treaty places no limitations on the development or deployment of

our missile defense programs. As the NATO Summit meeting in Lisbon last month underscored, we are proceeding apace with a missile defense system in Europe designed to provide full coverage for NATO members on the continent, as well as deployed U.S. forces, against the growing threat posed by the proliferation of ballistic missiles. The final phase of the system will also augment our current defenses against intercontinental ballistic missiles from Iran targeted against the United States.

All NATO allies agreed in Lisbon that the growing threat of missile proliferation, and our Article 5 commitment of collective defense, requires that the Alliance develop a territorial missile defense capability. The Alliance further agreed that the EPAA, which I announced in September 2009, will be a crucial contribution to this capability. Starting in 2011, we will begin deploying the first phase of the EPAA, to protect large parts of southern Europe from short- and medium-range ballistic missile threats. In subsequent phases, we will deploy longer-range and more effective land-based Standard Missile-3 (SM-3) interceptors in Romania and Poland to protect Europe against medium- and intermediate-range ballistic missiles. In the final phase, planned for the end of the decade, further upgrades of the SM-3 interceptor will provide an ascent-phase intercept capability to augment our defense of NATO European territory, as well as that of the United States, against future threats of ICBMs launched from Iran.

The Lisbon decisions represent an historic achievement, making clear that all NATO allies believe we need an effective territorial missile defense to defend against the threats we face now and in the future. The EPAA represents the right response. At Lisbon, the Alliance also invited the Russian Federation to cooperate on missile defense, which could lead to adding Russian capabilities to those deployed by NATO to enhance our common security against common threats. The Lisbon Summit thus demonstrated that the Alliance's missile defenses can be strengthened by improving NATO-Russian relations.

This comes even as we have made clear that the system we intend to pursue with Russia will not be a joint system, and it will not in any way limit United States' or NATO's missile defense capabilities. Effective cooperation with Russia could enhance the overall effectiveness and efficiency of our combined territorial missile defenses, and at the same time provide Russia with greater security. Irrespective of how cooperation with Russia develops, the Alliance alone bears responsibility for defending NATO's members, consistent with our Treaty obligations for collective defense. The EPAA and NATO's territorial missile defense capability will allow us to do that.

In signing the New START Treaty, the Russian Federation issued a statement that expressed its view that the extraordinary events referred to in Article XIV of the Treaty include a "build-up in the missile defense capabilities of the United States of America such that it would give rise to a threat to the strategic nuclear potential of the Russian Federation." Article XIV(3), as you know, gives each Party the right to withdraw from the Treaty if it believes its supreme interests are jeopardized.

The United States did not and does not agree with the Russian statement. We believe that the continued development and deployment of U.S. missile defense systems, including qualitative and quantitative improvements to such systems, do not and will

not threaten the strategic balance with the Russian Federation, and have provided policy and technical explanations to Russia on why we believe that to be the case. Although the United States cannot circumscribe Russia's sovereign rights under Article XIV(3), we believe that the continued improvement and deployment of U.S. missile defense systems do not constitute a basis for questioning the effectiveness and viability of the New START Treaty, and therefore would not give rise to circumstances justifying Russia's withdrawal from the Treaty.

Regardless of Russia's actions in this regard, as long as I am President, and as long as the Congress provides the necessary funding, the United States will continue to develop and deploy effective missile defenses to protect the United States, our deployed forces, and our allies and partners. My Administration plans to deploy all four phases of the EPAA. While advances of technology or future changes in the threat could modify the details or timing of the later phases of the EPAA—one reason this approach is called "adaptive"—I will take every action available to me to support the deployment of all four phases.

Sincerely,

BARACK OBAMA.

SA 4923. Mr. REID (for Mrs. GILLIBRAND (for herself and Mr. SCHUMER)) proposed an amendment to the bill H.R. 847, to amend the Public Health Service Act to extend and improve protections and services to individual directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "James Zadroga 9/11 Health and Compensation Act of 2010".

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

Sec. 101. World Trade Center Health Program.

"TITLE XXXIII—WORLD TRADE CENTER HEALTH PROGRAM

"Subtitle A—Establishment of Program; Advisory Committee

"Sec. 3301. Establishment of World Trade Center Health Program.

"Sec. 3302. WTC Health Program Scientific/Technical Advisory Committee; WTC Health Program Steering Committees.

"Sec. 3303. Education and outreach.

"Sec. 3304. Uniform data collection and analysis.

"Sec. 3305. Clinical Centers of Excellence and Data Centers.

"Sec. 3306. Definitions.

"Subtitle B—Program of Monitoring, Initial Health Evaluations, and Treatment

"PART 1—WTC RESPONDERS

"Sec. 3311. Identification of WTC responders and provision of WTC-related monitoring services.

"Sec. 3312. Treatment of enrolled WTC responders for WTC-related health conditions.

"Sec. 3313. National arrangement for benefits for eligible individuals outside New York.

"PART 2—WTC SURVIVORS

"Sec. 3321. Identification and initial health evaluation of screening-eligible and certified-eligible WTC survivors.

"Sec. 3322. Followup monitoring and treatment of certified-eligible WTC survivors for WTC-related health conditions.

"Sec. 3323. Followup monitoring and treatment of other individuals with WTC-related health conditions.

"PART 3—PAYOR PROVISIONS

"Sec. 3331. Payment of claims.

"Sec. 3332. Administrative arrangement authority.

"Subtitle C—Research Into Conditions

"Sec. 3341. Research regarding certain health conditions related to September 11 terrorist attacks.

"Sec. 3342. World Trade Center Health Registry.

"Subtitle D—Funding

"Sec. 3351. World Trade Center Health Program Fund.

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

Sec. 201. Definitions.

Sec. 202. Extended and expanded eligibility for compensation.

Sec. 203. Requirement to update regulations.

Sec. 204. Limited liability for certain claims.

Sec. 205. Funding; attorney fees.

TITLE III—REVENUE RELATED PROVISIONS

Sec. 301. Excise tax on foreign procurement.

Sec. 302. Renewal of fees for visa-dependent employers.

TITLE IV—BUDGETARY EFFECTS

Sec. 401. Compliance with Statutory Pay-As-You-Go Act of 2010.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

SEC. 101. WORLD TRADE CENTER HEALTH PROGRAM.

The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXXIII—WORLD TRADE CENTER HEALTH PROGRAM

"Subtitle A—Establishment of Program; Advisory Committee

"SEC. 3301. ESTABLISHMENT OF WORLD TRADE CENTER HEALTH PROGRAM.

"(a) IN GENERAL.—There is hereby established within the Department of Health and Human Services a program to be known as the World Trade Center Health Program, which shall be administered by the WTC Program Administrator, to provide beginning on July 1, 2011—

"(1) medical monitoring and treatment benefits to eligible emergency responders and recovery and cleanup workers (including those who are Federal employees) who responded to the September 11, 2001, terrorist attacks; and

"(2) initial health evaluation, monitoring, and treatment benefits to residents and other building occupants and area workers in New York City who were directly impacted and adversely affected by such attacks.

"(b) COMPONENTS OF PROGRAM.—The WTC Program includes the following components:

"(1) MEDICAL MONITORING FOR RESPONDERS.—Medical monitoring under section 3311, including clinical examinations and long-term health monitoring and analysis for enrolled WTC responders who were likely to

have been exposed to airborne toxins that were released, or to other hazards, as a result of the September 11, 2001, terrorist attacks.

"(2) INITIAL HEALTH EVALUATION FOR SURVIVORS.—An initial health evaluation under section 3321, including an evaluation to determine eligibility for followup monitoring and treatment.

"(3) FOLLOWUP MONITORING AND TREATMENT FOR WTC-RELATED HEALTH CONDITIONS FOR RESPONDERS AND SURVIVORS.—Provision under sections 3312, 3322, and 3323 of followup monitoring and treatment and payment, subject to the provisions of subsection (d), for all medically necessary health and mental health care expenses of an individual with respect to a WTC-related health condition (including necessary prescription drugs).

"(4) OUTREACH.—Establishment under section 3303 of an education and outreach program to potentially eligible individuals concerning the benefits under this title.

"(5) CLINICAL DATA COLLECTION AND ANALYSIS.—Collection and analysis under section 3304 of health and mental health data relating to individuals receiving monitoring or treatment benefits in a uniform manner in collaboration with the collection of epidemiological data under section 3342.

"(6) RESEARCH ON HEALTH CONDITIONS.—Establishment under subtitle C of a research program on health conditions resulting from the September 11, 2001, terrorist attacks.

"(c) NO COST SHARING.—Monitoring and treatment benefits and initial health evaluation benefits are provided under subtitle B without any deductibles, copayments, or other cost sharing to an enrolled WTC responder or certified-eligible WTC survivor. Initial health evaluation benefits are provided under subtitle B without any deductibles, copayments, or other cost sharing to a screening-eligible WTC survivor.

"(d) PREVENTING FRAUD AND UNREASONABLE ADMINISTRATIVE COSTS.—

"(1) FRAUD.—The Inspector General of the Department of Health and Human Services shall develop and implement a program to review the WTC Program's health care expenditures to detect fraudulent or duplicate billing and payment for inappropriate services. This title is a Federal health care program (as defined in section 1128B(f) of the Social Security Act) and is a health plan (as defined in section 1128C(c) of such Act) for purposes of applying sections 1128 through 1128E of such Act.

"(2) UNREASONABLE ADMINISTRATIVE COSTS.—The Inspector General of the Department of Health and Human Services shall develop and implement a program to review the WTC Program for unreasonable administrative costs, including with respect to infrastructure, administration, and claims processing.

"(e) QUALITY ASSURANCE.—The WTC Program Administrator working with the Clinical Centers of Excellence shall develop and implement a quality assurance program for the monitoring and treatment delivered by such Centers of Excellence and any other participating health care providers. Such program shall include—

"(1) adherence to monitoring and treatment protocols;

"(2) appropriate diagnostic and treatment referrals for participants;

"(3) prompt communication of test results to participants; and

"(4) such other elements as the Administrator specifies in consultation with the Clinical Centers of Excellence.

"(f) ANNUAL PROGRAM REPORT.—

"(1) IN GENERAL.—Not later than 6 months after the end of each fiscal year in which the

WTC Program is in operation, the WTC Program Administrator shall submit an annual report to the Congress on the operations of this title for such fiscal year and for the entire period of operation of the program.

“(2) CONTENTS INCLUDED IN REPORT.—Each annual report under paragraph (1) shall include at least the following:

“(A) ELIGIBLE INDIVIDUALS.—Information for each clinical program described in paragraph (3)—

“(i) on the number of individuals who applied for certification under subtitle B and the number of such individuals who were so certified;

“(ii) of the individuals who were certified, on the number who received monitoring under the program and the number of such individuals who received medical treatment under the program;

“(iii) with respect to individuals so certified who received such treatment, on the WTC-related health conditions for which they were treated; and

“(iv) on the projected number of individuals who will be certified under subtitle B in the succeeding fiscal year and the succeeding 10-year period.

“(B) MONITORING, INITIAL HEALTH EVALUATION, AND TREATMENT COSTS.—For each clinical program so described—

“(i) information on the costs of monitoring and initial health evaluation and the costs of treatment and on the estimated costs of such monitoring, evaluation, and treatment in the succeeding fiscal year; and

“(ii) an estimate of the cost of medical treatment for WTC-related health conditions that have been paid for or reimbursed by workers' compensation, by public or private health plans, or by New York City under section 3331.

“(C) ADMINISTRATIVE COSTS.—Information on the cost of administering the program, including costs of program support, data collection and analysis, and research conducted under the program.

“(D) ADMINISTRATIVE EXPERIENCE.—Information on the administrative performance of the program, including—

“(i) the performance of the program in providing timely evaluation of and treatment to eligible individuals; and

“(ii) a list of the Clinical Centers of Excellence and other providers that are participating in the program.

“(E) SCIENTIFIC REPORTS.—A summary of the findings of any new scientific reports or studies on the health effects associated with exposure described in section 3306(1), including the findings of research conducted under section 3341(a).

“(F) ADVISORY COMMITTEE RECOMMENDATIONS.—A list of recommendations by the WTC Scientific/Technical Advisory Committee on additional WTC Program eligibility criteria and on additional WTC-related health conditions and the action of the WTC Program Administrator concerning each such recommendation.

“(3) SEPARATE CLINICAL PROGRAMS DESCRIBED.—In paragraph (2), each of the following shall be treated as a separate clinical program of the WTC Program:

“(A) FIREFIGHTERS AND RELATED PERSONNEL.—The benefits provided for enrolled WTC responders described in section 3311(a)(2)(A).

“(B) OTHER WTC RESPONDERS.—The benefits provided for enrolled WTC responders not described in subparagraph (A).

“(C) WTC SURVIVORS.—The benefits provided for screening-eligible WTC survivors and certified-eligible WTC survivors in section 3321(a).

“(g) NOTIFICATION TO CONGRESS UPON REACHING 80 PERCENT OF ELIGIBILITY NUMERICAL LIMITS.—The Secretary shall promptly notify the Congress of each of the following:

“(1) When the number of enrollments of WTC responders subject to the limit established under section 3311(a)(4) has reached 80 percent of such limit.

“(2) When the number of certifications for certified-eligible WTC survivors subject to the limit established under section 3321(a)(3) has reached 80 percent of such limit.

“(h) CONSULTATION.—The WTC Program Administrator shall engage in ongoing outreach and consultation with relevant stakeholders, including the WTC Health Program Steering Committees and the Advisory Committee under section 3302, regarding the implementation and improvement of programs under this title.

“SEC. 3302. WTC HEALTH PROGRAM SCIENTIFIC/TECHNICAL ADVISORY COMMITTEE; WTC HEALTH PROGRAM STEERING COMMITTEES.

“(a) ADVISORY COMMITTEE.—

“(1) ESTABLISHMENT.—The WTC Program Administrator shall establish an advisory committee to be known as the WTC Health Program Scientific/Technical Advisory Committee (in this subsection referred to as the ‘Advisory Committee’) to review scientific and medical evidence and to make recommendations to the Administrator on additional WTC Program eligibility criteria and on additional WTC-related health conditions.

“(2) COMPOSITION.—The WTC Program Administrator shall appoint the members of the Advisory Committee and shall include at least—

“(A) 4 occupational physicians, at least 2 of whom have experience treating WTC rescue and recovery workers;

“(B) 1 physician with expertise in pulmonary medicine;

“(C) 2 environmental medicine or environmental health specialists;

“(D) 2 representatives of WTC responders;

“(E) 2 representatives of certified-eligible WTC survivors;

“(F) an industrial hygienist;

“(G) a toxicologist;

“(H) an epidemiologist; and

“(I) a mental health professional.

“(3) MEETINGS.—The Advisory Committee shall meet at such frequency as may be required to carry out its duties.

“(4) REPORTS.—The WTC Program Administrator shall provide for publication of

commendations of the Advisory Committee on the public Web site established for the WTC Program.

“(5) DURATION.—Notwithstanding any other provision of law, the Advisory Committee shall continue in operation during the period in which the WTC Program is in operation.

“(6) APPLICATION OF FACA.—Except as otherwise specifically provided, the Advisory Committee shall be subject to the Federal Advisory Committee Act.

“(b) WTC HEALTH PROGRAM STEERING COMMITTEES.—

“(1) CONSULTATION.—The WTC Program Administrator shall consult with 2 steering committees (each in this section referred to as a ‘Steering Committee’) that are established as follows:

“(A) WTC RESPONDERS STEERING COMMITTEE.—One Steering Committee, to be known as the WTC Responders Steering Committee, for the purpose of receiving input from affected stakeholders and facilitating the coordination of monitoring and treatment programs for the enrolled WTC responders under part 1 of subtitle B.

“(B) WTC SURVIVORS STEERING COMMITTEE.—One Steering Committee, to be known as the WTC Survivors Steering Committee, for the purpose of receiving input from affected stakeholders and facilitating the coordination of initial health evaluations, monitoring, and treatment programs for screening-eligible and certified-eligible WTC survivors under part 2 of subtitle B.

“(2) MEMBERSHIP.—

“(A) WTC RESPONDERS STEERING COMMITTEE.—

“(i) REPRESENTATION.—The WTC Responders Steering Committee shall include—

“(I) representatives of the Centers of Excellence providing services to WTC responders;

“(II) representatives of labor organizations representing firefighters, police, other New York City employees, and recovery and cleanup workers who responded to the September 11, 2001, terrorist attacks; and

“(III) 3 representatives of New York City, 1 of whom will be selected by the police commissioner of New York City, 1 by the health commissioner of New York City, and 1 by the mayor of New York City.

“(ii) INITIAL MEMBERSHIP.—The WTC Responders Steering Committee shall initially be composed of members of the WTC Monitoring and Treatment Program Steering Committee (as in existence on the day before the date of the enactment of this title).

“(B) WTC SURVIVORS STEERING COMMITTEE.—

“(i) REPRESENTATION.—The WTC Survivors Steering Committee shall include representatives of—

“(I) the Centers of Excellence providing services to screening-eligible and certified-eligible WTC survivors;

“(II) the population of residents, students, and area and other workers affected by the September 11, 2001, terrorist attacks;

“(III) screening-eligible and certified-eligible survivors receiving initial health evaluations, monitoring, or treatment under part 2 of subtitle B and organizations advocating on their behalf; and

“(IV) New York City.

“(ii) INITIAL MEMBERSHIP.—The WTC Survivors Steering Committee shall initially be composed of members of the WTC Environmental Health Center Survivor Advisory Committee (as in existence on the day before the date of the enactment of this title).

“(C) ADDITIONAL APPOINTMENTS.—Each Steering Committee may recommend, if approved by a majority of voting members of the Committee, additional members to the Committee.

“(D) VACANCIES.—A vacancy in a Steering Committee shall be filled by an individual recommended by the Steering Committee.

“SEC. 3303. EDUCATION AND OUTREACH.

“The WTC Program Administrator shall institute a program that provides education and outreach on the existence and availability of services under the WTC Program. The outreach and education program—

“(1) shall include—

“(A) the establishment of a public Web site with information about the WTC Program;

“(B) meetings with potentially eligible populations;

“(C) development and dissemination of outreach materials informing people about the program; and

“(D) the establishment of phone information services; and

“(2) shall be conducted in a manner intended—

“(A) to reach all affected populations; and

“(B) to include materials for culturally and linguistically diverse populations.

“SEC. 3304. UNIFORM DATA COLLECTION AND ANALYSIS.

“(a) IN GENERAL.—The WTC Program Administrator shall provide for the uniform collection of data, including claims data (and analysis of data and regular reports to the Administrator) on the prevalence of WTC-related health conditions and the identification of new WTC-related health conditions. Such data shall be collected for all individuals provided monitoring or treatment benefits under subtitle B and regardless of their place of residence or Clinical Center of Excellence through which the benefits are provided. The WTC Program Administrator shall provide, through the Data Centers or otherwise, for the integration of such data into the monitoring and treatment program activities under this title.

“(b) COORDINATING THROUGH CENTERS OF EXCELLENCE.—Each Clinical Center of Excellence shall collect data described in subsection (a) and report such data to the corresponding Data Center for analysis by such Data Center.

“(c) COLLABORATION WITH WTC HEALTH REGISTRY.—The WTC Program Administrator shall provide for collaboration between the Data Centers and the World Trade Center Health Registry described in section 3342.

“(d) PRIVACY.—The data collection and analysis under this section shall be conducted and maintained in a manner that protects the confidentiality of individually identifiable health information consistent with applicable statutes and regulations, including, as applicable, HIPAA privacy and security law (as defined in section 3009(a)(2)) and section 552a of title 5, United States Code.

“SEC. 3305. CLINICAL CENTERS OF EXCELLENCE AND DATA CENTERS.

“(a) IN GENERAL.—

“(1) CONTRACTS WITH CLINICAL CENTERS OF EXCELLENCE.—The WTC Program Administrator shall, subject to subsection (b)(1)(B), enter into contracts with Clinical Centers of Excellence (as defined in subsection (b)(1)(A))—

“(A) for the provision of monitoring and treatment benefits and initial health evaluation benefits under subtitle B;

“(B) for the provision of outreach activities to individuals eligible for such monitoring and treatment benefits, for initial health evaluation benefits, and for followup to individuals who are enrolled in the monitoring program;

“(C) for the provision of counseling for benefits under subtitle B, with respect to WTC-related health conditions, for individuals eligible for such benefits;

“(D) for the provision of counseling for benefits for WTC-related health conditions that may be available under workers' compensation or other benefit programs for work-related injuries or illnesses, health insurance, disability insurance, or other insurance plans or through public or private social service agencies and assisting eligible individuals in applying for such benefits;

“(E) for the provision of translational and interpretive services for program participants who are not English language proficient; and

“(F) for the collection and reporting of data, including claims data, in accordance with section 3304.

“(2) CONTRACTS WITH DATA CENTERS.—

“(A) IN GENERAL.—The WTC Program Administrator shall enter into contracts with one or more Data Centers (as defined in subsection (b)(2))—

“(i) for receiving, analyzing, and reporting to the WTC Program Administrator on data, in accordance with section 3304, that have been collected and reported to such Data Centers by the corresponding Clinical Centers of Excellence under subsection (b)(1)(B)(iii);

“(ii) for the development of monitoring, initial health evaluation, and treatment protocols, with respect to WTC-related health conditions;

“(iii) for coordinating the outreach activities conducted under paragraph (1)(B) by each corresponding Clinical Center of Excellence;

“(iv) for establishing criteria for the credentialing of medical providers participating in the nationwide network under section 3313;

“(v) for coordinating and administering the activities of the WTC Health Program Steering Committees established under section 3002(b); and

“(vi) for meeting periodically with the corresponding Clinical Centers of Excellence to obtain input on the analysis and reporting of data collected under clause (i) and on the development of monitoring, initial health evaluation, and treatment protocols under clause (ii).

“(B) MEDICAL PROVIDER SELECTION.—The medical providers under subparagraph (A)(iv) shall be selected by the WTC Program Administrator on the basis of their experience treating or diagnosing the health conditions included in the list of WTC-related health conditions.

“(C) CLINICAL DISCUSSIONS.—In carrying out subparagraph (A)(ii), a Data Center shall engage in clinical discussions across the WTC Program to guide treatment approaches for individuals with a WTC-related health condition.

“(D) TRANSPARENCY OF DATA.—A contract entered into under this subsection with a Data Center shall require the Data Center to make any data collected and reported to such Center under subsection (b)(1)(B)(iii) available to health researchers and others as provided in the CDC/ATSDR Policy on Releasing and Sharing Data.

“(3) AUTHORITY FOR CONTRACTS TO BE CLASS SPECIFIC.—A contract entered into under this subsection with a Clinical Center of Excellence or a Data Center may be with respect to one or more class of enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors.

“(4) USE OF COOPERATIVE AGREEMENTS.—Any contract under this title between the WTC Program Administrator and a Data Center or a Clinical Center of Excellence may be in the form of a cooperative agreement.

“(5) REVIEW ON FEASIBILITY OF CONSOLIDATING DATA CENTERS.—Not later than July 1, 2011, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the feasibility of consolidating Data Centers into a single Data Center.

“(b) CENTERS OF EXCELLENCE.—

“(1) CLINICAL CENTERS OF EXCELLENCE.—

“(A) DEFINITION.—For purposes of this title, the term ‘Clinical Center of Excellence’ means a Center that demonstrates to the satisfaction of the Administrator that the Center—

“(i) uses an integrated, centralized health care provider approach to create a comprehensive suite of health services under this

title that are accessible to enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors;

“(ii) has experience in caring for WTC responders and screening-eligible WTC survivors or includes health care providers who have been trained pursuant to section 3313(c);

“(iii) employs health care provider staff with expertise that includes, at a minimum, occupational medicine, environmental medicine, trauma-related psychiatry and psychology, and social services counseling; and

“(iv) meets such other requirements as specified by the Administrator.

“(B) CONTRACT REQUIREMENTS.—The WTC Program Administrator shall not enter into a contract with a Clinical Center of Excellence under subsection (a)(1) unless the Center agrees to do each of the following:

“(i) Establish a formal mechanism for consulting with and receiving input from representatives of eligible populations receiving monitoring and treatment benefits under subtitle B from such Center.

“(ii) Coordinate monitoring and treatment benefits under subtitle B with routine medical care provided for the treatment of conditions other than WTC-related health conditions.

“(iii) Collect and report to the corresponding Data Center data, including claims data, in accordance with section 3304(b).

“(iv) Have in place safeguards against fraud that are satisfactory to the Administrator, in consultation with the Inspector General of the Department of Health and Human Services.

“(v) Treat or refer for treatment all individuals who are enrolled WTC responders or certified-eligible WTC survivors with respect to such Center who present themselves for treatment of a WTC-related health condition.

“(vi) Have in place safeguards, consistent with section 3304(c), to ensure the confidentiality of an individual's individually identifiable health information, including requiring that such information not be disclosed to the individual's employer without the authorization of the individual.

“(vii) Use amounts paid under subsection (c)(1) only for costs incurred in carrying out the activities described in subsection (a), other than those described in subsection (a)(1)(A).

“(viii) Utilize health care providers with occupational and environmental medicine expertise to conduct physical and mental health assessments, in accordance with protocols developed under subsection (a)(2)(A)(ii).

“(ix) Communicate with WTC responders and screening-eligible and certified-eligible WTC survivors in appropriate languages and conduct outreach activities with relevant stakeholder worker or community associations.

“(x) Meet all the other applicable requirements of this title, including regulations implementing such requirements.

“(C) TRANSITION RULE TO ENSURE CONTINUITY OF CARE.—The WTC Program Administrator shall to the maximum extent feasible ensure continuity of care in any period of transition from monitoring and treatment of an enrolled WTC responder or certified-eligible WTC survivor by a provider to a Clinical Center of Excellence or a health care provider participating in the nationwide network under section 3313.

“(2) DATA CENTERS.—For purposes of this title, the term ‘Data Center’ means a Center

that the WTC Program Administrator determines has the capacity to carry out the responsibilities for a Data Center under subsection (a)(2).

“(3) CORRESPONDING CENTERS.—For purposes of this title, a Clinical Center of Excellence and a Data Center shall be treated as ‘corresponding’ to the extent that such Clinical Center and Data Center serve the same population group.

“(c) PAYMENT FOR INFRASTRUCTURE COSTS.—

“(1) IN GENERAL.—The WTC Program Administrator shall reimburse a Clinical Center of Excellence for the fixed infrastructure costs of such Center in carrying out the activities described in subtitle B at a rate negotiated by the Administrator and such Centers. Such negotiated rate shall be fair and appropriate and take into account the number of enrolled WTC responders receiving services from such Center under this title.

“(2) FIXED INFRASTRUCTURE COSTS.—For purposes of paragraph (1), the term ‘fixed infrastructure costs’ means, with respect to a Clinical Center of Excellence, the costs incurred by such Center that are not otherwise reimbursable by the WTC Program Administrator under section 3312(c) for patient evaluation, monitoring, or treatment but which are needed to operate the WTC program such as the costs involved in outreach to participants or recruiting participants, data collection and analysis, social services for counseling patients on other available assistance outside the WTC program, and the development of treatment protocols. Such term does not include costs for new construction or other capital costs.

“(d) GAO ANALYSIS.—Not later than July 1, 2011, the Comptroller General shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate an analysis on whether Clinical Centers of Excellence with which the WTC Program Administrator enters into a contract under this section have financial systems that will allow for the timely submission of claims data for purposes of section 3304 and subsections (a)(1)(F) and (b)(1)(B)(iii).

“SEC. 3306. DEFINITIONS.

“In this title:

“(1) The term ‘aggravating’ means, with respect to a health condition, a health condition that existed on September 11, 2001, and that, as a result of exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, requires medical treatment that is (or will be) in addition to, more frequent than, or of longer duration than the medical treatment that would have been required for such condition in the absence of such exposure.

“(2) The term ‘certified-eligible WTC survivor’ has the meaning given such term in section 3321(a)(2).

“(3) The terms ‘Clinical Center of Excellence’ and ‘Data Center’ have the meanings given such terms in section 3305.

“(4) The term ‘enrolled WTC responder’ means a WTC responder enrolled under section 3311(a)(3).

“(5) The term ‘initial health evaluation’ includes, with respect to an individual, a medical and exposure history, a physical examination, and additional medical testing as needed to evaluate whether the individual has a WTC-related health condition and is eligible for treatment under the WTC Program.

“(6) The term ‘list of WTC-related health conditions’ means—

“(A) for WTC responders, the health conditions listed in section 3312(a)(3); and

“(B) for screening-eligible and certified-eligible WTC survivors, the health conditions listed in section 3322(b).

“(7) The term ‘New York City disaster area’ means the area within New York City that is—

“(A) the area of Manhattan that is south of Houston Street; and

“(B) any block in Brooklyn that is wholly or partially contained within a 1.5-mile radius of the former World Trade Center site.

“(8) The term ‘New York metropolitan area’ means an area, specified by the WTC Program Administrator, within which WTC responders and eligible WTC screening-eligible survivors who reside in such area are reasonably able to access monitoring and treatment benefits and initial health evaluation benefits under this title through a Clinical Center of Excellence described in subparagraphs (A), (B), or (C) of section 3305(b)(1).

“(9) The term ‘screening-eligible WTC survivor’ has the meaning given such term in section 3321(a)(1).

“(10) Any reference to ‘September 11, 2001’ shall be deemed a reference to the period on such date subsequent to the terrorist attacks at the World Trade Center, Shanksville, Pennsylvania, or the Pentagon, as applicable, on such date.

“(11) The term ‘September 11, 2001, terrorist attacks’ means the terrorist attacks that occurred on September 11, 2001, in New York City, in Shanksville, Pennsylvania, and at the Pentagon, and includes the aftermath of such attacks.

“(12) The term ‘WTC Health Program Steering Committee’ means such a Steering Committee established under section 3302(b).

“(13) The term ‘WTC Program’ means the World Trade Center Health Program established under section 3301(a).

“(14)(A) The term ‘WTC Program Administrator’ means—

“(i) subject to subparagraph (B), with respect to paragraphs (3) and (4) of section 3311(a) (relating to enrollment of WTC responders), section 3312(c) and the corresponding provisions of section 3322 (relating to payment for initial health evaluation, monitoring, and treatment, paragraphs (1)(C), (2)(B), and (3) of section 3321(a) (relating to determination or certification of screening-eligible or certified-eligible WTC responders), and part 3 of subtitle B (relating to payor provisions), an official in the Department of Health and Human Services, to be designated by the Secretary; and

“(ii) with respect to any other provision of this title, the Director of the National Institute for Occupational Safety and Health, or a designee of such Director.

“(B) In no case may the Secretary designate under subparagraph (A)(i) the Director of the National Institute for Occupational Safety and Health or a designee of such Director with respect to section 3322 (relating to payment for initial health evaluation, monitoring, and treatment).

“(15) The term ‘WTC-related health condition’ is defined in section 3312(a).

“(16) The term ‘WTC responder’ is defined in section 3311(a).

“(17) The term ‘WTC Scientific/Technical Advisory Committee’ means such Committee established under section 3302(a).

“Subtitle B—Program of Monitoring, Initial Health Evaluations, and Treatment

“PART 1—WTC RESPONDERS

“SEC. 3311. IDENTIFICATION OF WTC RESPONDERS AND PROVISION OF WTC-RELATED MONITORING SERVICES.

“(a) WTC RESPONDER DEFINED.—

“(1) IN GENERAL.—For purposes of this title, the term ‘WTC responder’ means any of the following individuals, subject to paragraph (4):

“(A) CURRENTLY IDENTIFIED RESPONDER.—An individual who has been identified as eligible for monitoring under the arrangements as in effect on the date of the enactment of this title between the National Institute for Occupational Safety and Health and—

“(i) the consortium coordinated by Mt. Sinai Hospital in New York City that coordinates the monitoring and treatment for enrolled WTC responders other than with respect to those covered under the arrangement with the Fire Department of New York City; or

“(ii) the Fire Department of New York City.

“(B) RESPONDER WHO MEETS CURRENT ELIGIBILITY CRITERIA.—An individual who meets the current eligibility criteria described in paragraph (2).

“(C) RESPONDER WHO MEETS MODIFIED ELIGIBILITY CRITERIA.—An individual who—

“(i) performed rescue, recovery, demolition, debris cleanup, or other related services in the New York City disaster area in response to the September 11, 2001, terrorist attacks, regardless of whether such services were performed by a State or Federal employee or member of the National Guard or otherwise; and

“(ii) meets such eligibility criteria relating to exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks as the WTC Program Administrator, after consultation with the WTC Scientific/Technical Advisory Committee, determines appropriate.

The WTC Program Administrator shall not modify such eligibility criteria on or after the date that the number of enrollments of WTC responders has reached 80 percent of the limit described in paragraph (4) or on or after the date that the number of certifications for certified-eligible WTC survivors under section 3321(a)(2)(B) has reached 80 percent of the limit described in section 3321(a)(3).

“(2) CURRENT ELIGIBILITY CRITERIA.—The eligibility criteria described in this paragraph for an individual is that the individual is described in any of the following categories:

“(A) FIREFIGHTERS AND RELATED PERSONNEL.—The individual—

“(i) was a member of the Fire Department of New York City (whether fire or emergency personnel, active or retired) who participated at least one day in the rescue and recovery effort at any of the former World Trade Center sites (including Ground Zero, Staten Island Landfill, and the New York City Chief Medical Examiner’s Office) for any time during the period beginning on September 11, 2001, and ending on July 31, 2002; or

“(ii)(I) is a surviving immediate family member of an individual who was a member of the Fire Department of New York City (whether fire or emergency personnel, active or retired) and was killed at the World Trade Center site on September 11, 2001; and

“(II) received any treatment for a WTC-related health condition described in section

3312(a)(1)(A)(ii) (relating to mental health conditions) on or before September 1, 2008.

“(B) LAW ENFORCEMENT OFFICERS AND WTC RESCUE, RECOVERY, AND CLEANUP WORKERS.—The individual—

“(i) worked or volunteered onsite in rescue, recovery, debris cleanup, or related support services in lower Manhattan (south of Canal St.), the Staten Island Landfill, or the barge loading piers, for at least 4 hours during the period beginning on September 11, 2001, and ending on September 14, 2001, for at least 24 hours during the period beginning on September 11, 2001, and ending on September 30, 2001, or for at least 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(ii)(I) was a member of the Police Department of New York City (whether active or retired) or a member of the Port Authority Police of the Port Authority of New York and New Jersey (whether active or retired) who participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.), including Ground Zero, the Staten Island Landfill, or the barge loading piers, for at least 4 hours during the period beginning September 11, 2001, and ending on September 14, 2001;

“(II) participated onsite in rescue, recovery, debris cleanup, or related services at Ground Zero, the Staten Island Landfill, or the barge loading piers, for at least one day during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(III) participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.) for at least 24 hours during the period beginning on September 11, 2001, and ending on September 30, 2001; or

“(IV) participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.) for at least 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(iii) was an employee of the Office of the Chief Medical Examiner of New York City involved in the examination and handling of human remains from the World Trade Center attacks, or other morgue worker who performed similar post-September 11 functions for such Office staff, during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(iv) was a worker in the Port Authority Trans-Hudson Corporation Tunnel for at least 24 hours during the period beginning on February 1, 2002, and ending on July 1, 2002; or

“(v) was a vehicle-maintenance worker who was exposed to debris from the former World Trade Center while retrieving, driving, cleaning, repairing, and maintaining vehicles contaminated by airborne toxins from the September 11, 2001, terrorist attacks during a duration and period described in subparagraph (A).

“(C) RESPONDERS TO THE SEPTEMBER 11 ATTACKS AT THE PENTAGON AND SHANKSVILLE, PENNSYLVANIA.—The individual—

“(i)(I) was a member of a fire or police department (whether fire or emergency personnel, active or retired), worked for a recovery or cleanup contractor, or was a volunteer; and performed rescue, recovery, demolition, debris cleanup, or other related services at the Pentagon site of the terrorist-related aircraft crash of September 11, 2001, during the period beginning on September 11, 2001, and ending on the date on which the cleanup of the site was concluded, as determined by the WTC Program Administrator; or

“(II) was a member of a fire or police department (whether fire or emergency personnel, active or retired), worked for a recovery or cleanup contractor, or was a volunteer; and performed rescue, recovery, demolition, debris cleanup, or other related services at the Shanksville, Pennsylvania, site of the terrorist-related aircraft crash of September 11, 2001, during the period beginning on September 11, 2001, and ending on the date on which the cleanup of the site was concluded, as determined by the WTC Program Administrator; and

“(ii) is determined by the WTC Program Administrator to be at an increased risk of developing a WTC-related health condition as a result of exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks, and meets such eligibility criteria related to such exposures, as the WTC Program Administrator determines are appropriate, after consultation with the WTC Scientific/Technical Advisory Committee.

“(3) ENROLLMENT PROCESS.—

“(A) IN GENERAL.—The WTC Program Administrator shall establish a process for enrolling WTC responders in the WTC Program. Under such process—

“(i) WTC responders described in paragraph (1)(A) shall be deemed to be enrolled in such Program;

“(ii) subject to clause (iii), the Administrator shall enroll in such program individuals who are determined to be WTC responders;

“(iii) the Administrator shall deny such enrollment to an individual if the Administrator determines that the numerical limitation in paragraph (4) on enrollment of WTC responders has been met;

“(iv) there shall be no fee charged to the applicant for making an application for such enrollment;

“(v) the Administrator shall make a determination on such an application not later than 60 days after the date of filing the application; and

“(vi) an individual who is denied enrollment in such Program shall have an opportunity to appeal such determination in a manner established under such process.

“(B) TIMING.—

“(i) CURRENTLY IDENTIFIED RESPONDERS.—In accordance with subparagraph (A)(i), the WTC Program Administrator shall enroll an individual described in paragraph (1)(A) in the WTC Program not later than July 1, 2011.

“(ii) OTHER RESPONDERS.—In accordance with subparagraph (A)(ii) and consistent with paragraph (4), the WTC Program Administrator shall enroll any other individual who is determined to be a WTC responder in the WTC Program at the time of such determination.

“(4) NUMERICAL LIMITATION ON ELIGIBLE WTC RESPONDERS.—

“(A) IN GENERAL.—The total number of individuals not described in paragraph (1)(A) or (2)(A)(ii) who may be enrolled under paragraph (3)(A)(ii) shall not exceed 25,000 at any time, of which no more than 2,500 may be individuals enrolled based on modified eligibility criteria established under paragraph (1)(C).

“(B) PROCESS.—In implementing subparagraph (A), the WTC Program Administrator shall—

“(i) limit the number of enrollments made under paragraph (3)—

“(I) in accordance with such subparagraph; and

“(II) to such number, as determined by the Administrator based on the best available in-

formation and subject to amounts available under section 3351, that will ensure sufficient funds will be available to provide treatment and monitoring benefits under this title, with respect to all individuals who are enrolled through the end of fiscal year 2020; and

“(ii) provide priority (subject to paragraph (3)(A)(i)) in such enrollments in the order in which individuals apply for enrollment under paragraph (3).

“(5) DISQUALIFICATION OF INDIVIDUALS ON TERRORIST WATCH LIST.—No individual who is on the terrorist watch list maintained by the Department of Homeland Security shall qualify as an eligible WTC responder. Before enrolling any individual as a WTC responder in the WTC Program under paragraph (3), the Administrator, in consultation with the Secretary of Homeland Security, shall determine whether the individual is on such list.

“(b) MONITORING BENEFITS.—

“(1) IN GENERAL.—In the case of an enrolled WTC responder (other than one described in subsection (a)(2)(A)(ii)), the WTC Program shall provide for monitoring benefits that include monitoring consistent with protocols approved by the WTC Program Administrator and including clinical examinations and long-term health monitoring and analysis. In the case of an enrolled WTC responder who is an active member of the Fire Department of New York City, the responder shall receive such benefits as part of the individual's periodic company medical exams.

“(2) PROVISION OF MONITORING BENEFITS.—The monitoring benefits under paragraph (1) shall be provided through the Clinical Center of Excellence for the type of individual involved or, in the case of an individual residing outside the New York metropolitan area, under an arrangement under section 3313.

“SEC. 3312. TREATMENT OF ENROLLED WTC RESPONDERS FOR WTC-RELATED HEALTH CONDITIONS.

“(a) WTC-RELATED HEALTH CONDITION DEFINED.—

“(1) IN GENERAL.—For purposes of this title, the term ‘WTC-related health condition’ means a condition that—

“(A)(i) is an illness or health condition for which exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, based on an examination by a medical professional with experience in treating or diagnosing the health conditions included in the applicable list of WTC-related health conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness or health condition, as determined under paragraph (2); or

“(ii) is a mental health condition for which such attacks, based on an examination by a medical professional with experience in treating or diagnosing the health conditions included in the applicable list of WTC-related health conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the condition, as determined under paragraph (2); and

“(B) is included in the applicable list of WTC-related health conditions or—

“(i) with respect to a WTC responder, is provided certification of coverage under subsection (b)(2)(B)(iii); or

“(ii) with respect to a screening-eligible WTC survivor or certified-eligible WTC survivor, is provided certification of coverage under subsection (b)(2)(B)(iii), as applied under section 3322(a).

In the case of a WTC responder described in section 3311(a)(2)(A)(ii) (relating to a surviving immediate family member of a firefighter), such term does not include an illness or health condition described in subparagraph (A)(i).

“(2) DETERMINATION.—The determination under paragraph (1) or subsection (b) of whether the September 11, 2001, terrorist attacks were substantially likely to be a significant factor in aggravating, contributing to, or causing an individual's illness or health condition shall be made based on an assessment of the following:

“(A) The individual's exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the terrorist attacks. Such exposure shall be—

“(i) evaluated and characterized through the use of a standardized, population-appropriate questionnaire approved by the Director of the National Institute for Occupational Safety and Health; and

“(ii) assessed and documented by a medical professional with experience in treating or diagnosing health conditions included on the list of WTC-related health conditions.

“(B) The type of symptoms and temporal sequence of symptoms. Such symptoms shall be—

“(i) assessed through the use of a standardized, population-appropriate medical questionnaire approved by the Director of the National Institute for Occupational Safety and Health and a medical examination; and

“(ii) diagnosed and documented by a medical professional described in subparagraph (A)(ii).

“(3) LIST OF HEALTH CONDITIONS FOR WTC RESPONDERS.—The list of health conditions for WTC responders consists of the following:

“(A) AERODIGESTIVE DISORDERS.—

“(i) Interstitial lung diseases.

“(ii) Chronic respiratory disorder—fumes/vapors.

“(iii) Asthma.

“(iv) Reactive airways dysfunction syndrome (RADS).

“(v) WTC-exacerbated chronic obstructive pulmonary disease (COPD).

“(vi) Chronic cough syndrome.

“(vii) Upper airway hyperreactivity.

“(viii) Chronic rhinosinusitis.

“(ix) Chronic nasopharyngitis.

“(x) Chronic laryngitis.

“(xi) Gastroesophageal reflux disorder (GERD).

“(xii) Sleep apnea exacerbated by or related to a condition described in a previous clause.

“(B) MENTAL HEALTH CONDITIONS.—

“(i) Posttraumatic stress disorder (PTSD).

“(ii) Major depressive disorder.

“(iii) Panic disorder.

“(iv) Generalized anxiety disorder.

“(v) Anxiety disorder (not otherwise specified).

“(vi) Depression (not otherwise specified).

“(vii) Acute stress disorder.

“(viii) Dysthymic disorder.

“(ix) Adjustment disorder.

“(x) Substance abuse.

“(C) MUSCULOSKELETAL DISORDERS FOR CERTAIN WTC RESPONDERS.—In the case of a WTC responder described in paragraph (4), a condition described in such paragraph.

“(D) ADDITIONAL CONDITIONS.—Any cancer (or type of cancer) or other condition added, pursuant to paragraph (5) or (6), to the list under this paragraph.

“(4) MUSCULOSKELETAL DISORDERS.—

“(A) IN GENERAL.—For purposes of this title, in the case of a WTC responder who received any treatment for a WTC-related

musculoskeletal disorder on or before September 11, 2003, the list of health conditions in paragraph (3) shall include:

“(i) Low back pain.

“(ii) Carpal tunnel syndrome (CTS).

“(iii) Other musculoskeletal disorders.

“(B) DEFINITION.—The term ‘WTC-related musculoskeletal disorder’ means a chronic or recurrent disorder of the musculoskeletal system caused by heavy lifting or repetitive strain on the joints or musculoskeletal system occurring during rescue or recovery efforts in the New York City disaster area in the aftermath of the September 11, 2001, terrorist attacks.

“(5) CANCER.—

“(A) IN GENERAL.—The WTC Program Administrator shall periodically conduct a review of all available scientific and medical evidence, including findings and recommendations of Clinical Centers of Excellence, published in peer-reviewed journals to determine if, based on such evidence, cancer or a certain type of cancer should be added to the applicable list of WTC-related health conditions. The WTC Program Administrator shall conduct the first review under this subparagraph not later than 180 days after the date of the enactment of this title.

“(B) PROPOSED REGULATIONS AND RULEMAKING.—Based on the periodic reviews under subparagraph (A), if the WTC Program Administrator determines that cancer or a certain type of cancer should be added to such list of WTC-related health conditions, the WTC Program Administrator shall propose regulations, through rulemaking, to add cancer or the certain type of cancer to such list.

“(C) FINAL REGULATIONS.—Based on all the available evidence in the rulemaking record, the WTC Program Administrator shall make a final determination of whether cancer or a certain type of cancer should be added to such list of WTC-related health conditions. If such a determination is made to make such an addition, the WTC Program Administrator shall by regulation add cancer or the certain type of cancer to such list.

“(D) DETERMINATIONS NOT TO ADD CANCER OR CERTAIN TYPES OF CANCER.—In the case that the WTC Program Administrator determines under subparagraph (B) or (C) that cancer or a certain type of cancer should not be added to such list of WTC-related health conditions, the WTC Program Administrator shall publish an explanation for such determination in the Federal Register. Any such determination to not make such an addition shall not preclude the addition of cancer or the certain type of cancer to such list at a later date.

“(6) ADDITION OF HEALTH CONDITIONS TO LIST FOR WTC RESPONDERS.—

“(A) IN GENERAL.—Whenever the WTC Program Administrator determines that a proposed rule should be promulgated to add a health condition to the list of health conditions in paragraph (3), the Administrator may request a recommendation of the Advisory Committee or may publish such a proposed rule in the Federal Register in accordance with subparagraph (D).

“(B) ADMINISTRATOR'S OPTIONS AFTER RECEIPT OF PETITION.—In the case that the WTC Program Administrator receives a written petition by an interested party to add a health condition to the list of health conditions in paragraph (3), not later than 60 days after the date of receipt of such petition the Administrator shall—

“(i) request a recommendation of the Advisory Committee;

“(ii) publish a proposed rule in the Federal Register to add such health condition, in accordance with subparagraph (D);

“(iii) publish in the Federal Register the Administrator's determination not to publish such a proposed rule and the basis for such determination; or

“(iv) publish in the Federal Register a determination that insufficient evidence exists to take action under clauses (i) through (iii).

“(C) ACTION BY ADVISORY COMMITTEE.—In the case that the Administrator requests a recommendation of the Advisory Committee under this paragraph, with respect to adding a health condition to the list in paragraph (3), the Advisory Committee shall submit to the Administrator such recommendation not later than 60 days after the date of such request or by such date (not to exceed 180 days after such date of request) as specified by the Administrator. Not later than 60 days after the date of receipt of such recommendation, the Administrator shall, in accordance with subparagraph (D), publish in the Federal Register a proposed rule with respect to such recommendation or a determination not to propose such a proposed rule and the basis for such determination.

“(D) PUBLICATION.—The WTC Program Administrator shall, with respect to any proposed rule under this paragraph—

“(i) publish such proposed rule in accordance with section 553 of title 5, United States Code; and

“(ii) provide interested parties a period of 30 days after such publication to submit written comments on the proposed rule.

The WTC Program Administrator may extend the period described in clause (ii) upon a finding of good cause. In the case of such an extension, the Administrator shall publish such extension in the Federal Register.

“(E) INTERESTED PARTY DEFINED.—For purposes of this paragraph, the term ‘interested party’ includes a representative of any organization representing WTC responders, a nationally recognized medical association, a Clinical or Data Center, a State or political subdivision, or any other interested person.

“(b) COVERAGE OF TREATMENT FOR WTC-RELATED HEALTH CONDITIONS.—

“(1) DETERMINATION FOR ENROLLED WTC RESPONDERS BASED ON A WTC-RELATED HEALTH CONDITION.—

“(A) IN GENERAL.—If a physician at a Clinical Center of Excellence that is providing monitoring benefits under section 3311 for an enrolled WTC responder makes a determination that the responder has a WTC-related health condition that is in the list in subsection (a)(3) and that exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks is substantially likely to be a significant factor in aggravating, contributing to, or causing the condition—

“(i) the physician shall promptly transmit such determination to the WTC Program Administrator and provide the Administrator with the medical facts supporting such determination; and

“(ii) on and after the date of such transmittal and subject to subparagraph (B), the WTC Program shall provide for payment under subsection (c) for medically necessary treatment for such condition.

“(B) REVIEW; CERTIFICATION; APPEALS.—

“(i) REVIEW.—A Federal employee designated by the WTC Program Administrator shall review determinations made under subparagraph (A).

“(ii) CERTIFICATION.—The Administrator shall provide a certification of such condition based upon reviews conducted under

clause (i). Such a certification shall be provided unless the Administrator determines that the responder's condition is not a WTC-related health condition in the list in subsection (a)(3) or that exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 1, 2001, terrorist attacks is not substantially likely to be a significant factor in aggravating, contributing to, or causing the condition.

“(iii) APPEAL PROCESS.—The Administrator shall establish, by rule, a process for the appeal of determinations under clause (ii).

“(2) DETERMINATION BASED ON MEDICALLY ASSOCIATED WTC-RELATED HEALTH CONDITIONS.—

“(A) IN GENERAL.—If a physician at a Clinical Center of Excellence determines pursuant to subsection (a) that the enrolled WTC responder has a health condition described in subsection (a)(1)(A) that is not in the list in subsection (a)(3) but which is medically associated with a WTC-related health condition—

“(i) the physician shall promptly transmit such determination to the WTC Program Administrator and provide the Administrator with the facts supporting such determination; and

“(ii) the Administrator shall make a determination under subparagraph (B) with respect to such physician's determination.

“(B) PROCEDURES FOR REVIEW, CERTIFICATION, AND APPEAL.—The WTC Program Administrator shall, by rule, establish procedures for the review and certification of physician determinations under subparagraph (A). Such rule shall provide for—

“(i) the timely review of such a determination by a physician panel with appropriate expertise for the condition and recommendations to the WTC Program Administrator;

“(ii) not later than 60 days after the date of the transmittal under subparagraph (A)(i), a determination by the WTC Program Administrator on whether or not the condition involved is described in subsection (a)(1)(A) and is medically associated with a WTC-related health condition;

“(iii) certification in accordance with paragraph (1)(B)(ii) of coverage of such condition if determined to be described in subsection (a)(1)(A) and medically associated with a WTC-related health condition; and

“(iv) a process for appeals of determinations relating to such conditions.

“(C) INCLUSION IN LIST OF HEALTH CONDITIONS.—If the WTC Program Administrator provides certification under subparagraph (B)(iii) for coverage of a condition, the Administrator may, pursuant to subsection (a)(6), add the condition to the list in subsection (a)(3).

“(D) CONDITIONS ALREADY DECLINED FOR INCLUSION IN LIST.—If the WTC Program Administrator publishes a determination under subsection (a)(6)(B) not to include a condition in the list in subsection (a)(3), the WTC Program Administrator shall not provide certification under subparagraph (B)(iii) for coverage of the condition. In the case of an individual who is certified under subparagraph (B)(iii) with respect to such condition before the date of the publication of such determination the previous sentence shall not apply.

“(3) REQUIREMENT OF MEDICAL NECESSITY.—

“(A) IN GENERAL.—In providing treatment for a WTC-related health condition, a physician or other provider shall provide treatment that is medically necessary and in accordance with medical treatment protocols established under subsection (d).

“(B) REGULATIONS RELATING TO MEDICAL NECESSITY.—For the purpose of this title, the

WTC Program Administrator shall issue regulations specifying a standard for determining medical necessity with respect to health care services and prescription pharmaceuticals, a process for determining whether treatment furnished and pharmaceuticals prescribed under this title meet such standard (including any prior authorization requirement), and a process for appeal of a determination under subsection (c)(3).

“(4) SCOPE OF TREATMENT COVERED.—

“(A) IN GENERAL.—The scope of treatment covered under this subsection includes services of physicians and other health care providers, diagnostic and laboratory tests, prescription drugs, inpatient and outpatient hospital services, and other medically necessary treatment.

“(B) PHARMACEUTICAL COVERAGE.—With respect to ensuring coverage of medically necessary outpatient prescription drugs, such drugs shall be provided, under arrangements made by the WTC Program Administrator, directly through participating Clinical Centers of Excellence or through one or more outside vendors.

“(C) TRANSPORTATION EXPENSES FOR NATIONWIDE NETWORK.—The WTC Program Administrator may provide for necessary and reasonable transportation and expenses incident to the securing of medically necessary treatment through the nationwide network under section 3313 involving travel of more than 250 miles and for which payment is made under this section in the same manner in which individuals may be furnished necessary and reasonable transportation and expenses incident to services involving travel of more than 250 miles under regulations implementing section 3629(c) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of Public Law 106-398; 42 U.S.C. 7384(c)).

“(5) PROVISION OF TREATMENT PENDING CERTIFICATION.—With respect to an enrolled WTC responder for whom a determination is made by an examining physician under paragraph (1) or (2), but for whom the WTC Program Administrator has not yet determined whether to certify the determination, the WTC Program Administrator may establish by rule a process through which the Administrator may approve the provision of medical treatment under this subsection (and payment under subsection (c)) with respect to such responder and such responder's WTC-related health condition (under such terms and conditions as the Administrator may provide) until the Administrator makes a decision on whether to certify the determination.

“(c) PAYMENT FOR INITIAL HEALTH EVALUATION, MONITORING, AND TREATMENT OF WTC-RELATED HEALTH CONDITIONS.—

“(1) MEDICAL TREATMENT.—

“(A) USE OF FECA PAYMENT RATES.—

“(i) IN GENERAL.—Subject to clause (ii):

“(I) Subject to subparagraphs (B) and (C), the WTC Program Administrator shall reimburse costs for medically necessary treatment under this title for WTC-related health conditions according to the payment rates that would apply to the provision of such treatment and services by the facility under the Federal Employees Compensation Act.

“(II) For treatment not covered under subclause (i) or subparagraph (B), the WTC Program Administrator shall establish by regulation a reimbursement rate for such treatment.

“(ii) EXCEPTION.—In no case shall payments for products or services under clause (i) be made at a rate higher than the Office

of Worker's Compensation Programs in the Department Labor would pay for such products or services rendered at the time such products or services were provided.

“(B) PHARMACEUTICALS.—

“(i) IN GENERAL.—The WTC Program Administrator shall establish a program for paying for the medically necessary outpatient prescription pharmaceuticals prescribed under this title for WTC-related health conditions through one or more contracts with outside vendors.

“(ii) COMPETITIVE BIDDING.—Under such program the Administrator shall—

“(I) select one or more appropriate vendors through a Federal competitive bid process; and

“(II) select the lowest bidder (or bidders) meeting the requirements for providing pharmaceutical benefits for participants in the WTC Program.

“(iii) TREATMENT OF FDNY PARTICIPANTS.—Under such program the Administrator may enter into an agreement with a separate vendor to provide pharmaceutical benefits to enrolled WTC responders for whom the Clinical Center of Excellence is described in section 3305 if such an arrangement is deemed necessary and beneficial to the program by the WTC Program Administrator.

“(iv) PHARMACEUTICALS.—Not later than July 1, 2011, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on whether existing Federal pharmaceutical purchasing programs can provide pharmaceutical benefits more efficiently and effectively than through the WTC program.

“(C) IMPROVING QUALITY AND EFFICIENCY THROUGH MODIFICATION OF PAYMENT AMOUNTS AND METHODOLOGIES.—The WTC Program Administrator may modify the amounts and methodologies for making payments for initial health evaluations, monitoring, or treatment, if, taking into account utilization and quality data furnished by the Clinical Centers of Excellence under section 3305(b)(1)(B)(iii), the Administrator determines that a bundling, capitation, pay for performance, or other payment methodology would better ensure high quality and efficient delivery of initial health evaluations, monitoring, or treatment to an enrolled WTC responder, screening-eligible WTC survivor, or certified-eligible WTC survivor.

“(2) MONITORING AND INITIAL HEALTH EVALUATION.—The WTC Program Administrator shall reimburse the costs of monitoring and the costs of an initial health evaluation provided under this title at a rate set by the Administrator by regulation.

“(3) DETERMINATION OF MEDICAL NECESSITY.—

“(A) REVIEW OF MEDICAL NECESSITY AND PROTOCOLS.—As part of the process for reimbursement or payment under this subsection, the WTC Program Administrator shall provide for the review of claims for reimbursement or payment for the provision of medical treatment to determine if such treatment is medically necessary and in accordance with medical treatment protocols established under subsection (d).

“(B) WITHHOLDING OF PAYMENT FOR MEDICALLY UNNECESSARY TREATMENT.—The Administrator shall withhold such reimbursement or payment for treatment that the Administrator determines is not medically necessary or is not in accordance with such medical treatment protocols.

“(d) MEDICAL TREATMENT PROTOCOLS.—

“(1) DEVELOPMENT.—The Data Centers shall develop medical treatment protocols for the treatment of enrolled WTC responders and certified-eligible WTC survivors for health conditions included in the applicable list of WTC-related health conditions.

“(2) APPROVAL.—The medical treatment protocols developed under paragraph (1) shall be subject to approval by the WTC Program Administrator.

“SEC. 3313. NATIONAL ARRANGEMENT FOR BENEFITS FOR ELIGIBLE INDIVIDUALS OUTSIDE NEW YORK.

“(a) IN GENERAL.—In order to ensure reasonable access to benefits under this subtitle for individuals who are enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors and who reside in any State, as defined in section 2(f), outside the New York metropolitan area, the WTC Program Administrator shall establish a nationwide network of health care providers to provide monitoring and treatment benefits and initial health evaluations near such individuals’ areas of residence in such States. Nothing in this subsection shall be construed as preventing such individuals from being provided such monitoring and treatment benefits or initial health evaluation through any Clinical Center of Excellence.

“(b) NETWORK REQUIREMENTS.—Any health care provider participating in the network under subsection (a) shall—

“(1) meet criteria for credentialing established by the Data Centers;

“(2) follow the monitoring, initial health evaluation, and treatment protocols developed under section 3305(a)(2)(A)(ii);

“(3) collect and report data in accordance with section 3304; and

“(4) meet such fraud, quality assurance, and other requirements as the WTC Program Administrator establishes, including sections 1128 through 1128E of the Social Security Act, as applied by section 3301(d).

“(c) TRAINING AND TECHNICAL ASSISTANCE.—The WTC Program Administrator may provide, including through contract, for the provision of training and technical assistance to health care providers participating in the network under subsection (a).

“(d) PROVISION OF SERVICES THROUGH THE VA.—

“(1) IN GENERAL.—The WTC Program Administrator may enter into an agreement with the Secretary of Veterans Affairs for the Secretary to provide services under this section through facilities of the Department of Veterans Affairs.

“(2) NATIONAL PROGRAM.—Not later than July 1, 2011, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on whether the Department of Veterans Affairs can provide monitoring and treatment services to individuals under this section more efficiently and effectively than through the nationwide network to be established under subsection (a).

“PART 2—WTC SURVIVORS

“SEC. 3321. IDENTIFICATION AND INITIAL HEALTH EVALUATION OF SCREENING-ELIGIBLE AND CERTIFIED-ELIGIBLE WTC SURVIVORS.

“(a) IDENTIFICATION OF SCREENING-ELIGIBLE WTC SURVIVORS AND CERTIFIED-ELIGIBLE WTC SURVIVORS.—

“(1) SCREENING-ELIGIBLE WTC SURVIVORS.—

“(A) DEFINITION.—In this title, the term ‘screening-eligible WTC survivor’ means, subject to subparagraph (C) and paragraph

(3), an individual who is described in any of the following clauses:

“(i) CURRENTLY IDENTIFIED SURVIVOR.—An individual, including a WTC responder, who has been identified as eligible for medical treatment and monitoring by the WTC Environmental Health Center as of the date of enactment of this title.

“(ii) SURVIVOR WHO MEETS CURRENT ELIGIBILITY CRITERIA.—An individual who is not a WTC responder, for purposes of the initial health evaluation under subsection (b), claims symptoms of a WTC-related health condition and meets any of the current eligibility criteria described in subparagraph (B).

“(iii) SURVIVOR WHO MEETS MODIFIED ELIGIBILITY CRITERIA.—An individual who is not a WTC responder, for purposes of the initial health evaluation under subsection (b), claims symptoms of a WTC-related health condition and meets such eligibility criteria relating to exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks as the WTC Administrator determines, after consultation with the Data Centers described in section 3305 and the WTC Scientific/Technical Advisory Committee and WTC Health Program Steering Committees under section 3302.

The Administrator shall not modify such criteria under clause (iii) on or after the date that the number of certifications for certified-eligible WTC survivors under paragraph (2)(B) has reached 80 percent of the limit described in paragraph (3) or on or after the date that the number of enrollments of WTC responders has reached 80 percent of the limit described in section 3311(a)(4).

“(B) CURRENT ELIGIBILITY CRITERIA.—The eligibility criteria described in this subparagraph for an individual are that the individual is described in any of the following clauses:

“(i) A person who was present in the New York City disaster area in the dust or dust cloud on September 11, 2001.

“(ii) A person who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area for—

“(I) at least 4 days during the 4-month period beginning on September 11, 2001, and ending on January 10, 2002; or

“(II) at least 30 days during the period beginning on September 11, 2001, and ending on July 31, 2002.

“(iii) Any person who worked as a cleanup worker or performed maintenance work in the New York City disaster area during the 4-month period described in subparagraph (B)(i) and had extensive exposure to WTC dust as a result of such work.

“(iv) A person who was deemed eligible to receive a grant from the Lower Manhattan Development Corporation Residential Grant Program, who possessed a lease for a residence or purchased a residence in the New York City disaster area, and who resided in such residence during the period beginning on September 11, 2001, and ending on May 31, 2003.

“(v) A person whose place of employment—

“(I) at any time during the period beginning on September 11, 2001, and ending on May 31, 2003, was in the New York City disaster area; and

“(II) was deemed eligible to receive a grant from the Lower Manhattan Development Corporation WTC Small Firms Attraction and Retention Act program or other government incentive program designed to revitalize the lower Manhattan economy after the September 11, 2001, terrorist attacks.

“(C) APPLICATION AND DETERMINATION PROCESS FOR SCREENING ELIGIBILITY.—

“(i) IN GENERAL.—The WTC Program Administrator in consultation with the Data Centers shall establish a process for individuals, other than individuals described in subparagraph (A)(i), to be determined to be screening-eligible WTC survivors. Under such process—

“(I) there shall be no fee charged to the applicant for making an application for such determination;

“(II) the Administrator shall make a determination on such an application not later than 60 days after the date of filing the application;

“(III) the Administrator shall make such a determination relating to an applicant’s compliance with this title and shall not determine that an individual is not so eligible or deny written documentation under clause (ii) to such individual unless the Administrator determines that—

“(aa) based on the application submitted, the individual does not meet the eligibility criteria; or

“(bb) the numerical limitation on certifications of certified-eligible WTC survivors set forth in paragraph (3) has been met; and

“(IV) an individual who is determined not to be a screening-eligible WTC survivor shall have an opportunity to appeal such determination in a manner established under such process.

“(ii) WRITTEN DOCUMENTATION OF SCREENING-ELIGIBILITY.—

“(I) IN GENERAL.—In the case of an individual who is described in subparagraph (A)(i) or who is determined under clause (i) (consistent with paragraph (3)) to be a screening-eligible WTC survivor, the WTC Program Administrator shall provide an appropriate written documentation of such fact.

“(II) TIMING.—

“(aa) CURRENTLY IDENTIFIED SURVIVORS.—In the case of an individual who is described in subparagraph (A)(i), the WTC Program Administrator shall provide the written documentation under subclause (I) not later than July 1, 2011.

“(bb) OTHER MEMBERS.—In the case of another individual who is determined under clause (i) and consistent with paragraph (3) to be a screening-eligible WTC survivor, the WTC Program Administrator shall provide the written documentation under subclause (I) at the time of such determination.

“(2) CERTIFIED-ELIGIBLE WTC SURVIVORS.—

“(A) DEFINITION.—The term ‘certified-eligible WTC survivor’ means, subject to paragraph (3), a screening-eligible WTC survivor who the WTC Program Administrator certifies under subparagraph (B) to be eligible for followup monitoring and treatment under this part.

“(B) CERTIFICATION OF ELIGIBILITY FOR MONITORING AND TREATMENT.—

“(i) IN GENERAL.—The WTC Program Administrator shall establish a certification process under which the Administrator shall provide appropriate certification to screening-eligible WTC survivors who, pursuant to the initial health evaluation under subsection (b), are determined to be eligible for followup monitoring and treatment under this part.

“(ii) TIMING.—

“(I) CURRENTLY IDENTIFIED SURVIVORS.—In the case of an individual who is described in paragraph (1)(A)(i), the WTC Program Administrator shall provide the certification under clause (i) not later than July 1, 2011.

“(II) OTHER MEMBERS.—In the case of another individual who is determined under

clause (i) to be eligible for followup monitoring and treatment, the WTC Program Administrator shall provide the certification under such clause at the time of such determination.

“(3) NUMERICAL LIMITATION ON CERTIFIED-ELIGIBLE WTC SURVIVORS.—

“(A) IN GENERAL.—The total number of individuals not described in paragraph (1)(A)(i) who may be certified as certified-eligible WTC survivors under paragraph (2)(B) shall not exceed 25,000 at any time.

“(B) PROCESS.—In implementing subparagraph (A), the WTC Program Administrator shall—

“(i) limit the number of certifications provided under paragraph (2)(B)—

“(I) in accordance with such subparagraph; and

“(II) to such number, as determined by the Administrator based on the best available information and subject to amounts made available under section 3351, that will ensure sufficient funds will be available to provide treatment and monitoring benefits under this title, with respect to all individuals receiving such certifications through the end of fiscal year 2020; and

“(ii) provide priority in such certifications in the order in which individuals apply for a determination under paragraph (2)(B).

“(4) DISQUALIFICATION OF INDIVIDUALS ON TERRORIST WATCH LIST.—No individual who is on the terrorist watch list maintained by the Department of Homeland Security shall qualify as a screening-eligible WTC survivor or a certified-eligible WTC survivor. Before determining any individual to be a screening-eligible WTC survivor under paragraph (1) or certifying any individual as a certified-eligible WTC survivor under paragraph (2), the Administrator, in consultation with the Secretary of Homeland Security, shall determine whether the individual is on such list.

“(b) INITIAL HEALTH EVALUATION TO DETERMINE ELIGIBILITY FOR FOLLOWUP MONITORING OR TREATMENT.—

“(1) IN GENERAL.—In the case of a screening-eligible WTC survivor, the WTC Program shall provide for an initial health evaluation to determine if the survivor has a WTC-related health condition and is eligible for followup monitoring and treatment benefits under the WTC Program. Initial health evaluation protocols under section 3305(a)(2)(A)(ii) shall be subject to approval by the WTC Program Administrator.

“(2) INITIAL HEALTH EVALUATION PROVIDERS.—The initial health evaluation described in paragraph (1) shall be provided through a Clinical Center of Excellence with respect to the individual involved.

“(3) LIMITATION ON INITIAL HEALTH EVALUATION BENEFITS.—Benefits for an initial health evaluation under this part for a screening-eligible WTC survivor shall consist only of a single medical initial health evaluation consistent with initial health evaluation protocols described in paragraph (1). Nothing in this paragraph shall be construed as preventing such an individual from seeking additional medical initial health evaluations at the expense of the individual.

“SEC. 3322. FOLLOWUP MONITORING AND TREATMENT OF CERTIFIED-ELIGIBLE WTC SURVIVORS FOR WTC-RELATED HEALTH CONDITIONS.

“(a) IN GENERAL.—Subject to subsection (b), the provisions of sections 3311 and 3312 shall apply to followup monitoring and treatment of WTC-related health conditions for certified-eligible WTC survivors in the same manner as such provisions apply to the monitoring and treatment of WTC-related

health conditions for enrolled WTC responders.

“(b) LIST OF WTC-RELATED HEALTH CONDITIONS FOR SURVIVORS.—The list of health conditions for screening-eligible WTC survivors and certified-eligible WTC survivors consists of the following:

“(1) AERODIGESTIVE DISORDERS.—

“(A) Interstitial lung diseases.

“(B) Chronic respiratory disorder—fumes/vapors.

“(C) Asthma.

“(D) Reactive airways dysfunction syndrome (RADS).

“(E) WTC-exacerbated chronic obstructive pulmonary disease (COPD).

“(F) Chronic cough syndrome.

“(G) Upper airway hyperreactivity.

“(H) Chronic rhinosinusitis.

“(I) Chronic nasopharyngitis.

“(J) Chronic laryngitis.

“(K) Gastroesophageal reflux disorder (GERD).

“(L) Sleep apnea exacerbated by or related to a condition described in a previous clause.

“(2) MENTAL HEALTH CONDITIONS.—

“(A) Posttraumatic stress disorder (PTSD).

“(B) Major depressive disorder.

“(C) Panic disorder.

“(D) Generalized anxiety disorder.

“(E) Anxiety disorder (not otherwise specified).

“(F) Depression (not otherwise specified).

“(G) Acute stress disorder.

“(H) Dysthymic disorder.

“(I) Adjustment disorder.

“(J) Substance abuse.

“(3) ADDITIONAL CONDITIONS.—Any cancer (or type of cancer) or other condition added to the list in section 3312(a)(3) pursuant to paragraph (5) or (6) of section 3312(a), as such provisions are applied under subsection (a) with respect to certified-eligible WTC survivors.

“SEC. 3323. FOLLOWUP MONITORING AND TREATMENT OF OTHER INDIVIDUALS WITH WTC-RELATED HEALTH CONDITIONS.

“(a) IN GENERAL.—Subject to subsection (c), the provisions of section 3322 shall apply to the followup monitoring and treatment of WTC-related health conditions in the case of individuals described in subsection (b) in the same manner as such provisions apply to the followup monitoring and treatment of WTC-related health conditions for certified-eligible WTC survivors.

“(b) INDIVIDUALS DESCRIBED.—An individual described in this subsection is an individual who, regardless of location of residence—

“(1) is not an enrolled WTC responder or a certified-eligible WTC survivor; and

“(2) is diagnosed at a Clinical Center of Excellence with a WTC-related health condition for certified-eligible WTC survivors.

“(c) LIMITATION.—

“(1) IN GENERAL.—The WTC Program Administrator shall limit benefits for any fiscal year under subsection (a) in a manner so that payments under this section for such fiscal year do not exceed the amount specified in paragraph (2) for such fiscal year.

“(2) LIMITATION.—The amount specified in this paragraph for—

“(A) the last calendar quarter of fiscal year 2011 is \$5,000,000;

“(B) fiscal year 2012 is \$20,000,000; or

“(C) a succeeding fiscal year is the amount specified in this paragraph for the previous fiscal year increased by the annual percentage increase in the medical care component of the consumer price index for all urban consumers.

“PART 3—PAYOR PROVISIONS

“SEC. 3331. PAYMENT OF CLAIMS.

“(a) IN GENERAL.—Except as provided in subsections (b) and (c), the cost of monitoring and treatment benefits and initial health evaluation benefits provided under parts 1 and 2 of this subtitle shall be paid for by the WTC Program from the World Trade Center Health Program Fund.

“(b) WORKERS’ COMPENSATION PAYMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), payment for treatment under parts 1 and 2 of this subtitle of a WTC-related health condition of an individual that is work-related shall be reduced or recouped to the extent that the WTC Program Administrator determines that payment has been made, or can reasonably be expected to be made, under a workers’ compensation law or plan of the United States, a State, or a locality, or other work-related injury or illness benefit plan of the employer of such individual, for such treatment. The provisions of clauses (iii), (iv), (v), and (vi) of paragraph (2)(B) of section 1862(b) of the Social Security Act and paragraphs (3) and (4) of such section shall apply to the recoupment under this subsection of a payment to the WTC Program (with respect to a workers’ compensation law or plan, or other work-related injury or illness plan of the employer involved, and such individual) in the same manner as such provisions apply to the reimbursement of a payment under section 1862(b)(2) of such Act to the Secretary (with respect to such a law or plan and an individual entitled to benefits under title XVIII of such Act) except that any reference in such paragraph (4) to payment rates under title XVIII of the Social Security Act shall be deemed a reference to payment rates under this title.

“(2) EXCEPTION.—Paragraph (1) shall not apply for any quarter, with respect to any workers’ compensation law or plan, including line of duty compensation, to which New York City is obligated to make payments, if, in accordance with terms specified under the contract under subsection (d)(1)(A), New York City has made the full payment required under such contract for such quarter.

“(3) RULES OF CONSTRUCTION.—Nothing in this title shall be construed to affect, modify, or relieve any obligations under a worker’s compensation law or plan, other work-related injury or illness benefit plan of an employer, or any health insurance plan.

“(c) HEALTH INSURANCE COVERAGE.—

“(1) IN GENERAL.—In the case of an individual who has a WTC-related health condition that is not work-related and has health coverage for such condition through any public or private health plan (including health benefits under title XVIII, XIX, or XXI of the Social Security Act) the provisions of section 1862(b) of the Social Security Act shall apply to such a health plan and such individual in the same manner as they apply to group health plan and an individual entitled to benefits under title XVIII of such Act pursuant to section 226(a) of such Act. Any costs for items and services covered under such plan that are not reimbursed by such health plan, due to the application of deductibles, copayments, coinsurance, other cost sharing, or otherwise, are reimbursable under this title to the extent that they are covered under the WTC Program. The program under this title shall not be treated as a legally liable party for purposes of applying section 1902(a)(25) of the Social Security Act.

“(2) RECOVERY BY INDIVIDUAL PROVIDERS.—Nothing in paragraph (1) shall be construed as requiring an entity providing monitoring

and treatment under this title to seek reimbursement under a health plan with which the entity has no contract for reimbursement.

“(3) MAINTENANCE OF REQUIRED MINIMUM ESSENTIAL COVERAGE.—No payment may be made for monitoring and treatment under this title for an individual for a month (beginning with July 2014) if with respect to such month the individual—

“(A) is an applicable individual (as defined in subsection (d) of section 5000A of Internal Revenue Code of 1986) for whom the exemption under subsection (e) of such section does not apply; and

“(B) is not covered under minimum essential coverage, as required under subsection (a) of such section.

“(d) REQUIRED CONTRIBUTION BY NEW YORK CITY IN PROGRAM COSTS.—

“(1) CONTRACT REQUIREMENT.—

“(A) IN GENERAL.—No funds may be disbursed from the World Trade Center Health Program Fund under section 3351 unless New York City has entered into a contract with the WTC Program Administrator under which New York City agrees, in a form and manner specified by the Administrator, to pay the full contribution described in subparagraph (B) in accordance with this subsection on a timely basis, plus any interest owed pursuant to subparagraph (E)(i). Such contract shall specify the terms under which New York City shall be considered to have made the full payment required for a quarter for purposes of subsection (b)(2).

“(B) FULL CONTRIBUTION AMOUNT.—Under such contract, with respect to the last calendar quarter of fiscal year 2011 and each calendar quarter in fiscal years 2012 through 2015 the full contribution amount under this subparagraph shall be equal to 10 percent of the expenditures in carrying out this title for the respective quarter and with respect to calendar quarters in fiscal year 2016, such full contribution amount shall be equal to 1/3 of the Federal expenditures in carrying out this title for the respective quarter.

“(C) SATISFACTION OF PAYMENT OBLIGATION.—The payment obligation under such contract may not be satisfied through any of the following:

“(i) An amount derived from Federal sources.

“(ii) An amount paid before the date of the enactment of this title.

“(iii) An amount paid to satisfy a judgment or as part of a settlement related to injuries or illnesses arising out of the September 11, 2001, terrorist attacks.

“(D) TIMING OF CONTRIBUTION.—The payment obligation under such contract for a calendar quarter in a fiscal year shall be paid not later than the last day of the second succeeding calendar quarter.

“(E) COMPLIANCE.—

“(i) INTEREST FOR LATE PAYMENT.—If New York City fails to pay to the WTC Program Administrator pursuant to such contract the amount required for any calendar quarter by the day specified in subparagraph (D), interest shall accrue on the amount not so paid at the rate (determined by the Administrator) based on the average yield to maturity, plus 1 percentage point, on outstanding municipal bonds issued by New York City with a remaining maturity of at least 1 year.

“(ii) RECOVERY OF AMOUNTS OWED.—The amounts owed to the WTC Program Administrator under such contract shall be recoverable by the United States in an action in the same manner as payments made under title XVIII of the Social Security Act may be recoverable in an action brought under section 1862(b)(2)(B)(iii) of such Act.

“(F) DEPOSIT IN FUND.—The WTC Program Administrator shall deposit amounts paid under such contract into the World Trade Center Health Program Fund under section 3351.

“(2) PAYMENT OF NEW YORK CITY SHARE OF MONITORING AND TREATMENT COSTS.—With respect to each calendar quarter for which a contribution is required by New York City under the contract under paragraph (1), the WTC Program Administrator shall—

“(A) provide New York City with an estimate of such amount of the required contribution at the beginning of such quarter and with an updated estimate of such amount at the beginning of each of the subsequent 2 quarters;

“(B) bill such amount directly to New York City; and

“(C) certify periodically, for purposes of this subsection, whether or not New York City has paid the amount so billed.

Such amount shall initially be estimated by the WTC Program Administrator and shall be subject to adjustment and reconciliation based upon actual expenditures in carrying out this title.

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing the WTC Administrator, with respect to a fiscal year, to reduce the numerical limitation under section 3311(a)(4) or 3321(a)(3) for such fiscal year if New York City fails to comply with paragraph (1) for a calendar quarter in such fiscal year.

“(e) WORK-RELATED DESCRIBED.—For the purposes of this section, a WTC-related health condition shall be treated as a condition that is work-related if—

“(1) the condition is diagnosed in an enrolled WTC responder, or in an individual who qualifies as a certified-eligible WTC survivor on the basis of being a rescue, recovery, or cleanup worker; or

“(2) with respect to the condition the individual has filed and had established a claim under a workers' compensation law or plan of the United States or a State, or other work-related injury or illness benefit plan of the employer of such individual.

“SEC. 3332. ADMINISTRATIVE ARRANGEMENT AUTHORITY.

“The WTC Program Administrator may enter into arrangements with other government agencies, insurance companies, or other third-party administrators to provide for timely and accurate processing of claims under sections 3312, 3313, 3322, and 3323.

“Subtitle C—Research Into Conditions

“SEC. 3341. RESEARCH REGARDING CERTAIN HEALTH CONDITIONS RELATED TO SEPTEMBER 11 TERRORIST ATTACKS.

“(a) IN GENERAL.—With respect to individuals, including enrolled WTC responders and certified-eligible WTC survivors, receiving monitoring or treatment under subtitle B, the WTC Program Administrator shall conduct or support—

“(1) research on physical and mental health conditions that may be related to the September 11, 2001, terrorist attacks;

“(2) research on diagnosing WTC-related health conditions of such individuals, in the case of conditions for which there has been diagnostic uncertainty; and

“(3) research on treating WTC-related health conditions of such individuals, in the case of conditions for which there has been treatment uncertainty.

The Administrator may provide such support through continuation and expansion of research that was initiated before the date of the enactment of this title and through the World Trade Center Health Registry (re-

ferred to in section 3342), through a Clinical Center of Excellence, or through a Data Center.

“(b) TYPES OF RESEARCH.—The research under subsection (a)(1) shall include epidemiologic and other research studies on WTC-related health conditions or emerging conditions—

“(1) among enrolled WTC responders and certified-eligible WTC survivors under treatment; and

“(2) in sampled populations outside the New York City disaster area in Manhattan as far north as 14th Street and in Brooklyn, along with control populations, to identify potential for long-term adverse health effects in less exposed populations.

“(c) CONSULTATION.—The WTC Program Administrator shall carry out this section in consultation with the WTC Scientific/Technical Advisory Committee.

“(d) APPLICATION OF PRIVACY AND HUMAN SUBJECT PROTECTIONS.—The privacy and human subject protections applicable to research conducted under this section shall not be less than such protections applicable to research conducted or funded by the Department of Health and Human Services.

“SEC. 3342. WORLD TRADE CENTER HEALTH REGISTRY.

“For the purpose of ensuring ongoing data collection relating to victims of the September 11, 2001, terrorist attacks, the WTC Program Administrator shall ensure that a registry of such victims is maintained that is at least as comprehensive as the World Trade Center Health Registry maintained under the arrangements in effect as of April 20, 2009, with the New York City Department of Health and Mental Hygiene.

“Subtitle D—Funding

“SEC. 3351. WORLD TRADE CENTER HEALTH PROGRAM FUND.

“(a) ESTABLISHMENT OF FUND.—

“(1) IN GENERAL.—There is established a fund to be known as the World Trade Center Health Program Fund (referred to in this section as the ‘Fund’).

“(2) FUNDING.—Out of any money in the Treasury not otherwise appropriated, there shall be deposited into the Fund for each of fiscal years 2012 through 2016 (and the last calendar quarter of fiscal year 2011)—

“(A) the Federal share, consisting of an amount equal to the lesser of—

“(i) 90 percent of the expenditures in carrying out this title for the respective fiscal year (initially based on estimates, subject to subsequent reconciliation based on actual expenditures); or

“(ii) (I) \$71,000,000 for the last calendar quarter of fiscal year 2011, \$318,000,000 for fiscal year 2012, \$354,000,000 for fiscal year 2013, \$382,000,000 for fiscal year 2014, and \$431,000,000 for fiscal year 2015; and

“(II) subject to paragraph (4), an additional amount for fiscal year 2016 from unexpended amounts for previous fiscal years; plus

“(B) the New York City share, consisting of the amount contributed under the contract under section 3331(d).

“(3) CONTRACT REQUIREMENT.—

“(A) IN GENERAL.—No funds may be disbursed from the Fund unless New York City has entered into a contract with the WTC Program Administrator under section 3331(d)(1).

“(B) BREACH OF CONTRACT.—In the case of a failure to pay the amount so required under the contract—

“(i) the amount is recoverable under subparagraph (E)(ii) of such section;

“(ii) such failure shall not affect the disbursement of amounts from the Fund; and

“(iii) the Federal share described in paragraph (2)(A) shall not be increased by the amount so unpaid.

“(4) AGGREGATE LIMITATION ON FUNDING BEGINNING WITH FISCAL YEAR 2016.—Beginning with fiscal year 2016, in no case shall the share of Federal funds deposited into the Fund under paragraph (2) for such fiscal year and previous fiscal years and quarters exceed the sum of the amounts specified in paragraph (2)(A)(ii)(I).

“(b) MANDATORY FUNDS FOR MONITORING, INITIAL HEALTH EVALUATIONS, TREATMENT, AND CLAIMS PROCESSING.—

“(1) IN GENERAL.—The amounts deposited into the Fund under subsection (a)(2) shall be available, without further appropriation, consistent with paragraph (2) and subsection (c), to carry out subtitle B and sections 3302(a), 3303, 3304, 3305(a)(2), 3305(c), 3341, and 3342.

“(2) LIMITATION ON MANDATORY FUNDING.—This title does not establish any Federal obligation for payment of amounts in excess of the amounts available from the Fund for such purpose.

“(3) LIMITATION ON AUTHORIZATION FOR FURTHER APPROPRIATIONS.—This title does not establish any authorization for appropriation of amounts in excess of the amounts available from the Fund under paragraph (1).

“(c) LIMITS ON SPENDING FOR CERTAIN PURPOSES.—Of the amounts made available under subsection (b)(1), not more than each of the following amounts may be available for each of the following purposes:

“(1) SURVIVING IMMEDIATE FAMILY MEMBERS OF FIREFIGHTERS.—For the purposes of carrying out subtitle B with respect to WTC responders described in section 3311(a)(2)(A)(ii)—

“(A) for the last calendar quarter of fiscal year 2011, \$100,000;

“(B) for fiscal year 2012, \$400,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(2) WTC HEALTH PROGRAM SCIENTIFIC/TECHNICAL ADVISORY COMMITTEE.—For the purpose of carrying out section 3302(a)—

“(A) for the last calendar quarter of fiscal year 2011, \$25,000;

“(B) for fiscal year 2012, \$100,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(3) EDUCATION AND OUTREACH.—For the purpose of carrying out section 3303—

“(A) for the last calendar quarter of fiscal year 2011, \$500,000;

“(B) for fiscal year 2012, \$2,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(4) UNIFORM DATA COLLECTION.—For the purpose of carrying out section 3304 and for reimbursing Data Centers (as defined in section 3305(b)(2)) for the costs incurred by such Centers in carrying out activities under contracts entered into under section 3305(a)(2)—

“(A) for the last calendar quarter of fiscal year 2011, \$2,500,000;

“(B) for fiscal year 2012, \$10,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(5) RESEARCH REGARDING CERTAIN HEALTH CONDITIONS.—For the purpose of carrying out section 3341—

“(A) for the last calendar quarter of fiscal year 2011, \$3,750,000;

“(B) for fiscal year 2012, \$15,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(6) WORLD TRADE CENTER HEALTH REGISTRY.—For the purpose of carrying out section 3342—

“(A) for the last calendar quarter of fiscal year 2011, \$1,750,000;

“(B) for fiscal year 2012, \$7,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.”

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

SEC. 201. DEFINITIONS.

Section 402 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in paragraph (6) by inserting “, or debris removal, including under the World Trade Center Health Program established under section 3001 of the Public Health Service Act, and payments made pursuant to the settlement of a civil action described in section 405(c)(3)(C)(iii)” after “September 11, 2001”;

(2) by inserting after paragraph (6) the following new paragraphs and redesignating subsequent paragraphs accordingly:

“(7) CONTRACTOR AND SUBCONTRACTOR.—The term ‘contractor and subcontractor’ means any contractor or subcontractor (at any tier of a subcontracting relationship), including any general contractor, construction manager, prime contractor, consultant, or any parent, subsidiary, associated or allied company, affiliated company, corporation, firm, organization, or joint venture thereof that participated in debris removal at any 9/11 crash site. Such term shall not include any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect.

“(8) DEBRIS REMOVAL.—The term ‘debris removal’ means rescue and recovery efforts, removal of debris, cleanup, remediation, and response during the immediate aftermath of the terrorist-related aircraft crashes of September 11, 2001, with respect to a 9/11 crash site.”

(3) by inserting after paragraph (10), as so redesignated, the following new paragraph and redesignating the subsequent paragraphs accordingly:

“(11) IMMEDIATE AFTERMATH.—The term ‘immediate aftermath’ means any period beginning with the terrorist-related aircraft crashes of September 11, 2001, and ending on May 30, 2002.”; and

(4) by adding at the end the following new paragraph:

“(14) 9/11 CRASH SITE.—The term ‘9/11 crash site’ means—

“(A) the World Trade Center site, Pentagon site, and Shanksville, Pennsylvania site;

“(B) the buildings or portions of buildings that were destroyed as a result of the terrorist-related aircraft crashes of September 11, 2001;

“(C) any area contiguous to a site of such crashes that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses (including the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured individuals); and

“(D) any area related to, or along, routes of debris removal, such as barges and Fresh Kills.”

SEC. 202. EXTENDED AND EXPANDED ELIGIBILITY FOR COMPENSATION.

(a) INFORMATION ON LOSSES RESULTING FROM DEBRIS REMOVAL INCLUDED IN CONTENTS OF CLAIM FORM.—Section 405(a)(2)(B) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in clause (i), by inserting “, or debris removal during the immediate aftermath” after “September 11, 2001”;

(2) in clause (ii), by inserting “or debris removal during the immediate aftermath” after “crashes”; and

(3) in clause (iii), by inserting “or debris removal during the immediate aftermath” after “crashes”.

(b) EXTENSION OF DEADLINE FOR CLAIMS UNDER SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001.—Section 405(a)(3) of such Act is amended to read as follows:

“(3) LIMITATION.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), no claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 407(a).

“(B) EXCEPTION.—A claim may be filed under paragraph (1), in accordance with subsection (c)(3)(A)(i), by an individual (or by a personal representative on behalf of a deceased individual) during the period beginning on the date on which the regulations are updated under section 407(b) and ending on the date that is 5 years after the date on which such regulations are updated.”

(c) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—Section 405(c)(3) of such Act is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

“(A) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—

“(i) TIMING REQUIREMENTS FOR FILING CLAIMS.—An individual (or a personal representative on behalf of a deceased individual) may file a claim during the period described in subsection (a)(3)(B) as follows:

“(I) In the case that the Special Master determines the individual knew (or reasonably should have known) before the date specified

in clause (iii) that the individual suffered a physical harm at a 9/11 crash site as a result of the terrorist-related aircraft crashes of September 11, 2001, or as a result of debris removal, and that the individual knew (or should have known) before such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the date that is 2 years after such specified date.

“(II) In the case that the Special Master determines the individual first knew (or reasonably should have known) on or after the date specified in clause (iii) that the individual suffered such a physical harm or that the individual first knew (or should have known) on or after such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the last day of the 2-year period beginning on the date the Special Master determines the individual first knew (or should have known) that the individual both suffered from such harm and was eligible to file a claim under this title.

“(ii) OTHER ELIGIBILITY REQUIREMENTS FOR FILING CLAIMS.—An individual may file a claim during the period described in subsection (a)(3)(B) only if—

“(I) the individual was treated by a medical professional for suffering from a physical harm described in clause (i)(I) within a reasonable time from the date of discovering such harm; and

“(II) the individual’s physical harm is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

“(iii) DATE SPECIFIED.—The date specified in this clause is the date on which the regulations are updated under section 407(a).”

(d) CLARIFYING APPLICABILITY TO ALL 9/11 CRASH SITES.—Section 405(c)(2)(A)(i) of such Act is amended by striking “or the site of the aircraft crash at Shanksville, Pennsylvania” and inserting “the site of the aircraft crash at Shanksville, Pennsylvania, or any other 9/11 crash site”.

(e) INCLUSION OF PHYSICAL HARM RESULTING FROM DEBRIS REMOVAL.—Section 405(c) of such Act is amended in paragraph (2)(A)(ii), by inserting “or debris removal” after “air crash”.

(f) LIMITATIONS ON CIVIL ACTIONS.—

(1) APPLICATION TO DAMAGES RELATED TO DEBRIS REMOVAL.—Clause (i) of section 405(c)(3)(C) of such Act, as redesignated by subsection (c), is amended by inserting “, or for damages arising from or related to debris removal” after “September 11, 2001”.

(2) PENDING ACTIONS.—Clause (ii) of such section, as so redesignated, is amended to read as follows:

“(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title—

“(I) during the period described in subsection (a)(3)(A) unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407(a); and

“(II) during the period described in subsection (a)(3)(B) unless such individual withdraws from such action by the date that is 90 days after the date on which the regulations are updated under section 407(b).”

(3) SETTLED ACTIONS.—Such section, as so redesignated, is further amended by adding at the end the following new clause:

“(iii) SETTLED ACTIONS.—In the case of an individual who settled a civil action described in clause (i), such individual may not submit a claim under this title unless such

action was commenced after December 22, 2003, and a release of all claims in such action was tendered prior to the date on which the James Zadroga 9/11 Health and Compensation Act of 2010 was enacted.”.

SEC. 203. REQUIREMENT TO UPDATE REGULATIONS.

Section 407 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) by striking “Not later than” and inserting “(a) IN GENERAL.—Not later than”; and

(2) by adding at the end the following new subsection:

“(b) UPDATED REGULATIONS.—Not later than 180 days after the date of the enactment of the James Zadroga 9/11 Health and Compensation Act of 2010, the Special Master shall update the regulations promulgated under subsection (a) to the extent necessary to comply with the provisions of title II of such Act.”.

SEC. 204. LIMITED LIABILITY FOR CERTAIN CLAIMS.

Section 408(a) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended by adding at the end the following new paragraphs:

“(4) LIABILITY FOR CERTAIN CLAIMS.—Notwithstanding any other provision of law, liability for all claims and actions (including claims or actions that have been previously resolved, that are currently pending, and that may be filed) for compensatory damages, contribution or indemnity, or any other form or type of relief, arising from or related to debris removal, against the City of New York, any entity (including the Port Authority of New York and New Jersey) with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect) and any contractors and subcontractors, shall not be in an amount that exceeds the sum of the following, as may be applicable:

“(A) The amount of funds of the WTC Captive Insurance Company, including the cumulative interest.

“(B) The amount of all available insurance identified in schedule 2 of the WTC Captive Insurance Company insurance policy.

“(C) As it relates to the limitation of liability of the City of New York, the amount that is the greater of the City of New York’s insurance coverage or \$350,000,000. In determining the amount of the City’s insurance coverage for purposes of the previous sentence, any amount described in subparagraphs (A) and (B) shall not be included.

“(D) As it relates to the limitation of liability of any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect), the amount of all available liability insurance coverage maintained by any such entity.

“(E) As it relates to the limitation of liability of any individual contractor or subcontractor, the amount of all available liability insurance coverage maintained by such contractor or subcontractor on September 11, 2001.

“(5) PRIORITY OF CLAIMS PAYMENTS.—Payments to plaintiffs who obtain a settlement or judgment with respect to a claim or action to which paragraph (4) applies, shall be paid solely from the following funds in the following order, as may be applicable:

“(A) The funds described in subparagraph (A) or (B) of paragraph (4).

“(B) If there are no funds available as described in subparagraph (A) or (B) of para-

graph (4), the funds described in subparagraph (C) of such paragraph.

“(C) If there are no funds available as described in subparagraph (A), (B), or (C) of paragraph (4), the funds described in subparagraph (D) of such paragraph.

“(D) If there are no funds available as described in subparagraph (A), (B), (C), or (D) of paragraph (4), the funds described in subparagraph (E) of such paragraph.

“(6) DECLARATORY JUDGMENT ACTIONS AND DIRECT ACTION.—Any claimant to a claim or action to which paragraph (4) applies may, with respect to such claim or action, either file an action for a declaratory judgment for insurance coverage or bring a direct action against the insurance company involved, except that no such action for declaratory judgment or direct action may be commenced until after the funds available in subparagraph (A), (B), (C), and (D) of paragraph (5) have been exhausted consistent with the order described in such paragraph for payment.”.

SEC. 205. FUNDING; ATTORNEY FEES.

Section 406 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in subsection (a), by striking “Not later than” and inserting “Subject to the limitations under subsection (d), not later than”; and

(2) in subsection (b)—

(A) by inserting “in the amounts provided under subsection (d)(1)” after “appropriations Acts”; and

(B) by inserting “subject to the limitations under subsection (d)” before the period; and

(3) by adding at the end the following new subsections:

“(d) LIMITATION.—

“(1) IN GENERAL.—The total amount of Federal funds paid for compensation under this title, with respect to claims filed on or after the date on which the regulations are updated under section 407(b), shall not exceed \$2,775,000,000. Of such amounts, not to exceed \$875,000,000 shall be available to pay such claims during the 5-year period beginning on such date.

“(2) PRO-RATION AND PAYMENT OF REMAINING CLAIMS.—

“(A) IN GENERAL.—The Special Master shall ratably reduce the amount of compensation due claimants under this title in a manner to ensure, to the extent possible, that—

“(i) all claimants who, before application of the limitation under the second sentence of paragraph (1), would have been determined to be entitled to a payment under this title during such 5-year period, receive a payment during such period; and

“(ii) the total amount of all such payments made during such 5-year period do not exceed the amount available under the second sentence of paragraph (1) to pay claims during such period.

“(B) PAYMENT OF REMAINDER OF CLAIM AMOUNTS.—In any case in which the amount of a claim is ratably reduced pursuant to subparagraph (A), on or after the first day after the 5-year period described in paragraph (1), but in no event later than 1 year after such 5-year period, the Special Master shall pay to the claimant the amount that is equal to the difference between—

“(i) the amount that the claimant would have been paid under this title during such period without regard to the limitation under the second sentence of paragraph (1) applicable to such period; and

“(ii) the amount the claimant was paid under this title during such period.

“(C) TERMINATION.—Upon completion of all payments pursuant to this subsection, the

Victim's Compensation Fund shall be permanently closed.

“(e) ATTORNEY FEES.—

“(1) IN GENERAL.—Notwithstanding any contract, the representative of an individual may not charge, for services rendered in connection with the claim of an individual under this title, more than 10 percent of an award made under this title on such claim.

“(2) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of an individual who was charged a legal fee in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii), the representative of the individual may not charge any amount for compensation for services rendered in connection with a claim filed under this title.

“(B) EXCEPTION.—If the legal fee charged in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii) of an individual is less than 10 percent of the aggregate amount of compensation awarded to such individual through such settlement, the representative of such individual may charge an amount for compensation for services rendered to the extent that such amount charged is not more than—

“(i) 10 percent of such aggregate amount through the settlement, minus

“(ii) the total amount of all legal fees charged for services rendered in connection with such settlement.

“(3) DISCRETION TO LOWER FEE.—In the event that the special master finds that the fee limit set by paragraph (1) or (2) provides excessive compensation for services rendered in connection with such claim, the Special Master may, in the discretion of the Special Master, award as reasonable compensation for services rendered an amount lesser than that permitted for in paragraph (1).”.

TITLE III—REVENUE RELATED PROVISIONS

SEC. 301. EXCISE TAX ON CERTAIN FOREIGN PROCUREMENT.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new chapter:

“CHAPTER 50—FOREIGN PROCUREMENT

“Sec. 5000C. Imposition of tax on certain foreign procurement.

“SEC. 5000C. IMPOSITION OF TAX ON CERTAIN FOREIGN PROCUREMENT.

“(a) IMPOSITION OF TAX.—There is hereby imposed on any foreign person that receives a specified Federal procurement payment a tax equal to 2 percent of the amount of such specified Federal procurement payment.

“(b) SPECIFIED FEDERAL PROCUREMENT PAYMENT.—For purposes of this section, the term ‘specified Federal procurement payment’ means any payment made pursuant to a contract with the Government of the United States for—

“(1) the provision of goods, if such goods are manufactured or produced in any country which is not a party to an international procurement agreement with the United States, or

“(2) the provision of services, if such services are provided in any country which is not a party to an international procurement agreement with the United States.

“(c) FOREIGN PERSON.—For purposes of this section, the term ‘foreign person’ means any person other than a United States person.

“(d) ADMINISTRATIVE PROVISIONS.—

“(1) WITHHOLDING.—The amount deducted and withheld under chapter 3 shall be increased by the amount of tax imposed by this section on such payment.

“(2) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.”.

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“CHAPTER 50—FOREIGN PROCUREMENT”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments received pursuant to contracts entered into on and after the date of the enactment of this Act.

(b) PROHIBITION ON REIMBURSEMENT OF FEES.—

(1) IN GENERAL.—The head of each executive agency shall take any and all measures necessary to ensure that no funds are disbursed to any foreign contractor in order to reimburse the tax imposed under section 5000C of the Internal Revenue Code of 1986.

(2) ANNUAL REVIEW.—The Administrator for Federal Procurement Policy shall annually review the contracting activities of each executive agency to monitor compliance with the requirements of paragraph (1).

(3) EXECUTIVE AGENCY.—For purposes of this subsection, the term “executive agency” has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(c) APPLICATION.—This section and the amendments made by this section shall be applied in a manner consistent with United States obligations under international agreements.

SEC. 302. RENEWAL OF FEES FOR VISA-DEPENDENT EMPLOYERS.

Subsections (a), (b), and (c) of section 402 of Public Law 111-230 are amended by striking “2014” each place that such appears and inserting “2015”.

TITLE IV—BUDGETARY EFFECTS

SEC. 401. COMPLIANCE WITH STATUTORY PAY-AS-YOU-GO ACT OF 2010.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 4924. Mr. BROWN of Ohio (for himself, Mr. CASEY, Mr. BAUCUS, Mr. MCCAIN, and Mr. KYL) proposed an amendment to the bill H.R. 6517, to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Omnibus Trade Act of 2010”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EXTENSION OF TRADE ADJUSTMENT ASSISTANCE AND HEALTH COVERAGE IMPROVEMENT

Subtitle A—Extension of Trade Adjustment Assistance

Sec. 101. Extension of trade adjustment assistance.

Sec. 102. Merit staffing for State administration of trade adjustment assistance.

Subtitle B—Health Coverage Improvement

Sec. 111. Improvement of the affordability of the credit.

Sec. 112. Payment for the monthly premiums paid prior to commencement of the advance payments of credit.

Sec. 113. TAA recipients not enrolled in training programs eligible for credit.

Sec. 114. TAA pre-certification period rule for purposes of determining whether there is a 63-day lapse in creditable coverage.

Sec. 115. Continued qualification of family members after certain events.

Sec. 116. Extension of COBRA benefits for certain TAA-eligible individuals and PBGC recipients.

Sec. 117. Addition of coverage through voluntary employees’ beneficiary associations.

Sec. 118. Notice requirements.

TITLE II—ANDEAN TRADE PREFERENCES ACT

Sec. 201. Extension of Andean Trade Preference Act.

TITLE III—OFFSETS

Sec. 301. Customs user fees.

Sec. 302. Time for payment of corporate estimated taxes.

TITLE IV—BUDGETARY EFFECTS

Sec. 401. Compliance with PAYGO.

TITLE I—EXTENSION OF TRADE ADJUSTMENT ASSISTANCE AND HEALTH COVERAGE IMPROVEMENT

Subtitle A—Extension of Trade Adjustment Assistance

SEC. 101. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Section 1893(a) of the Trade and Globalization Adjustment Assistance Act of 2009 (Public Law 111-5; 123 Stat. 422) is amended by striking “January 1, 2011” each place it appears and inserting “February 13, 2011”.

(b) APPLICATION OF PRIOR LAW.—Section 1893(b) of the Trade and Globalization Adjustment Assistance Act of 2009 (Public Law 111-5; 123 Stat. 422 (19 U.S.C. 2271 note prec.)) is amended to read as follows:

“(b) APPLICATION OF PRIOR LAW.—Chapters 2, 3, 4, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) shall be applied and administered beginning February 13, 2011, as if the amendments made by this subtitle (other than part VI) had never been enacted, except that in applying and administering such chapters—

“(1) section 245 of that Act shall be applied and administered by substituting ‘February 12, 2012’ for ‘December 31, 2007’;

“(2) section 246(b)(1) of that Act shall be applied and administered by substituting ‘February 12, 2012’ for ‘the date that is 5 years’ and all that follows through ‘State’;

“(3) section 256(b) of that Act shall be applied and administered by substituting ‘the 1-year period beginning February 13, 2011, and ending February 12, 2012,’ for ‘each of fiscal years 2003 through 2007, and \$4,000,000 for the 3-month period beginning on October 1, 2007.’;

“(4) section 298(a) of that Act shall be applied and administered by substituting ‘the 1-year period beginning February 13, 2011, and ending February 12, 2012,’ for ‘each of the fiscal years’ and all that follows through ‘October 1, 2007’; and

“(5) subject to subsection (a)(2), section 285 of that Act shall be applied and administered—

“(A) in subsection (a), by substituting ‘February 12, 2011’ for ‘December 31, 2007’ each place it appears; and

“(B) by applying and administering subsection (b) as if it read as follows:

“(b) OTHER ASSISTANCE.—

“(1) ASSISTANCE FOR FIRMS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), assistance may not be provided under chapter 3 after February 12, 2012.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), any assistance approved under chapter 3 on or before February 12, 2012, may be provided—

“(i) to the extent funds are available pursuant to such chapter for such purpose; and

“(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.

“(2) FARMERS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), assistance may not be provided under chapter 6 after February 12, 2012.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), any assistance approved under chapter 6 on or before February 12, 2012, may be provided—

“(i) to the extent funds are available pursuant to such chapter for such purpose; and

“(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended to read as follows:

“(2)(A) The total amount of payments that may be made under paragraph (1) shall not exceed—

“(i) \$575,000,000 for fiscal year 2010; and

“(ii) \$66,500,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.”.

(2) Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(3) Section 246(b)(1) of the Trade Act of 1974 (19 U.S.C. 2318(b)(1)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(4) Section 255(a) of the Trade Act of 1974 (19 U.S.C. 2345(a)) is amended—

(A) in the first sentence to read as follows: “There are authorized to be appropriated to the Secretary to carry out the provisions of this chapter \$50,000,000 for fiscal year 2010 and \$5,800,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.”; and

(B) in paragraph (1), by striking “December 31, 2010” and inserting “February 12, 2011”.

(5) Section 275(f) of the Trade Act of 1974 (19 U.S.C. 2371d(f)) is amended by striking “2011” and inserting “and annually thereafter”.

(6) Section 276(c)(2) of the Trade Act of 1974 (19 U.S.C. 2371e(c)(2)) is amended to read as follows:

“(2) FUNDS TO BE USED.—Of the funds appropriated pursuant to section 277(c), the Secretary may make available, to provide grants to eligible communities under paragraph (1), not more than—

“(A) \$25,000,000 for fiscal year 2010; and

“(B) \$2,900,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.”.

(7) Section 277(c) of the Trade Act of 1974 (19 U.S.C. 2371f(c)) is amended—

(A) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this subchapter—

“(A) \$150,000,000 for fiscal year 2010; and

“(B) \$17,300,000 for the 6-week period beginning January 1, 2011 and ending February 12, 2011.”; and

(B) in paragraph (2)(A), by striking “December 31, 2010” and inserting “February 12, 2011”.

(8) Section 278(e) of the Trade Act of 1974 (19 U.S.C. 2372(e)) is amended by striking “2011” and inserting “and annually thereafter”.

(9) Section 279A(h)(2) of the Trade Act of 1974 (19 U.S.C. 2373(h)(2)) is amended by striking “2011” and inserting “and annually thereafter”.

(10) Section 279B(a) of the Trade Act of 1974 (19 U.S.C. 2373a(a)) is amended to read as follows:

“(a) IN GENERAL.—

“(1) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Labor to carry out the Sector Partnership Grant program under section 279A—

“(A) \$40,000,000 for fiscal year 2010; and

“(B) \$4,600,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.

“(2) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated pursuant to this section shall remain available until expended.”.

(11) Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended—

(A) by striking “December 31, 2010” each place it appears and inserting “February 12, 2011”; and

(B) in subsection (a)(2)(A), by inserting “pursuant to petitions filed under section 221 before February 12, 2011” after “title”.

(12) Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by striking “\$90,000,000 for each of the fiscal years 2009 and 2010, and \$22,500,000 for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$10,400,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011”.

(13) The table of contents for the Trade Act of 1974 is amended by striking the item relating to section 235 and inserting the following:

“Sec. 235. Employment and case management services.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

SEC. 102. MERIT STAFFING FOR STATE ADMINISTRATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Notwithstanding section 618.890(b) of title 20, Code of Federal Regulations, or any other provision of law, the single transition deadline for implementing the merit-based State personnel staffing requirements contained in section 618.890(a) of title 20, Code of Federal Regulations, shall not be earlier than February 12, 2011.

(b) EFFECTIVE DATE.—This section shall take effect on December 14, 2010.

Subtitle B—Health Coverage Improvement

SEC. 111. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 112. PAYMENT FOR THE MONTHLY PREMIUMS PAID PRIOR TO COMMENCEMENT OF THE ADVANCE PAYMENTS OF CREDIT.

(a) IN GENERAL.—Section 7527(e) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 113. TAA RECIPIENTS NOT ENROLLED IN TRAINING PROGRAMS ELIGIBLE FOR CREDIT.

(a) IN GENERAL.—Section 35(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 114. TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) IRC AMENDMENT.—Section 9801(c)(2)(D) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) ERISA AMENDMENT.—Section 701(c)(2)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)(C)) is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(c) PHSA AMENDMENT.—Section 2701(c)(2)(C) of the Public Health Service Act (as in effect for plan years beginning before January 1, 2014) is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2010.

SEC. 115. CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.

(a) IN GENERAL.—Section 35(g)(9) of the Internal Revenue Code of 1986, as added by section 1899E(a) of the American Recovery and Reinvestment Tax Act of 2009 (relating to continued qualification of family members after certain events), is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) CONFORMING AMENDMENT.—Section 173(f)(8) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(8)) is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 2010.

SEC. 116. EXTENSION OF COBRA BENEFITS FOR CERTAIN TAA-ELIGIBLE INDIVIDUALS AND PBGC RECIPIENTS.

(a) ERISA AMENDMENTS.—

(1) PBGC RECIPIENTS.—Section 602(2)(A)(v) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)(v)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(2) TAA-ELIGIBLE INDIVIDUALS.—Section 602(2)(A)(vi) of such Act (29 U.S.C. 1162(2)(A)(vi)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(b) IRC AMENDMENTS.—

(1) PBGC RECIPIENTS.—Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986 is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(2) TAA-ELIGIBLE INDIVIDUALS.—Section 4980B(f)(2)(B)(i)(VI) of such Code is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(c) PHSA AMENDMENTS.—Section 2202(2)(A)(iv) of the Public Health Service Act (42 U.S.C. 300bb-2(2)(A)(iv)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods of coverage which would (without regard to the amendments made by this section) end on or after December 31, 2010.

SEC. 117. ADDITION OF COVERAGE THROUGH VOLUNTARY EMPLOYEES’ BENEFICIARY ASSOCIATIONS.

(a) IN GENERAL.—Section 35(e)(1)(K) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 118. NOTICE REQUIREMENTS.

(a) IN GENERAL.—Section 7527(d)(2) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to certificates issued after December 31, 2010.

TITLE II—ANDEAN TRADE PREFERENCES ACT

SEC. 201. EXTENSION OF ANDEAN TRADE PREFERENCE ACT.

(a) EXTENSION.—Section 208(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3206(a)(1)) is amended to read as follows:

“(1) remain in effect—

“(A) with respect to Colombia after February 12, 2011; and

“(B) with respect to Peru after December 31, 2010”.

(b) ECUADOR.—Section 208(a)(2) of the Andean Trade Preference Act (19 U.S.C. 3206(a)(2)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(c) TREATMENT OF CERTAIN APPAREL ARTICLES.—Section 204(b)(3)(E)(ii)(II) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)) is amended (i)(II), by striking “December 31, 2010” and inserting “February 12, 2011”.

(d) ANNUAL REPORT.—Section 203(f)(1) of the Andean Trade Preference Act (19 U.S.C. 3202(f)(1)) is amended by striking “every 2 years” and inserting “annually”.

TITLE III—OFFSETS

SEC. 301. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking “September 30, 2019” and inserting “January 7, 2020”; and

(2) in subparagraph (B)(i), by striking “September 30, 2019” and inserting “January 14, 2020”.

SEC. 302. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 4.5 percentage points.

TITLE IV—BUDGETARY EFFECTS

SEC. 401. COMPLIANCE WITH PAYGO.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legisla-

tion” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

ARTS IN EDUCATION WEEK

Mr. BAYH. Madam President, I ask unanimous consent that the Health, Education, Labor and Pensions Committee be discharged from further consideration of H. Con. Res. 275, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 275) expressing support for designation of the week beginning on the second Sunday of September as Arts in Education Week.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BAYH. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 275) was agreed to.

The preamble was agreed to.

HONORING THE WORK AND MISSION OF THE DELTA REGIONAL AUTHORITY

Mr. BAYH. I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration and the Senate now proceed to S. Con. Res. 78.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 78) honoring the work and mission of the Delta Regional Authority on the occasion of the 10th anniversary of the Federal-State partnership created to uplift the 8-State Delta region.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BAYH. Madam President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 78) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 78

Whereas President Clinton, with the approval of Congress and the bipartisan support of congressional sponsors, representing the States of the Delta in both the House of Representatives and the Senate, launched the Delta Regional Authority on December 21, 2000, in an effort to alleviate the economic hardship facing the Delta region and to create a more level playing field for the counties and parishes of such States to compete for jobs and investment;

Whereas the Delta Regional Authority is a Federal-State partnership that serves 252 counties and parishes in parts of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;

Whereas the Delta region holds great promise for access and trade, as the region borders the world’s greatest transportation arterial in the Mississippi River;

Whereas the Delta boasts a strong cultural heritage as the birthplace of the blues and jazz music and as home to world famous cuisine, which people throughout the United States and the world identify with the region;

Whereas the counties and parishes served by the Delta Regional Authority constitute an economically-distressed area facing challenges such as undeveloped infrastructure systems, insufficient transportation options, struggling education systems, migration out of the region, substandard health care, and the needs to develop, recruit, and retain a qualified workforce and to build strong communities that attract new industries and employment opportunities;

Whereas the Delta Regional Authority has made significant progress toward addressing such challenges during its first 10 years of work;

Whereas the Delta Regional Authority operates a highly successful grant program in each of the 8 States it serves, allowing cities, counties, and parishes to leverage money from other Federal agencies and private investors;

Whereas the Delta Regional Authority has invested nearly \$86,200,000 into more than 600 projects during the first decade of existence, leveraging \$1,400,000,000 in private sector investment and producing an overall 22 to 1 return on taxpayer dollars;

Whereas the Delta Regional Authority is working with partners to create or retain approximately 19,000 jobs and is bringing the critical infrastructure to sustain new water and sewer services for more than 43,000 families;

Whereas an independent report from the Department of Agriculture’s Economic Research Service found that per capita income grew more rapidly in counties and parishes where the Delta Regional Authority had the greatest investment, showing that each additional dollar of Delta Regional Authority’s per capita spending results in a \$15 increase in personal income;

Whereas the Delta Regional Authority has developed a culture of transparency, passing 9 independent audits showing tangible results;

Whereas during its first 10 years, the Delta Regional Authority has laid a strong foundation for working with State Governors, Federal partners, community leaders, and private sector investors to capitalize on the region’s strong points and serve as an economic multiplier for the 8-State region, helping communities tackle challenges and

cultivating a climate conducive to job creation;

Whereas the Delta Regional Authority has expanded its regional initiatives in the areas of health care, transportation, leadership training, and information technology, and is also increasing efforts in the areas of small business development, entrepreneurship, and alternative energy jobs; and

Whereas the Delta Regional Authority stands prepared to use the groundwork established during its first decade as a springboard to create new opportunities for Delta communities in the future: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes the 10th anniversary of the founding of the Delta Regional Authority; and

(2) honors and celebrates the Delta Regional Authority's first decade of work to improve the economy and well-being of the 8-State Delta region, and the promise of the Delta Regional Authority's continued work in the future.

RECOGNIZING THE UNITED STATES NATIONAL INTEREST IN HELPING TO PREVENT MASS ATROCITIES

Mr. BAYH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 722, S. Con. Res. 71.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 71) recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

There being no objection, the Senate proceeded to consider the concurrent resolution with an amendment and an amendment to the preamble, as follows:

[Strike the parts shown in boldface brackets and insert the parts printed in italic.]

S. CON. RES. 71

[Whereas, in the aftermath of the Holocaust, the international community vowed "never again" to allow systematic killings on the basis of nationality, ethnicity, race, or religion;

[Whereas a number of other genocides and mass atrocities have occurred, both prior to and since that time;

[Whereas the United States Government has undertaken many initiatives to ensure that victims of genocide and mass atrocities are not forgotten, and as a leader in the international community, the United States has committed to work with international partners to prevent genocide and mass atrocities and to help protect civilian populations at risk of such;

[Whereas the United Nations General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, which declares genocide, whether committed in a time of peace or in

a time of war, a crime under international law, and declares that the parties to the Convention will undertake to prevent and to punish that crime;

[Whereas the United States was the first nation to sign the Convention on the Prevention and Punishment of the Crime of Genocide, and the Senate voted to ratify the Convention on the Prevention and Punishment of the Crime of Genocide on February 11, 1986;

[Whereas the Act entitled, "An Act to establish the United States Holocaust Memorial Council", approved October 7, 1980 (Public Law 96-388), established the United States Holocaust Memorial Council to commemorate the Holocaust, establish a memorial museum to the victims, and develop a committee to stimulate worldwide action to prevent or stop future genocides;

[Whereas the passage of the Genocide Convention Implementation Act of 1987 (Public Law 100-606), also known as the Proxmire Act, made genocide a crime under United States law;

[Whereas, in response to lessons learned from Rwanda and Bosnia, President William J. Clinton established a genocide and mass atrocities early warning system by establishing an Atrocities Prevention Interagency Working Group, chaired by an Ambassador-at-Large for War Crimes Issues from 1998 to 2000;

[Whereas, in 2005, the United States and all other members of the United Nations agreed that the international community has "a responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapter VI and VIII of the United Nations Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity," and to take direct action if national authorities are unwilling or unable to protect their populations;

[Whereas the 2006 National Security Strategy of the United States stated, "The world needs to start honoring a principle that many believe has lost its force in parts of the international community in recent years: genocide must not be tolerated. It is a moral imperative that states take action to prevent and punish genocide. . . . We must refine United States Government efforts—economic, diplomatic, and law-enforcement—so that they target those individuals responsible for genocide and not the innocent citizens they rule.";

[Whereas the United States Holocaust Memorial Museum, the American Academy of Diplomacy, and the United States Institute of Peace convened a Genocide Prevention Task Force, co-chaired by former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen, to explore how the United States Government could better respond to threats of genocide and mass atrocities;

[Whereas the final report of the Genocide Prevention Task Force, released in December 2008, concluded that the lack of an overarching policy framework or a standing interagency process, as well as insufficient and uncoordinated institutional capacities, undermines the ability of the United States Government to help prevent genocide or mass killings and offered recommendations for creating a government wide strategy;

[Whereas the former Director of National Intelligence, in his annual threat assessment to Congress in February 2010, highlighted countries at risk of genocide and mass atrocities and stated, "Within the past 3 years, the Democratic Republic of Congo and Sudan

all suffered mass killing episodes through violence starvation, or death in prison camps. . . . Looking ahead over the next 5 years, a number of countries in Africa and Asia are at significant risk for a new outbreak of mass killing.";

[Whereas the Quadrennial Defense Review, released in February 2010, states that the Defense Department should be prepared to provide the President with options for "preventing human suffering due to mass atrocities or large-scale natural disasters abroad";

[Whereas the 2010 National Security Strategy notes, "The United States is committed to working with our allies, and to strengthening our own internal capabilities, in order to ensure that the United States and the international community are proactively engaged in a strategic effort to prevent mass atrocities and genocide. In the event that prevention fails, the United States will work both multilaterally and bilaterally to mobilize diplomatic, humanitarian, financial, and—in certain instances—military means to prevent and respond to genocide and mass atrocities.";

[Whereas genocide and mass atrocities often result from and contribute to instability and conflict, which can cross borders and exacerbate threats to international security and the national security of the United States;

[Whereas the failure to prevent genocide and mass atrocities can lead to significant costs resulting from regional instability, refugee flows, peacekeeping, economic loss, and the challenges of post-conflict reconstruction and reconciliation; and

[Whereas United States leadership and actions toward preventing and mitigating future genocides and mass atrocities can save human lives and help foster beneficial global partnerships: Now, therefore, be it]

Whereas, in the aftermath of the Holocaust, the international community vowed "never again" to allow systematic killings on the basis of nationality, ethnicity, race, or religion;

Whereas a number of other genocides and mass atrocities have occurred, both prior to and since that time;

Whereas the United States Government has undertaken many initiatives to ensure that victims of genocide and mass atrocities are not forgotten, and as a leader in the international community, the United States has committed to work with international partners to help to prevent genocide and mass atrocities and to help protect civilian populations at risk of such;

Whereas the United Nations General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, which declares genocide, whether committed in a time of peace or in a time of war, a crime under international law, and declares that the parties to the Convention will undertake to prevent and to punish that crime;

Whereas the United States was the first nation to sign the Convention on the Prevention and Punishment of the Crime of Genocide, and the Senate voted to ratify the Convention on the Prevention and Punishment of the Crime of Genocide on February 11, 1986;

Whereas the Act entitled, "An Act to establish the United States Holocaust Memorial Council", approved October 7, 1980 (Public Law 96-388), established the United States Holocaust Memorial Council to commemorate the Holocaust, establish a memorial museum to the victims, and develop a committee to stimulate worldwide action to prevent or stop future genocides;

Whereas the passage of the Genocide Convention Implementation Act of 1987 (Public Law 100-606), also known as the Proxmire Act, made genocide a crime under United States law;

Whereas, in response to lessons learned from Rwanda and Bosnia, President William J. Clinton established a genocide and mass atrocities early warning system by establishing an Atrocities Prevention Interagency Working Group, chaired by an Ambassador-at-Large for War Crimes Issues from 1998 to 2000;

Whereas, in 2005, the United States and all other members of the United Nations agreed that the international community has “a responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapter VI and VIII of the United Nations Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity”;

Whereas the United States and all other members of the United Nations further pledged that they were “prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the [UN] Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity”;

Whereas the 2006 National Security Strategy of the United States stated, “The world needs to start honoring a principle that many believe has lost its force in parts of the international community in recent years: genocide must not be tolerated. It is a moral imperative that states take action to prevent and punish genocide. . . . We must refine United States Government efforts—economic, diplomatic, and law-enforcement—so that they target those individuals responsible for genocide and not the innocent citizens they rule.”;

Whereas the United States Holocaust Memorial Museum, the American Academy of Diplomacy, and the United States Institute of Peace convened a Genocide Prevention Task Force, co-chaired by former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen, to explore how the United States Government could better respond to threats of genocide and mass atrocities;

Whereas the final report of the Genocide Prevention Task Force, released in December 2008, concluded that the lack of an overarching policy framework or a standing interagency process, as well as insufficient and uncoordinated institutional capacities, undermines the ability of the United States Government to help prevent genocide or mass killings and offered recommendations for creating a government wide strategy;

Whereas, in February 2010, the former Director of National Intelligence, in his annual threat assessment to Congress, highlighted countries at risk of genocide and mass atrocities and stated, “Within the past 3 years, the Democratic Republic of Congo and Sudan all suffered mass killing episodes through violence starvation, or death in prison camps. . . . Looking ahead over the next 5 years, a number of countries in Africa and Asia are at significant risk for a new outbreak of mass killing.”;

Whereas the Quadrennial Defense Review, released in February 2010, states that the Defense Department should be prepared to provide the President with options for “preventing human suffering due to mass atrocities or large-scale natural disasters abroad”;

Whereas the 2010 National Security Strategy notes, “The United States is committed to working with our allies, and to strengthening our own internal capabilities, in order to ensure that the United States and the international community are proactively engaged in a strategic effort to prevent mass atrocities and genocide. In the event that prevention fails, the

United States will work both multilaterally and bilaterally to mobilize diplomatic, humanitarian, financial, and—in certain instances—military means to prevent and respond to genocide and mass atrocities.”;

Whereas genocide and mass atrocities often result from and contribute to instability and conflict, which can cross borders and exacerbate threats to international security and the national security of the United States;

Whereas the failure to prevent genocide and mass atrocities can lead to significant costs resulting from regional instability, refugee flows, peacekeeping, economic loss, and the challenges of post-conflict reconstruction and reconciliation; and

Whereas United States leadership and actions toward preventing and mitigating future genocides and mass atrocities can save human lives and help foster beneficial global partnerships: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), [That the Senate—

[(1) recommits to honor the memory of the victims of the Holocaust as well as the victims of all past genocides and mass atrocities;

[(2) affirms that it is in the national interest and aligned with the values of the United States to work vigorously with international partners to prevent and mitigate future genocides and mass atrocities;

[(3) supports efforts made thus far by the President, the Secretary of State, the Administrator of the United States Agency for International Development, the Secretary of Defense, and the Director of National Intelligence to improve the capacity of the United States Government to anticipate, prevent, and address genocide and mass atrocities, including the establishment of an interagency policy committee and a National Security Council position dedicated to the prevention of genocide and other mass atrocities;

[(4) urges the President—

[(A) to direct relevant departments and agencies of the United States Government to review and evaluate existing capacities for anticipating, preventing, and responding to genocide and other mass atrocities, and to determine specific steps to coordinate and enhance those capacities; and

[(B) to develop and communicate a whole of government approach and policy to anticipate, prevent, and mitigate acts of genocide and other mass atrocities;

[(5) urges the Secretary of State, working closely with the Administrator of the United States Agency for International Development—

[(A) to ensure that all relevant officers of the Foreign Service and particularly those deploying to areas undergoing significant conflict or considered to be at risk of significant conflict, genocide, and other mass atrocities receive appropriate advanced training in early warning and conflict prevention, mitigation, and resolution;

[(B) to determine appropriate leadership, structure, programs, and mechanisms within the Department of State and the United States Agency for International Development that can enhance efforts to prevent genocide and other mass atrocities; and

[(C) to include relevant recommendations for enhancing civilian capacities to help prevent and mitigate genocide and mass atrocities in the upcoming Quadrennial Diplomacy and Development Review;

[(6) urges the Secretary of the Treasury, working in consultation with the Secretary of State, to review how sanctions and other financial tools could be used against state

and commercial actors found to be directly supporting or enabling genocides and mass atrocities;

[(7) recognizes the importance of flexible contingency crisis funding to enable United States civilian agencies to respond quickly to help prevent and mitigate crises that could lead to significant armed conflict, genocide, and other mass atrocities;

[(8) urges the Secretary of Defense to conduct an analysis of the doctrine, organization, training, material, leadership, personnel, and facilities required to prevent and respond to genocide and mass atrocities;

[(9) encourages the Secretary of State and Secretary of Defense to work with the relevant congressional committees to ensure that a priority goal of all United States security assistance and training is to support legitimate, accountable security forces committed to upholding the sovereign responsibility to protect civilian populations from violence, especially genocide and other mass atrocities;

[(10) supports efforts by the United States Government to provide logistical, communications, and intelligence support, as appropriate, to assist multilateral diplomatic efforts and peace operations in preventing mass atrocities and protecting civilians;

[(11) calls on other members of the international community to increase their support for multilateral diplomatic efforts and peace operations to more effectively prevent mass atrocities and protect civilians;

[(12) encourages the Secretary of State to work closely with regional and international organizations, the United Nations Special Adviser for the Prevention of Genocide, and civil society experts to develop and expand multilateral mechanisms for early warning, information sharing, and rapid response diplomacy for the prevention of genocide and other mass atrocities; and

[(13) commits to calling attention to areas at risk of genocide and other mass atrocities and ensuring that the United States Government has the tools and resources to enable its efforts to prevent genocide and mass atrocities.]

That the Senate—

(1) recommits to honor the memory of the victims of the Holocaust as well as the victims of all past genocides and mass atrocities;

(2) affirms that it is in the national interest and aligned with the values of the United States to work vigorously with international partners to prevent and mitigate future genocides and mass atrocities;

(3) supports the establishment of an interagency policy committee and a National Security Council position dedicated to the prevention of genocide and other mass atrocities;

(4) urges the President—

(A) to direct relevant departments and agencies of the United States Government to review and evaluate existing capacities for anticipating, preventing, and responding to genocide and other mass atrocities, and to determine specific steps to coordinate and enhance those capacities; and

(B) to develop and communicate a whole of government approach and policy to anticipate, prevent, and mitigate acts of genocide and other mass atrocities;

(5) urges the Secretary of State, working closely with the Administrator of the United States Agency for International Development—

(A) to ensure that all relevant officers of the Foreign Service and particularly those deploying to areas undergoing significant conflict or considered to be at risk of significant conflict, genocide, and other mass atrocities receive appropriate advanced training in early warning

and conflict prevention, mitigation, and resolution;

(B) to determine appropriate leadership, structure, programs, and mechanisms within the Department of State and the United States Agency for International Development that can enhance efforts to help to prevent genocide and other mass atrocities; and

(C) to ensure recommendations for enhancing civilian capacities to help prevent and mitigate genocide and mass atrocities in the upcoming Quadrennial Diplomacy and Development Review;

(6) urges the Secretary of the Treasury, working in consultation with the Secretary of State, to review how sanctions and other financial tools could be used against individuals and entities found to be directly supporting or enabling genocides and mass atrocities;

(7) recognizes the importance of flexible contingency crisis funding to enable United States civilian agencies to respond quickly to help prevent and mitigate crises that could lead to significant armed conflict, genocide, and other mass atrocities;

(8) urges the Secretary of Defense to conduct an analysis of the doctrine, organization, training, material, leadership, personnel, and facilities required to help prevent and respond to genocide and mass atrocities;

(9) encourages the Secretary of State and Secretary of Defense to work with the relevant congressional committees to promote the effective use of United States security assistance and training is to support legitimate, accountable security forces committed to upholding the sovereign responsibility to protect civilian populations from violence, especially genocide and other mass atrocities;

(10) supports efforts by the United States Government to provide logistical, communications, and intelligence support, as appropriate, to assist multilateral diplomatic efforts and peace operations in preventing mass atrocities and protecting civilians;

(11) calls on other members of the international community to increase their support for multilateral diplomatic efforts and peace operations to more effectively prevent mass atrocities and protect civilians;

(12) encourages the Secretary of State to work closely with regional and international organizations, the United Nations Special Adviser for the Prevention of Genocide, and civil society experts to develop and expand multilateral mechanisms for early warning, information sharing, and rapid response diplomacy for the prevention of genocide and other mass atrocities; and

(13) commits to calling attention to areas at risk of genocide and other mass atrocities and ensuring that the United States Government has the tools and resources to enable its efforts to help prevent genocide and mass atrocities.

Mr. BAYH. Mr. President, I ask unanimous consent that the committee-reported substitute to the concurrent resolution be agreed, the concurrent resolution, as amended, be agreed to, the committee-reported amendment to the preamble be agreed to, the preamble, as amended, be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The concurrent resolution (S. Con. Res. 71), as amended, was agreed to.

The committee amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, as amended, with its preamble, as amended, reads as follows:

S. CON. RES. 71

Whereas in the aftermath of the Holocaust, the international community vowed “never again” to allow systematic killings on the basis of nationality, ethnicity, race, or religion;

Whereas a number of other genocides and mass atrocities have occurred, both prior to and since that time;

Whereas the United States Government has undertaken many initiatives to ensure that victims of genocide and mass atrocities are not forgotten, and as a leader in the international community, the United States has committed to work with international partners to help to prevent genocide and mass atrocities and to help protect civilian populations at risk of such;

Whereas the United Nations General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide in 1948, which declares genocide, whether committed in a time of peace or in a time of war, a crime under international law, and declares that the parties to the Convention will undertake to prevent and to punish that crime;

Whereas the United States was the first nation to sign the Convention on the Prevention and Punishment of the Crime of Genocide, and the Senate voted to ratify the Convention on the Prevention and Punishment of the Crime of Genocide on February 11, 1986;

Whereas the Act entitled, “An Act to establish the United States Holocaust Memorial Council”, approved October 7, 1980 (Public Law 96-388), established the United States Holocaust Memorial Council to commemorate the Holocaust, establish a memorial museum to the victims, and develop a committee to stimulate worldwide action to prevent or stop future genocides;

Whereas the passage of the Genocide Convention Implementation Act of 1987 (Public Law 100-606), also known as the Proxmire Act, made genocide a crime under United States law;

Whereas in response to lessons learned from Rwanda and Bosnia, President William J. Clinton established a genocide and mass atrocities early warning system by establishing an Atrocities Prevention Interagency Working Group, chaired by an Ambassador-at-Large for War Crimes Issues from 1998 to 2000;

Whereas, in 2005, the United States and all other members of the United Nations agreed that the international community has “a responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapter VI and VIII of the United Nations Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity”;

Whereas the United States and all other members of the United Nations further pledged that they were “prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the [UN] Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their popu-

lations from genocide, war crimes, ethnic cleansing and crimes against humanity”;

Whereas the 2006 National Security Strategy of the United States stated, “The world needs to start honoring a principle that many believe has lost its force in parts of the international community in recent years: genocide must not be tolerated. It is a moral imperative that states take action to prevent and punish genocide. . . . We must refine United States Government efforts—economic, diplomatic, and law-enforcement—so that they target those individuals responsible for genocide and not the innocent citizens they rule.”;

Whereas the United States Holocaust Memorial Museum, the American Academy of Diplomacy, and the United States Institute of Peace convened a Genocide Prevention Task Force, co-chaired by former Secretary of State Madeleine Albright and former Secretary of Defense William Cohen, to explore how the United States Government could better respond to threats of genocide and mass atrocities;

Whereas the final report of the Genocide Prevention Task Force, released in December 2008, concluded that the lack of an overarching policy framework or a standing interagency process, as well as insufficient and uncoordinated institutional capacities, undermines the ability of the United States Government to help prevent genocide or mass killings and offered recommendations for creating a government wide strategy;

Whereas, in February 2010, the former Director of National Intelligence, in his annual threat assessment to Congress, highlighted countries at risk of genocide and mass atrocities and stated, “Within the past 3 years, the Democratic Republic of Congo and Sudan all suffered mass killing episodes through violence starvation, or death in prison camps. . . . Looking ahead over the next 5 years, a number of countries in Africa and Asia are at significant risk for a new outbreak of mass killing.”;

Whereas the Quadrennial Defense Review, released in February 2010, states that the Defense Department should be prepared to provide the President with options for “preventing human suffering due to mass atrocities or large-scale natural disasters abroad”;

Whereas the 2010 National Security Strategy notes, “The United States is committed to working with our allies, and to strengthening our own internal capabilities, in order to ensure that the United States and the international community are proactively engaged in a strategic effort to prevent mass atrocities and genocide. In the event that prevention fails, the United States will work both multilaterally and bilaterally to mobilize diplomatic, humanitarian, financial, and—in certain instances—military means to prevent and respond to genocide and mass atrocities.”;

Whereas genocide and mass atrocities often result from and contribute to instability and conflict, which can cross borders and exacerbate threats to international security and the national security of the United States;

Whereas the failure to prevent genocide and mass atrocities can lead to significant costs resulting from regional instability, refugee flows, peacekeeping, economic loss, and the challenges of post-conflict reconstruction and reconciliation; and

Whereas United States leadership and actions toward preventing and mitigating future genocides and mass atrocities can save human lives and help foster beneficial global partnerships: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Senate—

(1) recommits to honor the memory of the victims of the Holocaust as well as the victims of all past genocides and mass atrocities;

(2) affirms that it is in the national interest and aligned with the values of the United States to work vigorously with international partners to prevent and mitigate future genocides and mass atrocities;

(3) supports the establishment of an inter-agency policy committee and a National Security Council position dedicated to the prevention of genocide and other mass atrocities;

(4) urges the President—

(A) to direct relevant departments and agencies of the United States Government to review and evaluate existing capacities for anticipating, preventing, and responding to genocide and other mass atrocities, and to determine specific steps to coordinate and enhance those capacities; and

(B) to develop and communicate a whole of government approach and policy to anticipate, prevent, and mitigate acts of genocide and other mass atrocities;

(5) urges the Secretary of State, working closely with the Administrator of the United States Agency for International Development—

(A) to ensure that all relevant officers of the Foreign Service and particularly those deploying to areas undergoing significant conflict or considered to be at risk of significant conflict, genocide, and other mass atrocities receive appropriate advanced training in early warning and conflict prevention, mitigation, and resolution;

(B) to determine appropriate leadership, structure, programs, and mechanisms within the Department of State and the United States Agency for International Development that can enhance efforts to help to prevent genocide and other mass atrocities; and

(C) to ensure recommendations for enhancing civilian capacities to help prevent and mitigate genocide and mass atrocities in the upcoming Quadrennial Diplomacy and Development Review;

(6) urges the Secretary of the Treasury, working in consultation with the Secretary of State, to review how sanctions and other financial tools could be used against individuals and entities found to be directly supporting or enabling genocides and mass atrocities;

(7) recognizes the importance of flexible contingency crisis funding to enable United States civilian agencies to respond quickly to help prevent and mitigate crises that could lead to significant armed conflict, genocide, and other mass atrocities;

(8) urges the Secretary of Defense to conduct an analysis of the doctrine, organization, training, material, leadership, personnel, and facilities required to help prevent and respond to genocide and mass atrocities;

(9) encourages the Secretary of State and Secretary of Defense to work with the relevant congressional committees to promote the effective use of United States security assistance and training is to support legitimate, accountable security forces committed to upholding the sovereign responsibility to protect civilian populations from violence, especially genocide and other mass atrocities;

(10) supports efforts by the United States Government to provide logistical, communications, and intelligence support, as appropriate, to assist multilateral diplomatic ef-

forts and peace operations in preventing mass atrocities and protecting civilians;

(11) calls on other members of the international community to increase their support for multilateral diplomatic efforts and peace operations to more effectively prevent mass atrocities and protect civilians;

(12) encourages the Secretary of State to work closely with regional and international organizations, the United Nations Special Adviser for the Prevention of Genocide, and civil society experts to develop and expand multilateral mechanisms for early warning, information sharing, and rapid response diplomacy for the prevention of genocide and other mass atrocities; and

(13) commits to calling attention to areas at risk of genocide and other mass atrocities and ensuring that the United States Government has the tools and resources to enable its efforts to help prevent genocide and mass atrocities.

SUPPORTING THE GOALS AND IDEALS OF THE YEAR OF THE LUNG 2010

Mr. BAYH. Madam President, I ask unanimous consent that the Health, Education, Labor, and Pensions Committee be discharged from further consideration of S. Res. 432, and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 432) supporting the goals and ideals of the Year of the Lung 2010.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAYH. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 432) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 432

Whereas millions of people around the world struggle each year for life and breath due to lung diseases, including tuberculosis, asthma, pneumonia, influenza, lung cancer and chronic obstructive pulmonary disease (COPD), pulmonary fibrosis, and more than 8,100,000 die each year;

Whereas lung diseases afflict people in every country and every socioeconomic group, but take the heaviest toll on the poor, children, the elderly, and the weak;

Whereas lung disease is a serious public health problem in the United States that affects adults and children of every age and race;

Whereas lower respiratory diseases are the fourth leading cause of death in the United States;

Whereas the economic cost of lung diseases is expected to be \$177,000,000,000 in 2009, including \$114,000,000,000 in direct health ex-

penditures and \$64,000,000,000 in indirect morbidity and mortality costs;

Whereas nearly half of the world's population lives in or near areas with poor air quality, which significantly increases the incidence of lung diseases such as asthma and COPD, and more than 2,000,000 people die prematurely due to indoor and outdoor air pollution;

Whereas tuberculosis, an airborne infection that attacks the lungs and other major organs, is a leading global infectious disease;

Whereas no new drugs have been developed for tuberculosis in more than 5 decades and the only vaccine is nearly a century old, yet there were 9,400,000 new cases in 2008, and this curable disease kills 1,800,000 each year;

Whereas an estimated 12,000,000 adults in the United States, are diagnosed with COPD, and another 12,000,000 have the disease but don't know it;

Whereas COPD kills an estimated 126,000 people in the United States each year, is currently the fourth leading cause of death in the Nation, is the only one of the 4 major causes that is still increasing in prevalence, and is expected to rise to become the third leading cause of death in the United States;

Whereas lung cancer is the second most common cancer in the United States and the most common cause of cancer deaths;

Whereas the leading cause of lung cancer is long-term exposure to tobacco smoke;

Whereas about 23,400,000 people in the United States have asthma, a prevalence which has risen by over 150 percent since 1980;

Whereas asthma is the most common chronic disorder found in children, with 7,000,000 affected;

Whereas flu and pneumonia together are the eighth leading cause of death in the United States;

Whereas about 190,000 people in the United States are affected by acute respiratory distress syndrome (ARDS) each year, a critical illness that results in sudden respiratory system failure, which is fatal in up to 30 percent of cases;

Whereas about 75,000 people in the United States die as a result of acute lung injury, a disease that can be triggered by infection, drowning, traumatic accident, burn injuries, blood transfusions, and inhalation of toxic substances, which kills approximately the same number of people each year as die from breast cancer, colon cancer, and prostate cancer combined;

Whereas of the 10 leading causes of infant mortality in the United States, 4 are lung diseases or have a lung disease component;

Whereas pulmonary fibrosis (PF) is a relentlessly progressive, ultimately fatal disease with a median survival rate of 2.8 years that has no life-saving therapy or cure;

Whereas more than 120,000 people are living with PF in the United States, 48,000 are diagnosed with it each year, and as many as 40,000 die annually, the same as die from breast cancer;

Whereas the cause of sarcoidosis, an inflammatory disease that occurs most often in the lungs and has its highest incidence among young people aged 20 to 29, is unknown;

Whereas 15 years ago, people with pulmonary hypertension lived on average less than 3 years after diagnosis;

Whereas new treatments have improved survival rates and quality of life for those living with this condition, but it remains a severe and often fatal illness;

Whereas Lymphangioleiomyomatosis (LAM), a rare lung disease that affects

women exclusively and is also associated with tuberous sclerosis, has no treatment protocol or cure and is often misdiagnosed as asthma or emphysema;

Whereas Hermansky-Pudlak Syndrome, a genetic metabolic disorder which causes albinism, visual impairment, and serious bleeding due to platelet dysfunction, has no cure and no standard of treatment;

Whereas children's interstitial lung disease, a group of rare lung diseases, has many different forms, including surfactant protein deficiency, chronic bronchiolitis, and connective tissue lung disease, and is thus difficult to diagnose and treat;

Whereas the Centers for Disease Control and Prevention estimates that 50,000,000 to 70,000,000 adults in the United States suffer from disorders of sleep and wakefulness;

Whereas insufficient sleep is associated with a number of chronic diseases and conditions, including diabetes, cardiovascular disease, obesity, and depression;

Whereas the average cost of treating severe COPD is 5 times higher than treating mild COPD;

Whereas the appropriate medication and disease management of asthma can reduce health care costs, including hospitalization, emergency room visits, and physician visits, by half;

Whereas the flu vaccine can prevent 60 percent of hospitalizations and 80 percent of deaths from flu-related complications among the elderly;

Whereas advances in medical research have significantly improved the capacity to fight lung disease by providing greater knowledge about its causes, innovative diagnostic tools to detect the disease, and new and improved treatments that help people survive and recover from this disease;

Whereas there is no cure for major lung diseases including asthma, COPD, and lung cancer;

Whereas chronic lung diseases are a leading cause of death and yet the quality of palliative and end-of-life care for patients with chronic lung disease is significantly worse than patients with other terminal illnesses;

Whereas the National Institutes of Health, through its many institutes and centers, through basic, clinical, and translational research, plays a pivotal role in advancing the prevention, detection, treatment, and cure of lung disease;

Whereas the Department of Veterans Affairs is actively engaged in research in respiratory diseases that impact the Nation's veterans;

Whereas the Environmental Protection Agency establishes air quality standard and enforcement programs to ensure the quality of the air we breathe;

Whereas the Centers for Medicare and Medicaid Services, provides essential health insurance benefits for millions of patients with respiratory disorders;

Whereas the Centers for Disease Control and Prevention, through its many centers and programs, provides valuable prevention and surveillance programs on diseases of the lung;

Whereas an international collaboration of medical professional and scientific societies is working to enhance the general public's understanding of respiratory diseases, their causes, prevention, treatment, and impact respiratory disease play in human health; and

Whereas the initiative, The Year of the Lung, seeks to raise awareness about lung health among the public, initiate action in communities worldwide, and advocate for re-

sources to combat lung disease including resources for research and research training programs worldwide: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of the Year of the Lung.

TECHNICAL CORRECTION TO S. RES. 700

Mr. BAYH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 705, submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 705) providing for a technical correction to S. Res. 700.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAYH. Madam President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 705) was agreed to, as follows:

S. RES. 705

Resolved,

SECTION 1. TECHNICAL CORRECTION.

Senate Resolution 700, 111th Congress, agreed to December 10, 2010, is amended in section 3(b)—

- (1) by striking paragraph (1); and
- (2) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

SENATE NATIONAL SECURITY WORKING GROUP

Mr. BAYH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 706, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 706) extending the authority for the Senate National Security Working Group.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAYH. Madam President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 706) was agreed to, as follows:

S. RES. 706

Resolved, That Senate Resolution 105 of the One Hundred First Congress, 1st session

(agreed to on April 13, 1989), as amended by Senate Resolution 149 of the One Hundred Third Congress, 1st session (agreed to on October 5, 1993), as further amended by Senate Resolution 75 of the One Hundred Sixth Congress, 1st session (agreed to on March 25, 1999), as further amended by Senate Resolution 383 of the One Hundred Sixth Congress, 2d session (agreed to on October 27, 2000), as further amended by Senate Resolution 355 of the One Hundred Seventh Congress, 2d session (agreed to on November 13, 2002), as further amended by Senate Resolution 480 of the One Hundred Eighth Congress, 2d session (agreed to November 20, 2004), as further amended by Senate Resolution 625 of the One Hundred Ninth Congress, 2d Session (agreed to on December 6, 2006), and as further amended by Senate Resolution 715 of the One Hundred Tenth Congress, 2d session (agreed to November 20, 2008), is further amended in section 4 by striking "2010" and inserting "2012".

HONORING LULA DAVIS

Mr. BAYH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 707, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 707) honoring Lula Davis.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, every working body needs a strong heart to function. This legislative body, the Senate, is no different. For many years—as long as I have been in the Senate, and that is a while—Lula Davis has been the heart of the Senate.

In 1997, when we elected her as assistant Democratic secretary, she was the first woman to hold that position. Before the 111th Congress, we elected her to be the secretary of the majority—the first African American in that role. Over the last 2 years, she has expertly tackled one of the toughest jobs anywhere in politics.

More importantly, the last 2 years have also seen the debate and passage of some of the most historic legislation in the entire history of the country—laws to protect Americans from health insurance companies, from Wall Street banks, from credit card companies, from tobacco companies, from mortgage fraudsters, from unsafe food, from discrimination, from inequality, and so, so much more.

Any one of these bills by itself would define a session of Congress. We did all of them in just the last 2 years, and we could not have done any of it without Lula Davis's leadership.

Lula has come a long way since her days as a teacher and guidance counselor, and even further from her time in rural Louisiana. She started her Senate career as a legislative aide to

her home State Senator, the legendary Russell Long, and went on to serve in almost every position on the floor staff: office assistant, floor assistant, chief floor assistant, assistant secretary, and secretary.

Anyone who has watched the Senate knows it is not always an easy place to understand, and I am an expert on how hard it is to understand it. Anyone who has studied this institution, its idiosyncrasies and intricacies knows it can be extremely baffling. But Lula knows this place inside and out like no one else. She is fluent in the rhythms of the Senate. She knows and respects its complex rules, both formal and informal. Her counsel, as a result, has always been thoughtful and reliable to every one of us.

She is loyal to the Senate and to its Senators, and she respects the traditions that make this body great—which is why, in return, this body has great respect for her and her hard work.

Lula has spent her Senate career behind the scenes not just helping Senators do our jobs but also quietly helping young people, the hungry, and those in need. As tough and hard as Lula must be here on the Senate floor, she has a heart of gold.

She founded and runs a nonprofit called Leadership Cares, which each year helps children in our community provide quality meals to more than 650 families. She has encouraged many of her fellow Senate staffers to join her family and friends and volunteer to help. She has never asked for any recognition for this work or any of her work because that is the kind of person she is. But Lula deserves our praise and thanks for so much more.

Senator LANDRIEU of Louisiana likes to tell a story about how much a part of the Senate Lula really is, how great an institution our outgoing secretary of the majority is. Senator LANDRIEU once asked a group of Senate pages if they had had a chance to meet the Senate leaders. They said: Yes. They had met Lula.

Lula Davis has been the heart of the Senate, and our appreciation for her is heartfelt. I speak for each Senator, Democrats and Republicans.

For me, personally, Lula has been strong, resolute, and very wise. Words cannot describe how I will miss Lula Davis. She has been indispensable and she is irreplaceable.

On behalf of every Senator, I thank Lula for her years of service to our caucus and for her more than 25 years of service to the Senate and the United States of America.

Mr. MCCONNELL. Madam President, I rise this evening to acknowledge the retirement of Lula Davis, in appreciation of her dedication to the Senate and her many years of service to this institution. Lula has been a force in every legislative effort we have en-

gaged in since my tenure as Republican leader began, and long before that. I have come to respect her deep knowledge of the Senate rules and the important role she has played in advising Democratic Senators over the past 2 years. She is a constant presence on the floor and an important part of Senate life. We congratulate her on her professional success, from her days as a school teacher to her work on the floor of the U.S. Senate, and we wish her every happiness in the years ahead.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, before I make a statement on another issue, I join the majority leader in his comments about the retirement of Lula Johnson Davis from the Senate.

Before I came to the Senate, I was a Member of the House of Representatives for 14 years, and I greatly enjoyed that experience. It was certainly an amazing change to come from the House to the Senate, to move from one congressional district to representing the entire State, to move from a 2-year term to a 6-year term, to move from 434 colleagues to 99 fellow colleagues. All of these things took some getting used to, plus the fact that, in the House, you were constricted on the use of time for speeches on the floor, and in the Senate, there is almost no limit. If you want to speak forever, I think the Senate rules will accommodate you.

Those changes all pale in comparison to the single biggest change I ran into here, and that was facing the secretary to the majority, Lula Johnson Davis. I knew that people throughout Capitol Hill on both the House and Senate sides at the staff level were extremely courteous, kind, and helpful. I found that throughout my career in the House, and I certainly found it in the Senate. But the good thing about Lula Davis was that she was respectful of Senators, but not deferential. She would be happy to tell you when she thought you had stepped out of line in what you were wearing, and what you were chewing, and what you might be using your microphone for, your conversations on the floor, and on and on. She did this in a way that first startled me, because I wasn't used to it in the House. There was nobody like Lula in the House of Representatives to keep you in line. She did it, and I came to not only like it but respect it so much, because I knew she was doing it not in any personal way but because of her love for the Senate.

They do a Roll Call survey about the most powerful staffers on Capitol Hill, and they rate them in four ways: know-how, muscle, spin control, and access. Lula always received the highest check marks in every category but one—spin control. That is about right. Lula Davis was never one to mince words in her role as secretary to the majority of the Senate. Tough, fair, insisting on

the strict observance of Senate rules and protocols, she reflected love for this institution in all that she did for us.

The National Journal described her as "an internally legendary staffer." That is true. In the 221-year history of the Senate, Lula Davis is only the second woman—and the first African American—ever to hold the position of secretary to the majority.

Her loyalty and devotion to this Senate are unmatched. She was the first one here in the morning and the last one to leave at night.

I know I speak for all Senators from the Democratic side and the Republican side, as well, in saying she is going to be missed. Unlike many, Lula Davis did not move to Washington to get involved in politics. She started her career as a high school teacher and guidance counselor. A friend told Lula about an opening in the office of her home State Senator, Russell Long, of Louisiana. She started her Hill career at the bottom, as a legislative correspondent, answering mail.

When Senator Long retired in 1989, Lula moved to the Democratic floor staff and worked her way up from the lowliest assistant position to become secretary to the majority.

As many hours as Lula devoted to the Senate, it is hard to believe that she had time for anything else. But she founded an organization called LeadershipCares, which tries to guide young people into successful lives by helping others who are less fortunate. Almost every class of pages on the Democratic side would tell a story about Lula, because she became not only their boss but their friend. She taught them a lot about life in their life experience here in the Senate.

I join my colleagues in wishing Lula the very best of luck as she begins the next chapter in life.

Mr. HARKIN. Madam President, although I don't have anything written, I was listening to the leader speak and the whip talk about Lula Davis and all she has done here in the Senate. I, too, wish to pay my respects and give my thanks and my best wishes to Lula Davis as she leaves the Senate.

For 30 years, she has been a loyal, hard-working, passionate advocate for the people of this country in an unelected role—a role that required her to make sure the business of the Senate was conducted. I know of no one who knows the rules and how things work and how things should go better than Lula Davis. At times, she knew everything, it seemed to me. Many times, we would go to her because we would have a bill on the floor and we would have something that would get tied up. I would be managing a bill, and things would get into a big ball of wax sometimes or seem like a big ball of string and you had to figure out how to unwind it. I would always go to Lula

Davis and say: OK, how do we get out of this mess? We have an amendment on an amendment and a motion to recommit and all these things piled up. And she always knew how to do it. She always knew how to make sure the place would run.

If you ever needed advice on how to do something or accomplish something, you could go to her. Of course, sometimes she would give you advice you didn't want to hear. Sometimes you wanted to do something, and she had to be the person to say: Well, the rules just won't allow you to do that. So there were times I would get frustrated, and I would say: But I want to do this; this is for the good of the country. And Lula Davis would say: Well, Senator, you are just going to have to find some other way to do it.

So that is just my way to pay respect to a person who devoted so much of her life to this Senate. A lot of times, we find ourselves here late at night, and once in a while, I would think I was the last person to leave, but Lula was always the last person to leave and always the person—if you came in early in the day, she was the first person here. So she has really been such an integral part of the Senate, the Senate floor is going to have a vacancy without her in the future.

So to Lula Davis, I say: Thank you for so many years of friendship and loyalty and hard work in helping to make the Senate a more efficient, compatible working environment.

I thank Lula Davis, and I wish her the best in her retirement. I hope she doesn't get too far away from the Senate and that she comes back to see us once in a while to help us untangle that ball of string, as I am sure it is bound to become tangled again sometime.

Mr. BAYH. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 707) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 707

Whereas Lula Davis, the Secretary for the Majority, will be retiring at the end of the 111th Congress, after a long and distinguished career;

Whereas Lula Davis was first elected as Assistant Democratic Secretary in 1997, and she was the first woman ever to hold that position;

Whereas Lula Davis was elected to be the Secretary for the Majority at the beginning of the 111th Congress, the first African American to serve in this position, and during the 111th Congress she has expertly tackled one of the toughest jobs in politics;

Whereas throughout her time in the Senate, Lula Davis has played a major role in managing the debate and passage of many significant pieces of legislation;

Whereas many legislative accomplishments over the years would not have happened without the leadership of Lula Davis;

Whereas Lula Davis lived in rural Louisiana, and worked as a teacher and guidance counselor;

Whereas Lula Davis remains committed to children in our community, founding and continuing to run a nonprofit mentoring and charitable organization called "Leadership Cares," which provides holiday meals to more than 650 families annually;

Whereas Lula Davis has encouraged many of her fellow Senate staff to volunteer alongside her family and friends to make a difference for those in need;

Whereas Lula Davis started her Senate career as a legislative aide to her home-state Senator, Russell Long, and went on to serve in almost every position on the floor staff, including office assistant, floor assistant, chief floor assistant, Assistant Secretary, and Secretary;

Whereas Lula Davis is a master of the complex formal and informal rules under which the Senate operates;

Whereas Lula Davis has consistently provided thoughtful and reliable advice to both Democratic and Republican leadership and all members of the Senate;

Whereas Lula Davis is loyal to the Senate and to Senators, and respects the traditions that make this body great;

Whereas the Senate has tremendous respect for Lula Davis and her hard work, and deeply appreciates her enormous contributions to the Senate and to the United States: Now, therefore, be it

Resolved, That the Senate expresses its deepest thanks to Lula Davis for her many years of outstanding service to the United States Senate and to the United States of America.

STAR PRINT—S. 583

Mr. BAYH. Madam President, I ask unanimous consent that Calendar No. 706, S. 583, reported from the Committee on Commerce, Science, and Transportation on December 17, 2010, be star printed with the changes at the desk. An incorrect version of the committee substitute amendment was reported to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

SIGNING AUTHORITY

Mr. BAYH. Madam President, I ask unanimous consent that Senator BAYH be authorized to sign any duly enrolled bills or joint resolutions on Wednesday, December 22, and that Senator LINCOLN be authorized to sign any duly enrolled bills or joint resolutions on Thursday, December 23, and Friday, December 24.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS AUTHORITY

Mr. BAYH. Madam President, I ask unanimous consent that notwithstanding the upcoming recess or ad-

journment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, in consultation with the chairman of the Senate Committee on Indian Affairs and the chairman of the Senate Committee on the Judiciary, pursuant to Public Law 111-211, appoints the following individual to be a member of the Indian Law and Order Commission: Affie Ellis of Wyoming.

The Chair, on behalf of the majority leader, after consultation with the chairman of the Select Committee on Intelligence of the Senate, and pursuant to the provisions of Public Law 107-306, as amended by Public Law 111-259, announces the appointment of the following individual to serve as a member of the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community: the Honorable MARK R. WARNER of Virginia.

The Chair, on behalf of the majority leader, in consultation with the chairman of the Senate Committee on Indian Affairs and the chairman of the Senate Committee on the Judiciary, pursuant to Public Law 111-211, appoints the following individuals to be members of the Indian Law and Order Commission: Troy Eid of Colorado and Jefferson Keel of Oklahoma.

Mr. BAYH. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACCOMPLISHMENTS OF THE 111TH CONGRESS

Mr. REID. Madam President, when we convened this Congress in January 2009, 750,000 Americans were losing their jobs every month. Soon after this Congress began, an auto industry nearly imploded, and within a year an oil well exploded. It was a tough 2 years for our Nation and for so many families. It was also a time of remarkable progress.

When this Congress began, insurance companies were free to deny health care to the sick for any excuse they

could come up with. The doughnut hole that sent seniors' prescription drug costs through the roof was wide open. Wall Street firms had just crashed our economy, but they were still free to rip off investors while the Nation smoldered.

Cigarette companies could prey on children, credit card companies could prey on consumers, and con artists could prey on families' mortgages.

Employers were free to pay women less than men, the safety of our food supply was dangerously inadequate, and the definition of a hate crime was shamefully insufficient. Gay men and women who volunteered to defend and die for our country were asked to fight and die for values and principles they didn't have for themselves in America.

More than a year has passed since American inspectors were on the ground to monitor the Russian nuclear weapons arsenal.

We have turned each of these around. Because of what we did in this Congress, we brought the economy back from the brink of collapse, we cut taxes for 95 percent of Americans, we invested in important job-creating projects, and we will keep working until everyone who wants to work can find a job.

Because of what we did, families are safer from health insurance companies. Our economy and its investors are safer from big banks. Consumers are safer from credit card companies, homeowners are safer from mortgage fraud, and all of us are safer from corporate fraud.

Parents can know their children are safer from cigarette companies, thanks to legislation we passed that will save lives. Our food safety protections will save countless more lives.

We also made historic strides for equality and justice. With a hate crimes bill that bears Emmitt Till's name, we stood up for those who are victims of violence because of their race, ethnicity, or sexual orientation. With a fair pay bill in Lilly Ledbetter's name, we stood up for those who are targets of discrimination in the workplace because of their gender or background. And we made right a wrong done long ago to African Americans and American Indian farmers.

Because we repealed don't ask, don't tell, our military is stronger and we can still fulfill our Nation's promise. And because we ratified the START treaty today, America and the world are safer from nuclear devastation.

These are just the ones that got the biggest headlines. The 111th Congress did much more.

We cut taxes for the middle class and small business multiple times. We made it easier for families to buy their first home. We made it easier for students to afford to go to college, and strengthened our commitment to research, math and science education,

technological innovation, and maintaining this country's competitive edge. We made sure children can afford to get the health care they need no matter how much money their parents make, and made sure even more schoolchildren who would otherwise go hungry can get healthier meals.

We extended unemployment insurance for millions still struggling to find a job and extended COBRA subsidies so those still struggling to find work can feed their families, fuel our economy and afford decent medical care. We strengthened Medicaid and made sure doctors can still afford to treat seniors on Medicare. We helped hundreds of thousands afford more fuel-efficient cars and trucks.

With a national service bill named for Senator Ted Kennedy, we made it easier for more Americans to serve their country, like our heroes of generations past. With one of the most important conservation bills in decades, we protected our public lands for generations to come. We cut waste and fraud in the way the Pentagon purchases military weapons. We made sure our troops have the equipment they need on the battlefield and that our veterans have the care they need when they come home. We gave everyone in the military a well-deserved pay raise.

We secured our borders with guards, fencing, and predator drones. We imposed sanctions on Iran to deter this regime from acquiring a nuclear weapon. We thawed our credit markets so Americans can get the loans they need to buy a car, send a child to college, or even start a new business. We supported the travel and tourism industries, which will create tens of thousands of jobs and cut our deficit by hundreds of millions of dollars.

We confirmed many well-qualified nominees for positions in public service and on the bench, including the third and fourth women—and the first ever Latina—to serve on our Supreme Court.

We began this Congress with the challenge of keeping our economy from a second Great Depression. We are not all the way out of the ditch yet. We have come a long way since President Bush's Treasury Secretary sat down with us and warned us of the dire stakes of inaction.

In 2011, we have to do even more to put middle-class families first, to create jobs and cut taxes. We will continue to move America toward energy independence. We will continue to fight to fix our broken immigration system. And we will continue fighting for fairness—including giving our first responders the same workplace rights everyone else has.

This was, by far, the most productive Congress in American history. And the lameduck session we are finishing was the most productive of its kind. Why? Because we heard the message the

American people sent us last month. They do not want us to sit around and waste our time. They want us to work together and work for them. They want us to get things done.

We have been productive beyond any historical measure. But we cannot forget the context: We have had to do more with less—passing some of the most major pieces of legislation in history with the least bipartisan cooperation in history. I am sorry the minority party decided to sit on the sidelines. I know the history books will remember who was on the field.

I thank every Senator and every staffer who has worked so hard. They have worked so tirelessly over these past 2 years. The distance we took America from January 2009 to December 2010 is one of the most remarkable times in the history of the world and our country.

I am very proud of the work this Congress did, and I sincerely hope that, despite a divided Capitol, the 112th Congress will surpass only its record for significant legislation and not those for endless stalemates.

I want to express my appreciation to this wonderful staff we have here. They work so very, very hard. They are here before we arrive in the morning, they are here after we leave, and I am grateful for all they do.

The court reporters are here taking down every word that we say—very professional. The enrollment clerks. Everybody who is here. The Parliamentarians, whom we go to often to tell us the hole we are in and how to get out of it.

I am grateful for everyone here for putting up with me and the hours I feel we have to work with never a complaint. I wish I had the ability to convey what is in my heart—and I certainly don't have the ability to do that—but I want everyone here to know that I am very grateful for everyone here working in such a wonderful manner for our country.

I say to each one of you—I went through a long list of things we have been able to accomplish—we couldn't have done any of this without you. As much as I know about the rules, and I know quite a bit about the rules, I have to depend on the Parliamentarians to tell me—really, to get the real scoop. I admire what they do. They are very fine lawyers. This area of the law they know better than anyone else in the world.

Madam President, I haven't mentioned the police officers, the doorkeepers. These police officers, they are here right now as we speak. Most all in the Chamber, of course, without uniform. We have people every day without any exception wanting to do bad things to this beautiful Capitol Complex. These wonderful police officers keep this building and its inhabitants, the people who work in this building—

it is not inhabitants, although I feel I live here sometimes—they keep the thousands of people who work in these Capitol buildings safe. They do such a wonderful job of taking care of us.

Chief Gainer, who is the Sergeant at Arms, is responsible for the police force. He does a wonderful job on this side of the Capitol.

Madam President, I wish you, the Presiding Officer, my dear friend, and everyone here a very happy holiday season. I wish it could have been a little longer, but it is better than a lot thought it would be.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAYH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEONHART NOMINATION

Mr. KOHL. Madam President, I rise to announce that I have lifted the hold I placed earlier this month on Michele Leonhart's nomination to be Administrator of the U.S. Drug Enforcement Agency, DEA. I had placed the hold reluctantly after numerous failed attempts to work with the agency for over a year on the issue of delivering pain medication to nursing home residents in a timely matter.

At a Special Committee on Aging hearing I chaired earlier this year, panelists detailed a recent DEA enforcement initiative that has delayed many nursing home patients from receiving much-needed medication to control their pain. For several years, nurses had been able to call into pharmacies urgently needed prescriptions following a doctor's order. Pharmacies would fill the order, patients would get their pain medication, and doctors would follow up with written confirmation of the prescription. Due to the DEA's new enforcement initiative, pharmacies face huge administrative fines if they continue to follow this practice. Most disturbingly, nursing home residents sometimes must endure the pain for hours or even days as nursing home staff try to adhere to the newly enforced regulations. Finally, nursing homes have been forced to send frail and pain-ridden residents to the emergency room, at great cost, simply to get pain medication that they used to be able to get in their nursing home.

At Ms. Leonhart's nominating hearing before the Judiciary Committee in November, I expressed my disappointment that the DEA had not followed through on the pledges made to the Aging panel in March to work with us to address the problem swiftly. Nearly 2 weeks after her confirmation hearing—and three months after submit-

ting a draft proposal to DEA—I was told that any solution would require each State to grant nursing homes the authority to dispense controlled substances pain medications. However, any solution requiring "state-by-state" action would take many years to achieve. The urgent pain relief situation in nursing homes will not permit such a long-term approach. When the Judiciary Committee approved Ms. Leonhart's nomination, I asked to see meaningful progress on the issue prior to her final confirmation.

I am pleased to have recently received Attorney General Eric Holder's assurance that he will promptly deliver the DOJ's support for a legislative fix. As a result of our discussion, I am releasing the hold on Michele Leonhart's nomination, and I look forward to introducing a mutually acceptable legislative fix in the opening days of the 112th Congress.

Based on our agreement, DOJ will deliver draft legislation to me in January to permit the timely delivery of pain medications to nursing home residents. The legislation will deem certain nurses or other licensed health care professionals to be "authorized agents." Those agents will be chosen and designated by the nursing home as agents of DEA-licensed practitioners—practitioners being the resident's attending physician or specialist. They will be authorized to transmit the practitioner's order for a controlled substance, specifically schedule II drugs, to DEA-licensed pharmacies orally or by fax. The nursing home, while not licensed by DEA, will designate those authorized to transmit a practitioner's order and to make a list of those authorized agents available to the pharmacy. In exchange, nursing homes, practitioners, and pharmacies will be required to take certain steps to verify their accountability.

I happily submit for the record a document detailing the specifics of our agreed-upon framework for the legislation outlined above. I am confident that it will ensure our mutual interests are met by enabling nursing home residents to have the pain medication they need while preventing drug diversion and misuse. I would like to thank Attorney General Holder for his strong commitment to seeing that a Federal legislative solution can be moved forward in the opening weeks of the 112th Congress. After all, time is of the essence for nursing home residents who are in need of immediate pain relief.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BAYH. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations en

bloc: Calendar Nos. 1052, 1180, 1181, 1182, 1183, 1184, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1209, 1210, 1216, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, to and including 1267, and all nominations at the Secretary's desk in the Air Force, Army, Marine Corps, Navy, and the Foreign Service; that the nominations be confirmed, en bloc, and the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements be printed in the RECORD; that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Jonathan Woodson, of Massachusetts, to be an Assistant Secretary of Defense.

STATE JUSTICE INSTITUTE

Wilfredo Martinez, of Florida, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2013.

Chase Theodora Rogers, of Connecticut, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2012.

Isabel Framer, of Ohio, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2012.

GOVERNMENT ACCOUNTABILITY OFFICE

Eugene Louis Dodaro, of Virginia, to be Comptroller General of the United States for a term of fifteen years.

MISSISSIPPI RIVER COMMISSION

Samuel Epstein Angel, of Arkansas, to be a Member of the Mississippi River Commission for a term of nine years.

DEPARTMENT OF JUSTICE

Michele Marie Leonhart, of California, to be Administrator of Drug Enforcement.

Stacia A. Hylton, of Virginia, to be Director of the United States Marshals Service.

NATIONAL BOARD FOR EDUCATION SCIENCES

Robert Anacletus Underwood, of Guam, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2012.

Anthony Bryk, of California, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2011.

Kris D. Gutierrez, of Colorado, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2012.

DEPARTMENT OF EDUCATION

Sean P. Buckley, of New York, to be Commissioner of Education Statistics for a term expiring June 21, 2015.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

Susan H. Hildreth, of Washington, to be Director of the Institute of Museum and Library Services.

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Allison Blakely, of Massachusetts, to be a Member of the National Council on the Humanities for a term expiring January 26, 2016.

UNITED STATES SENTENCING COMMISSION

Patti B. Saris, of Massachusetts, to be a Member of the United States Sentencing

Commission for a term expiring October 31, 2015.

Dabney Langhorne Friedrich, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2015.

UNITED STATES SENTENCING COMMISSION

Patti B. Saris, of Massachusetts, to be Chair of the United States Sentencing Commission.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Kevin Glenn Nealer, of Maryland, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2011.

DEPARTMENT OF STATE

Carol Fulp, of Massachusetts, to be a Representative of the United States of America to the Sixty-fifth Session of the General Assembly of the United Nations.

Jeanne Shaheen, of New Hampshire, to be a Representative of the United States of America to the Sixty-fifth Session of the General Assembly of the United Nations.

Roger F. Wicker, of Mississippi, to be a Representative of the United States of America to the Sixty-fifth Session of the General Assembly of the United Nations.

Gregory J. Nickels, of Washington, to be an Alternate Representative of the United States of America to the Sixty-fifth Session of the General Assembly of the United Nations.

William R. Brownfield, of Texas, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State (International Narcotics and Law Enforcement Affairs).

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Paige Eve Alexander, of Georgia, to be an Assistant Administrator of the United States Agency for International Development.

MILLENNIUM CHALLENGE CORPORATION

Mark Green, of Wisconsin, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of three years.

DEPARTMENT OF STATE

Thomas R. Nides, of the District of Columbia, to be Deputy Secretary of State for Management and Resources.

MILLENNIUM CHALLENGE CORPORATION

Alan J. Patricof, of New York, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of two years.

DEPARTMENT OF AGRICULTURE

Ramona Emilia Romero, of Pennsylvania, to be General Counsel of the Department of Agriculture.

SOCIAL SECURITY ADMINISTRATION

Carolyn W. Colvin, of Maryland, to be Deputy Commissioner of Social Security for the term expiring January 19, 2013.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Otis G. Mannon

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Richard T. Devereaux

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Charles R. Davis

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Michelle D. Johnson

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Brett T. Williams

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. James M. Holmes

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 12203 and 12212:

To be brigadier general

Col. Wayne E. Lee

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Timothy T. Jex

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Donald J. Bacon
Colonel Warren D. Berry
Colonel Casey D. Blake
Colonel Mark Anthony Brown
Colonel Stephen A. Clark
Colonel Anthony J. Cotton
Colonel Thomas H. Deale
Colonel Stephen T. Denker
Colonel John L. Dolan
Colonel Michael E. Fortney
Colonel Peter E. Gersten
Colonel Robert P. Givens
Colonel Thomas F. Gould
Colonel Timothy S. Green
Colonel Gina M. Grosso
Colonel Joseph T. Guastella, Jr.
Colonel David A. Harris
Colonel Daryl J. Hauck
Colonel John M. Hicks
Colonel John P. Horner
Colonel Charles K. Hyde
Colonel Patrick C. Malackowski
Colonel James R. Marrs
Colonel Lawrence M. Martin, Jr.
Colonel Jeffrey R. McDaniels
Colonel Mark M. McLeod
Colonel John K. McMullen
Colonel Linda R. Medler
Colonel Matthew H. Molloy
Colonel Michael T. Plehn
Colonel Margaret B. Poore
Colonel Thomas J. Sharpy
Colonel Bradford J. Shwedo
Colonel Richard S. Stapp
Colonel David R. Stilwell
Colonel Roger W. Teague

Colonel David C. Uhrich
Colonel Roger H. Watkins
Colonel Mark W. Westergren
Colonel Scott J. Zobrist

The following named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brigadier General Thomas P. Harwood, III
Brigadier General Robert K. Millmann, Jr.
Brigadier General William F. Schaufert
Brigadier General Michael N. Wilson
Brigadier General John T. Winters, Jr.

The following named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Colonel Randall C. Guthrie
Colonel Norman R. Ham, Jr.
Colonel Ronald B. Miller
Colonel John J. Mooney, III
Colonel David B. O'Brien
Colonel Richard W. Scobee
Colonel Jocelyn M. Seng
Colonel William B. Waldrop, Jr.
Colonel Tommy J. Williams
Colonel Edward P. Yarish
Colonel Sheila Zuehlke

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., sections 12203 and 12212:

To be major general

Brigadier General Frances M. Auclair
Brigadier General Barry K. Coln
Brigadier General Jeffrey R. Johnson
Brigadier General Mary J. Knight
Brigadier General Thomas R. Moore
Brigadier General John F. Nichols
Brigadier General Leon S. Rice
Brigadier General Gary L. Saylor
Brigadier General Scott B. Schofield
Brigadier General Jonathan T. Treacy
Brigadier General Delilah R. Works

To be brigadier general

Colonel Steven P. Bullard
Colonel Michael B. Compton
Colonel Murray A. Hansen
Colonel Jeffrey W. Hauser
Colonel William O. Hill
Colonel Jerome P. Limoge, Jr.
Colonel Donald A. McGregor
Colonel Tony E. McMillian
Colonel Gregory L. Nelson
Colonel Gary L. Nolan
Colonel Michael E. Stencil
Colonel Richard G. Turner
Colonel William L. Welsh
Colonel Daniel J. Zachman

IN THE ARMY

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Jon J. Miller

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Robert M. Brown

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be brigadier general

Col. Benjamin F. Adams, III

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brigadier General Douglas P. Anson
Brigadier General Robert G. Catalanotti
Brigadier General Gregory E. Couch
Brigadier General David S. Elmo
Brigadier General Jeffery E. Phillips
Brigadier General Robert P. Stall
Brigadier General William D. Waff

To be brigadier general

Colonel Daniel R. Ammerman
Colonel Edward G. Burley
Colonel William F. Duffy
Colonel Patrick J. Reinert
Colonel Douglas R. Satterfield
Colonel John H. Turner, III
Colonel Hugh C. Vanroosen, II
Colonel Ricky L. Waddell

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. Carter F. Ham

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be brigadier general

Col. Brian K. Balfe

The following named officers for appointment to the grade indicated in the United States Army under title 10, U.S.C., section 624:

To be brigadier general

Colonel Bradley A. Becker
Colonel Scott D. Berrier
Colonel Michael A. Bills
Colonel Gwendolyn Bingham
Colonel David J. Bishop
Colonel Matthew L. Brand
Colonel James B. Burton
Colonel John W. Chariton
Colonel Guy T. Cosentino
Colonel James H. Dickinson
Colonel Timothy J. Edens
Colonel Charles A. Flynn
Colonel George J. Franz, III
Colonel Theodore C. Harrison
Colonel Frederick A. Henry
Colonel Terence J. Hildner
Colonel Henry L. Huntley
Colonel Paul C. Hurley, Jr.
Colonel Mark S. Inch
Colonel Ferdinand Irizarry, II
Colonel Thomas S. James, Jr.
Colonel Ole A. Knudson
Colonel Thomas W. Kula
Colonel Clark W. Lemasters, Jr.
Colonel Theodore D. Martin
Colonel Brian J. McKiernan
Colonel Robin L. Mealer
Colonel John B. Morrison, Jr.
Colonel Sean P. Mulholland
Colonel Kevin G. O'Connell
Colonel Barrye L. Price
Colonel Mark R. Quantock
Colonel James M. Richardson
Colonel Darsie D. Rogers, Jr.
Colonel Martin P. Schweitzer
Colonel Jeffrey A. Sinclair
Colonel Richard L. Stevens
Colonel Peter D. Utley
Colonel Gary J. Volesky
Colonel Kirk F. Vollmecke
Colonel Darryl A. Williams

Colonel Michael E. Williamson
Colonel Cedric T. Wins

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Michael D. Barbero

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael Ferriter

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brig. Gen. Manuel Ortiz, Jr.

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Robert B. Abrams
Brigadier General Allison T. Aycock
Brigadier General Peter C. Bayer, Jr.
Brigadier General James C. Boozer, Sr.
Brigadier General Jeffrey S. Buchanan
Brigadier General Gary H. Cheek
Brigadier General Kendall P. Cox
Brigadier General William T. Crosby
Brigadier General Anthony G. Crutchfield
Brigadier General Peter N. Fuller
Brigadier General William K. Fuller
Brigadier General Walter M. Golden, Jr.
Brigadier General Patrick M. Higgins
Brigadier General Frederick B. Hodges
Brigadier General Anthony R. Ierardi
Brigadier General Richard C. Longo
Brigadier General Alan R. Lynn
Brigadier General David L. Mann
Brigadier General Bradley W. May
Brigadier General Lloyd Miles
Brigadier General Mark A. Milley
Brigadier General Jennifer L. Napper
Brigadier General John W. Nicholson, Jr.
Brigadier General Raymond P. Palumbo
Brigadier General Gary S. Patton
Brigadier General Mark W. Perrin
Brigadier General William E. Rapp
Brigadier General Thomas J. Richardson
Brigadier General Frederick S. Rudesheim
Brigadier General Bennet S. Sacolick
Brigadier General Frank D. Turner, III
Brigadier General Kevin R. Wendel
Brigadier General Larry D. Wyche

The following named officer for appointment to the grade indicated in the United States Army under title 10, U.S. section 624:

To be brigadier general

Col. Jeffrey L. Bailey

The following named officer for appointment to the grade indicated in the United States Army under title 10, U.S.C., section 624:

To be brigadier general

Col. Curt A. Rauhut

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., sections 624, 3037, and 3064:

To be brigadier general, judge advocate general's corps

Col. Flora D. Darpino

The following Army National Guard of the United States officers for appointment in the

Reserve of the Army to the grades indicated under title 10, U.S.C. sections 12203 and 12211:

To be major general

Brigadier General Joseph L. Culver
Brigadier General Francis P. Gonzales
Brigadier General David L. Harris
Brigadier General James R. Joseph
Brigadier General Jeff W. Mathis, III
Brigadier General Henry C. McCann
Brigadier General Steven N. Wickstrom

To be brigadier general

Colonel James A. Adkins
Colonel Deborah A. Ashenhurst
Colonel Elizabeth D. Austin
Colonel Linda C. Bode
Colonel Darlene M. Goff
Colonel Scott A. Gronewold
Colonel Brian C. Harris
Colonel James H. Harris
Colonel Samuel L. Henry
Colonel Jay J. Hooper
Colonel Keith E. Knowlton
Colonel Francis S. Laudano, III
Colonel Rusty L. Lingenfelter
Colonel Judd H. Lyons
Colonel Eugene L. Mascoco
Colonel Michael W. McHenry
Colonel Kevin L. McNeely
Colonel Glen E. Moore
Colonel Oliver L. Norrell, III
Colonel William J. O'Neill
Colonel Victor S. Perez
Colonel Harve T. Romine
Colonel Joanne F. Sheridan
Colonel Paul G. Smith
Colonel Peter C. Vanamburgh
Colonel Kathy J. Wright

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brigadier General Ricky G. Adams
Brigadier General Barbaranette T. Bolden
Brigadier General Glenn H. Curtis
Brigadier General Stephen C. Dabadie
Brigadier General Jonathan E. Farnham
Brigadier General Leodis T. Jennings
Brigadier General Scott W. Johnson

To be brigadier general

Colonel Dominic D. Archibald
Colonel Arthur G. Austin, Jr.
Colonel Craig A. Bargfrede
Colonel Courtney P. Carr
Colonel Joel D. Cusker
Colonel Patrick J. Dolan
Colonel David A. Galloway
Colonel Scott F. Gedling
Colonel Kevin s. Gerdes
Colonel Juan L. Griego
Colonel Ralph H. Groover, III
Colonel Stephen R. Hogan
Colonel Daniel R. Hokanson
Colonel Gary E. Huffman
Colonel Ruth A. Irwin
Colonel Stephen E. Joyce
Colonel Richard F. Keene
Colonel Terry A. Lambert
Colonel Daniel B. Leatherman
Colonel Elton Lewis
Colonel Timothy M. McKeithen
Colonel Paul J. Pena
Colonel Matthew T. Quinn
Colonel Mark A. Russo
Colonel Orlando Salinas
Colonel Bryan L. Saucerman
Colonel Michael D. Schwartz
Colonel Timothy L. Sheppard
Colonel Rex A. Spittler
Colonel Donald B. Tatum
Colonel James E. Taylor

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Howard B. Bromberg

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brigadier General Gregory W. Batts
Brigadier General Brent M. Boyles
Brigadier General Jefferson S. Burton
Brigadier General Lawrence E. Dudley, Jr.
Brigadier General Burton K. Francisco
Brigadier General Charles H. Gailles, Jr.
Brigadier General Gary M. Hara
Brigadier General Timothy J. Kadavy
Brigadier General Patrick A. Murphy
Brigadier General Timothy E. Orr
Brigadier General David C. Petersen

To be brigadier general

Colonel Jerry R. Acton, Jr.
Colonel Dallen S. Attack
Colonel James P. Begley, III
Colonel Alan J. Butson
Colonel Walter E. Fountain
Colonel Richard J. Gallant
Colonel Alberto C. Gonzalez
Colonel Johnny H. Isaak
Colonel Gregory L. Kennedy
Colonel Arthur J. Logan
Colonel Neal G. Loidolt
Colonel Jeffrey P. Marlette
Colonel Ted Martinell
Colonel Edward R. Morgan
Colonel Michael D. Navrkal
Colonel Leesa J. Papier
Colonel Kenneth L. Reiner
Colonel Sean A. Ryan
Colonel Kenneth A. Sanchez
Colonel Steven T. Scott
Colonel William L. Stoppel
Colonel Lee E. Tafanelli
Colonel Keith Y. Tamashiro
Colonel Guy E. Thomas
Colonel Neil H. Tolley
Colonel David S. Visser
Colonel Marianne E. Watson
Colonel Martha N. Wong
Colonel Anthony Woods

IN THE NAVY

The following named officer for appointment in the United States Navy Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Thomas E. Beeman

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Gerald R. Beaman

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 156:

To be rear admiral (lower half)

Capt. James W. Crawford, III

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Richard W. Hunt

IN THE MARINE CORPS

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Kenneth F. McKenzie, Jr.

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John M. Paxton, Jr.

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Kenneth J. Glueck, Jr.

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Robert E. Milstead, Jr.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN2228 AIR FORCE nominations (1196) beginning BRIAN F. ABELL, and ending RAY A. ZUNIGA, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 2010.

PN2308 AIR FORCE nomination of Joseph T. Fetsch, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2309 AIR FORCE nomination of Suzanne M. Henderson, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2310 AIR FORCE nominations (4) beginning CHARLES R. CORNELISSE, and ending GERALD D. MCMANUS, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2311 AIR FORCE nominations (7) beginning ENEYA H. MULAGHA, and ending CLAUDIA P. ZIMMERMANN, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2312 AIR FORCE nominations (8) beginning LENA R. HASKELL, and ending WILLIAM A. SOBLE, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2314 AIR FORCE nominations (14) beginning RANDON H. DRAPER, and ending ANDREW S. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2315 AIR FORCE nominations (16) beginning JANELLE E. COSTA, and ending JEROME E. WIZDA, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2317 AIR FORCE nominations (44) beginning WILLIAM J. ANNEXSTAD, and ending STACEY J. VETTER, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2318 AIR FORCE nominations (82) beginning RYAN J. ALBRECHT, and ending GABRIEL MATTHEW YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2357 AIR FORCE nomination of Paul L. Sherouse, which was received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2358 AIR FORCE nomination of Gabriel C. Avilla, which was received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2359 AIR FORCE nominations (5) beginning NATHAN P. CHRISTENSEN, and ending SARA A. WHITTINGHAM, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2387 AIR FORCE nominations (287) beginning JESSICA L. ABBOTT, and ending ANDREW J. WYNN, which nominations were received by the Senate and appeared in the Congressional Record of December 8, 2010.

PN2388 AIR FORCE nominations (154) beginning EDWARD R. ANDERSON, III, and ending DAVID H. ZONIES, which nominations were received by the Senate and appeared in the Congressional Record of December 8, 2010.

PN2389 AIR FORCE nominations (44) beginning MICHAEL J. ALFARO, and ending SARA M. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of December 8, 2010.

PN2390 AIR FORCE nominations (25) beginning COREY R. ANDERSON, and ending SON X. VU, which nominations were received by the Senate and appeared in the Congressional Record of December 8, 2010.

IN THE ARMY

PN2009 ARMY nomination of Michael P. McGaffigan, which was received by the Senate and appeared in the Congressional Record of July 21, 2010.

PN2192 ARMY nominations (16) beginning EDWIN E. AHL, and ending D002419, which nominations were received by the Senate and appeared in the Congressional Record of September 20, 2010.

PN2268 ARMY nominations (6) beginning DIANE J. BOESE, and ending PHILIP N. WASYLINA, which nominations were received by the Senate and appeared in the Congressional Record of September 29, 2010.

PN2319 ARMY nomination of Robert C. Dorman, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2320 ARMY nomination of David A. Niemiec, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2321 ARMY nomination of William L. Vanasse, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2322 ARMY nomination of George A. Carpenter, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2323 ARMY nomination of Susan A. Castorina, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2324 ARMY nominations (2) beginning THERESA C. COWGER, and ending MARIE N. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2325 ARMY nominations (2) beginning PAULA S. OLIVER, and ending GARY D. RIGGS, which nominations were received by

the Senate and appeared in the Congressional Record of November 17, 2010.

PN2326 ARMY nominations (4) beginning JOSEPH C. CARVER, and ending GARY L. PAULSON, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2327 ARMY nomination of John E. Johnson, II, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2328 ARMY nomination of Andrew S. Dreier, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2329 ARMY nominations (5) beginning KEVIN D. ELLSON, and ending STEVEN J. OLSON, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2330 ARMY nominations (9) beginning PHILLIP R. GLICK, and ending WILLIAM G. SUVER, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2331 ARMY nominations (62) beginning KEVIN ACOSTA, and ending ROBERT K. YIM, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2332 ARMY nominations (125) beginning MARY E. ABRAMS, and ending D002043, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2333 ARMY nominations (157) beginning TIMOTHY P. ALBERS, and ending G001187, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2334 ARMY nominations (194) beginning ELLEN J. ABBOTT, and ending MICHAEL W. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2335 ARMY nominations (226) beginning JOHN C. ALLRED, and ending D001821, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2336 ARMY nominations (266) beginning JOHN W. AARSEN, and ending LOREN T. ZWEIG, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2337 ARMY nominations (5) beginning JOHN G. FELTZ, and ending LOUIS W. WILHAM, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2360 ARMY nomination of Kathleen M. Flocke, which was received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2361 ARMY nomination of Gary A. Vroegindewey, which was received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2362 ARMY nominations (5) beginning CRAIG S. BROOKS, and ending BENNIE W. SWINK, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

IN THE FOREIGN SERVICE

PN2025 FOREIGN SERVICE nominations (228) beginning Connor Cherer, and ending Bernadette Regina Zielinski, which nominations were received by the Senate and appeared in the Congressional Record of July 21, 2010.

PN2214 FOREIGN SERVICE nominations (94) beginning Heather M. Rogers, and ending Stephanie L. Woodard, which nominations were received by the Senate and appeared in

the Congressional Record of September 23, 2010.

PN2215 FOREIGN SERVICE nominations (25) beginning Joseph Farinella, and ending Joseph C. Williams, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 2010.

PN2265 FOREIGN SERVICE nominations (150) beginning Patricia A. Butenis, and ending Keith A. Swinehart, which nominations were received by the Senate and appeared in the Congressional Record of September 29, 2010.

PN2298 FOREIGN SERVICE nominations (137) beginning Louis John Fintor, and ending Thomas F. Gray, Jr., which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2299 FOREIGN SERVICE nominations (266) beginning Alan Hallman, and ending Richard G. Simpson, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2300 FOREIGN SERVICE nominations (2) beginning Lloyd S. Harbert, and ending Daryl A. Brehm, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2354 FOREIGN SERVICE nominations (3) beginning James Franklin Jeffrey, and ending Earl A. Wayne, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

IN THE MARINE CORPS

PN2363 MARINE CORPS nominations (6) beginning BRANDON M. BOLLING, and ending WYETH M. TOWLE, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

IN THE NAVY

PN2269 NAVY nominations (2) beginning PATRICK C. DANIELS, and ending THOMAS L. EDLER, which nominations were received by the Senate and appeared in the Congressional Record of September 29, 2010.

PN2291 NAVY nomination of Matthew R. Fomby, which was received by the Senate and appeared in the Congressional Record of November 15, 2010.

PN2292 NAVY nomination of Ronny L. Jackson, which was received by the Senate and appeared in the Congressional Record of November 15, 2010.

PN2338 NAVY nomination of Frederick G. Panico, which was received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2339 NAVY nominations (3) beginning DANIEL J. TRAUB, and ending WAYNE M. BURR, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2010.

PN2364 NAVY nominations (43) beginning AUNTOWHAN M. ANDREWS, and ending CHRISTOPHER W. WOLFF, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2365 NAVY nominations (7) beginning MATTHEW A. MCQUEEN, and ending CHARLES E. VARSOGEA, which nominations were received by the Senate and appeared in the Congressional Record of November 18, 2010.

PN2391 NAVY nomination of Brian L. Beatty, which was received by the Senate and appeared in the Congressional Record of December 8, 2010.

PN2392 NAVY nomination of Jon C. Cannon, which was received by the Senate and

appeared in the Congressional Record of December 8, 2010.

NOMINATIONS DISCHARGED

Mr. BAYH. Madam President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from the following nominations: PN 2350 and PN 2351; that the Senate then proceed en bloc to the nominations; that the nominations be confirmed en bloc and the motions to reconsider be laid upon the table; that any statements relating to the nominations be printed in the RECORD and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Russel Edwin Burger, of Oregon, to be United States Marshal for the District of Oregon for the term of four years.

Charles Edward Andrews, of Alabama, to be United States Marshal for the Southern District of Alabama for the term of four years.

Mr. BAYH. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of the following nomination, PN 2374, and the Senate proceed to the nomination; that the nomination be confirmed, the motion to reconsider be laid upon the table; that any statements related to the nomination be printed in the RECORD, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

Christopher R. Thyer, of Arkansas, to be United States Attorney for the Eastern District of Arkansas for the term of four years.

EXECUTIVE CALENDAR

Mr. BAYH. I ask unanimous consent that the Senate proceed to the immediate consideration of the following nominations en bloc: Calendar Nos. 616, 617, 618, 619, and 620; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table with no intervening action or debate, en bloc; that no further motions be in order; that any statements related to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Jacqueline A. Berrien, of New York, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2014.

Chai Rachel Feldblum, of Maryland, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2013.

P. David Lopez, of Arizona, to be General Counsel of the Equal Employment Opportunity Commission for a term of four years.

Victoria A. Lipnic, of Virginia, to be a Member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 2010.

Victoria A. Lipnic, of Virginia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2015.

NOMINATION OF LOUIS BUTLER

Mr. KOHL. Madam President, I am deeply disappointed that the Senate has failed to vote on Louis Butler's nomination to the district court for the Western District of Wisconsin. The partisan bickering that has prevented a debate and vote on several district court nominees is a stark reversal of Senate tradition and practice.

Justice Butler is exceptionally well qualified for the Federal bench. By dint of hard work and perseverance, Justice Butler rose from humble beginnings to be an accomplished lawyer, advocate, trial court judge, Wisconsin Supreme Court justice, and professor. Few nominees have such a strong record of public service. Justice Butler's career has been distinguished by the years he has spent fulfilling the Constitution's guarantee of an attorney and fair trial for all Americans, rich and poor alike. He cut his teeth as a young lawyer representing defendants who could not afford legal representation. As a trial court judge, he earned a reputation for being a tough but fair jurist and was recognized as a top Milwaukee judge.

Justice Butler was the first African American to sit on the Wisconsin Supreme Court and he served there with distinction for 4 years. During his time on the court, he participated in hundreds of cases, many of which were decided by a unanimous or near-unanimous court. He proved himself to be a hard-working, thoughtful and consensus-building justice.

We ask our judges to make the most difficult decisions in the closest cases, neither an easy nor simple task. Over the course of Justice Butler's tenure as a trial judge and a State supreme court justice, he has faithfully carried out this duty by following the law with the impartiality, integrity and respect that we demand of a judge. Justice Butler has an impressive legal background that would serve our Federal bench well. Indeed he is a very fine man. He is deeply committed to the law, to his community, and to his family.

Justice Butler's nomination proves once again that the process we use in Wisconsin to choose Federal judges and U.S. attorneys ensures excellence. The Wisconsin Federal Nominating Commission has been used to select Federal judges and U.S. attorneys in Wisconsin for 30 years. Through a great deal of

cooperation and careful consideration, and by keeping politics to a minimum, we always find highly qualified candidates like Justice Butler.

I believe that Justice Butler would make a fine addition to the Federal bench, and I regret that he and other district court nominees have not been given the up-or-down votes that they deserve.

NOMINATIONS OF GOODWIN LIU AND EDWARD CHEN

Mrs. FEINSTEIN. Madam President, I rise today to discuss two promising Asian-American judicial nominees from my State of California who have been denied simple, straightforward up-or-down votes on the floor of this body for what I believe are very spurious reasons.

Goodwin Liu is associate dean and professor of law at the University of California, Berkeley, Boalt Hall School of Law. He has a truly outstanding record as a great legal mind:

Phi Beta Kappa from Stanford and co-president of the Student Body; a Rhodes Scholar at Oxford; a J.D. from Yale Law School and an editor on the Yale Law Journal; judicial clerkships on the D.C. Circuit and the U.S. Supreme Court; recipient of both the Education Law Association's Award for Distinguished Scholarship and the University of California at Berkeley's highest award for teaching.

Recognizing his brilliance, President Obama chose Professor Liu for a seat on the Court of Appeals for the Ninth Circuit.

I have met personally with Goodwin Liu on several occasions, including a 4-hour discussion. I had him to my home for dinner. His status as a first-rate legal mind is undeniable.

And his support for this nomination is legion:

Justice Ruth Bader Ginsburg, former judge and Solicitor General Ken Starr, leading conservative lawyer Clint Bolick, California Correctional Peace Officers Association, 34 former prosecutors, Numerous education leaders, including former Secretary of Education Richard Riley and Joel Klein, the Chancellor of the New York City schools, and Numerous representatives of the Asian-American community.

One set of support was particularly impressive to me. In the only time that I have seen the serving president and two former presidents of a major university write in support of a nominee or issue, the three most recent presidents of Stanford University, John Hennessy, Gerhard Casper, and Donald Kennedy, wrote to support Professor Liu's nomination, saying, in part:

Goodwin Liu as a student, scholar, and trustee has epitomized the goal of Stanford's founders, which was "to promote the public welfare by exercising an influence on behalf of humanity and civilization, teaching the blessings of liberty regulated by law, and inculcating love and reverence for the great principles of government as derived from the inalienable rights of man to life, liberty and the pursuit of happiness." We highly recommend Goodwin Liu for the honor and re-

sponsibility of serving on the United States Court of Appeals for the Ninth Circuit.

I admit that some of Professor Liu's writing have been questioned by conservatives. It is true that Goodwin Liu would not be a conservative judge. However, I do not believe that he would be an activist judge.

As I have watched debates over the judiciary in my eighteen years in the Senate, the perception of "judicial activism" is for the party on the other side. Many believe that this current Supreme Court under Chief Justice Roberts is one of the more activist courts ever. It is indisputable that it has overturned many precedents that had stood for decades.

Goodwin Liu deserves to have a fair up-or-down vote, as other controversial circuit court nominees have received. If a senator opposes his nomination, let them vote against him. That is what we are here for—to cast our votes yes or nay, up or down. But don't let Professor Liu die on the calendar, without even having the courage to give him a vote.

Even worse in many ways is the similar treatment that Magistrate Judge Edward Chen has received. I recommended Judge Chen for a judgeship in the Northern District of California. If confirmed, he would be the first judge of Chinese descent to serve in this district, with its notable Chinese heritage.

This would not be a novel role for Judge Chen: for the past 9 years, he has served as a magistrate judge on this same court. And his service there has been impeccable, and apparently unsailable: he has written more than 350 published opinions in that time, and there has not been an objection to a single one of them.

But opponents of his nomination are hanging their hat on one quote from him, taken out of context.

One of the darkest chapters in this country's history was the wholesale internment of Japanese-Americans during World War II. The Supreme Court upheld this heinous practice in the notorious case of *Korematsu v. United States*. In 1988, Congress passed and President Reagan signed the Civil Liberties Act and issued a formal apology for the internment. Before serving as a magistrate judge, Ed Chen represented the name party in that case, Fred Korematsu, in his successful effort to overturn his conviction for defying the internment order.

In 2005, Judge Chen attended Mr. Korematsu's funeral, and spoke about it a month later to law students. The line that critics have seized upon came from this speech, where Judge Chen said that, while listening to the congregation sing "America the Beautiful" at the funeral, he sometimes had "Feelings of ambivalence and cynicism when confronted with appeals to patriotism—sometimes I cannot help but

feel that there are too much [sic] injustice and too many inequalities that prevent far too many Americans from enjoying the beauty extolled in that anthem."

But the critics omit what Chen said right after that quotation:

Yet I was moved to tears at Fred's memorial. Why? In part, Fred was a living example of the patriotism embodied in the song. Korematsu demonstrated that patriotism not by waving an American flag, but by trying to vindicate the values and principles that are embodied in that flag: freedom, justice and equality under the law. . . . I was also moved not only because "America the Beautiful" echoed what I saw [in] Fred. It was also because the song described the America that Fred envision[ed]. The America whose promised beauty he sought to fulfill, an America true to its founding principles.

Judge Chen didn't object to singing "America the Beautiful"—he was moved to tears by it.

Judge Chen's nomination enjoys widespread support, with extensive support from the law enforcement community, including: San Francisco Deputy Sheriffs' Association, Northern Alliance of Law Enforcement, which represents 20 different law enforcement associations in Northern California, Peace Officers Research Association of California, 11 former Federal prosecutors for the Northern District of California and former San Francisco Chief of Police Anthony Ribera.

And the list goes on.

He also has widespread support from the bar, including the Bar Association of San Francisco, Hispanic National Bar Association, and many others.

Yet despite this support, his nomination has been subjected to repeated, exceptional delay and obstruction, even being returned to the President during congressional recesses.

The day was when district court nominees supported by both home State Senators with extensive law enforcement and legal community support were confirmed routinely. It is time now to end this delay and obstruction, give Ed Chen the fair up-or-down vote he so richly deserves, and confirm this well-proven, qualified nominee to the Federal district court.

NOMINATION OF BERYL HOWELL

Mr. LEAHY. I want to say a few words about one of the highly qualified nominees belatedly confirmed by the Senate today. Beryl Howell has been confirmed to fill a vacancy on the District Court for the District of Columbia. Many of us on the Judiciary Committee remember her from the 10 years she served as my general counsel and as one of the most effective members of our Judiciary Committee staff. With her background as a highly decorated Federal prosecutor, she worked on issues ranging from criminal justice and national security, to the Digital Millennium Copyright Act, the Anti-Cybersquatting Consumer Protection

Act, and the No Electronic Theft Act. She worked on the National Information Infrastructure Protection Act and the computer fraud and abuse statute, and on important oversight matters including the Judiciary Committee's bipartisan hearings on Ruby Ridge that led to improvements at the Federal Bureau of Investigation, FBI. She also played important roles in electronic freedom of information initiatives, which earned her induction into the Freedom of Information Act Hall of Fame.

When I had the chance to introduce Ms. Howell to the committee at her hearing in July, I discussed her impressive background before she joined the committee staff. She grew up in a proud military family. She was awarded her undergraduate degree with honors in philosophy from Bryn Mawr College in Pennsylvania, and earned her law degree at Columbia University School of Law, where she was a Harlan Fiske Stone Scholar. She clerked for Judge Dickinson Debevoise on the U.S. District Court for the District of New Jersey.

Having worked as a student assistant in a U.S. Attorney's Office, she joined the U.S. Attorney's Office for the Eastern District of New York in 1987, working there almost 6 years, rising to be the Deputy Chief of the Narcotics Section. Her grand jury investigations and prosecutions included complex public corruption, narcotics, and money laundering cases.

Descriptions of her cases read like crime novels. She successfully prosecuted the leadership of a Chinatown gang, called the Flying Dragons, for heroin trafficking, and extradited the head of the gang after he fled to Hong Kong. She successfully prosecuted a group of Colombian drug dealers and arrested the gang members just as they were packing almost \$20 million in cash from narcotics proceeds into a hidden compartment of a truck to smuggle it out of the country. Then some of these defendants attempted a prison escape by bribing officials, and she successfully prosecuted the perpetrators of the escape plan. She also handled the successful investigation and prosecution of over 20 corrupt New York City building inspectors engaged in extortion.

Ms. Howell's work was recognized by her twice being awarded the U.S. Attorney Special Achievement Award for Sustained Superior Performance, by commendations from the FBI, DEA, and the New York City Department of Investigation, and ultimately by the prestigious Attorney General's Director's Award for Superior Performance. I always felt lucky to have hired her.

Ms. Howell's career since she left us 7 years ago has been equally impressive. She established the Washington, DC, office of a consulting and technical services firm specializing in digital

forensics, computer fraud, and abuse investigations as the Executive Managing Director and general counsel of Stroz Friedberg. While in the private sector, she received the FBI Director's Award for her work assisting in a Government cyber-extortion investigation.

Ms. Howell has twice been confirmed by the Senate to serve as a member of the bipartisan U.S. Sentencing Commission, to which she was appointed by President Bush. She contributed to the Sentencing Commission report that led to our breakthrough this year with Senate passage of historic legislation that Senator DURBIN crafted to end sentencing disparities, the Fair Sentencing Act.

She and her husband have raised their three children in the District and are long-time citizens here. That involvement, her public service background, and her steadfast commitment to justice make her an ideal nominee. I commend President Obama for choosing to nominate her. I thank the committee for acting to favorably report her nomination unanimously in September. I am glad the Senate has now followed suit and confirmed her unanimously to serve all the people of the District of Columbia fairly and impartially as a U.S. district court judge.

Mr. MCCONNELL. Madam President, I am pleased the Senate in this Congress was able to make good progress on filling judicial vacancies, especially those vacancies that the Democratic majority unfortunately and sometimes inexplicably failed to fill during the last 2 years of the Bush Administration.

The progress we have made is especially noteworthy given the demands placed upon the Judiciary Committee by having to process not one, but two, Supreme Court nominations. The Sotomayor and Kagan nominations together took approximately 6 months of the Committee's time. Nevertheless, the Senate was able to confirm a total of 60 lower court nominations in this Congress, including 19 nominations while the Kagan nomination was pending. By comparison, the last time the Senate had to process two Supreme Court nominations in the same Congress, which were the Roberts and Alito nominations during the 109th Congress, the Senate was able to fill only 51 lower court judicial vacancies, and it confirmed far fewer lower court nominations while the Roberts and Alito nominations were pending.

This Congress was also able to fill some long-standing vacancies, especially on our courts of appeals. At the end of the Bush administration, there were 15 judicial emergencies; this Congress was able to fill 10 of those 15 judicial emergencies, including numerous judicial emergencies on our circuit courts. The Fourth Circuit is illustrative of the commitment of Senate Republicans to work in a bipartisan fashion to this end.

At the end of the last Congress, the Fourth Circuit was almost one-third vacant, despite the fact that President Bush had nominated outstanding candidates for these positions. These nominees enjoyed strong home State support, including some with strong bipartisan, home-state support. Yet our Democratic friends refused to move these nominations. By contrast, this Congress put partisanship aside and filled all four of these vacancies, giving badly-needed relief to a long suffering Federal circuit.

We could have made more progress still. But unfortunately, the President failed to put forth, and the Democratic Majority failed to move, nominations for the vast majority of the current federal vacancies. Specifically, the President has failed to even nominate individuals for most of the current district court vacancies, putting forth only 34 nominations, even though there are 76 vacancies. And of those district court nominations he has put forth, 18 of them remain in the Democratic-controlled Judiciary Committee. The story is similar for our circuit courts: there are 16 vacancies there, but the White House has failed to even nominate candidates for seven of those vacancies. And of those circuit court nominations he has made, 6 remain in the Judiciary Committee. All told, of the current vacancies on our Federal courts 80 percent of these seats remain vacant because the President either has not nominated anyone, or our Democratic colleagues have not processed the ones he has nominated.

Which brings us to the judicial nominations remaining on the Senate floor. Four of these nominations are very controversial. Their statements, writings, and records show a willingness to put their own views ahead of the dictates of the law and the Constitution. As a result, Senate Republicans are not prepared to consent to their confirmation, or to a process that will facilitate their confirmation.

The remaining 15 nominations pending on the Senate floor were not reported out of the Judiciary Committee until the waning days of this Congress. This is unfortunate. Most of these nominations are to fill vacancies that have existed for years; in some cases, for 2 or 3 years, or even longer. I do not know why these nominations were not reported out of the Judiciary Committee until December. While we were worked diligently in the lameduck session to fill numerous judicial vacancies—confirming 19 judicial nominees total—we were not able to process the remaining 15 nominations that the committee approved late in this year.

But our record of confirming judicial nominations in this lameduck Congress certainly compares favorably to the progress that was made on judicial nominations in other lameduck Congresses. In the lameduck session of the

last Congress, the Senate did not confirm any judicial nominees. Thirty judicial nominations were not acted upon in that session, despite the urgent need for judges on places like the Fourth Circuit. In the lameduck session of the Congress before that, our Democratic colleagues did not consent to confirming any judicial nominees; the one judicial nomination that occurred in the lameduck session of the 109th Congress was achieved by the Republican majority filing cloture on a nominee. Cloture was invoked on that nomination by a vote of 93 to 0, and he was confirmed. But 38 other judicial nominations were not acted upon in that Congress, including 15 who were ripe for action on the Senate floor. In the lameduck session of the 108th Congress, only 3 nominations were confirmed, all to the district court. Almost two dozen judicial nominations were not acted upon in that lameduck session, including several who were pending on the Senate floor. In fact, the last time a Senate confirmed as many judicial nominations in a lameduck session of Congress as were confirmed in the lameduck session of this Congress was in 2002, when 20 judicial nominees were confirmed at the end of the 107th Congress.

I am hopeful we can continue to work in a bipartisan fashion in the next Congress on judicial nominations and that the President will join us in that effort by not nominating or re-nominating judicial nominees who show a willingness to follow their own beliefs, rather than the requirements of the law.

JUDICIAL NOMINATIONS

Mr. LEAHY. Madam President, as the 111th Congress draws to a close, Senate Republicans have finally consented to consider half of the judicial nominations that have been pending on the Senate's Executive Calendar, some for nearly a year, awaiting a final Senate vote. We began with 38 judicial nominees to be considered and the Senate is being prevented from voting on 19. These are all superbly qualified nominees, most were reported with bipartisan support and many unanimously. Thirteen of these nominations on which we are not being allowed to vote are to fill judicial emergency vacancies, as determined by the non-partisan Administrative Office of the U.S. Courts. Yet for month after month, many of these nominations have been stalled, just languishing before the Senate as Senate Republicans refused to consent to moving forward. Congress will adjourn for the year without completing its work on these nominations.

Senate Republicans' strategy of delaying and blocking judicial nominations across the board has led to judicial vacancies nearly doubling over the last 2 years. Vacancies remain at nearly 100 with more than 40 judicial emergencies. The Republican leadership was

unmoved by pleas from the President, the Attorney General, two Supreme Court Justices, the President of the American Bar Association, the Federal Bar Association, retired Federal judges, current chief judges and Federal prosecutors calling on the Senate to address the growing vacancies crisis. They disregarded the pleas to end the senseless delays and needless blockade of consensus nominations and to vote whether to confirm the nominations sent forward by the Senate Judiciary Committee to fill the vacancies in the Federal courts.

Each of the judicial nominations now before the Senate will upon adjournment be returned to the President, the vacancy will remain, and the confirmation process will have to start over next year. Just a few years ago Senate Republicans were united in demanding that every nomination reported by the Senate Judiciary Committee to the Senate deserved a vote. They argued that was our constitutional duty. Well, the Constitution has not been amended. The only thing that has changed is that the American people changed Presidents.

In 2001 and 2002, the first 2 years of the Bush administration, the Senate Judiciary Committee reported 100 judicial nominees of President Bush. I was the chairman. We did not adjourn in 2002 until we had given a vote to every one of those 100 nominees and confirmed them. I did not support all of them but I did not prevent those votes. I worked to fill the vacancies on the Federal courts. That was with a Democratic majority in the Senate. All 100 were considered before the end of the 107th Congress, including two controversial circuit court nominations reported and then confirmed during the lameduck session in 2002, after the mid-term elections.

This Congress the Senate Judiciary Committee held hearings, considered and was able to favorably report 80 nominees to Federal circuit and district court vacancies. Only 60 have been allowed Senate votes. This is a historically low number and percentage for the first two years of a new Presidency. Last year only 12 Federal circuit and district court judges were confirmed. It was the lowest number in more than 50 years. This year the Senate has been allowed to consider fewer than 50 judicial nominees. That has led to the lowest confirmation total for the first 2 years of a new Presidency in 35 years. And this is taking place during a period when Federal judicial vacancies have doubled.

By nearly every measure—the number of nominees confirmed, the percentage of nominees confirmed, the pace of nominees being considered on the floor, the skyrocketing vacancy numbers—the results are dismal. During the first 2 years of the Bush administration, Democrats in the Senate

worked to consider and confirm 100 judicial nominees. During the first two years of the Obama administration, Senate Republicans have limited Federal circuit and district court confirmations to 60. They were delayed on average six times longer than it took President Bush's judicial nominees to be considered by the Senate.

Senate Republicans have returned to the strategy they used during the Clinton administration, when they pocket filibustered more than 60 of his judicial nominations, leading to a vacancy crisis. Their years of refusing to proceed on President Clinton's nominations led Chief Justice William Rehnquist, a conservative appointed by Republican Presidents, to chastise them for failing to address the needs of the Federal judiciary. In those days, Federal judicial vacancies rose to more than 110 by the end of the Clinton administration, a historically high vacancy number. Current across the board delays eventuated in 111 Federal court vacancies this year.

When Democrats regained the Senate majority halfway into President Bush's first year in office, we reported and confirmed 100 judicial nominees during the 17 months I served as chairman of the Judiciary Committee in the 107th Congress. We continued to work cooperatively to make progress on nominations whether in the majority or the minority for the rest of President Bush's administration. As a result, overall judicial vacancies were reduced during the Bush years from more than 10 percent to less than four percent. During the Bush years, the Federal court vacancies were reduced from 110 to 34 and Federal circuit court vacancies were reduced from a high of 32 down to single digits.

This progress has not continued once the American people elected President Obama. Senate Republicans have returned to the strategy of across-the-board delays and obstruction of the President's judicial nominations, again leading to skyrocketing vacancies. Last year the Senate confirmed only 12 Federal circuit and district court judges, the lowest total in 50 years. This year we confirmed less than 50 more Federal circuit and district judges. That has led to the lowest confirmation total for the first 2 years of a new Presidency in 35 years. We are not even keeping up with retirements and attrition. As a result, judicial vacancies rose again over 110 again this year.

The Senate's Republican leadership seems determined to end the Congress as it began it, obstructing President Obama's judicial nominations. In November 2009, the Senate confirmed Judge David Hamilton of Indiana to the Seventh Circuit after rejecting a Republican filibuster of President Obama's first judicial nomination. Judge Hamilton was no radical. He had

the support of the Senate's senior Republican, the senior Senator from Indiana. He had served nearly 15 years on the Federal bench. Rather than welcome the nomination as an effort by President Obama to step away from the ideological battles of the past, Senate Republicans ignored Senator LUGAR's support, distorting Judge Hamilton's record and filibustering his nomination. Republican Senators who had recently pledged never to filibuster a judicial nominee and those who had said they would do so only under extraordinary circumstances reversed themselves and joined the partisan filibuster. Republican Senators who just a few years earlier had proclaimed such filibusters unconstitutional also joined. They abandoned all they had said and filibustered a preacher's son and fine judge who was known to and supported by his respected Republican home State Senator.

In filibustering President Obama's first judicial nomination, Senate Republicans also ignored the standard they had set in a letter they sent to President Obama before he had made a single judicial nomination. In that letter, they threatened to filibuster any nomination made without consultation. Despite the fact that President Obama has reached across the aisle to consult, as he did with Senator LUGAR of Indiana, Senate Republicans have filibustered and delayed judicial nominations virtually across the board.

Delays and obstruction of Senate consideration has attended virtually all of well-qualified judicial nominees. Contrary to their statements during the Bush administration that every judicial nomination reported by the Senate Judiciary Committee was entitled to an up-or-down vote, Senate Republicans have refused consent for up-or-down votes on nominee after nominee. Since the filibuster of Judge Hamilton, they have required the Majority Leader to file cloture on other highly qualified circuit court nominees, indeed on a quarter of the 16 circuit court nominees the Senate has been allowed to consider.

No Senator could claim the circumstances surrounding the filibusters of President Obama's circuit court nominations to be extraordinary. Republicans filibustered the nomination of Judge Barbara Keenan, a nominee with nearly 30 years of judicial experience, and the first woman to hold a number of important judicial roles in Virginia. She was then confirmed 99-0 as the first woman from Virginia to serve on the Fourth Circuit Court of Appeals. They filibustered the nomination of Judge Thomas Vanaskie, whose 16 years of a experience as a Federal district court judge in Pennsylvania are now being put to good use on the Third Circuit. They filibustered Judge Denny Chin of the Second Circuit, who also had 16 years of experience as a

Federal district court judge. He is now the only active Asian Pacific American judge to serve on a Federal appellate court, and his nomination was confirmed unanimously.

Senate Republicans' tactics reached a new low as they obstructed consideration of district court nominations. The blockade of these nominations is a dramatic departure from the traditional practice of considering district court nominations expeditiously and with deference to home state Senators. Among these nominations were Louis Butler of Wisconsin, Edward Chen of California, and John McConnell of Rhode Island. These nominees were reported by the Committee several times with strong support from their home State Senators who know the nominees and the needs of the courts in their States best. All three were pending for months on the Senate Calendar. In fact, Justice Butler and Judge Chen were first reported by the Judiciary Committee over a year ago. Obstruction of these district court nominations is unprecedented.

Since 1945, the Judiciary Committee has reported more than 2,100 district court nominees to the Senate. Out of these 2,100 nominees, only 5 have been reported by party-line votes, and 4 of the 5 occurred in this Congress. Less than 20 of the 2,100 nominees faced any opposition in Committee. Since 1949, cloture motions have been filed on only three district court nominations. All three nominations were confirmed, and in fact two of the cloture petitions were withdrawn. This year Republican opposition to the Butler, Chen and McConnell nominations would have required clotures on all three, meaning that in 1 year they would have matched the number of cloture motions filed on district court nominees over the past 62 years.

These nominees are outstanding Americans who do us a great service by their willingness to serve on our Federal courts. Justice Louis Butler, Jr., was nominated to fill an emergency vacancy on the U.S. District Court for the Western District of Wisconsin. He has 16 years of judicial experience at the municipal and State court level and was the first African American to serve on the Wisconsin Supreme Court. He has the strong support of both of his home State Senators and he earned the highest possible rating, unanimously well qualified, from the Standing Committee on the Federal Judiciary of the American Bar Association, ABA.

Judge Edward Chen was nominated to fill an emergency vacancy on the U.S. District Court for the Northern District of California. He has served that court as a Magistrate Judge for the last nine years and has accrued an impeccable record of fairness and impartiality. He would have been only the second Asian American to serve as a Federal Judge in the 150-year history

of that District. He was also the first Asian American to serve the District as a Magistrate Judge. Judge Chen earned the highest possible rating, unanimously well qualified, from the ABA's Standing Committee on the Federal Judiciary, and he has the strong support of both of his home State Senators.

Jack McConnell was nominated to serve as a Federal district court judge in Rhode Island. With more than 25 years of experience as a lawyer in private practice, Mr. McConnell has the strong support of both Senators from Rhode Island. Individuals and organizations from across the political spectrum in that state have called for Mr. McConnell's confirmation. The Providence

Journal endorsed his nomination by saying that he "in his legal work and community leadership has shown that he has the legal intelligence, character, compassion, and independence to be a distinguished jurist." A two-thirds majority of the Judiciary Committee, including Senator GRAHAM, voted to favorably report Mr. McConnell's nomination for confirmation.

The Senate should also have been able to have a debate and a vote on the nomination of Goodwin Liu of California to the Ninth Circuit Court of Appeals. He is a professor at the University of California, Berkeley, School of Law, and was nominated by President Obama to fill an emergency vacancy on the Ninth Circuit. An acclaimed scholar and a nationally recognized expert on constitutional law and educational law and policy, Professor Liu earned the highest possible rating, unanimously well qualified, from the ABA's Standing Committee on the Federal Judiciary. He is a former Supreme Court clerk and a Rhodes Scholar who would be only the second, active Asian Pacific American judge to serve on a Federal appellate court. Both of Professor Liu's home state Senators support his nomination.

The conservative, Republican-appointed Chief Judge of the Ninth Circuit to which Professor Liu has been nominated has written the Senate to inform us of crushing caseloads and the urgent need for new judges. Justice Anthony Kennedy this August warned the Ninth Circuit Judicial Conference about the threat posed by skyrocketing judicial vacancies in California and throughout the country. He noted that, "if judicial excellence is cast upon a sea of congressional indifference, the rule of law is imperiled."

Rather than following a partisan playbook, I wish Republican Senators had listened to the cross-section of people and organizations from across the political spectrum that have written in strong support of Professor Liu's qualifications to serve on the Ninth Circuit. These former prosecutors and judges, presidents of universities, renowned

academics, distinguished practitioners, advocacy groups, and district attorneys believe Professor Liu would make an excellent Federal judge. So do I.

I reviewed the record of each of these nominees targeted for Republican opposition and carefully considered their character, background, and qualifications. I believe they each would have been confirmed by the Senate. That they will not be conservative activist judges should not disqualify them from consideration by the Senate or from serving on the Federal bench.

In addition to these nominees, there has been a destructive tact in which Senate Republicans have systematically delayed votes on consensus nominations. The length of time nominations were stalled before a final Senate vote is the product of that systematic delay. The fact is that nominations have taken on average six times as long before final Senate consideration after being reported from the Judiciary Committee, when comparing the confirmations in the first two years of the Bush and Obama administrations. Several consensus nominations that were eventually confirmed unanimously required cloture petitions to be filed just to be considered. Other evidence is the fact that more than a dozen consensus judicial nominations that have been through the entire process are being denied a final vote as the Senate adjourns. I know of no precedent for this. Indeed, in the lame duck session at the end of President Bush's second year in office, we proceeded to report and confirm controversial circuit court nominees. That the Senate is not being allowed to consider consensus nominees awaiting a final vote is a shame and an unnecessary burden on them and their families and for the courts and people they would serve.

It is a travesty that all of the well-qualified nominees favorably reported by the Judiciary Committee could not be confirmed before this Congress adjourns. That is what we did when we confirmed 100 judicial nominees of President Bush in 2001 and 2002. All 100 of the nominees reported favorably by the Judiciary Committee received Senate votes and were confirmed, all 100. They include 20 during the lameduck session that year and circuit court nominees reported after the election. This year even consensus nominees are not being allowed to be considered.

When the Senate returns for the 112th Congress I hope that all Senators will learn from the mounting judicial vacancies and failure to make progress in this Congress. I hope that we can follow a path toward restoring the Senate's longstanding traditions of expeditiously considering nominations and reject the obstruction that blocked progress. We must do better to address the needs of the Federal courts and the American people who depend on them for justice.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

ORDER FOR ADJOURNMENT SINE DIE

Mr. BAYH. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn sine die under the provisions of H. Con. Res. 336.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, JANUARY 5, 2011

Mr. BAYH. Madam President, I further ask unanimous consent that when the Senate returns on Wednesday, January 5, at 12 noon, following the prayer and pledge and following the presentation of the certificates of election and the swearing in of elected Members, and the required live quorum, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and that there then be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAYH. Madam President, there will be a live quorum at 12 noon on Wednesday, January 5, to convene the 112th Congress. Senators are encouraged to report to the floor at that time.

ADJOURNMENT SINE DIE

Mr. BAYH. Madam President, if there is no further business to come before the Senate—let me say it has been a pleasure serving with you—I wish everyone here Godspeed and a Merry Christmas, and I ask unanimous consent that the Senate adjourn under the previous order.

There being no objection, the Senate, at 8:03 p.m., adjourned sine die.

NOMINATIONS

Executive nomination received by the Senate:

NATIONAL COUNCIL ON THE ARTS

AGNES GUND, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS.

NOMINATIONS RETURNED TO THE PRESIDENT

The following nominations transmitted by the President of the United States to the Senate during the second

session of the 111th Congress, and upon which no action was had at the time of the sine die adjournment of the Senate, failed of confirmation under the provisions of rule XXXI, paragraph 6, of the Standing Rules of the Senate.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

JONATHAN ANDREW HATFIELD, OF VIRGINIA, TO BE INSPECTOR GENERAL, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

RICHARD CHRISTMAN, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 6, 2012.

JANE D. HARTLEY, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2014.

MARGUERITE W. KONDRACK, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING JUNE 10, 2014.

MATTHEW FRANCIS MCCABE, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2013.

JOHN D. PODESTA, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2014.

LISA M. QUIROZ, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING FEBRUARY 8, 2014.

PHYLLIS NICHAMOFF SEGAL, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2013.

DEPARTMENT OF AGRICULTURE

EVAN J. SEGAL, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

ELIZABETH ANN HAGEN, OF VIRGINIA, TO BE UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF COMMERCE

ERIC L. HIRSCHHORN, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION.

FRANCISCO J. SANCHEZ, OF FLORIDA, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ERIC L. HIRSCHHORN, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

KATHRYN D. SULLIVAN, OF OHIO, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

DEPARTMENT OF DEFENSE

SOLOMON B. WATSON IV, OF NEW YORK, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE ARMY.

JO ANN ROONEY, OF MASSACHUSETTS, TO BE PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS.

MICHAEL VICKERS, OF VIRGINIA, TO BE UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE.

DEPARTMENT OF ENERGY

PETER BRUCE LYONS, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF ENERGY (NUCLEAR ENERGY).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

RICHARD SORIAN, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

DONALD M. BERWICK, OF MASSACHUSETTS, TO BE ADMINISTRATOR OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES.

RICHARD SORIAN, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF HOMELAND SECURITY

RAFAEL BORRAS, OF MARYLAND, TO BE UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF HOMELAND SECURITY.

RAFAEL BORRAS, OF MARYLAND, TO BE UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF HOMELAND SECURITY, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ALAN D. BERSIN, OF CALIFORNIA, TO BE COMMISSIONER OF CUSTOMS, DEPARTMENT OF HOMELAND SECURITY.

DEPARTMENT OF JUSTICE

THOMAS GRAY WALKER, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS.

JOHN B. STEVENS, JR., OF TEXAS, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

JAMES MICHAEL COLE, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY ATTORNEY GENERAL.

M. SCOTT BOWEN, OF MICHIGAN, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS.

TIMOTHY J. FEIGHERY, OF NEW YORK, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2012.

ANDREW L. TRAVER, OF ILLINOIS, TO BE DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

S. AMANDA MARSHALL, OF OREGON, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF OREGON FOR THE TERM OF FOUR YEARS.

ESTEBAN SOTO III, OF MARYLAND, TO BE UNITED STATES MARSHAL FOR THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FOUR YEARS.

DENISE ELLEN O'DONNELL, OF NEW YORK, TO BE DIRECTOR OF THE BUREAU OF JUSTICE ASSISTANCE.

DEPARTMENT OF LABOR

PAUL M. TIAO, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF LABOR.

LEON RODRIGUEZ, OF MARYLAND, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR.

DEPARTMENT OF STATE

MARI CARMEN APONTE, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR.

ROBERT STEPHEN FORD, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SYRIAN ARAB REPUBLIC.

MATTHEW J. BRYZA, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AZERBAIJAN.

SUZAN D. JOHNSON COOK, OF NEW YORK, TO BE AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM.

NORMAN L. EISEN, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC.

LARRY LEON PALMER, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE BOLIVARIAN REPUBLIC OF VENEZUELA.

FRANCIS JOSEPH RICCIARDONE, JR., OF MASSACHUSETTS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKEY.

MARI CARMEN APONTE, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GEORGE ALBERT KROL, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF UZBEKISTAN.

KURT WALTER TONG, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS UNITED STATES SENIOR OFFICIAL FOR THE ASIA-PACIFIC ECONOMIC COOPERATION (APEC) FORUM.

SUE KATHRINE BROWN, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONTENEGRO.

PAMELA L. SPRATLEN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KYRGYZ REPUBLIC.

DAVID LEE CARDEN, OF NEW YORK, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

DANIEL L. SHIELDS III, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

JOSEPH M. TORSELLA, OF PENNSYLVANIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U.N. MANAGEMENT AND REFORM, WITH THE RANK OF AMBASSADOR.

JOSEPH M. TORSELLA, OF PENNSYLVANIA, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS, DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR U. N. MANAGEMENT AND REFORM.

DAVID BRUCE SHEAR, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MIN-

ISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM. NILS MAARTEN PARIN DAULAIRE, OF VIRGINIA, TO BE REPRESENTATIVE OF THE UNITED STATES ON THE EXECUTIVE BOARD OF THE WORLD HEALTH ORGANIZATION.

DEPARTMENT OF THE INTERIOR

DANIEL M. ASHE, OF MARYLAND, TO BE DIRECTOR OF THE UNITED STATES FISH AND WILDLIFE SERVICE.

DEPARTMENT OF THE TREASURY

MICHAEL F. MUNDACA, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

MICHAEL F. MUNDACA, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

TIMOTHY CHARLES SCHEVE, OF PENNSYLVANIA, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2010.

TIMOTHY CHARLES SCHEVE, OF PENNSYLVANIA, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2015.

JEFFREY ALAN GOLDSTEIN, OF NEW YORK, TO BE AN UNDER SECRETARY OF THE TREASURY.

DEPARTMENT OF TRANSPORTATION

ANN D. BEGEMAN, OF VIRGINIA, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2015.

ELECTION ASSISTANCE COMMISSION

THOMAS HICKS, OF VIRGINIA, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM EXPIRING DECEMBER 12, 2013.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CHAI RACHEL FELDBLUM, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2013, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JACQUELINE A. BERRIEN, OF NEW YORK, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2014, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

VICTORIA A. LIPNIC, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 2010, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

P. DAVID LOPEZ, OF ARIZONA, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF FOUR YEARS, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EXECUTIVE OFFICE OF THE PRESIDENT

MICHAEL W. PUNKE, OF MONTANA, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

ISLAM A. SIDDIQI, OF VIRGINIA, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

PHILIP E. COYLE, III, OF CALIFORNIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

MICHAEL W. PUNKE, OF MONTANA, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ISLAM A. SIDDIQI, OF VIRGINIA, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

PHILIP E. COYLE, III, OF CALIFORNIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FARM CREDIT ADMINISTRATION

JILL LONG THOMPSON, OF INDIANA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FEDERAL HOUSING FINANCE AGENCY

JOSEPH A. SMITH, JR., OF NORTH CAROLINA, TO BE DIRECTOR OF THE FEDERAL HOUSING FINANCE AGENCY FOR A TERM OF FIVE YEARS.

FEDERAL MARITIME COMMISSION

MARIO CORDERO, OF CALIFORNIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2014.

REBECCA F. DYE, OF NORTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2015.

FEDERAL RESERVE SYSTEM

PETER A. DIAMOND, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2000.

GOVERNMENT PRINTING OFFICE

WILLIAM J. BOARMAN, OF MARYLAND, TO BE PUBLIC PRINTER.

MARINE MAMMAL COMMISSION

FRANCES M.D. GULLAND, OF CALIFORNIA, TO BE A MEMBER OF THE MARINE MAMMAL COMMISSION FOR A TERM EXPIRING MAY 13, 2012.

NATIONAL BOARD FOR EDUCATION SCIENCES

BEVERLY L. HALL, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING MARCH 15, 2012.

ANTHONY BRYK, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2015.

NATIONAL COUNCIL ON DISABILITY

PAMELA YOUNG-HOLMES, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 17, 2010.

JANICE LEHRER-STEIN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2013.

CLYDE E. TERRY, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2013.

NATIONAL COUNCIL ON THE ARTS

AGNES GUND, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PAULA BARKER DUFFY, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

MARTHA WAGNER WEINBERG, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

ALBERT J. BEVERIDGE III, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

CONSTANCE M. CARROLL, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

CATHY M. DAVIDSON, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

AARON PAUL DWORCKIN, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2014.

NATIONAL LABOR RELATIONS BOARD

CRAIG BECKER, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2014, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

MARK GASTON PEARCE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2013, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL MEDIATION BOARD

THOMAS M. BECK, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2013.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SCOTT C. DONEY, OF MASSACHUSETTS, TO BE CHIEF SCIENTIST OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

NATIONAL SCIENCE FOUNDATION

CORA B. MARRETT, OF WISCONSIN, TO BE DEPUTY DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION.

KELVIN K. DROEGEMEIER, OF OKLAHOMA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 2016.

OFFICE OF SPECIAL COUNSEL

CAROLYN N. LERNER, OF MARYLAND, TO BE SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, FOR THE TERM OF FIVE YEARS.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

STEPHANIE O'SULLIVAN, OF VIRGINIA, TO BE PRINCIPAL DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE.

OVERSEAS PRIVATE INVESTMENT CORPORATION

KATHERINE M. GEHL, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2010.

MATTHEW MAXWELL TAYLOR KENNEDY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2012.

ROBERTO R. HERENCIA, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2012.

JAMES A. TORREY, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2010.

JAMES A. TORREY, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2013.

TERRY LEWIS, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2011.

PENSION BENEFIT GUARANTY CORPORATION

JOSHUA GOTBAUM, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

ELISEBETH COLLINS COOK, OF ILLINOIS, TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD FOR A TERM EXPIRING JANUARY 29, 2014.

JAMES XAVIER DEMPSEY, OF CALIFORNIA, TO BE A MEMBER OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD FOR A TERM EXPIRING JANUARY 29, 2016.

SMALL BUSINESS ADMINISTRATION

WINSLOW LORENZO SARGEANT, OF WISCONSIN, TO BE CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION.

WINSLOW LORENZO SARGEANT, OF WISCONSIN, TO BE CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

STATE JUSTICE INSTITUTE

WILFREDO MARTINEZ, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2010.

THE JUDICIARY

AMY TOTENBERG, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA.

EDWARD CARROLL DUMONT, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT.

PAUL KINLOCH HOLMES, III, OF ARKANSAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS.

SUSAN L. CARNEY, OF CONNECTICUT, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

ANTHONY J. BATTAGLIA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

EDWARD J. DAVILA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

JAMES E. SHADID, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.

MAX OLIVER COGBURN, JR., OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA.

JAMES E. GRAVES, JR., OF MISSISSIPPI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

JAMES EMANUEL BOASBERG, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

AMY BERMAN JACKSON, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

VICTORIA FRANCES NOURSE, OF WISCONSIN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT.

MARCO A. HERNANDEZ, OF OREGON, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON.

STEVE C. JONES, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA.

SUE E. MYERSCOUGH, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.

DIANA SALDANA, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS.

MICHAEL H. SIMON, OF OREGON, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON.

CHARLES BERNARD DAY, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND.

KATHLEEN M. WILLIAMS, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

MARINA GARCIA MARMOLEJO, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS.

ROBERT NEIL CHATIGNY, OF CONNECTICUT, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

GOODWIN LIU, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

LOUIS B. BUTLER, JR., OF WISCONSIN, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WISCONSIN.

EDWARD MILTON CHEN, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

JOHN J. MCCONNELL, JR., OF RHODE ISLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND.

CAITLIN JOAN HALLIGAN, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

JIMMIE V. REYNA, OF MARYLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT.

RICHARD BROOKE JACKSON, OF COLORADO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLORADO.

MAE A. D'AGOSTINO, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK.

CATHY BISBOON, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

VINCENT L. BRICETTI, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

ROY BALE DALTON, JR., OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.

SARA LYNN DARROW, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF ILLINOIS.

JOHN A. KRONSTADT, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

KEVIN HUNTER SHARP, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF TENNESSEE.

BERNICE BOUIE DONALD, OF TENNESSEE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

ARENDA L. WRIGHT ALLEN, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA.

MICHAEL FRANCIS URBANSKI, OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF VIRGINIA.

CLAIRE C. CECCHI, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

ESTHER SALAS, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

MARK RAYMOND HORNAK, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

ROBERT DAVID MARIANI, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

JOHN ANDREW ROSS, OF MISSOURI, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

ERIC G. POSTEL, OF WISCONSIN, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

UNITED STATES INSTITUTE OF PEACE

JUDITH A. ANSLEY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 19, 2011.

JUDITH A. ANSLEY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM OF FOUR YEARS.

JOHN A. LANCASTER, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 19, 2011.

JOHN A. LANCASTER, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM OF FOUR YEARS.

UNITED STATES TAX COURT

JUAN F. VASQUEZ, OF TEXAS, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS.

MAURICE B. FOLEY, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS.

IN THE AIR FORCE

AIR FORCE NOMINATION OF BRIGADIER GENERAL RICHARD T. DEVEREAUX, TO BE MAJOR GENERAL.

AIR FORCE NOMINATION OF MAJ. GEN. ROBIN RAND, TO BE LIEUTENANT GENERAL.

AIR FORCE NOMINATIONS BEGINNING WITH BRIGADIER GENERAL WILLIAM R. BURKS AND ENDING WITH COLONEL ARTHUR W. HYATT, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2010.

AIR FORCE NOMINATION OF COL. DONALD P. DUNBAR, TO BE BRIGADIER GENERAL.

AIR FORCE NOMINATION OF MAJ. GEN. JOHN D. LAVELLE, TO BE GENERAL.

IN THE ARMY

ARMY NOMINATION OF COLONEL JODY J. DANIELS, TO BE BRIGADIER GENERAL.

ARMY NOMINATION OF COLONEL DOMINIC J. CARACCIOLO, TO BE BRIGADIER GENERAL.

ARMY NOMINATION OF BRIG. GEN. RODNEY J. BARHAM, TO BE MAJOR GENERAL.
ARMY NOMINATION OF COLONEL DENISE T. ROONEY, TO BE BRIGADIER GENERAL.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATION OF MICHAEL S. DEVANY, TO BE REAR ADMIRAL (LOWER HALF).

IN THE NAVY

NAVY NOMINATION OF CAPTAIN LUKE M. MCCOLLUM, TO BE REAR ADMIRAL (LOWER HALF).

NAVY NOMINATION OF REAR ADM. (LH) JAMES P. MCMANAMON, TO BE REAR ADMIRAL.

IN THE AIR FORCE

AIR FORCE NOMINATION OF DAVID JAURIQUE, TO BE COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH DAVID LEWIS BUTTRICK AND ENDING WITH THEODORE L. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH MARTIN D. ADAMSON AND ENDING WITH JOHN MARION VON ALMEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATION OF BARBARA J. MARTIN.

FOREIGN SERVICE NOMINATION OF R. DOUGLASS ARBUCKLE.

FOREIGN SERVICE NOMINATION OF HUSSAIN WAHEED IMAM.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING WITH JOE H. ADKINS, JR. AND ENDING WITH JAMES B. ZIENTEK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 8, 2010.

CONFIRMATIONS

Executive nominations confirmed by the Senate, December 22, 2010:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

JACQUELINE A. BERRIEN, OF NEW YORK, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2014.

CHAI RACHEL FELDBLUM, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2013.

P. DAVID LOPEZ, OF ARIZONA, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF FOUR YEARS.

VICTORIA A. LIPNIC, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 2010.

VICTORIA A. LIPNIC, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2015.

THE JUDICIARY

SCOTT M. MATHESON, JR., OF UTAH, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT.

DEPARTMENT OF DEFENSE

JONATHAN WOODSON, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

THE JUDICIARY

MARY HELEN MURGUIA, OF ARIZONA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

KATHLEEN M. O'MALLEY, OF OHIO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT.

BERYL ALAINE HOWELL, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

ROBERT LEON WILKINS, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

STATE JUSTICE INSTITUTE

WILFREDO MARTINEZ, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2013.

CHASE THEODORA ROGERS, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2012.

ISABEL FRAMER, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2012.

GOVERNMENT ACCOUNTABILITY OFFICE

EUGENE LOUIS DODARO, OF VIRGINIA, TO BE COMPTROLLER GENERAL OF THE UNITED STATES FOR A TERM OF FIFTEEN YEARS.

MISSISSIPPI RIVER COMMISSION

SAMUEL EPSTEIN ANGEL, OF ARKANSAS, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION FOR A TERM OF NINE YEARS.

DEPARTMENT OF JUSTICE

MICHELE MARIE LEONHART, OF CALIFORNIA, TO BE ADMINISTRATOR OF DRUG ENFORCEMENT.

STACIA A. HYLTON, OF VIRGINIA, TO BE DIRECTOR OF THE UNITED STATES MARSHALS SERVICE. VICE JOHN F. CLARK, RESIGNED.

NATIONAL BOARD FOR EDUCATION SCIENCES

ROBERT ANACLETUS UNDERWOOD, OF GUAM, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2012.

ANTHONY BRYK, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2011.

KRIS D. GUTIERREZ, OF COLORADO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2012.

DEPARTMENT OF EDUCATION

SEAN P. BUCKLEY, OF NEW YORK, TO BE COMMISSIONER OF EDUCATION STATISTICS FOR A TERM EXPIRING JUNE 21, 2015.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

SUSAN H. HILDRETH, OF WASHINGTON, TO BE DIRECTOR OF THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ALLISON BLAKELY, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2016.

UNITED STATES SENTENCING COMMISSION

PATTI B. SARIS, OF MASSACHUSETTS, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2015.

DABNEY LANGHORNE FRIEDRICH, OF MARYLAND, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2015.

PATTI B. SARIS, OF MASSACHUSETTS, TO BE CHAIR OF THE UNITED STATES SENTENCING COMMISSION.

OVERSEAS PRIVATE INVESTMENT CORPORATION

KEVIN GLENN NEALER, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2011.

DEPARTMENT OF STATE

CAROL FULP, OF MASSACHUSETTS, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JEANNE SHAHEEN, OF NEW HAMPSHIRE, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

ROGER F. WICKER, OF MISSISSIPPI, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

GREGORY J. NICKELS, OF WASHINGTON, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

WILLIAM R. BROWNFIELD, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS).

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

PAIGE EVE ALEXANDER, OF GEORGIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

MILLENNIUM CHALLENGE CORPORATION

MARK GREEN, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE MILLENNIUM CHALLENGE CORPORATION FOR A TERM OF THREE YEARS.

DEPARTMENT OF STATE

THOMAS R. NIDES, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY SECRETARY OF STATE FOR MANAGEMENT AND RESOURCES.

MILLENNIUM CHALLENGE CORPORATION

ALAN J. PATRICOF, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE MILLENNIUM CHALLENGE CORPORATION FOR A TERM OF TWO YEARS.

DEPARTMENT OF AGRICULTURE

RAMONA EMILIA ROMERO, OF PENNSYLVANIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF AGRICULTURE.

SOCIAL SECURITY ADMINISTRATION

CAROLYN W. COLVIN, OF MARYLAND, TO BE DEPUTY COMMISSIONER OF SOCIAL SECURITY FOR THE TERM EXPIRING JANUARY 19, 2013.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. OTIS G. MANNON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. RICHARD T. DEVEREAUX

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. CHARLES R. DAVIS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. MICHELLE D. JOHNSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. BRETT T. WILLIAMS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. JAMES M. HOLMES

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be brigadier general

COL. WAYNE E. LEE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. TIMOTHY T. JEX

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL DONALD J. BACON
COLONEL WARREN D. BERRY
COLONEL CASEY D. BLAKE
COLONEL MARK ANTHONY BROWN
COLONEL STEPHEN A. CLARK
COLONEL ANTHONY J. COTTON
COLONEL THOMAS H. DEALE
COLONEL STEPHEN T. DENKER
COLONEL JOHN L. DOLAN
COLONEL MICHAEL E. FORTNEY
COLONEL PETER E. GERSTEN
COLONEL ROBERT F. GIVENS
COLONEL THOMAS F. GOULD
COLONEL TIMOTHY S. GREEN
COLONEL GINA M. GROSSO
COLONEL JOSEPH T. GUASTELLA, JR.
COLONEL DAVID A. HARRIS
COLONEL DARYL J. HAUCK
COLONEL JOHN M. HICKS
COLONEL JOHN P. HORNOR
COLONEL JOHN K. HYDE
COLONEL PATRICK C. MALACKOWSKI
COLONEL JAMES R. MARRS
COLONEL LAWRENCE M. MARTIN, JR.
COLONEL JEFFREY R. MCDANIELS
COLONEL MARK M. MCLEOD
COLONEL JOHN K. MCMULLEN
COLONEL LINDA R. MEDLER
COLONEL MATTHEW H. MOLLOY
COLONEL MICHAEL T. PLEHN
COLONEL MARGARET B. POORE
COLONEL THOMAS J. SHARPY
COLONEL BRADFORD J. SHVEDO
COLONEL RICHARD S. STAPP
COLONEL DAVID R. STILWELL
COLONEL ROGER W. TEAGUE
COLONEL DAVID C. URRICH
COLONEL ROGER H. WHITKINS
COLONEL MARK W. WESTERGREN
COLONEL SCOTT J. ZOBRIST

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL THOMAS P. HARWOOD III
BRIGADIER GENERAL ROBERT K. MILLMANN, JR.
BRIGADIER GENERAL WILLIAM F. SCHAUFFERT
BRIGADIER GENERAL MICHAEL N. WILSON
BRIGADIER GENERAL JOHN T. WINTERS, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COLONEL RANDALL C. GUTHRIE
COLONEL NORMAN R. HAM, JR.
COLONEL RONALD B. MILLER
COLONEL JOHN J. MOONEY III
COLONEL DAVID B. O'BRIEN
COLONEL RICHARD W. SCOBEE
COLONEL JOCELYN M. SENG
COLONEL WILLIAM B. WALDROP, JR.
COLONEL TOMMY J. WILLIAMS
COLONEL EDWARD P. YARISH
COLONEL SHEILA ZUEHLKE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be major general

BRIGADIER GENERAL FRANCES M. AUCLAIR
BRIGADIER GENERAL BARRY K. COLN
BRIGADIER GENERAL JEFFREY R. JOHNSON
BRIGADIER GENERAL MARY J. KIGHT
BRIGADIER GENERAL THOMAS R. MOORE
BRIGADIER GENERAL JOHN F. NICHOLS
BRIGADIER GENERAL LEON S. RICE
BRIGADIER GENERAL GARY L. SAYLER
BRIGADIER GENERAL SCOTT B. SCHOFIELD
BRIGADIER GENERAL JONATHAN T. TREACY
BRIGADIER GENERAL DELILAH R. WORKS

To be brigadier general

COLONEL STEVEN P. BULLARD
COLONEL MICHAEL B. COMPTON
COLONEL MURRAY A. HANSEN
COLONEL JEFFREY W. HAUSER
COLONEL WILLIAM O. HILL
COLONEL JEROME P. LIMOGE, JR.
COLONEL DONALD A. MCGREGOR
COLONEL TONY E. MCMILLIAN
COLONEL GREGORY L. NELSON
COLONEL GARY L. NOLAN
COLONEL MICHAEL E. STENCEL
COLONEL RICHARD G. TURNER
COLONEL WILLIAM L. WELSH
COLONEL DANIEL J. ZACHMAN

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JON J. MILLER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL ROBERT M. BROWN

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be brigadier general

COL. BENJAMIN F. ADAMS III

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL DOUGLAS P. ANSON
BRIGADIER GENERAL ROBERT G. CATALANOTTI
BRIGADIER GENERAL GREGORY E. COUCH
BRIGADIER GENERAL DAVID S. ELMO
BRIGADIER GENERAL JEFFERY E. PHILLIPS
BRIGADIER GENERAL ROBERT P. STALL
BRIGADIER GENERAL WILLIAM D. WAFF

To be brigadier general

COLONEL DANIEL R. AMMERMAN
COLONEL EDWARD G. BURLEY
COLONEL WILLIAM F. DUFFY
COLONEL PATRICK J. REINERT
COLONEL DOUGLAS R. SATTERFIELD
COLONEL JOHN H. TURNER III
COLONEL HUGH C. VANROOSEN II
COLONEL RICKY L. WADDELL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. CARTER F. HAM

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be brigadier general

COL. BRIAN K. BALFE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL BRADLEY A. BECKER
COLONEL SCOTT D. BERRIER
COLONEL MICHAEL A. BILLS
COLONEL GWENDOLYN BINGHAM
COLONEL DAVID J. BISHOP
COLONEL MATTHEW L. BRAND
COLONEL JAMES B. BURTON
COLONEL JOHN W. CHARLTON
COLONEL GUY T. COSENTINO
COLONEL JAMES H. DICKINSON
COLONEL TIMOTHY J. EDENS
COLONEL CHARLES A. FLYNN
COLONEL GEORGE J. FRANZ III
COLONEL THEODORE C. HARRISON
COLONEL FREDERICK A. HENRY
COLONEL TERENCE J. HILDNER
COLONEL HENRY L. HUNTLEY
COLONEL PAUL C. HURLEY, JR.
COLONEL MARK S. INCH
COLONEL FERDINAND IRIZARRY II
COLONEL THOMAS S. JAMES, JR.
COLONEL OLE A. KNUDSON
COLONEL THOMAS W. KULA
COLONEL CLARK W. LEMASTERS, JR.
COLONEL THEODORE D. MARTIN
COLONEL BRIAN J. MCKIERNAN
COLONEL ROBIN L. MEALER
COLONEL JOHN B. MORRISON, JR.
COLONEL SEAN P. MULHOLLAND
COLONEL KEVIN G. O'CONNELL
COLONEL BARRY L. PRICE
COLONEL MARK R. QUANTOCK
COLONEL JAMES M. RICHARDSON
COLONEL DARSIE D. ROGERS, JR.
COLONEL MARTIN P. SCHWEITZER
COLONEL JEFFREY A. SINCLAIR
COLONEL RICHARD L. STEVENS
COLONEL PETER D. UTLEY
COLONEL GARY J. VOLESKY
COLONEL KIRK F. VOLLMECKE
COLONEL DARRYL A. WILLIAMS
COLONEL MICHAEL E. WILLIAMSON
COLONEL CEDRIC T. WINS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. MICHAEL D. BARBERO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MICHAEL FERRITER

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIG. GEN. MANUEL ORTIZ, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL ROBERT B. ABRAMS
BRIGADIER GENERAL ALLISON T. AYCOCK
BRIGADIER GENERAL PETER C. BAYER, JR.
BRIGADIER GENERAL JAMES C. BOOZER, SR.
BRIGADIER GENERAL JEFFREY S. BUCHANAN
BRIGADIER GENERAL GARY H. CHEEK
BRIGADIER GENERAL KENDALL P. COX
BRIGADIER GENERAL WILLIAM T. CROSBY
BRIGADIER GENERAL ANTHONY G. CRUTCHFIELD
BRIGADIER GENERAL PETER N. FULLER
BRIGADIER GENERAL WILLIAM K. FULLER
BRIGADIER GENERAL WALTER M. GOLDEN, JR.
BRIGADIER GENERAL PATRICK M. HIGGINS
BRIGADIER GENERAL FREDERICK B. HODGES
BRIGADIER GENERAL ANTHONY R. IERARDI
BRIGADIER GENERAL RICHARD C. LONGO
BRIGADIER GENERAL ALAN R. LYNN
BRIGADIER GENERAL DAVID L. MANN
BRIGADIER GENERAL BRADLEY W. MAY
BRIGADIER GENERAL LLOYD MILES
BRIGADIER GENERAL MARK A. MILLEY
BRIGADIER GENERAL JENNIFER L. NAPPER
BRIGADIER GENERAL JOHN W. NICHOLSON, JR.
BRIGADIER GENERAL RAYMOND P. PALUMBO
BRIGADIER GENERAL GARY S. PATTON
BRIGADIER GENERAL MARK W. PERRIN

BRIGADIER GENERAL WILLIAM E. RAPP
BRIGADIER GENERAL THOMAS J. RICHARDSON
BRIGADIER GENERAL FREDERICK S. RUDESHEIM
BRIGADIER GENERAL BENNETT S. SACOLICK
BRIGADIER GENERAL FRANK D. TURNER III
BRIGADIER GENERAL KEVIN R. WENDEL
BRIGADIER GENERAL LARRY D. WYCHE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. JEFFREY L. BAILEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. CURT A. RAUHUT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 624, 3037, AND 3064:

To be brigadier general, judge advocate general's corps

COL. FLORA D. DARPINO

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL JOSEPH L. CULVER
BRIGADIER GENERAL FRANCIS P. GONZALES
BRIGADIER GENERAL DAVID L. HARRIS
BRIGADIER GENERAL JAMES R. JOSEPH
BRIGADIER GENERAL JEFF W. MATHIS III
BRIGADIER GENERAL HENRY C. MCCANN
BRIGADIER GENERAL STEVEN N. WICKSTROM

To be brigadier general

COLONEL JAMES A. ADKINS
COLONEL DEBORAH A. ASHENHURST
COLONEL ELIZABETH D. AUSTIN
COLONEL LINDA C. BODE
COLONEL DARLENE M. GOFF
COLONEL SCOTT A. GRONEWOLD
COLONEL BRIAN C. HARRIS
COLONEL JAMES M. HARRIS
COLONEL SAMUEL L. HENRY
COLONEL JAY J. HOOPER
COLONEL KEITH E. KNOWLTON
COLONEL FRANCIS S. LAUDANO III
COLONEL RUSTY L. LINGENFELTER
COLONEL JUDD H. LYONS
COLONEL EUGENE L. MASCOLO
COLONEL MICHAEL W. MCHENRY
COLONEL KEVIN L. MCNEELY
COLONEL GLEN E. MOORE
COLONEL OLIVER L. NORRELL III
COLONEL WILLIAM J. O'NEILL
COLONEL VICTOR S. PEREZ
COLONEL HARVE T. ROMINE
COLONEL JOANNE F. SHERIDAN
COLONEL PAUL G. SMITH
COLONEL PETER C. VANAMBURGH
COLONEL KATHY J. WRIGHT

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL RICKY G. ADAMS
BRIGADIER GENERAL BARBARANETTE T. BOLDEN
BRIGADIER GENERAL GLENN H. CURTIS
BRIGADIER GENERAL STEPHEN C. DABADIE
BRIGADIER GENERAL JONATHAN E. FARNHAM
BRIGADIER GENERAL LEODIS T. JENNINGS
BRIGADIER GENERAL SCOTT W. JOHNSON

To be brigadier general

COLONEL DOMINIC D. ARCHIBALD
COLONEL ARTHUR G. AUSTIN, JR.
COLONEL CRAIG A. BARGFREDE
COLONEL COURTNEY P. CARR
COLONEL JOEL D. CUSKER
COLONEL PATRICK J. DOLAN
COLONEL DAVID A. GALLOWAY
COLONEL SCOTT F. GEDDLING
COLONEL KEVIN S. GERDES
COLONEL JUAN L. GRIEGO
COLONEL RALPH H. GROOVER III
COLONEL STEPHEN R. HOGAN
COLONEL DANIEL R. HOKANSON
COLONEL GARY E. HUFFMAN
COLONEL RUTH A. IRWIN
COLONEL STEPHEN E. JOYCE
COLONEL RICHARD F. KEENE
COLONEL TERRY A. LAMBERT
COLONEL DANIEL B. LEATHERMAN
COLONEL ELTON LEWIS
COLONEL TIMOTHY M. MCKEITHEN
COLONEL PAUL J. PENA
COLONEL MATTHEW T. QUINN
COLONEL MARK A. RUSSO

COLONEL ORLANDO SALINAS
COLONEL BRYAN L. SAUCERMAN
COLONEL MICHAEL D. SCHWARTZ
COLONEL TIMOTHY L. SHEPPARD
COLONEL REX A. SPITLER
COLONEL DONALD B. TATUM
COLONEL JAMES E. TAYLOR

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. HOWARD B. BROMBERG

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL GREGORY W. BATTS
BRIGADIER GENERAL BRENT M. BOYLES
BRIGADIER GENERAL JEFFERSON S. BURTON
BRIGADIER GENERAL LAWRENCE E. DUDNEY, JR.
BRIGADIER GENERAL BURTON K. FRANCISCO
BRIGADIER GENERAL CHARLES H. GAILES, JR.
BRIGADIER GENERAL GARY M. HARA
BRIGADIER GENERAL TIMOTHY J. KADAVY
BRIGADIER GENERAL PATRICK A. MURPHY
BRIGADIER GENERAL TIMOTHY E. ORR
BRIGADIER GENERAL DAVID C. PETERSEN

To be brigadier general

COLONEL JERRY R. ACTON, JR.
COLONEL DALLEN S. ATACK
COLONEL JAMES P. BEGLEY III
COLONEL ALAN J. BUTSON
COLONEL WALTER E. FOUNTAIN
COLONEL RICHARD J. GALLANT
COLONEL ALBERTO C. GONZALEZ
COLONEL JOHNNY H. ISAAK
COLONEL GREGORY L. KENNEDY
COLONEL ARTHUR J. LOGAN
COLONEL NEAL G. LOIDOLT
COLONEL JEFFREY P. MARLETTE
COLONEL TED MARTINELL
COLONEL EDWARD R. MORGAN
COLONEL MICHAEL D. NAVRKAL
COLONEL LEESA J. PAPIER
COLONEL KENNETH L. REINER
COLONEL SEAN A. RYAN
COLONEL KENNETH A. SANCHEZ
COLONEL STEVEN T. SCOTT
COLONEL WILLIAM L. STOPPEL
COLONEL LEE E. TAFANELLI
COLONEL KEITH Y. TAMASHIRO
COLONEL GUY E. THOMAS
COLONEL NEIL H. TOLLEY
COLONEL DAVID S. VISSER
COLONEL MARIANNE E. WATSON
COLONEL MARTHA N. WONG
COLONEL ANTHONY WOODS

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. THOMAS E. BEEMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. GERALD R. BEAMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 156:

To be rear admiral (lower half)

CAPT. JAMES W. CRAWFORD III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. RICHARD W. HUNT

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL KENNETH F. MCKENZIE, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN M. PAXTON, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. KENNETH J. GLUECK, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT E. MILSTEAD, JR.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH BRIAN F. ABELL AND ENDING WITH RAY A. ZUNIGA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 2010.

AIR FORCE NOMINATION OF JOSEPH T. FETSCH, TO BE COLONEL.

AIR FORCE NOMINATION OF SUZANNE M. HENDERSON, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH CHARLES R. CORNELISSE AND ENDING WITH GERALD D. MCMANUS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH ENEYA H. MULAGHA AND ENDING WITH CLAUDIA P. ZIMMERMANN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH LENA R. HASKELL AND ENDING WITH WILLIAM A. SOBLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH RANDON H. DRAPER AND ENDING WITH ANDREW S. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH JANELLE E. COSTA AND ENDING WITH JEROME E. WIZDA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH WILLIAM J. ANNEXSTAD AND ENDING WITH STACEY J. VETTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH RYAN J. ALBRECHT AND ENDING WITH GABRIEL MATTHEW YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

AIR FORCE NOMINATION OF PAUL L. SHEROUSE, TO BE COLONEL.

AIR FORCE NOMINATION OF GABRIEL C. AVILLA, TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH NATHAN P. CHRISTENSEN AND ENDING WITH SARA A. WHITTINGHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH JESSICA L. ABBOTT AND ENDING WITH ANDREW J. WYNN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 8, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH EDWARD R. ANDERSON III AND ENDING WITH DAVID H. ZONIES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 8, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH MICHAEL J. ALFARO AND ENDING WITH SARA M. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 8, 2010.

AIR FORCE NOMINATIONS BEGINNING WITH COREY R. ANDERSON AND ENDING WITH SON X. VU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 8, 2010.

IN THE ARMY

ARMY NOMINATION OF MICHAEL P. MCGAFFIGAN, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH EDWIN E. AHL AND ENDING WITH D002419, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 20, 2010.

ARMY NOMINATIONS BEGINNING WITH DIANE J. BOESE AND ENDING WITH PHILIP N. WASYLINA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 29, 2010.

ARMY NOMINATION OF ROBERT C. DORMAN, TO BE COLONEL.

ARMY NOMINATION OF DAVID A. NIEMIEC, TO BE MAJOR.

ARMY NOMINATION OF WILLIAM L. VANASSE, TO BE MAJOR.

ARMY NOMINATION OF GEORGE A. CARPENTER, TO BE MAJOR.

ARMY NOMINATION OF SUSAN A. CASTORINA, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH THERESA C. COWGER AND ENDING WITH MARIE N. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH PAULA S. OLIVER AND ENDING WITH GARY D. RIGGS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH JOSEPH C. CARVER AND ENDING WITH GARY L. PAULSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATION OF JOHN E. JOHNSON II, TO BE MAJOR.

ARMY NOMINATION OF ANDREW S. DREIER, TO BE LIEUTENANT COLONEL.

ARMY NOMINATIONS BEGINNING WITH KEVIN D. ELLSON AND ENDING WITH STEVEN J. OLSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH PHILLIP R. GLICK AND ENDING WITH WILLIAM G. SUVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH KEVIN ACOSTA AND ENDING WITH ROBERT K. YIM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH MARY E. ABRAMS AND ENDING WITH D002043, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH TIMOTHY P. ALBERS AND ENDING WITH G001187, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH ELLEN J. ABBOTT AND ENDING WITH MICHAEL W. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH JOHN C. ALLRED AND ENDING WITH D001821, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH JOHN W. AARSEN AND ENDING WITH LOREN T. ZWEIG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATIONS BEGINNING WITH JOHN G. FELTZ AND ENDING WITH LOUIS W. WILHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

ARMY NOMINATION OF KATHLEEN M. FLOCKE, TO BE MAJOR.

ARMY NOMINATION OF GARY A. VROEGINDEWEY, TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH CRAIG S. BROOKS AND ENDING WITH BENNIE W. SWINK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING WITH BRANDON M. BOLLING AND ENDING WITH WYETH M. TOWLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH PATRICK C. DANIELS AND ENDING WITH THOMAS L. EDLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 29, 2010.

NAVY NOMINATION OF MATTHEW R. FOMBY, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF RONNY L. JACKSON, TO BE CAPTAIN.

NAVY NOMINATION OF FREDERICK G. PANICO, TO BE CAPTAIN.

NAVY NOMINATIONS BEGINNING WITH DANIEL J. TRAUB AND ENDING WITH WAYNE M. BURR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

NAVY NOMINATIONS BEGINNING WITH AUNTOWHAN M. ANDREWS AND ENDING WITH CHRISTOPHER W. WOLFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

NAVY NOMINATIONS BEGINNING WITH MATTHEW A. MCQUEEN AND ENDING WITH CHARLES E. VARSOGEA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

NAVY NOMINATION OF BRIAN L. BEATTY, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF JON C. CANNON, TO BE COMMANDER.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING WITH CONNOR CHERER AND ENDING WITH BERNADETTE REGINA ZIELINSKI, WHICH NOMINATIONS WERE RECEIVED

BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 21, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH HEATHER M. ROGERS AND ENDING WITH STEPHANIE L. WOODARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH JOSEPH FARINELLA AND ENDING WITH JOSEPH C. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 23, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH PATRICIA A. BUTENIS AND ENDING WITH KEITH A. SWINEHART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 29, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH LOUIS JOHN FINTOR AND ENDING WITH THOMAS F. GRAY, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH ALAN HALLMAN AND ENDING WITH RICHARD G. SIMPSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH LLOYD S. HARBERT AND ENDING WITH DARYL A. BREHM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2010.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH JAMES FRANKLIN JEFFREY AND ENDING WITH EARL A. WAYNE, WHICH NOMINATIONS WERE RECEIVED BY THE

SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 18, 2010.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

RUSSEL EDWIN BURGER, OF OREGON, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF OREGON FOR THE TERM OF FOUR YEARS.

CHARLES EDWARD ANDREWS, OF ALABAMA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF ALABAMA FOR THE TERM OF FOUR YEARS.

CHRISTOPHER R. THYER, OF ARKANSAS, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS.

HOUSE OF REPRESENTATIVES—Wednesday, December 22, 2010

The House met at 11 a.m. and was called to order by the Speaker.

PRAYER

Monsignor Stephen J. Rossetti, Catholic University of America, Washington, D.C., offered the following prayer:

Good and gracious God, as the year draws to a close, we reflect upon all that has taken place. It is easy for us to thank and praise You for the many good things. It is more difficult to see Your hand in the hard times.

Help us to treasure each event, each moment of our lives. Help us to know that Your all-powerful spirit brings life and grace out of everything in our lives.

May we embrace the joys and the sorrows. May we embrace the signs of new life and the crosses.

As we look forward to a new year, may we look to it with expectation and hope, knowing that You will guide and direct our lives in everything that comes our way.

May we praise and thank You for the year that is passing and for the year that is to come.

We pray this in Your holy name.
Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Missouri (Mr. SKELTON) come forward and lead the House in the Pledge of Allegiance.

Mr. SKELTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REPEAL OF DON'T ASK, DON'T TELL

(Mr. POLIS asked and was given permission to address the House for 1 minute.)

Mr. POLIS. Madam Speaker, I just returned from the signing of the repeal of Don't Ask, Don't Tell. The President spoke wisely and strongly and wel-

comed those who were discharged under the Don't Ask, Don't Tell policy to consider reenlisting.

President Obama said:

"There will never be a full accounting of the heroism demonstrated by gay Americans in service to this country." He continued, "As the first generation to serve openly in our armed services, you will stand for all those who came before you, and you will serve as role models for all those who come after you."

Madam Speaker, today is an important day, not just for gay and lesbian members of the military, but to all of us who are gay or lesbian, to our families, to our friends, for they all know that today we hold our heads a little higher as Americans. We are closer to equal treatment under the law, which is all we've ever asked for.

Our government will no longer be an instrument of discrimination against us, and all America will see and be told of the patriotism of the gay and lesbian Americans who proudly defend a country that today is one step closer to considering us equal.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Ms. EDWARDS of Maryland) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 22, 2010.

HON. NANCY PELOSI,
The Speaker, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 22, 2010 at 9:41 a.m.:

That the Senate passed without amendment H.R. 5470.

That the Senate passed without amendment H.R. 4445.

That the Senate passed S. 3903.

That the Senate passed with amendments H.R. 6523.

With best wishes, I am
Sincerely,

LORRAINE C. MILLER.

□ 1110

SOUTH CAROLINA GAINS A CONGRESSIONAL SEAT

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, I am grateful to welcome the addition of a new congressional seat to my home State of South Carolina, one of America's fastest growing States. The Census Bureau announced the State's population has grown enough to merit one more Representative in Congress. Our State has been enhanced by transplants from the Midwest and Northeast and from people across the world due to a mild climate and lower tax rates.

After 80 years, it appears we will regain a seventh House Member. The people of South Carolina will now have another advocate on their behalf in Washington and another electoral vote for President. Growing our representation on Capitol Hill is a key factor in achieving goals for the people of South Carolina. Our State will have another voice fighting for conservative principles with the new district on the Grand Strand with Florence.

In conclusion, God bless our troops, and we will never forget September 11th in the global war on terrorism.

Godspeed to Marine Captain Ky Hunter, who has successfully accomplished her service for the people of the Second District of South Carolina, and now will be in the liaison office of the Marine Corps.

IKE SKELTON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011

Mr. SKELTON. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6523) to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments:
Strike title XVII and corresponding table of contents on page 18.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Ms. BORDALLO. Madam Speaker, reserving the right to object, I take this moment to express great disappointment at the situation the House now finds itself. It is very unfortunate that

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

before us is an amended version of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

Last night, the other body struck title XVII of the version of the bill that this House passed last Friday, December 17. Title XVII, Madam Speaker, was the Guam World War II Loyalty Recognition Act, which the House has passed on multiple occasions with strong bipartisan support. Several Senators objected to its inclusion in the bill. They expressed concerns over its budgetary impact, and indicated a willingness to work toward identifying an acceptable way to authorize and pay the claims.

I regret the inability to resolve this matter at this time, and I am very appreciative of the strong support from Chairman SKELTON and incoming chairman of the House Armed Services Committee Mr. MCKEON of California for their strong support of this provision. The unresolved nature of Guam war claims has serious implications for the military build-up on Guam. I appreciate the administration's strong support for this provision. The administration recognizes the connection between resolving this issue and successfully implementing the military build-up on Guam.

We will continue our work to bring closure to this matter of justice for the people of Guam, and to act on the legislative recommendations of the Federal Guam War Claims Review Commission that reported to Congress pursuant to Public Law 107-333. It was not for a lack of effort from this body, and we will continue to build on the progress we've made. The underlying bill is important for our national defense and for our men and women in uniform and their families, and therefore this body is left no other choice but than to concur with the Senate amendments at this time.

Again, I want to thank everyone who has assisted me, both the leaders and to the multiple staff members who have helped us through this process.

Mr. SKELTON. Madam Speaker, I'll keep my remarks brief as this is the third time that the House will debate and vote on the National Defense Authorization Act for Fiscal Year 2011. They say that the third time is the charm. Let it be so this morning.

I return to the floor with this bill because the Senate found it necessary to delete a portion of the House-passed bill in order to achieve the consensus needed to move the bill to final passage. The Senate amendment removes from the House bill Title 17, which dealt with Guam War Claims. I am deeply disappointed in the Senate's decision to remove this important legislation, which I strongly support and which has been so ably advocated by the delegate from Guam. However, here we are and we are out of time to engage with a back and forth with the Senate. We must move this bill to the President's desk or watch it die. That is why I ask for unanimous consent for the House to concur to the Senate amendment to H.R. 6523.

Let me briefly repeat what I said the other day. This bill is must pass legislation with many provisions that cannot become law any other way. This bill stops an increase in health care fees from hitting the families of military personnel; authorizes military families to extend TRICARE coverage to their dependent children under age 26; and adopts comprehensive legislation fighting sexual assault in the military. It creates a counter-IED database and enhances the effort to develop new, lightweight body armor. It gives DOD new tools and authorities to reduce its energy demand while improving military readiness. It bolsters our defense against cyber attacks. It requires independent assessments of the National Nuclear Security Administration modernization plan and of the annual budget request for sustaining a strong deterrent. It aligns the Navy's long term shipbuilding plan with the QDR. And, it includes significant acquisition reform, the Improve Acquisition Act of 2010, which could save as much as \$135 billion over the next 5 years. That is just a sampling of the good work done in this bill.

I ask the House to support the men and women of the armed forces by passing this bill by unanimous consent, and ensure that the National Defense Authorization Act finally becomes law.

Mr. GENE GREEN of Texas. Madam Speaker, H.R. 6523 is a strong bill that is intended to provide essential funding for our nation's troops, including providing our brave men and women in uniform the tools they need to succeed in our nation's missions in Iraq and Afghanistan.

Mr. WILSON of South Carolina. Madam Speaker, I rise to express my concerns about the Senate Amendment to H.R. 6523, the Ike Skelton National Defense Authorization Act for Fiscal Year 2011. The Senate amendment struck Title XVII of the underlying bill, once again, denying the people of Guam the promise of closure and justice on the matter of Guam War Claims.

The text of Title XVII was a compromise that eliminated payments to descendants of survivors of the brutal occupation that were subjected to personal injury. I support that compromise; in fact, I am an original co-sponsor of H.R. 44, the Guam World War II Loyalty Recognition Act. It is important that we bring closure to this long standing injustice for the people of Guam. It is even more important given that the realignment of Marines from Okinawa to Guam will begin in earnest over the coming year.

I have travelled to Guam on a number of occasions and have been so impressed by the patriotism of the people led by Governor Felix Camacho and First Lady Joann Camacho, and I recognize the importance of this legislation to the Chamorro people. I look forward to working with Congresswoman MADELEINE BORDALLO and Incoming Chairman Congressman BUCK MCKEON, incoming Chairman of the House Armed Services Committee, to address this matter in next year's defense authorization bill. It is time to finally bring closure to this long standing matter for the people of Guam which is so strategic for our nation's defense and where America's day begins. I appreciate the tireless efforts of Congresswoman MADELEINE BORDALLO's service for the people of Guam.

Ms. BORDALLO. Madam Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

A motion to reconsider was laid on the table.

SAYING GOOD-BYE TO FRIENDS AND COLLEAGUES

(Mr. YARMUTH asked and was given permission to address the House for 1 minute.)

Mr. YARMUTH. Madam Speaker, I rise today to say good-bye to some dear friends and colleagues. Four years ago, we arrived in this body, over 40 of us, and we were called the majority makers because we had brought control of the House back to the Democrats. And now 18 of us are leaving for other endeavors. They have become more than colleagues and Members and great Americans, they have become part of a family.

So I salute BARON HILL, PAUL HODES, JOHN HALL, CAROL SHEA-PORTER, PATRICK MURPHY, RON KLEIN, STEVE KAGEN, JOE SESTAK, BRAD ELLSWORTH, CHARLIE WILSON, CHRIS CARNEY, ZACK SPACE, HARRY MITCHELL, MIKE ARCURI, PHIL HARE, BILL FOSTER, TRAVIS CHILDERS, and CIRO RODRIGUEZ. Although their faces will not appear in this body, at least on a frequent basis, the memories and the legacy that they have left will live on forever.

THE RUMP CONGRESS

(Mr. McCLINTOCK asked and was given permission to address the House for 1 minute.)

Mr. McCLINTOCK. Madam Speaker, this lame duck session is rapidly descending into farce. I believe the House is now in danger of becoming a caricature of everything the American people rejected in November: incompetence, arrogance, and a complete detachment from reality.

Nearly 2 months ago, the American people said very clearly they don't want this Congress legislating for them any longer. And instead of graciously and humbly accepting the public's verdict, the Democratic leaders seem intent to thumb their nose at the American people.

Perhaps the most bitter indictment of a malingering legislative body was delivered by Cromwell to the Rump Parliament. His words seem appropriate now to this rump Congress:

"You have sat here too long for any good you have been doing. It is not fit that you should sit here any longer. You shall now give way to better men. Now depart and go, I say, in the name of God, go."

CELEBRATING THE 111TH CONGRESS

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Madam Speaker, today does end the 111th Congress, which Norm Ornstein, one of the most respected historians and observers of public events, said was the most historic and productive Congress since 1965.

I am proud to have been a Member of this 111th Congress that gave us health care, which this country yearned for for over 100 years; that saved us from the precipice of economic decline with the stimulus act that has done much good for this country and saved us from a great depression; that gave us the Lilly Ledbetter law for women who were discriminated against in the workplace; that gave us Don't Ask, Don't Tell; that also gave us credit card reform, student loan reform, additional Pell Grants, tobacco regulations, and food safety legislation.

This 111th Congress did more than any Congress since Lyndon Johnson's in 1965 to 1966, and did it under the effective, passionate, honest, and remarkable leadership of the most historic Speaker in the House of Representatives' history, the Honorable NANCY PELOSI, who I am proud to have voted for and served with.

CONGRATULATING LADY NITTANY LIONS VOLLEYBALL TEAM

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Madam Speaker, the Lady Nittany Lions volleyball team went to Kansas City on Saturday, December 18, and brought home a terrific and unprecedented Christmas present to their school, Penn State University. They won their fourth straight NCAA Division I championship.

While the team was undefeated in their previous two seasons, they were 32-5 going into the championship this year, and the California Golden Bears went into the match with a 30-4 season. The two teams have dominated the championships, meeting for 4 consecutive years in the regionals, semis or finals.

This was Coach Russ Rose's fifth championship, and the ladies celebrated by giving their coach a ring for his thumb. He is the first coach in NCAA Division I women's volleyball history to win five national titles.

The most outstanding player was Deja McClendon. Blair Brown summed up the feelings of the team in this quote:

"We're thrilled to have four national championships, but the legacy we want to leave is the program's history, I

guess. It's the tradition of working hard every day in practice and going hard, because that's how you get here."

Congratulations to the team, the coach, and the school for this outstanding record.

PASS THE 9/11 FIRST RESPONDERS BILL

(Mr. PAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE. This is my country! Land of my birth!

This is my country! Grandest on Earth!

I pledge thee my allegiance, America, the bold,

For this is my country to have and to hold.

This is my country! Land of my choice!

This is my country! Hear my proud voice!

I pledge thee my allegiance, America, the bold,

For this is my country to have and to hold.

As a youngster in elementary school, I sang this song proudly many times. And nearly a decade ago, 9/11 responders embodied the American spirit proclaimed in this song when they dropped everything to help this country. These Americans paid the ultimate sacrifice and risked their health and lives when our country was attacked. Unfortunately, many have developed health issues as a result of their service.

But my Republican colleagues believe that this treatment is too costly. The 9/11 Health and Compensation Act would provide monitoring and specialized treatment for those responders who were exposed to toxins during 9/11 and this bill is completely paid for. No responders questioned whether they should go in.

Those American flag-wearing lapel Senators should vote for the 9/11 Health and Compensation Act.

□ 1120

CONTINUING RECORD OF SUCCESSFUL JOB CREATION

(Mr. CARSON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. CARSON of Indiana. Madam Speaker, I rise to express my hope that the 112th Congress will continue this Congress' record of successful job creation.

We have taken the necessary steps during this, the most productive Congress in years, to pass a long list of important legislation. From middle class tax relief to the small business jobs initiatives, to teacher and health care jobs, to programs helping to keep Americans in their homes, the 111th

Congress has succeeded in moving the American people's agenda forward. We have already created millions of jobs and spurred 11 months of private-sector job growth.

But this recession cannot be corrected overnight. Next year, we must all focus on building the next generation of workers, increasing access to quality education, remaining competitive in the global marketplace and reducing the deficit. Together, we must all continue moving our country forward. I look forward to working with my colleagues on both sides of the aisle in the next Congress.

Thank you, God bless, happy holidays, and happy new year.

MOST ASTUTE, CONSCIENTIOUS CONGRESS IN THE HISTORY OF THE NATION

(Ms. JACKSON LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON LEE of Texas. Madam Speaker, my colleagues are absolutely right. This has been the most astute and conscientious Congress in the history of our Nation, the 111th Congress, led by the very astute and courageous NANCY PELOSI, the historic first woman Speaker. I thank her and the leadership.

Thank you for health care and Wall Street reform. Thank you for the reform of the GI Bill, to provide more opportunity. And, as well, thank you for moving and pushing compassionately the repeal of Don't Ask, Don't Tell. The White House ceremony today was powerful.

Thank you again for recognizing that the 9/11 heroes health bill must be taken care of. I ask the other body to act now and do not go home without doing so. But yet the omnibus bill that will help so many millions of Americans with resources directed to them has been imploded, and I call upon the Senate, I call upon this House when we return, to be able to return America's resources back to them. We negotiated that omnibus. It is time to make sure that those veterans and those who need PTSD recovery and those who need health care are provided for through this omnibus bill.

Happy holiday, Merry Christmas and Happy New Year.

PASS THE 9/11 HEALTH BENEFITS BILL

(Mr. HIMES asked and was given permission to address the House for 1 minute.)

Mr. HIMES. Madam Speaker, what does the Congress owe the American people? I think it owes a young man or a young woman who will put on the uniform of this Nation and agree to sacrifice his or her life the right to serve. The Republicans, all but a handful of courageous Republicans, disagree.

I think that it owes a child who was brought here by their parents from a country they don't know, who speaks a language they don't speak, the opportunity to serve, to get a degree, to ultimately become an American. The Republicans disagree.

But I know, Madam Speaker, that we owe those brave responders who went to the site of 9/11 and risked their health and risked their lives to serve others in this Nation's moment of pain, we owe them health care. The Republican Party disagrees. And it is to the shame of this institution and it will be to the eternal shame of the Republican Party if they do not allow us, after helping the banks, after helping the auto companies, after helping Americans, if they do not allow us to help the volunteers of 9/11.

A VERY PRODUCTIVE CONGRESS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, I don't think there is any doubt that this has been one of the most productive Congresses in American history, but I also want to talk about the lame duck session and how productive that has been as well.

In this lame duck session, we have had one of the largest major tax cuts to help the average person, to help the middle class, in the history of the Republic. Child tax credits, payroll tax reduction, education tax benefits, the list goes on.

In addition to that, we did the "doc fix" for Medicare for another year. We also repealed Don't Ask, Don't Tell. Finally, yesterday, we did the food safety bill, one of the most comprehensive bills that we could possibly pass.

So there is no question that this has been a productive Congress, and this has been a very productive lame duck Congress. I am also hopeful that today in the Senate and here in the House we will also pass the 9/11 health bill for first responders, and that will complete, again, one of the most productive lame duck sessions and productive Congresses in American history.

GENERAL LEAVE

Mr. HIMES. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on the Senate amendments to H.R. 6523.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair

declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 25 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1550

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. EDWARDS of Maryland) at 3 o'clock and 50 minutes p.m.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 22, 2010.

Hon. NANCY PELOSI,
*The Speaker, U.S. Capitol,
House of Representatives, Washington, DC.*

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 22, 2010 at 11:30 a.m.:

That the Senate passed S. 4053.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 22, 2010.

Hon. NANCY PELOSI,
*The Speaker, U.S. Capitol,
House of Representatives, Washington, DC.*

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 22, 2010 at 2:17 p.m.:

That the Senate passed without amendment H.R. 6398.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 22, 2010.

Hon. NANCY PELOSI,
*The Speaker, U.S. Capitol,
House of Representatives, Washington, DC.*

DEAR MADAM SPEAKER: Pursuant to the permission granted in clause 2(h) of rule II of

the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 22, 2010 at 3:11 p.m.:

That the Senate passed with an amendment H.R. 847.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER.

CONDITIONAL ADJOURNMENT TO FRIDAY, DECEMBER 24, 2010

Mr. ARCURI. Madam Speaker, I ask unanimous consent that when the House adjourns today on a motion offered pursuant to this order, it adjourn to meet at 11 a.m. on Friday, December 24, 2010, unless it sooner has received a message from the Senate transmitting its concurrence in House Concurrent Resolution 336, in which case the House shall stand adjourned sine die pursuant to that concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2010

Mr. ARCURI. Madam Speaker, I ask unanimous consent that it be in order at any time to take from the Speaker's table the bill H.R. 847, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Energy and Commerce or his designee that the House concur in the Senate amendment; that the Senate amendment be considered as read; that the motion be debatable for 30 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce; and that the previous question be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PALLONE. Madam Speaker, pursuant to the order of the House of today, I call up the bill (H.R. 847) to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes, with the Senate amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “James Zadroga 9/11 Health and Compensation Act of 2010”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

Sec. 101. World Trade Center Health Program.

“TITLE XXXIII—WORLD TRADE CENTER HEALTH PROGRAM

“Subtitle A—Establishment of Program; Advisory Committee

“Sec. 3301. Establishment of World Trade Center Health Program.

“Sec. 3302. WTC Health Program Scientific/Technical Advisory Committee; WTC Health Program Steering Committees.

“Sec. 3303. Education and outreach.

“Sec. 3304. Uniform data collection and analysis.

“Sec. 3305. Clinical Centers of Excellence and Data Centers.

“Sec. 3306. Definitions.

“Subtitle B—Program of Monitoring, Initial Health Evaluations, and Treatment

“PART 1—WTC RESPONDERS

“Sec. 3311. Identification of WTC responders and provision of WTC-related monitoring services.

“Sec. 3312. Treatment of enrolled WTC responders for WTC-related health conditions.

“Sec. 3313. National arrangement for benefits for eligible individuals outside New York.

“PART 2—WTC SURVIVORS

“Sec. 3321. Identification and initial health evaluation of screening-eligible and certified-eligible WTC survivors.

“Sec. 3322. Followup monitoring and treatment of certified-eligible WTC survivors for WTC-related health conditions.

“Sec. 3323. Followup monitoring and treatment of other individuals with WTC-related health conditions.

“PART 3—PAYOR PROVISIONS

“Sec. 3331. Payment of claims.

“Sec. 3332. Administrative arrangement authority.

“Subtitle C—Research Into Conditions

“Sec. 3341. Research regarding certain health conditions related to September 11 terrorist attacks.

“Sec. 3342. World Trade Center Health Registry.

“Subtitle D—Funding

“Sec. 3351. World Trade Center Health Program Fund.

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

Sec. 201. Definitions.

Sec. 202. Extended and expanded eligibility for compensation.

Sec. 203. Requirement to update regulations.

Sec. 204. Limited liability for certain claims.

Sec. 205. Funding; attorney fees.

TITLE III—REVENUE RELATED PROVISIONS

Sec. 301. Excise tax on foreign procurement.

Sec. 302. Renewal of fees for visa-dependent employers.

TITLE IV—BUDGETARY EFFECTS

Sec. 401. Compliance with Statutory Pay-As-You-Go Act of 2010.

TITLE I—WORLD TRADE CENTER HEALTH PROGRAM

SEC. 101. WORLD TRADE CENTER HEALTH PROGRAM.

The Public Health Service Act is amended by adding at the end the following new title:

“TITLE XXXIII—WORLD TRADE CENTER HEALTH PROGRAM

“Subtitle A—Establishment of Program; Advisory Committee

“SEC. 3301. ESTABLISHMENT OF WORLD TRADE CENTER HEALTH PROGRAM.

“(a) IN GENERAL.—There is hereby established within the Department of Health and Human Services a program to be known as the World Trade Center Health Program, which shall be administered by the WTC Program Administrator, to provide beginning on July 1, 2011—

“(1) medical monitoring and treatment benefits to eligible emergency responders and recovery and cleanup workers (including those who are Federal employees) who responded to the September 11, 2001, terrorist attacks; and

“(2) initial health evaluation, monitoring, and treatment benefits to residents and other building occupants and area workers in New York City who were directly impacted and adversely affected by such attacks.

“(b) COMPONENTS OF PROGRAM.—The WTC Program includes the following components:

“(1) MEDICAL MONITORING FOR RESPONDERS.—Medical monitoring under section 3311, including clinical examinations and long-term health monitoring and analysis for enrolled WTC responders who were likely to have been exposed to airborne toxins that were released, or to other hazards, as a result of the September 11, 2001, terrorist attacks.

“(2) INITIAL HEALTH EVALUATION FOR SURVIVORS.—An initial health evaluation under section 3321, including an evaluation to determine eligibility for followup monitoring and treatment.

“(3) FOLLOWUP MONITORING AND TREATMENT FOR WTC-RELATED HEALTH CONDITIONS FOR RESPONDERS AND SURVIVORS.—Provision under sections 3312, 3322, and 3323 of followup monitoring and treatment and payment, subject to the provisions of subsection (d), for all medically necessary health and mental health care expenses of an individual with respect to a WTC-related health condition (including necessary prescription drugs).

“(4) OUTREACH.—Establishment under section 3303 of an education and outreach program to potentially eligible individuals concerning the benefits under this title.

“(5) CLINICAL DATA COLLECTION AND ANALYSIS.—Collection and analysis under section 3304 of health and mental health data relating to individuals receiving monitoring or treatment benefits in a uniform manner in collaboration with the collection of epidemiological data under section 3342.

“(6) RESEARCH ON HEALTH CONDITIONS.—Establishment under subtitle C of a research program on health conditions resulting from the September 11, 2001, terrorist attacks.

“(c) NO COST SHARING.—Monitoring and treatment benefits and initial health evaluation benefits are provided under subtitle B without any deductibles, copayments, or other cost sharing to an enrolled WTC responder or certified-eligible WTC survivor. Initial health evaluation benefits are provided under subtitle B without any deductibles, copayments, or other cost sharing to a screening-eligible WTC survivor.

“(d) PREVENTING FRAUD AND UNREASONABLE ADMINISTRATIVE COSTS.—

“(1) FRAUD.—The Inspector General of the Department of Health and Human Services shall develop and implement a program to review the WTC Program’s health care expenditures to de-

tect fraudulent or duplicate billing and payment for inappropriate services. This title is a Federal health care program (as defined in section 1128B(f) of the Social Security Act) and is a health plan (as defined in section 1128C(e) of such Act) for purposes of applying sections 1128 through 1128E of such Act.

“(2) UNREASONABLE ADMINISTRATIVE COSTS.—The Inspector General of the Department of Health and Human Services shall develop and implement a program to review the WTC Program for unreasonable administrative costs, including with respect to infrastructure, administration, and claims processing.

“(e) QUALITY ASSURANCE.—The WTC Program Administrator working with the Clinical Centers of Excellence shall develop and implement a quality assurance program for the monitoring and treatment delivered by such Centers of Excellence and any other participating health care providers. Such program shall include—

“(1) adherence to monitoring and treatment protocols;

“(2) appropriate diagnostic and treatment referrals for participants;

“(3) prompt communication of test results to participants; and

“(4) such other elements as the Administrator specifies in consultation with the Clinical Centers of Excellence.

“(f) ANNUAL PROGRAM REPORT.—

“(1) IN GENERAL.—Not later than 6 months after the end of each fiscal year in which the WTC Program is in operation, the WTC Program Administrator shall submit an annual report to the Congress on the operations of this title for such fiscal year and for the entire period of operation of the program.

“(2) CONTENTS INCLUDED IN REPORT.—Each annual report under paragraph (1) shall include at least the following:

“(A) ELIGIBLE INDIVIDUALS.—Information for each clinical program described in paragraph (3)—

“(i) on the number of individuals who applied for certification under subtitle B and the number of such individuals who were so certified;

“(ii) of the individuals who were certified, on the number who received monitoring under the program and the number of such individuals who received medical treatment under the program;

“(iii) with respect to individuals so certified who received such treatment, on the WTC-related health conditions for which they were treated; and

“(iv) on the projected number of individuals who will be certified under subtitle B in the succeeding fiscal year and the succeeding 10-year period.

“(B) MONITORING, INITIAL HEALTH EVALUATION, AND TREATMENT COSTS.—For each clinical program so described—

“(i) information on the costs of monitoring and initial health evaluation and the costs of treatment and on the estimated costs of such monitoring, evaluation, and treatment in the succeeding fiscal year; and

“(ii) an estimate of the cost of medical treatment for WTC-related health conditions that have been paid for or reimbursed by workers’ compensation, by public or private health plans, or by New York City under section 3331.

“(C) ADMINISTRATIVE COSTS.—Information on the cost of administering the program, including costs of program support, data collection and analysis, and research conducted under the program.

“(D) ADMINISTRATIVE EXPERIENCE.—Information on the administrative performance of the program, including—

“(i) the performance of the program in providing timely evaluation of and treatment to eligible individuals; and

“(ii) a list of the Clinical Centers of Excellence and other providers that are participating in the program.

“(E) **SCIENTIFIC REPORTS.**—A summary of the findings of any new scientific reports or studies on the health effects associated with exposure described in section 3306(1), including the findings of research conducted under section 3341(a).

“(F) **ADVISORY COMMITTEE RECOMMENDATIONS.**—A list of recommendations by the WTC Scientific/Technical Advisory Committee on additional WTC Program eligibility criteria and on additional WTC-related health conditions and the action of the WTC Program Administrator concerning each such recommendation.

“(3) **SEPARATE CLINICAL PROGRAMS DESCRIBED.**—In paragraph (2), each of the following shall be treated as a separate clinical program of the WTC Program:

“(A) **FIREFIGHTERS AND RELATED PERSONNEL.**—The benefits provided for enrolled WTC responders described in section 3311(a)(2)(A).

“(B) **OTHER WTC RESPONDERS.**—The benefits provided for enrolled WTC responders not described in subparagraph (A).

“(C) **WTC SURVIVORS.**—The benefits provided for screening-eligible WTC survivors and certified-eligible WTC survivors in section 3321(a).

“(g) **NOTIFICATION TO CONGRESS UPON REACHING 80 PERCENT OF ELIGIBILITY NUMERICAL LIMITS.**—The Secretary shall promptly notify the Congress of each of the following:

“(1) When the number of enrollments of WTC responders subject to the limit established under section 3311(a)(4) has reached 80 percent of such limit.

“(2) When the number of certifications for certified-eligible WTC survivors subject to the limit established under section 3321(a)(3) has reached 80 percent of such limit.

“(h) **CONSULTATION.**—The WTC Program Administrator shall engage in ongoing outreach and consultation with relevant stakeholders, including the WTC Health Program Steering Committee and the Advisory Committee under section 3302, regarding the implementation and improvement of programs under this title.

“SEC. 3302. WTC HEALTH PROGRAM SCIENTIFIC/TECHNICAL ADVISORY COMMITTEE; WTC HEALTH PROGRAM STEERING COMMITTEES.

“(a) **ADVISORY COMMITTEE.**—

“(1) **ESTABLISHMENT.**—The WTC Program Administrator shall establish an advisory committee to be known as the WTC Health Program Scientific/Technical Advisory Committee (in this subsection referred to as the ‘Advisory Committee’) to review scientific and medical evidence and to make recommendations to the Administrator on additional WTC Program eligibility criteria and on additional WTC-related health conditions.

“(2) **COMPOSITION.**—The WTC Program Administrator shall appoint the members of the Advisory Committee and shall include at least—

“(A) 4 occupational physicians, at least 2 of whom have experience treating WTC rescue and recovery workers;

“(B) 1 physician with expertise in pulmonary medicine;

“(C) 2 environmental medicine or environmental health specialists;

“(D) 2 representatives of WTC responders;

“(E) 2 representatives of certified-eligible WTC survivors;

“(F) an industrial hygienist;

“(G) a toxicologist;

“(H) an epidemiologist; and

“(I) a mental health professional.

“(3) **MEETINGS.**—The Advisory Committee shall meet at such frequency as may be required to carry out its duties.

“(4) **REPORTS.**—The WTC Program Administrator shall provide for publication of rec-

ommendations of the Advisory Committee on the public Web site established for the WTC Program.

“(5) **DURATION.**—Notwithstanding any other provision of law, the Advisory Committee shall continue in operation during the period in which the WTC Program is in operation.

“(6) **APPLICATION OF FACAA.**—Except as otherwise specifically provided, the Advisory Committee shall be subject to the Federal Advisory Committee Act.

“(b) **WTC HEALTH PROGRAM STEERING COMMITTEES.**—

“(1) **CONSULTATION.**—The WTC Program Administrator shall consult with 2 steering committees (each in this section referred to as a ‘Steering Committee’) that are established as follows:

“(A) **WTC RESPONDERS STEERING COMMITTEE.**—One Steering Committee, to be known as the WTC Responders Steering Committee, for the purpose of receiving input from affected stakeholders and facilitating the coordination of monitoring and treatment programs for the enrolled WTC responders under part 1 of subtitle B.

“(B) **WTC SURVIVORS STEERING COMMITTEE.**—One Steering Committee, to be known as the WTC Survivors Steering Committee, for the purpose of receiving input from affected stakeholders and facilitating the coordination of initial health evaluations, monitoring, and treatment programs for screening-eligible and certified-eligible WTC survivors under part 2 of subtitle B.

“(2) **MEMBERSHIP.**—

“(A) **WTC RESPONDERS STEERING COMMITTEE.**—

“(i) **REPRESENTATION.**—The WTC Responders Steering Committee shall include—

“(I) representatives of the Centers of Excellence providing services to WTC responders;

“(II) representatives of labor organizations representing firefighters, police, other New York City employees, and recovery and cleanup workers who responded to the September 11, 2001, terrorist attacks; and

“(III) 3 representatives of New York City, 1 of whom will be selected by the police commissioner of New York City, 1 by the health commissioner of New York City, and 1 by the mayor of New York City.

“(ii) **INITIAL MEMBERSHIP.**—The WTC Responders Steering Committee shall initially be composed of members of the WTC Monitoring and Treatment Program Steering Committee (as in existence on the day before the date of the enactment of this title).

“(B) **WTC SURVIVORS STEERING COMMITTEE.**—

“(i) **REPRESENTATION.**—The WTC Survivors Steering Committee shall include representatives of—

“(I) the Centers of Excellence providing services to screening-eligible and certified-eligible WTC survivors;

“(II) the population of residents, students, and area and other workers affected by the September 11, 2001, terrorist attacks;

“(III) screening-eligible and certified-eligible survivors receiving initial health evaluations, monitoring, or treatment under part 2 of subtitle B and organizations advocating on their behalf; and

“(IV) New York City.

“(ii) **INITIAL MEMBERSHIP.**—The WTC Survivors Steering Committee shall initially be composed of members of the WTC Environmental Health Center Survivor Advisory Committee (as in existence on the day before the date of the enactment of this title).

“(C) **ADDITIONAL APPOINTMENTS.**—Each Steering Committee may recommend, if approved by a majority of voting members of the Committee, additional members to the Committee.

“(D) **VACANCIES.**—A vacancy in a Steering Committee shall be filled by an individual recommended by the Steering Committee.

“SEC. 3303. EDUCATION AND OUTREACH.

“‘The WTC Program Administrator shall institute a program that provides education and outreach on the existence and availability of services under the WTC Program. The outreach and education program—

“(1) shall include—

“(A) the establishment of a public Web site with information about the WTC Program;

“(B) meetings with potentially eligible populations;

“(C) development and dissemination of outreach materials informing people about the program; and

“(D) the establishment of phone information services; and

“(2) shall be conducted in a manner intended—

“(A) to reach all affected populations; and

“(B) to include materials for culturally and linguistically diverse populations.

“SEC. 3304. UNIFORM DATA COLLECTION AND ANALYSIS.

“(a) **IN GENERAL.**—The WTC Program Administrator shall provide for the uniform collection of data, including claims data (and analysis of data and regular reports to the Administrator) on the prevalence of WTC-related health conditions and the identification of new WTC-related health conditions. Such data shall be collected for all individuals provided monitoring or treatment benefits under subtitle B and regardless of their place of residence or Clinical Center of Excellence through which the benefits are provided. The WTC Program Administrator shall provide, through the Data Centers or otherwise, for the integration of such data into the monitoring and treatment program activities under this title.

“(b) **COORDINATING THROUGH CENTERS OF EXCELLENCE.**—Each Clinical Center of Excellence shall collect data described in subsection (a) and report such data to the corresponding Data Center for analysis by such Data Center.

“(c) **COLLABORATION WITH WTC HEALTH REGISTRY.**—The WTC Program Administrator shall provide for collaboration between the Data Centers and the World Trade Center Health Registry described in section 3342.

“(d) **PRIVACY.**—The data collection and analysis under this section shall be conducted and maintained in a manner that protects the confidentiality of individually identifiable health information consistent with applicable statutes and regulations, including, as applicable, HIPAA privacy and security law (as defined in section 3009(a)(2)) and section 552a of title 5, United States Code.

“SEC. 3305. CLINICAL CENTERS OF EXCELLENCE AND DATA CENTERS.

“(a) **IN GENERAL.**—

“(1) **CONTRACTS WITH CLINICAL CENTERS OF EXCELLENCE.**—The WTC Program Administrator shall, subject to subsection (b)(1)(B), enter into contracts with Clinical Centers of Excellence (as defined in subsection (b)(1)(A))—

“(A) for the provision of monitoring and treatment benefits and initial health evaluation benefits under subtitle B;

“(B) for the provision of outreach activities to individuals eligible for such monitoring and treatment benefits, for initial health evaluation benefits, and for followup to individuals who are enrolled in the monitoring program;

“(C) for the provision of counseling for benefits under subtitle B, with respect to WTC-related health conditions, for individuals eligible for such benefits;

“(D) for the provision of counseling for benefits for WTC-related health conditions that may be available under workers’ compensation or other benefit programs for work-related injuries or illnesses, health insurance, disability insurance, or other insurance plans or through public

or private social service agencies and assisting eligible individuals in applying for such benefits;

“(E) for the provision of translational and interpretive services for program participants who are not English language proficient; and

“(F) for the collection and reporting of data, including claims data, in accordance with section 3304.

“(2) CONTRACTS WITH DATA CENTERS.—

“(A) IN GENERAL.—The WTC Program Administrator shall enter into contracts with one or more Data Centers (as defined in subsection (b)(2))—

“(i) for receiving, analyzing, and reporting to the WTC Program Administrator on data, in accordance with section 3304, that have been collected and reported to such Data Centers by the corresponding Clinical Centers of Excellence under subsection (b)(1)(B)(iii);

“(ii) for the development of monitoring, initial health evaluation, and treatment protocols, with respect to WTC-related health conditions;

“(iii) for coordinating the outreach activities conducted under paragraph (1)(B) by each corresponding Clinical Center of Excellence;

“(iv) for establishing criteria for the credentialing of medical providers participating in the nationwide network under section 3313;

“(v) for coordinating and administering the activities of the WTC Health Program Steering Committees established under section 3002(b); and

“(vi) for meeting periodically with the corresponding Clinical Centers of Excellence to obtain input on the analysis and reporting of data collected under clause (i) and on the development of monitoring, initial health evaluation, and treatment protocols under clause (ii).

“(B) MEDICAL PROVIDER SELECTION.—The medical providers under subparagraph (A)(iv) shall be selected by the WTC Program Administrator on the basis of their experience treating or diagnosing the health conditions included in the list of WTC-related health conditions.

“(C) CLINICAL DISCUSSIONS.—In carrying out subparagraph (A)(ii), a Data Center shall engage in clinical discussions across the WTC Program to guide treatment approaches for individuals with a WTC-related health condition.

“(D) TRANSPARENCY OF DATA.—A contract entered into under this subsection with a Data Center shall require the Data Center to make any data collected and reported to such Center under subsection (b)(1)(B)(iii) available to health researchers and others as provided in the CDC/ATSDR Policy on Releasing and Sharing Data.

“(3) AUTHORITY FOR CONTRACTS TO BE CLASS SPECIFIC.—A contract entered into under this subsection with a Clinical Center of Excellence or a Data Center may be with respect to one or more class of enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors.

“(4) USE OF COOPERATIVE AGREEMENTS.—Any contract under this title between the WTC Program Administrator and a Data Center or a Clinical Center of Excellence may be in the form of a cooperative agreement.

“(5) REVIEW ON FEASIBILITY OF CONSOLIDATING DATA CENTERS.—Not later than July 1, 2011, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the feasibility of consolidating Data Centers into a single Data Center.

“(b) CENTERS OF EXCELLENCE.—

“(1) CLINICAL CENTERS OF EXCELLENCE.—

“(A) DEFINITION.—For purposes of this title, the term ‘Clinical Center of Excellence’ means a Center that demonstrates to the satisfaction of the Administrator that the Center—

“(i) uses an integrated, centralized health care provider approach to create a comprehensive suite of health services under this title that are accessible to enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors;

“(ii) has experience in caring for WTC responders and screening-eligible WTC survivors or includes health care providers who have been trained pursuant to section 3313(c);

“(iii) employs health care provider staff with expertise that includes, at a minimum, occupational medicine, environmental medicine, trauma-related psychiatry and psychology, and social services counseling; and

“(iv) meets such other requirements as specified by the Administrator.

“(B) CONTRACT REQUIREMENTS.—The WTC Program Administrator shall not enter into a contract with a Clinical Center of Excellence under subsection (a)(1) unless the Center agrees to do each of the following:

“(i) Establish a formal mechanism for consulting with and receiving input from representatives of eligible populations receiving monitoring and treatment benefits under subtitle B from such Center.

“(ii) Coordinate monitoring and treatment benefits under subtitle B with routine medical care provided for the treatment of conditions other than WTC-related health conditions.

“(iii) Collect and report to the corresponding Data Center data, including claims data, in accordance with section 3304(b).

“(iv) Have in place safeguards against fraud that are satisfactory to the Administrator, in consultation with the Inspector General of the Department of Health and Human Services.

“(v) Treat or refer for treatment all individuals who are enrolled WTC responders or certified-eligible WTC survivors with respect to such Center who present themselves for treatment of a WTC-related health condition.

“(vi) Have in place safeguards, consistent with section 3304(c), to ensure the confidentiality of an individual’s individually identifiable health information, including requiring that such information not be disclosed to the individual’s employer without the authorization of the individual.

“(vii) Use amounts paid under subsection (c)(1) only for costs incurred in carrying out the activities described in subsection (a), other than those described in subsection (a)(1)(A).

“(viii) Utilize health care providers with occupational and environmental medicine expertise to conduct physical and mental health assessments, in accordance with protocols developed under subsection (a)(2)(A)(ii).

“(ix) Communicate with WTC responders and screening-eligible and certified-eligible WTC survivors in appropriate languages and conduct outreach activities with relevant stakeholder worker or community associations.

“(x) Meet all the other applicable requirements of this title, including regulations implementing such requirements.

“(C) TRANSITION RULE TO ENSURE CONTINUITY OF CARE.—The WTC Program Administrator shall to the maximum extent feasible ensure continuity of care in any period of transition from monitoring and treatment of an enrolled WTC responder or certified-eligible WTC survivor by a provider to a Clinical Center of Excellence or a health care provider participating in the nationwide network under section 3313.

“(2) DATA CENTERS.—For purposes of this title, the term ‘Data Center’ means a Center that the WTC Program Administrator determines has the capacity to carry out the responsibilities for a Data Center under subsection (a)(2).

“(3) CORRESPONDING CENTERS.—For purposes of this title, a Clinical Center of Excellence and

a Data Center shall be treated as ‘corresponding’ to the extent that such Clinical Center and Data Center serve the same population group.

“(c) PAYMENT FOR INFRASTRUCTURE COSTS.—

“(1) IN GENERAL.—The WTC Program Administrator shall reimburse a Clinical Center of Excellence for the fixed infrastructure costs of such Center in carrying out the activities described in subtitle B at a rate negotiated by the Administrator and such Centers. Such negotiated rate shall be fair and appropriate and take into account the number of enrolled WTC responders receiving services from such Center under this title.

“(2) FIXED INFRASTRUCTURE COSTS.—For purposes of paragraph (1), the term ‘fixed infrastructure costs’ means, with respect to a Clinical Center of Excellence, the costs incurred by such Center that are not otherwise reimbursable by the WTC Program Administrator under section 3312(c) for patient evaluation, monitoring, or treatment but which are needed to operate the WTC program such as the costs involved in outreach to participants or recruiting participants, data collection and analysis, social services for counseling patients on other available assistance outside the WTC program, and the development of treatment protocols. Such term does not include costs for new construction or other capital costs.

“(d) GAO ANALYSIS.—Not later than July 1, 2011, the Comptroller General shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate an analysis on whether Clinical Centers of Excellence with which the WTC Program Administrator enters into a contract under this section have financial systems that will allow for the timely submission of claims data for purposes of section 3304 and subsections (a)(1)(F) and (b)(1)(B)(iii).

“SEC. 3306. DEFINITIONS.

“In this title:

“(1) The term ‘aggravating’ means, with respect to a health condition, a health condition that existed on September 11, 2001, and that, as a result of exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, requires medical treatment that is (or will be) in addition to, more frequent than, or of longer duration than the medical treatment that would have been required for such condition in the absence of such exposure.

“(2) The term ‘certified-eligible WTC survivor’ has the meaning given such term in section 3321(a)(2).

“(3) The terms ‘Clinical Center of Excellence’ and ‘Data Center’ have the meanings given such terms in section 3305.

“(4) The term ‘enrolled WTC responder’ means a WTC responder enrolled under section 3311(a)(3).

“(5) The term ‘initial health evaluation’ includes, with respect to an individual, a medical and exposure history, a physical examination, and additional medical testing as needed to evaluate whether the individual has a WTC-related health condition and is eligible for treatment under the WTC Program.

“(6) The term ‘list of WTC-related health conditions’ means—

“(A) for WTC responders, the health conditions listed in section 3312(a)(3); and

“(B) for screening-eligible and certified-eligible WTC survivors, the health conditions listed in section 3322(b).

“(7) The term ‘New York City disaster area’ means the area within New York City that is—

“(A) the area of Manhattan that is south of Houston Street; and

“(B) any block in Brooklyn that is wholly or partially contained within a 1.5-mile radius of the former World Trade Center site.

“(8) The term ‘New York metropolitan area’ means an area, specified by the WTC Program Administrator, within which WTC responders and eligible WTC screening-eligible survivors who reside in such area are reasonably able to access monitoring and treatment benefits and initial health evaluation benefits under this title through a Clinical Center of Excellence described in subparagraphs (A), (B), or (C) of section 3305(b)(1).

“(9) The term ‘screening-eligible WTC survivor’ has the meaning given such term in section 3321(a)(1).

“(10) Any reference to ‘September 11, 2001’ shall be deemed a reference to the period on such date subsequent to the terrorist attacks at the World Trade Center, Shanksville, Pennsylvania, or the Pentagon, as applicable, on such date.

“(11) The term ‘September 11, 2001, terrorist attacks’ means the terrorist attacks that occurred on September 11, 2001, in New York City, in Shanksville, Pennsylvania, and at the Pentagon, and includes the aftermath of such attacks.

“(12) The term ‘WTC Health Program Steering Committee’ means such a Steering Committee established under section 3302(b).

“(13) The term ‘WTC Program’ means the World Trade Center Health Program established under section 3301(a).

“(14)(A) The term ‘WTC Program Administrator’ means—

“(i) subject to subparagraph (B), with respect to paragraphs (3) and (4) of section 3311(a) (relating to enrollment of WTC responders), section 3312(c) and the corresponding provisions of section 3322 (relating to payment for initial health evaluation, monitoring, and treatment, paragraphs (1)(C), (2)(B), and (3) of section 3321(a) (relating to determination or certification of screening-eligible or certified-eligible WTC responders), and part 3 of subtitle B (relating to payor provisions), an official in the Department of Health and Human Services, to be designated by the Secretary; and

“(ii) with respect to any other provision of this title, the Director of the National Institute for Occupational Safety and Health, or a designee of such Director.

“(B) In no case may the Secretary designate under subparagraph (A)(i) the Director of the National Institute for Occupational Safety and Health or a designee of such Director with respect to section 3322 (relating to payment for initial health evaluation, monitoring, and treatment).

“(15) The term ‘WTC-related health condition’ is defined in section 3312(a).

“(16) The term ‘WTC responder’ is defined in section 3311(a).

“(17) The term ‘WTC Scientific/Technical Advisory Committee’ means such Committee established under section 3302(a).

“Subtitle B—Program of Monitoring, Initial Health Evaluations, and Treatment

“PART 1—WTC RESPONDERS

“SEC. 3311. IDENTIFICATION OF WTC RESPONDERS AND PROVISION OF WTC-RELATED MONITORING SERVICES.

“(a) WTC RESPONDER DEFINED.—

“(1) IN GENERAL.—For purposes of this title, the term ‘WTC responder’ means any of the following individuals, subject to paragraph (4):

“(A) CURRENTLY IDENTIFIED RESPONDER.—An individual who has been identified as eligible for monitoring under the arrangements as in effect on the date of the enactment of this title between the National Institute for Occupational Safety and Health and—

“(i) the consortium coordinated by Mt. Sinai Hospital in New York City that coordinates the monitoring and treatment for enrolled WTC responders other than with respect to those cov-

ered under the arrangement with the Fire Department of New York City; or

“(ii) the Fire Department of New York City.

“(B) RESPONDER WHO MEETS CURRENT ELIGIBILITY CRITERIA.—An individual who meets the current eligibility criteria described in paragraph (2).

“(C) RESPONDER WHO MEETS MODIFIED ELIGIBILITY CRITERIA.—An individual who—

“(i) performed rescue, recovery, demolition, debris cleanup, or other related services in the New York City disaster area in response to the September 11, 2001, terrorist attacks, regardless of whether such services were performed by a State or Federal employee or member of the National Guard or otherwise; and

“(ii) meets such eligibility criteria relating to exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks as the WTC Program Administrator, after consultation with the WTC Scientific/Technical Advisory Committee, determines appropriate.

The WTC Program Administrator shall not modify such eligibility criteria on or after the date that the number of enrollments of WTC responders has reached 80 percent of the limit described in paragraph (4) or on or after the date that the number of certifications for certified-eligible WTC survivors under section 3321(a)(2)(B) has reached 80 percent of the limit described in section 3321(a)(3).

“(2) CURRENT ELIGIBILITY CRITERIA.—The eligibility criteria described in this paragraph for an individual is that the individual is described in any of the following categories:

“(A) FIREFIGHTERS AND RELATED PERSONNEL.—The individual—

“(i) was a member of the Fire Department of New York City (whether fire or emergency personnel, active or retired) who participated at least one day in the rescue and recovery effort at any of the former World Trade Center sites (including Ground Zero, Staten Island Landfill, and the New York City Chief Medical Examiner’s Office) for any time during the period beginning on September 11, 2001, and ending on July 31, 2002; or

“(ii)(I) is a surviving immediate family member of an individual who was a member of the Fire Department of New York City (whether fire or emergency personnel, active or retired) and was killed at the World Trade site on September 11, 2001; and

“(II) received any treatment for a WTC-related health condition described in section 3312(a)(1)(A)(ii) (relating to mental health conditions) on or before September 1, 2008.

“(B) LAW ENFORCEMENT OFFICERS AND WTC RESCUE, RECOVERY, AND CLEANUP WORKERS.—The individual—

“(i) worked or volunteered onsite in rescue, recovery, debris cleanup, or related support services in lower Manhattan (south of Canal St.), the Staten Island Landfill, or the barge loading piers, for at least 4 hours during the period beginning on September 11, 2001, and ending on September 14, 2001, for at least 24 hours during the period beginning on September 11, 2001, and ending on September 30, 2001, or for at least 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(ii)(I) was a member of the Police Department of New York City (whether active or retired) or a member of the Port Authority Police of the Port Authority of New York and New Jersey (whether active or retired) who participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.), including Ground Zero, the Staten Island Landfill, or the barge loading piers, for at least 4 hours during the period beginning September 11, 2001, and ending on September 14, 2001;

“(II) participated onsite in rescue, recovery, debris cleanup, or related services at Ground Zero, the Staten Island Landfill, or the barge loading piers, for at least one day during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(III) participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.) for at least 24 hours during the period beginning on September 11, 2001, and ending on September 30, 2001; or

“(IV) participated onsite in rescue, recovery, debris cleanup, or related services in lower Manhattan (south of Canal St.) for at least 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(iii) was an employee of the Office of the Chief Medical Examiner of New York City involved in the examination and handling of human remains from the World Trade Center attacks, or other morgue worker who performed similar post-September 11 functions for such Office staff, during the period beginning on September 11, 2001, and ending on July 31, 2002;

“(iv) was a worker in the Port Authority Trans-Hudson Corporation Tunnel for at least 24 hours during the period beginning on February 1, 2002, and ending on July 1, 2002; or

“(v) was a vehicle-maintenance worker who was exposed to debris from the former World Trade Center while retrieving, driving, cleaning, repairing, and maintaining vehicles contaminated by airborne toxins from the September 11, 2001, terrorist attacks during a duration and period described in subparagraph (A).

“(C) RESPONDERS TO THE SEPTEMBER 11 ATTACKS AT THE PENTAGON AND SHANKSVILLE, PENNSYLVANIA.—The individual—

“(i)(I) was a member of a fire or police department (whether fire or emergency personnel, active or retired), worked for a recovery or cleanup contractor, or was a volunteer; and performed rescue, recovery, demolition, debris cleanup, or other related services at the Pentagon site of the terrorist-related aircraft crash of September 11, 2001, during the period beginning on September 11, 2001, and ending on the date on which the cleanup of the site was concluded, as determined by the WTC Program Administrator; or

“(II) was a member of a fire or police department (whether fire or emergency personnel, active or retired), worked for a recovery or cleanup contractor, or was a volunteer; and performed rescue, recovery, demolition, debris cleanup, or other related services at the Shanksville, Pennsylvania, site of the terrorist-related aircraft crash of September 11, 2001, during the period beginning on September 11, 2001, and ending on the date on which the cleanup of the site was concluded, as determined by the WTC Program Administrator; and

“(ii) is determined by the WTC Program Administrator to be at an increased risk of developing a WTC-related health condition as a result of exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks, and meets such eligibility criteria related to such exposures, as the WTC Program Administrator determines are appropriate, after consultation with the WTC Scientific/Technical Advisory Committee.

“(3) ENROLLMENT PROCESS.—

“(A) IN GENERAL.—The WTC Program Administrator shall establish a process for enrolling WTC responders in the WTC Program. Under such process—

“(i) WTC responders described in paragraph (1)(A) shall be deemed to be enrolled in such Program;

“(ii) subject to clause (iii), the Administrator shall enroll in such program individuals who are determined to be WTC responders;

“(iii) the Administrator shall deny such enrollment to an individual if the Administrator determines that the numerical limitation in paragraph (4) on enrollment of WTC responders has been met;

“(iv) there shall be no fee charged to the applicant for making an application for such enrollment;

“(v) the Administrator shall make a determination on such an application not later than 60 days after the date of filing the application; and

“(vi) an individual who is denied enrollment in such Program shall have an opportunity to appeal such determination in a manner established under such process.

“(B) TIMING.—

“(i) CURRENTLY IDENTIFIED RESPONDERS.—In accordance with subparagraph (A)(i), the WTC Program Administrator shall enroll an individual described in paragraph (1)(A) in the WTC Program not later than July 1, 2011.

“(ii) OTHER RESPONDERS.—In accordance with subparagraph (A)(ii) and consistent with paragraph (4), the WTC Program Administrator shall enroll any other individual who is determined to be a WTC responder in the WTC Program at the time of such determination.

“(4) NUMERICAL LIMITATION ON ELIGIBLE WTC RESPONDERS.—

“(A) IN GENERAL.—The total number of individuals not described in paragraph (1)(A) or (2)(A)(ii) who may be enrolled under paragraph (3)(A)(ii) shall not exceed 25,000 at any time, of which no more than 2,500 may be individuals enrolled based on modified eligibility criteria established under paragraph (1)(C).

“(B) PROCESS.—In implementing subparagraph (A), the WTC Program Administrator shall—

“(i) limit the number of enrollments made under paragraph (3)—

“(I) in accordance with such subparagraph; and

“(II) to such number, as determined by the Administrator based on the best available information and subject to amounts available under section 3351, that will ensure sufficient funds will be available to provide treatment and monitoring benefits under this title, with respect to all individuals who are enrolled through the end of fiscal year 2020; and

“(ii) provide priority (subject to paragraph (3)(A)(i)) in such enrollments in the order in which individuals apply for enrollment under paragraph (3).

“(5) DISQUALIFICATION OF INDIVIDUALS ON TERRORIST WATCH LIST.—No individual who is on the terrorist watch list maintained by the Department of Homeland Security shall qualify as an eligible WTC responder. Before enrolling any individual as a WTC responder in the WTC Program under paragraph (3), the Administrator, in consultation with the Secretary of Homeland Security, shall determine whether the individual is on such list.

“(b) MONITORING BENEFITS.—

“(1) IN GENERAL.—In the case of an enrolled WTC responder (other than one described in subsection (a)(2)(A)(ii)), the WTC Program shall provide for monitoring benefits that include monitoring consistent with protocols approved by the WTC Program Administrator and including clinical examinations and long-term health monitoring and analysis. In the case of an enrolled WTC responder who is an active member of the Fire Department of New York City, the responder shall receive such benefits as part of the individual's periodic company medical exams.

“(2) PROVISION OF MONITORING BENEFITS.—The monitoring benefits under paragraph (1) shall be provided through the Clinical Center of Excellence for the type of individual involved

or, in the case of an individual residing outside the New York metropolitan area, under an arrangement under section 3313.

“SEC. 3312. TREATMENT OF ENROLLED WTC RESPONDERS FOR WTC-RELATED HEALTH CONDITIONS.

“(a) WTC-RELATED HEALTH CONDITION DEFINED.—

“(1) IN GENERAL.—For purposes of this title, the term ‘WTC-related health condition’ means a condition that—

“(A)(i) is an illness or health condition for which exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, based on an examination by a medical professional with experience in treating or diagnosing the health conditions included in the applicable list of WTC-related health conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness or health condition, as determined under paragraph (2); or

“(ii) is a mental health condition for which such attacks, based on an examination by a medical professional with experience in treating or diagnosing the health conditions included in the applicable list of WTC-related health conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the condition, as determined under paragraph (2); and

“(B) is included in the applicable list of WTC-related health conditions or—

“(i) with respect to a WTC responder, is provided certification of coverage under subsection (b)(2)(B)(iii); or

“(ii) with respect to a screening-eligible WTC survivor or certified-eligible WTC survivor, is provided certification of coverage under subsection (b)(2)(B)(iii), as applied under section 3322(a).

In the case of a WTC responder described in section 3311(a)(2)(A)(ii) (relating to a surviving immediate family member of a firefighter), such term does not include an illness or health condition described in subparagraph (A)(i).

“(2) DETERMINATION.—The determination under paragraph (1) or subsection (b) of whether the September 11, 2001, terrorist attacks were substantially likely to be a significant factor in aggravating, contributing to, or causing an individual's illness or health condition shall be made based on an assessment of the following:

“(A) The individual's exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the terrorist attacks. Such exposure shall be—

“(i) evaluated and characterized through the use of a standardized, population-appropriate questionnaire approved by the Director of the National Institute for Occupational Safety and Health; and

“(ii) assessed and documented by a medical professional with experience in treating or diagnosing health conditions included on the list of WTC-related health conditions.

“(B) The type of symptoms and temporal sequence of symptoms. Such symptoms shall be—

“(i) assessed through the use of a standardized, population-appropriate medical questionnaire approved by the Director of the National Institute for Occupational Safety and Health and a medical examination; and

“(ii) diagnosed and documented by a medical professional described in subparagraph (A)(ii).

“(3) LIST OF HEALTH CONDITIONS FOR WTC RESPONDERS.—The list of health conditions for WTC responders consists of the following:

“(A) AERODIGESTIVE DISORDERS.—

“(i) Interstitial lung diseases.

“(ii) Chronic respiratory disorder—fumes/vapors.

“(iii) Asthma.

“(iv) Reactive airways dysfunction syndrome (RADS).

“(v) WTC-exacerbated chronic obstructive pulmonary disease (COPD).

“(vi) Chronic cough syndrome.

“(vii) Upper airway hyperreactivity.

“(viii) Chronic rhinosinusitis.

“(ix) Chronic nasopharyngitis.

“(x) Chronic laryngitis.

“(xi) Gastroesophageal reflux disorder (GERD).

“(xii) Sleep apnea exacerbated by or related to a condition described in a previous clause.

“(B) MENTAL HEALTH CONDITIONS.—

“(i) Posttraumatic stress disorder (PTSD).

“(ii) Major depressive disorder.

“(iii) Panic disorder.

“(iv) Generalized anxiety disorder.

“(v) Anxiety disorder (not otherwise specified).

“(vi) Depression (not otherwise specified).

“(vii) Acute stress disorder.

“(viii) Dysthymic disorder.

“(ix) Adjustment disorder.

“(x) Substance abuse.

“(C) MUSCULOSKELETAL DISORDERS FOR CERTAIN WTC RESPONDERS.—In the case of a WTC responder described in paragraph (4), a condition described in such paragraph.

“(D) ADDITIONAL CONDITIONS.—Any cancer (or type of cancer) or other condition added, pursuant to paragraph (5) or (6), to the list under this paragraph.

“(4) MUSCULOSKELETAL DISORDERS.—

“(A) IN GENERAL.—For purposes of this title, in the case of a WTC responder who received any treatment for a WTC-related musculoskeletal disorder on or before September 11, 2003, the list of health conditions in paragraph (3) shall include:

“(i) Low back pain.

“(ii) Carpal tunnel syndrome (CTS).

“(iii) Other musculoskeletal disorders.

“(B) DEFINITION.—The term ‘WTC-related musculoskeletal disorder’ means a chronic or recurrent disorder of the musculoskeletal system caused by heavy lifting or repetitive strain on the joints or musculoskeletal system occurring during rescue or recovery efforts in the New York City disaster area in the aftermath of the September 11, 2001, terrorist attacks.

“(5) CANCER.—

“(A) IN GENERAL.—The WTC Program Administrator shall periodically conduct a review of all available scientific and medical evidence, including findings and recommendations of Clinical Centers of Excellence, published in peer-reviewed journals to determine if, based on such evidence, cancer or a certain type of cancer should be added to the applicable list of WTC-related health conditions. The WTC Program Administrator shall conduct the first review under this subparagraph not later than 180 days after the date of the enactment of this title.

“(B) PROPOSED REGULATIONS AND RULEMAKING.—Based on the periodic reviews under subparagraph (A), if the WTC Program Administrator determines that cancer or a certain type of cancer should be added to such list of WTC-related health conditions, the WTC Program Administrator shall propose regulations, through rulemaking, to add cancer or the certain type of cancer to such list.

“(C) FINAL REGULATIONS.—Based on all the available evidence in the rulemaking record, the WTC Program Administrator shall make a final determination of whether cancer or a certain type of cancer should be added to such list of WTC-related health conditions. If such a determination is made to make such an addition, the WTC Program Administrator shall by regulation add cancer or the certain type of cancer to such list.

“(D) DETERMINATIONS NOT TO ADD CANCER OR CERTAIN TYPES OF CANCER.—In the case that the

WTC Program Administrator determines under subparagraph (B) or (C) that cancer or a certain type of cancer should not be added to such list of WTC-related health conditions, the WTC Program Administrator shall publish an explanation for such determination in the Federal Register. Any such determination to not make such an addition shall not preclude the addition of cancer or the certain type of cancer to such list at a later date.

“(6) ADDITION OF HEALTH CONDITIONS TO LIST FOR WTC RESPONDERS.—

“(A) IN GENERAL.—Whenever the WTC Program Administrator determines that a proposed rule should be promulgated to add a health condition to the list of health conditions in paragraph (3), the Administrator may request a recommendation of the Advisory Committee or may publish such a proposed rule in the Federal Register in accordance with subparagraph (D).

“(B) ADMINISTRATOR'S OPTIONS AFTER RECEIPT OF PETITION.—In the case that the WTC Program Administrator receives a written petition by an interested party to add a health condition to the list of health conditions in paragraph (3), not later than 60 days after the date of receipt of such petition the Administrator shall—

“(i) request a recommendation of the Advisory Committee;

“(ii) publish a proposed rule in the Federal Register to add such health condition, in accordance with subparagraph (D);

“(iii) publish in the Federal Register the Administrator's determination not to publish such a proposed rule and the basis for such determination; or

“(iv) publish in the Federal Register a determination that insufficient evidence exists to take action under clauses (i) through (iii).

“(C) ACTION BY ADVISORY COMMITTEE.—In the case that the Administrator requests a recommendation of the Advisory Committee under this paragraph, with respect to adding a health condition to the list in paragraph (3), the Advisory Committee shall submit to the Administrator such recommendation not later than 60 days after the date of such request or by such date (not to exceed 180 days after such date of request) as specified by the Administrator. Not later than 60 days after the date of receipt of such recommendation, the Administrator shall, in accordance with subparagraph (D), publish in the Federal Register a proposed rule with respect to such recommendation or a determination not to propose such a proposed rule and the basis for such determination.

“(D) PUBLICATION.—The WTC Program Administrator shall, with respect to any proposed rule under this paragraph—

“(i) publish such proposed rule in accordance with section 553 of title 5, United States Code; and

“(ii) provide interested parties a period of 30 days after such publication to submit written comments on the proposed rule.

The WTC Program Administrator may extend the period described in clause (ii) upon a finding of good cause. In the case of such an extension, the Administrator shall publish such extension in the Federal Register.

“(E) INTERESTED PARTY DEFINED.—For purposes of this paragraph, the term ‘interested party’ includes a representative of any organization representing WTC responders, a nationally recognized medical association, a Clinical or Data Center, a State or political subdivision, or any other interested person.

“(b) COVERAGE OF TREATMENT FOR WTC-RELATED HEALTH CONDITIONS.—

“(1) DETERMINATION FOR ENROLLED WTC RESPONDERS BASED ON A WTC-RELATED HEALTH CONDITION.—

“(A) IN GENERAL.—If a physician at a Clinical Center of Excellence that is providing moni-

toring benefits under section 3311 for an enrolled WTC responder makes a determination that the responder has a WTC-related health condition that is in the list in subsection (a)(3) and that exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 1, 2001, terrorist attacks is substantially likely to be a significant factor in aggravating, contributing to, or causing the condition—

“(i) the physician shall promptly transmit such determination to the WTC Program Administrator and provide the Administrator with the medical facts supporting such determination; and

“(ii) on and after the date of such transmittal and subject to subparagraph (B), the WTC Program shall provide for payment under subsection (c) for medically necessary treatment for such condition.

“(B) REVIEW; CERTIFICATION; APPEALS.—

“(i) REVIEW.—A Federal employee designated by the WTC Program Administrator shall review determinations made under subparagraph (A).

“(ii) CERTIFICATION.—The Administrator shall provide a certification of such condition based upon reviews conducted under clause (i). Such a certification shall be provided unless the Administrator determines that the responder's condition is not a WTC-related health condition in the list in subsection (a)(3) or that exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 1, 2001, terrorist attacks is not substantially likely to be a significant factor in aggravating, contributing to, or causing the condition.

“(iii) APPEAL PROCESS.—The Administrator shall establish, by rule, a process for the appeal of determinations under clause (ii).

“(2) DETERMINATION BASED ON MEDICALLY ASSOCIATED WTC-RELATED HEALTH CONDITIONS.—

“(A) IN GENERAL.—If a physician at a Clinical Center of Excellence determines pursuant to subsection (a) that the enrolled WTC responder has a health condition described in subsection (a)(1)(A) that is not in the list in subsection (a)(3) but which is medically associated with a WTC-related health condition—

“(i) the physician shall promptly transmit such determination to the WTC Program Administrator and provide the Administrator with the facts supporting such determination; and

“(ii) the Administrator shall make a determination under subparagraph (B) with respect to such physician's determination.

“(B) PROCEDURES FOR REVIEW, CERTIFICATION, AND APPEAL.—The WTC Program Administrator shall, by rule, establish procedures for the review and certification of physician determinations under subparagraph (A). Such rule shall provide for—

“(i) the timely review of such a determination by a physician panel with appropriate expertise for the condition and recommendations to the WTC Program Administrator;

“(ii) not later than 60 days after the date of the transmittal under subparagraph (A)(i), a determination by the WTC Program Administrator on whether or not the condition involved is described in subsection (a)(1)(A) and is medically associated with a WTC-related health condition;

“(iii) certification in accordance with paragraph (1)(B)(ii) of coverage of such condition if determined to be described in subsection (a)(1)(A) and medically associated with a WTC-related health condition; and

“(iv) a process for appeals of determinations relating to such conditions.

“(C) INCLUSION IN LIST OF HEALTH CONDITIONS.—If the WTC Program Administrator provides certification under subparagraph (B)(iii) for coverage of a condition, the Administrator may, pursuant to subsection (a)(6), add the condition to the list in subsection (a)(3).

“(D) CONDITIONS ALREADY DECLINED FOR INCLUSION IN LIST.—If the WTC Program Administrator publishes a determination under subsection (a)(6)(B) not to include a condition in the list in subsection (a)(3), the WTC Program Administrator shall not provide certification under subparagraph (B)(iii) for coverage of the condition. In the case of an individual who is certified under subparagraph (B)(iii) with respect to such condition before the date of the publication of such determination the previous sentence shall not apply.

“(3) REQUIREMENT OF MEDICAL NECESSITY.—

“(A) IN GENERAL.—In providing treatment for a WTC-related health condition, a physician or other provider shall provide treatment that is medically necessary and in accordance with medical treatment protocols established under subsection (d).

“(B) REGULATIONS RELATING TO MEDICAL NECESSITY.—For the purpose of this title, the WTC Program Administrator shall issue regulations specifying a standard for determining medical necessity with respect to health care services and prescription pharmaceuticals, a process for determining whether treatment furnished and pharmaceuticals prescribed under this title meet such standard (including any prior authorization requirement), and a process for appeal of a determination under subsection (c)(3).

“(4) SCOPE OF TREATMENT COVERED.—

“(A) IN GENERAL.—The scope of treatment covered under this subsection includes services of physicians and other health care providers, diagnostic and laboratory tests, prescription drugs, inpatient and outpatient hospital services, and other medically necessary treatment.

“(B) PHARMACEUTICAL COVERAGE.—With respect to ensuring coverage of medically necessary outpatient prescription drugs, such drugs shall be provided, under arrangements made by the WTC Program Administrator, directly through participating Clinical Centers of Excellence or through one or more outside vendors.

“(C) TRANSPORTATION EXPENSES FOR NATION-WIDE NETWORK.—The WTC Program Administrator may provide for necessary and reasonable transportation and expenses incident to the securing of medically necessary treatment through the nationwide network under section 3313 involving travel of more than 250 miles and for which payment is made under this section in the same manner in which individuals may be furnished necessary and reasonable transportation and expenses incident to services involving travel of more than 250 miles under regulations implementing section 3629(c) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of Public Law 106–398; 42 U.S.C. 7384t(c)).

“(5) PROVISION OF TREATMENT PENDING CERTIFICATION.—With respect to an enrolled WTC responder for whom a determination is made by an examining physician under paragraph (1) or (2), but for whom the WTC Program Administrator has not yet determined whether to certify the determination, the WTC Program Administrator may establish by rule a process through which the Administrator may approve the provision of medical treatment under this subsection (and payment under subsection (c)) with respect to such responder and such responder's WTC-related health condition (under such terms and conditions as the Administrator may provide) until the Administrator makes a decision on whether to certify the determination.

“(c) PAYMENT FOR INITIAL HEALTH EVALUATION, MONITORING, AND TREATMENT OF WTC-RELATED HEALTH CONDITIONS.—

“(1) MEDICAL TREATMENT.—

“(A) USE OF FECA PAYMENT RATES.—

“(i) IN GENERAL.—Subject to clause (ii):

“(I) Subject to subparagraphs (B) and (C), the WTC Program Administrator shall reimburse

costs for medically necessary treatment under this title for WTC-related health conditions according to the payment rates that would apply to the provision of such treatment and services by the facility under the Federal Employees Compensation Act.

“(II) For treatment not covered under subclause (i) or subparagraph (B), the WTC Program Administrator shall establish by regulation a reimbursement rate for such treatment.

“(ii) EXCEPTION.—In no case shall payments for products or services under clause (i) be made at a rate higher than the Office of Worker's Compensation Programs in the Department Labor would pay for such products or services rendered at the time such products or services were provided.

“(B) PHARMACEUTICALS.—

“(i) IN GENERAL.—The WTC Program Administrator shall establish a program for paying for the medically necessary outpatient prescription pharmaceuticals prescribed under this title for WTC-related health conditions through one or more contracts with outside vendors.

“(ii) COMPETITIVE BIDDING.—Under such program the Administrator shall—

“(I) select one or more appropriate vendors through a Federal competitive bid process; and

“(II) select the lowest bidder (or bidders) meeting the requirements for providing pharmaceutical benefits for participants in the WTC Program.

“(iii) TREATMENT OF FDNY PARTICIPANTS.—Under such program the Administrator may enter into an agreement with a separate vendor to provide pharmaceutical benefits to enrolled WTC responders for whom the Clinical Center of Excellence is described in section 3305 if such an arrangement is deemed necessary and beneficial to the program by the WTC Program Administrator.

“(iv) PHARMACEUTICALS.—Not later than July 1, 2011, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on whether existing Federal pharmaceutical purchasing programs can provide pharmaceutical benefits more efficiently and effectively than through the WTC program.

“(C) IMPROVING QUALITY AND EFFICIENCY THROUGH MODIFICATION OF PAYMENT AMOUNTS AND METHODOLOGIES.—The WTC Program Administrator may modify the amounts and methodologies for making payments for initial health evaluations, monitoring, or treatment, if, taking into account utilization and quality data furnished by the Clinical Centers of Excellence under section 3305(b)(1)(B)(iii), the Administrator determines that a bundling, capitation, pay for performance, or other payment methodology would better ensure high quality and efficient delivery of initial health evaluations, monitoring, or treatment to an enrolled WTC responder, screening-eligible WTC survivor, or certified-eligible WTC survivor.

“(2) MONITORING AND INITIAL HEALTH EVALUATION.—The WTC Program Administrator shall reimburse the costs of monitoring and the costs of an initial health evaluation provided under this title at a rate set by the Administrator by regulation.

“(3) DETERMINATION OF MEDICAL NECESSITY.—

“(A) REVIEW OF MEDICAL NECESSITY AND PROTOCOLS.—As part of the process for reimbursement or payment under this subsection, the WTC Program Administrator shall provide for the review of claims for reimbursement or payment for the provision of medical treatment to determine if such treatment is medically necessary and in accordance with medical treatment protocols established under subsection (d).

“(B) WITHHOLDING OF PAYMENT FOR MEDICALLY UNNECESSARY TREATMENT.—The Adminis-

trator shall withhold such reimbursement or payment for treatment that the Administrator determines is not medically necessary or is not in accordance with such medical treatment protocols.

“(d) MEDICAL TREATMENT PROTOCOLS.—

“(1) DEVELOPMENT.—The Data Centers shall develop medical treatment protocols for the treatment of enrolled WTC responders and certified-eligible WTC survivors for health conditions included in the applicable list of WTC-related health conditions.

“(2) APPROVAL.—The medical treatment protocols developed under paragraph (1) shall be subject to approval by the WTC Program Administrator.

“SEC. 3313. NATIONAL ARRANGEMENT FOR BENEFITS FOR ELIGIBLE INDIVIDUALS OUTSIDE NEW YORK.

“(a) IN GENERAL.—In order to ensure reasonable access to benefits under this subtitle for individuals who are enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible WTC survivors and who reside in any State, as defined in section 2(f), outside the New York metropolitan area, the WTC Program Administrator shall establish a nationwide network of health care providers to provide monitoring and treatment benefits and initial health evaluations near such individuals' areas of residence in such States. Nothing in this subsection shall be construed as preventing such individuals from being provided such monitoring and treatment benefits or initial health evaluation through any Clinical Center of Excellence.

“(b) NETWORK REQUIREMENTS.—Any health care provider participating in the network under subsection (a) shall—

“(1) meet criteria for credentialing established by the Data Centers;

“(2) follow the monitoring, initial health evaluation, and treatment protocols developed under section 3305(a)(2)(A)(ii);

“(3) collect and report data in accordance with section 3304; and

“(4) meet such fraud, quality assurance, and other requirements as the WTC Program Administrator establishes, including sections 1128 through 1128E of the Social Security Act, as applied by section 3301(d).

“(c) TRAINING AND TECHNICAL ASSISTANCE.—The WTC Program Administrator may provide, including through contract, for the provision of training and technical assistance to health care providers participating in the network under subsection (a).

“(d) PROVISION OF SERVICES THROUGH THE VA.—

“(1) IN GENERAL.—The WTC Program Administrator may enter into an agreement with the Secretary of Veterans Affairs for the Secretary to provide services under this section through facilities of the Department of Veterans Affairs.

“(2) NATIONAL PROGRAM.—Not later than July 1, 2011, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on whether the Department of Veterans Affairs can provide monitoring and treatment services to individuals under this section more efficiently and effectively than through the nationwide network to be established under subsection (a).

“PART 2—WTC SURVIVORS

“SEC. 3321. IDENTIFICATION AND INITIAL HEALTH EVALUATION OF SCREENING-ELIGIBLE AND CERTIFIED-ELIGIBLE WTC SURVIVORS.

“(a) IDENTIFICATION OF SCREENING-ELIGIBLE WTC SURVIVORS AND CERTIFIED-ELIGIBLE WTC SURVIVORS.—

“(1) SCREENING-ELIGIBLE WTC SURVIVORS.—

“(A) DEFINITION.—In this title, the term ‘screening-eligible WTC survivor’ means, subject

to subparagraph (C) and paragraph (3), an individual who is described in any of the following clauses:

“(i) CURRENTLY IDENTIFIED SURVIVOR.—An individual, including a WTC responder, who has been identified as eligible for medical treatment and monitoring by the WTC Environmental Health Center as of the date of enactment of this title.

“(ii) SURVIVOR WHO MEETS CURRENT ELIGIBILITY CRITERIA.—An individual who is not a WTC responder, for purposes of the initial health evaluation under subsection (b), claims symptoms of a WTC-related health condition and meets any of the current eligibility criteria described in subparagraph (B).

“(iii) SURVIVOR WHO MEETS MODIFIED ELIGIBILITY CRITERIA.—An individual who is not a WTC responder, for purposes of the initial health evaluation under subsection (b), claims symptoms of a WTC-related health condition and meets such eligibility criteria relating to exposure to airborne toxins, other hazards, or adverse conditions resulting from the September 11, 2001, terrorist attacks as the WTC Administrator determines, after consultation with the Data Centers described in section 3305 and the WTC Scientific/Technical Advisory Committee and WTC Health Program Steering Committees under section 3302.

The Administrator shall not modify such criteria under clause (iii) on or after the date that the number of certifications for certified-eligible WTC survivors under paragraph (2)(B) has reached 80 percent of the limit described in paragraph (3) or on or after the date that the number of enrollments of WTC responders has reached 80 percent of the limit described in section 3311(a)(4).

“(B) CURRENT ELIGIBILITY CRITERIA.—The eligibility criteria described in this subparagraph for an individual are that the individual is described in any of the following clauses:

“(i) A person who was present in the New York City disaster area in the dust or dust cloud on September 11, 2001.

“(ii) A person who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area for—

“(I) at least 4 days during the 4-month period beginning on September 11, 2001, and ending on January 10, 2002; or

“(II) at least 30 days during the period beginning on September 11, 2001, and ending on July 31, 2002.

“(iii) Any person who worked as a cleanup worker or performed maintenance work in the New York City disaster area during the 4-month period described in subparagraph (B)(i) and had extensive exposure to WTC dust as a result of such work.

“(iv) A person who was deemed eligible to receive a grant from the Lower Manhattan Development Corporation Residential Grant Program, who possessed a lease for a residence or purchased a residence in the New York City disaster area, and who resided in such residence during the period beginning on September 11, 2001, and ending on May 31, 2003.

“(v) A person whose place of employment—

“(I) at any time during the period beginning on September 11, 2001, and ending on May 31, 2003, was in the New York City disaster area; and

“(II) was deemed eligible to receive a grant from the Lower Manhattan Development Corporation WTC Small Firms Attraction and Retention Act program or other government incentive program designed to revitalize the lower Manhattan economy after the September 11, 2001, terrorist attacks.

“(C) APPLICATION AND DETERMINATION PROCESS FOR SCREENING ELIGIBILITY.—

“(i) IN GENERAL.—The WTC Program Administrator in consultation with the Data Centers

shall establish a process for individuals, other than individuals described in subparagraph (A)(i), to be determined to be screening-eligible WTC survivors. Under such process—

“(I) there shall be no fee charged to the applicant for making an application for such determination;

“(II) the Administrator shall make a determination on such an application not later than 60 days after the date of filing the application;

“(III) the Administrator shall make such a determination relating to an applicant's compliance with this title and shall not determine that an individual is not so eligible or deny written documentation under clause (ii) to such individual unless the Administrator determines that—

“(aa) based on the application submitted, the individual does not meet the eligibility criteria; or

“(bb) the numerical limitation on certifications of certified-eligible WTC survivors set forth in paragraph (3) has been met; and

“(IV) an individual who is determined not to be a screening-eligible WTC survivor shall have an opportunity to appeal such determination in a manner established under such process.

“(ii) WRITTEN DOCUMENTATION OF SCREENING-ELIGIBILITY.—

“(I) IN GENERAL.—In the case of an individual who is described in subparagraph (A)(i) or who is determined under clause (i) (consistent with paragraph (3)) to be a screening-eligible WTC survivor, the WTC Program Administrator shall provide an appropriate written documentation of such fact.

“(II) TIMING.—

“(aa) CURRENTLY IDENTIFIED SURVIVORS.—In the case of an individual who is described in subparagraph (A)(i), the WTC Program Administrator shall provide the written documentation under subclause (I) not later than July 1, 2011.

“(bb) OTHER MEMBERS.—In the case of another individual who is determined under clause (i) and consistent with paragraph (3) to be a screening-eligible WTC survivor, the WTC Program Administrator shall provide the written documentation under subclause (I) at the time of such determination.

“(2) CERTIFIED-ELIGIBLE WTC SURVIVORS.—

“(A) DEFINITION.—The term ‘certified-eligible WTC survivor’ means, subject to paragraph (3), a screening-eligible WTC survivor who the WTC Program Administrator certifies under subparagraph (B) to be eligible for followup monitoring and treatment under this part.

“(B) CERTIFICATION OF ELIGIBILITY FOR MONITORING AND TREATMENT.—

“(i) IN GENERAL.—The WTC Program Administrator shall establish a certification process under which the Administrator shall provide appropriate certification to screening-eligible WTC survivors who, pursuant to the initial health evaluation under subsection (b), are determined to be eligible for followup monitoring and treatment under this part.

“(ii) TIMING.—

“(I) CURRENTLY IDENTIFIED SURVIVORS.—In the case of an individual who is described in paragraph (1)(A)(i), the WTC Program Administrator shall provide the certification under clause (i) not later than July 1, 2011.

“(II) OTHER MEMBERS.—In the case of another individual who is determined under clause (i) to be eligible for followup monitoring and treatment, the WTC Program Administrator shall provide the certification under such clause at the time of such determination.

“(3) NUMERICAL LIMITATION ON CERTIFIED-ELIGIBLE WTC SURVIVORS.—

“(A) IN GENERAL.—The total number of individuals not described in paragraph (1)(A)(i) who may be certified as certified-eligible WTC survivors under paragraph (2)(B) shall not exceed 25,000 at any time.

“(B) PROCESS.—In implementing subparagraph (A), the WTC Program Administrator shall—

“(i) limit the number of certifications provided under paragraph (2)(B)—

“(I) in accordance with such subparagraph; and

“(II) to such number, as determined by the Administrator based on the best available information and subject to amounts made available under section 3351, that will ensure sufficient funds will be available to provide treatment and monitoring benefits under this title, with respect to all individuals receiving such certifications through the end of fiscal year 2020; and

“(ii) provide priority in such certifications in the order in which individuals apply for a determination under paragraph (2)(B).

“(4) DISQUALIFICATION OF INDIVIDUALS ON TERRORIST WATCH LIST.—No individual who is on the terrorist watch list maintained by the Department of Homeland Security shall qualify as a screening-eligible WTC survivor or a certified-eligible WTC survivor. Before determining any individual to be a screening-eligible WTC survivor under paragraph (1) or certifying any individual as a certified-eligible WTC survivor under paragraph (2), the Administrator, in consultation with the Secretary of Homeland Security, shall determine whether the individual is on such list.

“(b) INITIAL HEALTH EVALUATION TO DETERMINE ELIGIBILITY FOR FOLLOWUP MONITORING OR TREATMENT.—

“(I) IN GENERAL.—In the case of a screening-eligible WTC survivor, the WTC Program shall provide for an initial health evaluation to determine if the survivor has a WTC-related health condition and is eligible for followup monitoring and treatment benefits under the WTC Program. Initial health evaluation protocols under section 3305(a)(2)(A)(ii) shall be subject to approval by the WTC Program Administrator.

“(2) INITIAL HEALTH EVALUATION PROVIDERS.—The initial health evaluation described in paragraph (1) shall be provided through a Clinical Center of Excellence with respect to the individual involved.

“(3) LIMITATION ON INITIAL HEALTH EVALUATION BENEFITS.—Benefits for an initial health evaluation under this part for a screening-eligible WTC survivor shall consist only of a single medical initial health evaluation consistent with initial health evaluation protocols described in paragraph (1). Nothing in this paragraph shall be construed as preventing such an individual from seeking additional medical initial health evaluations at the expense of the individual.

“SEC. 3322. FOLLOWUP MONITORING AND TREATMENT OF CERTIFIED-ELIGIBLE WTC SURVIVORS FOR WTC-RELATED HEALTH CONDITIONS.

“(a) IN GENERAL.—Subject to subsection (b), the provisions of sections 3311 and 3312 shall apply to followup monitoring and treatment of WTC-related health conditions for certified-eligible WTC survivors in the same manner as such provisions apply to the monitoring and treatment of WTC-related health conditions for enrolled WTC responders.

“(b) LIST OF WTC-RELATED HEALTH CONDITIONS FOR SURVIVORS.—The list of health conditions for screening-eligible WTC survivors and certified-eligible WTC survivors consists of the following:

“(1) AERODIGESTIVE DISORDERS.—

“(A) Interstitial lung diseases.

“(B) Chronic respiratory disorder—fumes/vapors.

“(C) Asthma.

“(D) Reactive airways dysfunction syndrome (RADS).

“(E) WTC-exacerbated chronic obstructive pulmonary disease (COPD).

“(F) Chronic cough syndrome.

“(G) Upper airway hyperreactivity.

“(H) Chronic rhinosinusitis.

“(I) Chronic nasopharyngitis.

“(J) Chronic laryngitis.

“(K) Gastroesophageal reflux disorder (GERD).

“(L) Sleep apnea exacerbated by or related to a condition described in a previous clause.

“(2) MENTAL HEALTH CONDITIONS.—

“(A) Posttraumatic stress disorder (PTSD).

“(B) Major depressive disorder.

“(C) Panic disorder.

“(D) Generalized anxiety disorder.

“(E) Anxiety disorder (not otherwise specified).

“(F) Depression (not otherwise specified).

“(G) Acute stress disorder.

“(H) Dysphymic disorder.

“(I) Adjustment disorder.

“(J) Substance abuse.

“(3) ADDITIONAL CONDITIONS.—Any cancer (or type of cancer) or other condition added to the list in section 3312(a)(3) pursuant to paragraph (5) or (6) of section 3312(a), as such provisions are applied under subsection (a) with respect to certified-eligible WTC survivors.

“SEC. 3323. FOLLOWUP MONITORING AND TREATMENT OF OTHER INDIVIDUALS WITH WTC-RELATED HEALTH CONDITIONS.

“(a) IN GENERAL.—Subject to subsection (c), the provisions of section 3322 shall apply to the followup monitoring and treatment of WTC-related health conditions in the case of individuals described in subsection (b) in the same manner as such provisions apply to the followup monitoring and treatment of WTC-related health conditions for certified-eligible WTC survivors.

“(b) INDIVIDUALS DESCRIBED.—An individual described in this subsection is an individual who, regardless of location of residence—

“(1) is not an enrolled WTC responder or a certified-eligible WTC survivor; and

“(2) is diagnosed at a Clinical Center of Excellence with a WTC-related health condition for certified-eligible WTC survivors.

“(c) LIMITATION.—

“(1) IN GENERAL.—The WTC Program Administrator shall limit benefits for any fiscal year under subsection (a) in a manner so that payments under this section for such fiscal year do not exceed the amount specified in paragraph (2) for such fiscal year.

“(2) LIMITATION.—The amount specified in this paragraph for—

“(A) the last calendar quarter of fiscal year 2011 is \$5,000,000;

“(B) fiscal year 2012 is \$20,000,000; or

“(C) a succeeding fiscal year is the amount specified in this paragraph for the previous fiscal year increased by the annual percentage increase in the medical care component of the consumer price index for all urban consumers.

“PART 3—PAYOR PROVISIONS

“SEC. 3331. PAYMENT OF CLAIMS.

“(a) IN GENERAL.—Except as provided in subsections (b) and (c), the cost of monitoring and treatment benefits and initial health evaluation benefits provided under parts 1 and 2 of this subtitle shall be paid for by the WTC Program from the World Trade Center Health Program Fund.

“(b) WORKERS' COMPENSATION PAYMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), payment for treatment under parts 1 and 2 of this subtitle of a WTC-related health condition of an individual that is work-related shall be reduced or recouped to the extent that the WTC Program Administrator determines that payment has been made, or can reasonably be expected to be made, under a workers' compensation law or plan of the United States, a State, or a locality, or other work-related injury or illness benefit plan of the employer of such individual, for

such treatment. The provisions of clauses (iii), (iv), (v), and (vi) of paragraph (2)(B) of section 1862(b) of the Social Security Act and paragraphs (3) and (4) of such section shall apply to the recoupment under this subsection of a payment to the WTC Program (with respect to a workers' compensation law or plan, or other work-related injury or illness plan of the employer involved, and such individual) in the same manner as such provisions apply to the reimbursement of a payment under section 1862(b)(2) of such Act to the Secretary (with respect to such a law or plan and an individual entitled to benefits under title XVIII of such Act) except that any reference in such paragraph (4) to payment rates under title XVIII of the Social Security Act shall be deemed a reference to payment rates under this title.

“(2) EXCEPTION.—Paragraph (1) shall not apply for any quarter, with respect to any workers' compensation law or plan, including line of duty compensation, to which New York City is obligated to make payments, if, in accordance with terms specified under the contract under subsection (d)(1)(A), New York City has made the full payment required under such contract for such quarter.

“(3) RULES OF CONSTRUCTION.—Nothing in this title shall be construed to affect, modify, or relieve any obligations under a worker's compensation law or plan, other work-related injury or illness benefit plan of an employer, or any health insurance plan.

“(c) HEALTH INSURANCE COVERAGE.—

“(1) IN GENERAL.—In the case of an individual who has a WTC-related health condition that is not work-related and has health coverage for such condition through any public or private health plan (including health benefits under title XVIII, XIX, or XXI of the Social Security Act) the provisions of section 1862(b) of the Social Security Act shall apply to such a health plan and such individual in the same manner as they apply to group health plan and an individual entitled to benefits under title XVIII of such Act pursuant to section 226(a) of such Act. Any costs for items and services covered under such plan that are not reimbursed by such health plan, due to the application of deductibles, copayments, coinsurance, other cost sharing, or otherwise, are reimbursable under this title to the extent that they are covered under the WTC Program. The program under this title shall not be treated as a legally liable party for purposes of applying section 1902(a)(25) of the Social Security Act.

“(2) RECOVERY BY INDIVIDUAL PROVIDERS.—Nothing in paragraph (1) shall be construed as requiring an entity providing monitoring and treatment under this title to seek reimbursement under a health plan with which the entity has no contract for reimbursement.

“(3) MAINTENANCE OF REQUIRED MINIMUM ESSENTIAL COVERAGE.—No payment may be made for monitoring and treatment under this title for an individual for a month (beginning with July 2014) if with respect to such month the individual—

“(A) is an applicable individual (as defined in subsection (d) of section 5000A of Internal Revenue Code of 1986) for whom the exemption under subsection (e) of such section does not apply; and

“(B) is not covered under minimum essential coverage, as required under subsection (a) of such section.

“(d) REQUIRED CONTRIBUTION BY NEW YORK CITY IN PROGRAM COSTS.—

“(1) CONTRACT REQUIREMENT.—

“(A) IN GENERAL.—No funds may be disbursed from the World Trade Center Health Program Fund under section 3351 unless New York City has entered into a contract with the WTC Program Administrator under which New York City

agrees, in a form and manner specified by the Administrator, to pay the full contribution described in subparagraph (B) in accordance with this subsection on a timely basis, plus any interest owed pursuant to subparagraph (E)(i). Such contract shall specify the terms under which New York City shall be considered to have made the full payment required for a quarter for purposes of subsection (b)(2).

“(B) FULL CONTRIBUTION AMOUNT.—Under such contract, with respect to the last calendar quarter of fiscal year 2011 and each calendar quarter in fiscal years 2012 through 2015 the full contribution amount under this subparagraph shall be equal to 10 percent of the expenditures in carrying out this title for the respective quarter and with respect to calendar quarters in fiscal year 2016, such full contribution amount shall be equal to 1/3 of the Federal expenditures in carrying out this title for the respective quarter.

“(C) SATISFACTION OF PAYMENT OBLIGATION.—The payment obligation under such contract may not be satisfied through any of the following:

“(i) An amount derived from Federal sources.

“(ii) An amount paid before the date of the enactment of this title.

“(iii) An amount paid to satisfy a judgment or as part of a settlement related to injuries or illnesses arising out of the September 11, 2001, terrorist attacks.

“(D) TIMING OF CONTRIBUTION.—The payment obligation under such contract for a calendar quarter in a fiscal year shall be paid not later than the last day of the second succeeding calendar quarter.

“(E) COMPLIANCE.—

“(i) INTEREST FOR LATE PAYMENT.—If New York City fails to pay to the WTC Program Administrator pursuant to such contract the amount required for any calendar quarter by the day specified in subparagraph (D), interest shall accrue on the amount not so paid at the rate (determined by the Administrator) based on the average yield to maturity, plus 1 percentage point, on outstanding municipal bonds issued by New York City with a remaining maturity of at least 1 year.

“(ii) RECOVERY OF AMOUNTS OWED.—The amounts owed to the WTC Program Administrator under such contract shall be recoverable by the United States in an action in the same manner as payments made under title XVIII of the Social Security Act may be recoverable in an action brought under section 1862(b)(2)(B)(iii) of such Act.

“(F) DEPOSIT IN FUND.—The WTC Program Administrator shall deposit amounts paid under such contract into the World Trade Center Health Program Fund under section 3351.

“(2) PAYMENT OF NEW YORK CITY SHARE OF MONITORING AND TREATMENT COSTS.—With respect to each calendar quarter for which a contribution is required by New York City under the contract under paragraph (1), the WTC Program Administrator shall—

“(A) provide New York City with an estimate of such amount of the required contribution at the beginning of such quarter and with an updated estimate of such amount at the beginning of each of the subsequent 2 quarters;

“(B) bill such amount directly to New York City; and

“(C) certify periodically, for purposes of this subsection, whether or not New York City has paid the amount so billed.

Such amount shall initially be estimated by the WTC Program Administrator and shall be subject to adjustment and reconciliation based upon actual expenditures in carrying out this title.

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as authorizing the

WTC Administrator, with respect to a fiscal year, to reduce the numerical limitation under section 3311(a)(4) or 3321(a)(3) for such fiscal year if New York City fails to comply with paragraph (1) for a calendar quarter in such fiscal year.

“(e) WORK-RELATED DESCRIBED.—For the purposes of this section, a WTC-related health condition shall be treated as a condition that is work-related if—

“(1) the condition is diagnosed in an enrolled WTC responder, or in an individual who qualifies as a certified-eligible WTC survivor on the basis of being a rescue, recovery, or cleanup worker; or

“(2) with respect to the condition the individual has filed and had established a claim under a workers' compensation law or plan of the United States or a State, or other work-related injury or illness benefit plan of the employer of such individual.

“SEC. 3332. ADMINISTRATIVE ARRANGEMENT AUTHORITY.

“The WTC Program Administrator may enter into arrangements with other government agencies, insurance companies, or other third-party administrators to provide for timely and accurate processing of claims under sections 3312, 3313, 3322, and 3323.

“Subtitle C—Research Into Conditions

“SEC. 3341. RESEARCH REGARDING CERTAIN HEALTH CONDITIONS RELATED TO SEPTEMBER 11 TERRORIST ATTACKS.

“(a) IN GENERAL.—With respect to individuals, including enrolled WTC responders and certified-eligible WTC survivors, receiving monitoring or treatment under subtitle B, the WTC Program Administrator shall conduct or support—

“(1) research on physical and mental health conditions that may be related to the September 11, 2001, terrorist attacks;

“(2) research on diagnosing WTC-related health conditions of such individuals, in the case of conditions for which there has been diagnostic uncertainty; and

“(3) research on treating WTC-related health conditions of such individuals, in the case of conditions for which there has been treatment uncertainty.

The Administrator may provide such support through continuation and expansion of research that was initiated before the date of the enactment of this title and through the World Trade Center Health Registry (referred to in section 3342), through a Clinical Center of Excellence, or through a Data Center.

“(b) TYPES OF RESEARCH.—The research under subsection (a)(1) shall include epidemiologic and other research studies on WTC-related health conditions or emerging conditions—

“(1) among enrolled WTC responders and certified-eligible WTC survivors under treatment; and

“(2) in sampled populations outside the New York City disaster area in Manhattan as far north as 14th Street and in Brooklyn, along with control populations, to identify potential for long-term adverse health effects in less exposed populations.

“(c) CONSULTATION.—The WTC Program Administrator shall carry out this section in consultation with the WTC Scientific/Technical Advisory Committee.

“(d) APPLICATION OF PRIVACY AND HUMAN SUBJECT PROTECTIONS.—The privacy and human subject protections applicable to research conducted under this section shall not be less than such protections applicable to research conducted or funded by the Department of Health and Human Services.

“SEC. 3342. WORLD TRADE CENTER HEALTH REGISTRY.

“For the purpose of ensuring ongoing data collection relating to victims of the September

11, 2001, terrorist attacks, the WTC Program Administrator shall ensure that a registry of such victims is maintained that is at least as comprehensive as the World Trade Center Health Registry maintained under the arrangements in effect as of April 20, 2009, with the New York City Department of Health and Mental Hygiene.

“Subtitle D—Funding

“SEC. 3351. WORLD TRADE CENTER HEALTH PROGRAM FUND.

“(a) ESTABLISHMENT OF FUND.—

“(1) IN GENERAL.—There is established a fund to be known as the World Trade Center Health Program Fund (referred to in this section as the ‘Fund’).

“(2) FUNDING.—Out of any money in the Treasury not otherwise appropriated, there shall be deposited into the Fund for each of fiscal years 2012 through 2016 (and the last calendar quarter of fiscal year 2011)—

“(A) the Federal share, consisting of an amount equal to the lesser of—

“(i) 90 percent of the expenditures in carrying out this title for the respective fiscal year (initially based on estimates, subject to subsequent reconciliation based on actual expenditures); or

“(ii)(I) \$71,000,000 for the last calendar quarter of fiscal year 2011, \$318,000,000 for fiscal year 2012, \$354,000,000 for fiscal year 2013, \$382,000,000 for fiscal year 2014, and \$431,000,000 for fiscal year 2015; and

“(II) subject to paragraph (4), an additional amount for fiscal year 2016 from unexpended amounts for previous fiscal years; plus

“(B) the New York City share, consisting of the amount contributed under the contract under section 3331(d).

“(3) CONTRACT REQUIREMENT.—

“(A) IN GENERAL.—No funds may be disbursed from the Fund unless New York City has entered into a contract with the WTC Program Administrator under section 3331(d)(1).

“(B) BREACH OF CONTRACT.—In the case of a failure to pay the amount so required under the contract—

“(i) the amount is recoverable under subparagraph (E)(ii) of such section;

“(ii) such failure shall not affect the disbursement of amounts from the Fund; and

“(iii) the Federal share described in paragraph (2)(A) shall not be increased by the amount so unpaid.

“(4) AGGREGATE LIMITATION ON FUNDING BEGINNING WITH FISCAL YEAR 2016.—Beginning with fiscal year 2016, in no case shall the share of Federal funds deposited into the Fund under paragraph (2) for such fiscal year and previous fiscal years and quarters exceed the sum of the amounts specified in paragraph (2)(A)(ii)(I).

“(b) MANDATORY FUNDS FOR MONITORING, INITIAL HEALTH EVALUATIONS, TREATMENT, AND CLAIMS PROCESSING.—

“(1) IN GENERAL.—The amounts deposited into the Fund under subsection (a)(2) shall be available, without further appropriation, consistent with paragraph (2) and subsection (c), to carry out subtitle B and sections 3302(a), 3303, 3304, 3305(a)(2), 3305(c), 3341, and 3342.

“(2) LIMITATION ON MANDATORY FUNDING.—This title does not establish any Federal obligation for payment of amounts in excess of the amounts available from the Fund for such purpose.

“(3) LIMITATION ON AUTHORIZATION FOR FURTHER APPROPRIATIONS.—This title does not establish any authorization for appropriation of amounts in excess of the amounts available from the Fund under paragraph (1).

“(c) LIMITS ON SPENDING FOR CERTAIN PURPOSES.—Of the amounts made available under subsection (b)(1), not more than each of the following amounts may be available for each of the following purposes:

“(1) SURVIVING IMMEDIATE FAMILY MEMBERS OF FIREFIGHTERS.—For the purposes of carrying

out subtitle B with respect to WTC responders described in section 3311(a)(2)(A)(ii)—

“(A) for the last calendar quarter of fiscal year 2011, \$100,000;

“(B) for fiscal year 2012, \$400,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(2) WTC HEALTH PROGRAM SCIENTIFIC/TECHNICAL ADVISORY COMMITTEE.—For the purpose of carrying out section 3302(a)—

“(A) for the last calendar quarter of fiscal year 2011, \$25,000;

“(B) for fiscal year 2012, \$100,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(3) EDUCATION AND OUTREACH.—For the purpose of carrying out section 3303—

“(A) for the last calendar quarter of fiscal year 2011, \$500,000;

“(B) for fiscal year 2012, \$2,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(4) UNIFORM DATA COLLECTION.—For the purpose of carrying out section 3304 and for reimbursing Data Centers (as defined in section 3305(b)(2)) for the costs incurred by such Centers in carrying out activities under contracts entered into under section 3305(a)(2)—

“(A) for the last calendar quarter of fiscal year 2011, \$2,500,000;

“(B) for fiscal year 2012, \$10,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(5) RESEARCH REGARDING CERTAIN HEALTH CONDITIONS.—For the purpose of carrying out section 3341—

“(A) for the last calendar quarter of fiscal year 2011, \$3,750,000;

“(B) for fiscal year 2012, \$15,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.

“(6) WORLD TRADE CENTER HEALTH REGISTRY.—For the purpose of carrying out section 3342—

“(A) for the last calendar quarter of fiscal year 2011, \$1,750,000;

“(B) for fiscal year 2012, \$7,000,000; and

“(C) for each subsequent fiscal year, the amount specified under this paragraph for the previous fiscal year increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) as estimated by the Secretary for the 12-month period ending with March of the previous year.”.

TITLE II—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

SEC. 201. DEFINITIONS.

Section 402 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in paragraph (6) by inserting “, or debris removal, including under the World Trade Center Health Program established under section 3001 of the Public Health Service Act, and payments made pursuant to the settlement of a civil action described in section 405(c)(3)(C)(iii)” after “September 11, 2001”;

(2) by inserting after paragraph (6) the following new paragraphs and redesignating subsequent paragraphs accordingly:

“(7) CONTRACTOR AND SUBCONTRACTOR.—The term ‘contractor and subcontractor’ means any contractor or subcontractor (at any tier of a subcontracting relationship), including any general contractor, construction manager, prime contractor, consultant, or any parent, subsidiary, associated or allied company, affiliated company, corporation, firm, organization, or joint venture thereof that participated in debris removal at any 9/11 crash site. Such term shall not include any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect.

“(8) DEBRIS REMOVAL.—The term ‘debris removal’ means rescue and recovery efforts, removal of debris, cleanup, remediation, and response during the immediate aftermath of the terrorist-related aircraft crashes of September 11, 2001, with respect to a 9/11 crash site.”;

(3) by inserting after paragraph (10), as so redesignated, the following new paragraph and redesignating the subsequent paragraphs accordingly:

“(11) IMMEDIATE AFTERMATH.—The term ‘immediate aftermath’ means any period beginning with the terrorist-related aircraft crashes of September 11, 2001, and ending on May 30, 2002.”;

and

(4) by adding at the end the following new paragraph:

“(14) 9/11 CRASH SITE.—The term ‘9/11 crash site’ means—

“(A) the World Trade Center site, Pentagon site, and Shanksville, Pennsylvania site;

“(B) the buildings or portions of buildings that were destroyed as a result of the terrorist-related aircraft crashes of September 11, 2001;

“(C) any area contiguous to a site of such crashes that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses (including the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured individuals); and

“(D) any area related to, or along, routes of debris removal, such as barges and Fresh Kills.”.

SEC. 202. EXTENDED AND EXPANDED ELIGIBILITY FOR COMPENSATION.

(a) INFORMATION ON LOSSES RESULTING FROM DEBRIS REMOVAL INCLUDED IN CONTENTS OF CLAIM FORM.—Section 405(a)(2)(B) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in clause (i), by inserting “, or debris removal during the immediate aftermath” after “September 11, 2001”;

(2) in clause (ii), by inserting “or debris removal during the immediate aftermath” after “crashes”;

(3) in clause (iii), by inserting “or debris removal during the immediate aftermath” after “crashes”.

(b) EXTENSION OF DEADLINE FOR CLAIMS UNDER SEPTEMBER 11TH VICTIM COMPENSATION

FUND OF 2001.—Section 405(a)(3) of such Act is amended to read as follows:

“(3) LIMITATION.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), no claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 407(a).

“(B) EXCEPTION.—A claim may be filed under paragraph (1), in accordance with subsection (c)(3)(A)(i), by an individual (or by a personal representative on behalf of a deceased individual) during the period beginning on the date on which the regulations are updated under section 407(b) and ending on the date that is 5 years after the date on which such regulations are updated.”.

(c) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—Section 405(c)(3) of such Act is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

“(A) REQUIREMENTS FOR FILING CLAIMS DURING EXTENDED FILING PERIOD.—

“(i) TIMING REQUIREMENTS FOR FILING CLAIMS.—An individual (or a personal representative on behalf of a deceased individual) may file a claim during the period described in subsection (a)(3)(B) as follows:

“(I) In the case that the Special Master determines the individual knew (or reasonably should have known) before the date specified in clause (iii) that the individual suffered a physical harm at a 9/11 crash site as a result of the terrorist-related aircraft crashes of September 11, 2001, or as a result of debris removal, and that the individual knew (or should have known) before such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the date that is 2 years after such specified date.

“(II) In the case that the Special Master determines the individual first knew (or reasonably should have known) on or after the date specified in clause (iii) that the individual suffered such a physical harm or that the individual first knew (or should have known) on or after such specified date that the individual was eligible to file a claim under this title, the individual may file a claim not later than the last day of the 2-year period beginning on the date the Special Master determines the individual first knew (or should have known) that the individual both suffered from such harm and was eligible to file a claim under this title.

“(ii) OTHER ELIGIBILITY REQUIREMENTS FOR FILING CLAIMS.—An individual may file a claim during the period described in subsection (a)(3)(B) only if—

“(I) the individual was treated by a medical professional for suffering from a physical harm described in clause (i)(I) within a reasonable time from the date of discovering such harm; and

“(II) the individual's physical harm is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

“(iii) DATE SPECIFIED.—The date specified in this clause is the date on which the regulations are updated under section 407(a).”.

(d) CLARIFYING APPLICABILITY TO ALL 9/11 CRASH SITES.—Section 405(c)(2)(A)(i) of such Act is amended by striking “or the site of the aircraft crash at Shanksville, Pennsylvania” and inserting “the site of the aircraft crash at Shanksville, Pennsylvania, or any other 9/11 crash site”.

(e) INCLUSION OF PHYSICAL HARM RESULTING FROM DEBRIS REMOVAL.—Section 405(c) of such

Act is amended in paragraph (2)(A)(ii), by inserting “or debris removal” after “air crash”.

(f) LIMITATIONS ON CIVIL ACTIONS.—

(1) APPLICATION TO DAMAGES RELATED TO DEBRIS REMOVAL.—Clause (i) of section 405(c)(3)(C) of such Act, as redesignated by subsection (c), is amended by inserting “, or for damages arising from or related to debris removal” after “September 11, 2001”.

(2) PENDING ACTIONS.—Clause (ii) of such section, as so redesignated, is amended to read as follows:

“(ii) PENDING ACTIONS.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title—

“(I) during the period described in subsection (a)(3)(A) unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407(a); and

“(II) during the period described in subsection (a)(3)(B) unless such individual withdraws from such action by the date that is 90 days after the date on which the regulations are updated under section 407(b).”.

(3) SETTLED ACTIONS.—Such section, as so redesignated, is further amended by adding at the end the following new clause:

“(iii) SETTLED ACTIONS.—In the case of an individual who settled a civil action described in clause (i), such individual may not submit a claim under this title unless such action was commenced after December 22, 2003, and a release of all claims in such action was tendered prior to the date on which the James Zadroga 9/11 Health and Compensation Act of 2010 was enacted.”.

SEC. 203. REQUIREMENT TO UPDATE REGULATIONS.

Section 407 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) by striking “Not later than” and inserting “(a) IN GENERAL.—Not later than”; and

(2) by adding at the end the following new subsection:

“(b) UPDATED REGULATIONS.—Not later than 180 days after the date of the enactment of the James Zadroga 9/11 Health and Compensation Act of 2010, the Special Master shall update the regulations promulgated under subsection (a) to the extent necessary to comply with the provisions of title II of such Act.”.

SEC. 204. LIMITED LIABILITY FOR CERTAIN CLAIMS.

Section 408(a) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended by adding at the end the following new paragraphs:

“(4) LIABILITY FOR CERTAIN CLAIMS.—Notwithstanding any other provision of law, liability for all claims and actions (including claims or actions that have been previously resolved, that are currently pending, and that may be filed) for compensatory damages, contribution or indemnity, or any other form or type of relief, arising from or related to debris removal, against the City of New York, any entity (including the Port Authority of New York and New Jersey) with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect) and any contractors and subcontractors, shall not be in an amount that exceeds the sum of the following, as may be applicable:

“(A) The amount of funds of the WTC Captive Insurance Company, including the cumulative interest.

“(B) The amount of all available insurance identified in schedule 2 of the WTC Captive Insurance Company insurance policy.

“(C) As it relates to the limitation of liability of the City of New York, the amount that is the

greater of the City of New York's insurance coverage or \$350,000,000. In determining the amount of the City's insurance coverage for purposes of the previous sentence, any amount described in subparagraphs (A) and (B) shall not be included.

“(D) As it relates to the limitation of liability of any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect), the amount of all available liability insurance coverage maintained by any such entity.

“(E) As it relates to the limitation of liability of any individual contractor or subcontractor, the amount of all available liability insurance coverage maintained by such contractor or subcontractor on September 11, 2001.

“(5) PRIORITY OF CLAIMS PAYMENTS.—Payments to plaintiffs who obtain a settlement or judgment with respect to a claim or action to which paragraph (4) applies, shall be paid solely from the following funds in the following order, as may be applicable:

“(A) The funds described in subparagraph (A) or (B) of paragraph (4).

“(B) If there are no funds available as described in subparagraph (A) or (B) of paragraph (4), the funds described in subparagraph (C) of such paragraph.

“(C) If there are no funds available as described in subparagraph (A), (B), or (C) of paragraph (4), the funds described in subparagraph (D) of such paragraph.

“(D) If there are no funds available as described in subparagraph (A), (B), (C), or (D) of paragraph (4), the funds described in subparagraph (E) of such paragraph.

“(6) DECLARATORY JUDGMENT ACTIONS AND DIRECT ACTION.—Any claimant to a claim or action to which paragraph (4) applies may, with respect to such claim or action, either file an action for a declaratory judgment for insurance coverage or bring a direct action against the insurance company involved, except that no such action for declaratory judgment or direct action may be commenced until after the funds available in subparagraph (A), (B), (C), and (D) of paragraph (5) have been exhausted consistent with the order described in such paragraph for payment.”.

SEC. 205. FUNDING; ATTORNEY FEES.

Section 406 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in subsection (a), by striking “Not later than” and inserting “Subject to the limitations under subsection (d), not later than”; and

(2) in subsection (b)—

(A) by inserting “in the amounts provided under subsection (d)(1)” after “appropriations Acts”; and

(B) by inserting “subject to the limitations under subsection (d)” before the period; and

(3) by adding at the end the following new subsections:

“(d) LIMITATION.—

“(1) IN GENERAL.—The total amount of Federal funds paid for compensation under this title, with respect to claims filed on or after the date on which the regulations are updated under section 407(b), shall not exceed \$2,775,000,000. Of such amounts, not to exceed \$875,000,000 shall be available to pay such claims during the 5-year period beginning on such date.

“(2) PRO-RATION AND PAYMENT OF REMAINING CLAIMS.—

“(A) IN GENERAL.—The Special Master shall ratably reduce the amount of compensation due claimants under this title in a manner to ensure, to the extent possible, that—

“(i) all claimants who, before application of the limitation under the second sentence of

paragraph (1), would have been determined to be entitled to a payment under this title during such 5-year period, receive a payment during such period; and

“(ii) the total amount of all such payments made during such 5-year period do not exceed the amount available under the second sentence of paragraph (1) to pay claims during such period.

“(B) PAYMENT OF REMAINDER OF CLAIM AMOUNTS.—In any case in which the amount of a claim is ratably reduced pursuant to subparagraph (A), on or after the first day after the 5-year period described in paragraph (1), but in no event later than 1 year after such 5-year period, the Special Master shall pay to the claimant the amount that is equal to the difference between—

“(i) the amount that the claimant would have been paid under this title during such period without regard to the limitation under the second sentence of paragraph (1) applicable to such period; and

“(ii) the amount the claimant was paid under this title during such period.

“(C) TERMINATION.—Upon completion of all payments pursuant to this subsection, the Victim's Compensation Fund shall be permanently closed.

“(e) ATTORNEY FEES.—

“(1) IN GENERAL.—Notwithstanding any contract, the representative of an individual may not charge, for services rendered in connection with the claim of an individual under this title, more than 10 percent of an award made under this title on such claim.

“(2) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of an individual who was charged a legal fee in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii), the representative of the individual may not charge any amount for compensation for services rendered in connection with a claim filed under this title.

“(B) EXCEPTION.—If the legal fee charged in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii) of an individual is less than 10 percent of the aggregate amount of compensation awarded to such individual through such settlement, the representative of such individual may charge an amount for compensation for services rendered to the extent that such amount charged is not more than—

“(i) 10 percent of such aggregate amount through the settlement, minus

“(ii) the total amount of all legal fees charged for services rendered in connection with such settlement.

“(3) DISCRETION TO LOWER FEE.—In the event that the special master finds that the fee limit set by paragraph (1) or (2) provides excessive compensation for services rendered in connection with such claim, the Special Master may, in the discretion of the Special Master, award as reasonable compensation for services rendered an amount lesser than that permitted for in paragraph (1).”

TITLE III—REVENUE RELATED PROVISIONS

SEC. 301. EXCISE TAX ON CERTAIN FOREIGN PROCUREMENT.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new chapter:

“CHAPTER 50—FOREIGN PROCUREMENT

“Sec. 5000C. Imposition of tax on certain foreign procurement.

“SEC. 5000C. IMPOSITION OF TAX ON CERTAIN FOREIGN PROCUREMENT.

“(a) IMPOSITION OF TAX.—There is hereby imposed on any foreign person that receives a

specified Federal procurement payment a tax equal to 2 percent of the amount of such specified Federal procurement payment.

“(b) SPECIFIED FEDERAL PROCUREMENT PAYMENT.—For purposes of this section, the term ‘specified Federal procurement payment’ means any payment made pursuant to a contract with the Government of the United States for—

“(1) the provision of goods, if such goods are manufactured or produced in any country which is not a party to an international procurement agreement with the United States, or

“(2) the provision of services, if such services are provided in any country which is not a party to an international procurement agreement with the United States.

“(c) FOREIGN PERSON.—For purposes of this section, the term ‘foreign person’ means any person other than a United States person.

“(d) ADMINISTRATIVE PROVISIONS.—

“(1) WITHHOLDING.—The amount deducted and withheld under chapter 3 shall be increased by the amount of tax imposed by this section on such payment.

“(2) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.”

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“CHAPTER 50—FOREIGN PROCUREMENT”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments received pursuant to contracts entered into on and after the date of the enactment of this Act.

(b) PROHIBITION ON REIMBURSEMENT OF FEES.—

(1) IN GENERAL.—The head of each executive agency shall take any and all measures necessary to ensure that no funds are disbursed to any foreign contractor in order to reimburse the tax imposed under section 5000C of the Internal Revenue Code of 1986.

(2) ANNUAL REVIEW.—The Administrator for Federal Procurement Policy shall annually review the contracting activities of each executive agency to monitor compliance with the requirements of paragraph (1).

(3) EXECUTIVE AGENCY.—For purposes of this subsection, the term “executive agency” has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(c) APPLICATION.—This section and the amendments made by this section shall be applied in a manner consistent with United States obligations under international agreements.

SEC. 302. RENEWAL OF FEES FOR VISA-DEPENDENT EMPLOYERS.

Subsections (a), (b), and (c) of section 402 of Public Law 111-230 are amended by striking “2014” each place that such appears and inserting “2015”.

TITLE IV—BUDGETARY EFFECTS

SEC. 401. COMPLIANCE WITH STATUTORY PAY-ASYOU-GO ACT OF 2010.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

MOTION TO CONCUR

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Pallone moves that the House concur in the Senate amendment to H.R. 847.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the motion shall be debatable for 30 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce.

The gentleman from New Jersey (Mr. PALLONE) and the gentleman from Texas (Mr. BURGESS) each will control 15 minutes.

The Chair recognizes the gentleman from New Jersey.

GENERAL LEAVE

Mr. PALLONE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PALLONE. Madam Speaker, I yield to myself such time as I may consume.

I rise in strong support of the Senate amendment to H.R. 847, the James Zadroga 9/11 Health and Compensation Act of 2010. Today, this body, for the third time, will vote on legislation to finally keep our promise and take care of the heroes of 9/11.

I would like to thank the bill's sponsors, Representatives CAROLYN MALONEY and JERRY NADLER, as well as my colleagues from New York on the committee, ELIOT ENGEL and ANTHONY WEINER, also, for their tireless work on behalf of this legislation.

Madam Speaker, this bill would establish the World Trade Center Health Program, a program to screen, monitor and treat eligible responders and survivors who are suffering from World Trade Center related diseases. It also reopens the 9/11 Victim Compensation Fund.

H.R. 847, as amended, costs \$4.2 billion over 10 years. Of that amount, \$1.5 billion will go to the health program, while \$2.7 billion will go to the VCF. Both programs are now limited to 5 years.

The amended bill before us today also changes how the two programs are paid for by a 2 percent fee on government procurement from foreign companies located in nongovernmental procurement, and a 1-year extension of H1-B and L-1 visa fees for outsourcing companies.

Madam Speaker, this bill has long been a huge priority for me and many of my colleagues in the House and the Senate. I urge my colleagues to pass the bill.

I reserve the balance of my time.

Mr. BURGESS. I yield myself such time as I may consume.

Madam Speaker, I appreciate the gentleman's efforts in this regard. I would like to take a few moments and clear up some of the

mischaracterizations that have occurred, unfortunately, around the debate of this bill as it has worked its way through both Houses.

There have been some who have claimed that my side, the Republicans, do not support providing treatment for 9/11 first responders, and that these first responders are currently going without treatment for the illnesses and injuries they suffered as a result of serving at the World Trade Center. Both of those claims are simply not true.

According to President Obama's administration's own Centers for Disease Control, the agency said, "We will continue to provide monitoring and treatment services for mental and physical health conditions related to World Trade Center exposures for both responders and for eligible non-responders. The World Trade Center program is critical in meeting the ongoing and long-term specialty needs of individuals that were exposed to dust, smoke, debris, and psychological trauma from the World Trade Center attacks."

As of September 30, 2009, the World Trade Center program had enrolled over 55,000 responders in its monitoring and treatment programs. This is in the CDC's budget justification for 2011.

At the Energy and Commerce Committee's markup of this legislation, Republicans offered an amendment that would authorize the program that is already providing treatment and monitoring benefits and authorized funding for the program at exactly the level that was requested by the President of the United States. That same amendment asked for real accountability to ensure that we knew how the tax dollars were being spent. Unfortunately, that amendment was defeated.

I am pleased that work in the Senate has yielded an amendment that will provide for increased accountability and increased transparency in how these funds are spent. H.R. 847 caps the number of people that can be enrolled in the program but it does not require those enrolled to verify their citizenship.

□ 1600

We offered an amendment that would require this program so that people in the country without benefit of Social Security numbers would not get benefits while Americans were being stuck on the waiting list. This amendment was defeated.

As with any government spending program, there should be limitations on who can participate. The government has limited resources, so the principal beneficiaries of the 9/11 health program should be the first responders. However, H.R. 847 provides more than just benefits to first responders; it also provides benefits to anyone who lives and works in New York City. Under this bill, even Wall

Street millionaires could receive benefits with no cost to them, all done at the taxpayers' expense.

In fact, in the Committee on Energy and Commerce I offered an amendment that was rejected by the committee. I attempted to offer the amendment at Rules when this legislation was brought before the House before our adjournment in September, but I was thwarted in that. But it remains that we ought to ensure that Federal taxpayers would not have to pay for the health care of millionaires.

The bill passed by the Senate is an improvement over what passed in the House. There could have been further improvements to ensure our limited resources are being spent in the most efficient manner possible. But all in all, the improvements that have been accomplished over the last 24 hours are all to the good. This is an important piece of legislation. This is something that this Congress or some Congress should have passed in the last 8 years. And it is unconscionable that we are here today at the last hour of the 111th Congress with still this work pending. It's important to get this work done.

I reserve the balance of my time.

Mr. PALLONE. Madam Speaker, I yield 1 minute to the chairman of the Energy and Commerce Committee, the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. I rise in strong support, Madam Speaker, of H.R. 847, the James Zadroga 9/11 Health and Compensation Act of 2010. I want to thank the chairman of the Health Subcommittee, FRANK PALLONE, as well as my colleagues from New York on the committee, ELIOT ENGEL and ANTHONY WEINER, for their relentless work on behalf of this legislation, as well as Representatives MALONEY and NADLER, and the whole New York City delegation, who were tireless in their support of this bill.

This is an important piece of legislation that will attempt to provide the services to first responders and community residents who developed illness as a result of their exposure to the massive toxic dust cloud that blanketed Lower Manhattan after the terrorist attack on September 11, 2001. I strongly urge all Members to support this legislation.

H.R. 847, was reported by the Energy and Commerce Committee with bipartisan support on May 25 by a vote of 33–12.

The House passed H.R. 847 on September 29; the bill received bipartisan support from 268 Members.

The version of before us this afternoon is one that has been amended by the Senate in order to obtain bipartisan support in that Chamber.

Like the House-passed version, the Senate version is fully paid for and will not increase the deficit. It fully complies with all pay-go rules.

The World Trade Center Health Program currently provides services to first responders

and community residents who developed illnesses as a result of their exposure to the massive toxic dust cloud that blanketed lower Manhattan after the terrorist attacks on September 11, 2001.

The current program is not authorized. The House-passed bill authorized the Health Program through FY 2019 at a federal funding level of \$3.2 billion. The federal government will pay 90 percent of the cost, while New York City will pay 10 percent.

The Senate amendment reduces the authorization period to FY 2015 and federal funding to \$1.5 billion. New York City would still be required to pay 10 percent of the costs.

The Senate amendment makes a number of other changes in the Health Program.

It prohibits the Secretary of HHS from using NIOSH to administer payments to Centers of Excellence and other participating providers.

It clarifies that Centers of Excellence delivering services to responders and community residents will have to provide claims-level data to the Health Program Administrator.

It clarifies the Centers of Excellence should be paid for the costs of carrying out the program that are not otherwise reimbursable, such as outreach, data collection, social services, and development of treatment protocols.

It authorizes the Program Administrator to contract with the VA to provide services to responders enrolled in the national program through its facilities, but only if the VA chooses to do so.

Finally, the Senate amendment directs the GAO to conduct studies on various aspects of the Health Program and to report to the Committees of jurisdiction prior to July 1, 2011. That is the date on which Secretary of HHS and the WTC Administrator are responsible for implementing the Health Program. In the likely event that the GAO is unable to complete all of its work by that date, the Program will nonetheless begin furnishing services to responders and survivors.

The Administration supports this bill for the same reason that all of us should: it is the right thing to do.

The first responders were there for us on 9–11. We should be there for them today.

I urge my colleagues to pass this bill and send it on to the President for signature.

Mr. BURGESS. Madam Speaker, I am pleased to yield 1 minute to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE. I thank the gentleman from Texas for yielding.

Madam Speaker, long before New York City's first responders rushed to save their fellow Americans in the fire and the horror of 9/11, they came to help the people of Oklahoma City deal with the death and destruction stemming from the terrorist bombing of the Alfred P. Murrah Federal Building on April 19, 1995. The people of Oklahoma have never forgotten the help that they received in their most difficult days from the first responders of New York City and their fellow first responders from all across North America.

When 9/11 occurred, Oklahoma's first responders were proud to join their fellow Americans and rush to the aid of a stricken New York City. Now it's our

turn in this body to help all of those who answered the call of duty on 9/11. They risked themselves to save others and to help one of America's great cities deal with and recover from the devastation of the greatest terrorist attack in our history. It's time, as our greatest President said in an earlier era and in another context, "to bind up the Nation's wounds, to care for him who shall have borne the battle, and for his widow, and for his orphan."

Madam Speaker, I urge the passage of H.R. 847, as amended.

Mr. PALLONE. Madam Speaker, I yield 1 minute to one of the sponsors of the bill who has worked tirelessly on this, the gentleman from New York (Mr. NADLER).

Mr. NADLER of New York. Madam Speaker, let me first thank everyone who has worked on this bill and say the Senate passed this bill a little while ago unanimously. The most conservative Senators, Senators ENZI and COBURN, supported it, and I hope we can do the same.

Nine years ago, Madam Speaker, the heroes of 9/11 ran into the buildings, they rushed into the burning buildings, and they worked in a toxic environment for weeks and months. They have suffered for that. They have suffered for their service to this country by getting sick, by dying, by being sick. It is now up to us to see that the United States honors its heroes, that the United States does not turn its back on those who served us.

When we pass this bill, we will answer the question of whether the United States honors its heroes, and whether the United States honors itself. Let us pass this bill, let us redeem the honor of the United States after all these years, let us show the world that the United States looks after its own. That's what this bill is. I urge everyone to support it.

Mr. BURGESS. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BRADY), a member of the Ways and Means Committee.

Mr. BRADY of Texas. Madam Speaker, I too support the goal of ensuring that the brave men and women that acted as first responders at the World Trade Center attack are fairly treated and compensated. But I rise today to oppose the troubling provisions the majority has attached to pay for this bill.

This measure would impose a 2 percent tax on goods and services that are produced or provided in certain foreign countries from firms that are based in foreign countries that are not parties to certain treaties or international agreements. It sounds complicated. But some analysis suggests that a significant majority of this tax, at least two-thirds, if not more, would be raised by taxing contracts that support American troops stationed in the Afghan and Iraqi theaters. Even more incred-

ible, this tax could apply to American companies that are providing goods and services to our troops through local subsidiaries. Levying additional taxes on companies that support American troops is both illogical and dangerous.

In addition, there is no reason that other countries wouldn't copy this tax and impose it on our U.S. companies that are competing to sell goods and services overseas. This would hurt our U.S. economic recovery efforts and efforts to boost U.S. sales abroad and create American jobs here at home. Moreover, I have real concerns that this excise tax could be subject to legal challenge at the World Trade Organization and may be inconsistent with our G-20 commitments to avoid imposing new protectionist measures.

Madam Speaker, I urge a "no" vote because of these provisions. Strangely, the proposed procurement tax doesn't include any of the exceptions included in our standard Buy America legislation, such as non-availability, unreasonable cost and inconsistency with the public interest. As a result, the bill would mandate a tax on the procurement of goods from a foreign producer even when U.S. goods aren't available.

In addition to this new tax, the bill would extend a tax on companies that have more than half their employees on certain specialized visas to work here in the United States. This tax raises independent concerns under our international obligations.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BURGESS. I yield the gentleman an additional 30 seconds.

Mr. BRADY of Texas. Finally, I would like to have printed in the RECORD a letter from 10 key business associations, including the Emergency Committee for American Trade and the U.S. Chamber of Commerce, that also oppose the use of these pay-for provisions.

DECEMBER 21, 2010.

HON. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

HON. JOHN BOEHNER,
Republican Leader, House of Representatives,
Washington, DC.

HON. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.

HON. MITCH MCCONNELL,
Republican Leader, U.S. Senate,
Washington, DC.

DEAR SPEAKER PELOSI AND LEADERS REID, BOEHNER, AND MCCONNELL: We are writing to urge you to remove from the proposed amended version of H.R. 847 the Title III revenue raisers related to international government procurement. First, its purported revenue raising benefits are highly questionable. Second, there is a high risk that it will undermine the international competitiveness of American companies and American workers.

Title III would impose an excise tax on companies that are from foreign countries which are not members of the World Trade

Organization (WTO) Government Procurement Agreement (GPA) or similar procurement arrangements ostensibly for the purpose of helping finance health benefits for the valiant 9/11 first responders. In reality, the U.S. federal government is already prohibited from procuring from such countries, except under very limited conditions—when the good or service is not available in the United States or would cost an unreasonable amount or if the procurement is required for the national interest. Moreover, the amount of such procurement is generally regarded as relatively small compared to U.S. sales into the procurement markets of these countries.

The procurement portions of this legislation would undermine U.S. efforts to succeed in the international economy by both inviting non-GPA countries to take reciprocal action against U.S. companies seeking to participate in their procurement markets and by opening the United States to retaliation for violating its WTO obligations. While U.S. companies certainly face significant and discriminatory procurement barriers in China, India, Brazil and other countries that are not part of the WTO procurement agreement, U.S. companies are still selling more into those government procurement markets than the United States is purchasing from those countries. As a result, there would more than likely be net loss for U.S. exports, U.S. companies and U.S. jobs if this provision became a model for foreign governments.

Furthermore, the imposition of this discriminatory tax on foreign companies may also violate U.S. international commitments if implemented. If found to be contrary to U.S. WTO commitments, other countries could end up being authorized to retaliate directly against U.S. exports, further undermining U.S. opportunities overseas.

For all of these reasons, we strongly urge you to remove the Title III procurement provisions from this legislation.

Respectfully,

American Association of Exporters and Importers (AAEI);
Association of Equipment Manufacturers (AEM);
Business Roundtable;
Emergency Committee for American Trade (ECAT);
National Foreign Trade Council (NFTC);
National Retail Federation (NRF);
Organization for International Investment (OFII);
TechAmerica;
United States Council for International Business (USCIB);
U.S. Chamber of Commerce;
U.S.-China Business Council.

Mr. PALLONE. Madam Speaker, I yield 1 minute to the Speaker of the House, who has done so much to make this bill possible.

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding. I rise to briefly congratulate and thank the Members of the New York delegation and others who helped bring this legislation to the floor in a strong bipartisan way: Congresswoman MALONEY, Congressman NADLER, Congressman KING. Thank you. We thank you for giving us the opportunity to say "thank you" in a real way to our first responders, to our firefighters, to those who rushed in without question to rescue their fellow Americans, and people from all over the country as a matter of fact.

There is an exhilaration, Madam Speaker, that you see in the Chamber, because right now we know that any discussion we have ever had about 9/11 has been a discussion where we have entered holy and sacred ground, where people lost their lives. Fewer did because others were willing to risk theirs. For over 9 years we have been trying to redress the grievance that we have of people not having the health benefits and the recognition of their service, their sacrifice, and their courage.

Today Mr. KING, Congresswoman MALONEY, Congressman NADLER—I should say Congressman KING, Chairman KING to be—and the leadership of this House and of the United States Senate, and I thank Senator GILLIBRAND and Senator SCHUMER as well as Senator REID and the Republican leadership in the Senate for affording us this opportunity to extend our patriotic appreciation to those whose love of our country, whose care and commitment to their fellow person, who unquestionably made sacrifices, and now, almost 9½ years later, more than 9 years later we finally are doing the right thing for them.

□ 1610

Every day our firefighters, our police officers, our first responders leave their homes, willing to risk their lives. Little did they know on that day many of them would not return home. How can we ever repay their sacrifice and their courage?

So, today we do so, certainly not enough, but as a token of our appreciation for what they have done to strengthen our country.

Again, I thank all of those who made this important legislation possible.

Mr. BURGESS. May I inquire as to how much time remains?

The SPEAKER pro tempore. The gentleman from Texas has 7½ minutes remaining, and the gentleman from New Jersey has 10½ minutes remaining.

Mr. BURGESS. I yield myself 30 seconds.

Madam Speaker, Congressman BRADY articulated very well some of the concerns he has with the pay-for that is in this bill, raising new revenues through tariffs, and the possibility of retaliatory efforts by other countries.

I would just point out, in section 4002 of the recently passed health care law last March, there is a section that calls for a Public Health and Wellness Trust Fund. The Secretary of Health and Human Services has \$15 billion in a slush fund in ObamaCare. This money could have been easily used to pay for this legislation. It could have been done last April, and we wouldn't be here at the last minute trying to scrounge for capital to pay these funds.

Mr. PALLONE. Madam Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY), who is

the prime sponsor of the legislation and has worked so hard on this bill.

Mrs. MALONEY. I thank all of my colleagues, especially the New York delegation and the Speaker and Leader HOYER.

Today, Congress repays a long overdue debt and answers the emergency calls of our ailing 9/11 first responders and survivors. This bill will save lives. It has taken too long, but help finally is here for the thousands of Americans who are suffering because of 9/11.

Our bill will give support and hope to more than 36,000 Americans who are ailing because of the attacks on our Nation. It also says to future generations that if you are harmed in the service of our country, you will be taken care of.

I couldn't be more proud of everyone who fought like hell to pass this bill, our Senators GILLIBRAND and SCHUMER, my good friends and coauthors NADLER and KING, the 9/11 responders and survivors who are here with us, and the thousands of their brothers and sisters who could not be. John Feal, you have been a warrior for this bill. Thank you.

Just after the attacks, this body came together. With this bill, we put in law that we will never forget and do whatever it takes.

Madam Speaker, today, I proudly rise to support the James Zadroga 9/11 Health and Compensation Act. Passing this bill and getting it to the President's desk will truly be a Christmas miracle.

When JERRY NADLER and I first introduced a 9/11 bill, we never would have thought it could take 7 years or that it could be the last legislative item out the door. It should never have taken so long.

A TV commentator recently made a good point when he said that Pearl Harbor was not just a Hawaii issue and neither should caring for the victims of 9/11 be a New York issue. The Twin Towers were attacked as a symbol of our Nation and the sick and injured are not just from New York. After the attacks, at least 10,000 brave men and women came from all 50 states and 428 of 435 Congressional districts.

I thank my colleagues from across the country for staying to complete the last remaining gap in America's response to 9/11. Our bill will give support and hope to the more than 36,000 Americans who are ailing because of the attacks on our Nation, and it also says to future generations that if you are harmed in the service of America, you will be taken care of.

I especially thank my good friends and coauthors JERRY NADLER and PETER KING, the entire New York Delegation, and Speaker PELOSI and Majority Leader HOYER, who all helped pass this bill in September and are working on it today. I thank Senators GILLIBRAND and SCHUMER for tireless efforts to get this bill done.

This long-overdue legislation will provide health care and financial compensation to the responders and survivors who are sick from exposure to toxins at Ground Zero. The cost of the bill has been cut almost in half to \$4.3

billion from \$7.4 billion. The Victim Compensation Fund will be funded for 5 years at \$2.8 billion and the health programs will be fully funded for 5 years at \$1.5 billion. I thank Members of the other body for coming to this bipartisan compromise.

The offset has been entirely replaced with two other offsets and in addition to fully funding this bill, the procurement payfor will put an estimated \$450 million in extra revenue toward the deficit.

We are reminded this holiday season of the importance of giving. But today I ask my colleagues to remember all that the heroes of 9/11 have already given. These individuals rushed to the site of immeasurable danger and first gave their time, and later are giving up their health, and in some cases their lives.

Nine long years have passed since the attacks. It was never the intention of the bill's authors to make this a partisan issue and I regret that it has become wrapped in party politics.

I hope that my colleagues on both sides of the aisle can come together, just as we stood together on the steps of the Capitol the evening of September 11, 2001, to show our gratitude to the responders and survivors who have given so much to our country.

There could be no better gift to America this holiday season than helping save the lives of those who came to the aid of our Nation in a time of war.

Mr. BURGESS. I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield to the gentleman from New York (Mr. ENGEL) for the purpose of a unanimous consent request.

Mr. ENGEL. I rise in strong support of this bill. This is a fitting way to end the 111th Congress. This is the proudest moment I have had in Congress in 22 years. I believe that our hard work paid off, all of us together on the Health Subcommittee of the Energy and Commerce Committee.

I urge my colleagues to support the bill.

Madam Speaker, I rise in strong support of the James Zadroga 9/11 Health Compensation Act. As a member of the Energy and Commerce Committee I was proud to help shepherd this bill through the committee process and am proud to speak in support of this legislation yet again on the House floor this year.

Two days ago, I joined New York City Mayor, Michael Bloomberg, and other members of the New York delegation, and first responders to urge swift passage of this bill in the Senate.

Madam Speaker, it is shameful that we are approaching the 10-year anniversary of 9/11 next year and this bill still has not reached the President for his signature.

Now I am here again today to urge my colleagues to vote in favor of the package that we are considering today, which rectifies some of the concerns that my colleagues on the other side of the aisle have expressed.

This is not a partisan issue, and the package that we consider today reflects that.

People from all over the country joined to help after the attack without concern for their health or wellbeing. Now it is their country's

time to step-up in their time of need. Victims of 9/11 continue to suffer from crippling physical ailments. They are dying and have been ignored for almost a decade. The House noticed, once already this year. I am hopeful that we can send a bill to the Senate that will pass.

I look forward to casting my vote in support of the James Zadroga 9/11 Health Compensation Act and sending it back to the Senate.

I am proud of the role that we played on the Health Subcommittee and the Energy and Commerce with our hearings and markups in moving this bill through. This is not a New York issue; this is an American Issue. First responders came from all parts of the country. The Federal Government falsely told everyone it was safe to return and it wasn't.

Today we say thank you to our first responders—it is a fitting way to end the 111th Congress.

Mr. BURGESS. I continue to reserve the balance of my time.

Mr. PALLONE. I yield to the gentleman from New York (Mr. CROWLEY) for the purpose of a unanimous consent request.

Mr. CROWLEY. Madam Speaker, on September 11, my cousin, John Moran, was at Tower Two of the World Trade Center. He said, "Let me off here. I want to try and make a difference."

We have made a difference today in the lives of the people we're saving.

Today, I rise as the cousin of Battalion Chief John Moran.

My cousin, along with almost 3,000 others, died on September 11, 2001.

His last known words were to the driver of the New York City Fire Department vehicle. As he was dropped off at World Trade Center Tower 2, John said, "Let me off here. I am going to try to make a difference."

Nothing can replace the loss of my cousin or the thousands of others who were killed that day. Nothing can replace the loss of those who have perished since.

But, today we can make proud his memory and the memory of all those who served on September 11th and the days following.

Enactment of the James Zadroga 9/11 Health and Compensation Act fulfills a commitment to those who served our Nation honorably, tirelessly and without pause.

Today, I am proud to stand before my colleagues as the cousin of Battalion Chief John Moran, and I am proud, in the words of John, to 'make a difference' for the many heroes who have suffered long enough because of their service to our great country.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. A Member asking to insert remarks may include a simple declaration of sentiment toward the question under debate but should not embellish the request with extended oratory.

Mr. BURGESS. I continue to reserve the balance of my time.

Mr. PALLONE. I yield to the gentlewoman from New York (Ms. SLAUGHTER) for the purpose of a unanimous consent request.

Ms. SLAUGHTER. Madam Speaker, I rise in strong support of this bill. A lot of us are going to sleep a lot better now knowing that this bill has been passed.

Mr. BURGESS. I continue to reserve the balance of my time.

Mr. PALLONE. Madam Speaker, I yield to the gentleman from New York (Mr. RANGEL) for the purpose of a unanimous consent request.

Mr. RANGEL. All of us from the City of New York and around the Nation are so proud to be a Member of this body.

Madam Speaker, I rise today, nine years after the tragic events of September 11, to recognize the passage of a bill that will allow the first responders who rushed to the scene that day to now be able to get the health care resources they need.

Today, both the U.S. House of Representatives and the Senate approved an amended version, the James Zadroga 9/11 Health and Compensation Act that would provide medical treatment for the ailing first responders and recovery workers who were exposed to toxic dust following the collapse of the Twin Towers in New York City on September 11, 2001.

This victory is for what is right; a long overdue thank you to those who rushed in to help after what was one of our nation's biggest tragedies. After nine long years, these unsung heroes and their families no longer have to worry about how they are going to get the care and resources they so desperately need.

The Zadroga bill originally passed the House in September, but had been held up in the Senate due to various partisan concerns. It now goes to President Barack Obama, who is expected to sign the bill into law before the end of the holiday season.

This should have never been about the money, but about what we should do to honor those who thought of their country first and not themselves. They answered the call when their country needed them and we are all a better nation for it.

Thanks to the hard work of so many people—from legislators, like our Mayor Michael Bloomberg, the New York Congressional Delegation and House Leadership, to the NYS AFL-CIO President Dennis Hughes, the 32nd Fire Commissioner Salvatore Cassano and the countless union officials and 9/11 families that traveled to Washington to lobby on the bill's behalf—these patriotic Americans can spend the holiday seasons with some peace of mind.

What the law would do: Under an agreement worked out by New York Senators CHARLES SCHUMER and KRISTEN GILLIBRAND, the James Zadroga 9/11 Health and Compensation Act would: provide a total of \$4.3 billion in funding for the health and compensation titles of the bill; cap federal funding for the health program over five years at \$1.5 billion (New York City will contribute 10% of the cost). Any funds not spent in the first five years may be carried over and expended in the sixth year of the program; reopen the Victim Compensation Fund (VCF) for five years to file claims, with payments to be made over six years. Fund the VCF at \$2.8 billion for six years, with \$8 billion available for payments in the first five years and \$2.0 billion available for payment in year six. Claims will be paid in 2 installments—one payment in the first five years, and a second payment in the sixth year of the program; the pay for the House-passed version of the bill has been replaced by a 2 percent fee on government procurement from

foreign companies located in non-GPA countries and a one-year extension of H-B 1 and L-1 Visa fees for outsourcing companies. These are estimated by CBO to collect \$4.59 billion over the 10-year scoring period for the bill.

Others changes made in the bill to address Republican concerns: requiring that the Centers of Excellence report claims data to HHS so that costs and utilization of services can be fully monitored; specifying the non-treatment services furnished by Centers of Excellence to be funded under the health program (e.g., outreach, social services, data collection, and development of treatment protocols); authorizing the World Trade Center Program Administrator to designate the Veteran's Administration as a provider for WTC health services; directing the Special Master to develop rules to implement the VCF within 180 days of passage of the legislation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will repeat that a Member asking to insert remarks may include a simple declaration of sentiment toward the question under debate but should not embellish the request with extended oratory.

Mr. BURGESS. I continue to reserve the balance of my time.

Mr. PALLONE. I yield to the gentleman from New York (Mr. MCMAHON) for the purpose of a unanimous consent request.

Mr. MCMAHON. Madam Speaker, I rise in support of this bill on behalf of the people of Staten Island and Brooklyn, New York, all of them, and in particular Trish and Marty Fullam.

The SPEAKER pro tempore. The gentleman from New Jersey will be charged with the time consumed.

Mr. BURGESS. I continue to reserve the balance of my time.

Mr. PALLONE. I yield to the gentleman from New York (Mr. ACKERMAN) for the purpose of a unanimous consent request.

Mr. ACKERMAN. Madam Speaker, I rise yet again in the strongest possible support of the 9/11 Health and Compensation Act, H.R. 847.

Today, we must show the American people that their representatives can put away their differences and work together to pass this bill. Over the past few weeks, this clearly was not the case. Some Members of Congress have played political games with this legislation, delaying its passage for dubious reasons and causing the measure to be watered down. The sick and injured don't care about offsets and they don't care whether this is a \$6 billion bill or a \$7 billion bill. They just care about getting the medical care they need, the medical care they rightly deserve.

So Madam Speaker, we are here for the third and I hope final time on the floor of the House to consider doing the decent thing: helping the living victims of 9/11 who continue to suffer the terrible effects of that day. The Federal Government has not stepped up enough to help the responders, volunteers, workers and residents that went to Ground Zero during and after the horrific 9/11 attack.

This Congress has not acted to help these victims on a permanent basis—we have the opportunity to do that today. Tragically, some of the very people that we want to help with this legislation have already died. Thousands of Americans who responded need medical treatment now. Thousands more will need treatment in the future.

So, Madam Speaker, I urge all my colleagues to support the 9/11 Health and Compensation Act so that all the victims of 9/11 will receive the medical care and help they need and deserve. Let's pass this bill.

Mr. BURGESS. I continue to reserve the balance of my time.

Mr. PALLONE. Madam Speaker, I yield to the gentlewoman from California (Ms. ESHOO) for the purpose of a unanimous consent request.

Ms. ESHOO. Madam Speaker, I urge all of my colleagues to vote for this. How proud I am to have voted as a Californian for the Americans that went and took care and did their job.

The SPEAKER pro tempore. The gentleman will be charged with the time.

Mr. BURGESS. I continue to reserve the balance of my time.

Mr. PALLONE. I yield to the gentleman from Georgia (Mr. SCOTT) for the purpose of a unanimous consent request.

Mr. SCOTT of Georgia. Madam Speaker, I rise in support of this bill as a big thank you from a very, very grateful Nation.

The SPEAKER pro tempore. The gentleman from New Jersey will be charged.

Mr. BURGESS. I continue to reserve the balance of my time.

Mr. PALLONE. I yield to the gentlewoman from Texas (Ms. JACKSON LEE) for the purpose of a unanimous consent request.

Ms. JACKSON LEE of Texas. I thank the distinguished gentleman, and I rise to support the Senate amendment to H.R. 847, to be able to thank CAROLYN MALONEY for the enormous work and to also cite those who I saw dying that they might live.

Madam Speaker I rise today in strong support of H.R. 847, the "James Zadroga 9/11 Health and Compensation Act." This bill has been a long time coming, and I am glad that it is finally here for us to provide medical monitoring and treatment benefits to eligible emergency responders and recovery and cleanup workers who responded to the September 11, 2001, terrorist attacks. This legislation also allows for initial health evaluation, monitoring, and treatment benefits to residents and other building occupants and area workers in New York City who were directly impacted and adversely affected by the 9/11 terrorist attacks.

I have met firsthand many of these first responders and workers, and I know the patriotic sacrifices they have made for their fellow Americans. These brave, selfless individuals who put aside their own needs and fears to come to the aid of their fellow Americans put their lives at risk. They ventured into the wreckage and dust of the World Trade Center, not worrying about their own well being, but

rather, hoping that they could save the lives of strangers. As a result of their fearless acts, many of these emergency workers and first responders were exposed to airborne toxins and other hazards. Providing medical services, including clinical examinations, long-term health monitoring, mental health care and necessary prescription drug coverage, is the least we can do to repay them for their efforts.

The James Zadroga 9/11 Health and Compensation Act will provide both initial and follow-up medical services for World Trade Center responders and workers whose physical and mental health were impacted by the 9/11 attacks. H.R. 847 will also establish an outreach program to potentially eligible individuals.

September 11, 2001, is a day that is indelibly etched in the psyche of every American and most of the world. Much like the unprovoked attack on Pearl Harbor on December 7, 1941, September 11 is a day that will live in infamy. And as much as Pearl Harbor changed the course of world history by precipitating the global struggle between totalitarian fascism and representative democracy, the transformative impact of September 11 in the course of American and human history is indelible. September 11 was not only the beginning of the Global War on Terror, but moreover, it was the day of innocence lost for a new generation of Americans.

Just like my fellow Americans, I remember September 11 as vividly as if it was yesterday. In my mind's eye, I can still remember being mesmerized by the television as the two airliners crashed into the Twin Towers of the World Trade Center, and I remember the sense of terror we experienced when we realized that this was no accident, that we had been attacked, and that the world as we know it had changed forever. The moment in which the Twin Towers collapsed and the nearly 3,000 innocent Americans died haunts me until this day.

At this moment, I decided that the protection of our homeland would be at the forefront of my legislative agenda. I knew that all of our collective efforts as Americans would all be in vain if we did not achieve our most important priority: the security of our nation. Accordingly, I became then and continue to this day to be an active and engaged Member of the Committee on Homeland Security who considers our national security paramount.

Our nation's collective response to the tragedy of September 11 exemplified what has been true of the American people since the inception of our Republic—in times of crisis, we come together and always persevere. Despite the depths of our anguish on the preceding day, on September 12, the American people demonstrated their compassion and solidarity for one another as we began the process of response, recovery, and rebuilding. We transcended our differences and came together to honor the sacrifices and losses sustained by the countless victims of September 11. Let us honor those who served and sacrificed by passing H.R. 847.

Madam Speaker, as I stand here today, my heart still grieves for those who perished on flights United Airlines 93, American Airlines 77, American Airlines 11, and United Airlines 175. When the sun rose on the morning of

September 11, none of us knew that it would end in an inferno in the magnificent World Trade Center Towers in New York City, the Pentagon in Washington, DC, and in the grassy fields of Shanksville, Pennsylvania. How I wish we could have hugged and kissed and held each of the victims one last time.

I stand here remembering those who still suffer, whose hearts still ache over the loss of so many innocent and interrupted lives. My prayer is that for those who lost a father, a mother, a husband, a wife, a child, or a friend will in the days and years ahead take comfort in the certain knowledge that they have gone on to claim the greatest prize, a place in the Lord's loving arms. And down here on the ground, their memory will never die so long as any of the many of us who loved them lives.

Again, I would like to reiterate my strong support for H.R. 847, the James Zadroga 9/11 Health and Compensation Act, for it is important that we take care of those who take care of us in our time of need.

The SPEAKER pro tempore. The gentleman from New Jersey will be charged.

Mr. BURGESS. Madam Speaker, I yield 3 minutes to the gentleman from New York (Mr. KING).

Mr. KING of New York. I thank the gentleman for yielding. I will keep my remarks very brief.

I thank the Congress of the United States for what it is going to do today. Especially I want to thank CAROLYN MALONEY and JERRY NADLER for the tremendous work they have done on this bill over the years from the very start. I want to thank Congressman Vito Fossella, who was also an original cosponsor of this. I want to thank the Speaker of the House, Ms. PELOSI, for doing so much to bring this bill forward, and also the Republican leader, who this summer managed to have this bill come up in a way that was not going to be disruptive at all.

□ 1620

I want to thank all the members of the New York delegation. Most importantly, I want to thank the firefighters, the police officers, the construction workers, and all of those who came forward to answer the Nation's call on September 11. This is a great victory for the American people. It's a great victory for the Congress of the United States. And it sends a signal that we stand by those who come to our Nation's defense in time of trouble and, indeed, in time of war, because this was the first battle of the great war of the 21st century.

Mr. PALLONE. I have no further speakers, and I reserve the balance of my time.

Mr. BURGESS. Madam Speaker, I yield myself the balance of my time.

This is an important bill. It's something that should have been done a long time ago. I credit a former New York fireman, Richard Lasky, who is now my fire chief in Lewisville, Texas,

for helping me understand the importance of this bill as it has gone forward. It has been difficult. In my opinion, there were better ways to do this bill, but it's before us today.

Mr. GENE GREEN of Texas. Madam Speaker, we need to ensure that the first responders and individuals who were in the vicinity of the World Trade Center have access to the specialized medical treatment they need and that means ensuring these programs are properly funded.

H.R. 847 accomplishes that goal and I am proud to be a cosponsor of this bill.

Mr. JOHNSON of Illinois. I find it appalling that a bill of this magnitude was amended in the Senate just hours before the House was asked to vote on it, with no Member having had the chance to review and deliberate on what we were voting on and enacting into law. When earlier versions of this bill were brought to the floor I had some major reservations and with no way to know if all of these were addressed I would not feel comfortable voting yes or no on this bill.

Mr. HOLT. Madam Speaker, I rise in support of the Senate amendment to the Zadroga 9/11 Health and Compensation Act of 2010. As a cosponsor of the House bill, I urge passage of this important bill.

Today, we have the opportunity to honor the rescue and recovery workers who served our nation after the devastating attacks at the World Trade Center on September 11, 2001 and, more important than empty honor, to provide for their care. My district suffered casualties that day and nine years later, the memory of that terrible day is still fresh in our minds.

Along with the victims of 9/11, there were thousands of rescue and recovery workers who came to the aid of our nation that day. These brave women and men rushed to Ground Zero to help the fallen and to participate in the clean-up effort without thinking about their health or safety. These workers were exposed to environmental hazards and have developed significant respiratory illnesses, chronic infections, and other medical conditions. Further, many first responders are only now being diagnosed with illnesses that are related to their exposure at Ground Zero.

This bill would create the World Trade Center Health Program (WTCHP) that would provide medical monitoring and treatment benefits to first responders and workers who were directly affected by the attacks. Additionally, the program would establish education and outreach programs and conduct research on physical and mental health conditions related to the 9/11 attacks. The WTCHP program would serve more than 75,000 survivors, recovery workers, and members of the affected communities.

Additionally, this bill provides long-term health care and compensation for thousands of responders and survivors. By passing this bill, we will be paying tribute to the sacrifice and courage of these women and men and we will be paying a debt. This bill will be paid for with a partnership with New York City and by reducing government procurement payments and the extension of fees for outsourcing companies.

Unfortunately, this bill is a weaker version of the bill that I cosponsored and that the House

passed in September. The bill caps federal funding for health programs over five years and allows first responders only five years to file claims. Unfortunately, some put politics over these brave first responders. Although this bill is a reduced version of the original bill, we must honor the rescue and recovery workers by providing them with the much needed health care. We cannot let our first responders down.

Mr. RYAN of Wisconsin. Madam Speaker, I was absent for legislative business and missed rollcall vote 663 on December 21, 2010, and rollcall vote 664 on December 22, 2010. Had I been present, I would have voted "yes" on H.R. 6547, the Protecting Students from Sexual and Violent Predators Act, and "no" on rollcall vote 664 (H.R. 847).

The vote I wish to discuss is the bill H.R. 847, the James Zadroga 9/11 Health and Compensation Act. Without a doubt, Republicans and Democrats can agree that both the victims of the attacks on September 11, 2001, and the first responders who bravely served following the attacks deserve to be fairly treated and compensated. However, this bill would create a new health care entitlement, the World Trade Center Health Program, while also extending eligibility for compensation under the September 11th Victim Compensation Fund of 2001. As a result, had I been present, I would have voted against passage of the bill.

Since the terrorist attacks occurred nearly nine years ago, I have supported legislation to ensure that these individuals are cared for and receive access to the services they deserve. However, rather than working with Republicans to craft a bill which truly addressed the shortcomings in care provided to those directly impacted by the September 11th terrorist attacks, the Majority instead rushed this bill to the floor in the waning hours of the 111th Congress, refusing to allow an open debate or consider amendments.

The result is a deeply flawed bill. H.R. 847 creates yet another mandatory spending program—increasing spending by \$4.2 billion dollars over 10 years—and paying for it by an excise tax on foreign manufacturers, an extension of Travel Promotion Act fees, and the extension of H1-B visa fees.

There is no doubt that we owe a debt of gratitude to those who came to the rescue of countless individuals following the attacks on September 11, 2001, but these provisions distort that noble goal. At a time when our budget deficit is \$1.3 trillion and our national debt stands at \$13.8 trillion, we must accurately account for those programs that take priority. I remain hopeful that as the 112th Congress convenes, my colleagues and I can work together to reform some of my concerns with this proposal and truly provide the services these first responders deserve.

Mr. MCCARTHY of New York. Madam Speaker, with the ninth anniversary of September 11th having passed, it is important to remember not only those who were lost that tragic day, but also the sense of purpose and togetherness that shined in the aftermath of, no doubt, one of the most difficult days in our nation's history. Heroic first responders deserve utmost recognition for selflessly digging through the ruins of Lower Manhattan in hope

of finding survivors. The James Zadroga 9/11 Health and Compensation Act, a bill that I am proud to be an original cosponsor of, provides just that by extending and improving protections and services to individuals directly impacted by the terrorist attacks on September 11, 2001.

Since our inception, we, as a nation, have grown stronger by protecting and honoring the sacrifices of our citizenry. This legislation is the embodiment of that mantra. As a New Yorker, not a day passes without thought of the horrific attacks of September 11th, this legislation will no doubt go a long way to provide first-responders with peace of mind.

During House floor consideration and passage of the James Zadroga 9/11 Health and Compensation Act on Wednesday, I was unavoidably absent from Washington due to a family health emergency. I have had the privilege of working closely with my New York colleagues in both the House and Senate on this legislation, and I am extraordinarily happy that the Congress was able to pass this bill before the adjournment of the 111th Congress.

Mr. VAN HOLLEN. Madam Speaker, I rise in support of legislation that would help thousands of first responders who were exposed to hazardous health conditions in the aftermath of the September 11th attacks.

Many first responders bravely answered the call of duty and rushed to the scene of the attacks. While they were helping out the victims, the responders unknowingly were exposed to long-term physical and mental health problems due to the residual dust, toxins, and chemicals from the attacks. Congress and the federal government have an obligation and a responsibility to care and help those who responded to the September 11th attacks.

Madam Speaker, let us not forget the sacrifice and service of those brave individuals who responded to one of the worst attacks in American history. I am pleased that my colleagues in the Senate were able to come to a bipartisan agreement on this bill. I urge my House colleagues to support this legislation so that the thousands of 9/11 responders can get the help they need.

Mr. DAVIS of Illinois. Madam Speaker, I rise today in full support of H.R. 847, the James Zadroga 9/11 Health and Compensation Act. This bill will provide the needed assistance to the brave men and women who have become ill due to the dangerous toxins they inhaled while risking their lives to help out the city of New York during that tragic time in September of 2001. This is a bipartisan bill and should be supported by all Members of Congress.

These heroes risked their lives to assist their fellow Americans and their efforts will never go unnoticed. This bill will allow health benefits to a wide range of first responders such as firefighters, construction workers, residents, area workers and even school children—all of whom have been affected by the toxins that filled the air after the attack on the World Trade Center in 2001.

We all witnessed the terrible attacks on America, September 11, 2001 and we also witnessed the acts of bravery by our first responders. I support the passage of the 9/11 Health and Compensation Act.

Mr. LANGEVIN. Madam Speaker, I rise in strong support of the James Zadroga 9/11

Health and Compensation Act. Every American remembers the day the Twin Towers fell and the unparalleled heroism of the first responders who saved countless lives without any regard for their own. They showed courage in the face of terror and strength in a path of destruction. Too many of these brave men and women didn't make it out of the wreckage in time. Those who did returned every day for months, sifting through rubble, recovering victims and restoring order to Ground Zero with little consideration for their own welfare or safety.

Tragically, many of these selfless workers are now suffering chronic, disabling health conditions as a direct result of injuries or toxic exposure sustained at the site. The bill before us creates a program to provide medical services and health monitoring for first responders and others who have medical conditions related to the September 11 terrorist attacks. Madam Speaker, I strongly urge my colleagues to support this measure and finally show these heroes the same honor and respect they showed us, our families, our friends and our country.

Mr. PASCRELL. Madam Speaker, I am proud to say that we are finally doing the right thing to support our heroes from 9/11. The agreement we have here today is much less than we originally hoped for—but more than four and a half years after the death of NYPD Det. James Zadroga—I am here to say that we need to pass the James Zadroga 9/11 Health and Compensation Act right now because we are losing these brave souls as we speak.

I'm sad to say its now been nine years since 9/11 and it has taken this long to pass the James Zadroga 9/11 Health and Compensation Act—nine years is too long to wait and watch as our first responders from that day continue to suffer physically and emotionally—nine years is late, BUT its not too late to do the right thing. We need to pass this bill and we need to pass it now. Nine years ago we gave those brave souls the 'all clear' sign, but we now know that we were exposing those men and women to a poisonous dust that would stay with them for the rest of their lives.

I am proud to say that we found a way to pay for this bill so that we can do the right thing for our 9/11 workers AND for our children who will bear the debt of the decisions we make today.

Let me be clear, this isn't just a bill for New York and New Jersey—this is a bill for all Americans. We know that people from all 50 states were in lower Manhattan on or after 9/11 and now are facing serious health concerns—there are 435 Congressional Districts and 431 of them are represented by the names of constituents on the World Trade Center Health Registry.

After 9/11 we all said we would be there for these brave first responders—but today if we vote against this bill we are asking those same brave individuals to come to Washington, year after year to fight for their health benefits—do we expect them to come here ten years from now? By then it may be too late for many of these men and women who responded to their nation's call of duty.

I urge all my colleagues to support the James Zadroga 9/11 Health and Compensation

Act—once and for all let us stand up for these brave Americans.

Mrs. LOWEY. Madam Speaker, today the House will consider the James Zadroga 9/11 Health and Compensation Act.

More than 70,000 Americans from every state descended upon ground zero to help recover and rebuild after 9/11. Some have died from illnesses as a result and more than 17,000 who are ill lack the care they need.

Just as we provide medical care for our troops, we must care for those who heroically responded.

Passage of the James Zadroga 9/11 Health and Compensation Act is a milestone for our nation, as we finally fulfill our obligation to those who sacrificed so much for us. Our nation owes a debt of gratitude that can never be fully repaid to the September 11 responders who died or were sickened as a result of their brave and selfless actions.

Nearly all of us represent a responder, and almost nine years later, have a duty to do what is right—vote for this bill today.

Mr. BURGESS. I yield back the balance of my time and urge support of the bill.

Mr. PALLONE. Madam Speaker, I would urge passage of this bill and send it to the President.

I yield back the balance of my time. The SPEAKER pro tempore. All time for debate has expired.

Pursuant to the order of the House of today, the previous question is ordered.

The question is on the motion by the gentleman from New Jersey (Mr. PALLONE).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURGESS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 206, nays 60, not voting 168, as follows:

[Roll No. 664]

YEAS—206

Ackerman	Clarke
Aderholt	Cleaver
Adler (NJ)	Clyburn
Altmire	Cole
Andrews	Connolly (VA)
Arcuri	Conyers
Austria	Costa
Baldwin	Courtney
Barrow	Critz
Bean	Crowley
Berkley	Cummings
Bilbray	Dahlkemper
Bishop (GA)	Davis (CA)
Bishop (NY)	DeGette
Blunt	DeLauro
Boren	Dent
Boswell	Dicks
Boucher	Dingell
Brown, Corrine	Donnelly (IN)
Burgess	Doyle
Butterfield	Dreier
Capito	Driehaus
Capps	Edwards (MD)
Capuano	Edwards (TX)
Cardoza	Ellison
Carnahan	Emerson
Carney	Engel
Carson (IN)	Eshoo
Castle	Etheridge
Castor (FL)	Farr
Chaffetz	Fattah
Chandler	Fortenberry

King (NY)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
Lee (NY)
Levin
Lewis (GA)
LoBiondo
Loeback
Lowey
Lujan
Lungren, Daniel E.
Lynch
Maffei
Maloney
Markey (MA)
Marshall
Matheson
Matsui
McCollum
McDermott
McGovern
McMahon
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (WI)

Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Nadler (NY)
Napolitano
Nye
Obey
Oliver
Owens
Pallone
Pascarell
Payne
Pelosi
Perriello
Peters
Pingree (ME)
Platts
Polis (CO)
Price (NC)
Quigley
Rahall
Rangel
Reed
Reichert
Richardson
Rogers (AL)
Rooney
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Sarbanes
Schakowsky
Schauer
Schiff

Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (NJ)
Snyder
Sutton
Teague
Thompson (CA)
Thompson (MS)
Thompson (PA)
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Van Hollen
Velázquez
Visclosky
Walz
Wasserman
Schultz
Watson
Watt
Waxman
Weiner
Wilson (OH)
Wolf
Woolsey
Yarmuth

NAYS—60

Akin
Alexander
Bachmann
Bachus
Bartlett
Bilirakis
Bishop (UT)
Boozman
Brady (TX)
Cantor
Cassidy
Coffman (CO)
Conaway
Diaz-Balart, M.
Ehlers
Fleming
Foxx
Franks (AZ)
Goodlatte
Graves (GA)

Guthrie
Hall (TX)
Hensarling
Herger
Hoekstra
Inglis
Jenkins
Jordan (OH)
King (IA)
Kingston
LaTourette
Latta
Lewis (CA)
Lummis
Manzullo
McClintock
McCotter
Mica
Miller (FL)
Myrick

Olson
Paulsen
Posey
Rehberg
Rogers (KY)
Royce
Scalise
Schmidt
Sessions
Shuster
Smith (NE)
Stutzman
Taylor
Terry
Tiahrt
Upton
Walden
Whitfield
Wilson (SC)
Wittman

NOT VOTING—168

Baca
Baird
Barrett (SC)
Barton (TX)
Becerra
Berman
Berry
Biggart
Blackburn
Blumenauer
Bocciari
Boehner
Bonner
Bono Mack
Boustany
Boyd
Brady (PA)
Braley (IA)
Bright
Brown (GA)
Brown (SC)
Brown-Waite,
Ginny
Buchanan
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cao
Carter
Childers
Chu

Clay
Coble
Cohen
Cooper
Costello
Crenshaw
Cuellar
Culberson
Davis (AL)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
Delahunt
Deutch
Diaz-Balart, L.
Djou
Doggett
Duncan
Ellsworth
Fallin
Filner
Flake
Forbes
Fudge
Galleghy
Garamendi
Giffords
Gingrey (GA)
Gohmert
Granger
Graves (MO)
Green, Gene

Griffith
Gutierrez
Harman
Harper
Hastings (WA)
Heiler
Herseth Sandlin
Hill
Hinojosa
Hodes
Honda
Hunter
Issa
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Kagen
Kennedy
Kilpatrick (MI)
Kilroy
Kirkpatrick (AZ)
Kline (MN)
Lamborn
Latham
Lee (CA)
Linder
Lipinski
Lofgren, Zoe
Lucas
Luetkemeyer
Mack
Marchant

Markey (CO)	Perlmutter	Sensenbrenner
McCarthy (CA)	Peterson	Shadegg
McCarthy (NY)	Petri	Shimkus
McCaul	Pitts	Shuler
McHenry	Poe (TX)	Simpson
McIntyre	Pomeroy	Smith (TX)
McKeon	Price (GA)	Smith (WA)
McMorris	Putnam	Space
Rodgers	Radanovich	Speier
Melancon	Reyes	Spratt
Miller (MI)	Rodriguez	Stark
Miller, Gary	Roe (TN)	Stearns
Minnick	Rogers (MI)	Stupak
Mitchell	Rohrabacher	Sullivan
Moore (KS)	Ros-Lehtinen	Tanner
Moran (KS)	Roskam	Thornberry
Neal (MA)	Rush	Tiberi
Neugebauer	Ryan (WI)	Wamp
Nunes	Salazar	Waters
Oberstar	Sánchez, Linda	Welch
Ortiz	T.	Westmoreland
Pastor (AZ)	Sanchez, Loretta	Wu
Paul	Schock	Young (AK)
Pence	Schrader	Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings is in violation of the rules of the House.

□ 1736

Mr. TERRY and BACHUS changed their vote from “yea” to “nay.”

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BACA. Madam Speaker, I was absent on Wednesday, December 22, 2010. I had legislative business in the district. Had I been present, I would have voted in support of the Motion to Concur in the Senate Amendment to H.R. 847—James Zadroga 9/11 Health and Compensation Act.

Ms. CHU. Madam Speaker, I was absent on December 22, 2010. Had I been present, I would have voted “yes” on H.R. 847—James Zadroga 9/11 Health and Compensation Act.

Mr. BRALEY of Iowa. Madam Speaker, I regret missing floor votes on today, December 22, 2010 due to travel. If I was present, I would have voted: “yea” on rollcall 664, motion to concur in the Senate Amendment to H.R. 847—James Zadroga 9/11 Health and Compensation Act.

Ms. LEE of California. Madam Speaker, today I missed rollcall vote 664 on H.R. 847. Had I been present I would have voted “aye.”

Ms. HERSETH SANDLIN. Madam Speaker, I regret that I was unable to participate in one vote on the floor of the House of Representatives today.

The vote was the Motion to Concur in the Senate Amendment to H.R. 847—James Zadroga 9/11 Health and Compensation Act. Had I been present, I would have voted “yea” on that question.

Mr. GUTIERREZ. Madam Speaker, I was unavoidably absent for votes in the House Chamber today. I would like the record to show that, had I been present, I would have voted “yea” on rollcall vote 664.

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, unfortunately, I was unable to be present in the Capitol for votes on today,

December 22, 2010. However, had I been present, I would have voted as follows: “yea” on H.R. 847—the James Zadroga 9/11 Health and Compensation Act.

Mr. FILNER. Madam Speaker, on rollcall 664, I was away from the Capitol. Had I been present, I would have voted “yea.”

Mrs. MILLER of Michigan. Madam Speaker, on rollcall No. 664, had I been present, I would have voted “yes.”

Mr. BECERRA. Madam Speaker, on Wednesday, December 22, 2010, I missed rollcall No. 664. If present, I would have voted “yea.”

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, on Wednesday, December 22, 2010, I requested and received a leave of absence for the rest of the week.

Below is how I would have voted on the following vote I missed during this time period.

On rollcall 664, H.R. 847, to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, I would have voted “yes.”

Mr. GENE GREEN of Texas. Madam Speaker, I would have voted “aye” on the Senate amendment to H.R. 847, the James Zadroga 9/11 Health and Compensation Act.

Stated against:

Mrs. BIGGERT. Madam Speaker, on rollcall No. 664 I was absent. Had I been present, I would have voted “no.”

Mr. DAVIS of Kentucky. Madam Speaker, on Wednesday, December 22, 2010, I was absent for one vote. Had I been present I would have voted on rollcall No. 664—“no”—Motion to concur in the Senate amendment to H.R. 847, James Zadroga 9/11 Health and Compensation Act.

PERSONAL EXPLANATION

Mr. JOHNSON of Illinois. Madam Speaker, unfortunately I was not able to be in Washington, DC today to vote on the motion to concur in the Senate Amendment to H.R. 847.

Had I been in Washington for this vote, I would have voted “present.”

WHISTLEBLOWER PROTECTION
ENHANCEMENT ACT OF 2010

Mr. VAN HOLLEN. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 372) to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The text of the bill is as follows:

S. 372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Whistleblower Protection Enhancement Act of 2010”.

TITLE I—PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES

SEC. 101. CLARIFICATION OF DISCLOSURES COVERED.

(a) IN GENERAL.—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) in subparagraph (A)(i)—

(A) by striking “a violation” and inserting “any violation”; and

(B) by adding “except for an alleged violation that is a minor, inadvertent violation, and occurs during the conscientious carrying out of official duties,” after “regulation;” and

(2) in subparagraph (B)(i)—

(A) by striking “a violation” and inserting “any violation (other than a violation of this section);” and

(B) by adding “except for an alleged violation that is a minor, inadvertent violation, and occurs during the conscientious carrying out of official duties,” after regulation.”

(b) PROHIBITED PERSONNEL PRACTICES UNDER SECTION 2302(b)(9).—

(1) TECHNICAL AND CONFORMING AMENDMENTS.—Title 5, United States Code, is amended in subsections (a)(3), (b)(4)(A), and (b)(4)(B)(i) of section 1214, in subsections (a), (e)(1), and (i) of section 1221, and in subsection (a)(2)(C)(i) of section 2302, by inserting “or section 2302(b)(9) (A)(i), (B), (C), or (D)” after “section 2302(b)(8)” or “(b)(8)” each place it appears.

(2) OTHER REFERENCES.—(A) Title 5, United States Code, is amended in subsection (b)(4)(B)(i) of section 1214 and in subsection (e)(1) of section 1221, by inserting “or protected activity” after “disclosure” each place it appears.

(B) Section 2302(b)(9) of title 5, United States Code, is amended—

(i) by striking subparagraph (A) and inserting the following:

“(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation—

“(i) with regard to remedying a violation of paragraph (8); or

“(ii) with regard to remedying a violation of any other law, rule, or regulation;” and

(ii) in subparagraph (B), by inserting “(i) or (ii)” after “subparagraph (A)”.

(C) Section 2302 of title 5, United States Code, is amended by adding at the end the following:

“(f)(1) A disclosure shall not be excluded from subsection (b)(8) because—

“(A) the disclosure was made to a person, including a supervisor, who participated in an activity that the employee or applicant reasonably believed to be covered by subsection (b)(8)(A)(ii);

“(B) the disclosure revealed information that had been previously disclosed;

“(C) of the employee's or applicant's motive for making the disclosure;

“(D) the disclosure was not made in writing;

“(E) the disclosure was made while the employee was off duty; or

“(F) of the amount of time which has passed since the occurrence of the events described in the disclosure.

“(2) If a disclosure is made during the normal course of duties of an employee, the disclosure shall not be excluded from subsection (b)(8) if any employee who has authority to take, direct others to take, recommend, or approve any personnel action with respect to the employee making the disclosure, took, failed to take, or threatened to take or fail to take a personnel action with respect to that employee in reprisal for the disclosure.”.

SEC. 102. DEFINITIONAL AMENDMENTS.

Section 2302(a)(2) of title 5, United States Code, is amended—

(1) in subparagraph (B)(ii), by striking “and” at the end;

(2) in subparagraph (C)(iii), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(D) ‘disclosure’ means a formal or informal communication or transmission, but does not include a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee or applicant providing the disclosure reasonably believes that the disclosure evidences—

“(i) any violation of any law, rule, or regulation, except for an alleged violation that is a minor, inadvertent violation, and occurs during the conscientious carrying out of official duties; or

“(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.”.

SEC. 103. REBUTTABLE PRESUMPTION.

Section 2302(b) of title 5, United States Code, is amended by amending the matter following paragraph (12) to read as follows:

“This subsection shall not be construed to authorize the withholding of information from Congress or the taking of any personnel action against an employee who discloses information to Congress. For purposes of paragraph (8), any presumption relating to the performance of a duty by an employee whose conduct is the subject of a disclosure as defined under subsection (a)(2)(D) may be rebutted by substantial evidence. For purposes of paragraph (8), a determination as to whether an employee or applicant reasonably believes that such employee or applicant has disclosed information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee could reasonably conclude that the actions of the Government evidence such violations, mismanagement, waste, abuse, or danger.”.

SEC. 104. PERSONNEL ACTIONS AND PROHIBITED PERSONNEL PRACTICES.

(a) PERSONNEL ACTION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (x), by striking “and” after the semicolon; and

(2) by redesignating clause (xi) as clause (xii) and inserting after clause (x) the following:

“(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement; and”.

(b) PROHIBITED PERSONNEL PRACTICE.—

(1) IN GENERAL.—Section 2302(b) of title 5, United States Code, is amended—

(A) in paragraph (11), by striking “or” at the end;

(B) in paragraph (12), by striking the period and inserting “; or”; and

(C) by inserting after paragraph (12) the following:

“(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement: ‘These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order 13526 (75 Fed. Reg. 707; relating to classified national security information), or any successor thereto; Executive Order 12968 (60 Fed. Reg. 40245; relating to access to classified information), or any successor thereto; section 7211 of title 5, United States Code (governing disclosures to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.’”.

(2) NONDISCLOSURE POLICY, FORM, OR AGREEMENT IN EFFECT BEFORE THE DATE OF ENACTMENT.—A nondisclosure policy, form, or agreement that was in effect before the date of enactment of this Act, but that does not contain the statement required under section 2302(b)(13) of title 5, United States Code, (as added by this Act) for implementation or enforcement—

(A) may be enforced with regard to a current employee if the agency gives such employee notice of the statement; and

(B) may continue to be enforced after the effective date of this Act with regard to a former employee if the agency posts notice of the statement on the agency website for the 1-year period following that effective date.

(c) RETALIATORY INVESTIGATIONS.—

(1) AGENCY INVESTIGATION.—Section 1214 of title 5, United States Code, is amended by adding at the end the following:

“(h) Any corrective action ordered under this section to correct a prohibited personnel practice may include fees, costs, or damages reasonably incurred due to an agency investigation of the employee, if such investigation was commenced, expanded, or extended in retaliation for the disclosure or protected activity that formed the basis of the corrective action.”.

(2) DAMAGES.—Section 1221(g) of title 5, United States Code, is amended by adding at the end the following:

“(4) Any corrective action ordered under this section to correct a prohibited personnel practice may include fees, costs, or damages reasonably incurred due to an agency investigation of the employee, if such investigation was commenced, expanded, or extended in retaliation for the disclosure or protected activity that formed the basis of the corrective action.”.

SEC. 105. EXCLUSION OF AGENCIES BY THE PRESIDENT.

Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

“(ii)(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Office of the Director of National Intelligence, and the National Reconnaissance Office; and

“(II) as determined by the President, any executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, provided that the determination be made prior to a personnel action; or”.

SEC. 106. DISCIPLINARY ACTION.

Section 1215(a)(3) of title 5, United States Code, is amended to read as follows:

“(3)(A) A final order of the Board may impose—

“(i) disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand;

“(ii) an assessment of a civil penalty not to exceed \$1,000; or

“(iii) any combination of disciplinary actions described under clause (i) and an assessment described under clause (ii).

“(B) In any case brought under paragraph (1) in which the Board finds that an employee has committed a prohibited personnel practice under section 2302(b)(8), or 2302(b)(9) (A)(i), (B), (C), or (D), the Board may impose disciplinary action if the Board finds that the activity protected under section 2302(b)(8), or 2302(b)(9) (A)(i), (B), (C), or (D) was a significant motivating factor, even if other factors also motivated the decision, for the employee's decision to take, fail to take, or threaten to take or fail to take a personnel action, unless that employee demonstrates, by preponderance of evidence, that the employee would have taken, failed to take, or threatened to take or fail to take the same personnel action, in the absence of such protected activity.”.

SEC. 107. REMEDIES.

(a) ATTORNEY FEES.—Section 1204(m)(1) of title 5, United States Code, is amended by striking “agency involved” and inserting “agency where the prevailing party was employed or had applied for employment at the time of the events giving rise to the case”.

(b) DAMAGES.—Sections 1214(g)(2) and 1221(g)(1)(A)(ii) of title 5, United States Code, are amended by striking all after “travel expenses,” and inserting “any other reasonable and foreseeable consequential damages, and compensatory damages (including interest, reasonable expert witness fees, and costs)” each place it appears.

SEC. 108. JUDICIAL REVIEW.

(a) IN GENERAL.—Section 7703(b) of title 5, United States Code, is amended by striking the matter preceding paragraph (2) and inserting the following:

“(b)(1)(A) Except as provided in subparagraph (B) and paragraph (2) of this subsection, a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit. Notwithstanding any other provision of law, any petition for review shall be filed within 60 days after the Board issues notice of the final order or decision of the Board.

“(B) During the 5-year period beginning on the effective date of the Whistleblower Protection Enhancement Act of 2010, a petition to review a final order or final decision of the Board that raises no challenge to the Board's disposition of allegations of a prohibited personnel practice described in section 2302(b) other than practices described in section 2302(b)(8), or 2302(b)(9) (A)(i), (B), (C),

or (D) shall be filed in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under paragraph (2).”.

(b) REVIEW OBTAINED BY OFFICE OF PERSONNEL MANAGEMENT.—Section 7703(d) of title 5, United States Code, is amended to read as follows:

“(d)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the Board issues notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Director determines, in the discretion of the Director, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board’s decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

“(2) During the 5-year period beginning on the effective date of the Whistleblower Protection Enhancement Act of 2010, this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management that raises no challenge to the Board’s disposition of allegations of a prohibited personnel practice described in section 2302(b) other than practices described in section 2302(b)(8), or 2302(b)(9) (A)(i), (B), (C), or (D). The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the Board issues notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction as provided under subsection (b)(2) if the Director determines, in the discretion of the Director, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board’s decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the court of appeals.”.

SEC. 109. PROHIBITED PERSONNEL PRACTICES AFFECTING THE TRANSPORTATION SECURITY ADMINISTRATION.

(a) IN GENERAL.—Chapter 23 of title 5, United States Code, is amended—

(1) by redesignating sections 2304 and 2305 as sections 2305 and 2306, respectively; and

(2) by inserting after section 2303 the following:

“§2304. Prohibited personnel practices affecting the Transportation Security Administration

“(a) IN GENERAL.—Notwithstanding any other provision of law, any individual holding or applying for a position within the Transportation Security Administration shall be covered by—

“(1) the provisions of section 2302(b) (1), (8), and (9);

“(2) any provision of law implementing section 2302(b) (1), (8), or (9) by providing any right or remedy available to an employee or applicant for employment in the civil service; and

“(3) any rule or regulation prescribed under any provision of law referred to in paragraph (1) or (2).

“(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any rights, apart from those described in subsection (a), to which an individual described in subsection (a) might otherwise be entitled under law.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 23 of title 5, United States Code, is amended by striking the items relating to sections 2304 and 2305, respectively, and by inserting the following:

“2304. Prohibited personnel practices affecting the Transportation Security Administration.

“2305. Responsibility of the Government Accountability Office.

“2306. Coordination with certain other provisions of law.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this section.

SEC. 110. DISCLOSURE OF CENSORSHIP RELATED TO RESEARCH, ANALYSIS, OR TECHNICAL INFORMATION.

(a) DEFINITIONS.—In this subsection—

(1) the term “agency” has the meaning given under section 2302(a)(2)(C) of title 5, United States Code;

(2) the term “applicant” means an applicant for a covered position;

(3) the term “censorship related to research, analysis, or technical information” means any effort to distort, misrepresent, or suppress research, analysis, or technical information;

(4) the term “covered position” has the meaning given under section 2302(a)(2)(B) of title 5, United States Code;

(5) the term “employee” means an employee in a covered position in an agency; and

(6) the term “disclosure” has the meaning given under section 2302(a)(2)(D) of title 5, United States Code.

(b) PROTECTED DISCLOSURE.—

(1) IN GENERAL.—Any disclosure of information by an employee or applicant for employment that the employee or applicant reasonably believes is evidence of censorship related to research, analysis, or technical information—

(A) shall come within the protections of section 2302(b)(8)(A) of title 5, United States Code, if—

(i) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

(I) any violation of law, rule, or regulation, except for an alleged violation that is a minor, inadvertent violation, and occurs during the conscientious carrying out of official duties; or

(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

(ii) such disclosure is not specifically prohibited by law or such information is not specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs; and

(B) shall come within the protections of section 2302(b)(8)(B) of title 5, United States Code, if—

(i) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

(I) any violation of law, rule, or regulation, except for an alleged violation that is a minor, inadvertent violation, and occurs during the conscientious carrying out of official duties; or

(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

(ii) the disclosure is made to the Special Counsel, or to the Inspector General of an agency or another person designated by the head of the agency to receive such disclosures, consistent with the protection of sources and methods.

(2) DISCLOSURES NOT EXCLUDED.—A disclosure shall not be excluded from paragraph (1) for any reason described under section 2302(f)(1) or (2) of title 5, United States Code.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to imply any limitation on the protections of employees and applicants afforded by any other provision of law, including protections with respect to any disclosure of information believed to be evidence of censorship related to research, analysis, or technical information.

SEC. 111. CLARIFICATION OF WHISTLEBLOWER RIGHTS FOR CRITICAL INFRASTRUCTURE INFORMATION.

Section 214(c) of the Homeland Security Act of 2002 (6 U.S.C. 133(c)) is amended by adding at the end the following: “For purposes of this section a permissible use of independently obtained information includes the disclosure of such information under section 2302(b)(8) of title 5, United States Code.”.

SEC. 112. ADVISING EMPLOYEES OF RIGHTS.

Section 2302(c) of title 5, United States Code, is amended by inserting “, including how to make a lawful disclosure of information that is specifically required by law or Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs to the Special Counsel, the Inspector General of an agency, Congress, or other agency employee designated to receive such disclosures” after “chapter 12 of this title”.

SEC. 113. SPECIAL COUNSEL AMICUS CURIAE APPEARANCE.

Section 1212 of title 5, United States Code, is amended by adding at the end the following:

“(h)(1) The Special Counsel is authorized to appear as amicus curiae in any action brought in a court of the United States related to any civil action brought in connection with section 2302(b) (8) or (9), or as otherwise authorized by law. In any such action, the Special Counsel is authorized to present the views of the Special Counsel with respect to compliance with section 2302(b) (8) or (9) and the impact court decisions would have on the enforcement of such provisions of law.

“(2) A court of the United States shall grant the application of the Special Counsel

to appear in any such action for the purposes described under subsection (a).”.

SEC. 114. SCOPE OF DUE PROCESS.

(a) SPECIAL COUNSEL.—Section 1214(b)(4)(B)(ii) of title 5, United States Code, is amended by inserting “, after a finding that a protected disclosure was a contributing factor,” after “ordered if”.

(b) INDIVIDUAL ACTION.—Section 1221(e)(2) of title 5, United States Code, is amended by inserting “, after a finding that a protected disclosure was a contributing factor,” after “ordered if”.

SEC. 115. NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.

(a) IN GENERAL.—

(1) REQUIREMENT.—Each agreement in Standard Forms 312 and 414 of the Government and any other nondisclosure policy, form, or agreement of the Government shall contain the following statement: “These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order 13526 (75 Fed. Reg. 707; relating to classified national security information), or any successor thereto; Executive Order 12968 (60 Fed. Reg. 40245; relating to access to classified information), or any successor thereto; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.”.

(2) ENFORCEABILITY.—

(A) IN GENERAL.—Any nondisclosure policy, form, or agreement described under paragraph (1) that does not contain the statement required under paragraph (1) may not be implemented or enforced to the extent such policy, form, or agreement is inconsistent with that statement.

(B) NONDISCLOSURE POLICY, FORM, OR AGREEMENT IN EFFECT BEFORE THE DATE OF ENACTMENT.—A nondisclosure policy, form, or agreement that was in effect before the date of enactment of this Act, but that does not contain the statement required under paragraph (1)—

(i) may be enforced with regard to a current employee if the agency gives such employee notice of the statement; and

(ii) may continue to be enforced after the effective date of this Act with regard to a former employee if the agency posts notice of the statement on the agency website for the 1-year period following that effective date.

(b) PERSONS OTHER THAN GOVERNMENT EMPLOYEES.—Notwithstanding subsection (a), a nondisclosure policy, form, or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such doc-

ument is to be used. Such policy, form, or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure policy, form, or agreement shall also make it clear that such forms do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law, consistent with the protection of sources and methods.

SEC. 116. REPORTING REQUIREMENTS.

(a) GOVERNMENT ACCOUNTABILITY OFFICE.—

(1) REPORT.—Not later than 40 months after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives on the implementation of this title.

(2) CONTENTS.—The report under this paragraph shall include—

(A) an analysis of any changes in the number of cases filed with the United States Merit Systems Protection Board alleging violations of section 2302(b) (8) or (9) of title 5, United States Code, since the effective date of this Act;

(B) the outcome of the cases described under subparagraph (A), including whether or not the United States Merit Systems Protection Board, the Federal Circuit Court of Appeals, or any other court determined the allegations to be frivolous or malicious;

(C) an analysis of the outcome of cases described under subparagraph (A) that were decided by a United States District Court and the impact the process has on the Merit Systems Protection Board and the Federal court system; and

(D) any other matter as determined by the Comptroller General.

(b) MERIT SYSTEMS PROTECTION BOARD.—

(1) IN GENERAL.—Each report submitted annually by the Merit Systems Protection Board under section 1116 of title 31, United States Code, shall, with respect to the period covered by such report, include as an addendum the following:

(A) Information relating to the outcome of cases decided during the applicable year of the report in which violations of section 2302(b) (8) or (9) (A)(i), (B)(i), (C), or (D) of title 5, United States Code, were alleged.

(B) The number of such cases filed in the regional and field offices, the number of petitions for review filed in such cases, and the outcomes of such cases.

(2) FIRST REPORT.—The first report described under paragraph (1) submitted after the date of enactment of this Act shall include an addendum required under that subparagraph that covers the period beginning on January 1, 2009 through the end of the fiscal year 2009.

SEC. 117. ALTERNATIVE REVIEW.

(a) IN GENERAL.—Section 1221 of title 5, United States Code, is amended by adding at the end the following:

“(k)(1) In this subsection, the term ‘appropriate United States district court’, as used with respect to an alleged prohibited personnel practice, means the United States district court for the judicial district in which—

“(A) the prohibited personnel practice is alleged to have been committed; or

“(B) the employee, former employee, or applicant for employment allegedly affected by such practice resides.

“(2)(A) An employee, former employee, or applicant for employment in any case to

which paragraph (3) or (4) applies may file an action at law or equity for de novo review in the appropriate United States district court in accordance with this subsection.

“(B) Upon initiation of any action under subparagraph (A), the Board shall stay any other claims of such employee, former employee, or applicant pending before the Board at that time which arise out of the same set of operative facts. Such claims shall be stayed pending completion of the action filed under subparagraph (A) before the appropriate United States district court and any associated appellate review.

“(3) This paragraph applies in any case in which—

“(A) an employee, former employee, or applicant for employment—

“(i) seeks corrective action from the Merit Systems Protection Board under section 1221(a) based on an alleged prohibited personnel practice described in section 2302(b) (8) or (9) (A)(i), (B), (C), or (D) for which the associated personnel action is an action covered under section 7512 or 7542; or

“(ii) files an appeal under section 7701(a) alleging as an affirmative defense the commission of a prohibited personnel practice described in section 2302(b) (8) or (9) (A)(i), (B), (C), or (D) for which the associated personnel action is an action covered under section 7512 or 7542;

“(B) no final order or decision is issued by the Board within 270 days after the date on which a request for that corrective action or appeal has been duly submitted, unless the Board determines that the employee, former employee, or applicant for employment engaged in conduct intended to delay the issuance of a final order or decision by the Board; and

“(C) such employee, former employee, or applicant provides written notice to the Board of filing an action under this subsection before the filing of that action.

“(4) This paragraph applies in any case in which—

“(A) an employee, former employee, or applicant for employment—

“(i) seeks corrective action from the Merit Systems Protection Board under section 1221(a) based on an alleged prohibited personnel practice described in section 2302(b) (8) or (9) (A)(i), (B), (C), or (D) for which the associated personnel action is an action covered under section 7512 or 7542; or

“(ii) files an appeal under section 7701(a)(1) alleging as an affirmative defense the commission of a prohibited personnel practice described in section 2302(b) (8) or (9) (A)(i), (B), (C), or (D) for which the associated personnel action is an action covered under section 7512 or 7542;

“(B)(i) within 30 days after the date on which the request for corrective action or appeal was duly submitted, such employee, former employee, or applicant for employment files a motion requesting a certification consistent with subparagraph (C) to the Board, any administrative law judge appointed by the Board under section 3105 of this title and assigned to the case, or any employee of the Board designated by the Board and assigned to the case; and

“(ii) such employee has not previously filed a motion under clause (i) related to that request for corrective action; and

“(C) the Board, any administrative law judge appointed by the Board under section 3105 of this title and assigned to the case, or any employee of the Board designated by the Board and assigned to the case certifies that—

“(i) under standard applicable to the review of motions to dismiss under rule 12(b)(6)

of the Federal Rules of Civil Procedure, including rule 12(d), the request for corrective action (including any allegations made with the motion under subparagraph (B)) would not be subject to dismissal; and

“(ii)(I) the Board is not likely to dispose of the case within 270 days after the date on which a request for that corrective action has been duly submitted; or

“(II) the case—

“(aa) consists of multiple claims;

“(bb) requires complex or extensive discovery;

“(cc) arises out of the same set of operative facts as any civil action against the Government filed by the employee, former employee, or applicant pending in a Federal court; or

“(dd) involves a novel question of law.

“(5) The Board shall grant or deny any motion requesting a certification described under paragraph (4)(ii) within 90 days after the submission of such motion and the Board may not issue a decision on the merits of a request for corrective action within 15 days after granting or denying a motion requesting certification.

“(6)(A) Any decision of the Board, any administrative law judge appointed by the Board under section 3105 of this title and assigned to the case, or any employee of the Board designated by the Board and assigned to the case to grant or deny a certification described under paragraph (4)(ii) shall be reviewed on appeal of a final order or decision of the Board under section 7703 only if—

“(i) a motion requesting a certification was denied; and

“(ii) the reviewing court vacates the decision of the Board on the merits of the claim under the standards set forth in section 7703(c).

“(B) The decision to deny the certification shall be overturned by the reviewing court, and an order granting certification shall be issued by the reviewing court, if such decision is found to be arbitrary, capricious, or an abuse of discretion.

“(C) The reviewing court’s decision shall not be considered evidence of any determination by the Board, any administrative law judge appointed by the Board under section 3105 of this title, or any employee of the Board designated by the Board on the merits of the underlying allegations during the course of any action at law or equity for de novo review in the appropriate United States district court in accordance with this subsection.

“(7) In any action filed under this subsection—

“(A) the district court shall have jurisdiction without regard to the amount in controversy;

“(B) at the request of either party, such action shall be tried by the court with a jury;

“(C) the court—

“(i) subject to clause (iii), shall apply the standards set forth in subsection (e); and

“(ii) may award any relief which the court considers appropriate under subsection (g), except—

“(I) relief for compensatory damages may not exceed \$300,000; and

“(II) relief may not include punitive damages; and

“(iii) notwithstanding subsection (e)(2), may not order relief if the agency demonstrates by a preponderance of the evidence that the agency would have taken the same personnel action in the absence of such disclosure; and

“(D) the Special Counsel may not represent the employee, former employee, or applicant for employment.

“(8) An appeal from a final decision of a district court in an action under this subsection shall be taken to the Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction.

“(9) This subsection applies with respect to any appeal, petition, or other request for corrective action duly submitted to the Board, whether under section 1214(b)(2), the preceding provisions of this section, section 7513(d), section 7701, or any otherwise applicable provisions of law, rule, or regulation.”.

(b) SUNSET.—

(1) IN GENERAL.—Except as provided under paragraph (2), the amendments made by this section shall cease to have effect 5 years after the effective date of this Act.

(2) PENDING CLAIMS.—The amendments made by this section shall continue to apply with respect to any claim pending before the Board on the last day of the 5-year period described under paragraph (1).

SEC. 118. MERIT SYSTEMS PROTECTION BOARD SUMMARY JUDGMENT.

(a) IN GENERAL.—Section 1204(b) of title 5, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by inserting after paragraph (2) the following:

“(3) With respect to a request for corrective action based on an alleged prohibited personnel practice described in section 2302(b) (8) or (9) (A)(i), (B), (C), or (D) for which the associated personnel action is an action covered under section 7512 or 7542, the Board, any administrative law judge appointed by the Board under section 3105 of this title, or any employee of the Board designated by the Board may, with respect to any party, grant a motion for summary judgment when the Board or the administrative law judge determines that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.”.

(b) SUNSET.—

(1) IN GENERAL.—Except as provided under paragraph (2), the amendments made by this section shall cease to have effect 5 years after the effective date of this Act.

(2) PENDING CLAIMS.—The amendments made by this section shall continue to apply with respect to any claim pending before the Board on the last day of the 5-year period described under paragraph (1).

SEC. 119. DISCLOSURES OF CLASSIFIED INFORMATION.

(a) PROHIBITED PERSONNEL PRACTICES.—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking “or” after the semicolon;

(2) in subparagraph (B), by adding “or” after the semicolon; and

(3) by adding at the end the following:

“(C) any communication that complies with subsection (a)(1), (d), or (h) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App.)”.

(b) INSPECTOR GENERAL ACT OF 1978.—Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (a)(1), by adding at the end the following:

“(D) An employee of any agency, as that term is defined under section 2302(a)(2)(C) of title 5, United States Code, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the

Inspector General (or designee) of the agency of which that employee is employed.”;

(2) in subsection (c), by striking “intelligence committees” and inserting “appropriate committees”;

(3) in subsection (d)—

(A) in paragraph (1), by striking “either or both of the intelligence committees” and inserting “any of the appropriate committees”; and

(B) in paragraphs (2) and (3), by striking “intelligence committees” each place that term appears and inserting “appropriate committees”;

(4) in subsection (h)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “intelligence”; and

(ii) in subparagraph (B), by inserting “or an activity involving classified information” after “an intelligence activity”; and

(B) by striking paragraph (2), and inserting the following:

“(2) The term ‘appropriate committees’ means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, except that with respect to disclosures made by employees described in subsection (a)(1)(D), the term ‘appropriate committees’ means the committees of appropriate jurisdiction.”.

SEC. 120. WHISTLEBLOWER PROTECTION OMBUDSMAN.

(a) IN GENERAL.—Section 3 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking subsection (d) and inserting the following:

“(d)(1) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

“(A) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment;

“(B) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations; and

“(C) designate a Whistleblower Protection Ombudsman who shall educate agency employees—

“(i) about prohibitions on retaliation for protected disclosures; and

“(ii) who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures.

“(2) The Whistleblower Protection Ombudsman shall not act as a legal representative, agent, or advocate of the employee or former employee.

“(3) For the purposes of this section, the requirement of the designation of a Whistleblower Protection Ombudsman under paragraph (1)(C) shall not apply to—

“(A) any agency that is an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))); or

“(B) as determined by the President, any executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counter intelligence activities.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8D(j) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by striking “section 3(d)(1)” and inserting “section 3(d)(1)(A)”; and

(2) by striking “section 3(d)(2)” and inserting “section 3(d)(1)(B)”.

(c) SUNSET.—

(1) IN GENERAL.—The amendments made by this section shall cease to have effect on the date that is 5 years after the date of enactment of this Act.

(2) RETURN TO PRIOR AUTHORITY.—Upon the date described in paragraph (1), section 3(d) and section 8D(j) of the Inspector General Act of 1978 (5 U.S.C. App.) shall read as such sections read on the day before the date of enactment of this Act.

TITLE II—INTELLIGENCE COMMUNITY WHISTLEBLOWER PROTECTIONS

SEC. 201. PROTECTION OF INTELLIGENCE COMMUNITY WHISTLEBLOWERS.

(a) IN GENERAL.—Chapter 23 of title 5, United States Code, is amended by inserting after section 2303 the following:

“§ 2303A. Prohibited personnel practices in the intelligence community

“(a) DEFINITIONS.—In this section—

“(1) the term ‘agency’ means an executive department or independent establishment, as defined under sections 101 and 104, that contains an intelligence community element, except the Federal Bureau of Investigation;

“(2) the term ‘intelligence community element’—

“(A) means—

“(i) the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Office of the Director of National Intelligence, and the National Reconnaissance Office; and

“(ii) any executive agency or unit thereof determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities; and

“(B) does not include the Federal Bureau of Investigation; and

“(3) the term ‘personnel action’ means any action described in clauses (i) through (x) of section 2302(a)(2)(A) with respect to an employee in a position in an intelligence community element (other than a position of a confidential, policy-determining, policy-making, or policy-advocating character).

“(b) IN GENERAL.—Any employee of an agency who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of an intelligence community element as a reprisal for a disclosure of information by the employee to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose), or to the head of the employing agency (or an employee designated by the head of that agency for such purpose), which the employee reasonably believes evidences—

“(1) a violation of any law, rule, or regulation, except for an alleged violation that—

“(A) is a minor, inadvertent violation; and

“(B) occurs during the conscientious carrying out of official duties; or

“(2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

“(c) ENFORCEMENT.—The President shall provide for the enforcement of this section in a manner consistent with applicable provisions of sections 1214 and 1221.

“(d) EXISTING RIGHTS PRESERVED.—Nothing in this section shall be construed to—

“(1) preempt or preclude any employee, or applicant for employment, at the Federal

Bureau of Investigation from exercising rights currently provided under any other law, rule, or regulation, including section 2303;

“(2) repeal section 2303; or

“(3) provide the President or Director of National Intelligence the authority to revise regulations related to section 2303, codified in part 27 of the Code of Federal Regulations.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 23 of title 5, United States Code, is amended by inserting after the item relating to section 2303 the following:

“2303A. Prohibited personnel practices in the intelligence community.”.

SEC. 202. REVIEW OF SECURITY CLEARANCE OR ACCESS DETERMINATIONS.

(a) IN GENERAL.—Section 3001(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b(b)) is amended—

(1) in the matter preceding paragraph (1), by striking “Not” and inserting “Except as otherwise provided, not”;

(2) in paragraph (5), by striking “and” after the semicolon;

(3) in paragraph (6), by striking the period at the end and inserting “; and”; and

(4) by inserting after paragraph (6) the following:

“(7) not later than 180 days after the date of enactment of the Whistleblower Protection Enhancement Act of 2010—

“(A) developing policies and procedures that permit, to the extent practicable, individuals who challenge in good faith a determination to suspend or revoke a security clearance or access to classified information to retain their government employment status while such challenge is pending; and

“(B) developing and implementing uniform and consistent policies and procedures to ensure proper protections during the process for denying, suspending, or revoking a security clearance or access to classified information, including the provision of a right to appeal such a denial, suspension, or revocation, except that there shall be no appeal of an agency’s suspension of a security clearance or access determination for purposes of conducting an investigation, if that suspension lasts no longer than 1 year or the head of the agency certifies that a longer suspension is needed before a final decision on denial or revocation to prevent imminent harm to the national security.

“Any limitation period applicable to an agency appeal under paragraph (7) shall be tolled until the head of the agency (or in the case of any component of the Department of Defense, the Secretary of Defense) determines, with the concurrence of the Director of National Intelligence, that the policies and procedures described in paragraph (7) have been established for the agency or the Director of National Intelligence promulgates the policies and procedures under paragraph (7). The policies and procedures for appeals developed under paragraph (7) shall be comparable to the policies and procedures pertaining to prohibited personnel practices defined under section 2302(b)(8) of title 5, United States Code, and provide—

“(A) for an independent and impartial fact-finder;

“(B) for notice and the opportunity to be heard, including the opportunity to present relevant evidence, including witness testimony;

“(C) that the employee or former employee may be represented by counsel;

“(D) that the employee or former employee has a right to a decision based on the record developed during the appeal;

“(E) that not more than 180 days shall pass from the filing of the appeal to the report of the impartial fact-finder to the agency head or the designee of the agency head, unless—

“(i) the employee and the agency concerned agree to an extension; or

“(ii) the impartial fact-finder determines in writing that a greater period of time is required in the interest of fairness or national security;

“(F) for the use of information specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs in a manner consistent with the interests of national security, including ex parte submissions if the agency determines that the interests of national security so warrant; and

“(G) that the employee or former employee shall have no right to compel the production of information specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs, except evidence necessary to establish that the employee made the disclosure or communication such employee alleges was protected by subparagraphs (A), (B), and (C) of subsection (j)(1).”.

(b) RETALIATORY REVOCATION OF SECURITY CLEARANCES AND ACCESS DETERMINATIONS.—Section 3001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b) is amended by adding at the end the following:

“(j) RETALIATORY REVOCATION OF SECURITY CLEARANCES AND ACCESS DETERMINATIONS.—

“(1) IN GENERAL.—Agency personnel with authority over personnel security clearance or access determinations shall not take or fail to take, or threaten to take or fail to take, any action with respect to any employee’s security clearance or access determination because of—

“(A) any disclosure of information to the Director of National Intelligence (or an employee designated by the Director of National Intelligence for such purpose) or the head of the employing agency (or employee designated by the head of that agency for such purpose) by an employee that the employee reasonably believes evidences—

“(i) a violation of any law, rule, or regulation, except for an alleged violation that is a minor, inadvertent violation, and occurs during the conscientious carrying out of official duties; or

“(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

“(B) any disclosure to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee reasonably believes evidences—

“(i) a violation of any law, rule, or regulation, except for an alleged violation that is a minor, inadvertent violation, and occurs during the conscientious carrying out of official duties; or

“(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

“(C) any communication that complies with—

“(i) subsection (a)(1), (d), or (h) of section 8H of the Inspector General Act of 1978 (5 U.S.C. App.);

“(ii) subsection (d)(5)(A), (D), or (G) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q); or

“(iii) subsection (k)(5)(A), (D), or (G), of section 103H of the National Security Act of 1947 (50 U.S.C. 403-3h);

“(D) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

“(E) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (D); or

“(F) cooperating with or disclosing information to the Inspector General of an agency, in accordance with applicable provisions of law in connection with an audit, inspection, or investigation conducted by the Inspector General,

if the actions described under subparagraphs (D) through (F) do not result in the employee or applicant unlawfully disclosing information specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs.

“(2) **RULE OF CONSTRUCTION.**—Consistent with the protection of sources and methods, nothing in paragraph (1) shall be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.

“(3) **DISCLOSURES.**—

“(A) **IN GENERAL.**—A disclosure shall not be excluded from paragraph (1) because—

“(i) the disclosure was made to a person, including a supervisor, who participated in an activity that the employee reasonably believed to be covered by paragraph (1)(A)(ii);

“(ii) the disclosure revealed information that had been previously disclosed;

“(iii) of the employee’s motive for making the disclosure;

“(iv) the disclosure was not made in writing;

“(v) the disclosure was made while the employee was off duty; or

“(vi) of the amount of time which has passed since the occurrence of the events described in the disclosure.

“(B) **REPRISALS.**—If a disclosure is made during the normal course of duties of an employee, the disclosure shall not be excluded from paragraph (1) if any employee who has authority to take, direct others to take, recommend, or approve any personnel action with respect to the employee making the disclosure, took, failed to take, or threatened to take or fail to take a personnel action with respect to that employee in reprisal for the disclosure.

“(4) **AGENCY ADJUDICATION.**—

“(A) **REMEDIAL PROCEDURE.**—An employee or former employee who believes that he or she has been subjected to a reprisal prohibited by paragraph (1) of this subsection may, within 90 days after the issuance of notice of such decision, appeal that decision within the agency of that employee or former employee through proceedings authorized by paragraph (7) of subsection (a), except that there shall be no appeal of an agency’s suspension of a security clearance or access determination for purposes of conducting an investigation, if that suspension lasts not longer than 1 year (or a longer period in accordance with a certification made under subsection (b)(7)).

“(B) **CORRECTIVE ACTION.**—If, in the course of proceedings authorized under subparagraph (A), it is determined that the adverse security clearance or access determination violated paragraph (1) of this subsection, the agency shall take specific corrective action to return the employee or former employee, as nearly as practicable and reasonable, to the position such employee or former employee would have held had the violation not occurred. Such corrective action shall include reasonable attorney’s fees and any

other reasonable costs incurred, and may include back pay and related benefits, travel expenses, and compensatory damages not to exceed \$300,000.

“(C) **CONTRIBUTING FACTOR.**—In determining whether the adverse security clearance or access determination violated paragraph (1) of this subsection, the agency shall find that paragraph (1) of this subsection was violated if a disclosure described in paragraph (1) was a contributing factor in the adverse security clearance or access determination taken against the individual, unless the agency demonstrates by a preponderance of the evidence that it would have taken the same action in the absence of such disclosure, giving the utmost deference to the agency’s assessment of the particular threat to the national security interests of the United States in the instant matter.

“(5) **APPELLATE REVIEW OF SECURITY CLEARANCE ACCESS DETERMINATIONS BY DIRECTOR OF NATIONAL INTELLIGENCE.**—

“(A) **DEFINITION.**—In this paragraph, the term ‘Board’ means the appellate review board established under section 204 of the Whistleblower Protection Enhancement Act of 2010.

“(B) **APPEAL.**—Within 60 days after receiving notice of an adverse final agency determination under a proceeding under paragraph (4), an employee or former employee may appeal that determination to the Board.

“(C) **POLICIES AND PROCEDURES.**—The Board, in consultation with the Attorney General, Director of National Intelligence, and the Secretary of Defense, shall develop and implement policies and procedures for adjudicating the appeals authorized by subparagraph (B). The Director of National Intelligence and Secretary of Defense shall jointly approve any rules, regulations, or guidance issued by the Board concerning the procedures for the use or handling of classified information.

“(D) **REVIEW.**—The Board’s review shall be on the complete agency record, which shall be made available to the Board. The Board may not hear witnesses or admit additional evidence. Any portions of the record that were submitted ex parte during the agency proceedings shall be submitted ex parte to the Board.

“(E) **FURTHER FACT-FINDING OR IMPROPER DENIAL.**—If the Board concludes that further fact-finding is necessary or finds that the agency improperly denied the employee or former employee the opportunity to present evidence that, if admitted, would have a substantial likelihood of altering the outcome, the Board shall remand the matter to the agency from which it originated for additional proceedings in accordance with the rules of procedure issued by the Board.

“(F) **DE NOVO DETERMINATION.**—The Board shall make a de novo determination, based on the entire record and under the standards specified in paragraph (4), of whether the employee or former employee received an adverse security clearance or access determination in violation of paragraph (1). In considering the record, the Board may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact. In doing so, the Board may consider the prior fact-finder’s opportunity to see and hear the witnesses.

“(G) **ADVERSE SECURITY CLEARANCE OR ACCESS DETERMINATION.**—If the Board finds that the adverse security clearance or access determination violated paragraph (1), it shall then separately determine whether reinstating the security clearance or access determination is clearly consistent with the

interests of national security, with any doubt resolved in favor of national security, under Executive Order 12968 (60 Fed. Reg. 40245; relating to access to classified information) or any successor thereto (including any adjudicative guidelines promulgated under such orders) or any subsequent Executive order, regulation, or policy concerning access to classified information.

“(H) **REMEDIES.**—

“(i) **CORRECTIVE ACTION.**—If the Board finds that the adverse security clearance or access determination violated paragraph (1), it shall order the agency head to take specific corrective action to return the employee or former employee, as nearly as practicable and reasonable, to the position such employee or former employee would have held had the violation not occurred. Such corrective action shall include reasonable attorney’s fees and any other reasonable costs incurred, and may include back pay and related benefits, travel expenses, and compensatory damages not to exceed \$300,000. The Board may recommend, but may not order, reinstatement or hiring of a former employee. The Board may order that the former employee be treated as though the employee were transferring from the most recent position held when seeking other positions within the executive branch. Any corrective action shall not include the reinstating of any security clearance or access determination. The agency head shall take the actions so ordered within 90 days, unless the Director of National Intelligence, the Secretary of Energy, or the Secretary of Defense, in the case of any component of the Department of Defense, determines that doing so would endanger national security.

“(ii) **RECOMMENDED ACTION.**—If the Board finds that reinstating the employee or former employee’s security clearance or access determination is clearly consistent with the interests of national security, it shall recommend such action to the head of the entity selected under subsection (b) and the head of the affected agency.

“(I) **CONGRESSIONAL NOTIFICATION.**—

“(i) **ORDERS.**—Consistent with the protection of sources and methods, at the time the Board issues an order, the Chairperson of the Board shall notify—

“(I) the Committee on Homeland Security and Government Affairs of the Senate;

“(II) the Select Committee on Intelligence of the Senate;

“(III) the Committee on Oversight and Government Reform of the House of Representatives;

“(IV) the Permanent Select Committee on Intelligence of the House of Representatives; and

“(V) the committees of the Senate and the House of Representatives that have jurisdiction over the employing agency, including in the case of a final order or decision of the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, or the National Reconnaissance Office, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

“(ii) **RECOMMENDATIONS.**—If the agency head and the head of the entity selected under subsection (b) do not follow the Board’s recommendation to reinstate a clearance, the head of the entity selected under subsection (b) shall notify the committees described in subclauses (I) through (V) of clause (i).

“(6) **JUDICIAL REVIEW.**—Nothing in this section shall be construed to permit or require judicial review of any—

“(A) agency action under this section; or
 “(B) action of the appellate review board established under section 204 of the Whistleblower Protection Enhancement Act of 2010.

“(7) PRIVATE CAUSE OF ACTION.—Nothing in this section shall be construed to permit, authorize, or require a private cause of action to challenge the merits of a security clearance determination.”.

(c) ACCESS DETERMINATION DEFINED.—Section 3001(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b(a)) is amended by adding at the end the following:

“(9) The term ‘access determination’ means the process for determining whether an employee—

“(A) is eligible for access to classified information in accordance with Executive Order 12968 (60 Fed. Reg. 40245; relating to access to classified information), or any successor thereto, and Executive Order 10865 (25 Fed. Reg. 1583; relating to safeguarding classified information with industry); and
 “(B) possesses a need to know under that Order.”.

(d) RULE OF CONSTRUCTION.—Nothing in section 3001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b), as amended by this Act, shall be construed to require the repeal or replacement of agency appeal procedures implementing Executive Order 12968 (60 Fed. Reg. 40245; relating to classified national security information), or any successor thereto, and Executive Order 10865 (25 Fed. Reg. 1583; relating to safeguarding classified information with industry), or any successor thereto, that meet the requirements of section 3001(b)(7) of such Act, as so amended.

SEC. 203. REVISIONS RELATING TO THE INTELLIGENCE COMMUNITY WHISTLEBLOWER PROTECTION ACT.

(a) IN GENERAL.—Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b)—

(A) by inserting “(1)” after “(b)”; and

(B) by adding at the end the following:

“(2) If the head of an establishment determines that a complaint or information transmitted under paragraph (1) would create a conflict of interest for the head of the establishment, the head of the establishment shall return the complaint or information to the Inspector General with that determination and the Inspector General shall make the transmission to the Director of National Intelligence. In such a case, the requirements of this section for the head of the establishment apply to the recipient of the Inspector General’s transmission. The Director of National Intelligence shall consult with the members of the appellate review board established under section 204 of the Whistleblower Protection Enhancement Review Act of 2010 regarding all transmissions under this paragraph.”;

(2) by designating subsection (h) as subsection (i); and

(3) by inserting after subsection (g), the following:

“(h) An individual who has submitted a complaint or information to an Inspector General under this section may notify any member of Congress or congressional staff member of the fact that such individual has made a submission to that particular Inspector General, and of the date on which such submission was made.”.

(b) CENTRAL INTELLIGENCE AGENCY.—Section 17(d)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—

(1) in subparagraph (B)—

(A) by inserting “(i)” after “(B)”; and

(B) by adding at the end the following:

“(ii) If the Director determines that a complaint or information transmitted under paragraph (1) would create a conflict of interest for the Director, the Director shall return the complaint or information to the Inspector General with that determination and the Inspector General shall make the transmission to the Director of National Intelligence. In such a case the requirements of this subsection for the Director apply to the recipient of the Inspector General’s submission; and”;

(2) by adding at the end the following:

“(H) An individual who has submitted a complaint or information to the Inspector General under this section may notify any member of Congress or congressional staff member of the fact that such individual has made a submission to the Inspector General, and of the date on which such submission was made.”.

SEC. 204. REGULATIONS; REPORTING REQUIREMENTS; NONAPPLICABILITY TO CERTAIN TERMINATIONS.

(a) DEFINITIONS.—In this section—

(1) the term “congressional oversight committees” means the—

(A) the Committee on Homeland Security and Government Affairs of the Senate;

(B) the Select Committee on Intelligence of the Senate;

(C) the Committee on Oversight and Government Reform of the House of Representatives; and

(D) the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the term “intelligence community element”—

(A) means—

(i) the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Office of the Director of National Intelligence, and the National Reconnaissance Office; and

(ii) any executive agency or unit thereof determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities; and

(B) does not include the Federal Bureau of Investigation.

(b) REGULATIONS.—

(1) IN GENERAL.—The Director of National Intelligence shall prescribe regulations to ensure that a personnel action shall not be taken against an employee of an intelligence community element as a reprisal for any disclosure of information described in section 2303A(b) of title 5, United States Code, as added by this Act.

(2) APPELLATE REVIEW BOARD.—Not later than 180 days after the date of enactment of this Act, the Director of National Intelligence, in consultation with the Secretary of Defense, the Attorney General, and the heads of appropriate agencies, shall establish an appellate review board that is broadly representative of affected Departments and agencies and is made up of individuals with expertise in merit systems principles and national security issues—

(A) to hear whistleblower appeals related to security clearance access determinations described in section 3001(j) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b), as added by this Act; and

(B) that shall include a subpanel that reflects the composition of the intelligence

committee, which shall be composed of intelligence community elements and inspectors general from intelligence community elements, for the purpose of hearing cases that arise in elements of the intelligence community.

(c) REPORT ON THE STATUS OF IMPLEMENTATION OF REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Director of National Intelligence shall submit a report on the status of the implementation of the regulations promulgated under subsection (b) to the congressional oversight committees.

(d) NONAPPLICABILITY TO CERTAIN TERMINATIONS.—Section 2303A of title 5, United States Code, as added by this Act, and section 3001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b), as amended by this Act, shall not apply to adverse security clearance or access determinations if the affected employee is concurrently terminated under—

(1) section 1609 of title 10, United States Code;

(2) the authority of the Director of National Intelligence under section 102A(m) of the National Security Act of 1947 (50 U.S.C. 403-1(m)), if—

(A) the Director personally summarily terminates the individual; and

(B) the Director—

(i) determines the termination to be in the interest of the United States;

(ii) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security; and

(iii) not later than 5 days after such termination, notifies the congressional oversight committees of the termination;

(3) the authority of the Director of the Central Intelligence Agency under section 104A(e) of the National Security Act of 1947 (50 U.S.C. 403-4a(e)), if—

(A) the Director personally summarily terminates the individual; and

(B) the Director—

(i) determines the termination to be in the interest of the United States;

(ii) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security; and

(iii) not later than 5 days after such termination, notifies the congressional oversight committees of the termination; or

(4) section 7532 of title 5, United States Code, if—

(A) the agency head personally terminates the individual; and

(B) the agency head—

(i) determines the termination to be in the interest of the United States;

(ii) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security; and

(iii) not later than 5 days after such termination, notifies the congressional oversight committees of the termination.

TITLE III—SAVINGS CLAUSE; EFFECTIVE DATE

SEC. 301. SAVINGS CLAUSE.

Nothing in this Act shall be construed to imply any limitation on any protections afforded by any other provision of law to employees and applicants.

SEC. 302. EFFECTIVE DATE.

This Act shall take effect 30 days after the date of enactment of this Act.

AMENDMENT OFFERED BY MR. VAN HOLLEN

Mr. VAN HOLLEN. Madam Speaker, I have an amendment at the desk.

The Clerk read as follows:

Amendment offered by Mr. VAN HOLLEN:

Page 36, strike line 20 and all that follows through page 68, line 23.

Page 69, line 1, strike “**TITLE III**” and insert “**TITLE II**”.

Page 69, line 3, strike “**SEC. 301.**” and insert “**SEC. 201.**”.

Page 69, line 7, strike “**SEC. 302.**” and insert “**SEC. 202.**”.

The amendment was agreed to.

Mr. TOWNS. Madam Speaker, as Chairman of the Committee on Oversight and Government Reform, I rise in strong support of S. 372, the Whistleblower Protection Enhancement Act of 2010.

I want to congratulate Senator AKAKA and the other Senate sponsors of S. 372 for their efforts. I commend the persistence they have demonstrated in championing this good government bill.

I'm proud to be an original co-sponsor of H.R. 1507, the bipartisan companion bill to S. 372. H.R. 1507 was introduced by Representative VAN HOLLEN last year. I want to thank Mr. VAN HOLLEN and all the co-sponsors of H.R. 1507, including Mr. PLATTS of Pennsylvania. They have demonstrated exceptional leadership in support of government whistleblowers.

This legislation is long overdue. Different versions of this legislation have been introduced in every Congress for the last 12 years.

The Oversight Committee has long-recognized that enhancing whistleblower protections will help the Congress to fulfill its role in bringing about more honest, accountable, and effective government for the American people.

Federal employees are often the first to witness abuses or misconduct that presents a risk to the taxpayers. Providing strong protections for those who disclose misconduct helps to promote a more accountable and transparent federal bureaucracy. This legislation provides a means of securing justice to those individuals who are punished for doing the right thing.

During Committee hearings on this legislation, we heard from courageous government workers who risked their careers to promote the common good.

Mr. Franz Gayl, a civilian employee in the Marine Corps, testified about the retaliation he faced. Mr. Gayl blew the whistle on significant delays in the acquisition process—delays that were costing Marines their lives in Iraq. Defense Secretary Gates ultimately agreed with the proposals put forth by Mr. Gayl on troop protection. However, Mr. Gayl remains at risk of losing his job. This bill will help Mr. Gayl, and many others like him.

We have heard from dozens of whistleblowers who support this bill. I want to acknowledge one in particular. Mr. Robert Maclean is a former Federal Air Marshal who was fired after disclosing a threat to aviation safety. Mr. MacLean's case has been lingering for far too long under the current system. He has championed this bill because he knows first hand that the current system is broken. I

thank him for his efforts on behalf of the country.

As many of you remember, the House of Representatives passed similar legislation by a 331–94 vote in the 110th Congress. The House also unanimously passed whistleblower protections as an amendment to the Recovery Act at the beginning of this Congress. Unfortunately, that amendment was stripped out in conference with the Senate.

After a long process in the Senate, this bill comes before the House for a third time. I am pleased the House-Senate compromise we are considering includes important provisions from the House bill. For the first time, the bill will allow Federal workers the right to a jury trial in Federal Court under some circumstances.

The legislation we're considering today is a good compromise. However, I'm disappointed that the Senate did not agree to extend similar whistleblower protections to government contractors.

I am also disappointed that we could not come to an agreement with the Republican side on extending protections to employees in the Intelligence Community.

In spite of the bill's imperfections and limitations, I wholeheartedly endorse this agreement. This is a good government bill that will help to curb waste, fraud, and abuse in the Federal Government.

I encourage the Senate to act quickly on our modifications, and send the bill to President Obama without further delay.

Mr. VAN HOLLEN. Madam Speaker, I rise in strong support of S. 372, the Whistleblower Protection Enhancement Act of 2010.

I would like to thank Senator AKAKA, and the other Senators who have worked so hard to advance this bill to provide stronger whistleblower protections. This effort has spanned over a decade, and I am hopeful that it will come to a successful conclusion today.

Whistleblower protections are a critical component in bringing about a more effective and accountable government. As the Congress considers proposals to address the deficit, our work needs to be pursued on numerous fronts. Whistleblowers risk their careers to challenge abuses, and gross waste of government resources. They deserve to be protected so they can carry out their important work conscientiously, and with the taxpayers best interests in mind.

By providing new rights, remedies, and protections for government whistleblowers, this bill takes an important step toward curbing waste, fraud, and abuse. This will aid our deficit reduction efforts.

S. 372, as passed by the Senate, reflects a bipartisan compromise between the original Senate bill and H.R. 1507, legislation I sponsored with Representatives PLATTS, Chairman TOWNS, and Representatives WAXMAN and BRALEY.

The Oversight and Government Reform Committee has reported similar legislation, on a bipartisan basis, in each of the last two Congresses. The House of Representatives has twice passed similar bills, once in 2007 with 331 votes and again as a bipartisan amendment to the Recovery Act.

Unfortunately, H.R. 1507 was stripped out of the Recovery Act during the conference with the Senate.

Over the course of the last two years, we have worked with the Obama administration and the Senate to work out a compromise that retains the core protections for federal workers and national security personnel that were included in bills passed by the House in 2007 and 2009.

The bill before us today restores Congress' intent to protect an employee for any lawful disclosure of waste, fraud, abuse, or illegality. S. 372 addresses several court decisions that have limited the protections Congress made available to federal employees under the 1989 Whistleblower Protection Act. These decisions quite frankly have gutted the protections available to federal employees.

This bill provides the opportunity for whistleblower cases before the Merit Systems Protection Board to be reviewed by all of the Federal Circuits. Moreover it provides an opportunity for certain cases to receive jury trials. This expansion of opportunity for judicial review is critical. While I would have preferred broader criteria for review and that this enhanced judicial review be made permanent, I have reluctantly accepted the changes made by the Senate to narrow the circumstances under which cases can receive judicial review and to sunset these provisions in 5 years.

This legislation also protects federal employees for disclosures related to distortions of government science and extends to employees of the Transportation Security Administration.

S. 372 is a good bipartisan, bicameral compromise, and should be sent to the President without further delay. This bill, as passed by the Senate, included important protections for national security employees. These provisions had been included with significant input from the national security community and passed the Senate by unanimous consent. Unfortunately, jurisdictional disputes within the House have prompted us to remove these protections in the interest of passing the rest of these essential reforms. I regret the loss of these provisions and look forward to working with incoming Chairman ISSA to advance these protections for national security employees in the next Congress.

I want to thank my cosponsor and partner on this bill, TODD PLATTS for his assistance and strong leadership. I also want to thank Chairman TOWNS and Ranking Member ISSA for their strong support throughout this Congress to advance this important legislation.

I'll close by simply noting that this legislation is long overdue. Without whistleblowers and the unfiltered information that government insiders can provide, the oversight functions vested in Congress would be seriously compromised, as would our efforts to rein in the federal budget deficit. I encourage all Members to support this important bill.

Ms. JACKSON LEE of Texas. Madam Speaker, I rise today in support of the S. 372, the “Whistleblower Protection Enhancement Act of 2010.”

S. 372 amends the Whistleblower Protection Act (WPA) and strengthens the rights and protections of Federal employees who come forward to disclose government waste, fraud, abuse, and mismanagement. The House has passed similar legislation on a bipartisan basis in 2007 (H.R. 985) and 2009, as an amendment to the Recovery Act.

I am a staunch advocate for protecting Federal employees from retaliation when they come forward to disclose waste, fraud, abuse and mismanagement. Whistleblowers are among the most patriotic and conscientious Federal employees. They take great risks to make certain that our Federal Government is functioning properly and effectively for all taxpayers. They serve as indispensable guardians for the efficient use of taxpayer funds. This is an especially valuable service during this vital period of national economic recovery.

Unhindered exposure of waste, fraud and abuse identifies expensive break-downs in the functioning of our Federal Government while also preserving the Federal funds we require to effectively serve our citizens. In some instances, conscientious whistleblowers protect others from harm and actually save lives. So, we must protect these attentive Federal employees who expose systemic lapses and protect the integrity and proper functioning of our Federal Government.

Discrimination and retaliation against Federal employees contravenes Federal law, puts the public at risk, and costs taxpayers millions of dollars. Retaliation and discrimination also breed a myriad of other costs that cannot be quantified in the toll exacted on the health, morale, and well-being of Federal employees who are entrusted to protect and serve our Nation. Federal managers and supervisors who engage in discriminatory conduct must be judiciously and expeditiously disciplined.

S. 372, the "Whistleblower Protection Enhancement Act of 2010" enhances the protection of Federal employees. It restores Congress' intent to protect an employee who makes any lawful disclosure of waste, fraud, abuse, or illegality. S. 372 addresses court decisions that have limited the protections Congress made available to Federal employees under the 1989 Whistleblower Protection Act.

This legislation will improve the administration of justice. It will allow non-intelligence whistleblowers to bring their cases before a jury under certain circumstances. The current administrative system will be further strengthened by allowing a limited number of more complex whistleblower cases to be considered in Federal court by juries. The bill also will allow whistleblower appeals to be heard by the regional Federal appellate courts.

This bill further expands upon the protections for Federal employees in additional necessary and meaningful ways. It extends whistleblower protections to employees at the Transportation Security Administration. It clarifies that whistleblowers may disclose evidence of censorship of scientific or technical information under the same standards that apply to disclosures of other kinds of waste, fraud, and abuse. It enhances protections for employees facing retaliation after refusing to violate the law or participating in an Inspector General investigation.

This legislation will codify and strengthen rules that preempt agencies from issuing regulations or directives that interfere with whistleblower protections. I am also pleased to say, that for the first time, S. 327 will make compensatory damage awards available to whistleblowers. This is a key component in ensuring a whistleblower is made whole after suffering retaliation. This bill will also make it

easier for the Office of Special Counsel to discipline agency managers who are found to retaliate against employees.

It is my fervent expectation that this legislation will meaningfully advance our national integrity by deterring Federal managers from violating the civil rights and civil liberties of their fellow Federal workers, especially whistleblowers.

I ask my colleagues to stand with me today and vote in favor of S. 327.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Byrd, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 4058. An act to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosure.

□ 1740

SUPPORTING OLYMPIC DAY

Mr. VAN HOLLEN. Madam Speaker, I ask unanimous consent that the Committee on Oversight and Government Reform be discharged from further consideration of the resolution (H. Res. 1461) supporting Olympic Day on June 23, 2010, and congratulating Team USA and World Fit participants, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The text of the resolution is as follows:

H. RES. 1461

Whereas Olympic Day, June 23, 2010, celebrates the Olympic ideal of developing peace through sport;

Whereas June 23 marks the anniversary of the founding of the modern Olympic movement, the date on which the Congress of Paris approved the proposal of Pierre de Coubertin to found the modern Olympics;

Whereas for more than 100 years, the Olympic movement has built a more peaceful and better world by educating young people through amateur athletics, by bringing together athletes from many countries in friendly competition, and by forging new relationships bound by friendship, solidarity, and fair play;

Whereas the United States advocates the ideals of the Olympic movement;

Whereas Olympic Day will encourage the development of Olympic and Paralympic sport in the United States;

Whereas Team USA won an historic 37 medals at the Vancouver 2010 Olympic Winter Games;

Whereas Team USA won 13 medals at the Vancouver 2010 Paralympic Winter Games;

Whereas the USOC Paralympic Military Program provides post-rehabilitation sup-

port and mentoring to members of the United States Armed Forces who've sustained physical injuries such as traumatic brain injury, spinal cord injury, amputation, visual impairment or blindness, and stroke;

Whereas Olympic Day encourages the participation of youth of the United States in Olympic and Paralympic sport;

Whereas World Fit, a program established by Olympians and Paralympians to promote physical fitness and a healthy lifestyle to middle school children and connect them with Olympic and Paralympic athletes and the Olympic Movement, helped 7,239 students from 17 schools in 6 States walk a total of 769,148 miles in 6 weeks during the 2010 program;

Whereas Olympic Day will encourage the teaching of Olympic history, health, arts, and culture among the youth of the United States; and

Whereas enthusiasm for Olympic and Paralympic sport is at an all-time high: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports Olympic Day and the goals that Olympic Day pursues;

(2) congratulates Team USA on their Vancouver 2010 accomplishments; and

(3) supports the goals of World Fit and congratulates its participants on the 2010 results.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VAN HOLLEN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the measures just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CLARIFYING THE NATIONAL CREDIT UNION ADMINISTRATION AUTHORITY

Mr. KLEIN of Florida. Madam Speaker, I ask unanimous consent that the Committee on Financial Services be discharged from further consideration of the bill (S. 4036) to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The text of the bill is as follows:

S. 4036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STABILIZATION FUND.

(a) ADDITIONAL ADVANCES.—Section 217(c)(3) of the Federal Credit Union Act (12 U.S.C. 1790e(c)(3)) is amended by inserting

before the period at the end the following: "and any additional advances".

(b) ASSESSMENTS.—Section 217 of the Federal Credit Union Act (12 U.S.C. 1790e) is amended by striking subsection (d) and inserting the following:

“(d) ASSESSMENT AUTHORITY.—

“(1) ASSESSMENTS RELATING TO EXPENDITURES UNDER SUBSECTION (B).—In order to make expenditures, as described in subsection (b), the Board may assess a special premium with respect to each insured credit union in an aggregate amount that is reasonably calculated to make any pending or future expenditure described in subsection (b), which premium shall be due and payable not later than 60 days after the date of the assessment. In setting the amount of any assessment under this subsection, the Board shall take into consideration any potential impact on credit union earnings that such an assessment may have.

“(2) SPECIAL PREMIUMS RELATING TO REPAYMENTS UNDER SUBSECTION (C)(3).—Not later than 90 days before the scheduled date of each repayment described in subsection (c)(3), the Board shall set the amount of the upcoming repayment and shall determine whether the Stabilization Fund will have sufficient funds to make the repayment. If the Stabilization Fund is not likely to have sufficient funds to make the repayment, the Board shall assess with respect to each insured credit union a special premium, which shall be due and payable not later than 60 days after the date of the assessment, in an aggregate amount calculated to ensure that the Stabilization Fund is able to make the required repayment.

“(3) COMPUTATION.—Any assessment or premium charge for an insured credit union under this subsection shall be stated as a percentage of its insured shares, as represented on the previous call report of that insured credit union. The percentage shall be identical for each insured credit union. Any insured credit union that fails to make timely payment of the assessment or special premium is subject to the procedures and penalties described under subsections (d), (e), and (f) of section 202.”.

SEC. 2. EQUITY RATIO.

Section 202(h)(2) of the Federal Credit Union Act (12 U.S.C. 1782(h)(2)) is amended by striking “when applied to the Fund,” and inserting “which shall be calculated using the financial statements of the Fund alone, without any consolidation or combination with the financial statements of any other fund or entity.”.

SEC. 3. NET WORTH DEFINITION.

Section 216(o)(2) of the Federal Credit Union Act (12 U.S.C. 1790d(o)(2)) is amended to read as follows:

“(2) NET WORTH.—The term ‘net worth’—

“(A) with respect to any insured credit union, means the retained earnings balance of the credit union, as determined under generally accepted accounting principles, together with any amounts that were previously retained earnings of any other credit union with which the credit union has combined;

“(B) with respect to any insured credit union, includes, at the Board’s discretion and subject to rules and regulations established by the Board, assistance provided under section 208 to facilitate a least-cost resolution consistent with the best interests of the credit union system; and

“(C) with respect to a low-income credit union, includes secondary capital accounts that are—

“(i) uninsured; and

“(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund.”.

SEC. 4. STUDY OF NATIONAL CREDIT UNION ADMINISTRATION.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the National Credit Union Administration’s supervision of corporate credit unions and implementation of prompt corrective action.

(b) ISSUES TO BE STUDIED.—In conducting the study required under subsection (a), the Comptroller General shall—

(1) determine the reasons for the failure of any corporate credit union since 2008;

(2) evaluate the adequacy of the National Credit Union Administration’s response to the failures of corporate credit unions, including with respect to protecting taxpayers, avoiding moral hazard, minimizing the costs of resolving such corporate credit unions, and the ability of insured credit unions to bear any assessments levied to cover such costs;

(3) evaluate the effectiveness of implementation of prompt corrective action by the National Credit Union Administration for both insured credit unions and corporate credit unions; and

(4) examine whether the National Credit Union Administration has effectively implemented each of the recommendations by the Inspector General of the National Credit Union Administration in its Material Loss Review Reports, and, if not, the adequacy of the National Credit Union Administration’s reasons for not implementing such recommendation.

(c) REPORT TO COUNCIL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required under this section to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(2) the Committee on Financial Services of the House of Representatives; and

(3) the Financial Stability Oversight Council.

(d) COUNCIL REPORT OF ACTION.—Not later than 6 months after the date of receipt of the report from the Comptroller General under subsection (c), the Financial Stability Oversight Council shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on actions taken in response to the report, including any recommendations issued to the National Credit Union Administration under section 120 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5330).

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CELEBRATING 130 YEARS OF UNITED STATES-ROMANIAN DIPLOMATIC RELATIONS

Mr. KLEIN of Florida. Madam Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (S. Con. Res. 67) celebrating 130 years of United States-Romanian diplomatic relations, congratulating the Romanian people on their achievements as a great na-

tion, and reaffirming the deep bonds of trust and values between the United States and Romania, a trusted and most valued ally, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The text of the concurrent resolution is as follows:

S. CON. RES. 67

Whereas the United States established diplomatic relations with Romania in June 1880;

Whereas the United States and Romania are two countries united by shared values and a strong commitment to freedom, democracy, and prosperity;

Whereas Romania has shown, for the past 20 years, remarkable leadership in advancing security and democratic principles in Eastern Europe, the Western Balkans, and the Black Sea region, and has amply participated to the forging of a wider Europe, whole and free;

Whereas Romania’s commitment to meeting the greatest responsibilities and challenges of the 21st century is and has been reflected by its contribution to the international efforts of stabilization in Afghanistan and Iraq, its decision to participate in the United States missile defense system in Europe, its leadership in regional non-proliferation and arms control, its active pursuit of energy security solutions for South Eastern Europe, and its substantial role in shaping a strong and effective North Atlantic Alliance;

Whereas the strategic partnership that exists between the United States and Romania has greatly advanced the common interests of the United States and Romania in promoting transatlantic and regional security and free market opportunities, and should continue to provide for more economic and cultural exchanges, trade and investment, and people-to-people contacts between the United States and Romania;

Whereas the talent, energy, and creativity of the Romanian people have nurtured a vibrant society and nation, embracing entrepreneurship, technological advance and innovation, and rooted deeply in the respect for education, culture, and international cooperation; and

Whereas Romanian Americans have contributed greatly to the history and development of the United States, and their rich cultural heritage and commitment to furthering close relations between Romania and the United States should be properly recognized and praised: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) celebrates the 130th anniversary of United States-Romanian diplomatic relations;

(2) congratulates the Romanian people on their achievements as a great nation; and

(3) reaffirms the deep bonds of trust and values between the United States and Romania.

Mr. ORTIZ. Madam Speaker, I rise today as Co-Chair of the Romanian Caucus in the House of Representatives, to support the unanimous consent to Senate Resolution S. Con. Res. 67, which Senator GEORGE VOINOVICH introduced on June 30 of this year, to celebrate 130 years of U.S.-Romanian diplomatic

relations, to congratulate the Romanian people of their achievements as a great nation, and to reaffirm the deep bonds of trust and values between the United States and Romania. This Resolution is concurrent with House Resolution H. Con. Res. 291 that I introduced on June 29 of this year.

In my five years of leadership of the Romanian Caucus I worked closely with Romanian officials and leaders, and witnessed their commitment to upholding and advancing the values of freedom, democracy and prosperity. Romania has been an extraordinary ally in NATO and a critical partner in the European Union, in addressing some of the most important challenges facing our transatlantic and global community—from ensuring peace and stability in Afghanistan, to nuclear proliferation, to energy security. Romania is a trusted ally and a strategic partner of the United States, with whom we have developed great cooperation on issues of common interest, including security, economic and political conditions in Eastern Europe, the Balkans, the Black Sea and Caucasus regions.

I am very proud of the Congress passing this Resolution, as it reflects and commends the many achievements of the U.S.-Romanian partnership and of the Romanian people. I thank all my colleagues who supported the Resolution and I urge Congress to continue to support cooperation between the United States and Romania, and to deepen the bonds of trust and friendship between our two countries.

The concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

REMOVAL CLARIFICATION ACT OF 2010

Mr. JOHNSON of Georgia. Madam Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 6560) to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The text of the bill is as follows:

H. R. 6560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Removal Clarification Act of 2010”.

SEC. 2. REMOVAL OF CERTAIN LITIGATION TO FEDERAL COURTS.

(a) CLARIFICATION OF INCLUSION OF CERTAIN TYPES OF PROCEEDINGS.—Section 1442 of title 28, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1)—

(A) by inserting “that is” after “or criminal prosecution”; and

(B) by inserting “and that is” after “in a State court”; and

(C) by inserting “or directed to” after “against”; and

(2) by adding at the end the following:

“(c) As used in subsection (a), the terms ‘civil action’ and ‘criminal prosecution’ include any proceeding (whether or not ancillary to another proceeding) to the extent that in such proceeding a judicial order, including a subpoena for testimony or documents, is sought or issued. If removal is sought for a proceeding described in the previous sentence, and there is no other basis for removal, only that proceeding may be removed to the district court.”.

(b) CONFORMING AMENDMENTS.—Section 1442(a) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “capacity for” and inserting “capacity, for or relating to”; and

(B) by striking “sued”; and

(2) in each of paragraphs (3) and (4), by inserting “or relating to” after “for”.

(c) APPLICATION OF TIMING REQUIREMENT.—Section 1446 of title 28, United States Code, is amended by adding at the end the following:

“(g) Where the civil action or criminal prosecution that is removable under section 1442(a) is a proceeding in which a judicial order for testimony or documents is sought or issued or sought to be enforced, the 30-day requirement of subsections (b) and (c) is satisfied if the person or entity desiring to remove the proceeding files the notice of removal not later than 30 days after receiving, through service, notice of any such proceeding.”.

(d) REVIEWABILITY ON APPEAL.—Section 1447(d) of title 28, United States Code, is amended by inserting “1442 or” before “1443”.

SEC. 3. PAYGO COMPLIANCE.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Mr. JOHNSON of Georgia. Madam Speaker, the Removal Clarification Act of 2010 will enable Federal officials—Federal officers, in the words of the statute—to remove cases filed against them to Federal court in accordance with the spirit and intent of the current Federal officer removal statute.

Under the Federal officer removal statute, 28 U.S.C. 1442(a), Federal officers are able to remove a case out of State court and into Federal court when it involves the Federal officer’s exercise of his or her official responsibilities.

However, more than 40 States have pre-suit discovery procedures that require individuals to submit to deposition or respond to discovery requests even when a civil action has not yet been filed.

Courts are split on whether the current Federal officer removal statute applies to pre-suit discovery. This means that Federal officers can be forced to litigate in State court despite the Federal statute’s contrary intent.

This bill will clarify that a Federal officer may remove any legally enforceable demand for his or her testimony or documents, if the basis

for contesting the demand has to do with the officer’s exercise of his or her official responsibilities. It will also allow for appeal to the Federal circuit court if the district court remands the matter back to the State court over the objection of the Federal officer.

When a similar bill passed the House in July, I explained that the bill will not result in the removal of the entire case when a Federal officer is merely served with a discovery request. The version of the bill we consider today reflects refinements proposed by the Senate to make that even clearer. The bill now states that “[i]f there is no other basis for removal, only that proceeding may be removed to the district court.” This makes very clear that the Federal court must consider the discovery request served on the Federal official as a separate proceeding from the underlying State court case.

This bill continues to have strong bipartisan support, and I would like to thank Chairman CONYERS, Ranking Member SMITH, and the Ranking Member of the Courts Subcommittee, HOWARD COBLE of North Carolina, for their work on this bill. I would also like to thank Courts Subcommittee counsel Liz Stein for all her tremendous work on this bill over several months.

I urge my colleagues to support this important legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HONORING THE 50TH ANNIVERSARY OF THE FREEDOM RIDES

Mr. JOHNSON of Georgia. Madam Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Resolution 1779 and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The text of the resolution is as follows:

H. RES. 1779

Whereas, on May 4, 1961, a Greyhound bus left Washington, DC with black and white passengers and traveled South to challenge discriminatory racial segregation laws;

Whereas, while the travels of these passengers were initially called a Journey of Reconciliation, their efforts would come to be known as the Freedom Rides;

Whereas these Southern-bound passengers, known as the Freedom Riders, were united by their commitment to end segregation and ongoing racial discrimination;

Whereas the Freedom Riders traveled into states where Jim Crow laws were still prevalent, thus challenging the Federal Government to enforce its decision to overturn them by non-violently integrating the bus routes and rest stops;

Whereas, on their journeys during the Summer of 1961, the Freedom Riders would stop at locations in Virginia, North Carolina, Tennessee, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, and Louisiana;

Whereas, at many times during the Freedom Rides, the Riders encountered antagonism, verbal abuse, acts of violence, and incarceration, yet never gave up their commitment to equality and social justice;

Whereas, led by James Farmer and the Congress of Racial Equality, the Freedom Riders were successful in part due to their role-playing preparation and practice in non-violence and Gandhian principles;

Whereas the Freedom Riders' non-violent actions would help expose to the Nation and the world the cruelty and injustice of Jim Crow laws; and

Whereas the Freedom Rides would spur the Kennedy Administration to enforce laws and judicial rulings that guaranteed the rights and safety of all passengers, regardless of race, gender, or religious background, to sit wherever they desired on bus routes and at rest stops: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors the 50th anniversary of the Freedom Rides; and

(2) recognizes the extraordinary leadership and sacrifice of the Freedom Riders in their commitment to ending racial segregation in America.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of Georgia. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to include their statements into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

REAL ESTATE JOBS AND INVESTMENT ACT OF 2010

Mr. McDERMOTT. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5901) to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investment in United States real property interests, and for other purposes, with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORITY OF TAX COURT TO APPOINT EMPLOYEES.

(a) *IN GENERAL*.—Subsection (a) of section 7471 of the Internal Revenue Code of 1986 (relating to employees) is amended to read as follows:

“(a) APPOINTMENT AND COMPENSATION.—

“(1) *CLERK*.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

“(2) *JUDGE-APPOINTED EMPLOYEES*.—

“(A) *IN GENERAL*.—The judges and special trial judges of the Tax Court may appoint em-

ployees, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the appointing judge.

“(B) *EXEMPTION FROM FEDERAL LEAVE PROVISIONS*.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the law clerk's credit as of the effective date of this subsection shall remain credited to the law clerk and shall be available to the law clerk upon separation from the Federal Government.

“(3) *OTHER EMPLOYEES*.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

“(4) *PAY*.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in courts established under Article III of the Constitution of the United States.

“(5) *PROGRAMS*.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

“(6) *DISCRIMINATION PROHIBITED*.—The Tax Court shall—

“(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

“(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

“(7) *EXPERTS AND CONSULTANTS*.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

“(8) *RIGHTS TO CERTAIN APPEALS RESERVED*.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

“(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

“(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

“(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

“(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

“(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

“(9) *COMPETITIVE STATUS*.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

“(10) *MERIT SYSTEM PRINCIPLES, PROHIBITED PERSONNEL PRACTICES, AND PREFERENCE ELIGIBLES*.—Any personnel management system of the Tax Court shall—

“(A) include the principles set forth in section 2301(b) of title 5, United States Code;

“(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

“(C) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.”.

(b) *EFFECTIVE DATE*.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

Amend the title so as to read: “An Act to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees.”.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

MAKING A TECHNICAL CORRECTION TO IMPLEMENT THE VETERANS EMPLOYMENT OPPORTUNITIES ACT

Mrs. DAVIS of California. Madam Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the resolution (H. Res. 1783) making a technical correction to a cross-reference in the final regulations issued by the Office of Compliance to implement the Veterans Employment Opportunities Act of 1998 that apply to the House of Representatives and employees of the House of Representatives, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the resolution is as follows:

H. RES. 1783

Resolved, That section 3(b) of House Resolution 1757, agreed to December 15, 2010, is amended by striking paragraph (1) and redesignating paragraphs (2) through (5) as paragraphs (1) through (4).

The resolution was agreed to.

A motion to reconsider was laid on the table.

CLARIFYING FEDERAL RESPONSIBILITY TO PAY FOR STORMWATER POLLUTION

Mr. PERRIELLO. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 3481) to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution, and

ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The text of the bill is as follows:

S. 3481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL RESPONSIBILITY TO PAY FOR STORMWATER PROGRAMS.

Section 313 of the Federal Water Pollution Control Act (33 U.S.C. 1323) is amended by adding at the end the following:

“(c) REASONABLE SERVICE CHARGES.—

“(1) IN GENERAL.—For the purposes of this Act, reasonable service charges described in subsection (a) include any reasonable nondiscriminatory fee, charge, or assessment that is—

“(A) based on some fair approximation of the proportionate contribution of the property or facility to stormwater pollution (in terms of quantities of pollutants, or volume or rate of stormwater discharge or runoff from the property or facility); and

“(B) used to pay or reimburse the costs associated with any stormwater management program (whether associated with a separate storm sewer system or a sewer system that manages a combination of stormwater and sanitary waste), including the full range of programmatic and structural costs attributable to collecting stormwater, reducing pollutants in stormwater, and reducing the volume and rate of stormwater discharge, regardless of whether that reasonable fee, charge, or assessment is denominated a tax.

“(2) LIMITATION ON ACCOUNTS.—

“(A) LIMITATION.—The payment or reimbursement of any fee, charge, or assessment described in paragraph (1) shall not be made using funds from any permanent authorization account in the Treasury.

“(B) REIMBURSEMENT OR PAYMENT OBLIGATION OF FEDERAL GOVERNMENT.—Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government, as described in subsection (a), shall not be obligated to pay or reimburse any fee, charge, or assessment described in paragraph (1), except to the extent and in an amount provided in advance by any appropriations Act to pay or reimburse the fee, charge, or assessment.”.

Mr. OBERSTAR. Madam Speaker, I rise in strong support of S. 3481, a bill to amend the Clean Water Act to clarify Federal responsibility for stormwater pollution.

I applaud the outstanding work of the sponsors of this legislation, the distinguished Senator from the State of Maryland (Mr. CARDIN), as well as the sponsor of the House companion bill (H.R. 5724), the Delegate from the District of Columbia (Ms. NORTON), for their efforts to move this important legislation for the protection of our Nation's waters.

Simply put, this legislation clarifies that Federal agencies and departments are financially responsible for any reasonable Federal, state, or locally derived charges for treating or otherwise addressing stormwater pollution that emanates from Federal property.

Madam Speaker, over the past 4 years, the Committee on Transportation and Infrastructure has examined the progress made over the past few decades in improving the overall

quality of the Nation's waters, as well as the challenges that remain to achieving the goals of “fishable and swimmable waters” called for in the enactment of the 1972 Clean Water Act.

Although significant progress has been made in the past four decades, approximately 40 percent of the Nation's assessed rivers, lakes, and coastal waters still do not meet water quality standards. States, territories, Tribes, and other jurisdictions report that poor water quality continues to affect aquatic life, fish consumption, swimming, and sources of drinking water in all types of waterbodies.

In a recent report on the National Water Quality Inventory, States, territories, Tribes, and interstate commissions report that they monitor only 33 percent of the Nation's waters. Of those, about 44 percent of streams, 64 percent of lakes, and 30 percent of estuaries were not clean enough to support their designated uses (e.g., fishing and swimming).

While these numbers highlight the remaining need to improve the quality of the Nation's waters, they also demonstrate how this country's record on improving water quality is slipping—demonstrating a slight, but significant reversal of efforts to clean up the Nation's waters over the past 30 years.

For example, in the 1996 National Water Quality Inventory report, States reported that of the 3.6 million miles of rivers and streams that were assessed, 64 percent were either fully supporting all designated uses or were threatened for one or more of those uses. In the 1998 report, this number improved to 65 percent of assessed rivers and streams. However, in the 2000 National Water Quality Inventory report, this number slipped to only 61 percent of assessed rivers and streams either meeting water quality standards or being threatened for one or more of the waterbodies' designated uses, and in the 2004 Inventory, this number slipped again, to 53 percent of rivers and streams fully supporting their designated uses—a significant reversal in the trend toward meeting the goals of the Clean Water Act.

According to information from the Environmental Protection Agency, stormwater remains a leading cause of water quality impairment. For example, in the 2004 Water Quality Inventory, discharges of urban stormwater are the leading source of impairment to 22,559 miles (or 9.2 percent) of all impaired rivers and streams, 701,024 acres (or 6.7 percent) of all impaired lakes, and 867 square miles (or 11.3 percent) of all impaired estuaries.

The continuing negative environmental impacts of stormwater are echoed in a National Academy of Sciences 2009 report that expressed concern about the “unprecedented pace” of urbanization in the United States. According to this report, “the creation of impervious surfaces that accompanies urbanization profoundly affects how water moves both above and below ground during and following storm events, the quality of stormwater, and the ultimate condition of nearby rivers, lakes, and estuaries.”

Madam Speaker, this National Academy of Sciences report made several findings on national efforts to understand and manage urban stormwater. A key finding was a lack of available resources to implement and enforce Federal and state stormwater control programs.

According to the report, “State and local governments do not have adequate financial support to the stormwater program in a rigorous way.” While the report recommended that the Federal Government provide more financial support to state and local efforts to regulate stormwater, such as through increased funding of existing Clean Water Act authorities, the report also highlights the importance of Federal agencies contributing to the costs of environmental and water quality protections, including the costs of addressing sources of pollution originating or emanating from Federal facilities.

This finding echoes concerns raised by numerous state and local governmental officials over how some Federal agencies have seemingly rejected local efforts to assess service fees to curb stormwater pollution originating or emanating from Federal facilities.

Several states and municipalities, including the District of Columbia, have taken aggressive action to address ongoing sources of stormwater pollution. Yet, when a significant percentage of Federal property owners take the position that they cannot be held responsible for their pollution, it places a greater financial burden on our states, cities, communities, and local ratepayers, and makes it less likely that significant reductions in stormwater pollution can be achieved.

For example, in April 2010, the Regional Commissioner of the U.S. General Services Administration, GSA, rejected efforts by the District of Columbia Water and Sewer Authority, DCWASA, to collect an assessment under its Impervious Surface Area Billing Program for impervious surfaces under the control of GSA. According to DCWASA, this charge is a “fair way to distribute the cost of maintaining storm sewers and protecting area waterways because it is based on a property's contribution of rainwater to the District's sewer system.”

S. 3481 amends section 313 of the Clean Water Act to clarify that “reasonable service charges” for addressing pollution from Federal facilities includes reasonable nondiscriminatory fees, charges, or assessments that are based on the proportion of stormwater emanating from the facility and used to pay (or reimburse) costs associated with any stormwater management program.

This is a simple effort to clarify, again, that the Federal Government bears a proportional responsibility for addressing pollution originating from its facilities, and should remain an active participant in improving the nation's water quality and the overall environment.

The intent of subsection (c)(2)(A) of Section 313 of the Clean Water Act, as added by S. 3481, is to ensure that there is no increase in mandatory spending pursuant to the U.S. Treasury's permanent authority to pay, without further appropriation, the water and sewer service charges imposed by the government of the District of Columbia. The reference in such section to “any permanent authorization account in the Treasury” refers to any account for which a permanent appropriation exists, such as the U.S. Treasury account entitled “Federal Payment for Water and Sewer Services”, and does not imply that GSA's Federal Buildings Fund may not be used to make such payments.

In addition, the intent of subsection (c)(2)(B) of Section 313 of the Clean Water Act, as added by S. 3481, is to require that Congress make available, in appropriations acts, the funds that could be used to pay stormwater fees, but not that the appropriations act would need to state specifically or expressly that the funds could be used to pay these charges.

Nothing in S. 3481 affects the payment by the United States or any department, independent establishment, or agency thereof of any sanitary sewer services furnished by the sanitary sewage works of the District of Columbia through any connection thereto for direct use by the government of the United States or any department, independent establishment, or agency thereof. The rules for those payments are set forth in law, codified at section 34–2112 of the D.C. Code, and nothing in this bill amends or otherwise affects those rules.

Madam Speaker, this legislation has the strong support of several organizations representing state and local elected officials, including the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and the International City/County Management Association. It also has been endorsed by the National Association of Clean Water Agencies, NACWA.

I urge my colleagues to join me in supporting S. 3481.

Ms. NORTON. Madam Speaker, I rise today in strong support of S. 3481 to amend the Federal Water Pollution Control Act, which clarifies that the Federal Government, like private citizens and businesses, must take responsibility for the pollution it produces. This bill is the Senate companion to my bill, H.R. 5724, cosponsored by my good friends from Virginia and Arizona, Representative JIM MORAN and Representative GABRIELLE GIFFORDS. The bill passed the Senate with strong bipartisan support because the Senate understood that this is simply an issue of fairness and equity to users and a matter of managing pollution and protecting the environment. In fact, this bill simply clarifies current law, that the Federal Government has a responsibility to pay its normal and customary fees assessed by local governments for managing polluted stormwater runoff from Federal properties, just as private citizens pay. The consequence of failing to pass this bill is that we give the Federal Government a free ride and pass its fees on to our constituents throughout the United States.

Section 313 of the Federal Water Pollution Control Act states, “Each department, agency, or instrumentality . . . of the Federal Government . . . shall be subject to, and comply with all Federal, State, interstate, and local requirements . . . in the same manner, and to the same extent as any nongovernmental entity including the payment of reasonable service charges.” However, the Government Accountability Office issued letters to Federal agencies in the District of Columbia instructing them not to pay the District of Columbia’s Water and Sewer Authority’s, D.C. Water’s, Impervious Area Charge. D.C. Water calculates the charges to manage stormwater runoff based

on the amount of impervious land occupied by the landowner. Impervious surfaces, such as roofs, parking lots, sidewalks and other hardened surfaces are the major contributors to stormwater runoff entering the sewer system and local rivers, lakes and streams, causing significant amounts of pollutants to enter these waters. This bill clarifies that in my district and all other congressional districts, Federal agencies must continue to pay their utility fees instead of passing the fees to our constituents.

Nothing in this Act was intended to affect the payment by the United States or any department, independent establishment, or agency thereof of any sanitary sewer services furnished by the sanitary sewage works of the District through any connection thereto for direct use by the government of the United States or any department, independent establishment, or agency thereof. The rules for those payments are set forth in law codified at section 34–2112 of the D.C. Code and nothing in this Act amends or otherwise affects those rules. This bill requires that Congress make available, in appropriations acts, the funds that could be used to pay for stormwater management charges, but not that the appropriations act would need to state specifically or expressly that the funds could be used to pay these charges.

This bill is supported by The National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, the International City/County Management Associations, as well as the National Association of Clean Water Agencies. All of these national groups understand that stormwater management fees, without any exceptions, are necessary for managing and reducing water pollution caused by stormwater runoff. Moreover, they understand that many agencies in states and localities may stop paying their water and stormwater management fees if we do not act, putting even more financial burden on residents.

Federal law has mandated that these local governments must collect these fees. No exemption has been granted to Federal facilities. Please support S. 3481 to clarify the original intent of the law.

I urge my colleagues to support this bill.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise in strong support of S. 3481, a bill that would clarify Federal responsibility for stormwater runoff from buildings, facilities, and lands owned or operated by the Federal Government. This common sense bill ensures that the Federal Government maintains its equitable responsibility for stormwater pollution runoff originating or emanating from its property.

I applaud the outstanding work of the sponsors of this legislation, the distinguished Senator from the State of Maryland (Mr. CARDIN), as well as the sponsor of the House companion for this bill, the Delegate from the District of Columbia (Ms. NORTON), for their efforts to move this legislation so quickly to the President’s desk.

Madam Speaker, simply put, this legislation clarifies that Federal agencies and departments are financially responsible for any reasonable Federal, State, or locally-derived

charges for treating or otherwise addressing stormwater pollution that emanates from Federal property.

Existing section 313 of the Clean Water Act states that “Each department, agency, or instrumentality . . . of the Federal Government . . . shall be subject to, and comply with, all Federal, State, interstate, and local requirements . . . including the payment of reasonable service charges.”

Unfortunately, over the past few months, Congress has learned of several Federal agencies, including some here in the Nation’s Capital, that have made the determination that stormwater management fees are “taxes” for which the agencies have claimed sovereign immunity and have refused to pay.

This has left several State and local municipalities with the financial responsibility of addressing ongoing sources of pollution to the nation’s waters that any other private business, landowner, or homeowner would otherwise be responsible for paying.

Polluted runoff from urban areas is the fastest growing source of water pollution in America. As urbanization increases, impervious surfaces such as highways, roads, parking lots, and buildings replace non-impervious surfaces that absorb stormwater.

Runoff from impervious surfaces is a central cause of pollution for the nation’s waters, and is estimated to be the primary source of impairment for 13 percent of rivers, 18 percent of lakes, and 32 percent of estuaries in the U.S. These are significant figures, especially given that urban areas cover only 3 percent of the land mass of the country.

Even here, in the Nation’s Capital, pollution from stormwater runoff poses a significant challenge to the quality of local receiving waters, and negatively impacts the overall environmental health of the Chesapeake Bay.

According to the Environmental Protection Agency, stormwater runoff from urban and suburban areas is “a significant source of impairment to the Chesapeake Bay.” According to Agency statistics, 17 percent of phosphorus, 11 percent of nitrogen, and 9 percent of sediment loads to the Bay come from stormwater runoff.

In addition, chemical contaminants from runoff can rival or exceed the amount reaching local waterways from industries, federal facilities, and wastewater treatment plants.

Several states and municipalities, including the District of Columbia, have taken aggressive action to address these ongoing sources of pollution.

Yet, when a significant percentage of property owners take the position that they cannot be held responsible for their pollution, it places a greater financial burden on our States, cities, communities, and local-ratepayers, and makes it less likely that significant reductions in stormwater pollution can be achieved.

S. 3481 amends section 313 of the Clean Water Act to clarify that “reasonable service charges” for addressing pollution from Federal facilities includes reasonable nondiscriminatory fees, charges, or assessments that are based on the proportion of stormwater emanating from the facility and used to pay (or reimburse) costs associated with any stormwater management program.

This is a simple effort to clarify, again, that the Federal Government bears a proportional

responsibility for addressing pollution originating from its facilities, and should remain an active participant in improving National water quality and the overall environment.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HELPING HEROES KEEP THEIR HOMES ACT OF 2010

Mr. PERRIELLO. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 4058) to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosure, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The text of the bill is as follows:

S. 4058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Helping Heroes Keep Their Homes Act of 2010".

SEC. 2. EXTENSION OF ENHANCED PROTECTIONS FOR SERVICEMEMBERS RELATING TO MORTGAGES AND MORTGAGE FORECLOSURE UNDER SERVICEMEMBERS CIVIL RELIEF ACT.

Paragraph (2) of section 2203(c) of the Housing and Economic Recovery Act of 2008 (Public Law 110-289) is amended—

(1) by striking "December 31, 2010" and inserting "December 31, 2012"; and

(2) by striking "January 1, 2011" and inserting "January 1, 2013".

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEASE AUTHORIZATION FOR OHKAY OWINGEH PUEBLO

Mr. LUJÁN. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 3903) to authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The text of the bill is as follows:

S. 3903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OHKAY OWINGEH PUEBLO LEASING AUTHORITY.

Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence by inserting "and lands held in trust for Ohkay Owingeh

Pueblo" after "of land on the Devils Lake Sioux Reservation,".

Mr. LUJÁN. Madam Speaker, today I rise to ask my colleagues to support an important measure that will allow the Pueblo of Ohkay Owingeh, in Northern New Mexico, to expand economic opportunities for their tribal members.

Ohkay Owingeh is a small tribal community (Pueblo) in the northern part of my district and is part of the cultural fabric of Northern New Mexico. Since before Spanish rule, and American Manifest Destiny the small pueblo of Ohkay Owingeh used its surrounding lands to provide for its people.

As history moved to present day the Federal government and tribal communities entered into trust treaties to provide for the well being of Indian people across our nation. As part of the federal government's trust obligation to tribal communities, putting lands into trust for use by tribal people is something that is fundamental to the government-to-government relationship between the United States and individual tribal communities.

In the modern age many tribes develop part of their trust lands to create economic opportunities for their people. In many cases their ventures are successful and the tribe can use their trust lands as they see fit, but in other cases like that of Ohkay Owingeh the cumbersome nature of obtaining approval to lease their lands for economic activity can prevent very beneficial business ventures from ever taking place and, thus, hindering the tribes ability to provide for its own people.

The importance of allowing tribal governments to enter into long term leases is paramount to giving them the ability to create better opportunities for their tribal members, their children and future generations. Many tribes have vast lands that can benefit the tribe and surrounding areas economically, but because of the process of getting secretarial approval to lease their own lands can be detrimental for the tribe.

I am asking my colleagues to support this no cost measure that will allow the tribe of Ohkay Owingeh to enter into long term leases to expand economic opportunities for the tribe and to lift the cumbersome requirement of Secretarial Approval for use of their own lands.

Many of my colleagues on both sides of the aisle have supported such measures for other tribes around the country in this congress and in congresses past; and this kind bipartisan support is crucial to providing opportunities for the small Pueblo of Ohkay Owingeh.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LUJÁN. Madam Speaker, I ask unanimous consent that all Members may revise and extend their remarks on the measures considered by unanimous consent today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

APPOINTING A COMMITTEE TO INFORM THE PRESIDENT

Mr. McDERMOTT. Madam Speaker, I send to the desk a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1784

Resolved, That a committee of two Members of the House be appointed to wait upon the President of the United States and inform him that the House of Representatives has completed its business of the session and is ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1750

APPOINTMENT OF COMMITTEE TO NOTIFY THE PRESIDENT

The SPEAKER pro tempore. Pursuant to House Resolution 1784, the Chair appoints the following Members of the House to the committee to notify the President:

The gentleman from Maryland (Mr. HOYER);

The gentleman from Ohio (Mr. BOEHNER).

AUTHORIZING CHAIR AND RANKING MINORITY MEMBER OF EACH STANDING COMMITTEE AND SUBCOMMITTEE TO EXTEND REMARKS IN RECORD

Mr. McDERMOTT. Madam Speaker, I ask unanimous consent that the chair and ranking minority member of each standing committee and each subcommittee be permitted to extend their remarks in the CONGRESSIONAL RECORD, up to and including the RECORD's last publication, and to include a summary of the work of that committee or subcommittee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO REVISE AND EXTEND REMARKS IN CONGRESSIONAL RECORD UNTIL LAST EDITION IS PUBLISHED

Mr. McDERMOTT. Madam Speaker, I ask unanimous consent that Members may have until publication of the last edition of the CONGRESSIONAL RECORD authorized for the Second Session of the 111th Congress by the Joint Committee on Printing to revise and extend their remarks and to include brief, related extraneous material on any matter occurring before the adjournment of the Second Session sine die.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

APPOINTMENT—BOARD OF DIRECTORS OF VIETNAM EDUCATION FOUNDATION

The SPEAKER pro tempore. Pursuant to section 205(a) of the Vietnam Education Foundation Act of 2000 (P.L. 106-554), and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Directors of the Vietnam Education Foundation:

Upon the recommendation of the majority leader:

Ms. LORETTA SANCHEZ, California.

REPORT FROM COMMITTEE TO NOTIFY THE PRESIDENT

Mr. McDERMOTT. Madam Speaker, your committee appointed to inform the President that the House is ready to adjourn and to ask him if he has any further communications to make to the House has performed that duty and advises me that the President has directed them to say that he has no further communications to make to the House.

The SPEAKER pro tempore. The Chair thanks the gentleman.

THIS IS NO WAY TO RUN A GOVERNMENT

(Mr. GOHMERT asked and was given permission to address the House for 1 minute.)

Mr. GOHMERT. Madam Speaker, this bill that's just passed has been indicative of how things have gone here in this last 2 years. People didn't have a chance to read the bill. People didn't have a chance to make amendments to the bill.

There is no question the heroes from 9/11 deserved our full attention. They deserved to have proper moneys raised in proper ways in order to fund their proper treatment. That should have been done, but it wasn't. No, we come rushing in here at the last minute, and in fact, there were 176 Democrats that voted. It took 42 Republicans voting to give a quorum to get enough people so the vote would count. We had to wait over an hour for people to fly in from different places.

Is that any way to run a government? Is that any way to handle the business regarding heroes? And by the way, we're told, well, this will be paid for. One of the ways we're going to get a bunch of money to pay for that is our troops are in the Middle East, and we have to buy things from vendors over there, and we're going to slap a 2 percent tax on everything they sell to us. Our servicemembers will pay for it.

This is no way to run a government.

THE AFGHANISTAN REVIEW: THAT'S IT?

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Madam Speaker, after more than 9 years of the war in Afghanistan and a troop surge that supposedly was going to turn the tide, all we have are modest gains that are fragile and reversible. For the price of \$377 billion, the lives of 1,400 brave Americans, that's it?

We need to hear more than "the challenges are tough and there are difficult days ahead." We need to hear more than "stay the course" platitudes that do little to eliminate the situation for the American people who are footing the bill.

Columnist Eugene Robinson assessed the review this way: "The good news is that President Obama's strategy in Afghanistan is 'on track.' The bad news is that the track runs in a circle."

Round and round on that track we go, Madam Speaker. More of our finest young people thrown into harm's way, more dollars flying out of the Treasury, more of our global credibility destroyed.

And because the track runs in a circle, we always seem to wind up in the same place—no closer to defeating the terrorists, no progress made on key national security objectives.

Here are some unvarnished facts you didn't hear emphasized in the Afghanistan review:

Casualties are rising to record-setting levels. The Taliban remains not just viable but robust, while Afghan governance remains ineffective at best, corrupt at worst.

Hamid Karzai remains an unreliable loose cannon, lashing out—according to one report—that he'd choose the Taliban over the United States and the international community.

The security situation continues to deteriorate, with violence so great that the Red Cross says it's nearly impossible for them to do their humanitarian work.

An article in the Washington Post several days ago put it best: "Afghanistan still remains a violent chaotic nation with as many signs of American defeat as of victory."

With that context, what do we make of Secretary Gates saying that progress in Afghanistan has "exceeded my expectations"? I shudder to think at just how low his expectations were.

The American people, however, have high expectations. That's why 60 percent of them, according to a recent poll, believe that this war isn't worth fighting.

Sixty percent, Madam Speaker! My friends on the other side of the aisle are claiming a ringing mandate with less public support than that.

And the Afghan people are no more enthusiastic. Not even one-third of them rate the work of the work of the U.S. in their country as excellent or good.

And despite all this, the response appears to be not an accelerated drawdown, but an escalation of violence.

There are reports that the United States is considering expanding the war across the border in an unprecedented way, with risky and dangerous Special Operations ground raids into Pakistan.

We can't take much more, Madam Speaker. This occupation has been given every chance to succeed. The time for patience has long since passed. It's time to bring the troops home.

TAKING CARE OF BUSINESS

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Madam Speaker, we've had a long, tough Congress, and we come to the end of it, and I'm sorry that my good friend from Texas implied the vote was held open for some nefarious reasons.

We passed the bill for our first responders a long time ago, and they finally got around to it over in the Senate. Those people were important, and it was important that we wait and make sure it gets over here and we get it passed into law.

Unfortunately, one of our Members had gone home to visit her grandmother, who is near the end of her life, and the plane was coming in and trying to drive in the traffic of the rush hour makes it a little difficult. And so it didn't happen quite as quickly as we wanted, but I'm sure at this time of Christmas, when we all believe that we want good will for all men and all women around the world, we can extend a moment to finish the business of taking care of the first responders who on the 11th of September 2001 didn't hesitate on our behalf.

APPOINTMENT—NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY

The SPEAKER pro tempore. Pursuant to section 106 of the Higher Education Opportunity Act (P.L. 110-315) and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following Member on the part of the House to the National Advisory Committee on Institutional Quality and Integrity for a term of 6 years:

Upon the recommendation of the majority leader:

Dr. George T. French, Fairfield, Alabama.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H. Con. Res. 336. Concurrent resolution providing for the sine die adjournment of the second session of the One Hundred Eleventh Congress.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6517. An act to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

OMNIBUS TRADE ACT OF 2010

Mr. McDERMOTT. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6517) to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes, with the Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Omnibus Trade Act of 2010”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EXTENSION OF TRADE ADJUSTMENT ASSISTANCE AND HEALTH COVERAGE IMPROVEMENT

Subtitle A—Extension of Trade Adjustment Assistance

Sec. 101. Extension of trade adjustment assistance.

Sec. 102. Merit staffing for State administration of trade adjustment assistance.

Subtitle B—Health Coverage Improvement

Sec. 111. Improvement of the affordability of the credit.

Sec. 112. Payment for the monthly premiums paid prior to commencement of the advance payments of credit.

Sec. 113. TAA recipients not enrolled in training programs eligible for credit.

Sec. 114. TAA pre-certification period rule for purposes of determining whether there is a 63-day lapse in creditable coverage.

Sec. 115. Continued qualification of family members after certain events.

Sec. 116. Extension of COBRA benefits for certain TAA-eligible individuals and PBGC recipients.

Sec. 117. Addition of coverage through voluntary employees' beneficiary associations.

Sec. 118. Notice requirements.

TITLE II—ANDEAN TRADE PREFERENCES ACT

Sec. 201. Extension of Andean Trade Preference Act.

TITLE III—OFFSETS

Sec. 301. Customs user fees.

Sec. 302. Time for payment of corporate estimated taxes.

TITLE IV—BUDGETARY EFFECTS

Sec. 401. Compliance with PAYGO.

TITLE I—EXTENSION OF TRADE ADJUSTMENT ASSISTANCE AND HEALTH COVERAGE IMPROVEMENT

Subtitle A—Extension of Trade Adjustment Assistance

SEC. 101. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE.

(a) **IN GENERAL.**—Section 1893(a) of the Trade and Globalization Adjustment Assistance Act of 2009 (Public Law 111–5; 123 Stat. 422) is amended by striking “January 1, 2011” each place it appears and inserting “February 13, 2011”.

(b) **APPLICATION OF PRIOR LAW.**—Section 1893(b) of the Trade and Globalization Adjustment Assistance Act of 2009 (Public Law 111–5; 123 Stat. 422 (19 U.S.C. 2271 note prec.)) is amended to read as follows:

“(b) **APPLICATION OF PRIOR LAW.**—Chapters 2, 3, 4, 5, and 6 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) shall be applied and administered beginning February 13, 2011, as if the amendments made by this subtitle (other than part VI) had never been enacted, except that in applying and administering such chapters—

“(1) section 245 of that Act shall be applied and administered by substituting ‘February 12, 2012’ for ‘December 31, 2007’;

“(2) section 246(b)(1) of that Act shall be applied and administered by substituting ‘February 12, 2012’ for ‘the date that is 5 years’ and all that follows through ‘State’;

“(3) section 256(b) of that Act shall be applied and administered by substituting ‘the 1-year period beginning February 13, 2011, and ending February 12, 2012,’ for ‘each of fiscal years 2003 through 2007, and \$4,000,000 for the 3-month period beginning on October 1, 2007,’;

“(4) section 298(a) of that Act shall be applied and administered by substituting ‘the 1-year period beginning February 13, 2011, and ending February 12, 2012,’ for ‘each of the fiscal years’ and all that follows through ‘October 1, 2007’; and

“(5) subject to subsection (a)(2), section 285 of that Act shall be applied and administered—

“(A) in subsection (a), by substituting ‘February 12, 2011’ for ‘December 31, 2007’ each place it appears; and

“(B) by applying and administering subsection (b) as if it read as follows:

“(b) **OTHER ASSISTANCE.**—

“(1) **ASSISTANCE FOR FIRMS.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), assistance may not be provided under chapter 3 after February 12, 2012.

“(B) **EXCEPTION.**—Notwithstanding subparagraph (A), any assistance approved under chapter 3 on or before February 12, 2012, may be provided—

“(i) to the extent funds are available pursuant to such chapter for such purpose; and

“(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.

“(2) **FARMERS.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), assistance may not be provided under chapter 6 after February 12, 2012.

“(B) **EXCEPTION.**—Notwithstanding subparagraph (A), any assistance approved under chapter 6 on or before February 12, 2012, may be provided—

“(i) to the extent funds are available pursuant to such chapter for such purpose; and

“(ii) to the extent the recipient of the assistance is otherwise eligible to receive such assistance.”.

(c) **CONFORMING AMENDMENTS.**—

(1) Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended to read as follows:

“(2)(A) The total amount of payments that may be made under paragraph (1) shall not exceed—

“(i) \$575,000,000 for fiscal year 2010; and

“(ii) \$66,500,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.”.

(2) Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(3) Section 246(b)(1) of the Trade Act of 1974 (19 U.S.C. 2318(b)(1)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(4) Section 255(a) of the Trade Act of 1974 (19 U.S.C. 2345(a)) is amended—

(A) in the first sentence to read as follows: “There are authorized to be appropriated to the Secretary to carry out the provisions of this chapter \$50,000,000 for fiscal year 2010 and \$5,800,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.”; and

(B) in paragraph (1), by striking “December 31, 2010” and inserting “February 12, 2011”.

(5) Section 275(f) of the Trade Act of 1974 (19 U.S.C. 2371d(f)) is amended by striking “2011” and inserting “and annually thereafter”.

(6) Section 276(c)(2) of the Trade Act of 1974 (19 U.S.C. 2371e(c)(2)) is amended to read as follows:

“(2) **FUNDS TO BE USED.**—Of the funds appropriated pursuant to section 277(c), the Secretary may make available, to provide grants to eligible communities under paragraph (1), not more than—

“(A) \$25,000,000 for fiscal year 2010; and

“(B) \$2,900,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.”.

(7) Section 277(c) of the Trade Act of 1974 (19 U.S.C. 2371f(c)) is amended—

(A) by amending paragraph (1) to read as follows:

“(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary to carry out this subchapter—

“(A) \$150,000,000 for fiscal year 2010; and

“(B) \$17,300 for the 6-week period beginning January 1, 2011 and ending February 12, 2011.”; and

(B) in paragraph (2)(A), by striking “December 31, 2010” and inserting “February 12, 2011”.

(8) Section 278(e) of the Trade Act of 1974 (19 U.S.C. 2372(e)) is amended by striking “2011” and inserting “and annually thereafter”.

(9) Section 279A(h)(2) of the Trade Act of 1974 (19 U.S.C. 2373(h)(2)) is amended by striking “2011” and inserting “and annually thereafter”.

(10) Section 279B(a) of the Trade Act of 1974 (19 U.S.C. 2373a(a)) is amended to read as follows:

“(a) **IN GENERAL.**—

“(1) **AUTHORIZATION.**—There are authorized to be appropriated to the Secretary of Labor to carry out the Sector Partnership Grant program under section 279A—

“(A) \$40,000,000 for fiscal year 2010; and

“(B) \$4,600,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011.

“(2) **AVAILABILITY OF APPROPRIATIONS.**—Funds appropriated pursuant to this section shall remain available until expended.”.

(11) Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended—

(A) by striking “December 31, 2010” each place it appears and inserting “February 12, 2011”; and

(B) in subsection (a)(2)(A), by inserting “pursuant to petitions filed under section 221 before February 12, 2011” after “title”.

(12) Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by striking

“\$90,000,000 for each of the fiscal years 2009 and 2010, and \$22,500,000 for the period beginning October 1, 2010, and ending December 31, 2010” and inserting “\$10,400,000 for the 6-week period beginning January 1, 2011, and ending February 12, 2011”.

(13) The table of contents for the Trade Act of 1974 is amended by striking the item relating to section 235 and inserting the following:

“Sec. 235. Employment and case management services.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

SEC. 102. MERIT STAFFING FOR STATE ADMINISTRATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Notwithstanding section 618.890(b) of title 20, Code of Federal Regulations, or any other provision of law, the single transition deadline for implementing the merit-based State personnel staffing requirements contained in section 618.890(a) of title 20, Code of Federal Regulations, shall not be earlier than February 12, 2011.

(b) EFFECTIVE DATE.—This section shall take effect on December 14, 2010.

SUBTITLE B—HEALTH COVERAGE IMPROVEMENT

SEC. 111. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) CONFORMING AMENDMENT.—Section 7527(b) of such Code is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 112. PAYMENT FOR THE MONTHLY PREMIUMS PAID PRIOR TO COMMENCEMENT OF THE ADVANCE PAYMENTS OF CREDIT.

(a) IN GENERAL.—Section 7527(e) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 113. TAA RECIPIENTS NOT ENROLLED IN TRAINING PROGRAMS ELIGIBLE FOR CREDIT.

(a) IN GENERAL.—Section 35(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 114. TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) IRC AMENDMENT.—Section 9801(c)(2)(D) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) ERISA AMENDMENT.—Section 701(c)(2)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)(C)) is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(c) PHSA AMENDMENT.—Section 2701(c)(2)(C) of the Public Health Service Act (as in effect for plan years beginning before January 1, 2014) is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2010.

SEC. 115. CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.

(a) IN GENERAL.—Section 35(g)(9) of the Internal Revenue Code of 1986, as added by section

1899E(a) of the American Recovery and Reinvestment Tax Act of 2009 (relating to continued qualification of family members after certain events), is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) CONFORMING AMENDMENT.—Section 173(f)(8) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 31, 2010.

SEC. 116. EXTENSION OF COBRA BENEFITS FOR CERTAIN TAA-ELIGIBLE INDIVIDUALS AND PBGC RECIPIENTS.

(a) ERISA AMENDMENTS.—

(1) PBGC RECIPIENTS.—Section 602(2)(A)(v) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)(v)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(2) TAA-ELIGIBLE INDIVIDUALS.—Section 602(2)(A)(vi) of such Act (29 U.S.C. 1162(2)(A)(vi)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(b) IRC AMENDMENTS.—

(1) PBGC RECIPIENTS.—Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986 is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(2) TAA-ELIGIBLE INDIVIDUALS.—Section 4980B(f)(2)(B)(i)(VI) of such Code is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(c) PHSA AMENDMENTS.—Section 2202(2)(A)(iv) of the Public Health Service Act (42 U.S.C. 300bb-2(2)(A)(iv)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods of coverage which would (without regard to the amendments made by this section) end on or after December 31, 2010.

SEC. 117. ADDITION OF COVERAGE THROUGH VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS.

(a) IN GENERAL.—Section 35(e)(1)(K) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2012”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to coverage months beginning after December 31, 2010.

SEC. 118. NOTICE REQUIREMENTS.

(a) IN GENERAL.—Section 7527(d)(2) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2011” and inserting “February 13, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to certificates issued after December 31, 2010.

TITLE II—ANDEAN TRADE PREFERENCES ACT

SEC. 201. EXTENSION OF ANDEAN TRADE PREFERENCE ACT.

(a) EXTENSION.—Section 208(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3206(a)(1)) is amended to read as follows:

“(1) remain in effect—
“(A) with respect to Colombia after February 12, 2011; and
“(B) with respect to Peru after December 31, 2010;”.

(b) ECUADOR.—Section 208(a)(2) of the Andean Trade Preference Act (19 U.S.C. 3206(a)(2)) is amended by striking “December 31, 2010” and inserting “February 12, 2011”.

(c) TREATMENT OF CERTAIN APPAREL ARTICLES.—Section 204(b)(3)(E)(II)(H) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)) is amended (ii)(II), by striking “December 31, 2010” and inserting “February 12, 2011”.

(d) ANNUAL REPORT.—Section 203(f)(1) of the Andean Trade Preference Act (19 U.S.C.

3202(F)(1)) is amended by striking “every 2 years” and inserting “annually”.

TITLE III OFFSETS

SEC. 301. CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking “September 30, 2019” and inserting “January 7, 2020”; and

(2) in subparagraph (B)(i), by striking “September 30, 2019” and inserting “January 14, 2020”.

SEC. 302. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 4.5 percentage points.

TITLE IV BUDGETARY EFFECTS

SEC. 401. COMPLIANCE WITH PAYGO.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT—ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

The SPEAKER pro tempore. Pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), as amended, and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following member on the part of the House to the Advisory Committee on Student Financial Assistance for a term of 4 years:

Upon the recommendation of the majority leader:

Ms. Deborah Stanley, Bowie, Maryland.

HOUSE BILLS AND JOINT RESOLUTIONS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the following titles:

July 29, 2010:

H.R. 4899. An Act making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.

H.R. 5610. An Act to provide a technical adjustment with respect to funding for independent living centers under the Rehabilitation Act of 1973 in order to ensure stability for such centers.

August 1, 2010:

H.R. 5900. An Act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend airport improvement

program project grant authority and to improve airline safety, and for other purposes.
August 10, 2010:

H.R. 1586. An Act to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

H.R. 2765. An Act to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments and certain foreign judgments against the providers of interactive computer services.

H.R. 5874. An Act making supplemental appropriations for the United States Patent and Trademark Office for the fiscal year ending September 30, 2010, and for other purposes.

August 11, 2010:

H.R. 4380. An Act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

H.R. 5872. An Act to provide adequate commitment authority for fiscal year 2010 for guaranteed loans that are obligations of the General and Special Risk Insurance Funds of the Department of Housing and Urban Development.

H.R. 5981. An Act to increase the flexibility of the Secretary of Housing and Urban Development with respect to the amount of premiums charged for FHA single family housing mortgage insurance, and for other purposes.

August 13, 2010:

H.R. 6080. An Act making emergency supplemental appropriations for border security for the fiscal year ending September 30, 2010, and for other purposes.

August 16, 2010:

H.R. 511. An Act to authorize the Secretary of Agriculture to terminate certain easements held by the Secretary on land owned by the Village of Caseyville, Illinois, and to terminate associated contractual arrangements with the Village.

H.R. 2097. An Act to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

H.R. 3509. An Act to reauthorize State agricultural mediation programs under title V of the Agricultural Credit Act of 1987.

H.R. 4275. An Act to designate the annex building under construction for the Elbert P. Tuttle United States Court of Appeals Building in Atlanta, Georgia, as the "John C. Godbold Federal Building".

H.R. 5278. An Act to designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the "President Ronald W. Reagan Post Office Building".

H.R. 5395. An Act to designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the "Paula Hawkins Post Office Building".

H.R. 5552. An Act to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly and to provide for the assessment by the Secretary of the Treasury of certain criminal restitution.

September 27, 2010:

H.R. 5297. An Act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order

to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

H.R. 6102. An Act to amend the National Defense Authorization Act for Fiscal Year 2010 to extend the authority of the Secretary of the Navy to enter into multiyear contracts for F/A-18E, F/A-18F, and EA-18G aircraft.

September 30, 2010:

H.R. 3081. An Act making continuing appropriations for the fiscal year ending September 30, 2011, and for other purposes.

H.R. 3940. An Act to clarify the authority of the Secretary of the Interior to extend grants and other assistance to facilitate political status public education programs for the peoples of the non-self-governing territories of the United States.

H.R. 6190. An Act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes.

October 5, 2010:

H.R. 1517. An Act to allow certain U.S. Customs and Border Protection employees who serve under an overseas limited appointment for at least 2 years, and whose service is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive service.

October 7, 2010:

H.R. 553. An Act to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes.

H.R. 2701. An Act to authorize appropriations for fiscal year 2010 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

October 8, 2010:

H.R. 714. An Act to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

H.R. 1177. An Act to require the Secretary of the Treasury to mint coins in recognition of five United States Army 5-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry 'Hap' Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College.

October 12, 2010:

H.R. 2923. An Act to enhance the ability to combat methamphetamine.

H.R. 3553. An Act to exclude from consideration as income under the Native American Housing Assistance and Self-Determination Act of 1996 amounts received by a family from the Department of Veterans Affairs for service-related disabilities of a member of the family.

H.R. 3689. An Act to provide for an extension of the legislative authority of the Vietnam Veterans Memorial Fund, Inc. to establish a Vietnam Veterans Memorial visitor center, and for other purposes.

H.R. 3980. An Act to provide for identifying and eliminating redundant reporting requirements and developing meaningful per-

formance metrics for homeland security preparedness grants, and for other purposes.

October 13, 2010:

H.R. 946. An Act to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes.

H.R. 3219. An Act to amend title 38, United States Code, and the Servicemembers Civil Relief Act to make certain improvements in the laws administered by the Secretary of Veterans Affairs, and for other purposes.

H.R. 4543. An Act to designate the facility of the United States Postal Service located at 4285 Payne Avenue in San Jose, California, as the "Anthony J. Cortese Post Office Building".

H.R. 5341. An Act to designate the facility of the United States Postal Service located at 100 Orndorf Drive in Brighton, Michigan, as the "Joyce Rogers Post Office Building".

H.R. 5390. An Act to designate the facility of the United States Postal Service located at 13301 Smith Road in Cleveland, Ohio, as the "David John Donafée Post Office Building".

H.R. 5450. An Act to designate the facility of the United States Postal Service located at 3894 Crenshaw Boulevard in Los Angeles, California, as the "Tom Bradley Post Office Building".

H.R. 6200. An Act to amend part A of title XI of the Social Security Act to provide for a 1-year extension of the authorizations for the Work Incentives Planning and Assistance program and the Protection and Advocacy for Beneficiaries of Social Security program.

October 15, 2010:

H.R. 3619. An Act to authorize appropriations for the Coast Guard for fiscal year 2011, and for other purposes.

November 30, 2010:

H.R. 5712. An Act entitled The Physician Payment and Therapy Relief Act of 2010.

December 4, 2010:

H.J. Res. 101. A joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes.

December 8, 2010:

H.R. 4783. An Act to accelerate the income tax benefits for charitable cash contributions for the relief of victims of the earthquake in Chile, and to extend the period from which such contributions for the relief of victims of the earthquake in Haiti may be accelerated.

December 9, 2010:

H.R. 1722. An Act to require the head of each executive agency to establish and implement a policy under which employees shall be authorized to telework, and for other purposes.

H.R. 5283. An Act to provide for adjustment of status for certain Haitian orphans paroled into the United States after the earthquake of January 12, 2010.

H.R. 5566. An Act to amend title 18, United States Code, to prohibit interstate commerce in animal crush videos, and for other purposes.

December 14, 2010:

H.R. 4387. An Act to designate the Federal building located at 100 North Palafox Street in Pensacola, Florida, as the "Winston E. Arnow Federal Building".

H.R. 5651. An Act to designate the Federal building and United States courthouse located at 515 9th Street in Rapid City, South Dakota, as the "Andrew W. Bogue Federal Building and United States Courthouse".

H.R. 5706. An Act to designate the building occupied by the Government Printing Office

located at 31451 East United Avenue in Pueblo, Colorado, as the "Frank Evans Government Printing Office Building".

H.R. 5758. An Act to designate the facility of the United States Postal Service located at 2 Government Center in Fall River, Massachusetts, as the "Sergeant Robert Barrett Post Office Building".

H.R. 5773. An Act to designate the Federal building located at 6401 Security Boulevard in Baltimore, Maryland, commonly known as the Social Security Administration Operations Building, as the "Robert M. Ball Federal Building".

H.R. 6162. An Act to provide research and development authority for alternative coinage materials to the Secretary of the Treasury, increase congressional oversight over coin production, and ensure the continuity of certain numismatic items.

H.R. 6166. An Act to authorize the production of palladium bullion coins to provide affordable opportunities for investments in precious metals, and for other purposes.

H.R. 6237. An Act to designate the facility of the United States Postal Service located at 1351 2nd Street in Napa, California, as the "Tom Kongsgaard Post Office Building".

H.R. 6387. An Act to designate the facility of the United States Postal Service located at 337 West Clark Street in Eureka, California, as the "Sam Sacco Post Office Building".

December 15, 2010:

H.R. 4994. An Act to extend certain expiring provisions of the Medicare and Medicaid programs, and for other purposes.

H.R. 6118. An Act to designate the facility of the United States Postal Service located at 2 Massachusetts Avenue, NE, in Washington, D.C., as the "Dorothy I. Height Post Office".

December 17, 2010:

H.R. 4853. An Act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

December 18, 2010:

H.J. Res. 105. A joint resolution making further continuing appropriations for fiscal year 2011, and for other purposes.

H.R. 2480. An Act to improve the accuracy of fur product labeling, and for other purposes.

H.R. 3237. An Act to enact certain laws relating to national and commercial space programs as title 51, United States Code, "National and Commercial Space Programs".

H.R. 6184. An Act to amend the Water Resources Development Act of 2000 to extend and modify the program allowing the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the evaluation of permits, and for other purposes.

H.R. 6399. An Act to improve certain administrative operations of the Office of the Architect of the Capitol, and for other purposes.

SENATE BILLS APPROVED BY THE PRESIDENT

The President notified the Clerk of the House that on the following dates he had approved and signed bills of the Senate of the following titles:

July 30, 2010:

S. 3372. An Act to modify the date on which the Administrator of the Environmental

Protection Agency and applicable States may require permits for discharges from certain vessels.

August 3, 2010:

S. 1789. An Act to restore fairness to Federal cocaine sentencing.

August 10, 2010:

S. 1749. An Act to amend title 18, United States Code, to prohibit the possession or use of cell phones and similar wireless devices by Federal prisoners.

September 27, 2010:

S. 3656. An Act to amend the Agricultural Marketing Act of 1946 to improve the reporting on sales of livestock and dairy products, and for other purposes.

September 30, 2010:

S. 3839. An Act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

October 5, 2010:

S. 846. An Act to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 1055. An Act to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

October 8, 2010:

S. 2868. An Act to provide increased access to the Federal supply schedules of the General Services Administration to the American Red Cross, other qualified organizations, and State and local governments.

S. 3304. An Act to increase the access of persons with disabilities to modern communications, and for other purposes.

S. 3751. An Act to amend the Stem Cell Therapeutic and Research Act of 2005.

S. 3828. An Act to make technical corrections in the Twenty-First Century Communications and Video Accessibility Act of 2010 and the amendments made by that Act.

S. 3847. An Act to implement certain defense trade cooperation treaties, and for other purposes.

October 11, 2010:

S. 3729. An Act to authorize the programs of the National Aeronautics and Space Administration for fiscal years 2011 through 2013, and for other purposes.

October 12, 2010:

S. 1132. An Act to amend title 18, United States Code, to improve the provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes.

S. 3397. An Act to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

October 15, 2010:

S. 1510. An Act to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code, and for other purposes.

S. 3196. An Act to amend the Presidential Transition Act of 1963 to provide that certain transition services shall be available to eligible candidates before the general election.

October 18, 2010:

S. 3802. An Act to designate a mountain and icefield in the State of Alaska as the "Mount Stevens" and "Ted Stevens Icefield", respectively.

November 24, 2010:

S. 3774. An Act to extend the deadline for Social Services Block Grant expenditures of

supplemental funds appropriated following disasters occurring in 2008.

November 30, 2010:

S. 1376. An Act to restore immunization and sibling age exemptions for children adopted by United States citizens under the Hague Convention on Intercountry Adoption to allow their admission into the United States.

S. 3567. An Act to designate the facility of the United States Postal Service located at 100 Broadway in Lynbrook, New York, as the "Navy Corpsman Jeffrey L. Wiener Post Office Building".

S.J. Res. 40. A joint resolution appointing the day for the convening of the first session of the One Hundred Twelfth Congress.

December 9, 2010:

S. 3689. An Act to clarify, improve, and correct the laws relating to copyrights, and for other purposes.

December 13, 2010:

S. 3307. An Act to reauthorize child nutrition programs, and for other purposes.

December 14, 2010:

S. 1338. An Act to require the accreditation of English language training programs, and for other purposes.

S. 1421. An Act to amend section 42 of title 18, United States Code, to prohibit the importation and shipment of certain species of carp.

S. 3250. An Act to provide for the training of Federal building personnel, and for other purposes.

December 15, 2010:

S. 2847. An Act to regulate the volume of audio on commercials.

December 18, 2010:

S. 3789. An Act to limit access to Social Security account numbers.

S. 3987. An Act to amend the Fair Credit Reporting Act with respect to the applicability of identity theft guidelines to creditors.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. REYES (at the request of Mr. HOYER) for December 21 and 22 on account of illness.

Mr. POE of Texas (at the request of Mr. BOEHNER) for today after 4 p.m. on account of personal reasons.

Mr. PASTOR of Arizona (at the request of Mr. HOYER) for today.

Ms. EDDIE BERNICE JOHNSON of Texas (at the request of Mr. HOYER) for today and the balance of the week.

Mr. GENE GREEN of Texas (at the request of Mr. HOYER) for today.

Mr. DAVIS of Illinois (at the request of Mr. HOYER) for today.

Mr. YOUNG of Florida (at the request of Mr. BOEHNER) for today on account of family illness.

Ms. GINNY BROWN-WAITE of Florida (at the request of Mr. BOEHNER) for December 21 and the balance of the week on account of family medical reasons.

ENROLLED BILLS SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4445. An act to amend Public Law 95–232 to repeal a restriction on treating as Indian country certain lands held in trust for Indian pueblos in New Mexico.

H.R. 5116. An act to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

H.R. 5470. An act to exclude an external power supply for certain security or life safety alarms and surveillance system components from the application of certain energy efficiency standards under the Energy Policy and Conservation Act.

H.R. 6398. An act to require the Federal Deposit Insurance Corporation to fully insure Interest on Lawyers Trust Accounts.

SENATE ENROLLED BILL SIGNED

The Speaker announced her signature to enrolled bills of the Senate of the following titles:

S. 3243. An act to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and

Border Protection, to require U.S. Customs and Border Protection to initiate all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

S. 3592. An act to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the ‘‘First Lieutenant Robert Wilson Collins Post Office Building’’.

BILLS PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House reports that on December 21, 2010 she presented to the President of the United States, for his approval, the following bills.

H.R. 2965. To amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

H.R. 6473. To amend the Internal Revenue Code of 1986 to extend the funding and ex-

penditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes.

H.R. 3082. Making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

SINE DIE ADJOURNMENT

Mr. McDERMOTT. Madam Speaker, pursuant to House Concurrent Resolution 336, 111th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. In accordance with House Concurrent Resolution 336, 111th Congress, the Chair declares the Second Session of the 111th Congress adjourned sine die.

Accordingly (at 6 p.m.), the House adjourned.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for Speaker-Authorized Official Travel during the second, third, and fourth quarters of 2010 pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO POLAND FOR THE FALL MEETING OF THE NATO PARLIAMENTARY ASSEMBLY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 11 AND NOV. 15, 2010

Name of Member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²
Hon. Mike Ross	11/11	11/15	Poland		834.81		(³)				834.81
Hon. Jo Ann Emerson	11/11	11/15	Poland		834.81		(³)				834.81
Hon. Tim Holden	11/11	11/15	Poland		834.81		(³)				834.81
Hon. David Scott	11/11	11/15	Poland		834.81		(³)				834.81
Kathy Becker	11/11	11/15	Poland		834.81		(³)				834.81
David Fite	11/11	11/15	Poland		834.81		(³)				834.81
Riley Moore	11/11	11/15	Poland		834.81		(³)				834.81
Janice Robinson	11/11	11/15	Poland		834.81		(³)				834.81
Delegation Expenses:											
Representational Funds									1,992.03		1,992.03
Miscellaneous											
Committee total				6,678.48					1,992.03		6,670.51

¹ Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

³ Military air transportation.

HON. JOHN S. TANNER, Chairman, Dec. 2, 2010.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2010

Name of Member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²
Hon. Mike Quigley	7/01	7/05	Poland		1,111.30						
CODEL Quigley Expenses									325.50		1,436.80
Tom Jawetz	7/04	7/12	Malaysia & Cambodia		1,484.00		11,653.30				13,137.30
Hon. Louie Gohmert	7/29	8/03	Europe		1,092.00						
			Asia		889.00						1,981.00
Hon. Steve King	7/29	8/03	Europe		1,092.00						
			Asia		889.00						1,981.00
David Shahoulain	8/06	8/16	India & Thailand		2,790.00		10,132.50				12,922.50
Danielle Brown	8/06	8/16	India & Thailand		2,790.00		10,132.50				12,922.50
Traci Hong	8/06	8/16	India & Thailand		2,790.00		10,132.50				12,922.50
Ron LeGrand	8/06	8/16	India & Thailand		2,790.00		10,132.50				12,922.50
Kimani Little	8/06	8/16	India & Thailand		2,790.00		10,132.50				12,922.50
CODEL Shahoulain Expenses									2,773.30		2,773.30
Hon. Hank Johnson	8/28	9/03	China		2,473.00		14,026.20				16,499.20
Hon. Jerrold Nadler	8/28	9/03	China		2,473.00		10,176.30				12,649.30
Hon. F. James Sensenbrenner	8/28	9/03	China		1,972.00		13,172.80				15,144.80
Christal Sheppard	8/28	9/03	China		2,113.00		13,776.70				15,889.70
Eric Garduno	8/28	9/03	China		2,113.00		14,201.20				16,314.20
David Whitney	8/28	9/03	China		2,077.00		10,841.40				12,918.40
CODEL Johnson Expenses—In Country									17,538.89		17,538.89
Hon. Steve Cohen	8/30	9/01	Serbia		712.00						
	9/01	9/03	Montenegro		762.00						
	9/03	9/06	Croatia		1,332.20						2,806.20

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2010—
Continued

Name of Member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²

Committee total 195,682.50

¹ Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. JOHN CONYERS, Jr., Chairman, Dec. 10, 2010.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2010

Name of Member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²

Danielle Baussan	8/05	8/16	Japan/Malaysia		3,921.00		5,833.50				9,754.50
Barton Forsyth	8/05	8/26	Japan/Malaysia		5,811.00		8,432.50				14,243.50
Thomas Schreiber	8/05	8/11	Japan/Malaysia		2,976.00		3,954.50				6,930.50
Harlan Watson	8/01	8/07	Germany		2,310.00		1,688.70				3,998.70

Committee total 34,927.20

¹ Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

SARAH E. BUTLER, Dec. 3, 2010.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2010

Name of Member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²

Barton Forsyth	12/07	12/11	Mexico		1,470.00		809.22				2,279.22
Michael Gao	12/08	12/11	Mexico		1,176.00		1,158.72				2,334.72
Thomas Schreiber	12/05	12/11	Mexico		2,058.00		1,470.63				3,528.63

Committee total 8,142.57

¹ Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

SARAH E. BUTLER.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 2010

Name of Member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

¹ Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. SANDER M. LEVIN, Chairman, Dec. 3, 2010.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2010

Name of Member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

¹ Per diem constitutes lodging and meals.

² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. SANDER M. LEVIN, Chairman, Dec. 3, 2010.

EXECUTIVE COMMUNICATIONS,
ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

11186. A letter from the Acting Congressional Review Coordinator, Department of Agriculture, transmitting the Department's

final rule — Gypsy Moth Generally Infested Areas; Illinois, Indiana, Maine, Ohio, and Virginia [Docket No.: APHIS-2008-0083] received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11187. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agen-

cy's final rule — Imazosulfuron; Pesticide Tolerances [EPA-HQ-OPP-2009-0205; FLR-8857-4] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11188. A letter from the Under Secretary, Personnel & Readiness Under Secretary, Policy, Department of Defense, transmitting the Department's report "The Power of People:

Building an Integrated National Security Professional System for the 21st Century"; to the Committee on Armed Services.

11189. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Frank G. Klotz, United States Air Force, and his advancement on the retired list in the grade of lieutenant general; to the Committee on Armed Services.

11190. A letter from the Under Secretary, Department of Defense, transmitting notification of the Army's determination that reportable increases have occurred in the Program Acquisition Unit Cost (PAUC) for the Chemical Demilitarization-Assembled Chemical Weapons Alternative (ACWA) Program, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on Armed Services.

11191. A letter from the Federal Register Certifying Officer, Department of the Treasury, transmitting the Department's final rule — Management of Federal Agency Disbursements (RIN: 1510-AB26) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11192. A letter from the Federal Register Certifying Officer, Department of the Treasury, transmitting the Department's final rule — Federal Government Participation in the Automated Clearing House (RIN: 1510-AB24) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11193. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to South Korea pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

11194. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Colombia pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

11195. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Kingdom of the Netherlands, pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

11196. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule — Administrative Wage Garnishment received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11197. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Extension of Filing Accommodation for Static Pool Information in Filings with Respect to Asset-Backed Securities [Release No. 33-9165; File No. S7-18-10] (RIN: 3235-AK70) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

11198. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the Status and Condition of Head Start Facilities used by the American Indian and Alaska Native Programs, as required by Section 650(b) of the Head Start Act; to the Committee on Education and Labor.

11199. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Federal Motor Vehicle Safety Standards; Head Restraints [Docket No.: NHTSA-2010-0148] (RIN: 2127-

AK39) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11200. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Texas; Emissions Banking and Trading of Allowances Program [EPA-R06-OAR-2005-TX-0012; FRL-9243-1] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11201. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Sulfur Dioxide SIP Revision for Marathon Petroleum St. Park [EPA-R05-OAR-2009-0808; FRL-9243-3] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11202. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to Ambient Air Quality Standards for Particulate Matter [EPA-R03-OAR-2008-0073; FRL-9243-5] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11203. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County's Adoption of Control Techniques Guidelines for Large Appliance and Metal Furniture; Flat Wood Paneling; Paper, Film, and Foil Surface Coating Processes; and Revisions to Definitions and an Existing Regulation [EPA-R03-OAR-2010-0857; FRL-9243-6] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11204. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Regulation Deferring the Reporting Date for Certain Data Elements Required Under the Mandatory Reporting of Greenhouse Gases Rule [EPA-HQ-OAR-2010-0929; FRL 9242-7] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11205. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Update to Materials Incorporated By Reference [WV103-6041; FRL-9240-1] received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11206. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category; and Addition to Source Category List for Standards [EPA-HQ-OAR-2010-0239; FRL-9242-3] (RIN: 2060-AP48) received December 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

11207. A letter from the Special Inspector General for Afghanistan Reconstruction, transmitting the ninth quarterly report on the Afghanistan reconstruction, pursuant to

Public Law 110-181, section 1229; to the Committee on Foreign Affairs.

11208. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting Transmittal No. 10-66, pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended; to the Committee on Foreign Affairs.

11209. A letter from the Director, Defense Security Cooperation Agency, transmitting Transmittal No. 10-76, pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended; to the Committee on Foreign Affairs.

11210. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting Transmittal No. 10-62, pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended; to the Committee on Foreign Affairs.

11211. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting a notice of proposed lease with the Government of Iraq (Transmittal No. 07-10) pursuant to Section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

11212. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting a notice of proposed lease with the Government of Iraq (Transmittal No. 08-10) pursuant to Section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

11213. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting corrected letters, pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended; to the Committee on Foreign Affairs.

11214. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the Department's final rule — Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category VII (RIN: 1400-AC77) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

11215. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to the risk of nuclear proliferation created by the accumulation of weapons-usable fissile material in the territory of the Russian Federation that was declared in Executive Order 13159 of June 21, 2000; to the Committee on Foreign Affairs.

11216. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), a six-month periodic report on the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process that was declared in Executive Order 12947 of July 23, 1995; to the Committee on Foreign Affairs.

11217. A letter from the Administrator, National Nuclear Security Administration, Department of Energy, transmitting a letter in response to the GAO report GAO-10-251; to the Committee on Oversight and Government Reform.

11218. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the Department's Agency Financial Report for Fiscal Year 2010; to the Committee on Oversight and Government Reform.

11219. A letter from the Secretary, Department of the Treasury, transmitting FY 2010 Treasury Agency Financial Report; to the Committee on Oversight and Government Reform.

11220. A letter from the Chairman, Federal Trade Commission, transmitting the semi-annual report on the activities of the Office of Inspector General for the period from April 1, 2010 through September 30, 2010, pursuant to 5 U.S.C. app. (Insp. Gen. Act), section 5(b); to the Committee on Oversight and Government Reform.

11221. A letter from the Assistant Attorney General, Department of Justice, transmitting the annual report entitled, "Prioritizing Resources and Organization for Intellectual Property Act of 2010"; to the Committee on the Judiciary.

11222. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Revisions to the Civil Penalty Inflation Adjustment Tables [Docket No.: FAA-2009-0237; Amendment No. 13-35] (RIN: 2120-AJ50) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

11223. A letter from the Secretary, Judicial Conference of the United States, transmitting a letter describing the work on the second report to Congress on the security of electronically filled documents to the federal courts; to the Committee on the Judiciary.

11224. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No.: 30756; Amdt. No. 3402] received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11225. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Waiver of Acceptable Mission Risk Restriction for Reentry and a Reentry Vehicle received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11226. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Office of Commercial Space Transportation; Waiver of Autonomous Reentry Restriction for a Reentry Vehicle received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11227. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No.: 30757; Amdt. No. 3403] received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11228. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2-1C, B2K-3C, B2-203, B4-2C, B4-103, and B4-203 Airplanes; and Model A300 B4-601, B4-603, B4-620, B4-622, B4-605R, B4-622R, and F4-605R

Airplanes [Docket No.: FAA-2009-1067; Directorate Identifier 2009-NM-071-AD; Amendment 39-16516; AD 2010-23-26] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11229. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; CENTRAIR Models 101, 101A, 101P, and 101AP Gliders [Docket No.: FAA-2010-0735 Directorate Identifier 2010-CE-030-AD; Amendment 39-16529; AD 2010-24-10] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11230. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Boeing Company Model 737-600, -700, -700C, -800, and -900 Series Airplanes [Docket No.: FAA-2007-28348; Directorate Identifier 2007-NM-060-AD; Amendment 39-16530; AD 2010-24-11] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11231. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines [Docket No.: FAA-2010-0725; Directorate Identifier 2010-NE-18-AD; Amendment 39-16528; AD 2010-24-09] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11232. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky) Model S-92A Helicopters [Docket No.: FAA-2010-1136; Directorate Identifier 2010-SW-069-AD; Amendment 39-16522; AD 2010-24-04] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11233. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No.: 30755; Amdt. No. 3401] received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11234. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Amendment of Using Agency for Restricted Areas R-4002, R-4005, R-4006 and R-4007; MD [Docket No.: FAA-2010-1070; Airspace Docket No. 10-AEA-18] (RIN: 2120-AA66) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11235. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments [Docket No.: 30754; Amdt. No. 3400] received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11236. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Revocation of Restricted Areas R-3807 Glen-

coe, LA, and R-6320 Matagorda, TX [Docket No.: FAA-2010-1014; Airspace Docket No.: 10-ASW-14] (RIN: 2120-AA66) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11237. A letter from the Ombudsman, Department of Transportation, transmitting the Department's final rule — Brokers of Household Goods Transportation by Motor Vehicle [Docket No.: FMCSA-2004-17008] (RIN: 2126-AA84) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11238. A letter from the Senior Program Analyst, Department of Transportation, transmitting the Department's final rule — Modification of Class B Airspace; Charlotte, NC [Docket No.: FAA-2010-0049; Airspace Docket No. 08-AWA-1] (RIN: 2010-AA66) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11239. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters [Docket No.: FAA-2010-0449; Directorate Identifier 2009-SW-38-AD; Amendment 39-16456; AD 2010-20-21] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11240. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Aircraft Company (Cessna) 172, 175, 177, 180, 182, 185, 206, 207, 208, 210, 303, 336, and 337 Series Airplanes [Docket No.: FAA-2008-1328; Directorate Identifier 2008-CE-066-AD; Amendment 39-15-776; AD 208-26-10] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11241. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Various Aircraft Equipped With Rotax Aircraft Engines 912 A Series Engines [Docket No.: FAA-2010-0522; Directorate Identifier 2010-CE-022-AD; Amendment 39-16506; AD 2010-23-17] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11242. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Boeing Company Model 737-900ER Series Airplanes [Docket No.: FAA-2010-0764; Directorate Identifier 2009-NM-260-AD; Amendment 39-16519; AD 2010-24-01] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11243. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Robinson Helicopter Company (Robinson) Model R22, R22 Alpha, R22 Beta, and R22 Mariner Helicopters, and Model R44, and R44 II Helicopter [Docket No.: FAA-2010-0711; Directorate Identifier 2008-SW-25-AD; Amendment 39-16521; AD 2010-24-03] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11244. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters

[Docket No.: FAA-2010-1137; Directorate Identifier 2010-SW-079-AD; Amendment 39-16523; AD 2010-19-51] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11245. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault-Aviation Model FALCON 7X Airplanes [Docket No. FAA-2010-0760; Directorate Identifier 2010-NM-086-AD; Amendment 39-16520; AD 2010-24-02] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11246. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney Canada Corp. (P&WC) PW305A and PW305B Turboprop Engines [Docket No.: FAA-2010-0892; Directorate Identifier 2010-NE-23-AD; Amendment 39-16524; AD 2010-24-05] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11247. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; SOCATA Model TBM 700 Airplanes [Docket No.: FAA-2010-0862; Directorate Identifier 2010-CE-040-AD; Amendment 39-16518; AD 2010-23-28] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11248. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A340-500 and A340-600 Series Airplanes [Docket No.: FAA-2010-1110; Directorate Identifier 2010-NM-052-AD; Amendment 39-16517; AD 2010-23-27] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11249. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky) Model S-92A Helicopters [Docket No.: FAA-2010-1136; Directorate Identifier 2010-SW-069-AD; Amendment 39-16522; AD 2010-24-04] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11250. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France (ECF) Model SA330F, G, and J; and AS332C, L, L1, and L2 Helicopters [Docket No.: FAA-2010-0670; Directorate Identifier 2009-SW-42-AD; Amendment 39-16513; AD 2010-23-33] (RIN: 2120-AA64) received December 22, 2010, pursuant to 5

U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

11251. A letter from the Special Inspector General for Iraq Reconstruction, transmitting the Special Inspector General for Iraq Reconstruction (SIGIR) October 2010 Quarterly Report; jointly to the Committees on Foreign Affairs and Appropriations.

11252. A letter from the Officer for Civil Rights and Civil Liberties, Department of Homeland Security, transmitting the Department's report for the Office of Civil Rights and Civil Liberties for the Fiscal Year 2009 and the Fourth Quarter of 2009, pursuant to 6 U.S.C. 345(b); jointly to the Committees on the Judiciary and Homeland Security.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XIII the following actions were taken by the Speaker:

The Committees on Education and Labor, Energy and Commerce, and Financial Services discharged from further consideration. H.R. 1064 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

The Committee on Homeland Security discharged from further consideration. H.R. 1174 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

The Committee on Appropriations discharged from further consideration. H.R. 1425 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

The Committees on the Judiciary and Homeland Security discharged from further consideration. H.R. 3376 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

The Committee on Ways and Means and Agriculture discharged from further consideration. H.R. 4678 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

The Committee on Agriculture discharged from further consideration. H.R. 5105 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

The Committee on Energy and Commerce discharged from further consideration. H.R. 5498 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

The Committee on Energy and Commerce discharged from further consideration. H.R. 6116 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FORTENBERRY:

H.R. 6570. A bill to amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services; to the Committee on Energy and Commerce.

By Mr. CULBERSON:

H.J. Res. 106. A joint resolution proposing an amendment to the Constitution of the United States relating to the use of foreign law as authority in Federal courts; to the Committee on the Judiciary.

By Mr. CULBERSON:

H.J. Res. 107. A joint resolution proposing an amendment to the Constitution of the United States regarding the effect of treaties, Executive orders, and agreements with other nations or groups of nations; to the Committee on the Judiciary.

By Mr. BRADY of Pennsylvania:

H. Res. 1783. A resolution making a technical correction to a cross-reference in the final regulations issued by the Office of Compliance to implement the Veterans Employment Opportunities Act of 1998 that apply to the House of Representatives and employees of the House of Representatives; to the Committee on House Administration; considered and agreed to.

By Mr. McDERMOTT:

H. Res. 1784. A resolution appointing a committee to inform the President; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 949: Mr. TOWNS.

H.R. 1326: Ms. JACKSON LEE of Texas, Ms. NORTON, and Mr. CALVERT.

H.R. 1549: Ms. BORDALLO.

H.R. 2057: Mr. FATTAH.

H.R. 3924: Mr. BUCHANAN.

H.R. 4690: Ms. BALDWIN.

H.R. 5191: Mr. HOLT.

H.R. 5434: Ms. JACKSON LEE of Texas and Mr. INSLEE.

H.R. 5543: Mr. TOWNS.

H.R. 5561: Mr. COHEN.

H.R. 6194: Ms. MOORE of Wisconsin and Ms. NORTON.

H.R. 6556: Mr. FRANK of Massachusetts.

H. Con. Res. 331: Mr. BERMAN.

H. Res. 130: Mr. DICKS.

H. Res. 1431: Ms. LINDA T. SÁNCHEZ of California.

EXTENSIONS OF REMARKS

IN HONOR OF STEPHEN J. ROSS

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. GERLACH. Madam Speaker, I rise today to honor Stephen "Steve" J. Ross for his more than 40 years of faithful service to communities in southeastern Pennsylvania.

During the last two years, the residents, businesses and all taxpayers of West Pikeland Township, Chester County have benefitted immeasurably from Steve's breadth of experience and tremendous leadership as Township Manager.

Prior to taking the helm in West Pikeland, Steve had a distinguished career spanning nearly 30 years as Township Manager in West Whiteland Township, Chester County. He has been an outstanding steward of public finances and played a critical role in helping a region experiencing phenomenal growth protect its open space and natural resources, enhance its recreational opportunities, and improve its infrastructure.

The West Pikeland Township Board of Supervisors will recognize Steve for his exemplary efforts on December 28, 2010.

Madam Speaker, I ask that my colleagues join me today in honoring Stephen J. Ross for his extraordinary commitment to public service and dedication to making southeastern Pennsylvania a great place to live, work and raise a family.

IN HONOR OF PRIVATE FIRST
CLASS CONRADO JAVIER JR.

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. FARR. Madam Speaker, I rise today to honor the life of a young, brave soldier who was killed in Afghanistan on Sunday, December 19, 2010. Private First Class Conrado Javier Jr. of Marina, California was only nineteen years old. It is with a heavy heart that I wish to offer my sincere condolences to the family of Conrado Javier Jr.

Private First Class Conrado Javier Jr. served in the United States Army and was assigned to the 3rd Squadron, 2nd Stryker Cavalry Regiment based in Vilseck, Germany. He was serving a tour in Afghanistan supporting Operation Enduring Freedom. On Sunday, December 19, 2010, in the Kandahar province of Afghanistan, the vehicle he driving in struck an improvised explosive device. Pfc. Javier was unable to recover from his wounds sustained in the deadly explosion.

Conrado Javier Jr. is the fifth service member from my district to pay the ultimate sac-

rific while defending our country in Operation Enduring Freedom. Sadly, he is the youngest service member from my district to lose his life in Afghanistan. There are no words that can fill the far reaching potential of this young man. However, I have no doubt he touched many lives during his very short time on Earth and his life will continue through them.

Conrado attended Seaside High School and was a member of the school's Junior Reserve Officer Training Corps. It is evident he was dedicated to serving his country and possessed the strengths of a leader. Some may say his strongest value was being a loyal friend, who put others before him.

Madam Speaker, I rise today and ask for my colleagues to join me in honoring the life of Conrado Javier Jr. I extend the sincere condolences of the House to his mother, Julia Dominga Javier Diaz; his father, Conrado Javier; and the seven siblings he leaves behind. Private Javier, we salute you!

KAY EHALT

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Kay Ehalt for her outstanding service to our community.

Kay Ehalt has made a life of caring for others. She has raised two sons and a daughter. She puts her heart and soul into creating gift baskets that are creative and unique and adds the personal touch to make each recipient feel cherished.

Kay has been involved with the Kiwanis for many years and travels annually with the Children's Hospital Jungle Mobile. The Jungle Mobile is an ambulance converted into a safety education classroom on wheels. It travels to rural areas to teach kids about fire safety, water safety and how to call 911.

In addition, Kay is an avid supporter of the Jefferson Foundation's Crystal Ball. Volunteering her time for the event and donating items for the silent auction. Whenever an organization needs something for auctions, fundraisers or decorations, Kay is always offering her services or her baskets without being asked.

I extend my deepest congratulations to Kay Ehalt for her well deserved recognition by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

PERSONAL EXPLANATION

HON. DEAN HELLER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HELLER. Madam Speaker, on rollcall No. 659, I was unavoidably detained. Had I been present, I would have voted "no."

TRIBUTE TO FERRARO MEDICAL
ASSOCIATES, P.A.

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. PASCRELL. Madam Speaker, I would like to call to your attention the work of an outstanding medical practice Ferraro Medical Associates, P.A., which is celebrating its 65th Anniversary of dedicated service to its patients, and by extension, the greater community. It is only fitting that Ferraro Medical Associates, and its late founder Dr. Stephen P. Ferraro, be honored in this permanent record of the greatest democracy ever known, for the comfort and care that it has provided to so many Paterson families.

Dr. Stephen P. Ferraro was born in 1920 in Paterson, NJ to Angelo and Natalizia who emigrated from Sicily to the United States. They had four children, two of whom died untimely deaths leaving Stephen and Joseph. Stephen's parents ingrained in their sons the importance of education, and became successful themselves, owning multiple properties in Paterson.

Dr. Ferraro attended School No. 15 and graduated Eastside High School in 1937. In high school he was very athletic but music intrigued him most and he played the violin for the Eastside orchestra. After graduation he earned a bachelor's degree from Notre Dame University in 1941. Stephen developed a passion for medicine and flying which lasted a lifetime.

In 1946 Dr. Ferraro obtained his degree of Doctor of Medicine from Georgetown University Medical School. He graduated in the top of his class. He returned to Paterson to pursue his career. He did a rotating internship at St. Joseph's Hospital and Medical Center in Paterson. In 1947 he was certified and passed the State of New Jersey Board as Doctor in Medicine and Surgery. Dr. Ferraro then decided to join the United States Air Force University School of Medicine in Randolph, Texas and became a USAF Flight Surgeon, spending three years in Okinawa. In the Air Force he saw many in great need and he was determined to always be a "people doctor" and provide his service where the need was greatest.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

By 1950, when he returned from spending four years at Boston City Hospital, becoming Chief Surgical Resident, he had met a nurse named Betty. He went to Columbia Presbyterian Hospital and became Chief Surgical Resident from 1954–1956. Betty followed him and worked alongside him as his operating room nurse. They later married at St. Anthony Church in Paterson and had six children—Stephen Jr., Natalie, Angelo, Lisa, Lucia and Barbara.

Dr. Ferraro never forgot the city he came from. In 1957 he became attending surgeon of St. Joseph's Hospital & Medical Center in Paterson. He soon decided to open his own practice at 414 Broadway. Betty was always by his side and was his nurse at the practice. Together they were the perfect "team." The office was on the first floor and their apartment was on the upper levels. He became the Co-Chief of Department of Surgery at Fairlawn Memorial Hospital, attending surgeon at Saddle Brook Hospital, Police Surgeon and City of Paterson physician, Medical Director of Nabisco Brands, Inc., assistant professor at Seton Hall University Department of Surgery and also became Medical Examiner for Federal Aviation-Class A, and USCIS Civil Surgeon. Dr. Ferraro was a distinguished and respected physician who with all his qualities provided the best to his patients and left a remarkable legacy to his children.

Dr. Ferraro's children admired their father for instilling the importance of education in them. When his children were very young he would always encourage them to read. They spent time with their father around the office. Dr. Ferraro was a great role model, allowing them to see the medical world in his office as one of the choices for their lives.

Lisa Ferraro followed her father's footsteps and graduated from Ross University Medical School. In 1984–1987 she completed her internship and residency in Internal Medicine at St. Joseph's Regional Medical Center in Paterson and immediately went to work with her father. Dr. Lisa Ferraro was Board Certified in Internal Medicine in 1987 and joined attending staff Internal Medicine at SJHMC.

She has worked as school physician for Public Schools Nos. 5, 8, 28 and Kilpatrick School. She was assistant Medical Director at Nabisco from 1987–1992 and has taught first year medical students from UMDNJ, as well as forth year foreign medical students. In 2000 she was appointed as Civil Surgeon for USCIS. In February 2010 she became Certified in Aesthetic Medicine.

Dr. Ferraro left a truly wonderful legacy in Paterson. In April 1996 Dr. Stephen and Dr. Lisa Ferraro registered the office as a corporation, Ferraro Medical Associates, P.A. Despite the challenges, the office still serves our community at 414 Broadway. Presently the practice provides medical care to approximately five hundred patients a month. It is estimated that close to half a million patients have passed through the doors at 414 Broadway.

Although Dr. Stephen P. Ferraro departed from this earth in 2002, he left a legacy of perseverance as well as a well recognized practice, which continues to thrive under the leadership of Dr. Lisa Ferraro. Her siblings are all successful professionals in their fields. Stephen P. Ferraro, Jr. M.D., is an orthopaedic

surgeon in Redding, California, Angelo Ferraro, M.D., a cardiologist, Spokane, Washington, Lucia Ferraro, M.D., an anesthesiologist and Critical Care, Sherman Oaks, California, Natalia Ferraro is a homemaker and professional photographer and Barbara Tabano is a homemaker and operates a family business, The Sock Company, with her husband Jim.

The job of a United States Congressman involves much that is rewarding, yet nothing compares to recognizing the efforts of wonderful people in my District. Madam Speaker, I ask that you join all of the patients and friends of the Ferraro family, all those who have been helped throughout the years, and me in recognizing the outstanding contributions they have made to the community in Paterson and beyond.

FEDERAL GRANTS AND APPROPRIATIONS FOR LOCAL PROJECTS

HON. JOHN J. HALL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HALL of New York. Madam Speaker, I would like to submit the following:

I was proud to bring millions of federal dollars home to local taxpayers. New Yorkers pay more in federal taxes than New York receives in federal funding support, so I worked hard to bring additional dollars back home for local projects, thereby reducing the burden on local property taxpayers.

ORANGE COUNTY

Obtained \$19.6m from the American Recovery and Reinvestment Act for infrastructure upgrades and renovations at the U.S. Military Academy at West Point.

Obtained \$4.4m from the U.S. Department of Transportation for improved runway lighting and resurfacing at Stewart Airport, thereby increasing its air traffic capacity. The new lighting improves both energy efficiency and public safety during take offs and landings.

Obtained \$3.6m from the American Recovery and Reinvestment Act for repairs and renovations at the Stewart Air National Guard base.

Obtained over \$3.5m from the American Recovery and Reinvestment Act for energy efficiency improvements in Orange County.

Obtained \$2.3m for the Highland Falls-Fort Montgomery Central School District, including \$1.5m in federal impact aid and \$800,000 in federal funding to improve science and technology programs.

Obtained \$2m in American Recovery and Reinvestment Act funding to construct a new water filtration plant for the Village of Warwick.

Obtained \$1.33m in federal funding to support the Newburgh-Beacon ferry enabling easier access to public transportation for commuters.

Obtained \$597,000 from the Department of Homeland Security for five local fire departments, including Greenville Fire Department; the Slate Hill and New Hampton Fire Departments in Wawayanda; and the Johnson and the Unionville Fire Departments in Minisink.

Obtained \$564,000 from the American Recovery and Reinvestment Act for improvement projects at Greenwood Lake.

Obtained \$394,000 in federal funding to replace the Hambletonian Water Main in Goshen which improved water quality and saved property tax dollars.

Obtained \$245,600 in federal funds for the Hudson Valley Agricultural Viability Program that will create jobs and attract private investment in local farms.

Obtained \$110,000 for the Port Jervis Police Department to upgrade their outdated communications system.

Obtained \$160,000 in federal funding for the Monroe Police Department.

Obtained \$95,300 in federal funding for St. Anthony Community Hospital in Warwick for their Wound Care Program.

Obtained a \$78,683 Edward Byrne Memorial Justice Assistance Grant from the U.S. Dept of Justice to improve public safety in Orange County through increased police patrols and improved equipment and technology.

Assisted in obtaining almost \$72,000 for Museum Village.

Obtained a \$66,500 Department of Homeland Security grant for the South Blooming Grove Fire District.

Obtained \$60,000 for the Woodbury Police Department.

Obtained \$40,000 for the Quassaick Bridge Fire District.

WESTCHESTER COUNTY

Obtained over \$13m for improvements to I-684.

Obtained \$6.75m from the American Recovery and Reinvestment Act for infrastructure upgrades and renovations of patient care areas at the FDR Veterans Hospital in Montrose.

Obtained \$6.1m from the American Recovery and Reinvestment Act for infrastructure improvements at the Camp Smith National Guard Training Site in Cortlandt.

Obtained \$5m from the American Recovery and Reinvestment Act for a water treatment plant for the Peach Lake community in North Salem. The new water treatment plant will help restore the quality of the lake and create local jobs.

Obtained almost \$2m for improvements at the Croton-Harmon train station including flood prevention and infrastructure upgrades.

Obtained \$1.96m in federal funding for reconstruction and improvements to Route 6 in Cortlandt.

Assisted in obtaining \$1.3m from the Dept of Energy for the Bedford-Northern Westchester Energy Action Coalition.

Obtained over \$1.1m for improvements to the Annsville Circle in Cortlandt.

Obtained \$665,000 in federal funding to improve the Peekskill Downtown Business District including sidewalk improvements, landscaping, and lighting upgrades on Main Street.

Obtained \$332,000 from the U.S. Department of Justice for the Westchester County Forensic Science Laboratory, to improve the quality and timeliness of medical examiner services, thereby reducing the case backlog.

Obtained \$325,000 from the federal Drug Free Communities Support Program for programs sponsored by the Village of Croton-on-Hudson, Alliance for Safe Kids in Cortlandt Manor, and the Town of Cortlandt.

Obtained over \$300,000 for programs at the Yorktown Senior Center.

Obtained \$196,000 in federal funding for improvements at the South Salem library.

Obtained \$120,000 from the Department of Homeland Security for the Goldens Bridge Volunteer Fire Department.

Assisted in obtaining \$115,000 for the Katonah Museum of Art.

Obtained \$98,400 in federal funding for A-HOME to build an affordable home for a first responder in Lewisboro, using the most state of the art energy efficient technologies.

Obtained \$95,300 in federal funding for the new emergency department at the Northern Westchester Hospital in Mount Kisco.

Obtained \$87,000 for the Katonah Fire Department.

Obtained \$70,000 in federal funding for the Pound Ridge Police Department for communications systems that will improve emergency response capabilities.

Obtained \$47,000 in federal funding for education programs at the Van Cortlandt Manor historic site in the Village of Croton-on-Hudson.

DUTCHESS COUNTY

Obtained \$8.22m from the American Recovery and Reinvestment Act for infrastructure and energy efficiency improvements at Castle Point Veterans Hospital.

Obtained \$3.6m from the U.S. Department of Transportation for improvements in public transportation including local busses and bus facilities in Poughkeepsie.

Obtained \$2.4m for the development and manufacture of night vision goggles by E-Magin, located in Dutchess County. These goggles improve the safety of our troops in the field, while creating local manufacturing jobs.

Obtained \$330,000 from the American Recovery and Reinvestment Act to help retrofit stormwater systems in East Fishkill and Beekman.

Obtained \$314,000 for Hudson River Housing in Poughkeepsie to assist in rehabilitating affordable homes and creating opportunities for local financing.

Obtained \$196,000 in federal funding for the Village of Wappingers Falls to create Consentino Park.

Secured Dyson Foundation grant funding of \$108,000 for Arlington High School's club ACTION students to install solar panels on the roof of the High School.

Obtained \$98,600 for the Glenham Fire District.

Obtained \$86,000 in federal funding for technology improvements at the St. Francis Hospital emergency room.

Obtained \$77,000 for the Fishkill Fire Department.

Obtained \$66,000 in federal funding to install solar panels on the Beacon Municipal Building.

Obtained \$61,750 from the Department of Homeland Security for the Wappingers Falls Fire Department.

PUTNAM COUNTY

Obtained \$1.9m from the American Recovery and Reinvestment Act for a water treatment plant for the Peach Lake community in Southeast. The new water treatment plant will help restore the quality of the lake and create local jobs.

Obtained \$1.6m for upgrades to roads in Kent.

Obtained \$400,000 in federal funding for Putnam Valley for their Lake Oscawana Management and Restoration Plan, saving money for local property taxpayers while improving water quality.

Obtained \$192,000 in federal funding for Putnam Hospital Center's comprehensive cancer care program.

Obtained \$190,000 from the Department of Homeland Security for the Mahopac Volunteer Fire Department.

Obtained \$145,000 for the Carmel Police Department for a police vehicle video system.

Obtained \$125,000 from the federal Drug Free Communities Support Program for programs implemented through Putnam's Council for Alcoholism and Other Drugs.

Obtained \$106,000 for equipment for the Kent Fire District.

ROCKLAND COUNTY

Obtained over \$15m for improvements to the Palisades Parkway.

Obtained \$2.5m for road improvements in downtown Haverstraw.

Obtained \$383,000 in federal funding for the Stony Point Ambulance Corps.

Obtained \$352,500 in federal funding for youth gang prevention programs.

Helped obtain \$297,000 from the U.S. Department of Education for the North Rockland Central School District.

Obtained \$188,000 for the Thiells-Roseville Fire District.

Obtained \$66,000 for the Stony Point Police Department to maintain a full time school resource officer at the James A. Farley Middle School.

CONSTITUENT SERVICES

Casework: One of the aspects of the job that I find most rewarding is the ability to assist local constituents with individual problems. In many of these cases the constituent needs assistance cutting through the federal bureaucracy to get the attention they need to their individual situation. Although I believe that people shouldn't need to turn to their Congressional office in order to get their cases resolved, I am happy to be able to assist when such instances occur.

My Congressional office resolved thousands of constituent service cases, which included providing assistance to Veterans, Seniors with Medicare and Social Security concerns, foreclosure and mortgage assistance to homeowners, families seeking adoptions, and expediting passports. The Congressional office provided assistance to constituents trying to reach family members during natural disasters overseas such as Haiti and Chile. In many of these cases our assistance made a real difference in people's daily lives.

Some specific examples of the hundreds of successful results achieved by the Congressional office are described below.

Veterans: Obtained well over \$2 million in retroactive payments and benefits for individual local veterans earned but never received from the Veterans Administration due to administrative backlogs and errors. These awards ranged from a few dollars to over \$100,000 depending on the type of injury, level of disability, and length of the VA delay in processing the case.

Successfully assisted many local Veterans in receiving long over due combat medals such as medals from World War 2 for a Mahopac veteran and several Purple Heart recipients.

Awarded the prestigious Air Medal to former flight crewmembers of the 336th Medical Detachment, and Army Reserve Helicopter Ambulance unit in a ceremony at Stewart Airport. The 60 men and women of the 336th Medical Detachment, trained as Medevac pilots, helicopter crew chiefs and medics, evacuated sick and wounded soldiers from the battlefield. Due to adverse field conditions and administrative oversight, the unit's flight crews did not receive their Air Medals until my office intervened on their behalf.

Social Security: Assistance was provided to constituents such as explaining eligibility for disability benefits; facilitating communication between beneficiaries and local SSA offices; assisting in setting up payment schedules for overpayments to beneficiaries' accounts; reinstatement of disability benefits that were incorrectly stopped; expediting appeal hearings, expediting the processing of retroactive checks in favorable disability cases that included amounts in excess of \$100,000; removal of overpayments that were mistakenly put onto beneficiaries' records; and assisting with the appeal of an overpayment waiver request.

For example—
Expedited a Social Security appeals hearing for a constituent who suffered major spinal injuries, was unable to work and facing bankruptcy. The case was found fully favorable to the constituent.

Expedited a retroactive payment in a Social Security disability case for \$79,000.

Helped get a Social Security disability appeals hearing for a woman suffering from a tick-borne illness similar to Lyme's Disease. The appeal was expedited and she was awarded more than \$1,800 in monthly benefits and more than \$65,000 in retroactive benefits, and found eligible for Medicare.

Medicare: Facilitated reimbursement for Durable Medical Equipment and other services.

Helped remove surcharge on Part B, premium and processing of retroactive payment.

Internal Revenue Service: Expedited processing of refund and economic stimulus payments.

Helped change filing status for taxpayer.

Department of Labor: Challenged denial of prescription coverage for a drug that was in a beneficiary's plan.

Assisted in having overpaid monthly COBRA premium credited toward future monthly premiums.

Assisted with having COBRA premium reduction applied to several beneficiaries who did not initially receive it.

Federal Trade Commission: Worked with constituents and relevant credit agencies to fix mistakes on credit reports.

Visiting Washington DC: When constituents, school groups, and local organizations visit Washington DC, my office helps arrange tours, and can help with other aspects of the visits. I make every effort to personally greet local visitors. In 2009 my office arranged and gave over 700 tours of the Capitol to local families, school classes, and other visitors from the 19th Congressional District. The office also assisted with information including

assistance in arranging for tours of other significant sites in Washington.

Service Academy Nominations: Each year my Congressional office submits nominations of local students to our nation's military service academies including the U.S. Military Academy at West Point (USMA), Naval (USNA), Air Force (USAFA), and Merchant Marine (USMMA) Academies. I consider it a great honor to be able to nominate top local students who will become the next generation of military leaders. During my two terms in office, I was proud to serve on the U.S. Military Academy's Board of Visitors.

PERSONAL EXPLANATION

HON. ALBIO SIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. SIRE. Madam Speaker, on December 21, 2010, I missed rollcall vote numbers 657, 658, 659, 660, 661, 662, and 663. Had I been present, I would have voted "yes" on rollcall 657, "yes" on rollcall 658, "yes" on rollcall 659, "yes" on rollcall 660, "yes" on rollcall 661, "yes" on rollcall 662, and "yes" on rollcall 663.

PERSONAL EXPLANATION

HON. JOHN ABNEY CULBERSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. CULBERSON. Madam Speaker, on December 21, 2010, I was unable to be present for all rollcall votes due to a medical necessity.

If present, I would have voted accordingly on the following rollcall votes: roll No. 657—"nay"; roll No. 658—"aye"; roll No. 659—"nay"; roll No. 660—"nay"; roll No. 661—"nay"; roll No. 662—"nay"; roll No. 663—"aye".

PERSONAL EXPLANATION

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Ms. KILPATRICK of Michigan. Madam Speaker, I was unable to attend to several votes. Had I been present, I would have voted "aye" on rollcall Nos. 657, 658, 659, 660, 661, 662 and 663.

PERSONAL EXPLANATION

HON. DEAN HELLER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HELLER. Madam Speaker, on rollcall No. 660, I was unavoidably detained. Had I been present, I would have voted, "no."

TRIBUTE TO GEORGE W. McCULLOUGH III

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. PASCRELL. Madam Speaker, I would like to call to your attention the story of an outstanding individual, Mr. George W. McCullough, III, who will visit New Jersey's 8th District on Sunday, December 12, 2010, for he is a great example of service to our Nation and communities.

It is only fitting that he be honored in this, the permanent record of the greatest democracy ever known, for his story is a true embodiment of the American Dream.

George W. McCullough, III serves as Supreme Governor of the Loyal Order of Moose for 2010–2011. He was elected to this post, which also serves as chairman of the Moose International Board of Directors, at the 122nd International Convention in Nashville in July 2010. He had previously served as Supreme Jr. Governor in 2009–2010, and Supreme Prelate during 2008–09.

He is a Life Member of Charlotte, NC Lodge 1113, having been sponsored by his father in 1969. He immediately took an active role, serving on all standing and special committees, and holding all chairs, including Past Governor. He stepped in as acting Administrator for an eight month period. He has been an active Ritualist for more than 20 years, and has been honored as an International Champion in Ritual Competition.

He has served on all the committees and chairs of WENOCA Moose Legion 78 and is a Past North Moose. He has served the North Carolina Moose Association on several District committee posts, as District President, and on most Association Committees; he is a Past President of the Association by Service. He was also conferred the honor of Past President by both the Louisiana and Minnesota Moose Associations.

Mr. McCullough served on the International Community Service Committee before his appointment to the Mooseheart Board of Directors in 1994. A member of the 150 Division of the Moose 25 Club, he received the Fellowship Degree of Honor in 1978 and the Pilgrim Degree of Merit in 1990. He was awarded the Shining Star as International Moose of the Year for 1995.

He is an ordained minister of the Baptist Church, and he is a U.S. Army combat veteran with service in Vietnam, holding the Bronze Star and the Purple Heart among other decorations. He and his wife Sue reside in Charlotte, where he owns and operates McCullough & Associates Auto Electric. The McCulloughs have two daughters, two sons, a daughter-in-law and two grandsons.

The job of a United States Congressman involves much that is rewarding, yet nothing compares to learning about and recognizing the efforts of individuals like Mr. George W. McCullough, III.

Madam Speaker, I ask that you join our colleagues, George's family and friends, all the members of the Loyal Order of Moose, and me in recognizing the outstanding contribu-

tions of Mr. George W. McCullough, III to our Nation.

JENNIFER FRIEDNASH

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Jennifer Friednash for her outstanding service to our community.

Jennifer works full time as a real estate attorney, but always finds time to teach her kids the value of volunteering through leading by example. She has been an active member and fundraiser for Project PRIDE, which constructed an outdoor classroom alongside Red Rocks Amphitheatre.

Jennifer's work doesn't stop there. She is an active committee member of the Jefferson Economic Council, chair of a committee that provides junior NAIOP members an opportunity to learn about the real estate industry from seasoned professionals and has been a provisional instructor for the Colorado Association of Realtors.

I extend my deepest congratulations to Jennifer Friednash for her well deserved recognition by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

PERSONAL EXPLANATION

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. CUELLAR. Madam Speaker, I was absent due to personal family matters, but if present, I would have voted "yes" on:

S. 3481—Amending the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

S. 372—Whistleblower Protection Enhancement Act.

Senate Amendment to H.R. 6523—Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

STATEMENT OF CONCERN ABOUT UNJUST IMPRISONMENT OF BAHAI RELIGIOUS MINORITY IN IRAN

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. DAVIS of Illinois. Madam Speaker, I rise today to express both my deep concern and the deep concern of some of my constituents about the unjust imprisonment of several members of a religious minority in Iran. In particular, I wish to speak of the member of the Baha'i faith who have been persecuted and

imprisoned in Iran. My home district in Chicago has a rich diversity of people from all backgrounds and faiths, and I am fortunate to have Baha'is as part of this rich diversity. The Baha'i faith is a peaceful religion that teaches the oneness of humanity and that all forms of prejudice should be eliminated.

Some of you will recall that in 2009 I was one of the co-sponsors to House Resolution 175. That resolution condemned the Government of Iran for its state-sponsored persecution of its Baha'i minority and its continued violation of the International Covenants on Human Rights. H. Res. 175 passed with 407 "aye" votes on October 22, 2009. However, some of my constituents have informed me that the persecution and suppression of the Baha'i faith in Iran persist with no relief in sight.

In 2009 the international press reported that seven Baha'i leaders in Iran were unjustly arrested and held in prison without knowing the charges for their arrest for approximately 20 months.

The unjust prosecution of these seven particular Baha'is was condemned by international leaders and drawn into our national awareness for a short time. Those seven Baha'is are real people with families, who continue to suffer injustice because of their peaceful religious beliefs. The more disturbing fact is that those seven Baha'i leaders are merely the ones that made the headlines. There are approximately 48 additional Baha'is currently imprisoned in Iran. Approximately 132 Baha'is have been arrested and released on bail to await trial, and another 92 Baha'is have been sentenced to imprisonment. In the last decade, hundreds of Baha'is have been prosecuted and imprisoned for their religious beliefs. But that is not the only degradation that Baha'is in Iran must face. Baha'is have been dismissed from their jobs, expelled from universities, and deprived of their property and pensions, all because of their religious beliefs.

Our national consciousness would not be so aware of this unjust and unfair treatment if it had not been for yet another unjust prosecution of a young American journalist, Roxana Saberi, in 2009. While Roxana shared a prison cell with two of the female Baha'i leaders in Evin prison, she was astounded by the tranquility of her Baha'i cell mates even as they faced harsh conditions and uncertainty about their future. Fortunately, Roxana was freed from prison and has returned safely to the United States; however, those seven Baha'i leaders remain in prison and were sentenced to 10 years of confinement in one of the most dreadful prisons in Iran.

In short, the Baha'i faith teaches tolerance, patience, peace and self-investigation of the truth. Yet, Baha'is are singled out and marked from persecution and ridicule from the classroom to the court room and from the lunch room to the laboratory. We have our own history of unjust treatment in this country and the grievous and slow healing wounds from such pernicious and repugnant conduct can still be felt today. However, the freedom of speech and the freedom of religion in our great country have contributed greatly to the healing of our society.

I believe each and every human being has a fundamental right to freedom of religion that

should not be curtailed or circumscribed by the coincidence of one's citizenship in a particular nation. The freedom in our country to choose how to peacefully worship God is something many of us take for granted. We need only consider the unjust and inhumane treatment of Baha'is in Iran to realize that this freedom is not available to everyone in the world.

I agree with U.S. Secretary of State Hillary Clinton when she condemned the sentencing of the Baha'i leaders and stated that the "United States is committed to defending religious freedom around the world, and we have not forgotten the Baha'i community in Iran."

I speak to you today as a reminder that religious persecution remains a fact of life in our world and that the plight of the Baha'is in Iran is a poignant example of injustice. On behalf of my Baha'i constituents, I ask that you lend your voice to mine, so that we may create a chorus of diverse voices against the type of blatant religious persecution that we are witnessing in the unjust treatment of Baha'is in Iran.

COUNTERING IRAN'S NUCLEAR & TERRORIST THREATS, THE OPPOSITION'S ROLE: WHAT ARE THE U.S. POLICY OPTIONS?

HON. TOM MCCLINTOCK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. MCCLINTOCK. Madam Speaker, I rise today to insert into the RECORD excerpts of remarks made at a symposium sponsored by Executive Action, LLC: "Countering Iran's Nuclear & Terrorist Threats, The Opposition's Role: What Are the U.S. Policy Options?" held at the Willard Intercontinental Hotel in Washington, DC on Friday, December 17, 2010.

MICHAEL MUKASEY, FORMER ATTORNEY
GENERAL OF THE UNITED STATES

This is one of those moments in history when we know that future generations are going to ask what we did to advance good and what we did to resist evil . . .

I'm a lawyer, and lawyers make their cases with facts and law and policy. So let's look at some facts, and some law, and some policy, and see whether the case is there. The history of the relationship between the United States and the Iranian regime since the 1979 revolution can be summed up as a series of attempts by the United States to, as the diplomats say, engage the Iranian regime, each attempt less successful than the one that preceded it. I'm not going to go through that entire history, but an important part of it begins in the 1990s, during the Clinton administration, when the People's Mojahedin Organization of Iran, also known as the MEK, was designated by the Secretary of State under U.S. law as a foreign terrorist organization and that designation regrettably continues to this day . . .

The MEK is the only organization of Iranians, both inside Iran and outside Iran that opposes the current regime that favors a government in Iran that is democratic, secular, non-nuclear, and a republic. Again, this is not one of the few organizations that fit that description; it is the only one . . .

If in fact MEK has renounced violence, as it has; if in fact it presents no threat to any

U.S. personnel or interest, in fact it presents no such threat; and if in fact it has been of affirmative assistance to the United States, as it has; and is not regarded as a terrorist organization in the United Kingdom or the European Union, then why was it placed on that list and why does it continue to remain on the list of such organizations that is kept by the Secretary of State? Well, I think, it's pretty openly acknowledged that the reason MEK was placed on that list during the Clinton administration was to curry favor with Iran, and to use the designation as a way of entering into dialogue with the Iranian regime. And I am sorry to say that even during the administration that I served in, it is reported that MEK continued to remain on the list for the same misguided reason . . .

The Iranian regime is now in the enviable position of having the United States designate as a terrorist organization a group of Iranians who are a threat to that regime, and of limiting that group's activities. In other words, the Iranians now have the great Satan working for them . . .

The continued designation of MEK as a terrorist organization gives great comfort and legitimacy to the Iranian regime, by putting on the sidelines an organization that is potentially a grave threat to the regime. What's to be done? Well as I'm sure many of you know there is an ongoing case in which MEK has challenged the designation. In July, the U.S. Court of Appeals for the District of Columbia circuit issued an opinion essentially sending the matter back to the State Department and to the Secretary of State and asking her to re-evaluate whether MEK should be on that list. But the court did something more than that. It expressed a good deal of skepticism at least about the non-classified information that was put before the court and shared with MEK, and which MEK could therefore rebut. Without getting into a whole lot of detail, the Secretary of State may choose to base her determination entirely on classified information if she wants, and then nobody knows why she made the decision, but she didn't do that in this case. She said she based her decision on both the classified information and the non-classified information and the court discussed in some detail some of the non-classified information, and it showed that a lot of it consisted of unsubstantiated, anonymous rumor, whose reliability was unknown and could not be tested. And all we can say is that if the classified part of the record, which MEK has not been allowed to see and to which it cannot therefore respond to directly, consists of the same kind of information as the non-classified part, then the Secretary of State's decision would be based on absolutely nothing substantial. Time will tell. But this is about more than a case in the District of Columbia and more than MEK. This is about the posture of the United States toward the Iranian regime . . .

When succeeding generations consider the question I presented at the beginning of these remarks, of what we did to advance what is good and to resist what is evil, they will find an answer that we and they can live with.

TOM RIDGE, FORMER SECRETARY OF HOMELAND
SECURITY

At one point in time, we talked about and we put the MEK on the terrorist list because we thought it might enhance and improve the dialogue, change the dialogue. There might be some noticeable improvement in our relationship with Iran and I think history concludes so far in the past several

years since we put that organization, which by the way disarmed itself, consolidated itself and has been a source of some very important intelligence for this country's use and the rest of the world's knowledge. If the goal was to improve engagement and to solicit a different response from the Iranian government, that hasn't worked out very well either. So, you say to yourself at the end of the day, these efforts during the past several years have been fruitless, and some say through some organizations that are basically feckless, not terribly effective. What happens if they become even further emboldened by having nuclear capability? One, we know what it says about Iran—if you think that part of the world is unstable now, we can only imagine what the consequences will be then . . .

And you know what is probably even more alarming is that we're starting to see more and more analysts accept in their writings the notion of a nuclear Iran and how we would deal with it. Think about that, ten years ago we were worried and trying to figure out how we could make sure that didn't happen and now we have some pundits and some analysts in the international community saying, it's almost a fait accompli, "now what are we going to do?" Let's just pause for a moment and think what that means to the rest of the world vis-a-vis America. What does it say about our ability to influence geopolitical events? What does it say about how our allies and friends in that region look to us, and our ability to affect change that affects their lives and the security of that particular region. . . ?

So how do we go forward? What do we do next? I think the Attorney General very clearly identified probably one of the most significant things we can do and that is delist as the UK has done, and the European Union has done, MEK. They did consolidate. They did disarm. They were a source of considerable intelligence for us, and if we are to look for peaceful means of encouraging a regime change, it seems to me that one of the first and most significant steps we could take, I guess it's under review right now by the State Department, but as you well know in January of this year I think the DC Circuit Court of Appeals said that, based on the information you presented in this court right now (and unfortunately you had to go to court, everybody goes to court in the United States, but to get them delisted from the State Department) the court said preliminarily, the information that you've at least shared with us in court today doesn't warrant them being listed as a terrorist organization. I think the consequences of that particular decision, the State Department as I understand it and perhaps others on this panel can give us a more enlightened and more recent point of view that they're actually honestly and actively considering that outcome.

What's the benefit of that outcome? First of all it's the strongest possible signal that our approach toward Iran is changing. It's saying that 30 years of peaceful engagement hasn't been effective, and I think everybody around the world knows that. But I'm going to give you a different perspective if I might because I think it has as much to do as how we're viewed around the rest of the world and why I think we should do it as soon as possible. I've always thought that, if America was considered to be a product that we look to sell around the world then our brand is based on our value system. Think about that for a moment. For 200+ years, more recently we have tried to promote the notion

of civil society, and civil institutions, and believing that in the heart of all men and women everywhere around the world there is a desire to be free, a desire to control your own destiny, to raise your own family, to share in hopefully, the opportunities that your society and your government would provide for you. In inheriting all of that, we have many of those discussions as it relates to how we are engaged in our effort against terrorism around the world. We challenge ourselves around Abu Ghraib, we challenge ourselves around Guantanamo, we challenge ourselves with regard to due process. We know what we stand for. It's part of the American brand. We are our strongest allies; we're also our strongest critics. We know what we believe in and when we seem to deviate, if some of us seem to think we deviate from that brand, we take a close look at ourselves in the mirror and ask ourselves "What are we doing?" Well, part of that American brand I think is being consistent with our values overseas as well. And when we see a repressive theocracy, day in and day out, imprisoning, torturing, executing men, women, entire families because they've been brave enough, courageous enough to stand in opposition to the theocracy. In their hearts, not necessarily looking to the institutions of government like America but looking to the value system of freedom and liberty, speech, assembly, peaceful opposition. So I frankly think one of the most important things this country can do, and hope we will do it as soon as possible is to delist. Delist the People's Mujahedin of Iran. It's not a terrorist organization. And after that, be part of a sustained, public, rhetorical, and as well diplomatic embrace of our brand, with the hope of convincing the rest of the world that the loyal opposition, those pro-democracy warriors, individuals and families in Iran can at least look to the United States not with casual and occasional criticism of the Iranian government and how it treats its citizens, but a sustained clamor for change, aggressive diplomatic efforts to at least pull some of our friends and allies into the chorus of opposition to this regime. Time is running out. There aren't too many options left.

FRANCES FRAGOS TOWNSEND, FORMER ADVISOR
TO PRESIDENT GEORGE W. BUSH ON HOMELAND
SECURITY

Our policy goals in this country really must be a reflection of our values. It must be consistent and it must be fundamental to how we build a policy process. It struck me, when you go back and look at the current, when we heard Tom Ridge and others talk about the sanctions regime, we can debate its efficacy we can debate its impact, but the statement of the goal right now as we sit here today in Washington the goal of the sanctions, which have not been yet successful, is to get the regime to the bargaining table. Is that really all? To describe that is as humble and modest in terms of an objective, that's not enough. So, when you look at all the other things we've talked about just so far this morning that the MEK is still listed as an FTO all of that stems from "what are you trying to achieve." If you're not clear, and you're not ambitious, and your goals don't represent your values, you are doomed to failure. . .

The FTO designations, as you can imagine during my time in the government (I was in the Justice Department for many years and then in the White House), monitoring the FTO process, the Foreign Terrorist Organizations designation process, working with the State Department was among my respon-

sibilities. I must tell you that having traveled throughout the Middle East and around the world, talking to our allies, the FTO designation process (we should just be honest) is disrespected by our allies. It is ineffective. It is corrupted by politics, and I don't mean, "corrupted" in the criminal sense, but it has been pervaded by political debate, which is part and parcel of a foreign policy discussion when you're setting foreign policy goals. The fact that we permit domestic politics in foreign policy concerns to come into what is supposed to be an objective process, that is the designation of a foreign terrorist organization, undermines US credibility. . .

Not only, having disarmed, and renounced violence and assisted the United States, should the MEK come off the list, the US Congress should abolish the list because I frankly think in many respects because of how it's operated, it does more to undermine our credibility on these subjects. So, I would both take MEK off the list and I would ask Congress to abolish it. . .

The other thing that I would say and hasn't been spoken about, again I'm sensitive to this because of my responsibilities in the White House is, I frankly think, as part of the delisting process one of the things that would enable or open the potential for is permitting MEK leaders who are outside of Iran to get visas and come to the United States. That's an entirely, again, separate process. It would be treated separately. Delisting does not necessarily mean that those leaders would be able to apply and get such a visa that ought to be part of this process. Those people ought to be able to come here and speak about the atrocities, they ought to be able to speak about the human rights abuses and what's happening inside Iran to those advocates for democracy and freedom. And they ought to be able to be their own advocates. Right now, we are their advocates, but they are entitled to make their own case both before the American Congress and the American people, to raise money, to raise support, and to raise awareness. So, for me, it's: take them off the list, abolish the list and grant visas to expatriates and exiled MEK leaders so that they can come and make their own case.

PERSONAL EXPLANATION

HON. DEAN HELLER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HELLER. Madam Speaker, on rollcall No. 661, I was unavoidably detained.

Had I been present, I would have voted "no."

HONORING THE EXEMPLARY SERVICE OF SANCTUARY, INC.

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Ms. BORDALLO. Madam Speaker, I rise today to honor the exemplary service of Sanctuary, Inc., a community based non-profit organization that aims to improve the quality of life for Guam's families and youth. Through their 24-hour crisis intervention, Sanctuary

promotes mediation services during times of family conflicts while also providing temporary safe refuge to youth in need of further supportive counseling. In addition, Sanctuary fosters the development of responsible community members and assists in preserving and promoting family unity through their outreach, education and prevention programs.

Founded in 1971 by Father Robert Phelps and Mr. Luis Martinez, with the goal of creating a safe refuge for Guam's youth, Sanctuary originated in southern Guam, with seven families volunteering their time and homes to provide temporary housing to troubled youth who are not suitable for youth correctional facilities. Sanctuary has since relocated to central Guam and now provides shelter and services at three dedicated buildings: an emergency shelter, a transitional living program, and substance abuse program. They have made tremendous strides over the years and annually provide safe haven for over 300 youth and also provide assistance through outreach and prevention programs to over 3,000 troubled teens. These services and programs, such as alcohol and drug treatment programs, provide safe alternatives to detention or youth correctional facilities and are instrumental in helping troubled youth turn their lives around and contribute to society.

It is on the occasion of Sanctuary's 39th anniversary that I join our community in commending their humanitarian services and outreach efforts in helping Guam's youth. I commend the efforts of Interim Executive Director, Millie Lujan; Staff members and Volunteers who have dedicated and contributed their time over the past 39 years and I look forward to many more years of continued service by Sanctuary Guam.

PERSONAL EXPLANATION

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Ms. LEE of California. Madam Speaker, I missed rollcall votes 657 through 663 on Tuesday, December 21st. Had I been present I would have voted "aye" on rollcall vote 657 on H. Res 1771, rollcall 658 on H.R. 6540, rollcall 659 on agreeing to the Senate amendments to H.R. 5116, rollcall 660 on agreeing to the Senate amendments to H.R. 2142, rollcall 661 on agreeing to the Senate amendments to H.R. 2751, rollcall 662 on agreeing to the Senate amendments to H.R. 3082, and rollcall 663 on H.R. 6547.

BARBARA ROOSE-CRAMER

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to honor and applaud Barbara Roose-Cramer for her outstanding service to our community.

Barbara has been married 47 years, is the mother of three and grandmother of seven.

She is an accomplished athlete, writer, motivational speaker and volunteer. Barbara has been the recipient of numerous awards including California's Outstanding Athlete and Most Inspirational Athlete, the YWCA's Most Courageous Athlete and a two time Olympic Gold Medalist. Since the onset of polio at age eight, Barbara has been in a wheelchair.

In addition to her accomplishments as an athlete, Barbara has served on numerous committees for organizations dedicated to those with disabilities. She is currently writing for major publications on issues concerning those with disabilities. Being a sports enthusiast she has written a book about the history of the Denver Broncos and donated all the profits to a local wheelchair basketball team.

I extend my deepest congratulations to Barbara Roose-Cramer for her well deserved recognition by the West Chamber serving Jefferson County. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. BECERRA. Madam Speaker, on December 17, 2010, I was unavoidably detained and missed rollcall votes 651 and 654. If present, I would have voted "yea" on rollcall votes 651 and 654.

PERSONAL EXPLANATION

HON. CATHY McMORRIS RODGERS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mrs. McMORRIS RODGERS. Madam Speaker, on rollcall No. 659 on, H.R. 5116 on Motion to Concur in the Senate Amendment, America COMPETES Reauthorization Act, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay."

Madam Speaker, on rollcall No. 660 on H.R. 2142, on Motion to Concur in the Senate Amendment, GPRA Modernization Act of 2010, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay."

Madam Speaker, on rollcall No. 661 on H.R. 2751, on Motion to Concur in the Senate Amendment, FDA Food Safety Modernization Act, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay."

Madam Speaker, on rollcall No. 662 on H.R. 3082, on Motion to Concur in the Senate Amendment to House Amendment to Senate Amendment, Making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes, I am not recorded because I was absent because I gave birth to my baby daughter. Had I been present, I would have voted "nay."

Madam Speaker, on rollcall No. 663 on H.R. 6547, on Motion to Suspend the Rules and Pass, Protecting Students from Sexual and Violent Predators Act, I am not recorded because I was absent because I give birth to my baby daughter. Had I been present, I would have voted "yea."

IN HONOR OF SPEAKER NANCY PELOSI

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. BACA. Madam Speaker, I thank you for your service to our country, for your sacrifice and unyielding dedication.

Because of your leadership, Democrats have much to be proud of during our work in the 110th and 111th Congress.

As Speaker, you have made the United States a better country. Women have more rights in the workforce, children are safer, our military is stronger and our economy was saved from near complete collapse.

Without you at the helm, healthcare for all would only be a dream. Because of your labor, it will be a reality.

As the first woman to serve as Speaker of the House, you have left an indelible mark on our history. Your positive, supportive and empowering leadership will forever remind us of what it is to be an American.

Your strength of leadership will continue to serve the American people well as we protect the victories we have secured, and renew our efforts to move America forward.

Speaker, I remember the day of your swearing-in. All the children surrounding you as you pounded the gavel leading us on a new direction. You have made them proud. You have made us all proud.

Thank you, Speaker PELOSI. Thank you.

RECOGNIZING MS. JENNIFER CRASE

HON. GEOFF DAVIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. DAVIS of Kentucky. Madam Speaker, I rise today to recognize Ms. Jennifer Crase, a mathematics teacher at South Oldham Middle School in the Fourth Congressional District of Kentucky.

Ms. Crase has been an educator for more than thirteen years and has taught eighth grade mathematics in Crestwood, Kentucky for 6 years.

In June 2010, Ms. Crase was nominated by President Barack Obama as a Presidential Awardee for the Presidential Awards for Excellence in Mathematics and Science Teaching.

In addition to being an outstanding teacher, she has worked at the State level to develop a standards-based report card for all Kentucky middle schools. Ms. Crase serves as a team leader, mentor, presenter and mathematics lead teacher for her school.

Ms. Crase is a strong mentor and a reliable friend to her colleagues. She encourages collaboration and sets high goals for all students.

Today, as we celebrate the accomplishments of this exceptional Kentuckian, it is my hope that others are encouraged by her hard work and determination.

Madam Speaker, please join me in commending Jennifer Crase for her time and devotion in helping the youth of the Commonwealth of Kentucky and the United States of America.

HONORING THE PUBLIC SERVICE
AND EXTRAORDINARY CONTRIBUTIONS OF CHAIRMAN
DAVID OBEY OF WISCONSIN

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Ms. McCOLLUM. Madam Speaker, with the conclusion of the 111th Congress, a career of extraordinary public service in the House of Representatives comes to an end. My colleague, friend and mentor—Chairman DAVID OBEY—is concluding his career in Congress representing the families of northwestern Wisconsin that began in 1969. For twenty terms, DAVID OBEY has been a liberal champion and a fierce defender of workers and their families. He has been a passionate and effective legislator for right of all Americans to access quality health care and education. And, in the realm of U.S. foreign policy, Chairman OBEY has a lifetime record of always striving to advance human dignity, peace, and the highest ideals of the American people around the world.

It has been my privilege to serve in this House with Rep. OBEY for the past ten years—one-quarter of his congressional career. For the past four years, I had the honor of serving on the House Appropriations Committee, calling the gentleman from Wisconsin “Mr. Chairman.” I have watched DAVID OBEY work—work hard, tirelessly, and with tremendous determination and intellect—to advance an agenda that makes the lives of regular Americans the highest priority of the federal government. Chairman OBEY always fought for the less fortunate, the vulnerable, those struggling for an opportunity to succeed, and to ensure those who have made this country great with their toil and sacrifice in the factory, the farm field, or on the battlefield. He fought so they too could live and retire with security, respect, and dignity.

It is often said that Mr. OBEY was tough and rough on the outside, but I always found him to be a kind, warm soul who knew the importance and magnitude of his responsibilities and carried them out with the humble expertise of a legislative master. “I started as a shy boy from a troubled family of modest means,” Rep. OBEY once said. Well, that shy boy has made a lifetime of contributions to our country that will be judged by history as both profound and far reaching. People who will never know DAVID OBEY are living better lives with more opportunities because of him. The State of Wisconsin and the United States are better

places because of his years of service in the U.S. House.

As a Wisconsin Progressive in the tradition of Robert LaFollette, Rep. OBEY has never shied away from calling out injustice or just plain dumb policymaking. In his book, “Raising Hell for Justice,” he reminds citizens and policymakers that “federal budgets that pay for tax cuts for millionaires with budget cuts in education, Medicaid, child care, and health care are not just unfair; they are immoral.”

This quote was again put to the test only last week as Chairman OBEY voted against extending massive tax cuts for millionaires and billionaires. I was proud to join Chairman OBEY in opposing this tax cut for the wealthy that only continues the disturbing pattern of income re-distribution away from working families and towards a class of economic elites.

As the longest serving Member of Congress in Wisconsin history, I know DAVID spent far too much time away from his wife, Joan, and their family. I wish DAVID, Joan, and their sons’ families many happy days together in the coming years.

In conclusion, let me simply say—Mr. Chairman, you have served our country so very well. It is personally difficult to see you leave, but your lifetime of service will live on in the lives of millions of Americans whose lives you have helped to improve. As a colleague and a friend, you have made me a better legislator and for that I am grateful to you.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. GUTIERREZ. Madam Speaker, I was unavoidably absent for votes in the House Chamber yesterday. Had I been present, I would have voted “yea” on rollcall votes 662 and 663.

PERSONAL EXPLANATION

HON. MARY JO KILROY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Ms. KILROY. Madam Speaker, on the legislative day of Tuesday, December 21, 2010, I cast a vote but it apparently was not recorded on rollcall vote 661. As a co-sponsor of this legislation, had my vote been properly recorded I would have voted “yea” on rollcall vote 661.

HONORING INDIVIDUALS FOR
THEIR WORK ON BEHALF OF THE
PEOPLE OF THE FIRST CON-
GRESSIONAL DISTRICT OF OHIO

HON. STEVE DRIEHAUS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. DRIEHAUS. Madam Speaker, I would like to recognize the following individuals for

their work on behalf of the people of the first congressional district of the State of Ohio and for their dedicated service to the 111th United States Congress. I offer my sincerest appreciation to Alyson Budd, Jay Stolkin, Robert George, Danielle Vizgirda, Sean Kelley, Ozie Davis III, Steve Brinker, Victoria Parks, Mary Ellen Sullivan, Shannon Faulk, Alex Kisling, Colby Nelson, Morgana Carter, Sarah McHugh, Aaron Wasserman, Tim Mulvey, Heidi Black, Greg Mecher, and Sarah Curtis.

CONCLUSION OF MY SERVICE IN
THE CONGRESS

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. POMEROY. Madam Speaker, I want to take this opportunity to thank the people of North Dakota for the chance to represent our great state in this great chamber for the past 9 terms.

Words cannot adequately express the feelings of gratitude I have as my time as a member of body draws to a close.

At varying times I've agreed or disagreed with virtually every member—Democratic or Republican—in this House. Steering the course for the United States of America is a very difficult and complex undertaking. As our country moves into its third century in the first decade of the new millennium, it seems like the challenges only get bigger as we go forward.

But I conclude my life here with a strong sense of hope and optimism for the future.

The United States Capitol is the icon of democracy known throughout the world. In this historic place, sometimes in the darkest hour, leaders here assembled have set the course to see us through.

If the American people exhibit the best aspects of their nature—courage, compassion, strength, resolve, community—the leaders in the chamber will deliver accordingly.

I will always treasure the time I had here. I won some, I lost some, but I tried my best to reflect the concerns of those I represented, as well as the genuine goodness of the folks who call North Dakota home.

North Dakotans have selected a new Congressman, Representative-elect Rick Berg, and I wish him great success in delivering for our state.

In conclusion, there is one group in particular I want to thank—all of those who have served on my staff now at the end or any time during these nine terms. Present and recent staff members include Bob Siggins, Melanie Rhinehart Van Tassel, Stacy Austad, Brenden Timpe, Adam Durand, Dustin Olson, Diane Oakley, Chris Cunningham, Matt Pearce, Hillary Price, David Grant, Annie Finkenbinder, Ross Keys, Joan Carlson, Dianne Mondry, Nick Keaveny, Geoff Greenwood, Bill Heigaard, and Erin Hill.

They are extraordinarily talented and dedicated individuals, reflective of the wonderfully gifted staff members I have been privileged to work with for the 18 years of my service in the House.

Now I look forward to more time with my wife, Mary, and my children, Kathryn and Scott, as this term ends and my membership in this body ceases.

I thank my colleagues for their commitment to work so hard to serve their constituents and our country.

I have been richly blessed to have had the chance to work with you in the people's House—the United States Congress.

PERSONAL EXPLANATION

HON. ADAM SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. SMITH of Washington. Madam Speaker, on Tuesday, December 21 and Wednesday, December 22, 2010, I was unable to be present for recorded votes.

Had I been present, I would have voted: "yes" on rollcall vote No. 657 (on agreeing to the resolution H. Res. 1771); "yes" on rollcall vote No. 658 (on the motion to suspend the rules and pass H.R. 6540); "yes" on rollcall vote No. 659 (on the motion to concur in the Senate amendment to H.R. 5116); "yes" on rollcall vote No. 660 (on the motion to concur in the Senate amendment to H.R. 2142); "yes" on rollcall vote No. 661 (on the motion to concur in the Senate amendments to H.R. 2751); "yes" on rollcall vote No. 662 (on the motion to concur in the Senate amendment to the House amendment to the Senate amendment to H.R. 3082); "yes" on rollcall vote No. 663 (on the motion to suspend the rules and pass H.R. 6547); and "yes" on rollcall vote No. 664 (on the motion to concur in the Senate amendment to H.R. 847).

S. 3481—A BILL TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Ms. NORTON. Madam Speaker, I rise today in strong support of S. 3481 to amend the Federal Water Pollution Control Act, which clarifies that the Federal Government, like private citizens and businesses, must take responsibility for the pollution it produces. This bill is the Senate companion to my bill, H.R. 5724, cosponsored by my good friends from Virginia and Arizona, Rep. JIM MORAN and Rep. GABRIELLE GIFFORDS. The bill passed the Senate with strong bipartisan support because the Senate understood that this is simply an issue of fairness and equity to users and a matter of managing pollution and protecting the environment. In fact, this bill simply clarifies current law, that the Federal Government has a responsibility to pay its normal and customary fees assessed by local governments for managing polluted stormwater runoff from federal properties, just as private citizens pay. The consequence of failing to pass this bill is that we give the Federal Government a free

ride and pass its fees on to our constituents throughout the United States.

Section 313 of the Federal Water Pollution Control Act states, "Each department, agency, or instrumentality . . . of the Federal Government . . . shall be subject to, and comply with all Federal, State, interstate, and local requirements . . . in the same manner, and to the same extent as any nongovernmental entity including the payment of reasonable service charges." However, the Government Accountability Office issued letters to Federal agencies in the District of Columbia instructing them not to pay the District of Columbia's Water and Sewer Authority's (D.C. Water's) Impervious Area Charge. D.C. Water calculates the charges to manage stormwater runoff based on the amount of impervious land occupied by the landowner. Impervious surfaces, such as roofs, parking lots, sidewalks and other hardened surfaces are the major contributors to stormwater runoff entering the sewer system and local rivers, lakes and streams, causing significant amounts of pollutants to enter these waters. This bill clarifies that in my district and all others congressional districts, Federal agencies must continue to pay their utility fees instead of passing the fees to our constituents.

Nothing in this Act was intended to affect the payment by the United States or any department, independent establishment, or agency thereof of any sanitary sewer services furnished by the sanitary sewage works of the District through any connection thereto for direct use by the government of the United States or any department, independent establishment, or agency thereof. The rules for those payments are set forth in law codified at section 34–2112 of the D.C. Code and nothing in this Act amends or otherwise affects those rules. This bill requires that Congress make available, in appropriations acts, the funds that could be used for to pay stormwater management charges, but not that the appropriations act would need to state specifically or expressly that the funds could be used to pay these charges.

This bill is supported by the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, the International City/County Management Associations, as well as the National Association of Clean Water Agencies. All of these national groups understand that stormwater management fees, without any exceptions, are necessary for managing and reducing water pollution caused by stormwater runoff. Moreover, they understand that many agencies in States and localities may stop paying their water and stormwater management fees if we do not act, putting even more financial burden on residents.

Federal law has mandated that these local governments must collect these fees. No exemption has been granted to Federal facilities. Please support S. 3481 to clarify the original intent of the law.

I urge my colleagues to support this bill.

PERSONAL EXPLANATION

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. DAVIS of Illinois. Madam Speaker, I was unable to cast votes on the following legislative measures. If I were present for roll call votes, I would have voted "aye" for each of the following votes:

Roll 657, December 21, 2010: On Agreeing to the Resolution: H. Res. 1771, Waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, and providing for consideration of motions to suspend the rules.

Roll 658, December 21, 2010: On Motion to Suspend the Rules and Pass: H.R. 6540, Defense Level Playing Field Act.

Roll 659, December 21, 2010: On Motion to Concur in the Senate Amendment: H.R. 5116, America COMPETES Reauthorization Act.

Roll 660, December 21, 2010: On Motion to Concur in the Senate Amendment: H.R. 2142, GPRA Modernization Act of 2010.

Roll 661, December 21, 2010: On Motion to Concur in the Senate Amendments: H.R. 2751, FDA Food Safety Modernization Act.

Roll 662, December 21, 2010: On Motion to Concur in the Senate amendment to House amendment to Senate amendment: H.R. 3082, Making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Roll 663, December 21, 2010: On Motion to Suspend the Rules and Pass: H.R. 6547, Protecting Students from Sexual and Violent Predators Act.

Roll 664, December 21, 2010: On Motion to Concur in the Senate Amendment: H.R. 847, James Zadroga 9/11 Health and Compensation Act.

PERSONAL EXPLANATION

HON. DEAN HELLER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HELLER. Madam Speaker, on rollcall No. 662 I was unavoidably detained.

Had I been present, I would have voted "no."

PERSONAL EXPLANATION

HON. DEAN HELLER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HELLER. Madam Speaker, on roll call No. 663, I was unavoidably detained.

Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. BLUMENAUER. Madam Speaker, due to an illness, I was unable to be in Washington, DC, for votes on December 21, 2010 and December 22, 2010.

Had I been present for the votes on Tuesday, December 21, 2010, I would have voted as follows:

Rollcall vote No. 662: I would have voted in favor of the Motion to Concur in the Senate amendment to House amendment to Senate amendment on H.R. 3082, the Continuing Appropriations Act for 2011.

Had I been present for the votes on Wednesday, December 22, I would have voted as follows:

Rollcall vote No. 663: I would have voted in favor of the Motion to Concur in the Senate amendment to H.R. 847, the James Zadroga 9/11 Health and Compensation Act.

TRIBUTE TO LIEUTENANT COLONEL ALPHONSE R. TELESE JR. AND SPECIALIST JIM BATCHELOR

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HALL of Texas. Madam Speaker, as we approach the close of the 111th Congress, it is important to remember our men and women in uniform around the world. These brave men and women sacrifice every day to ensure that United States citizens enjoy the freedom that we all cherish. We pay tribute as well to our wounded warriors and wish them a safe and happy holiday season.

One such hero is retired specialist Jim Batchelor who has served his country proudly for over three and a half years. During his tenure in the Army he has earned numerous awards and decorations, including the Purple Heart, Combat Infantry Badge, expert badges in driving and marksmanship, good conduct medals, and Army Commendation medals. Not allowing his military injury to slow him down, he has finished his degree in criminal justice and is now pursuing a master in psychology to help his fellow soldiers returning from the war. He and his wife, Antoinette, live in Cooper Texas, and are expecting the birth of their first child.

Another hero who deserves tribute is retired Lieutenant Colonel Alphonse R. Telese Jr. Mr. Telese served in the U.S. Army for over 32 years before retiring in August of 2008. It was during his tour of duty in Iraq that he was permanently injured during a mortar attack. He has received numerous awards and decorations throughout his distinguished career. These include the Legion of Merit award, National Defense Medal, and the Global War on Terrorism Expeditionary Medal, to name a few. Today, he and his wife Tierney reside in Frisco, Texas. Since his retirement, LTC

Telese continues to support the military, volunteering his time and talents to the Dallas Summer Boat Show Tournament of Heroes Invitation Bass Fishing Tournament which provides a much deserved break for our military heroes.

As we adjourn today, let us do so in memory and in honor of those who answer the call to duty and to whom we owe a debt of gratitude that can never be paid.

PERSONAL EXPLANATION

HON. ERIK PAULSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. PAULSEN. Madam Speaker, on rollcall No. 657, (H. Res. 1771), my flight was delayed due to weather and had I been present, I would have voted "no."

PERSONAL EXPLANATION

HON. DEAN HELLER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HELLER. Madam Speaker, on rollcall No. 657, I was unavoidably detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HINOJOSA. Madam Speaker, I regret that I was unavoidably detained. Had I been present, I would have voted "aye" on rollcall No. 660 and 661.

REFLECTIONS

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. SPRATT. Madam Speaker, when I was elected to Congress 28 years ago, it was the fulfillment of a life-long ambition. But I had never served in elective office before, and frankly, I wondered how well it would wear—all the back-slapping and glad-handing and garrulous talk.

My first revelation was to find that this House is not made up of back-slappers and glad-handers. It is made up of members who work hard to get here, many out of patriotic purpose, hoping that they in their time can contribute something worthy of this great country. Most of the members are extroverted and energetic, and have to be, to get elected every two years.

At Davidson College, my alma mater; at Oxford on scholarship; at Yale Law; in the Pen-

tagon as a young analyst, and as a practicing lawyer, I made many good friends, but few as good as the friends I have made here. Of all the things I will miss, I will miss most the fellowship and camaraderie.

I first experienced Congress as a young Army officer in the Pentagon, working for the Assistant Secretary of Defense (Comptroller) on defense contractors in financial distress, mainly Lockheed Aircraft Corporation. As staff at the Department of Defense, we did a lot of work that I thought staff at Congress should be doing, particularly if Congress hoped to be a co-equal branch. The greatest difference between Congress then, from '69 through '71, and Congress 12 years later, when I came here in 1983 as an elected member, was staff. Committee staff and members' staff both had grown greatly, in quality and quantity. As a result, today's Congress is better staffed and equipped, more effective and independent, and a lot closer to being co-equal.

I have had the good fortune of working with talented staff in my office and on the committees where I have served; and as I leave, I thank them all, because anything I have done of significance, I did with their good help.

My first quest in Congress was to get a good committee assignment. After two days of bidding, I had struck at every option and never scored a hit. I was at a loss for where to go when Tony Coelho sought me out and offered me a seat on the House Armed Services Committee.

The HASC dove-tailed nicely with my district because the Fifth District includes Shaw Air Force Base. But as important as Shaw is, I learned that other members had defense interests far larger than mine. Since I was not carrying water for a large defense constituency, I had the independence to take on troubled systems, like the DIVAD, the Division Air Defense gun, which my amendment effectively killed; or the MX, which I voted to stop at 50 missiles, or binary chemical weapons, which my amendments helped side-track and eventually derail.

In selecting members for every committee, the leadership tries to match the member's interests at home with his committee in the House. That's natural and to be expected, but we should also select members for ballast—members free to act, ask hard questions, and offer amendments.

At the time I took my seat on Armed Services, the nation was engaged in the biggest defense build-up in our peace-time history, and the committee chairman presiding over this build-up was well past his prime. Elderly and weak, he could barely be heard over the din of noise in the committee room. When Les Aspin let it be known that he was going to run for the chair, and leap-frog six senior members, I was among the first to offer support. We prevailed, and over the next five years, Aspin allowed me to set up and chair two panels, the first on Reagan's Strategic Defense Initiative, and the second, on the nuclear weapons complex. Though both were important, neither was receiving the attention it deserved by the committee or any of its subcommittees, due to other issues or a lack of interest in these.

Because of our oversight, we were able to pare back the SDI budget; shift funds from

strategic missile defense to theater missile defense, and wipe out a few far-fetched systems altogether. For example, my amendment deleted funding for the space-based interceptor. In the press release accompanying passage of the defense bill, the headline read: "House Takes the Star out of Star Wars." President Reagan did not find it amusing; he vetoed the defense bill, but after many years and billions of dollars, our cuts have stood the test of time.

After two years, we had to return SDI to the Research and Development Subcommittee, so we set up a new panel dealing with nuclear facilities. The Cold War had enabled our nuclear complex to put off environmental and safety issues. To deal with these problems, we shifted nearly a billion dollars from Defense to Energy, and saved over a billion dollars by stopping the Special Isotope Separator, a laser-driven process to produce plutonium, even though the Secretary of Energy acknowledged we were "awash in plutonium."

We scored a number of such successes, but the most satisfying took place largely off stage where we made the case for a moratorium on nuclear testing. We first helped Representative Kopetski draft a bill calling for an immediate cessation of testing, and we then drafted an alternative that we thought the Senate would pass allowing for a few final tests before declaring a moratorium. We proposed the alternative to Senators Exon and Hatfield, who took up its support and moved it to passage through the Energy and Water Appropriations bill. This saved the moratorium from being vetoed because the super-collider was also in this bill, and President Bush wanted it to be funded.

Another satisfying measure: my substitute to the war powers resolution authorizing President Bush to use force against Iraq. This substitute authorized the force needed to search for weapons of mass destruction, but before going further, it called on the president to seek the sanction of the U.N. Security Council, as his father had done, and to come back to Congress with the case for a broader use of force, which would be received with a fast-track guaranty, an up-or-down vote in the House and Senate. My substitute did not prevail, but it drew 157 votes, and gave many members a position they could uphold.

I made my mark in the House on defense, but during most of my 28 years, my greatest concern was the budget and chronic deficits. In 1997, I was elected by the Democratic Caucus as ranking member of the Budget Committee. I ran against opposition and told the caucus that if I was elected, we would "finish the job" of balancing the budget that began with President Clinton's first budget. About the same time, Erskine Bowles returned to Washington to be the President's Chief of Staff, and when he paid me a courtesy call, he told me that he had the same understanding with the President. With the President's encouragement, the four budget principals in the House and Senate began meeting, and by May 1997 we had hammered out a balanced budget agreement which worked. By 1998, the budget was in balance for the first time in 30 years.

President Bush took office with an advantage few presidents have enjoyed, a budget in balance, in the black by \$236 billion the year before. I was invited to Austin, Texas with 12

other members to discuss defense issues with the incoming president. I used my time to encourage President Bush to apply the surplus in Social Security to buy outstanding Treasury debt, and reduce Treasury debt held by the public. This would increase net national saving, lower public debt, and be a long step toward making Social Security solvent. The president-elect professed interest but not for long, and by 2004, the deficit was over \$400 billion.

President George W. Bush was greeted as he took office by a surplus of \$200 billion. When he left office in 2009, the surplus was gone, and the deficit projected for that fiscal year was \$1.2 trillion.

As I leave Congress, the deficit is hovering around a trillion dollars and while improving, current deficits exceed the deficits of the mid-1990s by every measure. But the process of resolving both is basically the same: everything must be on the table and everyone must be at the table.

As the menu for such a meeting, the President's Fiscal Commission has submitted a plate full of recommendations. I served on the commission and voted for the report, even though I do not support all of its proposals. I cast an "aye" because our country is in desperate need of a plan for balancing the budget and making Social Security and Medicare solvent. These will not be popular—far from it—but as they shore up our economy, they will prove their worth and raise the standing of Congress in the eyes of our countrymen. I am sorry that I will not be here to lend my support, but as a parting gesture, I urge the House to go for it.

I will remember with pride my 28 years in the House of Representatives and our positive accomplishments over that time. I am told that only 500 members have served in the House for as long as 28 years. I thank my constituents for that opportunity, and hope that history will show that I used it to make this a better country in ways that stood the test of time.

HONORING JOHN SHADEGG

HON. JEFF FLAKE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. FLAKE. Madam Speaker, I rise today to honor a valued member of the Arizona delegation, JOHN SHADEGG.

JOHN SHADEGG is ending his service to this institution after 16 years. He came here in 1994 and has served the State of Arizona extremely well during that time. During his time here, JOHN promoted the principles of limited government, economic freedom, and individual responsibility, and has stayed true to his ideals while proudly serving the people of Arizona's Third District.

Arizona has a habit of producing great legislators, including Barry Goldwater, Mo Udall, Carl Hayden, and others; JOHN SHADEGG's name will certainly be added to that illustrious list.

I want to pay tribute to JOHN today and tell him how much the Arizona delegation, and all of us will miss his steady, constant, principled

leadership here in the House of Representatives. Well done, JOHN SHADEGG.

HONORING THE LIFE AND SERVICE OF PFC JAYSINE P.S. PETREE

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Ms. BORDALLO. Madam Speaker, I rise today to honor the service and sacrifice of United States Army Private First Class Jaysine P.S. Petree. PFC Petree was assigned to the 109th Transportation Company, 17th Combat Sustainment Battalion, 3rd Maneuver Enhancement Brigade at Fort Richardson, Alaska. On September 24, 2010, PFC Petree passed away in support of Operation Enduring Freedom in Afghanistan. She was 19 years old.

Known by her friends as "Jen", PFC Petree was born in the Philippines and moved to Guam in 2002. PFC Petree attended Simon Sanchez High School in Yigo, Guam, where she excelled in both academics and interscholastic sports. Shortly after her graduation in 2009, PFC Petree enlisted in the U.S. Army, and on September 24, 2010, she made the ultimate sacrifice while defending our Nation's freedom in support of combat operations in Afghanistan. I join our community in mourning the loss of PFC Petree and I offer my most sincere condolences to her parents, Herbert and Jayne Suggang Petree, and to her many family and friends. We are eternally grateful for her service and will never forget the sacrifices of PFC Petree.

May God bless the family and friends of PFC Jaysine P.S. Petree, God bless Guam, and God bless the United States of America.

PERSONAL EXPLANATION

HON. DEAN HELLER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HELLER. Madam Speaker, on rollcall No. 664 I was unavoidably detained.

Had I been present, I would have voted "no."

A ONE-OF-A-KIND-MINNESOTAN: WIN WALLIN

HON. ERIK PAULSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. PAULSEN. Madam Speaker, today I rise to honor the life of Winston "Win" Wallin: businessman, philanthropist, pioneer and one-of-a-kind Minnesotan.

Born in Minneapolis in 1926, Win, like so many in his generation, served in the military during World War II. After two years as a Navy pilot, he earned a bachelor's degree in business administration from the University of Minnesota.

Following graduation, Win began a long and industrious career with Pillsbury, rising through the ranks to Chief Operations Officer.

In the mid-80's, Win left Pillsbury to head a little-known, struggling medical device company based in Minnesota, named Medtronic. Win's leadership and determination, changed the face of Medtronic. Today it is the world's largest medical device company.

Although Win brought great success to the companies he led, his life cannot simply be measured in their bottom lines, but rather in the countless lives he touched through his philanthropic endeavors.

Win was a true believer in empowerment through higher education. Since 1986, Win and his wife Maxine have helped over 3,000 high school students make the dream of a college education a reality through their Wallin Scholarship.

While Minnesota will never be able to replace Win, his legacy lives on through the lives he has touched and the state he has made better through his presence.

CONGRATULATING THE FERGUSON FAMILY

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. WILSON of South Carolina. Madam Speaker, congratulations to our former Colleague from New Jersey, Mike Ferguson, and his wife Maureen Ferguson on the birth of their new daughter Lucy Therese Ferguson. Lucy was born on Wednesday, December 15, 2010, at Sibley Hospital in Washington, DC.

Lucy Therese Ferguson is eight pounds and two ounces of pride and joy to her loving grandparents, Patrick and Esther Malloy of West Swanzey, New Hampshire, and Tom Ferguson of Wellington, Florida. I am so excited for this new blessing to the Ferguson family and wish them all the best.

POSTHUMOUS TRIBUTE TO SERGEANT WILLIE JAMES QUINCE

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. PASCRELL. Madam Speaker, I would like to call your attention to the life and work of an outstanding individual, the late Sergeant Willie James Quince of Paterson, New Jersey, whose life was celebrated during a memorial service on Monday, November 29, 2010, at the First A.M.E. Zion Church.

It is only fitting that he be honored in this, the permanent record of the greatest democracy ever known, for he served countless others throughout his lifetime.

Sergeant Willie James Quince was born in Valdosta, Georgia in 1921 to Mr. Remer Quince and Helen Braswell. His family moved to West Palm Beach, Florida, where he finished elementary school and graduated from Industrial High School. He went on to courses

at Purple Kerpels School of Mechanical Dentistry in New York City, NY. He then studied 4 years at the Jones Barber School in Atlantic City, NJ, and the Interracial Barber College in Atlantic City, NJ, graduating in 3 years. After graduation, he moved to Paterson, N.J. in January 1958 and opened Quince's Barber Shop.

He was married to Mary M. Quince for 61 years, and together they raised five children, Wiley "Sonny" Quince, William A. Quince (Linda), Madeline Z. Quince, Sylvia A. Lucas, and Kelvin C. Quince (Cora); and also now have 10 grandchildren and 13 great-grandchildren. Mr. Quince was a faithful husband, dedicated father, grandfather and great-grandfather, and a committed community servant. He earned many accolades and had a long record of accomplishment as a forerunner for civil rights and a leader throughout Paterson. He was a long-time member of First A.M.E. Zion Church, where he was elected Man Of The Year multiple times, served on the Board of Trustees for 31 years and served as Chairman for 15 years. He also served on the Stewart Board, Usher Board, The Dreamers, The Kitchen Cabinet, and The Zion Seniors.

He served our nation as a Drill Sergeant during World War II Army Air Force and received the Medal of Good Conduct, WWII Victory Medal and ATO Medal. He was an Honored Life Member of the NAACP Paterson Branch, a member of the Habitat for Humanity Paterson Chapter Tenants Selection Committee for Home Ownership. He was the first African-American elected chairman of the Paterson Housing Authority Board of Commissioners, and he served as Project Housing Manager of Christopher Columbus Housing Development and as Manager of the Riverside Terrace Housing Development. He also served as Paterson's Fourth Ward Leader of the Passaic County Democratic Party for many years. He was known for his superb social mannerisms and good conversation.

The job of a United States Congressman involves much that is rewarding, yet nothing compares to recognizing the lifetime achievement of a giving person such as Sergeant Willie James Quince.

Madam Speaker, I ask that you join our colleagues, Willie's family and friends, and me in recognizing the late Sergeant Willie James Quince's outstanding life of service to his community.

LEGISLATIVE ACTIONS

HON. JOHN J. HALL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HALL of New York. Madam Speaker, I would like to submit the following:

LEGISLATIVE ACTIONS

ECONOMIC RECOVERY AND CREATING JOBS

AMERICAN RECOVERY & REINVESTMENT ACT, enacted to jumpstart our economy, create and save 3.5 million jobs, give a tax cut to small business and 95% of American workers, begin to rebuild America's road, rail, and water infrastructure, and make a historic commitment to education,

clean energy, and science and technology, with unprecedented accountability. (Signed into Law)

SMALL BUSINESS JOBS ACT, landmark legislation providing \$12 billion in tax relief for small businesses by enacting 8 more small business tax cuts on top of the 8 already enacted by this Congress; creating up to 500,000 jobs, by leveraging up to \$300 billion in private sector lending for small businesses through a \$30 billion lending fund for community banks; fully paid for—doesn't add a dime to the deficit. (Signed into Law)

TEACHER JOBS/STATE AID/CLOSING TAX LOOPHOLES, creating and saving nearly 320,000 jobs; providing \$10 billion to save 161,000 teacher jobs and \$16 billion in Medicaid aid, with the effect of creating/saving 158,000 jobs, including police officers, firefighters, nurses & private sector workers; fully paid for by closing loopholes that encourage companies to ship American jobs overseas; cutting deficit by \$1.4 billion. (Signed into Law)

STUDENT AID & FISCAL RESPONSIBILITY ACT, making the largest investment in college aid in history—increasing Pell Grants, making college loans more affordable, and strengthening community colleges—while reducing the federal deficit by ending wasteful student loan subsidies to banks. (Signed into Law)

HIRE ACT, creating up to 300,000 jobs, by providing a payroll tax holiday for businesses that hire unemployed workers and a tax credit for businesses that retain these workers; also unleashes tens of billions of dollars to rebuild infrastructure; fully paid for by cracking down on offshore accounts for wealthy. (Signed into Law)

CASH FOR CLUNKERS, jump-starting the U.S. auto industry, providing consumers with up to \$4,500 to trade in an old vehicle for one with higher fuel efficiency—spurring the sale of 700,000 vehicles. (Signed into Law)

WORKER, HOMEOWNERSHIP & BUSINESS ASSISTANCE ACT, boosting the economy and creating jobs with more unemployment benefits for Americans hit by the recession, an expanded 1st-time homebuyer tax credit, and enhanced small business tax relief—expanded to all struggling U.S. businesses. (Signed into Law)

U.S. MANUFACTURING ENHANCEMENT ACT, to help U.S. manufacturers compete at home and abroad by temporarily suspending or reducing duties on intermediate products or materials these companies use that are not made domestically. (Signed into Law)

UNEMPLOYMENT BENEFITS EXTENSION, extending unemployment benefits to millions of American families through November 30, 2010; every dollar of unemployment benefits creates at least \$1.61 in economic activity. (Signed into Law)

CURRENCY REFORM/FAIR TRADE, to promote U.S. manufacturing jobs, by giving our government effective tools to address the unfair trade practice of currency manipulation by foreign countries, including China; their undervalued currency makes Chinese exports cheaper and America's exports to China more expensive, putting U.S. manufacturers at an unfair disadvantage; bill is WTO-compliant. (Passed by House)

AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT, to promote American jobs by restoring credit to small businesses, extending tax incentives for American R&D and tax relief for middle class American families, rebuilding American infrastructure, and expanding jobs for young people; and to close tax loopholes to make Wall Street billionaires pay their fair share of taxes. (Passed by House)

HOME STAR JOBS, to create 168,000 American jobs making energy efficiency products, by providing incentives for consumers to make their homes energy-efficient—cutting energy bills for 3 million families and reducing our dangerous dependence on foreign oil and dirty fuels. (Passed by House)

RURAL STAR/HOME STAR LOANS, to create tens of thousands more U.S. jobs, by creating Rural Star loans for people in rural America to make their homes and farms more energy-efficient; and a Home Star Loan Program for no-interest loans for energy efficiency home upgrades in other areas; boosts demand for energy efficient products/materials and construction and installation services that are made in America. (Passed by House)

PROTECTING AMERICAN PATENTS, providing funding, fully offset, to prevent additional backlogs in patent applications, as patents are critical to American innovation and economic growth. (Signed into Law)

AMERICA COMPETES REAUTHORIZATION, to invest in modernizing manufacturing; basic R&D; high risk/high reward clean energy research; and teaching science, technology, engineering and math. (Passed by House)

JOBS FOR MAIN STREET ACT, to boost small business and to rebuild highways and transit; paid for by redirecting TARP funds from Wall Street to Main Street. (Passed by House)

SMALL BUSINESS & INFRASTRUCTURE JOBS ACT, to extend Build America Bonds to help finance the rebuilding of schools, hospitals, roads and bridges; and target tax incentives to spur investment in small businesses and help entrepreneurs looking to start a new business. (Passed by House)

EDWARD M. KENNEDY SERVE AMERICA ACT, tripling volunteerism opportunities to 250,000 for national service for students to retirees; increased college financial awards. (Signed into Law)

PERMANENT ESTATE TAX RELIEF at the 2009 level to ensure that 99.8 percent of estates never pay a dime of taxes and offer certainty and stability for farmers and small businesses. (Passed by House)

PROTECTING CONSUMERS

WALL STREET REFORM, historic reforms to end taxpayer-funded bailouts and the idea of “too big to fail,” and protect and empower consumers to make the best decisions on mortgages, credit cards, and their own financial future. Lack of accountability for Wall Street and big banks cost 8 million jobs. (Signed into Law)

CREDIT CARDHOLDERS’ BILL OF RIGHTS, providing tough new protections already saving consumers money—like banning unfair rate hikes, abusive fees, and penalties—and strengthening enforcement. (Signed into Law)

FRAUD ENFORCEMENT & RECOVERY ACT, providing tools to prosecute mortgage scams and corporate fraud that contributed to financial crisis; creating an outside commission to examine its causes. (Signed into Law)

LILLY LEDBETTER FAIR PAY ACT, restoring the rights of women and other workers to challenge unfair pay—to help close the wage gap where women earn 78 cents for every \$1 a man earns in America. (Signed into Law)

AIRLINE PASSENGER SAFETY, to improve airline passenger safety, by several steps including strengthening commercial pilot training requirements, requiring a minimum of 1,500 flight hours required for an airline pilot certificate. (Signed into Law)

HELPING HOMEOWNERS

HELPING FAMILIES SAVE THEIR HOMES ACT, to stem the foreclosure crisis, with significant incentives to lenders, servicers, and homeowners to modify loans. (Signed into Law)

FHA REFORM, to shore up federal mortgage insurance in order to expand homeownership opportunities by making essential reforms to strengthen the financial footing of the Federal Housing Administration, saving taxpayers \$2.5 billion over 5 years. (Passed by House)

FLOOD INSURANCE REAUTHORIZATION & REFORM, reauthorizing the National Flood Insurance Program, upon which millions of American families and businesses rely, for five years and making key reforms to put the program on a stronger financial footing. (Passed by House)

AFFORDABLE QUALITY

HEALTH CARE HEALTH INSURANCE REFORM, landmark legislation putting American families and small business owners—not the insurance companies—in control of their own health care; lowering costs for middle class and small business; holding insurance companies accountable to prevent denials of care and coverage, including for pre-existing conditions; strengthening Medicare and lowering prescription drug costs; creating up to 4 million jobs; and reducing deficit by largest amount in almost two decades. (Signed into law)

HEALTH CARE FOR 11 MILLION CHILDREN, to finally provide cost-effective health coverage for 4 million more children and preserve coverage for 7 million children already enrolled. (Signed into Law)

FDA REGULATION OF TOBACCO, granting the Food and Drug Administration authority to regulate advertising, marketing, and manufacturing of tobacco products, the #1 cause of preventable U.S. deaths, and to stop tobacco companies from targeting our children. (Signed into Law)

ENSURING SENIORS’ ACCESS TO THEIR DOCTORS, by blocking scheduled 21% cut in Medicare physician payments through November 30, 2010 and also updating payments by 2.2%. (Signed into Law)

FOOD SAFETY, to fundamentally change the way we protect our food supply; close gaps exposed by recent food-borne illness outbreaks; give the FDA new authorities. (Passed by House)

RYAN WHITE HIV/AIDS TREATMENT EXTENSION ACT, guaranteeing access to lifesaving medical services, primary care, and medications for low-income patients with AIDS and HIV. (Signed into Law)

CLEAN ENERGY JOBS/HOLDING BP ACCOUNTABLE

AMERICAN CLEAN ENERGY AND SECURITY ACT, historic legislation to create 1.7 million jobs (with the Recovery Act); help free us from funding terrorism with our dependence on foreign oil; reduce the carbon pollution causing climate change; keep costs low for Americans; will not increase the deficit. (Passed by House)

RESPONSE TO BP OIL SPILL, a bill providing a comprehensive response to BP oil spill—eliminating the \$75 million cap on the liability of oil companies, restoring the Gulf Coast and protecting local residents, imposing new safety requirements and strengthening oversight of offshore drilling, and protecting whistleblowers in offshore drilling industry who report safety violations. (Passed by House)

Just hours after a Committee hearing during which I asked BP America’s President whether chemical dispersants they were

using to break up the oil slick in the Gulf of Mexico are safe, the EPA ordered BP to choose a less toxic chemical. The Washington Post reported the EPA ordered the change following a hearing by the House Transportation and Infrastructure Committee at which I questioned BP’s use of hundreds of thousands of gallons of chemical dispersants.

SPILL ACT, to reform maritime liability laws to ensure that the families of those killed or injured in the BP Oil Spill and other such tragedies are justly compensated for their losses. (Passed by House)

BP OIL SPILL COMMISSION SUBPOENA POWER, to give subpoena power to National Commission on BP Oil Spill to ensure that it cannot be stonewalled by BP or others in its search for spill’s causes. (Passed by House)

OMNIBUS PUBLIC LAND MANAGEMENT ACT, the most significant conservation bill in 15 years, strengthening tourism and rural economies with more than 2 million new acres of wilderness and parks. (Signed into Law)

FISCAL RESPONSIBILITY & GOVERNMENT REFORM

BUDGET BLUEPRINT, creating jobs with investments in health care, clean energy and education; cutting taxes for most Americans by \$1.5 trillion; cutting Bush deficit by more than half by 2013. (Action Completed)

BUDGET ENFORCEMENT RESOLUTION, setting a limit on discretionary spending for FY 2011 that requires spending cuts of \$7 billion below the President’s budget and \$3 billion below Senate. (Action Completed)

STATUTORY PAY-AS-YOU-GO, to restore 1990s law that turned record deficits into surpluses, by forcing tough choices; Congress must offset new policies that reduce revenues or expand entitlements. (Signed into Law)

IMPROPER PAYMENTS ELIMINATION, to help identify and eliminate improper federal payments, as well as recover lost funds that federal agencies have spent improperly. (Signed into Law)

WEAPON SYSTEMS ACQUISITION REFORM, cracking down on Pentagon waste and cost overruns in the acquisition of weapon systems, increasing oversight and competition. (Signed into Law)

REFORMING OTHER DOD ACQUISITION, cleaning up DOD acquisition spending for the 80 percent that is for services and other non-weapons items, saving taxpayers an estimated \$27 billion a year. (Passed by House)

DISCLOSE ACT, to fight a corporate takeover of our elections, requires them to disclose they are behind political ads; bans foreign-controlled corporations from putting money in U.S. elections. (Passed by House)

NATIONAL SECURITY/TROOPS AND VETERANS

FY 2010 DEFENSE AUTHORIZATION, authorizing 3.4% troop pay raise, strengthening military readiness and military families support, focusing our strategy in Afghanistan and redeployment from Iraq. (Signed into Law)

I travelled to Iraq, Afghanistan, Germany, Kuwait, and UAE to visit with troops, and receive updates from U.S. military leaders and NGOs.

FY 2011 DEFENSE AUTHORIZATION, increasing hostile fire and imminent danger pay; extending TRICARE dependent coverage up to age 26; and strengthening counterterrorism. (Passed by House)

REPEAL OF DON’T ASK, DON’T TELL, to provide for the repeal of this outdated policy, contingent on the certification that military review completed and that repeal

would not impact readiness. (Signed into Law)

IRAN SANCTIONS, significantly strengthening sanctions against Iran, including imposing sanctions on foreign entities that sell refined petroleum to Iran or assist Iran in its domestic refining capacity. (Signed into Law)

VETERANS HEALTH CARE BUDGET REFORM & TRANSPARENCY ACT, a top priority of veterans' groups, authorizing Congress to approve VA medical care appropriations one year in advance to ensure reliable and timely funding and prevent politics from ever delaying VA health care funding. (Signed into Law)

I authored and introduced the Veterans Administration Claims Modernization Act. This law streamlined the VA benefits application process. It was based on problems I heard directly from the experiences of local veterans as well as national VSOs. The law was called "the most sweeping reform of the VA in a generation" by the Times Herald Record.

I successfully advocated for a VA rule change to create an automatic service connection for veterans diagnosed with PTSD after serving in combat. This change dramatically streamlines the process for veterans to receive appropriate care and compensation.

Implemented the post-9/11 GI Bill to provide for a college education for returning veterans.

FY 2010 MILITARY CONSTRUCTION-VA APPROPRIATIONS, strengthening quality health care for 5 million veterans by investing 11% more for medical care, benefits claims processors, and facility improvements. (Signed into Law)

CAREGIVERS AND VETERANS OMNIBUS HEALTH SERVICES, landmark legislation providing help to caregivers of disabled, ill or injured veterans, and improving VA health services for women veterans. (Signed into Law)

AGENT ORANGE BENEFITS, providing long overdue disability benefits to more than 150,000 Vietnam veterans and survivors for exposure to Agent Orange. (Signed into Law)

SECURITY FOR AMERICA'S COMMUNITIES

FY 2010 HOMELAND SECURITY APPROPRIATIONS, strengthening security at our ports and borders and on commercial airlines, giving first responders tools to respond to terrorism. (Signed into Law)

HATE CRIMES PREVENTION ACT, giving law enforcement resources to prevent and prosecute hate crimes against Americans based on gender, sexual orientation, gender identity, or disability. (Signed into Law)

BORDER SECURITY EMERGENCY APPROPRIATIONS, providing \$600 million to enhance security at the Southwest Border, including funding 1,200 additional Border Patrol agents, 500 additional CBP officers, and additional FBI, DEA, and ATF agents for the border region; paid for by visa fees. (Signed into Law)

I visited the border patrol in Arizona to view the situation first hand and obtain a better understanding of the situation they face.

COPS ON THE BEAT, putting an additional 50,000 cops on the street over the next 5 years. (Passed by House)

CHEMICAL & WATER SECURITY ACT, to increase security and safety of the nation's chemical plants and water facilities vulnerable to terrorist attacks and the millions of Americans that live nearby. (Passed by House)

TRIBUTE TO AVIS GREEN TUCKER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. SKELTON. Madam Speaker, it is with sorrow that I inform the House of the death of Mrs. Avis Green Tucker, a distinguished Missouri citizen from Warrensburg, in the 4th Congressional District. Avis Green Tucker was not just my own long-time friend. She was one of Missouri's most highly respected newspaper publishers. She was a willing volunteer frequently called to important service by Missouri governors from both political parties. And she was a particularly inspiring role model among women leaders in our state.

Avis and her husband, William Tucker, bought the Daily Star-Journal in 1947 and the paper stayed in the Tucker family for some 60 years, until its sale in 2007 to another distinguished Missouri newspaper family, the Bradleys of St. Joseph. Bill Tucker was serving as publisher in Warrensburg when he died of a heart attack in 1966. Avis took over as one of the few female daily newspaper publishers in the Midwest. She once said: "I decided I was going to run this paper. I was going to try. I told everyone that I had more nerve than ability, which was the truth." But that was a typically reticent and humble statement from a woman whose abilities were quite remarkable. Those abilities were widely recognized. In 1982, Avis became the first female president of the Missouri Press Association. That was just one of many "firsts" achieved by Avis Tucker, including serving as the first female president of the Missouri Associated Dailies organization, and becoming the first woman inducted into the Missouri Press Association Hall of Fame. She received the National Newspaper Association's McKinney Award, given to a woman who "exhibited distinguished service to the community press." Just this past May, Avis became chair emeritus of the Missouri Press Association's Foundation Board, which she helped found and fund.

She served not only as one of the state's rare female publishers, but in other leadership roles, particularly at our mutual alma mater, the University of Missouri. Mizzou's world-famous School of Journalism honored her with its Honor Medal in 1976. And in 1972, Avis became the first woman president of the University of Missouri's governing body, the Board of Curators. Her service as a curator has particular significance for me, since she was appointed to succeed her late husband as a curator upon his death. And Bill Tucker had been appointed to succeed my father, Isaac Newton Skelton III, upon his passing. In Missouri, one of the highest honors one can achieve is being named to help guide our land-grant state university, and this is an honor that has been treasured by both the Skelton and Tucker families.

Avis Green Tucker will be remembered fondly by all who had the privilege of knowing her, including me. When she passed away at age 95 on Friday, December 17th, 2010, she had lived a life that was exemplary. Her leadership was superb, her newspaper's readers and her community were well-served, and her

place in Missouri journalism and public service is secure. Avis is survived by two nephews, Bob and Richard Green. I know members of the Congress will join me in paying tribute to the life, achievements and service of Avis Green Tucker, and in extending our condolences to her family and friends.

EMPTY CHAIR IN OSLO FOR LIU XIAOBO

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. SMITH of New Jersey. Madam Speaker, in the theatrical adaptation of Victor Hugo's *Les Misérables*, Marius sings a haunting song—Empty Chairs and Empty Tables—an expression of agony at the loss of his idealistic comrades, gunned down on a barricade.

"There's a grief that can't be spoken," he sings, "there's a pain that goes on and on. Empty chairs and empty tables, now my friends are dead and gone . . ."

"Here it was they lit the flame . . . Here they sang about tomorrow and tomorrow never came . . . from the table in the corner they could see a world reborn . . . And they rose with voices ringing. I can hear them now . . . Empty chairs and empty tables, where my friends will meet no more . . ."

When prisoner of conscience Liu Xiaobo, Nobel Peace Prize winner for 2010, learned that he was selected, he wept and dedicated his prize to the martyrs of the 1989 Tiananmen Square Massacre.

Throughout China today, families and friends know heartbreaking loss and the agony of empty chairs and empty tables—where young, brave, idealistic democracy activists were gunned down, bayoneted, or beaten to death by Chinese government troops and secret police. Both before and since Tiananmen, Chinese men and women have sacrificed their freedom—even their lives—in the struggle for faith and liberty. Yet the struggle for freedom, rule of law, and respect for human rights continues despite the enormous cost to individual Chinese men and women.

At Oslo a couple of weeks ago, I had the privilege of witnessing the conferring of the Nobel Peace Prize on Liu Xiaobo's empty chair—empty because this courageous non-violent man of principle languishes in a lonely prison cell, serving an eleven-year sentence for promoting democracy in China, most recently through Charter 08, a human rights manifesto. In a stunning revelation of Beijing's weakness, fear, and moral deficiency, even Liu's wife and friends were barred from attending the Nobel ceremony.

Amazingly, at his government show trial in 2009, Liu expressed absolutely no malice toward the dictatorship that so cruelly mistreats him—and millions of others like him.

He said, "I have no enemies and no hatred. None of the police who monitored, arrested, and interrogated me, none of the prosecutors who indicted me, and none of the judges who judged me are my enemies . . . Hatred can rot away at a person's intelligence and conscience. Enemy mentality will poison the spirit

of a nation, incite cruel mortal struggles, destroy a society's tolerance and humanity and hinder a nation's progress toward freedom and democracy. That is why I hope to be able to transcend my personal experiences as I look upon our nation's development and social change, to counter the regime's hostility with utmost goodwill, and to dispel hatred with love."

The Nobel Peace Prize ceremony has come and gone. And, I would note parenthetically, it was an honor to join you in Oslo, Madam Speaker, as well as Representative DAVID WU and numerous Tiananmen Square alumnae—Chinese men and women who peacefully demonstrated for freedom in 1989—including Yang Jianli, Chai Ling, Bob Fu, Fang Zheng, and Kaixi Wu. It is now more important than ever that all of us who treasure freedom, democracy and human rights empathize more, pray more and do more to expose and combat the cruelty and the crimes committed on a daily basis by Beijing.

The brutality and violence that were witnessed by all the world in 1989 at Tiananmen continues unabated today, especially in the gulags—laogai—and detention centers throughout China, where people are systematically tortured, sometimes to death, particularly Falun Gong practitioners, Uyghurs, Tibetans, Christians, and democracy activists.

The brutality and violence of unrestrained dictatorship has—and continues to be—unleashed against hundreds of millions of Chinese women and children—victims of the barbaric one child per couple policy, a cruel policy that has made brothers and sisters illegal and relies on forced abortion—a crime categorized as a "crime against humanity" at the Nazi war crime trial at Nuremberg.

As a result of the one child per couple policy, an estimated 100 million girls are missing—dead through sex-selective abortion—which is a gender crime of unimaginable depravity and has made China a magnet for sex trafficking. Chai Ling—one of the heroes of Tiananmen—has launched All Girls Allowed—an NGO that appeals to Beijing, the world, and especially mothers in China to protect the girl child in the womb.

And finally, even the Internet has been turned into a tool of repression and surveillance by the secret police.

The selection of Liu Xiaobo as the 2010 Nobel Peace Prize laureate obliges us to undertake sustained scrutiny and meaningful action.

Indifference or silence or feigned ignorance concerning the Chinese government's appalling and massive human rights violations simply isn't an option.

PERSONAL EXPLANATION

HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mrs. MCCARTHY of New York. Madam Speaker, I was unavoidably absent on December 21, 2010. If I were present, I would have voted on the following:

H. Res. 1771, Waiving a requirement of clause 6(a) of rule XIII with respect to consid-

eration of certain resolutions reported from the Committee on Rules, and providing for consideration of motions to suspend the rules—rollcall No. 657—"yea".

H.R. 6540, Defense Level Playing Field Act—rollcall No. 658—"yea".

H.R. 5116, America COMPETES Reauthorization Act—rollcall No. 659—"yea".

H.R. 2142, GPRA Modernization Act of 2010—rollcall No. 660—"yea".

H.R. 2751, FDA Food Safety Modernization Act—rollcall No. 661—"yea".

H.R. 3082, Making Appropriations for Military Construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010 and for other purposes—rollcall No. 662—"yea".

H.R. 6547, Protecting Students from Sexual and Violent Predators Act—rollcall No. 663—"yea".

BLACK: THE DOMINANCE OF UNETHICAL BANKING

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Ms. KAPTUR. Madam Speaker, today I am inserting into the CONGRESSIONAL RECORD a recent blog post by Professor William Black from the Associate Professor of Economics and Law at the University of Missouri—Kansas City. Professor Black has focused on white collar crime and routing out of fraud in our financial system, both in practice and as a field of academic study. Professor Black's answers on this CNN blog give direction to our work on cleaning up our financial system of the criminals while protecting those who follow the law. As this Congress comes to a close and we look to the future, we are faced with the task of doing more to address the challenges of Main Street while holding Wall Street accountable. Professor Black's writing should be one of our guides.

Black: The Dominance of Unethical Banking

(By Jay Kernis)

Only on the blog: Answering today's five OFF-SET questions is William K. Black, Associate Professor of Economics and Law at the University of Missouri—Kansas City.

He was the Executive Director of the Institute for Fraud Prevention from 2005-2007. Black also served as litigation director of the Federal Home Loan Bank Board, deputy director of the FSLIC, SVP and General Counsel of the Federal Home Loan Bank of San Francisco, and Senior Deputy Chief Counsel, Office of Thrift Supervision. He was also deputy director of the National Commission on Financial Institution Reform, Recovery and Enforcement.

You say that fraud by America's major banks plays an enormous continuing role in the country's financial crisis. How widespread is the fraud and what are the most serious charges?

The FBI testified in September 2004 that mortgage fraud was "epidemic" and predicted that it would cause an "economic crisis" if it were not contained. Instead of being contained, FBI data show that it grew enormously after 2004. The mortgage lending industry's own anti-fraud experts (MARI)

warned in 2006 that "liar's" loans deserved their name—MARI reported a study finding that 80% of such loans were fraudulent. MARI warned that liar's loans were "an open invitation to fraudsters."

In a liar's loan the lender agrees not to verify the borrower's income, wealth, job, and debts. The lender and its agents, loan brokers, can then make up those numbers to make the loan appear to be only moderately insane and sell the fraudulent loan to an entity, typically an investment banking firm or Fannie Mae or Freddie Mac, who will pool thousands of fraudulent loans together and create a toxic financial derivative called a "CDO." The rating agencies and investment bankers knew they had to engage in the financial version of "don't ask; don't tell" on these CDOs because if they ever really kicked the tires they would all explode—the frauds in the underlying liar's loans from which the CDOs were supposed to "derive" their value were that obvious and common.

A credit ratings firm couldn't give a "AAA" rating (the highest possible—the rating that virtually all these toxic derivatives were given) if it looked at a sample of the loans—so they religiously did not kick the tires on the liar's loans. So we had the farce of "credit rating" agencies whose expertise was supposedly in reviewing credit quality never looking at that credit quality so that they could make enormous fees by giving toxic waste pristine "AAA" ratings.

The investment banks couldn't sell the financial derivatives loans to others if the investment bankers (whose supposed expertise was evaluating credit risk) were to actually look at credit quality of the underlying liar's loans. If they looked, they'd document that the loans were overwhelmingly fraudulent. They'd then have three options.

A. They could sell the CDOs to others by calling them wonderful "AAA" investments—while having files proving that they knew this was a lie. This option is the prosecutor's dream.

B. They could have sued the lenders that sold them the fraudulent liar's loans. The investment banks typically had a clear contractual right to force the fraudulent loans to buy back the liar's loans. But there were fatal problems with that option. The lenders that made liar's loans typically had minimal capital (net worth). If the investment banks had demanded that they repurchase the loans they would have been unable to do so—and the demand would have exposed the investment banks' bright shining lie that by pooling liar's loans they could create "AAA" CDOs. Every CDO purchaser from the investment banks would then demand that the investment banks repurchased their CDOs—which would have caused virtually every large U.S. investment bank to fail.

C. They could have gone to the Justice Department and expose the massive fraud that was destroying the American economy and help the FBI investigate the lenders specializing in making liar's loans, the corrupt appraisers, and the credit rating agencies. But that would have caused the CDO bubble to burst and the investment banks to fail.

That's why the industry went with the fourth option—"don't ask; don't tell." It's like the famous fable of the emperor and the fraudulent designer. The designer tells everyone that he has created clothes for the emperor of such beauty that only the most sophisticated people can even see the clothes. The emperor and his cronies all agree that the clothes are glorious. The fraud only collapses when a boy blurts out: "the emperor is naked." As long as no one

engaged in the frauds pointed out that you can't make a "AAA" rating out of a pool of massively overvalued fraudulent loans the housing bubble could hyper-inflate and the officers of the investment banks and credit rating agencies could become wealthy beyond their dreams.

I cite a study by Fitch, the smallest of the Big 3 rating agencies later that documents the endemic nature of the fraud in the nonprime mortgages backing the CDOs. That study does not contradict the "don't ask; don't tell" strategy because Fitch only published it in November 2007—after the secondary market that created CDOs collapsed and it would not lose any fees by asking and telling about the endemic fraud.

The industry sharply increased the number of liar's loans after MARI's warnings that they were overwhelmingly fraudulent. Fitch reviewed a small sample of the nonprime loan and found that there was evidence of fraud in "nearly every" file they reviewed and that the frauds were obvious on the face of the loan and servicing files and would have been discovered by any competent loan underwriting process. Self-reviews by fraudulent nonprime lenders have consistently revealed pervasive fraud in liar's loans. Reviews by independent experts demonstrate that fraud was endemic in liar's loans.

My testimony to the Senate and the Financial Crisis Inquiry Commission (FCIC) explains why the number of criminal referrals the FBI receives annually extrapolates to millions of frauds. There were no formal definitions of an "alt a" or "stated income" loan (the two most common euphemisms for liar's loans and, therefore, all the data are best guesses), but Credit Suisse reported in 2007 that by 2006, 49% of new mortgage loans in the U.S. were stated income (liar's loans). If one assumes an 80% fraud incidence—which is the low end of published studies by independent experts—that translates into millions of fraudulent loans being made in 2006 alone.

State Attorney Generals' investigations have found that it was lenders and their agents who put the lies in "liar's" loans. The NY AG found, for example, that Washington Mutual (WaMu), which specialized in nonprime loans, (and is the largest bank failure in U.S. history) kept a "black list" of appraisers. Appraisers got on the black list, however, if they refused to provide WaMu with inflated (fraudulent) appraisals. Survey data of appraisers confirms that nonprime lenders and their agents commonly coerced appraisers to inflate market values. The borrower has no leverage to coerce appraisers.

There is no honest reason for a lender to seek, or permit, appraisals to be inflated. White-collar criminologists and competent banking regulators recognize that appraisal fraud is a superb "marker" of "control fraud"—the devastating frauds in which the senior officers that control a seemingly legitimate firm use it as a "weapon" to defraud. Iowa Attorney General Miller testified before the Federal Reserve in 2007 that his investigations found that the lenders and the agents typically prompted or even directly provided the false information in nonprime loan applications.

This makes sense because only lenders and loan brokers would know the key debt-to-income and loan-to-value ratios that would make the borrowers' application more likely to be approved and generate the largest fees to the lenders and their agents. AG Miller even aptly described the "Gresham's" dynamic that prevailed in nonprime lending. A Gresham's dynamic arises in this context

when lenders and loan brokers that cheat gain a competitive advantage over honest lenders and agents. The result can be a race to the bottom in which those with no ethics drive the ethical from the marketplace.

Attorneys General in 50 states are investigating mortgage fraud and foreclosure fraud. Do you think this was bad book-keeping or are banks intentionally doing something illegal?

I've explained why the data demonstrate that mortgage fraud, particularly via liar's loans, was endemic, intentional, and driven by the lenders and their agents. Lenders and agents engaged in mortgage fraud do not want to keep accurate records, for those records could provide a roadmap for prosecuting them. The dearth of records was one of the key attractions of liar's loans to these lenders and their agents. That dynamic means that records are commonly missing at lenders engaged in fraud.

Keeping good records is also a pain for loan officers. It is a cost—it slows them down from making new (fraudulent) loans that drive their income. Another marker of loan fraud is paying loan officers large bonuses based on loan volume instead of loan quality—everyone in the trade knows this ends in disaster. But the failure of the lender is not a failure of the fraud scheme. Here's the four-part recipe for lenders maximizing fictional short-term accounting income (thereby maximizing their bonuses). Note that the same recipe maximizes real losses:

- A. Grow extremely rapidly
 - B. Make very bad loans at high interest rates ("yield")
 - C. Use extreme leverage (high debt relative to you equity)
 - D. Provide grossly inadequate loss reserves
- A lender that follows this recipe is mathematically guaranteed to report record (albeit fictional) income in the near term—and to cause massive losses in the longer term. This is why the Nobel prize winning economist, George Akerlof and his colleague Paul Romer wrote the famous 1993 article entitled: "Looting: the Economic Underworld of Bankruptcy for Profit." They describe accounting fraud as "a sure thing." The lender fails, but the senior officers walk away wealthy. Since 1993, things have become far worse—we now often bail out the failed lenders and leave the thieves in charge.

But a lender making thousands of bad loans has to gut its "back office" operations—the folks who are supposed to document loans and prevent bad loans. We know that this is exactly what happened. Bank officers and employees of nonprime lenders were reamed out by their superiors if they tried to block the bad loans. This dynamic is an independent reason why recordkeeping at the nonprime lenders is often horrific.

Finally, lenders like Bank of America, Citibank, and WaMu acquired major nonprime lenders that were notorious for their predatory and fraudulent lending. These banks then often place the employees they obtained via these mergers in charge of loan servicing. It was utterly predictable that they would continue their unethical practices when they functioned as loan servicers—particularly because the alternative would be to admit that their loan servicing files were a shambles. Far better to simply file false affidavits and claim that everything was in order—which is exactly what many of the largest loan servicers did ten thousand times a month.

This is one of the reasons that my colleague Randy Wray and I have called for Bank of America to be placed promptly into

receivership. A minor blue collar thief can go to prison for life under some "three strikes" laws—a huge bank doesn't even suffer a major loss of reputation when it commits a hundred thousand felonies. The U.S. now has its own version of crony capitalism that has produced recurrent, intensifying financial crises—just as crony capitalism does in many nations. The difference is that our economy is so massive that when we have a crisis many nations suffer. When a nation's elites are able to cheat with impunity the result is always disastrous.

What should President Obama and Congress be doing right now to regulate the banks in a meaningful and fair way?

Economists, white-collar criminologists, and regulators agree that the key is to stop, or at least limit, perverse incentives. Intensely criminogenic environments lead to epidemics of control fraud. There are six key components of what makes an environment dangerously criminogenic.

A. Size matters. A tremendous bubble in the price of persimmons won't harm the U.S. economy. Real estate bubbles, by contrast, could cause losses that were a large percentage of the U.S. GDP. That's how you get a Great Recession. Accounting control frauds are particularly dangerous because of they can grow so rapidly and because they tend to cluster in the assets that are most ideal for accounting fraud. The combination of clustering and rapid growth means that epidemics of accounting control fraud can hyper-inflate massive bubbles. Akerlof & Romer and my work have long warned specifically about this danger.

The federal regulatory and prosecutorial agencies are filled with "chief economists," but there are no "chief criminologists", no comprehensive federal data on the most destructive white-collar crimes, and virtually zero federal funding for research into the elite financial frauds that have caused trillions of dollars of losses in the U.S. over the last 20 years. We need to do the opposite—hire chief criminologists, keep comprehensive data on the worst frauds, and fund research so that we can actively identify the industries at greatest risk of developing the next epidemic of control fraud. (And this needs to be done not only for banks. The FDA, for example, needs help in spotting frauds that maim and kill.) We then need to act, quickly, to stop those epidemics in their tracks. We did this in 1990-91 as S&L regulators when we stopped the rapid spread of "liar's" loans at several California S&Ls.

B. Deregulation, desupervision (the rules remain in place but the anti-regulators running the regulatory agencies don't enforce them) and de facto decriminalization (the three "de's") produce the ideal criminogenic environment. The regulators are the "cops on the beat" when it comes to sophisticated frauds. If you remove the cops of the beat, cheaters prosper and honest businesses are driven from the markets. President Obama largely kept in place the failed anti-regulators he inherited from President Bush. Indeed, Obama promoted Geithner—an abject failure as a regulator in his capacity as President of the NY Fed—and renominated Bernanke, an even greater failure. Obama should fire Attorney General Holder and Treasury Secretary Geithner and ask Chairman Bernanke to resign. He should appoint regulators and prosecutors who have a track record of success.

C. Executive compensation. There is a consensus that executive compensation should be based on long-term (real) profitability. In reality, executive compensation is overwhelmingly based on short-term reported income. (It's actually worse than that—if the

short-term results are bad corporations commonly gimmick the compensation system to reward the senior officers' failures.) Everyone agrees that short-term reported accounting income is easy to inflate through accounting fraud and virtually everyone agrees that this creates strong, perverse incentives. Since, the current crisis began, the percentage of bonus compensation based on short-term reported income has increased—executive compensation has become more perverse.

Note that executive compensation also allows the CEO to convert the firm's assets to his personal benefit using seemingly normal corporate mechanisms, which makes it far harder to prosecute the CEO for looting the firm. All bonus income that takes annual income above \$200,000 should be paid after five years—if the firm's reported income turns out to be real. There should be "clawback" provisions to recover bonuses even after those five years if they were based on corporate income inflated by fraud or "window dressing."

D. Professional compensation is perverse. Accounting control frauds deliberately exploit this to create the Gresham's dynamic that allow them to suborn the outside professionals—appraisers, attorneys, auditors, and rating agencies—who are supposed to prevent fraud, but who actually become the frauds' most valuable allies. Honest professionals don't get hired, the unethical professionals prosper. This process creates "echo" epidemics of control fraud. Fraudulent nonprime lenders, for example, shaped financial incentives to be perverse to create endemic appraisal and loan broker fraud. The banks should not be able to hire or fire the appraisers, credit rating agencies, and auditors—except for fraud or serious incompetence. Those professionals can only be truly independent if they are assigned to work for the bank by a truly independent entity.

E. The federal government has permitted banks to inflate their reported incomes and "net worth" for the purpose of evading the mandatory statutory duty under the Prompt Corrective Action (PCA) law to close deeply insolvent banks. Congress, at the behest of the Chamber of Commerce, the banking trade associations, and Chairman Bernanke, successfully extorted the Financial Accounting Standards Board (FASB) to scam the accounting rules so that the banks could fail to recognize on their accounting reports over a trillion dollars in losses.

When banks understate their losses massively they, by definition, overstate their net worth massively. The PCA's provisions kick in when net worth falls, so the accounting lies have gutted the PCA. The accounting lies also allow the banks to (once again) report high fictional income when they are experiencing large, real losses. This accounting scam allows the bank executives to collect hundreds of billions of dollars in bonuses. We should end the accounting scam and enforce the PCA.

We are also secretly subsidizing banks and hiding their losses through massive loans from the Federal Reserve backed by toxic collateral. We should end those subsidies and force them to post good collateral.

F. Systemically dangerous institutions (SDIs) have often become far larger and more dangerous since the crisis. The administration is taking no serious steps to protect us against the roughly 20 SDIs even though the administration claims that when one of them next fails it is likely to cause a global financial crisis. Why are we juggling

20 live grenades? The only question is when the next pin will drop out and we'll be blown up.

The good news about the SDIs is that they have reason to exist. They would be far more efficient if they shrank in size to levels at which they no longer endangered the global economy. We should do three things about the SDIs. One, stop their growth—immediately. Two, order them to shrink over the next five years to a size at which they no longer are SDIs. Let them decide what operations to sell. Three, intensively regulate the SDIs during those five years. That includes placing any insolvent SDIs in "pass through receiverships"—which does not prompt crises.

If there were one questionable banking practice that you could stop today, what would that be?

The foreclosure frauds.

You have spent decades examining what goes on in banks. Do think that bankers, either through culture or genetics, are ethically-challenged?

When you allow a *Gresham's dynamic* to operate and when entry to an industry is easy (as it was for loan brokers and mortgage bankers), you concentrate the least ethical business leaders in the industry that is most criminogenic. In the last decade, banking has been severely criminogenic in the U.S. and much of the world. The unethical banking leaders became dominant. Their banks, which followed the four-part recipe for maximizing fictional accounting income, became far larger and drew the greatest praise from the business boosters than dominated the financial media. They made their reputations and their fortunes through fraud.

PERSONAL EXPLANATION

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Ms. GRANGER. Madam Speaker, on rollcall Nos. 662 and 661, I was absent from the House. Had I been present, I would have voted "no."

THANK YOU FOR ALLOWING ME TO SERVE

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Ms. KILPATRICK of Michigan. Madam Speaker, as I leave Congress as the people's representative for the 13th Congressional District of Michigan, I thank God, who is the head of my life, for allowing me the blessing of serving in perhaps the most august, deliberate, elected body in the world. I am humbled and honored that the great citizens of Michigan and the people of Detroit chose me for so many years to fight and serve them for more than three decades as a public servant. The many friendships, relationships, and associations I have formed will remain with me forever.

I finally want to thank perhaps the most underappreciated team in any elected body—the staff who have worked for me for those

years in the State of Michigan and on Capitol Hill. The tireless dedication, devotion and work will never be forgotten by me or the people to whom you have been so effective and efficient for so long.

I hope and pray for all of my colleagues that we may bring a better world to all Americans, and never flinch from fighting for justice and democratic ideals. We made history. We made difficult decisions. We fought the good fight. We have difficult days ahead, and I remain faithful to protecting the Constitution of the United States and the goals of our great nation.

God bless.

PERSONAL EXPLANATION

HON. DEAN HELLER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HELLER. Madam Speaker, on rollcall No. 658, I was unavoidably detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

HON. ERIK PAULSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. PAULSEN. Madam Speaker, on rollcall No. 658 (H.R. 6540) my flight was delayed due to weather and had I been present, I would have voted "yes."

ACCOMPLISHMENTS IN THE 110TH AND 111TH CONGRESS

HON. JOHN J. HALL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HALL of New York. Madam Speaker, I would like to submit the following: As the Representative for New York's 19th Congressional District, I had numerous significant accomplishments in all aspects of meeting local community needs, individual constituent services, and enacting federal legislation on behalf of my constituents.

I kept my annual promise of holding at least one public event in every town and city in the district to give my constituents an opportunity to speak directly with me about their opinions and concerns. I hosted Town Hall Meetings, Congress on Your Corners, business roundtables, issues forums and workshops throughout all 4 years of my Congressional service. In addition to these events, I attended numerous community events hosted by local organizations, senior centers, fire departments, schools, etc. I also did a series of "work-a-day" events where I worked alongside a constituent in a local job so I could better understand the day to day challenges they face. Some of these events included working with a nurse at an area hospital, an assembly line worker at a manufacturing plant, a ride

along with a delivery truck driver, weatherization installation at a home, installation of a geothermal heat/cooling system at a new senior housing development, and installation of solar energy panels on the roof of an elementary school.

The Congressional offices in Carmel, Gothen, and Washington responded to thousands of constituent opinions and information requests. Hundreds of casework problems were resolved for individuals and families who had problems with federal agencies when applying for Veterans benefits, Social Security and Medicare payments, and expediting passport applications.

The Congressional office provided hundreds of Capitol tours for school classes and families visiting Washington DC, fulfilled flag requests, nominated students to our nation's military service academies, and assisted with federal grant applications.

I cosponsored and voted for important legislation to create and save jobs, cut taxes on middle class families, improve the process for Veterans applying for well deserved benefits, reform financial services regulation, and health insurance reform designed to improve accessibility and affordability. I authored legislation that dramatically improved the Veterans benefits system, streamlining the process for veterans to receive the care and compensation they earned in service to our nation. My legislation is widely regarded as the most sweeping reform of the VA in a generation.

I was proud to bring millions of federal dollars home for local projects that create and save jobs, improve water quality, improve traffic safety and public transportation, build local infrastructure, and save local property tax dollars.

I voted against my own pay raise each time it came before the House, and donated my raise to local non-profit organizations rather than accepting it.

MEETING LOCAL COMMUNITY NEEDS

ECONOMIC DEVELOPMENT: LOCAL JOBS AND SMALL BUSINESS DEVELOPMENT

I worked actively to bring new jobs to the area and save local jobs that were at risk of leaving including:

Kolmar—Successfully assisted in keeping the largest manufacturing company in Western Orange County from leaving the state, thereby retaining hundreds of local jobs in an economically depressed area.

Pepsi Bottling—Successfully assisted with efforts to keep the company's facilities in Northern Westchester when they were considering a move out of state.

SpectraWatt—Instrumental in negotiations to bring a new solar energy manufacturing company to Dutchess County, replacing almost a hundred jobs that had been outsourced overseas. Labor Secretary Hilda Solis visited the site to discuss the local benefits with business and labor leaders. Although recent reports indicate the company is struggling, discussions are still ongoing to keep the jobs in Dutchess County.

I successfully advocated for Stewart Air National Guard Base to receive 8 new C-17 aircraft and all of the support services and local economic development opportunities that go with it. The Air Force made this award after a very competitive national process. I also

brought US Transportation Secretary Ray LaHood to Stewart Airport for a meeting with local business and community leaders to discuss how the airport could be more of an economic engine for the region.

I hosted several small business seminars to inform local businesses about the opportunities created by the federal economic stimulus legislation, including direct tax reductions and capital availability. These events were attended by hundreds of people. In addition, numerous roundtables were held with local business leaders to provide me with direct input as to what they needed to create growth opportunities. These meetings served as the basis for small business tax cut legislation I introduced, several provisions were enacted into law.

Job Opportunity and Training Fairs were held to provide assistance in getting a job including interviewing skills, resume writing, networking, employer connections, adult and continuing education, green jobs, and entrepreneurship and one-on-one consultation. Many local employers attended and were able to talk directly with job seekers who were in attendance.

I brought House Education and Labor Committee Chairman George Miller to the district for a public meeting to inform the community about the provisions of the new Direct Student Loan legislation and how they will make it easier for more students to attend college.

I held workshops for local constituents to provide them with information regarding how to prevent home foreclosure as well as mortgage refinancing options. I brought together local banks and housing counselors for presentations as well as direct individual counseling opportunities.

ENERGY INDEPENDENCE:

I sponsored a series of energy independence forums throughout the district to provide practical information to municipalities, businesses, and individuals interested in developing domestic energy resources. These forums focused on wind, solar, hydro and tidal power, as well as biofuels and conservation. I also held an event which brought together solar manufacturers, retailers, and prospective buyers to create markets for local suppliers. Many local projects were developed as a result of the information provided and the introductions made between local providers and businesses.

I helped bring more than \$517m for weatherization funding and energy efficiency grants to New York. This money directly benefited local families who were able to save money on their energy bills by weatherizing their homes, and it created local jobs.

VETERANS

Many Veterans meetings were held throughout the district so I could gain input from local veterans regarding the challenges they face navigating the VA claims and benefits processes generally, as well as a specific challenges resulting from PTSD. Based on what I heard from local Veterans and VSOs, I successfully introduced legislation that significantly streamlined the benefits process, and advocated for a VA rules change regarding handling of PTSD claims. The rules change makes it much easier for veterans suffering with PTSD to receive the care and compensation they deserve.

I sponsored a Veterans Employment and Education forum to help returning veterans transition from the battlefield to the classroom and the workplace and make sure they are aware of all the benefits they earned. A member of the Wounded Warrior Program works on my Congressional staff.

In addition I hosted a GI Bill forum to train Hudson Valley college admissions and administrative personnel regarding the benefits due to Veterans and how to assist them with the application process.

I strongly advocated for maintaining health care services for veterans at both campuses in Montrose and Castle Point. I also assisted in bringing a new veterans health clinic to Orange County.

I successfully sponsored legislation to name the Chester Post Office in memory of First Lt. Lou Allen, who was killed in Iraq and to name the Port Jervis Post office in memory of former Mayor and Senator Arthur Gray.

SENIORS

I hosted several events to help protect local Seniors from Medicare fraud. Experts were in attendance to provide specific information about scams in the area and how to avoid becoming a victim. In addition, I hosted informational events to prepare individuals and families who are nearing Medicare eligibility to prepare themselves to understand and navigate the many enrollment options and various plans available. Thousands of local Seniors participated in my Tele-Town Hall discussion about how the Health Care Reform law would affect them. Topics covered included closing the donut hole, free preventative care and wellness visits for seniors, reducing subsidies to Medicare Advantage plans, fighting waste, fraud and abuse in Medicare, and long term care options.

LAW ENFORCEMENT TRAINING SESSIONS

I became aware of concerns regarding communication between some local law enforcement officials and federal Immigration and Customs Enforcement (ICE) officers. As a result I requested ICE officials come to the district and provide information to local law enforcement regarding how ICE can assist local law enforcement and ways they could work together to improve public safety.

CONGRESSIONAL ART COMPETITION

Each year my office hosted a Congressional Arts Competition for high school students in my district. The winner's artwork is shown for a year at the Capitol Building in Washington DC and runners up are shown in my local Congressional offices. The Congressional office worked with arts facilities and schools to encourage student artists, review the submissions, and have them shown within the community.

RESOURCE GUIDES

The Congressional office created the following resource guides to assist individuals, organizations, and small businesses with federal government services and opportunities:

Guide to the American Recovery and Reinvestment Act—Provided details of the federal economic stimulus legislation for individuals, businesses, organizations, and municipalities including information about available funding opportunities and how to apply for and access the funds.

Small Business Assistance Guide—A package of information and local resources for small businesses seeking assistance and information about loan opportunities and other federal and state support programs and developments.

Small Business Guide to the Affordable Care Act—Provided details on Small Business Tax Credits for employer coverage of health premiums and how other provisions of the new health care law affect small businesses.

Senior Handbook—Described resources available for seniors including health care and

prescription drug coverage, long term care options, household utilities, VA, meal delivery and nutrition programs, senior centers, and transportation.

Veterans Services Website—Provides information about benefits and services, eligibility requirements, and contact information for local and national agencies and private organizations that provide assistance with healthcare, benefits, education, and employment.

Fire and Emergency Services Grant Resources—A package of information about federal, state and foundation grant opportunities

for fire departments and ambulance corps and how to apply for such funds. In addition, the Congressional office hosted annual workshops to provide assistance to local fire departments as to how to write and submit federal grant applications to the Dept of Homeland Security's Assistance to Firefighters Grant Program.

Jobs Seekers' Handbook—Detailed information regarding resources available to people looking for a job and how to improve individual skills.

Foreclosure prevention tips and resource guide for homeowners.

HOUSE OF REPRESENTATIVES—Wednesday, December 29, 2010

PROCEEDINGS OF THE HOUSE OF REPRESENTATIVES AFTER SINE DIE ADJOURNMENT OF THE 111TH CONGRESS 2D SESSION

APPOINTMENT AFTER SINE DIE OF MEMBER TO NATIONAL COM- MISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOP- MENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY

Pursuant to Section 1002 of the Intelligence Authorization Act for fiscal year 2003 (P.L. 107-306) as amended by Section 701(a)(3) of the Intelligence Authorization Act for fiscal year 2010 (P.L. 111-259), and the order of the House of January 6, 2009, the Speaker on Tuesday, December 28, 2010, appointed the following Member of the House to the National Commission for the Review of the Research and Development Programs of the United States Intelligence Community:

Ms. HARMAN, California

COMMUNICATION FROM THE CLERK OF THE HOUSE AFTER SINE DIE ADJOURNMENT

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 23, 2010.

Hon. NANCY PELOSI,
The Speaker, U.S. Capitol, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 23, 2010 at 10:10 a.m.:

That the Senate agreed to S. Con. Res. 78.

That the Senate agreed to S. Con. Res. 71.

That the Senate agreed to without amendment H. Con. Res. 275.

Appointment: National Commission for the Review of the Research and Development Programs of the United States Intelligence Community. Indian Law and Order Commission.

With best wishes, I am,
Sincerely,

LORRAINE C. MILLER.

ENROLLED BILLS SIGNED AFTER SINE DIE ADJOURNMENT

Lorraine C. Miller, Clerk of the House, after sine die adjournment of the 2d Session, 111th Congress, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker

pro tempore, Mr. HOYER, on Thursday, December 23, 2011:

H.R. 847. An act to amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

H.R. 6517. An act to extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

Lorraine C. Miller, Clerk of the House, after sine die adjournment of the 2d Session, 111th Congress, also reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker pro tempore, Mr. HOYER, on Tuesday, December 28, 2011:

H.R. 2142. An act to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council.

H.R. 2751. An act to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

H.R. 5809. An act to amend the Energy Policy Act of 2005 to reauthorize and modify provisions relating to the diesel emissions reduction program.

H.R. 5901. An act to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees.

H.R. 6523. An act to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

SENATE ENROLLED BILLS SIGNED AFTER SINE DIE ADJOURNMENT

The Speaker pro tempore, Mr. HOYER, after sine die adjournment of the 2d Session, 111th Congress, announced his signature to enrolled bills of the Senate of the following titles on Thursday, December 23, 2010:

S. 3481. An act to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

S. 3903. An act to authorize leases of up to 99 years for lands held in trust for Ohkay Owing Pueblo.

S. 4036. An act to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury.

S. 4058. An act to extend certain expiring provisions providing enhanced protections for servicemembers relating to mortgages and mortgage foreclosure.

BILLS PRESENTED TO THE PRESI- DENT AFTER SINE DIE AD- JOURNMENT

Lorraine C. Miller, Clerk of the House, reports that on December 23, 2010 she presented to the President of the United States, for his approval, the following bills.

H.R. 6398. To require the Federal Deposit Insurance Corporation to fully insure Interest on Lawyers Trust Accounts.

H.R. 6517. To extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

H.R. 847. To amend the Public Health Service Act to extend and improve protections and services to individuals directly impacted by the terrorist attack in New York City on September 11, 2001, and for other purposes.

Lorraine C. Miller, Clerk of the House, also reports that on December 28, 2010 she presented to the President of the United States, for his approval, the following bills.

H.R. 5470. To exclude an external power supply for certain security or life safety alarms and surveillance system components from the application of certain energy efficiency standards under the Energy Policy and Conservation Act.

H.R. 4445. To amend Public Law 95-232 to repeal a restriction on treating as Indian country certain lands held in trust for Indian pueblos in New Mexico.

H.R. 5116. To invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

H.R. 81. To amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve conservation of sharks.

H.R. 1746. To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency.

H.R. 4748. To amend the Office of National Drug Control Policy Reauthorization Act of

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

2006 to require a northern border counter-narcotics strategy, and for other purposes.

H.R. 6412. To amend title 28, United States Code, to require the Attorney General to share criminal records with State sentencing commissions, and for other purposes.

H.R. 1107. To enact certain laws relating to public contracts as title 41, United States Code, "Public Contracts".

H.R. 6533. To implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, and for other purposes.

H.R. 6510. To direct the Administrator of General Services to convey a parcel of real property in Houston, Texas, to the Military Museum of Texas, and for other purposes.

H.R. 628. To establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

H.R. 4973. To amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

H.R. 5655. To designate the Little River Branch facility of the United States Postal Service located at 140 NE 84th Street in Miami, Florida, as the "Jesse J. McCrary, Jr. Post Office".

H.R. 6392. To designate the facility of the United States Postal Service located at 5003 Westfields Boulevard in Centreville, Virginia, as the "Colonel George Juskalian Post Office Building".

H.R. 4602. To designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the "Emil Bolas Post Office".

H.R. 5133. To designate the facility of the United States Postal Service located at 331 1st Street in Carolstadt, New Jersey, as the "Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building".

H.R. 5605. To designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the "George C. Marshall Post Office".

H.R. 6400. To designate the facility of the United States Postal Service located in 111 North 6th Street in St. Louis, Missouri, as the "Earl Wilson, Jr. Post Office".

H.R. 5606. To designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the "James M. 'Jimmy' Stewart Post Office Building".

H.R. 5877. To designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the "Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building".

HOUSE BILLS APPROVED BY THE PRESIDENT AFTER SINE DIE ADJOURNMENT

The President, after sine die adjournment of the 2d Session, 111th Congress,

notified the Clerk of the House that on the following date, he had approved and signed bills of the following titles:

December 22, 2010:

H.R. 1061. An act to transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, and for other purposes.

H.R. 2941. An act to reauthorize and enhance Johanna's Law to increase public awareness and knowledge with respect to gynecologic cancers.

H.R. 2965. An act to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer, Program, and for other purposes.

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

H.R. 4337. An act to amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

H.R. 5591. An act to designate the airport traffic control tower located at Spokane International Airport in Spokane, Washington, as the "Ray Daves Airport Traffic Control Tower".

H.R. 6198. An act to amend title 11 of the United States Code to make technical corrections; and for related purposes.

H.R. 6278. An act to amend the National Children's Island Act of 1995 to expand allowable uses for Kingman and Heritage Islands by the District of Columbia, and for other purposes.

H.R. 6473. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airways Trust Fund, to amend title 49, United States Code, to extend the airport improvement program, and for other purposes.

H.R. 6516. An act to make technical corrections to provisions of law enacted by the Coast Guard Authorization Act of 2010.

SENATE BILLS APPROVED BY THE PRESIDENT AFTER SINE DIE ADJOURNMENT

The President, after sine die adjournment of the 2d Session, 111th Congress, notified the Clerk of the House that on the following date, he had approved and signed bills of the following titles:

December 20, 2010:

S. 3817. An act to amend the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Abandoned Infants Assistance Act of 1988 to reauthorize the Acts, and for other purposes.

December 22, 2010:

S. 30. an act to amend the Communications Act of 1934 to prohibit manipulation of caller identification information.

S. 1275. An act to establish a National Foundation on Physical Fitness and Sports to carry out activities to support and supplement the mission of the President's council on Physical Fitness and Sports.

S. 1405. An act to redesignate the Longfellow National Historic Site, Massachusetts, as the "Longfellow House-Washington's Headquarters National Historic Site".

S. 1448. An act to amend the Act of August 9, 1955, to authorize the Coquille Indian Tribe, and Confederated Tribes of Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to obtain 99-year lease authority for trust land.

S. 1609. An act to authorize a single fisheries cooperative for the Bering Sea Aleutian Islands longline catcher processor subsector, and for other purposes.

S. 1774. An act for the relief of Hotaru Nakama Ferschke.

S. 2906. An act to amend the Act of August 9, 1955, to modify a provision relating to leases involving certain Indian tribes.

S. 3199. An act to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss.

S. 3794. An act to amend chapter 5 of title 40, United States Code, to include organizations whose membership comprises substantially veterans as recipient organizations for the donation of Federal surplus personal property through State agencies.

S. 3860. An act to require reports on the management of Arlington National Cemetery.

S. 3984. An act to amend and extend the Museum and Library Services Act, and for other purposes.

S. 3998. An act to extend the Child Safety Pilot Program.

S. 4005. An act to amend title 28, United States Code, to prevent the proceeds or instrumentalities of foreign crime located in the United States from being shielded from foreign forfeiture proceedings.

S. 4010. An act for the relief of Shigeru Yamada.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[The following actions occurred on December 23, 2010]

Ms. VELÁZQUEZ: Committee on Small Business. Report on the Activity of the Committee on Small Business for the One Hundred Eleventh Congress (Rept. 111-695). Referred to the Committee of the Whole House on the State of the Union.

Mr. GEORGE MILLER of California: Committee on Education and Labor. Report on the Activities of the Committee on Education and Labor during the 111th Congress (Rept. 111-696). Referred to the Committee of the Whole House on the State of the Union.

EXTENSIONS OF REMARKS

COMMENDING CHAIRMAN DAVE
OBEY

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 29, 2010

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today to commend Chairman DAVE OBEY on a remarkable career and to congratulate him on his retirement from the U.S. Congress.

Chairman OBEY has honorably served the citizens of Wisconsin's 7th district since 1969. When Chairman OBEY began his service in the Congress—succeeding Mel Laird, who was appointed Secretary of Defense—he was the youngest Member of Congress in the United States. He has an impressive record of legislative accomplishments. He is now the longest-serving member of either House of Congress in Wisconsin's history.

His commitment to the integrity of the House has taught me a great deal about the legislative process. His respect for the minority, interest in listening to all voices and his common-sense leadership have been critical in ensuring civil debate and productive solutions to extremely difficult problems.

Chairman DAVE OBEY is the only Democratic Member of the House to have served on the three major economic committees in the Congress: the Budget Committee, the Joint Economic Committee and the Committee on Appropriation.

Chairman OBEY has been a mentor and a friend and I will miss his leadership in the U.S. House. I thank him for his service to the 7th district of Wisconsin, the country and the world, and wish him the very best in his retirement.

PERSONAL EXPLANATION

HON. PAUL W. HODES

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 29, 2010

Mr. HODES. Madam Speaker, I missed the following votes from Friday, December 17 through Wednesday, December 22, 2010. I would have voted "yes" on the following votes:

Friday:

H.J. Res. 105—Making Further Continuing Appropriations for Fiscal Year 2011 (Representative OBEY—Appropriations) (Voice vote)

1. H. Res. 1377—Honoring the accomplishments of Norman Yoshio Mineta (Representative HONDA—House Administration)

2. Senate Amendment to H.R. 1107—To enact certain laws relating to public contracts

as title 41, United States Code, "Public Contracts" (Representative CONYERS—Judiciary)

3. Senate Amendment to H.R. 628—To establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges (Representative ISSA—Judiciary)

4. H. Res. 1733—Recognizing Mark Twain as one of America's most famous literary icons on the 175th anniversary of his birth and the 100th anniversary of his death (Representative SNYDER—Oversight and Government Reform)

5. H. Res. 1621—Recognizing the 100th anniversary of the historic founding of Catholic Charities USA (Representative HOLT—Oversight and Government Reform)

6. H. Res. 1767—Commending the Wisconsin Badger football team for an outstanding season and 2011 Rose Bowl bid (Representative BALDWIN—Education and Labor)

7. H. Con. Res. 335—Honoring the exceptional achievements of Ambassador Richard Holbrooke and recognizing the monumental contributions he has made to United States national security, humanitarian causes, and peaceful resolutions of international conflict (Representative LOWEY—Foreign Affairs)

8. S. 3874—Reduction of Lead in Drinking Water Act (Senator BOXER—Energy and Commerce)

9. H.R. 6533—To implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service (Representative DOYLE—Energy and Commerce)

10. H.R. 6523—Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Representative SKELTON—Armed Services)

11. H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act of 2009 (Representative CUELLAR—Oversight and Government Reform)

12. H.R. 5510—Aiding Those Facing Foreclosure Act of 2010 (Representative KAPTUR—Financial Services)

Tuesday:

Motion to Concur in the Senate Amendment to H.R. 5116—America COMPETES Reauthorization Act of 2010 (Representative GORDON—Science and Technology)(228–130)

Motion to Concur in the Senate Amendment to H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act (Representative CUELLAR—Oversight and Government Reform) (216–139)

Motion to Concur in the Senate Amendment to H.R. 2751—FDA Food Safety Modernization Act (Representatives WAXMAN/DINGELL—Energy and Commerce) (215–144)

Motion to Concur in the Senate Amendment to H.R. 3082—Making Further Continuing Appropriations for Fiscal Year 2011 (Representative OBEY—Appropriations) (193–165)

1. S. 3592—A bill to designate the facility of the United States Postal Service located at

100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building" (Senator CHAMBLISS—Oversight and Government Reform)

2. Senate Amendment to H.R. 81—Shark Conservation Act (Representative BORDALLO—Natural Resources)

3. Senate Amendment to H.R. 5809—Diesel Emissions Reduction Act of 2010 (Representative INSLEE—Energy and Commerce)

4. H.R. 6540—To require the Secretary of Defense, in awarding a contract for the KC-X Aerial Refueling Aircraft Program, to consider any unfair competitive advantage that an offeror may possess (Representative INSLEE—Armed Services)

5. H.R. 6547—To amend the Elementary and Secondary Education Act of 1965 to require criminal background checks for school employees (Representative GEORGE MILLER—Education and Labor)

6. S. 118—Section 202 Supportive Housing for the Elderly Act (Senator KOHL—Financial Services)

7. S. 1481—Frank Melville Supportive Housing Investment Act (Senator MENENDEZ—Financial Services)

8. S. 3243—Anti-Border Corruption Act of 2010 (Senator PRYOR/Representative SHULER—Homeland Security)

9. S. 2925—Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2010 (Senator WYDEN—Judiciary)

10. Senate Amendment to H.R. 4748—Northern Border Counternarcotics Strategy Act of 2010 (Representative OWENS—Judiciary)

11. Senate Amendment to H.R. 1746—Pre-Disaster Mitigation Act of 2009 (Representative OBERSTAR—Transportation and Infrastructure)

Wednesday:

Motion to Concur in the Senate Amendment to H.R. 847—James Zadroga 9/11 Health and Compensation Act (Representative MALONEY—Energy and Commerce)(206–60)

Bills Adopted By Unanimous Consent (13):

1. Senate Amendment to H.R. 6523—Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Representative SKELTON—Armed Services)

2. S. 3481—Amending the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution (Senator CARDIN—Transportation and Infrastructure)

3. House Amendment to S. 372—Whistleblower Protection Enhancement Act (Senator AKAKA—Oversight and Government Reform)

4. H. Res. 1461—Supporting Olympic Day on June 23, 2010, and congratulating Team USA and World Fit participants (Representative LANGEVIN—Oversight and Government Reform)

5. S. 4036—A bill to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury (Senator DODD—Financial Services)

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

6. S. Con. Res. 67—A concurrent resolution celebrating 130 years of United States-Romanian diplomatic relations, congratulating the Romanian people on their achievements as a great nation, and reaffirming the deep bonds of trust and values between the United States and Romania, a trusted and most valued ally (Senator VOINOVICH—Foreign Affairs)

7. Senate Amendment to H.R. 6560—Removal Clarification Act of 2010 (Representative HANK JOHNSON—Judiciary)

8. H. Res. 1779—Honoring the 50th anniversary of the Freedom Riders (Representative JOHN LEWIS (GA)—Judiciary)

9. Senate Amendment to H.R. 5901—Real Estate Jobs and Investment Act of 2010 (Representative JOE CROWLEY—Ways & Means)

10. H. Res. 1783—Technical Correction to H. Res. 1757 (Representative BRADY (PA)—House Administration)

11. S. 4058—Helping Heroes Keep Their Homes Act of 2010 (Senator KERRY—Veterans' Affairs)

12. S. 3903—To authorize leases of up to 99 years for lands held in trust for Ohkay Owingeh Pueblo (Senator UDALL—Natural Resources)

13. Senate Amendment to H.R. 6517—To extend trade adjustment assistance and certain trade preference programs, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes (Representative LEVIN—Ways and Means)